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Briefings on How To Use the Federal Register—
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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: November 20, at 9 a.m.
WHERE: National Archives and Records Administration, Room 410, 8th and Pennsylvania Avenue NW., Washington, DC.
RESERVATIONS: Robert D. Fox, 202-523-5239.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872, 873, and 890

Federal Employees Group Life Insurance and Health Benefits Programs; Coverage After Retirement Under FERS

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comment.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement amendments to the Federal Employees Health Benefits (FEHB) law enacted by Pub. L. 99–335, as amended, which established the Federal Employees Retirement System (FERS). This regulation describes the conditions under which individuals entitled to immediate or survivor annuities and lump sum death benefits under FERS and former spouses entitled to annuity payments under FERS may receive FEHB coverage. The regulation also allows FERS annuitants to make direct payment of premiums for their FEHB and Federal Employees' Group Life Insurance (FEGLI) coverages when their annuity is too low to cover the insurance premiums.

DATES: Interim rule effective January 1, 1988. Comments must be received on or before December 21, 1987.

ADDRESS: Written comments may be sent to Reginald M. Jones, Jr., Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P. O. Box 57, Washington, DC 20044, or delivered to OPM, Room 4351, 1900 E Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, (202) 632–4634.

SUPPLEMENTARY INFORMATION: On June 6, 1986, Congress established the Federal Employees Retirement System by Pub. L. 99–335. Section 207(l) of the act provides that individuals entitled to immediate or survivor annuities under FERS may continue their health coverage, and former spouses entitled to annuity payments under FERS may obtain health benefits coverage, in the FEHB Program under the same conditions that apply to individuals under the Civil Service Retirement System (CSRS). Subsequently, the Federal Employees' Retirement System Technical Corrections Act of 1986, Pub. L. 99–556, was enacted on October 27, 1986. This law authorized widows or widowers entitled to receive basic employee death benefits under FERS to continue health benefits coverage under FEHB. FERS annuitants may also continue their life insurance coverage in retirement under the same conditions that apply to individuals under CSRS. The regulation describes the procedures for continuing health benefits coverage after retirement and for paying FEHB and FEGLI premiums directly to the retirement system.

Under FERS, widows or widowers entitled to receive lump sum death benefits under 5 U.S.C. 8442(b)(1)(A), that is, widows and widowers of FERS employees who at the time of death had completed at least 18 months' creditable civilian service, will be entitled to continue their FEHB coverage after the death of a spouse. This group is entitled to a lump sum death benefit but not an annuity because the employee on whose service the widow's or widower's benefits are based had less than ten years of creditable service at the time of death. Thus, there will be no annuity from which to withhold the health benefits premium.

Surviving children may also continue health benefits coverage upon death of an employee or annuitant. Under FERS, surviving children receive an annuity equal to the amount they would be eligible to receive under CSRS, less any Social Security benefit to which they may be entitled. In most cases, the annuity will not be sufficient to cover the health benefits premium.

Other individuals whose annuity may not cover health or, where applicable, life insurance premiums are (1) FERS disability retirees who qualify for Social Security disability benefits prior to age 62 (5 U.S.C. 8452(a)(2), and (2) certain FERS disability retirees whose disability annuities must be recomputed at age 62 (5 U.S.C. 8452(B)(4)). Those entitled to Social Security disability benefits before age 62 will have their annuity reduced by all or a portion of their monthly Social Security disability benefit. Those who are not entitled to Social Security disability benefits at age 62 will be treated as though they were entitled to them. Thus, their FERS disability annuity at age 62 will be reduced by the amount of Social Security disability benefits that would be payable if they had been entitled to such a benefit.

The regulation provides for direct payment of health benefits and, where applicable, life insurance premiums for these groups and for all FERS annuitants whose annuity is not sufficient to cover their share of the total premium.

Direct payment must be made for the annuitant's full share of the premium. Thus, the annuitant may not have a portion of the premium withheld from the annuity and make direct payment for the balance. Further, once an annuitant is in direct-pay status for health benefits or life insurance, or both, he or she must continue to pay premiums directly even if the annuity later exceeds the amount of the premiums.

* * * * *

We have made a technical change to the regulation [5 CFR 890.808(b)] to clarify that the information the former spouse must send to the retirement system for a determination as to whether a court order is qualifying for health benefits enrollment is the same information required in 5 CFR 831.1705 for determining his or her entitlement to a future survivor annuity or a portion of a retirement annuity.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because the entitlements conferred by Pub. L. 99–335 and Pub. L. 99–556 addressed in this regulation were effective beginning January 1, 1987.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under Section 1(b) or E.O. 12291, Federal Regulation.

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Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they simply extend FEHB and FEGLI coverage to qualified annuitants.

List of Subjects

5 CFR Parts 870, 871, 872, and 873

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 890

Administrative practice and procedure, Government employees, Health insurance, Retirement.

U.S. Office of Personnel Management
James E. Colvard,
Deputy Director.

Accordingly, OPM is amending 5 CFR Parts 870, 871, 872, 873 and 890 as follows:

1. The authority citation for Part 870, 871, 872, and 873 continues to read as follows:

Authority: 5 U.S.C. 8716.

PART 870—BASIC LIFE INSURANCE

2. In § 870.401, a new paragraph (j) is added to read as follows:

§ 870.401 Withholdings and contributions.

* * * * *

(j) *Direct premium payments under 5 U.S.C. Chapter 84.* (1) If the annuity received under 5 U.S.C. Chapter 84 (Federal Employees' Retirement System), excluding Subchapter III of Chapter 84 (Thrift Savings Plan), is too low to cover the basic life insurance premium, the retirement system will notify the annuitant of the opportunity to pay the annuitant's share of the premium directly to the retirement system.

(2) The retirement system shall establish a method for accepting direct payment for basic life insurance premiums from annuitants retiring under 5 U.S.C. Chapter 84 whose annuities are too low to cover their premiums. The retirement system will provide the annuitant with a premium payment schedule and statement of the requirements for continued enrollment. The annuitant must continue to make direct payment of the premium even if the annuity increases to the extent that it covers the premium.

(3) The annuitant must remit to the retirement system his or her share of the premium for basic life insurance for every pay period during which the coverage continues, exclusive of the 31-day temporary extension of coverage for conversion provided in § 870.501. Payment must be made after the pay period in which the individual is covered in accordance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system will notify the annuitant by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days after receipt of the notice. The basic insurance coverage of an annuitant who fails to remit payment within the specified time frame will be terminated. An individual whose coverage is terminated because of nonpayment of premium may not re-elect or reinstate coverage, except as provided in paragraph (j)(4).

(4) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(5) Termination of enrollment for failure to pay premiums within the time frame established in accordance with subparagraph (j)(3) of this section is retroactive to the end of the last pay period for which payment has been timely received.

(6) The retirement system will submit all direct premium payments along with its regular life insurance premiums to OPM in accordance with procedures established by that Office.

PART 871—STANDARD OPTIONAL LIFE INSURANCE

3. In § 871.401, a new paragraph (i) is added to read as follows:

§ 871.401 Withholdings.

* * * * *

(i) *Direct premium payments under 5 U.S.C. Chapter 84.* (1) If the annuity received under 5 U.S.C. Chapter 84 (Federal Employees' Retirement System), excluding Subchapter III of Chapter 84 (Thrift Savings Plan), is too low to cover the standard optional insurance premium, the retirement system will notify the annuitant of the opportunity to pay the premium directly to the retirement system.

(2) The retirement system shall establish a method for accepting direct payment for standard optional premiums from annuitants retiring under 5 U.S.C. Chapter 84 whose annuities are too low to cover their premiums. The retirement system will provide the annuitant with a premium payment schedule and statement of the requirements for continued enrollment. The annuitant must continue to make direct payment of the premium even if the annuity increases to the extent that it covers the premium.

(3) The annuitant must remit to the retirement system the premium for standard optional insurance for every pay period during which the coverage continues, exclusive of the 31-day temporary extension of coverage for conversion provided in § 871.501. Payment must be made after the pay period in which the individual is covered in accordance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system will notify the annuitant by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days after receipt of the notice. The standard optional insurance coverage of an annuitant who fails to remit payment within the specified time frame will be terminated. An individual whose coverage is terminated because of nonpayment of premium may not re-elect or reinstate coverage, except as provided in paragraph (i)(4).

(4) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(5) Termination of enrollment for failure to pay premiums within the time frame established in accordance with subparagraph (i)(3) of this section is retroactive to the end of the last pay period for which payment has been timely received.

(6) The retirement system will submit all direct premium payments along with its regular life insurance premiums to OPM in accordance with procedures established by that Office.

PART 872—ADDITIONAL OPTIONAL LIFE INSURANCE

4. In § 872.401, a new paragraph (i) is added to read as follows:

§ 872.401 Withholdings.

* * * * *

(i) *Direct premium payments under 5 U.S.C. Chapter 84.*

(1) If the annuity received under 5 U.S.C. Chapter 84 (Federal Employees' Retirement System), excluding Subchapter III of Chapter 84 (Thrift Savings Plan), is too low to cover the additional optional insurance premium, the retirement system will notify the annuitant of the opportunity to pay the premium directly to the retirement system.

(2) The retirement system shall establish a method for accepting direct payment for additional optional insurance premiums from annuitants retiring under 5 U.S.C. Chapter 84 whose annuities are too low to cover their premiums. The retirement system will provide the annuitant with a premium payment schedule and statement of the requirements for continued enrollment. The annuitant must continue to make direct payment of the premium even if the annuity increases to the extent that it covers the premium.

(3) The annuitant must remit to the retirement system the premium for additional optional insurance for every pay period during which the coverage continues, exclusive of the 31-day temporary extension of coverage for conversion provided in § 872.501. Payment must be made after the pay period in which the individual is covered in accordance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system will notify the annuitant by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days after receipt of the notice. The additional optional insurance coverage of an annuitant who fails to remit payment within the specified time frame will be terminated. An individual whose coverage is terminated because of nonpayment of premium may not re-elect or reinstate coverage, except as provided in paragraph (i)(4).

(4) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(5) Termination of enrollment for failure to pay premiums within the time frame established in accordance with subparagraph (i)(3) of this section is retroactive to the end of the last pay period for which payment has been timely received.

(6) The retirement system will submit all direct premium payments along with its regular life insurance premiums to OPM in accordance with procedures established by that Office.

PART 873—FAMILY OPTIONAL LIFE INSURANCE

5. In § 873.401, a new paragraph (g) is added to read as follows:

§ 873.401 Withholdings.

* * * * *

(g) *Direct premium payments under 5 U.S.C. Chapter 84.* (1) If the annuity received under 5 U.S.C. Chapter 84 (Federal Employees' Retirement System), excluding Subchapter III of Chapter 84 (Thrift Savings Plan), is too low to cover the family optional insurance premium, the retirement system will notify the annuitant of the opportunity to pay the premium directly to the retirement system.

(2) The retirement system shall establish a method for accepting direct payment for family optional insurance premiums from annuitants retiring under 5 U.S.C. Chapter 84 whose annuities are too low to cover their premiums. The retirement system will provide the annuitant with a premium payment schedule and statment of the requirements for continued enrollment. The annuitant must continue to make direct payment of the premium even if the annuity increases to the extent that it covers the premium.

(3) The annuitant must remit to the retirement system the premium for family optional insurance for every pay period during which the coverage continues, exclusive of the 31-day temporary extension of coverage for conversion provided in § 873.501. Payment must be made after the pay period in which the individual is covered in accodance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system will notify the annuitant by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days after receipt of the notice. The family optional coverage of an annuitant who fails to remit payment within the specified time frame will be terminated. An individual whose coverage is terminated because of nonpayment of premium may not re-elect or reinstate coverage; except as provided in paragraph (g)(4).

(4) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(5) Termination of enrollment for failure to pay premiums within the time frame established in accordance with subparagaph (g)(3) of this section is retroactive to the end of the last pay period for which payment has been timely received.

(6) The retirement system will submit all direct premium payments along with its regular life insurance premiums to OPM in accordance with procedures established by that office.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

6. The authority citation for Part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; § 890.102 also issued under 5 U.S.C. 1104.

7. Section 890.101 is amended as follows:

a. By adding alphabetically the definition of "Basic employee death benefit" as set forth below.

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b. In the definition of "Employing office," by redesignating paragraphs (i) through (iii) as (1) through (3), by revising paragraphs (1) and (2), and by adding paragraph (4) as set forth below.

c. By revising the definition of "Pay period" as set forth below.

§ 890.101 Definitions; time computations.

(a) * * *

"Basic employee death benefit" has the meaning set out at § 843.102. Survivors receiving this benefit are deemed to be "annuitants" for purposes of this Chapter.

* * * * *

"Employing office" * * *

(1) For an enrolled annuitant (including survivor annuitant, former spouse annuitant, and surviving spouses receiving a basic employee death benefit under 5 U.S.C. 8442(b)(1)(A)) who is not also an eligible employee, "employing office' is the office which has the authority to approve payment of annuity, basic employee death benefit, or workers' compensation for the annuitant concerned.

(2) For a former spouse of an annuitant whose marriage dissolved after the employee's retirement and who has entitlement to receive future annuity payments under section 8341(h), 8345(j), 8445, or 8467 of title 5, United States Code, "employing office" is the office which has the authority to approved payment of annuity for the annuitant or former spouse concerned.

* * * * *

(4) For a surviving spouse in receipt of a basic employee death benefit under 5 U.S.C. 8442(b)(1)(A) who is not also an eligible employee, the "employing office" is the retirement system which has authority to approve the basic employee death benefit.

* * * * *

"Pay period" means the biweekly pay period established pursuant to section 5504 of title 5, United States Code, for the employees to whom that section applies and the regular pay period for employees not covered by that section. "Pay period" as it relates to a former spouse or annuitant who is not actively receiving an annuity, including surviving spouses receiving a basic employee death benefit, means any regular pay period for employees of the agency to which jurisdiction and responsibility for health benefits actions for the former spouse or annuitant have been delegated as provided under the definition of "Employing office" in this section. "Pay period" for annuitants in active receipt of annuity means the period for which a single installment of annuity is customarily paid.

* * * * *

8. Section 890.104 is amended by revising paragraph (a) to read as follows:

§ 890.104 Initial decision and reconsideration.

(a) *Who may file.* An employee, annuitant, or former spouse may request OPM to reconsider a decision of an employing office that denies coverage or change of enrollment.

* * * * *

9. Section 890.301 is amended by revising paragraph (q) and adding paragraph (aa) to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(q) *Annuity insufficient to pay withholdings.* If the annuity of an annuitant under 5 U.S.C. Chapter 83 or of all annuitants in a family receiving benefits under 5 U.S.C. Chapter 83 is not sufficient to pay the withholdings for the plan in which the annuitants are enrolled, the employing office shall notify the annuitant of the plans available at a cost not in excess of the annuity. The annuitant may register to be enrolled in another plan whose cost is no greater than his or her annuity. For annuitants receiving benefits under 5 U.S.C. Chapter 84, see § 890.502(d).

* * * * *

(aa) *Termination of remarriage of "lump sum" survivors in receipt of basic employee death benefits.*

A surviving spouse who received a basic employee death benefit under 5 U.S.C. 8442(b)(1)(A) and who was covered by a health benefits enrollment under this part immediately before remarriage prior to age 55 may register to enroll in a health benefits plan under this part upon termination of the remarriage. The survivor must provide OPM with a certified copy of the notice of death or the court order terminating the marriage. Registration must be made within 60 days after OPM mails the registration form to the surviving spouse.

10. Section 890.303(c) is revised to read as follows:

§ 890.303 Continuation of enrollment.

* * * * *

(c) *On death.* The enrollment of a deceased employee or annuitant who is enrolled for self and family is transferred automatically to his or her eligible survivor annuitants. The enrollment is considered to be that of (1) the survivor annuitant from whose annuity all or the greatest portion of the withholding for health benefits is made, or (2) the surviving spouse entitled to a basic employee death benefit. The enrollment covers members of the family of the deceased employee or annuitant. A remarried spouse is not a member of the family of the deceased employee or annuitant unless annuity under section 8341 or 8442 of title 5, United States Code, continues after remarriage.

* * * * *

11. In § 890.304, paragraph (b)(1) is revised and (b)(2)(iv) is added to read as follows:

§ 890.304 Termination of enrollment.

* * * * *

(b) *Annuitants.* (1) If the annuity of an annuitant retiring under 5 U.S.C. Chapter 83 or of all survivor annuitants in a family of such an annuitant is not sufficient to pay the withholdings for the plan in which the annuitants are enrolled, and the annuitant does not, or cannot, elect a plan under § 890.301(q) at a cost to him or her not in excess of the annuity, the employing office shall terminate the annuitant's enrollment effective as of the end of the last period for which withholding was made. Each annuitant whose enrollment is so terminated is entitled to a 31-day extension of coverage for conversion.

(2) * * *

(iv) The last day of the month preceding the month in which a survivor annuitant in receipt of basic employee death benefits under 5 U.S.C. 8442(b)(1)(A) remarries before attaining age 55.

* * * * *

12. In § 890.306, paragraph (b) is revised, paragraph (g) is redesignated as paragraph (h), and a new paragraph (g) is added to read as follows:

§ 890.306 Effective dates.

* * * * *

(b) *Annuitant required to change enrollment.* The effective date of an annuitant's change to a lower cost enrollment under § 890.301(q) is immediately upon termination of his or her prior enrollment.

* * * * *

(g) *Restoration of health benefits for survivors in receipt of basic employee death benefits following termination of remarriage.* The effective date of an enrollment under § 890.301(aa) is the first day of the month after the date of receipt by OPM of the registration form and the notice of death or court order terminating the remarriage.

* * * * *

13. In § 890.502, paragraph (a) is redesignated as (a)(1) and new paragraph (a)(2) is added, the second sentence of paragraph (b)(1) is revised, and paragraph (f) is added to read as follows:

§ 890.502 Employee withholdings and contributions.

(a) * * *

(2) Surviving spouses in receipt of a basic employee death benefit under 5 U.S.C. 8442(b)(1)(A) and annuitants retiring under 5 U.S.C. Chapter 84 whose health benefits premiums exceed the amount of their annuities may pay their portion of the health benefits premium directly to the retirement system acting as their employing office in accordance with procedures set out in paragraph (d) of this section.

(b)(1) * * * In each pay period for which health benefits withholdings or direct premium payments are not made but during which the enrollment of an employee or annuitant continues, he/she will incur an indebtedness due the United States in the amount of the proper employee withholdings required for that pay period.

* * * * *

(f) *Direct premium payments under 5 U.S.C. Chapter 84.* (1) If the annuity received under 5 U.S.C. Chapter 84 (Federal Employees' Retirement System), excluding Subchapter III of Chapter 84 (Thrift Savings Plan), is too low to cover the health benefits premium or if a surviving spouse receives a basic employee death benefit, the retirement system will notify the annuitant of the opportunity to pay the annuitant's share of the premium directly to the retirement system.

(2) The retirement system shall establish a method for accepting direct payment for health benefits premiums from surviving spouses who have received or are currently receiving basic employee death benefits as well as from annuitants retiring under 5 U.S.C. Chapter 84 whose annuities are too low to cover their health premiums. The annuitant must continue to make direct payment of the health benefits premium even if the annuity increases to the extent that it covers the premium.

(3) The retirement system will use the deceased annuitant's case file as the health benefits file for surviving spouses who receive a basic employee death benefit.

(4) The annuitant must remit to the retirement system his or her share of the subscription charge for the enrollment for every pay period during which the enrollment continues, exclusive of the 31-day temporary extension of coverage for conversion provided in § 890.401. Payment must be made after the pay period in which the individual is covered in accordance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system will notify the surviving spouse or annuitant by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days after receipt of the notice. The enrollment of an individual who fails to remit payment within the specified time frame will be terminated. An individual whose enrollment is terminated because of nonpayment of premium may not reenroll or reinstate coverage, except as provided in paragraph (d)(5).

(5) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(6) Termination of enrollment for failure to pay premiums within the time frame established in accordance with paragraph (d)(4) of this section is retroactive to the end of the last pay period for which payment has been timely received.

(7) The retirement system will submit all direct premium payments along with its regular health benefits premiums to OPM in accordance with procedures established by that office.

14. In § 890.803, paragraph (a)(3)(i) is revised to read as follows:

§ 890.803 Who may enroll.

(a) * * *

(3)(i) The former spouse currently receives, or has future title to receive (A) a portion of annuity payable to the employee upon retirement based on a qualifying court order for purposes of 5 U.S.C. 8345(j) or 5 U.S.C. 8467; (B) survivor annuity benefits based on a qualifying court order for purposes of 5 U.S.C. 8341(h) or 5 U.S.C. 8445; or (C) a survivor annuity elected by the employee under 5 U.S.C. 8339(j) (3) or 5 U.S.C. 8417(b) (or benefits similar to those under this paragraph under another retirement system for Government employees); *or*

* * * * *

15. In § 890.805, paragraph (b)(2) is revised to read as follows:

§ 890.805 Application time limitations.

* * * * *

(b) * * *

(2) if the marriage dissolved after retirement, within 60 days after the dissolution of the marriage, or within 60 days after the retired employee elects to provide a survivor annuity for the former spouse under 5 U.S.C. 8339(j) (3) or 5 U.S.C. 8417(b); or

* * * * *

16. In § 890.806, paragraph (b) is revised to read as follows:

§ 890.806 Effective dates of coverage.

* * * * *

(b) *Change required because of insufficient annuity.* When a former spouse receiving an annuity under 5 U.S.C. Chapter 83 changes to a lower cost enrollment as provided by § 890.301(q), the change is effective immediately upon loss of coverage under the prior enrollment.

§ 890.807 [Amended]

17. In § 890.807, the word "establishment" in paragraph (a)(3) is removed and the word "established" is inserted in its place.

18. In § 890.808, a new sentence is added at the end of paragraph (b)(1), and paragraph (d) is revised to read as follows:

§ 890.808 Employing office responsibilities.

* * * * *

(b)(1) * * * The request for the retirement system's determination whether the court order is a qualifying court order for health benefits enrollment under this Subpart must be accompanied by the documents specified in § 831.1705 (b) and (c).

* * * * *

(d) *Premium payments.* (1) The former spouse must remit to the employing office the full subscription charge for the enrollment for every pay period during which the enrollment continues, exclusive of the 31-day temporary extension of coverage for conversion provided in §§ 890.401 and 890.807(a)(2). Payment must be made after the pay period in which the former spouse is covered in accordance with a schedule established by the employing office [see definition of "pay period" under § 890.101(a)]. If the employing office does not receive payment by the due date, the employing office will notify the

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former spouse by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days (45 days for former spouses residing overseas) after receipt of the notice. The enrollment of an individual who fails to remit payment within the specified time frame will be terminated. A former spouse whose enrollment is terminated because of nonpayment of premium may not reenroll or reinstate coverage, except as provided in paragraph (d)(2) of this section.

(2) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the employing office. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The employing office will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(3) The employing office will submit all premium payments collected from former spouses along with its regular health benefits payments to OPM in accordance with procedures established by that Office.

* * * * *

[FR Doc. 87-24359 Filed 10-21-87; 8:45 am]
BILLING CODE 6325-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1264

Implementation of the Program Fraud Civil Remedies Act of 1986

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim rule with request for comments.

SUMMARY: The National Aeronautics and Space Administration (NASA) is implementing the Program Fraud Civil Remedies Act of 1986, Pub. L. 99-509, sections 6101-6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801-3812 (hereinafter referred to as the Act). This new regulation is in accordance with the Model Regulations of the President's Council on integrity and Efficiency, and establishes the NASA practices and procedures in compliance with the Act.

DATE: Effective October 22, 1987. Comments due by December 21, 1987.

ADDRESS: Comments may be mailed to the Office of General Counsel, Code GG, NASA Headquarters, Washington, DC 20546. Comments may be inspected in Room 7041 between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Sara Najjar, 202-453-2465.

SUPPLEMENTARY INFORMATION: This regulation does not constitute a major rule for the purpose of Executive Order 12291, and is not subject to the Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980; 5 U.S.C. 601 et seq.).

List of Subjects in 14 CFR Part 1264

Administrative practice and procedure, Civil penalties and assessments, False claims or statements, Fraud, Remedies.

Part 1264 is added to Title 14, Chapter V, to read as follows:

PART 1264—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL PENALTIES ACT OF 1986

Sec.

1264.100 Basis and purpose.
1264.101 Definitions.
1264.102 Basis for civil penalties and assessments.
1264.103 Investigation.
1264.104 Review by the reviewing official.
1264.105 Prerequisites for issuing a complaint.
1264.106 Complaint.
1264.107 Service of complaint.
1264.108 Answer.
1264.109 Default upon failure to file an answer.
1264.110 Referral of complaint and answer to the presiding officer.
1264.111 Notice of hearing.
1264.112 Parties to the hearing.
1264.113 Separation of functions.
1264.114 Ex parte contacts.
1264.115 Disqualification of reviewing officaial or presiding officer.
1264.116 Rights of parties.
1264.117 Authority of the presiding officer.
1264.118 Prehearing conferences.
1264.119 Disclosure of documents.
1264.120 Discovery.
1264.121 Exchange of witness lists, statements, and exhibits.
1264.122 Subpoenas for attendance at hearing.
1264.123 Protective order.
1264.124 Fees.
1264.125 Form, filing, and service of papers.
1264.126 Computation of time.
1264.127 Motions.
1264.128 Sanctions.
1264.129 The hearing and burden of proof.
1264.130 Determining the amount of penalties and assessments.
1264.131 Location of hearing.
1264.132 Witnesses.
1264.133 Evidence.
1264.134 The record.
1264.135 Post-hearing briefs.
1264.136 Initial decision.
1264.137 Reconsideration of initial decision.
1264.138 Appeal to authority head.
1264.139 Stays ordered by the Department of Justice.
1264.140 Stay pending appeal.
1264.141 Judicial review.
1264.142 Collection of civil penalties and assessments.
1264.143 Right to administrative offset.
1264.144 Deposit in Treasury of United States.
1264.145 Compromise or settlement.
1264.146 Limitations.

Appendix A—Notice to Consent to the Chairperson, NASA Board of Contract Appeals (BCA), or Designee, as Presiding Officer

Authority: 31 U.S.C. 3809, 42 U.S.C. 2473(c)(1).

§ 1264.100 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. 99-509, Sections 6101-6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801-3812. 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part does the following:

(1) Establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents; and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 1264.101 Definitions.

(a) ALJ means an Adiministrative Law Judge in the authority appointed pursuant to 5 U.S.C. 3105 or detailed to the authority pursuant to 5 U.S.C. 3344. For purposes of this part, the ALJ shall be referred to as the presiding officer.

(b) Authority means the National Aeronautics and Space Administration (NASA).

(c) Authority head means the NASA Administrator or Deputy Administrator or designee. For purposes of this regulation, the NASA General Counsel or Deputy General Counsel is designated legal counsel to the Authority head.

(d) Benefits means, except as the context otherwise requires, anything of value, including but not limtied to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

(e) Claim means any request, demand, or submission—

(1) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(2) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(i) For property or services if the United States—

(A) Provided such property or services;

(B) Provided any portion of the funds for the purchase of such property or services; or

(C) Will reimburse such recipient or party for the purchase of such property or services; or

(ii) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(A) Provided any portion of the money requested or demanded; or

(B) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(iii) Made to the authority which has the effect of decreasing an obligation to pay or account for property, services, or money.

(f) Complaint means the administrative complaint served by the reviewing official on the defendant under § 1264.106.

(g) Consent hearing means that the authority and the defendant consent, as provided in § 1264.106(c), that the presiding officer be the Chairperson of the NASA Board of Contract Appeals (BCA). The Chairperson may designate another administrative judge of the NASA BCA as presiding officer in a consent hearing.

(h) Defendant means any person alleged in a complaint under § 1264.106 to be liable for a civil penalty or assessment under § 1264.102.

(i) Government means the United States Government.

(j) Individual means a natural person.

(k) Initial decision means the written decision of the ALJ or presiding officer required by § 1264.109 or § 1264.136, and includes a revised initial decision issued following a remand or a motion for reconsideration.

(l) Investigating official means the NASA Inspector General, or designee who is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

(m) Knows or has reason to know, means that a person with respect to a claim or statement—

(1) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(2) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(3) Acts in reckless disregard of the truth or falsity of the claim or settlement.

(n) Makes, wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, making or made shall likewise include the corresponding forms of such terms.

(o) Person means any individual, partnership, corporation, association, private organization, State, political subdivision of a State, municipality, county, district, and Indian tribe, and includes the plural of that term.

(p) Presiding officer, except as provided for pursuant to consent trial notice, means (if the authority is not subject to the provisions of Subchapter II of Chapter 5, Title 5, U.S.C.) an officer or employee of the authority who—

(1) Is selected under Chapter 33 of Title 5 pursuant to the competitive examination process applicable to administrative law judges;

(2) Is appointed by the authority head to conduct hearings under this part;

(3) Is assigned to cases in rotation so far as practicable;

(4) May not perform duties inconsistent with the duties and responsibilities of a presiding officer;

(5) Is entitled to pay prescribed by the Office of Personnel Management independently of ratings and recommendations made by the authority and in accordance with Chapter 51 of such Title and Subchapter III of Chapter 53 of such Title;

(6) Is not subject to performance appraisal pursuant to Chapter 43 of such Title; and

(7) May be removed, suspended, furloughed, or reduced in grade or pay only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing by such Board.

(q) Representative means an attorney.

(r) Reviewing official means the NASA Associate Administrator for Management. For purposes of this regulation, the Associate General Counsel (General) or designee is designated legal counsel to the Reviewing official.

(s) Statement means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(1) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(2) With respect to (including relating to eligibility for)—

(i) A contract with, or a bid or proposal for a contract with; or

(ii) A grant, loan, or benefit from the authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

§ 1264.102 Basis for civil penalties and assessments.

(a) *Claims.* (1) Any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed—

Shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such claim.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to an authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

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(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation. Such assessment shall be in lieu of damages sustained by the Government because of such claim.

(b) *Statements.* (1) Any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement—

Shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to an authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority.

(c) No proof of specific intent to defraud is required to establish liability under this section.

(d) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held liable for a civil penalty under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

§ 1264.103 Investigation.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(1) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued and shall identify the records or documents sought;

(2) The subpoena may designate the person, to act on the investigating official's behalf, to receive the documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available and the reasons therefor, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section shall preclude or limit the investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to preclude or limit such official's discretion to defer or postpone a report of referral to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of the investigating official to report violations of criminal law to the Attorney General.

§ 1264.104 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 1264.103(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 1264.102 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 1264.106.

(b) Such notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 1264.102 of this part;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information then known or an absence of any information indicating that the person may be unable to pay such an amount.

§ 1264.105 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 1264.106 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1); and

(2) In the case of allegations of liability under § 1264.102(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 1264.102(a) does not exceed $150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (e.g., grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person claims that are unrelated or were not submitted simultaneously, regardless of the amount of money or the value of property or services demanded or requested.

§ 1264.106 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 1264.107.

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer

and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal.

(c) At the same time the defendant is served with the complaint, he or she shall also be served with a—

(1) Notice to Consent to the Chairperson of the NASA Board of Contract Appeals (BCA), or Designee, as presiding officer;

(2) Copy of this Part 1264 of 14 CFR.

§ 1264.107 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual making service;

(2) An acknowledged United States Postal Service return receipt card; or

(3) Written acknowledgment of the defendant or his/her representative.

§ 1264.108 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer shall be deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

§ 1264.109 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 1264.108(a), the reviewing official may refer the complaint to the presiding officer.

(b) Upon the referral of the complaint, the presiding officer shall promptly serve on defendant, in the manner prescribed in § 1264.107, a notice that an initial decision will be issued under this section.

(c) If the defendant fails to answer, the presiding officer shall assume the facts alleged in the complaint to be true and, if such facts establish liability under § 1264.102, the presiding officer shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the presiding officer seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial decision shall be stayed pending the presiding officer's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the presiding officer shall withdraw the initial decision under paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the presiding officer denying a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 1264.137.

(h) The defendant may appeal to the authority head the decision denying a motion to reopen by filing a notice of appeal with the authority head within 15 days after the presiding officer denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the authority head decides the issue.

(i) If the defendant files a timely notice of appeal with the authority head, the presiding officer shall forward the record of the proceeding to the authority head.

(j) The authority head shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the presiding officer.

(k) If the authority head decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the authority head shall remand the case to the presiding officer with instructions to grant the defendant an opportunity to answer.

(l) If the authority head decides that the defendant's failure to file a timely answer is not excused, the authority head shall reinstate the initial decision of the presiding officer, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

§ 1264.110 Referral of complaint and answer to the presiding officer.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the presiding officer, and include the name and address of the attorney who will represent the authority before the presiding officer.

§ 1264.111 Notice of hearing.

(a) When the presiding officer receives the complaint and answer, the presiding officer shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 1264.107. At the same time, the presiding officer shall send a copy of such notice to the representative of the authority.

(b) Such notice shall include—

(1) The tentative time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law asserted;

(4) A description of the precedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the authority and of the defendant;

(6) An opportunity for a settlement conference or proposals of adjustment through alternative dispute resolutions, if not already explored; and

(7) Such other matters as the presiding officer deems appropriate.

§ 1264.112 Parties to the hearing.

(a) The parties to the hearing shall be the defendant and the authority.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act, as amended, may participate in these proceedings to the extent authorized by the provisions of that Act. (See section 3 of the False Claims Amendments Act of 1986, Pub. L. 99-562, October 27, 1986.)

§ 1264.113 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the authority who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case—

(1) Participate in the hearing as the presiding officer;

(2) Participate or advise in the initial decision or the review of the initial decision by the authority head, except as a witness or as the authority

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representative in the administrative or judicial proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The presiding officer shall not be responsible to, or subject to the supervision or direction of, the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Government must be a member of the legal staff of the authority. Nothing in this paragraph is intended to prevent assistance to the Government representative by attorneys in the NASA organization or other governmental entities.

§ 1264.114 Ex parte contacts.

No party or person (except employees of the presiding officer's office) shall communicate in any way with the presiding officer on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 1264.115 Disqualification or reviewing official or presiding officer.

(a) A reviewing official or presiding officer in a particular case may disqualify himself or herself at any time.

(b) A party may file with the presiding officer a motion for disqualification of a reviewing official or a presiding officer. Such motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons for disqualification, or such objections shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affidavit, the presiding officer shall proceed no further in the case until the matter of disqualification is resolved in accordance with paragraph (f) of this section.

(f)(1) If the presiding officer determines that a reviewing official is disqualified, the presiding officer shall dismiss the complaint without prejudice.

(2) If the presiding officer disqualifies himself or herself, the case shall be reassigned promptly to another presiding officer.

(3) If the presiding officer denies a motion to disqualify, the authority head may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

§ 1264.116 Rights of parties.

Except as otherwise limited by this part, all parties may—

(a) Be accompanied, represented, and advised by a representative;

(b) Paticipate in any conference held by the presiding officer;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the presiding officer; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

§ 1264.117 Authority of the presiding officer.

(a) The presiding officer shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The presiding officer has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters, including settlement conferences or other alternative dispute resolution, that may aid in the fair and expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas, requiring the attendance of witnesses and the production of documents at depositions or at hearings, which the presiding officer considers relevant and material;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no genuine issue as to any material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the presiding officer under this part.

(c) The presiding officer does not have the authority to decide upon the validity of Federal statutes or regulations.

§ 1264.118 Prehearing conferences.

(a) The presiding officer may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the presiding officer shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The presiding officer may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations, admissions of fact or as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence subject to the objections of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) such other matters, including settlement, as may tend to expedite the fair and just disposition of the proceedings.

(d) The presiding officer may issue an order containing all matters agreed upon by the parties or ordered by the presiding officer at a prehearing conference.

§ 1264.119 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under

§ 1264.103(b) are based unless such documents are subject to a privilege under Federal law. Upon payment of a reasonable fee for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 1264.104 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the presiding officer following the filing of an answer pursuant to § 1264.106.

§ 1264.120 Discovery.

(a) The following types of discovery are authorized:

(1) Request for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 1264.121 and 1264.122, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence which the presiding officer considers relevant and material to the hearing. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the presiding officer. The presiding officer shall regulate the timing of discovery.

(d) Motions for discovery. (1) A party seeking discovery may file a motion with the presiding officer. Such a motion shall be accompanied by a copy of the discovery request or, in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within 10 days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 1264.123.

(3) The presiding officer may grant a motion for discovery only if he/she finds that the discovery sought—

(i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The presiding officer may grant discovery subject to a protective order under § 1264.123.

(e) Depositions. (1) If a motion for deposition is granted, the presiding officer shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 1264.107.

(3) The deponent may file with the presiding officer a motion to quash the subpoena or a motion for a protective order within 10 days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

§ 1264.121 Exchange of witness lists, statements, and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the presiding officer, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with paragraph (b) of § 1264.132. At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the presiding officer, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the presiding officer shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party, in accordance with paragraph (a) of this section, unless the presiding officer finds goods cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the presiding officer, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 1264.122 Subpoena for attendance at hearing.

(a) A party wishing the appearance and testimony of any individual at the hearing may request that the presiding officer issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the presiding officer for good cause shown. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 1264.107. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the presiding officer a motion to quash the subpoena within 10 days after service or on or before the time specified in the subpoena for compliance if it is less than 10 days after service.

§ 1264.123 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the presiding officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions,

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including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the presiding officer;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the presiding officer;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the presiding officer.

§ 1264.124 Fees.

The party requesting a supoena shall pay the cost of the fees and mileage of any witness supoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

§ 1264.125 Form, filing, and service of papers.

(a) *Form.* (1) Documents filed with the presiding officer shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the presiding officer, and a designation of the paper (e.g., motion to quash subpoena).

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the presiding officer shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than the complaint or notice of hearing shall be made by delivering or mailing a copy to the party's last known address. When a party is represented by a representative, service shall be made upon such representative.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

§ 1264.126 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day.

(b) When the period of time allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal government shall be excluded from the computation.

(c) Where a document has been served or issued by mail, an additional 5 days will be added to the time permitted for any response.

§ 1264.127 Motions.

(a) Any application to the presiding officer for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the presiding officer and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The presiding officer may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the presiding officer, any party may file a response to such motion.

(d) The presiding officer may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The presiding officer shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 1264.128 Sanctions.

(a) The presiding officer may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the presiding officer may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon testimony relating to, the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the presiding officer may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The presiding officer may refuse to consider any motion, request, response, brief, or other document which is not filed in a timely fashion.

§ 1264.129 The hearing and burden of proof.

(a) The presiding officer shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 1264.102 and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The authority shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the presiding officer for good cause shown.

§ 1264.130 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the presiding officer, and the authority head upon appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the presiding officer and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct (i.e., the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the presiding officer or the authority head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 1264.131 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place as may be agreed upon by the defendant and the presiding officer.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the presiding officer.

§ 1264.132 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the presiding officer, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 1264.121(a).

(c) The presiding officer shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to make the interrogation and presentation effective for the ascertainment of the truth, avoid needless consumption of time, and protect witnesses from harassment or undue embarrassment.

(d) The presiding officer shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the presiding officer, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the presiding officer, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the presiding officer shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

§ 1264.133 Evidence.

(a) The presiding officer shall determine the admissibility of evidence.

(b) Except as provided herein, the presiding officer shall not be bound by the Federal Rules of Evidence. However, the presiding officer may apply the Federal Rules of Evidence where appropriate, e.g., to exclude unreliable evidence.

(c) The presiding officer shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The presiding officer shall permit the parties to introduce rebuttal witnesses and evidence.

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(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the presiding officer pursuant to § 1264.123.

§ 1264.134 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the presiding officer at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits, and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the presiding officer and the authority head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the presiding officer pursuant to § 1264.123.

§ 1264.135 Post-hearing briefs.

The presiding officer may require the parties to file post-hearing briefs. In any event, upon approval of the presiding officer, any party may file a post-hearing brief. The presiding officer shall fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The presiding officer may permit the parties to file reply briefs, and may grant an extension of the 60-day time period or other time for good cause shown.

§ 1264.136 Initial decision.

(a) The presiding officer shall issue an initial decision based solely on the record, which shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 1264.102;

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors found in the case, such as those described in § 1264.130.

(c) The presiding officer shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired or upon notification that the record is now closed. The presiding officer shall at the same time serve all defendants with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the presiding officer or a notice of appeal with the authority head. If the presiding officer fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the presiding officer is timely appealed to the authority head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall consititute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued by the presiding officer.

§ 1264.137 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt will be presumed to be 5 days from the date of mailing in the absence of contrary proof.

(b) Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the presiding officer.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The presiding officer may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) When a motion for reconsideration is made, the time periods for appeal to the authority head contained in § 1264.138, and for finality of the initial decision in paragraph (d) of § 1264.136, shall begin on the date the presiding officer issues the denial of the motion for reconsideration or a revised initial decision, as appropriate.

§ 1264.138 Appeal to authority head.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the authority head in accordance with this section.

(b) The time for appeal to the authority head is as follows:

(1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 1264.137 has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the presiding officer denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the presiding officer issues the initial decision.

(4) The authority head may extend the initial 30-day period for an additional 30 days if the defendant files with the authority head a request for an extension within the initial 30-day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the authority head, the presiding officer shall forward the record of the proceeding to the authority head.

(d) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the authority head.

(g) There is no right to appeal any interlocutory ruling by the presiding officer.

(h) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the presiding officer unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the authority head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the presiding officer for consideration of such additional evidence.

(j) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the presiding officer in any initial decision.

(k) The authority head shall promptly serve each party to the appeal with a copy of the decision of the authority head. At the same time the authority head shall serve the defendant with a statement describing the defendant's right to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the authority head seves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under § 1264.102 is final and is not subject to judicial review.

§ 1264.139 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. If the process is before the presiding officer, the authority head shall promptly transmit the finding to the presiding officer, who, in turn, must stay the proceeding and give notice to all parties and their representatives. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 1264.140 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 1264.141 Judicial review.

Section 3805 of Title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties or assessments under this part and specifies the procedures for such review.

§ 1264.142 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of Title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 1264.143 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 1264.141 or § 1264.142, or any amount agreed upon in a compromise or settlement under § 1264.145, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 1264.144 Deposit in Treasury of United States.

All amounts collected pursuant to this apart shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 1264.145 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time, including proposals for alternative dispute resolution.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to refer allegations of liability to a presiding officer and before the date on which the presiding officer issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the presiding officer issues an initial decision, except during the pendency of any judicial review under § 1264.141 or during the pendency of any civil action to collect penalties and assessments under § 1264.142.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any judicial review under 31 U.S.C. 3805 or of any civil action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 1264.146 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 1264.107 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 1264.109(b) shall be deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

Appendix A—Notice to Consent to the Chairperson, NASA Board of Contract Appeals (BCA), or Designee, as Presiding Officer

In accordance with the provisions of 14 CFR 1264.108, you are hereby notified that the Chairperson, NASA Board of Contract Appeals (BCA), or designee, in addition to other duties, upon your consent, may conduct any or all proceedings as the presiding officer, pursuant to 14 CFR Part 1264 which implements the Program Fraud Civil Penalties Act of 1986.

You should be aware that your decision to consent, or not to consent, to the referral of this case to the NASA/BCA must be entirely voluntary. Only if you and the authority head consent to this reference will either the Chairperson or the designee to whom the case may be assigned be informed of your decision.

An appeal from a decision by the presiding officer under this consent procedure may be taken in the same manner as an appeal from a decision by any other presiding officer, as provided in 14 CFR 1264.136(d), 1264.137, 1264.138, and 1264.141.

If you consent, you must sign, date, and return this form within the 30-day period provided for your answer (see 14 CFR 1264.108, 1264.109).

I consent: _____

(Signature of person alleged to be liable)

_____

(Print name)

_____

(Date of signature)

James C. Fletcher,

Administrator.

October 13, 1987.

[FR Doc. 87-24323 Filed 10-21-87; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 284

[Docket Nos. RM87-34-001; Order No. 500-A]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol

October 14, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim rule; order granting extension of time for responses to take-or-pay data request.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is granting in part requests by interstate natural gas pipelines for additional time in which to respond to the take-or-pay data requests sent them by the Commission to develop the record in this proceeding. The Commission is extending the date for responses to November 2, 1987.

DATE: The date for filing responses to the data request is extended to November 2, 1987.

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ADDRESS: Federal Energy Regulatory Commission, Office of the Secretary, Room 3110, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Peter J. Roidakis, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street NE., Washington, DC 20426, (202) 357–8213.

Order Granting Extension of Time for Responses to Take-or-Pay Date Request

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

I. Introduction

On August 7, 1987, the Commission issued Order No. 500 [1] which promulgated interim regulations in response to the decision of the United States Court of Appeals for the District of Columbia Circuit in *Associated Gas Distributors* v. *FERC*.[2] On August 26, 1987, the Commission served 45 interstate natural gas pipelines with data requests regarding the take-or-pay obligations in their gas purchase contracts. The responses to these data requests are intended to provide an accurate and current data base for a studied response to the Court's decision in *Associated Gas Distributors*.

II. Discussion

Numerous pipelines and their trade associations have filed for extensions of time to respond to the take-or-pay data request.[3] Upon consideration, the Commission hereby grants in part the pipelines' requests for additional time in which to respond to the take-or-pay data requests, and extends the date responses are due to November 2, 1987.

The Commission is aware that the interim regulations also provide for certain operative dates integral to their implementation and operation. Specifically, the suspension of § 284.10 of the Commission's regulations was removed effective November 1, 1987; and, as of November 1, 1987, natural gas that was being transported by interstate pipelines would continue to be eligible for transportation by the interstate pipelines only if the pipeline and the shipper agree, or an affidavit offering certain take-or-pay credits has been submitted to the pipeline. While the Commission is not adjusting these operative dates at this time, the Commission may, upon further consideration, adjust those dates, if it finds such action necessary. Finally, the Commission notes the numerous substantive issues that have been raised in various rehearing requests, clarification motions, and comments received to date. These issues may also be treated in a subsequent order where necessary, or by other responsive means, as appropriate.

The purpose of this order is solely to extend the date by which responses to the take-or-pay date requests are due, and is not intended to constitute a final order on rehearing.

III. Administrative findings

The Commission is extending a data request response date integral to the implementation of Order No. 500. The Commission finds that the public interest would be served and that good cause exists to make this extension effective immediately pursuant to sections 553(b)(B) and 553(d)(3) of the Administrative Procedure Act.

IV. Order

The date for response to the Order No. 500 take-or-pay data request is extended to November 2, 1987.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–24494 Filed 10–21–87; 8:45 am]

BILLING CODE 6717-01-M

[1] 52 FR 30334 (Aug. 14 1987). The interim regulations became effective on September 15, 1987.

[2] 824 F.2d 981 (D.C. Cir. 1987).

[3] *See, e.g.*, petition of Interstate Natural Gas Association of America (INGAA) filed September 21, 1987, in Docket No. RM87–34–000 at 1 ("INGAA strongly urges that the Commission extend the time for responding to the data requests until December 15, 1987"); *see also* petitions of Valley Gas Transmission, Inc., Northwest Pipeline Corporation, Williams Natural Gas Company, Transcontinental Gas Pipe Line Corporation, Williston Basin Interstate Pipeline Company, Valero Interstate Transmission Company, Carnegie Natural Gas Company, Western Gas Interstate Company, Equitable Resources, Inc., United Gas Pipe Line Company, American Gas Association, Kentucky West Virginia Gas Company, Northern Natural Gas Company, Division of Enron Corp., ANR Pipeline Company and Colorado Interstate Gas Company.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 81G–0282]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Polyethylenimine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polyethylenimine as a fixing agent for the immobilization of microbial enzyme preparations used as sources of glucose isomerase. This action is in response to a petition filed by UOP, Inc.

DATES: Effective October 22, 1987; objections by November 23, 1987. The Director of the Office of the Federal Register approves the incorporation by references of certain publications at 21 CFR 173.357, effective October 22, 1987.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–426–9950.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of November 17, 1981 (46 FR 56505), FDA announced that a GRAS affirmation petition (GRASP 1G0277) had been filed by a law firm on behalf of UOP, Inc., 20 UOP Plaza, Des Plaines, IL 60016, proposing affirmation that high fructose corn syrup prepared from corn syrup glucose by the action of a glucose isomerase enzyme preparation derived from *Streptomyces olivochromogenes (S. olivochromogenes)* and immobilized with polyethylenimine cross-linked with glutaraldehyde is generally recognized as safe (GRAS) as a direct human food ingredient.

In the **Federal Register** of February 8, 1983 (48 FR 5715), FDA listed high fructose corn syrup as GRAS (21 CFR 182.1866) for use in food as a nutritive carbohydrate sweetener when prepared from high dextrose equivalent corn starch hydrolysate by the action of insoluble glucose isomerase enzyme preparations as described in 21 CFR 184.1372. In that document, FDA recognized that the safety of the glucose isomerase enzyme preparations, and therefore of high fructose corn syrup, depends on several factors. Among these factors are the nature of the microorganism used as the source of the glucose isomerase enzyme preparation and the presence of residues of the enzyme, of additional cellular material, and of residues of processing materials in the final food ingredient (high fructose corn syrup).

II. The Petition

The petition submitted by UOP, Inc., describes the microbial enzyme preparation used to produce high fructose corn syrup as a partially purified extract derived from *S. olivochromogenes* that is free of viable cells and that is immobilized (fixed or rendered insoluble) with glutaraldehyde and polyethylenimine on a ceramic carrier. In evaluating the data in the petition, FDA considered whether each component of the fixed enzyme preparation is currently approved for the proposed use.

FDA has affirmed that enzyme preparations derived from *S. olivochromogenes* are GRAS (21 CFR 184.1372) for use as sources of glucose isomerase. Glutaraldehyde is listed in 21 CFR 173.357 as a fixing agent in the immobilization of glucose isomerase enzyme preparations for use in the manufacture of high fructose corn syrup. In the **Federal Register** document that listed high fructose corn syrup as GRAS (48 FR 5715), FDA stated that materials such as ceramics, glass, and stainless steel are GRAS for food-contact use based on a history of widespread use.

Therefore, FDA finds that the ingredients of UOP, Inc.'s, fixed enzyme preparation, except polyethylenimine, are either regulated food additives or GRAS food ingredients. This final rule addresses the proposed use of polyethylenimine as a fixing agent for microbial enzymes used as sources of glucose isomerase.

III. Requirements for GRAS Status

In accordance with 21 CFR 170.30, an ingredient may be GRAS either (1) on the basis of experience based on common use in food prior to January 1, 1958, or (2) of scientific procedures. Because the information that UOP, Inc., submitted in support of its petition did not establish that polyethylenimine was in common use in food before 1958, FDA considered whether the petition contained evidence from scientific procedures that established that this use of polyethylenimine is GRAS.

FDA reviewed the data on the safety of both polyethylenimine and the starting materials used to manufacture the ingredient. Although polyethylenimine has not been found to cause cancer, it may contain minute amounts of ethylenimine and 1,2-dichloroethane as impurities. These chemicals have been shown to cause cancer in test animals. Residual amounts of reactants and manufacturing aids, such as these chemicals, are commonly found as contaminants in chemical products, including food additives.

Based on its evaluation, the agency finds that polyethylenimine is not GRAS based upon scientific procedures because the potential toxicity of ethylenimine and of 1,2-dichloroethane requires that consumer exposure to these impurities be limited. Therefore, the agency has concluded that polyethylenimine, when used to immobilize glucose isomerase enzyme preparations, is a food additive subject to section 409 of the Federal Food, Drug, and Cosmetic Act (the act), and that the additive, if found to be safe, should be listed with other enzyme fixing agents as a secondary direct food additive in Part 173. This conclusion is consistent with the agency's previous action (48 FR 5715) that listed fixing agents used in the immobilization of glucose isomerase enzyme preparations in § 173.357.

The agency has evaluated polyethylenimine as a food additive in accordance with 21 CFR 170.38(c) and 171.1.

IV. Determination of Safety

Under section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances." H. Rept. 2284, 85th Cong., 2d Sess. 4 (1958). This concept of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer or Delaney clause of the Food Additives Amendment of 1958 (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A)) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to approve a use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain a carcinogenic chemical but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6 published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic constituent. Since that decision, FDA has approved the use of other color additives and food additives on the same basis.

An additive that has not been shown to cause cancer, but that contains a carcinogenic constituent, may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

V. Safety of the Petitioned Use

FDA finds that the petitioned use of polyethylenimine will result in extremely low levels of exposure to this additive. Data submitted in support of the petition showed that polyethylenimine has never been detected in the final commercial product (high fructose corn syrup). Based on the limit of detection (0.2 part per million (ppm)) of the analytical method used in analyzing the commercial product and on considerations such as migration of the additive under the most severe intended conditions of use and the probable concentration in the daily diet, the agency has calculated the estimated daily intake of polyethylenimine from the petitioned use to be 11 micrograms per day (4 parts per billion (ppb) in the diet) for a 60-kilogram person. FDA does not ordinarily consider chronic testing to be necessary to determine the safety of additives whose use will result in such low exposure levels (Refs. 1 and 2).

To establish that polyethylenimine is safe for use as a fixing agent for glucose isomerase enzyme preparations, the petitioner submitted mutagenicity studies, acute oral toxicity studies in the rat, acute dermal toxicity studies, skin and eye irritation studies in the rabbit,

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and subchronic dietary feeding studies in rats and dogs. No adverse effects were reported in the mutagenicity, acute oral toxicity, or skin irritation studies that tested polyethylenimine of the average molecular weight range that is the subject of this regulation. Polyethylenimine was found to be irritating to the eyes of rabbits under the conditions examined. However, the agency concludes that the adverse effects observed in the eye irritation study do not provide cause for toxicological concern because the level of exposure to polyethylenimine from its intended use as a fixing agent for enzymes is orders of magnitude below the level of exposure in this test.

The petitioner also submitted two longer-term animal feeding studies conducted by the Dow Chemical Co. in support of the petition. These included an 8.5-month dietary feeding study of polyethylenimine in rats and a 9-month dietary feeding study in dogs at doses up to 1 gram per kilogram body weight in both species. The data from the study in rats did not show any adverse effects at doses up to 1,000 milligrams per kilogram body weight, although complete individual animal data were not available.

In the dog study, apparent treatment-related histopathological effects were noted in the kidney and liver when the animals were fed 250, 500, and 1,000 milligrams per kilogram per day (8,500, 17,000, and 34,000 ppm). These findings did not establish a no-adverse-effect level. However, the severity and incidence of the observed effects declined significantly with decreasing dose and were minimal for effects in both organs at the lowest dose (250 milligrams per kilogram body weight). Based on an extrapolation of the dose-response curve of incidence/severity of kidney lesions, FDA estimated that the no-adverse-effect level for polyethylenimine in the dog study would be 10 milligrams per kilogram body weight (340 ppm in the daily diet).

In determining whether the available data provide an adequate margin of safety for the proposed use of polyethylenimine, the agency considered the apparent no-adverse-effect level in dogs (340 ppm) and the estimated human exposure (4 ppb) to polyethylenimine from its use as a fixing agent for glucose isomerase enzyme preparations. The agency finds that there is a wide differential (85,000 fold) between these values.

Because polyethylenimine has not been shown to cause cancer, the anticancer clause does not apply to it. Polyethylenimine, however, may contain ethylenimine and 1,2-dichloroethane, substances that have been shown to cause cancer in test animals. These impurities may be present as a result of the manufacturing procedures used to produce polyethylenimine. Ethylenimine is the starting material used to manufacture polyethylenimine, and 1,2-dichloroethane is a chemical used as a cross-linking agent in the polymer.

FDA has evaluated the safety of this additive under the general safety clause, using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemicals that may be present as impurities in this additive. The risk assessment procedures that FDA used in this evaluation are similar to the methods that it has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (see, e.g., 49 FR 13018, 13019; April 2, 1984). This risk evaluation of the carcinogenic impurities ethylenimine and 1,2-dichloroethane has two aspects: (1) Assessment of the worst case exposure to the impurities from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. Ethylenimine

Based on the fraction of the daily diet that may be in contact with polyethylenimine as a consequence of its use as a fixing agent for glucose isomerase enzyme preparations in the production of high fructose corn syrup as well as the level of ethylenimine that may be present in the additive (Refs. 3 and 4), FDA estimated the hypothetical worst case exposure to ethylenimine from this use of the additive to be 0.8 nanogram per person per day. The agency used data in a carcinogenesis bioassay on ethylenimine conducted for the National Cancer Institute (Ref. 5) to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of polyethylenimine as a fixing agent for glucose isomerase enzyme preparations. The results of the bioassay on ethylenimine demonstrated that the material was carcinogenic for male and female mice under the conditions of the study. The test material caused significantly increased incidence of lung and liver neoplasia in both male and female mice.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogencity were supported by this information on ethylenimine. The committee further concluded that an estimate of the upper bound limit of lifetime human cancer risk from potential exposure to ethylenimine stemming from the proposed use of polyethylenimine as a fixing agent for glucose isomerase enzyme preparations could be calculated from the bioassay.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the food additive. Based on the worst case exposure of 0.8 nanogram per person per day, FDA estimates the upper bound limit of individual lifetime risk from potential exposure to ethylenimine from the proposed use of polyehtylenimine is $3X10^{-7}$ or 3 in 10 million. Because of conservatisms in the exposure estimate, lifetime averaged individual exposure to ethylenimine is expected to be substantially less than the estimated daily intake, and therefore, the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to ethylenimine that results from the use of polyethylenimine.

B. 1,2-Dichloroethane

Based on the fraction of the daily diet that may be in contact with polyethylenimine as a consequence of its use as a fixing agent for glucose isomerase enzyme preparations in the production of high fructose corn syrup as well as the level of 1,2-dichloroethane that may be present in the additive (Ref. 6), FDA estimated the hypothetical worst case exposure to 1,2-dichloroethane from the use of the additive to be 0.8 nanogram per person per day. The agency used data in a carcinogenesis bioassay on 1,2-dichloroethane conducted for the National Cancer Institute (Ref. 7) to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of polyethylenimine as a fixing agent for glucose isomerase enzyme preparations. The results of the bioassay on 1,2-dichloroethane

demonstrated that the material was carcinogenic for male and female rats under the conditions of the study. The test material caused significantly increased incidences of subcutaneous fibromas, stomach carcinomas, and hemangiosarcomas of the circulatory system in male rats and mammary gland tumors and hemangiosarcomas in female rats.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on 1,2-dichloroethane. The committee further concluded that an estimate of the upper bound limit of lifetime human cancer risk from potential exposure to 1,2-dichloroethane stemming from the proposed use of polyethylenimine as a fixing agent for glucose isomerase enzyme preparations could be calculated from the bioassay.

Based on the worst case exposure of 0.8 nanogram per person per day, FDA estimates, using a linear proportional model, that the upper bound limit of individual lifetime risk from potential exposure to 1,2-dichloroethane from the use of polyethylenimine is $1X10^{-10}$ or 1 in 10 billion. Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to 1,2-dichloroethane is expected to be substantially less than the estimated daily intake, and, therefore, the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to 1,2-dichloroethane that results from the use of polyethylenimine.

C. Need for Specifications

The agency also considered whether specifications are necessary to control the amount of ethylenimine and 1,2-dichloroethane impurities in polyethylenimine. The agency finds that the levels of the impurities are not self-limiting by the manufacturing process for the food additive. Therefore, specifications are necessary to ensure that the current and future exposure to these constituents in the daily diet remains within the limits used to conclude that polyethylenimine may be safely used as a fixing agent for glucose isomerase enzyme preparations.

D. Conclusions of Safety

FDA evaluated all of the data in the petition pertaining to the use of polyethylenimine as a fixing agent for glucose isomerase enzyme preparations and concludes that:

(1) Polyethylenimine was not commonly used in food production before January 1, 1958.

(2) The requested use of polyethylenimine as a fixing agent for glucose isomerase enzyme preparations is a secondary direct food additive subject to section 409 of the act.

(3) The requested use of the additive would be expected to result in residues of polyethylenimine of no more than 4 ppb of the total daily diet.

(4) There is a reasonable certainty of no harm from exposure to this level of the additive and its impurities.

(5) The data in the petition establish that the proposed use of the additive is safe when the additive is used in accordance with the limitations set forth in this document.

(6) The requested use is effective.

Therefore, FDA is amending the secondary direct food additive regulations to provide for the use of polyethylenimine by amending 21 CFR 173.357(a)(2) by alphabetically inserting a new entry in the table as set forth below.

VI. References

In accordance with § 170.38(b)(1) (21 CFR 170.38(b)(1)), the petition and the references that FDA considered and relied upon in reaching its decision to approve the use of this secondary direct food additive are on public display and available for inspection at the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. The petition and documents may also be inspected at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. Among the documents that the agency has relied on are the following:

1. Carr, G.M., "Carcinogenicity Testing Programs" *in* "Food Safety: Where Are We?," Committee on Agriculture, Nutrition, and Forestry, United States Senate, p. 59, July 1979.

2. Kokoski, C.J., "Regulatory Food Additive Toxicology" presented at the "Second International Conference on Safety Evaluation and Regulation of Chemicals," Cambridge, MA, October 24, 1983.

3. Memorandum dated June 0, 1984, Food Additive Chemistry Evaluation Branch to GRAS Review Branch, "Exposure Estimate for Ethylenimine from Food Additive Uses."

4. Memorandum dated April 19, 1985, from Food Additive Chemistry Evaluation Branch to GRAS Review Branch, "Cumulative Exposure Estimate for Ethyleneimine."

5. Innes, J.R.M., et al., "Bioassay of Pesticides and Industrial Chemicals for Tumorigenicity in Mice: A Preliminary Note," *Journal of the National Cancer Institute*, 42:1101, 1969.

6. Memorandum dated January 15, 1985, from Food Additive Chemistry Evaluation Branch to Direct Additives Branch, "Exposure Estimate for 1,2-Dichloroethane."

7. "Bioassay of 1,2-Dichloroethane for Possible Carcinogenicity," National Cancer Institute, NCI–CG–TR–55, 1978.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an enviromental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before October 22, 1987 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 173 is amended as follows:

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PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR Part 173 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10.

2. Section 173.357 is amended in paragraph (a)(2) by alphabetically inserting a new entry in the table to read as follows:

§ 173.357 Materials used as fixing agents in the immobilization of enzyme preparations.

* * * * *

Substances	Limitations
Polyethylenimine (CAS Reg. No. 68130–97–2) is the reaction product of homopolymerization of ethylenimine in aqueous hydrochloric acid at 100 °C and of cross-linking with 1,2-dichloroethane. The finished polymer has an average molecular weight of 50,000 to 70,000 as determined by gel permeation chromatography. The analytical method is entitled "Methodology for Molecular Weight Detection of Polyethylenimine," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–334), 200 C St., SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.	May be used as a fixing material in the immobilization of glucose isomerase enzyme preparations for use in the manufacture of high fructose corn syrup, in accordance with § 184.1372 of this chapter. Residual ethylenimine in the finished polyethylenimine polymer will be less than 1 part per million as determined by gas chromatography-mass spectrometry. The residual ethylenimine is determined by an analytical method entitled "Methodology for Ethylenimine Detection in Polyethylenimine," which is incorporated by reference. Residual 1,2-dichloroethane in the finished polyethylenimine polymer will be less than 1 part per million as determined by gas chromatography. The residual 1,2-dichloroethane is determined by an analytical method entitled "Methodology for Ethylenedichloride Detection in Polyethylenimine," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–334), 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St., NW., Washington, DC 20408.

* * * * *

Dated: October 13, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–24475 Filed 10–21–87; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject To Certification; Dichlorophene and Toluene Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Richlyn Laboratories, Inc., providing for safe and effective use of dichlorophene/toluene capsules in treating dogs and cats for certain helminth infections.

EFFECTIVE DATE: October 22, 1987.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Richlyn Laboratories, Inc., Castor and Kensington Avenues, Philadelphia, PA 19124, filed NADA 136–900 providing for the use of dichlorophene and toluene combination capsules for single dose administration to dogs and cats for removal of certain ascarids and hookworms and as an aid in the removal of certain tapeworms. The NADA is approved and 21 CFR 520.580(b)(1) is amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 520.580 is amended by revising paragraph (b)(1) to read as follows:

§ 520.580 Dichlorophene and toluene capsules.

* * * * *

(b) *Sponsor.* (1) For single dose only, see 000010, 000115, 000842, 000856, 010888, 011519, 011536, 011614, 015563, 017135, 023851, 049968, and 050906 in § 510.600(c) of this chapter.

* * * * *

Dated: October 16, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87–24474 Filed 10–21–87; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

31 CFR Part 5

Claims Collection; Debt Collection Act of 1982; Salary Offset

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is issuing final regulations to govern the collection of debts owed to the United States by Federal employees. These regulations implement the debt collection procedures provided under section 5 of the Debt Collection Act of 1982 ("Act") (Pub. L. 97–365), codified in 5 U.S.C. 5514. The Act authorizes the Federal Government to collect debts by means of offset from the salaries of Federal employees without the employee's consent, provided that the employee is properly notified and given the opportunity to exercise certain administrative rights.

EFFECTIVE DATE: These regulations are effective October 22, 1987.

FOR FURTHER INFORMATION CONTACT: Randy Sim, Office of the General Counsel, (Administrative and General Law), Department of the Treasury, Room 1404 Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, DC 20220. Telephone (202) 566–2327.

SUPPLEMENTARY INFORMATION: Section 5 of the Debt Collection Act of 1982 ("Act") (Pub. L. 97–365), codified at 5 U.S.C. 5514, makes several changes in the way Executive and Legislative agencies collect debts owed the Government. The purpose of the Act is to improve the ability of the Government to collect monies owed it.

Under the Act, when the head of an agency determines that an employee of the agency is indebted to the United States, or is notified by the head of another agency that an agency employee is indebted to the United States, the employee's debt may be offset against his/her pay. The amount of the offset may not exceed 15 percent of the employee's disposable pay.

The employee must be afforded certain due process rights before salary offset deductions can begin. Under the Act, an employee-debtor must be provided with notice of a debt and the opportunity to review the record and enter into a written repayment agreement before the Government may collect the debt by offset. The employee must notify the agency of his or her intent to exercise these rights within the time period prescribed in the regulations.

The Act requires agencies to issue regulations for salary offset consistent with the offset regulations issued by the Office of Personnel Management (OPM). OPM issued final rules on July 3, 1984, (49 FR 27470) codified in Subpart K of Part 550 of title 5 of the Code of Federal Regulations. This final rule has been approved by OPM and it establishes the procedures the Department will follow in making a salary offset.

Analysis and Comments

The Temporary Rule was published in the **Federal Register** on January 2, 1987 (52 FR 43). The comment period closed on February 2, 1987. Two labor organizations responded with comments during the comment period. The Department has fully considered all of these comments.

One comment expressed concern that the regulations conflict with the Debt Collection Act (the Act) because the Department assumes, upon receipt of a non-Treasury creditor agency's certification, that the creditor agency has promulgated regulations that afford the employee debtor his due process rights, as required by the Act. The Act and 5 CFR 550.1104 require that all Federal agencies (creditor agencies) promulgate debt collection regulations following procedural guidelines established by OPM and subject to OPM approval. Salary offset may not be effected until regulations are in place; therefore, receipt of a creditor agency's certification indicates that the agency has promulgated regulations that have been approved by OPM. Further, creditor agencies are aware that our regulations require proper certification (§ 5.13) and our regulations provide instructions for the coordination of salary offset with other agencies (§ 5.18(b)).

One comment questions the validity of the 10 year statute of limitations and recommends changing it to 6 years. We have followed OPM's regulations, which site 4 CFR 102.3(b)(3). That provision precludes agencies from initiating offset to collect a debt more than 10 years after the Government's right to collect the debt first accrued, with certain exceptions explained in that paragraph. *See also,* 31 U.S.C. 3716.

One comment requests an explanation for the expansion of the definition of "agency" beyond the definition contained in 5 CFR 550, Subpart K, § 550.1103. On May 6, 1986, OPM revised its regulations (51 CFR 16669) for the purpose of making the definition of "agency" reflect the full range of governmental entities authorized to use the provisions of 5 U.S.C. 5514. Our regulations reflect OPM's expanded definition.

One comment states that the definition of disposable pay should recognize child support and alimony as deductions required by law. Child support payments and alimony are deductions recognized in the regulations by use of the language, ". . . other authorized pay remaining after the deduction of any amount *required by law to be withheld.*"

One comment states that § 5.10 (Waiver request) should provide waiver upon good cause shown, hardship, etc. This language was not included because there is no reason to repeat the language of statutes that authorize waivers.

There were a number of comments regarding § 5.11, Notice requirements before offset. One expresses concern that 30 days, notice is insufficient and will encourage employees to file for a hearing simply to extend the period prior to offset. This timeframe is permitted by statute and seems adequate to OPM and the Department. This notice of offset is not the employee's initial notification that a debt is owed. It is, in fact, final notification before the last avenue of resort, salary offset, is implemented. Thirty days is clearly adequate since the employee has failed on all other occasions to acknowledge or deny a delinquent debt. Further, the agency believes that its employees generally will not file groundless petitions for hearings.

This comment continues by stating that, even after an employee has acknowledged the debt, 30 days is an insufficient amount of time to make arrangements with other creditors. This comment fails to recognize that the purpose of these regulations is to implement the Debt Collection Act of 1982. The Government, in order to do business in a more businesslike manner, owes a responsibility to the U.S. taxpayers to collect debts owed to it. It would be inconsistent with the central purpose of the Act for the Government to assume that its rights as a creditor are inferior to those of other creditors.

One comment questions the Department's authority to assess interest on debts owed to the Government. The commenter submits that the majority of the debts owed by employees result from good faith errors committed by the agencies which went unnoticed by the employee. The authority to assess interest can be found in 31 U.S.C. 3717. While some debts will result from agency error, the employee will be notified on numerous occasions prior to the implementation of salary offset that a debt is owed to the Government; and will continue to enjoy the use of the amount owed until it is repaid. At the time these procedures of last resort are used, the employee has been fully apprised of the existence of the debt.

One comment states that the regulations should contain specific information as to time and place where records should be copied. The comment further states that since the employee has a right to inspect and copy the information, the employee should not have to submit written notice of his/her intent to inspect and copy (§ 5.12(d)(3)). Since each bureau maintains its own personnel and payroll offices and maintains its own records, the records will be in different locations; therefore, a specific location cannot be stated. The applicable information with respect to inspection of records will be contained in the notice of intent to offset. The purpose of the requirement that a written request be submitted is twofold: (1) It permits the orderly operation of the debt collection process; and (2) the written documentation of the employee's request provides protection of his/her privacy rights. It is not intended to, nor does it in fact, impede the employee's ability to obtain the records.

One comment recommended several language changes in § 5.11, which the Department feels are unnecessary and add nothing to the meaning or clarity of the paragraphs:

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(1) 5.11(a)—The section should be amended to read, in pertinent part, ". . . notice . . . shall be hand-delivered *to the employee* or sent by certified mail . . ."; and

(2) (a)(6)—The section should be amended to read, ". . . with respect to the existence and amount of the debt claimed, *or the terms of the* repayment schedule . . ."

In addition, the comment recommended that (a)(10) be amended by inserting at the end, "until final determination by the designated hearing official." Such language is omitted to prevent improperly frustrating debt collection when a hearing that was granted is withdrawn before it is held.

One comment requests that § 5.11(a)(14) be deleted in its entirety because the standard for disciplinary action exceeds the scope of the applicable statutes, and may have a chilling effect on employees who question the existence of the alleged debt. The Department and OPM believe this provision is within the scope of the applicable statutes. Further, it is merely a cautionary statement for the benefit of the employees and will not prevent them from questioning the existence of debts.

Two comments expressed the concern that the timeframe for filing a petition (§§ 5.11(a)(10) and 5.12(a)) for a hearing is too short and should be extended to 30 days. The 15 day timeframe is specified by the Debt Collection Act and has been adopted by OPM. We recognize, however, that our regulations inadvertently shortened the time by requiring the petition to be received by the fifteenth day following receipt of the notice. Sections 5.11(a)(10) and 5.12(a) now conform to the language of the statute and read, ". . . on or before the fifteenth calendar day following receipt of such notice of intent . . ."

One comment expresses concern that many employees do not possess writing skills necessary to fully present their position in a written hearing, and suggests that no explanation be required in connection with an employee's request for an oral hearing. Where an employee has limited writing skills, the hearing examiner will evaluate the necessity of an oral hearing. For the most part, the matter can be resolved by review of the documentary evidence alone. The agency must present documentary evidence to raise the issue of an outstanding debt and the employee will present documentary evidence (*i.e.*, a canceled check) to rebut the agency's position. Unless an issuing of credibility or veracity is involved, an oral hearing is generally unnecessary (§ 5.12(g)(2)).

One comment recommended that the language in § 5.12(b) be amended to read, ". . . the Department *should* accept the request if the employee can show . . ." We have adopted this change.

One comment expressed concern that the time limit for inspecting and copying agency records was arbitrary, and suggested that employees be permitted to request inspection and copying of records at any time prior to the commencement of the hearing (§5.12(d)(1)). The fifteen day timeframe is in accordance with § 5.11(a)(5). It is in no way onerous to require the employee to request inspection of agency records at the same time the employee requests a hearing. This requirement facilitates orderly conduct of the debt collection process.

One comment points out that the location of the hearing should be the employee's duty station or a mutually agreeable site. In situations where an oral hearing is necessary, the impartial hearing examiner has an obligation to consider the parties when choosing the location of the hearing.

Two comments objected to § 5.12(j), Failure to appear. We agree and have revised the language to read:

> If the representative of the creditor agency fails to appear, the hearing official shall proceed with the hearing as scheduled, and make his/her determination based upon the oral testimony presented and the documentary evidence submitted by both parties.

Several comments indicate a misunderstanding of § 5.14, Voluntary repayment agreements as alternatives to salary offset. This provision is consistent with agreements that labor organizations have with various Treasury Department bureaus. The bureaus will certainly remain free to bargain with the unions to establish voluntary repayment schedules. These established repayment schedules are mutually exclusive of salary offset, which is implemented only as a last resort when an employee has failed to acknowledge the agency's attempts to notify the employee or when the employee breaches an established voluntary repayment schedule.

One commentor stated that the 15 calendar day provision should be deleted from § 5.14 and the employee should be permitted to submit a proposed agreement at any time prior to the satisfaction of the outstanding debt. The submission of a repayment schedule is an acknowledgement that the debt is due and owing, and it is not onerous to require submission in the established timeframe. As with all creditor's, no reasonable request will be refused since the purpose is to ultimately collect the debt. Employees subject to salary offset or a voluntary repayment agreement may, at any time, request a review by the creditor agency of the amount of the salary offset or voluntary repayment, based upon materially changed circumstances (§ 5.15).

Several comments raise issues of granting administrative leave for preparation and participation in the hearing, for reviewing records, and preparing the petition for hearing, and for other employees to appear as witnesses. These and other issues normally handled in collective bargaining have been left for resolution by the appropriate representatives of the involved parties.

Administrative Procedure Act

Because the regulations require that no deductions under 5 U.S.C. 5514 shall be made unless the creditor agency provides the employees with written notice of intent to offset an employee's salary a minimum of 30 days before offset is initiated, the Department of the Treasury has, for good cause, determined, pursuant to 5 U.S.C. 553(d)(3) that a delayed effective date is unnecessary and impractical.

Executive Order 12291

Because this rule relates to agency management and personnel, the requirements of Executive Order 12291 do not apply.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for these regulations the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

List of Subjects in 31 CFR Part 5

Administrative offset, Administrative practice and procedure, Claims, Debt collection, Government employees, Pay administration, Salary offset, Wages.

For the reasons set out in the preamble, Part 5 of Title 31 of the Code of Federal Regulations is amended as set forth below.

PART 5—CLAIMS COLLECTION

Subpart B is revised to read as follows:

Subpart B—Salary Offset

Sec.
5.5 Purpose.
5.6 Scope.
5.7 Designation.
5.8 Definitions.
5.9 Applicability of regulations.
5.10 Waiver requests and claims to the General Accounting Office.
5.11 Notice requirements before offset.

Sec.
5.12 Hearing.
5.13 Certification.
5.14 Voluntary repayment agreements as alternative to salary offset.
5.15 Special review.
5.16 Notice of salary offset.
5.17 Procedures for salary offset.
5.18 Coordinating offset with other agencies.
5.19 Interest, penalties and administrative costs.
5.20 Refunds.
5.21 Request for the services of a hearing official from the creditor agency.
5.22 Non-waiver of rights by payments.

Subpart B—Salary Offset

Authority: 5 U.S.C. 5514; 5 CFR Part 550 Subpart K.

§ 5.5 Purpose.

The purpose of the Debt Collection Act of 1982, (Pub. L. 97–365), is to provide a comprehensive statutory approach to the collection of debts due the Federal Government. These regulations implement Section 5 of the Act which authorizes the collection of debts owed by Federal employees to the Federal Government by means of salary offsets, except that no claim may be collected by such means if outstanding for more than 10 years after the agency's right to collect the debt first accrued, unless facts material to the Government's right to collect were not known and could not reasonably have been known by the official or officials who were charged with the responsibility for discovery and collection of such debts. These regulations are consistent with the regulations on salary offset published by the Office of Personnel Management (OPM) on July 3, 1984, codified in Subpart K of Part 550 of Title 5 of the Code of Federal Regulations.

§ 5.6 Scope.

(a) These regulations provide Departmental procedures for the collection by salary offset of a Federal employee's pay to satisfy certain debts owed the Government.

(b) These regulations apply to collections by the Secretary of the Treasury from:

(1) Federal employees who owe debts to the Department; and

(2) Employees of the Department who owe debts to other agencies.

(c) These regulations do not apply to debts or claims arising under the Internal Revenue Code of 1954, as amended (26 U.S.C. 1 *et seq.*); the Social Security Act (42 U.S.C. 301 *et seq.*); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (*e.g.*, travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(d) These regulations do not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

(e) Nothing in these regulations precludes the compromise, suspension, or termination of collection actions where appropriate under the standards implementing the Federal Claims Collection Act (31 U.S.C. 3711 *et seq.*, 4 CFR Parts 101–105, 38 CFR 1.1900 *et seq.*).

§ 5.7 Designation.

The heads of bureaus and offices and their delegates are designated as designees of the Secretary of the Treasury authorized to perform all the duties for which the Secretary is responsible under the foregoing act and Office of Personnel Management Regulations: *Provided, however,* that no compromise of a claim shall be effected or collection action terminated, except upon the recommendation of the General Counsel, the Chief Counsel of the bureau or office concerned, or the designee of either. Notwithstanding the foregoing provision, no such recommendation shall be required with respect to the termination of collection activity on any claim in which the unpaid amount of the debt is $300 or less.

§ 5.8 Definitions.

As used in this part (except where the context clearly indicates, or where the term is otherwise defined elsewhere in this part) the following definitions shall apply:

(a) "Agency" means:

(1) An Executive Agency as defined by section 105 of Title 5, United States Code, including the U.S. Postal Service and the U.S. Postal Rate Commission;

(2) A military department as defined by section 102 of Title 5, United States Code;

(3) An agency or court of the judicial branch including a court as defined in Section 610 of title 28, United States Code, the District Court for the Northern Mariana Islands and the Judicial Panel on Multidistrict Litigation;

(4) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and

(5) Other independent establishments that are entities of the Federal Government.

(b) "Bureau Salary Offset Coordination Officer" means an official designated by the head of each bureau who is responsible for coordinating debt collection activities for the bureau. The Secretary shall designate a bureau salary offset coordinator for the Departmental offices.

(c) "Certification" means a written debt claim form received from a creditor agency which requests the paying agency to offset the salary of an employee.

(d) "Creditor agency" means an agency of the Federal Government to which the debt is owed.

(e) "Debt" or "claim" means money owed by an employee of the Federal Government to an agency of the Federal Government from sources which include loans insured or guaranteed by the United States and all other amounts due the Government from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interests, fines and forfeitures (except those arising under the Uniform Code of Military Justice) and all other similar sources.

(f) "Department" or "Treasury Department" means the Departmental Offices of the Department of the Treasury and each bureau of the Department.

(g) "Disposable pay" means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. The Department shall allow the following deductions in determining disposable pay subject to salary offset:

(1) Federal employment taxes;

(2) Amounts deducted for the U.S. Soldiers' and Airmen's Home;

(3) Fines and forfeiture ordered by a court martial or by a commanding officer;

(4) Federal, state or local income taxes no greater than would be the case if the employee claimed all dependents to which he or she is entitled and such additional amounts for which the employee presents evidence of a tax obligation supporting the additional withholding;

(5) Health insurance premiums;

(6) Normal retirement contributions (*e.g.*, Civil Service Retirement deductions, Survivor Benefit Plan or Retired Serviceman's Family Protection Plan); and

(7) Normal life insurance premiums, exclusive of optional life insurance premiums (*e.g.*, Serviceman's Group Life Insurance and "basic" Federal

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Employee's Group Life Insurance premiums).

(h) "Employee" means a current employee of the Treasury Department or other agency, including a current member of the Armed Forces or Reserve of the Armed Forces of the United States.

(i) Federal Claims Collection Standards, "FCCS," jointly published by the Department of Justice and the General Accounting Office at 4 CFR 101.1 *et seq.*

(j) "Hearing official" means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed, and rendering a decision on the basis of such hearing. A hearing official may not be under the supervision or control of the Secretary of the Department of the Treasury when Treasury is the creditor agency.

(k) "Paying agency" means the agency of the Federal Government which employs the individual who owes a debt to an agency of the Federal Government. In some cases, the Department may be both the creditor and the paying agency.

(l) "Notice of intent to offset" or "notice of intent" means a written notice from a creditor agency to an employee which alleges that the employee owes a debt to the creditor agency and apprising the employee of certain administrative rights.

(m) "Notice of salary offset" means a written notice from the paying agency to an employee after a certification has been issued by a creditor agency, informing the employee that salary offset will begin at the next officially established pay interval.

(n) "Payroll office" means the payroll office in the paying agency which is primarily responsible for the payroll records and the coordination of pay matters with the appropriate personnel office with respect to an employee. Payroll office, with respect to the Department of the Treasury means the payroll offices of each bureau and the Office of the Assistant Secretary of the Treasury for Management for the Departmental Offices.

(o) "Salary offset" means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee, without his or her consent.

(p) "Secretary" means the Secretary of the Treasury or his or her designee.

(q) "Waiver" means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to the Department or another agency as permitted or required by 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or any other law.

§ 5.9 Applicability of regulations.

These regulations are to be followed in instances where:

(a) The Department is owed a debt by an individual currently employed by another agency;

(b) Where the Department is owed a debt by an individual who is a current employee of the Department; or

(c) Where the Department currently employs an individual who owes a debt to another Federal Agency. Upon receipt of proper certification from the creditor agency, the Department will offset the debtor-employee's salary in accordance with these regulations.

§ 5.10 Waiver requests and claims to the General Accounting Office.

These regulations do not preclude an employee from requesting waiver of an overpayment under 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or in any way questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office in accordance with the procedures prescribed by the General Accounting Office. These regulations also do not preclude an employee from requesting a waiver pursuant to other statutory provisions pertaining to the particular debts being collected.

§ 5.11 Notice requirements before offset.

(a) Deductions under the authority of 5 U.S.C. 5514 shall not be made unless the creditor agency provides the employee with written notice that he/she owes a debt to the Federal Government, a minimum of 30 calendar days before salary offset is initiated. When Treasury is the creditor agency this notice of intent to offset an employee's salary shall be hand-delivered or sent by certified mail to the most current address that is available to the Department and will state:

(1) That the Secretary has reviewed the records relating to the claim and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(2) The Secretary's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full;

(3) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(4) An explanation of the Department's policy concerning interest, penalties and administrative costs including a statement that such assessments must be made unless excused in accordance with the Federal Claims Collection Standards, 4 CFR 101.1 *et seq.*;

(5) The employee's right to inspect and copy all records of the Department pertaining to the debt claimed or to receive copies of such records if personal inspection is impractical;

(6) The right to a hearing conducted by an impartial hearing official (an administrative law judge, or alternatively, a hearing official not under the supervision or control of the Secretary) with respect to the existence and amount of the debt claimed, or the repayment schedule (*i.e.*, the percentage of disposable pay to be deducted each pay period), so long as a petition is filed by the employee as prescribed in § 5.12;

(7) If not previously provided, the opportunity (under terms agreeable to the Department) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The agreement must be in writing, signed by both the employee and the creditor agency (4 CFR 102.2(e));

(8) The name, address and phone number of an officer or employee of the Department who may be contacted concerning procedures for requesting a hearing;

(9) The method and time period for requesting a hearing;

(10) That the timely filing of a petition for a hearing on or before the fifteenth calendar day following receipt of such notice of intent will stay the commencement of collection proceedings;

(11) The name and address of the office to which the petition should be sent;

(12) That the Department will initiate certification procedures to implement a salary offset, as appropriate, (which may not exceed 15 percent of the employee's disposable pay) not less than thirty (30) days from the date of receipt of the notice of debt, unless the employee files a timely petition for a hearing;

(13) That a final decision on the hearing (if one is requested) will be issued at the earliest practical date, but not later than sixty (60) days after the filing of the petition requesting the hearing, unless the employee requests and the hearing official grants a delay in the proceedings;

(14) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under Chapter 75 of Title 5, United States Code, Part 752 of Title 5, Code of Federal Regulations, or any other applicable statute or regulations;

(ii) Penalties under the False Claims Act, sections 3729–3731 of Title 31, United States Code or any other applicable statutory authority; and

(iii) Criminal penalties under sections 286, 287, 1001, and 1002 of title 18, United States Code or any other applicable statutory authority;

(15) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(16) That unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee (5 U.S.C. 5514); and

(17) Proceedings with respect to such debt are governed by section 5 of the Debt Collection Act of 1982 (5 U.S.C. 5514).

(b) The Department is not required to comply with paragraph (a) of this section for any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

§ 5.12 Hearing.

(a) *Request for hearing.* Except as provided in paragraph (b) of this section, an employee who desires a hearing concerning the existence or amount of the debt or the proposed offset schedule must send such a request to the office designated in the notice of intent. *See* § 5.11(a)(8). The request (or petition) for hearing must be received by the designated office on or before the fifteenth (15) calendar day following receipt of the notice. The employee must also specify whether an oral or paper hearing is requested. If an oral hearing is desired, the request should explain why the matter cannot be resolved by review of the documentary evidence alone.

(b) *Failure to timely submit.* If the employee files a petition for a hearing after the expiration of the fifteen (15) calendar day period provided for in paragraph (a) of this section, the Department should accept the request if the employee can show that the delay was the result of circumstances beyond his or her control or because of a failure to receive actual notice of the filing deadline (unless the employee had actual notice of the filing deadline).

(1) An employee waives the right to a hearing, and will have his or her disposable pay offset in accordance with the Department's offset schedule, if the employee:

(i) Fails to file a request for a hearing unless such failure is excused; or

(ii) Fails to appear at an oral hearing of which he or she was notified unless the hearing official determines failure to appear was due to circumstances beyond the employee's control (5 U.S.C. 5514).

(c) *Representation at the hearing.* The creditor agency may be represented by legal counsel. The employee may represent himself or herself or may be represented by an individual of his or her choice and at his or her own expense.

(d) *Review of departmental records related to the debt.* (1) In accordance with 5.11(a)(5), an employee who intends to inspect or copy creditor agency records related to the debt must send a letter to the official designated in the notice of intent to offset stating his or her intention. The letter must be received within fifteen (15) calendar days after receipt of the notice.

(2) In response to a timely request submitted by the debtor, the designated official will notify the employee of the location and time when the employee may inspect and copy records related to the debt.

(3) If personal inspection is impractical, arrangements shall be made to send copies of such records to the employee.

(e) *Hearing official.* Unless the Department appoints an administrative law judge to conduct the hearing, the Department must obtain a hearing official who is not under the supervision or control of the Secretary of the Treasury.

(f) *Obtaining the services of a hearing official when the Department is the creditor agency.*

(1) When the debtor is not a Department employee, and in the event that the Department cannot provide a prompt and appropriate hearing before an administrative law judge or before a hearing official furnished pursuant to another lawful arrangement, the Department may contact an agent of the paying agency designated in Appendix A to Part 581 of Title 5, Code of Federal Regulations or as otherwise designated by the agency, and request a hearing official.

(2) When the debtor is a Department employee, the Department may contact any agent of another agency designated in Appendix A to Part 581 of Title 5, Code of Federal Regulations or otherwise designated by that agency, to request a hearing official.

(g) *Procedure.* (1) After the employee requests a hearing, the hearing official or administrative law judge shall notify the employee of the form of the hearing to be provided. If the hearing will be oral, notice shall set forth the date, time and location of the hearing. If the hearing will be paper, the employee shall be notified that he or she should submit arguments in writing to the hearing official or administrative law judge by a specified date after which the record shall be closed. This date shall give the employee reasonable time to submit documentation.

(2) *Oral hearing.* An employee who requests an oral hearing shall be provided an oral hearing if the hearing official or administrative law judge determines that the matter cannot be resolved by review of documentary evidence alone (*e.g.*, when an issue of credibility or veracity is involved). The hearing is not an adversarial adjudication, and need not take the form of an evidentiary hearing. Oral hearings may take the form of, but are not limited to:

(i) Informal conferences with the hearing official or administrative law judge, in which the employee and agency representative will be given full opportunity to present evidence, witnesses and argument;

(ii) Informal meetings with an interview of the employee; or

(iii) Formal written submissions, with an opportunity for oral presentation.

(3) *Paper hearing.* If the hearing official or administrative law judge determines that an oral hearing is not necessary, he or she will make the determination based upon a review of the available written record (5 U.S.C. 5514).

(4) *Record.* The hearing official must maintain a summary record of any hearing provided by this Subpart. *See* 4 CFR 102.3. Witnesses who testify in oral hearings will do so under oath or affirmation.

(h) *Date of decision.* The hearing official or administrative law judge shall issue a written opinion stating his or her decision, based upon documentary evidence and information developed at the hearing, as soon as practicable after the hearing, but not later than sixty (60) days after the date on which the petition was received by the creditor agency, unless the employee requests a delay in the proceedings. In such case the sixty (60) day decision period shall be extended by the number of days by which the hearing was postponed.

(i) *Content of decision.* The written decision shall include:

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(1) A statement of the facts presented to support the origin, nature, and amount of the debt;

(2) The hearing official's findings, analysis and conclusions; and

(3) The terms of any repayment schedules, if applicable.

(j) *Failure to appear.* In the absence of good cause shown (*e.g.*, excused illness), an employee who fails to appear at a hearing shall be deemed, for the purpose of this subpart, to admit the existence and amount of the debt as described in the notice of intent. If the representative of the creditor agency fails to appear, the hearing official shall proceed with the hearing as scheduled, and make his/her determination based upon the oral testimony presented and the documentary documentation submitted by both parties. At the request of both parties, the hearing official shall schedule a new hearing date. Both parties shall be given reasonable notice of the time and place of this new hearing.

§ 5.13 Certification.

(a) The bureau salary offset coordination officer shall provide a certification to the paying agency in all cases where:

(1) The hearing official determines that a debt exists;

(2) The employee admits the existence and amount of the debt by failing to request a hearing; or

(3) The employee admits the existence of the debt by failing to appear at a hearing.

(b) The certification must be in writing and must state:

(1) The employee owes the debt;

(2) The amount and basis of the debt;

(3) The date the Government's right to collect the debt first accrued;

(4) The Department's regulations have been approved by OPM pursuant to 5 CFR Part 550, Subpart K;

(5) The amount and date of the lump sum payment;

(6) If the collection is to be made in installments, the number of installments to be collected, the amount of each installment, and the commencing date of the first installment, if a date other than the next officially established pay period is required; and

(7) The dates the action(s) was taken and that it was taken pursuant to 5 U.S.C. 5514.

§ 5.14 Voluntary repayment agreements as alternative to salary offset.

(a) In response to a notice of intent to an employee may propose to repay the debt as an alternative to salary offset. Any employee who wishes to repay a debt without salary offset shall submit in writing a proposed agreement to repay the debt. The proposal shall admit the existence of the debt and set forth a proposed repayment schedule. Any proposal under this subsection must be received by the official designated in that notice within fifteen (15) calendar days after receipt of the notice of intent.

(b) When the Department is the creditor agency and in response to a timely proposal by the debtor, the Secretary will notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the Secretary's discretion to accept a repayment agreement instead of proceeding by offset.

(c) If the Secretary decides that the proposed repayment agreement is unacceptable, the employee will have fifteen (15) days from the date he or she received notice of the decision to file a petition for a hearing.

(d) If the Secretary decides that the proposed repayment agreement is acceptable, the alternative arrangement must be in writing and signed by both the employee and the Secretary.

§ 5.15 Special review.

(a) An employee subject to salary offset or a voluntary repayment agreement, may, at any time, request a special review by the creditor agency of the amount of the salary offset or voluntary payment, based on materially changed circumstances such as, but not limited to catastrophic illness, divorce, death, or disability.

(b) In determining whether an offset would prevent the employee from meeting essential subsistence expenses (costs incurred for food, housing, clothing, transportation and medical care), the employee shall submit a detailed statement and supporting documents for the employee, his or her spouse and dependents indicating:

(1) Income from all sources;

(2) Assets;

(3) Liabilities;

(4) Number of dependents;

(5) Expenses for food, housing, clothing and transportation;

(6) Medical expenses; and

(7) Exceptional expenses, if any.

(c) If the employee requests a special review under this section, the employee shall file an alternative proposed offset or payment schedule and a statement, with supporting documents, showing why the current salary offset or payments result in an extreme financial hardship to the employee.

(d) The Secretary shall evaluate the statement and supporting documents, and determine whether the original offset or repayment schedule imposes an extreme financial hardship on the employee. The Secretary shall notify the employee in writing of such determination, including, if appropriate, a revised offset or payment schedule.

(e) If the special review results in a revised offset or repayment schedule, the bureau salary offset coordination officer shall provide a new certification to the paying agency.

§ 5.16 Notice of salary offset.

(a) Upon receipt of proper certification of the creditor agency, the bureau payroll office will send the employee a written notice of salary offset. Such notice shall, at a minimum:

(1) Contain a copy of the certification received from the creditor agency; and

(2) Advise the employee that salary offset will be initiated at the next officially established pay interval.

(b) The bureau payroll office shall provide a copy of the notice to the creditor agency and advise such agency of the dollar amount to be offset and the pay period when the offset will begin.

§ 5.17 Procedures for salary offset.

(a) The Secretary shall coordinate salary deductions under this subpart.

(b) The appropriate bureau payroll office shall determine the amount of an employee's disposable pay and will implement the salary offset.

(c) Deductions shall begin within three official pay periods following receipt by the payroll office of certification.

(d) *Types of collection.*—(1) *Lump-sum payment.* If the amount of the debt is equal to or less than 15 percent of disposable pay, such debt generally will be collected in one lump-sum payment.

(2) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted from any period will not exceed 15 percent of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of a greater amount.

(3) *Lump-sum deductions from final check.* A lump-sum deduction exceeding the 15 percent disposable pay limitation may be made from any final salary payment pursuant to 31 U.S.C. 3716 in order to liquidate the debt, whether the employee is being separated voluntarily or involuntarily.

(4) *Lump-sum deductions from other sources.* Whenever an employee subject to salary offset is separated from the Department, and the balance of the debt cannot be liquidated by offset of the final salary check, the Department, pursuant to 31 U.S.C. 3716, may offset any later payments of any kind against the balance of the debt.

(e) *Multiple debts.* In instances where two or more creditor agencies are seeking salary offsets, or where two or more debts are owed to a single creditor agency, the bureau payroll office may, at its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation.

(f) *Precedence of debts owed to Treasury.* For Treasury employees, debts owed to the Department generally take precedence over debts owed to other agencies. In the event that a debt to the Department is certified while an employee is subject to a salary offset to repay another agency, the bureau payroll office may decide whether to have that debt repaid in full before collecting its claim or whether changes should be made in the salary deduction being sent to the other agency. If debts owed the Department can be collected in one pay period, the bureau payroll office may suspend the salary offset to the other agency for that pay period in order to liquidate the Department's debt. When an employee owes two or more debts, the best interests of the Government shall be the primary consideration in the determination by the payroll office of the order of the debt collection.

§ 5.18 Coordinating salary offset with other agencies.

(a) *Responsibility of the Department as the creditor agency.* (1) The Secretary shall coordinate debt collections and shall, as appropriate:

(i) Arrange for a hearing upon proper petition by a Federal employee; and

(ii) Prescribe, upon consultation with the General Counsel, such practices and procedures as may be necessary to carry out the intent of this regulation.

(2) The head of each bureau shall designate a salary offset coordination officer who will be responsible for:

(i) Ensuring that each notice of intent to offset is consistent with the requirements of § 5.11;

(ii) Ensuring that each certification of debt sent to a paying agency is consistent with the requirements of § 5.13;

(iii) Obtaining hearing officials from other agencies pursuant to § 5.12(f); and

(iv) Ensuring that hearings are properly scheduled.

(3) *Requesting recovery from current paying agency.* Upon completion of the procedures established in these regulations and pursuant to 5 U.S.C. 5514, the Department must:

(i) Certify, in writing, that the employee owes the debt, the amount and basis of the debt, the date on which payment(s) is due, the date the Government's right to collect the debt first accrued, and that the Department's regulations implementing 5 U.S.C. 5514 have been approved by the Office of Personnel Management;

(ii) Advise the paying agency of the action (s) taken under 5 U.S.C. 5514(b) and give the date(s) the action(s) was taken (unless the employee has consented to the salary offset in writing or signed a statement acknowledging receipt of the required procedures and the written consent or statement is forwarded to the paying agency);

(iii) Except as otherwise provided in this paragraph, submit a debt claim containing the information specified in paragraphs (a)(3) (i) and (ii) of this section and an installment agreement (or other instruction on the payment schedule), if applicable, to the employee's paying agency;

(iv) If the employee is in the process of separating, the Department must submit its debt claim to the employee's paying agency for collection as provided in § 5.12. The paying agency must certify the total amount of its collection and notify the creditor agency and the employee as provided in paragraph (b)(4) of this section. If the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement Fund and Disability Fund, or other similar payments, it must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount) and that the provisions of his section have been fully complied with. However, the Department must submit a properly certified claim to the agency responsible for making such payments before the collection can be made.

(v) If the employee is already separated and all payments due from his or her former paying agency have been paid, the Department may request, unless otherwise prohibited, that money due and payable to the employee from the Civil Service Retirement Fund and Disability Fund (5 CFR 831.1801 *et seq.*) or other similar funds, be administratively offset to collect the debt (*See* 31 U.S.C. 3716 and the FCCS).

(4) When an employee transfers to another paying agency, the Department shall not repeat the due process procedures described in 5 U.S.C. 5514 and this subpart to resume the collection. The Department must review the debt upon receiving the former paying agency's notice of the employee's transfer to make sure the collection is resumed by the paying agency.

(b) *Responsibility of the Department as the paying agency.*—(1) *Complete claim.* When the Department receives a certified claim from a creditor agency, deductions should be scheduled to begin at the next officially established pay interval. The employee must receive written notice that the Department has received a certified debt claim from the creditor agency (including the amount) and written notice of the date salary offset will begin and the amount of such deductions.

(2) *Incomplete claim.* When the Department receives an incomplete certification of debt from a creditor agency, the Department must return the debt claim with notice that procedures under 5 U.S.C. 551 and this subpart must be provided and a properly certified debt claim received before action will be taken to collect from the employee's current pay account.

(3) *Review.* The Department is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(4) *Employees who transfer from one paying agency to another.* If, after the creditor agency has submitted the debt claim to the Department, the employee transfers to a different agency before the debt is collected in full, the Department must certify the total amount collected on the debt. One copy of the certification must be furnished to the employee and one copy to the creditor agency along with notice of the employee's transfer.

§ 5.10 Interest, penalties and administrative costs.

(a) The Department shall assess interest, penalties and administrative costs on debts owed pursuant to 31 U.S.C. 3717 and 4 CFR 101.1 *et seq.*

§ 5.20 Refunds.

(a) In instances where the Department is the creditor agency, it shall promptly refund any amount deducted under the authority of 5 U.S.C. 5514 when:

(1) The debt is waived or otherwise found not to be owing the United States; or

(2) An administrative or judicial order directs the Department to make a refund.

(b) Unless required or permitted by law or contract, refunds under this subsection shall not bear interest.

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§ 5.21 Request for the services of a hearing official from the creditor agency.

(a) The Department will provide a hearing official upon request of the creditor agency when the debtor is employed by the Department and the creditor agency cannot provide a prompt and appropriate hearing before an administrative law judge or before a hearing official furnished pursuant to another lawful arrangement.

(b) The Department will provide a hearing official upon request of a creditor agency when the debtor works for the creditor agency and that agency cannot arrange for a hearing official.

(c) The bureau salary offset coordination officer will appoint qualified personnel to serve as hearing officials.

(d) Services rendered under this section will be provided on a fully reimbursable basis pursuant to the Economy Act of 1932, *as amended*, 31 U.S.C. 1535.

§ 5.22 Non-waiver of rights by payments.

An employee's involuntary payment of all or any portion of a debt being collected under this Subpart must not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provisions of a written contract or law unless there are statutory or contractual provisions to the contrary.

John F.W. Rogers,

Assistant Secretary of the Treasury for Management.

Dated: October 2, 1987.

[FR Doc. 87-24048 Filed 10-21-87 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CCGD09 87-07]

Drawbridge Operation Regulations; Detroit River (Trenton Channel), MI

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Wayne County Engineer and Grosse Ile Toll Bridge Company, the Coast Guard is changing the operating regulations governing the Wayne County highway bridge, mile 5.6, and Grosse Ile Toll bridge, mile 8.8, across the Trenton Channel on the Detroit River at Grosse Ile, Michigan, by permitting the number of openings for pleasure craft to be limited during certain times. This change is being made because random bridge openings for the passage of pleasure craft cause land traffic tie-ups. This action will accommodate the needs of vehicular traffic while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on November 23, 1987.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, telephone (216) 522-3993.

SUPPLEMENTARY INFORMATION: On June 8, 1987, the Coast Guard published proposed rules, Vol. 52, No. 109, FR 21605 and FR 21606, concerning this amendment. The Commander, Ninth Coast Guard District, also published the proposal as a Public Notice, PN 09-05/87, dated 26 June 1987. In these notices, interested persons were given until July 23, 1987 and July 25, 1987, respectively, to submit comments.

Drafting Information

The drafters of these regulations are Fred H. Mieser, project officer, and LCDR C.V. Mosebach, project attorney.

Discussion of Comments

No comments were received from the **Federal Register**. One comment was received from the Public Notice. The one comment received was from the owners of the Wayne County bridge. The owner requested that the five-hour advance notice to have the bridge opened for the passage of a vessel when the bridge is unattended during the winter months, December 15 through March 15, be changed to a twelve-hour advance notice. Since this is a reasonable request that will allow the bridge owner to better accommodate marine interests during this period of time, and the twelve-hour advance notice is a more common period of time to give an advance notice during the winter months, the period of time required for giving an advance notice has been changed to twelve hours.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1986).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The periods of time when the bridges open for the passage of pleasure craft on a regulated schedule will relieve the problem of traffic tie-ups due to random bridge openings for these vessels and still provide for the reasonable needs of navigation. Since the impact of these regulations is expected to be so minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; and 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Part 117 is amended by revising § 117.631 to read as follows:

§ 117.631 Detroit River (Trenton Channel).

(a) The draw of the Grosse Ile Toll bridge (Grosse Ile Parkway), mile 8.8, at Grosse Ile, shall operate as follows:

(1) Between the hours of 7 a.m. and 11 p.m., seven days a week and holidays, the draw need open only from three minutes before to three minutes after the hour and half-hour for pleasure craft; for commercial vessels, during this period of time, the draw shall open on signal as soon as possible.

(2) Between the hours of 11 p.m. and 7 a.m., the draw shall open on signal for pleasure craft and commercial vessels.

(b) The draw of the Wayne County highway bridge (Bridge Road), mile 5.6, at Grosse Ile, shall operate as follows:

(1) From March 16 through December 14—

(i) Between the hours of 7 a.m. and 11 p.m., seven days a week and holidays, the draw need open only from three minutes before to three minutes after the quarter and three-quarter hour for pleasure craft, with no opening required at 7:45 a.m., 8:45 a.m., 4:15 p.m. and 5:15 p.m., Monday through Friday, except holidays; for commercial vessels, during these periods of time, the draw shall open on signal as soon as possible.

(ii) Between the hours of 11 p.m. and 7 a.m., the draw shall open on signal for pleasure craft and commercial vessels.

(2) From December 15 through March 15, no bridgetenders are required to be on duty at the bridge and the bridge shall open on signal if at least a twelve-hour advance notice is given.

(c) At all times, the bridges listed in this section shall open as soon as possible for public vessels of the United States, State or local government vessels used for public safety and vessels in distress.

Dated: October 5, 1987.

A.M. Danielsen,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 87-24497 Filed 10-21-87; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Special Rules Applicable to Surface Coal Mining Hearings and Appeals

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Final rule.

SUMMARY: The Office of Hearings and Appeals publishes final regulations promulgating procedures for adjudicatory proceedings to review decisions of the Office of Surface Mining Reclamation and Enforcement made under the permanent regulatory program established by the Surface Mining Control and Reclamation Act of 1977. These rules are necessary to inform parties who may request a hearing or appeal, where and when to file legal pleadings, what the contents of the pleadings should be, what party bears the burden of proof, and similar matters. These rules implement the provisions in the Act and in other regulations that authorize administrative review.

EFFECTIVE DATE: These rules are effective November 23, 1987.

FOR FURTHER INFORMATION CONTACT: Will A. Irwin, Administrative Judge, Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Phone 703-235-3750.

SUPPLEMENTARY INFORMATION: On October 2, 1986, the Office of Hearings and Appeals (OHA) re-proposed rules providing procedures for administrative review of decisions of the Office of Surface Mining Reclamation and Enforcement (OSM) under the permanent regulatory program established by the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.* (1982). 51 FR 35246-35256 (Oct. 2, 1986). The rules were originally proposed on April 9, 1986, 51 FR 12168-12175 (Apr. 9, 1986), and January 14, 1981, 46 FR 3242 (Jan. 14, 1981). Comments on the re-proposed rules were received from the Joint National Coal Association/American Mining Congress Committee on Surface Mining Regulations, the Mining and Reclamation Council of America, Peabody Coal Company, Arch Mineral Corporation, and the Division of Surface Mining, Office of the Solicitor, U.S. Department of the Interior. These comments are summarized and OHA's responses are provided in the following discussion. The discussion is organized according to the kind of decision made by OSM and the corresponding procedural regulations (43 CFR 4.1350 *et seq.*, 4.1360 *et seq.* etc.), in numerical sequence.

Review of a Preliminary Finding Concerning a Demonstrated Pattern of Willful Violations, 43 CFR 4.1350 et seq.

1. A comment suggested that it be specifically stated in 43 CFR 4.1351 that the pendency of an OHA proceeding to review a preliminary finding by OSM of a demonstrated pattern of willful violations of the Act or the applicable state or Federal program may not serve as the basis for suspension, postponement, or other delay by OSM in reviewing the application for a permit in other respects. "OHA has an obligation to formally clarify that the OHA proceedings do not form the basis for OSM delay of review," the commenter argues. The suggestion is not accepted. OHA cannot instruct OSM whether or not the pendency of such proceedings is a proper basis for OSM to suspend its consideration of a permit application. It is possible that OSM would be sufficiently convinced of the soundness of its preliminary determination that it would regard it as a waste of resources to continue during administrative review to consider an application for a permit that by law may not be issued if there is a "finding, after opportunity for hearing, that the applicant or the operator specified in the application controls or has controlled mining operations with a demonstrated pattern of willful violations." 30 U.S.C. 1260(c).

2. A comment suggested that the time limit for filing a request for hearing under 43 CFR 4.1352(b) and the sanction for failure to do so under § 4.1352(c) be removed because they unnecessarily restrict the ability of an applicant or operator to enter into discussion with OSM to resolve whether there is a demonstrated pattern "without formal involvement of OHA." An applicant should have the option of requesting an OHA hearing or eliminating the alleged pattern if discussions with OSM do not resolve the question, it is argued. This suggestion is rejected. Such discussions could take place with OSM either as it was preparing to issue a preliminary notice or in the course of trying to settle the issue after a request for a hearing had been filed. In addition to the need for a clear date after which OHA's jurisdiction cannot be invoked, the filing deadline (together with the requirement of § 4.1354 that an administrative law judge issue a decision within 60 days of the filing) serves the policy of achieving a prompt decision on whether a permit must be denied under section 510(c), a policy that conserves the resources of both OSM and the applicant.

3. Another comment argues that the imposition on an applicant or operator in 43 CFR 4.1355 of the ultimate burden of persuasion on the basis that this is "the standard allocation of burdens of proof" (see 51 FR 35249) "fails to recognize the unique character of the section 510 provision [that] requires a finding after an opportunity for a hearing * * * The burden should be on [the regulatory] authority to support [its] findings and not shifted to the applicant to persuade OHA that the allegations of OSM are not correct," the commenter argues. This argument is accepted. Under these rules OSM makes a preliminary finding of a demonstrated pattern and OHA determines, after hearing, whether there is a finding under section 510(c). In this context the comment is correct that the burden must be on OSM both to present a prima facie case and to prove the existence of a pattern by a preponderance of the evidence. The regulation has been revised to allocate these burdens to OSM in this kind of proceeding.

4. A comment related to the previous one suggests that "OHA should modify the proposed § 4.1350 regulations to conform to the hearings rules established at 43 CFR 4.1190-4.1196." "Inasmuch as the finding required of a regulatory authority in the context of a permit application is virtually identical to this procedure, there is no reason why a substantially identical procedure should not be adopted which requires OSM to initiate and sustain its preliminary finding," the commenter argues. While there are some similarities between the determinations called for in sections 510(c) and 521(a)(4), 30 U.S.C. 1260(c) and 1271(a)(4), the differences between these provisions indicate that a "substantially identical" procedure to that provided for permit revocation proceedings in 43 CFR 4.1190 et seq. is not appropriate for the finding under section 510(c). The requirement in § 4.1351 that OSM's notice of a preliminary finding of a demonstrated pattern "shall state with specificity the violations upon which the preliminary finding is based," and the revision of the burden of proof

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discussed above have resulted in a proceeding in which OSM is required "to initiate and sustain its preliminary finding."

Request for Review of Approval or Disapproval of Applications for New Permits (Federal Program; Federal Lands Program; Federal Program for Indian Lands), 43 CFR 4.1360 et seq.

1. One comment suggested that the existing regulation governing parties, 43 CFR 4.1105, should be amended to include references to an applicant under § 4.1360, in order to assure service of a request for review on the applicants under 43 CFR 4.1109. The suggestion is accepted. 43 CFR 4.1105(a)(2) is amended to include references to § 4.1360 et seq. as well as to other proceedings covered by these regulations. Correspondingly, 43 CFR 4.1109(a) is amended to provide for simultaneous service of initiating documents on the date of filing, to provide current addresses in the regulation, and to provide that any party or other person must simultaneously serve any document filed with OHA subsequent to the filing of a document that initiates a proceeding on all other parties and all other persons participating in the proceeding. *See* 51 FR 35249.

2. One comment suggested expanding the scope of decisions covered by § 4.1360 et seq. to include "review of the alleged failure of OSM to reach such decisions in a timely manner," referring specifically to the obligation imposed by section 514(b) of the Act, 30 U.S.C. 1264(b), that OSM notify an applicant whether the application has been approved or disapproved in whole or in part "within a reasonable time as determined by the regulatory authority and set forth in regulations," based on several specified factors. Although it is for OSM to promulgate the regulations called for by section 514(b), not OHA, it is not the intent of these OHA regulations to prescribe consideration of the issue of timeliness, and, indeed, the issue has been considered in the context of at least one appeal adjudicated by the Interior Board of Land Appeals (IBLA). *See Peabody Coal Co.* v. *The Hopi Tribe*, 91 IBLA 59 (1986). The suggestion is not accepted.

3. Another comment recommends that the record in a permit review proceeding under § 4.1360 et seq. be limited to information before OSM at the time of its decision or, alternatively, that any additional technical data must be filed by a specified date before the hearing. The hearing provides the applicant, OSM, and any other party the opportunity to present evidence on behalf of or against the decision granting or denying an application. This opportunity includes evidence generated after the decision appealed from. *See Benton C. Cavin*, 83 IBLA 107, 114–15 (1984). The administrative law judge has the authority specified in § 4.1121(a) as well as that under § 4.1121(b) to order a prehearing conference. This authority is adequate to ensure that all parties have a fair opportunity to present their evidence and arguments without taking advantage of other parties. The limitation on the record suggested is not consistent with the intent of Congress that there be a full public hearing on the application governed by 5 U.S.C. 554. S. Rep. No. 337, 95th Cong., 1st Sess. 107 (1977). The suggestion is not accepted.

4. Two commenters suggest that the right to request a hearing under § 4.1361 (as well as under §§ 4.1371, 4.1381, and 4.1391) be limited to persons who not only have an interest which is or may be adversely affected, as proposed, but also have participated in administrative proceedings before OSM. This would "conform to" section 514(a) of the Act, 30 U.S.C. 1264(a), and be "consistent with" section 514(f), with the Administrative Procedure Act, and with "the prevailing case law that one who challenges agency action is limited to those grounds raised initially before the agency" (citing *Portland Cement Association* v. *Ruckelshaus*, 486 F.2d 375 (D.C. Cir. 1973)), it is argued. Further, it is argued, the legislative history cited at 51 FR 34349 in support of rejecting this suggestion before "has no applicability."

Section 514(a) of the Act requires the regulatory authority to furnish the applicant for a permit and "persons who are parties to the administrative proceedings" with a written finding granting or denying a permit within 60 days if an informal conference has been held under section 513(b) of the Act, 30 U.S.C. 1263(b). Section 514(b) provides that if there has been no such informal conference the regulatory authority is to notify the applicant within a reasonable time. Section 514(c), which proposed rules §§ 4.1360–4.1369 are designed to implement, provides that the applicant "or any person with an interest which is or may be adversely affected" may request a hearing on the reasons for the final determination on an application within 30 days after the applicant is notified of it. Nothing in the language of section 514(c) nor in its legislative history indicates that only persons who have filed written objections or requested an informal conference under section 513(b) may request a hearing under section 514(c). Section 514(c) was added to the bill by the committee of conference on H.R. 2 with the following explanation: "The conferees further provided for a full public hearing after the decision on the application to be governed by 5 U.S.C. 554 if the Secretary is the regulatory authority." S. Rep. No. 337, 95th Cong., 1st Sess., 107 (1977). Adding a *full* public hearing *after* the decision on the application does not indicate an interest to limit the hearing to those who participated in the application proceedings. As section 514(b) makes clear, there may not have been either an informal conference or any written objections under section 513(b), so it is logical that section 514(c) provides that the applicant or *any* person with an interest which is or may be adversely affected may request a hearing, not only a person who has participated under section 513(b).

Section 514(f) provides a right of appeal to an applicant or "any person with and interest which is or may be adversely affected who has participated in the administrative proceedings as an objector, and who is aggrieved by the decision of the regulatory authority." The "administrative proceedings" referred to in section 514(f) are those provided for in section 514(c) and the right of appeal granted is a right to judicial review under section 526, 30 U.S.C. 1276. Section 514(f) provides no basis for limiting who may request that a hearing be held by the Department under section 514(c).

Thus, the language of section 514 (a) and (f), taken in context, does not support the suggestion in the comments that availability of administrative review before OHA should be limited to those who participated while an application was being considered by OSM.

Because Congress specified in section 514(c) who may request a hearing on a permit application determination, the Administrative Procedure Act (APA) does not control this question. The comparable language in 5 U.S.C. 702 provides a similar standard for right of review—"A person . . . adversely affected by . . . agency action"—and neither 5 U.S.C. 554 nor 557 contains any requirement of prior participation in adjudication proceedings. *Portland Cement*, cited in the comment, states that challenges made on judicial review to standards established in rulemakings "must be limited to points made by petitioners in agency proceedings," *id.*, 486 F.2d at 394, not to parties in adjudicatory proceedings. Thus, nothing analogous to section 514(c) in the APA indicates that one must have participated in a prior agency proceeding in order to be able to request a hearing under section 514(c).

One of the purposes of the Act is to "assure that appropriate proceedings are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under the Act." 30 U.S.C. 1202(i). Both the House of Representatives and the Senate explained the reason for this purpose:

> The success or failure of a national coal surface mining regulation program will depend, to a significant extent, on the role played by citizens in the regulatory process. . . . While citizen participation is not, and cannot be, a substitute for governmental authority, citizen involvement in all phases of the regulatory scheme will help ensure that the decisions and actions of the regulatory authority are grounded upon complete and full information. In addition, providing citizen access to administrative appellate procedures and the courts is a practical and legitimate method of assuring the regulatory authority's compliance with the requirements of the Act.
>
> H.R. Rep. No. 218, 95th Cong., 1st Sess. 88–89 (1977); S. Rep. No. 128, 95th Cong., 1st Sess. 59 (1977).

Section 514(c) provides for a right to a hearing to the applicant or "any person with an interest which is or may be adversely affected." This language occurs in several other provisions of the Act. *See, e.g.*, 30 U.S.C. 1263(b), 1270(a), 1275(a). Congress adopted this language concerning participation in the permit process over an alternative standard (any person "with a valid legal interest"). H.R. Rep. No. 493, 95th Cong., 1st Sess. 106–107 (1977). It had previously revised this language to establish "a test of standing consistent with other provisions of the bill." H.R. Rep. No. 218, 95th Cong., 1st Sess. 66 (1977). The Congress made its purpose in establishing these provisions clear: "[I]n imposing several provisions which contemplate active citizen involvement, the committee is carrying out its conviction that the participation of private citizens is a vital factor in the regulatory program as established by the Act." *Id.* at 89. It also made its intent about how this language was to be interpreted clear: "It is the intent of the Committee that the phrase 'any person having an interest which is or may be adversely affected' shall be construed to be coterminous with the broadest standing requirements enunciated by the United States Supreme Court." *Id.* at 90. "The Committee intends that this includes persons who meet the requirements for standing to sue set out by the Supreme Court in *Sierra Club* v. *Morton* (405 U.S. 727 1972))." S. Rep. No. 28, 94th Cong., 1st Sess. 217 (1975).

This statutory language—"person with an interest which is or may be adversely affected"—is defined in regulations adopted by the Secretary as including "any person a) who uses any resource of economic, recreational, esthetic, or environmental value that may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary or the State regulatory authority or b) whose property is or may be adversely affected" by these same activities or actions. 30 CFR 700.5. In devising this definition the legislative history referred to above, as well as additional references, were relied on, as were various United States Supreme Court decisions. 44 FR 14912–14913 (Mar. 13, 1979). The statutory language is reflected in several other regulations adopted by the Secretary, including 30 CFR 775.11(a) authorizing administrative review of permit decisions. 30 CFR 775.11(a) applies not only to review of the approval or denial of applications for permits but to permit revisions and renewals, applications for the transfer, sale, or assignment of permit rights, and applications for coal exploration permits. See also 43 CFR 4.1105(a)(2), 4.1110(b).

Thus, both the legislative history and the regulatory history of the phrase "any person with an interest which is or may be adversely affected" contradict the suggested limitation on who may file a request for review under proposed 43 CFR 4.1361, 4.1371, 4.1381, and 4.1391 The suggestion is rejected.

5. Another comment suggested revising 4.1361 to provide that if a person (*e.g.*, an Indian tribe) that otherwise has sovereign immunity filed a request for a hearing, it should be deemed to have waived its sovereign immunity from suit by any other party for costs and expenses under section 525(e) of the Act or for administrative or judicial review of the outcome of the request for a hearing. The suggestion is not accepted. An Indian tribe does not waive its sovereign immunity against a counterclaim by initiating legal action. *Chemehuevi Indian Tribe* v. *California State Board of Equalization*, 757 F.2d 1047, 1053 (9th Cir. 1985), *rev'd on other grounds*, 106 S. Ct. 289 (1985); *United States* v. *U.S. Fidelity and Guaranty Co.*, 309 U.S. 506, 512 (1940). Without authority from the Congress, the Secretary may not waive tribal immunity. *Puyallup Tribe, Inc.* v. *Department of Game of Washington*, 433 U.S. 165, 170 n.9 (1977); *Santa Clara Pueblo* v. *Martinez*, 436 U.S. 49, 58 (1978).

6. One comment observed that requiring a request for review to be filed "within 30 days after the applicant is notified of OSM's written decision" under 4.1362(a) does not provide a clear deadline unless there is a record of when that notification takes place. Under "OSM's procedures * * * considerable question can arise as to what constitutes 'notification' of the applicant," the comment states. The regulation—as well as §§ 4.1372(a), 4.1382(a), and 4.1391(b)—is revised to provide that notification of the applicant or permittee occurs on the date of publication in a local newspaper of notice of OSM's decision. This form of notification is required only for purposes of being able to establish clearly whether a request for review was timely filed with OHA; it does not preclude other forms of notification (*e.g.*, oral, personal service) for other purposes.

7. A comment suggested deleting § 4.1363 (c) and (d) on the grounds that statutory time limits imposed by section 514(c) should not be able to be avoided by inartful drafting of requests for hearings. These paragraphs have been revised to require filing of amendments and responses within 15 and 10 days of filing of requests for review and amendments, respectively, so that there can be no violation of the requirement that a hearing be commenced within 30 days of a filing of a request for hearing, and a provision has been added to § 4.1363(c) proscribing the granting of a motion for leave to amend unless all parties agree to an extension of the date of the commencement of the hearing under § 4.1364.

8. A comment suggested revising § 4.1364(a) to delete the reference to an amended request for review and the requirement for simultaneous notification of "all interested parties" on the grounds that it might be interpreted to require notice by publication for which there would not be time given the time limits imposed by section 514(c). The suggestion to delete the reference to an amended request for review is not accepted, in view of the revisions to § 4.1363. The suggestion concerning notification is also not accepted. The regulation is not intended to require notice by publication, although it would not preclude it. In any event, the requirement that a hearing commence within 30 days of the filing of the request for review would control.

9. Two comments suggested that § 4.1364(b) authorizing waivers of the deadlines for holding a hearing and issuing a decision imposed by 30 U.S.C. 1264(c) upon the agreement of all parties

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be revised to make clear that the rule "may be implemented through specified extensions of time to which all parties agree," as well as indefinite extensions, so that parties are not reluctant to agree for fear of losing their right to a decision within an established time frame. The suggestion is accepted and the rule has been revised accordingly. In addition, § 4.1364 has been revised to limit it to waivers of the time limit for commencing a hearing. Waivers of the time limit for issuing a decision are provided for in revised § 4.1368.

10. One comment observed that it "is not possible" for OSM to file a request for review of a permit it has itself granted, as implied in the first paragraph of the discussion of § 4.1366 on 51 FR 35250. It was not the intent of the comment to indicate this was possible; the comment responded to a hypothetical question concerning the allocation of the burden of proof. Another comment suggested revising § 4.1338 to conform to 30 CFR 775.11(b)(5). The present phrasing is retained to distinguish the burden of going forward with the evidence from the burden of ultimate persuasion.

11. One comment observed that the expedited time frames in §§ 4.1368 and 4.1369 "place a substantial burden on parties having to develop and draft pleadings and briefs. We are concerned that full and fair consideration of the issues may not always result. Because permit challenges often are complex and present issues of first impression, a total of 30 days for two sets of briefs, an administrative law judge decision, and Board decision is inadequate." The commenter suggested establishing longer periods by rule, noting that if a party were aggrieved by the period for review extending beyond 30 days it could seek judicial relief under section 514(f). Alternatively, the commenter suggested that filing be effective upon receipt, rather than on mailing as provided currently in 43 CFR 4.1107, and that provisions similar to existing rules 43 CFR 4.1184(b), 4.1185, and 4.1186 be adopted for permit review proceedings under § 4.1360.

OHA agrees that the time frames in proposed §§ 4.1368 and 4.1369 are impractical. Therefore, § 4.1366 is revised to allocate the entire 30-day period mandated by section 514(c) of the Act for the issuance of a decision to the administrative law judge and to provide that this time limit may be waived in writing by the parties if they wish to allow more time after the hearing record is closed, *i.e.*, after the filing of any post-hearing briefs, for the issuance of a decision. As under § 4.1364, the agreement may specify the length of the extension agreed to.

Section 4.1369 has been revised to provide that any party aggrieved by a decision of the administrative law judge granting or denying a permit in whole or in part may elect to file a petition for discretionary review with the Board, or it may seek judicial review in accordance with 30 U.S.C. 1276(a)(2). This election is similar to the one available for review of decisions granting or denying temporary relief under 43 CFR 4.1367(f). If the Board grants the petition, it shall decide the appeal expeditiously.

A provision based on 43 CFR 4.1184(b) has been added as § 4.1363(e).

Requests for Review Concerning Permit Revisions, Permit Renewals, and the Transfer, Assignment, or Sale of Rights Granted Under Permits (Federal Program; Federal Lands Program; Federal Program for Indian Lands), 43 CFR 4.1370 et seq.

1. One comment objects to any differences between the review procedures and time requirements applicable to permit revisions, renewals, and the transfer, assignment, or sale of rights under § 4.1370 et seq. and those applicable to new permits under § 4.1360 et seq. on the grounds that 30 CFR 775.11 provides the same procedures under state programs and "the slower, more cumbersome procedures proposed for decisions on existing permits under federal programs would place operators subject to federal programs at a severe disadvantage in comparison to operators under state programs conducted pursuant to 30 CFR 775.11." Section 4.1360 et seq. should be applicable to all permit decisions, the commenter concludes, and § 4.1370 et seq. should be deleted.

The differences in time requirements, burdens of proof, etc., between § 4.1360 et seq. and § 4.1370 et seq. are based on differences in the provisions of the Act concerning these matters in sections 506, 510, 511, and 514, 30 U.S.C. 1256, 1260, 1261, and 1264. The time limits imposed in section 514(c), for example, are not contained in the other sections (*see, e.g.*, section 511(a)(2)). Similarly, the burden of proof on applications for renewals is specified by section 506(d)(1) to be on any opponents. Thus, different administrative review procedures for federal, state, and federal lands programs were chosen "because of the statutory and institutional differences between the three programs." 44 FR 15104 (Mar. 13, 1979). The suggestion to apply § 4.1360 et seq. to all permit decisions is not accepted.

A new § 4.1379 has been added, however, authorizing any party to a proceeding under § 4.1370 et seq. to request that an administrative law judge or the Board grant expedited consideration to a case. The request must set forth the exigent circumstances that warrant expedited consideration.

2. One comment objects that a "right to public participation in a hearing under 30 CFR 775.11(a) and 43 CFR 4.1370 et seq. of the transfer assignment and sale of permit rights cannot be created when no right to a hearing is created pursuant to section 511" of the Act.

The origin of the right specified in 30 CFR 775.11(a) and (c) is described in the preamble to the equivalent regulation § 787.11) when it was promulgated:

> 10. As is discussed in the preamble to Section 7[7]6.14, the Office accepted comments suggesting that the right to an adjudicatory hearing be provided with respect to decisions of regulatory authorities to approve or disapprove applications to conduct coal exploration in which more than 250 tons of coal is to be removed in any one location. This was done by cross-referencing to Section 787.11. Appropriate revisions were also made to Section 787.11 to include these appeals within its scope. Similarly, the requirements of Section 787.11 have also been made applicable, as suggested by commenters, to Section 786.17(d) hearings, Section 788.11 hearings, *and to review of the decision of the regulatory authority under Sections 788.17–788.19.* [Emphasis added.]

44 FR 15105 (Mar. 13, 1979). (788.17–788.19 applied to the transfer, assignment, or sale of permit rights. *See* 44 FR 15106–09 (Mar. 13, 1979).)

The discussion in the preamble to § 776.14 referred to in this comment explained:

> 3. Several commenters questioned whether there should be an opportunity for a hearing on the approval or disapproval of coal explorations over 250 tons. As proposed, Section 776.14 conferred discretion to the regulatory authority to hold a hearing after approval or disapproval of exploration applications. Under the due-process requirements of the 5th and 14th amendments to the United States Constitution, the Federal and State governments can only take property or deprive individuals of their due-process rights if opportunity for an adjudicatory hearing is afforded on particularized, factual determinations. Furthermore, the Federal Administrative Procedure Act (5 U.S.C. 554) and most State laws provide for a similar right to a hearing. Therefore, any person adversely affected by the decision of the regulatory authority on an exploratory application must be given an opportunity for a hearing. The type of hearing to be afforded is specified in Part 787, which itself has been modified in the final rule to account for exploration application approval and disapproval hearings.

44 FR 15020 (Mar. 13, 1979).

Section 775.11(a) "is the previous 787.11(a), with minor editorial changes." 48 FR 44383 (Sept. 28, 1983). "Section 775.11(c) . . . is the same as previous 787.11(c), with the changes described below." 48 FR 44384 (Sept. 28, 1983). Both 787.11(a) and 787.11(c) provided for administrative review of decisions on applications for the transfer, sale, or assignment of rights granted under permits. 44 FR 15382 (Mar. 13, 1979).

Request for Review of Approval or Disapproval of a Coal Exploration Permit Application (Federal Program), 43 CFR 4.1380 et seq.

1. One comment objects to the provision of § 4.1385 that filing a request for review stays issuance of a permit pending completion of administrative review. "No valid distinction exists for treating the status of a coal exploration permit decision differently from other permitting decisions," the commenter argues. The argument is persuasive. The review of an application for a coal exploration permit, though somewhat less extensive, is similar to that for an application for a new permit. The process does include public notice and the opportunity for comment. The rule has been revised so that filing a request for review will not stay issuance of a coal exploration permit. Interested persons adversely affected by the issuance of the coal exploration permit may seek temporary relief, including a stay, under 43 CFR 4.1387.

Request for Review of OSM Determinations of Issues Under 30 CFR Part 761 (Federal Program; Federal Lands Program; Federal Program for Indian Lands), 43 CFR 4.1390 et seq.

1. Two comments observe that a determination by OSM under 30 CFR Part 761 could either take place in advance of an application for a permit or in the context of a decision on such an application. There is need for only one determination, however, and therefore for only one opportunity to request review of that determination. If the determination is made separately from a permit application, the review procedures provided in § 4.1390 et seq. apply; if it is made in the context of a permit application decision, administrative review of the determination will occur in accordance with the procedures applicable to review of the decision on the permit application, *i.e.* §§ 4.1360 et seq., 4.1370 et seq., or 4.1380 et seq.

2. One comment objects to the applicability of 43 CFR 4.21(a) to OSM decisions under 30 CFR Part 761 that are the subject of a request for review. *See* 4.1392. "The proposal contravenes [the Act] by substituting § 4.21(a) for the specific statutory scheme which uniformally [sic] requires that those who object to OSM's decisions affirmatively seek relief. *See, Virginia Surface Mining and Reclamation Assn.* v. *Andrus*, 604 F.2d 312 (4th Cir. 1979)," the commenter argues.

The general rule in 43 CFR 4.21(a), contained in § 4.1393, is provided so that there is an opportunity for administrative review on behalf of the Secretary before agency action is final for purposes of judicial review. *See* 5 U.S.C. 704; *United States* v. *Consolidated Mines & Smelting Co.*, 455 F.2d 432 (9th Cir. 1971); *Conoco, Inc.* v. *Watt*, 559 F. Supp. 627, 629 (E.D. La. 1982). The rule implements the policy that the Secretary structure adjudication procedures to assure objective administrative review of initial decisions. *See* 43 U.S.C. 1701(a)(5). It provides an opportunity for OHA to develop and review a record and it protects private parties from investing resources on the basis of an initial decision that may be erroneous. With the exception noted in the response to the preceding comment, OSM decisions under Part 761 take place before decisions concerning permits. In addition, such decisions more often involve legal rather than technical issues. For both these reasons there is less reason to exempt decisions under Part 761 from the general rule in 43 CFR 4.21(a).

Except for sections 514(c) and 506(d)(1)), discussed above, the Act does not contain a "specific statutory scheme," as suggested by the comment, that precludes application of the general rule to decisions by OSM under 30 CFR Part 761. Application of the rule does not alter the parties' burdens of proof, it simply provides for the conduct of administrative review. *Andrus*, cited by the comment, deals with the showings that must be made to obtain temporary relief from decisions of the Secretary during judicial review under section 526. It does not speak to any such uniform requirements during administrative review by the Secretary. The suggestion in the comment that § 4.21(a) not apply is rejected.

3. Section 4.1391(a) has been revised to provide for filing of a request for review in the office of the OSM official making the determination, with a copy to the Board. *Cf.* 43 CFR 4.1282(a). OSM will file the administrative record with the Board as soon as practicable.

Determination of Effects

Because these rules only set forth the details of procedures for conducting hearings and appeals of decisions of OSM under the Surface Mining Control and Reclamation Act of 1977, the Department has determined that they are not major, as defined by Executive Order 12291, and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

National Environmental Policy Act

The Department has determined that these rules will not significantly affect the quality of the human environment on the basis of the categorical exclusion of regulations of a procedural nature set forth in 516 DM 2, Appendix 1, section 1.10.

Paperwork Reduction Act

These rules contain no information collection requirements requiring Office of Management and Budget approval under 44 U.S.C. 3501 *et seq.*

The author of these regulations is Will A. Irwin, Administrative Judge, Interior Board of Land Appeals, Office of Hearings and Appeals.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure, Mine, Public lands-mineral resources, Surface mining.

For the reasons set forth in the preamble, Subparts L and M of Part 4 of Title 43 of the Code of Federal Regulations are amended as set forth below.

Dated: October 15, 1987.

Donald Paul Hodel,

Secretary.

PART 4—[AMENDED]

43 CFR Part 4 is amended as follows:

1. The authority citation for Part 4, Subpart M, continues to read as follows:

Authority: 5. U.S.C. 301.

§§ 4.1300–4.1310 [Redesignated as §§ 4.1600–4.1610].

2. 43 CFR Part 4, Subpart M, is amended by redesignating existing § 4.1300–4.1310 as 4.1600–4.1610. All references to §§ 4.1300–4.1310 are changed to reference §§ 4.1600–4.1610 respectively.

2a. The authority citation for Part 4, Subpart L, continues to read as follows:

Authority: 30 U.S.C. 1256, 1260, 1261, 1264, 1266, 1271, 1272, 1275, 1293; 5 U.S.C. 301.

3. 43 CFR 4.1105 is amended by revising paragraph (a)(2) to read as follows:

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§ 4.1105 Parties.

(a) * * *

(2) In a review proceeding under §§ 4.1160 et seq., 4.1180 et seq., 4.1300 et seq., 4.1350 et. seq., 4.1360 et seq., 4.1370 et seq., 4.1380 et seq., or 4.1390 et seq., of this part, OSM, as represented by the Office of the Solicitor, Department of the Interior, and—

(i) If an applicant, operator, or permittee files an application or request for review, the applicant, operator, or permittee; and

(ii) If any other person having an interest which is or may be adversely affected files an application or request for review, the applicant, operator, or permittee and the person filing such application;

* * * * *

4. 43 CFR 4.1109 is amended by revising paragraph (a) to read as follows:

§ 4.1109 Service.

(a) Any party initiating a proceeding in OHA under the Act shall simultaneously serve, on the date of filing, copies of the initiating documents on the Field or Regional Solicitor, Division of Surface Mining, U.S. Department of the Interior, representing OSM in the state in which the mining operation is located, and on any other statutory parties under 4.1105. The addresses and telephone numbers of the field and regional solicitors follow.

For cases arising in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia: Office of the Field Solicitor, U.S. Department of the Interior, P.O. Box 15006, Knoxville, Tennessee 37901. Phone 615–673–4233.

For cases arising in Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming: Office of the Regional Solicitor, U.S. Department of the Interior, Denver Federal Center, P.O. Box 25007, Denver, Colorado 80225. Phone 303–236–8444.

For cases arising in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia: Office of the Field Solicitor, U.S. Department of the Interior, Suite 502], U.S. Post Office and Courthouse, Pittsburgh, Pennsylvania 15219. Phone 412–644–4455.

Any party or other person shall simultaneously serve any other documents being filed subsequently with OHA on all other parties and all other persons participating in the proceeding.

* * * * *

5. 43 CFR Part 4, Subpart L, is further amended by adding new center headings and §§ 4.1350 through 4.1394 to read as follows:

Request for Hearing on a Preliminary Finding Concerning a Demonstrated Pattern of Willful Violations Under Section 510(c) of the Act, 30 U.S.C. 1260(c) (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

Sec.
4.1350 Scope.
4.1351 Preliminary finding by OSM.
4.1352 Who may file; where to file; when to file.
4.1353 Contents of request.
4.1354 Determination by the administrative law judge.
4.1355 Burden of proof.
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Request for Review of Approval or Disapproval of Applications for New Permits (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

4.1360 Scope.
4.1361 Who may file.
4.1362 Where to file; when to file.
4.1363 Contents of request; amendment of request; responses.
4.1364 Time for hearing; notice of hearing; extension of time for hearing.
4.1365 Status of permit pending administrative review.
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4.1367 Requests for temporary relief from a decision to approve or disapprove a permit application in whole or in part.
4.1368 Determination by the administrative law judge.
4.1369 Petitions for discretionary review; judicial review.

Requests for Review Concerning Permit Revisions, Permit Renewals, and the Transfer, Assignment, or Sale of Rights Granted Under Permits (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

4.1370 Scope.
4.1371 Who may file; where to file.
4.1372 When to file.
4.1373 Contents of request; amendment of request; responses.
4.1374 Notice of hearing.
4.1375 Status of decision pending administrative review.
4.1376 Burden of proof.
4.1377 Request for temporary relief.
4.1378 Petitions for discretionary review.
4.1379 Request for expedited consideration.

Request for Review of Approval or Disapproval of a Coal Exploration Permit Application (Federal Program)

4.1380 Scope.
4.1381 Who may file.
4.1382 Where to file; when to file.
4.1383 Contents of request; amendment of request; responses.
4.1384 Notice of hearing.
4.1385 Status of permit pending administrative review.
4.1386 Burden of proof.
4.1387 Request for temporary relief.
4.1388 Petitions for discretionary review.

Request for Review of OSM Determinations of Issues Under 30 CFR Part 761 (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

4.1390 Scope.
4.1391 Who may file; where to file; when to file; filing of administrative record.
4.1392 Contents of request; amendment of request; responses.
4.1393 Status of decision pending administrative review.
4.1394 Burden of proof.

Request for Hearing on a Preliminary Finding Concerning a Demonstrated Pattern of Willful Violations Under Section 510(c) of the Act, 30 U.S.C. 1260(c) (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

§ 4.1350 Scope.

These rules set forth the procedures for obtaining review of a preliminary finding by OSM, prior to approval or disapproval of a permit application, that the applicant, or operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of this Act or the applicable State or Federal program.

§ 4.1351 Preliminary finding by OSM.

If OSM determines during review of the permit application that the applicant, or operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply, OSM shall issue the applicant or operator a notice of such preliminary finding. The notice shall state with specificity the violations upon which the preliminary finding is based.

§ 4.1352 Who may file; where to file; when to file.

(a) The applicant or operator may file a request for hearing on OSM's preliminary finding of a demonstrated pattern of willful violations.

(b) The request for hearing shall be filed with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800), within 30 days of receipt by the applicant or operator of the notice of the preliminary finding.

(c) Failure to timely file a request shall constitute a waiver of the opportunity for a hearing prior to a final finding by OSM concerning a demonstrated pattern of willful violations, and the request shall be dismissed.

§ 4.1353 Contents of request.

The request for hearing shall include—

(a) A clear statement of the facts entitling the one requesting the hearing to administrative relief;

(b) An explanation of the alleged errors in OSM's preliminary finding; and

(c) Any other relevant information.

§ 4.1354 Determination by the administrative law judge.

The administrative law judge shall promptly set a time and place for and give notice of the hearing to the applicant or operator and shall issue a decision within 60 days of the filing of a request for hearing. The hearing shall be of record and governed by 5 U.S.C. 554.

§ 4.1355 Burden of proof.

OSM shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion as to the existence of a demonstrated pattern of willful violations of the Act or the applicable State or Federal program which are of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent to comply.

§ 4.1356 Appeals.

(a) Any party aggrieved by the decision of the administrative law judge may appeal to the Board under procedures set forth in § 4.1271 et seq. of this subpart, except that the notice of appeal must be filed within 20 days of receipt of the administrative law judge's decision.

(b) The Board shall order an expedited briefing schedule and shall issue a decision within 45 days of the filing of the appeal.

Request for Review of Approval or Disapproval of Applications for New Permits (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

§ 4.1360 Scope.

These rules set forth the procedures for review of decisions by OSM on applications for new permits, including applications under 30 CFR Part 785, and the terms and conditions imposed or not imposed in permits by those decisions. They do not apply to decisions on applications to mine on Federal lands in states where the terms of a cooperative agreement provide for the applicability of alternative administrative procedures (*see* 30 CFR 775.11(c)), but they do apply to OSM decisions on applications for Federal lands in states with cooperative agreements where OSM as well as the state issue Federal lands permits.

§ 4.1361 Who may file.

The applicant or any person having an interest which is or may be adversely affected by a decision of OSM to approve or disapprove a permit application, in whole or in part, may file a request for review of that decision.

§ 4.1362 Where to file; when to file.

(a) The request for review shall be filed with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800), within 30 days after the applicant is notified by publication in a local newspaper of notice of OSM's written decision approving or disapproving the permit application in whole or in part.

(b) Failure to file a request for review within the time specified in paragraph (a) of this section shall constitute a waiver of a hearing and the request shall be dismissed.

§ 4.1363 Contents of request; amendment of request; responses.

(a) The request for review shall include—

(1) A clear statement of the facts entitling the one requesting review to administrative relief;

(2) An explanation of each specific alleged error in OSM's decision, including reference to the statutory and regulatory provisions allegedly violated;

(3) A request for specific relief;

(4) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(5) Any other relevant information.

(b) All interested parties shall file an answer or motion in response to a request for review, or a statement that no answer or motion will be filed, within 15 days of receipt of the request specifically admitting or denying facts or alleged errors stated in the request and setting forth any other matters to be considered on review.

(c) A request for review may be amended once as a matter of right prior to filing of an answer or motion or statement filed in accordance with paragraph (b) of this section. Thereafter, a motion for leave to amend the request shall be filed with the administrative law judge. An administrative law judge may not grant a motion for leave to amend unless all parties agree to an extension of the date of commencement of the hearing under § 4.1364. A request for review may not be amended after a hearing commences.

(d) An interested party shall have 10 days from filing of a request for review that is amended as a matter of right or the time remaining for response to the original request, whichever is longer, to file an answer, motion, or statement in accordance with paragraph (b) of this section. If the administrative law judge grants a motion to amend a request for review, the time for an interested party to file an answer, motion, or statement shall be set forth in the order granting it.

(e) Failure of any party to comply with the requirements of paragraphs (a) or (b) of this section may be regarded by an administrative law judge as a waiver by that party of the right to commencement of a hearing within 30 days of the filing of a request for review if the administrative law judge concludes that the failure was substantial and that another party was prejudiced as a result.

§ 4.1364 Time for hearing; notice of hearing; extension of time for hearing.

Unless all parties agree in writing to waive the statutory requirement that a hearing be held within 30 days of a request, the administrative law judge shall commence a hearing within 30 days of the date of the filing of the request for review or amended request for review and shall simultaneously notify the applicant and all interested parties of the time and place of such hearing before the hearing commences. The hearing shall be of record and governed by 5 U.S.C. 554. An agreement to waive the time limit for commencement of a hearing may specify the length of the extension agreed to.

§ 4.1365 Status of permit pending administrative review.

The filing of a request for review of the approval of an application for a permit shall not suspend the permit pending completion of administrative review.

§ 4.1366 Burden of proof.

(a) If the permit applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case as to failure to comply with the applicable requirements of the Act or the regulations or as to the appropriateness of the permit terms and conditions, and the permit applicant shall have the ultimate burden of persuasion as to entitlement to the permit or as to the inappropriateness of the permit terms and conditions.

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(b) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that the permit application fails in some manner to comply with the applicable requirements of the Act or the regulations, or that OSM should have imposed certain terms and conditions that were not imposed.

§ 4.1367 Request for temporary relief from a decision to approve or disapprove a permit application in whole or in part.

(a) Where review is requested pursuant to § 4.1362, any party may file a request for temporary relief at any time prior to a decision by an administrative law judge, so long as the relief sought is not the issuance of a permit where a permit application has been disapproved in whole or in part.

(b) The request shall be filed with the administrative law judge to whom the case has been assigned. If no assignment has been made, the application shall be filed in the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800).

(c) The application shall include—

(1) A detailed written statement setting forth the reasons why relief should be granted;

(2) A statement of the specific relief requested;

(3) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceeding; and

(4) A showing that the relief sought will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(d) The administrative law judge may hold a hearing on any issue raised by the application.

(e) The administrative law judge shall issue expeditiously an order or decision granting or denying such temporary relief. Temporary relief may be granted only if—

(1) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(2) The person requesting such relief shows a substantial likelihood of prevailing on the merits of the final determination of the proceeding; and

(3) Such relief will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(f) *Appeals of temporary relief decisions.* (1) Any party desiring to appeal the decision of the administrative law judge granting or denying temporary relief may appeal to the Board, or, in the alternative, may seek judicial review pursuant to section 526(a), 30 U.S.C. 1276(a), of the Act.

(2) The Board shall issue an expedited briefing schedule and shall issue a decision on the appeal expeditiously.

§ 4.1368 Determination by the administrative law judge.

Unless all parties agree in writing to waive the statutory requirement that a decision be issued within 30 days after the hearing, the administrative law judge shall issue a written decision in accordance with 43 CFR 4.1127 within 30 days of the date the hearing record is closed by the administrative law judge. An agreement to waive the time limit for issuing a decision may specify the length of the extension agreed to.

§ 4.1369 Petition for discretionary review; judicial review.

(a) Any party aggrieved by a decision of an administrative law judge granting or denying a permit in whole or in part may file a petition for discretionary review with the Board within 30 days of receipt of the decision, or, in the alternative, may seek judicial review of the decision in accordance with 30 U.S.C. 1276(a)(2). A copy of the petition shall be served on the administrative law judge who issued the decision, who shall forthwith forward the record to the Board, and on all other parties to the proceeding. The petition shall set forth specifically the alleged errors in the decision, with supporting argument, and shall attach a copy of the decision.

(b) Any party may file a response to a petition for discretionary review within 20 days of receipt of the petition.

(c) The Board shall grant or deny the petition within 30 days of receipt of the responses. If the petition is granted, the Board shall decide the appeal expeditiously.

Requests for Review Concerning Permit Revisions, Permit Renewals, and the Transfer, Assignment, or Sale of Rights Granted Under Permits (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

§ 4.1370 Scope.

These rules set forth the procedures for obtaining review of decisions by OSM concerning permit revisions, permit renewals, and the transfer, assignment, or sale of rights granted under permits.

§ 4.1371 Who may file; where to file.

The applicant, permittee, or any person having an interest which is or may be adversely affected by a decision of OSM ordering revision of a permit, or approving or disapproving applications for permit revisions, permit renewals, or the transfer, assignment, or sale of rights granted under permits, may file a request for review of that decision with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800).

§ 4.1372 When to file.

(a) The request for review shall be filed within 30 days after the applicant or permittee is notified by publication in a local newspaper of notice of OSM's written order or decision.

(b) Failure to file a request for review within the time specified in paragraph (a) of this section shall constitute a waiver of a hearing and the request shall be dismissed.

§ 4.1373 Contents of request; amendment of request; responses.

(a) The request for review shall include—

(1) A clear statement of the facts entitling the one requesting review to administrative relief;

(2) An explanation of the alleged errors in OSM's decision;

(3) A request for specific relief;

(4) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(5) Any other relevant information.

(b) All interested parties shall file an answer or motion in response to a request for review or a statement that no answer or motion will be filed, within 15 days of receipt specifically admitting or denying facts or alleged errors stated in the request and setting forth any other matters to be considered on review.

(c) A request for review may be amended once as a matter of right prior to receipt of an answer or motion or statement filed in accordance with paragraph (b) of this section. Thereafter, a motion for leave to amend the request shall be filed with the administrative law judge. A request for review may not be amended after a hearing commences.

(d) An interested party shall have 10 days from receipt of a request for review that is amended as a matter of right or the time remaining for response to the original request to file an answer, motion, or statement in accordance with paragraph (b) of this section, whichever is longer. If the administrative law judge grants a motion to amend a request for review, the time for an interested party to file an answer, motion, or statement shall be set forth in the order granting the motion.

§ 4.1374 Notice of hearing.

The administrative law judge shall notify the applicant or permittee and all interested parties of the time and place of the hearing. The hearing shall be of record and governed by 5 U.S.C. 554.

§ 4.1375 Status of decision pending administrative review.

The filing of a request for review of the approval or disapproval of an application for a permit revision, permit renewal, or the transfer, assignment, or sale of rights granted under a permit or of an order requiring revision of a permit shall not stay the effectiveness of the decision pending completion of administrative review.

§ 4.1376 Burden of proof.

(a) In a proceeding to review a permit revision ordered by OSM, OSM shall have the burden of going forward to establish a prima facie case that the permit should be revised and the permittee shall have the ultimate burden of persuasion.

(b) In a proceeding to review the approval or disapproval of an application for a permit renewal, those parties opposing renewal shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that the renewal application should be disapproved.

(c) In a proceeding to review the approval or disapproval of an application for a permit revision or an application for the transfer, assignment, or sale of rights granted under a permit—

(1) If the applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case as to failure to comply with applicable requirements of the Act or the regulations, and the applicant requesting review shall have the ultimate burden of persuasion as to entitlement to approval of the application; and

(2) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that the application fails in some manner to comply with the applicable requirements of the Act and the regulations.

§ 4.1377 Request for temporary relief.

(a) Where review is requested pursuant to § 4.1371, any party may file a request for temporary relief at any time prior to decision by an administrative law judge, so long as the relief sought is not the issuance of a permit where an application has been disapproved in whole or in part.

(b) The request shall be filed with the administrative law judge to whom the case has been assigned. If no assignment has been made, the request shall be filed in the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800).

(c) The request shall include—

(1) A detailed written statement setting forth the reasons why relief should be granted;

(2) A statement of the specific relief requested;

(3) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceedings; and

(4) A showing that the relief sought will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(d) The administrative law judge may hold a hearing on any issue raised by the request.

(e) The administrative law judge shall issue expeditiously an order or decision granting or denying such temporary relief. Temporary relief may be granted only if—

(1) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(2) The person requesting such relief shows a substantial likelihood of prevailing on the merits of the final determination of the proceeding; and

(3) Such relief will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(f) Appeals of temporary relief decisions.

(1) Any party desiring to appeal the decision of the administrative law judge granting or denying temporary relief may appeal to the Board or, in the alternative, may seek judicial review pursuant to section 526(a), 30 U.S.C. 1276(a), of the Act.

(2) The Board shall issue an expedited briefing schedule and shall issue a decision on the appeal expeditiously.

§ 4.1378 Petitions for discretionary review.

(a) Any party aggrieved by a decision of the administrative law judge on a request for review of a permit revision, permit renewal, or the transfer, assignment, or sale of rights may file a petition for discretionary review with the Board no later than 30 days from receipt of the decision. The time for filing a petition may not be extended.

(b) The petition shall contain a statement of reasons in support and shall attach a copy of the decision.

(c) All parties may file a response to the petition within 20 days of receipt.

(d) The Board shall grant or deny the petition by order within 30 days of the filing of responses.

§ 4.1379 Request for expedited consideration.

Any party to a proceeding under § 4.1370 et seq. may request an administrative law judge or the Board to grant expedited consideration of a request for review or petition for discretionary review. The request shall set forth the exigent circumstances that warrant expedited consideration. The administrative law judge or the Board has discretion whether to grant or deny the request.

Request for Review of Approval or Disapproval of a Coal Exploration Permit Application (Federal Program)

§ 4.1380 Scope.

These rules set forth the procedures for obtaining review, pursuant to 30 CFR 772.12(e)(2), of a decision by OSM to approve or disapprove a coal exploration permit application.

§ 4.1381 Who may file.

(a) The applicant or any person having an interest which is or may be adversely affected by a decision of OSM to approve or disapprove a coal exploration permit application, in whole or in part, may file a request for review of that decision.

§ 4.1382 Where to file; when to file.

(a) The request for review shall be filed with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800), within 30 days after the applicant is notified by publication in a local newspaper of notice of OSM's written decision approving or disapproving the coal exploration permit application.

(b) Failure to file a request for review within the time specified in paragraph (a) of this section shall constitute a waiver of a hearing and the request shall be dismissed.

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§ 4.1383 Contents of request; amendment of request; responses.

(a) The request for hearing shall include—

(1) A clear statement of the facts entitling the one requesting review to administrative relief;

(2) An explanation of the alleged errors in OSM's decision;

(3) A request for specific relief;

(4) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(5) Any other relevant information.

(b) All interested parties shall file an answer or motion in response to a request for review or a statement that no answer or motion will be filed within 15 days of receipt specifically admitting or denying facts or alleged errors stated in the request and setting forth any other matters to be considered on review.

(c) A request for review may be amended once as a matter of right prior to receipt of an answer or motion or statement filed in accordance with paragraph (b) of this section. Thereafter, a motion for leave to amend the request shall be filed with the administrative law judge. A request for review may not be amended after a hearing commences.

(d) An interested party shall have 10 days from receipt of a request for review that is amended as a matter of right or the time remaining for response to the original request to file an answer, motion, or statement in accordance with paragraph (b) of this section, whichever is longer. If the administrative law judge grants a motion to amend a request for review, the time for an interested party to file an answer, motion, or statement shall be set forth in the order granting the motion.

§ 4.1384 Notice of hearing.

The administrative law judge shall notify the applicant and all interested parties of the time and place of the hearing. The hearing shall be of record and governed by 5 U.S.C. 554.

§ 4.1385 Status of permit pending administrative review.

The filing of a request for review of approval of an application for a coal exploration permit shall not stay the issuance of the permit pending completion of administrative review.

§ 4.1386 Burden of proof.

(a) If the coal exploration permit applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case as to failure to comply with the applicable requirements of the Act or the regulations, and the permit applicant shall have the ultimate burden of persuasion as to entitlement to the approval.

(b) If any other person is seeking review, that person shall have the burden of going forward to establish prima facie case and the ultimate burden of persuasion that the application fails in some manner to comply with the applicable requirements of the Act or the regulations.

§ 4.1387 Request for temporary relief.

(a) Where review is requested pursuant to § 4.1381, any party may file a request for temporary relief at any time prior to decision by an administrative law judge, so long as the relief sought is not the issuance of a permit where an application has been disapproved in whole or in part.

(b) The request shall be filed with the administrative law judge to whom the case has been assigned. If no assignment has been made, the request shall be filed in the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800).

(c) The request shall include—

(1) A detailed written statement setting forth the reasons why relief should be granted;

(2) A statement of the specific relief requested;

(3) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceedings; and

(4) A showing that the relief sought will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(d) The administrative law judge may hold a hearing on any issue raised by the request.

(e) The administrative law judge shall issue expeditiously an order or decision granting or denying such temporary relief. Temporary relief may be granted only if—

(1) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(2) The person requesting such relief shows a substantial likelihood of prevailing on the merits of the final determination of the proceeding; and

(3) Such relief will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(f) *Appeals of temporary relief decisions.* (1) Any party desiring to appeal the decision of the administrative law judge granting or denying temporary relief may appeal to the Board or, in the alternative, may seek judicial review pursuant to section 526(a), 30 U.S.C. 1276(a), of the Act.

(2) The Board shall issue an expedited briefing schedule and shall issue a decision on the appeal expeditiously.

§ 4.1388 Petitions for discretionary review.

(a) Any party aggrieved by a decision of the administrative law judge on a request for review of an application for a coal exploration permit may file a petition for discretionary review with the Board no later than 30 days from receipt of the decision. The time for filing a petition may not be extended.

(b) The petition shall contain a statement of reasons in support and shall attack a copy of the decision.

(c) All parties may file a response to the petition within 20 days of receipt.

(d) The Board shall grant or deny the petition by order within 30 days of the filing of responses.

Request for Review of OSM Determinations of Issues Under 30 CFR Part 761 (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

§ 4.1390 Scope.

These rules set forth procedures for obtaining review pursuant to 30 CFR 761.12(h) of a determination by OSM that a person holds or does not hold a valid existing right, or that surface coal mining operations did or did not exist on the date of enactment of the Act, on lands where operations are prohibited or limited by section 522(e) of the Act, 30 U.S.C. 1272(e), or that surface coal mining operations may be permitted within the boundaries of a national forest in accordance with section 522(e)(2).

§ 4.1391 Who may file; where to file; when to file; filing of administrative record.

(a) The permit applicant or any person with an interest which is or may be adversely affected by a determination of OSM that a person holds or does not hold a valid existing right, or that surface coal mining operations did or did not exist on the date of enactment of the Act, or that surface coal mining operations may be permitted within the boundaries of a national forest, may file a request for review of that determination with the office of the OSM official whose determination is being appealed and at the same time shall send a copy of the request to the Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3750). The OSM official shall file with the Board the complete administrative record of the decision under review as soon as practicable.

(b) The request for review shall be filed within 30 days after the applicant or permittee is notified by publication in a local newspaper of notice of OSM's written determination.

(c) Failure to file a request for review within the time specified in paragraph (b) of this section shall constitute a waiver of the right to review and the request shall be dismissed.

§ 4.1392 Contents of request; amendment of request; responses.

(a) The request for review shall include—

(1) A clear statement of the reasons for appeal;

(2) A request for specific relief;

(3) A copy of the decision appealed from; and

(4) Any other relevant information.

(b) All interested parties shall file an answer or motion in response to a request for review or a statement that no answer or motion will be filed within 15 days of receipt specifically admitting or denying facts or alleged errors stated in the request and setting forth any other matters to be considered on review.

(c) A request for review may be amended once as a matter of right prior to receipt of an answer or motion or statement filed in accordance with paragraph (b) of this section. Thereafter, a motion for leave to amend the request shall be filed with the Board.

(d) An interested party shall have 10 days from receipt of a request for review that is amended as a matter of right or the time remaining for response to the original request to file an answer, motion, or statement in accordance with paragraph (b) of this section, whichever is longer. If the Board grants a motion to amend a request for review, the time for an interested party to file an answer, motion, or statement shall be set forth in the order granting the motion.

§ 4.1393 Status of decision pending administrative review.

43 CFR 4.21(a) applies to determinations of the Office of Surface Mining under 30 U.S.C. 1272(e).

§ 4.1394 Burden of proof.

(a) If the permit applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case and the permit applicant shall have the ultimate burden of persuasion.

(b) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that a person holds or does not hold a valid existing right, or that surface coal mining operations did or did not exist on the date of enactment of the Act, or that surface coal mining operations may or may not be permitted within the boundaries of a national forest.

[FR Doc. 87–24218 Filed 10–21–87; 8:45 am]

BILLING CODE 4310–79–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 160

[CGD 84–069a]

Lifesaving Equipment; Immersion Suits

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rulemaking revises the specifications for immersion suits to bring them into accord with international standards. Vessels, the construction or conversion of which started on or after July 1, 1986, will be required to carry these new immersion suits. Other vessels may continue to carry previously approved suits, called exposure suits, as long as the suits remain serviceable. These changes will conform the regulations governing United States vessels to the International Convention for Safety of Life at Sea, as amended (SOLAS 74/83) and assure international acceptance of the new immersion suits.

EFFECTIVE DATE: These rules and the rules published on January 12, 1987 (52 FR 1185) are effective on January 20, 1988.

ADDRESSES: The comments, draft evaluation, and materials referenced in this final rule will be available for examination and copying between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G–CMC/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: LCDR William M. Riley, (202) 267–1444.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal authors of this final rule are LCDR William M. Riley, Office of Marine Safety, Security, and Environmental Protection, and LT Sandra R. Sylvester, Office of the Chief Counsel.

Discussion

A notice of Proposed Rulemaking was published on February 4, 1986 (51 FR 4401), and invited comments for 90 days ending May 5, 1986. A final rule establishing the specification for immersion suits was published on January 12, 1987 (52 FR 1185), with an effective date of April 13, 1987. However, the effective date of the final rule was postponed indefinitely by a notice published on April 23, 1987, because of interpretations of the International Convention for Safety of Life at Sea (SOLAS 74/83) which required additional changes. A Supplemental Notice of Proposed Rulemaking concerning these changes was also published on April 23, 1987.

Other nations are not allowing the alternative test method of removing an immersion suit from the cold chamber and immediately donning it in a relatively warm room. The method of having the test subject enter the cold chamber and don the suit more acurately simulates the conditions under which the suit might have to be donned during an emergency. This portion of the test can be conducted in any commercial cold storage facility without increasing the overall cost of the temperature cycling test.

The Recommendation on Testing of Life-Saving Appliances, IMO Resolution A–521, calls for the body strength test to be conducted for a period of 30 minutes rather than 5 minutes. This change is not expected to impose an additional burden on manufacturers since a suit which will support the test weight for 5 minutes is unlikely to fail if the weight is left hanging undisturbed for an additional 25 minutes.

No comments were received which addressed these issues.

Economic Analysis and Certification

This rule is considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A final evaluation was prepared and placed in the rule making docket prior to issuance of the final rule on January 12, 1987. It may be inspected or copied at the address listed above under **ADDRESSES.** Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** The changes made in this rule impose no new costs. The effect of the changes in this rulemaking is so minimal, further evaluation is unnecessary.

The expected benefit of these rules will be compliance of U.S. Coast Guard

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approved immersion suits with the requirements of the International Convention for Safety of Life at Sea, 1974, as amended and acceptance of these suits by other signatory nations.

Paperwork Reduction Act

This rulemaking contains no information collection requirements. The requirements in the final rule of January 12, 1987 were approved by the Office of Management and Budget under control number 2115–0141.

List of Subjects in 46 CFR Part 160

Marine safety, Incorporation by reference.

In consideration of the foregoing, the final rule amending Part 160 of Title 46 of the Code of Federal Regulations published on January 12, 1987 (52 FR 1185) is amended as follows and is effective on January 20, 1988.

PART 160—LIFESAVING EQUIPMENT

The authority citation for Subpart 160.171 continues to read as follows:

Authority: 46 USC 3306; 49 CFR 1.46.

1. Section 160.171–17, paragraphs (f)(4) and (l)(2) are revised to read as follows:

§ 160.171–17 Approval testing for adult size immersion suit.

• • • • •

(f) • • •

(4) The specimens removed from the cold chamber that same day and left exposed under ordinary room conditions until the next day. At the conclusion of the final cycle of cold storage, two test subjects who successfully completed the donning test in paragraph (c)(2) of this section enter the cold chamber, unpack and don the immersion suits. Neither of the suits must show damage such as shrinking, cracking, swelling, dissolution or change of mechanical qualities.

• • • • •

(l) • • •

(2) *Test procedure.* The suit is cut at the waist and wrists, or holes are cut into it as necessary to accommodate the test apparatus. The suit is immersed in water for at least two minutes. The suit is then removed from the water and immediately arranged on the test apparatus, using each closure as it would be used by a person wearing the suit. The 135 kg (300 lb.) load is applied for 30 minutes. No part of the suit may tear or break during this test. The suit must not be damaged in any way that would allow water to enter or that would affect the performance of the suit.

• • • • •

Dated: September 22, 1987.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 87–24400 Filed 10–21–87; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 32 and 64

[CC Docket No. 86–111; FCC 87–305]

Separation of Costs of Regulated Telephone Service From Costs of Nonregulated Activities; Amendment of the Uniform System of Accounts for Class A and Class B Telephone Companies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission grants, in part, reconsideration of its decision adopting rules for the separation of costs of regulated telephone service from the costs of nonregulated activities for use by regulated telephone companies that offer nonregulated services and products on an integrated basis with regulated telephone service. The Commission reconsidered its decision to require that cost allocations of central office equipment and outside plant be allocated based on a forecast of peak relative regulated and nonregulated use over the depreciation life of the plant or equipment, deciding that the forecast period should be reduced to three years. The Commission decided that the practical problems associated with forecasting usage over the lengthy depreciation lives of most telephone plant and equipment would render the carriers unable to make accurate forecasts. The three-year period is within the range that will permit forecasting with reasonable accuracy. The Commission also decided not to apply its cost allocation or affiliate transactions rules to average schedule companies. The actual costs of these companies are not considered in interstate ratemaking and therefore the separation of actual regulated and nonregulated costs is unnecessary.

EFFECTIVE DATE: January 1, 1988 except amendments to Part 32, which are effective April 22, 1988.

FOR FURTHER INFORMATION CONTACT: Mary L. Brown, Accounting and Audits Division, Common Carrier Bureau, at (202) 632–7500.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration, CC Docket No. 86–111, FCC 87–305, adopted September 17, 1987, and released October 16, 1987.

The full text of the Commission's decision is available for inspection and copying during normal business hours in the FCC Dockets Branch, (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, 2100 M Street NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Summary of Order on Reconsideration

1. On February 6, 1987, the Commission released a Report and Order (hereinafter *Joint Cost Order*) establishing rules and requirements for the allocation of costs between regulated telephone service and nonregulated activities. AT&T and the Bell Operating Companies, pursuant to the Commission's *Computer III* decision, are required to comply with the terms of the *Joint Cost Order* before they can offer enhanced services on a joint basis with network services. The independent local exchange carriers (LECs) were also made subject to the terms of the *Joint Cost Order* pursuant to a 1984 Commission decision. Although that decision permitted the independent LECs to offer nonregulated services on an integrated basis immediately, the Commission stated that it would in the future establish cost allocation rules for the LECs to govern the distribution of their shared expense and common investment. Until that time, they were required to allocate costs on a fully distributed cost basis.

2. The *Joint Cost Order* adopted a general set of cost allocation principles that seek to maximize the ability of carriers to associate costs with their causes. A hierarchy of assignment, attribution, and allocation rules forms the basis of the cost allocation process. Carriers directly assign, directly or indirectly attribute, or allocate costs by formulating homogenous "cost categories" from among the accounts prescribed in the Uniform System of Accounts (USOA). The method used to assign, attribute, or allocate costs must be specified in a cost allocation manual. AT&T and the Tier 1 LECs are required to file their manuals with the Commission and have those manuals approved.

3. The Commission also adopted a set of affiliate transactions rules designed to discourage cost shifting between regulated and nonregulated affiliates.

The rules establish specific valuation standards to determine the price at which an asset or service is to be recorded on the regulated books of account. By minimizing the ability of carriers to manipulate the values of assets or services, the affiliate transactions rules enhance the Commission's ability to ensure that regulated rates are just and reasonable, eliminate the ability of carriers to shift nonregulated investment risk to regulated entities, and discourage carriers from avoiding our cost allocation requirements.

4. On reconsideration, the Commission modified and clarified its cost allocation and affiliate transactions rules. While cost allocations for central office equipment and outside plant continue to be based on the relative usage ratio during the year in which nonregulated usage of the plant and equipment is predicted to be greatest in comparison to regulated usage, the Commission amended the time period over which the forecast of use is made. Instead of basing the forecast on the depreciable life of the plant or equipment, the forecast should be made for a three-year period. The Commission found that requiring carriers to make long-term predictions about usage of plant and equipment would render the forecasts inaccurate. A three-year forecast period will permit carriers to forecast usage of their networks with reasonable accuracy.

5. Forecast periods of shorter than three years can be employed, provided that a carrier makes the following showing: (a) Proof that the relevant engineering period is less than three years; (b) a demonstration that the planning and deployment process is not merely the activation of capacity that is already in place but not yet in service; (c) a particularized demonstration that use of the shorter forecast period will result in substantially more accurate cost allocations; and (d) a demonstration that the overall costs of implementing the shorter periods do not exceed the benefits.

6. The Commission also modified in part the requirements for developing the general allocator, which is used to allocate those costs which cannot be directly assigned, directly attributed or indirectly attributed to nonregulated or regulated activities. The Commission decided that basing the allocator on the ratio of regulated to nonregulated expenses in the current month would contribute to a delay in the carriers' ability to conduct cost allocations because the allocator for the current month could not be ascertained until the monthly books were closed. The Commission found that carriers should instead use expense data from the three-month period ending two months before the current month.

7. The requirement for the retention of employee time records was also modified to mandate that carriers retain employee time records for one year beyond the close of the fiscal year to which the records relate. This requirement will ensure that carriers retain employee time records long enough to permit examination by auditors.

8. The Commission affirmed its affiliate transactions rules, finding that the rules were consistent with *Democratic Central Committee* v. *Washington Metropolitan Area Transit Commission*, 485 F.2d786 (D.C. Cir. 1973), *cert. denied* 415 U.S. 935 (1974), a case governing the distribution of capital gains on utility property transferred out of regulation. Under the Commission's rules, affiliates are permitted to provide assets or services at a tariffed rate or, if the entity sells assets or services to nonaffiliated companies, at a generally available price. The Commission decided on reconsideration that the generally-available price need not be available in a price list format, provided that sufficient documentation existed to determine the existance of a prevailing price.

9. Where a tariffed price or prevailing price to nonaffiliated entities does not exist, the rules distinguish between the transfer of assets and the provision of services between affiliates. For services, the cost of the service is allocated between the regulated entity and the nonregulated affiliate pursuant to the cost allocation rules. The value assigned to assets differs according to whether the asset is being transferred into regulation or out of regulation. Assets transferred to a carrier are valued at the lower of net book cost or fair market value, in order to protect ratepayers from the dangers of rate base inflation and cost shifting. Assets transferred to a nonregulated affiliate are valued at the higher of net book cost or fair market value, in order to prevent cross subsidization of the nonregulated affiliate and to permit ratepayers to benefit from the gain, if any, on the assets while they were under regulation. These rules were affirmed by the Commission.

10. The Commission also clarified that average schedule companies were exempted from the cost allocation and affiliate transactions rules. The Commission found that its rules were adopted in order to ascertain with greater certainty carriers' interstate revenue requirements, thereby enabling the Commission to make a judgment concerning the reasonableness of interstate rates. Average schedule carriers, however, do not employ actual costs in ascertaining interstate rates. They rely on an "average schedule" of costs determined to be representative of companies of their size. Requiring average schedule carriers to calculate the actual breakdown of regulated and nonregulated costs, therefore, is a meaningless exercise so long as their rates are based on average schedules.

11. Finally, the Commission, on its own motion, made changes to several Part 32 rules to ensure that nonregulated activities receive proper accounting treatment. Amendments were made to Accounts 1220, 2311, and 2341.

Regulatory Flexibility Act

12. We certify that the Regulatory Flexibility Act [1] is not applicable to the changes we are proposing in this proceeding. In accordance with the provisions of section 605 of that Act, a copy of this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration at the time of publication of this *Reconsideration* in the **Federal Register**. As part of our analysis of the proposal described in this Order, however, this Commission has considered the impact of the proposal on small telephone companies, *i.e.*, those serving 50,000 or fewer access lines.[2] Our modifications to the requirements of the *Joint Cost Order* substantially lessen the regulatory requirements on small carriers because we have exempted average schedule companies from the requirements contained in the *Joint Cost Order*. Our amendments to Part 32 adopted herein will have a beneficial economic impact on 29 fully subject small telephone companies serving 50,000 or fewer access lines since the amendments clear up technical

[1] 5 U.S.C. 601, *et seq.*

[2] Because of the nature of local exchange and access service, this Commission concluded that small telephone companies are not dominant in their fields of operation and therefore are not small entities as defined by the Regulatory Flexibility Act. *See* MTS and WATS Market Structure, 93 FCC 2d 241, 338–39 (1983). Thus, this Commission is not required by the terms of that Act to apply the formal procedures set forth therein. We are nevertheless committed to reducing the regulatory burdens on small telephone companies whenever possible consistent with our other public interest responsibilities. Accordingly, we have chosen to utilize, on an informal basis, appropriate Regulatory Flexibility Act procedures to analyze the effect of proposed regulations on small telephone companies.

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problems that have been uncovered since the adoption of the *Order*.

Ordering Clauses

13. *It Is Hereby Ordered*, that the Motions for Acceptance of Late-Filed Pleadings submitted by Compuserve Incorporated and Capital Cities/ABC, Inc., CBS Inc., and National Broadcasting Company *Are Granted*.

14. *It Is Further Ordered*, that pursuant to sections 4(i), 4(j), 201–205, 215, 218, 219, and 220 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 215, 218, 219, and 220, that the modifications to the Part 64 rules set forth herein *Are Adopted*, effective January 1, 1988.

15. *It Is Further Ordered*, that pursuant to sections 4(i), 4(j), 201–205, 215, 218, 219, and 220 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 215, 218, 219, and 220, that the modifications to the Part 32 rules set forth herein *Are Adopted*, effective six months after publication in the **Federal Register**.

16. *It Is Further Ordered*, that pursuant to sections 4(i), 4(j), 201–205, 215, 218, 219, and 220 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 215, 218, 219, and 220, that the Petitions for Reconsideration filed in this proceeding *Are Denied*, except as provided herein.

List of Subjects

47 CFR Part 32

Uniform system of accounts.

47 CFR Part 64

Communication common carriers.

Federal Communications Commission.

William J. Tricarico,

Secretary.

PARTS 32 AND 64—[AMENDED]

Parts 32 and 64 of Title 47 of the CFR are amended as follows:

1. The authority citation for Part 32 continues to read:

Authority: 47 U.S.C. 154, 47 U.S.C. 219, 220.

2. The authority citation for Part 64 continues to read:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, unless otherwise noted.

3. Section 64.901 is amended by revising paragraph (b)(4) to read as follows:

§ 64.901 Allocation of costs.

* * * * *

(b) * * *

(4) The allocation of central office equipment and outside plant investment costs between regulated and nonregulated activities shall be based upon the relative regulated and nonregulated usage of the investment during the year when nonregulated usage is greatest in comparison to regulated usage during the three consecutive years following the effective date of the current annual access charge filing.

* * * * *

4. Section 64.902 is added as follows:

§ 64.902 Transactions with affiliates.

Except for carriers which employ average schedules in lieu of determining their costs, all carriers subject to § 64.901 are also subject to the provisions of §§ 31.01–11 and 32.27 concerning transactions with affiliates.

5. Section 32.27 is amended by revising paragraphs (b), (c), and (f) to read as follows:

§ 32.27 Transactions with affiliates.

* * * * *

(b) Charges for assets purchased by or transferred to the regulated telephone activity of a carrier from affiliates shall be recorded in the operating accounts of the regulated activity at the invoice price if that price is determined by a prevailing price held out to the general public in the normal course of business. If a prevailing price for the assets received by the regulated activity is not available, the charges recorded by the regulated activity for such assets shall be the lower of their cost to the originating activity and the affiliated group less all applicable valuation reserves, or their fair market value.

(c) Assets sold or transferred from the regulated accounts to affiliates shall be recorded as operating revenues, incidental revenues or asset retirements according to the nature of the transaction involved. If such sales are reflected in tariffs on file with a regulatory commission or in a prevailing price held out to the general public, the associated revenues shall be recorded at the prices contained therein in the appropriate revenue accounts. If no tariff or prevailing price is applicable, the proceeds from such sales shall be determined at the higher of cost less all applicable valuation reserves, or estimated fair market value of the asset.

* * * * *

(f) Companies that employ average schedules in lieu of actual costs are exempt from the provisions of this section. For other organizations, the principles set forth in this section shall apply equally to corporations, proprietorships, partnerships and other forms of business organizations.

6. Section 32.1220 is revised to read as follows:

§ 32.1220 Inventories.

(a) This account shall include the cost of materials and supplies held in stock and inventories of goods held for resale or lease. The investment in inventories shall be maintained in the following subaccounts:

1220.1 Material and supplies
1220.2 Property held for sale or lease

(b) These subaccounts shall not include items which are related to a nonregulated activity unless that activity involves joint or common use of assets and resources in the provision of regulated and nonregulated products and services.

(c) 1220.1 Material and supplies. This subaccount shall include cost of material and supplies held in stock including plant supplies, motor vehicles supplies, tools, fuel, other supplies and material and articles of the company in process of manufacture for supply stock. (Note also § 32.2000(c)(2)(iii) of this subpart.)

(d) Transportation charges and sales and use taxes, so far as practicable, shall be included as a part of the cost of the particular material to which they relate. Transportation and sales and use taxes which are not included as part of the cost of particular material shall be equitably apportioned among the detail accounts to which material is charged.

(e) So far as practicable, cash and other discount on material shall be deducted in determining cost of the particular material to which they relate or credited to the account to which the material is charged. When such deduction is not practicable, discounts shall be equitably apportioned among the detail accounts to which material is charged.

(f) Material recovered in connection with construction, maintenance or retirement of property shall be charged to this account as follows:

(1) Reusable items that, when installed or in service, were retirement units shall be included in this account at the original cost, estimated if not known. (Note also § 32.2000(d)(3) of this subpart.)

(2) Reusable minor items that, when installed or in service, were not retirement units shall be included in this account at current prices new.

(3) The cost of repairing reusable material shall be charged to the appropriate account in the Plant Specific Operations Expense accounts.

(4) Scrap and nonuseable material included in this account shall be carried at the estimated amount which will be received therefor. The difference between the amounts realized for scrap and nonusable material sold and the amounts at which it is carried in this account, so far as practicable, shall be adjusted in the accounts credited when the material was taken up in this account.

(g) Interest paid on material bills, the payments of which are delayed, shall be charged to Account 7540, Other interest deductions.

(h) Inventories of material and supplies shall be taken during each calendar year and the adjustments to this account shall be charged or credited to Account 6512, Provisioning expense.

(i) 1220.2 Property held for sale or lease. This subaccount shall include the cost of all items purchased for resale or lease. The cost shall include applicable transportation charges, sales and use taxes, and cash and other purchase discounts. Inventory shortages and overages shall be charged and credited, respectively, to Account 7991, Other nonregulated revenues.

7. Section 32.1406 paragraph (a), as published on March 4, 1987, 52 FR 6561, is correctly revised to read as follows:

§ 32.1406 Nonregulated investments.

(a) This account shall include the carrier's investment in nonregulated activities accounted for in a separate set of books as provided in § 32.23(b).

* * * * *

8. Section 32.2311 paragraphs (g) and (h) are revised to read as follows:

§ 32.2311 Station apparatus

* * * * *

(g) Items of station apparatus in stock for which no further use in the ordinary conduct of the business is contemplated, but which as a precautionary measure are held for possible future contingencies instead of being discarded shall be excluded from this account and included in Account 1220, Inventories.

(h) Embedded CPE is that equipment or inventory which was tariffed or otherwise subject to the jurisdictional separations process as of January 1, 1983.

9. Section 32.2341 paragraph (g) is revised to read as follows:

§ 32.2341 Large private branch exchanges.

* * * * *

(g) Embedded CPE is that equipment or inventory which is tariffed or otherwise subject to the jurisdictional separations process as of January 1, 1983. Inventories of Large private branch exchanges equipment are included in Account 1220, Inventories.

10. Section 32.7991 is amended by revising paragraph (b) and adding (c) to read as follows:

§ 32.7991 Other nonregulated revenues.

* * * * *

(b) This account shall be debited for amounts recorded in the regulated revenue accounts for charges made to nonregulated activities for tariffed services provided to nonregulated activities accounted for as prescribed in § 32.23(c) of this subpart.

(c) Separate subaccounts shall be maintained for each nonregulated revenue item recorded in this account.

[FR Doc. 87-24460 Filed 10-21-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 245 and 253

Department of Defense Federal Acquisition Regulation Supplement; Government Property

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Defense Acquisition Regulatory Council has approved changes to Subpart 245.5 and Part 253 of the Defense Federal Acquisition Regulation Supplement (DFARS), as well as a change to DAR Supplement No. 3, to expand the reporting requirement for DoD property in the custody of contractors.

EFFECTIVE DATE: October 15, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DAR Council issued a proposed rule and solicited public comments on July 8, 1987 (52 FR 25614). After reviewing the comments, the Council amended the proposed rule by changing the report due date to the Government from October 20 to October 31 of each year.

As indicated in the proposed rule, changes were made to DAR Supplement No. 3, "Property Administration". DAR Supplement No. 3 is not codified in the Code of Federal Regulations, and it is not part of the subscription to the DoD FAR Supplement.

B. Regulatory Flexibility Act Information

The final rule will apply to approximately 1,500 small businesses using government property under DoD contracts. The impact on small businesses should be minimal since most are in compliance with the final rule. The proposed requirement to report additions and deletions of specific categories of property from the contract will require some small businesses to revise their Government property control system, but the businesses affected and changes required should be small in number. A Final Regulatory Flexibility Analysis has been prepared and submitted to the Chief Counsel for Advocacy for the Small Business Administration.

C. Paperwork Reduction Act Information

On October 21, 1986, the Office of Management and Budget approved a paperwork burden increase of 38,000 hours to OMB Number 0704–0246 as a result of a deviation (DAR Case 86–031) to allow use of this coverage. This rule does not change the reporting requirements approved on October 21, 1986. Another Paperwork Reduction Act analysis, therefore, is not required.

List of Subjects in 48 CFR Parts 245 and 253

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, CFR Parts 245 and 253 are amended as follows:

1. The authority citation for 48 CFR Parts 245 and 253 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 245—GOVERNMENT PROPERTY

2. Section 245.505–14 is amended by revising paragraph (a) and by adding a new paragraph (b) to read as follows:

245.505–14 Reports of Government property.

(a) The contractor's property control system shall provide annually a report, by contract, of all DoD property for which the contractor is accountable, categorized as follows:

(1) Acquisition cost of:

(i) Land and rights therein;

(ii) OPE (See 245.301);

(iii) IPE (See 245.301);

(iv) Special test equipment to which the Government has title (see 245.101);

(v) Special tooling to which the Government has title (see 245.101);

(vi) Agency-peculiar (military) property including reparables and other

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end items or components for which the Government continues to maintain an asset record while it is with the contractor (see 245.301);

(vii) Government material, including Government-furnished and contractor-acquired (see 245.301 and 245.101).

(2) Quantity of:

(i) Land (in acres);

(ii) OPE;

(iii) IPE;

(iv) Special test equipment;

(v) Special tooling;

(vi) Agency—peculiar (military) property.

(3) Additions to and deletions from the contract, in dollars, of:

(i) Land and rights therein;

(ii) Other real property;

(iii) OPE;

(iv) IPE;

(v) Special test equipment;

(vi) Special tooling;

(vii) Agency—peculiar (military) property.

(b) The above report shall be as of September 30 each year. Those property-bearing contracts which are closed with zero property balances prior to September 30 shall be reported at the time the property balances become zero. The prime contractor shall flow this reporting requirement to include DoD property in the possession of subcontractors. The prime contractor is responsible for reporting to DoD all property accountable to the contract, including that at subcontractor and alternate locations. The contractor shall prepare the report on DD Form 1662 (October 1986 or later version), DoD Property in the Custody of Contractors, or an approved substitute, and shall furnish it, in duplicate, to the property administrator no later than October 31 of each year. Office of Management and Budget No. 0704–0246 has been assigned to the report.

PART 253—FORMS

3. The list of forms following section 253.270 is amended by revising 253.303–70–DD–1662, the title for DD Form 1662 to read "DoD Property in the Custody of Contractors" in lieu of "Report of Government (DoD) Facilities".

DAR Supplement No. 3

4. Section S3–603 is amended by revising paragraphs (a), (b), and (c) to read as follows:

S3–603 Report of property.

(a) The property administrator is responsible for obtaining the reports as prescribed in 245.505–14 of the DoD FAR Supplement for all contracts assigned for property administration including those for which supporting property administration was requested from other DoD CAS components. Reports should be accumulated and reviewed to determine that inputs are complete and that the DD Form 1662, October 1986 or later version, is properly filled out. Each report shall be processed to the Defense Logistics Agency (DLA) by November 10 of each year, either manually or electronically, in accordance with Departmental instructions. One copy shall be retained by the property administrator.

(b) The Defense Logistics Agency (DLA) shall receive, consolidate, and integrate the data and submit error listings to each administering department for correction, as required. DLA shall maintain the corrected data and provide reports, either in hard copy or electronically, as required or requested by Departments or agencies.

(c) On NASA contracts, the annual contractor's report (NASA Form 1018), specified in NASA FAR Supplement 1845.106–70(d), will be transmitted by the property administrator to the NASA contracting officer's designee as identified in the property reporting clause (NASA FAR Supplement 1852.245–73) within ten working days after receipt of the report from the contractor.

Note:—The DoD Supplements are not published in the **Federal Register** or the Code of Federal Regulations.

[FR Doc. 87–24426 Filed 10–21–87; 8:45 am]

BILLING CODE 3810–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[No. 37321 (Sub-1)]

Revision of Tariff Regulations; Computer Determination of Mileages

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rule.

SUMMARY: The Commission is amending 49 CFR Part 1312 to allow all motor common carriers to file electronic distance determination systems in lieu of printed distance guides. The rule revision will allow for the filing of computer programs that provide distances to be used in connection with carriers' tariffs of mileage rates. The Commission has found that the revision would insure that all tariff users would have the right to access or retrieve information as filed, thus satisfying the requirements of 49 U.S.C. 10761 and 10762.

DATE: The revision is effective November 21, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Herzig, (202) 275–6887. (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy, write to Office of the Secretary, Rm. 2215, Interstate Commerce Commission Bldg., Washington, DC 20423, or call (202) 275–7428 (assistance for the hearing impaired is available through TDD services (202) 275–7121) or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters.

List of Subjects in 49 CFR Part 1312

Motor carriers, Railroads.

This action will not significantly affect the quality of the human environment or energy conservation.

Decided: October 14, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons.

Noreta R. McGee,

Secretary.

Appendix

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS

1. The authority citation for 49 CFR Part 1312 is revised to read as follows:

Authority: 49 U.S.C. 10321 and 10762; 5 U.S.C. 553.

2. Section 1312.30 is amended by revising paragraph (c)(5) to read as follows:

§ 1313.30 Distance rates.

* * * * *

(c) * * *

(5) Distance guides shall provide distance tables or combinations of tables and maps. Tables shall provide specific distances between a substantial number of the points and be shown as having precedence over the distances determined by the use of maps. Each guide shall provide rules stating its application. The rules shall include a means for determining distances between all locations within the territorial coverage of the guide, regardless of whether all the locations are shown in the guide or whether distances are shown between all locations. If distances between certain points or areas are to be determined only through a certain gateway or interchange point, those points or areas and the gateway or interchange point shall be identified. Distance guides filed in "paper" format may exceed the maximum size limitations imposed by § 1312.3 but may not exceed 14½ by 17½ inches in size. Carriers may file automated distance determination systems which are linked by reference in abbreviated distance guides or rate tariffs to computer stored information provided the following conditions are met:

(i) Carriers or their tariff publishing agents shall make arrangements with the Commission for the receipt, storage and use of the systems through existing Commission technology and facilities.

(ii) In the event that a system is not compatible with Commission technology, the necessary implementing equipment and programs shall be placed on file with the Commission for use by Commission personnel and the public at no cost.

(iii) Proposed changes in the system shall be given notice and reflect the nature of the change, as required by 49 U.S.C. 10762(c)(3) and § 1312.4(e) and § 1312.17(f). However, if an electronic distance determination system is not inherently capable of giving notice and symbolization of changes within the program, then printed tariff amendments to the distance guides or rate tariffs will be required. The amendments shall show the currently effective provisions as well as the proposed changes thereto.

(iv) The distance guides or rate tariffs shall provide all the information necessary to access and utilize the systems.

* * * * *

[FR Doc. 87–24476 Filed 10–21–87; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 641, 650, and 651

[Docket No. 70620–7184]

Reef Fish Fishery of the Gulf of Mexico, Atlantic Sea Scallop Fishery, and Northeast Multispecies Fishery; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rules; corrections.

SUMMARY: This document corrects errors (1) in a scientific name in the technical amendment that included corrections to the Reef Fish Fishery of the Gulf of Mexico published October 1, 1987 (52 FR 36781); (2) in the regulatory text of the final rule implementing Amendment 1 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery published January 14, 1987 (52 FR 1462); and (3) in the final rule implementing Amendment 1 to the Fishery Management Plan for the Northeast Multispecies Fishery published September 17, 1987 (52 FR 35093).

EFFECTIVE DATE: October 21, 1987.

FOR FURTHER INFORMATION CONTACT: Donna D. Turgeon, Fisheries Management Officer, 202–673–5315.

List of Subjects in 50 CFR Parts 641, 650, and 651

Fisheries.

Dated: October 16, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries National Marine Fisheries Service.

50 CFR Parts 641, 650, 651, and 681 are corrected as follows:

1. The authority citation for Parts 641, 650, and 651 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

PART 641—[CORRECTED]

In rule document 87–22636 beginning on page 36781 in the issue of October 1, 1987, make the following correction:

§ 641.2 [Corrected]

2. In § 641.2, paragraph (b), the family name for Tilefishes is corrected to read "Malacanthidae Family".

PART 650—[CORRECTED]

In rule document 87–816 beginning on page 1462 in the issue of January 14, 1987, make the following correction:

§ 650.22 [Corrected]

3. In § 650.22(b), the paragraph symbol "(a)" is corrected to read "(1)".

PART 651—[CORRECTED]

In rule document 87–21389 beginning on page 35093 in the issue of September 17, 1987, make the following corrections:

§ 651.4 [Corrected]

4. In § 651.4(a)(1), the hyphen is removed from the word "multi-species", correcting it to read "multispecies".

§ 651.6 [Corrected]

5. In § 651.6(e), line 6, the word "they" is corrected to read "its number" and on the next line, the phrase, "nonpermanent markings" is corrected to read "official number".

§ 651.21 [Corrected]

6. In § 651.21(a)(3), the period is removed after the word "apply".

7. In § 651.21(a)(4), line 2, the word "of" is corrected to read "or" between "either" and "both".

8. In § 651.21(b)(2), the paragraph designator "(iii)" is corrected to read "(ii)".

[FR Doc. 87–24488 Filed 10–21–87; 8:45 am]

BILLING CODE 3510–22–M

VOL 52 ISS 204 OCT 22 1987 UMI

Proposed Rules

Federal Register
Vol. 52, No. 204
Thursday, October 22, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1230

Pork Promotion and Research

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Pork Promotion Research and Consumer Information Act of 1985 and the order issued thereunder, this proposed rule would (1) increase the amount of the assessment per pound due on imported pork and pork products to reflect an increase in the 1986 seven-market average price for domestic barrows and gilts and to bring the equivalent market value of the live animals from which such imported pork and pork products were derived in line with the market values of domestic porcine animals, and (2) modify the schedule for remitting assessments on domestic porcine animals to the National Pork Board.

DATE: Comments must be received by November 23, 1987.

ADDRESS: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs and Procurement Branch; Livestock and Seed Division; Agricultural Marketing Service, USDA, Room 2610–S; P.O. Box 96456; Washington, DC 20090–6456. Comments will be available for public inspection during regular business hours at the above office in Room 2610 South Building, 14th and Independence Avenue SW.; Washington, DC.

Comments concerning the information collection requirements contained in this proposed rule should be directed to Lisa Grove, Desk Officer for the Agricultural Marketing Service, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch (202) 447–2650.

SUPPLEMENTARY INFORMATION: This action was reviewed under USDA procedures established to implement Executive Order No. 12291 and Departmental Regulation 1512–1 and is hereby classified as a nonmajor rule under the criteria contained therein.

This action also was reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.). The effect of the order upon small entities was discussed in the September 5, 1986, issue of the **Federal Register** (51 FR 31898), and it was determined that the order would not have a significant effect upon a substantial number of small entities. Many producers, importers, and collecting persons may be classified as small entities. This proposed rule (1) increases the assessments per pound on imported pork and pork products by an amount of two-to three-hundredths of a cent per pound, and (2) promotes greater efficiency and cost-effectiveness by modifying the schedule for remitting and reporting monthly assessments of less than $25 to the National Pork Board (Board). Adjusting the per pound assessments on imported pork and pork products would result in about $200,000 more in assessments over a 12-month period. The proposed modification of the remittance schedule for assessments on domestic porcine animals will benefit those persons who remit less than $25 per month to the Board. Any additional costs would be outweighed by the benefits from the improved operation of the Pork Promotion, Research, and Consumer Information program. Accordingly, the Administrator of AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) and Section 3504(h) of that Act, the information collection requirements contained in this proposed rule have been submitted to OMB for review. Comments concerning these requirements should be directed to the OMB Desk Officer for the Agricultural Marketing Service at the above referenced address.

The Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801–4819) approved December 23, 1985, authorizes the establishment of a national pork promotion, research, and consumer information program. The program is funded by an assessment rate of 0.25 percent of the market value of all porcine animals marketed in the United States and an equivalent amount of assessment on imported porcine animals, pork, and pork products. The final order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the **Federal Register** (51 FR 31898; as corrected at 51 FR 36383) and assessments began on November 1, 1986. The order requires importers of porcine animals to pay to the Customs Service, upon importation, the assessment of 0.25 percent of the animal's declared value and importers of pork and pork products to pay to the Customs Service, upon importation, the assessment of 0.25 percent of the market value of the live porcine animals from which such pork and pork products were produced. As a matter of practicality, the assessment on imported pork and pork products is expressed in dollars per pound for each type of such products. The initial schedule of assessments was listed in a table in § 1230.71 of the order for each type of pork and pork product identified by a Tariff Schedule of the United States (TSUS) number.

Assessments due upon the sale of domestic porcine animals must be remitted by the purchaser, or in some special cases by the producer, to the Board by the 10th day of the month following the month in which the animals were marketed. This proposed rule would increase the per-pound assessments on imported pork and pork products. This increase would be consistent with increases in the annual average price of domestic barrows and gilts at the seven markets for calendar year 1986 as reported by the USDA Agricultural Marketing Service's Livestock and Grain Market News Branch. This increase in cents-per-pound assessments will make the equivalent market value of the live porcine animal from which the imported pork and pork products were derived reflect the recent increase in the market value of domestic porcine animals, thereby promoting comparability between importer and domestic assessments. This proposed rule would not change the current assessment rate of 0.25 percent of the market value.

The methodology for determining the per-pound amounts for imported pork and pork products was described in the supplementary information accompanying the order and published in the September 5, 1986, **Federal Register** at 51 FR 31901. The weight of imported pork and pork products is converted to a carcass weight equivalent by utilizing conversion factors which are published in the USDA Statistical Bulletin No. 616 "Conversion Factors and Weights and Measures." These conversion factors take into account the removal of bone, weight lost in cooking or other processing, and the nonpork components of pork products. Secondly, the carcass weight equivalent is converted to a live animal equivalent weight by dividing the carcass weight equivalent by 70 percent, which is the average dressing percentage of porcine animals in the United States. Thirdly, the equivalent value of the live porcine animal is determined by multiplying the live animal equivalent weight by an annual average seven-market price for barrows and gilts as reported by the USDA Agricultural Marketing Service's Livestock and Grain Market News Branch. This average price is published on a yearly basis during the month of January in the Livestock and Grain Market News Branch's publication "Livestock, Meat, and Wool Weekly Summary and Statistics." Finally, the equivalent value is multiplied by the applicable assessment amount due on imported pork or pork products. The end result is expressed in an amount per pound for each type of pork or pork product.

When the order was first published, the initial per pound assessment listed in the table was calculated using the conversion formula described above and the 1985 annual seven market average price of $44.50 per hundredweight for domestic barrows and gilts. The formula in the preamble to the order at 51 FR 31901 contemplated that it would be necessary to recalculate the equivalent live animal value of imported pork and pork products to reflect changes in the annual average price of domestic barrows and gilts to maintain equity of assessments between domestic porcine animals and imported pork and pork products. The 1986 annual seven-market average price per hundredweight was $50.59—an increase of slightly more than 13 percent over the comparable 1985 per hundredweight price. It is estimated that a corresponding increase in the per-pound import assessment would result in about $200,000 more in importer assessments over a 12-month period.

The table for assessments on imports presently appears in the order. Since it is anticipated that adjustments, if necessary, would be made on a yearly basis, it is proposed that the table be removed from § 1230.71(e) of the order and be added to a new subpart containing regulations implementing the order.

In addition, this rule proposes to establish two separate due dates for remitting assessments on domestic porcine animals to the Board based on the total dollar amount of assessments each month. The procedures and schedule for the collection and remittance of domestic assessments are specified in § 1230.71 of the order. Under that section, purchasers of porcine animals (purchaser) are required to collect assessments from producers upon the sale of porcine animals, if an assessment is due, and remit such assessment to the Board by the 10th day of the month following the month in which porcine animals were marketed. As referenced in § 1230.71(b)(1) of the order, a purchaser is any person buying feeder pigs or market hogs, and for purposes of collection and remittance of assessments also includes any person engaged as a commission merchant, as well as an auction market, or livestock market in the business of receiving porcine animals for sale or commission for or on behalf of a producer. However, in certain situations producers are required to pay assessments directly to the Board. Those instances are seed stock producers and producers who slaughter their porcine animals for sale or who sell porcine animals to consumers for custom slaughter. Based on the Board's experience since collection of assessments began November 1, 1986, most purchasers collecting assessments collect and remit substantial amounts of assessments to the Board each month. However, the producers described above who are responsible for remitting assessments to the Board upon sale of their porcine animals may have only a limited number of sales per month and therefore owe relatively small amounts of assessments at the end of each month (i.e., $5 to $10). Likewise, some small volume purchasers may collect and remit only small amounts of assessments each month. The time and the costs involved with reporting and remitting these small amounts monthly and the cost of processing them are disproportionally greater than for remitting and processing larger amounts. The Board believes that establishing a different remittance date for such small volume purchasers and producers based on a minimum monthly dollar amount could facilitate collection and remittance and reduce processing costs.

Accordingly, this proposed rule would establish a quarterly remittance schedule to permit purchasers and producers whose total assessments are less than $25 per month to accumulate such assessments for a designated 3-month period. If, during any month of the quarter assessments totaled $25 or more, they would have to be remitted to the Board, together with any previously unremitted assessments, by the 10th day of the following month. A purchaser or producer would be required to remit all assessments collected during the quarter by the 10th day of the month following the end of the applicable quarter. Purchasers and producers whose monthly assessment amounts total $25 or more would continue to submit such assessments by the 10th day of the month following the month in which porcine animals were marketed. No change is needed concerning those reporting requirements. Reports would continue to be due at the time for remitting assessments to the Board, as required by § 1230.80 of the order.

The proposed regulations would provide for a section that would display the Office of Management and Budget control number assigned pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) to the information collection requirements in Part 1230.91. The present provision displaying the applicable number for the order appears in § 1230.91. That section would be deleted as unnecessary.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreement, Meat and meat products, Pork and pork products.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 1230 be amended as set forth below:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR Part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

Subpart B [Redesignated as Subpart C]

2. Subpart B is redesignated as subpart C.

3. Subpart A—Pork Promotion, Research, and Consumer Information Order by revising § 1230.71 (b)(3) and (e) to read as follows:

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§ 1230.71 [Amended]

* * * * *

(b) * * *

(3) Assessments on domestic porcine animals shall be remitted in the form of a negotiable instrument made payable to the "National Pork Board," which, together with the reports required by § 1230.80, shall be sent to the address designated by the Board in accordance with the following remittance schedule:

(i) Monthly assessments totaling $25 or more shall be remitted to the Board by the 10th day of the month following the month in which the porcine animals were marketed.

(ii) Assessments totaling less than $25 during each month of a quarter in which the porcine animals were marketed may be accumulated and remitted by the 10th day of the month following the end of a quarter. The quarters shall be: January through March; April through June; July through September; October through December.

(iii) Assessments totaling $25 or more during any month of a quarter must be remitted in accordance with paragraph (b)(3)(i) of this section, together with any unremitted assessments from the previous month(s) of the quarter, if applicable.

(iv) Assessments collected during any calendar quarter and not previously remitted as described in paragraphs (b)(3)(i), (ii), or (iii) of this section must be remitted by the 10th day of the month following the end of the quarter regardless of the amount.

* * * * *

(e) Assessments on imported pork and pork products shall be expressed in an amount per pound for each type of pork or pork product subject to assessment, which shall be established by regulations prescribed by the Board and approved by the Secretary.

§ 1230.91 [Removed]

4. Section 1230.91 is removed.

5. A new Subpart B is added to read as follows:

Subpart B—Rules and Regulations

Definitions

1230.100 Terms Defined

Assessments

1230.110 Assessments on Imported Pork and Pork Products

Miscellaneous

1230.120 OMB Control Numbers Assigned Pursuant to the Paperwork Reduction Act

Subpart B—Rules and Regulations

Definitions

§ 1230.100 Terms defined.

As used throughout this subpart, unless the context otherwise requires, terms shall have the same meaning as the definition of such terms in Subpart A of this part.

Assessments

§ 1230.110 Assessments on imported pork and pork products.

The following imported pork and pork products are subject to assessment in the amount per pound as follows:

Pork and pork products (U.S. Tariff schedule No.)	Assessment (dollars per pound)
106.4020	0.0018
106.4040	.0018
106.8000	.0018
106.8500	.0018
107.1000	.0025
107.1500	.0025
107.3020	.0018
107.3040	.0018
107.3060	.0021
107.3515	.0027
107.3525	.0027
107.3540	.0018
107.3560	.0025

§ 1230.120 Miscellaneous OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0851–0151.

Done at Washington, DC on: October 16, 1987.

J. Patrick Boyle,

Administrator.

[FR Doc. 87–24470 Filed 10–21–87; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Proposed Regulatory Program Amendment; Blasting Certification; Reopening of Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSMRE is reopening the public comment period on the substantive adequacy of a program amendment submitted by the Commowealth of Kentucky to modify the Kentucky permanent regulatory program [hereinafter referred to as the Kentucky program] under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The resubmitted amendment incorporates modifications to, and supersedes a previously submitted amendment to the Kentucky program for certifications for blasting operations incident to coal exploration, surface mining activities, and surface disturbances of underground mining activities.

This notice sets forth the times and location that the Kentucky program and the proposed amendment will be available for public inspection, and the comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments relating to Kentucky's proposed modification to its program not received on or before November 6, 1987, will not necessarily be considered in the decision process.

ADDRESSES: Written comments should be mailed or hand-delivered to: W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Copies of the Kentucky program, the amendment, and all written comments received in response to this notice will be available for public review at the following locations, during normal business hours, Monday through Friday, excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233–7327

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5131, 1100 "L" Street, NW., Washington, DC 20240, Telephone: (202) 343–5492

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, Ten Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937–2828

Department of Surface Mining Reclamation and Enforcement, No. 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940

Each requester may receive, free of charge, one single copy of the proposed amendment by contacting the OSMRE Lexington Field Office.

FOR FURTHER INFORMATION CONTACT:

Mr. W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone: (606) 233–7327.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On April 13, 1982, the Secretary approved the Kentucky program. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404–21435). Information pertinent to the general background on the Kentucky program, including the Secretary's findings, disposition of comments, and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982, **Federal Register** notice. Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16, and 917.17.

II. Discussion of the Proposed Amendment

On December 10, 1985, OSMRE published in the **Federal Register** (50 FR 50293) the approval of the Kentucky Administrative Regulations (KAR) at 405 KAR 7:070 concerning the blaster certification program. By letter dated June 17, 1987 (Administrative Record Ky–739), Kentucky submitted to OSMRE an amendment to the Kentucky program that modified the procedures for certification of persons responsible for blasting operations incident to coal exploration and surface coal mining.

On September 11, 1987 (Administrative Record KY–761), Kentucky submitted additional proposed modifications to 405 KAR 7:070. This new submittal supersedes the proposed amendment submitted on June 17, 1987, to modify the procedures for the blaster's certification program.

The September 11, 1987, submittal of an amendment to 405 KAR 7:070 is substantively the same as the June 17, 1987, submittal, with the following exceptions: The term "surface blasting operations" is now defined in Section 1 of the regulation; the provisions that apply when information in certification applications is falsified or misrepresented have been revised in section 2(7)(b); the grace period for certification renewal has been extended in section 3(2)(b); the time period during which a blaster may contest a cited violation has been revised in section 4(2)(c)2; the provisions requiring that revoked, suspended, and invalid certificates be delivered by hand to the Department for Surface Mining Reclamation and Enforcement have been removed from sections 4(6)(d)2 and (7)(a); and several minor changes have been made to improve clarity of the regulations without altering the original intent.

The full text of the proposed program amendment submitted by Kentucky is available for public inspection at the addresses listed above. The director now seeks public comment on whether the proposed program amendment, as modified, is no less effective than the Federal regulations. If approved, the amendment will become part of the Kentucky program.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comment on whether the amendment proposed by Kentucky satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become a part of Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanation in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Lexington, Kentucky Field Office will not necessarily be considered in the final rulemaking, or included in the Administrative Record.

IV. Procedural Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Compliance with Executive Order 12291

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

3. Compliance with the Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

4. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Ronald C. Recker,

Acting Assistant Director, Eastern Field Operations.

Date: October 8, 1987.

[FR Doc. 87–24481 Filed 10–20–87; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 84

[CGD 87–051]

Annex I: Positioning and Technical Details of Lights and Shapes

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the regulations concerning the horizontal positioning and spacing of lights in 33 CFR 84.05(b) to include certain navigable "waters specified by the Secretary." This rulemaking is necessary to extend the application of the horizontal positioning and spacing of lights regulations in the Inland Navigation Rules to the "specified waters", and will complete making all of the "Western Rivers" provisions applicable to the listed "specified waters." This rulemaking would require power-driven vessels of 50 meters but less than 60 meters in length operating on Western Rivers as well as the "specified waters" to comply with the horizontal positioning and spacing of lights provisions of the Inland Navigation Rules.

DATE: Comments must be received on or before December 7, 1987.

ADDRESSES: Comments should be submitted to Commandant (G–CMC), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Peter S. Palmer, Regulations and Policy Branch, (202) 267–0362.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or

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arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 87-051), and give reasons for each comment.

Drafting Information

The principal persons involved in the drafting of this proposal are Mr. Peter S. Palmer, Project Manager, Regulations and Policy Branch, and LCDR Don M. Wrye, Project Attorney, Office of Chief Counsel.

Discussion of Proposed Regulations

The Inland Navigation Rules are codified in Chapter 34 of Title 33 of the United States Code (33 U.S.C. 2001 et seq.). The Inland Rules contain several provisions which are unique to the Great Lakes, Western Rivers or other waters as may be designated by the Secretary. The Tennessee-Tombigbee Waterway and certain connecting rivers were previously designated as waterways to which the existing Western Rivers provisions apply (CGD 83-038, 49 FR 33875, August 27, 1984). That designation appears in § 89.25 of Title 33, Code of Federal Regulations.

Annex I of the Inland Rules, which appears in Part 84 of Title 33, Code of Federal Regulations, contains the positioning and technical details of lights and shapes on vessels. Section 84.05 prescribes the horizontal positioning and spacing of lights on power-driven vessels and paragraph (b) of this section provides for the positioning of masthead lights for certain size vessels operating on the Western Rivers.

At its February 28, 1987, meeting, the Rules of the Road Advisory Council (RORAC), recommended that the Coast Guard initiate rulemaking to complete application of all of the "Western Rivers" provisions to the waters specified in 33 CFR 89.25. The Coast Guard proposes to amend 33 CFR 84.05(b) to include the waters specified in 33 CFR 89.25. This proposed amendment would extend the provisions for the horizontal spacing of masthead lights on power-driven vessels 50 meters but less than 60 meters in length to the specified waters.

Regulatory Evaluation

This notice of proposed rulemaking is considered to be non-major under Executive Order 12291 and non-significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rule merely updates Annex I, § 84.05(b) to include waters specified by the Secretary as a provision applicable to the Tennessee-Tombigbee Waterway and connecting waters. Since the impact is expected to be minimal, the Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 84

Navigable (waters) Waterways.

PART 84—[AMENDED]

In consideration of the foregoing, Part 84 of Title 33 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 84 is revised to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46.

2. In § 84.05, paragraph (b) is revised to read as follows:

§ 84.05 Horizontal positioning and spacing of lights.

* * * * *

(b) On power-driven vessels 50 meters but less than 60 meters in length operated on the Western Rivers and those waters specified in § 89.25, the horizontal distance between masthead lights shall not be less than 10 meters.

* * * * *

Date: September 1, 1987.

A.B. Smith,
Captain, U.S. Coast Guard Acting Chief, Office of Navigation.

[FR Doc. 87-24501 Filed 10-21-87; 8:45 am]
BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-320-07-4211-02]

43 CFR Parts 2400, 2410, 2420, 2430, 2440, 2450, 2460 and 2470

Land Classification; Revision of Land Classification Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would revise the existing regulations on land classification to remove provisions no longer applicable because the public laws under which they were issued have either expired or been repealed, and would provide new procedures to facilitate the determination of suitability of lands for proposed lease or disposal, and where appropriate, classification. These new procedures would streamline and standardize into one system several existing procedures for making suitability, and where necessary, classification determinations needed to authorize a proposed lease or disposal. Suitability and classification decisions would be made by the appropriate employee of the Bureau of Land Management. Any adversely affected party would have the opportunity to protest the adverse decision to the next higher level of the Bureau under procedures provided in the proposed rulemaking.

DATE: Comments should be submitted by December 21, 1987. Comments received or postmarked after this date may not be considered in the decisionmaking process on the issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Annette Jameson, (202) 343-8693.

SUPPLEMENTARY INFORMATION: This proposed rulemaking would remove from the existing regulations provisions that are no longer applicable because the public land laws under which they were issued were repealed by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and because the Classification and Multiple Use Act of 1964 (43 U.S.C. 1411-1418) has expired by its own terms. The proposed rulemaking would incorporate the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), and the Federal Land Policy and Management Act, including the requirement that the making of a determination of suitability be consistent with the recommendations of approved land use plans. For discretionary leases and disposals under various public land laws, the proposed rulemaking would provide a revised administrative review system that would expedite processing actions and permit quicker responses to applications by field offices of the Bureau of Land Management.

The proposed rulemaking would provide that the land suitability determination in a Notice of Realty Action would constitute the land classification decision when a classification is required by law. Use of the Notice of Realty Action procedure would make the processing of classification actions consistent with the processing of applications for other types of land use or disposal.

Another significant change made by the proposed rulemaking would be the streamlining and standardization of procedures by which applicants and parties in interest would obtain administrative review of decisions made by local officials of the Bureau of Land Management. The administrative review authority for land classification would be delegated to the Bureau official having supervisory jurisdiction over the official who issues the decision. This process would ensure that those Bureau officials most familiar with the public lands under application will evaluate comments and protests from applicants and interested parties. Together with the Notice of Realty Action procedure provided in the proposed rulemaking, this change would streamline and standardize into one system several existing procedures for making land suitability and classification determinations associated with land use or disposal. The procedures in this proposed rulemaking would apply to leases and other disposals made under the following parts of Title 43 of the Code of Federal Regulations: Desert Land Entries (Part 2520); Indian Allotments (Part 2530); Carey Act Grants (Part 2610); State Grants (Subparts 2621 and 2622); and Omitted Land Conveyances (Subpart 2547). The procedures for issuance of a notice of realty action already exist in the regulations on Exchanges (43 CFR Group 2200); Airport Grants (43 CFR Part 2640); Sales (43 CFR Part 2710); Conveyances and Leases under the Recreation and Public Purposes Act (Part 2740 and Subpart 2912); Airport Leases (43 CFR Part 2911); and Leases for Use, Occupancy, and Development (43 CFR Part 2920) and this proposed rulemaking is not applicable to these areas.

This proposed rulemaking is being promulgated under the discretionary authority of the Secretary of the Interior. The proposed rulemaking is intended to serve the public interest by streamlining operations, by providing consistency in the procedure to be used by the public in commenting on decisions of officers of the Bureau of Land Management, and by providing a procedure for the administrative review of those decisions.

The principal author of this proposed rulemaking is Jim Crisp, Division of Land, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

There are no information collection requirements in this proposed rulemaking requiring the approval of the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects for 43 CFR Group 2400

43 CFR Part 2400

Agriculture, Forest and forest products, Grazing lands, Indian lands, Public lands—classification, Public lands—mineral resources, Recreation, Soil conservation, Watersheds, Wilderness areas, Wildlife.

43 CFR Part 2410

Administrative practice and procedure, Agriculture, Forest and forest products, Grazing lands, Indian lands, Public lands—classification, Public lands—mineral resources, Recreation, Soil conservation, Watersheds, Wilderness areas, Wildlife.

43 CFR Part 2420

Administrative practice and procedure, Agriculture, Forest and forest products, Grazing lands, Indian lands, Public lands—classification, Public lands—mineral resources, Recreation, Soil conservation, Watersheds, Wilderness areas, Wildlife.

43 CFR Part 2430

Homesteads, Indian lands, Public lands—classification, Public lands—mineral resources.

43 CFR Part 2440

Public lands—classification, Public lands—mineral resources.

43 CFR Part 2450

Administrative practice and procedure, Public lands—classification.

43 CFR Part 2460

Administrative practice and procedure, Public lands—classification.

43 CFR Part 2470

Public lands—classification.

Under the authority of section 2578 of the Revised Statutes (43 U.S.C. 1201); sections 1 and 7 of the Act of June 26, 1934, as amended (43 U.S.C. 315, 315f); the Act of June 14, 1926, as amended (43 U.S.C. 869); the Act of March 3, 1877 (43 U.S.C. 321-323), as amended by the Act of March 3, 1891 (43 U.S.C. 231, 323, 325, 327-329); section 4 of the Act of February 8, 1887 (25 U.S.C. 334), as amended by the Act of August 8, 1891 (26 Stat. 794) and section 17 of the Act of June 25, 1910 (25 U.S.C. 336); sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852); section 516 of the Airport and Airways Improvement Act of 1982 (49 U.S.C. 2215); the Act of May 24, 1928 (49 U.S.C. 211-214) as amended by the Act of August 16, 1941 (55 Stat. 621); section 4 of the Act of August 18, 1894 (28 Stat. 422) as amended (43 U.S.C. 641 et seq); sections 203, 205, 206, 211, 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713, 1715, 1716, 1721, 1732); and Executive Orders 6910 and 6964; it is proposed to amend Group 2400, Subchapter B, Chapter II of the Code of Federal Regulations as set forth below:

Group 2400 [Revised]

1. Group 2400 is revised to read:

Group 2400—Land Classification

PART 2400—LAND CLASSIFICATION AND SUITABILITY DETERMINATIONS

Subpart 2400—Land Classification; General

Sec.
2400.0-1 Purpose.
2400.0-2 Objective.
2400.0-3 Authority.
2400.0-4 Responsibility.
2400.0-5 Definitions.

PART 2410—LAND SUITABILITY DETERMINATIONS

Subpart 2410—Land Suitability Determinations; General

Sec.
2410.1 Land suitability determinations.
2410.2 Conformance with land use plans.
2410.3 Notice of realty action.
2410.4 Protests.

PART 2400—LAND CLASSIFICATION AND SUITABILITY DETERMINATIONS

Authority: 43 U.S.C. 1201; 43 U.S.C. 315, 315f; 43 U.S.C. 869 et seq.; 43 U.S.C. 321-323, as amended by 43 U.S.C. 321, 323, 325, 327-329; 25 U.S.C. 334, as amended by 26 Stat. 794 and 25 U.S.C. 336; 43 U.S.C. 851, 852; 49 U.S.C. 2215; 49 U.S.C. 211-214 as amended by 55 Stat. 621; 43 U.S.C. 851, 852; 49 U.S.C. 2215; 26 Stat. 422 as amended by 43 U.S.C. 641 et seq.;

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43 U.S.C. 1713, 1715, 1716, 1721, 1732; Executive Orders 6910 and 6964.

Subpart 2400—Land Classification; General

§ 2400.0–1 Purpose.

The regulations in this group describe procedures used by the Secretary of the Interior to determine whether public lands are suitable for use or disposal under certain laws affecting the public lands and, where appropriate, to classify those lands found suitable under applicable law.

§ 2400.0–2 Objective.

The objective of the regulations in this group is uniformity, insofar as practicable, in the systems used for determining the suitability of public lands for lease or disposal and, where required, for classifying those lands found suitable.

§ 2400.0–3 Authority.

(a) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), authorizes the Secretary of the Interior to establish uniform procedures for the use and disposition of public lands and to carry out the purposes of the Act and of other laws applicable to public land management, including authority to lease or dispose of those public lands (See sections 203, 205, 209, 211, and 302 of the Federal Land Policy and Management Act).

(b) With certain exceptions, all public lands, except those in Alaska, have been withdrawn from entry, sale, settlement, and location under the non-mineral lands laws by Executive Order 6910 of November 26, 1934, Executive Order 6964 of February 5, 1935, and section 1 of the Act of June 28, 1934, as amended (43 U.S.C. 315) (commonly and hereinafter referred to as the Taylor Grazing Act). Section 7 of the Taylor Grazing Act (43 U.S.C. 315f) authorizes the Secretary of the Interior, in his/her discretion, to examine, classify and open to disposition under applicable law any lands withdrawn by Executive Orders 6910 and 6964 or within a grazing district established under section 1 of the Act where certain conditions are satisfied.

(c) The Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.), authorizes the Secretary of the Interior to classify public lands in Alaska for recreational and other public purposes. The regulations covering lease or disposal of lands under this Act are contained in Part 2740 and Subpart 2912 of this Title.

(d) The Classification and Multiple Use Act of 1964 (43 U.S.C. 1411–1418), authorized the Secretary of the Interior to classify public lands as suitable for disposal under various land laws or as suitable for retention in Federal ownership for multiple use management. Although authority under this Act to make such determinations expired on December 20, 1970, classifications made before its expiration continue in full force and effect until modified or revoked.

§ 2400.0–5 Definitions.

As used in this group, the term:

(a) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this group.

(b) "Conformance" means that a proposed lease or disposal shall be specifically provided for in an applicable land use plan prepared by the Bureau of Land Management, or if not specifically mentioned, shall be clearly consistent with the terms, conditions, and decisions of the approved plan or plan amendment.

(c) "Land suitability determination" means a specific finding, which shall constitute a classification action when one is required, that certain public lands are either more valuable or proper for lease or disposal under one or more of the public land laws or more suitable for retention under Federal management.

(d) "Public interest determination" means a finding by the authorized officer that the objectives served by the lease or disposal of certain public lands will outweigh the public values which will be served by retaining such lands under Federal management.

(e) "Lease" means a document authorizing use of the public lands for enumerated purposes that is issued pursuant to section 302 of the Federal Land Policy and Management Act, the Recreation and Public Purposes Act, as amended, or the Act of May 24, 1928, as amended.

(f) "Notice of realty action" means an announcement that advises the public that a land suitability determination pertaining to the lands described in the notice has been made.

PART 2410—LAND SUITABILITY DETERMINATIONS

Authority: 43 U.S.C. 1701 et seq; Executive Orders 6910 and 6964; 43 U.S.C. 315 and 315f; 43 U.S.C. 869 et seq.

Subpart 2410—Land Suitability Determinations; General

§ 2410.1 Land suitability determinations.

When a need for a land suitability determination arises, either as the result of a motion by the Bureau of Land Management or a properly filed request for such a determination under the regulations in this Title covering a proposed lease or disposal, the authorized officer shall evaluate the lands and determine whether they are suitable for such lease or disposal.

§ 2410.2 Conformance with land use plans.

It is the policy of the Department of the Interior that public lands shall be retained in Federal ownership, unless as a result of land use planning procedures set forth in Part 1600 of this Title, a determination is made that lease or disposal will serve the public interest. Therefore, prior to the lease or disposal of public lands, the authorized officer shall make a determination that such lands are more valuable or suitable for lease or disposal than for retention under Federal management; such determination shall be supported by decisions made in accordance with Part 1600 of this Title, including, but not limited to, a resource management plan or management framework plan. A lease or disposal shall conform to the following:

(a) The objectives served by the lease or disposal of public lands that may be determined suitable for such lease or disposal shall outweigh the public values which would be served by using the lands for other purposes in Federal ownership.

(b) Lease or disposal of public lands shall be consistent with State and local government plans, programs and zoning regulations to the extent that such are consistent with Federal plans and programs for the area in which the lands are located.

(c) A proposed lease or disposal shall be consistent with applicable State and Federal laws and regulations intended to protect the environment.

(d) The public lands intended for a lease or disposal shall be physically suitable for the proposed lease or disposal.

(e) If it is determined by the authorized officer that the lease or disposal of public lands may result in the sustained dissipation of water reserves, those lands shall not be determined suitable for the intended lease or disposal.

(f) Where public lands are found suitable for more than one form of lease or disposal and such lease or disposal may be permitted under more than one authority, preference shall be given to that option yielding the greatest public benefit. In making a determination of public benefit, the authorized officer shall consider, among other factors:

(1) Federal plans, programs and policies;

(2) The need to satisfy outstanding lieu rights or land grants;

(3) The needs of State and local governments and communities;

(4) Return of fair market value to the United States;

(5) The relative scarcity of values involved; and

(6) Availability of alternative means to accomplish the intended purposes.

(g) A proposed lease or disposal shall meet all specific criteria established under the regulations in this Title covering such lease or disposal.

§ 2410.3 Notice of realty action.

(a)(1) If the public lands are determined suitable for the proposed lease or disposal, the authorized officer shall publish a notice of realty action describing the determination of suitability in accordance with the regulations in this Title covering such lease or disposal. Where classification is required before lease or disposal may be approved, the notice shall constitute the classification decision and opening order and make the lands available for lease or disposal. The notice shall be published in the **Federal Register** and once a week for 3 consecutive weeks in a newspaper of general circulation in the vicinity of the public lands included in the notice.

(2) The segregative effect of a notice of realty action shall be governed by applicable laws and regulations and be stated in the notice of realty action. Any subsequent application for lease or disposal inconsistent with the terms of the notice of realty action shall not be accepted, shall not be considered as filed and shall be returned to the applicant. The segregative effect of the notice shall terminate automatically at the end of 2 years unless sooner terminated by:

(i) Publication of an opening order in the **Federal Register**; or

(ii) Issuance of a patent or other conveyance document; or

(iii) As otherwise provided in Part 2091 of this Title and other applicable regulations in this Title.

(3) The notice of realty action shall be mailed to the Governor of the State within which the public lands covered by the notice are located, to the head of the governing body of any political subdivision having zoning or other land use regulatory authority in the area within which the lands are located and to other known interested parties of record, including, but not limited to, adjoining landowners and authorized users of the lands. The notice shall be mailed not less than 60 days before lease or conveyance of the lands or interests in lands occurs.

(b) If the public lands are determined to be not suitable for the proposed lease or disposal, the authorized officer shall issue a notice of realty action to that effect. The notice shall be sent to affected parties and to any other individual, group, organization, or governmental entity determined appropriate by the authorized officer.

§ 2410.4 Protests.

(a) For a period of 45 days after issuance of a notice of realty action pursuant to § 2410.3 (a) or (b) of this Title, interested parties may submit written comments to the authorized officer issuing the notice. Parties objecting to a determination of suitability shall provide specific reasons for their objection.

(b) If no objections are filed within the 45-day period provided in paragraph (a) of this section, the determination of suitability shall become the final decision of the Department of the Interior and the authorized officer may authorize the lease or disposal in accordance with the regulations in this Title covering such lease or disposal.

(c) If an objection is filed within the 45-day period provided in paragraph (a) of this section, it shall be reviewed by the authorized officer who shall issue a decision to affirm, modify, or vacate the determination of suitability made in the notice of realty action. The authorized officer shall send copies of the decision to all interested parties.

(d) Any adversely affected party may, within 30 days of the issuance of a decision by the authorized officer, protest that decision to the next higher level of supervisory authority, i.e., the appropriate State Director or the Director, Bureau of Land Management. The State Director or Director, as appropriate, shall consider the protest and promptly render a decision, sending copies to all interested parties. The decision of the State Director or Director, as appropriate, shall be the final decision of the Department of the Interior.

(e) The notice published under § 1610.5–5(a) of this Title may, if so designated in the notice, serve as the notice of realty action required by this Subpart. In such instances, adversely affected parties or persons having standing under § 1610.5–2(a) of this Title may protest the authorized officer's decision by filing their objections with the Director within 45 days after the issuance of the notice. Protests filed pursuant to § 1610.5–2 of this Title shall include the statements required by § 1610.5–2(a)(2) of this Title. The Director shall promptly render a decision on the protest which shall be the final decision of the Department of the Interior.

PARTS 2420, 2430, 2450, 2460 AND 2470 [REMOVED]

2. Parts 2420, 2430, 2440, 2450, 2460, and 2470 are removed in their entirety.

September 2, 1987.

James E. Cason,

Acting Assistant Secretary of the Interior.

[FR Doc. 87–24429 Filed 10–21–87; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6912]

Proposed Flood Elevation Determinations, West Virginia; Correction

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 52 FR 22811 on June 16, 1987. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Unincorporated Areas of Berkeley County, West Virginia.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Berkeley County, West Virginia, previously published at 52 FR 22811 on June 16, 1987, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L.

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90-448)), 42 U.S.C. 4001 through 4128, and 44 CFR Part 67.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations for selected locations are: Proposed Base (100-year) Flood Elevations

Source of flooding	Location	# Depth in feet above ground. * Elevation in feet (NGVD)
Tributary 1 of the Potomac River.	At confluence with Potomac River.	*383
	Approximately 200 feet downstream of Interstate Route 81.	*385

Issued October 13, 1987.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 87-24458 Filed 10-21-87; 8:45 am]

BILLING CODE 6718-03-M

Federal Insurance Administration

44 CFR Part 67

[Docket No. FEMA-6914]

Proposed Flood Elevation Determinations, New York; correction

AGENCY: Federal Emergency Management agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 52 FR 31428 on August 20, 1987. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Village of Spring Valley, Rockland County, New York.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of Spring Valley, previously published at 52 FR 31428 on August 20, 1987, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

List of Subjects in 44 CFR Part 67

Flood Insurance, Floodplains.

PART 67—[CORRECTED]

In the entries for New York, Spring Valley, Village, Rockland County, the third though sixth columns are revided to read as follows:

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
		Existing	Modified
Pascack Brook	At downstream corporate limits	None	*349
	At confluence of North Branch Pascack Brook	None	*350
	Approximately 90 feet downstream of State Route 59	*432	*411
	Upstream side of Maple Avenue	*444	*441
	Downstream side of Union Road	*469	*470
	At upstream corporate limits	*478	*477
North Branch Pascack Brook	At confluence with Pascack Brook	None	*350
	At upstream corporate limits	None	*359

Issued: October 16, 1987.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 87-24456 Filed 10-21-87; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 25

[CGD-87-016]

Emergency Position Indicating Radio Beacons for Uninspected Fishing, Fish Processing, and Fish Tending Vessels

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule; extension of comment period.

SUMMARY: The Coast Guard is extending the comment period on its notice of proposed rulemaking concerning emergency position indicating radio beacons (EPIRBs) to be carried on uninspected fishing, fish processing, and fish tender vessels operating on the high seas. This extension is granted at the request of the Radio Technical Commission for Maritime Service (RTCM), to allow that organization time to refer the matter to its Special Committee No. 110 on EPIRBs, and at the request of the National Aeronautics and Space Administration (NASA).

DATE: Comments must be submitted on or before November 19, 1987.

ADDRESSES: Comments should be submitted to the Commandant (G-CMC/21), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001. Between the hours of 8:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays, comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council (G-CMC) Room 2110 U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593-0001, (202) 267-1477. The Draft Evaluation may also be inspected or copies at the Marine Safety Council.

FOR FURTHER INFORMATION CONTACT: LCDR William M. Riley, Survival Systems Branch, Room 1404, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593-0001, (202) 267-1444. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** on September 3, 1987 (52 FR 33448). In a request dated September 22, 1987, RTCM asked for an extension of time to reply and listed 10 issues to be referred to their Special Committee 110 on EPIRBs for formulation of comments. RTCM proposed a definite date, November 19, 1987, for submission of their comments. In an undated request hand-delivered to the Coast Guard on October 9, 1987, NASA also asked for an extension of time for the same period. The Coast Guard considered these requests and determined that an extension of the comment period was justified.

In consideration of the foregoing the comment period is extended as requested.

Dated: October 16, 1987.

J.W. Kime,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 87-24500 Filed 10-21-87; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-445, RM-6007]

Radio Broadcasting Services; Hardeeville, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Benjamin M. Tucker *et al.* d/b/a Jessup Broadcasting Limited Partnership, permittee of a new Class A station at Hardeeville, SC, seeking the substitution of Channel 266C2 for its Channel 266A and the modification of its permit to specify the higher powered channel. Channel 266C2 can be allocated to Hardeeville, SC, in compliance with the Commission's minimum distance separations requirements with a site restriction of 30.2 kilometers (18.8 miles) southwest to avoid a short-spacing to Station WALD-FM, Walterboro, South Carolina. In accordance with Section 1.420(g) of the Commission's Rules, we shall not accept competing expression of interest in use of Channel 266C at Hardeeville.

DATES: Comments must be filed on or before December 10, 1987, and reply comments on or before December 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Morton L. Berfield, Esq., Roy W. Boyce, Esq., Cohen & Berfield, P.C., 1129 20th Street, NW., Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-445, adopted September 25, 1987, and released October 16, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission condideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing precedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24466 Filed 10-21-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-442, RM-6011]

Radio Broadcasting Services; Stamford, TX

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Jon Bruce Thoen, permittee of FM Station KZM(FM), Channel 221A, Stamford, Texas, proposing the substitution of Channel 246C2 for Channel 221A and the modification of its constuction permit to specify operation on the new frequency, as that community's first wide coverage area FM station.

DATES: Comments must be filed on or before December 10, 1987, and reply comments on or before December 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioners, their counsel or consultant, as follows: Jon Bruce Thoen, Radio Station KZOM, 407 North Swenson Street, Stamford, Texas 79553-KZOM (Petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-442, adopted September 25, 1987, and released October 16, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of the decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Member of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communication Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-24463 Filed 10-21-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-443, RM-5968]

Radio Broadcasting Services; Spokane, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by P-N-P Broadcasting, Inc., seeking the allotment of Channel 245A to Spokane, Washington, as a ninth FM service. Concurrence of the Canadian government is required.

BEST COPY AVAILABLE

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DATES: Comment must be filed on or before December 10, 1987, and reply comments on or before December 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Duane J. Polich, P–N–P Broadcasting, Inc., 9235 NE. 175th Bothell, WA 93011 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Patricial Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–443, adopted September 25, 1987, and released October 16, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, SEE 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.
Mark N. Lipp,
Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–24464 Filed 10–21–87; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–444, RM–5973]

Radio Broadcasting Services; Parkersburg, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Parkersburg/Marietta Broadcasting, Inc., licensee of Station WMGP(FM), Channel 257A, Parkersburg, West Virigina, proposing the substitution of Channel 256B1 for Channel 257A and modification of its facilities accordingly. A site restriction of 6.2 kilometers (3.9 miles) southwest of Parkersburg is required. Also concurrence of the Canadian government is required.

DATES: Comments must be filed on or before December 10, 1987, and reply comments on or before December 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: David D. Oxenford, Esquire, Fisher, Wayland, Cooper & Leader, 1255 23rd Street NW., Washington, DC 20037 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–444, adopted September 25, 1987, and released October 16, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.
Mark N. Lipp,
Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–24465 Filed 10–21–87; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–440, RM–5921]

Radio Broadcasting Services; Pukalani, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making by Obie Broadcasting of Maui, Inc., Licensee of Station KMVI–FM, Pukalani, Hawaii, which proposes to substitute Channel 252C2 for Channel 252A at Pukalani, and to modify its Class A license to specify the new channel.

DATES: Comments must be filed on or before December 10, 1987, and reply comments on or before December 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: J. Dominc Monahan, Dow, Lohnes and Albertson, 1255 23rd Street NW., Suite 500, Washington, DC 20037, (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–440, adopted September 25, 1987, and released October 16, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suit 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public shold note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in

Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.
Mark N. Lipp,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–24461 Filed 10–21–87; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–441, RM–5993]

Radio Broadcasting Services; Pinedale, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Phillip W. O'Bryan, proposing the allotment of Channel 286C2 to Pinedale, Wyoming, as that community's first FM service.

DATES: Comments must be filed on or before December 10, 1987, and reply comments on or before December 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows:

Phillip W. O'Bryan, 212 Eagle Ridge Drive, Birmingham, AL 35243 (Petitioner).

Larry G. Fuss, Contemporary Communications, P.O. Box 1901, El Dorado, AR 71731 (Counsultant to petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–441, adopted September 25, 1987, and released October 16, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3600, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.
Mark N. Lipp,
Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–24462 Filed 10–21–87; 8:45 am]
BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1312 and 1314

[Ex Parte No. 444]

Electronic Filing of Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to an advance notice of rulemaking in Ex Parte No. 444, *Electronic Filing of Tariffs* (48 FR 9672, March 8, 1983), and comment, the Commission proposes deleting its current tariff filing rules at 49 CFR Part 1312 and replacing them with simplified rules at 49 CFR Part 1314 (as set forth in full below). These revised rules would accommodate the filing of electronic tariffs and greatly simplify tariff filing requirements ger.erally to facilitate compliance with statutory requirements and, more particularly, establishment of competitive rate changes.

DATES: Interested parties must notify the Commission, in writing, of their intent to participate by December 7, 1987, so that the Commission can issue a service list. Comments from interested parties are due January 20, 1988 and reply comments are due February 19, 1988. All comments and reply comments must be served on all parties on the service list.

ADDRESS: An original and fifteen copies of comments should be sent to: Noreta R. McGee, Secretary, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Charles E. Langyher, (202) 275–7739
or
Lawrence C. Herzig, (202) 275–7358.
TDD for hearing impaired: (202) 275–1721.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to Office of the Secretary, Rm. 2215, Interstate Commerce Commission Bldg., Washington, DC 20423, or call (202) 275–7428.

List of Subjects in 49 CFR Parts 1312 and 1314

Freight forwarders, Maritime carriers, Motor carriers, Pipelines, Railroads.

This action will not significantly affect the quality of the human environment or energy conservation.

Decided: October 13, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.
Noreta R. McGee,
Secretary.

Chapter X of Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1312—[REMOVED]

1. Part 1312 is removed.

2. Part 1314 is added to read as follows:

PART 1314—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS AND RELATED DOCUMENTS

Sec.
1314.1 Definitions.
1314.2 Application.
1314.3 Tariff standards—essential criteria.
1314.4 Filing of Tariffs.
1314.5 Timely filing.
1314.6 ICC tariff designation.
1314.7 Identification of tariff publication.
1314.8 Statement of tariff application.
1314.9 Notification of tariff changes and nature of changes.
1314.10 Special notification.
1314.11 Posting of tariff and public access to tariffs.
1314.12 [Reserved]
1314.13 Powers of attorney and concurrences.
1314.14 Change of tariff issuing carrier or agent.
1314.15 Export and import traffic and joint rates with ocean carriers.
1314.16 Substitution of service.
1314.17 Rail cost recovery increases.

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Authority: 49 U.S.C 10321, 10708, 10761 and 10762; 5 U.S.C. 553.

§ 1314.1 Definitions.

For the purpose of this part—

"*Act*" means the Interstate Commerce Act, as amended.

"*Agent*" means a person, association or corporation authorized to publish and file rates and provisions on behalf of a carrier(s) in tariffs published in the agent's name.

"*Carrier*" means a common carrier, motor contract carrier of passengers or household goods freight forwarder subject to the Act. It also means an ocean carrier participating in joint tariff provisions with carriers subject to the Act.

"*Carrier's tariff*" means a tariff issued by, and filed in the name of the carrier.

"*Collectively established*" tariff means the rate, charge, rule, or other provision of a tariff not independently established.

"*Commission*" means the Interstate Commerce Commission.

"*Common carrier*" means all common carriers and household goods freight forwarders subject to the Act.

"*Independently established*" carrier matter means the rate, charge, rule, or other provision as published either in a tariff filed in the carrier's own name or under independent action instructions for only the particular carrier's account in a tariff filed in an agent's name.

"*Joint rate*" means a rate that applies over the lines or routes of two or more carriers made by an agreement between the carriers, effected by a concurrence or power of attorney.

"*Joint tariffs*" are those which contain joint rates or provisions affecting those rates.

"*Local rate*" means a rate that applies over the lines or routes of one carrier only.

"*Local tariffs*" are those which contain local rates or provisions affecting those rates.

"*Ocean carrier*" means a vessel-operating common carrier engaged in foreign commerce and regulated by the Federal Maritime Commission.

"*Original tariff*" means the tariff as originally filed excluding amendments.

"*Publication*" — see "Tariff".

"*Rate*" means a rate, fare or charge.

"*Tariff*" or "*Tariff publication*" means an issuance (in whole or in part) bearing designation required by §1314.6 and containing rates, rules, regulations or other provisions filed with the Commission for compliance with 49 U.S.C. 10761 and 10762.

"*Through rate*" means the total rate from point of origin to destination. It may be a local rate, a joint rate, or a combination of separately established rates.

"*Title page*" means the initial, introductory, portion of tariff publications.

§ 1314.2 Application.

(a) These provisions govern the construction, publication, filing and maintenance of any tariff filed under the Act or which contains a through route and joint rate application over the lines of a common carrier on the one hand, and a nonvessel or vessel operating ocean carrier, on the other hand, for transportation of property between any place in the United States and a foreign country. Tariffs may include provisions "for information only," or for intrastate application, when such provisions are plainly identified to preclude any suggestion that such provisions are subject to economic regulation by the Commission. Tariffs which fail to meet the provisions of this part, or which violate any decision or order of the Commission or of a court, may be rejected or stricken by the Commission.

(b) Relief from the provisions of this part may be sought. Requests by authorized parties for such relief shall be submitted in duplicate and accompanied by appropriate fee (see 49 CFR Part 1002). Envelopes addressed to the Commission containing applications for relief shall be prominently marked "SPECIAL TARIFF AUTHORITY APPLICATION". The application shall cite all pertinent tariff matter and shall provide complete information regarding applicant's justification, purpose and manner of relief. See also 49 CFR 1118.4.

§ 1314.3 Tariff standards—essential criteria.

The requirement for the filing of tariffs are established at 49 U.S.C. 10761 and 10762. All tariffs must observe the following criteria:

(a) Tariffs filed with the Commission must describe accurately and fully the services offered to the public and must provide the specific rate, fare or charge for the performance of those services;

(b) Tariffs must be filed and maintained in a manner that allows all tariff users to determine the exact rate, fare or charge applicable to any given shipment, or to any given set of shipments in the case of volume/time pricing;

(c) All information necessary to determine applicable rates, fares or charges for a given shipment need not be contained in a single tariff, but in the event of multiple tariffs used to convey that information, all tariffs so linked must reference by ICC tariff designation all other tariffs required to determine applicable rates, fares and charges;

(d) Tariff information must be presented in a manner that facilitates tariff users' determination of the services and pricing offered;

Tariffs of motor passenger contract carriers shall provide an explicit statement of the minimum rates, fares, or charges maintained. Rates for rail movements of circuses and other show outfits may consist of a proper title page, containing the phrase "as per copy of contract attached", with a copy of the contract attached.

§ 1314.4 Filing of Tariffs.

(a) Tariffs shall be prepared in the English language, with rates and charges explicitly stated per unit in U.S. dollars and cents. To file with the Commission, two submissions of the publication shall be transmitted to the Interstate Commerce Commission, Bureau of Traffic—Section of Tariffs, Washington, DC 20423, and shall be accompanied by an authorized document of transmittal which identifies the matter being filed, together with the appropriate filing fee (see 49 CFR Part 1002).

Acknowledgment of Commission receipt of filed tariffs can be obtained by enclosing a duplicate transmittal and a postage-paid, self-addressed return envelope.

(b) Tariffs prepared and filed in paper form shall not be larger than 8½ x 11 inches, except paper distance guides shall not be larger than 14½ x 17½ inches.

(c) Tariffs prepared and filed in non-paper form or medium shall:

(1) Be compatible with existing Commission technology and facilities available for the receipt, storage and use of such filed publications; or

(2) Alternatively the necessary implementing equipment, facilities and programs shall be placed on file with the Commission for use by Commission personnel and the public at no cost.

§ 1314.5 Timely filing.

(a) Tariff matter should be announced to the public and the Commission with as much advance notice as practical, but in no case (except as otherwise specifically authorized) shall such notice be less than shown below. The effective dates shall be clearly indicated in the tariff. "Notice" means the number of days the publication shall be on file with the Commission at Washington, DC prior to its effective date(s). The date the publication is received by the Commission counts as the first day of notice.

(b) The following is the notice required for new service (new), provisions which result in expanded service or lower charges (reduced), and provisions which result in lessened service or higher charges (increased).

Number of days notice required for publication of matter—	Mode and type		
	New	Reduced	Increased
Rail:			
Circus or show outfits	1	1	1
Surcharge or joint rate cancellation under 49 U.S.C. 10705a(f)	45	45	45
49 U.S.C. 10705(e)	20	20	[1] 20
All other matter:			
Collectively established	20	10	20
Independently established	1	1	[2] 20
Motor or Freight Forwarder:			
Property:			
MC–82 general rate actions	45	45	45
Collectively established	30	30	30
Independently established	1	1	[3] 7
Passenger:			
Collectively established	30	30	30
Independently established	1	1	1
Water:			
Property	10	30	30
Passenger	1	30	30
Motor—Water:			
Single factor domestic:			
Collectively established	30	30	30
Independently established	1	1	[3] 7
Ocean/Surface International: (see § 1314.15)			
All other intermodal	30	30	30

[1] In Ex Parte No. 445 (Sub-No. 1), *Intermodal Rate Competition*, served October 31, 1985, the Commission adopted a new rule at 49 CFR 1144.1 which provides for additional notice in the case of cancellations under 49 U.S.C. 10705(e): (a) *Notification.* A rail carrier proposing to cancel a through route and/or joint rate shall comply with the requirements of 49 U.S.C. 10762(c)(3) and 10705a(f) , as appropriate, and 49 CFR Part 1312, and shall give notice of its intent to make such a cancellation 45 days prior to the effective date of the cancellation. For cancellations under 49 U.S.C. 10705(e), the 45-day period must consist of at least a 25-day notice of intent to file followed by a 20-day tariff filing in compliance with 49 U.S.C. 10762(c)(3).

[2] Ex Parte No. 346 (Sub-No. 22), *Short Notice Effectiveness for Independently Filed Rail Carrier Rates*, served January 5, 1987.

[3] Workdays.

(c) Workdays mean all days except Saturdays, Sundays, and all federal holidays observed in the District of Columbia.

§ 1314.6 ICC tariff designation.

(a) Every tariff publication filed with the Commission shall show an authorized tariff designation consisting of: (1) The characters "ICC", immediately followed by (2) the assigned alpha code of the carrier or agent issuing the publication, immediately followed by (3) the tariff number (selected by the issuing carrier or agent) to distinguish that publication from all other publications filed with the Commission by the same issuing carrier or agent. Tariff numbers shall not exceed 7 characters consisting of not more than 5 digits and not more than 2 letter suffixes.

Examples:

ICC XXXX 100
ICC XXXX 2000
ICC XXX 10000–A

Also see § 1314.7

(b) Alpha codes are assigned to carriers and tariff agents by industry organizations as follows:

Railroads: Mr. W.J. Hardin, Tariff Publishing Officer, North Pacific Coast Freight Bureau, Pacific Southcoast Freight Bureau, Trans-Continental Freight Bureau, Suite 1150, 222 South Riverside Plaza, Chicago, IL 60606

Water Carriers: Mr. A. Carling, Waterways Freight Bureau, 11720 Briggs Court, Fairfax, VA 22030

All Others: Messrs. N.J. Zavolta or P.G. Levine, National Motor Freight Traffic Association, Inc., 2200 Mill Road, Alexandria, VA 22314

(c) Fees may be assessed to carriers or agents by the industry organizations assigning codes, but such fees may not exceed the processing costs. Except in unusual circumstances, and for compelling reasons, industry organizations shall assign only one alpha code (not to exceed 4 characters) to carriers or agents which shall be unique for that carrier or agent.

§ 1314.7 Identification of tariff publication.

Every publication filed with the Commission shall include:

(a) The ICC tariff designation (see § 1314.6);

(b) The name of the issuing carrier, or its tariff agent;

(c) The date(s) on which the publication is to become effective (see § 1314.5).

§ 1314.8 Statement of tariff application.

Every new tariff of first issuance, or complete tariff reissuance, filed with the Commission shall lead with a "title page" which shall:

(a) Comply with § 1314.7; and

(d) Provide a succinct statement of territorial application, mode of serving carrier(s), type of rates, and description of tariff content.

(1) Examples:

(i) Local, all motor truckload distance rates on FREIGHT, ALL KINDS from points in Ohio to points in the United States.

(ii) Joint motor/water commodity rate in containerized service between interior points in the United States and ports in Puerto Rico and Hawaii: and governing rules.

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§ 1314.9 Notification of tariff changes and nature of changes.

Every publication filed with the Commission containing provisions which result in changes from the provisions previously applicable shall clearly identify such changes; and the nature of those changes shall be clearly indicated when the effect of the change is an increase or decrease in service, rates or transportation charges.

§ 1314.10 Special notification.

Every tariff publication containing matter of the nature described below shall—as indicated below—reference in the publication or in the accompanying letter of transmittal the decision, order, regulation, proceeding, or pertinent Section of the Act, as well as the number of days notice authorized or required:

(a) Publications filed in compliance with a Commission decision or court order (publication reference);

(b) Publications filed pursuant to the "zone of rate freedom" provisions of 49 U.S.C. 10708 (d)(1), (d)(3) and (d)(4) (transmittal reference);

(c) Publications of collectively proposed general increase or rate restructuring under the MC–82 procedures for motor carriers of property or for the motor transportation of household goods as defined in § 1056.1(b) (publication reference);

(d) Publication of the establishment of surcharges or cancellation of joint rates or routes pursuant to the authority of 49 U.S.C. 10705(e) and 10705a(f) (publication reference);

(e) Publication of collectively proposed provisions for motor common carriers of passengers filed pursuant to 49 U.S.C. 10708(e) (transmittal reference).

§ 1314.11 Posting of Tariff and public access to Tariffs.

(a) Each carrier, during normal business hours and at its principal office, shall have available for inspection by any party a complete set of its tariffs (proposed and effective) and those to which it is a party. Any equipment or devices required for such inspection will be made available without charge.

(b) Each carrier must, within 20 days of a written request by any person, provide all tariff matter relevant to requester's interest; alternatively, at its option carriers may provide a formal quotation of the applicable tariff rate in any form that is clear and verifiable. Reasonable charges may be assessed for this service.

§ 1314.12 [Reserved]

§ 1314.13 Powers of attorney and concurrences.

(a) Rates and services of a carrier must be filed in a tariff issued in that carrier's name; alternatively, rates and services of a carrier may be filed (1) in an agent's tatiff when the carrier has executed a power of attorney authorizing that individual or entity to serve as its tariff agent; or (2) in a tariff of another carrier (or the latter's tariff agent) through issuance of a concurrence to the latter carrier authorizing the first carrier's participation in joint rates and through routes.

If two or more carriers execute powers of attorney to the same agent, it is not necessary for those carriers to exchange concurrences. Powers of attorney and concurrences are not to be filed with the Commission but shall be provided to any party on request.

(b) Two or more agents may jointly issue a single tariff provided each agent acts only on behalf of those carriers it represents through powers of attorney or concurrences. The provisions of §1314.7 must be observed for each agent joining in the filing of the single tariff.

§ 1314.14 Change of tariff issuing carrier or agent.

(a) When a succeeding agent is appointed to take over an agency, or when an alternate agency assumes the duties of the principal agent, each of the superseded agent's effective tariffs shall immediately be amended to reflect the change, bearing an effective date the same as the date of the transfer. In the case of a new agent, this may only occur after one or more of the participating carriers issues a power of attorney to the new agent, and revokes the previous power of attorney. Concurrently, all affected tariffs will be appropriately amended to reflect the new powers of attorney, and all carriers who have not issued new powers of attorney must be canceled from the tariff.

(b) When a carrier's name is lawfully changed, or operating authority is transferred to another carrier, or a fiduciary assumes possession and control of a carrier's property, all affected tariffs must be amended to reflect the change. The effective date for an amendment to reflect a chance in name is the date the name change occurs. The effective date in all other instances is the date of consummation, or as set by the Commission or a court.

§ 1314.15 Export and import traffic and joint rates with ocean carriers.

(a) *Definitions.* The term "domestic carrier" as used in this section means a common carriers by rail, motor, water, or freight forwarder subject to the Act.

(b) *Through routes and joint rates.* (1) A domestic carrier may establish a through route and joint rate with a non-vessel or vessel operating ocean carrier for the transportation of property between any place in the United States and any place in a foreign country. Tariffs for such service shall be filed with the Commission in either long form or abbreviated form, as follows:

(2) An abbreviated tariff shall refer to a specific tariff(s) on file with the Federal Maritime Commission (FMC) containing the joint through rates in which the domestic carrier participates, and shall be filed in the name of the domestic carrier or the publishing agent of the domestic carrier.

(c) *Tariff provisions.* (1) Tariffs filed with the Commission under the provision of paragraph (b)(1) above shall comply with all of the other requirements of this part. Rail carriers are exempt from this tariff filing requirement (see 49 CFR 1039.21). The division or rate to be received by the domestic carrier for its share of the revenue covering a through shipment or aggregate of shipments may, but need not, be shown in the tariff.

(2) Abbreviated tariffs filed under the provisions of paragraph (b)(2) above shall—when read in conjuction with referenced FMC tariffs—comply with all other requirements of this part.

(3) A tariff filed in the name of a conference need not show "Agent" after the name of the conference unless the conference publishes as an agent.

(d) *Changes on less than statutory notice.* (1) Abbreviated tariffs, or amendments thereto, filed under the provisions of paragraph (b)(2) above may be filed to become effective on a specified date on not less than one day's notice.

(2) For tariffs filed under the provisions of paragraph (b)(1) above that include the division of rate accuring to the domestic carrier, the following changes may be published by amendment to the tariff to become effective on a specified date not prior to the date filed with the Commission:

(i) A change in a published rate or other provision which results in reduction or in no change in charges, provided that there is no change in the separately stated division or rate

(ii) The establishment of a rate on a specific commodity not previously named in a tariff which results in a reduction or no change in charges.

(3) Changes in charges for terminal services, canal tolls, or other additional charges may be made effective upon a specified date not prior to the date filed with the Commission, provided the charges are not under the control of the carrier or conference, and the agency assessing the charges to the carrier increases the charges without notice or without adequate notice to the carrier or conference. If the tariff separately states the division, rate, or charge accruing to the domestic carrier, and if a change occurs in the division, rate, or charge, the amendment shall contain a statement explaining the change.

(e) *Through export and import billing.* When export and import shipments are forwarded under through billing, the through bills of lading shall clearly separate the liability of the domestic carriers and the ocean carriers. The name of the domestic carrier shall appear on the face of the bill of lading when that carrier originates the shipment. Tariffs which provide the use of a specified kind of bill of lading shall reproduce all its terms and conditions.

§ 1314.16 Substitution of service.

Paragraph (a), of this section only applies to property carriers. Paragraph (b) of this section only applies to passenger carriers. The provisions of this section may not be used in connection with joint rates and provisions for which concurrences are in effect (unless they so provide).

(a) *Substituted service may be provided.* If a rail, water, or motor carrier (hereafter referred to as Carrier A) desires to have the option to substitute the services of a carrier of a different transportation mode (hereafter referred to as Carrier B) for part of its movement of a shipment, it may do so if:

(1) The shipment moves on the bill of lading that would be used if Carrier A was performing the service;

(2) Carrier A assumes the responsibility for the lading while it is in the possession of Carrier B; and

(3) Movement of the lading has been made prior to, or will be made subsequent to, the service performed by Carrier B.

(b) *Passenger ticket arrangements.* Provisions may be published affirming an agreement of two or more carriers for the acceptance by one carrier of a ticket sold over the route of another carrier. The carriers' names shall be shown, along with the names of the points between which the tickets will be honored, and any restrictions or exceptions stated.

§ 1314.17 Rail cost recovery increases.

Rail carriers or their agents may publish cost recovery tariffs in master tariff format to provide increases in rail rates and charges as authorized by the Commission under Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures.* The increases may apply to joint rates and single-line traffic to the extent adopted by individual carriers. All publications may be filed upon 1 day's notice, with 2-year expiration dates. Annual, accumulated master tariffs may be published to expire no later than September 30 of the second calendar year following the year in which the tariff became effective, by which date all increases shall be transferred to the base tariffs. Extension of any expiration dates may, however, be requested. The master tariffs may not be amended except that new or reduced provisions may be published upon 1 day's notice.

[FR Doc. 87–24477 Filed 10–21–87; 8:45 am]
BILLING CODE 7035–01–M

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Notices

Federal Register
Vol. 52, No. 204
Thursday, October 22, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: Notice is hereby given that USDA proposes the establishment of a Privacy Act system of records. This system is titled USDA/AMS–11 "AMS Office of Compliance Review Cases."

EFFECTIVE DATE: This notice will be adopted without further publication in the **Federal Register** on December 21, 1987, unless modified by a subsequent notice to incorporate public comments. USDA invites comments from the public on this proposal, to be received by the contact person listed below on or before November 23, 1987.

FOR FURTHER INFORMATION CONTACT: John M. Wyatt, U.S. Department of Agriculture, Agricultural Marketing Service, Office of Compliance, Room 3529–S, 14th & Independence Avenue SW., Washington, DC 20250, 202–447–6766.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA is developing a system of records maintained by the Agricultural Marketing Service (AMS). The records system will contain detailed information pertaining to cases in which the AMS Office of Compliance (Compliance) is involved. This information will be collected during the course of investigations and reviews conducted by Compliance and includes such information as investigative notes, signed statements, correspondence, case history, case status, and reported findings by Compliance and other entities. The system of records provides documentation of all cases involving AMS Compliance. It also provides status reports regarding the disposition of all cases.

A "Report on new systems" required by 5 U.S.C. 552a(o), has been sent to the President of the Senate, the Speaker of the House of Representatives, and the Office of Management and Budget.

Signed at Washington, DC, on October 8, 1987.

Richard E. Lyng,
Secretary of Agriculture.

USDA/AMS–11

SYSTEM NAME:

AMS Office of Compliance Review Cases.

SYSTEM LOCATION:

U.S. Department of Agriculture, Agricultural Marketing Service, Office of Compliance, Room 3529–S, 14th and Independence Ave., Sw, Washington, DC 20250.

CATEGORIES OF INDIVIDUALS ON WHOM RECORDS ARE MAINTAINED:

AMS employees, such as commodity graders, inspectors, supervisors; various industry Committee or Board members and/or managers; employees of various industry organizations; and any other individuals involved in a review or investigation as an alleged violator or otherwise the subject of a review or investigation.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

The system consists of investigatory files regarding cases involving the AMS Office of Compliance. These files contain reports by AMS Compliance and other investigative entities such as the Office of the Inspector General, USDA. They also contain evidence gathered in the course of reviews and investigations, as well as intra and interdepartmental recommendations. The records system also includes a tracking system maintained by computer which provides current status reports on all cases involving the Agency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Office of Compliance is responsible for compliance activities pertaining to programs administered by AMS authorized by the legislation listed in 7 CFR 2.50.

ROUTINE USES OF RECORDS, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, of any record within this system, when information available indicates a violation or potential violation of law, whether civil, criminal, or regualtory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto;

(2) Referral to the Department of Justice when (a) the agency, or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

(3) Disclosure in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when (a) the agency, or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the court is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

(4) Records may be disclosed in response to a request for discovery or for the appearance of a witness, to the extent that what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and in computer data files at the address listed under "System location."

RETRIEVABILITY:

The records filed in this system are issued a primary name and case number specifying the appropriate division in AMS to which they pertain. A secondary name stating the subject being investigated is also issued. The records are filed in order of occurrence. Files are retrieved by identifying the division, subject, and case number.

SAFEGUARDS:

Records are stored in file folders and computer data files. The computer data base in accessed through a procedure used by the Compliance Staff. Offices containing these records are locked during nonbusiness hours and when offices are otherwise vacant. All records are accessible to AMS Compliance Staff.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with AMS Directive 270.1 "Files Maintenance and Records Disposition Handbook." Records are maintained for a period of three years at the system location, after which they are to be disposed of by authority of the National Archives and Records Service.

SYSTEM MANAGER AND ADDRESS:

Questions or requests regarding this system can be sent to the Associate Deputy Administrator for Compliance at the address listed under "System location."

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2), material in this system of records is exempt from the rquirements of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), because it consists of investigatory material compiled for law enforcement purposes. See 7 CFR 1.123. 5 U.S.C. 552a(d) requires that an individual be given access to and the right to amend files pertaining to him or her. Individual access to these files could impair investigations in progress and alert subjects involved in the investigations that their actions are under scrutiny, which may allow them the opportunity to alter their actions or prevent detection of any illegal actions to escape prosecution. Release of these records would also disclose investigative techniques and procedures employed by AMS and other agencies, which would hamper law enforcement activities.

5 U.S.C. 552a(c)(3) requires that an accounting of disclosures be made available to an individual. This would impair investigations by alerting subjects of investigations to the existence of those investigations. Release of the information could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

5 U.S.C. 552a(e)(1) requires that only such information as is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order can be maintained. Exemption from this provision is required because relevance and necessity can be determined only after information is evaluated. Evaluation at the time of collection is too time consuming for the efficient conduct of an investigation. Further, determining relevance or necessity of specific information in the early stages of an investigation is not possible.

5 U.S.C. 552a(e)(4)(G) and (H), and (f) provide for notification and access procedures. These requirements, if followed, would necessarily alert subjects of investigations to the existence of the investigation which could impair the investigation. Access to the records likewise could interfere with investigative and enforcement proceedings; disclose confidential informants and information; constitute an unwarranted invasion of personal privacy of others; and reveal confidential investigative techniques and procedures.

5 U.S.C. 552a(e)(4)(I) requires that categories of sources of records in each system be published. Application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentially. This would compromise the ability to conduct investigations.

[FR Doc. 87–24515 Filed 10–21–87; 8:45 am]

BILLING CODE 3410–02–M

COMMODITY FUTURES TRADING COMMISSION

Coffee, Sugar & Cocoa Exchange Proposed Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Coffee, Sugar & Cocoa Exchange, Inc. ("CSCE") has applied for designation as a contract market in futures on the International Market Index—an index of foreign stocks traded in the United States. The Deputy Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before December 21, 1987.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CSCE International Market Index futures contract.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254–7227.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 354–6314.

Other materials submitted by the CSCE in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts

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Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CSCE in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on October 16, 1987.

Blake Imel

Deputy Director, Division of Economic Analysis.

[FR Doc. 87-24433 Filed 10-21-87; 8:45 am]

BILLING CODE 8351-01-M

DEPARTMENT OF DEFENSE

Defense Science Board Task Force on Military System Applications of Superconductors

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Military System Applications of Superconductors will meet in closed session on December 16–17, 1987 at the Defense Advanced Research Projects Agency, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will enumerate and evaluate military system applications that may be enabled by the recent progress in high temperature superconductors.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Thomas J. Condon,

Acting Division Chief, Directives Division

[FR Doc. 87-24482 Filed 10-21-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligency Agency Scientific Advisory Committee; Closed Meeting

AGENCY: Defense Intelligency Agency Scientific Advisory Committee, DOD.

ACTION: Notice of Closed Meeting

SUMMARY: Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: Friday, 20 November 1987, 9:00 a.m., to 500 p.m.

ADDRESS: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC. 20340-1328 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on intelligence information handling systems.

Thomas J. Condon,

Acting Division Chief, Directives Division

[FR Doc. 87-24484 Filed 10-21-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligency Agency Scientific Advisory Committee; Closed Meeting

AGENCY: Defense Intelligency Agency Scientific Advisory Committee; DOD.

ACTION: Notice of Closed Meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of the DIA Scientific Advisory Committee has been scheduled as follows:

DATES: Tuesday and Wednesday, 26–27 January 1988, 9:00 a.m. to 5:00 p.m. each day.

ADDRESS: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20340 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

Thomas J. Condon,

Acting Division Chief, Directives Division, Department of Defense

[FR Doc. 87-24485 Filed 10-21-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligency Agency Scientific Advisory Committee; Closed Meeting

AGENCY: Defense Intelligency Agency Scientific Advisory Committee, DOD.

ACTION: Notice of Closed Meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: Tuesday, 17 November 1987, 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20340-1328 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classifed information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on intelligence support systems.

Thomas J. Condon,

Acting Division Chief, Director Division

[FR Doc. 87-24483 Filed 10-21-87; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Cancellation of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Navigation Project at Sturgeon Point Marina, Erie County, NY

AGENCY: U.S.Army Corps of Engineers, DoD.

ACTION: Cancellation of Previous Notice of Intent to Prepare a DEIS.

SUMMARY: The U.S. Army Corps of Engineers, Buffalo District has concluded that construction of proposed navigation improvements at Sturgeon Point Marina would result in no significant impacts on the human environment. Therefore, the Notice of Intent to Prepare a DEIS (published in 49 FR 33702–33703) is hereby canceled.

An Environmental Assessment of the proposed project was circulated for public and agency review on 1 April 1987. After a review of comments received, a Finding of No Significant Impact was signed on 23 July 1987. This conclusion was based upon the following factors:

—The proposed Sturgeon Point Marina project involves a limited number of planning objectives and plans.

—Proposed navigation improvements and marina expansion represent modifications to an existing facility and involve no land use changes.

—Consultation with various Federal, State, and local agencies has uncovered no significant concerns related to the waterside improvements.

—No significant impacts to significant resources (threatened or endangered species, fish and wildlife resources, cultural resources, mineral resources, etc.) are anticipated.

—An evaluation prepared in accordance with section 404(b)(1) of the Clean Water Act concluded that the placement of dredged and fill material would result in only minor impacts. Section 401 State Water Quality Certification was granted on 23 July 1987.

—Upland improvements proposed by the town of Evans have been evaluated and approved under the New York State Environmental Quality Review Act. In response to public review and comment, appropriate modifications have been incorporated into these plans which adequately address the concerns of local property owners.

ADDRESS: Questions may be forwarded to Mr. William Butler, Environmental Analysis Branch, U.S. Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo, New York 14207–3199. Phone (716) 876–5454 or FTS 473–2175.

Dated: October 15, 1987.

Daniel R. Clark,

Colonel, U.S. Army Commanding.

[FR Doc. 87-2441 Filed 10-21-87; 8:45 am]

BILLING CODE 3710-GP-M

DEPARTMENT OF EDUCATION

National Board, Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463.

DATE: November 9, 1987 beginning at 8:30 p.m. and ending at 9:00 p.m.

ADDRESS: Ramada Renaissance Hotel, 1143 New Hampshire Avenue NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Charles Karelis, Director, Fund for the Improvement of Postsecondary Education, 7th & D Streets SW., Washington, DC 20202 (202) 245–8091.

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under section 1001 of the higher Education Amendments of 1980, Title X (20 U.S.C. 1135a–1). The National Board of the Fund is established to "advise the Secretary and the Director of the Fund for the improvement of postsecondary education * * * on the selection of projects under consideration for support by the Fund in its competitions."

The meeting of the National Board will be open to the public. The proposed agenda includes:

—An orientation and introduction of new Board members;
—A discussion and review of the past year;
—Development and discussion of policies and priority for the coming year.
—Observation and participation in the Fund for the Improvement of Postsecondary Education Annual Project Directors' Meeting.

Records shall be kept of all Board proceedings, and shall be available for public inspection at the Fund for the Improvement of Postsecondary Education, 7th & D Streets, SW., Room 3100, Washington, DC 20202 from the hours of 8:00 a.m. to 4:30 p.m. weekdays, except Federal Holidays.

Dated: October 19, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87-24472 Filed 10-21-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP88-17-000]

Natural Gas Pipeline Company of America; Application

October 15, 1987.

Take notice that on October 9, 1987, Natural Gas Pipeline Company of America (NGPL), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP88-17-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity to provide transportation service on behalf of Mississippi River Transmission Corporation (MRT), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

NGPL states in entered into a Limited Term Gas Transportation Agreement with MRT dated October 25, 1983, as amended, to provide on an interruptible basis transportation of up to a maximum of 200,000 MMBtu of natural gas per day for MRT from receipt points in Custer, Woodward, Grady, Dewey and Washita Counties, Oklahoma to delivery points in Clinton County, Illinois, Randolph County, Arkansas, Harrison County, Texas and Cameron and Vermilion Parishes, Louisiana pursuant to the transitional provisions of Order No. 436, *et al.* and Subpart G of Part of 284 of the Commission's Regulations. NGPL's "grandfathered" transportation service for MRT expired on October 9, 1987, pursuant to § 284.105 of the Natural Gas Policy Act of 1978.

NGPL proposes to extend the transportation service for MRT for a period extending through October 9, 1988 and for successive one (1) month terms thereafter.

NGPL states it currently receives natural gas for the account of MRT at the existing point of interconnection between the facilities of NGPL and those of: (1) Lear Gas Transmission Company (Lear), an intrastate pipeline, formerly known as Producer's Gas Company, located in Custer County, Oklahoma; (2) Lear located in Dewey County, Oklahoma; (3) Lear located in

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Grady County, Oklahoma; (4) ONG Transmission Company (ONG), an intrastate pipeline, located in Custer County, Oklahoma; (5) ONG located in Woodward County, Oklahoma; (6) Delhi Gas Pipeline Corporation located in Custer County, Oklahoma; and (7) Enogex Inc. an intrastate pipeline, formerly known as Mustang Fuel Corporation located in Washita County, Oklahoma.

NGPL states it currently redelivers natural gas for the account of MRT at the following points of delivery: (1) The existing point of interconnection between the facilities of NGPL and those of MRT located in Clinton County, Illinois; (2) the existing point of interconnection between the facilities of NGPL and those of MRT located in Harrison County, Texas; (3) the existing point of interconnection between the facilities of NGPL and those MRT located in Randolph County, Arkansas; (4) the existing point of interconnection between the facilities of NGPL and those of ANR Pipeline Company located in Cameron Parish, Louisiana;[1] and (5) the existing point of interconnection between the facilities of NGPL and those of Dow Intrastate Pipeline Company located in Vermilion Parish, Louisiana.[1] NGPL further states no new facilities will be required for the continuation of this service.

NGPL also proposes to reduce the volumes of gas redelivered to MRT by certain percentages for fuel consumed and lost and unaccounted for gas or will charge MRT for fuel used and lost and unaccounted for gas as provided for in the agreement, as amended.

NGPL proposes to charge MRT the following transportation rates:

TRANSPORTATION RATES (CENTS/MMBTU)
DELIVERY POINTS

Point of Receipt	Clinton Co., IL	Harrison Co., TX	Randolph Co., AR	Cameron Par., LA	Vermilion Par., LA
Custer Co., OK	29.61	9.22	29.61	14.86	14.86
Dewey Co., OK	29.61	9.22	29.61	14.86	14.86
Grady Co., OK	29.61	6.72	29.61	12.36	12.36
Woodward Co., OK	29.61	11.04	29.61	16.90	16.90
Washita Co., OK	29.61	9.22	29.61	14.86	14.86

[1] NGPL has been informed by MRT that this delivery point will not be used at this time. Consequently, arrangement have not been made by MRT for the delivery of gas by NGPL to the designated party at this delivery point. Although NGPL has included this delivery point in it's application, it recognizes that appropriate authorization must be obtained by the designated party before NGPL's service to this delivery point can commence.

NGPL also proposes to charge MRT an incremental amount of two tenths of a cent (0.02) per MMBtu for the Annual Charges Adjustment pursuant to Commission order issued September 29, 1987, in Docket No. RP87-109-000, *et al.*, (NGPL's Docket No. RP87-97-000), effective October 1, 1987.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10)). All protests filed with the Commission will be considererd by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for NGPL to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24490 Filed 10-21-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-11-000]

Northwest Pipeline Corp.; Change in FERC Gas Tariff

October 15, 1987.

Take notice that on October 7, 1987, Northwest Pipeline Corporation ("Northwest") submitted for filing, Seventh Revised Sheet No. 127, to be a part of its FERC Gas Tariff, First Revised Volume No. 1.

Northwest states that Seventh Revised Sheet No. 127 revises paragraph (C) of section 16.7 of the General Terms and Conditions of its First Revised Volume No. 1 to provide for the pass-through of all demand credit amounts which it receives from Westcoast to its jurisdictional customers. This revision allows for the pass-through of all demand credits rather than just the pass-through of off-system sales credits which are currently in the tariff language.

Northwest requests waiver of the Commisison's regulations to permit an effective date of January 1, 1987 for the tendered tariff sheet. A copy of this filing has been mailed to all jurisdictional customers and affected state commissions.

Any persons desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 22, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24491 Filed 10-21-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC88-1-000]

Tariff Sheet Filing; Southwest Gas Corp.

October 16, 1987.

Take notice that on October 5, 1987, Southwest Gas Corporation (Applicant), 5241 Spring Mountain Road, P.O. Box 15015, Las Vegas, Nevada 89114-5015, filed seventh Revised Tariff Sheet No. 25C to its FERC Gas Tariff, Original Volume No. 1, to become effective November 1, 1987, pursuant to § 281.204(b) of the Commission's Regulations which requires interstate pipelines to update their indices of entitlements annually to reflect changes in priority 2 entitlements (Essential Agricultural Users).

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before October 30, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.214) or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24492 Filed 10-21-87; 8:45 am]

BILLING CODE 6717-01-M

Southwest has requested waiver of the notice requirements and any other applicable Commission regulations as may be necessary so as to permit the tendered tariff sheets to become effective October 1, 1987.

Southwest states that copies of this filing have been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National Corporation.

Any persons desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214. All such motions or protests should be filed on or before October 22, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24489 Filed 10-21-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-9-000]

Southwest Gas Corp.; Establishment of Annual Charge Adjustment Clause and Change in Rates

October 15, 1987.

Take notice that Southwest Gas Corporation (Southwest) on October 5, 1987, tendered for filing Thirty-sixth Revised Sheet No. 10 and Second Revised Sheet No. 35 applicable to its FERC Gas Tariff, Original Volume No. 1. The purpose of said filing is to establish an annual charge adjustment (ACA) clause in Southwest's FERC Gas Tariff and set forth the applicable ACA surcharge in Southwest's interstate pipeline sales rate schedule in accordance with Order Nos. 472 and 472-B issued in Docket No. RM87-3. Order Nos. 472, *et seq.*, which provide for annual charges to natural gas pipelines under the Omnibus Budget Reconciliation Act of 1986, authorize such pipeline companies to pass along the annual charges to their customers through an ACA clause pending approval of such clause by the Commission.

[Docket No. CP87-196-007]

Petition to Amend; Transcontinental Gas Pipe Line

October 16, 1987.

Take notice that on October 15, 1987,[1] Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP87-196-007 a petition to amend the Commission's April 18, 1987, Order issued in Docket No. CP87-196-000, *et al.*, pursuant to section 7(c) of the Natural Gas Act so as to (1) reallocate for a limited term 0.4 Bcf of storage capacity and 5,300 dekatherms (dt) per day of storage deliverability which will be available during the 1987-88 winter period, and (2) obtain temporary certification of the petition to amend pursuant to § 157.17 of the Commission's Regulations in order to enable Petitioner to receive customer storage quantities for injection prior to the commencement of the withdrawal season on November 1, 1987, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner explains that on February 8, 1987, it filed an application for a certificate of public convenience and necessity requesting authorization to provide 9.0 Bcf of firm storage capacity and 120,00 dt/d of firm storage deliverability to six existing distribution customers under Rate Schedule SS-1; Atlanta Gas Light Company (Atlanta), Elizabethtown Gas Company (Elizabethtown), Long Island Lighting Company (LILCO), Public Service Electric and Gas Company(PSE&G), South Jersey Gas Company (South Jersey) and Brooklyn Union Gas Company (Brooklyn Union).

It is further explained that on February 10, 1987, Consolidated Gas Transmission Corporation (Consolidated) and North Penn Gas Company (North Penn) filed a joint application seeking, *inter alia*, authority to revise their existing operating plan for the jointly-owned Tioga Storage Complex and to increase the storage capacity of the Tioga Storage Complex by installing additional compression facilities. Petitioner states that North Penn and Consolidated also requested authorization to provide a firm storage service and a firm transportation service, respectively, for Petitioner, which services will be utilized to enable Petitioner to provide SS-1 Storage Service to its customers.

It is stated by order issued August 18, 1987, the Commission authorized Petitioner, subject to certain conditions, to provide Rate Schedule SS-1 storage service to its six resale customers. Petitioner now states, that because delays were encountered and regulatory approval was not received until after July 1, 1987, it is not possible to complete construction of all the necessary facilities in time to provide the full 120,000 dt/d level of service during the 1987-88 winter period. Petitioner now states the sufficient time exists to enable Petitioner, Consolidated and North Penn to construct a portion of the authorized facilities in order to enable Petitioner to render 6 Bcf and 80,000 dt/d of the authorized Rate Schedule SS-1 storage service this winter. Consolidated has advised petitioner that it has scheduled to complete construction of sufficient pipeline capacity on its system this year to enable Consolidated to receive and deliver the 6 Bcf of storage capacity and

[1] The petition to amend was tendered for filing on October 5, 1987; however the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until October 15, 1987. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

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80,000 dt/d of deliverability which North Penn will have available on a firm basis during the 1987–88 winter period.

Petitioner states that Atlanta, Elizabethtown and South Jersey have requested the right to forego the receipt of service until 1988, while LILCO, PSE&C and Brooklyn Union have requested their full Rate Schedule SS–1 contract entitlement plus the right to receive any remaining storage service which customers have elected not to utilize this year. Therefore, it is stated that in order to reallocate the remaining storage service, which otherwise would not be utilized, to the three customers requesting service this year, Petitioner requests that the following certificated levels of service be increased to the interim levels during the 1987–88 winter season.

	Certificated level of service		Increased interim level of service	
	Capacity (Dt/d)	Demand (dt/d)	Capacity (Dt/d)	Demand (dt/d)
LILCO	1.3074	17,432	1.4006	18,675
PSE&G	3.2475	43,300	3.4790	46,386
Brooklyn Union	1.00459	13,945	1.12.04	14,939
Total	5.6006	74,677	6.0000	80,000

Petitioner states that deliveries of the increased Rate Schedule SS–1 quantities will be prorated among each customers' delivery points and corresponding adjustments to each customers monthly demand charges will be implemented to reflect the increased levels of service during the interim period.

Petitioner states that the increased levels of service to Brooklyn Union, LILCO and PSE&G will be rendered at the authorized rates and pursuant to the terms and conditions of service of Petitioner's Rate Schedule SS–1. Petitioner states further that when initial nominations for SS–1 service were received, total nominations exceeded the level of available service. Therefore, Petitioner states that when service was allocated among its customers, nominations—including nominations from the above three customers—were reduced ratably. Consequently, Petitioner submits that the public convenience and necessity would be served by granting the amendment expeditiously and reallocating to Brooklyn Union, LILCO and PSE&G the remaining storage service which is available and which otherwise will not be utilized during the 1987–88 winter period.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 3, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–24493 Filed 10–21–87; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–44021; FRL–3281–8]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces test data submissions received by EPA during July–September 1987 from voluntary industry testing programs on certain chemical substances or groups of chemicals considered by EPA under section 4 of the Toxic Substances Control Act (TSCA).

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M Street SW., Washington, DC 20460, Telephone: (202) 554–1404.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires the EPA to issue a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a). In the **Federal Register** of June 30, 1986 (51 FR 23705), EPA issued procedures for entering into Enforceable Consent Agreements (ECAs) under section 4 of TSCA. Those procedures provide that EPA will follow the procedures specified in section 4(d) in providing notice of test data received pursuant to ECAs. In addition, EPA from time to time receives industry submissions of test data developed voluntarily (*i.e.*, not under test rules or ECAs) or chemicals EPA has considered for testing under section 4. Although not required by section 4(d), EPA issues periodically notices of receipt of such test data.

I. Test Data Submissions

This notice announces test data submissions received during July–September 1987 from voluntary industry testing programs.

The following table lists the chemicals by Chemical Abstracts Service Registry Number (CAS No.), date received, submitter, and study.

TABLE 1—VOLUNTARY TEST DATA SUBMISSIONS UNDER TSCA SECTION 4, 4th QUARTER (JULY—SEPTEMBER) FY 87

Chemical	CAS No.	Date Rec'd.	Submitter	Study
Propylene oxide	75–56–9	July 7, 1987	ARCO Chemical Co.	Range-finding developmental toxicity study (inhalation) in Fischer 344 rats.
Diethylene glycol monobutyl ether.	112–34–5	Aug. 19, 1987.	[1] CMA	Bone marrow micronucleus test in mouse.
Do.	112–34–5	do	do	Hypoxanthine-guanine-phosphoribosyl-trans-ferase (HGPRT) forward mutation assay in Chinese hamster ovary (CHO) cells.
Biphenyl	92–52–4	Sep. 15, 1987.	[2] SOCMA	96-hour static embryo-larval (Salmo gairdneri) acute test.
Do.	92–52–4	do	do	192-hour flow-through embryo-larval (*S. gairdneri*) acute test.
2-Phenoxy-ethanol	122–99–6	Sep. 23, 1987.	Dow Chemical Co	HGPRT forward mutation assay in CHO cells.

[1] Chemical Manufacturers Association.
[2] Synthetic Organic Chemical Manufacturers Association, Inc.

EPA has established a public record for this quarterly receipt of data notice (docket number OPTS–44021). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the OPTS Reading Room, NE–G004, 401 M Street SW., Washington, DC 20460.

Dated: October 16, 1987.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division.

[FR Doc. 87–24567 Filed 10–21–87; 8:45am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Addison Broadcasting Co., Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Addison Broadcasting Co, Inc., Ellwood, CA.	BPH–850708MO	87–429
B. Robert A. Beers, Ellwood, CA.	BPH–850710NB	
C. Thomas M. Eells, Ellwood, CA.	BPH–850711OT	
D. Deborah Blair Thomas and Kiannon Thomas, d/b/a Blair Media, Ellwood, CA.	BPH–850711OU	
E. Lorrain L. Chow, Ellwood, CA.	BPH–850712V9	
F. Video Services Broadcasting Corp., Ellwood, CA.	BPH–850712V9	
G. Susan Lundborg, Ellwood, CA.	BPH–850712WT	
H. Starlight Broadcasting Company, Inc., Ellwood, CA.	BPH–850712WU	
I. Susan Marie Bain Romaine, Ellwood, CA.	BPH–850712WW	
J. Mangold Broadcasting, Inc., Ellwood, CA.	BPH–850712WY	
K. Patricia Ann Sauro, Ellwood, CA.	BPH–850712WZ	
L. Ross H. Boyd, Ellwood, CA.	BPH–850712W1	
M. Ellwood Beach Broadcasters, Inc., Ellwood, CA.	BPH–850712W3	
N. Commercial Broadcast Co., Ellwood, CA.	BPH–850712W3	
O. Ellwood FM Services Partners, A California Limited Partnership, Ellwood, CA.	BPH–850712XC	
P. KIKJ Company, Ellwood, CA.	BPH–850712XO	
Q. George Aguilar Baron d/b/a Baron Broadcasting, Ellwood, CA.	BPH–850712XE	
R. Dos Compadres Communications, Inc., Ellwood, CA.	BPH–850712X0	
S. Rosello Radio, Ltd., Ellwood, CA.	BPH–850712XT	
T. Vince Lee Broadcasting Ltd., Ellwood, CA.	BPH–850712Y7	
U. C & A Broadcasting, A Limited Partnership, Ellwood, CA.	BPH–850712W2	(Dismissed).

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 F.R. 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

1. (See Appendix), All.
2. Environmental Impact, All.
3. Comparative, All.
4. Ultimate, All.

3. If there is any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set fourth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

1. To determine the correct height of the KEYT-TV tower.

[FR Doc. 87–24467 Filed 10–21–87; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Jerome Gillman, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Jerome Gillman, Inc., Wurtsboro, NY.	BPH–831201AE	87–428
B. Preston Mark Pollack and Susan Lee Pollack, Wurtsboro, NY.	BPH–840605ID	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to the particular applicant.

Issued Heading Applicant(s)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which is applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–24468 Filed 10–21–87; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–794–DR]

Amendment to Notice of a Major Disaster Declaration; Oklahoma

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oklahoma (FEMA–794–DR), dated July 9, 1987, and related determinations.

DATED: October 8, 1987.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency

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Management Agency, Washington, DC 20472, (202) 646–3614

Notice: The notice of a major disaster for the State of Oklahoma, dated July 9, 1987, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 9, 1987:

The City of Pauls Valley in Garvin County for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 87–24457 Filed 10–21–87; 8:45 am]

BILLING CODE 6718–02–M

Training and Fire Programs Directorate; Board of Visitors for the National Fire Academy; Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name: Board of Visitors (BOV) for the National Fire Academy (NFA).

Dates of Meeting: November 16–17, 1987.

Place: National Emergency Training Center, G BLdg., 2nd Floor Conference Room, Emmitsburg, Maryland 21727.

Time:

November 16—8:30 a.m. to 5:00 p.m.

November 17—8:30 a.m. to agenda completion

Proposed Agenda: Old Business, New Business; BOV Visitation to NFA Classes and Facilities Survey.

The meeting will be open to the public with seating available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, Training and Fire Programs Directorate, 16825 South Seton Avenue, Emmitsburg, Maryland, 21727 (telephone number, 301–447–1123) on or before November 9, 1987.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Associate Director's Office, Training and Fire Programs Directorate, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, MD, 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Caesar A. Roy,

Deputy Associate Director, Training and Fire Programs.

Dated: September 16, 1987.

[FR Doc. 87–24455 Filed 10–21–87; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–002744–060.

Title: Atlantic and Gulf/West Coast of South America Conference.

Parties:

Compania Chilena De Navigacion Interoceania, S.A.
Compania Sud Americana De Vapores, S.A.
Lykes Bros. Steamship Co., Inc.
Compania Peruana De Vapores
Lineas Navieras Bolivianas, S.A.M.

Synopsis: The proposed amendment would republish the agreement in its entirety and permit the parties to: (1) Establish rates on excepted commodities; (2) file tariffs which may include rates on excepted commodities; (3) take independent action with respect to any level of compensation paid to an ocean freight forwarder who is also a custom broker; and (4) enter into service contracts concerning excepted commodities and to prohibit an individual member from doing so. The amendment also deletes Article 21 (Effectiveness of Agreement) in its entirety.

Agreement No.: 203–010869–001.

Title: Mediterranean/U.S.A. Associated Parties Agreement.

Parties:

South Europe/U.S.A. Freight Conference
South Europe/U.S.A. Pool Agreement

Synopsis: The proposed amendement makes various clarifying revisions to reflect changes in the names of the parties and of the agreement as listed above, as well as the conduct of meetings and the implementation of agreements. It would also amend the geographic scope to be consistent with that of the South Europe/U.S.A. Freight Conference.

Agreement No.: 203–010999–001.

Title: Ecuador Discussion Agreement.

Parties:

United States Atlantic and Gulf/Ecuador Freight Association
Naviera Consolidada, S.A.

Synopsis: The proposed amendment would admit Transportes Navieros Equatorianos as a party to the agreement. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: October 19, 1987.

[FR Doc. 87–24430 Filed 10–21–87; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Dominion Bankshares Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 10, 1987.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia. 23261:

1. *Dominion Bankshares Corporation,* Roanoke, Virginia; to merge with Franklin First National Corporation, Decherd, Tennessee, and thereby indirectly acquire The First National Bank of Franklin County at Decherd, Decherd, Tennessee.

2. *Dominion Bankshares Corporation,* Roanoke, Virginia; to merge with The Peoples National Bancorp, Inc., Shelbyville, Tennessee, and thereby indirectly acquire The Peoples National Bank of Shelbyville, Shelbyville, Tennessee.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Roseville Bankshares, Inc.,* Roseville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Roseville State Bank, Roseville, Illinois.

Board of Governors of the Federal Reserve System, October 16, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–24431 Filed 10–21–87; 8:45 am]

BILLING CODE 6210–01–M

Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 6, 1987.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Hazel B. Mittet,* Rapid City, South Dakota; to acquire 30.4 percent, and Faye B. Jones, Midland, South Dakota, to acquire 32.4 percent of the voting shares of Philip Bancorporation, Inc., Philip, South Dakota, and thereby indirectly acquire First National Bank, Philip, South Dakota.

Board of Governors of the Federal Reserve System, October 16, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–24432 Filed 10–21–87; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87P–0274]

Canned Green Beans Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to the Seymour Canning Co. to market test experimental packs of canned green beans containing added glucono delta-lactone. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATE: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than January 19, 1988.

FOR FURTHER INFORMATION CONTACT: Catharine R. Calvert, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0121.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to the Seymour Canning Co., 530 East Wisconsin St., P.O. Box 5, Seymour, WI 54165.

The permit covers limited interstate marketing tests of experimental packs of canned green beans. The test product deviates from the standard of identity for canned green beans prescribed in 21 CFR 155.120 (canned green beans and canned wax beans) in that it will contain added glucono delta-lactone in an amount reasonably necessary to maintain an equilibrium pH below 4.6 (up to a maximum of 0.62 percent of the net weight of the finished product). The test product meets all requirements of § 155.120, with the exception of the variation.

The permit provides for the temporary marketing of 10,000 cases containing 24 No. 303 X 406 cans each and 20,000 cases containing 6 No. 603 X 700 cans each of the test product. The experimental packs of the test product will be distributed in the States of Indiana, Michigan, Minnesota, Ohio, and Wisconsin. The test product is to be manufactured at the Seymour Canning Co. plant located in Seymour, WI.

The principal display panel of the label states the product name as "Cut Green Beans" and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than January 19, 1988.

Dated: October 9, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–24435 Filed 10–21–87; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: **Dallas District Office,** chaired by Gerald E. Vince, District Director. The topic to be discussed is health messages on food labels.

DATE: Friday, October 30, 1987, 10 a.m. to 12 m.

ADDRESS: Food and Drug Administration Office, 1445 North Loop West, Suite 420, Houston, TX 77008.

FOR FURTHER INFORMATION CONTACT: Sheryl Lunnon-Baylor, Consumer Affairs Officer, Food and Drug Administration, 1445 North Loop West, Suite 420, Houston, TX 77008, 713–229–3530.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

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Dated: October 15, 1987.
John M. Taylor,
Associate Commissioner for Regulatory Affairs.
[FR Doc. 87-24436 Filed 10-21-87; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR
Bureau of Land Management
[ID-040-4410-08]

Plan Amendments for the Lemhi Resource Management Plan et al.; Critical Environmental Concern

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability-Proposal to amend the Lemhi Resource Management Plan (RMP), the Challis Management Framework Plan (MFP), the Mackay MFP and the Ellis-Pahsimeroi MFP to designate 10 Research Natural Areas (RNAs)/Areas of Critical Environmental Concern (ACECS).

NOTICE: Notice is hereby given that the Proposed Plan Amendments for the Lemhi RMP, the Challis MFP, the Mackay MFP, and the Ellis-Phasimeroi MFP to designate 10 RNA/ACECSs and ACECs is available.

SUMMARY: The following 10 areas are proposed for designation as Research Natural Areas/Areas of Critical Environmental Concern or ACEC.

(1) Designate 236 acres of Upper Trail Creek in the Lemhi Resource Area as an RNA/ACEC.

(2) Designate 8,516 acres in Malm Gulch/Germer Basin in the Challis Resource Area as an ACEC, within which 2,643 acres would be designated RNA/ACEC.

(3) Designate 572 acres in Antelope Flat in the Challis Resource Area as an RNA/ACEC.

(4) Designate 802 acres in Peck's Canyon in the Challis Resource area as an RNA/ACEC.

(5) Designate the East Fork Salmon River Bench (76 acres) in the Challis Resource Area as an RNA/ACEC.

(6) Designate 1,450 acres in Cronk's Canyon in the Challis Resource Area as an ACEC, within which 362 acres would be identified as an RNA/ACEC.

(7) Designate 1,060 acres in Sevenmile Creek in the Lemhi Resource Area as an ACEC.

(8) Designate 305 acres with the Summit Creek Exclosure in the Challis Resource Area as an ACEC, within which 230 acres would be identified as an RNA/ACEC.

(9) Designate 2,064 acres of the Upper Lake Creek basin above Herd Lake in the Challis Resource Area as an ACEC. Within this ACEC, 1060 acres would be designated RNA/ACEC.

(10) Designate 824 acres in Thousand Springs in the Challis resource area as an ACEC, within which 252 acres would be designated as an RNA/ACEC.

The following Management Actions are common to all of the RNA/ACECs and ACECs and *will* be required for implementation:

(1) Approved plans of operation will be required prior to any mining operations, except casual use (42 CFR 3809.1-4(b)(1)).

(2) Any new leases for fluid minerals on the areas will be subject to no surface occupancy restrictions. Any such restriction would be subject to existing leases.

(3) Any new right-of-way applications will be reviewed to see if the proposal would negatively affect or enhance the values for which the area was designated as a special area. If the right-of-way would adversely affect the area's quality as an RNA/ACEC, the right-of-way would be denied.

(4) Follow modified fire suppression.

The following Management Actions common to all of the RNA/ACECs and ACECs *may* be required for implementation:

(1) Withdraw lands from mineral entry (1872 Mining Law) subject to existing rights, provided that later studies and analysis indicate that such a withdrawal would provide significant benefits to the resources the RNA/ACEC or ACEC was designed to protect.

(2) Areas designated as RNA/ACEC or ACEC will be closed to solid mineral leasing if later studies and analysis showed that such closure will provide significant benefits to the resources that the RNA/ACEC or ACEC was designed to protect.

Besides the management actions common to all of the RNA/ACECs and ACECs there are actions which would be specific for each RNA/ACEC or ACEC. Information about the specific actions for each RNA/ACEC or ACEC can be obtained from the Salmon BLM District Office.

SUPPLEMENTARY INFORMATION: Detailed information about the RNA/ACECs and ACECs can be obtained by contacting Lyle Lewis, District Hydrologist, Bureau of Land Management, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, phone (208) 756-5400.

Planning Protest

Any party that participated in the plan amendments and is adversely affected by the amendments may protest this action only as it affects issues submitted for the record during the planning process. The protest shall be in writing and filed with the Director (760), Bureau of Land Management, 1800 "C" Street, NW., Washington, DC 20240, within 30 days of this notice. The procedures for filing a protest are listed in the "Dear Reader" letter included with the proposed plan and listed in 43 CFR 1610.5-2.

Designation

In the absence of any planning protests this action will become the final determination of the Department of the Interior and the Plan Amendments will be in effect.

Dated: October 15, 1987.
Jerry W. Goodman,
District Manager.
[FR Doc. 87-24437 Filed 10-21-87; 8:45 am]
BILLING CODE 4310-84-M

Bakersfield District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Bakersfield District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) and the Federal Land Policy and Management Act (Pub. L. 94-579) that the Bakersfield District Grazing Advisory Board will meet formally from 10 a.m. to 3 p.m. on Friday, November 20, 1987 in Room 335 of the Federal Building, 800 Truxtun Avenue, Bakersfield, California.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include discussion of FY87 project accomplishments, FY 88 planned projects, and coordinated resource management.

The meeting is open to the public. Interested persons may make oral statements to the Board, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify, in writing, the Bakersfield District Manager (Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, CA 93301) by November 17, 1987.

Summary minutes of the meeting will be maintained in the Bakersfield District Office and will be available for reproduction, during business hours, within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Tim Burke, District Range Conservationist, Bureau of Land Management, 800 Truxtun Ave., Room 311, Bakersfield, CA 93301; (805) 861-4191.

Date: October 13, 1987.
Robert D. Rheiner, Jr.
District Manager.
[FR Doc. 87-24507 Filed 10-21-87; 8:45 am]
BILLING CODE 4310-40-M

[WY-920-08-4121-10]

Powder River Regional Coal Team (RCT); Rescheduling of Meeting

ACTION: Public notice.

SUMMARY: The Powder River Regional Coal Team (RCT) meeting, which was scheduled for October 29, 1987, is rescheduled.

DATE: The RCT will now meet at 8:30 a.m. on November 10, 1987.

ADDRESS: The RCT meeting will be held at the original location, which remains the Holiday Inn of Sheridan, 1809 Sugarland Drive, Sheridan, Wyoming 82801; telephone (307) 672-8931.

FOR FURTHER INFORMATION CONTACT: Don Brabson, telephone (307) 772-2571 or FTS 328-2571.

SUPPLEMENTARY INFORMATION: By **Federal Register** notice dated July 31, 1987, the Bureau of Land Management announced a Powder River RCT meeting for October 29, 1987. That meeting is rescheduled to November 10, 1987. The agenda items, as announced in the **Federal Register** notice of July 31, 1987, will remain as is.

October 16, 1987.
Hillary A. Oden,
State Director.
[FR Doc. 87-24428 Filed 10-21-87; 8:45 am]
BILLING CODE 4310-22-M

[UT-050-08-4322-14]

Grazing Advisory Board Meeting and Tour; Richfield District

AGENCY: Bureau of Land Management, Richfield, Utah.

ACTION: District Grazing Advisory Board Meeting and Field Tour.

SUMMARY: The Richfield District Grazing Advisory Board will hold a meeting and field tour on November 17 and 18, 1987. The meeting on November 17 will begin at 9:00 a.m. in the District Office.

Agenda For The Meeting Will Be

1. Election of Officers.
2. Weed Program Update.
3. Grazing Allotment Changes.
4. Proposed FY 88 Range Projects.
5. Mount Ellen Rehabilitation Project.
6. Livestock Trespass.
7. Update on the Henry Mountain CRMP.
8. Update on the Henry Mountain RPS.
9. Update on the Mountain Valley RPS.
10. Update on Proposed Grazing Regulation and Grazing Fee.
11. Update on the Warm Springs and House Range ROD.

The field tour is scheduled for November 18 to review the range rehabilitation work done in the Sand Ledge Area. Individuals wishing to go on the tour need to furnish their own transportation.

Interested persons may make oral statements to the Board between 2:00 p.m. and 3:00 p.m. or file written comments for the Board's consideration. Anyone wishing to make an oral statement or participate in the tour must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

October 16, 1987.
Neil D. Thomas,
Acting District Manager.
[FR Doc. 87-24451 Filed 10-21-87; 8:45 am]
BILLING CODE 4310-DQ-M

[AA-48557-P]

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48557-P has been received covering the following lands:

Copper River Meridian, Alaska

T. 7 S., R. 1 E.
Sec. 4, S½SE¼.
(80 acres).

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $10 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accuring from May 1, 1987, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48557-P as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective May 1, 1987, subject to the terms and conditins cited above.

Kay F. Kletka,
Chief, Branch of Mineral Adjudication.
Dated: October 14, 1987.
[FR Doc. 87-24438 Filed 10-21-87; 8:45 am]
BILLING CODE 4310-JA-M

[MT-920-08-4111-13; MTM 62858]

Proposed Reinstatement of Terminated Oil and Gas Lease; Carbon County, MT

Under the provisions of Pub. L. 97-451, a petition for reinstatement of oil and gas lease MTM 62858, Carbon County, Montana, was timely filed and accompanied by the required accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent respectively. Payment of a $500 administrative fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: October 4, 1987.
June A. Bailey,
Chief, Leasing Unit.
[FR Doc. 87-24508 Filed 10-21-87; 8:45 am]
BILLING CODE 4310-DN-M

[AZ-020-4212-12; A 21809]

Realty Action Federal Land Exchange in La Paz County, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Reissuance of notice of realty action—exchange of public lands in La Paz County for State of Arizona Lands.

SUMMARY: All or portions of the following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Gila and Salt River Meridan, Arizona

T. 7 N., R. 13 W.,
Sec. 6;
T. 7 N., R. 14 W.,
Sec. 7, 11, 14, 15, 21, 22, 28-31;
T. 7 N., R. 15 W.,
Sec. 1, 8, 22, 26, 36;
T. 8 N., R. 13 W.,
Sec. 7, 16-21, 29-31;
T. 8 N., R. 14 W.,
Sec. 8-17, 20, 22, 27, 28, 31, 35.

Comprising 19,782.04 acres of public land

In exchange for these lands, the federal government will acquire all or portions of

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nonfederal land from the Arizona State Land Department, described as follows:

Gila and Salt River Meridan, Arizona

T. 39 N., R. 5 E.,
Sec. 36;
T. 18 N., R. 15 W.,
Sec. 16, 32, 36;
T. 41 N., R. 6 W.,
Sec. 2, 10, 16;
T. 42 N., R. 6 W.,
Sec. 32;
T. 34 N., R. 8 W.,
Sec. 2, 32;
T. 35 N., R. 8 W.,
Sec. 16;
T. 34 N., R. 9 W.,
Sec. 36;
T. 23 N., R. 11 W.,
Sec. 4, 6, 8, 10, 16, 18, 20, 28, 30, 32;
T. 24 N., R. 11 W.,
Sec. 16, 32, 36;
T. 23 N., R. 12 W.,
Sec. 8, 10, 14, 16, 24, 32, 36;
T. 24 N., R. 12 W.,
Sec. 2, 8, 10, 12, 14, 16, 20, 22, 30, 32, 36;
T. 24 N., R. 13 W.,
Sec. 2, 12, 14, 16, 24, 26, 28, 32, 34, 36;
T. 25 N., R. 13 W.,
Sec. 16;
T. 41 N., R. 13 W.,
Sec. 16;
T. 38 N., R. 14 W.,
Sec. 2;
T. 41 N., R. 14 W.,
Sec. 2, 16;
T. 18 N., R. 15 W.,
Sec. 16, 32, 36;
T. 38 N., R. 15 W.,
Sec. 2, 16;

Comprising 33,535.81 acres of land owned by the State of Arizona.

The exchange proposal involves the surface and mineral estate of the state land and the surface and mineral estate of the public land with the exception of existing oil and gas leases which will be reserved to the government until lease expiration. The exchange has been proposed in the Bureau's planning system.

Value of the lands and interests to be exchanged have been determined by appraisals.

Lands transferred from the United States will be subject to the following reservations, terms and conditions.

1. A right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat 391,43 U.S.C. 945.

2. A reservation of all existing oil and gas leases until lease termination.

3. All valid existing rights and reservations of record on the date of patenting.

A complete list of legal descriptions for the lands listed in this Notice is available at the Phoenix District Office.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the public lands, as described in this Notice, from appropriations under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the Federal Register of a notice of termination of the segregation: Or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona.

Henri R. Bisson,
District Manager.
Date: October 13, 1987.

[FR Doc. 87-24444 Filed 10-21-87; 8:45 am]
BILLING CODE 4310-32-M

[AZ020-8-4212-13; A-18908]

Public Lands Exchange; Yavapai County, AZ

AGENCY: Bureau of Land Management (BLM) Interior.

ACTION: Notice of realty action; exchange of public lands in Yavapai County, Arizona.

SUMMARY: The following described public lands are being considered for exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 13 N., R. 4 W.,
Sec. 24, All;
Sec. 25, All;
Sec. 26, All exclusive of patented mill site claims
Sec. 27, All;
Sec. 28, N½, SE¼.

Comprising 3,020 acres of public land.

In exchange for these lands the Federal government will acquire non-Federal land from Phelps Dodge Corporation, located within the Prescott, Coconino and Apache-Sitgreaves National Forests.

The exchange proposal involves the surface and mineral estate of the public land with the exception of oil and gas.

Purpose of the exchange is to acquire non-Federal land located within the boundaries of the previously listed National Forests.

Publication of this notice in the **Federal Register** will segregate the public lands described herein to the extent they will not be subject to appropriation under the public land laws, including the mining laws. As set forth in 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or two years from date of this publication, whichever occurs first.

ADDRESS: For a period of 45 days, interested parties may submit comments to: Bureau of Land Management, District Manager, Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, Arizona 85027.

Herman L. Kast,
Associate District Manager.
Date: October 16, 1987.

[FR Doc. 87-24446 Filed 10-21-87; 8:45 am]
BILLING CODE 4310-32-M

[AZ-940-4212-13; A-19162]

Conveyance of Public Land: Pima County, AZ

October 13, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of the completion of an exchange between the United States and John J. Woodin.

FOR FURTHER INFORMATION CONTACT: Lisa Schaalman, Arizona State Office, (602) 241-5534.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management transferred the following described land on June 3, 1987, by Patent No. 02-87-0032, pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976:

Gila and Salt River Meridian, Arizona

T. 12 S., R. 11 E.,
Sec. 33, lots 2, 6, 7, 11, 13, S½ of lot 3, E½SW¼NE¼, E½E½W½SW¼NE¼, E½W½E½W½SW¼NE¼;

Containing 237.41 acres in Pima County, Arizona.

In exchange the surface in the following described land was reconveyed to the United States:

Gila and Salt River Meridian, Arizona

T. 11 S., R. 8 E.,
Sec. 36, N½N½NE ¼, SW¼NW¼NE¼, N½SE¼NE¼NE¼, SW¼NE¼, W½SE¼NE¼, SE¼SE¼NE¼, W½NE¼SE¼NE¼, NW¼;

Containing 290.00 acres in Pima County, Arizona.

The mineral estate in the above-described land is owned by the State of Arizona and, therefore, will not be subject to entry under the United States Mining or Mineral Leasing Laws.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and the acquisition of private land by the Federal Goverment.

John T. Mezes
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-24443 Filed 10-21-87; 8:45 am]
BILLING CODE 4310-32-M

[OR 43306; OR-100-08-4212-21; GP8-007]

Realty Action; Lease; Douglas County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Non-competitive lease of a land parcel in Douglas County, Oregon.

ADDRESS: 777 NW. Garden Valley Blvd., Roseburg, Oregon 97470.

FOR FURTHER INFORMATION CONTACT: Dave Baker, North Umpqua Resource Area Manager (503) 672-4491.

The following described land (revested Oregon and California railroad grant land) has been examined and identified as suitable for lease under section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1740), at not less than the fair market value: Portion of Lot 17 of Section 3, T. 27 S., R. 2 W., W.M.

The purpose of this lease is to authorize the residential use of a parcel of land containing 0.06 acres more or less. The triangular shaped parcel is located approximately 400 feet east of the S¼ corner of sections 3 and 4, T. 27 S., R. 2 W., W.M. Because the private improvements already exist, the land will not be offered for lease through competitive bidding. The tract is to be leased to Mr. and Mrs. Michael A. Maurice of Little River Road, Glide, Oregon 97443 for a period of ten years with an option to renew.

The tract presently contains a portion of a mobile home, a satellite dish, a storage shed, and portions of the Maurice's yard. The proposed lease will settle an unintentional unauthorized occupancy.

Detailed information concerning this proposed lease, including land report and environmental analysis is available for review of the Roseburg District Office, 777 NW Garden Valley Blvd., Roseburg, Oregon 97470.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, Roseburg, Oregon. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Date: October 16, 1987.

Richard G. Burch,
Acting District Manager.

[FR Doc. 87-24439 Filed 10-21-87; 8:45 am]
BILLING CODE 4310-33-M

[CO-942-06-4520-12]

Colorado; Filing of Plats of Survey

October 15, 1987.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., October 15, 1987.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the survey of the subdivision of section 20, T. 50 N., R. 11 E., New Mexico Principal Meridian, Colorado for Group No. 863, was accepted October 9, 1987.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215

Jack A. Eaves
Chief, Cadastral Surveyor, for Colorado.

[FR Doc. 87-24450 Filed 10-21-87; 8:45 am]
BILLING CODE 4310-JB-M

[NM-940-084520-1]

Filing of Plat of Survey; New Mexico

October 15, 1987.

The plat of surveys described below were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on the dates shown.

The surveys representing:

The dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines, the adjusted record meanders of the left bank of the Red River, in sections 19 and 20, and Tract 666, in section 20, the subdivision of section 20, and the survey of the meanders of the present left bank of the Red River, in sections 19 and 20, and the survey of the partition of accretion lines to former lots 1 and 2, section 20, Township 8 South, Range 12 East, Indian Meridian, Oklahoma, executed under Group 48, Oklahoma, filed September 16, 1987.

This survey was requested by the Area Director, Bureau of Indian Affairs, Muskogee, Oklahoma.

A survey representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of sec. 16, and the survey of the right-of-way of the Chicago-Rhode Island and Pacific Railroad through a portion of sec. 16, Township 12 North, Range 17 West, Indian Meridian, Oklahoma, executed under Group 40, Oklahoma, filed October 9, 1987.

A survey representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 20, and the metes and bounds survey of certain Indian trust lands in section 20, Township 1 South, Range 13 West, of the Indian Meridian, Oklahoma, executed under Group 40, Oklahoma, filed August 31, 1987.

A survey representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the subdivision of section 25, Township 14 North, Range 10 West, Indian Meridian, Oklahoma, executed under Group 49, Oklahoma, filed October 9, 1987.

These surveys were requested by the Area Director, Bureau of Indian Affairs, Anadarko, Oklahoma.

A survey representing the dependent resurvey of a portion of the subdivisional lines, and the survey of a portion of the meanders of the present left bank of the Washita River in section 15, Township 7 North, Range 10 West, Indian Meridian, Oklahoma, executed under Group 52, Oklahoma, filed September 16, 1987.

The dependent resurvey of a portion of the subdivisional lines, the adjusted 1874 meanders of a portion of the right bank of the Washita River in section 15, and the survey of a portion of the meanders of the present right bank of the Washita River in section 15, Township 7 North, Range 11 West, Indian Meridian, Oklahoma, executed under Group 52, Oklahoma, filed September 16, 1987.

The dependent resurvey of a portion of the subdivisional lines, and the adjusted record meanders of the left bank of the Canadian River in section 11, Township 8 North, Range 3 West, Indian Meridian, Oklahoma, executed under Group 52 Oklahoma, filed October 9, 1987.

BEST COPY AVAILABLE

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These surveys were requested by the Area Manager, ORAH, Tulsa District, Oklahoma.

A survey representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 26, and the survey of certain lot boundaries, Township 21 South, Range 26 East, of the New Mexico Principal Meridian, New Mexico, executed under Group 861, New Mexico, filed August 3, 1987.

This survey was requested by the District Manager, Roswell District Office, New Mexico.

A supplemental plat representing the south one-half of sec. 29, Township 17 South, Range 12 West, New Mexico Principal Meridian, New Mexico, filed August 31, 1987.

This supplemental plat was requested by the Records Improvement Unit, New Mexico State Office, Bureau of Land Management.

A survey representing the corrective dependent resurvey of a portion of the south boundary of the Santa Clara Indian Reservation, between sections 16 and 21, Township 20 North, Range 7 East, New Mexico Principal Meridian, New Mexico, executed under Group 854, New Mexico, filed September 10, 1987.

This survey was requested by the Area Director, Bureau of Indian Affairs, Albuquerque Area Office, Albuquerque, New Mexico.

A survey of Exception No. 9, within that portion of the Juan Jose Lobato Grant, acquired December 30, 1942, Township 24 North, Range 7 East, New Mexico Principal Meridian, New Mexico, executed under Group 860, New Mexico, filed October 9, 1987.

This survey was requested by the Director of Lands and Minerals, U.S. Forest Service, Region 3, Albuquerque, New Mexico.

A survey representing the dependent resurvey and survey of Lots 89 through 126 in section 28, Township 23 North, Range 10 East, New Mexico Principal Meridian, New Mexico, executed under Group 769, New Mexico, filed October 9, 1987.

This survey was requested by the District Manager, Albuquerque, New Mexico.

These plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plats may be obtained from the office upon payment of $2.50 per sheet.

William S. DeGroot,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 87-24447 Filed 10-21-87; 8:45 am]

BILLING CODE 4310-FB-M

[AZ-920-4111-02; et al.]

Arizona; Public Review Period for USGS/USBM "Mineral Survey Reports" Prepared for BLM Wilderness Study Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Arizona Bureau of Land Management (BLM), is requesting the public to review combined U.S. Geological Survey (USGS) and U.S. Bureau of Mines (USBM) "Mineral Survey Reports" which have been or will be completed for Wilderness Study Areas (WSAs) preliminarily recommended suitable for inclusion into the National Wilderness System. If the public identifies a new interpretation of the data presented in the reports or submits new minerals data for consideration, the Bureau of Land Management will send these comments to USGS/USBM.

No suitability recommendations will be changed by BLM based on the public comments or on the results of the USGS/USBM mineral survey reports. However, significant new findings will be documented in the BLM "Wilderness Study Report", which will also be reviewed by the Secretary, the President, and by Congress before final decisions on wilderness are made. Copies of the WSA mineral survey reports listed below can be reviewed in BLM offices in Phoenix, Safford and Yuma, Arizona.

WSA No.	Name	USGS Report No.
AZ-020-060	Lower Burro Creek	Bull. 1701-B.
AZ-020-099	Big Horn Mountains	Bull. 1701-A.
AZ-040-001A	Needle's Eye	Bull. 1703-B.
AZ-040-008	Black Rock	Bull. 1703-C.
AZ-040-014	Fishhooks	Bull. 1703-A.
AZ-040-095	Dos Cabezas Mountains	Bull. 1703-D.
AZ-050-004	Chemehuevi/Needles	OF 87-566.

Reports available for review in BLM offices will not be available for sale or removal from those offices. Ordering and price information for these reports may be obtained at the following address: Books and Open-File Report Section, Western Distribution Branch, U.S. Geological Survey, Box 25425, Federal Center, Denver, CO 80225, (303) 236-7476.

DATE: New information will be accepted on the reports enumerated in this notice until January 15, 1988.

FOR FURTHER INFORMATION CONTACT: Larry P. Bauer, BLM, Arizona State Office, Division of Mineral Resources, P.O. Box 16563, Phoenix, AZ 85011 (602) 241-5507.

SUPPLEMENTARY INFORMATION: Section 603 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2785, directed the Secretary of the Interior to inventory lands having wilderness characteristics as described in the Wilderness Act of September 3, 1964, and from time to time report to the President his recommendations as to the suitability or non-suitability of each area for preservation as wilderness. The USGS and USBM are charged with conducting mineral surveys for areas that have been preliminarily recommended suitable by BLM for inclusion into the wilderness system to determine the mineral values, if any, that may be present in such areas.

There are 2,140,748 acres of Wilderness Study Areas identified by BLM in Arizona of which 1,015,656 acres have been preliminarily recommended suitable. To date, 7 combined mineral survey reports have been completed by the USGS/USBM. Approximately 9 reports will be completed in calendar year 1988.

To ensure that all available minerals data are considered by Congress prior to making its final wilderness suitability decisions, the BLM in Arizona is providing this public review and comment period. Usually there is a one to two year lag time between actual field work and final printing of a mineral survey report. New information may have been collected by the public during this lag time or the public may have a new interpretation of the data presented in the mineral survey reports. Any new data or new interpretations of data in the reports will be considered for its relevance and validity by the Bureau of Land Management. Significant new minerals data or new interpretations of the minerals data will be forwarded to the USGS and USBM for their information.

The information requested from the public via this invitation is not limited to any specific energy or mineral resource. Comments should be provided in writing and should be as specific as possible and include:

1. The name and number of the subject Wilderness Study Area and USGS/USBM Mineral Survey Report.
2. Mineral(s) of interest.
3. A map or land description by legal subdivision of the public land surveys or protracted surveys showing the specific parcel(s) of concern within the subject Wilderness Study Area.
4. Information and documents that depict the new data or reinterpretation of data.
5. The name, address, and phone number of the person who may be contacted by technical personnel of the BLM, USGS, or USBM assigned to review the information.

Geologic maps, cross sections, drill hole records and sample analyses, etc., should be included. Published literature and reports may be cited. Each comment should be limited to a specific Wilderness Study Area. All information submitted and market confidential will be treated as proprietary data and will not be released to the public without consent.

Lynn H. Engdahl,

Acting Arizona State Director, Bureau of Land Management.

Date: October 13, 1987.

[FR Doc. 87-24440 Filed 10-21-87; 8:45 am]

BILLING CODE 4310-32-M

Minerals Management Service

Development Operations Coordination Document; Hall-Houston Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Hall-Houston Oil Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 5992 and 5993, Blocks 780 and 781, respectively, Mustang Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Harbor Island, Texas.

DATE: This subject DOCD was deemed submitted on October 15, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service in considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 15, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-24442 Filed 10-21-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Hall-Houston Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Hall-Houston Oil company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 6177, Block A-14, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Galveston, Texas.

DATE: The subject DOCD was deemed submitted on October 13, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 15, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-24439 Filed 10-21-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Union Pacific Resources Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Pacific Resources Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 6214, Block A-231, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Galveston, Texas.

DATE: The subject DOCD was deemed submitted on October 13, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

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Date: October 14, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-24510 Filed 10-21-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Walter Oil & Gas Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Walter Oil & Gas Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 078, Block 51, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 13, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: October 14, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-24511 Filed 10-21-87; 8:45 am]

BILLING CODE 4310-MR-M

Fish and Wildlife Service

Availability of a Draft Environmental Impact Statement on the Use of Lampricides in a Temporary Program of Sea Lamprey Control in Lake Champlain With an Assessment of Effects on Certain Fish Populations and Sport Fisheries

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This Notice advises the public that the Draft Environmental Impact Statement on the Use of Lampricides in a Temporary Program of Sea Lamprey Control in Lake Champlain with an Assessment of Effects on Certain Fish Populations and Sport Fisheries is available for public review. Comments and suggestions are requested.

This proposal concerns the use of lampricides in a temporary program of sea lamprey control in the United States portion of Lake Champlain with an assessment of effects on certain fish populations and sport fisheries. The New York State Department of Environmental Conservation, Division of Fish and Wildlife, Bureau of Fisheries, in cooperation with the Vermont Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service, have proposed an 8-year program to reduce the abundance of sea lamprey in Lake Champlain. Landlocked Atlantic salmon, brown trout, steelhead, lake trout and other sport fish populations are being depressed by mortality from sea lamprey parasitism.The principal benefits of the program would be substantial improvement in sport fish populations and generation of $2.5 to $3.5 million in annual economic expenditures from increased angling activity.

This project would include the application of lampricides to tributaries, in-lake delta areas, and an evaluation of the effects of this treatment program on salmonid populations and fisheries. Specifically, the lampricide TFM would be applied to portions of the Great Chazy, Saranac, Salmon, Little Ausable, Ausable, and Boquet Rivers; Beaver and Mt. Hope Brooks, and Putnam Creek in New York State; Lewis Creek and Trout, Stone Bridge, and Indian Brooks in the State of Vermont, and the Poultney River which is a boundary water between the States of New York and Vermont. The lampricide Bayer 73 would be applied to delta areas associated with the Saranac, Salmon, Little Ausable, Ausable, and Boquet Rivers in New York State. Treatment areas are located in Clinton, Essex and Washington Counties in New York State and Addison, Chittendon and Rutland Counties in the State of Vermont. At each site, two treatments would occur during the 8-year program beginning in fall 1989.

DATES: Written comments are requested by March 31, 1988. Public hearings are likely to be held in February, 1988. The exact dates and locations will be announced via a separate notice to be published later.

ADDRESS: Comments should be addressed to Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Massachusetts 02158.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph W. Abele, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Massachusetts 02158. (617-965-5100, extension 382.)

Individuals wishing copies of the Draft Environmental Impact Statement should contact the above individual. Copies have been sent to appropriate federal, state and local agencies and are available for review at the above address. Copes are also available for review at the New York Department of Environmental Conservation, Bureau of Fisheries, Albany, New York; Vermont Agency of National Resources, Essex Junction, Vermont, as well as a number of libraries on the Vermont and New York sides of Lake Champlain.

SUPPLEMENTARY INFORMATION: This Draft Environmental Impact Statement presents an analysis of a proposal to use two chemical lampricides, TFM and Bayer 73 (5% Granular) to substantially reduce sea lamprey abundance in Lake Champlain for an 8-year period in order to determine the economic impact of the program and benefits to salmonid populations and sport fisheries.

TFM would be applied twice to sea lamprey-inhabited sections of 14 tributaries to the U.S. portion of Lake Champlain. The first round of treatments would begin in year 1 (1989) while the second round of treatments would begin in year 5 of the 8-year program. Each complete round of treatments would require application of 32,000 pounds of the TFM formulation (12,000 pounds of active ingredient) to about 81 miles of streams. Treatments would be conducted in September and October. Among the 14 streams, 9 are in New York, 4 are in Vermont and 1 is a boundary water between New York and Vermont.

Bayer 73 (5% Granular) would be applied twice to five sea lamprey-inhabited areas in New York waters of Lake Champlain with the second round of treatments following the first by 4 years. Each round of treatments would require the application of 85,000 pounds of the Bayer 73 (5% Granular) formulation (4,250 pounds of active ingredient) to 850 acres of stream deltas in September.

Three program alternatives are discussed in this Draft Environmental Impact Statement. These include the following:

Alternative I

This is the proposed action. It proposes an 8-year experimental program involving two complete rounds of treatments with lampricides to reduce sea lamprey abundance and incorporating a comprehensive evaluation of impacts. Results would determine the long term direction.

This approach would (1) demonstrate the maximum salmonid performance harvest, and economic impacts that a sea lamprey control program is capable of providing, and (2) it would provide information required for long term efficient management program of sea lamprey control.

Alternative II

This alternative discusses an immediate implementation of a permanent sea lamprey control program using lampricides as the primary control method and supplemented with selective development of sea lamprey barriers. Long term fine tuning would lead to the most cost-efficient and environmentally compatible program, incorporation new sea lamprey control methods as they became available. While this alternative would not provide a comprehensive evaluation of program impacts, information available from the Great Lakes and Finger Lakes suggest that this approach would probably be correct in that sea lamprey reduction would lead to dramatic improvements in salmonid abundance and size, fisheries quality, and recreational and economic benefits.

Alternative III

This is the "No Action" alternative. It features abandonment of all efforts to control sea lamprey and a substantial cutback in annual salmonid stocking levels resulting from termination of federal involvement in the program.

Benefits from this alternative would be somewhat less than those presently obtained without sea lamprey control as a result of stocking reduction. Environmental impacts and concerns associated with use of lampricides and barrier dams are eliminated as is the need for funding to support sea lamprey control/evaluation efforts.

There are several other program alternatives which were considered but dismissed including partial sea lamprey control using only barrier dams (no lampricides), and partial sea lamprey control treating one major sea lamprey inhibited basin with lampricides, and holding a second basin as an untreated control.

Eleven techniques for sea lamprey control were examined as possible alternatives to the use of lampricides. These included trapping, fishing, electrofishing, parasites and pathogens, natural predators, sterile male releases, attractants and repellents, competitive displacement by nonparasitic lamprey, modification of stream habitat, increased stocking of salmonids, and stocking of sea lamprey resistant strains of salmonids. It was concluded that none would be effective in the control of sea lamprey in Lake Champlain.

Howard N. Larsen,

Regional Director

[FR Doc. 87-24469 Filed 10-21-87; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275-6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1325, 12th and Constitution Avenue NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395-7340.

Type of Clearance: Revision
Bureau/Office: Office of Transportation Analysis
Title of Form: Boxcar Exemption Monitoring Study
OMB Form No.: 3120-0125
Agency Form No.: NA
Frequency: Nonrecurring
Respondents: Firms shipping or receiving freight by rail boxcar
No. of Respondents: 40
Total Burden Hrs.: 53

Brief Description of the need & proposed use: This information is needed to monitor the exemption of boxcar traffic and to provide information to the congressional oversight committees on the results of the Stagers Rail Act.

Type of Clearance: Extension
Bureau/Office: Office of Proceedings
Title of Form: Application for authority under 49 U.S.C. 11343, 11344 to consolidate, merge, purchase or lease operating rights and properties, or any part thereof, of a motor carrier.
OMB Form No.: 3120-0080
Agency Form No.: OP-F-44
Frequency: Nonrecurring
Respondents: Motor carriers proposing transactions under 49 U.S.C. 11343 & 11344.
No. of Resondents: 14
Total Burden Hrs.: 1,120

Brief Description of the need & proposed use: Information regarding business structure, affiliates, financial status and transportation operations under the proposal provides the Commission minimum factual basis to make a decision whether to authorize a transaction.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24478 Filed 10-21-87; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P-93]

Passenger Train Operation; The Atchison, Topeka and Santa Fe Railway Co.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois and San Antonio, Texas, via Taylor, Texas. The operation of these trains requires the use of the tracks and other facilities of Missouri-Kansas-Texas Railroad Company (MKT). A portion of the MKT tracks near Little River, Texas, are temporarily out of service because of bridge fire. An alternate route is available via The Atchison, Topeka and Santa Fe Railway Company between Temple and Taylor, Texas.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

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It is ordered, (a) Pursuant to the authority vested in me by order of the Commission decided January 13, 1986, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), The Atchison, Topeka and Santa Fe Railway Company (ATSF) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Temple, Texas, and a connection with Missouri-Kansas-Texas Railroad Company at Taylor, Texas.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 5:00 p.m., (EDT), October 3, 1987.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (CDT), October 5, 1987, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon The Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, DC, October 3, 1987.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24314 Filed 10-21-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-33 (Sub-No. 47X)]

Union Pacific Railroad Co.; Abandonment Exemption; Solano County, CA (Dozier Branch)

Union Pacific Railroad Company has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments,* to abandon its 0.64-mile line of railroad in Solano County, CA, between milepost 0.93 near Cannon, and the end of the line at milepost 7.57.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years and the line does not handle overhead traffic; and (2) no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

Applicant has filed an environmental report which shows that no significant environmental or energy impacts are likely to result from this abandonment.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective November 21, 1987 (unless stayed pending reconsideration). Petitions to stay must be filed by November 2, 1987, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 12, 1987 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Joseph D. Anthofer, Law Department, 1416 Dodge Street, Omaha, NE 68179.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 6, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24224 Filed 10-21-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act; Arizona et al.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on September 29, 1987, a proposed partial Consent Decree in *United States v. State of Arizona, et al.,* Civil No. 86-1059 PHX RGS was lodged with the United States District Court for the District of Arizona. The proposed Consent Decree concerns the prevention of the discharge of pollutants by the Town of Florence without a National Pollutant Discharge Elimination System permit and in violation of the Clean Water Act. The proposed Consent Decree requires the Town of Florence to achieve compliance with the Act and its new permit, to expand the capacity of its wastewater treatment plant and to pay a civil penalty of $25,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to Town of Florence, D.J. Ref. 90-5-1-1-2649.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Arizona, 230 North First Avenue, Phoenix, Arizona 85025, and at the Region 9 Office of the Environmental Protection Agency, 216 Fremont Street, San Francisco, California 94105. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $1.10 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-24454 Filed 10-21-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Partial Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act and The Resource Conservation and Recovery Act in United States v. Royal N. Hardage et al.

In accordance with Department policy, 28 CFR 50.7, and section 112(i) of the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat 1613 (1986) notice is hereby given that on October 13, 1987, a proposed Partial Consent Decree in *United States* v. *Royal N. Hardage, et al.* ("Hardage"), Civil Action No. CIV-86-1401-P was lodged with the United States District Court for the Western District of Oklahoma. The complaint in this enforcement action was filed on June 25, 1986, against Royal N. Hardage, the Hardage Site owner-operator, and thirty-five companies who allegedly generated or transported hazardous waste to the Site for disposal. The complaint was brought under sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9606 & 9607 and section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973, seeking equitable relief to remedy an imminent and substantial endangerment to the health and welfare of persons and to the environment at the Hardage Site, a 75 acre parcel of land located approximately one mile west of the town of Criner, McClain County, Oklahoma on which an industrial and hazardous waste landfill was operated from 1972 through 1980. The Partial Consent Decree provides for the defendants who participate in the Partial Consent Decree to conduct a Remedial Investigation and Feasibility Study (RI/FS) designed to investigate the off-site migration of hazardous substances from the Hardage Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Partial Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Royal N. Hardage, et al.,* D.J. No. 90-7-1-30A.

The proposed Partial Consent Decree may be examined at the Office of the United States Attorney, Room 4434, United States Courthouse, Oklahoma City, Oklahoma; at the Environmental Enforcement Agency, Region VI, Office of Regional Counsel, 13th Floor, 1445 Ross Ave., Dallas, Texas; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Partial Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Lands and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $17.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-24453 Filed 10-21-87; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of established 1988 Aggregate Production Quotas.

SUMMARY: This notice establishes 1988 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act.

DATE: This order is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, 1405 Eye Street NW., Washington, DC 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration (DEA) by § 0.100 of Title 28 of the Code of Federal Regulations.

On Wednesday, July 29, 1987, a notice of the proposed 1988 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (52 FR 28360). All interested parties were invited to comment on or object to those proposed aggregate production quotas on or before August 28, 1987.

DEA received more than thirty-five comments concerning the proposed aggregate quota for methylphenidate. These comments were from numerous individuals, including physicians, educators and parents, and from organizations including C.H.I.L.D. Group, Inc. of Atlanta, Georgia, and the Citizens Commission on Human Rights of Los Angeles, California. These comments, in one way or another, expressed opposition to the use of methylphenidate in the treatment of Attention Deficit Disorder (ADD) in children, the primary medical use for methylphenidate in the United States. The propriety of the use of of methylphenidate to treat ADD is a medical issue which should be addressed to the Food and Drug Administration. It should be noted that the use of methylphenidate in the treatment of ADD is one of the uses of methylphenidate specifically approved by FDA. Accordingly, these comments have been misdirected to DEA. Copies of each of the comments concerning methylphenidate have been forwarded to FDA for any appropriate consideration by that agency.

Western Fher Laboratories, Ciba-Geigy and Boehringer Ingelheim jointly and through counsel filed objections and comments and requested a hearing on the proposed 1988 aggregate production quota for phenmetrazine. They commented that the proposed 1988 aggregate quota is apparently based on an inappropriate estimate by the FDA of the medical need for phenmetrazine in the United States for 1988. They also stated that since the proposed APQ is zero, existing inventories will not be sufficient to supply the legitimate medical need and inventory needs for phenmetrazine during 1988 and for the remainder of 1987. DEA has received data from Ciba-Geigy and Western Fher which indicates that December 31, 1986 inventories were sufficient to meet medical needs for 1987 and projected requirements for 1988. Therefore, DEA has determined that no increase in the 1988 APQ for phenmetrazine is necessary.

Relative to alfentanil and sufentanil, Janssen, Inc., of Puerto Rico commented that based on their marketing forecasts, the 1988 aggregate production quotas for alfentanil and sufentanil should be increased. At this time, DEA has determined that no increase is necessary; however, DEA will consider these comments when the established quotas are reviewed in early 1988.

Pursuant to sections 3(c)(3) and 3(e)(2)(b) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of annual aggregate production quotas for Schedule I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

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Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the 1988 aggregate production quotas for Schedule I and II controlled substances, expressed as grams of anhydrous acid or base, be established as follows:

Basic Class and established 1988 Quotas	
Schedule I:	
2,5-Dimethoxyamphetamine	13,500,000
Lysergic Acid Diethylamide	6
3,4-Methylenedioxyamphetamine	5
3,4-Methylenedioxymethamphetamine	10
Tetrahydrocannabinols	20,000
Psilocyn	2
Psilocybin	2
Normorphine	3
Schedule II:	
Alfentanil	3,500
Amobarbital	0
Amphetamine	371,000
Cocaine	700,000
Codeine (for sale)	38,277,000
Codeine (for conversion)	4,349,000
Desoxyephedrine	1,418,000

1,400,000 grams for the production of levodesoxyephedrine for use in a noncontrolled, nonprescription product, and 18,000 grams for the production of methamphetamine.

Dextropropoxyphene	74,075,000
Dihydrocodeine	882,000
Diphenoxylate	1,099,000
Ecgonine (for conversion)	680,000
Fentanyl	6,100
Hydrocodone	2,380,000
Hydromorphone	168,000
Levorphanol	16,800
Meperidine	10,716,000
Methadone	1,291,000
Methadone Intermediate (4-Cyano-2-dimethylamino-4,4-diphenylbutane)	1,998,000
Methamphetamine (for conversion)	1,890,000
Methylphenidate	2,917,000
Mixed Alkaloids of Opium	7,000
Morphine (for sale)	3,148,000
Morphine (for conversion)	62,846,000
Opium (tinctures, extracts, etc., expressed in terms of USP powdered opium)	1,527,000
Oxycodone (for sale)	2,122,000
Oxycodone (for conversion)	5,200
Oxymorphone	2,500
Pentobarbital	11,737,000
Phencyclidine	31
Phenmetrazine	0
Phenylacetone (for conversion)	1,020,000
1-Piperidinocyclohexanecarbonitrile (for conversion)	20
Secobarbital	1,573,000
Sufentanil	450
Thebaine	6,116,000

DEA will review the above established quotas early in 1988 to take into consideration actual 1987 sales and actual December 31, 1987 inventories as well as other information which might be available to DEA. At that time, DEA will again consider comments received in response to the proposal of July 29, 1987.

John C. Lawn,
Administrator, Drug Enforcement Administration.
Dated: October 9, 1987.

[FR Doc. 87-24473 Filed 10-21-87 8:45 am]
BILLING CODE 4410-09-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received Under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 23, 1987. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTAL INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctic and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the **Federal Register** on July 24, 1987.

The application received is as follows:

1. Applicant

John L. Bengtson, National Marine Mammal Laboratory, 7600 Sand Point Way, NE., Seattle, Washington 98115.

Activity for Which Permit Requested

Export from U.S.A. The applicant seeks permission to export samples taken from Antarctic pinnipeds. The samples were taken under the authority of an Antarctic Conservation Act Permit previously issued to the applicant. Blubber, liver and muscle/organ samples are to be exported to the Swedish Museum of Natural History. Exported samples would be retained in Sweden for analysis and curation.

Dates

November 1987-October 1989.

Charles E. Myers,
Permit Office.

[FR Doc. 87-24440 Filed 10-21-87; 8:45 am]
BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Science and Technology Centers Development; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Science and Technology Centers Development
Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, DC 20550
Date: November 9 and 10, 1987
Time: 9:00 a.m.
Type of Meeting: Open

Contact: Dr. Alan I. Leshner, Director, Office of Science and Technology Centers Development, Room 414, National Science Foundation, Washington, DC 20550 Telephone: 202/357-9608. Please call by November 4 if you plan to attend.

Purpose of Meeting: To provide advice on the development of the National Science Foundation's Science and Technology Research Centers Program.

Summary Minutes: May be obtained from Director, Office of Science and Technology Centers Development.

Agenda: Discussion of review and selection procedures and criteria for Science and Technology Centers.

M. Rebecca Winkler,
Committee Management Officer.
October 19, 1987.

[FR Doc. 87-24499 Filed 10-21-87; 8:45 am]
BILLING CODE 7555-01-M

Advisory Panel for Advanced Scientific Computing and Networking and Communications Research and Infrastructure; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Advanced Scientific Computing and Networking and Communications Research and Infrastructure
Dates and Times: November 13-8:00 a.m.-3:00 p.m.
Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, DC 20550.
Type of Meeting: Open
Contact Person:

Dr. Melvyn Ciment, National Science Foundation, Room 533, Phone: 202/357-7558

Summary of Minutes: May be obtained from Melvyn Ciment.

Purpose of Meeting: To provide advice and recommendations concerning NSF support of advanced scientific computing.

Agenda: The sessions will focus on planning and policy issues. These will include a review of recent actions and budget priorities.

M. Rebecca Winkler,
Committee Management Officer.
October 19, 1987.

[FR Doc. 87-24495 Filed 10-21-87; 8:45 am]
BILLING CODE 7555-01-M

Advisory Panel for Molecular and Cellular Neurobiology Program; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Molecular and Cellular Neurobiology Program.

Date & Time: November 9-11, 1987, 9:00 a.m. to 5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street NW., Washington, DC Room 1242.

Type of Meeting: Closed.

Contact Person: Dr. Richard D. Broadwell, Director for the Molecular and Cellular Neurobiology Program, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357-7471.

Minutes: May be obtained from the contact person at the above stated address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in molecular and cellular neurobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
October 19, 1987.

[FR Doc. 87-24516 Filed 10-21-87; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-263]

Northern States Power Co., Monticello Nuclear Generating Plant; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-22, issued to Northern States Power Company (the licensee), for operation of the Monticello Nuclear Generating Plant, located in Wright County, Minnesota.

Identification of Proposed Action

The amendment would consist of a change to the operating license to extend the expiration date of the operating license for Monticello Nuclear Generating Plant from June 19, 2007 to September 8, 2010. The license amendment is responsive to the licensee's application dated February 14, 1986, as supplemented on August 26, 1987. The Commisison's staff has prepared an environmental assessment of the proposed action, "Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to the Change in Expiration Date of Facility Operating License No. DPR-22, Monticello Nuclear Generating Plant, Docket No. 50-263," dated October 1987.

Summary of Environmental Assessment

The Commission's staff has reviewed the potential environmental impact of the proposed change in the expiration date of the operating license for Monticello Nuclear Generating Plant. This evaluation considered the previous environmental studies, including the "Final Environmental Statement Related to Operation of Monticello Nuclear Generating Plant," (FES) November 1972, and more recent NRC policy.

Radiological Impacts

Based on the 1980 census, the population within 10 miles of the plant has not changed significantly over what was forecast in the FES. The actual permanent population within the low population boundary (a 1-mile radius) was 8 in 1970, 24 in 1986 and is estimated not to change significantly in 2010. The staff concludes that the Low Population Zone and the nearest population center distances will likely be unchanged from those used for licensing the unit. Therefore, the conclusion reached in the staff's Safety Evaluation in 1970 that Monticello Nuclear Generating Plant meets the requirements of 10 CFR Part 100 remains unchanged.

Station radiological effluents released to unrestricted areas during normal operation have been well within Commission regulations regarding as-low-as-is-reasonably-achievable (ALARA) limits, and are indicative of future releases. In addition, the proposed additional years of reactor operation do not increase the annual public risk from reactor operation. Thus, environmental impact findings in the FES are not changed.

With regard to normal plant operation, the licensee complies with Commission guidance and requirements for keeping radiation exposures "as low as is reasonably achievable" (ALARA) for occupational explosures and for radioactivity in effluents. The licensee would continue to comply with these requirements during any additional years of facility operation and also apply advanced technology when available and appropriate. Accordingly, radiological impacts on man, both onsite and offsite, are not significantly more severe than previously estimated in the FES and our previous cost-benefit conclusions remain valid.

The environmental impacts attributable to transportation of fuel and waste to and from the Monticello Nuclear Generating Plant, with respect to normal conditions of transport and possible accidents in transport, would be bounded as set forth in Summary Table S-4 of 10 CFR 5012, and the values in Table S-4 would continue to represent the contribution of transportation to the environmental costs associated with the reactor.

Nonradiological Impacts

The Commission has concluded that the proposed extension will not cause a

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significant increase in the impacts to the environment and will not change any conclusions reached by the Commission in the FES.

Finding of No Significant Impact

The Commission's staff has reviewed the proposed change to the expiration date of the Monticello Nuclear Generating Plant operating license relative to the requirements set forth in 10 CFR Part 51. Based upon the environmental assessment, the staff concluded that there are no significant radiological or nonradiological impacts associated with the proposed action and that the proposed license amendment will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see (1) the application for amendment dated February 14, 1986, as supplemented August 26, 1987, (2) the Final Environmental Statement Related to Operation of Monticello Nuclear Generating Plant, issued November 1972, and (3) the Environmental Assessment dated October 15, 1987. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, Washington, DC, 20555 and in the local public document room located at Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Bethesda, Maryland, this 15th day of October 1987.

For the Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate III–3, Division of Reactor Projects.

[FR Doc. 87–24503 Filed 10–21–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–440]

Cleveland Electric Illuminating Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–58, issued to the Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company and Toledo Edison Company (the licensees), for operation of the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio.

The amendment would make various changes to the organization charts, Figures 6.2.1–1 and 6.2.2–1 of the Technical Specifications, to revise titles and delete non-key positions in accordance with the licensees' application for amendment dated September 22, 1987.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previsouly evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensees have submitted an analysis in accordance with 10 CFR 50.91 as to whether the proposed amendment involves a significant hazards consideration. The licensees have stated that this proposed amendment does not affect any portions of the plant operations, or the manner in which plant operations will be conducted. As a result, the licensees have concluded that this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Further, the licensees have stated that this proposed amendment does not involve any change to the physical structure of the plant, or any of the systems or components of the plant. This proposed change is purely administrative in nature, and does not reduce the qualification requirements described in Final Safety Analysis Report (FSAR) section 13.1.3. Therefore, the licensees have concluded that this amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The licensees have also stated that this proposed amendment does not affect any portion of the Technical Specifications other than the organization charts. No technical changes, changes to the bases, or any other administrative changes are involved with this proposed change. The licensees have concluded that this proposed amendment does not involve a significant reduction in a margin of safety.

The Commission's staff has reviewed the licensees' determination and agrees with their findings. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Offices of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland, from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC. The filing or requests for hearing and petitions for leave to intervene is discussed below.

By November 23, 1987, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule in the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the

results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requested leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, nothwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H. Street NW, Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Martin J. Virgilio: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW, Washington, DC 20037, attorney for the licensees.

Nontimely filings petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, DC, and at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Bethesda, Maryland, this 16th day of October 1987.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Project Manager Project, Directorate III–1, Division of Reactor Projects–III, IV, V & Special Projects.

[FR Doc. 87–24504 Filed 10–21–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–400]

Carolina Power & Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–63, issued to Carolina Power & Light Company (the licensee), for operation of the Shearon Harris Nuclear Power Plant, Unit 1 located in Wake County, North Carolina.

The amendment would revise Technical Specification 4.8.1.1.2.f.11 such that the diesel generator voltage maximum value would be based on a 110 percent of the diesel generator starting voltage at the beginning of the diesel generator load rejection test rather than the limiting value of 7590 volts currently stipulated in the Technical Specifications.

The Shearon Harris plant is presently in a scheduled maintenance outage. The licensee stated in a submittal dated October 15, 1987, that restart is scheduled for November 4, 1987. The noticing of the amendment is being handled as an exigency because insufficient time exists for the Commission's usual 30-day notice without extending the current outage.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of

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a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has reviewed this request and determined, and the NRC staff concurs, that:

1. The proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated because the change does not affect the method in which the diesel generators, or any other safety system, perform their intended safety function. Diesel generator and voltage regulator operability is still ensured and the intent of Surveillance Requirement 4.8.1.1.2.f.11 to verify the ability of the diesel generator to perform satisfactorily during a full load rejection is still fulfilled by the revised surveillance requirement. The revision merely allows the operational flexibility to perform the required surveillance without reliance on system grid voltage conditions.

2. The proposed amendment does not create the possibility of a new or different kinds of accident than previously evaluated. As stated above, no physical change to any safety related system, nor change in the method in which any safety system performs its intended function result from the proposed amendment. Therefore, the proposed amendment cannot create the possibility of a new or different kind of accident than previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety. Diesel generator and voltage regulator operability and the ability to incur a load rejection without a diesel generator overspeed trip or excess voltage is adequately ensured by the revised surveillance requirement. As such, the margin of safety is not affected by the proposed amendment.

Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Licensee has provided the Commission with an explanation of the circumstances justifying consideration of this amendment on an exigent basis. The licensee stated in its October 15, 1987 submittal that it "had no previous reason to suspect that failure of this surveillance requirement would occur." The NRC staff has reviewed the Licensee's request and finds that the Licensee has used its best efforts to apply for the subject amendment in a timely manner and that it has not acted in a manner as to create the exigency to take advantage of these procedures.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 6, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Thomas A. Baxter, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 15, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Local Public Document Room, Richard B. Harrison Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610.

Dated at Bethesda, Maryland, this 20 day of October 1987.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II–1, Division of Reactor Projects I/II.

[FR Doc. 87–24593 Filed 10–21–87; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–25019; File No. SR–MSE–87–12]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 11, 1987, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Article XX, Rule 8 of the Rules of the Midwest Stock Exchange, Incorporated is hereby amended as follows:
Additions italicized—[Deletions Bracketed]

Article XX Making Exchange Contracts Recognized Quotations.

Rule 8. Paragraph 1 remains changed.

Paragraph 2.

The following interpretations and policies pertain, *except where otherwise indicated,* to all specialist system issues for which last sale information is reported in the consolidated transaction reporting system.

* * * Interpretations and Policies:

.01 remains unchanged.

.02 In respect to Dual Trading System issues specialists utilizing the Auto Quote mode are prohibited from disseminating a bid and/or offer more than 1/8 point away from the best [ITS] *primary* market[.] *in those specialist system issues not specified in .03 below.*

.03 In respect to specialist system issues that have fifty million (50,000,000) or more shares outstanding, and where the price per share is less than one hundred dollars ($100.00), specialists utilizing the Auto Quote mode are required to display a bid 3/8 point less than the best primary market bid and 3/8 point greater than the best primary market offer.

Paragraphs previously numbered .03 through .10 will be renumbered so that they now read .04 through .11.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish, in certain designated issues, new quotation parameters in respect to the use by specialists of the Auto Quote capability of the Exchange's trading support system. The proposed rule change will require that specialists utilizing Auto-Quote must display a bid 3/8 point less than the best primary market offer. This will encourage specialists to quote manual markets a majority of the time, and use the Auto Quote function only when circumstances warrant.

This rule change will be implemented on a pilot basis for three (3) months or such earlier period, if so determined by the Committee on Floor Procedure. If the pilot program terminates and is not extended the current Auto Quote Paramenters will again govern.

The proposed rule change is consistent with Section 6 of the Securities Exchange Act of 1934 in that it will facilitate transactions in securities, and remove impediments to, and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

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(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will (A) by order approve the proposed rule change, or (B) institute proceeddings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Person making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC Copies of such filing will also be available for inspection and coyping at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and shculd be submitted by November 21, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 13, 1987.

[FR Doc. 87-24505 Filed 10-21-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25020; File No. SR-MSRB-87-10]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

The Municipal Securities Rulemaking Board ("MSRB") submitted on August 26, 1987, a proposed rule change (File No. SR-MSRB-87-10) pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4. The proposed rule change amends MSRB Rule G-34 on CUSIP numbers and dissemination of initial trade date information. The proposed rule change requires brokers, dealers and municipal securities dealers who sell or offer to sell secondary market municipal securities to apply for new CUSIP numbers for the securities whenever the CUSIP number assigned to the securities no longer designates a single, fully fungible group of securities.

Notice of the proposed rule change was given in Securities Exchange Act Release No. 24875 (September 3, 1987), 52 FR 34331. The Commission received no comments on the proposal. This order approves the proposal.

Currently, Rule G-34 currently requires brokers, dealers and municipal securities dealers to apply for CUSIP numbers for secondary market municipal securities in two circumstances: (1) When a new issue will be used to refund a maturity of an outstanding issue to more than one date or price; and (2) when a dealer arranges for an enhancement of the security or source of payment for part of a maturity of an outstanding issue (*e.g.*, bond insurance or a put option). The amendments to Rule G-34 are intended to expand the scope of the Rule to cover other circumstances in which a new CUSIP number should be obtained because the securities represented by the CUSIP number are no longer fungible.

Amended Rule G-34 would require a broker, dealer or municipal securities dealer to apply for new CUSIP numbers for any securities it offers or sells if the CUSIP number assigned to the issue no longer designates a group of fungible securities because they no longer have certain identical features. These features are:

(1) Complete name of issue and series designation, if any;

(2) Interest rate(s) and maturity date(s);

(3) Dated date;

(4) Type of issue (*e.g.*, general obligation, limited tax or revenue);

(5) Type of revenue, if the issue is a revenue issue;

(6) Details of all redemption provisions; [1]

(7) Name of any company or other person in addition to the issuer obligated, directly or indirectly, on the debt service on all or part of the issue; and

(8) Any distinction(s) in the security or source of payment of the debt service on the issue.

The Commission believes the importance of CUSIP numbers cannot be understated. Because they serve as a universally accepted shorthand description for securities issues, it is critical that they accurately describe a single, fungible group of securities. The Commission believes that this proposed rule change imposes an appropriate burden on brokers, dealers, and municipal securities dealers to ensure that securities they sell or offer to sell are assigned a unique CUSIP number that accurately describes a single, fungible group of securities. The Commission therefore finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular the requirements of Section 15B of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 14, 1987.

[FR Doc. 87-24506 Filed 10-21-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0342]

Issuance of a Small Business Investment Company License; Milk Street Partners, Inc.

On May 20, 1987, a notice was published in the **Federal Register** (52 FR 19013) stating that an application has been filed by Milk Street Partners, Inc., Boston, Massachusetts with the Small Business Administration (SBA) pursuant to the Regulations governing small business investment companies (13 CFR 107.102 (1987)) for a license as a small business investment company.

Interested parties were given until close of business June 19, 1987, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/01-0342 on September 17, 1987, to Milk Street Partners, Inc., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: October 15, 1987.

[FR Doc. 87-24517 Filed 10-21-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0498]

Issuance of License of a Small Business Investment Company License; Onondaga Venture Capital Fund, Inc.

On August 13, 1986, a notice was published in the **Federal Register** (51 FR 29041) stating that an application had been filed by Onondaga Venture Capital Fund, Inc., Syracuse, New York, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1987)) for a license to operate as a small business investment company.

Interested parties were given until close of business September 12, 1986, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-0498 on September 30, 1987, to Onondaga Venture Capital Fund, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: October 15, 1987.

[FR Doc. 87-24518 Filed 10-21-87; 8:45 am]

BILLING CODE 8025-01-M

[1] Consistent with prior Board interpretations, the term "redemption provisions" includes put options that may apply to a particular issue. *See* MSRB Manual (CCH), ¶ 3556.25.

DEPARTMENT OF STATE

[CM-8/1128]

Soviet and Eastern European Studies Advisory Committee; Meeting

The Department of State announces that the Soviet and Eastern European Studies Advisory Committee will meet on November 17, 1987 starting at 9:00 a.m. in Room 1107, U.S. Department of State, 2201 C Street NW., Washington, DC.

The Advisory Committee will recommend grant recipients for the advancement of the objectives of the Soviet-Eastern European Research and Training Act of 1983. The agenda will include: Opening statements by the Chairman of the Committee and its members; oral statements by interested members of the public and receipt of written statements; and within the Committee, discussion, approval, and recommendation that the Department of State negotiate grant agreements with certain "national organizations with an interest and expertise in conducting research and training concerning the USSR and Eastern Europe" based on the guidelines contained in the Call for Applications published in the **Federal Register** on July 28, 1987.

Public attendance is permitted but will be limited to the seating available. Entry into the Department of State building is controlled and must be arranged in advance of the meeting. It is required that persons planning to attend notify Susan H. Nelson, Soviet and Eastern European Studies Advisory Committee, INR/LAR, U.S. Department of State, Washington, DC 20520, (202)632-5924. All attendees must use the C Street entrance to the building.

E. Raymond Plating,

Executive Director, Soviet and Eastern European Studies Advisory Committee.

Date: October 13, 1987.

[FR Doc. 87-24512 Filed 10-21-87; 8:45 am]

BILLING CODE 4710-32-M

DEPARTMENT OF TRANSPORTATION

[Docket No. 37554]

Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Pub. L. 98-192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. Order 80-2-69 established the first interim SFFL and Order 87-8-15 set the currently effective two-month SFFL applicable through September 30, 1987.

In establishing the SFFL for the two-month period beginning October 1, 1987, we have projected nonfuel costs based on the year ended June 30, 1987 data, and have determined fuel prices on the basis of the latest experienced monthly fuel cost levels as required to the Department.

By Order 87-10-28 fares may be increased by the following factors over the October 1, 1979, level:

Atlantic: 1.1205
Latin America: 1.1335
Pacific: 1.5426
Canada: 1.0950

For further information contact: Julien R. Schrenk (202) 366-2441.

By the Department of Transportation:

Dated: October 16, 1987.

Philip W. Haseltine,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-24446 Filed 10-21-87; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 87-080]

Towing Safety Advisory Committee; Request for Membership Applications

AGENCY: Coast Guard, DOT.

ACTION: Request for Applications.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership in the Towing Safety Advisory Committee (TSAC). This committee Advises the Secretary of Transportation on rulemaking matters related to shallow draft and coastal waterway navigation and towing safety.

Nine members will be appointed as follows: Four (4) representatives from the barge and towing industry; one (1) representative from the offshore mineral and oil supply vessel industry; two (2) representatives from maritime labor; and two (2) representatives for shippers.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women. The Committee will meet at least once a year in Washington, DC or another location selected by the Coast Guard.

DATES: Requests for applications should be received no later than 1 December 1987 and must be completed and

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returned to the Coast Guard no later than 15 December 1987.

ADDRESS: Persons interested in applying should write to Commandant (G-CMC/21), U.S. Coast Guard, Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: Captain J.J. Smith, Executive Director, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC/21), Washington, DC 20593-0001 or by calling (202) 267-1477.

Dated: October 19, 1987.

J.J. Smith,

Captain, U.S. Coast Guard, Executive Director, Towing Safety Advisory Committee.

[FR Doc. 87-24502 Filed 10-21-87; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement; Anchorage, AK

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the Municipality of Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Tom Neunaber, Field Operations Engineer, Federal Highway Administration, P.O. Box 021648, Juneau, Alaska 99802, Telephone (907) 586-7428; or Merlyn L. Paine, Central Region Environmental Coordinator, Alaska Department of Transportation and Public Facilities, P.O. Box 196900, Anchorage, Alaska 99519-6900, Telephone (907) 266-1508.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Alaska Department of Transportation and Public Facilities (ADOT&PF), will prepare an environmental impact statement (EIS) on proposed improvements to the Seward Highway in the Municipality of Anchorage, Alaska. The project area extends from Girdwood (Milepost [MP] 90.3) to Bird Point (MP 97.0). This is the final part of a three-stage project to reconstruct the Seward Highway from Girdwood to Potter (Project No. F-031-2[40]). The proposed action involves the reconstruction of an approximately seven mile stretch of the Seward Highway between MP 90.3 and MP 97.0.

The proposed action is necessary to upgrade the existing facility to current State standards in order to meet the public need for more efficient traffic flow and increased safety for highway users. The following alternatives are under consideration: (1) No action; (2) Upgrade the roadway along the existing alignment; and, (3) Realignment of the highway to the Turnagain Arm side of the Alaska Railroad Corporation (ARRC) tracks.

Comments from appropriate Federal, State, and local agencies; private organizations; and the public; will be solicited during the scoping process to identify the full range of issues related to the proposed action. This process will include informational/scoping meetings, as well as written correspondence. All meetings will be announced well in advance of their scheduled dates.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from any interested parties. Comments and questions concerning the proposed action and the EIS should be directed to the FHWA or the ADOT&PF at the addresses provided above.

(Catalog of Federal μDomestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Issued on: October 14, 1987.

Barry F. Morehead,

Division Administrator, Federal Highway Administration, Juneau, Alaska.

[FR Doc. 87-24514 Filed 10-21-87; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Cities of Virginia Beach and Chesapeake

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the Cities of Virginia Beach and Chesapeake.

FOR FURTHER INFORMATION CONTACT: George E. Kirk, Jr., District Engineer, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia 23240-0045, Telephone (804) 771-2380.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Virginia Department of Transportation (VDOT), will prepare an environmental impact statement (EIS) on a proposal to construct a six-lane (ultimate eight-lane) limited access highway from Interstate Route 64 in the City of Chesapeake to a connection with Route 44 in the City of Virginia Beach. The length of the proposed highway is approximately 21 miles. The proposed highway will provide freeway access to the developing area in Southeastern Virginia and will afford relief to many congested urban arterial routes.

Alternatives under consideration include: (1) Taking no action (no build), (2) mass transit, (3) Transportation System Management (improving existing streets), and (4) build alternatives.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. No formal scoping meeting is planned at this time. The Draft EIS will be available for public and agency review and comment. Following publication of the Draft EIS, a public hearing will be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the Draft EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.250, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local review of Federal and Federally assisted programs and projects apply to this program.

Issued on: October 16, 1987.

George E. Kirk, Jr.,

District Engineer.

[FR Doc. 87-24445 Filed 10-21-87; 8:45 am]

BILLING CODE 4910-22-M

VETERANS ADMINISTRATION

Advisory Committee on Structural Safety of Veterans Administration Facilities; Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Advisory Committee on Structural Safety of Veterans Administration Facilities has been renewed for a two year period beginning October 13, 1987 through October 13, 1989.

Dated: October 15, 1987.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 24487 Filed 10-21-87; 8:45 am]

BILLING CODE 8320-01-M

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Sunshine Act Meetings

Federal Register
Vol. 52, No. 204
Thursday, October 22, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 27, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, October 29, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Proposed Rulemaking on Allocations Between Federal and Non-federal Accounts.
Draft Advisory Opinion 1987-27-Philip R. Marx on behalf of Bell Atlantic Corporation
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Mary W. Dove,
Administrative Assistant.
[FR Doc. 87-24589 Filed 10-20-87; 3:13 pm]
BILLING CODE 6715-01-M

POSTAL SERVICE

(Board of Governors)

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, November 2, 1987, in Washington, DC, and at 8:30 a.m. on Tuesday, November 3, 1987, in the Benjamin Franklin Room, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC. As indicated in the following paragraph, the November 2 meeting is closed to the public. The November 3 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

The Board voted in accordance with the provisions of the Government in the Sunshine act to close to public observation its meeting scheduled for November 2, 1987, to consider pros and cons of independent advisers for Governors in considering rate decisions. [52 FR 38564, October 16, 1987.]

Agenda

Monday Session

November 2, 1987—1:00 p.m. (Closed)

1. Consideration of Independent Advisers for Governors for R87-1 Rate Decision.

Tuesday Session

November 3, 1987—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, October 5-6, 1987.
2. Remarks of the Postmaster General.
3. Status Report on CSRS/FERS.
4. Review of 5-Year Plan.
5. Quarterly Report on Service Performance.
6. Report on Human Resources Group Programs.
7. Capital Investments:
   a. Alhambra, CA, GMF;
   b. Champaign, IL, GMF/VMF.
8. Tentative Agenda for December 7-8, 1987, Meeting in Washington, DC.

David F. Harris,
Secretary.
[FR Doc. 87-24587 Filed 10-20-87; 2:36 pm]
BILLING CODE 7710-12-M

federal register

Thursday
October 22, 1987

Part II

Department of Labor

Employment and Training Administration

20 CFR Part 617

Trade Adjustment Assistance For Workers; Proposed Rule

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 617

Trade Adjustment Assistance For Workers

AGENCY: Employment and Training Administration, Labor

ACTION: Proposed rule.

SUMMARY: The Department of Labor proposes to amend the regulations on trade adjustment assistance for workers (TAA program) provided under Chapter 2 of Title II of the Trade Act of 1974 to implement the amendments to the Trade Act of 1974 enacted in 1986. The 1986 amendments further extend and reauthorize the TAA program, add a new job search program requirement, and make other changes affecting primarily eligibility for trade readjustment allowances (TRA) and training.

DATE: Written comments on these proposed amendments to the regulations must be received in the Department of Labor on or before November 23, 1987.

ADDRESS: Comments on this proposed rule may be mailed or delivered to the Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street NW., Room 6434, Washington, DC 20213.

All comments received will be available for public inspection during normal business hours in Room 6434 at the above address.

FOR FURTHER INFORMATION CONTACT: Glenn M. Zech, Deputy Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street NW., Washington, DC 20213; Telephone: (202) 376–2646 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Trade Act of 1974 made major changes to the TAA program for workers displaced by increased imports of articles like or directly competitive with articles produced by the workers' firm. On receiving a petition for trade adjustment assistance (TAA) from a group of workers or its representative, the Department of Labor conducts a factfinding investigation in response to the petition. If the findings substantiate that the workers of a firm or subdivision of a firm have been adversely affected by import competition, a certification is issued declaring that the workers are eligible to apply for TAA.

The 1981 amendments to the Trade Act of 1974 (Pub. L. 97–35) made extensive changes in the TAA program, and further changes were made in the 1984 amendments (Pub. L. 98–364). Final regulations implementing the 1981 and 1984 amendments were published in the **Federal Register** on December 22, 1986, which also moved the regulations from 29 CFR Part 91 to 20 CFR Part 617. It is these regulations that are now being amended to implement the 1986 amendments.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), enacted into law on April 7, 1986, contains amendments to the TAA program in the "Trade Adjustment Assistance Reform and Extension Act of 1986" (hereinafter called the 1986 Amendments), which is Part 1 of Subtitle A of Title XIII of COBRA (sections 13001 to 13009). These amendments change the TAA provisions of the Trade Act of 1974 by extending the program to September 30, 1991; requiring participation in a job search program, where reasonably available, as a condition for receiving TRA payments; changing the number of weeks of employer-authorized leave credited to satisfy the 26 weeks of employment in the last 52 weeks to qualify for TRA; extending the period to receive basic TRA from 52 weeks to 104 weeks (no increase in the number of weeks payable); and making other changes as described below.

The changes proposed in this document are:

1. The definition for "Adversely affected employment," § 617.3(b), is expanded to include workers in any agricultural firm or subdivision of an agricultural firm. Workers in agricultural firms or subdivisions of firms have been eligible to apply for and be certified for adjustment assistance prior to the 1986 amendments, if they met the group eligibility requirements in section 222 of the Trade Act of 1974. Section 13002(a) of the 1986 Amendments; sections 221(a) and 222 of the Act.

2. The definition for "Eligibility period" in paragraph (m) of § 617.3 is revised to reflect the change in the 1986 Amendments in the time period a worker has to collect TRA payments which was increased from 52 weeks to 104 weeks after the exhaustion of regular unemployment insurance (UI) benefits in the worker's first UI benefit period which pertains to the first qualifying separation. Section 13003 (d)(1) of the 1986 Amendments; section 233(a)(2) of the Act.

3. Definitions are added in § 617.3 for "Job search program", "Job search workshop", and "Job finding club" as new paragraphs (w), (x) and (y), respectively, to reflect the definitions contained in section 13005(b) of the 1986 Amendments and the definition for "On-the-job training" is added as new paragraph (bb) of § 617.3 to reflect the definition contained in section 13004(b) of the 1986 Amendments. Former paragraphs beginning with (w) through (nn) have been redesignated. Sections 13004(b) and 13005(b) of the 1986 Amendments; sections 247 (16) and (17) of the Act.

4. The definition for "State agency" in redesignated paragraph (ii) ((ee) in the present regulations) of § 617.3 is revised to reflect the change in the 1986 Amendments expanding the scope of the definition of State agency to include: The employment service agency of such State; any State ageny carrying out Title III of the Job Training Partnership Act (JTPA); and any other State or local agency administering job training or related programs. Section 13004(c)(2) of the 1986 Amendments; new section 239(e) of the Act.

5. Section 617.11, *Qualifying requirements for TRA*, is modified to allow the use of up to 7 weeks of employer-authorized leave for vacation, sickness, injury, maternity, active or inactive duty military service for training, and for service as a full-time labor organization representative. Up to 7 weeks of any of these types of leave may be used but no more than 7 weeks may be used for all of them combined. In addition to such 7 weeks of employer-authorized leave, however, up to 26 weeks of unemployment due to a disability which is compensated in a worker's compensation law may now be counted toward the 26-week qualifying requirement for TRA. Section 13003(b) of the 1986 Amendments; section 231(a)(2) of the Act.

6. Section 617.11, *Qualifying requirements for TRA*, is also amended by changing paragraph (a)(6)(ii) to clarify the inapplicability of the Extended Benefits work-test requirements to past weeks when a worker qualifies for TRA payments for weeks of unemployment which begin prior to receipt of notice from the State agency of eligibility for TRA payments. This is a clarifying amendment unrelated to the 1986 Amendments.

7. Section 617.11, *Qualifying requirements for TRA*, is further amended by adding a new paragraph (a)(7), *Job search program participation*, which provides that to qualify for TRA a worker must be enrolled in, be participating in, or have successfully completed a job search program (JSP) which meets the statutory requirements,

or have the JSP requirement waived by the State agency because it determined that a JSP is not reasonably available. Section 13003(a)(1) of the 1986 Amendments; section 231(a) of the Act.

8. Section 617.13(c) *Reduction of amount*, is amended to correct the reference under paragraph (2) to read "Veterans Educational Assistance" rather than "Veterans Education Assistance" as presently printed. This is a technical correction unrelated to the 1986 Amendments.

9. Section 617.15(a), *Basic weeks*, is amended to reflect the increase in the basic eligibility period from 52 weeks to 104 weeks. While the maximum amount of TRA benefits remains unchanged, the time period a worker is eligible to receive basic TRA is extended to 104 weeks following exhaustion of regular UI benefits in the worker's first UI benefit period. This amendment is given effect by applying it to all workers whose eligibility periods begin on or after April 7, 1986, as well as all workers who have a previously established 52-week TRA eligibility period that ends on or after April 7, 1986. Workers with 52-week eligibility periods that end before April 7, 1986, will not have their eligibility periods extended to 104 weeks. Section 13003(d)(1) of the 1986 Amendments; section 233(a)(2) of the Act.

Paragraph (c), *Limit*, is revised since the 78-week limit for workers to receive TRA is inexactly expressed and in any case is no longer applicable. Under the "Gramm-Rudman" provision in section 13009(d) of the 1986 Amendments, weekly TRA payments were reduced in the period March 1 to October 1, 1986, by a percentage equal to the non-defense sequester percentage in the Sequestration Report (submitted under the Balanced Budget and Emergency Deficit Control Act of 1985). While weekly TRA payments were reduced under this provision a worker's maximum amount in the TRA account was reduced only by the amount actually paid; therefore, the worker actually could receive more than 26 weeks of basic TRA payments, and before and after the application of the "Gramm-Rudman" provision the eligibility period for receipt of basic and additional TRA could extend over a greater period than 78 weeks. Accordingly, paragraph (c) is revised to limit the maximum TRA payable on the basis of a single certification to the basic amount determined under section 233(a)(1) of the Act plus additional TRA of 26 times the TRA/WBA (weekly benefit amount). This is a clarifying amendment which pertains in part to sections 13003(d)(1) and 13009(d) of the 1986 Amendments.

10. Section 617.17, *Availability and active search for work*, is revised by adding a sentence at the end of the section referring to § 617.11(a)(6)(ii) on the inapplicability of the Extended Benefits work-test requirements to past weeks when a worker qualifies for TRA payments for weeks of unemployment which begin prior to receipt of notice from the State agency of eligibility for TRA payments. This is a clarifying amendment unrelated to the 1986 Amendments.

11. Section 617.18, *Disqualifications*, is revised by adding a new paragraph (c) which disqualifies a worker from receiving TRA for any week during which the worker is receiving on-the-job training. Section 13003(d)(2) of the 1986 Amendments; new section 233(e) of the Act.

12. Section 617.20, *Responsibilities for the delivery of reemployment services*, is revised by adding that the State agency will advise each adversely affected worker to apply for training at the time the worker makes application for TRA, and within 60 days after an individual applies for training the State agency will interview each applicant regarding available training opportunities. New section 239(f) of the Act, added by section 13004(c)(2) of the 1986 Amendments.

13. Section 617.22(a), *Conditions for approval* (of training), is changed from "may" approve training subject to the availability of funds to "shall" approve training to the extent that appropriated funds are available and the criteria for approval of training are met. Section 13004(a)(2) of the 1986 Amendments; section 236(a)(1) of the Act.

Prior to the 1986 Amendments, job search and relocation allowances were treated as entitlements under the regulations, while training was not. However, once training was approved for an individual, the payment of the training costs also became an entitlement. Approval of training was based on the availability of appropriated funds allocated to the State by the Department to pay the full cost of training and the determination by the State agency that specifc criteria in paragraphs (a)(1) through (a)(5) of § 617.22 were satisfied. This amendment makes training an entitlement if appropriated funds are available. In essence, the change is technical insofar as entitlement to training is concerned. There is no change in the treatment of job search and relocation allowances.

Paragraph (a)(3) of this section is also changed to require reasonable expectation of employment as a condition for approval of training, but not require that employment opportunities be available, or offered, immediately upon completion of training. Section 13004(a)(6) of the 1986 Amendments; new paragraph (2) of section 236(a) of the Act.

A new paragraph (i) is added to this section stating that in no case will an individual be approved for training when the training program is conducted totally or partially at a location outside the United States. This is a clarifying amendment unrelated to the 1986 Amendments.

14. Section 617.25, *Purchased training*, is amended to reflect that no training costs may be paid by the Secretary if they have been paid under any other Federal program, and to prohibit double reimbursement to workers and institutions; training opportunities are expanded to include those available through JTPA; to add criteria for approving and paying for on-the-job training; and to ensure that any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of identical costs incurred in training the adversely affected worker under the TAA program, are not considered double reimbursement of training costs even if such other use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker. New paragraphs (3) and (4) of subsection (a) and new subsection (d) of section 236 of the Act, as added by section 13004(a) (6) and (7) of the 1986 Amendments.

15. Section 617.34(a)(1) *Travel*, concerns allowable travel costs when a worker is conducting an approved job search. The current section confines the State agency's authority to approving "the lesser of" the most economical public transportation or the cost per mile at the mileage rate authorized under the Federal travel regulations. This limitation restricts the administrative flexibility and judgment of the State agency in approving the most appropriate and efficient transportation method for the worker. It is possible that the lowest cost transportation may require more travel time which could add costs greater than the transportation savings. It is the intent of the Department to have workers conduct job search at the lowest reasonable total cost for travel, lodging and meals; therefore, this section is amended to give the State agency broader administrative flexibility in approving an individual worker's job search plan in order to

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realize this intent. This is a technical amendment unrelated to the 1986 Amendments.

16. Section 617.46(a)(1) concerns allowable transportation costs when a worker's application to relocate to the area of new employment is approved by the State agency. The current section confines the State agency's authority to approving "the lesser of" the most economical public transportation or the cost per mile at the mileage rate authorized under the Federal travel regulations. This limitation restricts the administrative flexibility and judgment of the State agency in approving the most appropriate, efficient and reasonable transportation method for the individual worker and his or her family. It is possible that the lowest cost of transportation may not always be reasonable or may require more travel time which could have the effect of adding costs greater than the transportation savings. It is the intent of the Department to have individuals relocate at the lowest reasonable total cost for travel, lodging and meals. The State agency is given broader administrative flexibility to approve an individual worker's relocation plan in order to realize this intent. This is a technical amendment unrelated to the 1986 Amendments.

17. A new Subpart F and § 617.49 are added on the Job Search Program (JSP) to reflect the requirement in the 1986 Amendments that workers participate in a JSP as a condition for receiving TRA payments, except when it is determined that no acceptable JSP is reasonably available, and to provide for reimbursement to a worker for necessary expenses to participate in a JSP approved by the Secretary. New paragraph (5) of subsection (a) and new subsection (c) of section 231 of the Act, as added by sections 13003(a)(1) and (2) of the 1986 Amendments, and new subsection (c) of section 237 of the Act, as added by section 13005(a) of the 1986 Amendments.

18. Subpart F, *Administration by Applicable State Agencies*, is redesignated as Subpart G; section numbers and headings are not changed.

19. Section 617.59, *Agreements with State agencies*, is changed by modifying paragraphs (a) and (b) to authorize and execute agreements for the delivery of TAA program services with one or more State or local agencies as defined in redesignated § 617.3(ii). Paragraph (f) is also modified by deleting the reference to section 3302(c)(3) of the Internal Revenue Code of 1954. Although sanctions are still applicable under this section against certain State entities, reference to section 3302(c)(3) is not necessary since appropriate sanctions for not fulfilling commitments in the Agreement will be delineated in the Agreement with the State or a State agency. These changes are made pursuant to section 13004(c)(2) of the 1986 Amendments; new paragraph (e) of section 239 of the Act.

20. Section 617.62(c), *Fraud and recovery of overpayments*, is modified to reflect the redesignation of Subpart F as Subpart G in the content of this section.

21. Section 617.66, *Transition procedures for amendments in sections 13002 through 13009 of Pub. L. 99–272 (the Consolidated Omnibus Budget Reconciliation Act of 1985)*, is added to reflect that amendments to the TAA provisions of the Trade Act of 1974, as amended by Pub. L. 99–272, are effective on enactment of the 1986 Amendments, except the provision concerning the "job search program". Workers who were certified for TAA under petitions filed with the Labor Department on or after April 7, 1986, are subject to the JSP provision. In addition, the amendments on extension and termination of Chapter 2 and authorization of appropriations (sections 13007 and 13008) are to be applied as if they took effect on December 18, 1985. The effective date provisions also include a provision on the application of Gramm-Rudman, which was applicable only until the end of fiscal year 1986. Section 13009 of the 1986 Amendments.

22. Changes in the Table of Contents of Part 617.

23. Other technical and clarifying changes. In this regard it has been determined that no technical or other changes are required in §§ 617.13(c) and 617.59 to reflect the amendments to sections 232(c) and 239(a) of the Act, respectively, in sections 13003(c) and 13003(a)(3) of the 1986 Amendments.

Classification—Executive Order 12291

The proposed rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

No regulatory flexibility analysis is required where the rule "will not * * * have a significant economic impact on a substantial number of small entities." 5 U.S.C. 605(b). The definition of the term "small entity" under 5 U.S.C. 601(6) does not include States. Since these regulations involve only the States, no regulatory flexibility analysis is required. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

Catalog of Federal Domestic Assistance Number

This program is listed in the Catalog of Federal Domestic Assistance at No. 17.245, "Trade Adjustment Assistance—Workers."

List of Subjects in 20 CFR Part 617

Job search assistance, Labor, Reemployment services, Relocation assistance, Trade readjustment allowances, Unemployment compensation, Vocational education.

Words of Issuance

For the reasons set out in the preamble, Part 617 of Title 20, Code of Federal Regulations, is proposed to be amended as set forth below.

Signed at Washington, DC, on October 15, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

PART 617—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS UNDER THE TRADE ACT OF 1974

1. The authority for Part 617 continues to read as follows:

Authority: 19 U.S.C. 2320; Secretary's Order No. 3–81, 46 FR 31117.

2. Section 617.3 is amended by redesignating paragraphs (w) and (x) as (z) and (aa), redesignating paragraphs (y) through (bb) as (cc) through (ff), redesignating paragraphs (cc) through (nn) as (gg) through (rr), revising paragraphs (b), (m), and newly designated (ii), and adding paragraphs (w), (x), (y) and (bb) to read as follows:

§ 617.3 Definitions.

* * * * *

(b) "Adversely affected employment" means employment in a firm or appropriate subdivision of a firm, including workers in any agricultural firm or subdivision of an agricultural firm, if workers of such firm or appropriate subdivision are certified

under the Act as eligible to apply for TAA.

* * * * *

(m) "Eligibility period" means, for purposes of paying TRA:

(1) *Basic weeks.* The 104-week period beginning with the first week following the first week with respect to which the individual first exhausts all rights to regular compensation (as defined in paragraph (oo)(1) of this section) in such individual's first benefit period (as defined in paragraph (r) of the section); and

(2) *Additional weeks.* The 26-week period that—

(i) Follows the last week of entitlement to basic TRA otherwise payable under this Part 617 to the individual; or

(ii) Begins with the first week of approved training, if a bona fide, timely application for training is approved after the last week described in paragraph (m)(2)(i) of this section.

* * * * *

(w) "Job search program" means a job search workshop or job finding club.

(x) "Job search workshop" means a short (1 to 3 days) seminar designed to provide participants with knowledge that will enable the participants to find jobs. Subjects should include, but not be limited to, labor market information, resume writing, interviewing techniques, and techniques for finding job openings.

(y) "Job finding club" means a job search workshop which includes a period of 1 to 2 weeks of structured, supervised activity in which participants attempt to obtain jobs.

* * * * *

(bb) "On-the-job training" means training provided by an employer to an individual who is employed by the employer.

* * * * *

(ii) "State agency" means the State Employment Security Agency; the employment service of the State; any State agency carrying out title III of the Job Training Partnership Act; or any other State or local agency administering job training or related programs with which the Secretary has an agreement to carry out any of the provisions of the Act.

* * * * *

3. The introductory text of paragraph (a) and paragraphs (a)(3)(i) and (ii) and (a)(6)(ii) of § 617.11 are revised to read as follows:

§ 617.11 Qualifying requirements for TRA.

(a) *Basic qualifying requirements for entitlement.* To qualify for TRA for any week of unemployment, an individual must meet each of the following requirements of paragraphs (a)(1) through (a)(7) of this section:

* * * * *

(3) *Wages and employment.* (i) In the 52-week period (i.e., 52 consecutive weeks) ending with the week of the individual's first qualifying separation, the individual must have had at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with a single firm or subdivision of a firm. Evidence that an individual meets this requirement shall be obtained as provided in § 617.12. Employment and wages covered under more than one certification may not be combined to qualify for TRA.

(ii)(A) For purposes of this paragraph (a)(3), any week in which such individual:

(*1*) Is on employer-authorized leave from such adversely affected employment for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training,

(*2*) Does not work in such adversely affected employment because of a disability compensable under a workers' compensation law or plan of a State or the United States, or

(*3*) Had adversely affected employment interrupted to serve as a full-time representative of a labor organization in such firm or subdivision, shall be treated as a week of employment at wages of $30 or more;

(B) *Provided,* that—

(*1*) Not more than 7 weeks in the case of weeks described in paragraph (a)(3)(ii)(A)(*1*) or paragraph (a)(3)(ii)(A)(*3*) of this section, or both, and

(*2*) Not more than 26 weeks described in paragraph (a)(3)(ii)(A)(*2*) of this section, may be treated as weeks of employment for purposes of paragraph (a)(3) of this section.

* * * * *

(6) *EB work test.*

* * * * *

(ii) The EB work test shall not apply to an individual with respect to claims for TRA for weeks of unemployment beginning prior to receipt by the claimant of notice of determination of eligibility for TRA. The claimant shall not be subject to the EB work test requirement set out in § 617.17, nor to any State agency timely filing requirement, but shall be required to be unemployed and able to work and available for work with respect to any such week except as provided for workers in approved training in paragraph (a) of this section. TRA claimants shall be subject to these work test requirements for weeks of unemployment beginning after the date they are notified of eligibility for TRA payments.

* * * * *

4. Paragraph (a) of § 617.11, as amended in item 3 above, is further amended by adding at the end thereof a new paragraph (a)(7) to read as follows:

§ 617.11 Qualifying requirements for TRA.

(a) *Basic qualifying requirements for entitlement.* * * *

* * * * *

(7) *Job search program participation.* The worker is enrolled in, participating in, or has successfully completed a job search program which meets the requirement of § 617.49(a); or the State agency has determined that no acceptable job search program is reasonably available under the criteria set forth in § 617.49(c).

* * * * *

§ 617.13 [Amended]

5. Paragraph (c)(2) of § 617.13 is amended to correct a printing error. In § 617.13(c)(2), "Veterans Education Assistance" is revised to read "Veterans Educational Assistance".

6. Paragraphs (a) and (c) of § 617.15 are revised to read as follows:

§ 617.15 Duration of TRA.

(a) *Basic weeks.* An individual shall not be paid basic TRA for any week after the 104-week eligibility period beginning with the first week following the first week with respect to which the individual has first exhausted (as determined under § 617.11(a)(5)), in such individual's first benefit period, all rights to that part of UI which is regular compensation.

* * * * *

(c) *Limit.* The maximum TRA payable on the basis of a single certification is limited to the basic amount determined under section 233(a)(1) of the Act plus additional TRA of 26 times the TRA/WBA (weekly benefit amount).

7. Section 617.17 is revised to read as follows:

§ 617.17 Availability and active search for work.

An individual shall not be paid TRA for any week of unemployment during which the individual is not able to work or is unavailable for work under the applicable State law, or for any week for which TRA is claimed if the individual fails or refuses to make an active search for work and furnish tangible evidence

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of such work search or to apply for or accept work or to accept a referral to work under those provisions of the applicable State law which apply to EB claimants and which are consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970. This paragraph shall not apply to weeks during which the individual is actually undergoing training approved under the provisions of the applicable State law or under Subpart C of this Part 617, unless the individual is determined to be ineligible for such week under the applicable State law or § 617.18(b)(2). The EB work test is applicable under the circumstances set forth in § 617.11 (a)(6)(ii).

8. Paragraph (c) is added to § 617.18 as follows:

§ 617.18 Disqualifications.

* * * * *

(c) *Disqualification while in OJT.* In no case may an individual receive TRA for any week with respect to which the worker is engaged in on-the-job training.

9. Paragraph (a) of § 617.20 is revised as follows:

§ 617.20 Responsibilities for the delivery of reemployment services.

(a) *State agency referral.* The State agency shall be responsible for:

(1) Advising each adversely affected worker to apply for training, with the State agency responsible for reemployment services, at the time the worker makes an application for TRA; and

(2) Referring each adversely affected worker to the State agency responsible for reemployment services.

* * * * *

10. Paragraph (b) of § 617.20 is amended by redesignating paragraphs (b)(1) through (b)(12) as (b)(2) through (b)(13), revising (b) introductory text and adding new paragraph (b)(1):

§ 617.20 Responsibilities for the delivery of reemployment services.

* * * * *

(b) *State agency responsibilities.* State agency responsibilities under this Subpart C include, but are not limited to:

(1) Interviewing the adversely affected worker regarding suitable training opportunities available to the worker under section 236 of the Act and reviewing such opportunities with the worker within 60 days after the worker applies for training;

* * * * *

11. The introductory text of paragraph (a) and paragraph (a)(3) of § 617.22 are revised, and a new paragraph (i) of § 617.22 is added, as follows:

§ 617.22 Approval of training

(a) *Conditions for approval.* To the extent that appropriate funds are available and are allocated by the Department to the State to pay the full costs of any training, such training shall be approved for an adversely affected worker if the State agency determines that: * * *

* * * * *

(3) There is a reasonable expectation of employment following the completion of the training (but a reasonable expectation does not require that employment opportunities be available, or offered, immediately upon the completion of training).

* * * * *

(i) *Training outside the United States.* In no case shall an individual be approved for training under this Subpart C which is conducted totally or partially at a location outside the United States.

12. Section 617.25 is revised as follows:

§ 617.25 Purchased training.

(a) *State agency determination.* If the State agency determines that placement of an adversely affected worker in preferred training under § 617.24 cannot be accomplished, the State agency shall attempt to make arrangements or enter into agreements to purchase training or provide for reimbursement of the cost of training through:

(1) On-the-job training offered by an employer;

(2) Any training program provided by a State pursuant to section 303 of the JTPA;

(3) Any training program approved by a private industry council established under section 102 of the JTPA; and

(4) Any other training program approved by the Secretary.

(b) *Costs of training.* (1) When the direct payment of costs of training are made from TAA program funds, no other payment for such direct costs of training may be made under any other Federal law. When the direct payment of the costs of training have been made under any other Federal law, or are reimbursable under any other Federal law and a portion of the direct costs have already been paid under other Federal law, payment of such training costs may not be paid from TAA program funds.

(2) When the payment of the direct costs for training an adversely affected worker are paid or payable under more than one Federal law, the State agency shall establish procedures to insure that individuals and institutions do not receive duplicate reimbursement.

(3) The provisions of paragraphs (b)(1) and (2) of this section shall not apply to, or take into account, any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of identical costs incurred in training the adversely affected worker under the TAA program, even if such other use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker. For example, education or training grants to communities or to institutions for building construction under other provisions of Federal law, which are not concerned with the direct payment of costs for training adversely affected workers, shall not apply.

(c) *Costs of on-the-job training.* The cost of OJT for an eligible worker may be paid to an employer only if:

(1) No currently employed individual is displaced by such eligible worker, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits.

(2) Such training does not impair existing contracts for services or collective bargaining agreements.

(3) In the case of training which would be inconsistent with the terms of a collective bargaining agreement, written concurrence has been obtained from the concerned labor organization.

(4) No other individual is on layoff from the same or any substantially equivalent job for which such eligible worker is being trained.

(5) The employer has not terminated the employment of any regular employee or otherwise reduced the workforce with the intention of filling the vacancy so created by hiring the eligible worker.

(6) The job for which the eligible worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.

(7) Such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 222 of the Act.

(8) The employer certifies to the State agency that the employer will continue to employ the eligible worker for at least 26 weeks after completing the training if the worker desires to continue such employment and the employer does not have due cause to terminate such employment.

(9) The employer has not received payment under section 236 and this part for any other on-the-job training provided by such employer which failed to meet the requirements of paragraphs (c)(1) through (6) of this section, and

(10) The employer has not taken, at any time, any action which violated the terms of any certification described in paragraph (c)(8) of the section made by the employer with respect to any other on-the-job training provided by the employer for which the employer has received a payment under section 236 and this part.

13. Paragraph (a)(1) introductory text of § 617.34 is revised to read as follows:

§ 617.34 Amount.

(a) *Computation.* * * *

(1) *Travel.* The more cost effective mode of travel reasonably available shall be approved by using:

* * * * *

14. Paragraph (a)(1) introductory text of § 617.46 is revised to read as follows:

§ 617.46 Travel allowance.

(a) *Computation.* * * *

(1) *Transportation.* The more cost effective mode of transportation reasonably available shall be approved by using:

* * * * *

§§ 617.50—617.65 (Subpart F) [Redesignated as §§ 617.50—617.65 (Subpart G)]

15. Subpart F, consisting of §§ 617.50 through 617.65, is redesignated as Subpart G.

16. A new Subpart F consisting of § 617.49 on the Job Search Program is added as follows:

Subpart F—Job Search Program

§ 617.49 Job Search Program.

(a) *Program requirements.* (1) A worker after being separated from adversely affected employment must participate in an approved job search program (JSP), or have completed a JSP, as a condition for receiving TRA, except where the State agency determines that an acceptable JSP is not reasonably available.

(2) Workers who qualify for TRA payments for weeks prior to the date they are notified of eligibility for TRA are not subject to participation in a JSP as a condition for receiving retroactive TRA payments. TRA claimants are subject to participation in JSP with respect to TRA claims for weeks of unemployment which begin after the date they are notified.

(3) When the State agency determines that the worker has failed to begin participation in an approved JSP, or ceased to participate in such a JSP before completion, and there is no justifiable cause for failure or cessation, no TRA may be paid to the worker on or after the date of such determination until the worker begins or resumes participation in an approved JSP.

(4) A worker in training approved under §§ 617.22 through 617.26, or approved by the State agency under State law, is excepted from the JSP qualifying requirement while the worker is attending and making satisfactory progress in the training. This exception applies whether training begins before or after entitlement to basic TRA commences, and also applies after training begins for a worker who is attending a JSP program. Exceptions to the JSP qualifying requirement must be documented in the worker's file by the State agency.

(b) *Approved JSPs.* A job search program may be approved if:

(1) The JSP is provided through the JTPA, the public employment service, or any other Federal and State funded program, and complies with paragraphs (w), (x), and (y) of § 617.3.

(2) The JSP is sponsored by a company or firm from which the worker has been separated, and complies with paragraphs (w), (x), and (y) of § 617.3.

(c) *Determination of reasonably available.* (1) Reasonably available means an existing approved JSP that is located in the worker's normal commuting area, as defined in § 617.3, and has sufficient capacity to accommodate the worker.

(2) When the State determines that a JSP is not reasonably available for a worker, the requirement is not a condition of qualifying for TRA for the weeks involved. When a determination is made with respect to a worker, the State agency must document its records, and the weeks involved, prior to making TRA payments to the worker.

(3) The State agency may issue a blanket waiver of the JSP qualifying requirement for TRA for groups of workers, where deemed appropriate, when it is determined that there is no functioning JSP.

(4) All determinations that a JSP is not reasonably available should extend only for that period of time that a JSP is not reasonably available, and the exception for workers in approved training should extend until the completion of training. If the State determines that a JSP is reasonably available at a later date, then the JSP qualifying requirement must be met for entitlement to basic TRA for weeks of unemployment beginning after the date the JSP becomes reasonably available.

(d) *JSP allowances.* Subsistence and transportation costs shall be approved for workers participating in JSPs when deemed appropriate and within available State funding levels. Costs incurred may not exceed those allowable for training under §§ 617.27 and 617.28, if, and when, the State refers a worker to a JSP outside the normal commuting area.

* * * * *

17. Paragraphs (a), (b) and (f) of § 617.59 are revised as follows:

§ 617.59 Agreements with State agencies.

(a) *Authority.* Before performing any function or exercising any jurisdiction under the Act and this Part 617, a State or State agency (as defined in § 617.3(ii)) shall execute an Agreement with the Secretary meeting the requirements of the Act.

(b) *Execution.* An Agreement under paragraph (a) of this section shall be signed on behalf of a State or State agency by an authorized official of the State or such State agency, and the signature shall be dated. The authority of the State or State agency official shall be certified by the Attorney General of the State or counsel for the State agency, unless the Agreement is signed by the Governor of the State. An agreement will be executed on behalf of the United States by the Secretary.

* * * * *

(f) *Breach.* If the Department believes a State or State agency may not have fulfilled its commitments under an Agreement under this section, the procedures delineated in the Agreement shall apply. A State or State agency shall receive reasonable notice and opportunity for hearing before a finding is made whether there has been a failure to fulfill commitments under an Agreement.

* * * * *

Section 617.62(c) is revised as follows:

§ 617.62 Transitional procedures.

* * * * *

(c) *Fraud and recovery of overpayments.* The fraud and overpayment recovery provisions of this Subpart G shall take effect on August 13, 1981, and shall apply to all overpayments outstanding on that date or determined on or after that date.

* * * * *

20. Section 617.66 is added to Subpart G as follows:

§ 617.66 Transition procedures for amendments in sections 13002 through 13009 of Pub. L. 99-272 (the Consolidated Omnibus Budget Reconciliation Act of 1985).

The procedures for administering the Trade Act of 1974 before and after the amendments made by the Pub. L. 99-272 are as follows:

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(a) *Duration of TRA.* The provisions contained in § 617.15 expanding the eligibility period for payment of basic TRA benefits from 52 weeks to 104 weeks shall apply only to those claimants whose eligibility periods begin on or after April 7, 1986, or who have a previously established 52-week TRA eligibility period that ends on or after April 7, 1986. Workers with 52-week eligibility periods that end before April 7, 1986, will not have their eligibility periods extended to 104 weeks.

(b) *TRA payments*—(1) *Retroactive TRA payments.* Retroactive claims of eligible workers may be approved for weeks of unemployment beginning with the first week after the week which includes December 18, 1985. Claims for weeks beginning before April 7, 1986 (or, if later, before claimants are notified of their potential entitlement to retroactive benefits) are not subject to the application of the Extended Benefits (EB) work test, nor to the State timely filing requirement. TRA weekly payments are subject to those requirements for weeks of unemployment beginning after the date eligible workers are notified of such requirements.

(2) *Employer-authorized leave, disability leave and union service.* The change to § 617.11(a)(3) for crediting weeks of specified leave to qualify for TRA will apply only to initial claims for basic TRA filed with the State agency by eligible workers on or after April 7, 1987.

(c) *Job search program.* The job search program requirement applies to workers certified under petitions for trade adjustment assistance filed with the Department on or after April 7, 1986.

(d) *Training and other amendments.* Other amendments in Pub. L. 99–272 are effective on April 7, 1986, and apply to application for TAA benefits approved on or after April 7, 1986.

(e) *Application of Gramm-Rudman.* TRA payments to workers made under Part 1 of Chapter 2 of Title II of the Trade Act of 1974 shall be reduced by a percentage equal to the non-defense sequester percentage applied in the Sequestration Report (submitted under the Balanced Budget and Emergency Deficit Control Act of 1985 and dated January 21, 1986) of the Comptroller General of the United States for Fiscal Year 1986, for the period from March 1, 1986 to October 1, 1986.

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federal register

Thursday
October 22, 1987

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 905
Surface Mining and Reclamation Operations Under a Federal Program for California; Proposed Rule

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 905

Surface Mining and Reclamation Operations Under a Federal Program for California

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the Department of the Interior (DOI) proposes a Federal program to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in the State of California. This includes surface effects of underground coal mining. This proposed program is necessary in order to regulate surface coal mining activities in the absence of a State program.

DATES: *Written comments:* OSMRE will accept written comments on the proposed rule until 4:00 p.m. local time on December 31, 1987.

Public hearings: Upon request, OSMRE will hold a public hearing on the proposed rule in Sacramento, California on December 24, 1987 at 9:30 a.m. local time. OSMRE will accept requests for public hearings until 4:00 p.m. local time on November 23, 1987. Individuals wishing to attend but not testify at any hearing should contact a person identified under **"FOR FURTHER INFORMATION CONTACT"** beforehand to verify that the hearing will be held.

Proposed effective date: Thirty days after publication of the final rule in the Federal Register.

ADDRESSES: *Written comments:* Hand-deliver to the Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., Suite 310, Albuquerque, New Mexico, or mail to the Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., Albuquerque, New Mexico 87102.

Public hearing: Conference Room, Federal Building, 300 Cottage Way, Sacramento, California 95825.

Requests for public hearings: Submit requests orally or in writing to a person and address specified under **"FOR FURTHER INFORMATION CONTACT."**

FOR FURTHER INFORMATION CONTACT: Robert Hagen, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., Albuquerque, New Mexico 87102; Telephone (505) 766–1486 or Patrick W. Boyd, Branch of Federal and Indian Programs, Division of Regulatory Programs, OSMRE, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone (202) 343–1064.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Availability of Copies

Copies of the proposed California Federal regulatory program are available for inspection and may be obtained at the OSMRE office listed above under **"ADDRESSES."**

Written Comments

Written comments on the proposed rules should be specific, should be confined to issues pertinent to the proposed rules, and should explain the reason for any recommended change. Where possible, commenters should submit three copies of their comments (see **"ADDRESSES"**). Comments received after the close of the comment period (see **"DATES"**) or delivered to addresses other than those listed above may not necessarily be considered or included in the Administrative Record for the final rule.

Public Hearings

OSMRE will hold public hearings on the proposed rule on request only. The time, date, and address scheduled for the hearing in Sacramento, California is specified previously in this notice (see **"DATES"** and **"ADDRESSES"**).

Any person interested in participating at the hearing should inform Mr. Hagen or Mr. Boyd (see **"FOR FURTHER INFORMATION CONTACT"**) either orally or in writing by 4:00 p.m. local time November 23, 1987. If no one has contacted Mr. Hagen or Mr. Boyd to express an interest in participating in a hearing by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons in attendance wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a copy of their testimony. To assist OSMRE in preparing appropriate questions, OSMRE also requests that persons who play to testify submit an advance copy of their testimony to OSMRE, at least two working days prior to any hearing. The testimony should be submitted to the address previously specified for the submission of written comments (see **"ADDRESSES"**).

II. Background

Under section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior (the Secretary) is required to promulgate a Federal program for a State for, among other reasons, the failure of the State to submit a proposed State program to the Secretary. Upon promulgation of a Federal regulatory program, the Secretary becomes the regulatory authority.

Once a decision is made that a Federal regulatory program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of SMCRA requires that the Secretary take into consideration the nature of the state's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also set forth in the regulations for the promulgation of Federal programs, 30 CFR Part 736. Section 505(b) of SMCRA and 30 CFR 736.22(a)(1) provide that if a State has more stringent land use and environmental protection laws or regulations, they shall not be construed to be inconsistent with SMCRA or the Secretary's regulations. The Secretary believes that the requirements of section 505(b) of SMCRA can best be met by identifying any State laws and regulations that may impose more stringent environmental controls and by listing them in the Federal program. If the State's laws or regulations establish more stringent standards than those of SMCRA or the Secretary's regulations, or if the State regulates any aspect of the environment which neither SMCRA nor the Secretary's regulations protect, the Secretary would then specifically preserve those State standards in the Federal program.

Also, in promulgating a program for a State, section 504(g) of SMCRA specifies that any State statutes or regulations which regulate surface mining and reclamation operations are to be identified by the Secretary and will be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of SMCRA and the Federal program. This provision is reinforced by section 505(a), which states that only inconsistent State laws shall be superseded by any provision of SMCRA or regulation. Thus, State statutes and rules and regulating the same activities as those covered by the Federal law and regulations and which do not provide as much protection as do the Federal law and regulations are

considered to interfere with the achievement of the purposes of SMCRA. Accordingly, they must be identified and preempted.

OSMRE reviewed California State statutes to determine which ones provide regulatory requirements for coal exploration and surface coal mining and reclamation operations as defined by SMCRA, and to identify provisions that might be either more stringent than or inconsistent with the requirements of SMCRA. The more stringent requirements, whether State or Federal, would be adopted for this program by listing in the proposed rules the California State statutes that set different controls and for which compliance is required in the surface coal mining and reclamation operation. Determining whether the State statutes are more stringent than the Federal regulations will be done on a case-by-case basis. Citation in the proposed Federal program of State statutes with which compliance is required is not meant as an adoption of those State statutes and regulations for purposes of enforcement by OSMRE. Citation of such statutes is intended as an aid to persons who must comply with both the Federal program requirements and State statutes. However, if a State law is cited below as interfering with the achievement of the purposes of SMCRA, it would be superseded to the extent that it is less stringent than the Federal program.

In accordance with 30 CFR 736.23, OSMRE has tentatively identified the following statutes and regulations as interfering with achievement of the purposes of SMCRA and the Federal program and thus proposes to supersede and preempt them to the extent they relate to surface coal mining and reclamation subject to regulation under SMCRA: (1) The California Surface Mining and Reclamation Act of 1975, Cal. Pub. Res. Code Ann. 2710 *et seq.* (West); (2) 14 Cal. Adm. Code 3500 *et seq.*, regulations implementing the California Surface Mining and Reclamation Act of 1975; and (3) Cal. Labor Code Ann. 7990 *et seq.* (West), concerning the licensing of blasters. Permittees will be required to conduct surface coal mining activities in compliance with all other existing State statutes and regulations.

To the degree practicable, OSMRE would coordinate coal mining permit requirements with State agencies to avoid unnecessary duplication. The California Department of Conservation, Division of Mines and Geology, has responsibility for administering the laws and rules pertaining to surface mining. OSMRE tentatively concludes that these statutes and rules are not consistent with SMCRA or the Federal permanent program rules and would interfere with the attainment of the reclamation goals and purposes expressed in SMCRA. Thus, OSMRE proposes that the California statutes and rules described above be followed only to the extent that they are not inconsistent with the regulation of coal exploration, surface coal mining operations or the reclamation of surface coal mined lands in the State of California pursuant to the proposed Federal regulations.

Finally, a Federal program, according to section 504(h) of SMCRA, must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes for which compliance must be coordinated in the issuance of a surface mining permit are set out in 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the permit review and issuance procedures.

Federal programs are based on the Secretary's permanent program regulations, 30 CFR Subchapters A, F, G, H, J, K, L, and M. The permanent program regulations implement five essential aspects of the surface coal mining regulatory program: permitting, performance standards, designation of lands as unsuitable for mining, bonding, and inspection and enforcement. These rules form the benchmark of state and Federal regulatory programs.

The permanent program rules refer to the "regulatory authority", which, under a Federal program, is the Secretary. The Secretary has delegated all of his authority under SMCRA to the Assistant Secretary-Land and Minerals Management. (Secretarial Order No. 3013, Nov. 9, 1977, and Order No. 3099, Dec. 22, 1983). With limited exceptions, the Assistant Secretary has in turn redelegated all of this authority under SMCRA to the Director, OSMRE. (216 Departmental Manual 1, November 9, 1977). Thus, the Director of OSMRE is the official directly responsible for the implementation of a Federal regulatory program.

The parts of the permanent regulatory program rules that must be included in a Federal program are listed in 30 CFR 736.22(b). They include the general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands as unsuitable for surface mining (Parts 761, 762, and 769), permits and permit applications (Subchapter G), small operator assistance (Subchapter H), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843, and 845), and blaster training and certification (Subchapter M).

Federal programs are promulgated by means of cross-referencing the permanent program rules which set the substantive standards. The proposed Federal regulatory program for California would establish 30 CFR Part 905. Sections on various topics would cross-reference the counterpart permanent program rules on those topics. For example, for general requirements for permits and permit applications, proposed Section 905.773 of the California Federal regulatory program would cross-reference 30 CFR Part 773 of the permanent program rules by stating that 30 CFR Part 773 shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations. Cross-referencing avoids duplication of the full text of the permanent regulatory program rules for each Federal program.

If a particular permanent program regulation needs to be modified for use in a Federal program, an additional paragraph of the Federal program rule would be added to modify the permanent regulatory program standard for the Federal program State or to add additional requirements or standards. If more than one standard needs to be modified in any particular permanent program rule, additional paragraphs would be added to the Federal program section.

One effect of cross-referencing in a Federal program is that if a permanent program rule is revised, the corresponding Federal program rule would be similarly revised. However, the notice of proposed rulemaking would invite comments not only on the proposed rule generally, but also on how it might affect a particular Federal program. If certain changes were needed for a Federal program, then a separate provision would be added to the Federal program regulation that is the counterpart to the permanent program rule. Several provisions of the permanent program rules are already applicable to all Federal programs because they were promulgated for application to all regulatory programs and therefore need not be cross-referenced. These provisions are 30 CFR Chapter VII, Subchapter P—Protection

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of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining; Subchapter D—Federal Lands Program, Part 955—Certification of Blasters in Federal Program States and on Indian lands.

III. Discussion of Proposed Rule

On July 28, 1982, OSMRE published a proposed Federal Program for California to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in that State (47 FR 32686). On August 12, 1982, OSMRE postponed the scheduled public hearing and extended the comment period indefinitely (47 FR 35011). During the comment period, OSMRE was informed by the California Division of Mines and Geology that all known coal deposits in California were too small and of too poor quality for commercial recovery in the foreseeable future.

As a result of California's comments, it was determined that development of the State's known coal reserves on non-Federal and non-Indian lands was extremely unlikely and that a regulatory program was not needed. Publication of this determination was made in the May 10, 1983, **Federal Register** (48 FR 20939). The notice also provided that "Should information come to light which indicates an increased likelihood of coal exploration or surface coal mining on non-Federal and non-Indian lands within the State, promulgation of the required program will be reinitiated by subsequent rulemaking notice."

Subsequent information available to OSMRE indicates that coal exploration and coal surface mining operations do exist, and OSMRE has determined it is necessary to reinitiate the Federal program rulemaking for the State of California.

The following proposed rule, 30 CFR Part 905, is consistent with the previous proposed rulemaking of July 28, 1982 (47 FR 32690). However, some modifications have been made to take into account revisions OSMRE has made to its permanent program rules since that date.

Content and Organization of the Federal Program

The content and organization of the proposed Federal program for California would follow the permanent program regulations. As discussed above, however, instead of the full text appearing, each section includes only a reference to the pertinent permanent program regulation section. Section 905.700 (e) and (f) set out both inconsistent and more stringent State statutes. A separate paragraph is proposed to be added under each section where there are deviations from the Federal permanent program regulations for the California Federal program. These paragraphs will generally be found in a subsection (b). The content and organization of the proposed California Federal program would be based on the following provisions of the Federal permanent program regulations, 30 CFR Chapter VII:

Subchapter A—General
Subchapter F—Areas Unsuitable for Mining
Subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration
Subchapter H—Small Operator Assistance
Subchapter J—Bond Insurance Requirements for Bonding of Surface Coal Mining and Reclamation Operations
Subchapter K—Permanent Program Performance Standards
Subchapter L—Permanent Program Inspection and Enforcement Procedures
Part 955—Certification Program for Blasters

Technical literature cited by OSMRE in the preambles to the permanent regulatory program (44 FR 14901–15309, March 13, 1979) and the regulatory reform rulemaking notices ending September 30, 1983, was relied upon in developing the California Federal program. The reader is referred to those preambles for a discussion of the bases and purposes of the permanent program rules proposed to be referenced in the California program without substantive change.

The numbering system of the permanent program regulations has been incorporated into the numbering system for the proposed California Federal program. Subchapter T in 30 CFR Chapter VII has been established to include regulatory programs by State in alphabetical order. Each State is assigned a part number; the regulatory program for California is assigned Part 905. Program elements have been categorized under headings similar to the subchapter titles of the permanent program in 30 CFR Chapter VII.

Detailed Discussion of the California Program

General

Section 905.700 would contain six subsections: the first four subsections, § 905.700 (a), (b), (c), and (d), would contain general statements on the scope and applicability of the program. Section 905.700(e) would indicate California State laws that have been identified as having provisions that regulate activities involved in surface coal mining operations and that have provisions that in some instances are more stringent than the Act and the Secretary's regulations. Section 905.700(f) would identify the California Surface Mining and Reclamation Act and regulations promulgated pursuant to it as interfering with achievement of the purpose of SMCRA and Federal regulations. The State statute and regulations would be preempted and superseded.

Sections 905.701 through 905.707 would establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter A, General. Section 905.701(a) would contain all applicable general requirements, including the definitions in 30 CFR 700.5 and 701.5. Subsection (b) is proposed to be added at § 905.701 to make clear that beginning on the effective date of this program and continuing until an operation has a permanent program permit issued by OSMRE, compliance with the interim program standards in 30 CFR Chapter VII, Subchapter B is required. Section 502(c) of SMCRA provides that all surface coal mining operations on lands on which such operations are regulated by a State shall comply with the interim program standards until a permanent program permit is issued. Paragraph (c) of § 905.701 would provide that records required by 30 CFR 700.14 to be made available locally to the public shall be retained at the OSMRE Albuquerque Field Office. Section 905.707 would establish the same requirements as Part 707, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction.

Areas Designated Unsuitable for Mining

Sections 905.761 through 905.764 would establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter F, Areas Unsuitable for Mining. However, 30 CFR 736.15(b)(1) provides that the procedures and criteria for designating lands unsuitable shall be implemented one year after a Federal program is made effective for a State. Therefore, § 905.764 provides that Part 764 shall apply beginning one year after the effective date of the California program. No separate section for Federal lands is proposed because 30 CFR Part 769 is directly applicable and need not be made a part of a Federal program for a State.

Permits and Coal Exploration Approvals

Sections 905.772 through 905.785 would establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter G, Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems Under Regulatory Programs. The following amplifications are being proposed:

Section 905.772(b), concerning written notice of intent to explore, is proposed to substitute for 30 CFR 772.11(a), which has been suspended. This would require any person who intends to conduct coal exploration operations outside a permit area during which 250 tons or less of coal will be removed to file a written notice of intention to explore with the regulatory authority. In addition, for exploration applications where 30 CFR 772.12 applies, § 905.772(c) would require publication of public notice of the filing upon submission of an administratively complete application. Section 905.772(d) would allow ten days after publication of the public notice for persons adversely affected to file written comments. Section 905.772(e) would require the regulatory authority to act upon a complete exploration application and any written comments within 15 days from the close of the comment period.

In addition to the requirements under the permanent program rules, other provisions are proposed to be added for permit review. More detail is necessary when OSMRE is the regulatory authority in order to provide direction to the permit applicant. In § 905.773, requirements for permits and permit processing, proposed subsection (b) would establish specific permit application review procedures. This is necessary to dispose of grossly deficient applications early in processing, to provide a procedure for obtaining additional information, and to indicate the procedure for determinations of completeness. The proposed rule at § 905.773(c) would allow OSMRE to require an applicant to submit supplemental information to ensure compliance with applicable Federal laws and regulations other than the Act and its implementing regulations. The proposed rule at § 905.773(d) would establish, pursuant to 30 CFR 773.15(a)(1), a time period of 60 days from the close of the comment period for the regulatory authority to issue a written decision. The proposed rule at § 905.773(e) would establish a procedure for ensuring confidentiality of qualified permit application information. Such information would have to be labeled confidential and submitted separately to be reviewed by OSMRE for withholding from disclosure. In addition, § 905.773(e)(1) would require the public notice required by § 905.773(b)(3) to identify the type of information considered to be confidential. Finally, § 905.773(e)(2) would require OSMRE to rule on the confidentiality of labeled application information within ten days of the last publication of the notice required under § 905.773(b)(3).

The proposed rule at § 905.774(b) would provide that a revision of the permit would be considered significant if it has the potential to adversely affect the achievement of reclamation as specified in the approved plan. A significant revision would require public notice and would be subject to a formal hearing if one is requested.

The proposed rule at § 905.774(c) would specify a period of 30 days within which OSMRE must approve or disapprove non-significant permit revisions. The proposed rule at § 905.774(d) would allow ten days for any person having an interest that is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights to submit written comments after publication of the notice required by 30 CFR 774.17(b)(2). The proposed rule at § 905.774(e) would allow interested persons and public entities 30 days from the last publication of the notice to submit written comments of objections on an application for significant revision or renewal of a permit.

The permanent program regulations at 30 CFR 779.19(a) give the regulatory authority discretion to require a map that delineates vegetation types in the proposed permit area. The proposed rule at § 905.779(b) requires the applicant for a surface mining permit to submit such a map. Similarly, the proposed rule at § 905.783(b) exercises the discretion provided to the regulatory authority by 30 CFR 783.19(a) to require a vegetation map for underground mining permits.

Small Operator Assistance

Section 905.795 would establish the same standards for the small operator assistance program as are found in Part 795 of the permanent program rules. OSMRE expects during its administration of the SOAP in California that Federal funds will be sufficient to provide for authorized services, and does not expect to exercise its option at 30 CFR 795.11(b). That option allows OSMRE to establish a formula for allocating limited funds to provide the service pursuant to Part 795. OSMRE will award SOAP contracts to qualified laboratories utilizing a streamlined procurement system that complies with the Federal Acquisition Regulations. Prior to issuing a Request for Proposals, OSMRE will announce its intention through publication in the Commerce Business Daily. OSMRE will qualify labs as part of its contracting process.

Bonding

Section 905.800 establishes the same provisions, where applicable, as CFR Chapter VII, Subchapter J, Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations. The proposed rule at § 905.800(b) would require the operator to file an application for release of performance bond no later than 30 days prior to the end of the growing season. Proposed § 905.800(c) would specify the three types of acceptable bonds, surety bond, collateral bond and self-bond. These terms are defined in 30 CFR 800.5. The proposed rule at § 905.800(d) would allow a permittee to replace existing bonds with other bonds that provide equivalent coverage. In addition, OSMRE is requesting information pertaining to any bonding requirements which may have been placed on existing surface coal mining operations in California.

Performance Standards

Section 905.815 through 905.828 would establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter K. The following changes would be made:

Proposed § 905.816(b) would require (1) that the standards for revegetation success for surface mining activities shall be those specified in 30 CFR 816.116(a)(2) and (2) that the statistically valid sampling techniques for measuring success shall be included in the mining and reclamation plan.

Proposed § 905.817(b) would require (1) that the standards for revegetation success for underground mining activities shall be those specified in 30 CFR 817.116(a)(2) and (2) that the statistically valid sampling techniques for measuring success shall be included in the mining and reclamation plan.

Inspection and Enforcement Procedures

Sections 905.842, 905.843 and 905.845 establish the same provisions as 30 CFR Chapter VII, Subchapter L, Permanent Program Inspection and Enforcement Procedures. No changes to the inspection and enforcement provisions of the permanent program regulations are proposed for the California Federal program. The proposed rules at § 905.842(b) and § 905.843(b) would require OSMRE to furnish to the California Division of Mining and

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Geology, on request, copies of inspection reports and enforcement actions respectively.

Blaster Training and Certification

Section 905.955 cross-references 30 CFR Part 955 of the permanent program regulations.

IV. Procedural Matters

Federal Paperwork Reduction Act

The recordkeeping and reporting requirements of this rule are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget (OCB) under 44 U.S.C. 3507.

Executive Order 12291 and Regulatory Flexibility Act

The DOI has determined that this document is not a major rule under the criteria of Executive Order 12291 (February 17, 1981) and has determined that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The rule would affect a relatively small number of surface coal mining operations. The rule does not distinguish between small and large entities. The economic effects of the proposed rule are estimated to be minor, and no incremental economic effects are anticipated as a result of this rule.

National Environmental Policy Act

Section 702(d) of SMCRA provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 433. Thus, no environmental assessment or environmental impact statement is required for this rulemaking.

Author

The principal author of these proposed regulations is Patrick W. Boyd, Branch of Federal and Indian Programs, Division of Regulatory Programs, OSMRE, 1951 Constitution Avenue NW., Washington, DC 20240.

List of Subjects in 30 CFR Part 905

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting and recordkeeping requirements.

Accordingly, OSMRE proposes to amend 30 CFR Chapter VII, Subchapter T by adding Part 905.

Date: September 2, 1987.

James E. Cason,

Acting Assistant Secretary—Land and Minerals Management.

30 CFR Chapter VII, Subchapter T

1. Part 905 is added to read as follows:

PART 905—CALIFORNIA

Sec.

905.700 California Federal Program.
905.701 General.
905.707 Exemption for coal extraction incident to government-financed highway or other construction.
905.761 Areas designated unsuitable for surface coal mining by act of Congress.
905.762 Criteria for designating areas as unsuitable for surface coal mining operations.
905.764 Process for designating areas unsuitable for surface coal mining operations.
905.772 Requirements for coal exploration.
905.773 Requirements for permits and permit processing.
905.774 Revision; renewal; and transfer, assignment, or sale of permit rights.
905.775 Administrative and judicial review of decisions.
905.777 General content requirements for permit applications.
905.778 Permit applications—Minimum requirements for legal, financial, compliance, and related information.
905.779 Surface mining permit applications—Minimum requirements for information on environmental resources.
905.780 Surface mining permit applications—Minimum requirements for reclamation and operation plan.
905.783 Underground mining permit applications—Minimum requirements for information on environmental resources.
905.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.
905.785 Requirements for permits for special categories of mining.
905.795 Small operator assistance program.
905.800 Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.
905.815 Performance standards—Coal exploration.
905.816 Performance standards—Surface mining activities.
905.817 Performance standards—Underground mining activities.
905.819 Special performance standards—Auger mining.
905.822 Special performance standards—Operations in alluvial valley floors.
905.823 Special performance standards—Operations on prime farmland.
905.824 Special performance standards—Mountaintop removal.
905.827 Special performance standards—Coal preparation plants not located within the permit area of a mine.
905.828 Special performance standards—In situ processing.
905.842 Federal inspections.
905.843 Federal enforcement.
905.845 Civil penalties.
905.955 Certification of blasters.

Authority: 30 U.S.C. 1201 *et seq.*, as amended.

§ 905.700 California Federal Program.

(a) This part contains all rules that are applicable to surface coal mining operations in California which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) Certain of the rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a cross-referenced rule is in the permanent program rule cited under the relevant section of the California Federal program.

(c) This part applies to all coal exploration and surface coal mining and reclamation operations in California conducted on non-Federal and non-Indian lands. To the extent required by 30 CFR Part 740, this part also applies to operations on Federal lands in California.

(d) The information collection requirements contained in this part have already been approved by the Office of Management and Budget under 44 U.S.C. 3507 in its approval of the information collection requirements contained in the permanent regulatory program.

(e) The following provisions of California law generally provide for more stringent environmental control and regulation of some aspects of surface coal mining operations than do the provisions of the Surface Mining Control and Reclamation Act of 1977, and the regulations in this chapter. Therefore, pursuant to section 505(b) of the Act, they shall not generally be construed to be inconsistent with the Act, unless in a particular instance the rules in this chapter are found by OSMRE to establish more stringent environmental or land use controls:

(1) California Hazardous Waste Management Act of 1986, Cal. Health and Safety Code Ann. 25179.1 *et seq.* (West).

(2) Cal. Water Code Ann. 13370 *et seq.* (West) (compliance with the provisions of the Federal Water Pollution Control Act as amended in 1972).

(3) California Coastal Act of 1976, Cal. Pub. Res. Code Ann. 30000 *et seq.* (West).

(4) Cal. For. Code Ann. 4656 (West) (use of state forest lands for mining purposes).

(f) The following are the California laws and regulations that generally interfere with the achievement of the purposes and requirements of the Act and are, in accordance with section 504(g) of the Act, preempted and superseded. Other California laws may in an individual situation interfere with the purposes and achievements of the Act and may be preempted and superseded with respect to the performance standards of § 905.815 through 905.828 as they affect a particular coal exploration or surface mining operation by publication of a notice to that effect in the **Federal Register.**

(1) The California Surface Mining and Reclamation Act of 1975, Cal. Pub. Res. Code Ann. 2710 *et seq.* (West), as it relates to coal mining, except to the extent that it regulates other activities that are not regulated by the Act.

(2) 14 Cal. Adm. Code 3500 *et seq.*, regulations implementing the California Surface Mining and Reclamation Act of 1975, except as they apply to other activities that are not regulated by the Act.

(3) Cal. Labor Code Ann. 7980 *et seq.* (West) (licensing of blasters), except as the regulations apply to other activities that are not regulated by the Act.

(4) California Health and Safety Code 25100 *et seq.*, the California Hazardous Waste Control Act, except to the extent that it regulates other activities that are not regulated by the Act.

(5) Hazardous Waste Management Regulations, 22 California Adm. Code 66011 *et seq.*, except as they apply to other activities that are not regulated by the Act.

(6) California Solid Waste Management and Resource Recovery Act of 1972, California Government Code 66700 *et seq.*, except to the extent that it regulates other activities that are not regulated by the Act.

(7) California Solid Waste Management Act of 1980, California Government Code 66000 *et seq.*, except to the extent that it regulates other activities that are not regulated by the Act.

(8) California Solid Waste Management Regulations, 14 California Adm. Code 17020 *et seq.*, except as they apply to other activities that are not regulated by the Act.

§ 905.701 General.

(a) Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to coal exploration and surface coal mining and reclamation operations in California.

(b) Beginning on the effective date of this program, each surface coal mining and reclamation operation in California shall comply with Subchapter B of this chapter until issuance of a permanent program permit under the provisions of Subchapter C of this chapter.

(c) Records required by § 700.14 of this chapter to be made available locally to the public shall be made available in the OSMRE Albuquerque Field Office.

§ 905.707 Exemption for coal extraction incident to government—financed highway or other construction.

Part 707 of this chapter, *Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction*, shall apply to surface coal mining and reclamation operations.

§ 905.761 Areas designated unsuitable for surface coal mining by act of Congress.

Part 761 of this chapter, *Areas Designated by Act of Congress*, shall apply to surface coal mining operations.

§ 905.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, *Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations*, shall apply to surface coal mining operations.

§ 905.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, *State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations*, pertaining to petitions, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mining operations beginning one year after the effective date of this program.

§ 905.772 Requirements for coal exploration.

(a) Part 772 of this chapter, *Requirements for Coal Exploration*, shall apply to any person who conducts coal exploration, except for § 772.11(a) regarding written notice of intention to explore, for which paragraph (b) of this section substitutes. In addition, for applications where § 772.12 applies, the requirements of paragraphs (c) through (e) apply in place of § 772.12(c) (1) and (3) and § 772.12(d)(1).

(b) Notice of Intent. Any person who intends to conduct coal exploration operations outside a permit area during which 250 tons or less of coal will be removed shall file with the regulatory authority a written notice of intention to explore.

(c) Upon submission of an administratively complete application for an exploration permit, the operator shall publish one public notice of the filing in a newspaper of general circulation in the county of the proposed exploration area, and provide proof of this publication to the regulatory authority within one week after the newspaper notice is published.

(d) Any person having an interest which is or may be adversely affected, shall have the right to file written comments for 10 days after the advertisement appears in the newspaper.

(e) The regulatory authority shall act upon an administratively complete application for a coal exploration permit and any written comments within 15 days from the close of the comment period. The approval of a coal exploration permit shall be based only on a complete and accurate application.

§ 905.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, *Requirements for Permits and Permit Processing*, shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Western Field Operations (WFO) Office.

(2) The WFO Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The WFO Office may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied.

(iii) Judge the application administratively complete and acceptable for further review.

(3) When the application is judged administratively complete, the applicant shall be advised by the WFO Office to file the public notice required by § 773.13 of this chapter.

(4) A representative of the WFO Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant features contained in the application marked by flags.

(5) Adequacy of information to allow the WFO Office to comply with the National Environmental Policy Act, 42 U.S.C. 4322, shall be considered in the determination of a complete application. The WFO Office may require specific

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additional information from the applicant as any environmental review progresses when such specific information is needed.

(c) In addition to the information required by subchapter G of this chapter, the WFO Office may require an applicant to submit supplemental information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) The regulatory authority shall review the application for a permit, written comments and objections submitted; and records of any informal conference or hearing held on the application and, where there is no EIS, issue a written decision within 60 days from the close of the comment period or if an informal conference is held under § 773.13(c), 60 days from the close of the informal conference. Where an EIS has been prepared for the application, the written decision shall be issued within 60 days from the Environmental Protection Agency's publication of the notice of availability of the final EIS in the **Federal Register**.

(e) Only application information that is labeled confidential by the applicant and submitted separately from the remainder of the application will be reviewed by OSMRE for withholding from disclosure under § 773.13(d).

(1) If the application contains information identified as confidential by the applicant, the public notice required by § 905.773(b)(3) must identify the type of information considered to be confidential.

(2) OSMRE shall determine in regard to qualification of any application information labeled confidential within 10 days of the last publication of the notice required under § 905.773(b)(3) of this chapter, unless additional time is necessary to obtain public comment or in the event of unforeseen circumstances.

§ 905.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, *Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights,* shall apply to any such actions involving surface coal mining and reclamation operations permits, except as specified below.

(b) Any revision to the approved mining or reclamation plan will be subject to review and approval by the WFO Office. A significant revision to the reclamation plan will be subject to the public notice and hearing provisions of §§ 905.773(b)(3) and 773.13 (b) and (c) prior to approval and implementation. A revision to the reclamation plan will be considered significant if it has the potential to adversely affect the achievement of reclamation as specified in the approved plan.

(c) The regulatory authority will approve or disapprove non-significant permit revisions within 30 days of receipt of the administratively complete revision. Significant revision and renewals will be approved or disapproved under the provisions of § 905.773(f).

(d) In addition to the requirements of Part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within 10 days of the publication of this chapter.

(e) Within 30 days from the last publication of the newspaper notice, written comments or objections on an application for significant revision, or renewal of a permit under § 774.15 may be submitted to the regulatory authority by any person having an interest that is or may be adversely affected by the decision on the application, or by public entities notified under § 773.13(a)(3) of this chapter with respect to the effects of the proposed mining operations on the environment within their areas of responsibility.

§ 905.775 Administrative and judicial review of decisions.

Part 775 of this chapter, *Administrative and Judicial Review of Decisions,* shall apply to all decisions on permits.

§ 905.777 General content requirements for permit applications.

Part 777 of this chapter, *General Content Requirements for Permit Applications,* shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 905.778 Permit applications—Minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, *Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information,* shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 905.779 Surface mining permit applications—Minimum requirements for information on environmental resources.

(a) Part 779 of this chapter, *Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources,* shall apply to any person who makes application to conduct suface coal mining and reclamation operations.

(b) In addition to the requirements of Part 779, the permit application shall contain a map that delineates existing vegetative types and a description of the plant communities within the proposed permit area and within any proposed reference area.

§ 905.780 Surface mining permit applications—Minimum requirements for reclamation and operation plan.

Part 780 of this chapter, *Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan,* shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 905.783 Underground mining permit applications—Minimum requirements for information on environmental resources.

(a) Part 783 of this chapter, *Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources,* shall apply to any person who makes application to conduct underground coal mining operations.

(b) In addition to the requirements of Part 783, the permit application shall contain a map that delineates existing vegetative types and a description of the plant communities within the area affected by surface operations and facilities and within any proposed reference area.

§ 905.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.

Part 784 of this chapter, *Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan,* shall apply to any person who makes application for a permit to conduct underground coal mining operations.

§ 905.785 Requirements for Permits for special categories of mining.

Part 785 of this chapter, *Requirements for permits for Special Categories of Mining,* shall apply to any person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

§ 905.795 Small operator assistance program.

Part 795 of this chapter, *Small Operator Assistance Program,* shall apply to any person making application for assistance under the small operator assistance program.

§ 905.800 Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.

(a) Part 800 of this chapter, *Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations Under Regulatory Programs,* shall apply to all surface coal mining and reclamation operations, except for § 800.40(a)(1) regarding the bond release application, for which paragraph (b) of this section substitutes and except as provided in paragraphs (c) and (d) of this section.

(b) The permittee may file an application with the regulatory authority for the release of all or part of a performance bond. The application shall be filed no later than 30 days prior to the end of the vegetation growing season in order to properly evaluate the completed reclamation operations. The appropriate season for evaluating reclaimed operations shall be identified in the mining and reclamation plan required by Subchapter G of this chapter and approved by the regulatory authority.

(c) The following bonds are acceptable for compliance with the California Federal Program.

(1) A surety bond;

(2) A collateral bond;

(3) A self-bond;

(d) A permittee may replace existing bonds with other bonds that provide equivalent coverage.

§ 905.815 Performance standards—Coal exploration.

Part 815 of this chapter, *Permanent Program Performance Standards—Coal Exploration,* shall apply to any person who conducts coal exploration.

§ 905.816 Performance standards—Surface mining activities.

(a) Part 816 of this chapter, *Permanent Program Performance Standards—Surface Mining Activities,* shall apply to any person who conducts surface mining activities, except for § 816.(a)(1) regarding revegetation success standards, for which paragraph (b) of this section substitutes.

(b) Standards for success shall be those identified in § 816.116(a)(2). Statistically valid sampling techniques for measuring success shall be included in the mining and reclamation plan, and approved by the regulatory authority.

§ 905.817 Performance standards—Underground mining activities.

(a) Part 817 of this chapter, *Permanent Program Performance Standards—Underground Mining Activities,* shall apply to any person who conducts underground mining activities, except for § 817.(a)(1) regarding revegetation success standards, for which paragraph (b) of this section substitutes.

(b) Standards for success shall be those identified in § 816.117(a)(2). Statistically valid sampling techniques for measuring success shall be included in the mining and reclamation plan, and approved by the regulatory authority.

§ 905.819 Special performance standards—Auger mining.

Part 819 of this chapter, *Special Permanent Program Performance Standards—Auger Mining,* shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 905.822 Special performance standards—Operations in alluvial valley floors.

Part 822 of this chapter, *Special Permanent Program Performance Standards—Operations in Alluvial Valley Floors,* shall apply to any person who conducts surface coal mining and reclamation operations on alluvial valley floors.

§ 905.823 Special performance standards—Operations on prime farmland.

Part 823 of this chapter, *Special Permanent Program Performance Standards—Operations on Prime Farmland,* shall apply to any person who conducts surface coal mining and reclamation operations on prime farmland.

§ 905.824 Special performance standards—Mountaintop removal.

Part 824 of this chapter, *Special Permanent Program Performance Standards—Mountaintop Removal,* shall apply to any person who conducts surface coal mining and reclamation operations constituting mountaintop removal mining.

§ 905.827 Special performance standards—Coal preparation plants not located within the permit area of a mine.

Part 827 of this chapter, *Permanent Program Performance Standards—Coal Preparation Plants Not Located Within the Permit Area of a Mine,* shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of a coal preparation plant not located within the permit area of a mine

§ 905.828 Special performance standards—In situ processing.

Part 828 of this chapter, *Special Permanent Program Performance Standards—In Situ Processing,* shall apply to any person who conducts surface coal mining and reclamation operations which include the in situ processing of coal.

§ 905.842 Federal inspections.

(a) Part 842 of this chapter, *Federal Inspection,* shall apply to all coal exploration and surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 842, copies of inspection reports will be furnished, upon request, to the California Division of Mining and Geology.

§ 905.843 Federal enforcement.

(a) Part 843 of this chapter, *Federal Enforcement,* shall apply regarding enforcement action on coal exploration and surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 843, copies of enforcement actions and orders to show cause will be furnished, upon request, to the California Division of Mining and Geology.

§ 905.845 Civil penalties.

Part 845 of this chapter, *Civil Penalties,* shall apply to the assessment of civil penalties for violations on coal exploration and surface coal mining and reclamation operations.

§ 905.955 Certification of blasters.

Part 955 of this chapter, *Certification of Blasters in Federal Program States and on Indian Lands,* shall apply to the training, examination and certification of blasters for surface coal mining and reclamation operations.

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Part IV

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 420

State Energy Conservation Program; Notice of Proposed Rulemaking and Public Hearing

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DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 420

[Docket No. CE-RM-87-101]

State Energy Conservation Program

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) proposes to amend the regulation for the State Energy Conservation Program (SECP) by modifying the prohibition on the use of SECP funds to purchase or install equipment or materials for energy conservation building retrofits or weatherization. The proposed changes would allow an exception to that prohibition for so-called eligible petroleum violation escrow (PVE) funds. These funds redress injuries which the States' citizens suffered from violations of former Federal petroleum price and allocation regulations.The proposal would allow eligible PVE funds to be used to promote the purchase and installation of equipment and materials for energy conservation building retrofits and weatherization, except in two instances. No eligible PVE funds could be used for the weatherization or retrofitting of State or local government buildings, nor to duplicate the retrofit activities conducted under DOE's Weatherization Assistance Program or Institutional Conservation Program, commonly known as the Schools and Hospitals Program. In addition, the amount of eligible PVE funds to be used for retrofits and weatherization is proposed not to exceed 25 percent of funds from all sources applied by the State to the SECP program annually. The proposed changes also add new provisions for subawards and for State cost-sharing requirements.

DATES: Written comments (six copies) on the proposed rule must be received no later than December 21, 1987, to ensure their consideration. A public hearing will be held in Washington, DC on December 9, 1987. Requests to speak at the hearing must be received no later than December 7.

ADDRESSES: All written comments (six copies), as well as requests to speak at the public hearing, are to be submitted to: U.S. Department of Energy, Office of Conservation and Renewable Energy, Hearings and Dockets, CE 43.1, Room 6B-025, Docket Number CE-RM-87-101, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9320.

The public hearing will begin at 9:30 a.m., and will be held at the following location: Washington, DC, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Room 1E-245 (1st Floor, E Corridor), Washington, DC 20585.

Each person to be heard is requested to bring seven copies of his/her statement. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made with the Office of Hearings and Dockets in advance by so indicating in the letter requesting to make an oral presentation.

A transcript of the hearing, as well as the entire rulemaking record, will be available for inspection between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday except Federal holidays, at the following address: DOE Freedom of Information Office, Room 1E-080, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Sandra Monje, Office of Energy Management and Extension, Department of Energy, Mail Stop CE-221, 6A-067, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8295.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. The Proposal
III. Opportunity for Public Comment
IV. Other Matters

I. Introduction

When first enacted, what is now Part D of Title III of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, 89 Stat. 932, provided financial assistance to develop and implement State energy conservation plans. Part D was subsequently amended by Part B of Title IV of the Energy Conservation and Production Act (ECPA), Pub. L. 94-385, 90 Stat. 1158, which provided financial assistance to develop and implement supplemental State energy conservation plans. Together, these EPCA and ECPA provisions constitute the State Energy Conservation Program (SECP), 42 U.S.C. 6321-27, 10 CFR Part 420.

Implementation of SECP was begun on February 26, 1976, 41 FR 8335. Since that time, the regulation has been revised several times: 41 FR 48325, November 3, 1976; 42 FR 28413, May 24, 1977; and 44 FR 20055, April 4, 1979. The current regulation was published on August 30, 1983, 48 FR 39356.

Today DOE is proposing to ease some of the provisions regarding prohibited expenditures under SECP,[1] stimulated primarily by the vast petroleum violations escrow sums which the States may apply to the SECP. The States hold these funds in trust for the benefit of their citizens found to have been injured by various petroleum pricing and allocation violations. In late 1982 Congress enacted the Warner Amendment, section 155 of the Further Continuing Appropriations Act, 1983, Pub. L. 97-377, 96 Stat. 1830, as a means of disbursing to the States $200 million obtained from the settlement of petroleum overcharge cases, and specified SECP as one of the programs eligible to receive those monies. 96 Stat. at 1919.

In March 1983, the United States District Court for the District of Columbia found Exxon Corporation liable for overcharges on sales of certain domestic crude oil.[2] The Court adopted

[1] These provisions are contained within 10 CFR 420.12. For the convenience of the reader, the currently effective text of § 420.12 is set forth here in its entirety.

§ 420.12 Prohibited expenditures.

(a) No financial assistance provided to a State under this part shall be used:

(1) for construction, such as construction of mass transit systems and exclusive bus lanes, or for construction or repair of buildings or structures;

(2) to purchase land, a building or structure or any interest therein;

(3) to subsidize fares for public transportation;

(4) to subsidize utility rate demonstrations or State tax credits for energy conservation;

(5) to conduct or purchase equipment to conduct research, development or demonstration of conservation techniques and technologies not commercially available; or

(6) to purchase or install equipment or materials for energy conservation building retrofits or weatherization, except that this provision shall not prevent such financial assistance from being used to reduce the interest rate charged on loans of non-SECP funds made by a State or financial institutions to fund the purchase or installation, or both, of equipment or materials for energy conservation building retrofits or weatherization.

(b) No more than 20 percent of the financial assistance awarded to the State for this program shall be used to purchase office supplies, library materials, or other equipment whose purchase is not otherwise prohibited by this section.

(c) Demonstrations of commercially available conservation techniques and technologies are permitted, and are not subject to the prohibitions of § 420.12(a) (1) and (6), or to the limitation on equipment purchases of § 420.12(b).

(d) A State may use regular or revolving loan mechanisms to fund SECP services which are consistent with this part and which are included in the State's approved SECP plan. The State may use loan repayments and any interest on the loan funds only for activities which are consistent with this part and which are included in the State's approval SECP plan.

[2] *United States* v. *Exxon Corp.*, 561 F. Supp. 816 (D.D.C. 1983), *aff'd*, 773 F. 2d 1240 (Temp. Emer. Ct. App. 1985), *cert. denied*, 106 S. Ct. 892 (1986), *reh'g denied*, 106 S. Ct. 1528 (1986).

the Warner Amendment as the general framework for restitutionary use of the Exxon overcharge monies. This allowed Exxon monies to be applied to SECP in the States, as well as to four other Federal energy conservation programs. These four programs are the Energy Extension Service (EES), 10 CFR Part 465; the Low-Income Weatherization Assistance Program (WAP), 10 CFR Part 440; the Schools and Hospitals Program, 10 CFR Part 455; and the Low-Income Home Energy Assistance Program, which is administered by the Department of Health and Human Services, 45 CFR Part 96, Subparts A-F, H.

Under the Exxon decision, the States received in excess of $2 billion, including interest earned on the funds while held in Federal escrow. States have received additional petroleum violation funds which they may apply to the SECP in the following proceedings:

From Judicially-Approved Settlement Agreements:[3]

In Re: the Department of Energy Stripper Well Exemption Litigation, M.D.L. 378 (D. Kan. 1986) ($834,151,658.07 distributed to the States as of May 11, 1987).

Diamond Shamrock Refining and Marketing v. *Standard Oil Company* v. *Department of Energy*, C2-84-1432 (S.D. Ohio 1986) ($48,696,039.06 distributed to the States as of May 11, 1987).

From Consent Orders:

Commonwealth Oil Refining Company, Inc., 46 FR 29497, July 21, 1981 (approximately $5,833,332 distributed to Puerto Rico).

Standard Oil Company (Sohio), 47 FR 49705, November 2, 1982 (approximately $10,000,000 distributed to the States).

Standard Oil Company of California (Chevron), 46 FR 52221, October 26, 1981 (approximately $25,000,000 distributed to the States).

USA Petroleum Corporation, 47 FR 50084, November 4, 1982 (approximately $962,500 distributed to the States).

Imperial Refineries Corporation, 48 FR 4029, January 28, 1983 (approximately $600,000 distributed to the States).

Site Oil Company/Flash Oil Company, Consent Order of February 7, 1983 (approximately $450,000 distributed to the States).

World Oil Company, 49 FR 2290, January 19, 1984 (approximately $900,000 distributed to the States).

From Second-Stage Refunds—DOE Office of Hearings and Appeals (OHA):[4]

Funds currently available ($76,336,443) as a result of various second-stage refund proceedings.

State funds potentially available for SECP are further increased by virtue of the facts that generally States hold the awards in interest-bearing accounts until they are used and that generally the States are required to apply this interest to the same purposes and programs for which the initial awards were made.

In May 1986, several States petitioned the Exxon Court to clarify and modify its judgment concerning prohibited expenditures under SECP, as well as three other points.

Regarding prohibited expenditures, the States asked the Court to permit additional restitutionary expenditures under the SECP and the EES by providing that certain DOE regulations which prohibit or limit expenditures of appropriated funds for the purchase of energy conservation equipment or materials would not apply to the funds made available to the States in the Exxon proceeding. Those regulations, found at 10 CFR 420.12(a)(5), (a)(6), and (b) for the SECP and at 10 CFR 465.11(a)(5), (a)(6) and (b) for the EES, read identically as provided *supra* note 1. Subsequently, the States modified their request to use Exxon funds for equipment and materials, by limiting such expenditures to not more than 50 percent of the funds spent on such programs by each jurisdiction.

The Court denied the State's motion in this regard and indicated that any changes with respect to prohibited expenditures should be done by DOE rulemaking.[5]

The Department agrees that this is an appropriate role for it to play in helping assure the best use of Exxon and similar funds. The Department further believes that many States could demonstrate cost-effective uses of such funds for heretofore prohibited materials and equipment expenditures. With respect to so-called "eligible petroleum violation escrow funds," therefore, DOE is proposing to relax some of the SECP provisions defining prohibited expenditures.

The Department would not, however, amend the SECP regulations in this regard with respect to remaining Warner Amendment funds or Federal SECP appropriations, including SECP funding via the Petroleum Overcharge Distribution and Restitution Act of 1988 (PODRA), 15 U.S.C. 4501-07, Subtitle A, Title III, of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99-509. The Warner funds were a one-time $200 million disbursement more than four years ago, and States do not have substantial amounts of these funds which have yet to be expended. Fairness to States which most expeditiously applied Warner funds, moreover, dictates that they should not have faced more restrictions than slower States with remaining funds would face under relaxed SECP rules. Appropriations have traditionally been modest enough to have been used cost effectively within the existing constraints on capital expenditures. Funds available under PODRA—which are capped for any given year at $200 million for the SECP, WAP, Schools and Hospitals Program and EES—generally match the appropriation levels historically available for these grant programs. The Department additionally disfavors generally expanded program regulations at this time, inviting, as they could, demands for enduring and increased SECP appropriations. The proposed bifurcated rule, the Department believes, would encourage the State to use their large sums of eligible PVE funds most cost effectively while they are available. These vast sums afford the States a real opportunity to make meaningful long-term improvements in energy conservation and efficiency and reduce the need for further Federal assistance.

The restrictions on materials and equipment for building retrofits and weatherization were not required by statute, but were administratively adopted. Early program rules prohibited use of SECP grants "[t]o purchase equipment, other than office equipment, such as weatherization materials and law enforcement equipment."[6] 41 FR 48325, November 3, 1976 (§ 420.3(a)(1)). Comment on this provision when it was proposed suggested that the prohibition might hamper effective implementation of State energy conservation plans and that DOE, then the Federal Energy Administration (FEA), should allow more flexibility in the guidelines in this respect. *Id.* at 48326. In retaining the prohibition at that time, FEA stated:

> Since it is advisable that undue emphasis not be placed upon purchase of equipment from funds appropriated for the program, FEA has determined not to modify the subrtance of proposed § 420.3(a)(1) at this time. The agency will, however, consider modifying this provision if need therefor is demonstrated through actual administration of the program.

[3] Additional funds are expected to be distributed to the States later from the M.D.L. 378 escrow, as well as other cases in litigation.

[4] Additional funds are expected to be made available for distribution to the States in the future as a result of other second-stage refunds by OHA.

[5] Order and Memorandum filed June 10, 1986, *id.* (No. 78-1035).

[6] These early rules also prohibited use of grants "[f]or construction, such as construction of mass transit systems and exclusive bus lanes." § 420.3(a)(2), and for certain subsidies, § 420.3(a)(3) and (4).

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Id.

In a subsequent rulemaking, comment was again received suggesting that DOE allow more flexibility in the purchase of equipment. DOE again demurred, reiterating that, "It is advisable that undue emphasis not be placed upon purchase of equipment from funds appropriated for the program." 44 FR 20055, 20057, April 4, 1979 (§ 420.14(a)).

The directions of the Exxon Court appear to present the Department with a dilemma, specifying as they do:

> Such a rulemaking, contrary to the contention of the States and DOE, should not solely be directed toward the funds in this action. Rather, the rulemaking should address the use of Warner Amendment funds for capital improvements. Since this Court intends that the Exxon funds be treated similarly to Warner Amendment funds, any changes to regulations regarding Warner funds made by rulemaking, would apply to the funds in this case.

Memorandum *supra* note 5, at 3.

The Department wishes to satisfy the Court's basic concerns with respect to the treatment of the Exxon funds and the manner in which policies are established for that purpose. As discussed above, however, the Department does not propose to amend the SECP regulations to lift restrictions on capital expenditures with respect to the negligible amount of remaining Warner funds, although the Department believes it is appropriate to so propose with respect to the large sums involved in *Exxon* and other cases.

The Department believes the proposal is in substantial compliance with the Court's order. First, the issue before the Court most assuredly was not how the Department should administer the SECP with respect to Federal appropriations, or even with respect to petroleum violation funds other than Exxon funds. Rather, as stated by the Court, "[T]he issue before the Court is whether any changes in the regulations restricting expenditure of funds for capital improvements should be done by rulemaking or mandated by the Court." *Id.* The Court elected rulemaking over judicial action, and the Department is undertaking this rulemaking to accommodate the Court in this regard.

Second, the rulemaking is not directed solely toward the funds involved in the Exxon case, but is directed toward other funds in State hands as well. The Department is proposing that a programmatic distinction be made, not between Exxon and other funds, but between all funds made potentially available to SECP due solely to administrative or court orders, and those made available through the appropriations process or other Congressional action. The total amounts available through such court and administrative orders far exceed the historic levels of amounts available through appropriation. Some administrative and court-ordered dispositions involving relatively small overcharge amounts are retained as "eligible PVE funds" for ease of administration, and because their non-appropriated character stimulates no artificial demand for enduring and increased appropriations, as discussed above. The proposed distinction in treatment rests on the reality that, contrary to the circumstances leading to the SECP's administrative proscription of capital expenditures in the first place, the large amounts now available apart from appropriations make feasible the types of projections long sought by the States, without requiring or creating expectations of a commitment of future Federal tax dollars.

Finally, the proposal can be characterized as consistent with the Court's order on various other grounds, for example that the order does not require identical treatment of all funds in the program; that Warner funds and Exxon funds in many respects are treated similarly under the SECP program; and that so little of the Warner funds remain that it would be meaningless to change the rules of the game for administering those amounts. The proposal reflects the Department's best judgment at this time of what the rules really ought to be for spending funds under the SECP program.

DOE considered the option of making the proposed changes apply both to the SECP and EES, but decided against it. DOE believes that the use of financial incentives for capital expenditures, such as equipment or materials for building retrofits, is much closer to the purposes of the SECP than to the purposes of the EES.

SECP purposes include reducing the rate of growth of energy demand and fostering improvements in energy efficiency. In addition, SECP has a definite thrust toward building-efficiency improvements, as evidenced by the fact that two of SECP's five mandatory measures, 10 CFR 420.6 (a) and (d), concern building efficiency. Conversely, though fostering improvements in energy efficiency, EES is primarily concerned with energy outreach and education activities. Finally, the need also to amend the EES is reduced by State control of PVE funding levels for each program. Under the terms and conditions of the various overcharge proceedings, States may usually, if not always, elect to devote greater amounts to one program, such as the SECP, and lesser amounts to other eligible programs and activities.

The States have raised the restrictions in § 420.12 with the Department as well as the Exxon Court. In December 1986, the National Association of State Energy Officials (NASEO) petitioned the Secretary of DOE to amend the rules governing the SECP by replacing § 420.12(a)(6), the prohibition on the purchase or installation of equipment or materials for building retrofit or weatherization activities, with a modification. According to the NASEO petition:

> The effect of this change would be to allow for the direct expenditure of funds, especially from oil overcharge refunds, in direct material purchases to promote conservation and renewable resources. This will permit an expansion of the innovative uses to which these funds can be directed and will allow for an increasing partnership between the States and businesses in the promotion of energy efficiency in all sectors of the economy. This will also permit the application of innovative financing techniques for energy saving technologies.

NASEO advocated the use of up to 33 percent of a State's annual SECP allocation for eligible expenditures related to State buildings. The NASEO petition defined eligible measures as those "energy conservation or renewable resource measures as defined at 10 CFR [Part] 450, [Subpart] D, at 10 CFR 455.2, or * * * high-efficiency appliances, or measures with equivalent demonstrated energy or capacity saving potential, by permission of the Department of Energy on a case by case basis * * *." The NASEO proposal stipulated that to be funded, projects must be expected to pay for themselves through energy or capacity savings in one to seven years; prohibited duplication of services available under the Energy Extension Service, the Institutional Conservation Program, and the Low-Income Weatherization Program; and allowed expenditures through "direct loans, grants, interest rate reductions on loans made with non-SECP funds, rebates, revolving loans or other financing mechanisms as approved on a case by case basis by the Department of Energy * * *." Finally, the proposal required any interest earnings from SECP funds to be limited to eligible SECP uses only. The NASEO petition has been made a part of the rulemaking record which is available for inspection and copying at DOE's Freedom of Information Office Reading Room, Room 1E-190, Forrestal Building, Washington, DC between the hours of 9:00 a.m., and 4:00 p.m.

II. The Proposal

"Section 420.2 Definitions." DOE is proposing to add definitions of "eligible petroleum violation escrow funds" and "State or local government building."

"Eligible petroleum violation escrow funds" would be defined to mean any funds identified as "Alleged Crude Oil Violation" funds and distributed by the Department or any court to the States, together with any interest earned on those funds by the States. A complete listing of eligible PVE funds is set out earlier in this notice. Eligible PVE funds would include, without being limited to, funds disbursed to the States as a result of the Exxon case, the approved settlement agreements in the Stripper Well and Diamond Shamrock litigation and various consent orders and second-stage refund proceedings. For the reasons discussed above, the term "eligible petroleum violation escrow funds" would exclude any funds received by the States pursuant to the PODRA, any additional Federal appropriations for the SECP, and any remaining Warner Amendment funds still in the hands of the States.

The proposed term "State or local government building" includes all buildings primarily occupied by offices or agencies of a State, as well as buildings which could be defined as buildings owned by units of local government and public care institutions under Title III, Part H, of the EPCA, which is the companion program to the Schools and Hospitals Program.

"Section 420.3 Financial Assistance." Two technical provisions are added. DOE proposes to add a new provision § 420.3(e) to reflect the requirement of 42 U.S.C. 6323a, a 1984 amendment to EPCA, for a matching contribution from States equal to at least 20 percent of the amount of funds appropriated by the U.S. Congress for the State's base SECP program. This provision does not mandate a match of eligible PVE funds, for which matching requirements are typically excluded. The contribution may be in cash or in kind or a combination of the two. The base SECP program consists of sections 361 through 366, 42 U.S.C. 6321–26, of the Energy Policy and Conservation Act, as amended. Because this requirement has been a part of SECP policy and practice for some time, the proposed change represents a formal recognition of that practice, rather than a change in the SECP. As proposed, the matching funds could not be used for the prohibited expenditures listed in § 420.12(a), but would not be subject to the 20 percent limitation on equipment and office supplies discussed in § 420.12(b). The exemption of matching funds from § 420.12(b) will permit States greater flexibility in allocating those funds to meet programmatic needs.

A new provision, § 420.3(f), authorizes the use of subawards so long as they are a part of an approved State SECP plan or supplemental plan. Currently, the Department of Energy Financial Assistance Regulations allow subawards only if specifically authorized by a statute or program rule, 10 CFR 600.3 (at the definition of "subaward"), or if approved through a deviation process, 10 CFR 600.4. The Department is proposing rule provisions specifically authorizing approved subawards.

"Section 420.12 Prohibited Expenditures." DOE proposes to modify the general prohibition in § 420.12(a)(6) on the use of funds to purchase or install equipment or materials for energy conservation building retrofits or weatherization by adding a new § 420.12(e). The proposal, which would apply only to eligible PVE funds, would allow these funds to be used for financial incentives to promote the purchase and installation of equipment and materials for energy conservation building retrofits and weatherization, except in two instances. No eligible PVE funds may be used for the weatherization or retrofitting of State or local government buildings, and no funds may be used to duplicate retrofit activities conducted under DOE's Low-Income Weatherization Assistance Program or Schools and Hospitals Program. In addition, the amount of eligible PVE funds to be used for purchase and installation of materials and equipment could not exceed 25 percent of the total of all funds made available annually to a State's entire SECP program. The total in reference to which the 25 percent would be determined could include, without necessarily being limited to, funds from federally appropriated, State appropriated, PVE or other sources. Of course, these building-related uses would have to be consistent with the terms and conditions whereby the State received the eligible PVE funds and must be included in an approved SECP plan or supplemental plan. Proposed § 420.12(e)(1) sets forth these requirements.

As noted, the proposal at § 420.12(e)(2) allows eligible PVE funds equal to as much as one quarter of a State's total annual SECP funds to support building retrofit and weatherization activities. This provision would allow States substantial latitude in committing funds to these activities, while assuring continuity with traditional SECP activities. DOE believes that a middle course is optimal between a position of placing no limit on the expenditure of funds for capital improvements and a position of strict adherence to traditional SECP functions. By proposing this 25 percent cap, DOE is attempting to balance the expressed need for increased State flexibility with the desire to avoid conversion of the SECP, whenever PVE funds are involved, into a program primarily concerned with building retrofits.

DOE is proposing at § 420.12(e) (5) and (6) that eligible PVE funds spent on energy conservation building retrofit or weatherization activities be expended only through selected financial incentive mechanisms. Under the proposed language, the States may develop financial incentives which take a variety of forms including, but not limited to, regular and revolving loans, loan buy-downs, and up to 50 percent rebates for qualifying materials and equipment. (The proposal requires the States to set appropriate restrictions and limits to insure most efficient use of rebates.) Partial or matching grants are prohibited on the theory that they might stimulate demand for enduring and increased SECP appropriations. The allowable incentives are intended to encourage individuals or organizations to purchase or install equipment or materials for energy conservation building retrofits or weatherization, while not eliminating the need for individuals or organizations to invest other, non-SECP funds. Thus DOE is proposing not to consider rebates for more than half the cost of retrofits to be an appropriate financial incentive, nor would the direct purchase or installation of equipment or materials by State personnel or their contractors be considered a financial incentive. In these disallowed cases, the program beneficiaries make an insufficient, or even no, matching investment. Loan guarantees also would not be permitted. The final prohibited category concerns otherwise eligible expenditures which were contracted for before the effective date of these amendments.

Proposed § 420.12(e)(7) provides that repayments, including interest, to States of any loans made for qualifying materials and equipment must be reused only for approved SECP activities.

DOE has chosen to focus on financial incentives for several reasons. First, the use of financial incentives stimulates the private sector and facilitates the energy conservation marketplace. Such facilitation is consistent with SECP's traditional role of fostering energy efficiency activities. Second, unlike

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funds spent on direct purchase or installation, monies used as financial incentives can often be recycled, thereby enabling more people and organizations to benefit. Third, loans and other financial incentives generate additional demand for private sector providers of retrofit and weatherization services.

We anticipate that allowing financial incentives for the purchase and installation of equipment or materials for energy conservation building retrofits or weatherization will give rise to questions concening permissible activities. Rather than prescribing a specific list of eligible energy conservation measures, which can be changed only through a formal rulemaking procedure, DOE is proposing to provide approval or disapproval through the normal State plan approval process, either during the approval of the annual State plan or amendments thereto. As part of this process the State will be expected to identify the energy savings anticipated for any proposed meaure. DOE is particularly interested in comments on this approach and also on the kinds of energy conservation measures that should be favorably considered.

Just as with any other SECP expenditures, proposed § 420.12(e)(3) would continue to exclude the use of financial incentives to purchase or install equipment or materials for energy conservation building retrofits or weatherization of State and local government buildings. As discussed above, these buildings include those which are owned or leased by offices or agencies of State or local governments and public care institutions. This has long been a controversial issue in SECP. Congress has never chosen to provide funds for materials and equipment for the weatherization of these buildings. Under SECP other types of assistance are available for State and local government buildings, such as the provision of information, energy audits, and energy conservation training.

The proposal, at § 420.12(e)(4), would prohibit activities that duplicate retrofit activities conducted under two other DOE programs which are also eligible to receive Exxon and other PVE funds. The proposed language of § 420.12(e)(4) would prohibit use of funds for any building that has been or is being assisted under the Weatherization Assistance Program, 10 CFR Part 440, or the Schools and Hospitals Program, 10 CPR Part 455. The Energy Extension Service is not listed as a prohibited program since it does not authorize any building retrofit or weatherization activities. Essentially, when SECP PVE funds are used as financial incentives in the energy conservation building retrofit or weatherization area, they are not to be directed toward retrofit activities that duplicate those of the Weatherization Assistance Program or the Schools and Hospitals Program. However, DOE believes financial incentives under SECP can be used to complement or supplement the services that such programs provide, if there is careful planning and coordination between the programs. This could provide greater flexibility in reaching needy populations and in utilizing a broader range of technologies to meet the needs of low-income households, schools, and hospitals. In this way, States could complement these programs by weatherizing other than low-income households that are currently being served by the Weatherization Assistance Program. These activities would have to be designed to complement but not supplant existing programs or program features. Additionally, as in the case of schools and hospitals activities, the Department would expect to approve use of PVE funds for purchase and installation of materials and equipment, but not for operations and maintenance activities. Nor does it mean to imply that any SECP funds, including eligible PVE funds, may be used to satisfy matching requirements in other programs.

The States also petitioned the Exxon Court for relaxation of § 420.12(a)(5) (prohibition on research, development, or demonstration of any technique or technology which is not commercially available) and of § 420.12(b) (20 percent limit on office supplies, library materials, and other equipment). The Department is proposing no changes in these two provisions because, in the case of § 420.12(a)(5), the focus of SECP is on supporting energy conservation programs which are very likely to generate energy savings, particularly near-term energy savings, rather than on supporting research into energy conservation hardware which may not begin producing energy savings until some time in the distant future, if at all. In the case of § 420.12(b) DOE has concluded that in view of the large amounts of eligible PVE funds available, the 20 percent limit on office supplies, library materials, and other equipment is both reasonable and sufficient. Moreover, as proposed in § 420.3(e), State matching funds are not subject to this 20 percent limit.

The Department does not intend, however, that any expenditures under the 20 percent limit in § 420.12(b) cause the 25 percent cap in proposed § 420.12(e)(2) on retrofit and weatherization materials and equipment to be exceeded. The 25 percent cap is intended in the proposal to be the program-wide maximum on these materials and equipment expenditures.

DOE is interested in receiving comments on all of the proposals above. By proposing these changes and discussing the associated issues, DOE is encouraging the States and others to express their views on each of these points.

III. Opportunity For Public Comment

A. *Written Comments.*—Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposal set forth in this notice. Comments should be submitted to the address for the Office of Hearings and Dockets, which is given in the beginning of this notice. The envelope and documents submitted should be identified with the designation "State Energy Conservation Program," Docket Number CE–RM–87–101. Six (6) copies should be submitted.

All comments received on or before the date specified in the beginning of this notice and all other relevant information will be considered by DOE before taking final action on the proposed regulation changes.

Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy, as well as six copies from which the information claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination. This procedure is set forth in 10 CFR 1004.11, 44 FR 1908, January 8, 1979.

B. *Public Hearings*—DOE will hold a public hearing on this proposed rule in Washington, D.C., as specified at the beginning of this notice.

Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may make a request for an opportunity to make an oral presentation. Such a request to speak at the hearing should be directed to the Hearings and Dockets address given in the addresses section of this notice and must be received by 4:30 p.m. local time, on the date specified in the dates section.

The person making the request should describe briefly his or her interest in the proceeding. The person should also provide a phone number where the person may be reached. Those persons requesting an opportunity to provide testimony should bring seven copies of their statement to the hearing.

C. *Conduct of Hearing*—DOE reserves the right to schedule oral presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation will be limited to 20 minutes.

A DOE official will preside at the hearing. This will not be a judicial or evidentiary type hearing. Questions may be asked of speakers only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. The DOE official has the discretion to determine if questions are germane to the subject of the hearing. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

D. *Transcript of Hearing*—A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, at the address given in the beginning of this notice. Any person may order a copy of the transcript from the hearing reporter.

E. *Cancellation of Hearing*—If DOE must cancel the hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Direct notice of cancellation will also be given to all persons scheduled to speak at the hearing.

IV. Other Matters

A. *Environmental Review*—In accordance with requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, DOE has determined that the proposed amendments fall within the range of actions addressed in existing environmental assessments and environmental impact statements prepared for the State Energy Conservation Program, the Weatherization Assistance Program, the Schools and Hospitals Program, and the Residential Energy Conservation Service, 10 CFR Part 456, and Commercial and Apartment Conservation Service, 10 CFR Part 458, and will clearly have no significant impact on the quality of the human environment.

B. *Executive Order 12291*—Section 3 of Executive Order (E.O.) 12291, 46 FR 13193, February 19, 1981, requires that DOE determine whether a rule is a "major rule," as defined by section 1(b) of E.O. 12291, and prepare a preliminary regulatory impact analysis for rules which fall within that definition. DOE reviewed the current SECP rule, 48 FR 39356, August 30, 1983, and concluded that it was not a "major rule" under this Executive Order. DOE has concluded that today's proposed amendments do not constitute a "major rule" either, because they will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

DOE has based its decision on the following. Today's proposed amendments allow States more flexibility under SECP. States are allowed, but not required, to use up to 25 percent of their SECP funds, spending eligible PVE monies exclusively, to provide financial incentives for building retrofits or weatherization. Consequently, DOE cannot estimate the amount of funds which will be used for this purpose. Even if the amount were to exceed $100 million annually, there should not result major increases in costs or prices or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises. In fact, the reverse may be true in many respects. The amendments will likely have the effect of increasing energy conservation and hence of decreasing energy costs for beneficiaries of these funds and in the economy generally. Incremental improvements in national productivity and competitiveness may also be expected, as well as increased employment of suppliers and installers of conservation materials and equipment.

The proposed rule was submitted to the Director of the Office of Management and Budget pursuant to E.O. 12291. The Director has concluded his review under that Executive Order and has no objection to the proposal.

C. *Regulatory Flexibility Act*—The Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, requires, in part, that agencies prepare an initial regulatory flexibility analysis for any proposed rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the **Federal Register**.

The proposed revisions to this rule involve changes to prohibited expenditure requirements and do not change the basic types of activities supported by SECP. Funding levels for SECP cannot be predicted because of the States' discretion over the allocation of petroleum violation escrow funds. Any impacts, however, are likely to be diffuse and beneficial. Accordingly, pursuant to section 605(b) of the Regulatory Flexibility Act, DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

D. *Paperwork Reduction Act*—These proposed changes require no modification of the program's information collection requirements within the meaning of the Paperwork Reduction Act, as amended, 44 U.S.C. 3501 *et seq.*

E. *The Catalog of Federal Domestic Assistance*—The Catalog of Federal Domestic Assistance number for the State Energy Conservation Program is 81.041.

List of Subjects in 10 CFR Part 420

Energy conservation, Grant programs—energy, Reporting and recordkeeping requirements, Technical assitance.

In consideration of the foregoing, DOE proposes to amend Part 420 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, DC October 16, 1987

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

10 CFR Part 420 is proposed to be amended as follows:

PART 420—[AMENDED]

1. The authority citation for Part 420 continues to read as follows:

Authority: Title III, Part C, as amended, of the Energy Policy and Conservation Act (42 U.S.C. 6321 *et seq.*); Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

2. 10 CFR 420.2 is amended by adding definitions of "Eligible petroleum violation escrow funds" and "State or local government building" in the proper alphabetical order, as follows:

§ 420.2 Definitions.

* * * * *

Eligible petroleum violation escrow funds means any funds distributed to the States by the Department of Energy or any court and identified as Alleged Crude Oil Violation funds, together with any interest earned thereon by the States, and includes such funds as funds

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disbursed as a result of *United States* v. *Exxon Corp.*, 561 F. Supp. 816 (D.D.C. 1983), *aff'd*, 773 F. 2d 1240 (Temp. Emer. Ct. App. 1985), *cert. denied*, 106 S. Ct. 892 (1986), *reh'g denied*, 106 S. Ct. 1526 (1986), or the settlement approved on July 7, 1986, in *In Re: the Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378, in the United States District Court for the District of Kansas, but excludes any funds designated as "excess funds" under section 3003(d) of the Petroleum Overcharge Distribution and Restitution Act, Subtitle A of Title III of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509, and the funds distributed under the "Warner Amendment," section 155 of Pub. L. 97–377.

* * * * *

State or local government building means any building, whether owned or leased, which is primarily occupied by offices or agencies of a State; any building which could be covered by Part H, Title III, of the Energy Policy and Conservation Act, 42 U.S.C. 6372–6372i; and any building which could be covered by 42 U.S.C. 6372–6372i, but for the fact it is leased or intended for seasonal use.

3. 10 CFR 420.3 is amended by adding paragraphs (e) and (f) to read as follows:

§ 420.3 Financial assistance.

* * * * *

(e) Each State shall provide cash, in kind contributions, or both for SECP activities in an amount totalling not less than 20 percent of the financial assistance allocated to the State under paragraph (b) of this section. Cash and in-kind contributions used to meet this State cost-sharing requirement are subject to the limitations on expenditures described in § 420.12(a), but are not subject to the 20 percent limitation in § 420.12(b). The type and amount of State cost sharing shall be identified in the annual application with respect to a plan. Nothing in this paragraph shall be read to require a match for eligible petroleum violation escrow funds used under this part.

(f) Subawards which are included in a State's approved SECP plan or supplemental plan are authorized under this part.

4. 10 CFR 420.12 is amended by adding paragraph (e) to read as follows:

§ 420.12 Prohibited expenditures.

* * * * *

(e) Notwithstanding paragraph (a)(6) of this section, a State may use eligible petroleum violation escrow funds under this part to promote the purchase and installation of equipment and materials for energy conservation building retrofits or weatherization, subject to the following terms and conditions:

(1) Such use must be consistent with the terms and conditions whereby the State received the eligible petroleum violation escrow funds and must be included in the State's approved SECP plan or supplemental plan;

(2) Up to 25 percent of such funds may be used for such purposes, although the base upon which the 25 percent is calculated may include, in addition to eligible petroleum violation escrow funds, State cost-sharing contributions under § 420.3(e) and any other funds applied by the State to the SECP, such as any Federal or State appropriations;

(3) No funds may be used for energy conservation building retrofits or weatherization of State or local government buildings;

(4) No funds may be used for energy conservation building retrofits or weatherization of any building that has been or is being assisted under the Weatherization Assistance Program for Low-Income Persons, 42 U.S.C. 6861 *et seq.*, or the Institutional Conservation Program, 42 U.S.C. 6371 *et seq.*;

(5) Subject to paragraph (e)(6) of this section, a State may use a variety of financial incentives to fund purchases and installation of materials and equipment under this paragraph including, but not limited to, regular loans, revolving loans, loan buy-downs, and rebates;

(6) The following mechanisms are not allowed for funding the purchase and installation of materials and equipment under this paragraph:

(i) Direct purchases of goods and services by a State or contractors or others working for the State;

(ii) Rebates for more than 50 percent of the total cost of purchasing and installing materials and equipment (States shall set appropriate restrictions and limits to insure most efficient use of rebates);

(iii) Grants;

(iv) Loan guarantees; and

(v) Any otherwise allowable funding mechanism if the contract for the purchase and installation of materials and equipment was entered into before the effective date of this paragraph, [insert effective date of final rule]; and

(7) A State may use loan repayments, including any interest, only for activities which are included in the State's approved SECP plan or supplemental plan.

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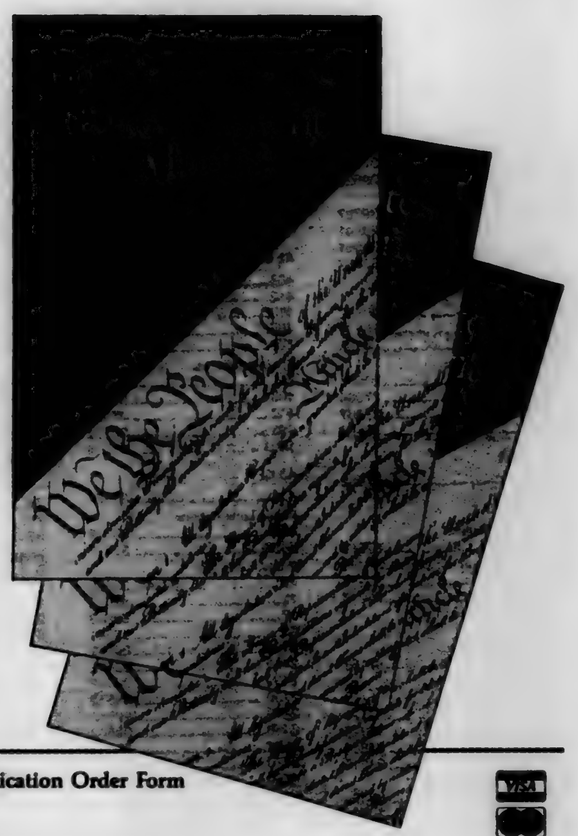

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 584]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 584 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 268,500 cartons during the period October 25 through October 31, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 584 (§ 910.884) is effective for the period October 25 through October 31, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987-88. The committee met publicly on October 20, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by an 11 to 1 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is good for large sized lemons, fair for smaller sizes.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 910.884 is added to read as follows:

§ 910.884 Lemon Regulation 584.

The quantity of lemons grown in California and Arizona which may be handled during the period October 25 through October 31, 1987, is established at 268,500 cartons.

Dated: October 21, 1987.

Charles R. Brader,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-24748 Filed 10-22-87; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1030

[Docket No. AO-361-A25]

Milk in the Chicago Regional Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the order regulating the handling of milk in the Chicago Regional marketing area based on industry proposals considered at a public hearing held at Madison, Wisconsin, on June 2-4, 1987. The amended order establishes transfer credits on movements of milk from pool plants to distributing plants for Class I use. One credit, the transportation credit, reimburses distributing plant handlers from marketwide pool funds up to .28 cents/cwt./mile on such transfer milk. The other credit, the assembly credit, provides an 8-cent per cwt. pool reimbursement to pool plant handlers who assemble milk for transfer to bottling plants. These changes are authorized by the Agricultural Marketing Agreement Act of 1937 as amended by the Food Security Act of 1985, which provides for marketwide service payment programs, and are

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necessary to reflect current marketing conditions and maintain orderly marketing conditions. Cooperative associations representing more than the required two-thirds of the producers supplying milk for the market have approved the issuance of the amended order.

EFFECTIVE DATE: November 1, 1987.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued May 15, 1987; published May 19, 1987 (52 FR 18894).

Extension of Time for Filing Briefs: Issued July 31, 1987; published August 6, 1987 (52 FR 29196).

Emergency Partial Decision: Issued October 8, 1987; published October 15, 1987 (52 FR 38235).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Chicago Regional order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is in accordance with the Food Security Improvements Act of 1986 (Section 9 of Pub. L. 99–280, 100 Stat. 51, Mar. 20, 1986) to make this order amending the order effective not later than November 1, 1987.

The provisions of this order are known to handlers. The decision of the Secretary containing all amendment provisions of this order was issued October 8, 1987 (52 FR 38235). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective November 1, 1987, and that a statutory deadline precludes delay of the effective date of this order for 30 days after its publication in the **Federal Register.** (sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1030

Milk marketing orders, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Chicago Regional marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

1. The authority citation for CFR Part 1030 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. In § 1030.52, paragraph (b) is revised to read as follows:

§ 1030.52 Plant location adjustment for handlers.

* * * * *

(b) For the purpose of this section and §§ 1030.55 and 1030.75, the distances to be computed shall be on the basis of the shortest highway mileage as determined by the market administrator—with fractions rounded up to the next whole mile.

(1) The market administrator shall notify each handler of the zone or mileage determination from the city hall in Chicago for each plant and for each handler's pool distributing plant the mileage to each transferor pool plant.

(2) Mileage determinations are subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of such redetermination within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any period prior to the redetermination announced by the market administrator.

* * * * *

(3) A new § 1030.55 is added to read as follows:

§ 1030.55 Transfer credits on Class I milk.

(a) For each handler who operates a pool distributing plant (or plants) a transportation credit on milk received from each other pool plant shall be computed by the market administrator as follows, except that paragraph (a)(2) of this section shall not apply when the Class I milk price adjusted for location pursuant to § 1030.52(a) is higher at the transferor plant than at the transferee plant:

(1) Multiply the number of hundredweights of the quantities of milk subject to the computations pursuant to § 1030.52(c) (9) and (10) times the product of 0.28 cents times the number of miles between the transferor plant and the transferee plant; and

(2) Subtract an amount computed by multiplying the absolute value difference between the location adjustment rates specified in § 1030.52(a) applicable at the transferee and transferor plants times the hundredweights of milk used in the computation in paragraph (a)(1) of this section. If the amount computed pursuant to this paragraph is greater than the amount computed in paragraph (a)(1) of this section the transportation credit will be zero.

(b) For each handler who transfers milk from a pool plant to a pool distributing plant (or plants) and assembly credit shall be computed by the market administrator at the rate of 8 cents per hundredweight of such handler's transfers of milk included in the computations pursuant to § 1030.52(c)(9) and (10).

(4) In § 1030.60, change the reference "§ 1033.44 (a)(9)" in paragraph (c) to "§ 1030.44(a)(9)"; delete the word "and" at the end of paragraph (f); at the end of paragraph (g) change the period to a semicolon and add the word "and"; and add a new paragraph (h) to read as follows:

§ 1030.60 Handler's value of milk for computing uniform price.

* * * * *

(h) Subtract an amount equal to any credits applicable pursuant to § 1030.55.

Signed at Washington, DC, on: October 20, 1987.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 87–24557 Filed 10–22–87; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Parts 50 and 77

[Docket No. 87–114]

Bovine Tuberculosis and Bison

AGENCY: Animal and Plant Health Inspection Sevice, USDA.

ACTION: Final rule.

SUMMARY: We are amending the indemnity and interstate movement regulations related to bovine tuberculosis so that the regulations applying to cattle also apply to bison. This action increases the number of bison owners eligible to receive Federal indemnity for bison destroyed because of tuberculosis and restricts the interstate movement of bison that are exposed, reactors, or suspects or from herds containing suspects. These actions are necessary to help eradicate bovine tuberculosis in the United States.

EFFECTIVE DATE: November 23, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Mitchell A. Essey, Senior Staff Veterinarian, Program Planning Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 844, Federal Building, 6505 Belcrest Road, Hyattsville MD 20782, 301–436–5961.

SUPPLEMENTARY INFORMATION:

Background

We published in the **Federal Register** on June 29, 1987 (52 FR 24165–24168, Docket Number 86–002), a proposal to amend the indemnity and interstate movement regulations related to bovine tuberculosis in 9 CFR Parts 50 and 77 so that the regulations applying to cattle also apply to bison.

We proposed to exclude the District of Columbia and the territories (except the Virgin Islands) of the United States from our lists of accredited-free states, modified accredited areas, and nonmodified accredited areas until we can determine their bovine tuberculosis status.

We also proposed to replace the terms "modified accredited areas" and "nonmodified accredited areas" in Part 77 with "modified accredited states" and "nonmodified accredited states," respectively.

Miscellaneous

We proposed to amend the regulations in Part 77 to update the incorporation by reference of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication."

We proposed to make several nonsubstantive editorial changes to clarify the regulations.

Comments on the proposed rule were required to be postmarked or received on or before July 29, 1987. We received 104 comments, all of which supported the proposed rule. Most of the comments were from members of the American Buffalo Association, Inc.

Based on the rationale set forth in the proposal, we are adopting the proposed rule as a final rule except as explained below.

On September 23, 1986, an interim rule was published in the **Federal Register** (51 FR 33733–33736, Docket Number 85–131) which, among other things, amended § 77.9(b). This amendment inadvertently removed a portion of § 77.9(b). This final rule corrects this error. In addition, minor, nonsubstantive changes have been made.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this action will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Currently, most owners of bison affected with or exposed to tuberculosis lack adequate financial incentives to free their herds from the disease. Because only bison associated with the June 1984 outbreak of tuberculosis in South Dakota are covered by our tuberculosis indemnity regulations, most bison owners are liable for all losses they incur in controlling or eradicating tuberculosis in their herds. In addition, bison affected with tuberculosis have no salvage value.

This rule will increase the number of owners eligible to receive federal indemnity for bison destroyed because of tuberculosis. To receive the indemnity, owners must obtain an appraisal for each bison to be destroyed, have the bison destroyed, and clean and disinfect contaminated premises. Although owners will have some expenses in connection with these requirements, they will be entitled to federal indemnity for each bison destroyed in accordance with the regulations in Part 50, as amended by this final rule. The benefits to bison owners will far outweigh the costs. Furthermore, we do not expect this action to significantly increase the cost of the tuberculosis indemnity program because our experience indicates that less than one percent of the bison in the United States will be condemned because of tuberculosis.

This rule will require states to apply the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" to bison in the same manner as to cattle to qualify as an accredited-free state or a modified accredited state. However, these provisions will place no burden on individual herd owners.

This rule will continue to allow most bison to be moved interstate without restriction. It restricts the interstate movement only of bison from nonmodified accredited states and bison that are exposed, reactors, or suspects or from herds containing suspects. At

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present, there are no nonmodified accredited states, and less than 1 percent of the bison in the United States are exposed, reactors, or suspects or from herds that contain suspects.

Removing the District of Columbia and the territories (except the Virgin Islands) of the United States from the lists in Part 77 of accredited-free states, modified accredited states, and nonmodified accredited states will not affect the requirements for interstate movement of cattle or bison from the District of Columbia or these territories.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

Information collection requirements contained in this document have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and have been assigned OMB control numbers 0579–0001, 0579–0051, and 0579–0084.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects

9 CFR Part 50

Animal diseases, Bison, Cattle, Hogs, Indemnity payments, Tuberculosis.

9 CFR Part 77

Animal diseases, Bison, Cattle, Incorporation by reference, Transportation, Tuberculosis.

Accordingly, we are amending 9 CFR Parts 50 and 77 as follows:

PART 50—BOVINE TUBERCULOSIS INDEMNITY

1. The authority citation for Part 50 continues to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

2. The heading for Part 50 is revised to read "PART 50—ANIMALS DESTROYED BECAUSE OF TUBERCULOSIS".

§ 50.1 Definitions.

3. In § 50.1(e), "Representative" is revised to read "representative".

4. In § 50.1(g), "Veterinarian" is revised to read "veterinarian".

5. In § 50.1(j), "cattle" is revised to read "cattle, bison, or swine".

6. In § 50.1(m), "or bison" is added after "cattle"; and "animals (of like kind)", every time the phrase appears, is revised to read "cattle or bison, or both,".

7. In § 50.1(n), "Depopulation" is revised to read "depopulation", and "and bison" is added after "cattle".

8. In § 50.1(o), " 'Registered Cattle': Cattle" is revised to read " 'Registered cattle or bison': Cattle or bison".

9. In § 50.1(p), "cattle" is revised to read "cattle, bison, or swine".

10. In § 50.1(q), "of cattle" is removed.

11. In § 50.1, all paragraph designations are removed, and the definitions are arranged in alphabetical order.

§ 50.2 Cooperation with states.

12. In § 50.2, "cattle" is revised to read "cattle, bison, or swine".

§ 50.3 Payment to owners for animals destroyed.

13. In § 50.3(a), the heading is revised to read *"Affected cattle and bison"*, and, in the body of the paragraph, "and bison" is added after "cattle".

14. In § 50.3(b), the heading is revised to read *"Herd depopulation—cattle and bison"*, and, in the body of the paragraph, "and bison" is added after "cattle" every time the word appears.

15. In § 50.3(c), the heading is revised to read *"Exposed cattle and bison"*; and, in the body of the paragraph, "and bison" is added after "cattle" the first time the word appears, and "or bison" is added after "cattle" the second and third time the word appears.

16. In § 50.3(d), "of cattle" is removed.

17. In § 50.3, paragraph (e) is removed.

§ 50.4 Determination of existence of or exposure to tuberculosis.

18. In § 50.4(a), "and bison" is added after "Cattle".

19. In § 50.4(b), "and bison" is added after "Cattle" and after "cattle".

§ 50.5 Record of tests.

20. In § 50.5, "any animal in a herd of cattle" is revised to read "any cattle or bison in a herd".

§ 50.6 Identification of animals to be destroyed because of tuberculosis.

21. In § 50.6(a), the heading is revised to read *"Reactor cattle and bison"*, and, in the body of the paragraph, "and bison" is added after "cattle".

22. In § 50.6(b), the heading is revised to read *"Exposed cattle and bison"*, and, in the body of the paragraph, "and bison" is added after "cattle".

§ 50.7 Destruction of animals.

23. A parenthetical phrase is added at the end of § 50.7 to read as follows:

(Approved by the Office of Management and Budget under control number 0579–0051)

§ 50.8 Payment of expenses for transportation and disposal of carcasses of affected animals.

24. In § 50.8, "and bison" is added after "cattle" every time the word appears.

§ 50.9 Appraisals.

25. In § 50.9, "or bison" is added after "cattle".

§ 50.10 Report of appraisals.

26. In § 50.10, "and bison" is added after "cattle".

§ 50.11 Report of salvage proceeds.

27. In § 50.11, "or bison" is added after "cattle" every time the word appears.

§ 50.12 Claims for indemnity.

28. In § 50.12, "or bison" is added after "cattle" every time the word appears.

§ 50.13 Disinfection of premises, conveyances, and materials.

29. In § 50.13, "or bison" is added after "cattle".

§ 50.14 Claims not allowed.

30. In § 50.14, in the introductory text, "or bison" is added after "cattle".

31. In § 50.14(b), "and bison" is added after "cattle" every time the word appears.

32. In § 50.14(d), "or bison" is added after "cattle" the first and third time the word appears, and "and bison" is added after "cattle" the second time the word appears.

33. In § 50.14(e), "or bison" is added after "cattle".

§ 50.15 Part 53 of this chapter not applicable.

34. In § 50.15 "or bison" is added after "cattle".

PART 77—TUBERCULOSIS IN CATTLE

35. The authority citation for Part 77 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

36. The heading for Part 77 is revised to read "PART 77—TUBERCULOSIS", and the subpart designations and headings are removed.

§ 77.1 Definitions.

37. In § 77.1, paragraph (b) is removed.

38. In § 77.1(c), "of cattle" is removed.

39. In § 77.1, paragraph (d) and footnote 1 are revised to read as follows:

(d) *"Uniform Methods and Rules—Bovine Tuberculosis Eradication."* Uniform methods and rules for eradicating bovine tuberculosis in the United States, adopted by the United States Animal Health Association on October 24, 1984, and approved by Veterinary Services on March 13, 1985. The "Uniform Methods and Rules—Bovine Tuberculosis Eradication" were approved for incorporation by reference into the Code of Federal Regulations by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.[1]

40. In § 77.1, paragraphs (e), (f), (g), and (h) are revised to read as follows:

* * * * *

(e) *Official tuberculin test.* Any test for tuberculosis conducted on cattle in accordance with the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The official tuberculin test for bison is the same as for cattle.

(f) *Negative cattle and bison.* Cattle are classified negative for tuberculosis in accordance with the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," based on the results of an official tuberculin test. Bison are classified negative for tuberculosis in the same manner as cattle.

(g) *Suspect cattle and bison.* Cattle are classified as suspects for tuberculosis in accordance with the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," based on a positive response to an official tuberculin test. Bison are classified as suspects for tuberculosis in the same manner as cattle.

(h) *Reactor cattle and bison.* Cattle are classified as reactors for tuberculosis in accordance with the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," based on a positive response to an official tuberculin test. Bison are classified as reactors for tuberculosis in the same manner as cattle.

* * * * *

41. In § 77.1(i), "or bison, or both," is added after "cattle" the first two times the word appears, and "or bison" is added after "cattle" the third time the word appears.

42. In § 77.1(j), "of cattle" is removed, and "such cattle" is revised to read "cattle or bison".

43. In § 77.1(k), *"and bison"* is added after *Cattle"* in the heading; and, in the body of the paragraph, "and bison" is added after "cattle" the first time the word appears, and "or bison" is added after "cattle" the second time the word appears.

44. In § 77.1(l), *"and bison"* is added after *"cattle"* in the heading, and, in the body of the paragraph, "and bison" is added after "cattle" every time the word appears.

45. In § 77.1, paragraphs (w), (x), (y), and (z) are revised to read as follows:

* * * * *

(w) *Modified accredited state.* (1)(i) To establish or maintain status as a modified accredited state, a state must comply with all of the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" regarding modified accredited states, and must apply these provisions to bison in the same manner as to cattle. Modified accredited state status must be renewed annually.

(ii) To qualify for renewal of modified accredited state status, a state must submit an annual report to Veterinary Services certifying that the state complies with all the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" regarding modified accredited states and that the state applies these provisions to bison in the same manner as to cattle. The report must be submitted to Veterinary Services each year between October 1 and November 30.

(2) Modified accredited states: Alabama, Arkansas, California, Florida, Hawaii, Idaho, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Ohio, Oregon, Puerto Rico, Tennessee, Texas, Virginia, and Washington.

(x) *Nonmodified accredited state.* (1) A state that has not received accredited-free state status or modified accredited state status. (2) Nonmodified accredited states: [No states]

(y) *Accredited-free state.* (1)(i) To establish or maintain status as an accredited-free state, a state must have no findings or tuberculosis in any cattle or bison in the state for at least 5 years. The state also must comply with all of the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" regarding accredited-free states and must apply these provisions to bison in the same manner as to cattle. Detection of tuberculosis in any cattle or bison in the state will result in suspension of accredited-free state status. Detection of tuberculosis in two or more herds in the state within 48 months will result in revocation of accredited-free state status. Accredited-free state status must be renewed annually.

(ii) To qualify for renewal of accredited-free state status, a state must submit an annual report to Veterinary Services certifying that the state complies with all the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" regarding accredited-free states and that the state applies these provisions to bison in the same manner as to cattle. The report must be submitted to Veterinary Services each year between October 1 and November 30.

(2) Accredited-free states: Alaska, Arizona, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, the Virgin Islands of the United States, West Virginia, Wisconsin, and Wyoming.

(z) *Accredited herd.* To establish or maintain accredited herd status, the herd owner must comply with all the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" regarding accredited herds and must apply the provisions to bison in the same manner as to cattle. All cattle and bison in a herd must be free from tuberculosis.

* * * * *

46. In § 77.1(aa), "or bison" is added after "cattle".

47. In § 77.1(bb), "or bison" is added after "cattle", and "§§ 77.9 and 77.10" is revised to read "§§ 77.5 and 77.6 of this part".

48. In § 77.1, all paragraph designations are removed, the definitions are arranged in alphabetical order, and a parenthetical phrase is added at the end of the section to read as follows:

(Approved by the Office of Management and Budget under control number 0579–0084)

49. Section 77.2 is revised to read as follows:

§ 77.2 General restrictions.

Cattle and bison may not be moved interstate except in compliance with this part.

§§ 77.3, 77.4, 77.5 and 77.6 [Removed]

§§ 77.7, 77.8, 77.9 and 77.10 [Redesignated as 77.3, 77.4, 77.5 and 77.6]

50. Sections 77.3, 77.4, 77.5, and 77.6 are removed, and §§ 77.7, 77.8, 77.9, and 77.10 are redesignated as §§ 77.3, 77.4, 77.5, and 77.6, respectively.

[1] Copies of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" may be obtained from the Program Planning Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, 6505 Belcrest Road, Hyattsville, MD 20782.

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§ 77.3 [Amended]

51. In redesignated § 77.3, "*areas*" is revised to read "*states*" in the section heading; and, in the text, "or bison" is added after "cattle", and "area" is revised to read "state".

§ 77.4 Movement from nonmodified accredited states.

52. In redesignated § 77.4, "*areas*" is revised to read "*states*" in the section heading; and, in the introductory text, "or bison" is added after "cattle", and "area" is revised to read "state".

53. In redesignated § 77.4(a), "or bison" is added after "cattle" every time the word appears.

54. In redesignated § 77.4(b), "or bison" is added after "cattle" very time the word appears.

55. In redesignated § 77.4(c), "or bison" is added after "cattle".

56. In redesignated § 77.5, the heading is revised to read "*Interstate movement of cattle and bison that are exposed, reactors, or suspects or from herds containing suspects.*"

57. In redesignated § 77.5(a), "*and bison*" is added after "*cattle*" in the heading, and, in the body of the paragraph, "or bison" is added after "Cattle" and "cattle".

58. In redesignated § 77.5 (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5), "or bison" is added after "cattle" every time the word appears.

59. In redesignated § 77.5(a)(4), "77.9(a)(5)" is revised to read "77.5(a)(5)".

60. Redesignated § 77.5(b), introductory text, is revised to read as follows:

§ 77.5 [Amended]

* * * * *

(b) *Exposed cattle and bison.* Except for the movement of exposed cattle to a quarantined feedlot in accordance with § 50.16 of this chapter, exposed cattle or exposed bison shall be moved interstate only if they are moved directly to slaughter to an establishment operating in accordance with the Federal Meat Inspection Act (21 U.S.C. 601–695) or to a state inspected slaughtering establishment which has inspection by a state inspector at the time of slaughter and only in accordance with the following conditions:

* * * * *

61. In redesignated § 77.5 (b)(1) and (b)(2), "or bison" is added after "cattle" every time the word appears.

62. In redesignated § 77.5(c), "*and bison*" is added after "*cattle*" in the heading, and, in the body of the paragraph, "or bison" is added after "cattle" every time the word appears.

63. A parenthetical phrase is added to the end of redesignated § 77.5 to read as follows:

(Approved by the Office of Management and Budget under control number 0579–0051)

§ 77.6 Other movements.

64. In redesignated § 77.6, "or bison" is added after "cattle" in the first sentence of this section, and the last two sentences of the section (beginning with "The revision of the regulations") are removed.

Done in Washington, DC, this 19th day of October, 1987.

Donald Houston,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87–24558 Filed 10–22–87; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Part 92

[Docket No. 87–126]

Restrictions on Importation of Horses from Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the regulations by including Spain among the countries in which Veterinary Services considers African horse sickness to exist. Because African horse sickness is a fatal disease not found in the United States, we require horses from African horse sickness-affected countries to undergo a 60-day quarantine at the port of New York. As a result of the change in the disease status of Spain, horses intended for importation from Spain must now undergo the 60-day quarantine required of all horses from African horse sickness-affected countries.

DATES: Interim rule effective October 23, 1987. Consideration will be given only to comments postmarked or received on or before December 22, 1987.

ADDRESSES: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Specifically refer to Docket No. 87–126. You may review comments at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 810, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION:

Background

The regulations on animal importations in 9 CFR Part 92 restrict the importation of horses that could introduce various diseases into the United States. The regulation in § 92.11(d)(ii) (referred to below as the regulation) requires horses intended for importation from Africa, including horses that have stopped in or transited a country in Africa, to undergo a 60-day quarantine in the port of New York.

Until the veterinary authorities of Spain reported that they had confirmed an outbreak of African horse sickness on September 14, 1987, Veterinary Services considered that disease to exist only on the continent of Africa. For that reason, § 92.11(d)(ii) restricted importation of horses coming from Africa, without referring to African horse sickness. This restriction, requiring the horses in question to undergo a 60-day quarantine at the port of New York was intended to prevent the introduction of African horse sickness, a fatal equine viral disease, into the United States.

To present this regulation more clearly, we are making it explicit that our quarantine is intended for horses from countries where we consider African horse sickness to exist. Until the recent outbreak of this disease in Spain, the indecision of the regulation, which referred to the continent of Africa but not to the disease we considered to be contained within that continent, had no practical consequences. Now, however, the opportunity for clarification presents itself, since we are including Spain among the countries from which horses must undergo a 60-day quarantine at the port of New York. More precisely, the horses undergo quarantine at the New York Animal Import Center, Veterinary Services' quarantine facility at the port of New York, located in Newburgh, New York.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

We are continuing to allow U.S. importers to import horses from Spain, although we are requiring these horses to enter through the port of New York. All horses from countries where we consider African horse sickness to exist must enter through the port of New York and undergo a 60-day quarantine at the New York Animal Import Center. Because African horse sickness has spread to Spain, importers of horses from Spain must comply with the regulation in § 92.11(d)(1)(ii) to prevent the introduction of African horse sickness into the United States.

While importers of horses from Spain, accustomed to paying 3-day quarantine costs, will incur additional costs because of the 60-day quarantine, we do not expect this to have a significant economic impact on a substantial number of small entities. Only a small number of horses are imported from Spain; our figures indicate an average of 20 per year.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Emergency Action

Dr. Donald L. Houston, Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exits, which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent horses with African horse sickness from introducing it into the United States.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these emergency conditions, there is good cause under 5 U.S.C. 553 for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. We will consider comments postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. Any amendments we make to this interim rule as a result of those comments will be published in the **Federal Register** as soon as possible after the close of the comment period.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, 9 CFR Part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for Part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.11 [Amended]

2. In § 92.11, paragraph (d)(1)(ii) is amended to read as follows:

§ 92.11 Quarantine requirements.

* * * * *

(d) * * *

(1) * * *

(ii) Horses intended for importation from Spain and all countries on the continent of Africa, countries Veterinary Services considers to be affected with African horse sickness, must enter the United States only at the port of New York, and be quarantined at the New York Animal Import Center in Newburgh, New York, for at least 60 days. This restriction also applies to horses that have stopped in or transited a country considered affected with African horse sickness.

* * * * *

Done in Washington, DC, this 19th day of October 1987.

Donald Houston,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87–24559 Filed 10–22–87; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 015CE, Special Conditions No. 23–ACE–14A]

Special Conditions; Petersen Aviation, Inc., Modified Beech Model 55 Series, Model 58 Series, and Model 95( )55 Series Airplanes to Incorporate ADI System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; amendment to Special Conditions No. 23–ACE–14.

SUMMARY: This special condition amendment is issued to become part of the type certification basis for Beech Aircraft Corporation Model 55 Series, Model 58 Series, and Model 95( )55 Series Airplanes that are modified to incorporate anti-detonation injection (ADI) system provisions. The certification basis for the existing type design of these airplanes does not contain adequate or appropriate safety standards for these systems. Special conditions were issued August 25, 1986 (51 FR 30206), to provide the additional safety standards the Administrator finds necessary to establish a level of safety equivalent to the original certification basis for these airplanes. This amendment adds a requirement inadvertently omitted from the previously issued special conditions.

EFFECTIVE DATE: October 23, 1987.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Standards Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, Room 1656, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 1985, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Beech Model 95( )55 Series

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Airplanes. This installation incorporates ADI tanks, pumps, and associated control systems to supply ADI fluid to the engines in measured quantities to allow the engines to be operated on automobile gasoline (autogas).

The engines will be previously certificated for use of autogas with ADI independently of the airplane installation certification.

The Administrator made a finding that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of novel or unusual design features of the proposed system.

Special conditions for the certification of the ADI system were proposed in Notice No. 23–ACE–14, published in the **Federal Register** on June 13, 1986. The closing date for comments was July 14, 1986. No comments were received. The special conditions were adopted as proposed on August 8, 1986, and published in the **Federal Register** on August 25, 1986 (51 FR 30206) to be effective September 24, 1986.

Subsequent certification activity revealed that one special condition paragraph previously coordinated between the FAA and the applicant had inadvertently been omitted from the special conditions package. The purpose of this adoption is to correct that omission.

Type Certification Basis

The certification basis (TC 3A16) for the Beech Aircraft Corporation Model 95( )55 Series, Model 55 Series, and Model 58 Series Airplanes is Part 3 of the Civil Air Regulations as amended to May 15, 1956, and § 23.1385(c), 23.1387(a) and 23.1387(e) of Federal Aviation Regulations, Part 23, dated February 1, 1965, as amended by Amendment 23–12; Equivalent Safety Findings: CAR sections 3.663 and 3.757 for Models 95–B55 and 95–B55A (S/N TC–2003 and up), Models E55 and E55A (S/N TE–1084 and up), Models 58 and 58A (S/N TH–773 and up); CAR section 3.387 for Models 95–B55 and 95–B55A (all serials); Models E55 and E55A (all serials), and Models 58 and 58A (all serials), and Part 36 through Amendment 36–10 of the Federal Aviation Regulations for Models 95–B55 (S/N TC–2285 and after), for Models E55 (S/N TEI–1171 and after) and for Model 58 (S/N TH–1090 and after), Special Conditions No. 23–ACE–14, and the special conditions amendment adopted by this rulemaking action.

Discussion

The FAA received no comments in response to Notice No. 23–ACE–14A published in the **Federal Register** on July 24, 1987. The closing date for comments was August 24, 1987.

Conclusion

This action affects only the Beech Model 55 Series, Model 58 Series, and Model 95( )55 Series Airplanes incorporating ADI systems. It is not a rule of general applicability and applies only to the series and model of airplane identified in these amended final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, and Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions Amendment

In consideration of the foregoing, the following special conditions amendment is issued as part of the type certification basis for Beech Model 55 Series, Model 58 Series, and Model 95( )55 Series Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System, as follows:

A new paragraph (k) is added to Special Condition 2 of Special Conditions No. 23–ACE–14 to read as follows:

(k) In § 23.1337(b), for ADI systems, replace the lead-in paragraph with "There must be means to indicate the quantity of ADI fluid in each tank. A dipstick, sight gauge, or an indicator, calibrated in either gallons or pounds, and clearly marked to indicate which scale is being used, may be used. In addition—"

Issued in Kansas City, Missouri, on September 25, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–24526 Filed 10–22–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–AWA–15]

Alteration of VOR Federal Airways; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of one Federal airway located in the vicinity of New York. This airway is part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While five airways were included in the notice only V–226 will be implemented at this time due to technical and administrative problems. This amendment is a part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston MA; New York, NY, Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On July 15, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V–213, V–222, V–223, V–226 and V–229 located in the vicinity of New York (52 FR 26493). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which bring jet noise upon previously peaceful communities. Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway

modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey State government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees that there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider this suggestion.

Comments from the Department of the Navy and the Department of the Air Force objected to the routing of an airway through R–5202 and R–4105 and through certain military operations areas. Of the five victor airways objected to by the Navy and Air Force, only V–34 (ASD 87–AWA–9) is being implemented and V–34 does not penetrate any special use airspace.

Due to technical and administrative problems that surfaced in this docket, only V–226 will be implemented at this time. Implementation of the other four airways will be delayed until a later date. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of one VOR Federal airway located in the vicinity of New York. This airway is part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While five airways were included in the notice only V–226 will be implemented at this time due to technical and administrative problems. This amendment is a part of Phase II of the EECP; Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In consideration of the need for concurrent implementation of this rule with related airway actions on the east coast, I find that good cause exists for making this rule effective in less than 30 days in order to promote the safe and efficient handling of air traffic.

List of Subjects in 14 CFR Part 71

Aviation Safety, VOR Federal Airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–226 [Amended]

By removing the words "Stillwater, NJ; INT Stillwater 110° and Sparta, NJ, 194° radials." and substituting the words "to Stillwater, NJ."

Issued in Washington, DC, on October 9, 1987.

Sholomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–24528 Filed 10–22–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–AWA–16]

Alteration of VOR Federal Airways; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

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ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of two Federal airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While five airways were included in the notice only V–232 and V–252 will be implemented at this time due to technical and administrative problems. This amendment is a part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On July 15, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V–232, V–249, V–252, V–268 and V–270 located in the vicinity of New York (52 FR 26494). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities. Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environment assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more thna a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion.

Due to technical and administrative problems only V–232 and V–252 will be implemented at this time. Implementation of the other three airways will be delayed until a later date. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the descriptions of two VOR Federal airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While five airways were included in the notice only V–232 and V–252 will be implemented at this time due to technical and administrative problems. This amendment is a part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In consideration of the need for concurrent implementation of this rule with related airway actions on the east coast, I find that good cause exists for making this rule effective in less than 30 days in order to promote the safe and efficient handling of air traffic.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 (Amended)

2. Section 71.123 is amended as follows:

V–232 (Amended)

By removing the words "Broadway, NJ; INT of Broadway 112° and LaGuardia, NY, 209° radials; to LaGuardia." and substituting the words "INT Milton 066° and Solberg, NJ, 290° radials; Solberg; INT Solberg 137° and Colts Necks, NJ, 263° radials; to Colts Neck."

V–252 (Amended)

By removing the words "to Robbinsville." and substituting the words "Robbinsville; to DuPont, DE."

Issued in Washington, DC, on October 9, 1987.

Shelomo Wugalter,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87–24532 Filed 10–22–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–AWA–17]

Alteration of VOR Federal Airways; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of one Federal airway located in the vicinity of New York. This airway is part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While four airways were included in the notice only V–273 will be implemented at this time due to technical and administrative problems. This amendment is a part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On July 15, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V–273, V–292, V–308 and V–373 located in the vicinity of New York (52 FR 26488). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities. Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this should be delayed pending the outcome of the review. With respect to the studies conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby

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saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion.

Comments from the Department of the Navy and the Department of the Air Force objected to the routing of an airway through R–5202 and R–4105 and through certain military operations areas. Of the five victor airways objected to by the Navy and Air Force, only V–34 (ASD 87–AWA–9) is being implemented and V–34 does not penetrate any special use airspace.

Due to technical and administrative problems that surfaced in this docket, only V–273 will be implemented at this time. Implementation of the other three airways will be delayed until a later date. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of one VOR Federal airway located in the vicinity of New York. This airway is part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While four airway were included in the notice only V–273 will be implemented at this due to technical and administrative problems. This amendment is a part of Phase II of the EECP; Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast carridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In consideration of the need for concurrent implementation of this rule with related airway actions on the east coast, I find that good cause exists for making this rule effective in less than 30 days in order to promote the safe and efficient handling of air traffic.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

71.123 [Amended]

2. Section 71.123 is amended as follows:

V–273 [Revised]

From INT Huguenot, NY 134° and Solberg, NJ, 044° radials; Huguenot; INT Huguenot 303° and Hancock, NY, 146° radials; Hancock; Georgetown, NY; 6 miles wide, Syracuse, NY.

Issued in Washington, DC, on October 9, 1987.

Shelomo Wugalter,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87–24530 Filed 10–22–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 87–AWA–18]

Alteration of VOR Federal Airways; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of four Federal airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While five airways were included in the notice only V–374, V–405, V–419 and V–423 will be implemented at this time due to technical and administrative problems. This amendment is a part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC. 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On July 15, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V–374, V–405, V–408, V–419 and V–423 located in the vicinity of New York (52 FR 26495). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities. Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignement of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion.

Due to technical and administrative problems only V–374, V–405, V–419 and V–423 will be implemented at this time. Implementation of the other airway will be delayed until a later date. With respect to V–405 the segment between Pottstown, PA and Carmel, NY, will be published, and V–419 the segment between Carmel, NY, and Sparta, NJ, will be published. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the descriptions of four Federal airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While five airways were included in the notice only V–374, V–405, V–419 and V–423 will be implemented at this time due to technical and administrative problems. This amendment is a part of Phase II of the EECP; Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In consideration of the need for concurrent implementation of this rule with related airway actions on the east coast, I find that good cause exists for making this rule effective in less than 30 days in order to promote the safe and efficient handling of air traffic.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–374 [Amended]

By removing the words "Madison." and substituting the words "to Madison."

V–405 [Revised]

From INT Pottstown, PA, 222° and Baltimore, MD, 034° radials; Pottstown; INT Pottstown 050° and Solberg, NJ, 284° radials; Solberg; INT Solberg 044° and Carmel, NY, 243° radials; to Carmel.

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V–419 [Amended]

By removing the words "From Carmel, NY; INT Carmel 232° and Sparta, NJ, 082° radials;" and substituting the words "From Carmel, NY; INT Carmel 243° and Sparta, NJ, 082° radials;"

V–423 [Amended]

By removing the words "INT Ithaca 357° and Syracuse, NY, 210° radials; Syracuse." and substituting the words "to Syracuse, NY."

Issued in Washington, DC, on October 9, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–24533 Filed 10–22–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–AWA–19]

Alteration of VOR Federal Airways; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of one Federal airway located in the vicinity of New York. This airway is part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While six airways were included in the notice only V–474 will be implemented at this time due to technical and administrative problems. This amendment is part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On July 15, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V–431, V–433, V–451, V–457 and V–474 and revoke V–467 located in the vicinity of New York (52 FR 26496). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities. Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey State government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to consitute a complication of routing. Should unforeseen problems arise as a result to this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion.

Due to technical and administrative problems only V–474 will be implemented at this time. Implementation of the other five airways will be delayed until a later date. With respect to V–474, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of one of six VOR Federal airways located in the vicinity of New York that was published in the notice.

This airway is part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is a part of Phase II of the EECP; Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In consideration of the need for concurrent implementation of this rule with related airway actions on the east coast, I find that good cause exists for making this rule effective in less than 30 days in order to promote the safe and efficient handling of air traffic.

List of Subjects in 14 CFR Part 71

Aviation Safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E. O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–474 [Amended]

By removing the words "Modena: INT Modena 095° and Woodstown, NJ, 043° radials." and substituting the words "to Modena."

Issued in Washington, DC, On October 9, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–24531 Filed 10–22–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–AWA–20]

Alteration of VOR Federal Airways; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of one Federal airway located in the vicinity of New York. This airway is part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While six airways were included in the notice only V–489 will be implemented at this time due to technical and administrative problems. This amendment is part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On July 15, 1987, FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V–475, V–476, V–483, V–487, V–489 and add V–615 located in the vicinity of New York (52 FR 26497). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities. Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a part 71 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and we do not consider that an environmental assessment is required under the National Environmental Policy Act or the Agency's Environmental Guidelines. In view of the comments of the New Jersey parties, however, the FAA is in the process of conducting a review of the environmental implications of the overall impact of Phase II of the EECP.

In consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that this action should be delayed pending the outcome of the review. With respect to the studies being conducted by the General Accounting Office and the New Jersey State government, the FAA will fully consider the results of these studies when completed, but we do not agree that important airway changes should be delayed pending the outcome of those studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic

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impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in depature/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen probelms arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion.

Due to technical and adminstrative problems only V–489 will be implemented at this time. Implementation of the other five airways will be delayed until a later date. With respect to V–489, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment of Part 71 of the Federal Aviation Regulations alters the description of one of six VOR Federal airways located in the vicinity of New York that was published in the notice. This airway is part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is a part of Phase II of the EECP; Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In consideration of the need for concurrent implementation of this rule with related airway actions on the east coast, I find that good cause exists for making this rule effective in less than 30 days in order to promote the safe and efficient handling of air traffic.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–489 [Amended]

By removing the words "From Sparta, NJ; INT Sparta 023° and Albany, NY, 192° radials; Albany," and substituting the words "From INT Sparta, NJ, 300° and Huguenot, NY 196° radials; Huguenot; INT Huguenot 008° and Albany, NY, 209° radials; Albany;"

Issued in Washington, DC, on October 9, 1987.

Sheiomo Wugalter,

Acting Manger, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87–24529 Filed 10–22–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 25416; Amdt. No. 1359]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATE: Effective: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference.—Approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS–230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA from documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAP, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC, on October 16, 1987.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective January 14, 1988*

Tanana, AK—Ralph M. Calhoun Meml, VOR–A, Amdt. 6
Tanana, AK—Ralph M. Calhoun Meml, VOR/DME RWY 6, Orig.
Tanana, AK—Ralph M. Calhoun Meml, NDB–B, Amdt. 3
Windsor Locks, CT—Bradley Intl, ILS RWY 24, Amdt. 3
Lafayette, IN—Purdue University, VOR–A, Amdt. 23
Lafayette, IN—Purdue University, NDB RWY 10, Amdt. 11
Lafayette, IN—Purdue University, ILS RWY 10, Amdt. 9
Lafayette, IN—Purdue University, RNAV RWY 28, Amdt. 3
LaPorte, IN—LaPorte Muni, VOR–A, Amdt. 4
LaPorte, IN—LaPorte Muni, RNAV RWY 20, Amdt. 20
Rensselaer, IN—Jasper County, NDB RWY 18, Amdt. 3
Boston, MA—General Edward Lawrence Logan Intl, VOR/DME RWY 15R, Orig.
Boston, MA—General Edward Lawrence Logan Intl, VOR/DME RWY 27, Orig.
Boston, MA—General Edward Lawrence Logan Intl, VOR-DME RWY 33L, Orig.
Boston, MA—General Edward Lawrence Logan Intl, NDB RWY 4R, Amdt. 22
Boston, MA—General Edward Lawrence Logan Intl, NDB RWY 22L, Amdt. 9
Boston, MA—General Edward Lawrence Logan Intl, ILS RWY 4R, Amdt. 5
Boston, MA—General Edward Lawrence Logan Intl, ILS/DME RWY 15R, Amdt. 10
Boston, MA—General Edward Lawrence Logan Intl, ILS RWY 22L, Amdt. 3
Boston, MA—General Edward Lawrence Logan Intl, ILS/DME RWY 27, Amdt. 2
Boston, MA—General Edward Lawrence Logan Intl, ILS/DME RWY 33L, Amdt. 21
Norwood, MA—Norwood Memorial, LOC RWY 35, Amdt. 5
Norwood, MA—Norwood Memorial, NDB RWY 35, Amdt. 5
Detroit, MI—Detroit Metropolitan Wayne County, ILS RWY 21L, Amdt. 5
Detroit, MI—Detroit Metropolitan Wayne County, ILS RWY 21R, Amdt. 23
Detroit, MI—Detroit Metropolitan Wayne County, RADAR–1, Amdt. 19
Concord, NH—Concord Muni, NDB RWY 35, Amdt. 4
Manchester, NH—Manchester Arpt/Grenier Industrial Airpark, VOR RWY 35, Amdt. 14
Manchester, NH—Manchester Arpt/Grenier Industrial Airpark, NDB RWY 35, Amdt. 12
Mitchell, SD—Mitchell Muni, VOR RWY 12, Amdt. 7
Mitchell, SD—Mitchell Muni, VOR RWY 30, Orig.
Amery, WI—Amery Muni, NDB RWY 18, Amdt. 3
Madison, WI—Dane County Regional-Truax Field, VOR/DME or TACAN RWY 13, Amdt. 19

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Madison, WI—Dane County Regional-Truax Field, VOR RWY 18, Amdt. 17
Madison, WI—Dane County Regional-Truax Field, VOR/DME or TACAN RWY 31, Amdt. 20
Madison, WI—Dane County Regional-Truax Field, NDB RWY 36, Amdt. 27
Madison, WI—Dane County Regional-Truax Field, ILS RWY 18, Amdt. 5
Madison, WI—Dane County Regional-Truax Field, ILS RWY 36, Amdt. 27
Madison, WI—Dane County Regional-Truax Field, RADAR-1, Amdt. 13
Racine, WI—Horlick-Racine, VOR RWY 4, Amdt. 6
Racine, WI—Horlick-Racine, NDB RWY 4, Amdt. 2
Racine, WI—Horlick-Racine, ILS RWY 4, Amdt. 3

* * * *Effective December 17, 1987*

Mobile, AL—Bates Field, VOR or TACAN RWY 9, Amdt. 24
Mobile, AL—Bates Field, NDB RWY 14, Amdt. 2
Orland, CA—Haigh Field, VOR-A, Amdt. 3
Salinas, CA—Salinas Muni, ILS RWY 31, Amdt. 4
Jacksonville, FL—Jacksonville Intl, LOC RWY 25, Amdt. 5
Waycross, GA—Waycross-Ware County, NDB RWY 18, Amdt. 4
Marion, IL—Williamson County Regional, VOR RWY 2, Amdt. 11
Marion, IL—Williamson County Regional, VOR RWY 20, Amdt. 15
Mattoon-Charleston, IL, Coles County Memorial, ILS RWY 29, Amdt. 5
Jeffersonville, IN—Clark County, VOR RWY 18, Amdt. 1
Richmond, IN—Richmond Muni, VOR RWY 6, Amdt. 10
Richmond, IN—Richmond Muni, VOR RWY 24, Amdt. 10
South St. Paul, MN—South St. Paul Muni-Richard E. Fleming Fld., NDB-B, Amdt. 2
Taos, NM—Taos Muni, VOR/DME-B, Amdt. 2
Taos, NM—Taos Muni, NDB-A, Amdt. 1, *Cancelled*
Taos, NM—Taos Muni, NDB RWY 4, Orig.
Fallon, NV—Fallon Muni, VOR/DME-B, Amdt. 3
Reno, NV—Reno Cannon Intl, LOC-2 RWY 16R, Amdt. 5
New York, NY—LaGuardia, ILS/DME RWY 13, Amdt. 1
Greensboro, NC—Greensboro-High Point-Winston Salem Regnl., VOR RWY 5, Amdt. 10
Greensboro, NC—Greensboro-High Point-Winston Salem Regnl, VOR/DME RWY 23, Amdt. 7,
Reidsville, NC—Rockingham County NC Shiloh, VOR/DME-A, Amdt. 6
Southern Pines, NC—Moore County, RNAV RWY 23, Amdt. 1
Pembina, ND—PEMBINA Muni, VOR RWY 33, Amdt. 4
Springfield TN—Springfield Muni, NDB RWY 21, Amdt. 2
Bryce Canyon, UT—Bryce Canyon, VOR-A, Amdt. 5
Gloucester, VA—Francis J. Mellar Field, VOR-A, Amdt. 6, *Cancelled*

* * * *Effective November 19, 1987*

Plymount, MA—Plymouth Muni, NDB RWY 6, Orig.
Schenectady, NY—Schenectady County, ILS RWY 4, Amdt. 2
Philadelphia, PA—Philadelphia Intl, Converging ILS-2 RWY 9R, Orig.
Philadelphia, PA—Philadelphia Intl, Converging ILS-2 RWY 17, Orig.
Houston, TX—Houston Intercontinental, ILS RWY 26, Amdt. 10

* * * *Effective October 2, 1987*

Newport News, VA—Patrick Henry Intl, NDB RWY 7, Amdt. 3
Newport News, VA—Patrick Henry Intl, ILS RWY 7, Amdt. 28

[FR Doc. 87-24527 Filed 10-22-87; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM81-7-002; Order No. 482]

Exemption from Licensing Requirements of Part I of the Federal Power Act of a Category of Small Hydroelectric Power Projects with an Installed Capacity of 5 Megawatts or Less

Issued: October 20, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) rescinds §§ 4.109 through 4.113 of its regulations (18 CFR 4.109 through 4.113 (1982)). These regulations were promulgated in Order No. 202, a final rule issued in this docket on January 19, 1982. The final rule exempted two categories of hydroelectric power projects from the licensing requirements of the Federal Power Act (FPA), 16 U.S.C. 792 through 828c (1982), subject to certain terms and conditions. The Commission stayed the effectiveness of the final rule in June 1983.

DATE: October 20, 1987.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Lynn S. Lichtenstein 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION:

Final Rule

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon and C.M. Naeve.

I. Introduction

The Federal Energy Regulatory Commission is rescinding §§ 4.109 through 4.113 of its regulations (18 CFR 4.109 through 4.113). These regulations were promulgated in Order No. 202, a final rule issued in this docket on January 19, 1982.[1] The final rule, which was appealed to the United States Court of Appeals for the District of Columbia Circuit in *National Wildlife Federation* v. *FERC*,[2] exempted two categories of hydroelectric power projects from the licensing requirements of the Federal Power Act (FPA), 16 U.S.C. 792 through 828c (1982), subject to certain terms and conditions. At the Commission's request, the Court of Appeals for the D.C. Circuit remanded the record to the Commission in May 1983 for further consideration. Pending the outcome of its reconsideration, the Commission stayed the effect of §§ 4.109 through 4.113 of its regulations.[3]

II. Background

Title IV of the Energy Security Act of 1980 (ESA)[4] amends the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2700 and 2708 (1982), to authorize the Commission to exempt certain small hydroelectric power projects on a case-by-case basis, or by class or category of such projects, from all or part of the requirements of Part I of the FPA, including any licensing requirement.

Under section 408 of the ESA, the Commission has the discretion to provide exemptions under certain conditions. First, the proposed installed capacity of a project must not exceed 5 megawatts (MW) and must use the water power potential of an existing dam or a "natural water feature" that does not require the creation of a dam or man-made impoundment. Second, section 408 provides that certain environmental requirements apply to projects that the Commission exempts from licensing. Those requirements include the National Environmental Policy Act of 1969, the Endangered Species Act, and the Fish and Wildlife Coordination Act. Third, the statute states that any exemption from licensing will be subject to the consultation provisions in section 30 of the FPA. That section requires the Commission to include in any exemption the terms and conditions prescribed by state and Federal fish and wildlife agencies for the protection of fish and wildlife and other natural resources.

In the final rule issued in Order No. 202, the Commission exercised its discretion under section 408(b) of the ESA to exempt "classes or categories" of projects.[5] The rule established procedures to exempt two categories of small hydroelectric power projects that use existing dams. One category, described in § 4.109(a) of the Commission's regulations, includes projects with a proposed installed generating capacity of more than 100 kilowatts (kW), but not more than 5 MW. Projects in the second category, described in § 4.109(b) of the Commission's regulations, must not exceed 100 kW of proposed installed capacity and are eligible for exemption under slightly different terms and conditions. Under § 4.109(c) of the Commission's regulations, any qualifying project is automatically exempted from licensing 30 days after the Commission receives a brief notice of exemption from licensing.

In the course of the rulemaking proceeding, some commenters argued that fish and wildlife agencies may impose conditions on a project-specific basis under section 30 of the FPA. These commenters contended that the Commission did not have the authority to require that all terms and conditions be included in a generic rule.

In Order No. 202 and in the order on rehearing,[6] the Commission stated that it had complied with the requirements of section 30(c) by providing an opportunity in the rulemaking proceeding for fish and wildlife agencies to recommend terms and conditions for inclusion in the final regulations.[7] The Commission also stated that making exemptions subject to project-specific terms and conditions would be incompatible with a truly categorical approach.[8]

The National Wildlife Federation, New England Rivers Center, and Trout Unlimited, Inc. (NWF) jointly appealed the final regulations to the D.C. Circuit in *National Wildlife Federation* v. *FERC*. NWF argued that the state and Federal fish and wildlife agencies must have the flexibility to consider the environmental impacts of particular projects and establish binding project-specific terms and conditions for the protection of the environment.

On April 18, 1983, the Commission requested by motion that the court remand the final rule to the Commission for further consideration. The court granted the Commission's motion and remanded the record in the case on May 20, 1983, so that the Commission could reconsider the categorical exemption rule. The Commission then issued a stay of the rule on June 15, 1983, and directed exemption applicants to use the case-by-case exemption procedures in §§ 4.101 through 4.108 of the regulations.

The Commission subsequently proposed to rescind the categorical exemption provisions contained in §§ 4.109 through 4.113 of its regulations.[9] In the Notice of Proposed Rulemaking, the Commission explained that its experience indicated fish and wildlife agencies sometimes believed additional, site-specific terms and conditions were necessary for projects applying for exemptions. The Commission stated it would afford these agencies the opportunity to impose project-specific conditions on all exemption applicants. The Commission further explained that the lack of opportunity to comment on or protest an application might also be a disadvantage of the categorical exemption provisions. For example, the Commission might not be informed of property disputes without the opportunity for public comment.

The Commission also expressed its view that revising the categorical exemption procedures, rather than rescinding them would not serve a regulatory purpose. If the Commission were to revise the categorical exemption procedures, it believed it would need to establish procedures similar to the existing case-by-case procedures in order to resolve the fish and wildlife concerns identified by its experience.

III. Discussion

The Commission received five comments concerning the proposal presented in the Notice of Proposed Rulemaking. Four commenters agreed with the Commission's proposal. These commenters argued that the statutory fish and wildlife agencies must be accorded the opportunity to impose terms and conditions on all exemptions.

While no commenter objected to the proposal, one commenter, Utah Power and Light, asked that the existing exemptions granted under the regulations while they were in effect be retained as valid exemptions. The commenter suggested grandfathering these exemptions. The Commission granted these exemptions in 1982 and 1983.[10]

In this rule, the Commission is rescinding certain of its regulations pertaining to exemptions granted under section 405 of PURPA. The Commission's rule rescinding the categorical exemptions is prospective.[11] Therefore, rescinding the regulations does not affect the exemptions that have already been issued. These exemptions remain valid. Therefore, it is not necessary to issue grandfathering provisions concerning these exemptions.

IV. Regulatory Flexibility Act Certification.

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 through 612 (1982), requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that, if promulgated, will have a "significant economic impact on a substantial number of small entities." The Commission is not required to make such analyses if a proposed rule will not have such an impact. As stated previously in the Notice of Proposed Rulemaking, the Commission believes that the final rule will not have a "significant economic impact." The rescission of the categorical exemption regulations will not preclude a project owner from obtaining an exemption. Any proposed project that would qualify for a generic exemption also would qualify for an exemption under the case-specific procedures in §§ 4.101 through 4.108 of the Commission's regulations. Under the case-specific procedures, a developer must file an application for exemption instead of the short notice of exemption that is requred under the categorical exemption procedures. Any resulting difference in costs to the project owner, however, will have an insignificant effect on total project costs.

Therefore, pursuant to section 605(b) of the RFA, the Commission certifies that this rule, if promulgated, will not

[1] Order No. 202, 47 FR 4232 (January 29, 1982), FERC Stats. & Regs., [Reg. Preambles 1982-1985] ¶ 30,329 (June 10, 1982).

[2] No. 82-3434 (D.C. Cir., filed December 3, 1982).

[3] Order No. 202-C, 48 FR 29474 (June 27, 1983), FERC Stats. & Regs., [Reg. Preambles 1982-1985] ¶ 30,461 (June 15, 1983).

[4] Pub. L. 96-294, 94 Stat. 611.

[5] Procedures for exemption on a case-by-case basis are set forth in §§ 4.101 through 4.108 of the Commission's regulations. 18 CFR 4.101 through 4.108 (1987).

[6] Order No. 202-B, 47 FR 46299 (Oct. 18, 1982), FERC Stats. & Regs., [Reg. Preambles 1982-1985] ¶ 30,403 (Oct. 12, 1982).

[7] 47 FR at 4233-4234; 47 FR at 46270.

[8] 47 FR at 4233; 47 FR at 46270.

[9] "Exemption From Licensing Requirements of Part I of the Federal Power Act of a Category of Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less," 52 FR 21570 (June 8, 1987), FERC Stats. & Regs. ¶ 32,444 (June 2, 1987).

[10] A total of 46 exemptions were granted. Of these five were surrendered and four were revoked, leaving 37 exemptions issued under the categorical exemptions regulations.

[11] Section 551(4), Administrative Procedure Act, 5 U.S.C. 551(4).

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have a "significant economic impact on a substantial number of small entities."

List of Subjects in 18 CFR Part 4

Electric power, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Part 4 of Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

1. The authority citation for Part 4 is revised to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r, as amended by the Electric Consumers Protection Act of 1986, Pub. L. 99–495; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645 (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp. p. 142 (1978).

2. The table of contents for Subpart K of Part 4 is amended by removing §§ 4.109 through 4.113 and the corresponding titles.

§ 4.101 [Amended]

3. Section 4.101 is amended by removing the words "or categorical".

§ 4.106 [Amended]

4. In § 4.106, paragraph (c) is amended to remove the words "or a notice of exemption from licensing".

§§ 4.109 through 4.113 [Removed]

5. Part 4 is amended by removing §§ 4.109–4.113.

[FR Doc. 87–24618 Filed 10–22–87; 8:45 am]
BILLING CODE 6717–01–M

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18 CFR Part 284

[Docket Nos. RM87–34–001 through –052]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol

October 16, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing in part, granting rehearing in part, and modifying prior order.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is extending to January 1, 1988 the date by which the submission of an offer of take-or-pay or take-and-pay credits is required to continue transportation that was ongoing on September 15, 1987; the effectiveness of the stay of the contract demand conversion provisions at 18 CFR 284.10 is also extended to January 1, 1988. In addition, the Commission is modifying its Order No. 500 to require open access of interstate pipelines to transport all volumes of natural gas tendered if offers of take-or-pay or take-and-pay credits are received from producers of at least 85 percent of the volumes to be transported and the names of those who have not signed offers are provided to the pipeline; if any member of the 15 percent (or less) volumetric minority subsequently provides that pipeline with an offer of credits, then credits will also be required for any of its volumes transported since the initial transaction commenced. The Commission is also modifying the Order No. 500 interim regulations to make clear that the gas must be transported after the pipeline receives a signed offer even though there may be disputes as to the adequacy of the offer itself; that notarization of the offer of credits in affidavit form is not required; that the offer of credits need not be irrevocable but need only be sufficient to create a binding contract upon acceptance; and that although the Commission is still available as a forum for resolving disputes as to the interpretation of the crediting rule, nothing in the rule requires parties to waive any legal rights otherwise available to them.

DATES: The effective date for the changes in the regulatory text is October 16, 1987. The suspension of § 284.10 is removed effective January 1, 1988; this order supersedes any previous notice of removal of suspension. The dates for: (1) Submission of an offer of take-and-pay or take-or-pay credits and (2) the stay of the conversion provisions are extended to January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Peter J. Roidakis, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street NE., Washington, DC 20426, (202) 357–8213.

SUPPLEMENTARY INFORMATION:

Order

[Order No. 500–B]

Federal Energy Regulatory Commission

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

I. Introduction

On August 7, 1987, the Commission issued Order No. 500 [1] which promulgated interim regulations in response to the decision of the United States Court of Appeals for the District of Columbia Circuit in *Associated Gas Distributors v. FERC*.[2] Between August 28 and September 8, 1987, parties representing all segments of the natural gas industry filed 44 timely requests for rehearing of Order No. 500.[3] A number of companies affected by the crediting mechanism have filed for a stay of the crediting procedures.[4] In addition, thousands of pages of formal comments on the Order No. 500 interim rule have been filed with the Commission. Upon consideration, the Commission has determined to extend certain effective dates and to make certain substantive changes to the crediting mechanism for transactions that were ongoing on September 15, 1987.

II. Discussion

The Commission hereby grants the producers' requests for a stay of the take-or-pay crediting mechanism. Accordingly, the date by which the submission of an offer of credits is required to continue transportation that was ongoing on September 15, 1987, is extended to January 1, 1988. In addition, the effectiveness of the stay of the § 284.10 conversion provisions is also extended to January 1, 1988. (*See* Order No. 500, FERC Stats. & Regs. ¶ 30,761 at 30,801 n.24.) This change is made to accommodate the industry's need for additional time to arrange transactions under the terms of Order No. 500, particularly the crediting mechanism.

The substantive changes in the crediting mechanism that the Commission has decided to make are in response to problems pointed out by certain petitioners. (*See, e.g.* Emergency Petition of Tenneco Oil Company, *et al.*, filed September 25, 1987, and Emergency Motions of Arco Oil and Gas Company, and of Marathon Oil Company, both filed October 1, 1987.) Specifically, Order No. 500, in § 284.8(f)(2)(ii), requires that an affidavit must "be signed by the producers and all other persons who own the gas required to offer take-or-pay or take-and-pay credits. . . ." As written, the regulation requires all producers and working interest owners that own the gas to sign the affidavit.

According to several petitioners, many leases are owned by more than one working interest owner; sometimes, in fact, there may be a multiplicity of working interest owners with extremely small ownership interests. The failure to obtain affidavits from a minority of multiple owners, controlling only a small percentage of the volumes, may, it is alleged, effectively prevent transportation for the majority, who may be more than willing to grant take-or-pay crediting to the pipeline to secure transportation (*See e.g.*, Emergency Petition for Tenneco Oil Company, *et al.*).

To remedy this situation the Commission is modifying the requirements so that if offer(s) of credits are received from those required under the rule to sign an offer of take-or-pay credits that would account for at least 85 percent of the *volumes* to be transported, then transportation must be provided by the pipeline for all volumes tendered, including the 15 percent of volumes owned by persons or entitites that do not submit an offer of credits. There would thus be no credits at that time arising from the transportation of that 15 percent (or less) of the volumes tendered. Since the purpose of the Commission's modification is to prevent small owners from preventing the transportation of the majority's gas, the Commission is requiring that the *volumetric* interests related to those signing offers of take-or-pay credits comprise at least 85 percent of the volumes to be transported. The "85 percent of volumes rule" will adjust for situations where the owners of 15% or less of the volumes are either unwilling or unavailable to offer crediting.

The Commission wishes to stress, however, that a single working interest cannot be split for the purpose of Order No. 500 take-or-pay credit offers if that interest was not separate on June 23, 1987. For example, if a producer owns a 100% working interest in the volumes to be transported, the producer cannot split that interest and only offer credits on 85% of the volumes to be transported.

Where a pipeline receives offers covering 85 percent or more of the volumes to be transported, and signed by the appropriate persons or entities as required under the interim rule, the pipeline also must be provided with a list of the persons or entities whose 15 percent minority volumes will also be transported, but who did not sign an offer of credits. If, at any time subsequent to the commencement of that transaction, any member of the 15 percent (or less) volumetric minority should tender to that pipeline an offer providing take-or-pay or take-and-pay credits pursuant to Order No. 500, that person or entity will be required also to provide credits for any of its volumes transported since the commencement of the initial transaction.

The Commission is mindful of the Court of Appeal's requirement that the Commission address the impact of open access transportation on take-or-pay liability. Although the 85% of volumes rule may initially affect the take-or-pay relief pipelines may obtain when compared with the crediting mechanism originally established in Order No. 500, the Commission has determined, based on industry comment received to date, that this pragmatic adjustment to the crediting mechanism is necessary, will not substantially lessen the take-or-pay relief made available, and will, in some circumstances, increase the availability of crediting. This is because the adjustment is intended to eliminate a potential impediment to transporting under the rule and thereby increase the amount of transportation and, correspondingly, the take-or-pay credits that pipelines will receive.

In addition, the Commission has become aware that the requirement that the offer of credits must be an "irrevocable offer" is unnecessary since the Commission only intended that the offer, upon acceptance, should form a binding contract. Similarly unnecessary is the requirement that the producer agree to abide by any Commission determination concerning the interpretation of the crediting mechanism. It was not intended to require producers to waive their legal rights, yet it has been interpreted that way. (*See, e.g.*, Emergency Motion for Expedited Clarification of Mobil Oil Corporation, *et al.*) Furthermore, the use of an "affidavit" as the vehicle for the offer appears to be problematic in that such documents require notarization which is cumbersome, while a simple signed contract offer may not require attestation through a notary.

The Commission finds that these points merit attention at this time. Accordingly, the Commission is deleting the term "irrevocable" from the phrase "irrevocable offer" in §§ 284.8(f)(2)(iii) and 284.9(f)(2)(iii). In addition, the Commission is deleting the provision that the producer must agree to abide by any Commission determination concerning the interpretation of the crediting mechanism. This provision has been construed as limiting the rights of the producers to challenge Order No. 500 or subsequent orders implementing the regulations. Such construction is beyond the Commission's intention of providing a forum to resolve disputes between pipelines and producers as to the operation of the crediting mechanism. The Commission is still available as a forum to resolve disputes as to the interpretation of the crediting rule even though the producer does not agree in the offer not to seek judicial review of the Commission's decision.

Similarly, the Commission is eliminating the requirement that the offer of credits be made in an "affidavit." Such a document requires notarization, an unnecessarily cumbersone step. The purpose of the rule can easily be accomplished if the offer of credits is simply made through a signed document which upon acceptance would create a binding contract. Accordingly, the Commission is amending the interim regulations to make this clear, and is replacing the term "affidavit" with the term "offer" in §§ 284.8(f) and 284.9(f).

Finally, the Commission has modified §§ 284.8(f)(3) and 284.9(f)(3) that require the pipeline to transport after it receives a signed offer under §§ 284.8(f)(1)(ii) and 284.9(f)(1)(ii) without regard to any disputes. The modification is intended to make clear that the gas must be transported even though there may be disputes as to the adequacy of the offer itself.

The Commission declines to make additional adjustments or modifications of Order No. 500 at this time. The Commission will have the opportunity to analyze the filings and requests for changes already submitted in conjunction with the comments that have been received. All such data, views and comments may thus be considered together before the Commission undertakes any further action on Order No. 500.

III. Administrative Findings

The Commission is modifying some of the effective dates integral to the implementation of Order No. 500. The Commission finds that the public interest would be served and that good cause exists to make these extensions

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[1] 52 FR 30,334 (Aug. 14, 1987). The interim regulations became effective on September 15, 1987.

[2] 824 F.2d 981 (D.C. Cir. 1987).

[3] Several late-filed applications for rehearing and motions for clarification have also been filed. *See, e.g.*, motion of Hadson Gas Systems, Inc. filed September 11, 1987; application for rehearing of Texas Gas Transmission Corporation filed September 9, 1987; emergency petition of Tenneco Oil Company, *et al.* for clarification, stay and waiver filed September 25, 1987.

[4] *See, e.g.*, Phillips Petroleum Company, Motion for Stay, filed September 8, 1987, in Docket No. RM87–34–000; Answer of Amoco Production Company in support of Phillips' motion, filed September 22, 1987; and Emergency Motion of Mobil Oil Corporation for partial Stay of Order No. 500, filed September 24, 1987 at 1–2 ("Mobil seeks only to stay the take-or-pay crediting mechanism, and only until the Commission has had an opportunity to analyze the industry's first comments on that mechanism * * * .").

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effective immediately pursuant to sections 553(b)(B) and 553(d)(3) of the Administrative Procedures Act (APA). Moreover, the time extensions granted herein relieve restrictions and provide a limited stay of the conversion option and the crediting requirements for ongoing transportation, and are appropriately made effective without the customary 30-day advance publication under APA section 553(d). In addition, the modifications of the offer of take-or-pay crediting requirements become effective immediately. These modifications may be construed as relieving restrictions or requirements as to producer and transporters of gas, therefore making them appropriate to implement immediately. With respect to the substance of these changes, the Commission adopts and incorporates in support thereof the administrative findings stated in Part VI of Order No. 500.[5]

List of Subjects in 18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

In consideration of the foregoing the Commission amends Part 284, Chapter I, Title 18, Code of Federal Regulations as set forth below.

By the Commission. Commissioner Sousa concurred with a separate statement attached. Commissioner Stalon dissenting in part with a separate statement attached. Commissioner Trabandt concurred with a separate statement attached. Commissioner Naeve concurred in part and dissented in part with a separate statement attached.

Kenneth F. Plumb,

Secretary.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES.

1. The authority citation for Part 284 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982), as amended; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp. p. 142.

2. In § 284.8, paragraphs (f)(1)(ii), (f)(2), (f)(3), (f)(4) introductory text and (f)(6) are revised to read as follows:

§ 284.8 Firm transportation service.

* * * * *

(f)(1) * * *

(ii) An offer has been submitted to the pipeline satisfying the requirements of paragraph (f)(2) of this section.

(2) An offer to satisfy this section need not be notarized but must:

(i) Identify the gas made eligible for transportation through the filing of the offer,

(ii) Be signed by the producer and all other persons who own at least 85 percent of the volumes of gas for which take-or-pay or take-and-pay credits are required to be offered under this section in connection with the transportation of the subject gas, and

(iii) Constitute an offer, which upon acceptance by the pipeline will result in a contract binding on the producers and their assignees, to grant the pipeline any credits under this section in connection with the transportation of the subject gas. The requirements of this section may be satisfied by a general offer applicable to all transportation transactions involving the subject gas.

(iv) Where a pipeline receives offer(s) of credits covering at least 85 percent of the volumes to be transported and signed by the producers and all other persons required to offer take-or-pay or take-and-pay credits under this section in connection with the transportation of the subject gas, the pipeline must be provided with the names of the persons or entities that have not signed and comprise the 15 percent (or lower) volumetric minority.

(v) If, at any time after the commencement of a transaction under § 284.8(f)(2)(iv) above, any one of those producers or other persons that did not submit an offer of credits should subsequently sign and tender a document offering take-or-pay and take-and-pay credits pursuant to this part, then that producer or other person must also provide credits for any of its volumes transported in the transaction where it was in the 15 percent (or lower) volumetric minority not signing an offer of credits.

(3) Once the offer and names required by this section are submitted to the pipeline, the pipeline must transport the gas, subject to the conditions of this part, notwithstanding any dispute concerning either the adequacy of the offer made under § 284.8(f)(1)(ii) or how the crediting is to be performed.

(4) If a pipeline is requested to transport gas which on June 23, 1987, was owned by a producer who on that date owned gas sold to the pipeline under a contract or contracts executed before June 23, 1987, which contain take-or-pay or take-and-pay provisions, and receives the offer required by paragraph (f)(2) of this section, the pipeline may receive credits as follows:

* * * * *

(6) If on September 15, 1987, a pipeline is transporting gas owned by a producer on June 23, 1987, that gas will cease to be eligible for transportation under this part on January 1, 1988, unless the pipeline and the shipper or producer agree, or an offer of take-or-pay or take-and-pay credits has been submitted to the pipeline, as provided under paragraph (f)(2), offering the pipeline credits. Such credits shall commence from the date the offer of credits is submitted.

* * * * *

3. In § 284.9, paragraphs (f)(1)(ii), (f)(2), (f)(3), (f)(4) introductory text and (f)(6) are revised to read as follows:

§ 284.9 Interruptible Transportation Service.

* * * * *

(f)(1) * * *

(ii) An offer has been submitted to the pipeline satisfying the requirements of paragraph (f)(2) of this section.

(2) An offer to satisfy this section need not be notarized but must:

(i) Identify the gas made eligible for transportation through the filling of the offer,

(ii) Be signed by the producer and all other persons who own at least 85 percent of the volumes of gas for which take-or-pay or take-and-pay credits are required to be offered under this section in connection with the transportation of the subject gas, and

(iii) Constitute an offer, which upon acceptance by the pipeline will result in a contract binding on the producers and their assignees, to grant the pipeline any credits under this section in connection with the transportation of the subject gas. The requirements of this section may be satisifed by a general offer applicable to all transportation transactions involving the subject gas.

(iv) Where a pipeline receives offer(s) of credits covering at least 85 percent of the volumes to be transported and signed by the producers and all other persons required to offer take-or-pay or take-and-pay credits under this section in connection with the transportation of the subject gas, the pipeline must be provided with the names of the persons or entities that have not signed and comprise the 15 percent (or lower) volumetric minority.

(v) If, at any time after the commencement of a transaction under § 284.9(f)(2)(iv) above, any one of those producers or other persons that did not submit an offer of credits should subsequently sign and tender a document offering take-or-pay and take-and-pay credits pursuant to this part, then that producer or other person must also provide credits for any of its volumes transported in the transaction where it was in the 15 percent (or lower) volumetric minority not signing an offer of credits.

(3) Once the offer and names required by this section are submitted to the pipeline, the pipeline must transport the gas, subject to the conditions of this part, notwithstanding any dispute concerning either the adequacy of the offer made under § 284.9(f)(1)(ii) or how the crediting is to be performed.

(4) If a pipeline is requested to transport gas which on June 23, 1987, was owned by a producer who on that date owned gas sold to the pipeline under a contract or contracts executed before June 23, 1987, which contain take-or-pay or take-and-pay provisions, and receives the offer required by paragraph (f)(2) of this section, the pipeline may receive credits as follows:

* * * * *

(6) If on September 15, 1987, a pipeline is transporting gas owned by a producer on June 23, 1987, that gas will cease to be eligible for transportation under this part on January 1, 1988, unless the pipeline and the shipper or producer agree, or an offer of take-or-pay or take-and-pay credits has been submitted to the pipeline, as provided under paragraph (f)(2), offering the pipeline credits. Such credits shall commence from the date the offer of credits is submitted.

* * * * *

4. The suspension of § 284.10 is removed effective January 1, 1988; this order supersedes any previous notice of removal of suspension.

[Editorial Note: These dissenting statements will not appear in the Code of Federal Regulations.]

Sousa, Anthony G., Commissioner, concurring

It is with great reluctance that I concur in this decision to grant rehearing for the limited purpose of extending the implementation date of Order No. 500 and to correct minor deficiencies in the affidavit process.

Order No. 500 was a consensus or compromise decision issued by the full Commission after prolonged and careful deliberations. Order No. 500 was issued August 7, 1987, more than two months ago, and I believe that the parties have had enough time to understand the concept of simple affidavits and take-or-pay crediting as a condition to transportation access.

In my earlier concurring opinion I said that Order No. 500 was "a part of the Commission's ongoing program to provide open access transportation services by pipeline companies. Continuation of this program is essential so that the many benefits of competitive gas pricing accorded by open access transportation to all sectors of the nation's natural gas industry and consumers are not denied."

The Court in reviewing Order No. 436 stated in essence that open access transportation should be conditioned on take-or-pay relief and approved Order No. 500 which was the Commission's response to the Court's review of Order No. 436. I am convinced that all segments of the industry in a spirit of cooperation can immediately implement Order No. 500 and bring about the beneficial desired results to the industry as a whole.

We are now extending the implementation until January 1, 1988, a full 145 days from the time we issued Order No. 500. Although I join in granting the extension, I do this only so that it cannot later be said that the Commission made it impossible for the industry to implement Order No. 500. My reluctance is based on the fact that we have now created a perception to the industry that the Commission does not have the backbone to take direct action to resolve the take-or-pay problem which up to now has been a serious impediment to open access transportation. Furthermore I am concerned that we have given a message to the reviewing court that we are not serious in our efforts to carry out its mandate. As I have said before, the cross-crediting mechanism is the linchpin which held the dissonant positions of the various Commissioners together in a compromise decision in Order No. 500. Any further tampering with this provision in my opinion will destroy the incentive for open access transportation based on take-or-pay relief.

I further believe that between now and January 1, 1988, this Commission should initiate a section 5 proceeding to ensure its commitment to open access transportation based on take-or-pay relief.

Anthony G. Sousa,

Commissioner.

Stalon, Commissioner, dissenting in part

I dissent to that part of the order that extends the effective date of crediting until January 1, 1988. All parties have known since August 7, 1987 the arrangements necessary to satisfy Order No. 500, and I have not been fully persuaded that any delay is necessary. The fact that those who will profit from the delay are most vociferous in insisting upon it is not surprising but it also emphasizes the need for skepticism. Still, I was willing to grant a delay until December 1, 1987 to accommodate the strong desires being expressed. I cannot, however, approve a delay until January 1, 1988. The objective is to reduce the take-or-pay problem, not to let it continue to grow.

Charles G. Stalon,

Commissioner.

Concurring Opinion of Commissioner Charles A. Trabandt

I support the action of the Commission in this order to delay until January 1, 1988, the effective dates pursuant to Order No. 500 for: (1) Crediting and (2) lifting the stay of § 284.10. The delayed effectiveness of these two key provisions sought by numerous parties will provide a more complete opportunity for customers, producers, shippers, and interstate pipelines to prepare for implementation of the crediting and contract demand conversion mechanisms. In my judgment, this action is consistent fully with the July 17, 1987, Order of the U.S. Court of Appeals for the District of Columbia Circuit in *Associated Gas Distributors* v. *Federal Energy Regulatory Commission* (No. 85–1611), where the Court noted "the concern expressed by numerous parties that natural gas be kept flowing during the period of transition and that uncertainty be minimized to the greatest extent possible" and concluded that "FERC's proposed course of action reflects an adequate recognition of these concerns and is well within its discretion." (Accompanying memorandum, page 1.) I believe this action also satisfies the standards for implementing an interim rule as set forth in the same Court's opinion in *Mid-Tex Electric Cooperative, Inc.* v. *FERC*, No. 86–1414 (D.C. Cir. June 30, 1987), where the Court concluded "that the Commission's interim procedures are adequate, as a temporary measure, to afford some protection * * * and that they strike a reasonable balance, fairly accommodating the interests of all affected parties, while the Commission considers a permanent solution * * *". The delay of the effectiveness of crediting is particularly important to avoid: (1) Any unnecessary uncertainty as to the implementation of this interim rule, (2) any interruption in the flow of natural gas in the interstate pipeline system, and (3) any resulting disruption in the operation of the natural gas market.

For the same reasons, I support the several technical clarifications and refinements associated with the crediting mechanism in this Order. While technical in nature and relatively modest in effect, these clarifications and refinements should improve the practical workability of the crediting mechanism and reduce the administrative burden on affected parties. Again, I am satisfied that these modifications to Order No. 500 are consistent with, and satisfy, the Court's concerns in the *AGD* v. *FERC* and the June 30 *Mid-Tex* opinion.

Finally, I recognize that this Order defers action on a series of significant issues relating to the implementation and operation of the crediting mechanism, which have been raised in the many petitions for clarification and rehearing of Order No. 500 and the more recent and very extensive public comments on the new rule. While this Order, on balance, is an improvement of the original crediting mechanism in Order No. 500, I am persuaded that we still must address as soon as possible the other outstanding and significant issues associated with the crediting mechanism and affirmatively dispose of them. The analysis and disposition of the crediting mechanism issues, whether styled as further rehearing of Order No. 500 or accomplished as part of a final rule, should proceed concurrently with our analysis of the broader public policy issues raised in the

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[5] Order No. 500, FERC Stats. & Regs. ¶ 30,761 at 30,798–99.

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public comments on the rule. In my judgment, that is the only sure way to avoid the potential for unnecessary uncertainty, interruption, and disruption discussed above, particularly in the midst of the 1987–1988 winter heating season. Consequently, my support for this order is premised on the expectation that the Commission will proceed promptly to analyze comprehensively and objectively all of those crediting mechanism issues and dispose of those issues.

Charles A. Trabandt,
Commissioner.

Commissioner Naeve, Concurring in Part and Dissenting in Part

Today the Commission has issued an order denying rehearing in part, granting rehearing in part, and granting an extension until January 1, 1988 for the implementation of the crediting provisions of Order No. 500. These changes are intended to address in part some of the concerns that have been raised as to the implementation of the crediting provisions. I appreciate the efforts my colleagues have made to address some of the workability problems. However, I am concerned that the rule contains a number of serious practical shortcomings that must also be addressed as soon as possible. I am fearful that due to the complexity of Order No. 500, the unintended effect of the rule will be to cause a substantial volume of gas to be removed from the spot market which will cause resulting price increases. Therefore, additional changes to Order No. 500 are necessary to facilitate the free flow of gas and to better enable parties to operate under the rule. Because this order does not address all of the changes which I believe are necessary, I must dissent in part from today's Commission order. My concerns include, but are not limited to:

Problems Arising from the Lack of Identity Between Interest Ownership in Different Contracts. The cross crediting feature of Order No. 500 allows pipelines to credit gas transported against other contracts. This feature has the unfortunate effect of introducing a high degree of administrative complexity due to the nature of the natural gas industry. The majority has made a good faith effort to mitigate some of the difficulties arising from the cross crediting provisions. Although I appreciate their willingness to address these concerns, I believe that alternative approaches would be more workable. In particular, I am concerned about the feature in this order which would allow pipelines to retain an entitlement to credit for transported volumes as to parties that do not initially provide offers to credit. This banking of credit entitlements will result in enormous administrative complexity and may limit the ultimate amount of gas made available for transportation by producers who accumulate sizeable credit obligations in entitlement banks.

Intrastate pipeline offsystem sales transactions. When an intrastate pipeline sells system supply gas offsystem under section 311(b) of the NGPA, it must sell the gas at its rolled-in cost of gas. In the event that such volumes are transported by an interstate pipeline, Order No. 500 currently provides that the interstate pipeline may refuse to transport such gas unless the producers and working interest owners of such gas offer to provide take-or-pay credits. Although the interstate pipeline may waive its right to obtain such offers, it is not required to do so. (Indeed, the interstate pipeline may have good reasons for refusing to do so. For example, the proposed offsystem sale may displace the interstate pipeline's sale. Or, the pipeline may fear that any waiver of the crediting requirements may result in a claim by its customers in a purchasing practice case that the pipeline failed to sufficiently mitigate its take-or-pay obligations. Hence, an interstate pipeline may feel compelled to require such offers through the intrastate pipeline.) Inasmuch as the cost of gas volumes must be rolled-in, the intrastate pipeline must in this situation obtain the offers from every one of possibly tens of thousands or even hundreds of thousands of working interest owners of all of the wells from which it purchases for system supply. This result is so administratively burdensome as to effectively preclude intrastate pipelines from selling their gas offsystem if the transaction will require transportation on an interstate pipeline. In addition, the refusal of the owners of a single well to offer a credit may effectively preclude the offsystem sale. Finally, to the extent that the intrastate pipeline has settled its take-or-pay liability with its producers, such producers would be subject to double crediting.

Processing Plant Tailgate Sales. A similar problem arises where a processor purchases gas at the wellhead and makes resales of the residue gas at the tailgate of the plant. Hundreds of wells representing thousands of working interest owners may feed into such facilities. This is another situation where the refusal of the owners of a single well to offer a credit may effectively preclude the tailgate sale. Additionally, the administrative complexity of obtaining offers from all working interest owners of all of the wells involved may hinder willing processors/resellers from effectuating a transportation transaction.

Restrictions on Alienation of Gas and Oil Properties. Order No. 500 contains provisions which are intended to prevent circumvention of the cross crediting requirements through the assignment of leases. Unfortunately, these provisions have the undesirable consequence of discouraging owners from transferring gas and oil properties for legitimate business reasons in situations where circumvention is unlikely. I am concerned that restrictions on the future transfers of gas properties and oil properties with associated gas will substantially interfere with routine and important business transactions. I agree with my colleagues that the Commission must be concerned with foreclosing the opportunity to circumvent the cross crediting requirements, but I believe that there are less burdensome alternatives than those set forth in Order No. 500.

Prior Take-or-Pay Settlements. I believe that the Commission should make an effort to accommodate and protect existing take-or-pay settlements. Where a pipeline has entered into an agreement to resolve its take-or-pay obligations with a producer, the producer is exempt from crediting only where the contract has been terminated and gas is no longer committed to the pipeline. If a take-or-pay settlement does not result in such termination, crediting may still be required, even where the pipeline has already agreed under that settlement to transport the gas released in return for certain take-or-pay relief. Some producers have cooperated with pipelines in reaching settlements of their take-or-pay difficulties. Such settlements involve the exchange of consideration between the two parties. In situations in which a part of the consideration provided by the pipeline in exchange for take-or-pay relief is an agreement to provide transportation for that producer's gas, I would prefer that the Commission respect the terms of those settlements and not require additional credits for that transportation.

In conclusion, I agree with my colleagues that we must be responsive to the issues raised by the Court in *AGD.* However, I am concerned that without further immediate action to address some of the serious practical shortcomings in Order No. 500, the industry will be mired in administrative gridlock. As a result, spot market gas may no longer be transported, and gas costs to consumers may increase, thereby causing the same result that the Court sought to avoid when it remanded Order No. 436 to the Commission for reconsideration of the take-or-pay issue. The majority does not expect these results. I hope they are right. In any event, I hope that they will keep in mind and reconsider addressing these concerns before the rule goes into effect on January 1, 1988.

C.M. Naeve,
Commissioner.

[FR Doc. 87–24617 Filed 10–22–87; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

Old-Age, Survivors, and Disability Insurance; Correction

AGENCY: Social Security Administration, HHS.

ACTION: Final rule; Correction.

SUMMARY: The Final Rule which appeared in the Federal Register on August 11, 1987 (52 FR 29659) provided incorrect authority citations for the rules in Part 404, Subpart K, of the Social Security Administration regulations. These citations are being corrected at this time.

FOR FURTHER INFORMATION CONTACT: C. H. Campbell, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 597–3408.

SUPPLEMENTARY INFORMATION: On August 11, 1987, we published a Final Rule (52 FR 29659) that incorrectly stated certain authority citations for the rules in Subpart K—"Employment, Wages, Self-Employment, and Self-Employment Income." The authority citations for this Subpart had been correctly stated in a final rule (52 FR 27539) that was published earlier on July 22, 1987. This correction notice corrects the Subpart's authority citations so that the CFR will show, as the Subpart's authority, the citations contained in the July 22, 1987 Final Rule.

Accordingly, 20 CFR Part 404 is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950–)

1. The authority citation for Subpart K is revised to read as follows:

Authority: Secs. 205(a), 209, 210, 211, 229(a), 230, 231, and 1102 of the Social Security Act; 42 U.S.C. 405(a), 409, 410, 411, 429(a), 430, 431, and 1302.

(Catalog of Federal Domestic Assistance Program No. 13.802; Disability Insurance; No. 13.803 Social Security—Retirement Insurance; No. 13.805 Social Security—Survivors Insurance)

Dated: October 16, 1987.

James F. Trickett,
Deputy Assistant Secretary for Administrative and Management Services.

[FR Doc. 87–24561 Filed 10–22–87; 8:45 am]
BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 177

[Docket No. 86F–0294]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of Nylon 6/12 resins in contact with food. This action responds to a petition filed by EMS–CHEMIE AG.

DATES: Effective October 23, 1987; objections by November 23, 1987. The Director of the Office of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 177.1500, effective on October 23, 1987.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 31, 1986 (51 FR 27461), FDA announced that a petition (FAP 5B3848) had been filed by EMS–CHEMIE AG, Domat, Switzerland, proposing that § 177.1500 *Nylon resins* (21 CFR 177.1500) be amended to provide for the safe use of Nylon 6/12 resin in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended in § 177.1500 to provide for the use of this ingredient. To do so, the agency is adding a new paragraph (a)(13) to § 177.1500, adding a new "Viscosity Number" column and a new item 13 to the table in paragraph (b) of this regulation, and by adding a new paragraph (c)(5) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before November 23, 1987 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director and Deputy Director of the Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 is revised to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 177.1500 is amended by adding new paragraph (a)(13), by adding a new column and a new item 13 to the table in paragraph (b), and by adding new paragraph (c)(5), to read as follows:

§ 177.1500 Nylon resins.

* * * * *

(a) * * *

(13) Nylon 6/12 resins (CAS Reg. No. 25194–04–2) are manufactured by the copolymerization of a 1 to 1 ratio by weight of *epsilon*-caprolactam and *omega*-laurolactam.

* * * * *

(b) * * *

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Nylon resins	Specific gravity	Melting point (degrees Fahrenheit)	Solubility in boiling 4.2*N* HCl	Viscosity No.	Maximum extractable fraction in selected solvents (expressed in percent by weight of resin)			
					Water	95 percent ethyl alcohol	Ethyl acetate	Benzene
13. Nylon 6/12 resins for use only in food-contact films having an average thickness not to exceed 51 microns (0.002 inch). The finished film is intended to contact all foods except those containing more than 8 percent ethanol under conditions of use B, C, D, E, F, G, and H listed in table 2 of § 176.170(c) of this chapter.	6/12 1.08±0.015	250–265	Dissolves in 1 hour.	Greater than 140...	2.0		1.5	1.5

(c) * * *

(5) *Viscosity number (VN).* The viscosity number (VN) for Nylon 6/12 resin in a 96 percent sulfuric acid solution (5 milligrams resin per milliliter) shall be determined at 25 °C (77 °F) by method ISO 307–1984(E), "Plastics-Polyamides-Determination of Viscosity Number," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

Dated: October 16, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–24523 Filed 10–22–87; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 660

[Docket No. 85N–0184]

Limulus Amebocyte Lysate; Reduction of Samples for Testing

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations in the additional standards for Limulus Amebocyte Lysate (LAL) by reducing the number of containers for potency and quality tests and the number of samples submitted to FDA for testing. FDA is amending the LAL testing requirements because adequate data are now available to demonstrate that the new requirements provide the same assurances of acceptable product suitability as the current regulatory requirements. The amendments will result in an economic benefit for manufacturers of LAL because fewer final containers will be utilized for testing the product.

EFFECTIVE DATE: November 23, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph G. Wilczek, Center for Drugs and Biologics (HFN–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8040.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 16, 1980 (45 FR 32296), FDA published additional standards under 21 CFR Part 660 for the manufacture of LAL. LAL is prepared from the circulating blood cells (amebocytes) of the horseshoe crab (*Limulus polyphemus*). It is a licensed biological product used as a reagent for in vitro testing to detect bacterial endotoxins (pyrogens) in certain human and animal parenteral drugs, biological products, and medical devices.

In the preamble to the 1980 final additional standards for LAL, FDA responded to comments received on the proposed rule. Included in the comments was one suggestion to reduce the minimum number of vials (20) required under § 660.102 for performing the Potency test for LAL (item number 2 of the 1980 final rule). A similar comment suggested that a smaller sample size be required under § 660.103(f) for performing the test for quality (item number 19 of the 1980 final rule). FDA rejected the comments at that time because it concluded that at least 20 vials of test lysate were necessary for performing the tests to ensure that the procedures were statistically valid for estimating vial-to-vial variability of the test lysate. In 1980, there were only a few licensed manufacturers of LAL and the available data concerning potency and quality were insufficient for FDA to reduce the sample size for testing (required since the product was first licensed in 1977) while maintaining confidence that the tests were statistically valid. However, after several years of accumulating data related to LAL, FDA has reviewed the data and has now reconsidered the comments concerning test sample size requirements in the LAL additional standards. FDA now believes that there are adequate data to demonstrate that the required potency and quality of LAL can be assured if the sample size for testing under §§ 660.102 and 660.103(f) is reduced from a minimum of 20 vials to 8 vials. A summary of the data on which FDA has based this conclusion is on file at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Background

In the **Federal Register** of October 14, 1986 (51 FR 36563), FDA proposed to amend §§ 660.102 and 660.103(f) to reduce the number of samples for testing potency and quality, respectively, from the currently required minimum of 20 vials from each filling to 8 vials from each filling. Consistently, FDA also proposed to amend § 660.105(a)(1) to reduce the currently required number of vials of lysate submitted to FDA for testing from 28 vials to the number used in the potency test under § 660.102. FDA advised that proposed § 660.102 would permit the sample size to be increased to 28 vials if the potency test result was invalid when tested with a smaller sample size.

FDA expects that the number of samples submitted to FDA under § 660.105(a)(1) will routinely be eight vials, although the number of samples submitted will be greater if a manufacturer uses more than eight vials to obtain a valid potency test. This rule requires manufacturers to submit to FDA the same number of vials used by the manufacturer for its potency testing in order to duplicate the test procedures and results, and to facilitate release of the product.

Comments

FDA received one letter of comment in response to the proposed rule. The comment, from a pharmaceutical manufacturer that is not licensed to produce LAL, stated that the company has experienced a high level of variability in testing several lots of LAL by an FDA-approved test method. Therefore, the comment doubted that a reliable estimate of the potency of an LAL lot can be achieved on the basis of an eight-vial sample using current testing methodology. The firm that submitted the comment did not provide any test data and stated that it had not

reviewed FDA's data placed in the public docket for this rulemaking.

FDA has reviewed certain data accumulated over 5 years from the agency's testing of LAL and the test data from the licensed manufacturers of LAL. These data clearly demonstrate that a reliable estimate of the potency of a lot of LAL can be achieved when testing a minimum of 8 vials of the lot, rather than the currently required minimum of 20 vials, by the test method in § 660.102. FDA believes that a laboratory's failure to reproduce the labeled potency of a lot of licensed LAL may be due to improper mixing of the endotoxin and any significant variability of test results is not caused by testing a minimum of eight vials of each lot of LAL. Therefore, FDA rejects the comment and is publishing the final rule as proposed.

Environmental and Economic Impact

The agency has determined under 21 CFR 25.24(c)(10) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency has examined the economic impact of this rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the rule will reduce the number of samples that each of the six currently licensed manufacturers are required to test and submit to FDA for agency testing and official release of each lot of LAL, resulting in reduced costs. Therefore, the agency concludes that the rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 660

Biologics, Labeling.

Therefore, under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, Part 660 is amended as follows:

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

1. The authority citation for 21 CFR Part 660 continues to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690, as amended, 702, as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

2. By revising the fourth sentence in the introductory paragraph of § 660.102 to read as follows:

§ 660.102 Potency test.

* * * A minimum of 8 vials and a maximum of 28 vials from each filling or, if freeze-dried, from each drying chamber load, shall be tested in parallel with an equal number of tests from 1 or more vials of the U.S. Reference Lysate. * * *

* * * * * *

3. By revising § 660.103(f)(1) to read as follows:

§ 660.103 General requirements.

* * * * * *

(f) * * *

(1) Samples from each of eight final containers from each filling or, if freeze-dried, from each filling in each drying chamber run representing all parts of the chamber load, shall be used.

* * * * * *

4. By revising § 660.105(a)(1) to read as follows:

§ 660.105 Samples and protocols; official release.

(a) * * *

(1) *Samples.* Not fewer than the number of vials of lysate used for the potency test in § 660.102, two of which shall be complete market packages, packaged for distribution and including all ancillary reagents and materials.

* * * * * *

Dated: September 29, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–24524 Filed 10–22–87; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

42 CFR Parts 412 and 413

[BERC–466–N]

Medicare Program; Legislative Changes Affecting Payments to Hospitals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of legislative changes.

SUMMARY: This notice identified certain Medicare regulations that are affected by enactment of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987. That legislation has an impact on the applicability of the provisions of those regulations concerning payment for inpatient hospital services. In addition, it nullifies two recently published final rules concerning capital payments under the inpatient hospital prospective payment system and changes to the return on equity capital provisions for outpatient hospital services.

FOR FURTHER INFORMATION CONTACT: Anthony Coates (return on equity capital), (301) 597–2886; or Linda Magno (all other issues), (301) 594–9343.

SUPPLEMENTARY INFORMATION:

I. Summary of New Legislation

On September 29, 1987, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Pub. L. 100–119) was enacted. Section 107(a)(1) of Pub. L. 100–119 makes certain changes to the payment policies for inpatient hospital services as follows:

- For discharges occurring on or after October 1, 1987 and before November 21, 1987, the applicable percentage increase used to update the inpatient hospital prospective payment system average standardized amounts for Federal fiscal year (FY) 1988 is zero percent.
- For the period October 1, 1987 through November 20, 1987, the national/regional blend of the Federal portion of a hospital's prospective payment rate remains at 50 percent national and 50 percent regional.
- For the first 51 days of a hospital's cost reporting period beginning during FY 1988, the hospital's prospective payment rate continues to be composed of 75 percent of the Federal rate and 25 percent of the hospital-specific rate.
- The hospital's hospital-specific rate remains at the level it was during the hospital's cost reporting period that began during FY 1987.
- For hospitals excluded from the prospective payment system, the applicable percentage increase used to update the hospital's rate-of-increase limits is zero percent for the first 51 days of its cost reporting period beginning in FY 1988.
- The reduction to capital payments for hospitals subject to the prospective payment system remains at 3.5 percent for payments attributable to portions of cost reporting periods occurring during the period October 1, 1987 through November 20, 1987.
- For the first 51 days of a hospital's cost reporting period beginning during FY 1988, the applicable percentage used in determining the return on equity capital for inpatient hospital services remains at 75 percent.

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In addition to these changes, section 107(a)(2) of Pub. L. 100–119 amended section 9321(c) of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509) to provide that the Secretary is prohibited from issuing after September 1, 1986 and before November 21, 1987 any final regulation that changes the methodology for computing the amount of payment for capital-related costs for inpatient hospital services. Further, any regulation published in violation of this prohibition is declared to be void and of no effect.

Section 107(b)(1) of Pub. L. 100–119 provides that the final regulation published on September 1, 1987 (52 FR 32920) concerning changes to the return on equity capital provisions for outpatient hospital services is void and of no effect.

II. Changes to the Inpatient Hospital Prospective Payment System

On September 1, 1987, we published a final rule in the **Federal Register** (52 FR 33034) to implement the fifth year of the prospective payment system. In that rule, we set forth the methods, amounts, and factors for determining the FY 1988 prospective payment rates. We also established new target rate percentages for determining the rate-of-increase limits for FY 1988 for hospitals excluded from the prospective payment system.

As a result of the enactment of Pub. L. 100–119, payment for inpatient hospital services under the prospective payment system in FY 1988 will be determined as follows:

- For discharges occurring on or after October 1, 1987 and before November 21, 1987, the average standardized amounts for FY 1988 are increased by zero percent rather than 2.7 percent as provided in the September 1, 1987 final rule. The revised standardized amounts are set forth in Tables 1a, 1b, and 1c, below.
- The prospective payment transition period is extended as follows:

—For discharges occurring on or after October 1, 1987 and before November 21, 1987, the Federal portion of a hospital's prospective payment rate will continue to be based on a blend of 50 percent of the national rate and 50 percent of the regional rate rather than 100 percent of the national rate.

—For the first 51 days of a hospital's cost reporting period beginning in FY 1988, the hospital's payment rate will remain a blend of 75 percent of the Federal rate and 25 percent of the hospital-specific rate, rather than becoming 100 percent of the Federal rate. The applicable hospital-specific rate for this period is the hospital's rate that was in effect for its cost reporting period beginning in FY 1987.

These changes affect the following prospective payment regulations in 42 CFR Part 412:

- Section 412.63 (c)(3) and (f)—Federal rates for fiscal year 1988.
- Section 412.70(b), (c)(4), (c)(5), (d)(3), and (d)(4)—General description of the determination of transition period payment rates.
- Section 412.73(c)(5)—Determination of the hospital-specific rate.
- Section 412.80(a)(1)(ii)(B)—General provisions concerning payment for outlier cases.
- Section 412.82(c)—Payment for extended length-of-stay cases (day outliers).

In addition, section 107(a)(1)(E) of Pub. L. 100–119 specifies that the rate-of-increase limits for hospitals excluded from the prospective payment system are increased by zero percent (rather than 2.7 percent) for the first 51 days of those hospitals' cost reporting periods beginning in FY 1988. This change affects § 413.40(c)(3)(i)(C)—Determination of target rate percentages for FY 1988.

All other provisions of the September 1, 1987 inpatient hospital prospective payment final rule are effective as described in that document. These include the following:

- Recalibration of diagnosis-related group (DRG) weights (and the related changes to the DRG classification system also published on September 1, 1987 (52 FR 33143)).
- Revised wage indexes.
- Incorporation of hospitals located in Puerto Rico into the prospective payment system.
- Changes to the regulations concerning—

—Review of DRG assignments;

—Payments to sole community hospitals;

—Referral center criteria; and

—Payment for services of nonphysician anesthetists.

- Revised outlier thresholds.
- Elimination of the exclusion for alcohol/drug hospitals and units.

With respect to the inclusion in the prospective payment system of previously excluded alcohol/drug hospitals and units effective for cost reporting periods beginning in FY 1988, we note that the provisions of section 107(a)(1) of Pub. L. 100–119 require the continuation of the 75 percent Federal/25 percent hospital-specific blend for the first 51 days of a hospital's cost reporting period. Therefore, alcohol/drug hospitals and units will be paid on this basis when their exclusion ends.

Alcohol/drug units will be paid based on their respective hospitals' hospital-specific rates. Since alcohol/drug hospitals were included in the prospective payment system when it was first implemented in FY 1984, hospital-specific rates have already been calculated for them. It is these rates, appropriately updated, that will be used in computing the blended payment rates for these hospitals. We will not recompute any alcohol/drug hospital's or unit's hospital-specific rate nor will we establish a new base period for these hospitals or units.

III. Payment of Capital Costs

On September 1, 1987, we also published a final rule in the **Federal Register** (52 FR 33168) that incorporated capital costs, except for payments to proprietary hospitals for a return on equity capital, into the inpatient hospital prospective payment system effective with cost reporting periods beginning on or after October 1, 1987. Section 107(a)(2) of Pub. L. 100–119 amended section 9321(c) of Pub. L. 99–509 to specify that, after September 1, 1986 and before November 21, 1987, the Secretary is prohibited from issuing any final regulations that change the methodology for computing the amount of payment for capital costs for inpatient hospital services and that any regulations published in violation of this prohibition are void and of no effect. Therefore, §§ 412.65 through 412.68 and 412.214, which were added to the regulations by the final rule on capital costs published on September 1, 1987 at 52 FR 33168 (as corrected on September 30, 1987 at 52 FR 36573), are not in effect. Conforming changes made to the following sections are also not in effect: §§ 412.1(a), 412.2 (c)(5) and (d)(1), 412.63(a)(1), 412.82(c), 412.84 (g) and (i), 412.92(d)(1)(iii), 412.96 (d) and (e), 412.113(a), and 412.125(b).

In addition to making the final rule on capital payments invalid, section 107(a)(1)(C) of Pub. L. 100–119 extended the 3.5 percent reduction to capital payments for hospitals subject to the prospective payment system, which was in effect for FY 1987, to portions of cost reporting periods occurring during the period October 1, 1987 through November 20, 1987. That reduction was scheduled to increase to seven percent on October 1, 1987. This change affects the regulations at § 413.64(g)(6)(i).

IV. Return on Equity Capital

On September 1, 1987, we published a final rule (52 FR 32920) that eliminated the allowance for a return on equity capital for outpatient services furnished by proprietary hospitals effective with

cost reporting periods beginning on or after October 1, 1987. In addition, as a part of that final rule, we made conforming changes to the regulations to describe the phase-out of the return on equity capital for inpatient hospital services effective for cost reporting periods beginning on or after October 1, 1986, which is mandated by the provisions of section 1886(g)(2) of the Social Security Act (the "Act").

Section 107(b)(1) of Pub. L. 100–119 specifies that the "final regulation * * * published on September 1, 1987 (52 FR 32920) and relating to changes to the return on equity capital provisions for outpatient hospital services is void and of no effect." Therefore, the amendments made by that final rule to § 413.157(b)(4), which specify that there is no allowance for the return on equity capital for outpatient services for cost reporting periods beginning on or after October 1, 1987, are not in effect.

The rates specified in the September 1, 1987 final regulations (published at 52 FR 32920) for return on equity capital for inpatient hospital services remain in effect, subject to one modification described below. Those rates are required by section 1886(g)(2) of the Act. However, section 107(a)(1)(D) temporarily modifies those rates by stating that the rate of return on equity capital for inpatient hospital services remains at 75 percent of the rate of return paid on obligations issued for purchase by the Federal Hospital Insurance Trust Fund for the first 51 days of a hospital's cost reporting period beginning during FY 1988 rather than becoming 50 percent as specified in section 1886(g)(2)(B)(ii) of the Act.

V. Tables

This section contains the tables referred to in section II of this preamble.

TABLE 1a.—NATIONAL ADJUSTED STANDARDIZED AMOUNTS, LABOR/NONLABOR

Urban		Rural	
Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
2275.65	806.35	2067.38	572.51

TABLE 1b.—REGIONAL ADJUSTED STANDARDIZED AMOUNTS, LABOR/NONLABOR

	Urban		Rural	
	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
1. New England (CT, ME, MA, NH, RI, VT)	2378.06	837.25	2268.44	678.56
2. Middle Atlantic (PA, NJ, NY)	2156.25	802.62	2194.54	640.20
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	2286.31	734.03	2098.67	557.18
4. East North Central (IL, IN, MI, OH, WI)	2411.97	868.70	2123.45	616.12
5. East South Central (AL, KY, MS, TN)	2195.78	666.66	2080.12	619.45
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	2284.93	790.76	2018.19	554.42
7. West South Central (AR, LA, OK, TX)	2294.57	733.58	1938.47	510.38
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	2169.32	760.40	1969.71	590.56
9. Pacific (AK, CA, HI, OR, WA)	2141.09	895.49	1906.92	861.41

TABLE 1c.—ADJUSTED STANDARDIZED AMOUNTS FOR PUERTO RICO, LABOR/NONLABOR

	Urban		Rural	
	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
Puerto Rico	1992.58	356.28	1330.54	253.58

	Labor-related	Nonlabor-related
National	2225.01	749.50

(Sec. 107, Pub. L. 100–119)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance Program)

Dated: October 15, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 87–24644 Filed 10–21–87; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 31, 61, 71, 91, 167, 169, and 189

[CGD 84–024]

Intervals for Drydocking and Tailshaft Examination on Inspected Vessels

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: The Coast Guard is amending the intervals between drydock and tailshaft examinations by extending them in most cases for certain classes of vessels. These changes will decrease the cost incurred by the marine industry in meeting these examination requirements and harmonize the intervals with those specified by the various classification societies and the intervals currently under consideration internationally.

DATES: Sections 31.10–24, 71.53–1, 91.43–1, 167.15–40, 169.234, and 189.43–1 are effective on April 20, 1988. All other provisions are effective on November 23, 1987. Comments on these interim final rules must be submitted on or before January 21, 1988.

ADDRESSES: Comments on these interim final rules should be mailed to Commandant (G–CMC/21), (CGD 84–024), U.S. Coast Guard Headquarters, Washington, DC 20593–0001. The comments may be delivered to and will be available for inspection or copying between 8 a.m. and 3 p.m., Monday through Friday, except holidays, at the Office of the Marine Safety Council (G–CMC/21), Room 2110, Coast Guard Headquarters Building, 2100 2nd Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: LCDR Geoffrey D. Powers, Merchant Vessel Inspection and Documentation Division, Office of Marine Safety, Security and Environmental Protection, (202) 267–1045.

SUPPLEMENTARY INFORMATION: On May 30, 1986, the Coast Guard published in the **Federal Register** (51 FR 19720) a notice of proposed rulemaking (NPRM). Two correction documents were published (51 FR 20847; June 9, 1986 and 51 FR 26439; July 23, 1986). On August 14, 1986, the comment period was reopened and extended until September 30, 1986 (51 FR 29116). A total of forty-six responses were received. A discussion of the comments received is presented below.

The Coast Guard has added certain provisions which were not specifically addressed in the NPRM. They are §§ 31.10–24, 71.53–1, 91.43–1, 167.15–40, 169.234, and 189.43–1 relating to the internal examination of integral fuel oil tanks. Therefore, the Coast Guard is soliciting comments on these sections as well as those sections that changed as a result of comments. The deadline for receipt of comments is January 21, 1988. Persons submitting comments should include their name and address, identify this rulemaking docket number [CGD 84–024] and the specific section of the rule or supporting documents to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped,

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addressed post card or envelope is enclosed. The rule may be changed in light of the comments received.

All comments received before the expiration of the comment period will be considered before final action is taken on those sections. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the **Federal Register** if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in the drafting of this rule are LCDR Geoffrey D. Powers, Project Manager, and Mr. Stephen H. Barber, Project Attorney, Office of Chief Counsel.

Summary of Changes Made

(a) *Scope of a drydock examination.* The definition of a drydock examination, as proposed in the NPRM, would have significantly expanded the scope of a drydock examination over what is currently called for under existing regulations. Specifically, in addition to an examination of the vessel's underwater body, the NPRM definition of a drydock examination included all cargo and ballast tanks. This created problems, particularly for the owners of tank vessels. As an example, tank barges certificated for the carriage of Grade D and E cargos are currently required to have cargo tanks examined once every six years. The NPRM, by including cargo tanks in the scope of a drydock examination, unnecessarily reduced the cargo tank examination interval to twice every five years (the proposed drydock interval for salt water service). To correct these problems, the Coast Guard has redefined a drydock examination, limiting it to an examination of a vessel's underwater body, and added two new examination requirements (Cargo Tank Internal and Internal Structural examinations), each with its own interval.

Taking the NPRM's all inclusive drydock examination and breaking it up into three separate examinations—drydock, cargo tank internal, and internal structural—enables the Coast Guard to establish examination intervals which recognize the differences in vessel design and service. For the majority of ocean going vessels, the intervals for all three examinations are the same. For example, the drydock, cargo tank internal, and internal structural examination intervals for salt water service ships are all twice within five years. Therefore, the net result of this change for these vessels is that the examination requirements as proposed in the NPRM are essentially the same as the examination requirements established in this rule. However, establishing three separate examinations enables the Coast Guard to recognize the additional levels of safety inherent in the design of, for example, a double hull tank barge with internally framed cargo tanks in fresh water service. These vessels will have a 10 year drydock interval, a five year cargo tank internal interval, and an internal structural interval of twice within five years.

(b) *Alternate internal examinations in lieu of drydocking.* The existing regulations and the NPRM both permitted alternate internal examinations in lieu of drydocking for some double hull barges in fresh water service. This rule eliminates alternate internal examinations in lieu of drydocking in favor of extended drydock examination intervals with intermediate internal structural examinations. Under existing regulations, a fresh water service double hull tank barge has a three year drydock interval. If an alternate internal examination is conducted at year three, the drydocking can be extended to year six. In this rule, the baseline fresh water service drydock interval is five years. As stated above, rather than permitting alternate internal examinations, this rule employs a scheme of lengthened drydock intervals with intermediate internal structural examinations. Therefore, the same fresh water service double hull tank barges will, under this rule, have a 10 year drydock interval and an internal structural examination interval of twice within five years.

(c) *Underwater surveys instead of alternate drydocking.* Although the NPRM permitted underwater surveys on passenger vessels, nautical school ships, or sailing school vessels, this interim final rule does not. No comments addressing underwater surveys on these vessels were received in response to the ANPRM or NPRM. However, the Coast Guard has determined the service of these vessels (carrying large numbers of people in passenger or passenger-like situations and frequently operating in confined, congested waters) are such that it is inappropriate to permit underwater surveys.

The NPRM also proposed alternate underwater surveys instead of alternate drydocking for tank vessels, cargo and miscellaneous vessels, and oceanographic research vessels, and limited this alternative to vessels of 15 years of age or less. This rule retains alternate underwater surveys for these vessels, but will permit continued participation in the underwater survey program for vessels older than 15 years. Approval for continued participation will be dependent upon a complete set of hull gaugings (indicating no appreciable hull deterioration), the results of the last drydock examination, and the recommendation of the Officer in Charge, Marine Inspection.

(d) *Examination of integral fuel tanks.* In examining the scope of a drydock examination in both the existing regulations and the NPRM, the Coast Guard determined that the important structural members on the inside of fuel tanks were not covered in the examination requirements. Therefore, in order to promote safety and to comply with the recommendations of the National Transportation Safety Board resulting from the sinking of the GLOMAR JAVA SEA (Recommendation M–84–58; Report number NTSB/MAR–84–08), the Coast Guard has included in this rule a requirement for the internal examination of integral fuel tanks.

The basic fuel tank interval will be five years with the examination to be accomplished concurrently with an internal structural examination. However, the fuel tanks need not be cleaned and internally examined if the Coast Guard marine inspector is able to determine by external examination that their general condition is satisfactory. There will be mandatory requirements for the internal examination of a representative sample of double-bottom fuel oil tanks, as follows: for vessels between 10 and 15 years of age, one double-bottom fuel oil tank; for vessels between 15 and 25 years of age, three double-bottom fuel oil tanks; and for vessels 25 years of age and older, one double-bottom fuel oil tank in way of each cargo hold/tank.

Under existing regulations (§§ 31.10–17(d), 71.30–10, 91.27–15, 167.15–25, 169.259, and 189.27–15) Coast Guard marine inspectors are not prohibited from making such tests and examinations as deemed necessary to be assured of the seaworthiness of the vessel. This permits marine inspectors to examine a vessel's fuel tanks. Additionally, the Load Line regulations (§ 42.09–30) and American Bureau of Shipping rules require the internal examination of fuel tanks. This fuel tank examination requirement has been structured to align with classification society rules and the requirement in 46 CFR 42.09–30. As a result, it should only have the impact of a new requirement on those vessels without a Load Line and not classed by the American Bureau of Shipping.

(e) *Separate examination intervals for aggregate fresh water/salt water service.* The NPRM proposed a separate set of examination intervals for those vessels which operated in fresh water at least six months in every 12 month period since the last drydock examination. This set of intervals for aggregate fresh water/salt water service veasels was in addition to a set of examination intervals for vessels operating in exclusive fresh water service and a set of examination intervals for those vessels operating in salt water more than six months in every 12 month period. This rule has eliminated the set of intervals for aggregate fresh water/salt water service. The fresh water service examination intervals established in this rule will be applicable to those vessels operating in fresh water at least nine months in any 12 month period. The salt water service examination intervals will be applicable to those vessels operating in fresh water less than nine months in any 12 month period.

(f) *Twice within a five year interval.* To ensure these rules are consistant with the drydock examination intervals currently under consideration internationally, an editorial change has been made to the regulations to reflect an examination interval of twice within any five year *period* in lieu of twice within a five year *cycle.*

All the examination intervals in this rule (drydock, internal structural, cargo tank internal, tailshaft, and fuel tank) are a multiple of five years which will maximize the incidence of different requirements coming due at the same time. This should reduce the out of service time of, and the economic impact on, inspected vessels. Additionally, several times during the life of a vessel, all five intervals will coincide and Coast Guard marine inspectors will be afforded the opportunity to conduct a complete assessment of the vessel's hull structure. The four year drydock interval for aggregate fresh water/salt water service vessels proposed in the NPRM does not lend itself to a similar coincidence of separate examinations for aggregate service vessels without imposing more frequent examinations than are permitted similar vessels in exclusive salt water service.

Tables 1 and 2 are provided for quick reference to the new examination intervals, as well as for comparison with the existing examination intervals. They list the existing and new examination intervals for each of the following examinations—drydock, internal structural, and cargo tank—for most categories of vessels.

TABLE 1.—COMPARISON OF EXISTING AND NEW SALT WATER SERVICE EXAMINATION INTERVALS IN YEARS [1]

	Tank Vessels—Subchapters D and I								Non-tank vessels Subchapters I, R and U		Passenger vessels Subchapter H		All wood hull vessels
	Single hull ships and barges	Double hull barges internal framed cargo tanks	Double hull barges external framed cargo tanks	Single hull barges independent cargo tanks	Single hull barges grade D & E cargoes	Double hull barges grade D & E cargoes	Single hull asphalt barges	Double hull asphalt barges	Ships and barges	Unmanned deck cargo barges	International voyage passenger vessels	Domestic voyage passenger vessels	Wood hull
Drydock:													
Existing	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	1.0	1.5	[2]
New	2.5	5.0	5.0	5.0	2.5	5.0	2.5	5.0	2.5	5.0	1.0	2.5	2.5
Internal structural:													
Existing	2.0	2.0	2.0	2.0	6.0	2.0	12.0	2.0	2.0	2.0	1.0	2.0	[3]
New	2.5	2.5	2.5	2.5	5.0	2.5	10.0	2.5	2.5	2.5	1.0	2.5	2.5
Cargo tank: [4]													
Existing	2.0	2.0	4.0	[4]	6.0	6.0	12.0	12.0					4.0
New	2.5	5.0	10.0	[4]	5.0	10.0	10.0	15.0					2.5

[1] A 2.5 year examination interval means a vessel must undego two examinations within any five year period. No more than three years may elapse between any two examinations.

[2] Existing dry dock interval for wood hull tank vessels is 4 years; existing drydock interval for wood hull passenger vessels is 18 months; and existing drydock interval for wood hull non-tank vessels is 2 years.

[3] Existing internal structural interval for wood hull tank vessels is 8 years; existing internal structural interval for wood hull passenger vessels is 18 months; and existing internal structural interval for wood hull non-tank vessels is 2 years.

[4] If carrying cargoes regulated under 46 CFR Part 38 or 46 CFR Subchapter O cargo tank internal examinations must be accomplished as specified in 46 CFR Parts 38 and 151 respectively.

TABLE 2.—COMPARISON OF EXISTING AND NEW FRESH WATER SERVICE EXAMINATION INTERVALS IN YEARS [1]

	Tank vessels—Subchapters D and I								Non-tank vessels Subchapters I, R and U		Passenger vessels Subchapter H		All wood hull vessels
	Single hull ships and barges	Double hull barges internal framed cargo tanks	Double hull barges external framed cargo tanks	Single hull barges independent cargo tanks	Single hull barges grade D & E cargoes	Double hull barges grade D & E cargoes	Single hull asphalt barges	Double hull asphalt barges	Ships and barges	Unmanned deck cargo barges	International voyage passenger vessels	Domestic voyage passenger vessels	Wood hull
Drydock:													
Existing	3.0	6.0	6.0	3.0	3.0	6.0	3.0	6.0	5.0	5.0	1.0	5.0	[2]
New	5.0	10.0	10.0	10.0	5.0	10.0	5.0	10.0	5.0	10.0	1.0	5.0	2.5
Internal structural													
Existing	2.0	2.0	2.0	2.0	6.0	2.0	12.0	2.0	2.0	2.0	1.0	2.0	[3]
New	5.0	2.5	2.5	2.5	5.0	2.5	10.0	2.5	5.0	2.5	1.0	5.0	2.5

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TABLE 2.—COMPARISON OF EXISTING AND NEW FRESH WATER SERVICE EXAMINATION INTERVALS IN YEARS[1]—Continued

	Tank vessels—Subchapters D and I								Non-tank vessels Subchapters I, R and U		Passenger vessels Subchapter H		All wood hull vessels
	Single hull ships and barges	Double hull barges internal framed cargo tanks	Double hull barges external framed cargo tanks	Single hull barges independent cargo tanks	Single hull barges grade D & E cargoes	Double hull barges grade D & E cargoes	Single hull asphalt barges	Double hull asphalt barges	Ships and barges	Unmanned deck cargo barges	International voyage passenger vessels	Domestic voyage passenger vessels	Wood hull
Cargo tank:[4]													
Existing	2.0	3.0	6.0	[4]	5.0	5.0	12.0	12.0					4.0
New	5.0	5.0	10.0	[4]	5.0	10.0	10.0	15.0					2.5

[1] A 2.5 year examination interval means a vessel must undergo two examinations within any five year period. No more than three years may elapse between any two examinations.

[2] Existing drydock interval for wood hull tank vessels in 4 years; existing drydock interval for wood hull passenger vessels is 5 years; and existing drydock interval for wood hull non-tank vessels is 5 years.

[3] Existing internal structural interval for wood hull tank vessels is 8 years; existing internal structural interval for wood hull passenger vessels is 2 years; and existing internal structural interval for wood hull non-tank vessels is 2 years.

[4] If carrying cargoes regulated under 46 CFR Part 38 or 46 CFR Subchapter O cargo tank internal examinations must be accomplished as specified in 46 CFR Part 38 and 151 respectively.

(g) *Effective dates.* In view of the changes discussed above, the Coast Guard considered whether to publish a final rule, an interim final rule, or a supplemental notice of proposed rulemaking. For the following reasons, publication of an interim final rule was considered most appropriate.

A prime concern of industry during this rulemaking was that the Coast Guard implement a program of extended inspection intervals as quickly as possible. It is estimated that the inspection intervals contained in these rules will save the maritime industry $26 million annually. Delaying the effective date by six months or more, to receive comments on a supplemental proposal containing the changes and publish a final rule, would cost industry $13 million or more.

Although the format of the inspection intervals has been changed, to provide more flexibility in handling inspections on differing types of vessels, the basic purpose of extending inspection intervals and providing for required inspections to coincide, has not changed. The adjustments made to proposed intervals are well within the scope of the proposal. The only feature that could be considered outside the scope of the proposal is the requirement for internal inspection of fuel tanks.

Consideration was given to separately publishing proposed inspection requirements for fuel tanks, however the basic feature of this rulemaking is to harmonize all structural inspections of a vessel. Since the fuel tanks are integral parts of the vessel structure, the required inspections for these tanks can best be considered as part of integrated inspection rules. The fact that the fuel tank inspection requirements in these rules are aligned with the existing requirements in the Load Line regulations and American Bureau of Shipping requirements for classification, should mean that including these requirements in this rulemaking will have little or no impact for many vessels. However, to provide notice to vessel owners, and an opportunity to respond to comments and make changes, if necessary, the provisions concerning internal inspection of fuel tanks will not become effective until 180 days after publication of this rule. We have requested that comments on these provisions be submitted within 90 days. In the unlikely event that serious concerns are raised, the effective date for these provisions can be suspended pending resolution of any problems brought to our attention.

Discussion of Comments

Nineteen comments generally supported the proposed regulations. Two comments suggested that the original period for submitting comments be extended from 30 to 60 days. The 30 day deadline was a printing error which was later corrected by an extension document published in the **Federal Register** (51 FR 20847; June 9, 1986).

One comment suggested that because the proposed examination requirements substantially treated all other vessels as equals, mobile offshore drilling units (MODUs) under Subchapter I–A of 46 CFR Chapter I and small passenger vessels under Subchapter T of 46 CFR Chapter I should be included in this rulemaking. The Coast Guard, however, intends to regulate these classes of vessels separately. Examination intervals for MODUs and small passenger vessels will be addressed in separate rulemakings under Coast Guard docket numbers 83–071 and 85–060 respectively.

One comment suggested that the discussion of comments in the NPRM was deficient in that only those comments which answered the specific questions contained in the ANPRM were discussed in the NPRM, other comments were not discussed. Though they may not have been discussed, all comments received were considered in developing the NPRM.

One comment noted that several public hearings would be held. As mentioned earlier in this preamble, no request for a public hearing was received and none were held.

One comment recommended that the NPRM be withdrawn for further study so that the differences between classification society and Coast Guard requirements could be resolved. The Coast Guard recognizes that these rules should be aligned, where appropriate, with those of the classification societies and has made efforts to do so. The Coast Guard has initiated a dialog with the American Bureau of Shipping to explore further efforts to align inspection intervals.

Nine comments recommended that the internal examination of cargo tanks under Subchapter D of 46 CFR Chapter I should not be included in the scope of either a drydock examination, underwater survey, or alternate internal inspection. Two comments recommended that the Coast Guard's current policy for Grade D and E cargoes, which permit a six year cargo tank internal examination interval, be retained. One comment suggested that a five year cargo tank internal examination interval be required to make it consistent with the drydock interval. Four comments suggested that expanding the scope of drydocking, underwater surveys, and alternate internal inspections to include a cargo tank internal examination is inconsistent with the Coast Guard's intent to reduce the costs to the owners/operators, as stated in the preamble to the NPRM. They state that the alignment of cargo tank internal examination intervals with those for drydocking would increase the cargo tank examination interval. In turn, they state that this would result in an increase in gas freeing costs and reduce the amount of savings anticipated by the operators. One comment recommended the purpose for drydocking or underwater examinations instead of drydocking should be to confirm the conditions of the underwater portion of the hull and through hull fittings. They feel that internal examination of the cargo tanks does not require drydocking and that the intervals and scope of the cargo tank examinations should be addressed separately. Three comments state that the proposed rules presume that all vessels, excluding wooden vessels and those certificated under Subchapters I–A and T, are subject to the same risk of hull girder or tailshaft failure and, therefore, should have identical intervals. The Coast Guard agrees that the examination intervals in the NPRM do not adequately reflect the differences in vessel design and employment and that including examination of all cargo tanks in the scope of a drydock examination would create problems, particularly for tank barges. The examination intervals in the NPRM would have unnecessarily increased the frequency of cargo tank internal examination for many vessels, for example, from once every six years to twice every five years for vessels carrying Grade D and E products. To correct these problems, the Coast Guard has established three separate examinations to replace the all inclusive drydock examination: drydock, internal structural, and cargo tank internal, each with its own interval. Internal structural examinations will eliminate the need for alternate internal inspections in lieu of drydocking, as proposed in the NPRM for double-hull tanks barges in inland service.

Under this rule, a drydock examination consists of hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers, and bilge injection valves. The basic drydock examination intervals are twice every five years for vessels in salt water service and once every five years for vessels in fresh water service. Exceptions to these basic drydock examination intervals are as follows:

(a) Passenger vessels on an international voyage have a drydock interval of one year, in order to comply with the provision of the Safety of Life and Sea Convention of 1974 (SOLAS).

(b) Double hull tank barges have drydock intervals of once every five years for salt water service and once every 10 years for fresh water service. A double hull provides an additional level of safety above that of a single hull. Additionally, a double hull permits a complete examination of the inside of the hull and the outside of the cargo tanks to be done during an internal structural examination. Extended drydock intervals, with periodic internal structural examinations, effectively replace the existing practice of alternate internal inspections in lieu of drydocking. Current regulations limit alternate internal inspections in lieu of drydocking to fresh water service barges. This rule extends this concept to salt water service vessels.

(c) Single hull tank barges with independent tanks have the same drydock intervals as double hull tank barges. Independent tanks provide the same level of safety and opportunity for internal examination of the hull as do double hulls.

(d) Wood hull vessels in fresh water service have a drydock interval of twice in five years, because fresh water accelerates rotting of wood hulls.

(e) Unmanned deck cargo barges have drydock intervals of once every five years in salt water service and once every 10 years in fresh water service. As with a double hull barge, access is available because no cargo is carried in the hull. Periodic internal structural examinations provide for an assessment of all structural members and of the inside of the outer hull.

Under this rule, an internal structural examination consists of an examination of the vessel while afloat or in a drydock and includes a examination of the vessel's main strength members, including the major internal framing, hull plating, voids, and ballast tanks but not the cargo and fuel oil tanks. The basic internal structural examination intervals are twice every five years for vessels in salt water service and once every five years for vessels in fresh water service. Exceptions to these basic intervals are as follows:

(a) Wood hull tank vessels have an internal structural examination interval of once every five years. While this interval is longer than the basic interval (twice every five years), an equivalent level of safety is achieved because of the double barrier (wood hull and metal tanks) between the water and cargo. Additionally, the unique construction of these vessel requires that the deck and tanks be removed in order to enable an internal structural examination. The cost associated with this type of examination is considerable.

(b) Passenger vessels on an international voyage have an internal structural examination interval of once every year in order to comply with the requirements of SOLAS.

(c) Single hull tank vessels in fresh and salt water service certificated for the carriage of Grade D and E products only or for the carriage of asphalt will have internal structural examination intervals of once every five years for Grade D and E products and once every 10 years for asphalt. Grade D and E products and asphalt provide a protective coating which inhibits corrosion. On single hull vessels, the major structural members are located in the cargo tanks and, as a result of this protective coating, are subject to less corrosive damage.

Under this rule, a cargo tank internal examination consists of an examination of the vessel while afloat or in a drydock and includes an examination of the internals of all cargo tanks. However, if the vessel is certificated to carry cargoes regulated under 46 CFR Part 38 or Subchapter O of 46 CFR Chapter I, cargo tank internal examinations must occur as specified in Part 38 or Subchapter O, respectively. The basic cargo tank internal examination interval for salt water service vessels is twice every five years and, for fresh water service vessels, once every five years. The exceptions to these basic intervals are as follows:

(a) For single hull tank vessels in fresh and salt water service which are certificated for the carriage of Grade D and E products only or the carriage of asphalt, the cargo tanks internal examination interval is five years for Grade D and E products and 10 years for asphalt. For single hull tank vessels, cargo tank internal examinations and internal structural examinations are one in the same. Therefore, cargo tank internal intervals are the same as the internal structural examination intervals.

(b) For double hull tank barges with internally framed cargo tanks, the cargo tank internal examination interval is five years for both fresh and salt water service. The fresh water service interval

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is five years to coincide with the drydock interval. As these tanks are not in contact with the water, water salinity should have no effect on the examination interval. Therefore, the interval for both salt and fresh water service will be five years.

(c) For double hull tank barges with externally framed cargo tanks, the cargo tank internal examination interval is 10 years for fresh and salt water service. As these tanks are not in contact with the water, water salinity should have no effect on the examination interval. Additionally, the external framing permits these important structural members to be examined during the periodic internal structural examinations.

(d) For double hull tank barges certificated for the carriage of Grade D and E products or for asphalt, the cargo tank internal interval will be 10 years for Grade D and E products and 15 years for asphalt. A combination of the protective coating provided by the cargo and the access to the outside of the cargo tanks afforded by the double hull allow these intervals while maintaining an equivalent level of safety.

These cargo tank internal examination intervals represent an increase for all Subchapter D cargos except (1) single hull barges carrying Grade D and E products only (for these vessels the interval has been reduced from six to five years); (2) single hull barges carrying asphalt (for these vessels the interval has been reduced from 12 to 10 years); and (3) wood hull tank barges (for these vessels the interval has be reduced from once every four years to twice every five years). In each case, the interval has been reduced to stay in step with the drydock interval while maintaining an equivalent level of safety.

The only existing requirements for the internal examination of a vessel's fuel tanks are contained in 46 CFR 42.09–30. As a result of the capsizing and sinking of the GLOMAR JAVA SEA and to promote safety, the Coast Guard has included in this rule a requirement for the internal examination of integral fuel tanks. The basic fuel tank examination interval will be once every five years. However, the fuel tanks need not be cleaned and internally examined if the Coast Guard marine inspector is able to determine by external examination that their general condition is satisfactory. There will be mandatory requirements for the internal examination of a representative sample of double-bottom fuel oil tanks, as follows: For vessels between 10 and 15 years of age, one double-bottom fuel oil tank; for vessels between 15 and 25 years of age, three double-bottom fuel oil tanks; and for vessels 25 years of age and older, one double bottom fuel oil tank in way of each cargo hold/tank.

A total of nine comments recommended a five year drydock interval for vessels in salt water service. Two recommended five years for barges to align the regulations with International Maritime Organization (IMO) and Load Line drydocking requirements. One recommended a five year interval for barges due to their lack of underwater fittings and tailshafts. This comment further argued that drydockings should become a subsequent action to internal examinations, because keel blocks mask up to 10% of the bottom. Four comments recommended a five year drydocking interval for Subchapter I barges in salt water service. Two recommended five years for barges, because all of the interior spaces are available for examination. One recommended a five year interval for barges due to the benefits resulting from the use of cathodic protection, coatings, and multiple compartmentation. The Coast Guard agrees that unmanned deck cargo barges certificated under Subchapter I warrant separate consideration and has established (in § 91.40–3) a drydock interval of five years for barges in salt water service and 10 years for barges in fresh water service. Four comments recommended five years for self-propelled vessels less than 1,600 gross tons, suggesting that the increased interval would not eliminate or deter drydockings for repairs on an unscheduled basis as the need occurs. The Coast Guard feels that size is not a factor in determining examination intervals and that a drydock interval of twice within five years is necessary to ensure an adequate level of safety for these manned, single hulled vessels operating in salt water.

Three comments recommended a seven year drydock interval for vessels on the Great Lakes. Another recommended a six year interval with the option of extending the interval to seven years based upon the amount of time the vessel was actually in operation, the status of the maintenance during the layup, the water quality at the wet lay up berth, and the availability of a drydock facility. Three of the comments recognized that any increase in the drydock interval would be a step sideways without a corresponding increase in the Load Line drydock interval. Two suggested that the majority of damage to a vessel's hull can be detected every bit as effectively, and at a huge cost saving, by internal examination of double bottoms and tanks. An internal examination will indicate whether or not further underwater examination or examination on drydock is warranted. The Coast Guard does not consider these comments to be persuasive as to why Great Lakes vessels warrant a longer drydock interval than other fresh water service vessels. Nor does the Coast Guard feel that examination intervals should be eased based upon a vessel's actual number of underway days. However, the Coast Guard solicits further comment on this issue and documented evidence regarding damage discovered and repairs performed on Great Lakes vessels both during and between required inspections and drydockings.

One comment recommended a revision to the Load Line drydock requirements to allow alternate internal examinations in lieu of drydocking for double hull tank barges with limited Great Lakes Load Lines. Such a revision would align the load line drydocking requirements with those in 46 CFR Part 31. Changes to the Load Line regulations are outside the scope of this rulemaking. However, the Coast Guard has initiated a rulemaking project (CGD 86–013) to amend the Load Line regulations. Interested parties are invited to comment. Comment should be addressed to: Commandant (G–CMC/21), [CGD 86–013], U.S. Coast Guard Headquarters, Washington, DC 20593–0001.

One comment recommended a 10 year drydock interval for fresh water service passenger vessels which operate six months or less out of the year. The Coast Guard does not agree that drydock intervals should be based upon a vessel's underway time and has retained the five year drydock examination interval for this class of vessel.

One comment objected to a one year drydock interval for passenger vessels on international voyages. It incorrectly stated that a passenger vessel on a route between Puget Sound and Canada is required to be drydocked yearly (international voyage drydock interval), while an identical vessel on a route between Puget Sound and Alaska would be required to be drydocked only twice every five years (domestic voyage drydock interval). However, existing regulation (in § 70.05–10) defines voyages between the contiguous states of the United States and Hawaii or Alaska or between Hawaii and Alaska as international voyages. The one year drydock interval for passenger vessels on international voyages remains unchanged in order to comply with the

provision of the International Safety of Life at Sea Convention, 1974 (SOLAS), to which the United States is a signatory.

Two comments recommended a four year drydock interval regardless of vessel design or exposure to salt or fresh water. The primary concern of these comments is the difficulty associated with maintaining accurate records of the amount of salt water service, which would be necessary to determine the applicable drydocking interval. Hull deterioration on metal-hulled vessels is reduced when operating in fresh water and thus there is less need for them to be drydocked as often as vessels operating in salt water. Any burden resulting from the recordkeeping requirements necessary to document fresh water service does not justify an increase in the drydocking frequency for fresh water service vessels.

One comment recommended that drydock intervals for vessels with both fresh and salt water service should be determined by pro-rating the actual amount of salt water service. One comment recommended a five year interval for vessels with an aggregate of fresh and salt water service. The Coast Guard has addressed this issue by redefining fresh water service in §§ 31.10–21, 71.50–3, 91.40–3, 167.15–30, 169.229 and 189.40–3. Fresh water service examination intervals will be applicable to those vessels operating in fresh water at least nine months in any 12 month period. The salt water service examination intervals will be applicable to those vessels operating in fresh water less than nine months in any 12 month period. Aggregate fresh water/salt water service examination intervals have been removed. The NPRM proposed a four year drydock interval for vessels that operated in fresh water at least six months in every 12 month period since the last drydock examination. All the examination intervals in this rulemaking are a multiple of five, which allows for a maximum coincidence of drydock, internal structural, cargo tank internal, tailshaft, and fuel tank examinations. A four year examination interval does not lend itself to a similar coincidence of separate examinations for aggregate service vessels without imposing more frequent examinations than are permitted similar vessels in exclusive salt water service.

Five comments recommended that the gravity cargo tank internal examination intervals contained in 46 CFR Part 151 be amended to align them with the proposed drydock intervals. One comment recommended that the Subchapter O gravity cargo tank internal examination intervals be amended so that they coincide with the drydock intervals for double hull barges. This comment recommended that the drydock/cargo tank internal examination intervals should be three years for inland salt water service, four years for inland aggregate fresh water/salt water service, and five years for inland fresh water service. The Coast Guard agrees that to the maximum extent feasible cargo tank examination intervals should coincide with drydock intervals. There is a separate rulemaking project (CGD81–067) which will address Part 151 gravity cargo tank internal examination intervals. One comment recommended that the Subchapter D cargo tank internal examination intervals be amended to align them with the drydock intervals. The Coast Guard agrees and has established (in § 31.20–23) cargo tank internal examination intervals which will maximize the coincidence of these examinations with drydock examinations for vessels carrying Subchapter D cargoes.

Two comments recommended that double hull barges in salt water service, not just those in inland service, should be allowed to undergo alternate internal inspections in lieu of drydockings. Inasmuch as the water in which the vessel is operating does not come in contact with the tank boundaries, the Coast Guard agrees that water salinity should not have an impact on which vessels should undergo alternate internal inspections in lieu of drydockings. One comment recommended that the definition of a double hull tank barge should include single hull barges with independent tanks with regard to alternate internal examinations in lieu of drydocking. The Coast Guard agrees that the additional level of safety afforded by independent tanks is similar to that of a double hull and, therefore, that these vessels should have similar drydock intervals. However, the concept of alternate internal inspection in lieu of drydocking has been retained in this rulemaking in the form of lengthened drydock intervals with intermediate internal structural examinations. Sections 31.20–23 and 91.40–3 establish drydock intervals for double hull barges and single hull barges with independent tanks of once every five years for salt water service and once every 10 years for fresh water service, and internal structural examinations of twice within five years for both fresh and salt water service.

A total of nine comments recommended that the classification societies be authorized to conduct one or more of the annual, drydock, or tailshaft examinations now conducted by Coast Guard marine inspectors. Two of these comments pointed out problems concerning the overseas inspection of liferafts and vessels by the Coast Guard. Seven of these comments recommended that inspection authority be delegated to the classification societies in order to avoid a duplication of effort that now exists between the Coast Guard and the classification societies and to make use of the classification societies' existing world-wide network. These suggestions are outside the scope of this rulemaking; however, the Coast Guard is aware of the problems stemming from overseas inspection and is developing solutions to these problems.

One comment recommended that the Coast Guard turn over all unmanned deck cargo barges inspection responsibilities (Certificate of Inspection and Drydock) to the classification societies. They suggested that there are no recorded items looked at during an annual inspection by the Coast Guard which are not also surveyed by the classification societies. If their recommended five year drydock interval for deck cargo barges is implemented, they suggested that a Coast Guard drydock examination would be only a duplication of the classification societies' drydock survey. However, this recommendation is outside the scope of this rulemaking.

One comment recommended that the Coast Guard allow the annual inspection of Subchapter I barges to be conducted by the vessel owner's personnel or by a third party employed by the owner. They argued that the principle of self inspection or self certification, as being considered for Outer Continental Shelf (OCS) fixed facilities (CGD 84–098a), has considerable merit for Subchapter I barges. The Coast Guard finds that Subchapter I barges encompass too broad a category of vessels for such a liberal inspection policy. Barges in this category are employed in services ranging from icebreaking to accommodating 100 or more personnel.

Five comments recommended that Subchapter I barges be authorized to undergo underwater surveys for all drydockings, rather than just alternate drydockings. One comment recommended that deck cargo barges not be required to undergo regularly scheduled drydock examinations. They recommended that cathodic protection, coatings, and a reasonable maintenance program have proven effective at protecting hulls and that the condition of the entire hull, except submerged hull plate, can be determined during an

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internal examination. The Coast Guard position is that Subchapter I barges need to undergo drydock examinations. Unmanned deck cargo barges, although single hulled, warrant special consideration, because no cargo is carried in the hull. Also, all internal structural members and the inside of the outer hull are always available for inspection. Therefore, the Coast Guard has established (in § 91.40–3) drydock examination intervals for unmanned/non-permissively manned deck cargo barges of once every five years for salt water service and once every 10 years for fresh water service and internal structural examinations of twice within five years for both fresh and salt water service.

Twenty-seven comments addressed the issue of extensions of examination intervals. Four comments from the Great Lakes recommended delegation of drydock extension authority to Commander, Ninth Coast Guard District. Seven other comments recommended that extension authority be delegated to the Officer in Charge, Marine Inspection (OCMI). Thirteen comments recommended that the current extension authority be retained. One comment recommended District Commanders be given the authority to match any extension granted by the classification societies. One comment recommended than District Commanders and OCMIs be given a 90 day extension authority. The current regulations reserve in the Commandant all drydock extension authority. However, the Commandant has delegated authority to grant drydock extensions to the District Commanders and to the OCMIs, under certain conditions. District Commanders may extend the drydock interval requirement for any vessel for a period of up to one year. OCMIs may extend the drydock interval for barges and all vessels of less than 100 gross tons for a period of up to one year. For all other vessels, the OCMIs may extend the interval for a period of up to six months. Those suggesting District Commander and OCMI extension authority stated that the proposed longer examination intervals do not decrease scheduling problems; that a six month extension authority would enable harmonization with classification society extensions; that drydock availability problems would continue to arise; that the Commandant approval would be time consuming and burdensome and probably would defeat the purpose of asking for a variance; that extension decisions should be made by the marine inspector based on personnel and vessel safety considerations and not made at a Headquarters level based on policy considerations; and that economic and safety considerations overshadow the need for consistency. The Coast Guard recognizes that, for some regional segments of the industry, the granting of extensions has evolved to the point of being automatic, resulting in an inconsistent national policy. Retention of extension authority in Commandant (G–MVI) will restrict extensions to those cases truly warranting them, while at the same time ensuring consistency. The new examination intervals provide vessel owners and operators with the necessary flexibility to schedule examinations without necessitating extensions.

Seven comments recommended that the Certificate of Inspection (COI) interval be aligned with the proposed drydock intervals. Five comments also recommended that major machinery, boiler, and pressure vessel inspection intervals be aligned with the proposed drydock intervals. Their major concern is that each of the mentioned inspections requires the vessel to be taken out of service at considerable cost to the owner/operator. By aligning all such inspection intervals, the cost associated with loss of vessel service could be reduced without any reduction in safety. Two of the comments recommended that OCMIs be authorized to extend either the COI interval or the major machinery inspection intervals to effect this alignment. COI and major machinery inspection intervals are not within the scope of this rulemaking. However, an IMO diplomatic conference will be held in 1988 to consider the alignment of the inspection intervals covering the International Convention for the Prevention of Pollution from Ships 1973, SOLAS, and the Load Line Convention. Upon completion of this conference, the Coast Guard will consider the possibility of initiating a legislative proposal necessary to effect this alignment.

Eleven comments recommended that the 15 year age restriction on vessels allowed to undergo underwater surveys be eliminated. They stated: that the age restriction is discriminatory and arbitrary; that hull gaugings, vessel condition, maintenance programs, cathodic protection, and coatings, rather than age, are the keys to a vessel's suitability to undergo an underwater survey; that an age restriction removes the incentive to maintain a vessel and penalizes the operator who does maintain a vessel; that keel blocks can obscure as much as 10% of the underwater body, while the entire hull can be observed during an underwater survey; and that the Coast Guard's underwater survey program for mobile offshore drilling units (MODUs) does not include an age restriction and that these vessels are no less susceptible to damage than a typical barge. One comment recommended a 30 year age restriction on Great Lakes vessels allowed to undergo underwater surveys, suggesting that the less hostile environment of the Great Lakes warrants the change. The Coast Guard agrees that hull gaugings, vessel condition, maintenance programs, cathodic protection, and coatings, are the important factors in determining a vessel's suitability to undergo an underwater survey. Therefore, §§ 31.10–21(d), 91.40–3(d), and 189.40–3(e) have been amended to permit continued participation in the underwater survey program by vessels older than 15 years. Approval for continued participation by vessels older than 15 years will be dependant upon a complete set of hull gaugings (indicating no hull deterioration), the results of the last drydock examination, and the recommendation of the Officer in Charge, Marine Inspection.

Two comments took exception to the proposed requirement for gas freeing 75% of the vessel during an underwater survey. One comment recommended that, for vessel stability and time reasons, either a one or a five year window be provided for the gas freeing and subsequent internal inspection of the vessel. The cleaning, gas freeing, and subsequent inspection of 75% of the internals in way of the underwater body was a guideline published in the preamble to the NRPM rather than a proposed regulatory requirement. This guideline was included to emphasize the similarities between an underwater survey and a drydock examination. In this rule the scope of an underwater survey and a drydock examination (in §§ 31.10–20, 91.40–1, and 189.40–1)) have been amended by limiting them to an examination of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers, and bilge injection valves. Separate requirements and intervals (in §§ 31.10–21, 71.50–3, 91.40–3, 167.15–30, 169.229 and 189.40–3) have been added for internal structural examinations. An internal structural examination includes an examination of the vessel's main strength members, including major internal framing, hull plating, voids, and ballast tanks and will normally require the cleaning and gas freeing of 75% or more of the internals. The Coast Guard expects that in most situations the internal structural examination will be conducted before or at the same time as the underwater survey.

Two comments requested that the underwater survey requirement to make sea valves available for internal inspection be eliminated. They stated that the dismantling of the valves would compromise the watertight integrity of the vessel; sea valves need only be examined externally during an underwater survey and internally during a drydocking; and test operating the valves or an air test for tightness together with an external examination should alert an inspector to any potential problems. Although the preamble to the NPRM discusses the examination of sea valves from inside the vessel, the proposed regulations require only that, when application for an underwater survey is made, it include "the means that will be provided for examining the sea chests, sea valves, and other through-hull fittings." This wording provides the approval authority with the latitude to accept a proposed alternative method of examination or to require an internal examination. However, it is envisioned that the Coast Guard will continue to require the internal examination of sea valves and encourages vessel owners and operators intending to participate in the underwater survey program to provide custom prefabricated blanks for all through hull fittings.

Two comments recommended that underwater survey water clarity restrictions are unnecessary. One noted that an underwater survey conducted in New York Harbor produced excellent results. The other recommended that underwater surveys can be conducted with adequate results in almost any environment with present day equipment, the presence of poor visibility would only add more diving time and costs for the owner. However, conducting an underwater survey in poor visibility could adversely affect the intent of the program (that it be equivalent to a drydock examination) and the safety of the ship. If water clarity conditions are unacceptable, the vessel owner would be given the option of either moving the ship to a location where there is good visibility or drydocking the ship.

Five comments recommended that the Commandant (G–MVI) would not be the best final underwater survey approval authority. They stated that OCMIs were a more logical approval authority because they would have a first hand knowledge of local conditions; that OCMIs would have the ability to inspect the vessel and discuss the survey procedures with the vessel owner before approval; and that decision making at the Headquarter's level would require the OCMI's input anyway. The Coast Guard agrees and has placed the underwater survey approval authority with the Officer In Charge, Marine Inspection.

One comment recommended that nothing would be gained by requiring a vessel to be at a light draft during an underwater survey. They recommended that the submersed side shell can be as effectively examined by video equipment, as any other portion of the underwater body. Although the preamble to the NPRM discusses underwater survey guidelines which would require a vessel to be at light draft, the regulation only requires that the application for the survey include the condition of the vessel and the anticipated draft of the vessel at the time of the survey. This wording provides the approval authority with the latitude to decide if the proposed draft is acceptable without necessitating an artificially light draft.

One comment recommended that self-propelled dredges be allowed to conduct an underwater survey instead of alternate drydockings. This rulemaking (in § 91.40–3(c)) provides for alternate underwater surveys instead of drydocking for this class of vessel.

Two comments objected to the quarterly lubrication oil analysis interval, which was proposed as necessary to avoid tailshaft examinations on vessels fitted with oil lubricated tailshaft bearings. Both comments recommended a six month interval. One suggested that a quarterly interval would be a cumbersome requirement for vessels in foreign trade due to logistical problems. The other noted that their experience has shown that a six month interval would be adequate. The Coast Guard agrees that a six month interval would provide an adequate level of safety and has incorporated this suggestion into the regulations (in § 61.20–17(d)(2)).

Two comments requested assurance that the tailshaft examination requirements would not apply to vessels on the Great Lakes. The Coast Guard affirms that the tailshaft examination intervals in these regulations apply only to ocean and coastwise service (§ 61.20–15).

One comment recommended that the basic tailshaft examination interval be changed to three years to align it with a proposed change to American Bureau of Shipping rules. The Coast Guard believes it is in the best interest of industry, the American Bureau of Shipping, and the Coast Guard to have tailshaft and drydock examination intervals which coincide. The intervals established in this rule would allow for this, a three year interval would not. The Coast Guard has brought this comment to the attention of the American Bureau of Shipping.

Two comments recommended revisions to the proposed rules to clarify the Coast Guard's intent with regard to the provisions which must be met by vessels with oil lubricated tailshaft bearings when the propeller is fitted to the shaft by means of a flange. Their concern was to avoid having to draw the shaft for examination. One comment suggested drawing the shaft, with the propeller undisturbed, to expose the forward end of the shaft at the propeller boss at five year intervals. Also, it suggested removing the propeller and drawing the shaft to expose the shaft bearing at 10 year intervals. The other comment recommended nondestructive testing of the bolts and flange fillet only when opened out for overhaul or repairs. The Coast Guard agrees that the provisions in the NPRM for tailshafts with oil lubricated bearings where the propeller is fitted to the shaft by means of a coupling flange were confusing and has (in § 61.20–17(d)(4)) clarified this requirement. This provision now requires that, for tailshafts with a propeller fitted to the shaft by means of a coupling flange, whenever the propeller coupling bolts are removed or the flange radius made available in connection with overhaul or repairs, they be nondestructively tested.

Two comments recommended that the regulations should contain language specifically authorizing one year extensions of the tailshaft examination intervals to align them with the classification society rules. However, the Coast Guard considers the provisions for tailshaft examination extensions contained in the regulations to be sufficient when coupled with the flexibility afforded by the examination intervals.

One comment recommended that the basic tailshaft examination interval be five years. The Coast Guard agrees and has incorporated this suggestion with one exception. Vessels with a single non-corrosion protected tailshaft not designed to reduce stress concentrations will have an examination interval of twice within five years. A single unprotected tailshaft does not provide the same level of safety as tailshafts protected from corrosion or multiple tailshafts. Therefore, the examination interval for this type of tailshaft remains unchanged.

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One comment questioned the intent of §§ 71.50–3(e) and 91.40–3(e) in the NPRM (which appear as §§ 71.50–3(g) and 91.40–3(e) in this rule). These sections, as well as the similar sections in Parts 31, 167, 169, and 189, require any vessel which has missed an inspection due date because it was on a voyage, to undergo the required inspection immediately upon completion of the voyage, whether the voyage ends domestically or overseas.

Ten comments addressed the proposed requirement for vessels with Load Line Certificates to carry shell expansion plans. All ten recommended that a more reasonable requirement would be to require that the plans be made available to the marine inspector only at the time of drydocking. Eight comments recommended that it is virtually impossible to maintain plans on board barges. The Coast Guard feels that requiring these plans to be maintained onboard will ensure the plans availability at unscheduled drydockings but, agrees that barges often do not have a suitable place in which to store them. Therefore, §§ 31.10–22, 71.50–5, 91.40–5, 167.15–35, 169.233 and 189.40–5 require that barges need only make the plans available at the time of inspection. Two comments recommended that a requirement for plans showing the vessels scantlings would be more appropriate and flexible than requiring shell expansion plans. The Coast Guard agrees a requirement for plans showing the vessel's scantlings is more reasonable and has incorporated this suggestion in §§ 31.10–22, 71.50–5, 91.40–5, 167.15–35, 169.233, and 189.40–5.

Two comments recommended that the requirement to notify the OCMI of all drydockings be replaced by a requirement to notify whenever inspected vessels are docked for Certificate of Inspection, Load Line renewal, or damage repairs. The required notification, as drafted, will allow the OCMI to ascertain the reasons for drydocking and, in those cases where the condition or age of the vessel warrants, to conduct an examination to determine what is necessary to make the vessel seaworthy and come within the provisions of the regulations.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291. They are considered significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979) because of the possible safety implications of extending the drydock and tailshaft examination intervals. The Coast Guard has determined that extending the intervals between these examinations will not compromise safety. This determination is based on the improved hull coatings and corrosion prevention methods used on present day vessels. In addition, the Coast Guard has granted, on a case-by-case basis under the present regulations, six month drydock extensions to give vessels flexibility in scheduling the examinations. There is no indication that these longer intervals have degraded safety. Accordingly, a regulatory evaluation has been prepared and placed in the rulemaking docket.

The basis for estimating the economic impact was developed from responses to the questions posed in the ANPRM concerning the costs for vessels to undergo a drydock and tailshaft examination. None of the comments to the NPRM contained cost figures. Most of the information received in response to the ANPRM pertained to the cost of examination for tankers above 20,000 DWT and tank barges. Though some information was received concerning other vessel types, there was not enough to establish general class costs for these vessels. Consequently, the information received on tankers and tank barges was interpolated to determine the costs for all vessels.

These regulations allow the use of underwater surveys instead of alternate drydockings for all salt water service vessels with a 2.5 year drydock interval and for all fresh water service vessels with a five year drydock interval. Vessel owners should consider requesting approval of underwater surveys where there is potential savings of time or expense. The Coast Guard will publish guidelines for underwater examinations which, among other things, will include requirements that rudder and bearing clearances must be obtained, sea valves must be made suitable for inspection from inside the vessel, the underwater body must be suitably marked, and the vessel must be at a suitably light draft. These guidelines will be published as a Navigation and Vessel Inspection Circular (NVIC).

The Coast Guard has an experimental program whereby certain vessels have been allowed to substitute an underway survey for a drydocking; 15 vessels are participating. Experience under this program, using the available techniques and equipment, indicates that poor water quality (turbidity and current), such as that encountered in many U.S. ports frequently leads to unacceptable results. Improvements in techniques or equipment may make this less of a problem and there are locations where suitable results can be achieved. No limitations or conditions on how the survey is conducted are imposed by the rules. The rules are performance oriented, with the decision as to the quality and thoroughness of the resulting inspection vested in the judgment of the local Officer in Charge, Marine Inspection.

Because of the Coast Guard's limited experience with underwater surveys, the varying circumstances under which an underwater survey may be considered instead of drydocking, and the developing technology in this field, the Coast Guard has not attempted to assess the costs and benefits attributable to underwater surveys. The use of such surveys is entirely optional, and, under some circumstances, may result in considerable cost savings, both in direct drydocking expense and in vessel operating time.

The potential benefits are greatest for vessels which must travel long distances to the drydock and least for vessels which can be conveniently drydocked. Experience to date indicates that, with existing technology, the underwater survey itself consumes at least the same amount of time as drydocking.

Based on this information, it is estimated that implementation of these regulations will result in an annual savings to the marine industry of 26 million dollars (in 1986 dollars). This translates to a present value of 264 million dollars using a discount rate of 10% (also in 1986 dollars). Savings will be realized by all vessels except wooden hull vessels in fresh water service, wooden hull tank vessels, and single hull tank barges certificated only for the carriage of Grade D and E cargos.

The increase in costs for wooden hull vessels in fresh water service, and wooden hull tank vessels is a result of this rulemaking establishing shorter drydock intervals for these vessels. (The Coast Guard has identified a total of five freight ships, three tank ships, and one tank barge from these categories.) The increase in cost to these vessels is less than $1000 per year per vessel.

The increase in the cost for single hull tank barges certificated only for the carriage of Grade D and E cargos is a result of this rulemaking establishing shorter cargo tank internal examination interval for these vessels. The Coast Guard has identified 431 tank barges in this category. The increase in cost to these vessels is significantly less than $1000 per year per vessel and, based on this, the Coast Guard has determined that no further evaluation is necessary.

One comment to the NPRM suggested that the method used for calculating the economic savings was not included in the preamble and that this failure cast serious doubt upon the quality of work. The methodology used in developing the economic savings estimated in the NPRM was contained in the separate (Draft) regulatory evaluation referenced in the preamble to the NPRM, and in the final regulatory evaluation included in the docket.

As indicated above, the regulatory evaluation estimated that the economic impact of the regulations would result in an annual savings of $26 million (in 1986 dollars). This is a decrease of $3 million from that estimated in the draft regulatory evaluation. This difference in estimated economic savings is primarily attributable to a change in vessel population data. The draft regulatory evaluation was based on cost figures using an inspected vessel population of 8,216 ships and barges. The final regulatory evaluation is based on cost figures using vessel population data from an updated data base resulting in a more accurate vessel population of 6,590 ships and barges.

Additionally, this rule replaces the NPRM's all inclusive drydock examination with three separate examinations (drydock, cargo tank internal, and internal structural) each with its own interval. This change resulted in lower cost figures for this rulemaking action due to the use of different examination intervals on those vessels where it was warranted. The longer examination intervals tend to increase the estimated economic benefit.

The regulatory evaluation may be inspected or copied at the location referred to in **ADDRESSES**. Copies may also be obtained by contacting LCDR Geoffrey D. Powers at (202) 267–1045.

Environmental Assessment

The Coast Guard has assessed the environmental impacts of these regulations and has determined they will have no significant impact.

Paperwork Reduction Act

These regulations contain information collection requirements in the following sections of 46 CFR Title 1:

§ 31.10–21
§ 71.50–5
§ 91.40–5
§ 169.233
§ 189.40–5
§ 31.10–22
§ 91.40–3
§ 167.15–35
§ 189.40–3

They have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned the OMB control number 2115–0554.

Regulatory Flexibility Act

These regulations would affect all companies that own or operate vessels within the scope of this rulemaking, some of which may be small entities. The rules apply to all inspected vessels, except small passenger vessels and mobile offshore drilling units. The rules will provide an economic benefit to almost all or these vessels as the examination intervals are generally being extended beyond the current requirements. The Coast Guard estimates the rules will save those vessels which could be considered a small entity as much as $2,500 annually. There will be an increase in the cost for single hull tank barges certificated for the carriage of Grade D and E cargos in salt water service only, because the regulations shorten the cargo tank examination interval for these vessels. The Coast Guard has identified 11 tank barges in this category. The increase in cost to these vessels is estimated to be $40 per year.

The Coast Guard does not consider this economic impact to be significant. Consequently the Coast Guard certifies, under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these regulations will not have a significant economic impact on a substantial number of small entities.

List of Subjects

46 CFR Part 31

Barges, Flammable materials, Law enforcement, Marine safety, Tank vessels.

46 CFR Part 61

Marine safety, Tests and inspections, Vessels.

46 CFR Part 71

Foreign trade, Law enforcement, Marine safety, Passenger vessels, Reporting requirements.

46 CFR Part 91

Cargo vessels, Law enforcement, Marine safety, Reporting requirements.

46 CFR Parts 167 and 169

Fire protection, Marine safety, Reporting requirements, School vessels.

46 CFR Part 189

Marine safety, Oceanographic vessels.

For the reasons set out in the preamble, Title 46, Chapter I of the Code of Federal Regulations is amended as follows:

PART 31—[AMENDED]

1. The authority citation for Part 31 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46(b).

2. By revising § 31.10–20 to read as follows:

§ 31.10–20 Definitions relating to hull examinations—T/B ALL.

As used in this part—

(a) "Drydock examination" means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers, and bilge injection valves.

(b) "Internal structural examination" means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo or fuel oil tanks.

(c) "Cargo tank internal examination" means an examination of the vessel while afloat or in drydock and consists of an examination of the internals of all cargo tanks; except, if the vessel is certificated to carry cargoes regulated under Part 38 or Subchapter O of this chapter, the cargo tank internal examination must be accomplished as specified in Parts 38 and 151 of this chapter respectively.

(d) "Underwater survey" means the examination, while the vessel is afloat, of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers, and bilge injection valves.

3. By adding a new § 31.10–21 to read as follows:

§ 31.10–21 Drydock examination, internal structural examination, cargo tank internal examination, and underwater survey intervals—TB/ALL.

(a) Except as provided for in paragraphs (b) through (f) of this section, each tank vessel must undergo drydock, internal structural, and cargo tank internal examinations as follows:

(1) Vessels that operate in salt water must be inspected in accordance with the intervals set forth in Table 31.10–21(a). Where Table 31.10–21(a) indicates a 2.5 year examination interval, it means a vessel must undergo two examinations within any five year period. No more than three years may elapse between any two examinations.

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TABLE 31.10-21(A).—SALT WATER SERVICE VESSELS EXAMINATION INTERVALS IN YEARS

	Single hull ship and barge	Double hull barge with internal framing (1)	Double hull barge with external framing (2)	Single hull barge with independent tanks (3)	Wood hull ship and barge	Single hull ship and barge grade D and E cargoes only (4)	Double hull barge grade D and E cargoes only (5)	Single hull asphalt barge (6)	Double hull asphalt barge (7)
Drydock	2.5	5.0	5.0	5.0	2.5	2.5	5.0	2.5	5.0
Internal structural	2.5	2.5	2.5	2.5	5.0	5.0	2.5	10.0	2.5
Cargo tank internal	2.5 or as specified in Part 38 or 151 as applicable	5.0 or as specified in Part 38 or 151 as applicable	10.0 or as specified in Part 38 or 151 as applicable	10.0 or as specified in Part 38 or 151 as applicable	2.5 or as specified in Part 38 or 151 as applicable	5.0	10.0	10.0	15.0

Note:
(1) Applicable to double hull tank barges (double sides, ends, and bottoms) when the structural framing is on the internal tank surface.
(2) Applicable to double hull tank barges (double sides, ends, and bottoms) when the structural framing is on the external tank surface accessible for examination from voids, double bottoms, and other similar spaces.
(3) Applicable to single hull tank barges with independent cargo tanks where the cargo tank is not a contiguous part of the hull structure and which has adequate clearance between the tanks and between the tanks and the vessel's hull to provide access for examination of all tank surfaces and the hull structure.
(4) Applicable to single hull tank barges certificated for the carriage of Grade D and E cargos only.
(5) Applicable to double hull tank barges (double sides, ends, and bottoms) certificated for the carriage of Grade D and E cargos only.
(6) Applicable to single hull tank barges certificated for the carriage of asphalt only.
(7) Applicable to double hull tank barges (double sides, ends, and bottoms) certificated for the carriage of asphalt only.

(2) Vessels that operate in fresh water at least nine months in every 12 month period since the last drydock examination must be examined in accordance the intervals set forth in Table 31.10-21(b). Where Table 31.10-21(b) indicates a 2.5 year examination interval, it means a vessel must undergo two examinations within any five year period. No more than three years may elapse between any two examinations.

TABLE 31.10-21(B).—FRESH WATER SERVICE VESSELS EXAMINATION INTERVALS IN YEARS

	Single hull ship and barge	Double hull barge with internal framing (1)	Double hull barge with external framing (2)	Single hull barge with independent tanks (3)	Wood hull ship and barge	Single hull ship and barge grade D and E cargoes only (4)	Double hull barge grade D and E cargoes only (5)	Single hull asphalt barge (6)	Double hull asphalt barge (7)
Drydock	5.0	10.0	10.0	10.0	2.5	5.0	10.0	5.0	10.0
Internal structural	5.0	2.5	2.5	2.5	5.0	5.0	2.5	10.0	2.5
Cargo tank internal	5.0 or as specified in Part 38 or 151 as applicable	5.0 or as specified in Part 38 or 151 as applicable	10.0 or as specified in Part 38 or 151 as applicable	10.0 or as specified in Part 38 or 151 as applicable	2.5 or as specified in Part 38 or 151 as applicable	5.0	10.0	10.0	15.0

Note:
(1) Applicable to double hull tank barges (double sides, ends,and bottoms) when the structural framing is on the internal tank surface.
(2) Applicable to double hull tank barges (double sides, ends, and bottoms) when the structural framing is on the external tank surface accessible for examination from voids, double bottoms and other similar spaces.
(3) Applicable to single hull tank barges with independent cargo tank where the cargo tanks is not a contiguous part of the hull structure and which has adequate clearance between the tanks and between the tanks and the vessel's hull to provide access for examination of all tank surfaces and the hull structure.
(4) Applicable to single hull tank barges certificated for the carriage of Grade D and E cargos only.
(5) Applicable to double hull tank barges (double sides, ends, and bottoms) certificated for the carriage of Grade D and E cargos only.
(6) Applicable to single hull tank barges certificated for the carriage of asphalt only.
(7) Applicable to double hull tank barges (double sides, ends, and bottoms) certificated for the carriage of asphalt only.

(b) If, during an internal structural examination, cargo tank internal examination, or underwater survey, damage or deterioration to the hull plating, structural members, or cargo tanks is discovered, the Officer in Charge, Marine Inspection, may require the vessel to be drydocked or otherwise taken out of service to further assess the extent of the damage and to effect permanent repairs.

(c) Vessels less than 15 years of age (except wooden hull vessels) that are in salt water service with a 2.5 year drydock interval (as indicated in Table 31.10-21(a) of this section) or that are in fresh water service with a five year drydock interval (as indicated in Table 31.10-21(b) of this section) may be considered for an underwater survey instead of alternate drydock examinations, provided the vessel is fitted with an effective hull protection system. Vessel owners or operators must apply to the Officer in Charge, Marine Inspection, for approval of underwater surveys instead of alternate drydock examinations for each vessel. The application must include the following information:

(1) The procedure to be followed in carrying out the underwater survey.

(2) The location where the underwater survey will be accomplished.

(3) The method to be used to accurately determine the diver location relative to the hull.

(4) The means that will be provided for examining sea chests, sea valves, and other through-hull fittings.

(5) The means that will be provided for taking shaft bearing clearances.

(6) The condition of the vessel, including the anticipated draft of the vessel at the time of the survey.

(7) A description of the hull protection system.

(d) Vessels otherwise qualifying under paragraph (c) of this section, that are 15 years of age or older may be considered for continued participation in the underwater survey program on a case-by-case basis, if—

(1) Before the vessel's next scheduled drydocking, the owner or operator submits a request for continued participation to Commandant (G-MVI);

(2) During the vessel's next drydocking after the request is submitted, no appreciable hull deterioration is indicated as a result of a complete set of hull gaugings; and

(3) The results of the hull gauging and the results of the Coast Guard drydock examination together with the recommendation of the Officer in Charge, Marine Inspection, are submitted to Commandant (G-MVI) for final approval.

(e) Each vessel which has not met with the applicable examination schedules in paragraph (a) through (d) of this section because it is on a voyage, must undergo the required examinations upon completion of the voyage.

(f) The Commandant (G-MVI) may authorize extensions to the examination intervals specified in paragraph (a) of this section.

4. By adding a new § 31.10-22 to read as follows:

§ 31.10-22 Notice and plans required.

(a) The master, owner, operator, or agent of the vessel shall notify the Officer in Charge, Marine Inspection, whenever the vessel is to be drydocked regardless of the reason for drydocking.

(b) Each vessel, except barges, that holds a Load Line Certificate must have on board a plan showing the vessel's scantlings. This plan must be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination, internal structural examination, cargo tank internal examination, or underwater survey or whenever repairs are made to the vessel's hull.

(c) Each barge that holds a Load Line Certificate must have a plan showing the vessel's scantlings. The plan need not be maintained on board the barge but must be made available to the Coast Guard marine inspector whenever the barge undergoes a drydock examination, internal structural examination, cargo tank internal examination or underwater survey or whenever repairs are made to the barge's hull.

5. By adding a new § 31.10-24 to read as follows:

§ 31.10-24 Fuel oil tank examinations— T/ALL.

(a) Each integral fuel oil tank is subject to inspection as provided in this section. The owner or operator of the vessel shall have the tanks cleaned out and gas freed as necessary to permit internal examination of the tank or tanks designated by the marine inspector. The owner or operator shall arrange for an examination of the fuel tanks of each vessel during an internal structural examination at intervals not to exceed five years.

(b) Integral non-double-bottom fuel oil tanks need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(c) Double-bottom fuel oil tanks on vessels less than 10 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(d) All double-bottom fuel oil tanks on vessels 10 years of age or older but less than 15 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, that the general condition of the tanks is satisfactory.

(e) All double-bottom fuel oil tanks on vessels 15 years of age or older but less than 25 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward, one amidships, and one aft double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, that the general condition of the tanks is satisfactory.

(f) All double-bottom fuel oil tanks on vessels 25 years of age or older need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one double-bottom fuel oil tank in way of each cargo tank, and by external examination of all other double-bottom fuel oil tanks, that the general condition of the tanks is satisfactory.

PART 61—[AMENDED]

6. The authority citation for Part 61 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46(b).

7. By revising § 61.20-17 to read as follows:

§ 61.20-17 Examination intervals.

(a) Except as provided in paragraphs (b) through (e) of this section, each tailshaft on a vessel must be examined twice within any five year period. No more than three years may elapse between any two tailshaft examinations.

(b) Tailshafts on vessels fitted with multiple shafts must be examined once every five years.

(c) Tailshafts fabricated of materials resistant to corrosion by sea water, or fitted with a continuous liner or a sealing gland which prevents sea water from contacting the shaft, must be examined once every five years if they are constructed or fitted with a taper, keyway, and propeller designed in accordance with the American Bureau of Shipping standards to reduce stress concentration or are fitted with a flanged propeller.

(d) Tailshafts with oil lubricated bearings are not required to be examined—

(1) If tailshaft bearing clearance readings are taken whenever the vessel undergoes a drydock examination or underwater survey;

(2) If an analysis of the tailshaft bearing lubricating oil is performed semi-annually; and

(3) If—

(i) For tailshafts with a taper and a keyway, the propeller is removed and the taper and keyway are

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nondestructively tested at intervals not to exceed five years; or

(ii) For tailshafts with a propeller fitted to the shaft by means of a coupling flange, the propeller coupling bolts and flange radius are nondestructively tested whenever they are removed or made accessible in connection with overhaul or repairs.

(e) Tailshafts on mobile offshore drilling units are not subject to examination intervals under paragraphs (a) through (c) of this section if they are—

(1) Examined during each regularly scheduled drydocking; or

(2) Regularly examined in a manner acceptable to the Commandant (G–MVI).

8. By revising § 61.20–18 to read as follows:

§ 61.20–18 Examination requirements.

(a) Each tailshaft must be drawn and visually inspected at each examination.

(b) On tailshafts with a taper, keyway, and propeller designed in accordance with American Bureau of Shipping standards to reduce stress concentrations, the forward ⅓ of the shaft's taper section must be nondestructively tested in addition to a visual inspection of the entire shaft.

(c) On tailshafts with a propeller fitted to the shaft by means of a coupling flange, the flange, the fillet at the propeller end, and each coupling bolt must be nondestructively tested in addition to a visual inspection of the entire shaft.

9. By revising § 61.20–21 to read as follows:

§ 61.20–21 Extension of examination interval.

The Commandant (G–MVI) may authorize extensions of the interval between tailshaft examinations.

PART 71—[AMENDED]

10. The authority citation for Part 71 is revised to read as follows and all other authority citations in the part are removed.

Authority: 46 U.S.C. 2113, 3306; 49 CFR 1.46(b).

11. By revising § 71.50–1 to read as follows:

§ 71.50–1 Definitions relating to hull examinations.

As used in this part—

(a) "Drydock examination" means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers, and bilge injection valves.

(b) "Internal structural examination" means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo or fuel oil tanks.

12. By adding a new § 71.50–3 to read as follows:

§ 71.50–3 Drydock and internal structural examination intervals.

(a) Each vessel making international voyages must undergo a drydock and internal structural examination once every 12 months.

(b) Except as provided in paragraphs (c) through (f) of this section, each vessel not making international voyages must undergo a drydock and internal structural examination as follows:

(1) Vessels that operate in salt water must undergo two drydock and two internal stuctural examinations within any five year period. No more than three years may elapse between any two examinations.

(2) Vessels that operate in fresh water at least nine months in every 12 month period since the last drydock examination must undergo drydock and internal structural examinations at intervals not to exceed five years.

(c) Vessels with wooden hulls must undergo two drydock and two internal structural examinations within any five year period regardless of the type of water in which they operate. No more than three years may elapse between any two examinations.

(d) If, during an internal structural examination, damage or deterioration to the hull plating or structural members is discovered, the Officer in Charge, Marine Inspection, may require the vessel to be drydocked or otherwise taken out of service to further assess the extent of the damage and to effect permanent repairs.

(e) Each vessel which has not met the applicable examination schedules in paragraphs (a) through (d) of this section because it is on a voyage, must undergo the required examinations upon completion of the voyage.

(f) The Commandant (G–MVI) may authorize extensions to the examination intervals specified in paragraph (a) through (c) of this section.

13. By revising § 71.50–5 to read as follows:

§ 71.50–5 Notice and plans required.

(a) The master, owner, operator, or agent of the vessel shall notify the Officer in Charge, Marine Inspection, whenever the vessel is to be drydocked, regardless of the reason for drydocking.

(b) Each vessel, except barges, that holds a Load Line Certificate must have on board a plan showing the vessel's scantlings. This plan must be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination or internal structural examination or whenever repairs are made to the vessel's hull.

(c) Each barge that holds a Load Line Certificate must have a plan showing the barge's scantlings. The plan need not be maintained on board the barge but must be made available to the Coast Guard marine inspector whenever the barge undergoes a drydock examination or internal structural examination, or whenever repairs are made to the barge's hull.

14. By adding a new Subpart 71.53 to read as follows:

Subpart 71.53—Fuel Oil Tank Examinations

§ 71.53–1 When required.

(a) Each integral fuel oil tank is subject to inspection as provided in this section. The owner or operator of the vessel shall have the tanks cleaned out and gas freed as necessary to permit internal examination of the tank or tanks designated by the marine inspector. The owner or operator shall arrange for an examination of the fuel tanks of each vessel during an internal structural examination at intervals not to exceed five years.

(b) Integral non-double-bottom fuel oil tanks need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(c) Double-bottom fuel oil tanks on vessels less than 10 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(d) All double-bottom fuel oil tanks on vessels 10 years of age or older but less than 15 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, that the general condition of the tanks is satisfactory.

(e) All double-bottom fuel oil tanks on vessels 15 years of age or older need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward, one amidships, and one aft double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, the general condition of the tanks is satisfactory.

PART 91—[AMENDED]

15. The authority citation for Part 91 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46(b).

16. By revising § 91.40–1 to read as follows:

§ 91.40–1 Definitions relating to hull examinations.

As used in this part—

(a) "Drydock examination" means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers, and bilge injection valves.

(b) "Internal structural examination" means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo or fuel oil tanks.

(c) "Cargo tank internal examination" means an examination of the vessel while afloat or in drydock and consists of an examination of the internals of all cargo tanks; except, if the vessel is certificated to carry cargoes regulated under Part 38 or Subchapter O of this chapter, the cargo tank internal examination must be accomplished as specified in Parts 38 and 151 of this chapter respectively.

(d) "Underwater survey" means the examination, while the vessel is afloat, of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers, and bilge injection valves.

17. By adding a new § 91.40–3 to read as follows:

§ 91.40–3 Drydock examination, internal structural examination, cargo tank internal examination, and underwater survey intervals.

(a) Except as provided for in paragraphs (b) through (f) of this section, each vessel must undergo drydock, internal structural, and cargo tank internal examinations as follows:

(1) Vessels that operate in salt water must be examined in accordance with the intervals set forth in Table 91.40–3(a) of this section. Where Table 91.40–3(a) indicates a 2.5 year examination interval, it means a vessel must undergo two examinations within any five year period. No more than three years may elapse between any two examinations.

TABLE 91.40–3(a)

Salt water service vessels examination intervals in years

	Single hull ship and barge	Double hull barge with internal framing [1]	Double hull barge with external framing [2]	Single hull barge with independent tanks [3]	Wood Hull ship and barge	Unmanned deck cargo barge [4]
Drydock	2.5	5.0	5.0	5.0	2.5	5.0
Internal Structural	2.5	2.5	2.5	2.5	2.5	2.5
Cargo Tank Internal	2.5[5]	5.0[5]	10.0[5]	10.0[5]	2.5[5]	

[1] Note: Applicable to double hull tank barges (double sides, ends, and bottoms) when the structural framing is on the internal tank surface.
[2] Applicable to double hull tank barges (double sides, ends, and bottoms) when the structural framing is on the external tank surface accessible for examination from voids, double bottoms and other similar spaces.
[3] Applicable to single hull tank barges with independent cargo tanks which have a cargo containment envelope that is not a contiguous part of the hull structure and which has adequate clearance between the tanks and between the tanks and the vessel's hull to provided access for examination of all tank surfaces and the hull structure.
[4] Applicable to unmanned/non-permissively manned deck cargo barge which carries cargo only above the weather deck and which provides complete access for examination of the inside of the hull structure.
[5] Or as specified in Part 151.

(2) Vessels that operate in fresh water at least nine months in every 12 month period since the last drydock examination must be examined in accordance the intervals set forth in Table 91.40–3(b) of this section. Where Table 91.40–3(b) indicates a 2.5 year examination interval, it means a vessel must undergo two examinations within any five year period. No more than three years may elapse between any two examinations.

TABLE (91.40–3(b)

Fresh water service vessels examination intervals in years

	Single hull ship and barge	Double hull barge with internal framing [1]	Double hull barge with external framing [2]	Single hull barge with independent tanks [3]	Wood hull ship and barge	Unmanned deck cargo barge [4]
Drydock	5.0	10.0	10.0	10.0	2.5	10.0
Internal structural	5.0	2.5	2.5	2.5	2.5	2.5

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TABLE (91.40-3(b)—Continued

Fresh water service vessels examination intervals in years

	Single hull ship and barge	Double hull barge with internal framing [1]	Double hull barge with external framing [2]	Single hull barge with independent tanks [3]	Wood hull ship and barge	Unmanned deck cargo barge [4]
Cargo tank internal	5.0[5]	5.0[5]	10.0[5]	10.0[5]	2.5[5]	

[1] Note: Applicable to double hull tank barges (double sides, ends, and bottoms) when the structural framing is on the internal tank surface.
[2] Applicable to double hull tank barges (double sides, ends, and bottoms) when the structural framing is on the external tank surface accessible for examination from voids, double bottoms and other similar spaces.
[3] Applicable to single hull tank barges with independent cargo tanks which have a cargo containment envelope that is not a contiguous part of the hull structure and which has adequate clearance between the tanks and between the tanks and the vessel's hull to provide access for examination of all tank surfaces and the hull structure.
[4] Applicable to unmanned/non-permissively manned deck cargo barge which carries cargo only above the weather deck and which provides complete access for examination of the inside of the hull structure.
[5] Or as specified in Part 151.

(b) If, during an internal structural, cargo tank internal examination, or underwater survey, damage or deterioration to the hull plating, structural members, or cargo tanks is discovered, the Officer in Charge, Marine Inspection, may require the vessel to be drydocked or otherwise taken out of service to further assess the extent of the damage and to effect permanent repairs.

(c) Vessels less than 15 years of age (except wooden hull vessels) that are in salt water service with a 2.5 year drydock interval (as indicated in Table 91.40-3(a) of this section) or that are in fresh water service with a five year drydock interval (as indicated in Table 91.40-3(b) of this section) may be considered for an underwater survey instead of alternate drydock examinations, provided the vessel is fitted with an effective hull protection system. Vessel owners or operators must apply to the Officer in Charge, Marine Inspection, for approval of underwater surveys instead of alternate drydock examinations for each vessel. The application must include the following information:

(1) The procedure to be followed in carrying out the underwater survey.

(2) The location where the underwater survey will be accomplished.

(3) The method to be used to accurately determine the diver location relative to the hull.

(4) The means that will be provided for examining sea chests, sea valves, and other through-hull fittings.

(5) The means that will be provided for taking shaft bearing clearances.

(6) The condition of the vessel, including the anticipated draft of the vessel at the time of the survey.

(7) A description of the hull protection system.

(d) Vessels otherwise qualifying under paragraph (c) of this section, that are 15 years of age or older may be considered for continued participation in the underwater survey program on a case-by-case basis, if—

(1) Before the vessel's next scheduled drydocking, the owner or operator submits a request for continued participation to Commandant (G-MVI);

(2) During the vessel's next drydocking after the request is submitted, no appreciable hull deterioration is indicated as a result of a complete set of hull gaugings; and

(3) The results of the hull gauging and the results of the Coast Guard drydock examination together with the recommendation of the Officer in Charge, Marine Inspection, are submitted to Commandant (G-MVI) for final approval.

(e) Each vessel which has not met with the applicable examination schedules in paragraphs (a) through (d) of this section because it is on a voyage, must undergo the required examinations upon completion of the voyage.

(f) The Commandant (G-MVI) may authorize extensions to the examination intervals specified in paragraph (a) of this section.

18. By revising § 91.40-5 to read as follows:

§ 91.40-5 Notice and plans required.

(a) The master, owner, operator, or agent of the vessel shall notify the Officer in Charge, Marine Inspection, whenever the vessel is to be drydocked regardless of the reason for drydocking.

(b) Each vessel, except barges, that holds a Load Line Certificate must have on board a plan showing the vessel's scantlings. This plan must be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination, internal structural examination, cargo tank internal examination, or underwater survey or whenever repairs are made to the vessel's hull.

(c) Each barge that holds a Load Line Certificate must have a plan showing the barge's scantlings. The plan need not be maintained on board the barge but must be made available to the Coast Guard marine inspector whenever the barge undergoes a drydock examination, internal structural examination, or cargo tank internal examination, or underwater survey or whenever repairs are made to the barge's hull.

19. By adding a new Subpart 91.43 to read as follows:

Subpart 91.43—Fuel Oil Tank Examination

§ 91.43-1 When required.

(a) Each integral fuel oil tank is subject to inspection as provided in this section. The owner or operator of the vessel shall have the tanks cleaned out and gas freed as necessary to permit internal examination of the tank or tanks designated by the marine inspector. The owner or operator shall arrange for an examination of the fuel tanks of each vessel during an internal structural examination at intervals not to exceed five years.

(b) Integral non-double-bottom fuel oil tanks need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(c) Double-bottom fuel oil tanks on vessels less than 10 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(d) All double-bottom fuel oil tanks on vessels 10 years of age or older but less than 15 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, that the general condition of the tanks is satisfactory.

(e) All double-bottom fuel oil tanks on vessels 15 years of age or older but less than 25 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward, one amidships, and one aft double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, that the general condition of the tanks is satisfactory.

(f) All double-bottom fuel oil tanks on vessels 25 years of age or older need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one double-bottom fuel oil tank in way of each cargo hold/tank, and by external examination of all other double-bottom fuel oil tanks, that the general condition of the tanks is satisfactory.

PART 167—[AMENDED]

20. The authority citation for Part 167 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, § 167.65-65 also issued under 46 U.S.C. 6101, and § 167 60.15 also issued under 46 U.S.C. 6105; 49 CFR 1.46(b).

21. By adding a new § 167.15-27 to read as follows:

§ 167.15-27 Definitions relating to hull examinations.

As used in this part—

(a) "Drydock examination" means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers, and bilge injection valves.

(b) "Internal structural examination" means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo or fuel oil tanks.

22. By revising § 167.15-30 to read as follows:

§ 167.15-30 Drydock examination and internal structural examination intervals.

(a) Except as provided for in paragraphs (b) through (e) of this section, each vessel must undergo drydock and internal structural examinations as follows:

(1) Vessels that operate in salt water must undergo two drydock and two internal stuctural examinations within any five year period. No more than three years may elapse between any two examinations.

(2) Vessels that operate in fresh water at least nine months in every 12 month period since the last drydock examination must undergo drydock and internal structural examinations at intervals not to exceed five years.

(b) Vessels with wooden hulls must undergo two drydock and two internal structural examinations within any five year period regardless of the type of water in which they operate. No more than three years may elapse between any two examinations.

(c) If, during an internal structural examination damage or deterioration to the hull plating or structural members is discovered, the Officer in Charge, Marine Inspection, may require the vessel to be drydocked or otherwise taken out of service to further assess the extent of the damage and to effect permanent repairs.

(d) Each vessel which has not met with the applicable examination schedules in paragraphs (a) through (c) of this section because it is on a voyage, must undergo the required examinations upon completion of the voyage.

(e) The Commandant (G-MVI) may authorize extensions to the examination intervals specified in paragraphs (a) and (b) of this section.

23. By adding a new § 167.15-35 to read as follows:

§ 167.15-35 Notice and plans required.

(a) The master, owner, operator, or agent of the vessel shall notify the Officer in Charge, Marine Inspection, whenever the vessel is to be drydocked regardless of the reason for drydocking.

(b) Each vessel, except barges, that holds a Load Line Certificate must have on board a plan showing the vessel's scantlings. This plan must be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination or internal structural examination or whenever repairs are made to the vessel's hull.

(c) Each barge that holds a Load Line Certificate must have a plan showing the barge's scantlings. The plan need not be maintained on board the barge but must be made available to the Coast Guard marine inspector whenever the barge undergoes a drydock examination or internal structural examination or whenever repairs are made to the barge's hull.

24. By adding a new § 167.15-40 to read as follows:

§ 167.15-40 Fuel oil tank examination.

(a) Each integral fuel oil tank is subject to inspection as provided in this section. The owner or operator of the vessel shall have the tanks cleaned out and gas freed as necessary to permit internal examination of the tank or tanks designated by the marine inspector. The owner or operator shall arrange for an examination of the fuel tanks of each vessel during an internal structural examination at intervals not to exceed five years.

(b) Integral non-double-bottom fuel oil tanks need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(c) Double-bottom fuel oil tanks on vessels less than 10 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(d) Double-bottom fuel oil tanks on vessels 10 years of age or older but less than 15 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, that the general condition of the tanks is satisfactory.

(e) All double-bottom fuel oil tanks on vessels 15 years of age or older need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward, one amidships, and one aft double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, that the general condition of the tanks is satisfactory.

25. By revising § 167.15-50 to read as follows:

§ 167.15-50 Tailshaft examinations.

Tailshaft examinations on nautical school ships must conform with the examination requirements in Part 61 of this chapter.

PART 169—[AMENDED]

26. The authority citation for Part 169 continues to read as follows:

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Authority: 46 U.S.C. 3306; 49 CFR 1.46(b).

27. By revising § 169.229 to read as follows:

§ 169.229 Drydock examination and internal structural examination intervals.

(a) Except as provided for in paragraphs (b) through (e) of this section, each vessel must undergo drydock and internal structural examinations as follows:

(1) Vessels that operate in salt water must undergo two drydock and two internal stuctural examinations within any five year period. No more than three years may elapse between any two examinations.

(2) Vessels that operate in fresh water at least nine months in every 12 month period since the last drydock examination must undergo drydock and internal structural examinations at intervals not to exceed five years.

(b) Vessels with wooden hulls must undergo two drydock and two internal structural examinations within any five year period regardless of the type of water in which they operate. No more than three years may elapse between any two examinations.

(c) If, during an internal structural examination damage or deterioration to the hull plating or structural members is discovered, the Officer in Charge, Marine Inspection, may require the vessel to be drydocked or otherwise taken out of service to further assess the extent of the damage and to effect permanent repairs.

(d) Each vessel which has not met with the applicable examination schedules in paragraphs (a) through (c) of this section because it is on a voyage, must undergo the required examinations upon completion of the voyage.

(e) The Commandant (G–MVI) may authorize extensions to the examination intervals specified in paragraphs (a) and (b) of this section.

28. By revising § 169.231 to read as follows:

§ 169.231 Definitions relating to hull examinations.

As used in the part—

(a) "Drydock examination" means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers, and bilge injection valves.

(b) "Internal structural examination" means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo or fuel oil tanks.

29. By revising § 169.233 to read as follows:

§ 169.233 Notice and plans required.

(a) The master, owner, operator, or agent of the vessel shall notify the Officer in Charge, Marine Inspection, whenever the vessel is to be drydocked regardless of the reason for drydocking.

(b) Each vessel, except barges, that holds a Load Line Certificate must have on board a plan showing the vessel's scantlings. This plan must be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination or internal structural examination or whenever repairs are made to the vessel's hull.

(c) Each barge that holds a Load Line Certificate must have a plan showing the barge's scantlings. The plan need not be maintained on board the barge but must be made available to the Coast Guard marine inspector whenever the barge undergoes a drydock examination or internal structural examination or whenever repairs are made to the barge's hull.

30. By adding a new § 169.234 to read as follows:

§ 169.234 Examination of fuel oil tanks.

(a) Each integral fuel oil tank is subject to inspection as provided in this section. The owner or operator of the vessel shall have the tanks cleaned out and gas freed as necessary to permit internal examination of the tank or tanks designated by the marine inspector. The owner or operator shall arrange for an examination of the fuel tanks of each vessel during an internal structural examination at intervals not to exceed five years.

(b) Integral non-double-bottom fuel oil tanks need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(c) Double-bottom fuel oil tanks on vessels less than 10 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(d) All double-bottom fuel oil tanks on vessels 10 years of age or older but less than 15 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, that the general condition of the tanks is satisfactory.

(e) All double-bottom fuel oil tanks on vessels 15 years of age or older need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward, one amidships, and one aft double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, that the general condition of the tanks is satisfactory.

PART 189—[AMENDED]

31. The authority citation for Part 189 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 2113, 3306; 49 CFR 1.46.

32. By revising § 189.40–1 to read as follows:

§ 189.40–1 Definitions relating to hull examinations.

As used in this part—

(a) "Drydock examination" means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers, and bilge injection values.

(b) "Internal structural examination" means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo or fuel oil tanks.

(c) "Underwater survey" means the examination, while the vessel is afloat, of all accessible parts of the vessel's underwater body and all through hull fittings, including sea chests, sea valves, sea strainers, and bilge injection valves.

33. By adding a new § 189.40–3 to read as follows:

§ 189.40–3 Drydock examination, underwater survey, and internal structural examination intervals.

(a) Except as provided for in paragraphs (b) through (g) of this section, each vessel must undergo drydock and internal structural examinations as follows:

(1) Vessels that operate in salt water must undergo two drydock and two internal structural examinations within any five year period. No more than three years may elapse between any two examinations.

(2) Vessels that operate in fresh water at least nine months in every 12 month period since the last drydock examination must undergo drydock and internal structural examinations at intervals not to exceed five years.

(b) Vessels with wooden hulls must undergo two drydock and two internal structural examinations within any five year period regardless of the type of water in which they operate. No more than three years may elapse between any two examinations.

(c) If, during an internal structural examination or underwater survey, damage or deterioration to the hull plating or structural members is discovered, the Officer in Charge, Marine Inspection, may require the vessel to be drydocked or otherwise taken out of service to further assess the extent of the damage and to effect permanent repairs.

(d) Each vessel under paragraph (a) of this section that is less than 15 years of age may be considered for an underwater survey instead of alternate drydock examinations, provided the vessel is fitted with an effective hull protection system. Vessel owners or operators must apply to the Officer in Charge, Marine Inspection, for approval of underwater surveys instead of alternate drydock examinations for each vessel. The application must include the following information:

(1) The procedure to be followed in carrying out the underwater survey.

(2) The location where the underwater survey will be accomplished.

(3) The method to be used to accurately determine the diver location relative to the hull.

(4) The means that will be provided for examining sea chests, sea valves and other through-hull fittings.

(5) The means that will be provided for tanking shaft bearing clearances.

(6) The condition of the vessel, including the anticipated draft of the vessel at the time of the survey.

(7) A description of the hull protection system.

(e) Vessels otherwise qualifying under paragraph (d) of this section, that are 15 years of age or older may be considered for continued participation in the underwater survey program on a case-by-case basis, if—

(1) Before the vessel's next scheduled drydocking, the owner or operator submits a request for continued participation to Commandant (G–MVI);

(2) During the vessel's next drydocking after the request is submitted, no appreciable hull deterioration is indicated as a result of a complete set of hull gaugings; and

(3) The results of the hull gauging and the results of the Coast Guard drydock examination together with the recommendation of the Officer in Charge, Marine Inspection, are submitted to Commandant (G–MVI) for final approval.

(f) Each vessel which has not met with the applicable examination schedules in paragraph (a) through (e) of this section because it is on a voyage, must undergo the required examinations upon completion of the voyage.

(g) The Commandant (G–MVI) may authorize extensions to the examination intervals specified in paragraphs (a) and (b) of this section.

34. By revising § 189.40–5 to read as follows:

§ 189.40–5 Notice and plans required.

(a) The master, owner, operator, or agent of the vessel shall notify the Officer in Charge, Marine Inspection, whenever the vessel is to be drydocked regardless of the reason for drydocking.

(b) Each vessel, except barges, that holds a Load Line Certificate must have on board a plan showing the vessel's scantlings. This plan must be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination, internal structural examination, or underwater survey or whenever repairs are made to the vessel's hull.

(c) Each barge that holds a Load Line Certificate must have a plan showing the barge's scantlings. The plan need not be maintained on board the barge but must be made available to the Coast Guard marine inspector whenever the barge undergoes a drydock examination, internal structural examination, or underwater survey or whenever repairs are made to the barge's hull.

35. By adding a new Subpart 189.43 to read as follows:

Subpart 189.43—Examination of Fuel Oil Tanks

§ 189.43–1 When required.

(a) Each integral fuel oil tank is subject to inspection as provided in this section. The owner or operator of the vessel shall have the tanks cleaned out and gas freed as necessary to permit internal examination of the tank or tanks designated by the marine inspector. The owner or operator shall arrange for an examination of the fuel tanks of each vessel during an internal structural examination at intervals not to exceed five years.

(b) Integral non-double-bottom fuel oil tanks need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(c) Double-bottom fuel oil tanks on vessels less than 10 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by external examination that the general condition of the tanks is satisfactory.

(d) All double-bottom fuel oil tanks on vessels 10 years of age or older but less than 15 years of age need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, that the general condition of the tanks is satisfactory.

(e) All double-bottom fuel oil tanks on vessels 15 years of age or older need not be cleaned out and internally examined if the marine inspector is able to determine by internal examination of at least one forward, one amidships, and one aft double-bottom fuel oil tank, and by external examination of all other double-bottom fuel oil tanks on the vessel, that the general condition of the tanks is satisfactory.

Signed: October 16, 1987.

P.A. Yost,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 87–24498 Filed 10–22–87; 8:45 am]

BILLING CODE 4910–14–M

VOL 52 ISS 205 OCT 23 1987 UMI

Proposed Rules

Federal Register
Vol. 52, No. 205
Friday, October 23, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites public comments on a proposal to suspend for the months of October and November 1987 the requirement that at least 40 percent of a supply plant's receipts be delivered to pool distributing plants or be disposed of as fluid milk products on routes in the marketing area in order to qualify the supply plant for pooling under the Oregon-Washington order. The action was requested by a cooperative association that represents producers who supply a significant amount of milk for the market. The association claims that this action is necessary to assure that its member dairy farmers who have regularly supplied the market's fluid needs will continue to share in the market's fluid milk sales.

DATE: Comments are due on or before October 30, 1987.

ADDRESS: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7183.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing. This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the suspension of the following provisions of the order regulating the handling of milk in the Oregon-Washington marketing area is being considered for the months of October and November 1987:

In § 1124.9(b), the words "not less than 40 percent in any month of September through November and" and "other".

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include October 1987 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would remove for the months of October and November 1987 the requirement that at least 40 percent of a supply plant's receipts be delivered to pool distributing plants or disposed of as fluid milk products on routes in the marketing area in order to qualify the supply plant for pooling. The suspension was requested by Tillamook County Creamery Association (TCCA), a cooperative association that represents a large number of the market's producers.

According to the cooperative, significant changes during the past year have had a negative impact on TCCA's ability to assure that 40 percent of its members' milk production will be delivered to pool distributing plants or distributed as route disposition. Among the changes cited by the cooperative are a loss of sales to distributing plants, increases in the milk production of its member producers, and changes in the alignment of marketing organizations in the market. As a result of these changes in marketing conditions, TCCA states that it has been forced to move milk in an uneconomic and inefficient manner solely to maintain the pool status of its producers who historically have supplied the fluid needs of the Oregon-Washington marketing area.

Accordingly, it may be appropriate to suspend the requested order language for the months of October and November 1987.

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1124 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Signed at Washington, DC, on October 16, 1987.

J. Patrick Boyle,
Administrator.

[FR Doc. 87-24607 Filed 10-22-87; 8:45 am]
BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 86-037R]

Ingredients That May be Identified as Flavors or Natural Flavors When Used in Meat or Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On August 18, 1987, the Food Safety and Inspection Service (FSIS) published a proposed rule to amend the Federal meat and poultry products inspection regulations to better define and limit the substances which are permitted to be identified only as "flavors," "natural flavors," or "spices" on packages of meat and poultry products. The proposed rule required that many of these substances by identified on product labels by their common or usual names, thereby informing consumers of the origin of these materials including the species and specific animal tissues from which they have been derived, if animal in origin. Since that time, the Agency has received requests to allow additional time to review and evaluate the proposal and to submit comments. The comment period closed on October 19, 1987. In response to these requests, the Agency has determined that it will reopen the comment period for an additional 60 days.

DATE: Comments must be received on or before December 22, 1987.

ADDRESS: Written comments may be mailed to Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, Room 3175, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, Standards and Labeling Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: On August 18, 1987, the Food Safety and Inspection Service (FSIS) published a proposed rule in the **Federal Register** (52 FR 30922) to amend the Federal meat and poultry products inspection regulations to require that certain substances added to meat and poultry products and identified only as flavors or natural flavors or spcies be identified on product labels by their common or usual name. Since that time, the Agency has received requests to allow additional time to review and evaluate the proposal and to submit comments. FSIS is interested in receiving additional views on this proposal and, therefore, has determined there is sufficient justification for reopening the comment period for an additional 60 days.

Done at Washington, DC on: October 20, 1987.

Lester M. Crawford,
Administrator, Food Safety and Inspection Service.

[FR Doc. 87-24610 Filed 10-22-87; 8:45 am]
BILLING CODE 3410-DM-M

9 CFR Part 318

[Docket No. 86-038R]

Determination of "Added Water" in Cooked Sausages

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On August 18, 1987, the Food Safety and Inspection Service (FSIS) published a proposed rule to amend the Federal meat inspection regulations to define the method by which FSIS determines the quantity of added water in cooked sausages. Since that time, the Agency has received requests to allow additional time to review and evaluate the proposal and to submit comments. The comment period closed on October 19, 1987. In response to these requests, the Agency has determined that it will reopen the comment period for an additional 60 days.

DATE: Comments must be received on or before December 22, 1987.

ADDRESS: Written comments may be mailed to Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, Room 3175, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, Standards and Labeling Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: On August 18, 1987, the Food Safety and Inspection Service (FSIS) published a proposed rule in the **Federal Register** (52 FR 30925) to amend the Federal meat inspection regulations to define the method by which FSIS determines the quantity of added water in cooked sausages. Since that time, the Agency has received requests to allow additional time to review and evaluate the proposal and to submit comments. FSIS is interested in receiving additional views on this proposal and, therefore, has determined there is sufficient justification for reopening the comment period for an additional 60 days.

Done at Washington, DC, on: October 20, 1987.

Lester M. Crawford,
Administrator, Food Safety and Inspection Service.

[FR Doc. 87-24609 Filed 10-22-87; 8:45 am]
BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-ACE-12]

Proposed Alteration of Transition Area; Charles City, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Charles City, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Charles City, Iowa, Municipal Airport, utilizing the Charles City NDB as a navigational aid.

DATE: Comments must be received on or before November 20, 1987.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All

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comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

Discussion

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Charles City, Iowa. Runway 12/30 at the Charles City, Iowa, Municipal Airport is being relocated. As a result thereof, a new instrument approach procedure is being developed for the airport utilizing the Charles City NDB as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails alteration of the transition area at Charles City, Iowa, at or above 700 feet above the ground within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C, dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Charles City, IA [Revised]

That airspace extending upward from 700 ft. above the surface within a 5-mile radius of Charles City Municipal Airport (Lat. 43°04'15" N., Long. 92°36'15" W.); and within 2.75 miles each side of the 316 bearing from Charles City NDB (Lat. 43°04'18" N., Long. 92°36'35" W.), extending from the 5-mile radius area to 8.0 miles northwest of the airport; and within 2.75 miles each side of the 104° bearing from Charles City NDB extending from 5-mile radius area to 8.0 miles southeast of the airport.

Issued in Kansas City, Missouri, on October 6, 1987.

Clarence E. Newberry,

Assistant Manager, Air Traffic Division.

[FR Doc. 87–24065 Filed 10–21–87; 11:47 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87–AWA–46]

Proposed Alteration of VOR Federal Airways; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of three Federal airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by New England, Great Lakes and the Southern Regions. This proposal is a portion of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action would reduce en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, save fuel and reduce controller workload. The EECP is being implemented in coordinated segments until completed.

DATES: Comments must be received on or before November 13, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffic Division, Docket No.87–AWA–46, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–AWA–46." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to the descriptions of V–31, V–84 and V–501 located in the vicinity of New York. Currently, east coast traffic flows are saturated and compressed in the New York metropolitan area to the point that substantial delays are experienced daily. To alleviate the congestion, which causes delays, this proposed EECP would provide optimum use of airspace along the heavily traveled coastal corridors between New York and Florida and reduce departure/arrival delays in the Boston, MA; Chicago, IL; Atlanta, GA; Miami, FL; and New York areas. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–31 [Amended]

By removing the words "INT Elmira 357° and Rochester, NY 125° radials;" and substituting the words "INT Elmira 002°T(011°M) and Rochester, NY, 120°T(129°M) radials;"

V–84 [Amended]

By removing the words "INT Geneseo 091° and Syracuse, NY, 242° radials;" and substituting the words "INT Geneseo 091°T(100°M) and Syracuse, NY, 240°T(251°M) radials;"

V–501 [Amended]

By removing the words "INT Elmira, NY, 357° and Geneseo, NY, 091° radials;" and substituting the words "INT Wellsville 045°T)054°M) and Geneseo 091°T(100°M) radials;"

Issued in Washington, DC, on October 14, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–24535 Filed 10–22–87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 87–AWA–45]

Proposed Alteration of Jet Routes; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of Jet Routes J–61 and J–207 located in the vicinity of Wilmington, NC. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the eastern portion of the United States. This proposal is a portion of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of available limited airspace along the east coast corridor. This action would reduce en route and terminal delays, save fuel and reduce controller workload. The EECP is being implemented in coordinated segments until completed.

DATE: Comments must be received on or before November 13, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 87–AWA–45, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue W., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit

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with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–AWA–45." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of Jet Routes J–61 and J–207 located in the vicinity of Wilmington, NC. Currently, east coast traffic flows are saturated and compressed in the New York metropolitan area to the point that substantial delays are experienced daily. To alleviate the congestion, which causes delays, this proposed EECP would provide optimum use of airspace along the heavily traveled coastal corridors between New York and Florida and reduce departure/arrival delays in the Boston, MA; Chicago, IL; Atlanta, GA; and New York areas. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E. O. 10854; 49 U.S.C. 108(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J–61 [Amended]

By removing the words "From INT Wilmington, NC, 028°" and substituting the words "From INT Dixon NDB, NC, 023°"

J–207 [Amended]

By removing the words "to Raleigh-Durham, NC." and substituting the words "Raleigh-Durham, NC; to Franklin, VA."

Issued in Washington, DC, on October 14, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–24534 Filed 10–22–87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 177

Solicitation of Public Comment Regarding Tariff Classification of Annular, Corrugated Flexible Metal Hose

AGENCY: Customs Service, Treasury.

ACTION: Proposed interpretive rule; solicitation of comment.

SUMMARY: Customs is reviewing its position regarding the tariff classification of certain imported annular, corrugated flexible metal hose, either plain or covered with a braided metal sleeve. Such hose is now classified under the Tariff Schedule item number for "pipes and tubes and blanks therefor * * * of iron * * * or steel." It is proposed to classify the product in question under the Tariff Schedule item number for "flexible metal hose or tubing, whether covered with wire or other material, and with or without fittings." If reclassified, the hose would be subject to a lower rate of duty and no longer be subject to steel arrangements the U.S. has with a number of countries. Comments with respect to the issues will be considered before any decision is reached.

DATE: Comments (preferably in triplicate) must be received on or before November 23, 1987.

ADDRESS: Comments should be submitted to and may be inspected at the Regulations Control Branch, Room 2324, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: James A. Seal, Classification and Value Division (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

Customs is reviewing its position regarding the tariff classification of certain imported annular, corrugated flexible metal hose. The merchandise is made from hot rolled steel strip which is formed and welded into a tube. A stamping machine is then used to form annular corrugations, that is, convolutions that are parallel to one another. These provide flexibility and elasticity. Merchandise of this type is normally imported in lengths of 80 to 100 feet, on reels, and is used with appropriate end attachments or fittings in the steel, refining, oil/natural gas, and chemical industries to convey liquids such as water, acids, chemicals, asphalt, as well as gases and steam, all under pressure. Such hose is also imported covered with a braided metal sleeve which is said to enhance pressure resistance by increasing strength and elasticity.

The described metal hose, either plain or covered with a sleeve, is currently classified in item 610.52, Tariff Schedules of the United States (19 U.S.C. 1202; TSUS) as "pipes and tubes and blanks therefor * * * of iron * * * or steel." This classification carries a column 1 rate of duty of 7.5% ad valorem, plus additional duties on the alloy content. Also, if from Italy, France, Japan, or the United Kingdom, such metal hose is subject to Voluntary Restraint Agreements (VRA's) the U.S. has with those countries. VRA's are steel arrangements negotiated between the U.S. Trade Representative and other countries which dictate that basic steel products from those other countries cannot be entered into the U.S. for consumption unless accompanied by a valid export certificate. The suggested tariff classification is in item 652.09, TSUS, as "flexible metal hose or tubing, whether covered with wire or other material, and with or without fittings" This classification carries a column 1 rate of duty of 5.8% ad valorem and is not subject to the above mentioned VRA's.

In previously classifying hose as described above, great weight was placed on the 1929 *Summaries of Tariff Information* as a source of legislative history of the flexible metal hose provision. Compiled by the U.S. Tariff Commission for use by legislators preparing to enact the Tariff Act of 1930, it was noted therein, "Flexible metal tubing is made from a continuous metal strip spirally wound and formed in a single or double groove. The edges of the strip are turned in so as to make an interlocked joint * * * The flexibility is given by the elasticity of the metal and not by the sliding of one part over another. Flexible metal tubing may be of the full, square, or semi-interlocked type * * * armored or lined * * * with welded seam or seamless." Customs has traditionally used this authority to limit the provision for flexible metal hose to such hose of interlocked construction.

Customs now believes that a more careful reading of the 1929 *Summaries* reveals ambiguities which make it unreliable evidence of Congressional intent. For example, one of the stated uses of interlocked hose or tubing, to convey acids, is not believed appropriate to this type of product, but rather, to the leak-proof annular or helical type. Moreover, the reference to a product with a welded seam does not appear descriptive of the interlocked type. Customs concludes from these inconsistencies that other types of flexible metal hose or tubing may have been intended to be covered by the flexible metal hose provision.

Item 652.09, TSUS, the flexible metal hose provision, is an *eo nomine* provision which, in the absence of a contrary legislative intent, covers all forms of the named article. Lexicographic sources define pipes and tubes by reference to one another, and hose to include flexible tube (*Webster's New Collegiate Dictionary*) or flexible pipe (*Webster's New International Dictionary*, 2nd ed., unabridged) used to convey fluids. Customs is satisfied that annular, corrugated flexible metal hose is within the *eo nomine* provision of item 652.09, TSUS. It is proposed to classify future importations of that product under that provision.

In order to properly consider this issue, Customs is requesting the views of the public on the proposed classification of annular, corrugated flexible metal hose in item 652.09, TSUS, as opposed to classification in item 610.52, TSUS. If, after reviewing the comments received in response to this notice, Customs decides to adopt this change in position, an effective date for the change must be determined. In determining this date, consideration will be given to any written comments regarding an appropriate time frame in which the change in position should occur and why such a time frame is recommended.

Comments

Before making any determinations on this matter, Customs will consider any written comments timely submitted. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between 9:00 a.m., and 4:30 p.m. on normal business days, at the Regulations Control Branch, Room 2324, U.S. Customs Service Headquarters, 1301 Constitution Avenue NW., Washington, DC 20229.

Drafting Information

The principal author of this document was John Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: September 23, 1987.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 87–24539 Filed 10–22–87; 8:45 am]

BILLING CODE 4820-02-M

31 CFR Part 103

Bank Secrecy Act Regulations; Extension of Time for Comments

AGENCY: Departmental Offices, Treasury.

ACTION: Proposed rule; extension of comment period.

SUMMARY: Because of a request from the U.S. Postal Service, notice is hereby given that the Department of the Treasury is extending the comment period on the Proposed Reporting Requirements of the United States Postal Service, published in the **Federal Register** on September 22, 1987 [52 FR 35562].

DATE: Comments now will be accepted through November 22, 1987.

ADDRESS: Address written comments to: Director, Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Scott, Esq., Attorney Advisor, Office of the Assistant General Counsel (Enforcement), Room 2000, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (202) 566–9947.

Date: October 19, 1987.

Francis A. Keating, II,

Assistant Secretary (Enforcement).

[FR Doc. 87–24519 Filed 10–22–87; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 104

[DoD Directive 6000.3]

Voluntary Private Health Insurance Conversion Program

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: 32 CFR Part 104 was published on July 15, 1969. Formally called "Health Care Coverage for Persons Being Separated from Active Duty", it established a program designed to give certain persons being separated from active duty an opportunity to purchase short-term health insurance coverage for themselves and their dependents. The FY 85 DoD Authorization Act report language requested the Department of Defense to develop a competitively priced, long term, comprehensive, private sector health insurance policy. Congress requested that the policy be designed for purchase by all former spouses, members and their dependents separating from the Uniformed Services, and dependent children reaching the age

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of majority and that it cover pre-existing conditions. 32 CFR Part 104 needs to be revised to include this wider group.

DATE: Comments must be received by November 23, 1987.

ADDRESS: Office of the Assistant Secretary of Defense (Health Affairs), the Pentagon, Room 3D316, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Ms. Carol Galaty, telephone (202) 694–4685.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 104

Health insurance, Military personnel.

Accordingly, 32 CFR Part 104 is proposed to be revised to read as follows:

PART 104—VOLUNTARY HEALTH INSURANCE CONVERSION PROGRAM

Sec.
104.1 Reissuance and purpose.
104.2 Applicability.
104.3 Definitions.
104.4 Policy.
104.5 Responsibilities.

Authority: Sec. 301; 80 Stat. 379; 5 U.S.C. 301.

§ 104.1 Reissuance and purpose.

This part reissues 32 CFR Part 104 to:

(a) Respond to the Congressional requests discussed in: Conference Report of the Committee on Armed Services on the National Defense Authorization Act, Fiscal Year 1985, Report 98–1080, Pages 301 to 303; Conference Report of the Committees on Armed Services on the National Defense Authorization Act, Fiscal Year 1987, Report 99–1001, Page 484; Conference Report of the Committee on Armed Services U.S. House of Representatives on H.R. 4428, the National Defense Authorization Act, Fiscal Year 1987, Report 99–718, Pages 211 and 212 to make a private health insurance conversion policy available for purchase through the Department of Defense (DoD).

(b) Provide policy, prescribe procedures, and assign responsibilities.

§ 104.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments and by agreement to the other Uniformed Services (the Coast Guard, the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA) and covers Service members and their family members who lose eligibility for Uniformed Services medical benefits, and persons for whom active duty or retiree families are legally responsible but who are not eligible for Uniformed Services medical benefits.

§ 104.3 Definitions.

Conversion policy. A comprehensive, private-pay health insurance policy that provides benefits similar to those available under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). It must be available without exception to all eligible individuals and cover preexisting conditions (with a maximum of a one year waiting period on such conditions) at a rate lower than similar private individual insurance policies. In addition, after the Uniformed Services help in the initial enrollment process, all payments and policy arrangements must be made between the purchasing individual and the company offering the policy. The United States Government (including DoD, the Coast Guard, PHS and NOAA) shall assume no financial liability and has no legal or other responsibility for the policy and its administration.

Eligible. Individuals are eligible to purchase the policy when they lose their eligibility for Uniformed Services health benefits or are minors who become the legal responsibility of active duty or retired families and are not eligible for Uniformed Services health benefits. These include:

(a) Spouses of members whose marriage ends in divorce, dissolution or annulment after at least one year of marriage,

(b) Members, their dependents or former dependents who are granted temporary coverage in the Uniformed Service health care system would become eligible when they lose their temporary coverage.

(c) Members leaving active duty (other than those separated for conditions existing prior to service) and their family members who are covered by CHAMPUS,

(d) Unmarried children of active duty, retired members and survivors up to the age of 21 (23 if in school),

(e) Children who are legal wards of active duty and retired families, and

(f) Grandchildren of active duty or retired members who are born out of wedlock to dependent children who are covered by CHAMPUS.

§ 104.4 Policy.

(a) All eligible individuals shall be given an opportunity to purchase a conversion policy. Active Duty members separating from a Uniformed Service shall have at least 30 days after their separation to purchase a conversion policy and former spouses, children coming of age and legal dependents shall have a minimum of 90 days after their qualifying event. Insurance companies may institute more liberal enrollment periods at their discretion and may consider enrolling people outside of the enrollment period on the basis of meeting underwriting qualifications.

(b) A company or companies offering policies through DoD shall finance, operate and publicize their policies and shall supply all designated distribution centers, with explanation brochures, applications, updated premium schedules and temporary identification material.

(c) Uniformed Services members and their family members shall be informed of the availability of conversion policies at appropriate times during their active duty service and again during separation processing or when contacting a Uniformed Services office about benefit status changes. All such individuals shall be:

(1) Given material explaining the costs, benefits and enrollment procedures of conversion policies; and

(2) Advised of the eligibility criteria and told that the purchase of coverage is entirely voluntary, that the coverage can be purchased for 90 days and then on a monthly basis as required until they lose their eligibility, that the cost of any policy in which they enroll will be borne entirely by them, that they must make the first payment within a specified time of their status change and that all payment arrangements (with the exception of members who want the first payment made as a one-time payroll deduction) must be made directly with the company offering the conversion policy they select; and

(3) Advised that all questions involving their coverage are a matter between them and the company providing the coverage, and the United States Government does not have liability or responsibility for the administration of the policy.

(d) Once an agreement has been signed between a company and DoD, policies shall continue to be offered until such time as: (1) A company offering a policy provides DoD with a 90 day notice, after prior consultation, that they will be terminating the policy, or (2) DoD gives a company a 90 day notice, after prior consultation, that they are not meeting program requirements and that DoD will terminate its agreement to offer their policy through DoD.

§ 104.5 Responsibilities.

(a) The Assistant Secretary of Defense (Health Affairs) (ASD(HA)) or his designee shall:

(1) Advertise in appropriate trade journals and periodicals and through appropriate trade channels, at least once every three years, the interest of the Uniformed Services in making a conversion policy available.

(2) Select one or more policies that meet the requirements of this part and sign an agreement between the company or companies offering policies and DoD (and by agreement with such others of the Uniformed Services as desire to join with DoD).

(3) Work with the Uniformed Services and appropriate organizations to specify the forms, cards and notices to be used and ensure that information on conversion policies is available to eligible persons.

(4) Monitor and evaluate the implementation of this part, periodically review all conversion policies being offered and all proposed changes to conversion policies, and, as it becomes necessary:

(i) Make recommendations to the Uniformed Services or the Secretary of Defense regarding the conversion policies.

(ii) Amend the letter of agreement with a company offering a conversion policy, or

(iii) Withdraw the privileges of offering a policy through the Uniformed Services when it is determined that the best interests of the Uniformed Services and the persons losing eligibility to the medical benefit make such action appropriate.

(b) The Assistant Secretary of Defense (Public Affairs) (ASD(PA)) or his designee shall direct his staff to help publicize the program through their normal channels on a periodic basis.

(c) The Secretaries of the Military Departments and where agreed to the Commandant of the Coast Guard and the Secretary of the Department of Health and Human Services, or their designees, shall:

(1) Establish internal programs implementing this part.

(2) Direct their Public Affairs offices to help publicize the program.

(3) Direct their Service Publication Distribution Centers to disseminate information on the program on a periodic basis.

(4) Require their medical facilities, Family Service Centers, Identification Card Offices, Separation Processing Activities and any other appropriate office they designate to:

(i) Stock explanation brochures, application forms, payment schedules and temporary identification material specified by the Office of the ASD(HA) and supplied by companies offering the policies.

(ii) Validate the applications or supply the appropriate validation forms: Defense Enrollment Eligibility Reporting System (DEERS) print-outs, or Standard Form DD 214 or 1172.

(iii) Where appropriate (at separation offices and other designated sites) and desired by the purchaser, collect the first payment or arrange for payroll deductions to be made, issue temporary conversion policy identification material after coverage has been paid, and forward, at least once a week, all applications and payments, using a specified notice identified by the Office of the ASD(HA), to the designated office of the company from which the coverage was purchased.

Thomas J. Condon,

Acting Division Chief Directives Division.

[FR Doc. 87–24599 Filed 10–22–87; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–3281–2]

Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the attainment status designation for six counties in Ohio relative to the total suspended particulate (TSP) National Ambient Air Quality Standard (NAAQS). These counties are: Gallia, Jefferson, Lake, Muskingum, Richland, and Washington. The present TSP air quality status for all of these counties varies with respect to the primary and secondary TSP NAAQS. These counties are either partial or full county nonattainment of one or both of these NAAQS. In this notice, USEPA is proposing to either redesignate the counties to full attainment or reduce the size of the nonattainment area(s). The purpose of this notice is to discuss the results of USEPA's review of the State's request and supporting data and to solicit comments on these data and USEPA's proposed action.

DATE: Comments must be received by November 23, 1987.

ADDRESSES: Copies of the redesignation request and supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Written comments should be sent to Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6038.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added section 107(d) to the Clean Air Act (the Act). This section directed each State to submit, to the Administrator of USEPA, a list of the attainment status for all areas within the State. The primary TSP NAAQS was violated when, in a year, either: (1) The geometric mean value of monitored TSP concentrations exceeds 75 micrograms per cubic meter of air (75 ug/m^3) (the annual primary standard); or (2) the 24-hour concentration of TSP exceeds 260 ug/m^3 more than once (the 24-hour standard). The secondary TSP NAAQS was violated when, in a year, the 24-hour concentration exceeds 150 ug/m^3 more than once. The Administrator was required to promulgate the State lists, with any necessary modifications. The Administrator published these lists in the **Federal Register** on March 3, 1978 (43 FR 8962), and made necessary amendments in the **Federal Register** on October 5, 1978 (43 FR 45993). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation.

EPA revised the particulate matter standard on July 1, 1987, (52 FR 24634) and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with nominal diameter of 10 micrometers or less (PM_{10}). However, EPA will continue to process redesignations of areas from nonattainment to attainment or unclassifiable for TSP in keeping with past policy because various regulatory provisions such as new source review and prevention of significant deterioration are keyed to the

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attainment status of areas. The July 1, 1987, notice (p. 24682, column 1) describes EPA's transistion policy regarding TSP redesignations.

USEPA may redesignate an area to attainment if it is supported by all available data including eight consecutive quarters of the most recent, quality assured, representative ambient air quality data which show no violation of the NAAQS, and evidence of a fully approved and implemented State Implementation Plan (SIP) control strategy. In special situations, USEPA may consider less than the eight consecutive quarters of such data: For example, when a state of the art modeling analysis is provided showing that the basic SIP strategy is sound and that actual, enforceable emission reductions are responsible for the recent air quality improvements. Further, an exception to the requirement for a fully approved and implemented SIP control strategy can be made if the physical circumstances and long-term economic factors are such that the implemented measures have the same weight as a SIP control strategy: for example, the permanent closing of the major emitting sources, road paving to eliminate fugitive emissions, or other irreversible measures. Submittals including such changes, even though these changes have not been formally approved as SIP revisions, have the practical impact of USEPA approved strategies and can be the basis for approval of the redesignation. In addition, a limited exception to the redesignation requirements discussed above is available: Where the State can convincingly demonstrate that an area larger than required was initially and inaccurately designated nonattainment, the "overdesignated" nonattainment area can be reduced in size to an appropriate boundary. USEPA's policy on redesignations is summarized in a memorandum from Sheldon Meyers, Director, Office of Air Quality Planning and Standards, dated April 21, 1983, entitled "Section 107 Designation Policy Summary"; a memorandum from C.T. Helms, Chief, Control Programs Operations Branch, dated December 23, 1983, entitled "Section 107 Questions and Answers"; and a memorandum from G.A. Emison, Director, Office of Air Quality Planning and Standards, dated September 30, 1985, entitled "Total Suspended Particulate (TSP) Redesignations." These memoranda are available for public review in the rulemaking file on this notice.

On May 16, 1983, the State of Ohio submitted a request to revise the attainment status designation for the following 16 counties relative to the TSP NAAQS: Columbiana, Erie, Gallia, Jackson, Jefferson, Lake, Logan, Medina, Miami, Monroe, Muskingum, Richland, Scioto, Summit, Trumbull and Washington. On February 24, 1984 (49 FR 6926), in a notice of proposed rulemaking, USEPA proposed to disapprove the State's request for all of the counties because of a lack of sufficient technical support. In that notice, USEPA stated that if the State provided the additional technical support, including evidence of implemented control strategies, and USEPA determined that they were acceptable, then USEPA would withdraw its notice of proposed disapproval and approve the designations. On April 12, 1984, the State submitted additional information for Erie County, and, in a notice of final rulemaking published on April 22, 1985 (50 FR 15746), USEPA approved the redesignation for Erie County, along with Lawrence County.

On November 21, 1984, Ohio submitted a TSP redesignation request for Franklin County. On June 1, 21, and 25, 1984; July 9, and 10, 1984; September 27, 1984; November 27, 1984; and April 1, 1985, the State submitted additional information for the 15 remaining counties. In addition, in a November 27, 1984, submittal the State amended its redesignation request for Columbia, Jefferson, Lake, and Scioto Counties. On April 23, 1985, the State submitted a TSP redesignation request for Sandusky County. On July 8, 1985 (50 FR 27892), USEPA promulgated a newly revised stack height regulation to comport with the stack height requirements of section 123 of the Act. The impacts of the new stack height regulations must be assessed in any TSP redesignation. Thus, USEPA could not proceed with rulemaking on these 17 counties (15 counties contained in the May 16, 1983, submittal, Franklin County from a November 21, 1984, redesignation request, and Sandusky County from an April 23, 1985 redesignation request) until the impact of the stack height regulations was assessed.

USEPA's rulemaking on the acceptability of the TSP redesignation for these 17 counties will now be segmented into two groups. Group I consists of those counties with few sources and less potential for significant stack height impacts (Columbiana, Jackson, Logan, Medina, Miami, Monroe, Sandusky and Scioto Counties). Group II consists of those counties with more sources and greater potential for significant stack height impacts (Gallia, Franklin, Jefferson, Lake, Muskingum, Richland, Summit, Trumbull and Washington Counties). In a December 3, 1985, letter the State discussed the impacts of tall stacks or illegal dispersion for the eight Group I counties. USEPA proposed rulemaking action on the eight counties on September 25, 1987 (52 FR 36055). In a May 30, 1986, letter the State discussed the impacts of tall stacks on the following six Group II counties: Gallia, Jefferson, Lake, Muskingum, Richland and Washington Counties. For the remaining three Group II counties of Summit, Franklin and Trumbull, the State is requesting that USEPA withhold rulemaking until they are able to address the stack height concerns. In today's notice USEPA will propose rulemaking on six of the Group II counties. USEPA will take separate action on the three remaining Group II counties upon receipt of the necessary stack height data. Before USEPA begins its discussion on the acceptability of the redesignation for the six counties, based upon the three policy memoranda discussed earlier and the newly revised stack height regulations, it would like to first discuss the implication of the revised stack height regulations on TSP redesignation both in general and Ohio.

Implications of Newly Revised Stack Height Regulations on TSP Regulations

On July 8, 1985, (50 FR 27892), USEPA promulgated its stack height regulation under section 123 of the Act. This regulation is intended to ensure that air pollution emission limitations required under applicable SIPs are not affected by dispersion techniques. According to the regulation, a dispersion technique means any method which attempts to affect the concentration of a pollutant in ambient air by: (1) Using that portion of a stack which exceed good engineering practice (GEP) stack height; (2) varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or (3) increasing final exhaust gas plume rise by manipulating source process parameters and other methods, including the merging of exhaust gas streams ("merged stacks"). The stack height regulation can affect a redesignation because improvements in air quality which are due to "non-creditable" dispersion cannot form the basis for a redesignation. Therefore, USEPA has reviewed these six redesignations for consistency with the stack height regulations. This review consisted of looking at whether the ambient air concentrations, which were used as a basis for the State's redesignation requests, were influenced by any non-creditable dispersion. A summary of the results of this review follow. Specific details are contained under each county discussion. The two dispersion techniques which were found by the State are merged gas streams and stack height greater than GEP.

1. *Merged Stacks.* USEPA redesignation policy states that designated nonattainment areas which are meeting the NAAQS either solely or partially through the use of unauthorized dispersion techniques cannot be redesignated to attainment. The stack height regulations prohibit disperaion techniques (such as merged stacks) which increase the final exhaust gas plume rise, unless certain exemptions are met. These exemptions include (a) where the source was originally designed and constructed with merged gas streams, (b) where the merging both was performed in conjunction with the installation of pollution/control equipment and did not result in an increase in allowable emissions for stacks merged before July 8, 1985, or (c) where the merginga were carried out before December 31, 1970, and are, therefore, grandfathered. (Note, only merging before this date are relevant here since the redesignations are based on data collected before July 8, 1985).

The State reviewed all major sources in the areas being redesignated for compliance with the stack height regulations. The State found that either: (a) The mergings reflect the original design and construction of the plant, (b) the mergings were done in conjunction with the installation of pollution control equipment that was required to comply with the SIP emission limitations (and did not result in an increase in allowable emissions), or (c) the mergings were carried out before December 31, 1970, and are, thus, grandfathered. Therefore, all of the merged stacks identified by the State (i.e., stacks at major sources) comply with the stack height regulations.

The stack height regulations are to insure that certain dispersion enhancing practices, such as merged stacks, do not lower the ground-level concentration of pollutants and allow sources to emit greater amounts of pollution. The State's monitoring data show attainment at ground-level of the TSP NAAQS for most areas as discussed below. However, monitored attainment may be due to the additional effect of the unreviewed minor, and reviewed major, merged stacks. Moreover, the emission limits for these sources are technology-based (i.e., not supported by air quality modeling analysis designed to assure attainment of the NAAQS), and therefore, it is possible that compliance with these limits might not be enough alone to attain the NAAQS.

USEPA has reviewed these issues, and does not believe that any increase in the final plume rise resulting from the merging of exhaust gas streams have significantly affected the monitored data here for the following reasons: First, the most culpable sources in most cases (according to the filter analyses) are fugitive TSP sources. Plume rise is not important for these low-level sources. Furthermore, because these are non-stack sources, the concept of combining exhaust gas streams is irrelevant. Second, the ambient impact from the merged stack major sources has decreased primarily because of the decrease in emissions from these sources (due to the new pollution control equipment). Thus, USEPA believes that the improvements in air quality, discussed below were not due to a "non-creditable" merged stack dispersion technique.

2. *Physical Stack Height.* According to the stack height regulations, emission limitations shall not be affected by physical stack height in excess if GEP height that was not in existence before December 31, 1970. GEP is defined as the greater of (a) 65m, (b) height based on the DEP formula, or (c) height demonstrated by a fluid model or field study. Thus, full credit is allowed for stacks that are at least 65m tall. Only stacks taller than 65m need to be reviewed for GEP credit. For the sources in the areas that we are proposing redesignation, stacks above 65m exist at only Ohio Power (OP) Gavin (Gallia County), Ohio Valley Electric Company Kyger Creek (Gallia County), Cleveland Electric Illuminating (CEI) Eastlake (Lake County), Columbia Portland Cement (Muskingum County), and OP Muskingum River (Washington County). The stacks at columbia Portland Cement and OP Muskingum River were in existence prior to December 31, 1970, and are, therefore, granfathered. For the other three plants, the air quality analyses considered by USEPA in its review took into account the GEP formula height. Thus, credit for stack height in excess of GEP was not allowed in the technical support for these redesignations.

In summary, USEPA has determined that the monitoring data which serve as the primary basis for these redesignations (as well as any existing modeling data) are not significantly affected by merged stacks or illegal stack heights. Thus, USEPA accepts the State's determination that the redesignation request for these six counties is consistent with the stack height regulations.

USEPA's discussion on the acceptability of the redesignation for Gallia, Jefferson, Lake, Muskingum, Richland and Washington follow.

I. Gallia

A. Present designation (40 CFR 81.336)

Secondary Nonattainment—Entire County.

B. Requested designation (May 16, 1983)

Attainment—Entire County.

To support its request, the State submitted data collected at the Gallipolis monitoring site for the period January-December, 1983. These data were supplemented with USEPA Storage and Retrieval of Aerometric Data (SAROAD) from January 1976, to December 1985. As justification for air quality improvement, the State submitted a list of sources which have installed air pollution control equipment.

C. USEPA's Evaluation of Technical Support Data and Proposed Action

Gallia County is a rural county with the major sources located near the cities of Cheshire and Gallipolis. No violations of either the primary or secondary NAAQS have occurred at the Gallipolis site since its start up in 1974 to the present. The basis of the present secondary nonattainment classification was the violation of the secondary NAAQS at the Cheshire monitoring site in 1976. This site operated from May 1974 through July 1977. the specific purpose of the Cheshire site was to evaluate TSP emissions from the construction of the Gavin Power Plant. Construction was completed at the Gavin Power Plant in 1976 and the plant is equipped with TSP air pollution control equipment. Another major source in the Cheshire area is the Kyger Creek Power Plant. It is assumed that the 1976 violation at the Cheshire site was due to the construction of Gavin and to emissions from Kyger Creek because no air pollution control equipment was installed on the plant at that time. In 1980, Kyger Creek installed electrostatic precipitators (ESPs) which resulted in emission reductions of over 8,400 tons per year. Controls on Kyger Creek have resulted in an improvement in air quality in the Cheshire area. The Kyger Creek Plant must continue to maintain their ESPs to remain in compliance with the SIP. This compliance requirement if federally enforceable.

The monitoring network is inadequate for this redesignation because the Cheshire monitor is no longer operating.

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Because the Cheshire monitor was discontinued about a year after the construction of the Gavin Power Plant, the State does not have eight quarters of violation-free data. Only four quarters of violation-free data could be submitted (June 1976-July 1977). USEPA policy allows for a state-of-the-art modeling demonstration to supplement the four quarters of data to show that the basic SIP strategy is sound and that actual, enforeable emission reductions are responsible for the air quality improvement. Consequently, USEPA performed a modeling demonstration, with Kyger Creek and Gavin Power Plants operating at their maximum federally approved rates. This analysis (using the MPTER model, 1964/1971-75 meterological data, 100m receptor resolution) indicated that the Cheshire area monitored attainment of the NAAQS resulted from actual enforceable emission reductions. Thus, the Cheshire area can be redesignated to attainment based on four quarters of violation-free monitoring data, a modeled attainment demonstration, and permanent reductions in TSP due to the completion of the Gavin Power Plant construction and the installation of control equipment at Kyger Creek.

For the Gallipolis site, the entire record (1974 to 1985) of air quality monitoring data show no violations of the primary or secondary TSP NAAQS, and thus the data support the proposed redesignation. USEPA has determined that one monitor is an acceptable monitoring network given the few number of sources in Gallipolis and the rural nature of the area. The State attributed the improvement in TSP levels to the installation of an ESP at the Gallipolis State Institute. Based on monitoring data, a reference modeled attainment demonstration, and federally enforceable emissions reductions, USEPA believes an adequate explanation for air quality improvements has been provided to support the State's redesignation request. (Note, the impact of the stack height regulations was assessed and USEPA has determined that the improvements in air quality were not inconsistent with the stack height regulations).

Proposed Action

Attainment—Entire County.

II. Jefferson

A. Present designation (40 CFR 81.336)

Primary Nonattainment—Cities of Stratton, Empire, Toronto, Winterville, Steubenville, Mingo Junction, New Alexandria, Brilliant, Rayland, Tiltonville, Yorkville and Townships of Saline, Knox, Island Creek, Cross Creek, Steubenville, Wells, and Warren.

Attainment—Springfield Township.

Secondary Nonattainment—Remainder of County

B. Requested designation (November 27, 1984)

Primary Nonattainment—Cities of Stratton, Empire, Toronto, Wintersville, Steubenville, Mingo Junction, New Alexandria and Brilliant; Townships of Knox, Island Creek, Cross Creek, Wells, Steubenville, and Saline.

Attainment—Remainder of County.

To support its request, the State submitted data collected at the eight monitoring sites in the County for the period January-December 1983. These data were supplemented with USEPA SAROAD data from January 1976 to December 1985. As justification for air quality improvement, the State submitted a list of sources which had installed air pollution control equipment or had been permanently shutdown.

C. USEPA's Evaluation of Technical Support Data and Proposed Action

For the most recent eight quarters of air quality monitoring data, violations of the primary and/or secondary NAAQS for TSP were recorded in 1984 and 1985 at site 36442001102 (Mingo Junction), site 363160013102 (Stratton), site 366420013101 and site 366420012101 (Steubenville), and site 366820001102 (Toronto). The requested primary nonattainment area includes the area around these monitors and the above mentioned Cities and Townships. No violations of the primary or secondary TSP NAAQS have been recorded at the remaining sites in the County for the last 2 calendar years (1984–1985). The adequacy of the monitoring network in the area that is being retained as primary nonattainment was not considered. USEPA notes that almost all major TSP sources are located in this retained nonattainment area.

The State attributed the improvement in TSP levels in the proposed redesignation area of Warren Township (which includes the cities of Rayland, Tiltonville, and Yorkville) around the Wheeling-Pittsburgh Steel's Yorkville Plant to the installation of air pollution control equipment at this plant. The reduction in allowable emissions due to these controls is 2074 tons per year (TPY). The installation was the result of a Federal order. USEPA determined that reduced emissions due to the economic downturn were not the reason for the air quality improvement near Wheeling-Pittsburgh Yorkville. Wheeling-Pittsburgh has operated at a fairly steady rate since the mid 70's with the only significant decrease in 1981. The 1982 and 1983 production rates were near the plant's maximum practical rates and were equal to or greater than the productions levels in 1978 when violations of the NAAQS were last measured at the Yorkville monitor. USEPA believes an adequate explanation for air quality improvement has been provided to support the State's request. Based on monitoring data and a federally enforceable emission reduction, USEPA believes that the redesignation request is approvable. (Note, the impact of the stack height regulations was assessed, and USEPA has determined that the improvements in air quality were not inconsistent with the stack height regulations).

The redesignation, from secondary nonattainment to attainment, for the rural townships of Brush Creek, Salem, Wayne, Smithfield, and Pleasant is approvable because these townships were originally "overdesignated". No major industrial sources are located in these townships, and the one rural monitor indicates attainment.

Proposed Action

- Primary Nonattainment—Cities of Stratton, Empire, Toronto, Wintersville, Steubenville, Mingo Junction, New Alexandia and Brilliant; Townships of Knox, Island Creek, Cross Creek, Wells, Steubenville and Saline.

Attainment—Remainder of County.

III. Lake

A. Present designation (40 CFR 81.336)

Primary Nonattainment—City of Painesville.

Secondary Nonattainment—Area #1—Leroy Township, Area #2—NORTH: County Line, WEST: County Line, SOUTH: I–90, EAST: S.R. 306, excluding Town of Willowick, Area #3—Painesville Township, excluding Fairport Harbor, Grand River, and area within Painesville Township north and west of Fairport Harbor and Grand River.

Attainment—Remainder of County.

B. Requested designation (November 27, 1984)

Attainment—Entire County.

To support its request, the State submitted data collected at the ten monitoring sites in the County for the period January-December 1983. These data were supplemented with USEPA SAROAD data from January 1976 to December 1985. As justification for air quality improvement, the State submitted a list of sources which have installed air pollution control equipment.

C. USEPA's Evaluation of Technical Data and Proposed Action

For the most recent eight quarters of air quality monitoring data (1984–1985), no violations of the primary or secondary NAAQS for TSP were recorded in the County except at the rural Leroy Township monitor. USEPA and OEPA do not believe that the second measured exceedance at this site should be considered in evaluating the attainment status of the area. USEPA's "Guideline on the Identification and Use of Air Quality Data Affected by Exceptional Events" allows States, with USEPA's approval, to not use monitored concentrations affected by exceptional events when determining the attainment status of an area. One such event noted in the Guideline are high winds (i.e., hourly speeds>, 30 mph) and no precipitation. Ohio submitted documentation showing that the second exceedance at the Leroy Township monitor (on May 31, 1985) was associated with winds on the order of 30 mph and no measurable precipitation. Thus, exclusion of the May 31, 1985, measured exceedance is consistent with USEPA's Exceptional Events Guideline. Thus, all valid monitored data support the redesignation. The monitoring network is acceptable for this redesignation because the monitors are located near the major TSP sources. The State attributed the improvement in TSP levels in Lake County to installation of air pollution control equipment at CEI Eastlake Power Plant and at Painesville Municipal Power and permanent source shutdowns at Erie Coke and Chemical and Diamond Shamrock. Ohio must submit evidence showing that these shutdowns are permanent and federally enforceable during the public comment period on today's rulemaking notice. This evidence must be in the form of documentation showing if these sources were to start-up why they must be treated as new sources under Ohio's new source review permitting requirements. The reduction in actual emissions at CEI's Eastlake Power Plant is due to the installation of pollution controls. Emissions dropped from 7453 TPY in 1981 to 1794 TPY in 1983. The impact of the stack height regulations was assessed, and USEPA has determined that the improvements in air quality were not inconsistent with the stack height regulations.

Based on monitoring data, an adequate monitoring network, permanent source shutdowns and federally enforceable emission reductions, USEPA believes an adequate explanation for air quality improvements in the County have been provided to support the State's request.

Proposed Action

- Attainment—Entire County.

IV. Muskingum

A. Present designation

Secondary Nonattainment—Entire County.

B. Requested designation

Attainment—Entire County.

To support its request, the State submitted data collected at the two monitoring sites in the County for the period January-December 1983. These data were supplemented with USEPA SAROAD data from January 1976 to December 1985. As justification for air quality improvement, the State submitted a list of sources which have installed air pollution control equipment and have been permanently shutdown.

C. USEPA's Evaluation of Technical Support Data and Proposed Action

For the most recent eight consecutive quarters of air quality monitoring data, no violations of the primary or secondary TSP NAAQS were recorded at the two monitoring sites currently operating in the County. The State attributed improvement in TSP levels to Columbia Cement, a major source in southwestern Muskingum County, improving the operation and maintenance of their air pollution control equipment. Also, Ohio Ferro Alloys in Philo permanently shutdown three of their five furnaces. Ohio must submit evidence showing that these shutdowns are permanent and federally enforceable during the public comment period on today's rulemaking notice. This evidence must be in the form of documentation showing if these sources were to start-up why they must be treated as new sources under Ohio's new source review permitting requirements. Actual emissions from Ohio Ferro Alloys decreased over 200 TPY as a result of the shutdowns.

The entire county was originally designated secondary nonattainment based on violations only at the Philo site (364640001F05), even though no violations were recorded at the Janesville sites (367780002F01 and 367780004F01) since 1976. This original designation for the County was overly broad. Muskingum County is rural with a population of 82,200 and total federally allowable emissions from major sources of only 900 TPY. Of the 900 TPY, 400 TPY are due to Columbia Cement. Thus, the entire county, except for the Philo and the Columbia Cement areas, is "overdesignated."

The monitoring network was determined to be incomplete because there were no monitors in southwestern Muskingum County where Columbia Cement is located. The monitor at Philo was not and is not representative of the air quality in the vicinity of Columbia Cement. Therefore, the State submitted a screening analysis (using PTMAX) for Columbia Cement at the maximum allowable emissions. The sum of the maxiumum modeled 24-hour impact and an appropriate background value (approximately 100 $\mu g/m^3$) was less than the 24-hour secondary NAAQS, thus, demonstrating attainment of the NAAQS. USEPA proposes to accept the redesignation from secondary nonattainment to attainment based on modeling alone. The impact of the stack height regulations was assessed, and USEPA has determined that the improvements in air quality were not inconsistent with the stack height regulations.

Based on monitoring and modeling data and permanent source shutdowns, USEPA believes an adequate explanation for air quality improvements has been provided to support the State's request.

Proposed Action

- Attainment—Entire County.

V. Richland

A. Present designation (40 CFR 81.336)

Primary Nonattainment—Entire County.

B. Requested designation (May 16, 1983)

Primary Nonattainment—Area within a line from West 4th Street and Bowman Street, east on 4th Street to U.S. 42, northeast on 9th Avenue, north to Grace Street, west to Newman Avenue, north to U.S. 30, west to Bowman Street, south to 4th Street.

Secondary Nonattainment—Remainder of County.

To support its request, the State submitted data collected at three sites in the County for the period January-December 1983. These data were supplemented with USEPA SAROAD data from January 1976 to December 1985. As justification for air quality improvement, the State submitted a list of sources that have reduced emissions.

C. USEPA's Evaluation of Technical Support Data and Proposed Action

The County's monitoring network in 1980 consisted of five monitors. Two of the monitors were discontinued in 1981. For the most recent eight quarters of air

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quality monitoring data (1984–1985), no violations of the primary NAAQS for TSP have been recorded at the three existing monitors in the county (36384010H01, 363840007F01, 365740002H01). However, nonattainment of the primary NAAQS was measured at Monitors Nos. 363840007F05 in 1980, 363840009H01 in 1980, and 363840001H01 in 1980 and 1981 in the City of Mansfield. (Note, the latter two monitors were discontinued in 1981.) The requested retained primary nonattainment area includes the area around these monitors. No violations of the primary NAAQS for TSP have been recorded at the three remaining sites in the County for the last 2 calendar years. The monitoring network for this redesignation is acceptable because the monitors are located near the major sources. The State attributed the improvement in TSP levels to the reduction of emissions due primarily to a fuel conversion at the State Reformatory, the installation of federally enforceable controls at Ohio Brass and Fisher-Body GMC, and permanent shutdowns at Shelby Municipal Light Plant, C and P Metals, Mansfield Tire and Rubber Company, and Taylor Metal Products. Ohio must submit evidence showing that these shutdowns are permanent and federally enforceable during the public comment period on today's rulemaking notice. This evidence must be in the form of documentation showing if these sources were to start-up why they must be treated as new sources under Ohio's new source review permitting requirements. The impact of the stack height regulations was assessed, and USEPA has determined that the improvements in air quality were not inconsistent with the stack height regulations. Based on monitoring data, an adequate monitoring network and, federally enforceable emission reductions and permanent source shutdowns, USEPA believes an adequate explanation for air quality improvement has been provided to support the State's request.

Proposed Action

• Primary Nonattainment—Area within a line from West 4th Street and Bowman Street, east on 4th Street to U.S. 42, northeast on 9th Avenue, north to Grace Street, west to Newman Avenue, north to U.S. 30, west to Bowman Street, south to 4th Street.

Secondary Nonattainment—Remainder of County.

VI. Washington

A. Present designation (40 CFR 81.336)

Secondary Nonattainment—Entire County.

B. Requested designation

Attainment—Entire County.

To support its request, the State submitted data collected at the two monitoring sites in the County for the period January-December 1983. These data were supplemented with USEPA SAROAD data from January 1976 to December 1985. As justification for air quality improvement, the State submitted a list of sources that have installed air pollution control equipment or have shutdown.

C. USEPA's Evaluation of Technical Support Data and Proposed Action

The basis of the present Washington County secondary nonattainment classification was violations at the State's two monitoring sites in Belpre and Marietta. No violations of the primary or secondary TSP NAAQS have occurred at these sites for the most recent eight consecutive quarters of data (1984–1985). The State attributed the improvements in TSP levels at these two monitors to the replacement of an old asphalt plant with a new one meeting New Source Performance Standards (NSPS) at the Mark Williams Plant, and the installation of control equipment at Shell Chemical. Thus, the air quality monitoring data and evidence of air quality improvement support the requested designation for the areas near the Belpre and Marietta sites. However, USEPA has determined that the monitoring network, consisting of the two sites, is not adequate to support redesignating all of Washington County because there are no monitors located near two major TSP sources, the Muskingum River Power Plant and Elkem Metals (formerly Union Carbide). The State's two monitoring sites in Belpre and Marietta are not and were not representative of the air quality near these two major TSP sources.

To assess the air quality status in the vicinity of the Muskingum River Power Plant and the Elkem Metals plant, USEPA conducted a state-of-the-art dispersion modeling analysis. For the Muskingum River Power Plant, located in Waterford Township, USEPA applied the MPTER model, using 1972–1975, 1977 meteorological data and 100m receptor resolution. The modeling indicated that the TSP NAAQS were being attained in the area of the Muskingum River Plant.

For the Elkem Metals plant, located in Warren Township, the State originally submitted modeling utilizing an annual background concentration of 57 ug/m^3. The State later maintained that an annual background concentration of less than 50 ug/m^3 would be more appropriate for the Elkem Metals region. Based on further information submitted by the State concerning the revised background concentrations, USEPA agrees that this lower value is acceptable. Utilizing the revised background concentration, USEPA performed a modeling analysis for the area. (Note, this modeling assumed credit for stack merging at Elkem Metals. USEPA now believes that merged stack credit may not be acceptable since no justification for credit has been provided by the State.) Since the modeling predicted violations of the secondary TSP NAAQS, even with the lower background, USEPA is proposing to retain Warren Township as secondary nonattainment. The impact of the stack height regulations was assessed, and USEPA has determined that the improvements in air quality were not inconsistent with the stack height regulations, except for Elkem Metals. Based upon monitoring and modeling data, and federally enforceable emission reductions, USEPA believes an acceptable explanation for air quality improvements has been provided to support redesignation of Washington County, except Warren Township, to attainment of the NAAQS for TSP.

Proposed Action

• Secondary Nonattainment—Warren Township.

Attainment—Remainder of County.

Note, the source shutdowns (both total and partial facility) identified in this notice were relied on by the State to explain the improvement in these areas and, thus, are an integral part of the State redesignation request. Since these shutdowns are a necessary condition for the redesignations, these emission reduction credits are hereby used up and cannot be applied again. As a result, if these particular sources wish to resume operation, then they must first satisfy the applicable new source review requirements.

All interested parties are invited to submit comments on this proposed action notice. USEPA will consider all comments received within 30 days of publication of this notice.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Authority: 42 U.S.C. 7401–7642.

Dated: March 31, 1987.

Peter Wise,

Acting Regional Administrator.

[FR Doc. 87–24570 Filed 10–22–87; 8:45 am]

BILLING CODE 6560-50-M

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Notices

Federal Register
Vol. 52, No. 205
Friday, October 23, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Special Committee on Financial Services; Public Meetings

ACTION: Special Committee on Financial Services; Notice of Public Meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of two meetings of the Special Committee on Financial Services of the Administrative Conference of the United States. The committee has scheduled these meetings to develop a proposed recommendation on Adjudication Practices and Procedures of the Federal Bank Regulatory Agencies, based upon a study conducted for the Conference by Professor Michael P. Malloy. Copies of the consultant's report may be obtained from the contact person named in this notice.

DATE: Friday, November 6, 1987 at 2:00 pm, and Friday, November 20, 1987 at 2:30 pm.

Location: Library of the Administrative Conference, 2120 L Street, NW., Suite 500, Washington, DC.

Public Participation: The committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meetings. The committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meetings. Minutes of the meetings will be available on request.

FOR FURTHER INFORMATION CONTACT: Brian C. Murphy, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone (202) 254-7065.

Dated: October 20, 1987.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 87-24544 Filed 10-22-87; 8:45 am]

BILLING CODE 6110-01-M

The Discretionary Function Exception to the Federal Tort Claims Act

AGENCY: Administrative Conference of the United States.

ACTION: Notice of inquiry.

SUMMARY: The Administrative Conference's Committee on Governmental Processes is studying federal agency experience in use of the discretionary function exception to the Federal Tort Claims Act. Comments are sought on whether there are problems in the implementation of the exception and whether statutory changes are needed. Comments are also invited on a draft report available from the Conference.

DATE: Comments are due by November 16, 1987.

ADDRESS: Send comments to David M. Pritzker, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: David M. Pritzker, 202-254-7065.

SUPPLEMENTARY INFORMATION: The Administrative Conference's Committee on Governmental Processes has under consideration a draft report on the so-called "discretionary function exception" to the Federal Tort Claims Act (FTCA). The draft report was written by Professor Ronald A. Cass of the Boston University School of Law. The committee will consider formulating recommendations concerning this subject, and desires to obtain further information from federal agencies and from other interested persons.

Since its passage in 1947, one provision in the FTCA, 60 Stat. 812, has been a continuing source of controversy. The discretionary function exception amends the jurisdictional grant in the FTCA, codified at 28 U.S.C. 1346(b) (1982), by making the Act's waiver of sovereign immunity inapplicable to "[a]ny claim * * * based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty * * * whether or not the discretion involved [was] abused." 28 U.S.C. 2680(a) (1982).

Interpretation of this exception to jurisdiction over tort claims against the United States has critical importance for the scope of federal government exposure to liability. Over the forty years that the FTCA has been in effect, the quoted language has been subject to varying interpretations, and the Supreme Court has offered a number of differing tests for applying the exception. The result is a lack of clarity and a multiplicity of lower court litigation over its meaning.

While the legislative history of the exception provides only indirect guidance as to the intended meaning, it appears that Congress was concerned with the potential for overly cautious behavior on the part of government employees if tort liability were a perceived result of administrative or regulatory activity.

The committee is considering whether to recommend that Congress amend the FTCA to clarify congressional intent with respect to the scope of the exception, or whether other possible recommendations would be useful. To assist the committee, it would be helpful to receive comments from interested persons or organizations with respect to the following questions:

- Is there a problem with the discretionary function exception of the FTCA, as currently interpreted by the courts? Do the results appear to differ from what Congress intended?
- Are statutory changed needed in the discretionary function exception to clarify congressional intent or to make the results more consistent or satisfactory from a public policy perspective? If so, what specific clarifying changes would be helpful?

The committee also invites comments on Professor Cass' draft report. Copies are available from the Office of the Chairman of the Administrative Conference.

The committee plans to discuss this subject in the light of any comments that may be received at its meeting on Monday, November 30. This meeting will take place at the office of Covington & Burling, 1201 Pennsylvania Avenue NW., Washington, DC (11th floor conference room). Please notify the contact person by November 25 if you wish to attend. At that time, the committee will decide whether to formulate any recommendations for consideration by the Administrative Conference at its Plenary Session scheduled for December 17 and 18, 1987.

Dated: October 21, 1987.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 87-24750 Filed 10-22-87; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Cooperative Forestry Research Advisory Council; Meeting

According to the Federal Advisory Committee Act of October 6, 1987, (Pub. L. 92-463, 86 Stat. 770-776) U.S. Department of Agriculture announces the following meeting:

Name: Cooperative Forestry Research Advisory Council
Date: December 9-10, 1987
Time: 9:00 a.m.-5:00 p.m.
Place: Department of Agriculture, Room 107-A, Administration Building, Washington, DC

Type of meeting: Open to public. Persons may participate in the meeting if time and space permit.

Comments: The public may file written comments before or after the meeting by contacting the person below.

Purpose: The council will be deliberating the McIntire-Stennis Forestry Research program with particular emphasis on forestry research planning, annual distribution of funds, and administration of McIntire-Stennis Cooperative Forestry Research program.

Contact person for agenda and more information: Dr. Boyd W. Post, Cooperative State Research Service, Room 123, Justin Smith Morrill Building, U.S. Department of Agriculture, Washington, DC 20251; telephone (202) 447-2016.

Dated: October 9, 1987.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 87-24606 Filed 10-22-87; 8:45 am]

BILLING CODE 3410-22-M

National Agricultural Statistics Service

Livestock Program Changes

Notice is hereby given that the National Agricultural Statistics Service (NASS) plans to change the livestock estimating program beginning in 1988.

The reference date of the midyear *Cattle* report will be moved from June 1 to July 1. The report had a reference date of July 1 prior to 1987. The July 1988 report will contain U.S. inventory of all cattle and calves by classes and expected calf crop.

Comments from interested parties regarding this action should be sent to William L. Pratt, Chief, Livestock, Dairy and Poultry Branch, Estimates Division, Room 5906-S, NASS/USDA, Washington, DC 20250.

Dated: October 20, 1987.

Charles E. Caudill,

Administrator.

[FR Doc. 87-24611 Filed 10-22-87; 8:45 am]

BILLING CODE 3410-20-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 5-87]

Proposed Foreign-Trade Zone; San Diego, CA; Amendment of Application

Notice is hereby given that the application submitted by the City of Diego, California, requesting authority to establish a general-purpose foreign-trade zone in the Otay Mesa Planning Area of San Diego (52 FR 20634, 6-2-87) has been amended to include the 312-acre De La Fuente Business Park, located within the planning area. It is situated at Airway and Media Roads and is owned by Border Business Park, Inc. The application, as discussed during the July 1, 1987, public hearing, remains otherwise unchanged.

The comments period is reopened until November 30, 1987.

The application and amendment material are available for public inspection at the following locations:

U.S. Dept. of Commerce District Office, 6363 Greenwich Drive, San Diego, CA 92122
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Dept. of Commerce, Rm. 1529, 14th and Pennsylvania NW., Washington, DC 20230

Dated: October 14, 1987.

[FR Doc. 87-24541 Filed 10-22-87; 8:45 am]

BILLING CODE: 3510-DS-M

[Docket No. 21-87]

Proposed Foreign-Trade Zone; Greater Baton Rouge, LA; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the greater Baton Rouge Port Commission, an agency of the State of Louisiana, requesting authority to establish a general-purpose foreign-trade zone in the Baton Rouge area, within the Baton Rouge Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 13, 1987. The Port Commission is authorized to make the proposal under Title 51, Section 62, of the Louisiana Revised Statutes of 1950.

The proposal will involve 4 sites totaling 2,674 acres. Site 1 will consist of 16 acres within the Port's terminal area, located on Ernest Wilson Drive, just inside the south city limits of the City of Port Allen. Site 2 (2 parcels) is a 244-acre tract of light industrial land in East Baton Rouge Parish, known as the Industriplex Park, owned by Baton Rouge Industriplex, Inc., and Industriplex Park Subdivision, Inc. Site 3, owned by Sun Plus Development, Inc., comprises 580 acres at the Sun Plus Industrial Park located on Louisiana Highway 1, Port Allen. Site 4 is an 1,834-acre integrated petrochemical complex, owned by Dow Chemical, U.S.A., on Louisiana Highway 1, one mile north of the City of Plaquemine, within the Parishes of West Baton Rouge and Iberville.

The application contains evidence of the need for zone services in the Baton Rouge area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of agricultural products, chemicals, ceramic tile and marble and electrical wire and cable. Specific manufacturing approvals are not being sought at this time. Requests will be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr., (Chairman) Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Joel Mish, District Director, U.S. Customs Service, South Central Region, 423 Canal Street, New Orleans, Louisiana 70130; and Colonel Lloyd K. Brown, District Engineer, U.S. Army Engineer District New Orleans, P.O. Box 60267, New Orleans, Louisiana 70160-0267.

As part of its investigation, the examiners committee will hold a public hearing on December 3, 1987, beginning at 9 a.m., in Room 101, West Baton Rouge Police Jury Building, 880 North Alexander Avenue, Room 101, Port Allen, Louisiana 70767.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify

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the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by November 25. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through January 15, 1988.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Area/Port Director's Office, U.S. Customs Service, Hoover Building, Suite 218B, 8312 Florida Boulevard, Baton Rouge, Louisiana 70806

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: October 16, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87-24542 Filed 10-22-87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held November 10, 1987 at 9:30 a.m., Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to computer peripherals and related test equipment or technology.

Agenda:

General Session:

1. Introduction of Members and Visitors.
2. Presentation of Papers or Comments by the Public.
3. ICOT Proposal on 1565.
4. Discussion on Status of Rule-Making.
5. Discussion on Unilateral Controls.
6. Flow Chart Presentation on Technical Data Part 379.
7. Graphic Display Presentation by Tektronix Corporation.
8. Presentation on Recording Media Manufacturing by Mountain Computer Company.
9. Status of New Decontrol Parameters.
10. Discussion of Various Regulatory Interpretations.

Executive Session:

11. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 30, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce. For further information or copies of the minutes call Ruth D. Fitts, 202-377-4959.

Date: October 20, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 87-24605 Filed 10-22-87; 8:45 am]

BILLING CODE 3510-DT-M

Materials Technical Advisory Committee; Partially Closed Meeting

A meeting of the Materials Technical Advisory Committee will be held November 18, 1987 at 9:30 a.m., Herbert C. Hoover Building, Room 1092, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to materials or technology.

Agenda: General Session

1. Opening Remarks by the Chairman.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the Public.
4. Report on New Committee Members.
5. Summary of Committee Chairman's Meeting.
6. Comments on Materials for Superconductors.
7. Discussion on Ceramic, Ceramic Composites, their Constituents, Availability, and Commercial Status.
8. Controls on Advanced Metals Powders.
9. Review of Commodity Control List and Priorities.
10. Committee Plans for 1988.

Executive Session:

11. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on May 13, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217. For further information or copies of the minutes call Ruth D. Fitts, 202-377-2583.

Date: October 19, 1987.

Margaret A Cornejo,

Director, Technical Support Staff, Office of Technology and Policy.

[FR Doc. 87-24606 Filed 10-22-87; 8:45 am]

BILLING CODE 3510-DT-M

Transportation and Related Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held November 5, 1987 at 9:30 a.m., Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue NW., Washington, DC.

The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

General Session

1. Opening Remarks by the Chairman.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the Public.
4. Discussion of Parts of Sections 5, 10, 12, and 15 of the MCTL.
5. New Business.

Executive Session

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 30, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes call Ruth D. Fitts, 202-377-4959.

Date: October 19, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 87-24540 Filed 10-22-87; 8:45 am]

BILLING CODE 3510-DT-M

Minority Business Development Agency

Business Development Center Program Applications; Hawaii

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 12 months is estimated at $628,118 for the project performance period of March 1, 1988 to February 28, 1989. The MBDC will operate in the Honolulu Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $533,900 in Federal funds and a minimum of $94,218 in non-Federal funds (which can be a combination of cash, in-kind contributions and fees for services).

The I.D. Number for this project will be 09-10-88003-01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Departmentof Commerce, 221 Main Street, Room 1280, San Francisco, California 94105.

November 6, 1987 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 221 Main Street, Room 1280, San Francisco, California 94105, 415/974-9597.

Closing date: The closing date for applications is November 30, 1987. Applications must be postmarked by midnight November 30, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Xavier Mena,

Regional Director, San Francisco Regional Office.

October 16, 1987.

11.800 Minority Business Development (catalog of Federal Domestic Assistance)

[FR Doc. 87-24556 Filed 10-22-87; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Sea Grant Review Panel Meeting

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The meeting has several purposes. Panel members will start work

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on reports prepared by subcommittees on the National Office, Law and Policy, and Recertifications. They will hear from the Council of Sea Grant Directors and the Director of the National Sea Grant College Program on the reauthorization bill, and also from the National Association of State Universities and Land Grant Colleges Marine Division. There will also be presentations by Sea Grant technical staff concerning the Social Science and Marine policy Office and the Oceanic and Atmospheric Research Office of Climatic and Atmospheric Research.

DATE: The announced meeting is scheduled during three days: November 8, 9, and 10, 1987, as follows: November 8, 1987, 3:00–4:30 p.m.; November 9, 1987, 8:30–11:30 a.m., and 1:00–5:30 p.m.; and November 10, 1987, 10:00–12:00 noon.

ADDRESS: The meeting will be held November 8, 1987 at:

J.W. Marriott, Longworth Room, 1331 Pennsylvania Avenue NW., Washington, DC 20004

and

November 9th and 10th at: The National Assoc. of State Universities & Land, Grant Colleges Conferences Room, Room 710, One Dupont Circle NW., Washington, DC 20036

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Shephard, National Sea Grant College Program, R/SEL, 6010 Executive Boulevard, Room 826, Rockville, Maryland 20852 (301) 443–8886.

SUPPLEMENTARY INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in 1976 by section 209 of the Sea Grant Improvement Act (Pub. L. 94–461, 33 U.S.C. 1128) and advises the Secretary of Commerce, Under Secretary, NOAA, and the Dirctor of the National Sea College Program with respect to operations under the act, and such other matters as the Secretray refers to the Panel for review and advice.

The agenda for the meeting is:

Sunday, November 8, 1987

3:00–4:30 p.m.

A. Meeting with NSGCP office staff and Council of Sea Grant Directors re: reauthorization bill.

Monday, November 9, 1987

8:30–11:00 a.m.

B. Presentation and discussion of the subcommittee reports.

1:00–3:30 p.m.

C. Continuation of discussion and presentations by Sea Grant Office of Social Science and Marine Policy, and OAR's Office of Climatic Research.

3:30–5:30 p.m.

D. Meeting with new NOAA/DOC leadership.

Tuesday, November 10, 1987

10:00–12:00 noon

E. Planning for future activites and next meeting.

The meeting will be open to the public.

Date: October 20, 1987.

Alan E. Thomas,

Deputy Assistant Administrator.

[FR Doc. 87–24547 Filed 10–22–87; 8:45 am]

BILLING CODE 3510–12–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Restraint Limit for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Burma

October 20, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 26, 1987. For further information contact Kimbang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to cancel the existing twelve-month restraint limit for Category 340/640 and to establish a new limit for Category 340/341/640/641/840 for the period January 1, 1987 through December 31, 1987.

Background

A CITA directive dated May 20, 1987 (52 FR 19562) established a limit for cotton and man-made fiber textile products in Category 340/640, produced or manufactured in Burma and exported during the twelve-month period which began on January 30, 1987 and extends through January 29, 1988.

During consultations held July 15 and 16, 1987 between the Governments of the United States and the Socialist Republic of the Union of Burma, agreement was reached to establish a new bilateral agreement concerning the trade in cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Burma and exported during the period January 1, 1987 through December 31, 1990. The new agreement establishes a specific limit for cotton, man-made fiber, silk blend and other vegetable fibe textiles and textile products in Category 340/341/640/641/840, produced or manufactured in Burma and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Fedral Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated (1987).*

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee For The Implementation of Textile Agreements

October 20, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directive issued to you on May 20, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products in Category 340/640, produced or manufactured in Burma and exported during the twelve-month period which began on January 30, 1987 and extends through January 29, 1988.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated August 25, 1987 and September 11, 1987, between the Governments of the United States and the Socialist Republic of the Union of Burma; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 26, 1987, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following category, produced or manufactured in Burma and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Category	12-mo limit [1]
340/341/640/641/840	250,000 dozen of which not more than 200,000 dozen shall be in Category 340/640.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1986.

Also effective on October 26, 1987, you are directed to charge the following amounts to the limit established in this directive for Category 340/341/640/641/840. These charges are for goods imported during the period which began on January 1, 1987 through August 31, 1987.

Category	Amount to be charged
340	50,235 dozen.
341	
640	55,071 dozen.
641	
840	

In carrying out this directive, entries of textile products in the foregoing category, produced or manufactured in Burma and exported before January 1, 1987 shall not be subject to this directive.

The limit is subject to adjustment in the future pursuant to the provisions of the bilateral textile agreement, which provide, in part, that: (1) growth of 6 percent shall be available in each future year through 1990. Carryover of 11 percent and carryforward of 6 percent shall be available, with the combination of carryover and carryforward not to exceed 11 percent; (2) no carryfoward shall be available in the last agreement year.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to rulemaking provisions of 5 U.S.C. 553(a)(1)

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–24585 Filed 10–22–87; 8:45 am]

BILLING CODE 3510–DR–M

Import Limit for Certain Cotton, Wool, and Man-Made Fiber Sweaters Assembled in Guam From Imported Parts, Effective November 1, 1987

October 20, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 2, 1987. For further information contact Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to establish a restraint limit for sweaters in Categories 345, 445, 446, 645 and 646 which are assembled in Guam and exported during the twelve-month period which begins on November 1, 1987 and extends through October 31, 1988.

Background

On October 31, 1986, a notice was published in the **Federal Register** (51 FR 39782) announcing that, effective on November 1, 1986, cotton, wool and man-made fiber sweaters in Categories 345, 445, 446, 645 and 646, determined by the U.S. Customs Service to be products of foreign countries or foreign territories and exported from the U.S. insular possession of Guam and certified to have been assembled in Guam, may be entered into the United States for consumption, or withdrawn from warehouse for consumption, in an amount not to exceed 163,216 dozen. This limited exception was to be effective for sweaters exported from Guam during the period which began on November 1, 1986 and extends through October 31, 1987.

The purpose of this notice is to advise the public that this exception is being continued for goods exported on and after November 1, 1987 and extending through October 31, 1988. The amount is being increased to 169,745 dozen.

A certification will continue to be required and will be issued by the authorities in Guam prior to exportation as verification of assembly in Guam. A fascimile of the certification stamp was published in the **Federal Register** on March 4, 1985 (50 FR 8649).

For those sweaters properly certified, no export visa of license will be required from the country of origin of the merchandise, and imports entered under this procedure will not be charged to limits established for exports form the country of origin. Exports of sweaters in Categories 345, 445, 446, 645 and 646, which are not accompanied by a certification and those in excess of 169,745 dozen, will require the appropriate visa or export license from the country of origin and will be subject to any other applicable restriction.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29,1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated (1987).*

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 20, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, effective on November 2, 1987, you are directed to permit entry or withdrawal from warehouse for consumption in the United States of 169,745 dozen cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645, and 646, the product of any foreign

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country or foreign territory, as determined under Customs Regulation Part 12, Section 12.130 and which have been certified as assembled in Guam and exported to the United States during the twelve-month period beginning on November 1, 1987 and extending through October 31, 1988. You are directed not to require any otherwise applicable export visa or license and not to charge against any otherwise applicable import restriction sweaters subject to this provision. A certification will be issued by the authorities in Guam prior to exportation as verification of assembly in Guam. A facsimile of the certification stamp has been provided.

Imports of cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646 assembled in Guam, but not of Guam origin, which are not accompanied by a certification and those in excess of 169,745 dozen exported during the twelve-month period beginning on November 1, 1987 and extending through October 31, 1988 will require the appropriate visa or export license from the country of origin and will be charged to any applicable quota.

The Committee for the Implementation of Textile Agreements has determined that the action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-24586 Filed 10-22-87; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1987 commodities and a services produced or provided by workshops for the blind or other severely handicapped.

DATE: Comments must be received on or before November 23, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1987, November 3, 1986 (51 FR 39945).

Commodities

Cover, Cushion Assembly

2540-01-245-2524
2540-01-245-2525
2540-01-245-2526
2540-01-245-6212

Panel Marker, Aerial Liaison

8345-00-174-6865

Services

Commissary Shelf Stocking

Custodial and Warehouse Service, Kirtland Air Force Base, NM
Commissary Warehouse Service, Maxwell Air Force Base, AL

C.W. Fletcher,

Executive Director.

[FR Doc. 87-24603 Filed 10-22-87; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1987; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletion from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1987 a commodity and services provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 23, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On May 22, 1987 and August 10, 1987 the Committee for Purchase for the Blind and Other Severely Handicapped published notices (52 FR 19376 and 29564) of proposed additions to and deletion from Procurement List 1987, November 3, 1986 (51 FR 39945).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodity and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46 through 48c, 85 Stat. 77 and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

(a) The action will not result in any additional reporting, recordkeeping or other compliance requirements.

(b) The action will not have a serious economic impact on any contractors for the commodity and services listed.

(c) The action will result in authorizing small entities to produce the commodity and provide the service procured by the Government.

Accordingly, the following commodity and service are hereby added to Procurement List 1987:

Commodity

Sewing Kit

8315-01-222-0679

Service

Janitorial/Custodial

John F. Kennedy Federal Building, Low Rise, Boston, MA

Deletion

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46 through 48c, 85 Stat. 77 and 41 CFR 51-2.6.

Accordingly, the following service is hereby deleted from the Procurement List 1987: Commissary Shelf Stocking and Custodial Service, Randolph Air Force Base, TX.

C.W. Fletcher,

Executive Director.

[FR Doc. 87-24604 Filed 10-22-87; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, November 3, 1987; Tuesday, November 10, 1987; Tuesday, November 17, 1987; and Tuesday, November 24, 1987 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-382. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Thomas J. Condon,

Acting Division Chief, Directives Division.

[FR Doc. 87-24600 Filed 10-22-87; 8:45 am]

BILLING CODE 3810-01-M

Organization of the Joint Chiefs of Staff; Joint Strategic Target Planning Staff (JSTPS), Scientific Advisory Group; Closed Meeting

AGENCY: Joint Strategic Target Planning Staff, DOD.

ACTION: Notice of closed meeting.

SUMMARY: The Director, Joint Strategic Target Planning Staff has scheduled a closed meeting of the Scientific Advisory Group.

DATE: The meeting will be held on 18 and 19 November 1987.

ADDRESS: The meeting will be held at Offutt AFB, Nebraska.

FOR FURTHER INFORMATION CONTACT: The Joint Strategic Target Planning Staff, Scientific Advisory Group, Offutt AFB, Nebraska 68113.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss strategic issues which relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified Top Secret in accordance with Executive Order 12356, 2 April 1982. Access to this information must be strictly limited to personnel having requisite security clearances and specific need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense. Accordingly, the meeting will be closed in accordance with 5 U.S.C. 552b(c)(1).

Thomas J. Condon,

Acting Division Chief, Directives Division.

[FR Doc. 87-24601 Filed 10-22-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

National Energy Extension Service Advisory Board; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463), 86 Stat. 770), notice is hereby given of the following advisory committee meeting.

Name: National Energy Extension Service Advisory Board.

Date and Time: Thursday, November 19, 1987; 8:00 a.m.-5:00 p.m.; Friday, November 20, 1987; 8:00 a.m.-12:00 Noon.

Place: Omni Georgetown Hotel, 2121 P Street, NW., Washington, DC 20037.

Contact: Susan D. Heard, Department of Energy, Forrestal Building—6A081, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: 202-586-8290.

Purpose of the Board: The Board was established to carry on a continuing review of the National Energy Extension Service and the plans and activities of each State in implementing Energy Extension Service programs. Additionally, the Board is responsible for reporting on an annual basis to the Congress, the Secretary of Energy, and the Director of the Energy Extension Service.

Tentative Agenda: November 19, 1987.

- Overview of EES Programs.
- Briefings on Energy Extension Service Programs by Board members.
- Public Comment (10 minute rule)

November 20, 1987.

- Issues for Ninth Annual Report.
- Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make real statements pertaining to agenda items should contact Susan D. Heard at 202-586-8290. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday thru Friday, except Federal holidays.

Issued at Washington, DC, on October 20, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87-24630 Filed 10-22-87; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Proposed Consent Order With Ball Marketing, Inc., Charles Goss, Baker R. Littlefield, and Robert L. McAdams

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Economic Regulatory Administration ("ERA") announces a proposed Consent Order between the Department of Energy ("DOE") and Ball Marketing, Inc. ("BMI"), Charles Goss, Baker R. Littlefield, and Robert L. McAdams (collectively "Respondents"). This Consent Order would resolve Respondents' potential liability for DOE regulatory violations during the period August 17, 1973 through January 27, 1981. An enforcement proceeding against BMI was commenced on November 24, 1984, by issuance of a Proposed Remedial Order ("PRO") which alleged that the firm had overcharged by $570,728.38 in crude oil resales during the period January 1974, through March 1976. Respondents have disputed ERA's audit findings and deny any overcharge liability.

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EPA proposes that Respondents' liability for potential overcharges and interest be settled by payment of $700,000.00 over a period of three years, plus interest on deferred payments. This proposed settlement reflects negotiated compromises present in every settlement, including assessments of litigation risks in significant areas of dispute between ERA and Respondents. ERA will direct that these monies be deposited in a suitable account for appropriate distribution by DOE.

Pursuant to 10 CFR 205.199J, ERA will receive written comments on the proposed Order for thirty (30) days following publication of this Notice. Comments should be addressed to: Ball Marketing Consent Order Comments, RG–30, Economic Regulatory Administration, 1000 Independence Avenue SW., Washington, DC 20585.

ERA will consider the comments received from the public in determining whether to make final the proposed settlement. This will result in one of the following courses of action: rejection of the settlement; acceptance of the settlement and issuance of a final Consent Order; or renegotiation of the agreement and, if successful, issuance of the modified agreement as a final Consent Order. DOE's final decision will be published in the **Federal Register**, along with an analysis of and response to the significant written oral comments, aw well as any other considerations that were relevant to the decision.

FOR FURTHER INFORMATION CONTACT:
Noah S. Baer, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4432.

SUPPLEMENTARY INFORMATION: BMI is a crude oil reseller subject to the audit jurisdiction of ERA to determine compliance with the federal petroleum price regulations at 10 CFR Part 212. The firm's first resale of crude oil, which occurred in January 1974, was made in the name of Ball Marketing Enterprise ("BME"), a partnership which was the predecessor of BMI. After audit, the ERA concluded that BME/BMI overcharged in the resale of crude oil in the Louisiana-Texas area during the period January 1974 through March 1976, in violation of the DOE regulation found at 10 CFR Part 212, Subpart F.

As noted, ERA issued a PRO to BMI on November 24, 1984. ERA subsequently moved, in PRO proceedings before DOE's Office of Hearings and Appeals, to join as parties also liable for the overcharges the individuals who were the general partners in BME and the owners of its corporate successor, BMI. These individuals, Messrs. Goss, Littlefield, and McAdams, were subsequently joined as parties jointly and severally liable with BMI in their individual capacities for the overcharges alleged in the PRO. *Ball Marketing*, Inc., 15 DOE ¶83,031 (1987).

ERA has preliminarily agreed to the settlement amount after assessing the litigation risks associated with establishing the audit findings in litigation, and considering the asserted facts and appropriate settlement compromises related to those issues.

In addition to the analysis of potential litigation risks, ERA took into account such factors as the interest which could be added to possible adjudicated refund amounts, the legal and factual issues, and the time and expense required for the government to fully litigate every issue. Based on all of these considerations, ERA has tentatively concluded that the resolution of these matters for $700,000.00, plus interest, is an appropriate settlement. Given all these factors, ERA has made a preliminary determination that this settlement is in the public interest.

The settlement calls for Respondents to make payment of $175,000 on December 1, 1987, with three further annual payments of $175,000 (plus interest on unpaid balances accruing after December 1, 1987) on December 1 of 1988, 1989 and 1990, in full discharge of all of Respondents' obligations under the DOE price and allocation regulations. The restitutionary sum would be paid to DOE for ultimate distribution pursuant to the Special Refund Procedures set forth in 10 CFR Part 205, Subpart V, and the DOE's Modified Statement of Restitutionary Policy as set forth at 51 FR 27899 (Aug. 4, 1986).

Submission of Written Comments

The proposed Consent Order cannot be made effective until the conclusion of the public review process, of which this Notice is a part.

Interested persons are invited to submit written comments concerning this proposed Consent Order to the address noted above. All comments received by the thirtieth day following publication of this Notice in the **Federal Register** will be considered before determining whether to adopt the proposed Consent Order as a final Order. Any modifications of the proposed Consent Order which significantly alter its terms or impact will be published for additional comment. If, after considering the comments it has received, ERA determines to issue the proposed Consent Order as a final Order, the proposed Order will be made final and effective by publication of a Notice in the **Federal Register**.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the provisions of 10 CFR 205.9(f).

Issued in Washington, DC, on October 16, 1987.

Milton C. Lorenz,
Special Counsel, Economic Regulatory Administration.

[FR Doc. 87–24548 Filed 10–22–87; 8:45 am]
BILLING CODE 6450–01–M

[ERA Docket No. 87–52–NG]

Windward Energy & Marketing Co.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on September 25, 1987, of an application filed by Windward Energy & Marketing Company (Windward Energy) for blanket authorization to import up to 450 Bcf from date of first delivery until January 1, 1993. Windward Energy, an Oklahoma Corporation located in Tulsa, Oklahoma, would primarily import gas for California industrial users, but also for its own account or act as a broker for other U.S. purchasers as well as Canadian suppliers. The specific terms of each import sale including price and volume would be negotiated monthly or quarterly and interruptible deliveries to the various end-users would be based on monthly nominations. Volumes and transportation costs would be flexible due to capacity limitations on Pacific Gas Transmission's (PGT) system. Windward Energy intends to utilize existing pipeline facilities for transportation of the volumes imported.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than November 23, 1987.

FOR FURTHER INFORMATION CONTACT:
Tom Dukes, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9590
Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that the ERA may limit term of any blanket authority granted in this docket and may proportionately reduce the volumes. Further, the ERA will condition the authorization on the filing of quarterly reports to facilitate ERA monitoring of the operation and effectiveness of the blanket program. Windward Energy has requested that its authorization be granted on an expedited basis.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.d.t., November 23, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Windward Energy's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 19, 1987.

Constance L. Buckley,
Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–24550 Filed 10–22–87; 8:45 am]
BILLING CODE 6450–01–M

[ERA Docket No. 87–41–NG]

Goetz Oil Co.; Order Granting Blanket Authorization to Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Goetz Oil Company (Goetz) blanket authorization to import natural gas. The order issued in ERA Docket No. 87–41–NG authorizes Goetz to import up to 140 Bcf of natural gas over two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 19, 1987.

Constance L. Buckley,
Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–24549 Filed 10–22–87; 8:45 am]
BILLING CODE 6450–01–M

Office of Energy Research

Health and Environmental Research Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Health and Environmental Research Advisory Committee (HERAC).

Date and time: November 23, 1987–9:00 a.m.–5:00 p.m., November 24, 1987–9:00 a.m.–12:00 noon.

Place: Conference Room A–410 U.S. Department of Energy, Germantown, Maryland 20545.

Contact: George G. Duda, Office of Health and Environmental Research (ER–72), Office of Energy Research, Department of Energy, Washington, D.C. 20545, Telephone: 301/353–3651.

Purpose of the committee: To provide advice on a continuing basis to the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Health and Environmental Research (HER) program.

Tentative agenda: Briefings and discussions of:

November 23, 1987

- Report from HERAC Subcommittee on Radiation Biology.

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• Report from HERAC Subcommittee on Biotechnology.
• Public comment (10 minute rule).

November 24, 1987

• New Business Discussion.
• Public comment (10 minute rule).

Public participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact George G. Duda at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC., on October 16, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87-24031 Filed 10-22-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER88-28-000, et al.]

Arizona Public Service Co., et al.; Electric Rate and Corporate Regulation Filings

October 19, 1987.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER88-28-000]

Take notice that on October 14, 1987, Arizona Public Service Company (APS) tendered for filing separate Wheeling and Administrative Service Agreements and Wholesale Power Agreements between APS and Harquahala Valley Power District and Buckeye Water Conservation and Drainage District ("Harquahala" and "Buckeye" respectively, "Districts" collectively).

These new Agreements provides for APS to wheel the Districts preference power allocations from various governmental agencies at a rate level already accepted by the Commission for similar type service. The Wholesale Power Agreements provide for partial requirements service at a rate level already accepted by the Commission for similar service.

APS, with the concurrence of Harquahala, requests a waiver of the Commission's Notice Requirements so that service to Harquahala may begin October 10, 1987.

Copies of this filing have been sent to Harquahala, Buckeye, Harquahala and Buckeye's attorney's, Harquahala's consultant, and the Arizona Corporation Commission.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Arkansas Power & Light Company

[Docket No. ER87-568-000]

Take notice that on October 9, 1987, Arkansas Power & Light Company (AP&L) tendered for filing pursuant to Commission deficiency letter dated September 10, 1987 a compliance filing reflecting proposed rates of a 34% federal income tax rate for the months of September through December 1987.

AP&L requests that this filing be made effective as of September 1, 1987 in accordance with the provision of Rate Schedule M33 and M33A. To the extent necessary, AP&L requests that waiver of the Commission's notice requirements be granted.

Copies of the filing were served upon each person designated on the official service list in this proceeding.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Central Vermont Public Service Company

[Docket No. ER88-19-000]

Take notice that on October 8, 1987, Central Vermont Public Service Company (Central Vermont) tendered for filing an Actual Cost Report for 1986 Service Year Billings. In accordance with Article IV, Section A(2) of the agreement between Central Vermont and the Vermont Electric Generation and Transmission Cooperative, Inc. (VG&T) under which Central Vermont transmits the output of the VG&T's 4.0 MW hydroelectric generating facility located in North Hartland, Vermont via a 12.5 kV circuit owned and maintained by Central Vermont to Central Vermont's substation in Quechee, Vermont, Central Vermont submits the following:

Exhibit 1 Revenue Comparison setting forth the forecast and actual revenue for 1986.

Exhibit 2 Cost Report computing the forecast costs for 1986.

Exhibit 3 Cost Report computing the actual costs for 1986.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this document.

4. Indianapolis Power & Light Company

[Docket No. ER88-8-000]

Take notice that on October 2, 1987, Indianapolis Power & Light Company (IPL) tendered for filing a rate schedule in the form of Amendment No. 1, effective as of July 1, 1987, to the Agreement dated as of October 9, 1986 which sets forth the rates, charges, terms and conditions for wholesale electric service to Boone County Rural Electric Membership Corporation (Boone REMC) which is the only REMC IPL serves. The new Rate REMC attached to said Agreement No. 1 as Exhibit B thereto is intended to supersede and replace Rate REMC attached to said Agreement as Exhibit B thereto and which is designated Indianapolis Power & Light Company Rate Schedule FERC No. 21, as supplemented.

The only customer affected by the proposed new Rate REMC is Boone REMC, which has executed said Amendment No. 1 and has concurred in this filing.

IPL states that the structure of the new Rate REMC has not been changed from the present rate and that the only substantive change in the new rate is to decrease the monthly kilowatt demand charge to reflect the decrease in Federal corporate income tax resulting from the Tax Reform Act of 1986.

IPL further states that copies of this filing, together with exhibits, were sent to Boone REMC and to the Indiana Utility Regulatory Commission.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Kansas Power and Light Company

[Docket No. ER88-34-000]

Take notice that on October 13, 1987, Kansas Power and Light Company (KPL) tendered for filing proposed changes in its Schedules of Rates and Charges applicable to certain requirements and transmission service customers pursuant to the authority granted by the Commission's Order No. 475 in Docket No. RM87-4-000 and Part 35, Title 18, Chapter 1 of the Code of Federal Regulations. The proposed changes affect three (3) wholesale cooperative customers and thirty-eight (38) wholesale municipal customers of KPL located in the State of Kansas, as follows:

Wholesale cooperative customer	FERC rate schedule No.
1. Doniphan Electric Cooperative Assoc., Inc	220
2. Kaw Valley Electric Cooperative Company, Inc	218
3. Nemaha-Marshall Electric Cooperative Assoc., Inc	219

Wholesale full requirements municipal customer	FERC rate schedule No.
1. City of Scranton	212
2. City of Wathena	217
3. City of Muscotah	222
4. City of Severence	224
5. City of Altamont	225
6. City of Marion	228
7. City of Enterprise	230
8. City of Chapman	231
9. City of Eudora	236
10. City of DeSoto	232
11. City of Axtell	227
12. City of Robinson	233
13. City of Hillsboro	234
14. City of St. Marys	195
15. City of Vermillion	196
16. City of Alma	197
17. City of Centralia	198
18. City of Elwood	200
19. City of Troy	201
20. City of Toronto	203
21. City of Morrill	204
22. City of Horton	205
23. City of Lindsborg	207
24. City of Seneca	208
25. City of Waterville	210
26. City of Girard	238

Wholesale partial requirements municipal customer	FERC rate schedule No.
1. City of Clay Center	241
2. City of Wamego	194
3. City of Sabetha	235
4. City of Minneapolis	211
5. City of Sterling	237
6. City of Holton	226
7. City of Larned	240
8. City of Ellinwood	242
9. City of Stafford	243
10. City of Osage City	184
11. City of St. John	202
12. City of Herrington	209

KPL states that the purpose of the filing is to reflect the impact of the Tax Reform Act of 1986 on the rates filed using the method set out by the Commission in Order No. 475. The proposed effective date of the rate schedule change is July 1, 1987.

An abbreviated copy of the filing was served upon the affected customers, the Kansas Electric Power Cooperative and the State Corporation Commission of the States of Kansas.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Nantahala Power and Light Company

[Docket No. ER88-10-000]

Take notice that on October 6, 1987, Nantahala Power and Light Company tendered for filing revised schedule "PL" (COSAC) to reflect appropriately the change in rates resulting from the reduction of the federal income tax rate from 46% to 40%. Nantahala states that its customers are entitled to a refund for the rates paid between April and September 30, 1987. The amount of the refund is calculated on the revised COSAC, and Nantahala also states that it intends to credit the customers' October bills by the amount of the refund.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Company

[Docket No. ER88-21-000]

Take notice that on October 9, 1987, New England Power Company (NEP) tendered for filing an executed Agreement for Transmission of Firm Power (Agreement) between NEP and the Green Mountain Power Corporation (GMP). NEP states that the purpose of the Agreement is to provide GMP with transmission services to deliver firm power to Bozrah) Light and Power Company (Bozrah located in Gilman, Connecticut.

NEP requests waiver of the Commission's notice requirements so that the Agreement may become effective March 5, 1987, when power became available for transfer to Bozrah. As good cause for this request, NEP states that negotiations were not begun and completed in sufficient time prior to that date to file the Agreement with the Commission 60 days in advance of the proposed effective date. NEP further states that the press of other matters has delayed NEP's subsequent submission of the Agreement.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this document.

8. Niagara Mohawk Power Corporation

[Docket No. ER88-354-002]

Take notice that on October 13, 1987, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing pursuant to Commission Order dated September 28, 1987 its supplemental refund report. Niagara Mohawk states that the supplemental refund (principal and interest) of $30,322.27 was tendered to the Power Authority of the State of New York on October 9, 1987.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Northern States Power Company

[Docket No. EC87-23-000]

Take notice that on October 14, 1987, Northern States Power Company (NSP) tendered for filing an Application for Sale, Lease or Other Disposition, Merger or Consolidation of Facilities, or for Purchase or Acquisition of Securities of a Public Utility. The Application provides for the sale of substation facilities located in Chaska, Minnesota, to the City of Chaska.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Pacific Gas and Electric Company

[Docket No. ER88-20-000]

Take notice that on October 9, 1987, Pacific Gas and Electric Company (PGandE) tendered for filing a Capacity Account Repurchase Rate Settlement Agreement between PGandE and the Western Area Power Administration (Western) (Agreement), dated August 24, 1987.

The Agreement provides for the settlement of a billing dispute regarding the rates charged to Western for capacity purchased from its Capacity Account with PGandE; in addition, the Agreement provides for negotiated rates over the four-year term of the Agreement. The Agreement also provides a mechanism for the reconciliation of revenue collected at the negotiated rates consistent with the manner in which the California Public Utilities Commission permits recovery of costs of Diablo Canyon Nuclear Power Plant in retail rates.

Copies of this filing were served upon Western and the California Public Utilities Commission.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

11. Pacific Power & Light Company, an assumed business name of PacifiCorp

[Docket No. ER88-27-000]

Take notice that on October 14, 1987, Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, tendered for filing, in accordance with § 35.12 of the Commission's Regulation's, a Power Exchange Agreement dated June 10, 1987, between Pacific and the Sacramento Municipal Utility District (SMUD).

Pacific requests waiver of the Commission's Notice requirements to permit posting and filing of this rate schedule earlier than 120 days prior to the commencement of electric service which is January 1, 1990.

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Copies of this filing were supplied to the Public Utility Commission of the State of California, the Public Utility Commission of the State of Oregon, and SMUD.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Electric and Gas Company

[Docket No. ER88-23-000]

Take notice that on October 13, 1987, Public Service Electric and Gas Company (PSE&G) tendered for filing an initial Rate Schedule to provide transmission service to Bio-Energy Partners (Bio-Energy). The Rate Schedule provides for a monthly transmission service charge of $2.90 per kilowatt plus $.00076 per kilowatthour for the delivery of the net electric power output of Bio-Energy's qualifying landfill gas-fired facility to be located in the Township of Eastampton, Burlington County, New Jersey to Jersey Central Power and Light Company.

PSE&G requests, with the customer's consent, a waiver of the Notice Requirements of § 35.3(a) of the Commission's Regulations so that the Rate Schedule can be submitted for filing at this time and PSE&G further requests that the filing be made effective within sixty (60) days of the date of this filing.

PSE&G states that a copy of this filing has been served by mail upon the customer and the New Jersey Board of Public Utilities.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

13. Southwestern Electric Power Company

[Docket No. ER87-542-000]

Take notice that on October 13, 1987, Southwestern Electric Power Company (SWEPCO) tendered for filing, at the request of the Commission Staff, additional information with respect to proposed rates for transmission service to Arkansas Electric Cooperative Corporation (AECC).

Copies of the filing were served upon AECC and the Arkansas Public Service Commission.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

14. Union Electric Company

[Docket No. ER88-20-000]

Take notice that on October 13, 1987, Union Electric Company tendered for filing a Wholesale Electric Service Agreement, Transmission Service Agreement, and Transmission Service Transaction 1, each dated September 24, 1987, with the City of Marceline, Mo., providing for the sale of electric service and the transmittal of power and energy from other sources.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

15. Upper Peninsula Power Company

[Docket No. ER88-22-000]

Take notice that on October 9, 1987, Upper Peninsula Power Company (UPPCO) tendered for filing proposed changes in the rate schedules for service to the Alger-Delta Cooperative Electric Association, the Ontonagon County Rural Electrification Association, Village of Baraga, City of Escanaba, City of Gladstone, Village of L'Anse, City of Negaunee, and the Wisconsin Electric Power Company.

Based on the Period II test year ending December 31, 1983, when its rates for wholesale electric service were last changed, UPPCO states that the proposed rates would decrease revenues from sales to these customers by $100,678 (1.89%). UPPCO states that the rate decrease is necessary to comply with FERC Order No. 475 issued June 26, 1987, reflecting the decrease in the Federal Corporate income tax pursuant to the Tax Reform Act of 1986.

UPPCO proposes to make its rate change effective July 1, 1987. Copies of the filing were served upon UPPCO's affected jurisdictional customers, and the Michigan Public Service Commission.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

16. Washington Water Power Company

[Docket No. ER88-25-000]

Take notice that on October 13, 1987, Washington Water Power Company (Washington) tendered for filing copies of an Amendment to an exchange agreement with Puget Sound Power & Light Company (Puget) which provides for the exchange of steam-electric generation which, because of plant locations and load area locations, results in substantial savings in both transmission service cost and in transfer losses.

Washington is a 15% owner of the Centralia Steam-Electric Plant in western Washington near Puget's system load area. Puget is a 50% owner of Colstrip Units #1 and #2 and a 25% owner of Colstrip Units #3 and #4 in eastern Montana. The subject agreement provides for the exchange of Washington's Centralia capacity and energy for like amounts of Puget's Colstrip capacity and energy, which, because of the shortening of the transfer distances involved results in substantial savings in both transmission service costs and transfer losses. The savings resulting therefrom both in transmission costs and the transfer losses are shared equally by Washington and Puget under the terms of this agreement.

Comment date: November 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24619 Filed 10-22-87; 8:45 am]

BILLING CODE 6717-01-M

Hydroelectric Application Filed With the Commission

October 20, 1987.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. Type of Application: Major License (5 MW).

b. Project No.: 10332-000.

c. Date Filed: February 24, 1987.

d. Applicant: WV Hydro, Inc.

e. Name of Project: New Cumberland.

f. Location: On the Ohio River near New Cumberland, Hancock County, West Virginia and Jefferson County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: James B. Price, WV Hydro, Inc., 120 Calumet Ct., Aiken, SC 29801, (803) 642-2749.

i. FERC Contact: Michael Dees, (202) 376-9830.

j. Comment Date: December 3, 1987.

k. Competing Application: Project No. 6901-001, Date Filed: May 29, 1985.

l. Description of Project: The proposed project would utilize the existing Corps of Engineer's New Cumberland Dam and reservoir and would consist of: (1) A proposed prefabricated powerhouse 274 feet long, 70 feet wide and 104 feet high housing three hydropower units with a total capacity of approximately 55-MW; (2) a proposed tailrace 210 feet wide and 63 feet deep; (3) a proposed 138-kV transmission line 1,000 feet long; and (4) appurtenant facilities. The applicant estimates that the average annual energy generation would be 232 GWh, and proposes to sell the energy to Monongahela Power Company.

m. This notice also consists of the following standard paragraphs: A4, B, and C.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications, must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: Mr. William C. Wakefield II, Acting Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24620 Filed 10-22-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-17381-004, et al.]

Kerr-McGee Corp., et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates [1]

October 20, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protect with reference to said applications should on or before November 4, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-17381-004, D, Oct. 5, 1987	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125	Transcontinental Gas Pipe Line Corp., OCS 0346 #24 Well, Ship Shoal Block 28, Federal Offshore Louisiana	(1)	———
G-17381-003, D, Oct. 5, 1987	——do	OCS 0343 #1 Well, Ship Shoal Block 34, Federal Offshore Louisiana	(1)	———
G-17381-005, D, Oct. 5, 1987	——do	OCS 0336 #3 Well, Ship Shoal Block 33, Federal Offshore Louisiana	(1)	———
C88-14-000 (C167-459), B, Oct. 5, 1987	Union Texas Petroleum Corporation, P.O. Box 2120, Houston, Texas 77252-2120	Oxy Cities Service NGL Inc., South Bishop Field, Ellis County, Oklahoma	(2)	———
C88-15-000, (G-8123), B, Oct. 5, 1987	——do	El Paso Natural Gas Company, South Fullerton Gasoline Plant, Andrews County, Texas	(2)	———
C88-856-000, D, Oct. 5, 1987	Cabot Petroleum Corporation, P.O. Box 4544, Houston, Texas 77210-4544	Northern Natural Gas Company, Division of Enron Corp., Laverne Field, Beaver County, Oklahoma	(3)	———
C81-1271-000, C, Oct. 9, 1987	Phillips 66 Natural Gas Company, 980-G Plaza Office Bldg., Bartlesville, Okla. 74004	Williston Basin Interstate Pipeline Company, SE/SW Sec. 3-151N-90W, McKenzie County, North Dakota	(4)	———

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI86-16-000, F, Oct. 9, 1987.	Petro Oil Company (Succ. in Interest to Tenneco Oil Company, *et al.*), One Allen Center—Suite 1600, 500 Dallas Street, Houston, Texas 77002	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., South Marsh Island Block 252, Offshore Louisiana	(1)	.....
CI87-933-000, B, Sep. 28, 1987.	Viersen & Cochran c/o Hugh Robinson, P.O. Box 280, Okmulgee, Okla. 74447	ANR Pipeline Company, Epps #1 and #2 Wells, Harper County, Oklahoma	(1)	.....
CI87-903-000, B, Sep. 14, 1987.	Aladdin Petroleum Company c/o A.J. Warner, Jr., 809 Petroleum Bldg., 221 S. Broadway, Wichita, Kansas 67202	Dunaway No. 1 Well, Sec. 26-T27N-R25W, Harper County, Oklahoma	(1)	.....
CI88-7-000, B, Oct. 5, 1987.	Goldston Oil Corporation, P.O. Box 570365, Houston, Texas 77257-0365	El Paso Natural Gas Company, State "B" Com No. 1 Sec. 36-T24S-R30E, Custer Field, Lea County, New Mexico	(2)	.....
CI88-19-000, B, Oct. 8, 1987.	Carroll Resources, Inc., P.O. Box 129, Gassaway, W. Va. 26624	Consolidated Gas Transmission Corporation, Salt Lick District, Braxton West Virginia	(10)	.....

[1] Well has been plugged and abandoned and is awaiting removal of casing and structure.
[2] Well plugged and abandoned in January 1985. The lease dedicated to the contract expired in February 1985. Union Texas Petroleum Corporation no longer has an interest in the lease and well.
[3] Effective 10-1-86, Seller conveyed its interest in the South Fullerton Plant to Shell Western E&P Inc.
[4] All gas reserves from the Leon Allen #7 have been depleted to the extent that the continuance of gas service is unwarranted. This well was plugged and abandoned on 8-10-87.
[5] Applicant is filing for addition of acreage under Gas Sales Contract dated 12-4-80, amended by Letter Agreement dated 8-13-87.
[6] Effective 12-1-86, Applicant acquired a 25% working interest in South Marsh Island Block 252, Offshore Louisiana, OCS-G-2598 from Brooklyn-Union Exploration Company, Inc., as evidenced by Assignment executed 3-26-87. Brooklyn-Union acquired its interest in the same acreage pursuant to Farmout Agreement with Tenneco dated 8-9-86, as evidenced by Assignment dated 3-26-87.
[7] Applicant requests limited-term abandonment with pregranted abandonment through September 21, 1989. The purchaser cannot purchase the gas due to market constraints. Deliverability is 250 Mcf/d. The gas is NGPA section 104 minimum rate gas. Applicant intends to sell the released volumes to new purchasers.
[8] Applicant requests two-year limited-term abandonment with pregranted abandonment. The purchaser cannot purchase the gas due to market constraints. Deliverability is 1,200 Mcf/d. The gas is NGPA section 104 gas. Applicant intends to sell the released volumes to new purchasers.
[9] Applicant request permanent abandonment of sale to El Paso. The purchaser does not intend to take gas from the well in the future. The shut-in periods earlier in the year and any future shut-in will be without benefit of payments. Applicant requests pregranted abandonment for a period of three-years. Deliverability is approximately 7.5 Mcf/d. The well produces NGPA section 108(a) gas. Applicant proposes to sell gas in the spot market.
[10] No longer has a contract with Consolidated Gas Transmission Corporation. Now has a contract with Equitable Gas.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 87-24622 Filed 10-22-87; 8:45 am]

BILLING CODE 6717-01

[Docket Nos. CP88-10-000 et al.]

Tennessee Gas Pipeline Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP88-10-000]

October 19, 1987.

Take notice that on October 7, 1987, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P. P. Box 2511, Houston, Texas 77001, filed in Docket No. CP88-10-000 a request, pursuant to § 284.223 of the Commission's Regulations, for authorization to provide a transportation service for Masonite Corporation (Masonite), an end-user, under Applicant's blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement dated August 25, 1987, it proposes to transport natural gas for Masonite from a point of receipt (Big Sandy) located in Crawford County, Pennsylvania, to a delivery point at Towanda, Bradford County, Pennsylvania, an interconnection between Tennessee and Pennsylvania and Southern Gas Company, the downstream transporter.

The applicant further states that the maximum daily and annual quantities would be 4,300 dekatherms and 1,569,500 dekatherms, respectively. It is asserted that service under § 284.223(a) commenced September 1, 1987, as reported in Docket No. ST88-09.

Comment date: December 3, 1987, in accordance with Standard Paragraph G at the end of this notice.

2. ANR Pipeline Company, Northwest Pipeline Corporation

[Docket No. CP85-538-003 and Docket No. CP85-349-002]

October 20, 1987.

Take notice that on October 1, 1987, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243 and Northwest Pipeline Corporation (Northwest), P.O. Box 8900, Salt Lake City, Utah 84108-0900, jointly filed in Docket Nos. CP85-538-003 and CP85-349-002 a petition to amend further the order issued August 30, 1985, in Docket No. CP85-538-000, *et al.*, pursuant to section 7(c) of the Natural Gas Act so as to authorize changes in the level of firm service applicable to the transportation service provided to ANR by Northwest, a revised facility configuration, and the interruptible transportation service of natural gas by ANR on behalf of Northwest, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued August 30, 1985, in Docket Nos. CP85-538-000 and CP85-349-000 ANR and Northwest state they were authorized to construct and operate an 18 mile, 20-inch pipeline (the residue line) extending from Northwest's Opal processing plant to Exxon Company U.S.A.'s (Exxon) Shute Creek processing plant, all in Lincoln County, Wyoming. The order also states that Northwest would operate the residue line on behalf of itself and ANR, and would also be sole transporter for the residue line; however, it is indicated that ANR would maintain 100 percent capacity in the residue line. It is stated that Northwest was also authorized in said order to transport up to 115,000 MMBtu per day of natural gas which ANR purchases at the tailgate of Exxon's plant. It is further stated that Northwest would transport the gas through the jointly owned residue line for ANR's account and redeliver on a firm basis up to a total of 75,000 MMBtu per day to El Paso Natural Gas Company (El Paso) at Ignacio, Colorado (Ignacio delivery point) and up to 40,000 MMBtu per day to Colorado Interstate Gas Company (CIG) at Green River, Wyoming (Green River delivery point), pursuant to the terms of a January 23, 1985, gas transportation and exchange agreement (T&E Agreement). It is stated that the term of the T&E Agreement is for a primary term of 15 years from the date of initial delivery and from year-to-year thereafter unless cancelled by written notice.

Pursuant to the terms of amendments to the T&E Agreement dated July 10, 1986 and November 26, 1986, ANR and Northwest now propose to change the level of transportation service, firm and interruptible, which Northwest provides ANR. It is stated that Northwest would continue to transport for the account of ANR on a firm basis up to 75,000 MMBtu per day of natural gas for redelivery to the Ignacio delivery point and, in addition, transport up to 40,000 MMBtu per day for redelivery to the Ignacio delivery point on an interruptible basis. It is also stated that Northwest would transport up to 115,000 MMBtu per day to the Green River delivery point on an interruptible basis; however, the total authorization requested herein would not exceed 115,000 MMBtu per day including the firm and interruptible transportation service, it is asserted. It is stated that the proposed service would be for an amended term of three years and from year-to-year thereafter until cancelled upon 12 months prior written notice.

In addition, ANR now requests authorization to also be a transporter in the residue line. It is stated that pursuant to the terms of a June 27, 1986, gas transportation agreement, ANR proposes to transport up to 86,000 MMBtu per day of natural gas for the account of Northwest on an interruptible basis utilizing the residue line. It is explained that ANR would receive the gas from Northwest either at Northwest's Opal processing plant and redeliver thermally equivalent volumes at Exxon's Shute Creek plant or receive volumes of gas at the Shute Creek plant and redeliver thermally equivalent volumes at the Opal processing plant. It is stated that all redeliveries would be from the residue line. It is also stated that the direction of flow would be governed by the operation of Exxon's plant. It is explained that if the residue line gas is being delivered from the plant, ANR's redelivery point would be the Opal processing plant; however, if Exxon is not running the plant or requests emergency gas, it is stated that ANR's redelivery point would be the Shute Creek plant. The transportation agreement is also for a term of three years from year-to-year thereafter unless cancelled upon 12 months prior written notice, it is indicated.

It is maintained that for all volumes transported on a firm basis for ANR, Northwest would charge its firm off-system transportation rate consisting of a demand charge and a commodity charge. It is stated that such rates are $3.7536 per month per MMBtu of firm contract demand plus a commodity charge of 1.28 cents per MMBtu per billing mileage unit with fuel reimbursement of .50 percent of the volumes tendered for transportation. It is maintained that for all volumes transported on an interruptible basis for ANR, Northwest would charge its interruptible off-system transportation service rate, currently 5.46 cents per MMBtu per billing mileage unit with a fuel reimbursement of .50 percent of the volumes tendered for transportation. It is also maintained that such rates for firm and interruptible service are set forth on Sheet 2 of Northwest's presently effective FERC Gas Tariff, Original Volume No. 2.

It is asserted that ANR would charge Northwest an initial rate of 7.3 cents per MMBtu for all volumes transported on behalf of Northwest.

ANR and Northwest also requests authorization to conform the certificate issued August 30, 1985, in Docket No. CP85-538-003, *et al.*, to the facilities actually constructed and placed in operation. It is stated that the original certificate authorized a meter station to be installed at the outlet of Exxon's Shute Creek plant. It is stated that the meter station was actually installed at the terminus of the residue line near Northwest's Opal processing plant.

Comment date: November 10, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Sea Robin Pipeline Company

[Docket No. CP88-15-000]

October 20, 1987.

Take notice that on October 8, 1987, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77251-1478 pursuant to section 7(b) of the Natural Gas Act, as amended, filed in Docket No. CP88-15-000 an application for an Order authorizing abandonment of its existing 60 H.P. Compressor Unit, which is located on Platform 229-A, East Cameron Area, Offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sea Robin states that because of a diminished gas supply the compression facility proposed to be abandoned herein is no longer used or useful in the operation of Sea Robin's system, and the subject compressor has not been in service since October 1986.

Sea Robin estimates that the cost of removing the subject compressor unit would be $170,400. Sea Robin further estimates that the subject compressor unit would have a salvage value of $10,000.

Comment date: November 10, 1987, in accordance with Standard Paragraph F at the end of this notice.

4. Texas Gas Transmission Corporation

[Docket No. CP88-3-000]

October 20, 1987.

Take notice that on October 1, 1987, Texas Gas Transmission Corporation (Texas Gas), a Delaware corporation, whose mailing address is P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP88-3-000 an application pursuant to section 7(b) of the Natural Gas Act seeking authorization to abandon by removal two (2) Clark RAS-8 compressors and related facilities located at Texas Gas' Guthrie, Louisiana, Compressor Station. Texas Gas states that these compressors were designed to compress gas produced from the Monroe Field, Louisiana and these facilities were originally installed to facilitate the movement of natural gas purchased from reserves located in the Monroe Field. Texas Gas states that the volume of production in the field has fallen significantly in recent years, and is currently such that the compressors are no longer effective enough to elevate the pressure of the gas to a point where it can be injected into Texas Gas's pipeline system, all as more fully set forth in the application on file with the Commission and open for public inspection.

Texas Gas states that the two (2) Clark compressor engines, Engine Nos. 7 and 8, were acquired by Texas Gas as a result of the merger of Memphis Natural Gas Company and Kentucky Natural Gas Corporation into Texas Gas, which was approved by the Commission on February 12, 1948, in an order issued in Docket No. G-855. The Clark Engine No. 7 was originally placed into service in December 1940 and the Clark Engine No. 8 was originally placed into service in December 1943.

Texas Gas states that the two (2) compressor engines, each with a horsepower of 1,000 H.P., are no longer necessary for the operation of its system because of the increased efficiency provided by a new engine installed in 1985, designated as Engine No. 12. Engine No. 12 is a Waukesha 12-cylinder engine rated at 886 horsepower which was installed as a direct replacement for Engine No. 1, a 1,400 horsepower Worthington engine installed in February 1929. Texas Gas further states that Engine No. 12 is more than adequate to replace the traditional workload performed by Engines Nos. 7 and 8, which because of their age, require excessive and uneconomic maintenance.

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Comment date: November 10, 1987, in accordance with Standard Paragraph F at the end of this notice.

5. Williston Basin Interstate Pipeline Co.

[Docket No. CP88-1-000]

October 20, 1987.

Take notice that on October 1, 1987, Williston Basin Interstate Pipeline Company (Applicant), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP88-1-000 an abbreviated application pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving the abandonment of the authority to sell gas to Montana-Dakota Utilities Co. (Montana-Dakota), a Division of MDU Resources Group, Inc., and Wyoming Gas Company (Wyoming Gas) pursuant to Applicant's Rate Schedule I-1, and to terminate Rate Schedule I-1 as found in its FERC Gas Tariff, First Revised Volume No. 1, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its only customer currently receiving service under Rate Schedule I-1, Montana-Dakota, will serve its entire requirements pursuant to the terms of Applicant's Rate Schedule G-1. Applicant states further that a service agreement executed in 1986 also exists under Rate Schedule I-1 with Wyoming Gas, but has been inactive since May 1986 because Wyoming Gas no longer serves any end-use consumers eligible for service under Rate Schedule I-1. Applicant asserts its belief that the requested abandonment is in the best interest of its customers as it allows for more efficient utilization of contract demand by allowing its customers to serve all end-use customer load pursuant to the terms of Applicant's existing Rate Schedule G-1.

Applicant requests that the grant of abandonment be concurrently effective with the implementation of rates in Docket No. RP87-115-000, i.e., March 1, 1988. To this end, Applicant requests issuance of an order by February 15, 1988 to permit pertinent tariff sheets to be moved into effect March 1, 1988.

Comment date: November 10, 1987, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to be proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24621 Filed 10-22-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI88-9-000]

Amerada Hess Corp.; Application

October 19, 1987.

Take notice that on October 6, 1987, Amerada Hess Corporation (Amerada Hess), of P.O. Box 2040, Tulsa, Oklahoma 74102, filed an application pursuant to section 7(b) and (c) of the Natural Gas Act (NGA), 15 U.S.C. 717f(b) and (c), and Part 157 of the Federal Energy Regulatory Commission's regulations thereunder (18 CFR Part 157), for blanket authorization, for a three-year term, (i) to abandon sales for resale of NGA gas to the extent that such gas is released by Amerada Hess' interstate pipeline purchasers for resale to third parties; (ii) to make sales for resale in interstate commerce of such abandoned gas, and (iii) to abandon (pregranted abandonment) any sale for resale authorized pursuant to any blanket certificate issued herein. Amerada Hess states that it will recognize take-or-pay credit for any released volumes sold under the requested blanket certificate.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24623 Filed 10-22-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL87-46-000]

Arkansas Power & Light Co.; Order Granting Petition for Declaratory Order

Issued: October 19, 1987.

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon and C.M. Naeve.

On June 22, 1987, Arkansas Power & Light Company (AP&L) filed a petition seeking a declaratory order permitting AP&L to continue to record as assets on its books and records, in accordance with the Commission's Uniform System of Accounts, certain deferrals which are being accrued pursuant to a settlement agreement approved by the Arkansas Public Service Commission (APSC).

Background

On June 13, 1985, the Commission issued Opinion No. 234,[1] allocating to AP&L the responsibility for 36% of the capacity and accompanying energy costs associated with the Grand Gulf Unit 1 nuclear generating plant (Grand Gulf).

In November 1984, AP&L filed a retail rate case with the Arkansas Public Service Commission (APSC) which included the proposed recovery of that portion of the Grand Gulf costs allocated in the initial decision in Docket No. ER82-616-000 to AP&L.[2] On September 5, 1985, a settlement agreement was executed by all parties to that case, and approved by the APSC on September 9, 1985.

The settlement agreement provides for the recovery from AP&L's Arkansas retail customers of the retail portion of the costs associated with Grand Gulf allocated to AP&L in Order No. 234. The agreement provides that from September 9, 1985 to August 31, 1995, AP&L will defer a portion of the costs associated with its allocated share of the power from Grand Gulf. The amount to be deferred each year declines from 14.68% of such cost in year one to 4.08% in year ten.

AP&L is permitted to recover, on a current basis, the incremental cost of capital, including an equity return, associated with the deferral. Beginning September 1, 1995, AP&L will be allowed to include the balance of the deferred costs in its rate base, and amortize the balance over the remaining depreciable life of Grand Gulf, for determining its Arkansas retail revenue requirement.

Pursuant to a 1976 settlement agreement approved by the Federal Power Commission, rates charged by AP&L to certain of its wholesale customers must reflect the wholesale portion of AP&L's costs as determined in the cost of service study underlying the rates charged to Arkansas retail customers.[3] By letter order issued August 6, 1985,[4] the Commission accepted for filing wholesale rates developed pursuant to the 1976 settlement agreement, including riders designed to recover costs associated with Grand Gulf on a phase-in basis. The same letter order accepted AP&L's accounting to record the effect of the phase-in, including AP&L's treatment of the deferred amounts as a separate asset.

FASB No. 92

In August 1987, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards No. 92, "Regulated Enterprises—Accounting for Phase-In Plans" (FASB No. 92), which sets forth certain criteria which must be met in order for a regulated enterprise to capitalize as an asset all costs incurred in connection with a new plant, recovery of which has been deferred by a regulatory body. For plants completed before January 1, 1988, and plants on which substantial physical construction has been performed before such date, FASB No. 92 requires that all such deferred costs be recovered within ten years of the date the deferrals begin. If all of the criteria are not met, the company may not capitalize any of the deferred costs allowed under the phase-in plan in its financial statements issued to the public, but must reflect the deferred costs as a loss in the current year. For plants on which no substantial construction has been performed before January 1, 1988, recovery of costs under phase-in plans cannot be reflected by the utility for financial reporting purposes regardless of the length of the phase-in.

In addition, the percentage increase in rates scheduled under the phase-in plan for each future year can be no greater than the percentage increase in rates scheduled under the plan for each immediately preceding year. Thus, plans which provide for 'back loading' will not meet the criteria of FASB No. 92.

AP&L's Petition

On June 22, 1987 AP&L filed a petition seeking a declaratory order [5] permitting AP&L to continue to record as assets on its books and records, in accordance with the Commission's Uniform System of Accounts, the deferrals which are being accrued pursuant to the phase-in plan, notwithstanding the phase-in plan's failure to meet the criteria set forth in FASB No. 92.[6]

AP&L argues that because recovery by the company of the deferred amounts is probable, it should be permitted to continue to record such amounts as assets. In this regard, AP&L has submitted with its petition an opinion of legal counsel that recovery of the deferred amounts is probable under pertinent Arkansas law, which opinion concludes that: (1) The retail portion of the entire amount of Grand Gulf costs allocated to AP&L the Commission would be currently recoverable by AP&L from its retail customers under the doctrine of federal preemption but have been deferred by the Arkansas settlement agreement; (2) the deferred amounts are entitled to be treated identifically to any other rates and charges which were in effect and approved by the AP&L and, therefore, cannot be unilaterally altered by the APSE due to the judicial precedent and Arkansas statutes which establish the rule against retroactive ratemaking; (3) the doctrine of equitable estoppel, depending upon future factural situations, provides a defense to any proposal to deny recovery of the deferred costs; and (4) Arkansas statutes provide that, while the APSC may amend or rescind previous decisions, such amendment or rescission shall not affect the validity or legality of acts taken the AP&L in pursuance of the previous order prior to the notice of the change.

AP&L also submitted the opinion of independent public accountants which states that: (1) Continued deferral of such costs would be appropriate; (2) treatment of such costs as period costs (that is, as charges to operations) would result in financial statements which

[1] Middle South Energy, Inc., Opinion No. 234, 31 FERC ¶ 61,305 (1985).

[2] Middle South Energy, Inc. 28 FERC ¶ 63,044 (1984).

[3] Arkansas Power & Light Co., 56 FPC 3127 (1976).

[4] Arkansas Power & Light Co., 32 FERC ¶ 61,215 (1985).

[5] Notice of AP&L's filing was published in the Federal Register, with comments, protests, or motions to intervene due on or before July 13, 1987. 52 FR 25058 (1987).

[6] The phase-in plan does not meet the criteria set forth in FASB No. 92 in that the deferred amounts will not be fully recovered within ten years of the date deferrals began, and percentage increases in future years will exceed percentage increases over rates for immediately preceding future years.

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would be misleading since such costs represent assets because future recovery is probable; and (3) such deferred costs are indicative of a probable future economic benefit which the company has obtained, and that, in the absence of regulatory or other circumstances which cause the likelihood of future recovery to be less than probable, deferrals of such costs should be continued.[7]

On July 13, 1987, the APSC submitted comments supporting AP&L's petition. The APSC believes that, with regard to the phase-in plan, adherence to FASB No. 92 would be inconsistent with generally accepted accounting principles in that an arbitrary time limit for recovery of costs deferred pursuant to a phase-in plan is less determinative and persuasive in judging the ultimate collectability of such deferrals than the unique provisions of the Arkansas settlement agreement. The APSC concurs with opinion of AP&L's independent public accountants that future recovery of the deferrerd amounts is probable and thus the deferred amounts should be represented as assets.

The APSC states that its acceptance of the settlement agreement implicitly recognizes and adopts the accounting treament of the deferrals set forth in the agreement. Further, the APSC believes that prohibiting the recording of the deferrals will result in misleading financial statements of AP&L, and that the recording of such costs as current expenses will create unjustified book losses and unduly weaken AP&L's financial position by misrepresenting the economic realities resulting from the settlement agreement.

Finally, the APSC asserts that any prohibition of the recording of deferred costs associated with the settlement agreement could unnecessarily and unjustifiably encroach on the authority of the APSC in establishing retail rates to be charged by AP&L. Specifically, the APSC asserts that any such prohibition could render the settlement agreement moot, thereby resulting in the preemption of regulatory authority by an inappropriate body (FASB). The APSC consider this possible occurrence as a threat to its ability to regulate AP&L on a retail rate basis.

Discussion

Under section 301 of the Federal Power Act (FPA), 16 U.S.C. 825 (1982), the Commission has the authority to prescribe the manner in which accounts and records are to be maintained by jurisdictional utilities. The Commission's authority to prescribe a uniform system of accounting and to require jurisdictional utilities to keep accounts accordingly is well settled. *Northwestern Electric Co., v. FPC*, 321 U.S. 119, 122–3 (1943).

The Senate report accompanying the legislation which became Parts II and III of the Federal Power Act states: "Section 301 of the Power Act requires every licensee and every public utility subject to the act to keep its accounts in the manner prescribed by the Commission: it thus takes a long step in the direction of the uniform accounting which is so essential in the industry. The authority of the Commission over the accounts of companies under its jurisdiction extends to the entire business of such companies * * *."[8]

It is essential that the Commission have available to it for ratemaking purposes a set of financial statements that will enable it to determine the current cost of providing service under its adopted scheme of regulations and to be able to properly monitor past performance under approved rates by inspection of financial statements that comport with the ratemaking principles used to develop them. This can only be accomplished if financial statements prepared for ratemaking purposes are prepared in a manner that reflects the economic effects of regulation. The phase-in plan set forth in the settlement agreement and approved by the APSC (and adopted by this Commission) is simply a way to allocate over time the cost of providing service in a manner that the Commission has found to produce rates that will not be unjust and unreasonable so as to result in excess revenues. The phase-in plan, although achieving different expense recognition in particular periods than would the application of generally accepted accounting principles [9] to a non-regulated enterprise, is not intended to disallow costs from rate recognition, but simply to provide for recovery in a later period. It is probable that costs deferred through the phase-in plan for jurisdictional customers will be collectible through future rates and apparently even stronger assurances exist from the APSC as to the future collections of the deferral related to retail rates. These deferrals are, therefore, regulatory created assets that properly require recognition on the balance sheet.

While a limitation on the Commission's authority is found in section 318 of the FPA, we do not find section 318 to be applicable to this proceeding.[10] Section 318 resolves conflicts between the rules and regulations under the Public Utility Holding Company Act (PUHCA)[11] and the rules and regulations under the FPA with respect to the same subject matter, in favor of the requirements under PUHCA. The FASB, as the body designated by the Securities and Exchange Commission (SEC) to establish accounting principles,[12] has promulgated a rule which is not consistent with the objectives of the Commission's Uniform System of Accounts.

Section 318, however, applies only to actual conflicts under the two Acts.[13] In the instant case, the Commission's use of the Uniform Systems of Accounts for ratemaking purposes relates to a different subject matter than the disclosure requirements promulgated by the SEC under PUHCA. As stated above, it is essential that the Commission have available to it for ratemaking purposes a set of financial statements that comport with the ratemaking principles used to develop and monitor rates. This requirement is independent of, and not in conflict with, the disclosure requirements under PUHCA, promulgated for the protection of investors. This distinction is implicit in FASB No. 92 itself, which disallows capitalization of the deferred amounts "for general-purpose financial reporting purposes" as distinguished from the treatment of the deferrals under the plan for "rate-making purposes." [14]

Since no actual conflict would exist, we find that section 318 of the FPA does not bar the Commission from authorizing or requiring jurisdictional utilities to maintain their books of account in accordance with the Commission's Uniform System of Accounts for ratemaking purposes, notwithstanding that such method of accounting does not comport with FASB No. 92.

Accordingly, AP&L's petition for a declaratory order will be granted.

Finally, we note that the issues raised in this proceeding have the potential to affect almost all electric utilities subject to our jurisdiction. Therefore, given the scope of these issues, the Commission intends to explore this matter and may explore other matters presented by FASB No. 92 generically in the near future. The Secretary will also be directed to have this order published in the **Federal Register.**

The Commission Orders

(A) AP&L's petition for a declaratory order permitting AP&L to continue to record as assets on its books and records, in accordance with the Uniform System of Accounts, certain deferrals which are being accrued pursuant to a settlement agreement approved by the APSC and accepted by the Commission in Docket No. ER85–563–000 is hereby granted.

(B) The Secretary is hereby directed to have this order published in the **Federal Register.**

(C) Docket No. EL87–46–000 is hereby terminated.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–24624 Filed 10–22–87; 8:45 am]

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[7] On August 24, 1987, AP&L filed an amendment to its petition, addressing certain provisions contained in FASB No. 92 which did not appear in the exposure draft circulating at the time the original petition was filed. AP&L noted that (1) the prohibition against "back loading" did not appear in the exposure draft, and (2) the final statement modified the definition of "phase-in plan" from that which appeared in the exposure draft. AP&L asserts that these changes do not effect or alter the basis or rationale for the requested declaratory order. With its amendment, AP&L submitted the statement of its independent, public accountants reaffirming their original opinion, notwithstanding the changes contained in the final FAS statement.

[8] S. Report No. 621, 74th Cong., 1st Sess. p. 53 (1935).

[9] Generally accepted accounting principles (GAAP) is a technical term in financial accounting. GAAP encompasses the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time. GAAP incorporates the accounting profession's consensus at a particular time as to which economic resources and obligations should be recorded as assets and liabilities by financial accounting, which changes in assets and liabilities should be recorded, when these changes should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and what financial statements should be prepared.

As discussed below, the Securities and Exchange Commission has designated the FASB as the body to establish accounting principles. The American Institute of Certified Public Accountants has also designated the FASB to perform this function.

[10] Section 318 states: "If, with respect to the issue sale, or guaranty of a security, or assumption of obligation or liability in respect of a security, the method of keeping accounts, the filing of reports, or the acquisition or disposition of any security, capital assets, facilities, or any other subject matter, any person is subject to both a requirement of the Public Utility Holding Company Act of 1935 or of a rule, regulation, or order thereunder and to a requirement of this Act or of a rule, regulation, or order thereunder, the requirement of the Public Utility Holding Company Act of 1935 shall apply to such person, and such person shall not be subject to the requirement of this Act, or of any rule, regulation, or order thereunder, with respect to the same subject matter, unless the Securities and Exchange Commission has exempted such person from such requirement of the Public Utility Holding Act of 1935, in which case the requirements of this Act shall apply to such person." 16 U.S.C. 825q (1982).

[11] 16 U.S.C. 79–79z–6 (1982).

[12] SEC Release No. 150, December 20, 1973.

[13] *Appalachian Power Company* v. *FPC*, 328 F 2d 237, 240 (4th Cir. 1964), *cert. denied*, 397 U.S. 829 (1964).

[14] FASB No. 92, paragraphs (4) and (5) at p. 2

appropriate action to be taken, but will to serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–24625 Filed 10–22–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP87–119–001]

Florida Gas Transmission Co.; Compliance Filing

October 20, 1987.

Take notice that on October 12, 1987, Florida Gas Transmission Company (FGT) tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets:

First Revised Sheet No. 57B of First Revised Volume No. 1
First Revised Sheet No. 777 of Original Volume No. 3
First Revised Sheet No. 811 of Original Volume No. 3

FGT states that 1st Revised Sheet No. 57B of First Revised Volume No. 1 reflects revisions pursuant to Order 472–B in compliance with the conditions set forth in the Commission's September 29, 1987 order of FGT's Docket No. TA88–1–34–000. FGT states that in that order the Commission accepted for filing effective October 1, 1987, the Annual Charge Adjustment (ACA) clause established in Section 22 of the General Terms and conditions of FGT's FERC Gas Tariff, subject to FGT filing appropriately revised tariff sheets in accordance with Order No. 472–B.

FGT states that it is also filing 1st Revised Sheet No. 777 of Original Volume No. 3 and 1st Revised Sheet No. 811 of Original Volume No. 3. Original Sheet No. 777 and Original Sheet No. 811 were approved by the Commission orders dated September 17, 1987 in Docket No. CP87–386–000 and Docket No. CP87–406–000, respectively. These revised tariff sheets submitted as part of this filing contain revisions necessary to implement the ACA clause and to comply with Order No. 472 and Order No. 472–B.

FGT states that copies of the filing were served upon its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests shall be filed on or before October 27, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will to serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–24626 Filed 10–22–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ID–2313–000]

Thomas J. May; Filing

October 19, 1987.

Take notice that on October 5, 1987, Thomas J. May filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions.

Senior Vice President & Treasurer—Boston Edison Company
Director—Connecticut Yankee Atomic Power Company
Director—Yankee Atomic Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 2, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–24627 Filed 10–22–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TC88–2–000]

North Penn Gas Co.; Tariff Filing

October 20, 1987.

Take notice that of October 15, 1987, North Penn Gas Company (Applicant), 76–88 Mill Street, Port Allegany, Pennsylvania 16743, filed in Docket No. TC88–2–000, Fifth Revised Tariff Sheet No. 12k and Fifth Revised Tariff Sheet No. 12L to its FERC Gas Tariff, First Revised Volume No. 1, pursuant to § 281.204(b) of the Commission's

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Regulations which requires interstate pipelines to update their indices of entitlements annually to reflect changes in priority 2 entitlements (Essential Agricultural Users).

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before November 3, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commision's Rules of Practice and Procedures (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24627 Filed 10-22-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-12-000]

Superior Offshore Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 20, 1987.

Take notice that on October 9, 1987, Superior Offshore Pipeline Company (SOPCO) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1.

FERC Gas Tariff, Original Volume No. 1

First Revised Sheet No. 1
First Revised Sheet No. 2
Second Revised Sheet No. 5
Second Revised Sheet No. 6
First Revised Sheet No. 19
Second Revised Sheet No. 39
First Revised Sheet No. 40
First Revised Sheet No. 41
Second Revised Sheet No. 48
Second Revised Sheet No. 54

In its filing, SOPCO makes the following representations: The revised tariff sheets are being filed to incorporate into SOPCO's Tariff a FERC Annual Charge Adjustment (ACA) Unit Charge, as authorized by § 154.38(d) of the Commission's Regulations, which was added pursuant to Order No. 472 issued May 29, 1987, at (39 FERC, Para. 61,206), and Order No. 472-A issued June 17, 1987, at (39 FERC Para. 61,316). Order No. 472 arose out of section 3401(a)(1) of the Omnibus Budget Reconciliation Act of 1986, which requires the Federal Energy Regulatory Commission (Commission) to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year." On or about July 16, 1987, SOPCO received an Annual Charges Billing from the Commission for fiscal year 1987. SOPCO was required to remit, by August 31, 1987, to the Commission, SOPCO's portion of the Commission deficit. For the purpose of recovering this payment, SOPCO has elected, pursuant to the authority outlined in Order No. 472, to institute the ACA unit charge of $.0020 per MMBtu, as set by the Commission on SOPCO's Annual Charges Billing.

Copies of this filing were served on SOPCO's jurisdictional customers and interested State commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). All such motions or protests should be filed on or before October 27, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24628 Filed 10-22-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI88-2-000 and CI88-3-000]

Texas Eastern Transmission Corp.; Applications on Behalf of Producer-Suppliers of Texas Eastern Transmission Corporation for Blanket Limited-Term Abandonment Authorization and Blanket Limited-Term Certificate of Public Convenience and Necessity With Pregranted Abandonment

October 20, 1987.

Take notice that on October 1, 1987, as supplemented on October 8, 1987, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, filed applications pursuant to section 7 of the Natural Gas Act (NGA) and § 2.77[1] of the Commission's Regulations thereunder, on behalf of its producer-suppliers currently selling natural gas that is subject to the Commission's jurisdiction under the NGA, for an order (1) authorizing the blanket limited-term abandonment of sales of such gas to Texas Eastern to the extent such gas is released, and (2) issuing a blanket limited-term certificate of public convenience and necessity with pregranted abandonment authorizing the sale for resale of such gas in interstate commerce, and (3) a waiver of certain Commission regulations on behalf of producer-suppliers with respect to producer-suppliers' sales of released gas under the authorization. Texas Eastern requests such authorization for a period of three years from the date of issuance of such authorization. The applications also state that the abandonment and certificate authorizations should be considered on an expedited basis in accordance with § 2.77 of the Commission's Regulations, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Texas Eastern states that all NGA gas which at the time of release is at least equal to Texas Eastern's then effective market out price is eligible for this program and that the participation of any producer is strictly voluntary. According to Texas Eastern, the specific terms of any release will be agreed upon by it and each participating producer-supplier. Texas Eastern's applications further state that the program will be administered on a non-discriminatory basis.

According to Texas Eastern, the requested abandonment and certificate authorizations are eligible for consideration on an expedited basis because Texas Eastern's producer-suppliers are subject to substantially reduced takes without payment. The applications state that Texas Eastern is currently experiencing a supply/demand imbalance and will continue to substantially reduce takes from producer-suppliers. Texas Eastern therefore requests that the Commission follow the procedures for expedited consideration set forth in § 2.77(b) of the Commission's Regulations.

Texas Eastern states that it is willing to comply with conditions similar to

[1] The United States Court of Appeals for the District of Columbia vacated the Commission's Order No. 436 on June 23, 1987. In vacating Order No. 436, the Court rejected challenges to the Commission's statement of policy in § 2.77 of its Regulations. Section 2.77 states that the Commission will consider on an expedited basis applications for certificate and abandonment authority where the producers assert they are subject to substantially reduced takes without payment.

conditions that the Commission has attached to other like orders.

Texas Eastern states it seeks no transportation authority in its applications. Texas Eastern anticipates that any transportation of released volumes will be performed pursuant to § 284.221 of the Commission's Regulations or by individual certificate authorization in accordance with section 7(c) of the NGA.

Texas Eastern states it proposes to implement a release program (Program) upon receipt of appropriate authorization, subject to the following terms and conditions:

1. NGA gas to be released will be any gas the price of which at the time of release is at least equal to Texas Eastern's then effective market out price;

2. Texas Eastern will offer entry into the Program to all of its producer-suppliers and will administer the Program in a non-discriminatory manner; provided, however, each producer-supplier is free to determine if it wishes to have its gas released and to regulate the terms and conditions of its release. Participation in the Program by a producer-supplier will be completely voluntary to be implemented by mutual agreement between Texas Eastern and the producer-supplier;

3. All of the gas released and sold under the Program will be "surplus" gas which Texas Eastern does not need to meet its current market demands, and the gas will remain continuously subject to recall whenever Texas Eastern determines that the gas is needed to meet its service obligations;

4. Participation in the Program by producer-suppliers shall be month-to-month or for longer periods, as Texas Eastern and individual producer-suppliers may mutually agree upon, up to the maximum period of three years;

5. Participation in the Program for any period of time shall not alter the participating producer-suppliers' then existing contractual relationship with Texas Eastern other than to establish a take-or-pay credit for volumes sold under the Program;

6. The price of gas sold through the Program shall be the lesser of the producer-suppliers new third-party contract rate or the applicable maximum lawful price prescribed by the NGPA and the Commission's regulations;

7. Texas Eastern will receive credit against potential take-or-pay obligations for all gas sold by producer-suppliers through the Program;[2] and

8. Participation in the Program will not be available if any significant facility modifications, abandonments or additions are required on the part of Texas Eastern.

Texas Eastern states it is willing to accept conditions similar to those that the Commission has included in the recent orders requesting similar authority in order to expedite the handling of the applications and assure the Commission that Texas Eastern is willing and able to comply with current Commission policy. Specifically, Texas Eastern states it is willing to file a quarterly report within 45 days after the end of each calendar quarter during the authorized period.

Since any sales made hereunder may be on an extremely short term basis and may rapidly change with regard to purchaser, delivery points, and mix of gas, Texas Eastern also seeks a waiver of:

1. The filing requirements under the NGA as to the establishment and maintenance of rate schedules under Part 154 of the Commission's Regulations during the term of this partial release and abandonment;

2. The blanket affidavit filing requirements provided by § 154.94(h) of the Commission's Regulations during the term of the partial release and abandonment such that the producers may automatically collect the appropriate monthly adjustments without making a blanket affidavit filing; and

3. The filing requirements of § 154.94(k) and Part 271 of the Commission's Regulations to permit the producers of released gas to qualify for collection of any applicable allowance under section 110 of the NGPA without the necessity of making the foregoing blanket affidavit filing.

Finally, Texas Eastern states that the following is an estimate of deliverability as of September 1, 1987:

NGPA category	Estimate of deliver-ability
102	[1] 1,767
104 (Post-1974 gas)	111
104 (1973-1974 biennium gas)	6
104 (replacement contract gas or recompletion gas)	66
104 (pre-1973)	22
106(a)	24
107(c)(5)	30
108	7
109	25
	2,058

[1] MMcf/day.

Since Texas Eastern states that its producer-suppliers are subject to substantially reduced takes without payment and has requested that its applications be considered on an expedited basis, any person desiring to be heard or to make any protest with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, Dc 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24629 Filed 10-22-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of; September 4 Through 11, 1987

During the Week of September 4 through September 11, 1987, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of

[2] Texas Eastern states that it is recognized that under Interim Rule Order No. 500 issued August 14, 1987 in order for a producer to transport on a pipeline the producer must give the pipeline a volume for volume credit on take-or-pay or the pipeline and producer could mutually agree upon another arrangement. By virtue of filing its applications or accepting any authorization issued pursuant to the applications Texas Eastern states it does not waive any of its rights under Order No. 500.

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the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

October 19, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Sept. 4 through Sept. 11, 1987]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 3, 1987	Indiana Refrigerator Lines, Inc., Washington, DC.	RR270–15, RR270–16, RR270–17	Request for modification/rescission in the stripper well litigation proceeding. If Granted: The August 4, 1987 Decision and Order issued to Indiana Refrigerator Lines, Milton Transportation, Inc., and Remington Freight Lines, Inc. (Case Nos. RF270–1459, RF270–1477 and RF270–1490) would be rescinded regarding the firms' applications for refund as surface transporters in the stripper well litigation proceeding.
Sept. 4, 1987	Mobil Mining & Minerals, Denver, Colorado.	KFA–0120	Appeal of an information request denial. If Granted: The July 29, 1987 Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded and Mobil Mining & Minerals would receive access to a complete copy of the Remedial Investigation and Feasibility Study, Food Materials Production Center.
Sept. 8, 1987	Government Accountability Project, Appleton, Wisconsin.	KFA–0122	Appeal of an information request denial. If Granted: The August 17, 1987 Freedom of Information Request Denial issued by the Inspector General would be rescinded and Government Accountability Project would receive access to documents from the Nuclear Regulatory Commission concerning Joseph S. Mitchell, EG&G (Idaho) A.K.A. EG&G Services, and the Tennessee Valley Authority.
Sept. 8, 1987	Wisco Equipment Co., Phoenix, Arizona	KFA–0121	Appeal of an information request denial. If Granted: The Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded and Wisco Equipment Company would receive access to documents relating to the Sandia National Laboratories Contract No. REO–8006.
Sept. 11, 1987	Montana, Helena, Montana	KER–0033	Request for modification/rescission. If Granted: The August 26, 1987 Decision and Order (Case No. KEG–0015) issued to Montana would be rescinded and Montana's proposed plan for the stripper well litigation monies would be approved.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 4 Through Sept. 11, 1987]

Date received	Name of Refund Proceeding/Name of Refund Applicant	Case No.
Aug. 18, 1987	Pennzoil/Kentucky	RQ10–395
Sept. 4, 1987	Briggs & Sons Getty Stations	RF265–2551
Sept. 4, 1987 thru September 11, 1987.	Crude Oil Refund Applications Received	RF272–5536 thru RF272–5997
Sept. 8, 1987	Custer County Highway Dept.	RF272–5714
Sept. 9, 1987	James D'Ambra	RF265–2552
Sept. 9, 1987	Amoco/Michigan	RQ251–396
Sept. 9, 1987	Vickers/Michigan	RQ1–397
Sept. 9, 1987	Coline/Michigan	RQ2–398
Sept. 9, 1987	National Helium/Michigan	RQ3–399
Sept. 9, 1987	Perry Gas/Michigan	RQ183–400
Sept. 10, 1987	Stewart Oil Co.	RF265–2554
Sept. 10, 1987	Lockrem Oil Co.	RF225–10906
Sept. 11, 1987	Superior Oil Co.	RF253–27
Sept. 11, 1987	Engle, Inc.	RF253–28
Sept. 16, 1987	Momsen Trucking	R270–2486

[FR Doc. 87–24581 Filed 10–22–87; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of August 24 through August 28, 1987

During the week of August 24 through August 28, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Environmental Policy Institute, 8/27/87; KFA–0112

The Environmental Policy Institute filed an Appeal from a partial denial issued by the Manager of the Nevada Operations Office of a Request for Information which the organization had submitted under the Freedom of Information Act. The Manager had denied access to an outside consultant's comments on a proposal submitted to the Marshall Islands concerning the habitability of Rongelap Atoll. The DOE determined that the document was propertly withheld pursuant to 5 U.S.C. 552(b)(5) because it was pre-decisional and deliberative. The DOE further determined that the cover letter contained no deliberative material and, therefore, should be released. Accordingly, the Appeal was granted in part.

Petition For Special Redress

Montana, 8/26/87; KEG–0015

The DOE issued a Decision and Order concerning the Petition for Special Redress filed by the State of Montana. Montana sought approval for two programs which were previously determined to fall outside the terms of the Stripper Well Settlement Agreement. The two programs are a biological weed control program and the repair of the roof of the terminal at West Yellowstone Airport. After discussing the need for Stripper Well state plans to meet the objectives of energy conservation, energy efficiency, or renewable energy alternatives; timely restitution; and overall balance; the DOE determined that neither program meets these criteria. The DOE found that Montana's weed control proposal is a research-oriented program that is not sufficiently energy-related or restitutionary and fails to meet the standard of timeliness in restitution. The DOE also found that repairing the roof of the airport would save only a small amount of fuel and is therefore not sufficiently energy-related to qualify under the Stripper Well Settlement Agreement. Accordingly, Montana's Petition for Special Redress was denied.

Implementation of Special Rfund Procedures

Thriftyman, Inc., 9/25/87; KEF–0018

The DOE issued a Decision and Order finalizing procedures to be used in distributing funds received pursuant to a settlement between the DOE and Thriftyman, Inc. Thriftyman was a wholesale purchaser-reseller of motor gasoline that allegedly failed to satisfy its supply obligations to its base period customers and diverted motor gasoline in non-base period purchasers on the spot market during the period May through December 1979. The DOE will accept applications from the customers identified in the Appendix and any other party who can demonstrate that they were injured by Thriftyman's allocation practices.

Refund Applications

Arkansas Louisiana Gas Company/ Enterprise Products Company, 8/25/87; RF154–9

The DOE issued a Decision and Order concerning an Application for Refund filed by Enterprise Products Co. (Enterprise) in the Arkansas Louisiana Gas Co. (Arkla) proceeding. For each product claimed by Enterprise, the DOE performed a three-prong competitive disadvantage test, examining gross excess cost, net excess cost, and above-market volumetric share. In the case of propane *Platt's* was used for price comparisons. For the other NGLs, the DOE used comparative price data submitted by Enterprise concerning its other suppliers (the multiple supplier method). The applicant received its full volumetric allocation for normal butane and commercial butane, its above-market volumetric share for iso-butane and butane/propane mix, and its gross excess cost for natural gasoline and propane. Enterprise was granted a refund totaling $881,686, representing $582,295 in principal and $299,391 in interest.

Chicago and Northwestern Transportation Company et al., 8/25/87; RF271–62 et al.

The DOE issued a Decision and Order approving applications submitted by seven companies for refunds from the Rail and Water Transporters (RWT) Escrow established as a result of the Stripper Well Settlement Agreement. The DOE found that all seven applicants had established that they were members of the RWT class, and had sustantiated their purchases of the volumes of U.S. petroleum products claimed in their respective applications. Accordingly, the DOE approved all seven applications. The DOE will determine a per gallon refund amount and establish the amount of each applicant's refund after it completes its analysis of all RWT claims. The number of gallons approved in this Decision and Order is 1,626,193,875.

Decarolis Truck Rental, Inc., Atlas Truck Rental & Leasing, 8/25/87; RF270–2353, RF 270–2386

The DOE issued a Decision and Order denying two Applications for Refund from the Surface Transporters Escrow filed by two truck rental firms. Each applicant's volume claim was based on product sold to its customers. The DOE stated that vehicle rental companies are excluded from receiving Surface Transporter refunds. Unlike Surface Transporters, who are end-users of petroleum products, vehicle rental companies function as retailers.

Duluth, Winnipeg and Pacific Railway Company, Central Vermont Railway, Inc., 8/27/87; RF271–72, RF271–73

Duluth and Central Vermont each filed an Application for Refund from the Rail and Water Transporters (RWT) Escrow established as a result of the Stripper Well Settlement Agreement. Both corporations are "Crown Corporations" owned by the Canadian government. The DOE determined that the applications were not defeated by the language in the RWT Waiver excluding governmental entities, because that language refers only to entities of the U.S. government or the governments of the fifty states. The DOE also found that the two foreign-owned corporations were properly incorporated under the laws of one or more of the fifty states, and that the firms met all the other requirements for refunds from the RWT Escrow. Accordingly, the DOE granted the applications. The total number of gallons approved in this Decision and Order is 48,203,948.

Getty Oil Company/Acme Markets, Inc. et al., 8/26/87; RF265–2323 et al.

The DOE issued a Decision and Order concerning nine Applications for Refund filed by end-users of products covered by a consent order that the agency entered into with Getty Oil Company. Each applicant submitted information indicating the volume of Getty products that were purchased. As end-users, these applicants were entitled to receive the full volumetric refund. The sum of

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the refunds approved in this Decision is $40,535, representing $20,354 in principal and $20,181 in accrued interest.

Getty Oil Company/Anna Mae Bomleny et al., 8/27/87; RF265–1505 et al.

The DOE issued a Decision and Order concerning 11 Applications for Refund filed by end-users of products covered by a consent order that the agency entered into with Getty Oil Company. Each applicant submitted information indicating the volume of Getty products that were purchased. As end-users, these applicants were entitled to receive the full volumetric refund. The sum of the refunds approved in this Decision is $10,907, representing $5,476 in principal and $5,431 in accrued interest.

Getty Oil Company/Arnold Nixon et al., 8/27/87; RF265–1516 et al.

The DOE issued a Decision and Order concerning 11 Applications for Refund filed by end-users of products covered by a consent order that the agency entered into with Getty Oil Company. Each applicant submitted information indicating the volume of Getty products that were purchased. As end-users, these applicants were entitled to receive the full volumetric refund. The sum of the refunds approved in this Decision is $67,856, representing $34,073 in principal and $33,783 in accrued interest.

Getty Oil Company/Sylvia Smith, Eldred Bowne, 8/26/87; RF265–2473 et al.

The DOE issued a Decision and Order concerning two Applications for Refund filed by end-users of products covered by a consent order that the agency entered into with Getty Oil Company. The Applications were evaluated in accordance with the procedures set forth in *Getty Oil Co.*, 15 DOE ¶ 85,064 (1986). The sum of the refunds approved in this Decision is $190, representing $95 in principal and $95 in interest.

Gulf Oil Corporation/Cascade Gulf Service Station et al., 8/25/87; RF40–3602 et al.

The DOE issued a Decision and Order granting four Applications for Refund from the Gulf Oil Corporation consent order fund filed by retailers of Gulf refined products. Following the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), the DOE found that each of the claimants had demonstrated that it would not have been required to pass through to its customers a cost reduction equal to the refund amount claimed. Accordingly, the firms were granted refunds totalling $6,816 ($5,399 in principal plus $1,417 in interest).

Harder's Express, Inc. et al., 8/26/87; RF270–162 et al.

The DOE issued a Decision and Order approving Applications for Refund from the Surface Transporters Escrow filed by 30 trucking companies. Each of the companies is a member of the American Trucking Associations, Inc. and based its claim on either diesel fuel, motor gasoline, motor oil, gear oil, or transmission fluid that its vehicles consumed during the settlement period. The DOE approved each company's purchase volumes with adjustments in some cases to correct for products not qualifying under the terms of the Surface Transporters Escrow. The DOE will determine a per gallon refund amount and establish the amount of each company's refund after it completes its analysis of all Surface Transporter claims. The total number of gallons approved in this Decision and Order is 222,442,133.

Husky Oil Company/Metro Oil Products, Inc., 8/27/87; RR161–1

The DOE issued a Decision and Order concerning a Motion for Reconsideration of a June 3, 1987 Decision and Order which granted in part an Application for Refund filed by Metro Oil Products, Inc. in the Husky Oil Company special refund proceeding. In its original Application, Metro had requested a refund of $27,298 based upon its purchases of Husky motor gasoline and diesel fuel. In the June 3, 1987 Decision, the DOE determined that Metro had made an injury showing sufficient to merit a refund of $210,656, plus interest. In its Motion, Metro requested that the DOE utilize the "three-step" competitive disadvantage method in order to determine whether Metro was entitled to a refund in the amount of its full volumetric share for its purschases of motor gasoline. Upon reconsideration, the DOE determined that the "three-step" analysis indicated that Metro was eligible for a full volumetric refund for its Husky motor gasoline purchases. Accordingly, Metro was granted an additional refund of $7,285.

J.C. Trucking, Inc. et al., 8/25/87; RF270–468 et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE Stripper Well Exemption Litigation. The DOE approved the gallonages of refined petroleum products claimed by forty-one trucking companies and will use those gallonages as a basis for the refund that will ultimately be issued to the forty-one firms. The DOE stated that because the size of a surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amounts of the forty-one firms' refunds will be determined at a later date. The total number of gallons approved in this Decision and Order is 208,561,604.

John Bunning Transfer Company, Inc. et al., 8/25/87; RF270–935 et al.

John Bunning Transfer Co., Inc. and four other for-hire and private motor carriers filed Applications for Refund, seeking funds from the Surface Transporters Escrow established pursuant to the settlement agreement in the DOE Stripper Well Exemption Litigation. The DOE examined each claim and ascertained that each of the applicants is an eligible surface transporter, and its claim did not exceed the gallons of petroleum products that the applicant consumed in vehicle operations. The total volume approved in this Decision and Order is 13,130,558 gallons.

La Gloria Oil & Gas Co./Highway Oil, Inc., The Southland Corporation, Hukill Oil Company, Inc., 8/27/87; RF263–17, RF263–33, RF263–35

The DOE issued a Decision and Order concerning Applications for Refund filed by three resellers, Highway Oil, Inc., The Southland Corporation, and Hukill Oil Company, Inc., from the fund obtained by the DOE through a consent order entered into with La Gloria Oil & Gas Co. All three applicants presented evidence that they purchased refined petroleum products from La Gloria during the consent order period. The applicants purchased enough volumes to make them eligible for refunds over the $5,000 small claims threshold for resellers, but they elected to limit their claims to that level. According to the methodology set forth in *La Gloria Oil & Gas Co.*, 14 DOE ¶ 85,501 (1986), each applicant was found eligible for a refund of $5,000, plus interest, from the La Gloria consent order fund. The refunds approved in this Decision totaled $27,549, representing $15,000 in principal and $12,549 in interest.

Although the DOE approved Highway Oil's refund application, its refund was placed in a separate interest-bearing escrow account established for Highway pending the outcome of a current enforcement proceeding involving that firm.

Stalcup Trucking, Inc. et al., 8/25/87; RF270–1019 et al.

The DOE issued a Decision and Order concerning five Applications for Refund from the $10.75 million Surface Transporters Escrow fund established pursuant to the settlement agreement in the DOE Stripper Well Exemption Litigation. Each applicant demonstrated that it operated motor vehicles during the settlement period and that it was a "for hire" carrier or a private fleet operator for the purposes of this proceeding. In addition, each applicant demonstrated that it purchased a certain volume of eligible petroleum products above the 250,000 gallon minimum prescribed in the Order establishing the Surface Transporters Escrow. Accordingly, all five Applications were approved, and the respective volumes will be used to calculate each company's final refund. The total number of gallons approved in this Decision and Order is 15,400,465.

Texas Mexican Railway Company et al., 8/26/87; RF271–45 et al.

The DOE issued a Decision and Order to four companies granting their respective Applications for Refund from the Rail and Water Transporters (RWT) Escrow. The DOE found that all four applicants had established that they were members of the RWT class, and had substantiated their purchases of the volumes of U.S. petroleum products claimed in their respective applications. Accordingly, the DOE approved all four applications. The total number of gallons approved in the Decision and Order is 97,275,064.

Utah Railway Company et al., 8/26/87; RF271–90 et al.

The DOE issued a Decision and Order approving Applications for Refund submitted by seven rail transporters from the Rail and Water Transporters (RWT) Escrow established as a result of the Stripper Well Settlement Agreement. The methods used by the applicants to substantiate their gallonages were similar to those accepted by the DOE in previous RWT decisions. The DOE will determine a per gallon refund amount and establish the amount of each applicant's refund after it completes its anaylysis of all RWT claims. The total mumber of gallons approved in this Decision and Order is 1,618,979,751.

Dismissals

The following submissions were dismissed:

Company Name and Case No.

Campbell Sixty-Six Express—RF270–1232
Farmers Cooperative Association—RF270–736
Felicia Oil Company—RF225–10382
Jaime Gonzales' Gulf Service—RF40–2426
Lapeer County Intermediate School District—RF270–1260
Niles Community Schools—RF270–1259
Southland Oil Company—RF245–16
T.E. Reserve Corporation/James G. Allison, Jr.—KEG–0009

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,
Director, Office of Hearings and Appeals.
October 19, 1987.
[FR Doc. 87–24582 Filed 10–22–87; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of August 31 Through September 4, 1987

During the week of August 31 through September 4, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Citizen/Labor Energy Coalition, 9/4/87; KFA–0114

Citizen/Labor Energy Coalition filed an Appeal from a denial by the Director of the EIA Office of Oil and Gas of a Request for Information which it submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that no responsive documents existed and that the FOIA imposes no duty on the agency to create records in response to a request. Therefore, the Appeal was denied.

Tri-City Herald, 9/2/87; KFA–0113

On August 6, 1987, the Tri-City Herald filed an Appeal of a determination issued to it under the Freedom of Information Act (FOIA) on July 24, 1987 by the Assistant Manager for Administration (Manager) of the Richland, Washington Operations Office of the Department of Energy (DOE). In that determination, the Manager denied in part the Herald's FOIA request for a proposal submitted by Westinghouse Electric Corporation to enter into an operations and engineering contract for the DOE's Hanford, Washington site. The manager withheld 49 pages of the Westinghouse proposal pursuant to Exemption 4 of the FOIA which shields from disclosure trade secrets and commercial or financial information obtained from a person and privileged or confidential. In the course of conducting a de novo review of the pages in question, the Office of Hearings and Appeals (OHA) obtained the agreement of Westinghouse and the Manager to release all but one of the 49 pages at issue. With respect to that one page, which the OHA found contained proprietary information properly exempt under Exemption 4, the OHA denied the Herald's Appeal. In view of the voluntary release of the rest of the material, the OHA dismissed that aspect of the Appeal.

Petition for Special Redress

Washington, 9/4/87; KEG–0016

The DOE issued a Decision and Order concerning a Petition for Special Redress submitted by the State of Washington. The State sought approval to use Stripper Well funds for three projects which the DOE's Assistant Secretary for Conservation and Renewable Energy held to be inconsistent with the terms of the Stripper Well Settlement Agreement. The DOE approved the State's proposals to use $48,000 to fund a water system leak detection and elimination program and $131,000 to construct three weather-stations designed to improve the accuracy of Washington farmers' irrigation systems. However, the DOE disapproved the State's proposal to use $750,000 to fund the State Rail Assistance Program. The DOE determined that the initial two projects would result in increased energy conservation, timely restitution to farmers and many other groups of consumers within the State and a balanced distribution of oil overcharge monies. The DOE found, however, that the State Rail Assistance Program had only an attenuated link to its intended beneficiaries, the State's farmers, and that any possible restitutionary benefits would occur too far in the future.

Remedial Orders

Lantern Petroleum Corporation, and John Mills, Economic Regulatory Administration, 8/31/87; HRO–0251, KRZ–0018

Lantern Petroleum Corp. and John Mills objected to a Proposed Remedial Order alleging that they engaged in illegal layering in 30 crude oil sales transactions. With regard to 28 of the transactions covered by the PRO, the DOE rejected the firm's claims that it

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had performed traditional and historical reseller services. The DOE determined that layering did not occur in two transactions in which Lantern sold crude oil to a refiner who actually refined the purchased oil. The alleged overcharges were reduced by the amount involved in these two transactions. The DOE also found that Mills should be held personally liable for Lantern's violations since he was the president, one third shareholder, and sole individual responsible for Lantern's day-to-day business operations. Accordingly, the PRO was issued as a final Remedial Order directing Lantern and Mills to remit the revised overcharge amount of $495,025.75.

Leonard D. Rice d/b/a, Rice Oil Company, Rice-Lindquist, Inc., 9/3/87; *HRO-0154*

Leonard D. Rice d/b/a Rice Oil Company and Rice-Lindquist, Inc. (Rice) objected to a Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to the firm on April 21, 1983. In the PRO, the ERA found that Rice violated the price regulations at 10 CFR Part 212, Subpart F and antecedent regulations by selling motor gasoline and diesel fuel to retail customers at prices that exceeded the maximum lawful selling prices (MLSPs) permitted under the regulations. After considering the firm's Statement of Objections, the DOE concluded that the PRO should be issued as a final Remedial Order. In reaching its conclusion, the DOE rejected the firm's contentions that: (i) Leonard Rice, Rice Oil and Rice-Lindquist do not constitute a single "firm" as that term was defined in the price regulations; (ii) the DOE should be estopped from pursuing Rice-Lindquist's alleged overcharges because Rice-Lindquist's selling prices allegedly were approved by an agent of the Internal Revenue service in 1973; (iii) the "acquired entity rule" is not applicable to Rice-Lindquist because it purchased "physical assets" of Gulf, and not a "legal entity" or a "component" of a legal entity; (iv) the ERA improperly used an estimated base period selling price in calculating MLSPs and alleged overcharges in Rice-Lindquist's sales; (v) the PRO is void because of its alleged reliance upon the "Equal Application rule"; and (vi) the PRO erroneously failed to include transportation costs incurred by Rice Oil as increased product costs in computing the firm's MLSPs.

Interlocutory Order

Texaco Inc., 9/1/87; *KRZ-0066*

Texaco Inc. (Texaco) filed a Motion for Sanctions or a Supplemental Order relating to a Decision and Order issued on April 20, 1987, which granted in part a Motion for Discovery filed by Texaco on January 9, 1987. *Texaco Inc.*, 15 DOE ¶ 84,012 (1987). In its Motion for Sanctions, Texaco claimed that the Economic Regulatory Administration (ERA) had failed to provide adequate discovery responses as directed in the April 20, 1987 Decision. Texaco therefore requested in its motion that the underlying enforcement proceeding (Case No. KRX-0024) be dismissed or, in the alternative, that a supplemental order be issued directing the ERA's immediate compliance with the terms of the discovery decision. In considering Texaco's motion, the DOE determined that the discovery responses that had been provided by the ERA were substantially adequate and consistent with the considerations expressed in the discovery decision. Accordingly, Texaco's Motion for Sanctions was dismissed.

Implementation of Special Refund Procedures

Suburban Propane Gas Corporation, 9/4/87; *KEF-0038*

The DOE issued a Decision and Order establishing procedures to be used in evaluating claims for refunds from the $1,600,000 settlement fund obtained through a consent order entered into by Suburban Propane Gas Corporation and the DOE. The settlement fund was provided by Suburban to settle alleged pricing violations by the firm and its affiliated entities in the sales of propane, butane, and natural gasoline during the consent order period, November 1, 1973 through October 31, 1978. Applicants who can demonstrate that they were injured as a result of Suburban's pricing practices during the consent order period may apply for a refund. However, reseller and retailer applicants whose claims are for $5,000 or less, end-users of Suburban's covered products, and agricultural cooperatives and certain regulated firms need only document their purchase volumes in order to receive a refund equal to the volumetric refund amount multiplied by the number of gallons of covered products purchased. Medium-sized reseller and retailer claimants, those whose volumetric share exceeds $5,000, may elect to receive as their refund the larger of $5,000 or 60 percent of their volumetric share up to $50,000. Reseller and retailer claimants who do not elect the 60 percent presumption, those whose claims exceed $50,000, and those who purchased Suburban products on the spot market will have to demonstrate injury in order to receive a refund. The specific informaiton to be included in Applications for Refund is set forth in the Decision.

Refund Applications

Express Marine, Inc., Hines, Inc., 9/4/87; *RF271-78, RF271-102*

The Office of Hearings and Appeals (OHA) issued a Decision and Order to two companies granting their respective Applications for Refunds from the Rail and Water Transporters Escrow. OHA found that both applicants had established that they were members of the RWT class, and had substantiated their purchases of the volumes of U.S. petroleum products claimed in their respective applications. Accordingly, OHA approved both applications. The total number of gallons approved in the Decision and Order was 34,010,952.

Getty Oil Company/Ace Auto Service Station et al., 8/31/87; *RF265-0685 et al.*

The DOE issued a Decision and Order concerning 79 Applications for Refund filed by resellers or retailers of products covered by a consent order that the agency entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In 61 of these cases, the applicants were eligible for a claim below the $5,000 threshold. In the remaining 18 cases, the applicants elected to limit their claims to $5,000. The sum of the refunds approved in this Decision is $352,710, representing $177,114 in principal and $175,596 in accrued interest.

Getty Oil Company/Andrew A. Cantone et al., 9/3/87; *RF265-2213 et al.*

The DOE issued a Decision and Order concerning 31 Applications for Refund filed by resellers or retailers of products covered by a consent order that the agency entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. None of them was entitled to a refund greater than the $5,000 small claims refund amount. The total of the refunds approved in this Decision is $157,920, representing $79,013 in principal and $78,907 in accrued interest.

Getty Oil Company/Backlund Oil Company et al., 8/31/87; *RF265-0430 et al.*

The DOE issued a Decision and Order concerning 47 Applications for Refund filed by resellers or retailers of products covered by a consent order that the agency entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In 27 of these cases, the applicants were eligible for a claim below the $5,000 threshold. In the remaining 20 cases, the applicants elected to limit their claims to $5,000. The sum of the refunds approved in this Decision is $195,713 representing $98,276 in principal and $97,437 in accrued interest.

Getty Oil Company/Bill's Getty Service Et Al., 9/3/87; *RF265-2367 Et Al.*

The DOE issued a Decision and Order concerning 24 Applications for Refund filed by resellers or retailers of products covered by a consent order that the agency entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In 22 of these cases, the applicants were eligible for a claim below the $5,000 threshold. In the remaining two cases, the applicants elected to limit their claims to $5,000. The total refunds approved in this Decision are $74,856, representing $37,453 in principal and $37,403 in accured interest.

Getty Oil Company Bud's Getty Service Et Al., 9/4/87; *RF265-28 Et Al.*

The DOE issued a Decision and Order concerning 32 Applications for Refund filed by resellers or retailers of products covered by a consent order that the agency entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In 13 of the these cases, the applicants were eligible for a claim below the $5,000 threshold. In the remaining 19 cases, the applicants elected to limit their claims to $5,000. The total refunds approved in this Decision are $210,277, representing $105,212 in principal and $105,085 in accrued interest.

Hays Tug & Launch Service, Inc. Et Al., 8/31/87; *RF271-202 Et Al.*

The Department of Energy (DOE) issued a Decision and Order approving applications submitted by six water transporters for refunds from the Rail and Water Transporters Escrow established as a result of the Stripper Well Settlement Agreement. The Methods of calculating gallonage used by the applicants were similar to those accepted by the DOE in previous Rail and Water decisions. The DOE found that one of the applicants, Reinauer Transportation Companies (Reinauer), failed to pro-rate its gallonage for 1973 and 1981 to include its purchases only for those months covered by the Settlement Period. Accordingly, the DOE recomputed Reinauer's gallonage. The DOE will determine a per gallon refund amount and establish the amount of each applicant's refund after it completes its analysis of all Rail and Water claims. The total number of gallons approved in this Decision is 189,428,291.

Midwest Hauler, Inc. Et Al., 8/31/87; *RF270-1252 Et Al.*

The Department of Energy (DOE) issued a Decision and Order approving the volumes of 11 Applications for Refund from the Surface Transporters Escrow established as the result of the Stripper well Settlement Agreement. The DOE approved claims based on Interstate Commerce Commission annual reports but excluded those gallons used by trucks rented with drivers ("owner operators"). Gallons used by non-hauling vehicles such as farm tractors and off-road construction equipment were also excluded. The DOE will determine a per gallon refund amount and establish the amount of each company's refund after it completes its analysis of all Surface Transporter claims.

North Star Transport, Inc., Troy Aggregate Haulers, Inc., 9/2/87; *RF270-1730, RF270-1741*

The Department of Energy (DOE) issued a Decision and Order regarding two Applications for Refund from the Surface Transporters Escrow established as a result of the Stripper Well Settlement Agreement. The refund applications were filed by American Trucking Associations, Inc. on behalf of North Star Transport, Inc. (North Star) and Troy Aggregate Haulers, Inc. (Troy). The DOE determined that the claim filed on behalf of North Star should be denied because the firm resold all of its petroleum product purchases to its owner operators. The DOE likewise excluded owner operator gallons from Troy's claim, thereby limiting the firm's refund to the 663,926 gallons of fuel that Troy purchased for use in its company vehicles. The DOE will determine a per gallon refund amount and establish the amount of Troy's refund after it completes analysis of all Surface. Transporters claims.

Rollins Leasing Corporation, 9/4/87; *RF270-958*

Rollins Leasing Corporation filed an Application for Refund, seeking funds from the Surface Transporters Escrow established pursuant to the Settlement Agreement in *In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. 367. On the basis of the firm's business operations, the DOE determined that Rollins is a vehicle rental company, and therefore is not an eligible surface tansporter for the purpose of this refund proceeding. The DOE therefore denied Rollins' refund request.

Thurston Motor Lines, Inc., 9/1/87; *RF270-1074*

The Department of Energy (DOE) issued a Decision and Order partially approving an Application for Refund from the Surface Transporters Escrow established pursuant to the Stripper Well Settlement Agreement. The portion of the Applicant's claim based on fuel purchased for over-the-road vehicles was approved, while the portion based on fuel purchased for off-road use was disapproved. The DOE will determine a per gallon refund amount and the amount of the Applicant's refund after it completes its analysis of all Surface Tansporter claims. The total number of gallons approved in this Decision is 79,228,329.

Tresler Oil Company/Sears, Roebuck and Company, 9/1/87; *RF 295-6*

In accordance with the procedures outlined in *Tresler Oil Co.*, 15 DOE ¶ 85,522 (1987), the DOE issued a Decision and Order granting the Application for Refund filed by Sears, Roebuck and Co. Sears was an end-user and therefore was presumed to have been injured by Tresler's alleged pricing practices. The DOE granted a refund totalling $39, representing $35 in principal plus $4 in interest.

Dismissals

The following submissions were dismissed.

Company Name	Case No.
Jacques A. Roy	RF295-13
Malcolm Pitt	RF295-10
R.W. McKinney	RF295-1504
Ron's Getty	RF295-929
Southern Pacific Transportation Company.	RF271-187

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Monagement: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 19, 1987.

[FR Doc. 87-24583 Filed 10-22-87; 8:45 am]

BILLING CODE 6450-01-M

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ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3281-3]

Environmental Impact Statements Filed October 12 Through October 16, 1987; Availability

Responsible agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 870359, DSuppl, SFW, REG, Sport Hunting of Migratory Birds, Issuance of Annual Regulations, Updated Information, Due: December 31, 1987, Contact: Rollin Sparrowe (202) 254-3207.

EIS No. 870360, Draft, AFS, OR, ID, WA, CA, Pacific Northwest Region, National Forest System Lands, Competing and Unwanted Vegetation Management Plan, Due: January 15, 1988, Contact: Gary Larsen (503) 221-2727.

EIS No. 870361, Final, FHW, MN, MN-Forest Highway-11 Construction, St. Louis CSAH-10 and St. Louis CR-565 in Hoyt Lakes to TH-61 in Silver Bay, Lake and St. Louis Counties, Due: November 23, 1987, Contact: Lawrence Brown (612) 290-3239.

EIS No. 870362, Final, COE, LA, West Bank of the Mississippi River Hurricane Surge Protection, New Orleans Vicinity, Jefferson Parish, Due: November 23, 1987, Contact: David Reece (504) 862-2522.

EIS No. 870363, Final, FHW, ME, Sears Island Marine Dry Cargo Terminal and Access Road Construction, Waldo County, Due: November 23, 1987, Contact: William Richardson (207) 622-8487.

EIS No. 870364, Final, FHW, NC, Silas Creek Parkway Completion, Silas Creek Parkway to North Point Boulevard, Forsyth County, Due: November 23, 1987, Contact: Kenneth Bellamy (919) 856-4346.

EIS No. 870365, Draft, BLM, OR, Brothers/ LaPine Planning Area, Resource Management Plan, Princeville District, Due: January 4, 1988, Contact: Brian Cunninghame (503) 447-4115.

EIS No. 870366, Final, UMT, MD, Baltimore Northeast Corridor Extension Transit Improvements, Baltimore County, Due: November 23, 1987, Contact: Robert Stout (202) 366-0096.

EIS No. 870367, Final, FAA, TN, Nashville Metropolitan Airport Runway Improvements, Approval and Site Grading, Davidson County, Due: November 23, 1987, Contact: Otis Welch (901) 521-3495.

Amended Notices

EIS No. 870338, Draft, FHW, VT, NY, US 7 in Bennington, VT Improvements, US 7 to US 7/VT-67A Interchange; VT-9 in Bennington, VT and NY-7 in Hoosick, NY Improvements, Bennington County, VT and Rensselaer County, NY, Due: November 30, 1987, Published FR 10-9-87—Filing date Reestablished.

EIS No. 870342, Final, BLM, NV, Winnemucca District Wilderness Study Areas, Wilderness Recommendations, Designation, Due: December 30, 1987, Published FR 10-9-87—Review period extended.

EIS No. 870343, Final, BLM, NV, Egan Resource Area, Wilderness Study Areas, Wilderness Recommendations, Designation, Due: December 30, 1987, Published FR 10-9-87—Review period extended.

Dated: October 20, 1987.

Barbara Baetjuener,

Acting Deputy Director, Office of Federal Activities.

[FR Doc. 87-24645 Filed 10-22-87; 8:45 am]

BILLING CODE 6560-50-M

[AAA-FRL-3280-9]

EPA Master List of Debarred, Suspended or Voluntarily Excluded Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA Master List of debarred, suspended, or voluntarily excluded persons.

SUMMARY: 40 CFR 32.400 requires the Directors, Grants Administration Division, to publish in the **Federal Register** each calendar quarter the names of, and other information concerning, those parties debarred, suspended, or voluntarily excluded from participation in EPA assisted programs by EPA action under Part 32. Assistance (grant and cooperative agreement) recipients and contractors under EPA assistance awards may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for general informational purposes only and is not to be relied on in determining a person's current eligibility status. A comprehensive list, updated weekly, is available in each Regional Office. Inquiries concerning the status of any individual, organization, or firm should be directed to EPA's Regional or Headquarters office for grants administration that normally serves you.

DATE: This short list is current as of September 11, 1987.

FOR FURTHER INFORMATION CONTACT: Frank Dawkins, of the EPA Compliance Branch, Grants Administration Division, at (202) 475-8025.

Harvey G. Pippen, Jr.,

Director, Grants Administration Division (PM-216).

EPA Master List of Debarred, Suspended and Voluntarily Excluded Persons

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
A.F. Bell Electric Company, Inc. (Youngstown, OH)	85-0014-00	D	06-27-85	06-26-88	§ 32.20
Alle-Catt Asphalt, Inc. (Allegany, NY)	86-0072-02	D	07-29-87	07-28-90	§ 32.200(a)(3)
Altman, Larry L. (Charleston, SC)	85-0063-03	S	07-29-85	OPEN	§ 32.300(b)
American Recovery Co., Inc. (Glen Burnie, MD)	86-0011-00	D	06-20-86	06-19-89	§ 32.200(f)(i)
Applied Science Distributors (Pensacola, FL)	87-0013-00	D	02-05-87	04-02-90	§ 32.200(a)(i)
Averill, Ernest Jr. (Fort Myers, FL)	83-0066-06	D	12-02-83	10-29-88	§ 32.200(b)
Azzil Trucking Co., Inc. (Roslyn, NY)	85-0008-02	D	09-11-86	09-10-89	§ 32.200(a)(b)
Baranowski, Richard (Kingston, PA)	87-0048-01	S	07-17-87	OPEN	§ 32.300(b).
Barnum, James Charles (Utica, MI)	86-0010-01	D	12-10-85	12-09-88	§ 32.200(a)
Batzer Construction Co., Inc. (St. Cloud, MN)	85-0052-00	D	03-07-86	08-05-90	§ 32.200(a)
Batzer, Bruce (St. Cloud, MN)	85-0052-01	D	03-07-86	08-05-90	§ 32.200(a)
Batzer, Robert (St. Cloud, NM)	85-0052-02	D	03-07-86	08-05-90	§ 32.200(a)
Beckham, Charles (Detroit, MI)	84-0030-02	D	02-24-86	07-30-89	§ 32.200(a)(b)
BECO, Inc. (High Point, NC)	85-0017-01	VE	12-10-85	12-09-88	§ 32.200(a)(3)

EPA Master List of Debarred, Suspended and Voluntarily Excluded Persons—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
B.E.S. Environmental Specialist, Inc. (Kingston, PA)	87-0048-00	S	07-17-87	OPEN	§ 32.300(b)
Bell, Bobby (Sulphur, LA)	85-0071-01	D	03-06-86	03-05-89	§ 32.200(a)(b)
Bell, Edwin (Sulphur, LA)	85-0071-02	D	03-06-86	03-05-89	§ 32.200(a)(b)
Blackwelder, Ray Martin (Concord, NC)	84-0011-01	D	06-27-85	06-26-88	§ 32.200(a)
Bowers, Darralyn (Detroit, MI)	84-0030-01	D	02-24-86	05-11-89	§ 32.200(a)(b)
Bridges, William D., Jr. (Wilmington, NC)	85-0069-01	D	04-09-86	04-08-89	§ 32.200(a)
Bryan, Charles B. (Corpus Christi, TX)	87-0010-03	S	07-28-87	OPEN	§ 32.200(a)(c)(i)
Cannady, Nathaniel Ellis (Asheville, NC)	86-0047-01	D	03-18-86	07-15-89	§ 32.200(a)(i)
Carson, Charles (Grosse Point Woods, MI)	85-0066-00	D	03-18-86	04-25-89	§ 32.200(b)
Carson, E. Eugene (Statesville, NC)	85-0004-01	D	01-06-86	01-05-89	§ 32.200(a)
City Chemicals Company, Inc. (Orlando, FL)	86-0038-02	D	10-02-86	11-23-89	§ 32.200(a)(1)
City Environmental Services, Inc. (Orlando, FL)	86-0038-03	D	10-02-86	11-23-89	§ 32.200(a)(1)
City Fuel Oil Company (Orlando, FL)	86-0038-05	D	10-02-86	11-23-89	§ 32.200(a)(1)
City Industries, Inc. (Orlando, FL)	86-0038-01	D	10-02-86	11-23-89	200§ 32.(a)(1)
Commonwealth Companies Incorporated (Lincoln, NE)	86-0100-01	S	11-12-86	OPEN	§ 32.200(a)(1)
Commonwealth Electric Company, Inc. (Lincoln, NE)	86-0100-00	S	09-09-86	OPEN	§ 32.300(b)
Crolich, Peter V. (Mobile, AL)	87-0017-02	D	06-18-87	06-17-90	§ 32.200(a)(i)
Crossgrove, Richard (Pensacola, FL)	87-0013-01	D	02-05-87	04-02-90	§ 32.200(a)(i)
Cryer, John P. (Baton Rouge, LA)	85-0062-03	S	07-29-85	OPEN	§ 32.300(b)
Cummins Construction Company, Inc. (Enid, OK)	86-0069-00	S	09-08-86	OPEN	§ 32.300(b)
Cusenza, Sam (Ypsilanti, MI)	85-0024-02	D	02-24-86	04-02-89	§ 32.200(a)(b)
Cuti, Vincent J., Jr. (Huntington, NY)	83-0040-03	D	04-30-85	04-29-88	§ 32.200(a)
Dellinger, Theodore C. (Monroe, NC)	84-0012-01	VE	03-12-85	03-11-88	§ 32.200(a)
Denson, David A. (Wilmington, NC)	87-0043-01	D	01-12-87	01-11-88	§ 32.200(a)
Domanski, Gary Henry (Utica, MI)	86-0010-02	D	12-10-85	12-09-88	§ 32.200(a)
Driscoll, John William (Dundale, MD)	86-0011-02	D	10- 5-86	10-14-89	§ 32.200(f)(1)
Dykes, Lamar D. (Nederland TX)	85-0071-03	D	03-06-86	03-05-89	§ 32.200(a)(b)
Enmanco (Utica, MI)	86-0010-00	D	12-10-85	12-09-88	§ 32.200(a)
Environmental Management Corporation (Utica, MI)	86-0010-00	D	12-10-85	12-09-88	§ 32.200(a)
Environmental Technology of America, Inc. (Wilbraham, MA).	86-0071-00	D	02-05-87	02-04-90	§ 32.200(a)
Federal Chandros, Inc. (Brooklyn, NY)	87-0040-00	S	07-02-87	OPEN	§ 32.300(b)
Fields, Leroy (Pensacola, FL)	87-0013-02	D	02-05-87	04-02-90	§ 32.200(a)
Fishback & Moore, Inc. (Dallas,TX)	84-0023-00	D	01-15-86	10-19-87	§ 32.200(a)
Floyd D. Stuckey & Associate (Winfield, KS)	84-0028-00	D	08-26-85	08-25-88	§ 32.200(a)
Foley, Bancroft T. (Washington, DC)	86-0004-03	D	03-07-86	03-06-89	§ 32.200(a)
Franklin Wiring Co. (Youngstown, OH)	85-0044-00	D	09-04-85	09-03-88	§ 32.200((a)(3)
FSA Engineering Consultants (Winfield, KS)	84-0028-00	D	08-26-85	08-25-88	§ 32.200(a)
Gates and Fox, Ltd. (Tempe, AZ)	87-0010-00	S	07-28-87	OPEN	§ 32.200(a)(c)(i)
Gelb, Michael (Brooklyn, NY)	87-0040-01	S	07-02-87	OPEN	§ 32.300(b)
Gelb, Michael (Brooklyn, NY)	87-0040-02	S	07-02-87	OPEN	§ 32.300(b)
Geuther, Herbert G. (Philadelphia, PA)	86-0004-04	D	03-07-86	03-06-89	§ 32.200(a)
Goodloe, George M. (Jacksonville, FL)	86-0099-01	D	08-05-87	02-04-89	§ 32.200(a)(3)(i)
Graves, George William (Wilmington, NC)	85-0069-02	D	03-05-86	03-04-89	§ 32.200(a)
Greer, Arthur (Maitland, FL)	86-0038-00	D	10-02-86	11-23-89	§ 32.200
Gross, William R. (Big Springs, TX)	86-0002-01	D	10-06-86	10-05-89	§ 32.200(a)
Hansen, Leonard A. (St. Peter, MN)	85-0019-02	D	09-26-85	09-25-88	§ 32.200(a)(3)
Herring, Donald W. (Wilson, NC)	83-0044-01	D	10-11-87	10-10-87	§ 32.200(a)
Hi-Way Surfacing, Inc. (Marshall, MN)	85-0053-00	D	12-17-85	12-16-88	§ 32.200(a)(3)
Hochreiter, Herbert (Roslyn, NY)	85-0008-01	D	09-11-86	09-10-89	§ 32.200(a)(b)
Hodges Electric Company (Wilmington, NC)	85-0070-00	D	04-04-86	04-03-89	§ 32.200(a)
Howard P. Foley, Company (Washington, DC)	86-0004-00	D	03-07-86	03-06-89	§ 32.200(a)
Hugo Schutz, Inc. (Lakefield, MN)	85-0047-00	D	05-01-86	04-30-89	§ 32.200(a)
Ingber, Brian (S. Fallsburg, NY)	86-0086-01	D	04-24-87	02-23-90	§ 32.200(a)
Insulation Specialty and Supply, Inc. (Cleveland, OH)	84-0025-00	D	10-04-84	10-03-87	§ 32.200(c)(i)
Interstate Concrete Products, Inc. (Jackson, MS)	87-0041-00	D	07-28-87	OPEN	§ 32.200(c)(i)
J.A. LaPorte, Inc. (Arlington, VA)	86-0037-00	D	08-29-86	08-28-89	§ 32.200(a)(3)
Jerlow, John A. (Lakefield, MN)	85-0047-02	D	05-01-86	04-30-89	§ 32.200(a)
Jerpbak, Daniel R. (Owatonna, MN)	86-0024-01	D	09-25-86	09-24-89	§ 32.200(i)
Johnson, C. Theodore (Indianapolis, IN)	84-0023-04	D	03-04-86	03-03-89	§ 32.200(a)(f)
Jordan, William F. (Tempe, AZ)	87-0010-02	S	07-28-87	OPEN	§ 32.200(a)(c)(i)
Komatz Construction Co., Inc. (St. Peter, MN)	85-0019-00	D	09-26-85	09-25-88	§ 32.200(a)(3)
Komatz, Thomas P. (St. Peter, MN)	85-0019-01	D	09-26-85	09-25-88	§ 32.200(a)(3)
Krueger, Joseph (Cleveland, OH)	84-0025-01	D	10-04-84	10-03-87	§ 32.200(c)(i)
Kruse, Lloyd C. (Lakefield, MN)	85-0047-01	D	05-01-86	04-30-89	§ 32.300(a)
Kruse, William B. (Tempe, AZ)	87-0010-01	S	07-28-87	OPEN	§ 32.200(b)
L&J Waste Service, Inc. (Hialeah, FL)	85-0079-02	D	12-19-86	12-18-89	§ 32.300(a)(i)
Law, David P. (Greenwell Springs, LA)	85-0064-00	S	07-29-85	OPEN	§ 32.300(b)
Law, Theresa McBeth (Greenwell Springs, LA)	85-0064-01	S	07-29-85	OPEN	§ 32.200(b)
Lee, Herbert P., III. (Sumter, SC)	84-0013-01	VE	02-14-85	12-31-87	§ 32.200(a)

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EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Lench, Frank P. (Lafayette, CA)	86-0004-01	D	03-07-86	03-06-89	§ 32.200(a)
Leyendecker Highway Contractors, Inc. (Laredo, TX)	86-0014-00	D	07-17-86	03-25-88	§ 32.200(a)
Lizza Industries, Inc. (Roslyn, NY)	85-0008-00	D	09-11-86	09-10-89	§ 32.200(a)(b)
Lofgren, Sven (Lincoln, NE)	87-0014-01	S	11-12-86	OPEN	§ 32.200(i)
McDowell Contractors, Inc. (Nashville, TN)	84-0014-00	VE	12-23-85	12-22-88	§ 32.200(a)
McGill and Smith (Amelia, OH)	86-0092-00	VE	11-12-86	11-11-87	§ 32.200(e)(i)
McGonagle, Joseph D. (Everett, MA)	86-0041-01	VE	11-17-86	11-16-87	§ 32.200(a)
Meyer-Rohlin, Inc. (Buffalo, MN)	86-0081-00	S	04-01-87	OPEN	§ 32.200(a)(i)
Meyer, Thore P. (Buffalo, MN)	86-0081-01	S	04-01-87	OPEN	§ 32.200(a)(i)
Midhampton Asphalt (Roslyn, NY)	85-0008-03	D	09-11-86	09-10-89	§ 32.200(a)(b)
Millspaugh, Michael J. (Mobile, AL)	86-0107-02	D	06-18-87	06-17-90	§ 32.200(a)
Modern Electric Co. (Statesville, NC)	85-0004-00	D	01-06-86	01-05-89	§ 32.200(a)
Moore, Gray E. (Jr.) (Greenwood, SC)	86-0108-00	D	08-19-86	08-18-89	§ 32.200
Moorehead, Dennis L. (Graniteville, SC)	84-0006-01	D	01-11-85	01-10-88	§ 32.200(a)
Moorse, Lawrence (Marshall, MN)	85-0053-01	D	12-17-85	12-16-88	§ 32.200(a)(3)
Mystic Bituminous Products Company, Inc. (Everett, MA)	86-0041-00	VE	11-17-86	11-16-87	§ 32.200(a)
Neal, George D. (Hamden, CT)	86-0040-01	VE	01-09-87	01-08-88	§ 32.200(a)
Newt Solomon, Inc. (Nashville, TN)	85-0058-00	D	10-10-85	10-09-88	§ 32.200(e)(i)
Owens, Jerry B. (Southfield, MI)	85-0065-00	D	02-24-86	03-26-89	§ 32.200(b)
Parkhill-Goodloe Co., Inc. (Jacksonville, FL)	86-0099-00	VE	04-16-87	10-15-88	§ 32.200(a)
Piccinonna, Julio (Hollywood, FL)	85-0079-01	D	05-11-87	05-10-90	§ 32.200(a)
Pinney, J.A. Bruce (Bala Cynwyd, PA)	84-0023-06	D	01-15-86	03-03-89	§ 32.200(a)(f)
Pipeline Renovation Service, Inc. (Tacoma, WA)	86-0078-00	D	07-02-86	08-07-89	§ 32.200(c)(i)
Pirnos, Wayne (Woodbridge, NY)	86-0095-03	D	04-24-87	04-23-90	§ 32.200(a)
Polk, Edward B. (Jackson, MS)	87-0041-01	D	07-28-87	OPEN	§ 32.200(c)(i)
Regenscheid, Charles E. (St. Peter, MN)	85-0019-03	VE	12-19-85	12-18-87	§ 32.200(a)(3)
Resource Conservation & Recovery of America, Inc. (Orlando, FL).	86-0036-04	D	10-02-86	11-23-89	§ 32.200(a)(i)
Rio Grande Construction Company (Bunkie, LA)	85-0063-00	S	07-29-85	OPEN	§ 32.300(b)
Rogers, Joseph J. (Pittsburgh, PA)	86-0004-02	D	03-07-86	03-06-89	§ 32.200(a)
Rol-Away Systems, Inc. (Hollywood, FL)	85-0079-00	D	12-19-86	12-18-89	§ 32.200(a)(i)
Rupp Construction Company, Inc. Slayton, MN	85-0048-00	D	01-17-86	07-16-89	§ 32.200(a)
Rupp, Douglas (Slayton, MN)	85-0048	D	07-16-86	07-16-89	§ 32.200(a)
Sarandos, Constantino (Gus) (Tacoma, WA)	86-0078-02	D	07-02-86	08-07-89	§ 32.200(c)(i)
Sarandos, Dolores K. (Tacoma, WA)	86-0078-01	D	07-02-86	08-07-89	§ 32.200(c)(i)
Sarandos, George (Tacoma, WA)	86-0078	D	07-02-86	08-07-89	§ 32.200(c)(i)
Saunders, George F. (High Point, NC)	85-0017-02	VE	12-10-85	12-09-88	§ 32.200(a)(3)
Sauseda, Roy (Bunkie, LA)	85-0063-02	D	07-29-85	10-13-89	§ 32.200(a)(i)
Schrr, Paul C. (III) (Lincoln, NE)	87-0014-00	S	11-12-86	OPEN	§ 32.200(i)
Service Scaffold,Inc. (S. Fallsburg, NY)	86-0096-00	D	04-24-87	04-23-90	§ 32.200(a)
Seymour Sealing Service, Inc. (Hamden, CT)	86-0040-00	VE	01-09-87	01-08-88	§ 32.200(a)
Smith, Norman F. (Wilbraham, FL)	86-0071-01	D	02-05-87	02-04-90	§ 32.200(a)
Smith, Paul F. (Lakefield, MN)	85-0047-03	D	05-01-86	04-30-89	§ 32.200(a)
Solomon, Newt (Nashville, TN)	85-0058-01	D	10-07-85	10-06-88	§ 32.200(e)(i)
Stuckey, Floyd D. (Winfield, KS)	84-0026-01	D	08-25-85	08-25-88	§ 32.200(a)
Suburban Grading & Utilities, Inc. (Norfolk, VA)	85-0034-00	S	06-18-87	OPEN	§ 32.200(i)
Tow Brothers Const., Company (Fairmont, MN)	85-0054-00	D	01-22-86	01-21-89	§ 32.200(a)
Tow, James (Fairmont, MN)	85-0054-01	D	01-22-86	01-21-89	§ 32.200(a)
Toy, Daniel Lee (Utica, MI)	860010-03	D	12-10-85	12-09-88	§ 32.200(a)
Turbre Enterprises (Bunkie, LA)	85-0062-01	S	07-29-85	OPEN	§ 32.300(b)
Tubre Enterprises, Inc. (Bunkie, LA)	85-0062-00	S	07-29-85	OPEN	§ 32.300(b)
Tubre, Charles (Baton Rouge, LA)	85-0062-02	S	07-29-85	OPEN	§ 32.300(b)
Tubre, Thomas (Bunkie, LA)	85-0063-01	S	07-29-85	OPEN	§ 32.300(b)
Tucker Brothers Contracting Co. (Pell City, AL)	83-0061-00	D	11-26-84	11-25-87	§ 32.200(a)
Tucker, Harold Ray (Pell City, AL)	83-0061-02	D	11-26-84	11-25-87	§ 32.200(a)
Tucker, Kenneth W. (Pell City, AL)	83-0061-01	D	11-26-84	11-25-87	§ 32.200(a)
Twedell, David Bruce (Gainesville, FL)	83-0020-01	D	08-30-85	08-29-87	§ 32.200(a)
Universal Engineering & Supply, Inc. (Sulphur, LA)	85-007-00	D	03-06-86	03-05-89	§ 32.200(a)(b)
Universal Engineering (Sulphur, LA)	85-0071-05	D	03-06-86	03-05-89	§ 32.200(a)(b)
Universal Wheels, Inc. (Sulphur, LA)	85-0071-06	D	03-06-86	03-05-89	§ 32.200(a)(b)
Valentini, Joseph (Ypsilanti, MI)	85-0024-01	D	02-24-86	04-02-89	§ 32.200(a)(b)
W.V. Pangborne & Co., Inc. (Bala Cynwyd, PA)	84-0023-05	D	01-15-86	10-19-87	§ 200(a)(f)
Watson Electrical Construction Co. (Wilson, NC)	86-0109-00	D	12-19-86	12-18-89	§ 32.200(i)
Watson-Flagg Electric Co., Inc. (Indianapolis, IN)	84-0023-03	D	04-28-86	10-19-87	§ 32.200(a)
Williams, G. Marvin (Asheville, NC)	86-0047-02	D	03-18-86	07-15-89	§ 32.200(i)
Wolverine Disposal, Inc. (Ypsilanti, MI)	85-0024-00	D	02-24-86	04-02-89	§ 32.200(a)(b)
Womack, Jerry T. (Norfolk, VA)	85-0034-01	S	06-18-87	OPEN	§ 32.200(i)
Young, Frank Paul (Sr.) (Glen Burnie, MD)	86-0011-01	D	08-20-86	08-19-89	§ 32.200(f)(i)

[1] D = Debarred; S = Suspended; VE = Voluntarily Excluded.

[FR Doc. 87-24571 Filed 10-22-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-63002F; FRL-3280-7]

Decision on Waiver Application of Supelco, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Decision on waiver request.

SUMMARY: EPA under 40 CFR Part 766 requires testing of specified chemical substances to determine whether they are contaminated with halogenated dibenzo-p-dioxins (HDDs) or halogenated dibenzofurans (HDFs). However, provisions are made for exclusion from, or waiver of, these requirements if an appropriate application is made to the Agency and is approved. EPA received such a request for a waiver of these requirements from Supelco, Inc. The Agency has decided to grant the request for the chemical which Supelco manufactures or imports. Supelco claims the chemical name as confidential business information (CBI).

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460 (202-554-1404).

SUPPLEMENTARY INFORMATION: EPA under 40 CFR Part 766 (52 FR 21412, June 5, 1987) requires testing of certain chemical substances to determine whether they may be contaminated with HDDs and HDFs.

A waiver of the testing requirements of Part 766 may be granted under 40 CFR 766.32(a)(2) (i) through (ii) if: (1) 100 kilograms or less of the product are produced annually exclusively for research and development, or (2) the cost of testing would be so high as to drive the chemical substance off the market or prevent resumption of manufacture and it will be produced in such a manner that there will be no unreasonable risk during manufacture, import, processing, distribution, use, or disposal of the substance. Under 40 CFR 766.32(a)(2)(iii), waivers may be appropriately conditioned with respect to such factors as time and conditions of manufacture and use.

Under the regulation, a request for a waiver must be made before September 3, 1987 for persons manufacturing, importing, or processing a chemical substance as of June 5, 1987, or 60 days prior to resumption of manufacture or import of a chemical substance not being manufactured or processed as of June 5, 1987.

Supelco, Inc. requests that the requirements of the rule be waived with respect to all chemicals it manufactures subject to the rule because it produces them at levels of 100 kilograms or less and uses them only for research and development purposes.

EPA confirms that Supelco, Inc. qualifies for a research and development waiver for the chemical which it currently manufactures.

The Agency received no comments on Supelco, Inc.'s waiver request.

Dated: October 15, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87-24574 Filed 10-22-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-40014; FRL-3280-3]

Crotonaldehyde and 1,6-Diisocyanatohexane; Request for Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice requests certain information on crotonaldehyde (CAS No. 4170-30-3) and 1,6-diisocyanatohexane (CAS No. 822-06-0). The TSCA Interagency Testing Committee (ITC) believes that the specified information is needed to reasonably predict or detemine effects on human health or the environment. If the requested information is not available the ITC may recommend priority consideration for testing to develope the data in a future report to the EPA Administrator.

DATE: Comments and information, identified by the document control number [OPTS-40014], should be submitted on or before January 21, 1988.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Brink, Executive Secretary, Interagency Testing Committee (TS-792), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and phone number: Rm. E-058, 401 M St., SW., Washington, DC 20460, (202-382-3820).

SUPPLEMENTARY INFORMATION: The ITC occasionally publishes a notice requesting certain information needed to predict or determine the effects of chemicals on human health or the environment. Notices of this sort generally are reserved for circumstances where the amount of needed information is relatively small. They provide industry and the general public an opportunity to provide additional information within a prescribed time period. Information from unpublished or ongoing health and safety studies, for example, may help the ITC to decide whether or not to recomend a chemical in a future report to the EPA Administrator. The completeness and quality of the submitted information or data plays a major role in the Committee's considerations. At the end of the submission period, the Committee will re-evaluate the chemicals in this notice and make a final decision regarding their disposition.

The TSCA Interagency Testing Committee (ITC) may recommend crotonaldehyde (CAS NO. 4170-30-3) for certain ecological effects testing in a future report to the EPA Administrator. Those ecological effects are (1) acute toxicity with cold water fish (e.g. rainbow trout), (2) acute toxicity with freshwater invertebrates (e.g. daphnids), and (3) effects on freshwater algae (e.g. *Selenastrum*). Especially desirable would be data obtained using flow-through techniques for fish and invertebrate tests and measured quantities of test substance. There appears to be substantial U.S. production of this compound. There appears to be significant environmental exposure to crotonaldehyde and the ITC has found only fragmentary and inconclusive information on the ecological effects endpoints of concern.

The ITC may recommend 1,6-diisocyanatohexane (CAS No. 822-06-0) for long-term toxicity tests and carcinogenicity. There is believed to be substantial exposure potential, especially in automotive and other refinishing applications and it is believed that there may be unpublished data on long-term toxicity and carcinogenicity.

If additional information is received by January 21, 1988, the Committee will detemine whether the new information would justify modifying its intention to recommend these chemicals.

The information submitted will become part of the public record of the ITC review process unless it is clearly designated as Confidential Business Information (CBI). Submitters should separate CBI from other information and mark such information clearly as "TSCA CBI." It will be treated in accordance with procedures outlined in the "TSCA Confidential Business Information Security Manual."

Information or data are being solicited from industry and the public on crotonaldehyde and 1,6-

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diisocyanatohexane. Information is requested by January 21, 1988.

Dated: October 8, 1987.

James K. Selkirk,

Chairman, TSCA Interagency Testing Committee.

[FR Doc. 87-24575 Filed 10-22-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59636; FRL-3280-4]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 1722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of fourteen such PMNs and provides the summary.

DATES: Close of Review Period:

Y 87-263—October 14, 1987.

Y 88-1, 88-2, 88-3, and 88-4—October 22, 1987.

Y 88-5, 88-6, 88-7, 88-8, and 88-9—October 25, 1987.

Y 88-10, 88-11, and 88-12—October 26, 1987.

Y 88-13—October 27, 1987.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 87-263

Manufacturer. S.C. Johnson and Son, Incorporated.

Chemical. (G) Aqueous acrylic copolymer.

Use/Production. (G) Water-borne polymer for coatings. Prod. range: Confidential.

Y 88-1

Importer. Confidential.

Chemical (G) Stylene-acrylic resin.

Use/Import. (G) Polymeric binder for electro duplicator toners. Import range: Confidential.

Toxicity Data. Ames test: Non-mutagenic.

Y 88-2

Manufacturer. Stepan Company.

Chemical. (G) Polyester polyol.

Use/Production. (S) Industrial and commercial polyol to be used in the production of polyurethane and urethane modified polyisocyanurate foams. Prod. range: Confidential.

Y 88-3

Manufacturer. Confidential.

Chemical. (G) Polyurethane resin.

Use/Production. (S) Site-limited polyurethane resin for coating metal or wood. Prod. range: 8,250 to 16,500 kg/yr.

Y 88-4

Manufacturer. Confidential.

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial vehicle for making printing ink. Prod. range: 19,500 to 25,000 kg/yr.

Y 88-5

Manufacturer. Confidential.

Chemical. (G) Rosin-modified fumaric resin.

Use/Production. (S) Industrial binder and the application is in lithographic printing inks, both heat set web offset and sheet fed types. Prod. range: Confidential.

Y 88-6

Importer. Confidential.

Chemical. (G) Copolymer of adipic acid tetrahydrophthalic acids with ethylene glycol and dipropoxylated of bisphenol A.

Use/Import. (G) Open, non-dispersive use. Import range: Confidential.

Y 88-7

Importer. Confidential.

Chemical. (G) Copolymer of adipic and fumaric acids with (ethylenoxy propylene) glycol and di propoxilated bisphenol A.

Use/Import. (G) Industrial open, non-dispersive use. Import range: Confidential.

Y 88-8

Importer. Confidential.

Chemical. (G) Elastomer of isophorondiisocyanate modified polyester based on adipic acid and a mixture of glycols chain extended with diamine.

Use/Import. (G) Industrial open, non-dispersive use. Import range: Confidential.

Y 88-9

Importer. Confidential.

Chemical. (G) Copolymer of fumaric acid with (ethylenoxy propylene) glycol and nonylphenoxy ethanol.

Use/Import. (G) Industrial open, non-dispersive use. Import range: Confidential.

Y 88-10

Manufacture. Confidential.

Chemical. (G) Polyurethane resin.

Use/Production (S) Coatings. Prod. range: Confidential.

Y 88-11

Manufacture. Confidential.

Chemical. (G) Alkyd resin.

Use/Production. (S) Coatings. Prod. range: Confidential.

Y 88-12

Importer. MTC America, Incorporated.

Chemical. (S) Styrene with methyl methacrylate, iso-butyl acrylate, 2-hydroxyethyl methacrylate and glycidyl methacrylate.

Use/Import. (S) Industrial powder coating. Import range: Confidential.

Y 88-13

Importer. Confidential.

Chemical. (G) Copolymer of dipropoxylated bisphenol A, ethylene glycol and fumaric acid.

Use/Import. (G) Open, non-dispersive. Import range: Confidential.

Date: October 13, 1987.

Denise Devos,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87-24576 Filed 10-22-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51697; FRL-3280-5]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of sixty such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 88-2, 88-3, 88-4, 88-5, 88-6, 88-7, 88-8, 88-9, 88-10, 88-11, 88-12, and 88-13—December 31, 1987.

P 88-14, 88-15, 88-16, 88-17, 88-18, 88-19, 88-20, 88-21, 88-22, 88-23, 88-24, 88-25, 88-26, 88-27, 88-28, 88-29, 88-30, and 88-31—January 2, 1988.

P 88-32, 88-33, 88-34, 88-35, 88-36, 88-37, 88-38, 88-39, 88-40, 88-41, 88-42, 88-43, 88-44, 88-45, 88-46, 88-47, 88-48, 88-49, 88-50, 88-51, 88-52, 88-53, 88-54, 88-55, 88-56, and 88-61—January 3, 1988.

P 88-57, 88-58, 88-59, and 88-60—January 4, 1988.

Written comments by: P 88-2, 88-3, 88-4, 88-5, 88-6, 88-7, 88-8, 88-9, 88-10, 88-11, 88-12, and 88-13—December 1, 1987.

P 88-14, 88-15, 88-16, 88-17, 88-18, 88-19, 88-20, 88-21, 88-22, 88-23, 88-24, 88-25, 88-26, 88-27, 88-28, 88-29, 88-30, and 88-31—December 3, 1987.

P 88-32, 88-33, 88-34, 88-35, 88-36, 88-37, 88-38, 88-39, 88-40, 88-41, 88-42, 88-43, 88-44, 88-45, 88-46, 88-47, 88-48, 88-49, 88-50, 88-51, 88-52, 88-53, 88-54, 88-55, 88-56, and 88-61—December 4, 1987.

P 88-57, 88-58, 88-59, and 88-60—December 5, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS-51697]" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M Street SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the PMNs received by EPA. The complete non-confidential PMNs are available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 88-2

Manufacturer. Confidential

Chemical. (G) A chain extended, hydroxy terminated urethane.

Use/Production. (G) Adhesive curative. Prod. range: Confidential.

P 88-3

Importer. Confidential.

Chemical. (G) Modified styrene copolymer.

Use/Import. (G) Styrene copolymer for photo copy. Import range: Confidential.

Toxicity Data. Acute oral: 5.0 g/kg; Ames test: Non-mutagenic.

P 88-4

Manufacturer. Confidential

Chemical. (G) Functionalized acrylate methacrylate polymer.

Use/Production. (G) Industrially used coating composition having a dispersive use. Prod. Range: 100,000 to 600,000 kg/yr.

P 88-5

Manufacturer. Confidential.

Chemical. (G) Substituted alkylsilylurea.

Use/Import. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-6

Importer. Wacker Chemicals (USA), Incorporated.

Chemical. (G) Mixture of 6-octen-3-ol and 4,7-dimethyl-4-ethenyl-.

Use/Import. (S) Industrial, commercial and consumer fragrance. Import range: 1,000 kg/yr.

Toxicity Data. Acute oral: 7.1 ml/kg; Irritation: Skin-Non-irritant, Eye-Irritant; Skin sensitization: Non-sensitizer.

P 88-7

Manufacturer. Confidential

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial alkyd resin for use in fire retardant coatings. Prod. range: 41,000 to 82,000 kg/yr.

P 88-8

Manufacturer. Confidential

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial alkyd resin for use in fire retardant coatings. Prod. range: 44,000 to 65,000 kg/yr.

P 88-9

Manufacturer. Confidential

Chemical. (G) Anhydride modified polyolefin.

Use/Production. (G) Industrially used coating with a dispersive use. Prod. range: 165,000 to 818,000 kg/yr.

P 88-10

Manufacturer. Confidential

Chemical. (G) Anhydride modified polyolefin.

Use/Production. (G) Industrially used coating with a dispersive use. Prod. range: 165,000 to 818,000 kg/yr.

P 88-11

Manufacturer. Confidential

Chemical. (G) Anhydride modified polyolefin.

Use/Production. (G) Industrially used coating with a dispersive use. Prod. range: 165,000 to 818,000 kg/yr.

P 88-12

Importer. Stockhausen Incorporated.

Chemical. (G) DIMAPA, polymer with acrylic acid, sodium salt; dialkylaminoalkacrylamide.

Use/Import. (S) Commercial production of filler and pigment slurries and of coatings for paper production. Import range: Confidential.

P 88-13

Manufacturer. GAF Chemicals Corporation.

Chemical. (G) N-substituted alkyl lactam.

Use/Production. (G) Reaction intermediate: Prod. range: Confidential.

P 88-14

Manufacturer. Confidential

Chemical. (G) Substituted benzotriazole.

Use/Production. (G) Industrial fuel and lube additive. Prod. range: 90,500 to 500,000 kg/yr.

P 88-15

Manufacturer. Confidential

Chemical. (G) Disubstituted triazinylamino substituted naphthalene disulfonic acid, sodium salt.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-16

Manufacturer. Confidential.

Chemical. (G) Disubstituted triazinylamino substituted phenyl substituted naphthalene disulfonic acid, sodium salt.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-17

Manufacturer. Confidential.

Chemical. (G) Disubstituted triazinylamino sulfophenylamino substituted carbopolycyclesulfonic acid.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

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P 88-18

Manufacturer. Confidential.
Chemical. (G) Copper phthalocyanine substituted alkyl amino sulfonyl sulfo derivatives, sodium salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-19

Manufacturer. Confidential.
Chemical. (G) Disubstituted triazinylamino substituted naphthalene sulfonic acid, sodium salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-20

Manufacturer. Confidential.
Chemical. (G) Substituted aminophenyl substituted heteropolycycle, salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-21

Manufacturer. Confidential.
Chemical. (G) Dialkylaminophenyl substituted heteromono cycle, salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-22

Manufacturer. Confidential.
Chemical. (G) Substituted phenyl substituted heteropolycycle, salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-23

Manufacturer. Confidential.
Chemical. (G) Substituted aminophenyl substituted heteromonocycle, salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-24

Manufacturer. Confidential
Chemical. (G) Substituted aminophenyl substituted heteropolycycle, salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-25

Manufacturer. Confidential.
Chemical. (G) Substituted aminophenyl substituted heteromonocycle, salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-26

Manufacturer. Confidential.
Chemical. (G) Substituted heteropolycycle alkyl substituted heteropolycycle, salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-27

Manufacturer. Confidential.
Chemical. (G) Substituted phenyl bis(substituted aminophenyl) methylium salt.
Use/Production. (G) Industrial open, non-dispersive use. Prod. range: Confidential.

P 88-28

Manufacturer. Confidential.
Chemical. (G) Substituted aminophenyl substituted heteropolycycle, salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-29

Manufacturer. Confidential.
Chemical. (G) Disubstituted heteropolycycle, salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-30

Importer. Reichhold Chemicals, Incorporated.
Chemical. (G)Polyurethane.
Use/Import. (S) Industrial general laminating adhesives. Import range: Confidential.

P 88-31

Manufacturer. Confidential.
Chemical. (G) N,N-diethyl-N,N-di polyethylenoxy ammonium sulfate.
Use/Production. (G) Industrial open, non-dispersive use. Prod. range: Confidential.

P 88-32

Manufacturer. Fairmont Chemical Company.
Chemical. (G) Penaerythritol diphosphite.
Use/Production. (S) Antioxidant for thermoplastics. Prod. range: Confidential.

P 88-33

Manufacturer. Confidential.
Chemical. (G) Styrenated acrylic polymer.
Use/Production. (G) Performance additive for water based coating. Prod. range: 35,000 to 175,000 kg/yr.

P 88-34

Manufacturer. Confidential.
Chemical. (G) Acrylic high polymer.
Use/Production. (G) Industrial paint polymer. Prod. range: 6,000 to 100,000 kg/yr.

P 88-35

Manufacture. Confidential.
Chemical. (G) Tall oil acid alkyd resin.
Use/Production. (G) Industrial open, non-dispersive use. Prod. range: Confidential.

P 88-36

Manufacture. Confidential.
Chemical. (G) (Heterosubstituted siloxane)-(disubstituted siloxane) copolymer.
Use/Production. (G) A component of formulations for open, non-dispersive use. Prod. range: Confidential.

P 88-37

Importer. Nuodex Incorporated.
Chemical. (G) Selfcrosslinking, blocked polyurethane system.
Use/Import. (S) Industrial coatings. Import range: 15,000 to 100,000 kg/yr.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Non-mutagenic.

P 88-38

Manufacture. Confidential.
Chemical. (G) Acrylate copolymer.
Use/Production. (G) Binder for unlike substances. Prod. range: Confidential.

P 88-39

Importer. General Electric Corporation.
Chemical. (G) Substituted hydroxyphenyl benzotriazole carboxylic acid.
Use/Import. (S) Site-limited and industrial intermediate used in manufacture of UV light stabilizer composition. Import range: Confidential.

P 88-40

Importer. Confidential.
Chemical. (G) Fluro elastomer.
Use/Import. (G) Resin. Import range: Confidential.

P 88-41

Importer. Nuodex Incorporated.
Chemical. (G) Branched, saturated hydroxyl terminated polyester.
Use/Import. (S) Industrial coatings. Import range: 10,000 to 50,000 kg/yr.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Non-mutagenic.

P 88-42

Manufacture. Confidential.

Chemical. (G) Fatty acids, tall oil, reaction products with diethylene triamine, alkoxylated.
Use/Production. (G) Additive used in the energy production industry. Prod. range: 10,000 to 30,000 kg/yr.

P 88-43

Importer. Alphagaz Specialty.
Chemical. (S) Disilicon hexahydride (disilane).
Use/Import. (S) Industrial feedstock to fabricate, amorphous silicon films, which have semiconductor properties. Import range: 100 to 1,000 kg/yr.

P 88-44

Importer. Confidential.
Chemical. (S) 4,4-Dimethyl-1,3-dioxolon-2-one.
Use/Import. (G) Hardener. Import range: Confidential.

P 88-45

Importer. Confidential.
Chemical. (G) Substituted imidazole.
Use/Import. (G) Epoxy resins. Import range: Confidential.

P 88-46

Manufacture. Confidential.
Chemical. (G) Polyurethane elastomer.
Use/Production. (G) Shielded, non-dispersive use in disposable garments. Prod. range: Confidential.

P 88-47

Importer. Nuodex Incorporated.
Chemical. (S) Reaction products from phosphorus pentoxide with isopropanol.
Use/Import. (S) Industrial cleansers for external walls, antistatic agents for the textile industry (emulsifiers) and wetting agents for strongly alkaline media. Import range: 10,000 to 20,000 kg/yr.
Toxicity Data. Acute oral: 940 mg/kg; Irritation: Skin—Slight irritant, Eye—Irritant; Ames test: Non-mutagenic.

P 88-48

Manufacture. Texaco Chemical Company.
Chemical. (S) Disulfide, C_1-C_8 dialkyl, from C_1-C_8 hydrocarbon sweetening.
Use/Production. (S) Recovery of valuable sulfur compounds. Prod. range: 250,000 to 320,000 kg/yr.
Toxicity Data. Acute oral: 369 mg/kg; Irritation: Skin—Slight irritant.

P 88-49

Manufacturer. Confidential.
Chemical. (G) Alkylbenzene sulfonic acid, sodium salt.
Use/Production. (G) Oil soluble emulsifier. Prod. range: Confidential.

P 88-50

Manufacturer. Confidential.
Chemical. (G) Alkylbenzene sulfonic acid.
Use/Production. (G) An additive used in lubricating and cutting fluids. Prod. range: Confidential.

P 88-51

Importer. Dai Nippon Printing Company.
Chemical. (G) Indophenol derivative.
Use/Import. (S) Consumer dye for heat transfer recording material. Import range: 20 to 100 kg/yr.

P 88-52

Importer. Dai Nippon Printing Company.
Chemical. (G) Azomethine dye derivative.
Use/Import. (S) Consumer dye for transfer recording material. Import range: 20 to 100 kg/yr.

P 88-53

Importer. Dai Nippon Printing Company.
Chemical. (G) Indophenol derivative.
Use/Import. (S) Consumer dye heat transfer recording material. Import range: 20 to 100 kg/yr.

P 88-54

Importer. Dai Nippon Printing Company.
Chemical. (G) Azomethine dye derivative.
Use/Import. (S) Consumer dye for heat transfer recording material. Import range: 20 to 100 kg/yr.

P 88-55

Importer. Fritzsche Dodge and Olcott.
Chemical. (S) Cyclododecane, (1,1-dimethyethoxy).
Use/Import. (S) An aroma chemical or as a chemical intermediate. Import range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin—Irritant, Eye—Non-irritant.

P 88-56

Importer. Fritzsche Dodge and Olcott.
Chemical. (S) 2-Octen-1-ol, 3,7-dimethyl-.
Use/Import. (S) A chemical intermediate or as a aroma chemical. Import range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin—Irritant, Eye—Irritant.

P 88-57

Manufacturer. Confidential.
Chemical. (S) Adduct of maleated polypropylene and gamma aminopropyl triethoxy silane.
Use/Production. (S) Adhesion promoter in polypropylene fibers used in reinforcing portland cement articles. Prod. range: Confidential.

P 88-58

Importer. Biddle Sawyer Corporation.
Chemical. (G) Fiber reactive dye.
Use/Import. (S) Reactive dye for textiles. Import range: 40,000 to 40,000 kg/yr.

P 88-59

Importer. Confidential.
Chemical. (G) Fiber reactive dye.
Use/Import. (S) Reactive dye for textiles. Import range: 40,000 to 40,000 kg/yr.

P 88-60

Importer. Biddle Sawyer Corporation.
Chemical. (G) Fiber reactive dye.
Use/Import. (S) Reactive dye for textiles. Import range: 40,000 to 40,000 kg/yr.

P 88-61

Importer. Confidential.
Chemical. (G) Organopolysiloxane containing metals.
Use/Import. (S) Additive for silicone resin. Import range: 100 to 200 kg/yr.

Date: October 13, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87-24577 Filed 10-22-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3280-8]

Science Advisory Board, Research Strategies Committee; Health Effects Group; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Health Effects Group of the Research Strategies Committee of the Science Advisory Board will be held on November 30,—December 1, 1987, in Conference Room 728G of the Humphrey Building, 200 Independance Avenue, SW., Washington, DC. The meeting will be conducted from 9:00 a.m., to 3 p.m.

The purpose of the meeting will be to continue the development of the research strategy for health effects research.

The meeting will be open to the public. Any member of the public wishing to attend the meeting must contact Dr. C. Richard Cothern, Executive Secretary to the Committee, by telephone at (202 282-2552 or by mail

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to: Science Advisory Board (A101-F), 401 M Street SW., Washington, DC 20460 no later than C.O.B. November 21, 1987.

Date: October 14, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87-24580 Filed 10-22-87; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3281-4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

This notice announces the Availability of EPA comments prepared October 5, 1987 through October 9, 1987 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act (CAA) and section 102(2)(c) of the National Environmental Policy Act (NEPA) as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 24, 1987 (52 FR 13749).

Final EISs

ERP No. F1-AFS-G65035-NM, Santa Fe National Forest, Land and Resource Management Plan, NM. SUMMARY: The final EIS adequately responded to EPA comments issued on the draft EIS.

F-UAF-A10055-00, Ground Wave Emergency Network (GWEN) Deployment and Land Acquisition, Final Operational Capability, US. SUMMARY: EPA made no formal comments. EPA had not additional comments on the final EIS.

Regulations

ERP No. R-FRC-A99178-00, 18 CFR Part 385, Procedures for the Assessment of Civil Penalties Under section 31 of the Federal Power Act (Docket No. RM87-24-000) (52 FR 29216). Summary: EPA has no obligations to the regulations as proposed. EPA recommends that a provision be made for consultation with other appropriate agencies when dealing with violations involving that other agency's mission.

ERP No. R-OSM-A0192-00, 30 CFR Parts 816 and 817, Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program, Revegetation (52 FR 28012). Summary: EPA expressed concern regarding repair of rills and gullies and reinstatement of the one-year rule for measuring revegetation success on some lands.

Dated: October 20, 1987.

William D. Dickerson,

Acting Director, Office of Federal Activities.

[FR Doc. 87-24601 Filed 10-22-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

FGC Holding Co., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 12, 1987.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *FGC Holding Company,* Martin, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of First Guaranty National Bank, Martin, Kentucky.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Albright Bancorp, Inc.,* Kingwood, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Albright National Bank of Kingwood, Kingwood, West Virginia.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Valley Bancshares, Inc.,* Grand Forks, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger of Valley Bank and Trust Company, Grand Forks, North Dakota.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kanbank, Inc.,* Overland Park, Kansas; to acquire 50.2 percent of the voting shares of Farmers State Bank of Walnut, Walnut, Kansas.

E. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Sumitomo Bank, Limited,* Osaka, Japan; to maintain 13.7 percent interest in CPB, Inc., Honolulu, Hawaii, and thereby indirectly acquire Central Pacific Bank, Honolulu, Hawaii.

Board of Governors of the Federal Reserve System, October 19, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc 87-24520 Filed 10-22-87; 8:45 am]

BILLING CODE 6210-01-M

Independent Bancshares; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 1, 1987.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Independent Bancshares,* Abilene, Texas; to engage through its subsidiary, Independent Computers, Inc., Abilene, Texas, in joint venture with CCS Processing Services, Inc., Maitland, Florida, and thereby engage in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 19, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-24521 Filed 10-22-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Radiopharmaceutical Drugs Advisory Committee

Date, time, and place. November 16, 1987, 8:30 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, November 16, 1987, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 12 m.; closed presentation of data, 1 p.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; David F. Hersey, Center for Drugs and Biologics (HFN-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee will discuss: (1) A status report on the regulation of positron emission tomography (PET) and (2) brief reports of interest to the committee on activities of the Nuclear Regulatory Commission (NRC) and the Center for Devices and Radiological Health.

Closed presentation of data. The committee will hear trade secret and/or confidential commercial information relevant to two IND's: one a diagnostic agent and one a therapeutic agent. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. The committee will review trade secret and/or confidential commercial information relevant to two IND's: one a diagnostic agent and one a therapeutic agent. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Science Advisory Board to the National Center for Toxicological Research

Date, time, and place. November 17 and 18, 1987, 1 p.m., Building 13, conference room, National Center for Toxicological Research (NCTR), Jefferson, AR.

Type of meeting and contact person. Open committee discussion, November 17, 1987, 1 p.m. to 5 p.m.; open public hearing, November 18, 1987, 1 p.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 3 p.m.; Ronald F. Coene, National Center for Toxicological Research, Food and Drug Administration, 5600 Fishers Lane, Rm 14-101, Rockville, MD 20857, 301-443-3155.

General function of the board. The Board advises the Director, NCTR, in establishing and implementing a research program that will assist the Commissioner of Food and Drugs in fulfilling his regulatory responsibilities. The Board provides the extra-agency review in ensuring that research programs at NCTR are scientifically sound and pertinent to its stated goals and objectives.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make a formal presentation should notify the contact person before November 1, 1987, and submit a brief statement of the general nature of the evidence or argument they wish to present, the name and address of proposed participants, and an indication of the approximate time requested to make their comments.

Agenda—Open Board discussion. The Board will receive an update of the Center's progress on research programs in extrapolation and program briefings on modulators of toxicology, clinical toxicology, and the biomarker program. A final agenda will be available on November 10, 1987, by contacting the executive secretary.

Agenda—Closed Board deliberations. The Board will review part of the intramural research program of the Center. This session of the meeting will be closed to prevent disclosure of personal information concerning individuals associated with this research program, disclosure of which would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Gastroenterology-Urology Devices Panel

Date, time, and place. November 18 and 19, 1987, 9 a.m., Rm. 503A, Hubert H. Humphrey Bldg., 200 Independence Avenue, SW., Washington, DC.

Type of meeting and contact person. Open public hearing, November 18, 1987, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; closed presentation to data, 1:30 p.m. to 2:30 p.m.; open committee discussion, 2:30 p.m. to 4 p.m.; open committee discussion, November 19, 1987, 9 a.m. to 11 a.m.; closed presentation to data, 11:30 a.m. to 12 m.; open committee discussion, 1:30 p.m. to 3 p.m.; Frank S. Casciani, Center for Devices and Radiological Health (HFZ-420), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7750.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the

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committee. Those desiring to make formal presentations should notify the contact person before November 6, 1987, and submit a brief statement of the general nature of the evidence or argument they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss safety and effectiveness data for devices for extracorporeal shock wave lithotripsy.

Closed presentation of data. Trade secret and/or confidential commercial information will be presented to the committee regarding materials, design, computer software, and manufacturing information for the lithotripters. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Dermatologic Drugs Advisory Committee

Date, time, and place. November 20, 1987, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contract person. Open public hearing, November 20, 1987, 9 a.m. to 10 a.m., unless public participation does not last that long; closed presentation of data, 10 a.m. to 4:30 p.m.; Thomas E. Nightingale, Center for Drugs and Biologics (HFN–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in dermatologic disorders.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Closed presentation of data. The committee will hear trade secret and/or confidential commercial information relevant to IND 25–810, IND 25–782, and IND 29–051. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. November 23 and 24, 1987, 8:30 a.m., Building 31, Conference Rm. 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, November 23, 1987, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; closed committee deliberations, 9:30 a.m. to 5 p.m.; closed committee deliberations, November 24, 1987, 8:30 a.m. to 12 m.; Jack Gertzog, Center for Drugs and Biologics (HFN–31), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of vaccines and related biologcial products intended for use in the diagnosis, prevention, or treatment of human diseases. The committee also reviews and evaluates the quality and relevance of FDA's research program which provides scientific support for the regulation of these products.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Closed committee deliberations. The committee will review trade secret and/or confidential commercial information relevant to pending IND's. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Par 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm.4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy, investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: October 19, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87–24525 Filed 10–22–87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted for Review to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days to the Bureau Clearance Officer and to the Office of Management and Budget Interior Desk Officer at (202) 395–7340.

Title: Higher Education Annual Report, 25 U.S.C. 13, 25 CFR Part 40.

Abstract: The Office of Indian Education Programs needs and uses this information for program integrity while performing its misson of educating Native American Indian college students.

Bureau form number: No number.

Frequency: Annually.

Description of respondents: Tribal organizations who have contracted to administer operation of the Bureau's higher education programs.

Annual Response: 93.

Annual burden hours: 5,766 hours.

Bureau clearance officer: Cathie Martin (202) 343–3577.

Deputy to the Assistant Secretary/Director-Indian Affairs (Indian Education Programs).

Ronal D. Eden,

[FR Doc. 87–24615 Filed 10–22–87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[OR-050-4410-10;GP7-296]

Availability of Draft Resource Management Plan and Environmental Impact Statement; Brothers/LaPine Planning Area, Prineville District, OR

October 15, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given of the availability of the Draft Brothers/LaPine Resource Management Plan/Environmental Impact Statement (RMP/EIS) for 1.1 million acres of public land and federal subsurface mineral estate administered by BLM within Crook, Deschutes, Harney, Klamath and Lake counties in Central Oregon.

SUPPLEMENTARY INFORMATION: The issues and concerns addressed in the RMP/EIS are: land tenure and access, recreation, areas of critical environmental concern, wild horses and fire management in the entire planning area and livestock grazing, forestland management and wildlife habitat in the LaPine portion of the planning area.

The preferred alternative emphasizes the management, production and use of renewable resources on the majority of the public lands in the Brothers/LaPine Planning Area. Management would be directed toward providing a flow of renewable resources from the public lands on a sustained yield basis while protecting or enhancing natural values. Management under the preferred alternative would resolve the identified issues as follows:

(1) Timber harvest levels in LaPine would be approximately 8 million board feet annually for a period of approximately 7 years. This harvest would come from 1,000 to 1,400 acres with about 75 percent of the timber volume being high risk green timber and 25 percent being trees which have been killed by the Mountain Pine Beetle infestation. After the 7 year harvest period is completed, commercial timber harvesting on public lands in the LaPine portion would cease for approximately 50 years. Approximately 156,000 acres of woodlands in the Brothers portion would be managed for post, poles and firewood.

(2) Forage available for livestock grazing would increase to 16,569 AUMs in the LaPine portion. Up to 98 miles of fence and 14 waterholes could be developed if the livestock operators would be willing to assume development expense. Intensive grazing management systems would be implemented in all allotments.

(3) The 14 wild horses would be removed from the public lands and an additional 210 AUMs of forage previously consumed by those horses would be allocated to wildlife and watershed values.

(4) Wildlife habitat would be managed to provide optimum habitat diversity. Seventy percent of wildlife trees in the LaPine portion would be retained and the Oregon Department of Fish and Wildlife management objective numbers for deer and elk would be met.

(5) Aggressive fire suppression on 500,000 acres of public land in values-at-risk classes 4, 5 and 6 would continue. Approximately 600,000 acres would be

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designated as conditional suppression or fire use acres.

(6) Off-road vehicle use would be limited on 267,076 acres with 10,722 acres being closed to off-road vehicle use. The remaining public lands in the planning area would be designated as open to ORV use. The Millican Valley Off-road Vehicle Area would be increased in size from 60,000 to 65,000 acres and continue as a designated ORV use area.

A total of 6 moderate and high quality rockhounding areas totalling 47,180 acres would be managed for public recreational rockhounding. A 13,000 acre area within the Congleton Hollow/Liggett Table Area would be proposed for withdrawal from mineral entry for semi-precious stones.

(7) A total of 36,916 acres would be designated as areas of critical environmental concern. They include the Badlands area, Benjamin, Forest Creeks, Horse Ridge, Logan Butte, Lower Crooked River, North Fork of the Crooked River, Pack's Milkvitch, Powell Butte, South Fork of the Crooked River, three segments of a historic wagon road and two bald eagle winter roost sites. Three of these areas totalling 1,565 acres would also be designated as research natural areas.

(8) Public land holdings in areas with high or moderate public values would be maintained or increased. Lands with low public values would be exchanged or sold if they met certain criteria. Legal public access would be acquired into inaccessible public lands with high public value.

Agricultural use of public lands would be authorized if no significant conflict with other public values exist.

Public lands in the LaPine core area would be exchanged, leased or sold. Public lands near Bend, Redmond and Prineville would be transferred to local governments or exchanged as needed to accommodate community expansion.

(9) The public lands would remain open for exploration (including geophysical) and development of mineral resources and related rights-of-way. Fluid mineral leasing would continue with the entire federal reserved mineral estate and 750,467 acres of public land open to exploration and development subject to standard lease requirements. A no surface occupancy stipulation on 10,480 acres around Prineville Reservoir and seasonal restrictions on 44,580 acres of deer wintering areas, and 3,560 acres of sage grouse strutting grounds would continue. Restrictions to protect 300,000 acres of land that are visually sensitive or of high scenic quality would also be continued. Exceptions to the no-surface occupancy and visual restriction might be permitted if certain criteria could be met.

Five other alternatives are considered in addition to the preferred alternative, they are: emphasize commodity production and enhancement of economic benefits, emphasize commodity production while accommodating natural values, continue existing management (no action), emphasize natural values while accommodating commodity production, and emphasize natural values. A discussion of the affected environment is summarized and the environmental consequences occurring from the preferred alternative and each of the other alternatives are documented in the EIS.

Dates and Addresses: The public comment period will end January 15, 1988. Written comments may be submitted at any time during the comment period to the Prineville District Manager located at 185 E. Fourth Street, P.O. Box 550, Prineville, Oregon 97754.

Three informal public meetings have been scheduled to receive comments on the Draft RMP/EIS. They will be held at Prineville, Oregon, on November 2, 1987, at 7:00 pm at the Catholic Parish Hall; at Bend, Oregon, on November 4, 1987, at 7:00 pm at the Riverhouse Motor Inn and at LaPine on November 5, 1987, at 7:00 pm at the Community Center for individuals wishing to ask questions or to present comments.

All comments received during the comment period will be considered in preparation of the Proposed RMP/Final EIS.

FOR FURTHER INFORMATION CONTACT: Brian Cunninghame, Team Leader, Bureau of Land Management, Prineville District, telephone (503) 447-4115.

Dated: October 15, 1987.

James L. Haucock,

District Manager.

[FR Doc. 87-24540 Filed 10-22-87; 8:45 am]

BILLING CODE 4310-33-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Copper River Meridian, Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-49190-G has been received covering the following lands:

Copper River Meridian, Alaska

T. 3 S., R. 4 E.,
Sec. 13 SW¼NW¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from April 1, 1987, the date of terminaton, have been paid.

Having met all the requirements for reinstatement of lease AA-49190-G as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective April 1, 1987, subject to the terms and conditions cited above.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

Dated: October 16, 1987.

[FR Doc. 87-24504 Filed 10-22-87; 8:45 am]

BILLING CODE 4310-JA-M

[AZ-940-08-4220-10; AR-032636]

Proposed Modification of Public Land Order No. 3305; Transfer of Jurisdiction in Maricopa County, AZ

Octobr 16, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Modification of Public Land Order No. 3305; Transfer of Jurisdiction; Maricopa County, Arizona.

SUMMARY: The U.S. Department of Justice has requested a modification of Public Land Order 3305 to formally change the use and benefitting agency of 86 acres from a fire arms training facility for the Federal Bureau of Investigation to a Federal corrections facility under the Bureau of Prisons. The land has been and remains closed to surface entry, mining, and mineral leasing.

DATE: Comments should be received by January 21, 1988.

FOR FURTHER INFORMATION CONTACT: John T. Mezes, Bureau of Land Management, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone Number (602) 241-5531.

SUPPLEMENTARY INFORMATION: The Department of Justice proposes to modify the withdrawal made by Public Land Order 3305 of January 13, 1964, which withdrew the following described land from all forms of appropriation under the public land laws, including the mining and mineral leasing laws:

Gila and Salt River Meridian, Arizona

T. 6 N., R 2 E.,
Sec. 28, S½NW¼, N½SW¼.

The area described aggregates 160 acres in Maricopa County.

On January 22, 1986, the original 160 acre parcel was divided with approximately 74 acres being transferred to the Bureau of Prisons for the construction of a Federal Correctional Institution. The remaining 86 acres are now needed for a Federal correction facility adjacent to the existing correctional institution. The Federal Bureau of Prisons and the Federal Bureau of Investigation, both agencies within the Department of Justice, concur in this proposal. No change is proposed in the segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed modification of use and transfer of jurisdiction may present their views in writing to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-24563 Filed 10-22-87; 8:45 am]

BILLING CODE 4310-32-M

National Park Service

Draft Environmental Impact Statement and Development Concept Plan, Fishing Bridge Developed Area, Yellowstone National Park, Wyoming-Montana-Idaho

AGENCY: National Park Service, Interior.

ACTION: Availability of draft environmental impact statement and development concept plan.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a draft Environmental Impact Statement and Development Concept Plan (DEIS/DCP) for the Fishing Bridge developed area in Yellowstone National Park, Wyoming-Montana-Idaho.

DATE: The DEIS/DCP will remain available for public comment through December 16, 1987. If any public meetings are held concerning the DEIS/DCP, they will be announced at a later date.

ADDRESSES: Comments on the DEIS/DCP should be sent to the Superintendent, Yellowstone National Park, P.O. box 168, Yellowstone National Park, Wyoming 82190. Public reading copies of the DEIS/DCP will be available for review at the following locations:

Office of the Superintendent, Yellowstone National Park, Wyoming, Telephone: (307) 344-7381

Branch of Compliance, Rocky Mountain Regional Office, National Park Service, 12795 West Alameda Parkway, Lakewood, Colorado 80215, Mailing Address: P.O. Box 25287, Telephone (303) 969-2828

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW., Washington, DC 20240, Telephone: (202) 343-6843

SUPPLEMENTARY INFORMATION:

The DEIS/DCP analyzes six alternatives to reduce conflicts between the threatened grizzly bears and humans at the Fishing Bridge developed area in Yellowstone National Park. The alternatives attempt to contribute to the grizzly bear recovery effort while still providing appropriate visitor services. The DEIS/DCP evaluates the impacts of removing some or all of the camping and commercial support facilities at Fishing Bridge. The alternatives are: Alternative A to remove and replace elsewhere only the NPS campground, keeping the RV park and most support facilities; Alternative B to remove and replace all camping facilities and some support facilities; Alternative C to remove all camping and support facilities, and replace part of them; Alternative D to remove and replace 160 NPS campsites, fence the remaining campsites and retain all support facilites; Alternative E to remove all camping and support facilities without replacement elsewhere; and lastly, No Action. Alternative A is the proposed action. The DEIS/DCP in particular evaluates the environmental consequences of the proposed action and the other alternatives on threatened and endangered species, other natural resources and values, visitor use, concessioners, and communities near Yellowstone National Park.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Iobst at Yellowstone National Park at the above address, telephone (307) 344-7381; or Mr. Howie Thompson, Denver Service Center, Central Team, National Park Service at the above address, telephone (303) 969-2310.

Dated: September 23, 1987.

L. Lorraine Mintzmyer,

Regional Director, National Park Service.

[FR Doc. 87-24552 Filed 10-22-87; 8:45 am]

BILLING CODE 4310-70-M

Acadia National Park, Bar Harbor, ME, Acadia National Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1 section 10), that a meeting of the Acadia National Park Advisory Commission will be held Friday, November 13, 1987.

The Commission was reestablished pursuant to Pub. L. 99-349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at the Town Office Building, Sea Street, Northeast Harbor, Maine. Subcommittees to consider nominating officers, establishing bylaws, and reviewing land protection guidelines will begin at 10 a.m. The full Commission will meet at 1:00 p.m. to consider the following agenda:

1. Election of Officers
2. Adoption of Bylaws
3. Review of Land Protection Plan
4. Public Comments
5. Proposed agenda and date of next Commission meeting.

Subcommittee meetings and the full Commission meeting are open to the public.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, Box 177, Bar Harbor, ME 04609.

Herbert Cables,

Regional Director.

Date: October 16, 1987.

[FR Doc. 87-24553 Filed 10-22-87; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore; South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1 section 10), that a metting of the Cape Cod National Seashore Advisory

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Commission will be held Friday, November 13, 1987.

The Commission was reestablished pursuant to Pub. L. 99-349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission will conduct a field trip beginning at Park Headquarters, South Wellfleet, Massachusetts at 10 a.m. to visit North Truro Air Force Station and proposed bicycle trails in Truro and Wellfleet. The field trip is open to the public, however no transportation will be provided and anyone wishing to accompany the Commission must provide their own transportation.

The meeting convene at Park Headquarters at 2:00 p.m. to consider: 1) Rules of Governance, 2) Work Program, and 3) Historic Preservation.

The meeting is open to the public. It is expected that as many as 50 persons will be able to attend the 2 p.m. session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663.

Herbert S. Cables, Jr.,

Regional Director.

Date: October 16, 1987.

[FR Doc. 87-24554 Filed 10-22-87; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent Corporation and address of principal office: Burlington Holdings, Inc., c/o Morgan Stanley & Co., Incorporated, 1251 Avenue of the Americas, New York, NY 10020.

2. Directly or indirectly wholly owned subsidiaries which will participate in the operation, address of its principal offices, and state and country of incorporation:

A. Burlington Industies, Inc., 3330 West Friendly Avenue, P.O. Box 21207, Greensboro, NC 27420, Incorporated in the State of Delaware

B. B. I. Transportion, Inc., Tucker Street Extension, P.O. Box 691, Burlington, NC 27216-0691, Incorporated in the State of Delaware

C. Burlington Fabrics Inc., 3330 West Friendly Avenue, P.O. Box 21207, Greensboro, NC 27420, Incorporated in the State of Delaware

D. Burlington Fabrics I Inc., 3330 West Friendly Avenue, P.O. Box 21207, Greensboro, NC 27420, Incorporated in the State of Delaware

E. Burlington Canada Inc., 205 Bouchard Boulevard, Dorvale, Quebec H9S 1A9, Incorporated in Canada

F. Textile Morelos, S.A. de C.V. San Juan del Aguila No. 401, Cuetnazaca, Motelos, Mexico, Incorporated in Mexico

G. Noblis-Lees, S.A., de C.V., Calzada Ermita-Ixtapalapa, No. 401 Local "C", Colonial Unidad Modelo, Mexico 13 D.F. Mexico, Incorporated in Mexico

H. C.H. Masland & Sons, Spring Road 1 Box 40, Carlisle, PA 17013, Incorporated in the State of Pennsylvania

I. Georgia Commercial Carpets, Inc., 444 North Hamilton Street, P.O. Box 13, Dalton, GA 30720, Incorporated in the State of Delaware

B. 1. Parent corporation and address of principal office: Harvard Industries, Inc., Central Avenue, Farmingdale, NJ 07727.

2. Wholly-owned subsidiaries and divisions which will participate in the operations, and state(s) of incorporation:

(i) Harvard Interiors Manufacturing Co., DE
(ii) Anchor Swan, DE
(iii) Elastic Stop Nut, DE
(iv) Trim Trends, Inc., MI
(v) Auto Anodics, Inc., MI
(vi) Birmingham Benders Co., MI
(vii) Deckerville Die Co., MI
(viii) Snover Stamping Co., MI
(ix) Trim Trends Canada Limited, Ontario, CD
(x) Hayes-Albion Corporation, MI
(xi) The Kingston-Warren Corporation, NH
(xii) Harman Automotive, Inc., MI
(xiii) Harman Automotive-Puerto Rico, Inc., DE
(xiv) ESNA Fasteners, Inc., Quebec, CD
(xv) Hayes-Albion Transportation Corporation, MI

Noreta R. McGee,

Secretary.

[FR Doc. 87-24556 Filed 10-22-87; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-16724]

Burlington Northern, Inc. and Burlington Northern Motor Carriers, Inc.; Control of Victory Freightway System, Inc., Monkem Co. Inc., Monroe Trucking, Inc., Stoops Express, Inc., Wingate Trucking Co., Inc., and Taylor-Maid Transportation, Inc.; Notice of Intent

On September 25, 1987, pursuant to 49 CFR 1180.4(b), Burlington Northern, Inc. (BNI) and Burlington Northern Motor Carriers, Inc. (BNMC) have notified the Commission of their intent to file an application seeking Commission approval for acquisition of control by BNI, through its wholly-owned non-carrier subsidary BNMC, of the following Class I motor carriers: Victory Freightway System, Inc. (Victory), Monkem Company, Inc. (Monkem), Monroe Trucking, Inc. (Monroe), Stoops Express, (Stoops), Wingate Trucking Company, Inc. (Wingate), and Taylor-Maid Transportation, Inc. (Taylor-Maid).

BNI is a non-carrier holding company which also owns Burlington Northern Railroad Company (BNRR), a Class I railroad. Victory holds irregular-route common carrier authority in MC-149308 and contract authority in MC-142062. Monkem holds nationwide general commodity authority in MC-119493 (Sub-No. 402) and contract carrier authority in MC-119493 (Sub-No. 7). Monroe holds nationwide contract carrier authority in MC-154621. Stoops holds common carrier authority in MC-144630 (Sub-No. 70) and contract carrier authority in MC-144630 (Sub-No. 74) to transport general commodities nationwide. Wingate holds nationwide general commodity contract carrier authority in MC-124154 (Sub-No. 115) and common carrier authority in MC-124154 (Sub-No. 108) to transport general commodities between points in and east of Minnesota, Iowa, Missouri, Arkansas and Texas, on the one hand, and, on the other, points in the United States. Taylor-Maid holds nationwide authority to transport general commodities as a common carrier in MC-152180 (Sub-No. 8) and as a contract carrier in MC-152180 (Sub-No. 7).

BNI and BNMC filed petitions for exemption of their proposed acquisition of Victory on April 15, 1985; of Monkem on May 21, 1985; of Monroe on June 20, 1985; and of Stoops, Wingate, and Taylor-Maid on January 10, 1986. Notices of the proposed exemptions were published in the **Federal Register** on April 22, 1985 (Victory); July 2, 1985 (Monkem); July 3, 1985 (Monroe), and January 22, 1986 (Stoops, Wingate, and Taylor-Maid), in accordance with the procedural guidelines established in *Procedures—Handling Exemptions Filed by Motor Carriers, 367* 367 I.C.C. 113 (1982). A number of persons filed comments. In decisions served July 26, 1985 in No. MC-F-16248, February 13, 1986 in Nos. MC-F-16372 and 16452, and July 28, 1986 in Nos. MC-F-17030, the Commission granted the exemption petitions. However, on June 23, 1987, the United States Court of Appeals for the District of Columbia Circuit reversed the agency's exemption decisions. In *Regular Common Carrier Conf.* v. *United States*, 820 F.2d 323 (D.C. Cir., June 23, 1987), the court held that these rail-motor carrier acquisition transactions may not be exempted under section 11343(e).

The Commission, by decision served August 5, 1987, directed BNI and BNMC to advise it whether and how they wished to proceed in light of the court decision. By letter filed September 25, 1987, applicants requested, in a notice of intent, that the proceedings be processed as a formal application under 49 U.S.C. 11344.[2] By decision served October 23, 1987, the Commission granted the request.

The Commission's regulations at 49 CFR Part 1180, Subpart A do not specifically apply to intermodal transactions involving the acquisition of motor carriers by railroads or rail affiliates. Nevertheless, the Commission has previously found these regulations, subject to appropriate modification, to be a suitable procedural means of processing such transactions. *See* Finance Docket No. 31000, *Union Pacific Corporation and BTMC Corporation—Control—Overnite Transportation Company* (Notice of Intent published at 51 FR 37866, October 23, 1986).

Pursuant to 49 CFR 1180.4(b)(1), applicants state that they intend to file an application within 120 days of the filing date of the notice of intent. We find, under 49 CFR 1180.4(b)(2), that the proposed acquisition is a minor transaction that does not involve a matter of regional or national transportation importance. Accordingly, applicants need not furnish market impact analyses required under 49 CFR 1180.7 for major or significant transactions. We find that the transaction should be processed under the procedural requirements at 49 U.S.C. 11345(d) and be considered under the substantive decisional standards at 49 U.S.C. 11344(c) and (d). The prior records (in the exemption proceedings) will be incorporated into the record made in this proceeding. Applicants must comply with the informational requirements of 49 CFR Part 1180, Subpart A, relating to minor transactions, subject to such modifications as may be ordered by the Commission in response to appropriate requests or on our own motion. An order calling for submission of additional information on specific issues may be issued subsequent to the publication of this notice and accompanying decision.

Dated: October 19, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24565 Filed 10-22-87; 8:45am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 204X)]

Chicago and North Western Transportation Co.; Exemption for Abandonment of Railroad Line in Blackhawk County, IA

Chicago and North Western Transportation Company has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 6.5 mile line of railroad between milepost 324 near Waterloo, IA, and milepost 317.5 near Cedar Falls Jct., IA, all in Blackhawk County, IA.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

Applicant has filed an environmental report which shows that no significant environmental or energy impacts are likely to result from this abandonment.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective November 22, 1987 (unless stayed pending reconsideration). Petitions to stay must be filed by November 2, 1987, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 12, 1987 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Myles L. Tobin, Chicago and North Western Transportation Company, One North Western Center, Chicago, IL 60606.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 8, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24222 Filed 10-22-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31096]

Terre Haute, Brazil & Eastern Railroad; Acquisition and Operation Exemption; Certain Lines of Consolidated Rail Corp.

The notice of exemption published at 52 FR 33303 (September 2, 1987) indicated that the Terre Haute, Brazil & Eastern Railroad (THB&E) had filed notice of exemption to acquire and operate certain properties of Consolidated Rail Corporation (Conrail). The notice of exemption incorrectly designated the eastern milepost as milepost 30.3, whereas the eastern milepost is actually milepost 40.3. The notice of exemption should be corrected to reflect that the property being acquired and operted consists of Conrail's former Limedale Secondary

[1] For administrative convenience, we have redocketed this matter. It addresses subsequent developments in the matters formerly docketed in No. MC-F-16298, Burlington Northern, Inc.—Control Exemption—Victory Freightway System, Inc.; No. MC-F-16372, Burlington Northern, Inc.—Control Exemption—Monkem Company, Inc.; No. MC-F-16452, Burlington Northern, Inc.—Control Exemption—Monroe Trucking, Inc.; and No. MC-F-17030, Burlington Northern, Inc. and Burlington Northern Motor Carriers, Inc.—Control Exemption—Stoops Express, Inc., Wingate Trucking Company, Inc., and Taylor-Maid Transportation, Inc.

[2] Applicants simultaneously filed an application under 49 U.S.C. 11340 seeking temporary authority for BNI's continuing control of BNMC and its motor carriers. By decision served October 8, 1987 (corrected October 13, 1987), the Commission authorized BNI to assume temporary control of the motor carriers, subject to two conditions, until February 22, 1988 in the event a permanent application is not filed, or until final disposition of the permanent application.

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trackage located between milepost 40.3 (EOT) and milepoost 68.7, its East Yard between the western end of the Limedale Secondary (milepost 68.7) and a point appoximately 500 feet west of Twenty Fifty Street (milepost 71.5), and its East Yard Running Track between milepost 71.5 and milepost 73.0 (EOT).

Decided: October 5, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24223 Filed 10-22-87; 8:45 am]

BILLING CODE 7035-01-M

Senior Executive Service Performance Review Board; Membership Change

October 20, 1987.

The purpose of this Notice is to designate a change in the membership of the ICC Senior Executive Service Performance Review Board (PRB).

Richard H. Klem, Director, Office of Transportation Analysis, has been appointed as an alternate member of the Performance Review Board; Heather J. Gradison, Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24633 Filed 10-22-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council Committees; Meetings

The regular Fall meetings of committees of the Labor Research Advisory Council will be held on November 17, 18, and 24. The meetings will be held in Room S-2217 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows:

Tuesday, November 17, Room S-2217

9:30 a.m.—Committee on Employment Structure and Trends

1. 1990 Census Issues
   a. Discussion of labor force questions
   b. Effect of undercount adjustment on labor force
   c. Post-1990 Current Population Survey Redesign Strategy
2. Status of plant closing report
3. Need for metropolitan area data in the Current Employment Survey Program
4. Discussion of proposal to revise Local Area Unemployment Statistics (LAUS) methodology

1:30 p.m.—Committee on Prices and Living Conditions

1. Consumer Price Index
   a. Rebasing to 1982-84
   b. New data collection technology
   c. CPI for elderly
   d. Other
2. Status Report
   a. Producer price index
   b. Consumer Expenditure Surveys
   c. International Price Indexes
3. Other business

Wednesday, November 18, Room S-2217

9:30 a.m.—Committee on Wages and Industrial Relations

1. Review of work in progress
2. Review of wages and industrial relations 1988 budget
3. Temporary Help Survey update
4. Progress on the White-Collar Pay and Benefits Survey and the Professional, Administrative, Technical and Clerical Pay Survey
5. Introduction of Cost Level Data from the Employment Cost Index
6. Chairman's summary of the joint BRAC and LRAC subcomittee
7. Other business

1:30 p.m.—Committee on Productivity, Technology and Growth

1. Review of Projections 2000
2. Discussion of Defense expenditures employment implications
3. A report on work in progress on why producer service industries are growing

Tuesday, November 24, Room S-2217

1:30 p.m.—Committee on Occupational Safety and Health Statistics

1. 1986 Annual Survey results
2. Reporting of the Committee on National Statistics; National Academy of Sciences
3. Keystone Recordkeeping Project
4. On-site Records Check Pilot Project
5. Work Injury Reports—Inhalation Study
6. Supplementary Data System (SDS) update
7. Illness.

The meetings are open. It is suggested that persons planning to attend as observers contact Henry Lowenstern, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1327.

Signed at Washington, DC, this 16th day of October 1987.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 87-24639 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

[TA-W-9,990, et al.]

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Armstrong Tire Co., et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 28, 1987-October 2, 1987 & October 5, 1987-October 9, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-19,990; Armstrong Tire Co., Des Moines, IA

TA-W-19,952; Diamant Boart USA, Inc., Conroe, TX

TA-W-20,030; Colt Industries, Inc., Holley Automotive Div., Paris, TN

TA-W-19,978; Gates Molded Products Co., Milby Street Plant, Houston, TX

TA-W-19,987; Ames Oil & Gas Corp., Pawnee, OK

TA-W-19,988; Ames Oil and Gas Corp., Houston, TX

TA-W-19,972; Baker Metals Products, Dallas, TX

TA-W-19,968; General Motors Corp., AC Spark Plug Div., Oak Creek, WI

TA-W-20,016; Lordstown Rubber Co., Warren, OH

TA-W-20,022; RSI Fabtec, Zeeland, MI

TA-W-20,004; Dee Jay, Paterson, NJ

TA-W-19,998; Phoenix Abrasive & Manufacturing, Inc., Jamaica, NY

TA-W-19,668; Detroit Gasket (Currently D.G. Trim), Marine City, MI

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-19,969; AT&T Information Systems, Solon, OH

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-19,929; General Motors Corp., CPC Pontiac, Pontiac, MI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-19,090; Control Data Corp., Hampton, VA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,011; Goodyear Tech Center, Goodyear Tire & Rubber Co., Akron, OH

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-19,982; Motorola, Microprocessor Products Group, Oak Hil Plant, Austin, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-19,930; General Motors Corp., Truck & Bus Div., Pontiac, MI

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA-W-20,013; Integrated Electronics, Wharton, NJ

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-19,976; Cyprus Thompson Creek Mining Co., Clayton, ID

A certification was issued covering all workers separations of the firm separated on or afer July 27, 1986.

TA-W-20,028; Dee Cee Apparel, Hohenwald, TN

A certification was issued covering all workers of the firm separated on or after August 11, 1986.

TA-W-20,094; Storage Technology Corp., Shawnee Mission, KS

A certification was issued covering all workers of the firm separated on or after September 9, 1986.

TA-W-20,041; Alzara Dress, New York, NY

A certification was issued covering all workers of the firm separated on or after August 18, 1986 and before January 31, 1987.

TA-W-20,034; Switches, Inc., Leiters Ford, IN

A certification was issued covering all workers of the firm separated on or after August 14, 1986.

TA-W-20,020; Placid Oil Co., Denver District Office, Denver, CO

A certification was issued covering all workers of the firm separated on or after August 4, 1986.

TA-W-20,029; Grace Shoe Manufacturing Co., Inc., Somerworth, NH

A certification was issued covering all workers of the firm separated on or after August 6, 1986 and before October 30, 1987.

TA-W-19,974; Bofors Nobel, Inc., Muskegon, MI

A certification was issued covering all workers of the firm separated on or after July 21, 1986.

TA-W-19,974A; Environmental Systems Corp., of Michigan Muskegon, MI

A certification was issued covering all workers of the firm separated on or after July 21, 1986.

TA-W-20,043; Coleman Products Co., Coleman, WI

A certification was issued covering all workers of the firm separated on or after August 20, 1986.

TA-W-19,992; Bryant Electric, A Div. of Westinghouse Electric, A Div. of Westinghouse Electric Corp. Bridgeport, CT

A certification was issued covering all workers of the firm separated on or after March 1, 1986.

TA-W-19,980; Lamson/Crocker Petroleum Corp., Lafayette, LA

A certification was issued covering all workers of the firm separated on or after July 10, 1986 and after March 31, 1987.

TA-W-19,997; George Seelman & Sons Co., Milwaukee, WI

A certification was issued covering all workers of the firm separated on or after July 29, 1986.

TA-W-19,985; Teledyne Contrinental Motors, Industrial Products Div., General Products Div., Muskegon, MI

A certification was issued covering all workers of the firm separated on or after July 27, 1986.

TA-W-19,996; General Motors Corp., Terre Haute, IN

A certification was issued covering all workers of the firm separated on or after July 29, 1986.

TA-W-19,971; American Lacquer, Miami, FL

A certification was issued covering all workers of the firm separated on or after July 27, 1986 and before August 22, 1987.

I hereby certify that the aforementioned determinations were issued during September 28, 1987-October 2, 1987 and October 5, 1987-October 9, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: October 13, 1987.

[FR Doc. 87-24634 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance; AT&T Information Systems, et al.

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 2, 1987.

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Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 2, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 13th day of October 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
AT&T Information Systems (workers)	Shreveport, LA	10/13/87	9/30/87	20,157	Telephone equipment.
Arvin North American Automotive (IAMAW)	Greenwood, IN	10/13/87	10/11/87	20,158	Auto parts.
Combustion Engineering, Inc. (USW)	Monongahela, PA	10/13/87	9/29/87	20,159	Iron.
El Paso Natural Gas Co (workers)	Coyanosa, TX	10/13/87	9/28/87	20,160	Gas.
Facet Enterprise (workers)	Murfreesbrro, NC	10/13/87	9/27/87	20,161	Pumps.
Fredrich Climate Master (IAMAW)	Utica,NY	10/13/87	9/29/87	20,162	Heat pumps.
G.W. Petroleum, Inc (workers)	Denver, CO	10/13/87	9/28/87	20,163	Oil & gas.
Jeddo Highland Coal Co. (UMWA)	Shenandoah, PA	10/13/87	9/28/87	20,164	Coal.
Kaiser Aluminum & Chemical (USWA)	Baltimore, MD	10/13/87	9/26/87	20,165	Aluminum.
Kendall McGaw Laboratories, Inc. (workers)	Milledgeville, GA	10/13/87	9/25/87	20,166	Intravenous solutions.
MacGregor Sandlunt (Action)	Fon du Lac, WI	10/13/87	9/30/87	20,167	Apparel.
MacMillan Petroleum Inc. (IUOE)	Norphlet, AR	10/13/87	9/28/87	20,168	Crude oil.
Minneapolis Elect Steel Castings, Co (IMAWU)	Minneapolis, MN	10/13/87	9/25/87	20,169	Steel.
Navistar International (USWA)	Waukesha, WI	10/13/87	10/2/87	20,170	Vehicles.
Nor East Plastics (CWA)	Elmira, NY	10/13/87	9/29/87	20,171	Auto parts.
Sanyo Mfg. Co. (IUE)	Forrest City, AR	10/13/87	9/24/87	20,172	TV's.

[FR Doc. 87-24635 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,824]

Caterpillar, Inc., Davenport, IA; Negative Determination Regarding Application for Reconsideration

By an application dated September 25, 1987, the United Auto Workers (UAW) requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers at Caterpillar, Incorporated, Davenport, Iowa. The denial notice was signed on August 12, 1987 and published in the **Federal Register** on August 25, 1987 (52 FR 32072).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that Caterpillar's activities at Davenport were one large interwoven operation and that when the production of track loader models (943, 953, 963, and 973) was shipped to France, the Davenport plant became under utilized. The union also claims that production on the wench assembly will be moved overseas to Caterpillar's licensee in Japan. Lastly, it is claimed that an additional amount of the components for the D-6 track-type tractor could have been produced at Davenport but that production was performed overseas.

According to the union, production at Davenport should have been viewed by the Department as one total package from 1985 through mid-1987. The union claims that the underutilization of the Davenport plant began with the transfer of track loader production to France in 1985. Worker separations resulting from this production transfer cannot be considered under the initial determination. Section 223(b)(1) of the Track Act of 1974 does not allow for the certification of workers laid off more than one year prior to the date of the petition, which in this case is June 4, 1987.

During the period applicable to the petition, workers at Davenport produced the D-6 tractor and the rubber-belted agricultural tractor. Production on the D-6 tractor and the agricultural tractor was transferred to company plants in Illinois effective October 1, 1987. A domestic transfer of production would not form basis for certification.

The union takes issue with the Department's increased D-6 tractor production findings at Davenport in 1986 compared to 1985 and in the first six months of 1987 compared to the same period in 1986. The union claims that D-6 tractor production increased because it was a new product and fill-in production to remove the void caused by the transfer of track loader production to France. The union claims that, in any event, worldwide sales of the D-6 tractor were down. The statements by the union that the product is new or its production is fill-in would not mitigate the finding that there was an increase in production at Davenport. Also, world-wide sales are not a criterion for certification. Domestic sales of the D-6 tractor increased in 1986 compared to 1985. All sales are made through exclusive dealerships. Company officials stated that the D-6 tractor and agricultural tractors are not like or directly competitive with the track loaders formerly produced at Davenport and now being imported from France.

Production on the wench assembly is currently being performed at Davenport in order to build lead time for its eventual transfer to Japan which is scheduled to occur in April 1988. Since the transfer of the wench assembly production has not occurred and there are no imports of the wench assembly, there is no basis for certification under the Trade Act.

The claim that additional components for the D-6 tractor could have been produced at Davenport is not applicable for the certification of component workers at Davenport since lost potential production of components would not form a basis for certification. Section 222(2) of the Trade Act states that sales or production must decrease absolutely.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this October 6, 1987.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-24636 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,283]

Reltoc Manufacturing Co., Forrest City, AR; Negative Determination on Remand

Pursuant to the U.S. Court of International Trade remand dated August 3, 1987 in *Frances Stidham et. al. v. Secretary of Labor* (USCIT No. 84-12-01732) the Department is issuing a further determination.

The initial investigation findings show that Reltoc Manufacturing Company's plant in Forrest City, Arkansas produced men's casual slacks for Cotler in New York who distributed them to department and specialty stores through the United States. The Forrest City plant closed temporarily on July 30, 1983 and reopened on March 1, 1984 with an increasing monthly employment trend. The investigation found that imports did not contribute importantly to worker separations at the subject firm. Instead, the findings show that Reltoc's other domestic plants increased their production of men's slacks during the time of the Forrest City's plant closure. Reltoc did not import men's slacks nor use foreign contractors during the relevant period of the investigation. Reltoc's sole customer imported slack sets which included a pair of slacks and a jacket or to which are sold together as a set. Company officials indicated that the imported slacks incorporated into slack sets are not comparable to the type of slacks produced by Reltoc. Reltoc has never produced slack sets.

Additional findings on remand show that Reltoc's plants at Beaverton and Winfield produced the same type of men's casual slack as that produced at Forrest City. Approximately one-half of Forrest City's production in 1983 was absorbed by Reltoc's Beaverton and Winfield plants. Each of these plants increased their production of men's slacks in the last six months of 1983 compared to the first six months of 1983. The remaining half of Forrest City's production of men's slacks was contracted out to domestic contractors that did not import under U.S. Tariff Provision 807.00 or import from foreign companies. In 1983, Reltoc had increased production of men's slacks with its contractors and in-house facilities. A domestic transfer of production would not form a basis for a certification.

The Department conducted a secondary survey of Reltoc's sole customer, Cotler, who had increased sales of men's slacks. The survey showed that most of the respondents did not increase their reliance on imports in 1983 compared to 1982. Although one respondent indicated increased import purchases of men's slacks in 1983 this occurred at a time when Reltoc had increased sales production as described above.

Conclusion

After reconsideration on remand, I reaffirm the original denial of eligibility to apply for adjustment assistance for former workers of the Forrest City, Arkansas plant of the Reltoc Manufacturing Company.

Signed at Washington, DC, this 16th day of October 1987.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-24637 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,108]

Trans-Buckeye Corp., Stuebenville, Oh; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 23, 1987 in response to a worker petition which was filed by the United Steelworkers of America on behalf of workers at Trans-Buckeye Corporation, Stuebenville, Ohio.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 16th day of October 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-24638 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be

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impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice Clear Creek, Elbert, Gilpin, Lake, Morgan, Park and Weld Counties, Colorado from General Wage Determination No. CO87-4 dated January 2, 1987.

Agencies with construction projects pending to which this wage decision would have been applicable should utilize the project determination procedure by submitting a SF-308. See Regulations Part 1 (29 CFR), §1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR 1.6(c)(2)(i)(A), the incorporation of the withdrawal decision in contract specifications, when the opening of bids is within ten (10) days of this notice, need not be affected.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut:
CT87-1 (January 2, 1987)..... pp. 70, 71. pp. 73, 76.
Massachusetts:
MA87-1 (January 2, 1987)..... p. 372. pp. 375-376.
New York:
NY87-1 (January 2, 1987)..... p. 682.
Pennsylvania:
PA87-1 (January 2, 1987)..... p. 847.
PA87-2 (January 2, 1987)..... p. 858.
PA87-3 (January 2, 1987)..... p. 868.
PA87-6 (January 2, 1987)..... pp. 898-899.
PA87-7 (January 2, 1987)..... pp. 906-907.
PA87-17 (January 2, 1987).... pp. 964-965.
PA87-18 (January 2, 1987).... pp. 970, 972.
PA87-22 (January 2, 1987).... pp. 994, 997.
PA87-24 (January 2, 1987).... pp. 1012-1013.
Tennessee:
TN87-3 (January 2, 1987)..... p. 1088.

Volume II

Illinois::
IL87-1 (January 2, 1987)..... pp. 68-69.
IL87-7 (January 2, 1987)..... p. 136.
IL87-9 (January 2, 1987)..... p. 149.
IL87-16 (January 2, 1987)..... p. 206.
IL87-17 (January 2, 1987)..... p. 216.
Oklahoma:
OK87-13 (January 2, 1987) ... p. 899.
OK87-14 (January 2, 1987) ... pp. 903-904.
OK87-16 (January 2, 1987) ... p. 912b.
OK87-17 (January 2, 1987) ... p. 912f.
OK87-18 (January 2, 1987) ... p. 912h.
OK87-19 (January 2, 1987) ... p. 912l.
OK87-20 (January 2, 1987) ... p. 912n.
Texas:
TX87-10 (January 2, 1987).... p. 947.

Volume III

California:
CA87-1 (January 2, 1987)..... pp. 36-44.
CA87-2 (January 2, 1987)..... pp. 46, 48-82d.
CA87-4 (January 2, 1987)..... pp. 68, 73, 76, 78-79, 85-86.
Colorado:
CO87-4 (January 2, 1987)..... pp. 117-124.
Hawaii:
HI87-1 (January 2, 1987)..... p. 130.
Montana:
MT87-1 (January 2, 1987)..... pp. 167, 170, 172, 173-175, 177, 179.
Oregon:
OR87-1 (January 2, 1987)..... p. 281.

Listing by Location (index) pp. xxiv-xxv.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 16th Day of October 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-24361 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-87-188-C]

A. & D. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

A. & D. Coal Company, R.D. #1, Box 32-A, Dornsife, Pennsylvania 17823 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 1 Slope (I.D. No. 36-07540) located in Northumberland County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quicky and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main device. The hoisting would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 23, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 14, 1987.

[FR Doc. 87-24640 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket no. M-87-201-C]

Arch of Kentucky; Petition for Modification of Application of Mandatory Safety Standard

Arch of Kentucky, P.O. Box 787, Lynch, Kentucky 40855 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its High Splint No. 2 Mine (I.D. No. 15-16084), and its Owl No. 1 Mine (I.D. No. 15-16011), both located in Harlan County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The High Splint No. 2 and Owl No. 1 mines range from 42 to 60 inches in height, with ascending and descending grades.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because the canopies could dislodge roof supports and entrap the equipment. The canopies would also decrease the equipment operator's visibility and increase discomfort, increasing the chances for an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard Arlington, Virginia, 22203. All comments must be postmarked or received in that office on or before November 23, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 14, 1987

[FR Doc. 87-24641 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-200-C]

Keno Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Keno Coal Company, 1433 Poplar Street, Kulpmont, Pennsylvania 17834 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 1 Slope (I.D. No. 36-02257) located in Columbia County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard Arlington, Virginia, 22203. All comments must be postmarked or received in that office on or before November 23, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 14, 1987.

[FR Doc. 87-24642 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-193-C]

Pontiki Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Pontiki Coal Corporation, Caller No. 801, Lovely, Kentucky 41231 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Pontiki No. 1 Mine (I.D. No. 15-08413), and its Pontiki No. 2 Mine (I.D. 15-09571), both located in Martin County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

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2. The mines' coal heights are inconsistent and range from 36 to 72 inches with numerous dips and grades.

3. Petitioner states that the use of cabs or canopies on each mine's electric face equipment would result in a dimunition of safety to the miners affected because the cabs or canopies would limit the equipment operator's visibility, could contact hung energized power cables, and cause cramped conditions for the operators, causing them to hang out of the equipment, increasing their chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 23, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 14, 1987.

[FR Doc. 87-24643 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Full Committee Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (26 U.S.C. 656) will meet on November 3, 1987 at the U.S. Grant Hotel, 326 Broadway, San Diego, California, 92101 (telephone number 619-232-3121). The meeting will continue on November 4 if necessary. The meeting is open to the public and will start at 9:00 am.

Agenda items will include a discussion of possible additions to the Crane or Derrick Suspended Personnel Platforms final rule, revisions to the Proposed Rule on Concrete and Masonry concerning lift slab construction, the proposed rule on methylenedianiline, an update on the Bridgeport, Connecticut accident, and other construction issues. Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

For additional information contact: Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3670, Third Street and Constitution Avenue NW., Washington, DC, 20210. Telephone: 202-523-8615.

The official record of the meeting will be available for public inspection and copying at the OSHA Docket Office, Room N-3647, Frances Perkins Building, Third Street and Constitution Avenue NW., Washington, DC, 20210. Telephone 202-523-7894.

Signed at Washington, DC this 20th day of October, 1987.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 87-24602 Filed 10-20-87; 3:56 pm]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

[Application No. D-5906 et al.]

Proposed Exemptions; Children's Clinic Profit Sharing Trust, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

Th applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Children's Clinic Profit Sharing Trust (the Plan) Located in St. Louis, MO

[Application No. D-6908]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed loan of $100,000 by the Plan to Baby Docs, Ltd. (Baby Docs), a party in interest with respect to the Plan, provided that the terms and conditions of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party on the date the loan is consummated.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 10 participants and net assets of approximately $917,790 as of July 27, 1987. The Plan's trustee is the Boatman's National Bank of St. Louis (the Trustee). The Employer which established the Plan is Lonsway, Peterson, Plax, Wool, Inc. The Employer is a Missouri corporation, the professional employees of which engage in the practice of pediatric medicine. The stock of the Employer is owned by Drs. Lonsway, Peterson, Plax and Wool.

2. Two of the principals of the Employer, Maurice J. Lonsway, Jr., M.D. and Fredrick Peterson, M.D. are owners of a corporation, M & F Investment Company (M & F). On April 30, 1985, M & F purchased property located at 8025 Dale Avenue, St. Louis, Missouri (the Property) which it leases to the Employer for the conduct of its business. Dr. Lonsway decided that he no longer wished to have an ownership interest in the Property and as a result, M & F put the Property up for sale. The remaining physician employees of the Employer did not favor a sale of the Property to an outside party. Any such sale would have jeopardized the Employer's right to continued use of the Property and could have resulted in significant increases in the rental cost of the Property. Accordingly, Drs. Peterson, Plax, Wool and Kreusser (being all of the physician employees of the Employer other than Dr. Lonsway) formed a Missouri corporation, Baby Docs, for the purpose of purchasing the Property. On June 16, 1986, Baby Docs purchased the Property from M & F for a purchase price of $125,000. Baby Docs paid M & F $25,000 (representing 20% of the total purchase price) in cash at the time of the closing. The remaining $100,000 was borrowed from the Plan. The fair market value of the Property on June 16, 1986 was determined by Ted Horowitz [Mr. Horowitz), ASA, an independent real estate appraiser with the firm of Atlas Realty Co., University City, Missouri, to be $140,000.

3. The applicant recognizes that the loan between the Plan and Baby Docs was a prohibited transaction under the Act. Accordingly, the applicant has agreed to correct the prior prohibited transaction by repaying the outstanding balance of the loan to the Plan, including accrued interest and to pay any applicable excise taxes due to the Internal Revenue Service.

4. The applicant now requests an exemption for a new loan of $100,000 (the Loan) between the parties. Interest on the Loan initially will accrue at the rate of 10¼% per annum and the Loan will have a 20 year term. The principal and interest shall be payable in 240 consecutive monthly payments of $981.64, however, this amount may change as the interest rate is adjusted. The interest rate will be adjusted annually to the then prevailing rate charged by the commercial real estate lending division of the Trustee, subject to the Trustee's determination of the reasonableness and adequacy of such rate. The foregoing terms and conditions are comparable to those currently used by the commercial real estate lending division of the Trustee.

5. The Loan will be secured by the Property and by accounts receivable of the Employer in the amount of $50,000. The Employer's turnaround time for its accounts receivable is approximately 1½ months and the Employer's bad debts amount to about 4½% of accounts receivable. Total accounts receivable as of April 30, 1987 were $139,856 and no outstanding pledges of the accounts receivable currently exist.

6. The Employer will warrant to own throughout the term of the Loan all collateral free from adverse claims, security interests or encumbrances. In the event the value of the collateral (valuing accounts receivable at 50% of its dollar value) falls below 150% of the outstanding principal balance of the Loan, the principal balance of the Loan will be paid down in an amount sufficient to make sure that the collateral used to secure the Loan will never be less than 150% of the outstanding principal balance of the Loan. An updated title policy will be obtained on the Property, a Deed of Release will be filed releasing the prior Deed of Trust given to the Plan, and Loan and security documents will be entered into to ensure that the Plan has a first security interest in the Property and the pledged accounts receivable.

The Employer will have the accounts receivable used as collateral for the Loan independently valued no less frequently than once a year to determine the value. The Employer or Baby Docs will bear all and any expense to have such valuation made. The employer or Baby Docs will incur all costs necessary to obtain and preserve the collateral, including but not limited to, the payment of all taxes, assessments and insurance premiums. Incident to the Loan, Baby Docs agrees to insure the collateral against damage by fire or other loss throughout the term of the Loan. The Plan will be named as loss payee to the extent of the first $100,000 in losses.

7. The Trustee has served and will continue to serve as the independent fiduciary of the Plan.[1] The Trustee represents that it has broad experience in administering pension and profit sharing plans and has general investment and management experience. At present, the Trustee manages in excess of $5 billion in assets of pension and profit sharing plans.

8. In determining that the Loan was favorable to the Plan, the Trustee considered the following factors: (a) The size, diversity and soundness of the Plan's existing account portfolio; (b) the cash flow needs of the Plan; (c) the strong professional reputation and integrity of the principals of Baby Docs; (d) the strong collateral position of the Plan as a secured note holder; (e) the current high rate of return available on promissory note indebtedness compared to other investments of like security currently available; (f) the stability of the Employer as the Property's commercial tenant; (g) the diversification of Plan assets in light of the Loan; (h) the terms of the Loan as such terms compare with the Plan's investment scheme; (i) the 20% equity investment in the Property made by Baby Docs; and (j) the relatively low percentage (10.9%) of Plan assets represented by the Loan. The fact that the Employer has established and maintained a successful medical parctice that has operated on the Property for over 20 years was also given consideration.

The Trustee believes that the security is more than adequate to collateralize the Loan. The Trustee carefully examined the real estate appraisal report respecting the Property prepared by Mr. Horowitz. Mr. Horowitz is a

[1] Neither the Employer, Baby Docs, or any of the principals of such corporations have any direct dealings with the Trustee. No principal of the Employer or Baby Docs is currently an officer or director of the Trustee. These parties do have certain banking relations with the Trustee, however the parties deposits with the Trustee average less than 1/100 of 1% of the total deposits of the Trustee.

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senior member of the American Society of Appraisers and is experienced in valuing commerical real estate in the St. Louis Metropolitan Area. Mr. Horowitz represented that the Property is located in an area in which real estate values are not only stable but are keeping pace with the general rate of inflation.

As an independent fiduciary, the Trustee will monitor the Loan to ensure that payments are made by Baby Docs on a timely basis, that insurance on the collateral is maintained and taxes are paid. The trustee is empowered to enforce the obligations of Baby Docs by making demand for timely payment, initiating legal proceedings in the event of default and by foreclosing on the Property if necessary.

The Loan is consistent with customary business practices in the St. Louis, Missouri area and is in accordance with terms offered at other local banks. The interest rate is reasonable and adequate and is to be renegotiated annually to ensure that the rate remains reasonable and adequate. The Trustee is satisfied that the Plan would suffer no loss in the event of foreclosure.

In light of the foregoing, the Trustee has determined that the Loan is in the best interests of the Plan and its participants and beneficiaries because of the excellent security for the investment, the high rate of return as compared to other available investment alternatives and the ability to further diversify the Plan's Portfolio.

9. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because:

(a) The Loan will be approved and monitored by the Trustee;

(b) The Loan will be secured by collateral having a value of at least 150% of the amount of the Loan;

(c) The interest rate on the Loan will be adjusted annually by the Trustee;

(d) The Loan represents less then 11% of Plan assets; and

(e) The Trustee has determined that the Loan is in the best interests of the Plan and its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Chattanooga Electrical Joint Apprenticeship and Training Trust Fund (the Plan) Located in Chattanooga, TN

[Application No. L–6928]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) shall not apply to the construction loan and to the permanent financing in the amount of $370,000 made to the Plan by IBEW Local Union No. 175, a party in interest with respect to the Plan, provided that the terms of the transactions were not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time the transactions were consummated.

EFFECTIVE DATE: This exemption, if granted, will be effective September 1, 1980.

Summary of Facts and Representations

1. The Plan has 125 participants and net assets of approximately $347,331 as of July 31, 1986. The agreement establishing the Plan (the Agreement) was entered into between the East Tennessee Chapter, Chattanooga Division, National Electrical Contractors Association, Inc. (the Employers) and Local Union No. 175 of the International Brotherhood of Electrical Workers (the Union). The Agreement provides that the Plan shall be conducted only as a nonprofit fund solely and exclusively for the purpose of supporting a program for the training and education of electrical apprentices and journeymen, and programs in furtherance thereof. The Plan is administered by a board of trustees which consists of 6 members, three appointed by the Employers and three appointed by the Union. The collective bargaining agreement between the Union and the Employers provides that electrical contractors will pay 1% of their gross payroll to the Plan for its funding.

2. During the period beginning in 1987, the Plan began to suffer from cash flow problems because of the decline in the construction industry in the Chattanooga area. As a result of the decline in the construction industry, contributions to the Plan were substantially reduced. It further appeared to the Plan's trustees that no relief would be available to the Plan in the foreseeable future. The Plan's trustees realized that without additional resources substantial cutbacks in the operation of the Plan's training programs would result.

3. On December 13, 1979, in order to help alleviate the cash flow problems and thereby increase the effectiveness of its training program, the Plan entered into a loan agreement with the Union. The loan agreement provided that the Union would loan money to the Plan at a below market interest rate so that the Plan could construct a building on property owned by the Plan. The additional cash flow generated by the building would then be available to the Plan to carry out its training program.

4. The loan proposal was considered by the Plan's trustees and then presented to the Union's membership where it was subsequently approved. The initial construction loan made to the Plan by the Union was without interest. The permanent financing for this project in the amount of $370,000 was also provided by the Union. This loan, executed on September 1, 1980, was for a 20 year period with monthly payments of $2,650.79 including interest of 6% per annum (the Loan). The applicant represents that the loans provided to the Plan by the Union did not violate the provisions of section 501(a) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (29 U.S.C. 501). The building constructed by the Plan is a multi-purpose one-story structure which has been rented to Southern Benefit Administrators, Inc. (an unrelated party to the Plan) since August 1, 1980.

5. Mr. Jerry D. Lee, a commercial real estate officer with the American National Bank and Trust Company of Chattanooga, Tennessee, has indicated that the interest rate for a 20 year permanent loan on October 1, 1980 would have been 15.25% and would have also involved an origination fee of 2 points.

6. The applicant states that the loans were made to the Plan at below market interest rates in order to make badly needed capital available to the Plan. The critical nature of the building's income for the Plan, made possible in large part by the favorable rate of interest on the Loan, is demonstrated by analyzing the Plan's statement of cash receipts and disbursements. For the year ended July 31, 1986, the Plan, as a whole, had a negative cash flow of $9,248.55, however the building generated a positive cash flow of $18,159.81. If the Loan had to be renegotiated with a third party, the additional intereat incurred and the origination fee would eliminate much of the building's positive cash flow and greatly increase the Plan's overall negative cash flow.

7. In summary, the applicant represents that the transactions satisfied the statutory criteria for an exemption under section 408(a) of the Act because:

(a) There was no interest charged on the construction loan and the rate of interest on the Loan was substantially less than that which the Plan could have obtained from an independent party; and

(b) The loans provided the Plan with badly needed capital so that it could carry on its training function.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

W.J. Collins, Inc. Money Purchase Pension Plan (the Plan) Located in Walnut Creek, CA

[Application No. D–7031]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the contribution, on December 12, 1985, to the Plan of a 5.416 percent interest (the Interest) in certain unimproved real property (the Real Property) by Warren J. Collins, Inc. (the Employer), a disqualified person with respect to the Plan, provided: (a) the Interest was valued for contribution purposes at no greater than its fair market value at the time of the contribution; and (b) the Employer's Federal tax deduction taken for making the contribution was not greater than the value of the Interest at the time it was contributed to the Plan [1].

Effective Date: If granted, this proposed exemption will be effective December 12, 1985.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with one participant and net assets of $142,215 as of June 30, 1985. The trustee of the Plan as well as the decision-maker with respect to the Plan's investments is Mr. Collins. The Employer, which is engaged as an independent contractor in the buying, selling and leasing of commercial properties, maintains its principal place of business in Walnut Creek, California.

2. In January 1985, the Employer and other parties unrelated to the Employer or Plan, acquired, as cotenants, fee simple interests in 2.21 acres of unimproved, commercially-zoned real property located at 2200 Lisa Lane, Pleasant Hill, California. To purchase the Real Property, the parties made a lump sum cash payment of $400,000. The seller of the Real Property, was BALCO, an unrelated California partnership. Of the total consideration, the Employer paid $21,785 for a 5.416 percent interest in the Real Property. At all times since its acquisition, the Real Property has remained unencumbered.

3. The applicant represents that at the time of the acquisition, the Real Property was landlocked and adjacent to an abandoned railroad. A factor motivating the Employer to purchase the Interest was Mr. Collins' expectation that certain changes would be made to the area. These changes, which were subsequently made during 1986 or are in the process of being made, have included rezoning of the Real Property, the construction of a road extension and the abandonment of a railroad easement.

4. A few months prior to the purchase, the Employer had the Real Property appraised by Mr. Michael J. Baumgardner (Mr. Baumgardner), an independent appraiser who is affiliated with Smith Denton Associates, Inc. of Alamo, California. Mr. Baumgardner has more than eight years of appraisal experience in the San Francisco Bay area. In an appraisal report dated September 25, 1984, Mr. Baumgardner determined that the Real Property had a fair market value of $600,000 as of September 17, 1984.

5. Under Article IV of the Plan documents, the Employer is required to contribute to the Plan an amount that is sufficient to provide benefits to all participants. The Employer's obligation is fixed and it is based upon an actuarial assumption. The contribution may be made on any date or dates selected by the Employer. The contribution amount, which is $30,000, may be paid in cash by the Employer or in other property acceptable to the Plan trustee.

6. On December 12, 1985, the Employer contributed the Interest to the Plan in accordance with the Plan documents. The Interest was valued at approximately $32,496 pursuant to Mr. Baumgardner's appraisal and the Plan paid no real estate fees or commissions in connection therewith. The applicant states that the contribution was made in kind rather than in cash because the Employer was experiencing cash flow problems that would have made a contribution in cash impractical at that time. In addition, the applicant submits that the Employer contributed the Interest to the Plan in order to provide the Plan with a long-term investment vehicle.

7. After making the contribution, the Employer took a deduction of $30,000. The Interest is carried in the Plan's financial records at the same figure and it represents approximately 21 percent of the Plan's assets. The Employer states that the $2,496 amount representing the difference between the fair market value of the Interest and the value of the Interest as carried on the Plan's books has been treated as an Employer contribution to the Plan and that such excess when added to annual additions to the Plan has not exceeded the limitation prescribed by section 415 of the Code.

8. On March 10, 1986, Mr. Baumgardner updated his appraisal of the Real Property. He determined that the fair market value of the Real Property as of March 5, 1986 had remained at $600,000. Mr Baumgardner also asserted that if sold, the plan could expect to realize the appraised value of the Interest.

9. In summary, it is represented that the transaction satisfies the statutory criteria for an exemption under section 4975(c)(2) of the Code because: (a) The Interest represents less than 25 percent of the assets of the Plan; (b) the Interest was appraised by a qualified independent appraiser; (c) the Plan did not pay any real estate fees or commissions in connection therewith; and (d) Mr. Collins, who is the only participant in the Plan to be affected by the contribution, believe that the contribution was appropriate for the Plan and desired that such contribution be consummated.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan's either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Because Mr. Collins is the only participant in the Plan to be affected by the transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Accordingly, all comments and requests for a public hearing are due within 30 days of the date of publication of the proposed exemption in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

[1] Because Mr. Warren J. Collins (Mr. Collins) is the sole owner of the Employer that sponsors the Plan as well as the sole participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

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James R. Plihal, D.D.S., P.S. Fixed Benefit Pension Plan (the Plan) Located in Edmonds, WA

[Application No. D-7158]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a parcel of unimproved real property (the Property) from the Plan to James R. Plihal, D.D.S. (Plihal), a party in interest with respect to the Plan, provided the Plan receives no less than fair market value at the time of sale.

Summary of Facts and Representation

1. The Plan is a defined benefit pension plan which had two participants and total assets of $199,383 as of March 25, 1987. Plihal is a participant in the Plan as well as the sole owner of James R. Plihal, D.D.S., P.S. (the Employer).

2. The Plan purchased the Property from an unrelated party in April 1977. The purchase price was $18,000 which was paid in cash. The Property consists of 0.38 acre of unimproved shoreline located on Orcas Island in the State of Washington. The Plan obtained an appraisal on the Property on July 20, 1987, from Jim Dahl (Dahl) of Dave Church Realty, Inc., a realtor located in Eastsound, Washington. According to the applicant, Dahl is independent of the Plan and the Employer. Placing emphasis on the comparable sales approach to value, Dahl estimated the market value of the Property to be between $25,000 and $27,000. The applicant states that the Property has not been used by any party in interest with respect to the Plan. The Property has produced no income. Since the time of acquisition, the only expenditure the Plan has made in connection with holding the Property has been the payment of less than $3,000 in property taxes.

3. The Property appeared to be a good investment for the Plan at the time of purchase, since it was a well located lot on a popular vacation island. However, since that time San Juan County, in which the island is located, has placed such restrictions on the Property, according to the applicant, that it may no longer be effectively improved. Accordingly, the Plan proposes to sell the Property to Plihal for $26,000 or fair market value at the time of sale, whichever is higher. The sale will be entirely for cash and the Plan will pay no fees or commissions in regard to the transaction. The proceeds of the sale will be invested in assets which produce income for the Plan.

4. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) The sale of the Property will be entirely for cash and the Plan will pay no fees or commissions in regard to the sale; (2) Plihal will pay no less than fair market value for the Property at the time of sale; (3) the fair market value will be established by a current independent appraisal of the Property; and (4) the proceeds of the sale will be invested in other assets which will produce income for the Plan.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Linton Industries, Inc. Retirement Plan and Trust (the Plan) Located in Lynnwood, WA

[Application No. D-7222]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan (the Loan) by the Plan of $240,000 to Linton Industries, Inc. (the Employer), a party in interest with respect to the Plan, provided the terms of the Loan are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 12 participants and total assets of $983,000 as of June 15, 1987. The trustee of the Plan as well as the decision-maker with respect to Plan investments is Mr. Robert Linton (Mr. Linton), the sole shareholder of the Employer. The Employer, which maintains its principal place of business in Lynnwood, Washington, is engaged in the business of precision and general metal fabrication.

2. An administrative exemption is requested to permit the Plan to lend $240,000 to the Employer. The Employer will use the Loan proceeds to finance part of the purchase price of a new Bliss 300-Ton 54 × 96 straight side press (the Press) costing approximately $317,325. The Press will be utilized by the Employer in its manufacturing operations.

3. The terms of the Loan are substantially similar to the terms extended to the Employer by CityBank (CityBank) of Lynnwood, Washington, an unrelated entity, in a loan commitment letter dated April 15, 1987. However, the only difference between CityBank's loan commitment and the terms expressed in the promissory note evidencing the Loan is in the loan amount. Whereas CityBank has committed to lend $250,000 to the Employer until December 31, 1987, the proposed Loan that will be offered by the Plan is for $240,000.

The Loan will require equal monthly payments of principal and interest over a ten year period. In addition, the Loan will carry a floating interest rate of 1½ percent above the prime rate of Rainier National Bank of Seattle, Washington. The interest rate will be adjusted quarterly by Mr. Sidney J. Starr, C.P.A. (Mr. Starr) of Bellevue, Washington who has agreed to serve as the independent fiduciary for the Plan with respect to the Loan. Any costs or expenses incurred by the Plan in connection with the administration of the Loan will be borne by the Employer.

4. The Loan will be secured by first lien interests in the Press and certain existing machinery (the Existing Machinery) that the Employer maintains on its business premises and which is currently unencumbered. Such Existing Machinery includes: A Niagara Model IB 65-4 Press Brake, a Di-Acro Hydra Power Model 55-8 Press Brake with 2 Axis Hurco Autobend, a Cincinnati #5 Press Brake, a Di-Acro Hydra Power Model 55-10 Press Brake with 2-Axis Hurco Autobend, a Wysong and Miles Model 1010 Shear with Computer Operator Back Gauge, a Dreis and Krump Model 4510-D Press Brake, a Cincinnati 400-Ton Mechanical Press Brake and a Cincinnati ¼" × 12' Shear with 2 Sets of HCHC Blades.

5. To perfect the Plan's security interests in the Press and the Existing Machinery, the Employer will execute UCC Financing Statements and security agreements with applicable state and county agencies. In addition, the Press and the Existing Machinery will be insured by the Employer against casualty loss throughout the duration of the Loan and the Plan will be designated as the loss payee of such insurance. At all times, the aggregate fair market value of the Press and the Exiting Machinery will be equal to at least 200 percent of the outstanding principal balance of the Loan. In the event that the value of the collateral should ever fall below this level, Mr. Starr will require that the Employer pledge additional security or call for payment in full of the Loan.

6. The Press and the Existing Machinery were valued by Mr. Warren J. Barlow (Mr. Barlow), Manager of the Used Machine and Tool Department of Hallidie Machinery Company, Inc. (Hallidie) of Seattle, Washington. Hallidie, an unrelated entity, is one of the largest machinery tool distribution companies in the United States. Hallidie has been in the business of new and used machinery sales and purchases since 1900. Mr. Barlow, an employee of Hallidie for over 32 years, is a member of the Association of Machinery Equipment Appraisers.

By letter dated April 9, 1987, Mr. Barlow indicated that he had inspected the Existing Machinery at the Employer's plant. Based upon his inspection, he concluded that the Existing Machinery had been well-maintained by the Employer and that such collateral would have the following values:

Niagara Model IB 60-4 Press Brake	$10,500.00
Di-Acro Hydra Power Model 55-8 Press Brake with 2-Axis Hurco Autobend	30,000.00
Cincinnati ±5 Press Brake	14,500.00
Di-Acro Hydra Power Model 55-10 Press Brake with 2-Axis Hurco Autobend	36,500.00
Wysong and Miles Model 1010 Shear with Computer Operator Back Gauge	29,500.00
Dreis and Krump Model 4510-D Press Brake	29,500.00
Cincinnati 400-Ton Mechanical Press Brake	35,000.00
Cincinnati ¼"×12' Shear with 2 Sets of HCHC Blades	30,000.000
Total Fair Market Value of Existing Machinery:	$218,500.00

In subsequent correspondence dated June 9, 1987, Mr. Barlow opined that the Press, which will be acquired by the Employer for $317,325, would retain 90 percent of its value on the date following its institution on the Employer's business premises. Mr. Barlow also determined that the Press would depreciate at the rate of 10 percent per year for five years. As for the Existing Machinery, Mr. Barlow concluded that such equipment would not decline in value in the foreseeable future. Finally, with respect to the resalability of the collateral, Mr. Barlow thought that both the Existing Machinery and the Press could be easily sold in the event of a distress sale.

7. As stated above, Mr. Starr will serve as the independent fiduciary for the Loan. Mr. Starr represents that he does not have a familial or business relationship with the Employer or with Mr. Linton. He indicates that he has been a certified public accountant since 1978 and that in his practice of accountancy, he has been involved with many clients who sponsor retirement plans. Mr. Starr further represents that he has consulted with legal counsel experienced with the Act and that he understands his duties, responsibilities and liabilities under the Act in serving as a fiduciary with respect to the Plan.

In analyzing the Loan, Mr. Starr represents that he has examined the Plan's investment portfolio, considered the liquidity requirements of the Plan, considered the diversification of the Plan's assets in light of the Loan and considered whether or not the proposed Loan will comply with the Plan's investment objectives and policies. Based upon this review, Mr. Starr has determined that the Loan is in the best interests of the Plan and its participants and beneficiaries. He states that the Loan is consistent with the Plan's overall investment portfolio as well as with its objectives and policies. He also asserted that the Loan will not prevent the Plan from meeting its liquidity requirements or result in a loss of diversification of the Plan's assets.

In concluding that the Loan is an appropriate and suitable investment for the Plan, Mr. Starr explains that he is persuaded by the fact that:

a. The Loan amount represents less than 25 percent of the Plan's assets.

b. The Plan will not likely have a great need for liquidity during the Loan term because none of its participants are close to retirement age.

c. The terms of the Loan are substantially identical to the terms of the loan commitment from CityBank.

d. The Loan will be secured by the Press and the Existing Machinery of the Employer. Throughout the Loan duration, the collateral will most probably have a combined fair market value that is in excess of 200 percent of the outstanding principal balance of the Loan.

e. The Loan provides a much greater rate of return to the Plan than is available in the marketplace for investments with equivalent degrees of low risk.

As the independent fiduciary, Mr. Starr represents that he will monitor the Loan on behalf of the Plan. In addition, Mr. Starr states that he will take all actions that are necessary and proper to safeguard the interests of the Plan and its participants and beneficiaries.

8. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) Mr. Starr, who will approve and monitor the Loan as the independent fiduciary, believes the Loan is in the best interests of the Plan and its participants and beneficiaries; (b) the Loan will represent less than 25 percent of the Plan's assets; (c) with the exception of the Loan amount, the terms of the Loan are identical to the terms offered by CityBank in a loan commitment to the Employer; (d) the Loan will be secured by first lien interests in the Press and the Existing Machinery which have a combined fair market value that is in excess of 200 percent of the Loan amount; and (e) Mr. Starr will ensure that the aggregate value of the Prss and the Existing Machinery remains at least equal to 200 percent of the outstanding balance of the Loan or take appropriate remedies if such level is not maintained.

FOR FURTHER INFORMATION CONTACT: Mr. Jan D. Broady of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Federal Paper Board Salaried Employees' Pension Plan (the Salaried Plan); Federal Paper Board Hourly-Wage Employees' Pension Plan (The Hourly Plan); and Federal Paper Board Co., Inc. Pension Plan for Hourly Employees of the Paper Division-Carolina Operations (the Carolina Plan; together, the Plans) Located in Montvale, NJ

(Application No. D-7269)

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting form the aplication of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the contribution to the Plans of certain real property (the Property) by the Federal Paper Board Company, Inc. (Federal), the Plans' sponsor, provided the Property will be valued at no greater than its fair market value at the time of contribution.

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Summary of Facts and Representations

1. The Salaried Plan is a defined benefit plan that currently has approximately 1,395 active participants. The Hourly Plan is a defined benefit plan which has approximately 5,327 active participants. The Carolina Plan, also a defined benefit plan, currently has approximately 1,758 active participants. The assets of all three Plans are held in a master trust fund (the Master Trust). The trustee of the Master Trust is the Wachovia Bank and Trust Company, N.A. (Wachovia), of Winston-Salem, N.C., which has exclusive authority with respect to the acquisition of disposition of assets held in trust under the Plans.

2. Federal proposes to make a portion of its contributions to the Plans for each of the Plans' 1986 plan years in the form of real property. The Property is location in Colonial Heights, Virginia, and consists of 30.188 acres of land which is adjacent to property on which the construction of a mall is scheduled for completion in 1989. It is contemplated that the Plans will develop the Property. Wachovia will have complete decision-making authority with regard to the Plans' development of the Property. No party in interest will be involved in the development of the Property, nor will the Property be leased to any parties in interest. The Property will be contributed by Federal to the Plans free and clear of any liens, mortgages or other encumbrances.

3. The Property contributed to the Master Trust will be allocated proportionately to each of the Plans (i.e., on the basis of the total assets held in the Master Trust for each of the Plans respectively). After the contribution has been made, the portion of the Property allocated to each of the Plans under the Master Trust will comprise approximately 2.5% of each of the Plans' total assets.

4. The Property has been appraised by Mr. Jack C. Warner of Gilbert/Commonwealth, Inc., an independent appraiser in Reading, Pennsylvania, as having a fair market value of $55,000 per acre or a total value of $1,660,340 as of February 28, 1987. Federal represents that its income tax deduction for the contribution of the Property will not be greater than the fair market value of the Property on the date of the contribution.

5. Wachovia, the Plan' trustee, represents that it has extensive experience in the management of funds of employees benefit plans, and real estate investments for such plans. It currently serves as fiduciary for over $31 billion in descretionary assets held by employee benefit, institutional and charitable trusts. Wachovia currently manages over $600 million in real estate assets for employee benefit and institutional clients. Wachovia represents that is understands and acknowledges its duties, responsibilities and liabilities under the Act as a fiduciary with respect to the Plans. Wachovia represents that it does not own any shares of Federal common stock, nor are there any common Board members of the Boards of Directors of Federal and Wachovia. As of June 30, 1987, Federal had average balances on deposit with Wachovia of $243,000, compared to total deposits of Wachovia of $8.7 billion, or 0.0028%. Wachovia had outstanding loans to Federal as of June 30, 1987 of $1,753,125, compared to total Wachovia loans of $6.7 billion, or 0.0255%.

6. Wachovia has reviewed the proposed contribution of the Property to the Plans and has determined that it is appropriate for the Plans and in the Plans' best interests. Wachovia represents that the contribution offers the Plans the opportunity to receive valuable real estate without any outlay of cash or acquisition costs. The Property has the potential for significant long-term appreciation in value. Furthermore, Wachovia represents that inasmuch as the Master Trust's investment portfolio does not presently include any real estate, the contribution will provide several advantages to the Plans, such as the opportunity for increased rates of return and the fact that the Property will serve as an effective hedge against inflation. The Property will also provide portfolio stability as well as asset diversification. Wachovia also represents that the contribution of the Property complies with the Plans' investment objectives and policies. The Plans will retain sufficient liquidity for their anticipated needs. The deed conveying the Property to the Plans will be duly recorded as an item of public record.

7. In summary, the applicant represents that the proposed transaction meets the criteria of section 408(a) of the Act because: (1) The Property will represent approximately 2.5% of the assets of the Master Trust and of each Plan; (2) the Property has been appraised by a qualified, independent appraiser; and (3) Wachovia, the Plans' independent fiduciary, has determined that the proposed transaction is appropriate for the Plans and in the best interests of their participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (The is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 20th day of October 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87-24632 Filed 10-22-87; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313 et al]

Issuance of Director's Decision; Arkansas Power and Light Co. et al.

In the matter of Docket No. 50-313, Arkansas Power & Light Company, Arkansas Nuclear One, Unit 1; Docket No. 50-346, Toledo Edison Company, et al, Davis-Besse Nuclear Station, Unit 1; Docket No. 50-312, Sacramento Municipal Utility District, Rancho Seco Nuclear Generating Station; Docket Nos. 50-438 and 50-439, Tennessee Valley Authority, Bellefonte Nuclear Plant, Units 1 and 2; Docket No. 50-302, Florida Power Corporation, et al., Crystal River Nuclear Generating, Plant, Unit 3; Docket Nos. 50-269, 50-270 and 50-287, Duke Power Company, Oconee Nuclear Station, Units 1, 2, and 3; Docket No. 50-289, GPU Nuclear Corporation, et al., Three Mile Island Nuclear Station, Unit 1.

Notice is hereby given that the Director, Office of Nuclear reactor Regulation, has issued a decision on a petition submitted to the Commission by the Union of Concerned Scientists and others. The petition requested the suspension of the operating licenses of Arkansas Nuclear One Unit 1; Crystal River Unit 3; Davis-Besse Unit 1; Oconee Units 1, 2, and 3; Rancho Seco; and Three Mile Island Unit 1; and the suspension of the construction permits for Bellefonte Units 1 and 2. The Petition also requested that before these operating licenses and construction permits are reinstated (1) the NRC should complete its safety reassessment program for the plants designed by Babcock & Wilcox (B&W) and identify the specific corrective action to be taken at each B&W plant; (2) a public adjudicatory hearing on each plant should be held to determine whether these corrective actions are sufficient to correct the alleged deficiencies, and (3) the changes found to be necessary by the hearing board should be fully implemented at the plants with operating licenses and should be incorporated as conditions in the construction permits of the Bellefonte plants. Unless conditions (1), (2), and (3) above are met, the Petition requested that the operating licenses and construction permits for the B&W plants be revoked.

The Director, Office of Nuclear Reactor Regulation, has declined to institute proceedings pursuant to 10 CFR 2.202 and accordingly, to grant relief pursuant to 10 CFR 2.206. The reasons for this decision are explained in "Director's Decision Under 10 CFR 2.206," DD-87-16, which is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. 20555, and in the following Local Public Document Rooms:

Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801
Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida 32629
William Carlson Library, University of Toledo, Documents Department, 2801 West Bancroft Avenue, Toledo, Ohio 43606
Robert M. Cooper Library, Public Documents Collection, Clemson University, Clemson, SC 29631
Sacramento Public Library, 828 I Street, Sacramento, California 95814
Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Harrisburg, Pennsylvania 17105
Scottsboro Public Library, 1002 South Broad Street, Scottsboro, Alabama 35768

A copy of the Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the Decision wil constitute the final action of the Commission twenty-five (25) days after issuance, unles the Commission, on its own motion, institutes review of the Decision within that time period.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 19th day of October, 1987.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 87-24597 Filed 10-22-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-289, 50-270, and 50-287]

Denial of Amendments to Facility Operating Licenses and Oppportunity for Hearing; Duke Power Company

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by the licensee for amendments to Facility Operating License Nos. DPR-38, DPR-47, and DPR-55 issued to the Duke Power Company (the licensee) for operation of the Oconee Nuclear Station, Units 1, 2, and 3 (the facility), located in Oconee County, South Carolina.

The proposed amendments would have revised Technical Specification Section 6.2.2 to make it consistent with the Technical Specifications for Catawba and McGuire Nuclear Stations and include the Superintendent of Integrated Scheduling and Station Services Superintendent. Notice of consideration of issuance of the amendments was published in the **Federal Register** on October 23, 1985 (50 FR 43026). The licensee's application for the amendments was dated August 22, 1985, and supplemented February 11, 1986.

The request was found unaceptable since the revisions requested were not supported by adequate justification.

The licensee was notified of the Commission's denial of this request by letter dated October 19, 1987.

By November 23, 1987 the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to J. Michael McGarry, III, Esq., Bishop, Liberman, Cook, Purcell, and Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendments dated August 22, 1985, as supplemented February 11, 1986, and (2) the Commission's letter to Duke Power Company dated October 19, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

Dated at Bethesda, Maryland, this 19th day of October 1987.

For the Nuclear Regulatory Commission.

Helen N. Pastis,

Project Manager, Project Directorate II-3, Division of Reactor Projects—I/II.

[FR Doc. 87-24598 Filed 10-22-87; 8:45 am]

BILLING CODE 7590-01-M

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Advisory Committee on Reactor Safeguards; Subcommittee on Systematic Assessment of Operating Experience; Meeting

The ACRS Subcommittee on Systematic Assessment of Operating Experience will hold a meeting on November 3, 1987, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, November 3, 1987—1:00 p.m. Until the Conclusion of Business

The Subcommittee will discuss AEOD's role in helping the NRC learn from operating experience.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 20, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87–24594 Filed 10–22–87; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on TVA Organizational Issues; Meeting

The ACRS Subcommittee on TVA Organizational Issues will hold a meeting on November 4, 1987, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, November 4, 1987—8:30 A.M. Until the Conclusion of Business

The Subcommittee will review the safety issues associated with TVA management reorganization and the Sequoyah restart.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will than hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 20, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87–24595 Filed 10–22–87; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Maintenance Practices and Procedures; Postponed

The ACRS Subcommittee on Maintenance Practices and Procedures scheduled for October 30, 1987, 8:00 a.m. until 11:00 a.m., Room 1046, 1717 H Street, NW, Washington, DC has been postponed. Notice of this meeting was published Wednesday, October 14, 1987 (52 FR 38160).

Dated: October 20, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87–24596 Filed 10–22–87; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, DC 20549.

Extension

File No. 270–121, Form T–1
File No. 270–122, Form T–2
File No. 270–123, Form T–3
File No. 270–124, Form T–4
File No. 270–115, Rule 7a–37
File No. 270–127, Rule 14f–1

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission; has submitted for an extension of clearance of the following forms: Form T–1; Form T–2; Form T–3; Form T–4; Rule 7a–37; Rule 14f–1. The forms provide a basis for the Commission to fulfill its statutory responsibility to ensure that issuers of publicly-traded securities provide investors and the marketplace with adequate information and some forms grant certain limited exemptions from provisions of the Securities Act of 1933. Form T–1 effects 1665 filers for a total of 44 burden hours per form; Form T–2 effects 36 filers for a total of 28 burden hours per form; Form T–3 effects 55 filers for a total of 44 burden hours per form; Form T–4 effects 3 filers for a total of 5 burden hours per form; Rule 7a–37 is not a form and has been assigned one burden hour for administrative purposes; and Rule 14f–1 effects 44 respondents for a total of 18 burden hours per form. Submit comments to OMB Desk Officer, Mr. Robert Neal (202) 395–7340, Office of Information and Regulatory Affairs, Commerce & Lands Branch, Room 3228 NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

October 19, 1987.

[FR Doc. 87–24612 Filed 10–22–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16059; 812–6823]

Algemene Spaar-en Lijfrentekas/ Caisse Generale d'Epargne et de Retraite and ASLK–CGER North America, Inc.; Application

October 16, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act")

Applicants: Algemene Spaar-en Lijfrentekas/Caisse Generale d'Epargne et de Retraite ("Algemene") and ASLK–CGER North America, Inc. ("ASKL–CGER") (collectively, "Applicants").

Relevent 1940 Act sections: Exemption required under section 6(c) from all provisions of the 1940 Act.

Summary of the application: Applicants seek an order exempting them from all provisions of the 1940 Act in connection with the offer and sale of their debt securities in the United States.

Filing date: The application was filed on August 11, 1987 and amended on October 14, 1987.

Hearing or notification of hearings: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on November 9, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o C. Thomas Kunz, Esq., Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney, Financial Analyst (202) 272–2847 or Brion R. Thompson, Special Counsel (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Statements and Representations

1. Algemene is a Belgian public sector banking institution which is empowered to carry out the whole range of commercial banking activities and a broad range of insurance activities. Algemene is a single legal entity which is divided for operating, accounting and regulatory purposes into a banking division (the "Bank Division") and a unit comprising insurance, pension and work accident annuity funds (the "Insurance Division").

2. The Bank Division is engaged in a broad range of savings bank operations and general banking activities, including accepting deposits from individuals and corporate customers through a network of branches. In addition to accepting deposits and making loans, the Bank Division engages in other bank and bank-related activities as more fully described in the application. The Insurance Division is divided into three separate funds: the Insurance Fund, the Pension Fund and the Industrial Accident Pension Fund is described more fully in the application.

3. The Bank Division is subject to extensive regulation by Belgian banking authorities that is comparable in many respects to the regulation of United States banks. The Insurance Division is subject to the control of the "Office de Controles des Assurance" (the "Office") which ensures that insurance companies satisfy certain solvency and profitability ratios and maintain adequate reserves. The Office also exercises broad investigative powers.

4. ASLK–CGER was organized under the laws of the State of Delaware on July 28, 1987. All of its outstanding capital stock is owned by Algemene. It will not issue any other common or capital stock. Its sole business will be the issuance of debt obligations and the provisions of the proceeds thereof to Algemene and/or subsidiaries of Algemene, and substantially all of ASLK–CGER's assets will consist of amounts receivable from Algemene.

5. Applicants propose to issue short-term promissory notes (the "Commercial Paper Notes") in the United States. The Commercial Paper Notes to be issued will be: (i) Direct obligations of Algemene, (ii) direct obligations of ASLK/CGER unconditionally guaranteed by Algemene (iii) some combination of (i) and (ii). The Commercial Paper Notes will be offered and sold pursuant to the exemption from the registration requirements of the Securities Act of 1933 (the "1933 Act") provided by section 3(a)(3) thereof. The Commercial Paper Notes will be sold in minimum denominations of $100,000, will have maturities not exceeding 270 days, and will neither be payable on demand prior to maturity nor eligible for any extension, renewal, or automatic "rollover" at the option of either the holders or whichever of the Applicants issued the Commercial Paper Notes. Applicants undertake not to market any Commercial Paper Notes prior to receiving an opinion of its United States counsel to the effect that the proposed offering is exempt from the registration requirements of the 1933 Act by virtue of Section 3(a)(3) thereof. Applicants do not request SEC review or approval of such counsel's opinion regarding the availability of an exemption from the Commercial Paper Notes under section 3(a)(3) of the 1933 Act.

6. If the Commercial Paper Notes are issued by ASLK–CGER and guaranteed by Algemene, the Commercial Paper Notes will rank pari passu among themselves and equally with all other unsecured, unsubordinated indebtedness of ASLK–CGER, and Algemene's guarantee of the Commercial Paper Notes will rank equally with all other unsecured and unsubordinated obligations of Algemene including deposits received by it in its banking business. The obligations of Algemene under its guaranty will be enforceable against it directly by the holders of the Commercial Paper Notes. If the Commercial Paper Notes are issued by Algemene, they will be the direct liabilities of Algemene, will rank pari passu among themselves and equally with all other unsecured and unsubordinated obligations of Algemene, including deposits received by it in its banking business.

7. The Commercial Paper Notes will be offered publicly, through one or more major dealers, only to the types of

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sophisticated and largely institutional investors that ordinarily participate in the commercial paper market. Applicants undertake to insure that each dealer in the Commercial Paper Notes will furnish to each offeree memoranda describing the businesses of the Applicants and providing financial information from the most recent annual audited financial statements for Algemene, together with a brief description of the material differences between the Belgian accounting principles utilized in the preparation of the financial statements of Algemene and generally accepted accounting principles as applied in the United States. The memoranda prepared by each dealer will be updated as promptly as practicable to reflect material adverse changes in the financial status of the Applicants and will be at least as comprehensive as memoranda customarily used in offering commercial paper in the United States. Applicants will select a major commercial bank or trust company to act as issuing and paying agent for the Commercial Paper Notes.

8. Applicants represent that, prior to their issuance, the Commercial Paper Notes will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and the Applicant's United States counsel shall have certified that the rating was received. Applicants are not affiliated with any nationally recognized statistical rating agency. Algemene will submit to the jurisdiction of any State or Federal Court in The City of New York, and will authorize an agent in The City of New York to accept service of process, in an action based upon its obligations under the Commercial Paper Notes issued by it or its gurantee of Commercial Paper Notes issued by ASLK–CGER. Such consent to jurisdiction and such appointment of an authorized agent to accept service of process will be irrevocable until all amounts due and to become due with respect to the Commercial Paper Notes have been paid.

9. ASLK–CGER will agree to make advances to Algemene and its subsidiaries from the net proceeds of the sale of any Commercial Paper Notes issued by ASLK–CGER. Each advance will have the same maturity date as the maturity date of the Commercial Paper Notes issued by ASLK–CGER to obtain funds to make such advance. As noted above, Algemene will have guaranteed payment of the Commercial Paper Notes and will consent to the enforcement of such guarantee by the holders of the Commercial Paper Notes or by the Depository on behalf of the holders of the Commercial Paper Notes.

10. Substantially all (in no event less than 85%) of the proceeds of the sale of the Commercial Paper Notes issued by ASLK–CGER will be advanced as soon as practicable (but in no event more than six months after receipt) to Algemene (or companies controlled by Algemene) on terms that will allow ASLK–CGER to make timely payments on such Commercial Paper Notes.

11. Applicants may, from time to time, offer their debt securities other than the Commercial Paper Notes for sale in the United States. ASLK–CGER may also, from time to time, offer its debt securities other than the Commercial Paper Notes for sale outside of the United States. The proceeds of any such future offerings of debt securities will, in the case of debt securities of ASLK–CGER, be loaned or advanced to Algemene or its subsidiaries in a similar manner to the proposed advances from the proceeds of the Commercial Paper Notes and, in the case of such debt securities issued by Algemene, utilized directly by Algemene or its subsidiaries for general banking or other purposes. The future debt securities of ASLK–CGER will be supported by Algemene's unconditional guarantee and Algemene will expressly consent to the enforcement of such guarantee directly by the holders of the debt securities.

12. Applicants undertake that, prior to their issuance, any further issuer their debt securities other than the Commercial Paper Notes in the United States will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization that is not affiliated with Applicants and that the Applicants' United States counsel shall have certified that the rating was received. However, no such rating shall be required to be obtained with respect to a future issue of the Applicant's debt securities other than the Commercial Paper Notes in the United States if, in the opinion of United States counsel to the Applicants, such counsel having taken into account for the purposes thereof the doctrine of "integration" referred to in Rule 502 of Regulation D under the 1933 Act and various releases and "no-action" letters made public by the Commission, an exemption is available for the issue pursuant to subsection 4(2) of the 1933 Act or Regulation D promulgated thereunder.

13. Applicants undertake that neither of them will issue or sell in the future any of their debt securities in the United States, and ASLK–CGER undertakes that it will not issue or sell in the future any of its debt securities other than in the United States, unless an opinion of United States counsel or a "no-action" letter issued by the SEC has been delivered to the effect that the proposed offering is in compliance with, or entitled to an exemption from, the registration requirements of the 1933 Act, or unless the offering is made pursuant to a registration statement under the 1933 Act. Applicants also undertake that any future offering of debt securities will be effected on the basis of disclosure documents at least as comprehensive in their description of ASLK–CGER or Algemene, their businesses and their financial statements as the disclosure documents customarily used in offering similar types of debt securities in the jurisdictions in which such offering is made and that such disclosure documents will be updated as promptly as practicable to reflect material changes in the financial status of ASLK–CGER or Algemene. However, in the case of an offering made pursuant to a registration statement under the 1933 Act, the offering will be made on the basis of disclosure documents appropriate for such registration.

14. Algemene will, in connection with any future offering of its or ASLK–CGER's debt securities in the United States, appoint an agent to accept service of process in any suit, action or proceeding brought against Algemene on its obligations in respect of such debt securities instituted in any State or Federal court by the holder of any such debt securities. Algemene will expressly submit to the jurisdiction of any State or Federal court located in the City of New York with respect to any such suit, action or proceeding. Such appointment of an agent for service of process and such consent to jurisdiction shall be irrevocable until all amounts due and to become due in respect of such issuance of debt securities have been paid.

Applicants' Legal Analysis

1. Approval of the application is necessary or appropriate in the public interest. If the Applicants were required to register an investment companies and comply with the provisions of the 1940 Act, Algemene would be denied ready access to the United States credit markets either directly through its own debt security issuances or through the borrowing of the proceeds of the Commerical Paper Notes and other debt securities of ASLK–CGER. Approval of the application would be consistent with the protection of investors, because Algemene is extensively regulated by the Belgian banking and insurance authorities. Such regulation affords protection to investors beyond that provided in the 1940 Act and renders the 1940 Act's protection unnecessary. It would be consistent with the purpose of the 1940 Act and subsection 6(c) to exempt Algemene, which is limited primarily to the banking business by government supervision of a nature and degree similar to that exercises by United States banking authorities.

Applicants' Conditions

If the requested order is granted, the Applicants agree to the following condition:

Applicants consent to any SEC order being expressly conditioned on their compliance with the undertakings and representations summarized above and more fully set forth in the application.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–24579 Filed 10–22–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–16062; 812–6208]

College Retirement Equities Fund and Teachers Insurance and Annuity Association of American, Request for Temporary Relief Pending Final Order on Application

October 20, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Request for Temporary Relief.

Applicants: College Retirement Equities Fund ("CREF") and Teachers Insurance and Annuity Association of America ("TIAA") (collectively "Applicants").

Relevant 1940 Act sections: Temporary relief requested *under* section 6(c) of the Investment Company Act of 1940 ("Act") *from* sections 2(a)(32), 2(a)(37), 2(a)(42), 12(b), 12(d), 13(a), 15(a), 15(b), 16(a), 17(f), 18(i), 18(i), 22(c), 22(e), 28(a), 27(c)(1), 27(c)(2), 27(d) and 32(a) of the Act and Rules 0–1(e), 2a–4, 12b–1, 17f–2, 18f–2, 22c–1 and 27e–1 thereunder, and permission to engage in certain transactions requested under section 17(d) of the Act and Rule 17d–1 thereunder.

Summary of proposed action: Applicant request temporary relief that would be effective until a final order on the application.

Filing date: The application was filed on September 26, 1985 and amended on August 18, 1986, March 6, 1987, and April 17, 1987.

Comment period on temporary order: If no hearing is ordered on the question of temporary relief, the relief will be granted pending a final determination on the application. Any interested person may comment on the request for temporary relief or may request a hearing on whether temporary relief should be ordered. Any comments or hearing requests must be received by the SEC by 5:30 p.m. on November 9, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve Applicants with the comments or hearing requests, either personally or by mail, and also send a copy to the Secretary of the SEC, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, D.C. 20549. CREF and TIAA, 730 Third Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Staff Attorney, Clifford E. Kirsch, (202) 272–3032, Staff Attorney, Heidi Stam, (202) 272–3017 or Senior Special Counsel, Stanley B. Judd, (202) 272–2079.

SUPPLEMENTARY INFORMATION: The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier, (800) 231–3282 (in Maryland (301) 253–4300). Also, the Statement on Behalf of the College Retirement Equities Fund and Teachers Insurance and Annuity Association of America, dated August 21, 1987, which requests temporary relief on behalf of the Applicants is available from the SEC's Public Reference Branch.

On July 10, 1987, the Commission issued a notice ("Notice"), published at 52 FR 27095, July 17, 1987, (Investment Company Act Release No. 15866) of an application filed by CREF and TIAA for an order pursuant to section 6(c) of the Act, exempting CREF and TIAA from the provisions of sections 2(a)(32), 2(a)(37), 2(a)(42), 12(b), 12(d), 13(a), 15(a), 15(b), 16(a), 17(f), 18(f), 18(i), 22(c), 22(e), 28(a), 27(c)(1), 27(c)(2), 27(d), and 32(a) of the Act and Rules 0–1(e), 2a–4, 12b–1, 17f–2, 18f–2, 22c–1, and 27e–1 thereunder, and pursuant to section 17(d) of the Act and Rule 17d–1 thereunder permitting certain transactions. The application would permit CREF to, among other things, restrict redemptions, limit the voting rights of its participants, bear distribution costs, and value its annuity annually. The Notice, which is made part of this document by reference, gave any interested person until August 4, 1987, to file a request in writing for a hearing on the application accompanied by a statement of the nature of his interest, the reason for the request, and the issues of fact or law proposed to be controverted.

As of September 21, 1987, the Commission had received 20 hearing requests and 21 other letters opposing the granting of the application (particularly the redeemability and voting relief), urging a hearing, requesting notification if a hearing is ordered and/or requesting that the Commission grant CREF temporary relief to implement its Money Market Account.

The first of the participants to request a hearing [1] proposed the possibility of granting CREF temporary relief to cause it to implement a Money Market Account whose interests would be exchangable for insterests in the existing CREF Stock Account and *vice versa*. Many subsequent hearing requests and letters by participants and colleges strongly supported such temporary relief.[2] CREF also requested temporary relief in its response to the requests for a hearing.[3] CREF stated that it will not proceed with the Money Market Account without the granting of a temporary order.[4]

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–24588 Filed 10–22–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–16058; (812–6778)]

Sears Investment Trust, Dual Value Series 6, et al.; Application

Dated: October 28, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

[1] Professor Schotland's hearing request dated July 30, 1987.

[2] American Association of State Colleges and Universities; American Council on Education; American Association of University Professors; University of Nebraska; Tuskegee University; The University of Maryland; The University of Alabama System; University of Notre Dame; The University of Tennessee; Purdue University; State University of New York; Harvard University; The University of Michigan; Brown University; Professor Craig M. Bradley, Indiana University School of Law; Professor Jeffrey Evans Stake, Indiana University School of Law; Professor Gene R. Schreve, Indiana University School of Law, Mr. Neil Wright; Mr Richard L. Silva employed by Yale University; and Mr. David Alexander, President Pomona College. Trustee of TIAA.

[3] Statement on Behalf of the College Retirement Equities Fund and Teachers Insurance and Annuity Association of America, dated August 31, 1987.

[4] Letter from CREF's counsel to the Office of Insurance Products and Legal Compliance, Division of Investment Management, dated October 6, 1987.

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ACTION: Notice of Filing of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

Applicants: Sears Investment Trust, Dual Value Series 6, and all subsequent series of the Dual Value Series and similar series of the Sears Investment Trust (collectively, "Trusts"), and their sponsor, Dean Witter Reynolds Inc. ("Sponsor").

Relevant 1940 Act sections: Order requested under section 17(b) granting exemption from Section 17(a), under Section 6(c) exempting Applicants from Section 14(a), and under Section 45(a).

Summary of application: Applicants seek an order, under section 17(b) to permit the Sponsor to deposit certain assets in addition to securities into the Trusts, under section 6(c) extending relief previously granted to Applicants from section 14(a) ("Prior Order", Investment Company Act Release No. 15424, November 21, 1986), and under section 45(a) extending the confidential treatment granted in the Prior Order. With respect to Applicants' request under section 6(c) and 45(a), such order is sought only to the extent that the proposed operations of the Trusts may be deemed not within the scope of the Prior Order.

FILING DATES: The application was filed on June 29, 1987, and amended on October 5, 1987.

Hearing or notification of hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC no later than 5:30 p.m. on Nobember 10, 1987. Request a hearing in writing, giving the nature of your interest, the reasons for the request, and the issues you contest. Serve Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; Applicants, c/o Dean Witter Reynolds Inc., Unit Trust Department, 2 World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 272-3033, or Brion R. Thompson, Special Counsel (202) 272-3016.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. The Prior Order: (1) Exempted Applicants from the provisions of sections 12(d)(1), 14(a) and 22(d); (2) approved certain affiliated transactions under section 17(d) and Rule 17d-1; and (3) granted confidential treatment under section 45(a) to the Sponsor's profit and loss statements filed with the Sponsor's registration statement for the Sears Investment Trust. The Prior Order was limited to Trusts containing a portfolio of: (1) Zero coupon United States government obligations ("Zero Coupon Obligations") and (2) shares of one of the Dean Witter mutual funds ("Fund Shares"). The Sponsor now intends to create additional Trusts within the Dual Value Series and subsequent series of Trusts of the Sears Investment Trust which, although structured in a similar manner, will invest in (1) Zero Coupon Obligations, and (2) assest other than Funds Shares (as more fully described below).

2. Each Dual Value Series and similar Series of Trusts of the Sears Investment Trust will have a portfolio comprised of two components, the first being Zero Coupon Obligations. The second may be one or more a wide variety of assets, including United States minted American Gold Eagle coins ("Gold Eagles"), other gold bullion coins, gold bullion, silver bullion coins or silver bullion and other precious metals (collectively, "Assets") rather than Fund Shares as permitted under the Prior Order. When the portfolio for a Trust has been acquired, the Sponsor will deposit the Zero Coupon Obligations and the Assets with a trustee in the manner stated in the application for the Prior Order. The Sponsor will purchase both the Zero Coupon Obligations and the Assets to be deposited in each Trust from unaffiliated third parties at the current price for such investments. Each Trust will purchase a sufficient amount of Zero Coupon Obligations so that, at the specified maturity date for such Trust, investors purchasing Trust units ("Units") on the initial date of desposit ("Deposit Date") of the securities and Assets would receive back the approximate total amount of their original investment in the Trust, including the sales charge. To the extent that the Assets may have appreciated in value at the maturity of the Trust, the value of the purchaser's investment may have increased.

3. The Sponsor will purchase and deposit bullion coins that trade at approximately the current or spot price of their underlying precious metal component, plus a small premium which reflects fabrication costs and wholesale dealer spread. The Sponsor will purchase only those bullion coins which currently do not have a numismatic value and which are not expected to acquire a numismatic value. To this extent, before purchasing any bullion coins the Sponsor will obtain assurances from the issuer thereof that such coins will be provided in sufficient quantity to ensure that supply will be available to meet demand and that the coins are intended to be traded as bullion rather than numismatic coins.

4. The public offering price of the Units will be calculated in the following manner: (1) During the initial offering period, at the net asset value per Unit computed as of the close of business on each business day based on the offering side value of the Zero Coupon Obligations and the Gold Eagles and other bullion coins which are traded on a dealer market, or at the closing spot price for precious metals, plus a sales charge and (2) after completion of the primary offering period, at the net asset value per Unit computed as of the close of business on each business day based on the bid side value of the Zero Coupon Obligations and the Gold Eagles and other bullion coins, or the closing spot price for precious metals, plus a sales charge. The Zero Coupon Obligations and the Assets will be valued by an independent third-party evaluator. In the case of Gold Eagles and other bullion coins, the evaluator will survey five or six primary coin dealers in the respective market for their bid and asked prices and take an average of such prices, which will be determined as set forth above. In order to pay the annual Trust expenses, on the Deposit Date the Sponsor will deposit one or more current interest paying United States Treasury Obligations into the Trust, because neither the Zero Coupon Obligations nor the Assets will generate any current income which could be used for such purpose.

Applicants' Legal Analysis

1. Applicants may not avail themselves of the exemption afforded by section 17(a)(1)(C) from section 17(a) of the 1940 Act where the Sponsor deposits Assets, such as Gold Eagles into a Trust portfolio because that exemption relates only to the deposit of "securities" as defined in section 2(a)(36). Therefore, Applicants seek an order under section 17(b) of the 1940 Act exempting them from the provisions of section 17(a) to permit the Sponsor, as depositor, to deposit Gold Eagles, other bullion coins, precious metals and other similar property which may not meet the statutory definition of the term "security". Applicants believe that the requested order should be granted on the basis that: (1) The terms of the proposed transaction (*i.e.*, the deposit of Assets rather than "securities") are reasonable, fair and do not involve overreaching, (2) the proposed transaction is consistent with the policy of the concerned investment company, and (3) the proposed transaction is consistent with the general purposes of the 1940 Act.

2. Applicants assert that but for the fact that Assets are not within the definition of "securities" under section 2(a)(36) of the 1940 Act, the application for exemption from section 17(a) would be unnecessary. Applicants also assert that the deposit of Assets will be conducted in a fashion identical to the deposit of securities into a Trust portfolio. The Assets will be purchased by the Sponsor in professional and competitive coin and/or precious metals markets, will be priced and evaluated by an independent third party evaluator and will be deposited with the trustee or trustee's agent to be held until the maturity of a Trust or earlier upon liquidation or redemption. Applicants state that disclosure language relating to the risks of investing in the Assets will be included in the prospectus for each Trust, and the portfolio page listing each Trust's Assets will adequately describe and identify the Assets. The Sponsor will treat the purchase, sale and deposit of Assets in exactly the same fashion as the purchase, sale and deposit of securities and, thus, there will be no overreaching on the part of any person concerned. Applicants also assert that the proposed deposit of Assets into the Trusts will be consistent with investment policy of the concerned investment company insofar as the Trusts seek to provide protection of principal through investment in Zero Coupon Obligations and capital appreciation through other investments chosen by the Sponsor in light of that policy. Accordingly, Applicants submit that the proposed transactions are consistent with the provisions, policies and purposes of the 1940 Act.

3. Applicants contend that the existing exemption from section 14(a) and the granting of confidential treatment pursuant to Section 45(a) should extend to the proposed operation of the Trusts in the same manner as under the Prior Order. In this regard, Applicants believe that the rationale for granting the Prior Order is unchanged by the deposit of Assets in addition to securities. Therefore, Applicants submit that: (1) The requested exemption from section 14(a) continues to be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act, and (2) public disclosure of the Sponsor's profit and loss statements furnished in connection with the Trusts' registration statements is neither necessary nor appropriate in the public interest or for the protection of investors.

For the SEC, by the Divisfon of Investment Management pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-24584 Filed 10-22-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25042; File No. SR-CBOE-87-43]

Self-Regulatory Organizations; Chicago Board Options Exchange Inc.; Filing and Order Granting Accelerated Approval to Proposed Rule Change

On October 7, 1987, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and 19b-4 thereunder, [2] a proposed rule change to allow open trading to continue in expiring individual stock option series until the commencement of the closing rotation in such series.

Traditionally, options have been open for trading until ten minutes after the close of the primary market for the underling securities. This had been the norm because it ordinarily permits accurate pricing relative to the last sale of the underlying secuirties. On the last trading day of an options series prior to its expiration, the Exchange generally has employed a closing rotation at the close of the opening trading. The time for such a closing rotation was 2:00 p.m. Chicago time until 1983. In 1983, the Exchange set the time for the closing rotation in expiring index options series at 3:00 p.m. Chicago time, and in 1984, the Exchange conformed the time for the closing rotation in expiring individual stock options series to the 3:00 p.m. index option closing time. Also in 1984, the closing rotation for expiring individual stock options was amended to commence after the final price of the underlying stock is established; closing rotations in expiring index options were eliminated. At the time, however, the time at which open trading in expiring individual stock options ceased (3:00 p.m. Chicago time) was not changed.

The Exchange states that, in its experience, closing rotations in individual stock options series often do not commence until 3:10 p.m. Chicago time. The Exchange proposes to continue open trading in expiring individual stock option series until the commencement of the closing rotation in such series. The American, New York and Pacific Stock Exchanges permit orders to be entered, modified or cancelled in a particular expiring series until the commencement of the closing rotation in such series. [3] The Exchange, therefore, proposes to conform Interpretations and Policies .03 of CBOE Rule 6.2 (trading Rotations) to the rules of other options exchanges which allow trading until a closing rotation is commenced.

The Exchange also proposes to amend Interpretations and Policies .02 of Rule 6.2 to clarify that transactions may be effected in non-expiring options and expiring individual stock options after the normal close of trading (3:10 p.m. Chicago time) if they occur during a trading rotation. This proposed amendment also clarifies that the procedures described in Interpretations and Policies .02 for employing a trading rotation after 2:30 p.m. apply to non-expiring options.

The Commisison finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6, [4] and the rules and regulations thereunder. The Commission believes that allowing open trading to continue until the beginning of the closing rotation is expiring individual options will permit the CBOE to conform its rules to the rules of the American, New York, and Pacific Stock Exchanges. The Exchange's proposal

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b-4 (1986).

[3] American Stock Exchange Rule 918, Commentary .01(c); New York Stock Exchange Rule 717, Supplementary Mateiral .10(c); Pacific Stock Exchang Rule VI, section 36, Commentary .01(c).

[4] 15 U.S.C. 78f (1982).

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also should have a beneficial impact on the execution of investors' orders by allowing investors to enter, modify, or cancel orders until the commencement of the closing rotation in a particular expiring series.

The commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the proposal in the **Federal Register** in that the proposed rule is substantively identical to rules of American, New York, and Pacific Stock Exchanges. Also, approval of the proposal will eliminate possible investor confusion arising from different procedures at different options exchanges and will provide additional flexibility to investors in submitting their options orders in individual equity options series that are scheduled to expire on Saturday, October 17, 1987.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 13, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, [5] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegate authority.[6]

Dated: October 16, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-24613 Filed 10-22-87; 8:45 am]

BILLING CODE 8010-01-M

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30-3(a)(12)(1986).

[Release No. 34-25043; File No. SR-NASD-87-39]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Implementing a Late Fee for Certain Subscribers

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 7, 1987, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The self-regulatory organization has designated this proposal as one establishing or changing a fee under section 19(b)(3)(A)(ii) of the Securities Exchange Act of 1934 and corresponding Rule 19b-4(e), which renders the fee effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") hereby files, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to establish a new late fee that would be levied against delinquent subscribers receiving NASDAQ Level 1 Service through an authorized vendor. To the extent that vendors have assumed contractual responsibility for collection and remittance of NASDAQ Level 1 subscriber charges, the new late fee would also apply.

The NASD is implementing this fee by insertion of the following amendatory language in Part V, Paragraph G of Schedule D [1] to the NASD By-Laws (deletions bracketed/additions italicized):

G. Late Fees

All NASDAQ charges, *excepting those for NASDAQ Level 1 Service,* which are past due for 60 days or more shall be subject to a late fee of 10% of the amount past due. *Charges for NASDAQ Level 1 Service that are past due shall be subject to a late fee equal to one and one-half percent (1½%) per month of the unpaid balance commencing forty-five (45) days after the invoice date.*

[1] The Commission recently approved File No. SR-NASD-87-8 which effected a reorganization of Schedule D. The above-described amendment will appear under Part IX of the reorganized Schedule D. However, because the applicable subsection may change, the NASD has referenced this rule change according to the scheme existing immediately before the reorganization.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This filing is intended to effect the NASDAQ Board's determination to revise the late fee levied against subscribers delinquent in paying for NASDAQ Level 1 quotation information obtained through authorized vendors. To the extent that vendors have assumed contractual responsibility for collection and remittance of these subscriber fees, the new late fee would also apply. Previously, a one time charge of 10% was due when a subscriber paid for NASDAQ Level 1 Service at least 60 days after it was due. The new fee will apply equally to delinquent charges owed by professional and nonprofessional subscribers serviced by vendors. Lastly, the late fee's application is limited to NASDAQ's provision of Level 1 quotation service.

The NASD anticipates that adoption of the late fee will curb the incidence of delinquency and offset some of the added costs associated with subscriber delinquencies. In this regard, it should be noted that timely receipt of subscriber fees is a contractual precondition to obtaining the NASDAQ Level 1 Service. It is also important to the NASD's funding of the facilities and operations needed to provide this service as well as various automation enhancements that ultimately benefit subscribers and the investing public. Hence, sound business practice and public policy considerations both support the adoption of this late fee.

Section 15A(b)(5) of the Act requires the equitable allocation of reasonable fees among persons accessing data services offered by the NASD. Although related to the NASDAQ Level 1 Service, the late fee becomes due only when the subscriber is dilatory in paying the prescribed rate for this service. Hence, it is entirely within a subscriber's control to avoid incurrence of the late fee. However, every subscriber who becomes delinquent incurs the identical pecuniary obligation. This result is consistent with the equitable allocation standard articulated in section 15A(b)(5) of the Act.

The NASD believes that the magnitude of the late fee is reasonable, and that its imposition will offset certain additional costs traceable to collection of delinquent payments from the affected universe of subscribers. Although the new late fee is lower in amount, its imposition will occur more quickly and will continue under the prescribed formula for the duration of the delinquency. Hence, the formulation of the revised late fee is believed sufficient to provide an economic incentive for subscribers to pay NASDAQ Level 1 Service fees in a timely fashion. Based on this rationale, the NASD submits that this late fee satisfies the reasonableness requirement of section 15A(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD asserts that no competitive burden will result from the imposition of the revised late fee on subscribers delinquent in paying the established rate for NASDAQ Level 1 Service. The late fee will apply uniformly to all delinquent subscribers receiving this service through vendors. Incurrence of the late fee is a matter entirely within each subscriber's control and timely payment obviates liability for the fee. Hence, the fee's application will not unfairly burden a subscriber's continued access to NASDAQ Level 1 information. Finally, because the proposed fee addresses delinquent payments by a specified class of subscribers, it has no adverse effect upon any vendor's access to NASDAQ Level 1 quotation information nor upon a vendor's ability to service a particular subscribers.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within sixty (60) days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 13, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 19, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-24614 Filed 10-22-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25040; File No. SR-NYSE-87-34]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc., Relating To Opening Price Settlement of Expiring Options on the NYSE Composite Index and the NYSE Beta Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 16, 1987, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

On March 13, 1987 the Exchange filed a proposed rule change to change the settlement pricing of expiring stock index options to the opening prices on expiration Friday. (*See* SR-NYSE-87-06 and 3/16/87 Letter to Sharon M. Lawson, Branch Chief, SEC, from Daniel P. Odell, Assistant Secretary, NYSE (collectively, the "Temporary Rule Filing") and Release No. 34-24276 (March 27, 1987).) In particular, the Exchange modified the definition of "Current Index Group Value" in Rule 700(b)(17) to permit the Exchange to specify that the value upon exercise of options on the NYSE Composite Index and the NYSE Beta Index on expiration Friday is to be calculated from the opening prices for the constituent stocks on that day. The Exchange made conforming changes to the contract specifications for options on both indexes to make clear that trading ceases on the Thursday before expiration Friday.

the Temporary Rule Filing was effective only with respect to contracts expiring in June, 1987. On April 3, 1987, the Exchange filed a proposed rule change to make permanent the rule changes proposed in the Temporary Rule Filing. (*See,* SR-NYSE-87-11 (the "Permanent Rule Filing").) Thereafter, it became evident that the publication, comment and approval procedures for the permanent Rule Filing would not be completed before the Exchange opened for trading its contracts expiring in July, 1987. Accordingly, on April 10, 1987, the Exchange filed a proposed rule change that extended the Temporary Rule Filing to the July expiration date. (SR-NYSE-87-13.)

On May 15, 1987, the Commission approved the Permanent Rule Filing, but only in relation to contracts expiring in August and September. (Release No. 34-24466.) This was intended to permit the Commission to evaluate the June expiration before deciding on permanent approval. The Exchange subsequently learned that the Commission wished to evaluate the September expiration as well before acting on the Exchange's permanent approval request. Therefore, on August 13, 1987, the Exchange filed another proposed rule change that extended the Permanent Rule Filing to the December expiration date. (SR-NYSE-87-26.) The Commission

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approved the extension on August 24, 1987. (Release No. 34-24847.)

The Exchange now understands that the Commission seeks additional time in which to evaluate the September expiration before acting on the Exchange's permanent approval request. Accordingly, the proposed rule change extends to the March, 1988, expiration date the Commission's approval of the permanent filing on a temporary basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the rule extended by the proposed rule change is to ameliorate the impact of the concurrent expiration of index options and futures on the markets for individual stocks and on the stock market as a whole. The Exchange believes that settling index futures and options based upon the opening prices of the constituent stocks, and thereby permitting use of the Exchange's opening procedures in handling the accompanying stock volume, is the best strategy for addressing widely-held concerns about the actual and potential impact of the derivative products on the pricing mechanism and integrity of the stock market.

The basis under the 1934 Act for the proposed rule change is section 6(b)(5), which requires that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance on the purposes of the 1934 Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interest parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the 1934 Act. As noted above, the Commission's most recent approval on a temporary basis of the Exchange's Permanent Rule Filing permitted the Exchange to change the settlement pricing of expiring stock index options to opening prices only for contracts expiring through December, 1987. The Commission's evaluation of the experience with the September expiration cannot be completed before the Exchange opens its January contracts for trading. Accelerated approval of the proposed rule change will permit the Exchange to open its January contracts on a timely basis using expiration valuation based upon the opening prices of the underlying stocks. This will maintain the continuity and order of the Exchange's marketplace.

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 13, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 16, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-24578 Filed 10-22-87; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Privacy Act of 1974; Notices of Systems of Records

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notices of systems of records; proposed new systems of records; deletion of two existing systems of records; proposed new and revised routine uses for existing systems of records.

SUMMARY: TVA is republishing notices covering its existing systems of records, most of which contain proposed new or revised routine uses. TVA-2, "Personnel Files—TVA," contains three proposed new routine uses; TVA-13, "Employment Applicant Files—TVA," contains one proposed new routine use; and TVA-1, TVA-2, TVA-3, TVA-5, TVA-6, TVA-7, TVA-8, TVA-9, TVA-11, TVA-12, TVA-13, TVA-14, TVA-15, TVA-16, TVA-18, TVA-19, TVA-21, TVA-22, TVA-23, TVA-26, and TVA-31 each contain a proposed revision to the routine use for litigation. TVA is proposing to revise one routine use related to administrative proceedings contained in TVA-31, "OIG Investigative Records—TVA," and is proposing to consolidate and make uniform the routine uses related to administrative proceedings in TVA-1, TVA-2, TVA-5, TVA-8, TVA-9, TVA-11, TVA-13, TVA-14, TVA-18, TVA-19, TVA-21, and TVA-23. TVA has deleted the notices covering systems of records entitled TVA-17, "Management Appraisal Records—TVA," and TVA-25, "Handicap Services and Planning Records—TVA," which records have been incorporated into other systems. TVA is also publishing notices covering three proposed systems of records: TVA-32, "Call Detail Records—TVA," TVA-33, "Office of Nuclear Power Call Detail Records—TVA," and TVA-34, "Project/Tract Files—TVA." TVA has also corrected minor typographical, stylistic, and TVA organizational changes in existing systems notices.

DATE: Comments on the new routine uses must be received by November 23, 1987.

ADDRESS: Comments should be sent to Sue E. Wallace, Assistant to the Director of Personnel, Tennessee Valley Authority, 423 Gay Street, Room 227, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Sue E. Wallace at (615) 632-6320.

SUPPLEMENTARY INFORMATION: TVA is publishing notices of its systems of records in order to make available in one place in the **Federal Register** the most up-to-date information about those systems. This publication corrects minor typographical, stylistic, and TVA organizational changes in existing systems notices which appeared in the last publication of TVA's systems notices. This publication also reflects organizational changes which occurred since the last publication of TVA's systems notices. None of these typographical, stylistic, or TVA organizational changes requires a report under the Privacy Act or the Office of Management and Budget (OMB) Circular No. A-130. Some of these systems notices contain proposed new or revised routine uses.

New routine uses are being proposed for TVA-2, "Personnel Files—TVA," which would permit (1) TVA to display birthday greetings to employees as a morale builder, (2) TVA or a TVA contractor to use information about an employee contained in his or her personnel file to request information from any pertinent source about an employee, and (3) TVA contractors engaged in evaluating TVA personnel management and benefits or investigating nuclear safety, reprisal, or other TVA personnel practices of policies to have access to information contained in an employee's personnel file. A new routine use is being proposed for TVA-13, "Employment Applicant Files—TVA," which would allow TVA or a TVA contractor to use information about an applicant contained in his or her application file to request information from any pertinent source about the applicant.

A revised routine use for litigation purposes is being proposed for 21 systems. The proposed revision of this routine use would allow disclosure of records in litigation in which TVA is a party or in which TVA provides legal representation to a party as well as in other litigation to allow TVA to respond to process issued under color of authority of a court of competent jurisdiction. The systems notices affected by this proposed revision are TVA-1, "Apprentice Training Record System—TVA"; TVA-2, "Personnel Files—TVA"; TVA-3, "Cooperative Training Program for Construction Craftsmen—TVA"; TVA-5, "Discrimination Complaint Files—TVA"; TVA-6, "Employee Accident Information System—TVA"; TVA-7, "Employee Accounts Receivable—TVA"; TVA-8, "Employee Alleged Misconduct Investigatory Files—TVA"; TVA-9, "Medical Record System—TVA"; TVA-11, "Payroll Records—TVA"; TVA-12, "Employee Travel Advance Records—TVA"; TVA-13, "Employment Applicant Files—TVA"; TVA-14, "Grievance Records—TVA"; TVA-15, "Land Between The Lakes Hunter Records—TVA"; TVA-16, "Land Between The Lakes Register of Law Violations—TVA"; TVA-18, "Employee Supplementary Vacancy Announcement Records—TVA"; TVA-19, "Consultant and Personal Service Contractor Records—TVA"; TVA-21, "Nuclear Quality Assurance Personnel Records—TVA"; TVA-22, "Questionnaire-Farms in Vicinity of Proposed Nuclear Power Plant—TVA"; TVA-23, "Radiation Dosimetry Personnel Monitoring Records—TVA"; TVA-26, "Retirement System Records—TVA"; and TVA-31, "OIG Investigative Records—TVA."

A revised routine use for administrative proceedings is being proposed for TVA-31, "OIG Investigative Records—TVA." The entities to which the records contained in this system may be disclosed is being clarified. In addition, TVA is proposing to consolidate and make uniform the routine uses related to administrative proceedings in 12 systems. The proposed new routine use specifies that TVA may disclose records in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or other similar procedures. It eliminates the need for separate routine uses related to particular procedures. The systems notices affected by this proposed new routine use are TVA-1, "Apprentice Training Record System—TVA"; TVA-2, "Personnel Files—TVA"; TVA-5, "Discrimination Complaint Files—TVA"; TVA-8, "Employee Alleged Misconduct Investigatory Files—TVA"; TVA-9, "Medical Record System—TVA"; TVA-11, "Payroll Records—TVA"; TVA-13, "Employment Applicant Files—TVA"; TVA-14, "Grievance Records—TVA"; TVA-18, "Employee Supplementary Vacancy Announcement Records—TVA"; TVA-19, "Consultant and Personal Service Contractor Records—TVA"; TVA-21, "Nuclear Quality Assurance Personnel Records—TVA"; and TVA-23, "Radiation Dosimetry Personnel Monitoring Records—TVA."

TVA has also deleted two systems notices since the records in these systems have been incorporated into other systems. Specifically, TVA-17, "Management Appraisal Records—TVA," has been deleted because these records are now filed in the system covered by TVA-2, "Personnel Files—TVA," and TVA-25, "Handicap Services and Planning Records—TVA" has been deleted because these records are now filed in the system covered by TVA-9, "Medical Record System—TVA." The deletion of these systems notices does not necessitate a report under the Privacy Act or the OMB Circular.

TVA is also publishing notices covering three proposed systems of records for which new system reports have been submitted to Congress and OMB pursuant to the Privacy Act and the OMB Circular. These systems notices all contain proposed routine uses for which a comment period has been provided. Two of these new systems notices cover telephone call detail records of different organizations within TVA: The Office of Nuclear Power and the Telecommunications Staff of the Division of Property and Services. TVA has requested that OMB waive the 60-day review period for these two systems based on the compelling need to help control long-distance telephone cost. The other new system notice covers the records maintained by TVA's Land Management Branch on acquisition, transfer, and disposal of real property and on related transactions. Records covered by this system notice will be retrievable by individual and business entity names and by tract number and project symbol.

Assuming no comments are received which would necessitate otherwise, TVA will publish all of its systems notices again once the comment and review periods have expired.

Accordingly, as set forth below, TVA gives notice of proposed new systems of records, proposed new and revised routine uses for existing systems, minor typographical, stylistic, and TVA organizational changes in existing

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systems notices, and deletion of two existing systems notices.

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TVA–33 Office of Nuclear Power Call Detail Records.
TVA–34 Project/Tract Files.

TVA–1

SYSTEM NAME:

Apprentice Training Record System—TVA.

SYSTEM LOCATION:

Labor Relations Staff, Tennessee Valley Authority, Knoxville, Tennessee 37902; Division of Personnel, Information Management Systems Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902; Computing Operations Branch, Tennessee Valley Authority, Chattanooga, Tennessee 37401; all TVA locations where apprentices are employed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former TVA apprentices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment, qualifications, and evaluation information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Apprenticeship Act of 1937, 50 Stat. 664; TVA Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Bureau of Apprenticeship and Training, the Veterans' Administration, Tennessee Valley Trades and Labor Council, and the State and local government agencies for reporting and evaluation purposes.

To respond to a request from a Member of Congress regarding the status of an apprentice.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information to a prospective employer of a TVA or former TVA employee: Job description, dates of employment, reason for separation.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals, if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Records are maintained on automated data storage devices, microfiche, and in file folders.

RETRIEVABILITY:

Records are indexed by name, craft, job code, union code, and social security number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Records are maintained from two to five years in accordance with established TVA record retention schedules and are then transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Labor Relations, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, craft, and location of employment.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them in this system of records should contact the system manager named above. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualification for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; General Aptitude Test Battery scores from State employment security office; references from employers and military and educational institutions; and evaluations from joint committee on apprenticeship.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); and (f) (2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing and examination material would compromise the objectivity of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k) (5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA–2

SYSTEM NAME:

Personnel Files—TVA.

SYSTEM LOCATION:

Division of Personnel, Tennessee Valley Authority, Knoxville Tennessee 37902; Division of Personnel, Information Management Systems Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902; area employment offices in Knoxville, Chattanooga, Muscle Shoals, and Nashville; construction project employment offices; Computing Operations Branch, Tennessee Valley Authority, Chattanooga, Tennessee 37401; National Personnel Records Center, St. Louis, Missouri 63118. Security/suitability investigatory files are located separately from other records in this system. Information on education, career counseling, or job performance may be maintained by the TVA organization that provides the training or career counseling or that employs the individual and by Equal Opportunity Staff.

Duplicate or certain specifically temporary information may be maintained by division personnel officers, supervisors, and administrative officers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former TVA employees and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to education; qualifications; work history; interests and skills; test results; performance evaluation; career counseling; personnel actions; job description; salary and benefit information; service dates, including other Federal and military service; replies to congressional inquiries; medical data; and security investigation data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 10577; Executive Order 10450; Executive Order 11478; Executive Order 11222; Veterans' Preference Act of 1944, 58 Stat. 387, as amended; Equal Employment Opportunity Act of 1972, Pub. L. 92–261, 86 Stat. 103; various sections of Title 5 of the United States Code related to employment by TVA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To disclose test results to State employment services.

To a State employment security office in response to a request relating to a former employee's claim for unemployment compensation.

To respond to a request from a Member of Congress regarding the status of an employee, former employee, or applicant.

To refer, where there is an indication of a violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request from any pertinent source, directly or through a TVA contractor engaged at TVA's direction, information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information, as requested, to a prospective employer of a TVA or former TVA employee: job descriptions, dates of employment, and reasons for separation.

To provide information as requested to the Office of Personnel Management pursuant to Executive Orders 10450 and 10577 and other laws.

To any agency of the Federal Government having oversight or review authority with regard to TVA activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To transfer information necessary to support a claim for life insurance benefits under Federal Employees' Group Life Insurance to Office of Federal Employees' Group Life Insurance.

To transfer information regarding claims for health insurance benefits to health insurance carrier.

To union representatives in exercising their responsibilities under TVA collective bargaining agreements.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To TVA contractors and subcontractors engaged at TVA's direction in studies and evaluation of TVA personnel management and benefits or the investigation of nuclear safety, reprisal, or other matters involving TVA personnel practices or policies.

To provide pertinent information to local school districts and other government agencies in order to study TVA project impacts and to aid school districts in qualifying for assistance under Pub. L. 81–874 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To commemorate the month and day of employee birthday anniversaries.

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POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices and microfiche.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Personal History Records:

Nonmicrofilmed records stored at National Personnel Records Center and microfilmed records stored at TVA are destroyed 75 years after birth date of employee or 60 years after date of earliest document in the record if the date of birth cannot be ascertained. Reference copies are destroyed when no longer needed.

Congressional inquiries are retained indefinitely; test records are retained 10 years; occupational register cards are retained 1 year, with the exception of apprentices which are retained for 5 years; some information maintained on magnetic tape is erased after 1 year, records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902. Requests should include the individual's full name, employing division, job title, and date of birth. A social security number is not required but may expedite TVA's response.

In addition, current employees should address inquiries also to their supervisors or personnel officers.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902. In addition, current employees may present requests for access to their supervisors or the personnel officer of the employing division. Requests should include the individual's full name, employing division, job title, and date of birth. A social security number is not required but may expedite TVA's response. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; educational institutions; former employers; and other reference sources; State employment services; supervisors and other TVA personnel or personnel records; medical officers; other Federal agencies.

In addition to the above sources, security/suitability investigatory files contain information from law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); and (f) (2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k) (5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA-3

SYSTEM NAME:

Cooperative Training Program for Construction Craftsmen—TVA.

SYSTEM LOCATION:

Office of Natural Resources and Economic Development, Tennessee Valley Authority, Knoxville, Tennessee 37902; construction project offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in the Cooperative Training Program for Construction Craftsmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information; evaluations.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To State employment services and prospective employers for use in placement of the student.

To request information from a Federal, State, or local agency or from private individuals, if necessary, to obtain information relevant to a TVA decision within the purposes of this system of records.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To the appropriate agency, whether Federal, State, or local in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records will be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of Natural Resources and Economic Development, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if information on them is maintained in this system of records should address inquiries to the system manager named above.

RECORD ACCESS PROCEDURES:

Requests for access should be addressed to the system manager named above.

Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualification for appointment or promotion in the Federal Service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend information about them in this system of records should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains; instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); and (f) (2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k) (5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA-4

SYSTEM NAME:

Demonstration Farm Records—TVA.

SYSTEM LOCATION:

Agricultural Institute, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tennessee Valley farmers participating in TVA farm demonstration programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Agricultural, investment, income, and labor information. The information in this system is not used in any determination about the rights, benefits, or privileges of an individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system of records may be disclosed to State extension services and the U.S. Department of Agriculture for use in program evaluation and in assistance to program participants.

To request information from a government agency or private individual where such information may be relevant to providing additional assistance under this program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices, punched cards, microfilm and microfiche.

RETRIEVABILITY:

Records are indexed by an assigned code.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. All records are kept in secured facilities and locked when unattended.

RETENTION AND DISPOSAL:

Records are retained for an indefinite period.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Agricultural Institute, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

NOTIFICATION PROCEDURE:

Individuals upon whom information is maintained in this system of records are aware of the fact through participation in the program. However, inquiries may be addressed to the system manager named above. Requests should include the individual's full name and State and county of the farm.

RECORD ACCESS PROCEDURES:

All information maintained in this system of records has been supplied by the subject individual. However, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The information in this system is solicited from the individual to whom the record pertains by State extension services and universities.

TVA-5

SYSTEM NAME:

Discrimination Complaint Files—TVA.

SYSTEM LOCATION:

The following locations of the TVA Equal Opportunity Staff: Tennessee Valley Authority, Knoxville, Tennessee 37902; Chattanooga, Tennessee 37401; Muscle Shoals, Alabama 35660.

Duplicate copies may be maintained in the files of the TVA division where the complaint originated.

BEST COPY AVAILABLE

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CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or applicants who have received counseling or filed complaints of discrimination based on race, color, religion, sex, national origin, age, or handicap.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to a decision or determination made by TVA or the Equal Employment Opportunity Commission affecting an individual. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 11478; 42 U.S.C. 2000e–16; 29 U.S.C. 633a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A report of each complaint is made to the Equal Employment Opportunity Commission. If an administrative appeal is filed, the entire file is disclosed to the Equal Employment Opportunity Commission.

To the employee's representative.

To respond to a request from a Member of Congress regarding the status of a complaint.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To TVA consultants, contractors, and subcontractors who are engaged in studies and evaluation of TVA's administration of its equal employment opportunity program or who are providing support services to the program.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are kept in file folders.

RETRIEVABILITY:

Records in this system are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those personnel whose official duties require such access.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Equal Opportunity, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals who have filed discrimination complaints are aware of that fact. However, inquiries may be addressed to the system manager named above. Individuals should provide their full name, the approximate date of their complaint, and their employing organization, if employed.

RECORD ACCESS PROCEDURES:

Individuals who have filed a discrimination complaint have been provided a copy of the record. However, an individual may gain access to the official copy of the complaint record by writing the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals who have filed a discrimination complaint have had an opportunity during the complaint procedure to amend their record. However, request for amendment or correction of items not involving the complaint procedure may be addressed to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; TVA personnel and other records; witnesses.

TVA–6

SYSTEM NAME:

Employee Accident Information System—TVA.

SYSTEM LOCATION:

Division of Occupational Health and Safety, Muscle Shoals, Alabama 35660.

Accident reports may also be maintained in the file of the employing organization.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have sustained a work-related injury or illness or have been involved, as the operator of a TVA vehicle, in a vehicular accident.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information related to the accident, injury, or illness.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Occupational Safety and Health Act of 1970, Pub. L. 93–237, 87 Stat. 1024; Executive Order 12196.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Department of Labor as required by the Occupational Safety and Health Act.

To the Office of Workers' Compensation Programs in relation to an individual's claim for compensation.

To respond to a request from a Member of Congress regarding the status of an employee.

To provide information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals, if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained on automated data storage devices and in file folders.

RETRIEVABILITY:

Records are indexed by name, date of birth, and social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Records are retained for five years, and after that period are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Tennessee Valley Authority, Director of Occupational Health and Safety, Muscle Shoals, Alabama 35660.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, date of birth, and approximate date of injury.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; TVA medical records; witnesses of accidents and injuries, including appraisers of property damage.

TVA–7

SYSTEM NAME:

Employee Accounts Receivable—TVA.

SYSTEM LOCATION:

Division of the Comptroller, Tennessee Valley Authority, Knoxville, Tennessee 37902; Office of the General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees who:

Authorize a payment for specified purposes in their behalf; receive overpayment of earnings; receive duplicate payments; are otherwise indebted to TVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information concerning indebtedness and repayment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 55; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d)(4)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on punch cards, printouts, invoices, and posting documents.

RETRIEVABILITY:

Records are indexed by payroll number, social security number, badge number, name, or invoice number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Punch cards disposed of in 3 months, printouts in 3 years, invoices in 7 years and posting documents in 50 years.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and employing organization. Provision of the social security number is not required, but may expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals who seek access to information about them in this system of records should contact the system manager named above.

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CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in the system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA payroll records; TVA disbursement voucher records.

TVA-8

SYSTEM NAME:

Employee Alleged Misconduct Investigatory Files—TVA.

SYSTEM LOCATION:

Office of the General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees about whom a complaint of misconduct during employment has been made.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information regarding conduct during employment with TVA which may be in violation of law or regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

TVA Act, 16 U.S.C. 831–831dd; Executive Order 10450; Executive Order 11222; Hatch Political Activity Act, 5 U.S.C. 7324–7327; 28 U.S.C. 535.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals, if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information as requested to the Office of Personnel Management pursuant to Executive Orders 10450 and 10577 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by individual name or investigation number.

SAFEGUARDS:

These records are stored in a locked GSA-approved security container. Access to the records is limited to TVA attorneys and their administrative assistants who have a need for them in the course of TVA business and to other TVA employees whose need is approved by Office of the General Counsel management.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

This system of records is exempt from the requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD ACCESS PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

CONTESTING RECORD PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD SOURCE CATEGORIES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempted from subsections (c)(3); (d); (e)(1); (4)(G), (4)(H), (4)(I); and (f) of 5 U.S.C. 552a (Section 3 of the Privacy Act of 1974) pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

TVA-9

SYSTEM NAME:

Medical Record System—TVA.

SYSTEM LOCATION:

Division of Medical Services, Tennessee Valley Authority, Chattanooga, Tennessee 37401; all TVA medical facilities; Computing Operations Branch, Chattanooga, Tennessee 37401; National Records Center, St. Louis, Missouri 63118; District Offices, Office of Workers' Compensation Programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for TVA employment, employees, former employees, official visitors, contractual assignees to TVA, interns, externs, employees of TVA contractors, and other Federal agencies who are examined under contract.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical information pertinent to an individual's employment, official visit, or contractual work with TVA or other Federal agencies, including medical and psychological history, examination, testing, counseling, treatment, and related information; workers compensation claim records; rehabilitation records; and information related to employee participation in the alcohol-drug abuse program.

Medical and psychological information relative to nuclear plant security.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; 5 U.S.C. 7902; Federal Employees' Compensation Act, 5 U.S.C. Chapter 81, 5 U.S.C. Chapter 87 (Medical information relating to life insurance program); 5 U.S.C. 3301; Occupational Safety and Health Act of 1970, Pub. L. 93–237, 87 Stat. 1024, Pub. L. 91–616, Federal Civilian Employee Alcoholism Program and Pub. L. 92–255, Drug Abuse Among Federal Civilian Employees, which are amended in regard to confidentiality of records by Pub. L. 93–282; Public health laws (State and Federal) related to the reporting of health hazards, communicable diseases or other epidemiological information; Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Compensation claim records are used for adjudicating claims and providing therapy. Appropriate information is exchanged with physicians, hospitals, and rehabilitation agencies approved by the Office of Workers' Compensation Programs for service to injured employees.

Medical records are used for employee population health monitoring which includes routine clinical and epidemiological investigations. Such studies may require the transfer of selected items of medical data to health-related agencies, organizations, or professionals for the purpose of obtaining specialized clinical consultation, compiling vital and health statistics, or conducting biomedical investigations.

Alcohol-drug program records may be exchanged with a physician or treatment center working with an employee, or in accordance with the provisions of Pub. L. 93–282.

Information in the Medical Record System provided to officials of other Federal agencies responsible for other Federal benefit programs administered by Office of Workers' Compensation Programs, Retired Military Pay Centers, Veterans' Administration, Social Security Administration, and private contractors engaged in providing benefits under Federal contracts.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, the issuance of a security clearance, the reporting of an investigation of an employee, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

To respond to a request from a Member of Congress regarding an employee.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To transfer information regarding claims for health insurance or disability benefits to the health insurance carrier or plan participant.

To request information from a Government agency or private individual, if necessary, to obtain information relevant to a TVA decision within the purposes of this system of records.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To TVA consultants, contractors, and subcontractors who are engaged in studies and evaluation of TVA's administration of its medical program or who are providing support sources to the program.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To provide information to private physicians and other health care professionals or facilities designated by an employee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, microfilm, and in file folders.

RETRIEVABILITY:

Records are indexed by name, social security number, date of birth, and employee compensation case number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards. Special instructions issued to medical staff employees assure the confidentiality of medical records.

RETENTION AND DISPOSAL:

Records are maintained in accordance with TVA rules and regulations approved by the National Archivist. Retention schedules specify the length of time various records are kept. Active medical records are kept indefinitely. Inactive files are kept in the Division of Medical Services, TVA, for 6 years following the date of last medical record entry. They are then purged and essential record material is microfilmed. The paper records are destroyed by recycling. Microfilm records are destroyed 34 years from date of filming.

X-rays of employees are microfilmed 20 years after termination of employee and the original destroyed. The microfilm records are destroyed in TVA 20 years from date of filming. X-rays of nonemployees and all dependents are destroyed in TVA 6 years from date of film.

SYSTEM MANAGER(S) AND ADDRESS:

Medical Director, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

NOTIFICATION PROCEDURE:

Individuals should address inquiries to the system manager named above or to the medical office at the TVA facility where employed, if a current employee.

Individuals should provide their full name, date of birth, employing organization, and date of last employment, and employee compensation case number, if any. Provision of social security number is not required but may expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact or address their inquiries to the system manager named above or the medical office at the TVA facility where currently employed.

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CONTESTING RECORDS PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; TVA medical staff; private physicians and medical institutions; Office of Workers' Compensation Programs; TVA personnel records; other health agencies and departments.

TVA-10

SYSTEM NAME:

Employee Statement of Employment and Financial Interests—TVA.

SYSTEM LOCATION:

Office of the General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Original copies may be kept in division directors' offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All TVA employees at TVA grade M–8 and above who submitted a report prior to the enactment of the Ethics in Government Act of 1978; employees at TVA grades M–5, M–6, M–7 in positions designated by the General Manager or a division director as requiring submission of a statement; every TVA consultant who is a "special Government employee"; every TVA personal service contractor who is a "special Government employee" and who is determined to be an "expert" or who is otherwise required to submit a statement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statement of employment and financial interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222; 18 U.S.C. 208; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To report as requested to the Office of Personnel Management pursuant to Executive Order 10577 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in the file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons designated by the General Manager or the Board of Directors to review statements of financial interest.

RETENTION AND DISPOSAL:

Records are retained in accordance with established records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

General Manager, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals upon whom records are maintained in this system of records are aware of that fact by having filed a statement. However, inquiries may be addressed to the Office of the General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902. Requests should include the individual's full name and employing division.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information about them in this system of records should contact the Office of the General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Office of the General Counsel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

TVA-11

SYSTEM NAME:

Payroll Records—TVA.

SYSTEM LOCATION:

TVA Division of the Comptroller, Knoxville, Tennessee 37902; garnishment files are located at the Office of the General Counsel, Knoxville, Tennessee 37902; duplicate copies of some records may also be maintained in the files of the employing division; National Personnel Records Center, St. Louis, Missouri 63116.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees and personal service contractors selected for certain training programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information, pay, leave, and debt claim information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Internal Revenue Code; Fair Labor Standards Act, 29 U.S.C. Chapter 8; 5 U.S.C. Chapter 63.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To report earnings and other required information to Federal, State, and local taxing authorities as required by law.

To report earnings to the Civil Service Retirement System for members of that system.

To transmit payroll deduction information to financial institutions and employee organizations.

To report earnings to courts when garnishments are served or in bankruptcy or wage earner proceedings.

To report earnings to unions for those crafts on which TVA contributions to union welfare or pension funds are based on earnings. Reports of hours worked are made to unions for those crafts on which such TVA contributions are based on hours worked.

To report earnings to the Department of Housing and Urban Development, State welfare agencies, and State employment security offices where an individual has made a claim for benefit with such agency.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To disclose to any agency of the Federal Government having oversight or review authority with regard to TVA activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To transfer information necessary to support a claim for life insurance benefits under Federal Employees' Group Life Insurance to Office of Federal Employees' Group Life Insurance.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals, if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To transfer information regarding claims for health insurance benefits to health insurance carriers.

To TVA contractors and subcontractors engaged in studies and evaluations of TVA payroll and personnel management.

To union representatives exercising their responsibilities under TVA collective bargaining agreements.

To report earnings to the Department of Housing and Urban Development, and State welfare agencies where an individual makes a claim for benefits and to report earnings to State employment security offices in both manual and automated form for use by these offices in determining unemployment benefits.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d)(4)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Records are maintained on automated data storage devices, hard-copy printouts, and in file folders.

RETRIEVABILITY:

Records are primarily indexed by name. They may also be retrieved by reference to employing organization, date of end of pay period, social security or badge number, date of birth, sex, job title.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

File folders are retained for 3 years after termination. Timesheets are retained for 7 years. Payroll registers are retained in active status for 1 year, transferred to TVA record storage for 5 years, and to National Personnel Records Center for an additional 50 years. Magnetic tapes are retained for 1 year after termination.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, employing organization, and date of last employment. The social security number is not required but may expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information on them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend or correct information on them in this system of records should contact the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; employee's supervisor for report of hours worked.

TVA-12

SYSTEM NAME:

Employee Travel Advance Records—TVA.

SYSTEM LOCATION:

Division of the Comptroller, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Duplicate copies of these records may also be maintained in the files of the employee's division.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA employees requesting travel advances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, employing organization, date and amount of travel advance, and repayment information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701–5709, and related Federal travel regulations; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil or regulatory in nature, to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

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To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d)(4)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer printouts and microfiche.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

These records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and employing organization.

RECORD ACCESS PROCEDURES:

Individuals who seek access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA disbursement voucher records; TVA application for travel advance.

TVA-13

SYSTEM NAME:

Employment Applicant Files—TVA.

SYSTEM LOCATION:

Division of Personnel, Employment Branch and Information Management Systems Branch, Tennessee Valley Authority, Knoxville; Tennessee 37902; area and project employment offices; Computing Operations Branch, TVA, Chattanooga, Tennessee 37401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment including former employees seeking reemployment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; 5 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to a request from a Member of Congress regarding the status of an individual's application.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request from any pertinent source, directly or through a TVA contractor engaged at TVA's direction, information relevant to a TVA decision concerning the hiring of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To disclose test results to State employment services.

To provide information as requested to the Office of Personnel Management pursuant to Executive Orders 10450 and 10577 and other laws.

To provide information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the appropriate agency whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices and printouts.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Applications are kept for one year from last indication of interest, with the exception of apprenticeship applications, which are kept for five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individual wishing to learn if information on them is maintained in this system of records should address inquiries to Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902, or to the area or project employment office to which application was sent. Requests should include the individual's full name, social security number, date of birth, and approximate date of application.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information on them in this system of records should contact the Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902, or the area or project employment office to which the application was sent. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to Chief, Employment Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained; educational institutions, employers, and other references; state employment services.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); and (f)(2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k)(5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA-14

SYSTEM NAME:

Grievance Records—TVA.

SYSTEM LOCATION:

Labor Relations Staff, Tennessee Valley Authority, Knoxville, Tennessee 37902.

Duplicate copies are also maintained in the files of the division concerned with the grievance.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA employees and former employees who have formally appealed to TVA for adjustment of their grievances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Evidence and arguments relevant to the matter giving rise to the grievance and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to a request from a Member of Congress regarding the status of an employee's grievance.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To request information from a Federal, State, or local agency, or private individual if necessary to obtain information relevant to a TVA decision within the purposes of this system of records.

To refer, where there is an indication of a violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Labor Relations, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals who have filed grievances are aware of that fact. Inquiries may, however, be addressed to the system manager named above. Requests should include the individual's full name and employing division.

RECORD ACCESS PROCEDURES:

Individuals who have filed a grievance may gain access to the official copy of the grievance record by contacting the system manager named above.

CONTESTING RECORD PROCEDURES:

The contest, amendment, or correction of a grievance record is permitted during the prosecution of that grievance. However, an individual may address requests for amendment or correction of items not involved in prosecution of the grievance to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA personnel records; statements and testimony of witnesses and related correspondence.

TVA-15

SYSTEM NAME:

Land Between The Lakes Hunter Records—TVA.

SYSTEM LOCATION:

Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231; Computing Operations

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Branch, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals to whom hunter use permits are issued and those who apply for participation in managed hunts at Land Between The Lakes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information, State hunting license(s) number(s), and information related to the hunts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 6161.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to a request from a Member of Congress regarding the status of an applicant.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as licenses, or to request information from a private individual to the extent necessary to obtain information relevant to a TVA decision concerning the issuance of a permit to hunt or any other privilege.

To provide hunt information to State agencies concerned with wildlife management practices.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To provide mailing lists to organizations or contractors cooperating with Land Between The Lakes in activities or events for the purpose of publicizing those activities or events.

To provide mailing lists to an independent Land Between The Lakes support organization for the purpose of soliciting members for the organization.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, card files, and computer printouts.

RETRIEVABILITY:

Records are indexed by name; automated files may be retrieved by any key data element.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Applications for managed hunts are maintained for one year; carbon copies of hunter use permits are maintained two years; and automated records on those permits are maintained five years. Other information may be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address their inquiries to the Director of Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231. Requests should include the name as listed on the application or hunter use permit or the hunter use permit number.

RECORD ACCESS PROCEDURES:

All information maintained in this system of records has normally been supplied by the subject individual. However, requests for access may be directed to the Director of Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Director of Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

TVA–16

SYSTEM NAME:

Land Between The Lakes Register of Law Violations—TVA.

SYSTEM LOCATION:

Land Between The Lakes, Tennessee Valley Authority, Patrol Office, Golden Pond, Kentucky 42231.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons cited or arrested for violation of State or Federal law at Land Between The Lakes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information related to the investigation and disposition of the violation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; 18 U.S.C. 7, 13; Kentucky Revised Statutes 150, Chapter 43, Kentucky Act 1974; Tennessee Public Acts 1972, Chapter 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on cards.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

NOTIFICATION PROCEDURE:

This system of records had been exempted from this provision pursuant to 5 U.S.C. 552a(j)(2) and TVA regulations at 18 CFR 1301.23.

RECORD ACCESS PROCEDURES:

This system of records had been exempted from this provision pursuant to 5 U.S.C. 552a(j)(2) and TVA regulations at 18 CFR 1301.23.

CONTESTING RECORD PROCEDURES:

This system of records has been exempted from this provision pursuant to 5 U.S.C. 552a(j)(2) and TVA regulations at 18 CFR 1301.23.

RECORD SOURCE CATEGORIES:

This system of records has been exempted from this provision pursuant to 5 U.S.C. 552a(j)(2) and TVA regulations at 18 CFR 1301.23.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (c)(3), (4); (d); (e)(1), (2), (3), (4)(G), (4)(H), (4)(I), (5); (f); (g); and (h) of 5 U.S.C. 552a (Section 3 of the Privacy Act of 1974) pursuant to 5 U.S.C. 552a(j)(2) and TVA regulations at 18 CFR 1301.23.

TVA–18

SYSTEM NAME:

Employee Supplementary Vacancy Announcement Records—TVA.

SYSTEM LOCATION:

Office and division personnel offices in Knoxville and Chattanooga, Tennessee, and Muscle Shoals, Alabama; may also be maintained in other offices that issue or receive responses to supplementary vacancy announcements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees applying for placement in positions covered by the supplementary vacancy announcement procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and supporting material submitted by employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11478; Equal Employment Opportunity Act of 1972, Pub. L. 92–261, 86 Stat. 103; 5 U.S.C. 3101; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Records are maintained in secured facilities.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals upon whom records are maintained in this system are aware of that fact through filing an application. However, inquiries may be addressed to the name and address to which application was submitted. Requests should include the individual's full name, position applied for, and location of job.

RECORD ACCESS PROCEDURES:

Individuals upon whom records are maintained in this system have supplied all information in this system. However, requests for access may be addressed to the name and address to which application was submitted.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the name and address to which application was submitted.

RECORD SOURCE CATEGORIES:

The individual upon whom the record is maintained.

TVA–19

SYSTEM NAME:

Consultant and Personal Service Contractor Records—TVA.

SYSTEM LOCATION:

Division of Personnel, Employment Branch and Information Management Systems Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902; Computing Operations Branch, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

Payment records are located at these TVA Division of the Comptroller offices: Knoxville, Tennessee 37902; Chattanooga, Tennessee 37401; Muscle Shoals, Alabama 35660.

Records related to personal service contractors employed under the Comprehensive Employment and Training Act of 1973, Pub. L. 93–203, are located at TVA, Office of Natural Resources and Economic Development, Knoxville, Tennessee 37902, and Land Between The Lakes, Golden Pond, Kentucky 42231.

Records on individuals who provide services under a TVA contract with an organization may be kept in the files of the office or division that receives the services.

Duplicate copies of some records may be kept in the files of the employing division.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who provide services to TVA; participants in TVA-State employment programs; individuals who provide services under a TVA contract with an organization; and participants in other special employment programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Division of Personnel maintains contracts, records of the qualifications, performance, and evaluation of the

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contractor, and related correspondence. For public service employment program participants, the Division of Personnel maintains information related to job placement such as test scores, interest inventories, and supervisor's evaluations. Payment information is maintained by the Division of the Comptroller.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Comprehensive Employment and Training Act, Pub. L. 93–203, 87 Stat. 839; Executive Order 11222; Executive Order 10450; Executive Order 10577; provisions of 5 U.S.C. applicable to employment with TVA; Internal Revenue Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To transmit reports as requested to the Office of Personnel Management, pursuant to 5 U.S.C. 3323, Executive Orders 10577 and 10450, and other laws.

To report earnings information to the Internal Revenue Service and the Social Security Administration.

To respond to a request from a Member of Congress regarding the status of a contractor or consultant.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

To request information from a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To transmit to the appropriate State contracting agency reports of hours worked by participants in the public service employment program, and to request reimbursement.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information to a prospective employer of a TVA or former TVA consultant or personal service contractor: Job descriptions, dates of employment, and reason for separation.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are indexed by name, social security number, or voucher number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records are disposed of periodically as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to know if records on them are maintained in the system should address inquiries to the system manager named above. Requests shall include the individual's full name, employing or contracting division, and whether the individual was a participant in the public service employment program. Social security numbers are not required but may expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information on them in this system of records should contact the system manager named above. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; educational institutions, former employers, and other reference sources; State employment services; supervisors and other TVA personnel or personnel records; medical officers; other Federal agencies.

In addition to the above sources, security/suitability investigatory files contain information from law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); (f) (2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process.

This exemption is pursuant to 5 U.S.C. 552a(k) (5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA–21

SYSTEM NAME:

Nuclear Quality Assurance Personnel Records—TVA.

SYSTEM LOCATION:

Division of Nuclear Quality Assurance, Tennessee Valley Authority, Chattanooga, Tennessee 37402.

Copies of records for Quality Assurance Evaluators are maintained in the office of the Director of Nuclear Quality Assurance in Chattanooga.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees involved in quality assurance work.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to the qualifications of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233 as implemented at Nuclear Regulatory Commission Regulatory Guide 1.58.

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Nuclear Regulatory Commission or its authorized representatives for inspection or evaluation of TVA Quality Assurance procedures.

To respond to a request from a Member of Congress regarding the status of an employee.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigation and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

These records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Nuclear Quality Assurance, Tennessee Valley Authority, Chattanooga, Tennessee 37402.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Inquiries should include the individual's full name and employing organization.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained; TVA personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system of records is exempt from subsection (d); (e)(4)(H); (f) (2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. The exemption is pursuant to 5 U.S.C. 552a(k)(5) and TVA regulations at 18 CFR 1301.24.

TVA–22

SYSTEM NAME:

Questionnaire—Farms in Vicinity of Proposed Nuclear Power Plant—TVA.

SYSTEM LOCATION:

Agricultural Institute, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals from whom TVA purchases land for proposed nuclear plant, individuals having vegetable gardens, irrigated land, dairy cows, and milk goats within two-mile radius of proposed plant site.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information related to agriculture, milk consumption, water resources, and farm product value.

This information is not used for making determinations about the rights, benefits, or privileges of any individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; National Environmental Policy Act, Pub. L. 91–

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190, 83 Stat. 852; Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this systems of records is used in developing environmental evaluations and impact statements. Certain relevant but nonsensitive information may be disclosed in these statements. Information may also be used:

In administrative and licensing proceedings including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To disclose to any agency of the Federal Government having oversight or review authority with regard to TVA activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by assigned number and aerial photo number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Records are maintained indefinitely or for the life of the plant.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Agricultural Institute, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

NOTIFICATION PROCEDURE:

Individuals on whom information is maintained in this system are aware of that fact through response to the questionnaire. However, inquiries may be addressed to the system manager named above. Requests should include the individual's full name, farm address, and approximate date of survey.

RECORD ACCESS PROCEDURES:

Individuals on whom information is maintained in this system have supplied all such information. However, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual about whom the record is maintained.

TVA-23

SYSTEM NAME:

Radiation Dosimetry Personnel Monitoring Records—TVA.

SYSTEM LOCATION:

Division of Nuclear Services, Radiological Health Branch, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, and visitors who might be exposed or are exposed to radiation while in TVA installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on the magnitude of exposure at TVA installations, exposure prior to employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233; 10 CFR 19, 20; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Nuclear Regulatory Commission for its use in evaluating TVA hazard control measures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

These records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Radiological Health Branch, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and whether or not a TVA employee.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains; TVA personnel conducting radiation monitoring programs.

TVA-24

SYSTEM NAME:

Reforestation, Erosion Control, and Plantation Case History Records—TVA.

SYSTEM LOCATION:

Record Staging Area, Tennessee Valley Authority, Muscle Shoals, Alabama 35660, pending official transfer to Federal Archives, East Point, Georgia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Private landowners involved in early TVA-Civilian Conservation Corps tree planting programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forest acreage, performance, and yield information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 6161.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the appropriate agency, whether Federal, State, or local in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on file cards.

RETRIEVABILITY:

Records are indexed by State, county, and name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Building is locked when unattended.

RETENTION AND DISPOSAL:

This information is kept permanently for archival purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of Natural Resources and Economic Development, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals on whom records are maintained are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Individuals should provide their full name, State, and county of residence.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should address their inquiries to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; State forestry personnel; TVA surveys.

TVA-26

SYSTEM NAME:

Retirement System Records—TVA.

SYSTEM LOCATION:

Retirement Services Branch, Tennessee Valley Authority, Knoxville, Tennessee 37902.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active, retired, and former members of the TVA Retirement System; TVA employees and former employees who are members of the Civil Service Retirement System; designated beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information; retirement, benefit, and investment information; related correspondence; and legal documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Internal Revenue Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To report earnings to the Internal Revenue Service.

To supply information on coverage to Blue Cross-Blue Shield of Tennessee, Provident Life Insurance Company, and other insurance carriers.

To disclose information to actuarial firms for valuation and projecting benefits.

To disclose information to the Medical Board of the TVA Retirement System for determinations related to disability retirement.

To certify insurance status to the Office of Personnel Management and the Office of Federal Employees' Group Life Insurance.

To respond to a request from a Member of Congress regarding the status of a system member.

To request information from a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision within the purpose of this system of records.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the issuance of any benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To provide the TVA Retirees Association, retired members of the TVA Retirement System, and retired former TVA employees who are covered by the Civil Service Retirement System, with names and mailing addresses of other retired members and retired employees.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, ledgers, and in file folders.

RETRIEVABILITY:

Records are indexed by name, sex, date of birth, address, social security number, active member number, retirement number, or salary.

SAFEGUARDS:

Records in this system are maintained in locked files or safes, in secure facilities. Access to and use of these records are limited to those persons whose official duties require such access.

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RETENTION AND DISPOSAL:

Retention periods vary from two years to permanent depending on the nature of the information and the medium in which they are stored.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Retirement Services Branch, Division of the Comptroller, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Inquiries should include the individual's full name and date of birth. The social security number is not required but will expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals wishing to correct or amend information maintained on them in this system should address inquiries to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained; TVA personnel and payroll records.

TVA-27

SYSTEM NAME:

Test Demonstration Farm Records—TVA.

SYSTEM LOCATION:

Division of Technology Development, National Programs Branch, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Farmers located outside the Tennessee Valley participating in TVA demonstration farm programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Agricultural, income, investment, labor, and food data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To request information from a Government agency or private individual where such information may be relevant to providing additional assistance under this program.

To disclose to State extension services and the U.S. Department of Agriculture for use in program evaluation and in assistance to program participants.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices, cards, and printouts.

RETRIEVABILITY:

Records are indexed by an assigned number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities and locked when unattended.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Technology Development, Tennessee Valley Authority, Muscle Shoals, Alabama 35660.

NOTIFICATION PROCEDURE:

Individuals on whom information is maintained are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager. Individuals should provide their full name, county, and State in which individual participated in a TVA farm demonstration program.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Information in this system is solicited from the individual to whom the record pertains by State extension services and universities.

TVA-28

SYSTEM NAME:

Woodland Resource Analysis Program Input Data—TVA.

SYSTEM LOCATION:

Office of Natural Resources and Economic Development, Tennessee Valley Authority, Knoxville, Tennessee 37902; Computing Services Branch, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Private landowners, agencies, and corporations owning woodlands in Valley region and participating in TVA woodland resource management demonstration program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, financial, and land resource information pertinent to woodland resource planning. The information in this system is not used by TVA in the determination about the rights, benefits, or privileges of the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 6161.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Evaluated information is supplied to State forestry personnel for use in assisting the landowner.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, hard-copy printouts, and in file folders.

RETRIEVABILITY:

Records are indexed by computer run number by State.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Records are retained for 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of the Office of Natural Resources and Economic Development, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals on whom information is maintained are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager. Individuals should provide their full name, State of residence, and the calendar year(s) of participation in the program.

RECORD ACCESS PROCEDURES:

Individuals on whom records are maintained have been provided copies of all information in that record. However, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains provides the information to State forestry personnel. The information is evaluated by TVA and returned to the State forestry personnel who utilize the information in evaluated form to assist the landowner.

TVA-29

SYSTEM NAME:

Electricity Use, Rate, and Service Study Records—TVA.

SYSTEM LOCATION:

Division of Conservation and Energy Management, Tennessee Valley Authority, Chattanooga, Tennessee 37402.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals residing in households which are participating in electricity use, rate, and service studies including those receiving electricity conservation assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information about an individual's income, employment, family size, characteristics of his dwelling including type of heating and cooling systems and number and kind of appliances, and other characteristics of study participants relevant to patterns of residential electrical use.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To distributors and contractors assisting TVA in the study.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are indexed by an identification number assigned to each household.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Survey information will be retained until completion of the program and for two years thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Conservation and Energy Management, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

NOTIFICATION PROCEDURE:

Individuals about whom information is maintained in this system of records are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Request should include the individual's full name and address.

RECORD ACCESS PROCEDURES:

Requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The information in this system is solicited from the individual to whom the record pertains.

TVA-30

SYSTEM NAME:

Land Between The Lakes Mailing Lists—TVA.

SYSTEM LOCATION:

Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons using, visiting, or having an interest in the activities, programs, or facilities of Land Between The Lakes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information, address, and information about their Land Between The Lakes associated interests, activities, or program participation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order No. 6161.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide mailing lists to organizations or TVA contractors cooperating with Land Between The Lakes in activities or events for the purpose of publicizing those activities or events.

To provide mailing lists to an independent Land Between The Lakes support organization for the purposes of soliciting members for the organization.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on card files, automated data storage devices, and computer printouts.

RETRIEVABILITY:

Records are primarily indexed by name and identification code. They may also be retrieved by reference to interests, organization, or address elements.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities. Access facilities are secured through physical, administrative, and system-based safeguards.

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RETENTION AND DISPOSAL:

Records are kept for the period of time the individual is to receive mailings.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address their inquiries to the Director of Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231. Request should include the individual's full name and address.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the Director of Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their requests to the Director of Land Between The Lakes, Tennessee Valley Authority, Golden Pond, Kentucky 42231.

RECORD SOURCE CATEGORIES:

Individuals on whom records are maintained, organization representatives, and TVA employees.

TVA-31

SYSTEM NAME:

OIG Investigative Records—TVA.

SYSTEM LOCATION:

Office of the Inspector General, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902. Duplicate copies of certain documents may also be located in the files of other offices and divisions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities who are or have been the subjects of investigations by the Office of the Inspector General (OIG) or who provide information in connection with such investigations, including but not limited to: Employees, former employees, current or former contractors and subcontractors and their employees, consultants, and other individuals and entities which have or are seeking to obtain business or other relations with TVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to investigations, including information provided by known or anonymous complainants; information provided by the subjects of investigations; information provided by individuals or entities with whom the subjects are associated (e.g., coworkers, business associates, relatives); information provided by Federal, State, or local investigatory, law enforcement, or other Government or non-Government agencies; information provided by witnesses and confidential sources; information from public source materials; information from commercial data bases or information resources; investigative notes; summaries of telephone calls; correspondence; investigative reports or prosecutive referrals; and information about referrals for criminal prosecutions, civil proceedings, and administrative actions taken with respect to the subjects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 10450; Executive Order 11222; Hatch Act, 5 U.S.C. 7324–7327; 28 U.S.C. 535; Proposed Plan for the Creation, Structure, Authority, and Function of the Office of Inspector General, Tennessee Valley Authority, approved by the TVA Board of Directors on October 16, 1985; and TVA Code XIII INSPECTOR GENERAL, approved by the TVA Board of Directors on February 19, 1987.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal, State, or local entity (1) in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting entity to the extent that the information is relevant to a decision on such matters or (2) in connection with any other matter properly within the jurisdiction of such other entity and related to its prosecutive, investigatory, regulatory, administrative, or other responsibilities.

To the appropriate entity, whether Federal, State, or local, in connection with its oversight or review responsibilities or authorized law enforcement activities.

To respond to a request from a Member of Congress regarding an individual, or to report to a Member on the results of investigations, audits, or other activities of OIG.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the subjects of an investigation and their representatives in the course of a TVA investigation of misconduct; to any other person or entity that has or may have information relevant to the investigation to the extent necessary to assist in the conduct of the investigation, such as to request information.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To a consultant, private firm, or individual who contracts or subcontracts with TVA, to the extent necessary to the performance of the contract.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant or potentially relevant information and to request information from private individuals or entities, if necessary, to acquire information pertinent to the hiring, retention, or promotion of an employee, the issuance of a security clearance, the conduct of a background or other investigation, or other matter within the purposes of this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, hard-copy printouts, and in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by individual name or case file number.

SAFEGUARDS:

Access to and use of records is limited to authorized staff in OIG and to other authorized officials and employees of TVA on a need-to-know basis as determined by OIG management. Security will be provided by physical, administrative, and computer system safeguards. Files will be kept in secured facilities not accessible to unauthorized individuals.

RETENTION AND DISPOSAL:

These records are retained in accordance with TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24. /.

RECORD ACCESS PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

CONTESTING RECORD PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD SOURCE CATEGORIES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (c)(3); (d); (e)(1), (4)(G), (4)(H), and (4)(I); and (f) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

TVA-32

SYSTEM NAME:

Call Detail Records—TVA.

SYSTEM LOCATION:

Data Center, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA employees, contractor personnel, and other individuals who make telephone calls from or charge telephone calls to TVA telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to use of TVA telephones; records relating to long distance telephone calls charged to TVA; records indicating assignment of telephone numbers and authorization numbers; records relating to locations of TVA telephones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

TVA Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

To respond to a request from a Member of Congress regarding an individual.

To provide to the appropriate entity, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies, or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant to the requesting agency's decision on that matter.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To a telecommunications company as well as to other TVA contractors providing telecommunications support to permit servicing the account.

To TVA contractors engaged at TVA's direction in investigations of abuse of TVA telephone service or other related issues.

To TVA contractors and contractor personnel to determine individual responsibility for telephone calls.

To TVA contractors in connection with amounts due TVA for telecommunications services provided to them.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are retrieved by name, authorization number, or telephone number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities. Automated data is secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Telecommunications Staff, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to Chief, Telecommunications Staff, Tennessee Valley Authority, Chattanooga, Tennessee 37401. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the Chief, Telecommunications Staff, Tennessee Valley Authority, Chattanooga, Tennessee 37401. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to Chief, Telecommunications Staff, Chattanooga, Tennessee 37401.

RECORD SOURCE CATEGORIES:

TVA Telecommunication Control System; telecommunications companies with which TVA contracts for telephone service; telephone and authorization number assignment records; results of administrative inquiries relating to

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assignment of responsibility for placement of specific long distance calls.

TVA-33

SYSTEM NAME:

Office of Nuclear Power Call Detail Records—TVA.

SYSTEM LOCATION:

Emergency Operations Center, Computer Room, 1101 Market Street, Chattanooga, Tennessee 37401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA employees, contractor personnel, and other individuals who make telephone calls from or charge telephone calls to TVA telephones located at TVA nuclear plant sites.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to use of TVA telephones at TVA nuclear plant sites; records relating to long distance telephone calls charged to TVA telephones at TVA nuclear plant sites; records indicating assignment of telephone numbers and authorization numbers at TVA nuclear plant sites; records relating to locations of TVA telephones at TVA nuclear plant sites.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

TVA Act of 1933, 16 U.S.C. 831–831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

To respond to a request from a Member of Congress regarding an individual.

To provide to the appropriate entity, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies, or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant to the requesting agency's decision on that matter.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To a telecommunications company as well as to other TVA contractors providing telecommunications support to permit servicing the account.

To TVA contractors engaged at TVA's direction in investigations of abuse of TVA telephone service or other related issues.

To TVA contractors and contractor personnel to determine individual responsibility for telephone calls.

To TVA contractors in connection with amounts due TVA for telecommunications services provided to them.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are retrieved by name, authorization number, or telephone number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities. Automated data is secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Nuclear Services, 1101 Market Street, Chattanooga, Tennessee 37401.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the site director of the TVA nuclear plant from which the telephone calls were placed or to which the telephone calls were charged. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the site director of the TVA nuclear plant from which the telephone calls were placed or to which the telephone calls were charged. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the site director of the TVA nuclear plant from which the telephone calls were placed or to which the telephone calls were charged. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

RECORD SOURCE CATEGORIES:

Station message detail recording systems associated with telecommunications equipment at TVA nuclear plant sites; telecommunications companies with which TVA contracts for telephone service; telephone and authorization number assignment records; results of administrative inquiries relating to assignment of responsibility for placement of specific long distance calls.

TVA-34

SYSTEM NAME:

Project/Tract Files—TVA.

SYSTEM LOCATION:

Land Management Branch Files, Office Services Support Branch Records Center, and Chattanooga Data Center, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or business entities from/to whom TVA is in the process of or has (1) acquired, transferred, or sold land or landrights, (2) made payment for construction, maintenance, or other damage to real property, or (3) made payment for relocation assistance. A project/tract file may name more than one individual and/or business entity involved in a transaction. (The system records that pertain to individuals and reflect personal information are subject to the Privacy Act. The system also contains records that are not subject to the Privacy Act. Noncovered records include public information and records on corporations and other business entities.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Maps, property descriptions, appraisal reports, and title documents on real property; reports on contracts and transaction progress; contracts and options; records of investigations, claims, and/or payments related to land transactions, damage restitution, and relocation assistance; related correspondence and reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Pub. L. 87–852, 76 Stat. 1129; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The respond to a request from a Member of Congress regarding an individual.

To lienholders as necessary to secure subordinations or releases of liens or to protect lienholder rights.

To county clerk and register of deeds offices to document and put of record the title acquired by TVA.

To landowners, prospective landowners, claimants, or trespassers to establish or cure titles, to resolve encroachments, to resolve boundary disputes, or to resolve questions about easement rights or the application of Section 26a of the TVA Act, 16 U.S.C. 831y–1.

To contractors to secure appraisals and title abstracts.

To request information from a Federal, State, or local agency or from private individuals as necessary to obtain information relevant to a TVA decision to acquire or dispose of property or to pay claims or make payments related to land transactions, damage restitution, and relocation assistance.

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies, or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To provide to the appropriate entity whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To report any required information to Federal, State, and local taxing authorities as required by law.

To genealogical researchers, relevant portions of maps, descriptions, appraisals, and title documents on real property, after 20 years to establish historical records.

To archaeological researchers, relevant portions of maps, descriptions, appraisals, and title documents on real property, after 20 years to reconstruct historical settings.

To respond to a request from a Member of Congress regarding the status of a matter relating to a specific project or tract.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on registers, index and aperture cards, microfilm, in file folders, and/or on automated data storage devices.

RETRIEVABILITY:

Records are primarily indexed by tract number and project symbol. Records may also be retrieved by cross-index reference to individual and business entity names.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with established TVA record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Land and Economic Resources, Tennessee Valley Authority, Knoxville, Tennessee 37902.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the Chief, Land Management Branch, Tennessee Valley Authority, Norris, Tennessee 37828. Requests should include the individual's full name and, to the extent known, any project/tract identifying information such as the project name, tract number, address, or related data.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the Chief, Land Management Branch, Tennessee Valley Authority, Norris, Tennessee 37828. Requests should include the individual's full name, and to the extent known, any project/tract identifying information such as project name, tract number, address, or related data. Access will be granted only to individually segregable personal information about the requester and to segregable nonpersonal information in accordance with TVA regulations on release of records relating to negotiations in progress involving contracts or agreements for the acquisition or disposal of real or personal property by TVA prior to the conclusion of such negotiations.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their requests to the Chief, Land Management Branch, Tennessee Valley Authority, Norris, Tennessee 37828.

RECORD SOURCE CATEGORIES:

Public records and directories; landowners, tenants, and other individuals and business entities (including financial institutions) having an interest in or knowledge related to land ownership, appraisal, or title history; TVA personnel and contractors including independent appraisers and commercial title companies.

W.F. Willis,

General Manager.

[FR Doc. 87–24513 Filed 10–22–87; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Availability of Funds for Research Studies To Determine the Safety Impact of the 65 mph Speed Limit

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of grant availability.

SUMMARY: The National Highway Traffic Safety Administration announces that competitive applications for grants are being accepted to conduct research to determine the safety impact of raising the speed limit to 65 miles per hour on rural interstate highways.

DATE: Applications must be submitted on or before December 1, 1987.

ADDRESS: Applications must be submitted to the attention of Mr. Thomas Stafford, Director, Office of Contracts and Procurement, National Highway Traffic Safety Administration, 400 7th Street, SW., Room 5301, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. James Auten, Office of Contracts and Procurement, National Highway Trafic Safety Administration, 400 7th Street, SW., Washington, DC 20590, telephone (202) 366–9559.

Program Background and Objectives: The research sought under this program is intended to supplement other NHTSA research that deals with the new 65 MPH speed limit. This supplemental research will be carried out independently of NHTSA and will focus on analysis of available data to determine the effect of the new speed limit on crashes and vehicle speeds. NHTSA data files (e.g., Fatal Accident Reporting System) will be made available upon request. This research will determine the safety impact of the new speed limit on 65 mph roads as well as non-65 MPH roads that may have experienced a "spillover" effect. Another variable of important to be considered is vehicle type (e.g., car vs truck).

This research will be supported by one-year grants to not more than four grantees, not to exceed a total of $150,000. Each grant will be independent and no one grant will exceed $40,000. Each grant will commence no later than February 1, 1988. Each grantee will prepare a final report documenting the safety impact of the 65 MPH speed limit. Final reports will be submitted to NHTSA by December 13, 1988.

Eligibile Applicants: Eligible applicants are States, interstate agencies and non-profit institutions.

Applications must be submitted on Standard Form 424 (an original and five copies must be submitted) and include:

1.A A description of the research to be pursued including:

(i) The method or methods that will be used.

(ii) The sources of data that will be used.

(iii) The types of data analyses that will be carried out and how they will address the 65 MPH safety impact issue.

2. A list of those individuals responsible for the conduct of the research, their qualifications, and the role each will play,

3. A complete budget for the period of this research, to include the grantee's shared cost, and

4. A description of the Applicants' previous or on-going efforts that relate to this type of research

Review Process: All proposals will be reviewed and evaluated by NHTSA staff to determine the applicant's understanding of the problem, the applicant's qualifications, the suitability of the proposed research plan, and evidence of the applicant's capability to effectively carry out the project on schedule.

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Project Management: An agreement will be reached with each grantee following the award of the grant to assure that, to the maximum degree possible, there is not undue duplication of research.

Issued on: October 19, 1987.

Michael M. Finkelstein,

Associate Administration for Research and Development.

[FR Doc. 87–24537 Filed 10–22–87; 8:45 am]

BILLING CODE 4910-59-M

Public Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research, and enforcement programs.

DATES: The agency's regular, quarterly public meeting relating to the agency's rulemaking, research, and enforcement programs will be held on December 3, 1987, beginning at 10:00 a.m. Questions relating to the agency's rulemaking, research and enforcement programs, must be submitted in writing by November 19, 1987. If sufficient time is available, questions received after the November 19 date may be answered at the meeting. The individual, group or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by November 19, and the issues to be discussed, will be mailed to interested persons on November 27, 1987, and be available at the meeting.

ADDRESS: Questions for the December 3 meeting relating to the agency's rulemaking, research, and enforcement programs should be submitted to Barry Felrice, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, DC 20590. The public meeting will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

SUPPLEMENTARY INFORMATION: NHTSA will hold its regular, quarterly meeting to answer questions from the public and industry regarding the agency's rulemaking, research, and enforcement programs on December 3, 1987. The meeting will begin at 10:00 a.m. (please note the time change), and will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan. The purpose of the meeting is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street SW., Washington, DC 20590.

Issued on: October 19, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87–24538 Filed 10–22–87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

Dte: October 16, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection

requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB number: 1545–0129
Form number: 1120–POL
Type of review: Resubmission
Title: U.S. Income Tax Return for Certain Political Organizations
Description: Form 1120–POL is used by certain political organizations to report the tax imposed by section 527. The form is used to designate principal campaign committees that are subject to a lower rate of tax under section 527(h). IRS uses this information to determine whether the tax is being properly reported.
Respondents: Non-profit institutions, Small businesses or organizations
Estimated burden: 12,497 hours.
Clearance officer: Garrick Shear (202) 535–4297, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 87–24560 Filed 10–22–87; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

[Delegation Order No. 209 (Rev. 3)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The delegation order authorizes the appropriate officials to sign the notice to partners or shareholders at the beginning of an administrative proceeding at the partnership or S corporation level, to designate a Tax Matters Partner for a partnership or a Tax Matters Person for an S corporation, to sign the notice of final partnership of S corporation administrative adjustment and enter into and approve written agreements with partners or shareholders with respect to the determination of partnership or S corporation items. The text of the order appears below and extends the authority to additional appropriate officials in service/compliance centers and districts.

EFFECTIVE DATE: October 28, 1987.

FOR FURTHER INFORMATION CONTACT: Bonnie D. Bledsoe, OP:EX:C:T, 1111 Constitution Avenue, NW., Room 2514, Washington, DC 20224, 202–566–6595 (not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the Federal Register for Wednesday, November 8, 1987.

Donald Anderson,

Director, Office of Coordinated Examinations.

Order No. 209 (Rev. 3)

Effective date: October 28, 1987.

Delegation of Authority in Partnership and S Corporation Matters.

Pursuant to the authority vested in the Commissioner of Internal Revenue by IRC 6223, 6224, 6231(a)(7), 6232, 6243, and 6244, and Treasury Department Order 150–10:

1. Authority to sign the notice to partners or shareholders at the beginning of an administrative proceeding at the partnership or S corporation level with respect to a partnership or subchapter S item is delegated to Revenue Agents (grade GS–11 and higher).

2. Authority to sign the notice of final partnership or S corporation administrative adjustment is delegated to:

a. Chiefs and Associate Chiefs of Appeals Offices;

b. Appeals Team Chiefs as to their respective cases;

c. Appeals Officers in service centers/Austin Compliance Center;

d. Revenue Agents (Reviewers), (grade GS–11 and higher), in Examination Division or in Office of Compliance, Assistant Commissioner (International); and

e. Revenue Agents (grade GS–11 and higher) in service centers/Austin Compliance Center.

3. Authority to enter into and approve a written settlement agreement with one or more partners or shareholders with respect to the determination of partnership or subchapter S items for such partnership or S corporation taxable year is delegated to:

a. Chiefs and Associate Chiefs of Appeals Offices;

b. Appeals Team Chiefs as to their respective cases;

c. Appeals Officers in service centers/Austin Compliance Center.

d. Revenue Agents (Reviewers) (grade GS–11 and higher), in Examination Division or Office of Compliance, Assistant Commissioner (International) and

e. Revenue Agents (grade GS–11 and higher) in service centers/Austin Compliance Center.

4. Authority to designate a Tax Matters Partner with respect to a partnership or a Tax Matters Person for an S Corporation is delegated to:

a. Chiefs and Associate Chiefs of Appeals Offices;

b. Appeals Team Chiefs, as to their respective cases; and

c. Group Managers in Examination Division.

5. To the extent that authority previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified.

The authority delegated herein may not be redelegated.

Delegation Order No. 209 (Rev. 2), effective May 12, 1986, is hereby superseded.

Approved:

Charles H. Brennan,

Deputy Commissioner (Operations).

Date: October 1, 1987.

[FR Doc. 87–23565 Filed 10–22–87; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Performance Review Board Membrs

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: This Notice is issued to revise the membership of the United States Information Agency (USIA) Performance Review Board.

DATE: October 23, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Hoxie (Co-Executive Secretary), Chief, Domestic Personnel Division, Office of Personnel, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 485–2617

or

Mr. John Welch (Co-Executive Secretary), Chief, Foreign and Domestic Personnel Policy Staff, Office of Personnel, Voice of America, U.S. Information Agency, 300 C Street, SW., Washington, DC 20547, Telephone: (202) 485–8732

SUPPLEMENTARY INFORMATION: In accordance with section 4314(c) (1) through (5) of the Civil Service Reform

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Act of 1978 (Pub. L. 95–454), the following list supersedes the U.S. Information Agency Notice (51 FR 44708, December 11, 1986):

Chairperson: Associate Director for Management—Woodward Kingman (Presidential Appointee)
Deputy Chairperson: Director, Voice of America—Richard Carlson (Presidential Appointee)
Deputy Director, Voice of America—Ambassador Robert Barry (Senior Foreign Service)
Career SES Members:
Deputy Director, Press and Publications Service—Daniel S. Campbell
Director of Programs, Voice of America—Sidney A. Davis
Director for Projects Management, Office of Enginering and Technical Operations, Voice of America—Robert E. Kamosa
Executive Director, Bureau of Educational and Cultural Affairs—Thomas G. Leydon
Director, Office of Personnel—Harlan F. Rosacker
Director, Office of the Comptroller—Stanley M. Silverman
Alternate Career SES Members:
Director, Exhibits Service—William K. Jones
Director, Office of Management and Program Services—Vincent R. Lauria
Deputy for Systems Engineering, Office of Engineering and Technical Operations, Voice of America—Ronald Linz

This supersedes the previous U.S. Information Agency Notice (51 FR 44708), December 11, 1986).

Woodward Kingman,
Associate Director for Management, U.S. Information Agency.

[FR Doc. 87–24522 Filed 10–22–87; 8:45 am]
BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 205
Friday, October 23, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

October 13, 1987.

FCC To Hold Open Commission Meeting, Tuesday, October 20, 1987

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, October 20, 1987, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, DC.

Agenda, Item No., and Subject

Common Carrier—1—Title: In the Matter of Use of Certain Generally Accepted Accounting Principles in Part 32 of the Commission's Rules. Summary: The FCC will consider whether to adopt a Memorandum Opinion and Order amending our Rules regarding the use of new pension accounting procedures promulgated by the Financial Accounting Standards Board, and the amortization of debt refinancing and other costs associated with reacquired debt over the life of a replacement debt issue.

Mass Media—1—Title: Resolution of Interference between UHF channels 14 and 69 and Adjacent-channel Land Mobile Operations. Summary: The Commission will consider the adoption of (a) Notice of Proposed Rule Making on proposed technical criteria regulating objectionable interference from television service on channels 14 and 69 to each adjacent-band land mobile operations and (b) a Notice of Inquiry soliciting comment on the use of new and existing vacant allotments on channels 14 and 69.

Note.—The summaries listed in this notice are intended for the use of the public attending open Commission meetings. Information not summarized may also be considered at such meetings. Consequently these summaries should not be interpreted to limit the Commission's authority to consider any relevant information.

Mass Media—2—Title: Amendment of Part 73 Relating to Call Sign Assignments for Broadcast Stations (MM Docket No. 87–11). Summary: The Commission will consider whether to amend the rules regarding call sign assignments.

Mass Media—3—Title: Petitions for Reconsideration and Clarification of Commission's Indecency Enforcement Standards, filed by Action for Children's Television, *et al,* and the National Association of Broadcasters. Summary: The Commission will consider the above-referenced Petitions with respect to its decisions, adopted on April 16, 1987, involving: *Infinity Broadcasting Corporation of Pennsylvania,* licensee of Station WYSP(FM), Philadelphia, Pennsylvania; *Pacifica Foundation, Inc.,* licensee of Station KPFK(FM), Los Angeles, California; and *The Regents of The University of California,* licensee of Station KCSB–FM, Santa Barbara, California.

Mass Media—4—Title: Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations. Summary: The Commission will consider a Further Notice of Proposed Rule Making to address certain issues relating to children's television.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sarah Lawrence, FCC Office of Congressional and Public Affairs, telephone number (202) 632–5050.

Issued: October 19, 1987.
Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 87–24700 Filed 10–21–87; 2:02 pm]
BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:35 a.m. on Tuesday, October 20, 1987, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider matters relating to the possible failure of certain insured banks.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 21, 1987.
Federal Deposit Insurance Corporation.
Margaret M. Olsen,
Deputy Executive Secretary.

[FR Doc. 87–24689 Filed 10–21–87; 2:01 pm]
BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, October 27, 1987, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of the actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re:
Danbury Bank, Danbury, Texas (2593) (Memo dated October 8, 1987)
Audit Report re:
Heritage National Bank, Richardson, Texas (2601) (Memo dated October 8, 1987)
Audit Report re:
Omaha Consolidated Office, Cost Center—303 (Memo dated September 30, 1987)
Audit Report re:
Costa Mesa Consolidated Office, Cost Center—601 (Memo dated September 30, 1987)
Audit Report re:
San Juan Consolidated Office, Cost Center—501 (Memo dated October 8, 1987)
Audit Report re:
Enforcement Action System Audit Report (Memo dated September 30, 1987)
Audit Report re:
Audit of Real Estate Owned Assets—Puerto Rico Consolidated Office (Memo dated August 31, 1987)

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Discussion Agenda:

Memorandum regarding the Corporation's position relative to allowing assisted banks to bid for failing or failed banks.

Memorandum and resolution re: Proposed amendment to the Corporation's rules and regulations in the form of new Part 324, entitled "Agricultural Loan Loss Amortization," which amendment would implement Title VIII of the Competitive Equality Banking Act of 1987 by permitting agricultural banks to amortize losses on qualified agricultural loans.

Memorandum and resolution re: Final amendments to Part 325 of the Corporation's rules and regulations, entitled "Capital Maintenance," which amendments: (1) Clarify and revise certain definitions; (2) reserve the authority of the Corporation with respect to the definitions of "primary capital" and "secondary capital;" (3) specify that the terms and conditions to which capital instruments are subject must be consistent with safe and sound banking practices; and (4) limit the circumstances in which the Corporation will not approve a proposed merger transaction solely because the resulting entity does not meet the Corporation's minimum capital requirement.

Memorandum and resolution re: Final amendments to Part 337 of the Corporation's rules and regulations, entitled "Unsafe or Unsound Banking Practices," which amendments, with respect to securities activities of subsidiaries of insured nonmember banks and the affiliate relationships of insured nonmember banks with securities companies, concern: (1) The use of a common name or logo; (2) the requirement for separate entrances; and (3) disclosure requirements.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: October 20, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–24690 Filed 10–21–87; 2:01 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, October 27, 1987, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: October 20, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–24691 Filed 10–21–87; 2:01 pm]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 11:00 a.m., Wednesday, October 28, 1987, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: October 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–24651 Filed 10–21–87; 11:12 am]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, October 28, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed Federal Reserve System historical program.
2. Proposed 1987 Private Sector Adjustment Factor for priced services.

Discussion Agenda

3. Proposed 1988 fee schedules for Federal Reserve check collection automated clearing house, wire transfer of funds, and net settlement, definitive safekeeping, noncash collection, and book-entry securities services.
4. Proposed amendment to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) to implement the Competitive Equality Banking Act of 1987 to permit state member agricultural banks to

amortize losses on qualified agricultural loans.

5. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Date: October 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–24652 Filed 10–21–87; 11:12 am]

BILLING CODE 6210–01–M

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Corrections

Federal Register
Vol. 52, No. 205
Friday, October 23, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPTS-400002, FRL-3183-9]

Toxic Chemical Release Reporting; Community Right-To-Know

Correction

In proposed rule document 87-12588 beginning on page 21152 in the issue of Thursday, June 4, 1987, make the following corrections:

PART 372—[CORRECTED]

§ 372.45 [Corrected]

The table in § 372.45(a) should be corrected as follows:

1. On page 21170, in the second column, in the 17th line from the bottom, "115-52-2" should read "115-32-2".

2. On page 21171, in the second column, in the 29th line, "764-01-07" should read "7647-01-0", and in the 14th line from the bottom, "624-85-9" should read "624-83-9".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51695; FRL-3274-5]

Certain Chemicals Premanufacture Notices

Correction

In notice document 87-23304 beginning on page 37836 in the issue of Friday, October 9, 1987, make the following corrections:

1. On page 37836, in the third column, under *P 87-1820*, in the second line, "Polyoxyalkylate" was misspelled.

2. On page 37837—

a. In the first column, under *P 87-1827*, in the third line, after *Chemical.*, insert "(G)"; and in the fifth line, "salts" was misspelled.

b. In the same column, under *P 87-1831*, in the fifth line, "ink or" should read "ink on".

c. In the second column, under *P 87-1837*, in the fifth line, "2-methyl-e-propenoate," should read "2-methyl-2-propenoate,".

3. On page 37838—

a. In the first column, under *P 87-1848*, in the fifth line, "Import" was misspelled.

b. In the third column, under *P 87-1868*, in the ninth line, "<100 parts per million" should read ">100 parts per million".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51696; FRL-3275-4]

Certain Chemicals Premanufacture Notices

Correction

In notice document 87-23447 beginning on page 37833 in the issue of Friday, October 9, 1987, make the following corrections:

On page 37834, in the third column—

1. Under **P 87-1881**, in the last two lines, "Non-sensitizer" was misspelled.

2. Under **P 87-1882**, in the 7th line, "polyurethanes" was misspelled; and in the 15th line, "Non/Mutagenic;" should read "Non-mutagenic;".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/55; FRL-3273-1]

Initiation of Special Review; Oxydemeton-Methyl

Correction

In notice document 87-22919 beginning on page 37248 in the issue of Monday, October 5, 1987, make the following corrections:

1. On page 37248—

a. In the first column, under **DATE:**, in the last line, the date should read "January 4, 1988".

b. In the second column, in the last paragraph, in the first line, "This" should read "The".

c. In the third column, in the fifth line, "of" should read "or".

2. On page 37249—

a. In the second column, in the last paragraph, in the first line, remove the period between "A" and "two"; and in the second line, "by" should read "to".

b. In the third column, in the fifth line, "has" should read "had".

3. On page 37250, in the second column, in paragraph II., in the seventh line, "three" should read "these"; and in the last line, "months." should read "months).".

4. On page 37251, in the second column, in the ninth line, "hematology" was misspelled.

5. On page 37253—

a. In Table 2, the fifth and sixth columns of the fourth entry should read ".00003-.0005^{6}" and "179-2975^{6}".

b. In the second column, in the 13th line, "associates" should read "associated".

6. On page 37256—

a. In the second column, in paragraph e., in the first line, "of" should read "on".

b. In the third column, in the last paragraph, in the eighth line, the date should read "January 4, 1988.".

7. On page 37257, in the third column, in paragraph (16), in the second line, "*Metasystox-*$^{®}$" should read "*Metasystox-R*$^{®}$".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51694; FRL-3268-2]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

Correction

In notice document 87-22149 beginning on page 36096 in the issue of Friday, September 25, 1987, make the following corrections:

1. On page 36097, in the second column—

a. In the second line, "LC^{T350}" should read "LC_{50}".

b. In the third line, "EC^{T350}" should read "EC_{50}".

2. On page 36098—

a. In the first column, under **P 87-1772**, in the eighth line, "1,1≠-methylene" should read "1,1'-methylene".

b. In the third column, under **P 87-1789**, in the third line, "sulfonyl" was misspelled.

3. On page 36099, in the second column, under **P 87-1800**, in the second line, "Phenol" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59833; FRL-3268-3]

Toxic and Hazardous Substances Control; Certain Chemicals Premanufacture Notices

Correction

In notice document 87-22148 appearing on page 36100 in the issue of Friday, September 25, 1987, make the following correction:

In the second column, under **Y 87-253**, in the fourth line, "acide" should read "acids".

BILLING CODE 1505-01-D

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federal register

Friday
October 23, 1987

Part II

Federal Communications Commission

47 CFR Part 73

Radio Broadcasting Services; Revised FM Table of Allotments; Rule

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 80-90]

Radio Broadcasting Services

AGENCY: Federal Communications Commission.

ACTION: Revised FM Table of Allotments implementing BC Docket No. 80-90.

SUMMARY: This *Public Notice* announces the release of the revised FM Table of Allotments § 73.202 of the Commission's Rules) reflecting the reclassification of FM allotments resulting from BC Docket 80-90. The revision of the Table implements BC Docket 80-90 and reflects the reclassification of Class B/C stations based on their existing or proposed facilities. The revised Table lists the actual community of license and the class of the channel next to its numerical designation.

EFFECTIVE DATE: October 21, 1987.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Allocations branch, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Federal Communications Commission.

William J. Tricarico,

Secretary.

Radio broadcasting.

Part 73 of Title 47 of the CFR is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

2. The table in § 73.202(b) is revised to read as follows:

§ 73. 202 Table of allotments.

* * * * *

(b) *Table of FM Allotments.*

ALABAMA

	Channel No.
Abbeville	232A
Albertville	256C
Alexander City	291C1
Andalusia	251C1, 284A
Anniston	263C
Arab	224A
Ashland	237A
Athens	262C
Atmore	261C
Auburn	249A
Bay Minette	296A, 261A
Birmingham	229C, 233C, 243C, 258C, 284C, 295C, 299C
Brewton	292A
Brundidge	234A
Butler	258A
Camden	272A
Carrollton	231C
Chatom	291A
Chickasaw	252A
Citronelle	270A
Clanton	249A
Cordova	225A
Cullman	221A, 269C
Dadeville	247A
Decatur	245C, 271C1
Demopolis	292A
Dothan	236C, 258C1, 273A
Elba	266A
Enterprise	245C, 294C
Eufaula	224A
Eutaw	282A
Evergreen	228A
Fairhope	221A
Fayette	251C1
Florence	241A, 297C
Fort Mitchell	252A
Fort Rucker	228A
Gadsden	279C
Geneva	226A
Greenville	232A, 240A
Guntersville	240A
Haleyville	224A
Hamilton	221A
Homewood	247A
Huntsville	236C2, 256C
Jackson	265A
Jasper	273C
Linden	275A, 296A
Marion	260A
Mobile	225C, 235C, 241C, 248C, 260C
Monroeville	257A
Montgomery	222C, 241A, 255C, 270C, 277C
Muscle Shoals	266A
Oneonta	249A
Opp	272A
Orange Beach	269A
Oxford	250A
Ozark	280A, 285A
Phenix City	261A
Prattville	237A
Reform	269A
Roanoke	272A
Rogersville	230A
Russellville	249A
Scottsboro	252A
Selma	261A, 265A, 287C2
Sheffield	292A
Stevenson	269A
Sylacauga	252A
Talladega	224A, 248A
Thomasville	237A
Trinity	223A
Troy	299C
Tuscaloosa	224A, 239C1, 268A
Tuscumbia	262C
Tuskegee	240A
Union Springs	265A
Vernon	293A
Winfield	290A
York	257A

ALASKA

	Channel No.
Anchorage	225C, 247C1, 251C1, 254C1, 263C2, 267C, 271C, 276A, 281C1, 287C1, 293C, 298C
Bethel	261A, 300A
College	280A
Cordova	265A
Delta Junction	276A
Fairbanks	240A, 251C1, 266C2, 273C1, 284C2
Haines	*273A
Homer	276C
Houston	232A
Juneau	284C2, 274C, 282A, 286C2, 292A
Kenai	261A
Ketchikan	290C2, 294C2
Kodiak	261A, 268C2
Naknek	265A
Nome	262A
North Pole	262C1
Palmer	299C1
Petersburg	*266A
Seward	276A
Sitka	264C2
Soldotna	243C, 268A
Wasilla	256C1
Wrangell	*269A
Yakutat	280A

ARIZONA

	Channel No.
Ajo	252A
Apache Junction	296A
Arizona city	292A
Benson	249A
Bisbee	221A
Buckeye	295A
Bullhead City	274C
Casa Grande	266A
Chandler	300C
Chinle	297A
Claypool	288A
Clifton	271C
Comobabi	*276A
Coolidge	280A
Cottonwood	240A
Douglas	237A
Eager	293C
Flagstaff	225C, 230C, 248C, 275C2
Glendale	222C, 278C
Globe	247A, 262C
Green Valley	221A, 246A
Holbrook	221A
Kearny	266A
Kingman	234C, 260C1, 290C
Lake Havasu City	266C, 286C2
Marana	252A
Mesa	284C, 227C
Miami	252A
Nogales	253A
Oracle	276A
Orabi	252A
Oro Valley	348A
Page	228A
Paradise Valley	290A
Parker	257A
Payson	266C, 292C
Phoenix	233C, 236C, 245C, 254C, 260C, 266C, 279C
Pinetop	254C
Prescott	256C, 271C
Prescott Valley	292A
Quartzsite	232A
Safford	231C1
St. Johns	229C
San Carlos	279A
Scottsdale	264C
Sedona	261A, 296C
Show Low	228A, 243C
Sierra Vista	265A, 269A
Springerville	269A
Sun City	292A
Tempe	250C
Thatcher	256C
Tube City	250A
Tucson	225C, 229C, 235C, 241C, 258C, 281A, 298C
Tusayan	221A
Wickenburg	268A
Willcox	252A
Williams	244A
Window Rock	276A
Winslow	236C, 296C
Yuma	226C, 236C2, 269A

ARKANSAS

	Channel No.
Arkadelphia	265A
Ashdown	221A, 280A
Augusta	249A
Bald Knob	296A
Barling	233A
Batesville	226C
Beebe	268A
Bella Vista	293A
Benton	296A
Bentonville	252A
Berryville	296A
Blytheville	242C
Booneville	221A
Brinkley	272A
Cabot	273A
Camden	237A, 246C2
Cherokee Village	265A
Clarendon	297A
Clarksville	224A
Clinton	221A
Conway	224A, 266C1
Corning	228A
Crossett	265A
Dardanelle	272A
De Witt	244A
De Queen	224A
Dermott	276A, 289A
Dumas	296A
El Dorado	227A, 240A, 257A, 276A
England	243A
Eudora	268A
Eureka Springs	265A
Fairfield Bay	292A
Fayetteville	221A, 280A, 300C
Fordyce	269A
Forrest City	228A
Fort Smith	229C, 256C, 280C, 285A
Glenwood	283A
Greenwood	292A
Gurdon	224A
Hamburg	258A
Hampton	296A
Hardy	284A
Harrison	244A, 275C
Heber Springs	244A
Helena	233A, 276A
Hope	269A, 285A
Horseshoe Bend	293A
Hot Springs	244A, 249C1, 292A
Hoxie	263A
Humnoke	269A
Huntsville	240A
Jacksonville	262C1
Jonesboro	261A, 270C, 300C
Lake Village	240A
Little Rock	231C, 236C, 253C, 258A, 279C
Lonoke	292A
Lowell	270C2
Magnolia	300C1
Malvern	227A, 286A
Mammoth Spring	236C1
Marianna	295A
Marion	296A
Marked Tree	229A
Marshall	262C
Maumelle	245A
Mena	269A
Monticello	228A
Morrilton	269A
Mountain Home	252A, 286A, 298C1
Mountain View	277C
Murfreesboro	237A
Nashville	288A
Newport	268A
North Crossett	274A
Osceola	251C1
Ozark	244A
Paragould	285A, 298A
Paris	237A
Perryville	290C2
Piggott	289A
Pine Bluff	222C1, 235C, 257A, 267A
Pocahontas	280A
Rogers	232A
Russellville	265A
Salem	240A
Searcy	257A
Sheridan	272A
Siloam Springs	269C
Springdale	285A
Stamps	261A
Stuttgart	266A
Texarkana	264A, 282A, 296A
Trumann	294A
Van Buren	272A
Waldron	276A
Walnut Ridge	292A
Warren	268A
West Helena	285A
Wrightsville	299A
Wynne	224A
Yellville	249A

CALIFORNIA

	Channel No.
Alameda	224A
Alturas	233C1
Anaheim	240A
Anderson	234C2
Apple Valley	272A
Arcadia	295A
Arcata	226C
Atascadero	292B
Atwater	223A
Auberry	266B1
Auburn	266B
Avalon	224A
Avenal	295A
Bakersfield	221A, 231B, 242B, 257A, 266B, 296A, 300B
Barstow	232A, 240A
Berkeley	231B, 275B
Big Bear Lake	269A
Bishop	264B
Blythe	262B
Brawley	233B, 241B
Burney	291C
Calexico	249A
Calipatria	265A
Camarillo	212B, 240A
Cambria	232A
Carlsbad	240A
Carmel	236A, 269A
Carnelian Bay	275C2
Carpinteria	269A
Cartago	275A
Cathedral City	253B
Central Valley	257A
Chester	255C, 287C2
Chico	230B1, 236B
China Lake	274A
Chowchilla	227A
Coachella	229B
Coalinga	261A
Colusa	243A, 296B
Compton	272A
Copperopolis	266A
Corcoran	272A
Corning	264B
Crescent City	232A
Crescent North	250A
Davis	288A
Delano	253B, 287B
Desert Center	288A
Dinuba	255B
Earlimart	228A
East Hemet	225A
East Porterville	283A
El Cajon	227B
El Centro	286B
Ellwood	233B
Escondido	221A
Eureka	222C, 242C, 269C, 288A
Fallbrook	296A
Ferndale	257A
Firebaugh	276A
Ford City	271A
Fort Bragg	237A, 248A
Fowler	244A
Freedom	298A
Fremont	285A
Fresno	229B, 239B, 250B, 257A, 266B, 270B, 274B, 290B
Garberville	264C
Garden Grove	232A
George	264A
Gilroy	233B
Glendale	270B
Goleta	292A
Gonzales	282A
Grass Valley	232A, 257A
Green Acres	292A
Greenfield	256B, 300B
Gridley	266A
Grover City	297B1
Guadalupe	266A
Hanford	233A, 279B, 296B
Healdsburg	225B
Hemet	269A
Hollister	229A
Holtville	251A
Idyllwild	257A
Imperial	257A
Independence	292A
Indio	224A, 272A
Inglewood	280A
Jackson	232A
Johannesburg	280A
Julian	261A
Kerman	232A
Kermville	272A
King City	230B1, 271B
Kings Beach	296A
Kingsburg	292A
La Quinta	244A
Lake Arrowhead	280A
Lake Isabella	283A
Lakeport	253A, 296B
Lancaster	292A
Lemoore	285A
Lenwood	285A
Lindsay	277A
Livermore	269A
Livingston	240A
Lodi	249A
Lompoc	224A, 295A
Long Beach	250B, 288A
Los Altos	249A
Los Angeles	222B, 226B, 230B, 234B, 236B, 242B, 246B, 254B, 256B, 262B, 264B, 267B, 282B, 286B, 290B, 295B.
Los Banos	264B
Los Gatos	237A
Los Osos-Baywood Pk	267B
Lucerne Valley	295A
Madera	227A, 297A
Mammoth Lakes	292 A
Manteca	244A
Marina	224A
Mariposa	242B, 280A
Marysville	260B
McFarland	275A
Mendocino	224A
Mendota	272A
Merced	249B, 253A, 299A
Modesto	239A, 272A, 277B, 281B
Mojave	249A
Monte Rio	249A
Montecito	225A
Monterey	249B
Morgan Hill	241A
Mount Bullion	260B
Mount Shasta	237A
Mountain Pass	256B
Needles	250C2
Newport Beach	276A
Oakdale	236B
Oakhurst	296A
Oceanside	271B
Oildale	237A
OJAI	265A
Ontario	226A
Orange Cove	265A
Orland	293A
Oroville	249A
Oxnard	252A, 271A, 284B
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Liberty	293C1.
Louisiana	269A.
Macon	280A.
Malden	224A.
Mansfield	240A.
Marshall	275C1.
Marshfield	285A.
Maryville	257A.
Memphis	244A.
Mexico	239C.
Moberly	234C, 288A.
Monett	240A.
Monroe City	292A.
Montgomery City	280A.
Mount Vernon	294A.
Mountain Grove	224A.
Mountain View	244A.
Nevada	249A.

MISSOURI—Continued

	Channel No.
Osage Beach	228A.
Owensville	237A.
Ozark	225A.
Palmyra	250C2.
Perryville	294A.
Piedmont	285A.
Pleasant Hope	238C2.
Poplar Bluff	233C, 238C1, 244A.
Portageville	292A.
Potosi	249A.
Republic	258A.
Richmond	223A.
Rolla	232A, 267C1.
Salem	240A.
Sedalia	221A.
Seligman	237A.
Sikeston	249A.
Southwest City	262A.
Sparta	243A.
Springfield	234C, 247C, 254C, 266C.
St. Genevieve	269C.
St. James	258A.
St. Joseph	268C.
St. Louis	222C, 229C, 242C1, 251C, 273C, 277C1, 296C.
Steelville	244A.
Sullivan	265A.
Tarkio	228A.
Thayer	257A.
Trenton	221A.
Union	269A.
Vandalia	261A.
Versailles	236A.
Warrenton	260A.
Warsaw	229A, 248A.
Washington	263A.
Waynesville	249A, 272A.
Webb City	232A.
West Plains	230C1, 272A.
Willard	263A.
Willow Springs	262C2.

MONTANA

	Channel No.
Anaconda	249A.
Baker	263C1.
Belgrade	244A.
Billings	227C1, 231C, 246C1, 253C1, 275C1, 279C1.
Bozeman	229C1, 236C1.
Butte	224A, 231C, 236C.
Chinook	267C1.
Columbia Falls	240A.
Conrad	229A.
Cut Bank	274C1.
Deer Lodge	244A.
Dillon	252A.
East Helena	261C.
Forsyth	267C.
Glasgow	228A.
Glendive	243C1.
Great Falls	225C1, 233C1, 255C1, 262C, 291C, 297C.
Hamilton	240A.
Hardin	238C.
Havre	223C, 236C.
Helena	258C1, 266C, 287C.
Kalispell	246C, 253C, 280A.
Lewistown	240A.
Libby	269A.
Livingston	248C1.
Malta	261A.
Miles City	223C.
Missoula	227C, 230C, 261A, 273C1.
Plentywood	261A.
Red Lodge	257A.
Ronan	222C.
Scobey	239C1.
Shelby	242C1, 250C.
Sidney	226C1, 236C1.
West Yellowstone	243A.
Wolf Point	234A.

NEBRASKA

	Channel No.
Ainsworth	224A.
Albion	224A.
Alliance	271C1, 290C1.
Auburn	266A.
Aurora	247C2.
Beatrice	225C1.
Bennington	227A.
Blair	292A.
Bridgeport	267C.
Broken Bow	252A.
Central City	262C.
Chadron	234C, 248C1.
Columbus	226A, 266C1.
Cozad	263C1.
Crete	293A.
Crookston	241C.
Fairbury	257A.
Falls City	237A.
Fremont	288A.
Gordon	238C2.
Grand Island	239C1, 243C, 298C1.
Hastings	251C, 268C2.
Holdrege	249A.
Imperial	276A.
Kearney	255C1, 272A, 280C.
Kimball	261A.
Lexington	226C1.
Lincoln	239C2, 270C, 274C, 287A, 292A, 297C1.
McCook	230C2, 241C, 253C2, 287C1.
Nebraska City	249A.
Norfolk	234C, 294C.
North Platte	235C, 246C1, 276C.
O'Neil	275C1.
Ogallala	259C1, 293C1.
Omaha	222C, 231C, 241C, 260C, 264C, 283C, 290A.
Orchard	267C1.
Ord	280A.
Plattsmouth	293A.
Scottsbluff	225C, 231C1.
Seward	245C.
Sidney	254C1.
South Sioux City	296A.
Superior	280A.
Terrytown	245C1.
Wayne	265A.
West Point	300A.
Winnebago	289A.
York	285A.

NEVADA

	Channel No.
Boulder City	266A.
Carson City	234C, 247C, 251C.
Elko	226A, 237A.
Ely	224A, 269A.
Fallon	257A.
Gardnerville-Minden	257A.
Hawthorne	228A.
Henderson	231C, 236C, 263C.
Incline Village	261A.
Las Vegas	222C, 226C, 242C, 246C, 253C, 270C, 278C, 286C2, 293C.
North Las Vegas	282C.
Pahrump	298C.
Reno	225C, 236C, 269A, 283C, 289C, 295C.
Sparks	221A, 265A.
Tonopah	224A.
Winnemucca	224A.

NEW HAMPSHIRE

	Channel No.
Bedford	243A.
Berlin	279C.
Campton	295A.
Claremont	291B.
Concord	272A, 288A.
Conway	228A, 283A.
Dover	245B.
Exeter	296A.
Farmington	293A.
Franklin	231A.
Gorham	296A.
Hampton	271A.
Hanover	222A, 257A.
Haverhill	267A.
Hannniker	256A.
Hillsboro	299A.
Hinsdale	265A.
Jackson	258A.
Keene	279B.
Laconia	252A.
Lebanon	263A.
Littleton	292A.
Manchester	239B, 266B.
Meredith	268A.
Moultonborough	295A.
Mount Washington	235C.
Nashua	282A.
Newport	269A.
Peterborough	221A.
Plymouth	261A.
Portsmouth	262B.
Rochester	244A.
Somersworth	254A.
Walpole	242A.
Winchester	254A.
Wolfeboro	285A.

NEW JERSEY

	Channel No.
Asbury Park	232A.
Atlantic City	236B, 245B, 279B, 297B1.
Avalon	232A.
Blairstown	292A.
Bridgeton	299B.
Camden	295B.
Canton	272A.
Cape May	272A.
Cape May Court House	286A.
Dover	289A.
Estontown	282A.
Egg Harbor	285A.
Franklin	272A.
Long Branch	296A.
Manahawkin	261A.
Margate City	241A.
Millville	247B.
New Brunswick	252A.
Newark	234B, 262B, 290B1.
Newton	279B.
North Cape May	294A.
Ocean Acres	253A.
Ocean City	252A, 292A.
Paterson	226B.
Pleasantville	257A.
Point Pleasant	240A.
Princeton	277B.
Toms River	224A.
Trenton	233B, 248B, 268B.
Villas	254A.
Vineland	221A.
Wildwood	264B.
Wildwood Crest	226A.
Zarephath	256B.

NEW MEXICO

	Channel No.
Alamogordo	232A, 279C1, 288A.
Albuquerque	222C, 227C, 231C, 242C, 258C, 262C, 267A, 277C, 300C.
Armijo	296C2.
Artesia	225C.
Aztec	235C1.
Bayard	275C1.
Belen	249A.
Bloomfield	283C.
Carlsbad	221A, 281C, 291C2.
Clayton	228A.
Clovis	256C1, 260C1, 268C, 298C1.
Corrales	236A.
Deming	232A.
Espanola	272A.
Eunice	265A.
Farmington	225C1, 239C1, 245C, 271C.
Gallup	229C, 233C, 258C, 291C2.
Grants	250C2, 279C, 286C.
Hatch	298C.
Hobbs	231C1, 239C2, 275C.
Jal	295A.
La Luz	224A.
Las Cruces	258C, 276A, 280A.
Las Vegas	251C, 264C2.
Lordsburg	250C.
Los Alamos	253C 294C.
Los Lunas	273C2, 292A.
Lovington	269A.
Maljamar	*254C1, 266C.
Mesilla Park	285A.
Portales	237A.
Raton	232A.
Rio Rancho	269A.
Roswell	235C, 246C1, 263C, 284C2, 293C.
Ruidoso	228A.
Santa Fe	234C, 238C1, 247C, 281C, 286C, 290C.
Santa Rosa	240A.
Silver City	233A.
Socorro	224A.
Taos	260A, 269A.
Thoreau	260C.
Truth or Consequences	254C.
Tucumcari	224A.
White Rock	266A.

NEW YORK

	Channel No.
Albany	233B, 265A, 276A, 293B, 299B.
Amsterdam	249A.
Arlington	245A.
Attica	269A.
Auburn	295B.
Avon	227A.
Babylon	272A.
Baldwinsville	221A.
Bath	252A, 276A.
Bay Shore	276A.
Big Flats	249A.
Binghamton	251B, 256B.
Boonville	267A.
Briarcliff Manor	296A.
Buffalo	225B, 233B, 241B, 245B, 256B, 273B, 277B, 281B, 293B.
Canajoharie	227A.
Canandaigua	272A.
Canton	244A.
Cape Vincent	274A.
Carthage	276A.
Catskill	253A.
Center Moriches	241A.
Cherry Valley	270B.
Clifton Park	244A.
Clyde	229A.
Cobleskill	278B.
Corinth	228A.
Corning	254A, 291B.
Cortland	290B.
Dansville	230A.
Delhi	262A.
Depew	229B.
Deposit	234A.
Denuyter	296B.
Dundee	240A.
East Hampton	244A.
Ellenville	257A.
Elmira	224A, 232A.
Endicott	269B.
Port Plain	266A.
Frankfort	235B.
Fredonia	243A.
Fulton	294B.
Garden City	224A.
Geneva	269A.

BEST COPY AVAILABLE

NEW YORK—Continued

	Channel No.
Glens Falls	240A.
Gouverneur	237A.
Hammondsport	252A.
Hampton Bays	296A.
Hempstead	252A.
Herkimer	224A.
Highland	257A.
Homer	268A.
Honeoye Falls	257A.
Hoosick Falls	248A.
Hornell	221A, 267B.
Horseheads	265A.
Hudson	228A.
Hurleon Falls	269A, 296A.
Hyde Park	249A.
Irondequoit	294A.
Ithaca	228A, 247B, 279B.
Jamestown	227B, 269A.
Johnstown	265A.
Kingston	232A.
Lake Placid	266A.
Lake Success	278B.
Liberty	240A.
Little Falls	266A.
Lowville	257A.
Manlius	237A.
Mechanicville	280A.
Middletown	224A.
Montauk	264A.
Monticello	252A.
Montour Falls	265A.
Mount Kisco	292A.
New Paltz	277A.
New Rochelle	228A.
New York	222B, 230B, 238B, 242B, 246B, 249B, 250B, 254B, 256B, 269B, 270B, 274B, 282B, 286B, 294B, 296B.
Newburgh	276A.
Niagara Falls	253B.
North Syracuse	265A.
Norwich	230B.
Ogdensburg	224A.
Olean	239B, 265A.
Oneonta	276A, 280A.
Oneida	292A.
Oswego	244A, 268A.
Owego	269A.
Palmyra	256A.
Patchogue	249B, 291B.
Patterson	266A.
Peekskill	254B.
Phoenix	271A.
Plattsburgh	260C, 278A.
Port Henry	221A.
Port Jervis	244A.
Potsdam	257A.
Poughkeepsie	221A, 241A, 298B, 254B.
Pulaski	268A.
Queensbury	289B1.
Ravena	233A.
Remsen	276A.
Rensselaer	280A.
Riverhead	292A.
Rochester	223B, 243B, 250B, 255B, 263B, 267B, 280A, 290A.
Rome	240A, 273B.
Rotterdam	252A.
Sag Harbor	221A.
Salamanca	252A.
Saranac Lake	268A.
Saratoga Springs	272A.
Schenectady	258B.
Seneca Falls	257A.
Sidney	265A.
Smithtown	232A.
Sodus	278A.
South Bristol Twsp	226B.
Southampton	237A.
Southhold	269A.
Stillwater	267A.
Syracuse	226B, 233B, 275B, 290A, 300B.
Ticonderoga	280A.
Troy	222B.
Tupper Lake	272A.
Utica	245B, 254B, 264A, 282B, 297B.
Vestal	277A.

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	Channel No.
Walton	221A.
Warrensburg	263A.
Waterloo	253A.
Watertown	225A, 248C.
Waverly	272A.
Webster	274A.
Wellsville	228A.
Wethersfield Townsh	299B.
White Plains	280A.
Whitehall	231A.
Woodstock	261A.
Wurtsboro	247A.

NORTH CAROLINA

	Channel No.
Ahoskie	257A.
Albemarle	265A.
Asheboro	222C.
Ashville	260C.
Bayboro	254A.
Belhaven	299C2.
Biltmore Forest	243A.
Black Mountain	295C.
Burgaw	260C.
Burlington	230C, 256C.
Charlotte	238C, 279C, 284C, 300C.
Clinton	296A.
Columbia	269C.
Concord	250C.
Dunn	276A.
Durham	266C, 296A.
Eden	253C1.
Edenton	261A, 272A.
Elizabeth City	229C, 244A.
Elizabethtown	269A.
Elkin	265A.
Fairbluff	257A.
Fairmont	265A.
Farmville	252A.
Fayetteville	251C1.
Forest City	227C.
Franklin	244A.
Fuquay-Varina	280A.
Gaston	250A.
Gastonia	270C.
Goldsboro	245C, 272A.
Greensboro	246C, 254C.
Greenville	300C.
Grifton	257A.
Hatteras	248C2.
Havelock	299C2.
Henderson	223C.
Hendersonville	273C1.
Hertford	265A.
Hickory	239C, 275C1.
High Point	238C1, 256C, 282C.
Hope Mills	278A.
Jacksonville	222C2, 254C2, 288A.
Kannapolis	259C.
Kinston	236C, 249A, 275A.
Laurinburg	243C.
Lexington	231C.
Louisburg	273A.
Lumberton	236C, 272A.
Manteo	252A, 254C2.
Morehead City	242C2.
Morganton	221A.
Moyock	221A.
Murfreesboro	252A.
Murphy	282A.
Nags Head	222A.
New Bern	232A, 270C1, 293C1.
Newport	277C1.
North Wilkesboro	247C.
Old Fort	292A.
Plymouth	240A.
Raleigh	234C, 241C, 268C, 275A.
Reidsville	271C1.
Roanoke Rapids	272A.
Robbinsville	240A.
Rocky Mount	221A, 253A, 264C.
Rose Hill	284A.
Roxboro	244A.
St. Pauls	295A.
Salisbury	293C.

NORTH CAROLINA—Continued

	Channel No.
Sanford	266A.
Scotland Neck	274A.
Semora	294A.
Shallotte	226A, 292A.
Shelby	241C.
Southern Pines	273A, 296A.
Southport	298C2.
Statesville	245C, 269C.
Tabor City	265A.
Tarboro	283C1.
Thomasville	252A.
Topsail Beach	280A.
Wallace	232A.
Wanchese	237A.
Warrenton	297A.
Washington	227C, 252A.
Waynesville	265A.
Whiteville	256C1.
Williamston	279C1.
Wilmington	247C, 266A, 274C1, 287A.
Wilson	291C.
Windsor	249A, 255A.
Winston-Salem	226C, 281C, 298C.
Wrightsville Beach	229A.

NORTH DAKOTA

	Channel No.
Beulah	250A.
Bismarck	225C, 233C, 243C, 254C.
Bottineau	270C1.
Carrington	252A.
Devils Lake	244A, 273C1, 278C1.
Dickinson	221A.
Fargo	229C, 250C1, 270C, 300C.
Grafton	265A.
Grand Forks	225C1, 234C1, 296C1.
Hettinger	229A.
Jamestown	227C1, 238C1.
Langdon	239A.
Lisbon	291C2.
Mandan	264C1.
Mayville	288A.
Minot	229C1, 246C, 260C1, 267C1, 295A.
Oakes	222C2.
Rugby	237A.
Sarles	290C.
Tioga	250A.
Valley City	265A.
Wahpeton	298A.
Williston	241C1, 253C1, 298C1.
Wishek	292C.

OHIO

	Channel No
Ada	235A.
Akron	243B, 249B.
Alliance	223B.
Archbold	248A.
Ashland	267B.
Ashtabula	246B.
Athens	288A.
Barnesville	228A.
Beavercreek	260A.
Bellaire	263A.
Bellefontaine	252A.
Bellevue	221A.
Belpre	296A.
Bowling Green	226A.
Bryan	255A.
Bucyrus	224A.
Byesville	249A.
Cadiz	252A.
Caldwell	295A.
Cambridge	244A.
Canton	231B, 251B, 295B.
Castalia	298A.
Celina	232A, 244A.
Chillicothe	227B, 232A.

OHIO—Continued

	Channel No
Cincinnati	223B, 227B, 231B, 253B, 259B, 270B, 274B, 296B.
Circleville	296A.
Cleveland	226B, 236B, 253B, 258B, 264B, 271B, 277B, 281B, 289B, 293B 300B.
Cleveland Heights	222B.
Clyde	265A.
Coal Grove	245A.
Columbus	222B, 234B, 242B, 246B, 250B, 259B, 298A.
Conneaut	288A.
Coshocton	257A.
Crestline	254A.
Crooksville	297A.
Dayton	256B, 264B, 299B.
Defiance	251B, 290A.
Delaware	300A.
Delphos	296A.
Delta	293A.
Dover	269A.
East Liverpool	282B.
Eaton	225B.
Edgewood	273A.
Elyria	297B.
Fairfield	235B.
Findlay	263B.
Fort Shawnee	256A.
Fostoria	244A.
Fredericktown	252A.
Fremont	256B1.
Gahanna	285A.
Galion	272A.
Gallipolis	268B.
Geneva	265A.
Georgetown	249A.
Gibsonburg	239A.
Greenfield	248A.
Greenville	293B.
Grove City	265A.
Hamilton	243B, 278B.
Harrison	282A.
Hillsboro	254B.
Holland	272A.
Huron	241A.
Ironton	296A.
Jackson	249A.
Johnstown	276A.
Kent	261A.
Kenton	237A.
Kettering	260B.
Lancaster	238B, 278A.
Lebanon	247A.
Lima	226A, 249A, 271B, 285A.
Logan	252A.
London	232A.
Lorain	285A.
Loudonville	299A.
Mansfield	287B, 291B.
Marietta	271B1.
Marion	232A, 295B.
Marysville	293A.
McConnelsville	265A.
Medina	235B.
Miamisburg	229B.
Middleport	221A.
Middletown	290B.
Milford	296A.
Millersburg	237A.
Montpelier	283A.
Mount Vernon	229B.
Napoleon	278A.
Nelsonville	290A.
New Lexington	292A.
New Philadelphia	240A.
Newark	262B, 269A.
Niles	291A.
North Baltimore	299A.
Norwalk	237A.
Oak Harbor	247A.
Ottawa	282A.
Oxford	249A.
Paulding	258A.
Piqua	239B.
Port Clinton	233B.
Portsmouth	257A, 261C.
Ripley	258A.
St. Marys	277A.

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	Channel No
Salem	256B.
Sandusky	274B.
Shadyside	229A.
Shelby	261A.
Sidney	268A.
Springfield	264B, 275B.
Steubenville	275B.
Swanton	297A.
Sylvania	288A.
Tiffin	279B.
Toledo	223B, 260B, 268B, 284B.
Troy	245A.
Unrichsville	260A.
Union City	248A.
Upper Arlington	255A.
Upper Sandusky	240A.
Upbene	269A.
Van Wert	255B.
Wapakoneta	221A.
Washington Courthouse	288A.
Wauseon	245A.
Waverly	265A.
Wellston	244A.
West Carrollton	221A.
West Union	276A.
Westerville	283A.
Willard	245A.
Wilmington	272A.
Wooster	263B.
Xenia	237A.
Youngstown	227B, 255B, 266B.
Zanesville	224A, 273B.

OKLAHOMA

	Channel No.
Ada	227C1, 244A.
Altus	226A, 300A.
Alva	259C1, 284C1, 289C2.
Anadarko	279C.
Antlers	281A.
Ardmore	239C1.
Atoka	276A.
Bartlesville	261A.
Bethany	265A.
Bixby	287A.
Bristow	285A.
Broken Arrow	221A.
Broken Bow	291C2.
Chickasha	268A.
Clinton	238C2, 295C1.
Comanche	244A.
Commerce	259A.
Cordell	229A, 257A.
Duncan	272A.
Durant	248C2, 296A.
Edmond	249A.
Eldorado	292A.
Elk City	232A, 243C1, 253C.
Enid	245C, 276A.
Eufaula	272A.
Frederick	240A.
Grove	257A.
Guymon	224A.
Healdton	269C2.
Heavener	223A.
Henryetta	258C1.
Hobart	290C.
Holdenville	293A.
Hollis	223A.
Hugo	237A.
Idabel	244A.
Ketchum	296C2.
Lahome	239A.
Lawton	232A, 237A, 251C1, 268C1, 297C2.
Lindsay	266A.
Lone Grove	294A.
Madill	272A.
Mangum	221A.
Marlow	221A.
McAlester	267C1, 285A.
Miami	255A.
Muskogee	246C, 295C.
Norman	292A.
Nowata	232A, 268A.

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	Channel No.
Oklahoma City	223C, 234C, 241C, 255C, 263C, 270C, 274C, 281C, 299C.
Okmulgee	232A.
Owasso	291C.
Paula Valley	249A.
Pawhuska	285A.
Perry	286A.
Ponca City	257A, 261A, 265A.
Poteau	250C, 297C.
Pryor	283C1.
Sallisaw	240A.
Sand Springs	272A.
Sapulpa	265A.
Seminole	268A.
Shawnee	236C.
Spencer	289A.
Stillwater	230C, 269A.
Sulphur	265A.
Taft	262A.
Tahlequah	269A.
Tishomingo	292A.
Tulsa	225C, 238C, 243C, 248C, 253C, 277C.
Vinita	240A.
Wagoner	271A.
Watonga	228A.
Weatherford	247C1.
Wilburton	279A.
Woodward	221A, 229A, 240A, 266C, 272A.

OREGON

	Channel No.
Albany	260C, 300C.
Altamont	267C.
Ashland	270C1.
Astoria	225C1.
Baker	237A, 284C.
Beaverton	277C.
Bend	231C, 248C1, 252A, 264C1, 289C2.
Brookings	237A.
Burns	224A.
Cave Junction	274C.
Coos Bay	254C2, 293C2.
Coquille	247C1.
Corvallis	268C, 291C.
Creswell	237A.
Enterprise	221A.
Eugene	233C, 241C, 250C, 256C.
Florence	284C.
Gold Beach	224A.
Gold Hill	262C1.
Grants Pass	245C.
Hermiston	257A.
Hood River	298A.
Klamath Falls	223C, 258C, 295C1.
La Grande	252A, 261A.
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Friday
October 23, 1987

Part III

Department of the Interior

Minerals Management Service

30 CFR Parts 202 and 206

Revision of Gas Product Valuation Regulations and Related Topics; Second Further Notice of Proposed Rulemaking

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202 and 206

Revision of Gas Product Valuation Regulations and Related Topics

AGENCY: Minerals Management Service, Interior.

ACTION: Second further notice of proposed rulemaking.

SUMMARY: The Minerals Management Service (MMS) of the Department of the Interior (DOI) is issuing this Second Further Notice of Proposed Rulemaking to obtain additional public review and comments on its gas product valuation regulations applicable to production from Federal and Indian oil and gas leases. Attached to this notice as an appendix is a draft of the gas valuation regulations in final form, together with a draft of the preamble for the final rule.

DATE: Comments must be received on or before November 23, 1987.

ADDRESS: Written comments may be mailed to Minerals Management Service, Royalty Management Program, Rules and Procedures, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 662, Denver, Colorado 80225, Attention: Dennis C. Whitcomb.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231–3432, (FTS) 326–3432.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are John L. Price, Scott L. Ellis, Thomas J. Blair, Stanley J. Brown, and William H. Feldmiller of the Royalty Valuation and Standards Division of the Royalty Management Program (RMP), Minerals Management Service; Donald T. Sant, Deputy Associate Director for Valuation and Audit, Minerals Management Service; and Peter J. Schaumberg of the Office of the Solicitor, Washington, DC.

I. Introduction

On February 13, 1987, 52 FR 4732, MMS issued a notice of proposed rulemaking to amend the regulations governing the valuation of gas from Federal leases onshore and on the Outer Continental Shelf (OCS), and from Indian Tribal and allotted leases. During the public comment period, MMS received almost 100 written comments. In addition, public hearings were held in Lakewood, Colorado, on April 7, 1987, and in Houston, Texas, on April 28, 1987. Sixteen persons made oral presentations at these hearings.

Because of the complexity of the regulations, and in accordance with MMS's understanding with the Congress, MMS issued a Further Notice of Proposed Rulemaking on August 17, 1987 (52 FR 30776), which included as an appendix MMS's draft of the final regulations. The purpose of the further notice of proposed rulemaking was to obtain additional public comments during a short comment period and then to make any necessary revisions to the final regulations. See Conference Report on H.R. 1827, in the *Congressional Record* of June 27, 1987, pages H5651–H5666.

The public comment period on the first further notice of proposed rulemaking was scheduled to close on September 2, 1987, but was extended to September 11, 1987 (52 FR 33247, Sept. 2, 1987). On September 21, 1987, MMS issued a Notice of Intent to Issue a Second Further Notice of Proposed Rulemaking (52 FR 35451). In that Notice, MMS stated that all comments received on the Further Notice of Proposed Rulemaking and the first draft final rules would be included in the rulemaking record for this rule, even if they were received after September 11.

In addition to receiving written comments on the first draft final rules, MMS held several meetings with representatives from the States, Indian lessors, and industry in an effort to develop a set of regulations which were acceptable generally to all groups, though not a panacea for any one of them. Each of the groups exhibited a commendable willingness to make positive contributions to the process and, where necessary, to reach compromises.

As a result of the various meetings MMS held with interested groups and from MMS's review of the comments, changes have been made to the draft final regulations. Some of these changes are significant. Also, MMS still has some issues on which it would like further technical review and comments from interested persons before issuing a final rule. Therefore, MMS is issuing this Second Further Notice of Proposed Rulemaking with a revised draft final rule attached.

MMS requests that commenters not simply resubmit comments already provided on the proposed rules or in response to the first Further Notice of Proposed Rulemaking with the first draft final rule attached thereto. All comments received since publication of the first proposed rulemaking on February 13, 1987, will be included in this rulemaking record. Additional comments should be directed to the provisions of the draft final rule in the appendix. Commenters are requested to identify, by section, the provision of the draft final rule to which a comment is directed.

II. Specific Comments Requested

Commenters may comment on all issues concerning the draft final rules. However, there are certain questions on which MMS specifically would like comments.

In response to suggestions principally from the States and Indians that MMS should follow an aggressive valuation policy for Federal and Indian leases, some industry commenters have stated that MMS should take the royalty in kind. In other words, if MMS thinks that the lessee is not receiving proper value for its product sales, MMS (or the Indian lessor) should take the royalty share in kind and sell it for whatever price it can get. Although MMS and most Indian lessors do have the option under the lease to take royalty in kind, MMS perceives several problems with this option, particularly as it relates to gas (oil is not a problem because, as recently as 1980, MMS took almost half of Federal oil royalties in kind for sale under the royalty-in-kind program). First of all, most audit issues relate to prior periods. One hundred percent of the production already has been disposed of by the lessee. Thus, it would appear that the lessor no longer has the option to take royalty in kind but must be paid royalty based on the value of production. Second, because gas cannot be readily stored, MMS and Indian lessors could face marketing problems. However, if a lessee has a long-term contract and MMS is aware that prospectively it will find the lessee's sale price unacceptable as a royalty value, taking royalty in kind is a more viable option. MMS would like commenters to address the feasibility of a larger scale royalty-in-kind program, particularly for gas.

In the draft final rules published August 17, 1987, MMS included certain extraordinary cost allowances related to production of gas and gas processing. See §§ 206.152(i), 206.153(i), and 206.158(d)(2) of the draft final rule for gas (52 FR 30776). Although most industry commenters supported these provisions and even advocated liberalizing their application, many State and Indian commenters believed that these sections should be removed. Generally, these commenters stated that the costs included in these sections historically had not been allowed by MMS as costs necessary to place production in marketable condition and it was inappropriate to allow them now.

MMS has retained the three sections in the draft final rules attached hereto as an appendix. However, MMS still is uncertain whether these sections should be retained in the final rules. Comments are specifically requested on this issue.

In the definition of "arm's-length contract" included in § 206.151 of the draft final rules, MMS states that "* * * contracts between relatives, either by blood or by marriage, are not arm's-length contracts." Some commenters thought that the term "relatives" needed to be limited because a distant relationship should not cause a contract to be considered a non-arm's-length contract. MMS requests comments on whether some practical limit can be placed on the term "relative."

The Further Notice of Proposed Rulemaking of August 17, 1987 (52 FR 30776), specifically requested comments on certain broader issues, as follows:

> Besides specific comments on the draft final rule, MMS also requests commenters to address whether or not there are additional requirements or approaches which would improve the royalty payment process. The MMS believes it has developed a set of rules which will lead to the proper payment of royalties, but given the interest and concerns raised by this rulemaking, MMS would like to learn of all approaches which will reduce underpayments and minimize any abuse in payment and collection of royalties. MMS would specifically like comments on the ability of auditors to determine compliance with these regulations. MMS also would like commenters to address the extent to which these draft rules are responsive to concerns regarding royalty underpayments identified in the Linowes Commission Report and reports of the Congress, the General Accounting Office and the Department's Office of Inspector General.

While MMS received many comments on provisions of the draft final rule which bear upon these broader issues, it did not receive any comments specifically addressing the issues themselves. However, MMS also received requests to extend the comment period to allow more time to prepare and submit comments on one or more of these issues. To emphasize its interest in these issues, MMS is again specifically asking for comments on these broader issues and believes that, overall, the time allowed from August 17, 1987, to the close of the current comment period should be sufficient for that purpose.

MMS also would like additional comment on certain issues related to allowances for some post-production costs and issues related to allocation of transportation costs among products. *See* the Second Further Notice of Proposed Rulemaking for the oil valuation regulations, published elsewhere in today's **Federal Register.**

III. Other Issues

The draft regulations refer to a form for transportation allowances (Form MMS–4295) and for processing allowances (Form MMS–4109). Many commenters requested an opportunity to review the forms while commenting on the rules. Copies of the forms may be requested from MMS by submitting a request to the address listed in the **ADDRESS** section of this preamble.

In the draft final rules, there are many references to audits and the closing of audit periods. MMS intends to issue further guidelines on the closing of audit periods and how valuation determinations will be affected.

There are many sections of the draft final regulations which are duplicative. For example, many of the provisions related to calculation of transportation and processing allowances are identical. Likewise, the transportation allowance rules for oil and gas are the same. As another example, the valuation rules in §§ 206.152 and 206.153 for processed and unprocessed gas have virtually identical provisions. MMS prepared the rules in this manner at the request of the Royalty Management Advisory Committee, which wanted completely separate rules for the various products. However, the rules as drafted are very long and could be streamlined. Also, duplicative provisions make maintenance of the rules more difficult since care must be taken to change all corresponding provisions. Therefore, MMS specifically would like comment on whether the final rules should be consolidated where practicable.

IV. Procedural Matters

The Department of the Interior (DOI) has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291. This proposed rulemaking is to consolidate Federal and Indian gas royalty valuation regulations; to clarify DOI gas royalty valuation policy and gas transportation and processing allowance policy; and to provide for consistent royalty valuation policy among all leasable minerals. Because the proposed rule principally consolidates and streamlines existing regulations for consistent application, there are no significant additional requirements or burdens placed upon small business entities.

Lessee reporting requirements will be approximately $250,000. All gas sales contracts will be required to be submitted only upon request, or only in support of a lessee's valuation proposal in unique situations rather than routinely, as under the existing regulations.

The public is invited to participate in this proceeding by submitting data, views, or arguments with respect to this notice. All comments must be received by 4:30 p.m. of the day specified in the **DATE** section to the appropriate address indicated in the **ADDRESS** section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Revision of Gas Royalty Valuation Regulations and Related Topics." All comments received by the MMS will be available for public inspection in Room C406, Building 85, Denver Federal Center, Lakewood, Colorado, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

Regulatory Flexibility Act

Because this rule primarily consolidates and streamlines existing regulations for consistent application, there are no significant additional requirements or burdens placed upon small business entities as a result of implementation of this rule. Therefore, the DOI has determined that this rulemaking will not have a significant economic effect on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Paperwork Reduction Act of 1980

The information collection and recordkeeping requirements located at §§ 206.157 and 206.159 of this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1010–0075.

National Environmental Policy Act of 1969

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects

30 CFR Part 202

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 206

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

Date: October 19, 1987.

J. Steven Griles,

Assistant Secretary—Land and Minerals Management.

Appendix—Draft Final Rule

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202 and 206

Revision of Gas Royalty Valuation Regulations and Related Topics

Agency: Minerals Management Service (MMS), Interior.

Action: [Draft] Final rule.

Summary: This rulemaking provides for the amendment and clarification of regulations governing valuation of gas for royalty computation purposes. The amended and clarified regulations govern the methods by which value is determined when computing gas royalties and net profit shares under Federal (onshore and Outer Continental Shelf) and Indian (Tribal and allotted) oil ano gas leases (except leases on the Osage Indian Reservation, Osage County, Oklahoma).

Effective date: February 1, 1988 [tentative].

For Further information contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231-3432, (FTS) 326-3432.

Supplementary information: The principal authors of this rulemaking are John L. Price, Scott L. Ellis, Thomas J. Blair, Stanley J. Brown, and William H. Feldmiller of the Royalty Valuation and Standards Division of the Royalty Management Program (RMP), Minerals Management Service; Donald T. Sant, Deputy Associate Director for Valuation and Audit, Minerals Management Service; and Peter J. Schaumberg of the Office of the Solicitor, Washington, DC.

I. Introduction

On February 13, 1987, 52 FR 4732, MMS issued a notice of proposed rulemaking to amend the regulations governing the valuation of gas from Federal leases onshore and on the Outer Continental Shelf (OCS), and from Indian Tribal and allotted leases. During the public comment period, MMS received almost 100 written comments. In addition, public hearings were held in Lakewood, Colorado, on April 7, 1987, and in Houston, Texas, on April 28, 1987. Sixteen persons made oral presentations at these hearings.

Because of the complexity of the regulations, and in accordance with MMS's understanding with the Congress, MMS issued a further notice of proposed rulemaking on August 17, 1987 (52 FR 30776) which included as an appendix MMS's draft of the final regulations. The purpose of the further notice of proposed rulemaking was to obtain further public comment during a short comment period and then to make any necessary revisions to the final regulations. See Conference Report on H.R. 1827, in the *Congressional Record* of June 27, 1987, pages H5651–H5666.

The public comment period on the first further notice of proposed rulemaking was scheduled to close on September 2, 1987, but was extended to September 11, 1987 (52 FR 33247, Sept. 2, 1987). On September 21, 1987, MMS issued a Notice of Intent to Issue a Second Further Notice of Proposed Rulemaking (52 FR 35451). In that Notice, MMS stated that all comments received on the Further Notice of Proposed Rulemaking and the first draft final rules would be included in the rulemaking record for this rule, even if they were received after September 11.

In addition to receiving written comments on the first draft final rules, MMS held several meetings with representatives from the States, Indian lessors, and industry in an effort to develop a set of regulations which were acceptable generally to all groups, though not a panacea for any one of them. Each of the groups exhibited a commendable willingness to make positive contributions to the process and, where necessary, to reach compromises.

[Tentative: In a further effort to ensure that all of the interested constituencies had a full and fair opportunity to comment upon the gas valuation rules following the several meetings and MMS's review of the written comments, MMS issued a second further notice of proposed rulemaking and second draft final rules. 52 FR ___ (October ___, 1987). Public comments were received for 30 days.]

The MMS has considered carefully all of the public comments received during this rulemaking process, which included draft rules and input from the Royalty Management Advisory Committee (RMAC), proposed rules, and further notices of proposed rulemaking with draft final rules. A complete account of the RMAC process is included in the preamble to the proposed regulations issued in February 1987. Based on its review, MMS hereby adopts final regulations governing the valuation of gas from Federal and Indian leases. These regulations will apply prospectively to gas production on or after the effective date specified in the DATES section of this preamble.

II. Purpose and Background

The MMS has revised the current regulations regarding the valuation of gas to accomplish the following:

(1) Clarification and reorganization of the existing regulations at 30 CFR Parts 202 and 206.

(2) Creation of regulations consistent with the present organizational structure of the Department of the Interior (DOI).

(3) Placement of the gas royalty valuation regulations in a format compatible with the valuation regulations for all leasable minerals.

(4) Clarification that royalty is to be paid on all consideration received by lessees, less applicable allowances, for production removed or sold from the lease.

(5) Creation of regulations to guide the lessee in the determination of allowable transportation and processing costs for gas to aid in the calculation of proper royalty due the lessor.

A number of sections have been renumbered and/or moved to a new subpart. Sections 202.150, 202.151, 202.152, 206.150, 206.151, and 206.152 have been revised. In addition, §§ 206.153, 206.154, 206.155, 206.156, 206.157, 206.158, and 206.159 have been added to Subpart D of Part 206.

Several general provisions which relate to both oil and gas have been added to Part 202. These provisions are included in the final rule to amend the oil valuation regulations recently published by the Department (___ FR ___, ___, 1987).

This rule applies prospectively to gas production on or after the effective date of this rule. It supersedes all existing gas royalty valuation directives contained in numerous Secretarial, Minerals Management Service, and U.S. Geological Survey Conservation Division (now Bureau of Land Management, Onshore Operations) orders, directives, regulations, and Notices to Lessees (NTL) issued over past years, particularly NTL-5 (42 FR 22810, May 4, 1977, as amended; 51 FR 26759, July 25, 1986). Specific guidelines governing reporting requirements consistent with these new gas valuation regulations will be incorporated into the MMS Payor Handbook.

For the convenience of oil and gas lessees, payors, and the public, the following chart summarizes the effects of these rules.

Regulation changes	Descriptions
I. Redesignations:	
Sections 202.150, 202.151 and 202.152 under Subpart D are redesignated as new §§ 202.100, 202.53, and 202.52, respectively.	This administrative action more appropriately locates within 30 CFR the information contained in these sections.
II. Removals:	
Sections 206.106 and 206.107 are removed from Subpart C of Part 206	These requirements have been incorporated into § 202.150 and 202.151.
III. Additions:	
New §§ 202.150, 202.151, and 202.152 are added to Subpart D of Part 202. New §§ 206.10, 206.153, 206.154, 206.155, 206.156, 206.157, 206.158, and 206.159 are added to Subparts A and D of Part 206.	These new sections provide gas valuation standards and procedures and identify allowable costs for transportation and processing to be deducted from gas royalty value.

The rules in § 206.150 expressly recognize that where the provisions of any Indian lease, or any statute or treaty affecting Indian leases, are inconsistent with the regulations, then the lease term, statute, or treaty governs to the extent of the inconsistency. The same principle applies to Federal leases.

A separate gas definitions section applicable to the royalty valuation of gas is included in this rulemaking in Part 206. All definitions contained under each subpart of Part 206 will be applicable to the regulations contained in Parts 202, 203, 207, 210, and 241.

III. Response to General Comments Received on the Proposed Gas Valuation Regulations and Related Topics

The notice of proposed rulemaking for the amendment and clarification of regulations governing valuation of gas for royalty computation purposes was published in the **Federal Register** on February 13, 1987 (52 FR 4732). This was followed by a Further Notice of Proposed Rulemaking (52 FR 30776, Aug. 17, 1987), and a Second Further Notice of Proposed Rulemaking (52 FR ___, ___, 1987). Over 150 comments were received from interested persons including Indian lessors, the States, and industry.

The Indian commenters included tribal groups, a tribal council, and Indian trade groups. Various government agencies, including State entities, Federal agencies, State associations, State Governors, and local governments also commented. Industry commenters included oil and gas companies, individual commenters, and several industry trade groups.

Many commenters made comments on the basic issues and principles underlying the proposed rulemaking without addressing specific sections of the proposed regulations, but addressing the basic premise underlying the proposed valuation methodology.

The respondents were generally composed of two groups, with industry generally on one side and States, Indians, and local governments on the other. Industry generally endorsed the basic principles underlying the proposed regulations. Although the industry commenters objected to many of the specific provisions of the proposed rules, they stated generally that a market-oriented approach based on gross proceeds from arm's-length contracts would fulfill MMS's goals of creating royalty certainty, fairness, and long-term revenue maximization. Some industry commenters advocated the adoption, in total, of the Royalty Management Advisory Committee (RMAC) Gas Panel's recommendations as the only proper solution to the valuation issue. States, Indians, and local governments, on the other hand, generally objected to the basic premise of the proposed valuation methodology that gross proceeds from arm's-length contracts represent value. They also objected to other parts of the proposed regulations for a variety of reasons.

The general comments raised by industry, States, and Indians may be categorized similarly to those raised with respect to the oil valuation regulations: (1) Acceptance of gross proceeds under an arm's-length contract, or the benchmark, as the value for royalty purposes; (2) deduction of transportation costs; (3) legal mandates and responsibilities toward Indians; (4) complexity and obscurity of regulations and definitions; and (5) economic impacts. Because the general issues raised and MMS's responses thereto are so similar, MMS hereby incorporates the discussion in the General Comments portion of Section III of the Preamble to the final oil valuation regulations (___ FR ___, ___, 1987) as if fully and completely set forth herein.

IV. Section-by-Section Analysis and Response to Comments

Comments were not received on every section of the proposed regulations. Therefore, if those sections were not changed significantly from the proposal, there generally is no further discussion in this preamble. The preamble to the proposed regulation (52 FR 4732, Feb. 13, 1987) may be consulted for a full description of the purpose of those sections. For other sections, this preamble will address primarily the extent to which the final rule was changed from the proposal or, in some instances, from the draft final rules. Again, a complete discussion of the applicable sections may be found in the preamble to the proposed regulation.

The mineral leasing laws require that the Secretary receive a royalty on the "value of production" from minerals produced from Federal lands, but value is a word without precise definition. "Men have all but driven themselves mad in an effort to definitize its meaning." *Andrews v. Commissioner of Internal Revenue*, 135 F.2d 314,317 (2nd Cir. 1943). The word "value" has sometimes been modified by the words "fair market", although the mineral leasing law provisions on "value of production" do not include these words. But these adjectives do not really clarify the word value. The word "fair" can modify the word value as in "fair value" or it can modify the word market as in "fair market." The term "fair value" may not be interpreted the same as the "fair market" value. The term fair market value, however, has been generally accepted to be the price received by a willing and knowledgeable seller not obligated to sell from a willing and knowledgeable buyer not obligated to buy. Willing, knowledgeable, and obligated are again adjectives which are not terms of precise definition. These general concepts, however, were still the general principles which were followed in drafting these regulations on valuation of production for the purpose of calculating royalties. The general presumption is that persons buying or selling products from Federal and Indian leases are willing, knowledgeable, and not obligated to buy or sell. Because the U.S. economy is built upon a system in which individuals are provided the opportunity to advance their individual self interest, this seems to be a reasonable presumption. This system and its reliance on self-motivated individuals to engage in transactions which are to their own best interest, therefore, is a cornerstone of the regulations.

The purpose of the regulations is to define the value of production, for royalty purposes, for production from Federal and Indain lands. Value can be determined in different ways, and these rules explain how value is to be established in different circumstances.

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Value in these regulations generally is determined by prices set by individuals of opposing economic interests transacting business between themselves. Prices received for the sale of products from Federal and Indian leases pursuant to arm's-length contracts are often accepted as value for royalty purposes. However, even for some arm's-length contracts, contract prices may not be used for value purposes if the lease terms provide for other measures of value (such as Indian leases) or when there is a reason to suspect the bona fide nature of a particular transaction. Even the alternative valuation methods, however, are determined by reference to prices received by individuals buying or selling like-quality products in the same general area who have opposing economic interests. Also, in no instance can value be less than the amount received by a lessee in a particular transaction.

Section 202.150 Royalty on gas.

Indian commenters recommended that paragraph (a) should provide specifically that Indian lessors, as well as MMS, have the right to require payment in kind for royalties due on production.

MMS Response: Most Indian lessors have the authority to require payment in kind for royalties due on production. To the extent the lease terms so provide, the lessor may take its royalty in kind. However, because requests to take royalty in kind may involve operational difficulties for the lessee, as well as a change in accounting and reporting procedures necessary for MMS to properly monitor royalty obligations, MMS will continue to administer such requests. Therefore, if an Indian lessor wants royalty in kind, he or she must contact MMS. The MMS then will make arrangements with the lessee for the in-kind payment.

The MMS also has added a provision clarifying that, when royalties are paid in value, the royalties due are equal to the value, for royalty purposes, multiplied by the royalty rate.

Section 202.150(b)

The MMS received many industry comments stating that unavoidably flared gas should be exempt from royalty requirements. Commenters stated that the definition of the term "unavoidably lost" should be incorporated in § 206.151, Definitions. The commenters also recommended that this paragraph address the procedures for obtaining permission to use gas off-lease for the benefit of the lease.

One industry commenter recommended deletion of the phrase "when such off-lease use is permitted by the appropriate agency." The commenter recommended that legal interpretations affecting the inclusion of any on-lease or off-lease use could be more appropriately covered in the MMS Payor Handbook.

Industry commenters also stated that on-lease or off-lease royalty-free gas use should also include gas used in post-production operations, including boosting residue gas delivery pressure and other operations incidental to marketing, because this gas is used for the benefit of the lease.

One industry commenter recommended the inclusion of the following language: "Gas used for the benefit of the lease is royalty free, which includes gas used in lease equipment located on a platform or in a central facility serving multiple leases. Such platform or central facility may be located on a lease other than the one physically providing gas used."

One industry commenter did not agree that the standard for royalty liability detailed in this paragraph is consistent with section 308 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1750, which limits royalty liability to loss or waste owing to negligence or noncompliance with operational requirements.

Two industry commenters proposed that MMS consider expansion of the clause to include all gas used "on or off a lease as long as it is for the benefit of the lease."

Industry commenters endorsed MMS's decision that gas used offlease for the benefit of the lease is royalty-free when such use is permitted by the appropriate agency.

Some Indian commenters also recommended that any royalty-free use of gas be subject to prior approval to ensure that production from Indian leases is not disproportionately used in royalty-free operations.

MMS Response: The determination of whether or not gas has been unavoidably or avoidably lost and whether or not gas used is royalty-free (whether used offlease or onlease) are operational matters covered by the appropriate regulations of the Bureau of Land Management (BLM) and MMS for onshore and offshore operations, respectively. The BLM's requirements are governed by the provisions of Notice of Lessees and Operators No. 4A. The MMS's requirements are governed by the provisions of OCS Order No. 11. Therefore, although these comments raised many substantive issues, they are not properly addressed in this rulemaking. The MMS does not believe that prior approval for royalty-free use of gas is warranted because most leases, by their specific terms, allow royalty-free use of gas and it is a matter which will be reviewed during audits to prevent abuse.

Proposed § 202.150(b)(2), which addressed royalty-free use of gas for leases committed to unit or communitization agreements, has been expanded in the final rules to also cover production facilities handling production from more than one lease with the approval of the appropriate agency. Although MMS is satisfied that this issue is an operational matter governed sufficiently by the appropriate operation of the unit agreement or communitization agreement and BLM's and MMS's regulations, the number of comments received regarding this issue led MMS to believe that reiterating these operational requirements was advisable. This regulation simply provides that a disproportionate share of the fuel consumed at a production facility serving multiple leases may not be allocated to an individual lease without incurring a royalty obligation on a portion of the fuel.

One industry commenter was strongly in agreement with § 202.150(b)(3) of the proposed rules, which recognizes the provisions of Indian leases that are inconsistent with the regulations.

One Indian commenter stated that this paragraph may not act to the benefit of Indian lessees unless MMS makes a specific requirement by instruction, manual releases, or notices to lessees with respect to the specific valuation guidelines to be applied.

MMS Response: The provisions of proposed § 202.150(b)(3) were adopted in the final rules § 202.150(b)(3). In most instances, the valuation regulations will apply equally to both Federal and Indian leases. This section covers any leases which may be inconsistent with the regulations. The final regulations recognize the primacy of statutes, treaties, and oil and gas leases and provide a means for dealing with special valuation requirements for both Indian and Federal leases.

Section 202.150(c)

Section 202.150(c) was proposed as § 206.150(d). It provides that if the BLM (for onshore leases) or MMS (for offshore leases) determines that gas was avoidably lost or wasted, then the value of that gas will be determined in accordance with Part 206. This section also applies to gas drained from onshore leases for which BLM determines that compensatory royalty is due.

One industry commenter stated that the term "avoidable" indicates that such losses could have been anticipated and eliminated and that serious charges like these should be documented and proven, not merely assumed after the loss has been reported. Therefore, the commenter takes exception to this regulation.

MMS Response: Avoidably lost determinations are handled by personnel responsible for lease management operations, BLM onshore and MMS offshore, and are not a valuation issue. Any operator or lessee that BLM or MMS notifies of an avoidable loss determination has the right to appeal the determination if it is believed to be unjust or unfair.

One Indian commenter stated that payment should be due for the entire value, and not just the royalty portion of gas that is determined to have been avoidably lost or wasted from Indian leases.

One industry commenter stated that it should be made clear in this provision that the amount due for avoidably lost gas should be a royalty value and not the total value (100 percent).

MMS Response: The MMS policy for offshore leases is to assess only royalty for gas determined to have been avoidably lost. This also is BLM's policy for onshore leases for gas avoidably lost on and after October 22, 1984. This date is the effective date of BLM's revised regulations at 43 CFR 3162.7–1(d) (49 FR 37356, September 21, 1984), which included the provision for royalty on avoidably lost gas in accordance with section 308 of FOGRMA, 30 U.S.C. 1756. The MMS and the BLM believe that collection of royalty provides an effective deterrent to wasting gas.

Section 202.150(d)

Section 202.150(d) was proposed as § 206.150(e) and requires royalties to be paid on insurance compensation for unavoidably lost gas.

Several industry commenters stated that to require a lessee to pay royalties on any compensation received "through insurance coverage or other arrangements for gas unavoidably lost is unfair." They stated that insurance proceeds are not received for the sale of production and should not be subject to sharing with the lessor. They believe, however, that if MMS insists on collecting a portion of such proceeds, the cost of such insurance coverage should be allowed as a deduction from royalty.

The MMS removed the insurance compensation section from the first draft final rule. Many Indian and State commenters thought this change was unfair, stating that if the lessee was compensated for the production, the lessor should then receive its royalty share.

MMS Response: The MMS has reinstated this provision in the final rules. However, royalties are due only if the lessee receives insurance compensation from a third person. No royalty is due where the lessee self insures.

Section 202.150(e)

Several industry commenters opposed § 202.150(e), which was proposed as § 202.150(c). They questioned the authority to require other non-Federal/Indian lessees to pay royalties on leases on which they are not the lessee. According to the commenters, this could present gas balancing problems where production taken by a lessee falls below that lessee's production entitlement. These commenters suggested that proposed § 202.150(c) fails to recognize the marketing aspects of production.

MMS Response: Section 202.150(e) of the final rules states that all production attributable to a Federal or Indian lease under the terms of the agreement is subject to the royalty payment and reporting requirements of Title 30 of the Code of Federal Regulations even if an agreement participant actually taking the production is not the lessee of the Federal or Indian lease. Most important, however, § 202.150(e) requires that the value, for royalty purposes, of this production be determined in accordance with 30 CFR Part 206 under the circumstances involved in the actual disposition of the production. As an example, if a Federal lessee does not sell or otherwise dispose of its allocable share of unit production, it will be sold or otherwise disposed of by one of the other unit participants. If one of the unit participants other than the Federal lessee transports unprocessed gas to a sales point off the unit area under an arm's-length transportation agreement and then sells the gas under an arm's-length sales contract, the value, for royalty purposes, will be that participant's gross proceeds less the costs of transportation incurred under the arm's-length transportation agreement. This provision does not address the issue of what participant must report and pay the royalties; it only addresses the issue of valuation.

Through these rules, MMS does not require non-Federal and non-Indian lessees to conform to these regulations for valuing production. The MMS merely has required that the lessee must determine its royalty liability in accordance with the other interest owners' contracts or proceeds as long as those royalties comply with these value regulations. Any gas balancing problem that may exist because of interest owners taking more than their entitlement is a matter to be settled by the agreement members.

Two industry commenters also stated that the foreseeable results of this paragraph include: "* * * (1) chronic late payments of royalties; (2) inconsistent AFS and PAAS reporting; (3) difficulty in determining proper royalty values where the overproduced working interest owners dispose of production pursuant to non-arm's-length transactions; and (4) excessive accounting and administrative costs for MMS and all working interest owners."

MMS Response: The MMS believes that lessees will be able to comply with the requirements of the regulations.

Some industry commenters recommended that paying and reporting royalties be accomplished solely on the basis of sales. According to these comments, because royalties will have been paid on total sales from the leases, there should be no decrease in royalty payments due over the life of the lease through the use of the sales approach.

MMS Response: Paying and reporting royalty solely on the basis of sales would not conform to the requirements of the federally approved agreement or the terms of the lease. Therefore, it is not an acceptable procedure.

Section 202.151 Royalty on processed gas.

Section 202.151(a)

Two industry commenters recommended deleting the word "reasonable" before the words "actual costs" in paragraph (a) because the lessee should be able to deduct actual costs from the processed gas value.

MMS Response: The MMS's policy is to allow "reasonable" actual costs incurred by the lessee for processing lease production. The MMS does not believe that it should share in unreasonable costs and has not adopted this suggestion.

Section 202.151(b)

Several industry commenters stated that an allowance for boosting residue gas should be allowed under paragraph (b) for operation of the processing plant. The rationale was that costs associated with this process are incurred as a result of processing and should not be regarded as costs necessary to place the gas in marketable condition.

MMS Response: The regulations generally maintain the MMS's policy that the lessee is required to condition the production for market. The cost for boosting residue gas is considered as a

cost necessary to place the gas in marketable condition, and will not be an allowable deduction.

Three industry commenters recommended deleting the word "reasonable" before the words "* * * amount of residue gas * * *" and allow actual amounts of residue gas royalty free. Indian commenters were concerned that the regulation should specify that residue gas could not be disproportionately charged to their leases royalty free.

MMS Response: Historically, MMS's policy has been to allow a reasonable amount of residue gas to be royalty free for the operation of a processing plant. In most instances the actual amounts of residue gas used are considered to be reasonable. However, the final rule specifies that only a lease's proportionate share of the residue gas necessary for the operation of the processing plant may be allowed royalty free. Although adopted in response to the concerns of Indian commenters, this provision is equally applicable to all Federal and Indian leases.

Section 202.151(c)

Two industry commenters strongly endorsed the language set forth in paragraph (c).

One Indian commenter stated that "* * * the Secretary should not retain unilateral authority to authorize the royalty-free reinjection of residue gas or gas plant products from Indian production into unit areas or communitized areas." The recommendation was that the volume of royalty-free residue gas or gas plant products which can be reinjected into a unit area should be limited to the ratio of lease production to total unit production multiplied by the volume of unit production reinjected.

One industry commenter requested clarification that the use of the word "reinjection" includes original injection. In addition, the commenter recommended deletion of the qualification "* * * when the reinjection is included in a plan of development or operations and the plan has received BLM or MMS approval, * * * " because the recovery must be paid for entirely by the lessee.

MMS Response: The BLM or MMS for onshore or offshore operations, respectively, has the authority to approve the plan of development or operations. The issue regarding reinjection of residue gas or gas plant products is a matter which is addressed by the appropriate operational regulations of BLM and MMS.

The MMS received a comment regarding the requirement for dual accounting in § 206.155. That commenter stated that dual accounting should be required in all cases where gas is processed from onshore Federal and Indian leases, because that is the only way to ensure that royalty is paid on that portion of the gas stream leaving the lease which becomes a liquid during the transmission of the gas to the plant. These liquids are commonly referred to as drip condensate. The commenter pointed out that in many instances the company transporting the gas retains these liquids and the lessee makes no royalty payment for this portion of the production removed from the Federal or Indian lease.

MMS Response: As the commenter properly pointed out, royalty is due on all gas production removed from the lease, including any gas which becomes a liquid during transmission to a gas plant. When gas is sold at the lease and the lessee does not retain or exercise the right to process the gas, the total gas production removed from the lease is properly accounted for at that point. Thus, the issue of royalty on drip condensate is not involved in these instances.

When gas is processed by the lessee, any portion of the gas removed from the lease which becomes a liquid during transmission to a gas plant must be accounted for to properly define the value of the total gas production removed from the lease upon which royalty is due. Although MMS is not adopting the recommendation to require dual accounting in all cases where gas is processed, MMS is modifying the final rules in § 202.151 and § 206.153 to specify this requirement. Therefore, it is being made clear that the value of gas which is processed by a lessee must include the combined values of the residue gas, all gas plant products *and* any condensate recovered downstream of the point of royalty settlement without resorting to processing.

Section 202.152 Standards for reporting and paying royalties on gas.

Section 202.152(a)

One industry commenter recommended that the phrase "if the Btu value is required pursuant to the lessee's contract" be added to the end of the last sentence of paragraph (a)(2). This commenter stated that Btu measurement is an expensive process and should not be required periodically unless necessary.

One Federal agency commenter stated that the frequency of Btu measurement be required quarterly, if not monthly, if not covered by the lessee's contract. This commenter stated that there are many situations which may require more frequent monitoring of the Btu heating value to assure proper assessment of gas royalties.

MMS Response: The Btu measurement is necessary in determining the proper value of the gas for royalty purposes. In addition, the BLM onshore and MMS OCS operations regulations require periodic Btu measurements.

Section 202.152(b)

One industry and one Federal agency commenter suggested that the words "where applicable" be added at the end of paragraph (b)(2). They stated that when the production is composed of carbon dioxide, nitrogen, or helium there will be no applicable Btu value.

MMS Response: This regulation has been modified in the final rule to read as follows: "Carbon dioxide (CO_2), nitrogen (N_2), helium (He), residue gas, and any other gas marketed as a separate product shall be reported by using the same standards specified in paragraph (a)." The concern expressed regarding Btu values for nonhydrocarbon gases is resolved by the inclusion of the words "where applicable" in the final rule for paragraph (a).

Regarding paragraph (b)(4), one Indian commenter stated that if sulfur is sold in a unit other than a long ton, the lessee should be allowed to report it to MMS and to Indian lessors in that unit.

MMS Response: The unit for reporting sulfur volumes must be standardized for reporting purposes. The most common unit used by industry for reporting sulfur is the long ton. A simple arithmetic formula can be used to convert a unique sales unit to long tons.

Section 206.150 Purpose and scope.

Section 206.150(a)

Several commenters suggested that Indian and Federal lands are dissimilar and deserve separate treatment when valuation and other gas production matters are under consideration. They recommend that separate regulations be promulgated for Indian leases.

MMS Response: The MMS believes that because these regulations provide for a reasonable and appropriate value for royalty purposes, completely separate rules for Federal and Indian leases generally are unnecessary. The regulations in § 206.150(b) recognize the primacy of terms of statutes, treaties, and oil and gas leases which provide special valuation requirements for both Federal and Indian leases. In addition, certain additional provisions applicable only to Indian leases have been included in these regulations.

The MMS has added a general statement that the purpose of this subpart is to establish the value of production for royalty purposes consistent with the mineral leasing laws and other applicable laws and lease terms.

Section 206.150(b)

One industry commenter suggested the addition of the phrase "in the event that any term of an approved existing unit or communitization agreement is inconsistent with the final rule, then such agreement will govern to the extent of the inconsistency."

MMS Response: Section 18 of the standard Federal form of a unit agreement states: "The terms, conditions, and provisions of all leases, subleases, and other contracts relating to exploration, drilling, development or operation for oil or gas on lands committed to this agreement are hereby expressly modified and amended to the extent necessary to make the same conform to the provisions hereof * * *." Therefore, the offered language is unnecessary owing to this existing unit agreement provision.

One Indian commenter suggested the addition of the phrase "provisions of Title 25 of the Code of Federal Regulations will supersede the provisions of this part, to the extent of any inconsistency."

MMS Response: The valuation regulations which were in Title 25 of the Code of Federal Regulations are identical to the provisions of many Indian leases. Therefore, these final regulations would cover any inconsistencies with lease terms if there were any. Moreover, BIA has amended the valuation regulations in 25 CFR simply to refer to the MMS valuation regulations. See 52 FR 31916, Aug. 24, 1987.

Indian commenters recommended that where provisions of any Indian lease, or any statute or treaty affecting Indian leases, as stated or as interpreted by the courts, are inconsistent with the regulations, then the lease, statute or treaty, or court interpretation would govern to the extent of the inconsistency.

MMS Response: This suggestion was not adopted because it was not considered necessary. If the regulations are inconsistent with the requirements of any court decision, the court decision would take precedence.

One commenter suggested that MMS include in this section reference to settlement agreements resulting from administrative or judicial litigation. It was pointed out that some settlement agreement provisions may vary from the regulations.

MMS Response: The MMS has made the suggested change in the final rules because the terms of a settlement of administrative or judicial litigation will govern.

Section 206.150(c)

One industry commenter requested that consideration be given to the establishment of a "statute of limitations" for MMS audit and adjustment purposes. This commenter suggested that a 6-year period be adopted which would commence with the filing of the lessee's royalty report. It was also suggested that a provision be included for the lessee and MMS to mutually agree to waive the limitation for specific incidents and items under appeal or before the courts, but it should never apply in cases of fraud. This would partially relieve both the lessee and MMS of records archival responsibility and the associated costs, which are significant. Also, the limitation goes well beyond the cost-effective period for conducting normal compliance and followup audits. The suggested statute of limitations could be similar in concept and language as that used by the Internal Revenue Service.

MMS Response: The MMS performs all audits in accordance with 30 CFR 217.50. Any limitation such as that suggested would properly be included in a rulemaking to amend that section of the regulations. Therefore, it is beyond the scope of this rulemaking. The MMS has modified the provision in the final rule to make it clear that this provision applies to payments made directly to Indian Tribes or allottees as well as those made to MMS either for Federal or Indian leases. The MMS will address the issue of audit closure elsewhere.

Section 206.150(d)

The MMS received many comments from Indians that this section should specifically reference the Secretary's trust responsibilities to the Indians.

MMS Response: The MMS has incorporated the suggested change.

Section 206.150(e)

The MMS received a comment from an Alaska Native Corporation stating that MMS should not make the new regulations applicable to the proportionate share of production which corresponds to an Alaska Native Corporation's proportionate share of leases acquired under section 14(g) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1613(g). Under section 14(g), a native corporation can acquire all or part of the lease. The commenter's point was that at the time a proportionate interest in a lease is acquired, the native corporation had an expectation of what royalties it would receive, and it would be inequitable for MMS to modify that expectation for leases or portions of leases which MMS does not even own.

MMS Response: The MMS agrees with the comment. Therefore, regulations, guidelines, and Notices to Lessees in effect on the date that an Alaska Native Corporation acquired any proportionate interest in a lease will continue to apply to that interest.

Section 206.151 Definitions.

"Allowance"—One industry commenter suggested that the proposed definition be modified as follows: "Processing allowance means an allowance for processing gas; i.e., an authorized or an MMS-accepted or-approved deduction for the costs of processing gas determined pursuant to §§ 206.158 and 206.159." The same commenter stated further that "Transportation allowance means an allowance for moving unprocessed gas, residue gas, or gas plant production to a point of sale or point of delivery remote from the lease, unit area, communitized area, or processing plant; i.e., an authorized or an MMS-accepted or-approved deduction for transportation costs, determined pursuant to §§ 206.156 and 206.157." This commenter recommended deleting the phrase "for the reasonable, actual costs incurred by the lessee." The method of determining the allowance should be addressed in the regulation setting forth the calculation method, not in the definition of allowance. If MMS adopts comparable arm's-length transportation and processing costs as a benchmark for non-arm's-length contracts, the above cited phrase could be incorrect in certain instances."

A few industry and one Indian commenter stated that certain terms incorporated in the definition are subjective in nature. One industry commenter stated: "The New Rules do not draw a clear, objective line between costs that may be deducted and costs that may not be deducted. What is 'remote'? What is 'field gathering'?" Two industry commenters want the word "reasonable" deleted in the definition of "processing allowance and transportation allowance." They believe that the "Lessee should be entitled to deduct actual cost of processing and transportation. 'Reasonable' implies that the deduction may be something less than actual." One Indian commenter stated: "* * * the use of the terms

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accepted and approved call into question important issues regarding the relationship of the acceptance or approval with later audit. We assume that acceptance would not preclude later audit review and disallowance or modification when justified." One industry commenter suggested deleting the words "remote from" and replacing them with "off." The commenter "believes what is really intended by the phrase 'remote from' is to cover transportation to sales and delivery points off the lease."

Finally, one Indian commenter, referring to "allowance," pointed out that: "The definition should clearly specify that the transportation allowance applies only to transportation from *the lease boundary* to a point of sale remote from the lease and that such costs be reasonable, actual, *and necessary.*"

MMS Response: The final rule includes some modifications to the proposed language. It should be noted that processing and transportation allowances are "accepted" subject to review and/or audit. The MMS also has deleted the phrase "remote from the lease" and replaced it with the phrase "off the lease" for clarification that any transportation off the lease, except gathering (see definition below), is eligible for an allowance.

"Area"—One industry commenter stated that "'Area' should be more precisely defined so that there are reasonable limits to how large an 'area' is. In addition, for the sake of clarification, the words 'or producing unit' should be inserted after 'oil and/or gas field' * * *."

MMS Response: For royalty computation purposes, the definition of "area" must remain flexible so that it may be applied to diverse situations. The size of an "area" may vary with each specific royalty valuation determination for gas.

"Arm's-length Contract"—The proposed definition of "arm's-length contract" was addressed by a large number of State, Indian, and industry commenters.

Many commenters stated that the proposed definition of arm's-length contract was so restrictive that many perfectly valid arm's-length transactions may fail to qualify, thus potentially rendering this key element of the benchmark system meaningless. These commenters suggested that MMS should adopt a definition of "affiliated person" based on control versus mere ownership of stock. They stated that in order to eliminate this problem, the underlying language should be deleted in favor of language already adopted by BLM in its regulations implementing section 2(a)(2)(A) of the Minerals Lands Leasing Act of 1920 (MLLA). The rule, 43 CFR 3400.0–5(rr)(3), added by 51 FR 43910, 43922 (1986), specifies that:

Controlled by or under common control with, based on the instruments of ownership of the voting securities of an entity, means:

(i) Ownership in excess of 50 percent constitutes control;

(ii) Ownership of 20 through 50 percent creates a presumption of control; and

(iii) Ownership of less than 20 percent creates a presumption of noncontrol.

One industry commenter further recommended that "* * * MMS also adopt a 5% ownership threshold, below which there is an absolute presumption of noncontrol which is not subject to rebuttal. The 5% threshold is taken from the Investment Companies Act [* * *] which establishes that there is no effective affiliation between parties when direct or indirect ownership of voting stock is below 5%."

One industry commenter stated: "Additionally, for those companies in which there is a definite controlling interest, a transaction should still be treated as arm's-length if the controlling company is regulated by a regulatory agency who approves rates or tariffs charged to third parties."

Many industry commenters recommended changing MMS's reference from "persons" to "parties." One of these commenters stated that "Involvement in one or more joint operations with a competitor should not be viewed as materially affecting the arm's-length nature of transactions between the firms. However, the reference to 'joint venture' in the definition of 'person,' which is referenced in the proposed definition of arm's-length contract, could be improperly construed as including normal joint oil field operations conducted under the terms of joint operating or similar agreements. Joint operations clearly involve no interlocking ownership of the instruments of voting securities as between the firms. Joint operations are undertaken to accomplish effective reservoir management, to satisfy spacing requirements, or to share the enormous costs involved in certain OCS and frontier areas."

One industry commenter was concerned that: "The proposed language does not clarify at what time affiliation is to be determined. Is it when the contract is originally executed or some subsequent time during the term of the contract? In the current climate of mergers and acquisitions, affiliation may change." Another industry commenter stated that, although the definition of "arm's-length contract" is well written, any additional language elaborating on the state of being affiliated should be deleted because it would allow auditors to reject too many arm's-length contracts.

One State commenter stated that "The definition of 'arm's-length contract' is clearly deficient because it is limited to formal affiliation or common ownership interests between the contracting parties. The assumption behind accepting arm's-length contract prices is that those prices will reflect market value. The definition proposed by MMS ignores the fact that parties may have contractual or other relationships or understandings which would cause them to price gas below its value, especially if the benefit of the reduced royalty burden can be shared by means of the gas sales contract." One Indian commenter questioned "* * * whether there are any truly arm's-length relationships in today's market which would make an arm's-length valuation method valid. We are particularly concerned that the arm's-length label essentially forecloses any scrutiny by MMS of the value reported by the lessee." One State/Indian association stated that nonaffiliation does not guarantee arm's-length: "For example, arrangements between families (via blood, kinship, heir, or marriage) offer similar conditions for influencing proceeds subject to royalty."

Two State commenters, one State/industry association, one Indian, and one Indian trade group are of the opinion, as expressed by one commenter, that: "MMS's desire for an 'almost purely objective' test provides a totally inadequate justification for giving away the power to prevent manipulation of the public's royalties." These commenters conclude that: "The definition as proposed is not workable even though it is objective." They suggest that MMS's definition in the draft regulations presented to the RMAC would allow more legally accurate results:

> *Arm's-length contract* means a contract or agreement that has been freely arrived at in the open marketplace between independent, nonaffiliated parties of adverse economic interest not involving any consideration other than the sale, processing, and/or transportation of lease products, and prudently negotiated under the facts and circumstances existing at that time.

Some Indian and State commenters agreed that, as one commenter phrased it: "The adverse economic interest and open market requirements have long been standard criteria for determining the arm's-length nature of contracts. These criteria have allowed for an accurate line of demarcation between arm's-length and non-arm's-length."

One State commenter supplied the following questions to be asked to test the arm's-length nature of a contract: "(1) Is there an individual who is a board member, officer, partner or employee of one of the contracting parties, and also a board member, officer or employee of the other? (2) What, if any, other commercial relationships exist or are being proposed between the buyer and seller? (3) Is there any family relationship between the buyer and seller? (4) Is there any other special relationship between the parties to the gas sales contract?"

Based on the numerous comments concerning the originally proposed definition, MMS included in the first draft final rule a definition which adopted the "control" language found in the BLM's regulations at 43 CFR 3400.0–5(rr)(3) quoted above. In response to those commenters who believed that parties to an arm's-length contract must have adverse economic interests, MMS included in the first draft final rule definition a provision which required that, to be arm's-length, a contract must reflect the total consideration actually transferred from the buyer to the seller either directly or indirectly. For example, if the parties to the contract agreed that the price for gas from a Federal or Indian lease would be reduced in exchange for a bonus price to be paid for other production from a fee lease, MMS would not treat that contract as arm's-length.

Many of the comments on the first draft final rule again focused on the definition of arm's-length contract. Most of the industry commenters thought that the reference to "reflects the total consideration actually transferred directly or indirectly from the buyer to the seller" did not belong in the definition of arm's-length contract. Rather, they stated that it properly should be dealt with as a "gross proceeds" issue. The States and Indians commented that a reference to adverse economic interests still was necessary. They also thought that there must be a requirement of a free and open market. Finally, the States and Indians thought that MMS should lower the control threshold to 10 percent and that MMS should have more flexibility to rebut presumptions of noncontrol. Many of these commenters also thought that the rules should state that the lessee has the burden of demonstrating that its contract is arm's-length.

MMS Response: The MMS has adopted many of the suggested changes to the definition. The MMS agrees that the "total consideration" issue is properly a gross proceeds matter that does not reflect the affiliation of the parties. Thus, that phrase has been deleted from the arm's-length contract definition and the matter dealt with under the definition of "gross proceeds". The MMS did not adopt the concept of "free and open market" because that concept is highly subjective. However, MMS did include a requirement that the contract be arrived at "in the marketplace" in support of the concept that an arm's-length contract must be between nonaffiliated persons. Also, in furtherance of that concept, MMS included a provision that an arm's-length contract must be between persons with opposing economic interests regarding that contract which means that the parties are acting in their economic self-interest. Thus, although the parties may have common interests elsewhere, their interests must be opposing with respect to the contract in issue. The MMS has not reduced the control threshold to 10 percent, although it should be understood that MMS can rebut presumptions of noncontrol between 0 and 20 percent.

Many commenters thought that MMS's inclusion of joint venture in the definition of "person" improperly narrowed the definition of arm's-length contract. These commenters have misconstrued MMS's intent. The definition of "person" includes joint ventures because there are instances where joint ventures are established as separate entities. In those situations, if a party with a controlling interest in the joint venture buys production from the joint venture entity, that contract is non-arm's-length. However, MMS is aware that it also is common for companies to jointly contribute resources to develop a lease and then share the production proportionately. In a situation where four totally unaffiliated companies share the production, if one of the companies buys all of the production from the other three, those three contracts would be considered arm's-length. The company's purchase from its affiliate, of course, would be non-arm's-length.

The MMS also has included in the arm's-length definition a provision whereby if one person has less than a 20-percent interest in another person which creates a presumption of noncontrol, MMS can rebut that presumption if it demonstrates actual or legal control, including the existence of interlocking directorates. For example, there may be situations wnere ownership of 5 percent of a very large corporation could give a person sufficient control to direct the activities of that corporation. Where there is evidence of actual control, MMS can rebut the presumption of noncontrol.

Finally, in response to those commenters who believed that the lessee has the burden of demonstrating that its contract is arm's-length, MMS has included such a provision in the valuation sections. See §§ 206.152(b)(1)(i) and 206.153 (b)(1)(i).

The MMS may require a lessee to certify ownership in certain situations. Documents that controllers or financial accounting departments of individual companies file with the Securities and Exchange Commission concerning significant changes in ownership must be made available to MMS upon request.

The final rule also provides that to be considered arm's-length for any specific production month, a contract must meet the definition's requirements for that production month as well as when the contract was executed.

"Audit"—One industry commenter expressed concern over MMS's interpretation of what constitutes an audit: "MMS's use of terms such as 'review,' 'examination,' rather than 'audit,' arbitrarily eliminates the right of lessees to offset overpayments and underpayments discovered during the course of an audit." This commenter believes that an account reconciliation by MMS should be termed an audit.

One Indian commenter did not disagree with the definition but thought that the processed information available to MMS is not adequate to perform thorough audits. "Our view of the definition of audit is academic because the MMS will accept payment reports without review in the future as in the past, unless resources and personnel are provided by the Tribe to accomplish the task."

One industry commenter stated that the review and resolution of exceptions processed by MMS's automated systems constitutes auditing by mail. The industry takes exception to this procedure.

MMS Response: The MMS has simplified the definition of "audit" as follows: "Audit means a review, conducted in accordance with generally accepted accounting and auditing standards, of royalty payment compliance activities of lessees or other interest holders who pay royalties, rents, or bonuses on Federal and Indian leases."

"Compression"—One industry commenter suggested deleting the

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definition because the term does not require an explanation.

MMS Response: The MMS believes that the definition should be retained because it clarifies a term used in the regulations.

"Field"—One industry commenter suggested adding the underlined language to clarify that this definition is for royalty purposes: "Field means, *for purposes of oil and gas royalty,* a geographic region * * *."

MMS Response: The additional language proposed by the commenter is unnecessary because the underlying premise of all the definitions contained in § 206.151 is that they are for royalty purposes.

"Gas"—One industry commenter stated that "The term should refer to unprocessed gas. The chemical definition is inappropriate in this context because it fails to distinguish between manufactured and raw gas."

MMS Response: The MMS believes that the definition adequately and correctly defines the term "gas" in language which is accepted by the oil and gas industry.

"Gas Plant Products"—One industry commenter stated that the phrase "excluding residue gas" should be deleted from this paragraph. According to this commenter, "Residue gas is a manufactured product as that term has been used by Federal courts in the royalty context. See *U.S.* v. *General Petroleum; California* v. *Seaton* affirmed *California* v. *Udall* * * *. If gas is processed, or manufactured there is no rational basis for limiting the deduction of manufacturing costs against the value of only gas plant products other than residue."

One industry commenter suggested, "* * * we think the word 'nitrogen' should be excluded from the definition of 'Gas Plant Products' since some natural gas is high in this component, and there is currently a small or nonexistent market for small amounts of nitrogen. Purchasers have traditionally downgraded the price for high nitrogen gas, and if producers have to bear additional royalty as well, they may elect to shut in or plug wells due to poor economics."

MMS Response: The MMS does not agree that the phrase "excluding residue gas" should be deleted from this paragraph. Historically, no processing allowance has been allowed to be applied against the residue gas, and MMS generally has retained this position in the final rule. The MMS has also concluded that the definition should not be modified to exclude nitrogen. The MMS has, however, included in § 206.158(d) a provision for an extraordinary processing allowance for atypical types of gas production operations.

"Gathering"—MMS received numerous comments from industry concerning the phrase "or to a central accumulation or treatment point off the lease, unit or communitized area as approved by BLM or MMS OCS operations personnel for onshore and OCS leases, respectively." These commenters stated that the phrase was unclear and that it should be removed from the definition.

MMS Response: The definition has been retained intact. The operational regulations of both BLM and MMS require that a lessee place all production in a marketable condition, if economically feasible, and that a lessee properly measure all production in a manner acceptable to the authorized officials of those agencies. Unless specifically approved otherwise, the requirements of the regulations must be met prior to the production leaving the lease. Therefore, when approval has been granted for the removal of production from a lease, unit, or communitized area for the purposes of treating the production or accumulating production for delivery to a purchaser prior to the requirements of the operational regulations having been met, MMS does not believe that any allowances should be granted for costs incurred by a lessee in these instances.

"Gross Proceeds"—MMS received a large number of comments on this definition.

Three Indian, one State, and one State/Indian association commenter supported the definition and urged MMS to retain the entitlement concept despite pressures to the contrary. A State commenter stated that "MMS has correctly resisted lessee efforts to exclude the royalty owner from sharing in some kinds of consideration, such as severance tax reimbursement and take or pay payments." This commenter recommended clarifying the first sentence by amending it as follows: "Gross proceeds (for royalty purposes) means the total monies and *the value of* other consideration paid *or given* to [an oil] and gas lessee, or monies and *the value of* other considerations to which such lessee is entitled, for the disposition of gas." The commenter stated that "These additions are necessary because when 'consideration' is not in the form of 'monies' it is necessary to determine its value."

Many industry commenters opposed the definition of "gross proceeds" as proposed because they believed it is too expansive and contrary to the provisions of the Mineral Lands Leasing Act and the OCS Lands Act. Instead, they propose the following: "Gross proceeds (for royalty payment purposes) means the consideration accrued to the lessee for production removed or sold from Federal, Indian Tribal or Indian allotted leases." One commenter stated further that "Such definition is unambiguous, furthering the MMS's desire for certainty in its regulations. Reimbursement for production-related costs and take-or-pay payments are currently being litigated. If it is eventually determined that royalty is owed on such payments such definition will not have to be modified. On the other hand, the proposed definition will have to be amended if industry is successful in its claims that royalty is not due on such amounts." One industry commenter proposed adopting the definition of "gross proceeds" endorsed by a majority of the RMAC Gas Panel. It reads: "* * * all consideration due and payable to the lessee for the sale of gas and processed gas products, less any applicable allowances for transportation, processing and other post production expenses."

Several of the industry commenters disagreed with the entitlement language contained in the originally proposed definition. Their concerns are represented by the following statement from one of the comments: "Proceeds have long been defined and understood to mean the consideration, money or the monetary equivalent of other nonmonetary consideration *actually received by a lessee.* The MMS' expansive definition of proceeds, including monies to which a lessee is *entitled,* makes product valuation uncertain and subjective. This uncertainty and subjectivity arises because: (1) The meaning of entitlement is not clearly understood, nor is it a clearly defined legal term; (2) lessees do not know how either they or MMS will, or should, apply this standard; and (3) the required steps which a lessee must take to secure entitlements to consideration are unknown. It will put MMS into the business of second guessing lessee's business transactions. To minimize this second guessing problem of uncertainty we recommend the concept of entitlement be eliminated from further consideration." One industry commenter was concerned that "a lessee would be required to pay royalties on monies to which it is entitled, not on what is received or on what is settled for as a matter of compromise." In order to add more certainty to the concept of "entitlement," one commenter suggested "a simple statement to the effect that

MMS expects to be indemnified against the negative consequences of a lessee sleeping on its *clear cut uncontested* contract rights should suffice."

Many industry commenters had the opinion, as one commenter phrased it, that "Federal statutes, regulations, and leases do not require lessees to pay royalty on reimbursements received for post-production services." Several commenters believed that "the claim for royalty on production-related cost reimbursements received by a lessee pursuant to the FERC's Order No. 94 series is particularly inappropriate." One commenter stated that "a demand for royalties on Order No. 94 violates the royalty clause of the MLA, the OCSLA, as well as MMS's own regulations implementing these statutes, for at least two reasons. First, these reimbursements do not result from the production of gas but from services performed by the producer subsequent to production. Second, such reimbursements are not consideration for production that is sold or removed and are thus outside the scope of the royalty clause. Consequently, the MMS' proposal to include production-related cost reimbursements in the definition of gross proceeds is simply wrong." Another industry commenter "strongly asserts the producer's right to deduct all post-production costs involved in marketing gas. Further tax reimbursements should be exempt from royalty." Finally, one industry commenter stated that "all post-production costs should be shared by lessor and lessee because such costs enhance the value of the production for the benefit of both lessor and lessee."

Many industry and a few individual commenters responded to the inclusion of take-or-pay payments in the definition of "gross proceeds." The consensus among these commenters is that MMS has no lawful reason or authorization to collect royalties on take-or-pay payments. One commenter stated that "the typical take-or-pay clause in a contract between the lessee and the gas purchaser requires the purchaser to pay for the specified minimum quantity of gas for each contract year. Whenever the gas purchaser takes less than the contract minimum for a particular year, the purchaser is required to make a take-or-pay payment to the lessee. The purpose of take-or-pay payments is to guarantee the lessee a steady cash-flow, regardless of the level of actual production, to meet its operation and maintenance costs. The payments are not for production; indeed, they are made in lieu of taking production. Consequently, to the extent the lessee receives take-or-pay payments there is no gas production or sale because the gas remains in the ground."

Several industry commenters recommended the increased use of "in-kind" royalty clauses to resolve good faith royalty disputes. One industry commenter stated "indeed, the 'in-kind' standard should be considered as the measure of product 'value,' where a producer and the MMS, or a State auditor under a delegation of authority, disagree over whether a contract is 'arm's-length,' or over contract 'entitlements,' the gas should be taken 'in-kind,' by volume at the wellhead. This means that the royalty owner must assume all subsequent costs of marketing the gas."

MMS Response: In the draft final rule, MMS included a definition which was only slightly different than the proposal. In this final rule, MMS has again made a slight modification, discussed below. The MMS retained the intent of the proposed language because gross proceeds to which a lessee is "entitled" means those prices and/or benefits to which it is legally entitled under the terms of the contract. If a lessee fails to take proper or timely action to receive prices or benefits to which it is entitled under the contract, it must pay royalty at a value based upon that legally obtainable price or benefit, unless the contract is amended or revised. As is discussed more fully below, gross proceeds under arm's-length contracts are a principal determinant of value. The MMS cannot adopt that standard and then not require lessees to pay royalties in accordance with the express terms of those contracts. It is MMS's intent that the definition be expansive to include all consideration flowing from the buyer to the seller for the gas, whether that consideration is in the form of money or any other form of value. Lessees cannot avoid their royalty obligations by keeping a part of their agreement outside the four corners of the contract. Moreover, as noted earlier, many commenters stated that the "total consideration" concept properly belonged as part of gross proceeds, not in the definition of arm's-length contract. Therefore, MMS has purposefully drafted the gross proceeds definition to be expansive and thus include all types of consideration flowing from the buyer to the seller. Toward that end, MMS has replaced the word "paid" used in the draft final rule with the term "accruing." There may be certain types of considerations which are not actually paid by the buyer to the seller, but from which the seller benefits. The term "accruing" ensures that all such consideration is considered gross proceeds.

Costs of production and post-production costs are lease obligations which the lessee must perform at no cost to the Federal Government or Indian owner. The services listed in the definition are all benefits that a lessee may receive under the terms of the contract and are considered part of the value, for royalty purposes, for the production removed or sold from the lease.

It is MMS's position that take-or-pay payments are part of the gross proceeds accruing to a lessee upon which royalty is due.

The MMS retains the exclusive right to determine when it will accept "in kind" production in fulfillment of a lessee's royalty obligation.

"Lease"—One Indian commenter stated the following: "Inclusion of any contract profit-sharing arrangement, joint venture or other agreement in the term lease as opposed to a more standardized BIA form lease may cause confusion. Most joint ventures and profit-sharing arrangements contain explicit provisions on payment of expenses and division of revenues."

MMS Response: This definition must be broad enough to cover any agreement that may be issued or approved by the United States for either Federal or Indian lands.

"Lease products"—One industry commenter stated: "Lease products definition should be deleted as it eliminates the important and necessary distinction between raw gas and manufactured products. Use of the phrases 'gas' and 'gas plant products' is preferable as it serves to make this distinction."

MMS Response: The MMS believes that this definition is appropriate and correct and does not eliminate any distinction between raw gas and manufactured products. The definition of the terms "gas" and "gas plant products" will be retained in the definitions paragraph.

"Lessee"—Several industry representatives and trade groups commented that the proposed definition of "lessee" is too broad. One commenter stated that "As drafted, it would include any person who pays royalties, notwithstanding the fact that such payors may have no contractual obligation to the lessor to make royalty payments. Thus, under the proposed definition, the voluntary royalty remitter would become subject to all of the royalty valuation obligations imposed on lessees and would consequently,

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become directly liable for any infractions of the application reporting and payment regulations, a result which is not sanctioned by existing statutory law. To be consistent with that law, industry suggests that MMS substitute for its definition of "lessee" the one which is contained in section 3(7) of the Federal Oil and Gas Royalty Management Act (FOGRMA), 30 U.S.C. 1702(7):

"Lessee" means any person to whom the United States, an Indian Tribe, or an Indian allottee, issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease."

Most of these commenters favored this definition because "the statutory definition includes persons who have been issued a lease or who have been *assigned* an obligation to make royalty or other payments required by the lease. The gas proposal would wrongfully expand the definition to include any person who has *assumed* an obligation to make such payments."

One industry commenter recommended adding the phrase "for royalty payment purposes" directly after the word "Lessee" for the purpose of clarity. "We do not believe it is the intent of Congress that a lessee be able to divest himself of all lease obligations by someone else merely assuming royalty responsibility."

MMS Response: The MMS agrees with the comments regarding consistency with the definition found in FOGRMA and, therefore, has replaced the word "assumed" with the word "assigned." It should be specifically noted that the term "assigned," as used in this Part, is restricted to the assignment of an obligation to make royalty or other payments required by the lease. It is in no way related to lease "assignments" approved through the MMS, BLM or BIA.

"Like-quality lease products"—Some Indian commenters recommended deleting any reference to legal characteristics from this definition. They felt that by using legal characteristics of gas in defining like-quality gas many elements would be used to differentiate gas in such a manner as to lower gas values. They were concerned that gas sold in intrastate commerce would not be considered as being like-quality to gas sold in interstate commerce. They felt that such distinction would be contrary to court rulings. Further, the Indian commenters felt that gas should be considered only on its chemical and physical characteristics.

MMS Response: The MMS believes that legal characteristics of gas must be considered in determining like-quality production. However, the legal characteristics of gas intended to be considered under this definition are limited to categories under NGPA and the price regulated or deregulated status of the gas. The MMS does not believe that mixing NGPA categories of gas or comparing regulated to deregulated gas is reasonable when defining like-quality gas for royalty purposes. Without such distinction, gas that is price regulated at levels below $1.00 per MMBtu might be used to demonstrate the acceptability of a price for gas that should be compared to gas selling for prices in excess of $2.00 per MMBtu under market-sensitive contract provisions free from Federal price controls. Similar problems could result by mixing price regulated gas with price deregulated gas, even though the gas qualifies under the same provisions of NGPA. For example, between January 1, 1985, and July 1, 1987, all wells qualifying under NGPA section 103 qualified under section 103(c). However, there were two different maximum lawful price ceilings prescribed by this section and a provision that deregulated certain section 103 gas. Regarding the distinction between intrastate and interstate sales, it has not been MMS's practice, nor is it intended to be under these final regulations, to incorporate the market chosen by a lessee in the definition of like-quality gas (unless adopted as a requirement by NGPA in defining categories).

"Marketable Condition"—One industry commenter suggested changing the definition to "Marketable Condition means condition acceptable to the purchaser under its sales contract."

One industry commenter suggested adding the words *"and/or transporter"* after the word "purchaser" in the definition.

One industry commenter stated that phrases such as "sufficiently free from impurities" and "a contract typical for the field or area" are subjective and ambiguous. The commenter stated that "All references to 'marketable condition' should be dropped in the final regulations. Instead, the regulations should reflect the distinction between production and post-production costs and clearly allow the lessee with an arm's-length contract to deduct post-production costs."

One industry commenter stated that "The proposed definition of 'marketable condition' is problematic because it seems to set up a normative standard for the condition of a product, when in fact products may be sold profitably in a variety of conditions. We do not believe the lessee should be required to meet a specific set of processing criteria in all circumstances. The lessee, for its own profit and for that of its lessor, must be able to evaluate potential benefits and costs under each circumstance without being bound by what the lessor may consider 'typical' for the field or area. Furthermore, regarding the term 'typical', what was typical 20 years ago almost certainly is not typical now; yet there is no reference in this definition to the need for contracts to be fairly contemporaneous in order to be comparable. The definition set forth in the report of RMAC's Gas Working Panel is far preferable to the proposed rule."

MMS Response: The MMS believes that the definition is clear, concise, and equitable. The definition is not subject to manipulation, as one commenter stated. Furthermore, the suggestion that a uniform standard be developed for what is "marketable" is unrealistic because the gas marketplace is dynamic. The definition, as written, allows MMS the latitude to apply the concept of "marketable" in a fair and correct manner, now and in future gas markets. Therefore, the MMS has not made any changes to the proposed definition.

The MMS received several comments that sales to marketing affiliates who then resell the gas to third persons should not be treated under the rules as non-arm's-length sales. The MMS has addressed this issue in the valuation rules, discussed below, and is including a definition of marketing affiliate as an affiliate of the lessee whose function is to acquire *only* the lessee's production and to market that production.

"Net-back Method"—One industry commenter recommended deleting the second sentence of the definition because the procedure for performing a net-back calculation cannot be adequately explained in one sentence. Another industry commenter believed that the reference to net-back method needs clarification. A net-back is simply a means for reconstructing the value of gas to the well and has nothing to do with valuing the disposition of the gas at a point remote from the well. Consequently, a net-back procedure can be employed simultaneously with another valuation criterion to arrive at the value at the well."

One industry commenter stated the following about the definition: "It is vague because there is no explanation of what 'working back' means; it is overly broad because the first 'use' of virtually all gas is downstream from the lease. In addition, exclusive reliance on costs, however 'costs' are determined, may well understate the value added to production by downstream value-enhancement activities."

One State commenter stated that "the definition is internally inconsistent because it declares the 'net-back method' to be a method for valuing 'unprocessed gas' which is first sold downstream of, among other things, 'processing plants.' One of these references must ue deleted to preserve consistency. The concept is vague because no standard is provided for determining what is meant by the phrase 'first alternative point which can be used for value determination.' "

MMS Response: Upon review, MMS determined that the proposed definition of net-back was too broad—it applied to any situation where lease production is sold at a point remote from the lease. The MMS's intent is that a net-back method be used for valuation primarily where the form of the lease product has changed, and it is necessary to start with the sales prices of the changed product and deduct transportation and processing costs. An example would be where gas production from a Federal lease is used on lease to generate electricity which is then sold. If the value of the gas cannot be determined through application of the first three benchmarks in the regulations (see § 206.152(c)), then a net-back method would involve beginning with the sale price of the electricity and deducting the costs of generation and transportation, thus working back to a value at the lease. In the draft final rule, MMS used the phrase "ultimate proceeds" to try and refer to the downstream product. Many commenters thought the term would result in MMS doing a net-back from the furthest downstream product, even to the point of "Stainmaster Carpet" or "model airplanes." This was not MMS's intent. Therefore, the term "ultimate" has been deleted and a reference included to starting the net-back at the first point at which reasonable values for any product may be determined by comparison to other sales of such products. Thus, if there are five different stages of chemical or fiber products between raw gas production and "Stainmaster Carpet," if the value of the second product can be determined through comparisons with sales of other such products in the same market, MMS would begin the net-back from that product, not from the carpet.

"Net Output"—One industry commenter recommends "substituting the phrase 'actually extracts' for 'produces'. Net output of a plant is that which is *actually extracted*, not theoretically extractable."

MMS Response: The MMS disagrees with the commenter's recommended addition. The phrase "actually extracts" could be interpreted as meaning something different than "is produced."

"Person"—One industry commenter recommended replacing the word "firm" with "company" in the interest of clarity.

Several industry commenters expressed the opinion that if the definition is not altered "then inclusion of joint venture in the definition of person could be extended to oil and gas joint venture operations and further narrow the definition of an arm's-length transaction by clouding the issues of control and affiliation. The sale of hydrocarbons produced through joint venture operations should not be presumed to be other than arm's-length because the individual parties and not the 'joint venture' are responsible for making their own sales of their share of the production." One industry commenter stated that the solution to the problem is to delete the term "joint venture" from the definition. Another industry commenter proposed the following definition: "Person means any individual, firm, corporation, association, partnership, consortium, or joint venture. For purposes of this definition, association, partnership, consortium or joint venture shall not include any relationship or arrangement resulting from persons entering into any joint operating agreement, production sharing agreement, farm-out or farm-in agreement, or any similar agreement or contracts generally found in the oil and gas industry for the cooperative exploration of mineral resources."

MMS Response: The MMS's modification to the definition of arm's-length contract to include the "control" language should satisfy the problems identified in the comments. Therefore, MMS will retain the proposed definition of "person" in the final rule.

"Posted Price"—One industry commenter stated that the word "posted" is an outdated term which should be deleted and that the following *underlined* language should be added to the definition. "Posted price means the price in the field, net of all deductions, as specified in a publicly available * * * price bulletin *or price notices available as part of normal business operations to an operator desiring to do business with specific purchasers,* that a buyer is willing to pay for quantities of unprocessed gas, residue gas, or gas plant products of marketable condition * * *." The commenter also stated that, "if gas price bulletins become generally circulated, it may be that some buyers may not publish a price bulletin as that term is normally used in the industry, but will provide and make available price quotations or notices to any operator (seller) desiring to do business with the buyer."

MMS Response: The MMS has revised the definition in the final rule. For clarification purposes, the word "condition" replaces the word "quality" which follows the word "marketable" in the first sentence. The phrase "net of all deductions" has been modified to read "net of all adjustments." As used in this definition, the term "adjustments" refers to deductions from the price of gas or gas plant products for quality adjustments. Adjustments for location also may be taken into account where appropriate.

"Processing"—Two industry commenters recommended "that a clarifying statement be included to recognize that a plant may be located on the lessee's Federal/Indian lease. If a gas plant is located on a lease, then any of the 'field processes', as set out in the definition, may well be an integral part of the plant process and consequently must be considered elements of processing." One industry commenter suggested that the following sentence be inserted between the proposed second and third sentences: "However, these processes will be considered as processing if they are included as an inherent part of the process to separate the produced gas into gas plant products and residue gas." Two industry commenters recommended "The addition of the word 'fractionation' at the end of the first sentence. Fractionation is a plant process and an allowance should be granted as is currently allowed by MMS."

One Federal agency commenter stated that some confusion may arise when comparing proposed § 206.151(bb) to proposed § 206.158(d). "Once the gas reaches the gas plant it would be arguable that any process associated with treating the gas, such as dehydration or mechanical separation, is generating a gas plant product that would be eligible for a processing cost deduction."

One industry commenter suggested changing the definition of "processing" to: " *'Manufacturing:'* The transformation of a raw gas stream into one or more saleable products by processes other than dehydration, standard field conditioning and separation techniques. Manufacturing includes gas processing, sweetening, purification, desulfurization, gas separation, adsorption, absorption, liquefaction and other extraction techniques. Furthermore, gas processing should be defined as: *Gas Processing:*

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The manufacturing technique whereby wet gas is treated to remove natural gas liquids such that the natural gas liquids and dry residue gas are separately marketable." This commenter thinks that "manufacturing also includes the physical operation attendant to the specific manufacturing process such as the dehydration and compression steps which occur within a gas plant. The MMS has instead attempted to limit its attention to 'gas processing' and thus provides an allowance only to such operations. The position of the MMS is based upon a clear misapplication of the *Udall* case, namely, that all operations for placing gas in marketable condition, *including manufacturing operations*, are not deductible. Compounding its error, the MMS ignores the *General Petroleum* holding, not affected by *Udall*, that residue gas is a manufactured product, and so proposes that no manufacturing cost be deducted against the residue gas."

One State commenter stated that the definition of "processing" is very vague. According to this commenter, the distinction between "field processing" and other "processing" is not clearly drawn. The commenter asserted that "The ambiguity of the definition of 'processing' would not be so troubling except for the fact that it seems to control the meaning of the term 'unprocessed gas,' which is not defined in the proposed regulations despite its critical importance. One would think that regulations aimed at providing certainty would present clear guidelines for identifying the 'processing' costs in which the royalty owner must share."

MMS Response: The MMS has considered the comments carefully but disagrees that the proposed definition is confusing and vague. Therefore, it will be retained unchanged in the final rule.

"Residue Gas"—One industry commenter suggested that "Residue gas may also include ethane." Another industry commenter recommends deleting this definition but states: "Nevertheless, if this definition is maintained residue gas should be restricted to residue gas resulting from processing sweet gas containing hydrocarbons."

MMS Response: The MMS has not adopted the suggestions made by the commenters and the definition remains unchanged. The definition recognizes that residue gas may include ethane.

"Spot Sales"—One industry commenter suggested deleting all language in the proposed definition that follows the word "duration." According to this commenter, "The additional language is not necessary to define a spot sales agreement as it defines what is *not* required, versus what *is* required."

One industry commenter suggested deleting the clause "* * * which does not require a cancellation notice to terminate * * *." "Many spot sales agreements require ten (10), thirty (30), or sixty (60) days notices of cancellation * * *. The MMS purpose of including only those contracts which do not imply an intent to continue in subsequent periods is adequately served by the balance of the definition."

Three industry/trade group commenters recommended that this paragraph should be retitled as " 'spot/direct sales agreements' and a definition for direct sales be added as follows: A direct sale (which generally does not contain a reserve dedication) is a similar agreement but is usually made with an end user or local distribution company *and can be a short or long term contract.*"

One industry commenter recommended adding the following sentence to the definition: "A spot or direct sale which meets all of the criteria of an arm's-length contract as defined in § 206.151(d) of these regulations shall be treated as an arm's-length contract according to these regulations." The commenter believes that the proposed definition must clearly state that a spot sales agreement will be treated as arm's-length if it meets all the requirements of an arm's-length agreement.

MMS Response: In the final rule, MMS has inserted the word "normally" immediately preceding the phrase "require a cancellation notice to terminate." The MMS also agrees that there are spot sales which constitute arm's-length contracts. However, to be considered as a comparable arm's-length contract in the valuation of gas which is not sold pursuant to an arm's-length contract, these contracts also must meet other standards. See, for example, § 206.152(c)(1).

"Take-or-pay payment"—Several industry comments were received on this definition and all recommended its deletion. The comments are reflected by the following statement of one of the commenters: "While the definition proposed is technically correct, it should be deleted from the proposed rule because, as stated in the discussion of § 206.151(m) above, take-or-pay payments are not consideration for the sale of production."

MMS Response: The MMS is retaining the definition as proposed, with minor modification. The MMS already addressed above the issue of whether take-or-pay payments should be included in gross proceeds.

"Warranty Contract"—One industry commenter stated that "the exclusion of warranty contracts from the valuation of gross proceeds under an arm's-length contract is intended to exclude those low-value warranty contracts that were entered into prior to the mid 1970's. However, the proposed definition is so broad that it will encompass future negotiated selling arrangements." To clearly express the MMS's intent, the commenter "proposes that the definition be restricted to those contracts entered into before a specific date."

MMS Response: The MMS has modified the definition to refer only to long-term contracts entered into prior to 1970. This also includes contracts entered into prior to 1970 that may have been amended either before or after 1970.

Proposed New Definitions

Commenters have proposed adding the following definitions to the list of existing definitions: natural gas liquids; post-production costs; production; production costs; royalty; and unavoidably lost gas.

MMS Response: The MMS has decided not to include any of the suggested additional definitions. The terms either have a recognized meaning (such as "royalty") or are not used in the regulations (such as "postproduction costs").

Section 206.152 Valuation standards—unprocessed gas.

Section 206.152(a)

Paragraph (a)(1) provides that the provisions of § 206.152 apply only to gas that is sold or otherwise disposed of by the lessee pursuant to an arm's-length contract prior to processing. The section expressly does not apply to contracts where the lessee reserves the right to process the gas or to percent of proceeds contracts. Several industry commenters stated that the proposal to exclude percent of proceeds contracts from this section is unreasonable and unfair to the lessee. They stated that the percentage of proceeds mechanism is a means of arriving at the wellhead value and is not a sale of processed gas. All industry commenters recommended classifying percent of proceeds contracts under unprocessed gas.

MMS Response: The MMS still believes that the percentage of proceeds contracts should be treated as processed gas as proposed. However, because the final rule includes provisions for an exception from processing allowance limitations (see § 206.158(c)(3)), many of the commenters' concerns should be resolved.

An Indian commenter stated that this section is inconsistent with the ruling in *Jicarilla Apache Tribe* v. *Supron*, which held that under the terms of the Indian leases in dispute, wet gas had to be valued as the higher of the value at the lease or as the value of all products at the tailgate of the plant, less transportation and processing costs.

MMS Response: The MMS's regulations recognize the primacy of statutes, treaties, and oil and gas leases, thus providing a means for determining special valuation requirements not only for Indian leases, but also for Federal leases. Many Indian leases have provisions that require dual accounting for processed Indian gas production.

Section 206.152(a)(2)

One Indian commenter stated that this proposed rule authorizes alterations in dealings between the Indian lessor and the industry lessee. The commenter further stated that this provision will result in royalties which are adjusted for transportation costs not contemplated by either party to the lease. The commenter recommended that all references to transportation allowances be deleted and that value be defined, for royalty purposes, to be the fair market value of the gas at the lease in marketable condition.

One industry commenter objected to the concept of determining royalty on the value of gas and the associated products after completion of the manufacturing or processing phase. The commenter recommended that royalty be due only on the market value of the product as it is produced at the wellhead.

Industry commenters recommended that the phrase "less applicable transportation" should be expanded to include other cost allowances such as production costs.

MMS Response: The MMS has modified the final rule to refer to "applicable allowances" because the final rule includes provisions for limited extraordinary cost allowances in addition to transportation allowances. In response to the comments, transportation allowances generally are appropriate for most Indian leases. The regulation refers to "applicable" allowances and does not imply that any and all transportation costs can be deducted. If transportation allowances are not appropriate, the word "applicable" restricts application only to those leases where they can be applied.

The MMS is including in the final rule a new paragraph (a)(3) which states that for any Indian leases which provide that the Secretary may consider the highest price paid or offered for a major portion (major portion) in determining value, MMS will, where data are available and where it is practicable, compare the value determined in accordance with the prescribed standards with the major portion. The rule provides that the royalty value, for royalty purposes, will be the higher of those two values. The draft final rule included a provision that if MMS determines that the major portion results in an unreasonably high value, then it will not be used for royalty purposes. Many Indian commenters thought that, for their leases which include a specific reference to the major portion, that value should establish a minimum value, and that a major portion value in most cases will be reasonable because at least half the gas is sold at or above that price. The MMS agrees and has made the change to the final rule.

The MMS is also including in paragraph (a)(3) a description of how the major portion is computed. It will be determined using like quality gas, which includes legal characteristics (generally, the specific NGPA category). Only gas sales under arm's-length contracts will be used because non-arm's-length contracts may not reflect market value. The production will be arrayed from highest price to lowest price (at the bottom). The major portion is that price at which 50 percent (by volume) plus one mcf of the gas (starting from the bottom up) is sold.

The MMS believes that for these Indian leases, by comparing the major portion to values determined using arm's-length contract prices or the benchmarks for non-arm's-length contracts, and using the higher of the two, the Indians will be receiving royalties in accordance with their contract with the lessee.

Section 206.152(b)

Several industry commenters stated that they supported the concept of relying on gross proceeds in an arm's-length transaction as the principal determinant of value. Some industry commenters also endorsed the overall approach to valuation determination procedures and eliminating the requirement that a lessee obtain preapproval.

One Indian commenter recommended that a definition of gas value, for royalty purposes, be based on the highest price paid or offered for similar gas in the same field or area, and requested MMS to adopt the following approach:

Section 206.102 (sic) Valuation Standards.

(a) Remains the same.

(b) The value of gas which is sold pursuant to a contract shall be the gross proceeds accruing, or which could accrue, to the lessee, *provided that* such proceeds do not fall more than 10 percent below the greater of the highest price paid or posted for similar gas in the same field or area. If such proceeds fall more than 10 percent below such prices, the value of gas in that case shall be 10 percent below the greater of the highest price paid or posted for similar gas in the same field or area.

A State commenter stated that the proposed regulations would allow substantial manipulation and undervaluation of the royalty amount because it is unacceptable to allow lessees to use contract prices as the royalty value without adequate safeguards to assure a fair valuation. They recommended at a minimum, only prices under "genuine" arm's-length contracts should be acceptable for royalty purposes and urged MMS at least to impose a floor value, such as 80 percent of the value of production as determined under the "value" criteria applicable to gas not sold under arm's-length contracts.

One Indian commenter recommended the inclusion of provisions specifically reserving to MMS the right to review and audit "arm's-length" contracts and that the proceeds under all contracts should be subject to price checks—market value analysis—before being accepted as value. Another Indian commenter requested that all arm's-length contracts be filed with MMS and that MMS require that agreements for the sale or disposition of gas within different branches of the same company be in writing and on file.

One Indian commenter stated that "if MMS is to properly undertake its responsibilities, a predetermination of value on which royalty is to be based should be made *before* production value is reported." In addition, it was recommended that the Secretary should determine whether each contract is arm's-length or non-arm's-length instead of allowing the lessee to make this determination. Also, it was suggested that the Secretary should have all benchmarks available to him and MMS should have the flexibility to set benchmark minimum prices established by the highest price paid or offered for a major portion of gas produced from the field or area.

MMS Response: The suggestions to predetermine the value on which royalty is to be based were not adopted because of the increase in administrative burden

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which would be very costly for MMS (and, in some instances, to industry). An internal sales agreement cannot be considered to be arm's-length.

In response to a large number of comments from the States, Indians, and industry, MMS has modified the regulations which govern the valuation of gas production sold pursuant to arm's-length contracts. For almost all such sales, the value for royalty purposes will continue to be the gross proceeds accruing to the lessee. Under MMS's existing regulations, the lessee's gross proceeds pursuant to an arm's-length contract are acceptable, though not conclusively, as the value for royalty purposes. The MMS believes that the gross proceeds standard should be applied to arm's-length sales for several reasons. The MMS typically accepts this value because it is well grounded in the realities of the market place where, in most cases, the ⅞ths or ⅝ths owner will be striving to obtain the highest attainable price for the gas production for the benefit of itself; the royalty owner benefits from this incentive.

It also adds more certainty to the valuation process for payors and provides them with a clear and logical value on which to base royalties. Under the final regulations, in most instances the lessee will not have to be concerned that several years after the production has been sold MMS will establish royalty value in excess of the arm's-length contract proceeds, thereby imposing a potential hardship on the lessee. This is particularly a concern for lessees who have long-term arm's-length contracts where sales prices under newer contracts may be higher. If MMS were to establish royalty value based on prices under those newer contracts; *i.e.*, prices which the lessee cannot obtain under its contract, the resulting royalty obligation could, in some instances, consume the lessee's entire proceeds.

Establishing gross proceeds under an arm's-length contract as the royalty value also has benefits for MMS and those States which assist MMS in the audit and enforcement effort. The gross proceeds standard will give auditors an objective basis for measuring lessee compliance. It will reduce audit workload and reduce the administrative appeal burden which results when valuation standards are too subjective, particularly when values are determined to be in excess of a lessee's arm's-length contract gross proceeds.

The MMS recognizes, however, that there must be exceptions to the general rule that the lessee's arm's-length contract price should be accepted without question as the value for royalty purposes. One such situation is where the contract does not reflect all of the consideration flowing either directly or indirectly from the buyer to the seller. By way of illustration, in return for Seller's reduced price for gas production from a Federal lease, Buyer may agree to reduce the price of oil it sells to the Seller from a non-Federal lease. This agreement is not reflected in the gas sales contract. In the event that MMS becomes aware of consideration that exists outside the four corners of the contract, even if the parties are not affiliated and the contract is "arm's-length," MMS may require in paragraph (b)(1)(ii) that the gas production be valued in accordance with paragraph (c), the standards used to value gas disposed of under non-arm's-length contracts. Under these standards, the lessee's gross proceeds still may determine value, but the lessee will be required to demonstrate comparability to other arm's-length contracts.

The MMS recognizes that some parties may have multiple contracts with one another. This fact alone would not cause a contract to be treated as non-arm's-length. Rather, there must be some indication that the contract in question does not reflect the full agreement between the parties. Although many commenters disagreed with the requirement, the final regulations also include a provision whereby MMS may require a lessee to certify that the terms of its arm's-length contract reflect all the consideration flowing from the buyer to the seller for the gas. The commenters believed that values already were subject to audit and that was a sufficient safeguard. The MMS is retaining this provision because there may be circumstances where an auditor could not reasonably be expected to find other consideration yet there is good reason to believe it exists. Because of the potentially severe penalties for a false certification, this will assure that no other consideration exists when the certification is received.

In other situations it may not be apparent why an arm's-length contract price is unusually low, yet the lessor should not accept the arm's-length contract proceeds as value. It may be because of collusion between the buyer and seller or improper conduct by the seller, or it could be the result of a patently imprudent contract. Even if the contract is between unaffiliated persons and thus "arm's-length," pursuant to paragraph (b)(1)(iii), if MMS determines that the gross proceeds do not reflect the reasonable value of the production because of misconduct by the contracting parties or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS may require that the gas production be valued pursuant to paragraph (c)(2) or (c)(3). Thus, MMS first must determine that a price is unreasonable; for example, by looking at comparable contracts and sales. Then MMS must determine that the unreasonably low price was the result of misconduct or a breach by the lessee of its duty to market its production for the mutual benefit of itself and the lessor.

The MMS believes that new paragraph 206.152(b)(1) establishes a more definable standard than paragraph (b)(1) of the draft final rule at 52 FR 30813 ("whether there may be factors which would cause the contract not to be arm's-length"). Although MMS retains the discretion under this section not to accept an arm's-length contract price as value, which many commenters thought was a necessary provision in these regulations, there are limits on the exercise of that discretion.

If valuation in accordance with the second and third benchmarks in paragraph (c) is required, then the lessee also must follow the notification requirements of paragraph (e)(3).

The suggestion that the Secretary should determine whether each contract is arm's-length or non-arm's-length was implied in the rules. However, the MMS has added a clarifying provision to the final rule which provides that the lessee will have the burden of demonstrating that its contract is arm's-length.

Section 206.152(b)(2) of the proposed rules excepted warranty contracts from the general acceptance of gross proceeds as value for arm's-length contracts. One industry commenter recommended that advance MMS approval not be required for the value of gas sold pursuant to a warranty contract since all activities are subject to audit.

Two industry commenters stated that this section should be deleted and that the gross proceeds received by the producer under a warranty contract should be used for determining royalty just as it is for other arm's-length contracts.

Two industry commenters recommended that MMS consider limiting the warranty contracts exception to those contracts entered into before a specific date, such as prior to the mid-1970's.

MMS Response: The MMS has adopted the rule that the value of gas sold pursuant to a warranty contract will be determined by MMS. The issue of limiting the definition of warranty contracts to those executed prior to 1970 was discussed above in the definition of warranty contract.

Most industry commenters strongly disagreed with the language "or which could accrue" contained throughout the regulations. Most companies recommended that the language be deleted. Most commenters stated that the language is too speculative and appears to provide for a second-guess mechanism under which a lessee's sale today can be reviewed in light of knowledge gained at a later date.

MMS Response: The MMS has determined that the phrase "or which could accrue" will be deleted in reference to gross proceeds. Many commenters thought that this phrase would allow MMS to second guess the price which the lessee agreed to in its contract by arguing that other persons selling gas may have received higher prices—thus, more proceeds "could have accrued" to the lessee. This was not MMS's purpose in including the "or which could accrue" language in the proposed rule. Rather, MMS's intent is to ensure that royalties are paid on the full amount to which the lessee is entitled under its contract, not just on the amount of money it may actually receive from its purchaser. However, MMS is satisfied that the phrase "the gross proceeds accruing to the lessee" properly includes all consideration to which the lessee is entitled under its contract, not necessarily just what it actually receives from the buyer. Therefore, the "or which could accrue" phrase was unnecessary. Because it caused confusion as to MMS's intent, it was deleted from the final rule.

One Indian commenter stated that "acceptance of gross proceeds as conclusive evidence of value is an abrogation of the Secretary's fiduciary duties, "and that they do not believe "gross proceeds accruing or which could have accrued in an arm's-length transaction should be determinative of value for gas produced from Indian and Federal leases."

MMS Response: As discussed previously, these rules do not provide for conclusive acceptance of gross proceeds except in well-defined and appropriate circumstances. The MMS believes that the rules as adopted with the changes discussed earlier will result in appropriate values for Indian leases, in accordance with the Secretary's responsibilities.

Section 206.152(c)

Gas which is not sold pursuant to an arm's-length contract is required by the regulations to be valued in accordance with a series of benchmarks. Several State, Indian, and industry commenters disagree with various aspects of the proposed benchmark system because they think that it is vague and subjective. Two State commenters stated that because the majority of gas contracts are not arm's-length, the benchmark system proposed by MMS may be too complex. They recommend that "* * * MMS should study the numerous pricing provisions related to gas sales, and on the basis of the study establish Federal floor values which could be used by lessees to compute a minimum royalty and which would be publicly available."

One State commenter believes that the appropriateness of using the benchmark system depends upon whether the benchmarks are fair and reliable. According to this commenter, "The proposed system would not be fair to the royalty owner because it would lead to the potential for abuse and would certainly result in the diminution of royalties. It would be unreliable because the standards are vague, subjective, and subject to abuse. Unlike the proposed benchmarks for oil valuation, we do not believe that the proposed gas valuation benchmarks can be developed into a fair and workable system. Instead, we believe all the factors listed in paragraphs (c)(1) through (c)(4) should be combined into a single valuation standard." One industry commenter stated that although the proposed benchmark system gives producers more confidence in arriving at value, it falls short of providing a method to determine an exact royalty amount when royalty is due.

Many industry representatives and trade groups and one Indian trade group, with minor changes, support the benchmarks and giving them priorities because both will add certainty to valuation determinations. They commend MMS for the recognition of market forces as the principal determinant of value. One commenter stated that "The truest representation of the value of a product is what it can be sold for on the open market, at arm's-length. The proposed benchmarks for valuation of gas under arm's-length contract, non-arm's-length contract, and no contract transactions promote accurate valuation according to the marketplace, and provide rational standards for MMS to follow in monitoring establishment of gas value."

Some commenters stated that the benchmarks should not be prioritized. Rather, value should be determined using the most applicable benchmark. These same commenters recommended combining the first two benchmarks. Other commenters suggested a different ordering of the benchmarks.

MMS Response: The MMS believes that a prioritized benchmark system is a valid and usable system for determining the value of gas not sold pursuant to an arm's-length contract. The system allows the lessee some certainty in determining its own value without dependence upon MMS to establish the value. The suggestion that MMS develop Federal floor values is not feasible or equitable and would be difficult to administer. Therefore, other than some minor modifications, the benchmarks have been adopted as proposed. The MMS believes that the proposed ordering of the benchmarks basically is correct and equitable to both the lessee and lessor. The MMS agrees that the net-back method will not be used frequently. The net-back analysis should only be used where less complex procedures are not feasible. For purposes of this section, MMS does not consider a situation where either transportation or processing allowances are deducted from an arm's-length delivered sales price for gas as a net back. Such procedures will typically be used for royalty valuation. See the discussion of the net-back method above.

The MMS has decided to combine the first two benchmarks. The standard still is the lessee's gross proceeds, but the lessee will be determining comparability against a broader sample which will help ensure that the lessee's gross proceeds reflect the value of the gas in the market, not just what that lessee considers to be the market value.

Some States and Indian lessors stated that when applying benchmarks, it should not be necessary in all circumstances to look to all other sales in the field. In other instances, it may be necessary to look beyond the field. The MMS agrees that the size of any sample cannot be predetermined but must be based upon the actual circumstances in the field or area.

Three Indian commenters stated that MMS's failure to recognize its obligation to maximize tribal royalties is evidenced in the proposed benchmark system. One commenter stated that "MMS, however, relies on lessee-generated information for that determination and, moreover, relies upon the truthfulness of that information. For example, under alternative number one, MMS proposes to look at the lessee's comparable contracts in the same field or area, notwithstanding possible underselling during the same period. Plainly, this benchmark is so riddled with potential conflicts of interest that it cannot possibly be urged as consistent with the Federal fiduciary duty to maximize Indian oil and gas resources." Another commenter stated that the proposed

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benchmark system is based on the premise that gross proceeds represents market value and "Gross proceeds have always been considered as the minimum value of production because it has long been recognized that price does not always indicate value. The proposed benchmarks appear to treat gross proceeds as the maximum value." This commenter "believes that gas production should be valued at the highest price posted or paid in the field regardless of whether the contract is arm's-length or non-arm's-length * * *." Finally, one Indian commenter stated that "The lease provisions should prevail and should require the Secretary to formulate and implement procedures for the majority portion analysis. These provisions of the regulations should include a statement which indicates that it will not be applied to Indian Tribal and allottee leases. If, however, these provisions will be applied to Indian tribal and allottee leases, then each benchmark should be considered a reasonable option that the Secretary can utilize to determine value and the Secretary should use the reasonable option which brings the highest revenue to the Indian Tribe or allottee."

MMS Response: The MMS believes that the regulations adopted will permit the Secretary to discharge his responsibilities to the Tribes and allottees because the value determined in accordance with the benchmarks will be compared to the major portion, with royalties due on the higher value. This process is required by paragraph (a)(3), discussed above.

One industry commenter recommended that "the last benchmark of net-back pricing be eliminated from the list because we believe that it would not be routinely used and would be administratively impractical to implement. The reference to any other reasonable method to determine value should be retained."

MMS Response: The MMS disagrees that the net-back method should be deleted. The net-back method is a viable valuation procedure, even though it will not be routinely used.

One industry commenter stated that "* * * depending upon how one treats 'spot sales', the hierarchy of measures which they establish could result in a substitution of a poorer measure for one that represents the best measure of gas value." This commenter recommended placing spot-sale agreements higher in the hierarchy of benchmarks.

MMS Response: The MMS believes that the position of "spot sales" in the benchmark system is appropriate. The first two proposed benchmarks, combined as one in the final rule, are a better measure of establishing value for royalty purposes than spot sales. The rule has been modified to reference "arm's-length" spot sales.

One industry commenter suggests that the wording of the criteria should be amended to avoid ambiguity in their application: "As currently written, these provisions are unclear as to how royalty should be valued if the proceeds under the non-arm's-length contract is not 'equivalent' to the proceeds of the lessee's arm's-length contracts (first criterion) or the arm's-length contracts of other lessees in the field (second criterion)." This commenter "* * * understands the intent of the proposed regulations is that the proceeds under the referenced arm's-length contracts would be used to set royalties, but the regulation does not expressly so state. Indeed, as presently worded, the regulation would suggest that if the non-arm's-length contract was not 'equivalent', then the next criterion in the hierarchy would apply. This ambiguity should be removed."

MMS Response: The MMS disagrees that these provisions are unclear. Under the benchmark system, value will be determined through application of criteria in a prescribed order. In other words, the second criterion would not be considered unless the first criterion could not be reasonably applied. Therefore, if the proceeds under comparable arm's-length contracts in the field are not "equivalent" to the proceeds under the non-arm's-length contract, then the first benchmark does not apply and the lessee should try to apply the second benchmark. If that one also does not apply, then the lessee must apply the third benchmark.

One industry commenter stated that "for making comparisons to arm's-length contracts, when the producer is selling gas to an affiliate and that affiliate is also purchasing gas in the same field or area under an arm's-length contract, the marketing experiences of the parties to the arm's-length contract should be a primary consideration (not just of the volume of gas sold, for example). If the producer under a comparable arm's-length contract is active in the marketplace, it is only reasonable that he would neither accept less nor pay more than the market price for gas. In addition, larger volumes of gas do not always attract a better price than a smaller volume. In some cases, the larger volume is harder to move because it has to be sold in pieces."

MMS Response: The rules, as adopted, require that there be numerous factors considered before an arm's-length contract could be deemed comparable. The purpose for consideration of these factors is to prevent abuses through application of only a few factors so that contracts containing unusually low or high prices could be used.

One industry commenter suggested "an alteration to the proposed regulations under §§ 206.152 and 206.153 to validate any intracompany or affiliate intercompany 'sale', if that transaction is monitored by a regulatory body to determine the market responsiveness of the transaction. Specifically, the commenter suggests that MMS's proposed regulations recognize the FERC's right to determine the justness and reasonableness of (producer) 'first sale' market rates, where those costs are 'passed on' to interstate pipeline sale-for-resale customers via Purchased Gas Cost Adjustment Clauses filed by interstate pipelines as part of their FERC Gas Tariff."

MMS Response: The MMS and FERC have different statutory responsibilities. It is MMS's responsibility to determine the value of production from Federal and Indian leases. Although FERC's actions may be one criterion to consider in determining value, MMS cannot accept them as conclusive.

One industry commenter stated that under the benchmark system it is difficult for an affiliated producer to prove its determination of value, especially with respect to those properties it does not operate. According to this commenter, "The MMS is in the unique position of having access to data, facts, and information that are not readily available to an individual producer. Indeed, attempts to gather such information might violate antitrust laws. Without access to this information on a continuing basis, application of these benchmarks becomes difficult, if not impossible." This commenter recommended "that the burden of proof be shifted to the MMS such that a rebuttable presumption exists that the gross proceeds accrued to an affiliated producer is reasonable value absent a clear showing to the contrary by the MMS using these benchmarks."

MMS Response: Obviously, a lessee will be able to obtain the necessary data on its sales for application of the first benchmark. The MMS also believes that in most fields or areas lessees will be able to obtain data on third-party transactions. If those data are unavailable, the lessee will have to use one of the succeeding benchmarks, but in no event can the lessee use a value which is less than its gross proceeds. Because values determined under the second and third benchmarks must be

the subject of a notice to MMS (see § 206.152(e)(3) of the final rules), and because a lessee may seek a value determination from MMS (see § 206.152(g) of the final rules), MMS is satisfied that ultimately the lessee will be able to determine the proper royalty value for its gas.

One State commenter noted that it is inappropriate to put the valuation process into a benchmark straight jacket. In addition, this commenter stated that this paragraph permits a lessee to deliberately price its non-arm's-length disposition at the lowest price it can argue to be "comparable" in the field, even where much higher values may be obtained in other dispositions from the field.

MMS Response: A lessee will have many factors to consider in establishing a price under its non-arm's-length contracts, including tax consequences and regulatory concerns. If the price selected is equivalent to the price under comparable arm's-length contracts which must meet the standards in paragraph (c)(1), MMS is satisfied that the price reflects market value and is acceptable for royalty purposes.

One Indian commenter was concerned that the lessee would apparently make the determination as to whether the "arm's-length" contract under which the comparison is made is, in fact, arm's-length. Also, although the data are subject to monitoring, review, and audit by MMS, the commenter believes that in view of the past experience with audits by MMS, the lessees' reporting of gross proceeds under non-arm's-length contracts would remain on the honor system.

MMS Response: Under most valuation procedures MMS considered for these regulations, it would be up to the lessee in the first instance to apply those procedures and report royalties each month. The MMS has adopted rules which it hopes are clear and comprehensible. It must be assumed that lessees will apply the rules properly considering the likelihood of audit and the possibility of significant interest and perhaps penalties for intentional underpayment of royalties.

One industry commenter interpreted the regulations to require that gas sold pursuant to spot-sales contracts would be valued under the first benchmark, even though "spot sales" are mentioned in a later benchmark. In addition, the best measure of value for gas sold pursuant to arm's-length spot sale contracts are those contracts and not other long-term contracts which are not comparable.

MMS Response: If a spot-sales contract is arm's-length, the value of the gas sold under it would be determined pursuant to paragraph (b), not by application of the benchmarks.

Two industry commenters stated that the net-back method should be stricken from this section because the net-back method is to be used as a benchmark only when the preceding benchmarks are inapplicable; therefore, to these commenters it seems inappropriate to include it as a presumed priority when any other reasonable method is what is actually intended.

One industry commenter stated that the reference to net-back method needs clarification. Further, the commenter stated that net-back method is simply a means for reconstructing the value of gas to the well and has nothing to do with valuing the disposition of the production at a point remote from the well.

One State commenter noted that there is no logical basis for favoring valuation on the basis of "gross proceeds" less allowable deductions while disfavoring "netback method". Also, the net-back method is essentially the same thing as "gross proceeds" with allowable deductions.

MMS Response: The MMS believes that the benchmark priority system is appropriate. As explained above in regard to the definition of net-back method, MMS does not anticipate that this method will be used frequently. It generally will be used where the nature of the product has changed (i.e., gas to electricity) and it is necessary to work back from the sales price of the electricity to get a value for the gas.

Section 206.152(d)

Two industry commenters supported the premise that "if the maximum lawful price permitted by Federal law is less than the value determined pursuant to the valuation regulations, MMS would accept such maximum price as value."

One industry commenter recommended deleting the last sentence of this paragraph because gas sold under a warranty contract is valued in the same manner as gas sold pursuant to any other arm's-length contract.

The MMS also received several comments from the Indians and States stating that the rules should specify that State and local price ceilings will not operate to limit the value for royalty purposes.

MMS Response: The final rulemaking adopts this paragraph as proposed, with the addition of a provision that price limitations set by any State or local government will not be considered to be a maximum price permitted by Federal law. Therefore, in some situations, value for royalty purposes may exceed a State or local price limitation.

The last sentence, which is now paragraph (d)(2), was not deleted because the MMS believes that warranty contracts must be viewed differently than other arm's-length contracts for purposes of value. Unlike arm's-length contracts for gas production which is committed to the contract, the seller under a warranty contract often had the sole authority to determine the origin of the gas production to be delivered. Therefore, the seller had the option not to sell particular production from a Federal or Indian lease under the warranty contract and to sell it at a higher price. Thus, although in some NGPA categories the warranty contract price is the maximum price permitted by law for gas sold *under that contract*, it is of the sole decision of the lessee to dedicate gas from Federal or Indian leases to that contract.

Section 206.152(e)

Several industry and State commenters supported establishing a valuation procedure which does not require the prior approval of MMS because it will expedite and simplify the valuation process. Two industry commenters stated that "the time during which the MMS may direct a lessee to pay royalty at a different value should be limited to a specific period so that the lessee is not required to indefinitely retain the records it relies upon to support the value determination." A State commenter noted that "Also, the lessee should be required to retain 'all data relevant to determination of royalty value', not simply the evidence supporting the lessee's claimed value. A lessee should not be allowed to destroy relevant evidence supporting a different royalty valuation, and to retain only that which is self-serving. Also, the regulation should specify that MMS 'will' order compliance when incorrect payments are discovered."

MMS Response: The MMS has adopted in the final rule a valuation procedure that generally does not require MMS's prior approval. The second sentence has been modified to read as follows: "* * * the lessee shall retain all available data relevant to the determination of value." Lessees are required to retain all records to support value determinations for a period of 6 years, unless an audit is ongoing, as mandated by section 103 of FOGRMA, 30 U.S.C. 1713. The lessee is responsible for complying fully with the regulations by properly valuing lease products, for royalty purposes, in accordance with the

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appropriate benchmark and to retain all relevant data. The MMS believes that the adopted language clearly states this requirement. The MMS also has adopted in paragraph (e)(2) of the final regulations a requirement that lessees make available to authorized MMS State and Indian representatives, or to the Department's Office of the Inspector General, arm's-length sales and volume data which it has available for like-quality production sold from the same field or area or nearby fields or areas.

Several industry commenters recommended that MMS delete the requirement of proposed paragraph (e)(2) that a lessee must notify MMS if it uses the third or fourth (now second or third) benchmarks because it is not consistent with MMS's self-implementing concept and current MMS auditing and monitoring rights are adequate to allow the MMS to verify royalty compliance.

MMS Response: The MMS believes that what is now paragraph (e)(3) in the final rule is consistent with its self-implementing policy because lessees that determine value pursuant to paragraphs (c)(2) or (c)(3) of this section must notify MMS of their determination after the fact and not before the fact. In every case, value for royalty purposes is subject to future audit. This section has been modified so that the notice is due the end of the month following the month the lessee first reports royalties on the Form MMS-2014 using paragraph (c)(2) or (c)(3).

Section 206.152(f)

One State commenter suggested that a "provision should be made for penalties for willful violations and violations made in reckless disregard of royalty obligations."

Industry representatives commented that if the lessee must pay any difference plus interest, MMS should also pay, when applicable, any difference plus any interest statutorily authorized.

MMS Response: If a lessee knowingly or willfully underpays royalty, it may be subject to civil penalties in accordance with FOGRMA, 30 U.S.C. 1719, and MMS regulations at 30 CFR Part 241. With regard to the second comment, MMS is barred by law from paying interest on royalty overpayments but is required by law (i.e. FOGRMA) to collect interest on late payments.

Section 206.152(g)

This paragraph provides that the lessee may request a value determination from MMS. One State commenter noted that "the lessee should be required to submit 'all data relevant to determination of royalty value'. Again, a lessee should not be able to limit its documentary submittal to evidence which 'supports' its claimed royalty value. Also, because of the impact upon the States and Indians, and in light of the existing cooperative and State audit programs, an opportunity should be given for review and comment on royalty determination requests by the potentially impacted State, Alaska Native Corporation, Indian Tribe or Indian allottee." One Indian commenter suggested that in addition to a lessee, a lessor should at any time be able to request a royalty value determination from MMS. This commenter also stated that "this paragraph should require MMS to notify the Tribe or allottee involved of any change in value determinations."

Six industry commenters stated that "the MMS should impose a time limitation on itself to respond to requests for valuations from a lessee, in the absence of which the lessee should not be held liable for interest or penalties for underpayment of royalty." Further, one industry commenter stated that this section should be used to allow a value determination to be made by MMS which would accommodate the circumstances of a particular lessee when its circumstances do not allow for a definitive value determination under the applicable benchmark. As an example, the commenter stated that although its gas sales are made under arm's-length contracts, the manner in which the gas is marketed (bundled sales of gas from many leases on the spot market to many purchasers) prevents the tracing of the gas produced from any one lease to a particular sales outlet and, thus, the defining of the gross proceeds received from the sale of the gas produced from that one lease.

MMS Response: The proposed language has been modified to require that a lessee submit all available data relevant to its valuation proposal. The MMS does not consider it practical to include in the regulations a requirement for review by the State or Indian lessor when a value determination is made. This does not make the cooperative audit program in accordance with FOGRMA less effective because MMS will make every effort to assist and consult with States and Indian lessors in valuation matters. The MMS also will make every effort to respond timely to requests by lessees, but this is necessarily dependent upon available resources, thus MMS cannot agree to a regulatory time limit. The MMS has added a sentence to accommodate the requested flexibility. Therefore, this section now provides that MMS may use any of the valuation criteria authorized by the regulations when issuing a value determination. The MMS has adopted this change because of the continuing changes in the way gas is marketed.

Section 206.152(h)

This paragraph provides generally that the value of production, for royalty purposes, cannot be less than the lessee's gross proceeds less applicable allowances. One industry commenter recommended that the last sentence be replaced with "* * * allowance determined pursuant to these *regulations.*" Another industry commenter recommended that the phrase "less applicable transportation and processing allowances" be expanded to include "and other cost allowances." Some industry commenters recommended deleting these paragraphs entirely.

MMS Response: For reasons discussed earlier in this preamble, MMS has determined that the phrase "or which could accrue" should be deleted from the final rule. The MMS also has modified this section to refer to all applicable allowances, not just transportation allowances.

Section 206.152(i)

This paragraph addresses the lessee's obligation to place lease production in marketable condition. Several State, Indian, and individual commenters agree with the MMS's proposed provision that costs such as those for compression to meet pipeline pressure requirements to place the gas in marketable condition should be borne by the lessee.

One industry commenter was concerned that "marketable condition" is not a constant, although they acknowledge the lessee should act as a reasonably prudent operator in marketing its products. Many industry commenters believed that the statutory framework and lease terms provide that royalty is due only on the market value of gas as it is produced at the wellhead and any obligation the lessee may have to render the gas marketable does not entitle the lessor to a free ride on those expenses incurred by the lessee subsequent to production. These commenters also believed the lessee is entitled to deduct all reasonable post-production expenses, including any costs incurred by the lessee to make the product marketable.

Some industry commenters recommended deleting this provision because of the changes occurring in the marketplace. They stated that these costs are subject to negotiation and may

be incurred by either party. They believed that it is incorrect to assume that costs incurred by a purchaser have a direct effect on the price to be paid and suggested that the price paid by the purchaser should be used for royalty valuation unless stated specifically in the contract that it was adjusted to cover the subject costs.

One industry commenter noted that the Federal Energy Regulatory Commission has rejected imposition of any national quality standards for gas sold in first sales and has left to each producer-purchaser contract the resolution of which downstream-of-the-wellhead services are to be provided by which party to the contract. Reference was made to FERC Order No. 94–A, 22 FERC 61,55 (1983).

Most industry commenters essentially believed that the lessor should proportionately share in all costs subsequent to production, including the costs of placing production in marketable condition. They believed that all so-called "post production" costs should be shared because such costs are incurred to enhance the value of the production from the lease for the benefit of both the lessee and the lessor; proportionate sharing of those costs would yield a value of production that is equal for both lessee and lessor. These commenters believed that royalty is due on the market value of production at the lease or well, and that proportionate sharing of any post-production costs incurred to enhance the value of production is necessary to meet this requirement.

They stated that, under the proposed rules, no allowance is made for the costs of processing residue gas to place it in marketable condition or for any other post-production costs incurred to dehydrate, compress, or gather the product. They further stated that MMS has abandoned the definition of "associated" and "principal" products but the unjustified concept underlying these terms has apparently been retained.

The industry commenters generally argued that MMS improperly sweeps all post-production operations under the holding of the *California* v. *Udall* case. They stated that MMS goes so far as to say that even if a buyer willingly buys raw, unconditioned gas (i.e., if there is an actual market for such gas in the field), any of the costs the buyer incurs to place the gas in "marketable" condition will be added on to the purchase price of the gas. They believed that this approach totally distorts the concept of market value at the lease, ignores the holding in *Udall,* and exceeds the reasonable and legal limits of the Secretary's discretion. They further stated that the Secretary should recognize the realities of today's onshore leasing and production and that all post-production costs should be deductible but, at the very least, they believed that off-lease post-production and unusual or extraordinary on-lease post-production costs should be shared proportionately.

The industry commenters stated that the MMS should recognize that manufacturing/processing, transportation, and other post-production costs are legitimate deductions necessary to arrive at the value of production, for royalty purposes, at the lease or well and that such costs should be deductible from the value of all marketable products when necessary to reflect the actual expenditures that enhanced the value of the gas after production. They further stated that if MMS continues to rely on the *Udall* holding, its proper application requires a consideration of the purpose served by a particular facility to distinguish between costs "incidental to marketing" and manufacturing or transportation costs.

MMS Response: Historically, the policy and practice of MMS is that the lessee generally is responsible for placing the lease product in marketable condition at no cost to the lessor. This practice has been upheld by court decision. The MMS has adopted the suggestion that the language "unless otherwise provided in the lease agreement" be added at the end of the first sentence because there are a few leases in which the lessor shares in such costs. Also, as noted earlier, MMS received many comments that so-called post-production costs should be allowed as a deduction in determining value for royalty purposes. Generally, these costs are not allowed as a deduction because they are necessary to make production marketable. However, MMS has considered carefully all of the comments on this issue and decided that there may be certain circumstances where some extraordinary costs for gathering, compression, dehydration, or sweetening should be allowed as a deduction. Such allowances will be authorized only on the basis of individual cases upon application to the MMS. A new § 206.152(i)(2) was added in the draft final rule which established a two-part test to qualify for a cost allowance. First, only production from unusually high-cost leases qualified. The only leases that qualified were those located north of the Arctic Circle, those offshore leases located in water depths in excess of 400 meters, or those which MMS determined to be a unique gas production operation for purposes of this section. Any leases that did not meet this first threshold could not apply for this allowance. However, even for leases that met this threshold, MMS would not grant an allowance unless the lessee demonstrated to MMS's satisfaction that the costs are, by reference to standard industry conditions and practice, deemed to be extraordinary, unusual, or unconventional. In some instances, MMS may have granted an allowance only to the extent that the extraordinary costs exceeded conventional costs for the same operation.

The MMS received many comments on this new section added to the draft final rules. State and some Indian commenters thought that this section was an unwarranted exception from the requirement that the lessee is obligated to bear the costs of placing gas in marketable condition or that further restrictions should be included, while one Indian commenter endorsed the principle introduced by this new section. Industry commenters generally thought that the new section was a step in the right direction, but thought that the dual qualification process was too rigid. They suggested that the extraordinary allowance be granted if a lessee could meet the requirements of either paragraph (i) or (ii). Industry commenters also suggested that the reference to 400 meters be changed to 400 feet because that is the point at which costs begin to escalate significantly. They also thought that use of the term "unique" was inappropriate because it would limit the applicability to only the first lessee with a particular type of extraordinary operation. Some commenters also requested that when approved, the allowance extend beyond one year.

MMS Response: The MMS has retained the extraordinary cost allowance section with a few modifications. The section still requires that the lessee meet a two-part test, and the reference to 400 meters was retained. The term "unique" has been changed to "extraordinary" because it was not MMS's intent to limit the allowance to a one-of-a-kind operation. The MMS has revised the provisions relating to the approval period so that MMS can now determine the approval period on a case-by-case basis. The MMS still may grant an allowance only to the extent that the extraordinary costs exceed conventional costs for the same operation.

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Section 206.152(j)

One industry commenter stated that this provision, as proposed, goes against the firm notion of gross proceeds and grants an exception only in situations where the lessee is entitled to a contractual price increase. According to the commenter, this ignores the reality of the existing situation in the gas marketplace where many purchasers have unilaterally suspended contractually obligated takes and payments under the pretext of "force majeure." The commenter believed that it may be more prudent in many instances to diligently renegotiate contracts which would be in the best interest of the lessee and lessor. The commenter further stated that such renegotiations may take place over an extended period of time during which the lessee may be receiving less than its contract price for its gas; therefore, under these circumstances, where the lessee is taking documented, reasonable measures to force purchaser compliance and to favorably renegotiate its contract, the lessee should only be required to pay royalty on the gross proceeds it receives from the purchaser for its gas.

The industry commenter also stated that rapid deterioration of purchasers' markets has caused unilateral price actions; further, difficult and protracted negotiations have ensued during which proceeds are less than the contractually agreed to price. The commenter mentioned that lengthy litigation is a last resort. The lessor benefits from continued production at market prices pending final resolution and, therefore, a more realistic approach would be to accept proceeds if proceeds were not less than the prevailing market price in the field or area.

One Indian commenter foresaw the ability of willing parties to amend contracts to compromise payments that have accrued to or would accrue to the lessee under its existing contract. The commenter believed that, of course, such contract revisions cannot be avoided in all instances but, if they are made, the lessee should not be able to compromise the lessor's right to receive royalty payments pursuant to the original contract and not under any amendments that have compromised the price.

One State commenter expressed that by freely allowing contract revisions (even retroactive ones), MMS would provide a gaping loophole in the requirement that a lessee seek to enforce its contract "entitlements." The commenter believed that when a lessee is challenged by the MMS about not enforcing its contract rights, there are few buyers who will not agree to assist their sellers by retroactively amending their contracts to the lower amount actually paid.

MMS Response: The MMS has adopted this provision with only minor changes from the proposal. However, the paragraph does not preclude the approach suggested by the commenters. This section requires a lessee to pay royalty in accordance with the contract price, but also expressly recognizes that contract prices may be amended retroactively. The MMS is aware that often there is a process of negotiation that occurs before the contract is formally amended and that lower payments may be received in the interim. Royalties may be paid on the gross proceeds received by the lessee until all attempts to force the purchaser to renegotiate the contract or to comply with the existing contract are exhausted, provided the lessee takes proper or timely action to receive prices or benefits to which it is entitled, or to revise the contract retroactively. Thus, the MMS will accept a renegotiated or a revised contract price if the main reason for renegotiating or revising the contract is not solely to reduce royalties. However, if a higher price can be legally enforceable under a contract and the lessee is not diligent in obtaining that price, royalties will be due on that higher price.

Two industry commenters suggested that the phrase "the lessee will owe no additional royalty until monies are * * * received" be reworded to insert the phrase "unless or" before the word "until". They believed that it is contrary to the concept of "proceeds received" to attempt to assess royalty on proceeds which have never been received when only part payment is made to the lessee in contract disputes.

MMS Response: The MMS adopted the suggested change in the final regulation.

One commenter stated that retroactive application of contract revisions may be inconsistent with FOGRMA because it requires that royalties be keyed to production and not to sales. The commenter further stated that timely application by a lessee for a price increase should not be sufficient to allow a lessee to defer payment of royalties until monies or consideration resulting from the price increase are received. The commenter stated that a lessee should be required to go further in pressing its claim for benefits accruing or which could accrue to the lessee under the contract before nonpayment of additional royalties is allowed, perhaps even to the point of instituting litigation.

Two industry commenters stated that the "prudent operator" clause is unnecessary because it is in the lessee's own best interest to obtain the maximum amount of revenue possible under the terms of the applicable contract. They believed that the inclusion of a "prudent operator" standard in the regulations contradicts the concept of using market proceeds and merely serves to impose an obligation on MMS auditors to evaluate and second-guess the prudency of the actions of lessees. They also believed the "prudent operator" clause opens the door to regulatory uncertainty and the basing of royalties on amounts in excess of the market value of gas. They believe the provision should be eliminated.

MMS Response: Although most lessees will try to maximize the amount of revenue possible under the terms of the applicable contract, not all will be diligent. Therefore, MMS must protect the Federal Government's and Indian's interests by using the "prudent operator" clause.

Two industry commenters stated that they disagreed with MMS's attempt to enforce contract entitlements. They believed that, as proposed, royalties would be based on the highest price obtainable and would serve to encourage the pursuit of price increases, rather than the proper payment of royalties based on the prices received. They also believed that this provision is contrary to MMS's own statement that "value is best determined by the interaction of competing market forces, the ⅞ths or ⅛ths owner is going to negotiate the best deal he/she can to further his/her own interest, advancing those of the royalty owners as well;" therefore, they recommended this provision be deleted.

MMS Response: The MMS does not view this provision as contrary to the approach it has taken to determine values. It would be inconsistent with the theme of these regulations for MMS to not require full compliance with its principal value determinant.

Section 206.152(k)

The MMS has added a new paragraph (k) to the final rules which provides that in those situations where MMS may make a preliminary value determination in the course of monitoring compliance with these regulations, that determination will not be binding until MMS has done an audit and the audit formally is closed. The MMS intends to issue further guidelines on when an audit is closed.

Section 206.152(l)

Two individual commenters stated that this paragraph, which was proposed as paragraph (k), appears to preclude the lessor or overriding royalty interest owner from obtaining any information to substantiate the transportation and processing costs he is being charged. Therefore, they are opposed to this provision.

One Indian commenter stated that this provision perpetuates restrictions upon disclosure of data required in reviewing a lessee's computation of royalty. The commenter believed that Indian Tribes should be provided copies of all reports submitted by their lessees to MMS, upon request. The commenter also stated that the Tribes need this information to monitor lessees as well as responsible Federal agencies, and requested that the information provisions be revised to ease release of this information to Tribes subject to reasonable restrictions upon disclosure to third parties.

One Indian commenter stated that this provision should make it clear that all information will be available to Indian lessors and States without going through the Freedom of Information Act procedures. The commenter also stated that to place such a burden on Indian Tribes and States who are the beneficiaries of the production would not be reasonable.

One Indian commenter stated that the scope of this provision is so broad that it effectively denies Indian Tribes and allottees and States access to the information required to assure that valuations are properly determined. The commenter reminded MMS that the intent of the FOGRMA is to provide all interested parties, including Indian Tribes and allottees and States, the data necessary to conduct audits, oversee the audits performed by MMS, and in the case of Indian Tribes, to manage their mineral resources and to plan for governmental operations. The commenter stated that it could not understand why the MMS included this provision inasmuch as the almost unanimous vote of the Royalty Management Advisory Committee on a resolution recommending that the regulations provide Indian Tribes access to data demonstrates that industry also understands that Indian Tribes require and should have access to such data.

MMS Response: The intent of this paragraph is not to preclude access to information for those who are working in concert with the MMS to the extent allowed by law, but rather to ensure the lessee that disclosure of proprietary information is in accordance with established procedures. There are statutory restrictions on providing certain types of information to persons outside the Department of the Interior, and MMS must act in accordance with those limitations. States and Indians with FOGRMA delegations and cooperative agreements will have broader access to information which otherwise could not be released. This section is not intended to limit in any manner an Indian lessor's right to obtain information directly from the lessee or from MMS to the extent provided in lease terms or applicable law. In the draft final rule, MMS changed the phrase "will be maintained" to "may be maintained." Many industry commenters were concerned that this change would allow MMS to release proprietary information. This was not MMS's intent, and to avoid any confusion the term "will" has been substituted for "may."

Section 206.153 Valuation standards—processed gas.

This section is almost identical to § 206.152 and the comments received were also similar. Therefore, MMS will not repeat the section-by-section analysis or response to comments for this section. Interested persons should refer to the corresponding part of § 206.152.

Section 206.154 Determination of quantities and qualities for computing royalties.

Paragraph 206.154(a) establishes procedures for determining the volumes and quality of unprocessed gas that must be used in computing royalties. Three industry commenters were opposed to MMS or BLM assigning a point of royalty settlement that is different from the lessee's sales point where the transfer of title occurs, as stipulated in the lessee's arm's-length gas sales contract.

One industry commenter stated that MMS must recognize that the proper point of royalty valuation is the lease and that MMS cannot confiscate the entrepreneurial profits which are added by downstream activities of the lessee and are not part of the value of the production in which the lessor is entitled to share.

Two industry commenters stated that this provision is inconsistent with the statutes, lease terms, and the proposed gross proceeds valuation methodology.

MMS Response: Historically, MMS has required that royalties be computed on the basis of the quantity and quality of unprocessed gas in marketable condition as measured on the lease unless prior approval to measure off-lease is obtained from BLM or MMS, for onshore and offshore leases, respectively. This will assure the lessor that the total production from the lease is accounted for. This provision is consistent with the statutes, lease terms, and the gross proceeds valuation methodology because this provision establishes a point of royalty measurement upon which a quantity, at a quality, is valued for royalty purposes.

One industry commenter stated that paragraph (a)(2) would adjust the price received under an arm's-length contract in the event that there were some line loss between the point of royalty settlement and the point of sale. The commenter stated that the arm's-length contract whose quantity provisions MMS would modify requires the purchaser to pay only for production which is actually received but, by adjusting the quantity figures, MMS is, in effect, amending, solely for royalty purposes, the deal between the lessee and the purchaser.

MMS Response: The MMS must structure its royalty accounting program to be in concert with the administration of oil and gas leases by the other components of the Department of Interior's full mineral leasing program. As such, this provision simply recognizes that it is the measured production, as required by BLM or MMS operations personnel, that must be valued for royalty purposes.

Paragraph 206.154(b) establishes the procedures for determining the quantity of residue gas and gas plant products on which royalty must be paid. One industry commenter suggested that this provision be reworded to indicate that "net output" means the production from the plant and not tailgate deliveries. The commenter stated that net monthly output could be interpreted to mean plant tailgate deliveries. The commenter said that if this were the case, royalty would not be paid on plant products until they were sold.

Another commenter stated that in current marketing situations, it is impossible to avoid temporary storage of gas plant products. The commenter said that purchasers are nominating volumes they will purchase which may or may not coincide with production. The commenter also stated that royalties should not be paid on production stored until it is sold because in that manner, value can be properly determined. The commenter said that residue gas must be delivered as produced because there will normally be no means by which the lessee can store it.

MMS Response: As adopted at § 206.151(a), net output means the

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quantity of residue gas and/each gas plant product that a processing plant produces. Therefore, royalty is due on residue gas and gas plant products at the time they are produced.

One industry commenter stated that this *methodology* of net output is contrary to the MMS concept of gross proceeds accruing from the sale under an arm's-length contract. The commenter said that many gas plants place the net output in temporary storage awaiting sales and that the net output of gas plant products is not valued until removal from temporary storage and sale. The commenter stated that if this paragraph is implemented, it is probable that there would be many MMS audit exceptions as a result of the valuation of net output rather than actual sales from temporary storage facilities.

One industry commenter stated that it may be difficult to establish the value of the product that remains in storage. The commenter also stated that if the lessee is forced to compute a value, then the concept of "gross proceeds" becomes meaningless because the lessee, in effect, becomes the purchaser of the product. The commenter claims that when the product is disposed of at a later date, MMS would have no basis on which to review the proceeds eventually realized by the lessee for sale of the production.

MMS Response: The MMS believes that there is no conflict between the gross proceeds methodology and these provisions. It must be recognized that it is the volume of gas leaving the lease which must be valued, for royalty purposes, and the use of the cumulative value of any condensate recovered downstream of the point of royalty settlement without resorting to a manufacturing process, the residue gas and gas plant products less applicable allowances is the method by which this is done when gas is processed. Therefore, all such condensate, residue gas, and gas plant products attributable to this production must be used in determining value. Adjusting the gross proceeds to reflect the net output attributable to the lease would be accomplished by applying the unit value established by the actual product sales to the portion of the net output attributable to the lease, which was not sold in the month produced. Likewise, if the quantity of any product sold during a month is greater than the net output attributable to a lease because of sales of a quantity of product which was previously placed in storage, the gross proceeds would be reduced. If proper documentation is maintained by the lessee and made available to MMS during an audit, no audit exceptions should result.

Paragraph 206.154(c) establishes the procedure to allocate the net output of a processing plant back to the leases. One industry commenter proposed that the language be modified to reflect the view that any lease allocation method agreed to between a seller and purchaser and/or processor will be deemed acceptable, including methods where the parties are affiliates, subject to review by MMS.

One industry commenter suggested that any contractually prescribed method should be deemed acceptable in preference to "a generally accepted lease allocation method", which may be a contention in the future.

MMS Response: The MMS has adopted a specific procedure for allocating the net output of a processing plant back to leases. The method adopted is the method prescribed by the current regulations. The MMS believes that this procedure is the predominant method used by industry. However, MMS has adopted a provision in the final rule whereby a lessee may request approval of other allocation methods.

One industry commenter suggested the addition of the sentence "This same methodology shall also apply to allocations among unitized and communitized areas." The commenter believed that this inclusion of units and communitized areas was intended.

One Federal agency commenter suggested the modification of the proposed rule to include a tight definition of the term "generally accepted." The commenter said this term should be defined as an allocation method used consistently by a majority of gas plant operators and this method must be in accordance with the method promulgated by an industry group such as COPAS.

MMS Response: The final rule adopted limits the use of methods other than the one prescribed, as outlined above. Therefore, the term "generally accepted" has been eliminated from the final rule. Unitized and communitized areas will be covered under this provision and MMS does not deem it necessary to add a specific reference.

Paragraph (d) prohibits deductions from royalty volume or royalty value for actual or theoretical losses. Indian and State commenters agreed with this provision, stating that no deductions should be allowed for actual or theoretical losses prior to the point of royalty settlement.

Many industry commenters stated that line losses are attributable to several factors. They stated that line losses are partially attributable to metering differences and partially attributable to physical factors, and they are a part of the reality of oil and gas field operations. They believed that the provision should be amended for both valuation and allowance purposes to provide a credit for line loss not attributable to negligence, because such a change in the regulations would be in conformance with FOGRMA. They stated that allowing losses would also make the allowance regulations conform to the overall market orientation underlying the valuation proposal, because costs associated with line loss are commonly explicit components of arm's-length contracts and tariffs.

MMS Response: When a volume of gas, upon which royalty is due, has been determined in accordance with the requirements of MMS's offshore operations and BLM's onshore operations personnel, MMS must collect royalty upon its value. Likewise, it is imperative that the quantities of residue gas and gas plant products attributable to a lease be determined once, and only once, and royalty paid on those volumes. This is consistent with the historical practice of the Department. The treatment of line losses as a cost of transportation is addressed later in this preamble.

Section 206.155 Accounting for Comparison.

In the proposed rule, MMS required so-called dual accounting only in situations where the lessee (or a person to whom the lessee transferred gas pursuant to a non-arm's-length contract) processes the lessee's gas and, after processing, the residue gas is not sold pursuant to an arm's-length contract.

Some industry commenters stated that the removal of the requirement to perform dual accounting for OCS gas sales where the residue is sold pursuant to an arm's-length contract is a substantial improvement in the regulations which will reduce paperwork for both MMS and lessees.

Another industry commenter endorsed the MMS's decision to abolish "accounting for comparison" (more commonly known as dual accounting) for processed gas except where the lessee has no arm's-length contract for the sale of residue gas or where dictated by lease terms. The commenter had no objection to such value comparison if the gas is processed in a lessee-owned plant, and the residue gas is not sold under an arm's-length contract.

Several industry commenters stated that they believed the continuation of dual accounting for most processed gas in non-arm's-length residue sales is unnecessary. They said that because the residue gas will be valued pursuant to MMS's guidelines in both arm's-length and non-arm's-length situations, the elimination of dual accounting for one and not the other will create substantial administrative effort when both arm's-length and non-arm's-length residue sales occur at the same plant. They also stated that as long as a substantial portion of sales from a plant continue to be arm's-length, which they propose to be set at 25 percent or higher, elimination of the dual accounting requirement for the remainder of that plant will not result in any lesser degree of accuracy in determining market value.

One industry commenter stated that this provision stops short of being totally consistent with other MMS proposals on gas valuation. The commenter said that inasmuch as MMS has determined that there is an acceptable method to value residue gas sales under non-arm's-length or no-contract situations, there is justification for eliminating dual accounting for residue gas valued in accordance with this provision, regardless of the types of sales contracts.

Another industry commenter believes that royalty is due only on the market value of gas, associated products, and oil because they are produced at the wellhead. The commenter stated that the concept of dual accounting under which MMS assesses royalty on either the value of the principal and associated products after processing or the value of the unprocessed gas, whichever is higher, is fundamentally unfair.

Two industry commenters recommended that this paragraph be deleted because dual accounting results in higher value to the lessor than the lessee. They believed that the value should be based upon the value of the unprocessed gas at the lease if the gas is not processed, or upon net realization (gross proceeds minus allowances) if gas is processed, and not the higher of the two. They stated that because the proposed method is applied after the fact, only the lessee bears any losses. Another commenter stated that it would be unfair and inequitable to require the payment of royalty on a basis higher than the value of the processed gas when the value differential is not because of the negligence or imprudent actions on the part of the lessee but instead represents the current market fluctuations for the gas plant products and residue gas. The commenter also suggested the addition of the word "applicable" before the word allowances in paragraph (a)(1).

MMS Response: To ensure that the Federal and Indian lessors receive the proper royalties, MMS continues to believe that dual accounting must be used where the lessee, or a person to whom the lessee has transferred gas pursuant to a non-arm's-length contract or no-contract situation, processes the lessee's gas and, after processing the gas, the residue gas is not sold pursuant to an arm's-length contract. This provision will encourage the producer under a non-arm's-length contract to obtain the highest price for the gas produced whether that higher price comes from processing the gas or whether it comes from selling the unprocessed gas.

One industry commenter stated that dual accounting imposes an unreasonable accounting burden on both the lessee and the Department and allows the Department to effectively second-guess the lessee each month on the decision to process the gas.

MMS Response: The MMS's current policy is to require dual accounting for all offshore gas processed by the lessee, including affiliates, and for onshore gas processed by the lessee in a lessee-owned plant or onshore gas sold to an affiliate of the lessee and that affiliate processes the gas. Because the requirement for dual accounting adopted in the final rule eliminates some of the current requirements, the accounting and administrative burden should be reduced for both industry and MMS.

Proposed paragraph (b) specifically provided for dual accounting where required by the terms of a Federal or Indian lease. Industry commenters agreed with this provision provided that the lease terms, whether Indian or Federal, specifically require dual accounting.

Three Indian commenters stated that dual accounting should be required for all Indian leases whether specifically stated in the lease terms or not. They stated that this is needed for the Secretary to fulfill his trust responsibilities to the Indians.

MMS Response: The MMS has adopted this provision essentially as proposed.

Section 206.156 Transportation allowances—general.

The MMS received a large number of comments from the States, Indians, and industry on this section of the regulations. Comments on transportation allowances which did not relate to any specific section of the regulations were considered to be addressed to the General section of the transportation regulations, § 206.156. These comments addressed four broad issues—validity issues, adequacy/inadequacy issues, post-production costs and other cost issues, and issues relating to the definition of terms.

1. One issue concerned the validity of any transportation allowances whatsoever and proposed that MMS should not consider transportation allowances as valid deductions from royalty computations, or only consider such allowances if transportation is necessary for lease development or results in a higher royalty.

Some State and Indian commenters stated that transportation allowances should only be granted when necessary (1) to market the product, (2) to promote development of the lease, (3) to obtain a higher royalty value, (4) to enhance offshore development, or (5) if the royalty revenue increases enough to offset the allowance. The key word in these comments was "necessary." None of the parties believed that any transportation allowance should be given if it was not necessary. A State representative suggested approving the transportation allowances on the basis of individual cases only if necessary.

One Indian commenter stated that only the reasonable, actual, and necessary transportation costs from a lease boundary to a point of sale should be allowed and the costs should not include any profit or allocated overhead from the regional or home office.

One Indian commenter stated that the regulations should establish transportation allowances as an exception, not as a rule.

Several Indian commenters stated that MMS should not grant any transportation allowances as a deduction against Indian royalties. The commenters opposed the transportation allowance for Indian leases for such reasons as (1) Indian leases do not provide for transportation as a deduction from royalty, and (2) transportation allowances have never been granted for Indian leases.

The Indian commenters emphasized that MMS must take into account its trust responsibility to the Tribes and allottees in preparing valuation regulations. These commenters advised that MMS must protect the Indians' interests.

The MMS received comments from Tribes and State representatives asserting that the royalty interest should be cost-free. These comments all stressed that royalties have always been and should always remain free of costs. All commenters believed that the costs of making lease production marketable,

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including transportation, are the responsibility of the lessee. A State representative suggested that MMS "* * * keep the door closed on all presale costs. Once it's opened, it's hard to let only the chosen ones in."

MMS Response: Based on Interior Board of Land Appeals decisions, Solicitor opinions, and judicial decisions, it has been DOI policy since 1961 to grant transportation allowances when production is moved to a sales point off the lease in order to calculate the value of the product at the lease. Furthermore, the IBLA has specifically ruled that transportation allowances must be granted for Indian leases. *Kerr-McGee Corp.*, 22 IBLA 124 (1975). Therefore, the transportation allowance regulations being adopted are consistent with past practice and consistent with the Secretary's responsibility to the Indians. The MMS believes generally that royalty should be free of cost. However, values may need to be adjusted for transportation and/or processing to determine value at the lease. The MMS believes that the policy of granting transportation allowances to properly value lease production is appropriate and should continue.

2. Another issue concerned the adequacy or inadequacy of the proposed gas transportation regulations in general. Some commenters believed that the regulations were generally deficient, while others pointed to specific instances where changes should be made to improve their specific applicability. Following is a brief summary of these types of comments.

Some industry and State respondents commented on the flexibility of the regulations. One industry commenter stated that the regulations should be modified to embrace both traditional and nontraditional transportation arrangements. Another industry commenter suggested that the regulations should accommodate changes in transportation and marketing. One State representative expressed concern that the regulations do not address new marketing opportunities related to the unbundling of pipeline services and market area gas storage which allow for greater sales levels in higher priced periods.

The MMS received comments from Tribes regarding the relationship between the lease terms and the regulations. One commenter requested that the regulations not be allowed to change the lease terms. Another commenter stated that the regulations should be consistent with the lease terms. A third commenter stated that where the lease is silent, the regulations should not allow the gross proceeds received under an arm's-length contract to be reduced for transportation costs.

The MMS received comments regarding the effect of transportation allowances on revenues. A State organization stated that MMS should develop simple and concise rules that do not adversely affect Western States' revenues, and which will allow for more effective auditing. One Tribe requested that the royalty rate not be decreased in effect by redefining the rate basis. One local community commenter stated that the proposed regulations should not be issued without assessing the impact on the school or other local subdivision budgets. Five local community commenters opposed the proposals on the grounds that deductions would be taken too liberally, or perhaps royalty payments would be eliminated completely.

One Tribe stated that the regulations should apply only to new leases. One industry party and one Tribe recommended that a separate set of regulations be developed for Indian lands only.

MMS Response: The MMS believes that the regulations are complete and are sufficiently flexible to apply to the different types of gas transportation arrangements that might arise in the future. MMS is aware of nothing in the transportation allowance regulations that would change the terms of any Indian mineral lease. The MMS agrees that the procedure for determining a transportation allowance places initial reliance on the gas industry. However, this program will be under continuous review and oversight by MMS. Thus, the ability to effectively review, evaluate, and audit transportation allowances has been maintained under the new regulations. The MMS believes that the consideration of transportation costs is necessary to determine the value of lease production at the lease.

3. One broad issue discussed by commenters was the deduction of post-production costs and other costs from royalty payments.

The MMS received many comments concerning the issue of post-production costs as an allowable deduction from royalty. Many industry commenters commented in favor of allowing all post-production costs to be deducted from the royalty portion.

MMS Response: This section of the regulations addresses only transportation allowances. The issue of post-production cost allowances is properly addressed in other sections of the regulations.

4. One issue commented on by several commenters concerns the definition of terms used in the regulations.

Some industry respondents commented that the term "reasonable" should be deleted from this section. One industry concern was that this term will only result in a wide diversity of opinion as to what a reasonable cost is.

One industry representative suggested that the term "actual" should be deleted for clarification purposes.

The MMS received several comments from the States, Indians, and industry suggesting that the term "remote from the lease" should be defined or changed. An industry representative stated that many terms, such as "remote" and "field gathering" beg for definition. This commenter requested that a distinction between "gathering" and "transportation" be delineated, for royalty purposes, and also suggested that the term "remote" should mean anything outside the lease boundary. Two industry commenters identically recommended changing this phrase to "first available market."

MMS Response: The term "reasonable" is defined by the Merriam-Webster New Collegiate Dictionary as "moderate, fair." The MMS intends that this same definition apply in the determination of a transportation allowance.

The MMS agrees that the term "gathering" should be defined. The definition of "gathering" has been included in § 206.151 and was discussed above. The phrase "remote from the lease" has been deleted from the final rule which uses the phrase "off the lease."

Section 206.156(b)

The MMS received several comments on paragraph (b), proposed as paragraph (c), which requires that transportation costs be allocated among all products transported. The paragraph also provides that no allowance may be taken for transporting products which are not royalty-bearing.

Industry commenters recommended deletion of this paragraph. One industry representative stated that transportation costs represent the rate for moving the aggregate product stream. The industry commenters stated that allocation is an administrative burden and is unfair and inequitable, and it is inequitable to require allocation of transportation costs for the incidental movement of nonroyalty-bearing products.

One industry representative recommended that transportation costs be taken as an aggregate charge against the value of the full product stream.

One industry representative stated that this paragraph adapts an unrealistic transportation deduction exception by not allowing a transportation deduction for nonroyalty-bearing products. According to this commenter, practical realities dictate that nonroyalty-bearing products entrained with gas be transported.

MMS Response: The MMS does not agree in principle with the commenters proposal that the cost of transporting nonroyalty-bearing substances should be shared by the lessor. Therefore, this regulation has been retained as proposed. The MMS is aware that the allocation of transportation costs in situations where more than one product is involved could be burdensome. However, it is MMS's experience that the allocation requirement would only be burdensome in a few instances where the products being transported are not all in the same physical state.

Section 206.156(c)

Paragraph 206.156(c) was proposed as paragraph (b). The MMS received a large number of comments on this provision which limited the transportation allowance to 50 percent of the value of the product transported. The comments on this paragraph related to one major topic: whether the limitation should be eliminated or retained.

Industry commenters and trade group representatives stated that MMS should abolish the 50-percent limitation for one or more of the following reasons: (1) If the proposed limit is retained, the exception to the 50-percent limitation may not be exercised freely enough; (2) The 50-percent limit could impose a serious economic deterrent to the development of frontier areas; (3) The limitation figure is strictly arbitrary and totally unjust to the lessee/working interest owners; (4) It would be a rare case when a natural gas transportation cost would come close to the proposed 50-percent cap, much less exceed it; (5) The proposed 50-percent cap is a deviation from the stated intent of MMS to base royalty valuation on "gross proceeds."

Several commenters stated that MMS should approve requests for transportation allowances exceeding the 50-percent limitation upon submission of adequate documentation by the lessee.

Many industry commenters and trade groups stated that MMS should allow lessees to carry forward transportation costs otherwise allowable (except for the 50-percent limitation) from the current year to subsequent years. According to the commenters, this procedure should be applied to all transportation systems, but it would be especially important in the frontier areas. One commenter from industry stated that MMS should not permit roll forwards because it would create paperwork and allow the lessees to use the 50-percent limit permanently.

Industry commenters and trade groups stated that the 50-percent limit could be a disincentive for exploration and for building transportation systems when costs exceeding the cap may not be recovered.

One State representative stated that the 50-percent limitation provides incentive to keep costs under control while allowing some relief for legitimate hardship conditions.

MMS Response: The MMS has decided generally to retain the 50-percent limit on transportation in the final rule. For unprocessed gas valued pursuant to § 206.152, the transportation allowance deduction based on a selling arrangement is limited to 50 percent of the value of the unprocessed gas determined in accordance with § 206.152. For processed gas, the transportation allowance for gas plant products or residue gas based on a selling arrangement is limited to 50 percent of the value of the residue gas or gas plant product determined in accordance with § 206.153. Natural gas liquids are considered one product.

A lessee may request, and MMS may approve, a transportation allowance in excess of 50 percent if the lessee demonstrates that the costs incurred were reasonable, actual, and necessary. Thus, the 50-percent threshold merely gives MMS the ability to monitor more closely the situation where the allowance based on reasonable actual costs will exceed that limit. In no event may the allowance for any lease product equal 100 percent of the value of that product. MMS received comments that the transportation allowance in excess of 50 percent should be allowed only when it is in the "best interests of the lessor." MMS did not include this standard because it is too subjective. The requirement that the costs be "reasonable, actual and necessary" is sufficient to protect the lessor's interests.

Section 206.156(d)

The MMS received comments from industry representatives on this paragraph (d), which recommended that MMS should be required to pay interest on overpayments by lessees to the extent permitted by law.

MMS Response: The MMS has no legal authority to pay interest to lessees on their overpayments.

Section 206.157 Determination of transportation allowances.

Paragraph (a) of the regulations addresses transportation allowances where the lessee has an arm's-length contract for transportation services. The MMS received many comments on this paragraph of the regulations. Although there were comments on a wide variety of subjects, 11 principal issues were addressed: Acceptance of arm's-length transportation agreements; excessive penalty and retroactive approvals; MMS's approval of the transportation allowances; acceptance of transportation reduced prices; status of currently approved allowances; required filing every 12 months; allowance on nonroyalty-bearing production; allocation of transportation costs; suggested deletion to regulations; period for filing a proposed allocation; MMS payment of interest on lease overpayments; and clarification of the conversion process.

1. Acceptance of arm's-length transportation agreements as an accurate indicator of reasonable, actual costs.

Industry commenters supported the proposal to accept arm's-length contract costs as a reasonable transportation allowance. These commenters explained that arm's-length contracts provide an accurate indicator of "reasonable actual costs" because they reflect the true costs to the lessee for transporting production to a sales point downstream of the lease.

Some Tribes expressed serious concern about the validity of using arm's-length contracts as an indicator of value. One Tribe stated that arm's-length contracts are not a bona fide indicator of reasonable, actual costs. One Tribe expressed doubt that there can ever be an arm's-length contract between companies in the gas industry. Another Tribe stated that arm's-length contracts should not be accepted unless a thorough analysis of lessee/purchaser affiliations is undertaken. One Tribe also expressed considerable doubt that the criteria used by MMS would assure that an arm's-length contract is present in any given case. An Indian trade organization stated that MMS should establish appropriate criteria to determine the accuracy and reasonableness of allowances granted under arm's-length contracts (and non-arm's-length contract situations).

MMS Response: The MMS currently uses the payments made by a lessee under an arm's-length transportation agreement as an accurate indicator of reasonable, actual costs. The MMS has

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determined that payments made under arm's-length contracts are the best available indicator of reasonable, actual costs incurred by the lessee. MMS has added a sentence clarifying that the lessee has the burden of demonstrating that its contract is arm's-length. MMS also has added two new paragraphs to address situations where a contract, though arm's-length, should be treated as non-arm's-length pursuant to paragraph (b). The first situation is where MMS determines that the transportation contract reflects more than the consideration transferred from the lessee to the transporter for the transportation; i.e., the transportation cost has been inflated. The second situation is where the MMS determines that there has been misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor.

2. Disallowance of a transportation allowance for a reporting period not covered by a Form MMS–4295.

The MMS received responses from several industry commenters and industry trade groups stating that the disallowance of a transportation allowance for a reporting period not covered by a Form MMS–4295 is an excessive penalty for what was considered by the commenters to be such a minor infraction of the rules. The point was also made that the lessee does not always have the data to timely file a Form MMS–4295 before the Form MMS–2014 is filed.

Many commenters stated that the regulations should have a provision allowing transportation allowances on a retroactive basis because a lessee does not always have the details on transportation worked out before production begins. Thus, it sometimes is necessary to go back and revise data related to an allowance after agreements are reached because of the fast changing current oil and gas markets.

It was suggested that MMS should consider a monetary fine for failure to file, or disallow the deduction for any period until Form MMS–4295 is filed. The lessee would not lose a deduction, but would be precluded from taking the deduction until the proper forms are submitted to MMS for the periods covered.

MMS Response: After careful consideration of the comments, MMS has determined that the reporting penalties included in the proposed regulations were excessive. The MMS has also considered the comments on retroactive approvals and has revised the final regulations to allow lessees to request transportation allowances retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4295 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. Also, paragraph (d) of the final rules provides that if a lessee deducts a transportation allowance on a Form MMS–2014 without complying with the requirements of this section, the lessee will owe interest on the amount of the deductions until the date proper forms are filed. However, the lessee will be required to repay the amount of any deduction disallowed because of the limitation on retroactivity.

3. The MMS's preapproval of transportation allowances.

The proposed rule provided that prior MMS approval was not required before a lessee could deduct a transportation allowance based on an arm's-length contract. Representatives of trade organizations, oil and gas companies, and one business expressed approval of the self-implementing concept for transportation allowance regulations. This was seen as a method of relieving a considerable administrative burden on both industry and MMS. Tribes disagreed with the self-implementing nature of the regulations because it was seen as a method of establishing the 50-percent limitation as a floor for transportation allowances.

One Tribe stated that MMS should preapprove all transportation allowances and should do so only on a showing of necessity to promote development or a showing that a higher value could be obtained for the gas at a point of sale away from the lease. It was also pointed out by this commenter that neither the MMS nor Indian Tribes have the resources to audit all leases and, if these allowances are not monitored "up front," they will never be audited.

MMS Response: The MMS considers arm's-length contracts a valid indicator of reasonable, actual costs. Thus, it is not necessary to preapprove transportation allowances based on such contracts. The MMS will monitor the transportation allowances, and they are subject to later audit.

4. Acceptance of transportation-reduced prices without requiring the filing of Form MMS–4295 for both arm's-length and non-arm's-length situations.

Representatives of oil and gas companies and trade organizations commented that MMS should accept transportation-reduced prices without requiring the filing of Form MMS–4295 for both arm's-length and non-arm's-length situations. It was believed that this policy would reduce the administrative burden on industry and MMS. However, one commenter disagreed with this proposal because it was considered a potential technique to exceed the 50-percent limitation provisions of the regulation.

MMS Response: The MMS has determined that the regulations should be revised to provide that transportation factors which reduce arm's-length sales contract or posted prices are to be considered as reductions in value rather than transportation allowances. This provision is included in paragraph (a)(5).

5. Should current approved transportation allowances remain in effect until they expire?

Industry respondents stated that the transportation allowance reported on Form MMS–4295 should continue until the applicable contract or rate terminates, or is modified or amended. State respondents stated that, because some allowances are currently being taken without specific, written MMS approval, only those with documented approval should be allowed to continue without the submission of Form MMS–4295.

MMS Response: The MMS has revised the regulations in paragraphs (c)(1)(v) and (c)(2)(v) to provide that any transportation allowances in effect on the date these regulations become effective will be allowed to continue until such allowances terminate subject to later audit. However, MMS is limiting this provision only to those allowances that have written MMS approval. Because the regulations are being revised to remove any prior approval by MMS before a deduction may be taken, and the submission of Form MMS–4295 is to increase MMS's ability to monitor the allowances being taken, MMS believes that the intent of the final rules will be best served by having all allowances to be deducted under the new rules documented as of the effective date.

6. Should MMS require the filing of Form MMS–4295 every 12 months?

Industry representatives stated that there is no benefit to MMS in submitting a form that duplicates information on file when a change has not occurred, and there is no apparent reason for MMS to require the filing of Form MMS–4295 every 12 months. One industry representative recommended that this section be deleted.

MMS Response: The MMS requires the annual filing of Form MMS–4295 for use as a control and monitoring mechanism even when there is no change in the applicable contract or rate.

7. Should MMS allow transportation allowances for production which is not royalty-bearing.

Several industry representatives suggested deleting this section and proposed that transportation costs be taken as an aggregate charge against the value of lease production or that MMS cover cost allocation methodology in the MMS Royalty Management Program Oil and Gas Payor Handbook. One industry respondent recommended deleting any references concerning the disallowance for transporting lease production which is not royalty-bearing.

MMS Response: The MMS will not allow transportation allowances for production which is not royalty-bearing. The final regulations in §§ 206.156(b), 206.157(a)(2), 206.157(a)(3), 206.157(b)(3), and 206.157(b)(4) will expressly so provide.

8. Allocation of a cost applicable to more than one product.

One industry representative stated that allocation of costs presents a burdensome administrative task, but if allocation of costs is deemed necessary, it should be allocated on the basis of relative value rather than on relative volume. One business representative suggested that MMS provide an alternative allocation procedure for situations which would require a variance from the proposed allocation method.

Another industry representative recommended that allocation be based on the weighted average value of each product having a commercial value in that area. According to this commenter, transportation costs should not be allocated to by-products or products with no commercial value.

An industry representative suggested using an allocation procedure only when substantial volumes of nonroyalty-bearing products are being transported because of the considerable costs and reporting burdens involved in allocating costs.

MMS Response: The MMS has determined that allocating costs on the basis of relative volume rather than on relative value is more equitable because of the price fluctuations of products and in many instances the allocation of costs based upon value of products would defeat the purpose of the regulations. In situations involving the transportation of both gaseous and liquid products, it is difficult for MMS to provide guidance on acceptable methods of allocation because of the many different circumstances that exist. The MMS believes it would be advantageous to have the lessee submit an allocation proposal to MMS in these situations.

9. Should MMS extend the period in which to submit a proposed allocation method?

Representatives from industry suggested periods of 90–180 days, instead of the proposed 60-day period, to submit a proposed allocation method where an arm's-length contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract.

Representatives from oil and gas companies and one trade organization stated that the requirement to submit a proposed allocation method within 60 days will create a significant workload burden, and a more reasonable provision of time would be from 90 to 180 days.

MMS Response: The MMS has modified § 206.157(a)(3) of the final rule to provide a 3-month period.

10. Should MMS pay interest on lease overpayments?

One industry commenter stated that MMS should pay interest on overpayments consistent with statutory authority.

MMS Response: The MMS has no legal authority to pay interest to lessees on their overpayments.

11. Clarification of the conversion process.

Two respondents from the oil and gas industry commented that proposed paragraph (a)(5), concerning the conversion of payment to a dollar-value equivalent, should not be adopted because it is too complicated. If it is retained, it should be clarified with guidelines.

MMS Response: The value of production upon which royalty is due is reported to MMS as a dollar value; therefore, MMS believes that any deduction from that value when determining the royalty due also must be expressed as a dollar value. The MMS does not consider the conversion to a dollar-value equivalent to be complicated. This requirement is included in § 206.157(a)(4) of the final rules.

Paragraph (b) establishes the procedures for claiming a transportation allowance where the lessee has a non-arm's-length transportation contract or has no contract. The comments received under this section addressed eight principal issues: Acceptance of State or FERC tariffs, use of the benchmark system, penalties, prior approval, allowable costs, rate of return, retaining Alternatives 1 and/or 2, and allocation of costs.

1. Should MMS accept published State or FERC tariffs instead of using actual costs as the basis for approving transportation allowances? Many industry commenters and trade groups stated that MMS should accept published State or FERC tariffs as the transportation allowance in nonarm's-length and no-contract situations. These commenters believed that MMS should rely on the expertise of FERC and State agencies that set pipeline tariffs to determine fair and reasonable transportation charges. Several industry representatives stated that if MMS does not rely on FERC and/or State tariffs, there would be a wasteful duplication of effort between FERC, State agencies, and MMS.

MMS Response: The MMS has reviewed the FERC procedure for granting tariffs. After careful consideration, MMS has decided that the fairest and best way to determine transportation allowances for non-arm's-length or no-contract situations is to allow actual, reasonable costs plus an acceptable rate of return on the lessee's undepreciated capital investment. The MMS will recognize FERC tariffs as a valid cost in computing a transportation allowance only when it is an actual (out-of-pocket) expense pursuant to an arm's-length transportation contract. Existence of a FERC-approved tariff for a transportation system, however, is one of the requisite criteria for MMS to consider in granting an exception to the requirement to use actual costs for non-arm's-length or no-contract situations. See discussion below.

2. Should the transportation allowance be based on the market value of transportation service as determined under a benchmark system?

Several industry commenters and trade groups stated that MMS should allow the market value of the transportation service based on a benchmark system.

For those commenters recommending a benchmark system for determining the transportation allowance, the commenters suggested that MMS allow the lessee the market value of the transportation service based on a benchmark system featuring arm's-length contracts and tariffs and cost accounting to be used only as a last resort. It was suggested that this procedure was in keeping with the market-based concept and objective of bringing certainty to the regulations.

MMS Response: It is MMS's past and present practice to allow only those costs which are directly related to the transportation of lease production. Costs incurred under "comparable arm's-length contracts" or any other benchmark criterion may include costs such as Federal and State income taxes,

or socioeconomic costs incurred by the lessee in order to obtain State or county land access, such as the construction of schools or city sewer facilities. The MMS considered these comments in revising the regulations and decided that it was in the best interests of the Government, States, and Indians to base gas transportation allowances on actual, reasonable costs plus a return on investment.

However, in an effort to simplify procedures for both the lessee and MMS, the regulations at § 206.157(b)(5) will provide a limited exception to the requirement to compute actual costs where the lessor's interest is adequately protected. The lessee must apply to MMS for the exception, and MMS may grant the exception only if (1) the lessee has arm's-length contracts with other persons for transportation through the same transportation system; (2) the lessee has a FERC-approved tariff for the system; and (3) at least 50 percent of the annual throughput is transported under arm's-length transportation contracts. If the MMS grants the exception, the lessee will use as its transportation allowance the volume-weighted average of the prices it charges other persons pursuant to arm's-length contracts.

In the draft final rules MMS had included as the third standard a requirement that the persons purchasing the transportation from the lessee had an alternative to using the lessee's system. MMS received many comments from industry that this standard made the exception illusory because, in most instances, there is only one pipeline. MMS agreed and, therefore, changed the third standard to the requirement that at least 50 percent of the lessee's annual throughput is transported under arm's-length transportation contracts.

3. Should a penalty be imposed for late submission of the Form MMS–4295?

One industry commenter objected to the penalty of disallowing a transportation allowance for failure to file the applicable Form MMS–4295.

One industry spokesperson stated that the lessee should be assessed a fee of $10.00 per day for each day the Form MMS–4295 is not received.

One industry commenter suggested 120 days as a reasonable time in which to submit a completed page one of Form MMS–4295.

MMS Response: MMS has determined that the reporting penalties included in the proposed rule were excessive. MMS also has considered the comments on retroactive approvals and has revised the final regulations in § 206.157(b)(1) to allow lessees to request transportation allowances retroactively for a period of not more than 3 months prior to the first day of the month that the Form MMS–4295 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. Also, (d) provides an interest assessment for taking a transportation allowance without complying with the reporting requirements of the regulations, as well as a requirement that a lessee repay the amount of any deduction disallowed because of the limitation on retroactivity.

4. Should MMS require prior approval for allowances?

Several industry commenters and one trade group commented that they were in support of the self-implementing feature of the regulations which would not require prior approval of each allowance by MMS before the allowance could be claimed.

States and Indians stated that prior approval of allowances should be required. Because of the numbers of selling arrangements involving costs, these commenters were concerned that as a practical matter MMS will not question or audit the majority of deductions.

One Indian Tribe commenter stated that prior approval should be required before overhead expenses and depreciation are allowed; otherwise, transportation allowances will be subject to abuse and Indian royalties will suffer.

One Indian Tribe representative stated it was not proper to allow depreciation, unless prior approval and prior audit is required.

MMS Response: The MMS currently reviews and approves all transportation allowance requests and has considered preapproval and preaudit of transportation allowances. It has been decided that a more effective use of resources can be attained by doing exception processing on allowances and selectively reviewing certain allowances in depth to determine the propriety of the allowance reported by lessees on Form MMS–4295. Therefore, with limited exceptions, no prior MMS approval will be required. However, the lessee will be required to file a completed Form MMS–4295 before taking the allowance.

5. Should costs other than actual, reasonable costs be considered in calculating the transportation allowance?

Industry commenters stated that State and Federal income taxes are legitimate expense items and should be allowed.

One industry spokesperson recommended that dismantling costs be included in the calculation of transportation allowances because this is a real cost of doing business.

One trade group representative recommended that MMS reformulate the transportation provisions to allow a firm or entity providing necessary transportation services a complete recovery of costs plus an acceptable profit for assuming the risks involved in providing transportation service.

MMS Response: The MMS views income taxes to be an apportionment of profit rather than a valid operating expense. However, interest on money borrowed for operations would be considered as a valid operating expense. Interest on money borrowed to build a transportation facility is not considered allowable. A return on investment is given in lieu of interest on capital investments.

6. What rate of return should be used to calculate return on capital investment?

Industry commenters, trade groups, private businesses, one city mayor, and Indian Tribes stated that the use of the Moody Aaa corporate bond rate proposed by MMS in paragraph (b) is inequitable for the rate of return. Following are some of the reasons provided by the respondents for this viewpoint:

a. The prime rate represents a nearly risk-free return on short-term borrowing.

b. The use of Moody's Aaa bond rate assumes minimal risk and 100-percent debt financing.

c. For fairness, a rate of return must consider both cost of credit and equity capital.

d. A rate of return based solely on a prime lending rate would not make the investment in the transportation system a competitive project when compared with other projects.

e. The choice of Moody's Aaa rated debt is very conservative and arbitrary.

Industry commenters and trade groups recommended various alternatives to the Moody Aaa corporate bond rate:

a. A rate equal to 150 percent of the 20-year T-bill rate.

b. The prime rate plus 5 percent.

c. One and one-half times the average 30-year T-bill rate.

d. The 20-year corporate industrial bond rated Baa.

e. A yearly average of the monthly rate for 20-year T-bills.

f. The 20-year corporate industrial bond rated Baa plus 9 percentage points.

g. One and one-half times the prime rate.

h. The FERC tariff rate of return.

i. The before-tax rate of return of double the Moody's Aaa bond rate.

j. A specific rate of return should be determined for each lessee.

MMS Response: The MMS has examined several options relating to rate of return and decided that a rate of return should be closely associated with the cost of money necessary to build a transportation system. The MMS is not persuaded that a rate of return should include a profitability factor as a part of the transportation allowance. The MMS has examined the use of the corporate bond rate very carefully and has concluded that the use of such a rate would be feasible and would be appropriate for use as a rate of return considering the risks associated with the transportation of gas and gas plant products. There is no doubt that there are some very high risks involved with some oil and gas ventures, such as wildcat drilling. However, the risk associated with building and developing a pipeline to move gas that has already been discovered is a much different risk (and a risk that can reasonably be insured against) than the risk associated with the drilling of a well. Considering the risks related to transportation systems, a rate of return based on an applicable corporate bond rate would be appropriate for transportation systems.

The MMS has considered the prime rate, the prime rate plus 5 points, one and one-half times the average 20-year Treasury Bill rate, the Moody's bond rate, Standard and Poor's bond rate, and the other rates suggested by the commenters. The rate of return used by FERC was not considered because MMS does not believe that the FERC tariff procedure and the MMS transportation allowance are sufficiently similar to warrant the use of similar procedures. The MMS believes that the use of an appropriate rate of return based on the corporate bond rate adequately considers the risk associated with a transportation system and that there is no rational basis for increasing a rate of return by arbitrarily adding percentage points simply to increase the allowance granted to a lessee. After carefully considering the comments and the options available, MMS determined that the rate of return should be based on Standard and Poor's BBB industrial bond rate. Section 206.157(b)(2)(v) has been revised accordingly in the final rule. However, because of the substantial and diverse comments received on this issue, including comments on the draft final rule that the BBB bond rate is not much better than the first proposal, MMS soon will issue a notice of proposed rulemaking to consider further modifications to this section.

7. Should MMS retain the provisions of Alternative 1 and/or Alternative 2?

Some industry commenters recommended that MMS retain both alternatives of depreciation and return on initial depreciable capital investment. One industry commenter and one trade group stated that both alternatives should be included in any cost-based methodology for determination of a transportation allowance. One industry commenter recommended that both methods be made available for use at the lessee's election on the basis of an individual transportation arrangement because adoption of this approach would assure the flexibility necessary to adapt to unforeseen changes in the business and transportation environments.

Two industry commenters and one trade group stated that MMS should retain Alternative 1. One industry spokesperson sought clarification on Alternative 1 to ensure both depreciation and return on depreciated investments are allowed.

One trade group representative endorsed Alternative 2, provided that its use is an option for the lessee. One industry commenter supported Alternative 2, suggesting that the initial capital investment should be the basis for depreciation of any newly acquired transmission facility or gas plant. One trade group representative stated that Alternative 2 should be applicable to instances where a lessee has purchased a transportation system that has previously been depreciated to some extent. One private business representative stated that Alternative 2 should be available without the limitation on new or newly acquired transportation systems because it provides a viable substitute where original cost records no longer exist.

One industry commenter recommended not adopting Alternative 2 because it provides a significantly lower rate of return to the lessee.

Two commenters stated that MMS should not tie the rate of return to a diminishing value. Both commenters stated that if the intention is to provide the lessee with a rate of return for his invested capital, the lessee should not be penalized by a diminishing return caused by tying the return into a depreciation option. One industry representative stated that, based on the current Moody's bond rate, Alternative 2 should only be advantageous for projects with over 30 years of life.

One industry commenter stated an inequity could result in the case of transferring transportation facilities from one party to another because it may be impossible to allocate specific capital costs to particular segments for purposes of determining the depreciation cost allowance and the return on undepreciated capital investment cost allowances. One industry commenter stated that MMS should accept a depreciation method recognized by FERC whether or not the method is one of the two suggested. According to the commenter, this would eliminate the administrative burden of maintaining another set of depreciation records. One Federal agency commenter suggested there be no restriction on the depreciation method used.

Several industry commenters stated that disallowing recapitalization is inequitable. One industry representative stated that the rule, as proposed, prohibits a new owner from recovering his costs because those costs would be based on the present market value of the pipeline. One industry commenter stated that it would be administratively burdensome to disallow recapitalization because it would require the lessee to maintain two separate sets of books on depreciation, one for normal business and one for royalty purposes. One industry representative stated that prohibiting establishment of a new capital cost based upon the sale or transfer of a pipeline is inconsistent with both the philosophy of arm's-length transactions and of approving an allowance based on actual costs.

Two industry commenters stated that the regulation should be more specific on how the lessee must adjust for continuing changes in reserves. For example, the continued development of different unitized depths in complex geologic areas or in areas with multiple leases will result in the continued redetermination of reserves.

MMS Response: The MMS has reviewed the comments received regarding both Alternative 1 and Alternative 2 and concluded that both alternatives should be retained. However, under the final rule, § 206.157(b)(2)(iv)(B), Alternative 2 can only be used for transportation facilities first placed in service after the effective date of these regulations.

The MMS has considered the issue of recapitalization and decided that it was appropriate for the Government to pay its share for the depreciation of a system transporting royalty-bearing gas only once.

The MMS has carefully considered the issue of basing the rate of return on a diminishing value and has decided that this procedure is consistent with longstanding Government policy on allowances and that MMS should continue this policy for transportation

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facilities in operation on the effective date of these regulations.

The use of reserve life as a depreciation method is at the election of the lessee. If the method does not serve the lessee's needs, then a different depreciation method may be chosen. If the reserve life method of depreciation is chosen, it would be entirely appropriate for the lessee to adjust the reserve life when changes in reserves occur.

The MMS has determined that a transportation system may be depreciated only once, and that the depreciation schedule established by the original transporter/lessee cannot be altered by a change in ownership.

8. Should costs be allocated among lease products?

Two industry commenters and one trade group suggested deletion of the sections requiring allocation of costs (§§ 206.157 (b)(3) and (b)(4) of the final rule). Two industry representatives stated that requiring allocation of transportation costs is an unjustified expense to the lessee and a burdensome administrative task for both industry and MMS.

One industry commenter stated that allocation of costs among products is at odds with the basic valuation equation.

MMS Response: MMS believes that the cost to transport a product should correspond with the product transported. MMS recognizes that accountability is difficult and allocation may be a burdensome task but there is no acceptable way to avoid this responsibility.

Section 206.157(c)

The MMS received many comments from industry, States, and Indians on paragraph (c), which establishes reporting requirements for transportation allowances.

The comments received addressed the following issues: General comments pertaining to the requirement to file for allowances, comments on the initial 90-day submittal period, the subsequent annual requirement to submit Form MMS–4295, Gas Transportation Allowance Report, establishment of alternate reporting dates, and miscellaneous comments.

1. The requirement to submit a Form MMS–4295 in order to claim a transportation allowance.

Two industry commenters commend the MMS for proposing an allowance that does not require prior approval. One industry commenter and one trade group disagree with proposed Form MMS–4295 because it requires too much information and puts a burden on industry. One trade group representative stated that MMS should substitute a form entitled "Intent to Take a Transportation Allowance" in lieu of the complicated annual filings proposed. One State representative stated that the reporting scheme would demand a major commitment of resources and would be difficult to administer. One trade group commenter stated that submission of Form MMS–4295 will greatly increase the paperwork of both industry and MMS. Two industry commenters stated that, without proper public review and comment, they cannot endorse the use of Form MMS–4295. Ten commenters—seven industry and three trade groups—stated that provision should be made for allowances currently in effect on the effective date of the regulations to continue until the allowance expires to avoid an undue administrative burden on MMS and lessees. Some commenters also pointed out that flexibility is needed to deal with special circumstances such as spot sales contracts.

MMS Response: Form MMS–4295 is required in order for MMS to monitor the transportation allowance program. The MMS believes it can monitor the transportation allowance deductions more effectively than with the preapproval of the allowances. The MMS has made the information on Form MMS–4295 as clear and uncomplicated as possible considering the complex nature of transportation allowances. The filing of a Form MMS–4295 equates to an "intent to deduct transportation."

For arm's-length contracts, paragraph (c)(1) requires the filing only of page one of the Form MMS–4295. Pursuant to paragraph (c)(2), for non-arm's-length contracts, the lessee must submit the entire form. For transportation allowances in effect on the effective date of these rules (which includes only those approvals from MMS which are in writing), no form needs to be filed until the allowance terminates. See § 206.157 (c)(1)(v) and (c)(2)(v). These continued allowances will be subject to audit.

The MMS has also included in paragraphs (c)(1)(vi) and (c)(2)(vii) of this section authority to establish reporting requirements different from those in the regulations where necessary to accommodate special circumstances.

2. Requirement to file a Form MMS–4295 within 90 days after the end of the reporting period.

One industry commenter stated that a 120-day filing period should be permitted for filing Form MMS–4295 to ease the administrative burden. This commenter suggested that if the form is not received within the prescribed 120 days, the lessee could be assessed a fee of $10.00 per day for each day the form is not received. One industry representative suggested that a minimum 180-day conversion should be allowed from the date of publication of the final regulations.

One trade group representative agreed that a 12-month term should be endorsed for both onshore and offshore allowances. One industry representative recommended that allowances be based on data from a full calendar year and be reported to MMS by April 1 for the preceding year. Nine commenters, seven industry and two trade groups, stated that an annual reporting request is unduly burdensome and that lessees should only be required to file Form MMS–4295 when there is a change in the allowance amount.

Industry representatives stated that failure to file a completed Form MMS–4295 should not result in a denial of allowances because this constitutes a substantial penalty.

One industry spokesperson stated that to ease MMS's workload, each lessee should be assigned a particular due date for filing all forms. One Indian trade group was concerned over the provision establishing different reporting dates from those specified in order to provide more effective administration.

MMS Response: The final regulations in § 206.157 (c)(1)(iii) and (c)(2)(iii) give the lessee 3 months after the end of the previous reporting period to file the required forms. Also, as described earlier, the final regulations allow for transportation allowances to be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4295 is filed with MMS. Therefore, even if the lessee is not able to timely file the Form MMS–4295, the lessee could file the Form MMS–4295 and claim the transportation allowance on a corrected Form MMS–2014 at a later date.

The MMS concurs with a 12-month term and the final regulations require that a Form MMS–4295 will be filed on the basis of a calendar-year.

3. Miscellaneous comments received.

One industry representative stated that MMS should continue its policy of not requiring reporting or approval of reduction in sales prices which reflect transportation. One industry commenter recommended that deductions taken as an offset against price should be accepted by MMS without the necessity of filing Form MMS–4295.

MMS Response: In situations where the purchaser is reducing the contract price for a transportation cost and the lessee is incurring no out-of-pocket expense, a Form MMS–4295 is not required. In these situations, because the reduction in price represents a cost incurred past the point of first sale, a transportation allowance would not be allowed by the regulations. However, in determining the value of the gas, the reduction in price for the transportation costs past the point of sale would be considered.

Section 206.157(d)

MMS has added a new § 206.157(d) to the final regulations. This paragraph requires a lessee that deducts a transportation allowance from its royalty payments before complying with the requirements of this paragraph (i.e. filing the proper forms) to pay interest from the date it improperly took the deduction until the form is filed. As noted above, pursuant to paragraph (c), the lessee also will be required to pay back any allowance deducted more than 3 months prior to the first day of the month the proper forms are filed, plus interest.

Section 206.157(e)

This section was proposed as paragraph (d) and provides an adjustment procedure where the estimated allowance differs from the actual allowance.

Industry representatives commented that the MMS proposal for handling interest payments is unfair, and stated that "It is equitable that, if the lessee must pay any difference in royalty owed plus interest, MMS should also pay any difference plus interest statutorily authorized."

MMS Response: The MMS has no legal authority to pay interest to lessees on their overpayments.

Several industry commenters recommended that positive or negative differences between estimated and actual costs should be rolled forward into the transportation rate for the subsequent period because this would relieve the immense administrative burden on MMS and industry. One oil and gas company recommended that actual data from one period be used as the allowance for the following period, thus requiring no adjustments.

MMS Response: The MMS considered alternatives such as (1) rolling forward differences into subsequent periods or (2) using actual data from one period to be used as the next period's allowance, but determined that such procedures could be inequitable to lessees, MMS, Indian Tribes, and Indian allottees. Consequently, MMS has decided to retain the estimated and actual cost procedure.

Two oil and gas companies commented that refunds for estimates tendered in excess of actual costs should not be classified as refunds of a royalty payment under section 10 of the OCS Lands Act because estimates are not "actual" payments of royalty. Overpayments could then be treated as line-item adjustments not subject to the refund process. It was the firms' position that the OCS Lands Act, section 10, does not require requests for refunds when estimated costs are less than actual costs and stated that the concept of estimate versus payment is clearly discernible. "Payment" is defined as a discharge of indebtedness, while "estimate" is a rough or approximate calculation, not an overpayment.

One oil and gas company commented that the current extensive review and audit process is causing lessees to lose the time value of money in the refunds which are due them under section 10 of the OCS Lands Act. Audits on such refunds were described as fruitless and wasteful, and it was suggested that MMS consider transportation allowance adjustments to be exceptions to the refund requirements. Overpayments could then be recovered by line-item adjustments on Form MMS–2014.

Two oil and gas companies strongly emphasized that the requirement to submit written requests for refunds for under deducted transportation costs in accordance with section 10 of the OCS Lands Act will be an extraordinarily difficult financial and reporting burden for industry and the MMS.

MMS Response: It would not be proper for these rules to prescribe the refund procedures. MMS is reviewing the issue and will provide guidance to lessees.

Three oil and gas companies and one trade organization representative rejected using prior year actual costs for the current reporting period, stating that it automatically requires retroactive adjustment. They recommend that lessees be allowed to use forecast rates based on their knowledge and experience with the operations. Three oil and gas companies proposed that MMS establish an allowable range and not require retroactive adjustments if performance is within the allowable range.

One oil and gas company recommended using market-based allowances, requiring a single entry and resulting in fewer adjustments and fewer transportation records to be reviewed. One oil and gas company recommended that, to reduce costs, adjustments should be made by a single entry each year, not monthly.

MMS Response: The MMS was unable to develop an acceptable accounting methodology that would eliminate retroactive adjustments of prior period tentative transportation allowances for non-arm's-length and no-contract situations. The final regulations do, however, permit a lessee to adjust its estimates in the succeeding period based on forecasted rates.

Section 206.157(f)

Paragraph (f) of this section was proposed as paragraph (e) and, as proposed, provided that no cost is allowed for transportation which results from payments for actual or theoretical losses. The MMS received many different comments on this paragraph from industry, trade groups, and 1 U.S. Senator. Generally, the commenters stated that line losses are actual costs of doing business, should be allowable, and that this paragraph of the regulations should be deleted.

Industry commenters and the U.S. Senator commented that line losses are actual transportation costs which should be allowed by MMS. One industry commenter stated that line losses occur beyond the control of the lessee and are practical and legitimate occurrences. Another industry commenter stated that such allowances are real transportation costs borne by the lessee. Seven industry commenters stated that MMS should allow line losses not attributable to negligence.

Three commenters—two industry and one trade group representative—commented that line losses in arm's-length contracts and FERC tariffs should be allowed. One industry commenter stated that if a loss provision is a part of an arm's-length contract or a FERC tariff, MMS should accept such a provision, just as it accepts the dollars-and-cents rates in the contract or tariff because the losses are part of the total cost of the transportation arrangement. One industry representative stated that producer-owned pipelines should include transportation losses as part of operating expenses in the formulation of an allowance. Other commenters recommended deletion of this paragraph.

MMS Response: All of the issues of theoretical and actual line losses have been considered at length by MMS. Because of the difficulty of demonstrating that losses are valid and not the result of meter error or other difficult-to-measure causes, MMS has decided not to treat line losses as valid costs for purposes of computing transportation allowances in non-arm's-length and no-contract situations. However, the final rule provides that costs associated with payments for losses under arm's-length transportation

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agreements should be allowed because the payment is an out-of-pocket expense to the lessee.

Section 206.157(g)

The MMS received comments on § 206.157(g), which was proposed as paragraph (f). This paragraph allows use of the transportation allowance rules where transportation is a component of a valuation procedure such as a net-back method.

The industry respondents stated that use of cost-based transportation allowances is inequitable when using net-back valuation because actual costs incurred should be recognized. According to these comments, if MMS collects royalty on the enhanced downstream value, MMS should bear its share of actual costs incurred to move the hydrocarbon for sale downstream.

MMS Response: The MMS remains convinced that the cost-based allowance procedure for determining gas transportation allowances is appropriate for determining value under a net-back procedure.

Section 206.158 Processing allowances—general.

The processing allowance regulations are almost the same as the transportation allowance regulations. As expected, therefore, most of the comments were the same. Because responding to the same comments and explaining the same regulatory section is duplicative and unnecessary, in this section MMS generally will respond only to comments and explain regulatory provisions which are unique to gas processing allowances.

Section 206.158(a)

The MMS received many different comments from Indians, industry and States as well as some other persons on paragraph (a) of this section of the regulations, which generally provide for a processing allowance. Comments on gas processing allowances, which did not relate to any specific section of the regulations, are addressed in this paragraph of the gas processing regulations.

One industry representative cautioned that, although the final processing regulations must contain certainty, they should also be flexible enough to encourage innovative marketing of the gas plant products. Similarly, one State agency said that the proposed regulations must reflect the changing nature of industry, serve to encourage rather than discourage new projects, and allow existing operations to identify new markets.

MMS Response: The MMS believes that the regulations are complete and sufficiently flexible to accommodate different types of gas processing arrangements that might arise in the future. The MMS further believes that the regulations are reasonable. To not discourage new development, MMS has provided an exception process whereby a lessee may be able to justify a processing allowance in excess of the 66⅔-percent limitation and has provided the lessee with broad latitude to deduct processing costs under arm's-length contracts. For processing under non-arm's-length and no-contract situations, MMS has provided the lessee with several alternatives for depreciation and return on investment. MMS also has provided for an extraordinary cost allowance for processing gas production. The MMS does not believe that the objectives of certainty and flexibility should replace the Federal Government's responsibility to properly account for the removal of minerals from a Federal or Indian lease.

One industry commenter and one industry trade organization thought that this section should incorporate a provision to include the deduction of fractionation costs.

One industry commenter and one industry trade representative recommended that processing allowances continue to be granted on the basis of percentage of value.

MMS Response: The regulations, as adopted, accommodate fractionation costs as part of the processing allowance cost. Therefore, a specific provision is not necessary. The MMS has determined that an allowance based on a cost per unit is more equitable and will result in less difference between actual and estimated allowances than an allowance based on percentage, especially in times of rapid price fluctuations.

Section 206.158(b)

Paragraph (b) of this section requires allocation of processing costs among gas plant products. Comments were received principally from industry.

There was general opposition from industry to the allocation of processing allowances by gas plant product. They recommended either to delete this paragraph or to rewrite it in such a manner as to allow all processing costs in full to be deducted from the value of both the residue gas and gas plant products. One industry representative proposed a change which would allow the allocation of processing costs to both the value of gas plant products and residue gas.

One industry representative stated that the cost of processing should not be allocated to one product when it benefits all products. One industry trade group stated that the allocation of costs among products is contrary to the valuation principle that the value of production should equal the sum of all gross proceeds less the sum of all post-production costs.

Two industry representatives plus one industry trade group recommended that if allocation of costs is necessary, allocation should be based on percentage of sales rather than on a cost per unit; that is, based on value rather than volume. Two industry representatives and one trade group thought that the allocation of costs presents an administrative burden for both industry and MMS.

MMS Response: It has been a longstanding MMS policy and regulatory requirement that no processing allowance be granted against the value of residue gas. Among the reasons for this is that processing is viewed as necessary to place the residue gas in marketable condition and that processing does not generally enhance the value of residue gas. Thus, generally no processing allowance is authorized against the value of the residue gas in the final rule. The MMS believes that allocating processing costs based on relative volume rather than on relative value is more equitable because the costs of extracting any given product may be unrelated to that product's value.

Section 206.158(c)

As proposed, paragraph (c) of this section generally limited the processing allowance deduction to two-thirds of the value of each gas plant product. The MMS received a large number of comments on this paragraph.

Most industry-related commenters expressed their objection to the 66⅔-percent limitation on the processing allowance, and the exclusion of residue gas value from the allowance determination. Other commenters supported this position.

One State representative suggested that the limitation creates a floor and feared that a 66⅔-percent processing allowance will be taken as an automatic deduction.

An industry trade organization commented that in processing a sour, low quality gas stream, the 66⅔-percent limitation does not reflect actual costs to industry. This trade group plus four industry commenters stated that in high-cost or low-quality areas, the limitation will discourage development.

Many industry commenters recommended, in lieu of a strict limitation, that the 66⅔-percent level be a threshold, above which an allowance will be granted according to specific criteria. For example, one industry commenter recommended a higher allowance upon MMS approval. Another industry commenter requested that a higher allowance be approved on the basis of "national interest" criteria.

Some industry commenters stated that MMS should allow lessees to carry forward processing costs otherwise allowable (except for the 66⅔-percent limitation) from the current year to subsequent years.

The MMS also received several comments from parties who supported the proposed 66⅔-percent limitation on the processing allowance, including two oil producers, one interest owner, one State representative, and one State and Tribal organization. Another oil producer added that it opposed increasing the limitation. One interest owner stated that the limitation should be lowered.

An additional comment from a State and Tribal organization stated that it favors the exclusion of residue gas from the allowance determination. An Indian trade group stated its objection to the Director approving an allowance in excess of 66⅔ percent.

Six parties (one oil producer, one State representative, one interest owner, two industry parties, and one State and tribal organization) stated their opposition to a "carry forward" provision for costs exceeding the 66⅔-percent limitation. One industry commenter stated that such a process would be "impractical."

MMS Response: The MMS has devoted considerable time and effort in evaluating the 66⅔-percent limitation on the processing allowance, and the exclusion of the value of residue gas from the allowance computation. Section 206.158(c)(2) of the final rule provides that the processing allowance deduction on the basis of an individual product cannot exceed 66⅔ percent of the value of each gas plant product at the point of sale determined in accordance with § 206.153. No processing allowance may be taken against the value of the residue gas, except for certain extraordinary allowances specifically approved by MMS in accordance with paragraph (d), discussed below.

The 66⅔-percent limit is to be applied against the value of the product already reduced by any extraordinary cost allowance and any transportation allowance for transportation costs incurred after the gas is processed. Transportation allowances related to transportation from the field to the processing plant would not be deducted before applying the 66⅔-percent limitation.

The MMS has retained in the final rule a procedure whereby the lessee may request an exception from the 66⅔-percent limitation. The lessee must demonstrate that any costs in excess of the limitation are reasonable, actual, and necessary. This procedure will allow MMS to monitor more closely those situations where the allowance based on reasonable, actual costs will be in excess of the 66⅔-percent limitations. Under no circumstances may the processing allowance equal 100 percent of the value of any product. As with transportation allowances, many commenters suggested that any additional allowance must be in the "best interests of the lessor." As stated earlier, MMS believes that this standard is too subjective and that the standard included in the rules will protect the lessors' interests.

Industry respondents and industry trade groups stated their objection to the requirement regarding substitution of other products for residue gas in situations where residue gas is absent. One industry trade group stated that, in this situation, the lessee should be able to deduct the processing costs against the sum of all marketable products. Industry commenters recommended that this sentence be deleted. Industry commenters were also concerned that this paragraph would prohibit an allowance from being taken against all gas plant products if the residue gas was returned to the lease for reinjection or other uses.

MMS Response: The MMS did not intend, where residue gas was returned to the lease, that this provision would require the lessee to designate at least one gas plant product as being placed in marketable condition as a result of processing. The provision was intended to cover those situations where no residue gas was produced at the plant at all due to the absence of, or very low levels of, hydrocarbons in the gas when produced from the well. However, because the extraordinary processing allowance procedure discussed below would most likely be applicable in these situations, MMS has modified the final rule to eliminate the requirement that the lessee designate a gas plant product against which no allowance would be granted. Instead, the final rule provides that MMS may designate a gas plant product against which no allowance would be applied should circumstances warrant.

Section 206.158(d)

The MMS received many comments on paragraph (d) of this section, which provides generally that no processing cost deduction will be allowed for the costs of placing lease production in marketable condition. Comments were received from industry, Indian Tribes, local businesses, a town mayor, a Federal agency, and individuals.

The major issue raised in this paragraph was whether costs associated with placing a product in marketable condition, generally referred to by the commenters as post-production costs, should be deductible from royalty.

All industry-related commenters, the local businesses, and one town mayor supported the concept that all post-production costs be allowable deductions from royalty.

Industry commenters expressed their view that certain post-production costs should be deductible from royalty. One industry trade group stated that the costs related to the manufacture and sale of separately marketable products are extraordinary and should be allowed. One industry commenter stated that "* * * other off-lease post-production costs and certain 'extraordinary' on-lease costs" should be deductible.

MMS Response: MMS already has addressed the post-production cost issue with regard to other sections of these regulations. Generally, post-production costs, excluding those for transportation and processing, are not allowable deductions from royalty. Post-production costs for the services of gathering, separation, measurement, dehydration, compression, and sweetening are considered to be a requirement to place the lease production into marketable condition, at no cost to the lessor. These costs generally are not considered part of the processing costs and, therefore, are not deductible in a processing allowance.

MMS has included in the final regulations a new § 206.158(d)(2). Pursuant to this paragraph, if a lessee incurs extraordinary costs for processing gas production, it may apply to MMS for an extra allowance above that to which it otherwise would be entitled pursuant to these regulations. The allowance is discretionary with MMS, but may be granted only if the lessee can demonstrate that the costs are, by reference to standard industry conditions, extraordinary, unusual, or unconventional. Under this paragraph, an allowance could be provided against the value of the residue gas. For the same reasons discussed above with

respect to extraordinary cost allowances for certain gas production, MMS has removed any reference to "unique" processing operations. It is not MMS's intent to limit the allowance to one-of-a-kind plants. MMS also has included flexibility for longer approval periods.

Section 206.159 Determination of processing allowances.

Section 206.159(a)

The MMS received a large number of comments from States, Indians, and industry. Again, most of the issues raised in the comments were the same as for the corresponding section of the transportation allowance regulations and will not be repeated.

Two industry commenters responded in favor of the provision in § 206.159(a)(1) whereby MMS would accept costs incurred under arm's-length processing agreements as the reasonable, actual costs incurred by the lessee because they thought these arrangements reflect true processing costs experienced by the lessee. One Indian Tribal trade group opposed this proposal because of the concern that under these procedures the Indian lessor's royalty could be reduced to virtually nothing.

MMS Response: The MMS believes that processing costs incurred by a lessee under arm's-length agreements represent actual costs to the lessee and should be appropriate as a processing allowance. MMS has added a provision clarifying that the lessee has the burden of demonstrating that its contract is arm's-length. Under the provisions of these regulations, the lessor's royalty cannot be reduced to zero. Also, as with transportation allowances, MMS has added two paragraphs which provide that MMS will treat as non-arm's-length any processing contracts which reflect more than the consideration actually transferred from the lessee to the processor (i.e., the cost is inflated) or where there is misconduct by or between the contracting parties or the lessee otherwise breaches its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor.

With regard to the requirement of § 206.159(a)(2) that processing costs be allocated among all products, one industry commenter was critical of the proposal to treat all NGL's (but no other plant products) as one product. The commenter thought this was discriminatory toward the lessees in favor of processors of wet gas, not only because some lessees typically will be able to recover total processing costs from the value of the NGL's, but if other products are produced, costs would need to be allocated to them, with the possibility that some of these costs would not be totally recovered. This industry representative stated that all of the marketable products should be treated as one product, including residue gas, for purposes of allocating processing costs. Another industry representative made proposals which would make the allocation procedure unnecessary.

MMS Response: The NGL's, historically, have been considered one plant product, for royalty purposes, because they are commonly extracted first as raw make at an extraction facility. MMS has determined that all other individual plant products must be evaluated separately for processing allowances for the reasons stated previously.

Section 206.159(b)

The MMS received a very large number of comments on § 206.159(b), which provides for a processing allowance determination where the lessee has a non-arm's-length contract for processing or no contract. Comments were from industry commenters, industry trade organizations, State representatives, a Federal agency, an interest owner, local businesses, and from a town mayor.

The major issues addressed regarding this paragraph were (1) the requirement of a lessee's actual costs versus use of a benchmark system, (2) the use of "Alternative 1" or "Alternative 2" for depreciation or a return on capital investment, and (3) the rate of return on capital investment. These issues are basically the same as for the transportation allowance and have been responded to. However, some comments were specific to processing costs.

Industry comments disagreed with the proposal under this paragraph to base allowances on cost accounting procedures.

Industry commenters explicitly voiced their support for a market value concept; i.e., MMS should accept the market value of service for the allowance determination. One industry commenter added that under the proposed methodology, MMS ignorea "competitive market forces." Another industry commenter requested that MMS adopt a "market-oriented" approach. Still another industry commenter stated that if a non-arm's-length contract for processing reflects the market value for that service, it should be acceptable.

The industry commenters specifically recommended that MMS should adopt a benchmark system for allowance determinations under this section. These commenters suggested that comparable arm's-length contracts be used to determine the allowance for non-arm's-length processing arrangements in the same facility. One of the industry commenters added that the use of comparable arm's-length contracts will reduce the number of adjustments and other records to be filed.

One State representative opposed a benchmark system.

Four industry commenters and one industry trade group complained that cost accounting is a departure from the valuation requirements and that it discriminates against lessee affiliates.

Another industry commenter recommended that if plant ownership interest is sufficiently small, it should be treated as an arm's-length arrangement.

MMS Response: The MMS considered a benchmark valuation system featuring comparable arm's-length contracts to determine processing allowances, with cost accounting being used as a last resort. MMS concluded that such a procedure is not the fairest and best way to determine gas processing allowances considering the overall interests of industry, the Federal Government, States, and Indian Tribes. The MMS does not believe that allowances generally should be valued on a "market-based system" the way products are valued for royalty determination purposes for several reasons.

First, the determination of an allowance on a "market-based system" would not be representative of a lessee's actual, reasonable costs. Second, if one lessee bases its allowance on actual costs, and another lessee processing gas in the same facility bases its allowance on market value, an inequity will result.

For these reasons, MMS has decided that generally the gas processing allowance is best determined on actual, reasonable costs plus a return on undepreciated capital investment, or its initial capital investment. However, MMS has included in § 206.159(b)(4) of the final rules a provision whereby a lessee may apply to MMS for an exception from the requirement to use actual costs. MMS may grant such an exception, at its discretion, only if two conditions are met: (1) The lessee has arm's-length contracts for processing other gas production at the same processing plant; and (2) at least 50 percent of the gas processed at the plant is processed pursuant to arm's-length processing contracts. MMS has decided not to include a third requirement that the persons purchasing processing services from the lessee had a reasonable alternative to processing at the lessee's plant. Industry commenters noted that there often is no choice for the purchaser, thus the third requirement would render the exception unrealistic. If the exception is granted, the lessee must use as its allowance the volume-weighted average of the prices it charges other persons pursuant to arm's-length contracts at the same plant. Although some State and Indian commenters expressed concern over deviating from a true cost-based approach, MMS is satisfied that if these conditions are met, the processing allowance will reflect the market and that MMS will be able to monitor the use of these allowances.

Two industry commenters stated that State and Federal income taxes should be considered as allowable costs on the premise that such costs are real, tangible costs to the lessee.

Two other industry commenters suggested that plant dismantling and abandonment costs should be allowable, advising that such costs are a real cost of doing business.

MMS Response: The MMS views income taxes to be an apportionment of profit rather than a valid operating expense. Therefore, income taxes are not an appropriate expense that should be included in the processing allowance. The MMS takes the position that, because it does not participate in the profit or losses from the sale of processing facilities, no costs for dismantling and abandonment should be included in processing allowances.

The basic issue regarding requirements to allocate processing costs among all plant products is discussed under § 206.156(b). However, specific comments pertaining to the allocation under non-arm's-length and no-contract situations are discussed here.

Industry commenters disagreed with the requirement to allocate costs on generally accepted oil and gas accounting principles. One of these commenters recommended deleting this requirement. Other commenters advised that generally accepted principles for cost allocation do not exist. One commenter suggested instead that allocations be based on (1) cost-benefit analysis, and (2) cause-and-effect relationships.

One industry commenter recommended that this requirement be modified to include an allocation of costs to residue gas.

MMS Response: The MMS believes that if cost-benefit analysis and cause-and-effect relationships are generally acceptable procedures in cost allocation, these procedures would be acceptable to MMS. MMS will consider cost allocation procedures for unique situations on the basis of individual cases in order to arrive at an equitable allocation procedure. As stated previously, MMS believes that it is not appropriate to allocate processing costs to residue gas.

Section 206.159(c)

The MMS received several comments on paragraph (c) of this section which addresses reporting requirements for processing allowances. Again, this paragraph is virtually identical to the corresponding provision for transportation allowances, and the response to comments for that section is, for the most part, applicable here.

The two major areas of concern were (1) use of Form MMS–4109, and (2) the terms of the reporting periods and filing timetables.

Industry commenters and Indian Tribes expressed some opposition to Form MMS–4109. One industry respondent and one industry trade group objected to commenting on the form until it is published, adding that it should not conflict with any rights of the lessee. Several industry commenters opposed the filing of Form MMS–4109 at all. One of the industry commenters stated that processing rates under an arm's-length or non-arm's-length contract should be accepted at face value. An industry trade group claimed that filing of the form would be an unnecessary burden for both industry and MMS. Another industry commenter stated that it opposed any reporting requirements such as annual renewals or contract change updates. A Tribe opposed industry taking an allowance on the honor system and merely filing a form to claim it.

MMS Response: The MMS believes that Form MMS–4109 must be required in order for MMS to monitor the processing allowance program. The MMS believes it can effectively monitor the processing allowance deductions without the preapproval of the allowances. The MMS has made the information on Form MMS–4109 as clear and uncomplicated as possible considering the complex nature of processing allowances. The filing of a Form MMS–4109 does not conflict with any lease provisions or rights of the lessees. The MMS agrees that the proposed procedure for determining a processing allowance places initial reliance on the gas industry. However, this program will be under continuous review and oversight by MMS. Thus, the ability to effectively review, evaluate, and audit processing allowances has been maintained under the new regulations.

The initial concern about reporting periods was MMS's proposal to create a new reporting period for all allowances which would commence the date the new regulations are effective. Industry commenters opposed this, recommending instead that all existing allowances be grandfathered under the new regulations. Another industry commenter requested 180 days for conversion to the new reporting period.

Another topic addressed by the respondents was the term of the reporting period. Industry commenters favored a reporting period that extends as long as the contract terms are effective, instead of an arbitrary 12-month period. One of the industry commenters stated that resources are wasted by requiring the lessee to file year after year even though there are no changes. However, one industry commenter and one industry trade group endorsed the 12-month reporting period. The industry commenter specifically requested a calendar-year period.

Two industry commenters recommended a longer grace period in which to file subsequent Forms MMS–4109. These commenters both suggested 120 days to file updated forms.

MMS Response: The MMS concurs with a 12-month term and the regulations have been changed to allow filing of Form MMS–4109 by calendar year. The regulations have also been changed to allow a grace period of 3 months. The MMS also decided that existing allowances (but only those approved in writing by MMS) will continue in effect until they expire, subject to later audit, with the exception of processing allowances for OCS production which are based on non-arm's-length or no-contract situations. Because these allowances are based upon a procedure radically different from the procedure adopted in the final rule, they will continue in effect until they expire or until the end of the calendar year, whichever occurs first.

Section 206.159(d)

Paragraph (d) of this section is the same as for transportation allowances. If a lessee deducts a processing allowance without filing the proper forms, it will owe interest on the amount of the deduction until the proper forms are filed, subject to the 3-month retroactivity provision.

Section 206.159(e)

As with transportation allowance adjustments, the issues regarding paragraph (e) of this section were (1) the requirement to file adjustments, (2) the refund procedure under Section 10 of the

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OCS Lands Act, and (3) the payment of interest.

It was the general consensus that adjustments were a very large burden on both industry and MMS and that some way should be found to eliminate the need for so many adjustments resulting from differences between actual and estimated processing allowances. Six industry representatives and two industry trade groups recommended that positive or negative differences between estimated and actual costs should be rolled forward into the processing allowance for the subsequent period, or prospectively.

One industry commenter asserted that retroactive adjustments should not be necessary if the actual allowance falls within an allowable range of the estimated allowance, and two other industry commenters suggested rolling forward small differences into next year's costs within an allowable range.

One industry commenter proposed single-entry adjustments for an entire year instead of month-by-month adjustments. This party also made the comment that if a market-based allowance was permitted, it would be more certain and fewer adjustments would be necessary.

MMS Response: The MMS expended considerable effort in an attempt to arrive at an accounting methodology that would eliminate retroactive adjustments of processing allowances and continue to be fair to industry, MMS, and Indian lessors, but was unable to do so.

One industry representative stated that overpayments, when estimates were less than actual costs, should not be judged as refunds of a payment of royalty under section 10 of the OCS Lands Act because estimates are not "actual" payments of royalty. Overpayments could then be treated as line-item adjustments not subject to the refund process.

MMS Response: The refund procedure will not be specified in these regulations. MMS is reviewing the issue and will provide guidance to the lessees on refund procedures.

Industry representatives commented that the MMS-proposed procedure for handling interest payments was not fair. These commenters believed that, if the lessee must pay any difference plus interest, MMS should also pay any difference plus any interest statutorily authorized. Another issue of concern was the payment of interest requirement.

MMS Response: The MMS has no legal authority to pay interest to lessees on their overpayments.

Section 206.159(f)

Paragraph (f) of this section requires that the provisions in this section will apply to determine processing costs in situations where value must be established under other methods such as net-back.

One industry commenter recommended that the definition of "net-back method" be clarified.

MMS Response: A definition of the net-back method has been included in § 206.151, which is slightly different from that proposed. The MMS believes this revised definition clarifies MMS's intent.

IV. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. This proposed rulemaking is to consolidate Federal and Indian gas royalty valuation regulations, to clarify the DOI gas royalty valuation policy, and to provide for consistent royalty valuation policy among all leasable minerals.

Regulatory Flexibility Act

Because this rule primarily consolidates and streamlines existing regulations for consistent application, there are no significant additional requirements or burdens placed upon small business entities as a result of implementation of this rule. Therefore, the DOI has determined that this rulemaking will not have a significant economic effect on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The information collection and recordkeeping requirements located at §§ 206.157 and 206.159 of this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1010–0075.

Lessee reporting requirements will be reduced. All gas sales contracts, transportation agreements and gas processing contracts, as well as any other agreements affecting value, will be required to be retained by the lessee, but will only be required to be submitted upon request rather than routinely, as under the existing regulations.

National Environmental Policy Act of 1969

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects

30 CFR Part 202

Continental shelf, Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 206

Continental shelf, Geothermal energy, Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

Date:

Assistant Secretary Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR Parts 202 and 206 are amended as follows:

PART 202—ROYALTY RATES AND RENTALS

1. The authority citation for Part 202 is revised to read as follows:

Authority: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

§§ 202.150, 202.151, and 202.152 [Redesignated as §§ 202.100, 202.53, and 202.52]

2. Sections 202.150, 202.151, and 202.152 of Subpart D are redesignated as new §§ 202.100 under Subpart C, 202.53, and 202.52 under Subpart B, respectively.

3. A new Subpart D consisting of §§ 202.150, 202.151, and 202.152 is added to read as follows:

Subpart D—Federal and Indian Gas

Sec.

202.150 Royalty on gas.
202.151 Royalty on processed gas.
202.152 Standards for reporting and paying royalties on gas.

Subpart D—Federal and Indian Gas

§ 202.150 Royalty on gas.

(a) Royalties due on gas production from leases subject to the requirements of this subpart, except helium produced from Federal leases, shall be at the rate established by the terms of the lease.

Royalty shall be paid in value unless MMS requires payment in kind. When paid in value, the royalty due shall be the value, for royalty purposes, determined pursuant to 30 CFR Part 206 of this title multiplied by the royalty rate in the lease.

(b) (1) All gas (except gas unavoidably lost or used on, or for the benefit of, the lease, including that gas used off-lease for the benefit of the lease when such off-lease use is permitted by the appropriate agency) produced from a Federal or Indian lease to which this subpart applies is subject to royalty.

(2) When gas is used on, or for the benefit of, the lease at a production facility handling production from more than one lease with the approval of the appropriate agency or at a production facility handling unitized or communitized production, only that proportionate share of each lease's production (actual or allocated) necessary to operate the production facility may be used royalty free.

(3) Where the terms of any lease are inconsistent with this subpart, the lease terms shall govern to the extent of that inconsistency.

(c) If BLM determines that gas was avoidably lost or wasted from an onshore lease, or that gas was drained from an onshore lease for which compensatory royalty is due, or if MMS determines that gas was avoidably lost or wasted from an OCS lease, then the value of that gas shall be determined in accordance with 30 CFR Part 206.

(d) If a lessee receives insurance compensation for unavoidably lost gas, royalties are due on the amount of that compensation. This paragraph shall not apply to compensation through self-insurance.

(e) In those instances where the lessee of any lease committed to a Federally approved unitization or communitization agreement does not actually take the proportionate share of the production attributable to its Federal or Indian lease under the terms of the agreement, the full share of production attributable to the lease under the terms of the agreement nonetheless is subject to the royalty payment and reporting requirements of this title. The value for royalty purposes of that production will be determined in accordance with 30 CFR Part 206. In applying the requirements of 30 CFR Part 206, the circumstances involved in the actual disposition of the portion of the production to which the lessee was entitled but did not take shall be considered as controlling in arriving at the value for royalty purposes of that portion, as if the person actually selling or disposing of the production were the lessee of the Federal or Indian lease.

§ 202.151 Royalty on processed gas.

(a) A royalty, as provided in the lease, shall be paid on the value of any condensate recovered downstream of the point of royalty settlement without resorting to processing, the residue gas and all gas plant products resulting from processing the gas produced from a lease subject to this subpart. The MMS shall authorize a processing allowance for the reasonable, actual costs of processing the gas produced from Federal and Indian leases. Processing allowances shall be determined in accordance with Subpart D of 30 CFR Part 206.

(b) A reasonable amount of residue gas shall be allowed royalty free for operation of the processing plant, but no allowance shall be made for boosting residue gas or other expenses incidental to marketing, except as provided in 30 CFR Part 206. In those situations where a processing plant processes gas from more than one lease, only that proportionate share of each lease's residue gas necessary for the operation of the processing plant shall be allowed royalty free.

(c) No royalty is due on residue gas, or any gas plant product resulting from processing gas, which is reinjected into a reservoir within the same lease, unit area, or communitized area, when the reinjection is included in a plan of development or operations and the plan has received BLM or MMS approval for onshore or offshore operations, respectively, until such time as they are finally produced from the reservoir for sale or other disposition off-lease.

§ 202.152 Standards for reporting and paying royalties on gas.

(a) (1) Gas volumes and Btu heating values, if applicable, shall be determined under the same degree of water saturation. Gas volumes shall be reported in units of one thousand cubic feet (mcf), and Btu heating value shall be reported at a rate of Btu's per cubic foot, at a standard pressure base of 14.73 pounds per square inch absolute (psia) and a standard temperature base of 60 °F, except that for OCS leases in the Gulf of Mexico, gas volumes and Btu heating values shall be reported at a standard pressure base of 15.025 psia and a standard temperature base of 60 °F. Gas volumes and Btu heating values shall be reported, for royalty purposes, on the same water vapor saturated or unsaturated basis prescribed by Federal Energy Regulatory Commission (FERC) regulation, or on the basis prescribed in the lessee's gas sales contract provided that the sales contract does not conflict with FERC regulation.

(2) The frequency and method of Btu measurement as set forth in the lessee's contract shall be used to determine Btu heating values for reporting purposes. However, the lessee shall measure the Btu value at least semiannually by recognized standard industry testing methods even if the lessee's contract provides for less frequent measurement.

(b) (1) Residue gas and gas plant product volumes shall be reported as specified in this paragraph.

(2) Carbon dioxide (CO_2), nitrogen (N_2), helium (He), residue gas, and any other gas marketed as a separate product shall be reported by using the same standards specified in paragraph (a) of this section.

(3) Natural gas liquids (NGL) volumes shall be reported in standard U.S. gallons (231 cubic inches) at 60 °F.

(4) Sulfur (S) volumes shall be reported in long tons (2,240 pounds).

PART 206—PRODUCT VALUATION

1. The authority citation for Part 206 is revised to read as follows:

Authority: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

2. The title of Subpart A is changed to read "Subpart A—General Provisions" and a new § 206.10 is added to Subpart A to read as follows:

Subpart A—General Provisions

§ 206.10 Information collection.

The information collection requirements contained in 30 CFR Part 206 have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* The forms and approved OMB clearance numbers are as follows:

Form No., name, and filing date	OMB No.
MMS–4109—Gas Processing Allowance Summary Report—due within 3 months following the last day of the month for which an allowance is claimed, unless a longer period is approved by MMS	1010–0075
MMS–4110—Oil Transportation Allowance Report—due within 3 months following the last day of the month for which an allowance is claimed, unless a longer period is approved by MMS	1010–0061
MMS–4295—Gas Transportation Allowance Report—due within 3 months following the last day of the month for which an allowance is claimed unless a longer period is approved by MMS	1010–0075

The information is being collected by the Department of the Interior to meet its congressionally mandated accounting

and audit responsibilities relating to Federal and Indian mineral royalty management. The information will be used to determine the transportation and processing allowances that may be deducted from royalty payments due on Federal and Indian lands. The reports are required to receive a benefit.

§§ 206.106 and 206.107 [Removed]

3. Sections 206.106 and 206.107 are removed from Subpart C.

4. Subpart D is revised to read as follows:

Subpart D—Federal and Indian Gas

Sec.
206.150 Purpose and scope.
206.151 Definitions.
206.152 Valuation standards—unprocessed gas.
206.153 Valuation standards—processed gas.
206.154 Determination of quantities and qualities for computing royalties.
206.155 Accounting for comparison.
206.156 Transportation allowances—general.
206.157 Determination of transportation allowances.
206.158 Processing allowances—general.
206.159 Determination of processing allowances.

Subpart D—Federal and Indian Gas

§ 206.150 Purpose and scope.

(a) This subpart is applicable to all gas production from Federal and Indian (Tribal and allotted) oil and gas leases (except leases on the Osage Indian Reservation). The purpose of this subpart is to establish the value of production for royalty purposes consistent with the mineral leasing laws, other applicable laws and lease terms.

(b) If the specific provisions of any statute, treaty, settlement agreement between the United States and a lessee resulting from administrative or judicial litigation, or oil and gas lease subject to the requirements of this subpart are inconsistent with any regulation in this subpart, then the lease, statute, or treaty provision shall govern to the extent of that inconsistency.

(c) All royalty payments made to MMS or to any Tribe or allottee are subject to audit and adjustment.

(d) The regulations in this subpart are intended to ensure that the trust responsibilities of the United States with respect to the administration of Indian oil and gas leases are discharged in accordance with the requirements of the governing mineral leasing laws, treaties, and lease terms.

(e) Notwithstanding the provisions of this subpart, for any lease in which an Alaska Native Corporation has acquired an interest subject to section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)), the value, for royalty purposes, of the proportionate share of production from that lease which corresponds to the Alaska Native Corporation's proportionate interest in the lease will be determined in accordance with the regulations, guidelines, and Notices to Lessees in effect at the time the Alaska Native Corporation acquired any proportionate interest therein, or for interests acquired after the effective date of these regulations, at the time the Alaska Native Corporation selected or designated such interests for conveyance under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613).

§ 206.151 Definitions.

For purposes of this subpart:

"Allowance" means an approved or an MMS initially accepted deduction in determining value for royalty purposes. "Processing allowance" means an allowance for the reasonable, actual costs incurred by the lessee for processing gas, or an approved or MMS initially accepted deduction for costs of such processing, determined pursuant to this subpart. "Transportation allowance" means an allowance for the reasonable, actual costs incurred by the lessee for moving unprocessed gas, residue gas, or gas plant products to a point of sale or point of delivery off the lease, unit area, communitized area, or away from a processing plant, excluding gathering, or an approved or MMS initially accepted deduction for costs of such transportation, determined pursuant to this subpart.

"Area" means a geographic region at least as large as the defined limits of an oil and/or gas field, in which oil and/or gas lease products have similar quality, economic, and legal characteristics.

"Arm's-length contract" means a contract or agreement that has been arrived at in the marketplace between independent, nonaffiliated persons with opposing economic interests regarding that contract. For purposes of this subpart, two persons are affiliated if one person controls, is controlled by, or is under common control with another person. For purposes of this subpart, based on the instruments of ownership of the voting securities of an entity, or based on other forms of ownership:

(1) Ownership in excess of 50 percent constitutes control;

(2) Ownership of 20 through 50 percent creates a presumption of control; and

(3) Ownership of less than 20 percent creates a presumption of noncontrol which MMS may rebut if it demonstrates actual or legal control, including the existence of interlocking directorates.

Notwithstanding any other provisions of this subpart, contracts between relatives, either by blood or by marriage, are not arm's-length contracts. The MMS may require the lessee to certify ownership control. To be considered arm's-length for any production month, a contract must meet the requirements of this definition for that production month as well as when the contract was executed.

"Audit" means a review, conducted in accordance with generally accepted accounting and auditing standards, of royalty payment compliance activities of lessees or other interest holders who pay royalties, rents, or bonuses on Federal and Indian leases.

"BIA" means the Bureau of Indian Affairs of the Department of the Interior.

"BLM" means the Bureau of Land Management of the Department of the Interior.

"Compression" means the process of raising the pressure of gas.

"Condensate" means liquid hydrocarbons (normally exceeding 40 degrees of API gravity) recovered at the surface without resorting to processing. Condensate is the mixture of liquid hydrocarbons that results from condensation of petroleum hydrocarbons existing initially in a gaseous phase in an underground reservoir.

"Contract" means any oral or written agreement, including amendments or revisions thereto, between two or more persons and enforceable by law that with due consideration creates an obligation.

"Field" means a geographic region situated over one or more subsurface oil and gas reservoirs encompassing at least the outermost boundaries of all oil and gas accumulations known to be within those reservoirs vertically projected to the land surface. Onshore fields are usually given names and their official boundaries are often designated by oil and gas regulatory agencies in the respective States in which the fields are located. Outer Continental Shelf (OCS) fields are named and their boundaries are designated by MMS.

"Gas" means any fluid, either combustible or noncombustible, hydrocarbon or nonhydrocarbon, which is extracted from a reservoir and which has neither independent shape nor volume, but tends to expand indefinitely. It is a substance that exists in a gaseous or rarefied state under standard temperature and pressure conditions.

"Gas plant products" means separate marketable elements, compounds, or mixtures, whether in liquid, gaseous, or solid form, resulting from processing gas, excluding residue gas.

"Gathering" means the movement of lease production to a central accumulation and/or treatment point on the lease, unit or communitized area, or to a central accumulation or treatment point off the lease, unit or communitized area as approved by BLM or MMS OCS operations personnel for onshore and OCS leases, respectively.

"Gross proceeds" (for royalty payment purposes) means the total monies and other consideration accruing to an oil and gas lessee for the disposition of unprocessed gas, residue gas, or gas plant products. Gross proceeds includes, but is not limited to, payments to the lessee for certain services such as compression, dehydration, measurement, and/or field gathering to the extent that the lessee is obligated to perform them at no cost to the Federal Government or Indian lessor, and payments for gas processing rights. Gross proceeds, as applied to gas, also includes but is not limited to: take-or-pay payments; reimbursements for severance taxes; and other reimbursements. Tax reimbursements are part of the gross proceeds accruing to a lessee even though the Federal or Indian royalty interest may be exempt from taxation. Payments or credits for advanced exploration or development costs or prepaid reserve payments that are subject to recoupment through credits against the purchase price or through reduced prices in later sales and which are made before production commences become part of gross proceeds as of the time of first production. Monies and other consideration including the forms of consideration identified in this paragraph, to which a lessee is contractually or legally entitled but which it does not seek to collect through reasonable efforts are also part of gross proceeds.

"Indian allottee" means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation.

"Indian Tribe" means any Indian Tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians for which any land or interest in land is held in trust by the United States or which is subject to Federal restriction against alienation.

"Lease" means any contract, profit-sharing arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, development or extraction of, or removal of lease products—or the land area covered by that authorization, whichever is required by the context.

"Lease products" means any leased minerals attributable to, originating from, or allocated to Outer Continental Shelf or onshore Federal or Indian leases.

"Lessee" means any person to whom the United States, an Indian Tribe, or an Indian allottee issues a lease, and any person who has been assigned an obligation to make royalty or other payments required by the lease. This includes any person who has an interest in a lease as well as an operator or payor who has no interest in the lease but who has assumed the royalty payment responsibility.

"Like-quality lease products" means lease products which have similar chemical, physical, and legal characteristics.

"Marketable condition" means lease products which are sufficiently free from impurities and otherwise in a condition that they will be accepted by a purchaser under a sales contract typical for the field or area.

"Marketing affiliate" means an affiliate of the lessee whose function is to acquire only the lessee's production and to market that production.

"Minimum royalty" means that minimum amount of annual royalty that the lessee must pay as specified in the lease or in applicable leasing regulations.

"Net-back method" (or work-back method) means a method for calculating market value of gas at the lease. Under this method, costs of transportation, processing, or manufacturing are deducted from the proceeds received for the gas, residue gas or gas plant products, and any extracted, processed, or manufactured products, or from the value of the gas, residue gas or gas plant products, and any extracted, processed, or manufactured products, at the first point at which reasonable values for any such products may be determined by comparison to other sales of such products, to ascertain value at the lease.

"Net output" means the quantity of residue gas and each gas plant product that a processing plant produces.

"Net profit share" (for applicable Federal and Indian leases) means the specified share of the net profit from production of oil and gas as provided in the agreement.

"Outer Continental Shelf (OCS)" means all submerged lands lying seaward and outside of the area of land beneath navigable waters as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"Person" means any individual, firm, corporation, association, partnership, consortium, or joint venture.

"Posted price" means the price, net of all adjustments for quality and location, specified in publicly available price bulletins or other price notices available as part of normal business operations for quantities of unprocessed gas, residue gas, or gas plant products in marketable condition.

"Processing" means any process designed to remove elements or compounds (hydrocarbon and nonhydrocarbon) from gas, including absorption, adsorption, or refrigeration. Field processes which normally take place on or near the lease, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration, and compression, are not considered processing. The changing of pressures and/or temperatures in a reservoir is not considered processing.

"Residue gas" means that hydrocarbon gas consisting principally of methane resulting from processing gas.

"Section 6 lease" means an OCS lease subject to Section 6 of the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. 1335.

"Selling arrangement" means the individual contractual arrangements under which sales or dispositions of gas, residue gas and gas plant products are made. Selling arrangements are described by illustration in the MMS Royalty Management Program Oil and Gas Payor Handbook.

"Spot sales agreement" means a contract wherein a seller agrees to sell to a buyer a specified amount of unprocessed gas, residue gas, or gas plant products at a specified price over a fixed period, usually of short duration, which does not normally require a cancellation notice to terminate, and which does not contain an obligation, nor imply an intent, to continue in subsequent periods.

"Take-or-pay payment" means any payment received by a lessee under a "take-or-pay" clause in a sales contract. Such clauses normally require the purchaser to take or, failing to take, to pay for a specified minimum volume or other measure of lease products.

"Warranty contract" means a long-term contract entered into prior to 1970, including any amendments thereto, for the sale of gas wherein the producer agrees to sell a specific amount of gas and the gas delivered in satisfaction of

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this obligation may come from fields or sources outside of the designated fields.

§ 206.152 Valuation standards—unprocessed gas.

(a)(1) This section applies to the valuation of all gas that is not processed and all gas that is processed but is sold or otherwise disposed of by the lessee pursuant to an arm's-length contract prior to processing. Where the lessee's contract includes a reservation of the right to process the gas and the lessee exercises that right, or where the lessee's contract for the sale of gas prior to processing provides for the value to be determined based upon a percentage of the purchaser's proceeds resulting from processing the gas, § 206.153 of this subpart shall apply instead of this section. This section also applies to processed gas which must be valued prior to processing in accordance with § 206.155 of this subpart.

(2) The value of production, for royalty purposes, of gas subject to this subpart shall be the value of gas determined pursuant to this section less applicable allowances determined pursuant to this subpart.

(3)(i) For any Indian leases which provide that the Secretary may consider the highest price paid or offered for a major portion of production (major portion) in determining value of production for royalty purposes, if data are available to compute a major portion MMS will, where practicable, compare the value determined in accordance with this section with the major portion. The value to be used in determining the value of production for royalty purposes shall be the higher of those two values.

(ii) For purposes of this paragraph, major portion means the highest price paid or offered at the time of production for the major portion of gas production from the same field. The major portion will be calculated using like-quality gas sold under arm's-length contract from the same field (or, if necessary to obtain a reasonable sample, from the same area) for each month. All such sales will be arrayed from highest price to lowest price (at the bottom). The major portion is that price at which 50 percent (by volume) plus 1 mcf of the gas (starting from the bottom) is sold.

(b)(1)(i) The value of gas which is sold pursuant to an arm's-length contract shall be the gross proceeds accruing to the lessee, except as provided in paragraphs (b)(1)(ii) and (b)(1)(iii) of this section. The lessee shall have the burden of demonstrating that its contract is arm's-length. The value which the lessee reports, for royalty purposes, is subject to monitoring, review, and audit. For purposes of this section, gas which is sold or otherwise transferred to the lessee's marketing affiliate and then sold by the marketing affiliate pursuant to an arm's-length contract shall be valued in accordance with this paragraph based upon the sale by the marketing affiliate.

(ii) In conducting reviews and audits, MMS will examine whether the contract reflects the total consideration actually transferred either directly or indirectly from the buyer to the seller for the gas. If the contract does not reflect the total consideration, then the MMS may require that the gas sold pursuant to that contract be valued in accordance with paragraph (c) of this section.

(iii) If the MMS determines that the gross proceeds accruing to the lessee pursuant to an arm's-length contract do not reflect the reasonable value of the production because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the gas production be valued pursuant to paragraphs (c)(2) or (c)(3) of this section, and in accordance with the notification requirements of paragraph (e) of this section.

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, the value of gas sold pursuant to a warranty contract shall be determined by MMS, and due consideration will be given to all valuation criteria specified in this section. The lessee must request a value determination in accordance with paragraph (g) of this section for gas sold pursuant to a warranty contract; provided, however, that any value determination for a warranty contract in effect on the effective date of these regulations shall remain in effect until modified by MMS.

(3) MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer for the gas.

(c) The value of gas subject to this section which is not sold pursuant to an arm's-length contract shall be the reasonable value determined in accordance with the first applicable of the following methods.

(1) The gross proceeds accruing to the lessee pursuant to a sale under its non-arm's-length contract (or other disposition other than by an arm's-length contract), provided that those gross proceeds are equivalent to the gross proceeds derived from, or paid under, comparable arm's-length contracts for purchases, sales, or other dispositions of like-quality gas in the same field (or, if necessary to obtain a reasonable sample, from the same area). In evaluating the comparability of arm's-length contracts for the purposes of these regulations, the following factors shall be considered: Price, time of execution, duration, market or markets served, terms, quality of gas, volume, and such other factors as may be appropriate to reflect the value of the gas;

(2) A value determined by consideration of other information relevant in valuing like-quality gas, including gross proceeds under arm's-length contracts for like-quality gas in the same field or nearby fields or areas, posted prices for gas, prices received in arm's-length spot sales of gas, other reliable public sources of price or market information, and other information as to the particular lease operation or the saleability of the gas; or

(3) A net-back method or any other reasonable method to determine value.

(d) (1) Notwithstanding any other provisions of this section, except paragraph (h) of this section, if the maximum price permitted by Federal law at which gas may be sold is less than the value determined pursuant to this section, then MMS shall accept such maximum price as the value. For purposes of this section, price limitations set by any State or local government shall not be considered as a maximum price permitted by Federal law.

(2) The limitation prescribed in paragraph (d)(1) of this section shall not apply to gas sold pursuant to a warranty contract and valued pursuant to paragraph (b)(2) of this section.

(e) (1) Where the value is determined pursuant to paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value. Such data shall be subject to review and audit, and MMS will direct a lessee to use a different value if it determines that the reported value is inconsistent with the requirements of these regulations.

(2) Any Federal or Indian lessee will make available upon request to the authorized MMS, State, or Indian representatives, to the Office of the Inspector General of the Department of the Interior, or other person authorized to receive such information, arm's-length sales and volume data for like-quality production sold, purchased or otherwise obtained by the lessee from the field or area or from nearby fields or areas.

(3) A lessee shall notify MMS if it has determined value pursuant to paragraph (c)(2) or (c)(3) of this section. The notification shall be by letter to the MMS Associate Director for Royalty Management or his/her designee. The letter shall identify the valuation method to be used and contain a brief description of the procedure to be followed. The notification required by this paragraph is a one-time notification due no later than the end of the month following the month the lessee first reports royalties on a Form MMS–2014 using a valuation method authorized by paragraph (c)(2) or (c)(3) of this section, and each time there is a change in a method under paragraph (c)(2) or (c)(3) of this section.

(f) If MMS determines that a lessee has not properly determined value, the lessee shall pay the difference, if any, between royalty payments made based upon the value it has used and the royalty payments that are due based upon the value established by MMS. The lessee shall also pay interest on that difference computed pursuant to 30 CFR 218.54. If the lessee is entitled to a credit, MMS will provide instructions for the taking of that credit.

(g) The lessee may request a value determination from MMS. In that event, the lessee shall propose to MMS a value determination method, and may use that method in determining value for royalty purposes until MMS issues its decision. The lessee shall submit all available data relevant to its proposal. The MMS shall expeditiously determine the value based upon the lessee's proposal and any additional information MMS deems necessary. In making a value determination MMS may use any of the valuation criteria authorized by this subpart. That determination shall remain effective for the period stated therein. After MMS issues its determination, the lessee shall make the adjustments in accordance with paragraph (f) of this section.

(h) Notwithstanding any other provision of this section, under no circumstances shall the value of production for royalty purposes be less than the gross proceeds accruing to the lessee for lease production, less applicable allowances determined pursuant to this subpart.

(i) (1) The lessee is required to place gas in marketable condition at no cost to the Federal Government or Indian lessor unless otherwise provided in the lease agreement or this section. Where the value established pursuant to this section is determined by a lessee's gross proceeds, that value shall be increased to the extent that the gross proceeds have been reduced because the purchaser, or any other person, is providing certain services the cost of which ordinarily is the responsibility of the lessee to place the gas in marketable condition.

(2) If the lessee incurs extraordinary costs for the gathering, compression, dehydration, or sweetening of gas production subject to this section from frontier or deep-water areas, or from a gas production operation recognized by MMS as extraordinary, and those costs relate to unusual or unconventional operations, it may apply to MMS for an allowance. Such an allowance may be granted only if:

(i) the costs are associated with leases located north of the Arctic Circle, the costs are associated with OCS leases located in water depths in excess of 400 meters, or the costs are associated with an extraordinary gas production operation which MMS approves as eligible for the provisions of this paragraph; and

(ii) the lessee can demonstrate that the costs are, by reference to standard industry conditions and practice, extraordinary, unusual, or unconventional.

(3) The MMS shall determine the amount of the extraordinary cost allowance which shall remain in effect for the period specified in the approval. To retain the authority to deduct the allowance, the lessee must report the deduction to MMS in a form and manner prescribed by MMS. Extraordinary cost allowance deductions are subject to monitoring, review, audit, and adjustment.

(j) Value shall be based on the highest price a prudent lessee can receive through legally enforceable claims under its contract. If there is no contract revision or amendment, and the lessee fails to take proper or timely action to receive prices or benefits to which it is entitled, it must pay royalty at a value based upon that obtainable price or benefit. Contract revisions or amendments shall be in writing and signed by all parties to an arm's-length contract. If the lessee makes timely application for a price increase or benefit allowed under its contract but the purchaser refuses, and the lessee takes reasonable measures, which are documented, to force purchaser compliance, the lessee will owe no additional royalties unless or until monies or consideration resulting from the price increase or additional benefits are received. This paragraph shall not be construed to permit a lessee to avoid its royalty payment obligation in situations where a purchaser fails to pay, in whole or in part or timely, for a quantity of gas.

(k) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring, or other like process that results in a redetermination by the MMS of value under this section shall be considered final or binding as against the Federal Government, its beneficiaries, the Indian Tribes, or allottees until the audit period is formally closed.

(l) Certain information submitted to MMS to support valuation proposals, including transportation or extraordinary cost allowances, is exempted from disclosure by the Freedom of Information Act, 5 U.S.C. 552, or other Federal Law. Any data specified by law to be privileged, confidential, or otherwise exempt will be maintained in a confidential manner in accordance with applicable law and regulations. All requests for information about determinations made under this subpart are to be submitted in accordance with the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2. Nothing in this section is intended to limit or diminish in any manner whatsoever the right of an Indian lessor to obtain any and all information as such lessor may be lawfully entitled from MMS or such lessor's lessee directly under the terms of the lease, 30 U.S.C. 1733, or other applicable law.

§ 206.153 Valuation standards—processed gas.

(a) (1) This section applies to the valuation of all gas that is processed by the lessee and any other gas production to which this subpart applies and that is not subject to the valuation provisions of § 206.152 of this subpart. This section applies where the lessee's contract includes a reservation of the right to process the gas and the lessee exercises that right, or where the lessee's contract for the sale of gas prior to processing provides for the value to be determined based upon a percentage of the purchaser's proceeds resulting from processing the gas.

(2) The value of production, for royalty purposes, of gas subject to this section shall be the combined value of the residue gas and all gas plant products determined pursuant to this section, plus the value of any condensate recovered downstream of the point of royalty settlement without resorting to processing determined pursuant to § 206.102 of this part, less applicable transportation allowances, processing allowances, or other allowances determined pursuant to this subpart.

(3) (i) For any Indian leases which provide that the Secretary may consider the highest price paid or offered for a major portion of production (major portion) in determining value for royalty

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purposes, if data are available to compute a major portion MMS will, where practicable, compare the values determined in accordance with this section for any lease product with the major portion determined for that lease product. The value to be used in determining the value of production for royalty purposes shall be the higher of those two values.

(ii) For purposes of this paragraph, major portion means the highest price paid or offered at the time of production for the major portion of gas production from the same field, or for residue gas or gas plant products from the same processing plant, as applicable. The major portion will be calculated using like-quality lease products sold under arm's-length contracts from the same field or processing plant (or, if necessary to obtain a reasonable sample, from the same area or nearby processing plants) for each month. All such sales will be arrayed from highest price to lowest price (at the bottom). The major portion is that price at which 50 percent (by volume) plus 1 mcf of the gas (starting from the bottom) is sold, or for gas plant products, 50 percent (by volume) plus 1 unit.

(b)(1) (i) The value of the residue gas or any gas plant product which is sold pursuant to an arm's-length contract shall be the gross proceeds accruing to the lessee, except as provided in paragraphs (b)(1)(ii) and (b)(1)(iii) of this section. The lessee shall have the burden of demonstrating that its contract is arm's-length. The value that the lessee reports for royalty purposes is subject to monitoring, review, and audit. For purposes of this section, residue gas or any gas plant product which is sold or otherwise transferred to the lessee's marketing affiliate and then sold by the marketing affiliate pursuant to an arm's-length contract shall be valued in accordance with this paragraph based upon the sale by the marketing affiliate.

(ii) In conducting these reviews and audits, MMS will examine whether or not the contract reflects the total consideration actually transferred either directly or indirectly from the buyer to the seller for the residue gas or gas plant product. If the contract does not reflect the total consideration, then the MMS may require that the residue gas or gas plant product sold pursuant to that contract be valued in accordance with paragraph (c) of this section.

(iii) If the MMS determines that the gross proceeds accruing to the lessee pursuant to an arm's-length contract do not reflect the reasonable value of the residue gas or gas plant product because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the residue gas or gas plant product be valued pursuant to paragraphs (c)(2) or (c)(3) of this section, and in accordance with the notification requirements of paragraph (e) of this section.

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, the value of residue gas sold pursuant to a warranty contract shall be determined by MMS, and due consideration will be given to all valuation criteria specified in this section. The lessee must request a value determination in accordance with paragraph (g) of this section for gas sold pursuant to a warranty contract; provided, however, that any value determination for a warranty contract in effect on the effective date of these regulations shall remain in effect until modified by MMS.

(3) MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer for the residue gas or gas plant product.

(c) The value of residue gas or any gas plant product which is not sold pursuant to an arm's-length contract shall be the reasonable value determined in accordance with the first applicable of the following methods.

(1) The gross proceeds accruing to the lessee pursuant to a sale under its non-arm's-length contract (or other disposition other than by an arm's-length contract), provided that those gross proceeds are equivalent to the gross proceeds derived from, or paid under, comparable arm's-length contracts for purchases, sales, or other dispositions of like-quality residue gas or gas plant products from the same processing plant (or, if necessary to obtain a reasonable sample, from nearby plants). In evaluating the comparability of arm's-length contracts for the purposes of these regulations, the following factors shall be considered: price, time of execution, duration, market or markets served, terms, quality of residue gas or gas plant products, volume, and such other factors as may be appropriate to reflect the value of the residue gas or gas plant products;

(2) A value determined by consideration of other information relevant in valuing like-quality residue gas or gas plant products, including gross proceeds under arm's-length contracts for like-quality residue gas or gas plant products from the same gas plant or other nearby processing plants, posted prices for residue gas or gas plant products, prices received in spot sales of residue gas or gas plant products, other reliable public sources of price or market information, and other information as to the particular lease operation or the saleability of such residue gas or gas plant products; or

(3) A net-back method or any other reasonable method to determine value.

(d)(1) Notwithstanding any other provisions of this section, except paragraph (h) of this section, if the maximum price permitted by Federal law at which any residue gas or gas plant products may be sold is less than the value determined pursuant to this section, then MMS shall accept such maximum price as the value. For the purposes of this section, price limitations set by any State or local government shall not be considered as a maximum price permitted by Federal law.

(2) The limitation prescribed by paragraph (d)(1) of this section shall not apply to residue gas sold pursuant to a warranty contract and valued pursuant to paragraph (b)(2) of this section.

(e) (1) Where the value is determined pursuant to paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value. Such data shall be subject to review and audit, and MMS will direct a lessee to use a different value if it determines upon review or audit that the reported value is inconsistent with the requirements of these regulations.

(2) Any Federal or Indian lessee will make available upon request to the authorized MMS, State, or Indian representatives, to the Office of the Inspector General of the Department of the Interior, or other persons authorized to receive such information, arm's-length sales and volume data for like-quality residue gas and gas plant products sold, purchased or otherwise obtained by the lessee from the same processing plant or from nearby processing plants.

(3) A lessee shall notify MMS if it has determined any value pursuant to paragraph (c)(2) or (c)(3) of this section. The notification shall be by letter to the MMS Associate Director for Royalty Management or his/her designee. The letter shall identify the valuation method to be used and contain a brief description of the procedure to be followed. The notification required by this paragraph is a one-time notification due no later than the end of the month following the month the lessee first reports royalties on a Form MMS–2014 using a valuation method authorized by paragraph (c)(2) or (c)(3) of this section, and each time there is a change in a method under paragraph (c)(2) or (c)(3) of this section.

(f) If MMS determines that a lessee has not properly determined value, the lessee shall pay the difference, if any, between royalty payments made based upon the value it has used and the royalty payments that are due based upon the value established by MMS. The lessee shall also pay interest computed on that difference pursuant to 30 CFR 218.54. If the lessee is entitled to a credit, MMS will provide instructions for the taking of that credit.

(g) The lessee may request a value determination from MMS. In that event, the lessee shall propose to MMS a value determination method, and may use that method in determining value for royalty purposes until MMS issues its decision. The lessee shall submit all available data relevant to its proposal. The MMS shall expeditiously determine the value based upon the lessee's proposal and any additional information MMS deems necessary. In making a value determination, MMS may use any of the valuation criteria authorized by this subpart. That determination shall remain effective for the period stated therein. After MMS issues its determination, the lessee shall make the adjustments in accordance with paragraph (f) of this section.

(h) Notwithstanding any other provision of this section, under no circumstances shall the value of production for royalty purposes be less than the gross proceeds accruing to the lessee for residue gas and/or any gas plant products, less applicable transportation allowances, processing allowances, or other allowances determined pursuant to this subpart.

(i) (1) The lessee is required to place residue gas and gas plant products in marketable condition at no cost to the Federal Government or Indian lessor unless otherwise provided in the lease agreement or this section. Where the value established pursuant to this section is determined by a lessee's gross proceeds, that value shall be increased to the extent that the gross proceeds have been reduced because the purchaser, or any other person, is providing certain services the cost of which ordinarily is the responsibility of the lessee to place the residue gas or gas plant products in marketable condition.

(2) If the lessee incurs extraordinary costs prior to processing for the gathering, compression, dehydration, or sweetening of gas production subject to this section from frontier or deep-water areas, or from a gas production operation recognized by MMS as extraordinary, and those costs relate to unusual or unconventional operations, it may apply to MMS for an allowance. Such an allowance may be granted only if:

(i) The costs are associated with leases located north of the Arctic Circle, the costs are associated with OCS leases located in water depths in excess of 400 meters, or the costs are associated with an extraordinary gas production operation which MMS approves as eligible for the provisions of this subsection; and

(ii) The lessee can demonstrate that the costs are, by reference to standard industry conditions and practice, extraordinary, unusual, or unconventional.

(3) The MMS shall determine the amount of the extraordinary cost allowance which shall remain in effect for the period specified in the approval. To retain the authority to deduct the allowance, the lessee must report the deduction to MMS in a form and manner prescribed by MMS. Extraordinary cost allowance deductions are subject to monitoring, review, audit, and adjustment.

(j) Value shall be based on the highest price a prudent lessee can receive through legally enforceable claims under its contract. Absent contract revision or amendment, if the lessee fails to take proper or timely action to receive prices or benefits to which it is entitled it must pay royalty at a value based upon that obtainable price or benefit. Contract revisions or amendments shall be in writing and signed by all parties to an arm's-length contract. If the lessee makes timely application for a price increase or benefit allowed under its contract but the purchaser refuses, and the lessee takes reasonable measures, which are documented, to force purchaser compliance, the lessee will owe no additional royalties unless or until monies or consideration resulting from the price increase or additional benefits are received. This paragraph shall not be construed to permit a lessee to avoid its royalty payment obligation in situations where a purchaser fails to pay, in whole or in part, or timely, for a quantity of residue gas or gas plant product.

(k) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring, or other like process that results in a redetermination by MMS of value under this section shall be considered final or binding against the Federal Government, its beneficiaries, the Indian Tribes, or allottees, until the audit period is formally closed.

(l) Certain information submitted to MMS to support valuation proposals, including transportation allowances, processing allowances or extraordinary cost allowances, is exempted from disclosure by the Freedom of Information Act, 5 U.S.C. 552, or other Federal law. Any data specified by law to be privileged, confidential, or otherwise exempt, will be maintained in a confidential manner in accordance with applicable law and regulations. All requests for information about determinations made under this Part are to be submitted in accordance with the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2. Nothing in this section is intended to limit or diminish in any manner whatsoever the right of an Indian lessor to obtain any and all information as such lessor may be lawfully entitled from the MMS or such lessor's lessee directly under the terms of the lease, 30 U.S.C. 1733, or other applicable law.

§ 206.154 Determination of quantities and qualities for computing royalties.

(a) (1) Royalties shall be computed on the basis of the quantity and quality of unprocessed gas at the point of royalty settlement approved by BLM or MMS for onshore and OCS leases, respectively.

(2) If the value of gas determined pursuant to § 206.152 of this subpart is based upon a quantity and/or quality that is different from the quantity and/or quality at the point of royalty settlement, as approved by BLM or MMS, that value shall be adjusted for the differences in quantity and/or quality.

(b) (1) For residue gas and gas plant products, the quantity basis for computing royalties due is the monthly net output of the plant even though residue gas and/or gas plant products may be in temporary storage.

(2) If the value of residue gas and/or gas plant products determined pursuant to § 206.153 of this subpart is based upon a quantity and/or quality of residue gas and/or gas plant products that is different from that which is attributable to a lease, determined in accordance with paragraph (c) of this section, that value shall be adjusted for the differences in quantity and/or quality.

(c) The quantity of the residue gas and gas plant products attributable to a lease shall be determined according to the following procedure:

(1) When the net output of the processing plant is derived from gas obtained from only one lease, the quantity of the residue gas and gas plant products on which computations of

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royalty are based is the net output of the plant.

(2) When the net output of a processing plant is derived from gas obtained from more than one lease producing gas of uniform content, the quantity of the residue gas and gas plant products allocable to each lease shall be in the same proportions as the ratios obtained by dividing the amount of gas delivered to the plant from each lease by the total amount of gas delivered from all leases.

(3) When the net output of a processing plant is derived from gas obtained from more than one lease producing gas of nonuniform content, the quantity of the residue gas allocable to each lease will be determined by multiplying the amount of gas delivered to the plant from the lease by the residue gas content of the gas, and dividing the arithmetical product thus obtained by the sum of the similar arithmetical products separately obtained for all leases from which gas is delivered to the plant, and then multiplying the net output of the residue gas by the arithmetic quotient obtained. The net output of gas plant products allocable to each lease will be determined by multiplying the amount of gas delivered to the plant from the lease by the gas plant product content of the gas, and dividing the arithmetical product thus obtained by the sum of the similar arithmetical products separately obtained for all leases from which gas is delivered to the plant, and then multiplying the net output of each gas plant product by the arithmetic quotient obtained.

(4) A lessee may request MMS approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease. If approved, such method will be applicable to all gas production from Federal and Indian leases that is processed in the same plant.

(d) (1) No deductions may be made from the royalty volume or royalty value for actual or theoretical losses. Any actual loss of unprocessed gas that may be sustained prior to the royalty settlement metering or measurement point will not be subject to royalty provided that such loss is determined to have been unavoidable by BLM or MMS, as appropriate.

(2) Except as provided in paragraph (d)(1) of this section and 30 CFR 202.151(c), royalties are due on 100 percent of the volume determined in accordance with paragraphs (a) through (c) of this section. There can be no reduction in that determined volume for actual losses after the quantity basis has been determined or for theoretical losses that are claimed to have taken place. Royalties are due on 100 percent of the value of the unprocessed gas, residue gas, and/or gas plant products as provided in this subpart, less applicable allowances. There can be no deduction from the value of the unprocessed gas, residue gas, and/or gas plant products to compensate for actual losses after the quantity basis has been determined, or for theoretical losses that are claimed to have taken place.

§ 206.155 Accounting for comparison.

(a) Except as provided in paragraph (b) of this section, where the lessee (or a person to whom the lessee has transferred gas pursuant to a non-arm's-length contract or without a contract) processes the lessee's gas and after processing the gas the residue gas is not sold pursuant to an arm's-length contract, the value, for royalty purposes, shall be the greater of (1) the combined value, for royalty purposes, of the residue gas and gas plant products resulting from processing the gas determined pursuant to § 206.153 of this subpart, plus the value, for royalty purposes, of any condensate recovered downstream of the point of royalty settlement without resorting to processing determined pursuant to § 206.102 of this subpart; or (2) the value, for royalty purposes, of the gas prior to processing determined in accordance with § 206.152 of this subpart.

(b) The requirement for accounting for comparison contained in the terms of leases, particularly Indian leases, will govern as provided in § 206.150(b) of this subpart. When accounting for comparison is required by the lease terms, such accounting for comparison shall be determined in accordance with paragraph (a) of this section.

§ 206.156 Transportation allowances—general.

(a) Where the value of gas has been determined pursuant to § 206.152 or § 206.153 of this subpart at a point (e.g., sales point or point of value determination) off the lease, MMS shall allow a deduction for the reasonable actual costs incurred by the lessee to transport unprocessed gas, residue gas, and gas plant products from a lease to a point off the lease including, if appropriate, transportation from the lease to a gas processing plant off the lease and from the plant to a point away from the plant.

(b) Transportation costs must be allocated individually among products produced and transported. However, no transportation deduction shall be allowed for products that are not royalty bearing.

(c)(1) Except as provided in paragraph (c)(3) of this section, for unprocessed gas valued in accordance with § 206.152 of this subpart, the transportation allowance deduction on the basis of a selling arrangement shall not exceed 50 percent of the value of the unprocessed gas determined in accordance with § 206.152 of this subpart.

(2) Except as provided in paragraph (c)(3) of this section, for gas production valued in accordance with § 206.153 of this subpart the transportation allowance deduction on the basis of a selling arrangement shall not exceed 50 percent of the value of the residue gas or gas plant product determined in accordance with § 206.153 of this subpart. For purposes of this section, natural gas liquids shall be considered one product.

(3) Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limitations prescribed by paragraphs (c)(1) and (c)(2) of this section. The lessee must demonstrate that the transportation costs incurred in excess of the limitations prescribed in paragraphs (c)(1) and (c)(2) of this section were reasonable, actual, and necessary. An application for exception shall contain all relevant and supporting documentation necessary for the MMS to make a determination. Under no circumstances shall the value for royalty purposes under any selling arrangement be reduced to zero.

(d) If, after a review and/or audit, MMS determines that a lessee has improperly determined a transportation allowance authorized by this subpart, then the lessee shall pay any additional royalties, plus interest, determined in accordance with 30 CFR 218.54, or shall be entitled to a credit, without interest.

§ 206.157 Determination of transportation allowances.

(a) *Arm's-length transportation contracts.* (1)(i) For transportation costs incurred by a lessee pursuant to an arm's-length contract, the transportation allowance shall be the reasonable, actual costs incurred by the lessee for transporting the unprocessed gas, residue gas and/or gas plant products under that contract, except as provided in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section, subject to monitoring, review, audit, and adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. Such allowances shall be subject to the provisions of paragraph (f) of this section. Before any deduction may be

taken, the lessee must submit a completed page one of Form MMS–4295, Gas Transportation Allowance Report, in accordance with paragraph (c)(1) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4295 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee.

(ii) In conducting reviews and audits, MMS will examine whether or not the contract reflects more than the consideration actually transferred either directly or indirectly from the lessee to the transporter for the transportation. If the contract reflects more than the total consideration, then the MMS may require that the transportation allowance be determined in accordance with paragraph (b) of this section.

(iii) If the MMS determines that the consideration paid pursuant to an arm's-length transportation contract does not reflect the reasonable value of the transportation because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the transportation allowance be determined in accordance with paragraph (b) of this section.

(2) If an arm's-length transportation contract includes more than one product in a gaseous phase and the transportation costs attributable to each product cannot be determined from the contract, the total transportation costs shall be allocated in a consistent and equitable manner to each of the products transported in the same proportion as the ratio of the volume of each product (including water vapor) to the volume of all products in the gaseous phase. No allowance may be taken for the costs of transporting lease production which is not royalty bearing.

(3) If an arm's-length transportation contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. The lessee may use the transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall submit all relevant data to support its proposal. The initial proposal must be submitted by [*insert the last day of the month which is 3 months after the last day of the month of the effective date of these regulations*] or within 3 months after the last day of the month for which the lessee requests a transportation allowance, whichever is later (unless MMS approves a longer period). The MMS shall then determine the gas transportation allowance based upon the lessee's proposal and any additional information MMS deems necessary. No allowance may be taken for the costs of transporting lease production which is not royalty bearing.

(4) Where the lessee's payments for transportation under an arm's-length contract are not based on a dollar per unit, the lessee shall convert whatever consideration is paid to a dollar value equivalent for the purposes of this section.

(5) Where an arm's-length sales contract price or a posted price includes a provision whereby the listed price is reduced by a transportation factor, MMS will not consider the transportation factor to be a transportation allowance. The transportation factor may be used in determining the lessee's gross proceeds for the sale of the product.

(b) *Non-arm's-length or no contract.* (1) If a lessee has a non-arm's-length transportation contract or has no contract, including those situations where the lessee performs transportation services for itself, the transportation allowance will be based upon the lessee's reasonable actual costs as provided in this paragraph. All transportation allowances deducted under a non-arm's-length or no contract situation are subject to monitoring, review, audit, and adjustment. Before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4295 in accordance with paragraph (c)(2) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4295 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. The MMS will monitor the allowance deductions to ensure that deductions are reasonable and allowable. When necessary or appropriate, MMS may direct a lessee to modify its estimated or actual transportation allowance deduction.

(2) The transportation allowance for non-arm's-length or no-contract situations shall be based upon the lessee's actual costs for transportation during the reporting period, including operating and maintenance expenses, overhead, and either depreciation and a return on undepreciated capital investment in accordance with paragraph (b)(2)(iv)(A) of this section, or a cost equal to the initial depreciable investment in the transportation system multiplied by a rate of return in accordance with paragraph (b)(2)(iv)(B) of this section. Allowable capital costs are generally those costs for depreciable fixed assets (including costs of delivery and installation of capital equipment) which are an integral part of the transportation system.

(i) Allowable operating expenses include: Operations supervision and engineering; operations labor; fuel; utilities; materials; ad valorem property taxes; rent; supplies; and any other directly allocable and attributable operating expense which the lessee can document.

(ii) Allowable maintenance expenses include: Maintenance of the transportation system; maintenance of equipment; maintenance labor; and other directly allocable and attributable maintenance expenses which the lessee can document.

(iii) Overhead directly attributable and allocable to the operation and maintenance of the transportation system is an allowable expense. State and Federal income taxes and severance taxes and other fees, including royalties, are not allowable expenses.

(iv) A lessee may use either depreciation or a return on depreciable capital investment. Once a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval of the MMS.

(A) To compute depreciation, the lessee may elect to use either a straight-line depreciation method based on the life of equipment or on the life of the reserves which the transportation system services, or a unit of production method. After an election is made, the lessee may not change methods without MMS approval. A change in ownership of a transportation system shall not alter the depreciation schedule established by the original transporter/lessee for purposes of the allowance calculation. With or without a change in ownership, a transportation system shall be depreciated only once. Equipment shall not be depreciated below a reasonable salvage value.

(B) The MMS shall allow as a cost an amount equal to the allowable initial capital investment in the transportation system multiplied by the rate of return determined pursuant to paragraph (b)(2)(v) of this section. No allowance shall be provided for depreciation. This alternative shall apply only to transportation facilities first placed in

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service after [*insert the effective date of these regulations*].

(v) The rate of return shall be the industrial rate associated with Standard and Poor's BBB rating. The rate of return shall be the monthly average rate as published in *Standard and Poor's Bond Guide* for the first month of the reporting period for which the allowance is applicable and shall be effective during the reporting period. The rate shall be redetermined at the beginning of each subsequent transportation allowance reporting period (which is determined pursuant to paragraph (c) of this section).

(3) The deduction for transportation costs shall be determined on the basis of the lessee's cost of transporting each product through each individual transportation system. Where more than one product in a gaseous phase is transported, the allocation of costs to each of the products transported shall be made in a consistent and equitable manner in the same proportion as the ratio of the volume of each product (including water vapor) to the volume of all products in the gaseous phase. The lessee may not take an allowance for transporting a product which is not royalty bearing.

(4) Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to MMS. The lessee may use the transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall submit all relevant data to support its proposal. The initial proposal must be submitted by [*insert the last day of the month which is 3 months after the last day of the month of the effective date of these regulations*] or within 3 months after the last day of the month for which the lessee begins the transportation, whichever is later, unless MMS approves a longer period. The MMS shall then determine the transportation allowance based upon the lessee's proposal and any additional information MMS deems necessary. The lessee may not take an allowance for transporting a product which is not royalty bearing.

(5) A lessee may apply to the MMS for an exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) through (b)(4) of this section. The MMS may grant the exception only if: (i) The lessee has arm's-length contracts for transportation of other production through the same transportation system; and (ii) The lessee has a tariff for the transportation system approved by the Federal Energy Regulatory Commission; and (iii) At least 50 percent of the gas transported annually through the lessee's transportation system is transported pursuant to arm's-length transportation contracts. If the MMS grants the exception, the lessee shall use as its transportation allowance the volume-weighted average prices charged other persons pursuant to arm's-length contracts for transportation through the same transportation system.

(c) *Reporting requirements*— (1) *Arm's-length contracts.* (i) With the exception of those transportation allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4295 prior to, or at the same time as, the transportation allowance determined pursuant to an arm's-length contract is reported on Form MMS–2014, Report of Sales and Royalty Remittance.

(ii) The initial Form MMS–4295 shall be effective for a reporting period beginning the month that the lessee is first authorized to deduct a transportation allowance and shall continue until the end of the calendar year, or until the applicable contract or rate terminates or is modified or amended, whichever is earlier.

(iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4295 within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period.

(iv) The MMS may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents. Documents shall be submitted within a reasonable time, as determined by MMS.

(v) Transportation allowances which are based on arm's-length contracts and which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) The MMS may establish in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(2) *Non-arm's-length or no contract.* (i) With the exception of those transportation allowances specified in paragraphs (c)(2)(v) and (c)(2)(vii) of this section, the lessee shall submit an initial Form MMS–4295 prior to, or at the same time as, the transportation allowance determined pursuant to a non-arm's-length contract or no-contract situation is reported on Form MMS–2014, Report of Sales and Royalty Remittance. The initial report may be based upon estimated costs.

(ii) The initial Form MMS–4295 shall be effective for a reporting period beginning the month that the lessee first is authorized to deduct a transportation allowance and shall continue until the end of the calendar year, or until the transportation under the non-arm's-length contract or the no contract situation terminates, whichever is earlier.

(iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4295 containing the actual costs for the previous reporting period. If the transportation is continuing, the lessee shall include on Form MMS–4295 its estimated costs for the next calendar year. The estimated transportation allowance shall be based on the actual costs for the previous reporting period plus or minus any adjustments which are based on the lessee's knowledge of decreases or increases which will affect the allowance. Form MMS–4295 must be received by MMS within 3 months after the end of the previous reporting period, unless MMS approves a longer period.

(iv) For new transportation facilities or arrangements, the lessee's initial Form MMS–4295 shall include estimates of the allowable transportation costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the transportation system, or if such data are not available, the lessee shall use estimates based upon industry data for similar transportation systems.

(v) Non-arm's-length contract or no contract based transportation allowances which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) Upon request by MMS, the lessee shall submit all data used to prepare its Form MMS–4295. The data shall be provided within a reasonable period of time, as determined by MMS.

(vii) The MMS may establish in appropriate circumstances, reporting

requirements which are different from the requirements of this section.

(3) The MMS may establish reporting dates for individual lessees different than those specified in this subpart in order to provide more effective administration. Lessees will be notified of any change in their reporting period.

(4) Transportation allowances must be reported as a separate line item on Form MMS–2014, unless MMS approves a different reporting procedure.

(d) *Interest assessments for incorrect or late reports and failure to report.* (1) If a lessee deducts a transportation allowance on its Form MMS–2014 without complying with the requirements of this section, the lessee shall pay interest only on the amount of such deduction until the requirements of this section are complied with. The lessee also shall repay the amount of any allowance which is disallowed by this section.

(2) If a lessee erroneously reports a transportation allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(3) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.54.

(e) *Adjustments.* (1) If the actual transportation allowance is less than the amount the lessee has estimated and taken during the reporting period, the lessee shall be required to pay additional royalties due, plus interest computed pursuant to 30 CFR 218.54, retroactive to the first month the lessee is authorized to deduct a transportation allowance. If the actual transportation allowance is greater than the amount the lessee has estimated and taken during the reporting period, the lessee shall be entitled to a credit without interest.

(2) For lessees transporting production from onshore Federal and Indian leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.

(3) For lessees transporting gas production from leases on the OCS, if the lessee's estimated transportation allowance exceeds the allowance based on actual costs, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with its payment, in accordance with instructions provided by MMS. If the lessee's estimated transportation allowance is less than the allowance based on actual costs, the refund procedure will be specified by MMS.

(f) *Actual or theoretical losses.* Notwithstanding any other provisions of this subpart, for other than arm's-length contracts no cost shall be allowed for transportation which results from payments (either volumetric or for value) for actual or theoretical losses.

(g) *Other transportation cost determinations.* The provisions of this section shall apply to determine transportation costs when establishing value using a net-back valuation procedure or any other procedure that requires deduction of transportation costs.

§ 206.158 Processing allowance—general.

(a) Where the value of gas is determined pursuant to § 206.153 of this subpart, a deduction shall be allowed for the reasonable actual costs of processing.

(b) Processing costs must be allocated among the gas plant products. A separate processing allowance must be determined for each gas plant product and processing plant relationship. Natural gas liquids (NGL's) shall be considered as one product.

(c)(1) Except as provided in paragraph (d)(2) of this section, the processing allowance shall not be applied against the value of the residue gas. Where there is no residue gas MMS may designate an appropriate gas plant product against which no allowance may be applied.

(2) Except as provided in paragraph (c)(3) of this section, the processing allowance deduction on the basis of an individual product shall not exceed 66⅔ percent of the value of each gas plant product determined in accordance with § 206.153 of this subpart (such value to be reduced first for any transportation allowances related to post-processing transportation authorized by § 206.156 of this subpart and any extraordinary cost allowances authorized by § 206.153(i) of this subpart).

(3) Upon request of a lessee, MMS may approve a processing allowance in excess of the limitation prescribed by paragraph (c)(2) of this section. The lessee must demonstrate that the processing costs incurred in excess of the limitation prescribed in paragraph (c)(2) of this section were reasonable, actual, and necessary. An application for exception shall contain all relevant and supporting documentation for MMS to make a determination. Under no circumstances shall the value for royalty purposes of any gas plant product be reduced to zero.

(d)(1) Except as provided in paragraph (d)(2) of this section, no processing cost deduction shall be allowed for the costs of placing lease products in marketable condition, including dehydration, separation, compression, or storage, even if those functions are performed off the lease or at a processing plant. Where gas is processed for the removal of acid gases, commonly referred to as "sweetening," no processing cost deduction shall be allowed for such costs unless the acid gases removed are further processed into a gas plant product. In such event, the lessee shall be eligible for a processing allowance as determined in accordance with this subpart. However, MMS will not grant any processing allowance for processing lease production which is not royalty bearing.

(2)(i) If the lessee incurs extraordinary costs for processing gas production from a gas production operation, it may apply to MMS for an allowance for those costs which shall be in addition to any other processing allowance to which the lessee is entitled pursuant to this section. Such an allowance may be granted only if the lessee can demonstrate that the costs are, by reference to standard industry conditions and practice, extraordinary, unusual, or unconventional.

(ii) Prior MMS approval to continue an extraordinary processing cost allowance is not required. However, to retain the authority to deduct the allowance the lessee must report the deduction to MMS in a form and manner prescribed by MMS.

(e) If MMS determines that a lessee has improperly determined a processing allowance authorized by this subpart, then the lessee shall pay any additional royalties, plus interest determined in accordance with 30 CFR 218.54, or shall be entitled to a credit, without interest.

§ 206.159 Determination of processing allowances.

(a) *Arm's-length processing contracts.* (1)(i) For processing costs incurred by a lessee pursuant to an arm's-length contract, the processing allowance shall be the reasonable actual costs incurred by the lessee for processing the gas under that contract, except as provided in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section, subject to monitoring, review, audit, and adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. Before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4109, Gas Processing Allowance Summary Report, in accordance with paragraph (c)(1) of this section. A processing allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4109 is filed with MMS, unless MMS approves a longer period

upon a showing of good cause by the lessee.

(ii) In conducting reviews and audits, MMS will examine whether the contract reflects more than the consideration actually transferred either directly or indirectly from the lessee to the processor for the processing. If the contract reflects more than the total consideration, then the MMS may require that the processing allowance be determined in accordance with paragraph (b) of this section.

(iii) If the MMS determines that the consideration paid pursuant to an arm's-length processing contract does not reflect the reasonable value of the processing because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the processing allowance be determined in accordance with paragraph (b) of this section.

(2) If an arm's-length processing contract includes more than one gas plant product and the processing costs attributable to each product can be determined from the contract, then the processing costs for each gas plant product shall be determined in accordance with the contract. No allowance may be taken for the costs of processing lease production which is not royalty bearing.

(3) If an arm's-length processing contract includes more than one gas plant product and the processing costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. The lessee may use its proposed allocation procedure until MMS issues its determination. The lessee shall submit all relevant data to support its proposal. The initial proposal must be submitted by [*insert the last day of the month which is 3 months after the last day of the month of the effective date of these regulations*] or within 3 months after the last day of the month for which the lessee requests a processing allowance, whichever is later (unless MMS approves a longer period). The MMS shall then determine the processing allowance based upon the lessee's proposal and any additional information MMS deems necessary. No processing allowance will be granted for the costs of processing lease production which is not royalty bearing.

(4) Where the lessee's payments for processing under an arm's-length contract are not based on a dollar per unit basis, the lessee shall convert whatever consideration is paid to a dollar value equivalent for the purposes of this section.

(b) *Non-arm's-length or no contract.* (1) If a lessee has a non-arm's-length processing contract or has no contract, including those situations where the lessee performs processing for itself, the processing allowance will be based upon the lessee's reasonable actual costs as provided in this paragraph. All processing allowances deducted under a non-arm's-length or no-contract situation are subject to monitoring, review, audit, and adjustment. Before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4109 in accordance with paragraph (c)(2) of this section. A processing allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4109 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. The MMS will monitor the allowance deduction to ensure that deductions are reasonable and allowable. When necessary or appropriate, MMS may direct a lessee to modify its estimated or actual processing allowance.

(2) The processing allowance for non-arm's-length or no-contract situations shall be based upon the lessee's actual costs for processing during the reporting period, including operating and maintenance expenses, overhead, and either depreciation and a return on undepreciated capital investment in accordance with paragraph (b)(2)(iv)(A) of this section, or a cost equal to the initial depreciable investment in the processing plant multiplied by a rate of return in accordance with paragraph (b)(2)(iv)(B) of this section. Allowable capital costs are generally those costs for depreciable fixed assets (including costs of delivery and installation of capital equipment) which are an integral part of the processing plant.

(i) Allowable operating expenses include: operations supervision and engineering; operations labor; fuel; utilities; materials; ad valorem property taxes; rent; supplies; and any other directly allocable and attributable operating expense which the lessee can document.

(ii) Allowable maintenance expenses include: maintenance of the processing plant; maintenance of equipment; maintenance labor; and other directly allocable and attributable maintenance expenses which the lessee can document.

(iii) Overhead directly attributable and allocable to the operation and maintenance of the processing plant is an allowable expense. State and Federal income taxes and severance taxes, including royalties, are not allowable expenses.

(iv) A lessee may use either depreciation or a return on depreciable capital investment. When a lessee has elected to use either method for a processing plant, the lessee may not later elect to change to the other alternative without approval of the MMS.

(A) To compute depreciation, the lessee may elect to use either a straight-line depreciation method based on the life of equipment or on the life of the reserves which the processing plant services, or a unit-of-production method. After an election is made, the lessee may not change methods without MMS approval. A change in ownership of a processing plant shall not alter the depreciation schedule established by the original processor/lessee for purposes of the allowance calculation. With or without a change in ownership, a processing plant shall be depreciated only once. Equipment shall not be depreciated below a reasonable salvage value.

(B) The MMS shall allow as a cost an amount equal to the allowable initial capital investment in the processing plant multiplied by the rate of return determined pursuant to paragraph (b)(2)(v) of this section. No allowance shall be provided for depreciation. This alternative shall apply only to plants first placed in service after [*insert the effective date of these regulations*].

(v) The rate of return shall be the industrial rate associated with Standard and Poor's BBB rating. The rate of return shall be the monthly average rate as published in *Standard and Poor's Bond Guide* for the first month of the reporting period for which the allowance is applicable and shall be effective during the reporting period. The rate shall be redetermined at the beginning of each subsequent processing allowance reporting period (which is determined pursuant to paragraph (c)(2) of this section).

(3) The processing allowance for each gas plant product shall be determined based on the lessee's reasonable and actual cost of processing the gas. Allocation of costs to each gas plant product shall be based upon generally accepted accounting principles. The lessee may not take an allowance for the costs of processing lease production which is not royalty bearing.

(4) A lessee may apply to MMS for an exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) through (b)(3) of this section. The MMS may grant the exception only if: (i) The lessee has arm's-length contracts for processing other gas production at the same processing plant; and (ii) at least 50 percent of the gas processed annually at the plant is processed pursuant to arm's-length processing contracts;

If the MMS grants the exception, the lessee shall use as its processing allowance the volume weighted average prices charged other persons pursuant to arm's-length contracts for processing at the same plant.

(c) *Reporting requirements.*—(1) *Arm's-length contracts.* (i) With the exception of those processing allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4109 prior to the time, or at the same time as, the processing allowance determined pursuant to an arm's-length contract is reported on Form MMS–2014, Report of Sales and Royalty Remittance.

(ii) The initial Form MMS–4109 shall be effective for a reporting period beginning the month that the lessee is first authorized to deduct a processing allowance and shall continue until the end of the calendar year, or until the applicable contract or rate terminates or is modified or amended, whichever is earlier.

(iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4109 within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period.

(iv) The MMS may require that a lessee submit arm's-length processing contracts and related documents. Documents shall be submitted within a reasonable time, as determined by MMS.

(v) Processing allowances which are based on arm's-length contracts and which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purpose of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations became effective.

(vi) The MMS may establish, in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(2) *Non-arm's-length or no contract.* (i) With the exception of those processing allowances specified in paragraphs (c)(2)(v) and (c)(2)(vii) of this section, the lessee shall submit an initial Form MMS–4109 prior to, or at the same time as, the processing allowance determined pursuant to a non-arm's-length contract or no-contract situation is reported on Form MMS–2014, Report of Sales and Royalty Remittance. The initial report may be based upon estimated costs.

(ii) The initial Form MMS–4109 shall be effective for a reporting period beginning the month that the lessee first is authorized to deduct a processing allowance and shall continue until the end of the calendar year, or until the processing under the non-arm's-length contract or the no-contract situation terminates, whichever is earlier.

(iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4109 containing the actual costs for the previous reporting period. If gas processing is continuing, the lessee shall include on Form MMS–4109 its estimated costs for the next calendar year. The estimated gas processing allowance shall be based on the actual costs for the previous period plus or minus any adjustments which are based on the lessee's knowledge of decreases or increases which will affect the allowance. Form MMS–4109 must be received by MMS within 3 months after the end of the previous reporting period, unless MMS approves a longer period.

(iv) For new processing plants, the lessee's initial Form MMS–4109 shall include estimates of the allowable gas processing costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the plant, or if such data are not available, the lessee shall use estimates based upon industry data for similar gas processing plants.

(v) Processing allowances based on non-arm's-length or no-contract situations which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate for gas production from onshore Federal and Indian leases. For gas production from OCS leases such allowances will be allowed to continue until they terminate or until the end of the calendar year, whichever is earlier. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) Upon request by MMS, the lessee shall submit all data used by the lessee to prepare its Form MMS–4109. The data shall be provided within a reasonable period of time, as determined by MMS.

(vii) The MMS may establish, in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(3) The MMS may establish reporting dates for individual leases different from those specified in this subpart in order to provide more effective administration. Lessees will be notified of any change in their reporting period.

(4) Processing allowances must be reported as a separate line on the Form MMS–2014, unless MMS approves a different reporting procedure.

(d) *Interest assessments for incorrect or late reports and failure to report.* (1) If a lessee deducts a processing allowance on its Form MMS–2014 without complying with the requirements of this section, the lessee shall pay interest only on the amount of such deduction until the requirements of this section are complied with. The lessee also shall repay the amount of any allowance which is disallowed by this section.

(2) If a lessee erroneously reports a processing allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(3) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.54.

(e) *Adjustments.* (1) If the actual gas processing allowance is less than the amount the lessee has estimated and taken during the reporting period, the lessee shall be required to pay additional royalties due-plus interest computed pursuant to 30 CFR 218.54, retroactive to the first day of the first month the lessee is authorized to deduct a processing allowance. If the actual processing allowance is greater than the amount the lessee has estimated and taken during the reporting period, the lessee shall be entitled to a credit without interest.

(2) For lessees processing production from onshore Federal and Indian leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs,

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together with any payment, in accordance with instructions provided by MMS.

(3) For lessees processing gas production from leases on the OCS, if the lessee's estimated processing allowance exceeds the allowance based on actual costs, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with its payment, in accordance with instructions provided by MMS. If the lessee's estimated costs were less than the actual costs, the refund procedure will be specified by MMS.

(f) *Other processing cost determinations.* The provisions of this section shall apply to determine processing costs when establishing value using a net back valuation procedure or any other procedure that requires deduction of processing costs.

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federal register

Friday
October 23, 1987

Part IV

Department of the Interior

Minerals Management Service
Bureau of Land Management

30 CFR Parts 202, 203, 206, 207, 210, and 241
43 CFR Part 3160
Revision of Oil Product Valuation Regulations and Related Topics; Second Further Notice of Proposed Rulemaking

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

Bureau of Land Management

30 CFR Parts 202, 203, 206, 207, 210, and 241

43 CFR Part 3160

Revision of Oil Product Valuation Regulations and Related Topics

AGENCY: Minerals Management Service and Bureau of Land Management, Interior.

ACTION: Second further notice of proposed rulemaking.

SUMMARY: The Minerals Management Service (MMS) of the Department of the Interior (DOI) is issuing this Second Further Notice of Proposed Rulemaking to obtain additional public review and comments on its oil product valuation regulations applicable to production from Federal and Indian oil and gas leases. Attached to this notice as an appendix is a draft of the oil valuation regulations in final form, together with a draft of the preamble for the final rule.

DATE: Comments must be received on or before November 23, 1987.

ADDRESSES: Written comments may be mailed to Minerals Management Service, Royalty Management Program, Rules and Procedures, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 662, Denver, Colorado 80225, Attention: Dennis C. Whitcomb.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231-3432, (FTS) 326-3432.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are John L. Price, Scott L. Ellis, Thomas J. Blair, Stanley J. Brown, and William H. Feldmiller of the Royalty Valuation and Standards Division of the Royalty Management Program (RMP), Minerals Management Service; Donald T. Sant, Deputy Associate Director for Valuation and Audit, Minerals Management Service; and Peter J. Schaumberg of the Office of the Solicitor, Washington, DC.

I. Introduction

On January 15, 1987, 52 FR 1856, MMS issued a notice of proposed rulemaking to amend the regulations governing the valuation of oil from Federal leases onshore and on the Outer Continental Shelf (OCS), and from Indian Tribal and allotted leases. During the public comment period, MMS received over 100 written comments. In addition, public hearings were held in Denver, Colorado, on March 4, 1987, and in New Orleans, Louisiana, on March 17, 1987.

Because of the complexity of the regulations, and in accordance with MMS's understanding with the Congress, MMS issued a Further Notice of Proposed Rulemaking on August 17, 1987 (52 FR 30826) which included as an appendix MMS's draft of the final regulations. The purpose of the further notice of proposed rulemaking was to obtain additional public comment during a short comment period and then to make any necessary revisions to the final regulations. See Conference Report on H.R. 1827, in the *Congressional Record* of June 27, 1987, pages H5651-H5666.

The public comment period on the first further notice of proposed rulemaking was scheduled to close on September 2, 1987, but was extended to September 11, 1987 (52 FR 33247, September 2, 1987). On September 21, 1987, MMS issued a Notice of Intent To Issue a Second Further Notice of Proposed Rulemaking (52 FR 35451). In that Notice, MMS stated that all comments received on the Further Notice of Proposed Rulemaking and the first draft final rules would be included in the rulemaking record for this rule, even if they were received after September 11.

In addition to receiving written comments on the first draft final rules, MMS held several meetings with representatives from the States, Indian lessors and industry in an effort to develop a set of regulations which were acceptable generally to all groups, though not a panacea for any one of them. Each of the groups exhibited a commendable willingness to make positive contributions to the process and, where, necessary, to reach compromises.

As a result of the various meetings MMS held with interested groups and from MMS's review of the comments, changes have been made to the draft final regulations. Some of these changes are significant. Also, MMS still has some issues on which it would like further technical review and comments from interested persons before issuing a final rule. Therefore, MMS is issuing this Second Further Notice of Proposed Rulemaking with a revised draft final rule attached.

MMS requests that commenters not simply resubmit comments already provided on the proposed rules or in response to the first Further Notice of Proposed Rulemaking with the first draft final rule attached thereto. All comments received since publication of the first proposed rulemaking on January 15, 1987, will be included in this rulemaking record. Additional comments should be directed to the provisions of the draft final rule in the appendix. Commenters are requested to identify, by section, the provision of the draft final rule to which a comment is directed.

II. Specific Comments Requested

Commenters may comment on all issues concerning the draft final rules. However, there are certain questions on which MMS specifically would like comments.

In the draft final rules published August 17, 1987, MMS included certain extraordinary cost allowances related to production of oil. See § 206.102(i), draft final rule for oil (52 FR 30826). Although most industry commenters supported these provisions and even advocated liberalizing their application, many State and Indian commenters believed that these sections should be removed. Generally, these commenters stated that the costs included in these sections historically had not been allowed by MMS as costs necessary to place production in marketable condition and it was inappropriate to allow them now.

MMS has retained the section in the draft final rules attached hereto as an appendix. However, MMS still is uncertain whether this section should be retained in the final rules. Comments are specifically requested on this issue.

In the definition of "arm's-length contract" included in § 206.151 of the draft final rules, MMS states that "* * * contracts between relatives, either by blood or by marriage, are not arm's-length contracts." Some commenters thought that the term "relatives" needed to be limited because a distant relationship should not cause a contract to be considered not an arm's-length contract. MMS requests comments on whether some practical limit can be placed on the term "relative."

The Further Notice of Proposed Rulemaking of August 17, 1987 (52 FR 30826), specifically requested comments on certain broader issues, as follows:

Besides specific comments on the draft final rule, MMS also requests commenters to address whether or not there are additional requirements or approaches which would improve the royalty payment process. The MMS believes it has developed a set of rules which will lead to the proper payment of royalties, but given the interest and concerns raised by this rulemaking, MMS would like to learn of all approaches which will reduce underpayments and minimize any abuse in payment and collection of royalties. MMS would specifically like comments on the ability of auditors to determine compliance with these regulations. MMS also would like commenters to address the extent to which these draft rules are responsive to concerns regarding royalty underpayments identified in the Linowes Commission Report and reports of the Congress, the General Accounting Office, and the Department's Office of Inspector General.

While MMS received many comments on provisions of the draft final rule which bear upon these broader issues, it did not receive any comments specifically addressing the issues themselves. However, MMS also received requests to extend the comment period to allow more time to prepare and submit comments on one or more of these issues. To emphasize its interest in these issues, MMS is again specifically asking for comment on these broader issues and believes that, overall, the time allowed from August 17, 1987, to the close of the current comment Period should be sufficient for that purpose.

MMS already received many comments on issues related to allowances for post-production costs and other similar issues. MMS would like further comment on allowances for post-production costs, particularly where oil is sold at the lease pursuant to an arm's-length contract and services, such as dewatering, are performed by the purchaser. Comments should address the frequency with which such situations occur.

With regard to transportation allowances, MMS would like further comment on the issue of allocating transportation costs among different products on a volume-versus-value basis, and the issue of whether costs may be allocated to nonroyalty-bearing products. Again, where available, comments should provide data on costs and frequency of occurrence.

III. Other Issues

The draft regulations refer to a form for transportation allowances (Form MMS-4110). Many commenters requested an opportunity to review the form while commenting on the rules. Copies of the form may be requested from MMS by submitting a request to the address listed in the **ADDRESS** section of this preamble.

In the draft final rules, there are many references to audits and the closing of audit periods. MMS intends to issue further guidelines on the closing of audit periods and how valuation determinations will be affected.

MMS also requests comments on whether common provisions of the oil and gas regulations, such as transportation allowances, should be combined to streamline the regulations. *See* the discussion in the Second Further Notice of Proposed Rulemaking for the gas valuation rules, published elsewhere in today's **Federal Register.**

IV. Procedural Matters

The Department of the Interior (DOI) has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291. This proposed rulemaking is to consolidate Federal and Indian oil royalty valuation regulations; to clarify DOI oil royalty valuation policy; and to provide for consistent royalty valuation policy among all leasable minerals. Because the proposed rule principally consolidates and streamlines existing regulations for consistent application, there are no significant additional requirements or burdens placed upon small business entities.

Lessee reporting requirements will be approximately $130,000. All oil posted price bulletins or sales contracts will be required to be submitted only upon request, or only in support of a lessee's valuation proposal in unique situations rather than routinely, as under the existing regulations.

The public is invited to participate in this proceeding by submitting data, views, or arguments with respect to this notice. All comments must be received by 4:30 p.m. of the day specified in the **DATE** section to the appropriate address indicated in the **ADDRESS** section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Revision of Oil Royalty Valuation Regulations and Related Topics." All comments received by the MMS will be available for public inspection in Room C406, Building 85, Denver Federal Center Lakewood, Colorado, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

Regulatory Flexibility Act

Because this rule primarily consolidates and streamlines existing regulations for consistent application, there are no significant additional requirements or burdens placed upon small business entities as a result of implementation of this rule. Therefore, the DOI has determined that this rulemaking will not have a significant economic effect on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act of 1980

The information collection and recordkeeping requirements located at §§ 206.105, 207.5 and 210.55 of this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1010-0061.

National Environmental Policy Act of 1969

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects

30 CFR Part 202

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 203

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 206

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 207

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 210

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 241

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Penalties, Public lands-mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3160

Government contracts, Indian-lands, Land Management Bureau, Mineral

royalties, Oil and gas exploration, Penalties, Public lands-mineral resources, Reporting and recordkeeping requirements.

Dated: October 19, 1987.

J. Steven Griles,

Assistant Secretary, Land and Minerals Management.

Appendix—Draft Final Rule

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Bureau of Land Management

30 CFR Parts 202, 203, 206, 207, 210, and 241

43 CFR Part 3160

Revision of Oil Product Valuation Regulations and Related Topics

Agency: Minerals Management Service and Bureau of Land Management, Interior.

Action: [Draft] Final rule.

Summary: This rulemaking provides for the amendment and clarification of regulations governing valuation of oil for royalty computation purposes. The amended and clarified regulations govern the methods by which value is determined when computing oil royalties and net profit shares under Federal (onshore and Outer Continental Shelf) and Indian (Tribal and allotted) oil and gas leases (except leases on the Osage Indian Reservation, Osage County, Oklahoma).

Effective date: February 1, 1988 (tentative).

For further information contact: Dennis C. Whitcomb, Chief, Rules and Procedures, (303) 231–3432, (FTS) 326–3432.

Supplementary information: The principal authors of this rulemaking are John L. Price, Scott L. Ellis, Thomas J. Blair, Stanley J. Brown, and William H. Feldmiller, of the Royalty Valuation and Standards Division of the Royalty Management Program, Minerals Management Service (MMS); Donald T. Sant, Deputy Associate Director for Valuation and Audit, Minerals Management Service; and Peter J. Schaumberg of the Office of the Solicitor, Washington, DC.

I. Introduction

On January 15, 1987, 52 FR 1858, the Minerals Management Service (MMS) of the Department of the Interior issued a notice of proposed rulemaking to amend the regulations governing the valuation of oil from Federal leases onshore and on the Outer Continental Shelf (OCS), and from Indian Tribal and allotted leases. During the public comment period, MMS received over 100 written comments. In addition, public hearings were held in Lakewood, Colorado, on March 4, 1987, and in New Orleans, Louisiana, on March 17, 1987. Sixteen persons made oral presentations at these hearings.

Because of the complexity of the regulations, and in accordance with MMS's understanding with Congress, MMS issued a Further Notice of Proposed Rulemaking on August 17, 1987 (52 FR 30826), which included as an appendix MMS's draft of the final regulations. The purpose of the further notice of proposed rulemaking was to obtain further public comment during a short comment period and then to make any necessary revisions to the final regulations. See Conference Report on H.R. 1827, in the *Congressional Record* dated June 27, 1987, at pages H5651–H5666.

The public comment period on the First Further Notice of Proposed Rulemaking was scheduled to close on September 2, 1987, but was extended to September 11, 1987 (52 FR 33247, September 2, 1987). On September 21, 1987, MMS issued a Notice of Intent to Issue a Second Further Notice of Proposed Rulemaking (52 FR 35451). In that Notice, MMS stated that all comments received on the Further Notice of Proposed Rulemaking and the first draft final rules would be included in the rulemaking record for this rule, even if they were received after September 11.

In addition to receiving written comments on the first draft final rules, MMS held several meetings with representatives from the States, Indian lessors and industry in an effort to develop a set of regulations which were acceptable generally to all groups, though not a panacea for any one of them. Each of the groups exhibited a commendable willingness to make positive contributions to the process and, where necessary, to reach compromises.

[Tentative: In a further effort to ensure that all of the interested constituencies had a full and fair opportunity to comment upon the gas valuation rules following the several meetings and MMS's review of the written comments, MMS issued a Second Further Notice of Proposed Rulemaking and second draft final rules (52 FR —— October —, 1987). Public comments were received for 30 days.]

MMS has considered carefully all of the public comments received during this rulemaking process, which included draft rules and input from the Royalty Management Advisory Committee (RMAC), proposed rules, and further notices of proposed rulemaking with draft final rules. A complete account of the RMAC process is included in the preamble to the proposed regulations issued in January 1987. Based on its review, MMS hereby adopts final regulations governing the valuation of oil from Federal and Indian leases. These regulations will apply prospectively to production on or after the effective date specified in the *Effective date* section of this preamble.

II. Purpose and Background

The MMS is revising the current regulations regarding the valuation of oil to accomplish the following:

1. Clarification and reorganization of the existing regulations at 30 CFR Parts 202, 203, 206, 207, 210, 241, and 43 CFR Part 3160.

2. Creation of regulations consistent with the present organizational structure of the Department of the Interior (DOI).

3. Placement of the oil royalty valuation regulations in a format compatible with the valuation regulations for all leasable minerals.

4. Clarification that royalty is to be paid on all consideration received by lessees, less applicable allowances, for lease production.

5. Creation of regulations to guide the lessee in the determination of allowable transportation costs for oil to aid in the calculation of proper royalty due the lessor.

Structurally, these regulations include the reorganization and redesignation of Parts 202, 203, 206, 207, and 210. Each part is reorganized by redesignating "Subpart B—Oil and Gas, General" as "Subpart B—Oil, Gas, and OCS Sulfur, General"; "Subpart C—Oil and Gas, Onshore" as "Subpart C—Federal and Indian Oil"; and "Subpart D—Oil, Gas, and Sulfur, Offshore" as "Subpart D—Federal and Indian Gas."

Also, a number of sections are renumbered and/or moved to a new subpart. In addition, §§ 202.51, 202.101, 206.103, 206.104, 207.1, 207.2, 207.5, and 210.55 are added to the appropriate subparts.

Current § 206.104 is an onshore operational regulation which is under the jurisdiction of the Bureau of Land Management (BLM). This section is being redesignated as 43 CFR 3162.7–4, and the existing § 3162.7–4 is being redesignated as § 3162.7–5.

This rule applies prospectively to production on or after the effective date specified in the *Effective date* section of this preamble. It supersedes all existing oil royalty valuation directives contained in numerous Secretarial, Minerals Management Service, and U.S. Geological Survey Conservation Division (now Bureau of Land Management, Onshore Operations) orders, directives, regulations and Notice to Lessees (NTL's) issued over past years. Specific guidelines governing reporting requirements consistent with these new oil valuation regulations will be incorporated into the MMS Payor Handbook.

For the convenience of oil and gas lessees, payors, and the public, the following chart summarizes the effects of these rules.

Regulation Changes	Descriptions
I. REDESIGNATIONS	
1. Subparts E, F, and G of Part 241 are redesignated as Subparts F, G, and H, respectively.	This administrative action permits the insertion of a new Subpart E—"Solid Minerals, General" in this Part.
2. Sections 202.150, 202.151, and 202.152 are redesignated as §§ 202.100, 202.53, and 202.52, respectively. Section 203.150 is redesignated as § 203.50. Section 203.200 is redesignated as § 203.250. Sections 206.300 and 206.301 are redesignated as §§ 206.350 and 206.351, respectively.	This administrative action more appropriately locates within 30 CFR the information contained in these sections.
3. Section 206.104 is redesignated under Title 43 CFR as § 3162.7–4. Existing § 3162.7–4 is redesignated as § 3162.7–5.	This section addresses a BLM onshore operations issue which properly belongs in 43 CFR.
4. Sections 210.300 and 210.301 are redesignated as §§ 210.350 and 210.351, respectively.	This action corresponds to the redesignation of Subpart F as Subpart H.
5. Section 241.100 is redesignated as § 241.53	This action is the result of retitling of the subparts.
II. DELETIONS	
1. Subpart H—"Indian Lands" is removed from Part 241	Oil royalty valuation for Indian Lands is now covered by Subpart C—Federal and Indian Oil.
2. Sections 202.100 through 202.103 are removed from Subpart C of Part 202.	These sections cover activities now governed by BLM.
3. Section 203.100 is removed from Subpart C	This section covers an activity now governed by BLM operations personnel.
4. Section 206.103 is removed from Subpart C of Part 206	This section has been rewritten and relocated in the regulations as Subparts C and D of Part 206.
5. Sections 207.1, 207.2, 207.5, 207.6 and 207.7 are removed from Subpart A of Part 207.	The subject matter of these Sections is addressed elsewhere in the regulations. They are, therefore, redundant and have been removed to avoid confusion.
6. Sections 210.100 through 210.105, §§ 210.150 and 210.151 are removed from Subpart C and D, respectively, of Part 210.	These requirements of §§ 210.100 and 210.101 are now covered by Part 207, as amended. Sections 210.102, 210.103 and 210.104 are no longer applicable (these forms are no longer in use). § 210.105 has been replaced by new § 210.55.
7. Section 210.10 in Subpart A is removed and reserved and paragraph (c) of 241.60, formerly § 241.100(c), is removed from Subpart B of Part 241.	Newly redesignated § 241.60(c)(1) and § 210.10 are no longer applicable (these forms are no longer in use).
III. ADDITIONS	
The following subparts are added to Part 207	Separate subparts have been added to Part 207 to make it consistent with other parts of 30 CFR Chapter II and to provide both structure and space for future expansion of this portion of the regulations.
Subpart A—General Provisions	
Subpart B—Oil, Gas and OCS Sulfur, General [Reserved]	
Subpart C—Federal and Indian Oil [Reserved]	
Subpart D—Federal and Indian Gas [Reserved]	
Subpart E—Solid Minerals, General [Reserved]	
Subpart F—Coal [Reserved]	
Subpart G—Other Solid Minerals [Reserved]	
Subpart H—Geothermal Resources [Reserved]	
Subpart I—OCS Sulfur [Reserved]	
2. The following subpart is added to Part 210	
Subpart H—Geothermal Resources [Reserved]	This new subpart provides space for regulations of general applicability to geothermal resources.
3. The following subpart is added to Parts 202, 203, 206, and 210	
Subpart I—OCS Sulfur [Reserved]	This new subpart provides space for regulations of general applicability to OCS sulfur.
4. The following subparts are added to Part 241	
Subpart E—Solid Minerals, General [Reserved]	These new subparts provide space for future regulations of general applicability to solid minerals and OCS sulfur.
Subpart I—OCS Sulfur [Reserved]	
5. Sections 202.51 and 202.101 are added to Part 202. Sections 206.103 and 206.104 are added to Part 206.	These new sections provide oil valuation standards and procedures.
6. Sections 207.1, 207.2, and 207.5 are added to Part 207	These new sections reference the definitions in Part 206 and set forth certain recordkeeping requirements.
7. Section 210.55 is added to Part 210	This will replace § 210.105.
IV. AMENDMENTS	
1. Parts 202, 203, 206, 210, and 241 are amended by retitling the following subparts:	These subparts have been retitled in order to organize them by a commodity (oil vs. gas, etc.) rather than emphasizing location (onshore vs. offshore) as was done formerly.
Subpart B retitled "Oil Gas, and OCS Sulfur, General	
Subpart C retitled "Federal and Indian Oil	
Subpart D retitled "Federal and Indian Gas [Reserved]"	

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Regulation Changes	Descriptions
2. Parts 202, 203, and 206 are amended by retitling the following subparts: Subpart E retitled "Solid Minerals, General—[Reserved]" Subpart F retitled "Coal [Reserved]" Subpart G retitled "Other Solid Minerals—[Reserved]" Subpart H retitled "Geothermal Resources—[Reserved]"	

The rules in § 206.100 expressly recognize that where the provisions of any Indian lease, or any statute or treaty affecting any Indian lease, are inconsistent with the regulations, then the lease, statute, or treaty will govern to the extent of the inconsistency. The same principle applies to Federal leases.

A separate oil definitions section applicable to the royalty valuation of oil is included in this rulemaking in Part 206. All definitions contained under each subpart of Part 206 will be applicable to the regulations contained in Parts 202, 203, 207, 210, and 241. Because the definitions are specific to these parts, they may not necessarily conform to definitions of the same terms in other Federal agencies' regulations.

III. Response to General Comments Received on Proposed Oil Product Valuation Regulations and Related Topics

The notice of proposed oil valuation regulations was published in the **Federal Register** on January 15, 1987 (52 FR 1858). This was followed by a Further Notice of Proposed Rulemaking (52 FR 30826, August 17, 1987), and a Second Further Notice of Proposed Rulemaking (52 FR ——, ——, 1987). Over 130 comments were received from interested persons including Indian lessors, the States, and industry.

The commenters included industry/trade groups, State, local, and Federal governmental entities, Indian Tribes or allottees, a State/Tribal association, and an individual.

General Comments

The MMS received many diverse comments on the principles underlying the proposed valuation methodology. These comments did not address specific sections of the proposed regulations. The respondents generally comprised two groups, with industry generally on one side and States and Indians on the opposing side. The general comments were categorized into five more-or-less interrelated issues: (1) Acceptance of gross proceeds under an arm's-length contract, or the benchmark, as the value for royalty purposes; (2) deduction of transportation costs; (3) legal mandates and responsibilities toward Indians; (4) complexity and obscurity of regulations and definitions; and (5) economic impacts.

(1) Acceptance of Gross Proceeds as the Value for Royalty Purposes

Industry commenters generally agreed that the basic premise underlying the proposed rulemaking is sound because value is best determined by the interaction of competing market forces. However, State and Indian commenters disagreed, particularly objecting to the concept of accepting gross proceeds received under arm's-length transactions as representative of market value. The commenters were concerned that the acceptance of gross proceeds, without additional testing of its validity, could lead to manipulation of pricing schedules, an erosion of payors' accountability and, in general, would fail to protect the interests of the lessor. Many pointed out that gross proceeds has historically not been considered equivalent to market value, citing various legal opinions in support. In view of this, State and Indian commenters declared that royalty value should be equivalent to the highest price posted for like-quality production in a field or area.

MMS Response: The MMS's experience demonstrates that the highest price posted in a given field does not necessarily reflect a bona fide offer to purchase, nor does it reflect that significant quantities of oil are being purchased at that price. In these regulations, MMS generally will assess royalty on the value to which the lessee is legally entitled under its arm's-length contract. MMS maintains that gross proceeds to which a lessee is legally entitled under arm's-length contracts are determined by market forces and thus represent the best measure of market value. For many Indian leases, MMS will also require consideration of the highest price paid for a major portion of production in accordance with the lease terms.

To assure that gross proceeds represent market value, and thus insure accountability, Indian and State commenters suggested that reported gross proceeds values should be tested/validated by using the net-back (workback) procedure as an independent cross-check. They also suggested that royalty reporting should be routinely monitored by using this procedure.

MMS Response: The MMS believes that gross proceeds under arm's-length contracts are representative of market value. However, MMS will continue to monitor value determinations under its regulations to ensure that those determinations yield reasonable values. To routinely perform labor-intensive net-back calculations is impractical.

Some State respondents doubted that the benchmark hierarchy system for determining values under non-arm's-length transactions could be properly applied because of the system's complexity and because the valuation procedure is predicated upon a payor's ability and willingness to identify a transaction as either arm's-length or non-arm's-length. They feared that industry might be reluctant to identify non-arm's-length transactions and thus merely declare gross proceeds as value, thereby placing the burden of proper finding upon MMS during audit.

MMS Response: The MMS supports the benchmark system. Most of industry, those who report under the system, believe it to be a workable system. In general, industry can identify its own arm's-length contracts based on standards established in these regulations and it is in its best interests not to classify non-arm's-length transactions as arm's-length because of the threat of both high interest costs and possible penalties. However, MMS will use the audit process to verify that contracts which are claimed to be arm's-length satisfy all the standards of the definition, discussed in detail below.

(2) Deduction of Transportations Costs

Although industry commenters supported the proposed deductions for transportation costs, many of the respondents believed the allowable deductions were too restrictive, and one suggested that transportation allowances should be actual costs based on Federal Energy Regulatory Commission (FERC) tariffs or arm's-length transportation arrangements.

However, comments from States and Indians objected to the allowances as being too liberal and unnecessarily open-ended by effectively granting the allowances regardless of need. They suggested that transportation deductions should be allowed only when transportation costs are necessary to the sale of the production, that transportation allowances should be limited to OCS production only, or that no deductions should be allowed, at least for tribal lands.

MMS Response: The MMS believes that costs incurred by a lessee to transport lease production to a delivery point off the lease increases its value and, therefore, is a recognized deduction. See the transportation allowance section of this preamble for further discussion.

(3) Legal Mandates and Responsibilities Toward Indians

Some State and Indian respondents questioned the legality of the proposed rulemaking, expressing their view that the proposed modifications, particularly with respect to arm's-length contracts and gross proceeds, are contrary to the intent of the valuation requirements of the Mineral Lands Leasing Act, 30 U.S.C. 181 et seq., and the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1701 et seq., and are a marked departure from historical valuation regulations and lease terms. Their basic argument is that the statutes require royalty based on the value of production, and a royalty clause based upon "value" is not satisfied by a valuation procedure based upon gross proceeds; in their opinion, value may be considerably higher than revenues from arm's-length transactions.

MMS Response: The regulations generally define value on the basis of market transactions, consistent with commonly held economic philosophy, rather than some arbitrary "value" which can be easily misconstrued, disputed, or misinterpreted. The MMS believes there is no conflict between the intent of the Mineral Lands Leasing Act, FOGRMA, and the valuation procedures being adopted herein.

The mineral leasing laws require that the Secretary receive a royalty on the "value of production" from minerals produced from Federal lands, but value is a word without precise definition. "Men have all but driven themselves mad in an effort to definitize its meaning." *Andrews v. Commissioner of Internal Revenue*, 135 F.2d 314, 317 (2nd Cir. 1943). The word "value" has sometimes been modified by the words "fair market", although the mineral leasing law provisions on "value of production" do not include these words. But these adjectives do not really clarify the word "value." The word "fair" can modify the word "value" as in "fair value" or it can modify the word market as in "fair market." The term "fair value" may not be interpreted the same as the "fair market" value. The term "fair market value," however, has been generally accepted to be the price received by a willing and knowledgeable seller not obligated to sell from a willing and knowledgeable buyer not obligated to buy. Willing, knowledgeable, and obligated are again adjectives which are not terms of precise definition. These general concepts, however, were still the general principles which were followed in drafting these regulations on valuation of production for the purpose of calculating royalties. The general presumption is that persons buying or selling products from Federal and Indian leases are willing, knowledgeable, and not obligated to buy or sell. Because the U.S. economy is built upon a system in which individuals are provided the opportunity to advance their individual self interest, this seems to be a reasonable presumption. This system and its reliance on self-motivated individuals to engage in transactions which are to their own best interest, therefore, is a cornerstone of the regulations.

The purpose of these regulations is to define the value of production, for royalty purposes, for production from Federal and Indian lands. Value can be determined in different ways, and these rules explain how value is to be established in different circumstances. Value in these regulations generally is determined by prices set by individuals of opposing economic interests transacting business between themselves. Prices received for the sale of products from Federal and Indian leases pursuant to "arm's-length contracts," in many instances, are accepted as value for royalty purposes. However, even for some arm's-length contracts, contract prices may not be used for value purposes if the lease terms provide for other measures of value (such as Indian leases) or when there is a reason to suspect the bona fide nature of a particular transaction. Even the alternative valuation methods, however, are determined by reference to prices received by individuals buying or selling like-quality products in the same general area who have opposing economic interests. Also, in no instance can value be less than the amount received by a lessee in a particular transaction.

The Indian commenters took particular exception to the proposed rulemaking, pointing out that the proposed valuation procedures based on gross proceeds are in conflict with the Secretary's duty under the Unallotted Indian Leasing Act of 1938 and the Indian Mineral Development Act of 1982 to ensure that tribes and allottees receive the maximum return for their property. They disagreed that gross proceeds represented market value, and thus believed they would not receive the maximum benefit accruable from production pursuant to statutes. One respondent suggested that the proposed regulations apply prospectively only to newly issued leases so that royalties owed to Tribes and allottees under existing regulations would not be diminished.

MMS Response: MMS believes the new valuation regulations, with the changes discussed in more detail below, are fully consistent with the Secretary's obligations to Indian lessors.

(4) Complexity and Obscurity of Regulations and Definitions

Some commenters believed that the proposed rulemaking generally was excessively complicated, leading to difficulty in interpretation. As a result, they believe the proposed rules fail to achieve the stated goals of simplification and providing certainty.

MMS Response: The MMS has endeavored to correct certain identified deficiencies in the final rulemaking. The regulations combine previous regulations, NTL's, orders, and internal policies. They will provide a single source for product value guidance which necessarily will be simpler and more comprehensive than the existing procedures.

(5) Economic Impacts

State and Indian commenters disagreed with MMS's statement that the proposed regulations would yield long-term benefits to royalty owners. Indian commenters, in particular, believed the proposed valuation rules would have a significant detrimental economic impact on Tribes and allottees. A detailed analysis of the economic impacts of the proposed rules was suggested by one commenter to support MMS's claim that the short-term effects on revenues would be limited.

MMS Response: The MMS believes that the regulations provide valuation criteria that will result in reasonable values and will create an atmosphere of certainty in royalty payments and thereby correct some of the royalty deficiencies encountered in the past.

IV. Section-by-Section Analysis and Response to Comments

Comments were not received on every section of the proposed regulations. Therefore, if any of those sections were not changed significantly from the proposal, there generally is no further discussion in this preamble. The preamble to the proposed regulation (52 FR 1858, January 15, 1987) may be consulted for a full description of the purpose of those sections. For other sections, this preamble will address primarily the extent to which the final rule was changed from the proposal. Again, a complete discussion of the applicable sections may be found in the preamble to the proposed regulation.

Section 202.52 Royalties.

For purposes of clarity, one State commenter suggested that the word "royalty" be inserted before the words "rate specified", and the words "amount of royalty" be deleted and replaced with the words "royalty rate." This suggestion was made because some lessees have confused the computation of royalty rate and the computation of the amount of royalties due.

MMS Response: The MMS agrees that these suggested changes should be made for purposes of clarity and the final rule has been modified accordingly.

The MMS has removed from the final rules the two sections addressing the general responsibilities of MMS and lessees. All of these responsibilities are addressed in various provisions of 30 CFR and elsewhere. Thus, these sections were duplicative and, based on the comments received, caused confusion.

Section 202.100 Royalty on oil.

Indian commenters recommended that paragraph (a) should provide specifically that Indian lessors, as well as MMS, have the right to require payment in-kind for royalties due on production.

MMS Response: Most Indian lessors have the authority to require payment in-kind for royalties due on production. To the extent the lease terms so provide, the lessor may take its royalty in-kind. However, because requests to take royalty in-kind may involve operational difficulties for the lessee, as well as a change in accounting and reporting procedures necessary for MMS to properly monitor royalty obligations, MMS will continue to administer such requests. Therefore, if an Indian lessor wants royalty in-kind, he or she must contact MMS. The MMS then will make arrangements with the lessee for the in-kind payment.

The MMS also has added a provision clarifying that when royalties are paid in value, the royalties due are equal to the value for royalty purposes multiplied by the royalty rate.

Industry commenters recommended that this section state that no permission is necessary to exempt from royalty any oil used for the benefit of the lease, either on-lease or off-lease, and including communitized or unitized areas. In addition, another industry commenter stated that where agency approval is necessary, this section should address the procedure to acquire such permission.

Some Indian commenters also recommended that any royalty-free use of oil be subject to prior approval to ensure that production from Indian leases is not disproportionately used in royalty free operations.

MMS Response: The royalty-free use of oil is an operational matter covered by the appropriate operating regulations of the BLM and MMS for onshore and OCS operations, respectively. The BLM requirements are governed by the provisions of Notice to Lessees and Operators No. 4A. Therefore, although these comments raised many substantive issues, they are not properly addressed in this rulemaking. The MMS does not believe that prior approval for royalty-free use of oil is warranted because most leases by their specific terms allow royalty-free use of gas and it is a matter which will be reviewed during audits to prevent abuse.

One industry commenter proposed that MMS consider expansion of § 202.100(b) to include appropriate royalty deductions for the oil equivalent cost of alternative fuels which may also be used for beneficial purposes on the lease.

MMS Response: This suggestion was not adopted. This issue is more properly directed to operational regulations, not value regulations, and is outside the scope of this rule. The MMS has included these provisions simply to reflect the general lease terms and regulatory provisions which prescribe the royalty obligation.

Proposed § 202.100(b), which addressed royalty-free use of oil for leases committed to unit or communitization agreements, has been expanded in the final rules to also cover production facilities handling production from more than one lease with the approval of the appropriate agency. Although MMS is satisfied that this issue is an operational matter governed sufficiently by the appropriate operation of the unit agreement or communitization agreement and BLM's and MMS's regulations, the number of comments received regarding this issue led MMS to believe that reiterating these operational requirements was advisable. This regulation simply provides that a disproportionate share of the fuel consumed at a production facility serving multiple leases may not be allocated to an individual lease without incurring a royalty obligation on a portion of the fuel.

A State commenter suggested changes designed to help end the confusion about the distinction between computing the royalty rate and computing the amount of royalties due. MMS has adopted some changes to the wording of §§ 202.100 (a) and (b) for clarity.

Section 202.100(c) was proposed as § 206.100(d). A comment was received from industry suggesting the addition of the phrase "because of negligence of lessee" after the words "offshore lease," in order to be consistent with section 308 of FOGRMA.

MMS Response: This subpart addresses the valuation of oil which has been determined to be "avoidably lost," not the reason(s) for that determination. Determination of "avoidably lost" and "negligence" is a function of MMS OCS Operations for OCS leases and BLM for onshore Federal and Indian leases. The BLM's requirements are governed by the provisions of Notice to Lessees and Operators No. 4A. The MMS's requirements are governed by OCS Order No. 11. The addition of the recommended phrase, therefore, is considered inappropriate for inclusion in this rulemaking.

Section 202.100(d) requires royalties to be paid on insurance compensation for unavoidably lost oil. Several industry commenters stated that to require a lessee to pay royalties on any compensation received through insurance coverage or other arrangements for oil unavoidably lost is unfair. They stated that insurance proceeds are not received for the sale of production and should not be subject to sharing with the lessor. They believe, however, that if MMS insists on collecting a portion of such proceeds, the cost of such insurance coverage should be allowed as a deduction from royalty.

MMS removed the insurance compensation section from the first draft final rule. Many Indian and State commenters thought this change was unfair, stating that if the lessee was compensated for the production, the lessor should then receive its royalty share.

MMS Response: The MMS has reinstated this provision in the final rules. However, royalties are due only if the lessee receives insurance compensation from a third person. No royalty is due where the lessee self-insures.

MMS has added at § 202.100(e) of the final rules a provision concerning production governed by a federally approved unitization or communitization agreement. Section 202.100(e) states that all agreement production attributable to a Federal or Indian lease in accordance with the terms of the agreement is subject to the royalty payment and reporting requirements of Title 30 of the Code of Federal Regulations even if an agreement participant actually taking the production is not the lessee of the Federal or Indian lease. Most important, however, § 202.100(e) requires that the value, for royalty purposes, of this production be determined in accordance with 30 CFR Part 206 under the circumstances involved in the actual disposition of the production. By way of illustration, if a Federal lessee does not sell or otherwise dispose of its allocable share of unit production, then it will be sold or otherwise disposed of by one of the other unit participants. If one of the unit participants other than the Federal lessee transports the oil to a terminal off the unit area under an arm's-length transportation agreement and then sells the oil under an arm's-length sales contract, the value, for royalty purposes, will be that person's gross proceeds less the costs of transportation incurred under the arm's-length transportation agreement. This provision does not address the issue of what person must report and pay the royalties, it only addresses the issue of valuation.

Section 206.100 Purpose and scope.

One industry commenter agreed with the concept that Indian Tribal and allotted leases be treated under the same oil valuation standards applied to Federal leases unless the specific lease terms require otherwise. That commenter also suggested that MMS support Indian Tribes and allottees, if requested, in marketing their royalty share of production. An Indian Tribe commenter asserted that it may be inconsistent to use the same oil valuation standards for Indian and Federal leases: "Because of the trust responsibility of the United States to maximize Indian royalties, it may be inconsistent to have Indian and Federal leases treated the same under this section, especially if the policy of Interior is to earn a reasonable and long-term maximum rate of return and revenues for all parties."

MMS Response: The MMS believes generally that maintaining a single set of oil valuation regulations that apply to both Federal and Indian lands (except leases on the Osage Indian Reservation) provides for consistency and certainty in the determination of the value of oil for all lands administered by the DOI and will result in obtaining a reasonable and appropriate rate of return to all parties concerned. However, because of the lease terms of many Indian leases, MMS has included in the rules some additional valuation standards applicable only to those Indian leases.

MMS has added a general statement that the purpose of these rules is to establish the value of production for royalty purposes consistent with the mineral leasing laws, other applicable laws, and lease terms.

In accordance with paragraph (b) of this section, where the provisions of any statute, treaty, or lease are inconsistent with these regulations, the lease, statute, or treaty provision will govern to the extent of that inconsistency. This policy also applies to court decisions—regulatory revisions will be required to the extent of any inconsistency with the existing regulations, provided they are not ambiguous or unclear in their intent. Thus, MMS maintains the DOI's responsibility to Indians by assuring that the regulations do not supersede the authority granted by the lease, or violate provisions of a statute, treaty, or court decision.

Several Indian respondents commented on § 206.100(b). One suggested that the proposed rules should expressly recognize that "where provisions of any Indian lease, or any statue or treaty affecting Indian leases, as stated or *as interpreted by the courts*, are inconsistent with the regulations, then the lease, statute or treaty, or *court interpretation* would govern to the extent of the inconsistency."

Another commenter expressed the view that "caution should be exercised before stating that 'the lease * * * provision shall govern to the extent of that inconsistency.' Many Indian allottee and tribal leases are very old and were entered into when industry practices were very different than they are now. The parties to the lease may have understood the lease to incorporate standard industry practice at that time. For this reason, some provisions may have been omitted from the written instrument. It may be proper to interpret some of those unwritten provisions in light of today's standards, but it may be grossly unfair to the royalty owner to so interpret others. One such example may be transportation costs. If transportation costs were not being deducted from royalties when the lease was entered into, transportation costs should not be deducted now, even though not mentioned in the lease. It is our conclusion that this should be considered and the regulations should make some mention of this consideration." Another commenter suggested including settlement agreements entered into to resolve administrative or judicial litigation because these agreements may vary from the rules.

MMS Response: Obviously, MMS will comply with court orders and judicial decisions which affect these regulations. It is well known, however, that court decisions often focus only on parts of issues, leaving those decisions open to interpretation. Furthermore, a court's jurisdiction can limit the applicability of its decision. It is for these reasons that MMS has elected not to include an express reference to court decisions or court interpretations in this or any other subpart of these regulations.

Contrary to the interpretation of this section by the second commenter, the regulations will not change any specific lease provisions. The MMS has included the suggested reference to settlement agreements.

Few comments were received concerning § 206.100(c). One from industry endorsed the recommendation of the Royalty Management Advisory Committee (RMAC) Oil Valuation Panel which proposes placing a limit on the time period during which MMS may conduct an audit on a lease. It asserted that such a limitation "encourages prompt action, assures the retention of appropriate records, and gives the lessee assurance that its current business will not be disrupted by examinations of very remote payments. We believe a 6-year limitation is reasonable for both MMS and the lessee."

The Indian respondent is concerned that "Although all royalty payments made to MMS will purportedly be subject to later audit and adjustment, MMS's past audit record does not reassure the tribes that all royalties due will be collected."

MMS Response: These regulations concern valuation procedures, not accounting functions. All MMS audits are subject to the requirements found at 30 CFR 217.50, which does not specify any time limit during which MMS may conduct an audit. Because the reference in § 206.100(c) is intended only to be a general reminder that royalty payments will be audited, the recommendation to place a time limit on audits was not adopted. The MMS has modified the provision in the final rule to make it

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clear that this provision applies to payments made directly to Indian Tribes or allottees as well as those made to MMS either for Federal or Indian leases. MMS will address the issue of audit closure elsewhere.

Several Indian commenters suggested that MMS should amend § 206.100(d) to specifically refer to the Secretary's trust responsibility to the Indians.

MMS Response: The MMS has made the suggested change.

The MMS received a comment from an Alaska Native Corporation stating that MMS should not make the new regulations applicable to an Alaska Native Corporation's proportionate share of leases acquired under section 14(g) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1613(g). Under section 14(g), a native corporation can acquire all or part of the lease. The commenter's point was that at the time a proportionate interest in a lease is acquired, the native corporation had an expectation of what royalties it would receive, and it would be inequitable for MMS to modify that expectation for leases or portions of leases which MMS does not even own.

MMS Response: MMS agrees with the comment. Therefore, regulations, guidelines, and Notices of Lessees in effect on the date that an Alaska Native Corporation acquired any proportionate interest in a lease will continue to apply to that interest.

Section 206.101 Definitions.

Allowance—Comments were received on this paragraph from State entities, Indian Tribes, and a Federal agency. One State commenter pointed out that this definition appears to be inconsistent with the sections of the valuation regulations dealing with transportation allowances (§§ 206.104 and 206.105). The word "allowance" is defined in terms of being "authorized," "accepted" or "approved," whereas the regulations state that a transportation "allowance" can be deducted without prior approval. Their concern is that the definition should match the usage in the regulations. An Indian commenter stated that the definition should "clearly specify that the transportation allowance applies only to transportation from *the lease boundary* to a point of sale remote from the lease and that such costs be reasonable, actual, *and necessary.*" A Federal agency comment stated that the definition is too liberal and would result in the Federal Government subsidizing oil companies' operation costs. They cited an example where a transportation allowance of as much as 50 percent could be granted for moving oil in lateral lines to off-lease measurement points; specifically, from wellheads to a Lease Automatic Custody Transfer (LACT) unit. One State commenter suggested that the definition is unnecessarily broad and recommended deleting the language "or an MMS-accepted or approved" as well as deleting the phrase "to a point of sale or point of delivery remote from the lease." This commenter also suggested adding the words "necessary and" before the word "reasonable." The rationale for making these charges is that there are other sections of the regulations that clarify "that MMS need not provide advance approval before a lessee could take an allowance." The "accepted or approved" language could be interpreted to suggest that "allowances are not subject to later adjustments by MMS after full audit, based on arguments that the allowance was accepted by MMS after receipt of the actual costs report under § 206.105(b)(2), or accepted under the terms of the regulations."

MMS Response: These regulations, in effect, "authorize" the lessees to deduct certain costs incurred for transportation from the value without prior approval. (See §§ 206.104 and 206.105.) Allowances computed by the lessee shall be "accepted" by MMS subject to review and/or audit. The MMS has not included a definition of the phrase "remote from the lease" in the final rules. To eliminate any confusion, MMS has replaced this phrase with the phrase "off the lease." Thus, transportation off the lease, other than gathering, is subject to an allowance. The MMS has included an express statement in the final rule that transportation allowances do not apply to gathering costs.

Area—A comment was received from industry addressing this definition as being imprecise and in need of specified limits in order to define how large an "area" can be. In addition, the commenter proposed that the definition should be clarified by inserting the phrase "or producing unit" after "oil and/or gas field."

MMS Response: The definition seeks to encompass a concept that is very difficult to describe. Narrowing its scope by describing it in terms of size will only establish an arbitrary basis for the definition. To avoid this, MMS elected to retain the definition as proposed.

Arm's-length contract—A large number of comments were received on this definition from industry, Indians, a State/Tribal association, States, and a Federal agency. The proposed definition of "arm's-length contract" generated a significant number of comments because it is, as one commenter noted, the "* * * linchpin of the benchmark system * * *." Because of the importance of this concept, it is not surprising that several commenters disagreed with the definition, either in part or in its entirety. Indeed, one State commenter described the reliance on the concept of "arm's-length" as a method of determining value to be "both inefficient and inappropriate" and suggested deleting the definition altogether. The majority of commenters, however, focused on what they considered to be flaws in the proposed definition and the specific recommendations they considered necessary to conclusively address those flaws.

One Indian commenter suggested that the basic flaw in the definition is the assumption that the interests of the lessee and the lessor are identical. This commenter pointed out that the courts "have recognized that the interests of lessees and lessors often diverge. See, e.g., *Piney Woods Country Life School* v. *Shell Oil Company*, 726 F.2d 225 (5th Cir. 1984), *cert. denied.*, 105 S. Ct. 1868, (1985), *Amoco Production Company* v. *Alexander*, 622 S.W. 2d 563, (Tex. 1981)." Another State commenter described the definition as "clearly deficient because it is limited to formal affiliation or common ownership interests between the contracting parties." The assumption that arm's-length contract prices reflect market value "ignores the fact that parties may have contractual or other relationships or understandings which would cause them to price oil below its value, especially if the benefit of the reduced royalty burden can be shared by means of the oil sales contract." This commenter believed that the lessee's and lessor's interests may not be the same, and that the royalties due lessors is viewed by many lessees as a cost to be minimized, not maximized. Another comment submitted by the State/Tribal association cited the following as an example of a situation where, although the parties are unaffiliated, the market value may be less than the arm's-length contract price: "Thus, for example, the price received by a lessee/producer who is a captive shipper of a single purchaser pipeline, albeit unaffiliated, will be accepted as the value, despite the fact that competing market forces are not operating. Even if audit revealed facts that would indicate that the sales price is suspect, the government would be bound under the proposed regulations to accept it if the parties were nominally unaffiliated. The MMS proposal would even foreclose the use of standard price checks, presently used * * * in * * * audit efforts, to assure that contract

proceeds represent the statutory requirement of fair market value of production." One State commenter concluded that in its attempt to establish an "almost purely objective" test and provide for certainty in valuation, MMS has inadequately tried to justify "giving away the power to prevent manipulation of the public's royaltiea." Other State and Indian commenters claimed that the proposed definition, although it may be objective, remains "unworkable" mainly because it does not include any reference to "adverse economic interests" and "free and open market" nor would it serve as an effective audit tool. They urge MMS to use the definition first proposed by MMS to the RMAC because "that definition incorporates the common legal understanding of the term arm's-length—the existence of unaffiliated willing buyers and willing sellers of adverse economic interests operating in a free and open market—and is the only definition that can assure against valuation becoming an industry 'honor system.'"

One State commenter stressed that even though the inclusion of additional criteria ("adverse economic interest" and "free and open market") would increase subjectivity, "the appeals process is in place to provide protection against arbitrary decisions." State and Indian commenters specifically recommended that the proposed definition be replaced by the one proposed to RMAC by MMS in the draft regulations.

That definition reads as follows:

> Arm's-length contract means a contract or agreement that has been freely arrived at in the open marketplace between independent, nonaffiliated parties of adverse economic interests not involving any consideration other than the sale, processing, and/or transportation of lease products, and prudently negotiated under the facts and circumstances existing at that time.

One Indian Tribal commenter suggested that "MMS should derive a definition of oil value for royalty purposes (instead of what they consider would be a necessary, all-inclusive, lengthy definition of arm's-length contract) which is simple and which represents the true value of the production. The [commenter] submits that such a definition must be based on the highest price paid or posted for similar oil in the same field or area." Another commenter stressed that the definition limits the discretion of the Secretary to select whatever method he/she considers appropriate to determine the value of oil for royalty purposes.

A large number of industry commenters agreed that the definition of an "arm's-length contract" as "a contract or agreement between independent and nonaffiliated persons" is sound and appropriate. However, these same commenters (plus some Indian and State commenters) objected to the phrase in the proposed definition "or if one person owns an interest (regardless of how small), either directly or indirectly, in another person" as being too "restrictive." [1] The rationale for this position is that the phrase appears to defeat MMS's intent to use arm's-length contracts as the principal valuation method. Many industry commenters addressed the need to clarify the definition in order to insure that joint ventures, joint operating agreements, tax partnerships, and other relationships where the "interest" of one party in another is not one of beneficial control, are specifically excluded. As one of these commenters put it: "Similarly, involvement in one or more joint operations with a competitor should not be viewed as materially affecting the arm's-length nature of transactions between the firms. However, the reference to joint venture in the definition of person, which is referenced in the proposed definition of arm's-length contract, could be improperly construed as including normal joint oil field operations conducted under the terms of joint operating or similar agreements. Joint operations clearly involve no interlocking ownership of the instruments of voting securities as between the firms. Joint operations are undertaken to accomplish effective reservoir management, to satisfy spacing requirements, or to share the enormous costs involved in certain OCS and frontier areas. Such joint operations are often mandated and/or approved and sanctioned by the various governmental agencies having jurisdiction and supervision over the operations (i.e., communitization, unitization, and development plans; and joint bidding agreements). They do not establish joint marketing rights, or otherwise erode the competitive desire of each owner to achieve maximum value for its share of production."

Several industry commenters also complained that the ownership by one party of one share of stock in another party would confer affiliated or non-arm's-length status to virtually all otherwise arm's-length transactions between the two parties. They further stated that this would be true even if the pension plan of one party holds one share of stock in the other party. One Indian commenter suggested that MMS would waste its efforts trying to determine ownership interest: "There is also a problem with using ownership interest 'regardless of how small' in the definition. There is no definition in the proposed regulations of 'owns an interest.' Would the ownership of one share of stock be considered owning an interest? Parameters must be set and adhered to. When MMS starts trying to determine ownership interests no matter how small, an endless quagmire will develop, and time and resources will be devoted to this determination when they would be better spent on MMS's other duties."

Another industry commenter pointed out that the proposed definition is inconsistent with the guidelines concerning beneficial control under generally accepted accounting principles, while a number of other industry commenters claimed that it eliminates certainty in valuation.

The majority of all the comments stress the need to replace the phrase "or if one person owns an interest (regardless of how small), either directly or indirectly, in another person" with a statement that specifies quantifiable limits that would be used to determine whether or not one party would be considered to have a controlling interest in another party. Nearly all of these comments recommended that MMS adopt the following language for the definition of control which has already been implemented by BLM as codified at 43 CFR 3400.0-5(rr)(3) (51 FR 43910, December 5, 1988):

Controlled by or under common control with, based on the instruments of ownership of the voting securities of an entity, means:

(i) Ownership in excess of 50 percent constitutes control;

(ii) Ownership of 20 through 50 percent creates a presumption of control; and

(iii) Ownership of less than 20 percent creates a presumption of noncontrol.

A few industry commenters recommended replacing the word "person" with the word "party" in the definition of arm's-length contract because they foresee that the use of the word "person" will "unnecessarily

[1] Several commenters used the word "restrictive" to mean that the language in the proposed definition regarding "if one person owns an interest (regardless of how small), either directly or indirectly, in another person" significantly restricts the number of situations where an arm's-length contract would actually exist. A few comments espoused this same position, yet they termed the definition as too "broad." As used in this discussion, MMS considers the word "restrictive" to represent the above-mentioned position, and the word "broad" to denote that the language of the definition is either too vague or not restrictive enough.

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preclude contracts between joint ventures from qualifying as arm's-length." Similarly, one industry commenter suggested deleting the words "consortium" and "joint venture" from the definition for "person" ("party") for the same reason.

Finally, one industry commenter objected to "the implicit and explicit presumption throughout the Oil Proposal that proceeds actually received through affiliated sales are less than fair value. This presumption places an unfair, impractical, and impossible standard on a producer who, acting in its best economic interest, elects to sell to an affiliated entity. In this regard, a redefinition of the term "Arm's-Length Contract" is recommended to eliminate reference to and inclusion of de minimis relationships."

Based on the numerous comments concerning the originally proposed definition, MMS included in the first draft final rule a definition which adopted the "control" language found in the BLM's regulations at 43 CFR 3400.0-5(rr)(3). In response to those commenters who believed that parties to an arm's-length contract must have adverse economic interests, MMS included in the first draft final rule definition a provision which requires that to be arm's-length a contract must reflect the total consideration actually transferred from the buyer to the seller, either directly or indirectly. For example, if the parties to the contract agreed that the price for oil from a Federal or Indian lease will be reduced in exchange for a bonus price to be paid for other production from a fee lease, MMS would not treat that contract as arm's-length.

Many of the comments on the first draft final rule again focused on the definition of arm's-length contract. Most of the industry commenters felt that the reference to "reflects the total consideration actually transferred directly or indirectly from the buyer to the seller" did not belong in the definition of arm's-length contract. Rather, they stated that it properly should be dealt with as a "gross proceeds" issue. The States and Indians commented that a reference to adverse economic interests still was necessary. They also felt that there must be a requirement of a free and open market. Finally, the States and Indians thought that MMS should lower the control threshold to 10 percent and that MMS should have more flexibility to rebut presumptions of noncontrol. Many of these commenters also thought that the rules should state that the lessee has the burden of demonstrating that its contract is arm's-length.

MMS Response: MMS has adopted many of the suggested changes to the definition. MMS agrees that the "total consideration" issue is properly a gross proceeds matter that does not reflect the affiliation of the parties. Thus, that phrase has been deleted from the arm's-length contract definition and the matter dealt with under the definition of "gross proceeds". MMS did not adopt the concept of "free and open market" since that concept is highly subjective. However, MMS did include a requirement that the contract be arrived at "in the marketplace" in support of the concept that an arm's-length contract must be between non-affiliated persons. Also, in furtherance of that concept, MMS included a provision that an arm's-length contract must be between persons with opposing economic interests regarding that contract which means that the parties are acting in their economic self-interest. Thus, while the parties may have common interests elsewhere, their interests must be opposing with respect to the contract in issue. The MMS has not reduced the control threshold to 10 percent, although it should be understood that MMS can rebut presumptions of noncontrol between 0 and 20 percent.

Many commenters felt that MMS's inclusion of joint venture in the definition of "person" improperly narrowed the definition of arm's-length contract. These commenters have misconstrued MMS's intent. The definition of "person" includes joint ventures since there are instances where joint ventures are established as separate entities. In those situations, if a party with a controlling interest in the joint venture buys production from the joint venture entity, that contract is non-arm's-length. However, MMS is aware that it also is common for companies to jointly contribute resources to develop a lease and then share the production proportionately. In a situation where four totally unaffiliated companies share the production, if one of the companies buys all of the production from the other three, those three contracts would be considered arm's-length. The company's purchase from its affiliate of course would be non-arm's-length.

The MMS also has included in the arm's-length definition a provision whereby if one person has less than a 20 percent interest in another person which creates a presumption of noncontrol, MMS can rebut that presumption if it demonstrates actual or legal control, including the existence of interlocking directorates. For example, there may be situations where ownership of 5 percent of a very large corporation could give a person sufficient control to direct the activities of that corporation. Where there is evidence of actual control, MMS can rebut the presumption of noncontrol.

Finally, in response to those commenters who believed that the lessee has the burden of demonstrating that its contract is arm's-length, MMS has included such a provision in the valuation sections, discussed below.

The MMS may require a lessee to certify ownership in certain situations. Documents that controllers or financial accounting departments of individual companies file with the Securities and Exchange Commission concerning significant changes in ownership (e.g., 5 percent) must be made available to MMS upon request.

The final rule also provides that to be considered arm's-length for any specific production month, a contract must meet the definition's requirements for that production month as well as when the contract was executed.

Audit—Only a few comments were received on this proposed definition. All the comments focused on the portion of the definition which followed the first sentence. Generally, these comments suggested that the proposed definition limited the scope of MMS's authority, particularly with regard to Indian leases.

MMS Response: It is MMS's intention that the definition not be limited. Therefore, the final rule deletes everything following the first sentence of the proposed definition because the succeeding sentences were only intended to be explanatory.

Condensate—One industry comment advocated adding the phrase "beyond normal lease separation procedures" after the word "processing" in the first sentence of the definition in order to clarify that "liquid hydrocarbons resulting from normal lease separation procedures are condensate" whereas "processing," in this context, refers to more sophisticated facilities that are generally located off lease.

MMS Response: This definition has been retained intact in the final rule. However, a definition of the word "processing" has been added for clarification purposes at § 206.101.

Contract—A comment from a State commenter recognized that "as a matter of law, oral contracts are enforceable." This commenter recommends that the words "oral or" be deleted because they argue that "there is no way that the terms of such contracts can be adequately verified to assure that all of the consideration and benefits under it have been honestly detailed by the lessee under proposed § 207.4. Thus, the government, in a situation involving an oral contract, must assure itself that it has all of the information relevant to the transaction; reliance on the 'contract' document—drafted by one party only—would be insufficient."

MMS Response: The MMS has retained this definition as proposed because, in accordance with § 207.4, oral contracts negotiated by the lessee must be placed in written form and retained by the lessee. If the MMS believes that the written documentation is not a truthful representation of the actual terms of the sales agreements, the lessee may be liable for penalties for submitting false, inaccurate, or misleading data.

Gathering—MMS included in the draft final rule a definition of gathering as the movement of lease production to a central accumulation or treatment point on the lease, unit, or communitized area, or to a central accumulation or treatment point off the lease, unit, or communitized area (if authorized by the BLM or MMS operations authority). In most instances, gathering is a cost of production or marketing for which MMS will not grant any deduction.

MMS received numerous comments from industry concerning the phrase "or to a central accumulation or treatment point off the lease, unit or communitized area as approved by BLM or MMS OCS operations personnel for onshore and OCS leases, respectively." These commenters stated that the phrase was unclear and that it should be removed from the definition.

MMS Response: The definition has been retained intact. The operational regulations of both BLM and MMS require that a lessee place all production in a marketable condition, if economically feasible, and that a lessee properly measure all production in a manner acceptable to the authorized officials of those agencies. Unless specifically approved otherwise, the requirements of the regulations must be met prior to the production leaving the lease. Therefore, when approval has been granted for the removal of production from a lease, unit or communitized area for the purpose of treating the production or accumulating production for delivery to a purchaser prior to the requirements of the operational regulations having been met, MMS does not believe that any allowances should be granted for costs incurred by a lessee in these instances.

Gross Proceeds—MMS received many comments on the definition of "gross proceeds" from industry, States, Indian Tribes, and a State/tribal association.

One State agreed with the language of the proposed definition and supported its endorsement as follows: "Such a definition must be all inclusive. Any exceptions would only serve as precedents for carving more exceptions, and invite creative accounting mechanisms aimed at escaping royalty obligations."

One Indian commenter recommended replacing the word "entitled" with the phrase "accrued or accruing to" while another State commenter supported retaining the word "entitled" because it confirms the lessee's "obligation to act in the best interests of the lessor." This same commenter, however, pointed out: "In the Purpose and Background statement, MMS states that it is the intent of the regulations to include as royalty all of the benefits accruing, or that could accrue, to the lessee. However, the actual definition of gross proceeds does not encompass all potential benefits. For example, a lessee may accept a lower price for its production from a Federal lease for the opportunity to sell to the particular purchaser its production from other leases. Despite the difficulties of attributing a value to such an opportunity, it is a benefit accruing to the lessee under its sales contract. The language of the definition, however, suggests that 'gross proceeds' only encompasses consideration that has been stated in dollar terms. Thus, it technically does not include all of the benefits that could accrue under a sales contract."

A majority of those commenters that objected to the proposed definition expressed the same basic arguments in support of their position. Several industry commenters argued that the proposed definition contains language which is too expansive, claiming that the word "entitled" injects uncertainty and subjectivity into valuation. In addition, this term is considered objectionable by some because, as one commenter stated, "the intent of 'entitled' is not clearly understood, nor is it a clearly defined legal term. Lessees cannot know how either they or MMS auditors will, or should, apply the 'entitled' concept." They recommend deleting this term and abandoning the underlying concept altogether.

A few industry commenters suggested that the proposed definition does not conform to the terms of Federal and Indian oil and gas leases nor the statutes under which they were issued. They argue that the present definition "attempts to collect royalty on consideration received by the lessee [for] other than production saved, removed, or sold from the lease" and that it seeks to redefine "value" to include income or credits which are unrelated to such production.

Other industry commenters agreed with this overall approach, especially as it relates to reimbursements for "production costs" and "post-production costs." One commenter addressed this point at length: "This definition must be changed to limit the royalty to the value of the production at the lease. The current expansive definition allows MMS to reach far beyond that value to confiscate the value added by post-production activities. The MMS has misread the *The California Co. v. Udall* decision to require the lessee to do much more than place production in a marketable condition. If production could be sold at a lease but the lessee determines to enhance the value by retaining control and further processing it, the value added or reimbursements for the costs of such further handling are not appropriate for consideration in the value of the product for royalty purposes."

Many of the industry commenters objected to the "laundry list" of services they asserted are unrelated to production being included as part of "gross proceeds." One industry commenter urged MMS to adopt language which would specifically allow a variety of costs to be deducted from gross proceeds in order to arrive at the value of production.

A few industry commenters concluded that the definition, in its present form, is inconsistent with industry practice and not responsive to the "interaction of market forces."

One industry commenter noted that "some of the items specifically identified as subject to royalty under the gross proceeds concept are the subject of ongoing litigation and the MMS should not preempt judicial decision through regulation."

One State commenter asserted that the definition is only necessary as a determinant of minimum value and, in this sense, should be as expansive as possible. This commenter suggested that "the words 'but is not limited to' need to be added after the words 'gross proceeds, as applied to oil also includes.' " This language was thought to be needed because there is "no reason to restrict the term gross proceeds to encompass only those items listed." Furthermore, this commenter is concerned that the present language will "restrict the Secretary's authority to react if different types of sales arrangements arise in the future."

Another industry commenter asserted that there are "serious ambiguities and

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inconsistencies" in the definition of gross proceeds "as related to transportation deductions imposed by oil purchasers. These ambiguities and inconsistencies could be interpreted to preclude the use of a market-based value for royalty oil where oil purchasers in the area deduct actual transportation costs from their posted prices."

A large number of industry commenters recommended that MMS adopt the definition proposed by the RMAC Oil Valuation Panel which reads as follows: "Gross proceeds (for royalty payment purposes) means the consideration accrued to the lessee for production removed or sold from a Federal, Tribal, or Indian allotted lease."

MMS Response: In the draft final rule, MMS included a definition which was modified slightly from the original proposal. In this final rule, MMS has again made a modification discussed below. MMS retained the intent of the proposed language because gross proceeds to which a lessee is "entitled" means those prices and/or benefits to which it is legally entitled under the terms of the contract. If a lessee fails to take proper or timely action to receive prices or benefits to which it is entitled under the contract, it must pay royalty at a value based upon that legally obtainable price or benefit, unless the contract is amended or revised. As is discussed more fully below, gross proceeds under arm's-length contracts are a principal determinant of value. MMS cannot adopt that standard and then not require lessees to pay royalties in accordance with the express terms of those contracts. (See § 206.102(j)). It is MMS's intent that the definition be expansive to include all consideration flowing from the buyer to the seller for the oil, whether that consideration is in the form of money or any other form of value. Lessees cannot avoid their royalty obligations by keeping a part of their agreement outside the four corners of the contract. Moreover, as noted earlier, many commenters stated that the "total consideration" concept properly belonged as part of gross proceeds, not in the definition of arm's-length contract. Therefore, MMS purposefully has drafted the gross proceeds definition to be expansive and thus include all types of consideration flowing from the buyer to the seller. Toward that end, MMS has replaced the word "paid" used in the draft final rule with the term "accruing." There may be certain types of consideration which are not actually paid by the buyer to the seller, but from which the seller benefits. The term "accruing" ensures that all such consideration is considered gross proceeds.

The so-called "laundry list" of services are all benefits that a lessee may be legally entitled to under the terms of the contract and are considered part of the value for the production from the lease. Costs of production and placing production in marketable condition are (with a few exceptions addressed later in this preamble) considered services that the lessee is obligated to perform at no cost to the Federal Government or Indian lessor.

Indian Tribe—MMS has corrected the typographical error in the proposed definition and has replaced the word "state" with the words "United States."

Lease—One Indian commenter focused on the following issue: "Inclusion of any contract, profit-sharing arrangement, joint venture, or other agreement in the term 'lease' as opposed to a more standardized Bureau of Indian Affairs (BIA) form lease may cause confusion. Most joint ventures and profit-sharing arrangements contain explicit provisions on payment of expenses and division of revenues."

MMS Response: Contracts, profit-sharing arrangements, and joint ventures are all examples of types of valid leases already in existence. All specify royalty provisions, some more detailed than others. Nonetheless, they all qualify under the definition of "lease." Therefore, MMS has retained the proposed definition in the final rule.

Lessee—The proposed definition of "lessee" generated comments from the industry and from States. By far the most significant issue raised is that the proposed definition is inconsistent with the statutory definition of "lessee" found in the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA). The proposed definition uses the phrase "or any person who has *assumed* an obligation" whereas the language in FOGRMA uses the word *"assigned"* in place of the word "assumed." The commenters argued that MMS's use of the word "assumed" expands the definition beyond the intent of Congress and "seeks to invalidate the lease provisions with respect to royalty payment * * *." They further asserted that there is no reason to redefine the term and recommended using the definition found in FOGRMA at section 3(7), 30 U.S.C. 1702(7).

Two industry commenters suggested that the definition be narrowed to "exclude persons who have assumed an obligation to make royalty and other payments required by the lease." Their argument focused on the difference in responsibilities between lessees and payors: "The payor is not necessarily a lessee and should not be defined as one. A lessee is bound by the terms of a lease agreement while a payor is not."

Two industry commenters suggested that the definition as provided in FOGRMA should be revised for the purposes of these regulations for the sake of clarity.

A State commenter objected to the proposed definition because it has the effect of spreading "the reporting and payment responsibility among numerous parties. With each of these parties reporting and paying separately, no single party has the responsibility to insure that 100 percent of all production is reported and 100 percent of the royalties are paid."

MMS Response: The MMS agrees with the comments regarding consistency with the definition found in FOGRMA and, therefore, has replaced the word "assumed" with the word "assigned." The term "assigned," as used in this Part, is restricted to the assignment of an obligation to make royalty or other payments required by the lease. It is in no way related to lease "assignments" approved through the MMS, BLM, or BIA.

Load Oil—One industry commenter suggested that the word "fuel" be added as noted in the following proposed language: "*Load oil* means any oil which has been used with respect to the operation of oil or gas wells for *fuel*, stimulation, workover, chemical treatment, production or such other purposes as the operator may elect."

A State commenter recommended deleting the phrase "as the operator may elect" from the definition because: "There is no reason to institutionalize, in an enforceable regulatory form, a standard of lessee discretion."

MMS Response: Load oil is distinguished by MMS as oil used for the purposes of stimulating production through injection into the wellbore. Using oil for the purposes of enhancing the value of, or otherwise treating, lease production at the surface is not considered "load oil." Thus, oil used as fuel is not load oil. Also, in order to eliminate confusion, MMS has deleted the phrase "or such other purposes as the operator may elect."

Marketable condition—Only a few persons commented on this definition. A State commenter addressed the following concerns: "The definition states that product will be deemed marketable if it is 'in a condition that will be accepted by a purchaser under a sales contract typical for the field or area.' Such contracts, now or in the future, may provide that the purchaser bear the costs of the treatment necessary to place products in a marketable condition. Under the definition, as written, therefore, there would be a theoretical market for untreated product, and MMS would lose the benefit of the increased value attributable to requiring the lessee to perform the necessary conditioning.

"An additional problem exists because of the difficulty of determining what is 'typical' for the field or area. This is because of the same informational difficulties that disable MMS from adequately applying the majority portion analysis. Without full access to the range of sales arrangements that may exist for production in a given area, MMS will be forced to rely on lessee-selected documentation in order to determine what type of conditioning is 'typical' for the area."

MMS Response: The MMS believes it is highly unlikely that the oil industry would change the quality requirements for oil sales to avoid paying royalties on nonrecoverable marketing costs. If such an arrangement occurred, MMS would then need to determine if the arrangement is an attempt to avoid paying royalties on the market value of the oil, or a contract to not only purchase the oil, but to place it in marketable condition as well. In either case, the costs for placing the product in marketable condition would not be an allowable deduction from the value for royalty purposes. (See § 206.102(i)(1)).

MMS received several comments that sales to marketing affiliates who then resell the oil to third persons should not be treated under the rules as non-arm's-length sales. MMS has addressed this issue in the valuation rules discussed below, and is including a definition of marketing affiliate as an affiliate of the lessee whose function is to acquire only the lessee's production and to market that production.

Net-back method—Two State commenters objected to the proposed definition and industry commenters recommended adding clarifying language. The following discussion outlines the position of the two State commenters that found the proposed definition objectionable: "Briefly, our objections are twofold: 1. Net-back is a useful method to independently cross-check lessee declared values, and thus its use should not be restricted to those situations in which the 'first' sale, transfer, or use is downstream from the lease.

"Second, net-back should be allowed from any reasonable point at which a value can be ascribed to the product. There is no guarantee that the 'initial sales point' or 'first alternate point' will exhibit the open market conditions essential for attribution of a true value for the products.

"We therefore propose the following alternate definition: Net-back method means a procedure for valuing or verifying prices assigned to lease products or for independent cross checking of the validity of the gross proceeds of lease products or of prices posted or paid in a field or area. The procedure involves calculating back from any downstream point at which values for such products reasonably and fairly can be derived. In applying the net-back, consideration will be given to the reasonable costs of processing and transportation from the producing lease, unit or communitized area to arrive at a value for the products at the lease."

The industry commenter recommended that the following language be added to the proposed definition: "In net-back calculation the alternate point used for value determination shall be the point which is the closest point to the lease at which a price for similar lease products can be established by alternate means. Such alternate means may include posted prices or published spot market prices."

MMS Response: Upon review, MMS determined that the proposed definition of net-back was too broad—it applied to any situation where lease production is sold at a point off the lease. MMS's intent is that a net-back method be used for valuation primarily where the form of the lease product has changed, and it is necessary to start with the sales prices of the changed product and deduct transportation and processing costs. An example would be where oil production from a Federal lease is used on lease to generate electricity which is then sold. If the value of the oil cannot be determined through application of the first four benchmarks in the regulations (see § 206.102(c)), then a net-back method would involve beginning with the sale price of the electricity and then deducting the costs of generation and transportation, thus working back to a value at the lease. In the draft final rule, MMS used the phrase "ultimate proceeds" to try and refer to the downstream product. Many commenters thought the term would result in MMS doing a net-back from the furthest downstream product, even to the point of "Stainmaster Carpet" or "model airplanes." This was not MMS's intent. Therefore, the term "ultimate" has been deleted and a reference included to starting the net-back at the first point at which reasonable values for any product may be determined by comparison to other sales of such products. Thus, if there are five different stages of chemical or fiber products between oil production and "Stainmaster Carpet," if the value of the second product can be determined through comparison with sales of other such products in the same market, MMS would begin the net-back from that product, not from the sale price of the carpet.

Person—One Indian commenter supported the inclusion of "joint venture" in the definition of "person" while two industry commenters recommended that "joint venture" be deleted. The rationale these two commenters rely on as the basis for recommending deletion is that the term "person" is used in the definition of "arm's-length contract" and if "that definition is not altered as suggested herein, then inclusion of a joint venture in the definition of person will further narrow the definition of arm's-length transaction by clouding the issue of control and the application of the definition [of] arm's-length to other joint venturer transactions." Another industry commenter advocated replacing the word "firm" with the word "company" because they believe that, in this context, it would be more appropriate.

MMS Response: Because the definition of arm's-length contract has been modified to include the BLM "control" language, most of the comments on this definition no longer are relevant. Therefore, MMS will retain the proposed definition of "person" intact in the final rule.

Posted price—The proposed definition received only a few comments, two of which recommended expanding the definition of posted price to include the phrase "or at the specific onshore or offshore terminal(s) listed in the announcement" after the words "in the field." These industry commenters stated that there are "currently very few 'field postings,' rather there are terminal postings" and that expansion of the definition as noted above would avoid confusion in applying the definition.

Another industry commenter believed that the word "posted" is outdated and that some purchasers may not publish a price bulletin, instead providing price quotations or notices to any seller desiring to do business with the purchaser.

A State commenter recommended deleting the phrase "net of all deductions" for the following reasons: "The 'net of all deductions' language should be deleted. MMS has proposed a system of allowances, which as a practical matter makes the 'net of deduction' language unnecessary for the purposes of defining 'posted price.' This

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proposal could be interpreted to institutionalize the allowances without a mechanism of independent cross-check by MMS.

"Common industry deductions are for transportation and conditioning. Yet there are no restrictions upon what a poster can include as a deduction from the posted price. Thus MMS must retain the power to scrutinize such matters, and add such deductions back into the value of the production when necessary."

This same commenter believed that the definition is too restrictive: "We also object to restricting the definition of posted price to formal price bulletins. Rather, the definition should be broader and include both prices posted and those regularly paid. It is not unusual for a buyer to come into the market and offer publicly a price for crude, which is like a posting but not necessarily a price bulletin. Such publicly announced offers to buy could be at a price higher than offered in a price bulletin, and are no less 'market determined' than supposedly are postings in bulletins. Price bulletins are, generally, only circulated by the major companies and thus reliance on them may give undue advantage to the ability of those companies to establish prices."

MMS Response: The MMS is expanding the definition in the final rule to include references to onshore and offshore "terminal postings" and "price notices." For clarification purposes, the word "condition" replaces the word "quality" which follows the word "marketable" in the first sentence. The phrase "net of all adjustments" has been revised to read "net of all adjustments to." As used in this definition, the term "adjustments" refers to deductions from the price of oil for quality adjustments such as API gravity and sulfur content. Adjustments for location also may be taken into account where appropriate.

Processing—MMS has added a definition of "processing" as any process designed to remove elements or compounds (hydrocarbon and nonhydrocarbon) from gas, including absorption, adsorption, or refrigeration. Field processes such as natural pressure reduction, mechanical separation, heating, cooling, dehydration, and compression are not considered processing. Under this definition, the changing of pressures and/or temperatures in a reservoir is not considered processing.

Section 206.102 Valuation standards.

Section 206.102(a) sets the basic standard that the value for royalty purposes will be the value of the oil determined pursuant to this section less applicable allowances. One State commenter recommended that the phrase "less applicable transportation allowances" be deleted because it is unnecessary, confusing, and because it implies that the lessee can deduct the transportation allowance from the value received and report the resultant reduced value as a single line item.

MMS Response: The regulation as adopted refers to "applicable" allowances, which includes both transportation allowances and the limited allowances provided by § 206.102(i)(2) of the final rule. It does not imply that any and all costs can be deducted. Also, it refers to "this Subpart" which includes § 206.105. That section provides complete details regarding transportation allowances. Therefore, this suggestion was not adopted.

Two Indian commenters recommended that the paragraph be modified by (1) deleting any reference to the transportation allowances because they are improper for Indian leases, and (2) adding the phrase "in marketable condition."

MMS Response: Transportation allowances are allowable under most Indian leases. It has been MMS's practice to grant such allowances. If an Indian lease restricts such allowances, then the lease terms will govern.

The MMS does not agree that the phrase "in marketable condition" should be inserted prior to the word "determined." Section 206.102(i) requires that oil be placed in marketable condition at no cost to the lessor. Thus, because § 206.102(a) provides that value be "determined pursuant to this section," the marketability requirement already is included.

The MMS is including in the final rule a new paragraph (a)(2) which states that for any Indian leases which provide that the Secretary may consider the highest price paid or offered for a major portion of production (major portion) in determining value for royalty purposes, MMS will, where data are available and where it is practicable, compare the value determined in accordance with the prescribed standards with the major portion. The rule provides that the value for royalty purposes will be based upon the higher of those two values. The draft final rule included a provision that if MMS determined that the major portion results in an unreasonably high value, then it would not be used for royalty purposes. Many Indian commenters thought that, for their leases which include a specific reference to the major portion, that value should establish a minimum value, and that a major portion value in most cases will be reasonable since at least half the oil is sold at or above that price. MMS agrees and has made the change to the final rule.

The MMS is also including in paragraph (a)(2) a description of how the major portion is computed. It will be determined using like-quality oil sold under arm's-length contracts because non-arm's-length contracts may not reflect market value. The production will be arrayed from highest price to lowest price (at the bottom). The major portion is that price at which 50 percent (by volume) plus one barrel of the oil (starting from the bottom up) is sold.

The MMS believes that for these Indian leases, by comparing the major portion to values determined using arm's-length contract prices or the benchmarks for non-arm's-length contracts, and using the higher of the two, the Indians will be receiving royalties in accordance with their contract with the lessee.

Section 206.102(b) provides the valuation procedure for valuing oil sold pursuant to arm's-length contracts. Many comments were received regarding the concept of valuing oil on the basis of gross proceeds received under an arm's-length contract. They were about equally divided in number as to those in favor and those opposed.

Several State and Indian commenters, and one State/Indian association disagreed with the concept of valuing oil on the basis of gross proceeds received under an arm's-length contract. The commenters contend that, historically, gross proceeds has been regarded as a minimum value and that it has long been recognized that a market value clause in a lease "is distinctly and substantially different from a gross proceeds clause." They were concerned that the concept establishes an industry honor system. Also, concern was expressed that the proposed regulations be consistent with the provisions of the Indian lease agreement, and they questioned whether the proposed regulation permits the Secretary to discharge his/her responsibilities to the Indian lessors. These commenters maintained that whether an arm's-length transaction yields market value depends upon the definition of arm's-length contract.

Two State and two Indian commenters expressed concern that the proposed regulations will institutionalize an industry "honor system" for valuation of Federal royalty production. The commenters stated that the rules provide no mechanism for independent oversight and cross-check of lessee declarations of value and impose such impossible information

burdens on government that they can only result in total reliance on lessee-generated information. They stated further that whether an arm's-length transaction yields market value depends upon the definition of "arm's-length" and whether independent price checks confirm the receipt of proceeds.

The commenters pointed out that many sales arrangements may appear to be arm's-length on the surface, but in actuality the producers are "captive shippers" subject to forced sale and the purchaser's take-it-or-leave-it price. This scenario is stated to be contrary to the common legal understanding of an arm's-length market-determined price. The commenters noted that MMS's definition of "arm's-length" does not even contain the minimum acceptable requirements, in a legal sense, necessary to assure that such contracts are, in fact, arm's-length. They argue that the use of an arm's-length/gross proceeds valuation method requires that such matters as open-market conditions and the relationships between parties, beyond mere affiliation, be investigated. Also, the commenters stated that MMS does not confine arm's-length to those contracts that involve only the consideration for the sale of leased products. Coupled with the proposed definition of gross proceeds, the commenters believe "this allows lessees the opportunity to manipulate the prices received for their production from a Federal lease by accepting a lower price in order to sell production from other non-Federal leases, possibly at a more profitable price."

MMS Response: In response to a large number of comments from the States, Indians and industry, MMS has modified the regulations which govern the valuation of oil production sold pursuant to arm's-length contracts. For almost all such sales, the value for royalty purposes will continue to be the gross proceeds accruing to the lessee. Under MMS's existing regulations, the lessee's gross proceeds pursuant to an arm's-length contract are acceptable, though not conclusively, as the value for royalty purposes. The MMS believes that the gross proceeds standard should be applied to arm's-length sales for several reasons. MMS typically accepts this value because it is well grounded in the realities of the market place where, in most cases, the ⅞ths or ⅝ths owner will be striving to obtain the highest attainable price for the oil production for the benefit of itself; the royalty owner benefits from this incentive. It also adds more certainty to the valuation process for payors and provides them with a clear and equitable value on which to base royalties. Under the final regulations, in most instances the lessee will not need to be concerned that several years after the production has been sold MMS will establish royalty value in excess of the arm's-length contract proceeds, thereby imposing a potential hardship on the lessee.

Establishing gross proceeds under an arm's-length contract as the royalty value also has benefits for MMS and those States which assist MMS in the audit and enforcement effort. The gross proceeds standard will give auditors an objective basis for measuring lessee compliance. It will reduce audit workload and reduce the administrative appeal burden which results when valuation standards are too subjective, particularly when values are determined to be in excess of a lessee's arm's-length contract gross proceeds.

MMS recognizes, however, that there must be exceptions to the general rule that the lessee's arm's-length contract price should be accepted without question as the value for royalty purposes. One such situation is where the contract does not reflect all of the consideration flowing either directly or indirectly from the Buyer to the Seller. As an illustration, in return for Seller's reduced price for oil production from a Federal lease, Buyer may agree to reduce the price of gas it sells to the Seller from a non-Federal lease. This agreement is not reflected in the oil sales contract. In the event that MMS becomes aware of consideration that exists outside the four corners of the contract, even if the parties are not affiliated and the contract is "arm's-length," MMS may require in paragraph (b)(1)(ii) that the oil production be valued in accordance with paragraph (c), the standards used to value oil disposed of under non-arm's-length contracts. Under these standards, the lessee's gross proceeds still may determine value, but the lessee will be required to demonstrate comparability to other arm's-length contracts.

MMS recognizes that some parties may have multiple contracts with one another. This fact alone would not cause a contract to be treated as non-arm's-length. Rather, there must be some indication that the contract in question does not reflect the full agreement between the parties.

Although many commenters disagreed with the requirement, the final regulations also include a provision whereby MMS may require a lessee to certify that the terms of its arm's-length contract reflect all the consideration flowing from the buyer to the seller for the gas. The commenters believed that values already were subject to audit and that was a sufficient safeguard. MMS is retaining this provision because there may be circumstances where an auditor could not reasonably be expected to find other consideration yet there is good reason to believe it exists. Because of the potentially severe penalties for a false certification, this will assure that no other consideration exists once the certification is received.

In other situations it may not be apparent why an arm's-length contract price is unusually low, yet the lessor should not accept the arm's-length contract proceeds as value. It may be because of collusion between the buyer and seller or improper conduct by the seller, or it could be the result of a patently imprudent contract. Even if the contract is between unaffiliated persons and thus "arm's-length," pursuant to paragraph (b)(1)(iii) if MMS determines that the gross proceeds do not reflect the reasonable value of the production because of misconduct by the contracting parties or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS may require that the oil production be valued pursuant to the first applicable of paragraphs (c)(2), (c)(3), (c)(4), or (c)(5). Thus, MMS first must determine that a price is unreasonable, for example by looking at comparable contracts and sales. Then MMS must determine that the unreasonably low price was the result of misconduct or a breach by the lessee of its duty to market the production for the mutual benefit of itself and the lessor.

MMS believes that new § 206.102(b)(1) establishes a more definable standard than paragraph (b)(1) of the draft final rule at 52 FR 30857 ("whether there may be factors which would cause the contract not to be arm's-length"). While MMS retains the discretion under this section not to accept an arm's-length contract price as value, which many commenters thought was a necessary provision in these regulations, there are limits on the exercise of that discretion.

If valuation in accordance with the fourth and fifth benchmarks in paragraph (c) is required, then the lessee also must follow the notification requirements of paragraph (e)(2).

One Indian commenter suggested that the lessee should certify that this is the highest price he could have received for that oil at the time of the sale. The same commenter also noted that MMS's regulations, at a minimum, must be consistent with the language of the Indian leases. Other Indian commenters

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stated that the concept of basing royalty on gross proceeds received under an arm's-length contract is not in accord with the responsibilities of the Secretary. One of these commenters stated that "the lease and regulations provide that value be determined, not gross proceeds. Gross proceeds is merely evidence of such value. Acceptance of gross proceeds as conclusive evidence of value is an abrogation of the Secretary's fiduciary duties, especially if the previous MMS practice of accepting reports from lessees without scrutiny continues."

MMS Response: The MMS believes that the regulations as adopted, with the changes discussed earlier, will permit the Secretary to discharge his/her responsibilities properly.

One State commenter objected to the phrase "monitoring, review, and audit" or similar phrases which appear throughout the proposed regulations because it suggests that the terms listed are synonymous. An MMS review or reconciliation is not the same as a full audit. The commenter suggested that the following paragraph be added:

"( ) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring or other like process that results in a redetermination by MMS of value under this section shall be considered final or binding as against the Federal Government, its beneficiaries, the Indian Tribes or allottees until after full audit."

Also, the commenter suggested that the words "lease terms, or relevant statutes" need to be added after the words "requirements of these regulations" in proposed § 206.102 (b) and (d)(1), for purposes of clarification and precision.

MMS Response: The suggested additional paragraph language has been included in the final rule as § 206.102(k) with minor modifications. This paragraph reflects MMS's longstanding view that a value determination based on limited review does not stop the MMS from redetermining that value until an audit has been completed and the audit period formally closed. MMS intends, however, to prepare more detailed guidelines as to when an audit is closed. The phrase "lease terms, or relevant statutes" has not been added to § 206.102(b) because there is a provision in the regulations that in the event of conflict the lease terms govern. Likewise, all persons are subject to statutory requirements.

Two suggestions were made regarding the establishment of a floor value. One Indian commenter objected to the proposed regulations because they "* * * would permit MMS to rely upon an industry honor system for valuation of Federal royalty production." However, if MMS's proposed valuation approach is to be adopted, they suggested that § 206.102(b) be revised to read as follows:

"The value of oil which is sold pursuant to a contract shall be the gross proceeds accruing, or which could accrue to the lessee, *provided that* such proceeds do not fall more than 10 percent below the greater of the highest price paid or posted for similar oil in the same field or area. If such proceeds do fall more than 10 percent of such prices, the value of oil in that case shall be 10 percent below the greater of the highest price paid or posted for similar oil in the same field or area." It was stated that this approach will permit MMS to have a uniform and administratively simple benchmark to establish market value, rather than "evaluating each contract on a case-by-case basis in light of the many possible indicia of a sale at less than fair market value * * *."

Another Indian commenter stated that: "The proposed regulations would allow substantial manipulation and undervaluation of the royalty amount. Most centrally, it is unacceptable to allow lessees to use contract prices as the royalty value without adequate safeguards to assure a fair valuation for the public's resources. At a minimum, only prices under *genuine* arm's-length contracts should be acceptable for royalty purposes. The proposed regulations would allow collusive contracts to qualify as 'arm's-length contracts.'" It was also stated that if MMS remains intent upon accepting royalty on the basis of what the commenter considers to be below-value contract prices, "we urge that MMS at least impose a floor value, such as 80 percent of the value of production as determined under the 'value' criteria applicable to oil not sold under arm's-length contracts."

MMS Response: The MMS generally does not believe that establishment of a "floor value" (other than gross proceeds) is appropriate or equitable because it could result in royalty being assessed on a value greater than the lessee received under an acceptable arm's-length contract. Where an arm's-length contract operates to set the price at which the lessee can sell the production, that contract likewise should set the royalty value in most circumstances. However, under the lease and the regulations, MMS has the authority to establish value for royalty purposes and will do so for non-arm's-length contracts where it is justified, even if such value is higher than the gross proceeds received by the lessee. Also, as explained above, for many Indian leases, because of the specific lease terms, MMS will compare values determined using arm's-length contract prices with the highest price paid for a major portion of production, and generally use the higher of the two.

One Indian commenter raised the question of what "which could accrue" means and also pointed out that if the value of oil is to be based on gross proceeds, the regulations need to be more precise in stating which gross proceeds are to be used.

MMS Response: The regulations include a detailed definition of the term "gross proceeds." The MMS believes the definition is adequate. MMS has deleted the phrase "or which could accrue" from the final rule.

Many commenters approved of the concept of valuing oil on the basis of gross proceeds received under an arm's-length contract. Basic reasons for approval were stated in one comment as follows: "This standard is fair and reasonable; it will promote necessary certainty and consistency for the lessor and lessee alike; it is based on the lease language; it is administratively feasible; and it relies on an objective valuation mechanism—the market. It is appropriate in arm's-length situations because both the buyer and the seller have agreed to be bound by the best price each thought it could get for the duration of the contract. In such circumstances the royalty owner's interest in securing fair market value is protected by the arm's-length nature of the transaction." The 11 industry commenters also objected to use of the phrase "or which could accrue" in the first sentence. This objection can best be summarized in the following comment: "Use of the phrase creates uncertainty and subjectivity and should not be implemented in regulations which must have certainty as a foundation." Industry commenters stated that it is unfair for the lessor to determine after the fact that proceeds "could be accrued." Also, one of these commenters noted that lessees act in a competitive market and "in the absence of fraud, cannot fairly be held to a *post hoc* determination that proceeds could have accrued." One of these commenters summarized as follows: "In sum, the proposed definition of 'gross proceeds' is in need of substantial revision. The MMS should modify it to include only those monies actually received for the sale of production. Other regulations which would require payment of royalties on phantom proceeds should also be amended accordingly."

MMS Response: The MMS believes that gross proceeds under an arm's-length contract generally constitutes the market value of a commodity. This does not preclude MMS from establishing a value where necessary; e.g., the contract does not meet MMS's standards for an arm's-length contract or the lease agreement requires a different value. The phrase, "or which could accrue," is deleted from the final rule. As noted above, many commenters thought that this phrase would allow MMS to second-guess the price which the lessee agreed to in its arm's-length contract by arguing that other persons selling oil may have received higher prices—thus, more proceeds "could have accrued" to the lessee. This was not MMS's purpose in including the "or which could accrue" language in the proposed rule. Rather, MMS's intent is to ensure that royalties are paid on the full amount to which the lessee is entitled under its contract, not just on the amount of money it may actually receive from its purchaser. However, MMS is satisfied that the phrase "the gross proceeds accruing to the lessee" properly includes all consideration to which the lessee is entitled under its contract, not necessarily just what it receives from the buyer. Therefore, the "or which could accrue" phrase was unnecessary. Because it caused confusion as to MMS's intent, it was deleted from the final rule.

Many comments were received regarding the proposed benchmark system in § 206.102(c). They were about equally divided in number as to those in favor and those opposed.

Several States, Indians, and one State/Indian association objected to the proposed benchmark system. Most of these commenters supported highest posted prices using the net-back procedure as verification. One of their objections to the benchmark system is that the proposed methodologies are unworkable and provide no reasonable method of verification. Another objection is that the proposed system would impair effective oversight and reduce royalties. Also, these objectors state that in their view the proposed procedures would severely burden the audit program and, as a practical matter, would preclude adequate verification of the "lessee's declarations." In addition, they stated that the use of the netback procedure is unduly restricted, and, to the contrary, should be used frequently for independent verification. They believe that more readily verifiable methods should be used to ensure that fair market value is being received.

One of these commenters summarized a number of objections as follows: "Historically, gross proceeds has been regarded as minimum value. however, the proposed benchmarks appear to be primarily aimed at converting gross proceeds as *the* value. Gross proceeds is not necessarily fair market value. Published gross proceeds are not always all consideration received, for example, drilling advances and special equipment lease agreements." Also, "* * * no mechanisms are provided to cross-check * * * values reported under the first three benchmarks; since MMS has taken the notion that it does not have the authority to obtain access to other arm's-length contracts from producers not obligated to report to MMS, comparisons could not be made." It was also stated that "The most effective benchmark, net back calculation, would never be used because of the prioritized order of other valuation methods."

Some commenters stated that the benchmarks should not be prioritized. Rather, value should be determined using the most applicable benchmark. These same commenters recommended modifying the first benchmark to require comparison with other posted prices or contract prices in the field.

MMS Response: The MMS believes that a prioritized benchmark system is workable and fair. Obviously, for OCS leases, MMS has access to information regarding all posted prices and contracts (if any). In addition, the majority of onshore fields with Federal lands are comprised of a significant percentage of such lands (if not the majority) so that needed price information is readily available. In many instances, Indian lands comprise a significant portion of an oil field. Where necessary, information sometimes can be obtained from the appropriate State agency. Although price and field boundary data are available for most onshore leases, the acquisition of volume data associated with an arm's-length sale has been difficult to obtain. Accordingly, MMS has added § 206.102(d) which provides that any Federal or Indian lessee will make available upon request to the authorized MMS, State and Indian representatives, and others, arm's-length sales and volume data for like-quality production in the field or area or nearby fields or areas. Undoubtedly, there will be a few cases where it will be difficult to obtain needed information, but this is true of any procedure adopted.

The MMS believes that in the vast majority of cases gross proceeds constitute market value. In those cases where this is not true, MMS will establish an appropriate value for royalty purposes. "Arm's-length" sales will not be accepted without question. The MMS will obtain needed information to ascertain that they are truly arm's-length as defined in the regulations.

In response to comments that the first benchmark should not accept a lessee's posted prices without some comparison of other postings in the field, MMS has modified the first benchmark. Under this benchmark, the value still will be the lessee's contemporaneous posted prices or oil sales contract prices used in arm's-length transactions for purchases or sales of significant quantities of like-quality oil in the same field (or, if necessary to obtain a reasonable sample, from the same area). However, the lessee also must demonstrate that those prices are comparable to other contemporaneous posted prices or oil sales contract prices for purchases or sales of significant quantities of like-quality oil in the same field (or area). To evaluate comparability, the factors include price, duration, market or markets served, terms, quality of oil, volume, and such other factors as may be appropriate to reflect the value of the oil.

One Indian commenter criticized the benchmark system as follows: "The utter failure of MMS to recognize its obligation to maximize tribal royalties is evidenced also in the provisions governing valuations where arm's-length contracts do not exist. Each of the three alternative methods require a determination that the lessee's sales price is similar to that for purchases of significant quantities of like oil in the same field or area. The MMS, however, relies on lessee-generated information for that determination and, moreover, relies upon the truthfulness of that information. For example, under alternative number one, MMS proposes to look at the lessee's contemporary posted prices. Posted prices in the oil industry, however, are generated by the purchasers and not the sellers. Either MMS had made an error in its drafting or this benchmark plainly is so ridden with potential conflicts of interest that it can not possibly be urged as consistent with the federal fiduciary duty to maximize Indian oil and gas resource returns."

Another Indian commenter suggested that the desired goal of certainty can be accomplished by use of the highest price paid method: "MMS' embracement of the contract price approach in its drive towards certainty in value can be as easily achieved through the highest price paid method. It would also encourage producers when negotiating contracts to come as close to that figure as possible knowing that is what they will have to pay the royalty on. The contract sales

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approach proposed by MMS does not encourage obtaining the maximum value for the resource by the purchaser [lessee]."

MMS Response: In many instances the lessee, being a purchaser, has published a posted price bulletin. Posted price bulletins are generally available. In addition, the lessee must retain all data which are subject to audit. From experience, MMS does not believe that basing all royalties on the highest price in the field or area is fair or in the best interests of the Federal or Indian lessor. Therefore, such a standard was not adopted.

One State commenter noted that the modifier "contemporaneous" in three of the sections is vague and undefined. "For a purchase under a posting or contract to be used as an indicia of value for the monthly reporting period, it should relate to production during the same reporting period."

MMS Response: MMS has added § 206.102(c)(6) to the final rule which defines "contemporaneous" as postings or prices in effect at the time the royalty obligation is incurred. In effect, this means the postings or contract prices in effect at the time oil is removed, sold, or otherwise disposed of in a manner which results in royalty being due on the oil.

According to one State commenter, "It is difficult to establish an alternative system to calculate fair market value * * *. The MMS should use the posted price criteria of the benchmark system verified by a net-back analysis to assure the credibility of posted prices."

MMS Response: The MMS believes that the use of a net-back analysis on a routine basis to verify oil value is impractical and unnecessary.

Two Indian commenters expressed concern about the prioritized benchmark system. They argued that restricting the Secretary's ability to use different methodologies in any order the Secretary chooses will tie the Secretary's hands in dealing with difficult situations.

MMS Response: The MMS believes that the regulations adopted will permit the Secretary to discharge his/her responsibilities to the Tribes and allottees and will provide certainty in the valuation process to both the lessees and lessors. Although a prioritized benchmark system does limit flexibility, this drawback is outweighed by the benefits of certainty.

One State commenter thought there is a lack of guidance in administering the prioritized benchmark system, and that MMS does not indicate what kind of evidence will be sufficient to permit an auditor to continue down the list of benchmarks.

MMS Response: The MMS will require that the lessee make a reasonable effort to apply a benchmark before proceeding to the next. Auditors must be satisfied that lessee information is sufficiently accurate and complete to implement a benchmark. The addition of § 206.102(d), whereby lessees must provide arm's-length sales and volume information, will assist in the enforcement of these "comparability" requirements. It would be impossible for MMS to attempt to implement a procedure where government has to make all the decisions. Such a procedure would impose a tremendous administrative burden which would be very costly.

Some industry and State commenters expressed concern regarding the lack of an adequate definition of the terms "significant quantities" and "field or area", and the administrative problems that will result therefrom. One State commenter stated that the term "significant quantities" is vague and undefined. An industry commenter recommended that the term "significant quantities" be deleted because (1) posted prices in an open marketplace "are for no other purpose than determining market value", and (2) the lessee has no way of knowing the quantity of volumes purchased by other purchasers in the area.

MMS Response: As was discussed in the preamble to the proposed rules (52 FR 1858, January 15, 1987), the term "significant quantities" is variable depending on the sales volumes from the field and the volume of production. What constitutes significant production from an onshore field may not be significant for an OCS field. Therefore, "significant quantities" will vary case-by-case.

One Indian commenter stated that "* * * many posted prices are artificially low because there is low demand, but there is still a threshold low amount where a company will purchase more than their demand" and recommended that "* * * the totality of the circumstances should be utilized (and set forth in the regulations), including spot markets, highest posted prices, and to some extent, posting for similar oil in other fields."

MMS Response: The current regulations, which are being revised in response to heavy criticism, list the various criteria with no specific priority. The purpose of the benchmark system is to provide all concerned with a reasonable degree of certainty as to criteria to be used in valuing oil.

One Industry commenter stated that the prioritized benchmark system "imposes a prejudicial valuation on an affiliated lessee" because a nonaffiliate receiving the same price as an affiliate would pay on actual proceeds received, whereas the affiliate may have to pay a higher royalty under, for example, benchmark 206.102(c)(2). The recommendation was made that "* * * the first applicable of the following subsection" * * * language in § 206.102(c) be replaced with "* * * any of the applicable subsections."

MMS Response: The situation described could occur. However, MMS believes that, generally, posted prices for like-quality oil in the same field or area will be comparable. Thus, there likely will be little or no disparity in the values in most situations.

Many industry commenters, a Federal agency, and an individual approved of the proposed benchmark system. One industry commenter stated that they "* * * strongly support the adoption of clear and consistent standards of valuation for royalty oil based upon the true value of the product—the price received in the marketplace for the sale of that oil. The valuation proposal * * * recognizes the interaction of competing market forces and recognizes that a seller of oil will normally negotiate the best deal it can to further its own interests. The use of a price that is generally available to all sellers is a much more reasonable approach to the determination of 'value' for a given supply of oil than the arbitrary selection of a price that one seller may have received under circumstances that do not include all sellers. Where an arm's-length contract does not exist, the benchmark system of valuation permits an objective procedure for arriving at the valuation based upon posted prices which have been the basis for sales of oil for many years." Another industry commenter supported both the benchmarks and their prioritization because both will add certainty to valuation determinations. Also, the use of the lessee's contemporaneous posting will provide a "benchmark valuation for many major producers." One industry commenter noted that "This ordering of the benchmarks is the result of extensive public comment which showed that, for valuation of oil, posted prices should be moved closer to the top of the hierarchy insofar as posted prices account for the vast majority of oil transactions."

MMS Response: The MMS believes that the proposed benchmark system is a valid and realistic system for determining the value of oil not sold pursuant to an arm's-length contract. The benchmarks are primarily based on posted prices which are the normal basis for oil sales and which reflect the price of oil in a free and open market. Posted price information for significant quantities of like-quality oil sold from a field or area will normally be available. The addition of § 206.102(d) will permit necessary information on arm's-length sales to be obtained. In other situations, the benchmarks provide for use of spot sale prices, net-back, or any other reasonable method.

One industry commenter noted that most, if not all, posted prices are prices posted by a purchasing, marketing, or transporting entity, some of which may have producing lessee affiliates. "However, taken literally, there will not be a *lessee's* posted price."

MMS Response: MMS has added a new § 206.102(c)(6) which defines lessee, for purposes of this section, as including a designated purchasing agent.

One State commenter noted that proposed § 206.102(c)(1) fails to anticipate that a lessee could make purchases at different postings within the same reporting period and suggests that, in such a case, "the volume weighted average would seem to be appropriately specified, because it could be easily computed by the payor and would be less susceptible to manipulation by the payor."

MMS Response: The MMS concurs with this change and has included language to implement it in § 206.102(c)(1).

One Indian commenter stated that the use of this benchmark (contemporaneous posted prices) rather than the major portion analysis provided for in existing oil and gas regulations represents a breach of the Secretary's trust obligations.

MMS Response: The MMS believes that the regulations as adopted will permit the Secretary to discharge his/her responsibilities. Major-portion analysis will be used under the final regulations, where appropriate.

One industry commenter recommended that paragraph (c)(2) be modified by adding the phrase "known to the lessee" after the word "prices" so that the first part of the sentence would read, "The arithmetic average of contemporaneous posted prices, known to the lessee, used in arm's-length transactions * * *."

MMS Response: This suggestion was not adopted because it results in too great a degree of subjectivity.

One industry commenter supported the use of "arithmetic average" as a benchmark, but suggested that there should either be an agreement between the lessees and MMS as to which companies' postings are to be used, or that MMS publish a list of the companies whose postings may be used to calculate an arithmetic average. It pointed out that in the case of South Louisiana (used for offshore) there are at least one dozen companies that post oil prices and there could be price changes in one month on different dates by all of the companies.

MMS Response: The MMS may decide, upon request, on the basis of an individual case, to designate postings to be used in calculating an arithmetic average. It is not considered practical to do this continuously.

Three Indian commenters objected to the use of "arithmetic average" and recommended that a "weighted average" be used instead. Another commenter stated that use of "arithmetic average will not yield a true market value because the lessee is given the opportunity to manipulate prices by selling some oil at extremely depressed prices."

MMS Response: Paragraph (c)(2) requires consideration of postings of persons other than the lessee. Although the postings are available to the lessee and to MMS, volumes often are not. Thus, requiring a weight averaging of third-party data is not practical.

To make this benchmark "more workable and administratively feasible" one industry commenter recommended using the average of all postings of the relevant type of oil in an area.

MMS Response: The MMS has found that postings do not always indicate a purchaser's willingness to buy. Therefore, any average which includes all postings may become skewed because of posted prices which are not market responsive. Pursuant to § 206.102(c) (1), (2), and (3), there must be significant quantities of oil sold before a posting or contract price can be averaged in.

One industry commenter recommended that paragraph (c)(3) be modified by adding the phrase "known to the lessee" after the word "contracts", and by replacing the phrase "area or nearby areas" with the phrase "field or area" for reasons of "clarification."

MMS Response: The addition of the phrase "known to the lessee" was not adopted because it would result in inserting too great a degree of subjectivity. The term "field or area" was not adopted because the intent is to utilize a larger area than "field or area" in reviewing arm's-length contract prices.

One State commenter stated that "Subparts (iii) and (iv) attempt to distinguish between arm's-length contracts and spot sales. But, there is no basis for saying arm's-length spot sales are not also arm's-length contracts under the definitions. Additionally, there is no requirement (and there should be) that only spot sales which are genuinely arm's-length should qualify as indicia of royalty value."

MMS Response: The MMS concurs that the spot sales used in the benchmark should be arm's-length spot sales and will insert the term "arm's-length" immediately preceding "spot sales" in the final rule, § 206.102(c)(4). With regard to the first comment, if a spot sale is for a significant quantity of oil, it could be considered under paragraph (c)(3).

Some States and Indians stated that when applying benchmarks, it should not be necessary in all circumstances to look to all other sales in the field. In other cases, it may be necessary to look beyond the field. MMS agrees that the size of the sample cannot be predetermined but must depend upon the terms of the applicable benchmark and the actual circumstances in the field or area.

Most of the State and Indian commenters who opposed the benchmark system supported highest posted price with the use of a net-back method for verification of values used. One of the State commenters in describing MMS's proposed use of net-back in proposed § 206.102(c)(5) as too restrictive, made the following statements: "* * * the government would carry the burden of establishing that none of the preceeding benchmarks can be applied before it would [be] authorized to use net-back * * * In effect, net-back will rarely, if ever, be used. At the same time it is the only method of valuation proposed by MMS that can be applied independently from lessee submitted documentation."

MMS Response: The MMS agrees that there will be infrequent use of the net-back method. It is believed, however, that the other benchmarks which have higher priority will result in a reasonable value for royalty purposes and obviate the need to undertake a labor-intensive net-back method. The MMS routinely will verify lessee-generated information used in applying the benchmarks during its monitoring process and through audit.

One State commenter articulated the viewpoint of a large number of other commenters by recommending an alternative method of valuation, namely use of the highest posted price paid or

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offered in the field or area with the net-back procedure used as verification or backup.

The commenter also stated that "* * * the approach we suggest—highest posted or a refined product value net-back—serves the twin goals of assuring the collection of fair market value and providing certainty to the lessee. Highest [price] posted or paid is more easily determined than the arm's-length nature of a contract, and a refined product value can be calculated by the lessee itself or provided by the government. It also is an approach that is independent of lessee-generated information and thus meets Congress' intent that independent methods of verification be employed. Gross proceeds would continue as the absolute minimum acceptable value."

MMS Response: The MMS believes that gross proceeds received under arm's-length contracts and posted prices used to purchase significant quantities of oil in arm's-length transactions generally represent the market value of oil and does not agree that it is necessary to perform a refined product net-back analysis to verify them.

One industry commenter expressed approval of the concept in proposed paragraph (e)(1) that prior MMS approval generally need not be obtained where value is determined pursuant to paragraph (c). One Indian commenter expressed concern that "once approval is granted, follow-up audits are unlikely", and recommended that "There should be provisions mandating routine MMS audits of valuation methods occurring at intervals not greater than one year." One industry commenter objected to the fact that MMS will not be giving prior approval stating that this subsection places "the burden * * * on the producer to prove the determination of value." One State commenter stated that the regulation should specify that the lessee retain "all data relevant to determination of royalty value," instead of "all available data to support its determination of value." That State commenter stated that the regulation should specify that MMS "will" order compliance when incorrect payments are discovered, rather than stating "MMS may direct a lessee to use a different value."

MMS Response: Although MMS will be making periodic audits, it is not appropriate to specify the scheduling, type, and timing of audits in these regulations. With regard to the second comment, the lessee is responsible to comply fully with the regulations by properly valuing the oil, for royalty purposes, in accord with the appropriate benchmark and to retain all relevant data. The MMS has adopted the suggestion that the phrase "all data relevant to determination of royalty value" be substituted for "all available data to support its determination of value" in § 206.102(e)(1). Also, the word "will" has been substituted for the word "may" in the last sentence.

Section 206.102(f) was proposed as § 206.102(e), and provides that lessees will pay additional royalties and interest if the lessees improperly determine value. One industry commenter recommended that any "retroactive valuation determinations" on the part of MMS "be limited to fraudulent and noncompliance situations." That commenter went on to suggest that if MMS determines that a lessee underpaid royalties, then the interest associated with those royalties should only accrue from the date of that determination until royalties are paid.

MMS Response: The lessee is responsible for properly determining value for royalty purposes in accordance with the lease terms, regulations, and appropriate instructions and court decisions. Accordingly, if royalty is underpaid, the lessee is responsible for the additional royalty due plus any interest from the time such payment(s) should have been made. MMS has adopted this section as it was proposed.

Another industry commenter agreed that underpayment of royalties was subject to interest, but recommended that MMS likewise should pay the lessee/payor any interest "statutorily authorized" on reimbursed credits or royalty offsets when royalty overpayments are discovered.

MMS Response: The MMS is barred by law from paying interest on royalty overpayments, but is required by law (i.e., FOGRMA) to collect interest on late payments.

Section 206.102(g) was proposed as § 206.102(f), and prescribes a procedure for a lessee to request a value determination from MMS. Some industry commenters suggested that there be a time limit of 120 days for MMS valuation responses. One of these commenters also recommended that there be no penalties or accrual of interest for any underpayment of royalties during this period (which would not be known until after MMS's decision).

MMS Response: The MMS will make every effort to respond timely, but this is necessarily dependent upon available resources. MMS cannot agree to a regulatory time limit. Because the lessee is responsible for proper valuation, interest is assessed if the lessee makes an improper valuation. The MMS believes a lessee should be able to request a valuation determination at any time. One of the changes to this section clarifies that when MMS makes a value determination, it may use any of the valuation criteria authorized by the rules. This gives MMS the necessary flexibility to deal with unusual situations which otherwise do not fit the regulations.

One commenter suggested that there should be opportunity for review of a value determination by the affected royalty recipient (State, Tribe, etc.) before a final decision is made because, without such review, the cooperative audit role is rendered meaningless.

MMS Response: The MMS does not consider it practical to require a review by a State or an Indian lessor when a value determination is made. The MMS will attempt to coordinate its value determinations with States doing audits under section 205 of FOGRMA and Indian Tribes doing audits under section 202 of FOGRMA. This does not make the cooperative audit role, in accordance with FOGRMA, less meaningful or effective.

One industry commenter recommended that the provision be clarified that an MMS rejection of a proposed valuation determination is appealable to either the Director or Interior Board of Land Appeals (IBLA).

MMS Response: This modification is not necessary because all MMS final orders or decisions arising from the regulations in Titles 25, 30, and 43 are appealable pursuant to 30 CFR Parts 243 and 290.

One Indian commenter recommended that lessors also should be able to request MMS determinations. They also recommended that the regulations should require MMS to notify Tribes/allottees of any changes in valuation determinations.

MMS Response: The regulations as adopted in § 206.102 (g) do not provide a specific procedure for the Indian lessor to request a valuation determination from MMS. However, MMS always is available to discuss with Indian lessors any valuation issue regarding their leases.

One State commenter recommended that the third sentence be modified by adding the word "all" before "available data", and replacing "to support its proposal" with "relevant to the valuation of its production". Also, the phrase "subject to audit" should be added.

MMS Response: The MMS has made some of these changes for purposes of clarity and comprehensiveness.

Section 206.102(h) was proposed as § 206.102(g). It provides that the value for royalty purposes cannot be less than the gross proceeds accruing to the lessee for lease production, less applicable allowances. Several industry respondents considered the phrase "or which could accrue" objectionable and urged its deletion. The main reason given for their position is that the language creates uncertainty and subjectivity, contrary to MMS's stated objective of gaining certainty and precision in royalty accounting.

MMS Response: MMS has deleted the phrase "which could accrue" from the final rule. As explained above, with respect to § 206.102(b), MMS is satisfied that the term "accruing" includes all consideration to which the lessee is entitled pursuant to its contract, not just what it actually receives.

Industry commenters suggested that some off-lease post production costs (such as those carried out on leases in "especially hostile or remote environments") and certain on lease post-production costs (such as those deemed to be "extraordinary" for onshore leases, the cost of submerged gathering lines, the cost of environmental compliance, and the cost of post-production facilities installed on leases in water depths greater than 400 feet for offshore leases) should be shared by the lessor and counted as deductions from royalty payments along with transportation allowances. One stated rationale for this suggestion is that some "post-production" costs enhance the value of the oil and, therefore, the costs should be shared by both lessee and lessor, as are the benefits. One commenter simply stated that the phrase "and other deductions" should be added to the "less applicable transportation allowances" language.

MMS Response: The MMS has modified § 206.102(h) to refer to deductions for any type of allowance, not just transportation allowances. As explained below, MMS has adopted a rule which would provide for deduction of certain extraordinary costs.

State commenters objected to the deduction of transportation allowances from value and particularly from the gross proceeds, especially if gross proceeds is considered a "minimum value." One of the commenters stated that the "less transportation allowances" language is particularly confusing because "it suggests that lessees can deduct the allowance from the value determination" rather than as a separate line item as required by § 206.105(c)(4) of the final rule.

MMS Response: Section 206.102(a) provides that the value for royalty purposes is the value determined in accordance with § 206.102 (i.e., arm's-length gross proceeds or a value determined using benchmarks) less applicable allowances. The purpose of § 206.102(h) is to make it clear that no matter what valuation method is used, the value for royalty purposes cannot be less than the lessee's gross proceeds less applicable allowances. Therefore, if a benchmark-derived value less applicable allowances is less than gross proceeds less applicable allowances, gross proceeds less applicable allowances is to be used as the value for royalty purposes. In either event, the lessee may be entitled to deduct transportation allowances to determine value, for royalty purposes, at the lease (unless the benchmark derived value already is a value at the lease—in that event no further transportation allowance would be authorized).

Section 206.102(i) was proposed as § 206.102(h). This section addresses the lessee's obligation to place lease production in marketable condition. Five industry commenters opposed the concept that the lessee is responsible for placing the product in marketable condition at no cost to the lessor and recommended specific deletion of language in the proposed regulation to accomplish this. One industry commenter recommended that the language "unless otherwise provided in the lease agreement" be added at the end of the first sentence, and another industry commenter pointed out that the lessor does share in marketable condition costs under net-profit-share leases.

MMS Response: Historically, MMS's policy and practice is that the lessee generally is responsible for placing the lease product in marketable condition at no cost to the lessor. This practice has been upheld by court decision. The MMS has adopted the suggestion that the language "unless otherwise provided in the lease agreement" be added at the end of the first sentence because there are a few leases in which the lessor shares in such costs. Also, as noted earlier, MMS received many comments that so-called post-production costs should be allowed as a deduction in determining value for royalty purposes. Generally, these costs are not allowed as a deduction because they are necessary to make production marketable. However, MMS has considered carefully all of the comments on this issue and decided that there may be certain circumstances where some extraordinary costs for gathering, desulfurization, or storage should be allowed as a deduction. Such allowances will be authorized on individual cases only upon application to the MMS. A new § 206.102(i)(2) was added in the draft final rules which established a two-part test for qualification for a cost allowance. First, only production from leases in unusually high-cost or frontier areas qualified. The only leases that qualified were those located north of the Arctic Circle or those OCS leases located in water depths in excess of 400 meters. Any leases that did not meet this first test could not apply for this allowance. However, even for leases that met this test, MMS would not grant an allowance unless the lessee demonstrated to MMS's satisfaction that the costs are, by reference to standard industry conditions and practice, deemed to be extraordinary, unusual, or unconventional. In some instances, MMS may have granted an allowance only to the extent that the extraordinary costs exceed conventional costs for the same operation.

MMS received many comments on this new section added to the draft final rules. State and some Indian commenters thought that this section was an unwarranted exception from the requirement that the lessee is obligated to bear the costs of placing oil in marketable condition or that further restrictions should be included, while one Indian commenter endorsed the principle introduced by this new section. Industry commenters generally thought that the new section was a step in the right direction, but thought that the dual qualification process was too rigid. They suggested that the extraordinary allowance be granted if a lessee could meet the requirements of either paragraphs (2)(i) or (2)(ii). Industry commenters also suggested that the reference to 400 meters be changed to 400 feet because that is the point at which costs begin to escalate significantly. They also thought that use of the term "unique" was inappropriate because it would limit the applicability to only the first lessee with a particular type of extraordinary operation. Some commenters also requested that once approved, the allowance should extend beyond one year.

MMS Response: MMS has retained the extraordinary cost allowance section with a few modifications. The section still requires that the lessee meet a two-part test, and the reference to 400 meters was retained. The term "unique" has been changed to "extraordinary" because it was not MMS's intent to limit the allowance to a one-of-a-kind operation. MMS has revised the provisions relating to the approval period so that MMS can now determine the approval period on a case-by-case basis.

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Section 206.102(j) was proposed as § 206.102(i). There were several comments on this section from industry, States, and Indians. The majority of the comments were negative in some respect; only two commenters (one industry and one State) concurred with the proposed regulation as written. State and industry commenters recommended deleting the regulation in its entirety, indicating that the regulation is inappropriate in the context of oil sales because the majority of oil is sold under monthly posted prices and is not normally subject to contractual price escalations or increments. They suggested that the regulation is more appropriate to gas sales contracts and does not belong as an oil valuation standard.

MMS Response: Although the large majority of oil is sold under posted price bulletins, the division order, which sets forth the division of proceeds and is signed by all interest owners, is considered to constitute the "contract" for purposes of these regulations.

Several modifications, many taking issue with the "prudent operator" concept, were suggested as follows:

Two industry commenters suggested deleting the first sentence ("Value shall be based on the highest price a prudent operator can receive under its contract") because (1) it countermands the use of the actual proceeds benchmark system established in § 206.102 (b) and (c); and (2) the requirement of a lessee to obtain the highest theoretical price, regardless of the cost involved in obtaining that price, may contradict the definition of "prudent operator" found in the draft coal regulations at § 206.5(nn) and, therefore, ignores "the realities of the marketplace and the courthouse and unfairly precludes the lessee from exercising sound business judgment."

One industry commenter recommended revising the paragraph to conform to the reasonable value standard of § 206.102 generally. Here the commenter argued that the "highest price" standard of this subsection is in direct opposition to the reasonable value standards of previous subsections, thus causing the proposed rulemaking to be contradictory.

MMS Response: The MMS has modified the first sentence of the final rule to read "Value shall be based on the highest price a prudent lessee can receive through legally enforceable claims under its contract." As noted in the preamble to the proposed rule, this section prescribes a diligence concept. As discussed above, with regard to the concept of gross proceeds "accruing" to a lessee, MMS requires a lessee to pay royalty on that value which it was entitled to get. These regulations reflect MMS's willingness generally to accept arm's-length contract prices as value, but there is a concomitant obligation on the part of the lessee to obtain all to which the lessee is entitled under its contract. If it fails to take such reasonable measures, MMS will assess royalty on the prices which reasonably could have been obtained in accordance with the contract.

One industry commenter suggested changing the fourth sentence to read "the lessee will owe no additional royalty *unless or* until monies are * * * received" in cases of disputed payments.

MMS Response: The MMS has adopted this suggested modification as consistent with its intent. However, this provision does not permit a lessee to avoid paying royalties where a purchaser has failed to pay, in whole or in part or timely, for a quantity of oil.

One State respondent suggested that an explicit provision for the assessment of interest for delayed payments should be added, with such a requirement being an equitable compromise for the lessor's agreement to delay enforcement of its rights to the timely payment of full royalties.

MMS Response: When a matter is being legally contested between the parties, and the lessee has taken appropriate legal action, MMS's policy is not to require payment of the amount in dispute until the lessee actually receives it. If a purchaser fails completely to pay for a volume of production, royalties still are due the month following the month of sale or other disposition. In all cases, interest is due if the royalties are paid late. However, in the case of disputed price increments, the royalties are not due until the end of the month following the month that the lessee receives them.

An Indian commenter also suggested that the last sentence should be clarified to make explicit that the bankruptcy of a purchaser of oil should not permit a lessee to avoid its royalty payment obligation.

MMS Response: The MMS believes that the language already encompasses a bankruptcy situation and recognizes that the lessee still has an obligation to pay its royalties.

Section 206.102(k) provides that no redetermination of value by MMS as the result of review, reconciliation, monitoring or a like process is final or binding against the lessor until the audit period is formally closed. MMS intends to issue additional guidelines as to when an audit period is closed.

Section 206.102(l) was proposed as § 206.102(j). Comments were received from three State and six Indian representatives objecting to the restrictive terms/effect of this paragraph. In general, the comments pointed out that the requirement to obtain valuation information through Freedom of Information Act (FOIA) requests would inhibit Indian Tribes, allottees, and States from gaining access to the information required to assure that valuations are properly determined. In particular, "The second sentence of the proposed regulation appears to be an unlawful effort to preclude the exercise of departmental discretion under FOIA to voluntarily release nonproprietary data to royalty owners on a case-by-case basis. The third sentence appears to prohibit tribes and allottees from requesting such information through the BIA." It was generally recommended that the paragraph should be clarified to indicate that all valuation information should be available to States, Indian Tribes, and allottees without going through FOIA procedures. (Two Indian commenters offered specific language that could be appended to the paragraph to clarify its intent regarding the sharing of information with authorized parties.)

MMS Response: The intent of this paragraph was not to preclude access allowed by law, but rather to ensure the lessee that disclosure of proprietary information is in accordance with established procedures. There are statutory restrictions on providing certain types of information to persons outside the Department of the Interior, and MMS must act in accordance with those limitations. States and Indians with FOGRMA delegations and cooperative agreements will have broader access to information which otherwise could not be released. This section is not intended to limit in any manner an Indian lessor's right to obtain information directly from the lessor or from MMS to the extent provided in lease terms or applicable law.

In the draft final rule, MMS changed the phrase "will be maintained" to "may be maintained." Many industry commenters were concerned that this change would allow MMS to release proprietary information. This was not MMS's intent, and to avoid any confusion the term "will" has been substituted for "may."

Section 206.103 Point of royalty settlement.

Several industry representatives and a few States commented on this section. The State commenters recommended that § 206.103 be strengthened by defining standards for establishing the point of royalty settlement and thereby minimizing pipeline losses. Lease or unit boundaries were suggested as the point of royalty settlement for onshore production, and the entrance to the first onshore facility was suggested for OCS production.

MMS Response: These regulations pertain to the valuation of oil and are not concerned with the criteria for the point of royalty settlement. The point of royalty settlement is authorized by MMS operations offices for Federal OCS leases and by BLM for onshore Federal and Indian leases.

Two industry commenters addressed the clarity and intent of § 206.103(a)(2). One of these commenters pointed out that the reference to an adjustment for differences in quality and quantity (such as for basic sediment and water) was unclear, asking what adjustments would apply and how these would be made. The other commenter recommended deleting the paragraph altogether because only the quantity and quality actually measured at the point of royalty settlement should be used for royalty computations.

MMS Response: The paragraph cannot be deleted because there are situations, usually onshore, where the gross proceeds accruing to a lessee are based upon the quantity and quality of oil at a point that is different than the point of royalty settlement specified by BLM to be used in calculating Federal or Indian royalty, usually at the tank battery on the lease. In this situation, the quantity and quality criteria measured at the tank battery on the lease must be used to determine the proper value, which, because the quantity of oil at the contractual sales point is less, will be greater than the lessee's gross proceeds.

Many commenters from industry objected to the provision of § 206.103(b) disallowing actual or theoretical losses between the point of royalty settlement and the actual delivery point. They pointed out that pipeline losses are an integral part of transportation over which the lessees/operators have no control and thus should be an allowable component of transportation deductions. They also pointed out that disallowance of losses is contrary to the concept of accepting gross proceeds under arm's-length transactions because the lessor's royalty may be calculated on a different basis than what the lessee is paid by the purchaser.

MMS Response: The issue addressed here deals with volume and quality measurements upon which royalty must be based. The issue of line losses being included as a component of transportation deductions is addressed in the section of the regulations dealing with transportation (§§ 206.104 and 206.105).

One industry commenter suggested that § 206.103(b) be clarified regarding load oil, and recommended that the section be modified to specifically exclude load oil from royalty obligation.

MMS Response: The determination of whether load oil is considered to be royalty-bearing is a function of lease terms and the origin of the oil so used, and is generally the responsibility of the BLM and MMS OCS operations personnel for onshore and OCS leases, respectively. As such, no specific language was added to address this issue.

Section 206.104 Transportation allowances—general.

Comments on transportation allowances that did not relate to any specific section of the regulations were classified in the General section of the oil transportation regulations. Although there were comments on a wide variety of subjects, they have been grouped as follows: post-production costs, validity issues, adequacy/inadequacy issues, cost issues, Royalty-In-Kind (RIK) issues, and issues relating to the definition of terms.

Many commenters addressed the issue of whether MMS should allow lessees to deduct all post-production costs from royalty payments. Transportation costs are one type of post-production cost. MMS will not respond to that issue again in this section as it was fully addressed in the discussion of § 206.102(i). Moreover, because the final rules provide an allowance for transportation costs, it is unnecessary to consider whether such costs also are to be considered "post-production costs."

Many commenters addressed the validity of any transportation allowances whatsoever and proposed that MMS should not consider transportation allowances as valid deductions from royalty computations, or only consider such allowances if transportation is necessary for lease development or results in a higher royalty.

Six State and five Indian commenters stated that transportation allowances should not be granted unless necessary to sell the product or to promote development, or unless the transportation results in a higher royalty value. Six Indian and one State commenter stated that MMS should not grant any transportation allowances under any circumstances.

One Indian commenter stated that the regulations should not be allowed to change the lease terms. According to this commenter, the granting of transportation allowances is, in effect, a change to the lease terms.

Two Indian commenters stated that MMS must take into account its responsibility to Tribes and allottees in preparing the regulations and must determine the fairness and reasonableness of all transportation allowances.

One industry commenter stated that the reason that MMS grants allowances is because certain Interior Board of Land Appeals (IBLA) decisions required that transportation be considered when determining product value on which royalty is based. Another industry commenter stated that MMS should grant a transportation allowance even if the product value is determined at the lease, if the sales contract required the lessee to incur the expense of transporting the oil to the point of sale.

MMS Response: On the basis of decisions by the Interior Board of Land Appeals (IBLA), Solicitor's opinions, and judicial decisions, it has been longstanding MMS policy to grant transportation allowances when oil is transported to a sales point off the lease in order to calculate the value of the product at the lease. Furthermore, the IBLA has ruled that transportation allowances must be granted for Indian leases. *Kerr-McGee Corp.*, 22 IBLA 124 (1975). Therefore, the regulations being adopted are consistent with past practice and are consistent with the Secretary's responsibility to the Indians. The MMS believes that royalty should be free of production and marketing costs. However, values may have to be adjusted for transportation and/or processing in determining value at the lease.

The MMS agrees that the proposed procedure for determining a transportation allowance places a great deal of reliance on the oil industry. However, this program will be under continuous review and oversight by MMS. There is nothing in the final oil transportation allowance regulations that would change the terms of any Indian lease. The MMS believes that the policy of granting transportation allowances is appropriate and should continue.

Another issue centered around the adequacy or inadequacy of the proposed oil transportation regulations in general. Some commenters believed that the regulations are completely flawed, while others pointed to specific instances where changes should be made to improve their specific applicability.

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One industry commenter suggested that MMS should approve the use of contract prices which are net of transportation costs. Another industry commenter stated that the regulations should be revised to eliminate the alleged bias against frontier and deep-water areas. They also recommended the elimination of the ceiling on transportation allowances. Another industry commenter stated that the regulations should be modified to embrace both traditional and nontraditional transportation arrangements.

Two industry commenters stated that in their view the proposed regulations serve as a disincentive for companies to build and operate transportation facilities. One industry commenter stated that the oil transportation regulations should be revised to achieve certainty by adopting a more rational and realistic approach.

MMS Response: In response to comments received, MMS has changed the regulations to recognize that in arm's-length situations where the specified price is reduced by a transportation factor the lessee does not have to report the transportation factor as a transportation allowance. The MMS also recognizes that transportation costs for frontier and deep-water areas may be extraordinarily high and may exceed 50 percent of the value of oil. Because of this concern, MMS has adopted a provision in the final regulations to permit the transportation allowance to exceed the 50-percent limitation with approval from MMS. As the general rule, however, the transportation allowance authorized by the regulations may not exceed 50 percent of the value of the oil at the point of sale on the basis of a selling arrangement. The MMS has decided that pre-approval of all transportation allowances is not a cost-effective procedure. The 50-percent threshold merely gives MMS the ability to monitor more closely the situation where the allowance, based on reasonable actual costs, will exceed that limit.

The MMS received a number of comments relating to transportation allowances for RIK oil. Industry commenters stated that MMS should grant a transportation allowance for onshore RIK oil. Another industry commenter suggested that the regulations should clearly state that the lessee is not required to transport RIK oil from the lease. Other industry commenters stated that this section was in conflict with § 208.8 of the proposed RIK regulations.

MMS Response: The suggestion that MMS should grant a transportation allowance for onshore RIK oil was not adopted because the onshore lease terms provide that the in-kind oil will be made available to the lessor on the lease at no cost to the lessor. The MMS believes that there is no need to state explicitly that the lessee is not required to transport onshore RIK oil. Many of these issues will be addressed in MMS's revisions to the RIK regulations (See 52 FR 2202, January 20, 1987).

Another issue discussed by several commenters concerns the definition of terms used in the regulations. Several respondents commented on the use of the term "reasonable" to describe transportation costs. One State commenter recommended that the term "reasonable" was too vague and should be defined. Three industry commenters recommended that the term "reasonable" be deleted. Six commenters were concerned about the term "remote from the lease." Two Indian and two State respondents commented that the phrase "remote from the lease" should be defined. Two industry commenters stated that the phrase "remote from the lease" should be changed to "the first available market."

MMS Response: The term "reasonable" is defined by the Merriam-Webster New Collegiate Dictionary as "moderate, fair." The MMS intends that this same definition apply in the determination of a transportation allowance and includes the requirement that the transportation costs be necessary to market the oil. The MMS agrees that the phrase "remote from the lease" caused confusion and has replaced it with the phrase "off the lease."

The MMS received comments from a large number of respondents on § 206.104(b). This proposed regulation established a 50-percent limit on transportation allowances.

Most of the comments on this paragraph related to one major topic, the limitation of 50 percent on oil transportation allowances. Comments were also received on the proposal not to allow royalty payments to be reduced to zero. Comments on the 50-percent allowance issue were also divided between those commenters who wanted to retain the limit and add additional qualifications, those who wanted to raise the limit, and those who wanted to lower the limit.

Most industry commenters stated that MMS should abolish the 50-percent limitation for one or more of the following reasons: If the proposed limit is retained, the exception to the 50-percent limitation may not be exercised freely enough; the 50-percent limit could impose a serious economic deterrent to the exploration and development of frontier areas and could serve as a disincentive to the building of transportation systems; the limitation figure is strictly arbitrary and totally unjust to the lessee/working interest owners; it would be a rare case when an oil transportation cost would come close to the proposed 50-percent cap, much less exceed it; the proposed 50-percent cap is a deviation from the stated intent of MMS to base royalty valuation on "gross proceeds."

Industry commenters stated that MMS should approve requests for transportation allowances exceeding the 50-percent limitation upon submission of adequate documentation by the lessee for the following reason: If the actual cost of transportation can be reasonably justified, it should be permitted if a lessee can adequately demonstrate that a higher allowance is in the best interest of the lessor.

One Indian commenter stated MMS should change the 50-percent limitation to a 20-percent limitation because the 50-percent limit is excessively high.

Industry and State commenters stated that MMS should clarify the exception criteria which would allow transportation allowances to exceed the 50-percent limitation. The proposed "best interest of the lessor" criteria was described as vague and unclear and could be interpreted to exclude all cases. Criteria for approval should allow a lessee to more objectively plan development of oil and gas prospects.

Several industry respondents stated that MMS should allow lessees to carry forward transportation costs otherwise allowable (except for the 50-percent limitation) from the current year to subsequent years. This procedure should be applied to all transportation systems, but it would be especially important in the frontier areas.

A State, a State/Tribal association, and a few industry commenters stated that MMS should retain the 50-percent limitation in the proposed regulations for the following reasons: The limit should apply in all cases with no distinction made between circumstances where transportation is a component of price and where transportation costs are incurred directly by the lessee; the 50-percent limit is acceptable as a guideline but MMS should freely exercise its authority to allow transportation costs in excess of 50 percent of the value of the lease product; the 50-percent limitation provides incentive to keep costs under control while allowing some relief for legitimate hardship conditions.

One industry respondent and one State commenter stated that royalty payments should not be reduced to zero. The State respondent commented that it is a privilege to use public lands and it should not be possible to take production from it royalty-free. Two industry respondents stated that royalty payments should be allowed to go to zero for marginal production and for cases where reservoir maintenance is a concern.

MMS Response: The MMS has decided generally that the 50-percent limitation should be retained in the final rule. The transportation allowance for oil is limited to 50 percent of the value of the oil on the basis of a selling arrangement. A lessee may request, and MMS may approve, a transportation allowance in excess of 50 percent if the lessee demonstrates that the costs incurred were reasonable, actual, and necessary. In no event, however, can the transportation allowance exceed 100 percent of the value of the oil.

MMS received comments that a transportation allowance in excess of 50 percent should be allowed only when it is in the "best interests of the lessor." MMS did not include this standard because it is too subjective. The requirement that the costs be "reasonable, actual, and necessary" are sufficient to protect the lessor's interests.

The MMS received several comments from industry on § 206.104(c) which requires allocation of transportation costs among all products transported. One commenter stated that, for transportation allowances, MMS should allocate costs on the basis of relative value rather than on the basis of relative volume. Two commenters recommended that costs associated with the transportation of nonroyalty-bearing products (i.e., water) should be deductible. It was also stated that to the extent transportation for certain nonroyalty-bearing products cannot be avoided, the costs should be equally as deductible as the oil transportation. Four commenters recommended deleting the requirement that transportation costs must be allocated among all products for one or more of the following reasons: Allocation would be a labor-intensive process and an onerous burden inflicted upon reporting parties; allocation would be impractical because, in many instances, volumes are not available; and it would require significant additional effort to complete additional Forms MMS–4110.

MMS Response: The MMS has considered the comments regarding allocating costs on the basis of relative value. The MMS does not agree with the proposal that nonroyalty-bearing substances should have a transportation allowance. The MMS is aware that the allocation of transportation costs in situations where more than one product is involved could be burdensome. However, it is MMS's experience that the allocation requirement would not be difficult in most instances. Accordingly, MMS has retained the cost allocation on the basis of relative volume in the regulations. Section 206.104(d) has been retained in the final rule in the same form as proposed.

Section 206.105 Determination of transportation allowances.

(a) *Arm's-length transportation contracts.*

Although there were comments on a wide variety of subjects, they have been grouped under nine issues as follows: Acceptance of FERC-approved tariffs and arm's-length transportation agreements, excessive penalty and retroactive approvals, MMS's approval of the transportation allowances, acceptance of transportation reduced prices, status of currently approved allowances, required filing every 12 months, allowance on non-royalty-bearing production, allocation of transportation costs, and period for filing a proposed allocation method.

(1) Acceptance of FERC-approved tariffs and arm's-length transportation agreements as an accurate indicator of reasonable, actual costs.

Several industry commenters responded that the oil transportation allowance regulations should be written to support the use of FERC-approved tariffs and arm's-length transportation agreements as an accurate indicator of reasonable, actual costs.

Indian commenters expressed serious concern about the validity of using arm's-length contracts as an indicator of value. One Indian commenter stated that arm's-length contracts are not a bona fide indicator of reasonable, actual costs. Another Indian commenter expressed doubt that there can even be an arm's-length contract between companies in the oil industry. One Indian commenter stated that arm's-length contracts should not be accepted unless a thorough analysis of lessee/purchaser affiliations is undertaken. Another Indian respondent expressed considerable doubt that the criteria used by MMS would assure that an arm's-length contract is present in any given case. An Indian commenter also stated that MMS should establish appropriate criteria to determine the accuracy and reasonableness of allowances granted under arm's-length and non-arm's-length contract situations.

MMS Response: The MMS currently uses FERC-approved tariffs and arm's-length transportation agreements as an accurate indicator of reasonable, actual costs. However, for non-arm's-length and no-contract situations, MMS generally will permit only the reasonable, actual expenses incurred by the lessee as the allowance. MMS is creating a limited exception to this policy, discussed below, in regard to § 206.105(b). MMS has added a sentence to § 206.105(a)(1) clarifying that the lessee has the burden of demonstrating that its contract is arm's-length.

MMS also has added two new paragraphs to address situations where a contract, though arm's-length, should be treated as non-arm's-length pursuant to § 206.105(b). The first situation is where MMS determines that the trannsportation contract reflects more than the consideration transferred from the lessee to the transporter for the transportation; i.e., the transportation cost has been inflated. The second situation is where the MMS determines that there has been misconduct by or between the contracting parties, or the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor.

(2) The disallowance of a transportation deduction for a reporting period not covered by a Form MMS–4110, Oil Transportation Allowance Report.

The MMS received responses from several industry respondents stating that the disallowance of a transportation deduction for a reporting period not covered by a Form MMS–4110 is an excessive penalty for what they consider to be a minor infraction of the rules. The point was also made that the lessee does not always have the data to timely file a Form MMS–4110 before the Form MMS–2014 is filed. However, one State commenter agreed with the proposed regulation disallowing the deduction for any period in which the Form MMS–4110 was not received.

Many industry commenters responded on this paragraph stating that the regulations should have a provision allowing retroactive transportation deductions. The general consensus was that a lessee does not always have the details on transportation worked out before production begins, and sometimes it is necessary to go back and revise data related to an allowance after agreements are reached because of the fast changing nature of current oil and gas markets.

MMS Response: The MMS considered the comments on retroactive requests and has revised the regulations, § 206.105 (a)(1) and (b)(1), to allow lessees to request transportation allowances retroactively for a period of not more than 3 months. Pursuant to § 206.105(d), if a lessee takes a deduction without complying with the regulations, interest only must be paid until the date that appropriate forms are filed. However, the lessee will be required to repay the amount of any deduction disallowed owing to the limitation on retroactivity.

(3) Prior MMS approval of transportation allowances.

Industry respondents expressed approval of the self-implementing procedure in the transportation allowance regulations. This was regarded as a method of relieving a considerable administrative burden on both industry and MMS. One Indian commenter disagreed with the self-implementing nature of the regulations because it was regarded as a method of establishing the 50-percent limitation as a floor for transportation allowances.

State and Indian commenters stated that MMS should pre-approve all transportation allowances and should provide approval only on a showing of necessity to promote development or a showing that a higher value could be obtained for the oil at a point of sale away from the lease. It was also stated that neither the MMS nor the States and Indian Tribes have the resources to audit all leases and if these allowances are not monitored "up front" they will never be audited.

MMS Response: The MMS has determined that it is not necessary to pre-approve all transportation allowances. The MMS will monitor and review transportation allowances for regulatory compliance and reasonableness. Therefore, most allowances under § 206.105 (a) and (b) do not require prior MMS approval.

(4) Acceptance of transportation-reduced prices without requiring the filing of Form MMS–4110 for both arm's-length and non-arm's-length situations.

Industry commenters responded that MMS should accept transportation-reduced prices without requiring the filing of Form MMS–4110 for both arm's-length and non-arm's-length situations. This policy was regarded as reducing the administrative burden on industry and MMS. However, one commenter disagreed with this proposal because it was regarded as a potential technique to exceed the 50-percent limitation provision of the regulation. One commenter stated that neither industry nor MMS could administer trucking-rate transportation allowances on the basis of lease-by-lease and, therefore, MMS will probably be forced to accept transportation-reduced values where trucking is involved.

MMS Response: MMS considered these comments and determined that § 206.105(a)(5) of the final rule should provide that transportation factors specified in arm's-length contracts are to be considered as reductions in value rather than transportation allowances. The use of Form MMS–4110 for the transportation factors is not required.

(5) Should current approved transportation allowances remain in effect until they expire?

Two industry commenters responded that it would be administratively easier if the regulations would allow a current approved transportation allowance to remain in effect until it expires. Seven industry commenters stated that the transportation allowance reported on Form MMS–4110 should continue until the applicable contract or rate terminates or is modified or amended. State commenters stated that owing to some allowances currently being taken without written MMS approval, only those lessees with documented approval should be allowed to continue without submission of the Form MMS–4110.

MMS Response: The MMS considered these comments and has revised the regulations at § 206.105 (c)(1)(v) and (c)(2)(v) to provide that transportation allowances in effect on the date these regulations become effective will be allowed to continue until they terminate, subject to audit. However, MMS is limiting this provision only to those allowances that have written approval from MMS. Because the regulations are being revised to remove any prior approval by MMS before a deduction can be taken, and the submission of Form MMS–4110 is to increase MMS's ability to monitor the allowances being taken, MMS believes that the intent of the final rules will be best served by requiring all allowances to be deducted under the new rules documented as of the effective date.

(6) Should MMS require the filing of Form MMS–4110 every 12 months?

Industry commenters stated that there is no benefit to MMS in submitting a form that duplicates information on file when a change has not occurred. Two industry commenters responded that there is no apparent reason for MMS requiring the filing of Form MMS–4110 every 12 months.

MMS Response: The MMS requires the filing of Form MMS–4110 on an annual basis for use in monitoring costs and volumes associated with a multi-million dollar transportation allowance program. The regulation is being adopted as proposed.

(7) Should MMS allow transportation allowances for production which is not royalty bearing?

An industry commenter recommended that a transportation allowance should include costs associated with moving water because some water is retained in pipeline oil. Another industry respondent recommended deletion of the last sentences of § 206.105 (a)(2) and (b)(3) which prohibit disallowances for transporting lease production which is not royalty-bearing.

MMS Response: It has never been MMS's policy to permit transportation allowances for production which is not royalty bearing. Historically, MMS's policy and practice has been to limit transportation allowance deductions only to the royalty-bearing portion of lease production transported.

(8) Allocation of a cost applicable to more than one product.

Two industry commenters stated that allocation of costs presents a burdensome administrative task, but if allocation of costs is deemed necessary, it should be allocated on the basis of relative value rather than on the basis of relative volume. One industry commenter suggested that MMS provide an alternative allocation procedure for situations which would require a variance from the proposed allocation method.

One State commenter suggested that MMS provide guidance on what will be an acceptable method of allocation in situations that involve the transportation of both gaseous and liquid products. One industry commenter suggested that the rules could be further enhanced by allowing for the adoption of an allocation procedure contained in a different arm's-length transportation contract where similar conditions and products exist.

MMS Response: The MMS determined that allocating costs on the basis of relative volume rather than on the basis of relative value is more equitable because of the wide variance in relative value between some products. The MMS will allow the lessee to propose an allocation procedure. It would be difficult for MMS to provide guidance on acceptable methods of allocation because of the many different situations involving the transportation of both gaseous and liquid products. The MMS believes that the most advantageous procedure is to have the lessee submit an allocation proposal to MMS in these situations. Thus, § 206.105 (a)(3) and (b)(4) require the lessee to submit such an allocation proposal within prescribed timeframes.

(9) The MMS should extend the period to submit a proposed allocation method.

Two commenters stated that the requirement to submit a proposed allocation method within 60 days will create a significant workload and burden, and a more reasonable provision of time would be 120 days. Others requested an even longer period.

MMS Response: The MMS determined that 3 months is a reasonable time period to submit a proposed allocation method and § 206.105 (a)(3) and (b)(4) have been revised accordingly.

(b) *Non-arm's length or no contract.*

The MMS received many comments on § 206.105(b), which applies to non-arm's-length or no contract transportation situations, from industry, industry trade groups, States, Indian Tribes, and a Federal agency. Most of the negative comments actually addressed § 206.104(a), and those comments generally expressed the belief that no transportation allowance of any kind should be granted by MMS.

The comments received on these paragraphs have been grouped into nine issues as follows: Acceptance of State or FERC tariffs, acceptance of comparable arm's-length contracts, use of a benchmark system, penalties, increase in estimated allowances, prior approval of allowances, allowable costs, rate of return, and retaining Alternatives 1 and 2 for return on capital.

(1) Should MMS accept published State or FERC tariffs instead of using actual costs as the basis for approving transportation allowances?

Industry commenters stated that MMS should accept published State or FERC tariffs as the transportation allowance in non-arm's-length and no-contract situations. These commenters believed that MMS should "rightfully rely on the expertise of FERC and State agencies which set pipeline tariffs to determine fair and reasonable transportation charges." It was also stated that if MMS does not rely on FERC and/or State tariffs, there would be a wasteful duplication of effort between FERC, State agencies, and MMS. One industry commenter stated that FERC tariffs should be accepted as an allowable deduction regardless of whether the transportation contract is arm's-length or non-arm's-length because the tariff represents the recognized value of the service.

One industry commenter stated that MMS should accept as a transportation allowance either a FERC tariff or the actual cost including a reasonable profit, whichever is higher. This would give the lessee an option that would be more fair than the single method prescribed by MMS.

Two industry commenters stated that MMS should require actual costs only when there was no pipeline or published tariff. The use of internal cost accounting to determine the value of a transportation allowance was believed to be at odds with the interests of the lessee.

MMS Response: The MMS has reviewed the FERC procedure for granting tariffs. After careful consideration, MMS has decided that, in most instances, for non-arm's-length or no contract situations, the fairest and best way to determine transportation allowances is to allow actual, reasonable costs plus, if appropriate, an acceptable cost for the lessee's undepreciated capital equipment. The MMS will recognize FERC tariffs as a valid cost in computing a transportation allowance only when it is an actual out-of-pocket expense pursuant to an arm's-length transportation contract. Existence of a FERC-approved tariff for a transportation system, however, is one of the requisite criteria for MMS to consider in granting an exception to the requirement to use actual costs for non-arm's-length or no contract situations. See discussion below.

(2) Should MMS accept comparable arm's-length contracts for determining transportation allowances?

Several industry respondents stated that MMS should accept comparable arm's-length contract costs as the transportation allowance. The costs incurred under comparable arm's-length contracts were described as the best indicator of the value of that service provided by the lessee in transporting oil to a market or to any other point where it could be sold.

MMS Response: It is MMS's past and present practice to allow only those costs which are directly related to the transportation of lease production. Costs incurred under "comparable arm's-length contracts" may include costs such as Federal and State income taxes, or socioeconomic costs incurred by the lessee in order to obtain State or county land access such as the construction of schools or city sewer facilities. The MMS considered these comments in revising the regulations and decided that it was in the best interests of the Government, States, and Indians to base oil transportation allowances on actual, reasonable costs plus a return on investment.

However, in an effort to simplify procedures for both the lessee and MMS, the regulations at § 206.105(b)(5) will provide a limited exception to the requirement to compute actual costs where the lessor's interest is adequately protected. The lessee must apply to the MMS for an exception and MMS may grant the exception only if: (1) The lessee has arm's-length contracts with other persons for transportation through the same transportation system; (2) the lessee has a FERC-approved tariff for the system; and (3) at least 50 percent of the annual throughput is transported under arm's-length transportation contracts. If the MMS grants the exception, then the lessee will use as its transportation allowance the volume-weighted average of the prices it charges other persons pursuant to arm's-length contracts.

In the draft final rules, MMS had included as the third standard a requirement that the persons purchasing transportation from the lessee had an alternative to using the lessee's system. MMS received many comments from industry that this standard made the exception illusory because, in most instances, there is only one pipeline. MMS agreed and changed the third standard to the requirement that at least 50 percent of the lessee's annual throughput is transported under arm's-length transportation contracts.

(3) Should the transportation allowance be based on the market value of transportation service as determined under a benchmark system?

Many industry respondents stated that MMS should allow transportation deductions based on a benchmark system. These commenters suggested that MMS allow the lessee the market value of the transportation service on the basis of a benchmark system featuring arm's-length contracts and tariffs with cost accounting being used only as a last resort.

MMS Response: The MMS considered the benchmark valuation system featuring arm's-length contracts and FERC tariffs with cost accounting being used as a last resort. The MMS has not adopted this recommendation for the same reasons as cited in issue no. 2 above.

(4) Should a penalty be imposed for late submission of the Form MMS–4110?

An industry respondent commented that requiring lessees to file Forms MMS–4110 and MMS–2014 at the same time would impose an unfair penalty on lessees for being unable to complete Form MMS–4110 prior to the Form MMS–2014 reporting deadline and that there is no need to cancel all currently approved allowances. Two other industry commenters suggested that submittal of Form MMS–4110 be only on the basis of as-needed, pursuant to contract changes.

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MMS Response: The MMS has reconsidered the reporting requirement that would deny the transportation allowance for those periods for which no Form MMS–4110 was filed. Pursuant to § 206.105(b)(1) of the final rules, a lessee may claim a transportation allowance retroactively for a period of 3 months from the first day of the month that the Form MMS–4110 is filed. However, if the lessee has taken an allowance before filing the form, it must pay interest from the date the allowance was taken until the form is filed. The lessee will also be required to repay the amount of any allowance which is disallowed owing to the 3-month limitation on retroactivity. See § 206.105(d). The proposal to retain all current allowances in effect until they expire was considered and it was decided that approved allowances (i.e., allowances approved in writing by MMS) in effect on the effective date of these rules will be allowed to continue in effect until they expire. See §§ 206.105(c)(1)(v) and 206.105(c)(2)(v).

(5) Should the estimated rate reported on Form MMS–4110 be allowed to increase over the prior period, if justified?

One industry commenter requested that the estimated rate be allowed to increase over the prior period, if justified. This respondent also recommended that the initial allowance be effective for a period greater or lesser than the 12 months to allow industry to convert to calendar-year reporting. This would ease the administrative burden. Another industry commenter questioned the cost effectiveness of the two-step submission of estimates and corrections. This commenter recommended that any adjustment, plus or minus, be made prospectively only.

MMS Response: The recommendation to allow an estimated rate to increase over the actual rate for the prior period, if justified, has been addressed in the final regulations. Pursuant to § 206.105(c)(2)(iii), the lessee may use an estimate higher or lower than the previous year's actual rate if the lessee believes it is appropriate when submitting Form MMS–4110. The recommendation to adjust the initial reporting period to allow industry to convert to a calendar-year basis has been considered and the regulations at § 260.105(c) have been revised to provide for calendar-year reporting.

(6) Should MMS require prior approval for allowances?

Industry respondents commented that they were in support of the self-implementing feature of the regulations which would not require prior approval of each allowance by MMS before the allowance could be claimed. Two State commenters proposed that MMS should require prior approval on non-arm's-length contract or no-contract deductions for transportation because adequate audit resources are not available to audit the allowances, and it is very likely that many leases will never be audited. One Indian commenter proposed that MMS require prior approval and audit to prevent abuse in the claiming of depreciation and overhead costs.

MMS Response: The MMS currently reviews and approves all transportation allowance requests and has considered pre-approval and pre-audit of transportation allowances. It has been decided that a more effective use of resources can be attained by doing exception processing on allowances and selectively reviewing certain allowances in depth to determine the propriety of the allowance reported by lessees on Form MMS–4110. Therefore, with limited exceptions, no prior approval of allowances will be required.

(7) Should costs other than reasonable actual costs be considered in calculating the transportation allowance?

A few industry respondents stated that MMS should revise the regulations to make an allowance for debt service and State and Federal income taxes. Three industry commenters recommended that MMS provide for a complete recovery of costs plus an acceptable profit for assuming the risks involved in undertaking the service function of transportation. One industry commenter recommended that MMS allow for administrative overhead beyond that which is directly associated with, or attributable to, the transportation system.

MMS Response: The MMS views income taxes to be an apportionment of profit rather than a valid operating expense. However, interest on money borrowed for operations would be considered as a valid operating expense. Interest on money borrowed to build a transportation facility is not considered allowable. A return on investment is given in lieu of interest on capital investments. The proposal to extend the amount of overhead beyond that which is directly allocable or attributable to transportation is not acceptable. Administrative overhead or any other costs not directly associated with transportation are not allowed.

(8) What rate of return should be used to calculate return on depreciable investment?

Most industry respondents opposed the use of Moody's Aaa corporate bond rate as unrealistic and too low. One industry commenter stated that "There is no reason to equate pipeline risks with the highest rated, most secure debt rate." Two industry commenters stated that the proposed rate is very conservative and arbitrary and the general consensus of the parties was that the rate of return should be adequate to reflect the risks involved in the oil and gas business. Seven respondents stated that the Aaa rate is the absolute lowest borrowing rate available only to a few "blue chip" companies.

One industry respondent suggested four alternatives to Moody's Aaa bond rate: (1) Prime rate plus 5 percent; (2) one and one-half times the average 20-year treasury bill rate; (3) 150 percent of Moody's Aaa rate; or (4) the rate of return methodology adopted by FERC in Opinion No. 154–B. This industry commenter also stated that industry's position supports a rate of return plus additional points to reflect risk factors, and two other industry commenters suggested that the rate of return should include Federal income tax.

Several industry respondents recommended a rate of return based upon the cost of debt and equity financing. One party stated that "Assets are not financed by debt alone; equity financing must be included in the calculation of an actual and reasonable cost of capital * * *" and suggested a rate to account for equity financing and an alternative method for extraordinary circumstances based on the weighted-average cost of capital. Another industry commenter suggested that the proposed rate "* * * would not include any return on equity which is a significant portion of the capitalization of the pipeline." One industry commenter suggested "* * * a true rate of return for the risk involved and the cost of capital for both debt and equity." Another respondent suggested a rate based on "* * * both cost of credit and equity capital." One industry respondent stated that "Most firms receive funds from both debt and equity sources."

Two industry commenters proposed the prime rate plus 5 percent in accordance with the RMAC panel. Two industry respondents suggested the average 20-year Treasury Bill rate times 150 percent. Seven industry commenters recommended either the average 20-year Treasury Bill rate times 150 percent or the prime rate plus 5 percent as proposed by the Oil Valuation and Gas Valuation Panels, respectively. One industry respondent recommended the prime rate plus 7 percent. Another industry respondent suggested Moody's 20-year Baa rate plus 9 percent as an equitable rate of return. One industry commenter preferred the Treasury Bill rate times 150 percent if MMS fixes the rate at the time of initial investment, or the prime rate plus 5 percent if MMS redetermines the rate yearly. Another industry respondent suggested a 23-percent pre-tax rate of return. One industry commenter suggested that a risk component of from 5 to 7 points above the Aaa rate be adopted.

Two industry commenters stated that the limitation on the rate of return serves as an economic disincentive for lessees to invest in high-risk ventures, such as the frontier areas. Three industry respondents commented that a lessee affiliated with the pipeline would be at a disadvantage under the proposed rate of return because it would not be competitive with other producers deducting a transportation allowance that includes risk factors.

MMS Response: The MMS has examined several options relating to rate of return and decided that a rate of return should be closely associated with the cost of money necessary to construct transportation facilities. The MMS has examined the use of the corporate bond rate very carefully and has concluded that such rates are representative of the loan rates on sums of money comparable to that expected for the construction of transportation facilities.

There is no doubt that there are some very high risks involved with some oil and gas ventures, such as wildcat drilling. However, the risk associated with building and developing a pipeline to move oil that has already been discovered is a much different risk. The risk of default (financial risk) is considered in corporate bond rates. Considering the risks related to transportation systems, a rate of return that is based on an applicable corporate bond rate would be appropriate for transportation systems.

The MMS has considered the prime rate, the prime rate plus 5 points, one and one-half times the average 20-year Treasury Bill rate, the Moody's bond rate, and Standard and Poor's bond rate. The rate of return used by FERC was not considered because MMS does not believe that the FERC's obligations in developing tariffs and those of MMS in developing transportation allowances are sufficiently similar to warrant the use of similar procedures.

The MMS believes that the use of an appropriate rate of return based on the corporate bond rate adequately considers the risk associated with a transportation system and that there is no rational basis for increasing a rate of return by arbitrarily adding percentage points simply to increase the allowance granted to a lessee. After carefully considering the comments and the options available, MMS determined that the rate of return should be based on Standard and Poor's BBB industrial bond rate. Section 206.105(b)(2)(v) has been revised accordingly in the final rule. However, because of the substantial and diverse comments on this issue, including several comments on the draft final rule that the BBB bond rate is not much better than the first proposal, MMS intends, in the near future, to issue a notice of proposed rulemaking to reconsider the applicable rate of return for purposes of these regulations.

The MMS does not consider State and Federal income taxes as an appropriate expense that should be included in a transportation allowance and does not agree that the rate of return should be increased to allow for income tax liability.

(9) Should MMS retain the provisions of both Alternative 1 and Alternative 2?

Some industry respondents commented that MMS should retain both Alternative 1 and Alternative 2 in proposed § 206.105(b)(5)(iv). One industry commenter recommended that both Alternatives 1 and 2 be included in any cost-based methodology for determination of a transportation allowance. Another industry commenter recommended that both alternatives be made available for use at the lessee's election on the basis of an individual transportation arrangement because adoption of this approach would assure the flexibility necessary to adapt to unforeseen changes in the business and transportation environments. Two industry respondents stated that MMS should retain Alternative 1. One industry commenter stated that it endorsed use of the first alternative because it gives lessees some latitude in choosing the depreciation method.

One industry respondent commented that MMS should not retain Alternative 2. The commenter stated that this alternative would encourage third parties to become involved in the pipeline business, in which case MMS would absorb the full market cost of transportation provided.

Several industry respondents commented that MMS should adopt Alternative 2 and apply it to all existing and future transportation facilities. One commenter stated that limiting Alternative 2 (return on initial capital investment) to new or newly acquired transportation systems is unsupported in the proposed rules and Alternative 2 should be available without the limitation imposed by the MMS. Two industry commenters stated that they presumed Alternative 2 has no limit on the deduction under this alternative. Both industry commenters stated that although Alternative 1 specifically states that a transportation system may be depreciated only once, there is no mention of such a cap on Alternative 2 and, therefore, it is presumed that this option has no limit. One industry commenter stated that it believed it was appropriate to include both Alternative 1 and Alternative 2 in any cost-based methodology for determination of a transportation allowance.

One industry respondent recommended that MMS permit the depreciation schedule to be adjusted to reflect additional capital investment of a subsequent purchaser because, if additional capital is invested, there is no double recoupment of capital investment.

Several industry commenters stated that MMS's proposal to disallow recapitalization is inequitable. One commenter stated that because this proposal would only recognize the original capital costs, the additional capital costs which may have been invested by the new owner may not be recovered.

Some industry respondents stated that although they agreed with the concept of allowing a rate of return on the transportation facilities, the application of the allowance is unfair insofar as a company using Alternative 1 (i.e., one with existing facilities) would only be receiving a return on investment for the undepreciated investment (or net book value).

Some industry respondents stated that MMS should not tie the rate of return to a diminishing value. Both commenters stated that because the intention is to provide the lessee with a rate of return for his invested capital he should not be penalized by a diminishing return caused by tying the return into a depreciation option.

Several industry commenters stated that MMS should allow a lessee to add estimated abandonment costs to its depreciable capital investment value. One industry commenter stated that although MMS has set out that the proposed regulations require recognition of salvage values, often the cost of abandonment exceeds any salvage value; consequently, it was suggested that the estimated cost of abandonment of the transportation system be included as an expense of operation to the lessee.

An industry commenter stated that a transportation system should be depreciated only once. The commenter suggested that the regulation state "A change in ownership of a transportation system shall not alter the depreciation

schedule established by the original transporter/lessee for purposes of the allowance calculation. With or without a change in ownership, a transportation system shall be depreciated only once."

MMS Response: The MMS has reviewed the comments received regarding both Alternative 1 and Alternative 2 in proposed § 206.105(b)(5)(iv) and concluded that both alternatives should be retained. However, under the final rule, § 206.105(b)(2)(iv), Alternative 2 can only be used for transportation facilities first placed in service after the effective date of these regulations.

The MMS has considered the issue of recapitalization and decided that it was appropriate for the Government to pay its share for the depreciation of a system transporting royalty-bearing oil only once.

The MMS has carefully considered the issue of basing the rate of return on a diminishing value and has decided that this procedure is consistent with longstanding Government policy on allowances and that MMS should continue this policy for transportation facilities in operation on the effective date of these regulations.

The MMS has taken the position that because it does not participate in the profit or losses that could result from the sale of transportation facilities, no costs for dismantling and abandonment should be included in transportation allowances.

The final rules provide that a transportation system may be depreciated only once, and that the depreciation schedule established by the original transporter/lessee may not be altered by a change in ownership.

(c) *Reporting requirements.*

The MMS received many comments from industry and Indians on the reporting requirements, § 206.105(c), in addition to the comments already discussed above. The two major issues of concern relating to the reporting requirements were (1) usage of Form MMS–4110, and (2) the terms of the allowance and reporting periods.

(1) Should MMS require the filing of Form MMS–4110?

Several industry and Indian commenters opposed the use of Form MMS–4110. One Indian commenter stated that there should be more monitoring of deductions taken from royalty and requested that MMS retain an approval process instead of the mere filing of Form MMS–4110. One industry commenter stated that Form MMS–2014 will show the transportation allowance taken and that Form MMS–4110 is unnecessary. Two industry commenters recommended the filing of an "Intent to Deduct Transportation." One industry commenter stated that the transportation costs under arm's-length contracts should be part of the value and Form MMS–4110 should be filed only for non-arm's-length transportation.

Many industry commenters stated that it would be burdensome to file a new Form MMS–4110 each time a trucking charge or similar net change occurred in a contract price. One industry commenter stated that price postings have been amended as often as three times per month. One industry commenter suggested that Addendum No. 15 be incorporated into the new regulations and expanded to include offshore leases. One industry commenter stated that the regulations are not clear about whether or not a Form MMS–4110 must be filed for prices net of transportation. This industry commenter also stated that in some situations the lessee may not know a price is being netted of transportation in time to file Form MMS–4110.

One Indian commenter stated that the information on Form MMS–4110 should be clear and uncomplicated and should be available to the Indians.

MMS Response: The MMS believes that Form MMS–4110 must be required in order for MMS to monitor the transportation allowance program. The MMS believes it can monitor the transportation allowance deductions more effectively than with the pre-approval of the allowances. The MMS has made the information on Form MMS–4110 as clear and uncomplicated as possible considering the complex nature of transportation allowances. The information on these forms will be made available to the Indians upon proper request. The filing of a Form MMS–4110 equates to an "intent to deduct transportation." The transportation costs under an arm's-length contract are separate from the value determination under such a contract so a Form MMS–4110 should be filed for transportation costs determined under both arm's-length and non-arm's-length contracts.

In arm's-length situations where the purchaser is reducing the posted price for a transportation cost and the lessee is incurring no out-of-pocket expense, filing a Form MMS–4110 is unnecessary. In these situations, the point of sale is at the point the purchaser acquires the oil and because the reduction in price represents a cost incurred past the point of first sale, a transportation allowance would not be allowed by the regulations. However, in determining the value of the oil, the reduction of price for the transportation costs past the point of sale would be considered. Section 206.105(a)(5) of the final rule incorporates the necessary regulatory language.

(2) Term of the allowance periods and the timetable for reporting.

One industry commenter endorsed the 12-month term for both onshore and offshore leases. Another industry commenter strongly suggested that all transportation allowances based on cost accounting be determined on the basis of calendar-year reporting. This industry respondent also suggested that all existing transportation allowances based on cost accounting be extended until April 1, 1988, when data for the 1987 allowance would be submitted.

Other industry commenters opposed the termination of all current allowances and recommended continuing allowances in effect for a period of time beyond the effective date of the regulations to allow for smooth transition. The general consensus was that it would be an administrative burden to require the filing of Form MMS–4110 immediately upon passage of the rulemaking. In addition, two of these four industry respondents proposed that the transportation allowances remain in effect for an additional 90 days beyond the issuance date of the regulations. One of these commenters suggested filing new forms only when the current allowance expires.

One industry commenter recommended a grace period for filing all allowances. Another industry commenter proposed a 90-day filing period for new Forms MMS–4110 that are submitted for contract revisions.

MMS Response: The MMS concurs with a 12-month term and the final regulations, in § 206.105(c), have been changed to provide that a Form MMS–4110 will be filed by calendar year. The MMS considered extending current allowances and § 206.105 (c)(1)(v) and (c)(2)(v) now provide that certain allowances will continue in effect until they expire. These are limited to allowances approved in writing by MMS. In regard to a grace period for filing, the regulations have been revised to allow a grace period of 3 months for all non-arm's-length and no-contract situations. The regulations in § 206.105(c)(2)(iii) allow the lessee 3 months after the end of the previous reporting period to file the Form MMS–4110. Also, the final regulations at § 206.105 (a)(1) and (b)(1) have been revised to allow for transportation allowances to be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4110 is filed with MMS. Therefore, even if the lessee is not able to file the Form MMS–4110 timely, the lessee could file the Form MMS–4110 and claim the transportation allowance on a corrected Form MMS–2014 at a later date. The rules also have been modified to include in paragraphs (c)(i)(vi) and (c)(2)(vii) a provision to allow MMS to establish reporting requirements different from those specified in the rules where circumstances warrant.

(d) *Adjustments.*

Several industry respondents commented on § 206.105(e), which was proposed as § 206.105(d), and pertains to adjustments. Four principal issues were identified.

(1) Should MMS require retroactive adjustments to transportation allowances?

It was the general consensus in the comments that adjustments were a very large burden on both industry and the MMS and that some way should be found to eliminate the need for the many adjustments that result from differences between actual and estimated transportation allowances. Six industry commenters recommended that positive or negative differences between estimated and actual costs should be rolled forward into the transportation rate for the subsequent period because this would greatly relieve the administrative burden on MMS and industry. Three industry commenters recommended that actual data from one period be used as the allowance for the subsequent period, eliminating the need for adjustments. It was stated also that this procedure would relieve the burden on MMS and industry associated with the requirement to make adjustments to each account, each month, for each year.

MMS Response: To ease the burden resulting from the adjustments requirement, MMS has eliminated the need for many retroactive adjustments by accepting arm's-length-contract transportation costs when the lessee timely files the Form MMS–4110. For non-arm's-length and no-contract situations, MMS did not eliminate the need for adjustments between actual and estimated transportation allowances. The MMS considered alternatives such as (1) rolling forward differences into subsequent periods, or (2) using actual data from one period to be used as the next period's actual allowance, but determined that either procedure could be inequitable to lessees, MMS, Indian Tribes, and Indian allottees.

(2) Should MMS require refunds to be requested under the refund procedure requirement of Section 10 of the Outer Continental Shelf (OCS) Lands Act?

An industry commenter stated that refunds for estimates tendered in excess of actual costs should not be judged as refunds of a payment of royalty under Section 10 of the OCS Lands Act, 43 U.S.C. 1339, because estimates are not "actual" payments of royalty. Overpayments could then be treated as line-item adjustments not subject to the refund process. Two industry respondents emphasized that the requirement to submit written requests for refunds for under-deducted transportation costs in accordance with Section 10 of the OCS Lands Act will be an extraordinarily difficult financial and reporting burden to industry and MMS. Two industry commenters stated that the current long review and audit process is now causing lessees to lose the time value of money in the refunds which are due the lessees under section 10 of the OCS Lands Act. Audits on such refunds were described as fruitless and wasteful and the suggestion was made that MMS should consider transportation allowance adjustments to be exceptions to the refund requirements of section 10 of the OCS Lands Act. Overpayments would be recovered through line-item adjustments on Form MMS–2014.

Two industry commenters suggested that the submission of Form MMS–4110 should constitute the tolling of the 2-year statute of limitations period defined in Section 10 of the OCS Lands Act. These parties believed that this should be put in the regulations to avoid burdensome refund procedures.

MMS Response: It would not be proper for these rules to prescribe the refund procedures. MMS is examining the issue and will provide guidance to lessees.

(3) Payment of interest.

Industry commenters stated that the MMS-proposed procedure for handling interest payments was not fair. These commenters believed that if the lessee must pay any difference plus interest, MMS should also pay any difference plus any interest statutorily authorized.

MMS Response: MMS has no legal authority to pay interest.

(e) *Actual or theoretical losses.*

The MMS received over 15 industry comments on § 206.105(f), which was proposed as § 206.105(e). All commenters basically stated that MMS should amend or delete this paragraph to allow actual or theoretical losses as a transportation cost.

Nine industry respondents stated that line losses are actual transportation costs which should be allowed by MMS. The basic premise of these comments was that all costs resulting from line losses should be deductible because, if MMS does not absorb its pro rata share of such transportation costs, an inequity results.

As a variation of this issue, eight industry commenters declared that only certain oil losses should be deductible from royalty. Other industry respondents commented that line losses in arm's-length contracts and FERC tariffs should be allowed. One of these commenters stated that, if a loss provision is a part of an arm's-length contract or a FERC tariff, MMS should accept such a provision, just as it accepts the dollars-and-cents rates in the contract or tariff. In other words, the losses are part of the total cost of the transportation arrangement and should be deductible. Three industry commenters stated that MMS should allow those line losses not attributable to negligence. One of these commenters stated that a credit should be allowed for line losses not attributable to negligence and such change would conform to Section 308 of the FOGRMA, which specifies that a lessee is liable for royalty payments on oil and gas lost or wasted from a lease site when such loss or waste is because of negligence on the part of the operator of the lease.

One industry commenter stated that producer-owned pipelines should include transportation losses as part of operating expenses in the formulation of an allowance.

MMS Response: All of the issues of theoretical and actual line losses have been considered at length by MMS. The MMS will include, as part of a transportation allowance under an arm's-length contract, amounts required to be paid in cash or in kind for line losses. However, because of the difficulty of demonstrating that losses are valid and not the result of meter error or other difficult-to-measure causes, MMS has decided not to treat line losses as valid costs for purposes of computing transportation allowances in non-arm's-length or no-contract situations. No change to the final rule was made.

(f) *Other transportation cost determinations.*

Only a few comments were received on § 206.105(g), which was proposed as § 206.105(f). This section allows use of the transportation allowance rules where transportation is a component of a valuation procedure such as a net-back.

The major concern raised about this paragraph was the application of the transportation allowance regulations to a net-back valuation. Two industry commenters stated that the use of restrictive cost-based transportation

allowances is inequitable when the net-back valuation procedure is used and recommended that the section be reworded to recognize total "actual costs" incurred to move or improve the hydrocarbon for sale downstream.

MMS Response: The MMS has reviewed and analyzed the comments relating to the procedure for netting costs back to the lease to determine a value for royalty purposes. The MMS remains convinced that the cost-based allowance procedure for determining oil transportation allowances is appropriate for determining value under a net-back procedure.

Section 207.5 Contract and sales agreement retention.

Two comments were received regarding § 207.5 (formerly proposed as § 207.4), one from industry and one from a State. The State commenter suggested several modifications to clarify and insure that sufficient documentation on oil sales is maintained and made available to FOGRMA-authorized State auditors and other authorized personnel.

The industry commenter suggested that the regulations should limit the audit period, and thus the time for record retention, to six years. This would avoid "an unnecessary administrative burden" upon industry to maintain records for an indefinite period.

MMS Response: The MMS has modified the final rule to require lessees to maintain and make available all documents relevant to the valuation of production.

This subpart is not the appropriate place to address record retention requirements. The record retention provisions are found at § 212.51 (a) and (b).

Section 3162.7–4 Royalty rates on oil; sliding and step-scale leases (public land only).

This section was proposed as § 202.101. The Bureau of Land Management (BLM) advised that "the redesignation into 43 CFR must be accomplished prior to finalization of the proposed MMS regulations under 30 CFR Part 202 because the well count regulations (43 CFR Part 3100) must be referenced in the new 30 CFR Part 202." The BLM recommended extensive changes in this part "regardless of whether these regulations remain under 30 CFR or are reassigned to 43 CFR."

MMS Response: No changes to the proposed section will be made in the final rule. However, because this regulation is the responsibility of the BLM, it is being redesignated as 43 CFR 3162.7–4. After redesignation, BLM may elect to make certain revisions. MMS has corrected typographical errors which appeared in the proposed rule.

V. Procedural Matters

Executive Order 12291

The Department of Interior (DOI) has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. This rulemaking consolidates Federal and Indian oil royalty valuation regulations; clarifies DOI oil royalty valuation and oil transportation allowance policy; and provides for consistent royalty valuation policy among all leasable minerals.

Regulatory Flexibility Act

Because this rule primarily consolidates and streamlines existing regulations for consistent application, there are no significant additional requirements or burdens placed upon small business entities as a result of the implementation of this rule. Therefore, the DOI has determined that this rulemaking will not have a significant economic effect on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

Lessee reporting requirements will increase approximately $4 million. All oil posted price bulletins or sales contracts will be required to be submitted only upon request, or only in support of a lessee's valuation proposal in unique situations rather than routinely, as under the existing regulations.

Paperwork Reduction Act of 1980

The information collection and recordkeeping requirements located at §§ 206.105, 207.5, and 210.54 of this rule have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3504(h), and assigned OMB Clearance Number 1010–0061.

National Environmental Policy Act of 1969

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects

30 CFR Part 202

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 203

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 206

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 207

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 210

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 241

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3160

Government contracts, Indian-lands, Land Management Bureau, Mineral royalties, Oil and gas exploration, Penalties, Public lands-mineral resources, Reporting and recordkeeping requirements.

Date:

Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR Parts 202, 203, 206, 207, 210, 241, and 43 CFR Part 3160 are amended as follows:

TITLE 30—MINERAL RESOURCES

PART 202—ROYALTIES

1. The authority citation for Part 202 is revised to read as follows:

Authority: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

2. 30 CFR Part 202 is amended by revising the Part title and the titles of Subparts B, C, D, E, F, G, and H to read as follows:

PART 202—ROYALTIES

Subpart B—Oil, Gas, and OCS Sulfur, General

Subpart C—Federal and Indian Oil

Subpart D—Federal and Indian Gas—[Reserved]

Subpart E—Solid Minerals, General—[Reserved]

Subpart F—Coal—[Reserved]

Subpart G—Other Solid Minerals—[Reserved]

Subpart H—Geothermal Resources—[Reserved]

3. A new Subpart I is added to read:

Subpart I—OCS Sulfur—[Reserved]

§§ 202.100, 202.100, 202.101, 202.102 and 202.103 [Removed]

§§ 202.150, 202.151 and 202.152 [Redesignated as §§ 202.100, 202.53, 202.52]

4. Sections 202.100, 202.101, 202.102 and 202.103 under Subpart C are removed. Sections 202.150, 202.151 and 202.152 under Subpart D are redesignated as new §§ 202.100 under Subpart C, 202.53 and 202.52 under Subpart B, respectively, and Subpart D is reserved.

5. In Subpart B, add new § 202.51 and revise §§ 202.52 and 202.53 (formerly §§ 202.152 and 202.151, respectively) to read as follows:

Subpart B—Oil, Gas, and OCS Sulfur, General

Sec.
202.51 Scope and definitions.
202.52 Royalties.
202.53 Minimum royalty.

§ 202.51 Scope and definitions.

(a) This part is applicable to Federal and Indian (Tribal and allotted) oil and gas leases (except leases on the Osage Indian Reservation, Osage County, Oklahoma) and OCS sulfur leases.

(b) The definitions in Subparts C, D, and I of Part 206 of this Title are applicable to Subparts B, C, D, and I of this part.

§ 202.52 Royalties.

(a) Royalties on oil, gas, and OCS sulfur shall be at the royalty rate specified in the lease, unless the Secretary, pursuant to the provisions of the applicable mineral leasing laws, reduces, or in the case of OCS leases, reduces or eliminates, the royalty rate or net profit share set forth in the lease.

(b) For purposes of this subpart, the use of the term "royalty(ies)" includes the term "net profit share(s)".

§ 202.53 Minimum royalty.

For leases that provide for minimum royalty payments, the lessee shall pay the minimum royalty as specified in the lease.

6. 30 CFR Part 202, Subpart C, is amended by revising § 202.100 (formerly § 202.150) and by adding 202.101 to read as follows:

Subpart C—Federal and Indian Oil

Sec.
202.100 Royalty on oil.
202.101 Standards for reporting and paying royalties.

§ 202.100 Royalty on oil.

(a) Royalties due on oil production from leases subject to the requirements of this part, including condensate separated from gas without processing, shall be at the royalty rate established by the terms of the lease. Royalty shall be paid in value unless MMS requires payment in kind. When paid in value, the royalty due shall be the value, for royalty purposes, determined pursuant to Part 206 of this title multiplied by the royalty rate in the lease.

(b)(1) All oil (except oil unavoidably lost or used on, or for the benefit of, the lease, including that oil used off-lease for the benefit of the lease when such off-lease use is permitted by the appropriate agency) produced from a Federal or Indian lease to which this part applies is subject to royalty.

(2) When oil is used on, or for the benefit of, the lease at a production facility handling production from more than one lease with the approval of the appropriate agency or at a production facility handling unitized or communitized production, only that proportionate share of each lease's production (actual or allocated) necessary to operate the production facility may be used royalty-free.

(3) Where the terms of any lease are inconsistent with this section, the lease terms shall govern to the extent of that inconsistency.

(c) If BLM determines that oil was avoidably lost or wasted from an onshore lease, or that oil was drained from an onshore lease for which compensatory royalty is due, or if MMS determines that oil was avoidably lost or wasted from an offshore lease, then the value of that oil shall be determined in accordance with Part 206 of this title.

(d) If a lessee receives insurance compensation for unavoidably lost oil, royalties are due on the amount of that compensation. This paragraph shall not apply to compensation through self-insurance.

(e) In those instances where the lessee of any lease committed to a federally approved unitization or communitization agreement does not actually take the proportionate share of the agreement production attributable to its lease under the terms of the agreement, the full share of production attributable to the lease under the terms of the agreement, nonetheless, is subject to the royalty payment and reporting requirements of this title. The value, for royalty purposes, of that production will be determined in accordance with Part 206 of this title. In applying the requirements of Part 206 of this title, the circumstances involved in the actual disposition of the portion of the production to which the lessee was entitled but did not take shall be considered as controlling in arriving at the value, for royalty purposes, of that portion as though the person actually selling or disposing of the production were the lessee of the Federal or Indian lease.

§ 202.101 Standards for reporting and paying royalties.

Oil volumes are to be reported in barrels of clean oil of 42 standard U.S. gallons (231 cubic inches each) at 60 °F. When reporting oil volumes for royalty purposes, corrections must have been made for Basic Sediment and Water (BS&W) and other impurities. Reported American Petroleum Institute (API) oil gravities are to be those determined in accordance with standard industry procedures after correction to 60 °F.

PART 203—RELIEF OR REDUCTION IN ROYALTY RATE

1. The authority citation for Part 203 is revised to read as follows:

Authority: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

2. 30 CFR Part 203 is amended by revising the titles of Subparts B, C, D, E, F, G, and H to read as follows:

Subpart B—Oil, Gas and OCS Sulfur, General

Subpart C—Federal and Indian Oil—[Reserved]

Subpart D—Federal and Indian Gas—[Reserved]

Subpart E—Solid Minerals, General—[Reserved]

Subpart F—Coal

Subpart G—Other Solid Minerals—[Reserved]

Subpart H—Geothermal Resources—[Reserved]

3. A new Subpart I is added to read:

Subpart I—OCS Sulfur—[Reserved]

§ 203.100 [Removed]

§§ 203.150 and 203.200 [Redesignated as §§ 203.50 and 203.250]

4. Section § 203.100 under Subpart C is removed. Section 203.150 under Subpart D is redesignated as § 203.50 under Subpart B. Section 203.200 under Subpart E is redesignated as § 203.250 under Subpart F.

PART 206—PRODUCT VALUATION

1. The authority citation for Part 206 is revised to read as follows:

Authority: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

2. 30 CFR Part 206 is amended by revising the titles of Subparts B, C, D, E, F, G, and H to read as follows:

Subpart B—Oil, Gas, and OCS Sulfur, General—[Reserved]

Subpart C—Federal and Indian Oil

Subpart D—Federal and Indian Gas—[Reserved]

Subpart E—Solid Minerals, General—[Reserved]

Subpart F—Coal—[Reserved]

Subpart G—Other Solid Minerals—[Reserved]

Subpart H—Geothermal Resources

3. A new Subpart I is added to read.

Subpart I—OCS Sulfur—[Reserved]

§§ 206.300 and 206.301 [Redesignated as §§ 206.350 and 206.351]

4. Sections 206.300 and 206.301 under Subpart G are redesignated as new §§ 206.350 and 206.351 under new Subpart H, respectively.

§ 3162.7-4 [Redesignated as § 3167.7-5]

§ 206.103 [Removed]

§ 206.104 [Redesignated as § 3162.7-4]

5. 43 CFR 3162.7-4 is redesignated as § 3167.7-5. 30 CFR 206.103 is removed and 206.104 is redesignated as a new 43 CFR 3162.7-4.

6. 30 CFR Part 206, Subpart C, is amended by adding new §§ 206.103 and 206.104 and by revising §§ 206.100, 206.101, 206.102, and 206.105 to read as follows:

§ 206.100 Purpose and scope.

(a) This subpart is applicable to all oil production from Federal and Indian (Tribal and allotted) oil and gas leases (except leases on the Osage Indian Reservation, Osage County, Oklahoma). The purpose of this subpart is to establish the value of production, for royalty purposes, consistent with the mineral leasing laws, other applicable laws, and lease terms.

(b) If the specific provisions of any statute, treaty, settlement agreement between the United States and a lessee resulting from administrative or judicial litigation, or oil and gas lease subject to the requirements of this subpart are inconsistent with any regulation in this subpart, then the statute, treaty, or lease provision shall govern to the extent of that inconsistency.

(c) All royalty payments made to MMS or to any Tribe or allottee are subject to audit and adjustment.

(d) The regulations in this subpart are intended to ensure that the trust responsibilities of the United States with respect to the administration of Indian oil and gas leases are discharged in accordance with the requirements of the governing mineral leasing laws, treaties, and lease terms.

(e) Notwithstanding the provisions of this subpart, for any lease in which an Alaska Native Corporation has acquired an interest subject to section 14(9) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(9)). The value, for royalty purposes, of the proportionate share of production from that lease which corresponds to the Alaska Native Corporation's proportionate interest in the lease will be determined in accordance with the regulations, guidelines, and Notices to Lessees in effect at the time the Alaska Native Corporation acquired any proportionate interest therein, or for interests acquired after the effective date of these regulations, at the time the Alaska Native Corporation selected or designated such interests for conveyance under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613).

§ 206.101 Definitions.

For the purposes of this subpart:

"Allowance" means an approved or an MMS-initially accepted deduction in determining value for royalty purposes. "Transportation allowance" means an allowance for the reasonable, actual costs incurred by the lessee for moving oil to a point of sale or point of delivery off the lease, unit area, or communitized area, excluding gathering, or an approved or MMS-initially accepted deduction for costs of such transportation, determined pursuant to this subpart.

"Area" means a geographic region at least as large as the defined limits of an oil and/or gas field in which oil and/or gas lease products have similar quality, economic, and legal characteristics.

"Arm's-length contract" means a contract or agreement that has been arrived at in the market place between independent, nonaffiliated persons with opposing economic interests regarding that contract. For purposes of this subpart, two persons are affiliated if one person controls, is controlled by, or is under common control with another person. For purposes of this subpart, based on the instruments of ownership of the voting securities of an entity, or based on other forms of ownership:

(a) Ownership in excess of 50 percent constitutes control;

(b) Ownership of 20 through 50 percent creates a presumption of control; and

(c) Ownership of less than 20 Percent creates a presumption of noncontrol which MMS may rebut if it demonstrates actual or legal control, including the existence of interlocking directorates.

Notwithstanding any other provisions of this subpart, contracts between relatives, either by blood or by marriage, are not arm's-length contracts. The MMS may require the lessee to certify ownership control. To be considered arm's-length for any production month, a contract must meet the requirements of this definition for that production month, as well as when the contract was executed.

"Audit" means a review, conducted in accordance with generally accepted accounting and auditing standards, of royalty payment compliance activities of lessees or other interest holders who pay royalties, rents, or bonuses on Federal and Indian leases.

"BIA" means the Bureau of Indian Affairs of the Department of the Interior.

"BLM" means the Bureau of Land Management of the Department of the Interior.

"Condensate" means liquid hydrocarbons (normally exceeding 40 degrees of API gravity) recovered at the surface without resorting to processing. Condensate is the mixture of liquid hydrocarbons that results from condensation of petroleum hydrocarbons existing initially in a gaseous phase in an underground reservoir.

"Contract" means any oral or written agreement, including amendments or revisions thereto, between two or more persons and enforceable by law that with due consideration creates an obligation.

"Field" means a geographic region situated over one or more subsurface oil and gas reservoirs encompassing at least the outermost boundaries of all oil and gas accumulations known to be within those reservoirs vertically projected to the land surface. Onshore fields are usually given names and their official boundaries are often designated by oil and gas regulatory agencies in the respective States in which the fields are located. Outer Continental Shelf (OCS) fields are named and their boundaries are designated by MMS.

"Gathering" means the movement of lease production to a central accumulation or treatment point on the lease, unit, or communitized area, or to a central accumulation or treatment point off the lease, unit, or communitized area as approved by BLM or MMS OCS operations personnel for onshore and offshore leases, respectively.

"Gross proceeds" (for royalty payment purposes) means the total monies and other consideration accruing to an oil and gas lessee for the disposition of the oil. Gross proceeds includes, but is not limited to, payments to the lessee for certain services such as dehydration, measurement, and/or gathering to the extent that the lessee is obligated to perform them at no cost to the Federal Government or Indian lessor. Gross proceeds, as applied to oil, also includes, but is not limited to reimbursements, including, but not limited to, reimbursements for harboring or terminalling fees. Tax reimbursements are part of the gross proceeds accruing to a lessee even though the Federal or Indian royalty interest may be exempt from taxation. Payment or credits for advanced exploration or development costs or prepaid reserve payments that are subject to recoupment through credits against the purchase price, or through reduced prices in later sales and which are made before production commences, become part of gross proceeds as of the time of first production. Monies and other consideration, including the forms of consideration identified in this paragraph, to which a lessee is contractually or legally entitled but which it does not seek to collect through reasonable efforts are also part of gross proceeds.

"Indian allottee" means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation.

"Indian Tribe" means any Indian Tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians for which any land or interest in land is held in trust by the United States or which is subject to Federal restriction against alienation.

"Lease" means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, development or extraction of, or removal of lease products—or the land area covered by that authorization, whichever is required by the context.

"Lease products" means any leased minerals attributable to, originating from, or allocated to Outer Continental Shelf or onshore Federal or Indian leases.

"Lessee" means any person to whom the United States, an Indian Tribe, or an Indian allottee issues a lease, and any person who has been assigned an obligation to make royalty or other payments required by the lease. This includes any person who has an interest in a lease as well as an operator or payor who has no interest in the lease but who has assumed the royalty payment responsibility.

"Like-quality lease products" means lease products which have similar chemical, physical, and legal characteristics.

"Load oil" means any oil which has been used with respect to the operation of oil or gas wells for wellbore stimulation, workover, chemical treatment, or production purposes. It does not include oil used at the surface to place lease production in marketable condition.

"Marketable condition" means lease products which are sufficiently free from impurities and otherwise in a condition that they will be accepted by a purchaser under a sales contract typical for the field or area.

"Marketing affiliate" means an affiliate of the lessee whose function is to acquire only the lessee's production and to market that production.

"Minimum royalty" means that minimum amount of annual royalty that the lessee must pay as specified in the lease or in applicable leasing regulations.

"Net-back method" (or work-back method) means a method for calculating market value of oil at the lease. Under this method, costs of transportation, processing, or manufacturing are deducted from the proceeds received for the oil and any extracted, processed, or manufactured products, or from the value of the oil or any extracted, processed, or manufactured products at the first point at which reasonable values for any such products may be determined by comparison to other sales of such products to ascertain value at the lease.

"Net profit share" (for applicable Federal and Indian lessees) means the specified share of the net profit from production of oil and gas as provided in the agreement.

"Oil" means a mixture of hydrocarbons that existed in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and is marketed or used as such. Condensate recovered in lease separators or field facilities is considered to be oil. For purposes of royalty valuation, the term tar sands is defined separately from oil.

"Oil shale" means a kerogen-bearing rock (i.e., fossilized, insoluble, organic material). Separation of kerogen from oil shale may take place in situ or in surface retorts by various processes. The kerogen upon distillation will yield liquid and gaseous hydrocarbons.

"Outer Continental Shelf (OCS)" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"Person" means any individual, firm, corporation, association, partnership, consortium, or joint venture.

"Posted price" means the price specified in publicly available posted price bulletins, offshore or onshore terminal postings, or other price notices net of all adjustments for quality (e.g., API gravity, sulfur content, etc.) and location for oil in marketable condition.

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"Processing" means any process designed to remove elements or compounds (hydrocarbon and nonhydrocarbon) from gas, including absorption, adsorption, or refrigeration. Field processes which normally take place on or near the lease, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration, and compression are not considered processing. The changing of pressures and/or temperatures in a reservoir is not considered processing.

"Section 6 lease" means an OCS lease subject to Section 6 of the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. 1335.

"Selling arrangement" means the individual contractual arrangements under which sales or dispositions of oil are made. Selling arrangements are described by illustration in the MMS Royalty Management Program (Oil and Gas or Solid Minerals) Payor Handbook.

"Spot sales agreement" means a contract wherein a seller agrees to sell to a buyer a specified amount of oil at a specified price over a fixed period, usually of short duration, which does not require a cancellation notice to terminate, and which does not normally contain an obligation, nor imply an intent, to continue in subsequent periods.

"Tar sands" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either contains a hydrocarbonaceous material with a gas-free viscosity greater than 10,000 centipoise at original reservoir temperature, or contains a hydrocarbonaceous material and is produced by mining or quarrying.

§ 206.102 Valuation standards.

(a)(1) The value of production, for royalty purposes, of oil from leases subject to this subpart shall be the value determined pursuant to this section less applicable allowances determined pursuant to this subpart.

(2)(i) For any Indian leases which provide that the Secretary may consider the highest price paid or offered for a major portion of production (major portion) in determining value for royalty purposes, if data are available to compute a major portion, MMS will, where practicable, compare the value determined in accordance with this section with the major portion. The value to be used in determining the value of production, for royalty purposes, shall be the higher of those two values.

(ii) For purposes of this paragraph, major portion means the highest price paid or offered at the time of production for the major portion of oil production from the same field. The major portion will be calculated using like-quality oil sold under arm's-length contracts from the same field (or, if necessary to obtain a reasonable sample, from the same area) for each month. All such oil production will be arrayed from highest price to lowest price (at the bottom). The major portion is that price at which 50 percent (by volume) plus 1 barrel of the oil (starting from the bottom) is sold.

(b)(1)(i) The value of oil which is sold pursuant to an arm's-length contract shall be the gross proceeds accruing to the lessee, except as provided in paragraphs (b)(1)(ii) and (b)(1)(iii) of this section. The lessee shall have the burden of demonstrating that its contract is arm's-length. The value which the lessee reports, for royalty purposes, is subject to monitoring, review, and audit. For purposes of this section, oil which is sold or otherwise transferred to the lessee's marketing affiliate and then sold by the marketing affiliate pursuant to an arm's-length contract shall be valued in accordance with this paragraph based upon the sale by the marketing affiliate.

(ii) In conducting reviews and audits, MMS will examine whether the contract reflects the total consideration actually transferred either directly or indirectly from the buyer to the seller for the oil. If the contract does not reflect the total consideration, then the MMS may require that the oil sold pursuant to that contract be valued in accordance with paragraph (c) of this section.

(iii) If the MMS determines that the gross proceeds accruing to the lessee pursuant to an arm's-length contract do not reflect the reasonable value of the production because of misconduct by or between two contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the oil production be valued pursuant to the first applicable of paragraph (c)(2), (c)(3), (c)(4), or (c)(5) of this section. If the oil production is then valued pursuant to paragraph (c)(4) or (c)(5) of this section, the notification requirements of paragraph (e) of this section shall apply.

(2) The MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer for the oil.

(c) The value of oil production from leases subject to this section which is not sold pursuant to an arm's-length contract shall be the reasonable value determined in accordance with the first applicable of the following paragraphs:

(1) The lessee's contemporaneous posted prices or oil sales contract prices used in arm's-length transactions for purchases or sales of significant quantities of like-quality oil in the same field (or, if necessary to obtain a reasonable sample, from the same area; provided, however, that those posted prices or oil sales contract prices are comparable to other contemporaneous posted prices or oil sales contract prices used in arm's-length transactions for purchases or sales of significant quantities of like-quality oil in the same field (or, if necessary to obtain a reasonable sample, from the same area). In evaluating the comparability of posted prices or oil sales contract prices, the following factors shall be considered: Price, duration, market or markets served, terms, quality of oil, volume, and other factors as may be appropriate to reflect the value of the oil. If the lessee makes arm's-length purchases or sales at different postings or prices, then the volume-weighted average price for the purchases or sales for the production month reported on Form MMS–2014 will be used;

(2) The arithmetic average of contemporaneous posted prices used in arm's-length transactions by persons other than the lessee for purchases or sales of significant quantities of like-quality oil in the same field (or, if necessary to obtain a reasonable sample, from the same area);

(3) The arithmetic average of other contemporaneous arm's-length contract prices for purchases or sales of significant quantities of like-quality oil in the same area or nearby areas;

(4) Prices received for arm's-length spot sales of significant quantities of like-quality oil from the same field (or, if necessary to obtain a reasonable sample, from the same area), and other relevant matters, including information submitted by the lessee concerning circumstances unique to a particular lease operation or the saleability of certain types of oil;

(5) A net-back method or any other reasonable method to determine value;

(6) For purposes of this paragraph, the term lessee includes the lessee's designated purchasing agent, and the term contemporaneous means postings or contract prices in effect at the time the royalty obligation is incurred.

(d) Any Federal or Indian lessee will make available upon request to the authorized MMS, State, or Indian representatives, to the Office of the Inspector General of the Department of the Interior, or other persons authorized to receive such information, arm's-length sales and volume data for like-quality production sold, purchased, or otherwise obtained by the lessee from the field or area or from nearby fields or areas.

(e)(1) Where the value is determined pursuant to paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value. Such data shall be subject to review and audit, and MMS will direct a lessee to use a different value if it determines that the reported value is inconsistent with the requirements of these regulations.

(2) A lessee shall notify MMS if it has determined value pursuant to paragraphs (c)(4) or (c)(5) of this section. The notification shall be by letter to the MMS Associate Director for Royalty Management or his/her designee. The letter shall identify the valuation method to be used and contain a brief description of the procedure to be followed. The notification required by this paragraph is a one-time notification due no later than the end of the month following the month the lessee first reports royalties on a Form MMS–2014 using a valuation method authorized by paragraph (c)(4) or (c)(5) of this section and each time there is a change from one to the other of these two methods.

(f) If MMS determines that a lessee has not properly determined value, the lessee shall pay the difference, if any, between royalty payments made based upon the value it has used and the royalty payments that are due based upon the value established by MMS. The lessee shall also pay interest on the difference computed pursuant to 30 CFR 218.54. If the lessee is entitled to a credit, MMS will provide instructions for the taking of that credit.

(g) The lessee may request a value determination from MMS. In that event, the lessee shall propose to MMS a value determination method and may use that value for royalty payment purposes until MMS issues a value determination. The lessee shall submit all available data relevant to its proposal. MMS shall expeditiously determine the value based upon the lessee's proposal and any additional information MMS deems necessary. In making a value determination, MMS may use any of the valuation criteria authorized by this subpart. That determination shall remain effective for the period stated therein. After MMS issues its determination, the lessee shall make the adjustments in accordance with paragraph (f) of this section.

(h) Notwithstanding any other provision of this section, under no circumstances shall the value of production, for royalty purposes, be less than the gross proceeds accruing to the lessee for lease production, less applicable allowances determined pursuant to this subpart.

(i)(1) The lessee is required to place oil in marketable condition at no cost to the Federal Government or Indian lessor unless otherwise provided in the lease agreement or this section. Where the value established pursuant to this section is determined by a lessee's gross proceeds, that value shall be increased to the extent that the gross proceeds have been reduced because the purchaser, or any other person, is providing certain services the cost of which ordinarily is the responsibility of the lessee to place the oil in marketable condition.

(2) If the lessee incurs extraordinary costs for the gathering, desulfurization, or storage of oil from frontier or deep water areas, and those costs relate to unusual or unconventional operations, it may apply to MMS for an allowance. Such an allowance may be granted only if:

(i) The costs are associated with leases located north of the Arctic Circle, or the costs are associated with offshore leases located in water depths in excess of 400 meters; and

(ii) The lessee can demonstrate that the costs are, by reference to standard industry conditions and practice, extraordinary, unusual, or unconventional.

(3) The MMS shall determine the amount of the extraordinary cost allowance which shall remain in effect for the period specified in the approval. To retain the authority to deduct the allowance, the lessee must report the deduction to MMS in a form and manner prescribed by MMS. Extraordinary cost allowance deductions are subject to monitoring, review, audit, and adjustment.

(j) Value shall be based on the highest price a prudent lessee can receive through legally enforceable claims under its contract. Absent contract revision or amendment, if the lessee fails to take proper or timely action to receive prices or benefits to which it is entitled, it must pay royalty at a value based upon that obtainable price or benefit. Contract revisions or amendments shall be in writing and signed by all parties to an arm's-length contract. If the lessee makes timely application for a price increase or benefit allowed under its contract but the purchaser refuses, and the lessee takes reasonable measures, which are documented, to force purchaser compliance, the lessee will owe no additional royalties unless or until monies or consideration resulting from the price increase or additional benefits are received. This paragraph shall not be construed to permit a lessee to avoid its royalty payment obligation in situations where a purchaser fails to pay, in whole or in part or timely, for a quantity of oil.

(k) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring, or other like process that results in a redetermination by the MMS of value under this section shall be considered final or binding as against the Federal Government, its beneficiaries, the Indian Tribes, or allottees until the audit period is formally closed.

(l) Certain information submitted to MMS to support valuation proposals, including transportation allowances or extraordinary cost allowances, is exempted from disclosure by the Freedom of Information Act, 5 U.S.C. 552, or other Federal law. Any data specified by law to be privileged, confidential, or otherwise exempt, will be maintained in a confidential manner in accordance with applicable laws and regulations. All requests for information about determinations made under this part are to be submitted in accordance with the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2. Nothing in this section is intended to limit or diminish in any manner whatsoever the right of an Indian lessor to obtain any and all information to which such lessor may be lawfully entitled from MMS or such lessor's lessee directly under the terms of the lease, 30 U.S.C. 1733, or other applicable law.

§ 206.103 Point of royalty settlement.

(a)(1) Royalties shall be computed on the quantity and quality of oil as measured at the point of settlement approved by BLM or MMS for onshore and offshore leases, respectively.

(2) If the value of oil determined pursuant to § 206.102 of this subpart is based upon a quantity and/or quality different from the quantity and/or quality at the point of royalty settlement approved by the BLM for onshore leases or the MMS for offshore leases, the value shall be adjusted for those differences in quantity and/or quality.

(b) No deductions may be made from the royalty volume or royalty value for actual or theoretical losses. Any actual loss that may be sustained prior to the royalty settlement metering or measurement point will not be subject to royalty provided that such actual loss is determined to have been unavoidable by BLM or MMS, as appropriate.

(c) Except as provided in paragraph (b) of this section, royalties are due on 100 percent of the volume measured at the approved point of royalty settlement.

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There can be no reduction in that measured volume for actual losses beyond the approved point of royalty settlement or for theoretical losses that are claimed to have taken place either prior to or beyond the approved point of royalty settlement. Royalties are due on 100 percent of the value of the oil as provided in this part. There can be no deduction from the value of the oil for royalty purposes to compensate for actual losses beyond the approved point of royalty settlement or for theoretical losses that are claimed to have taken place either prior to or beyond the approved point of royalty settlement.

§ 206.104 Transportation allowances—general.

(a) Where the value of oil has been determined pursuant to § 206.102 of this subpart at a point (e.g., sales point or point of value determination) off the lease, MMS shall allow a deduction for the reasonable actual costs incurred by the lessee to:

(1) Transport oil from an onshore lease to the point off the lease; provided, however, that for onshore leases, no transportation allowance will be granted for transporting oil taken as Royalty-In-Kind (RIK); or

(2) Transport oil from an offshore lease to the point off the lease; provided, however, that for oil taken as RIK, a transportation allowance shall be provided for the reasonable actual costs incurred to transport that oil to the delivery point specified in the contract between the RIK oil purchaser and the Federal Government or Indian lessor.

(b)(1) Except as provided in paragraph (a)(2) of this section, the transportation allowance deduction on the basis of a selling arrangement shall not exceed 50 percent of the value of the oil at the point of sale as determined pursuant to § 206.102 of this subpart. Transportation costs cannot be transferred between selling arrangements or to other products.

(2) Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limitation prescribed by paragraph (b)(1) of this section. The lessee must demonstrate that the transportation costs incurred in excess of the limitation prescribed in paragraph (b)(1) of this section were reasonable, actual, and necessary. An application for exception shall contain all relevant and supporting documentation necessary for the MMS to make a determination. Under no circumstances shall the value, for royalty purposes, under any selling arrangement, be reduced to zero.

(c) Transportation costs must be allocated among all products produced and transported. However, no transportation deduction shall be allowed for products which are not royalty-bearing. Transportation allowances for oil shall be expressed as dollars per barrel.

(d) If, after a review and/or audit, MMS determines that a lessee has improperly determined a transportation allowance authorized by this subpart, then the lessee shall pay any additional royalties, plus interest determined in accordance with 30 CFR 218.54, or shall be entitled to a credit, without interest.

§ 206.105 Determination of transportation allowances.

(a) *Arm's-length transportation contracts.* (1)(i) For transportation costs incurred by a lessee pursuant to an arm's-length contract, the transportation allowance shall be the reasonable actual costs incurred by the lessee for transporting oil under that contract, except as provided in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section, subject to monitoring, review, audit, and adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. Such allowances shall be subject to the provisions of paragraph (f) of this section. Before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4110, Oil Transportation Allowance Report, in accordance with paragraph (c)(1) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4110 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee.

(ii) In conducting reviews and audits, MMS will examine whether the contract reflects more than the consideration actually transferred either directly or indirectly from the lessee to the transporter for the transportation. If the contract reflects more than the total consideration, then the MMS may require that the transportation allowance be determined in accordance with paragraph (b) of this section.

(iii) If the MMS determines that the consideration paid pursuant to an arm's-length transportation contract does not reflect the reasonable value of the transportation because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the transportation allowance be determined in accordance with paragraph (b) of this section.

(2) If an arm's-length transportation contract includes more than one liquid product, and the transportation costs attributable to each product cannot be determined from the contract, then the total transportation costs shall be allocated in a consistent and equitable manner to each of the liquid products transported in the same proportion as the ratio of the volume of each product (including water) to the volume of all liquid products. No allowance may be taken for the costs of transporting lease production which is not royalty-bearing.

(3) If an arm's-length transportation contract includes both gaseous and liquid products, and the transportation costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. The lessee may use the oil transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall submit all available data to support its proposal. The initial proposal must be submitted by [*insert the last day of the month which is 3 months after the last day of the month of the effective date of these regulations*] or within 3 months after the last day of the month for which the lessee requests a transportation allowance, whichever is later (unless MMS approves a longer period). The MMS shall then determine the oil transportation allowance based upon the lessee's proposal and any additional information MMS deems necessary. No allowance may be taken for the costs of transporting lease production which is not royalty-bearing.

(4) Where the lessee's payments for transportation under an arm's-length contract are not on a dollar-per-unit basis, the lessee shall convert whatever consideration is paid to a dollar value equivalent for the purposes of this section.

(5) Where an arm's-length sales contract price, or a posted price, includes a provision whereby the listed price is reduced by a transportation factor, MMS will not consider the transportation factor to be a transportation allowance. The transportation factor may be used in determining the lessee's gross proceeds for the sale of the product. No additional transportation allowance will be granted in such circumstances.

(b) *Non-arm's-length or no contract.* (1) If a lessee has a non-arm's-length transportation contract or has no contract, including those situations where the lessee performs transportation services for itself, the transportation allowance will be based upon the lessee's reasonable actual costs as provided in this paragraph. All transportation allowances deducted under a non-arm's-length or no contract situation are subject to monitoring, review, audit, and adjustment. Before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4110 in its entirety in accordance with paragraph (c)(2) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4110 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. The MMS will monitor the allowance deductions to determine whether lessees are taking deductions that are reasonable and allowable. When necessary or appropriate, MMS may direct a lessee to modify its estimated or actual transportation allowance deduction.

(2) The transportation allowance for non-arm's-length or no contract situations shall be based upon the lessee's actual costs for transportation during the reporting period, including operating and maintenance expenses, overhead, and either depreciation and a return on undepreciated capital investment in accordance with paragraph (b)(2)(iv)(A) of this section, or a cost equal to the initial capital investment in the transportation system multiplied by a rate of return in accordance with paragraph (b)(2)(iv)(B) of this section. Allowable capital costs are generally those for depreciable fixed assets (including costs of delivery and installation of capital equipment) which are an integral part of the transportation system.

(i) Allowable operating expenses include: Operations supervision and engineering; operations labor; fuel; utilities; materials; ad valorem property taxes; rent; supplies; and any other directly allocable and attributable operating expense which the lessee can document.

(ii) Allowable maintenance expenses include: Maintenance of the transportation system; maintenance of equipment; maintenance labor; and other directly allocable and attributable maintenance expenses which the lessee can document.

(iii) Overhead directly attributable and allocable to the operation and maintenance of the transportation system is an allowable expense. State and Federal income taxes and severance taxes and other fees, including royalties, are not allowable expenses.

(iv) A lessee may use either depreciation or a return on depreciable capital investment. After a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval of the MMS.

(A) To compute depreciation, the lessee may elect to use either a straight-line depreciation method based on the life of equipment or on the life of the reserves which the transportation system services or on a unit-of-production method. After an election is made, the lessee may not change methods without MMS approval. A change in ownership of a transportation system shall not alter the depreciation schedule established by the original transporter/lessee for purposes of the allowance calculation. With or without a change in ownership, a transportation system shall be depreciated only once. Equipment shall not be depreciated below a reasonable salvage value.

(B) The MMS shall allow as a cost an amount equal to the initial capital investment in the transportation system multiplied by the rate of return determined pursuant to paragraph (b)(2)(v) of this section. No allowance shall be provided for depreciation. This alternative shall apply only to transportation facilities first placed in service after [*enter the effective date of these regulations*].

(v) The rate of return shall be the industrial rate associated with Standard and Poor's BBB rating. The rate of return shall be the monthly average rate as published in *Standard and Poor's Bond Guide* for the first month of the reporting period for which the allowance is applicable and shall be effective during the reporting period. The rate shall be redetermined at the beginning of each subsequent transportation allowance reporting period (which is determined pursuant to paragraph (c) of this section).

(3) The deduction for transportation costs shall be determined on the basis of the lessee's cost of transporting each product through each individual transportation system. Where more than one liquid product is transported, allocation of costs to each of the liquid products transported shall be in the same proportion as the ratio of the volume of each liquid product (including water) to the volume of all liquid products and such allocation shall be made in a consistent and equitable manner. The lessee may not take an allowance for transporting lease production which is not royalty-bearing.

(4) Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to MMS. The lessee may use the oil transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall submit all available data to support its proposal. The initial proposal must be submitted by [*insert the last day of the month which is 3 months after the last day of the month of the effective date of these regulations*] or within 3 months after the last day of the month for which the lessee requests a transportation allowance, whichever is later (unless MMS approves a longer period). The MMS shall then determine the oil transportation allowance on the basis of the lessee's proposal and any additional information MMS deems necessary. The lessee may not take an allowance for transporting a product which is not royalty-bearing.

(5) A lessee may apply to the MMS for an exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) through (b)(4) of this section. The MMS may grant the exception only if: (i) The lessee has arm's-length contracts for transportation of other production through the same transportation system; (ii) the lessee has a tariff for the transportation system approved by the Federal Energy Regulatory Commission; and (iii) at least 50 percent of the oil transported annually through the lessee's transportation system is transported pursuant to arm's-length transportation contracts. If the MMS grants the exception, the lessee shall use as its transportation allowance the volume-weighted average prices it charges other persons pursuant to arm's-length contracts for transportation through the same transportation system.

(c) *Reporting requirements*—(1) *Arm's-length contracts.* (i) With the exception of those transportation allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4110, Oil Transportation Allowance Report, prior to, or at the same time as, the transportation allowance determined, pursuant to an arm's-length contract, is reported on Form MMS–2014, Report of Sales and Royalty Remittance.

(ii) The initial Form MMS–4110 shall be effective for a reporting period beginning the month that the lessee is first authorized to deduct a transportation allowance and shall continue until the end of the calendar year, or until the applicable contract or

rate terminates or is modified or amended, whichever is earlier.

(iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4110 within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period.

(iv) The MMS may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents. Documents shall be submitted within a reasonable time, as determined by MMS.

(v) Transportation allowances which are based on arm's-length contracts and which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) The MMS may establish in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(2) *Non-arm's-length or no contract.* (i) With the exception of transportation allowances specified in paragraphs (c)(2)(v) and (c)(2)(vii) of this section, the lessee shall submit an initial Form MMS–4110 prior to, or at the same time as, the transportation allowance determined pursuant to a non-arm's-length contract or no contract situation is reported on Form MMS–2014. The initial report may be based upon estimated costs.

(ii) The initial Form MMS–4110 shall be effective for a reporting period beginning the month that the lessee first is authorized to deduct a transportation allowance and shall continue until the end of the calendar year, or until transportation under the non-arm's-length contract or the no-contract situation terminates, whichever is earlier.

(iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4110 containing the actual costs for the previous reporting period. If oil transportation is continuing, the lessee shall include on Form MMS–4110 its estimated costs for the next calendar year. The estimated oil transportation allowance shall be based on the actual costs for the previous reporting period plus or minus any adjustments which are based on the lessee's knowledge of decreases or increases which will affect the allowance. MMS must receive the Form MMS–4110 within 3 months after the end of the previous reporting period, unless MMS approves a longer period.

(iv) For new transportation facilities or arrangements, the lessee's initial Form MMS–4110 shall include estimates of the allowable oil transportation costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the transportation system or, if such data are not available, the lessee shall use estimates based upon industry data for similar transportation systems.

(v) Non-arm's-length contract or no-contract based transportation allowances which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) Upon request by MMS, the lessee shall submit all data used to prepare its Form MMS–4110. The data shall be provided within a reasonable period of time, as determined by MMS.

(vii) The MMS may establish, in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(3) The MMS may establish reporting dates for individual lessees different from those specified in this subpart in order to provide more effective administration. Lessees will be notified as to any change in their reporting period.

(4) Transportation allowances must be reported as a separate line item on Form MMS–2014, unless MMS approves a different reporting procedure.

(d) *Interest assessments for incorrect or late reports and for failure to report.* (1) If a lessee deducts a transportation allowance on its Form MMS–2014 without complying with the requirements of this section, the lessee shall pay interest only on the amount of such deduction until the requirements of this section are complied with. The lessee also shall repay the amount of any allowance which is disallowed by this section.

(2) If a lessee erroneously reports a transportation allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(3) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.54.

(e) *Adjustments.* (1) If the actual transportation allowance is less than the amount the lessee has estimated and taken during the reporting period, the lessee shall be required to pay additional royalties due plus interest computed pursuant to 30 CFR 218.54, retroactive to the first month the lessee is authorized to deduct a transportation allowance. If the actual transportation allowance is greater than the amount the lessee has estimated and taken during the reporting period, the lessee shall be entitled to a credit without interest.

(2) For lessees transporting production from onshore Federal and Indian leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.

(3) For lessees transporting production from Federal OCS leases, if the lessee's estimated costs were more than the actual costs, the lessee must submit a corrected Form MMS–2014 to reflect actual costs together with its payment, in accordance with instructions provided by MMS. If the lessee's estimated costs were less than its actual costs, the refund procedure will be specified by MMS.

(f) *Actual or theoretical losses.* Notwithstanding any other provisions of this subpart, for other than arm's-length contracts, no cost shall be allowed for oil transportation which results from payments (either volumetric or for value) for actual or theoretical losses.

(g) *Other transportation cost determinations.* The provisions of this section shall apply to determine transportation costs when establishing value using a net-back valuation procedure or any other procedure that requires deduction of transportation costs.

Part 207 is revised to read as follows:

PART 207—SALES AGREEMENTS OR CONTRACTS GOVERNING THE DISPOSAL OF LEASE PRODUCTS

Subpart A—General Provisions

Sec.

207.1 Required recordkeeping.
207.2 Definitions.
207.3 Contracts made pursuant to new form leases.
207.4 Contracts made pursuant to old form leases.
207.5 Contract and sales agreement retention.

Subpart B—Oil, Gas and OCS Sulfur, General [Reserved]

Subpart C—Federal and Indian Oil [Reserved]

Subpart D—Federal and Indian Gas [Reserved]

Subpart E—Solid Minerals, General [Reserved]

Subpart F—Coal [Reserved]

Subpart G—Other Solid Minerals [Reserved]

Subpart H—Geothermal Resources [Reserved]

Subpart I—OCS Sulfur [Reserved]

Authority: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 207.1 Required recordkeeping.

The recordkeeping requirements contained in this part have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* and assigned OMB Clearance Number 1010–0061.

§ 207.2 Definitions.

The definitions in Part 206 of this title are applicable to this part.

§ 207.3 Contracts made pursuant to new form leases.

On November 29, 1950 (15 FR 8585), a new lease form was adopted (Form 4–1158, 15 FR 8585) containing provisions whereby the lessee agrees that nothing in any contract or other arrangement made for the sale or disposal of oil, gas, natural gasoline, and other products of the leased land, shall be construed as modifying any of the provisions of the lease, including, but not limited to, provisions relating to gas waste, taking royalty in kind, and the method of computing royalties due as based on a minimum valuation and in accordance with the oil and gas valuation regulations. A contract or agreement pursuant to a lease containing such provisions may be made without obtaining prior approval of the United States as lessor, but must be retained as provided in § 207.5 of this subpart.

§ 207.4 Contracts made pursuant to old form leases.

(a) Old form leases are those containing provisions prohibiting sales or disposal of oil, gas, natural gasoline, and other products of the lease except in accordance with a contract or other arrangement approved by the Secretary of the Interior, or by the Director of the Minerals Management Service or his/her representative. A contract or agreement made pursuant to an old form lease may be made without obtaining approval if the contract or agreement contains either the substance of or is accompanied by the stipulation set forth in paragraph (b) of this section, signed by the seller (lessee or operator).

(b) The stipulation, the substance of which must be included in the contract, or be made the subject matter of a separate instrument properly identifying the leases affected thereby, is as follows:

It is hereby understood and agreed that nothing in the written contract or in any approval thereof shall be construed as affecting any of the relations between the United States and its lessee, particularly in matters of gas waste, taking royalty in kind, and the method of computing royalties due as based on a minimum valuation and in accordance with the terms and provisions of the oil and gas valuation regulations applicable to the lands covered by said contract.

§ 207.5 Contract and sales agreement retention.

Copies of all sales contracts, posted price bulletins, etc., and copies of all agreements, other contracts, or other documents which are relevant to the valuation of production are to be maintained by the lessee and made available upon request during normal working hours to authorized MMS, State or Indian representatives, other MMS or BLM officials, auditors of the General Accounting Office, or other persons authorized to receive such documents, or shall be submitted to MMS within a reasonable period of time, as determined by MMS. Any oral sales arrangement negotiated by the lessee must be placed in written form and retained by the lessee. Records shall be retained in accordance with 30 CFR Part 212.

Subpart B—Oil, Gas and OCS Sulfur, General [Reserved]

Subpart C—Federal and Indian Oil [Reserved]

Subpart D—Federal and Indian Gas [Reserved]

Subpart E—Solid Minerals, General [Reserved]

Subpart F—Coal [Reserved]

Subpart G—Other Solid Minerals [Reserved]

Subpart H—Geothermal Resources [Reserved]

Subpart I—OCS Sulfur [Reserved]

PART 210—FORMS AND REPORTS

1. The authority citation for Part 210 continues to read as follows:

Authority: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

2. 30 CFR Part 210 is amended by revising the titles of Subparts B, C, D, E, F, and G to read as follows:

Subpart B—Oil, Gas, and OCS Sulfur—General

Subpart C—Federal and Indian Oil—[Reserved]

Subpart D—Federal and Indian Gas—[Reserved]

Subpart E—Solid Minerals, General—[Reserved]

Subpart F—Coal [Reserved]

Subpart G—Other Solid Minerals [Reserved]

3. The following subparts are added to Part 210:

Subpart H—Geothermal Resources [Reserved]

Subpart I—OCS Sulfur—[Reserved]

§§ 210.100, 210.101, 210.102, 210.103, 210.104, 210.105, 210.150 and 210.151 [Removed]

§§ 210.300 and 210.301 [Redesignated as §§ 210.350 and 210.351]

4. Sections 210.100, 210.101, 210.102, 210.103, 210.104 and 210.105 under Subpart C and Sections 210.150 and 210.151 under Subpart D are removed. Sections 210.300 and 210.301 under Subpart F are redesignated as new §§ 210.350 and 210.351, respectively, under new Subpart H.

5. 30 CFR Part 210, Subpart B, is amended by adding § 210.54 to read as follows:

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§ 210.54 Special forms or reports.

When special forms or reports other than those referred to in the regulations in this part may be necessary, instructions for the filing of such forms or reports will be given by MMS.

PART 241—PENALTIES

1. The authority citation for Part 241 is revised to read as follows:

Authority: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

2. 30 CFR Part 241 is amended by revising the titles of Subparts B, C, and D to read as follows:

Subpart B—Oil, Gas, and OCS Sulfur, General

Subpart C—Federal and Indian Oil—[Reserved]

Subpart D—Federal and Indian Gas—[Reserved]

Subpart H—[Removed]

3. "Subpart H—Indian Lands—[Reserved]" is removed.

Subparts E, F, and G [Redesignated as Subparts F, G, and H]

4. Subparts E, F, and G are redesignated as Subparts F, G, and H, respectively.

5. A new Subpart I is added to read "Subpart I—OCS Sulfur [Reserved]."

Subpart I—OCS Sulfur [Reserved]

6. A new Subpart E is added to read "Subpart E—Solid Minerals, General—[Reserved]."

Subpart E—Solid Minerals, General [Reserved]

§ 241.10 [Removed and Reserved]

7. Section 241.10 is removed and reserved.

§ 241.50 [Amended]

8. Section 241.50 is amended by removing the phrase "this subpart" and replacing it with the phrase "Subparts B, C and D of this part."

§ 241.100 [Redesignated as § 241.53]

9. Section 241.100 under Subpart C is redesignated as a new § 241.53 under Subpart B and retitled "Assessments for nonperformance."

§ 241.53 [Amended]

10. Paragraph (c) from newly redesignated § 241.53 is removed.

TITLE 43—PUBLIC LANDS: INTERIOR

PART 3160—ONSHORE OIL AND GAS OPERATIONS

1. The authority citation for Part 3160 continues to read as follows:

Authority: The Mineral Leasing Act, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Act of May 21, 1930 (30 U.S.C. 301–306), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a–396g), the Act of February 28, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a–398e), the Act of June 30, 1919, as amended (25 U.S.C. 399), R.S. section 441 (43 U.S.C. 1457), the Attorney General's Opinion of April 2, 1941 (40 Op Atty. Gen. 41), the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471) *et seq.*), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Act of December 12, 1980 (94 Stat. 2964), the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701), the Indian Mineral Development Act of 1982 (25 U.S.C. 2102), and Order Number 3087, dated December 3, 1982, as amended on February 7, 1983 (48 FR 8983) under which the Secretary consolidated and transferred the onshore minerals management functions of the Department, except mineral revenue functions and the responsibility for leasing of restricted Indian lands, to the Bureau of Land Management.

§ 3162.7–4 [Redesignated as § 3162.7–5]

2. Section 3162.7–4 is redesignated as a new § 3162.7–5 and newly redesignated § 3162.7–4 is revised to read as follows:

§ 3162.7–4 Royalty rates on oil; sliding and step-scale leases (public land only).

Sliding- and step-scale royalties are based on the average daily production per well. The BLM authorized officer shall specify which wells on a leasehold are commercially productive, including in that category all wells, whether produced or not, for which the annual value of permissible production would be greater than the estimated reasonable annual lifting cost, but only wells that yield a commercial volume of production during at least part of the month shall be considered in ascertaining the average daily production per well. The average daily production per well for a lease is computed on the basis of a 28-, 29-, 30-, or 31-day month (as the case may be), the number of wells on the leasehold counted as producing, and the gross production from the leasehold. The BLM authorized officer will determine which commercially productive wells shall be considered each month as producing wells for the purpose of computing royalty in accordance with the following rules, and in the authorized officer's discretion may count as producing any commercially productive well shut in for conservation purposes.

(a) For a previously producing leasehold, count as producing for every day of the month each previously producing well that produced 15 days or more during the month, and disregard wells that produced less than 15 days during the month.

(b) Wells approved by the BLM authorized officer as input wells shall be counted as producing wells for the entire month if so used 15 days or more during the month and shall be disregarded if so used less than 15 days during the month.

(c) When the initial production of a leasehold is made during the calendar month, compute royalty on the basis of producing well days.

(d) When a new well is completed for production on a previously producing leasehold and produces for 10 days or more during the calendar month in which it is brought in, count such new wells as producing every day of the month, in arriving at the number of producing well days. Do not count any new well that produces for less than 10 days during the calendar month.

(e) Consider "head wells" that make their best production by intermittent pumping or flowing as producing every day of the month, provided they are regularly operated in this manner with approval of the BLM authorized officer.

(f) For previously producing leaseholds on which no wells produced for 15 days or more, compute royalty on the basis of actual producing well days.

(g) For previously producing leaseholds on which no wells were productive during the calendar month but from which oil was shipped, compute royalty at the same royalty percentage as that of the last preceding calendar month in which production and shipments were normal.

(h) Rules for special cases not subject to definition, such as those arising from averaging the production from two distinct sands or horizons when the production of one sand or horizon is relatively insignificant compared to that of the other, shall be made by the BLM authorized officer as need arises.

(i)(1) In the following summary of operations on a typical leasehold for the month of June, the wells considered for the purpose of computing royalty on the entire production of the property for the months are indicated.

Well No. and record	Count (Marked X)
1. Produced full time for 30 days	X
2. Produced for 26 days; down 4 days for repairs	X
3. Produced for 28 days; down June 5, 12 hours, rods; June 14, 6 hours, engine down; June 28, 24 hours, pulling rods and tubing	X
4. Produced for 12 days; down June 13 to 30	
5. Produced for 8 hours every day (head well)	X
6. Idle producer (not operated)	
7. New well, completed June 17; produced for 14 days	X
8. New Well, completed June 22; produced for 9 days	

(2) In this example, there are eight wells on the leasehold, but wells No. 4, 6, and 8 are not counted in computing royalties. Wells No. 1, 2, 3, 5, and 7 are counted as producing for 30 days. The average production per well per day is determined by dividing the total production of the leasehold for the month (including the oil produced by wells 4 and 8) by 5 (the number of wells counted as producing), and dividing the quotient thus obtained by the number of days in the month.

[FR Doc. 87–24460 Filed 10–22–87; 8:45 am]
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Part V

Department of Education

34 CFR Part 668
Institutional Quality Control Pilot Project; Final Rule and Notice

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DEPARTMENT OF EDUCATION

34 CFR Part 668

Institutional Quality Control Pilot Project; Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Student Assistance General Provisions regulations to exempt from selected verification requirements for the 1988–89, 1989–90, and 1990–91 award years, institutions selected by the Secretary to participate in the Institutional Quality Control Pilot Project (Pilot Project).

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. These regulations apply to award years beginning on or after July 1, 1988. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Steve Zwillinger, Chief, Verification Development Section, or Karen Green, Program Analyst, U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue SW., [Regional Office Building 3, Room 4613], Washington, DC 20202. Telephone Number (202) 472–6200.

SUPPLEMENTARY INFORMATION: The Pilot Project is an experiment under which a participating institution develops and implements a quality control system in connection with its administration of the Pell Grant, campus-based [Perkins Loan (formerly National Direct Student Loan), College Work-Study, and Supplemental Educational Opportunity Grant], and Guaranteed Student Loan programs. Using basic quality control components, an institution participating in the Pilot Project will be able to develop procedures tailored to meet the particular problems it faces in determining the appropriate amount of assistance from these programs and in disbursing those funds to students in a timely manner.

The Secretary is extending the Pilot Project to collect additional information on the quality control (QC) process, methodology, and findings over a longer period of time. The additional time and information will allow the Secretary to more accurately assess institutional management practices, measure errors related to the awarding of assistance from the above programs, and implement corrective actions to prevent such errors. The first year of the Pilot Project tested and refined the QC methodology and determined that it could be implemented at the institutional level. Additional information is needed on the effectiveness of the methodology in reducing institutional error.

The Secretary selects institutions to participate in the Pilot Project on the basis of selection criteria published in the **Federal Register**. Final selection criteria and regulations for the Pilot Project were published in the **Federal Register** on December 1, 1986, 51 FR 43332–43335. The Secretary is republishing the selection criteria and deadline date for participation in the Pilot Project with minor changes as a Notice of Deadline Date for Participation in the Institutional Quality Control Pilot Project and Updating of Selection Criteria in this issue of the **Federal Register**.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the changes establish no new substantive policy other than extension of an existing exemption. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking on these regulations is unnecessary and contrary to the public interest.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are classified as nonmajor because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations merely extend an existing exemption which was previously determined not to have any significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education loan programs—education, Grant programs—education, Student aid.

Dated: October 2, 1987.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: Number 84.007, Supplemental Educational Opportunity Grant Program; Number 84.032, Guaranteed Student Loan Program; Number 84.033, College Work-Study Program; Number 84.038, Perkins Loan Program; Number 84.063, Pell Grant Program)

The Secretary amends Part 668 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

§ 668.51 [Amended]

2. In § 668.51(c)(1), "and 1987–88" is revised to read "through 1990–91".

[FR Doc. 87–24590 Filed 10–22–87; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Institutional Quality Control Pilot Project; Grants

AGENCY: Department of Education.

ACTION: Notice of deadline date for participation in the institutional quality control pilot project and updating of selection criteria.

SUMMARY: The Secretary issues a deadline date for the submission of a written notice by an institution that it wishes to participate in the Institutional Quality Control Pilot Project (Pilot Project). The criteria used to select institutions for the Pilot Project were published in the **Federal Register** of December 1, 1986, 51 FR 43334–43335. However, the Secretary is updating certain information contained in those selection criteria.

The Pilot Project is an experiment under which a paticipating institution develops and implements a quality control system in connection with its administration of the Pell Grant, campus-based [Perkins Loan (formerly National Direct Student Loan), College Work-Study, and Supplemental Educational Opportunity Grant], and Guaranteed Student Loan programs.

EFFECTIVE DATE: These selection criteria become effective either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these criteria, call or write the Department of Education contact person.

Deadline date for request to participate in pilot project: There are no formal ED application forms that must be used to apply to participate in the Pilot Project. An institution applies to participate in the Pilot Project by sending a written notice to the Secretary of its request to participate. An institution must submit its request to participate in the Pilot Project by November 23, 1987.

FOR FURTHER INFORMATION CONTACT: Jerry Whitlock, Division of Quality Assurance, U.S. Department of Education, 400 Maryland Avenue, SW., [Regional Office Building 3, Room 5042], Washington, DC 20202. Telephone Number (202) 732–4422.

SUPPLEMENTARY INFORMATION: The Secretary is extending the Pilot Project to run through the end of the 1990–91 award year. An institution that is selected to participate in the Pilot Project is exempt, for the period of its participation in the Pilot Project, from selected requirements set forth in the verification regulations of Subpart E of the Student Assistance General Provisions, 34 CFR Part 668. In this issue of the **Federal Register** the Secretary is amending § 668.51 of the Student Assistance General Provisions regulations to exempt, for the 1988–89, 1989–90, and 1990–91 award years, institutions participating in the Pilot Project from selected verification requirements.

The Secretary published final selection criteria for participation in the Pilot Project in the **Federal Register** of December 1, 1986, 51 FR 43334–43335. When the Secretary published the final selection criteria he indicated that to administer the Pilot Project properly, the number of institutions participating in the Pilot Project should not exceed 102. Currently there are 50 institutions participating in the Pilot Project; therefore, if all 50 of the current participants choose to remain in the Pilot Project, the Secretary will select no more than 52 new institutions.

The selection criteria indicated that selected institutions should have experience in the Pell Grant, campus-based [Perkins Loan (formerly National Direct Student Loan), College Work-Study, and Supplemental Educational Opportunity Grant], and Guaranteed Student Loan programs and in dealing with a significant number of students and Federal dollars in all those programs. Accordingly, the selection criteria required that an institution be a participant in the above programs during the current award year (the 1986–87 award year) and have participated in all five programs during the preceeding two award years (the 1984–85 and 1985–86 award years).

The Secretary is keeping those criteria but updating the award years. Therefore, for institutions that wish to participate in the Pilot Project for the first time during the 1988–89 award year, they must be participating in the five programs during the 1987–88 award year, and have participated in all five programs during the 1985–86 and 1986–87 award years.

The Secretary is only republishing selection criteria I and II. The Secretary will select all institutions that meet the selection criteria unless more than 52 institutions apply. In the event that more than 52 institutions apply to participate in the Pilot Project, the Secretary will select those applicants on the basis of additional criteria published under final selection criterion III in the **Federal Register** of December 1, 1986.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. However, the changes to the criteria are technical in nature and establish no new substantive policy. Therefore, pursuant to 5 U.S.C. 553 (b)(B) the Secretary finds that publication of proposed selection criteria is unnecessary and contrary to the public interest.

Final Selection Criteria I and II

I. In order to be selected to participate in the Pilot Project, an institution must—

1. Participate in the Pell Grant, campus-based [Perkins Loan (formerly National Direct Student Loan), College Work-Study and Supplemental Educational Opportunity Grant] and GSL programs during the 1987–88 award year and have participated in all five programs during the 1985–86 and 1986–87 as awards years;

2. Have had, in the aggregate, at least 2000 Pell Grant and campus-based program recipients during the 1985–86 year;

3. Have awarded, in the aggregate, at least $2 million under the Pell Grant and campus-based programs in the 1985–86 award year; and

4. Have submitted and had approved by ED its most recent audit report in which the reported liability was less than $150,000.

II. If not more than 52 applicants meet the above criteria, the Secretary selects all the applicants who meet the criteria to participate in the Pilot Project.

(Catalog of Federal Domestic Assistance Numbers: Number 84.007, Supplemental Educational Opportunity Grant Program; Number 84.032, Guaranteed Student Loan Program; Number 84.033, College Work-Study Program; Number 84.038, Perkins Loan Program; Number 84.063, Pell Grant Program.)

Authority: 20 U.S.C. 1070 *et seq.*

Dated: October 2, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87–24591 Filed 10–22–87; 8:45 am]

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Part VI

Department of Education

34 CFR Part 696

Special Treatment of Institutions of Higher Education Located in Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; Notice of Proposed Rulemaking

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DEPARTMENT OF EDUCATION

34 CFR Part 696

Special Treatment of Institutions of Higher Education Located in Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes regulations to implement the Secretary's May, 1982 Report entitled "Postsecondary Education in the U.S. Territories" and section 1204(a) of the Higher Education Act of 1965, as amended (HEA). The Report recommended methods by which programs authorized under the HEA could be adapted to meet the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

DATE: Comments must be received on or before November 23, 1987.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Leo Paszkiewicz, Office of Postsecondary Education, U.S. Department of Education (Room 4060, ROB-3), 400 Maryland Avenue SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Leo Paszkiewicz, (202) 732-3551.

SUPPLEMENTARY INFORMATION: Under section 1204 of the HEA prior to its amendment by the Higher Education Amendments of 1986, Pub. L. 99-498, the Secretary was charged with conducting a study and reporting to Congress on the unique educational needs of Guam, the Virgin Islands, and the Northern Mariana Islands. Part of the study dealt with ways in which the programs authorized under the HEA could be adapted to meet the unique educational needs of those areas. The Secretary performed that study and issue a report in May, 1982, entitled "Postsecondary Education in the U.S. Territories."

Under section 1204(b) of the HEA as amended by the Higher Education Amendments of 1986, the Secretary is required to issue regulations that implement the recommendations in the report with regard to adapting HEA Programs to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

The May, 1982 report recommended higher education block grants for the territories, consolidation of higher education grants, a new categorical grant program which would authorize development grants for territorial colleges, the provision of additional program funding, funding set-asides, and waivers of matching requirements. Most of the recommendations in the report are not explicitly authorized by the HEA program statute.

However, two of the report's recommendations, the provision of waiver of program eligibility requirements and priority consideration for applications for program funds, were incorporated in the revisions to section 1204(a) made by the Higher Education Amendments of 1986. Specifically, section 1204(a) of the HEA as amended by the Higher Education Amendments of 1986 required the Secretary to waive eligibility criteria of any postsecondary education program that does not take into account the unique circumstances of Guam, the Virgin Islands and the Northern Mariana Islands, and to give priority to proposals submitted by institutions located in these territories.

These proposed regulations described how the Secretary will implement the new provisions for waivers and priorities for territories required in section 1204(a). These regulations will also serve to satisfy the statutory requirement in section 1204(b) which calls for the promulgation of regulations to implement the recommendations of the report entitled "Postsecondary Education in the U.S. Territories".

The proposed regulations identify the programs for which the Secretary will waive certain program eligibility requirements and describe how the Secretary will give priority to applications from the territories.

Priority treatment and waiver of eligibility requirements are procedures which have been used by the Secretary in the past to address the unique needs of the territories. The current Memoranda of Understanding between the Secretary and the governments of the various territories provide for both priority and waiver of certain eligibility requirements for the territories for a number of programs. These modifications have made it possible for institutions of higher education located in the territories to gain access to and funding from numerous higher education programs over the past several years.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established under the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. These proposed regulations would serve to improve the likelihood of a small number of institutions of higher education located in the U.S. Territories receiving discretionary grant assistance.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period, in Room 4060, Regional Office Building 3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal Holidays.

List of Subjects in 34 CFR Part 696

Education, Institution of Higher Education, Priority treatment, Waiver.

(Catalog of Federal Domestic Assistance number does not apply)

Dated: October 8, 1987.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding a new Part 696 to read as follows:

PART 696—SPECIAL TREATMENT OF INSTITUTIONS OF HIGHER EDUCATION LOCATED IN GUAM, AMERICAN SAMOA, THE VIRGIN ISLANDS, THE TRUST TERRITORY OF THE PACIFIC ISLANDS, AND THE NORTHERN MARIANA ISLANDS

Sec.

696.1 What is the scope of the regulations?
696.2 What programs are covered by this part?
696.3 What are the special funding rules?

Authority: 20 U.S.C. 1144a, unless otherwise noted.

§ 696.1 What is the scope of the regulations?

(a) This part establishes special rules that the Secretary uses in awarding financial assistance to institutions of higher education located in Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands under programs authorized by the Higher Education Act of 1965, as amended (HEA), that are listed in § 696.2.

(b) As used in this part, an institution of higher education means an

educational institution as defined in section 1201(a) of the HEA.

(Authority: 20 U.S.C. 1141, 1144a)

§ 696.2 What programs are covered by this part?

These regulations apply to the following discretionary grant and loan programs authorized by the HEA:

Title II	College Library Resources Program (34 CFR Part 773).
	Library Career Training Program (34 CFR Part 776).
	Library Research and Demonstration Program (34 CFR Part 777).
	Strengthening Research Library Resources Program (34 CFR Part 778).
Title III	Strengthening Institutions Program (34 CFR Part 607).
	Endowment Challenge Grant Program (34 CFR Part 628).
Title IV	Talent Search Program (34 CFR Part 643).
	Educational Opportunity Centers Program (34 CFR Part 644).
	Upward Bound Program (34 CFR Part 645).
	Student Support Services Program (34 CFR Part 646).
	Training Program for Special Programs Staff and Leadership Personnel (34 CFR 642).
Title VI	National Resource Centers Program for Language and Area or Language and International Studies (34 CFR Part 656).
	Undergraduate International Studies and Foreign Language Program (34 CFR Part 658).
	International Research and Studies Program (34 CFR Part 660).
	Business and International Education Program (34 CFR Part 661).
	Language Resource Centers (34 CFR 669).
Title VII	Grants for Construction, Reconstruction, and Renovation of Graduate Academic Facilities (34 CFR Part 617).
	Housing and Other Educational Facilities Loans (34 CFR Part 614).
Title VIII	Cooperative Education (34 CFR Part 631).
Title IX	Law School Clinical Experience Programs (34 CFR Part 639).
	Patricia Roberts Harris Fellowships (34 CFR Part 649).
Title X	Fund for the Improvement of Postsecondary Education (34 CFR Part 630).
	Minority Science and Engineering Improvement Programs (34 CFR Part 637).
Title XI	Partnerships for Economic Developments.

§ 696.3 What are the special funding rules?

(a) The Secretary waives any eligibility criterion of any program listed under § 696.2, if that criterion does not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(b)(1) If the award process for a program listed in § 696.2 uses weighted selection criteria, the Secretary awards additional funding points to an institution of higher education located in an area designated in paragraph (a) of this section that has applied for assistance under that program.

(2) The additional funding points equal ten percent of the points the institution's application otherwise received during the application review process.

(Authority: 20 U.S.C. 1144a)

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federal register

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Federal Register
Vol. 52, No. 206
Monday, October 26, 1987

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 87-136]

Oriental Fruit Fly; Addition to the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Oriental Fruit fly regulations by adding an additional portion of Orange Country in California to the list of areas designated as quarantined areas. This action is necessary as an emergency measure in order to prevent the artificial spread of the Oriental fruit fly into noninfested areas of the United States. The effect of this action is to impose certain restrictions on the interstate movement of regulated articles from the quarantined areas.

DATES: Interim rule effective October 20, 1987. Consideration will be given only to comments postmarked or received on or before December 28, 1987.

ADDRESSES: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 87-136. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 661 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Dacus dorsalis* (Hendel), is an extremely destructive pest of numerous fruits (especially citrus fruits), nuts, vegetables, and berries. Heavy infestation of this pest can result in complete loss of these crops. The short life cycle of the Oriental fruit fly permits the rapid development of serious outbreaks.

A document published in the Federal Register on July 22, 1987, (52 FR 27529-27536, Docket Number 87-095) and effective on July 17, 1987, established the Oriental fruit fly regulations (7 CFR 301.93 *et seq.*; referred to below as the regulations). The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the artificial spread of the Oriental fruit fly to noninfested areas of the United States.

The regulations, among other things, designated portions of Los Angeles County and Orange County as a quarantined area. This area remains infested with Oriental fruit fly.

However, the Oriental fruit fly has now been found in other areas of Orange County, as a result of trapping surveys conducted by inspectors of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture and state agencies of California. The regulations in § 301.93-3 provide that the Deputy Administrator for Plant Protection and Quarantine shall list as a quarantined area each state, or each portion of a state, in which the Oriental fruit fly has been found by an inspector. Accordingly, we are amending the regulations by adding the following area in Orange County in California as a quarantined area:

That portion of Orange county bounded by a line beginning at the intersection of Brookhurst Street and Ball Road, then east along Ball Road to its intersection with Taft Avenue, then east along Taft Avenue to its intersection with Tustin Avenue, then north along Tustin Avenue to its intersection with Taft Avenue, then east along Taft Avenue to its intersection with State Highway 55, then south along State Highway 55 to its intersection with Collins Avenue, then east along Collins Avenue to its intersection with Prospect Avenue, then south along Prospect Avenue to its intersection with Bond Avenue, then east along Bond Avenue to its intersection with Hewes Street, then south along Hewes Street to its intersection with Old Foothill Boulevard, then southeast along Old Foothill Boulevard to its intersection with Foothill Boulevard, then southeast along Foothill Boulevard to its intersection with Heathcliff Drive, then southwest along Heathcliff Drive to its intersection with La Loma Drive, then southeast along La Loma Drive to its intersection with Red Hill Avenue, then southwest along Red Hill Avenue to its intersection with Interstate Highway 405, then northwest along Interstate Highway 405 to its intersection with Brookhurst Street, then north along Brookhurst Street to the point of beginning.

Emergency Action

William F. Helms, Deputy Administrator of the Animal and plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for public comment. Due to the possibility that the Oriental fruit fly could be spread artificially to noninfested areas of the United States, a situation exists requiring immediate action to help control the spread of this pest. Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these emergency conditions, there is good cause under 5 U.S.C. 553 to make this interim rule effective upon signature. We will consider comments on this interim rule that are postmarked or received within 60 days of publication. As soon as possible after the comment period closes, we will publish another document in the Federal Register discussing the comments we received and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in cost or prices for consumers, individuals industries, federal, state, or local government agencies, or

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geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the part of Orange County that is being added to the quarantined area, there are approximately 80 small entities that may be affected. These include approximately 60 nurseries, 10 roadside stands and flea markets, 6 fruit and vegetable growers, 2 packing houses, 1 processor, and 1 farmers' market. The vegetable growers have a total of 23 acres in production, including 3 acres of avocados, 10 acres of tomatoes, and 10 acres of peppers and cucumbers. The packing houses package citrus fruits and vegetables for both intrastate and interstate markets, but most of the sales by these entities are local intrastate sales and will not be affected by this rule. Also, the treatments authorized and the conditions listed in the Oriental fruit fly regulations and the treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, allow interstate movement of most articles without significant added costs.

Based on these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (agriculture), Quarantine, Transportation, Oriental fruit fly, Incorporation by reference.

Accordingly, 7 CFR Part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162, and 167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.93-3(c), the designation of the quarantined areas is amended by adding a new portion of Orange County to the end of California to read as follows:

§ 301.93-3 Quarantined areas.

* * * * *

(c) * * *

California

* * * * *

That portion of Orange county bounded by a line beginning at the intersection of Brookhurst Street and Ball Road, then east along Ball Road to its intersection with Taft Avenue, then east along Taft Avenue to its intersection with Tustin Avenue, then north along Tustin Avenue to its intersection with Taft Avenue, then east along Taft Avenue to its intersection with State Highway 55, then south along State Highway 55 to its intersection with Collins Avenue, then east along Collins Avenue to its intersection with Prospect Avenue, then south along Prospect Avenue to its intersection with Bond Avenue, then east along Bond Avenue to its intersection with Hewes Street, then south along Hewes Street to its intersection with Old Foothill Boulevard, then southeast along Old Foothill Boulevard to its intersection with Foothill Boulevard, then southeast along Foothill Boulevard to its intersection with Heathcliff Drive, then southwest along Heathcliff Drive to its intersection with La Loma Drive, then southeast along La Loma Drive to its intersection with Red Hill Avenue, then southeast along Red Hill Avenue to its intersection with Interstate Highway 405, then northwest along Interstate Highway 405 to its intersection with Brookhurst Street, then north along Brookhurst Street to the point of beginning.

* * * * *

Done at Washington, DC, this 20th day of October 1987.

Donald Houston,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87-24749 Filed 10-23-87; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 981

Almonds Grown in California; Salable, Reserve, and Export Percentages for 1987-88 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes salable, reserve, and export percentages of 82 percent, 18 percent, and 0 percent, respectively, for marketable California almonds delivered to handlers during the 1987-88 crop year, which began July 1, 1987. This action is taken under the marketing order for almonds grown in California and is intended to avoid unreasonable fluctuations in supplies and prices in view of a projected record large 1987 almond crop.

EFFECTIVE DATES: July 1, 1987, through June 30, 1988.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory FlexibilityAct (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 105 handlers of almonds who are subject to regulation under the marketing order for California almonds during the current season. There are approximately 7,500 producers in the regulated area. Small agricultural producers have been defined by the Small business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $100,000, and small agricultural service firms, which would include handlers, have been defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This final rule will require handlers of California almonds to withhold, as a reserve, from normal domestic and export markets 18 percent of merchantable almonds received from growers during the 1987-88 crop year. The remaining 82 percent of the crop may be sold by handlers in any market. Total 1987 crop marketable production is expected to be 570 million kernelweight pounds—the largest crop in history. This compares with a 359 million kernelweight pound average annual production for the last five years (1982 through 1986). Worldwide production for 1987 is also expected to be a record high. Domestic and export trade demand for 1987-88 is estimated at 480 million kernelweight pounds.

Reserve almonds could be transferred to the salable category at a later date if it is found that the salable percentage is insufficient to satisfy 1987-88 trade demand, including desirable carryover requirements for use during the 1988-89 crop year (if it appears that the 1988 crop will be insufficient to meet 1988-89 trade demand needs). Otherwise, reserve almonds will be diverted to secondary outlets such as almond oil or animal feed.

While this rule may restrict the amount of almonds which handlers may sell in normal domestic and export markets, the salable and reserve percentages are needed to lessen the impact of the oversupply situation facing the industry and to promote stronger marketing conditions, thus avoiding unreasonable fluctuations in prices and supplies and improving grower returns. Further, this action will provide market stability during the 1988-89 crop year in the event that 1988 production is below market needs. Given the cyclical tendency of almond production, this is a likely possibility.

Based on the above, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Notice of this action was published in the **Federal Register** (52 FR 32107) on August 25, 1987. Comments were invited from interested persons until September 9, 1987. Six comments were received.

The authority to establish salable, reserve, and export percentages is pursuant to § 981.47 of the marketing agreement and Order No. 981, both as amended (7 CFR Part 981), regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order." The order is effective under the Act. This action is based on a unanimous recommendation of the Almond Board of California, hereinafter referred to as the "Board," which was established under the order for the purpose of administering the program.

Pursuant to §§ 981.47 and 981.49 of the order, the Board based its recommendation for salable, reserve, and export percentages of 82 percent, 18 percent, and 0 percent, respectively, on estimates of marketable supply and combined domestic and export trade demand for the 1987-88 crop year. The Board's 1987 marketable production estimate of 570 million kernelweight pounds is based on its 1987 crop estimate of 600 million kernelweight pounds, minus an estimated weight loss of 30 million kernelweight pounds resulting from the removal of inedible kernels by handlers and losses during manufacturing.

Trade demand is estimated at 480 million kernelweight pounds—160 million pounds for domestic needs and 320 million kernelweight pounds for export needs. An inventory adjustment is made to account for supplies of almonds carried in from the 1986-87 marketing year and for supplies deemed desirable to be carried out on June 30, 1988, for early season shipment during the 1988-89 crop year, until the 1988 crop is available for market. After adjusting for inventory, the trade demand was calculated at 467.4 million kernelweight pounds, the quantity of almonds from the estimated 1987 marketable production deemed necessary for trade demand needs. The salable percentage of 82 percent will meet those needs.

The remaining 18 percent (102.6 million kernelweight pounds) of the 1987 crop marketable production will be withheld by handlers to meet their reserve obligations. All or part of these almonds could be transferred to the salable category if it is found that the salable supply made available by the 82 percent salable percentage is insufficient to satisfy 1987-88 trade demand, including desirable carryover requirements for use during the 1988-89 crop year. The Board is required to make any recommendation to the Secretary to increase the salable percentage prior to May 15, 1988. Alternatively, reserve almonds will be sold by the Board, or by handlers under agreement with the Board, to governmental agencies or charitable institutions or for diversion into almond oil, almond butter, animal feed, or other outlets which the Board finds are noncompetitive with existing normal markets for almonds.

The order permits the Board to include normal export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable, reserve, and export percentages for any crop year. For the 1987-88 crop year, estimated exports are included in trade demand, thereby making export only a salable outlet rather than a reserve outlet. Thus, an export percentage of 0 percent is established. Because of this action, no portion of the reserve will be eligible for export to normal export outlets.

A tabulation of the estimates and calculations used by the Board in arriving at its recommendation is as follows:

MARKETING POLICY ESTIMATES—1987 CROP

[Kernelweight Basis]

	Million pounds	Percent
Estimated production:		
1. 1987 Production	600.0	
2. Loss and Exempt—5.0%	30.0	
3. Marketable Production	570.0	
Estimated trade demand:		
4. Domestic	160.0	
5. Export	320.0	
6. Total	480.0	
Inventory adjustment:		
7. Carryin 7/1/87	76.2	
8. Desirable Carryover 6/30/88	63.6	
9. Adjustment	(12.6)	
Salable/Reserve:		
10. Adjusted Trade Demand (item 6 plus item 9)	467.4	
11. Reserve (item 3 minus item 10)	102.6	
12. Salable % (item 10÷item 3 x 100)		82
13. Reserve % (100% minus item 12)		18

This action will help avoid unreasonable fluctuations in supplies and prices as the industry faces its largest crop in history. The projected 1987 crop of 570 million marketable kernelweight pounds will be 141.8 percent larger than last year's 235.7 million kernelweight pound crop and 1.1 percent larger than the 1984 previous record crop of 563.6 million kernelweight pounds. World production is forecast at 819.1 million kernelweight pounds—7.0 percent larger than the 1984 previous record of 765.4 million kernelweight pounds.

This action will provide an estimated 543.6 million kernelweight pounds of California almonds for unrestricted sales (1987 crop salable production plus carryin from the 1986 crop). This amount is 112.7 percent of the actual 1984-85 record for delivered sales of California almonds. Thus, this action meets the requirements of the "Guidelines for Fruit, Vegetable, and Speciality Crop Marketing Orders" that primary markets have available a quantity equal to 110 percent of recent years' sales.

One comment received from Peggy M. Leong, manager of the Board, requested clarification of a statement in the proposed rule that reserve almonds "would be diverted to secondary outlets such as almond oil or animal feed." The

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commenter states that disposition to non-human consumption outlets is only one option the Board has in considering the disposition of the 1987 crop reserve, and that it is not the intent of the Board that reserve almonds necessarily be used solely for those two non-human consumption outlets.

The commenter quotes the paragraph in question from the proposed rule in its entirety as follows:

> Reserve almonds could be released to salable at a later date if it is found that the salable percentage is insufficient to satisfy 1987–88 trade demand, including desirable carryover requirements for use during the 1988–89 crop year (if it appears that the 1988 crop will be insufficient to meet 1988–89 trade demand needs). Otherwise, reserve almonds would be diverted to secondary outlets such as almond oil or animal feed.

In clarification, this paragraph prescribes two alternative options for reserve almonds depending on trade demand needs. Reserve almonds may be released to salable categories, or, if the reserve is not released to salable, disposition of the reserve would be governed by § 981.66 of the order. Paragraph (c) of that section provides that no reserve almonds shall be sold in the United States, Puerto Rico, and the Canal Zone other than to governmental agencies or to charitable institutions except for diversion into almond oil, almond butter, poultry or animal feed, or other channels which the Board finds are noncompetitive with existing normal markets for almonds. Thus, handlers are not necessarily required to divert their reserve into oil or animal feed. The Board may also add additional outlets to the list of noncompetitive outlets for the disposition of reserve.

The second commenter, Duane Jardine of Jardine Organic Ranch, a handler located in Paso Robles, California, generally supports the proposed percentages as a means of maintaining prices and quality. However, this commenter believes that organically grown almonds should be exempt from reserve requirements because the organic market is undersupplied and is not competitive with the conventional almond market. The almond marketing order, however, does not contain authority to exempt organically grown almonds. In order to include this authority, the order would need to be amended, which is beyond the scope of this action.

A third commenter, Steven W. Easter of the California Almond Growers Exchange of Sacramento, California, supports the proposed percentages unequivocally.

A fourth commenter, Brian C. Leighton, attorney for Saulsbury Orchards and Almond Processing Inc., a Madera, California, handler, objects to the proposed percentages for a number of different reasons, as discussed below.

This commenter was not convinced that the statement in the proposed rule that the 1987 almond crop will be the largest in history is correct. The commenter contends that the 1984 almond crop, at 586.9 million kernelweight pounds, was larger than the 1987 crop will be. However, the proposed rule states that 1987 crop production is estimated at 600 million kernelweight pounds, and that the marketable 1987 production will be 570 million kernelweight pounds. This is approximately 6 million kernelweight pounds higher than the 1984 marketable production of 563.6 million pounds.

The commenter also objects to the statement in the proposed rule that the 1987–88 crop year world production is expected to be a record high. However, the Board's 819.1 million kernelweight pound estimate is based on the Gill & Duffus 1987 "Edible Nut Market Report," which is widely regarded as an accurate and impartial source of world crop production forecasts.

The commenter also believes that the trade demand for the 1987 almond crop should be higher than what is estimated in the proposal, because the commenter believes the 1987 hazelnut crop will be extremely short, thereby creating added demand for almonds. However, Gill & Duffus estimates 1987 hazelnut production at 450,000 metric tons, which is 17,200 metric tons higher than the 1977–86 ten-year average, and slightly higher than the 1986 crop.

The next two objections raised by the commenter concern a new program initiated by the California Almond Growers Exchange (CAGE). This program allows CAGE growers to defer delivery of 1987 crop almonds to CAGE until the 1988–89 crop year. One objection stated is that the proposal does not make allowance for this deferral in its estimation of 1987 crop-year marketable almond production. The extent to which CAGE growers will participate in this program is not known. However, should deliveries to handlers be significantly affected, the salable percentage could be increased as provided for in § 981.48 of the order.

The commenter is also concerned that CAGE may be able to use deferred almonds to meet their 18 percent reserve holding requirement. Handlers are required to set aside as reserve, only those almonds received by them. Deferred almonds would not be received under the terms of the order. Accordingly, if the deferral program is utilized, almonds deferred under the program could not be used to satisfy the reserve requirement.

This same commenter further objects to including almond butter as a disposition outlet for reserve almonds as mentioned in the proposal. However, § 981.66(c) of the order specifically includes almond butter as a disposition outlet for reserve almonds, and changes in the order itself, such as disallowing almond butter as a disposition outlet, would require formal rulemaking procedures beyond the scope of this current action. All handlers, should they be required to dispose of reserve almonds, have the opportunity to meet their disposition obligation by permitted means, including making almond butter themselves or selling almonds to an almond butter manufacturer.

Another objection is raised concerning brand advertising assessments on the 18 percent almond crop reserve held by handlers. The commenter feels the assessment should not be placed on that 18 percent of the almond crop which cannot be sold immediately at market prices. The order, however, provides for assessments on all almonds received by handlers whether they are salable or reserve almonds.

The commenter believes that growers should be entitled to sell in-shell and in-hull almonds directly to non-competitive outlets, so that they might avoid the cost of shelling and hulling almonds that may be held as part of handlers' 18 percent reserve obligations. However, in doing so growers would be considered handlers subject to order requirements including those relating to percentages.

Another suggestion by this commenter would be to have all handlers vote on whether or not to establish a reserve. The order does not authorize a procedure by which all handlers could vote on such matters. However, the Almond Board of California represents both growers and handlers and is comprised of five grower members and five handler members who are nominated to these positions by the growers and handlers themselves. Thus, industry handlers are represented in Board decisions and recommendations concerning such matters.

This commenter's final suggestion concerns including a formula as part of this action, to determine if and when reserve almonds would be transferred to the salable category or alternatively disposed of through reserve outlets. To provide for such a formula would require amending the marketing order itself, which is beyond the scope and authority of this present action. In addition, § 981.48 of the order prescribes procedures for increasing salable percentages.

The fifth and sixth commenters, George K. Noga of Maitland, Florida, and John D. Curtis of Longwood, Florida, both growers, suggest that the reserve, at 18 percent, is too large. These commenters believe that the 18 percent reserve will hurt consumption; the commenters are willing to withstand somewhat lower prices in return for a higher level of consumption. However, an oversupply of almonds could result in market instability and a downward spiral in prices, whereby buyers would be reluctant to purchase almonds until they were convinced that a bottom price had been reached. This could result in both decreased consumption and sharply lower prices.

After consideration of all relevant matter presented, including the Board's recommendation and other available information, it is found that the changes hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is hereby found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action applies to all almonds received by handlers during the 1987–88 crop year, which began July 1, 1987; (2) handlers are currently receiving and processing 1987–88 crop year almonds; and (3) handlers are aware of this action, which was recommended by the Board at a public meeting, and need no additional time to comply with the requirements.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, California.

For the reasons set forth in the preamble, 7 CFR Part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 981 continues to read as follows:

> **Authority:** Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Add a new subpart consisting of § 981.235 to read as follows:

Subpart—Salable, Reserve, and Export Percentages

§ 981.235 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1987.

The salable, reserve, and export percentages during the crop year beginning July 1, 1987, shall be 82 percent, 18 percent, and 0 percent, respectively.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87–24674 Filed 10–23–87; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket Number 87-ACE-07]

Alteration of Transition Area; Millard, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Millard, Nebraska, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Millard, Nebraska, Municipal Airport, utilizing the Omaha VORTAC as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, an additional approach procedure is being developed for the Millard, Nebraska, Municipal Airport, utilizing the Omaha VORTAC as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails alteration of the transition area at Millard, Nebraska, at or above 700 feet above the ground, within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft, using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C, dated January 2, 1987.

Discussion of Comments

On pages 31411 and 31412 of the **Federal Register**, dated August 20, 1987, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations, so as to alter the transition area at Millard, Nebraska. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No negative responses were received as a result of the Notice of Proposed Rulemaking.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 71 of the FAR (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

> **Authority:** 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Millard, Nebraska [Revised]

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Millard Airport (Lat. 41°11'46"N., Long. 96°06'43"W.); and within 4.75 miles each side of the 310° bearing from the Millard Airport extending from the 6½ mile radius area to 9½ miles northwest of the airport, excluding that portion which overlies the Omaha, Nebraska, transition area.

This amendment becomes effective at 0901 UTC January 14, 1988.

Issued in Kansas City, Missouri, on October 6, 1987.

Clarence E. Newbern,

Assistant Manager, Air Traffic Division.

[FR Doc. 87-24667 Filed 10-23-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ASW-14]

Amendment of Transition Area; Watonga, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition at Watonga, OK. The intended effect of this action is to provide adequate controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Watonga Airport, Watonga, OK, utilizing the new Watonga nondirectional radio beacon (NDB). This action is necessary in order to ensure segregation of aircraft operating to and from the airport under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

EFFECTIVE DATE: 0901 UTC, January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

SUPPLEMENTARY INFORMATION:

History

On April 9, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Watonga, OK (52 FR 13713).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comments received objecting to this action came from the United States Air Force. Their objections centered around the following issue:

- The alteration of the transition area would impact military aircraft flying Military Training Routes (MTR) in the Watonga, OK area.

The FAA does not agree with this objection. The anticipated number of IFR arrivals to or departures from Watonga Airport is not expected to have an adverse effect on military aircraft flying MTR's in the area. Standard IFR separation will be provided between aircraft on an IFR clearance to/from Watonga Airport and military aircraft operating along IFR MTR's in the area.

Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C, dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the existing 700-foot transition area at Watonga, OK. The development of a new NDB Rwy 17 SIAP to the Watonga Airport utilizing the new Watonga NDB necessitated this action. The alteration of the existing transition area will consist of a 6-mile wide extension approximately 3.5 miles north from the edge of the present transition area. The intended effect of this action is to ensure segregation of aircraft using the approach procedures under IFR and other aircraft operating under VFR.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Watonga, OK [Amended]

By adding at the end of the description: and within 3 miles each side of the 008° bearing from the Watonga NDB (latitude 35°51'44"N., longitude 98°25'30"W.), extending from the 6.5-mile radius area to 10 miles north of the airport.

Issued in Fort Worth, TX, on October 8, 1987.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 87-24668 Filed 10-23-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 87-AWA-32]

Alteration of VOR Federal Airways and Jet Routes; New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter the descriptions of Federal Airways V-203, V-91 and Jet Routes J-567 and J-228 located in the vicinity of Massena, NY. The Canadian Government requested segments of these airways/routes that cross the United States/Canada boundary be amended to coincide with reorganized terminal airspace in the Montreal/Mirabel, Canada, areas. This action supports that request.

EFFECTIVE DATE: 0901 UTC, January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On August 14, 1987, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to alter the descriptions of VOR Federal Airways V-203, V-91 and J-567 and J-228 located in the vicinity of Massena, NY (52 FR 30361). Transport Canada is reorganizing the terminal airspace associated with the Montreal/Dorval and Montreal/Mirabel Airports. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6C dated January 2, 1987.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations alter the descriptions of VOR Federal Airways V-203, V-91 and Jet Routes J-567 and J-228 located in the vicinity of Massena, NY. The Montreal, Quebec, Canada Regional Office of Transport Canada is reorganizing the terminal airspace associated with the Montreal/Dorval and Montreal/Mirabel Airports. The result to trans-border airspace is the relocation of two air route intersections which will require the realignment of low and high level route segments formed by radials from the Massena, NY, and Plattsburgh, NY, VORTAC's. This action supports Transport Canada's request.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal airways, Jet routes.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

1. The authority citation for Part 71 continues as read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E. O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-91 [Amended]

By removing the words "Plattsburgh, NY;" and substituting the words "Plattsburgh, NY; INT Plattsburgh 348° and Montreal, Canada, 154° radials;"

V-203 [Amended]

By removing the words "INT Massena 045° and Montreal, Canada, 188° radials;" and substituting the words "INT Massena 048° and Montreal, Canada, 188° radials;"

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

3. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

4. Section 75.100 is amended as follows:

J-567 [Revised]

From Plattsburgh, NY, INT Plattsburgh 348° and Montreal, Canada 154° radial; Montreal. The portion within Canada is excluded.

J-228 [Amended]

By removing the words "From Montreal, Canada;" and substituting the words "From" and by removing the words "The airspace within Canada is excluded."

Issued in Washington, DC, on October 16, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-24666 Filed 10-23-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM87-36-000; Order No. 481]

Interpretation of Comprehensive Plans Under Section 3 of the Electric Consumers Protection Act

Issued: October 20, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is stating its interpretation of state and Federal comprehensive plans under section 3(b)(4) of the Electric Consumers Protection Act of 1986 (Act). The Act requires the Commission to require, in issuing a hydroelectric license, the extent to which the proposed project is consistent with an existing Federal or state comprehensive plan for "improving, developing, or conserving a waterway or waterways affected by the project".

EFFECTIVE DATE: November 25, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lane, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, 357-8530.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon and C. M. Naeve.

I. Introduction

On October 16, 1986, the President signed the Electric Consumers Protection Act of 1986 (ECPA). [1] Section 3(b)(4) of the Act amends section 10(a) of the Federal Power Act (FPA) [2] to require the Federal Energy Regulatory Commission (Commission) to consider, in issuing a hydroelectric license, the extent to which the proposed project is consistent with an existing Federal or state comprehensive plan for "improving, developing, or conserving a waterway or waterways affected by the project." In this rule, the Commission is defining a "comprehensive plan" and establishing guidelines for developing these plans.

II. Background and Discussion

A. Comprehensive Plans Under Sections 10(a)(1) and 10(a)(2)(A) of the FPA

The Commission has always been required to ensure that under section 10(a) of the FPA:

> The [hydroelectric] project adopted * * * be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of waterpower development, and for other beneficial public uses * * *. [3]

The Supreme Court has interpreted section 10(a) as requiring the Commission to explore "all issues relevant to the 'public interest.'" [4]

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[1] Pub. L. No. 99-495, 100 Stat. 1234 (1986).

[2] 16 U.S.C. 803(a) (1982).

[3] *Id.*

[4] *Udall* v. *Federal Power Commission*, 387 U.S. 428, 450 (1967).

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When the Commission acts on a license application, the entire record developed in the proceeding by which the Commission judges the application constitutes the section 10(a) comprehensive plan. This record is developed by the applicant, Commission staff, intervenors, commenting Federal, state, and local agencies, and other concerned parties. The Commission integrates and balances the various public interest issues thus identified to ensure that any project it licenses will serve to optimize the improvement and utilization of the waterway for beneficial public purposes. Any licensing decision of the Commission must be supported by "substantial evidence," pursuant to section 313(b) of the FPA. [6]

ECPA amended the FPA to redesignate section 10(a) as section 10(a)(1) and to specify certain of the public interest factors that the Commission is to consider in issuing licenses,[8] including, in new section 10(a)(2)(A), the extent to which the proposed project complies with any existing Federal or state comprehensive plan. Specifically, section 10(a)(2)(A) requires the Commission to consider:

> [T]he extent to which the project is consistent with a comprehensive plan (where one exists) for improving, developing or conserving a waterway or waterways affected by the project that is prepared by—
> (i) An agency established pursuant to Federal law that has the authority to prepare such a plan; or
> (ii) The State in which the facility is or will be located.

The legislative history of section 10(a)(2)(A) indicates that state plans are within the scope of section 10(a)(2)(A) only if they were prepared and adopted pursuant to a specific act of the state legislature and developed, implemented, and managed by the appropriate state agency.[7] The Commission therefore adopted this interpretation in *Fieldcrest Mills Inc.*,[8] and further stated that plans would be within the scope of section 10(a)(2)(A) only if they "reflect the preparers' own balancing of the competing uses of a waterway, based on their data and applicable policy considerations (*i.e.*, consider and balance all relevant public use considerations)." This reflects the Commission's conclusion that comprehensive planning under section 10(a)(2)(A) should, like comprehensive planning under section 10(a)(1), take into account all uses relevant to the public interest.

Many of the plans currently submitted to the Commission consider only one or a few uses of the waterway. They do not provide conclusions based on balancing of power needs, potential economic growth and other issues that the Commission considers as part of its FPA section 10(a)(1) analysis. Nor are these plans accompanied by the substantial facts, studies, and technical evidence necessary to allow the Commission to fully understand or independently confirm the state's conclusions. Consequently, the Commission must often derive its own conclusion without the benefit of the state's views on all of the aspects included in the Commission's analysis.

If a state or regional plan does not qualify as a comprehensive plan under section 10(a)(2)(A), however, the Commission will consider the plan, as it considers all relevant studies and recommendations, in its public interest analysis pursuant to section 10(a)(1). Further, the weight to be accorded any information or recommended action, whether or not it is contained in a comprehensive plan, depends on the documentation that supports it, since Commission findings must be based on substantial evidence pursuant to section 313(b) of the FPA. The Commission's definition of a comprehensive plan does not, therefore, serve to include in Commission deliberations some plans and exclude others, since all such plans are taken into account. Rather, the Commission wishes to provide guidelines with respect to what type of plan will carry the most weight in the Commission's licensing decisions.

B. Elements of an FPA Section 10(a)(2)(A) Comprehensive Plan

The Commission recognizes that, since each waterway is unique, it is difficult to establish specific criteria to follow in developing a comprehensive plan. However, based on its experience and a review of plans submitted by a number of entities, the Commission does believe it is possible to establish general guidelines for developing these plans. The more closely a plan conforms to these guidelines, the more weight it will have on the Commission's decisions.

A comprehensive plan should contain the following: (1) A description of the waterway [9] or waterways that are the subject of the plan, including pertinent maps detailing the geographic area of the plan; (2) a description of the significant resources of the waterway or waterways; (3) a description of the various existing and planned uses for these resources; and (4) a discussion of goals, objectives, and recommendations for improving, developing, or conserving the waterway or waterways in relation to these resources.

The description of the significant resources in the area should contain, among other things: (1) Navigation; (2) power development; (3) energy conservation; (4) fish and wildlife; (5) recreational opportunities; (6) irrigation; (7) flood control; (8) water supply; and (9) other aspects of environmental quality.

The description of existing and planned uses of the waterway or waterways should include the items listed above as well as a description of currently unused areas of the waterway and any future plans for these areas. The plan should also address the advantages and disadvantages associated with each planned use.

In establishing goals, objectives, and recommendations for improving, developing, or conserving the waterway or waterways, the plan should contain an examination of how the different uses will promote the overall public interest, a statement as to the goals the plan expects to achieve, and an analysis of how any specific recommendations of the plan further those goals. A description of the methodology used in developing the plan should also be included.

III. Paperwork Reduction Act

The information collection provisions in this final rule are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act [10] and OMB's regulations.[11] Interested persons can obtain information on the proposed information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 (Attention: Ellen Brown, Division of Organization and Management Analysis, (202) 357–5311). Comments on the information collection provisions in this rule may be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

[6] 16 U.S.C. 8251(b) (1982).
[8] ECPA was not intended to "change the holdings in relevant cases, such as *Udall v. FPC*." H.R. Rep. No. 99–934, 99th Cong., 2nd Sess. 21–22 (1986).
[7] 99th Cong. Rec. S4140 (remarks by Chairman McClure, April 11, 1986).
[8] 37 FERC ¶ 61,264 (1986).
[9] Waterway, as defined in the context of utilizing these guidelines for developing comprehensive plans, may include a river segment, river basin, drainage area, or other geographical area.
[10] 44 U.S.C. 3501–20 (1982).
[11] 5 CFR 1320.12 (1987).

IV. Effective Date

The Administrative Procedure Act exempts interpretative rules from both the notice and comment requirements of section 4(b) of the Administrative Procedure Act [12] and the requirement that publication be made 30 days before the effective date of the rule.[13] Since this rule states the Commission's interpretation of a Federal or state comprehensive plan under ECPA, it is properly characterized as an interpretative rule. In order to allow OMB sufficient time to review the reporting requirements in this final rule, however, it will become effective November 25, 1987. If OMB has not approved this rule by that date, the Commission will issue a notice temporarily suspending the effective date until OMB has approved the requirements.

List of Subjects in 18 CFR Part 2

Administrative practice and procedure, Electric power, Environmental impact statements, Natural gas, Pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Part 2, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 142 (1978); Federal Power Act, 16 U.S.C. 792–825r (1982); Natural Gas Act, 15 U.S.C. 717–717w (1982); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act of 1987, 16 U.S.C. 2601–2645 (1982); and the National Environmental Policy Act, 42 U.S.C. 4321–4361 (1978), unless otherwise indicated.

2. A new § 2.19 is added to read as follows:

§ 2.19 State and Federal comprehensive plans.

(a) In determining whether a proposed hydroelectric project is the one best adapted to a comprehensive plan under section 10(a)(1) of the Federal Power Act for improving or developing a waterway, the Commission will consider the extent to which the project is consistent with a comprehensive plan (where one exists)

> (1) An agency established pursuant to Federal law that has the authority to prepare such a plan, or
> (2) The state in which the facility is or will be located if it is prepared and adopted pursuant to a specific act of the state legislature and is developed, implemented, and managed by the appropriate state agency.

(b) In order for a state or Federal plan to be considered comprehensive it must reflect the preparer's own balancing of the competing uses of a waterway, based on its data and relevant public use considerations.

(c) A state or Federal comprehensive plan should contain the following:

> (1) A description of the waterway or waterways that are the subject of the plan, including pertinent maps detailing the geographic area of the plan (a waterway may include a river segment, river basin, drainage area or other geographic area);
> (2) A description of the significant resources of the waterway or waterways;
> (3) A description of the various existing and planned uses for these resources (including currently unused areas of the waterway and future plans for those areas), with a discussion of the advantages and disadvantages associated with each planned use; and
> (4) A discussion of goals, objectives, and recommendations for improving, developing, or conserving the waterway or waterways in relation to these resources, including an examination of how different uses of the waterway will promote the overall public interest, a statement as to the goals the plan expects to achieve, and an analysis of how any specific recommendations further those goals. A description of the methodology used in developing the plan should also be included.

(d) The description of the resources and uses in paragraphs (c)(2) and (c)(3) of this section, should contain, among other things:

> (1) Navigation,
> (2) Power development,
> (3) Energy conservation,
> (4) Fish and wildlife,
> (5) Recreational opportunities,
> (6) Irrigation,
> (7) Flood control,
> (8) Water supply, and
> (9) Other aspects of environmental quality.

[FR Doc. 87–24727 Filed 10–23–87; 8:45 am]
BILLING CODE 6717–01–M

[12] 5 U.S.C. 553(b) (1982).
[13] 5 U.S.C. 553(d) (1982).

18 CFR Parts 35 and 389

[Docket No. RM87–4–001]

Rate Changes Relating to Federal Corporate Income Tax Rates for Public Utilities

Issued: October 19, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing.

SUMMARY: On June 26, 1987, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 475) to establish an abbreviated rate filing procedure that electric public utilities could use to reflect the reduction in the public utilities could use to reflect the reduction in the corporate income tax under the Tax Reform Act of 1986.

In this order, the Commission denies rehearing of this decision.

EFFECTIVE DATE: October 19, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lane, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street NE., Washington, DC 20426, (202) 357–8530.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Order No. 475–A, Denying Rehearing

I. Introduction

The Commission is denying rehearing of its final rule [1] that established a voluntary filing procedure to reduce utilities' rates to reflect a change in the Federal corporate income tax rate.

II. Background and Discussion

On June 26, 1987, the Commission issued a final rule establishing an abbreviated rate filing procedure that electric public utilities may use to reduce their rates to reflect the decrease in the Federal corporate income tax rate under the Tax Reform Act of 1986.[2] Under the Act, the corporate income tax rate was reduced from 46 percent to 34 percent effective July 1, 1987. On July 24, 1987, Coast Electric Power Association, *et al.*, (Coast Electric)[3] filed a request for

[1] Order No. 475, 52 FR 24987 (July 2, 1987), III FERC Stats. and Regs. ¶ 30,752 (1987).
[2] I.R.C. 1–7872 (1986).
[3] Coast Electric Power Association, Connecticut Municipal Electric and Gas Association, East Mississippi Electric Power Association, Kansas Electric Power Cooperative, Inc., MAP–PAL, Inc., Municipal Electric Systems of Oklahoma, National Rural Electric Cooperative Association, North

Continued

rehearing.[4] For the reasons discussed below, the Commission denies rehearing.

Coast Electric states that the final rule fails to adequately address its comments with regard to the Commission's authority to act under section 206 of the Federal Power Act (FPA).[5] In its comments, Coast Electric requested the Commission to exercise its authority to require utilities to file revised rates to reflect the reduction in the corporate tax rate. Coast Electric had argued in its comments to the NOPR that the Commission should have made the filing procedure mandatory. If the Commission declined to make the filing mandatory, Coast Electric had argued that the Commission should make clear that it would institute expedited FPA section 206 show cause proceedings against non-filing utilities. It restated this argument in its request for rehearing.

The Commission considered these arguments in the final rule and declined to adopt Coast Electric's suggestions. The Commission stated in the final rule that it lacked the legal authority to require rate filings under FPA section 205. In the final rule, the Commission established a voluntary, rather than mandatory, filing procedure. The Commission believes that this procedure is the most efficient and expedient method for generically reducing rates to reflect the reduction in the corporate tax rate. The Commission has no reason to believe utilities will not use the filing procedure. However, it retains its authority to act under FPA section 206 to ensure that a utility's rates reflect the changes in the tax law under the Tax Reform Act of 1986.

Coast Electric also states that the Commission failed to consider the price squeeze implications of the rulemaking. It argues that the Commission's failure to order reductions in utility rates places wholesale customers in a price squeeze, since some state public service commissions have reduced retail rates to reflect both the reduced tax rate and current lower capital costs experienced by utilities.

The Commission does not believe that the rule has any adverse price squeeze effects. In fact, in the situations cited by Coast Electric, if a utility uses the abbreviated filing procedure to reduce rates, price squeeze relating to differing treatments of the tax rate will be eliminated. As for utilities that do not file under abbreviated filing procedure, the Commission has the authority, on its own initiative or by complaint, to address price squeeze situations. If a customer believes that price squeeze exists, either due to different treatment in tax rates at the wholesale and retail levels, or because of any other factor, it may file an FPA section 206 complaint.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24728 Filed 10-23-87; 8:45 am]

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[4] Carolina Electric Membership Corporation, Northeast Texas Electric Cooperative, Inc., Oglethorpe Power Corporation, Sam Rayburn G&T, Inc., Seminole Electric Cooperative, Inc., Singing River Electric Power Association, and South Mississippi Electric Power Association.

[5] The Commission in also dismissing a motion filed by the Iowa Power and Light Company (Iowa Power). On June 25, 1987 Iowa Power filed a Motion for Waiver of Rule requesting that it be excused from the mandatory filing requirements in the rule and that the Commission accept in lieu thereof a Stipulation Agreement between Iowa Power and its customers. The Commission is dismissing this request, since consideration of such a motion is not appropriate in a rulemaking proceeding, but notes that the final rule did not promulgate any mandatory filing requirements.

[6] 16 U.S.C. 824e (1982).

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18 CFR Part 37

[Docket No. RM86-12-000]

Generic Determination of Rate of Return on Common Equity for Public Utilities

Issued: October 19, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; notice of benchmark rate of return on common equity for public utilities.

SUMMARY: In accordance with 18 CFR 37.5, the Commission issues the update to the "advisory" benchmark rate of return on common equity applicable to rate filings made during the period November 1987 through January 1988. This rate is set at 12.27 percent.

EFFECTIVE DATE: November 1, 1987.

FOR FURTHER INFORMATION CONTACT: Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8283.

SUPPLEMENTARY INFORMATION:

Benchmark Rate of Return on Common Equity for Public Utilities

On December 24, 1986, the Commission issued a final rule which amended the quarterly indexing procedure for establishing and updating the benchmark rate of return on common equity applicable to electric rate filings.[1] Based on this amended procedure, the Commission determines that the benchmark rate of return on common equity applicable to rate filings made during the period November 1, 1987 through January 31, 1988 is 12.27 percent.

According to the amended § 37.9 each quarterly benchmark rate of return is set equal to the average cost of common equity for the jurisdictional operations of public utilities. This average cost is based on the average of the median dividend yields for the two most recent calendar quarters for a sample of 100 utilities. The average yield is used in the following formula with fixed adjustment factors (determined in the annual proceeding) to determine the cost rate:

$k_t = 1.02y_t + 4.63$

where k_t is the average cost of common equity and y_t is the average dividend yield.

The median dividend yield for the sample of utilities for the second and third quarter of 1987 are 7.40 and 7.58 percent, respectively. The average is 7.49 percent. Using the latter yield produces an average cost of common equity of 12.27 percent. The attached appendix provides the supporting data for the latest quarter used in this update.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Rate of retrun.

In consideration of the foregoing, the Commission amends Chapter I, Title 18 of the Code of Federal Regulations, as set forth below, effective November 1, 1987.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 37—[AMENDED]

1. The authority citation for Part 37 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a-825r (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982).

2. In paragraph (d) of § 37.9, the table is revised to read as follows:

§ 37.9 Quarterly indexing procedure.

* * * * *

(d) * * *

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[1] Generic Determination of Rate of Return on Common Equity for Public Utilities, 52 FR 11 (January 2, 1987) (Docket No. RM86-12-000) (Final Rule) (Order No. 461).

Benchmark applicability period (t)	Dividend increase adjustment factor (a)	Expected growth adjustment factor (b)	Current dividend yield (Y_t)	Cost of common equity (k_t)	Benchmark rate of return
2/1/86-4/30/86	1.02	4.54	9.03	13.75	13.75
5/1/86-7/31/86	1.02	4.54	8.37	13.08	13.25
8/1/86-10/31/86	1.02	4.54	7.49	12.18	12.75
11/1/86-1/31/87	1.02	4.54	6.75	11.43	12.25
2/1/87-4/30/87	1.02	4.63	6.44	11.20	11.20
5/1/87-7/31/87	1.02	4.63	6.54	11.30	11.30
8/1/87-10/31/87	1.02	4.63	6.97	11.74	11.74
11/1/87-1/31/88	1.02	4.63	7.49	12.27	12.27

NOTE: The Appendix will not be codified in Code of Federal Regulations

Appendix

Exhibit No. and Title

1—Initial Samples of Utilities

2—Utilities excluded from the sample for the indicated quarter due to either zero dividends of a cut in dividends for this quarter or the prior three quarters

3—Annualized dividend yields for the indicated quarter for utilities retained in the sample

Source of Data: Standard and Poor's Computstat Services, Inc., Utility COMPUSTAT II Quarterly Data Base.

Exhibit 1

SAMPLE OF UTILITIES

Utility	Ticker Symbol
Allegheny Power System	AYP
American Electric Power	AEP
Atlantic City Electric	ATE
Baltimore Gas & Electric	BGE
Black Hills Corp	BKH
Boston Edison Co	BSE
Carolina Power & Light	CPL
Centerior Energy Corp	CX
Central & South West Corp	CSR
Central Hudson Gas & Elec	CNH
Central Ill Public Service	CIP
Central Louisiana Electric	CNL
Central Maine Power Co	CTP
Central Vermont Pub Serv	CV
Cilcorp Inc	CER
Cincinnati Gas & Electric	CIN
CMS Energy Corp	CMS
Commonwealth Edison	CWE
Commonwealth Energy System	CES
Consolidated Edison of NY	ED
Delmarva Power & Light	DEW
Detroit Edison Co	DTE
Dominion Resources Inc-Va	D
DPL Inc	DPL
Duke Power Co	DUK
Duquesne Light Co	DQU
Eastern Utilities Assoc	EUA
Empire District Electric Co	EDE
Fitchburg Gas & Elec Light	FGE
Florida Progress Corp	FPC
FPL Group Inc	FPL
General Public Utilities	GPU
Green Mountain Power Corp	GMP
Gulf States Utilities Co	GSU
Hawaiian Electric Inds	HE
Houston Industries Inc	HOU
I E Industries Inc	IEL
Idaho Power Co	IDA
Illinois Power Co	IPC
Interstate Power Co	IPW
Iowa Resources Inc	IOR
Iowa-Illinois Gas & Elec	IWG
IPALCO Enterprises Inc	IPL
Kansas City Power & Light	KLT
Kansas Gas & Electric	KGE
Kansas Power & Light	KAN
Kentucky Utilities Co	KU
Long Island Lighting	LIL
Louisville Gas & Electric	LOU
Maine Public Service	MAP
Middle South Utilities	MSU
Midwest Energy Co	MWE
Minnesota Power & Light	MPL
Montana Power Co	MTP
NECO Enterprises Inc	NPT
Nevada Power Co	NVP
New England Electric System	NES
New York State Elec & Gas	NGE
Niagara Mohawk Power	NMK
Northeast Utilities	NU
Northern Indiana Public Serv	NI
Northern States Power-MN	NSP
Ohio Edison Co	OEC
Oklahoma Gas & Electric	OGE
Orange & Rockland Utilities	ORU
Pacific Gas & Electric	PCG
Pacificorp	PPW
Pennsylvania Power & Light	PPL
Philadelphia Electric Co	PE
Pinnacle West Capital Corp	PNW
Portland General Corp	PGN
Potomac Electric Power	POM
Public Service Co of Colo	PSR
Public Service Co of Ind	PIN
Public Service Co of N H	PNH
Public Service of N Mex	PNM
Public Service Enterprises	PEG
Puget Sound Power & Light	PSD
Rochester Gas & Electric	RGS
San Diego Gas & Electric	SDO
Savannah Elec & Power	SAV
Scana Corp	SCG
Sierra Pacific Resources	SRP
Southern Calif Edison Co	SCE
Southern Co	SO
Southern Indiana Gas & Elec	SIG
St Joseph Light & Power	SAJ
Teco Energy Inc	TE
Texas Utilities Co	TXU
TNP Enterprises Inc	TNP
Tucson Electric Power Co	TEP
Union Electric Co	UEP
United Illuminating Co	UIL
Unitil Corp	UTL
Utah Power & Light	UTP
Utilicorp United Inc	UCU
Washington Water Power	WWP
Wisconsin Energy Corp	WEC
Wisconsin Power & Light	WPL
Wisconsin Public Service	WPS

Exhibit 2

UTILITIES EXCLUDED FROM THE SAMPLE FOR THE INDICATED QUARTER DUE TO EITHER ZERO DIVIDENDS OR A CUT IN DIVIDENDS FOR THIS QUARTER OR THE PRIOR THREE QUARTERS

[Year-87 Quarter-3]

Ticker Symbol	Utility	Reason for Exclusion
CMS	CMS Energy Corp	Dividend rate was zero for the quarter ending 09/30/87.
GPU	General Public Utilities	Dividend rate was zero for the quarter ending 03/31/87.

UTILITIES EXCLUDED FROM THE SAMPLE FOR THE INDICATED QUARTER DUE TO EITHER ZERO DIVIDENDS OR A CUT IN DIVIDENDS FOR THIS QUARTER OR THE PRIOR THREE QUARTERS—Continued

[Year-87 Quarter-3]

Ticker Symbol	Utility	Reason for Exclusion
GSU	Gulf States Utilities Co	Dividend rate was zero for the quarter ending 09/30/87.
LIL	Long Island Lighting	Dividend rate was zero for the quarter ending 09/30/87.
MSU	Middle South Utilities	Dividend rate was zero for the quarter ending 09/30/87.
NI	Northern Indiana Public Serv	Dividend rate was zero for the quarter ending 09/30/87.
NMK	Niagara Mohawk Power	Dividend rate reduced in the quarter ending 09/30/87.
PIN	Public Service Co of Ind	Dividend rate was zero for the quarter ending 09/30/87.
PNH	Public Service Co of N H	Dividend rate was zero for the quarter ending 09/30/87.
RGS	Rochester Gas & Electric	Dividend rate reduced in the quarter ending 09/30/87.

N=10

Exhibit 3

ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE

[Year-87 Quarter-3]

Ticker Symbol	Price, 1st month of Qrtr-High	Price, 1st month of Qrtr-low	Price, 2nd month of Qrtr-high	Price, 2nd month of Qrtr-low	Price, 3rd month of Qrtr-high	Price, 3rd month of Qrtr/low	Average price	Dividends: Annual rate	Annualized dividend yield
AEP	27.750	26.500	28.625	26.125	27.750	26.125	27.146	2.260	8.325
ATE	34.875	33.125	36.500	32.750	34.750	31.750	33.958	2.680	7.892
AYP	40.375	35.750	40.250	36.125	38.875	36.875	38.042	2.920	7.676
BGE	32.375	30.250	33.875	30.000	32.875	30.000	31.563	1.900	6.020
BKH	25.250	23.000	25.250	22.875	25.000	23.125	24.083	1.280	5.315
BSE	23.000	20.125	22.000	19.500	21.625	19.750	21.000	1.780	8.476
CER	35.375	33.250	36.875	34.750	36.000	34.500	35.125	2.340	6.662
CES	34.000	30.000	33.500	31.000	33.000	30.500	32.000	2.800	8.750
CIN	27.750	25.500	27.625	25.500	26.250	24.750	26.229	2.200	8.388
CIP	24.000	22.250	25.125	22.500	23.625	21.000	23.083	1.720	7.451
CNH	27.625	23.000	25.250	23.250	24.750	23.125	24.500	2.960	12.062
CNL	34.250	32.375	35.250	33.250	33.875	31.750	33.458	2.200	6.575
CPL	37.500	34.375	37.625	34.500	36.125	33.875	35.667	2.760	7.738
CSR	31.625	30.375	34.750	29.625	33.500	30.125	31.667	2.280	7.200
CTP	17.875	15.875	17.500	15.500	16.375	14.750	16.313	1.400	8.582
CV	26.375	22.000	24.875	22.125	25.375	22.750	23.917	1.900	7.944
CWE	35.625	31.500	34.750	31.250	33.875	30.500	32.917	3.000	9.114
CX	18.000	15.375	17.250	15.000	18.500	16.125	16.708	2.560	15.322
D	44.500	39.500	45.625	40.875	43.250	40.750	42.417	2.960	6.978
DEW	20.375	18.250	21.375	18.375	19.750	18.500	19.438	1.413	7.270
DPL	26.500	24.000	26.500	23.750	25.625	24.500	25.146	2.080	8.272
DQU	12.375	11.750	12.875	12.000	12.750	12.000	12.292	1.200	9.763
DTE	16.625	15.000	16.125	15.000	15.625	14.500	15.479	1.680	10.853
DUK	45.000	43.375	48.250	43.500	46.625	44.250	45.167	2.800	6.199
ED	44.750	42.000	46.000	43.000	44.375	42.750	43.813	2.960	6.756
EDE	28.125	27.625	29.500	27.750	28.125	27.375	28.083	2.000	7.122
EUA	33.250	28.500	32.375	28.625	32.000	29.125	30.646	2.300	7.505
FGE	24.000	22.125	26.500	24.000	25.750	24.250	24.438	1.520	6.220
FPC	36.250	34.000	39.000	34.500	36.625	34.000	35.729	2.400	6.717
FPL	31.500	30.000	34.000	30.125	32.750	30.125	31.417	2.120	6.748
GMP	24.250	23.125	26.125	23.750	25.250	23.250	24.292	1.860	7.657
HE	29.500	28.250	29.625	28.125	30.625	27.750	28.979	1.800	6.211
HOU	33.750	32.000	35.000	32.125	33.875	31.875	33.104	2.880	8.700
IDA	25.000	22.250	26.000	23.375	25.500	24.375	24.417	1.800	7.372
IEL	24.375	23.000	24.875	23.000	24.000	22.250	23.583	1.960	8.396
IOR	21.750	20.250	22.125	20.125	21.000	19.750	20.833	1.640	7.872
IPC	27.000	25.375	26.875	25.125	26.375	24.875	25.938	2.640	10.178
IPL	23.750	22.125	24.625	21.875	23.750	22.000	23.021	1.560	6.776
IPW	24.500	23.250	25.500	23.375	24.750	22.500	23.979	1.960	8.174
IWG	42.000	38.250	39.875	37.750	39.875	38.250	39.333	3.040	7.729
KAN	26.125	24.125	27.375	24.125	26.375	23.750	25.313	1.660	6.519
KGE	23.500	21.750	25.625	20.250	22.125	19.625	22.146	1.360	6.141
KLT	27.875	24.750	31.000	25.500	27.750	26.000	27.146	2.240	8.252
KU	19.500	18.250	21.125	18.500	19.750	18.500	19.271	1.300	6.746
LOU	35.625	33.375	36.625	33.250	35.875	33.625	34.729	2.660	7.659

ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

[Year-87 Quarter-3]

Ticker Symbol	Price, 1st month of Qrtr-High	Price, 1st month of Qrtr-low	Price, 2nd month of Qrtr-high	Price, 2nd month of Qrtr-low	Price, 3rd month of Qrtr-high	Price, 3rd month of Qrtr/low	Average price	Dividends: Annual rate	Annualized dividend yield
MAP	28.250	27.125	27.250	24.625	26.625	25.250	26.521	1.600	6.033
MPL	27.000	24.250	27.750	23.875	27.000	23.500	25.563	1.660	6.494
MTP	35.625	34.375	36.750	33.875	37.250	33.875	35.292	2.680	7.594
MWE	20.625	19.500	21.250	19.125	20.375	18.250	19.854	1.520	7.656
NES	28.125	25.250	28.125	25.000	27.250	24.750	26.417	2.000	7.571
NGE	28.875	25.875	26.125	26.000	27.000	25.125	26.833	2.640	9.839
NPT	22.000	20.500	21.625	21.000	21.000	19.625	20.958	1.500	7.157
NSP	32.750	30.875	34.000	30.750	32.500	30.125	31.833	2.020	6.346
NU	23.500	22.000	24.250	22.000	22.500	21.625	22.646	1.760	7.772
NVP	19.075	17.750	20.625	18.625	20.000	19.000	19.313	1.480	7.663
OEC	21.750	20.500	23.250	21.125	21.750	19.125	21.250	1.960	9.224
OGE	33.125	30.500	32.750	30.375	32.375	29.875	31.500	2.180	6.921
ORU	33.750	30.000	32.125	30.125	31.875	29.500	31.229	2.220	7.109
PCG	20.250	19.000	20.875	19.000	20.750	18.125	19.667	1.920	9.763
PE	22.250	21.125	23.375	21.000	21.750	19.750	21.542	2.200	10.213
PEG	25.500	24.250	27.250	23.875	25.625	23.500	25.000	2.000	8.000
PGN	26.125	24.250	27.000	24.125	25.750	23.500	25.125	1.960	7.801
PNM	33.125	30.750	32.375	28.250	28.625	24.000	29.521	2.920	9.891
PNW	32.625	29.875	32.000	28.750	31.000	28.500	30.458	2.800	9.193
POM	23.625	21.500	24.500	21.250	23.875	21.625	22.729	1.300	5.720
PPL	36.500	33.500	37.375	33.500	36.500	34.000	35.229	2.680	7.607
PPW	36.625	34.000	36.250	34.500	35.375	33.375	35.021	2.520	7.196
PSD	20.125	18.875	20.875	18.625	21.875	19.625	20.000	1.760	8.800
PSR	22.750	21.250	22.625	19.875	21.875	20.000	21.396	2.000	9.348
SAJ	21.625	20.000	21.750	19.250	20.500	19.500	20.438	1.320	6.459
SAV	16.875	15.250	17.500	16.000	17.375	15.875	16.479	1.000	6.068
SCE	31.875	29.875	33.375	30.625	32.750	31.125	31.604	2.380	7.531
SCG	33.750	30.625	34.500	30.750	33.500	30.750	32.313	2.320	7.180
SDO	34.125	32.000	35.000	32.250	34.000	31.500	33.146	2.500	7.542
SIG	36.500	35.000	36.375	34.625	35.625	34.375	35.417	2.120	5.986
SO	25.000	22.750	24.500	22.500	23.625	21.625	23.333	2.140	9.171
SRP	26.000	23.000	24.250	23.125	23.625	21.750	23.625	1.760	7.450
TE	22.813	21.688	24.000	21.500	24.125	22.000	22.688	1.340	5.906
TEP	58.875	54.250	61.500	55.000	58.875	55.750	57.375	3.600	6.275
TNP	20.250	19.125	21.625	20.000	20.875	20.000	20.313	1.390	6.843
TXU	32.625	30.875	34.375	31.000	32.125	30.125	31.854	2.800	8.790
UCU	21.625	19.750	20.375	17.500	18.125	16.500	18.979	1.040	5.480
UEP	24.375	22.875	25.875	23.125	25.125	22.875	24.042	1.920	7.986
UIL	37.375	21.625	25.250	22.000	25.000	23.500	24.125	2.320	9.617
UTL	33.125	32.500	34.000	32.500	34.125	33.500	33.292	1.880	5.647
UTP	29.500	23.375	30.875	25.875	29.750	28.125	27.750	2.320	8.360
WEC	25.125	23.625	26.625	23.750	25.750	23.000	24.648	1.440	5.843
WPL	48.750	46.500	48.750	46.000	48.500	45.625	47.354	3.120	6.589
WPS	23.750	22.687	25.750	23.125	23.500	21.250	23.344	1.540	6.597
WWP	27.500	25.375	28.625	26.625	27.875	26.000	27.000	2.480	9.185

N=90

[FR Doc. 87-24016 Filed 10-23-87; 8:45 am]
BILLING CODE 8717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Ammonium Chloride

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations by removing the regulation reflecting approval of a new animal drug application (NADA) sponsored by Allied-Signal, Inc., by removing the entry for the product covered by the NADA, and by removing the firm from the list of sponsors of approved NADA's. The NADA provides for the use of Cal-Bar (ammonium chloride) Type A article to make Type C cattle and sheep feeds. In a notice published elsewhere in this issue of the **Federal Register**, the agency is withdrawing approval of the NADA at the sponsor's request.

EFFECTIVE DATE: November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, the agency is withdrawing approval of NADA 34-253 sponsored by Allied-Signal, Inc. (formerly Allied Chemical Corp.), P.O. Box 2245R, Morristown, NJ 07960-2245.

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The firm's NADA provides for the use of Cal-Bar (ammonium chloride) Type A article in making cattle and sheep feeds. The feeds are used to reduce the incidence of urinary calculi. This document removes from 21 CFR 558.4 the entry for ammonium chloride and removes 21 CFR 558.45, which reflects approval of the NADA, in its entirety. In addition, because the firm is no longer the sponsor of any approved NADA's, the regulation in 21 CFR 510.600(c) (1) and (2) is amended to remove the firm from the list of sponsors of approved NADA's. The firm is currently listed in 21 CFR 510.600(c) (1) and (2) under its former name Allied Chemical Corp.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegatd to the Center for Veterinary Medicine, Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry for "Allied Chemical Corp." and in paragraph (c)(2) by removing the entry for "011462."

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.4 [Amended]

4. Section 558.4 *Medicated feed applications* is amended in Category I of paragraph (d) by removing the entry for "Ammonium chloride."

§ 558.45 [Removed]

5. Section 558.45 *Ammonium chloride, feed grade* is removed.

Dated: October 20, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-24649 Filed 10-23-87; 8:45 am]

BILLING CODE 4160-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2642

Allocating Unfunded Vested Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This revision of the Interim Regulation on Allocating Unfunded Vested Benefits (29 CFR Part 2642) amends the rules under which a multiemployer pension plan may change the method by which it allocates unfunded vested benefits to withdrawing employers under section 4211 of the Employee Retirement Income Security Act of 1974, as amended. Generally, plans may adopt any of the statutory allocation methods described in section 4211 subject to the approval of the Pension Benefit Guaranty Corporation. In addition, section 4211(c)(5) of ERISA authorizes the PBGC to prescribe regulations under which plans may adopt other allocation methods or modifications to the statutory methods either with or without the PBGC's approval. The PBGC's regulation implementing these provisions has been in effect since January 1981. Since then, the PBGC has identified a number of ways in which the PBGC might simplify the regulation, as well as areas in which the PBGC needs either to broaden or to limit the rules. Accordingly, the effect of this revision is to make clarifications and corrections in the regulation, to simplify the process for requesting PBGC approval of amendments, and to prohibit certain types of alternative allocation methods.

EFFECTIVE DATE: November 25, 1987.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Corporate Policy and Regulations Department (35400), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202-778-8850 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Under section 4201 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), an employer that withdraws from a multiemployer pension plan may incur withdrawal liability to the plan. Withdrawal liability represents the employer's allocable share of the plan's unfunded vested benefits determined under section 4211 and adjusted in accordance with other provisions in sections 4201-4225. Section 4211 prescribes four methods that a plan may use to allocate a share of unfunded vested benefits to a withdrawing employer, and also provides for possible modifications of those methods and for the use of allocation methods other than those prescribed. All changes to a plan's allocation rules are subject to the approval of the Pension Benefit Guaranty Corporation ("PBGC").

This final regulation, which was issued in proposed form on September 9, 1985 (50 FR 36603), prescribes rules for changing a plan's allocation method under section 4211 of ERISA. It replaces the PBGC's Interim Regulation on Allocating Unfunded Vested Benefits (29 CFR Part 2642), which was published on January 19, 1981.

The interim regulation was amended on December 3, 1985 (50 FR 49540), to add provisions dealing with modifications to plans' allocation rules to accommodate the change in the effective date of section 4211 made by the Deficit Reduction Act of 1984 ("DEFRA"). The PBGC believes that virtually all plans that might have wanted to adopt modifications under those provisions have already done so. Accordingly, those provisions are not included in this final regulation. Any plan desiring to adopt DEFRA modifications after the effective date of this final regulation may submit them for PBGC approval under subpart C of the regulation.

The proposed version of this regulation included a "restart provision" dealing with the application of ERISA section 4211 to plans with no unfunded vested benefits. That provision has been omitted from this final regulation because of the PBGC's reconsideration of Opinion Letter 83-19 (August 11, 1983). In that letter, the PBGC stated its opinion that a withdrawing employer may incur withdrawal liability to a plan even though the plan has no unfunded vested benefits. On September 6, 1985 (50 FR 36504), the PBGC published a notice that it was reconsidering Opinion Letter 83-19. On December 31, 1986 (51 FR 47342), the PBGC published a notice reversing its earlier position and stating its opinion that no amount is allocable to an employer under ERISA section 4211 where a plan has no unfunded vested benefits as of the end of the plan year preceding the employer's withdrawal.

The PBGC's reversal of the statutory interpretation in Opinion Letter 83-19 makes it necessary to restructure the restart provision and to provide other related rules. These will be added to Part 2642 at a later date after a new notice of proposed rulemaking and public comment thereon.

Comments on the Proposed Regulation

Five commenters submitted comments on the proposed regulation. However, three commenters addressed only the restart provision. The comments on the restart provision have not been considered because the restart provision is not part of the final regulation and will, as noted above, be the subject of a separate rulemaking proceeding.

One commenter questioned the consistency of allowing construction industry plans to adopt modifications to the denominators of fractions used in the presumptive method under § 2642.6, but not allowing them to make other changes. Section 4211(c)(1) of ERISA prohibits the adoption of any allocation method other than the presumptive method by a construction industry plan. However, § 2642.6 allows plans generally, including construction plans, to adopt alternative definitions of certain phrases that appear in the description of the denominators of allocation fractions in section 4211 (b), (c)(2) and (c)(3), and to adopt a special rule to correct for contributions of withdrawn employers in computing those denominators. The PBGC believes that there are special circumstances that make the denominator adjustments in § 2642.6 permissible for construction industry plans but that do not apply to the other modifications described in the regulation.

Section 2642.6(a) states the PBGC's preferred interpretation of the statutory phrases "the sum of all contributions made" and "total amount contributed," which appear in section 4211 (b), (c)(2), and (c)(3). However, the PBGC does not believe that Congress, in using those phrases, intended to prescribe any single precise method of determining the quantities they refer to. Rather, the PBGC believes that any one of several methods of determining "the sum of all contributions made" and "total amount contributed" would be consistent with the three allocation methods described in section 4211 (b), (c)(2) and (c)(3), including, in particular, the presumptive method. Thus, § 2642.6(b) lists four permissible alternative interpretations or definitions of these phrases. Since the use of any one of these alternative definitions is, in the PBGC's view, within the intent of the statutory description of the presumptive allocation method, construction plans are allowed to adopt any of these definitions instead of the definition given in § 2642.6(a).

Section 2642.6(c) deals with the requirement that contributions of certain withdrawn employers be excluded from the denominators of the fractions used to determine a withdrawing employer's share of unfunded vested benefits under each of the statutory allocation methods described in section 4211 (b), (c)(2) and (c)(3). (For this purpose, § 2640.4 defines a withdrawn employer generally as one that has discontinued contributions to or covered operations under the plan.) Section 2642.6(c) incorporates the statutory language, which, on its face, seems to require that the plan sponsor promptly identify all withdrawn employers as they withdraw in order to compute other withdrawing employers' withdrawal liability. For many plans, however, and particularly for construction industry plans, the prompt identification of all withdrawn employers would be an overwhelming, if not impossible, task. Section 2642.6(c)(1), therefore, allows plans to adopt a less rigorous and more practicable definition of those employers whose contributions are to be excluded from the relevant fraction denominators, *i.e.*, "significant withdrawn employers." The PBGC concedes that it is not as clear in this situation that Congress intended to give plans (including construction plans) flexibility in defining the relevant group of employers. Nevertheless, the PBGC believes that the need to alleviate what, in some cases, may be an impossible administrative burden militates in favor of a broad reading of the pertinent statutory provisions in this case.

Another commenter disputed the PBGC's authority to promulgate § 2642.11(c), prohibiting any change in a plan's allocation method that would result in a systematic and substantial overallocation of unfunded vested benefits, including specifically a method that would allocate to an employer the greater of two amounts of liability determined under two allocation rules.

The commenter first asserted that section 4211(c)(5)(A) of ERISA gives the PBGC no authority to prohibit allocation methods that create no risk to the insurance system. As pointed out in the preamble to the proposed regulation, however, the PBGC has concluded that systematic overallocation, except when rendered necessary by compelling administrative considerations, is contrary to the intent of ERISA. The four statutory allocation methods are uniform in allocating, to the extent feasible, 100% of total unfunded vested benefits. Similarly, the legislative history of the Multiemployer Pension Plan Amendments Act indicates that Congress sought through withdrawal liability to achieve an equitable allocation of plan liabilities among all employers. Accordingly, the PBGC believes that a custom allocation method that imposes an artificially high liability on early-withdrawing employers is inconsistent with the requirements of ERISA.

The commenter next stated that section 4211(c)(5)(A) requires case-by-case determinations, and that some methods that allocate the greater of two amounts would not result in "an unreasonable overcharge." The PBGC considers this point well taken. Accordingly, the PBGC has deleted from the prohibition on systematic and substantial overallocation (§ 2642.11(c)) the words suggesting that methods allocating the greater of two amounts necessarily have an improper result. Such methods that do not result in a systematic and substantial overallocation may be approved by the PBGC if they satisfy the standards in § 2642.13.

The same commenter urged the PBGC to revise § 2642.14, which prohibits the continued use of an allocation method previously adopted by a plan if it allocates to an employer the greater of the amounts of unfunded vested benefits determined under two different allocation rules. The commenter said that § 2642.14 should state expressly that its effect is prospective only and that it does not inhibit the collection of withdrawal liability from employers that have already withdrawn. The PBGC believes that § 2642.14 makes this point clear by providing explicitly that it affects only allocation methods applied "to any employer withdrawing on or after" the effective date of the section.

The PBGC has made a change in § 2642.14 to reflect the change in § 2642.11(c), discussed above. As drafted, proposed § 2642.14 would have prohibited the future use of all "greater-of-two" allocation methods and assumed that the PBGC would no longer approve any such method. However, to be consistent with the final version of § 2642.11(c), § 2642.14 has been changed to apply only to "greater-of-two" allocation methods previously approved by the PBGC; *i.e.*, those methods approved when the PBGC's review procedure did not include a determination of whether a method would result in systematic and substantial overallocation.

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If a plan that had adopted such a method wishes to continue using that method, the plan must readopt the method and submit it for PBGC approval in the same manner as for any other amendment for which approval is required under Subpart C. Thus, for example, the plan would have to give notice to employers of the adoption of the method under section 4214(b) of ERISA and observe the requirements of § 2642.11(d)(1) regarding the amount that may be assessed to a withdrawing employer pending PBGC approval of an allocation method.

Other Changes from the Proposed Regulation

One other change has been made in § 2642.6(c), which describes employers whose contributions are excluded from the denominators of fractions used to determine withdrawing employers' shares of unfunded vested benefits under section 4211 (b), (c)(2) and (c)(3) of ERISA. The employers in question are those "that permanently cease to have an obligation to contribute to the plan or permanently cease covered operations" within a time period described in § 2642.6(c). The PBGC has revised the language describing these employers by adding the word "permanently" in two places.

Section 2642.11(d)(1) deals with demands for withdrawal liability while PBGC action is pending on a plan's request for approval of an amendment to its allocation method. During this period, a plan may not demand an amount greater than the amount determined under the amendment, or the amount determined without the amendment, whichever is smaller. The PBGC has added a requirement that employers be informed of both amounts and of the fact that the larger amount may become payable depending on the PBGC's action on the approval request. This will enable employers to make more informed decisions about whether to challenge withdrawal liability assessments. The additional administrative burden to the plan is negligible, because both amounts must be calculated in any event to determine which is the smaller.

Section 2642.13(b) describes criteria for PBGC approval of alternative allocation methods or modifications to methods. As proposed, § 2642.13(b)(2) required that allocations be based on either an employer's share of plan contributions or the unfunded vested benefits "directly attributable" to each employer. That phrase was carried over from the interim regulation. The PBGC is concerned that the word "directly" may be given a narrower interpretation than the PBGC intended. For example, the PBGC did not mean to imply that an allocation method based on unfunded vested benefits attributable to each employer would be unacceptable unless the attribution were based on hours of service actually worked for each employer. In fact, the interim regulation has not been so applied. Accordingly, the PBGC has deleted the word "directly" from the phrase in question.

Compliance With Rulemaking Guidelines

The PBGC has determined that this regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. ERISA requires the PBGC to establish, by regulation, rules for the adoption of modifications and alternatives to the allocation methods under section 4211 of ERISA. This regulation simply revises an existing regulation fulfilling that requirement.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that this rule will not have a significant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. The regulation affects only multiemployer plans covered by the PBGC. Small multiemployer plans represent only .4% of all small plans covered by the PBGC (346 out of 84,288). The regulation will affect only those plans that choose to change their allocation methods. The PBGC estimates, based on its experience to date, that no more than 16 multiemployer plan sponsors per year will amend their plans under ERISA section 4211 in a manner requiring PBGC approval. Thus, the PBGC expects there to be very few small plans that will need to file amendment approval requests under these rules. Therefore, the PBGC waives compliance with sections 603 and 604 of the Regulatory Flexibility Act.

The collection of information requirements contained in this proposed regulation have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980..

List of Subjects in 29 CFR Part 2642

Employee benefit plans, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR Part 2642 is revised to read as follows:

PART 2642—ALLOCATING UNFUNDED VESTED BENEFITS

Subpart A—General

Sec.

2642.1 Purpose and scope.
2642.2 Special rules for construction industry and IRC section 404(c) plans.

Subpart B—Changes Not Subject to PBGC Approval

2642.5 Changes not subject to PBGC approval.
2642.6 Modifications to the presumptive, modified presumptive and rolling-5 methods.
2642.7 Modifications to the direct attribution method.

Subpart C—Changes Subject to PBGC Approval

2642.11 Changes subject to PBGC approval.
2642.12 Requests for PBGC approval.
2642.13 Approval of alternative method.
2642.14 Special rule for certain alternative methods previously approved.

Authority: 29 U.S.C. 1302(b)(3) and 1391(c)(1), (c)(2)(D), (c)(5)(A), (c)(5)(B), and (c)(5)(D).

Subpart A—General

§ 2642.1 Purpose and scope.

(a) *Purpose.* Section 4211 of the Act provides four methods for allocating unfunded vested benefits to employers that withdraw from a multiemployer plan: The presumptive method (section 4211(b)); the modified presumptive method (section 4211(c)(2)); the rolling-5 method (section 4211(c)(3)); and the direct attribution method (section 4211(c)(4)). With the minor exceptions covered in § 2642.2, a plan determines the amount of unfunded vested benefits allocable to a withdrawing employer in accordance with the presumptive method, unless the plan is amended to adopt an alternative allocation method. Generally, the PBGC must approve the adoption of an alternative allocation method. On September 25, 1984, 49 FR 37666, the PBGC granted a class approval of all plan amendments adopting one of the statutory alternative allocation methods. Subpart C of this regulation sets forth the criteria and procedures for PBGC approval of non-statutory alternative allocation methods. Section 4211(c)(5) of the Act also permits certain modifications to the statutory allocation methods. The PBGC is to prescribe these modifications in a regulation, and plans may adopt them without PBGC approval. Subpart B of this regulation contains the permissible modifications to the statutory methods. Plans may adopt other modifications subject to PBGC approval under Subpart C.

(b) *Scope.* This part applies to all multiemployer plans covered by section 4021(a) of ERISA and not excluded by section 4021(b).

§ 2642.2 Special rules for construction industry and IRC section 404(c) plans.

(a) *Construction plans.* Except as provided in the next sentence, a plan that primarily covers employees in the building and construction industry shall use the presumptive method for allocating unfunded vested benefits. However, the plan may, with respect to employers that are not construction industry employers within the meaning of section 4203(b)(1)(A) of the Act, adopt, by amendment, one of the statutory alternative methods or a non-statutory allocation method. Any such amendment is subject to PBGC approval under Subpart C of this part. A construction plan may, without the PBGC's approval, adopt by amendment any of the modifications to the presumptive method set forth in § 2642.6.

(b) *Section 404(c) plans.* A plan described in section 404(c) of the Internal Revenue Code (a plan established before January 1, 1954, as a result of agreement between employee representatives and the United States during a period of government operation, under seizure powers, of a major part of the productive facilities of an industry) or a continuation of such a plan shall allocate unfunded vested benefits under the rolling-5 method unless the plan, by amendment, adopts an alternative method. The plan may adopt one of the statutory allocation methods without PBGC approval; adoption of any other allocation method is subject to PBGC approval under Subpart C of this part. A section 404(c) plan may, without the PBGC's approval, adopt by amendment any of the modifications set forth in Subpart B.

Subpart B—Changes Not Subject to PBGC Approval

§ 2642.5 Changes not subject to PBGC approval.

(a) *General rule.* A plan, other than a plan that primarily covers employees in the building and construction industry, may adopt, by amendment, any of the statutory allocation methods and any of the modifications set forth in §§ 2642.6 and 2642.7, without the approval of the PBGC.

(b) *Building and construction industry plans.* A multiemployer plan that primarily covers employees in the building and construction industry may adopt, by amendment, any of the modifications to the presumptive rule set forth in § 2642.6 without the approval of the PBGC.

§ 2642.6 Modifications to the presumptive, modified presumptive and rolling-5 methods.

(a) *"Contributions made" and "total amount contributed".* Each of the allocation fractions used in the presumptive, modified presumptive and rolling-5 methods is based on contributions that certain employers have made to the plan for a five-year period. For purposes of these methods, and except as provided in paragraph (b) of this section, "the sum of all contributions made" or "total amount contributed" by employers for a plan year means the amounts (other than withdrawal liability payments) considered contributed to the plan for the plan year for purposes of section 412(b)(3)(A) of the Internal Revenue Code. For plan years before section 412 applies to the plan, "the sum of all contributions made" or "total amount contributed" means the amount reported to the Internal Revenue Service or the Department of Labor as total contributions for the plan year; for example, for plan years in which the plan filed the Form 5500, the amount reported as total contributions on line 14(c) of that form. Employee contributions, if any, shall be excluded from the totals.

(b) *Changing the period for counting contributions.* A plan sponsor may amend a plan to modify the denominators in the presumptive, modified presumptive and rolling-5 methods in accordance with one of the alternatives described in this paragraph. Except as provided in paragraph (b)(4) of this section, any amendment adopted under this paragraph shall be applied consistently to all plan years. Contributions counted for one plan year may be not counted for any other plan year. If a contribution is counted as part of the "total amount contributed" for any plan year used to determine a denominator, that contribution may not also be counted as a contribution owed with respect to an earlier year used to determine the same denominator, regardless of when the plan collected that contribution.

(1) A plan sponsor may amend a plan to provide that "the sum of all contributions made" or "total amount contributed" for a plan year means the amount of contributions that the plan actually received during the plan year, without regard to whether the contributions are treated as made for that plan year under section 412(b)(3)(A) of the Internal Revenue Code.

(2) A plan sponsor may amend a plan to provide that "the sum of all contributions made" or "total amount contributed" for a plan year means the amount of contributions actually received during the plan year, increased by the amount of contributions received during a specified period of time after the close of the plan year not to exceed the period described in section 412(c)(10) of the Internal Revenue Code and regulations thereunder.

(3) A plan sponsor may amend a plan to provide that "the sum of all contributions made" or "total amount contributed" for a plan year means the amount of contributions actually received during the plan year, increased by the amount of contributions accrued during the plan year and received during a specified period of time after the close of the plan year not to exceed the period described in section 412(c)(10) of the Internal Revenue Code and regulations thereunder.

(4) A plan sponsor may amend a plan to provide that—

(i) For plan years ending before September 26, 1980, "the sum of all contributions made" or "total amount contributed" means the amount reported on line 14(c) of Form 5500 and, for years before the plan was required to file Form 5500, the amount of total contributions reported on any predecessor reporting form required by the Department of Labor or the Internal Revenue Service; and

(ii) For subsequent plan years, "the sum of all contributions made" or "total amount contributed" means the amount described in paragraph (a) of this section, or the amount described in paragraphs (b)(1), (b)(2) or (b)(3) of this section.

(c) *Excluding contributions of significant withdrawn employers.* Contributions of certain withdrawn employers are excluded from the denominator in each of the fractions used to determine a withdrawing employer's share of unfunded vested benefits under the presumptive, modified presumptive and rolling-5 methods. Except as provided in paragraph (c)(1) of this section, contributions of all employers that permanently cease to have an obligation to contribute to the plan or permanently cease covered operations before the end of the period of plan years used to

determine the fractions for allocating unfunded vested benefits under each of those methods (and contributions of all employers that withdrew before September 26, 1980) are excluded from the denominators of the fractions.

(1) The plan sponsor of a plan using the presumptive, modified presumptive or rolling-5 method may amend the plan to provide that only the contributions of significant withdrawn employers shall be excluded from the denominators of the fractions used in those methods.

(2) For purposes of this paragraph (c), "significant withdrawn employer" means—

(i) An employer to which the plan has sent a notice of withdrawal liability under section 4219 of the Act; or

(ii) A withdrawn employer that in any plan year used to determine the denominator of a fraction contributed at least $250,000 or, if less, 1% of all contributions made by employers for that year.

(3) If a group of employers withdraw in a concerted withdrawal, the plan shall treat the group as a single employer in determining whether the members are significant withdrawn employers under paragraph (c)(2) of this section. A "concerted withdrawal" means a cessation of contributions to the plan during a single plan year—

(i) By an employer association;

(ii) By all or substantially all of the employers covered by a single collective bargaining agreement; or

(iii) by all or substantially all of the employers covered by agreements with a single labor organization.

§ 2642.7 Modifications to the direct attribution method.

(a) *Error in direct attribution method.* The unfunded vested benefits allocated to a withdrawing employer under the direct attribution method are the sum of the employer's attributable liability, determined under section 4211(c)(4)(A)(i) and (c)(4)(B) of the Act, and the employer's share of the plan's unattributable liability, determined under section 4211(c)(4)(E) and allocated to the employer under section 4211(c)(4)(F). Plan sponsors should allocate unattributable liabilities on the basis of the employer's share of the attributable liabilities. However, section 4211(c)(4)(F) of the Act, which describes the allocation of unattributable liabilities, contains a typographical error. Therefore, plans adopting the direct attribution method shall modify the phrase "as the amount determined under subparagraph (C) for the employer bears to the sum of the amounts determined under subparagraph (C) for all employers under the plan" in section 4211(c)(4)(F) by substituting "subparagraph (B)" for "subparagraph (C)" in both places it appears.

(b) *Allocating unattributable liability based on contributions in period before withdrawal.* A plan that is amended to adopt the direct attribution method may provide that instead of allocating the unattributable liability in accordance with section 4211(c)(4)(F) of the Act, the employer's share of the plan's unattributable liability shall be determined by multiplying the plan's unattributable liability determined under section 4211(c)(4)(E) by a fraction—

(1) The numerator of which is the total amount of contributions required to be made by the withdrawing employer over a period of consecutive plan years (not fewer than five) ending before the withdrawal; and

(2) The denominator of which is the total amount contributed under the plan by all employers for the same period of years used in paragraph (b)(1) of this section, decreased by any amount contributed by an employer that withdrew from the plan during those plan years.

Subpart C—Changes Subject to PBGC Approval

§ 2642.11 Changes subject to PBGC approval.

(a) *General rule.* Subject to the approval of the PBGC pursuant to this subpart, a plan, other than a plan that primarily covers employees in the building and construction industry, may adopt, by amendment, any allocation method or modification to an allocation method that is not permitted under Subpart B of this part.

(b) *Building and construction industry plans.* Subject to the approval of the PBGC pursuant to this subpart, a plan that primarily covers employees in the building and construction industry may adopt, by amendment, any allocation method or modification to an allocation method that is not permitted under § 2642.6 if the method or modification is applicable only to its employers that are not construction industry employers within the meaning of section 4203(b)(1)(A) of the Act.

(c) *Substantial overallocation not allowed.* No plan may adopt an allocation method or modification to an allocation method that results in a systematic and substantial overallocation of the plan's unfunded vested benefits.

(d) *Use of method prior to approval.* A plan may implement an alternative allocation method or modification to an allocation method that requires PBGC approval before that approval is given. However, the plan sponsor shall assess liability in accordance with this paragraph.

(1) *Demand for payment.* Until the PBGC approves the allocation method or modification, a plan may not demand withdrawal liability under section 4219 of the Act in an amount that exceeds the lesser of the amount calculated under the amendment or the amount calculated under the allocation method that the plan would be required to use if the PBGC did not approve the amendment. The plan must inform each withdrawing employer of both amounts and explain that the higher amount may become payable depending on the PBGC's decision on the amendment.

(2) *Adjustment of liability.* When necessary because of the PBGC decision on the amendment, the plan shall adjust the amount demanded from each employer under paragraph (c)(1) of this section and the employer's withdrawal liability payment schedule. The length of the payment schedule shall be increased, as necessary. The plan shall notify each affected employer of the adjusted liability and payment schedule and shall collect the adjusted amount in accordance with the adjusted schedule.

§ 2642.12 Requests for PBGC approval.

(a) *General.* A plan shall submit a request for approval of an alternative allocation method or modification to an allocation method to the PBGC in accordance with the requirements of this section as soon as practicable after the adoption of the amendment.

(b) *Who shall submit.* The plan sponsor, or a duly authorized representative acting on behalf of the plan sponsor, shall sign the request.

(c) *Where to submit.* The plan shall submit the request by first class mail or courier service to the Insurance Operations Department, Control Branch (Code 25420), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, or by hand to Room 5300A at that address.

(d) *Content.* Each request shall contain the following information:

(1) The name, address and telephone number of the plan sponsor, and of the duly authorized representative, if any, of the plan sponsor.

(2) The name of the plan.

(3) The nine-digit Employer Identification Number (EIN) that the Internal Revenue Service assigned to the plan sponsor and the three-digit Plan Identification Number (PIN) that the plan sponsor assigned to the plan, and, if different, also the EIN–PIN that the plan last filed with the PBGC. If the plan has no EIN–PIN, the request shall so indicate.

(4) The date the amendment was adopted.

(5) A copy of the amendment, setting forth the full text of the alternative allocation method or modification.

(6) The allocation method that the plan currently uses and a copy of the plan amendment (if any) that adopted the method.

(7) A statement certifying that notice of the adoption of the amendment has been given to all employers that have an obligation to contribute under the plan and to all employee organizations that represent employees covered by the plan.

(e) *Additional information.* In addition to the information listed in paragraph (d) of this section, the PBGC may require the plan sponsor to submit any other information that the PBGC determines is necessary for the review of an alternative allocation method or modification to an allocation method.

(Approved by the Office of Management and Budget under control number 1212–0035.)

§ 2642.13 Approval of alternative method.

(a) *General.* The PBGC shall approve an alternative allocation method or modification to an allocation method if the PBGC determines that adoption of the method or modification would not significantly increase the risk of loss to plan participants and beneficiaries or to the PBGC.

(b) *Criteria.* An alternative allocation method or modification to an allocation method satisfies the requirements of paragraph (a) of this section if it meets the following three conditions:

(1) The method or modification allocates a plan's unfunded vested benefits, both for the adoption year and for the five subsequent plan years, to the same extent as any of the statutory allocation methods, or any modification to a statutory allocation method permitted under Subpart B.

(2) The method or modification allocates unfunded vested benefits to each employer on the basis of either the employer's share of contributions to the plan or the unfunded vested benefits attributable to each employer. The method or modification may take into account differences in contribution rates paid by different employers and differences in benefits of different employers' employees.

(3) The method or modification fully reallocates among employers that have not withdrawn from the plan all unfunded vested benefits that the plan sponsor has determined cannot be collected from withdrawn employers, or that are not assessed against withdrawn employers because of sections 4208, 4219(c)(1)(B) or 4225 of the Act.

(c) *PBGC action on request.* The PBGC's decision on a request for approval shall be in writing. If the PBGC disapproves the request, the decision shall state the reasons for the disapproval and shall include a statement of the sponsor's right to request a reconsideration of the decision pursuant to Part 2606 of this chapter.

§ 2642.14 Special rule for certain alternative methods previously approved.

A plan may not apply to any employer withdrawing on or after November 25, 1987, an allocation method approved by the PBGC before that date that allocates to the employer the greater of the amounts of unfunded vested benefits determined under two different allocation rules. Until a plan that has been using such a method is amended to adopt a valid allocation method, its allocation method shall be deemed to be the statutory allocation method that would apply if it had never been amended.

EFFECTIVE DATE: November 25, 1987.

Issued in Washington, DC, this 24th day of September 1987.

William E. Brock,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving, and authorizing its chairman to issue, this regulation.

Gary M. Ford,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 87–24741 Filed 10–23–87; 8:45 am]

BILLING CODE 7708–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–36145B; FRL–3282–2]

Interim Policy for Sulfiting Agents on Grapes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy statement; Extension of comment period.

SUMMARY: This document extends to November 9, 1987 the time period in which interested parties may comment on the August 26, 1987 amended policy statement regarding the use of sulfiting agents on grapes. This extension is being granted to give all parties an opportunity to respond more fully to the interim policy.

DATE: The comment period is extended to and includes November 9, 1987.

ADDRESSES: Comments should bear the document control number [OPP–36145B] and should be sent in triplicate, if possible, to:

Information Services Section, Program Management and Support Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236, at the Virginia address given above, from 8:30 a.m. to 4 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Walter C. Francis, Disinfectants Branch, Registration Division (TS–767C), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 711, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–3964).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 26, 1987 (52 FR 32128), EPA issued a document that amended its interim policy for use of sulfiting agents on grapes. That document superseded a previous document which was published in the **Federal Register** of December 31, 1986 (51 FR 47240). The original action was prompted by an announcement by the Food and Drug Administration (FDA) in the **Federal Register** of July 9, 1986, that the use of sulfiting agents as preservatives on raw fruits and vegetables served or sold to consumers was no longer deemed to be generally recognized as safe (GRAS) because some individuals experience severe allergic reactions to sulfite residues on food (51 FR 25021). FDA's action did not affect the use of sulfiting agents as pesticides on grapes, a use that

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historically has been treated as if it were GRAS, because the pesticidal use is within EPA's jurisdiction.

In light of FDA's action, EPA decided to adopt certain interim measures to inform and protect sulfite sensitive individuals until a tolerance or some other appropriate clearance could be established. These interim measures—requiring that shippers certify that sulfite-treated grapes will not have detectable sulfite residues—were issued December 31, 1986 (51 FR 47240), and permitted shipment of sulfite-treated grapes for 1 year.

On August 26, 1987 (52 FR 32128), EPA determined that there are two other acceptable measures that are adequate to protect the public health while allowing the marketing of sulfited grapes of domestic or foreign origin. These alternative measures are placarding at the retail level or tagging individual bunches of grapes. Public comment was invited on the interim policy. Comments were due by October 26, 1987.

Recently, the California Grape and Tree Fruit League and the California Table Grape Commission requested that EPA extend the comment period on the interim policy by 14 days to enable these and other groups to more fully discuss the issues and to review data collected from the state certification program.

In order to give all parties an opportunity to respond more fully to the interim policy, EPA is extending the comment period 14 days. The new deadline is November 9, 1987. Comments should be submitted to the address given earlier in this document.

Dated: October 19, 1987.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 87-24793 Filed 10-23-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 426

Acreage Limitation Rule and Regulations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rule.

SUMMARY: On April 13, 1987, the Department of the Interior (DOI) promulgated final rules for the administration of the Reclamation Reform Act of 1982 (RRA) (52 FR 11954), replacing the rules that were published in the **Federal Register** on December 6, 1983 (48 FR 54768). Since the April 13th rules were published, the DOI has determined that several provisions relating to the involuntary acquisition of land require correction or clarification. This rule revises the applicable provisions.

EFFECTIVE DATE: November 25, 1987.

FOR FURTHER INFORMATION CONTACT: Phillip T. Doe, Chief, Acreage Limitation Branch; Bureau of Reclamation; E&R Center, Code D-410; P.O. Box 25007; Denver, CO 80225, (303) 236-8065.

SUPPLEMENTARY INFORMATION:

Rationale for Changes

Sections 426.11(h)(2) and 426.16(a) of the April 13th rules provide that when irrigable or irrigation land is gifted to a landlord, the land is considered to be involuntarily acquired. As such, the land (1) is exempt from the 10-year deed covenant restricting the resale value during that 10-year period to a Secretarially approved price if the land is to retain its eligibility to receive irrigation water and (2) is entitled to receive irrigation water for a grace period of 5 years if it becomes excess in the new ownership. Upon further review of the RRA, the DOI has determined that these provisions exceed the authority of the Secretary.

Regarding the application of a deed covenant requiring Secretarial sale price approval, section 224(e) of the RRA provides that, "Any nonexcess land which is acquired into excess status pursuant to involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), inheritance, or devise, may be sold at its fair market value without regard to any other provision of this title * * *" Regarding the 5-year grace period for receiving irrigation water, section 216 of the RRA provides that land acquired into excess status is eligible for a temporary water supply if it is acquired by "involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), by inheritance, or by devise * * *" It can be seen from these quotations that the term "gift" is never used in the provisions addressing involuntary processes of law. It should be noted that the definition of "devise", as defined in Black's Law Dictionary, is "a testamentary disposition of land or reality; a gift of real property by the last will and testament of the donor." Clearly, "devise" does not include "gifts" other than those made through the testamentary process, and that form of involuntary acquisition is specifically addressed in section 224(e) by use of the term "inheritance."

For these reasons, the term "gift" has been deleted from §§ 426.11(h)(2) and 426.16(a) of the rules. But, as in the April 13th rules, the rules will continue to provide for the 5-year eligibility period and the removal of the deed covenant when land is acquired through involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), inheritance, and devise.

Comments on the Proposed Rule

The Bureau of Reclamation published a notice of proposed rulemaking on the revisions to the gift provisions in the **Federal Register** on Friday, June 26, 1987. During the public comment period, we received no comments on the proposed rule.

Executive Order 12291

The DOI has determined that the revised rule does not constitute a major rule under Executive Order 12291; therefore, a Regulatory Impact Analysis is not required and has not been prepared.

National Environmental Policy Act (NEPA) Compliance

We have determined that this action meets the criteria for an action categorically excluded from the provisions of NEPA (40 CFR 1508.4) under Departmental Manual part 516 DM 6, Appendix 9, section 9.4.A.1—"Changes in regulations or policy directives and legislative proposals where the impacts are limited to economic and/or social effects."

Small Entity Flexibility Analysis

The revised rule will not have a significant economic effect on a substantial number of small entities. Gifted land will continue to be subject to the deed covenant provisions and if it becomes excess in the new ownership, such land will not be eligible to receive irrigation water for a 5-year grace period. While these factors could affect the resale value of such land and the level of income associated with any irrigated production, the financial status of a landholder will improve, nevertheless, as a result of being a recipient of gifted land.

Paperwork Reduction Act

The revised rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 43 CFR Part 426

Irrigation, Reclamation, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, Title 43, Chapter I, of the Code of Federal Regulations is amended by revising Part 426 to read as follows:

Dated: September 23, 1987.

C. Dale Duvall,

Commissioner, Bureau of Reclamation.

PART 426—RULES AND REGULATIONS FOR PROJECTS GOVERNED BY FEDERAL RECLAMATION LAW

1. The authority citation for Part 426 continues to read as follows:

Authority: Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. 552; the Reclamation Reform Act of 1982, Pub. L. 97-293, title II, 96 Stat. 1263; and the Reclamation Act of 1902, as amended and supplemented, 32 Stat. 388 (43 U.S.C. 371 et seq.).

2. Section 426.11 is amended by revising paragraph (h)(2) to read as follows:

§ 426.11 Excess land.

* * * * *

(h) * * *

(2) Involuntarily acquired land. Upon acquisition of land burdened by such a deed convenant through involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of a debt (including, but not limited to, a mortage, real estate contract, or deed of trust), inheritance, or devise, the deed covenant shall be removed by the Secretary at the request of the acquiring party, by a release of equitable servitude or other appropriate legal instrument.

* * * * *

3. Section 426.16 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 426.16 Involuntary acquisition of land.

(a) *Nonexcess land.* Nonexcess land, irrespective of whether it is subject to a 10-year deed covenant requiring Secretarial sale price approval, and which becomes excess because it is acquired through involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), inheritance, or devise is eligible to receive irrigation water in the new ownership for a period of 5 years. * * *

* * * * *

[FR Doc. 87-24715 Filed 10-23-87; 8:45 am]

BILLING CODE 4310-09-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6756]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001 through 4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 *et seq.*). Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment

of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region III—Regular Conversions				
Pennsylvania:				
Modena, Borough of, Chester County	420282	Oct. 10, 1974, Emerg.; Nov. 19, 1987; Reg.; Nov. 19, 1987, Susp.	11-19-87	Nov. 19, 1987
Pillow, Borough of, Dauphin County	420392	May 13, 1975, Emerg.; Nov. 19, 1987, Reg.; Nov. 19, 1987, Susp.	11-19-87	Do.
Schuylkill Haven, Borough of, Schuylkill County	420787	Oct. 20, 1972, Emerg.; Dec. 1, 1977, Reg.; Nov. 19, 1987, Susp.	11-19-87	Do.
West Vincent, Township of, Chester County	421499	Aug. 11, 1975, Emerg.; Nov. 19, 1987, Reg.; Nov. 19, 1987, Susp.	11-19-87	Do.
West Virginia: Rainelle, Town of, Greenbrier County	540228	Sept. 3, 1975, Emerg.; Nov. 19, 1987, Reg.; Nov. 19, 1987, Susp.	11-19-87	Do.
Region VI				
Texas: Van Buren County, unincorporated areas	050585	Feb. 8, 1983, Emerg.; Aug. 4, 1987, Reg.; Nov. 19, 1987, Susp.	8-4-87	Aug. 4, 1987
Region IX				
Arizona: Cottonwood, Town of, Yavapai County	040095	May 5, 1975, Emerg.; Sept. 16, 1981, Reg.; Nov. 19, 1987, Susp.	11-19-87	Nov. 19, 1987
Region VIII—Minimal Conversion				
North Dakota: Trenton, Township of, Williams County	380679	Apr. 29, 1976, Emerg.; Nov. 4, 1987, Reg.; Nov. 19, 1987, Susp.	11-19-87	Do.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: October 20, 1987.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 87-24060 Filed 10-23-87; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-144]

Broadcast Services; Review of Technical Parameters for FM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In the Second Report and Order published in the **Federal Register** on October 9, 1987, at 52 FR 37786, there are several errors. These errors are corrected herein.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: B.C. "Jay" Jackson, Jr., Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Review of Technical Parameters for FM Allocation Rules of Part 73, Subpart B, FM Broadcast Stations; Erratum

PART 73—[AMENDED]

In the October 9, 1987 **Federal Register** publication of the summary of the *Second Report and Order* in the above-captioned matter (52 FR 37786), there are several errors. These errors are corrected as follows:

§ 73.208 [Amended]

1. On page 37788, column 1, line 40, § 73.208(c)(2), the last "2" in the mathematical formula should not be an exponent. The formula is corrected to read as follows:

$ML=(LAT1_{dd}+LAT2_{dd})\div 2$

§ 73.210 [Amended]

2. On page 37788, column 2, line 55, § 73.210(b)(2), the phrase "except for Puerto Rico and the Virgin Islands" was omitted. That line is corrected to read as follows:

(b) * * *

(2) For a station in Zone I or Zone I–A, except for Puerto Rico and the Virgin Islands:

3. On page 37788, column 3, between lines 3 and 4, § 73.210(b), paragraph (4) was omitted. This omission is corrected by inserting, after line 3, the missing paragraph, which reads as follows:

(b) * * *

(4) For a station in Puerto Rico or the Virgin Islands:

(i) If this distance is less than or equal to 42 km, the station is Class A.

(ii) If this distance is greater than 42 km and less than or equal to 46 km, the station is Class B1.

(iii) If this distance is greater then 46 km and less than or equal to 78 km, the station is Class B.

4. On page 37788, column 3, line 4, the amendatory instruction is misnumbered "3", duplicating the number of the previous instruction. This instruction is corrected to read number "4" and the subsequent instructions, "4" through "7" are corrected by renumbering them "5" through "8".

§ 73.211 [Amended]

5. On page 37788, column 3, line 16, § 73.211(a)(1), a minus sign was omitted. This line is corrected to read "(−10.0 dBk)" instead of "(10.0 dBk)".

6. On page 37789, column 1, line 10, § 73.211(b)(1)(iii), the phrase "Except as provided in paragraph (b)(3) of this section," was omitted. That paragraph is corrected to read as follows:

(b) * * *

(1) * * *

(iii) Except as provided in paragraph (b)(3) of this section, no station will be authorized in Zone I or I–A with an ERP equal to 50 kW and a HAAT exceeding 150 meters. No station will be authorized in Zone II with an ERP equal to 100 kW and a HAAT exceeding 600 meters.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-24697 Filed 10-23-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 70617-7148]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of adjustment of surf clam fishing time.

SUMMARY: NOAA issues this notice to establish the allowable fishing time for surf clams at 42 hours for the fourth quarter of 1987 for vessels harvesting surf clams in the Mid-Atlantic Area of the exclusive economic zone. This action will provide flexibility to operators in the use of fishing time during the period. The intended effect is to match fishing effort to the available quota for the area.

EFFECTIVE DATES: October 3, 1987, through December 31, 1987. Fishing trips must be scheduled with 10 days' advance written notice.

ADDRESSES: Send request for fishing time to the Surf Clam Coordinator, NMFS, 2 State Fish Pier, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600, ext. 273.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries contain at § 652.22(a)(3) a provision allowing the Regional Director to revise allowable fishing time to promote fishing for surf clams throughout the year with a minimum of changes. The Regional Director during the first quarter of 1987 decided, with the unanimous support of the Mid-Atlantic Fishery Management Council, to exercise his authority under § 652.22(a)(3) to allocate fishing time by quarter and allow each operator the maximum flexibility possible to schedule that time to best advantage.

Based on the rate of harvest and utilization of available quota during the third quarter, the Regional Director decided to allocate the fishing time at 42 hours per permitted fishing vessel for the fourth quarter. That time must be scheduled 10 days in advance in seven fishing trips of six hours duration each, which may be taken on any seven separate days during the normal daily and weekly fishing times established in § 652.22(a) (1), (2), and (3) (see **ADDRESSES**).

Other Matters

The action is taken under the authority of 50 CFR Part 652 and is taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Dated: October 20, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 87-24717 Filed 10-23-87; 8:45 am]

BILLING CODE 3510-23-M

Proposed Rules

Federal Register
Vol. 52, No. 206
Monday, October 26, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 54

[EE-113-82]

Required Distributions From Qualified Plans and Individual Retirement Plans; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the required distributions from qualified plans.

DATES: The public hearing will begin at 10:00 a.m. on Friday, December 4, 1987. Outlines of oral comments must be delivered or mailed by Wednesday, November 18, 1987.

ADDRESSES: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE-113-82), Room 4429, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Angela D. Wilburn of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, telephone (202) 566-3935, (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Income Tax Regulations (26 CFR Part 1) and to the Pension Excise Taxes Regulations (26 CFR Part 54) under sections 401, 403, 408, and 4974 of the Internal Revenue Code. The proposed regulations appeared in the **Federal Register** for Monday, July 27, 1987 (52 FR 28070).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Wednesday, November 18, 1987, an outline of the oral testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

James J. McGovern,

Director, Employee Plans and Exempt Organization Division.

[FR Doc. 87-24701 Filed 10-23-87; 8:45 am]

BILLING CODE 4830-01-M

31 CFR Part 103

Proposed Amendments to Implementing Regulations; Bank Secrecy Act

AGENCY: Departmental Offices, Treasury.

ACTION: Proposed rule.

SUMMARY: Treasury proposes two amendments to 31 CFR 103.25, which provides for reporting under the Bank Secrecy Act by designated financial institutions of prescribed transactions with foreign financial agencies. First, the Secretary would be able to require the reporting of completed as well as future transactions. Reporting of completed transactions would be limited to information that financial institutions are required by law to maintain, or that they otherwise maintain in the ordinary course of business. Second, the Secretary would be able to direct financial institutions not to inform customers or any other parties of the existence of a reporting requirement imposed under § 103.25.

DATE: Comments must be received on or before December 28, 1987.

ADDRESS: Address written comments to Jonathan J. Rusch, Director, Office of Financial Enforcement, Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue., NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Jonathan J. Rusch, Director, Office of Financial Enforcement, at the address listed above, or at (202) 566-8022.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 1985 (50 FR 27821), the Department of the Treasury published a final rule which added § 103.25 to 31 CFR Part 103, the regulations implementing the Bank Secrecy Act, 31 U.S.C. 5311-5324. Pursuant to the authority set forth in 31 U.S.C. 5314, 31 CFR 103.25 establishes a procedure under which the Secretary may issue a regulation requiring designated financial institutions to report limited numbers of financial transactions with designated foreign finanical agencies. Notice of such reporting requirements may be published in the **Federal Register** or may be served personally upon the affected financial institutions in accordance with 5 U.S.C. 553. The purpose of this limited reporting procedure is to enhance the government's ability to monitor international transactions for tax, regulatory, and law enforcement purposes.

Treasury proposes to amend § 103.25 in two respects. First, § 103.25(e)(3) currently provides that the Secretary may not require a financial institution to report transactions completed before it receives notice of a reporting regulation under § 103.25(a). Treasury has determined that in many cases it would be useful to require reporting on completed transactions. Therefore, Treasury proposes to amend § 103.25(e)(3) to provide that financial institutions may be required to report on completed transactions with foreign financial agencies. However, with respect to completed transactions, the financial institution would be required to provide only information from records that it otherwise is required to maintain under Subpart C of Part 103 of any other provision of State or Federal law, or otherwise keeps in the normal course of business. Consequently, this extension of § 103.25 reporting to past transactions would impose no new recordkeeping requirement on any financial institution.

Second, Treasury proposes that in cases where the regulation requiring reporting under § 103.25 is not published in the **Federal Register**, Treasury may require a financial institution subject to reporting not to disclose the existence or provisions of the regulation to any party, including the foreign financial agency to which the reporting is related. Notice of the reporting requirement to the foreign financial agency or its customers can seriously impair its usefulness by allowing a person or institution to conceal or change transactions for the duration of the reporting period, thus distorting the information reported under § 103.25. This delay on disclosure is authorized by 31 U.S.C. 5314, which provides that the Secretary may prescribe "other matters * * * necessary to carry out" section 5314 or the regulations thereunder. 31 U.S.C. 5314(b)(5). The Right to Financial Privacy Act of 1978, Pub. L. 95-630 (Nov. 10, 1978), as amended (12 U.S.C. 3401 *et seq.*), does not require that notice of § 103.25 reporting be given to any party. The customer notice provisions of the Right to Financial Privacy Act do not apply to information "required to be reported in accordance with any Federal statute or rule promulgated thereunder." 12 U.S.C. 3413(d).

These amendments are not designed or intended to obtain information for an existing investigation focused on a particular individual or organization. In such cases, there are established information collection procedures that strike a more appropriate balance between the rights due an individual who is involved in a dispute with the government and the legitimate demands of society that its laws be enforced. Examples include search warrants, judicial subpoenas, administrative subpoenas and summonses, and the formal written request created by the Right to Financial Privacy Act. Accordingly, the existing restriction in § 103.25 prohibiting the use of reporting requirements in such circumstances shall also restrict these proposed amendments. However, information reported under these amendments will be treated the same as any other information collected under the Bank Secrecy Act, and may serve as the basis for initiating an investigation.

Executive Order 12291

This proposed rule is not a major rule for purposes of Executive Order 12291. It is not anticipated to have an annual effect on the economy of $100 million or more. It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions. It will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. A Regulatory Impact Analysis therefore is not required.

Regulatory Flexibility Analysis

It is hereby certified pursuant to 5 U.S.C. 603 and 604 that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The collection of information requirements contained in this Notice of Proposed Rulemaking have been submitted to the Office of Management and Budget pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Comments on these requirements should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Office of the Secretary, Department of the Treasury. Copies of such comments should also be submitted to the Department at the address previously specified.

Comments

Treasury requests comments for all interested persons concerning the proposed amendments. All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action. The Treasury Department will not recognize as confidential any material or comments, including the name of any person submitting comments. Any material not intended to be disclosed should not be included in the comments. All comments submitted will be available for public inspection during regular business hours at the Treasury Department Library, Room 5030, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Drafting Information

The principal author of this document is the Office of the Assistant General Counsel (Enforcement), Department of the Treasury.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, foreign banking, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

Amendment

It is proposed to amend 31 CFR Part 103 as set forth below:

PART 103—[AMENDED]

1. The authority citation for Part 103 continues to read as follows:

Authority: Sec. 21 of the Federal Deposit Insurance Act, Pub. L. 91-508, Title I, 84 Stat. 1114, 1116 (12 U.S.C. 1829b, 1951-9); and the Currency and Foreign Transactions Reporting Act, Pub. L. 91-508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311-5324).

2. It is proposed to amend § 103.25(a) by adding a sentence at the end to read as follows:

§ 103.25 Reports of transactions with foreign financial agencies.

(a) * * * If a financial institution is given notice of a reporting requirement under this section by means other than publication in the **Federal Register**, the Secretary may prohibit disclosure of the existence or provisions of that reporting requirement to the designated foreign financial agency or agencies and to any other party.

* * * * *

3. It is proposed to revise § 103.25(e)(3) to read as follows:

* * * * *

(e) * * *

(3) The Secretary may issue a regulation pursuant to paragraph (a) of this section requiring a financial institution to report transactions completed prior to the date it received notice of the reporting requirement. However, with respect to completed transactions, a financial institution may be required to provide information only from records required to be maintained pursuant to Subpart C of this Part, or any other provision of state or federal law, or otherwise maintained in the regular course of business

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Dated: September 25, 1987.
Francis A. Keating, II,
Assistant Secretary (Enforcement).
[FR Doc. 87-24740 Filed 10-23-87; 8:45 am]
BILLING CODE 4810-25-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1256

Statistical Research in Archival Records Containing Personal Information

AGENCY: National Archives and Records Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule establishes procedures for granting access to persons doing biomedical research who wish to perform statistical or quantitative research using records in the National Archives of the United States that contain information of a highly personal nature.

DATE: Comments must be received by November 25, 1987.

ADDRESS: Comments should be sent to Director, Program Policy and Evaluation Division, National Archives and Records Administration (NAA), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard at, 202-523-3214 (FTS 523-3214).

SUPPLEMENTARY INFORMATION: The use of some records transferred to the National Archives of the United States, especially those of recent date, is subject to restrictions prescribed by statute or Executive Order, or imposed by the Archivist of the United States. The Archivist has, in 36 CFR 1256.16, imposed restrictions on the use of records containing information about a living person which reveal details of a highly personal nature when: (1) The personal information contained in the records is not known to have been previously made public and (2) the records relate to events less that 75 years old.

The restriction in 36 CFR 1256.16 allows disclosure under limited conditions of this type of record for the purpose of statistical or quantitative research. However, restricted census and survey records of the Bureau of the Census which are less than 72 years old and which contain data identifying individual enumerated in the population censuses are not eligible for disclosure under this provision.

Access to restricted records under the provisions of 36 CFR 1256.16 has been granted very sparingly. For the most part, NARA's obligation to protect individual privacy rights outweighs the desire of researchers to conduct statistical or quantitative research in these records. In some instances, the records can be stripped of personal identifiers and can be made available to researchers without revealing any confidential information. In other instances, it may be physically impossible to delete the confidential information. NARA must then balance the protection of individual privacy interests against the potential value of the research product if access is granted. The current restriction recognizes that the sensitivity of highly personal information about individuals diminishes with time. Accordingly, the more recent the information, the more sensitive it is likely to be to those individuals identified in the records.

We have thoroughly evaluated the National Archives' policy on access to records containing information about a living person which reveal details of a highly personal nature and have decided that the current policy should be altered. We have concluded that access to these records can be justified only when the likely outcome of the research will benefit society in a significant way. Therefore, we have determined that access to such records should be limited to persons who are conducting biomedical statistical research, e.g., epidemological or genetic studies.

This proposed rule establishes procedures for those doing biomedical research to request permission to use records restricted only for reasons of personal privacy and for NARA to evaluate their requests. If NARA is able to make available copies of the records in which all personal identifiers have been masked or deleted, NARA will do so without requiring compliance with the conditions of access outlined in this rule. However, if NARA is not able to mask or delete all personal identifiers from the records to permit routine research use of the records, evaluation of requests to use such records containing personal identifiers will consider such factors as whether the administrative, technical and physical safeguards proposed by the researcher to prevent unauthorized disclosure of the records are adequate; whether the researcher's methodology will permit the researcher to publish the research results without revealing personally identifying information; and whether NARA has resources available to accomodate the research project.

The researcher must provide written assurance that he or she will abide by the conditions that NARA places on the use of records restricted for reasons of personal privacy. The conditions that NARA imposes on the use of these records will depend on how the records are used in an approved research project. For some research projects, the researcher will be able to use the records at NARA facilities under NARA supervision and will not need to include personally identifiable information in the research notes. In such cases, NARA will impose fewer conditions on access; e.g., records will be used only for the purpose of the described research proposal; persons who are identified in the records will not be contacted by or on behalf of the researcher; and NARA must review the research notes before they are removed from the NARA facility to ensure that the notes do not include personally identifiable information.

For projects where the researcher will need to manipulate data containing personal identifiers and seeks to remove copies of the records or notes containing personally identifying information to another research site, additional conditions of access will apply. For such projects, the conditions include: (1) The records will be used only for the purpose of the approved research proposal; (2) the researcher will not transfer the data or a copy of the data to any person or institution not directly involved with the research project; (3) the researcher will not reveal to any unauthorized person any information obtained from the records which identifies any individual or which permits the identification of any individual; (4) persons who are identified on the records will not be contacted by or on behalf of the researcher; (5) any individually identifiable information in the researcher's notes or in authorized copies of the records will be rendered anonymous by the researcher at the earliest possible time consistent with the purpose of the research project; (6) upon completion of the research project, any data which contains information on individuals (either by name or identifying particulars) must be returned to NARA or destroyed; and (7) prior to publication or public presentation of the research findings, the researcher will send NARA a free copy of the publication or presentation for review to ensure that there is no possible identification of individuals. Additional conditions may be placed on the use of specific records or on specific projects.

The researcher must also obtain and provide to NARA written assurance from all persons associated with the research project that they will abide by the conditions that NARA places on the use of the records. For projects where the records are on magnetic tape or where ADP is used to manipulate data elements containing personal identifiers, the researcher must also obtain the written assurance of the manager of the ADP facility that its ADP personnel will follow the conditions of use imposed by NARA.

If NARA discovers that a researcher has violated any condition of use, NARA will take steps to revoke research privileges at all NARA facilities and will attempt to prevent any further disclosure of the personal information. NARA will also inform the sponsoring institution of the research project, any organization which provided grant funds for the project, appropriate professional organizations, and persons serving as references for the researcher of the researcher's failure to follow the conditions of use.

NARA presently receives about five requests per year that would be covered by this proposed rule. NARA does not expect the number of such requests to increase with the implementation of these procedures. The collection of information requirements contained in this proposed rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. Comments may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NARA, Washington, DC 20503.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subject in 36 CFR Part 1256

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend Part 1256 as follows:

PART 1256—[AMENDED]

1. The authority citation for Part 1256 continues to read as follows:

Authority: 44 U.S.C. 2108.

2. Section 1256.4 is added to read as follows:

§ 1256.4 Access to records containing personal information.

(a) *NARA policy.* Access to archival records containing information access to which would invade the privacy of an individual is restricted by § 1256.16.

(1) NARA may authorize access to such records for the purpose of statistical or quantitative research to qualified persons doing biomedical research under the conditions outlined in this section.

(2) If NARA is able to make a copy of such records with all personal identifiers masked or deleted, NARA will make such a "sanitized" copy of the record available to all researchers in accordance with Part 1254 of this Chapter.

(3) NARA will not grant access to restricted census and survey records of the Bureau of the Census less than 72 years old containing data identifying individuals enumerated in population censuses in accordance with 44 U.S.C. 2108(b).

(b) *Request for access.* Researchers who wish to have access to records the use of which is restricted by § 1256.16 to conduct biomedical research must submit a written request to the Assistant Archivist for the National Archives (NN), National Archives and Records Administration, Washington, DC 20408. Researchers are encouraged to informally consult NARA prior to submitting the formal request. The request must include the following information:

(1) Name and mailing address;

(2) Institutional affiliation and position, if applicable;

(3) List of published research;

(4) References from two persons who have first-hand knowledge of the requester's qualifications to perform the research;

(5) A statement of the nature of the research to be conducted and any plans for publication or presentation of the research findings;

(6) A listing of all sources of grants funds supporting the research project or its publication;

(7) A statement of the methodolgy to be used;

(8) A statement of the administrative, technical, and physical safeguards to be employed by the researcher to prevent unauthorized use or disclosure of the records;

(9) A listing of the record groups and series titles to be used; and

(10) A statement that the researcher will abide by the conditions of access to be prescribed by NARA and that the researcher will assume responsibility for the actions of all persons working with the researcher on the project.

(c) *Access Review Committee.* Requests made under paragraph (b) of this section will be reviewed by the Access Review Committee, which is composed of the Deputy Archivist of the United States, the Assistant Archivist for the National Archives, and the director(s) of the NARA division(s) which has custody of the requested records. The Committee may consult other persons within and outside the Federal Government who are knowledgeable in the research field for assistance in evaluating a request.

(1) The Committee will examine the request to determine:

(i) Whether the requested information is of such a highly sensitive personal nature that disclosure should not be permitted even for biomedical statistical or quantitative research;

(ii) Whether the methodology proposed by the requester will permit the researcher to obtain the projected research results without revealing personally identifying information;

(iii) Whether the research results will be published or presented at an academic or research conference;

(iv) Whether the requester is a *bona-fide* biomedical research and has previous experience in conducting statistical research projects and publishing articles or books on such research;

(v) Whether the safeguards proposed by the requester will adequately protect the personal information; and

(vi) Whether NARA has sufficient staff and space available to safeguard privacy interests necessary to accomodate the research project.

(2) The decision of the Committee will be made in writing to the requester within 15 workdays after receipt of a completed request. At the discretion of the Committee, the researcher may meet with the Committee to discuss the project or to discuss revising the research proposal to meet possible objections of the Committee.

(d) *Conditions of access.* Researchers who are granted access to restricted records, all others associated with the research project who will have access to personally identifiable information from the records, and the manager of any ADP facility handling the records or data elements containing personal identifiers shall agree in writing to maintain the confidentiality of the information and to adhere to the conditions of access imposed by NARA. NARA may impose some or all of the following conditions of access on any project; additional conditions may be imposed on the use of specific records or on specific projects:

(1) The records may be used only for the purpose of the statistical research and for the statistical reporting of research findings as described in the approved research project. The records may not be used for additional research projects without NARA approval;

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(2) The records and copies of any data elements which permit the identification of an individual or which can be identified with an individual may not be transferred to any person or institution not directly involved with the approved research project;

(3) Reasonable administrative, technical, and physical safeguards, as approved by NARA, to prevent unauthorized use or disclosure of the records shall be established by the researcher and followed by all persons associated with the research project;

(4) When required by NARA, the records shall be consulted at the NARA facility where the records are located;

(5) Any individually identifiable information in the researcher's notes or in authorized copies of the records shall be rendered anonymous by the researcher at the earliest possible time consistent with the purpose of the research project;

(6) Persons who are identified in the records may not be contacted by or on behalf of the researcher;

(7) Prior to publication or public presentation of the data, the final research product(s) shall be provided to the Assistant Archivist for the National Archives for review. NARA's review shall be limited to ensuring that there is no possible identification of individuals in the research findings. NARA will not evaluate the validity of the research findings;

(8) All research notes containing personally identifiable information from privacy-restricted records and/or copies of such records shall, upon completion of the project, be destroyed or returned to NARA, whichever condition NARA has imposed as a condition of access. If the notes and/or copies are destroyed, the researcher shall verify in writing to the Assistant Archivist for the National Archives that the research notes and/or copies have been destroyed.

(e) *Noncompliance with conditions of access.* If NARA discovers that a researcher has violated any of the conditions of access imposed on an approved research project, NARA shall take steps to revoke the NARA research privileges of that person and shall consult with the NARA legal counsel to determine any other steps to be taken to prevent any further disclosure of the personal information concerned. NARA may also inform the following persons and organizations of the researcher's failure to follow the conditions of use:

(1) The institution with which the researcher is affiliated, if applicable;

(2) Persons who served as references in the application for access;

(3) Organizations which provided grant funds for the project;

(4) The sponsor of the publication or public presentation; and/or

(5) Appropriate professional organizations.

Dated: September 29, 1987.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 87-24683 Filed 10-23-87; 8:45]

BILLING CODE 7515-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 350

[OGC-00074; FRL-3282-1]

Superfund Program; Trade Secret Claims; Disclosure to Health Professionals; Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Notice of public meetings.

SUMMARY: The EPA has scheduled five public meetings to receive comment on the proposed rule for implementing sections 322 and 323 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA).

DATES: The public meetings are scheduled as follows:

1. November 10, 1987, 10:00 a.m. to 4:00 p.m., Washington, DC
2. November 17, 1987, 10:00 a.m. to 4:00 p.m., Boston, MA
3. November 24, 1987, 10:00 a.m. to 4:00 p.m., San Francisco, CA
4. December 1, 1987, 10:00 a.m. to 4:00 p.m., Chicago, IL
5. December 8, 1987, 10:00 a.m. to 4:00 p.m., Dallas, TX

ADDRESSES: The public meetings will be held at the following locations:

1. Washington, DC—Skyline Inn, South Capitol and I Streets, SW., Washington, DC 20024. (Call (202) 554-1404 to reserve a time for oral presentation.)
2. Boston, MA—Thomas P. O'Neill Junior Federal Building, 10 Causeway Street, 1st Floor Auditorium, Boston, MA 02114. (Call Ann Walsh at (617) 565-3231 to reserve a time for oral presentation.)
3. San Francisco, CA—Federal Emergency Management Agency, Building 105, Corner of Montgomery Street and Lincoln Boulevard, Presidio of San Francisco, 3rd Floor Conference Room, San Francisco, CA 94129. (Call 1-800-321-3075 to reserve a time for oral presentation.) If you reach the answering service, please leave your name, telephone number, and address.
4. Chicago, IL—230 South Dearborn, Room No. 1680, Lakeview Room, Chicago, IL 60604. (Call (312) 353-2072 to reserve a time for oral presentation.)
5. Dallas, TX—Fairmont Hotel, Ross and Akard Streets, Parisian Room, Dallas, TX 75202. (Call (214) 655-7244 to reserve a time for oral presentation.)

FOR FURTHER INFORMATION CONTACT:

Beverly Horn, Office of the General Counsel (LE-132G), 401 M St. SW., Washington, DC 20460 or

The Chemical Emergency Preparedness (CEPP) Hotline at 1-800-535-0202 (in Washington DC (202) 479-2449) or the Office of Toxic Substances Hotline at (202) 554-1404.

SUPPLEMENTARY INFORMATION: On October 15, 1987, EPA published in the **Federal Register** (52 FR 38312) a proposed rule to implement Sections 322 and 323 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). Title III is also known as the Emergency Planning & Community Right-to-Know Act of 1986.

The proposed rule is a companion to other EPA Title III regulations which contain provisions requiring facilities to report to State and local authorities, and EPA, the presence, use and release of extremely hazardous substances (described in sections 302 and 304), and hazardously and toxic chemicals (described in sections 311, 312, and 313). For the reporting required in sections 303(d)(2) and (d)(3), 311, 312 and 313, a submitter may claim the chemical reported as trade secret.

The regulations under section 322 provide procedures for making trade secrecy claims for information submitted under sections 303, 311, 312 and 313 of SARA, as well as procedures for handling petitions from the public requesting disclosure of information claimed as trade secret. The regulations under section 323 provide procedures for disclosure of trade secret information directly to health professionals for certain treatment, diagnosis, or research purposes. EPA has also proposed a substantiation form to accompany claims of trade secrecy under Title III. The Small Business Administration has indicated that it plans to comment on the requirement set forth in the proposed rule whereby facility owners and operators must submit separate substantiations with their trade secret claims under different sections of Title III.

EPA is holding meetings in Washington, DC, Boston, MA., San Francisco, CA., Chicago, IL., and Dallas, TX. to explain the proposed rule and to receive comment on it.

EPA encourages anyone interested in attending these public meetings to obtain a copy of the proposed rule. Contact the CEPP Hotline or the Office of Toxic Substances Hotline at the telephone numbers listed under "**FOR FURTHER INFORMATION CONTACT**".

Persons desiring to present oral comments at any of these meetings are urged to contact the telephone number associated with each meeting as listed under "**ADDRESSES**" as soon as possible. Time slots of approximately 10 minutes each for such oral presentations will be allocated on a first come, first served basis. Written comments will also be welcome at these meetings.

Date: October 21, 1987.

Francis S. Blake,

General Counsel.

[FR Doc. 87-24694 Filed 10-23-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 413 and 447

[BERC-311-P]

Medicare and Medicaid Programs; Revaluation of Assets

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement changes to our current regulations that are affected by section 2314 of the Deficit, Reduction Act of 1984 (Pub. L. 98-369), enacted on July 18, 1984 and sections 9110 and 9509 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272), enacted on April 7, 1986. Those provisions amended sections 1861(v)(1)(O) and 1902(a)(13) of the Social Security Act. Under this rule, we would describe new limitations on the valuation of assets acquired as the result of changes in ownership occurring on or after July 18, 1984. These changes would affect hospitals and skilled nursing facilities under the Medicare program and hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded under the Medicaid program. We intend the changes to promote economy in the Medicare and Medicaid programs.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on December 28, 1987.

ADDRESS: Mail comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: BERC 311-P, P.O. Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addresses:

Room 309 G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC.; or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BERC-311-P.

Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT:

Bruce Oliver, (302) 597-1869, Medicare Provisions,

or

Tzvi Hefter, (301) 597-1808, Medicaid Provisions.

SUPPLEMENTARY INFORMATION:

I. Background

A. Deficit Reduction Act of 1984

Section 2314 of the Deficit Reduction Act of 1984 (Pub. L. 98-369), enacted on July 18, 1984, amended sections 1861(v)(1) and 1902(a)(13) of the Social Security Act (the Act) by adding new provisions applicable to hospitals, skilled nursing facilities (SNFs), intermediate care facilities (ICFs), and intermediate care facilities for the mentally retarded (ICFs/MR) that undergo a change of ownership on or after July 18, 1984.

Section 1861(v)(1) of the Act was amended by the addition of a new subparagraph (O), which provides for the following:

- In establishing an appropriate allowance under Medicare for reimbursement of providers for depreciation expense, interest on capital indebtedness, and (if applicable) a return on equity capital for an asset of a hospital or SNF that undergoes a change of ownership, the value of the asset after the change of ownership is the lesser of the allowable acquisition cost of the asset to the owner of record as of July 18, 1984 (or, in the case of an asset not in existence as of July 18, 1984, the first owner of record after that date), or the acquisition cost of the asset to the new owner.
- Recapture of depreciation in the manner as provided in regulations in effect on June 1, 1984.
- The costs (for example, legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies) attributable to the negotiation and settlement of the sale or purchase of any capital asset (by acquisition or merger) for which payment has previously been made by the Medicare program may not be recognized as reasonable cost in the provision of health care services.

The amendment to section 1902(a)(13) of the Act requires that a State must provide assurances satisfactory to the Secretary that the payment methodology utilized by the State for payments to hospitals, SNFs, ICFs and ICFs/MR can reasonably be expected not to increase these payments, solely as a result of a change of ownership, in excess of the increase that would result from the application of the Medicare requirements of section 1861(v)(1)(O) of the Act.

B. Consolidated Omnibus Budget Reconciliation Act of 1985

Section 9110 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272), enacted on April 7, 1986, amended section 1861(v)(1)(O) of the Act by adding a new provision applicable to changes in ownership of State hospitals to nonprofit corporations without monetary consideration. This new provision provides that in the case of a transfer of ownership of a State hospital to a nonprofit corporation for which there was no monetary consideration, the basis of the assets to the new owner (the nonprofit corporation) that is to be used for the purpose of computing capital allowances is the book value of the assets as shown on the State s books at the time of the transfer.

Section 9509 of Pub. L. 99-272 amended section 1902(a)(13) of the Act by adding a new subparagraph (C). The new subparagraph reguires a State to provide assurances satisfactory to the Secretary that the valuation of capital assets for purposes of determining payment rates for SNFs, ICFs and ICFs/MR will not be increased beyond certain levels. The valuation of the asset may not increase (as measured from the date of acquisition by the seller to the date of

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the change of ownership), solely as a result of a change of ownership, by more than the lesser of—

- One-half of the percentage increase (as measured over the same period of time specified above, or if necessary, as extrapolated retrospectively by the Secretary) in the Dodge construction index applied in the aggregate with respect to those facilities that have undergone a change of ownership during the Federal fiscal year; or
- One half of the percentage increase (as measured using the same period of time stated above) in the Consumer Price Index for All Urban Consumers (United States city average) applied in the aggregate to those facilities that have undergone a change of ownership.

Section 1902(a)(13)(C) of the Act is intended to impose a statutory ceiling on the revaluation of assets as the result of a change in ownership. This section does not set any specific payment level for capital costs. States are free to continue to apply payment rates and standards that are consistent with the more stringent payment ceiling imposed by section 1902(a)(13)(B) of the Act. States may also require the recapture of depreciation, as is authorized by the reference to section 1861(v)(1)(o) of the Act in section 1902(a)(13)(B).of the Act, in order to assure that the Medicaid program pays for an asset only once.

Both Pub. L. 98–369 and Pub. L. 99–272 impose specific effective dates for the provisions contained in sections 2314, 9110 and 9509, which we discuss in section IV.A of this preamble. In the discussion that follows, we describe our policies concerning patient-care-related capital costs prior to the enactment of Pub. L. 98–369 and Pub. L. 99–272 and the changes to the regulations that we are proposing in order to implement the new provisions. We.are also proposing several chances that are program initiatives and are not directly related to the legislation.

C. Medicare

1. General Information

Under the Medicare principles of reimbursement, patient-care-related capital costs of providers are reimbursed on a reasonable cost basis. The Medicare prospective payment system for inpatient hospital services currently treats patient-care-related capital costs as an "additional payment amount." Regulations at 42 CFR 412.2(d)(1) explain that patient-care-related capital costs are not reimbursed under the prospective payment system. Under that system, hospitals are paid for patient-care-related capital costs on a reasonable cost basis.

Section 1861(v)(1)(A) of the Act (42 U.S.C. 1395x(v)(1)(A)) defines reasonable cost as the cost actually incurred, excluding any cost unnecessary in the efficient delivery of needed health services. The law directs that reasonable cost be determined in accordance with regulations establishing the items to be included. The types of costs that are taken into account in determining a provider s reasonable cost of health care services are referred to in our provider reimbursement regulations which were recently redesignated on September 30, 1986 (51 FR 34790) to a new 42 CFR Part 413 (formerly Subpart D of 42 CFR Part 405), as being "allowable".

Allowable costs are categories of costs that have been determined to be necessary and proper in the provision of health care services, as well as individual cost items within those categories. Included in allowable costs are patient-care-related capital costs such as depreciation, interest on capital indebtedness, and rental expenses. Also, a reasonable return on equity capital is paid as an allowance in addition to allowable cost for certain proprietary providers.

2. Policy Prior to Enactment of Pub. L. 98–369 and Pub. L. 99–272

a. *Cost basis of a purchased asset.* In the section of our regulations that governs allowances for depreciation based on asset costs, we define the historical cost of a purchased asset as the cost incurred by the present owner in acquiring the asset (§ 413.134(b)(1)). However, the definition of reasonable cost contained in § 413.9, which deals generally with costs related to patient care, implicitly limits the historical cost of an asset to its fair market value. In addition, § 413.134(b)(1) provided that for depreciable assets acquired after July 31, 1970, the historical cost may not exceed the lower of current reproduction cost, adjusted for straight line depreciation over the life of the asset to the time of purchase, or fair market value at the time of purchase.

The cost basis of a facility purchased as an ongoing operation is defined in § 413.134(g). This section provides that for depreciable assets acquired after July 1, 1966 and before August 1, 1970, the cost basis is the lower of the purchase price of an asset or its fair market value. For depreciable assets acquired after July 31, 1970, the cost basis was the lowest of the purchase price, fair market value, or the current reproduction cost depreciated on a straight-line basis over the life of the asset to the time of sale.

b. *Cost basis of a donated asset.* Section 413.134(a)(2) sets forth a general rule that the depreciable basis of a donated asset is the fair market value of the asset at the time of the donation. In § 413.134(i) we provide a special rule that governs assets that have been used or depreciated under the Medicare program and are donated to a provider. Section 413.134(i) provides that the depreciable basis for these used donated assets is the lesser of the fair market value at the time of the donation or the net book value of the asset in the hands of the owner last participating in the Medicare program. Net book value of an asset is defined as the depreciable basis used under the Medicare program by the asset's last participating owner less depreciation recognized by the Medicare program. Although we do not define the term "donation" in our regulations, § 104.15 of the Provider Reimbursement Manual (HCFA Pub. 15–1) states that an asset is considered donated when the provider acquires the asset without making any payment for it in the form of cash, property or services. This section of the Provider Reimbursement Manual specifies that when a provider makes any payment in acquiring an asset, then the payment, and not the fair market value of the asset, is considered to be the historical cost of the asset for depreciation purposes.

c. *Costs attributable to the sale or purchase of an asset.* Our policy with respect to the costs (that is, legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset (including mergers and consolidations) was, generally, to include these costs to the extent they are reasonable as part of the historical cost of the depreciable asset in accordance with § 413.134(b)(1), as explained above. The inclusion of these costs in the historical cost basis of a depreciable asset allows them to be reimbursed over the useful life of an asset. There was no limitation (other than the reasonable cost limitation) as to the reimbursement of these costs generated by sales or purchases of assets subsequent to the initial purchase.

d. *Depreciation.* Depreciation of assets (other than land) used to provide patient care is an allowable capital cost. Land is never depreciable nor amortizable (even, for example, if title to the land passes to another entity at some determinable future time) because land is viewed as a permanent asset, not subject to physical wear and tear,

technological obsolescence, etc. Our policy governing depreciation is described in § 413.134. In general, with respect to the methods of depreciation, our current rules essentially limit providers to using straight-line depreciation for assets acquired on or after August 1, 1970. In limited situations, an exception is permitted that allows providers to use accelerated depreciation, not to exceed 150 percent of the straight-line rate. With respect to useful lives of assets, current useful life guidelines make no distinction between new and used assets. A purchaser of a used asset must assume a useful life as permitted by current guidelines for new assets, but is permitted to reduce the useful life, when justified to the intermediary, based on currently accepted factors that affect the establishment of a shorter useful life (for example, physical wear and tear, and technological obsolescence).

e. *Adjustment for gain or loss on disposition of an asset.* Section 413.134(f) governs the adjustment for gain or loss on disposal of an asset. Although the specific mechanics for adjusting for gains and losses vary depending upon the method of asset disposal and the magnitude of the gain or loss, the general rule is that the amount of the gain adjüstment is limited to the amount of depreciation previously included in Medicare allowable costs, and the amount of loss adjustment is limited to the undepreciated basis of the asset permitted under the Medicare program. Section 413.134(f)(4) provides that gains or losses realized from the exchange or trade-in of depreciable assets are not included in the determination of allowable costs. In section 132.A.2 of the Provider Reimbursement Manual, we state that gains or losses realized from the donation of assets are not included in the determination of allowable costs.

In addition, we note that our policy has been and, continues to be, that there is no retroactive effect on a proprietary provider's equity capital for the years prior to the disposition as the result of a gain or loss on the disposal of depreciable assets. This policy is found in section 130 of the Provider Reimbursement Manual.

f. *Sale and leaseback transactions.* Section 413.130(b)(2) governs sale and leaseback transactions by setting forth three criteria aimed at assuring the reasonableness of rental/lease costs. These criteria are as follows:

- The rental charges must be reasonable, based on consideration of rental charges of comparable facilities and market conditions in the area; the type, expected life, condition and value of the facilities or equipment rented; and other provisions of the rental agreement;
- Adequate alternate facilities or equipment that would serve the purpose are not or were not available at lower cost; and
- The leasing was based on economic and technical considerations.

If these criteria are met, the rental/lease costs are allowable for reimbursement. If these criteria are not met, then under § 413.130(b)(3) the allowable rental/lease costs may not exceed the ownership costs that a provider would have incurred had it retained legal title to the asset. Section 110A of the Provider Reimbursement Manual expresses the same rules.

g. *Lease purchase transactions.* Section 413.130(b) (4) and (5) governs lease purchase transactions. Section 413.130(b)(4) sets forth three criteria that, if met, generally establish that a lease is a virtual purchase. These criteria are as follows:

- The rental charge exceeds rental charges of comparable facilities or equipment in the area.
- The term of the lease is less than the useful life of the facilities or equipment.
- The provider has the option to renew the lease at a significantly reduced rental, or the provider has the right to purchase the facilities or equipment at a price that appears to be significantly less than what the fair market value of the facilities or equipment would be at the time acquisition by the provider is permitted.

Section 413.130(b)(5) details the treatment of the costs incurred under a lease purchase transaction and provides that the allowable rental costs incurred under a lease purchase transaction may not exceed the amount that the provider would have included in allowable cost if it had legal title to the asset. The difference between the rent paid and the amount of rent allowed is considered a deferred charge and is capitalized as part of the historical cost of the asset at the time the asset is purchased. Section 110B of the Provider Reimbursement Manual expresses the same rules.

h. *Interest expense.* Section 413.153 provides that necessary and proper interest expense on both current and capital indebtedness is an allowable cost. Necessary interest is defined in § 413.153(b)(2). This section requires that, to be considered necessary, the interest expense must (1) be incurred on a loan made to satisfy a financial need of the provider, (2) be incurred on a loan made for a purpose reasonably related to patient care; and (3) be reduced by investment income, except for a few special circumstances specifically described in § 413.153(b)(2)(iii).

Section 413.153(b)(3) defines proper interest. To be proper, interest must be (1) incurred at a rate not in excess of what a prudent borrower would have had to pay in the money market existing at the time the loan was made; and (2) paid to a lender not related through control or ownership or personal relationship to the borrowing orqanization. Types of loans not reasonably related to patient care are specifically described in § 413.153(d)(1).

i. *Return on equity capital for proprietary providers.* A reasonable return on equity capital invested and used in the provision of patient care is paid as an allowance in addition to the reasonable cost of covered services furnished to beneficiaries by proprietary providers. Section 413.157, as amended by a final rule published in the Federal Register on June 4, 1987 (52 FR 21216) and as subsequently corrected on June 19, 1987 (52 FR 23397) and July 13, 1987 (52 FR 26152) describes in detail the computation of the allowable amount. Generally, § 413.157(c)(1)(i) states that a provider's equity capital means, in part, the provider's investment in plant, property and equipment that is related to patient care (net of depreciation and net of noncurrent debt related to the investment). Included also are fund deposits required to be made by the terms of a lease under which a provider leases plant, property, or equipment related to patient care. The fund deposits are included at net value, that is, net of noncurrent debt related to the deposits. Limitations on the historical cost of certain asset acquisitions (and related noncurrent debt) that are recognized for purposes of the computation of equity capital are described in § 413.157(c) (2) and (3). For a further explanation of our policies concerninq equity capital please refer to the June 4, 1987 final rule as cited above.

3. Effect of Section 1861(v)(1)(O) of the Act on Existing Regulations

Section 1861(v)(1)(O) of the Act (hereinafter referred to as section 1861(v)(1)(O)) changes the limitation on historical cost for purposes of establishing an appropriate allowance under Medicare for depreciation, interest on capital indebtedness, and (if applicable) a return on equity capital for a hospital or SNF that changes ownership on or after July 18, 1984. As noted above, historical cost had been limited to the lowest of (1) the purchase price, (2) the fair market value, or (3) depreciated reproduction cost. Section 1861(v)(1)(O) changes this limitation to

the lower of (1) the allowable acquisition cost of the asset to the owner of record as of July 18, 1984, or (2) the acquisition cost of the asset to the new owner. In the case of an asset not in existence on July 18, 1984, the historical cost limitation is the allowable acquisition cost to the first owner of record after July 18, 1984. Although the fair market value of an asset was not described in the language of section 2314 of Pub. L. 98–369, we believe that, if Medicare pays more than the fair market value for an asset, such payment would violate the general reasonable cost principle expressed in section 1861(v)(1)(A) of the Act. Therefore, in those instances when the fair market value of an asset is less than both the allowable acquisition cost of the asset to the owner of record as of July 18, 1984, and the acquisition cost of the asset to the new owner, we would apply the regulations contained in §§ 413.134(g)(4) and 413.9 to limit the historical cost of the asset to the new owner to the fair market value for purposes of establishing an appropriate allowance under Medicare for depreciation, interest on capital indebtedness, and (if applicable) a return on equity capital.

Payment for costs attributable to the negotiation and settlement of the sale or purchase of an asset for which any payment has previously been made under Medicare is prohibited under section 1861(v)(1)(O)(iii). These costs include, but are not limited to, appraisal costs, legal fees, accounting and administrative costs, travel costs and the costs of feasibility studies. Prior to enactment of Pub. L. 98–369, these costs, to the extent reasonable, were allowable not only on an initial sale or purchase of an asset under Medicare, but on all subsequent sales or purchases as well.

The conference committee report on Pub. L. 98–369 (H. R. Rep. 98–861, 98th Cong., 2d. Sess. 1339 (1984)) states that it is the intent of Congress that we take into account the limitation on the revaluation of assets, imposed by section 1861(v)(1)(O), in determining the reasonableness of lease or rental costs involving a depreciable asset that has undergone a change in ownership. Congress reasoned that without extending the revaluation limit of section 1861(v)(1)(O) to lease or rental costs of facilities that have undergone a change in ownership, hospitals and SNFs could circumvent the provisions of section 1861(v)(1)(O) through the use of certain sale/leaseback or sale/rental agreements. Therefore, in order to meet the intent of Congress in enacting section 1861(v)(1)(O), we are proposing to change our regulations relating to sale and leaseback transactions and lease purchase transactions by hospitals and SNFs.

Regarding sale and leaseback transactions, we are proposing that reimbursement of rental or lease payments for all sale and leaseback transactions by hospitals and SNFs would be limited to the costs of ownership (for example, straight-line depreciation and interest) for which the hospital or SNF would have been reimbursed had it retained legal title to the assets. We are proposing to apply this limitation on an annual basis, as well as over the useful life of the asset, so that, in the aggregate, the amount of rental or lease expense included in patient-care-related capital costs does not exceed the total amount the hospital or SNF would have included in patient-care related capital costs had it retained legal title to the facilities or equipment.

For lease purchase transactions, we are proposing new criteria that would redefine a lease purchase transaction. In addition, as a program initiative not directly related to the implementation of section 1861(v)(1)(O), we are proposing that, for lease purchase transactions, if the lessee becomes the owner of the leased asset and subsequently disposes of the asset, the total amount considered as depreciation for the purpose of computing the limitation on allowable rental costs (as required by § 413.130(b)(5)(i)) must be included in calculating the limitation on adjustments to depreciation for the purpose of determining any gain or loss realized upon disposal of the asset.

The conference committee report states that in implementing section 2314 of Pub. L. 98–369, it is the intent of Congress that we establish appropriate policy with respect to the useful life of an asset and the allowable methods of depreciation. We have reviewed our current rules on methods of depreciation and useful lives of depreciable assets, and we believe that the current policy with respect to methods of depreciation and useful lives of used assets adequately fulfills the requirements of the new legislation. Therefore, at this time, we are not proposing any changes to the regulations governing useful life or the allowable methods of depreciation.

We have also reviewed our current rules on the adjustment for gain or loss on disposition of a depreciable asset and believe they are adequate for implementing section 1861(v)(1)(O). Therefore, we are not proposing any changes to these rules at this time to implement section 1861(v)(1)(O). However, as a program initiative not directly related to the implementation of section 1861(v)(1)(O), we are proposing a clarification to § 413.134(f)(1) to state that the gain or loss realized on the disposition of a depreciable asset has no retroactive effect on a proprietary provider's equity capital for years prior to the disposition of the asset. In addition, we are proposing to clarify § 413.134(f)(4) to specify that donations are included in the types of asset dispositions for which gain or loss will not be included in allowable costs. This clarification will make our regulations consistent with section 132.A2 of the Provider Reimbursement Manual.

Section 1861(v)(1)(O), as amended by section 9110 of Pub. L. 99–272, adds a new provision applicable to transfers of State hospitals to nonprofit corporations without monetary consideration. Section 1861(v)(1)(O)(iv) provides that, in the case of a transfer of a State hospital to a nonprofit corporation for which there was no monetary consideration, the basis that is to be used by the new owner (the nonprofit corporation) for the purpose of calculating capital allowances is the book value of the assets as reflected on the State hospital's books at the time of the transfer. This new provision is effective on the same date as the other provisions of section 1861(v)(1)(O) that apply to changes of ownership occurring on or after July 18, 1984.

C. Medicaid

1. General Information

Section 1902(a)(13)(A) of the Act (42 U.S.C. 1396a(a)(13)(A)) requires that a State must find, and provide satisfactory assurances to HCFA, that Medicaid payments for inpatient hospital and long-term care facility services provided under a State plan are made through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards, and to assure that individuals eligible for medical assistance have reasonable access to inpatient hospital services of adequate quality. In enacting this provision, Congress intended to reduce previous burdensome requirements that the regulations imposed on States, and to allow States greater flexibility in establishing payment rates. Prior to the enactment of section 2314 of Pub. L. 98–369 and section 9509 of Pub. L. 99–272, the only upper payment limit restriction imposed on States in establishing payment rates was the application of section 1902(a)(30) of the Act (42 U.S.C. 1396a(a)(30)). This section required that State plan methods and standards used to determine payment rates result in payments that are consistent with efficiency, economy and quality of care. Currently § 447.253 of our regulations, as explained below, imposes a Medicare upper payment limit on States in establishing payment rates.

2. Current Policy

Current Medicaid regulations do not establish specific limits on the revaluation of assets. However, § 447.253 imposes a general Medicare upper payment limit on State payments. This section requires that a State agency assure that, under the proposed average payment rate, the State agency will not pay more in the aggregate for inpatient hospital services or long-term care facility services than the amount that it reasonably estimated would have been paid for the services under the Medicare principles of reimbursement. The State agency submits this assurance at the time it requests approval of its payment methodology. Section 447.253 applies an overall limit on institutional reimbursement and, therefore, has no direct impact on any specific cost item.

3. Effect of the Section 1902(a)(13) (B) and (C) of the Act on Current Regulations

Section 1902(a)(13)(B) of the Act, as originally enacted by section 2314 of Pub. L. 98–369, imposed specific Federal requirements for the Medicaid program on the revaluation of assets of hospitals, SNFs, ICFs, and ICFs/MR that change ownership. Under this statutory amendment, a State Medicaid agency was reqired to submit a specific assurance regarding its State plan methodology as it pertained to reimbursement for patient-care related capital costs resulting from a change in ownership. The State agency was required to assure and demonstrate generally that, as a result of a change in ownership, the State plan would not result in an increase in payments to hospitals, SNFs, ICFs, and ICFs/MR in excess of the increase that would be recognized under section 1861(v)(1)(O), which governs Medicare payments.

The Conference Committee Report (H. R. Rep. No. 98–861, 98th Cong., 2d. Sess. 1339 (1984)) states that Congress, in enacting section 2314 of Pub. L. 98–369, intended that States must demonstrate generally that the statutory standard will be met in the aggregate. However, the Conference Report further notes that it is not the intent of Congress that States be required to supply a detailed accounting of how that aggregate is achieved.

Furthermore, the Conference Report states that, in evaluating a State's assurances, we may require the State to demonstrate the application of its methodology in a limited number of instances.

The reference to section 1861(v)(1)(O) in section 1902(a)(13)(B) of the Act, requires that the increase in Medicaid payments may not exceed the increase that would be recognized from application of all the provisions specified in section 1861(v)(1)(O). Therefore, States assurances must consider Medicare payments for depreciation, interest on capital indebtedness, return on equity capital (if applicable), recapture of depreciation in the manner as provided by Medicare regulations in effect on June 1, 1984, and the costs attributable to the negotiation or settlement of a sale or purchase of any capital asset for which payment has previously been made. Thus, the methodology used by the State must not result in payments in the aggregate, that exceed the increase that would be allowable under Medicare in accordance with section 1861(v)(1)(O) and the implementing regulations.

If the State plan methodology references and adopts the Medicare principles for determining asset valuation, and the State continues to use Medicare methodology, the State would be required to follow the Medicare provisions in effect at the time. Accordingly, the State would be required to submit the assurance, required by section 1902(a)(13)(B) of the Act beginning July 18, 1984, based upon the allowable acquisition costs of providers of record as of July 18, 1984.

If the State plan methodology does not reference and adopt the Medicare principles for determining asset valuation, the State must submit the assurance as it applies to medical assistance beginning October 1, 1984, based on the allowable acquisition costs of providers of record as of July 18, 1984.

If a change to the existing State plan methodology cannot be effectuated without a State legislative change, the State agency will not be held out of compliance solely on the basis of its failure to meet the assurance requirement of section 1902(a)(13)(B) prior to the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after July 18, 1984. In these cases, the provisions of section 1902(a)(13)(B) must thereafter be applied to payment for services based on the acquisition costs of owners of record on or after July 18, 1984.

The Conference Report a discussion of section 2314 of Pub. L. 98–369 notes that, under current law, States have broad discretion in designing reimbursement methods and standards for hospital, SNF, ICF, and ICF/MR services, and have used that discretion to implement a wide variety of payment methodologies. The Report goes on to state that Congress does not intend to limit that discretion and expresses the opinion that, in many States, current or planned methodologies would not be affected by the mandated legislative changes. The Conference Report goes on to indicate that States that use the Medicare capital payment methodologies would be able to continue to do so, and States that wish to adopt alternative methods would not be discouraged from doing so.

Section 9509 of Pub. L. 99–272 amended section 1902(a)(13)(B) by making this section applicable to hospitals only. Section 9509 of Pub. L. 99–272 also added a new section 1902(a)(13)(C) to the Social Security Act that is applicable to SNFs, ICFs and ICFs/MR for changes in ownership occurring on or after October 1, 1985. Under section 1902(a)(13)(C) of the Act the State Medicaid Agency must provide assurances satisfactory to the Secretary that the valuation of capital assets for purposes of determining payment rates for SNFs, ICFs and ICFs/MR will not be increased solely as a result of a change of ownership by more than the lesser of—

- One half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership, or if necessary, as extrapolated retrospectively by the Secretary) in the Dodge Construction Systems Costs for Nursing Homes applied in the aggregate to those facilities that have undergone a change in ownership during the fiscal year; or
- One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change in ownership) in the Consumer Price Index for All Urban Consumers (CPI–U) (United States city average).

Section 9509 of Pub. L. 99–272 further provides that if a change to the existing State plan methodology is necessary in order for the plan to meet the requirements of section 1902(a)(13)(C), and this methodology change cannot be effectuated without a State legislative change, the State agency will not be regarded as failing to comply with the requirements of section 1902(a)(13)(C)

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solely on the basis of its failure to meet these section 1902(a)(13)(C) requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after April 7, 1986.

The provisions in section 9509 of Pub. L. 99–272 are applicable to medical assistance furnished on or after October 1, 1985 with respect to changes of ownership occurring on or after October 1, 1985 that were not subject to an enforceable agreement entered into before that date.

II. Proposed Changes

A. Medicare

1. Changes Resulting From Section 2314 of Pub. L. 98–369

a. We are proposing to amend § 413.130(b), concerning lease and rent payments in order to prevent, as discussed above, possible circumvention of the revaluation of asset limit imposed by section 1861(v)(1)(O). We would add a new § 413.130(b)(4) that would be applicable to sale and leaseback arrangements entered into on or after the effective date of the final rule following this proposed rule. We are proposing to limit the amount providers may include as patient-care related capital costs for rental or lease expense to the amount a provider would have included in patient care-related capital costs had the provider retained legal title to the asset.

We would also add a new § 413.130(b)(7) and (8) that would be applicable to lease purchase transactions entered into on or after the effective date of the final rule following this proposed rule. These proposed additions to the regulations are intended to prevent possible circumvention of the revaluation of assets limitations imposed by section 1861(v)(1)(O). We are proposing new criteria that would redefine lease purchase transactions. In addition, as a program initiative not directly related to the implementation of section 1861(v)(1)(O), we are also proposing that, for lease purchase transactions in which the lessee becomes the owner of the leased asset and subsequently disposes of the asset, the total amount considered as depreciation for the purpose of computing the limitation on allowable rental costs (as required by the new paragraph (b)(8)(i) of § 413.130) must be included in calculating the limitation on adjustments to depreciation for the purpose of determining any gain or loss realized upon disposal of the asset. We believe that without this change providers that obtained assets through lease purchase transactions would, upon disposition of the asset, be unfairly advantaged over providers that bought assets outright.

b. Congress enacted section 1861(v)(1)(O) in order to assure that the Medicare program does not pay for the same capital asset more than once. This provision is intended to limit the revaluation of an asset for purposes of determining depreciation, interest expense on capital indebtedness, and (if applicable) return on equity capital to the allowable acquisition cost to the individual or entity who was the owner for Medicare purposes on July 18, 1984. The purchasing entity's valuation would be the lesser of its own acquisition cost or the allowable acquisition of the previous owner (not reduced by accumulated depreciation). We are proposing to amend § 413.134 of the regulations to conform them to the section 1861(v)(1)(O) limitation on revaluation of assets.

- Section 413.134(b), which describes historical cost, would be revised by adding a new paragraph (b)(1)(ii) to apply a limitation, applicable to hospitals and SNFs for assets acquired on or after July 18, 1984 and not subject to an enforceable agreement entered into before that date. For purposes of calculating the limitation expressed above, the new § 413.134(b)(1)(ii)(C) would specify that the acquisition cost to the owner of record (the previous owner) for Medicare purposes on July 18, 1984, is the historical cost (that is, the acquisition cost subject to the prior limitation imposed by Medicare), and is not reduced by any depreciation taken by that owner of record. Our decision not to reduce the previous owner's historical cost by depreciation taken is supported by the Conference Committee Report accompanying Pub. L. 99–272 (H. R. Rep. 98–861, 98th Cong., 2d. Sess., 1338–39 (1984).) This report shows that the Senate amendment would have limited the revaluation under Medicare to "the acquisition cost of the asset * * * less depreciation." However, the Conference agreement revised the limitation to the "historical cost (the cost to the original owner)." We also explain in § 413.134(b)(1)(ii)(C), that the purchase of land, which is neither depreciable nor amortizable under any circumstances, would be subject to the historical cost limitation for the purpose of determining allowable interest expense for both proprietary and nonproprietary providers, and return on equity capital for proprietary providers only. The proposed revision adds a new § 413.134(b)(1)(ii)(E) that would describe what would be included in the acquisition costs to the owner of record and also would state that, for assets acquired prior to a provider's entrance into the Medicare program, the acquisition cost to the owner of record would be the historical cost of the asset when acquired, rather than when the provider entered the program. The acquisition cost to the owner of record for assets that were subject to the optional allowance for depreciation described in § 413.139 would further be explained in the proposed new § 413.134(b)(1)(ii)(F). Our proposed revision also explains in a new § 413.134(b)(1)(ii)(B), that the term "asset not in existence as of July 18, 1984" includes any asset that physically existed, but was not owned by a provider participating in the Medicare or Medicaid programs as of July 18, 1984. Because this limitation applies only to hospitals and SNFs, a proposed new § 413.134(b)(1)(iii) would specify that if a change of ownership occurs that involves assets of a hospital-based provider other than a SNF, (to which section 1861(v)(1)(O) of the Act does not apply), a reasonable allocation of the purchase price must be made so that the hospital-based provider would not be affected by the limitation imposed by section 1861(v)(1)(O) of the Act, but rather, would be subject to the limitations imposed prior to the implementation of that section that continue to control changes of ownership involving nonhospital and non-SNF providers. Finally, in a new § 413.134(b)(1)(ii)(G), we would exclude from historical cost, the costs attributable to the negotiation or settlement of the sale or purchase (including mergers and consolidations) of any capital asset for which any payment was previously made by the Medicare program.

- We would add a new paragraph to § 413.134(g), which governs the establishment of the cost basis for assets obtained in the purchase of a facility as an ongoing operation, to limit the historical cost of assets of hospitals and SNFs acquired on or after July 18, 1984 and not subject to an enforceable agreement entered into before that date. We are proposing to limit the historical cost of these assets to the lower of the allowable acquisition cost of the asset to the owner of record as of July 18, 1984, or the acquisition cost to the new owner.

- We are proposing to provide a new § 413.134(h) to establish the amount of incurred rental charges that may be included in a provider's allowable costs in sale and leaseback transactions and lease purchase transactions. This new paragraph generally reflects the same rules described in § 413.130(b).

c. In section 9110 of Pub. L. 99–272, Congress enacted section 1861(v)(1)(O)(iv) of the Act in order to provide a special rule for valuing assets for Medicare purposes for State hospitals that are transferred without monetary consideration to nonprofit corporations. We are proposing several changes to implement this section.

- First, we would add a definition to § 413.134(b) that would define a donated asset. This proposed new definition would be consistent with the definition contained in section 104.15 of the Provider Reimbursement Manual. We would also clarify that, if an asset is exchanged for new debt or the assumption of debt, then the transaction would be considered a sale and not a donation. Thus, for purposes of section 9110 of Pub. L. 99–272, the assumption or acceptance of debt in exchange for the receipt of a facility is equivalent to the payment of monetary consideration.

- Secondly, we are proposing to revise and redesignate § 413.134(i) to § 413.134(j) in order to consolidate the regulations governing donations. The revised § 413.134(j) would include: (1) The general rule that currently appears in § 413.134(a)(2); (2) the special rule governing donations of assets that were previously used or depreciated under the Medicare program, which appears in § 413.134(i); and (3) a special rule to implement the new section 1861(v)(1)(O)(iv) of the Act that would govern the transfer of a State hospital to a nonprofit corporation without monetary consideration. This special rule would provide that, in the case of a transfer of ownership of a State hospital to a nonprofit corporation for which there was no monetary consideration, the new owner's depreciable basis would be the net book value of the assets as recorded on the State's books at the time of the transfer. In expressing this special rule, the legislative language states that the new owner's depreciable basis would be the "book value" of the assets. However, we have interpreted this to mean "net book value" based on the Conference Committee language, which states in pertinent part,

"* * * the basis from which capital-related costs to the donee is calculated would be the donor's historical cost (net of depreciation)." (H. R. Rep. No. 453, 99th Cong., 1st Sess., 465 (1985).)

2. Other Changes

We are proposing a clarification to § 413.134(f)(1), because in some cases providers and intermediaries have misinterpreted this section by allowing retroactive adjustments to a proprietary provider's equity capital for years prior to the disposition to reflect a gain or loss on the disposal of depreciable assets. We are proposing to clarify that the gain or loss on the disposition of depreciable assets has no retroactive effect on a proprietary provider's equity capital for years prior to the disposition. This clarification would include in the regulations explicit language to conform to our consistent policy that was also enunciated in a recent revision to section 130 of the Provider Reimbursement Manual. We are also proposing to clarify § 413.134(f)(4) to include donations in the category of asset dispositions for which gains or losses will not be included in allowable costs. This proposed change would conform our regulations to section 132.A.2 of the Provider Reimbursement Manual.

B. Medicaid Changes Resulting From Section 1902(a)(13) (B) and (C)

Sections 1902(a)(13) (B) and (C) limit State Medicaid reimbursement for the patient-care-related capital costs associated with the sale or transfer of hospitals or nursing homes. Under section 1902(a)(13)(B) as originally enacted by section 2314(b) of Pub. L. 98–369, a State must provide an assurance to HCFA that the methodology used by the State to establish payment rates for hospitals, SNFs, ICFs or ICFs/MR is reasonably expected not to result in increased payments, solely as the result of changes in ownership, that exceed the increase permitted under the Medicare program. This provision was applicable for changes in ownership occurring on or after July 18, 1984. Section 9509 of Pub. L. 99–272 added a new section 1902(a)(13)(C) to the Act that is applicable to transfers of ownership of SNFs, ICFs and ICFs/MR that change ownership on or after October 1, 1985. This section of the law requires a State to provide an assurance to HCFA that the valuation of capital assets for purposes of determining payment rates for SNFs, ICFs and ICFs/MR will not be increased solely as a result of a change of ownership by more than the lesser of a specified allowable percentage tied to the Dodge construction index and the Consumer Price Index for All Urban Consumers based on the United States City Average (CPI–U). Section 9509 of Pub. L. 99–272 also amended section 1902(a)(13)(B) of the Act by making this section applicable beginning October 1, 1985 to hospitals only.

Section 1902(a)(13)(C) of the Act, as revised by Pub. L. 99–272, limits the revaluation of assets that results from a change of ownership to the lesser of—

- One half of the percentage increase (as measured over the same period of time, or if necessary, as extrapolated retrospectively by the Secretary) in the Dodge Construction Systems Costs for Nursing Homes applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year; or

- One-half the percentage increase (as measured over the same period of time) in the Consumer Price Index for All Urban Consumers (United States city average).

Although the statute cites a specific index entitled the "Dodge Construction Systems Costs for Nursing Homes," it is our understanding that this does not identify an index that is currently published and that can readily be applied to nursing homes. Rather, it would involve the application of a number of indexes and adjustments that generally apply to health care facilities and are also applicable for nursing homes. In addition, the rate would be dependent on a number of variables including specific location, age, construction material.

Accordingly, in drafting this proposed rule rather than citing a specific index entitled the "Dodge Construction Systems Costs for Nursing Homes," we would require States to consider the more general Dodge construction index. A State would have the flexibility, consistent with the flexibility it currently has in adopting alternative reimbursement methodologies, to provide the assurance as it applies to the Dodge construction index as reasonably determined by the State. Therefore, the State would be required to assure that its payment methodology does not increase the revaluation of assets that results from changes of ownership, by more than one-half the Consumer Price Index for All Urban Consumers or one-half the Dodge construction index, as reasonably determined by the State.

Therefore, in order to implement this limitation, we are proposing the following amendments to 42 CFR Part 447, Subpart C, which governs payment for inpatient hospital and long-term care facility services.

- We are proposing to amend § 447.250, which describes the basis and purpose of subpart C, by adding a new paragraph that explains that § 447.253 (c) and (d), which are discussed below, implement sections 1902(a)(13)(B) and 1902(a)(13)(C) of the Act.

- Section 447.253, which describes other requirements concerning State assurances, would be amended to include the assurances required by

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sections 1902(a)(13)(B) and 1902(a)(13)(C) of the Act for changes in ownership.

The assurances are intended to apply to increases that are due *solely* as a result of a change in ownership. The term "solely," as used in this context, is meant to specify that the increase in the payment rate has been directly generated by a change in ownership and that the increase in the rate would not have been in excess of the increase that would have occurred under Medicare had there not been a change in ownership. Therefore, if a State plan provides for increases to the payment rate for patient-care-related capital costs that are generated independently of a facility's change in ownership, the State agency could readily assure that any increases in the payment rate, solely as a result of a change in ownership do not exceed these limits.

The Conference Committee Report (H. R. Rep. No. 98–861, 98th Cong. 2d Sess., 1339 (1984)) states that, "States would be required to assure the Secretary that the methodologies used to establish rates paid to hospitals, SNFs or ICFs can reasonably be expected not to increase those rates more than they would increase under Medicare policy as a result of a change of ownership of a facility." This Conference Report further states that, in determining whether a State has exceeded the increase that would result from application of the Medicare requirements at section 1861(v)(1)(O) the State must demonstrate generally that the statutory standard will be met in the aggregate. We are proposing that the assurance for each level of care (that is, hospital, SNF, ICF, and ICF/MR) be based on the *increase* in payments to all facilities within that class of facilities that have a change in ownership during a specified period. We have concluded that since the statute specifies that the increase in payments under Medicaid may not exceed the *increase* that would result from applying Medicare principles, the statute only allows States to increase Medicaid reimbursement by the amount that Medicare would allow the payments to increase.

The assurance would be based on payments for depreciation, interest on capital indebtedness, return on equity capital (if applicable), acquisition costs for which Medicare payments have previously been made to the prior owner, and the recapture of depreciation, as determined in the aggregate for all facilities that change ownership, as determined, for each level of care (that is, hospitals, SNFs, ICFs or ICFs/MR). It is our belief that applying the test to each level of care is consistent with the legislative intent expressed in the conference report cited above. The conference report specifies that States will be required to submit an assurance applicable to the methodologies used to establish rates paid to hospitals, SNFs or ICFs. Therefore, States must submit the assurance as it affects *each* type of provider. In addition, this proposed policy is also consistent with our current administrative policies and practices for determining payment rates and payment ceilings.

- We also considered alternatives for implementing the effective date of these provisions. Section 2314(b) of Pub. L. 98–369 states that the Medicaid provision shall apply to medical assistance furnished on or after October 1, 1984. It has been suggested that the provision should not apply to changes of ownership that occurred prior to October 1, 1984. However, the statute limits the increase in Medicaid payments to the increase that would result from application of section 1861(v)(1)(O). That section clearly applies to changes in ownership on or after July 18, 1984. It is, therefore, clear that the Medicaid statute would also apply to changes of ownership occurring on or after July 18, 1984, affecting payments for medical assistance provided on or after October 1, 1984.

Section 9509 of Pub. L. 99–272 specifically states that the amendments mandated by this section shall apply to medical assistance furnished on or after October 1, 1985, but only with respect to changes of ownership occurring on or after such date that were not subject to an enforceable agreement entered into prior to October 1, 1985.

III. Other Considerations

We are considering applying the limitations on asset valuations expressed in section 2314 of Pub. L. 98–369 to all providers under the Medicare program, and we are requesting public comments on this proposal. Congress expressly mandated application of the legislation only to hospitals and SNFs under Medicare because those types of providers are the most capital intensive. However, it is our belief that, if the revaluation of asset limits are not applied to all types of providers, the lack of consistency among provider types would create problems for those provider complexes that consist of both the provider types covered by the legislation and those not covered by the legislation. For example, if a hospital and a hospital-based home health agency (HHA) under Medicare occupy the same building, Medicare's share of capital-related costs pertaining to the building would have to be calculated applying one limitation to the hospital portion of the building and another limitation to the HHA portion of the building. This would be administratively burdensome to both providers and fiscal intermediaries and would create an inappropriate incentive to providers to shift costs to the portion of the complex that has the higher asset basis. Because the asset basis limitation that existed for all providers prior to Pub. L. 98–369 was imposed by regulation, under general statutory authority, we believe that we can extend application of the revaluation of asset limits to all types of providers without additional legislation. However, we believe that such an extension ought to be made prospectively. Due to the significant questions raised by this proposal we are soliciting public comments about this approach. We may incorporate this approach into the final rule with a prospective effective date. We wish to note that, although this proposal is under consideration, we have not included proposed regulation text in this document since this proposal is still under consideration.

IV. Regulatory Impact Analysis

A. Introduction

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any proposed regulations that are likely to meet criteria for a "major rule." A major rule is one that would result in:

1. An annual effect on the economy of $100 million or more;

2. A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or any geographic regions; or;

3. Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States based-enterprises to compete in domestic or export markets.

In addition, consistently with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), we prepare and publish an initial regulatory flexibility analysis for proposed regulations unless the Secretary certifies that the regulations would not have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider all providers as small entities.

In sections II.A and B of this preamble, we discuss the proposed changes to our current Medicare and Medicaid regulations implementing section 2314 of Pub. L. 98–369 and sections 9110 and 9509 of Pub. L. 99–272. We believe that the provisions of the statute are clear and require little interpretation in the regulations. However, consistently with sections 2314 of Pub. L. 98–369 and 9509 and 9110 of Pub. L. 99–272, the provisions in these proposed regulations specify limitations and classifications on revaluation of assets.

Even though we believe that these proposed amendments to the regulations flow necessarily from the law, particularly section 1861(v)(1)(O), the provisions in the law are significantly less detailed than these proposed rules. For example, although discussed in the conference committee report, the law itself does not explicitly address sale and leaseback arrangements. There is also reason to expect the publication of these proposals to be controversial to many providers. Therefore, we have voluntarily decided to furnish the following analysis describing the expected effect of these proposed regulations, even though we have determined that the impact resulting solely from these proposals, as distinguished from the applicable provisions of Pub. L. 98–369 and Pub. L. 99–272, would not meet the criteria for identifying a major rule, or have a significant impact on small entities. Over approximately two years since the date of enactment of section 2314 of Pub. L. 98–369, there have been the following changes of ownership of active providers by facility type:

	Hospital	SNF	ICFs	ICFs/MR
Total No. of providers	9,730	8,973	5,678	3,281
Change of ownership:				
Medicare only		14		
Medicaid only		176	625	50
Medicare/Medicaid	223	371		
Total No. of changes of ownership	223	561	625	50

B. Background

During the past few years, providers have been involved in a significant number of mergers and acquisitions. These transactions involved both chain organizations and single facilities. We believe that mergers and acquisitions, under current payment rules, may result in unjustified and inappropriate levels of Medicare and Medicaid payments. The changes in this proposed rule are intended to promote economy in these programs. We have also gathered information on several of the recent major multifacility acquisitions. We are examining this information for the potential consequences of these mergers and acquisitions on Medicare and Medicaid program costs.

Patient-care-related capital costs for hospitals are excluded from the Medicare prospective payment system. We reimburse hospitals for their patient-care-related capital costs on a reasonable cost basis. SNFs are also reimbursed for their patient-care related capital costs on a reasonable cost basis. For both hospitals and SNFs, Medicare generally pays the percentage of capital costs that reflect the ratio of Medicare utilization to total utilization.

Available data indicate a great variation among hospitals in terms of the ratio of capital costs to total operating costs. For about one quarter of the hospitals, capital costs are less than four percent of operating costs. Slightly over one half of the hospitals claim capital costs between four and ten percent. The remaining number of hospitals have capital cost to operating cost ratios of between ten and twenty percent.

Currently, States have broad discretion in designing reimbursement methods and standards for hospital, SNF, ICF, and ICF/MR services. States have used that discretion to implement a wide variety of payment methodologies and policies to account for providers capital expenditures. Only a few States reference and adopt Medicare principles in accounting for capital costs for long-term care reimbursement. Some States have established their own limits on the reimbursement for these costs. Due to this variation in State practices and the absence of data about Medicaid capital expenditures, we are not able to estimate current Federal or State Medicaid expenditures for capital expenses.

C. Provider Impact

It is clear that Congress intends to restrict reimbursement for capital upon a change of ownership of a hospital, SNF, ICF or an ICF/MR. Thus, these entities would be affected by these provisions in several ways.

First, we do not expect this provision to have a significant impact on provider decisions regarding future mergers and acquisitions. Mergers and acquisitions evolve from a pro-merger environment that is caused by factors such as excess bed capacity, new technologies and changes in social demographics (for example, changes in the composition of the service area's population that, in turn, would effect utilization and have an impact on revenues). Consequently, the hospital and long-term care facility industries are restructuring themselves primarily to take advantage of the current pro-merger environment.

Economics is often the driving force in mergers and acquisitions. For many providers facing financial difficulties and looking for sources of funding for the needs of operations and capital formation, mergers and acquisitions offer an attractive alternative to prolonged financial difficulty. Thus, we believe that the weight of factors like tax incentives, increased buying power and market entry initiatives for corporate expansion, which are influences that would not be affected by this proposal, would offset in good measure any disincentives that might be created with respect to decisions to merge or acquire. Therefore, we believe that this proposed rule would not inhibit current levels of merger or acquisition activities.

Providers would, however, be affected by the reduction of Medicare and Medicaid reimbursement for capital expenses. However, we are not able to estimate the impact this provision could have on Medicare payments to providers because we do not have data that would indicate the number of future transactions requiring revaluation of assets. Absent this information, we could not predict the value of the transactions, with the result that information concerning the original cost of each acquisition to determine depreciation costs is not available. Therefore, a detailed analysis of the impact of this proposed rule on the Medicare and Medicaid program expenditures is not possible at this time. Nonetheless, despite this limitation, program experience allows us to analyze and rank the potential effects of several of the key provisions of this rule, as follows:

- *Depreciation and Interest Expense*

This proposal would have the most significant impact on the Medicare and Medicaid programs. Our experience indicates that many provider acquisitions are for amounts as much as two to five times the cost to the previous owner, who may not have been the owner of record under the proposed historical cost definitions. Eliminating the upward revaluation of assets in these acquisitions would reduce the historical cost basis of the assets for purposes of computing depreciation and interest expense. This change, coupled with the exclusion of costs attributable to the negotiation or settlement of the purchase or sale of any capital asset for which any Medicare payment has previously been made, we believe would result in significant savings.

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• *Sale and Leaseback Arrangements and Lease Purchase Transactions*

We believe that these proposals rank second in terms of potential program savings and could affect many providers. The proposals would avoid possible provider circumvention of the revaluation of assets limit that restricts reimbursement of patient-care related capital costs. Beginning with the effective date of a final rule, we would limit allowable costs under sale and leaseback arrangements to the amount the provider would have included in its allowable costs had the provider retained legal title to the facilities or equipment. We are also proposing new criteria for defining lease purchase agreements. In addition, we explain that the limitation on adjustments to depreciation for the purpose of determining any gain or loss upon the disposal of lease purchase assets includes any amount considered as depreciation for the purposes of having computed the limitation on allowable rental costs. It is our belief that savings would increase under these provisions.

• *Return on Equity Capital of Proprietary Providers*

Nonprofit providers are not subject to the proposed return on equity changes, and, therefore, would not be affected by them. However, with respect to proprietary providers, limiting the historical cost of assets by prohibiting upward revaluations of assets would reduce the basis of the assets used in the computation of the return on equity capital. Moreover, we would continue our existing policy that any loan, or portion thereof, that is made to finance the excess of the total acquisition cost over the allowable acquisition cost of a facility, or of any tangible assets of a facility, would be excluded from the equity capital computation, because such excess would not be considered related to patient care. Thus, we would avoid reimbursement for increased financial liability incurred by providers in their mergers and acquisitions of other facilities and assets.

• *Medicaid Provisions*

We do not have a basis on which to estimate or rank the impact of the Medicaid proposals. Most States have initiated a variety of actions to control provider reimbursement, including reimbursement for capital costs. We believe there would be Federal and State savings resulting from these actions, but due to the variation in State practices, and because of the absence of good data about the effect of State reimbursement policies, we can not estimate the budgetary impact on the Medicaid program.

D. Summary

In summary, we expect that this proposal would restrict reimbursement for capital costs upon change of ownership of a hospital, SNF, ICF, or ICF/MR. We have noted our limitations in estimating the impact of this proposal, but we are certain that both Medicare and Medicaid program savings would result from the implementation of this proposal.

E. Paperwork Reduction Act

Sections 447.253(a) and 447.255 contain information collection requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

A notice will be published in the Federal Register when approval is obtained. An individual or organization desiring to submit comments on the information collection requirements should direct them to the agency official whose name appears in the preamble and to the Desk Officer for HCFA at the following address: Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503, Attention: HCFA/Desk Officer.

IV. Other Required Information

A. Effective Dates

Section 2314(c) of Pub. L. 98–369 as well as sections 9110(b) and 9509(b) of Pub. L. 99–272 impose specific effective dates for the sections 1861(v)(1)(O) and 1902(a)(13) (B) and (C).

• The effective date for changes of ownership of assets of hospitals and SNFs under the Medicare program is July 18, 1984. This date is also applicable to transfers of hospitals without monetary consideration by State governments to nonprofit corporations.

• Generally, for payments for medical assistance, Pub. L. 98–369 imposed an effective date of October 1, 1984 for changes of ownership of assets of hospitals, SNFs, ICFs, and ICFs/MR under the Medicaid program. Section 2314 of Pub. L. 98–369 states that the Medicaid provision shall apply to medical assistance furnished on or after October 1, 1984. To comply with the statutory assurance as specified at section 1902(a)(13)(B), as originally enacted by Pub. L. 98–369, a State Medicaid agency must submit an assurance that in paying for medical assistance furnished on or after October 1, 1984 the State plan methodology will not increase payments to facilities as a result of a change in ownership in excess of the amount of the increase payable under Medicare that would occur under section 1861(v)(1)(O). The amount of the increase allowable under Medicare is based on the lower of the acquisition cost to the first owner of record on or after July 18, 1984, or the purchase price of the asset to the new owner. Therefore, the Medicaid provision is effective for medical assistance beginning October 1, 1984 for all changes of ownership of hospitals and for changes of ownership of SNFs, ICFs and ICFs/MR that occur on or after July 18, 1984 but prior to October 1, 1985. For changes of ownership of SNFs, ICFs and ICFs/MR that occur on or after October 1, 1985 the Medicaid provisions described in section 1902(a)(13)(C) are effective on that date.

Because the proposed changes to §§ 413.130 (b)(4), (b)(7), and (b)(8) and §§ 413.134 (h)(3), (h)(6), and (h)(7) are not mandated by statute, they would be applicable to costs incurred on or after the effective date of the final rule.

Finally, we point out that section 9321 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–502), enacted on October 21, 1986, prohibits the issuance of certain capital related regulations in final form before September 1, 1987. Therefore, this proposed rule, at least as it affects hospitals, will not be published in final form until on or after that date.

B. Public Comment

Because of the large number of pieces of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments contained in correspondence that we receive by the date specified in the "Dates" section of this preamble, and we will respond to the comments in the preamble of that rule.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X rays.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 447

Accounting, Clinics, Contracts (agreements), Copayments, Drugs, Grant-in Aid program—health, Health facilities, Health professions, Hospitals, Medicaid, Nursing homes, Payments for services: General, Payments: timely claims, Reimbursement, Rural areas.

42 CFR Chapter IV would be amended as set forth below:

A. Part 413, Subpart G is amended as follows:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

Subpart G—Capital-Related Costs

The authority citation for Subpart G is revised to read as follows:

Authority: Secs. 1102, 1122(d), 1134, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1320a–1(d), 1320b–4, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1305rr, 1395ww, and 1395xx).

2. Section 413.130 is amended by revising paragraphs (b)(1) and (b)(2), redesignating paragraph (b)(4) as (b)(5) and revising (b)(5), adding a new paragraph (b)(4), redesignating paragraph (b)(5) as (b)(6), and amending the newly redesignated (b)(6)(i) by revising the cross reference "(b)(4)" to read "(b)(5)," and adding new paragraphs (b)(7) and (b)(8), to read as follows:

§ 413.130 Introduction to capital-related costs.

* * * * *

(b) *Leases and rentals.* (1) Subject to the qualifications of paragraphs (b) (2), (4), (5), and (7) of this section, leases and rentals, including licenses and royalty fees, are includable in capital-related costs if they relate to the use of assets that would be depreciable if the provider owned them outright. The terms "leases" and "rentals of assets" signify that a provider has possession, use, and enjoyment of the assets.

(2) For sale and leaseback agreements entered into before [30 days following publication of the final rule], a provider may include incurred rental charges in its capital-related costs, as specified in a sale and leaseback agreement with a nonrelated purchaser (including shared service organizations not related within the meaning of § 413.17) involving plant facilities or equipment only if the following conditions are met:

(i) The rental charges are reasonable based on—

(A) Consideration of rental charges of comparable facilities and market conditions in the area;

(B) The type expected life, condition, and value of the facilities or equipment rented; and

(C) Other provisions of the rental agreements.

(ii) Adequate alternative facilities or equipment that would serve the purpose are not or were not available at lower cost.

(iii) The leasing was based on economic and technical considerations.

(3) * * *

(4) For sale and leaseback agreements entered into on or after [30 days following publication of the final rule], the amount a provider may include in its capital-related costs as rental or lease expense may not exceed the amount that the provider would have included in capital-related costs had the provider retained legal title to the facilities or equipment. This limitation applies on an annual basis, as well as over the useful life of the asset, so that, in the aggregate, the amount of rental or lease expense included in capital-related costs does not exceed the total amount that the provider would have included in capital-related costs had the provider retained legal title to the facilities or equipment. Capital-related costs include, but are not limited to, interest expense on mortgages, taxes, depreciation, and insurance costs.

(5) For lease purchase transactions entered into before [30 days following publication of a final rule], a lease that meets the following conditions generally establishes a virtual purchase:

(i) The rental charge exceeds rental charges of comparable facilities or equipment in the area.

(ii) The term of the lease is less than the useful life of the facilities or equipment.

(iii) The provider has the option to renew the lease at a significantly reduced rental, or the provider has the right to purchase the facilities or equipment at a price that appears to be significantly less than what the fair market value of the facilities or equipment would be at the time acquisition by the provider is permitted.

(6) * * *

(7) For lease purchase transactions entered into on or after [30 days following publication of a final rule], a lease that meets any one of the following conditions will establish a virtual purchase:

(i) The lease transfers title of the facilities or equipment to the lessee during the lease term.

(ii) The lease contains a bargain purchase option.

(iii) The lease term is 75% or more of the useful life of the facilities or equipment. This provision is not applicable if the lease begins in the last 25% of the useful life of the facilities or equipment.

(iv) The present value of the minimum lease payments (that is, payments to be made during the lease term, including bargain purchase option, guaranteed residual value, or penalties for failure to renew) equals 90% or more of the fair market value of the leased property. This provision is not applicable if the lease begins in the last 25% of the useful life of the facilities or equipment. The present value is computed using the lessee's incremental borrowing rate, unless the lessor's implicit rate is known and is less than the lessee's incremental borrowing rate, in which case, the lessor's implicit rate is to be used.

(8)(i) If a lease is a virtual purchase under paragraph (b)(7) of this section, the rental charge is includable in capital-related costs only to the extent that it does not exceed the amount that the provider would have included in capital related costs if it had legal title to the asset (the cost of ownership), such as straight line depreciation, insurance, and interest. A provider may not include in its capital-related costs accelerated depreciation.

(ii) The difference between the amount of rent paid and the amount of rent allowed as capital related costs is considered a deferred charge and is capitalized as part of the historical cost of the asset when the asset is purchased.

(iii) If an asset is returned to the owner, instead of being purchased, the deferred charge may be included in capital-related costs in the year the asset is returned.

(iv) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase still exists, the deferred charge may be included in capital-related costs to the extent of increasing the reduced rental to an amount not in excess of the cost of ownership.

(v) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase no longer exists, the deferred charge may be included in capital related costs to the extent of increasing the reduced rental to a fair rental value.

(vi) If the lessee becomes the owner of the leased asset (either by operation of the lease or by other means), the amount considered as depreciation, for the purpose of having computed the limitation expressed in paragraph (b)(8)(i) of this section, must be used in calculating the limitation on adjustments for the purpose of determining any gain

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or loss under § 413.134(f) upon disposal of an asset.

* * * * *

3. In § 413.134, the introductory language of paragraph (a) is reprinted unchanged for the convenience of the reader, paragraphs (a)(2), the heading of paragraph (b), and (b)(1) are revised, new paragraphs (b)(8) and (b)(9) are added, paragraphs (f)(1), (f)(4) and (g)(2) are revised, the existing paragraph (g)(3) is redesignated as (g)(4) and revised, a new paragraph (g)(3) is added, current paragraphs (h) through (k) are redesignated, as paragraphs (i) through (l), a new paragraph (h) is added and the newly redesignated paragraph (j) is revised to read as follows:

§ 413.134 Depreciation: Allowance for depreciation based on asset costs.

(a) *Principle.* An appropriate allowance for depreciation on buildings and equipment used in the provision of patient care is an allowable cost. The depreciation must be—

(1) * * *

(2) Based on the historical cost of the asset, except as specified in paragraph (j) of this section regarding donated assets; and

(b) *General rules—(1) Historical costs.* Historical cost is the cost incurred by the present owner in acquiring the asset.

(i) *All providers.* For depreciable assets acquired after July 31, 1970, and for hospitals and SNFs only, before July 18, 1984 the historical cost may not exceed the lower of current reproduction cost adjusted for straight-line depreciation over the life of the asset to the time of the purchase or the fair market value of the asset at the time of its purchase.

(ii) *Hospitals and SNFs only.*

(A) For assets acquired on or after July 18, 1984 and not subject to an enforceable agreement entered into before that date, historical cost may not exceed the lower of the allowable acquisition cost of the asset to the owner of record as of July 18, 1984 (or, in the case of an asset not in existence as of July 18, 1984, the first owner of record of the asset after that date), or the acquisition cost of the asset to the new owner.

(B) For purposes of applying paragraph (b)(1)(ii)(A) of this section, an asset not in existence as of July 18, 1984 includes any asset that physically existed, but was not owned by a hospital or SNF participating in the Medicare or Medicaid programs as of July 18, 1984.

(C) The acquisition cost to the owner of record is subject to any limitation on historical costs described in paragraphs (b)(1)(i) or (g) (1) and (2) of this section, and is not reduced by any depreciation taken by the owner of record. This limitation on historical cost is also applied to the purchase of land, a capital asset that is neither depreciable nor amortizable under any circumstances. (See §§ 413.153(d) and 413.157(b) for application of the limitation to the cost of land for purposes of determining allowable interest expense and return on equity capital of proprietary providers.)

(D) Acquisition cost to the owner of record includes the costs of betterments or improvements that extend the estimated useful life of an asset at least two years beyond its original estimated useful life, or increases the productivity of an asset significantly over its original productivity.

(E) For assets acquired prior to a hospital's or SNF's entrance into the Medicare program, the acquisition cost to the owner of record is the historical cost of the asset when acquired, rather than when the hospital or SNF entered the program.

(F) For assets subject to the optional depreciation allowance as described in § 413.139, the acquisition cost to the owner of record is the historical cost established for those assets when the hospital or SNF changed to actual depreciation as described in § 413.139(e). If the hospital or SNF did not change to actual depreciation, as described in § 413.139(e), for optional allowance assets, the acquisition cost to the owner of record is established by reference to the hospital's or SNF's recorded historical cost of the asset when acquired. If the hospital or SNF has no historical cost records for optional allowance assets, the acquisition cost to the owner of record is established by appraisal.

(G) The historical cost of an asset acquired on or after July 18, 1984 may not include costs attributable to the negotiation or settlement of the sale or purchase (including mergers and consolidations) of any capital asset for which any payment was previously made under the Medicare program. The costs to be excluded include, but are not limited to, appraisal costs, legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies.

(iii) *Hospital based providers other than SNFs.* For changes of ownership that involve assets of hospital-based providers other than SNFs (hospital based providers other than SNFs are not subject to paragraph (b)(1)(ii) of this section), a reasonable allocation of the purchase price must be made, so that the hospital based provider is not affected by the limitations described in paragraph (b)(1)(ii) of this section. The historical cost of assets of providers other than hospitals and SNFs is governed by paragraph (b)(1)(i) of this section.

* * * * *

(8) *Donated asset.* An asset is considered donated when the provider acquires the asset without making payment in the form of cash, new debt, assumed debt, property or services. Except as provided in paragraph (j)(3) of this section if a provider makes payment in any form to acquire an asset, the payment is considered the purchase price for the purpose of determining allowable historical cost.

(9) *Net book value.* The net book value of an asset is the depreciable basis used for the Medicare program by the asset's last participating owner less depreciation recognized under the Medicare program.

* * * * *

(f) *Gains and losses on disposal of assets—(1) General.* Depreciable assets may be disposed of through sale, scrapping, trade-in, exchange, demolition, abandonment, condemnation, fire, theft, or other casualty. If disposal of a depreciable asset results in a gain or loss, an adjustment is necessary in the provider's allowable cost. The amount of a gain included in the determinatiaon of allowable cost is limited to the amount of depreciation previously included in Medicare allowable costs. The amount of a loss to be included is limited to the undepreciated basis of the asset permitted under the program. The treatment of the gain or loss depends upon the manner of dispostion of the asset, as specified in paragraphs (f) (2) through (6) of this section.

The gain or loss on the disposition of depreciable assets has no retroactive effect on a proprietary provider's equity capital for years prior to the year of disposition.

* * * * *

(4) *Exchange, trade-in or donation.* Gains or losses realized from the exchange, trade-in or donation of depreciable assets are not included in the determination of allowable cost. When the disposition of an asset is by means of exchange, trade-in or donation, the historical cost of the new asset is the sum of the undepreciated cost of the asset disposed of and the additional cash or other assets transferred or to be transferred to acquire the new asset. However, if the asset disposed of was acquired by the provider before its participation in the

Medicare program and the sum of the indepreciated cost and the cash or other assets transferred or to be transferred exceed the list price or fair market value of the new asset, the historical cost of the new asset is limited to the lower of its list price or fair market value.

* * * * *

(g) *Establishment of cost basis on purchase of facility as an ongoing operation.*

(1) * * *

(2) *Assets acquired after July 31, 1970 and, for hospitals and SNFs only, before July 18, 1984.* For depreciable assets acquired after July 31, 1970 and, for hospitals and SNFs only, before July 18, 1984, in addition to the limitations specified in paragraph (g)(1) of this section, the cost basis of the depreciable assets may not exceed the current reproduction cost depreciated on a straight-line basis over the life of the asset to the time of the sale.

(3) *Assets acquired by hospitals and SNFs on or after July 18, 1984 and not subject to an enforceable agreement entered into before that date.* Subject to paragraphs (b)(1)(ii) (B) through (G) and (iii) of this section, historical cost may not exceed the lower of the allowable acquisition cost of the asset to the owner of record as of July 18, 1984 (or, in the case of an asset not in existence as of July 18, 1984, the first owner of record of the asset after that date), or the acquisition cost to the new owner.

(4) *Transactions other than bona fide.* If the purchaser cannot demonstrate that the sale was bona fide, in addition to the limitations specified in paragraphs (g) (1), (2), and (3) of this section, the purchaser's cost basis may not exceed the seller's cost basis, less accumulated depreciation.

(h) *Sale and leaseback agreements and other lease transactions.* (1) For sale and leaseback agreements for all providers, and for sale and leaseback agreements for hospitals and SNFs entered into before [30 days following publication of a final rule], a provider may include in its allowable costs incurred rental charges, as specified in a sale and leaseback agreement with a nonrelated purchaser involving plant facilities or equipment, only if—

(i) The rental charges are reasonable based on consideration of rental charges of comparable facilities and market conditions in the area; the type, expected life, condition, and value of the facilities or equipment rented; and other provisions of the rental agreement;

(ii) Adequate alternate facilities or equipment that would serve the purpose are not available at lower cost; and

(iii) The leasing was based on economic and technical considerations.

(2) If the conditions of paragraph (h)(1) of this section are not met, the amount a provider may include in its allowable costs as rental or lease expense under a sale and leaseback agreement may not exceed the amount that the provider would have included in its allowable costs had the provider retained legal title to the facilities or equipment. These amounts may consist of interest expense on mortgages, taxes, depreciation, and insurance costs.

(3) For hospitals and SNFs entering into sale and leaseback agreements on or after [30 days following publication of a final rule], the amount a provider may include in its allowable costs as rental or lease expense may not exceed the amount that the provider would have included in its allowable costs had the provider retained legal title to the facilities or equipment. This limitation applies on an annual basis, as well as over the useful life of the asset, so that, in the aggregate, the amount of rental or lease expense included in allowable costs may not exceed the total amount that the provider would have included in allowable costs had the provider retained legal title to the facilities or equipment. These amounts may consist of interest expense on mortgages, taxes, depreciation, and insurance costs.

(4) For lease transactions of all providers entered into before [30 days following publication of the final rule], a lease that meets the following conditions will establish a virtual purchase:

(i) The rental charge exceeds rental charges of comparable facilities or equipment in the area.

(ii) The term of the lease is less than the useful life of the facilities or equipment.

(iii) The provider has the option to renew the lease at a significantly reduced rental, or the provider has the right to purchase the facilities or equipment at a price that appears to be significantly less than what the fair market value of the facilities or equipment would be at the time acquisition by the provider is permitted.

(5)(i) If a lease is a virtual purchase under paragraph (h)(4) of this section, the rental charge is includable in allowable costs only to the extent that it does not exceed the amount that the provider would have included in allowable costs if it had legal title to the asset (the cost of ownership), such as straight line depreciation, insurance, and interest. For purposes of computing the limitation on allowable rental cost expressed in this paragraph, a provider may not include accelerated depreciation.

(ii) The difference between the amount of rent paid and the amount of rent allowed as rental expense is considered a deferred charge and must be capitalized as part of the historical cost of the asset when the asset is purchased.

(iii) If an asset is returned to the owner, instead of being purchased, the deferred charge may be expense in the year the asset is returned.

(iv) If the term of the lease is extended for an additional period of time at a reduced lease ~~cost~~ and the option to purchase still exists, the deferred charge may be expense to the extent of increasing the reduced rental to an amount not in excess of the cost of ownership.

(v) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase no longer exists, the deferred charge may be expense to the extent of increasing the reduced rental to a fair rental value.

(6) For hospitals and SNFs entering into lease transactions on or after [30 days following publication of the final rule], a lease that meets any one of the following conditions will establish a virtual purchase:

(i) The lease transfers title of the facilities or equipment to the lessee during the lease term.

(ii) The lease contains a bargain purchase option.

(iii) The lease term is 75% or more of the useful life of the facilities or equipment. This provision is not applicable if the lease begins in the last 25% of the useful life of the facilities or equipment.

(iv) The present value of the minimum lease payments (that is, payments to be made during the lease term, including bargain purchase option, guaranteed residual value, or penalties for failure to renew) equals 90% or more of the fair market value of the leased property. This provision is not applicable if the lease begins in the last 25% of the useful life of the facilities or equipment. The present value is computed using the lessee's incremental borrowing rate, unless the lessor's implicit rate is known and is less than the lessee's incremental borrowing rate, in which case, the lessor's implicit rate is to be used.

(7)(i) If a lease is a virtual purchase under paragraph (h)(6) of this section, the rental charge is includable in allowable costs only to the extent that it does not exceed the amount that the provider would have included in allowable costs if it had legal title to the

asset (the cost of ownership), such as straight line depreciation, insurance, and interest. For purposes of computing the limitation on allowable rental cost as described in this paragraph, a provider may not include accelerated depreciation in its allowable costs.

(ii) The difference between the amount of rent paid and the amount of rent allowed as rental expense is considered a deferred charge and is capitalized as part of the historical cost of the asset when the asset is purchased.

(iii) If an asset is returned to the owner, instead of being purchased, the deferred charge may be expensed in the year the asset is returned.

(iv) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase still exists, the deferred charge may be expensed to the extent of increasing the reduced rental to an amount not in excess of the cost of ownership.

(v) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase no longer exists, the deferred charge may be expensed to the extent of increasing the reduced rental to a fair rental value.

(vi) If the lessee becomes the owner of the leased asset (either by operation of the lease or by other means), the amount considered as depreciation, for the purpose of having computed the limitation expressed in paragraph (h)(7)(i) of this section, must be used in calculating the limitation on adjustments to depreciation for the purpose of determining any gain or loss under paragraph (f) of this section upon disposal of an asset.

* * * * *

(j) *Basis of assets donated to a provider*— (1) *Assets not previously used or depreciated under the Medicare program.* If an asset has never been used or depreciated under the Medicare program and is donated to a provider, the basis for the purpose of calculating depreciation and equity capital (if applicable) is the fair market value of the asset at the time of donation.

(2) *Assets previously used or depreciated under the Medicare program.* If an asset has been used or depreciated under the Medicare program and is donated to a provider, the basis for the purpose of calculating depreciation and equity capital (if applicable) is the lesser of—

(i) The fair market value at the time of donation; or

(ii) The net book value in the hands of the owner last participating in the Medicare program.

(3) *Transfers of State hospitals to nonprofit corporations without monetary consideration.* If a State transfers a hospital to a nonprofit corporation without monetary consideration on or after July 18, 1984, the depreciable basis of the assets to the new owner is the net book value of the assets as recorded on the State's books at the time of the transfer. For purposes of this section, monetary consideration includes cash, new debt and assumed debt.

* * * * *

B. Part 447, Subpart C is amended as set forth below:

PART 447—PAYMENTS FOR SERVICES

Subpart C—Payment for Inpatient Hospital and Long-Term Care Facility Services

1. The authority citation for Part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. Section 447.250 is amended by redesignating paragraphs (c) and (d) as paragraphs (d) and (e) and by adding a new paragraph (c), to read as follows:

§ 447.250 Basis and purpose.

* * * * *

(c) Sections 447.253 (c) and (d) implement Sections 1902(a)(13)(B) and 1902(a)(13)(C) of the Act, which require a State Medicaid agency to make certain assurances to the Secretary regarding increases in payments resulting solely from changes in ownerships of hospitals, SNFs, ICFs and ICFs for the mentally retarded (ICFs/MR).

3. In § 447.253, paragraph (a) is amended by revising the citation "paragraphs (b) through (g)" to read "paragraphs (b) through (i)," redesignating paragraphs (c) through (g) as paragraphs (e) through (i), and by adding new paragraphs (c) and (d), to read as follows:

§ 447.253 Other requirements.

* * * * *

(c) *Changes in ownership of hospitals.* In determining reimbursement when there has been a sale or transfer of the assets of a hospital, the State's methods and standards must provide that payment rates can reasonably be expected not to increase, in the aggregate, solely as a result of changes of ownership, more than the payments would increase under Medicare under §§ 413.130, 413.134, 413.153, and 413.157 of this chapter, insofar as these sections affect payments for depreciation, interest on capital indebtedness, return on equity capital (if applicable), acquisition costs for which payments were previously made to prior owners, and the recapture of depreciation.

(d) *Changes in ownership of SNFs, ICFs and ICFs/MR.* In determining reimbursement when there has been a sale or transfer of assets of a SNF, ICF, or ICF/MR, the State's methods and standards must provide the following depending upon the date of the transfer.

(1) For transfers on or after July 18, 1984 but prior to October 1, 1985 the State's methods and standards must provide that payment rates, solely as the result of a change in ownership, can reasonably be expected not to increase, in the aggregate, more than the payments would increase under Medicare under §§ 413.130, 413.134, 413.153 and 413.157 of this chapter, insofar as these sections affect payment for depreciation, interest on capital indebtedness, return on equity capital (if applicable), acquisition costs for which payments were previously made to prior owners, and the recapture of depreciation.

(2) For transfers on or after October 1, 1985 the State's methods and standards must provide that the valuation of capital assets for purposes of determining payment rates for SNFs, ICFs and ICFs/MR will not be increased (as measured from the date of acquisition by the seller to the date of the change of ownership), solely as a result of a change of ownership, by more than the lesser of—

(i) One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership, or, if necessary, as extrapolated retrospectively by the Secretary) in the Dodge construction index applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year; or

(ii) One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership) in the Consumer Price Index for All Urban Consumers (CPI-U) (United States city average) applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year.

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance Program and No. 13.714, Medical Assistance Program)

Dated: March 23, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: July 28, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-24562 Filed 10-23-87; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-432, RM-6002]

Radio Broadcasting Services; Chickasaw, AL and Quitman, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by JAB Broadcasting, Inc., requesting the substitution of Channel 252C2 for Channel 252A at Chickasaw, AL, and modification of its license for Station WDLT(FM), accordingly, to provide that community with its first wide coverage area FM service. Additionally, petitioner requests the substitution of Channel 255A for 252A at Quitman, Mississippi, and modification of the license of Station WYKK-FM, licensed to Quitman Broadcasting Company, to accommodate its proposal.

DATES: Comments must be filed on or before December 7, 1987, and reply comments on or before December 22, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Julian P. Freret, Esq., Booth, Freret & Imlay, 1920 N Street NW., Suite 520, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-432, adopted September 11, 1987, and released October 19, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24698 Filed 10-23-87; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1003, 1011, 1181 and 1186

[Ex Parte No. MC-111 (Sub. No. 1)]

Transfer Rules

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to revise its regulations at 49 CFR Part 1181 governing applications under 49 U.S.C. 10321 and 10926 to transfer operating rights of motor common and contract carriers, water common and contract carriers, holders of Certificates of Registration, household goods freight forwarders, and brokers of property. Transfers of motor property authority under 49 U.S.C. 10926, now governed by regulations at 49 CFR Part 1186, are included in this proposal. Conforming changes in Part 1186 are proposed. However, procedures for water carrier transactions governed by 49 U.S.C. 11343 that are now codified at 49 CFR 1181.11 will be revised in a separate rulemaking proceeding. We also propose to eliminate our oversight of changes in control of property brokers and pertinent regulations at 49 CFR 1181.32, and to revise the procedures for changing the name of a carrier under 49 CFR Part 1181, Subpart E. Finally, the Commission proposes explicitly to consider safety fitness as a substantive issue in transfer proceedings. Under section 10926 and in motor property transactions subject to 49 U.S.C. 11343 involving the purchase of authority that will continue to be governed by the regulations at 49 CFR Part 1186.

Consolidation of the transfer procedures into a single set of rules will expedite the administrative process for the small carriers generally affected. The recommended revisions, particularly elimination of the provision at 49 CFR 1181.3(b) involving duplicative or improperly divided authority, will ensure that the Commission's regulations remain fully responsive to recent developments, including the Bus Regulatory Reform Act of 1982. These changes are reflected in this proposal. Corresponding revisions to application Form OP-FC-1 used to effect such transfers also are proposed (*see* appendix), and are reflected in the proposed revisions to the List of Forms at 49 CFR Part 1003.

DATE: Comments are due on December 10, 1987.

ADDRESS: Send comments [an original and 10 copies], referring to Ex Parte No. MC-111 (Sub-No. 1), to

Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Andrew L. Lyon, (202) 275-7291 or Warren C. Wood, (202) 275-7977 (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: The Commission's decision contains additional infomnation. To obtain a copy of the decision, write to Office of the Secretary, Room 2215, Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, DC 20423, or call (202) 275-7428 (assistance for the hearing impaired is available through TDD services (202) 275-1721) or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters.

The proposed rules do not appear to affect significantly the quality of the human environment or the conservation of energy resources. However, we specifically invite the comments of interested parties on these issues.

In accordacne with the purpose and intent of the 49 U.S.C. 10926 transfer provisions, to exempt small carriers from the more stringent procedural requirements and decisional standards of 49 U.S.C. 11343, we have proposed a comprehensive revision and simplification of the "small carrier" transfer regulations at 49 CFR Part 1181

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and conforming changes to 49 CFR Part 1186. We preliminarily certify that the regulatory revisions proposed here will have significant positive economic impact on a substantial number of small motor carriers, water carriers, property brokers, and household goods freight forwarders and, indirectly, upon the public they serve, by reducing regulatory burdens.

The new procedural format will expedite small carrier transfer proceedings and, in turn, will hasten availability of improved competitive service to shippers. Elimination of regulatory provisions, which in the past delayed or precluded authorization of transfers of authority, will enhance restructuring among motor carriers by lowering regulatory barriers to entry and exit from the industry and will accord such entities greater latitude to pursue operating efficiencies in response to the demands of the transportation marketplace. Corresponding benefits are expected to inure to water carrier, property broker, and household goods freight forwarder transfer applicants.

The rules proposed will not impose additional reporting, recordkeeping, or compliance requirements on small entities. Conversely, the informational requirements for all involved entities are proposed to be appreciabley reduced. Moreover, the revised rules will not duplicate, overlap, or conflict with any existing Federal rule.

List of Subjects

49 CFR Part 1003

Freight forwarders, Motor carriers, Application forms.

49 CFR Part 1011

Administrative practice and procedure.

49 CFR Part 1181

Administrative practice and procedure, Brokers, Freight forwarders, Motor carriers.

49 CFR Part 1186

Administrative practice and procedure, Freight forwarders, Motor carriers, Water carriers.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons. Vice Chairman Lamboley concurred with a commenting separate expression.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1003—LIST OF FORMS

(1) The authority citation for Part 1003 continues to read:

Authority: 5 U.S.C. 551(a), 5 U.S.C. 553(1)(c), and 49 U.S.C. 10321.

§ 1003.2 [Amended]

(2) The entry for OP–FC–1 in § 1003.2 is proposed to be revised to read as follows:

OP–FC–1.

Applications in proceedings (other than those under 49 U.S.C. 11343) for transfer or lease of:

(1) Motor carrier Certificates of Registration issued pursuant to 49 U.S.C. 10931;

(2) Motor common and contract carrier operating rights issued pursuant to 49 U.S.C. 10922 and 10923, respectively;

(3) Property broker licenses issued pursuant to 49 U.S.C. 10924;

(4) Household goods freight forwarder permits issued pursuant to 49 U.S.C. 10923; and

(5) Water common and contract carrier operating rights issued pursuant to 49 U.S.C. 10922 and 10923, respectively.

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

(3) The authority citation for Part 1011 continues to read:

Authority: 5 U.S.C. 553(b), 31 U.S.C. 9701, 49 U.S.C. 10301, 10302, 10304, 10305, and 10321.

(4) Section 1011.6(i)(5) is proposed to be revised to read as follows:

§ 1011.6 Employee boards.

* * * * *

(i) * * *

(5) Determination of applications, which have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, under:

(i) 49 U.S.C. 10321, relating to the transfer of brokers' licenses; and

(ii) 49 U.S.C. 10931 and 10932, relating to the transfer of Certificates of Registration and rights to operate pending determination of applications for Certificates of Registration.

PART 1181—TRANSFERS OF OPERATING RIGHTS UNDER 49 U.S.C. 10926

(5) Part 1181 is proposed to be revised to read as follows:

Sec.

1181.0 Scope of rules.
1181.1 Definitions.
1181.2 Applications.
1181.3 Notice.
1181.4 Commission action and criteria for approval.
1181.5 Responsive pleadings.
1181.6 Procedures for changing the name or business form of a motor or water carrier, household goods freight forwarder, or property broker.

Authority: 5 U.S.C. 553, 49 U.S.C. 10321 and 10926.

§ 1181.0 Scope of rules.

These rules define the procedures that enable motor passenger and property carriers, water carriers, property brokers, and household goods freight forwarders to obtain approval from the Interstate Commerce Commission to merge, transfer, or lease their operating rights in financial transactions not subject to 49 U.S.C. 11343. Transactions covered by these rules are governed by 49 U.S.C. 10321 and 10926. The filing fee is set forth at 49 CFR 1002.2(f)(25).

§ 1181.1 Definitions.

For the purposes of this part, the following definitions apply:

(a) *Transfer.* Transfers include all transactions (*i.e.*, the sale or lease of interstate operating rights,[1] or the merger of two or more carriers or a carrier into a noncarrier) subject to 49 U.S.C. 10926, as well as the sale of property brokers' licenses under 49 U.S.C. 10321.

(b) *Operating rights.* Operating rights include:

(1) Certificates and permits issued to motor and water carriers;

(2) Permits issued to household goods freight forwarders;

(3) Licenses issued to property brokers; and

(4) Certificates of Registration issued to motor carriers.

The term also includes authority held by virtue of the gateway elimination regulations published in the **Federal Register** as letter-notices.

(c) *Certificate of registration.* The evidence of a motor carrier's right to engage in interstate or foreign commerce within a single State as established by a corresponding State certificate.

(d) *Person.* An individual, partnership, corporation, company, association, or other form of business, or a trustee, receiver, assignee, or personal representative of any of these.

[1] The execution of a chattel mortgage, deed of trust, or other similar document does not constitute a transfer or require the Commission's approval. However, a foreclosure for the purpose of transferring an operating right to satisfy a judgment or claim against the record holder may not be effected without approval of the Commission.

(e) *Record holder.* The person shown on the records of the Commission as the legal owner of the operating rights.

(f) *Control.* A relationship between persons that includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, a holding or investment company, or any other means.

(g) *Category 1 transfers.* Transactions in which the person to whom the operating rights would be transferred is not an ICC carrier and is not affiliated with any ICC carrier.

(h) *Category 2 transfers.* Transactions in which the person to whom the operating rights would be transferred is an ICC carrier and/or is affiliated with an ICC carrier.

§ 1181.2 Applications.

(a) *Procedural requirements.* (1) At least 10 days before consummation, an original and two copies of a properly completed Form OP–FC–1 and any attachments [*see* paragraph (b)(1)(viii) of this section must be filed with the Office of the Secretary, Applications and Fees Unit, Interstate Commerce Commission, Washington, DC 20423. The original must show that an additional copy has been furnished to the Commission's Regional Director for the Region(s) in which the applicants' headquarters are located. The nonrefundable filing fee prescribed by 49 CFR 1002.2(f)(25) must accompany the application.

(2) At any time after the expiration of the 10-day waiting period, applicants may consummate the transaction, subject to the subsequent approval of the application by the Commission, as described below. The transferee may commence operations under the rights acquired from the transferor upon its compliance with the Commission's regulations governing insurance, tariffs (if applicable), and process agents. *See* 49 CFR Parts 1043, 1312 and 1044, respectively. In addition, contract carriers must comply with the Commission's regulations concerning contracts at 49 CFR Part 1053. In the alternative, applicants may wait until the Commission has issued a decision on their application before transferring the operating rights. If the transferee wants the transferor's operating authority to be reissued in its name, it should furnish the Commission with a statement executed by both transferor and transferee indicating that the transaction has been consummated. Authority will not be reissued until after the Commission has approved the transaction.

(b) *Information required.* (1) In category 1 and category 2 transfers, applicants must furnish the following information:

(i) Full name, address, and signatures of the transferee and transferor.

(ii) A copy of that portion of the transferor's operating authority involved in the transfer proceeding.

(iii) A short summary of the essential terms of the transaction.

(iv) If relevant, the status of proceedings for the transfer of State certificate(s) corresponding to the Certificates of Registration being transferred.

(v) A statement as to whether the transfer will or will not significantly affect the quality of the human environment.

(vi) Certification by transferor and transferee of their current respective safety ratings by the United States Department of Transportation (*i.e.*, Satisfactory, conditional, unsatisfactory or unrated).

(viii) Certification by the transferee that it has sufficient insurance coverage under 49 U.S.C. 10927 for the service it intends to provide.

(viii) Information to demonstrate that the proposed transaction is consistent with the national transportation policy and satisfies the criteria for approval set forth at § 1181.4 of this part. (Such information may be appended to the application form and, if provided, would be embraced by the oath and verfication contained on that form).

(2) Category 2 applicants must also submit the following additional information:

(i) Name(s) of the carrier(s), if any, with which the transferee is affiliated.

(ii) Aggregate revenues of the transferor, transferee and their carrier affiliates from interstate transportation sources for a 1 year period ending not earlier than six months before the date of the agreement of the parties concerning the transaction. If revenues exceed $2 million, the transfer may be subject to 49 U.S.C. 11343 rather than these rules.

§ 1181.3 Notice.

The Commission will give notice of approved transfer applications through publication in the *ICC Register.*

§ 1181.4 Commission action and criteria for approval.

A transfer will be approved under this section if:

(a) The transaction is not subject to 49 U.S.C. 11343;

(b) The transaction is consistent with the public interest; and

(c) If the transferor or transferee has less than a satisfactory safety rating, the transfer may be conditioned or may be disapproved.

If an application is denied, the Commission will serve a decision on the parties setting forth the basis for its action. Transactions that have been consummated but are later denied by the Commission are null and void and must be rescinded.

§ 1181.5 Responsive pleadings.

(a) Protests must be filed within 20 days after the date of publication of an approved transfer application in the *ICC Register.* Protests received prior to the notice will be rejected. Applicants may respond within 20 days after the due date of protests. Petitions for reconsideration of decisions denying applications must be filed within 20 days after the date of service of such decisions.

(b) Protests and petitions for reconsideration must be filed with the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and be served on appropriate parties.

§ 1181.6 Procedures for changing the name or business form of a motor or water carrier, household goods freight forwarder, or property broker.

(a) *Scope.* These procedures (and not the transfer rules at 49 CFR Parts 1181, 1182, 1183 and 1186) apply in the following circumstances:

(1) A change in the form of a business, such as the incorporation of a partnership or sole proprietorship;

(2) A change in the legal name of a partnership or change in the trade name or assumed name of any entity;

(3) A transfer of operating rights from a deceased or incapacitated spouse to the other spouse;

(4) A reincorporation and merger for the purpose of effecting a name change;

(5) An amalgamation or consolidation of a carrier and noncarrier into a new carrier having a different name from either of the predecessor entities; and

(6) A change in the State of incorporation accomplished by dissolving the corporation in one State and reincorporating in another State.

(b) *Procedures.* To accomplish these changes, a letter must be sent to the Office of the Secretary, Applications and Fees Unit, Interstate Commerce Commission, Washington, DC 20423. The envelope should be marked "NAME CHANGE". The applicant must provide:

(1) The docket number(s) and name of the carrier requesting the change;

(2) A copy of the articles of incorporation and the State certificate reflecting the incorporation;

(3) The name(s) of the owner(s) of the stock and the distribution of the shares;

(4) The names of the officers and directors of the corporation; and

(5) A statement that there is no change in the ownership, management, or control of the business.

When this procedure is being used to transfer operating rights from a deceased on incapacitated spouse to the other spouse, documentation that the other spouse has the legal right to effect such change must be included with the request. The fee for filing a name change request is in 49 CFR 1002.2(f)(11).

PART 1186—EXEMPTION OF CERTAIN TRANSACTIONS UNDER 49 U.S.C. 11343

(6) The authority citation for Part 1186 continues to read:

Authority: 49 U.S.C. 10321 and 11343(e) and 5 U.S.C. 553.

(7) Section 1186.1 is proposed to be revised to read:

§ 1186.1 Scope of exemptions.

Any transaction under 49 U.S.C. 11343(a)(1)–(5) among motor carriers of property or between them and noncarriers is exempt from the requirements of 49 U.S.C. 11343, 11344, and 11345a, subject to the right of employees and others file complaints as set forth in § 1186.8.

(8) Section 1186.2 is proposed to be revised to read:

§ 1186.2 Notice of exemption.

To qualify for an exemption under § 1186.1, the participants in the transaction must file an original and four copies of a joint Notice of Exemption with the Commission. The Notice of Exemption shall contain the following information:

(a) Names and addresses of the carriers or other parties involved;

(b) A brief, but specific description of the nature of the transaction;

(c) Certification of the accuracy of the contents of the notice by, and signature of, the persons who control the carriers or other parties involved in the transaction; and

(d) A jurisdictional statement stating why the transaction is subject to 49 U.S.C. 11343–11344.

(9) Section 1186.5 is proposed to be revised to read:

§ 1186.5 Filing fees.

The filing fee required to file a Notice of Exemption is set forth in 49 CFR 1002.2(f)(27).

(10) Section 1186.8 is proposed to be revised to read:

§ 1186.8 Complaints.

(a) *Employee complaints.* Employees who have been or may be adversely affected by an exempt transaction or transaction proposed for exemption may file a complaint with the Commission any time after the Notice of Exemption is filed. A copy of the complaint must be served on the parties to the transaction. The parties may file an answer with the Commission and upon complainant within 10 days after receipt of the complaint. Employee complaints must contain the following information:

(1) The docket number of the corresponding Notice of Exemption (if available at the time) and the names of the participants in the transaction;

(2) Names of the employees alleged to be affected by the transaction and the nature and scope of harm;

(3) A request for specific relief (requests for relief in the alternative are acceptable);

(4) An explanation as to why the particular relief sought is the appropriate remedy for the particular harm suffered; and

(5) (Optional) A request for suspension or revocation of the exemption, accompanied by information showing why suspension or revocation of exemption is necessary.

(b) *Anticompetitive complaints.* Any party may file a complaint with the Commission within 30 days after the Notice of Exemption is published alleging that the transactions is potentially anticompetitive. A copy of the complaint must be served on the parties to the transaction. The parties may respond by filing an answer with the Commission and upon complainant within 10 days after the due date of the complaint. The complaint must contain the following information:

(1) The docket number of the corresponding Notice of Exemption (if available at the time) and the names of the participants in the transaction;

(2) A specific description of the manner in which competition will allegedly be adversely affected;

(3) A request for specific relief (requests for relief in the alternative are acceptable);

(4) An explanation as to why the particular relief sought is deemed to be appropriate.

(c) Petitioners shall promptly furnish any interested party with a copy of the Notice of Exemption and any attachments, free of charge.

(11) A new § 1186.9 is proposed to be added, as follows:

§ 1186.9 Safety fitness.

The Commission will consider the DOT safety rating of the buyer and the seller in transactions where operating authority is purchased. If either the buyer or the seller has less than a satisfactory safety fitness rating, the exemption may be either conditioned on improvement in that rating, or disapproved.

[Editorial Note: The following Appendix will not appear in the Code of Federal Regulation.]

Appendix

Form OP–FC–1 is to be filed in all proceedings to transfer authority under: 49 U.S.C. 10321 and 10924 involving property brokers, 49 U.S.C. 10926 involving motor passenger and property carriers, water carriers, and household goods, freight forwarders, and 49 U.S.C. 10931 and 10932 involving holders of Certificates of Registration. This form should not be used for transfers of motor carrier authority or water carrier authority under 49 U.S.C. 11343. A sample of the proposed revised Form OP–FC–1 follows.

Interstate Commerce Commission Small Carrier Transfer Application Form No. MC–FC–

Through the filing of this original application, two copies and a $150 filing fee (check or money order) with the Office of the Secretary, Applications and Fees Unit, Interstate Commerce Commission, Washington, DC 20423, the applicants named below request approval to transfer authority under 49 U.S.C. 10321, 10924, 10926, 10931, and/or 10932.

Exhibit I. Identification of Applicants

Name of Transferee

Business Form: Corporation, Partnership, Individual

Trade Name

Business Address and Zip Code

Declarations: 1. Transferee [ ] is [ ] is not an ICC-regulated motor carrier.

2. Transferee [ ] is [ ] is not a [ ] rail carrier, [ ] water carrier, [ ] express company, [ ] household goods freight forwarder, or [ ] broker regulated by the ICC.

3. Transferee [ ] is [ ] is not affiliated with a [ ] motor, [ ] rail, or [ ] water carrier, [ ] freight forwarder, [ ] express company, or [ ] broker.

4. The name(s) of the motor, rail, or water carrier, freight forwarder, express company, or broker which transferee owns or is affiliated with:

Name of Transferor

Business Form: Corporation, Partnership, Individual

Trade Name

Business Address and Zip Code

Exhibit II. Identification of ICC Rights Being Transferred

We seek to [ ] transfer [ ] lease [ ] a portion of [ ] the entire ICC operating rights under:

Certificate No. ———

Permit No. ———

Certificate of Registration No. MC– ———

License No. MC— ———

We have attached true copies of the transferor's ICC certificates, licenses, and/or permits involved in this application and have marked the portions to be transferred, retained, or cancelled.

Note.—In instances where only portions of a particular certificate, license, or permit are to be transferred, a copy of the authority in its entirety must be submitted.

Exhibit III. Terms of The Transaction

Briefly describe the essential terms of the transaction.

Exhibit IV. Certificate of Registration Transfer

Our application [ ] does [ ] does not involve the transfer of a Certificate of Registration. If it does, we have attached a copy of the State order approving the transfer of the corresponding State rights or will furnish it when it is available.

Exhibit V. Certifications

A. We certify that on ———, 19——, we mailed a complete copy of this application to the ICC Regional Office(s) located at (City and State).

B. We certify that this transaction [ ] will [ ] will not significantly affect the quality of the human environment.

C. Transferee certificates that its current safety rating by the United States Department of Transportation (DOT) is [ ] satisfactory, [ ] conditional, [ ] unsatisfactory, [ ] unrated. Transferor certifies that its current DOT safety rating is [ ] satisfactory, [ ] unconditional, [ ] unsatisfactory, [ ] unrated.

D. We certify that transferee has sufficient insurance coverage under 49 U.S.C. 10927 for the service it intends to provide.

E. We understand that knowing and willful omissions of material facts constitute Federal criminal violations punishable by up to 5 years imprisonment and fines up to $10,000 for each offense. (18 U.S.C. 1001).

Signature of Transferee

Signature of Transferor

Exhibit VI. Applicants' Representative

Name and Business Telephone Number

Capacity

Business Address and Zip Code

If transferee is an ICC carrier and/or is affiliated with an ICC carrier complete the following part.

Exhibit VII. Supplement

Since transferee is an ICC carrier and/or is affiliated with an ICC carrier, we have submitted the following supplemental information:

A. Name(s) of ICC carrier affiliate(s) of transferee and a statement describing the extent of this affiliation.

B. Aggregate revenues of the transferor, transferee and their carrier affiliates from interstate transportation sources for a 1 year period ending not earlier than six months before the date of the agreement of the parties covering the transaction. *See* 49 U.S.C. 11343(d)(1).

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 840 and 841

[Docket No. R-18-1356; FR-2385

Supportive Housing Demonstration Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule and announcement of fund availability.

SUMMARY: The Supportive Housing Demonstration program is contained in Subtitle C of Title IV of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77, approved July 22, 1987). This program provides assistance for projects providing housing and supportive services for homeless persons in the forms of transitional housing to facilitate the movement of homeless individuals to independent living, and permanent housing for handicapped homeless persons. This notice: (1) Announces the proposed rules for the Supportive Housing Demonstration Program; (2) states that the requirements contained in the proposed rule will govern the permanent housing program until final regulations are issued; and (3) announces the availability of $15 million in funds for permanent housing under the Supplemental Appropriations Act, 1987 (Pub. L. 100-71, approved July 11, 1987).

DATE: Comments must be received by December 28, 1987.

ADDRESS: Interested persons are invited to submit comments regarding this proposed rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-5720. Hearing or speech impaired individuals may call HUD's TDD number (202) 426-0015. (These phone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

On July 22, 1987, the President approved the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77) ("McKinney Act"). Title IV of the McKinney Act contains a number of assistance programs to be administered by HUD. Subtitle C authorizes the Supportive Housing Demonstration program ("SHD program"). Under this program, HUD is directed to carry out a program to develop innovative approaches to providing housing and supportive services to the homeless. The purposes of the program are to determine:

—The cost of acquisition, rehabilitation, acquisition and rehabilitation, or leasing of existing structures for the provision of supportive housing;

—The cost of operating such housing and providing supportive services to the residents of the housing;

—The social, financial and other advantages of such housing as a means of assisting homeless individuals; and

—The lessons that the provision of supportive housing might have for the design and implementation of housing programs that serve homeless individuals and families with special needs.

The SHD program has two components—a reauthorization (with amendments) of the Transitional Housing Demonstration program originally authorized in Part B of the Homeless Housing Act of 1986,[1] and a new program of permanent housing for handicapped homeless persons.

II. Procedural Matters

Section 428(a) of the McKinney Act contains the following requirements regarding implementation of the SHD program:

> Not later than 90 days following the date of enactment of this Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Until final regulations are issued under this subtitle, the regulations established by the Secretary implementing the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591 shall govern the transitional housing provisions of this subtitle.

Consistent with this provision, this document serves three purposes. First, it proposes regulations to govern the SHD program both transitional and permanent housing components—and seeks public comment on the proposed provisions. This implements the two-step "notice" and "final regulations" language in section 426(a).

It should be noted that on September 3, 1987 (52 FR 33536), HUD published a notice announcing that the Guidelines issued for the original Transitional Housing Demonstration program (THDP) (52 FR 21743, June 9, 1987) and certain McKinney Act provisions, would govern the use of $65 million of the $80 million appropriated for the SHD program by the Supplemental Appropriations Act, 1987. That notice carried out section 426(a)'s directive that until final rules take effect, the transitional housing component is to be governed by the original program's requirements.

Second, today's document establishes requirements that govern the permanent housing component of the SHD program for funds appropriated by the Supplemental Appropriations Act, 1987. Section 426(a) provides that HUD is to publish a notice establishing requirements for the SHD program. Although the statute specifies the requirements that will govern the transitional housing element of the program pending issuance of final SHD program regulations, it is silent on the permanent housing component. The Department interpreted substantially similar language in section 525(a) of the Emergency Shelter Grants Program in the Homeless Housing Act of 1986 as authorizing a proposed rule that served two functions: establishing guidelines that would govern the program until issuance of a final rule, and soliciting public comment to assist in the development of a final rule (See 51 FR 45278, December 17, 1986.)

The Department will use the same approach for the permanent housing program—*i.e.* today's proposed rule will: (1) Establish requirements for the program to permit its immediate implementation with amounts provided in the Supplemental Appropriations Act, 1987; and (2) solicit public comment that will form the basis for a final rulemaking. The Department believes that this approach is responsive not only to section 426(a), but also to the Congressional concern—expressed in both the McKinney Act and the supplemental appropriation—that SHD program funds be committed as quickly as possible to assist their intended beneficiaries.

Finally, today's document announces the availability of $15 million in funds for permanent housing appropriated by the Supplemental Appropriations Act, 1987, and solicits the submission of applications for the progam. Requirements governing the submission of applications are discussed at section IV, below.

[1] Section 101(g), Pub. L. 99-500 (approved October 18, 1986) and Pub. L. 99-591 (approved October 30, 1986) making appropriations as provided for in Title V of H.R. 5313, 99th Cong., 2d Sess. (1986) (as passed by the House of Representatives and by the Senate), to the extent and in the manner provided for in H. Rep. No. 977, 99th Cong., 2d Sess. (1986).

III. Program Description

A. Overview

As noted above, supportive housing under Subtitle C of Title IV of the McKinney Act includes both transitional housing and permanent housing for handicapped homeless persons. Each of these two components of the SHD program would be implemented by the addition of a new part. The major features of each of these programs are discussed below.

1. *Transitional Housing.* Part 840 of the proposed rule would govern the transitional housing component of the program.

(a) *Projects assisted.* The proposed rule at § 840.5 defines transitional housing as an assisted project that provides housing and supportive services to homeless persons and that has as its purpose facilitating the movement of homeless individuals to independent living within a reasonable amount of time, as determined by the Secretary. Consistent with the THDP Guidelines, HUD has set 18 months as the maximum stay limitation in transitional housing.

All or part of the supportive services provided in connection with the housing may be provided directly by the recipient or by arrangement with public or private service providers. The supportive services that may be provided to residents of transitional housing projects are defined at § 840.5. Under this section, supportive services would include those services that are proposed by an applicant in its application and approved by HUD, that address the special needs of the homeless persons to be served by the project, and that assist in accomplishing the goals of the transitional housing program. The definition lists various services that may be supportive services. The cited services are derived from the list of supportive services originally contained in the THDP guidelines.

(b) *Applicants and recipients.* In accordance with section 422(1) of the McKinney Act, the proposed rule would limit eligible applicants under the transitional housing program to States, metropolitan cities, urban counties, tribes, and private nonprofit organizations. Eligible applicants would also include two or more of these entities that submit a joint application.

The universe of eligible governmental applicants is more restrictive under the McKinney Act than under the THDP guidelines. Applicants under the THDP guidelines included all governmental entities, including those that have general governmental powers (such as cities, counties, or States), as well as those that have limtied or special powers (such as public housing agencies). HUD is concerned that the proposed definition may exclude many units of local government that have a long-term commitment to serving the needs of the homeless. While the statutory definition prohibits direct assistance to such governmental entities, HUD is considering the addition of express regulatory language permitting eligible governmental recipients to contract with other governmental entities to operate transitional housing assisted under the program. HUD may also extend this contracting to other types of entities. Public comment is expressly requested on this proposal.

Under sections 422(4) and (14) of the McKinney Act, the terms "metropolitan city" and "urban county" are given the same meaning as contained in section 102 of the Housing and Community Development Act of 1974. The definitions of these two terms in the proposed rule reflect this requirement. Additionally, the definitions provide guidance that urban counties and metropolitan cities are generally those counties and cities that are eligible for an entitlement grant under 24 CFR Part 570, Subpart D.

The definition of "private nonprofit organization" contained in section 422(6) of the McKinney Act also differs from the definition contained in the THDP guidelines. The McKinney Act: (1) Eliminated the requirement that the organization must be a secular or religious organization described in section 501 of the Internal revenue Code and must be exempt from taxation under subtitle A of the Code; (2) added a requirement that no part of the net earnings of the organization may inure to the benefit of any member, founder, contributor or individual; and (3) modified requirements governing the organization's accounting system. The proposed definition of private nonprofit organization reflects these changes.

In accordance with the McKinney Act, "recipient" is defined to include any applicant that HUD approves as to financial responsibility and that executes a grant agreement with HUD to provide transitional housing. (For purposes of the program, HUD has made a determination that all States, metropolitan cities, urban counties, and tribes requesting assistance are financially responsible. See proposed § 840.210(b)(2)(ii)(A).) All recipients under the proposed rule would be required to operate transitional housing and to provide or coordinate the provision of supportive services to the residents of the housing.

(c) *Eligible participants.* Transitional housing under the proposed rule must serve homeless persons. Section 103 of the McKinney Act defines homeless to include: (1) An individual who lacks a fixed, regular, and adequate nighttime residence; and (2) an individual who has a primary nighttime residence that is (A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations; (B) an institution that provides a temporary residence for individuals intended to be institutionalized; or (C) a public or private place not designed for, or ordinarily use as, a regular sleeping accommodation for human beings. Homeless does not include any individual imprisoned or otherwise detained under an Act of Congress or a State law.

The McKinney Act definition is broader than the definition of homeless persons under THDP guidelines, which limited participation to homeless persons who are capable, within a reasonable period of time, of living independently. The McKinney Act definition of homeless has been incorporated in the proposed rule at § 840.5 with clarifying language indicating that the term includes homeless families.

The McKinney Act emphasizes that various homeless populations are to be served by transitional housing. For example, section 422(12)(A) specifically defines "transitional housing" as housing that is primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental disabilities, and homeless families with children; and section 428(b)(1) provides a funding set aside for transitional housing projects that serve homeless families with children. Such targeting of specific homeless populations is not incorporated in the THDP guidelines.

In order to implement these statutory provisions, § 840.5 of the proposed rule would include the following definitions for transitional housing:

Handicapped or *handicapped person.* Section 422(2) of the McKinney Act provides that the term handicapped means an individual that is handicapped within the meaning of section 202 of the Housing Act of 1959. The definition in the proposed rule is similar to the definition of handicapped person that will be contained in FR-1761—Loans for Housing for the Elderly or

Handicapped—Housing Assistance Payments Contract and Project Management, a proposed rule revising 24 CFR Part 885 that will be published shortly. Proposed Part 840 contains two modifications. First, this proposed rule clarifies that a handicapped person who also suffers from alcoholism or drug addiction is included within the definition of handicapped person. Second, unlike the Part 885 definition, the proposed rule does not limit the definition of handicapped persons to adults.

Homeless individual with mental disabilities. This term would be defined as a homeless individual who is a handicapped person and whose handicap is wholly or partially attributable to a mental or emotional impairment. This term would also include a homeless family, if the head of the family (or the spouse of the head of the family) is a homeless individual with mental disabilities.

Deinstitutionalized homeless individual. This term would be defined as a homeless individual with mental disabilities who has been discharged or released from a mental institution or hospital, a halfway house, transitional housing or a similar facilities providing housing and supportive services to its residents. This term would also include a homeless family, if the head of the family (or the spouse of the head of the family) is a deinstitutionalized homeless person.

Homeless family with children. This term means a homeless family that includes at least one parent and one child under the age of 18.

To recognize the priorities and set asides in the McKinney Act, and to provide regulatory flexibility for future changes to these priorities and set asides, § 840.207(b) would provide that HUD may establish separate funding competitions for specified categories of transitional housing projects, and would announce the funding categories and the amounts set aside for each category in the notice of fund availability under § 840.200.

2. *Permanent housing.* Part 841 would govern permanent housing for handicapped homeless persons.

(a) *Projects assisted.* The proposed rule at § 841.5 defines "permanent housing for handicapped homeless persons" as a project that provides community-based, long-term housing and supportive services for not more than eight handicapped homeless persons, and that is carried out by a project sponsor (see discussion of project sponsor below). The project must be either a group home designed solely for housing handicapped homeless persons, or dwelling units in a rental apartment building, a condominium project or a cooperative project. Like transitional housing, all or part of the supportive services may be provided directly by the recipient (or the project sponsor) or by arrangement with public or private service providers. The definition of supportive services would be similar for the permanent housing and transitional housing programs.

(b) *Applicants, recipients and project sponsors.* Under section 422(1) of the McKinney Act, the applicant for permanent housing must be the State in which the project is to be located. In accordance with section 422(9), the proposed rule would provide that recipient means an applicant that HUD approves as to financial responsibility and that executes the grant agreement with HUD. Like the transitional housing program, HUD has determined that the State-applicants are financially responsible (see § 841.210(b)(2)(ii)(A)).

Recipient responsibilities under the permanent housing component would be limited to the provision of funding assistance to a project sponsor for the operation of the permanent housing and the facilitation of the provision of supportive services to the residents of the housing. The project sponsor must operate the permanent housing for handicapped homeless persons, and provide (or coordinate the provision of) supportive services to the residents of the housing. Section 422(8) of the McKinney Act defines "project sponsor" as a private nonprofit organization that the Governor or other chief executive official of the State approves as to financial responsibility. The proposed rule incorporates this requirement in the definition of project sponsor. "Private nonprofit organization" would have the same definition as proposed for transitional housing.

(c) *Program participants.* While transitional housing projects may serve any individual or family meeting the definition of homeless individual, permanent housing is limited to projects that serve handicapped homeless persons. In accordance with section 422(3) of the McKinney Act, § 841.5 of the proposed rule would provide that handicapped homeless person means a handicapped person who: (a) Is a homeless individual; (b) who is currently not a homeless individual but who is at risk of becoming a homeless individual; or (c) has been a resident of a transitional housing project assisted under the THDP Guidelines. (While the proposed regulation would not expressly provide that a handicapped person who has been a resident of transitional housing assisted under the SHD program is a "handicapped homeless person," these individuals would be considered to be "at risk" of becoming homeless and, thus, would qualify for admission to permanent housing.)

The definitions of handicapped person and homeless are the same for the transitional and permanent housing programs.

B. Assistance Provided Under the Programs

Assistance available under the transitional housing and permanent housing programs would include: (1) Advances to cover the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of existing structures, (2) grants for moderate rehabilitation, (3) funding for operating costs (available for transitional housing only), and (4) technical assistance. HUD would not provide both an acquisition/rehabilitation advance and a moderate rehabilitation grant to a project, and would provide technical assistance only in connection with other types of assistance. The types of assistance are discussed below.

1. *Acquisition/rehabilitation advances.* Acquisition/rehabilitation advances would be available for both transitional housing and permanent housing. Advances would be limited to the lesser of $200,000 or 50 percent of the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation. These limitations on the size of the advance are the same as those prescribed in the THDP guidelines. The provisions governing advances are contained in the proposed rules at §§ 840.105 and 841.105.

2. *Moderate rehabilitation grants.* The SHD program would offer one type of assistance not available under the THDP guidelines: A grant for moderate rehabilitation. This assistance would be available for both transitional housing and permanent housing.

The Conference Report accompanying the McKinney Act stated "the conferees believe that moderate rehabilitation should be limited to modest rehabilitation activity the cost of which the Secretary determines is too low to necessitate an advance." (H. Rep. No. 174, 100th Cong., 1st Sess. 73 (1987)). The proposed rule would limit moderate rehabilitation grants to the lowest of: (1) $100,000; (2) an overall project limit based on the number of units of each type and unit costs applicable to each unit type; and (3) 50 percent of the aggregate cost of the rehabilitation. The proposed moderate rehabilitation grant provisions are contained at §§ 840.110 and 841.110 of the proposed rule.

(Section 841.110 does not include the $100,000 limitation for moderate rehabilitation grants because the overall project limit based on the unit cost and the maximum number of units that may be provided in permanent housing would never exceed this limit.)

3. *Funding for annual operating costs.* The third type of assistance is funding for annual operating costs. In accordance with the statute, this type of assistance is only available for transitional housing projects (see section 423(a)(4) of the McKinney Act). The proposed provisions governing the provision of operating cost assistance are similar to the THDP guidlines and are contained at §§ 840.115.

Like the THDP guidelines, the proposed rules provide the HUD will provide operating cost assistance for a maximum of five years of operating costs. While recipients of transitional housing assistance under the SHD program are required to provide housing and supportive services for a minimum of 10 years, rather than five years as required under the THDP guidelines, HUD continues to believe that the five-year limitation on operating cost funding is appropriate. The obligation of funds for a period in excess of five years would inappropriately constrict the number of projects funded and, thus, the number of homeless persons that may be served. Because the SHD program is a demonstration program, a limited number of funded projects could also result in a demonstration of an inadequate size to yield meaningful results to determine the utility of the program. The five-year term, on the other hand, would ensure a larger number of funded entities. In addition, individual recipients would be assured of a steady stream of income to meet their responsibilities under the program during the initial stages of operation—the time when, without a proven track record, attracting new funding would generally be most difficult. The Department believes that five years' operating subsidy should provide adequate time for recipients to develop a record of success and the private-sector financial contacts necessary for the continued operation of assisted programs.

4. *Technical assistance.* Technical assistance would be offered through HUD field offices. Proposed regulations, based on the technical assistance provisions contained in the THDP guidelines, are contained at §§ 840.120 and 841.115

5. *Limitations on the use of assistance.* Sections 840.125 (transitional housing) and 841.120 (permanent housing) would incorporate limitations on the use of assistance. These include: (1) Limitations on funding of existing housing facilities and programs; (2) maintenance of effort provisions; (3) provisions governing leased property and newly constructed properties; (4) limitations applicable to primarily religious organizations; (5) provisions governing the use of structures for multiple purposes; and (6) limitations on administrative costs. Except as noted below, the limitations on the use of assistance reflect similar limitations contained in the THDP Guidelines.

(a) *Maintenance of effort.* Sections 840.125(b) and 841.120(b) implement section 426(b) of the McKinney Act. The regulations would provide that no assistance received under the program (or State or local government funds used to supplement this assistance) may be used to replace funds provided in the area to be served by the applicant under any State or local government assistance program, if the funds provided under that assistance program:

—Were used to assist handicapped persons, homeless individuals, or handciapped homeless persons during the calendar year preceding the date of the application; or

—Were designated for such use through an official action of the applicable governmental entity during the calendar year preceding the date of the application.

Requirements for certification of compliance with this maintenance of effort provisions are imposed at §§ 840.205(b)(7) and 841.205(b)(7) and as threshold requirements at §§ 840.210(b)(5) and 841.210(b)(5).

For the purposes of the transitional housing program, the area to be served by the applicant is defined as: (1) The State, if the applicant is a State; (2) the metropolitan city, if the applicant is a metropolitan city: (3) the urban county, if the applicant is an urban county; (4) the tribal jurisdiction, if the applicant is a tribe; (5) cities and counties to be served by the project, if the applicant is a private nonprofit organization. For the purposes of the permanent housing program, the area to be served by the applicant is the State.

(b) *Primarily religious organizations.* The Conference report accompanying the McKinney Act stated,

> It is the intent of Congress that in creating programs administered by the Department * * * and in providing further assistance to the homeless under this Act, religious organizations and organizations with religious affiliations may receive federal funds if constitutional guidelines are followed and those funds are provided for secular purposes and kept separate from sectarian activities * * *" (H. Rep No. 174, 100 Cong., 1st Sess. 82–83 (1987).

The First Amendment of the Constitution provides that "Congress shall make no law respecting an establishment of religion." In accordance with this constitutional mandate, the United States Supreme Court has adopted certain principles, in the form of a three-pronged analysis, to be used when passing on the constitutionality of Federal assistance. First, the statute under which the assistance is to be provided must reflect a clearly secular purpose. Second, the statute must have a primary effect that neither advances nor inhibits religion. Third, the statute and its administration must avoid excessive governmental entanglement with religion. *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971). Application of these principles sometimes has been extraordinarily difficult. Chief Justice Burger noted in the majority opinion in *Lemon* that the language in the First Amendment is "at best opaque." 403 U.S. 612.

The first prong—that the statute reflect a clearly secular purpose—generally is not problematic and does not pose a problem here. As enacted, the SHD program is designed to provide housing and supportive services to homeless individuals, clearly a secular purpose.

In constructing the reach of the second prong of the *Lemon* test, the Court in *Hunt* v. *McNair*, 413 U.S. 734 (1973) stated:

> Aid normally may be thought to have a primary effect of advancing religion when it flows to an institution in which religion is so pervasive that a substantial portion of its functions are subsumed in the religious mission or when it funds a specifically religious activity in an otherwise substantially secular setting. *Id.* at 742.

Government assistance to a "pervasively sectarian" organization for any purpose, *secular or religious*, or the funding of a religious activity in secular surroundings, is thus generally viewed as "advancing religion" in violation of First Amendment principles.

The determination for constitutional compliance requires an examination of the extent to which religion pervades the functions of an institution. In considering the nature of "pervasively sectarian organizations," Justice Blackmun, a speaking for the majority in *Roemer* v. *Maryland Board of Education*, 426 U.S. 736 (1976) declared:

> To answer the question whether an institution is so 'pervasively sectarian' that it may receive *no* direct State aid of any kind, it is necessary to paint a general picture of the institution. *Id.* at 758.

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Unquestionably, churches are "pervasively sectarian." Additionally, there are other fundamentally religious organizations that conform to the profile of a sectarian or substantially religious institution.

Having stated the above, we are of the opinion that direct assistance under the SHD program to churches and other primarily religious organizations to rehabilitate structures owned by them would be constitutionally impermissible under the second prong of the *Lemon* test—notwithstanding the secular use to which the structures would be put by such institutions under the program.

Even if this were not the case, the administrative oversight necessary to avoid impermissible religious influences in the use of such structures would most certainly involve an "excessive government entanglement" with religion in violation of the third prong of the test. As the Court stated in *Walz* v. *Tax Commission*, 397 U.S. 664 (1970), "a direct money subsidy would be a relationship pregnant with involvement and, as with most governmental grant programs, could encompass sustained and detailed administrative relationships for enforcement of statutory or administrative standards * * *" 397 U.S. at 675.

In 1983, in order to confirm the Department's understanding with respect to constitutional limitations (particularly with respect to the second and third prongs of the *Lemon* test), the Department requested guidance from the Department of Justice (DOJ) concerning the effect of Supreme Court Church/State decisions on HUD programs—specifically the section 202 Direct Loan Program and the Community Development Block Grant Program.

Under section 202 of the Housing Act of 1959, 12 U.S.C. 1701q, loans may be made to private nonprofit corporations, limited profit sponsors, consumer cooperatives, public bodies or agencies to develop housing for the elderly or handicapped. To allow religious organizations to participate as sponsors of 202 projects, HUD requirements provide that religious sponsors must establish private, secular nonprofit borrower corporations to obtain the loan and execute the mortgage as the legal owner of the project. The question posed to DOJ was whether the HUD requirements in this regard were constitutionally mandated. (In the context of issues raised in the SHD program, it is important to note that the section 202 housing program is an entirely secular activity in nature and purpose.)

DOG ruled that the creation of a separate secular borrowing entity in the section 202 program is constitutionally required. In reaching this result, DOJ concluded that if separate secular borrower entities were not established, direct and substantial aid would flow to churches, in violation of the Establishment Clause. The DOJ opinion states, "were section 202 loans given directly to churches or other fundamentally religious organizations, the principle that no aid at all go to institutions that are so 'pervasively sectarian' that secular activities cannot be separated from sectarian ones, see *Roemer* v. *Maryland Public Works Board*, 426 U.S. at 755, would by definition be violated."

The Community Development Block Grant Program was enacted in 1974 to consolidate a number of community development categorical grant programs. Over the course of the block grant program, a question was presented whether churches and church-owned property could be rehabilitated with block grant funds. Departmental advice was that such assistance could not be provided. This conclusion was based in part on *Committee for Public Education* v. *Nyquist*, 413 U.S. 756, 777 (1973), which states that "if the State may not erect buildings in which religious activities are to take place, it may not maintain such buildings or renovate them when they fall into disrepair."

The DOJ opinion concluded that HUD's longstanding policy of prohibiting CDBG funds to rehabilitate, maintain or restore churches reflects constitutional requirements and, further, that "*any* structure used to promote religious interests, regardless whether constructed for educational, charitable or whatever purposes, may not * * * receive federal assistance." (A subsequent DOJ opinion also confirmed the HUD position that the prohibition applies notwithstanding the fact that the structure has historic significance.)

In addressing the Church/State issue in the THDP Guidelines, HUD imposed certain requirements in response to the constitutional limitations discussed above. The requirements: (1) Provide that HUD will not select an application for funding for acquisition or rehabilitation of a structure to be owned or leased by a pervasively sectarian organization; (2) permit the funding of annual operating costs to a pervasively sectarian organization only if the organization provides housing and supportive services in a manner free from religious influences and in accordance with conditions described in the grant agreement; and (3) permit a pervasively sectarian organization to establish, and to apply for assistance on behalf of, an independent private nonprofit entity, and permit the provision of all forms of assistance to such an independent nonprofit entity.

In reviewing this matter, the Department has particularly been struck by the vital and unique role religious organizations play in providing help to homeless individuals in need of housing and supportive services. In view of this, every attempt has been made further to explore mechanisms to facilitate that role within the framework of the First Amendment Church/State principles outlined above. After thorough consideration, the Department believes that the THDP guidelines, with some additional clarification regarding the circumstances under which the Department will permit the rehabilitation of a structure that is owned or leased by a primarily religious organization, appropriately reflect these principles. The proposed rule at § 840.125(e) reflects the THDP Guidelines with these modifications. The proposed rule at §841.120(e) reflects the same principles, as modified to reflect the requirements of the permanent housing program.

(c) *Administrative costs.* Proposed §§ 840.125(g) and 841.120(g) would implement section 426(c) of the McKinney Act, which prohibits recipients from using more than five percent of an advance or a grant for administrative purposes. The THDP Guidelines do not address the use of assistance for such costs.

6. *Matching requirements.* Section 425 of the McKinney Act addresses matching funds requirements for the SHD program. The Act imposes substantially different matching requirements for transitional housing and permanent housing.

(a) *Transitional housing.* While the transitional housing demonstration program originally authorized in the Homeless Housing Act of 1986 imposed no matching requirements, the THDP Guidelines administratively imposed dollar-for-dollar matching requirements on all applicants. Section 425(a) of the McKinney Act codified requirements that transitional housing recipients must match the acquisition/rehabilitation advance and the moderate rehabilitation grant with an equal amount of funds from sources other than the SHD program. Except as noted below, the requirements of the THDP Guidelines are consistent with section 425(a), and would be retained in the proposed rule at § 840.130. While section 425(a) does not require a match for funding of annual operating costs, the proposed rule, like the THDP Guidelines, imposes an administrative requirement for such a match.

Under the THDP Guidelines, "in-kind" contributions, except for leasehold and ownership interests in structures, were generally excluded from the matching computation. Section 425(a) of the McKinney Act expressly provides that a recipient may include the value of any donated material or building and the value of any lease on a building in calculating the amount of funds contributed by the recipient. Consistent with these provisions, the proposed rule addresses "in-kind" contributions at § 840.130(c).

(b) *Permanent housing.* Under section 425(b) of the McKinney Act, applicants seeking assistance for permanent housing (*i.e.*, States) must certify that they will supplement the assistant provided under the SHD program with at least an equal amount of State or local government funds. The State must certify that the State and local government funds are to be used solely for acquisition or rehabilitation, and that not more than 50 percent of these funds are local funds. The statute permits a waiver of this requirement if the State demonstrates to the satisfaction of the Secretary that the State is experiencing a severe financial hardship that makes it unable to provide an equal amount of funds, and that local governments in the area to be served by the project will contribute funds from other non-Federal sources in an aggregate amount equal to the amount of the State contribution that is waived. These matching requirements are included in the proposed rule at § 841.125.

7. *Assistance under other HUD programs.* Sections 840.135 and 841.130 discuss the assistance that is available under other HUD programs. The proposed sections would provide that:

—HUD will permit the use of additional assistance for supportive housing in connection with the program contained in Subtitle D of Title IV of the McKinney Act—Supplemental Assistance to Facilities to Assist the Homeless. (HUD published a notice implementing this program on October 19, 1987, 52 FR 38880.).

—HUD will not assist a project under the SHD program if the project involves a structure that is assisted, or if residents of the structure will receive assistance, under the United States Housing Act of 1937; section 202 of the Housing Act of 1959; section 221(d)(3)(BMIR) or section 236 of the National Housing Act; or section 101 of the Housing and Urban Development Act.

—HUD-owned properties will be made available to applicants under described circumstances. (Similar provisions governing the availability of HUD-owned properties were included in the THDP Guidelines).

The THDP Guidelines indicated that HUD would provide Housing Vouchers under section 8(o) of the United States Housing Act of 1937 to eligible persons upon their departures from transitional housing. The original appropriation for the transitional housing demonstration program was $5 million. The appropriation for the SHD program in the Supplemental Appropriations Act, 1987 was increased to $80 million (including $65 million for transitional housing and $15 million for permanent housing). Funding for vouchers, by contrast, has remained relatively constant. Due to the increased size of the SHD program and the limited resources available for vouchers, this rule proposes the deletion of the voucher provision. The proposed rule does not preclude a PHA from providing vouchers under such circumstances, if the provision of the vouchers is consistent with the final rule on preferences for persons involuntarily displaced, living in substandard housing, or paying more than 50 percent of income for rent (FR–1597). (HUD anticipates that the final rule on preferences will be issued shortly.

C. Comprehensive Homeless Assistance Plans

Subtitle A of Title IV of the McKinney Act contains requirements for Comprehensive Homeless Assistance Plans (Plans or CHAPs). Section 401(a) states that no assistance may be made available under Title IV (including the SHD program) to, or within the jurisdiction of, States or metropolitan cities or urban counties that are eligible for a formula grant under the Emergency Shelter Grants program (Subtitle B of Title IV), unless the jurisdiction has a HUD-approved Plan. Under sections 401(f) and 424(a)(2)(E) of the McKinney Act, applications for assistance under the SHD program must contain a certification by the public official responsible for submitting the Plan for the State or formula grant city or county in which the proposed activities are to be carried out, stating that the proposed activities are consistent with the Plan.

On August 14, 1987 (52 FR 30628), the Office of the Assistant Secretary for Community Planning and Development published a notice addressing CHAP requirements. This notice contained the requirements for submission and approval of CHAPs, and listed the headquarters contact for futher information, assistance and guidance. The notice announced that the deadline for submitting CHAPs to HUD for approval was September 28, 1987 and announced that HUD's statutory deadline for CHAP approval is November 27, 1987. CHAP review, processing and approval is handled by HUD's Community Planning and Development (CPD) offices in the field. CHAP information is also available from those offices.

In accordance with these CHAP-related requirements, the proposed rule at §§ 840.150 and 841.150: (1) States that HUD will publish requirements for the submission and approval of Plans in the Federal Register; (2) contains prohibitions against the provision of assistance, unless there is a HUD-approved Plan for the appropriate jurisdiction; and (3) explains which jurisdiction must have a HUD-approved Plan for each type of eligible applicant. For permanent housing, the proposed rule would provide that assistance may be made available only if the State has an approved Plan. The proposed rule for transitional housing reflects the jurisdictional requirements contained in the September 3, 1987 notice of fund availability (52 FR 33537–38). Requirements for the submission of an appropriate certification with the application are contained at §§ 840.205(b)(4) and 841.205(b)(4). (Also see §§ 840.210(b)(4)(v)(B) and 841.210(b)(4)(vi)(B)—Threshold requirements.)

D. Application and Selection Process

1. *Notice of fund availability.* Proposed §§ 840.200 and 841.200 state that HUD will publish a notice of fund availability when funds are made available for assistance under the programs. These sections also contain content requirements for the notice. (As noted in section II above, HUD has already published a notice announcing the availability of funds under the Supplemental Appropriations Act, 1987 for the transitional housing component of the SHD program and has provided that today's notice announces the availability of funds under the appropriations act for the permanent housing component of the program.)

2. *Application requirements.* Under §§ 840.205 and 841.205, applicants would be required to submit applications in the form and within the time periods established by HUD. These proposed sections also describe the minimum requirements that HUD will impose.

3. *Selection process.* Under the THDP Guidelines, HUD used a four-stage selection process. The proposed rules for the SHD program would retain this

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four-stage process. The selection process consists of the following stages:

(a) *Threshold stage.* HUD would review all applications to determine if they meet stated threshold criteria.

The threshold criteria for *transitional housing* (§ 840.210) are:

—The appliction must be on the application form prescribed by HUD and filed within the time periods established in the notice of fund availability.

—The applicant must demonstate that it is eligible to receive assistance, is financially responsible, has the capacity to carry out proposed activities within a reasonable time after grant execution and in a successful manner, and has appropriate legal authority to participate in the program.

—The application must be on the requirements for matching contributions and provide appropriate documentation of the sources and amounts of the matching funds.

—The applicant must demonstrate that: (1) There is an unment need for the proposed transitional housing, (2) the proposed supportive services appropriately address the needs of the homeless population to be served, (3) the proposed structures and sites are appropriate for the provision of housing and supportive services, (4) the applicant has site control, the use of the site is permissible under applicable zoning ordinances and regulations (or the required zoning actions will be completed successfully within 4 months following the submission of the application), and the site meets described floodplain requirements, (5) the use of the site is consistent with local governmental plans and the proposed project is consistent with the applicable Comprehensive Homeless Assistance Plan, and (6) the proposed activities will not result in the temporary or permanent displacement of any person or entity.

—The applicant has provided a maintenance of effort certification.

—The proposal, when viewed as a whole, is operationally feasible and provides adequate housing and supportive services to serve the purposes of the program.

The threshold criteria for the transitional housing program are based on the THDP Guidelines with modifications necessary to reflect the changes contained in the McKinney Act. There has been one additional major change, addressing historic preservation requirements. Under the THDP Guidelines, as modified on July 13, 1987 (52 FR 26137), applicants were required to provide a letter from the State Historic Preservation Officer indicating that no project funded under the program would involve an historic property as defined in 36 CFR 800.2(e), or would involve a structure that is immediately adjacent to a historic property that is listed on the Register of Historic Places. In HUD's September 3, 1987 notice of fund availability (52 FR 33536), HUD deleted this threshold criterion and stated that it would meet its responsibilities under the National Historic Preservation Act and related authorities as part of its environmental review performed in the third stage of the selection process (see discussion below). The proposed rule reflects the changes contained in the September 3, 1987 notice.

The threshold criteria for the *permanent housing* program (§ 841.210) are substantially identical to the transitional housing threshold criteria with modifications necessary to determine the eligibility, financial responsibility, operating capacity, and legal authority of the project sponsor, the duty of the state-recipient to transmit assistance to the project sponsor and to facilitate the provision of necessary supportive services, the different matching requirements imposed in the permanent housing program, and limitations on the number of residents in permanent housing projects.

(b) *Ranking stage.* In the second stage of the selection process, HUD would evaluate the applications that meet the threshold criteria and place these applications in priority order based on stated ranking criteria.

The ranking criteria for the *transitional housing* program address the applicants relative capacity to carry out program activities; the innovative quality of the proposal; the extent to which the applicant will coordinate the provision of supportive services through other public or private entities; the extent to which the applicant will exceed the 50 percent matching requirement; and the relative cost reasonableness and effectiveness of the proposal. (See § 840.215.)

These ranking criteria are the same as the ranking criteria contained in the THDP Guidelines, with three exceptions. First, HUD has eliminated the consideration of the applicant's relative ability to establish and operate the proposed transitional housing for the term of the commitment to HUD with the finances that are or are reasonably expected to be available to it. HUD believes that such capacity is more appropriately considered under the feasibility of the project under the threshold criteria. Second, in accordance with section 424(b)(5), HUD has added the consideration of cost effectiveness as a ranking criterion. Third, HUD has revised one of the factors that it will consider in determining the innovative quality of the proposal. Under the THDP Guidelines, HUD reviewed the proposal to determine the degree to which it uses an approach to transitional housing that is new or unusual *in the area to be served by the applicant.* Under the proposed rule, HUD would merely determine the degree to which the proposal uses an approach to transitional housing this is new or unusual, without the limitation that it must be new or unusual in the area to be served by the applicant.

The ranking criteria under the *permanent housing* program are: The relative ability of the project sponsor to carry out activities under the program; the innovative quality of the proposal; the extent to which the applicant will exceed its 50 percent matching requirement; the relative cost reasonableness and cost effectiveness of the proposal; and the extent to which the project will meet the needs of handicapped homeless persons in the State. (See § 841.215.)

The permanent housing ranking criteria are based on the transitional housing ranking criteria, with modifications appropriate to reflect the goals of the permanent housing program. For example, in accordance with section 424(b)(6) of the McKinney Act, HUD would rank the applications based on the extent to which the proposed project would meet the needs of handicapped homeless persons in the State, as described in the State assessment of this need.

The permanent housing ranking criteria also exclude the consideration of the extent to which the applicant will coordinate the provision of supportive services through other public or private entities. This criterion was imposed in the transitional housing program to ensure that, to the maximum extent possible, applicants would provide supportive services without using HUD funds provided under the program. Since HUD will not provide any operating costs under the permanent housing program, and therefore will not pay for any supportive services, this ranking criterion is unnecessary.

(c) *Environmental review.* In the third stage of the selection process, HUD will perform a review in accordance with the National Environmental Policy Act and HUD's environmental regulations at 24 CFR Part 50 on a number of highly ranked applications. Additionally, HUD may revise the rating scores awarded during the ranking stage to reflect facts that are disclosed during environmental review. Environmental review is the same for transitional and permanent housing. (See § § 840.220 and 841.220.)

(d) *Final selection.* HUD would select for funding the highest-rated applications that advance from the environmental review (with any rating adjustments), but reserves the right to fund other applications that successfully completed the environmental review, if such funding is necessary to ensure reasonable diversity in the demonstration. Final selection procedures are substantially the same for the transitional and permanent housing programs, except that HUD would not consider project size in the permanent housing final selection process. (Under § 841.325, the range of project sizes for permanent housing would be limited.) The final selection procedures are contained at § § 840.225 and 841.225.

E. Program Requirements

1. *Grant agreement.* The duty to provide supportive housing in accordance with the program requirements would be incorporated in a grant agreement executed by HUD and the recipient. HUD would enforce the obligations in the grant agreement through actions on the contract. Additionally, restrictions regarding the use of structures would be contained in covenants recorded in the land records of the jurisdiction where the structure is located. (See §§ 840.300 and 841.300)

2. *Required agreements.* Section 840.305 and 841.305 would require each recipient of transitional housing assistance to agree, and each State in the permanent housing program to require the project sponsor to agree: (1) To operate a project providing supportive housing; (2) to assess the supportive services required by residents on an ongoing basis; (3) to provide residential supervision; (4) to provide supportive housing for not less than 10 years; (5) to provide safe and sanitary housing and to comply with all State and local housing codes, licensing requirements, and related requirements; (6) to keep records and reports that HUD may require.

As noted above, all recipient (or project sponsors) must agree to provide safe and sanitary housing and to comply with all State and local housing codes, licensing requirements and related requirements. Section 422(12) of the statute permits HUD to preempt State or local housing codes or licensing requirements "when appropriate." HUD is currently unaware of a situation in which it would be "appropriate" to permit a violation of such State or local housing codes or licensing requirements. Accordingly, HUD has declined to preempt any code or requirement in this document. HUD will, however, consider the desirability of preemption action if circumstances in individual States and localities warrant it. The grant agreement would contain appropriate language regarding possible future HUD preemption action. (The rule would, however, retain the provision in the THDP Guidelines preempting State and local laws that have the effect of prohibiting recipients from discharging residents from transitional housing at the end of the HUD-approved limit on the stay of residents in the housing.)

3. *Term of commitment.* Section 840.310(a) and 841.310(a) address the term of the recipient's commitment to HUD. These sections require that all projects must be operated as supportive housing for a term of at least 10 years. Under related provisions §§ 840.205(b)(6) and 841.205(b)(6), applicants would be required to provide assurances that the project assisted will be operated for not less than 10 years. By contrast, the Homeless Housing Act of 1986 and the THDP guidelines required all recipients to agree to operate housing for only a five year period following the date of occupancy.

Section 840.310(c) and 841.310(c) would govern HUD approval of successor operators. Paragraph (d) of these sections would address the calculation of the term of the commitment.

4. *Repayment of advance.* Sections 840.310(b) and 841.310(b) implement requirements for the repayment of acquisition/rehabilitation advances. Under section 423(b) of the McKinney Act, recipients must repay the entire advance if the project is used as supportive housing for less than 10 years. The Act provides for a 10 percent reduction in the amount of the advance for each year that the project is used for supportive housing beyond this initial 10-year period. For the purposes of the repayment provision, a project would be treated as supportive housing if HUD determines that the project is no longer needed for use as supportive housing and approves the use of the project for the direct benefit of lower income persons. (There repayment provisions differ from the requirements under the THDP Guidelines. Under the Guidelines, repayment of advances is required if the structure is not used as transitional housing, or for a HUD-approved charitable use, for 10 years after initial occupancy. There is no repayment obligation after 10 years.)

5. *Prevention of undue benefits.* Section 423(c) provides that upon the disposition of a project acquired or rehabilitated with assistance provided under the SHD program, the Secretary must take steps to prevent the recipient from unduly benefitting from the disposition. An exception is made for a disposition resulting in the use of the project for the direct benefit of lower income persons or where all of the proceeds are used to provide supportive housing. These requirements are included in the proposed rule at §§ 840.315 and §§ 841.315 (The THDP Guidelines do not have similar provisions.)

6. *Number of residents.* Under the permanent housing program, the number of handicapped homeless persons that may be assisted in a project is limited to eight. Proposed § 841.324 provides that projects consisting of dwelling units in a rental building, a condominium, or a cooperative may not serve more than eight handicapped homeless persons, and the families of the eight homeless persons. Groups homes would not be permitted to serve more than eight handicapped homeless persons and may not serve the families of the handicapped homeless persons. The proposed rule would not place any limitation on the number of residents that may be assisted in transitional housing.

7. *Miscellaneous program requirements.* The proposed rules for transitional housing and permanent housing contain several provisions governing program requirements that are similar to the THDP Guidelines. These include provisions that govern: Casualty insurance (§§ 840.312 and 841.312); eminent domain (§§ 840.313 and 841.313); resident rent (§§ 840.320 and 841.320); resident discharge from transitional housing (§§ 840.325); and the applicability of other civil rights and Federal requirements (§ 840.330 and 841.330). The requirements implementing the Lead Based Paint Poisoning Prevention Act (42 U.S.C 4821–4846) (contained in §§ 840.330(d) and 841.330(d)) reflect the Section 8 Existing Housing regulations (24 CFR 882.109) (published in the Federal Register on January 15, 1987, 52 FR 1876, 1893–94), and the Lead Based Paint requirements contained in the THDP Guidelines.

F. Administration

Subpart F of the proposed rule would govern the obligation of funds, increases to the amount obligated, and deobligation of funds. These provisions parallel similar provisions contained in the THDP Guidelines, with one major exception. Under §§ 840.440(c)(5) and 841.400(c)(4), when funds are deobligated, HUD would be permitted to

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readvertise the availability of funds under §§ 840.200 or 841.200, or to reconsider applications that were submitted for the program under the most recently published notice of fund availability and select applications for funding with the deobligated funds.

IV. Application Process—Permanent Housing

As described in section II., above, one of the purpose of this notice is to announce that the requirements contained in the proposed rule will govern the permanent housing program until final regulations are issued, and to announce the availability of $15 million in funds for permanent housing appropriated under the Supplemental Appropriations Act, 1987.

HUD will develop an application package prescribing the information that permanent housing applicants must submit. On or after December 1, 1987, the application package will be provided upon the written or oral request of any party made to the Office of Elderly and Assisted Housing at the address set forth in the beginning of this document, or by calling (202) 755–8232. Hearing or speech impaired individuals may call HUDs TDD number (202) 426–0015. (These telephone numbers are not toll-free.) Applications must be on the form prescribed by HUD and must be received at that address by 5:15 p.m. (E.S.T.) March 31, 1988. Late-filed applications will be rejected.

Following the expiration of the March 31, 1988 deadline, HUD headquarters will review, rate and rank the applications consistent with the selection procedures described at §§ 841.207–841.225. HUD will make its final selections as soon as possible following the submission of applications. No information regarding the status of applications will be released until final selections are made.

V. Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The program should have little impact on small government entities since only larger government entities (*i.e.*, urban counties, metropolitan cities or States) are eligible recipients. To the extent that small private nonprofit organizations may participate as recipients or project sponsors, HUD believes that the overall number of affected small entities will be insubstantial, based on the limited amount of authority budgeted for the program and the aniticipated level of participation by larger governmental and private nonprofit entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 27, 1987 (52 FR 14362) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.178.

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). No person may be subjected to penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced in the **Federal Register**.

List of Subjects

24 CFR Part 840

Grant programs—housing and community development, Housing, Homeless.

24 CFR Part 841

Grant programs—housing and community development, Housing, Handicapped, Homeless.

For the reasons set forth in the preamble, Title 24 of the Code of Federal Regulations is proposed to be amended as follows:

1. Part 840 would be added to read as follows:

PART 840—TRANSITIONAL HOUSING

Subpart A—General

Sec.
840.1 Applicability and scope.
840.5 Definitions.

Subpart B—Assistance Provided

840.100 Types of assistance.
840.105 Acquisition/rehabilitation advances.
840.110 Moderate rehabilitation grants.
840.115 Funding for annual operating costs.
840.120 Technical assistance.
840.125 Limitations on use of assistance.
840.130 Matching requirements.
840.135 Assistance under other HUD programs.

Subpart C—Comprehensive Homeless Assistance Plan

840.150 Comprehensive Homeless Assistance Plan.

Subpart D—Application and Selection Process

840.200 Notice of fund availability.
840.205 Application requirements.
840.207 Selection process.
840.210 Threshold requirements.
840.215 Ranking criteria.
840.220 Environmental review.
840.225 Final selection.

Subpart E—Program Requirements

840.300 Grant agreement.
840.305 Required agreements.
840.310 Term of commitment and repayment of advance.
840.312 Casualty insurance.
840.313 Eminent domain.
840.315 Prevention of undue benefits.
840.320 Resident rent.
840.325 Resident discharge.
840.330 Applicability of other Federal requirements.

Subpart F—Administration

840.400 Obligation of funds, funding amendments, and deobligation.

Authority: Sec. 426, Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77); sec 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 840.1 Applicability and scope.

(a) *General.* The Supportive Housing Demonstration program contained in Subtitle C of Title IV of the Stewart B. McKinney Homeless Assistance Act is designed to develop innovative approaches for providing supportive housing, especially to deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons. It is designed to determine:

(1) The cost of acquisition, rehabilitation, acquisition and rehabilitation, or leasing of existing

structures for the provision of supportive housing;

(2) The cost of operating such housing and providing supportive services to the residents of such housing;

(3) The social, financial, and other advantages of such housing as a means of assisting homeless individuals; and

(4) The lessons that the provision of supportive housing might have for the design and implementation of housing programs that serve homeless individuals and families with special needs, particularly deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons.

A central purpose of the Supportive Housing Demonstration program is to provide supportive housing for deinstitutionalized homeless individuals and other homeless individuals with mental disabilities.

(b) The Supportive Housing Demonstration program consist of two components: Permanent housing for handicapped homeless persons and transitional housing. This part implements the transitional housing component of the program. Part 841 provides for a program to assist in providing permanent housing for handicapped homeless persons.

§ 840.5 Definitions.

As used in this part:

Applicant means a State, metropolitan city, urban county, tribe, or private nonprofit organization that submits an application for assistance under this part. Applicant includes two or more of these entities that submit a joint application.

Comprehensive Homeless Assistance Plan or *Plan* means the Comprehensive Assistance Plan established by Subtitle A of Title IV of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77, approved July 22, 1987).

Deinstitutionalized homeless individual means a homeless individual with mental disabilities who has been discharged or released from a mental institution or hospital, a halfway house, transitional housing or similar facilities providing housing and supportive services to its residents. This term includes a homeless family, if the head of the family (or the spouse of the head of the family) is a deinstitutionalized homeless individual.

ESG formula city or county means a metropolitan city or urban county that is eligible to receive a formula allocation under the Emergency Shelter Grants program established by Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act.

Handicapped or *Handicapped person* means any individual having an impairment that is expected to be of long-continued and indefinite duration, is a substantial impediment to his or her ability to live independently, and is of a nature that the ability to live independently could be improved by a stable residential situation. This term includes:

(a) An individual who is developmentally disabled, *i.e.*, an individual who has a severe chronic disability that:

(1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(2) Is manifested before the person attains age 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) Self-care,

(ii)Receptive and expressive language,

(iii) Learning,

(iv) Mobility

(v) Self-direction,

(vi) Capacity for independent living, and

(vii) Economic self-sufficiency; and

(5) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

(b) An individual who is chronically mentally ill, *i.e.*, an individual who has a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently (*e.g.*, by limiting functional capacities relative to primary aspects of daily living such as personal relations, living arrangement, work, or recreation), and whose impairment could be improved by more suitable housing conditions.

(c) A handicapped person who also suffers from alcoholism or drug addiction.

Homeless means:

(a) An individual or family that lacks a fixed, regular, and adequate nighttime residence; or

(b) An individual or family that has a primary nighttime residence that is:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law.

Homeless family with children means a homeless family that includes at least one parent, and one child under the age of 18.

Homeless individual with mental disabilities means a homeless individual who is a handicapped person and whose handicap is wholly or partially attributable to a mental or emotional impairment. This term includes a homeless family, if the head of the family (or the spouse of the head of the family) is a homeless individual with mental disabilities.

HUD means the Department of Housing and Urban Development.

Metropolitan city means a city that is classified as a metropolitan city under section 102(a)(4) of the Housing and Community Development Act of 1974. In general, metropolitan cities are those cities that are eligible for an entitlement grant under 24 CFR Part 570, Subpart D.

Moderate rehabilitation means the rehabilitation of a project involving a total HUD expenditure that does not exceed the limitations described under § 840.110.

Operating costs means expenses that a recipient incurs for:

(a) The administration, maintenance, minor or routine repair, security and rental of the housing;

(b) Utilities, fuel, furnishings, and equipment for the housing;

(c) Conducting resident supportive services needs assessments (see § 840.305(b)); and

(d) The provision of supportive services to the residents of the housing. This term does not include expenses that a recipient incurs for debt service in connection with a loan used to finance acquisition or rehabilitation costs under the program.

Private nonprofit organization means a secular or religious organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must:

(a) Have a voluntary board;

(b)(1) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles; or

(2) Designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles: and

(c) Practice nondiscrimination in the provision of assistance under the

transitional housing program in accordance with the authorities described in § 840.330(a).

Project means one or more existing structures, or parts of one or more existing structures, owned (or leased) by a recipient for use in connection with transitional housing.

Recipient means an applicant that HUD approves as to financial responsibility and that executes a grant agreement with HUD to provide transitional housing. The recipient must operate transitional housing, and provide (or coordinate the provision of) supportive services to the residents of the housing.

Rehabilitation means labor, materials, tools, and other costs of improving structures to a level that meets or exceeds applicable State and local government health and safety standards. Rehabilitation includes repairs directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, and improvement through alterations or additions to, or enhancement of, existing structures, including improvements to increase the efficient use of energy in structures. Rehabilitation does not include minor or routine repairs or cosmetic repairs or improvements.

State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Substantial rehabilitation means the rehabilitation of a project that involves a total HUD expenditure in excess of the limitations described under § 840.110.

Supportive services means services provided to residents of transitional housing. Supportive services must be proposed by the applicant in its application and approved by HUD; must address the special needs of the homeless to be served by the project (such as deinstitutionalized homeless individuals, homeless families with children, homeless individuals with mental disabilities and other handicapped homeless persons); and must assist in accomplishing the purposes of transitional housing. Supportive services may include:

(a) Assistance in obtaining permanent housing;

(b) Medical and psychological counseling and supervision;

(c) Employment counseling;

(d) Nutritional counseling;

(e) Assistance in obtaining other Federal, State, and local assistance available for residents of transitional housing facilities, including mental health benefits; employment counseling; medical assistance; Veterans' benefits; and income support assistance, such as Supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps; and

(f) Other services, such as child care, transportation, job placement and job training.

Transitional housing means a project assisted under this part:

(a) That provides housing and supportive services to homeless persons; and

(b) That has as its purpose facilitating the movement of homeless individuals to independent living within a reasonable amount of time, not to exceed 18 months for any homeless individual.

All or part of the supportive services may be provided directly by the recipient or by arrangement with public or private service providers.

Transitional housing means housing that is designed to serve the homeless including (but not limited to): Deinstitutionalized homeless individuals, homeless individuals with mental disabilities, homeless families with children, homeless runaway children, homeless victims of domestic violence, the homeless unemployed, or appropriate combinations of these populations.

Tribe means an Indian tribe, band, group or nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaska Native Village, of the United States, considered an eligible recipient under the Indian Self Determination and Education Assistance Act (Pub. L. 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512).

Urban county means a county that is classified as an urban county under section 102(a)(6) of the Housing and Community Development Act of 1974. In general, urban counties are those counties that are eligible for an entitlement grant under 24 CFR Part 570, Subpart D.

Subpart B—Assistance Provided

§ 840.100 Types of assistance.

(a) *Assistance available.* Four types of assistance are available for transitional housing: Acquisition/rehabilitation advances, moderate rehabilitation grants, funding for annual operating costs, and technical assistance.

(b) *Eligibility for more than one type of assistance.* Applicants may be eligible for one or any combination of the types of assistance, except that HUD will not award both a moderate rehabilitation grant and an acquisition/rehabilitation advance to a recipient, and will offer technical assistance only in connection with other assistance under this part.

§ 840.105 Acquisition/rehabilitation advances.

(a) *Use.* HUD will advance sums to recipients to defray the cost of the acquisition, substantial rehabilitation, or acquisition and rehabilitation of existing structures selected by the recipients for use in the provision of transitional housing.

(b) *Amount.* The acquisition/rehabilitation advance may not exceed the lesser of:

(1) $200,000; or

(2) 50 percent of the aggregate cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation (see § 840.130 for a full discussion of the 50 percent matching requirement).

(c) *Terms of the Advance.* Advances are interest-free, and if the conditions described in § 840.310 are met, are not subject to repayment. The sale or disposition of a structure acquired or rehabilitated with an advance is subject to the requirements of § 840.315.

§ 840.110 Moderate rehabilitation grants.

(a) *Use.* HUD will make grants to recipients to defray the cost of rehabilitation of existing structures selected by the recipients for use in the provision of transitional housing.

(b) *Amount.* (1) The moderate rehabilitation grant may not exceed the lowest of

(i) $100,000;

(ii) The project limit; or

(iii) 50 percent of the cost of rehabilitation (see § 840.130 for a full discussion of the 50 percent matching requirement).

(2) For the purposes of this section, "project limit" means the amount determined by HUD by multiplying the number of units of each unit type in the project times the unit cost for that unit. The cumulative total for all unit types is the project limit. The unit cost limits are:

(i) $5,000 (A) per bedroom unit, in single room occupancy housing (*i.e.*, a unit which contains no sanitary facilities or food preparation facilities, or which contains one but not both types of facilities, and which is suitable for occupancy by a single individual);

(B) Per bedroom unit, in a group home; or

(C) Per unit without a bedroom in other types of projects; and

(ii) $7,000 per unit with one or more bedrooms, in other types of projects.

(c) *Terms of the grant.* The sale or disposition of a structure rehabilitated with a grant under this section is subject to the requirements of § 840.315.

§ 840.115 Funding for annual operating costs.

(a) *General.* HUD will provide funding of up to 50 percent of the annual operating costs of transitional housing. (See § 840.130 for a full discussion of the 50 percent matching requirement.)

(b) *Commitment of amounts for operating costs.* Upon approval of an application requesting operating cost assistance, HUD will obligate amounts for the period sought, not to exceed five years. Each annual funding level will be equal to an amount not to exceed the recipient's estimate of operating costs for the first year of operation, less the recipient's matching contribution. Each year, for up to five years, HUD will make operating cost payments to the recipient from the amounts obligated. The annual funding level will be subject to reduction under § 840.400.

§ 840.120 Technical assistance.

Technical assistance will be offered only in connection with an award of funds under § 840.105, § 840.110 or § 840.115. Technical assistance is offered to recipients through HUD field offices in such matters as the computation of resident rent under § 840.320, compliance with other Federal requirements under § 840.330, the identification of Federal housing assistance resources that may be available to residents upon their departure from transitional housing, and engineering recommendations and other advice on rehabilitation plans and work write-ups. HUD will also facilitate the exchange of information among recipients, and help recipients to learn from the experience of other participants in the program.

§ 840.125 Limitations on use of assistance.

(a) *Funding of existing housing facilities and programs.* (1) HUD will not provide acquisition/rehabilitation advances, moderate rehabilitation grants or funding for annual operating costs for exisitng facilities or programs that currently serve homeless persons, unless the applicant proposes:

(i) A substantial increase in the number of homeless persons for whom transitional housing will be provided;

(ii) A substantial increase in the level of supportive services to be provided to homeless persons; or

(iii) A substantial change in the use of existing facilities, *e.g.*, if existing facilities for the homeless that are not currently used for transitional housing (such as an emergency shelter for the homeless) will be used to provide transitional housing, or if an applicant currently providing transitional housing for one population of homeless persons proposes to serve an additional or alternative segment of the homeless population.

(2) If an application seeking funding of existing housing facilities or programs is selected, assistance under this program will be limited to 50 percent of the cost of the increased operating costs, 50 percent of the increased cost of acquisition/rehabilitation, or 50 percent of the cost of moderate rehabilitation, attributable to the increased number of homeless persons for whom transitional housing would be provided, the increased level of supportive services to be provided, or the change in use.

(b) *Maintenance of effort.* (1) No assistance received under this part (or any State or local government funds used to supplement this assistance) may be used to replace funds provided in the area to be served by the applicant under any State or local government assistance program, if the funds provided under the State or local government assistance program were used to assist handicapped persons, homeless individuals, or handicapped homeless persons (as defined in § 841.5 of this title) during the calendar year preceding the date of the application, or were designated for such use through an official action of the applicable governmental entity during the calendar year preceding the date of the application.

(2) For the purposes of this section, the area to be served by the applicant is:

(i) The State, if the applicant is a State;

(ii) The metropolitan city, if the applicant is a metropolitan city;

(iii) The urban county, if the applicant is an urban county;

(iv) The tribal jurisdiction, if the applicant is a tribe; and

(v) Cities and counties to be served by the project, if the applicant is a private nonprofit organization.

(c) *Leases.* (1) Acquisition/rehabilitation advances are not available to defray the costs of acquiring a lease on existing property.

(2) Acquisition/rehabilitation advances and moderate rehabilitation grants are available for the rehabilitation of leased property. To receive an acquisition/rehabilitation advance or a moderate rehabilitation grant, the lease must run for a term of at least 10 years after the date of initial occupancy of the housing.

(d) *New construction.* Assistance under this part may not be used for the new construction of housing. Assistance is limited to transitional housing provided in exisitng structures.

(e) *Primarily religious organizations*—(1) *Provision of assistance.* (i) HUD will not provide assistance to a recipient that is a primarily religious organization, unless the organization agrees to provide housing and supportive services in a manner that is free from religious influences and in accordance with other conditions described in the grant agreement.

(ii) HUD will not provide assistance to a recipient that is a primarily religious organization, if the assistance will be used by the organization to acquire a structure or will be used to rehabilitate a structure owned by the organization.

(2) *Transitional housing provided in structures owned by a primarily religious organization.* An acquisition/rehabilitation advance and the moderate rehabilitation grant may not be used to rehabilitate a structure owned by a primarily religious organization, unless:

(i) The structure (or portion of the structure) that is to be rehabilitated with the HUD assistance has been leased) to a recipient that is a wholly secular organization.

(ii) The HUD assistance is provided to the recipient to make the improvements, rather than to primarily religious organization;

(iii) The leased structure will be used exclusively for secular purposes available to all persons regardless of religion;

(iv) The lease payments provided to the primarily religious organization do not exceed the fair market rent of the structure without the rehabilitation;

(v) The cost of improvements that benefit the portion of the structure that is not leased by the recipient for the provision of transitional housing will be allocated to and paid for by the primarily religious organization; and

(vi) The primarily religious organization agrees that if the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay an amount equal to the residual value of the improvements to the recipient and the recipient will remit the amount to HUD.

(3) *Assistance to a wholly secular private nonprofit organization established by a primarily religious organization.* (i) A primarily religious organization may establish a wholly

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secular private nonprofit organization to serve as a recipient. This wholly secular organization may be eligible to receive all forms of assistance available under this part.

(A) The wholly secular organization must agree to provide housing and supportive services in a manner that is free from religious influences and in accordance with other terms described in the grant agreement.

(B) The wholly secular organization may enter into a management contract with the primarily religious organization to operate the facility, including the provision of supportive services. In such a case, the primarily religious organization must agree in the management contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with conditions prescribed by HUD.

(C) The acquisition/rehabilitation advance and the moderate rehabilitation grant are subject to the requirements of paragraph (e)(2) of this section.

(ii) HUD will not require the primarily religious organization to establish the wholly secular organization before the selection of its application. In such a case, the primarily religious organization may apply on behalf of the wholly secular organization. The application will be reviewed on the basis of the primarily religious organization's financial responsibility and capacity, and its commitment to provide appropriate resources to the wholly secular organization after formation (see §§ 840.210(b)(2)(ii) and (b)(2)(iii) and 840.215(b)(1)). Additionally, the primarily religious organization must demonstrate site control under § 840.210(b)(4)(iv)(A) and a commitment to transfer control of the site to the wholly secular organization after its formation. Since the wholly secular organization will not be in existence at the time of the application, it will be required to demonstrate that it meets the definition of private nonprofit organization and has the appropriate legal authority to participate in the program following selection (see § 840.210(b)(2)(i) and (b)(2)(iv)). If such an application is selected for funding, the obligation of funds will be conditioned upon the compliance with these requirements.

(f) *Structures used for multiple purposes.* Structures used to provide transitional housing may also be used for other purposes. For example, a structure may contain facilities for an emergency shelter as well as transitional housing, may be used to provide supportive services to the public at large, or may include commercial space. Under these circumstances, however, the acquisition/rehabilitation advance and the moderate rehabilitation grant will be available only in proportion to the use of the structure for transitional housing, and the funding for annual operating costs will be available only to support the costs that are related to the transitional housing to be provided. If the applicant holds, or is donated, an interest in a structure and the structure will be used for multiple purposes, only that portion of the value of the structure that will be used for transitional housing may be included in the computation of the applicant's matching computation under § 840.130.

(g) *Administrative costs.* No more than five percent of an acquisition/rehabilitation advance or moderate rehabilitation grant provided under this part may be used for administrative purposes.

§ 840.130 Matching requirements.

(a) *General.* The recipient must match the funding provided by HUD under this part with at least an equal amount of funds from other sources.

(b) *Assistance categories.* Recipients must meet this matching requirement for *each* category of assistance received. The most HUD will provide for an acquisition/rehabilitation advance, a moderate rehabilitation grant, or funding for annual operating costs is 50 percent of the *respective* costs of each of these activities. No match is required for technical assistance.

(c) *"In-kind" contributions.* (1) Except as provided in paragraph (c)(2) of this section, "in-kind" contributions, including the value of supportive services provided by outside service providers, are excluded from the matching calculation.

(2) HUD will include in the matching calculation the value of contributions of materials or contributions of existing structures or parts of structures, as described below:

(i) A contribution of materials may be included in the calculation of a recipient's match for an acquisition/rehabilitation advance or a moderate rehabilitation grant if the materials will be used in the rehabilitation of a structure for use as transitional housing.

(ii) A contribution of materials may be included in the calculation of a recipient's match for funding of annual operating costs if the cost of the materials would fall within the definition of operating costs under § 840.5.

(iii) A contribution of a fee ownership in a structure may be included in the calculation of a recipient's match for an acquisition/rehabilitation advance, to the extent of the fair market value of the structure.

(iv) A contribution of a leasehold interest in a structure may be included in the calculation of a recipient's match for funding of annual operating costs, to the extent of the fair rental value of the building.

(d) *Existing homeless programs.* Applicants seeking funding for existing programs must commit *new* funds in order to satisfy the matching requirement. The resources necessary to maintain and operate the program at the current level are excluded from the matching computation (see § 840.125(a)).

(e) *Maintenance of effort.* State or local government funds used in the matching contribution are subject to the maintenance of effort requirements described at § 840.125(b).

(f) *Other federally assisted programs.* Except for funds made available under HUD's Community Development Block Grant program, applicants may not include funds provided under a federally assisted program in the computation of their portion of the matching requirements.

(g) *Rental income.* Rental amounts paid by residents of transitional housing under § 840.320 may be included in the calculation of the recipient's match for funding of annual operating costs.

§ 840.135 Assistance under other HUD programs.

(a) *Supplemental assistance.* HUD will permit the use of additional assistance for transitional housing in connection with the program contained in Subtitle D of Title IV of the Stewart B. McKinney Homeless Assistance Act—Supplemental Assistance for Facilities to Assist the Homeless.

(b) *Ineligible projects.* HUD will not assist a project under this part, if the project involves a structure that is assisted, or residents of the structure will receive assistance under the United States Housing Act of 1937, section 202 of the Housing Act of 1959, section 221(d)(3)(BMIR) or section 236 of the National Housing Act; or section 101 of the Housing and Development Act.

(c) *HUD-owned properties.* HUD, in cooperation with PHAs and local government, will make HUD-owned single family properties in its inventory available to parties for purchase for use as transitional housing. To obtain these properties, parties may request a listing of available properties from the HUD Field Office, Property Disposition Branch. If a party wishes to purchase a property or properties, it must request the PHA or unit of local government to enter into a lease/option agreement with HUD. Under the terms of the agreement, HUD will lease the property to the PHA or unit of local government for six months for one dollar. The lease/option agreement will state that the PHA or unit of local government may purchase the property at a stated price during the lease period, and will require the PHA or unit of local government to assign all rights under the agreement to the party. Applicants demonstrating an assignment of rights under a lease/option agreement at the time their application is filed will be regarded as having site control of the property under § 840.210(b)(4)(iv)(A). If the option is not exercised, the lease/option agreement will expire at the end of six months, and the property will be returned to HUD's inventory.

Subpart C—Comprehensive Homeless Assistance Plan

§ 840.150 Comprehensive homeless assistance plan.

(a) *Prohibition of assistance.* Assistance under this part may not be provided to, or within the jurisdiction of a State or an ESG formula city or county, unless the jurisdiction has a HUD-approved Comprehensive Homeless Assistance Plan.

(b) *Who must have an approved Plan.* The requirements described in paragraph (a) of this section apply to applicants for assistance under this part as follows:

(1) If the applicant is a State, the State must have an approved Plan.

(2) If the applicant is an ESG formula city or county, the city or county must have an approved Plan.

(3) If the applicant is a metropolitan city or urban county that is not an ESG formula city or county, the State in which the transitional housing is to be located must have an approved Plan.

(4) If the applicant is a private nonprofit organization and the transitional housing is to be located within the jurisdiction of an ESG formula city or county,

(i) The city or county must have an approved Plan, or

(ii) If the ESG formula city or county does not have an approved Plan, the State must have an approved Plan.

(5) If the applicant is a private nonprofit organization and the transitional housing is to be located outside the jurisdiction of an ESG formula city or county, the State must have an approved Plan.

(c) *Tribes.* Assistance may be provided to, or within the jurisdiction of, a tribe without a HUD-approved Comprehensive Homeless Assistance Plan.

(d) *Notification of Plan requirements.* HUD will publish the requirements that pertain to the Comprehensive Homeless Assistance Plan in the **Federal Register**, as necessary. Prospective applicants should familiarize themselves with these requirements.

Subpart D—Application and Selection Process

§ 840.200 Notice of fund availability.

When funds are made available for assistance for transitional housing, HUD will publish a notice of fund availability in the **Federal Register**. The notice will:

(a) Give the location for obtaining application packages that provide specific application requirements and guidance;

(b) Specify the time and the place for submitting completed applications;

(c) State the amount of funding available under the notice;

(d) Announce any separate funding competitions under § 840.207(b), including the categories of transitional housing projects that will be subject to the separate funding competitions and the amount of funding available in each funding category; and

(e) Provide other appropriate program information and guidance.

§ 840.205 Application requirements.

(a) *General.* Applicants must submit applications for assistance under this part in the form and within the time periods established by HUD.

(b) *Application requirements.* At a minimum, HUD will require applications to include:

(1) Applicant data (identity, evidence of eligibility, description of past experience, legal authority to submit the application and to operate the proposed housing, and information necessary to demonstrate financial responsibility);

(2) A description of the size and characteristics of the population that will occupy the transitional housing (including a description of the particular homeless population to be served, number of individuals to be served in the project, and supportive services required by the proposed residents);

(3) A description of the proposed project, including:

(i) Information regarding the structure to be used (including site control and zoning data, information concerning the consistency of the proposal with local government plans, a description of the structure and of any proposed rehabilitation, and an appraisal if building fair market or fair rental value is to be used to fulfill matching requirements);

(ii) A narrative description of the proposed operations (including the supportive services to be offered to the residents, the method that will be used to provide or coordinate the provision of such services, procedures for resident selection and assessment, a proposed limitation on the length of resident stay in the project, and evidence demonstrating that this proposed limitation provides an appropriate opportunity to permit members of the homeless population to be served to move to independent living);

(4) A certification of consistency with the applicable Comprehensive Homeless Assistance Plan as described under § 840.210(b)(4)(v)(B),

(5) Project financial data (amount of assistance requested, a five-year operating budget, and a description of the public and private resources that are expected to be made available to comply with the matching requirements of § 840.130);

(6) Assurances satisfactory to HUD that the project will be operated for not less than 10 years in accordance with this part;

(7) A maintenance of effort certification as described in § 840.210(b)(5);

(8) A statement that the applicant agrees to fulfill the requirements set forth in § 840.305; and

(9) Other data as prescribed by HUD.

§ 840.207 Selection process.

(a) *Four stage selection process.* The selection process for applications for assistance under this part consists of four stages:

(1) The threshold stage (see § 840.210);

(2) The ranking stage (see § 840.215);

(3) The environmental stage (see § 840.220); and

(4) The final selection stage (see § 840.225).

(b) *Separate funding competitions.* (1) In accordance with funding set-asides, funding priorities, or other statutory guidance, HUD may establish separate funding competitions for specified categories of transitional housing projects. (*E.g.* transitional housing that is primarily designed to serve homeless persons with mental disabilities.) If separate funding competitions are established, applicants within each category will compete against other applicants in the same category for a specified amount of funding. Selections within each category will be subject to the four-stage selection process described in paragraph (a) of this section.

(2) HUD will announce separate funding competitions in the notice of

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funds availability under § 840.200. The notice will designate the categories of transitional housing projects subject to the separate funding competition and the amount of funding available in each funding category.

§ 840.210 Threshold requirements.

(a) *General.* To be eligible for evaluation under the ranking criteria set out in § 840.215, applications must meet each of the threshold criteria described below (as modified for wholly secular private nonprofit organizations established by a primarily religious organization under § 840.125(e)). If HUD determines that an application fails to meet the threshold criteria in paragraph (b)(3) (matching), (b)(4)(iv)(A) (site control), or (b)(4)(iv)(B) (zoning) of this section, that these are the only deficiencies in the application under the threshold criteria, and that the deficiencies are correctable, HUD may contact the applicant, identify the deficiencies, explain how the deficiencies can be corrected, and require the applicant to correct the deficiencies. HUD will establish a deadline for the submission of the additional information that will permit the Department to meet its deadlines for final selection. Applications that fail to meet all threshold criteria, including those that have not been corrected within any additional time provided by HUD, will not be eligible for assistance under this part.

(b) *Threshold criteria.* The threshold criteria are:

(1) *Form, time, and adequacy of the application.* The application must be filed in the application form prescribed by HUD under § 840.205 and by the time period established by HUD in the notice of funds availability under § 840.200.

(2) *Applicant*—(i) *Eligibility to receive assistance.* The applicant must demonstrate that it is a State, a metropolitan city, an urban county, a tribe, or a private nonprofit organization.

(ii) *Financial responsibility.* (A) HUD has determined, for purposes of the requirements of this part, that all States, metropolitan cities, urban counties and tribes are financially responsible.

(B) Any private nonprofit organization applying for assistance must demonstrate its financial responsibility. In making its determination of financial responsibility, HUD will consider such factors as the past financial history of the organization, its current and anticipated financial outlook, the amount of funding that will be committed under the proposal, and the applicant's other financial responsibilities.

(iii) *Capacity.* Each applicant must demonstrate that it has the ability to carry out activities under this part within a reasonable time after execution of the grant agreement with HUD, and in a successful manner. In making this determination, HUD will consider the extent and quality of the applicant's past experience in establishing and operating housing or in providing or coordinating supportive services. HUD also will consider the ability of the applicant's personnel to perform administrative, managerial, and operational functions necessary to the successful development and operation of transitional housing.

(iv) *Legal authority.* Each applicant:

(A) Must demonstrate that it has the legal authority to participate in the program and to carry out activities in accordance with program requirements and the requirements of other applicable Federal law; and

(B) Must certify that a resolution, motion, or similar action has been fully adopted or passed as an official act by its governing body, authorizing the submission of the application under this part.

(3) *Matching*—(i) *General.* Each applicant must demonstrate that it will match the amount of the assistance to be provided by HUD under this part with at least an equal amount of funds from other sources, in accordance with the requirements of § 840.130.

(ii) *Documentation.*— (A) *In general.* Applicants must provide a description and appropriate documentation of the sources and amounts of the public and private funds that are expected to be made available to meet the applicant's matching requirement under § 840.130.

(B) *Funds from entities other than the applicant.* If the source of the applicant's contribution is an entity other than the applicant (*e.g.*, funding provided to a private nonprofit organization through State or local agencies), HUD must find that the documentation is sufficient to demonstrate a commitment to provide the funds if the application is selected for funding under this part.

(*1*) A commitment to provide matching funds for acquisition/rehabilitation costs or a moderate rehabilitation grant must be a firm commitment from the funding source. This firm commitment must demonstrate the source's binding commitment to provide funds and the date upon which funds will be available. This commitment may be contingent upon the selection of the applicant for funding under this part.

(*2*) A commitment to provide funds for operating costs may be in the form of a letter of intent demonstrating the reasonable expectation of the funding source and its resolve to provide a stated amount of funds at a stated date in the future, if the application is selected for funding. The letter of intent may be subject to governing board approval and other contingencies beyond the contingency of selection of the applicant for funding, provided there is a reasonable expectation and resolve by the source to provide the funding.

(*3*) In-kind contributions. To be accepted for consideration in the matching computation, the applicant must support the fair market value or fair rental value of a structure with an appraisal acceptable to HUD prepared by a qualified real estate appraiser, and must provide appropriate documentation supporting the valuation of any contribution of materials.

(D) *Rental income.* HUD will include amounts to be paid by residents of transitional housing as a part of the applicant's matching contribution for funding for payments of annual operating costs, if the rental amounts are substantiated. An applicant may substantiate rental amounts based on the rental income experience of the applicant or others, indicating the amount of income that residents are likely to receive. The estimate of resident income must be adjusted to take into account the length of time necessary for homeless persons to qualify for Federal, State, or local income-support assistance or to find employment, and any other factors that may reasonably be expected to affect the amount and timing of resident income. To compute the estimate of rental income calculation requirements of § 840.320. Alternatively, for the purposes of computing the rental amount for leveraging, the applicant may assume that rental income to be received from residents will be equal to 10 percent to the resident income estimate.

(4) *Proposal housing and supportive services.*—(i) *Need.* The applicant must demonstrate that an unmet need for the proposed transitional housing exists in the area to be served and that this need is likely to continue through the term of the commitment to HUD. Need may be demonstrated by information such as:

(A) Estimates, based on past experience in the community, of unmet demand for the proposed transitional housing by the homeless population to be served;

(B) Present need for the proposed transitional housing, based on estimates of the homeless population to be served; or

(C) Projections of future need for the proposed transitional housing.

Applicants may use relevant information contained in the Comprehensive Homeless Assistance Plan to demonstrate an unmet need for the proposed transitional housing.

(ii) *Adequacy of the proposed supportive services.* (A) Each applicant must demonstrate that the supportive services proposed (including the residential supervision to be provided) appropriately address the needs of the homeless population to be served, and are sufficient to serve the purposes of the proposed transitional housing. (*E.g.*, Proposals for transitional housing must be sufficient to faciliate the movement of homeless persons to independent living within a reasonable period of time.)

(B) In determining the adequacy of proposed services, HUD will assess the supportive services to be provided to the residents by the applicant and through other private and public organizations. Supportive services may be provided on-site, or off-site if the services are readily accessible to the homeless population to be served. Services are readily accessible if residents can get to the services on their own, or if transportation is provided to the site where the services are provided.

(C) Where services are to be provided through other private or public organizations, the applicant must secure a letter of intent from each organization, indicating its willingness and ability to provide the services to the residents of the housing, and must attach these letters to the application.

(iii) *Adequacy of the proposed housing.* Applicants must demonstrate that the proposed structures and sites are appropriate for the provision of housing and supportive services for the homeless population proposed to be served. When determining whether a structure will be suitable for the provision of supportive services, HUD will consider whether the structure is designed to permit the provision of proposed on-site supportive services, and whether any proposed off-site supportive services are readily accessible.

(iv) *Siting and zoning.* Except as provided in paragraph (a) of this section, applicants must meet the following siting and zoning requirements at the time of application:

(A) The applicant must demonstrate that it has control of the site involved. For example, the applicant may demonstrate that it owns or has an option to purchase, or leases or has an option to lease, the structure involved;

(B) The applicant must demonstrate that the proposed use of the site is permissible under applicable zoning ordinances and regulations; or provide a statement describing the proposed actions necessary to make the use of the site permissible under applicable zoning ordinances and regulations, and demonstrate that there is a reasonable basis to believe that the proposed zoning actions will be completed successfully and within 4 months following the submission of the application.

(C) The applicant must submit a statement that the proposed project is not located in any 100-year floodplain, as designated by maps prepared by the Federal Emergency Management Agency (FEMA). If 50 percent or more of the living space in the structure is designed for residents with mobility impairments, the applicant must submit a statement that the project is not located in any 500-year floodplain, as designated on FEMA maps.

(v) *Consistency with government plans*—(A) *Consistency with local government plans.* Applicants must furnish a written statement from the unit of general local government in which the transitional housing is proposed to be located, indicating that the proposed use of the structure and site for transitional housing is not inconsistent with any plan of the local government that may have an effect on the use of the structure and site for this purpose. This requirement is satisfied if the applicant demonstrates that it made a written request to the unit of local government for the statement and has not received the statement within 30 days of the request. (Applicants must immediately forward to HUD any written statement received from the unit of local government after the expiration of this 30-day period.)

(B) *Consistency with Comprehensive Homeless Assistance Plan.* Applicants must provide a certification from the public official responsible for submitting a Comprehensive Homeless Assistance Plan for the appropriate jurisdiction (as described under § 840.150) stating that the proposed project is consistent with the applicable Comprehensive Homeless Assistance Plan.

(vi) *Displacement.* Each applicant must certify that its proposed activities will not result in the temporary or permanent displacement of any person or entity. HUD will not fund applications that will cause any individual, family, partnership, corporation, or association to move from real property or to move its personal property from real property because of an actual or impending acquisition or rehabilitation of real property, in whole or in part, for a project.

(5) *Maintenance of effort.* Each applicant must certify that the use of assistance received under this part (and State and local government funds used to supplement this assistance) complies with § 840.125(b).

(6) *Proposal feasibility.* Each applicant must demonstrate that its proposal, when viewed as a whole, is operationally feasible and provides adequate housing and supportive services to serve the purposes of the transitional housing program.

§ 840.215 Ranking criteria.

(a) *In general.* Applications that fulfill each of the threshold requirements of § 840.210 will be assigned a rating score and will be placed in ranked order, based upon the criteria described in paragraph (b) of this section.

(b) *Criteria.* Applications will be assigned a rating and will be ranked, based on the following criteria:

(1) *Applicant capacity.* HUD will consider the applicant's relative ability to carry out activities under the program within a reasonable time, and in a successful manner, after the execution of the grant agreement with HUD. The factors HUD will consider in making this judgment are discussed in § 840.210(b)(2)(iii). HUD will assign the greatest number of points under this criterion to applicants that have experience in establishing and operating transitional housing for homeless persons and in providing or coordinating supportive services for its residents and that demonstrate, on the basis of prior experience, the greatest ability to carry out activities under the program expeditiously and successfully.

(2) *Innovative quality of proposal.* HUD will consider the innovative quality of the proposal in providing housing and supportive services for homeless persons in a manner that facilitates their transition to independent living. In assessing an application under this factor, HUD will consider the degree to which the applicant demonstrates that:

(i) The proposal uses a new or unusual approach to transitional housing that holds promise of successfully facilitating the transition of homeless persons to independent living; and

(ii) The new or unusual approach that the applicant will use would be replicable by others.

(3) *Coordination of supportive services:* HUD will consider:

(i) The extent to which the applicant will use other public or private entities to provide appropriate supportive

services to the residents of the housing; or

(ii) If the services are to be provided directly by the applicant, the extent to which the applicant:

(A) Will provide the services with funds that are obtained from sources other than under this program and that have not been used as part of the applicant's matching contribution (see §§ 840.130 and 840.210(b)(3)), or

(B) Has demonstrated that the services are not available or readily accessible to the residents from other sources.

HUD will assign the greatest number of points under this element to applicants that meet one or more of these tests to the greatest extent.

(4) *Matching.* HUD will consider the extent to which the applicant proposes to match the amount of assistance to be provided by HUD under the program with more than an equal amount of funds from other sources. Matching requirements are discussed at §§ 840.130 and 840.210(b)(3).

(5) *Cost effectiveness.* HUD will consider the extent to which the applicant's proposed costs in acquiring or rehabilitating housing under the program, and in operating the housing and providing supportive services:

(i) Are reasonable in relation to the work done and the goods and services purchased; and

(ii) Are effective in accomplishing the purposes of the project.

§ 840.220 Environmental review.

(a) *General.* In the third stage of the selection process, HUD will conduct an environmental review of a number of the highest-ranked applications. Environmental reviews will not be performed on all applications ranked under the second stage. Rather, HUD will review the number of highest-rated applications necessary to ensure an adequate pool of applications for the final selection stage. Applications that do not move to this third stage of processing will not be selected for funding under this part.

(b) *Environmental considerations.* In conducting the environmental review, HUD will assess the environmental effects of each application in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and HUD's implementing regulations at 24 CFR Part 50. Any application that requires an Environmental Impact Statement (EIS) (generally, those applications that HUD determines would have a significant impact on the human environment, in accordance with the environmental assessment procedures at 24 CFR Part 50, Subpart E) is not eligible for funding.

(c) *Rating adjustments.* (1) As a result of the environmental review, HUD may find that it cannot approve an application unless adequate measures are taken to mitigate environmental impacts. (See *e.g.*, 24 CFR Part 51). Accordingly, HUD will adjust the rating scores of such applications, based on the anticipated time delays in adopting appropriate impact mitigation measures.

(2) The environmental review often will reveal information not contained in the application that may have relevance to the selection process. HUD will make further adjustments to the ratings based on the information revealed during the environmental review.

§ 840.225 Final selection.

In the final stage of the selection process, the highest-ranked applications will be considered for final selection in accordance with their rank order, as determined under § 840.215, and any adjustments made during environmental review under § 840.220. If the top-rated applications under the ranking criteria described above involve projects that predominantly serve one geographic area, primarily serve one homeless population, or are substantially of the same project size (in terms of the number of homeless persons served), HUD may substitute one or more other highly-rated applications to ensure reasonable variety in the demonstration.

Subpart E—Program Requirements

§ 840.300 Grant agreement.

(a) *General.* The duty to provide transitional housing in accordance with the requirements of this part will be incorporated in a grant agreement executed by HUD and the recipient.

(b) *Enforcement.* HUD will enforce the obligations in the grant agreement through actions on the contract. In addition, restrictions regarding the use of structures will be contained in covenants recorded in the land records of the jurisdiction in which the structure is located.

§ 840.305 Required agreements.

Each recipient of transitional housing assistance must agree:

(a) To operate the transitional housing in accordance with this part.

(b) To conduct an ongoing assessment of the supportive services required by the residents of the project.

(c) To provide such residential supervision as HUD determines is necessary to facilitate the adequate provision of supportive services to the residents of the housing throughout the term of the commitment to operate transitional housing. Such residential supervision may include the employment of a full- or part-time residential supervisor with sufficient knowledge to provide or to supervise the provision of, supporting services to the residents of the transitional housing.

(d) To use the structure for which assistance is provided as transitional housing for not less than 10 years following the date of initial occupancy.

(e) To provide safe and sanitary housing, and to comply with all State and local housing codes, licensing requirements, and other requirements in the jurisdiction in which the housing is located regarding the condition of the structure and the operation of the transitional housing (except as provided in § 840.325).

(f) To keep any records and make any reports that HUD may require. HUD may require recipients of transitional housing assistance to monitor former residents, for a reasonable time set by HUD, to determine whether former residents made successful transitions to, and continue to reside in, permanent housing.

§ 840.310 Term of commitment and repayment of advance.

(a) *General.* All projects must be operated as transitional housing in accordance with this part for a term of at least 10 years from the date of initial occupancy.

(b) *Repayment of advance.* (1) The recipient of an acquisition/rehabilitation advance under § 840.105 must repay the advance in the amount prescribed under paragraph (b)(2) of this section and in accordance with the terms prescribed HUD.

(2) The recipient must repay the full amount of the acquisition/rehabilitation advance if the project is used for transitional housing for less than 10 years following the date of initial occupancy. For each full year that the project is used for transitional housing following the expiration of this 10-year period, the amount that the recipient will be required to pay will be reduced by one tenth of the original advance. If the project is used for transitional housing for 20 years following the date of initial occupancy, the recipient will not be required to repay any portion of the acquisition/rehabilitation advance under this section.

(3) Upon the recipient's written request, HUD may determine that a project is no longer needed for use as transitional housing, and may approve an alternate use of the project for the direct benefit of lower income persons.

For the purposes of determining the amount of the recipient's repayment obligation, such a project will continue to be treated as transitional housing as long as it is used for the approved alternate purpose.

(c) *Successor-recipients.* A recipient may select a successor to provide transitional housing in accordance with the recipient's obligations under this part. A successor-recipient must be approved by HUD before operation of the project may be transferred. Any obligations for the repayment of advances and for the prevention of undue benefits may remain with the original recipient or may be transferred to the successor-recipient, depending on the terms of the HUD approval.

(d) *Calculation of term of commitment.* The 10-year operating term commences on the date that the project is initially occupied by a homeless person for whom assistance is provided under this art. If the only assistance provided under this program is used to provide a substantial increase in the level of supportive services provided in an existing facility serving the homeless (see § 840.125(a)), the 10-year operating term commences on the date that the expanded services are first provided to the residents of the project.

§ 840.312 Casualty insurance.

The recipient must obtain, and maintain in force, property casualty insurance, with HUD named as beneficiary, in an amount at least equal to the amount of the acquisition/rehabilitation advance or the moderate rehabilitation grant provided to the recipient.

§ 840.313 Eminent domain.

A recipient whose structure is taken by eminent domain must repay the acquisiton/rehabilitation advance or the moderate rehabilitation grant provided to the recipient, to the extent that funds are available from the eminent domain proceeding.

§ 840.315 Prevention of undue benefits.

(a) *General.* If assistance in the form of an acquisition/rehabilitation advance or a moderate rehabilitation grant is provided for a project and the project is sold or otherwise disposed of during the 20 years following initial occupancy, the recipient must comply with such terms and conditions as HUD may prescribe to prevent the recipient from unduly benefitting from the sale or the disposition.

(b) *Exception.* This section does not apply to sales or dispositions that result in the continued use of the project for the direct benefit of lower income persons or where all proceeds from the sale or disposition are used to provide supportive housing.

§ 840.320 Resident rent.

Each homeless individual residing in trasitional housing is required to pay as rent an amount determined in accordance with section 3(a) of the United States Housing Act of 1937. Under section 3(a), each resident must pay as rent the highest of:

(a) 30 percent of the family's monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child care expenses);

(b) 10 percent of the family's monthly income; or

(c) if the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated. As part of its technical assistance under § 840.120, HUD will provide successful applicants with information and assistance concerning the calculation of resident rent.

§ 840.325 Resident discharge.

(a) *Preemption.* No State or local law, ordinance, or regulation shall have any force or effect to the extent that it prohibits, or has the effect of prohibiting, recipients from discharging residents from transitional housing at the end of the HUD-approved limit on the stay of residents in the housing.

(b) *Resident contract.* The recipient must execute a contract with each resident individual or family before admission to transitional housing. The contract must provide that the resident's length of stay will be limited to a stated time period approved by HUD, and that no State or local law, ordinance, or regulation shall have any force or effect to the extent that it prohibits, or has the effect of prohibiting, the recipient from discharging the resident at the end of the stated time period. The contract may contain such other terms and conditions governing the relationship between the recipient and the resident as are consistent with this part and agreed upon by the recipient and the resident.

(c) *Notice of discharge at end of HUD-approved residency period.* Not less than 30 calendar days before the end of the HUD-approved limit on the stay of the resident, the recipient must give the resident written notice that he or she will be discharged from the transitional housing at the end of the residency period, and will not be permitted to remain in the project after that time. The notice must be personally served on the resident, must state the date of the proposed discharge, and must inform the resident that he or she may request review of the proposed discharge date. Any request for such review must be made not later than 10 calendar days before the end of the residency period, and the review shall be limited to a determination of whether the recipient has calculated the resident's period of residence correctly.

(d) *Recipient review.* If the resident requests the recipient to review the discharge date contained in the notice, the recipient shall recompute the length of time that the individual or family has been a resident of the transitional housing and compare that period to the HUD-approved limit on residency. If the recipient determines that the discharge date in the notice is too early, the recipient shall withdraw the discharge notice and notify the resident of this action. Notice must be in writing and personally served upon the resident not later than five days before the discharge date in the notice of discharge. Withdrawal of a discharge notice under this clause shall not have any effect upon the recipient's service of any subsequent discharge notice on the resident.

§ 840.330 Applicability of other Federal requirements.

Use of assistance provided under this part must comply with the following additional requirements:

(a) *Nondiscrimination and equal opportunity.* The nondiscrimination and equal opportunity requirements that apply to the Program are discussed below. Notwithstanding the permissibility of proposals that serve designated populations of homeless persons, recipients serving a designated population of homeless persons are required, within the designated population, to comply with these requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, and handicap.

(1) The requirements of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601–19) (Fair Housing Act) and implementing regulations; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1;

(2) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42

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U.S.C. 6101–07) and implementing regulations at 27 CFR Part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(3) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR Chapter 60;

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects); and

(5) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(6) If the procedures that the recipient intends to use to make known the availability of the transitional housing are unlikely to reach persons of any particular race, color, religion, sex, age, or national origin who may qualify for admission to the housing, the recipient must establish additional procedures that will ensure that these persons are made aware of the availability of transitional housing opportunities. The recipient must also establish additional procedures that will ensure that interested persons can obtain information concerning the existence and location of services and facilities that are accessible to handicapped persons.

(b) *Environmental.* The National Environmental Policy Act of 1969, the related authorities in 24 CFR Part 50, and the Coastal Barriers Resources Act of 1982 (16 U.S.C. 3601) are applicable to proposals under this program.

(c) *Applicability of OMB Circulars.* The policies, guidelines, and requirements of OMB Circular Nos. A–87 and A–102 apply to the acceptance and use of assistance under the program by governmental entities, and OMB Circular Nos. A–110 and A–122 apply to the acceptance and use of assistance by private nonprofit organizations.

(d) *Lead-based paint.* (1) The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR Part 35 (except as superseded in paragraph (d)(2) of this section) apply to the program.

(2)(i) This paragraph implements the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate, as far as practicable, the hazards of lead-based paint poisoning with respect to structures for which assistance is provided under this program. This paragraph is promulgated under 24 CFR 35.24 (b)(4) and supersedes, with respect to the program, the requirements prescribed in Subpart C of 24 CFR Part 35. The requirements of this paragraph apply to structures that will be occupied by children under seven years of age.

(ii) The following definitions apply to this paragraph(b):

Applicable surface means all exterior surfaces of a residential structure, up to five feet from the floor or ground, such as a wall, stairs, deck, porch, railing, window, or door, which are readily accessible to children under seven years of age, and all interior surfaces of a residential structure.

Chewable surface means all chewable, protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age: *e.g.*, protruding corners, windowsills and frames, doors and frames, and other protruding woodworks.

Defective paint surfaces means paint on applicable surfaces that is cracking, scaling, chipping, peeling, or loose.

Elevated blood lead level or *EBL* means excessive absorption of lead: *i.e.*, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

Lead-based paint means a paint surface, whether or not defective, identified as having a lead content greate than or equal to 1 mg/cm^2.

(iii) In the case of a structure constructed before 1973, the applicant must inspect the structure for defective paint surfaces before it submits an application. Recipients must inspect assisted structures at least annually during the term of their operating commitment to HUD. If defective paint surfaces are found, treatment in accordance with 24 CFR 35.24(b)(2)(ii) is required. Correction of defective surfaces found during the initial inspection must be completed before initial occupancy of the project. Correction of defective paint conditions discovered at periodic inspection must be completed within 30 days of their discovery. When weather conditions prevent completion of repainting of exterior surfaces within the 30-day period, repainting may be delayed, but covering or removal of the defective paint must be completed within the prescribed period.

(iv) In the case of a structure constructed before 1973, if the recipient is presented with test results that indicate that a child under the age of seven years occupies the structure and has an elevated blood lead level (EBL), the recipient must cause the unit to be tested for lead-based paint on chewable surfaces. Testing must be conducted by a State or local health or housing agency, or by an inspector certified by a State or local health or housing agency. Lead content must be tested by using an X-ray flourescence analyzer (XRF) or other method approved by HUD. Test readings of 1 mg/cm^2 or higher using an XRF shall be considered positive for presence of lead-based paint. Where lead-based paint on chewable surfaces is identified, covering or removal of the paint surface in accordance with 24 CFR 35.24(b)(2)(ii) is required.

(v) In lieu of the procedures set forth in the preceding clause, the recipient may, at its discretion, abate all interior and exterior chewable surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii).

(vi) The recipient must take appropriate action to protect tenants from hazards associated with abatement procedures.

(vii) The recipient must keep a copy of each inspection report for at least three years. If a unit requires testing, or treatment of chewable surfaces based on the testing, the recipient must keep the test results and, if applicable, the certification of treatment, indefinitely. The records must indicate which chewable surfaces in the units have been tested or treated. If records establish that certain chewable surfaces were tested, or tested and treated, in acordance with the standards prescribed in this Section, these surfaces do not have to be tested or treated at any subsequent time.

(e) *Conflicts of interest.* In addition to conflict of interest requirements in OMB Circulars A-102 and A-110, no person:

(1) Who is an employee, agent, consultant, officer, or elected or appointed official of the recipient, that receives assistance under the program and who exercises or has exercised any functions or responsibilities with respect to assisted activities or

(2) Who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

(f) *Use of debarred, suspended, or ineligible contractors.* The provisions of 24 CFR Part 24 apply to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(g) *Audit.* The financial management systems used by governmental entities that are recipients under this program must provide for audits in accordance with 24 CFR Part 44. Private nonprofit organization recipients are subject to the audit requirements of OMB Circular A-110. HUD may perform or require further and additional audits as it finds necessary or appropriate.

(h) *Intergovernmental review.* The requirements for intergovernmental review in Executive Order No. 12372 and the implementing regulations at 24 CFR Part 52 are not applicable to applications under this program.

(i) *Davis-Bacon Act.* The provisions of the Davis-Bacon Act (40 U.S.C. 276a–276a–5) do not apply to the program.

Subpart F—Administration

§ 840.400 Obligation of funds, funding amendments and deobligation.

(a) *Obligation of funds.* When HUD selects an application for funding and notifies the recipient, it will obligate funds to cover the amount of the approved acquisition/rehabilitation advance, moderate rehabilitation grant and (for up to five years) annual operating costs.

(b) *Increases.* After the initial obligation of funds, HUD will not make any upward revisions to the amount obligated for the acquisition/rehabilitation advance, the moderate rehabilitation grant or the annual operating costs.

(c) *Deobligation.* (1) HUD may deobligate amounts for the acquisition/rehabilitation advance or the moderate rehabilitation grant:

(i) If the actual total costs of acquisition, substantial rehabilitation, acquisition and rehabilitation, or moderate rehabilitation, are less than the total cost anticipated in the application; or

(ii) If proposed acquisition and rehabilitation activities are not begun or completed within a reasonable time after selection.

(2)(i) HUD may deobligate the amounts for annual operating costs in any year following the first year of operations, based on the recipient's actual operating costs experience. Additionally, if a recipient's operations generate a substantial amount of resident rent (see § 840.320), HUD may adjust the operating costs allowed under the grant agreement downward, to the extent of the rent received in excess of that anticipated and budgeted in the application.

(ii) HUD may deobligate the amounts for annual operating costs if the proposed transitional housing operations are not begun within a reasonable time following selection.

(3) If, as a result of an audit, HUD determines that the recipient has expended funds for uses that are ineligible under this part, HUD may adjust or deobligate funding amounts, as appropriate, to recover the ineligible costs.

(4) The grant agreement will set forth in detail other circumstances under which funds may be deobligated and other sanctions may be imposed.

(5) HUD may:

(i) Readvertise the availability of funds that have been deobligated under this section in a notice of fund availability under § 840.200; or

(ii) Reconsider applications that were submitted in response to the most recently published notice of fund availability, and select applications for funding with deobligated funds. Such selections will be made in accordance with §§ 840.207–840.225.

2. Part 841 would be added to read as follows:

PART 841—PERMANENT HOUSING FOR HANDICAPPED HOMELESS PERSONS

Subpart A—General

Sec.
841.1 Applicability and scope.
841.5 Definitions.

Subpart B—Assistance Provided

841.100 Types of assistance.
841.105 Acquisition/rehabilitation advances.
841.110 Moderate rehabilitation grants.
841.115 Technical assistance.
841.120 Limitations on use of assistance.
841.125 Matching requirements.
841.130 Assistance under other HUD programs.

Subpart C—Comprehensive Homeless Assistance Plan

841.150 Comprehensive Homeless Assistance Plan.

Subpart D—Application and Selection Process

841.200 Notice of fund availability.
841.205 Application requirements.
841.207 Selection process.
841.210 Threshold requirements.
841.215 Ranking criteria.
841.220 Environmental review.
841.225 Final selection.

Subpart E—Program Requirements

841.300 Grant agreement.
841.305 Required agreements.
841.310 Term of commitment and repayment of advance.
841.312 Casualty insurance.
841.313 Eminent domain.
841.315 Prevention of undue benefits.
841.320 Resident rent.
841.325 Number of residents.
841.330 Applicability of other Federal requirements.

Subpart F—Administration

841.400 Obligation of funds, funding amendments, and deobligation.

Authority: Sec. 428, Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77); sec 7(d), Department of Housing Urban and Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 841.1 Applicability and scope.

(a) *General.* The Supportive Housing Demonstration program contained in Subtitle C of Title IV of the Stewart B. McKinney Homeless Assistance Act is designed to develop innovative approaches for providing supportive housing, especially to deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons. It is designed to determine:

(1) The cost of acquisition, rehabilitation, acquisition and rehabilitation, or leasing of existing structures for the provision of supportive housing;

(2) The cost of operating such housing and providing supportive services to the residents of such housing;

(3) The social, financial, and other advantages of such housing as a means of assisting homeless individuals; and

(4) The lessons that the provision of supportive housing might have for the design and implementation of housing programs that serve homeless individuals and families with special needs, particularly deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons.

A central purpose of the Supportive Housing Demonstration program is to provide supportive housing for deinstitutionalized homeless individuals and other homeless individuals with mental disabilities.

(b) The Supportive Housing Demonstration program consists of two components: Permanent housing for handicapped homeless persons and transitional housing. This part implements the program for permanent housing for handicapped homeless

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persons. Part 840 implements the transitional housing program.

§ 841.5 Definitions.

As used in this part:

Applicant means the State in which permanent housing for handicapped homeless persons is to be located.

Comprehensive Homeless Assistance Plan or *Plan* means the Comprehensive Homeless Assistance Plan established by Subtitle A of Title IV of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77, approved July 22, 1987).

Handicapped homeless person means a handicapped person who:

(a) Is a homeless individual;

(b) Is a currently not a homeless individuals but who is at risk of becoming a homeless individual; or

(c) Has been a resident of transitional housing assisted under the Transitional Housing Demonstration program guidelines published June 9, 1987 (52 FR 21743).

This term may include a homeless family, if the head of the family (or the spouse of the head of the family) is a handicapped homeless person.

Handicapped or *Handicapped person* means any individual having an impairment that is expected to be of long-continued and indefinite duration, is a substantial impediment to his or her ability to live independently, and is of a nature that the ability to live independently could be improved by a stable residential situation. This term includes:

(a) An individual who is developmentally disabled, i.e., an individual who has a severe chronic disability that:

(1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(2) Is manifested before the person attains age 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) Self-care,

(ii) Receptive and expressive language,

(iii) Learning,

(iv) Mobility,

(v) Self-direction,

(vi) Capacity for independent living, and

(vii) Economic self-sufficiency; and

(5) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

(b) An individual who is chronically mentally ill, *i.e.*, an individual who has a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently (*e.g.*, by limiting functional capacities relative to primary aspects of daily living such as pesonal relations, living arrangements, work, or recreation), and whose impairment could be improved by more suitable housing conditions.

(c) A handicapped person who also suffers from alcoholism or drug addiction.

Homeless means:

(a) An individual or family that lacks a fixed, regular, and adequate nighttime residence; or

(b) An individual or family that has a primary nighttime residence that is:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law.

HUD means the Department of Housing and Urban Development.

Moderate rehabilitation means the rehabilitation of a project that involves a total HUD expenditure that does not exceed the limitations described under § 841.110.

Permanent housing for handicapped homeless persons or *permanent housing* means a project assisted under this part that provides community-based, long-term housing and supportive services for not more than eight handicapped homeless persons and that is carried out by a project sponsor. All or part of the supportive services may be provided directly by the recipient or the project sponsor, or by arrangement with public or private service providers.

Private nonprofit organization means a secular or religious organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must:

(a) Have a voluntary board;

(b)(1) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or

(2) Designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles; and

(c) Practice nondiscrimination in the provision of assistance under the permanent housing program in accordance with the authorities described in § 841.330(a).

Project means one or more existing structures, or parts of one or more existing structures, owned or leased by the project sponsor (or by the recipient) for use in connection with permanent housing for handicapped homeless persons. The project must be:

(a) A group home designed soley for housing handicapped homeless persons, or

(b) Dwelling units in a rental apartment building, a condominum project or a cooperative project.

Project sponsor means a private nonprofit organization that the Governor or other chief executive official of the applicant approves as to financial responsibility. The project sponsor must operate the permanent housing for handicapped homeless persons, and must provide (or coordinate the provision of) supportive services to the residents of such housing.

Recipient means the applicant that executes a grant agreement with HUD. The recipient provides assistance to the project sponsor for the operation of permanent housing for handicapped homeless persons and facilitates the provision of necessary supportive services to the residents of the permanent housing.

Rehabilitation means labor, materials, tools, and other costs of improving structures to a level that meets or exceeds applicable State and local government health and safety standards. Rehabilitation includes repairs directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, and improvement through alterations or additions to, or enhancement of, existing structures, including improvements to increase the efficient use of energy in structures. Rehabilitation does not include minor or routine repairs or cosmetic repairs or improvements.

State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Substantial rehabilitation means the rehabilitation of a project that involves

a total HUD expenditure in excess of the limitations described under § 841.110.

Supportive services means services provided to residents of permanent housing. Supportive services must be proposed by the applicant in its application and approved by HUD; must address the special needs of the handicapped homeless persons to be served by the project; and must assist in accomplishing the purposes of permanent housing. Supportive services may include:

(a) Medical and psychological counseling and supervision;

(b) Employment counseling;

(c) Nutritional counseling;

(d) Assistance in obtaining other Federal, State, and local assistance available for residents of permanent housing facilities, including mental health benefits; employment counseling; medical assistance; Veterans' benefits; and income support assistance, such as Supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps; and

(e) Other services, such as child care, transportation, job placement and job training.

Subpart B—Assistance Provided

§ 841.100 Types of assistance.

(a) *Types of assistance available.* Three types of assistance are available for permanent housing for handicapped homeless persons: Acquisition/rehabilitation advances, moderate rehabilitation grants, and technical assistance.

(b) *Eligibility for more than one type of assistance.* Applicants may be eligible for either an acquisition/rehabilitation advance or a moderate rehabilitation grant, but not both. Technical assistance will be available only in connection with an acquisition/rehabilitation advance or a moderate rehabilitation grant.

§ 841.105 Acquisition/rehabilitation advances.

(a) *Use.* HUD will advance sums to recipients to defray the cost of the acquisition, substantial rehabilitation, or acquisition and rehabilitation of existing structures selected by the recipients for use in the provision of permanent housing for handicapped homeless persons.

(b) *Amount.* The acquisition/rehabilitaiton advance may not exceed the lesser of

(1) $200,000; or

(2) 50 percent of the aggregate cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation (see § 841.125 for a full discussion of the 50 percent matching requirement).

(c) *Terms of the advance.* Advances are interest-free, and if the conditions described in § 841.310 are met, are not subject to repayment. The sale or disposition of a structure acquired or rehabilitated with an advance is subject to the requirements of § 841.315.

§ 841.110 Moderate rehabilitation grants.

(a) *Use.* HUD will make grants to recipients to defray the cost of rehabilitation of existing structures selected by the recipients for use in the provision of permanent housing for handicapped homeless persons.

(b) *Amount.* (1) The moderate rehabilitation grant may not exceed the lesser of

(i) The project limit; or

(ii) 50 percent of the cost of rehabilitation (see § 841.125 for a full discussion of the 50 percent matching requirement).

(2) For purposes of this section, "project limit" means the amount determined by HUD by multiplying the number of units of each unit type in the project times the unit cost for that unit. The cumulative total for all unit types is the project limit. The unit cost limits are:

(i) $5,000 (A) per bedroom unit, in single room occupancy housing (*i.e.*, a unit which contains no sanitary facilities or food preparation facilities, or which contains one but not both types of facilities, and which is suitable for occupancy by a single individual);

(B) Per bedroom unit, in a group home; or

(C) Per unit without a bedroom, in other types of projects; and

(ii) $7,000 per unit with one or more bedrooms, in other types of projects.

(c) *Terms of the grant.* The sale or disposition of a structure rehabilitated with a grant under this section is subject to the requirements of § 841.315.

§ 841.115 Technical assistance.

Technical assistance will be offered only in connection with an award of funds under § 841.105 or § 841.110. Technical assistance is offered to recipients through HUD field offices in such matters as the computation of resident rent under § 841.320, compliance with other Federal requirements under § 841.330, and engineering recommendations and other advice on rehabilitation plans and work write-ups. HUD will also facilitate the exchange of information among recipients and program sponsors, and help recipients and program sponsors to learn from the experience of other participants in the program.

§ 841.120 Limitations on use of assistance.

(a) *Funding of existing housing facilities and programs.* (1) HUD will not provide acquisition/rehabilitation advances or moderate rehabilitation grants for existing facilities or programs that currently serve homeless persons, unless the applicant proposes:

(i) A substantial increase in the number of handicapped homeless persons for whom permanent housing will be provided;

(ii) A substantial increase in the level of supportive services to be provided to handicapped homeless persons; or

(iii) A substantial change in the use of existing facilities, *e.g.*, if existing facilities for the homeless that are not currently used for permanent housing (such as an emergency shelter for the homeless) will be used to provide permanent housing, or if an applicant currently providing permanent housing for one population of handicapped homeless persons proposes to serve an additional or alternative segment of the handicapped homeless population.

(2) If an application seeking funding of existing housing facilities and programs is selected for funding, assistance under this part will be limited to 50 percent of the cost of acquisition/rehabilitation or 50 percent of the cost of moderate rehabilitation, attributable to the increased number of handicapped homeless persons for whom permanent housing would be provided, the increased level of supportive services to be provided, or the change in use.

(b) *Maintenance of effort.* No assistance received under this part (or any State or local government funds used to supplement this assistance) may be used to replace funds provided in the State under any State or local government assistance program, if the funds provided under the State or local government assistance program were used to assist handicapped persons, homeless individuals, or handicapped homeless persons during the calendar year preceding the date of the application, or were designated for such use through an official action of the applicable governmental entity during the calendar year preceding the date of the application.

(c) *Leases.* (1) Acquisition/rehabilitation advances are not available to defray the costs of acquiring a lease on existing property.

(2) Acquisition/rehabilitation advances and moderate rehabilitation grants are available for the rehabilitation of leased property. To receive an acquisition/rehabilitation advance or a moderate rehabilitation

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grant, the lease must run for a term of at least 10 years after the date of initial occupancy of the housing.

(d) *New construction.* Assistance under this part may not be used for the new construction of housing. Assistance is limited to permanent housing provided in existing structures.

(e) *Primarily religious organizations*—(1) *Provision of assistance.* (i) HUD will not provide assistance to a recipient that will use a project sponsor that is a primarily religious organization, unless the primarily religious organization agrees to provide housing and supportive services in a manner that is free from religious influence and in accordance with other conditions described in the grant agreement.

(ii) HUD will not provide assistance to a recipient that will use a project sponsor that is a primarily religious organization, if the assistance will be used to acquire a structure to be owned by the project sponsor or to rehabilitate a structure owned by the project sponsor.

(2) *Permanent housing provided in structures owned by primarily religious organizations.* The acquisition/rehabilitation advance and the moderate rehabilitation grant may not be used to rehabilitate a structure that is owned by a primarily religious organization, unless:

(i) The structure (or portion of the structure) that is to be rehabilitated with the HUD assistance has been leased to a wholly secular private nonprofit organization that will serve as the project sponsor, or to the recipient;

(ii) The HUD assistance will be provided to the project sponsor or to the recipient to make the improvements, rather than to the primarily religious organization;

(iii) The leased structure will be used exclusively for secular purposes available to all persons regardless of religion;

(iv) The lease payments provided to the primarily religious organization do not exceed the fair market rent of the structure without the rehabilitation;

(v) The cost of improvements that benefit any portion of the structure that is not used for the provision of permanent housing assisted under this part will be allocated to and paid for by the primarily religious organization; and

(vi) The primarily religious organization agrees that if the project sponsor or the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay an amount equal to the residual value of the improvements to the project sponsor or recipient that will remit the amount to HUD.

(3) *Assistance to a wholly secular private nonprofit organization established by a primarily religious organization.* (i) If a primarily religious organization is foreclosed from direct participation as a project sponsor under the requirements set forth in paragraph (e)(2) of this section, the primarily religious organization may establish a wholly secular private nonprofit organization to serve as the project sponsor under this part.

(A) The wholly secular organization must agree to provide housing and supportive services in a manner that is free from religious influences and in accordance with other terms described in the grant agreement.

(B) The wholly secular organization may enter into a management contract with the primarily religious organization to operate the facility, including the provision of supportive services. In such a case, the primarily religious organization must agree in the management contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with conditions prescribed by HUD.

(C) The acquisition/rehabilitation advance and the moderate rehabilitation grant are subject to the requirements of paragraph (e)(2) of this section.

(ii) HUD will not require the primarily religious organization to establish the wholly secular organization before the selection of the application. In such a case, the applicant must name the wholly secular organization as the project sponsor in the application. In determining whether the wholly secular organization is financially responsible, the applicant may consider the primarily religious organization's financial responsibility and its commitment to provide appropriate resources to the project sponsor upon its formation, in addition to the other factors listed under § 841.210(b)(2)(ii)(B). The project sponsor's capacity to carry out activities under §§ 841.210(b)(2)(iii) and 841.215(b)(1), may be based on the primarily religious organization's capacity and its commitment to provide appropriate resources to the project sponsor after its formation. The requirement that the recipient or project sponsor must have site control (§ 841.210(b)(4)(v)(A), may be satisfied if the applicant demonstrates that the primarily religious organization has site control and has a commitment to transfer control of the site to the recipient or the project sponsor following selection. Since the wholly secular organization will not be in existence at the time of the application, it will be required to demonstrate that it meets the definition of private nonprofit organization and has the appropriate legal authority to participate in the program following selection (see § 841.210(b)(2)(i) and (iv)). If such an application is selected for funding, the obligation of funds will be conditioned upon the compliance with these requirements.

(f) *Structures used for multiple purposes.* Structures used to provide permanent housing may also be used for other purposes. For example, a structure may contain facilities for an emergency shelter as well as permanent housing, may be used to provide supportive services to the public at large, or may include commercial space. Under these circumstances, however, the acquisition/rehabilitation advance and the moderate rehabilitation grant will be available only in proportion to the use of the structure for permanent housing.

(g) *Administrative costs.* No more than five percent of an acquisition/rehabilitation advance or moderate rehabilitation grant provided under this part may be used for administrative purposes.

§ 841.125 Matching requirements.

(a) *General.* (1) The recipient must match the assistance provided by HUD with at least an equal amount of State or local government funds that will be used solely for acquisition, rehabilitation or moderate rehabilitation. At least 50 percent of the recipient's matching contribution must be State government funds.

(2) HUD may waive all or part of the requirement that at least 50 percent of the recipient's matching contribution must be State government funds, if HUD determines that:

(i) The State is experiencing a severe financial hardship that makes it unable to provide 50 percent of the recipient's matching contribution and

(ii) The local governments of the areas to be served by the project will contribute additional funds in an aggregate amount equal to the amount of the State contribution waived by HUD.

(3) Except for funds made available to the State or local government under HUD's Community Development Block Grant program, funds provided by the Federal government under federally assisted programs are not State or local government funds, and may not be used to compute the State or local government matching contribution.

(b) *Assistance categories.* The recipient must fulfill the matching requirement for the acquisition/

rehabilitation advance and the moderate rehabilitation grant. No match is required for technical assistance.

(c) *"In-kind" contributions.* Matching contributions under this section must be State or local government funds. "In-kind" contributions are excluded from the matching computation.

(d) *Other requirements.* State or local government funds used in the matching contribution are subject to the requirements governing the funding of existing housing facilities and programs and the maintenance of effort requirements described at §§ 841.120 (a) and (b).

§ 841.130 Assistance under other HUD programs.

(a) *Supplemental assistance.* HUD will permit the use of additional assistance for permanent housing for handicapped homeless persons in connection with the program of Supplemental Assistance for Facilities to Assist the Homeless contained in Subtitle D of Title IV of the Stewart B. McKinney Homeless Assistance Act.

(b) *Ineligible projects.* HUD will not assist a project under this part if the project involves a structure that is assisted, or residents of the structure will receive assistance, under the United States Housing Act of 1937; section 202 of the Housing Act of 1959; section 221(d)(3) (BMIR) or section 236 of the National Housing Act; or section 101 of the Housing and Urban Development Act.

(c) *HUD-owned properties.* HUD, in cooperation with PHAs and local government, will make HUD-owned single family properties in its inventory available to parties for purchase for use in connection with permanent housing for handicapped homeless persons. To obtain these properties, parties may request a listing of available properties from the HUD Field Office, Property Disposition Branch. If a party wishes to purchase a property or properties, it must request the PHA or unit of local government to enter into a lease/option agreement with HUD. Under the terms of the agreement, HUD will lease the property to the PHA or unit of local government for six months for one dollar. The lease/option agreement will state that the PHA or unit of local government may purchase the property at a stated price during the lease period, and will require the PHA or unit of local government to assign all rights under the agreement to the party. Applicants demonstrating an assignment of rights under a lease/option agreement at the time their application is filed will be regarded as having site control of the property under § 841.210(b)(4)(v)(A). If the option is not exercised, the lease/option agreement will expire at the end of six months, and the property will be returned to HUD's inventory.

Subpart C—Comprehensive Homeless Assistance Plan

§ 841.150 Comprehensive Homeless Assistance Plan.

(a) *Prohibition of assistance.* Assistance under this part may not be provided to an applicant, unless the applicant has a HUD-approved Comprehensive Homeless Assistance Plan.

(b) *Notification of Plan requirements.* HUD will publish the requirements that pertain to the Comprehensive Homeless Assistance Plan in the **Federal Register**, as necessary. Prospective applicants should familiarize themselves with these requirements.

Subpart D—Application and Selection Process

§ 841.200 Notice of fund availability.

When funds are made available for assistance for permanent housing for handicapped homeless persons, HUD will publish a notice of fund availability in the **Federal Register**. The notice will:

(a) Give the location for obtaining application packages that provide specific application requirements and guidance;

(b) Specify the time and the place for submitting completed applications;

(c) State the amount of funding available under the notice; and

(d) Provide other appropriate program information and guidance.

§ 841.205 Application requirements.

(a) *General.* Applicants must submit applications for assistance under this part in the form and within the time periods established by HUD.

(b) *Application requirements.* At a minimum, HUD will require applications to include:

(1) Applicant and project sponsor data (identity, evidence of eligibility, description of project sponsor's past experience, and legal authority to submit the application and to operate the proposed housing);

(2) A description of the size and characteristics of the handicapped homeless population that will occupy the permanent housing (including a description of the handicapped homeless population to be served, number of individuals to be served in the project, and supportive services required by the proposed residents);

(3) A description of the proposed project, including:

(i) Information regarding the structure to be used (including site control and zoning data, information concerning the consistency of the proposal with local government plans, and a description of the structure and of any proposed rehabilitation);

(ii) A narrative description of the proposed operations (including the supportive services to be offered to the residents, the method that will be used to provide or coordinate the provision of such services, and procedures for resident selection and assessment);

(4) A certification of consistency with the applicable Comprehensive Homeless Assistance Plan as described under § 841.210(b)(4)(vi)(B);

(5) Project financial data (amount of assistance requested, a description of the State and local government funds that are expected to be made available to comply with the matching requirements of § 841.125, and a certification or a request for waiver as described under § 841.210(b)(3)(ii);

(6) Assurances satisfactory to HUD that the project will be operated for not less than 10 years in accordance with this part;

(7) A letter of participation as described in § 841.210(b)(2)(ii)(A), an assessment of how the proposal will meet the needs of handicapped homeless persons as described in § 841.210(b)(4)(i)(B), the designation of State agencies as described in § 841.210(b)(4)(ii)(D), and a maintenance of effort certification as described in § 841.210(b)(5);

(8) A certification that the project sponsor has agreed to fulfill the requirements set forth in § 841.305; and

(9) Other data as prescribed by HUD.

§ 841.207 Selection process.

The selection process for applications for assistance under this part has four stages:

(a) The threshold stage (see § 841.210).

(b) The ranking stage (see § 841.215).

(c) The environmental stage (see § 841.220); and

(d) The final selection stage (see § 841.225).

§ 841.210 Threshold requirements.

(a) *General.* To be eligible for evaluation under the ranking criteria set out in § 841.215, applications must meet each of the threshold criteria described below (as modified for wholly secular private nonprofit organizations established by primarily religious organizations under § 841.120(e)). If HUD determines that an application fails to meet the threshold criteria in paragraph (b)(3) (matching), (b)(4)(v)(A)

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(site control), or (b)(4)(v)(B) (zoning) of this section, that these are the only deficiencies in the application under the threshold criteria, and that the deficiencies are correctable, HUD may contact the applicant, identify the deficiencies, explain how the deficiencies can be corrected, and require the applicant to correct the deficiencies. HUD will establish a deadline for the submission of the additional information that will permit the Department to meet its deadlines for final selection. Applications that fail to meet all threshold criteria, including those that have not been corrected within any additional time provided by HUD, will not be eligible for assistance under this part.

(b) *Threshold criteria.* The threshold criteria are:

(1) *Form, time, and adequacy of the application.* The application must be filed in the application form prescribed by HUD under § 841.205 and within the time period established by HUD in the notice of funds availability under § 841.200.

(2) *Applicant and project sponsor*—(i) *Eligibility to receive assistance.* The applicant must be the State in which the permanent housing is to be located and must demonstrate that the project sponsor is a private nonprofit organization.

(ii) *Financial responsibility.* (A) HUD has determined, for purposes of this part, that all applicants are financially responsible. Applicants, however, must provide a letter of participation from the Governor or other chief executive officer of the State, containing assurances that the applicant will promptly transmit assistance to the project sponsor and will facilitate the provision of necessary supportive services to the residents of the project.

(B) The applicant must demonstrate that the project sponsor has been approved by the Governor or other chief executive official of the State as to financial responsibility. In making its determination of financial responsibility, the applicant must consider factors such as the past financial history of the project sponsor, its current and anticipated financial outlook, the amount of funding that will be committed under the proposal, and its other financial responsibilities.

(iii) *Capacity.* Applicants must demonstrate that the project sponsor has the ability to carry out activities under this part within a reasonable time after execution of the grant agreement with HUD, and in a successful manner. In making this determination, HUD will consider the extent and quality of the project sponsor's past experience in establishing and operating housing or in providing or coordinating supportive services. HUD also will consider the ability of the project sponsor's personnel to perform administrative, managerial, and operational functions necessary to the successful development and operation of permanent housing.

(iv) *Legal authority.* Each applicant must:

(A) Demonstrate that it and the project sponsor have the legal authority to participate in the program and to carry out activities in accordance with program requirements and the requirements of other applicable Federal law; and

(B) Certify that a resolution, motion, or similar action has been duly adopted or passed as an official act by the governing body of the applicant and the project sponsor, authorizing the submission of the application under this part.

(3) *Matching*—(i) *Certification.* Each applicant must provide a certification stating:

(A) That it will match the amount of the assistance to be provided under this part with at least an equal amount of State or local government funds that will be used solely for acquisition or rehabilitation, and

(B) That at least 50 percent of this matching contribution will be made up of State government funds.

The applicant must also indicate the extent to which it will supplement assistance under this part with amounts in addition to those specified in the preceding paragraph.

(ii) *Waiver.* If the applicant cannot certify that at least 50 percent of the matching contribution will be composed of State government funds, it must demonstrate that it is eligible for a waiver of this requirement under § 841.125(a)(2).

(4) *Proposed housing and supportive services*—(i) *Need.* (A) The applicant must demonstrate that an unmet need for the proposed permanent housing exists in the area to be served and that this need is likely to continue through the term of the commitment to HUD. Need may be demonstrated by information such as:

(*1*) Estimates, based on past experience in the community, of unmet demand for the proposed permanent housing by the handicapped homeless persons to be served;

(*2*) Present need for the proposed permanent housing, based on estimates of the population of handicapped homeless persons to be served; or

(*3*) Projections of future need for the proposed permanent housing.

Applicants may use relevant information contained in the Comprehensive Homeless Assistance Plan to demonstrate an unmet need for the proposed permanent housing.

(B) Each applicant must provide an assessment of how the proposed project will meet the needs of handicapped homeless persons in the State.

(ii) *Adequacy of the proposed supportive services.* (A) Each applicant must demonstrate that the supportive services proposed (including the residential supervision to be provided) appropriately address the needs of the handicapped homeless population to be served, and are sufficient to serve the purposes of the proposed permanent housing program.

(B) In determining the adequacy of proposed services, HUD will assess the supportive services to be provided to the residents by the applicant, by the project sponsor, and through other private and public organizations. Supportive services may be provided on-site, or off-site if the services are readily accessible to the handicapped homeless population to be served. Services are readily accessible if residents can get to the services on their own, or if transportation is provided to the site where the services are provided.

(C) Where services are to be provided through private or public organizations other than the applicant or the project sponsor, the applicant must secure a letter of intent from each organization, indicating its willingness and ability to provide the services to the residents of the housing, and must attach these letters to the application.

(D) Applicants must designate the State agency that has primary responsibility for providing services to the handicapped and that will assist the State housing finance agency (or other state agency) in fulfilling the State's responsibilities under this part. If the agency designated is not the agency responsible for the overall administration of the project, the applicant must also designate the administering agency.

(iii) *Adequacy of the proposed housing.* (A) Applicants must demonstrate that the proposed structures and sites are appropriate for the provision of housing and supportive services for the handicapped homeless population proposed to be served. When determining whether a structure will be suitable for the provision of permanent housing, HUD will consider whether the structures are designed to permit the provision of proposed on-site supportive services, and whether any proposed off-site supportive services are readily accessible.

(B) The applicant must demonstrate that the design of the project and its location within a community will ensure that the housing will be provided in a residential, rather than an institutional, setting and that the project will be integrated into the neighborhood in which it is located. If the permanent housing involves a group home, no more than one home may be located on one site, and no home may be located on a site that is contiguous to another site containing such a home.

(iv) *Limitation on number of residents.* The applicant must demonstrate that the number of residents served by the project will not exceed the limitation contained in § 841.325.

(v) *Siting and zoning.* Except as provided in paragraph (a) of this section, applicants must meet the following three siting and zoning requirements at the time of the application:

(A) The applicant must demonstrate that it or the project sponsor has control of the site involved. For example, the applicant may demonstrate that it (or the project sponsor) owns or has an option to purchase, or leases or has an option to lease, the structure involved; and

(B) The applicant must demonstrate that the proposed use of the site is permissible under applicable zoning ordinances and regulations; or provide a statement describing the proposed actions necessary to make the use of the site permissible under applicable zoning ordinances and regulations, and demonstrate that there is a reasonable basis to believe that the proposed zoning actions will be completed successfully and within 4 months following the submission of the application.

(C) The applicant must submit a statement that the proposed project is not located in any 100-year floodplain, as designated by maps prepared by the Federal Emergency Management Agency (FEMA). If 50 percent or more of the living space in the structure is designed for residents with mobility impairments, the applicant must submit a statement that the project is not located in any 500-year floodplain, as designated on FEMA maps.

(vi) *Consistency with government plans*—(A) *Consistency with local government plans.* Applicants must furnish a written statement from the unit of general local government in which the proposed permanent housing is proposed to be located, indicating that the proposed use of the structure and site for permanent housing is not inconsistent with any plan of the local government that may have an effect on the use of the structure and site for this purpose. This requirement is satisfied if the applicant demonstrates that it made a written request to the unit of local government for the statement and has not received the statement within 30 days of the request. (Applicants must immediately forward to HUD any written statement received from the unit of local government after the expiration of this 30-day period.)

(B) *Consistency with Comprehensive Homeless Assistance Plan.* Applicants must provide a certification from the State official responsible for submitting the Comprehensive Homeless Assistance Plan, stating that the proposed project is consistent with the Plan.

(vii) *Displacement.* Each applicant must certify that its proposed activities will not result in the temporary or permanent displacement of any person or entity. HUD will not fund applications that will cause any individual, family, partnership, corporation, or association to move from real property or to move its personal property from real property because of an actual or impending acquisition or rehabilitation of real property, in whole or in part, for a project.

(5) *Maintenance of effort.* Each applicant must certify that the use of assistance received under this part (and State or local government funds used to supplement this assistance) complies with § 841.120(b).

(6) *Proposal feasibility.* Each applicant must demonstrate that its proposal, when viewed as a whole, is operationally feasible and provides adequate housing and supportive services to serve the purposes of the permanent housing program.

§ 841.215 Ranking criteria.

(a) *In general.* Applications that fulfill each of the threshold requirements of § 841.210 will be assigned a rating score and will be placed in ranked order, based upon the criteria described in paragraph (b) of this section.

(b) *Criteria.* Applications will be assigned a rating and will be ranked, based upon the following criteria:

(1) *Project sponsor capacity.* HUD will consider the project sponsor's relative ability to carry out activities under the program within a reasonable time, and in a successful manner, after the execution of the grant agreement with HUD. The factors HUD will consider in making this judgment are discussed in § 841.210(b)(2)(iii). HUD will assign the greatest number of points under this criterion to applications involving project sponsors that have experience in establishing and operating permanent housing for handicapped homeless persons and in providing or coordinating supportive services for its residents, and that demonstrate, on the basis of prior experience, the greatest ability to carry out activities under the program expeditiously and successfully.

(2) *Innovative quality of proposal.* HUD will consider the innovative quality of the proposal in providing permanent housing and supportive services for handicapped homeless persons. In assessing an application under this factor, HUD will consider the degree to which the applicant demonstrates that:

(i) The proposal uses a new or unusual approach that holds promise of successfully providing permanent housing and supportive services to handicapped homeless persons.

(ii) The new or unusual approach that the applicant will use would be replicable by others.

(3) *Matching.* HUD will consider the extent to which the applicant proposes to match the amount of assistance to be provided by HUD with more than an equal amount of funds from State or local government funds. Requirements for matching amounts are discussed at §§ 841.125 and 841.210(b)(3).

(4) *Cost effectiveness.* HUD will consider the extent to which the applicant's proposed costs in acquiring or rehabilitating housing under the program:

(i) Are reasonable in relation to the work done and the goods and services purchased; and

(ii) Are effective in accomplishing the purposes of the project.

(5) *Project quality.* HUD will consider the extent to which the project will meet the needs of handicapped homeless persons in the State (as described in the State's assessment of needs submitted under § 841.210(b)(4)(i)(B)). HUD will assign the greatest number of points under this criterion to applications that will best provide permanent housing and supportive services addressing the needs of handicapped homeless persons, as identified in the assessment.

§ 841.220 Environmental review.

(a) *General.* In the third stage of the selection process, HUD will conduct an environmental review of a number of the highest-ranked applications. Environmental reviews will not be performed on all applications ranked under the second stage. Rather, HUD will review the number of highest-rated applications necessary to ensure an adequate pool of applications for the final selection stage. Any application

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that does not move to this third stage of processing will not be selected for funding.

(b) *Environmental considerations.* In conducting the environmental review, HUD will assess the environmental effects of each application in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and HUD's implementing regulations at 24 CFR Part 50. Any application that requires an Environmental Impact Statement (EIS) (generally, those applications that HUD determines would have a significant impact on the human environment, in accordance with the environmental assessment procedures at 24 CFR Part 50, Subpart E) is not eligible for funding under this part.

(c) *Rating adjustments.* (1) As a result of the environmental review, HUD may find that it cannot approve an application unless adequate measures are taken to mitigate environmental impacts. (See *e.g.*, 24 CFR Part 51). Accordingly, HUD will adjust the rating scores of such applications, based on the anticipated time delays in adopting appropriate impact mitigation measures.

(2) The environmental review often will reveal information not contained in the application that may have relevance to the selection process. HUD will make further adjustments to the ratings based on the information revealed during the environmental review.

§ 841.225 Final selection.

In the final stage of the selection process, the highest-ranked applications will be considered for final selection in accordance with their rank order, as determined under § 841.215, and any adjustments made during environmental review under § 841–220. If the top-rated applications under the ranking criteria described above involve projects that predominantly serve one geographic area or primarily serve one type of handicapped homeless population, HUD may substitute one or more other highly-rated applications to ensure reasonable variety in the demonstration.

Subpart E—Program Requirements

§ 841.300 Grant agreement.

(a) *General.* The duty to provide permanent housing in accordance with the requirements of this part will be incorporated in a grant agreement executed by HUD and the recipient.

(b) *Enforcement.* HUD will enforce the obligations in the grant agreement through actions on the contract. In addition, restrictions regarding the use of structures will be contained in covenants recorded in the land records of the jurisdiction in which the structure is located.

§ 841.305 Required agreements.

Each recipient of assistance for permanent housing for handicapped homeless persons must require the project sponsor to agree:

(a) To operate a project providing permanent housing in accordance with this part.

(b) To conduct an ongoing assessment of the supportive services required by the residents of the project.

(c) To provide such residential supervison as HUD determines is necessary to facilitate the adequate provision of supportive services to the residents of the housing throughout the term of the commitment to operate permanent housing. Such residential supervision may include the employment of a full-or part-time residential supervisor with sufficient knowledge to provide, or to supervise the provision of, supportive services to the residents of permanent housing.

(d) To use the structure for which assistance is provided as permanent housing for not less than 10 years following the date of initial occupancy.

(e) To provide safe and sanitary housing, and to comply with all State and local housing codes, licensing requirements, and other requirements regarding the condition of the structure and the operation of the permanent housing.

(f) To keep any records and make any reports that HUD may require.

§ 841.310 Term of commitment and repayment of advance.

(a) *General.* All projects must be operated as permanent housing in accordance with this part for a term of at least 10 years from the date of initial occupancy.

(b) *Repayment of advance.* (1) The recipient of an acquisition/rehabilitation advance under § 841.105 must repay the advance in the amount prescribed under paragraph (b) (2) of this section and in accordance with the terms prescribed by HUD.

(2) The recipient must repay the full amount of the acquisition/rehabilitation advance if the project is used for permanent housing for less than 10 years following the date of initial occupancy. For each full year that the project is used for permanent housing following the expiration of this 10-year period, the amount that the recipient will be required to pay will be reduced by one-tenth of the original advance. If the project is used for permanent housing for 20 years following the date of initial occupancy, the recipient will not be required to repay any portion of the acquisition/rehabilitation advance under this section.

(3) Upon the recipient's written request, HUD may determine that a project is no longer needed for use as permanent housing, and may approve an alternate use of the project for the direct benefit of lower income persons. For the purposes of determining the amount of the recipient's repayment obligation, such a project will continue to be treated as permanent housing as long as it is used for the approved alternate purpose.

(c) *Successors.* A recipient may select a new project sponsor to operate the housing in accordance with the project sponsor's obligations under this part. The successor-project sponsor must be approved by HUD before operations of the project may be transferred.

(d) *Calculation of term of commitment.* The 10-year operation term commences on the date that the project is initially occupied by a handicapped homeless person for whom assistance is provided under this part. If the only assistance provided under this program is used to provide a substantial increase in the level of supportive services provided in an existing facility serving the homeless (see § 841.120(a)), the 10-year operating term commences on the date that the expanded services are first provided to the residents of the project.

§ 841.312 Casualty insurance.

The recipient must obtain, and maintain in force, property casualty insurance, with HUD named as beneficiary, in an amount at least equal to the amount of the acquisition/rehabilitation advance or the moderate rehabilitation grant provided to the recipient.

§ 841.313 Eminent domain.

A recipient whose structure is taken by eminent domain must repay the acquisition/rehabilitation advance or the moderate rehabilitation grant provided to the recipient, to the extent that funds are available from the eminent domain proceeding.

§ 841.315 Prevention of undue benefits.

(a) *General.* If assistance in the form of an acquisition/rehabilitation advance or a moderate rehabilitation grant is provided for a project and the project is sold or otherwise disposed of during the 20 years following initial occupancy of the project, the recipient must comply with such terms and conditions as HUD may prescribe to prevent the recipient from unduly benefitting from the sale or the disposition.

(b) *Exception.* This section does not apply to sales or dispositions that result in the continued use of the project for the direct benefit of lower income persons or where all proceeds from the sale or disposition are used to provide supportive housing.

§ 841.320 Resident rent.

Each homeless individual residing in permanent housing is required to pay as rent an amount determined in accordance with section 3(a) of the United States Housing Act of 1937. Under section 3(a), each resident must pay as rent the highest of

(a) 30 percent of the family's monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child care expenses);

(b) 10 percent of the family's monthly income; or

(c) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated.

As part of its technical assistance under § 841.115, HUD will provide successful applicants with information and assistance concerning the calculation of resident rent.

§ 841.325 Number of residents.

If the permanent housing consists of dwelling units in a rental building, a condominium, or a cooperative, the project may not serve more than eight handicapped homeless persons, and the homeless families of the eight handicapped homeless persons (if the head of the family or the spouse of the head of the family is a handicapped homeless person). If the permanent housing is a group home, the project may not serve more than eight handicapped homeless persons, and may not serve the families of the handicapped homeless persons.

§ 841.330 Applicability of other Federal requirements.

Use of the assistance provided under this part must comply with the following additional requirements:

(a) *Nondiscrimination and equal opportunity.* The nondiscrimination and equal opportunity requirements that apply to the Program are discussed below. Nothwithstanding the permissibility of proposals that serve designated populations of handicapped homeless persons, recipients and project sponsors serving a designated population of handicapped homeless persons are required, within the designated population, to comply with these requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, and handicap.

(1) The requirements of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601–19) (Fair Housing Act) and implementing regulations; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107; and Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1;

(2) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR Partr 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehibilitation Act of 1973 (29 U.S.C. 794);

(3) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR Chapter 60;

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects); and

(5) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients and project sponsors must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(6) If the procedures that the recipient or project sponsor intends to use to make known the availability of the permanent housing are unlikely to reach persons of any particular race, color, religion, sex, age, or national origin who may qualify for admission to the housing, the recipient or project sponsor must establish additional procedures that will ensure that these persons are made aware of the availability of permanent housing opportunities. The recipient and the project sponsor must also establish additional procedures that will ensure that interested persons can obtain information concerning the existence and location of services and facilities that are accessible to handicapped persons.

(b) *Environmental.* The National Environmental Policy Act of 1969, the related authorities in 24 CFR Part 50, and the Coastal Barriers Resources Act of 1982 (16 U.S.C. 3601) are applicable to proposals under this program.

(c) *Applicability of OMB Circulars.* The policies, guidelines, and requirements of OMB Circular Nos. A–87 and A–102 apply to the acceptance and use of assistance under the program by governmental entities, and OMB Circular Nos. A–110 and A–122 apply to the acceptance and use of assistance by private nonprofit organizations.

(d) *Lead-based paint.* (1) The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR Part 35 (except as superseded in paragraph (d)(2) of this section) apply to the program.

(2)(i) This paragraph implements the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate, as far as practicable, the hazards of lead-based paint poisoning with respect to structures for which assistance is provided under this program. This paragraph is promulgated under 24 CFR 35.24(b)(4) and supersedes, with respect to the program, the requirements prescribed in Subpart C of 24 CFR Part 35. The requirements of this paragraph apply to structures that will be occupied by children under seven years of age.

(ii) The following definitions apply to this paragraph (b):

Applicable surface means all exterior surfaces of a residential structure, up to five feet from the floor or ground, such as a wall, stairs, deck, porch, railing, window, or door, which are readily accessible to children under seven years of age, and all interior surfaces of a residential structure.

Chewable surface means all chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, e.g., protruding corners, windowsills and frames, doors and frames, and other protruding woodworks.

Defective paint surfaces means paint on applicable surfaces that is cracking, scaling, chipping, peeling, or loose.

Elevated blood lead level or EBL means excessive absorpiton of lead: that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

Lead-based paint means a paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm^2.

(iii) In the case of a structure constructed before 1973, the applicant must inspect the structure for defective paint surfaces before it submits an application. Recipients must inspect

assisted structures at least annually during the term of their operating commitment to HUD. If defective paint surfaces are found, treatment in accordance with 24 CFR 35.24(b)(2)(ii) is required. Correction of defective surfaces found during the initial inspection must be completed before initial occupancy of the project. Correction of defective paint conditions discovered at periodic inspection must be completed within 30 days of their discovery. When weather conditions prevent completion of repainting of exterior surfaces within the 30-day period, repainting may be delayed, but covering or removal of the defective paint must be completed within the prescribed period.

(iv) In the case of a structure constructed before 1973, if the recipient is presented with test results that indicate that a child under the age of seven years occupies the structure and has an elevated blood lead level (EBL), the recipient must cause the unit to be tested for lead-based paint on chewable surfaces. Testing must be conducted by a State or local health or housing agency, or by an inspector certified by a State or local health or housing agency. Lead content must be tested by using an X-ray flourescence analyzer (XRF) or other method approved by HUD. Test readings of 1 mg/cm^2 or higher using an XRF shall be considered positive for presence of lead-based paint. Where lead-based paint on chewable surfaces is identified, covering or removal of the paint surface in accordance with 24 CFR 35.24(b)(2)(ii) is required.

(v) In lieu of the procedures set forth in the preceding clause, the recipient may, at its discretion, abate all interior and exterior chewable surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii).

(vi) The recipient must take appropriate action to protect tenants from hazards associated with abatement procedures.

(vii) The recipient must keep a copy of each inspection report for at least three years. If a unit requires testing, or treatment of chewable surfaces based on the testing, the recipient must keep the test results and, if applicable, the certification of treatment, indefinitely. The records must indicate which chewable surfaces in the units have been tested or treated. If records establish that certain chewable surfaces were tested, or tested and treated, in accordance with the standards prescribed in this Section, these surfaces do not have to be tested or treated at any subsequent time.

(3) Applicants and recipients under this part may require project sponsors to comply with some or all of the requirements of this paragraph (d). The applicant or recipient, however, must ensure that the program sponsor carriers out all requirements in accordance with the paragraph, and must retain ultimate responsibility for complying with the requirements of this paragraph.

(e) *Conflicts of interest.* In addition to conflict of interest requirements in OMB Circulars A-102 and A-110, no person:

(1) Who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or the project sponsor, that receives assistance under the program and who exercises or has exercised any functions or responsibilities with respect to assisted activities or

(2) Who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

(f) *Use of debarred, suspended, or ineligible contractors.* The provisions of 24 CFR Part 24 apply to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(g) *Audit.* The financial management systems used by recipients under this program must provide for audits in accordance with 24 CFR Part 44. Project sponsors are subject to the audit requirements of OMB Circular A-110. HUD may perform or require further and additional audits as it finds necessary or appropriate.

(h) *Intergovernmental review.* The requirements for intergovernmental review in Executive Order No. 12372 and the implementing regulations at 24 CFR Part 52 are not applicable to applications under this program.

(i) *Davis-Bacon Act.* The provisions of the Davis-Bacon Act (40 U.S.C. 276a-276a-5) do not apply to the program.

Subpart F—Administration

§ 841.400 Obligation of funds, funding amendments and deobligation.

(a) *Obligation of funds.* When HUD selects an application for funding and notifies the recipient, it will obligate funds to cover the amount of the approved acquisition/rehabilitation advance or moderate rehabilitation grant.

(b) *Increases.* After the initial obligation of funds, HUD will not make any upward revisions to the amount obligated for the acquisition/rehabilitation advance or the moderate rehabilitation grant.

(c) *Deobligation.* (1) HUD may deobligate amounts for the acquistion/rehabilitation advance or the moderate rehabilitation grant:

(i) If the actual total costs of acquisition, substantial rehabilitation, acquisition and rehabilitation, or moderate rehabilitation, are less than the total costs anticipated in the application; or

(ii) If proposed acquisition or rehabilitation activities are not begun or completed within a reasonable time after selection.

(2) If, as a result of an audit, HUD determines that the recipient has expended funds for uses that are ineligible under this part, HUD may adjust or deobligate funding amounts, as appropriate, to recover the ineligible costs.

(3) The grant agreement may set forth in detail other circumstances under which funds may be deobligated, and other sanctions may be imposed.

(4) HUD may:

(i) Readvertise the availability of funds that have been deobligated under this section in a notice of fund availability under § 841.200, or

(ii) Reconsider applications that were submitted in response to the most recently published notice of fund availability and select applications for funding with the deobligated funds. Such selections will be made in accordance with §§ 841.207–841.255.

Dated: October 21, 1987

Thomas T. Demery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 87-24769 Filed 10-23-87; 8:45 am]

BILLING CODE 4210-27-M

Notices

Federal Register
Vol. 52, No. 206
Monday, October 26, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1987 Service Annual Survey
Form Number: Agency—B-500T, B-500M, B-500T1, B-500T2, and B-500M1; OMB—0607-0422
Type of Request: Revision of a currently approved collection
Burden: 21,000 respondents; 4,650 reporting hours
Needs and uses: This survey is the only annual source of service receipts data. These data are used by the Federal Government for computation of the national accounts and for economic policy decisions, and by private industry for marketing analysis. Coverage was expended in response to Congressional and private initiatives.
Affected Public: Businesses or other for-profit institutions, non-profit institutions, and small businesses or organizations
Frequency: Annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC. 20503

Dated: October 20, 1987.

Edward Michals,

Departmental Clearance Officer of Management and Organization.

[FR Doc. 87-24705 Filed 10-23-87; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1987 Census of Manufactures Report from Penal Institutions
Form Number: Agency—MC-D4; OMB—NA
Type of Request: New collection
Burden: 52 respondents; 104 reporting hours
Needs and Uses: This census is conducted as part of the 1987 Economic and Agriculture Censuses in accordance with the requirements of Title 13, United States Code. The data from this report are used by the Bureau of Economic Analysis in its benchmarking of national accounts and are the only source of measured output of manufactured products by penal institutions.
Affected Public: State or local governments
Frequency: Quinquennially
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: October 20, 1987.

Edward Michals,

Departmental Clearance Officer, Officer of Management and Organization.

[FR Doc. 87-24706 Filed 10-23-87; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis
Title: Institutional Remittance to Foreign Countries
Form Number: Agency—BE-40; OMB—0608-0002
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 450 respondents; 1,080 reporting hours
Needs and Uses: This survey collects data on U.S. institutional remittances to foreign countries. The data is required for the preparation of the private remittances accounts of the U.S. balance of payments accounts.
Affected Public: Non-profit institutions
Frequency: Quarterly and annually
Respondent's Obligation: Voluntary
OMB Desk Officer: John Griffen, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: October 20, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-24707 Filed 10-23-87; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration
Title: Employment Data of Recipient or Other Party Connected with EDA Assistance
Form Number: Agency-EDA-525; OMB-0610-0021
Type of Request: Extension of a currently approved collection
Burden: 150 respondents; 600 reporting hours
Needs And Uses: This collection is necessary to obtain employment data to be analyzed to determine compliance status of recipients or "other parties" connected with EDA projects.
Affected Public: State or local governments, businesses or other for-profit institutions, non-profit institutions
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: John Griffen, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: October 20, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-24708 Filed 10-23-87; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis
Title: Direct Transactions of U.S. Reporter with Foreign Affiliate
Form Number: Agency—BE—577; OMB—0608-0004
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 8,800 respondents; 35,200 reporting hours
Needs and Uses: This survey collects data on current and capital account transactions between U.S. persons and foreign business enterprises in which they have an equity interest of 10 percent or more. Consists of data on earnings; dividends, interest, and fees and royalties received; and outstanding debt and equity position.
Affected Public: Businesses or other for-profit institutions
Frequency: Quarterly
Respondent's Obligation: Mandatory
OMB Desk Officer: John Griffen, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC. 20503.

Dated: October 20, 1987

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-24709 Filed 10-23-87; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis
Title: Foreign Personal Remittances
Form Number: Agency—BE-579; OMB—0608-0003
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 144 respondents; 144 reporting hours
Needs and Uses: This survey collects data on personal remittances to foreign individuals. The data is required for the preparation of the private remittances accounts of the U.S. balance of payments accounts. These accounts are used extensively by Government, international organizations such as the International Monetary Fund, The Organization for Economic Cooperation and Development, industry, and other private groups, and are an integral part of the U.S. National Income and Product Accounts.
Affected Public: Businesses or other for-profit institutions
Frequency: Monthly and quarterly
Respondent's Obligation: Voluntary
OMB Desk Officer: John Griffen, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC. 20503.

Dated: October 20, 1987

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-24710 Filed 10-23-87; 8:45 am]

BILLING CODE 3510-07-M

National Bureau of Standards

[Docket No. 71021-7221]

Request for Applications; Beta Test Sites for NBS Test Suite for POSIX [1]

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice.

SUMMARY: The Institute for Computer Sciences and Technology (ICST) at the National Bureau of Standards (NBS) is seeking organizational applicants for Beta Test Sites for the NBS Reference Implementation Test Suite (NBS-RIM) to test conformance to the proposed Federal Information Processing Standard (FIPS) on POSIX.

DATE: To become a Beta Test Site for the NBS-RIM, organizations should apply in writing by November 25, 1987.

ADDRESS: Applications should be submitted to: POSIX Beta Test, Attn: Roger J. Martin, National Bureau of Standards, Building 225, Room B266, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Roger J. Martin, (301) 975-3295.

SUPPLEMENTARY INFORMATION: The Institute for Computer Sciences and Technology (ICST) at the National Bureau of Standards (NBS) is seeking organizational applicants for Beta Test Sites for the NBS Reference Implementation Test Suite (NBS-RIM) to test conformance to the proposed Federal Information Processing Standard (FIPS) on POSIX.

[1] POSIX is a trademark of IEEE.

NBS/ICST has entered into an agreement with AT&T which permits NBS/ICST to use a subset of the AT&T System V Verification Suite (SVVS) as the basis for developing the NBS-RIM. SVVS is a licensed proprietary software product of AT&T. Pursuant with NBS/ICST's agreement with AT&T, Beta Test Sites must sign a NBS/ICST nondisclosure agreement prior to receiving the NBS-RIM.

The purpose of the beta testing is to ensure that the NBS-RIM has been fully debugged and ready for release into the public domain at which time it will become available for sale through the National Technical Information Service (NTIS). Beta testing is scheduled to begin on, or about, December 1, 1987. Beta Test Sites will execute the NBS-RIM in their environments and will be required to provide timely reports to NBS on the results. Interested parties should submit the name, telephone number and address of a contact to NBS at the address shown above.

Ernest Ambler,

Director.

Date: October 20, 1987.

[FR Doc. 87-24724 Filed 10-23-87; 8:45 am]

BILLING CODE 3510-CW-M

[Docket No. 71012-7212]

National Voluntary Laboratory Accreditation Program; Bulk Asbestos Analyses, etc.

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice.

SUMMARY: Under the National Voluntary Laboratory Accreditation Program (NVLAP), the National Bureau of Standards (NBS) announces the establishment of an accreditation program for laboratories that perform analyses for asbestos content in sample of: (1) Bulk insulation and building material collected during school inspections; and (2) airborne particulates collected following asbestos abatement projects. Establishment of the program is pursuant to Section 206d of the Asbestos Hazard Emergency Response Act (AHERA) of October 1986. The program provides accreditation for: (a) Laboratories analyzing bulk asbestos samples by means of polarized light microscopy (PLM); and (b) laboratories analyzing airborne asbestos samples by means of transmission electron microscopy (TEM), in accordance with protocols specified by the U.S. Environmental Protection Agency (EPA).

DATE: (1) The evaluation of an initial group of applicant laboratories, for bulk asbestos analyses, will commence on or about October 1, 1988. Laboratories wishing to be accredited in the first group must submit an application form and pay an initial fee of $300.00 by December 28, 1987. The fee is refundable if the laboratory's application is withdrawn before its evaluation begins.

(2) The evaluation of an initial group of applicant laboratories, for airborne asbestos sample analyses, will commence on or about October 1, 1989. NVLAP will announce the availability of applications and any initial fee for accreditation in the first group, at a later date.

ADDRESSES: (1) Laboratories may obtain applications for accreditation for bulk asbestos analyses by calling (301) 975-4016 or writing to:

Manager, NVLAP, Attn. ASB-BK ACR, A531 Administration, National Bureau of Standards, Gaithersburg, MD 20899.

(2) Laboratories may inform NVLAP of their intent to apply for accreditation, for airborne asbestos sample analyses, in the first group by writing to:

Manager, NVLAP, Attn. ASB-AIR ACR, A531 Administration, National Bureau of Standards, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Harvey W. Berger, Manager, National Voluntary Laboratory Accreditation Program, National Bureau of Standards, Admin. A531, Gaithersburg, MD 20899, (301) 975-4016.

SUPPLEMENTARY INFORMATION:

Background

This notice is issued in accordance with the NVLAP Procedures (15 CFR Part 7). Establishment of this program is pursuant to the requirements of Pub. L. 99-519, the Asbestos Hazard Emergency Response Act (AHERA) of October 1986, for: (1) Inspection of schools for asbestos containing materials, (2) air monitoring following asbestos abatements, and (3) accreditation of laboratories that perform analysis of bulk and/or airborne materials for asbestos content. The AHERA, under section 206 of the Toxic Substances Control Act, Title II (conforming amendment including AHERA), requires that NBS establish the laboratory accreditation program with funds provided by EPA. In August 1987, EPA and NBS signed an Interagency Agreement under which funds were provided by EPA to NBS to establish, develop, and implement the asbestos accreditation program.

In a letter dated January 6, 1986, Ian M. Stewart, V.P., McCrone Environmental Services, Inc., Chicago, IL, requested that NBS establish an accreditation program for laboratories that perform asbestos abatement testing. A notice of that request was published in the **Federal Register** on February 14, 1986 (51 FR 5582-5583), and written comments on the need for that program were received.

Bulk Asbestos Testing

NBS accreditation will be granted to laboratories that meet NVLAP criteria for determining the asbestos content of building materials by polarized light microscopy (PLM). Quality assurance (proficiency) testing will require demonstrated laboratory competence for detection in the range of 0 to 100 percent asbestos. The six commonly identified asbestos fibers (chrysotile, amosite, anthophyllite, crocidolite, actinolite, and tremolite) may be included in the test. Other commonly used bulk insulation and building materials (wollastonite, fiber glass, organic fibers, etc.) may also be included.

NVLAP will accredit laboratories which demonstrate their competence to perform bulk asbestos testing, in accordance with protocols specified by the EPA, and/or applicable standard test methods of the American Society for Testing Materials (ASTM). Competence will be determined through quality assurance (proficiency) testing and on-site laboratory assessments performed by technical experts. Laboratories must meet all NVLAP criteria and requirements in order to become accredited.

Laboratories will be provided with information on testing protocols and the criteria upon which accreditation actions will be based. They will be informed of the *balance* of fees due prior to evaluation. Those fees must be submitted in order for laboratories to be considered for accreditation in the first group.

Airborne Asbestos Testing

NVLAP will accredit laboratories which demonstrate their competence to perform airborne asbestos testing in accordance with protocols specified by EPA. Competence will be determined through quality assurance (proficiency) testing and on-site laboratory assessment performed by technical experts. Laboratories must meet all NVLAP criteria and requirements in order to become accredited.

NBS accreditation will be granted to laboratories that meet NVLAP criteria for measuring asbestos in airborne particulate samples, from post-abatement clearance testing, by transmission electron microscopy

(TEM). Quality assurance (proficiency) testing will require demonstrated laboratory competence for detection at no near ambient levels of asbestos. However, levels may be higher in some cases to simulate ambient levels where abatement is incomplete (approximately 0.04 fibers per cubic centimeter).

Although the AHERA refers to the use of scanning electron microscopy (SEM) for airborne asbestos sample analysis, TEM is recognized as the preferred technique. It is the intent of NBS and EPA to include in this program any monitoring technique which has been demonstrated to reliably determine the asbestos materials of interest. SEM has been used by several investigators for airborne asbestos fibers. However, no standard protocol for the analysis of airborne asbestos by SEM has been used by those investigators. EPA comparisons between TEM and SEM have shown mixed results and the relative utilities of the two methods have been extensively debated in recent years. The SEM procedure used appears unable to detect small diameter asbestos fibers. NBS has developed and is currently evaluating a draft SEM protocol for EPA. Preliminary NBS results indicate that SEM does not permit distinguishing the asbestos fiber signal against the background signal. It is the NBS and EPA position that it is inappropriate to develop an accreditation program based on SEM while this research is continuing. When the NBS investigation is complete, a decision to offer NVLAP accreditation for SEM will be made if it has been demonstrated to be capable of sufficient detection capability.

Establishment of Technical Requirements for the Accreditation Process

Specific requirements and criteria will be established for determining laboratory qualifications for accreditation following prescribed NVLAP criteria. Criteria will address quality systems, staff, facilities and equipment, calibrations, test methods and procedures, manuals, records, and test reports. Laboratory competence will be determined through: (1) On-site assessments (systems audit) of the laboratory by peer assessors, (2) evaluation of analysts' background, competence and experience, (3) review of the technical documentation, and (4) quality assurance (proficiency) testing through analysis of representative samples containing asbestiform and non-asbestiform fibers in accordance with designated procedures. The performance test criteria will emphasize qualitative results and to a lesser degree the quantitative results. This is due to the emphasis in the AHERA and other EPA regulations which define greater than 1 percent asbestos as an action level without further regard for exact quantitation.

Laboratories which apply for accreditation and pay all necessary fees will be required to meet proficiency testing (quality assurance testing) requirements and on-site assessment requirements before initial accreditation and will be required to meet on-going proficiency testing requirements to retain accreditation.

NBS in cooperation with technical experts in EPA and other public and private technical organizations will develop draft protocols, technical criteria and procedures for accreditation. Public workshops will be held to afford opportunities for interested parties to review and comment on the technical and administrative procedures proposed for the accreditation program. Notice of such workshops will be published in the **Federal Register** and other appropriate media.

Raymond Kammer,
Acting Director.
Date: October 15, 1987.

[FR Doc. 87-24711 Filed 10-23-87; 8:45 am]
BILLING CODE 3510-13-M

[Docket No. 71022-7222]

National Voluntary Laboratory Accreditation Program; Directory of Accredited Laboratories Supplement

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of NVLAP Directory Supplement.

SUMMARY: The National Bureau of Standards (NBS) announces laboratory accreditation actions taken during the third quarter of 1987.

FOR FURTHER INFORMATION CONTACT: Harvey W. Berger, Manager, Laboratory Accreditation, ADMIN A531, National Bureau of Standards, Gaithersburg, MD 20899 (301) 975-4016.

SUPPLEMENTARY INFORMATION: This supplement to the 1986-87 NVLAP Directory of Accredited Laboratories (NBSIR 87-3519) is published pursuant to section 7.6(b) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR 7.6(b)).

The following table summarizes NVLAP accreditation actions for the period July 1, 1987, through September 30, 1987.

	TIM	CTS	CAR	STO	ACO	CPL	DOS	SEA	ECT	Totals
Initial accreditations			1				1			+2
Renewals							1			+2
Terminations		1								−2
870930 Balance	1	1								
	36	25	22	9	8	6	50	1	16	173

The laboratories awarded initial accreditation are:

Carpet: Bentley Laboratory, City of Industry, CA, Donvan Morris, 800-423-4907

Dosimetry: United States Testing, Richland, WA, Govind R. Rao, 509-375-3131

The laboratories whose accreditation was renewed are:

Construction Testing

Services: Phillipine Geoanalytics, Quezon City, Philippines, Emilio M. Morales, 97-27-12

Dosimetry: Omaha Public Power District, Omaha, NE, Marilyn Hawes, 402-536-4096

The laboratories whose accreditation was terminated are:

Insulation: Apache Building Products Company, Linden, NJ

Construction Testing

Services: PTL Inspectorate, Inc., Pittsburgh, PA

TIM—Insulation LAP
CTS—Construction Testing Services LAP (formerly Concrete LAP)
CAR—Carpet LAP
ACO—Acoustical Testing Services LAP
STO—Stove LAP
CPL—Commercial Products LAP (Paint, Paper, Mattresses)
DOS—Dosimetry LAP
SEA—Seals and Sealants LAP
ECT—Electromagnetic Compatibility and Telecommunications

Raymond Kammer,
Acting Director.
Date: October 19, 1987.

[FR Doc. 87-24712 Filed 10-23-87; 8:45 am]
BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Permits; Foreign Fishing

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the exclusive economic zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*).

Send comments on applications to:

Fees and Permits Branch (F/MTS21), National Marine Fisheries Service, Department of Commerce, Washington, DC 20235

or, send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231-0422

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building Room 2115, 320 South New Street, Dover, DE 19901, 302/674-2331

Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803/571-4366

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00918, 809/753-4926

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228-2815

Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Building, Suite 420, 2000 SW. First Avenue, Portland, OR 97201, 503/221-6352

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, 907/274-4563

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813, 808/523-1368

FOR FURTHER INFORMATION CONTACT: John D. Kelly or Shirley Whitted (Fees and Permits Branch, 202-673-5319).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the **Federal Register**. The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1987 have been received from the Governments shown below.

Dated: October 19, 1987.

Carmen J. Blondin,
Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

Fishery codes and designation of Regional Fishery Management Councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional fishery management councils
ABS	Atlantic Billfishes and Sharks.	New England, Mid Atlantic, South Atlantic, Gulf of Mexico, Caribbean
BSA	Bering Sea and Aleutian Islands Groundfish.	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic Ocean.	New England, Mid-Atlantic.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Pacific Groundfish (Washington, Oregon and California).	Pacific.
PBS	Pacific Billfishes and Sharks.	Western Pacific.

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing and other support.
2	Processing and other support only
3	Other support only.
*	Vessel(s) in support of U.S. vessels Joint Venture
**	Cargo transport vessels with fish finding equipment on board will receive an activity code 2 to enable them to perform both scouting as well as support activities.

Nation, Vessel name, and Vessel type	Application Number	Fishery	Activity
Government of the People's Republic of China:			
Yun Hai, Factory Ship	CH-87-0007	BSA, WOC GOA	1*
Government of Denmark:			
F/V Olaf I Gardastovu, Large Stern Trawler	DA-87-0051	NWA	1*
F/V Radhamer, Large Stern Trawler	DA-87-0052	NWA	1*
Government of the Greece:			
M.V. Nisos Shiatros, Cargo/Transport Vessel	GR-87-0007	WOC	3
Reefer Turbo, Cargo/Transport Vessel	GR-87-0008	WOC	3
Government of Japan:			
Anyo Maru No. 1, Small Stern Trawler	JA-87-1552	BSA	1
Enkwa Maru, Large Stern Trawler	JA-87-0898	BSA, GOA	1*
Hakidu, Cargo/Transport Vessel	JA-87-0196	BSA, GOA NWA	3
Sango Maru, Cargo/Transport Vessel	JA-87-0924	BSA, GOA NWA	3
Kaiyo Maru No. 28, Medium Stern Trawler	JA-87-1544	BSA	1
Kiyo Maru, Cargo/Transport Vessel	JA-87-1026	BSA, GOA NWA	3
Eiiyu Maru No. 5 Medium Stern Trawler	JA-87-1549	BSA	1
Eiiyu Maru No. 6 Medium Stern Trawler	JA-87-1550	BSA	1
Eiiyu Maru No. 62, Longline Fishing Vessel	JA-87-0807	BSA	1
Fukuho Maru No. 78, Small Stern Trawler	JA-87-1548	BSA	1
Fukuyoshi Maru No. 88, Longline Fishing Vessel	JA-87-0844	BSA	1
Sumi Maru No. 8, Longline Fishing Vessel	JA-87-1546	ABS	1
Taisho Maru No. 68, Small Stern Trawler	JA-87-1547	BSA	1
Government of the Republic of Korea:			
Nam Joo Ho, Tanker	KS-87-0146	BSA, GOA WOC	3
Government of the Polish People's Republic:			
Gopio, Medium Stern Trawler	PL-87-0057	BSA, GOA WOC	1*
Government of the Union of Soviet Socialist Republics:			
Ostrov Shmidta, Cargo/Transport Vessel	UR-87-0256	BSA, GOA WOC	3

[FR Doc. 87-24719 Filed 10-23-87; 8:45 am]
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Permits; Foreign Fishing

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the exclusive economic zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*) Send comments on applications to: Fees and Permits Branch (F/TS21), National Marine Fisheries Service, Department of Commerce, Washington, DC 20235 or, send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231–0422

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building Room 2115, 320 South New Street, Dover, DE 19901, 302/674–2331

Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803/571–4366

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00918, 809/753–4926

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228–2815

Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Building, Suite 420, 2000 S.W. First Avenue, Portland, OR 97201, 503/221–6352

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, 907/274–4563

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813, 808/523–1368

For further information contact John D. Kelly or Shirley Whitted (Fees and Permits Branch, 202–673–5319).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all regulations for such permits summarizing the contents of the applications in the **Federal Register**. The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1988 have been received from the Governments shown below.

Dated: October 21, 1987.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

Fishery codes and designation of Regional Fishery Management Councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional fishery management councils
ABS	Atlantic Billfishes and Sharks.	New England, Mid Atlantic, South Atlantic, Gulf of Mexico, Caribbean
BSA	Bering Sea and Aleutian Islands Groundfish.	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic Ocean.	New England, Mid-Atlantic.
SNA	Snails (Bering Sea)	North Pacific
WOC	Pacific Groundfish (Washington, Oregon and California).	Pacific.
PBS	Pacific Billfishes and Sharks.	Western Pacific

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing and other support.
2	Processing and other support only.
3	Other support only.
*	Vessel(s) in support of U.S. vessels (Joint Venture).
**	Cargo transport vessels with fish finding equipment on board will receive an activity code 2 to enable them to perform both scouting as well as support activities.

Nation, Vessel name, and Vessel type	Application No.	Fishery	Activity
Government of the German Democratic Republic:			
Willi Bredel, Large Stern Trawler	GC–88–0024	NWA	1*
Bodo Uhse, Large Stern Trawler	GC–88–0040	NWA	1*
Ehm Welk, Large Stern Trawler	GC–88–0041	NWA	1*
Ludwig Renn, Large Stern Trawler	GC–88–0054	NWA	1*
Lichtenhagen, Cargo/Transport Vessel	GC–88–0055	NWA	3
Reutershagen, Cargo/Transport Vessel	GC–88–0056	NWA	3
Bruno Apitz, Large Stern Trawler	GC–88–0053	NWA	1*
Government of the Kingdom of the Netherlands:			
Alida, Large Stern Trawler	NL–88–0006	NWA	1*
Prins Bernhard, Large Stern Trawler	NL–88–0007	NWA	1*
Ariadne, Medium Stern Trawler	NL–88–0009	NWA	1*
Cornelis Vrolijk FZN, Medium Stern Trawler	NL–88–0014	NWA	1*
Zeeland, Large Stern Trawler	NL–88–0022	NWA	1*
Holland, Large Stern Trawler	NL–88–0023	NWA	1*
Hendrika Johanna, Medium Stern Trawler	NL–88–0025	NWA	1*
Dirk Dirk, Large Stern Trawler	NL–88–0026	NWA	1*
Annie Hiltina, Medium Stern Trawler	NL–88–0027	NWA	1*
Aeltje, Large Stern Trawler	NL–88–0028	NWA	1*
Friesland, Medium Stern Trawler	NL–88–0031	NWA	1*
Geertruid Margreta, Large Stern Trawler	NL–88–0032	NWA	1*
Government of the Polish People's Republic:			
Kunetka, Large Stern Trawler	PL–88–0021	NWA	1*
Laskara, Large Stern Trawler	PL–88–0024	NWA	1*
Hetnick, Cargo/Transport Vessel	PL–88–0029	NWA, WOC, BSA, GOA	3
Lewanter, Cargo/Transport Vessel	PL–88–0030	NWA, WOC, BSA, GOA	3
Buran, Cargo/Transport Vessel	PL–88–0033	NWA, WOC, BSA, GOA	3
Admiral Arciszewski, Large Stern Trawler	PL–88–0081	NWA	1*
Temat, Cargo/Transport Vessel	PL–88–0088	NWA, WOC, BSA, GOA	3
Andromeda, Large Stern Trawler	PL–88–0089	NWA	1*
Solano, Cargo/Transport Vessel	PL–88–0112	NWA, WOC, BSA, GOA	3
Tornado, Cargo/Transport Vessel	PL–88–0113	NWA, WOC, BSA, GOA	3
Kulbin, Stern Trawler	PL–88–0117	NWA	1*
Kantar, Large Stern Trawler	PL–88–0118	NWA	1*
Gemini, Large Stern Trawler	PL–88–0048	BSA, GOA, WOC	1*
Indus, Large Stern Trawler	PL–88–0094	BSA, GOA, WOC	1*
Perseus, Large Stern Trawler	PL–88–0004	BSA, GOA, WOC	1*

Nation, Vessel name, and Vessel type	Application No.	Fishery	Activity
Pollux, Large Stern Trawler	PL–88–0006	BSA, GOA, WOC	1*
Regulus, Large Stern Trawler	PL–88–0095	BSA, GOA, WOC	1*
Sagitta, Large Stern Trawler	PL–88–0040	BSA, GOA, WOC	1*
Sirius, Large Stern Trawler	PL–88–0062	BSA, GOA, WOC	1*
Vega, Large Stern Trawler	PL–88–0055	BSA, GOA, WOC	1*
Garnela, Large Stern Trawler	PL–88–0008	BSA, GOA, WOC	1*
Grinwal, Large Stern Trawler	PL–88–0007	BSA, GOA, WOC	1*
Gigiel, Medium Stern Trawler	PL–88–0057	BSA, GOA, WOC	1*
Humbak, Large Stern Trawler	PL–88–0019	BSA, GOA, WOC	1*
Kelmar, Large Stern Trawler	PL–88–0039	BSA, GOA, WOC	1*
Kolias, Large Stern Trawler	PL–88–0050	BSA, GOA, WOC	1*
Manta, Large Stern Trawler	PL–88–0052	BSA, GOA, WOC	1*
Merlin, Large Stern Trawler	PL–88–0034	BSA, GOA, WOC	1*
Mors, Large Stern Trawler	PL–88–0063	BSA, GOA, WOC	1*
Mustel, Large Stern Trawler	PL–88–0012	BSA, GOA, WOC	1*
Orcyn, Large Stern Trawler	PL–88–0077	BSA, GOA, WOC	1*
Orlen, Large Stern Trawler	PL–88–0078	BSA, GOA, WOC	1*
Orol, Large Stern Trawler	PL–88–0011	BSA, GOA, WOC	1*
Delfin, Large Stern Trawler	PL–88–0065	BSA, GOA, WOC	1*
Hejdut, Large Stern Trawler	PL–88–0066	BSA, GOA, WOC	1*
Parma, Large Stern Trawler	PL–88–0084	BSA, GOA, WOC	1*
Rekin, Large Stern Trawler	PL–88–0080	BSA, GOA, WOC	1*
Dzeci Polskie, Cargo/Transport Vessel	PL–88–0091	BSA, GOA, WOC	3
Delmor 2, Large Stern Trawler	PL–88–0114	BSA, GOA, WOC	1*
Denebola, Large Stern Trawler	PL–88–0075	BSA, GOA, WOC	1*
Altair, Large Stern Trawler	PL–88–0115	BSA, GOA, WOC	1*
Antares, Large Stern Trawler	PL–88–0037	BSA, GOA, WOC	1*
Arcturus, Large Stern Trawler	PL–88–0038	BSA, GOA, WOC	1*
Prof. Bogucki, Large Stern Trawler	PL–88–0107	BSA, GOA, WOC	1*
Cassiopeia, Large Stern Trawler	PL–88–0099	BSA, GOA, WOC	1*
Tazar, Large Stern Trawler	PL–88–0054	BSA, GOA, WOC	1*
Tunek, Large Stern Trawler	PL–88–0045	BSA, GOA, WOC	1*
Wolen, Large Stern Trawler	PL–88–0009	BSA, GOA, WOC	1*
Wloczniik, Large Stern Trawler	PL–88–0020	BSA, GOA, WOC	1*
Amaral, Large Stern Trawler	PL–88–0046	BSA, GOA, WOC	1*
Aquarius, Large Stern Trawler	PL–88–0103	BSA, GOA, WOC	1*
Aquila, Large Stern Trawler	PL–88–0097	BSA, GOA, WOC	1*
Avior, Large Stern Trawler	PL–88–0060	BSA, GOA, WOC	1*
Bogar, Large Stern Trawler	PL–88–0065	BSA, GOA, WOC	1*
Antoni Garnuszewski, Cargo/Transport Vessel	PL–88–0106	BSA, GOA, WOC	3
Gdynski Kosynier, Cargo/Transport Vessel	PL–88–0092	BSA, GOA, WOC	3
Kaszuby 2, Cargo/Transport Vessel	PL–88–0027	BSA, GOA, WOC	3
Kociewie, Cargo/Transport Vessel	PL–88–0116	BSA, GOA, WOC	3
Kapitan Ledochowski, Cargo/Transport Vessel	PL–88–0087	BSA, GOA, WOC	3
Mazury, Cargo/Transport Vessel	PL–88–0096	BSA, GOA, WOC	3
Pierwy 2, Tanker Fuel/Water	PL–88–0110	BSA, GOA, WOC	3
Plock, Cargo/Transport Vessel	PL–88–0109	BSA, GOA, WOC	3
Tatry, Tanker Fuel/Water	PL–88–0108	BSA, GOA, WOC	3
Wisnia, Cargo/Transport Vessel	PL–88–0061	BSA, GOA, WOC	3
Zulawy, Cargo/Transport Vessel	PL–88–0041	BSA, GOA, WOC	3
Zywiec, Cargo/Transport Vessel	PL–88–0089	BSA, GOA, WOC	3
Zonda, Cargo/Transport Vessel	PL–88–0102	BSA, GOA, WOC	3
Government of the Union of Soviet Socialist Republics:			
Soveksi, Factory Ship	UR–88–0777	NWA	1*

Joint Venture

The Governments of the German Democratic Republic (GDR), the Kingdom of the Netherlands (Netherlands), the Polish People's Republic (Poland), and the Union of the Soviet Socialist Republics (USSR) have submitted permit applications to engage in joint venture activities in the NWA mackerel fishery during 1988. The following table summarizes their request:

NORTHWEST ATLANTIC OCEAN MACKEREL FISHERY

Country	Species request		
	Joint venture (mt)	Directed (mt)	American partner
GDR	8,000	22,000	Mayflower International, ltd., Gloucester, MA.
Netherlands	2,000	30,000	Scan Ocean, Ltd., Gloucester, MA.

NORTHWEST ATLANTIC OCEAN MACKEREL FISHERY—Continued

Country	Species request		
	Joint venture (mt)	Directed (mt)	American partner
Poland	7,000	21,000	Mayflower International, ltd., Gloucester, MA.
USSR	4,500	22,500	Resource Trading Co., Portland, OR.

The Government of the Polish People's Republic has also submitted application requests in the WOC hake fishery for 51,000 mt for directed and joint venture activities in equal amounts; and a request for pollock in the BSA fishery for 45,000 mt for directed and joint venture activities in equal amounts.

[FR Doc.87–24720 Filed 10–23–87; 8:45 am]

BILLING CODE 3510–22–M

[Modification No. 6 to Permit No. 220]

National Marine Fisheries Service; Permit Modification; Southwest Fisheries Center (P77N)

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Parts 216), Scientific Research Permit No. 220 issued to the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, on February 3, 1978 (43 FR 6827), as modified on March 9, 1978 (43 FR 11730), April 4, 1978 (43 FR 14982), May 16, 1979 (44 FR 29951), May 13, 1980 (45 FR 33676), and November 30, 1982 (47 FR 55262), is further modified to extend the period of authorized taking for one year.

Section B.12 is deleted and replaced by:

"12. This Permit is valid with respect to the taking authorized herein until December 31, 1988."

This modification becomes effective on October 20, 1987.

Documents submitted in connection with the above Permit and modification are available for review in the following offices:

Office of Protected Resources and Habitat Programs, 1825 Connecticut Avenue, NW., Room 805, Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Date: October 20, 1987.

Dr. Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87-24718 Filed 10-23-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extension of an Import Restraint Limit for Certain Wool Textile Products Produced or Manufactured in the People's Republic of China

October 21, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 27, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to extend the import restraint limit for wool textile products in Category 442, produced or manufactured in the People's Republic of China and exported to the United States for the period which begins on October 27, 1987 and extends through October 26, 1988.

Background

On October 26, 1986 a notice was published in the **Federal Register** (51 FR 39408) which announced the establishment of import restraint limits for certain cotton and wool textile products, including Category 442, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on October 27, 1986 and extends through October 26, 1987.

To avoid continued risk of market disruption, the Committee for the Implementation of Textile Agreements, in accordance with section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973 and extended by protocols on December 14, 1977, December 22, 1981 and July 31, 1986; and the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, has decided to extend the restraint limit for the twelve-month period which begins on October 27, 1987 and extends through October 26, 1988.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register**.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 21, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 27, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 442, produced or manufactured in the People's Republic of China and exported during the twelve-month period which begins on October 27, 1987 and extends through October 26, 1988, in excess of 20,390 dozen.

Goods shipped in excess of the previous twelve-month period established in the directive of October 24, 1986, which began on October 27, 1986 and extends through October 26, 1987 shall be subject to the level set forth in this letter.

Effective on October 27, 1987, you are directed to charge 10,106 dozen to the limit established in this directive for goods imported on October 27, 1986 and exported during the period July 29, 1986 through October 26, 1986.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-24752 Filed 10-23-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. QF88-5-000, et al.]

Rivanna Water & Sewer Authority, et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Rivanna Water & Sewer Authority)

[Docket No. QF88-5-000]

October 20, 1987.

On October 7, 1987, Rivanna Water & Sewer Authority, c/o George W. Williams, Executive Director, P.O. Box 18, Charlottesville, Virginia 22902-0018, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 950 kilowatt hydroelectric facility will be located on the south fork of the Rivanna River in Albemarle County, Virginia.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

2. City of Harrisburg, Pennsylvania

[Docket No. QF88-2-000]

October 20, 1987.

On October 2, 1987, The City of Harrisburg, Pennsylvania (Applicant), of Department of Public Works, Vance McCormick Public Services Center, Harrisburg, Pennsylvania 17101-1681, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 34,400 kW hydroelectric facility (FERC P. 10418) will be located on the Susquehanna River in Harrisburg, Pennsylvania.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

3. General Energy Development, Inc.

[Docket No. QF87-688-000]

October 21, 1987.

On September 29, 1987, General Energy Development, Inc. (Applicant), of 155 North Main Street, New City, New York 10956 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Oceanside, New York. The facility will consist of internal combustion generator sets. The electric power production capacity will be 6.25 megawatts. The primary energy source will be biomass in the form of landfill gas. There is no planned use of oil, coal or natural gas in this facility.

4. General Energy Development, Inc.

[Docket No. QF83-402-001]

October 21, 1987.

On September 29, 1987, General Energy Development, Inc. (Applicant), of 155 North Main Street, New York, New York 10956 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Albany, New York. The facility will consist of internal combustion generator sets. The electric power production capacity will be 2,500 kilowatts. The primary energy source will be biomass in the form of methane and other gases from a sanitary landfill.

By order issued November 22, 1983, the Director of Office of Electric Power Regulation granted certification of the facility as a small power production facility (25 FERC ¶62,258).

The recertification is requested due to change in ownership from Wehran Energy Corp. to General Energy Development, Inc. and electric power production capacity increase from 1,650 kilowatts to 2,500 kilowatts. All other facility's characteristics remain unchanged.

5. The Madera Power Plant Partnership

[Docket No. QF87-689-000]

October 21, 1987.

On September 30, 1987, The Madera Power Plant Partnership (Applicant), of 1620 Carpenter Road, Building C, Suite 28, Modesto, California 95351, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located six miles east of Firebaugh, Madera County, California and will consist of a fluidized bed combustion steam generator and a steam turbine generator. The net electric power production capacity of the facility will be approximately 20 MW. The primary source of energy will be biomass in the form of almond prunings, cotton stalks, wheat straw and other similiar agricultural waste products. Propane will be used for ignition, start-up, flame stabilization, and other uses identified under section 3(17)(B) of the Federal Power Act. Such fossil fuel uses, however, will not exceed one percent of the total energy input to the facility during any calendar year period.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24729 Filed 10-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-58-000]

E.D. Anderson; Petition for Adjustment From the 150-day Filing Requirement

October 21, 1987.

On September 3, 1987, E.D. Anderson (Anderson) filed with the Commission, pursuant to § 271.805(f)(1) of the Commission's regulations, a petition requesting waiver of the 150-day time limit for filing applications for continued stripper well status for wells that over-produce because of enhanced recovery operations.[1] Approval of such an application would permit the applicant to continue to collect the maximum lawful price for previously qualified stripper well gas sold under section 108 of the Natural Gas Policy Act of 1978 (NGPA).

Anderson states that he is the owner and operator of the D.W. Tucker well, located in Jack County, Texas, and that the well qualified as a NGPA section 108 stripper well on June 21, 1982. Anderson states that in November 1982, he applied enhanced recovery techniques to the Tucker well and, as a result, production from the well exceeded the 60 Mcf per day ceiling in order to qualify as a stripper well under § 271.804.[2] According to Anderson, the Tucker well was disqualified as a stripper well effective December 1, 1982. Anderson states that because he was unaware of the 150 day filing requirement for production enhancement applications, he failed to make the required filing under § 271.805(f)(1) of the Commission's regulations. Anderson asserts that the purchaser of the gas, Lone Star Gas Company, also failed to notify the jurisdictional agency of the over-production from the Tucker No. 1 well, as is required under the Commission regulations. According to Anderson, the enhanced recovery application was filed with the Texas Railroad Commission (TRC) on January 13, 1984, and approved on March 19, 1984.

Anderson requests that the Commission grant his petition for adjustment by waiving the 150-day application filing requirement of § 271.805(f)(1) and allowing the Tucker No. 2 well to qualify for the section 108 price from December 31, 1982 through January 13, 1984, when the enhanced recovery application was filed with the TRC.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure.[3] All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, not later than 30 days following publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of this petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24733 Filed 10-23-87 8:45 am]

BILLING CODE 6717-01-M

[1] 18 CFR 271.805(f)(1)(1987).

[2] 18 CFR 271.804 (1987).

[3] 18 CFR 385.214 and 385.211 (1987).

[Docket No. CI88-30-000]

Brandywine Industrial Gas Inc.; Application

October 21, 1987.

Take notice that on October 15, 1987, Brandywine Industrial Gas Inc., a Delaware corporation, P.O. Box 2197, Houston, Texas 77252, filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (15 U.S.C. 717f(b) and 717f(c)) and §§ 157.5 and 157.23 of the Federal Energy Regulatory Commission's Regulations (18 CFR 157.5 and 157.23), for a blanket certificate of public convenience and necessity authorizing the sale of natural gas for resale in interstate commerce on the spot and/or short-term market with pregranted abandonment authority.

Brandywine requests that the sales and abandonment authority requested be made applicable to all natural gas which remains subject to the Commission's jurisdiction under the Natural Gas Act (NGA). The authority is requested for (1) gas never previously sold in interstate commerce but which, if sold, would require a certificate; (2) NGA gas which is not committed to a contract; and (3) gas which has been abandoned in connection with (i) take-or-pay settlements under §§ 2.76 and 2.77, (ii) automatic abandonments pursuant to Order Nos. 451 and 451-A, and (iii) other producer/supplier abandonments secured through various other established methods. Brandywine requests such authority as to gas owned by it, and not to sales on behalf of others or as agent for others, and further requests that such authority be granted for a term of three years.

Brandywine also requests that filing of a blanket affidavit to cover such sales in accordance with § 154.94(h) of the Commission's Regulations be waived and, to the extent that Brandywine qualifies for any allowance for production-related costs under section 110 of the NGPA, Brandywine requests that the requirement that it comply with § 154.94(k) and Part 271 of the Commission's Regulations be waived. Finally, Brandywine requests that the certificate state that Brandywine will be subject to the Commission's jurisdiction only to the extent necessary to effectuate the requested authority and only with respect to its participation in the transactions authorized.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24734 Filed 10-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C187-887-000]

Cimarron Transmission Co. v. Lincoln Rock Corp.; Petition for Declaratory Order

October 21, 1987.

Take notice that on September 8, 1987, Cimarron Transmission Company (Cimarron) filed pursuant to Rule 207 of the Commission's rules of practice and procedure a petition for a declaratory order determining the meaning and effect of certain language in its rollover gas purchase contract with Lincoln Rock Corporation (LRC).

Cimarron states that LCR sells gas to Cimarron produced from certain lands and leases located in Love County, Oklahoma. Cimarron further states that LCR contends that it (LCR) is not obligated under its contract with Cimarron to continue to compress the subject gas under the rollover contract (LRC's gas cannot enter Cimarron's system without first being compressed). According to Cimarron, LRC argues that if Cimarron does not elect to compress the gas then LRC is entitled to a release from its contractual commitment to sell the gas to Cimarron. Cimarron requests that the Commission issue a declaratory order as to the meaning and effect of the pertinent contract language which determines whether LRC is entitled to a contractual release. Cimarron further contends that all gas contractually committed to the interstate market piror to the enactment of the NGPA along with all gas thereafter commingled with such committed or dedicated gas prior to delivery to Cimarron remains committed or dedicated to the interstate market. Thus, Cimarron maintains that notwithstanding any contractual release, such gas must continue to be sold and delivered to Cimarron.

Any person desiring to protest this petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the requirements of rules 211 and 214 of the Commission's rules of practice and procedure, 18 CFR 385.211 and 385.214 (1987). Motion to intervene or protest should be filed not later than 30 days following publication of this notice in the **Federal Register**. All protests filed will be considered by the Commission but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24735 Filed 10-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-157-001]

El Paso Natural Gas Co.; Tariff Filing

October 21, 1987.

Take notice that on October 13, 1987, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act and in compliance with section 5.5 of Article V of the Offer of Settlement approved by Commission order issued September 29, 1987 at Docket No. RP86-157-000, Substitute Thirteenth Revised Sheet No. 100, Substitute First Revised Sheet No. 100-A and Original Sheet No. 100-B to its FERC Gas Tariff, First Revised Volume No. 1 and Substitute Thirty-seventh Revised Sheet No. 1-D to its FERC Gas Tariff, Third Revised Volume No. 2.

El Paso states that the Offer of Settlement resolves the issue of El Paso's net liquid revenue deficiencies and sets forth a revised billing procedure for natural gas liquid revenues which are currently being reflected in surcharges to El Paso's commodity rates. Section 5.5 of Article V of the Offer of Settlement provides that upon the effectuation of the Settlement, El Paso shall tender for filing with the Commission revised tariff sheets conforming to the *pro forma* tariff sheets which were attached to the Offer of Settlement. As indicated in section 2.1 of Article II of the Offer of Settlement, the *pro forma* tariff sheets reflect a reduction in El Paso's commodity rates, to be effective July 1, 1987, of $0.7489 per dth from those rates which were effective as of April 1, 1987. Such reduction reflects the elimination of the amounts included in El Paso's surcharge rate for collection of the change in net liquid revenues related to the period July through December, 1986, inclusive of related interest. The tariff sheets also reflect a special liquid surcharge of $0.2240 per dth applicable to the commodity rates charged to one-part rate customers (other than Gas Company of New Mexico) in lieu of direct billing. The *pro forma* tariff sheets also reflect the amount that the California two-part rate customers, other individual two-part rate customers and Gas Company of New Mexico will be directly billed each month for net liquid revenue deficiencies commencing with the billing for July, 1987 business and thereafter each month for 36 consecutive months in accordance with the calculation and allocation of the total revised billing amount set forth in Article II of the Offer of Settlement.

El Paso further states that consistent with section 5.5 of Article V of the Offer of Settlement, the tendered tariff sheets will conform, except as described below, to the *pro forma* tariff sheets attached to said Settlement.

El Paso states that there are two differences on the tendered tariff sheets from the *pro forma* tariff sheets. Tendered Substitute 13th Revised Sheet No. 100 reflects a footnote 1 notation at Rate Schedule ABD-S, section 3.1—Texas under the column heading "RP86-157 Settlement" and "Effective Tariff Rate" (the same footnote as indicated for New Mexico) which was inadvertently omitted on *pro forma* tariff Sheet No. 100. This change is necessary since Gas Company of New Mexico also purchases natural gas under the ABD-S—Texas Rate Schedule. For the same reason, tendered Substitute First Revised Sheet No. 100-A differs from the *pro forma* tariff Sheet No. 100-A by a revision to footnote 1 reflecting the rate for Gas Company of New Mexico for gas purchased under Rate Schedule ABD-S—Texas of $2.0941.

El Paso also tendered Substitute Thirty-seventh Revised Sheet No. 1-D to its FERC Gas Tariff, Third Revised Volume No. 2 which serves to reflect the Docket No. RP86-157-000 Settlement rates applicable to special Rate Schedule Z-6 as such rate schedule is keyed to Rate Schedule X-1 contained in El Paso's FERC Gas Tariff, First Revised Volume No. 1.

El Paso respectfully requests waiver of all applicable Commission rules and regulations as may be necessary to permit the tendered tariff sheets to become effective on July 1, 1987, the effective date approved by the Commission's September 29, 1987 order.

El Paso states that copies of the filing have been served upon all parties of record in Docket No. RP86-157-000 and, otherwise, upon all of its interstate pipeline system customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before October 28, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24725 Filed 10-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA86-70-000]

Missouri Public Service; Notice Establishing Intervention and Shortened Briefing Procedures

October 20, 1987.

By letter order dated July 29, 1987, in this docket, the Commission issued a report summarizing the results of a staff audit of the books and records of Missouri Public Service (Company). The letter order noted the Company's

disagreement with certain matters contained in the report and directed the Company to notify the Commission whether it consents to the disposition of the contested matters [1] under the shortened procedures set forth in Part 41 of the Commission's regulations.[2]

On August 27, 1987, the Company notified the Commission that it consented to the disposition of the contested matters under the shortened procedures.

In its July 29, 1987, letter order, the Commission noted that "In the event the Company continues to disagree with the Division of Audits' recommendations set forth herein, including the refunding of incorrect FAC billings, the question of the just and reasonableness of the Amax payments, which is the underlying standard for including the amounts in utility operating expense accounts, will become an issue in the proceedings to resolve the FAC overbilling issue." Accordingly, submissions in this proceeding should fully address why the payments should be considered just and reasonable by this Commission for accounting and rate recovery purposes, consistent with § 41.8 of the Commission's regulations.

The following schedule is hereby established:

(A) Any person desiring to participate in this docket should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1986)). All such protests or motions should be filed within 30 days after publication of this notice in the **Federal Register**. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

(B) Missouri Public Service, any interested party and the Commission trial staff shall file with the Commission within 30 days of the date of publication of this notice in the **Federal Register** a memorandum of facts and arguments addressing the contested matters noted herein in accordance with Part 41 of the Commission's regulations under the Federal Power Act.

(C) Reply memoranda shall be filed with the Commission within 20 days thereafter.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24730 Filed 10-23-87; 8:45 am]

BILLING CODE 6717-01-M

[1] An explanation of the contested matters is set forth in the letter order.

[2] 18 CFR Part 41 (1986).

[Docket No. CI88-18-000]

Penn Resources, Inc., et al.; Application for Permanent Abandonment and Limited-Term Pregranted Abandonment for Sales Under Small Producer Certificates

October 21, 1987.

Take notice that on October 9, 1987, Penn Resources, Inc., *et al.*[1] (Penn, *et al.*) filed an application in Docket No. CI88-18-000, pursuant to section 7 of the Natural Gas Act requesting permanent abandonment of their sale of surplus residue gas to El Paso Natural Gas Company (El Paso) under a Residue Gas Purchase Agreement dated August 22, 1980. The residue gas is currently being delivered to El Paso at the tailgate of the Sand Hills Gas Processing Plant in Crane County, Texas. Penn, *et al.*, also request three-year pregranted abandonment for sales of such gas under the small producer certificate in Docket No. CS76-34.

In support of their application, Penn, *et al.*, state that El Paso has reduced its purchases because of the severe oversupply of natural gas in the market. Penn states it would like the opportunity to market the gas to the buyer of its choice. Actual production of jurisdictional gas was 344,311 MMBtu in 1986 and 140,396 MMBtu in the first half of 1987.[2] The gas is NGPA section 104 replacement contract gas (60%), 108 gas (8%) and 103 gas (32%).[3]

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in a proceeding must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Penn, *et al.*, to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24731 Filed 10-23-87; 8:45 am]

BILLING CODE 6717-01-M

[1] The *et al.* parties are Nancy Elizabeth Penson; Nancy and John G. Penson, Trustees; First Republic Bank, Dallas, Texas, Sole Trustee; Robert Read Penn; David Cawthon Penn; William Travis Penn; and Frank Walter Penn.

[2] Penn, *et al.*, state that it is difficult to estimate deliverability because the gas is casinghead gas and deliverability is a function of the level of oil produced from the reservoirs.

[3] Pursuant to NGPA section 601(a)(1)(B), the NGPA section 103 gas is no longer subject to the NGA and abandonment authorization is not needed for this gas.

[Docket No. CP85-18-002]

Point Arguello Natural Gas Line Co.; Filing of Initial FERC Gas Tariff and Executed Service Agreements

October 21, 1987.

Take notice that Point Arguello Natural Gas Line Company (PANGL) on October 1, 1987 tendered for filing its initial FERC Gas Tariff, Original Volume No. 1 and the executed Service Agreements with ten (10) shippers under Rate Schedule T-1, Firm Transportation Service. PANGL proposes that its tariff and executed Service Agreements become effective December 1, 1987 or such other date that is coincidental with the inservice date of the facilities presently under construction. PANGL has requested any necessary waivers of the Commission's Regulations, particularly § 154.51, in order for it to coordinate the completion of the construction of its facilities and the effective date of the filing.

PANGL states that on May 31, 1985, at Docket No. CP85-18-000 the Commission issued PANGL a certificate of Public Convenience and Necessity to construct and operate 28 miles of 20-inch pipeline and to transport natural gas for 10 shippers.

PANGL claims that the instant filing is in compliance with paragraph (E) of the Commission's May 31, 1985 order. Paragraph (E) states the following:

PANGL shall file a cost-of-service tariff 60 days prior to commencement of transportation service under its Rate Schedule T-1. The cost-of-service tariff shall include the provisions described in the body of this order.

Copies of the filing were served upon PANGL's customers and all intervenors in this proceeding, including the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures. All such motions should be filed on or before October 30, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of PANGL's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24738 Filed 10-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-91-001]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 21, 1987.

Take notice that Williams Natural Gas Company (WNG) on October 8, 1987, tendered for filing Substitute Revised Sheet No. 6 and Revised Original Sheet No. 97 to its FERC Gas Tariff, Original Volume No. 1 and Substitute First Revised Sheet Nos. 5 and 17 and First Revised Sheet Nos. 57, 91, 133, 144, 150, 153, 192, 281 and 309 to its FERC Gas Tariff, Original Volume No. 2. These tariff sheets are being filed in compliance with the Commission's letter order in Docket No. RP87-91-000, dated September 22, 1987.

WNG was required to file tariff sheets to include the ACA adjustments to all sales and transportation rate schedules that are affected by Order No. 472 and to file revised tariff sheets in compliance with Order No. 472-B.

WNG was required to file tariff sheets containing ACA amendments effective October 1, 1987 in the event the Commission allows WNG to change the effective date for filing PGA adjustments. WNG was allowed this change by Commission letter order dated September 28, 1987 in Docket No. RP87-118.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 28, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24739 Filed 10-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-4-49-004]

Williston Basin Interstate Pipeline Co.; Tariff Change

October 21, 1987.

Take notice that on October 13, 1987, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing, revised tariff sheets pursuant to the Commission's Order issued September 28, 1987. On October 7, 1987, Williston Basin filed a Motion for Extension of Time for filing revised tariff sheets. That Motion has been denied. Williston Basin filed the revised tariff sheets listed below under protest and with reservation of the right to be made whole from Commission directives.

First Revised Volume No. 1

Second Substitute Third Revised Sheet No. 10

Original Volume No. 2

Second Substitute Sixth Revised Sheet No. 10
Second Substitute Seventh Revised Sheet No. 11

The proposed effective date is June 1, 1987.

Williston Basin states that these revised tariff sheets effect a net rate decrease for Rate Schedule G-1, SGS-1, and I-1 of 28.589 cents per Dkt relative to Williston Basin's currently effective rates and a net rate decrease of 25.461 cents per Dkt relative to the July 1, 1987 compliance filing rates. Rate Schedule X-1 reflects a rate decrease of 12.645 cents per Dkt relative to the currently effective rate and a rate decrease of 4.463 cents per Dkt relative to the July 1, 1987 compliance filing rate, while Rate Schedule X-5 reflects a rate increase of 12.433 cents per Dkt relative to the currently effective rate and a rate decrease of 10.913 cents per Dkt relative to July 1, 1987 compliance filing rate.

In addition, Williston Basin submitted for filing as a part of its FERC Gas Tariff the following sheets, under protest:

First Revised Volume No. 1

Third Substitute Third Revised Sheet No. 10

Original Volume No. 2

Third Substitute Sixth Revised Sheet No. 10
Third Substitute Seventh Revised Sheet No. 11

The proposed effective date is September 28, 1987.

As compared to the above rates, effective June 1, 1987, the effect of these tariff sheets is to decrease the Company's First Revised Volume No. 1 sales rates by 6.727 cents per Dkt, decrease the Original Volume No. 2 Rate Schedule X-1 rate by 6.727 cents per Dkt and decrease the Original Volume No. 2 Rate Schedule X-5 rate by 41.009 cents per Dkt.

Any person desiring to be heard or to protest said tariff application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with the Commission's Rules 211 and 214. All such motions protests should be filed on or before October 28, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene. Copies of the hearing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24726 Filed 10-23-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $119 million, plus accrued interest, in alleged crude oil overcharge funds obtained from 109 firms. The OHA has tentatively determined that the funds will be distributed in accordance with the

DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Comments must be filed in duplicate on or before November 25, 1987, and should be addressed to: Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should display a reference to Case Number KFX-0033.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth the procedures that the DOE has tentatively formulated to distribute crude oil overcharge funds obtained from 109 firms, listed in the Appendix to the Decision, from judicial and administrative proceedings, involving alleged crude oil violations. The funds are being held in interest-bearing escrow accounts pending distribution by the DOE.

The DOE has tentatively decided to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the States, the Federal Government, and injured purchasers of refined products. Under the plan we are proposing, refunds to the States would be distributed in proportion to each State's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers would be based on the number of gallons of petroleum products which they purchased and the extent to which they can demonstrate injury.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E-234, 1000 Independence Avenue SW., Washington, DC 20585.

Date: October 19, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

October 19, 1987.

Names of Cases: Ernest A. Allerkamp, *et al.*

Dates of Filing: May 12, 1987, *et al.*

Case Numbers: KFX-0033, *et al.*

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund moneys to those injured by actual or alleged violations of the DOE price regulations.

The ERA has filed 109 Petitions for the Implementation of Special Refund Procedures for crude oil overcharge funds obtained from the 109 firms whose names and OHA case numbers appear in the Appendix to this Decision.[1] To date, these 109 firms have remitted a total of $119 million to the DOE Pursuant to court-approved settlements, DOE consent orders or remedial orders.[2] An additional $68.2 million in interest has accrued on that amount as of August 31, 1987. This Proposed Decision and Order sets forth the OHA's plan to distribute these funds. Comments are solicited.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶82,508 (1981), and *Office of Enforcement*, 8 DOE ¶82,597 (1981). We have considered the ERA's requests to implement Subpart V procedures with respect to the moneys received from the 109 firms listed in the Appendix and have determined that such procedures are appropriate.

I. Background

A majority of the refund matters which are consolidated in the present Decision and Order were included in three previous decisions issued by the OHA in 1982 and 1984. *Office of Enforcement*, 9 DOE ¶82,521 (1982) (*Alkek*); Office of Enforcement, 9 DOE ¶82,553 (1982) (*Adams*); and *A. Johnson & Co., Inc.*, 12 DOE ¶85,102 (1984) (*A. Johnson*).[3] A number of other cases were initiated as the result of "global" consent orders resolving alleged violations by firms in their sales of both crude oil and refined petroleum products. *See, e.g., Standard Oil Co. (Indiana)*, 10 DOE ¶85,048 (1982). In those early Subpart V decisions, the DOE permitted injured persons to file claims and proposed to divide any unclaimed crude oil overcharge funds among the States for indirect restitution,

[1] Of those 109 Petitions, 94 were the subject of Final Decisions and Orders that were issued by the OHA prior to the implementation of the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (hereinafter referred to as the "MSRP"). The MSRP represents a major change in the Department's handling of crude oil overcharge cases. Accordingly, as discussed below, we have decided to propose revised procedures, pursuant to the MSRP, to distribute the crude oil violation amounts involved in those cases. In addition, we are including in this determination two ERA Petitions for which procedures were proposed but never finalized. Finally, we are also including 13 ERA Petitions on which no action previously has been taken.

In 14 of the cases consolidated for discussion in this Proposed Decision and Order (PDO), as noted in the Appendix, the alleged regulatory violations resolved involved the sale of both crude oil and refined petroleum products. The moneys remitted were divided into two pools—one for curde oil and one for refined products. Here we are proposing procedures to distribute only the crude oil pools established in those cases. The procedures previously developd to distribute the refined product pools are unaffected by this Decision.

[2] Eight firms, noted in the Appendix, have an outstanding liability of $1.1 million. These funds, when remitted to the DOE, will also be disbursed pursuant to the procedures established in this Decision. The DOE will give notice when such additional funds are received.

[3] Some cases that were initially in *Alkek*, *Adams* and *A. Johnson* are not included in the present PDO because all of the funds remitted in those matters were disbursed prior to the announcement of the MSRP. In February 1983, the DOE disbursed $100 million in crude oil overcharge funds to the states and territories pursuant to section 155 of the Further Continuing Appropriations Act of 1982, Pub. L. 99-377 (the Warner Amendment). A list of the cases that were the source for that disbursement was published at 51 FR 26745 (July 25, 1986). Since the MSRP by its terms applies only prospectively, this Proposed Decision does not apply to those cases and payments. However, in two cases that are included in this Proposed Decision, the relevant firms made additional payments to the DOE subsequent to the Warner Amendment disbursement. This Decision does apply to those payments. *See* Appendix notes 1 and 8.

based on their proportionate consumption of refined petroleum products. We recognized in those decisions that the effects of crude oil pricing violations were generally spread by the Entitlements Program among all domestic refiners. *See, e.g., Alkek*, 9 DOE at 85,133. A major question remained, however, concerning the extent to which refiners absorbed or passed through to their customers the increased costs associated with these violations. As a result of this uncertainty, claims from end-users were never considered in those proceedings, and the more than 60 claims that were filed, mostly by refiners, were held in abeyance. Due to the Final Settlement Agreement in *The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378, which led to the MSRP, we are now in a position to consider crude oil refund claims on their merits.[4]

The OHA has been applying the MSRP in all Subpart V proceedings involving alleged crude oil violations. *See* Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). The Appendix to that Order listed the refund proceedings then pending before the OHA to which the MSRP applies. The Order also provided a period of 30 days for the filing of any objections to the application of the MSRP, and solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings.

On April 10, 1987, the OHA issued a Notice analyzing the numerous comments which it received in response to the August 1986 Order. 52 FR 11737. The Notice set forth generalized procedures and provided guidance to assist claimants that wish to file refund applications for crude oil moneys under the Subpart V regulations. All applicants for refund would be required to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged overcharges. The Notice indicated that end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. Finally, we stated that refunds would be calculated on the basis of a per gallon refund amount derived by dividing crude oil violation amounts by the total consumption of petroleum products in the United States during the period of price controls. The numerator would include the crude oil overcharge moneys that were in the DOE's escrow account at the time of the settlement and a portion of the funds in the MDL 378 escrow at the time of the settlement.[5]

These crude oil refund procedures have been approved by the United States District Court for the District of Kansas. Various States filed a Motion with that Court, claiming that the OHA violated the Settlement Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. On August 17, 1987, Judge Theis issued an Opinion and Order denying the States' Motion in its entirety. The court concluded that the Settlement Agreement "does not bar OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378, slip op. at 10, 3 Fed. Energy Guidelines ¶26,587 at 26,826 (D. Kan. 1987). The court also ruled that, as specified in the April 1987 Notice, the OHA could calculate refunds based on a portion of the MDL 378 overcharges. *Id.* at 26,827.

II. The Proposed Refund Procedures

A. Refund Claims

We now propose to apply the procedures discussed in the April 1987 Notice to the crude oil Subpart V proceedings that are the subject of the present determination. As noted above, $119 million in alleged crude oil violation amounts is covered by this Proposed Decision. We have decided to reserve initially the full 20 percent of the alleged crude oil violation amounts, or $23.8 million (plus interest) for direct refunds to claimants, in order to ensure that sufficient funds will be available for refunds to injured persons.[6] The amount of the reserve may be adjusted downward later if circumstances warrant such action.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used to evaluate claims based on alleged refined product overcharges pursuant to 10 CFR Part 205, Subpart V. *MAPCO Inc.*, 15 DOE ¶85,097 (1986); *Mountain Fuel Supply Co.*, 14 DOE ¶85,475 (1986). As in non-crude oil cases, applicants will be required to document their purchase volumes and demonstrate that they were injured. *See id.* Following Subpart V precedent, reasonable estimates of purchase volumes may be submitted. *Greater Richmond Transit Co.*, 15 DOE ¶85,028 (1985). Applicants who were end-users (ultimate consumers) of petroleum products whose businesses are unrelated to the petroleum industry and who were not subject to the DOE price regulations are presumed to have absorbed rather than passed on alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond volumes of product purchased in the distribution scheme in which the overcharges occurred. *Id.* It is not necessary for applicants to identify their suppliers of petroleum products in order to receive a refund. Resellers and retailers of petroleum products must submit detailed evidence of injury, and may not use presumptions of injury established by the OHA in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, Fed. Energy Guidelines ¶90,507 (June 19, 1985), and the OHA intends to utilize the final and April 1, 1985 draft Reports in evaluating refund applications submitted under Subpart V. *See* Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. 99-509, 3003(b)(2). Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Settlement Agreement have waived their rights to apply for crude oil refunds under Subpart V. *Boise Cascade Corp.*, 16 DOE ¶85,214 at 88,411 (1987); *Sea-Land Service, Inc.*, 16 DOE ¶_____ No. RF270-1563, slip op. at 5-6 n. 1 (October 9, 1987).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the crude oil violation amounts ("The numerator") by the total consumption of petroleum products in the United States during the period of price controls ("the denominator").[7] As

[4] For a discussion of the developments that culminated in the Settlement Agreement, *see* Order Implementing the MSRP, 51 FR 29689 (August 20, 1986); *see also* Notice Discussing Comments, 52 FR 11737 (April 10, 1987).

[5] On April 15, 1987, we issued a Decision establishing refund procedures for 42 cases involving $373 million in crude oil violation amounts. *A. Tarricone, Inc.*, 15 DOE ¶85,495 (1987). Those procedures conformed to the generalized procedures discussed in the April 10, 1987 Notice.

[6] As explained below, in certain cases we have previously distributed 60 percent of the alleged violation amounts to the States and Federal government. The remaining 20 percent in those cases has already been reserved for direct refunds to claimants.

[7] We will use the estimate that 2,020,997,335,000 gallons of petroleum products were consumed in the United States during the period August 1973 through January 1981. *Mountain Fuel*, 14 DOE at 88,868 n. 4 (1986).

indicated in the April 1987 Notice, we will add $985 million to the numerator in the volumetric calculation, in addition to the $119 million in principal from the cases included in this Decision. This yields a volumetric refund amount of $0.000546 per gallon. We also propose in paying claims to combine all of the volumetric refund amounts obtained in each crude oil refund proceeding implemented to date under the MSRP, to yield a total per gallon refund amount of $0.0007467.[8]

A crude oil refund applicant will be required to submit only one application for all crude oil overcharge amounts that were included in those proceedings. Any party that has previously submitted a refund application in crude oil refund proceedings need not file another application; that application will be deemed to be filed in all crude oil proceedings finalized to date. The volumetric refund amount will be increased as additional crude oil violation amounts are received in the future. Applicants may be required to submit additional information to document their refund claims for these future amounts. Notice of additional amounts available in the future will be published in the **Federal Register.**

[8] The following per gallon volumetric refund amounts were obtained in prior crude oil refund proceedings:

Mountain Fuel Supply Co., 14 DOE ¶ 85,475 (1986)	$0.0000004536
MAPCO, Inc., 15 DOE ¶ 85,097 (1986)	0.000000089
Kent Oil & Trading Co., 15 DOE ¶ 85,100 (1986)	0.0000000059
A. Tarricone, Inc., 15 DOE ¶ 85,495 (1987)	0.000185
O.S. Mobley, Jr., 16 DOE ¶ 85,006 (1987)	0.0000054
Berry Holding Co., 16 DOE ¶ 85,405 (1987)	0.0000098
Total for prior cases	0.0002007495
Proposed volumetric for the present proceedings	0.000546
Current Total	0.0007467495

B. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 60 percent of the $119 million in alleged crude oil violation amounts subject to this PDO, or $95.2 million, should be disbursed equally to the States and Federal government for indirect restitution. As explained below, a portion of this amount has already been disbursed to those entities. In August 1986, 80 percent of the funds in 59 of the subaccounts consolidated in this PDO was disbursed to the States and Federal government pursuant to paragraph IV.B.7 of the Settlement Agreement. *See Stripper Well Exemption Litigation*, 14 DOE ¶ 85,382 (1986). The total amount of principal disbursed at that time was $59.2 million. For each subaccount from which an August 1986 payment was made, no further refund to the States and Federal government will be made at this time.[9] In the remaining 50 subaccounts, there has been no advance disbursement, and the total in principal (i.e. excluding interest) equals $45 million. This figure is obtained by adding all of the crude oil principal remitted by those firms listed in the Appendix for which no August 1986 payment is indicated. Eighty percent of this $45 million, or $36 million, plus interest, is therefore available for disbursement to the States and Federal government. In addition, as explained in note 12 to the Appendix, an additional $536,000 plus interest is available for disbursement to the States and Federal government from the *Standard Oil (Indiana)* escrow account. Thus, a total of $36.5 million in principal, plus $14.64 million in interest, is available for disbursement to the States and Federal government in these proceedings.

[9] There is one exception. An additional $536,000 plus interest is available for disbursement to the States and Federal government from the *Standard Oil* crude oil escrow account. *See* Appendix note 12.

We propose to direct the DOE's Office of the Controller to segregate the $36.5 million in principal available for disbursement to the States and Federal government and distribute one-half of that amount, or $18.25 million, plus appropriate interest, to both the States and to the Federal government. With interest, the State and Federal government should each receive approximately $25.57 million. Each individual State's percentage share of the funds is set forth in Exhibit H to the Settlement Agreement and is based on each State's consumption of petroleum products during the period of price controls. These funds will be subject to the same use limitations and reporting requirements as all other crude oil moneys received by the States under the Settlement Agreement.

Before taking the actions we have proposed in this Decision, we intend to publicize our proposal and solicit comments on it. Comments regarding the tentative distribution process set forth in this Proposed Decision and Order should be filed with the OHA within 30 days of its publication in the **Federal Register.**

It is Therefore Ordered That: The refund amounts remitted to the Department of Energy by the firms identified in the Appendix to this Proposed Decision and Order shall be distributed in accordance with the foregoing Decision.

APPENDIX

OHA case name	OHA case No.	Consent order No.	Status	Crude principal received	Aug. 1986 payment (Principal)
Allerkamp, Ernest E	HEF-0489	610C00201Z	A. Johnson	$444,080.44	$355,264.35
Amax Petroleum Corp	HEF-0315	422C00064Z	A. Johnson	182,450.00	145,960.00
*American Pacific International	HEF-0316	940C00112Z	14 Doe ¶ 85,158	171,861.37	0.00
Aminoil USA, Inc	HEF-0317	610C00458Z	A. Johnson	2,600,000.00	2,080,000.00
Aminoil USA, Inc	HEF-0229	740V01315Z	12 Doe ¶ 85,188	1,600,000.00	1,280,000.00
Armour Oil Co	HEF-0278	940X00179Z	A. Johnson	225,000.00	0.00
Barton, A.L	HEF-0279	6A0X00299Z	A. Johnson	100,000.00	80,000.00
Bass Enterprises Production Co	HEF-0323	6D0C00090Z	A. Johnson	497,500.00	398,000.00
*Bayou State Oil/IDA Gasoline	HEF-0202	641S00396Z	12 Doe¶ 85,197	347,975.00	0.00
Beebe, J.S. and J.S., Jr.	HEF-0505	6C1C00206Z	12 Doe ¶ 85,170	39,901.19	31,920.95
Belco Petroleum Corp	HEF-0325	240C00002Z	A. Johnson	137,940.00	110,352.00
Benson-Montin-Greer Drilling Co	BEF-0087	740C01253Y	Adams	68,369.13	54,695.30
Beta Development Co	BEF-0009	673C00290Y	Alkek	134,367.92	0.00
Beverly Hills Oil Co	HEF-0328	940C00142Z	13 Doe ¶ 85,003	25,000.00	[1] 0.00
BHP Petroleum Co., Inc	KEF-0086	650C00369Z	No Action	375,000.00	0.00

APPENDIX—Continued

OHA case name	OHA case No.	Consent order No.	Status	Crude principal received	Aug. 1986 payment (Principal)
Bigheart Pipeline Corp	KEF-0092	6C0X00235Z	No Action	6,937,011.74	0.00
Bill Forney, Inc	HEF-0362	610C00473Z	A. Johnson	480,000.00	384,000.00
BTA Oil Producers	BEF-0083	672C00182Y	Adams	415,816.87	332,653.50
Buxton, F.M.	HEF-0335	660C00508Z	A. Johnson	0.00	[2] 0.00
Century Refining Co	BEF-0077	710V02005Y	Adams	2,700,000.00	[3] 2,159,367.20
Coastal Corp	BFF-0005	RCLE00501Y	Adams	9,000,000.00	7,200,000.00
Coffield Pipeline Co	HEF-0282	650X00295Z	A. Johnson	86,378.05	69,102.44
Cooper & Brain, Inc	HEF-0344	960C00029Z	A. Johnson	465,211.57	372,169.26
Cotton Petroleum Corp	HEF-0486	6C0C00213Z	A. Johnson	1,156,493.14	0.00
*Crown Central Petroleum Corp	KEF-0044	RCWA00000Z	PDO 8/15/86	647,400.00	0.00
Crystal Oil Co	BEF-0019	641C00360Y	Alkek	203,595.20	0.00
Diamond Shamrock Corp	BEF-0076	675S00011Y	Adams	55,056.78	0.00
Diamond Shamrock Corp	HEF-0465	N00S90124Z	A. Johnson	10,301.00	0.00
Elm City Filing Stations	HEF-0466	N00M90030Z	A. Johnson	106,770.02	0.00
Engle Enterprise, Inc	HEF-0286	6CX00300Z	A. Johnson	20,000.00	16,000.00
Enserch Exploration, Inc	BEF-0045	6A0C00160Y	Alkek	495,000.00	396,000.00
Farmers Union Central Exchange	HEF-0359	740C01249Z	A. Johnson	150,000.00	0.00
Flying Diamond Oil Co	HEF-0490	840C00127Z	A. Johnson	155,537.98	124,430.38
Forgotson, James M	BEF-0043	640C00312Y	Alekek	76,201.21	60,960.97
*Franks Petroleum, Inc	HEF-0208	641S00421Z	12 Doe ¶ 85,188	999.00	0.00
*GCO Minerals Co	HEF-0570	NGCP00001Z	14 Doe ¶ 85,142	936,000.00	0.00
Gonsoulin Energy Corp	HEF-0288	640X00434Z	A. Johnson	19,000.00	[4] 12,800.00
Grace Petroleum Corp	HEF-0366	660C00633Z	A. Johnson	1,450,000.00	160,000.00
Harris, James W	HEF-0369	422C00201Z	13 Doe ¶ 85,003	0.00	[5] 0.00
Hassie Hunt Exploration Co	HEF-0370	6A0C00256Z	A. Johnson	158,608.39	0.00
Hawthorne Oil & Gas Corp	HEF-0372	640C00314Z	A. Johnson	543,912.56	435,130.05
Henry Petroleum Corp	KEF-0098	670C00215W	No Action	322,587.15	0.00
Hewitt & Dougherty	HEF-0373	610C00117Z	A. Johnson	180,000.00	144,000.00
Hollingsworth, C.D. & Assoc	HEF-0375	422C00196Z	A. Johnson	0.00	[6] 0.00
Horizon Petroleum Co	KEF-0084	650X00289Z	No Action	1,932,917.00	0.00
Houston Oil & Minerals Corp	HEF-0376	640C00400Z	A. Johnson	3,985,000.00	3,188,000.00
Hudson & Hudson	HEF-0378	720C00597Z	A. Johnson	750,000.00	600,000.00
Hunt Oil Co	HEF-0380	6A0C00006Z	A. Johnson	29,151.38	23,321.10
Inexco Oil Co	KEF-0089	650C00007Z	No Action	299,088.00	0.00
Inexco Oil Co	KEF-0091	6E0C00027Z	No Action	242,958.81	0.00
Inland Crude Purchasing Corp	HEF-0291	6C0X00256Z	A. Johnson	21,000.00	16,800.00
International Petroleum Refining	KEF-0010	6C0X00242Z	No Action	85,000.00	0.00
Kastman Oil Co	HEF-0492	6C0C00256Z	A. Johnson	50,000.00	40,000.00
Kirkpatrick Oil & Gas Co	HEF-0388	660C00437Z	A. Johnson	260,000.00	0.00
Lakeside Refining Co./Crystal	HEF-0214	540S00276Z	12 Doe ¶ 85,188	200,000.00	160,000.00
Lobo Oil Corp	HEF-0392	670C00271Z	A. Johnson	0.00	[7] 0.00
Mabee Petroleum Corp	BEF-0068	670C00295Y	Adams	435,308.00	348,246.40
*MacMillan Ring-Free Oil Co	HEF-0506	960S00053Z	13 Doe ¶ 85,165	449,500.00	0.00
Mallard Resources, Inc	HEF-0474	N00S90125Z	13 Doe ¶ 85,074	60,136.73	[8] 0.00
McFarland Energy, Inc	BEF-0023	960C00022Y	Alkek	353,131.99	0.00
Mid-Plains Petroleum Co	HEF-0297	6C0X00311Z	A. Johnson	120,000.00	96,000.00
Milam, M.C., Inc	BEF-0090	572C00221Y	Adams	52,440.69	0.00
Moncrief, W.A. Jr	HEF-0404	6A0C00134Z	A. Johnson	1,100,000.00	880,000.00
Mountain Fuel Supply Co	HEF-0408	820C00185Z	A. Johnson	275,000.00	[9] 220,000.00
Mountain Fuel/Wexpco Co	KEF-0080	820V00209Z	No Action	1,024,040.23	[10] 0.00
Mustang Fuel Corp	HEF-0298	6C0X00236Z	A. Johnson	800,000.00	640,000.00
National Coop Refinery Assoc	HEF-0409	740C01299Z	A. Johnson	95,000.00	0.00
NFC Petroleum Corp	HEF-0410	660C00609Z	A. Johnson	257,820.55	206,256.44
*Northwest Pipeline Corp	HEF-0264	710V03015Z	12 Doe ¶ 85,188	756,865.35	0.00
NRG Oil Co	HEF-0300	650X00332Z	A. Johnson	130,147.42	104,117.94
*OKC Corp	KFX-0029	6D0S00003Y	No Action	750,500.00	[11] 0.00
OKC Corp	HEF-0477	N00S98080Z	A. Johnson	600,000.00	480,000.00
Oxnard Refining Co	HEF-0478	N00S90075Z	A. Johnson	789,108.00	631,286.40
Panhandle Eastern Pipeline Co	HEF-0265	710V02003Z	A. Johnson	683,990.28	547,192.22
Pauley Petroleum, Inc	HEF-0416	910C00127Z	A. Johnson	30,655.04	24,524.03
*Perry Gas Processors, Inc	BEF-0048	670V00087Y	9 Doe ¶ 82,566	5,007.00	0.00
*Perta Oil Marketing Corp	HEF-0148	930H00088Z	15 Doe ¶ 85,106	69,802.04	0.00
Quintana Petroleum	BEF-0060	610C00122Y	Adams	3,750,000.00	0.00
Ray M. Huffington, Inc	HEF-0379	6E0C00038Z	A. Johnson	180,000.00	144,000.00
Ryder Truck Rental, Inc	HEF-0305	6A0X00276Z	A. Johnson	130,000.00	0.00
R. W. Tyson Producing Co	KEF-0090	650C00108Z	No Action	130,000.00	0.00
Santa Fe Energy Products Co	HEF-0306	640X00448Z	A. Johnson	48,462.00	38,769.60
Sauder, Earl W	HEF-0432	710C01109Z	A. Johnson	296,622.32	237,297.86
Signal Petroleum	HEF-0437	640C00390Z	A. Johnson	1,500,000.00	0.00

BEST COPY AVAILABLE

APPENDIX—Continued

OHA case name	OHA case No.	Consent order No.	Status	Crude principal received	Aug. 1986 payment (Principal)
Southern Crude Oil Resources	HEF-0495	6A0X00314Z	A. Johnson	135,000.00	108,000.00
*Southern Union Co	HEF-0223	673S00336Z	13 Doe ¶ 85,029	20,000.00	0.00
Southern Union/Midland-Lea	HEF-0308	6A0X00325A	A. Johnson	320,124.84	256,099.87
Southland Royalty Co	HEF-0582	600C00034Z	PDO 4/22/86	748,515.01	0.00
*Standard Oil Co. (Indiana)	BFF-0007	RAMA00010Y	10 Doe ¶ 85,048	12,986,078.19	[12] 10,388,862.55
Summit Transportation Co	BEF-0053	602X00002Y	Adams	17,000,000.00	13,600,000.00
Superior Oil Co	HEF-0441	610C00442Z	A. Johnson	9,800,000.00	0.00
Tauber Oil Co	HEF-0309	650X00304Z	A. Johnson	575,000.00	460,000.00
T-C Oil Co	BEF-0047	610C00118Y	Adams	395,000.00	316,000.00
Texco Inc. & Stanford Harrell	KEF-0088	RTXZ000A1Z	No Action	7,476,088.01	0.00
Texas American Petrochemicals	HEF-0310	6C0X00267Z	A. Johnson	10,000.00	8,000.00
Texas Pacific Oil Co, Inc	HEF-0496	600C00104Z	A. Johnson	500,000.00	400,000.00
Timco Oil Co	KEF-0006	940C00147Z	14 Doe ¶ 85,220	75,000.00	60,000.00
*True Companies	HEF-0557	733V02019Z	13 Doe ¶ 85,178	1,166,666.70	0.00
Twin Montana, Inc	HEF-0450	6A0C00242A	A. Johnson	1,545,676.28	1,236,541.02
TXO Oil Com	HEF-0311	6A9X00287Z	A. Johnson	150,000.00	0.00
Union Oil Co. of California	KEF-0004	RUNA00002Z	14 Doe ¶ 85,220	4,500,000.00	3,600,000.00
Union Texas Petroleum Corp	BEF-0025	610C00435Y	Alkek	2,100,000.00	1,680,000.00
*Union Texas Petroleum Corp	KFX-0031	6E0S00075Y	No Action	396,700.00	[13] 0.00
*U.S.A. Petroleum, Inc	HEF-0500	960S00093Z	14 Doe ¶ 85,122	787,500.00	0.00
Vanderbilt Energy Corp	KEF-0097	810C00352W	No Action	500,000.00	0.00
Wall, Earl E	HEF-0456	640C00295Z	A. Johnson	903,833.80	[14] 243,066.88
Westates Petroleum Co	HEF-0457	940C00096Z	12 Doe ¶ 85,179	825,000.00	660,000.00
Windsor Gas Corp	KEF-0002	6E0C00034Z	14 Doe ¶ 85,220	176,956.78	141,565.42
Woods, Dalton J.	HEF-0462	640C00285Z	A. Johnson	93,545.72	74,836.58
Totals				$119,045,684.67	$59,261,590.71

*Denotes cases in which firms remitted funds to the DOE to resolve alleged regulatory violations involving the sale of both crude oil and refined petroleum products. Only the crude oil funds from these cases are subject to this Decision. *See* Proposed Decision and Order at footnote 1.

[1] Pursuant to the Warner Amendment, the DOE distributed $41,951.00 previously remitted by Beverly Hills Oil Company. Subsequent to this disbursement, the firm remitted an additional $25,000.00 which is still in escrow. The firm's total liability is $161,951.00. Amount still owed is $95,000.00.

[2] To date, F. M. Buxton has not paid any portion of its total liability of $50,285.18.

[3] Century Refining Company was a subsidiary of Panhandle Eastern Pipeline Company. The name on Consent Order Number 710V02005Y is Panhandle Eastern, while the Case Name of OHA Case Number BEF-0077 is Century Refining.

[4] Total liability for Gonsoulin Energy Corporation is $96,000.00. Amount still owed is $77,000.00.

[5] Pursuant to the Warner Amendment, the DOE distributed $103,519.74 previously remitted by James W. Harris. The firm's total liability is $150,000.00. Amount still owed is $46,480.26.

[6] Pursuant to the Warner Amendment, the DOE distributed $119,217.52 previously remitted by C. D. Hollingsworth & Associates. The firm's total liability is $147,111.00. Amount still owed is $27,893.48.

[7] Lobo Oil Corporation has not paid any portion of its total liability of $205,071.79.

[8] Pursuant to the Warner Amendment, the DOE distributed $168,499.29 previously remitted by Mallard Resources, Inc. Subsequent to this disbursement, the firm remitted an additional $60,136.73, which remains in escrow. The firm's total liability is $800,000.00. Amount still owed is $551,363.98.

[9] This Mountain Fuel Supply Company case involves a different DOE consent order from the one that was the subject of the Final Decision and Order published at 14 DOE ¶ 85,475 (1986).

[10] *See* note 9.

[11] This case involves the crude oil pool established in case number BEF-0032 *See* 9 DOE ¶ 82,551 (1982) and 13 DOE ¶ 85,323 (1985).

[12] The principal amount of the crude oil pool established in *Standard Oil Co. (Indiana)*, 10 DOE ¶ 85,048 (1982), was $22,104,125.26. Pursuant to the Warner Amendment, the DOE distributed $9,118,047.07 in principal from the crude oil pool to the States. Accordingly, there remained $12,986,078.19 in principal at the time of the Stripper Well Settlement Agreement. As of July 31, 1986, the total amount of principal plus interest in the account was $25,669,450.87. Eighty percent of that amount equals $20,535,560.70. On August 4, 1986, $20 million from this account was distributed to the States and Federal government pursuant to the settlement agreement. *See*, 14 DOE ¶ 85,382 (1986). Therefore, an additional $535,560.70, plus interest on that amount from July 31, 1986, is available for immediate disbursement to the States and Federal government.

[13] This case involves the crude oil pool established in case number HEF-0224. *See* 12 DOE ¶ 85,168 (1985).

[14] Total liability for Earl E. Wall is $335,000.00. Amount still owed is $31,166.40

[FR Doc. 87-14751 filed 10-23-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3282-6]

Science Advisory Board, Research Strategies Committee-Ecological Effects Subgroup; Open Meeting

Under the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that a two day meeting of the Research Strategies Committee, Ecological Effects Subgroup of the Science Advisory Board will be held on November 5 and 6, 1987. The meeting will begin at 9:00 a.m. on November 5, and will be held in Class Room #2 at the U.S. EPA Environmental Research Center, Route 54 and Alexander Drive, Research Triangle Park, NC. Adjournment on November 6 will take place no later than 3:00 p.m.

The main purpose of the meeting is to continue developing a research strategy to meet EPA's ecological research needs. The key strategy elements of (1) measuring ecosystem status, (2) determining ecosystem trends and changes, (3) predicting changes to ecological systems, and (4) assessing risk to those systems will provide a framework for Subcommittee recommendations. The Subcommittee will proceed with developing these recommendations in writing sessions. In addition, a briefing on a global inventory project being conducted by EPA's Environmental Research Laboratory in Corvallis, OR, will be given.

The meeting will be open to the public. Anyone who wishes to attend, present information to the Subcommittee, or obtain information concerning the meeting, should contact Ms. Janis Kurtz, Executive Secretary, or Mrs. Lutithia Barbee, Staff Secretary, (A101-F) Environmental Effects, Transport and Fate Committee, Science Advisory Board, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Telephone (202) 382-2552 or FTS 8-382-2552. Written comments will be accepted, and can be sent to Ms. Kurtz at the address above. Persons interested in making statements before the Subcommittee must contact Ms. Kurtz no later than November 1, 1987 in order to be assured of space on the agenda.

Date: October 20, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87-24792 Filed 10-23-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; SEB Broadcasting, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/state	File No.	MM docket No.
A. SEB Broadcasting, Inc.; Woodlake, CA.	BPH-860313MB	87-430
B. New Life Enterprises, Inc.; Woodlake, CA.	BPH-860509MA	
C. Skyride Unlimited, A California Limited Partnership; Woodlake, CA.	BPH-860711MV	
D. Vision Broadcasting; Woodlake, CA.	BPH-860711MZ	
E. Amigo Broadcasting Corporation; Woodlake, CA.	BPH-860711OO	
F. George A. Aguilar Beron, d/b/a Beron Broadcasting; Woodlake, CA.	BPH-860712NW	
G. KIKJ Company; Woodlake, CA.	BPH-860712NX	
H. Andres Landaris Voursis; Woodlake, CA.	BPH-860712OH	
I. Connecticut Corridor Cellular Communications Company; Woodlake, CA.	BPH-860712OI	
J. FM Woodlake Limited Partnership; Woodlake, CA.	BPH-860712OJ	
K. Sequoia Broadcasting, Inc.; Woodlake, CA.	BPH-860712OK	
L. Torres Broadcasting, A Limited Partnership; Woodlake, CA.	BPH-860712OL	
M. Trans-California Broadcasting Co.; Woodlake, CA.	BPH-860712PC	
N. Q Prime Inc.; Woodlake, CA.	BPH-860712PK	
O. Rosario Carter et al., d/b/a Woodlake Limited Partnership; Woodlake, CA.	BPH-860712PL	
P. Robert A. Berns; Woodlake, CA.	BPH-860711NB (dismissed)	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR. 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Environmental, A,B,D,F,G,J,K,M,N
2. Comparative, A-O
3. Ultimate, A-O

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased form the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-24699 Filed 10-23-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-668; FHLBB No. 1299]

Home Federal Savings Bank, Seymour, IN; Final Action; Approval of Conversion Application

Date: October 20, 1987.

Notice is hereby given that on October 13, 1987, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee approved the application of Home Federal Savings Bank, Seymour, Indiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC. 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Indianapolis, 1350 Merchants Plaza, South Tower, 15 West Washington Street, Indianapolis, Indiana 45204.

By the Federal Home Loan Bank Board.

John R. Gizzoni,

Assistant Secretary.

[FR Doc. 87-24696 Filed 10-23-87; 8:45 am]

BILLING CODE 6720-01-M

The Topeka Savings Association, Topeka, KS; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(1982), the Federal Savings and Loan Insurance Corporation as sole receiver for the Topeka Savings Association, Topeka, Kansas, on October 20, 1987.

Dated: October 20, 1987.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.

Secretary.

[FR Doc. 87-24695 Filed 10-23-87; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties

may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200047.

Title: Georgia Ports Authority Terminal Lease Agreement.

Parties:

Georgia Ports Authority
Hapag-Lloyd A.G.
Gulf Container Line B.V.
Compagnie Generale Maritime

Synopsis: The proposed agreement covers the assignment of parking slots for operating a container yard within the confines of Georgia Ports Authority's Garden City Terminal.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: October 21, 1987.

[FR Doc. 87–24714 Filed 10–23–87; 8:45 am]

BILLING CODE 6730–01–M

American President Lines, Ltd et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010689–028.

Title: Transpacific Westbound Rate Agreement.

Parties:

American President Lines, Ltd.
Hanjin Container Lines, Ltd.
Hyundai Merchant Marine Co., Ltd.
Japan Lines, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Sea-Land Service, Inc.
Showa Line, Ltd.
Yamashita-Shinnihon Steamship Co., Ltd.
Orient Overseas Container Line, Ltd.

Synopsis: The proposed amendment would: (1) Require that all rates and any independent action applicable to exempt commodities be stated, by January 1, 1988, in the agreement tariffs and be assessed by the parties in the form of "any quantity" rates, rather than "per container" rates; (2) reduce from three to two the number of objecting parties required to prevent a rate from becoming an agreement rate through the rate initiative process provided, however, that if one of the objecting parties is a "Controlled Carrier," then the present requirement of three objections would be maintained; and (3) amend the independent action on time/volume rates for exempt commodities insofar as it applies to Canadian cargo.

By Order of the Federal Maritime Commission.

Joseph C. P Polking,

Secretary.

Dated: October 21, 1987.

[FR Doc. 87–24754 Filed 10–23–87; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants; Multi-Modal International, Inc. et al.

Notice is given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

Multi-Modal International, Inc., 148–36 Guy R. Brewer Blvd., Jamaica, NY 11434, Officers: Ernest G. Wohlwill, President, Karl H. Roessner, Vice President, Hiliary Gibson, Secretary

Steevens-Diz International, Inc., 6000 N.W. 84th Avenue, Miami, FL 33166, Officers: Ralf Steevens, President, Richard Cazan, Vice President, Henry Dix, Secretary/Treasurer

Sea Freight Services, Inc. 3034 McKaughan, Houston, TX 77032, Officers: Peter M. Crescitelei, President/Director, Debra A. Capko, Vice President

Gap Forwarding, Inc., 7200 N.W. 19th Street, Suite 308, Miami, Florida 33126, Officers: Arthur L. Ball, President, Evonne Pamelia Bravo, Corporate Secretary

Artpack Transport Ltd, 708 Broadway, 9th Floor, New York, NY 10003, Officer: Vincent Baldassano, President, Frederic Mosher, Vice President

Cargo Crating Co., dba Cargo Forwarding, International, 108–112 Standifer Drive, Humble, TX 77338, Officers: Robert E. McCluskey, Jr., President, Sandra Kay Lewis, Vice President

By the Federal Maritime Commission.

Joseph C. Polking

Secretary.

Dated: October 21, 1987

[FR Doc. 87–24753 Filed 10–23–87; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Abington Bancorp, Inc., et al.; Formations of, Acquisition by, and Mergers of Bank Holding Companies; Correction.

This notice corrects a previous **Federal Register** notice (FR Doc. 87–24063) published at page 38814 of the issue for Monday, October 19, 1987.

Under the Federal Reserve Bank of Boston, the entry for Abington Bancorp, Inc. is revised to read as follows:

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Abington Bancorp, Inc.*, Abington, Massachusetts; to become a bank holding company by acquiring through its subsidiary, Abington Savings Bank, Abington, Massachusetts, which engages in Massachusetts Savings Bank Life Insurance Activities, 100 percent of the voting shares of Landmark Bank for Savings, Whitman, Massachusetts. Comments on this application must be received by November 3, 1987.

Board of Governors of the Federal Reserve System, October 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–24653 Filed 10–23–87; 8:45 am]

BILLING CODE 6210–01–M

Ameritrust Corp.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 13, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *AmeriTrust Corporation*, Cleveland, Ohio; to engage *de novo* directly or through its subsidiary, At Investment Services Corp., Cleveland, Ohio, in underwriting and dealing in, and purchasing, selling and brokering the purchase and sale of obligations of the United States pursuant to § 225.25(b)(16); and providing investment or financial advice pursuant to § 225.25(b)(4) of the Board's Regulation Y.

2. *Huntington Bancshares Incorporated*, Columbus Ohio; to engage *de novo* through its indirect subsidiary, The Huntington Trust Company, N.A., Columbus, Ohio, in trust services pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–24654 Filed 10–23–87; 8:45 am]

BILLING CODE 6210–01–M

First Union Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 10, 1987.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Union Corporation*, Charlotte, North Carolina; to acquire Ashley Securities Corporation, Naples, Florida, and thereby engage in securities brokerage activities pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–24655 Filed 10–23–87; 8:45 am]

BILLING CODE 6210–01–M

Litchfield Bancshares Co.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than November 13, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Litchfield Bancshares Company*, Litchfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Litchfield National Bank, Litchfield, Illinois.

Board of Governors of the Federal Reserve Systems, October 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–24656 Filed 10–23–87; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Allied-Signal, Inc.; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Allied-Signal, Inc. The NADA provides for the use of Cal-Bar (ammonium chloride) Type A article for making Type C cattle and sheep feeds. The firm requested the withdrawal of approval.

EFFECTIVE DATE: November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: Allied-Signal, Inc. (formerly Allied Chemical Corp.), P.O. Box 2245R, Morristown, NJ 07960–2245, is sponsor of NADA 34–253, which provides for the use of Cal-Bar Type A article (99 percent ammonium chloride) to make Type C cattle and sheep feeds. The feeds are used to reduce the incidence of urinary calculi. Use of the Type A article was originally approved under a food additive petition (FAP 6D1947) on February 9, 1968 (33 FR 2774). As a result of the Animal Drug Amendments of 1968, however, the FAP was converted to a NADA. By letter of April 1, 1987, the sponsor requested withdrawal of approval because the product is no longer being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is hereby given that approval of NADA 34–253 and all supplements thereto are hereby withdrawn, effective November 5, 1987.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending 21 CFR 510.600 and 558.4 to remove the firm from the list of sponsors of approved NADA's and to remove the entry for the product covered by the approved NADA, and is removing 21 CFR 558.45, which reflects the approval, in its entirety.

Dated: October 20, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87–24647 Filed 10–23–87; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 87N–0267]

Clinical Studies of Safety and Effectiveness of Orphan Products; Availability of Grants; Request for Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the anticipated availability of funds for Fiscal Year 1988 for awarding grants to support clinical trials on safety and effectiveness of orphan products. Funds are not currently available for these studies. The government's obligation is contingent upon the availability of appropriated funds from which the grants will be funded. FDA expects to award approximately 15 grants ranging from $20,000 to $100,000 in direct costs per annum for up to 3 years. Applications exceeding these limits will be considered nonresponsive.

DATE: Applications must be received by January 25, 1988. The earliest beginning date for awards is July 1, 1988.

ADDRESS: Applications should be submitted to and applications are available from: Robert L. Robins, State Contracts and Assistance Agreements Branch (HFA–520), Food and Drug Administration, Park Bldg., Rm. 3–20, 5600 Fishers Lane, Rockville, MD 20857, 301–6170. NOTE: Applications hand carried or commercially delivered should be addressed to Park Bldg., Rm. 3–20, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: The Administrative and Financial Management Aspects of this Notice: Robert L. Robins, address above.

For The Programmatic Aspects of this Notice: Carol A. Wetmore, Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rm. 12A–40, Rockville, MD 20857, 301–443–4903.

SUPPLEMENTARY INFORMATION: FDA will support the clinical studies covered by this notice under section 301 of the Public Health Service Act (42 U.S.C. 241) and/or under section 5 of the Orphan Drug Act (21 U.S.C. 360ee). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 13.103.

I. Background

FDA has established the Office of Orphan Products Development to identify and facilitate the availability of orphan products. Orphan products are drugs, biologics, medical devices (including in vitro diagnostics), foods for medical purposes, and veterinary products that may be useful in an uncommon or common disease but lack committed commercial sponsorship because they are not considered commercially attractive for marketing. A subcategory of orphan products are those marketed products for which there is evidence suggesting usefulness in an uncommon, serious disease but which are not labeled for that disease because substantial evidence of safety and effectiveness for that use is lacking.

One way to make orphan products more easily available is to support research to determine whether the products are safe and effective. FDA has allocated funds to support such research since Fiscal Year 1983. All funded studies are subject to the requirements of the Federal Food, Drug and Cosmetic Act (the act) and regulations promulgated thereunder.

II. Research Goals and Objectives

A. Clinical Studies

In general, FDA will only consider awarding grants to support clinical studies for determining whether the products are safe and effective for premarket approval under the act (21 U.S.C. 301 et seq.) or under section 351 of the Public Health Service Act (42 U.S.C. 262). These clinical studies may be designed to assist in the approval of unapproved products or of unapproved new uses for already marketed products.

Ordinarily, at least some preliminary clinical research suggesting effectiveness and relative safety should already be available. However, FDA will also consider applications concerning products for which persuasive pharmacologic evidence is available that a product has a reasonable possibility of being effective even though no clinical trials have yet been performed.

Applications should be for one discrete clinical trial. The applicant must provide supporting evidence that the product to be investigated is available to the applicant in the form needed for the clinical trial.

Because funds are limited, FDA cannot consider large research projects involving many subjects (human, or animal in the case of a veterinary drug) and long-term followup. The typical study that FDA will consider for support

may involve up to several dozen subjects, will be well-controlled, and will be designed to provide substantial evidence of the product's safety and effectiveness.

The agency will also consider funding pharmacokinetic studies if such studies are necessary to determine safe and effective doses in subjects with serious organ disease that might affect drug disposition. However, FDA will only consider pharmacokinetic studies if they are part of studies for determining effectiveness of a product or are proposed to obtain information about products about which there is already a significant amount of evidence showing effectiveness. FDA's standards for adequate and well-controlled studies (21 CFR 314.126) should be followed. In designing a well-controlled study, the investigator should especially keep in mind that historical controls or use of the subject as his or her own control is generally less desirable and reliable than active control or, when ethical, placebo controls. The applicant's proposal should provide a rationale for use of the control method chosen to satisfy considerations of scientific quality and ethical realities.

In the case of veterinary products, research studies should be designed to show the safety and efficacy of a product for which there is some evidence that treatment of animals with it could lead to the prevention or mitigation of a serious zoonotic disease in humans.

In addition to FDA's general interest in clinical studies for the safety and effectiveness of orphans products, the agency has recognized the following areas of pediatric research for which applications are encouraged:

1. Studies on marketed drugs currently labeled only for adults uses which would provide data to support labeling these drugs for important uses in pediatric patients.

2. Research to develop nutritional products (medical foods) for management of inborn errors of metabolism for which adequate therapies are not currently available.

B. Significance

Each investigator submitting a grant application for a proposed human or veterinary orphan use in response to this request for applications should include a short statement explaining why preliminary evidence suggests that the product meets the objective of the orphan products development program and why the product to be studied is an orphan product as described in the "background" section of this notice. This statement should appear in the application under Section 2. B.—"Background and Significance."

C. Statistical Support

Statistical expertise is helpful in the planning, design execution, and analysis of clinical investigations and clinical pharmacology to ensure the validity of estimates of safety and efficacy obtained from human studies. Applicants are expected to provide a statistical justification for the number of patients chosen for the trial based on the proposed outcome measures. Applicants should also document the appropriateness of the statistical procedures to be used in analysis of the results.

D. Journal References

Published reports are necessary and often critical for the review process and can help to support the investigator's research intent. Applicants should include copies of reprints of all relevant references for FDA review. This includes favorable and unfavorable reports.

III. Human Subject Protection and Informed Consent

A. Research Involving Human Subjects

Applicants should carefully review the section on human subjects on pages 4 and 5 of the instructions in the application kit. The Specific Instructions-Section 1, Item 4, Human Subjects, on pages 12 and 13 of the application kit should also be carefully reviewed for the certification of Institutional Review Board (IRB) approval requirements. Applicants must provide information about six items described in Section 2–E of the instructions in the application kit. These six items include: The characteristics of the subjects, the sources of research materials, recruitment plans and consent procedures, any potential risks, procedures for protecting against or minimizing potential risks, and potential benefits to the subjects. Failure to include this information may result in deferral of the application. The goal should be to include enough information in a sufficiently clear fashion so that reviewers will not have to delay action on the application.

B. Informed Consent

Consent and/or assent forms and any additional information to be given to a subject must accompany the Grant Application Form PHS 398 (Rev. 9/86). Failure to include this information may result in deferral of the application. Information that is given to the subject or the subject's representative shall be in language that the subject or his or her representative can understand. No informed consent, whether oral or written, may include any exculpatory language through which the subject or the subject's representative is made to waive any of the subject's legal rights, or by which the subject or representative releases or appears to release the investigator, the sponsor, or the institution or its agents from liability.

If a study involves both adults and children, separate consent forms should be provided for the adults and the parents or guardians of the children.

C. Elements of Informed Consent

The elements of informed consent are as stated in the regulations at 45 CFR 46.116 and 21 CFR 50.25 as follows:

1. Basic elements of informed consent. In seeking informed consent, the following information shall be provided to each subject:

(a) A statement that the study involves research, and explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and indentification of any procedures which are experimental.

(b) A description of any reasonably foreseeable risks or discomforts to the subject.

(c) A description of any benefits to the subject or to others which may reasonably be expected from the research.

(d) A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject.

(e) A statement that describes the extent, if any, to which confidentiality of records identifying the subject will be maintained and that notes the possibility that FDA may inspect the records.

(f) For research involving more than minimal risk, an explanation as to whether any compensation and any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained.

(g) An explanation of whom to contact for answers to pertinent questions about the research and research subject's rights, and whom to contact in the event of research-related injury to the subject.

(h) A statement that participation is voluntary, that refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and that the subject may discontinue participation at any time without

penalty or loss of benefits to which the subject is otherwise entitled.

2. *Additional elements of informed consent.* When appropriate, one or more of the following elements of information shall also be provided to each subject:

(a) A statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable.

(b) Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent.

(c) Any cost to the subject that may result from participation in the research.

(d) The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject.

(e) A statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject.

(f) The approximate number of subjects involved in the study. The informed consent requirements are not intended to preempt any applicable Federal, State, or local laws which require additional information to be disclosed for informed consent to be legally effective.

Nothing in this notice is intended to limit the authority of a physician to provide emergency medical care to the extent the physician is permitted to do so under applicable Federal, State, or local law.

IV. Reporting Requirements

A quarterly Financial Status Report (SF–269) and program progress report are required. An original and two copies of these reports shall be submitted to FDA's Grants Management Officer within 30 days following each Federal fiscal quarter, except for the fourth-quarter report, which shall serve as the annual report and which shall be due 90 days after the budget expiration date. The program staff shall advise the grantee of the suggested format at the appropriate time. A final program progress report and invention statement must be submitted within 90 days after the expiration date of the approved project period.

V. Mechanism of Support

A. Award Instrument

Support will be in the form of grant awards which will be subject to all policies and requirements that govern the research grant programs of the Public Health Service, including the provisions of 42 CFR Part 52 and 45 CFR Part 74. The regulations promulgated under Executive Order 12372 do not apply to this program.

All grant awards are subject to the requirements for clinical investigations imposed by sections 505, 507, 512, and 515 of the Federal Food, Drug, and Cosmetic Act; section 351 of the Public Health Service Act; and regulations promulgated under any of these sections.

B. Eligibility

These grants are available to any public or private nonprofit entity (including State and local units of government) and any for-profit entity. For-profit entities must exclude fees or profit from their request for support.

C. Length of Support

The length of the study will depend upon the nature of the study. FDA anticipates that a majority of the studies can be completed in 1 year. For those studies with an expected duration of more than 1 year, noncompetitive continuation of support beyond the first year will depend on: (1) Performance during the preceding year and (2) the availability of Federal fiscal year appropriations.

D. Funding Plan

The number of studies funded will depend on the quality of the applications received, the probable importance of the product developed, and the availability of Federal funds to support the project.

VI. Review Procedure and Criteria

A. Review Method

All applications responding to this request for applications will be reviewed and evaluated for scientific and technical merit by experts in the subject field of the specific application. The applications will also be subject to a second level of review to evaluate them in light of the aims of the Orphan Products Development Program.

Before issuance of an FDA grant award, applications will also be reviewed to ensure to the extent practicable that proposed studies are consistent with requirements for investigations and marketing approval under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act.

B. Review Criteria

Applications must be responsive to this request for applications. Absent concurrence by either the applicant or NIH, the application will be returned to the applicant. Applications will be reviewed according to the following criteria:

1. Responsiveness to this request for applications with specific emphasis on:

(a) Whether the product is an orphan product.

(b) Whether the proposal contains one discrete clinical trial.

(c) Whether there is supporting evidence that the product is available to the applicant in the form needed for the investigation.

(d) Whether the product is subject to premarket approval by FDA.

(e) Whether the proposed study can be completed within the budget and time limitations as stated in this request for applications.

2. The soundness of the rationale for the proposed study.

3. The appropriateness and quality of the study design.

4. The adequacy of the evidence that the proposed number of subjects can be recruited and the study completed during the proposed project period.

5. The adequacy of plans for complying with regulations for protection of human and animal subjects.

6. The qualifications of the investigator and support staff and resources available to them.

7. The request for financial support is adequately justified and fully documented.

VII. Submission Requirements

The original and two copies of the completed Grant Application Form PHS 398 (Rev. 9/86), with sufficient copies of all reprints critical to the review, should be delivered to Robert L. Robins (address above).

The requirement for certification of IRB approval for studies involving the use of human subjects must show the IRB Approval Date (Item 4a.) and the Assurance of Compliance number (Item 4b.) on the face page of the application.

A short statement of why the project is appropriate to the objectives of the Orphan Products Grants Program should appear in the application under Section 2. B.—"Background and Significance."

The outside of the mailing package and the top of the application face page should be labeled "Response to RFA–FDA–OP–88–1."

VIII. Method of Application

A. Submission Instructions

Applications will be accepted during normal working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established closing date January 25, 1988.

Applications will be considered received on time if sent on or before the closing date as evidenced by a legible U.S. Postal Service postmark or a legible dated receipt from a commercial carrier. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for funding and will be returned to the applicant.

Note: Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on the method, applicants should check with their local post office.

B. Format for Application

Applications must be submitted on Grant Application Form PHS 398 (Rev. 9/86). The face page of the application must reflect the request for applications number, RFA–FDA–OP–88–1. Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

The collection of information requested on Form PHS 398 and the instructions have been submitted by the Public Health Service to the Office of Management and Budget (OMB), and were approved and assigned OMB control number 0925–0001.

C. Legend

Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552) as determined by the freedom of information officials of the Department of Health and Human Services, data contained in the portions of this application which have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted information shall not be used or disclosed except for evaluation purposes.

Dated: September 23, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–24648 Filed 10–21–87; 1:46 pm]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Advisory Council Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1987:

Name: National Advisory Council on the National Health Service Corps.

Date and Time: November 16–18, 1987, 9:00 a.m.

Place: Chesapeake Room, Parklawn Building on November 16, 5600 Fishers Lane, Rockville, Maryland 20857 and Tremont Plaza Hotel on November 18, 222 St. Paul Place, Baltimore, Maryland 21202.

Visits will be made to National Health Service Corps sites in the Baltimore area on November 17, leaving the Hotel at 8:30 a.m. No transportation will be provided for visitors and observers.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provision of the legislation.

Agenda: The agenda will include a discussion of Region III activities, overall NHSC policies, budget and other topics at the pleasure of the Council.

Anyone requiring information regarding the subject Council should contact Anna Mae Voigt, National Advisory Council on the National Health Service Corps, Room 7A–23, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–4814.

Agenda items are subject to change as priorities dictate.

Dated: October 20, 1987.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 87–24650 Filed 10–23–87; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Vital and Health Statistics National Committee; meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Disease Prevention and Health Promotion established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will meet on Wednesday, November 4, 1987 from 8:30 a.m. to 12:00 Noon in Room 337A of the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC.

The public discussion will focus on current data activities of the Public Health Service related to Disease Prevention and Health Promotion, as well as means of addressing gaps in existing data.

Further information regarding this meeting of the Subcommittee may be obtained by contacting Edward L. Hunter, National Center for Health Statistics, Room 2–12, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301)436–7142.

Date: October 9, 1987.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 87–24721 Filed 10–23–87; 8:45 am]

BILLING CODE 4160–17–M

Vital and Health Statistics National Committee; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics NCVHS) established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Wednesday, November 4, 1987 from 1:00 p.m. to 5:00 p.m., Thursday, November 5, 1987 from 9:00 a.m. to 5:00 p.m. and Friday, November 6, 1987 from 9:00 a.m. to 1:30 p.m. in Room 503A of the Hubert H. Humphrey Building, 200 Independent Avenue SW., Washington, DC 20201.

The Committee will receive reports from each of its Subcommittees and may address new business as appropriate.

Further information regarding this meeting of the Committee may be obtained by contacting Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–12, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Date: October 9, 1987.

Manning Feinlieb,

Director, National Center for Health Statistics.

[FR Doc. 87–24722 Filed 10–23–87; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-87-864; FR-2390]

Delegation of Authority for Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals

AGENCY: Office of the Secretary, HUD.
ACTION: Notice of delegation of authority.

SUMMARY: Section 441 of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77, approved July 22, 1987) provides new funding authority for the Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals. Homeless individuals must be given a first priority for occupancy in assisted units. This Notice delegates to the Assistant Secretary for Housing—Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner the power and authority of the Secretary of Housing and Urban Development with respect to this section, subject to specified exceptions.

EFFECTIVE DATE: October 16, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Room 6130, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-5720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This Notice states the scope of authority given to the Assistant Secretary for Housing—Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner to administer the Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals, as authorized in section 441 of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77, approved July 22, 1987). All of the Secretary's authority with respect to this section is delegated, except the power to sue and be sued. The authority delegated includes the authority to redelegate to employees of the Department, except for the authority to issue rules, regulations, notices, and other **Federal Register** documents, or to waive rules or notices, with respect to the program.

A Notice, containing the requirements necessary to carry out section 441 has already been published in the **Federal Register** (52 FR 38380, October 15, 1987). Accordingly, the Secretary delegates as follows:

Section A. Authority Delegated

The Assistant Secretary for Housing—Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner are authorized individually to exercise the power and authority of the Secretary of Housing and Urban Development with respect to the Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals, as authorized by section 441 of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77, approved July 22, 1987), except as indicated in Section B, below. This includes the authority to issue rules, regulations, notices, and other **Federal Register** documents, and the authority to waive rules or notices, with respect to the program.

Section B. Authority Excepted

There is excepted from the authority delegated under Section A the power to sue or be sued.

Section C. Authority to Redelegate

The Assistant Secretary for Housing—Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner are authorized individually to redelegate to employees of the Department of Housing and Urban Development any of the power and authority delegated under Section A, and not excepted under Section B of this delegation, except that they are not authorized to redelegate the authority to issue rules, regulations, notices, and other **Federal Register** documents, or to waive rules or notices, with respect to the program.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: October 16, 1987.

Carl D. Covitz,

Acting Secretary of Housing and Urban Development.

[FR Doc. 87-24046 Filed 10-23-87; 8:45 am]

BILLING CODE 4210-33-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 274 (Sub-No. 3E)]

Abandonment of Rail Lines; Use of Opportunity Costs

AGENCY: Interstate Commerce Commission.
ACTION: Notice of decision.

SUMMARY: The Commission finds that, in abandonment proceedings, the appropriate rate of return to be used in calculating opportunity costs and other return on investment, where use of the real pre-tax cost of capital is prescribed, is 14.5 percent. Other rates of return that are supported by clearly explained methodologies and evidence will be considered on a case-by-case basis.

DATE: This notice will be effective on October 26, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245, [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357, (assistance for the hearing impaired is available through TDD services (202) 275-1721) or by pickup from Dynamic Concepts, Inc. in Room 2229 at Commission headquarters.

Decided: October 19, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Andre commented with a separate expression. Vice Chairman Lamboley dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24680 Filed 10-23-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31116]

Buffalo & Pittsburgh Railroad, Inc.; Exemption of Acquisition and Operation of Rail Line; CSX Transportation, Inc. and Buffalo, Rochester, and Pittsburgh Railway Co.

Buffalo & Pittsburgh Railroad, Inc. (B&P) has filed a notice of exemption to acquire from CSX Transportation, Inc. (CSXT) and Buffalo, Rochester and Pittsburgh Railway Company (BRP) and operate the following lines of railroad located in New York and Pennsylvania:

1. The line of railroad between Buffalo, NY and Eidenau, PA, milepost 0.000 to milepost 45.1 and milepost 93.63 to milepost 303.86.

2. The line of railroad between Butler, PA and Bruin, PA, milepost A44.3 to milepost A61.97.

3. The line of railroad between Punxsutawney, PA and Indiana, PA, (including Creekside), milepost 0.000 to milepost 44.7 and milepost 0.000 to milepost 17.02.

4. The line of railroad between Clearfield, PA and Mahoning, PA, milepost 0.000 to milepost 25.7.

5. The line of railroad between DuBois, PA and Sabula, PA, milepost 206.92 to milepost 205.60 and milepost 41.47 to milepost 48.49.

6. The line of railroad in Salamanca, NY, milepost 0.000 to milepost 1.26 (Sta. 66+75.7)

B&O and BRP will grant B&P trackage rights relating to the above lines between milepost 30.5 (303.86) near Butler, PA and milepost 55.6 at UN Tower near New Castle, PA.

Comments must be filed with the Commission and served on James B. Gray, Jr., Harter, Secrest & Emery, 700 Midtown Tower, Rochester, NY 14604, (716-232-6500).

Genesee & Wyoming Industries, Inc., The Arthur T. Walker Estate Corporation, Dumaines and B&P have also filed a Petition for Exemption, pursuant to 49 U.S.C. 10505 for an exemption from the provisions of 49 U.S.C. 11343 with regard to their continuance in control of B&P[1]

This notice is filed under 49 CFR Part 1150. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.[2]

Decided: October 20, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24679 Filed 10-23-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-288X]

Franklin County Railroad Corp.; Abandonment Exemption; Franklin County, NC

AGENCY: Interstate Commerce Commission.
ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et. seq.*, the abandonment by Franklin County Railroad Corporation of 9.64 miles of track in Franklin County, NC, subject to the employee protective conditions in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

DATES: This exemption is effective on November 25, 1987. Petitions to stay must be filed by November 5, 1987 and petitions for reconsideration must be filed by November 16, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-288X to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Fritz R. Kahn, Suite 1000, 1660 L Street NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 TDD for hearing impaired, (202) 275-1721.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (Assistance for the hearing impaired is available through TDD services (202) 275-1721) or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters.

Decided: October 15, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24676 Filed 10-23-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Revocation of Registration; Gerald J. Schor, M.D.

On July 2, 1987, the Administrator of the Drug Enforcement Administration (DEA) issued to Gerald I. Schor, M.D. of 412 Wood Street, California, Pennsylvania 15419, an Order to Show Cause proposing to revoke his DEA Certificate of Registration AS0424274. The Order to Show Cause alleged that the continued registration of Dr. Schor would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f). Additionally, citing his preliminary finding that Dr. Schor's continued registration posed an imminent danger to the public health and safety, the Administrator ordered the immediate suspension of DEA Certificate of Registration AS0424274 during the pendency of these proceedings. 21 U.S.C. 824(d).

The Order to Show Cause/Immediate Suspension was personally served on Dr. Schor on July 8, 1987. More than thirty days have passed since the Order to Show Cause was served and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Dr. Schor is deemed to have waived his opportunity for a hearing. Accordingly the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that on June 4, 1987, an undercover DEA Agent, two informants and two individuals made arrangements to obtain a quantity of Percocet tablets from Dr. Schor. While one individiaul went to Dr. Schor's office; the others waited at a designated location. When the individual returned from the Doctor's office, he had several prescriptions. Although the Agent had never been examined by Dr. Schor, the individual produced two prescriptions issued to the Agent in her undercover name. One prescription was for Percocet; the other prescription was for Tuinal. Both are Schedule II controlled substances.

On June 5, 1987, the Agent, an informant and an individual met to discuss obtaining prescriptions from Dr. Schor. The Agent and the informant provided the individual with three names and address and requested that the prescriptions be in these names. The individual went to Dr. Schor's office/residence at 12:15 a.m. and returned to the designated location at 1:48 a.m. The individual showed the Agent six prescriptions for Preludin and Percocet, both Schedule II controlled substances, which were written and signed by Dr. Schor. They were in the names provided by the Agent and the informant. Two prescriptions were issued to Barbara Roth; two prescriptions were issued to Karen Hall; and, two prescriptions were issued to Angela Pastone.

One June 5, 1987, Dr. Schor and the two individuals involved in the prescription purchases on June 4 and June 5, 1987, were arrested for conspiracy to possess and distribute Schedule II narcotic controlled substances. 21 U.S.C. 846. On August 10, 1987, pursuant to an agreement with the U.S. Attorney for the Western District of Pennsylvania, Dr. Schor pled guilty to one count of conspiracy and one count of illegal distribution of controlled substances, both controlled substance related felonies. Dr. Schor was

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[1] B&P's acquisition of the involved CSX properties must await an effective Commission decision in Finance Docket No. 31117, exempting the continuance in control described above.

[2] By decision served October 19, 1987, the Commission denied a petition of the New York and Pennsylvania State Legislative Boards of the United Transportation Union, requesting rejection, or alternatively, a stay of the effective date of this exemption.

convicted and sentenced on September 15, 1987, to four years incarceration.

A felony conviction relating to controlled substances is a sufficient ground for the revocation of a registrant's DEA Certificate of Registration. *Fitzsimmons v. DEA*, 813 F.2d 1248 (D.C. Cir. 1987). Based on Dr. Schor's felony convictions relating to controlled substances and his previous behavior relating to the distribution of controlled substances via prescription for no legitimate medical purpose, the Administrator finds that a lawful basis exists for the revocation of Dr. Schor's registration, and for the denial of any pending applications for renewal.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AS0424274, previously issued to Dr. Gerald Schor, be, and hereby is, revoked. This order is effective November 25, 1987.

Dated: October 20, 1987.

John C. Lawn,

Administrator.

[FR Doc. 87-24664 Filed 10-23-87; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30-05373; License No. 29-09814-01; EA 87-79]

Eastern Testing and Inspection, Inc.; Order Imposing Civil Monetary Penalties

In the matter of Eastern Testing and Inspection, Inc., 9220 Collins Avenue, Pennsauken, New Jersey 08110.

I

Eastern Testing and Inspection, Inc., Pennsauken, New Jersey 08110 (the "licensee") is the holder of Byproduct Material License No. 29-09814-01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission" or "NRC") which authorizes the licensee to perform industrial radiography. The license was issued on February 2, 1984, was most recently renewed on February 20, 1987, and is due to expire on February 29, 1992.

II

An NRC safety inspection of the licensee's activities under the license was conducted on April 3 and 15, 1987. During the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated July 24, 1987. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of civil penalties proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties by letters dated August 21, 1987 and September 8, 1987.

III

After consideration of the licensee's response and the statements of fact, explanations, and argument for mitigation contained therein, the Deputy Executive Director for Regional Operations has determined, as set forth in the Appendix to this Order, that the violations occurred as stated but, given the current financial condition of the Company, the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be reduced to $3,250 and the licensee should be allowed to pay the imposed penalties in twenty-four monthly installments.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties, either:

a. In the full amount of Three Thousand Two Hundred and Fifty Dollars ($3,250), within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555; or,

b. In twenty-three equal monthly installments of $147.17 each, and a twenty-fourth installment of $147.26 by check, draft, or money order payable to the Treasurer of the United States, which includes interest accruing from November 15, 1987 at the rate of 8⅛ percent per year, as described in the schedule of monthly installments provided with the enclosed "Promissory Note in Payment of Preexisting Debt," which the licensee must provide with the first payment to the Director, Division of Accounting and Finance, Office of Resource Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within thirty days of the date of the Order. The licensee's signature of the "Promissory Note in Payment of Preexisting Debt" constitutes a waiver of a right to request a hearing as provided below, to contest the amount of the civil penalties and the underlying violations, and empowers the United States to obtain a judgment provision against it without a hearing in the event it fails to make a required payment.

V

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region I.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered as such hearing shall be:

(a) Whether the licensee was in violation of the Commission requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties as referenced in Section II above; and

(b) Whether, on the basis of such violation, this Order should be sustained.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

Dated at Bethesda, Maryland, this 20th day of October 1987.

Appendix—Evaluations and Conclusions

On July 24, 1987, a Notice of Violation and Proposed Imposition of Civil Penalties (NOV) was issued for violations identified during a routine NRC inspection. Eastern Testing and Inspection, Inc., responded to the Notice by two letters dated August 21 and a letter dated September 8, 1987. In its responses, the licensee does not deny any of the violations, but requests mitigation of the civil penalties. The NRC's evaluation and conclusion regarding the licensee's arguments are as follows:

Restatement of Violations

I. Violation Involving an Inoperable Alarm

10 CFR 34.29(b) requires that each entrance used for personnel access to the high radiation area in a permanent radiographic installation have both visible and audible warning signals to warn of the presence of radiation. The audible signal shall be actuated whenever an attempt is made to enter the installation while the radioactive source is exposed.

Contrary to the above, on April 3, 1987, the personnel access point (a sliding door) to the high radiation area of the iridium-192 radiography cell at the licensee's permanent facility in Pennsauken, New Jersey, did not have an audible signal which was activated whenever an attempt was made to enter the installation when the source was exposed. Specifically, the bell was taped so that it would not activate as required.

This is a Severity Level III violation (Supplement IV).

Civil Penalty—$5,000.

II Violations Associated with Dosimeter, Audit and Transportation Requirements

A. 10 CFR 34.33(a) requires that a radiographer and radiographer's assistant, whenever performing radiographic activities, shall wear pocket dosimeters which have been recharged at the start of each shift.

Contrary to the above, on April 15, 1987, at a field site in Philadelphia, Pennsylvania, a radiographer and a radiographer's assistant did not recharge their pocket dosimeter at the start of the shift in which they performed radiographic activities.

B. Condition 16 of License No. 29-09814-01 requires that licensed material be possessed and used in accordance with the statements, representations and procedures contained in a letter from the licensee dated January 12, 1987. Item 4.b. of the letter dated January 12, 1987 requires that each individual involved in radiographic activities be audited at a jobsite on a quarterly basis.

Prior to its renewal on February 20, 1987, Condition 16 required that licensed material be possessed and used in accordance with the statements, representations and procedures contained in a letter received from the licensee on July 30, 1981. Item 4 of the letter received on July 30, 1981 required that a comprehensive audit program be conducted every 3 months of each individual involved in radiography.

Contrary to the above, during the fourth quarter of 1986 and the first quarter of 1987, at least four individuals involved in radiographic activities were not audited.

C. 10 CFR 71.5(a) requires that each licensee who transports licensed material outside the confines of its plant or who delivers licensed material to a carrier for transport shall comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation in 49 CFR Parts 170-189. 49 CFR 172.200 requires that shipping papers be furnished for each shipment of hazardous material. 49 CFR 172.101, and its associated Hazardous Material Table, lists radioactive material as a hazardous material.

Contrary to the above, on April 15, 1987, radioactive material, specifically, an iridum-192 radiography source, was transported from the licensee's facility in Pennsauken, New Jersey to a field site in Philadelphia, Pennsylvania without being accompanied by the required shipping papers.

Each of these violations has been categorized at Severity Level IV (Supplements IV and V).

Cumulative Civil Penalty—$1,500 (assessed equally among the violations).

Summary of Licensee Response

The licensee, in its responses, does not deny any of the violations. However, the licensee does not request mitigation of the civil penalties based on: (1) Its corrective action for the violations which included implementing a daily check of the alarm system, implementing a comprehensive audit program, and incorporating a back-up system to ensure that shipping papers will always accompany a source; (2) extenuating circumstances (illness of the Radiation Safety Officer) that contributed to one of the violations (II.B); (3) its stated claim that these violations in no way reflect its overall safety program, which has been operating safely since incorporation in 1984; (4) the fact that none of the violations resulted in exposure to any individual; and (5) the severe economic posture of the company.

NRC Evaluation of Licensee Response

When the NRC proposed the civil penalties, it considered the licensee's corrective actions for the violations. Although these corrective actions were considered acceptable, they were not considered unusually prompt and extensive. Therefore, no adjustment of the civil penalties was deemed appropriate.

While the NRC recognizes that the illness of the Radiation Safety Officer may have contributed to one of the violations, these circumstances do not provide a basis for mitigation of the civil penalties. If the responsibilities of the license can not be implemented by a particular individual, it is the licensee's responsibility to ensure that others are assigned to assure that licensed activities are conducted safely and in accordance with the terms of the license.

With respect to the licensee's claim that its overall safety record provides a basis for mitigation, the NRC disagrees with this claim, since, as explained in the July 24, 1987 letter sent with the Notice of Violation, all four of the violations identified during this inspection had been identified during previous inspections at the facility. In fact, prior to this inspection, 26 violations were previously identified during NRC inspections of this licensee since 1979, including violations that resulted in the imposition of a $6,900 civil penalty (EA 79-002) on July 3, 1980. Furthermore, a $2,300 civil penalty (EA 74-003) was imposed on August 12, 1974, for seven other violations of NRC requirements. Given this history of violations and civil penalties, the licensee's overall safety record does not provide a basis for mitigation.

In addition, the licensee's claim that the violations did not result in a radiation exposure to any individual does not provide a basis for mitigation of the civil penalties since the potential for such exposure existed. As stated in the July 24, 1987 Notice of Violation and Proposed Imposition of Civil Penalties, the failure to maintain the audible warning signal to the iridium-192 cell in an operable status is of particular concern to the NRC since it could have resulted in unnecessary exposure of individuals to radiation, and was similar to a violation identified during an inspection in 1982. If an individual had received a radiation exposure, the civil penalty for this violation probably would have been increased.

The NRC Enforcement Policy recognizes that a licensee's ability to pay is a proper consideration in determining the amount of a civil penalty. The licensee's financial information submitted in its September 8, 1987 letter demonstrates that imposition of a civil penalty in the amount proposed would create a severe financial burden. Recognizing the current financial situation, the penalty is being reduced by 50 percent. The NRC also finds, consistent with its Enforcement Policy, that the imposition of the reduced civil penalties will not result in economic termination of the licensee's business or financial hindrance of the licensee's ability to

safely conduct licensed activities. However, the NRC has concluded that given the economic position of the company, the licensee should be allowed to pay the reduced penalties in twenty-four monthly installments.

NRC Conclusion

The proposed civil penalties in the amount of $3,250 should be imposed. However, given the current financial condition of the Company, the licensee may pay the civil penalties in twenty-four monthly installments.

[FR Doc. 87-24736 Filed 10-23-87; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-250, 50-251 and License Nos. DPR-31 and DPR-41; EA 87-85

Florida Power and Light Co., (Turkey Point Nuclear Plant Units 3 and 4); Order (Effective Immediately)

I

Florida Power and Light Company is the holder of operating Licenses No. DPR-31 and DPR-41 issued by the Nuclear Regulatory Commission (NRC/Commission) on July 19, 1972 and April 10, 1973 respectively. The license authorize the licensee to operate Turkey Point Nuclear Plant Units 3 and 4 in accordance with conditions specified therein.

II

Between July 1983 and May 1987, the licensee has been cited for 32 violations for failure to implement or to follow procedures. Lack of management controls in these and other areas has resulted in multiple escalated enforcement actions including seven civil penalties since July 20, 1984 and two additional civil penalties in the brief period since July 21, 1987. Overall poor performance by the licensee additionally resulted in the Turkey Point Performance Enhancement Program. A Confirmatory Order was issued on July 13, 1984 to confirm the implementation of this program. Subsequently to that, numerous additional violations were identified and the Phase II Assessment Program was developed by FP&L to be implemented in conjunction with the Performance Enhancement Program. This was addressed in the Confirmatory Order issued on August 12, 1986.

Routine inspections of the licensee's activities were conducted during May 18-July 20, 1987. The results of these inspections indicated that the licensee again had not conducted its activities in full compliance with NRC requirements. In conjunction with this Order, a written Notice of Violation and Proposed Imposition of Civil Penalty is being served upon the licensee. The Notice of Violation details a number of examples of the failure to adhere to approved procedures and maintain configuration control over safety-related systems.

III

The first two violations described in the Notice detail a number of occasions where plant pesonnel manipulated valves without the use of approved procedures or approval of licensed supervisory personnel. The major areas of concern included operations personnel departing from approved procedures, failing to notify the control room of changes in system lineups, the loss of configuration control over the safety-related emergency boration system, and system engineers directing plant operators to perform valve operations without first obtaining the proper authorization from the control room staff and without using approved procedures. These failures to adequately establish or implement procedures to assure configuration control of the safety-related emergency boration system resulted in the loss of boric acid flow paths which were required by Technical Specifications. Additionally, a Turbine operator closed valves which he thought were misaligned. The operator was unaware of the proper valve lineup configuration, failed to report the system realignment to the control room, failed to implement the approved system lineup procedure, and failed to document the perceived misalignment and his subsequent realignment. At least one plant operator also failed to identify or promptly inform the control room staff of the status of the valves. The improper manipulation of these values resulted in the isolation of the nitrogen backup system for the Auxililary Feedwater System (AFW) flow control valves. The AFW flow control valves normally use the non-safety-related, non-seismic instrument air system for automatic valve positioning; therefore, the failure to have the nitrogen back-up system available is unlikely to have prevented the AFW system from operating. Nevertheless, these failures by plant personnel indicate a lack of appreciation for procedural compliance, system configuration control, and receiving appropriate authorization for realignments from the control room.

The third violation described in the Notice addresses an event involving operation of the Intake Cooling Water (ICW) system outside the plant design basis, another example where communications of required information to supervisory personnel was a contributing factor. On December 1, 1986, a performance test conducted on the Unit 3 Component Cooling Water (CCW) heat exchangers indicated degraded performance. Revised data and proposed immediate cleaning schedule were forwarded to the Shift Technical Advisors on December 4, 1986, but the changes required by the revised performance data were not implemented and the cleaning schedule was not adhered to. As a result of this failure to perform corrective action, with the 3B CCW heat exchanger out of service for cleaning during a seventeen hour period on December 11, 1986, the two CCW heat exchangers remaining in service would not have been able to dissipate the maximum hypothetical heat load even with the ICW flow provided by two ICW pumps as decribed in safety evaluation JPE-L-85-36, Rev. 2, and the turbine plant cooling system isolated.

In addition, on September 13, 1987, a licensed operator permitted an unauthorized, non-licensed individual to manipulate the reactor dilution controls in Unit 3 control room, and although a management representative on shift observed and reported the incident, neither the Site Vice-President nor management at the Corporate Office were informed of the event until a week later. The NRC is continuing to evaluate the circumstances surrounding this event, but it is clear that an attitude that permits an unauthorized, non-licensed individual to perform such actions is unacceptable. The NRC will consider whether further action is necessary on this issue subsequent to the completion of our evaluation.

IV

The nature and number of deficiencies that have been identified over the past few years at Turkey Point described in Section II together with the more recent issues in Section III raise questions regarding the ability of Florida Power and Light to adequately control activities at Turkey Point. In contrast, the licensee's St. Lucie facility has performed well with few of the weaknesses evident at Turkey Point. Continued operation of the Turkey Point facility may require significant personnel and procedural changes at both Turkey Point and the Florida Power and Light corporate office in order to ensure a consistent level of adequate performance.

Florida Power and Light has taken the initiative in developing a number of programs designed to improve performance, including a review of the design basis of selected systems, a review and revision of all operating

procedures, making a number of management changes, a management on-shift program and contracting with an outside consultant to review its activities. The last two initiatives which the licensee committed to in a letter dated October 7, 1987 and further described in meetings on September 25, 1987 and October 8, 1987, as well as in a letter dated October 19, 1987 appear necessary to provide assurance that proper controls are in place, along with qualified and committed management, and staff to properly perform licensed activities. Therefore, I have determined that public health and safety require that Florida Power and Light's plan for an independent evaluation be confirmed as revised by this Order. Pending the NRC evaluation of the results of the independent evaluation, I have also determined that the public health and safety requires that an on-shift oversight program be confirmed as revised by this Order.

V

In view of the foregoing pursuant to sections 103, 161(i), 161(o) and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered effective immediately that:

A. Within 30 days of the date of this Order, the licensee shall submit to the Region II Administrator for review and approval a plan for an independent written appraisal of site and corporate organizations and activities that would develop recommendations, where necessary, for improvements in management controls and oversight to provide assurance that personnel will comply with required procedures. Upon approval of the plan, it shall be implemented and scheduled milestone completion dates shall not be extended without good cause and the concurrence of the Region II Administrator. The appraisal shall be completed as called for in the above plan, but in any case, within six months of the date of this Order. The plan shall include at least the elements itemized below:

(1) An independent organization retained by the licensee shall evaluate current organizational responsibilities, management controls, improvement and upgrade programs, staffing levels and competence, communications, the safety review process, and operating practices both at Turkey Point and the corporate office. The licensee's programs for personnel motivation such as incentive and disciplinary programs shall be examined in the appraisal. Where applicable, the practices at the St. Lucie facility shall be reviewed and compared with those at Turkey Point.

(2) The appraisal shall include a review of the licensee's site and corporate management supervisory personnel as well as a representative number of site working level personnel to determine their understanding of both regulatory and administrative requirements in the areas of procedural implementation and compliance. Additionally, a determination of the level of commitment of the personnel to such goals should be made.

(3) The appraisal report shall include the views of the independent organization on the causes of the past failures to meet regulatory requirements referenced in Section II and III of the Order and an evaluation of the adequacy of the current improvement and upgrade programs and management changes to achieve lasting safety improvements in compliance with Commission requirements. Past efforts to improve procedures relating to security and operations shall be reviewed. Recommendations shall be made for procedural, organizational, personnel, or other changes to improve the safety of plant operations and compliance with Commission requirements.

(4) A description of the appraisal program, the qualification of the appraisal team, a discussion of how the appraisal is to be documented, and a schedule with appropriate milestones.

(5) Periodic meetings shall be provided between the outside organization and the licensee to alert the licensee of potential safety issues that may need immediate correction.

B. The final report, as well as interim findings, will be communicated to a senior-level review board consisting of the FP&L Chairman and Chief Executive Officer, the President and Chief Operating Officer, and the Group Vice President Nuclear Energy Department.

C. The licensee shall direct the outside organization to submit to the Region II Administrator a copy of the report of the appraisal recommendations resulting from the appraisal, any any and all drafts thereof, at the same time they are sent to the licensee or any of its employees or contractors. Prior notice shall be given the Region II Administrator of any meeting between the licensee and the organization to discuss the results, recommendations, or progress made on the appraisal. The Region II Administrator may designate a member of his staff to attend any such meetings as an observer. In addition the licensee shall consider the, recommendations resulting from the appraisal and provide to Region II Administrator within 30 days of the receipt of the appraisal an analysis of each such recommendation and the action to be taken in response to recommendation. The licensee shall also provide at that time a schedule for accomplishing these actions. Justification shall be provided for any recommendation of the appraisal not adopted.

D. Pending the completion of the review of the results of the above independent appraisal programs, the licensee shall implement a continuous on-shift oversight program to monitor the safety of plant operations, both in and out of the control room. The oversight program shall be implemented prior to either unit entering Mode 2 (Startup) following the current outages

(1) At least one evaluator, whether licensee employee or contractor, on each shift shall have held a senior reactor operator license or have experience in auditing or appraising commercial nuclear plant operations and not have been an employee at the Turkey Point facility within the last two years.

(2) A guidance document will be issued which identifies the purpose of the program, the responsibilities of the personnel assigned to the program, reporting requirements, and the authority given to the evaluators to act where necessary to prevent personnel error and to assure quality performance. A copy of such duties and responsibilities shall be provided to the NRC. At a minimum the evaluation shall report observations of immediate safety significance to the shift supervisor and his direct supervisor. Daily reports of all activities addressing questionable operating practices shall be made to the Site Vice President with same day copies provided to the President of FP&L. The President of FP&L shall be directly responsible for the oversight program. A weekly summary report along with a compilation of daily reports shall be provided to the Region II Administrator.

(3) Following the licensee's review of the results of the independent appraisal program the licensee may seek to terminate the oversight program. Written justification of the termination shall be provided to the Region II Administrator, explaining the basis for termination after considering the significance of any appraisal or oversight findings in the area of plant operations.

F. The Regional Administrator, Region II, may relax or terminate in writing any

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of the preceding provisions for good cause.

VI

The licensee or any person adversely affected by this Order may request a hearing within 30 days of the date of this Order. A request for hearing should be clearly marked as a "Request for Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with copies to the Assistant General Counsel for Enforcement, Regional Administrator, Region II, and the NRC Resident Inspector, Turkey Point Nuclear Plant.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If a hearing is held, the issue to be considered shall be whether this Order should be sustained. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). Upon the failure of the licensee and any other person adversely affected by this Order to answer or request a hearing within the specified time, this Order shall be final without further proceedings. An answer to this order or a request for hearing shall not stay the immediate effectiveness of this order.

For The Nuclear Regulatory Commission.

James Taylor,

Deputy Executive Director for Regional Operations.

Dated at Bethesda, Maryland, this 19th day of October 1987.

[FR Doc. 87-24737 Filed 10-23-87; 8:45 am]

BILLING CODE 7590-01-M

[Byproduct Material License No. 53-17854-01, Docket No. 30-13435, ASLBP No. 88-559-01-EA]

Finlay Testing Laboratories, Inc.; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, a presiding officer is designated in the following proceeding: Finlay Testing Laboratories, Inc., Byproduct Material License No. 53-17854-01, E. A. 87-186.

The presiding officer is being designated pursuant to the Licensee's request for a hearing regarding an Order issued by the Deputy Executive Director for Regional Operations, dated September 21, 1987, entitled "Order Suspending License (Effective Immediately)."

The presiding officer in this proceeding is The Honorable Robert M. Lazo, Administrative Judge.

An Order designating the time and place of any hearing will be issued at a later date.

All correspondence, documents and other materials shall be filed with Judge Lazo in accordance with 10 CFR 2.701. His address is: Administrative Judge Robert M. Lazo, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 21st day of October 1987.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 87-24723 Filed 10-23-87; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow and Contract-Language Requirements Relating to Sale of Assets By an Employer That Contributes to a Multiemployer Plan; Puerto Rico Maritime Shipping Authority and Maher Terminals, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted an exemption from the bond/escrow and contract-language requirements of section 4204(a)(1) (B) and (C) of the Employee Retirement Income Security Act of 1974 to Puerto Rico Maritime Shipping Authority and Maher Terminals, Inc. A notice of the request for exemption was published in the **Federal Register** on August 3, 1987 (52 FR 28768). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street NW., Washington, DC 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (38000) at the above address.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; 202-956-5050 (202-956-5059) for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Under section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), a sale of assets by an employer that contributes to multiemployer pension plan will not constitute a withdrawal from the plan if certain conditions are met. Two of these conditions are that the purchaser post a bond or deposit money in escrow for the five plan years beginning after the sale and that the sale contract provide for secondary liability on the part of the seller if the buyer withdraws during the five-year period.

ERISA section 4204(c) authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C). Under § 2643.3(a) of the PBGC's regulation on variances for sales of assets (29 CFR Part 2643), the PBGC will approve a request for an exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sale rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

ERISA section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of an exemption request in the **Federal Register**, and to give interested parties an opportunity to comment on the proposed exemption.

Decision

On August 3, 1987 (52 FR 28768), the PBGC published a notice of the pendency of a request from Puerto Rico Maritime Shipping Authority ("PRMSA") and Maher Terminals, Inc. ("Maher"), for an exemption from the bond/escrow and contract-language requirements of section 4204(a)(1) (B) and (C) of ERISA in connection with Maher's purchase, effective November 29, 1986, of the assets of the guard service operated by PRMSA in Port Elizabeth, New Jersey. (The information necessary to support the waiver request is confidential financial information (within the meaning of section 552(b)(4) of the Freedom of Information Act) that Maher declines to submit to the Plan.) No comments were received in response to the notice of pendency.

In connection with the sale, Maher assumed PRMSA's obligation to contribute to the NYSA-PPGU Pension Fund and Plan ("the Plan"). The Plan has informed Maher that the amount of the bond or escrow required of Maher under section 4204(a)(1)(B) is $105,734. The Plan has also informed Maher that it will not request Maher to post the bond while Maher's waiver request to the PBGC is pending. The estimated amount of the withdrawal liability that PRMSA would otherwise incur as a result of the sale if section 4204 did not apply to the sale is $272,385.

Maher stated that the request for an exemption should be granted because it satisfies the net tangible assets test described in § 2643.14(a)(2) of the regulation. The sum of the amount of unfunded vested benefits allocable to Maher and PRMSA as of the date of the sale was $857,558. Maher's audited financial statements show net tangible assets of more than $2,000,000 as of the end of its fiscal year ending in September 1986.

Based on the facts of this case and the representations and statements made in connection with the exemption request, the PBGC has determined that an exemption from the bond/escrow and contract-language requirements is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the Plan. Therefore, the PBGC hereby grants the request for an exemption from the bond/escrow and contract language requirements of section 4204(a)(1) (B) and (C) of ERISA with respect to Maher's purchase of assets from PRMSA. The granting of such an exemption does not constitute a determination by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). That is a determination to be made by the plan sponsor.

Issued at Washington, DC, on this 16th day of October, 1987.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87-24742 Filed 10-23-87; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by the Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, 450 Fifth Street, NW., Washington, DC 20549.

Extension

File No. 270-27, Rule 17a-13;
File No. 270-85, Rule 12a-5 and Form 26;
File No. 270-86, Rule 12d2-2 and Form 25;
File No. 270-98, Rule 12d2-1;
File No. 270-92, Rule 15Ba2-6;
File No. 270-93, Rule 15B3-1;
File No. 270-91, Rule 15Ba2-5;
File No. 270-90, Rule 15Ba2-4;
File No. 270-89, Rule 15Ba2-2;
File No. 270-154, Rule 17a-10;
File No. 270-139, Rule 12f-1;
File No. 270-149, Rule 17Ad-(2) (c), (d) & (h);
File No. 270-148, Rule 17a-19;
File No. 270-146, Rule 15c1-7;
File No. 270-96, Rule 17Ac3-1 and Form TA-W;

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB clearance the following rules and forms under the Securities Exchange Act of 1934:

Rule 17a-13 which requires quarterly security counts be made by certain exchange members, brokers and dealers. Five thousand respondents incur an estimated average of twenty-five burden hours to comply with the Rule.

Rule 12a-5 and Form 26 which provide a temporary exemption whenever the holders of a security admitted to trading on a national securities exchange obtain the right to acquire all or part of a class of another or substitute security of the same or another issuer, or an additional amount of the original security. Fifty respondents incur an estimated average of twenty burden minutes to comply with the Rule.

Rule 12d2-2 and Form 25 which provide for a national securities exchange to file an application with the Commission to strike a security from listing and registration Five-hundred and thirty respondents incur an estimated average of one-burden hour to comply with the Rule.

Rule 12d2-1 which provides that a national securities exchange may suspend from trading a security listed and registered thereon in accordance with its rules. One-hundred and twenty respondents incur an estimated average of thirty burden minutes to comply with the Rule.

Rule 15Ba2-6 which provides for the adoption of an application for registration of a municipal securities dealers filed by a predecessor municipal securities dealer. One respondent incurs an estimated average of one burden hour to comply with the rule.

Rule 15Ba2-5 which provides that the registration of a municipal securities dealer shall be deemed to be the registration of the fiduciaries. One respondent incurs an estimated average of four burden hours to comply with the Rule.

Rule 15Bc3-1 which provides that notice of withdrawal from registration as a municipal securities dealer be filed on Form MSDW. Twenty respondents incur an estimated average of thirty burden minutes to comply with the Rule.

Rule 15Ba2-4 which provides that the registration of the predecessor municipal securities dealer shall be deemed to remain effective as the registration of the successor for a period of 75 days. Five respondents incur an an estimated average of four burden hours to comply with the Rule.

Rule 15Ba2-2 which provides that an application for registration of non-bank municipal securities dealers whose business is exclusively intrastate shall be filed on Form BD. Five respondents incur an estimated total of one burden hour.

Rule 17a-10 which provides that every broker or dealer exempted from the filing requirements of paragraph (a) of Rule 7617a-5 file a report on revenue and expenses. Seven thousand respondents incur an estimated average of one-burden hour to comply with the Rule.

Rule 12f-1 which provides that an application may be made to the Commission by any national securities exchange for the extension of unlisted trading privileges to any security. Six-hundred and seventy respondents incur an estimated average of one burden hour to comply with the Rule.

Rule 17Ad-2(c), (d) & (h) which provides the requirements for turn around, processing, and forwarding of items for registered transfer agents. Eight respondents incur an estimated total of thirty burden minutes to comply with the Rule.

Rule 17a-19 which provides that national securities exchanges and registered national securities associations report changes in the membership status of any member. Eight

respondents incur an estimated average of fifteen burden minutes to compy with the Rule.

Rule 15c1–7 which provides a standard to determine whether a transaction is manipulative or fraudulent and establishes a means to ensure that all transactions occuring in a discretionary account are noted. Two hundred thousand respondents incur an estimated average of five burden minutes to comply with the Rule.

Rule 17Ac3–1 and Form TA–W provide a system for withdrawal from registration with the Commission as a transfer agent. Thirty respondents incur an estimated average of thirty burden minutes to comply with this Rule.

Submit comments to OMB Desk Officer: Mr. Robert Neal, (202) 395–7340, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

October 15, 1987.

[FR Doc. 87–24743 Filed 10–23–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25041; File No. AMEX–87–22]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Accelerated Approval to Proposed Rule Changes

On September 4, 1987, the American Stock Exchange, Inc. ("AMEX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to permit the AMEX to list long-term option series.

The proposed rule change was noticed in Securities Exchange Act Release No. 34–24948 (September 29, 1987), 52 FR 37385 (October 6, 1987). No comments have been received.

The proposed rule change will allow the Exchange to list long-term options on its broad-based indices. Currently, options on broad-based indices begin trading approximately twelve months prior to their expiration. More specifically, the proposal would allow the AMEX to list option series that expire in either one, two or three years, with the Exchange retaining the right also to list options with intervening six month expirations (e.g., 1½ years, 2½ years). When listed, such option series will be opened for trading either when there is buying or selling interest, or 40 minutes prior to the close, whichever occurs first. No quotations will be posted for such long term option series until they are opened for trading. When these option series have less than 12 months to expiration they will be treated like any other non long-term option for all trading procedures, including opening procedures.

Strike price interval, bid/ask differential, and continuity rules will not apply to such long term option series until the time to expiration is less than 12 months. The AMEX believes it is appropriate to waive these rules initially because of the lack of historical pricing data upon which to base such prices.[3] Strict price interval requirements and bid/ask differential rules currently are based on options that expire 12 months from the time they begin trading. There currently is no basis for establishing accurate prices for long-term options that will expire 12 to 36 months from the time they begin trading.

The Exchange states that the inapplicability of specific AMEX rules concerning strike price intervals, bid/ask differentials and price continuity will not prevent the AMEX from concluding that market-maker performance is inadequate should a specialist and/or registered trader enter into transactions or make bids or offers in long-term options that are inconsistent with their obligation to maintain fair and orderly markets. In this regard, the Commission notes the AMEX's bid/ask differential and continuity rules are part of the general rules that obligates specialist and registered options traders to maintain a fair and orderly market.[4] The Commission believes that the requirement of this rule are broad enough, even in the absence of bid-ask differentials and continuity requirements, to allow the Exchange the authority to make a finding of inadequate making performance.

The Commission agrees that it may be impractical for the AMEX to apply the usual strike price interval, bid/ask differential, and continuity rules to the longer term options. However, the AMEX has stated that it will monitor the trading in the long-term options closely to gain experience with regard to these options, and that it will reexamine the applicability of these rules to the long-term options in one year's time.

The proposed rule change is designed to facilitate transactions in options by providing investors with additional means to hedge equity portfolios from long-term market risk. In particular, the proposal to respond to requests from institutional customers to list long-term options. The proposal would allow institutions, to use these long-term options to protect portfolios from long-term market moves with a known and limited cost. As a result, the Commission believes that the proposed rule change will thus better serve the long-term hedging needs of institutional investors.

Long term options also would provide institutions with an alternative to insuring portfolios with futures positions. Many institutional investors now use stock index futures contracts that have terms of 12 months or more to hedge portfolio risk. The Commission believes that the proposed long-term options will provide institutions with a broader range of choice in their use of hedging vehicles, and will place options on a more equal position with futures products.

For the above reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [5] and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof because the proposed rule change raises substantially the same issues that were addressed recently when the Commission approved the listing of long-term options by the Chicago Board Options Exchange, Inc.[6] That proposal received no comments, and the AMEX's proposal has received no comments during its abbreviated comment period. The approval of the rule change at this time will allow the AMEX to introduce long-term series index options at the October expiration and thereby provide competition in the market place for such long-term options.

IT IS THEREFORE ORDERED, pursuant to section 19(b)(2) of the Act,[7]

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1985).

[3] Letter from Howard A. Baker, Senior Vice President, American Stock Exchange to Joseph Furey, Option's Branch Chief, Division of Market Regulation, SEC, dated September 21, 1987.

[4] See AMEX Rule 958(b).

[5] 15 U.S.C. 78f (1982).

[6] *See* Securities Exchange Act Release No. 34–24853 (August 27, 1987), 52 FR 33488.

[7] 15 U.S.C. 78s(b)(2) (1982).

that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

Dated: October 16, 1987.

[FR Doc. 87–24744 Filed 10–23–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25044; File No. SR–BSE–87–2]

Self-Regulatory Organizations; Boston Stock Exchange; Order Granting Approval of Proposed Rule Changes

I. Introduction

On February 6, 1987, the Boston Stock Exchange ("BSE" or "Exchange") filed, pursuant to seciton 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), a proposal to amend its margin, capital and equity requirements for specialists. The proposal would increase minimum financial responsibility requirements for specialists, and would establish guidelines for taking remedial action for violations of those requirements.[1] The proposal was published for comment in the **Federal Register**, and no comments were received.[2] The Commission is issuing this order to approve the proposal.

II. Description of the Proposal

The BSE filing would amend (1) the Supplementary Material to Chapter VIII of the BSE Rules of the Board of Governors, concerning margin requirements for specialists, and (2) Chapter XXII, section 2 of the BSE Rules of the Board of Governors, concerning specialist net capital requirements.

A. Margin Provisions

The BSE requires, generally, that a specialist maintain a margin of 25% of market value of all securities in which he acts as specialist, and a margin of 50% for all other equity securities in his account.[3] The proposed amendments to the margin provisions would provide guidelines for remedial action to be taken by the Exchange and for the imposition of escalating fines in the event of repeated calls for margin deficiencies ("margin calls") in a specialist's account within a one month or calendar quarter period. Specifically, the BSE proposal provides that in the event of the third margin call within a one month period, the specialist would be required to meet with the Exchange's Market Surveillance and Compliance Department ("Exchange Staff") to review the problem and consider appropriate remedial action.[4] If the account has a fourth margin call within the month period a written warning will be issued, and at the fifth and sixth margin calls in that period the account will be fined $250, and $500, respectively. The proposal further provides that after receiving six margin calls in a calendar quarter period, a specialist will be fined $500 on any subsequent call. The proposal notes that any of the sanctions or remedial actions imposed by the Exchange Staff under these provisions may be appealed to the BSE's Market Performance Committee ("MPC"), and also that the MPC may take additional remedial action, such as suspending or terminating a specialist's trading or alternate account privileges. Finally, the proposal provides an exemption from the proposed sanctions for margin calls if the Exchange Staff, with the concurrence of a Floor Governor, determines that the margin deficiencies were incurred by the specialist as a result of fulfilling his market making responsibilities.

B. Net Capital and Minimum Equity Requirements

The BSE proposal also would increase the minimum net capital and equity requirements for BSE specialists, and would establish a schedule of remedial action and fines for repeated net capital violations.

Currently, the BSE requires that a specialist maintain a minimum net capital, as defined and computed under the Commission's Rule 15c3–1,[5] equal to the greater of $35,000 or 25% of the market value of 200 shares of each security in which that specialist is registered as a dealer. The proposal, in effect, would increase that net capital requirement by requiring that the specialist apply certain additional haircuts, *i.e.*, percentage reductions to the market value of a security held as principal, to securities in the specialist's account when computing net capital. First, the proposed amendment would require that whenever a single security issue in the specialist's account valued under $10 per share comprised more than 30% of the equity in the account, or when all securities in the account valued under $10 per share exceeded 50% of the specialist's equity, a haircut of 30% would be applied to that excess over 30% or 50% of equity, whichever results in the greater haircut.[6] In addition, the proposal sets forth certain other haircuts that must be applied to all other security positions in the specialist's account, in addition to those required by the net capital computation in Rule 15c3–1. For specialists that do not have public customers or an active trading account, a haircut of 10% on both long and short securities positions shall be applied. For those specialists with no public customers, but with an active trading account, a 30% haircut on the greater of the long or short position shall be applied.[7]

As with the margin requirements, the proposal also would establish guidelines for remedial action and for imposing sanctions for repeated violations of the net capital requirements by specialists. The proposal provides that an account must cure a net capital deficiency by the morning of the next business day, and if timely corrective action has not been taken, the Exchange Staff, after consultation with a Floor Governor, may require liquidation of positions or freezing of the account. The proposal also provides for an escalating scale of sanctions for a specialist's repeated net capital violations in a twelve-month period.[8] The Exchange Staff will have the discretion, however, with the concurrence of a Floor Governor, to exempt a specialist from these sanctions if the deficiency was incurred as a result of performance of specialist obligations during unusual market activity.

Finally, the BSE proposes to increase minimum equity requirements for its specialists in two stages. As of December 31, 1987, specialists will be required to increase their liquidating

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[8] 17 CFR 200.30–3(a)(12) (1986).

[1] On September 10, 1987, and October 19, 1987, the BSE filed amendments to the proposal to clarify the proposal in certain respects and to conform certain outdated provisions in its margin and capital rules to current regulatory requirements. These amendments were not noticed for comment.

[2] See Securities Exchange Act Release No. 24562 (June 5, 1987), 52 FR 22870 (SR–BSE–87–2).

[3] *See* Chapter VIII of the BSE Rules of the Board of Governors, Supplementary Material, Section 1.

[4] Assuming a margin call for a deficiency in the specialist's account is issued on Day 1 and each succeeding day the account continues to be under-margined constitutes a separate margin call, on Day 3 the remedial sanctions would apply.

[5] 17 CFR 240.15c3–1.

[6] The proposal states that a specialist may be exempt from the haircuts for low-priced securities, if those security positions were assumed in the course of the specialist's maintaining a fair and orderly market.

[7] If the smaller of the long or short position is greater than 25% of the larger position then the specialist shall be haircut an additional 15% on the difference between the two positions.

[8] These sanctions may be appealed to the MPC.

equity [9] from $80,000 to $100,000, and as of June 30, 1988, these equity requirements will be raised to $125,000. The equity levels below which a specialist would be required to supply additional equity or his securities would be reassigned would be raised as of December 31, 1987, to $90,000 and $85,000, respectively, and as of June 30, 1988, to $110,000, and $100,000, respectively.[10]

III. Discussion

The BSE, through its clearing corporation, the Boston Stock Exchange Clearing Corporation, finances the trading activity of its specialists. Therefore, the Exchange has a direct and substantial interest in the financial strenght and integrity of its specialists, which is relfected in its rules. The BSE, through these amendments to its margin and capital rules, is seeking to increase the financial responsibilitity of its specialists by: (1) Increasing net capital requirements by requiring certain additional securities haircuts in the net capital computation; (2) raising minimum equity requirements; and (3) establishing a system for remedial action and fines to assure compliance by specialists with the financial responsibility requirements. The BSE represents that the proposal is motivated largely by the planned implementation of the proposed Boston Exhange Automated Communication Order-Routing Network ("BEACON"), which will price and execute automatically orders up to 1,299 shares.[11] By increasing the specialist's minimum financial responsibility requirements, the BSE is attempting to assure that its specialists will have equity and capital sufficient to support their participation in the BEACON system. The BSE states in its filing that the proposal is consistent with section 6(b)(5) of the Act because it will facilitate transactions in securities, and reduce risk to public investors, member organizations and the Exchange.

[9] Liquidating equity is deifned in the BSE rules as the excess of cash, readily marketable securities, and amount due from the registered clearing corporation over all liabilities other than those represented by a satisfactory subordination agreement. *See* Chapter XXII. Section 2(e) of the BSE Rules of the Board of Governors.

[10] The proposal also states that a specialist must maintain an additonal equity of $25,000 for any trading or alternate specialist account it may have. If this equity drops below the $25,000 amount, then any trading in the trading account and/or alternate specialist account must cease immediately.

[11] *See*, Securities Exchange Act Release No. 24690 (July 9, 1987), 52 FR 26612 (SR–BSE–87–1), which published notice of the BEACON proposal.

The Commission believes that the BSE's proposal to increase the minimum net capital and equity requirements for its specialists and to establish guidelines for taking remedial action in instances of violations of those requirements and of its margin rules is desinged to improve the finacial integrity and liquidity of the BSE marketplace. As a result, the proposal, by assuring that specialists have capital sufficient to perform their market making responsibilities, would provide additional protection for the Exchange, other member organizations, and public investors.[12]

Accordingly, the Commission finds that the BSE proposal, as amended, is consistent with section 6 of the Act, and the rules thereunder applicable to the national securities exchanges.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the BSE rule proposal be approved.

For the Commission, by the Divison of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 20, 1987.

[FR Doc. 87–24692 Filed 10–23–87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Midwest Stock Exchange; Application for Unlisted Trading Privileges in Over-the-Counter Issues and To Withdraw Unlisted Trading Privileges in Over-the-Counter Issues

October 20, 1987.

The Midwest Stock Exchange, Inc. ("MSE") on October 13, 1987, submitted an application for unlisted trading privileges ("UTP") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") securities, *i.e.*, securities not registered under Section 12(b) of the Act:

File No.	Symbol	Issuer
7–0516	SUNW	Sun Microsystems, Inc. Common, $.0006 par value.
7–0517	NOBE	Nordstrom, Inc. Common, no par value.

[12] The proposal, by providing for review by the MPC of the remedial sanctions imposed by the Exchange Staff or repreated margin and net cpaital violations, contains fair procedures for the disciplining of members consistent with section 6(b)(7) of the Act.

The MSE also applied to withdrew UTP pursuant to section 12(f)(4) of the Act on the following OTC issues:

File No.	Symbol	Issuer
7–0493	SMED	Shared Medical Systems.
7–0478	DIGI	DSC Communications.

Comments

Interested persons are invited to submit on or before November 10, 1987, written comments, data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Commentators are requested to address whether they believe the requested withdrawal of UTP in Shared Medical Systems and DSC Communications would be consistent with section 12(f)(4) of the Act and whether the requested grant of UTP in Sun Microsystems, Inc. and Nordstrom, Inc. would be consistent with section 12(f)(1)(C). In considering an application for extension of UTP in OTC securities under section 12(f)(1)(C), the Commission is required to consider, among other matters, the public activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system. The Commission may not grant such application if any rule of the national securities exchange making an application under section 12(f)(1)(C) would unreasonably impair the ability of any dealer to solicit or effect transactions in such security for his own account, or would unreasonably restrict competition among dealers in such security or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–24693 Filed 10–23–87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–25046; File No. SR–NASD–87–34]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to an Amendment to Part V of Schedule D of the NASD By-Laws Reducing Fees for Non-Professionals

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 18, 1987, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD hereby files a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend the schedule of charges contained in Schedule D of the NASD By-Laws, Part V, section A(9)(a).[1] The amendatory language is as follows (deletions bracketed/additions italicized):

9. Non-Professional Services [2].

(a) The charge to be paid by non-professional subscribers for access to NASDAQ Level 1 Service [or] *and* NASDAQ/National Market System Last Sale Information Service through [the services of] an authorized vendor shall be [$6.00] *$4.00 per interrogation device per month.*[3]

[1] The Commission recently approved File No. SR-NASD–87–8 which effected a reorganization of Schedule D. *See* Release No. 34–24718 (July 20, 1987). The schedule of charges formerly in Part V of Schedule D (including those applicable to non-professionals) will now be found under Part IX of the reorganized Schedule D. Because the subsection for non-professional services has not yet been designated, the NASD has referenced this rule change according to the scheme existing immediately prior to the reorganization of Schedule D.

[2] Under Schedule D of the NASD By-Laws, formerly Part V, section A(9)(b), the term "non-professional" is defined respecting the application of this fee. Generally, the term encompasses entities that are not registered with the Securities and Exchange Commission, Commodity Futures Trading Commission, comparable state agencies or a securities exchange or association.

[3] The subject charge, like those applicable to professionals, is assessed per device. The words "per interrogation device" have been added to clarify this application of the fee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this filing is to establish a reduced monthly fee of $4.00 per interrogation device for bundled Level 1 and NASDAQ/National Market System Last Sale Service provided to non-professional subscribers through vendors. Previously, the non-professional subscriber paid a monthly charge of $6.00 to receive either Level 1 or NASDAQ/NMS Last Sale Service, or a total of $12.00 per device for both services. The NASD expects that the instant fee reduction will expand the base of non-professionals opting to receive the bundled service consisting of Level 1 quotations and NASDAQ/NMS last sale data. Finally, this modification tracks parallel changes implemented with respect to Consolidated Tape Association and Consolidated Quote fees.

The NASD cites section 15A(b)(5) of the Act as the principal statutory basis for modifying the Association's non-professional fee structure. That provision holds the Association to a standard of reasonable fees equitably allocated in setting charges for its various market data services. The new monthly charge of $4.00 per device for combined Level 1/NASDAQ/NMS Last Sale Service constitutes a 33⅓% reduction from the monthly charge previously levied to receive only one of these data sources. It is anticipated that this reduction will stimulate demand for the combined Level 1 and NASDAQ/NMS Last Sale information among a broader base of non-professionals served by vendors of securities information. These non-professionals will automatically have access to both inside quotations and last sale data at a price 66⅔% below the previous aggregate price for these services. Hence, certain non-professionals will no longer have to choose between accessing inside quotes or last sale data in applying their limited resources for securities market data. In sum, the modified fee structure for non-professionals should enable more subscribers to obtain on-line access to expaned NASDAQ market data for a significantly lower price. Accordingly, the NASD believes that this proposed rule change satisfies the regulatory structures posed by section 15A(b)(5) of the Act.

Similarly, the Association relies upon section 11A(a)(1) of the Act as statutory support for the modified fee structure for non-professionals. Subsections (A) through (D) thereunder contain a series of Congressional findings respecting the goals of a national market system. These provisions emphasize the importance of technology in disseminating market information to virtually all categories of market participants. The NASD's modified fee structure for non-professionals fosters realization of that initiative by making more NASDAQ market data accessible on-line at a significantly lower cost. This is turn should stimulate use of this data by a greater number of non-professionals. This result is consistent with the policy goals articulated by the Congress in adopting section 11A(a)(1) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the reduced fee for non-professionals' access to Level 1 and NASDAQ/NMS last sale data will create no burden on competition. In particular, the NASD notes that this fee applies solely to non-professionals served by vendors of securities market data. To the extent that the modified fee structure stimulates demand for NASDAQ Level 1 and NASDAQ/NMS last sale information, there will be additional opportunities for vendors to serve non-professional subscribers. Under these circumstances, there is no issue of vendor access presented by this modified fee structure for non-professionals.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

The foregoing rule change has become effective pursuant to section

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19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b–4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission 450 5th Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room at the above address. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submission should refer to the file number in the caption above and should be submitted by November 16, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: October 20, 1987.

[FR Doc. 87–24745 Filed 10–23–87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending October 16, 1987

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 45198–R–1 & R–2

Parties: Members of International Air Transport Association
Date Filed: October 14, 1987
Subject: Revises So. Pacific-So. America promotional fares
Proposed Effective Date: November 1, 1987

Docket No. 45200

Parties: Members of International Air Transport Association
Date Filed: October 14, 1987
Subject: So. Pacific Fares
Proposed Effective Date: November 01, 1987

Docket No. 45201

Parties: Members of International Air Transport Association
Date Filed: October 14, 1987
Subject: Revise US-Europe Proportional Fares
Proposed Effective Date: November 1, 1987

Docket No. 45202

Parties: Members of International Air Transport Association
Date Filed: October 14, 1987
Subject: Revised US/CAN-ME/AFR Proportional Fares
Proposed Effective Date: November 1, 1987

Docket No. 45206

Parties: Members of International Air Transport Association
Date Filed: October 15, 1987
Subject: Cargo Rates Ex-Greece
Proposed Effective Date: November 16, 1987

Docket No. 45195

Parties: Members of International Air Transport Association
Date Filed: October 13, 1987
Subject: Approval of Amendment To The Provisions For the Conduct Of The IATA Traffic Conferences

Phyllis T. Kaylor,

Chief, Documentary Service Division.

[FR Doc. 87–24658 Filed 10–23–87; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended October 16, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et., seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45196

Dated Filed: October 13, 1987
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 12, 1987.
Description: Application of Continental Airlines, Inc. Pursuant to Section 401 of the Act and Subpart Q of the Regulations requests a certificate of public convenience and necessity which will authorize Continental to provide foreign air transportation of persons, property and mail between Newark, New Jersey, on the one hand, and Merida, Cancun, and Cozumel, Mexico, on the other hand.

Docket No. 45204

Date filed: October 14, 1987
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 12, 1987.
Description: Application of Thai Airways International Limited pursuant to section 402 of the Act and Subpart Q of the Regulations requests an amendment of its foreign air carrier permit, issued by Order 80–9–74, by modifying Paragraph A of such certificate to read as follows: Between the terminal point Bangkok, Thailand via intermediate points across the Pacific to Guam, Honolulu, and Seattle, and the conterminal point Los Angeles, California, and one additional point in the United States, and beyond to points in Canada.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87–24657 Filed 10–23–87; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Flight Service Station at Port Columbus International Airport, Columbus, OH; Closing

Notice is hereby given that on September 30, 1987, the Flight Service Station at Columbus, Ohio was closed. Services to the general public of Columbus, Ohio Flight Plan Area, formerly provided by this office, are being provided by the New Automated Flight Service Station in Vandalia, Ohio. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Des Plaines, Illinois, on October 14, 1987.

William H. Pollard,

Director, Great Lakes Region.

[FR Doc. 87–24669 Filed 10–23–87; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Detroit City Airport, Detroit, MI; Closing

Notice is hereby given that on September 30, 1987, the Flight Service Station at Detroit, Michigan was closed. Services to the general public of Detroit, Michigan Flight Plan Area, formerly provided by this office, are being provided by the New Automated Flight Service Station in Lansing, Michigan. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Des Plaines, Illinois, on October 14, 1987.

William H. Pollard,

Director, Great Lakes Region.

[FR Doc. 87–24670 Filed 10–23–87; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Grand Forks-Mark Andrews International Airport, Grand Forks, ND; Closing

Notice is hereby given that on or about August 4, 1987, the Flight Service Station at Grand Forks, North Dakota was closed. Services to the general public of Grand Forks, North Dakota Flight Plan Area, formerly provided by this office, are being provided by the New Automated Flight Service Station in Grand Forks, North Dakota. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Des Plaines, Illinois, on October 14, 1987.

William H. Pollard,

Director, Great Lakes Region.

[FR Doc. 87–24671 Filed 10–23–87; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Huron Regional Airport, Huron, SD; Closing

Notice is hereby given that on September 23, 1987, the Flight Service Station at Huron, South Dakota was closed. Services to the general public of Huron, South Dakota Flight Plan Area, formerly provided by this office, are being provided by the New Automated Flight Service Station in Huron, South Dakota. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Des Plaines, Illinois, on October 14, 1987.

William H. Pollard,

Director, Great Lakes Region.

[FR Doc. 87–24672 Filed 10–23–87; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Indianapolis International Airport, Indianapolis, IN; Closing

Notice is hereby given that on September 15, 1987, the Flight Service Station at Indianapolis, Indiana was closed. Services to the general public of Indianapolis, Indiana Flight Plan Area, formerly provided by this office, are being provided by the New Automated Flight Service Station in Terre Haute, Indiana. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Des Plaines, Illinois, on October 14, 1987.

William H. Pollard,

Director, Great Lakes Region.

[FR Doc. 87–24673 Filed 10–23–87; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Clark County, WA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental Impact statement will be prepared for a proposed highway project in Clark County, Washington.

FOR FURTHER INFORMATION CONTACT: P.C. Gregson, Division Administrator, Federal Highway Administration, Suite 501, Evergreen Plaza, 711 South Capitol Way, Olympia, WA 98501, Telephone: (206) 753–2120; or E. W. Ferguson, District Administator, Washington State Department of Transportation, 4200 Main Street, P.O. Box 1709, Vancouver, WA 98668, Telephone: (206) 696–6461.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve Interstate Route 5 (I–5) in Clark County, Washington. The proposed improvement would involve the reconstruction of the existing I–5 between Main Street in the City of Vancouver and I–205 about 5 miles to the north. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

The proposed project will widen I–5 from four lanes to six through lanes, construct a new interchange with N.E. 99th Street, link all on and off ramps between the Main Street and 99th Street Interchanges with auxiliary lanes, improve existing interchanges, widen or replace all existing bridges and overpasses to accommodate roadway widening, repave roadway surfaces and upgrade drainage, signing, pavement markings and safety devices.

Alternatives under consideration include: (1) Do nothing.

(2) Widen SR 5 and improve existing interchanges only. This alternative would not construct a new interchange at NE 99th Street.

(3) Implement a Transportation System Management Program (TSM). This program would include ramp metering, designation of High Occupancy Vehicle (HOV) lanes, and construction of additional park and ride facilities. Improved public transit service would accompany the park and ride options.

The build alternatives will take into consideration design variations in grade and alignment, and optional interchange configurations.

In June of 1986, a description of the proposed project was circulated to 20 local, state and federal agencies with jurisdiction, expertise and/or interests in the project area. These agencies were asked to review and comment on the proposed project and identify any issues they thought should be specifically addressed in an environmental assessment.

On October 1, 1986, the Washington State Department of Transportation (WSDOT) and the Intergovernmental Resource Center (IRC) of Clark County held an informal public meeting on the proposed improvements. The public information meeting was broadly advertised in local newspapers, over radio, and via printed flyers circulated throughout the project area.

During this scoping process the definition of the proposed project was refined and important issues and significant impacts were identified. Environmental documentation is therefore being upgraded from an assessment to a full impact statement.

Informal meetings will be held before the end of the year to notify the public of this change. In addition, a public hearing will be held after the Draft EIS

is issued. Public notice will be given of the time and place of the meetings and hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or WSDOT at the address provided above.

(Catalog Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: October 16, 1987.

Gary S. Hughes,

District Engineer, Olympia, Washington.

[FR Doc. 87-24688 Filed 10-23-87; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA General Docket No. H-87-3]

Petition for Exemption or Waiver for Test Program; CSX Transportation, Inc., and RoadRailer

In accordance with 49 CFR 211.9, 211.41, and 211.51 and relevant statutory provisions, including 45 U.S.C. 1-16, 431(c), 437 and 1013, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for an exemption from or waiver of compliance with certain requirements of the Federal railroad safety laws and regulations, in order to conduct a test program. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. Any interested party desiring an opportunity for oral comment should notify FRA, in writing, before the end of the comment period and specify the basis for his or her request.

All communications concerning these proceedings should identify the appropriate docket number (here, FRA General Docket Number H-87-3) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received before November 30, 1987, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The individual petition seeking an examination from or waiver of compliance is as follows:

CSX Transportation, Inc., and RoadRailer Test Program

[FRA General Docket Number H-87-3]

CSX Transportation, Inc., and RoadRailer (a manufacturer of intermodal, rail-highway equipment, formerly named "Bi-Modal Corporation") have jointly submitted a request to FRA for waivers of compliance with certain provisions of the Safety Appliance Standards (49 CFR Part 231), the regulations entitled "Railroad Power Brakes and Drawbars" (49 CFR Part 232), and the Safety Appliance Acts (45 U.S.C. 1-16). The petitioners seek these waivers in order to conduct a test program and a vehicle manufactured by RoadRailer called the "RoadRailer Mark V."

The RoadRailer Mark V concept uses modified highway vehicles which are connected to separable adapter/rail trucks. The RoadRailer Mark V vehicles basically consist of a couplable, train capable trailer or container chassis unit, carried on a specially adapted two-axle rail truck which is separable from the trailer or container chassis unit so that the rail truck does not go with the vehicle on the highway. Mark V container chassis units would be used in the test program. See Appendix A. The specially adapted rail truck is called "the RoadRailer Mark V Rail Bogie." See Appendix B.

The petitioners request a waiver of requirements for handholds, ladders, crossover platforms, sill steps, uncoupling levers and handbrakes (49 CFR Part 231), because these safety appliances would cause the vehicles to exceed the legal dimensions for highway vehicles. The petitioners assert that the absence of safety appliances would not reduce safety because safety appliances are not of practical operating use. In particular all RoadRailer Mark V requipment requiring operator attention is accessible from ground level; the coupling/uncoupling mechanism is operated from either side of the rail trucks; a spring-actuated parking brake is provided and personnel are not required to go between units.

The petitioners also request a waiver of the regulation on maximum coupler height (49 CFR 232.2). The Mark V coupler system is a slack-free, pin-connected, tongue-and-pocket arrangement. For structural reasons and because the integral coupler tongue must pass over the highway tractor fifth wheel, the Mark V coupler height is 49¾ inches above the top of rail. The petitioners assert that a waiver of the standard maximum coupler height of 34½ inches would not compromise safety because the coupler system is completely incompatible with standard Association of American Railroads couplers, and the units would not operate in interchange service.

FRA has substantial experience with other vehicles manufactured by RoadRailer that are similar to the RoadRailer Mark V. Since 1979, earlier model RoadRailer vehicles similar to the Mark V have been permitted to operate in an FRA-sanctioned test program, under conditional waivers of the same regulations. See 44 FR 5545, 25552-2554. In these earlier RoadRailer vehicles, the rail trucks were not detachable from the trailer. Early in 1987, FRA received petitions on behalf of several railroads, including CSX Transportation, Inc., seeking waivers of the same regulations in order to operate RoadRailer vehicles virtually identical, for FRA purposes, to these earlier RoadRailer vehicles in the old, existing test program. Based on this test program data, FRA granted waivers for these units, subject to the same terms and conditions imposed under the test program. See 52 FR 16325-16327, May 4, 1987. These terms and conditions included prohibitions on (i) the commingling of RoadRailer vehicles with traditional freight or passenger cars and (ii) the use of RoadRailer vehicles to transport commodities subject to the Hazardous Materials Regulations that require placards under Subpart C of Part 174.

The petitioners propose an initial test program that differs from the old RoadRailer test program in that Mark V RoadRailers would be commingled in the same train with conventional railroad rolling equipment. In particular, the RoadRailer Mark V units would be used "in revenue service as a block of like units behind a block of more conventional container-carrying cars. To minimize the slack action, the conventional units will be restricted to multiple section articulated cars in which 5 platforms (or sections) are connected with slack-free articulating joints and only have serviceable knuckle couplers at the ends of the 5 platform units." Based on "computer analysis of

the train dynamics," the petitioners propose running trains consisting of up to 15 Mark V RoadRailer units coupled by means of an adapter interface car at the rear of up to 20 conventional, 5 platform, double stack container cars.

The trains would be operated by petitioner CSX Transportation, Inc. Routing would be east from Chicago on the tracks of the Belt Railway Company of Chicago to Pine Junction, Indiana; CSX Transportation mainline from Pine Junction to New Castle, Pennsylvania; the former Baltimore and Ohio Railroad Company from New Castle to Buffalo, New York; and return in reverse order. One round trip per week would be scheduled, at a maximum speed of 65 mph. The initial test is proposed to begin about December 1, 1987, and run for a test period of approximately one year. Periodic service reports would be required to be submitted to FRA.

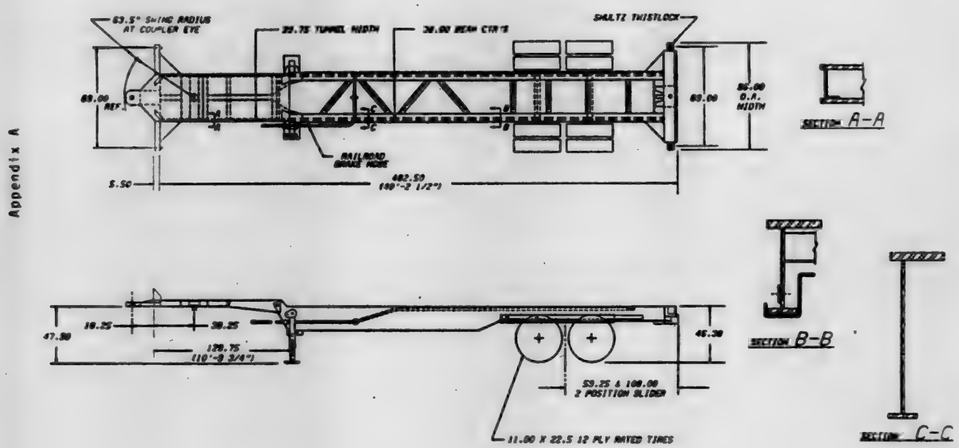
Issued in Washington, DC, on October 19, 1987.

J.W. Walsh,

Associate Administrator for Safety.

BILLING CODE 4910-06-M

Appendix A

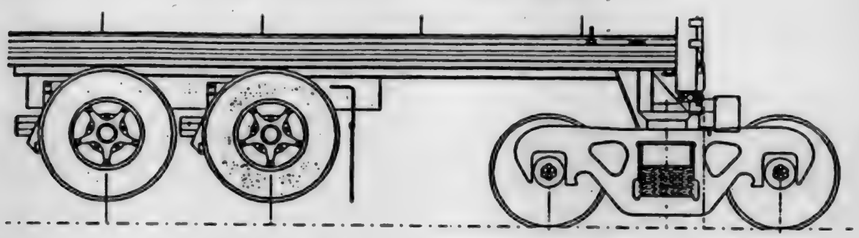


VOL 52 ISS 206 OCT 26 1987 UMI

Appendix B

The RoadRailer® System

MARK V™ High Performance Rail Bogie



Model RRB HP70-1 Specifications

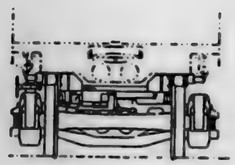
A. Dimensions
- Maximum Width ..... 96"
- Wheel Base ..... 68"
- Length (over wheel flanges) ..... 103"

B. Weight
- Nominal Weight - Bogie Assembly ..... 11,000 lbs.

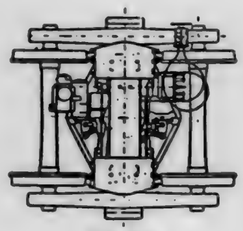
C. Capacity
- Nominal Capacity ..... 70 Tons

D. Capabilities
- Maximum Operating Speed ..... 80 mph

SIDE VIEW



REAR VIEW



TOP VIEW

RoadRailer®

The new generation in transportation.

[FR Doc. 87-24740 Filed 10-23-87; 8:45 am]
BILLING CODE 4910-06-C

[FRA General Docket No. H-87-4]

Petition for Exemption of Waiver of Compliance; Union Pacific Railroad Co.

In accordance with 49 CFR 211.9, 211.41, and 211.51 and relevant statutory provisions, including 45 U.S.C. 1–16, 431(c), 437 and 1013, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for an exemption from or waiver of compliance with certain requirements of the Federal railroad safety laws and regulations, in order to conduct a test program. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate sheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. Any interested party desiring an opportunity for oral comment should notify FRA, in writing, before the end of the comment period and specify the basis for his or her request.

All communciations concerning these proceedings should identify the appropriate docket number (here, FRA General Docket Number H–87–4) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received before November 30, 1987, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The individual petition seeking an exemption from or waiver of compliance is as follows:

Union Pacific Railroad Co.

Waiver Petition Number H–87–4

Union Pacific Railroad Company (UP) seeks waivers of compliance with certain provisions of (49 CFR Part 231) Safety Appliance Standards and Part 232 Railroad Power Brakes and Drawbars for a test program with the RoadRailer Mark V. The RoadRailer Mark V concept uses modified highway vehicles which are connected on separable adapter/rail trucks. For this test program, the vehicles are specially designed highway trailers. All equipment requiring operator attention is accessible from ground level; the coupling/uncoupling mechanism is operated from either side of the trucks; a spring actuated parking brake is provided and personnel are not required to go between units.

UP requests a waiver for requirements for handholds, ladders, crossover platforms, sill steps and uncoupling levers. In addition, the Mark V system is a slack-free pin connected tongue and pocket arrangement. For structural reasons and because the integral coupler tongue must pass over the highway tractor fifth wheel, UP requests a waiver of coupler height from 34½ inches to a height of 49.75 inches above the top of rail. The coupler system is completely incompatible with AAR couplers and the units would not operate in interchange service. It is intended that the vehicles operate solely in an integral train, without intermingling with other freight cars.

The rear truck of the trailing car in such trains would not have operative brakes, so as to prevent light-car wheel-slide condition, which could occur during full service braking. The front truck of the rear car would have brakes providing a maximum net lightweight braking ratio of 33 percent.

The initial test program would include a limited number of units, gradually building up to a 100-car train. Service would be between Chicago, Illinois, and Mesquite, Texas, at a maximum speed of 70 mph, starting December 1, 1987, for a test period of approximately 1 year. There would be one train daily 5 days a week from Chicago and one train daily 5 days a week from Mesquite. Trains would operate by way of Salem, Illinois, Poplar Bluffs, Missouri and Texarkana, Texas.

Issued in Washington, DC, on October 19, 1987.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 87-24747 Filed 10-23-87; 8:45 am]
BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center; Advisory Committee Meeting

AGENCY: Advisory Committee to the National Center for State and Local Law Enforcement Training, Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: The agenda for this meeting includes opening remarks by the Director of the Federal Law Enforcement Training Center and Committee CoChairs, Subcommittee Report on the S/L Law Enforcement Training Needs Assessment Survey, and Program Development Activities.

DATE: November 19, 1987.

ADDRESS: Federal Law Enforcement Training Center, Building 67, Conference Room, Glynco, Georgia.

FOR FURTHER INFORMATION CONTACT: Howard N. Goetsch, Assistant Director, Office of State and Local Training, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

Charles F. Rinkevich,

Director.

October 6, 1987.

[FR Doc. 87-24309 Filed 10-23-87; 8:45 am]
BILLING CODE 4810-32-M

Internal Revenue Service

[Delegation Order No. 113 (Rev. 12)]

Delegation of Authority; Mid Atlantic Region

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: In an effort to increase efficiency and effectiveness, as well as cost savings, the Mid Atlantic Region has realigned from two key districts to one key district in Baltimore. This new alignment was effective October 1, 1987. The complete text of the delegation order appears below.

EFFECTIVE DATE: October 28, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas W. Lewald, OP:E:O:D, 1111 Constitution Avenue NW., Room 2237, Washington DC 20224, Telephone No. (202) 566–6222 (not a toll free telephone number).

Richard A. Westley,

Chief, Employee Plans and Exempt Organizations, Determination Branch.

Order No. 113 (Rev. 12)

Authority To Issue Exempt Organization Determination Letters

Effective date: 10–28–87

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150–10 and the provisions of 26 CFR 1.503(a)–1, authority with respect to issuance of determination letters pertaining to the exempt status of organizations under section 501(a) and related matters is delegated as follows:

1. The District Director of each Employee Plans and the Exempt Organizations key district listed in 4. below is authorized to:

(a) Issue determination letters, except as noted in section 2, below, with respect to exemption from Federal income tax under sections 501 and 521; status under IRC 120, 170(c)(2), 507 508, 509, 4942(j)(3), 4947, 4948, and 6033 withholding of information from public inspection under IRC 6104(a)(1)(D); imposition of tax under IRC 11, 511 through 514, 527(f), 641, 1381, and Chapters 41 and 42; provided the requests present questions the answers to which are clear from an application of the provisions of the statute. Treasury decisions or regulations, or by a ruling, opinion, or court decision published in the Internal Revenue Bulletin, and

(b) Issue modifications or revocations of rulings or determination letters described above in accordance with currently applicable appeal procedures, and

(c) Determine that any trust described in section 501(c)(17) or 501(c)(18) has engaged in a prohibited transaction and to notify such entity in writing of the revocation of exemption and of the requalification for exemption after the trust establishes that it will not knowingly again engage in a prohibited transaction and that it also satisfies all other requirements under section 501(c)(17) of 501(c)(18), and

(d) Redelegate this authority but not below Exempt Organizations Specialist, Grade GS–12 (other than the originator) and not below Chief, Employee Plans and Exempt Organizations Division with respect to adverse modifications or revocations of such letters.

2. In each region, the Regional Counsel, the Chief and Associate Chief, Appeals Office are authorized to issue final determination letters on appeals from proposed adverse determinations and proposed revocations issued by key district offices under this delegation. This authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations), with the concurrence of the Chief Counsel, is authorized to require preissuance review of specific types of final adverse determinations of issues described in IRC 7428(a)(1).

4. In each region, the following Employee Plans and Exempt Organizations key districts are responsible for employee plans and exempt organizations matters:

Key Districts	IRS District Covered
	CENTRAL REGION
Cincinnati	Cincinnati, Cleveland, Detroit, Indianapolis, Louisville, and Parkersburg
	MID-ATLANTIC REGION
Baltimore	Baltimore (which includes the District of Columbia and the Office of the Assistant Commissioner (International)), Pittsburgh, Richmond, Newark, Philadelphia, and Wilmington
	MIDWEST REGION
Chicago	Aberdeen, Chicago, Des Moines, Fargo, Helena, Milwaukee, Omaha, St. Louis, St. Paul and Springfield
	NORTH-ATLANTIC REGION
Brooklyn	Albany, Augusta, Boston, Brooklyn, Buffalo, Burlington, Hartford, Manhatten, Portsmouth, and Providence
	SOUTHEAST REGION
Atlanta	Atlanta, Birmingham, Columbia, Fort Lauderdale, Greensboro, Jackson, Jacksonville, Little Rock, New Orleans and Nashville
	SOUTHWEST REGION
Dallas	Albuquerque, Austin, Cheyenne, Dallas, Denver, Houston, Oklahoma City, Phoenix, Salt Lake City and Wichita
	WESTERN REGION
Los Angeles	Honolulu, Laguna Niguel, Los Angeles, Reno, Sacramento, San Jose, San Francisco, Anchorage, Boise, Portland, and Seattle

5. To the extent that authority previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified.

Delegation Order No. 113 (Rev. 11) effective January 12, 1987, is hereby superseded.

Date: October 19, 1987.

Charles H. Brennan,

Deputy Commissioner (Operations).

[FR Doc. 87–24702 Filed 10–23–87; 8:45 am]

BILLING CODE 4830–01–M

Performance Review Board; Membership

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Members of Senior Executive Service Performance Review Board.

DATE: Performance Review Board effective October 1, 1987.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, HR:H:E, Room 3515, 1111 Constitution Avenue NW., Washington, DC 20224, Telephone No. (202) 566–4633, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for senior executives in the office of the Assistant Commissioner (Inspection) are as follows:

Michael J. Murphy, Senior Deputy Commissioner, Chairperson
Michael Hill, Inspector General, Department of the Treasury
Jean Owens, Deputy Chief Counsel

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

Lawrence B. Gibbs,

Commissioner.

[FR Doc. 87–24703 Filed 10–23–87; 8:45 am]

BILLING CODE 4830–01–M

Performance Review Board; Membership

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Members of Senior Executive Service Performance Review Board.

DATE: Performance Review Board effective October 1, 1987.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, HR:H:E, Room 3515, 1111 Constitution Avenue NW., Washington, DC 20224, Telephone No. (202) 566–4633, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for Assistant Commissioners, Regional Commissioners and senior executives in the office of the Commissioner are as follows:

Charles H. Brennan, Deputy Commissioner (Operations)
John L. Wedick, Jr., Deputy Commissioner (Planning and Resources)
John M. Rankin, Jr., Assistant Commissioner (Inspection)
Peter K. Scott, Deputy Chief Counsel

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

Lawrence B. Gibbs,

Commissioner.

[FR Doc. 87–24704 Filed 10–23–87; 8:45 am]

BILLING CODE 4830–01–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filed out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: October 21, 1987.

By direction of the Administrator.

Frank E. Lalley,

Director, Office of Information Management and Statistics.

Extension

1. Department of Medicine and Surgery.

2. Shop Data Sheet (Artifical Limbs).

3. VA Form 10–2793

4. This information is needed for compliance with contractual requirements to ensure that contractors' facilities are capable of providing finished prosthetics and that patient's special needs are met with the least discomfort.

5. On occasion.

6. Small businesses or organizations.

7. 35 responses.

8. 12 hours.

9. Not applicable.

[FR Doc. 87–24713 Filed 10–23–87; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 206
Monday, October 26, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time) Tuesday, November 3, 1987.

PLACE: Clarence M. Mitchell, Jr., Conference Room, No. 200–C, on the Second Floor of the Columbia Plaza Building, 2401 E Street, NW., Washington, DC 20507.

STATUS: Part of the Meeting will be Open to the Public and Part will be Closed to the Public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Proposed Pension Rulemaking Under section 4(i) of the Age Discrimination in Employment Act

Closed Session

1. Agency Adjudication and Determination on the Record of Federal Agency Discrimination Complaint Appeals
2. Litigation Authorization: General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 634–6748 at all times for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Acting; Executive Officer on (202) 634–6748.

Cynthia Clark Matthews,

Executive Officer (Acting), Executive Secretariat.

This Notice Issued October 21, 1987,

[FR Doc. 87–24802 Filed 10–22–87; 1:16 pm]

BILLING CODE 6750–06–M

FARM CREDIT ADMINISTRATION

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on October 27, 1987, from 10:00 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, (703–883–4010).

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Farm Credit Administration Board will be open to the public (limited space available), and parts of the meeting will be closed to the public. The matters to be considered at the meeting are:

1. Summary Prior Approval Items;

[1] 2. Certification Under section 4.28(l) of the Farm Credit Act of 1971, as amended; and

[1] 3. Examination and Enforcement Matters.

Dated: October 21, 1987.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 87–24716 Filed 10–21–87; 5:05 am]

BILLING CODE 6705–01–M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, November 4, 1987.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of October, 1987.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles R. Barnes, Executive Director, Tel: (202) 523–5920.

Date of notice: October 20, 1987.

Charles R. Barnes,

Executive Director, National Mediation Board.

[FR Doc. 87–24794 Filed 10–22–87; 1:10 pm]

BILLING CODE 7552–01–M

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Corrections

Federal Register
Vol. 52, No. 206
Monday, October 26, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

Editorial Amendment; Public Reference Rooms Available

Correction

In rule document 87-24090 beginning on page 38764 in the issue of Monday, October 19, 1987, make the following correction:

PART 0—[CORRECTED]

§ 0.455 [Corrected]

On page 38765, in the second column, in § 0.455(b)(2), in the first line, "Annual" should read "Monthly".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPO-070-GNC]

Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance During Fiscal Year 1988

Correction

In notice document 87-23231 beginning on page 37526 in the issue of Wednesday, October 7, 1987, make the following corrections:

1. On page 37526, in the third column, under **ADDRESSES**, in the sixth line, add the ZIP Code "21207."

2. On page 37528, in the third column, under *3. Auditing Criterion,* in the first bulleted paragraph, in the third line, add an open parenthesis before "Cost)."

3. On page 37529, in the first column, under *6. Financial Management Criterion,* in the first bulleted paragraph, in the second line, "trust" should read "protect."

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-10-AD; Amdt. 39-5913]

Airworthiness Directives; Boeing Model 747 Series Airplanes

Correction

In rule document 84-24459 beginning on page 36365 in the issue of Monday, September 17, 1984, make the following correction:

On page 36365, in the third column, in the first line, "have been modified" should read "have not been modified."

BILLING CODE 1505-01-D

federal register

Monday
October 26, 1987

Part II

Regulatory Information Service Center

Introduction to the Unified Agenda of Federal Regulations

BEST COPY AVAILABLE

VOL
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REGULATORY INFORMATION SERVICE CENTER

Unified Agenda of Federal Regulations

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Unified Agenda of Federal Regulations.

SUMMARY: The Regulatory Flexibility Act (5 U.S.C. 602) requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing. Executive Order 12291 and OMB Bulletins implementing section 5 of the Executive order establish minimum standards for executive agencies' agendas, including specific types of information for each entry, and publication in a uniform format. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this **Unified Agenda of Federal Regulations.**

The following Parts in this issue of the **Federal Register** are the agency agendas, which together comprise the October 1987 edition of the semiannual **Unified Agenda of Federal Regulations.**

ADDRESS: Regulatory Information Service Center, Room 5216, New Executive Office Building, 726 Jackson Place, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory projects, please refer to the Agency Contact listed for each entry. To provide comment on or to obtain further information about the **Unified Agenda of Federal Regulations**, contact: Mark G. Schoenberg, Executive Director, Regulatory Information Service Center, Room 5216, New Executive Office Building, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-6993.

SUPPLEMENTARY INFORMATION:

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INTRODUCTION TO THE UNIFIED AGENDA OF FEDERAL REGULATIONS

About the Unified Agenda

The **Unified Agenda of Federal Regulations** is compiled by the Regulatory Information Service Center for the Office of Information and Regulatory Affairs, Office of Management and Budget. The Center provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The Office of Information and Regulatory Affairs is responsible for overseeing the Federal Government's regulatory, paperwork, and information-management activities and for implementing President Reagan's Executive Orders 12291 (Federal Regulation) and 12498 (Regulatory Planning). Under EO 12498, OMB publishes the **Regulatory Program of the United States Government** each year.

The Regulatory Program is a policy document and a management tool that sets forth the priorities of the agency head and of the President regarding the Significant Regulatory Actions (SRAs) that will be conducted during the program year to which it pertains.

The Regulatory Program and the Agenda differ in several ways. The Unified Agenda includes more regulatory actions because it covers all Federal agencies that issue regulations and includes almost all the rulemakings under development of each. This year's Regulatory Program covers only 26 of the major Federal regulatory agencies, and includes only the most significant of all the regulatory actions that each agency plans to undertake. The Regulatory Program, however, describes each entry more thoroughly than the Unified Agenda.

Most of the regulatory actions described in the **Regulatory Program of the United States Government** are included in this Agenda. In general, the Regulation Identifier Number (RIN) for the action is the same for both publications; however, occasionally, several Agenda entries are combined into one Program entry, and a new RIN is assigned to that entry in the Program.

The Unified Agenda provides uniform reporting of data on regulatory activities under development throughout the Federal Government. This edition of the Unified Agenda includes 54 regulatory agendas from all Federal departments, agencies, and commissions that publish agendas. The Advisory Council on Historic Preservation, Council on Environmental Quality, and the National Capitol Planning Commission usually publish a regulatory agenda, but have nothing to report for this edition of the Unified Agenda, while the U.S. Commission on Civil Rights is included for the first time. Agencies of the United States Congress are not included.

The Unified Agenda is produced through a computer system designed by the Center with the advice and assistance of the Government Printing Office. The system was designed to save agencies time and money by automating the preparation and printing of their agendas in a uniform format and to make the Agenda easier to use. In order to further facilitate producing the Agenda, many agencies currently use computer terminals at their offices to enter agenda information into the Center's computer system.

The Agenda contains a Subject Index to help readers locate entries from various agencies that may affect a particular area of interest. The numbers in the index refer to the sequence numbers that appear before the title of each entry in the Agenda. All entries are numbered sequentially from the beginning to the end of the Agenda.

For those agencies that requested it, we provided a computer-produced Table of Contents that appears after the preamble of the agency's agenda. The agency Tables of Contents help readers locate quickly those entries within an agency that may be of most interest to them.

All agendas contain uniform data elements -- regulation title, significance, legal authority, CFR citation, abstract, legal deadline, timetable, small business effects, and agency contact. Agencies also include any additional information they consider important. If any of the data elements is not included, the agency either did not report the information or may provide an explanation in its preamble. For further information, please contact the individual agency.

The **Unified Agenda of Federal Regulations** is published in April and October of each year. We welcome comments on this edition and suggestions for improving future ones.

Dated: October 1, 1987.

Mark G. Schoenberg,

Executive Director.

How to Use the Unified Agenda

Each agency agenda appears as a separate Part in this edition of the **Federal Register.** The Parts are organized alphabetically in four groups: Cabinet departments, other executive agencies, joint authorities, and independent agencies. Departments are divided into agencies, which may in turn be divided into subagencies.

Each agency begins its agenda with a preamble providing information specific to its agenda. Each agency was asked to list its rules in four groups:

1. Prerule Stage -- actions agencies will undertake in the next 12 months to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking and include Advance Notices of Proposed Rulemaking and reviews of existing regulations.

2. Proposed Rule Stage -- actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process.

3. Final Rule Stage -- actions for which agencies plan to publish a final rule or take other final action as the next step in their rulemaking process.

4. Completed Actions -- actions or reviews the agency completed or withdrew since publishing its last agenda. This section also includes items that were begun and completed between issues of the Unified Agenda.

An agency may use a subheading to identify regulations that it has grouped according to a particular topic. When these subheadings are used, they appear above the title of the first regulation in the group.

A bullet (●) preceding an entry indicates that the entry appears in the Agenda for the first time.

The Agenda Sequence Number preceding the title of each entry identifies the location of the entry in this edition of the Agenda. The same number is used in the index to enable readers to find entries on specific subjects. Those agencies that chose to provide a Table of Contents at the beginning of their agendas also use the sequence number in their Table of Contents. Sequence numbers should help readers easily locate items of most interest to them, either by agency or by subject.

The regulatory activities included in the agency agendas are those currently planned for the next 12 months. The agendas do not include regulations excluded from review under EO 12291 such as military regulations and regulations related to internal agency management.

OMB Bulletin 87-16 states that entries describing regulations in the Agenda should contain, at a minimum, the following information:

- Title of the Regulation.
- Significance -- an indication of the significance of the entry that appears when:
  a. The action was included in the **Regulatory Program of the United States Government** for the 1987 program year, or
  b. The agency otherwise considers the action a priority.

The Significance heading appears only if the entry is a significant action.

- Legal Authority -- the section(s) of the United States Code (U.S.C.) or Public Law (PL) or the Executive order that authorize(s) the regulatory action (agencies may provide common name references to laws in addition to U.S.C. or PL references).
- CFR Citation -- the section(s) of the Code of Federal Regulations that affect or will be affected by the action.
- Abstract -- a description of the problem the regulation will address; the need for a Federal solution; and, to the extent available, the alternatives that the agency is considering to address the problem and the potential costs and benefits of the action.
- Legal Deadline -- an indication of whether the rule is subject to a

statutory or judicial deadline and, if so, the date of that deadline.
- Timetable -- the dates and citations (if available) for all past stages and at least the next future stage of rulemaking. If a date appears in this section as 00/00/00, it means the date of the action is presently undetermined. Similarly, 10/00/87 means the agency can predict the month and year the action will take place, but not the date it will occur.
- Effects on Small Businesses and Other Small Entities -- indicates whether the rule is expected to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act (5 U.S.C. 601(6)).
- Agency Contact -- the name, title, address, and phone number of a person in the agency who is knowledgeable about the regulation.

Some agencies have provided other optional information at their discretion.

Data Limitations

Agencies prepared entries for this edition of the Unified Agenda to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed. The Agenda does not create a legal obligation on agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear in it. The information in this edition is accurate as of August 27, 1987, in the judgment of the submitting agencies, except as otherwise noted in individual agency preambles.

List of Abbreviations

The following abbreviations appear throughout this edition of the Agenda:

ANPRM -- An Advance Notice of Proposed Rulemaking is a preliminary notice that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule, describing the general area that may be subject to regulation and asking for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a formal regulatory proposal.

CFR -- The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the Federal Register by the departments and agencies of the Federal Government. The Code is divided into 50 titles and each title covers a broad area of Federal regulatory law. The CFR is keyed to and kept up-to-date by the daily issues of the Federal Register.

EO -- An Executive order is a directive from the President to an executive agency, issued under Constitutional or statutory authority. Executive orders are published in the Federal Register and in Title 3 of the Code of Federal Regulations.

FR -- The Federal Register is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents required by statute to be published.

FY -- The Federal fiscal year runs from October 1 to September 30.

NPRM -- A Notice of Proposed Rulemaking is the document an agency issues and publishes in the Federal Register that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act, an NPRM must include, at a minimum:
- A statement of the time, place, and nature of the public rulemaking proceeding;
- A reference to the legal authority under which the rule is proposed; and
- Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL -- A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, as opposed to a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the two-year life of each Congress; for example, PL 97-17 would be the seventeenth public law of the 97th Congress.

RFA -- A Regulatory Flexibility Analysis (RFA) describes the impact of a proposed rule on small entities, as required by the Regulatory Flexibility Act (5 U.S.C. 601). An RFA describes why the agency is considering the action; the objectives of and legal basis for the proposed rule; an estimate of the number of small entities that could be affected and the compliance requirements they would have to fulfill; any other duplicative, overlapping, or conflicting Federal rules; and alternatives to the proposed action. When required, an initial RFA accompanies an NPRM and a final RFA accompanies a final rule.

RIA -- A Regulatory Impact Analysis is required by EO 12291 for all major rules and other regulations designated by the Office of Management and Budget. An RIA is prepared to determine whether a proposed regulatory action meets the requirements of section 2 of EO 12291, namely that it:
- Be based on adequate information concerning the need for and consequences of the action;
- Not be undertaken unless the potential benefits outweigh the potential costs to society;
- Maximize net benefits to society;
- Entail the least net cost to society of the alternatives considered; and
- Take into account the condition of particular affected industries, the national economy, and contemplated future regulatory actions.

RIN -- The Regulatory Information Service Center assigns a Regulation Identifier Number to identify each regulatory action listed in the Agenda.

USC -- The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles and each title covers a broad area of Federal law.

Information About Additional Copies

Additional copies of this edition of the Federal Register are available from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

Copies of individual agency agendas may be available directly from the agency. Please contact the particular agency for further information.

[FR Doc. 87-22852 Filed 10-23-87; 8:45 am]

BILLING CODE 3194-01-T

federal register

Monday
October 26, 1987

Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda; Fall 1987

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of major and non-major regulations being developed in agencies of the U.S. Department of Agriculture in conformance with Executive Order 12291, Federal Regulation. The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Pub. L. 96-354.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions; but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action.

ADDRESSES: Requests for copies of the Agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 120-E, U.S. Department of Agriculture, Washington, DC 20250, (202) 382-1272.

Dated: August 28, 1987.

David R. Hoyt,

Chief, Regulatory & Legislative Staff.

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1	Fees for Service for Voluntary and Mandatory Programs	0581-AA19

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2	Mohair Standards	0581-AA06
3	Wool Standards	0581-AA12

Agricultural Stabilization and Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4	Commodity Credit Corporation (CCC) Claims Regulations	0560-AA38
5	National Average Loan Rates for 1987-Crop Quota and Additional Peanuts	0560-AA61
6	1987-Crop Honey Price Support Program	0560-AA73
7	1988 Rice Program	0560-AA90
8	1987 Soybean Loan Program	0560-AA95
9	1988 Extra Long Staple (ELS) Cotton Program	0560-AA99
10	1988-Crop Honey Price Support Program	0560-AB04
11	1988 Wool and Mohair Program	0560-AB05
12	1988-Crop Marketing Quotas and Acreage Allotments for Minor Kinds of Tobacco	0560-AB07
13	1988-Crop Peanut Price Support Program Differentials	0560-AB08
14	1988 Price Support Levels for Six Kinds of Tobacco	0560-AB12
15	1989-Crop Peanuts National Poundage Quota	0560-AB13
16	1989 Wheat Program	0560-AB14
17	1989 Feed Grain Program	0560-AB15
18	1989 Upland Cotton Program	0560-AB16
19	Common Program Provisions for the 1989 Wheat, Feed Grain, Cotton and Rice Programs	0560-AB17
20	1988 Soybean Loan Program	0560-AB18
21	CCC Cotton Loan Program Regulations—Settlement, Fraud, and Conversion Provisions	0560-AB22
22	General Regulations Governing Price Support of 1986 and Subsequent Crops of Grain	0560-AB23

USDA

Agricultural Stabilization and Conservation Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
23	1989 Extra Long Staple (ELS) Cotton Program	0560-AB25

Agricultural Stabilization and Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
24	1987 Feed Grain Program	0560-AA59
25	1987 Extra Long Staple (ELS) Cotton Program	0560-AA60
26	1987 Upland Cotton Program	0560-AA64
27	1987 Rice Program	0560-AA72
28	Price Support Loan Program for 1986 Through 1990-Crops Sugar Beets and Sugarcane	0560-AA74
29	1987-Crop Peanuts National Poundage Quota	0560-AA79
30	1987 Wheat Program	0560-AA82
31	Highly Erodible Land and Wetland Conservation Programs	0560-AA88
32	Common Program Provisions for the 1988 Wheat, Feed Grains, Cotton and Rice Programs	0560-AA89
33	1988 Wheat Program	0560-AA91
34	1988 Feed Grain Program	0560-AA92
35	1988 Upland Cotton Program	0560-AA93
36	Common Program Provisions for the 1987 Wheat, Feed Grains, Cotton and Rice Programs	0560-AA94
37	1987 Price Support Levels for Six Kinds of Tobacco	0560-AA97
38	1988-Crop Flue-Cured Tobacco Marketing Quotas	0560-AA98
39	1987-Crop Sugar Beets and Sugarcane Price Support Loan Rates	0560-AB01
40	Milk Price Support Level, Calendar Year 1988	0560-AB02
41	Milk Price Support Level, October 1, 1987, through December 31, 1990	0560-AB03
42	1988-Crop Burley Tobacco Marketing Quotas and Price Support Level	0560-AB06
43	1988-Crop Sugar Beet and Sugarcane Price Support Loan Rates	0560-AB19
44	1989 Wool and Mohair Program	0560-AB20
45	1988 CCC Cotton Loan Program Regulations—Bale Packaging Materials	0560-AB21
46	Waiver of Standards for Approved Warehouses	0560-AB24

Agricultural Stabilization and Conservation Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
47	1987 Wool and Mohair Program	0560-AA65
48	1987-Crop Flue-Cured Tobacco Marketing Quotas and Price Support Level	0560-AA67
49	1987-Crop Burley Tobacco Marketing Quotas and Price Support Levels	0560-AA68
50	Regulations for Procurement of Processed Agricultural Commodities for Donations Under Title II, P.L. 480	0560-AA96
51	1987-88 Marketing Year Penalty Rates for All Kinds of Tobacco Subject to Quotas	0560-AB09
52	1987 CCC Cotton Loan Program Regulations	0560-AB10
53	Notice of 1987-88 Application and Inspection Fees Under the 1987 Uniform Grain and Rice Storage Agreement	0560-AB11

Animal and Plant Health Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
54	Animal Welfare Regulations; Standards	0579-AA20

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Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
55	Importation of Fruits and Vegetables Under Assured Certification Agreements	0579-AA17
56	Swine Identification	0579-AA19

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
57	Animal Welfare; Definition of Terms and Regulations	0579-AA18

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
58	Revision of 7 CFR 319.56 - Fruits and Vegetables	0579-AA12
59	Gypsy Moth - Outdoor Household Articles	0579-AA15
60	Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason To Believe Are Plant Pests	0579-AA16

Cooperative State Research Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
61	Guidelines for Biotechnology Research	0524-AA00

Farmers Home Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
62	Security Servicing for Multiple Housing Loans	0575-AA38
63	Servicing and Collections Non Program (NP) Loans	0575-AA39
64	Analyzing Credit Needs and Graduation of Borrowers	0575-AA40
65	Complaints and Compensation for Construction Defects	0575-AA41
66	Borrower Supervision Servicing and Collection of Single Family Housing Loan Accounts	0575-AA42
67	Rural Development Loan Fund Relending Program	0575-AA43
68	Supplemental Requirements for Making Section 502 RH Loans for Manufactured Homes	0575-AA46

Farmers Home Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
69	Suspension and Debarment Regulations	0575-AA02
70	Recapture of Section 502 Rural Housing Subsidy	0575-AA29
71	Self-Help Technical Assistance Grants	0575-AA34
72	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations	0575-AA35
73	Planning and Performing Construction and Other Development	0575-AA38

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Farmers Home Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
74	Section 504 Rural Housing Loans and Grants	0575-AA37
75	Debt Settlement - Community and Business Programs	0575-AA44
76	Distressed Former Continuation Amendments to FmHA Farmer Program Loan Making, Supervision and Servicing Regulations	0575-AA45

Farmers Home Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
77	Restricting Insured and Guaranteed Farm Ownership and Operating Loans when Surplus Items Exist	0575-AA12
78	FmHA Guarantees of Commercial Lender's Farm Ownership (FO) and Operating Loans (OL) with Accompanying Lender Principal Write Down and/or Interest Rate Reduction	0575-AA22
79	Changes to the FmHA Farmer Program Loan Making, Supervision and Servicing Regulations to Implement the Applicable Provisions of the "Food Security Act of 1985"	0575-AA23
80	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations	0575-AA24
81	General Revision of Farmer Program Regulations	0575-AA27
82	Rural Rental Housing Policies, Procedures and Authorizations	0575-AA28

Farmers Home Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
83	Strengthening the FmHA Business and Industrial Guaranteed Loan Program	0575-AA17
84	Planning and Performing Construction and Other Development	0575-AA21
85	Implement New Regulation Concerning Referral to Collection Agencies	0575-AA26
86	Revisions of Procedure Regarding Prepayment of Multi-Family Housing Loans	0575-AA30

Food and Nutrition Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
87	Waiver Simplification: Food Stamp Program	0584-AA02
88	Food Distribution Program on Indian Reservations	0584-AA09

Food and Nutrition Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
89	Issuance Loss Liability: Food Stamp Program	0584-AA05
90	Food Distribution Program	0584-AA07
91	Emergency Food Assistance for Victims of Disasters	0584-AA24
92	Administrative Review Process and Quality Control Arbitration Procedures: Food Stamp Program	0584-AA46
93	Conformance with Aid to Families with Dependent Children (AFDC) Rules: Food Stamp Program	0584-AA52
94	Simplified Application and Standardized Benefits: Food Stamp Program	0584-AA62
95	Administration/Management: Food Stamp Program	0584-AA63
96	Special Supplemental Food Program for Women, Infants and Children: Administrative Funding Formula	0584-AA70

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Food and Nutrition Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
97	Reimbursing Workfare's Administrative Costs: Food Stamp Program	0584-AA20
98	Forfeiture - Food Stamp Program	0584-AA40
99	Quality Control System: Food Stamp Program	0584-AA64
100	Retailer/Wholesaler Provisions: Food Stamp Program	0584-AA67
101	Special Supplemental Food Program for Women, Infants, and Children: Funding Formula	0584-AA69

Food Safety and Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
102	Administrative Regulations	0583-AA02
103	Transportation	0583-AA19
104	Eligibility of Foreign Countries for Importation of Products into the United States	0583-AA55

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
105	Swine Identification at Official Slaughtering Establishments	0583-AA25
106	Various Amendments to Accommodate Inspection of Meat Food Products Under Title IV of the Futures Trading Act of 1986	0583-AA26
107	Requirements for Partially Rendered Products	0583-AA27
108	Control of Salmonella and Other Enteric Bacteria in Meat and Poultry Processing	0583-AA28
109	Verified Production Control Program	0583-AA29
110	Determination of Added Water in Cooked Sausages	0583-AA30
111	Sulfonamides in Swine	0583-AA31
112	Cattle Post - Mortem Inspection Procedures and Staffing Procedures	0583-AA32
113	Elimination of Sealing Requirement for Rendered Edible Animal Fat	0583-AA36
114	Swine Identification and Record Keeping at Markets and at Official Slaughtering Establishments	0583-AA39
115	Use and Labeling of Blood Components as Ingredients in Meat Food Products	0583-AA42
116	Use of Lactic Acid and Acetic Acid as Anti-Microbial Agents on Meat and Poultry Carcasses	0583-AA43
117	Glucono Delta Lactone as an Acidifier in Meat and Poultry Products	0583-AA46
118	Requirements for Foreign Country Import Certification and Live Animal Importation	0583-AA47
119	Use of Air for Carcass Hide Removal	0583-AA48
120	Trichina Control Requirements for Dry-Cured Ham	0583-AA49
121	Movement of Imported Product Prior to Reinspection	0583-AA53
122	Use and Protection of Approved Water Systems	0583-AA54

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
123	Standard for Frankfurters and Similar Cooked Sausages	0583-AA21
124	Disposal of Livestock Carcasses and Parts Condemned for Biological Residues	0583-AA33
125	Binder Consisting of Sodium Alginate, Calcium Carbonate, Lactic Acid, and Calcium Lactate	0583-AA34
126	Identification Service for Poultry	0583-AA35
127	Random Weight Packages; Statement of Net Weight Decimal Places	0583-AA37
128	Streamlined Inspection System for Broilers and Cornish Game Hens	0583-AA38
129	Ascorbic Acid, Erythorbic Acid, Citric Acid, Sodium Ascorbic, and Sodium Citrate in Fresh Pork Cuts	0583-AA40
130	Determination of "Added Water" in Cooked Sausages	0583-AA41
131	Ingredients that may be Identified as Flavors or Natural Flavors when used in Meat and Poultry Products	0583-AA44
132	Safety and Sanitation Requirements for Electrical Stimulating Equipment	0583-AA45
133	Antioxidants in Fabricated Steaks	0583-AA50

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Food Safety and Inspection Service—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
134	Notice of Proceedings	0583-AA51
135	Requirements for Imported Poultry Products	0583-AA52
136	Facility and Equipment Requirements for the Streamlined Inspection System for Broilers and Cornish Game Hens	0583-AA56

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
137	Red Meat Slaughter Regulations	0583-AA03

Foreign Agricultural Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
138	Determination of the Market Stabilization Price for Sugar for FY 1988	0551-AA20
139	Determination of Import Quotas on Sugar for Fiscal Year 1988	0551-AA21
140	Types and Quantities of Agricultural Commodities Available for Donation Overseas Under Section 416(b) of the Agricultural Act of 1949 for Each Fiscal Year	0551-AA23

Foreign Agricultural Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
141	Amend 7 CFR 1493 to Provide for Intermediate Credit Guarantees Which Will Give U.S. Exporters or U.S. Banks Protection in the Event Foreign Banks Fail to Make Payment	0551-AA19
142	Dairy Export Incentive Program	0551-AA22

Forest Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
143	Part 219 Planning	0596-AA50
144	Appeal of Decisions of Forest Officers	0596-AA51
145	Official Forest Service Insignia	0596-AA59
146	36 CFR 262 Law Enforcement Support Activities	0596-AA65
147	36 CFR 271 - Use of "Smokey Bear" Symbol	0596-AA66
148	Whiskeytown-Shasta-Trinity National Recreation Area	0596-AA68
149	36 CFR 261 Prohibitions	0596-AA75
150	Use of "Woodsy Owl" Symbol	0596-AA76

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Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
151	Entrance into Petersburg Watershed	0596-AA23
152	Land Status and Title Records	0596-AA24
153	Ingress to and Egress from National Forest System Lands	0596-AA31
154	Periodic Payments for National Forest Timber Sale Contracts	0596-AA33
155	Use Restrictions of National Forest Lands for the Protection of Municipal Water Supplies	0596-AA34
156	Grazing and Livestock Use and Management of Wild, Free-Roaming Horses and Burros	0596-AA35
157	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	0596-AA36
158	Control of Skewed Bidding on National Forest Timber Sales	0596-AA37
159	Modify the General Prohibition Against Use of Vehicles in Excess of 40 Inches in Width on Trails	0596-AA38
160	Revise the Definition of "Mechanical Transport" at 36 CFR 293.6(a)	0596-AA39
161	Conservation of Fish, Wildlife, and their Habitats on the Copper/River Addition and Copper River-Bering River Portion, Chugach National Forest, Alaska	0596-AA41
162	Land Exchanges	0596-AA42
163	Small Business Timber Sale Set Aside Program	0596-AA43
164	Definition of Common Variety Mineral Materials	0596-AA44
165	Timber Sale Contract Form Revision and Publishing of Policy Forms FS-2400-6 and 2400-6T	0596-AA45
166	Leasable Mineral Regulations	0596-AA46
167	Application Procedures and Fees for Hydroelectric Uses on National Forest System Lands	0596-AA47
168	Locatable Minerals	0596-AA49
169	Create a New Subpart C to 36 CFR 264 Entitled National Scenic and Historic Trail Symbols	0596-AA54
170	Grazing Fees; Eastern and Southern Regions	0596-AA55
171	Ski Area Term Permits	0596-AA57
172	Free Use to Alaskan Settlers, Miners, Residents and Prospectors	0596-AA69
173	Increase in Minimum Rates Charged for Timber	0596-AA73
174	Sale of Timber where Total Public Benefits May not Meet or May Exceed Total Costs	0596-AA74
175	36 CFR Part 222, Subpart C - Grazing Fees	0596-AA77

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
176	Debarment and Suspension of Timber Sale Contractors	0596-AA09
177	Indian Allotments on National Forest System Lands	0596-AA52
178	Prohibitions; Fossil Collecting	0596-AA56
179	Non-Competitive Disposal of Mineral Materials	0596-AA60
180	Require Increased Downpayments From Timber Sale Purchasers with a History of Default	0596-AA70
181	Revise 36 CFR 223.178 Regarding Release of Claims Against the Government on Sales Offered for Government Buyout	0596-AA71
182	Review of Decisions to Terminate Recreation Residence Permits	0596-AA72

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
183	Prohibitions; Possession and Storage of Food and Refuse in Certain National Forest Areas	0596-AA48
184	Recreation Residence Authorizations	0596-AA53
185	Appeal of Decisions of Forest Officers; Revision of Stay Procedures	0596-AA58

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Soil Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
186	Snow Surveys and Water Supply Forecasts	0578-AA01
187	Relocation Assistance	0578-AA12
188	Procedures for the Protection of Archeological and Historical Properties Encountered in SCS-Assisted Programs	0578-AA13

Soil Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
189	Soil Surveys	0578-AA00
190	Prime and Unique Farmlands	0578-AA10
191	Farmland Protection Policy Act	0578-AA14

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Proposed Rule Stage

1. FEES FOR SERVICE FOR VOLUNTARY AND MANDATORY PROGRAMS

Legal Authority: 7 USC 1621 to 1627; Agricultural Marketing Act of 1946; 21 USC 1031 to 1056; Egg Products Inspection Act; 7 USC 51 et seq Cotton Standards Act

CFR Citation: 7 CFR 25 to 209

Legal Deadline: None.

Abstract: Fees for the voluntary inspection, grading and classing of agricultural commodities and certain mandatory inspection rates are reviewed periodically and changes are made to reflect cost of providing the service. (AMS 84-008)

Timetable:

Action	Date	FR Cite
NPRM	12/00/88	

Small Entity: No

Agency Contact: Tilli Fox, Reg. Review Staff, MRD, Department of Agriculture, Agricultural Marketing Service, Room 3525-S, Washington, DC 20250, 202 447-2704

RIN: 0581-AA19

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Completed Actions

2. MOHAIR STANDARDS

CFR Citation: 7 CFR 32

Completed:

Reason	Date	FR Cite
Withdrawn from Agenda	06/27/87	

Small Entity: No

Agency Contact: Tilli Fox 202 447-2704

RIN: 0581-AA06

3. WOOL STANDARDS

CFR Citation: 7 CFR 31

Completed:

Reason	Date	FR Cite
Withdrawn from Agenda	08/27/87	

Small Entity: No

Agency Contact: Tilli Fox 202 447-2704

RIN: 0581-AA12

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Stabilization and Conservation Service (ASCS)

Proposed Rule Stage

4. COMMODITY CREDIT CORPORATION (CCC) CLAIMS REGULATIONS

Legal Authority: 15 USC 714(k) Commodity Credit Corporation Charter Act

CFR Citation: 7 CFR 1403

Legal Deadline: None.

Abstract: Regulations will revise policy, authorities, procedures, and responsibilities for settling claims by and against CCC. (ASCS 84-034)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA38

5. NATIONAL AVERAGE LOAN RATES FOR 1987-CROP QUOTA AND ADDITIONAL PEANUTS

Significance: Agency Priority

Legal Authority: 7 USC 1445c-2; 7 USC 1423; Ag Act of 1949, Sec. 108B

CFR Citation: Not applicable

Legal Deadline: Statutory, February 15, 1987.

Abstract: This action is required by legislation, which provides a formula for computing the quota support level and guidelines for determining the additional support level. The objective is to support farm income and stabilize prices. (ASCS 86-031)

Timetable:

Action	Date	FR Cite
NPRM	01/26/87	52 FR 2796
Announcement	02/13/87	
Next Action Undetermined		

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA61

6. 1987-CROP HONEY PRICE SUPPORT PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1446; Agricultural Act of 1949, as amended, Sec 201(b)

CFR Citation: 7 CFR 1434.26; 7 CFR 1434.27

Legal Deadline: None.

Abstract: The Food Security Act of 1985 requires that 1987-crop honey be supported at 63 cents per pound. The Act also provides the Secretary discretion to conduct a marketing loan program. The objective of the marketing loan concept is to (1) minimize the number of loan forfeitures, (2) avoid excessive stocks of honey, (3) reduce the costs incurred by the Federal Government in storing honey, and (4) maintain the competitiveness of honey in domestic and export markets. (ASCS 86-028)

Timetable:

Action	Date	FR Cite
Announcement	04/07/87	
Next Action Undetermined		

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA73

7. 1988 RICE PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1441; The Agricultural Act of 1949, as amended Sec 101

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 794 to 796; 7 CFR 1421

Legal Deadline: Statutory, January 31, 1988.

Abstract: To provide an adequate rice supply for domestic and foreign utilization, and comply with statutory requirements. (ASCS 86-058)

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
Final Action	12/31/87	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA90

8. 1987 SOYBEAN LOAN PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1446; The Agricultural Act of 1949, as amended, Sec 201

CFR Citation: 7 CFR 1421.1 to 1421.29; 7 CFR 1421.365 to 1421.374

Legal Deadline: Statutory, October 1, 1987.

Abstract: To assure sufficient supplies for domestic and export use, and comply with statutory requirements. (ASCS 86-062)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA95

9. 1988 EXTRA LONG STAPLE (ELS) COTTON PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1444(h); The Agricultural Act of 1949, as amended, Sec 103(h)

CFR Citation: 7 CFR 1427

Legal Deadline: Statutory, December 1, 1987.

Abstract: To assure sufficient supplies of extra long staple cotton for domestic and export use, maintain adequate carryover stocks, and comply with statutory requirements. (ASCS 86-065)

Timetable:

Action	Date	FR Cite
NPRM	09/09/87	
Final Action	12/01/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA99

10. 1988-CROP HONEY PRICE SUPPORT PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1446(b); The Agricultural Act of 1949, as amended, Sec. 201(b)

USDA—ASCS

Proposed Rule Stage

CFR Citation: 7 CFR 1434.26; 7 CFR 1434.27

Legal Deadline: None.

Abstract: Legislation requires that 1988-crop honey be supported at 95 percent of the 1987 level, or $0.5985 per pound. It also provides the Secretary the discretion to allow loan repayment at a lower rate. The objective of a lower repayment rate is to (1) minimize loan forfeitures, (2) avoid excessive stocks, (3) reduce Federal storage costs, and (4) maintain the competitiveness of honey in domestic and export markets. Alternatives to be considered are: the type of support to offer, whether loans, purchases, or loans and purchases, and whether to implement the lower repayment provision. Government costs under the lower repayment provision would be expected to be under $80 million.

Timetable:

Action	Date	FR Cite
NPRM	01/16/88	
Final Action	04/01/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief Regulatory Impact and Progam Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB04

11. 1988 WOOL AND MOHAIR PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1782 et seq; National Wool Act of 1954, as amended by; PL 99-198, Sec 201 The Food Security Act of 1985

CFR Citation: 7 CFR 1468; 7 CFR 1472

Legal Deadline: None.

Abstract: This action will encourage the continued domestic production of wool at prices fair to both producers and consumers in a manner that will ensure a viable domestic wool industry, by supporting the prices of wool and mohair by means of loans, purchases, payments, or other operations. The support level for wool is determined by statutory formula. The support level for mohair must be set at a level not more than 15 percent above, or below the comparable percentage of parity at which shorn wool is supported. The expected cost to Government will be between $100 and $200 million.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	
Final Action	12/31/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB05

12. 1988-CROP MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR MINOR KINDS OF TOBACCO

Significance: Agency Priority

Legal Authority: 7 USC 1312(a) et seq; The Agricultural Act of 1938, as amended, Sec 312-313

CFR Citation: 7 CFR 724

Legal Deadline: Statutory, March 1, 1988.

Abstract: Marketing quotas and acreage allotments are required by legislation. Their objective is to balance supply with demand at levels that ensure stable supplies for domestic and export use. This action is expected to result in a net receipt to the Government of approximately $8 million.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	
Final Action	03/01/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB07

13. 1988-CROP PEANUT PRICE SUPPORT PROGRAM DIFFERENTIALS

Legal Authority: 7 USC 1423; Agricultural Act of 1949, Sec. 403; 15 USC 714c; Commodity Credit Corporation Charter Act, Sec. 5

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: The Secretary of Agriculture is authorized to make appropriate adjustments in the support price for peanuts for differences in grade, type, quality, location, and other factors to ensure that price support levels are representative of the market values of the various types. The average of the price support levels must, as far as is practicable, equal the national average price support level as determined by legislation. No alternatives are considered and the cost to Government will be negligible.

Timetable:

Action	Date	FR Cite
NPRM	01/15/88	
Final Action	03/31/88	

Small Entity: No

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB08

14. ● 1988 PRICE SUPPORT LEVELS FOR SIX KINDS OF TOBACCO

Legal Authority: 7 USC 1445; The Agricultural Act of 1949, as amended, Sec 106

CFR Citation: 00 CFR none

Legal Deadline: None.

Abstract: To stabilize tobacco prices and comply with statutory requirements, price support levels are set by statutory formula, based on a prices paid index. The Secretary may lower price support at the request of producer associations. Increases may be limited to 65% of the increase otherwise established. A net receipt of $3.6 million is expected. (ASCS 87-019)

Timetable:

Action	Date	FR Cite
NPRM	05/13/88	
Final Action	09/01/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S,

PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB12

15. ● 1989-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Significance: Agency Priority

Legal Authority: 7 USC 1358; The Agricultural Act of 1938, as amended, Sec 358

CFR Citation: 00 CFR None

Legal Deadline: Statutory, December 15, 1988. (For announcement of national poundage quota only)

Abstract: To balance supply with demand at levels that assure stable supplies for domestic use and assure producers a reasonable income.

This action is required by legislation, which provides a formula for computing the national poundage quota. The quota must equal the amount estimated to be devoted to domestic edible, seed, and related uses and may not be less than 1.1 million tons. The expected cost is $1 million. (ASCS 87-020)

Timetable:

Action	Date	FR Cite
NPRM	09/14/88	
Final Action	12/15/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB13

16. ● 1989 WHEAT PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1445b-3; 7 USC 1710; The Agricultural Adjustment Act of 1949, Sec 107D and 110

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796

Legal Deadline: Statutory, June 1, 1988. (For announcement of acreage adjustment levels)

Abstract: To provide an adequate wheat supply for domestic and foreign utilization, increase the competitiveness of U.S. exports, support farm income, combat inflation, hold down Federal costs, conserve natural resources, and comply with statutory requirements.

Determinations are to be made on (1) loan and purchase rate--minimum probable range of $2.06 to $2.57 per bushel, (2) target price--at least $4.16 per bushel, and (3) acreage adjustment--not less than 20% nor more than 30%, if carryin exceeds 1 billion bushels; no more than 20% if carryin is below 1 billion bushels. Decisions also to be made on whether to implement (1) a marketing loan program and related programs, (2) a paid land diversion, and (3) incentives for farmers to participate in the FOR. The expected cost is $2.0-$5.0 billion. (ASCS 87-021)

Timetable:

Action	Date	FR Cite
NPRM	03/11/88	
Final Action	06/01/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB14

17. ● 1989 FEED GRAIN PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1444e; 7 USC 1421; The Agricultural Act of 1949, as amended, Sec 105c; 7 USC 1710; The Agricultural Adjustment Act of 1949, as amended, Sec 110

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 718 to 719; 7 CFR 792; 7 CFR 794 to 96; 7 CFR 1421.720 to 1421.734

Legal Deadline: Statutory, September 30, 1988. (For announcement of acreage adjustment levels)

Abstract: To provide an adequate feed grain supply for domestic and foreign utilization, support farm income, combat inflation, hold down Federal costs, conserve natural resources, and comply with statutory requirements.

Primary determinations to be made are (1) loan and purchase rates--probable range of $1.65 - $2.06/bu. for corn, with rates for other feed grains set in relation to that for corn, (2) target prices--not less than $2.88 per bushel for corn, with rates for other feed grains set in relation to that for corn, and (3) acreage adjustment--not less than 12.5% nor more than 20%, if corn carryin exceeds 2 billion bushels; no more than 12.5% if corn carryin is less than 2 billion bushels. Decisions also to be made on whether to implement (1) a paid land diversion, (2) a marketing loan, (3) a half-compliance program, (4) incentives for farmers to participate in the FOR, and (5) price support for corn silage. The expected cost is $8.0 to $12.0 billion. (ASCS 87-022)

Timetable:

Action	Date	FR Cite
NPRM	07/15/88	
Final Action	09/30/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB15

18. ● 1989 UPLAND COTTON PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1444-1; The Agricultural Adjustment Act of 1949, as amended, Sec 103A

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1427

Legal Deadline: Statutory, November 1, 1988. (For announcement of loan rate, acreage adjustment level, and national program acreage)

Abstract: To assure sufficient supplies of upland cotton for domestic and export use, maintain adequate carryover stocks, support farm income, combat inflation, hold down Federal costs, and comply with statutory requirements.

Determinations must be made on (1) the loan rate--not less than 50.00 cents/lb, (2) the target price--not less than 74.5 cents/lb, (3) the loan repayment rate--if the world price is below the loan rate, repayment rate may be set by 1 of 2 options: (Plan A or Plan B, Sec. 103A (a(5))), (4)acreage limitation--no greater than 25%, (5) the national program acreage--not less than 10 million acres, (6) other provisions: whether or not to implement voluntary paid land diversion, loan deficiency payment, inventory reduction, or seed cotton loan programs. The expected cost is $250 - $500 million. (ASCS 87-023)

Timetable:

Action	Date	FR Cite
NPRM	08/01/88	
Final Action	10/31/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB16

19. ● COMMON PROGRAM PROVISIONS FOR THE 1989 WHEAT, FEED GRAIN, COTTON AND RICE PROGRAMS

Significance: Agency Priority

Legal Authority: 7 USC 1421 et seq; The Agricultural Act of 1949, as amended, Sec 107d

CFR Citation: 7 CFR 713; 7 CFR 1421; 7 CFR 1427

Legal Deadline: None.

Abstract: To make and implement determinations that are common to each of the 1989 Wheat, Feed Grain, Cotton and Rice Programs. Determinations are to be made on (1) production of approved non-program crops on underplanted program crop permitted acreage (50/92 provision), (2) production of alternative crops on reduced acreage, (3) haying and grazing of 50/92 and ACR conservation use acreage, (4) offsetting and cross compliance, (5) an advance recourse loan program, (6) multi-year set-asides, (7) the shift of 10 percent of a farm's acreage base between program commodity acreage bases, (8) consideration of actual 1989-crop yields in establishing a subsequent year's program payment yield, (9) advance deficiency and diversion payments, (10) interest certificate payments, and (11) provisions for commodity payment certificates. (ASCS 87-024)

Timetable:

Action	Date	FR Cite
NPRM	03/11/88	
Final Action	06/01/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB17

20. ● 1988 SOYBEAN LOAN PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1446; The Agricultural Act of 1949, as amended, Sec 201

CFR Citation: 7 CFR 1421

Legal Deadline: Statutory, October 1, 1988. (For announcement of loan rate)

Abstract: To assure sufficient supplies for domestic and export use, support farm income, combat inflation, hold down Federal costs, and comply with statutory requirements.

Determinations are to be made on the loan and purchase rate, with a probable range of $4.77 to $4.53/bu., and on whether to implement a marketing loan program. The expected cost is $0.1 - $0.6 billion. (ASCS 87-025)

Timetable:

Action	Date	FR Cite
NPRM	08/01/88	
Final Action	09/30/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB18

21. ● CCC COTTON LOAN PROGRAM REGULATIONS--SETTLEMENT, FRAUD, AND CONVERSION PROVISIONS

Legal Authority: 15 USC 714b to c; Commodity Credit Corporation Charter Act, Sec 4 and 5

CFR Citation: 7 CFR 1427

Legal Deadline: None.

Abstract: This action will update regulations to (1) clarify settlement provisions and (2) incorporate fraud or conversion language in order to make the regulations for cotton consistent with those for grain. No cost to Government is expected. (ASCS 87-015)

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
Final Action	12/31/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB22

22. ● GENERAL REGULATIONS GOVERNING PRICE SUPPORT OF 1986 AND SUBSEQUENT CROPS OF GRAIN

Legal Authority: 15 USC 714b to c; Commodity Credit Corporation Charter Act, Sec 4 and 5

CFR Citation: 7 CFR 1421

Legal Deadline: None.

Abstract: To correct and update program regulations. Specifically, this amendment will incorporate substitution provisions, clarify settlement of high moisture grain delivered to CCC, and revise warehouse-stored loan grade requirements. No cost to Government is expected. (ASCS 87-016)

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
Final Action	12/31/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB23

23. ● 1989 EXTRA LONG STAPLE (ELS) COTTON PROGRAM

Legal Authority: 7 USC 1444(h); The Agricultural Adjustment Act of 1949, as amended, Sec 103h

CFR Citation: 7 CFR 1427

Legal Deadline: Statutory, December 1, 1988. (12/1/88 for announcement of loan rate only)

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USDA—ASCS — **Proposed Rule Stage**

Abstract: To assure sufficient supplies of ELS cotton for domestic and export use, maintain adequate carryover stocks, support farm income, combat inflation, conserve natural resources, hold down Federal costs, and comply with statutory requirements.

Determinations are to be made on (1) the loan rate -- not less than 85% of the average market price over the previous 5 years, excluding the highest and lowest years, (2) the target price -- 120% of the loan level, (3) acreage limitation -- to be set at such level as to assure that total supplies will not be excessive, (4) the national program acreage -- not less than 60 thousand acres, (5) other provisions -- whether or not to make land diversion payments, and the loan level for seed cotton. The expected cost is $0.5 - $1.0 million (ASCS 87-016)

Timetable:

Action	Date	FR Cite
NPRM	09/01/88	
Final Action	12/01/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB25

DEPARTMENT OF AGRICULTURE (USDA) — Final Rule Stage

Agricultural Stabilization and Conservation Service (ASCS)

24. 1987 FEED GRAIN PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1444 to 1445; Ag Act of 1949, as amended Sec. 105, 107, and 424

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 719; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1421.720 to 1421.734

Legal Deadline: Statutory, September 30, 1986.

Abstract: The object of this action is to provide an adequate feed grain supply for domestic and foreign utilization, and comply with statutory requirements. (ASCS 86-043)

Timetable:

Action	Date	FR Cite
NPRM	07/23/86	51 FR 26452
Announcement	09/29/86	
Announcement	10/24/86	
Final Action	10/01/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA59

25. 1987 EXTRA LONG STAPLE (ELS) COTTON PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1444(h); Ag Act of 1949 Sec 103(h); as amended by Sec 507 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 1427

Legal Deadline: Statutory, December 1, 1986.

Abstract: The object of this action is to assure sufficient supplies of cotton for domestic and export use, maintain adequate carryover stocks, and comply with statutory requirements. (ASCS 86-029)

Timetable:

Action	Date	FR Cite
NPRM	06/29/86	51 FR 30886
Announcement	11/21/86	
Final Action	10/01/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA60

26. 1987 UPLAND COTTON PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1444-1; Ag Act of 1949, as amended, Sec 103A

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1427

Legal Deadline: Statutory, November 1, 1986.

Abstract: The object of this action is to assure sufficient supplies of cotton for domestic and export use, maintain adequate carryover stocks, and comply with statutory requirements. (ASCS 86-045)

Timetable:

Action	Date	FR Cite
NPRM	06/29/86	51 FR 30689
Announcement	09/29/86	
Announcement	03/20/87	
Final Action	10/01/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA64

27. 1987 RICE PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1441-1; Ag Act of 1949, as amended Sec 101A

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 794 to 796; 7 CFR 1421

Legal Deadline: Statutory, January 31, 1987.

Abstract: The object of this action is to provide an adequate rice supply for domestic and foreign utilization, and comply with statutory requirements. (ASCS 86-047)

Timetable:

Action	Date	FR Cite
NPRM	06/22/86	51 FR 30083
Announcement	10/24/86	
Final Action	10/01/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA72

USDA—ASCS — **Final Rule Stage**

28. PRICE SUPPORT LOAN PROGRAM FOR 1986 THROUGH 1990-CROPS SUGAR BEETS AND SUGARCANE

Significance: Regulatory Program

Legal Authority: 7 USC 1446; Ag Act of 1949, as amended, Sec 201

CFR Citation: 7 CFR 1435

Legal Deadline: Statutory, October 1, 1986.

Abstract: The 1949 Act, as amended by the Food Security Act of 1985, requires the Secretary to support the price of domestically grown sugarcane and sugar beets through a nonrecourse loan program effective for the 1986 through 1990 crops. The object of this action is to develop program and operation provisions for administering a sugar price support program. (ASCS 86-048)

Timetable:

Action	Date	FR Cite
Announcement	10/01/86	
Interim Final Rule	10/29/86	51 FR 39507

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA74

29. 1987-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Significance: Agency Priority

Legal Authority: 7 USC 1358; Ag Act of 1938, Sec 358

CFR Citation: Not applicable

Legal Deadline: Statutory, December 15, 1986.

Abstract: This action is required by legislation, which provides a formula for computing the National quota. The quota must equal the amount devoted to domestic edible, seed, and related uses and may not be less than 1.1 million tons. The objective is to balance supply with demand at levels that assure stable supplies for domestic use and assure producers a reasonable income. (ASCS 86-033)

Timetable:

Action	Date	FR Cite
NPRM	11/20/86	51 FR 41990
Announcement	12/12/86	

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA79

30. 1987 WHEAT PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1332 to 1338; 7 USC 1445 et seq; 7 USC 1433c; Ag Adjustment Act of 1938 as amended, Sec 338; Ag Act of 1949 as amended, Sec 107 and 424

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1421.485 to 1421.490

Legal Deadline: Statutory, June 1, 1986.

Abstract: The object of this action is to provide an adequate wheat supply for domestic and foreign utilization, and comply with statutory requirements. (ASCS 86-041)

Timetable:

Action	Date	FR Cite
NPRM	05/13/86	51 FR 17601
Announcement	05/30/86	
Announcement	06/30/86	
Final Action	10/01/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA82

31. HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION PROGRAMS

Significance: Agency Priority

Legal Authority: 16 USC 3801 to 3822; 16 USC 3841 to 3845; PL 98-198; Sections 1201-1223 and 1241-1245, The Food Security Act of 1985

CFR Citation: 7 CFR 703, (New)

Legal Deadline: Statutory, June 20, 1986.

Abstract: This action is needed to set forth the terms and conditions of the Highly Erodible Land and the Wetland Conservation Programs as required by the Food Security Act of 1985. Under these programs a producer who, after 12/23/85, produces an agricultural commodity on a field defined as highly erodible or on wetland converted after 12/23/85 will be ineligible for any designated USDA program benefits. However, during the period from 12/23/85 to the later of 1/1/90 or 2 years after a producer's field is mapped by SCS for purposes of classifying such land, such producer will not be ineligible for program benefits for highly erodible land that had been cultivated to produce any of the 1981-85 crops, or set aside, diverted or otherwise not cultivated under a USDA production adjustment program. Certain other exemptions from the ineligibility provisions will also apply. (ASCS 86-051)

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/27/86	51 FR 23496

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 447-4636

RIN: 0560-AA88

32. COMMON PROGRAM PROVISIONS FOR THE 1988 WHEAT, FEED GRAINS, COTTON AND RICE PROGRAMS

Significance: Regulatory Program

Legal Authority: 7 USC 1441-1; 7 USC 1444-1; 7 USC 1444-b; 7 USC 1445b-3; 7 USC 1461 to 1469; Agricultural Act of 1949, as amended

CFR Citation: 7 CFR 713; 7 CFR 1421; 7 CFR 1427

Legal Deadline: Statutory, June 1, 1987. (Acreage Reduction Percentage for Wheat Only)

Abstract: To make and implement determinations that are common to each of the 1988 wheat, feed grains, cotton and rice programs.

Determinations are to be made on (1) the enrollment period (universal or staggered for each program), (2) production of approved non-program crops on underplanted program crop permitted acreage, (3) production of alternative crops on reduced acreage, (4) offsetting and cross compliance, (5) an advance recourse loan program, (6) multi-year set-asides, (7) the shift of ten percent of a farm's acreage base

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between program commodity base acreage, (8) consideration of actual 1988-crop yields in establishing a subsequent year's program payment yield, (9) procedure for crediting prevented planting and failed acreage, and (10) advance deficiency and diversion payments. (ASCS 86-057)

Timetable:

Action	Date	FR Cite
NPRM	04/28/87	52 FR 15362
Announcement	07/02/87	

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA89

33. 1988 WHEAT PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1445b-3; The Agricultural Act of 1949, as amended, Sec 107D

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 794 to 796; 7 CFR 1421.1 to 1421.29; 7 CFR 1421.460 to 1421.471; 7 CFR 1421.700 to 1421.714

Legal Deadline: Statutory, June 1, 1987. (Acreage Reduction Percentage Only)

Abstract: To provide an adequate wheat supply for domestic and foreign utilization, increase the competitiveness of U.S. exports, and comply with statutory requirements. (ASCS 86-059)

Timetable:

Action	Date	FR Cite
NPRM	04/28/87	52 FR 15358
Announcement	07/02/87	

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA91

34. 1988 FEED GRAIN PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1444e; The Agricultural Act of 1949, as amended, Sec 105C and 110

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 718; 7 CFR 719; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1421.1 to 1421.29; 7 CFR 1421.90 to 1421.100; 7 CFR 1421.720 to 1421.734

Legal Deadline: Statutory, September 30, 1987. (Acreage Reduction Percentage Only)

Abstract: To provide an adequate feed grain supply for domestic and foreign utilization, and comply with statutory requirements. (ASCS 86-060)

Timetable:

Action	Date	FR Cite
NPRM	07/16/87	52 FR 26707
Final Action	09/30/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA92

35. 1988 UPLAND COTTON PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1444-1, Ag Act of 1949, as amended Sec. 103A

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1427

Legal Deadline: Statutory, November 1, 1987.

Abstract: To assure sufficient supplies of upland cotton for domestic and export use, maintain adequate carryover stocks, and comply with statutory requirements. (ASCS 86-061)

Timetable:

Action	Date	FR Cite
NPRM	07/17/87	52 FR 27032
Final Action	10/30/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA93

36. COMMON PROGRAM PROVISIONS FOR THE 1987 WHEAT, FEED GRAINS, COTTON AND RICE PROGRAMS

Significance: Agency Priority

Legal Authority: Agricultural Adjustment Act of 1938; and Agricultural Act of 1949, as amended by; PL 99-198, The Food Security Act of 1985; PL 99-253, The Food Security Act of 1986: Amendments and; PL 99-260, The Food Security Improvements Act of 1986

CFR Citation: Not yet determined

Legal Deadline: Statutory, June 1, 1988.

Abstract: To make and implement determinations that are common to each of the 1987 Wheat, Feed Grains, Cotton and Rice Programs. Determinations are to be made on (1) the enrollment period (universal or staggered for each program), (2) production of approved non-program crops on underplanted program crop permitted acreage, (3) production of alternative crops on reduced acreage, (4) offsetting and cross compliance, (5) an advance recourse loan program, (6) multi-year set-asides, (7) the shift of 10 percent of a farm's acreage base between program commodity base acreages, (8) consideration of actual 1987-crop yields in establishing a subsequent year's program payment yield, (9) procedure for crediting prevented planting and failed acreage, and (10) advance deficiency and diversion payments. (ASCS 86-053)

Timetable:

Action	Date	FR Cite
NPRM	05/13/86	51 FR 17598
Announcement	05/30/86	
Final Action	10/01/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA94

37. 1987 PRICE SUPPORT LEVELS FOR SIX KINDS OF TOBACCO

Significance: Agency Priority

Legal Authority: 7 USC 1445; The Agricultural Adjustment Act of 1949, as amended, Sec 106

CFR Citation: 7 CFR 1464

Legal Deadline: None.

Abstract: To stabilize tobacco prices and comply with statutory requirements. (ASCS 86-063)

Timetable:

Action	Date	FR Cite
NPRM	04/21/87	52 FR 13112

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA97

38. 1988-CROP FLUE-CURED TOBACCO MARKETING QUOTAS

Significance: Agency Priority

Legal Authority: 7 USC 1311 to 1313; Agricultural Adjustment Act of 1938, as amended; Sec 311 to 313

CFR Citation: 7 CFR 725

Legal Deadline: Statutory, December 15, 1987.

Abstract: Marketing quotas are required by legislation. Their objective is to balance supply with demand at levels assuring stable supplies for domestic and export use. (ASCS 86-064)

Timetable:

Action	Date	FR Cite
Final Action	12/11/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA96

39. 1987-CROP SUGAR BEETS AND SUGARCANE PRICE SUPPORT LOAN RATES

Significance: Regulatory Program

Legal Authority: 7 USC 1446; The Agricultural Adjustment Act of 1949, as amended, Sec 201

CFR Citation: 7 CFR 1435

Legal Deadline: None.

Abstract: Legislation requires the Secretary to support the price of domestically grown sugar beets and sugarcane through a nonrecourse loan program. This action will set forth (1) the loan rates applicable to 1987-crop sugar beets and sugarcane, and (2) the 1987-crop minimum price support levels that processors are required to pay to growers. No impact on Government outlays is expected. However, the cost to consumers and other users of sugar will likely exceed $2 billion.

Timetable:

Action	Date	FR Cite
Final Action	09/15/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB01

40. MILK PRICE SUPPORT LEVEL, CALENDAR YEAR 1988

Significance: Regulatory Program

Legal Authority: 7 USC 1446(d); The Agricultural Act of 1949, as amended, Sec. 201(d)(1)(E)

CFR Citation: 7 CFR 1430

Legal Deadline: Statutory, January 1, 1988.

Abstract: Legislation requires that, if estimated price support purchases for 1988 exceed 5 billion pounds (milk equivalent, fat basis), the Secretary shall reduce the support price by $0.50 per hundredweight (cwt), and if estimated purchases do not exceed 2.5 billion pounds, shall increase the support price by $0.50/cwt. The cost to Government is expected to be approximately $1 billion.

Timetable:

Action	Date	FR Cite
Final Action	12/31/87	

Small Entity: No

Agency Contact: Tom Witzig, Chief Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB02

41. MILK PRICE SUPPORT LEVEL, OCTOBER 1, 1987, THROUGH DECEMBER 31, 1990

Significance: Regulatory Program

Legal Authority: 7 USC 1446(d); The Agricultural Act of 1949, as amended, Sec. 201(d)

CFR Citation: 7 CFR 1430

Legal Deadline: Statutory, October 1, 1987.

Abstract: Legislation requires that the price of milk shall be supported during the period 10/01/87 through 12/31/90 at $11.60 per hundredweight (cwt) for milk containing 3.67 percent milkfat. It also requires the termination of the $0.75/cwt reduction in the support price as of 09/30/87. Under certain circumstances, the support price may be changed for calendar years 1988-90. Any changes in the support price for calendar years 1988-90 will be covered in separate actions. The cost to Government is expected to be approximately $1 billion per year.

Timetable:

Action	Date	FR Cite
Final Action	09/30/87	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB03

42. 1988-CROP BURLEY TOBACCO MARKETING QUOTAS AND PRICE SUPPORT LEVEL

Significance: Agency Priority

Legal Authority: 7 USC 1312; The Agricultural Act of 1938, as amended, Sec 312 to 313, 7 USC 1445; The Agricultural Adjustment Act of 1949, as amended, Sec 106

CFR Citation: 7 CFR 724

Legal Deadline: Statutory, February 1, 1988.

Abstract: Marketing quotas and price support are required by legislation. Their objectives are to balance supply with demand at levels assuring stable supplies for domestic and export use at prices fair to producers.

Timetable:

Action	Date	FR Cite
Final Action	01/29/88	

Small Entity: No

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S

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RIN: 0560-AB06

43. ● 1988-CROP SUGAR BEET AND SUGARCANE PRICE SUPPORT LOAN RATES

Significance: Agency Priority

Legal Authority: 7 USC 1421; 7 USC 1446; The Agricultural Adjustment Act of 1949, as amended, Sec 201; and 401

CFR Citation: 7 CFR 1435

Legal Deadline: None.

Abstract: To set forth (1) loan rates applicable to 1988-crop sugar beets and sugarcane, and (2) the 1988-crop minimum price support levels processors are required to pay their growers. The minimum national average loan rate is set by statute at $0.18/lb. for sugarcane, with the rate for sugar beets set at such level as the Secretary determines is fair and reasonable in relation to that for sugarcane. No impact on Government outlays is expected. However, the cost to consumers and other users of sugar will likely exceed $2 billion. (87-026)

Timetable:

Action	Date	FR Cite
Final Action	09/15/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB19

44. ● 1989 WOOL AND MOHAIR PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 1782 et seq; National Wool Act of 1954, as amended, Sec 703

CFR Citation: 7 CFR 1468; 7 CFR 1472

Legal Deadline: None.

Abstract: To encourage the continued domestic production of wool at prices fair to both producers and consumers, in a manner which will assure a viable domestic wool industry in the future, by supporting the prices of wool and mohair by means of loans, purchases, payments, or other operations. The support level for wool is set by statutory formula. The support price for mohair must be set at a level not more than 15 percent above or below the comparable percentage of parity at which shorn wool is supported. The expected cost is $100 to $200 million. (ASCS 87-027)

Timetable:

Action	Date	FR Cite
Final Action	12/30/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB20

45. ● 1988 CCC COTTON LOAN PROGRAM REGULATIONS—BALE PACKAGING MATERIALS

Legal Authority: 15 USC 714b to c; Commodity Credit Corporation Charter Act, Sec 4 and 5

CFR Citation: 7 CFR 1427

Legal Deadline: None.

Abstract: To incorporate by reference the specifications for bale packaging materials used in wrapping cotton for 1988 that were approved by the Joint Cotton Industry Bale Packaging Committee and that are acceptable to CCC. No cost to Government is expected. (ASCS 87-014)

Timetable:

Action	Date	FR Cite
Final Action	07/01/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB21

46. ● WAIVER OF STANDARDS FOR APPROVED WAREHOUSES

Legal Authority: 15 USC 714c; Commodity Credit Corporation Charter Act, Sec 5

CFR Citation: 7 CFR 1421

Legal Deadline: None.

Abstract: Due to the large carryover of grain stocks and a bumper harvest expected this summer and fall, the need for storage space for CCC-owned and loan grain may become critical in several areas of the country. This amendment will permit CCC to approve warehouses that are temporarily unable to meet all of the Standards of Approval, in order to provide adequate storage space. There is no expected cost to Government of this action. (ASCS 87-017)

Timetable:

Action	Date	FR Cite
NPRM	08/15/87	
Final Action	01/04/88	

Small Entity: Not Applicable

Agency Contact: Tom Witzig, Chief, Regulatory Impact and Program Analysis Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, PO Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AB24

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Stabilization and Conservation Service (ASCS) — **Completed Actions**

47. 1987 WOOL AND MOHAIR PROGRAM

CFR Citation: 7 CFR 1468; 7 CFR 1472

Completed:

Reason	Date	FR Cite
Final Action	07/08/87	52 FR 25616

Small Entity: Not Applicable

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA85

USDA—ASCS — **Completed Actions**

48. 1987-CROP FLUE-CURED TOBACCO MARKETING QUOTAS AND PRICE SUPPORT LEVEL

Significance: Agency Priority

CFR Citation: 7 CFR 724

Completed:

Reason	Date	FR Cite
Final Action	04/20/87	52 FR 12947

Small Entity: Not Applicable

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA67

49. 1987-CROP BURLEY TOBACCO MARKETING QUOTAS AND PRICE SUPPORT LEVELS

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	05/14/87	52 FR 18255

Small Entity: Not Applicable

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA68

50. REGULATIONS FOR PROCUREMENT OF PROCESSED AGRICULTURAL COMMODITIES FOR DONATIONS UNDER TITLE II, P.L. 480

CFR Citation: 7 CFR 1496

Completed:

Reason	Date	FR Cite
Final Action	02/25/87	52 FR 5726

Small Entity: Not Applicable

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA96

51. 1987-88 MARKETING YEAR PENALTY RATES FOR ALL KINDS OF TOBACCO SUBJECT TO QUOTAS

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	06/12/87	52 FR 22510

Small Entity: Not Applicable

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AB09

52. 1987 CCC COTTON LOAN PROGRAM REGULATIONS

CFR Citation: 7 CFR 1427

Completed:

Reason	Date	FR Cite
Final Action	07/07/87	52 FR 25354

Small Entity: Not Applicable

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AB10

53. NOTICE OF 1987-88 APPLICATION AND INSPECTION FEES UNDER THE 1987 UNIFORM GRAIN AND RICE STORAGE AGREEMENT

CFR Citation: 7 CFR 1421

Completed:

Reason	Date	FR Cite
Final Action	04/10/87	52 FR 11716

Small Entity: Not Applicable

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AB11

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS) — **Prerule Stage**

54. ● ANIMAL WELFARE REGULATIONS; STANDARDS

Significance: Regulatory Program

Legal Authority: 7 USC 2142; 7 USC 2143

CFR Citation: 9 CFR 3.1 to 3.17, (Revision); 9 CFR 3.25 to 3.41, (Revision); 9 CFR 3.75 to 3.91, (Revision)

Legal Deadline: None.

Abstract: In 1985 Congress amended the Animal Welfare Act, 7 USC 2131 et seq., and required the Secretary of Agriculture to promulgate regulations and standards governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, operators of auction sales, carriers, and intermediate handlers. The standards and regulations will provide minimum requirements with respect to handling, housing, feeding, sanitation, veterinary care, and other related matters. APHIS is proposing to amend, revise, and expand the "Standards" relating to dogs and cats, guinea pigs and hamsters, and nonhuman primates, and will include provisions for exercise of dogs and for promoting the psychological well-being of primates.

Timetable:

Action	Date	FR Cite
End Review	10/00/87	
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Dr. R. L. Crawford, Senior Staff Veterinarian, Animal Care Staff, Department of Agriculture, Animal and Plant Health Inspection Service, Federal Building, Room 756, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-7833

RIN: 0579-AA20

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DEPARTMENT OF AGRICULTURE (USDA) — **Proposed Rule Stage**
Animal and Plant Health Inspection Service (APHIS)

55. ● IMPORTATION OF FRUITS AND VEGETABLES UNDER ASSURED CERTIFICATION AGREEMENTS

Significance: Regulatory Program

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167

CFR Citation: 7 CFR 319.56

Legal Deadline: None.

Abstract: To prevent the introduction of plant pests and diseases, Plant Protection and Quarantine (PPQ) inspects shipments of foreign fruits and vegetables upon their arrival at United States ports. PPQ is developing regulations that will allow inspections to be performed in the exporting countries, rather than upon arrival in the United States, using methods and standards approved and monitored by PPQ. This procedure should speed the movement of commodities moved under this "assured certification" alternative, and will allow PPQ to employ its personnel and resources more effectively.

Timetable:

Action	Date	FR Cite
ANPRM	01/20/87	52 FR 2114
ANPRM Comment Period End	03/23/87	

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Mr. Frank Cooper, Staff Officer, Regulatory Services Staff, Department of Agriculture, Animal and Plant Health Inspection Service, Federal Building, Room 637, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-8248

RIN: 0579-AA17

56. ● SWINE IDENTIFICATION

Significance: Regulatory Program

Legal Authority: 21 USC 111 to 113; 21 USC 601 et seq; 21 USC 114a; 21 USC 1149-1; 21 USC 115 to 117; 21 USC 120 to 126; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 71; 9 CFR 78; 9 CFR 85; 9 CFR 309; 9 CFR 310; 9 CFR 320

Legal Deadline: None.

Abstract: Swine in interstate commerce may be adulterated with drug and other chemical residue levels higher than the allowed tolerance and may be spreading diseases. The Department is proposing to require that all swine in interstate commerce be individually identified and records of identification be maintained. Mandatory identification of swine in interstate commerce would allow APHIS to more easily locate sources of infection in order to eradicate and contain disease and would allow the Food Safety Inspection Service (FSIS) to more easily determine the source of adulterated meat and prevent its consumption.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	01/00/88	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Steven B. Farbman, Assistant Director, Regulatory Coordination, Department of Agriculture, Animal and Plant Health Inspection Service, Room 728, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-5333

RIN: 0579-AA19

DEPARTMENT OF AGRICULTURE (USDA) — **Final Rule Stage**
Animal and Plant Health Inspection Service (APHIS)

57. ● ANIMAL WELFARE; DEFINITION OF TERMS AND REGULATIONS

Significance: Regulatory Program

Legal Authority: 7 USC 2133; 7 USC 2135; 7 USC 2136; 7 USC 2140; 7 USC 2141; 7 USC 2142; 7 USC 2143; 7 USC 2144; 7 USC 2146; 7 USC 2147; 7 USC 2151

CFR Citation: 9 CFR 1, (Revision); 9 CFR 2, (Revision)

Legal Deadline: None.

Abstract: In 1985 Congress amended the Animal Welfare Act, 7 USC 2131, et seq., and required the Secretary of Agriculture to promulgate regulations and standards governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, operators of auction sales, carriers, and intermediate handlers. The standards and regulations will provide minimum requirements with respect to handling, housing, feeding, sanitation, veterinary care, and other related matters. The Agency has proposed definitions to provide proper guidance to the public, licensees, and registrants in their responsibilities under the Act. The Agency has also proposed to amend, revise, and expand the "Regulations" contained in 9 CFR 2.1 through 2.132, pertaining to licensing and registration of facilities, recordkeeping and identification of animal holding periods and facilities, inspections, Institutional Animal Care and Use Committees, adequate veterinary care, and other areas relating to humane animal care matters.

Timetable:

Action	Date	FR Cite
NPRM	03/31/87	52 FR 10298
Notice of Extension of comment period	05/22/87	52 FR 19359
Extension and Reopening of comment period	08/12/87	52 FR 29865
NPRM Comment Period End	08/27/87	
Final Action	00/00/00	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Dr. R. L. Crawford, Senior Staff Veterinarian, Animal Care Staff, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Room 756, 6505 Belcrest Road, Hyattsville, MD 20782, 301 436-7833

RIN: 0579-AA16

DEPARTMENT OF AGRICULTURE (USDA) — **Completed Actions**
Animal and Plant Health Inspection Service (APHIS)

58. REVISION OF 7 CFR 319.56 - FRUITS AND VEGETABLES

Significance: Regulatory Program

CFR Citation: 7 CFR 319.56

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/87	

Small Entity: No

Agency Contact: Steven B. Farbman 301 436-5333

RIN: 0579-AA12

59. GYPSY MOTH - OUTDOOR HOUSEHOLD ARTICLES

Significance: Regulatory Program

CFR Citation: 7 CFR 301.45

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/87	

Small Entity: No

Agency Contact: Steven B. Farbman 301 436-5333

RIN: 0579-AA15

60. INTRODUCTION OF ORGANISMS AND PRODUCTS ALTERED OR PRODUCED THROUGH GENETIC ENGINEERING WHICH ARE PLANT PESTS OR WHICH THERE IS REASON TO BELIEVE ARE PLANT PESTS

Significance: Regulatory Program

CFR Citation: 7 CFR 340, Proposed

Completed:

Reason	Date	FR Cite
Final Action	06/16/87	52 FR 22892
Final Action Effective	07/16/87	

Small Entity: No

Agency Contact: Steven B. Farbman 301 436-5333

RIN: 0579-AA16

DEPARTMENT OF AGRICULTURE (USDA) — **Final Rule Stage**
Cooperative State Research Service (CSRS)

61. GUIDELINES FOR BIOTECHNOLOGY RESEARCH

Legal Authority: PL 99-198 Food Security Act of 1985

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: The purpose of these guidelines is to specify required laboratory, agricultural, and environmental practices for constructing, handling, and experimental testing of plants, animals, and selected microorganisms involved in agricultural biotechnology research. These guidelines are necessary to assure the safety of agricultural ecosystems in which genetically engineered organisms may be released from physical containment. Compliance with the guidelines will be obligatory for all entities which receive research support from USDA and it will be voluntary for other entities. The guidelines are promulgated under the authority of the Food Security Act of 1985 (P.L. 99-198). The National Institutes of Health (NIH) has submitted to the Federal Register a notice of proposed changes in the NIH Guidelines for research on whole plants and animals. When these changes are made, USDA will re-evaluate the need for additional guidelines to address agricultural research.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/86	51 FR 23367
ANPRM Comment Period End	09/25/86	
Final Action	11/00/87	

Small Entity: No

Agency Contact: William S. Smith, Regulatory Coordinator, Department of Agriculture, Cooperative State Research Service, Room 017 Justin Smith Morrill Bldg., Washington, DC 20251-0900, 202 475-4964

RIN: 0524-AA00

DEPARTMENT OF AGRICULTURE (USDA) — **Prerule Stage**
Farmers Home Administration (FmHA)

62. ● SECURITY SERVICING FOR MULTIPLE HOUSING LOANS

Legal Authority: 42 USC 1480

CFR Citation: 07 CFR 1930; 07 CFR 1944; 07 CFR 1965

Legal Deadline: None.

Abstract: This regulation is being revised to provide clarification on the processing differences between membership changes and transfers, to broaden the ability to consolidate and reamortize loans, to clarify actions to be taken during a bankruptcy, and to clarify and discuss the classification of problem loans and their resolution, along with other minor revisions. These revisions are needed so as to provide more complete guidance to field staff and borrowers on the topics discussed above. Potential costs consist of administrative time involved with Agency personnel drafting and completing regulation. No alternatives were identified as being appropriate to address the several problems being corrected with this regulation.

Timetable:

Action	Date	FR Cite
ANPRM	04/30/88	
ANPRM Comment Period End	06/30/88	
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entity: Yes

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South

USDA—FmHA — Prerule Stage

Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA38

63. ● SERVICING AND COLLECTIONS NON PROGRAM (NP) LOANS

Significance: Agency Priority

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1951 J

Legal Deadline: None.

Abstract: A new instruction to provide policy and guidance for FmHA field office personnel to make, manage, collect and liquidate non-program (NP) loans.

Timetable:

Action	Date	FR Cite
ANPRM	01/01/88	
ANPRM Comment Period End	03/01/88	
Final Action	09/01/88	
Final Action Effective	10/01/88	

Small Entity: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA39

64. ● ANALYZING CREDIT NEEDS AND GRADUATION OF BORROWERS

Significance: Agency Priority

Legal Authority: 42 USC 1472

CFR Citation: 7 CFR 1951-F

Legal Deadline: None.

Abstract: Provide for Contracting for Borrower Graduation by a private contractor and certain other changes.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/88	
ANPRM Comment Period End	05/03/88	
Final Action	07/03/88	
Final Action Effective	08/03/88	

Small Entity: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA40

65. ● COMPLAINTS AND COMPENSATION FOR CONSTRUCTION DEFECTS

Legal Authority: 42 USC 1479

CFR Citation: 7 CFR 1924 F

Legal Deadline: None.

Abstract: Provide for handling construction defects on manufactured homes.

Timetable:

Action	Date	FR Cite
ANPRM	03/01/88	
ANPRM Comment Period End	05/01/88	
Final Action	09/01/88	
Final Action Effective	10/01/88	

Small Entity: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA41

66. ● BORROWER SUPERVISION SERVICING AND COLLECTION OF SINGLE FAMILY HOUSING LOAN ACCOUNTS

Legal Authority: PL 100-71

CFR Citation: 7 CFR 1951-G

Legal Deadline: None.

Abstract: Provide for interest rate adjustment on non-subsidized loans.

Timetable:

Action	Date	FR Cite
ANPRM	01/01/88	
ANPRM Comment Period End	03/01/88	
Final Action	05/01/88	
Final Action Effective	06/01/88	

Small Entity: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA42

67. ● RURAL DEVELOPMENT LOAN FUND RELENDING PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 9812a; 7 USC 1932 note

CFR Citation: 07 CFR 1948-C

Legal Deadline: None.

Abstract: This action is necessary to implement the provisions of Section 407 of the Health and Human Services Act of 1986 which amended Section 1323 of the Food Security Act of 1985 by stating that all funds in, repaid to, or appropriated to the Rural Development Loan Fund shall be used by the Secretary of Agriculture to make loans to entities for the purpose of and subject to the terms and conditions specified in the first, second and last sentences of section 623 (a) of the Community Economic Development Act of 1981 (42 U.S.C. 981 (a)).

Timetable:

Action	Date	FR Cite
ANPRM	04/20/88	00 FR 0000

Small Entity: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, 14th & Independence Avenue, SW, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA43

68. ● SUPPLEMENTAL REQUIREMENTS FOR MAKING SECTION 502 RH LOANS FOR MANUFACTURED HOMES

Legal Authority: 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 07 CFR 1944A, Exhibit F

Legal Deadline: None.

Abstract: The Department of Energy report required in PL 98-181 will be considered in determining the need to revise FmHA thermal standards for manufactured housing.

USDA—FmHA — Prerule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6347, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA46

DEPARTMENT OF AGRICULTURE (USDA)
Farmers Home Administration (FmHA)

Proposed Rule Stage

69. SUSPENSION AND DEBARMENT REGULATIONS

Legal Authority: 7 USC 1989; 42 USC 1480(k)

CFR Citation: 7 CFR 1924

Legal Deadline: None.

Abstract: This regulatory activity will improve FmHA's suspension and debarment system by establishing regulations that are compatible with other federal agency regulations. (FmHA 82-004)

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	06/00/88	

Small Entity: No

Additional Information: Agency action deferred until we review the USDA draft of the new regulation which could well become FmHA's as OMB would like to see a common regulation for all agencies.

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA02

70. RECAPTURE OF SECTION 502 RURAL HOUSING SUBSIDY

Significance: Agency Priority

Legal Authority: 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 7 CFR 1951

Legal Deadline: None.

Abstract: FmHA proposes to revise regulations regarding the recapture of subsidy granted on Section 502 rural housing loans. This action is necessary as current FmHA regulations pertaining to same are confusing to the general public and our borrowers. The intended effect of this action is to shorten and simplify the method of calculating recapture.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	
NPRM Comment Period End	12/01/87	
Final Action	04/01/88	
Final Action Effective	05/01/88	

Small Entity: No

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, 202 382-9744

RIN: 0575-AA29

71. ● SELF-HELP TECHNICAL ASSISTANCE GRANTS

Legal Authority: 7 USC 1989; 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 07 CFR 1933-I

Legal Deadline: None.

Abstract: Complete revision to improve grantee's accounting responsibilities. No costs associated with action. Benefits reduce possibility of program fraud and abuse. Increase borrowers labor contribution.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA34

72. ● SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Significance: Agency Priority

Legal Authority: 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 07 CFR 1944-A

Legal Deadline: None.

Abstract: Application processing priority system. No costs associated with action. Benefits should be faster processing times and quicker response to requests for assistance.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA35

73. ● PLANNING AND PERFORMING CONSTRUCTION AND OTHER DEVELOPMENT

Significance: Agency Priority

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 07 CFR 1924, Subpart A

Legal Deadline: None.

Abstract: Revision to the Certification requirement for drawings and specifications. No costs associated. Benefits will be reduced costs to obtain certifications.

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USDA—FmHA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Government Levels Affected: Local, State

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA36

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74. ● SECTION 504 RURAL HOUSING LOANS AND GRANTS

Legal Authority: 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70

CFR Citation: 07 CFR 1944, Subpart J (Revision)

Legal Deadline: None.

Abstract: Incorporates revisions to Agency's authorizing statutes made by the 1983 Housing amendments. Expands loan purposes, increases the total amount of assistance available. No cost increase. Will benefit more homeowners.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348, South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA37

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75. ● DEBT SETTLEMENT - COMMUNITY AND BUSINESS PROGRAMS

Significance: Agency Priority

Legal Authority: PL 99-198

CFR Citation: 07 CFR 1956-C, (New)

Legal Deadline: None.

Abstract: Debt settlement of Community and Business Programs is governed by the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. (1921-1996). The major reason for removing debt settlement actions appropriate to Community and Business Programs from the present regulation (FmHA Instruction 456.1) to a new regulation (FmHA Instruction 1956-C) is to comply with section 1309 of the Food Security Act of 1985 (Pub. L. 99-198). Public Law 99-198 provides the Secretary with greater flexibility in administering the debt settlement claims for Community and Business Programs, including compromise, adjustment, cancellation, and chargeoff actions. The changes will result in more efficient service to the public, while continuing protection of the Government's interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348 South Building, Washington, DC 20250, 202 382-9744

RIN: 0575-AA44

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76. ● DISTRESSED FORMER CONTINUATION AMENDMENTS TO FMHA FARMER PROGRAM LOAN MAKING, SUPERVISION AND SERVICING REGULATIONS

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1924; 7 CFR 1941; 7 CFR 1962; 7 CFR 1965

Legal Deadline: None.

Abstract: The amendments to the cited regulations are being made to implement provisions of Public Law 100-71, signed or enacted on July 11, 1987. This law is entitled Amendment 222, of the Supplemental Appropriations Act. This action will allow FmHA to make annual or production loans to delinquent FmHA farmer program borrowers, after all other servicing options including rescheduling deferment etc., were considered, if the borrower can show repayment of the annual advance, plus any other annual production monies borrowed or obtained on open accounts.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	11/00/87	
Final Action Effective	01/00/88	

Small Entity: No

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA45

DEPARTMENT OF AGRICULTURE (USDA)

Farmers Home Administration (FmHA) — Final Rule Stage

77. RESTRICTING INSURED AND GUARANTEED FARM OWNERSHIP AND OPERATING LOANS WHEN SURPLUS ITEMS EXIST

Significance: Regulatory Program

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1941; 7 CFR 1943; 7 CFR 1980

Legal Deadline: None.

Abstract: The Federal Government has had many different programs in an attempt to regulate the supply of agricultural commodities. The problem is to find a way to have an adequate supply of agricultural commodities without creating surpluses or shortages.

The Agency has changed its regulations to allow the Administrator of FmHA to restrict loans that will be used to increase the production of selected agricultural commodities - to be determined through objective criteria - when the United States Department of Agriculture is taking action to reduce production and/or has a program for supporting prices and/or has some other subsidy program for the selected agricultural commodity. This will save the applicant and the Agency the work, time, and the expense involved in processing applications for which a feasible plan of operation cannot be developed. The change in regulations will help eliminate the number of applications that have to be fully processed and then rejected. (FmHA 84-016)

Timetable:

Action	Date	FR Cite
NPRM	12/02/85	50 FR 49395
Interim Final Rule	06/19/86	51 FR 22272
Final Action	10/00/87	

Small Entity: No

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA12

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78. FMHA GUARANTEES OF COMMERCIAL LENDER'S FARM OWNERSHIP (FO) AND OPERATING LOANS (OL) WITH ACCOMPANYING LENDER PRINCIPAL WRITE DOWN AND/OR INTEREST RATE REDUCTION

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1960

Legal Deadline: None.

Abstract: The general objective of the proposed action is to integrate Government and Private Sector resources in a continual effort to resolve financial difficulties in agriculture. The proposed action amends the debt adjustment program regulations for guaranteed OL and FO loans to clarify the dollar value equivalency of an interest rate reduction used in lieu of a required 10 percent minimum write down of the total principal and interest outstanding on loan(s) which a lender wants guaranteed; to reduce the minimum positive cash flow requirement under the DAP from 110 percent to 100 percent and to permit lenders to use a combination write down of principal of indebtedness along with an interest rate reduction which would equal the value of an upfront write down of existing indebtedness of at least 10 percent. The intended effect of this action is to provide additional financial assistance to both lenders and their farm borrowers in a time of financial difficulty. (FmHA 85-005)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/13/85	50 FR 9987
Final Action	06/00/88	

Small Entity: No

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S Bldg., Washington, DC 20250, 202 382-9744

RIN: 0575-AA22

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79. CHANGES TO THE FMHA FARMER PROGRAM LOAN MAKING, SUPERVISION AND SERVICING REGULATIONS TO IMPLEMENT THE APPLICABLE PROVISIONS OF THE "FOOD SECURITY ACT OF 1985"

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1900; 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1955; 7 CFR 1980

Legal Deadline: Statutory, March 31, 1986. For Interim Final Rule published 4/21/86.

Abstract: Most of the provisions of the Food Security Act of 1985 are mandated by the Act. The major effects will be to insure that the agency provides prompt service to applicants and borrowers, reduce the need and size of the emergency loan program, provide for additional ways that borrowers may continue farming, provide a home during the transition from farming to other employment, preserve the family farm, protect the national food supply, and provide for conservation of less productive land. (FmHA 86-001)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/18/86	51 FR 9174
Interim Final Rule	04/21/86	51 FR 13437
Final Action	08/00/88	

Small Entity: No

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA23

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80. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Legal Authority: 42 USC 1480(j)

CFR Citation: 7 CFR 1944; 7 CFR 1922; 7 CFR 1951

Legal Deadline: None.

Abstract: The objectives of the action would make the FmHA housing program available to a greater number of very low income persons and simultaneously reduce the overall cost of the program to the government. (FmHA 86-003)

Timetable:

Action	Date	FR Cite
NPRM	07/22/86	51 FR 26256
Final Action	04/14/87	52 FR 11981
Final Action Effective	05/14/87	52 FR 11981
Final Action Multifamily	09/00/87	

Small Entity: No

Additional Information: FmHA Instruction 1944-A concerning Single Family completed 04-14-87.

FmHA Instruction 1944-E concerning Multifamily underway.

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA24

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81. GENERAL REVISION OF FARMER PROGRAM REGULATIONS

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1951; 7 CFR 1965; 7 CFR 1980

Legal Deadline: None.

Abstract: The need for the action is to allow the Administrator more flexibility in management of Farmer Program loans, strengthen and clarify noted weaknesses in existing regulations, remove obsolete and unfunded regulations. (FmHA 86-012)

Timetable:

Action	Date	FR Cite
NPRM	01/15/87	52 FR 1706
NPRM Comment Period End	03/19/87	52 FR 4913
Final Action	10/00/87	

Small Entity: No

USDA—FmHA — **Final Rule Stage**

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-South Bldg., Washington, DC 20250, 202 382-9744

RIN: 0575-AA27

82. RURAL RENTAL HOUSING POLICIES, PROCEDURES AND AUTHORIZATIONS

Legal Authority: 42 USC 1480(i)

CFR Citation: 7 CFR 1944

Legal Deadline: None.

Abstract: The objectives are to address the following: (1) A congressional concern that the Agency is to provide prompt services for processing applications and loan management. Prompt services can be provided by utilizing the commercial services of technicians and specialists outside of the Agency, with the Agency providing oversight and monitoring. (2) An Administration's concern that the recipients of the specialized services provided through the loan process begin to pay for these services. With the exception of nonprofit applicants, each applicant will be charged a fee for the services provided. The rate of 1/2 percent of the loan amount will capture the major expenses for services and most of the contractual costs provided by the Agency. (3) An Agency need to reduce the impact of technical services on the District and State staff resources. The State Director has been given the authority to use qualified contractors from outside the Agency under the requirements and limitations of a service contract and FmHA Regulations. To use contractors an established contract monitoring system must be established in the State. (FmHA 86-012)

Timetable:

Action	Date	FR Cite
NPRM	06/04/87	52 FR 21069
NPRM Comment Period End	08/03/87	52 FR 21069
Final Action	11/00/87	

Small Entity: No

Agency Contact: Chris Goettelmann, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-South Bldg., Washington, DC 20250, 202 382-9744

RIN: 0575-AA26

DEPARTMENT OF AGRICULTURE (USDA)
Farmers Home Administration (FmHA) — **Completed Actions**

83. STRENGTHENING THE FMHA BUSINESS AND INDUSTRIAL GUARANTEED LOAN PROGRAM

Significance: Agency Priority

CFR Citation: 7 CFR 1980

Completed:

Reason	Date	FR Cite
Final Action	03/04/87	52 FR 6498
Final Action Effective	03/04/87	52 FR 6498

Small Entity: No

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA17

84. PLANNING AND PERFORMING CONSTRUCTION AND OTHER DEVELOPMENT

Significance: Regulatory Program

CFR Citation: 7 CFR 1924; 7 CFR 1901; 7 CFR 1944

Completed:

Reason	Date	FR Cite
Final Action	03/13/87	52 FR 7998
Final Action Effective	05/13/87	52 FR 7998

Small Entity: No

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA21

85. IMPLEMENT NEW REGULATION CONCERNING REFERRAL TO COLLECTION AGENCIES

CFR Citation: 7 CFR 1951

Completed:

Reason	Date	FR Cite
Withdrawn	09/30/87	

Small Entity: No

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA30

86. REVISIONS OF PROCEDURE REGARDING PREPAYMENT OF MULTI-FAMILY HOUSING LOANS

Significance: Agency Priority

CFR Citation: 7 CFR 1930-C; 7 CFR 1944; 7 CFR 1965; 7 CFR 2.23; 7 CFR 2.70

Completed:

Reason	Date	FR Cite
Final Action	06/30/87	52 FR 24282
Final Action Effective	06/30/87	52 FR 24282

Small Entity: No

Agency Contact: Chris Goettelmann 202 382-9744

RIN: 0575-AA30

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS) — **Proposed Rule Stage**

87. WAIVER SIMPLIFICATION: FOOD STAMP PROGRAM

Legal Authority: 7 USC 2014(b)

CFR Citation: 7 CFR 273; 7 CFR 273.21

Legal Deadline: None.

Abstract: This rule modifies Food Stamp regulations to reflect concerns raised about the effect of the numerous waiver requests by State agencies. In particular, Monthly Reporting and Retrospective Budgeting is reviewed to eliminate numerous waivers through incorporation of different or broader principles. (FNS 85-001)

Timetable:

Action	Date	FR Cite
NPRM	10/31/87	
Final Action	04/30/88	

USDA—FNS — **Proposed Rule Stage**

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3864

RIN: 0584-AA02

88. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS

Significance: Agency Priority

Legal Authority: 7 USC 2013(b)

CFR Citation: 7 CFR 253

Legal Deadline: None.

Abstract: The rule reorganizes existing regulatory provisions for clarity and ease of reference. This rule describes the terms and conditions under which (1) USDA-donated foods (available under 7 CFR 250) may be distributed to households on or near Indian reservations; (2) the program may be administered by capable Indian tribal organizations; and (3) funds may be obtained from USDA for the costs incurred in administering the program. The rule also provides for the concurrent operation of the Food Distribution Program and the Food Stamp Program on Indian reservations when such concurrent operation is requested by an Indian tribal organization. (FNS 84-514)

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
Final Action	05/30/88	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3864

RIN: 0584-AA09

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS) — **Final Rule Stage**

89. ISSUANCE LOSS LIABILITY: FOOD STAMP PROGRAM

Legal Authority: 7 USC 2016; 7 USC 2020(e)(20)

CFR Citation: 7 CFR 274; 7 CFR 276

Legal Deadline: None.

Abstract: These rules govern the issuance of food stamps to Food Stamp Program participants. They also establish the system for accounting for the food stamps and establish liabilities for losses during the issuance process. (FNS 84-002)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/29/82	47 FR 49010
NPRM	04/09/86	51 FR 12268
Final Action	10/31/87	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3864

RIN: 0584-AA05

90. FOOD DISTRIBUTION PROGRAM

Significance: Agency Priority

Legal Authority: 7 USC 612c; 15 USC 713c; 42 USC 1755; 42 USC 1758; 7 USC 1431; 22 USC 1922; 7 USC 1859; 7 USC 1431b; 7 USC 1431 Note; 7 USC 1446a-1; 42 USC 1761; 42 USC 5179; 42 USC 5180; 42 USC 1762a; 42 USC 1766; ...

CFR Citation: 7 CFR 250

Legal Deadline: None.

Abstract: The rule reorganizes existing regulatory provisions for clarity and ease of reference. This rule outlines the responsibilities of the Food and Nutrition Service and State agencies concerning the distribution of USDA-donated foods acquired under various legislative authorities. The rule prescribes the terms and conditions under which donated foods may be obtained through distributing agencies for use in schools, child care institutions, nonprofit summer camps for children, charitable institutions, nutrition programs for the elderly, and otherwise in the assistance of needy persons. A number of provisions to strengthen and improve the State Processing Program were separated and published in a final rule July 1, 1986. (51 FR 23719) (FNS 84-513)

Timetable:

Action	Date	FR Cite
NPRM	08/19/85	50 FR 33470
Interim Final Rule	09/30/87	
Final Action	09/30/88	

Small Entity: No

Additional Information: ADDITIONAL LEGAL AUTHORITIES: 7 USC 612c Note; 42 USC 3030a; 42 USC 1760; 5 USC 301; 7 USC 1431e; 42 USC 1779

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3864

RIN: 0584-AA07

91. EMERGENCY FOOD ASSISTANCE FOR VICTIMS OF DISASTERS

Legal Authority: 7 USC 2013(b); 7 USC 2014(h)

CFR Citation: 7 CFR 273; 7 CFR 280

Legal Deadline: None.

Abstract: This rule would define special eligibility and issuance procedures during declared disasters. (84-001)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/31/87	
Final Action	05/31/88	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3864

RIN: 0584-AA24

92. ADMINISTRATIVE REVIEW PROCESS AND QUALITY CONTROL ARBITRATION PROCEDURES: FOOD STAMP PROGRAM

Legal Authority: 7 USC 2023(a); 7 USC 2025(c),(d)

CFR Citation: 7 CFR 276.7

Legal Deadline: None.

USDA—FNS — **Final Rule Stage**

Abstract: FNS is leaving administrative review process as is currently in regulations. FNS is maintaining a two-tier arbitration process and establishing timeframes for submission of requests and conduct of arbitration reviews. (84-013)

Timetable:

Action	Date	FR Cite
NPRM	03/21/86	51 FR 9921

Next Action Undetermined

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA46

93. CONFORMANCE WITH AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) RULES: FOOD STAMP PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 2014(f)

CFR Citation: 7 CFR 273

Legal Deadline: None.

Abstract: This rule reviews Food Stamp and Aid to Families with Dependent Children regulations for inconsistencies and proposes conformance by altering either or both program's rules. (FNS 85-002)

Timetable:

Action	Date	FR Cite
ANPRM	02/19/85	50 FR 6970
NPRM	08/31/87	
Final Action	03/31/88	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA52

94. SIMPLIFIED APPLICATION AND STANDARDIZED BENEFITS: FOOD STAMP PROGRAM

Legal Authority: PL 99-198; 7 USC 2011 to 2027; 91 Stat 958

CFR Citation: 7 CFR 282.19

Legal Deadline: None.

Abstract: This rule addresses the simplified application and standardized benefit provisions contained in the Food Security Act of 1985. These provisions should result in reductions in administrative costs and, depending on the benefit standardization procedures used, significant reductions in error rates. (FNS 86-010)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA62

95. ADMINISTRATION/MANAGEMENT: FOOD STAMP PROGRAM

Legal Authority: PL 99-198, Secs 1524, 1530, 1526, 1535, 1539

CFR Citation: 7 CFR 272.4; 7 CFR 272.3; 7 CFR 273.18; 7 CFR 275.15

Legal Deadline: Statutory, April 1, 1987.

Abstract: This regulation implements the following five provisions of the Food Security Act of 1985: (1) sets standards for the periodic review of food stamp offices' hours of operation; (2) requires State agencies to encourage participation in the Expanded Food and Nutrition Education Program (EFNEP); (3) requires project areas with 5,000 or more households to establish units to detect fraud; (4) allows State agencies to enter into agreements with State agencies administering Unemployment Compensation laws so that food stamp State agencies can collect outstanding claims by withholding unemployment benefits and/or other methods of collecting claims when recoupment is not an available method; (5) requires the Department to require State agencies to change the certification procedures used in project areas where it is determined that payment error rates are impairing the integrity of the program. (FNS 86-011)

Timetable:

Action	Date	FR Cite
NPRM	03/09/87	52 FR 7158
Final Action	09/30/87	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA63

96. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN: ADMINISTRATIVE FUNDING FORMULA

Significance: Agency Priority

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246.16(c)

Legal Deadline: None.

Abstract: The Department proposes to amend the WIC Program Regulations concerning the administrative and program services funding formula. There are two objectives in amending this formula: First, to give all State agencies funds to provide equivalent service to participants and management oversight; second, to remove existing disincentives for State agencies to reduce food costs in order to serve more participants. The Department proposes to allocate funds to State agencies for administrative and program services costs primarily on the basis of participation. With the administrative and program services funds tied more closely to participation, the Department expects that use of this formula would more equitably allocate available funds to meet the administrative and program services costs in State agencies and would remove disincentives for reducing food costs to serve more participants. Use of this formula would begin with the Fiscal Year 1988 funds allocation.

Timetable:

Action	Date	FR Cite
NPRM	07/17/87	52 FR 27005
NPRM Comment Period End	08/31/87	
Final Action Effective	09/30/87	

Small Entity: No

Agency Contact: Deborah McIntosh, Branch Chief, Program Analysis & Monitoring Branch, Supplemental Food Programs Division, Department of Agriculture, Food and Nutrition Service, 202 756-3710

RIN: 0584-AA70

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS) — **Completed Actions**

97. REIMBURSING WORKFARE'S ADMINISTRATIVE COSTS: FOOD STAMP PROGRAM

CFR Citation: 7 CFR 273.22

Completed:

Reason	Date	FR Cite
Withdrawn	08/27/87	

Small Entity: No

Agency Contact: Irene Lankford 703 756-3064

RIN: 0584-AA20

98. FORFEITURE - FOOD STAMP PROGRAM

CFR Citation: 7 CFR 278

Completed:

Reason	Date	FR Cite
Withdrawn	08/27/87	

Small Entity: No

Agency Contact: Irene Lankford 703 756-3064

RIN: 0584-AA40

99. QUALITY CONTROL SYSTEM: FOOD STAMP PROGRAM

CFR Citation: 7 CFR 275

Completed:

Reason	Date	FR Cite
Withdrawn	08/27/87	

Small Entity: No

Agency Contact: Irene Lankford 703 756-3064

RIN: 0584-AA64

100. RETAILER/WHOLESALER PROVISIONS: FOOD STAMP PROGRAM

CFR Citation: 7 CFR 278

Completed:

Reason	Date	FR Cite
Final Action	04/22/87	52 FR 13220
Final Action Effective	04/01/87	

Small Entity: No

Agency Contact: Irene Lankford 703 756-3064

RIN: 0584-AA67

101. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN: FUNDING FORMULA

Significance: Agency Priority

CFR Citation: 7 CFR 246.2; 7 CFR 246.16(b); 7 CFR 246.16(c); 7 CFR 246.16(e); 7 CFR 246.16(f)

Completed:

Reason	Date	FR Cite
Final Action	07/02/87	
Final Action Effective	10/01/87	

Small Entity: No

Agency Contact: Deborah McIntosh 202 756-3710

RIN: 0584-AA69

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) — **Prerule Stage**

102. ADMINISTRATIVE REGULATIONS

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq; 44 USC 3501 et seq; 5 USC 601 et seq; 7 CFR 1; EO 12291

CFR Citation: 9 CFR 304; 9 CFR 305; 9 CFR 306; 9 CFR 307; 9 CFR 329; 9 CFR 331; 9 CFR 335; 9 CFR 381

Legal Deadline: None.

Abstract: The Agency will review administrative requirements for applying for, granting, refusing, inaugurating, and withdrawing inspection; detaining, seizing, and condemning meat and poultry products; assigning program employees; designating States and territories and providing reimbursable services; scheduling of operations, and for overtime and holiday services.

Would also determine adequacy of current regulations as they relate to petitioning the Agency for regulatory change and informing interested persons of Agency procedures for appeal in the event of adverse determinations. (FSIS 83-009)

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	12/31/88	

Small Entity: No

Agency Contact: G. E. McEvoy, Director, Planning Office, Department of Agriculture, Food Safety and Inspection Service, Room 105, Annex Bldg., Washington, DC 20250, 202 447-3317

RIN: 0583-AA02

103. TRANSPORTATION

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq; 5 USC 601 et seq; EO 12291

CFR Citation: 9 CFR 325; 9 CFR 381, Subpart S

Legal Deadline: None.

Abstract: The Agency will review Parts 325 and 381 Subpart S, of Title 9 of the Code of Federal Regulations relating to requirements on the movement of product between inspected facilities to determine if they reflect current Agency practice and whether they impose unnecessary burdens on industry. (FSIS 85-003)

Timetable:

Action	Date	FR Cite
Begin Review	12/01/86	
End Review	06/30/88	

Small Entity: No

Agency Contact: G. E. McEvoy, Director, Planning Office, Department of Agriculture, Food Safety and Inspection Service, Room 105, Annex Bldg., Washington, DC 20250, 202 447-3317

RIN: 0583-AA19

104. ● ELIGIBILITY OF FOREIGN COUNTRIES FOR IMPORTATION OF PRODUCTS INTO THE UNITED STATES

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None.

Abstract: FSIS will review the import eligibility provisions of regulations promulgated under the Federal Meat

USDA—FSIS — Prerule Stage

Inspection Act and Poultry Products Inspection Act.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	10/31/88	

Small Entity: No

Agency Contact: G. E. McEvoy, Director, Planning Office, PP, Department of Agriculture, Food Safety and Inspection Service, Room 105-Annex Bldg., Washington, DC 20250, 202 447-3317

RIN: 0583-AA55

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) — Proposed Rule Stage

105. SWINE IDENTIFICATION AT OFFICIAL SLAUGHTERING ESTABLISHMENTS

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310; 9 CFR 320

Legal Deadline: None.

Abstract: FSIS, possibly in conjunction with APHIS and/or other agencies, is proposing a swine identification program to provide a means for USDA and other public agencies to determine the origin of trichinae-infected or otherwise diseased swine, and of pork found to be contaminated with harmful chemical residues, and thereby permit the causes of such conditions to be found and recurrences to be prevented to the benefit of all concerned. (FSIS 86-004)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Douglas Berndt, Director, Slaughter Inspection Standards & Procedures, Department of Agriculture, Food Safety and Inspection Service, Room 4444-South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583-AA25

106. VARIOUS AMENDMENTS TO ACCOMMODATE INSPECTION OF MEAT FOOD PRODUCTS UNDER TITLE IV OF THE FUTURES TRADING ACT OF 1986

Significance: Regulatory Program

Legal Authority: PL 99-641, Title IV

CFR Citation: 9 CFR 301 to 335

Legal Deadline: None.

Abstract: In November, 1986, PL 99-641 amended the Federal Meat Inspection Act to permit the Department to vary the manner and frequency by which it conducts inspection in establishments producing meat food products. All existing inspection regulations are based upon and reflect the previous statutory requirement that Federal inspectors be continuously present in such establishments. FSIS must develop new inspection procedures to allocate inspection resources among such establishments based on a variety of factors, including (1) the nature and frequency of the processing operations, (2) the adequacy and reliability of the processing control and sanitary procedures, and (3) the establishment's history of compliance with inspection requirements. The meat inspection procedures will touch upon virtually all existing meat regulations concerning inspection of meat food products. Details of these new procedures and the specific proposed regulatory amendments will be developed upon the conduct in 1987 of a pilot program to test alternative procedures in selected plants.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	12/30/87	
Final Action	03/30/88	

Small Entity: Undetermined

Agency Contact: Judith Segal, Director, Policy and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, 14th & Independence Ave., SW, Room 327-E, Administration Building, Washington, DC 20250, 202 447-6525

RIN: 0583-AA26

107. REQUIREMENTS FOR PARTIALLY RENDERED PRODUCTS

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 316; 9 CFR 319

Legal Deadline: None.

Abstract: Would establish a standard of identity and composition, and would provide temperature and handling requirements for partially defatted meat products. Would also allow for use of these products in a greater number of meat food products at higher use levels.

Current regulation is not adequate to assure accurate labeling or to prevent commercial misrepresentation of such products.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/85	50 FR 34157
ANPRM Comment Period End	01/21/86	
NPRM	11/15/87	
NPRM Comment Period End	01/15/88	
Final Action	07/15/88	
Final Action Effective	08/15/88	

Small Entity: Undetermined

Agency Contact: Margaret O'K. Glavin, Director, Standards and Labeling Division, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583-AA27

108. CONTROL OF SALMONELLA AND OTHER ENTERIC BACTERIA IN MEAT AND POULTRY PROCESSING

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None.

Abstract: Would permit an official meat or poultry establishment that has voluntarily developed effective microbiological controls for fresh packaged meat or poultry products to submit plans and records of such control systems to FSIS for approval. If the Administrator determines a control system to be adequate for the purpose of minimizing naturally occurring microbiological contaminations, he will approve the system, and the establishment will be permitted to use special labeling that acknowledges the use of an approved control system.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: W. H. Dubbert, Assistant Deputy Administrator, Science Program, FSIS, Department of Agriculture, Food Safety and Inspection Service, Room 401- Cotton Annex, Washington, DC 20250, 202 447-2326

RIN: 0583-AA28

USDA—FSIS — Proposed Rule Stage

109. VERIFIED PRODUCTION CONTROL PROGRAM

Significance: Regulatory Program

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 323; 9 CFR 381

Legal Deadline: None.

Abstract: Would create a voluntary program available to all establishments which would permit label claims concerning how an animal was raised to appear on meat and poultry products subject to USDA's ability to verify such claims.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	
NPRM Comment Period End	11/01/87	

Small Entity: Undetermined

Agency Contact: Dr. W. R. Miller, Director, Residue Evaluation and Planning Division, Science, Department of Agriculture, Food Safety and Inspection Service, Room 603-Cotton Annex, Washington, DC 20250, 202 447-2326

RIN: 0583-AA29

110. DETERMINATION OF ADDED WATER IN COOKED SAUSAGES

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 318

Legal Deadline: None.

Abstract: Would publish protocols for determining compliance of meat food products with current added water standards. Would differentiate in such products protein derived from meat and meat byproducts from protein derived from other sources. Would ensure that similar, competing ingredients for cooked sausages are treated consistently.

Timetable:

Action	Date	FR Cite
NPRM	08/18/87	
NPRM Comment Period End	10/19/87	
Final Action	04/15/88	
Final Action Effective	05/15/88	

Small Entity: No

Agency Contact: Margaret O'K Glavin, Director, Standards and Labeling Division, Department of Agriculture, Food Safety and Inspection Service, Room 311-Cotton Annex, Washington, DC 20250, 202 447-6042

RIN: 0583-AA30

111. SULFONAMIDES IN SWINE

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310

Legal Deadline: None.

Abstract: Would establish an in-plant testing program to monitor violative levels of sulfonamide residues in swine. Such program would be designed to encourage producers to market and packers to purchase only healthy animals that will produce safe and wholesome meat.

Timetable:

Action	Date	FR Cite
ANPRM	05/20/85	50 FR 20796
ANPRM Comment Period End	08/30/85	
NPRM Comment Period End	02/15/87	
NPRM	11/15/87	
Final Action	06/15/88	
Final Action Effective	07/15/88	

Small Entity: Undetermined

Agency Contact: R. E. Engel, Deputy Administrator, Science Program, FSIS, Department of Agriculture, Food Safety and Inspection Service, 202 447-2326

RIN: 0583-AA31

112. ⊕ CATTLE POST - MORTEM INSPECTION PROCEDURES AND STAFFING PROCEDURES

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 307; 9 CFR 310

Legal Deadline: None.

Abstract: This proposed rule would improve post-mortem inspection procedures for cattle which will result in maximum inspection efficiency and increased productivity. By modernizing cattle inspection procedures, FSIS would increase its inspection productivity while assuring that only wholesome meat enters domestic commerce.

It is anticipated that the meat industry will experience a net gain if this system of inspection is implemented in spite of the initial costs of facility modifications which may be necessary in some establishments. Savings to the industry as a whole should occur because of increased productivity and reduced overtime.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	11/30/87	
Final Action	04/01/88	

Small Entity: No

Agency Contact: Douglas Berndt, Director, Slaughter Inspection Standards & Procedures, Department of Agriculture, Food Safety and Inspection Service, U. S. Department of Agriculture, Food Safey and Inspection Service, Room 4444 South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583-AA32

Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-6293

RIN: 0583-AA46

118. ● REQUIREMENTS FOR FOREIGN COUNTRY IMPORT CERTIFICATION AND LIVE ANIMAL IMPORTATION

Legal Authority: PL 99-198

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None.

Abstract: This proposed rule would respond to amendments made to the Federal Meat Inspection Act by the Food Security Act of 1985. The amendments require that FSIS periodically certify residue control programs submitted by foreign countries desiring to export meat products to the United States. The amendments also provide the Secretary with the authority to issue an order prohibiting the importation of livestock for immediate slaughter that have been administered a drug or antibiotic banned for use in the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: No

Agency Contact: William Havlik, Assistant Deputy Administrator, International Programs, Department of Agriculture, Food Safety and Inspection Service, Room - 341 E, Administration Bldg., 14th & Independence Ave., SW, Washington, DC 20250, 202 447-2644

RIN: 0583-AA47

119. ● USE OF AIR FOR CARCASS HIDE REMOVAL

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 310

Legal Deadline: None.

Abstract: This proposed rule would amend the Federal meat inspection regulations to allow the use of air to facilitate hide removal. Any establishment interested in using air for such purpose would be required to submit proposed procedures to FSIS for approval prior to its use.

Timetable:

Action	Date	FR Cite
NPRM	11/01/87	
NPRM Comment Period End	01/01/88	
Final Action	03/01/88	
Final Action Effective	04/01/88	

Small Entity: No

Agency Contact: Douglas L. Berndt, Director, Slaughter Inspection Standards, and Procedures, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 4444-South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583-AA48

120. ● TRICHINA CONTROL REQUIREMENTS FOR DRY-CURED HAM

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None.

Abstract: This proposed rule would amend the Federal meat inspection regulations by incorporating the dry-cured ham research study findings. This study evaluated the efficiency of present procedures in the commercial production of dry-cured hams and determined the combinations of curing time, temperature, salt concentration, and water activity necessary to inactivate t. spiralis.

Timetable:

Action	Date	FR Cite
NPRM	01/30/88	
NPRM Comment Period End	04/30/88	
Final Action	12/15/88	

Small Entity: No

Agency Contact: Bill F. Dennis, Director, Processed Products Inspection Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 2158-South Bldg., Washington, DC 20250, 202 447-3840

RIN: 0583-AA49

121. ● MOVEMENT OF IMPORTED PRODUCT PRIOR TO REINSPECTION

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None.

Abstract: This proposed rule would prohibit any transportation of imported meat and poultry products from the port of first arrival until reinspected by FSIS. Responds to 1987 Office of Inspector General (OIG) report that noted physical and administrative control problems over product shipped to other locations after entering the United States before it had received reinspection. Based on the above, OIG recommended that FSIS take action to require that all imported products be reinspected at the port of first arrival rather than at its final destination.

Timetable:

Action	Date	FR Cite
NPRM	11/01/87	

Small Entity: Undetermined

Agency Contact: Mark Manis, Director, Import Inspection Division, International Programs, FSIS, Department of Agriculture, Food Safety and Inspection Service, Rm. 4332-South Bldg., 14th & Independence Ave., SW, Washington, DC 20250, 202 447-2952

RIN: 0583-AA53

122. ● USE AND PROTECTION OF APPROVED WATER SYSTEMS

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq; 42 USC 3007 et seq

CFR Citation: 9 CFR 308; 9 CFR 381

Legal Deadline: None.

Abstract: This proposed rule would prescribe acceptable conditions for the reuse of water in official establishments. This rule would outline methods protecting the potable water supply and describe conditions of use of fresh water. In addition, the rule would also consolidate and make uniform pre-existing policies for the use and reuse of water and brine.

Timetable:

Action	Date	FR Cite
NPRM	01/01/88	

Small Entity: No

Agency Contact: Michael J. Rose, Acting Director, Facilities, Equipment and Sanitation Div., Department of Agriculture, Food Safety and Inspection Service, Room 1140 South Bldg., Washington, DC 20250, 202 447-3885

RIN: 0583-AA54

113. ● ELIMINATION OF SEALING REQUIREMENT FOR RENDERED EDIBLE ANIMAL FAT

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 316; 9 CFR 317

Legal Deadline: None.

Abstract: This proposed rule would amend the Federal meat inspection regulations to allow inspected and passed rendered edible animal fat transported in properly labeled tank cars or trucks to move in commerce without an official seal. Currently, establishments which process and then transport edible animal fat to another establishment must have the means of conveyance sealed with an official seal by a program employee. Establishments receiving the officially sealed product must have the seal broken by a program employee. This action would remove a restrictive sealing requirement that no longer appears to be necessary.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	

Small Entity: No

Agency Contact: Bill F. Dennis, Director, Processed Products Inspection Div, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 2158 South Bldg., Washington, DC 20250, 202 447-3840

RIN: 0583-AA36

114. ● SWINE IDENTIFICATION AND RECORD KEEPING AT MARKETS AND AT OFFICIAL SLAUGHTERING ESTABLISHMENTS

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 86; 9 CFR 309; 9 CFR 310; 9 CFR 320

Legal Deadline: None.

Abstract: This proposed rule would enable FSIS, in conjunction with APHIS, to establish an identification system for swine moved, sold, or presented for inspection at markets or at recognized slaughtering establishments. This would enable officials to determine, in a timely manner, the names and addresses of owners and the location of premises of herds of origin. USDA is proposing this action as a means of increasing the effectiveness of swine disease control, eradication, and monitoring programs, and to deter marketing of pork products adulterated with drug residues or with contaminants.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Douglas L. Berndt, Director, Slaughter Inspection Standards, and Procedures, Department of Agriculture, Food Safety and Inspection Service, Rm. 4444-S. Bldg, Washington, DC 20250, 202 447-3219

RIN: 0583-AA39

115. ● USE AND LABELING OF BLOOD COMPONENTS AS INGREDIENTS IN MEAT FOOD PRODUCTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 317

Legal Deadline: None.

Abstract: This proposed rule would amend the Federal meat inspection regulations to provide regulatory authority for the use of blood components in meat food products and to define labeling requirements for products containing blood components. At the present time, the regulations only address the use of whole blood in meat food products and labeling for products containing whole blood. The proposed rule would amend these sections and establish uniform standards for both whole blood and blood components.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	
NPRM Comment Period End	02/29/88	

Small Entity: No

Agency Contact: Margaret O'K. Glavin, Director, Standards and Labeling Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-6293

RIN: 0583-AA42

116. ● USE OF LACTIC ACID AND ACETIC ACID AS ANTI-MICROBIAL AGENTS ON MEAT AND POULTRY CARCASSES

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None.

Abstract: This proposed rule would amend Federal meat and poultry products inspection regulations by allowing lactic acid and acetic acid to be applied to meat and poultry carcasses for the purpose of reducing microbial contamination.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: No

Agency Contact: Margaret O'K. Glavin, Director, Standards and Labeling Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-6293

RIN: 0583-AA43

117. ● GLUCONO DELTA LACTONE AS AN ACIDIFIER IN MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None.

Abstract: This final rule will respond to a petition submitted by Finnsugar Biochemicals, Inc., for approval for the use of glucono-delta-lactone (GDL) as the "acidulant" in a process for manufacturing "restructured meat products." The petitioner wants to use GDL as the acidifier in a USDA-approved binder matrix for restructured meat products which currently employs sodium alginate, calcium carbonate, encapsulated lactic acid, and calcium lactate. GDL would replace lactic acid as the acidifier for this use.

Timetable:

Action	Date	FR Cite
NPRM	11/01/87	

Small Entity: No

Agency Contact: Margaret O'K. Glavin, Director, Standards and Labeling Division, MPITS, Department of Agriculture, Food Safety and Inspection

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

123. STANDARD FOR FRANKFURTERS AND SIMILAR COOKED SAUSAGES

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 319

Legal Deadline: None.

Abstract: USDA has been petitioned by the American Meat Institute (AMI) "to promulgate a standard of identity and composition for 'lite' sausage." The current cooked sausage standard includes various processed meat food products, such as frankfurters, hot dogs, weiners, viennas, bolognas, and knockwurst. The AMI petition requests a new standard for lower-fat "lite" sausage that would require not more than 22.5 percent fat and not less than 11.5 percent protein, as compared with 30 percent fat and 10 percent added water maximums in the existing cooked-sausage standard. FSIS proposed rule provides additional flexibility to enable industry to market lower fat products. The rule allows a combination of up to 40 percent added water and fat, with a 30 percent ceiling on fat content. The Agency also seeks comment on the option of deleting entirely the standard for cooked sausages. (FSIS 86-002)

Timetable:

Action	Date	FR Cite
NPRM	11/24/86	51 FR 42239
NPRM Comment Period End	03/23/87	

Next Action Undetermined

Small Entity: No

Agency Contact: Margaret O'K. Glavin, Director, Department of Agriculture, Food Safety and Inspection Service, Standards and Labeling Division, MPITS, Washington, DC 20250, 202 447-9042

RIN: 0583-AA21

124. ● DISPOSAL OF LIVESTOCK CARCASSES AND PARTS CONDEMNED FOR BIOLOGICAL RESIDUES

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 309; 9 CFR 310; 9 CFR 314

Legal Deadline: None.

Abstract: This proposed rule would amend the Federal meat inspection regulations governing methods of handling and disposing of livestock carcasses and parts condemned because they bear or contain biological residues. Current regulations do not require methods of disposal that preclude use of such carcasses or parts in nonhuman food such as animal feed. FSIS believes that such condemned articles must be destroyed by incineration or burial. This would make disposition of livestock carcasses and parts condemned for biological residues consistent with regulations which govern the disposition of poultry carcasses and parts condemned for biological residues.

Timetable:

Action	Date	FR Cite
NPRM	06/08/87	52 FR 21561
NPRM Comment Period End	08/07/87	
Final Action	10/30/87	
Final Action Effective	11/30/87	

Small Entity: No

Agency Contact: Douglas L. Berndt, Director, Slaughter Inspection Standards and Procedures, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 4444-South Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583-AA33

125. ● BINDER CONSISTING OF SODIUM ALGINATE, CALCIUM CARBONATE, LACTIC ACID, AND CALCIUM LACTATE

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None.

Abstract: This final rule will permit the use of a binder complex approved for use in restructured meat products to be used in restructured poultry products in which binders are permitted, and will result in superior binding of chopped/ground/sectioned and formed poultry products.

Timetable:

Action	Date	FR Cite
Final Action	12/31/87	
Final Action Effective	01/31/88	

Small Entity: No

Agency Contact: Margaret O'K. Glavin, Director, Standards and Labeling Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg, Washington, DC 20250, 202 447-4362

RIN: 0583-AA34

126. ● IDENTIFICATION SERVICE FOR POULTRY

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 362

Legal Deadline: None.

Abstract: This final rule will provide a service to identify poultry and poultry products that have been federally inspected and passed, and so marked to identify them as inspected and passed. This would allow a warehouse or similar facility to divide such products into smaller portions or combine such products into larger units, while maintaining the identity of the product as federally inspected and passed.

Timetable:

Action	Date	FR Cite
NPRM	06/08/87	52 FR 21563
NPRM Comment Period End	08/07/87	
Final Action	12/31/87	

Small Entity: No

Agency Contact: Mr. Bill F. Dennis, Director, Processed Products Inspection Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Room 2159-South, 202 447-3649

RIN: 0583-AA35

127. ● RANDOM WEIGHT PACKAGES; STATEMENT OF NET WEIGHT DECIMAL PLACES

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None.

Abstract: This final will allow net weight statements on random weight packages of meat and poultry products to be expressed in terms of three or more decimal places. Currently, these statements are limited to two decimal places. The rule would facilitate the use of modern weighing equipment and permit the statement of net weight on packages to be expressed in accordance with the weighing equipment's capabilities.

USDA—FSIS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/30/87	52 FR 24475
NPRM Comment Period End	08/31/87	
Final Action	12/31/87	

Small Entity: No

Agency Contact: Bill F. Dennis, Director, Processed Products Inspection Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 2158-South Bldg., Washington, DC 20250, 202 447-3649

RIN: 0583-AA37

128. ● STREAMLINED INSPECTION SYSTEM FOR BROILERS AND CORNISH GAME HENS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None.

Abstract: This final rule will establish a new inspection system for broilers and cornish game hens in response to increased demands on Agency resources. The "streamlined inspection system" allows increased efficiency in the use of FSIS resources and those of the poultry industry while still providing consumers with wholesome, unadulterated products.

Certain changes in plant facilities are required but should result only in minor expenditures. The industry will realize gains through reduced charges for overtime, reduced workspace requirements, and increased productivity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/29/86	51 FR 3569
Final Action	12/01/87	

Small Entity: No

Agency Contact: Douglas L. Berndt, Director, Slaughter Inspection Standards and Procedures, Department of Agriculture, Food Safety and Inspection Service, Room 4444 South Bldg., Washington, DC, 202 447-3219

RIN: 0583-AA38

129. ● ASCORBIC ACID, ERYTHORBIC ACID, CITRIC ACID, SODIUM ASCORBIC, AND SODIUM CITRATE IN FRESH PORK CUTS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 318

Legal Deadline: None.

Abstract: This final rule will permit the use of ascorbic acid, citric acid, erythorbic acid, sodium ascorbate, and sodium citrate, singly or in combination to maintain the color of fresh pork cuts. Fresh pork cuts which have been treated to maintain color by the addition of these substances will be required to be labeled with a qualifying phrase, contiguous to the product name, which indicates that they have been treated to maintain color. Use of these substances will result in maintenance of color for a period of time equivalent to the microbiological shelf life of fresh pork cuts. This will permit extended distribution of pork cuts prepared and packaged in federally inspected establishments. The petitioner has supplied FSIS with sufficient information to satisfy the requirements of 9 CFR 318.7(a)(2) which provide for the issuance of a final rule. However, due to the potential significance of color maintenance through the use of added substances, this rule was published as an interim final rule with request for comments so that commercial and public comment can be obtained and considered prior to confirmation of the rule as final.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/86	51 FR 30052
ANPRM Comment Period End	12/22/86	
Final Action	06/15/88	

Small Entity: No

Agency Contact: Margaret O'K. Glavin, Director, Standards and Labeling Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Room 311-Annex Bldg., Washington, DC 20250, 202 447-9042

RIN: 0583-AA40

130. ● DETERMINATION OF "ADDED WATER" IN COOKED SAUSAGES

Significance: Agency Priority

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None.

Abstract: This proposed rule would amend the Federal meat inspection regulations to define the method by which the Agency determines the quantity of added water in cooked sausages. Added water means any water not directly attributable to the meat, meat byproducts, mechanically separated (species), or poultry ingredients. The Federal meat inspection regulations limit the amount of added water to a maximum of 10 percent of the finished weight in cooked sausages. The amount of added water is determined by laboratory analysis and appropriate calculations. Discrepancies in the calculation of meat protein currently exist primarily due to the non-deduction from the total protein content of protein derived from certain non-meat protein sources. If the amount of protein derived from non-meat sources is not subtracted from the total protein content, it is possible that added water in excess of the 10 percent permitted by regulations would be present in the product. The proposed rule would correct this discrepancy.

Timetable:

Action	Date	FR Cite
NPRM	06/18/87	52 FR 30925
Final Action Effective	06/01/88	

Small Entity: No

Agency Contact: Margaret O'K. Glavin, Director, Standards and Labeling Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-9042

RIN: 0583-AA41

131. ● INGREDIENTS THAT MAY BE IDENTIFIED AS FLAVORS OR NATURAL FLAVORS WHEN USED IN MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None.

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations to better define which substances should be permitted to be labeled as "flavors," "natural flavors," or "spices" on packages of meat and poultry products.

USDA—FSIS — **Final Rule Stage**

The proposed rule addresses the use of substances which are often added to products for the purpose of serving as flavor enhancers, emulsifiers, stabilizers, binders, extenders, and as nutrients. Most of the substances that would be affected by the proposed rule are proteinaceous materials, having nutritional value, and which may be considered foods, in their own right. The proposed rule would require that these substances be identified by their common or usual names, thereby informing consumers of the origin of these materials including the species and specific animal tissues from which they are derived, if animal in origin. The proposed rule is designed in part to address the personal, cultural, and religious concerns of consumers, as well as the allergies or sensitivities some consumers may have to some of the substances.

Timetable:

Action	Date	FR Cite
NPRM	08/18/87	52 FR 30922
Final Action	07/01/88	
Final Action Effective	08/01/88	

Small Entity: No

Agency Contact: Margaret O'K. Glavin, Director, Standards and Labeling Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-6042

RIN: 0583-AA44

132. ● SAFETY AND SANITATION REQUIREMENTS FOR ELECTRICAL STIMULATING EQUIPMENT

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 307; 9 CFR 308

Legal Deadline: None.

Abstract: This final rule will amend the Federal meat inspection regulations to specify safety and sanitation requirements for electrical stimulating (EST) equipment. Federally inspected establishments may use EST equipment to accelerate rigor mortis in slaughtered meat animals (cattle, sheep, swine, goats, horses, mules, or other equines). The safety requirements would protect inspection personnel working near that equipment from the hazard of potentially lethal electric shock or other injury. The sanitation requirements would prevent adulteration of the carcasses.

Timetable:

Action	Date	FR Cite
NPRM	04/16/87	52 FR 12422
NPRM Comment Period End	06/12/87	
Final Action	03/31/88	

Small Entity: No

Agency Contact: Michael J. Rose, Acting Director, Facilities, Equipment, and Sanitation Division, Department of Agriculture, Food Safety and Inspection Service, Rm 1140-South Bldg., Washington, DC 20250, 202 447-3885

RIN: 0583-AA45

133. ● ANTIOXIDANTS IN FABRICATED STEAKS

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None.

Abstract: This final rule will allow for the use of certain approved antioxidants in fabricated steaks for the purpose of retarding rancidity. Thus, cooked and raw fabricated steaks will be added to the list of meat products in which butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), propyl gallate and tertiary butylhydroquinone (TBHQ) may be used.

Timetable:

Action	Date	FR Cite
Final Action	03/01/88	
Final Action Effective	04/01/88	

Small Entity: No

Agency Contact: Margaret O'K. Glavin, Director, Standards and Labeling Division, MPITS, Department of Agriculture, Food Safety and Inspection Service, Rm 311-Annex Bldg., Washington, DC 20250, 202 447-4293

RIN: 0583-AA50

134. ● NOTICE OF PROCEEDINGS

Significance: Agency Priority

Legal Authority: PL 99-641, Sec 403 (c)(2)

CFR Citation: 9 CFR 335

Legal Deadline: None.

Abstract: This final rule will respond to change made in FMIA by Processed Products Improvement Act of 1986 which provides for prior notice and an opportunity to present views before a violation of FMIA is reported for criminal prosecution, except in cases where excepted by regulation. This rulemaking establishes exceptions to notice and opportunity to present views.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/27/87	52 FR 13827
Final Action	10/01/87	

Small Entity: No

Agency Contact: Robert W. Gonter, Assistant Deputy Administrator, Compliance Program MPIO, FSIS, Department of Agriculture, Food Safety and Inspection Service, Room 2933 - South Bldg., 14th & Independence Ave., SW, Washington, DC 20250, 202 447-7745

RIN: 0583-AA51

135. ● REQUIREMENTS FOR IMPORTED POULTRY PRODUCTS

Significance: Agency Priority

Legal Authority: PL 99-198

CFR Citation: 9 CFR 381

Legal Deadline: None.

Abstract: This proposed rule would respond to an amendment made to the Poultry Products Inspection Act by Food Security Act of 1985. Amendment requires that all poultry or poultry products intended for export to the United States be subject to the same standards as domestic poultry products; it also requires that foreign countries implement species and residue testing programs at the point of slaughter for poultry and poultry products intended for export to the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/01/87	52 FR 15960
NPRM Comment Period End	08/30/87	
Final Action	12/15/87	

Small Entity: No

Agency Contact: William Havlik, Assistant Deputy Administrator, International Programs, FSIS, Department of Agriculture, Food Safety and Inspection Service, Rm. 341-E Administration Bldg., 14th & Independence Ave., SW, Washington, DC 20250, 202 447-2644

RIN: 0583-AA52

USDA—FSIS — **Final Rule Stage**

136. ● FACILITY AND EQUIPMENT REQUIREMENTS FOR THE STREAMLINED INSPECTION SYSTEM FOR BROILERS AND CORNISH GAME HENS

Significance: Agency Priority

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None.

Abstract: This proposed rule would establish certain critical dimensions for facilities at the inspection and reinspection stations for the streamlined inspection system that FSIS has concluded are appropriate and essential to assure optimum inspection performance under the new system. The costs related to complying with these requirements are expected to be minor and should be counterbalanced by positive benefits such as reduced overtime inspection, reduced workspace, and increased productivity through optimal line speeds.

Timetable:

Action	Date	FR Cite
NPRM	01/29/86	51 FR 3621
NPRM Comment Period End	02/28/86	
Final Action	11/30/87	

Small Entity: No

Agency Contact: Douglas L. Berndt, Director, Slaughter Inspection Standards, and Procedures, Department of Agriculture, Food Safety and Inspection Service, Rm 4444-S. Bldg., Washington, DC 20250, 202 447-3219

RIN: 0583-AA56

DEPARTMENT OF AGRICULTURE (USDA) — Completed Actions
Food Safety and Inspection Service (FSIS)

137. RED MEAT SLAUGHTER REGULATIONS

Significance: Agency Priority

CFR Citation: 9 CFR 307; 9 CFR 309; 9 CFR 310; 9 CFR 311; 9 CFR 312; 9 CFR 313; 9 CFR 314; 9 CFR 316

Completed:

Reason	Date	FR Cite
End Review	06/16/87	

Small Entity: No

Agency Contact: G. E. McEvoy 202 447-3317

RIN: 0583-AA03

DEPARTMENT OF AGRICULTURE (USDA) — Proposed Rule Stage
Foreign Agricultural Service (FAS)

138. DETERMINATION OF THE MARKET STABILIZATION PRICE FOR SUGAR FOR FY 1988

Legal Authority: Presidential Proclamation 5002; dated November 30, 1982

CFR Citation: 7 CFR 6.300 to 6.302

Legal Deadline: None.

Abstract: This notice sets forth the market stabilization price for sugar for the period October 1, 1987 - September 30, 1988. The Market Stabilization Price is used to determine bond requirements and maximum liabilities under certain programs authorized by Presidential Proclamation No. 5002 of November 30, 1982 (47 FR 54269). The calculation of the Market Stabilization Price is provided for in 7 CFR 6.300-6.302 (50 FR 36040). (FAS 86-003)

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Richard J. Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4961-South Bldg., Washington, DC 20250, 202 447-6713

RIN: 0551-AA20

139. DETERMINATION OF IMPORT QUOTAS ON SUGAR FOR FISCAL YEAR 1988

Legal Authority: Presidential Proclamation 4941; dated May 5, 1982

CFR Citation: Not applicable

Legal Deadline: Statutory. Import quotas on sugar for fiscal year 1987 must be announced (filed in Federal Register) no later than the 15th day of the month immediately preceding the calendar quarter during which such determination shall be in effect

Abstract: Presidential Proclamation 4941 dated May 5, 1982 amended headnote 3 of the Subpart A, Part 10, Schedule 1 of the Tariff Schedules of the United States (TSUS) (Headnote 3) to establish a system of quotas for U.S. sugar imports. (FAS 86-004)

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Richard J. Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4961-South Bldg., Washington, DC 20250, 202 447-6713

RIN: 0551-AA21

140. TYPES AND QUANTITIES OF AGRICULTURAL COMMODITIES AVAILABLE FOR DONATION OVERSEAS UNDER SECTION 416(B) OF THE AGRICULTURAL ACT OF 1949 FOR EACH FISCAL YEAR

Legal Authority: for future FY's: Food Security Act of 1985

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: For FY 1986: The "Food Security Improvements Act of 1986" amends the Food Security Act of 1985, as amended, to require an estimate of Commodity Credit Corporation stocks to be made available under Section 416(b) in FY 1986 by kind of commodity and quantity of each kind of commodity. The Food Security Act, as amended requires that this estimate be published in the Federal Register.

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USDA—FAS — **Proposed Rule Stage**

For future FY's: The Food Security Act of 1985, as amended, requires the above estimate be made and published in the Federal Register before the beginning of each fiscal year. (FAS 86-009)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Richard Finkbeiner, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4961-South Bldg., Washington, DC 20250, 202 447-6713

RIN: 0551-AA23

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Completed Actions

141. AMEND 7 CFR 1493 TO PROVIDE FOR INTERMEDIATE CREDIT GUARANTEES WHICH WILL GIVE U.S. EXPORTERS OR U.S. BANKS PROTECTION IN THE EVENT FOREIGN BANKS FAIL TO MAKE PAYMENT

CFR Citation: 7 CFR 1493

Completed:

Reason	Date	FR Cite
Withdrawn No changes or revisions planned in FY 88	08/21/87	

Small Entity: No

Agency Contact: Richard Finkbeiner 202 447-6713

RIN: 0551-AA19

142. DAIRY EXPORT INCENTIVE PROGRAM

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Withdrawn No changes or revisions planned in FY 1988	08/21/87	

Small Entity: No

Agency Contact: Richard Finkbeiner 202 447-6713

RIN: 0551-AA22

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)

Prerule Stage

143. PART 219 PLANNING

Significance: Agency Priority

Legal Authority: 16 USC 1604; 16 USC 1613; 5 USC 301

CFR Citation: 36 CFR 219

Legal Deadline: None.

Abstract: The rules at 36 CFR 219 set forth the procedures and resource standards that guide development and approval of National Forest land and resource management plans as required by the National Forest Management Act of 1976.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/89	
End Review	10/00/89	

Small Entity: No

Additional Information: Review of these planning regulations is being rescheduled to allow completion of all forest plans. It is essential to orderly planning for National Forest System lands and resources that the planning process remain stable until all plans are completed. Review of 36 CFR 219 is therefore rescheduled to begin April 1989.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA50

144. APPEAL OF DECISIONS OF FOREST OFFICERS

Significance: Agency Priority

Legal Authority: 30 Stat 35 as amended sec 1; 16 USC 551cc, 472, 33 Stat 628

CFR Citation: 36 CFR 211.18

Legal Deadline: None.

Abstract: Forest Service rules at 36 CFR 211.18 establish the process and procedures by which the public may appeal a National Forest System management decision. The regulation is being reviewed as required by EO 12291. The Forest Service recognizes the administrative appeal process as useful and worthwhile, and considers it to be a valuable tool in conducting business. However, there are opportunities to make the process more efficient and less burdensome on the public while maintaining a useful forum within which to administratively resolve conflict.

Timetable:

Action	Date	FR Cite
Begin Review	03/10/87	
End Review	09/00/87	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA51

145. OFFICIAL FOREST SERVICE INSIGNIA

Legal Authority: 5 USC 301; 18 USC 701

CFR Citation: 36 CFR 264; 36 CFR 264.1; 36 CFR 264.2; 36 CFR 264.3; 36 CFR 264.4; 36 CFR 264.5

Legal Deadline: None.

Abstract: Since 1905 the Forest Service emblem, a fir-like tree in the center of a shield has served to identify the Federal Agency responsible for protecting, managing, and developing the National Forests. Forest users and the public recognize it as a symbol of the organization. The Chief may authorize other uses of the insignia, i.e., public service, educational, and commercial purposes through the issuance of licenses. Rules governing the external use of the official insignia are set forth at 36 CFR Part 284. The rule authorizes commercial use for which a royalty is paid and for public use for which no royalty is paid. Review of the existing regulation will determine the need for licensed royalty payment and the need for changing reporting requirements from quarterly to annually. Current licensees will participate in the review process.

Timetable:

Action	Date	FR Cite
Begin Review	04/15/87	
End Review	03/31/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA59

USDA—FS — **Prerule Stage**

146. ● 36 CFR 262 LAW ENFORCEMENT SUPPORT ACTIVITIES

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(e); 16 USC 1133(c) to (d)(1); 16 USC 559(a)

CFR Citation: 36 CFR 262 "Law Enforcement Support Activit"

Legal Deadline: None.

Abstract: These rules describe awards the Forest Service is authorized to make for information leading to arrest and convictions of persons who start fires or otherwise destroy property on National Forests. Subpart B sets forth rules governing impoundment or removal of unauthorized personal property from National Forest System lands.

Review will focus on the adequacy of the rules for administration of the National Forests and whether changes in law or circumstances reveal the need for revision.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	09/30/88	

Small Entity: Not Applicable

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA65

147. ● 36 CFR 271 - USE OF "SMOKEY BEAR" SYMBOL

Legal Authority: 18 USC 711

CFR Citation: 36 CFR 271

Legal Deadline: None.

Abstract: The regulations govern how the name or image of "Smokey Bear" may be used, who may authorize the use of "Smokey Bear," and the use of official campaign materials, commercial licensing, and the association with the State Foresters and the Advertising Council. This review will focus on licensing and especially exclusive licenses and will consider counterpart regulations in Part 272-Use of "Woodsy Owl" Symbol as a possible approach.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	09/30/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA66

148. ● WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREATION AREA

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 292, Subpart B

Legal Deadline: None.

Abstract: The rules at 36 CFR 292, Subpart B govern joint administration of the Shasta and Clair Engle-Lewiston units of the National Recreation Area by the Forest Service and the Bureau of Reclamation. The rules also set forth standards for defining compatible private land uses within the National Recreation Area to govern decisions by local zoning authorities, or in the absence of such authorities, decisions on land uses by the Secretary of Agriculture. The review will focus on experience under the rules and whether they still serve the public interest in ensuring that development and management of the NRA meet congressional intent.

Timetable:

Action	Date	FR Cite
Begin Review	12/00/87	
End Review	10/00/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA68

149. ● 36 CFR 261 PROHIBITIONS

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(e); 16 USC 1133(c) to (d)(1); 16 USC 559(a)

CFR Citation: 36 CFR 261, Prohibitions

Legal Deadline: None.

Abstract: These rules declare the range of unacceptable public behavior when visiting or using National Forest System lands. Among topics covered are prohibitions on setting campfires in certain areas, unlawful cutting of trees, and other unlawful uses of resources and property of the National Forest System. Violations of these prohibitions carry legal penalties.

Review will examine the adequacy of the rules for administration of the National Forest System and whether changes in conditions, laws, or other factors require revision.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	09/30/88	

Small Entity: Not Applicable

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box

USDA—FS — Prerule Stage

96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA75

150. ● USE OF "WOODSY OWL" SYMBOL

Legal Authority: 7 USC 2201; 16 USC 528; 16 USC 529; 16 USC 530; 16 USC 531

CFR Citation: 36 CFR 272; 36 CFR 272.1; 36 CFR 272.2; 36 CFR 272.3; 36 CFR 272.4; 36 CFR 272.5; 36 CFR 272.6

Legal Deadline: None.

Abstract: Woodsy Owl was originated in the early 1970s by the Forest Service, the Federal Agency responsible for protecting, managing, and developing the National Forest. The symbol represents a fanciful owl who wears forest green colored slacks, a brown colored belt, a Robin Hood style forest green colored hat with a red colored feather and furthers the slogan "Give a Hoot, Don't Pollute." The Chief of the Forest Service may authorize the use of Woodsy Owl through the issuance of licenses for commercial use, under certain specified conditions, and for non-commercial educational purposes, at no charge, when use is public service and will contribute to public information and education concerning wise use of the environment and programs which foster maintenance and improvement of environmental quality. Rules concerning the external use of the Woodsy Owl symbol are set forth at 36 CFR Part 272. The rule authorizes commercial use for which a royalty is paid and for public use for which no royalty is paid. Review of the existing regulation will determine the need for licensed royalty payment and the need for changing reporting requirements from quarterly to annually. (cont)

Timetable:

Action	Date	FR Cite
Begin Review	04/15/88	
End Review	10/31/88	

Small Entity: No

Additional Information: ABSTRACT CONT: Current licensees will participate in the review process.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA76

DEPARTMENT OF AGRICULTURE (USDA) — Proposed Rule Stage

Forest Service (FS)

151. ENTRANCE INTO PETERSBURG WATERSHED

Legal Authority: 16 USC 551; 16 USC 472; 43 USC 1761 to 1771

CFR Citation: 36 CFR 251.35

Legal Deadline: None.

Abstract: Rule restricts entry into watershed without approval of authorized officials of Petersburg, Alaska. Review of this rule has been completed and reveals a need to update the rule to comply with legislative changes enacted since promulgation of this rule, and to streamline administrative entry into the watershed, and permit recreation access to a certain portion of the watershed without written authorization. (FS 84-017)

Timetable:

Action	Date	FR Cite
Begin Review	04/21/86	51 FR 13835
End Review	08/01/86	
NPRM	09/08/87	52 FR 33829
Final Action	02/00/88	
Final Action Effective	02/00/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20013-6090, 703 235-1488

RIN: 0596-AA22

152. LAND STATUS AND TITLE RECORDS

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603

CFR Citation: 36 CFR 200.12, (New)

Legal Deadline: None.

Abstract: Objective is to establish that the Land Status Record as the official record of title for National Forest System lands and to set forth the authorities, policies, and procedures for recording, custody, maintenance, and use of title documents and title status reports. (FS 85-012)

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	12/15/87	
Final Action	04/00/88	
Final Action Effective	05/00/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20013-6090, 703 235-1488

RIN: 0596-AA24

153. INGRESS TO AND EGRESS FROM NATIONAL FOREST SYSTEM LANDS

Legal Authority: PL 96-487, Sec 1323(a); 16 USC 3210(a)

CFR Citation: 36 CFR 251.53; 36 CFR 251.60

Legal Deadline: None.

Abstract: The proposed regulation will tie the granting of special-use authorizations for ingress and egress under the Alaska National Interest Lands and Conservation Act (ANILCA) to the existing authorities for granting authorizations to use or occupy National Forest lands and remove the discretionary aspects of those laws and regulations when applied to parties qualifying for access under ANILCA. (FS 85-001)

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	12/00/87	
Final Action	03/00/88	
Final Action Effective	03/00/88	

Small Entity: No

USDA—FS — Proposed Rule Stage

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20013-6090, 703 235-1488

RIN: 0596-AA31

154. PERIODIC PAYMENTS FOR NATIONAL FOREST TIMBER SALE CONTRACTS

Legal Authority: 16 USC 472a; 16 USC 616

CFR Citation: 36 CFR 223.49; 36 CFR 223.50

Legal Deadline: None.

Abstract: The Federal Timber Sale Contract Payment Modification Act directs the Forest Service to require purchasers to make periodic payments on timber sales. As established by the act, the objective of periodic payments is to discourage speculative bidding on National Forest timber sales. A rule published 10/11/85 at 50 FR 41498 requires cash down payments and a periodic payment. However, to fully comply with the act, additional rules are required. This rule will be based on an evaluation of the effects of requiring annual payments, on consideration of procedures that would permit the pooling of payments, and on consideration of market-related contract adjustments. There are no alternatives to issuing this rule; it is required by the Federal Timber Sale Contract Payment Modification Act. (FS 85-014)

Timetable:

Action	Date	FR Cite
NPRM	01/17/85	50 FR 2591
NPRM	11/00/87	
NPRM Comment Period End	01/15/88	
Final Action	04/00/88	
Final Action Effective	05/00/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20013-6090, 703 235-1488

RIN: 0596-AA33

155. USE RESTRICTIONS OF NATIONAL FOREST LANDS FOR THE PROTECTION OF MUNICIPAL WATER SUPPLIES

Legal Authority: 16 USC 475; 16 USC 552; 16 USC 551; 16 USC 1600 to 1610; 16 USC 1701

CFR Citation: 36 CFR 251.9

Legal Deadline: None.

Abstract: This action amends the regulation providing protection of municipal watersheds to conform to recent legislation, principally the National Forest Management Act (NFMA) and the Federal Land Policy and Management Act (FLMPA). (FS 86-003)

Timetable:

Action	Date	FR Cite
End Review	06/01/86	
NPRM Comment Period End	06/01/87	
NPRM	09/08/87	52 FR 33837
Final Action	02/01/88	
Final Action Effective	02/01/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20013-6090, 703 235-1488

RIN: 0596-AA34

156. GRAZING AND LIVESTOCK USE AND MANAGEMENT OF WILD, FREE-ROAMING HORSES AND BURROS

Legal Authority: 43 USC 1901; 16 USC 1331 to 1340; 16 USC 551; 7 USC 1011; 31 USC 9701

CFR Citation: 36 CFR 222, Subpart A; 36 CFR 222, Subpart B

Legal Deadline: None.

Abstract: Minor amendments to 36 CFR 222, Subparts A and B are under consideration to (1) delete the portion pertaining to Grazing Advisory Boards since the authority for these Boards under FLMA expired 12/31/85, (2) refine the procedures for placing wild horses and burros in private maintenance and care, (3) clarify the notification allowed before cancelling a permit when lands grazed are to be devoted to another public purpose including disposal, and (4) delete the reference to the Granger-Thye Act concerning range improvements, and (5) authorize the Chief of the Forest Service to assess a service charge to recover the cost of processing grazing permit applications and permit waivers, and issuing grazing permits. (FS 86-004)

Timetable:

Action	Date	FR Cite
Review of Subpart B - notice of completion of review; no change in rules required	08/14/87	52 FR 30359
Subpart A		
NPRM	02/00/88	
NPRM Comment Period End	04/00/88	
Final Action	01/00/89	
Final Action Effective	02/00/89	

Small Entity: No

Additional Information: The dates projected are for proposed and final rules revising 36 CFR 222, Subpart A-grazing and livestock use. No further rulemaking activity is planned on Subpart B. The review of Subpart B pursuant to E.O. 12291 concluded that there is no need to revise these rules (See Timetable).

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20013-6090, 703 235-1488

RIN: 0596-AA35

157. COLLECTION OF REIMBURSABLE COSTS FOR PROCESSING SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Significance: Regulatory Program

Legal Authority: 43 USC 1764; 31 USC 483a; 30 USC 181 (Mineral Leasing Act)

CFR Citation: 36 CFR 251.58

Legal Deadline: None.

Abstract: The objective of the rulemaking is to establish the policy, procedures, and guidelines for recovering costs incurred by the Forest Service in the administration of special uses on National Forest System Lands. In addition, the rulemaking will propose minor clarifying amendments resulting from conclusion of review of the existing regulation. (RIN 0596-AA20) (FS 86-005)

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	12/00/87	
Final Action	01/00/88	
Final Action Effective	02/00/88	

Small Entity: No

Additional Information: This rulemaking will incorporate actions under 0596-AA20.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20013-6090, 703 235-1488

RIN: 0596-AA36

158. CONTROL OF SKEWED BIDDING ON NATIONAL FOREST TIMBER SALES

Legal Authority: 16 USC 472a

CFR Citation: 36 CFR 223.69

Legal Deadline: None.

Abstract: Timber may not be sold at less than appraised value. Skewed bidding enables bidders to tailor their bids to their competitive strengths. While skewed bidding can be advantageous to purchasers, it can also reduce Government receipts and increase Forest Service timber sale administration costs. These results were documented by the General Accounting Office (GAO/RCED-83-37). This proposal is made in partial response to the recommendations in that review. (FS 86-006)

Timetable:

Action	Date	FR Cite
NPRM	07/01/83	48 FR 30417
NPRM	07/16/84	49 FR 28748
NPRM	01/30/87	52 FR 3027
Withdrawal of NPRM	05/15/87	52 FR 18390
NPRM	11/00/87	
NPRM Comment Period End	01/00/88	
Final Action	04/00/88	
Final Action Effective	05/00/88	

Small Entity: No

Additional Information: Note: The dates projected for proposed policy publication are not firm. This document has been under OMB Regulatory Review, with no clearance yet received, since September 29, 1986.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20013-6090, 703 235-1488

RIN: 0596-AA37

159. MODIFY THE GENERAL PROHIBITION AGAINST USE OF VEHICLES IN EXCESS OF 40 INCHES IN WIDTH ON TRAILS

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 261.12(e)

Legal Deadline: None.

Abstract: The objective of this action is to permit forest officers more discretion for controlling off-road vehicle use. Three factors have created the need to modify this regulation: (1) the general prohibition at 36 CFR 261.12(e) controls trail use by width of vehicle. Originally developed to control four wheel-drive vehicles on trails, this method uses a fairly arbitrary device (width) to control use; (2) off-road vehicle plans (36 CFR 295) use vehicle types to prescribe the vehicles that are permitted to use forest trails; (3) some recent models of trail vehicles (all terrain vehicles and snowmobiles) exceed the forty inch rule by one to five inches. The combination of the two methods of control with the larger model sizes has created confusion among users about ORV plan direction and created law enforcement difficulties. The proposed action would clarify the regulations and still maintain the tools necessary to control off-road vehicle use. (FS 86-007)

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	01/00/88	
Final Action	05/00/88	
Final Action Effective	05/00/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20013-6090, 703 235-1488

RIN: 0596-AA38

160. REVISE THE DEFINITION OF "MECHANICAL TRANSPORT" AT 36 CFR 293.6(A)

Legal Authority: 16 USC 113 to 136; 16 USC 528 to 531; 16 USC 577 to 577c; 16 USC 1133

CFR Citation: 36 CFR 293.6(a)

Legal Deadline: None.

Abstract: The objective of this action is to clarify the definition of mechanical transport in 36 CFR 293.6(a). Except where specifically provided for, the Wilderness Act (16 USC 1133) prohibits both motorized equipment and mechanical transport. Mechanical transport includes devices such as bicycles, hang gliders, wheeled carts, and other items designed to carry people or supplies and powered by either "non living" or "living" power sources. (FS 86-009)

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	01/00/88	
Final Action	06/00/88	
Final Action Effective	06/00/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA39

161. CONSERVATION OF FISH, WILDLIFE, AND THEIR HABITATS ON THE COPPER/RIVER ADDITION AND COPPER RIVER-BERING RIVER PORTION, CHUGACH NATIONAL FOREST, ALASKA

Legal Authority: PL 96-487, Title V

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: December 2, 1980, the Alaska National Interest Lands Conservation Act was signed into Law. Section 501 (b) of the law requires that the Secretary of Agriculture promulgate regulations for the conservation of fish and wildlife and their habitats on the Chugach National Forest. The general National Forest System regulations and other existing laws governing management of National Forest System lands are applicable except as supplemental by these regulations or amended by the ANILCA, August 17, 1984. The new Chugach National Forest land management plan was appealed by 17 appellants. The settlement agreement specifies that subject to valid existing rights, the Forest Service will not allow timber harvest, road construction, surface occupancy for mineral leasing prior to publication of final regulations or completion of management area analysis for the Copper River Management Area. There are no alternatives to development of these regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	06/01/88	

Small Entity: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA41

162. LAND EXCHANGES

Significance: Agency Priority

Legal Authority: 16 USC 485; 16 USC 486; 16 USC 516; 7 USC 1011; 16 USC 555a; 43 USC 1715; 43 USC 1716

CFR Citation: 36 CFR 254.1, (Revision); 36 CFR 254.15, (Revision)

Legal Deadline: None.

Abstract: Changes in existing regulations are needed to correct errors, delete obsolete portions, update to reflect current authorities, clarify ambiguities, and supplement by incorporating new requirements on negotiation and resolution of disputes.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	
NPRM Comment Period End	02/29/88	
Final Action	06/30/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA42

163. SMALL BUSINESS TIMBER SALE SET ASIDE PROGRAM

Significance: Regulatory Program

Legal Authority: 15 USC 631

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: The policy is designed to ensure that small business purchasers have the opportunity to purchase a fair proportion of National Forest Timber. The proposed policy is consistent with the current standards and establishes procedures for determining what share of timber volume small business will have the opportunity to bid on without competition from large business.

Timetable:

Action	Date	FR Cite
NPRM	11/21/84	49 FR 45889
NPRM Comment Period End	11/21/84	49 FR 45889
Final Policy	06/13/85	50 FR 24786
Request Comments on Final Policy	02/03/86	51 FR 4264
Revised Proposed Policy	09/25/87	52 FR 36075
Proposed Policy Public Comment Period End	11/00/87	
Final Action	04/00/88	
Final Action Effective	04/00/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA43

164. DEFINITION OF COMMON VARIETY MINERAL MATERIALS

Legal Authority: 30 USC 601 et seq; 30 USC 603 to 604; 30 USC 601; 30 USC 603; 30 USC 602; 16 USC 477; 16 USC 520; 7 USC 1010; 30 USC 192c, Section 3; 16 USC 508b; Section 3, 66 Stat. 285; 16 USC 521a; 75 Stat. 205; 23 USC 101 et seq; 16 USC 539a, Section 502

CFR Citation: 36 CFR 228, Subpart C

Legal Deadline: None.

Abstract: Whether a mineral deposit is a "common variety" determines whether or not it can be disposed of or sold by the Government under the 1947 Mineral Materials Act. Judicial and administrative interpretations defining common variety characterization determinations can only be made in court. Rulings in common variety cases are generally unpredictable, and the costs to both the Government and miner are high.

After a review of the legislative history of the 1955 surface Resources Act, which defined common varieties, we believe that Congress did not intend for certain minerals to be locatable under the Mining Laws; however, a failure to explicitly define the "common variety" term has led to misinterpretation and actions contrary to the original intent of the law. It is proposed that 36 CFR 228 Subpart C be amended to clarify this confusing classification situation. We believe PL 167 expressly provides for this action as it allows the Secretary of Agriculture to dispose of mineral materials "under such rules and regulations as he may prescribe."

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	
NPRM Comment Period End	02/01/88	
Final Action	06/01/88	
Final Action Effective	07/01/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA44

165. TIMBER SALE CONTRACT FORM REVISION AND PUBLISHING OF POLICY FORMS FS-2400-6 AND 2400-6T

Significance: Regulatory Program

Legal Authority: 16 USC 535; 16 USC 551; 16 USC 472a; 16 USC 607A; 16 USC 618; 42 USC 4461

CFR Citation: 00 CFR none

Legal Deadline: None.

Abstract: The present timber sale contract Form FS-2400-6 was developed in September 1973, and the Form FS-2400-6T was developed in October 1973. Since these dates several Acts, Laws, and policy changes have necessitated deletion of existing provisions and inserting supplemental provisions. The need to revise these documents has

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been recognized since the late 1970's. The revision will provide for clarification of provisions to reduce the potential for disputes between purchasers and the Forest Service. There will be no changes in the basic contract concepts except those dictated by law, regulation, and related policy. Comments from interested individuals and organizations will be utilized, as appropriate, in the formulation of the provision language.

Timetable:

Action	Date	FR Cite
Proposed Policy	03/01/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA45

166. LEASABLE MINERAL REGULATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 473 to 475; 16 USC 477 to 482; 16 USC 551; 16 USC 528 to 531; 90 Stat. 2949 as amended

CFR Citation: 36 CFR 228, Subpart E to H

Legal Deadline: None.

Abstract: This subpart will set forth the rules by which the Forest Service will process and respond to proposal received from the Department of the Interior (DOI) for the issuance of mineral licenses, prospecting permits and leases, and for the approval of operating plans. The Forest Service has no regulations at this time which has resulted in inconsistent and untimely responses to the DOI. The only other alternative considered is not to promulgate regulations. Public costs are insignificant but public benefits could be substantial in that proposals should be processed more efficiently.

Timetable:

Action	Date	FR Cite
NPRM	12/15/87	
NPRM Comment Period End	02/15/88	
Final Action	05/15/88	
Final Action Effective	06/15/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA46

167. APPLICATION PROCEDURES AND FEES FOR HYDROELECTRIC USES ON NATIONAL FOREST SYSTEM LANDS

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: 36 CFR 251.54; 36 CFR 251.57

Legal Deadline: None.

Abstract: Regulations are needed to reduce confusion regarding the role of the Forest Service and its special-use authorization in permitting hydroelectric uses on National Forest System lands. The regulations objective will be to establish procedures, compatible with the procedures of the Federal Energy Regulatory Commission (FERC) for obtaining various approvals and involvement of the Forest Service in a timely manner.

Title V, Section 501 of the Federal Land Policy and Management Act of 1976 (FLPMA) requires that fees be paid for the use of NFS land; regulations have not yet been established to put these fees in effect. The objective is to establish a fee system for hydroelectric uses. A Notice of Proposed Policy was published 6/8/84 and comments were received. The proposed rule would take those comments into account.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	
NPRM Comment Period End	02/29/88	
Final Action	06/30/88	
Final Action Effective	07/30/88	

Small Entity: Undetermined

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $2,033,000; Base Year for Dollar Estimates: 1986

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA47

168. LOCATABLE MINERALS

Significance: Agency Priority

Legal Authority: 16 USC 478; 16 USC 551

CFR Citation: 36 CFR 228, Subpart A

Legal Deadline: None.

Abstract: To facilitate the orderly development of locatable minerals on the National Forest System public domain in an environmentally sound manner. Since the regulations were promulgated in 1974, certain legal requirements have changed due to the provisions of the Wilderness Act and recent court decisions; some sections of the regulations no longer apply and revisions and updating are necessary. Major changes proposed will specifically address the requirements for wilderness operations and, secondly, will clarify the mechanism for administering locatable mineral activities not conducted on mining claims but which are nevertheless authorized by the 1872 mining law.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	
NPRM Comment Period End	02/01/88	
Final Action	08/01/88	
Final Action Effective	09/01/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA49

169. CREATE A NEW SUBPART C TO 36 CFR 264 ENTITLED NATIONAL SCENIC AND HISTORIC TRAIL SYMBOLS

Legal Authority: 5 USC 301

CFR Citation: 36 CFR 264

Legal Deadline: None.

Abstract: Objectives of this action are:

1. To establish a procedure for establishing official trail symbols for designated National Scenic and Historic Trails administered by the Forest Service.

2. To prescribe the conditions and terms for use of the symbols, including commercial use.

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3. To establish the authorities to prosecute and revoke unauthorized use, and

4. To establish official symbols for several of the existing National Scenic and Historic Trails as required by law.

Two alternatives were evaluated--To protect these symbols and to not protect them. Protection was deemed to be in the best interest of the National Trails Program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	01/00/88	
Final Action	06/00/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA54

170. GRAZING FEES; EASTERN AND SOUTHERN REGIONS

Significance: Regulatory Program

Legal Authority: 16 USC 551; 31 USC 483a; 43 USC 1901

CFR Citation: 36 CFR 222.53

Legal Deadline: None.

Abstract: Different grazing fee systems are used in the Eastern and Southern Regions of the Forest Service. The current system in the Eastern Region is market driven. The system in the Southern Region is based on a cost of livestock production/ability to pay methodology which currently results in below market fees. Two alternatives are being considered. The first would continue the two different fee systems in the eastern U.S. The second alternative would implement a uniform market driven fee system in both Regions. The advantages of this alternative over the first are:

(1) Competitive bidding with a minimum bid price would be fair and equitable to all parties, the livestock owners and the government.

(2) The fee system would be cost effective and economic to administer.

(3) The fee system would provide for investments in cost effective range improvements on National Forest System lands in the eastern states.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
NPRM Comment Period End	04/00/88	
Final Action	12/00/88	
Final Action Effective	03/01/89	

Small Entity: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA55

171. SKI AREA TERM PERMITS

Significance: Agency Priority

Legal Authority: PL 99-522, Sec 3(c)

CFR Citation: 36 CFR 251.50, (Revision)

Legal Deadline: Statutory, October 22, 1987. A one-year deadline is specified in the law.

Abstract: P.L. 99-522 provides new authority and direction for granting permits authorizing ski development and operation. It requires promulgation of rules within one year of enactment. Current direction for issuing special use permits including ski areas is contained in 36 CFR 251.50 through 251.64. While most of the current direction will continue to apply, revisions will be necessary to respond to the special provisions of the law relating to permit duration and acreage to be authorized.

The law has the effect of eliminating the current need and practice to issue two permits to authorize a single resort to use more than 80 acres. Further, it authorizes the issuance of 40 year permits instead of 30 which has been the maximum in the past.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	06/00/88	
Final Action Effective	06/00/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA57

172. ● FREE USE TO ALASKAN SETTLERS, MINERS, RESIDENTS AND PROSPECTORS

Legal Authority: 16 USC 477; 16 USC 492; 16 USC 551; 16 USC 607a; 16 USC 612

CFR Citation: 36 CFR 223.10

Legal Deadline: None.

Abstract: The Forest Service tries to provide free use timber to persons in Alaska with few restrictions. Increased urbanization of existing towns, changing ownership patterns, and creation of new communities have made it more difficult to manage this program. The Forest Service proposes to limit the free use amounts to households rather than to individuals.

Timetable:

Action	Date	FR Cite
NPRM	11/01/87	
NPRM Comment Period End	01/01/88	
Final Action	04/01/88	
Final Action Effective	05/01/88	

Small Entity: Not Applicable

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA69

173. ● INCREASE IN MINIMUM RATES CHARGED FOR TIMBER

Legal Authority: 16 USC 472a

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: Minimum rates charged for timber have not been changed since 1979. The increased costs of preparing timber sales and the general increases in costs of logging and the price of timber have resulted in minimum rates that are disproportionately low. The action being considered is to increase minimum rates to account for inflationary increases since the rates were last changed.

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Timetable:

Action	Date	FR Cite
NPRM	12/01/87	
NPRM Comment Period End	02/01/88	
Final Action	04/01/88	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Government Levels Affected: Local, Federal

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA73

174. ● SALE OF TIMBER WHERE TOTAL PUBLIC BENEFITS MAY NOT MEET OR MAY EXCEED TOTAL COSTS

Legal Authority: 16 USC 472a; 16 USC 475; 16 USC 616; 16 USC 1604; 16 USC 1613

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: The Forest Service has been developing an accounting system to accurately track the total public benefits and total cost of the timber sale program on each national forest. The new system is to be installed on all forests before the start of FY 1989. The data generated by this effort will provide a basis for monitoring the implementation of Forest Plans. This proposal would establish additional procedures for evaluation of the accounting data when projected costs appear to exceed the total public benefits of the program. Under the proposal, unless there are other overriding public values, the timber sale program would be adjusted to a point where the total public benefits equal the total cost of the sales program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	02/00/88	
Final Action	07/15/88	

Small Entity: Undetermined

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Government Levels Affected: Local, Federal

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA74

175. ● 36 CFR PART 222, SUBPART C - GRAZING FEES

Significance: Agency Priority

Legal Authority: 16 USC 551; 31 USC 1901; EO 12548

CFR Citation: 36 CFR 222.50 to .51

Legal Deadline: Judicial, October 7, 1987. Eastern District of California directed deadline for "Final Rulemaking" by beginning of 1988 grazing fee year (03/01/88). Final rulemaking must be published 01/20/88 to meet this Court Order. To meet date, proposed rule should be published 10/07/87.

Abstract: Grazing fees are charged for all livestock grazing on National Forest System lands. This proposed rule outlines the methodology for charging grazing fees in accordance with the formula prescribed in Executive Order 12548, February 14, 1986, for National Forests in the 16 Western States. This formula is basically the same formula enacted by Congress in 1978 under the Public Rangelands Improvement Act. The grazing fee is the $1.23 base value multiplied by the result of the Forage Value Index added to the Beef Cattle Price Index minus the Prices Paid Index, divided by 100. Fees may not raise or lower more than 25 percent of the previous year's fee and may never go below $1.35 per head month or head of livestock.

Timetable:

Action	Date	FR Cite
NPRM	10/07/87	52 FR 37483
NPRM Comment Period End	11/21/87	
Final Action	01/20/88	
Final Action Effective	01/20/88	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA77

DEPARTMENT OF AGRICULTURE (USDA)

Final Rule Stage

Forest Service (FS)

176. DEBARMENT AND SUSPENSION OF TIMBER SALE CONTRACTORS

Legal Authority: 16 USC 551; 16 USC 472a

CFR Citation: 36 CFR 223, Subpart C

Legal Deadline: None.

Abstract: The objective is to set forth conditions and procedures under which purchasers of National Forest System timber may be suspended or debarred from further contracting. (FS 83-004)

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/27/83	48 FR 23818
Extension of Interim Final Rule	07/11/84	49 FR 28241
NPRM Part III	01/23/86	51 FR 3158
Final Action	11/30/87	
NPRM Comment Period End	01/15/88	
Final Action	04/01/88	
Final Action Effective	05/01/88	
New proposed rule NPRM	12/01/88	

Small Entity: No

Additional Information: Since publishing the proposed debarment and suspension rules in January, 1986, the agency has determined that it may also be desirable for the debarring official to have authority to cancel a purchaser's existing contracts at the time of debarment. The agency is also considering whether there is a need to expand or clarify the list of causes for debarment. Since the need for these revisions was not known at the time the proposed rule was published, the final rule shown in the timetable will not address these new issues. A separate rulemaking will be necessary to address the new issues. The estimated dates for the subsequent rulemaking are shown in supplemental timetable.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 703 235-1488

RIN: 0596-AA09

USDA—FS

Final Rule Stage

177. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Significance: Agency Priority

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254, Subpart D (new)

Legal Deadline: None.

Abstract: Objectives are to set forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act of 2/8/87, as by Section 31, Act of 6/25/10 authorizes the Secretary of the Interior to make allotments of National Forest System Lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Recent litigation and a decision by the Interior Board of Land Appeals indicate the need for the Forest Service to set forth its own regulations when the Forest Service determines that lands are not chiefly valuable for agricultural and grazing purposes. The only alternative is not to issue regulations. This is unacceptable since it leaves the Agency vulnerable to future IBLA appeals cases as well as future litigation.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	52 FR 23473
Final Action	12/31/87	
Final Action Effective	02/01/88	

Small Entity: No

Affected Sectors: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA52

178. PROHIBITIONS; FOSSIL COLLECTING

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 261

Legal Deadline: None.

Abstract: In response to comments from the scientific and academic communities and in keeping with the recommendations of the National Academy of Sciences "Report on Guidelines for Paleontological Collecting," the Forest Service is clarifying its regulations concerning fossil collecting on National Forest System lands. The language on "paleontological resources" is being moved to a separate paragraph and the requirement for permits is being limited specifically to quarrying for fossils and for commercial activities. The no-action alternative would be to leave the regulation of paleontological resources the same as for archeological resources, with permits needed for all activities. Since there is no evidence of widespread problems, the permit process imposes unnecessary burdens on the casual collector and creates added paperwork for the Forest officer to manage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/86	51 FR 30355
Final Action	02/00/88	
Final Action Effective	02/00/88	

Small Entity: No

Additional Information: The change in dates for final rule is necessitated by decision to await final report from National Academy of Sciences on "Guidelines for Paleontological Collecting." Report now received.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA56

179. NON-COMPETITIVE DISPOSAL OF MINERAL MATERIALS

Legal Authority: 30 USC 601 et seq; 30 USC 603 to 604; 30 USC 601; 30 USC 603; 30 USC 602; 16 USC 477; 16 USC 520; 7 USC 1010; 30 USC 192c, Sec 3; 16 USC 508b; Section 3, 66 Stat. 285; 16 USC 521a; 75 Stat. 205; 23 USC 101 et seq; 16 USC 539a, Sec 502

CFR Citation: 36 CFR 228, Subpart C

Legal Deadline: None.

Abstract: Existing regulations allow noncompetitive sale of mineral materials not in excess of 100,000 cubic yards in any individual sale or 200,000 cubic yards in any one State for the benefit of any entity in any period of twelve consecutive calendar months. The proposal would give the Forest Service flexibility in meeting requests for noncompetitive sales of large amounts of mineral materials when public property, health, and safety are threatened or when competition is impractical. The proposal is similar to rules governing mineral material sales by the Bureau of Land Management. Interim rulemaking is sought to resolve a situation in California where the volume restriction for noncompetitive sales may interfere with a mining claimant's statutory rights regarding locatable minerals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/02/87	52 FR 10564
Begin Review	07/01/87	
Final Action	10/00/87	
Final Action Effective	11/00/87	

Small Entity: Yes

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20013-6090, 202 235-1488

RIN: 0596-AA60

180. ● REQUIRE INCREASED DOWNPAYMENTS FROM TIMBER SALE PURCHASERS WITH A HISTORY OF DEFAULT

Legal Authority: 16 USC 472a; 16 USC 616

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CFR Citation: 36 CFR 223.49, (Revised)

Legal Deadline: None.

Abstract: The Forest Service proposes to increase the downpayment that purchasers who have defaulted on past contracts must pay on new sales.

Timetable:

Action	Date	FR Cite
NPRM	05/20/87	52 FR 18926
NPRM Comment Period End	07/06/87	52 FR 18926
Final Action	11/01/87	
Final Action Effective	12/01/87	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA70

181. ● REVISE 36 CFR 223.178 REGARDING RELEASE OF CLAIMS AGAINST THE GOVERNMENT ON SALES OFFERED FOR GOVERNMENT BUYOUT

Legal Authority: 16 USC 472a; 16 USC 618

CFR Citation: 36 CFR 223.178

Legal Deadline: None.

Abstract: The Forest Service proposes to reconsider the requirement for release of a purchaser from further obligations under a contract selected for return to the government, and to clarify the requirements for completion of the buyout process authorized by the Federal Timber Contract Payment Modification Act.

Timetable:

Action	Date	FR Cite
NPRM	06/11/87	52 FR 22348
NPRM Comment Period End	08/12/87	52 FR 22348
Final Action	11/01/87	
Final Action Effective	12/01/87	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA71

182. ● REVIEW OF DECISIONS TO TERMINATE RECREATION RESIDENCE PERMITS

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 211.18(b)

Legal Deadline: None.

Abstract: Certain recreation residence permits on National Forest land will terminate by 12/31/88. The decision to terminate was made 10 or more years ago. The Forest Service has agreed to review those decisions to determine if they are still valid. The rule will facilitate conducting these reviews by excluding their outcome from the Agency's administrative appeal process. Since most of the earlier decisions were appealed, this action will prevent duplicative appeals that would delay needed land management activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/87	52 FR 27547
Final Action	11/01/87	
Final Action Effective	12/01/87	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090-6090, 202 235-1488

RIN: 0596-AA72

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)
Completed Actions

183. PROHIBITIONS; POSSESSION AND STORAGE OF FOOD AND REFUSE IN CERTAIN NATIONAL FOREST AREAS

CFR Citation: 36 CFR 261

Completed:

Reason	Date	FR Cite
Final Action	05/11/87	52 FR 19346
Final Action Effective	06/22/87	52 FR 19346

Small Entity: Yes

Agency Contact: Marian P. Connolly 202 235-1488

RIN: 0596-AA48

184. RECREATION RESIDENCE AUTHORIZATIONS

Significance: Regulatory Program

CFR Citation: 00 CFR None

Completed:

Reason	Date	FR Cite
Extension of Public Comment	04/14/87	52 FR 17042

Small Entity: No

Agency Contact: Marian P. Connolly 202 235-1488

RIN: 0596-AA53

185. APPEAL OF DECISIONS OF FOREST OFFICERS; REVISION OF STAY PROCEDURES

Significance: Agency Priority

CFR Citation: 36 CFR 211.18

Completed:

Reason	Date	FR Cite
Final Action	06/18/87	52 FR 23175

Small Entity: No

Agency Contact: Marian P. Connolly 202 235-1488

RIN: 0596-AA58

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS)
Proposed Rule Stage

186. SNOW SURVEYS AND WATER SUPPLY FORECASTS

Legal Authority: 26 Stat. 653, Sec. 8; Reorg. No. IV of 1940

CFR Citation: 7 CFR 612.1 to 612.7

Legal Deadline: None.

Abstract: Sets forth policy and procedures for the administration of a cooperative snow survey and water supply forecast program, including the steps involved in carrying out the program. Sets out data collected and forecasts made, and eligible users of the data. (SCS 83-005)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: (Future) FINAL ACTION - Not needed at this time

(Future) END REVIEW - Not needed at this time

Agency Contact: Wayne Maresch, Regulatory Coordinator, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578-AA01

187. RELOCATION ASSISTANCE

Legal Authority: 42 USC 4601 et seq; PL 91-646

CFR Citation: 7 CFR 652

Legal Deadline: None.

Abstract: Prescribes the policies and procedures for the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 USC 4601 et seq.) pertaining to the treatment of persons displaced from their homes, businesses, or farms because of federal financially assisted projects. (SCS 85-001)

Timetable:

Action	Date	FR Cite
End Review	01/31/86	
Next Action Undetermined		

Small Entity: No

Agency Contact: Wayne Maresch, Regulatory Coordinator, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578-AA12

188. PROCEDURES FOR THE PROTECTION OF ARCHEOLOGICAL AND HISTORICAL PROPERTIES ENCOUNTERED IN SCS-ASSISTED PROGRAMS

Significance: Agency Priority

Legal Authority: 16 USC 470f; 16 USC 469

CFR Citation: 7 CFR 656, (Revision)

Legal Deadline: None.

Abstract: The regulations address legal requirements set forth by the Advisory Council on Historic Preservation regulations, Protection of Historic Properties (36 CFR 800). The action is to remove and reserve six sections from the regulation to be more consistent with revised 36 CFR 800 and reduce requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Wayne F. Maresch, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, P.O. Box 2890, Washington, DC 20013, 202 447-4811

RIN: 0578-AA13

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS)
Final Rule Stage

189. SOIL SURVEYS

Legal Authority: Part of Agriculture Appropriation Act of 1966; PL 74-46 The Soil Conservation and Domestic Allotment Act; PL 89-560 Soil Surveys for Resource Planning and Development; 42 USC 3271; 42 USC 3274

CFR Citation: 7 CFR 611

Legal Deadline: None.

Abstract: Prescribes the policy on soil survey operations including cooperative relationships with state agencies, standards, guidelines and plans on survey operations, distribution of soil survey information, and cartographic operations services furnished. (SCS 83-006)

Timetable:

Action	Date	FR Cite
End Review	12/31/86	
Final Action	12/31/87	

Small Entity: No

Agency Contact: Wayne Maresch, Regulatory Coordinator, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578-AA00

190. PRIME AND UNIQUE FARMLANDS

Legal Authority: 16 USC 590(a to f); 42 USC 4321 et seq; PL 95-87

CFR Citation: 7 CFR 657.1 to 657.5

Legal Deadline: None.

Abstract: Prescribes SCS policy on the development and maintenance of an inventory of prime and unique farmland of the Nation including the criteria and characteristics used in the identification of such lands. (SCS 83-007)

Timetable:

Action	Date	FR Cite
End Review	02/00/87	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Wayne Maresch, Regulatory Coordinator, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578-AA10

191. FARMLAND PROTECTION POLICY ACT

Significance: Agency Priority

Legal Authority: 7 USC 4201

CFR Citation: 7 CFR 658

Legal Deadline: Statutory. 180 days after enactment of Food Security Act of 1985

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Abstract: The United States Department of Agriculture amends its rule for implementing the Farmland Protection Policy Act to require progress reports, enable governors to bring action to enforce the requirements of the Act, include a section omitted by clerical error, revise how Federal agencies apply the Act, and revise the definition of farmland. These amendments are necessary in order to comply with amendments to the Farmland Protection Policy Act (FPPA) made by Title XII of the Food Security Act of 1985, Pub. L. 99-198, December 23, 1985, and to clarify several provisions of the existing rule. This rule will revise Part 658 of Title 7 of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Affected Sectors: None

Agency Contact: Wayne F. Maresch, Director, Administrative Services Division, Department of Agriculture, Soil Conservation Service, PO Box 2890, Washington, DC 20013, 202 447-4811

RIN: 0578-AA14

[FR Doc. 87-21232 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26 1987

Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, III, IV, VIII, IX; Subtitle D, Ch. XXIII

19 CFR Ch. III

37 CFR Ch. I, IV

48 CFR Ch. 13

50 CFR Chs. I, II, III, VI

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: October 1987 regulatory agenda.

SUMMARY: In compliance with Executive Order (E.O.) 12291, entitled "Federal Regulation," and the Regulatory Flexibility Act (Pub. L. 96-354), the Department of Commerce (DOC) in April and October of each year publishes in the **Federal Register** an agenda of the rulemaking actions covered by section 1 of E.O. 12291 that the Department plans to conduct or review over the next twelve months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, and rulemaking actions completed since the April 1987 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

DOC's October 1987 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 1987 through September 30, 1988.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about a specific regulatory action listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 377-3151.

SUPPLEMENTARY INFORMATION: On February 17, 1981, President Reagan signed Executive Order 12291. The E.O. requires all executive agencies to publish semiannually an agenda of those regulations that are under consideration pursuant to this Order. Office of Management and Budget (OMB) Bulletin No. 87-16, issued June 25, 1987 establishes guidelines and procedures for the preparation and publication of the October 1987 Unified Agenda of Federal Regulations for all Federal departments and agencies. E.O. 12291 and the OMB Bulletin require that each agenda report the following information on non-exempt regulatory activities being conducted or planned to be conducted by the agency during the twelve-month period succeeding publication: the title of the regulation; the name, title, address and phone number of an agency person who is knowledgeable about the regulation; whether the regulation has or is expected to have a significant economic impact on a substantial number of small entities; the section(s) of the Code of Federal Regulations which will affect or be affected by the action; the section of the United States Code, Public Law or Executive Order that authorizes the action; an indication of whether or not the entry is a significant regulatory action included in the Administration's Regulatory Program and if the agency considers it a priority action; an abstract describing the problem the regulation addresses, alternatives to the regulation being considered, and potential costs and benefits of the action; legal deadline, if any; and a timetable of dates and, if available, **Federal Register** citations for past stages of the action.

The Regulatory Flexibility Act requires agencies to prepare a regulatory flexibility analysis where there is a positive finding that a rule will have a significant economic impact on a substantial number of small entities. E.O. 12291 requires agencies to prepare a regulatory impact analysis for any regulation considered to be a "major rule" as defined in the Order.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units such as the National Oceanic and Atmospheric Administration (NOAA), the Economic Development Administration, the International Trade Administration, the National Bureau of Standards, and the Patent and Trademark Office issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda are proposed or final Federal Information Processing Standards (FIPS), issued by the National Bureau of Standards (NBS) under Pub. L. 89-306. FIPS consist of standards and guidelines to improve Federal Government use and management of computers and information technology. The standards, while often of great use to industry and the public, apply only to the Federal Government. In developing the standards and guidelines, and in providing technical guidance and coordination to Federal agencies, NBS works closely with private industry standard-setting organizations.

Another large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the United States territorial sea to a distance of 200 miles. Fishery Management Plans (FMPs) are to be prepared for fisheries which require conservation and management measures. These FMPs regulate domestic and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishing management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs, or amendments to FMPs, for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance of some regulatory actions under consideration at the time the semiannual regulatory agenda is published. Frequently NMFS does not have specific plan objectives or alternatives for management since the Councils may not have approved or submitted plans to the Secretary of Commerce for review, adoption, and implementation.

The DOC October 1987 regulatory agenda follows.

Dated: August 14, 1987.

Robert H. Brumley,

Deputy General Counsel.

DOC

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
192	Contract Clauses and Solicitation Provisions for the Commerce Automated Solicitation System	0690-AA08
193	Source Evaluation Procedures and Miscellaneous Revisions to the Commerce Acquisition Regulation	0690-AA13
194	Program Fraud Civil Remedies	0690-AA14

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
195	Enforcement of Nondiscrimination on the Basis of Handicap in Department of Commerce Programs	0690-AA06
196	Public Information	0690-AA15

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
197	Public Information, Freedom of Information (Fees)	0690-AA04

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
198	Benchmark Survey of Foreign Direct Investment in the United States - 1987	0691-AA08
199	Revisions in Reporting Requirements for Surveys of U.S. Trade in Services with Foreign Persons	0691-AA09
200	Implementation of Annual Survey of Selected Services Transactions with Unaffiliated Foreign Persons	0691-AA10
201	Rule to Change Reporting Criteria for Minority-Owned Foreign Affiliates on Form BE-11C of the Annual Survey of U.S. Direct Investment Abroad	0691-AA11
202	Increase in Exemption Levels for Foreign Direct Investment Surveys Conducted by BEA -- Quarterly Report Forms BE-605 and 606B and Annual Report Form BE-15	0691-AA12

Bureau of Economic Analysis—Completed Actions

Sequence Number	Title	Regulation Identifier Number
203	BE-20, Benchmark Survey of U.S. Services Transactions With Unaffiliated Foreign Persons	0691-AA03
204	Increase in Exemption Levels for Four Direct Investment Surveys Conducted by BEA -- Quarterly Report Forms BE-605 and 606B and Annual Report Forms BE-133B and 133C	0691-AA07

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Bureau of the Census—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
205	Foreign Trade Statistics Regulations	0607-AA10

Bureau of the Census—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
206	Shipper's Export Declaration-Foreign Trade Statistics	0607-AA09

Economic Development Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
207	General Requirements for Financial Assistance - Design, Construction of Buildings to Accommodate the Physically Handicapped	0610-AA05
208	Economic Development Administration: Property Management Standards	0610-AA07
209	Property Management Standards - Mortgages	0610-AA12
210	General Requirements for Financial Assistance -- Flood Insurance Program; and Environmental Requirements	0610-AA16
211	General Requirements for Financial Assistance: Employment of Expediters or Administrative Employees; Compensation of Persons Engaged by or on Behalf of Applicants	0610-AA18
212	Overall Economic Development Program Public Works and Development Facilities Program	0610-AA19
213	Designation of Areas; Designation of PWIP Areas	0610-AA21
214	General Requirements for Financial Assistance; Unfair Competition	0610-AA22
215	Sale of Loans and Loan Guarantees to the Private Sector	0610-AA31
216	General Requirements for Financial Assistance-Nonrelocation	0610-AA32
217	General Requirements for Financial Assistance - Project Modification	0610-AA33
218	Protection of EDA's Interest in Facilities Acquired, Built, or Improved with EDA Grant Funds	0610-AA35
219	Liability for Toxic Wastes Associated with EDA Loans and Loan Guarantees	0610-AA36

Economic Development Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
220	General Requirements for Financial Assistance; Employment of Expediters or Administrative Employees; Compensation of Persons Engaged by or on Behalf of Applicants	0610-AA23
221	Notice of Availability of Funds - University Centers Program	0610-AA29
222	Civil Rights - Age Discrimination	0610-AA30
223	General Requirements for Financial Assistance - Employment of Expediters or Administrative Employees; Compensation of Persons Engaged by or on Behalf of Applicants	0610-AA34

General Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
224	Nonprocurement Debarment and Suspension	0605-AA02

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General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
225	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	0605-AA03

International Trade Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
226	Export Trade Certificates of Review	0625-AA27

International Trade Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
227	General Regulations Governing Foreign Trade Zones in the United States, with Rules of Procedures	0625-AA04
228	Effect of Imported Articles on the National Security	0625-AA15
229	Sanctions for Violation of Antidumping and Countervailing Duty Protective Orders	0625-AA24
230	Annual Watch Quota Allocations	0625-AA25
231	Antidumping and Countervailing Duties; Modifications	0625-AA26

International Trade Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
232	Adjustment Assistance for Firms and Industries	0625-AA05
233	Antidumping Duties; Countervailing Duties	0625-AA08
234	Revisions to Short Supply Regulations	0625-AA21

International Trade Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
235	Antidumping and Countervailing Duties - De Minimis	0625-AA23

National Bureau of Standards—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
236	FIPS for Information Resource Dictionary System (IRDS)	0693-AA38
237	FIPS for Codes for the Identification of Aquifer Names and Geologic Units	0693-AA44
238	FIPS for C Programming Language	0693-AA48
239	FIPS for Standard Generalized Markup Language (SGML)	0693-AA50
240	FIPS for Recorded Magnetic Tape Cartridge for Information Interchange; 4-Track, Serial, 0.250 in (6.30 mm), 6400 bpi (252 bpmm) Inverted Modified Frequency Modulation Encoded	0693-AA51
241	FIPS for Serial Recorded Magnetic Tape Cartridge for Information Interchange; Four and Five Track, 0.250 in (6.30 mm) 8000 bpi (315 bpmm) Streaming Mode Group Code Recording	0693-AA52
242	FIPS for One-Half Inch Magnetic Tape Interchange Using a Self Loading Cartridge	0693-AA53

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National Bureau of Standards—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
243	FIPS for Recorded Formats for One and Two-Sided 5.25 Inch (130 mm) and 3.5 in (90 mm) Flexible Disk Cartridges	0693-AA54
244	FIPS for Recorded Magnetic Tape and Cartridge for Information Interchange; 18 track, Parallel, 12.65 mm (1/2 in), 1491 cpmm (37871 cpi) Group-Coded Recording	0693-AA55
245	FIPS for Device Level Interface for Streaming Cartridge and Cassette Tape Drives	0693-AA57
246	FIPS for Interfaces Between Flexible Disk Cartridge Drives and Their Host Controllers	0693-AA58
247	Revisions to FIPS 60, 61, 62, 63, 97, and 111, Computer System Input/Output (I/O) Interface Standards	0693-AA59
248	FIPS for Government Open Systems Interconnection Profile	0693-AA61
249	FIPS for Electronic Business Data Exchange	0693-AA62

National Bureau of Standards—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
250	FIPS for Basic Programming Language	0693-AA35
251	Revision to FIPS 100, Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation with Packet-Switched Data Communications Networks	0693-AA39
252	Revision to FIPS 29-1, Interpretation Procedures for Federal Information Processing Standard Programming Languages	0693-AA47
253	FIPS for Portable Operating System Environments (POSIX**)	0693-AA49
254	Review of FIPS 46, Data Encryption Standard	0693-AA50

National Bureau of Standards—Completed Actions

Sequence Number	Title	Regulation Identifier Number
255	FIPS for Transport Protocol	0693-AA06
256	FIPS for Session Protocol Standard	0693-AA12
257	FIPS for Message Transfer Protocol	0693-AA17
258	FIPS PUB 127, Database Language SQL	0693-AA32
259	FIPS PUB 129, Optical Character Recognition (OCR) – Dot Matrix Character Sets for OCR-MA	0693-AA33
260	FIPS PUB 126, Database Language NDL	0693-AA34
261	FIPS for Internetwork Protocol	0693-AA40
262	FIPS PUB 131, Small Computer System Interface (SCSI)	0693-AA41
263	FIPS PUB 130, Intelligent Peripheral Interface (IPI)	0693-AA42
264	FIPS PUB 128, Computer Graphics Metafile (CGM)	0693-AA45
265	FIPS PUB 5-2, Codes for the Identification of the States, the District of Columbia and the Outlying Areas of the United States, and Associated Areas	0693-AA56

National Oceanic and Atmospheric Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
266	Marine Fishery User Fees	0648-AB93
267	Performance Standards for Tuna Skippers	0648-AC07
268	Taking of Marine Mammals Incidental to Underwater Tests by the Department of the Navy	0648-AC08
269	Amendment 3 to the Pacific Coast Groundfish Fishery Management Plan	0648-AC18
270	Amendment 8 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AC19

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National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
271	Processed Fishery Products, Processed Products Thereof & Certain Other Processed Food Products: U.S. Standards for Grades of Frozen Fish Blocks & Products Made Therefrom ETC	0648-AA46
272	Implementation of Fishery Management Recommendations - Regional Fishery Management Councils	0648-AB09
273	Development of a Fishery Management Plan for Summer Flounder	0648-AB30
274	Endangered Fish or Wildlife; Permits for the Incidental Taking of Endangered Marine Species	0648-AB47
275	Amendment No. 5 to the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific Region	0648-AB81
276	Amendment 2 to the Fishery Management Plan for Atlantic Sea Scallops	0648-AB83
277	Resubmitted Portion of Amendment 1 to the American Lobster Fishery Management Plan	0648-AB89
278	Amendment 1 to the Swordfish FMP	0648-AB92
279	Safety of United States Observers Aboard Foreign Fishing Vessels	0648-AB94
280	Groundfish of the Bering Sea and Aleutian Islands - Amendment 11	0648-AB96
281	Amendment 2 to the American Lobster Fishery Management Plan	0648-AB97
282	Groundfish of the Gulf of Alaska - Amendment 16	0648-AB98
283	Amendment 8 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California	0648-AB99
284	Amendment 3 to the High Seas Salmon Fishery Off the Coast of Alaska East of 175 E. Longitude	0648-AC00
285	Foreign Fishing Poundage and Permit Fees, 1988	0648-AC01
286	Amendment 2 to the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region	0648-AC10
287	Amendment 1 for the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region	0648-AC11
288	Amendment 3 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources	0648-AC15
289	Amendment 1 Gulf of Mexico Reef Fish Fishery Management Plan	0648-AC16
290	Amendment 4 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AC17
291	Amendment to Regulation Providing for Allocation of Pacific Halibut Among Domestic Fishermen	0648-AC20
292	Regulatory Amendment to the Fishery Management Plan for the Atlantic Swordfish Fishery - Extension of The Plan	0648-AC21
293	Proposed Regulations for the National Marine Sanctuary Program	0648-AA31
294	Proposed Regulations for the Key Largo National Marine Sanctuary	0648-AA33
295	Draft Regulations for the Proposed Flower Garden Banks National Marine Sanctuary	0648-AB49
296	Draft Regulations for the Proposed Cordell Bank National Marine Sanctuary	0648-AB50
297	Proposed Regulations for the Looe Key National Marine Sanctuary	0648-AB64
298	Proposed Regulations for the National Estuarine Reserve Research Program	0648-AB68
299	Rulemaking to Implement 1985 Reauthorization of the Coastal Zone Management Act (CZMA)	0648-AC02
300	Proposed Regulations for the Channel Islands National Marine Sanctuary	0648-AC03
301	Proposed Regulations for the Point Reyes-Farallon Islands National Marine Sanctuary	0648-AC05
302	Deep Seabed Mining Regulations for Commercial Recovery	0648-AA36

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
303	Fishery Conservation and Management: Confidentiality of Statistics	0648-AA38
304	U.S. General Standards for Grades of Shrimp	0648-AA47
305	Marking Requirements for the Importation, Exportation, & Interstate Transportation of Fish or Wildlife	0648-AA53
306	U.S. Standards for Grades of Fresh or Frozen North American Freshwater Catfish and Products Made Therefrom	0648-AA73
307	Foreign Fishing - Scientific Research	0648-AB23
308	Regulations Governing the Taking and Importing of Marine Mammals; Importation of Yellowfin Tuna	0648-AB46
309	Groundfish of the Gulf of Alaska and High Seas Salmon Fishery off Alaska; Regulatory Amendment	0648-AB51
310	Regulations Governing the Harassment of Humpback Whales	0648-AB79
311	Amendment 1 to the Red Drum Fishery Management Plan for the Gulf of Mexico	0648-AB91
312	Amendment 1 to the Northeast Multispecies Fishery Management Plan	0648-AC04
313	U.S. Standards for Grades of Fish Fillets	0648-AC12
314	Amendment to the Regulations Implementing the Atlantic Sea Scallop FMP - Revise the Expiration Date of Fishing Permits	0648-AC13
315	Amendment to Regulations for Groundfish of the Gulf of Alaska, Bering Sea and Aleutian Islands Area - Reporting Requirements	0648-AC14
316	Regulatory Amendment Revising the Final Regulations Implementing the American Lobster Fishery Management Plan	0648-AC09
317	Federal Consistency with Approved Coastal Zone Management Programs	0648-AA34

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National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
318	Civil Procedures	0648-AA26
319	Atlantic Billfish and Sharks Fishery - Foreign Fishing Regulations	0648-AB33
320	Amendment to the Gulf of Alaska Groundfish Fishery Management Plan	0648-AB40
321	Amendment for Alaska Groundfish and High Seas Salmon Fishery Management Plans - Close FCZ Intrusion Into State Waters	0648-AB41
322	Reporting Requirements Governing Salmon Taken off Alaska and Delivered or Landed Outside Alaska	0648-AB44
323	Implementation of Fishery Management Recommendations	0648-AB57
324	Fishery Management Plan for Pacific Billfish Fisheries of the Western Pacific Region	0648-AB61
325	Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic - Amendment 1	0648-AB74
326	Sea Turtle Conservation; Shrimp Trawl Requirements	0648-AB85
327	Secretarial Amendment of the Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska	0648-AB90
328	Amendment 2 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources	0648-AB95
329	Labeling Requirements for Frozen Fish Blocks and Products Therefrom	0648-AC06

National Telecommunications and Information Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
330	Public Telecommunications Facilities Program: Report and Order (Final Rules), Funding Priorities and Policy Statement	0660-AA01

Office of Productivity, Technology and Innovation—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
331	Administration of a Uniform Patent Policy with Respect to Domestic Rights in Inventions Made by Government Employees	0692-AA05

Office of Productivity, Technology and Innovation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
332	Licensing of Government-Owned Inventions	0692-AA04

Office of Productivity, Technology and Innovation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
333	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms	0692-AA01

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Patent and Trademark Office—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
334	Deposit of Biological Materials for Patent Purposes	0651-AA13

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
335	Requests for Identifiable Records	0651-AA04
336	Variety Naming Requirements for Plant Patent Applications	0651-AA12
337	Trademark Applications	0651-AA23
338	Miscellaneous Amendments of Patent Rules	0651-AA25
339	Duty of Disclosure - Information Disclosure Statement	0651-AA27
340	Requests for Presidential Proclamations under the Semiconductor Chip Protection Act	0651-AA29

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
341	Trademark Automated Search System Fees	0651-AA18

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identifier Number
342	Arbitration of Patent Interference Cases	0651-AA20
343	Rules for Extension of Patent Term	0651-AA22
344	Unity of Invention and Patent Cooperation Treaty, Chapter II	0651-AA26

United States Travel and Tourism Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
345	Travel Promotion Fee	0644-AA00

DEPARTMENT OF COMMERCE (DOC)

Office of the Secretary (OS)

Proposed Rule Stage

192. CONTRACT CLAUSES AND SOLICITATION PROVISIONS FOR THE COMMERCE AUTOMATED SOLICITATION SYSTEM

Legal Authority: 41 USC 251 et seq; PL 98-369; PL 98-577

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None.

Abstract: The Department of Commerce is currently reviewing standardized contract clauses and solicitation provisions for inclusion in a planned Department wide automated solicitation system. A proposed amendment to the Commerce Acquisition Regulation (CAR) would illustrate and incorporate these standardized clauses and provisions. This should ultimately be less burdensome to Department contractors and potential contractors, since the clauses and provisions would be used uniformly throughout the Department.

DOC—OS — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Robert A. Welch, Director, Department of Commerce, Office of the Secretary, Office of Procurement Management, 14th Street & Constitution Avenue, NW, Washington, DC 20230, 202 377-2773

RIN: 0690-AA08

193. SOURCE EVALUATION PROCEDURES AND MISCELLANEOUS REVISIONS TO THE COMMERCE ACQUISITION REGULATION

Legal Authority: 41 USC 251 et seq

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None.

Abstract: The Department of Commerce has no formal uniform source evaluation procedures applicable to its procurement activities. Standardization of source evaluation procedures will alleviate potential inconsistencies among procurement professionals as well as potential Department Contractors relative to evaluation of proposals.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Robert A. Welch, Director, Department of Commerce, Office of the Secretary, 14th Street and Constitution Ave., NW, Washington, DC 20230, 202 377-2773

RIN: 0690-AA13

194. ● PROGRAM FRAUD CIVIL REMEDIES

Legal Authority: 31 USC 3809

CFR Citation: 15 CFR 25

Legal Deadline: None.

Abstract: This rule, if promulgated, would implement the Program Fraud Civil Remedies Act of 1986 which authorizes the Department of Commerce (and certain other Federal agencies) to impose through administrative adjudication civil penalties and assessments against persons making false claims or statements to it.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Jerry Walz, Chief, Contract Law Division, Room 5893, Department of Commerce, Office of the Secretary, Washington, DC 20230, 202 377-1122

RIN: 0690-AA14

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS) — **Final Rule Stage**

195. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN DEPARTMENT OF COMMERCE PROGRAMS

Legal Authority: 29 USC 794; EO 12250

CFR Citation: 15 CFR 8c

Legal Deadline: None.

Abstract: Regulations will be proposed providing for the enforcement of Section 504 of the Rehabilitation Act of 1973, as amended. These regulations will ensure programmatic and physical accessibility for handicapped individuals in Department of Commerce activities.

Timetable:

Action	Date	FR Cite
NPRM	11/24/84	49 FR 45861
NPRM Comment Period End	03/21/85	49 FR 45861
Final Action	10/00/87	

Small Entity: No

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Richard Stearns, Chief, EEO Division, Department of Commerce, Office of the Secretary, Office of Civil Rights, 14th and Constitution Avenue, NW, Washington, DC 20230, 202 377-5691

RIN: 0690-AA06

196. ● PUBLIC INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 15 CFR 4

Legal Deadline: None.

Abstract: The existing regulations implementing the Freedom of Information Act are being revised to incorporate changes in the Department's policies and procedures affecting FOIA administration. Additionally, the revision adopts the provisions of E.O. 12600, Predisclosure Notification Procedures for Confidential Information, dated June 23, 1987. Section 4.9 of the regulations was completed on July 17, 1987, 52 FR 26951, to comply with the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/28/87	52 FR 15327
NPRM Comment Period End	06/12/87	52 FR 15327
Final Action Effective	10/00/87	

Small Entity: No

Affected Sectors: All

Government Levels Affected: Local, State, Federal

Agency Contact: Geraldine P. LeBoo, Management Analyst, Department of Commerce, Office of the Secretary, Washington, DC 20230, 202 377-1122

RIN: 0690-AA15

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS) — **Completed Actions**

197. PUBLIC INFORMATION, FREEDOM OF INFORMATION (FEES)

Legal Authority: 5 USC 552

CFR Citation: 15 CFR 4

Legal Deadline: Statutory, April 25, 1987.

Abstract: The revised regulation would implement the amended fee provisions of the Freedom of Information Act (FOIA), P.L. 99-570. The amended FOIA, which was signed into law on October 27, 1986, requires a Government-wide uniform system for charging requests under the FOIA. The law specifies that agencies promulgate implementing regulations by April 25, 1987.

Timetable:

Action	Date	FR Cite
NPRM	04/28/87	52 FR 15327
Final Action	07/17/87	52 FR 26951
Final Action Effective	08/17/87	

Small Entity: No

Affected Sectors: All

Government Levels Affected: Local, State, Federal

Agency Contact: Geraldine P. LeBoo, Management Analyst, Department of Commerce, Office of the Secretary, Office of Management and Organization, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-3271

RIN: 0690-AA04

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA) — **Proposed Rule Stage**

198. BENCHMARK SURVEY OF FOREIGN DIRECT INVESTMENT IN THE UNITED STATES - 1987

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 806.15; 15 CFR 806.17

Legal Deadline: Statutory. The survey must cover the year 1987.

Abstract: This action will amend existing rule 15 CFR Part 806.17 to provide for the conduct of the BE-12, Benchmark Survey of Foreign Direct Investment in the United States -- 1987, as required by the International Investment and Trade in Services Act, 22 USC 3101 to 3108 (see especially Sec 4(b) of the Act). The existing rule covers a similar survey for 1980, which has been completed and which the new survey will update.

Timetable:

Action	Date	FR Cite
NPRM	09/09/87	
NPRM Comment Period End	11/10/87	
Final Action	01/23/88	
Final Action Effective	02/24/88	

Small Entity: No

Agency Contact: Betty L. Barker, Acting Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 607, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691-AA08

199. REVISIONS IN REPORTING REQUIREMENTS FOR SURVEYS OF U.S. TRADE IN SERVICES WITH FOREIGN PERSONS

Legal Authority: 22 USC 3101 to 3106 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None.

Abstract: This action will amend 15 CFR 801 to bring three existing BEA services surveys into conformance with the new BE-20 Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons -- 1986 and with its anticipated annual follow-on survey. Specifically, it will: (1) change the titles of the three surveys to clarify coverage. The title of the BE-47 survey will change to "Annual Survey of Construction, Engineering, Architectural, and Mining Services Provided by U.S. Firms to Unaffiliated Foreign Persons." The title of the BE-48 survey will change to "Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies With Foreign Persons." The title of the BE-93 survey will change to "Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons." (2) Amend 15 CFR 801.9(b) (4) to expand coverage of the BE-48 survey to include direct insurance as well as reinsurance transactions. In designing the BE-20 survey, it was decided to include direct insurance on the existing BE-48 survey rather than on the BE-20. (CONT.)

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	11/00/87	
Final Action Effective	12/00/87	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: Heretofore, no data on direct insurance transactions with foreign persons have been collected. (3) Amend 15 CFR 801 to revise the description of "Who must report" in the three surveys for clarification purposes; no substantive changes are intended. (4) Amend 15 CFR 801 to apply existing exemption levels for the BE-47 and 48 surveys to newly added items. No change in the exemption levels themselves is planned. For the BE-47 survey, the current exemption level will be applied to the gross book value of new contracts received. For the BE-48 survey, the current exemption level will be applied to primary insurance premiums received and primary insurance losses paid.

Agency Contact: Betty L. Barker, Acting Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 607, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691-AA09

DOC—BEA — **Proposed Rule Stage**

200. IMPLEMENTATION OF ANNUAL SURVEY OF SELECTED SERVICES TRANSACTIONS WITH UNAFFILIATED FOREIGN PERSONS

Significance: Agency Priority

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None.

Abstract: This action will amend 15 CFR 801 by adding rules to implement a new annual follow-on survey to the BE-20 Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons--1986. The scope and coverage of the annual survey are expected to be more limited than that of the benchmark survey, with exact scope and coverage to be determined after analysis of preliminary results of the 1986 BE-20. Data from the annual survey will be used to derive universe estimates of covered services transactions in nonbenchmark years, thus updating the data collected in the benchmark survey. The first year of coverage will be 1987; the survey will not be taken for a year covered by the benchmark survey.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
NPRM Comment Period End	05/00/88	
Final Action	06/00/88	
Final Action Effective	07/00/88	

Small Entity: No

Public Compliance Cost: Initial Cost: $1,600,000; Yearly Recurring Cost: $1,600,000; Base Year for Dollar Estimates: 1988

Agency Contact: Betty L. Barker, Acting Chief, International Investment Div., Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 607, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691-AA10

201. RULE TO CHANGE REPORTING CRITERIA FOR MINORITY-OWNED FOREIGN AFFILIATES ON FORM BE-11C OF THE ANNUAL SURVEY OF U.S. DIRECT INVESTMENT ABROAD

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 806.14(f)(3)(iii), (Revision)

Legal Deadline: None.

Abstract: This action will revise 15 CFR 806.14(f) (3) (iii) by lowering the percentage of ownership above which a minority-owned foreign affiliate must be reported on Form BE-11C of BEA's Annual Survey of U.S. Direct Investment Abroad. The ownership cutoff now used on the BE-11c is 25 percent. However, foreign business enterprises owned between 10 and 25 percent by a U.S. person are, by definition, also considered foreign affiliates and are thus part of the universe of U.S. direct investment abroad. Experience has shown that some of these affiliates with low ownership interests are, nevertheless, very large. Without the type of information collected on the form, data for such affiliates and, thus, for the universe as a whole, cannot be accurately estimated. For affiliates owned between 10 and 25 percent, only those with assets, sales, or net income greater than $100 million will be required to report. About 50 existing U.S. reporters would be required to file for about 100 additional foreign affiliates. The increase in burden would average about 3 hours per affiliate because only 7 data items (assets, sales, net income (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	11/00/87	
Final Action Effective	12/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: U.S. merchandise exports and imports, employment, and employee compensation) are reported on the BE-11C.

Agency Contact: Patricia Walker, Chief, Direct Investment Abroad Branch, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 603, Tower Building, Washington, DC 20230, 202 523-0661

RIN: 0691-AA11

202. ● INCREASE IN EXEMPTION LEVELS FOR FOREIGN DIRECT INVESTMENT SURVEYS CONDUCTED BY BEA -- QUARTERLY REPORT FORMS BE-605 AND 606B AND ANNUAL REPORT FORM BE-15

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None.

Abstract: This action will raise the exemption levels for quarterly report Forms BE-605 (Transactions of U.S. Affiliates, Except on Unincorporated Bank, with Foreign Parent) and BE-606B (Transactions of U.S. Banking Branch or Agency with Foreign Parent) from $15 million to $20 million. It will also raise the exemption level for Form BE-15 (Annual Survey of Foreign Direct Investment in the United States) from $10 million to $20 million. The purpose of the action is to bring the exemption levels into conformance with those for Form BE-12 (LF) of the Benchmark Survey of Foreign Direct Investment in the United States -- 1987. As a result of the action, the number of reports filed by U.S. companies will be significantly reduced, thereby reducing both reporting and processing burden.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	01/00/88	
Final Action Effective	02/00/88	

Small Entity: No

Agency Contact: Betty L. Barker, Acting Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 607, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691-AA12

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA) — **Completed Actions**

203. BE-20, BENCHMARK SURVEY OF U.S. SERVICES TRANSACTIONS WITH UNAFFILIATED FOREIGN PERSONS

Significance: Regulatory Program

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None.

Abstract: This action will provide for the conduct of a mandatory BE-20, Benchmark Survey of U.S. Services Transactions with Unaffiliated Foreign Persons, covering 1986, as required by the International Investment and Trade in Services Survey Act. The action will fill major gaps in data on international services transactions so the U.S. Government can better assess the size and impact of those transactions, more effectively formulate international economic policies and conduct negotiations to reduce the barriers to service trade, improve the recording of services transactions in the U.S. balance of payments accounts, and assist U.S. services businesses in identifying and evaluating market opportunities. It is anticipated that the benchmark survey will be followed by an abbreviated annual sample survey that will update the data from the benchmark survey. The annual costs to BEA of conducting the benchmark survey and the follow-up annual sample survey will be about $500,000. The cost to respondents of the benchmark survey will be about 100,000 manhours, or $3.0 million, and the cost of the annual sample survey will be about 55,000 manhours, or $1.6 million a year. The benefits in terms of reduction in (cont)

Timetable:

Action	Date	FR Cite
NPRM	02/26/87	52 FR 5785
NPRM Comment Period End	04/27/87	52 FR 5785
Final Action	05/28/87	52 FR 19842
Final Action Effective	06/29/87	52 FR 19842

Small Entity: No

Additional Information: ABSTRACT CONT: barriers to services trade, increased sales of services, and improved balance of payments statistics will far exceed costs. A notice of proposed rulemaking to bring existing BEA surveys of U.S. services transactions under 22 USC 3101 to 3108, as amended, and to conduct a BE-20 Benchmark Survey of U.S. Services Transactions With Unaffiliated Foreign Persons was submitted to OMB in August 1985, along with an information collection request for the benchmark survey. On 10/21/85, OMB disapproved the information request for the benchmark survey, largely because of respondent burden and the need to seek greater input from the business community in designing the survey. Subsequently, final rules -- 15 CFR Part 801 -- were approved covering the other existing surveys on U.S. services transactions. BEA has conducted a public outreach program to revise the BE-20 benchmark survey to meet OMB requirements. The action described herein will amend 15 CFR Part 801 to cover the revised BE-20 survey.

Public Compliance Cost: Initial Cost: $3,000,000; Yearly Recurring Cost: $1,600,000; Base Year for Dollar Estimates: 1986

Affected Sectors: All

Government Levels Affected: Federal

Agency Contact: Betty L. Barker, Acting Chief, International Investment, Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 607, Tower Building, Washington, DC 20230, 202 523-0659

RIN: 0691-AA03

204. INCREASE IN EXEMPTION LEVELS FOR FOUR DIRECT INVESTMENT SURVEYS CONDUCTED BY BEA -- QUARTERLY REPORT FORMS BE-605 AND 606B AND ANNUAL REPORT FORMS BE-133B AND 133C

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None.

Abstract: This action will raise the exemption levels for quarterly report forms BE-605 (Transactions of U.S. Affiliate, Except an Unincorporated Bank, with Foreign Parent) and BE-606B (Transactions of U.S. Banking Branch or Agency with Foreign Parent) from $10.0 million to $15.0 million. It will also raise the exemption levels for annual forms BE-133C (Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investments Abroad) and BE-133B (Followup Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investments Abroad) from $8.0 million to $10.0 million. The purpose of the action is to effect a reduction in the number of reports filed by U.S. companies, thus significantly reducing the reporting and processing burden.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	52 FR 42583
NPRM Comment Period End	01/25/87	52 FR 42583
Final Action	03/16/87	52 FR 08445
Final Action Effective	04/17/87	52 FR 08446

Small Entity: No

Agency Contact: George R. Kruer, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 606, Tower Building, Washington, DC 20230, 202 523-0657

RIN: 0691-AA07

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS) — **Proposed Rule Stage**

205. ● FOREIGN TRADE STATISTICS REGULATIONS

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.1 to 30.92

Legal Deadline: None. Deadline is contingent upon legislation not yet passed.

Abstract: Review of CFR 30 for changes to conform with the new statistical classification (harmonized) system for imports and exports. This review will combine elements of housekeeping changes, updating obsolete information, clarification, bringing the system into line with harmonization (including

DOC—CENSUS — **Proposed Rule Stage**

metric measurements) and conformance of reporting with current practices.

There should be no added burden or cost placed on the public because no additional information is required, nor new reporting requirements.

The benefits of these changes will be: allowing direct comparisons between U.S. imports and exports, enabling comparisons between the trade balances of the U.S. and of our major trading partners.

Once the legislation is passed, there is no alternative to making these changes in order to implement the legislation.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	
Final Action	06/01/88	

Small Entity: No

Affected Sectors: All

Government Levels Affected: Federal

Agency Contact: Don L. Adams, Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, Washington, DC 20233, 301 763-5342

RIN: 0607-AA10

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Final Rule Stage

206. SHIPPER'S EXPORT DECLARATION-FOREIGN TRADE STATISTICS

Legal Authority: 13 USC 301 to 307; 5 USC 301

CFR Citation: 15 CFR 30; 15 CFR 30.55(h)

Legal Deadline: None.

Abstract: It is proposed to amend the Foreign Trade Statistics Regulations to raise the present exemption for filing shipper's Export Declarations (except for shipments requiring a validated export license) from $1000 to $1500. The exemption for shipments through the U.S. Postal Service will remain at $500.

Timetable:

Action	Date	FR Cite
NPRM	04/24/87	52 FR 13714
NPRM Comment Period End	06/23/87	
Interim Final Rule	10/01/87	

Small Entity: No

Agency Contact: Don L. Adams, Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, Washington, DC 20233, 301 763-5342

RIN: 0607-AA09

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Final Rule Stage

207. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE - DESIGN, CONSTRUCTION OF BUILDINGS TO ACCOMMODATE THE PHYSICALLY HANDICAPPED

Legal Authority: 42 USC 4151 to 4156; 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.14

Legal Deadline: None.

Abstract: Existing regulations will be amended if necessary to reflect the most recent (1980) standards of the American National Standards Institute (ANSI) for handicap accessibility as well as the "Minimum Guidelines and Requirements for Accessible Design" published by the Architectural and Transportation Barriers Compliance Board (47 FR 33862, August 14, 1982) and the proposed "Uniform Federal Accessibility Standards" published by GSA (comments due by August 22, 1983).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Room 7001, Washington, DC 20230, 202 377-5441

RIN: 0610-AA05

208. ECONOMIC DEVELOPMENT ADMINISTRATION: PROPERTY MANAGEMENT STANDARDS

Legal Authority: 40 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 314

Legal Deadline: None.

Abstract: EDA's regulations regarding the use and disposition of real property acquired or improved with federal funds is being revised to clarify EDA policy regarding the authorized use and disposition of grant property (real property) and in particular requirements regarding the lease and/or sale of such property. As revised the change will clarify present requirements for property determining the appropriate amount of compensation due the Federal Government upon the sale of real property acquired or improved with grant funds.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and

DOC—EDA — **Final Rule Stage**

Administration, 14th & Constitution Ave., NW, Room 7001, Washington, DC 20230, 202 377-5441

RIN: 0610-AA07

209. PROPERTY MANAGEMENT STANDARDS - MORTGAGES

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 314.5

Legal Deadline: None.

Abstract: These amendments allow the Assistant Secretary to waive the prohibition against placing mortgages on property which has been financed by an EDA public works grant, if an additional condition is met. This additional condition for waiver is that all proceeds from a loan which is secured by a mortgage or lien on property which has been financed by an EDA public works grant shall be available only to the grantee and such proceeds shall be used on the project which secures such loans, or for working capital purposes relating to that project.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/84	49 FR 22463
Final Action	10/00/87	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Room 7001, Washington, DC 20230, 202 377-5441

RIN: 0610-AA12

210. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE — FLOOD INSURANCE PROGRAM; AND ENVIRONMENTAL REQUIREMENTS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.15; 13 CFR 309.18

Legal Deadline: None.

Abstract: This rule amends EDA's regulation at 13 CFR 309.15 on Flood Hazard to reflect a shift in the administration of the Flood Insurance Program from the Department of Housing and Urban Development (HUD) to the Federal Emergency Management Agency (FEMA). It also updates environmental regulations at 13 CFR 309.18.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/25/86	51 FR 23042
Final Action	10/00/87	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW, Room 7215, Washington, DC 20230, 202 377-2710

RIN: 0610-AA16

211. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE: EMPLOYMENT OF EXPEDITERS OR ADMINISTRATIVE EMPLOYEES; COMPENSATION OF PERSONS ENGAGED BY OR ON BEHALF OF APPLICANTS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None.

Abstract: This rule amends EDA's general requirements regulation -- employment of expediters or administrative employees -- concerning EDA positions involving discretion, to conform to the reorganization of EDA pursuant to Department of Commerce Organization Order 45-1. Old positions which are no longer in existence are deleted. New comparable positions are listed in the amended regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/85	50 FR 97
Final Action	10/00/87	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel for Economic Development and Administration, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. & Const. Ave., NW, Washington, DC 20230, 202 377-5441

RIN: 0610-AA18

212. OVERALL ECONOMIC DEVELOPMENT PROGRAM PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 302; 13 CFR 304; 13 CFR 305

Legal Deadline: None.

Abstract: This rule amends EDA's rules by updating provisions concerning Public Works Impact Areas and Special Impact Areas, specifically as to Designation Requirements; Overall Economic Development Program Requirements; and Supplementary Grant Rates.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/07/86	51 FR 24512
Final Action	10/00/87	

Small Entity: Not Applicable

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue NW, Room 7215, Washington, DC 20230, 202 377-2710

RIN: 0610-AA19

213. DESIGNATION OF AREAS; DESIGNATION OF PWIP AREAS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 302

Legal Deadline: None.

Abstract: 13 CFR Part 302 at Section 302.7 entitled "Designation of Public Works Impact Program Areas" is amended at paragraph (a)(4) to delete reference to submission of an Overall

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Economic Development Program (OEDP) since under EDA's authorizing legislation, Public Works Impact Program (PWIP) projects need not meet OEDP requirements; and to add that although there are no boundary constraints for PWIPs under the Act, program considerations dictate that for an area to be given PWIP designation, it must be capable of analysis in light of available data establishing eligibility for designation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/86	51 FR 24302
Final Action	10/00/87	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Ave., NW, Room 7215, Washington, DC 20230, 202 377-2710

RIN: 0610-AA21

214. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE; UNFAIR COMPETITION

Legal Authority: 42 USC 3211; Dept. of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None.

Abstract: 13 CFR 309 at Sec 309.2 entitled "Unfair Competition" has been amended to change conditions under which EDA will conduct a study (verification and evaluation) called a "702 Study" of the capacity and demand for particular goods, materials, commodities, services or facilities. The amendment will narrow the unfair competition requirements for a "702 Study" by raising the threshold amount of projects from $10,000 to $25,000. Also, the unfair competition exceptions have been expanded to apply to all EDA financial assistance programs. Certain projects are exempt from "702 Study" requirements and the definition of retention of capacity and employment has been changed by deleting the word "existing."

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/02/86	51 FR 16292
Final Action	10/00/87	

Small Entity: Not Applicable

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Ave., NW, Room 7215, Washington, DC 20230, 202 377-2710

RIN: 0610-AA22

215. SALE OF LOANS AND LOAN GUARANTEES TO THE PRIVATE SECTOR

Significance: Regulatory Program

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR Chapter III

Legal Deadline: None.

Abstract: EDA seeks to repeal the limitation in the Commerce Appropriation Act ("McDade Amendment") whereby funds cannot be used to sell any loan to private interests, except with the consent of the borrower.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Eugenie E. Foster, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA31

216. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE-NONRELOCATION

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.3

Legal Deadline: None.

Abstract: This rule will amend EDA's nonrelocation rule by changing the rate of interest to be charged when failure to abide by the nonrelocation rule results in termination of financial assistance provided by EDA. Interest will be at the rate used in Federal debt collection and discount evaluation under the Debt Collection Act. The rule will also state that the 48 month period for compliance by covered grantees is retroactive if the violation occurs after September 15, 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/10/87	52 FR 21932
Final Action	10/00/87	

Small Entity: Not Applicable

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Eugenie E. Foster, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania &, Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA32

217. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE - PROJECT MODIFICATION

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.26

Legal Deadline: None.

Abstract: The purpose of this amendment is to conform the statement of EDA's policy on project modification to guidelines established by the General Accounting Office on change of scope, by putting into regulatory language, that which has been actual EDA practice. The rule change provides standards and states that EDA will not allow project modification which would constitute a change of scope.

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Timetable:

Action	Date	FR Cite
Interim Final Rule	10/20/87	51 FR 37175
Final Action	10/00/87	

Small Entity: Not Applicable

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Eugenie E. Foster, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania &, Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA33

218. PROTECTION OF EDA'S INTEREST IN FACILITIES ACQUIRED, BUILT, OR IMPROVED WITH EDA GRANT FUNDS

Significance: Regulatory Program

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 314

Legal Deadline: None.

Abstract: EDA intends to initiate regulatory action to protect its interests by: (1) enabling EDA to acquire liens in property purchased or improved with EDA grant funds; and (2) once EDA has such ownership rights in property, by enabling EDA to expend funds to protect and care for such property, including liquidation, litigation or any other necessary action. The latter regulatory action is contingent upon legislation being enacted which authorizes EDA to expend funds and take other actions to protect its ownership rights in property purchased or improved with EDA grant funds. The Department of Commerce Legislative Program for the First Session of the 100th Congress includes the submission of appropriate legislation to the Congress.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/87	
Proposed Legislation	00/00/00	

Small Entity: Not Applicable

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Eugenie E. Foster, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA35

219. LIABILITY FOR TOXIC WASTES ASSOCIATED WITH EDA LOANS AND LOAN GUARANTEES

Significance: Regulatory Program

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR Chapter III

Legal Deadline: None.

Abstract: EDA will undertake some action to enable it to minimize financial losses resulting from toxic waste on property it has acquired as a result of defaulted business loans and loan guarantees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/87	
Final Action	12/00/87	

Small Entity: Not Applicable

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Eugenie E. Foster, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA36

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Completed Actions

220. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE; EMPLOYMENT OF EXPEDITERS OR ADMINISTRATIVE EMPLOYEES; COMPENSATION OF PERSONS ENGAGED BY OR ON BEHALF OF APPLICANTS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None.

Abstract: 13 CFR 309 at Section 309.7 entitled "Employment of expediters or administrative employees; compensation of persons engaged by or on behalf of applicants" has been amended to conform, at subparagraph c to P.L. 99-180, December 13, 1985, to state that fees for services of attorneys and consultants in preparing applications for EDA financial assistance cannot be financed under P.L. 99-180; however, attorneys' and consultants' fees used to meet grant requirements, such as for example, conducting a title search or preparing plans and specifications, could be eligible project costs and paid for out of funds appropriated or otherwise made available under P.L. 99-180.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/86	51 FR 24303
Replaced by RIN-0610-AA34	08/27/87	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel for Operations and Administration, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Ave., NW, Room 7215, Washington, DC 20230, 202 377-5441

RIN: 0610-AA23

DOC—EDA

Completed Actions

221. NOTICE OF AVAILABILITY OF FUNDS - UNIVERSITY CENTERS PROGRAM

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR Chapter III

Legal Deadline: None.

Abstract: EDA seeks to publish a Notice concerning intended changes in its University Center Program, if funds are appropriated beyond FY 1987. These changes would gradually reduce and ultimately end EDA funding. This will enable EDA to fund other qualified institutions.

Timetable:

Action	Date	FR Cite
Final Action	02/11/87	52 FR 4370

Small Entity: Not Applicable

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Eugenie E. Foster, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA29

222. CIVIL RIGHTS - AGE DISCRIMINATION

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 311

Legal Deadline: None.

Abstract: This rule will amend EDA's civil rights regulations to include recent final rules promulgated by the Department of Commerce (DOC) at 15 CFR Part 20 (DOC rule). The DOC rule establishes procedures to implement the Age Discrimination Act (The Act) of 1975, as amended. The Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. EDA needs to amend its regulations to assure conformity to the DOC rule.

Timetable:

Action	Date	FR Cite
Final Action	04/10/87	52 FR 11626

Small Entity: Not Applicable

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Eugenie E. Foster, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA30

223. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE - EMPLOYMENT OF EXPEDITERS OR ADMINISTRATIVE EMPLOYEES; COMPENSATION OF PERSONS ENGAGED BY OR ON BEHALF OF APPLICANTS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None.

Abstract: 13 CFR 309 at section 309.7 entitled "Employment of expediters or administrative employees; compensation of persons engaged by or on behalf of applicants" will be amended to conform, at subparagraph c, to Pub. L. 99-500, October 18, 1986, to state that fees for services of attorneys and consultants in preparing applications for EDA financial assistance cannot be funded under Pub. L. 99-500, however, attorneys' and consultants' fees used to meet grant requirements, such as for example, conducting a title search or preparing plans and specifications, could be eligible project costs and paid for out of funds appropriated or otherwise made available under Pub. L. 99-500.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/86	51 FR 24303
Final Action	07/22/87	52 FR 27538

Small Entity: Not Applicable

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Eugenie E. Foster, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street between Pennsylvania & Constitution Avenues, NW, Washington, DC 20230, 202 377-4687

RIN: 0610-AA34

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Proposed Rule Stage

224. NONPROCUREMENT DEBARMENT AND SUSPENSION

Legal Authority: EO 12549, Debarment and Suspension

CFR Citation: 15 CFR Part undetermined

Legal Deadline: None.

Abstract: To eliminate duplicative and inconsistent debarment and suspension actions across the government. Private actions or actions by other levels of government would lack broad enough jurisdiction. This regulation will benefit the U.S. by eliminating duplicative and costly actions. Benefits have not been quantified at this time.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Robert McNamara, Grants/Cooperative Agreement Specialist, Department of Commerce, General Administration, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-5817

RIN: 0605-AA02

DOC—ADMIN

Proposed Rule Stage

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Final Rule Stage

225. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 24

Legal Deadline: None.

Abstract: This action states the fiscal and administrative conditions governing grants to State and local governments and subrecipients which are state and local governments. It is intended to simplify and standardize the Federal grant process and eliminate redundant and inconsistent administrative requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21820
NPRM Comment Period End	08/10/87	
Interim Final Rule	03/00/88	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Robert M. McNamara, Grants/Cooperative Agreement Specialist, Department of Commerce, General Administration, Room H6204, 14th Street and Constitution Ave., NW, Washington, DC 20230, 202 377-5817

RIN: 0605-AA03

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Prerule Stage

226. ● EXPORT TRADE CERTIFICATES OF REVIEW

Significance: Agency Priority

Legal Authority: 15 USC 4020

CFR Citation: 15 CFR 325

Legal Deadline: None.

Abstract: Changes in 15 CFR Part 325 may become necessary as a result of pending trade legislation.

Timetable:

Action	Date	FR Cite
NPRM	12/21/82	47 FR 56972
Interim Final Rule	03/11/83	48 FR 10596
Final Action	01/08/85	50 FR 1804
Begin Review	10/00/87	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: Local, State, Federal

Agency Contact: George Muller, Deputy Director, Office of Export Trading Company Affairs, Department of Commerce, International Trade Administration, 202 377-5131

RIN: 0625-AA27

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Proposed Rule Stage

227. GENERAL REGULATIONS GOVERNING FOREIGN TRADE ZONES IN THE UNITED STATES, WITH RULES OF PROCEDURES

Legal Authority: 19 USC 81a et seq Foreign-Trade Zones Act of 1934

CFR Citation: 15 CFR 400

Legal Deadline: None.

Abstract: Revision of the regulation is needed to administer the Foreign-Trade Zones Act of 1934, as amended, to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States. At the time the ANPRM was published the emphasis was on changing the rules to provide improved guidance to the public on procedures and criteria followed in making decisions concerning special-purpose subzones and operations detrimental to the public interest. Since that time, it has been decided to propose revisions to the entire 15 CFR 400 in order to update the language and conform it to current CFR format.

Timetable:

Action	Date	FR Cite
ANPRM	10/14/80	45 FR 67681
ANPRM Comment Period End	12/15/80	

Next Action Undetermined

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: William D. Hunter, Acting Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, Room 3622, Pennsylvania Ave. and 14th St., NW, Washington, DC 20230, 202 377-1411

RIN: 0625-AA04

DOC—ITA

Proposed Rule Stage

226. EFFECT OF IMPORTED ARTICLES ON THE NATIONAL SECURITY

Legal Authority: 19 USC 1862 Trade Expansion Act of 1962, as amended; 5 USC App. Reorganization Plan No. 3 of 1979; EO 12188

CFR Citation: 15 CFR 359

Legal Deadline: None.

Abstract: Section 359.10(a) of the existing regulation requires that a report of an investigation be organized into several sections containing classified and unclassified information. Paragraph (c) of that section requires that the report (excluding confidential material) be published in the Federal Register. Paragraph (a) will be amended to delete the report organization requirement and paragraph (b) will be amended to permit publication of either the full report or a summary thereof. It is impractical, time consuming, and not cost effective to organize the report, and publish the full report, as now required by the regulation. Section 359.10(c) will also be amended to provide that a copy of the report will be available to the public from the Publications Distribution Office of the Department rather than at ITA's Freedom of Information Records Inspection Facility.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: None

Agency Contact: Edward Levy, 232 Program Manager, Department of Commerce, International Trade Administration, Strategic Analysis Division, Washington, DC 20230, 202 377-2322

RIN: 0625-AA15

229. SANCTIONS FOR VIOLATION OF ANTIDUMPING AND COUNTERVAILING DUTY PROTECTIVE ORDERS

Legal Authority: 19 USC 1677

CFR Citation: 19 CFR 353; 19 CFR 354, (added); 19 CFR 355

Legal Deadline: None.

Abstract: The ITA will add a new part 354 to the antidumping (part 353) and countervailing duty (part 355) regulations that establishes procedures for imposing sanctions against an individual, firm or other entity that violates the terms of an administrative protective order issued under 19 U.S.C. 1677. We will make conforming changes in parts 353 and 355.

Timetable:

Action	Date	FR Cite
NPRM	07/06/87	52 FR 25246
NPRM Comment Period End	09/04/87	
Final Action	10/20/87	

Small Entity: No

Agency Contact: William D. Hunter, Acting Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, 14th and Pennsylvania Ave., NW, Room 3622, Washington, DC 20230, 202 377-1411

RIN: 0625-AA24

230. ANNUAL WATCH QUOTA ALLOCATIONS

Legal Authority: PL 97-466, Sec 110 (1983); 19 USC 1202 general headnote 3(a)

CFR Citation: 15 CFR 303

Legal Deadline: None.

Abstract: The regulation allocates watch quotas on an annual basis, in compliance with the requirements of the statute and regulations. Program issues allocations no later than March 1 of each year, under section 303.6(b) of the regulations.

Timetable:

Action	Date	FR Cite
Proposed allocation of watches	10/31/87	

Small Entity: No

Agency Contact: Frank Creel, Director, Statutory Import Programs Staff, Department of Commerce, International Trade Administration, 14th and Pennsylvania Ave., NW, Rm. 1523, Washington, DC 20230, 202 377-1660

RIN: 0625-AA25

231. ANTIDUMPING AND COUNTERVAILING DUTIES; MODIFICATIONS

Legal Authority: 19 USC 1303; 19 USC 1516a; 19 USC 1671 et seq

CFR Citation: 19 CFR 353; 19 CFR 355

Legal Deadline: None.

Abstract: As appropriate, the ITA will amend the current regulations in effect at the time of enactment of modifications in the statutory authority for imposing antidumping and countervailing duties, if such legislation is enacted in 1987 or 1988.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: William D. Hunter, Acting Deputy Chief Counsel for Import Administration, Department of Commerce, International Trade Administration, 14th and Pennsylvania Ave., NW, Washington, DC 20230, 202 377-1411

RIN: 0625-AA26

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Final Rule Stage

232. ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES

Legal Authority: 19 USC 2341 et seq

CFR Citation: 15 CFR 320

Legal Deadline: None.

Abstract: This regulation will implement the responsibilities transferred from EDA to ITA concerning the provision of adjustment assistance to firms and industries adversely affected by imports. The proposed rule will reflect amendments to the authorizing legislation and make procedural changes required because of the transfer of the program to ITA.

DOC—ITA

Final Rule Stage

Proposed rules were published in the Federal Register (November 1984).

Timetable:

Action	Date	FR Cite
NPRM	11/13/84	49 FR 44903
NPRM Comment Period End	12/13/84	

Next Action Undetermined

Small Entity: Not Applicable

Additional Information: Neither an RIA nor an RFA is required or will be prepared. This rule is exempt from the requirements of the Regulatory Flexibility Act, since the Department is not required by Section 553 of Title 5 of the United States Code or any other law to publish general notice of proposed rulemaking for regulations implementing the adjustment assistance program (see Section 553(a)(2) concerning loans and grants). Revision of current regulations is in departmental process.

Affected Sectors: Multiple

Government Levels Affected: Federal

Analysis: See Additional Information

Agency Contact: John F. Mizroch, Deputy Assistant Secretary, Department of Commerce, International Trade Administration, Office of Trade Adjustment Assistance, Washington, DC 20230, 202 377-0150

RIN: 0625-AA05

233. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1303; 19 USC 1671 et seq

CFR Citation: 19 CFR 353; 19 CFR 355

Legal Deadline: None.

Abstract: Current antidumping and countervailing duty regulations will be revised to reflect recent statutory changes and current administrative practices and to improve the clarity of the regulations. The revisions will improve administrative efficiency in enforcement of the antidumping and countervailing duty laws. The revisions will replace the entire text of 19 CFR Parts 353 and 355.

Timetable:

Action	Date	FR Cite
Final Action	12/31/87	
AD Regulations		
NPRM 08/13/86 (51 FR 29046)		
NPRM Comment Period End 09/30/86		
CVD Regulations		
NPRM 06/10/85 (50 FR 29225)		
NPRM Comment Period End 09/09/85 (50 FR 32088)		

Small Entity: No

Affected Sectors: Multiple

Agency Contact: William D. Hunter, Acting Deputy Chief Counsel for Import Administration, Acting, Department of Commerce, International Trade Administration, Room 3622, Pennsylvania Ave. & 14th St., NW, Washington, DC 20230, 202 377-1411

RIN: 0625-AA08

234. REVISIONS TO SHORT SUPPLY REGULATIONS

Legal Authority: 50 USC app 2401 et seq; PL 99-64; 42 USC app 2401 et seq; 10 USC 7420 et seq; 43 USC 1354; 30 USC 185; EO 11912; EO 12214; EO 12002

CFR Citation: 15 CFR 371; 15 CFR 377; 15 CFR 399

Legal Deadline: None.

Abstract: On July 12, 1985, the Export Administration Amendments Act of 1985 (PL 99-64) extended and amended the Export Administration Act of 1979 (50 USC app 2401, et seq.)(EAA). Certain changes were made to the Short Supply provisions of Section 7 of the EAA. Accordingly, revision of the Short Supply provisions (15 CFR 377) and related licensing requirements (15 CFR 371 and 399) of the Export Administration Regulations (15 CFR 368-399) is necessary. An interim final rule was issued which included (1) elimination of the validated licensing requirement for exports of refined petroleum products so as to permit their export with certain restrictions under a general license; (2) a new definition of "crude oil" for purposes of the regulation; and (3) certain technical and housekeeping changes. There are no costs associated with this action which would promote the export of decontrolled products.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/09/85	50 FR 41131
Final Action	12/00/87	

Small Entity: Yes

Agency Contact: Rodney A. Joseph, Short Supply Program Manager, Department of Commerce, International Trade Administration, Office of Industrial Resource Administration, Room 3876, Washington, DC 20236, 202 377-3984

RIN: 0625-AA21

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Completed Actions

235. ANTIDUMPING AND COUNTERVAILING DUTIES - DE MINIMIS

Legal Authority: 19 USC 1303; 19 USC 1671 et seq

CFR Citation: 19 CFR 353; 19 CFR 355

Legal Deadline: None.

Abstract: The ITA will amend the antidumping and countervailing duty regulations to provide that de minimis margins of dumping and de minimis subsidies shall be disregarded. The change is required by a recent decision of the Court of International Trade, which overturned the ITA's longstanding administrative practice regarding de minimis.

Timetable:

Action	Date	FR Cite
NPRM	10/06/86	51 FR 35529
Final Action	08/17/87	52 FR 30660
Final Action Effective	09/16/87	

Small Entity: No

Agency Contact: William D. Hunter, Acting Deputy Chief Counsel for Import Administration, Department of

DOC—ITA

Completed Actions

Commerce, International Trade Administration, 14th and Pennsylvania Ave., NW, Room 3622, Washington, DC 20230, 202 377-1411

RIN: 0625-AA23

DEPARTMENT OF COMMERCE (DOC)
National Bureau of Standards (NBS)

Proposed Rule Stage

236. FIPS FOR INFORMATION RESOURCE DICTIONARY SYSTEM (IRDS)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard will adopt an American National Standard (now draft proposed) which will promote portability of information resources. The Information Resource Dictionary System is a software system for recording, storing, and processing descriptions of an organization's significant data. Use of the standard will improve identification of data that can be shared within an organization, reduce unnecessary development of computer programs, and increase portability of staff skills and training.

Timetable:

Action	Date	FR Cite
NPRM	08/13/85	50 FR 32610
NPRM Comment Period End	11/12/85	50 FR 32610

Next Action Undetermined

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA36

237. FIPS FOR CODES FOR THE IDENTIFICATION OF AQUIFER NAMES AND GEOLOGIC UNITS

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 15 CFR 6

Legal Deadline: None.

Abstract: This standard will adopt for Federal government use codes for aquifer names and geologic units developed by the Department of the Interior under its Memorandum of Understanding with NBS to develop and maintain earth science data element and representation standards. The standard will facilitate the interchange of information among Federal departments and agencies.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA44

238. FIPS FOR C PROGRAMMING LANGUAGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard will adopt an American National Standard (currently draft proposed standard) which defines the syntax of the C programming language and the semantics for its interpretation. The standard will be used by implementors as the reference authority in developing compilers, interpreters or forms of high level language processors and by other computer professionals who need to know the precise syntactic and semantic rules of the standard. Use of this standard will promote the portability of programs between different systems, and will enable organizations to more fully utilize staff training and skills.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	52 FR 851
NPRM Comment Period End	04/09/87	52 FR 851

Next Action Undetermined

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA48

239. FIPS FOR STANDARD GENERALIZED MARKUP LANGUAGE (SGML)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR none

Legal Deadline: None.

Abstract: This standard will adopt an International Standard ISO/DIS 8879 (currently a draft standard) which standardizes the application of generic coding and generalized markup concepts for documents that are processed by text processing and word processing systems. It provides a coherent and unambiguous syntax for describing what a user chooses to identify within a document. Use of this standard will facilitate the interchange of documents among systems with differing text processing languages and the processing of documents by more than one application, when applications use the same text processing language.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

DOC—NBS

Proposed Rule Stage

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA50

240. FIPS FOR RECORDED MAGNETIC TAPE CARTRIDGE FOR INFORMATION INTERCHANGE; 4-TRACK, SERIAL, 0.250 IN (6.30 MM), 6400 BPI (252 BPMM) INVERTED MODIFIED FREQUENCY MODULATION ENCODED

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR none

Legal Deadline: None.

Abstract: This standard will adopt an American National Standard (currently draft proposed) that provides the format and recording requirements for magnetic tape cartridges. The standard defines the requirements and supporting test methods needed to ensure data interchange between information systems, communications systems, and associated equipment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA51

241. FIPS FOR SERIAL RECORDED MAGNETIC TAPE CARTRIDGE FOR INFORMATION INTERCHANGE; FOUR AND FIVE TRACK, 0.250 IN (6.30 MM) 8000 BPI (315 BPMM) STREAMING MODE GROUP CODE RECORDING

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR none

Legal Deadline: None.

Abstract: This standard will adopt an American National Standard (currently draft proposed) that provides the format and recording requirements for magnetic tape cartridges. The standard defines the requirements and supporting test methods needed to ensure data interchange between information systems, communications systems, and associated equipment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA52

242. FIPS FOR ONE-HALF INCH MAGNETIC TAPE INTERCHANGE USING A SELF LOADING CARTRIDGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR none

Legal Deadline: None.

Abstract: This standard will adopt an American National Standard (ANSI X3.85-1981) which provides the requirements and test methods necessary to ensure physical interchange of a self loading cartridge to be used with 1/2 inch wide magnetic tape.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA53

243. FIPS FOR RECORDED FORMATS FOR ONE AND TWO-SIDED 5.25 INCH (130 MM) AND 3.5 IN (90 MM) FLEXIBLE DISK CARTRIDGES

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR none

Legal Deadline: None.

Abstract: This standard will adopt an American National Standard (currently draft proposed) that specifies the track layout, track format, and other characteristics of the recorded signal. This is one part of a set of functional specifications needed to ensure interchangeability of data between information processing systems by use of a physically removable medium.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA54

244. FIPS FOR RECORDED MAGNETIC TAPE AND CARTRIDGE FOR INFORMATION INTERCHANGE; 18 TRACK, PARALLEL, 12.65 MM (1/2 IN), 1491 CPMM (37871 CPI) GROUP-CODED RECORDING

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR none

Legal Deadline: None.

Abstract: This standard will adopt an American National Standard (currently draft proposed) that provides requirements for a tape cartridge to be used for information interchange among information processing systems, communications systems, and associated equipment. Used with associated standards for unrecorded media, tape labels and file structures, this standard will support data interchange between different systems.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of

DOC—NBS — **Proposed Rule Stage**

Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA55

245. FIPS FOR DEVICE LEVEL INTERFACE FOR STREAMING CARTRIDGE AND CASSETTE TAPE DRIVES

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard will adopt an American National Standard (ANSI X3.146-1986) that specifies the interface between streaming cartridge and cassette tape drives, and small computer systems. This standard will facilitate the acquisition of cartridge and cassette tape drives made by different manufacturers, expand the Federal Government's sources of supply, and reduce costs of acquisition.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: Undetermined

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA57

246. FIPS FOR INTERFACES BETWEEN FLEXIBLE DISK CARTRIDGE DRIVES AND THEIR HOST CONTROLLERS

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard will adopt an American National Standard (ANSI X3.80-1981) that specifies the interface between flexible disk drives and the host system. This standard will facilitate the acquisition of flexible disk drives made by different manufacturers, expand the Federal government's sources of supply, and reduce costs of acquisition.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: Undetermined

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA58

247. REVISIONS TO FIPS 60, 61, 62, 63, 97, AND 111, COMPUTER SYSTEM INPUT/OUTPUT (I/O) INTERFACE STANDARDS

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: Revisions to the family of input/output (I/O) interface standards will be proposed to reflect changes in computer technology and to facilitate the interconnection of peripherals to personal and minicomputers. New applicability, implementation and waiver provisions will be proposed to existing interface standards to be effective after January 1, 1990. A transition plan to cover the period from January 1988 to January 1990 will also be proposed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: Undetermined

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA61

249. ● FIPS FOR ELECTRONIC BUSINESS DATA EXCHANGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: A group of voluntary industry standards that will facilitate computer-to-computer interchange of procurement data will be adopted as FIPS. Developed by Accredited Standards Committee X12, the standards will provide standard data elements, formats, and contents of electronic messages containing procurement-related information. These standards will reduce paperwork, improve productivity, and enable more effective information and inventory management.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA62

248. FIPS FOR GOVERNMENT OPEN SYSTEMS INTERCONNECTION PROFILE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard will adopt a procurement specification developed by the Government Open Systems Interconnection Users Group. The specification will enable the Federal government to acquire computer network systems that conform to national and international standards for OSI. The specification addresses needs to acquire multivendor systems using available or soon-to-be-available standard products.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

DOC—NBS — **Proposed Rule Stage**

RIN: 0693-AA62

DEPARTMENT OF COMMERCE (DOC)
National Bureau of Standards (NBS) — **Final Rule Stage**

250. FIPS FOR BASIC PROGRAMMING LANGUAGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard will adopt an American National Standard (currently draft proposed standard) which defines the syntax of the BASIC programming language and the semantics for its interpretation. The standard will be used by implementors as the reference authority in developing compilers, interpreters or forms of high level language processors and by other computer professionals who need to know the precise syntactic and semantic rules of the standard. Use of this standard will promote the portability of programs between different systems, and will enable organizations to more fully utilize staff training and skills.

Timetable:

Action	Date	FR Cite
NPRM	01/13/86	51 FR 1418
NPRM Comment Period End	04/14/86	51 FR 1418
Final Action	12/00/87	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA35

251. REVISION TO FIPS 100, INTERFACE BETWEEN DATA TERMINAL EQUIPMENT (DTE) AND DATA CIRCUIT-TERMINATING EQUIPMENT (DCE) FOR OPERATION WITH PACKET-SWITCHED DATA COMMUNICATIONS NETWORKS

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This revision will make the standard consistent with minor changes that were made to Recommendation X.25 by the Consultative Committee for International Telegraph and Telephone in 1984. This is an international standard for data processing equipment, services and telecommunications equipment using public packet switched data communications networks.

Timetable:

Action	Date	FR Cite
NPRM	07/10/86	51 FR 25088
NPRM Comment Period End	10/08/86	51 FR 25088
Final Action	06/00/88	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA39

252. REVISION TO FIPS 29-1, INTERPRETATION PROCEDURES FOR FEDERAL INFORMATION PROCESSING STANDARD PROGRAMMING LANGUAGES

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This revision to the interpretation procedures for Federal Information Processing Standard programming languages will provide for more flexibility and more timely response to requests for interpretations by adding to the methods that are available for developing interpretations.

Timetable:

Action	Date	FR Cite
NPRM	12/10/86	51 FR 44505
NPRM Comment Period End	03/10/87	51 FR 44505
Final Action	12/00/87	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA47

253. FIPS FOR PORTABLE OPERATING SYSTEM ENVIRONMENTS (POSIX**)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR none

Legal Deadline: None.

Abstract: This standard will adopt the Institute of Electrical and Electronics Engineers (IEEE) Standard for Portable Operating System for Computer Environments (IEEE 1003.1/POSIX**). This standard will facilitate the interchange of computer programs between UNIX operating system derived environments and make it possible to increase the productivity of staff members who develop and document computer programs for these systems.

* UNIX is a registered trademark of AT&T.

**POSIX is a trademark of the IEEE.

Timetable:

Action	Date	FR Cite
NPRM	08/29/86	51 FR 30896
NPRM Comment Period End	11/28/86	51 FR 30896
Final Action	06/00/88	

Small Entity: No

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Final Rule Stage

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA49

254. REVIEW OF FIPS 46, DATA ENCRYPTION STANDARD

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: FIPS 46, Data Encryption Standard (DES), will be reviewed to assess its adequacy in protecting unclassified computer information. FIPS 46 was approved for Federal government use in 1977 and reaffirmed in 1983. The DES specifies an algorithm to be implemented in electronic hardware devices and used for the cryptographic protection of computer data.

Timetable:

Action	Date	FR Cite
NPRM	03/06/87	52 FR 7006
NPRM Comment Period End	06/04/87	52 FR 7006
Final Action	12/00/87	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA60

DEPARTMENT OF COMMERCE (DOC)
National Bureau of Standards (NBS)

Completed Actions

255. FIPS FOR TRANSPORT PROTOCOL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard provides for reliable, transparent transfer of data between two heterogeneous or homogeneous computer systems. The standard is based on an international consensus and is compatible with the International Organization for Standardization (ISO) document ISO/TC97/SC 16 N 1169, class 2 and class 4. This is one of a family of computer network protocol standards which will make possible computer-to-computer communication of Federal ADP systems. It will enable Federal agencies to select equipment based on cost and performance considerations and to interconnect equipment of different manufacturers.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/81	46 FR 14913
ANPRM Comment Period End	05/03/81	46 FR 14913
NPRM	05/20/83	48 FR 22770
NPRM Comment Period End	08/18/83	48 FR 22770
Standard will be part of FIPS for GOSIP, RIN 0693-AA61; Not necessary to process as separate FIPS	08/27/87	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 975-2833

RIN: 0693-AA05

256. FIPS FOR SESSION PROTOCOL STANDARD

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard will provide for reliable connections between users on a computer network. It is one of a family of computer network protocol standards which will make possible computer-to-computer communication of Federal ADP systems. It will enable Federal Government agencies to select equipment based on cost and performance considerations and to interconnect equipment of different manufacturers.

Timetable:

Action	Date	FR Cite
Standard will be part of FIPS for GOSIP, RIN 0693-AA61; NOT necessary to process as separate FIPS.	08/27/87	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 975-2833

RIN: 0693-AA12

257. FIPS FOR MESSAGE TRANSFER PROTOCOL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard will provide for reliable exchange of messages through Federal Government computer networks. It is one of a family of computer network protocol standards which will make possible computer-to-computer communication of Federal ADP systems. It will enable Federal agencies to select equipment based on cost and performance considerations and to interconnect equipment of different manufacturers.

Timetable:

Action	Date	FR Cite
Standard will be part of FIPS for GOSIP, RIN 0693-AA61; NOT necessary to process as separate FIPS.	08/27/87	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA32

DOC—NBS

Completed Actions

259. FIPS PUB 129, OPTICAL CHARACTER RECOGNITION (OCR) — DOT MATRIX CHARACTER SETS FOR OCR-MA

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard adopts an American National Standard (ANSI X3.111-1986) which provides the description, scope, and application rules for a character set that is generated by dot matrix printers and that closely matches the OCR-A character set. Use of this standard will reduce the cost of data input into ADP systems which use OCR equipment.

Timetable:

Action	Date	FR Cite
NPRM	11/08/85	50 FR 46474
NPRM Comment Period End	02/06/86	50 FR 46474
Final Action	05/06/87	52 FR 16887
Final Action Effective	10/30/87	52 FR 16887

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA33

260. FIPS PUB 126, DATABASE LANGUAGE NDL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard adopts an American National Standard (ANSI X3.133-1986) that defines the structure and operations of a network data model and specifies data definition and data manipulation language interfaces to database systems supporting the network model. Use of this standard will enable database definition and application modules to be interchanged between different systems, and will enable staff training and skills to be more fully utilized.

Timetable:

Action	Date	FR Cite
NPRM	04/21/86	51 FR 13542
NPRM Comment Period End	07/21/86	51 FR 13542
Final Action	03/10/87	52 FR 7290
Final Action Effective	08/03/87	52 FR 7290

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA34

261. FIPS FOR INTERNETWORK PROTOCOL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard will provide the specifications for network interconnection via procedures for the connectionless transmission of data and control information from one network entity to another. It is based on the work of the International Organization for Standardization and is one of a family of computer network protocol standards which will make possible computer-to-computer communications of Federal ADP systems. It will enable organizations to select equipment based on cost and performance considerations and to interconnect equipment of different manufacturers.

258. FIPS PUB 127, DATABASE LANGUAGE SQL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard adopts an American National Standard (ANSI X3.135-1986) that defines the structure and operations of a relational data model and specifies data definition and data manipulation language interfaces to database systems supporting the relational model. Use of this standard will enable database definition and application modules to be interchanged between different systems, and will enable staff training and skills to be more fully utilized.

Timetable:

Action	Date	FR Cite
NPRM	04/21/86	51 FR 13542
NPRM Comment Period End	07/21/86	51 FR 13542
Final Action	03/10/87	52 FR 7290
Final Action Effective	08/03/87	52 FR 7290
Standard will be part of FIPS for GOSIP, RIN 0693-AA61; NOT necessary to process as separate FIPS.	08/27/87	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 975-2833

RIN: 0693-AA17

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Timetable:

Action	Date	FR Cite
Standard will be part of FIPS for GOSIP; RIN 0693-AA61; NOT necessary to process as separate FIPS.	08/27/87	

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA40

262. FIPS PUB 131, SMALL COMPUTER SYSTEM INTERFACE (SCSI)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard adopts an American National Standard (ANSI X3.131-1986) which defines the physical, electrical, and mechanical specifications for an 8-bit parallel bus, suitable for connecting physically small computers to each other and to mass storage peripherals. This standard is widely used in industry, and will enable Federal users to reduce costs and improve reutilization of mass storage components for small systems.

Timetable:

Action	Date	FR Cite
NPRM	08/07/86	51 FR 28402
NPRM Comment Period End	11/05/86	51 FR 28402
Final Action	07/16/87	52 FR 26715
Final Action Effective	12/16/87	52 FR 26715

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA41

263. FIPS PUB 130, INTELLIGENT PERIPHERAL INTERFACE (IPI)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard adopts American National Standards (ANSI X3.129-1986, X3.130-1986, X3.132-1987 and X3.147-1987) which provide for the interconnection of high performance computer systems and mass storage components for large and medium scale computers. This standard will be an alternative to FIPS 60, I/O Channel Interface, and will enable Federal agencies to reduce the cost of computer system components through improved competition.

Timetable:

Action	Date	FR Cite
NPRM	08/07/86	51 FR 28402
NPRM Comment Period End	11/05/86	51 FR 28402
Final Action	07/16/87	52 FR 26715
Final Action Effective	12/16/87	52 FR 26715

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA42

264. FIPS PUB 128, COMPUTER GRAPHICS METAFILE (CGM)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: This standard adopts an American National Standard (ANSI X3.122-1986) that specifies a file format suitable for the description, storage, and communication of graphical information in a device independent manner. Use of this standard will facilitate the transfer of graphical information between different graphical software systems, different graphical devices, and different computer installations, and will reduce time in recomputing and regenerating graphical information.

Timetable:

Action	Date	FR Cite
NPRM	05/15/86	51 FR 17788
NPRM Comment Period End	08/13/86	51 FR 17788
Final Action	03/16/87	52 FR 8093
Final Action Effective	08/10/87	52 FR 8093

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA45

265. FIPS PUB 5-2, CODES FOR THE IDENTIFICATION OF THE STATES, THE DISTRICT OF COLUMBIA AND THE OUTLYING AREAS OF THE UNITED STATES, AND ASSOCIATED AREAS

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 15 CFR 6

Legal Deadline: None.

Abstract: This revision provides two-letter alphabetic codes and two-digit numeric codes for each State and the District of Columbia. These codes, which are used for interchange of data between Federal agencies and with non-Federal organizations, are unchanged from FIPS 5-1. In addition, alphabetic and numeric codes will be provided for outlying areas of the United States to be consistent with these codes provided in FIPS 10-3, Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions, and FIPS 104-1, American National Standard Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange.

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Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	08/07/86	51 FR 28406
NPRM Comment Period End	11/05/86	51 FR 28406
Final Action	05/28/87	52 FR 19904
Final Action Effective	05/28/87	52 FR 19904

Small Entity: No

Affected Sectors: 357 Computer and Office Equipment

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 975-2833

RIN: 0693-AA56

DEPARTMENT OF COMMERCE (DOC)

Prerule Stage

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

266. MARINE FISHERY USER FEES

Significance: Regulatory Program

Legal Authority: Not Yet Determined

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: A marine fishery user fee system will provide a substantial and stable source of revenue to partially offset Federal fishery expenditures and information needed for effective fishery management. Fees would be collected from the sale of marine fish conservation permits and stamps, and from an assessment on landing or delivery of fish for commercial purposes. Revenues would be shared with the states for marine fishery conservation activities. Administration costs are estimated to be $7,500,000 annually, with net Federal revenues of approximately $40 million.

Timetable:

Action	Date	FR Cite
Preparatory discussion with Postal Service	01/00/87	
Preparatory discussion with Congressional staff	02/00/87	
Preparatory introduction of legislation	04/00/87	

Next Action Undetermined

Small Entity: Undetermined

Public Compliance Cost: Initial Cost: $7,500,000; Yearly Recurring Cost: $7,500,000; Base Year for Dollar Estimates: 1986

Affected Sectors: 203 Canned, Frozen, and Preserved Fruits, Vegetables, and Food Specialties

Government Levels Affected: State, Federal

Agency Contact: John T. Everett, Chief, Program Evaluation and Coordination Division, Department of Commerce, National Oceanic and Atmospheric Administration, Management and Budget Staff, NMFS, Washington, DC 20235, 202 673-5464

RIN: 0648-AB93

267. PERFORMANCE STANDARDS FOR TUNA SKIPPERS

Legal Authority: 16 USC 1361 to 1407 Marine Mammal Protection Act of 1972

CFR Citation: 50 CFR 216.24

Legal Deadline: None.

Abstract: During 1986 the overall annual quota for allowable incidental mortality of porpoise in the eastern tropical Pacific was reached in October and the U.S. tuna purse seine fleet was prohibited from fishing for tuna associated with porpoise. Industry representatives asserted that the quota was reached because a small fraction of vessel operators had exceptionally high kills. The industry representatives requested NMFS to develop sanctions to use against the certificates held by the offending operators to prevent their actions from penalizing the entire industry.

The NMFS does not now have porpoise mortality standards to serve as the basis for any permit action. The purpose of the proposed rule will be to establish appropriate standards which will improve the U.S. fleet's overall porpoise safety performance and identify individual poor performers for remedial action or, if necessary, elimination from the fishery.

Timetable:

Action	Date	FR Cite
Review of Options Paper on Alternative Porpoise Mortality Standards	00/00/00	

Small Entity: Undetermined

Agency Contact: Kenneth R. Hollingshead, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources and, Habitat Programs, NMFS, Washington, DC 20235, 202 673-5350

RIN: 0648-AC07

268. TAKING OF MARINE MAMMALS INCIDENTAL TO UNDERWATER TESTS BY THE DEPARTMENT OF THE NAVY

Legal Authority: 16 USC 1361 to 1497 Marine Mammal Protection Act of 1972

CFR Citation: 50 CFR 228

Legal Deadline: None.

Abstract: Based on a request from the Department of the Navy, NMFS is considering regulations that would allow a small number of harbor seals and California sea lions to be taken incidental to underwater explosive tests in San Francisco Bay. Section 101(a)(5) of the Marine Mammal Protection Act allows the taking of small numbers of Marine mammals incidental to specified activities provided that certain findings can be made and regulations are established that set forth permissible methods of taking and requirements for monitoring and reporting.

DOC—NOAA — Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	11/01/87	
ANPRM Comment Period End	12/01/87	
NPRM	03/01/88	
NPRM Comment Period End	04/01/88	
Final Action	06/01/88	
Final Action Effective	07/01/88	

Small Entity: No

Agency Contact: Nancy Foster, Director, Office of Protected Resources, and Habitat Programs, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW, Washington, DC 20235, 202 673-5350

RIN: 0648-AC08

269. ● AMENDMENT 3 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and; Management Act

CFR Citation: 50 CFR 663

Legal Deadline: Statutory. 110 days after the Amendment is submitted by the Pacific Fishery Management Council.

Abstract: Amendment 3 would address changes in long-term sablefish management: (1) incidental catch by trawls; (2) allocation between fixed and mobile gear; and (3) expanded inseason management authority to reduce landings. Amendment 3 would also address: (1) procedures for establishing allowable incidental catch of groundfish in other fisheries; (2) a framework for reviewing and conforming Federal management measures to changes in California State management of the set net fishery south of 38 degrees N. Latitude; (3) changes in Federal fishery reporting requirements; (4) weather related vessel safety; and (5) review of groundfish habitat issues.

Timetable:

Action	Date	FR Cite
ANPRM	12/21/87	
NPRM	01/05/88	
NPRM Comment Period End	03/05/88	
Final Action	04/08/88	
Final Action Effective	05/09/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, F/NWR, 7600 Sand Point Way, Seattle, WA 98115, 213 514-6190

RIN: 0648-AC18

270. ● AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq; Magnuson Fishery Conservation and Management Act

CFR Citation: 50 CFR 652

Legal Deadline: Statutory. 110 days after the Amendment is submitted by the Mid-Atlantic Fishery Management Council.

Abstract: Amendment 8 would address current regulatory restraints on industry designed to conserve the resource. The FMP objectives would be modified to promote economic stability, simplify regulations, and to allow more operational flexibility for the industry. Long-term management alternatives to be considered include an Individual Transferable Quota System and other limited effort vessel allocation schemes.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/88	
NPRM	09/01/88	
NPRM Comment Period End	10/31/88	
Final Action	12/04/88	
Final Action Effective	01/04/89	

Small Entity: Yes

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930-3799, 617 281-3600

RIN: 0648-AC19

DEPARTMENT OF COMMERCE (DOC)

Proposed Rule Stage

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

271. PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF & CERTAIN OTHER PROCESSED FOOD PRODUCTS: U.S. STANDARDS FOR GRADES OF FROZEN FISH BLOCKS & PRODUCTS MADE THEREFROM ETC

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 264A; 50 CFR 264B; 50 CFR 264C; 50 CFR 264D; 50 CFR 264E; 50 CFR 264F; 50 CFR 264G

Legal Deadline: None.

Abstract: The revised rule will expand the coverage of established voluntary standards for grades of fishery products to include new products made from fish blocks. The standards will take into account new technology and equipment. These standards will be used in a voluntary program of fishery products inspection and certification by the NMFS. Industry has shown a high level of interest and support for the revisions. The timetable for this action is very tentative. Further research will be needed before the rule is published.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

DOC—NOAA — Proposed Rule Stage

Affected Sectors: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: State, Federal

Analysis: See Additional Information

Agency Contact: Rita A. Creitz, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Trade and Industry Services, Inspection Services Division, Washington, DC 20235, 202 673-5875

RIN: 0648-AA46

272. IMPLEMENTATION OF FISHERY MANAGEMENT RECOMMENDATIONS - REGIONAL FISHERY MANAGEMENT COUNCILS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 601

Legal Deadline: None.

Abstract: Revision of regulatory guidance with regard to the operations of the Regional Fishery Management Councils is being considered to conform with new legislation and administration regulatory policy. These guidelines will not have a direct regulatory impact on the fishing industry or entities participating in the industry.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	01/00/88	
Final Action	03/00/88	
Final Action Effective	04/00/88	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: None

Government Levels Affected: State, Federal

Agency Contact: Richard H. Schaefer, Acting Director, Office of Fisheries, Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, Washington, DC 20235, 202 673-5263

RIN: 0648-AB09

273. DEVELOPMENT OF A FISHERY MANAGEMENT PLAN FOR SUMMER FLOUNDER

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 653, (Reserved)

Legal Deadline: Statutory. 110 days after the amendment is submitted by the Fishery Management Council.

Abstract: Summer flounder is seasonably vulnerable to very large and varied commercial and recreational fisheries. Landings have declined in recent years and there is concern that overfishing may occur. The summer flounder crosses Council and Regional boundaries necessitating close coordination between the constituent agencies. The long-term benefits of higher production and revenue to the fishermen and processors are expected to outweigh any short-term limitations on catches in order to rebuild the stocks. Rebuilding the stocks to the maximum level, the efficiency of the fleet will improve as catches per unit of effort will correspondingly rise.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
NPRM Comment Period End	02/00/88	
Final Action	04/00/88	
Final Action Effective	05/00/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 14 Elm St. FNER, Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB30

274. ENDANGERED FISH OR WILDLIFE; PERMITS FOR THE INCIDENTAL TAKING OF ENDANGERED MARINE SPECIES

Legal Authority: 16 USC 1531 et seq Endangered Species Act of 1973

CFR Citation: 50 CFR 222

Legal Deadline: None.

Abstract: The proposed regulations implement Section 10(a)(1)(B) of the Endangered Species Act, as amended (ESA). The proposal provides, under limited circumstances, for issuance of permits allowing the incidental taking of endangered species. The proposal applies to certain Federal permit or license holders and to private entities or State local governments whose actions are not otherwise subject to Federal involvement or control. Prior to the 1982 amendments to the ESA, the taking of endangered species was prohibited except for scientific research or to enhance the propagation or survival of the species. Permits issued under the proposed regulations would allow permit holders to conduct their activities without risk of prosecution for the incidental take of species authorized by such permits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	

Small Entity: Undetermined

Additional Information: Potential cost to applicants is estimated at $420. Cost per applicant is estimated at $210. Each applicant will be required to submit a conservation plan as part of the permit process. NEPA, E.O. 12291 and RFA determinations have not been undertaken.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Local, State, Federal

Agency Contact: Patricia A. Carter, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, and Habitat Programs, NMFS, Washington, DC 20235, 202 673-5351

RIN: 0648-AB47

275. AMENDMENT NO. 5 TO THE FISHERY MANAGEMENT PLAN FOR THE SPINY LOBSTER FISHERIES OF THE WESTERN PACIFIC REGION

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 681

Legal Deadline: Statutory. 110 days after the amendment is submitted by the Fishery Management Council.

Abstract: This Amendment will (1) incorporate management measures for Slipper Lobster, (2) require the use of escape vents in Lobster pots, (3) require release of egg-bearing females, (4) revise the daily catch report, (5) revise the permit application form, (6) eliminate the annual processor report, (7) revise the trip processing report, and (8) change the name to the crustacean FMP.

Timetable:

Action	Date	FR Cite
NPRM	07/27/87	52 FR 28028
NPRM Comment Period End	09/04/87	
Final Action	10/09/87	
Final Action Effective	11/11/87	

Small Entity: No

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 S. Ferry Street, Terminal Island, CA 90731, 213 514-6196

RIN: 0648-AB81

276. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC SEA SCALLOPS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 650

Legal Deadline: Statutory. 110 days after the amendment is submitted by the Fishery Management Council.

Abstract: This amendment will revise the management program by modifying the meat count measure to include a provision for seasonal changes reflecting fluctuations in the size of scallops.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	11/14/87	
Final Action	12/19/87	
Final Action Effective	01/18/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB83

277. RESUBMITTED PORTION OF AMENDMENT 1 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 649

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: The revised portion of the amendment will exempt Mid-Atlantic black sea bass fishing gear from the escape vent requirement in a specified fishing area east and south of Barnegat, New Jersey.

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	
NPRM Comment Period End	10/06/87	
Final Action	11/20/87	
Final Action Effective	12/22/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/NER, 14 Elm Street, Federal Bldg., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB89

278. AMENDMENT 1 TO THE SWORDFISH FMP

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 630

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: Amendment 1 will reflect concern for status of swordfish stocks based on recent stock assessments (Oct. 1987). U.S. longline fishery now targets tunas and small swordfish in nearshore waters and seeks larger, more valuable swordfish in more distant waters. The Council will consider size limits, area closure, and quota management in Amendment 1 in an attempt to restore the nearshore swordfish fishery.

Timetable:

Action	Date	FR Cite
NPRM	04/15/88	
NPRM Comment Period End	05/30/88	
Final Action	06/15/88	
Final Action Effective	07/15/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Craig O'Conner, Acting Regional Director,, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AB92

279. SAFETY OF UNITED STATES OBSERVERS ABOARD FOREIGN FISHING VESSELS

Significance: Regulatory Program

Legal Authority: PL 99-659

CFR Citation: 50 CFR 611.8

Legal Deadline: None.

Abstract: United States observers are required aboard foreign vessels permitted to fish in the U.S. Exclusive Economic Zone (EEZ). Conditions aboard these vessels can be hazardous to the safety of observers. To prevent injury to observers, the Department of Commerce intends to publish minimum safety standards that must be maintained aboard foreign fishing vessels before they will be permitted to fish in the U.S. EEZ.

The alternative to establishing U.S. standards is to accept flag-state standards as adequate. This solution will probably not be feasible because there is a wide variation in foreign safety standards and differing degrees of compliance with standards. In some cases, foreign fishing vessels meeting existing flag-state standards would not be suitable for U.S. observers.

Costs of this action will be borne by the owners of foreign fishing vessels. This action is beneficial in that it may prevent serious injury, including death, to observers during the performance of their duty.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	11/00/87	

Small Entity: Undetermined

Agency Contact: Gary A. Wood, Special Agent, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5299

RIN: 0648-AB94

280. GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS - AMENDMENT 11

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 675

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: The regulation will address the revision of the definition of "prohibited species and acceptable biological catch" and seasonal apportionment of the harvest of pollock by the joint venture fleet.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	52 FR 32942
NPRM Comment Period End	12/15/87	
Final Action	02/00/88	
Final Action Effective	03/05/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668 F/AKR, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB96

281. AMENDMENT 2 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 649

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: Amendment 2 will increase the minimum carapace length for lobsters, prohibit the possession of V-notched female American lobsters, and establish a uniform national standard prohibiting the possession of undersized V-notched female or egg-bearing lobsters within the U.S. that are caught under the authority of the Magnuson Act.

Timetable:

Action	Date	FR Cite
NPRM	08/03/87	52 FR 28732
NPRM Comment Period End	09/10/87	
Final Action	10/30/87	
Final Action Effective	11/30/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 14 Elm Street, Federal Bldg., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB97

282. GROUNDFISH OF THE GULF OF ALASKA - AMENDMENT 16

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 672

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: The regulation addresses the revision of the definition of "prohibited species."

Timetable:

Action	Date	FR Cite
NPRM	11/10/87	
NPRM Comment Period End	12/24/87	
Final Action	02/13/88	
Final Action Effective	02/15/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB98

283. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 661

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: This Amendment is expected to address a variety of subjects including: (1) inclusion of habitat considerations; and (2) inclusion of vessel safety consideration.

Timetable:

Action	Date	FR Cite
NPRM	12/15/87	
NPRM Comment Period End	01/30/88	
Final Action	03/20/88	
Final Action Effective	04/20/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department

of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE, Building 1, Seattle, WA 98115, 206 526-6150

RIN: 0648-AB99

284. AMENDMENT 3 TO THE HIGH SEAS SALMON FISHERY OFF THE COAST OF ALASKA EAST OF 175 E. LONGITUDE

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 674

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: This Amendment will (1) update the scientific data and other information used as a basis for management actions, (2) enhance the framework aspect of annual and inseason rulemaking under the fishery management plan (FMP), and (3) ensure conformity of the FMP with the Pacific Salmon Treaty.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
NPRM Comment Period End	04/00/88	
Final Action	05/00/88	
Final Action Effective	07/00/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AC00

285. FOREIGN FISHING POUNDAGE AND PERMIT FEES, 1988

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 611.22

Legal Deadline: Statutory, January 1, 1988.

Abstract: This rule will set poundage and permit fees for foreign fishing in 1988.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	10/30/87	
Final Action	12/15/87	
Final Action Effective	01/01/88	

Small Entity: No

Additional Information: An RIA is not required. A regulatory impact review will be prepared.

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW, Washington, DC 20235, 202 673-5315

RIN: 0648-AC01

286. ● AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES OF THE WESTERN PACIFIC REGION

Legal Authority: 16 USC 1801 et seq; Magnuson Fishery Conservation and Management Act

CFR Citation: 50 CFR 683

Legal Deadline: Statutory. 110 days after the Amendment is submitted by the Fishery Management Council

Abstract: The amendment will establish a limited access system in the bottomfish fisheries of the Western Pacific.

Timetable:

Action	Date	FR Cite
NPRM	01/18/88	
NPRM Comment Period End	03/02/88	
Final Action	04/19/88	
Final Action Effective	05/22/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SWR, 300 S. Ferry Street, Terminal Island, California 90731, 213 514-6600

RIN: 0648-AC10

287. ● AMENDMENT 1 FOR THE FISHERY MANAGEMENT PLAN FOR THE BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES OF THE WESTERN PACIFIC REGION

Legal Authority: 16 USC 1801 et seq; Magnuson Fishery Conservation and Management Act

CFR Citation: 50 CFR 683

Legal Deadline: Statutory. 110 days after the Amendment is submitted by the Fishery Management Council.

Abstract: The amendment will include limited access measures for bottomfish in the U.S. EEZ surrounding American Samoa and Guam within the "framework" approach of the FMP and extend the due date of the Annual Report for the bottomfish Fisheries of the Western Pacific Region from March 31 to June 30 of each year.

Timetable:

Action	Date	FR Cite
NPRM	07/24/87	52 FR 27838
NPRM Comment Period End	09/02/87	
Final Action	10/09/87	
Final Action Effective	11/11/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SWR, 300 S. Ferry Street, Terminal Island, California 90731, 213 514-6600

RIN: 0648-AC11

288. ● AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE COASTAL MIGRATORY PELAGIC RESOURCES

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and; Management Act

CFR Citation: 50 CFR 642

Legal Deadline: Statutory. 110 days after submission of the Amendment by the Fishery Management Council.

Abstract: This amendment will revise the mackerel allocations between commercial and recreational fishermen.

Timetable:

Action	Date	FR Cite
NPRM	01/09/88	
NPRM Comment Period End	02/21/88	
Final Action	05/30/88	
Final Action Effective	06/30/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Craig O'Connor, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AC15

289. ● AMENDMENT 1 GULF OF MEXICO REEF FISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and Management; Act

CFR Citation: 50 CFR 641

Legal Deadline: Statutory. 110 days after submission of the Amendment by the Fishery Management Council

Abstract: The Regulations will attempt to rebuild declining reef fish stocks. It will propose to prohibit use of fish traps, roller trawls and powerheads within inshore stressed areas 2) establish construction requirements, maximum size and numerical limits for fish traps 3) permit requirements for fish trap operators, and 4) a minimum size limit of 13 inches.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	01/31/88	
Final Action	03/31/88	
Final Action Effective	04/30/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Craig O'Connor, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AC16

290. ● AMENDMENT 4 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and; Management Act

CFR Citation: 50 CFR 658

Legal Deadline: Statutory. 110 days after the Amendment is submitted by the Fishery Management Council

Abstract: The amendment will simplify the annual review process for the Tortugas Sanctuary, extend the Council/Regional Director closure review to February 1, set minimum size limit of 100 whole shrimp per pound for white shrimp, and expand the sea turtle education and headstart program.

Timetable:

Action	Date	FR Cite
NPRM	11/10/87	
NPRM Comment Period End	12/24/87	
Final Action	02/17/88	
Final Action Effective	03/19/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Craig O'Connor, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AC17

291. ● AMENDMENT TO REGULATION PROVIDING FOR ALLOCATION OF PACIFIC HALIBUT AMONG DOMESTIC FISHERMEN

Legal Authority: North Pacific Halibut Act of 1982

CFR Citation: 50 CFR 301

Legal Deadline: None.

Abstract: The amendment addresses the allocation among domestic fishermen of the U.S. quota of Pacific halibut as determined by the International Pacific Halibut Commission.

Timetable:

Action	Date	FR Cite
NPRM	10/13/87	
NPRM Comment Period End	11/13/87	
Final Action	01/01/88	
Final Action Effective	02/01/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Robert McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, PO Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AC20

292. ● REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SWORDFISH FISHERY - EXTENSION OF THE PLAN

Legal Authority: 16 USC 1801 et seq; Magnuson Fishery Conservation and Management Act

CFR Citation: 50 CFR 630

Legal Deadline: Statutory. 110 days after submission by the Fishery Management Council

Abstract: The rule implementing the Plan has an expiration date of December 31, 1987. Data collection (logbooks) was approved through October 31, 1987. The South Atlantic Council is submitting a regulatory amendment to extend the Plan and data collection. Vital data on the swordfish fishery is still needed for the stock assessment and management decisions.

Timetable:

Action	Date	FR Cite
ANPRM	08/01/87	
NPRM	08/15/87	
NPRM Comment Period End	09/30/87	
Final Action	11/05/87	
Final Action Effective	12/05/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Craig O'Connor, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Kroger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AC21

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

293. PROPOSED REGULATIONS FOR THE NATIONAL MARINE SANCTUARY PROGRAM

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 922

Legal Deadline: None.

Abstract: As a result of the Marine Protection, Research and Sanctuaries Act reauthorization signed by the President on October 19, 1984, the regulations are being revised to incorporate modifications from the new legislation regarding the sanctuary designation process and site selection criteria.

Timetable:

Action	Date	FR Cite
NPRM	06/12/86	51 FR 21369
NPRM	09/00/87	
NPRM Comment Period End	11/00/87	
Final Action	02/00/88	
Final Action Effective	03/00/88	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Vickie A. Allin, Acting Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648-AA31

294. PROPOSED REGULATIONS FOR THE KEY LARGO NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 929

Legal Deadline: None.

Abstract: These regulations are being revised to update enforcement provisions and to change research permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
NPRM Comment Period End	05/00/88	
Final Action	09/00/88	
Final Action Effective	10/00/88	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Vickie A. Allin, Acting Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648-AA33

295. DRAFT REGULATIONS FOR THE PROPOSED FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 943

Legal Deadline: None.

Abstract: These regulations will protect the ecological and biological reef communities of the East and West Flower Garden Banks offshore Texas and Louisiana, if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	
NPRM Comment Period End	06/00/88	
Final Action	09/00/88	
Final Action Effective	10/00/88	

Small Entity: No

Agency Contact: Vickie A. Allin, Acting Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Mgt., 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648-AB49

296. DRAFT REGULATIONS FOR THE PROPOSED CORDELL BANK NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 942

Legal Deadline: None.

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Cordell Bank, if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	01/00/88	
Final Action Effective	02/00/88	

Small Entity: No

Agency Contact: Vickie A. Allin, Acting Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Mgt., 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648-AB50

297. PROPOSED REGULATIONS FOR THE LOOE KEY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 937

Legal Deadline: None.

Abstract: These regulations are being revised to update enforcement provisions and to change research permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
NPRM Comment Period End	05/00/88	
Final Action	09/00/88	
Final Action Effective	10/00/88	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Vickie A. Allin, Acting Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825

Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648-AB64

298. PROPOSED REGULATIONS FOR THE NATIONAL ESTUARINE RESERVE RESEARCH PROGRAM

Legal Authority: 16 USC 1461

CFR Citation: 15 CFR 921

Legal Deadline: None.

Abstract: When the Coastal Zone Management Reauthorization Act of 1985 becomes effective, the existing regulations for the National Estuarine Sanctuary Program will need to be updated to reflect the changes that will occur in the program--(1) a stronger emphasis for conducting, promoting and coordinating research within the system; (2) changes the name of the program to "National Estuarine Reserve Research System"; (3) the amount of Federal financial assistance is increased to $4,000,000 per site; and (4) submission of an annual report to Congress beginning with fiscal year 1986.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	11/00/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Vickie A. Allin, Acting Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648-AB66

299. RULEMAKING TO IMPLEMENT 1985 REAUTHORIZATION OF THE COASTAL ZONE MANAGEMENT ACT (CZMA)

Legal Authority: 16 USC 1456; PL 99-272, Subtitle D

CFR Citation: 15 CFR 923

Legal Deadline: None.

Abstract: PL 99-272, the Coastal Zone Management Reauthorization Act of 1985, amended Sec 306(g) of the Coastal Zone Management Act (16 USC 1456) dealing with submission and approval of changes to federally-approved state coastal zone management programs. NOAA/OCRM intends to issue regulations to implement these provisions and to correct problems NOAA/OCRM and the states have experienced in processing program change requests.

Timetable:

Action	Date	FR Cite
Issue paper distributed	09/12/86	
NPRM	01/22/88	
NPRM Comment Period End	02/22/88	
Final Action	10/02/88	
Final Action Effective	12/02/88	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: None

Government Levels Affected: State

Agency Contact: Mark Stanga, Associate Director, OCRM, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW, Room 701, Washington, DC 20235, 202 673-5100

RIN: 0648-AC02

300. PROPOSED REGULATIONS FOR THE CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 935

Legal Deadline: None.

Abstract: These regulations are being revised to update enforcement provisions and permit requirements.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Vickie A. Allin, Acting Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648-AC03

301. PROPOSED REGULATIONS FOR THE POINT REYES-FARALLON ISLANDS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1439

CFR Citation: 15 CFR 936

Legal Deadline: None.

Abstract: These regulations are being revised to update enforcement provisions and permit requirements.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Vickie A. Allin, Acting Chief, Marine and Estuarine Management Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Ave., NW, Suite 714, Washington, DC 20235, 202 673-5126

RIN: 0648-AC05

NATIONAL OCEAN SURVEY/OFFICE OF MINERAL ENERGY

302. DEEP SEABED MINING REGULATIONS FOR COMMERCIAL RECOVERY

Significance: Regulatory Program

Legal Authority: 30 USC 1401 et seq Deep Seabed Hard Mineral Resources Act

CFR Citation: 15 CFR 970, (Exploration Regulations); 15 CFR 971

Legal Deadline: None.

Abstract: Under 15 CFR 970, prospective deep seabed miners may apply to NOAA for the exploration license needed to explore the deep seabed for manganese nodules. Under the new regulations (15 CFR 971), prospective miners will be able to apply to NOAA for a permit to commercially recover and process nodules to obtain strategic metals (nickel, copper, cobalt, manganese). These permits would provide security of tenure for applicants with respect to other U.S. citizens and other nations' permittees in accordance with applicable international agreements. Fees for securing and maintaining a permit will be based on the Government's processing costs. These fees would be an inconsequential portion of the cost of a commercial recovery operation. The cost of a

commercial recovery operation is expected to exceed one billion dollars. Alternatives to the regulation would require amending the Deep Seabed Hard Mineral Resources Act, which would be considered in the context of the U.S. law of the sea policy.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/82	47 FR 57903
NPRM	07/25/86	51 FR 26794
Public Hearings, 08/26/86, 09/11/86 and	09/09/86	51 FR 26794
NPRM Comment Period End	11/24/86	
NPRM	10/00/87	
Final Action	03/00/88	
Final Action Effective	04/00/88	

Small Entity: No

Additional Information: A preliminary RIA & RFA have been prepared for the commercial regulations to cover new issues raised by the commercial recovery permit regulations. It is expected that small entities will not be permittees. Rather some small entities are expected to be contractors or subcontractors to permittees. The preliminary RIA and RFA are available as is the programmatic environmental impact statement and the supplemental environmental assessment. After considering public comments on the proposed major rule, NOAA determined that certain issues were significantly different than the proposed rules. These limited issues are being reproposed for further public comment prior to NOAA's issuing the final regulations.

Affected Sectors: 102 Copper Ores; 106 Ferroalloy Ores, Except Vanadium; 108 Metal Mining Services; 331 Steel Works, Blast Furnaces, and Rolling and Finishing Mills; 333 Primary Smelting and Refining of Nonferrous Metals; 951 Administration of Environmental Quality Programs

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; See Additional Information

Agency Contact: James P. Lawless, Chief, Oceans Minerals and Energy Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean Minerals and Energy, 1825 Connecticut Ave., NW, Suite 710, Washington, DC 20235, 202 673-5121

RIN: 0648-AA36

DEPARTMENT OF COMMERCE (DOC)

Final Rule Stage

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

303. FISHERY CONSERVATION AND MANAGEMENT: CONFIDENTIALITY OF STATISTICS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and Mgmt. Act

CFR Citation: 50 CFR 603

Legal Deadline: None.

Abstract: The regulations provide internal procedures to protect statistics collected from the public under the Magnuson Fishery Conservation and Management Act from disclosure.

Timetable:

Action	Date	FR Cite
NPRM	01/09/78	43 FR 1460
Interim Final Rule	12/07/79	44 FR 237
Interim Final Rule	07/16/87	52 FR 26685
Final Action	12/00/87	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared. The Regulatory Flexibility Act does not apply because the regulations affect only internal operations of an agency.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: B. G. Thompson, Chief, Fisheries Statistics Division, Department of Commerce, National Oceanic and Atmospheric Administration, Off. of Research and Environmental Informat., NMFS, Washington, DC 20235, 202 673-5335

RIN: 0648-AA38

304. U.S. GENERAL STANDARDS FOR GRADES OF SHRIMP

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 265A

Legal Deadline: None.

Abstract: The final rule will establish general quality grading standards for all non-breaded forms of fresh or frozen shrimp. These grading standards will provide for the systematic differentiation of the quality of shrimp into four categories -- U.S. Grades A, B, C and Substandard. The proposed standards will be applied to all commercial species of fresh or frozen shrimp in raw or cooked states in all non-breaded market forms. The adoption of grading standards is expected to facilitate trade in shrimp of all commercial species, as consumers will be able to select shrimp on the basis of identified quality. Industry has shown great interest in and support for the standards. Timetable for next action is very tentative. Public comments received indicate a need for further research before the rule is published.

Timetable:

Action	Date	FR Cite
NPRM	05/20/82	47 FR 21840
NPRM Comment Period End	08/18/82	47 FR 21840
Interim Final Rule	12/30/88	47 FR 21840

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: State, Federal

Analysis: See Additional Information

Agency Contact: Rita A. Creitz, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Trade and Industry Services, Inspection

Services Division, Washington, DC 20235, 202 673-5875

RIN: 0648-AA47

305. MARKING REQUIREMENTS FOR THE IMPORTATION, EXPORTATION, & INTERSTATE TRANSPORTATION OF FISH OR WILDLIFE

Significance: Regulatory Program

Legal Authority: 16 USC 3371 to 3375 Lacey Act Amendments of 1981

CFR Citation: 50 CFR 14.81 to 14.83; 50 CFR 246.1 to 246.3

Legal Deadline: None.

Abstract: These regulations will enable NOAA to monitor interstate and foreign commerce in fish and fishery products, for the purpose of detecting violations of Federal, state and foreign laws. The regulations will conform to current industry practices.

Timetable:

Action	Date	FR Cite
NPRM	07/07/86	51 FR 24559
NPRM Comment Period End	09/05/86	
Final Action	10/01/87	

Small Entity: No

Additional Information: The regulations will be issued jointly with the Department of the Interior. Neither an RIA nor an RFA is required.

Affected Sectors: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: Steven C. Springer, Special Agent In Charge, Department of Commerce, National Oceanic and Atmospheric Administration, Enforcement Div., NMFS, Washington, DC 20235, 202 673-5299

RIN: 0648-AA53

306. U.S. STANDARDS FOR GRADES OF FRESH OR FROZEN NORTH AMERICAN FRESHWATER CATFISH AND PRODUCTS MADE THEREFROM

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 267, (New)

Legal Deadline: None.

Abstract: This final standard will establish a voluntary standards system to identify various products made from North American Freshwater Catfish and to grade these products A, B, C and Substandard. The objective of the standard is to facilitate trade in these products thereby benefiting the consumer. The standard will be used by NMFS in the voluntary program of fishery products inspection and certification. Industry has expressed strong support for these voluntary standards.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/84	49 FR 27514
Final Action	10/00/87	
Final Action Effective	11/30/87	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: 027 Animal Specialties; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: State, Federal

Analysis: See Additional Information

Agency Contact: Rita A. Creitz, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Trade and Industry Services, Inspection Services Division, Washington, DC 20235, 202 673-5875

RIN: 0648-AA73

307. FOREIGN FISHING - SCIENTIFIC RESEARCH

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 611.14

Legal Deadline: None.

Abstract: The action would revise the scientific research provisions of the foreign fishing regulations. The action is necessary to bring the regulations into compliance with current policy on scientific research and clarify what foreign vessels may be considered scientific research vessels while conducting activities which might otherwise be considered fishing.

Timetable:

Action	Date	FR Cite
NPRM	05/01/84	49 FR 50498
NPRM Comment Period End	06/14/84	49 FR 50498
Final Action	06/02/88	
Final Action Effective	09/01/88	

Small Entity: No

Additional Information: This action is related to RIN 0648-AA40 General and Recreational Foreign Fishing.

Affected Sectors: None

Government Levels Affected: State, Federal

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5319

RIN: 0648-AB23

308. REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS; IMPORTATION OF YELLOWFIN TUNA

Significance: Regulatory Program

Legal Authority: 16 USC 1361 et seq Marine Mammal Protection Act of 1972

CFR Citation: 50 CFR 216.24

Legal Deadline: None.

Abstract: U.S. tuna purse seine fishermen operating in the eastern tropical Pacific have been subject to certain restrictions relating to the take of marine mammals, whereas other nations fishing in a similar manner that export tuna to the U.S. often do not impose similar constraints on their own industry. Therefore, the Marine Mammal Protection Act of 1972 was amended to require all such nations, prior to being allowed to import tuna, to provide documentary evidence that they have adopted a program governing the incidental taking of marine mammals that is comparable to that of the U.S. and that the average rate of incidental take in the fishery is comparable to the U.S. These regulations will implement this requirement.

DOC—NOAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	11/29/84	49 FR 46921
NPRM	08/13/86	51 FR 28963
NPRM Comment Period End	11/14/86	51 FR 36568
Interim Final Rule	10/01/87	
Final Action Effective	12/02/87	

Small Entity: No

Additional Information: This action will require restrictions on foreign nations that export tuna to the U.S. similar to those imposed on U.S. tuna fishermen. These regulations will have no impact domestically in terms of bringing more U.S. nationals under Federal regulations.

Public Compliance Cost: Initial Cost: $9,825; Yearly Recurring Cost: $9,825; Base Year for Dollar Estimates: 1985

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Kenneth R. Hollingshead, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources & Habitat, Programs, NMFS, Washington, DC 20235, 202 673-5351

RIN: 0648-AB46

309. GROUNDFISH OF THE GULF OF ALASKA AND HIGH SEAS SALMON FISHERY OFF ALASKA; REGULATORY AMENDMENT

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 672; 50 CFR 674; 50 CFR 611.92

Legal Deadline: None.

Abstract: As required under P.L. 98-623, NOAA issues a regulatory amendment to codify the fishery management boundaries of southeastern Alaska established by that law.

Timetable:

Action	Date	FR Cite
Final Action Effective	12/00/87	
Begin Review	12/00/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Agency Contact: Jonathan Pollard, Attorney-Advisor, Department of Commerce, National Oceanic and Atmospheric Administration, NOAA Office of General Counsel-GCAK, P.O. Box 21668, Juneau, AK 99801, 907 586-7414

RIN: 0648-AB51

310. REGULATIONS GOVERNING THE HARASSMENT OF HUMPBACK WHALES

Legal Authority: 16 USC 1382(a); 16 USC 1540(f)

CFR Citation: 50 CFR 222.31

Legal Deadline: None.

Abstract: This rule will establish as regulation a previously published Notice of Interpretation regarding minimum distances that should be maintained in the presence of humpback whales in Hawaii. Establishing a 100 yard perimeter around any of the whales while in the Hawaiian Exclusive Zone as a regulation is considered necessary given a large increase in vessel traffic and other water use activities in areas where this species historically occurs. In response to comments received in the public record, NOAA is defining two specific sites as cow/calf areas in which an approach closer than 300 yds is prohibited. This addition creates a new subsection to the rule.

Timetable:

Action	Date	FR Cite
NPRM	11/24/86	51 FR 42271
NPRM Comment Period End	12/24/86	51 FR 42271
Interim Final Rule	10/00/87	
Final Action	12/01/87	
Final Action Effective	01/01/88	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 300 South Ferry Street, Terminal Island, CA 90731, 213 514-6201

RIN: 0648-AB79

311. AMENDMENT 1 TO THE RED DRUM FISHERY MANAGEMENT PLAN FOR THE GULF OF MEXICO

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 604; 50 CFR 653

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: The amendment proposes to divide federal waters in the Gulf into a primary and two secondary management areas. The Council proposes no retention of red drum in either secondary area. The Council has established a procedure for setting TAC in the primary area to allow for the allocation of catch among user groups if a surplus is indicated.

Timetable:

Action	Date	FR Cite
NPRM	06/16/87	52 FR 22822
NPRM Comment Period End	07/23/87	
Final Action	09/11/87	
Final Action Effective	10/12/87	

Small Entity: No

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Craig O'Connor, Acting Regional Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AB91

312. AMENDMENT 1 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 651

Legal Deadline: Statutory. 110 days after the plan is submitted by the fishery management council.

Abstract: Amendment 1 will provide additional protection to groundfish resources in the North Atlantic beyond that provided by the FMP. Proposed management measures include increased minimum fish size, expanded minimum mesh requirements, and changes in restricted fishery areas. The amendment is aimed at reducing fishing pressure on ten valuable fish species and rebuilding their stocks (cod, haddock, yellowtail, winter windowpane, witch flounder, pollock, redfish or ocean perch, American plaice, and white bake).

DOC—NOAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	05/27/87	52 FR 20124
NPRM	06/17/87	52 FR 23570
NPRM Comment Period End	07/31/87	52 FR 23570
Final Action	09/11/87	
Final Action Effective	10/13/87	

Small Entity: No

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Analysis: Regulatory Impact Review 06/23/87 (52 FR 23570)

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, FNER - NMFS, State Fish Pier, Gloucester, MA 01930, 617 281-3600

RIN: 0648-AC04

313. ● U.S. STANDARDS FOR GRADES OF FISH FILLETS

Significance: Agency Priority

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 263A; 50 CFR 263B; 50 CFR 263C; 50 CFR 263D; 50 CFR 263E

Legal Deadline: None.

Abstract: This revised rule will expand the coverage of established voluntary standards for grades of fish fillets to include a new market form or style of fillet whereby the pin-bones, the bones radiating laterally from the spinal column, are not removed. This style of fillet has become more familiar in the marketplace, resulting in the industry requesting the amendment. Responses to a previous request for comments indicate a national interest in this style of presentation. The amendment will allow this market form, bearing FDA's recommended labeling, to be inspected and reflect the U.S. Grade A mark.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/88	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Rita A. Creitz, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Trade and Industry Services, Inspection Services Division, Washington, DC 20235, 202 673-5275

RIN: 0648-AC12

314. ● AMENDMENT TO THE REGULATIONS IMPLEMENTING THE ATLANTIC SEA SCALLOP FMP - REVISE THE EXPIRATION DATE OF FISHING PERMITS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and; Management Act

CFR Citation: 50 CFR 650

Legal Deadline: Statutory. 110 days after the Amendment is submitted by the Fishery Management Council

Abstract: The rule will require permits, which currently remain in effect until the owner or name of a vessel changes, to be renewed annually.

Timetable:

Action	Date	FR Cite
NPRM	07/02/87	52 FR 25041
NPRM Comment Period End	08/03/87	
Final Action	09/23/87	
Final Action Effective	10/23/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930, 617 281-3600

RIN: 0648-AC13

315. ● AMENDMENT TO REGULATIONS FOR GROUNDFISH OF THE GULF OF ALASKA, BERING SEA AND ALEUTIAN ISLANDS AREA - REPORTING REQUIREMENTS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation and; Management Act

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: Statutory. 110 days after the Amendment is submitted by the Fishery Management Council.

Abstract: The amendment addresses the improvement of reporting of commercial groundfish harvests off Alaska by requiring that domestic fisherman comply with existing State of Alaska reporting on state fish tickets.

Timetable:

Action	Date	FR Cite
NPRM	06/16/87	52 FR 22829
NPRM Comment Period End	07/15/87	
Final Action	09/15/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, FAKR, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AC14

316. ● REGULATORY AMENDMENT REVISING THE FINAL REGULATIONS IMPLEMENTING THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq; Magnuson Fishery Conservation and Management Act

CFR Citation: 50 CFR 649

Legal Deadline: Statutory. 110 days after the Amendment is submitted by the Fishery Management Council.

Abstract: This action revises (1) the expiration date of fishing permits and (2) numbering system used to identify lobster gear. The intended effects are to provide consistency with annual permitting procedures recently adopted in the Northeast Region, and to relieve Federal Fishery Permit holders from the burden of renumbering lobster gear

when their Federal Fishery Permit Number changes.

Timetable:

Action	Date	FR Cite
NPRM	07/22/87	52 FR 27564
NPRM Comment Period End	08/05/87	
Final Action	09/30/87	
Final Action Effective	10/30/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Richard B. Roe, Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/NER, 14 Elm Street, Federal Bldg., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AC09

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

317. FEDERAL CONSISTENCY WITH APPROVED COASTAL ZONE MANAGEMENT PROGRAMS

Significance: Regulatory Program

Legal Authority: 16 USC 1456 Coastal Zone Management Act of 1972

CFR Citation: 15 CFR 930

Legal Deadline: None.

Abstract: On January 11, 1984, the U.S. Supreme Court issued its decision in Secretary of the Interior et al. v. California et al. No. 82-1326. The Court held that the sale of Outer Continental Shelf (OCS) oil and gas leases is not an activity "directly affecting" the Coastal Zone Management Act of 1972, as amended (CZMA), and therefore, that a consistency determination is not required under that section before such sales may be made. Section 307 (c)(1) required that Federal agencies conducting or supporting activities "directly affecting the coastal zone" must conduct or support those activities in a manner which is consistent to the maximum extent practicable with federally-approved state coastal zone management programs. NOAA engaged in rulemaking to revise certain CZMA regulations as a result of the Supreme Court decision. NOAA removed those references which identify OCS lease sales as activities covered by the Section 307(c)(1) requirements.

Timetable:

Action	Date	FR Cite
ANPRM	06/01/84	49 FR 22825
ANPRM Comment Period End	08/31/84	49 FR 22825
NPRM	01/28/85	50 FR 3798
NPRM Comment Period End	03/01/85	50 FR 3798
Draft study issued	04/00/85	
Final Action	08/30/85	50 FR 35210
Completion of Study	09/00/86	

Small Entity: No

Additional Information: NOAA issued a final rule August 31, 1985 making the changes required by the Supreme Court Decision, and decided to undertake a comprehensive study of the Federal consistency process. The Draft Study issued April 1985 will assist NOAA in evaluating the need for and consequences of further revision of the Federal consistency regulations.

Affected Sectors: Multiple

Government Levels Affected: State, Federal

Agency Contact: James P. Blizzard, Deputy Director, Office of Ocean and Coastal Resource Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5111

RIN: 0648-AA34

DEPARTMENT OF COMMERCE (DOC) — Completed Actions

National Oceanic and Atmospheric Administration (NOAA)

318. CIVIL PROCEDURES

Legal Authority: 15 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act; 16 USC 773 et seq Northern Pacific Halibut Act of 1982

CFR Citation: 15 CFR 904

Legal Deadline: None.

Abstract: The existing regulations (15 CFR 904) provide uniform procedures for enforcement and civil proceedings under the various fishery and marine resource statutes administered by NOAA. The regulations are being revised to consolidate all aspects of NOAA's civil process which can be uniformly treated. The revised regulations will provide uniform permit processing procedures and sanction procedures; means of addressing the respondent's ability to pay in civil penalty proceedings; procedures for issuance and appeal of written warnings, summary forfeitures, and for selling seized perishable fish. The revisions will clarify for the public the procedures which NOAA follows in carrying out its enforcement responsibilities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/85	50 FR 12781
Final Action	03/31/87	52 FR 10324

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: State, Federal

Analysis: See Additional Information

Agency Contact: Margaret H. Frailey, Asst. General Counsel, Department of Commerce, National Oceanic and Atmospheric Administration, Enforcement and Litigation, 1825 Connecticut Avenue, NW, Room 607, Washington, DC 20235, 202 673-5226

RIN: 0648-AA26

319. ATLANTIC BILLFISH AND SHARKS FISHERY - FOREIGN FISHING REGULATIONS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 611, (Revision)

Legal Deadline: Statutory. 110 days after the amendment is submitted by the Fishery Management Council.

Abstract: Amends foreign fishing regulations at 50 CFR 611.61 to provide means to adjust seasonal closures affecting foreign longline fishermen to reduce conflicts with domestic fishermen and foreign incidental catches of billfish.

Timetable:

Action	Date	FR Cite
Suspended No action anticipated during reporting period.	06/02/87	

Small Entity: No

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Richard H. Schaefer, Acting Director, Office of Fisheries, Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5200

RIN: 0648-AB33

320. AMENDMENT TO THE GULF OF ALASKA GROUNDFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 672

Legal Deadline: Statutory. 110 days after the amendment is submitted by the Fishery Management Council.

Abstract: This amendment will (1) authorize closing a regulatory area or district to directed fishing for sablefish to a specific gear type prior to the achievement of that gear's allocation of optimum yield but would allow sablefish to be taken as a bycatch, and (2) allow continued fishing for other species when the optimum yield for one species has been reached. The species for which OY has been reached would become a prohibited species.

Timetable:

Action	Date	FR Cite
NPRM	06/06/86	51 FR 20659
NPRM Comment Period End	07/03/86	
Final Action	01/16/87	
Final Action Effective	01/22/87	52 FR 2412

Small Entity: No

Additional Information: An RIA is not required. A Regulatory Impact Review will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FAKR, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB40

321. AMENDMENT FOR ALASKA GROUNDFISH AND HIGH SEAS SALMON FISHERY MANAGEMENT PLANS - CLOSE FCZ INTRUSION INTO STATE WATERS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 672

Legal Deadline: None.

Abstract: This amendment will implement the intent of current legislation that refers to the State of Alaska management of groundfish in Federal waters that intrude into the intercoastal waters of southeastern Alaska. It affects the Gulf of Alaska groundfish and High Sea salmon fisheries. The amendment to the Gulf of Alaska Groundfish Fishery Management Plan to redefine Sablefish Management Boundaries (RIN 0648-AB39) has been combined with this action.

Timetable:

Action	Date	FR Cite
Withdrawn Determined that regulatory action not required.	07/20/87	

Small Entity: No

Additional Information: An RIA is not required. A regulatory impact review will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FAKR, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB41

322. REPORTING REQUIREMENTS GOVERNING SALMON TAKEN OFF ALASKA AND DELIVERED OR LANDED OUTSIDE ALASKA

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 674

Legal Deadline: None.

Abstract: A mandatory reporting requirement for fishing vessel operators who harvest salmon in the fishery conservation zone (FCZ) off Alaska and who sell, transfer, or deliver salmon in the FCZ or to a U.S. port outside Alaska. The operator must submit a fish ticket to the Alaska Department of Fish and Game after each sale, transfer, or delivery. Receipt of this ticket is necessary to obtain timely data on salmon catches.

Timetable:

Action	Date	FR Cite
Interim Rule and request for comments pub.	07/23/84	49 FR 29611
Interim Rule expired	01/23/85	49 FR 29611
Suspended No action anticipated during reporting period.	07/01/87	

Small Entity: Undetermined

Additional Information: This rule contains a collection of information requirements subject to the Paperwork Reduction Act, which has been approved as OMB control number 0648-0016.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National

Marine Fisheries Service FAKR, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB44

323. IMPLEMENTATION OF FISHERY MANAGEMENT RECOMMENDATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 601

Legal Deadline: None.

Abstract: Revision will implement P.L. 99-659 and accepted recommendations of the NOAA Fishery Management Study completed in 1986. The objective is to improve the process of fishery management under the Magnuson Fishery Conservation and Management Act. The Study analyzed alternatives to the existing system. Benefits include unquantifiable improvements in efficiency and resource conservation. Costs are expected to be absorbed by improved priorities in the Federal fishery program.

Timetable:

Action	Date	FR Cite
Deleted Action will be combined with RIN 0648-AB09	07/01/87	

Small Entity: Not Applicable

Agency Contact: Bruce W. Norman, Sr. Policy Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW, Washington, DC 20235, 202 673-5464

RIN: 0648-AB57

324. FISHERY MANAGEMENT PLAN FOR PACIFIC BILLFISH FISHERIES OF THE WESTERN PACIFIC REGION

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 682

Legal Deadline: Statutory. 110 days after the fishery management plan is submitted by the fishery management council.

Abstract: The Western Pacific Fishery Management Council voted unanimously to amend the FMP by limiting the size of the areas closed to foreign longline vessels. The Amendment establishes a set of criteria which must be met before the Regional Director can make a closure determination. The criteria are based on the adverse impact of foreign fishing on the catch efforts, gear or economic performance of domestic vessels.

Timetable:

Action	Date	FR Cite
NPRM	12/17/86	51 FR 45141
NPRM Comment Period End	01/23/87	
Final Action	02/24/87	52 FR 5983
Final Action Effective	02/27/87	52 FR 5983
Initial Proposed Rule Public comment caused rule to be revised and republished	09/16/87	52 FR 32906

Small Entity: No

Additional Information: An RIA will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Local, State, Federal

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 300 S. Ferry St., Terminal Island, CA 90731, 213 548-2575

RIN: 0648-AB61

325. SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC - AMENDMENT 1

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 641, (Revision)

Legal Deadline: Statutory. 110 days after the amendment is submitted by the Fishery Management Council.

Abstract: There is a high mortality of undersized lobsters used as live bait in traps, an increasing number of traps in the fishery, incompatible State and Federal regulations, and an excessive number of abandoned traps. New management measures include: a Federal permit to fish, commercial lobster season from April 1 to August 5th, minimum tail length of 5 inches, required onboard live well for carrying lobsters used as bait, a Federal permit to fish, modify the sportfishing possession limit, request modification of the State reporting requirements, require release of all egg-bearing lobsters, require a permit to separate lobsters at sea, limit possession of undersize lobster on board to 100, and require identification of gear and vessels. Estimated benefits are an increase in annual yield of 1.5 million pounds and an increase of $3.8 million to fishermen by 1987. The benefits will exceed the costs.

Timetable:

Action	Date	FR Cite
NPRM	03/18/87	52 FR 08487
Final Action	06/15/87	52 FR 22955
Final Action Effective	07/08/87	

Small Entity: No

Additional Information: An RIA is not required. A regulatory impact review and a regulatory flexibility analysis was prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Agency Contact: Craig O'Connor, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AB74

326. SEA TURTLE CONSERVATION; SHRIMP TRAWL REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 16 USC 1531 et seq Endangered Species Act of 1973

CFR Citation: 50 CFR 222.41; 50 CFR 227.72(e)(3)

Legal Deadline: None.

Abstract: The NMFS is mandated by the Endangered Species Act of 1973 (ESA) to conserve and protect endangered and threatened species. Six species of marine turtles are listed as endangered or threatened under the ESA. Significant numbers of listed turtles are caught and drowned incidental to shrimp fishing operations in the Gulf of Mexico and the U.S. South Atlantic. To address this problem, NMFS developed the Trawling Efficiency Device (TED). When attached to a shrimp trawl, this excluder gear reduces the incidental capture of sea turtles by 97 percent in addition to reducing other unwanted by-catch associated with shrimp trawling. NMFS is now considering promulgating regulations that would require the use of TEDs in several significant geographical areas of the Gulf of Mexico and the U.S. South Atlantic.

Timetable:

Action	Date	FR Cite
NPRM	03/02/87	52 FR 6179
Final Action	06/29/87	52 FR 24244
Final Action Effective	10/01/87	52 FR 24244

Small Entity: Undetermined

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Agency Contact: Charles A. Oravetz, Chief, Protected Species Management Branch, Department of Commerce, National Oceanic and Atmospheric Administration, Southeast Regional Office, 9450 Koger Boulevard, St. Petersburg, FL 33702, 813 893-3366

RIN: 0648-AB86

327. SECRETARIAL AMENDMENT OF THE FISHERY MANAGEMENT PLAN FOR THE COMMERCIAL TANNER CRAB FISHERY OFF THE COAST OF ALASKA

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 671

Legal Deadline: None.

Abstract: This Secretarial Amendment to the Fishery Management Plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP) repealed the FMP and its implementing regulations. The North Pacific Fishery Management Council is preparing a new FMP; however, during a two-year interim period following repeal of the current FMP, and before implementation of a new FMP, the Tanner crab fishery is being managed to the extent that vessels are registered in the State of Alaska by the state. Repeal of the current FMP was necessary because it fails to provide for timely coordination with the State of Alaska's inseason management actions and may result in violation of National Standards 1, 2, 5, 6, and 7 of the Magnuson Act. While the FMP allowed for inseason actions to protect stocks of Tanner crab, it did not permit inseason actions based solely on socioeconomic reasons. The new FMP in draft will contain Tanner crabs and King crabs and better defined frameworking mechanisms.

Timetable:

Action	Date	FR Cite
ANPRM	03/02/87	52 FR 6199
NPRM	03/17/87	52 FR 8319
NPRM Comment Period End	04/22/87	52 FR 8319
Final Action Effective	04/29/87	52 FR 17577
Final Action	05/11/87	52 FR 17577

Small Entity: No

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Robert W. McVey, Regional Director, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Services, P.O. Box 1668, Juneau, AK 99802, 907 586-7229

RIN: 0648-AB90

328. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE COASTAL MIGRATORY PELAGIC RESOURCES

Legal Authority: 16 USC et seq Magnuson Fishery Conservation & Mgmt Act

CFR Citation: 50 CFR 642

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: Amendment 2 clarifies and revises the framework measures providing for seasonal adjustment, revised maximum sustainable yield, adjust total allowable catch, and establish allocation procedures for Spanish mackerel, regulate fishing gear, and provide for fishing permits.

Timetable:

Action	Date	FR Cite
Final Action	06/25/87	52 FR 23836
Final Action Effective	06/30/87	52 FR 23836

Small Entity: Yes

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Craig O'Connor, Acting Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, F/SER, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AB95

329. LABELING REQUIREMENTS FOR FROZEN FISH BLOCKS AND PRODUCTS THEREFROM

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act

CFR Citation: 50 CFR 264.200, (New); 50 CFR 264.201, (New)

Legal Deadline: None.

Abstract: NMFS is in the process of developing U.S. Standards for Grades of Mixed Fillet/Mince Fish Blocks and Revising Standards for Fillet Blocks and Minced Fish Blocks, as well as for Fish Sticks and Portions. Uniform labeling of frozen fish blocks, and fish sticks and portions is important to avoid confusion among processors, who buy fish blocks, and among consumers, who buy the fish sticks and portions.

Timetable:

Action	Date	FR Cite
Withdrawn	07/24/87	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Rita A. Creitz, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Trade and Industry Services, Inspection Services Division, Washington, DC 20235, 202 673-5575

RIN: 0648-AC06

DEPARTMENT OF COMMERCE (DOC) — **Final Rule Stage**
National Telecommunications and Information Administration (NTIA)

330. PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM: REPORT AND ORDER (FINAL RULES), FUNDING PRIORITIES AND POLICY STATEMENT

Legal Authority: 47 USC 390 to 394; 47 USC 397 to 399b

CFR Citation: 15 CFR 2301

Legal Deadline: None.

Abstract: NTIA has administered the Public Telecommunications Facilities Program (PTFP) for two years under an interim revision of rules. These final rules are designed to reduce applicant burdens and simplify applications requirements. Deletions from prior rules include: local public notice and submission of site leases with initial applications. Grant recipients within the past ten years need not submit full eligibility documentation. Equipment inventories need only include the type(s) of equipment requested. NTIA seeks information on applicants' non-Federal financial support and capital replacement policies, and encourages applicants with the ability to increase their share of project costs. NTIA states its policy to prefer applicants requesting 50% or less PTFP funding for broadcast equipment replacements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/16/84	49 FR 36600
NPRM	12/04/86	51 FR 43804
NPRM Comment Period End	01/05/87	
Final Action	10/01/87	
Final Action Effective	10/01/87	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Burnham S. Morse, Telecommunications Policy Analyst, Department of Commerce, National Telecommunications and Information Administration, 14th & Constitution Avenue NW, Room H4890, Washington, DC 20230, 202 377-1835

RIN: 0660-AA01

DEPARTMENT OF COMMERCE (DOC) — **Prerule Stage**
Office of Productivity, Technology and Innovation (OPTI)

331. ● ADMINISTRATION OF A UNIFORM PATENT POLICY WITH RESPECT TO DOMESTIC RIGHTS IN INVENTIONS MADE BY GOVERNMENT EMPLOYEES

Significance: Agency Priority

Legal Authority: EO 10096; EO 10930; 35 USC 207 to 208; 15 USC 3701 et seq

CFR Citation: 37 CFR 100

Legal Deadline: None.

Abstract: PL 99-502 amended the Stevenson-Wydler Innovation Act of 1980 by establishing a number of procedures to encourage the development of technologies by laboratories owned or operated by the Federal government, to facilitate the transfer of such technologies to the public, and to promote cooperation between these laboratories and the private sector.

Executive Order 10096 would be amended with regard to the government's rights to ownership of inventions created in laboratories owned or operated by the Federal government. A revised version of the executive order might be prepared and regulations would be developed to implement the amendments effected by P.L. 99-502.

This action will not increase Federal costs. In the short run it will encourage private sector collaboration to assist work done in Federal laboratories by appropriated funds, and in the long run increased commercialization of patents and inventions will increase tax revenues.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Norman J. Latker, Director, Federal Technology Management Policy Division, Department of Commerce, Office of Productivity, Technology and Innovation, Room H 4837, Washington, DC 20230, 202 377-0659

RIN: 0692-AA05

DEPARTMENT OF COMMERCE (DOC) — **Proposed Rule Stage**
Office of Productivity, Technology and Innovation (OPTI)

332. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Legal Authority: 35 USC 208

CFR Citation: 37 CFR 404

Legal Deadline: None.

Abstract: This action will revise 37 CFR 404 to simplify the process by which US industry can obtain license to patented inventions owned by the Government. P.L. 99-502 is expected to increase industry interest in licensing inventions from Federal laboratories. The existing regulation was written by GSA on the basis of 1980 legislation. It may be possible to remove some of the difficulties that potential licensees must overcome.

Timetable:

Action	Date	FR Cite
NPRM	03/31/88	
NPRM Comment Period End	05/31/88	
Final Action	09/30/88	

Small Entity: No

Affected Sectors: All

Government Levels Affected: Federal

DOC—OPTI — **Proposed Rule Stage**

Agency Contact: Norman J. Latker, Director Federal Technology Management, Policy Division, Department of Commerce, Office of Productivity, Technology and Innovation, Room H4837, Washington, DC 20230, 202 377-0659

RIN: 0692-AA04

DEPARTMENT OF COMMERCE (DOC) — **Completed Actions**
Office of Productivity, Technology and Innovation (OPTI)

333. RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS

Legal Authority: 35 USC 206

CFR Citation: 37 CFR 401

Legal Deadline: None.

Abstract: 35 USC 206 as amended by PL 98-620, requires the Secretary to issue regulations implementing 35 USC 202-204 which deals with the rights in inventions to be provided to nonprofit organizations and small businesses that perform Government supported research and development. Previously this was the responsibility of OFPP which issued OMB Cir. A-124. The regulation is based on Cir. A-124 with such substantive changes as are necessary because of various amendments made by PL 98-620. No alternative is available since a major thrust of the statute was the development of a single regulation to replace the numerous regulations that were in effect prior to 1981. The statute and regulations will benefit contractors and the public by creating the certainty necessary for the early commercialization of inventions by the private sector. Compared to the pre-1981 situation this reduces administrative costs of both the Government and contractors.

Timetable:

Action	Date	FR Cite
NPRM	04/04/85	50 FR 13524
Interim Final Rule	07/14/86	51 FR 25508
Final Action	03/18/87	52 FR 8552
Final Action Effective	04/17/87	52 FR 8552

Small Entity: Yes

Agency Contact: Norman Latker, Director, Federal Technology Management of Policy Division, Department of Commerce, Office of Productivity, Technology and Innovation, Room H 4837, Washington, DC 20230, 202 377-0659

RIN: 0692-AA01

DEPARTMENT OF COMMERCE (DOC) — **Prerule Stage**
Patent and Trademark Office (PTO)

334. DEPOSIT OF BIOLOGICAL MATERIALS FOR PATENT PURPOSES

Significance: Regulatory Program

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.71

Legal Deadline: None.

Abstract: PTO will propose amendment of its rules of practice in patent cases to govern the deposit of biological materials for patent purposes.

Timetable:

Action	Date	FR Cite
ANPRM	08/00/87	
ANPRM Comment Period End	11/30/87	
NPRM	05/00/88	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Stanley D. Schlosser, Legislative and International Specialist, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3065

RIN: 0651-AA13

DEPARTMENT OF COMMERCE (DOC) — **Proposed Rule Stage**
Patent and Trademark Office (PTO)

335. REQUESTS FOR IDENTIFIABLE RECORDS

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.15

Legal Deadline: None.

Abstract: The existing regulations govern requests for records not disclosed to the public as part of PTO's informational activities. The regulations need to be revised to eliminate obsolete provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	02/00/88	
Final Action	06/00/88	
Final Action Effective	07/00/88	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: John W. Dewhirst, Department of Commerce, Patent and

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DOC—PTO — Proposed Rule Stage

Trademark Office, Ofc. of the Solicitor, Washington, DC 20231, 703 557-4035

RIN: 0651-AA04

336. VARIETY NAMING REQUIREMENTS FOR PLANT PATENT APPLICATIONS

Legal Authority: 35 USC 41; 35 USC 6

CFR Citation: 37 CFR 1.17; 37 CFR 1.72; 37 CFR 1.168

Legal Deadline: None.

Abstract: PTO will propose amendment of its rules of practice in patent cases to implement the International Convention for the Protection of New Varieties of Plants. The International Convention requires registration of a plant variety name at the time a patent on a plant variety is issued. Compliance with the registration requirements of the Convention would be determined in the process of examining plant patent applications.

Timetable:

Action	Date	FR Cite
NPRM	08/16/85	50 FR 33062
NPRM Comment Period End	10/31/85	
Notice	12/27/85	50 FR 52963
NPRM	10/00/87	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Stanley D. Schlosser, Legislative and International Specialist, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3065

RIN: 0651-AA12

337. TRADEMARK APPLICATIONS

Significance: Regulatory Program

Legal Authority: 15 USC 1123; Crocker National Bank v. Canadian Imperial Bank of Commerce; 223 USPQ 909 (TTAB 1984)

CFR Citation: 37 CFR 2.21; 37 CFR 2.33; 37 CFR 2.39; 37 CFR 2.56; 37 CFR 2.57; 37 CFR 2.58

Legal Deadline: None.

Abstract: PTO plans to propose amendment of its rules of practice in trademark cases to revise the use and specimen requirements in trademark applications filed by foreign applicants pursuant to Section 44 of the Trademark Act, 15 USC 1126. The revision would conform the use and specimen requirements with the decision of the Trademark Trial and Appeal Board in Crocker National Bank v. Canadian Imperial Bank of Commerce, 223 USPQ 909 (1984). Since this decision has been appealed, any regulatory action will have to await the outcome of the judicial review.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: Ms. Carlisle Walters, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3268

RIN: 0651-AA23

338. MISCELLANEOUS AMENDMENTS OF PATENT RULES

Legal Authority: 35 USC 6; 35 USC 135

CFR Citation: 37 CFR 1.14; 37 CFR 1.131; 37 CFR 1.192; 37 CFR 1.194; 37 CFR 1.196; 37 CFR 1.604; 37 CFR 1.607; 37 CFR 1.612; 37 CFR 1.637; 37 CFR 1.658; 37 CFR 1.662; 37 CFR 5.3

Legal Deadline: None.

Abstract: PTO plans to amend its rules of practice to clarify the procedure in patent interference cases, to make ex parte practice in patent cases consistent with the procedure in patent interference cases, and to expedite the disposition of appeals in ex parte cases.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	04/00/88	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Saul I. Serota, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-4072

RIN: 0651-AA25

339. DUTY OF DISCLOSURE - INFORMATION DISCLOSURE STATEMENT

Significance: Agency Priority

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.56; 37 CFR 1.97; 37 CFR 1.98; 37 CFR 1.99

Legal Deadline: None.

Abstract: 37 CFR 1.56 and 1.97- .99, which relate to the duty of patent applicants and owners to disclose information material to the examination of patent applications or to reexaminations, will be amended to specify more clearly the requirements to be met in making disclosures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: R. Franklin Burnett, Special Assistant, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3054

RIN: 0651-AA27

340. ● REQUESTS FOR PRESIDENTIAL PROCLAMATIONS UNDER THE SEMICONDUCTOR CHIP PROTECTION ACT

Significance: Agency Priority

Legal Authority: 35 USC 6; 17 USC 901; EO 12504

CFR Citation: 37 CFR 150.1; 37 CFR 150.2; 37 CFR 150.3; 37 CFR 150.4; 37 CFR 150.5; 37 CFR 150.6

Legal Deadline: None.

Abstract: PTO proposes to amend its rules of practice to provide procedures implementing the provision in the Semiconductor Chip Protection Act of 1984 for the issuance of Presidential Proclamations to protect semiconductor chip products against unauthorized duplication.

DOC—PTO — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Federal

Agency Contact: Michael K. Kirk, Assistant Commissioner for External Affairs, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231, 703 557-3065

RIN: 0651-AA29

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Final Rule Stage

341. TRADEMARK AUTOMATED SEARCH SYSTEM FEES

Legal Authority: 15 USC 1113; 15 USC 1123; PL 96-517; PL 97-247

CFR Citation: 37 CFR 2.6

Legal Deadline: None.

Abstract: PTO proposes to amend its rules to establish user fees for members of the public desiring to conduct trademark searches of the computerized data bases in the PTO's automated trademark search system.

Timetable:

Action	Date	FR Cite
NPRM	08/07/84	49 FR 31460
NPRM Comment Period End	09/05/84	
NPRM Comment Period Extended to	09/25/84	49 FR 35527
Final Action	11/00/87	
Final Action Effective	12/00/87	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: Bradford R. Huther, Asst. Commissioner for Finance & Planning, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-1572

RIN: 0651-AA18

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Completed Actions

342. ARBITRATION OF PATENT INTERFERENCE CASES

Legal Authority: 35 USC 6; PL 98-622

CFR Citation: 37 CFR 1.690

Legal Deadline: None.

Abstract: An amendment of PTO's rules of practice relating to patent interferences will be proposed to implement the provision in Public Law 98-622 for arbitration of patent interference cases.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/85	50 FR 02294
ANPRM Comment Period End	03/01/85	50 FR 02294
NPRM	09/15/86	51 FR 32756
NPRM Comment Period End	11/14/86	
Final Action	04/27/87	52 FR 13833
Final Action Effective	05/27/87	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: Michael Sofocleous, Examiner-In-Chief, BD of Pat. Appeals and Interferences, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-4000

RIN: 0651-AA20

343. RULES FOR EXTENSION OF PATENT TERM

Significance: Regulatory Program

Legal Authority: 35 USC 6; PL 98-417

CFR Citation: 37 CFR 1.1; 37 CFR 1.8; 37 CFR 1.20; 37 CFR 1.710 to 1.785

Legal Deadline: None.

Abstract: PTO plans to propose changes in its rules of practice in patent cases to specify procedures and fees for extending the terms of patents pursuant to the provisions of Public Law 98-417 for the restoration of up to 5 years of the loss in a patent term due to regulatory delays.

Timetable:

Action	Date	FR Cite
NPRM	07/30/86	51 FR 27205
NPRM Comment Period End	09/10/86	51 FR 27205
Final Action	03/24/87	52 FR 9386
Final Action Effective	05/26/87	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Charles E. Van Horn, Director, Examining Group 120, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3637

RIN: 0651-AA22

344. UNITY OF INVENTION AND PATENT COOPERATION TREATY, CHAPTER II

Significance: Agency Priority

Legal Authority: 35 USC 6; PL 99-616

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DOC—PTO — **Completed Actions**

CFR Citation: 37 CFR 1.8; 37 CFR 1.61; 37 CFR 1.70; 37 CFR 1.101; 37 CFR 1.141; 37 CFR 1.401; 37 CFR 1.414; 37 CFR 1.416; 37 CFR 1.431; 37 CFR 1.432; 37 CFR 1.445; 37 CFR 1.475; 37 CFR 1.480; 37 CFR 1.481; 37 CFR 1.482; ...

Legal Deadline: Statutory. Three months after withdrawal of our reservation as to Chapter II of PCT.

Abstract: Public Law 99-616, enacted November 6, 1986, authorizes the U.S. Patent and Trademark Office to act as an International Preliminary Examining Authority and as an elected Office for international applicants under Chapter II of the Patent Cooperation Treaty. Chapter II provides for an International Preliminary Examination Report to be established and allows at least 30 months from the priority date for entry into the national phase. Regulations must be established to implement requirements and time periods for entry into the national phase and set fees to cover processing costs, including the cost covered by 35 USC 376 of searching and examining international applications with claims to different categories of invention in a single international application.

Timetable:

Action	Date	FR Cite
NPRM	03/04/87	52 FR 06696
Final Action	05/28/87	52 FR 20038
Final Action Effective	07/01/87	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Federal

Agency Contact: Louis O. Maassel, Editor, Manual of Patent Examining Procedure, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3070

RIN: 0651-AA26

DEPARTMENT OF COMMERCE (DOC) — **Prerule Stage**

United States Travel and Tourism Administration (USTTA)

345. ● TRAVEL PROMOTION FEE

Significance: Regulatory Program

Legal Authority: Not yet enacted

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: USTTA has primary federal responsibility for stimulating travel to the United States by residents of foreign countries. Promotion and facilitation services are currently offered without charge to those who derive a direct benefit from the government's activities. A travel promotion fee would recover the costs of these services. The Department of Commerce will submit draft legislation which would impose a fee on airlines and passenger ship lines which travel to the United States and directly benefit from USTTA promotional activities overseas. Airlines and passenger ship lines would be required to pay a fee for each passenger who arrives in the United States. Upon enactment of the legislation, USTTA will issue implementing regulations.

Timetable:

Action	Date	FR Cite
Submit draft legislation to Congress	01/00/88	

Small Entity: Undetermined

Agency Contact: Jerry Manolatos, Director, Office of Management and, Administration, Department of Commerce, United States Travel and Tourism Administration, Room 1524, Washington, DC 20230, 202 377-3812

RIN: 0644-AA00

[FR Doc. 87-21233 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26, 1987

Part V

Department of Defense

Semiannual Regulatory Agenda

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DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, DoD.

ACTION: Publication of the consolidated semiannual agenda of DoD regulatory documents.

SUMMARY: The Department of Defense is publishing this consolidated semiannual agenda of regulatory documents for public information and comments under E.O. 12291, "Federal Regulation." This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under E.O. 12291, and other regulatory programs. It contains DoD issuances initiated by DoD Components that may have economic and environmental impact on state, local, public or private interests under the criteria of E.O. 12291. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and therefore are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

This agenda updates the report published on April 27, 1987, and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in April 1988. In addition to this agenda, DoD Components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Ms. Anne M. Jeffery, telephone 202-746-0664 or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, contact the Office of the General Counsel, DoD, Washington, DC 20301, or call 202-697-2714.

For specific agenda items, contact the appropriate individual indicated in each DoD Component report.

SUPPLEMENTARY INFORMATION: This consolidated agenda is composed of the regulatory status reports from the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force. Included also in this agenda is the regulatory report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of E.O. 12291. Their agenda will reflect these requirements, with follow-on reporting actions taken, as necessary.

DoD issuances range from DoD Directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement Directives). The OSD agenda section contains the primary Directives under which DoD Components promulgate their implementing regulations.

To ease identification and to clarify the differences among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes Component level of authority and type of issuance in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of E.O. 12291, will continue to be the DoD single source reporting vehicle which will identify issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, when applicable, DoD Components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act; and

c. GATT International Trade Agreement.

These DoD issuances which are directly applicable under these statutes will be identified in the agenda and their action status indicated. Generally, the reports in this agenda will contain three sections: (1) Current and projected rulemaking; (2) review of existing regulations; and (3) completed actions.

Although not a regulatory agency, the Department of Defense will continue to participate in regulatory initiatives designed to reduce the economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD Component representatives identified in each section.

Although sensitive to the needs of the public and regulatory reform, the Department of Defense reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission.

Note: The publishing of this agenda does not waive the applicability of the military affairs exemption in title 5, section 553 and section 1 of E.O. 12291.

D. O. Cooke,

Deputy Assistant Secretary of Defense (Administration).

AGENCY: Office of the Secretary, DoD.

ACTION: This agenda updates the report published on April 27, 1987 and includes regulations expected to be issued and under review over the next 12 months.

SUMMARY: The regulatory material listed below is in 3 parts: (1) Current and projected rulemaking; (2) review of existing regulations; and (3) completed actions.

FOR FURTHER INFORMATION CONTACT: The Agency contact names and telephone numbers appear after each agenda entry. For other information on the agenda, contact Mrs. Patricia H. Means, Directives Division, Correspondence and Directives Directorate, Washington Headquarters Services, telephone 202-697-4111.

SUPPLEMENTARY INFORMATION:

E.O. 12291: None of the regulatory documents listed below is a "major rule" and no major rules are presently under development.

Regulatory Flexibility Action, section 610: The Office of the Secretary of Defense has screened its existing regulatory documents and has concluded that none of its regulatory documents cause significant impact on a substantial number of small entities.

Paperwork Reduction Act, Pub. L. 96-511: None of the DoD regulatory documents listed in the agenda require information collection reports affecting the public sector under the criteria of Pub. L. 96-511.

GATT Agreement: None of the DoD regulatory documents listed in this agenda impact upon foreign trade under the GATT Agreement.

The OSD agenda follows.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
346	Presentation of DoD-Sponsored Scientific and Technical Papers at Meetings (DoD Instruction 5230.XX)	0790-AA59
347	Coordination of Benefits (DoD Instruction 6010.XX)	0790-AA66
348	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Implementation of Section 504 of Pub. L. 93-112, the Rehabilitation Act of 1973 (DoD 6010.8-R)	0790-AA71
349	Commercial Activities Program; Procedures (DOD Instruction 4100.33)	0790-AA73
350	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Implementation of a CHAMPUS DRG-Based Payment System (DoD 6010.8-R)	0790-AA80
351	Implementation of the Program Fraud Civil Remedies Act	0790-AA82
352	Department of Defense (DoD) Program Fraud Civil Remedies Regulation	0790-AA83
353	Defense Industrial Personnel Security Clearance Review Program (DoD Directive 5220.6)	0790-AA84
354	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Active Duty Dependents Dental Program (DoD 6010.8-R)	0790-AA85
355	Shelter for the Homeless Program; Proposed Implementation (DoD Instruction 4165.65)	0790-AA86
356	Provision of Free Public Education for Eligible Dependent Children (DoD Directive 1342.XX)	0790-AA87
357	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Modification of Payment Limitation for Multiple Surgical Procedures (DoD 6010.8-R)	0790-AA89

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
358	DoD Freedom of Information Act Program (DoD Directive 5400.7 and DoD 5400.7-R)	0790-AA65
359	Procedures Governing Credit Unions on DoD Installations (DoD Instruction 1000.10)	0790-AA66
360	Procedures Governing Banking Offices on DoD Installations (DoD Instruction 1000.12)	0790-AA67
361	Reporting Procedures on Defense Related Employment (DoD Directive 7700.15)	0790-AA74
362	Personal Commercial Solicitation on DoD Installations (DoD Directive 1344.7)	0790-AA76
363	Standards of Conduct (DoD Directive 5500.7)	0790-AA78
364	Defense Contracting, Reporting Procedures of Defense Related Employment	0790-AA79
365	Personnel Security Program (DoD 5200.2-R)	0790-AA81
366	Availability of DoD Directives, DoD Instructions, DoD Publications, and Changes	0790-AA88

Department of the Army—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
367	The Army General Counsel's Honors Programs	0702-AA00
368	Airfield Certification and Use of Army Airfields by Other than US Department of Defense Aircraft	0702-AA02

Department of the Army—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
369	Regulations Affecting Military Reservations; Firearms and Weapons	0702-AA16

DOD

Department of the Army—Completed Actions

Sequence Number	Title	Regulation Identifier Number
370	Controlling Access to Main Cantonment Area, Fort Lewis Military Reservation, Washington and Prohibiting Certain Forms of Conduct Upon Fort Lewis Military Reservation	0702-AA15

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
371	Regulatory Programs of the Corps of Engineers, Part 325, Appendix D–Endangered Species Counterpart Regulations	0710-AA17
372	Regulatory Program of the Corps of Engineers, Nationwide Permits	0710-AA20

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
373	Environmental Quality, Procedures for Implementing the National Environmental Policy Act (NEPA)	0710-AA11
374	Regulatory Programs of the Corps of Engineers Part 325, App. C, Historic Properties	0710-AA12

U.S. Army Corps of Engineers—Completed Actions

Sequence Number	Title	Regulation Identifier Number
375	Corps of Engineers Management of Army and Air Force Real Property	0710-AA14

Department of the Navy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
376	Delivery of Personnel; Service of Process and Subpoena; Production of Official Records	0703-AA14
377	Availability of Department of the Navy Records and Publications of the Navy Documents Affecting the Public; Correction	0703-AA20
378	Availability of Department of the Navy Records and Publication of the Department of the Navy Documents Affecting the Public; Amendment	0703-AA21
379	Base Entry Regulations for Naval Installations in the State of Hawaii	0703-AA22
380	General Claims Regulations, Amendment	0703-AA23
381	Personnel Claims Regulations, Amendment	0703-AA24
382	Rules Governing Public Access; Kahoolawe Island and Kaula, HI	0703-AA25
383	Affirmative Claims Regulations, Amendment	0703-AA26

Department of the Air Force—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
384	Air Force Supplement to the Federal Acquisition Regulation (FAR)	0701-AA14
385	Delivery of Air Force Personnel to U.S. Civilian Authorities for Trial (AFR 111-11)	0701-AA20

DOD

Department of the Air Force—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
386	Environmental Impact Analysis Process (ANGR 19-02)	0701-AA22

Department of the Air Force—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
387	Public Affairs Policies and Procedures (AFR 190-1)	0701-AA18
388	Claims and Tort Litigation (AFR 112-1)	0701-AA19
389	Issuing Certificates in Lieu of Lost or Destroyed Certificates of Separation (AFR 35-96)	0701-AA21
390	Personal Financial Responsibility (AFR 35-18)	0701-AA23
391	Air Force Visual Information Systems (AFR 700-32)	0701-AA25

Department of the Air Force—Completed Actions

Sequence Number	Title	Regulation Identifier Number
392	Foreign Tax Relief Program (AFR 110-18)	0701-AA12
393	Aircraft Arresting Systems (AFR 55-42)	0701-AA17
394	Personal Commercial Affairs (AFR 211-16)	0701-AA24

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Proposed Rule Stage

346. PRESENTATION OF DOD-SPONSORED SCIENTIFIC AND TECHNICAL PAPERS AT MEETINGS (DOD INSTRUCTION 5230.XX)

Legal Authority: PL 98-94; 10 USC 140c

CFR Citation: 32 CFR 249

Legal Deadline: None.

Abstract: This part provides policy and procedural guidance for considering national security in the dissemination of DoD-sponsored scientific and technical information at meetings, whether such meetings are conducted by the U.S. Government or private organizations.

Timetable:

Action	Date	FR Cite
NPRM	02/12/86	51 FR 5210
NPRM Comment Period End	03/14/86	51 FR 5210

Next Action Undetermined

Small Entity: No

Agency Contact: F. Sobieszczyk, Department of Defense, Office of the Secretary, 202 694-9385

RIN: 0790-AA59

347. COORDINATION OF BENEFITS (DOD INSTRUCTION 6010.XX)

Legal Authority: PL 99-272; 10 USC Chapter 55

CFR Citation: 32 CFR 220

Legal Deadline: None.

Abstract: This part is to comply with PL 99-272. It also informs the public that the Department of Defense shall collect from third-party payers the reasonable inpatient hospital care costs incurred on behalf of retirees and dependents.

Timetable:

Action	Date	FR Cite
NPRM	10/06/86	51 FR 36023
NPRM Comment Period End	11/07/86	51 FR 36023

Next Action Undetermined

Small Entity: No

Agency Contact: J. Maddy, Department of Defense, Office of the Secretary, 202 694-3242

RIN: 0790-AA68

348. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); IMPLEMENTATION OF SECTION 504 OF PUB. L. 93-112, THE REHABILITATION ACT OF 1973 (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301; 29 USC 794

CFR Citation: 32 CFR 199

Legal Deadline: None.

Abstract: The purpose of this rule is to revise the DoD Regulation 6010.8-R (32 CFR Part 199) to meet the intent of section 504 of the Rehabilitation Act of 1973, as amended.

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Timetable:

Action	Date	FR Cite
NPRM	10/31/86	51 FR 39757
NPRM Comment Period End	12/01/86	51 FR 39757

Next Action Undetermined

Small Entity: No

Agency Contact: T. Shahid, Department of Defense, Office of the Secretary, 303 361-3587

RIN: 0790-AA71

349. COMMERCIAL ACTIVITIES PROGRAM; PROCEDURES (DOD INSTRUCTION 4100.33)

Legal Authority: 5 USC 301; 5 USC 552; PL 93-400

CFR Citation: 32 CFR 169; 32 CFR 169a; 32 CFR 171

Legal Deadline: None.

Abstract: This instruction establishes DoD policies to implement OMB Circular No. A-76, which are currently included in 32 CFR Part 169. It establishes procedures and criteria for use by the Department of Defense to determine whether DoD commercial activities should be performed by DoD personnel in-house or by contract with commercial sources. 32 CFR Part 169, "Commercial Activities Program" and 32 CFR Part 169a, "Commercial Activities Program Procedures" are proposed to be removed in their entirety.

Timetable:

Action	Date	FR Cite
NPRM	12/03/86	51 FR 43619
NPRM Comment Period End	01/02/87	51 FR 43620

Next Action Undetermined

Small Entity: No

Agency Contact: D. Hansen, Department of Defense, Office of the Secretary, 202 325-0537

RIN: 0790-AA73

350. ● CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); IMPLEMENTATION OF A CHAMPUS DRG-BASED PAYMENT SYSTEM (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None.

Abstract: This proposed amendment revises the comprehensive CHAMPUS regulation, DoD 6010.8-R, pertaining to payment for inpatient hospital services. This proposed amendment implements a DRG-based payment system which is modeled on the Medicare Prospective Payment System for CHAMPUS inpatient hospital admissions occurring on or after October 1, 1987.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20731
NPRM Comment Period End	07/06/87	52 FR 20731

Next Action Undetermined

Small Entity: No

Agency Contact: S. Isaacson, Department of Defense, Office of the Secretary, 303 361-4005

RIN: 0790-AA80

351. ● IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT

Legal Authority: 31 USC 3807; PL 99-509

CFR Citation: 32 CFR 276

Legal Deadline: None.

Abstract: This part implements Program Fraud Civil Remedies Act by establishing an administrative process within the Departments of the Army, Navy, and Air Force for the adjudication of fraudulent claims of less than $150,000 or false statements.

Timetable:

Action	Date	FR Cite
NPRM	07/16/87	52 FR 26692
NPRM Comment Period End	08/17/87	52 FR 26692

Next Action Undetermined

Small Entity: No

Agency Contact: E. Shapiro, Department of Defense, Office of the Secretary, 202 697-2714

RIN: 0790-AA82

352. ● DEPARTMENT OF DEFENSE (DOD) PROGRAM FRAUD CIVIL REMEDIES REGULATION

Legal Authority: 31 USC 3807; PL 99-509

CFR Citation: 32 CFR 277

Legal Deadline: None.

Abstract: This part establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious or fraudulent claims or written statements to authorities or to their agents. It also specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

Timetable:

Action	Date	FR Cite
NPRM	07/16/87	52 FR 26693
NPRM Comment Period End	08/17/87	52 FR 26693

Next Action Undetermined

Small Entity: No

Agency Contact: E. Shapiro, Department of Defense, Office of the Secretary, 202 697-2714

RIN: 0790-AA83

353. ● DEFENSE INDUSTRIAL PERSONNEL SECURITY CLEARANCE REVIEW PROGRAM (DOD DIRECTIVE 5220.6)

Legal Authority: 5 USC 504; EO 10865

CFR Citation: 32 CFR 155

Legal Deadline: None.

Abstract: This part is being revised and reissued to establish a standard for determining petitions for reimbursement for loss of earnings, incorporate the revised DoD Adjudication Policies for security clearance determinations under this rule, and revise procedures for cases not requiring a hearing, and procedures for considering issues raised on appeal.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 16864
NPRM Comment Period End	06/05/87	52 FR 16864

Next Action Undetermined

Small Entity: No

Agency Contact: J. Brown, Department of Defense, Office of the Secretary, 202 695-4599

RIN: 0790-AA84

354. ● CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ACTIVE DUTY DEPENDENTS DENTAL PROGRAM (DOD 6010.8-R)

Legal Authority: 10 USC 1076a; 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None.

Abstract: This proposed rule would amend 32 CFR Part 199, the Regulation which implements CHAMPUS programs, by adding a new section to implement Chapter 55, Title 10 Section 1076a U.S.C., which authorizes the Active Duty Dependent Dental Plan.

Timetable:

Action	Date	FR Cite
NPRM	05/29/87	52 FR 20096
NPRM Comment Period End	07/13/87	52 FR 20096

Next Action Undetermined

Small Entity: No

Agency Contact: J. Rhea, Department of Defense, Office of the Secretary, 303 361-3278

RIN: 0790-AA85

355. ● SHELTER FOR THE HOMELESS PROGRAM; PROPOSED IMPLEMENTATION (DOD INSTRUCTION 4165.65)

Legal Authority: 10 USC 2546

CFR Citation: 32 CFR 226

Legal Deadline: None.

Abstract: This proposed rule intends to provide specific guidance to the Heads of Department of Defense Components and Installation Commanders as to the actions they may take to provide shelter and incidental services to persons without adequate shelter.

Timetable:

Action	Date	FR Cite
NPRM	05/11/87	52 FR 17605
NPRM Comment Period End	06/10/87	52 FR 17605

Next Action Undetermined

Small Entity: No

Agency Contact: S. Kleiman, Department of Defense, Office of the Secretary, 202 697-7475

RIN: 0790-AA86

356. ● PROVISION OF FREE PUBLIC EDUCATION FOR ELIGIBLE DEPENDENT CHILDREN (DOD DIRECTIVE 1342.XX)

Legal Authority: 20 USC 241

CFR Citation: 32 CFR 68

Legal Deadline: None.

Abstract: This proposed rule would implement Pub.L 81-874, as amended, and section 505(c) of Pub.L 97-35. Section 6 authorizes the establishment of "arrangements" for the education of certain federally-connected children when prescribed conditions are met.

Timetable:

Action	Date	FR Cite
NPRM	05/22/87	52 FR 19361
NPRM Comment Period End	06/22/87	52 FR 19361

Next Action Undetermined

Small Entity: No

Agency Contact: H. Navarez, Department of Defense, Office of the Secretary, 202 697-0481

RIN: 0790-AA87

357. ● CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); MODIFICATION OF PAYMENT LIMITATION FOR MULTIPLE SURGICAL PROCEDURES (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None.

Abstract: This proposed amendment revises the comprehensive CHAMPUS regulation pertaining to payment for multiple surgical procedures performed during the same operative session. This proposed amendment allows payment for second and subsequent surgical procedures at fifty percent of the CHAMPUS-determined allowable charge, whether or not the second and subsequent procedures are related i.e., performed through the same surgical opening to the first procedure.

Timetable:

Action	Date	FR Cite
NPRM	03/11/87	52 FR 7453
NPRM Comment Period End	04/10/87	52 FR 7453

Next Action Undetermined

Small Entity: No

Agency Contact: S. Isaacson, Department of Defense, Office of the Secretary, 303 362-4005

RIN: 0790-AA89

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Completed Actions

358. DOD FREEDOM OF INFORMATION ACT PROGRAM (DOD DIRECTIVE 5400.7 AND DOD 5400.7-R)

Legal Authority: 5 USC 552; PL 99-570; PL 99-661

CFR Citation: 32 CFR 286

Legal Deadline: None.

Abstract: This final rule implements certain provisions of the Freedom of Information Reform Act of 1986, which required agency promulgation of regulations specifying a uniform schedule of fees and guidelines for determining waiver or reduction of such fees.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	52 FR 802
NPRM Comment Period End	02/09/87	52 FR 802
Final Action	07/10/87	52 FR 25976
Final Action Effective	08/10/87	52 FR 25976

Small Entity: No

Agency Contact: C. Talbott, Department of Defense, Office of the Secretary, 202 697-1160

RIN: 0790-AA65

359. PROCEDURES GOVERNING CREDIT UNIONS ON DOD INSTALLATIONS (DOD INSTRUCTION 1000.10)

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 231a

Legal Deadline: None.

Abstract: As a result of the comments received on the March 3, 1987 notice of the final amended rule, the requirement to pay ground rent of excess space has been eliminated. In addition, provisions have been clarified concerning the membership criterion for credit unions to qualify for logistical support.

Timetable:

Action	Date	FR Cite
NPRM	11/10/86	51 FR 40828
NPRM Comment Period End	12/10/86	51 FR 40828
Final Action Effective	04/23/87	52 FR 17294
Final Action	05/07/87	52 FR 17294

Small Entity: No

Agency Contact: R. Adolphi, Department of Defense, Office of the Secretary, 202 697-8281

RIN: 0790-AA56

360. PROCEDURES GOVERNING BANKING OFFICES ON DOD INSTALLATIONS (DOD INSTRUCTION 1000.12)

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 230

Legal Deadline: None.

Abstract: This amendment extends leases beyond the former 25 years limitation, provided the banking institution agreed to continue maintaining the building and reimbursing the Government for any utilities and services provided.

Timetable:

Action	Date	FR Cite
NPRM	01/02/87	52 FR 90
NPRM Comment Period End	02/02/87	52 FR 90
Final Action Effective	04/27/87	52 FR 17283
Final Action	05/17/87	52 FR 17283

Small Entity: No

Agency Contact: R. Adolphi, Department of Defense, Office of the Secretary, 202 697-8281

RIN: 0790-AA67

361. REPORTING PROCEDURES ON DEFENSE RELATED EMPLOYMENT (DOD DIRECTIVE 7700.15)

Legal Authority: 50 USC 1436

CFR Citation: 32 CFR 166

Legal Deadline: None.

Abstract: This part is designed to establish criteria and procedures for reports required of certain former and retired military officers, former civilian officers and employees of the Department of Defense presently employed by defense contractors presently employed by the Department of Defense. It is formulated to implement 10 U.S.C. 2397.

Timetable:

Action	Date	FR Cite
NPRM	11/10/86	51 FR 40820
NPRM Comment Period End	12/10/86	51 FR 40820
Withdrawn Document removed and redesignated as 32 CFR 40a	06/19/87	52 FR 23298

Small Entity: No

Agency Contact: R. DuFresne, Department of Defense, Office of the Secretary, 202 695-3272

RIN: 0790-AA74

362. PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS (DOD DIRECTIVE 1344.7)

Legal Authority: 5 USC 301

CFR Citation: 32 CFR 43

Legal Deadline: None.

Abstract: This amendment allows an exception to the prohibition of advertising addresses or telephone numbers of commercial sales activities for members of military families authorized to conduct such activities in family housing.

Timetable:

Action	Date	FR Cite
NPRM	10/06/86	51 FR 35535
NPRM Comment Period End	11/05/86	51 FR 35535
Final Action Effective	04/21/87	52 FR 17951
Final Action	05/13/87	52 FR 17951

Small Entity: No

Agency Contact: B. Schoenberger, Department of Defense, Office of the Secretary, 202 697-9525

RIN: 0790-AA76

363. STANDARDS OF CONDUCT (DOD DIRECTIVE 5500.7)

Legal Authority: PL 87-651; 5 USC 301

CFR Citation: 32 CFR 40

Legal Deadline: None.

Abstract: This part is designed to prescribe standards of conduct required of all DoD personnel, regardless of assignment. It is being formulated to reflect statutory and regulatory changes. This action will provide updated guidelines of DoD personnel to observe when making decisions or taking action.

Timetable:

Action	Date	FR Cite
NPRM	09/04/86	51 FR 31651
NPRM Comment Period End	11/03/86	51 FR 31651
Final Action Effective	05/06/87	52 FR 23267
Final Action	06/19/87	52 FR 23267

Small Entity: No

Agency Contact: R. DuFresne, Department of Defense, Office of the Secretary, 202 695-3272

RIN: 0790-AA78

364. ● DEFENSE CONTRACTING, REPORTING PROCEDURES OF DEFENSE RELATED EMPLOYMENT

Legal Authority: 10 USC 2397

CFR Citation: 32 CFR 40a

Legal Deadline: None.

Abstract: This part reports the names of contractors who have been awarded $10,000,000 or more in defense contracts during the fiscal year.

Timetable:

Action	Date	FR Cite
Final Action Effective	05/06/87	52 FR 23298
Final Action	06/19/87	52 FR 23298

Small Entity: No

Agency Contact: J. Sunganis, Department of Defense, Office of the Secretary, 202 746-6334

RIN: 0790-AA79

365. ● PERSONNEL SECURITY PROGRAM (DOD 5200.2-R)

Legal Authority: EO 10450; EO 12356; EO 10865; EO 12333

CFR Citation: 32 CFR 154

Legal Deadline: None.

Abstract: This part prescribes the policy and procedures for the Department of Defense governing access to classified information and employment in sensitive positions by DoD military, civilian and contractor personnel. It also specifies the nature and extent of the investigative scope required for a DoD security clearance and employment in a variety of sensitive positions.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/02/87	52 FR 11219
Final Action	04/08/87	52 FR 11219

Small Entity: No

Agency Contact: P. Nelson, Department of Defense, Office of the Secretary, 202 697-3999

RIN: 0790-AA81

366. ● AVAILABILITY OF DOD DIRECTIVES, DOD INSTRUCTIONS, DOD PUBLICATIONS, AND CHANGES

Legal Authority: 10 USC 133; 31 USC 483a

CFR Citation: 32 CFR 269

Legal Deadline: None.

Abstract: This amendment is to notify individuals that DoD 5025.1-I, "DoD Directives System Quarterly Index," has been changed to "DoD Directives System Annual Index." The Annual Index will be issued each January followed by three quarterly change installments.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/31/87	52 FR 10225
Final Action	03/31/87	52 FR 10225

Small Entity: No

Agency Contact: L. Bynum, Department of Defense, Office of the Secretary, 202 697-4111

RIN: 0790-AA88

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

AGENCY: Department of the Army, DoD.

ACTION: Semiannual agenda of regulatory information under review or development by the Department of the Army which updates the report published on April 27, 1987 and includes regulations expected to be issued and under review over the next 12 months.

SUMMARY: The regulations contained in this agenda do not meet the criteria of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.); does not have priority status; and is not a major rule under the standards of E.O. 12291. The regulation "Airfield Certification and Use of Army Airfields by other than US Department of Defense Aircraft" contains OMB approval reporting requirements as specified under "The Paperwork Reduction Act," of the regulations contained in this agenda. None comes under the GATT International Trade Agreement.

FOR FURTHER INFORMATION CONTACT: Where a contact official is indicated, please contact the specific individual. For general information, please contact Mr. John O. Roach, telephone 202-325-6255 or write HQDA, SFIS-APP, Room 1010, Hoffman I, Alexandria, Virginia 22331-0302.

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Prerule Stage

367. THE ARMY GENERAL COUNSEL'S HONORS PROGRAMS

Legal Authority: 10 USC 302; 10 USC 3005

CFR Citation: 32 CFR 585

Legal Deadline: None.

Abstract: Army General Counsel's Honors Program. To recruit highly qualified attorneys to fill vacancies in the Army General Counsel's Office. Comment period completed. The document explains the methods of application and the requirements and procedures for the appointment to that office.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Paperwork Reduction Act Impact - None.

International Trade Impact - None.

Agency Contact: Mr. John Pavlick, Department of Defense, Department of the Army, Office of the Army General Counsel, 202 695-0582

RIN: 0702-AA00

368. AIRFIELD CERTIFICATION AND USE OF ARMY AIRFIELDS BY OTHER THAN US DEPARTMENT OF DEFENSE AIRCRAFT

Legal Authority: PL 85-726; PL 97-248; PL 91-258

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: Prescribes responsibilities and procedures with regard to use of US Army airfields by other than DoD.

Timetable:

Action	Date	FR Cite
End Review	10/00/87	

Small Entity: No

Additional Information: Paperwork Reduction Act Impact - None.

DOD—DOA

Prerule Stage

International Trade Impact - None.

Agency Contact: Mr. Robert C. Cole, Department of Defense, Department of the Army, US Army Air Traffic Control Activity, Aeronautical Service Office, 703 272-7796

RIN: 0702-AA02

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Final Rule Stage

389. REGULATIONS AFFECTING MILITARY RESERVATIONS; FIREARMS AND WEAPONS

Legal Authority: 10 USC 3012; 15 USC 1601; 18 USC 1382; 31 USC 72; 40 USC 258a; 41 USC 14; 50 USC 797

CFR Citation: 32 CFR 552

Legal Deadline: None.

Abstract: This regulation establishes the criteria for possessing, carrying, concealing, and transporting firearms and/or other deadly or dangerous weapons on the Fort Stewart/Hunter Army Airfield installation. This regulation provides guidance on prohibited items and the requirements for possessing, use, and storage under certain conditions for anyone (military or civilian) employed on visiting, or traveling through on the above installation.

Timetable:

Action	Date	FR Cite
NPRM	12/16/86	51 FR 4497
NPRM Comment Period End	02/16/87	
Final Action Effective	01/00/88	

Small Entity: Not Applicable

Government Levels Affected: Local, State, Federal

Agency Contact: Cpt Richard Luebke, Principal Attorney, Department of Defense, Department of the Army, Commander, 24th Infantry Div (Mech) & Ft. Stewart, ATT: AFZP-JAA, Ft. Stewart, GA 31314, 912 767-2953

RIN: 0702-AA16

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Completed Actions

370. CONTROLLING ACCESS TO MAIN CANTONMENT AREA, FORT LEWIS MILITARY RESERVATION, WASHINGTON AND PROHIBITING CERTAIN FORMS OF CONDUCT UPON FORT LEWIS MILITARY RESERVATION

Legal Authority: 10 USC 3012; 18 USC 1832; 50 USC 797

CFR Citation: 32 CFR 552

Legal Deadline: None.

Abstract: Fort Lewis has been declared a closed post and it is intended that these regulations will give notice to members of the public of the rules governing entry to the Main Cantonment Area of the Fort Lewis Military Reservation, Fort Lewis, Washington, and certain conduct prohibited upon Fort Lewis Military Reservation.

Timetable:

Action	Date	FR Cite
Final Action	07/09/87	52 FR 25861
Final Action Effective	07/09/87	52 FR 25861

Small Entity: Not Applicable

Agency Contact: Capt. John McDaniel, Principal Attorney, Department of Defense, Department of the Army, Office of the Staff Judge Advocate, I Corps and Fort Lewis, ATT: AFZH-JAA, Ft. Lewis, WA 98433, 206 967-6153

RIN: 0702-AA15

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

371. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, PART 325, APPENDIX D—ENDANGERED SPECIES COUNTERPART REGULATIONS

Legal Authority: 33 USC 403; 33 USC 1341; 33 USC 1413

CFR Citation: 33 CFR 325, Appendix D

Legal Deadline: None.

Abstract: Procedures for the protection of endangered species in the regulatory program of the Corps of Engineers. Because of the increased emphasis being placed on endangered species by the Federal and state resource agencies, the Corps identified a need to provide more definitive guidance on implementing the Endangered Species Act (ESA) in its regulatory program. The Corps is now developing counterpart regulations with the Department of Interior. The regulations will basically bring together various guidance used in the past by both the Corps and DOI. The regulations will include guidance on how the ESA Amendments impact applicants for Federal permits.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	
NPRM Comment Period End	07/00/88	
Final Action	09/00/88	

Small Entity: No

Government Levels Affected: Local, State, Federal

DOD—COE

Proposed Rule Stage

Agency Contact: Sam Collinson, Chief, Regulation Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-0199

RIN: 0710-AA17

372. REGULATORY PROGRAM OF THE CORPS OF ENGINEERS, NATIONWIDE PERMITS

Legal Authority: 33 USC 403; 33 USC 1344

CFR Citation: 33 CFR 330

Legal Deadline: None.

Abstract: The Corps intends to propose revisions to 33 CFR 330. The intent of the proposed revisions will be to simplify and clarify the nationwide permit program of the Corps. The nationwide permit program is designed to authorize projects that have minimal impacts with little or no paperwork or delay. Section 330 of the regulation has become so complex that this goal is no longer being met.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	
Final Action	04/30/88	

Small Entity: Yes

Government Levels Affected: Local, State, Federal

Agency Contact: John Studt, Chief, Technical Section, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, CECW-OR, 202 272-0199

RIN: 0710-AA20

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

373. ENVIRONMENTAL QUALITY, PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Significance: Regulatory Program

Legal Authority: 42 USC 4321

CFR Citation: 33 CFR 230

Legal Deadline: None.

Abstract: Revisions will streamline Corps NEPA procedures consistent with improved management techniques and reduce unnecessary regulatory burdens on applicants who seek Department of the Army permits.

Timetable:

Action	Date	FR Cite
NPRM	01/11/84	49 FR 1387
Final Action	09/30/87	

Small Entity: No

Additional Information: Additional agency contact: Ms. Janet O'Neill (202) 272-0201

Paperwork Reduction Act Impact - None.

GATT Impact - None.

Agency Contact: Mr. Richard L. Makinen, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-RE, 202 272-0166

RIN: 0710-AA11

374. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS PART 325, APP. C, HISTORIC PROPERTIES

Legal Authority: 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325, Appendix C

Legal Deadline: None.

Abstract: Procedure for protection of historic properties and compliance with Sections 106 and 110(f) of the National Historic Preservation Act.

Timetable:

Action	Date	FR Cite
NPRM	05/04/84	49 FR 19036
NPRM Comment Period End	06/04/84	49 FR 19036
Final Action	12/00/87	

Small Entity: No

Additional Information: Paperwork Reduction Act Impact - The paperwork, reports, studies, etc., required of government at all levels, business and citizens will be reduced by the revised procedures.

Small Business Impact - By streamlining the procedures for obtaining a Corps permit, the regulatory burden on small businesses will be reduced.

GATT Impact - None.

Affected Sectors: None

Government Levels Affected: Local, State, Federal

Agency Contact: Sam Collinson, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: CECW-OR, 202 272-0200

RIN: 0710-AA12

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Completed Actions

375. CORPS OF ENGINEERS MANAGEMENT OF ARMY AND AIR FORCE REAL PROPERTY

Legal Authority: 5 USC 301; 10 USC 3012

CFR Citation: 32 CFR 644

Legal Deadline: None.

Abstract: Chapter 8 of FR 405-1-12 is mainly comprised of instructions and evidence relating to internal agency procedures for managing and administering real property and interests in real property controlled by the Army and Air Force. Accordingly, it was determined that the entire chapter does not require publication in the Federal Register.

DOD—COE

Completed Actions

Timetable:

Action	Date	FR Cite
Withdrawn Never published in the Federal Register	03/06/87	

Small Entity: Undetermined

Agency Contact: Mr. Terrence Wilmer, Chief, Programs Division, Department of Defense, U.S. Army Corps of Engineers, ATTN: CERE-P, Washington, DC 20314-1000, 202 272-0522

RIN: 0710-AA14

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

AGENCY: Department of the Navy, DoD.

ACTION: This agenda updates the report published on April 27, 1987, and includes regulations expected to be issued and under review over the next 12 months.

SUMMARY: None of the regulations contained in this agenda meets the criteria of the Regulatory Flexibility Act (Pub. L. 96-354), has priority status, is a major rule under E.O. 12291, or contains reporting requirements under the "Paperwork Act." Further, none of the regulations comes under the GATT - International Trade Agreement.

FOR FURTHER INFORMATION CONTACT: Where a contact official is indicated, contact the specified individual. For general information, contact Ms. Alcinda P. Wenberg, telephone 202-695-0792 or write to Department of the Navy, Chief of Naval Operations, OP-945C, Washington, DC 20350-2000.

DOD—NAVY

Completed Actions

376. DELIVERY OF PERSONNEL; SERVICE OF PROCESS AND SUBPOENA; PRODUCTION OF OFFICIAL RECORDS

Legal Authority: 5 USC 301; 10 USC 5031; 10 USC 5148; 32 CFR 700.206; 32 CFR 700.1202

CFR Citation: 32 CFR 720

Legal Deadline: None.

Abstract: To revise and clarify rules on litigation.

Timetable:

Action	Date	FR Cite
Withdrawn Never published in the Federal Register.	07/30/87	

Small Entity: No

Agency Contact: CDR William Henderson, Department of Defense, Department of the Navy, Judge Advocate General, 200 Stovall St., Alexandria, VA 22332, 202 325-9870

RIN: 0703-AA14

377. ● AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATIONS OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC; CORRECTION

Legal Authority: 5 USC 552a; 32 CFR 286a

CFR Citation: 32 CFR 701, (Corrected)

Legal Deadline: None.

Abstract: To include two paragraphs which were inadvertently omitted from Department of the Navy's Privacy Act Program directive.

Timetable:

Action	Date	FR Cite
Final Action	05/07/87	52 FR 17294

Small Entity: No

Agency Contact: Mrs. Gwendolyn R. Aitken, Department of Defense, Department of the Navy, Chief of Naval Operations (OP-09B30), Washington, DC 20350-2000, 202 697-1459

RIN: 0703-AA20

378. ● AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF THE DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC; AMENDMENT

Legal Authority: 5 USC 552a; 32 CFR 286a

CFR Citation: 32 CFR 701, (Amended)

Legal Deadline: None.

Abstract: To provide an amended regulation pertaining to the Department of the Navy Privacy Act Program.

Timetable:

Action	Date	FR Cite
Final Action	04/07/87	52 FR 11051

Small Entity: No

Agency Contact: Mrs. Gwendolyn R. Aitken, Department of Defense, Department of the Navy, Chief of Naval Operations (OP-09B30), Washington, DC 20350-2000, 202 694-2004

RIN: 0703-AA21

379. ● BASE ENTRY REGULATIONS FOR NAVAL INSTALLATIONS IN THE STATE OF HAWAII

Legal Authority: 50 USC 797; 5 USC 301; 10 USC 6011; 32 CFR 700.702; 32 CFR 770.714

CFR Citation: 32 CFR 770

Legal Deadline: None.

Abstract: To amend the Base Entry Regulations for Naval Installations in the State of Hawaii, to reflect that cognizant commander authorized to grant access to Kahoolawe Island and Kaula is Commander Naval Base, Pearl Harbor, HI, Vice Commander Third Fleet.

Timetable:

Action	Date	FR Cite
Final Action	05/29/87	52 FR 20074

Small Entity: No

DOD—NAVY

Completed Actions

Agency Contact: Staff Judge Advocate, Department of Defense, Department of the Navy, Commander Naval Base, Pearl Harbor, HI 96860-5020, 808 471-0284

RIN: 0703-AA22

380. ● GENERAL CLAIMS REGULATIONS, AMENDMENT

Legal Authority: 5 USC 301; 10 USC 2733; 10 USC 5031; 10 USC 5148; 31 USC 3701 to 3721; 32 CFR 700.206; 32 CFR 700.1202

CFR Citation: 32 CFR 750, (Amended)

Legal Deadline: None.

Abstract: To update and clarify General Claims Regulations for better understanding by the public.

Timetable:

Action	Date	FR Cite
Final Action	07/08/87	52 FR 25595

Small Entity: No

Agency Contact: CDR M. D. Hannas, Department of Defense, Department of the Navy, Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332-2400, 202 325-9860

RIN: 0703-AA23

381. ● PERSONNEL CLAIMS REGULATIONS, AMENDMENT

Legal Authority: 5 USC 301; 10 USC 2733; 10 USC 5031; 10 USC 5148; 31 USC 3701 to 3721; 32 CFR 700.206; 32 CFR 700.1202

CFR Citation: 32 CFR 751, (Amended)

Legal Deadline: None.

Abstract: To update and clarify Personnel Claims Regulations for better understanding by the public.

Timetable:

Action	Date	FR Cite
Final Action	07/08/87	52 FR 25598

Small Entity: No

Agency Contact: CDR M. D. Hannas, Department of Defense, Department of the Navy, Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332-2400, 202 325-9860

RIN: 0703-AA24

382. ● RULES GOVERNING PUBLIC ACCESS; KAHOOLAWE ISLAND AND KAULA, HI

Legal Authority: 50 USC 797; 5 USC 301; 10 USC 6011; 32 CFR 700.702; 32 CFR 700.714; 3 CFR 1949 to 1953 Comp. p. 930 (1958)

CFR Citation: 32 CFR 763, (Amended)

Legal Deadline: None.

Abstract: To amend the Rules Governing Public Access to reflect that Kahoolawe Island and Kaula, HI, are now under cognizance of Commander Naval Base, Pearl Harbor, HI, Vice Commander Third Fleet.

Timetable:

Action	Date	FR Cite
Final Action	05/29/87	52 FR 20073

Small Entity: No

Agency Contact: Staff Judge Advocate, Department of Defense, Department of the Navy, Commander Naval Base, Pearl Harbor, HI 96860-5020, 808 471-0284

RIN: 0703-AA25

383. ● AFFIRMATIVE CLAIMS REGULATIONS, AMENDMENT

Legal Authority: 5 USC 301; 10 USC 5031; 10 USC 5148; 31 USC 3701 to 3721; 42 USC 2651 to 2653; 32 CFR 700.206; 32 CFR 700.1202

CFR Citation: 32 CFR 757, (Amended)

Legal Deadline: None.

Abstract: To update and clarify Affirmative Claims Regulations for better understanding by the public.

Timetable:

Action	Date	FR Cite
Final Action	07/08/87	52 FR 25600

Small Entity: No

Agency Contact: CDR M. D. Hannas, Department of Defense, Department of the Navy, Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332-2400, 202 325-9860

RIN: 0703-AA26

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

AGENCY: Department of the Air Force, DoD.

ACTION: This agenda updates the report published on April 27, 1987, and includes regulations expected to be issued and under review over the next 12 months.

SUMMARY: The regulations listed on the agenda are existing or proposed regulations under internal review for revision or development and only apply to those regulations affecting the public. The Department of the Air Force has no "major rules" under development or review as defined by Executive Order 12291. Also, it has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) do not apply to these rules. These rules do not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). These rules do not have an impact on international trade and therefore the provisions of the GATT Agreement do not apply.

FOR FURTHER INFORMATION CONTACT: Where a contact official is indicated, contact the specified individual. For general information, contact Ms. Patsy J. Conner, telephone (202) 693-2166, or write Department of the Air Force, SAF/AADSJR, Pentagon, Washington, DC 20330-1000.

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Prerule Stage

384. AIR FORCE SUPPLEMENT TO THE FEDERAL ACQUISITION REGULATION (FAR)

Legal Authority: PL 93-400; PL 96-83

CFR Citation: 48 CFR (New)

Legal Deadline: None.

Abstract: Air Force FAR Supplement establishes for the Air Force uniform policy and procedures implementing and supplementing the FAR, the DOD FAR Supplement, and other DOD publications concerning contracting.

Timetable:

Action	Date	FR Cite
48 CFR Ch 53, AFLC FARS; Surplus Material Acquisition	10/30/86	51 FR 39676
48 CFR 5350, AF FARS; Extraordinary Contractual Actions	11/12/86	51 FR 40977
48 CFR 5316, AF FARS; Types of Contracts	03/03/87	52 FR 6332
48 CFR 5315, AF FARS; Price Negotiation	03/04/87	52 FR 6590
48 CFR 5315, AF FARS; Contracting by Negotiation	04/16/87	52 FR 12414
End Review	06/00/88	

Small Entity: No

Agency Contact: Col. Halberstadt, Special Assistant for FAR, Department of Defense, Department of the Air Force, SAF/AQCF, 202 695-3858

RIN: 0701-AA14

385. DELIVERY OF AIR FORCE PERSONNEL TO U.S. CIVILIAN AUTHORITIES FOR TRIAL (AFR 111-11)

Legal Authority: 10 USC 8012; 10 USC 814

CFR Citation: 32 CFR 884

Legal Deadline: None.

Abstract: Regulation sets forth the authority, policy and procedures for delivery of Air Force personnel to United States civil authorities for trial.

Timetable:

Action	Date	FR Cite
End Review	12/00/87	

Small Entity: No

Agency Contact: Col Dixon, Chief, Military Justice Division, Department of Defense, Department of the Air Force, HQ USAF/JAJM, Bldg 5683, Bolling AFB, DC 20332-6128, 202 767-1539

RIN: 0701-AA20

386. ENVIRONMENTAL IMPACT ANALYSIS PROCESS (ANGR 19-02)

Legal Authority: 10 USC 8012

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: Identifies Air National Guard's policies and procedures for the Environmental Impact Analysis Process (EIAP).

Timetable:

Action	Date	FR Cite
End Review	12/00/87	

Small Entity: No

Agency Contact: Mr. Householder, Environmental Engineer, Department of Defense, Department of the Air Force, ANGSC/DEV, Andrews AFB, MD 20331-6008, 301 981-4048

RIN: 0701-AA22

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Proposed Rule Stage

387. PUBLIC AFFAIRS POLICIES AND PROCEDURES (AFR 190-1)

Legal Authority: 10 USC 8012 Sec 8012, 70A Stat. 488

CFR Citation: 32 CFR 837

Legal Deadline: None.

Abstract: Describes Air Force Public Affairs program and how public affairs resources are to be managed to effectively reach public affairs goals.

Timetable:

Action	Date	FR Cite
End Review	12/00/86	
NPRM	12/00/87	

Small Entity: No

Agency Contact: Lt Col Hessenflow, Department of Defense, Department of the Air Force, HQ USAF (SAF/PASX), Washington, DC 20330, 202 697-4109

RIN: 0701-AA18

388. CLAIMS AND TORT LITIGATION (AFR 112-1)

Legal Authority: 10 USC 8012 as amended

CFR Citation: 32 CFR 842

Legal Deadline: None.

Abstract: Establishes standard policies and procedures to administratively process claims.

Timetable:

Action	Date	FR Cite
Begin Review	02/00/86	
End Review	06/00/87	
NPRM	11/00/87	

Small Entity: No

Agency Contact: Lt Col Kilroy, Department of Defense, Department of the Air Force, HQ USAF/JACC, Bldg. 5683, Bolling AFB, DC 20332-6128, 202 767-1575

RIN: 0701-AA19

389. ISSUING CERTIFICATES IN LIEU OF LOST OR DESTROYED CERTIFICATES OF SEPARATION (AFR 35-96)

Legal Authority: 10 USC 8012 Sec 8012, 70 Stat. 488; 10 USC 1041

CFR Citation: 32 CFR 867

Legal Deadline: None.

Abstract: Regulation tells who may apply for a certificate in lieu of a lost or destroyed certificate of separation and where and how to apply. Revision includes examples on how to prepare certificates to ensure the three agencies authorized to issue the certificates follow the same format.

Timetable:

Action	Date	FR Cite
End Review	12/00/86	
NPRM	10/00/87	

Small Entity: No

Agency Contact: Mr. Garcia, Military Personnel Management Specialist, Department of Defense, Department of the Air Force, HQ AFMPC/DPMDOP, Randolph AFB, TX 78150-6001, 512 652-2089

RIN: 0701-AA21

DOD—AF

Proposed Rule Stage

390. PERSONAL FINANCIAL RESPONSIBILITY (AFR 35-18)

Legal Authority: 10 USC 8012

CFR Citation: 32 CFR 816

Legal Deadline: None.

Abstract: Establishes Air Force policy governing delinquent financial obligations and sets forth procedures for processing any claims of this nature. It is designed to ensure that Air Force members pay their just financial obligations in a proper and timely manner.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Mr. Taylor, Department of Defense, Department of the Air Force, HQ AFMPC/DPMASC2, Randolph AFB, TX 78150-6001, 512 652-3578

RIN: 0701-AA23

391. ● AIR FORCE VISUAL INFORMATION SYSTEMS (AFR 700-32)

Legal Authority: 10 USC 8012

CFR Citation: 32 CFR 811; 32 CFR 811a

Legal Deadline: None.

Abstract: Establishes policy for the management of the Air Force visual information documentation program. Establishes policy on the release, dissemination and sale of Air Force visual information materials.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Maj. Cultice, Department of Defense, Department of the Air Force, HQ USAF/SCV, Washington, DC 20330, 202 695-9618

RIN: 0701-AA25

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Completed Actions

392. FOREIGN TAX RELIEF PROGRAM (AFR 110-18)

Legal Authority: DODD 5100.64, dtd 12 Aug 70; 32 CFR 211

CFR Citation: 32 CFR 848

Legal Deadline: None.

Abstract: Implements DOD foreign taxation on DOD expenditures in foreign countries.

Timetable:

Action	Date	FR Cite
No action expected next 12 months	00/00/00	

Small Entity: No

Agency Contact: Mr. Carroll, Department of Defense, Department of the Air Force, HQ USAF/JACI, 202 695-9851

RIN: 0701-AA12

393. AIRCRAFT ARRESTING SYSTEMS (AFR 55-42)

Legal Authority: 10 USC 8012

CFR Citation: 32 CFR 856

Legal Deadline: None.

Abstract: Establishes policy on managing aircraft arresting systems including installation of systems at joint-use airports and use of systems by non-United States government aircraft.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/83	
End Review	02/28/86	
NPRM	01/09/87	52 FR 803
NPRM Comment Period End	02/09/87	
Final Action	05/29/87	52 FR 20074
Final Action Effective	06/29/87	52 FR 20074

Small Entity: No

Agency Contact: Lt Col Purcell, Department of Defense, Department of the Air Force, HQ USAF/LEEV, Bldg 516, Bolling AFB, Washington, DC 20332-5000, 202 767-6249

RIN: 0701-AA17

394. PERSONAL COMMERCIAL AFFAIRS (AFR 211-16)

Legal Authority: 10 USC 8012

CFR Citation: 32 CFR 818a

Legal Deadline: None.

Abstract: Sets policy for private commercial solicitation and sales on Air Force installations, to include private commercial activities by individuals who reside on Air Force installations. It is designed to safeguard and promote the welfare and interests of military personnel as consumers.

Timetable:

Action	Date	FR Cite
NPRM	03/25/87	52 FR 9499
NPRM Comment Period End	04/24/87	52 FR 9499
Final Action	05/12/87	52 FR 17756
Final Action Effective	06/11/87	52 FR 17756

Small Entity: No

Agency Contact: MSgt Hollett, Department of Defense, Department of the Air Force, HQ AFMPC/DPMASC, Randolph AFB, TX 78150-6001, 512 652-3996

RIN: 0701-AA24

[FR Doc. 87-21234 Filed 10-23-87; 8:45 am]

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Part VI

Department of Education

Semiannual Regulatory Agenda

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DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulations

AGENCY: Department of Education.

ACTION: Publication of the semiannual agenda of Federal regulations.

SUMMARY: The Secretary of Education publishes a Semiannual Agenda of Federal Regulations as required by Office of Management and Budget (OMB) Bulletin 87-16 issued under the authority of section 6(b) of Executive Order 12291 (Federal Regulations). The purpose of the agenda is to encourage more effective public participation in the regulatory process by giving the public early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the contact person listed for that set of regulations. Questions or comments on the overall agenda should be directed to A. Neal Shedd, Director, Division of Regulations Management, Office of the General Counsel, Department of Education, Room 2131, FOB-6, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732-2887.

SUPPLEMENTARY INFORMATION: Executive Order 12291, dated February 17, 1981, and the Regulatory Flexibility Act, Pub. L. 96-354, enacted September 19, 1980, require the Department of Education to publish, in October and April of each year, (1) an agenda of regulations that the Department expects to issue, and (2) currently effective regulations that are under review. The agenda includes both notices of proposed rulemaking (NPRMs) currently being drafted and pending final regulations.

Under the authority of Executive Order 12291, the Director of OMB has issued OMB Bulletin No. 87-16, dated June 25, 1987, prescribing the content and structure of the Unified Agenda of Federal Regulations. The Unified Agenda will be issued semiannually and will cover the succeeding 12 months from the date of publication.

For each set of regulations listed, the Agenda provides the title of the document, the type of document, a citation of any rulemaking or other action taken since publication of the most recent Agenda, and planned dates of future rulemaking. In addition, the Agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.
- An indication if the action is priority and the criteria used in determining the priority status.

If the "Abstract" section of an entry refers readers to the preamble, it means that amendments to those particular regulations would be designed (1) to effect regulatory relief, including reducing paperwork and compliance burdens, improving cost effectiveness and, to the extent possible, vesting greater discretion in State and local agencies, and (2) if necessary, to clarify and simplify requirements governing that program.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded. Dates of future regulatory action are subject to revision in subsequent agendas.

Dated: September 15, 1987.

Charles E. M. Kolb,

Acting General Counsel.

Departmental Management—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
395	U.S. Exchange Visitor Program - Request for Waiver of the Two- year Foreign Residence Requirement	1880-AA29
396	Education Department General Administrative Regulations -- Definitions That Apply to Department Regulations	1880-AA31

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
397	Grantee Suspension and Debarment	1880-AA25
398	Disposal and Utilization of Surplus Real Property For Educational Purposes	1880-AA27
399	Debt Collection	1880-AA09
400	Education Department General Administrative Regulations -- Amendments II	1880-AA24

ED

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
401	Debt Collection; Interest on Outstanding Debts	1880-AA03
402	Audit Requirements for State and Local Governments	1880-AA26
403	Uniform Administrative Requirements for Grants to State and Local Governments	1880-AA15
404	Family Educational Rights and Privacy Act	1880-AA08
405	Education Department Acquisition Regulation (EDAR)	1880-AA16

Departmental Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
406	Advisory Committee Management	1880-AA18
407	Salary Offset for Department of Education Employees to Recover Overpayment of Pay or Allowances	1880-AA30
408	Education Department General Administrative Regulations-- Amendments I	1880-AA19

Office of Bilingual Education and Minority Languages Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
409	Transition Program for Refugee Children	1885-AA10

Office of Bilingual Education and Minority Languages Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
410	Bilingual Education: Academic Excellence Program	1885-AA11
411	Bilingual Education: Fellowship Program	1885-AA14
412	Bilingual Education: State Educational Agency Program	1885-AA15
413	Bilingual Education: Evaluation Assistance Centers and Multifunctional Resource Centers	1885-AA13

Office for Civil Rights—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
414	Nondiscrimination on the Basis of Handicap in Federally Conducted Programs	1870-AA08
415	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance	1870-AA06

Office for Civil Rights—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
416	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1870-AA05

ED

Office of Educational Research and Improvement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
417	Partnerships in Education for Mathematics, Science, and Engineering	1850-AA15
418	Educational Research Grant Program	1850-AA23
419	Regional Educational Laboratories and Research and Development Centers Program: General Provisions; Regional Educational Laboratories; and Research and Development Centers	1850-AA28
420	College Library Resources Program	1850-AA21
421	Library Career Training Program	1850-AA24
422	Strengthening Research Library Resources Program	1850-AA22
423	College Library Technology and Cooperation Grants	1850-AA26
424	Territorial Teacher Training Assistance Program	1850-AA10
425	National Assessment of Educational Progress	1850-AA31

Office of Educational Research and Improvement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
426	Library Research and Demonstration Program	1850-AA25

Office of Educational Research and Improvement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
427	Capacity-Building for Statistical Activities in State Agencies- Government in the Sunshine Act	1850-AA18
428	Secretary's Discretionary Program -- Amendments	1850-AA14
429	Office of Educational Research and Improvement Fellows Program	1850-AA27
430	Drug-Free Schools and Communities Program Training and Demonstration Grants to Institutions of Higher Education; and Federal Activities Program	1850-AA29
431	National Diffusion Network	1850-AA19

Office of Elementary and Secondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
432	Assist. for LEAs in Areas Affected by Fed. Acts. and Arrangements for Ed. of Children Where LEAs Cannot Provide Suitable Free Pub. Ed.-Heavily Impacted District; Avg. Daily Attendance/Membership	1810-AA20
433	Indian Education Act - Formula Grants to LEAs and Tribal Schools Amendments (Certification of Eligibility)	1810-AA28

Office of Elementary and Secondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
434	Follow Through Program	1810-AA25
435	Assistance for LEAs in Areas Affected by Federal Activities and Arrangements for Ed. of Children Where LEAs Cannot Provide Suitable Free Public Ed.-Sec. 2, Fed. Acquisition/Real Property	1810-AA22
436	Indian Education: Formula Grants to LEAs and Tribal Schools; Indian-Controlled Schools Enrichment; Indian Fellowship Program (Amendments)	1810-AA36

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Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
437	Special Education Program for Students Whose Parents are Engaged in Migrant and Other Seasonal Farmwork-High School Equivalency and College Assist. Migrant Programs	1810-AA34
438	Assistance for School Construction in Areas Affected by Federal Activities (SAFA)	1810-AA05
439	Drug-Free Schools and Communities -- Hawaiian Natives Program	1810-AA32
440	Drug-Free Schools and Communities -- Regional Centers Program	1810-AA31
441	Christa McAuliffe Fellowship Program	1810-AA35
442	Indian Education Act - Formula Grants to LEAs and Tribal Schools (Eligibility Standards)	1810-AA33
443	Desegregation of Public Education	1810-AA27
444	Women's Educational Equity Program	1810-AA16

Office of Planning and Budget and Evaluation—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
445	Availability of Information to the Public Pursuant to Public Law 90-23	1875-AA03
446	Privacy Act Regulations	1875-AA02

Office of Planning and Budget and Evaluation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
447	Release of Adverse Information to News Media - Official Seal	1875-AA04

Office of Postsecondary Education—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
448	Secretary's Recognition Procedures for National Accrediting Bodies and Agencies	1840-AB15
449	Federal-State Relationship Agreements	1840-AB09
450	Financial Assistance for Construction, Reconstruction, or Renovation of Higher Education Facilities	1840-AB10

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
451	Secretary's Recognition Procedures for National Accrediting Agencies and Associations	1840-AA57
452	Drug Free Schools and Communities Act -- IHEs	1840-AB11
453	Training Program for Special Program Staff and Leadership Personnel	1840-AB01
454	Talent Search Program	1840-AB12
455	Educational Opportunities Centers Program	1840-AB13
456	Paul Douglas Teacher Scholarships -- Interest Rates	1840-AB02
457	Robert C. Byrd Honors Scholarship Program	1840-AB06
458	National Resource Centers	1840-AA64
459	Foreign Languages and Area Studies Fellowships Program, Part I	1840-AA65
460	Foreign Languages and Area Studies Fellowships Program, Part II	1840-AA66
461	Student Assistance General Provisions - Verification 1989-90	1840-AB07
462	Language Resources Centers Program	1840-AA67
463	Intensive Summer Language Institutes	1840-AA68
464	Foreign Periodicals Program	1840-AA69

ED

Office of Postsecondary Education—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
465	Income Contingent Loan Program - Due Diligence	1840-AB04
466	Disclosure of Foreign Gifts	1840-AA75
467	Guaranteed Student Loan/PLUS/Supplemental Loan/Consolidation Loan Programs	1840-AA96
468	Targeted Teacher Deferment	1840-AB03
469	Treatment of Territories and Territorial Student Assistance	1840-AA74

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
470	Institutional Eligibility Under the Higher Education Act of 1965, as amended, and the College Housing Program	1840-AA32
471	Minority Science Improvement Program	1840-AA89
472	Paul Douglas Teacher Scholarship Program	1840-AB14
473	Student Assistance General Provisions - Subparts A, B, C	1840-AA79
474	Perkins Loan Program (formerly the National Direct Student Loan Program) Subpart C - Due Diligence	1840-AA02
475	Perkins Loan Program, College Work-Study, and Supplemental Educational Opportunity Grant Programs (Campus-based programs)	1840-AA03
476	Pell Grant Program	1840-AA97
477	State Student Incentive Grant Program	1840-AA59

Office of Postsecondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
478	College Facilities Loan Program	1840-AA70
479	Strengthening Institutions Program	1840-AA62
480	Endowment Challenge Grant Program	1840-AA81
481	Veterans' Educational Outreach Program	1840-AA76
482	Fund for the Improvement of Postsecondary Education -- Innovative Projects for Student Community Services	1840-AA60
483	Cooperative Education Program	1840-AA73
484	Law School Clinical Experience Program	1840-AA88
485	Strengthening Historically Black Colleges and Universities	1840-AB00
486	Talent Search Program	1840-AA71
487	Educational Opportunities Centers Program	1840-AA72
488	Upward Bound Program	1840-AA78
489	Upward Bound Program	1840-AA84
490	Student Support Services	1840-AA77
491	Student Support Services	1840-AA82
492	Patricia Roberts Harris Fellows Program	1840-AA56
493	Jacob K. Javits Fellows Program	1840-AA87
494	Undergraduate International Studies and Foreign Language Program	1840-AA80
495	International Research and Studies Program	1840-AA83
496	Business and International Education Program	1840-AA85
497	Student Assistance General Provisions -- Subparts A, D, F, G	1840-AA11
498	Student Assistance General Provisions - Subpart H	1840-AA92
499	Income Contingent Loan Program Demonstration Project	1840-AA58
500	Campus-Based Programs, 1988-89	1840-AA98

ED

Office of Special Education and Rehabilitative Services—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
501	Training Programs for Teachers of Handicapped Children in Areas with a Shortage	1820-AA75
502	The State Vocational Rehabilitation Services Program - Deregulation	1820-AA47

Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
503	Assistance to States for Education of Handicapped Children	1820-AA71
504	Preschool Grants for Handicapped Children's Program	1820-AA48
505	Grants for Infants and Toddlers with Handicaps	1820-AA49
506	Removal of Architectural Barriers to the Handicapped Program	1820-AA51
507	Regional Resource and Federal Centers Program	1820-AA52
508	Services for Deaf-Blind Children and Youth Program	1820-AA53
509	Training Personnel for the Education of the Handicapped - Parent Training and Information Centers; Special Projects; and General	1820-AA68
510	Captioned Films Loan Service for the Deaf Program and Educational Media Loan Service for the Handicapped Program	1820-AA61
511	Technology, Educational Media, and Materials for the Handicapped	1820-AA63
512	Field Initiated Research	1820-AA60
513	Handicapped Research: Research Fellowship Program	1820-AA66
514	NIDRR - Research Training and Career Development Program	1820-AA77
515	The State Vocational Rehabilitation Services Program	1820-AA40
516	Rehabilitation Services Administration General Deregulation Review	1820-AA45
517	The State Independent Living Rehabilitation Services Program	1820-AA37
518	Independent Living Services for Older Blind Individuals	1820-AA41
519	Vocational Rehabilitation Services to Individuals with Severe Handicaps/Special Projects and Demonstrations for Providing Supported Employment Serv. to Indiv. with Severe Handicaps	1820-AA76
520	Special Projects and Demonstrations for Providing Transitional Rehabilitation Services to Youths with Handicaps	1820-AA74

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
521	Research in Education of the Handicapped Program	1820-AA69
522	Handicapped Special Studies Program	1820-AA72
523	Miscellaneous Technical Amendments to the Rehabilitation Services Regulations	1820-AA39

Office of Special Education and Rehabilitative Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
524	Handicapped Children's Early Education Program	1820-AA54
525	Programs for Severely Handicapped Children	1820-AA55
526	Training Personnel for the Education of the Handicapped - Grants to State Educational Agencies and Institutions of Higher Education	1820-AA56
527	Clearinghouses for the Handicapped Program	1820-AA58
528	Secondary Education and Transitional Services for Handicapped Youth Program	1820-AA59
529	Educational Media Research, Production, Distribution, and Training	1820-AA73
530	National Institute on Disability and Rehabilitation Research - Amendments	1820-AA65
531	The State Vocational Rehabilitation Services Program - Additional Amendments	1820-AA46
532	The State Supported Employment Services Program	1820-AA44
533	Projects for American Indians with Handicaps and Long-term Training	1820-AA43
534	Vocational Rehabilitation Service Projects for American Indians with Handicaps - deregulation	1820-AA79

ED

Office of Special Education and Rehabilitative Services—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
535	Rehabilitation Training: Rehabilitation Long-term Training - deregulation	1820-AA78

Office of Intergovernmental and Interagency Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
536	Intergovernmental Review of Department of Education Programs and Activities – List of Programs	1860-AA00

Miscellaneous Department of Education—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
537	Inventions and Patents – General	1801-AA04

Miscellaneous Department of Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
538	Equal Access to Justice	1801-AA01
539	Due Process Regulations	1801-AA02

Miscellaneous Department of Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
540	Program Fraud Civil Remedies	1801-AA05

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)
Prerule Stage

395. U.S. EXCHANGE VISITOR PROGRAM - REQUEST FOR WAIVER OF THE TWO- YEAR FOREIGN RESIDENCE REQUIREMENT

Legal Authority: 8 USC 1182(e); 22 USC 2451

CFR Citation: 34 CFR 50

Legal Deadline: None.

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
Begin Review	02/00/88	
End Review	04/00/88	

Small Entity: Undetermined

Agency Contact: Kathleen Hunter, Special Assistant to the Director, Interagency Operations, Department of Education, Departmental Management, Intergovernmental and Interagency Affairs, 400 Maryland Ave., SW (Rm. 3023, FOB-6), Washington, DC 20202, 202 472-5812

RIN: 1880-AA29

396. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS – DEFINITIONS THAT APPLY TO DEPARTMENT REGULATIONS

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 077

ED—EDMAN
Prerule Stage

Legal Deadline: None.

Abstract: See Preamble: The Department is considering miscellaneous amendments to update and improve the regulations in 34 CFR Part 77 of the Education Department General Administrative Regulations (EDGAR).

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
End Review	12/00/87	

Small Entity: Not Applicable

Agency Contact: Hazel Fiers, Office of Management, Department of Education, Departmental Management, 400 Maryland Ave, SW, (Room 3021), Washington, DC 20202, 202 472-5123

RIN: 1880-AA31

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)
Proposed Rule Stage

397. GRANTEE SUSPENSION AND DEBARMENT

Legal Authority: EO 12549; 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 000

Legal Deadline: None.

Abstract: These regulations would contain criteria and minimum due process procedures for suspension and debarment of ED assistance recipients.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	05/29/88	

Small Entity: Undetermined

Agency Contact: Mary Jane Kane, Office of Management, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 3637, ROB-3), Washington, DC 20202, 202 732-7600

RIN: 1880-AA25

398. DISPOSAL AND UTILIZATION OF SURPLUS REAL PROPERTY FOR EDUCATIONAL PURPOSES

Legal Authority: 40 USC 484

CFR Citation: 34 CFR 12

Legal Deadline: None.

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	
Final Action	10/00/88	

Small Entity: No

Agency Contact: David B. Hakola, Staff Assistant, Administrator for Management Services, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 1175, ROB-6, Washington, DC 20202, 202 245-0388

RIN: 1880-AA27

399. DEBT COLLECTION

Significance: Regulatory Program

Legal Authority: 31 USC 3701 to 3720a

CFR Citation: 34 CFR 030

Legal Deadline: None.

Abstract: These proposed regulations would implement requirements of the Debt Collection Act of 1982, the Federal Claims Collection Standards, and OMB Circular A-50 regarding establishment of a debt collection program.

The proposed regulations would improve management and accountability of Federal funds and are designed to establish an efficient, equitable, and effective program for the collection of debts owed to the Department of Education.

Separate regulations regarding employee salary offset are being published in 34 CFR Part 32.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Ron Bake, Department of Education, Departmental Management, 400 Maryland Ave, SW, (Rm. 3034 FOB-6), Washington, DC 20202, 202 472-6032

RIN: 1880-AA09

400. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS – AMENDMENTS II

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 75; 34 CFR 76

Legal Deadline: None.

Abstract: See Preamble. The Department is considering miscellaneous amendments to update and improve the regulations in 34 CFR Parts 75 and 76 of the Education Department General Administrative Regulations (EDGAR).

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	06/00/88	

Small Entity: Undetermined

Agency Contact: Hazel Fiers, Office of Management, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 3021, FOB-6), Washington, DC 20202, 202 472-5123

RIN: 1880-AA24

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)
Final Rule Stage

401. DEBT COLLECTION; INTEREST ON OUTSTANDING DEBTS

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 3474(a); 31 USC 3717

CFR Citation: 34 CFR 030

Legal Deadline: None.

Abstract: These regulations would establish Departmental policies for assessing interest on outstanding debts and implementing the interest assessment provisions of the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	07/11/84	49 FR 28264
NPRM Comment Period End	08/27/84	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Frank Stidman, Director, Financial Assistance, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 3109, FOB-6), Washington, DC 20202, 202 245-2964

RIN: 1880-AA03

402. AUDIT REQUIREMENTS FOR STATE AND LOCAL GOVERNMENTS

Legal Authority: 5 USC 301; 31 USC 7505(a)

CFR Citation: 34 CFR 74

Legal Deadline: None.

Abstract: These regulations would implement the Single Audit Act of 1984 and the Office of Management and Budget Circular No. A-128.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/85	50 FR 37356
Final Action Effective	10/28/85	
Final Action	11/00/87	

Small Entity: Undetermined

Agency Contact: Guido Piacesi, Auditor, Office of the Inspector General, Department of Education, Departmental Management, 400 Maryland Ave., SW (Rm. 4200, Switzer), Washington, DC 20202, 202 245-0271

RIN: 1880-AA26

403. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: 5 USC 301

CFR Citation: 34 CFR 80; 34 CFR 74

Legal Deadline: None.

Abstract: This action will implement revised OMB Circular A-102 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." The current ED regulations codified at 34 CFR Part 74 were adopted to implement both Circular A-102 and a companion Circular A-110 which governs grants and cooperative agreements to recipients other than governments. To implement revised Circular A-102, ED will adopt regulations approved by OMB affecting grantees that are State, local, and Indian tribal governments in 34 CFR Part 80. Regulations for the grantees covered by Circular A-110 will be retained in an amended 34 CFR Part 74.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21820
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Hazel Fiers, Office of Management, Department of Education, Departmental Management, 400 Maryland Ave, SW, (Rm. 3021 FOB-6), Washington, DC 20202, 202 472-5123

RIN: 1880-AA15

404. FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

Significance: Regulatory Program

Legal Authority: 20 USC 1232g

CFR Citation: 34 CFR 099

Legal Deadline: None.

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
NPRM	06/10/87	52 FR 2250
Final Action	12/00/87	

Small Entity: No

Agency Contact: Patricia Ballinger, Student Family Education Rights & Privacy, Office, Department of Education, Departmental Management, 400 Maryland Ave., SW, (Rm. 3021, FOB-6), Washington, DC 20202, 202 732-2058

RIN: 1880-AA08

405. EDUCATION DEPARTMENT ACQUISITION REGULATION (EDAR)

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR Chapter 34

Legal Deadline: None.

Abstract: These regulations implement the Federal Acquisition Regulation within the Department of Education, and include additional policies, procedures, solicitation provisions, and contract clauses.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Agency Contact: Richard Galloway, Chief, Acquisition Policy Branch, Department of Education, Departmental Management, 400 Maryland Ave, SW, (Rm. 3519, ROB-3), Washington, DC 20202, 202 732-2525

RIN: 1880-AA16

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)
Completed Actions

406. ADVISORY COMMITTEE MANAGEMENT

CFR Citation: 34 CFR 11

Completed:

Reason	Date	FR Cite
Final Action	07/02/87	52 FR 25152
Final Action Effective	09/07/87	

Small Entity: Undetermined

Agency Contact: Ann Bailey 202 732-3577

RIN: 1880-AA18

407. SALARY OFFSET FOR DEPARTMENT OF EDUCATION EMPLOYEES TO RECOVER OVERPAYMENT OF PAY OR ALLOWANCES

CFR Citation: 34 CFR 32

Completed:

Reason	Date	FR Cite
Final Action	07/01/87	52 FR 24956
Final Action Effective	07/31/87	

Small Entity: No

Agency Contact: Charles J. Walters 202 245-3067

RIN: 1880-AA30

408. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS-- AMENDMENTS I

CFR Citation: 34 CFR 75; 34 CFR 76

Completed:

Reason	Date	FR Cite
Final Action	07/24/87	52 FR 27801
Final Action Effective	09/07/87	

Small Entity: Undetermined

Agency Contact: Hazel Fiers 202 472-5123

RIN: 1880-AA19

DEPARTMENT OF EDUCATION (ED)
Office of Bilingual Education and Minority Languages Affairs (BEMLA)
Proposed Rule Stage

409. TRANSITION PROGRAM FOR REFUGEE CHILDREN

Significance: Regulatory Program

Legal Authority: 8 USC 1522(d)

CFR Citation: 34 CFR 538

Legal Deadline: None.

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Fayetta McAlear, Acting Executive Officer, Department of Education, Office of Bilingual Education and Minority Languages Affairs, 400 Maryland Ave, SW (Rm. 421 Rptrs. Bldg.), Washington, DC 20202, 202 732-5070

RIN: 1885-AA10

DEPARTMENT OF EDUCATION (ED)
Office of Bilingual Education and Minority Languages Affairs (BEMLA)
Completed Actions

410. BILINGUAL EDUCATION: ACADEMIC EXCELLENCE PROGRAM

CFR Citation: 34 CFR 502; 34 CFR 504; 34 CFR 524

Completed:

Reason	Date	FR Cite
Final Action	08/13/87	52 FR 30322
Final Action Effective	09/27/87	

Small Entity: Undetermined

Agency Contact: Fayetta McAlear 202 732-5070

RIN: 1885-AA11

411. BILINGUAL EDUCATION: FELLOWSHIP PROGRAM

CFR Citation: 34 CFR 562

Completed:

Reason	Date	FR Cite
Withdrawn	08/25/87	

Small Entity: No

Agency Contact: Fayetta McAlear 202 245-2600

RIN: 1885-AA14

412. BILINGUAL EDUCATION: STATE EDUCATIONAL AGENCY PROGRAM

CFR Citation: 34 CFR 548

Completed:

Reason	Date	FR Cite
Withdrawn	08/25/87	

Small Entity: Undetermined

Agency Contact: Fayetta McAlear 202 245-2600

RIN: 1885-AA15

413. BILINGUAL EDUCATION: EVALUATION ASSISTANCE CENTERS AND MULTIFUNCTIONAL RESOURCE CENTERS

CFR Citation: 34 CFR 549; 34 CFR 575

Completed:

Reason	Date	FR Cite
Withdrawn	08/25/87	

Small Entity: Undetermined

Agency Contact: Fayetta McAlear 202 732-5070

RIN: 1885-AA13

DEPARTMENT OF EDUCATION (ED)
Office for Civil Rights (OCR)

Proposed Rule Stage

414. ● NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 34 CFR 105

Legal Deadline: None.

Abstract: This regulation would specify the applicability of Sec. 504 of the Rehabilitation Act of 1973 to the federally conducted pro- grams of the Department of Education. Sec. 504 prohibits discrimination on the basis of an individual's handicap.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	05/00/88	

Small Entity: Undetermined

Agency Contact: Hazel Fiers, Special Advisor, Management, Department of Education, Office for Civil Rights, Department of Education, 400 Md. Ave., SW, Rm. 3021, FOB-6, Washington, D.C. 20202, 202 472-3123

RIN: 1870-AA08

415. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 20 USC 1681; 20 USC 1682

CFR Citation: 34 CFR 106

Legal Deadline: None.

Abstract: These proposed regulations would amend the fringe benefits provision of the regulations implementing Title IX of the Education Amendments of 1972. The regulations would require employers offering employees a fringe benefit plan to have both equal pay-in and equal pay-out provisions, regardless of the sex of the employee.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Terence J. Pell, Acting Deputy Assistant Secretary, for Policy, Department of Education, Office for Civil Rights, 400 Maryland Ave, SW, Rm 5050, Switzer Bldg., Washington, DC 20202, 202 732-1635

RIN: 1870-AA06

DEPARTMENT OF EDUCATION (ED)
Office for Civil Rights (OCR)

Final Rule Stage

416. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6101 et seq

CFR Citation: 34 CFR 110

Legal Deadline: None.

Abstract: These agency-specific final regulations would provide appropriate investigative, conciliation, and enforcement procedures consistent with the general Age Discrimination Act regulations issued by DHEW, now the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Terence J. Pell, Acting Deputy Assistant Secretary, for Policy, Department of Education, Office for Civil Rights, 400 Maryland Ave, SW, Room 5050, Switzer Bldg., Washington, DC 20202, 202 732-1635

RIN: 1870-AA05

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)

Proposed Rule Stage

417. PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

Legal Authority: PL 99-159

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: These proposed regulations would implement certain provisions in the Education for Economic Security Act, as amended by the National Science, Engineering, and Mathematics Authorization Act of 1986 (P.L. 99-159).

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	
Final Action	10/00/88	

Small Entity: Undetermined

Agency Contact: Patricia Alexander, Senior Associate, Department of Education, Office of Educational Research and Improvement, 400 Maryland Avenue, SW, Room 4132, FOB-6, Washington, DC 20202, 202 732-3566

RIN: 1850-AA15

418. EDUCATIONAL RESEARCH GRANT PROGRAM

Legal Authority: 20 USC 1221e

CFR Citation: 34 CFR 700

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of section 405 of the General Education Provisions Act, as amended by Title XIV of the Higher Education Amendments of 1986 (PL 99-498).

ED—OERI

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Lawrence Bussey, Senior Management Analyst, Department of Education, Office of Educational Research and Improvement, 400 Md. Ave., SW, (Rm. 610 - Cap. Pl. Bldg.), Washington, DC 20202, 202 357-6239

RIN: 1850-AA23

419. REGIONAL EDUCATIONAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS PROGRAM: GENERAL PROVISIONS; REGIONAL EDUCATIONAL LABORATORIES; AND RESEARCH AND DEVELOPMENT CENTERS

Legal Authority: 20 USC 1221e

CFR Citation: 34 CFR 706; 34 CFR 707; 34 CFR 708

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of section 405 of the General Education Provisions Act, as amended by Title XIV of the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	04/00/88	

Small Entity: Undetermined

Agency Contact: Lawrence Bussey, Senior Management Analyst, Department of Education, Office of Educational Research and Improvement, 400 Md. Ave., SW, Rm. 610 Cap. Pl. Bldg., Washington, DC 20202, 202 357-6239

RIN: 1850-AA28

420. COLLEGE LIBRARY RESOURCES PROGRAM

Legal Authority: 20 USC 1021 to 1047

CFR Citation: 34 CFR 773

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of Title II of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Louise V. Sutherland, Administrative Librarian, Department of Education, Office of Educational Research and Improvement, 400 Maryland Ave., SW - Rm 402, Capitol Place Bldg. Washington, DC 20202, 202 357-6315

RIN: 1850-AA21

421. LIBRARY CAREER TRAINING PROGRAM

Legal Authority: 20 USC 1021 to 1047

CFR Citation: 34 CFR 776

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of Title II of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Louise V. Sutherland, Administrative Librarian, Department of Education, Office of Educational Research and Improvement, 400 Md. Ave., SW - Rm 402Cap. Pl. Bldg., Washington, DC 20202, 202 357-6315

RIN: 1850-AA24

422. STRENGTHENING RESEARCH LIBRARY RESOURCES PROGRAM

Legal Authority: 20 USC 1021 to 1047

CFR Citation: 34 CFR 778

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of Title II of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Louise V. Sutherland, Administrative Librarian, Department of Education, Office of Educational Research and Improvement, 400 Maryland Ave., SW - Rm 402, Capitol Place Bldg. - Washington, DC 20202, 202 357-6315

RIN: 1850-AA22

423. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS

Legal Authority: 20 USC 1021 to 1047

CFR Citation: 34 CFR 779

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of Title II of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Louise V. Sutherland, Administrative Librarian, Department of Education, Office of Educational Research and Improvement, 400 Md. Ave., SW, Rm. 402 Cap. Pl. Bldg., Washington, DC 20202, 202 357-6315

RIN: 1850-AA26

424. TERRITORIAL TEACHER TRAINING ASSISTANCE PROGRAM

Legal Authority: PL 95-561

CFR Citation: 34 CFR 790

Legal Deadline: None.

Abstract: See Preamble. These proposed regulations would also amend 34 CFR 790.2 (Eligible Parties) to promote increased participation in the Territorial Teacher Training Program on the part of the institutions of higher education in each respective territory.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Haroldie Spriggs, Project Officer, Programs for the Improvement of Practices, Department of Education, Office of Educational Research and Improvement, 400

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ED—OERI — Proposed Rule Stage

Maryland Ave., SW, Rm. 508, Capitol Place Bldg., Washington, DC 20202, 202 357-6149

RIN: 1850-AA10

425. ● NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

Legal Authority: PL 99-498

CFR Citation: 34 CFR 796

Legal Deadline: None.

Abstract: These proposed regulations would implement certain provisions of Sec. 405 of the General Education Provisions Act, as amended by Title XIV of the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	08/00/88	

Small Entity: Undetermined

Agency Contact: Maureen Treacy, Education Program Analyst, Department of Education, Office of Educational Research and Improvement, Office of Educational Research and Improv., 400 Md. Ave., SW, Rm. 517, Cap. Pl. Bldg., Washington, D.C. 20202, 202 357-6734

RIN: 1850-AA31

DEPARTMENT OF EDUCATION (ED) — Final Rule Stage
Office of Educational Research and Improvement (OERI)

426. LIBRARY RESEARCH AND DEMONSTRATION PROGRAM

Legal Authority: 20 USC 1021 to 1047

CFR Citation: 34 CFR 777

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of Title II of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
Final Action	05/00/88	

Small Entity: Undetermined

Agency Contact: Louise V. Sutherland, Administrative Librarian, Department of Education, Office of Educational Research and Improvement, 400 Md. Ave., SW - Rm. 402, Cap. Pl. Bldg., Washington, DC 20202, 202 357-6315

RIN: 1850-AA25

DEPARTMENT OF EDUCATION (ED) — Completed Actions
Office of Educational Research and Improvement (OERI)

427. CAPACITY-BUILDING FOR STATISTICAL ACTIVITIES IN STATE AGENCIES- GOVERNMENT IN THE SUNSHINE ACT

CFR Citation: 34 CFR 726; 34 CFR 705

Completed:

Reason	Date	FR Cite
Final Action	05/26/87	52 FR 19510
Final Action Effective	07/16/87	

Small Entity: Undetermined

Agency Contact: Macknight Black 202 357-6594

RIN: 1850-AA16

428. SECRETARY'S DISCRETIONARY PROGRAM – AMENDMENTS

CFR Citation: 34 CFR 760

Completed:

Reason	Date	FR Cite
Final Action	06/12/87	52 FR 22441
Final Action Effective	07/27/87	

Small Entity: No

Agency Contact: John H. Burkett 202 732-3566

RIN: 1850-AA14

429. OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT FELLOWS PROGRAM

CFR Citation: 34 CFR 762

Completed:

Reason	Date	FR Cite
Final Action	08/10/87	52 FR 29608
Final Action Effective	09/24/87	

Small Entity: Undetermined

Agency Contact: Steve Clements 202 357-6959

RIN: 1850-AA27

430. DRUG-FREE SCHOOLS AND COMMUNITIES PROGRAM TRAINING AND DEMONSTRATION GRANTS TO INSTITUTIONS OF HIGHER EDUCATION; AND FEDERAL ACTIVITIES PROGRAM

Significance: Regulatory Program

CFR Citation: 34 CFR 764; 34 CFR 765; 34 CFR 766

Completed:

Reason	Date	FR Cite
Final Action	07/30/87	52 FR 28526
Final Action Effective	09/13/87	

Small Entity: No

Agency Contact: John K. Burkett 202 732-3566

RIN: 1850-AA29

431. NATIONAL DIFFUSION NETWORK

CFR Citation: 34 CFR 785; 34 CFR 786; 34 CFR 787; 34 CFR 788; 34 CFR 789

Completed:

Reason	Date	FR Cite
Final Action	08/14/87	52 FR 30612
Final Action Effective	09/28/87	

Small Entity: Undetermined

ED—OERI — Completed Actions

Agency Contact: Lois N. Weinberg 202 357-6147

RIN: 1850-AA19

DEPARTMENT OF EDUCATION (ED) — Proposed Rule Stage
Office of Elementary and Secondary Education (OESE)

432. ASSIST. FOR LEAS IN AREAS AFFECTED BY FED. ACTS. AND ARRANGEMENTS FOR ED. OF CHILDREN WHERE LEAS CANNOT PROVIDE SUITABLE FREE PUB. ED.--HEAVILY IMPACTED DISTRICT; AVG. DAILY ATTENDANCE/MEMBERSHIP

Legal Authority: 20 USC 236; 20 USC 238; 20 USC 240; 20 USC 242; 20 USC 244

CFR Citation: 34 CFR 222

Legal Deadline: None.

Abstract: These proposed regulations would implement section 3(d)(2)(B) of the Impact Aid law, P.L. 81-874, which authorizes supplemental payments enabling LEAs that are heavily impacted by federally connected children to provide a level of education that is equivalent to that maintained in comparable school districts. These regulations would also establish definitions and procedures for calculating payments for LEAs in States that do not collect average daily attendance data. These regulations would also establish standards for determining when an SEA can apply as an LEA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: W. Stanley Kruger, Acting Director, Division of Impact Aid, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2117, Washington, DC 20202, 202 732-3637

RIN: 1810-AA20

433. INDIAN EDUCATION ACT - FORMULA GRANTS TO LEAS AND TRIBAL SCHOOLS AMENDMENTS (CERTIFICATION OF ELIGIBILITY)

Legal Authority: 20 USC 241aa to 241h; 20 USC 1221h(a),(c)

CFR Citation: 34 CFR 251

Legal Deadline: None.

Abstract: These amendments would amend the regulations to govern the certification of children to be counted as "Indian or "Alaskan Native" under the formula grants program of the Indian Education Act, Title IV-A of P.L. 92-318. These regulations would clarify what documentation is necessary to constitute a completed certification.

Timetable:

Action	Date	FR Cite
NPRM	10/05/87	52 FR 37260
Final Action	04/00/88	

Small Entity: No

Agency Contact: Ervin Keith, Acting Deputy Director, Indian Education Programs, Department of Education, Office of Elementary and Secondary Education, Department of Education, 400 Maryland Ave., SW (Rm. 2177, FOB-6), Washington, DC 20202, 202 732-1857

RIN: 1810-AA26

DEPARTMENT OF EDUCATION (ED) — Final Rule Stage
Office of Elementary and Secondary Education (OESE)

434. FOLLOW THROUGH PROGRAM

Legal Authority: 42 USC 9861 to 9868

CFR Citation: 34 CFR 215

Legal Deadline: None.

Abstract: See Preamble. These regulations provide for a reduction of the Follow Through Program by placing greater emphasis on the demonstration and dissemination of effective approaches designed to improve the school performance of low-income children in kindergarden and primary grades, and to expand eligible applicants to include new as well as existing grantees.

Timetable:

Action	Date	FR Cite
NPRM	04/30/87	52 FR 15896
Final Action	10/00/87	

Small Entity: No

Agency Contact: James M. Spillane, Director, Division of Program Support, Department of Education, Office of Elementary and Secondary Education, Compensatory Education, 400 Maryland Ave., SW (Rm. 2017, FOB-6), Washington, DC 20202, 202 732-4694

RIN: 1810-AA25

435. ASSISTANCE FOR LEAS IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR ED. OF CHILDREN WHERE LEAS CANNOT PROVIDE SUITABLE FREE PUBLIC ED.–SEC. 2, FED. ACQUISITION/REAL PROPERTY

Legal Authority: 20 USC 236; 20 USC 237; 20 USC 238; 20 USC 239; 20 USC 240; 20 USC 242; 20 USC 244

CFR Citation: 34 CFR 222

Legal Deadline: None.

Abstract: These amendments would implement section 2 of the Impact Aid Law, P.L. 81-874, which authorizes payments to supplement local real property tax revenues for local educational agencies upon which the Federal Government has imposed a burden due to the acquisition and removal of real property from the local tax tax rolls. These amendments would establish definitions and procedures for eligibility and entitlement determinations under sections 2 and 3. These regulations also would amend general definitions relating to applications under Secs. 2, 3, and 4 of PL 81-874.

ED—OESE — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	05/01/87	52 FR 16144
Final Action	02/00/88	

Small Entity: Undetermined

Agency Contact: W. Stanley Kruger, Acting Director, Division of Impact Aid, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2117, Washington, DC 20202, 202 732-3637

RIN: 1810-AA22

436. INDIAN EDUCATION: FORMULA GRANTS TO LEAS AND TRIBAL SCHOOLS; INDIAN-CONTROLLED SCHOOLS ENRICHMENT; INDIAN FELLOWSHIP PROGRAM (AMENDMENTS)

Legal Authority: 20 USC 241aa to 241ff; 20 USC 3385b

CFR Citation: 34 CFR 251; 34 CFR 253; 34 CFR 263

Legal Deadline: None.

Abstract: These technical amendments would implement Section 4133 of the Drug-Free Schools and Communities Act of 1986, Subtitle B of Title IV of PL 99-570.

Timetable:

Action	Date	FR Cite
Final Action	02/29/88	

Small Entity: No

Agency Contact: Ervin Keith, Deputy Director, Department of Education, Office of Elementary and Secondary Education, Office of Elementary and Secondary Ed., 400 Maryland Ave, SW, (Room 2177), Washington, DC 20202, 202 732-1687

RIN: 1810-AA36

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE) — **Completed Actions**

437. SPECIAL EDUCATION PROGRAM FOR STUDENTS WHOSE PARENTS ARE ENGAGED IN MIGRANT AND OTHER SEASONAL FARMWORK-HIGH SCHOOL EQUIVALENCY AND COLLEGE ASSIST. MIGRANT PROGRAMS

CFR Citation: 34 CFR 206

Completed:

Reason	Date	FR Cite
Final Action	07/01/87	52 FR 24918
Final Action Effective	09/07/87	

Small Entity: No

Agency Contact: John F. Staehle 202 732-4746

RIN: 1810-AA34

438. ASSISTANCE FOR SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES (SAFA)

CFR Citation: 34 CFR 221

Completed:

Reason	Date	FR Cite
Final Action	05/05/87	52 FR 16748
Final Action Effective	06/19/87	

Small Entity: No

Agency Contact: W. Stanley Kruger 202 732-3637

RIN: 1810-AA05

439. DRUG-FREE SCHOOLS AND COMMUNITIES -- HAWAIIAN NATIVES PROGRAM

Significance: Regulatory Program

CFR Citation: 34 CFR 230

Completed:

Reason	Date	FR Cite
Final Action	07/16/87	52 FR 26918
Final Action Effective	09/07/87	

Small Entity: Undetermined

Agency Contact: Dick Hays 202 732-4599

RIN: 1810-AA32

440. DRUG-FREE SCHOOLS AND COMMUNITIES -- REGIONAL CENTERS PROGRAM

Significance: Regulatory Program

CFR Citation: 34 CFR 235

Completed:

Reason	Date	FR Cite
Final Action	07/16/87	52 FR 26922
Final Action Effective	09/07/87	

Small Entity: Undetermined

Agency Contact: Dick Hays 202 732-4599

RIN: 1810-AA31

441. CHRISTA MCAULIFFE FELLOWSHIP PROGRAM

CFR Citation: 34 CFR 237

Completed:

Reason	Date	FR Cite
Final Action	07/14/87	52 FR 26466
Final Action Effective	09/07/87	

Small Entity: No

Agency Contact: Ms. Willi Webb 202 245-8720

RIN: 1810-AA35

442. INDIAN EDUCATION ACT - FORMULA GRANTS TO LEAS AND TRIBAL SCHOOLS (ELIGIBILITY STANDARDS)

CFR Citation: 34 CFR 250; 34 CFR 251

Completed:

Reason	Date	FR Cite
Final Action	07/28/87	52 FR 28232
Final Action Effective	09/11/87	

Small Entity: No

Agency Contact: Ervin Keith 202 732-1687

RIN: 1810-AA33

443. DESEGREGATION OF PUBLIC EDUCATION

CFR Citation: 34 CFR 270; 34 CFR 271; 34 CFR 272

Completed:

Reason	Date	FR Cite
Final Action	07/01/87	52 FR 24962
Final Action Effective	09/07/87	

ED—OESE — **Completed Actions**

Small Entity: Undetermined

Agency Contact: Steven L. Brockhouse 202 732-4342

RIN: 1810-AA27

444. WOMEN'S EDUCATIONAL EQUITY PROGRAM

CFR Citation: 34 CFR 245; 34 CFR 246; 34 CFR 247

Completed:

Reason	Date	FR Cite
Withdrawn	05/25/87	

Small Entity: Undetermined

Agency Contact: Ms. Janice Williams-Madison 202 472-2276

RIN: 1810-AA16

DEPARTMENT OF EDUCATION (ED)
Office of Planning and Budget and Evaluation (OPBE) — **Prerule Stage**

445. AVAILABILITY OF INFORMATION TO THE PUBLIC PURSUANT TO PUBLIC LAW 90-23

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 34 CFR 5

Legal Deadline: None.

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/88	
End Review	03/00/88	

Small Entity: Undetermined

Agency Contact: Alexia Roberts, Freedom of Information Officer, Department of Education, Office of Planning and Budget and Evaluation, 400 Maryland Ave., SW (Rm. 2089, FOB-6), Washington, DC 20202, 202 732-4558

RIN: 1875-AA03

446. PRIVACY ACT REGULATIONS

Legal Authority: 5 USC 301; 5 USC 552a

CFR Citation: 34 CFR 5b

Legal Deadline: None.

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
Begin Review	02/00/88	
End Review	04/00/88	

Small Entity: Undetermined

Agency Contact: Chiquitta Thomas, Privacy Act Specialist, Officer, Department of Education, Office of Planning and Budget and Evaluation, 400 Maryland Ave., SW (Rm. 2089, FOB-6), Washington, DC 20202, 202 732-4313

RIN: 1875-AA02

DEPARTMENT OF EDUCATION (ED)
Office of Planning and Budget and Evaluation (OPBE) — **Final Rule Stage**

447. RELEASE OF ADVERSE INFORMATION TO NEWS MEDIA - OFFICIAL SEAL

Legal Authority: 5 USC 301

CFR Citation: 34 CFR 17; 34 CFR 3

Legal Deadline: None.

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
Final Action	11/00/87	

Small Entity: Undetermined

Agency Contact: Mahlon Anderson, Deputy Director of Public Affairs, Department of Education, Office of Planning and Budget and Evaluation, 400 Maryland Ave., SW (Rm. 2089, FOB-6), Washington, DC 20202, 202 732-4584

RIN: 1875-AA04

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE) — **Prerule Stage**

448. ● SECRETARY'S RECOGNITION PROCEDURES FOR NATIONAL ACCREDITING BODIES AND AGENCIES

Legal Authority: 20 USC 403(b); 20 USC 1085(b); 20 USC 1141(a); 20 USC 1248(11)

CFR Citation: 34 CFR 603

Legal Deadline: None.

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
Begin Review	03/00/88	
End Review	05/00/88	

Small Entity: Undetermined

Agency Contact: James B. Williams, Special Assistant to the Deputy Assistant, Secretary for Higher Education Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., S.W., Rm. 3082 - ROB-3, Washington, DC 20202, 202 245-9753

RIN: 1840-AB15

449. ● FEDERAL-STATE RELATIONSHIP AGREEMENTS

Legal Authority: 20 USC 1143

CFR Citation: 34 CFR 604

Legal Deadline: None.

Abstract: See Preamble.

ED—OPE — **Prerule Stage**

Timetable:

Action	Date	FR Cite
Begin Review	03/00/88	
End Review	05/00/88	

Small Entity: No

Agency Contact: James B. Williams, Special Assistant to the Deputy Assistant, Secretary for Higher Education Programs, Department of Education, Office of Postsecondary Education, 400 Md. Ave., S.W., (Rm. 3082 - ROB-3), Washington, DC 20202, 202 245-9758

RIN: 1840-AB09

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450. ● FINANCIAL ASSISTANCE FOR CONSTRUCTION, RECONSTRUCTION, OR RENOVATION OF HIGHER EDUCATION FACILITIES

Legal Authority: 20 USC 1132a to 1132c-1

CFR Citation: 34 CFR 617

Legal Deadline: None.

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/88	
End Review	06/00/88	

Small Entity: Undetermined

Agency Contact: Leo Paskewietz, Office of Policy Development, Office of Postsecondary Education, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., S.W., Rm. 4060 - ROB-3, Washington, DC 20202, 202 732-3551

RIN: 1840-AB10

DEPARTMENT OF EDUCATION (ED)

Proposed Rule Stage

Office of Postsecondary Education (OPE)

451. SECRETARY'S RECOGNITION PROCEDURES FOR NATIONAL ACCREDITING AGENCIES AND ASSOCIATIONS

Significance: Regulatory Program

Legal Authority: 20 USC 1058; 20 USC 1061; 20 USC 1085; 20 USC 1088; 20 USC 1141; 20 USC 1401

CFR Citation: 34 CFR 602; 34 CFR 603

Legal Deadline: None.

Abstract: An accrediting body must conform to certain criteria to be recognized by the Secretary. The National Advisory Committee on Accreditation and Institutional Eligibility reviewed the criteria and recommended changes to the Secretary for improvement. These regulations would implement these changes.

Timetable:

Action	Date	FR Cite
NPRM	09/08/87	52 FR 33908
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: James B. Williams, Special Assistant to the Deputy Assistant, Secretary for Higher Education Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Ave (Room 3082 ROB-3), Washington, DC 20202, 202 245-9758

RIN: 1840-AA57

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452. ● DRUG FREE SCHOOLS AND COMMUNITIES ACT – IHES

Legal Authority: PL 99-570

CFR Citation: 34 CFR 630

Legal Deadline: None.

Abstract: These regulations would establish procedures and criteria for selection of recipients for awards under this program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	04/00/88	

Small Entity: No

Agency Contact: Ronald Bucknam, Fund for the Improvement of Postsecondary, Education, Department of Education, Office of Postsecondary Education, 400 Md. Ave., S.W., (Room 3100 - ROB-3), Washington, DC 20202, 202 245-8100

RIN: 1840-AB11

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453. TRAINING PROGRAM FOR SPECIAL PROGRAM STAFF AND LEADERSHIP PERSONNEL

Legal Authority: PL 99-498

CFR Citation: 34 CFR 642

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	02/00/88	

Small Entity: Undetermined

Agency Contact: Daniel Davis, Director, Division of Student Services, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 3012 ROB-3), Washington, DC 20202, 202 732-4922

RIN: 1840-AB01

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454. ● TALENT SEARCH PROGRAM

Legal Authority: 20 USC 1070d-1

CFR Citation: 34 CFR 643

Legal Deadline: None.

Abstract: These proposed regulations would revise the criteria that the Secretary would use to evaluate applications for funds under this program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Daniel Davis, Director, Division of Student Services, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., S.W., (Rm. 3012 - ROB-3), Washington, DC 20202, 202 732-4922

RIN: 1840-AB12

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455. ● EDUCATIONAL OPPORTUNITIES CENTERS PROGRAM

Legal Authority: 20 USC 1070d; 20 USC 1070d1c

CFR Citation: 34 CFR 644

ED—OPE — **Proposed Rule Stage**

Legal Deadline: None.

Abstract: These proposed regulations would revise the criteria that the Secretary would use to evaluate applications for funds under this program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Daniel Davis, Director, Division of Student Services, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., S.W., (Rm. 3012 - ROB-3), Washington, DC 20202, 202 732-4922

RIN: 1840-AB13

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456. ● PAUL DOUGLAS TEACHER SCHOLARSHIPS -- INTEREST RATES

Legal Authority: 20 USC 111 to 111h

CFR Citation: 34 CFR 653

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Technical Amendments Act of 1987 (PL 100-50).

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	04/00/88	

Small Entity: Undetermined

Agency Contact: Neil C. Nelson, Chief, State Student Incentive Grant, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., S.W., (Room 4018 - ROB-3), Washington, DC 20202, 202 732-4507

RIN: 1840-AB02

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457. ● ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

Legal Authority: 20 USC 1070d; 20 USC 1070d31

CFR Citation: 34 CFR 654

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	07/00/88	

Small Entity: Undetermined

Agency Contact: Neil C. Nelson, Chief, State Student Incentive, Grant Program, Department of Education, Office of Postsecondary Education, 400 Md. Ave., (Rm. 4018, ROB-3), Washington, D.C. 20202, 202 732-4507

RIN: 1840-AB06

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458. NATIONAL RESOURCE CENTERS

Legal Authority: PL 99-498

CFR Citation: 34 CFR 656

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	10/02/87	52 FR 37064
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Joseph Belmonte, Acting Deputy Director, Center for International Education, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 3054 ROB-3), Washington, DC 20202, 202 732-3304

RIN: 1840-AA64

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459. FOREIGN LANGUAGES AND AREA STUDIES FELLOWSHIPS PROGRAM, PART I

Legal Authority: PL 99-498

CFR Citation: 34 CFR 657

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Joseph Belmonte, Acting Deputy Director, Center for International Education, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 3054 ROB-3), Washington, DC 20202. 202 732-3304

RIN: 1840-AA65

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460. FOREIGN LANGUAGES AND AREA STUDIES FELLOWSHIPS PROGRAM, PART II

Legal Authority: PL 99-498

CFR Citation: 34 CFR 657

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	08/00/88	

Small Entity: Undetermined

Agency Contact: Joseph Belmonte, Acting Deputy Director, Center for International Education, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 3054 ROB-3), Washington, DC 20202W, (Rm. 3054 ROB-3), 202 732-3304

RIN: 1840-AA66

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461. ● STUDENT ASSISTANCE GENERAL PROVISIONS - VERIFICATION 1989-90

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498), Tax Reform Act of 1986, and the compact of Free Association.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	12/00/88	

Small Entity: Undetermined

ED—OPE — Proposed Rule Stage

Agency Contact: Verification Development Section, Student Verification Branch, Division of Policy and Program Development, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., S.W., (Room 4613 - ROB-3), Washington, DC 20202, 202 472-6300

RIN: 1840-AB07

462. LANGUAGE RESOURCES CENTERS PROGRAM

Legal Authority: 20 USC 1123

CFR Citation: 34 CFR 669

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	
Final Action	09/00/88	

Small Entity: Undetermined

Agency Contact: Joseph Belmonte, Acting Deputy Director, Center for International Education, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 3045 ROB-3), Washington, DC 20202, 202 732-3364

RIN: 1840-AA67

463. INTENSIVE SUMMER LANGUAGE INSTITUTES

Legal Authority: 20 USC 1124a

CFR Citation: 34 CFR 670

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	
Final Action	10/00/88	

Small Entity: Undetermined

Agency Contact: Joseph Belmonte, Acting Deputy Director, Center for International Education, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 3054 ROB-3), Washington, DC 20202, 202 732-3364

RIN: 1840-AA68

464. FOREIGN PERIODICALS PROGRAM

Legal Authority: 20 USC 1125a

CFR Citation: 34 CFR 671

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	
Final Action	10/00/88	

Small Entity: Undetermined

Agency Contact: Joseph Belmonte, Acting Deputy Director, Center for International Education, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 3054 ROB-3), Washington, DC 20202, 202 732-3364

RIN: 1840-AA69

465. ◉ INCOME CONTINGENT LOAN PROGRAM - DUE DILIGENCE

Legal Authority: 20 USC 1087a to 1087c

CFR Citation: 34 CFR 673

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments Act of 1986 (99-498).

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	04/00/88	

Small Entity: Undetermined

Agency Contact: William Moran, Director, Division of Policy and, Program Development, Department of Education, Office of Postsecondary Education, Office of Postsecondary Education, 400 Md. Ave., SW, (Rm. 4100, ROB-3), Washington, D.C. 20202, 202 732-5319

RIN: 1840-AB04

466. DISCLOSURE OF FOREIGN GIFTS

Legal Authority: PL 99-498

CFR Citation: 34 CFR 660

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986, (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	
Final Action	11/00/88	

Small Entity: Undetermined

Agency Contact: Joan E. Duval, Division of Eligibility and Certification, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 3030 ROB-3), Washington, DC 20202, 202 245-9703

RIN: 1840-AA75

467. GUARANTEED STUDENT LOAN/PLUS/SUPPLEMENTAL LOAN/CONSOLIDATION LOAN PROGRAMS

Legal Authority: 20 USC 1071 et seq

CFR Citation: 34 CFR 682; 34 CFR 683

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	04/00/88	

Small Entity: Undetermined

Agency Contact: Larry Oxendine, Acting Chief, Guaranteed Student Loan Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 4316 ROB-3), Washington, DC 20202, 202 245-2475

RIN: 1840-AA96

468. ◉ TARGETED TEACHER DEFERMENT

Legal Authority: PL 100-50

CFR Citation: 34 CFR 682

Legal Deadline: None.

ED—OPE — Proposed Rule Stage

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Technical Amendments Act of 1987 (PL 100-50).

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	05/00/88	

Small Entity: No

Agency Contact: Larry Oxendine, Acting Chief, Guaranteed Student Loan Branch, Department of Education, Office of Postsecondary Education, Office of Postsecondary Ed., 400 Md. Ave., S.W. (Rm. 4310 - ROB-3), Washington, DC 20202, 202 732-4242

RIN: 1840-AB03

469. TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE

Legal Authority: 20 USC 1144a

CFR Citation: 34 CFR 696

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986, (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	
Final Action	09/00/88	

Small Entity: Undetermined

Agency Contact: Leo Paszkiewicz, Office of Policy Development, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 4060 ROB-3), Washington, DC 20202, 202 732-3551

RIN: 1840-AA74

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Final Rule Stage

470. INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED, AND THE COLLEGE HOUSING PROGRAM

Significance: Regulatory Program

Legal Authority: 20 USC 1088; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 600

Legal Deadline: None.

Abstract: These regulations establish procedures the Secretary would use to determine the eligibility of institutions and schools of postsecondary education that apply to participate in any of the programs authorized by the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986.

Timetable:

Action	Date	FR Cite
NPRM	10/21/86	51 FR 37366
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Joan E. Duval, Acting Director, Div. of Eligibility and Agency Evaluation, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW (Rm. 3030, ROB-3), Washington, DC 20202, 202 732-4906

RIN: 1840-AA32

471. MINORITY SCIENCE IMPROVEMENT PROGRAM

Legal Authority: 20 USC 1021 et seq

CFR Citation: 34 CFR 637

Legal Deadline: None.

Abstract: These regulations implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
Final Action	02/00/88	

Small Entity: Undetermined

Agency Contact: Charles Griffith, Director, Division of Higher Ed. Incentive Program, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 3022 ROB-3), Washington, DC 20202, 202 732-4389

RIN: 1840-AA89

472. ◉ PAUL DOUGLAS TEACHER SCHOLARSHIP PROGRAM

Legal Authority: PL 100-50

CFR Citation: 34 CFR 653

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Technical Amendments Act of 1987 (PL 100-50).

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Neil C. Nelson, Chief, State Student Incentive Grant, Department of Education, Office of Postsecondary Education, Office of Postsecondary Education, 400 Md. Ave., S.W. (Rm. 4018, ROB-3), Washington, DC 20202, 202 732-4507

RIN: 1840-AB14

473. STUDENT ASSISTANCE GENERAL PROVISIONS - SUBPARTS A, B, C

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498) to Subparts A, B, and C. Deregulation principals would be applied to Subpart B.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Fred Sellers, Chief, Policy Section, Pell Grant Program, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 4318 ROB-3), Washington, DC 20202, 202 732-4888

RIN: 1840-AA79

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ED—OPE

Final Rule Stage

474. PERKINS LOAN PROGRAM (FORMERLY THE NATIONAL DIRECT STUDENT LOAN PROGRAM) SUBPART C - DUE DILIGENCE

Significance: Regulatory Program

Legal Authority: 20 USC 1087aa to 1087ff

CFR Citation: 34 CFR 674

Legal Deadline: None.

Abstract: These amendments to Subpart C of the regulations provide strict standards in procedures for the collection of student loans under the Perkins Loan Program and will help reduce the number of defaulted loans under that program.

Timetable:

Action	Date	FR Cite
NPRM	02/26/85	50 FR 7872
NPRM Comment Period End	04/12/85	
Final Action	11/00/87	

Small Entity: No

Agency Contact: Margaret Henry, Chief, Policy Section, Campus-Based Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave. SW, Room 4018, ROB-3, Washington, DC 20202, 202 732-4400

RIN: 1840-AA02

475. PERKINS LOAN PROGRAM, COLLEGE WORK-STUDY, AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAMS (CAMPUS-BASED PROGRAMS)

Legal Authority: 20 USC 1087aa to 1087ff; 42 USC 2751 to 2756b; 20 USC 1070b to 1070b-3

CFR Citation: 34 CFR 674; 34 CFR 675; 34 CFR 676

Legal Deadline: None.

Abstract: See Preamble. These final regulations would also include certain provisions of the Higher Education Act of 1965, amended by Higher Education Amendments of 1986 (P.L. 99-498).

Timetable:

Action	Date	FR Cite
NPRM	02/27/85	50 FR 8050
NPRM Comment Period End	04/29/85	
Final Action	11/00/87	

Small Entity: No

Agency Contact: Margaret Henry, Chief, Policy Section, Campus-based Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave, SW, Room 4018, ROB-3, Washington, DC 20202, 202 732-4400

RIN: 1840-AA03

476. PELL GRANT PROGRAM

Legal Authority: 20 USC 1070a

CFR Citation: 34 CFR 690

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498) and the Higher Education Technical Amendments Act of 1987 (PL 100-50).

Timetable:

Action	Date	FR Cite
Final Action	11/00/87	

Small Entity: Undetermined

Agency Contact: Fred Sellers, Chief, Policy Section, Pell Grant Program, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, (Rm. 4318 ROB-3), Washington, DC 20202, 202 732-4606

RIN: 1840-AA97

477. STATE STUDENT INCENTIVE GRANT PROGRAM

Legal Authority: 20 USC 1070c; 20 USC 1070c3

CFR Citation: 34 CFR 692

Legal Deadline: None.

Abstract: These regulations would implement certain provisions of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (PL 99-498).

Timetable:

Action	Date	FR Cite
NPRM	06/16/87	52 FR 23260
Final Action	12/01/87	

Small Entity: Undetermined

Agency Contact: Neil C. Nelson, Chief, State Student Incentive Grant Program, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., (Rm. 4918, ROB-3), Washington, DC 20202, 202 732-4507

RIN: 1840-AA59

DEPARTMENT OF EDUCATION (ED)

Office of Postsecondary Education (OPE)

Completed Actions

478. COLLEGE FACILITIES LOAN PROGRAM

CFR Citation: 34 CFR 614

Completed:

Reason	Date	FR Cite
Final Action	08/14/87	52 FR 30580
Final Action Effective	09/28/87	

Small Entity: Undetermined

Agency Contact: Sumner Bravman 202 732-4394

RIN: 1840-AA70

479. STRENGTHENING INSTITUTIONS PROGRAM

CFR Citation: 34 CFR 607

Completed:

Reason	Date	FR Cite
Final Action	08/14/87	52 FR 30526
Final Action Effective	09/28/87	

Small Entity: Undetermined

Agency Contact: Caroline J. Gillin 202 732-3338

RIN: 1840-AA62

480. ENDOWMENT CHALLENGE GRANT PROGRAM

CFR Citation: 34 CFR 628

ED—OPE

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	09/28/87	52 FR 36374
Final Action Effective	11/12/87	

Small Entity: Undetermined

Agency Contact: Caroline J. Gillin 202 732-3338

RIN: 1840-AA81

481. VETERANS' EDUCATIONAL OUTREACH PROGRAM

CFR Citation: 34 CFR 629

Completed:

Reason	Date	FR Cite
Final Action	08/11/87	52 FR 29824
Final Action Effective	09/25/87	

Small Entity: Undetermined

Agency Contact: Daniel Davis 202 732-4922

RIN: 1840-AA76

482. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION – INNOVATIVE PROJECTS FOR STUDENT COMMUNITY SERVICES

CFR Citation: 34 CFR 630

Completed:

Reason	Date	FR Cite
Final Action	07/21/87	52 FR 27523
Final Action Effective	09/07/87	

Small Entity: Undetermined

Agency Contact: John E. Donahue 202 245-8091

RIN: 1840-AA60

483. COOPERATIVE EDUCATION PROGRAM

CFR Citation: 34 CFR 631; 34 CFR 632; 34 CFR 633; 34 CFR 634; 34 CFR 635; 34 CFR 636

Completed:

Reason	Date	FR Cite
Final Action	08/05/87	52 FR 29140
Final Action Effective	09/19/87	

Small Entity: Undetermined

Agency Contact: Charles Griffith 202 732-4369

RIN: 1840-AA73

484. LAW SCHOOL CLINICAL EXPERIENCE PROGRAM

CFR Citation: 34 CFR 639

Completed:

Reason	Date	FR Cite
Final Action	04/16/87	52 FR 12508
Final Action Effective	06/05/87	

Small Entity: Undetermined

Agency Contact: Charles H. Miller 202 245-9720

RIN: 1840-AA88

485. STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

CFR Citation: 34 CFR 641

Completed:

Reason	Date	FR Cite
Final Action	08/14/87	52 FR 30536
Final Action Effective	09/28/87	

Small Entity: Undetermined

Agency Contact: Caroline S. Gillin 202 732-3388

RIN: 1840-AB00

486. TALENT SEARCH PROGRAM

CFR Citation: 34 CFR 643

Completed:

Reason	Date	FR Cite
Final Action	07/23/87	52 FR 27774
Final Action Effective	09/07/87	

Small Entity: No

Agency Contact: Daniel Davis 202 732-4922

RIN: 1840-AA71

487. EDUCATIONAL OPPORTUNITIES CENTERS PROGRAM

CFR Citation: 34 CFR 644

Completed:

Reason	Date	FR Cite
Final Action	07/29/87	52 FR 28420
Final Action Effective	09/12/87	

Small Entity: Undetermined

Agency Contact: Daniel Davis 202 732-4922

RIN: 1840-AA72

488. UPWARD BOUND PROGRAM

CFR Citation: 34 CFR 645

Completed:

Reason	Date	FR Cite
Withdrawn	08/25/87	

Small Entity: Undetermined

Agency Contact: Daniel Davis 202 732-4922

RIN: 1840-AA78

489. UPWARD BOUND PROGRAM

CFR Citation: 34 CFR 645

Completed:

Reason	Date	FR Cite
Final Action	07/23/87	52 FR 27776
Final Action Effective	09/07/87	

Small Entity: Undetermined

Agency Contact: Daniel Davies 202 732-4922

RIN: 1840-AA84

490. STUDENT SUPPORT SERVICES

CFR Citation: 34 CFR 646

Completed:

Reason	Date	FR Cite
Withdrawn	08/25/87	

Small Entity: Undetermined

Agency Contact: Daniel Davis 202 732-4922

RIN: 1840-AA77

491. STUDENT SUPPORT SERVICES

CFR Citation: 34 CFR 646

Completed:

Reason	Date	FR Cite
Final Action	07/24/87	52 FR 27906
Final Action Effective	09/07/87	

Small Entity: Undetermined

Agency Contact: Daniel Davies 202 732-4922

RIN: 1840-AA82

492. PATRICIA ROBERTS HARRIS FELLOWS PROGRAM

CFR Citation: 34 CFR 649

ED—OPE

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	06/10/87	52 FR 22284
Final Action Effective	07/25/87	

Small Entity: Undetermined

Agency Contact: Charles Griffith 202 732-4389

RIN: 1840-AA86

493. JACOB K. JAVITS FELLOWS PROGRAM

CFR Citation: 34 CFR 650

Completed:

Reason	Date	FR Cite
Final Action	08/06/87	52 FR 29356
Final Action Effective	09/20/87	

Small Entity: Undetermined

Agency Contact: Allen P. Ciasell 202 732-4415

RIN: 1840-AA87

494. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAM

CFR Citation: 34 CFR 658

Completed:

Reason	Date	FR Cite
Final Action	07/29/87	52 FR 28422
Final Action Effective	09/12/87	

Small Entity: Undetermined

Agency Contact: Joseph Belmonte 202 732-3304

RIN: 1840-AA80

495. INTERNATIONAL RESEARCH AND STUDIES PROGRAM

CFR Citation: 34 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	07/29/87	52 FR 28424
Final Action Effective	09/12/87	

Small Entity: Undetermined

Agency Contact: Joseph Belmonte 202 732-3304

RIN: 1840-AA83

496. BUSINESS AND INTERNATIONAL EDUCATION PROGRAM

CFR Citation: 34 CFR 661

Completed:

Reason	Date	FR Cite
Final Action	07/29/87	52 FR 28426
Final Action Effective	09/12/87	

Small Entity: Undeterminod

Agency Contact: Joseph Belmonte 202 732-3304

RIN: 1840-AA85

497. STUDENT ASSISTANCE GENERAL PROVISIONS -- SUBPARTS A, D, F, G

Significance: Regulatory Program

CFR Citation: 34 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	12/01/86	51 FR 43320
Final Action Effective	01/29/87	

Small Entity: No

Agency Contact: Fred Sellers 202 732-4888

RIN: 1840-AA11

498. STUDENT ASSISTANCE GENERAL PROVISIONS - SUBPART H

CFR Citation: 34 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	08/12/87	52 FR 30114
Final Action Effective	09/26/87	

Small Entity: Undetermined

Agency Contact: Fred Sellers 202 732-4888

RIN: 1840-AA92

499. INCOME CONTINGENT LOAN PROGRAM DEMONSTRATION PROJECT

Significance: Regulatory Program

CFR Citation: 34 CFR 673

Completed:

Reason	Date	FR Cite
Final Action	05/12/87	52 FR 17900
Final Action Effective	06/26/87	

Small Entity: Undetermined

Agency Contact: William Moran 202 732-5219

RIN: 1840-AA58

500. CAMPUS-BASED PROGRAMS, 1988-89

CFR Citation: 34 CFR 674; 34 CFR 675; 34 CFR 676

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/87	

Small Entity: Undetermined

Agency Contact: Margaret Henry 202 732-4490

RIN: 1840-AA95

DEPARTMENT OF EDUCATION (ED)

Prerule Stage

Office of Special Education and Rehabilitative Services (OSERS)

501. TRAINING PROGRAMS FOR TEACHERS OF HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

Legal Authority: 20 USC 1119b to 1119b-5

CFR Citation: 34 CFR 322

Legal Deadline: None.

Abstract: See preamble.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/88	
End Review	06/00/88	

Small Entity: Undetermined

Agency Contact: Angela Thomas, Acting Division Director, Department of Education, Office of Special Education and Rehabilitative Services, Office of Special Ed. and Rehab. Services, 400

ED—OSERS

Prerule Stage

Md. Ave., SW (Rm. 3804-Switzer Bldg.), Washington, DC 20202, 202 732-1100

RIN: 1820-AA75

502. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM - DEREGULATION

Legal Authority: 29 USC 701 to 731

CFR Citation: 34 CFR 361

Legal Deadline: None.

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
Begin Review	01/00/88	
End Review	05/00/88	

Small Entity: Undetermined

Agency Contact: Albert Rotundo, Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Room 3220, Switzer Building, Washington, DC 20202, 202 732-1299

RIN: 1820-AA47

DEPARTMENT OF EDUCATION (ED)

Proposed Rule Stage

Office of Special Education and Rehabilitative Services (OSERS)

503. ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

Legal Authority: 20 USC 1401; 20 USC 1412; 20 USC 1413

CFR Citation: 34 CFR 300

Legal Deadline: None.

Abstract: These regulations are needed to implement certain provisions of the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Paul Chassy, Acting Branch Chief, Program Administrative Branch, Department of Education, Office of Special Education and Rehabilitative Services, 400 Md. Ave., SW, (Rm. 3613 - Switzer Bldg), Washington, DC 20202, 202 732-1079

RIN: 1820-AA71

504. PRESCHOOL GRANTS FOR HANDICAPPED CHILDREN'S PROGRAM

Legal Authority: 20 USC 1419

CFR Citation: 34 CFR 301

Legal Deadline: None.

Abstract: These regulations are needed to implement certain provisions of the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Nancy Treusch, Educational Program Specialist, Division of Educational Services, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education, 400 Md. Ave., SW, Switzer Bldg. (Rm. 4094), Washington, DC 20202, 202 732-1097

RIN: 1820-AA48

505. GRANTS FOR INFANTS AND TODDLERS WITH HANDICAPS

Legal Authority: 20 USC 1471 to 1485

CFR Citation: 34 CFR 303

Legal Deadline: None.

Abstract: These regulations are needed to implement certain provisions of Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Thomas B. Irvin, Deputy Director, Division of Program Analysis and Planning, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education, 400 Md. Ave., SW, (Rm. 3092 - Switzer Bldg.), Washington, DC 20202, 202 732-1012

RIN: 1820-AA49

506. REMOVAL OF ARCHITECTURAL BARRIERS TO THE HANDICAPPED PROGRAM

Legal Authority: 20 USC 1406

CFR Citation: 34 CFR 304

Legal Deadline: None.

Abstract: These regulations are needed to implement certain provisions of the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	06/00/88	

Small Entity: No

Agency Contact: Sandra Brotman, Education Program Specialist, Program Administrative Branch, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education, 400 Md. Ave., SW (Rm. 3615 - Switzer Bldg.), Washington, DC 20202, 202 732-1031

RIN: 1820-AA51

507. REGIONAL RESOURCE AND FEDERAL CENTERS PROGRAM

Legal Authority: 20 USC 1421

CFR Citation: 34 CFR 305

Legal Deadline: None.

Abstract: These regulations are needed to implement certain provisions of the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
Final Action	09/00/88	

Small Entity: Undetermined

Agency Contact: Jeffrey Champagne, Acting Director, Division of Assistance to States, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education, 400 Md. Ave., SW, (Rm. 3514

- Switzer Bldg.), Washington, DC 20202, 202 732-1056

RIN: 1820-AA52

508. SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH PROGRAM

Legal Authority: 20 USC 1422

CFR Citation: 34 CFR 307

Legal Deadline: None.

Abstract: These regulations are needed to implement certain provisions of the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	02/00/88	

Small Entity: Undetermined

Agency Contact: Paul Thompson, Acting Division Director, Division of Educational Services, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education, 400 Md. Ave., (Rm. 4605 - Switzer Bldg.), Washington, DC 20202, 202 732-1161

RIN: 1820-AA53

509. TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED - PARENT TRAINING AND INFORMATION CENTERS; SPECIAL PROJECTS; AND GENERAL

Legal Authority: 20 USC 1431; 20 USC 1434

CFR Citation: 34 CFR 316; 34 CFR 318

Legal Deadline: None.

Abstract: These regulations are needed to clarify certain provisions of the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	
Final Action	08/00/88	

Small Entity: No

Agency Contact: Angela Thomas, Acting Division Director, Division of Personnel Preparation, Department of Education, Office of Special Education and Rehabilitative Services, 400 Md. Ave., SW, (Rm. 3904 - Switzer Bldg), Washington, DC 20202, 202 732-1100

RIN: 1820-AA68

510. CAPTIONED FILMS LOAN SERVICE FOR THE DEAF PROGRAM AND EDUCATIONAL MEDIA LOAN SERVICE FOR THE HANDICAPPED PROGRAM

Legal Authority: PL 99-457

CFR Citation: 34 CFR 330; 34 CFR 331

Legal Deadline: None.

Abstract: See preamble. These regulations are also needed to implement certain provisions the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	04/00/88	

Small Entity: Undetermined

Agency Contact: Malcolm J. Norwood, Branch Chief, Division of Educational Services, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education, 400 Md. Ave., SW, (Rm. 3511 - Switzer Bldg.), Washington, DC 20202, 202 732-1172

RIN: 1820-AA61

511. TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR THE HANDICAPPED

Legal Authority: 20 USC 1461 to 1462

CFR Citation: 34 CFR 333

Legal Deadline: None.

Abstract: See preamble. These regulations are needed to implement certain provisions of the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Linda Glidewell, Educational Program Specialist, Division of Innovation and Development, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education, 400 Md. Ave., SW, (Rm. 3094 - Switzer Bldg.), Washington, DC 20202, 202 732-1099

RIN: 1820-AA63

512. ● FIELD INITIATED RESEARCH

Legal Authority: 29 USC 760 to 762

CFR Citation: 34 CFR 350; 34 CFR 357

Legal Deadline: None.

Abstract: These regulations are needed to redefine the scope of the program and to revise the selection criteria.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	04/00/88	

Small Entity: Undetermined

Agency Contact: Betty Jo Berland, Planning and Evaluation Officer, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Ave., S.W., Rm. 3070 - Switzer Bldg., Washington, DC 20202, 202 732-1139

RIN: 1820-AA60

513. HANDICAPPED RESEARCH: RESEARCH FELLOWSHIP PROGRAM

Legal Authority: 29 USC 761a(d)

CFR Citation: 34 CFR 356

Legal Deadline: None.

Abstract: These regulations are needed to amend existing regulations for program improvement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	02/00/88	

Small Entity: Undetermined

Agency Contact: Betty Jo Berland, Planning and Evaluation Officer, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education, 400 Md, Ave., SW, (Rm. 3070 - Switzer Bldg.), Washington, DC 20202, 202 732-1139

RIN: 1820-AA66

514. ● NIDRR - RESEARCH TRAINING AND CAREER DEVELOPMENT PROGRAM

Legal Authority: 29 USC 760 to 762

CFR Citation: 34 CFR 360

Legal Deadline: None.

Abstract: These regulations are needed to implement certain provisions of the

Rehabilitation Amendments of 1986, P.L. 99-506.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Betty Jo Berland, Planning and Evaluation Officer, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education. 400 Md. Ave., S.W., (Rm. 3070 Switzer). Washington, D.C. 20202, 202 732-1139

RIN: 1820-AA77

515. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

Legal Authority: 29 USC 701 to 731

CFR Citation: 34 CFR 361

Legal Deadline: None.

Abstract: These regulations would implement certain changes to the Rehabilitation Act of 1973, made by the Rehabilitation Act Amendments of 1986. (PL 99-506)

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Albert Rotundo, Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration. (Rm. 3030, Switzer Building). Washington, DC 20202, 202 732-1287

RIN: 1820-AA37

516. REHABILITATION SERVICES ADMINISTRATION GENERAL DEREGULATION REVIEW

Legal Authority: 29 USC 701 et seq

CFR Citation: 34 CFR 362; 34 CFR 366; 34 CFR 369; 34 CFR 371; 34 CFR 372; 34 CFR 374; 34 CFR 375; 34 CFR 378; 34 CFR 379; 34 CFR 385; 34 CFR 386; 34 CFR 387; 34 CFR 388; 34 CFR 389; 34 CFR 390; ...

Legal Deadline: None.

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	
Final Action	12/00/88	

Small Entity: Undetermined

Additional Information: ADDITIONAL CFR CITATION: 34 CFR 395.

Agency Contact: Albert Rotundo, Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Room 3220, Switzer Building, Washington, DC 20202, 202 732-1299

RIN: 1820-AA45

517. THE STATE INDEPENDENT LIVING REHABILITATION SERVICES PROGRAM

Legal Authority: 29 USC 796 to 796d

CFR Citation: 34 CFR 365

Legal Deadline: None.

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
Final Action	05/00/88	

Small Entity: Undetermined

Agency Contact: Francis Corrigan, Deputy Commissioner, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration. (Rm. 3030, Switzer Building). Washington, DC 20202, 202 732-1287

RIN: 1820-AA37

518. INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

Legal Authority: 29 USC 796j

CFR Citation: 34 CFR 367

Legal Deadline: None.

Abstract: These regulations would implement certain changes to the Rehabilitation Act of 1973, made by the Rehabilitation Act Amendments of 1986. (PL 99-506)

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Albert Rotundo, Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Room 3220, Switzer Building, Washington, DC 20202, 202 732-1299

RIN: 1820-AA41

519. VOCATIONAL REHABILITATION SERVICES TO INDIVIDUALS WITH SEVERE HANDICAPS/SPECIAL PROJECTS AND DEMONSTRATIONS FOR PROVIDING SUPPORTED EMPLOYMENT SERV. TO INDIV. WITH SEVERE HANDICAPS

Legal Authority: 20 USC 777a(a)(1) and 777a(d)

CFR Citation: 34 CFR 373; 34 CFR 380

Legal Deadline: None.

Abstract: These regulations would implement certain changes to the Rehabilitation Act of 1973, made by the Rehabilitation Act Amendments of 1986. (PL 99-506)

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	04/00/88	

Small Entity: Undetermined

Agency Contact: Albert Rotundo, Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Department of Education, Room 3220, Switzer Bldg., Washington, DC 20202, 202 732-1299

RIN: 1820-AA76

520. SPECIAL PROJECTS AND DEMONSTRATIONS FOR PROVIDING TRANSITIONAL REHABILITATION SERVICES TO YOUTHS WITH HANDICAPS

Legal Authority: PL 99-506

CFR Citation: 34 CFR 376

Legal Deadline: None.

Abstract: These regulations would implement changes to the Rehabilitation Act of 1973, made by the Rehabilitation Act Amendments of 1986. (PL 99-506)

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	
Final Action	09/00/88	

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ED—OSERS — Proposed Rule Stage

Small Entity: Undetermined

Agency Contact: Albert Rotundo, Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Room 3220, Switzer Building, Washington, DC 20202, 202 732-1299

RIN: 1820-AA74

DEPARTMENT OF EDUCATION (ED) — Final Rule Stage

Office of Special Education and Rehabilitative Services (OSERS)

521. RESEARCH IN EDUCATION OF THE HANDICAPPED PROGRAM

Legal Authority: 20 USC 1441; 20 USC 1442

CFR Citation: 34 CFR 324

Legal Deadline: None.

Abstract: These regulations are needed to implement certain provisions of the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Linda Glidewell, Educational Program Specialist, Division of Innovation and Development, Department of Education, Office of Special Education and Rehabilitative Services, 400 Md. Ave., SW, (Rm. 3094 - Switzer Bldg), Washington, DC 20202, 202 732-1089

RIN: 1820-AA69

522. HANDICAPPED SPECIAL STUDIES PROGRAM

Legal Authority: 20 USC 1418

CFR Citation: 34 CFR 327

Legal Deadline: None.

Abstract: These regulations are needed to implement certain provisions of the Education of the Handicapped Act Amendments of 1986, PL 99-457.

Timetable:

Action	Date	FR Cite
Final Action	02/00/88	

Small Entity: No

Agency Contact: Linda Glidewell, Educational Program Specialist, Division of Innovation and Development, Department of Education, Office of Special Education and Rehabilitative Services, 400 Md. Ave., SW, (Rm. 3094 - Switzer Bldg), Washington, DC 20202, 202 732-1089

RIN: 1820-AA72

523. MISCELLANEOUS TECHNICAL AMENDMENTS TO THE REHABILITATION SERVICES REGULATIONS

Legal Authority: 29 USC 711(c); 29 USC 796(e); 29 USC 732; 29 USC 774; 29 USC 777b; 29 USC 777j; 29 USC 795g

CFR Citation: 34 CFR 366; 34 CFR 369; 34 CFR 370; 34 CFR 375; 34 CFR 378; 34 CFR 379; 34 CFR 385; 34 CFR 387; 34 CFR 388; 34 CFR 389; 34 CFR 390

Legal Deadline: None.

Abstract: These regulations would implement certain changes to the Rehabilitation Act of 1973, made by the Rehabilitation Act Amendments of 1986. (PL 99-506)

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Albert Rotundo, Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Room 3220, Switzer Building, Washington, DC 20202, 202 732-1299

RIN: 1820-AA39

DEPARTMENT OF EDUCATION (ED) — Completed Actions

Office of Special Education and Rehabilitative Services (OSERS)

524. HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM

CFR Citation: 34 CFR 309

Completed:

Reason	Date	FR Cite
Final Action	08/11/87	52 FR 29816
Final Action Effective	09/25/87	

Small Entity: No

Agency Contact: Ruth Ward 202 732-1045

RIN: 1820-AA54

525. PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN

CFR Citation: 34 CFR 315

Completed:

Reason	Date	FR Cite
Final Action	08/24/87	52 FR 31958
Final Action Effective	10/06/87	

Small Entity: No

Agency Contact: Paul Thompson 202 732-1154

RIN: 1820-AA55

526. TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED - GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

CFR Citation: 34 CFR 319

Completed:

Reason	Date	FR Cite
Final Action	07/08/87	52 FR 25830
Final Action Effective	09/07/87	

Small Entity: No

ED—OSERS — Completed Actions

Agency Contact: Angele Thomas 202 732-1169

RIN: 1820-AA58

527. CLEARINGHOUSES FOR THE HANDICAPPED PROGRAM

CFR Citation: 34 CFR 320

Completed:

Reason	Date	FR Cite
Final Action	07/15/87	52 FR 26656
Final Action Effective	09/07/87	

Small Entity: No

Agency Contact: Helen S. Corradino 202 732-1167

RIN: 1820-AA56

528. SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH PROGRAM

CFR Citation: 34 CFR 326

Completed:

Reason	Date	FR Cite
Final Action	09/10/87	52 FR 34368
Final Action Effective	10/25/87	

Small Entity: No

Agency Contact: William Halloran 202 732-1112

RIN: 1820-AA59

529. EDUCATIONAL MEDIA RESEARCH, PRODUCTION, DISTRIBUTION, AND TRAINING

CFR Citation: 34 CFR 332

Completed:

Reason	Date	FR Cite
Withdrawn	08/03/87	

Small Entity: Undetermined

Agency Contact: Malcolm J. Norwood 202 732-1172

RIN: 1820-AA73

530. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH - AMENDMENTS

CFR Citation: 34 CFR 350; 34 CFR 351; 34 CFR 352; 34 CFR 353; 34 CFR 354; 34 CFR 355; 34 CFR 356; 34 CFR 357; 34 CFR 358; 34 CFR 359

Completed:

Reason	Date	FR Cite
Final Action	08/12/87	52 FR 30060
Final Action Effective	09/26/87	

Small Entity: No

Agency Contact: Betty Jo Berland 202 732-1139

RIN: 1820-AA65

531. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM - ADDITIONAL AMENDMENTS

CFR Citation: 34 CFR 361

Completed:

Reason	Date	FR Cite
Withdrawn	08/25/87	

Small Entity: Undetermined

Agency Contact: Albert Rotundo 202 732-1299

RIN: 1820-AA46

532. THE STATE SUPPORTED EMPLOYMENT SERVICES PROGRAM

CFR Citation: 34 CFR 363

Completed:

Reason	Date	FR Cite
Final Action	08/14/87	52 FR 30546
Final Action Effective	09/28/87	

Small Entity: No

Agency Contact: Albert Rotundo 202 732-1299

RIN: 1820-AA44

533. PROJECTS FOR AMERICAN INDIANS WITH HANDICAPS AND LONG-TERM TRAINING

CFR Citation: 34 CFR 371; 34 CFR 386

Completed:

Reason	Date	FR Cite
Final Action	08/14/87	52 FR 30554
Final Action Effective	09/28/87	

Small Entity: Undetermined

Agency Contact: Albert Rotundo 202 732-1299

RIN: 1820-AA43

534. ● VOCATIONAL REHABILITATION SERVICE PROJECTS FOR AMERICAN INDIANS WITH HANDICAPS - DEREGULATION

Legal Authority: 29 USC 711(c)

CFR Citation: 34 CFR 371

Legal Deadline: None.

Abstract: See preamble

Timetable:

Action	Date	FR Cite
Withdrawn	08/25/87	

Small Entity: Undetermined

Agency Contact: Albert Rotundo, Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Room 3220 Switzer Building, Washington, D.C. 20202, 202 732-1299

RIN: 1820-AA79

535. ● REHABILITATION TRAINING: REHABILITATION LONG-TERM TRAINING - DEREGULATION

Legal Authority: 29 USC 774(a)

CFR Citation: 34 CFR 386

Legal Deadline: None.

Abstract: See preamble

Timetable:

Action	Date	FR Cite
Withdrawn	08/25/87	

Small Entity: Undetermined

Agency Contact: Albert Rotundo, Director, Planning and Policy Staff, Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitative Services Administration, Room 3220 Switzer Building, Washington, D.C. 20202, 202 732-1299

RIN: 1820-AA78

DEPARTMENT OF EDUCATION (ED) — **Proposed Rule Stage**
Office of Intergovernmental and Interagency Affairs (EDSI)

536. INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAMS AND ACTIVITIES – LIST OF PROGRAMS

Legal Authority: EO 12372; 31 USC 6506; 42 USC 3334

CFR Citation: 34 CFR 79

Legal Deadline: None.

Abstract: This regulatory action would propose those ED programs to be included and those ED programs to be excluded under EO 12372 and ED's implementing regulations in 34 CFR Part 79. The public will be given an opportunity to comment on the listing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	04/00/88	

Small Entity: No

Agency Contact: Leroy Walser, Executive Director, Federal Interagency Committee on Education, Department of Education, Office of Intergovernmental and Interagency Affairs, Room 503 Rptrs. Bldg., Washington, DC 20202, 202 732-3669

RIN: 1660-AA00

DEPARTMENT OF EDUCATION (ED) — **Prerule Stage**
Miscellaneous Department of Education (EDMIS)

537. INVENTIONS AND PATENTS – GENERAL

Legal Authority: 5 USC 301

CFR Citation: 34 CFR 6

Legal Deadline: None.

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
End Review	03/00/88	

Small Entity: Undetermined

Agency Contact: Richard Galloway, Chief, Acquisition Policy Branch, Department of Education, Miscellaneous Department of Education, Departmental Management, 400 Maryland Ave., SW, (Rm. 3519, ROB-3), Washington, D.C. 20202, 202 732-2525

RIN: 1801-AA04

DEPARTMENT OF EDUCATION (ED) — **Proposed Rule Stage**
Miscellaneous Department of Education (EDMIS)

538. EQUAL ACCESS TO JUSTICE

Legal Authority: 5 USC 504

CFR Citation: 34 CFR 21

Legal Deadline: None.

Abstract: These regulations would amend the procedures for the award of fees and other expenses to applicants who prevail in adversary adjudications before the Department of Education. The current regulations must be amended to reflect recent amendments to the Equal Access to Justice Act made by P.L. 99-80.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	05/00/88	

Small Entity: Undetermined

Agency Contact: JoAnne Frey, General Attorney, Office of the General Counsel, Department of Education, Miscellaneous Department of Education, 400 Maryland Ave., SW, Room 4122, Washington, DC 20202, 202 732-2690

RIN: 1801-AA01

539. DUE PROCESS REGULATIONS

Legal Authority: 20 USC 1234; 20 USC 3872; 20 USC 1411 to 1420

CFR Citation: 34 CFR 76; 34 CFR 204; 34 CFR 300

Legal Deadline: None.

Abstract: The Department plans to revise and consolidate due process regulations governing notice and hearings.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	08/00/88	

Small Entity: Undetermined

Agency Contact: Sarah Kemble, Attorney, Office of the General Counsel, Department of Education, Miscellaneous Department of Education, 400 Maryland Avenue, SW, Room 4121, FOB-6, Washington, DC 20202, 202 732-2730

RIN: 1801-AA02

DEPARTMENT OF EDUCATION (ED) — **Final Rule Stage**
Miscellaneous Department of Education (EDMIS)

540. ◎ PROGRAM FRAUD CIVIL REMEDIES

Legal Authority: 31 USC 3801 to 3812

CFR Citation: 34 CFR 33

Legal Deadline: None.

Abstract: These regulations would implement the Program Fraud Civil Remedies Act of 1986.

ED—EDMIS — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	07/22/87	52 FR 27650
NPRM Comment Period End	08/21/87	
Final Action	02/00/88	

Small Entity: Undetermined

Agency Contact: Sarah L. Kemble, Attorney, Department of Education, Miscellaneous Department of Education, Office of the General Counsel, 400 Md. Ave., SW, Rm. 4121, FOB-6, Washington, D.C. 20202, 202 732-2730

RIN: 1801-AA05

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Monday
October 26, 1987

Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

41 CFR Chs. 9 and 109

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: October 1987 regulatory agenda.

SUMMARY: In furtherance of this Administration's commitment to make government more responsive to the citizens of the United States and to assist in fulfilling the President's mandate to lessen regulatory burdens, the Department of Energy (DOE) is publishing this agenda of regulatory activities that DOE has in progress, as well as proposed rulemakings that DOE foreseeably may issue in the next year. This agenda provides the Administration with an effective tool for monitoring and controlling the promulgation of regulations. It includes (1) all rules expected to be issued as proposed or final rules before October 1988, (2) all rules being reviewed within the Department to determine whether to propose modifications through rulemaking, and (3) all rulemakings and rule reviews for which action has been completed since the April 1987 Regulatory Agenda. In addition, the agenda meets requirements under the Regulatory Flexibility Act for information on any rulemakings which are "likely to have a significant economic impact on a substantial number of small entities." The agenda may not include all routine regulations or those that relate to internal agency management.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda in general, contact: Robert E. Morey, Department of Energy, Room 6B-144, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

Specific: For further information about any particular item on the agenda, contact the individual listed under that item.

SUPPLEMENTARY INFORMATION:

Under Executive Order 12291, 46 FR 13193, February 19, 1981, each covered agency publishes, in April and October of each year, an agenda of all rulemakings in progress or expected to be commenced within the next year, and currently effective rules that are under agency review. The Executive Order authorizes the Office of Management and Budget (OMB) to set forth standards and procedures for the preparation of these agendas. The October 1987 Regulatory Agenda has been prepared in accordance with OMB Bulletin No. 87-16.

There are important reasons for preparing this agenda. It is vital in this Administration's efforts to reduce the burdens of existing and future regulations, to increase agency accountability for regulatory actions, to provide for Presidential oversight of the regulatory process, to minimize duplication and conflict of regulations, and to insure well-reasoned regulations. This Administration has made considerable progress in these efforts.

For example, the Department, excluding the Federal Energy Regulatory Commission (FERC), has in each of fiscal years 1986 and 1987 achieved its reduction target of five percent in the paperwork burden imposed by its information collections on the public. For fiscal year 1988, the Department is again committed to a five percent reduction in the remaining paperwork burden imposed by its information collections on the public. This commitment is responsive to the October 1990 goal for Federal agencies, as set forth in the Paperwork Reduction Reauthorization Act of 1986, Pub. L. 99-591. It responds to the request of the Presidential Task Force on Regulatory Relief that the Department review all paperwork burdens imposed on the public including those embedded in Departmental regulations and related statutes. The commitment again excludes the FERC, but includes the ongoing efforts of the Energy Information Administration to reduce the burden of its energy information collections on the public. As in the previous fiscal year, special attention will continue to be given to the paperwork burden of the Department's information collections imposed on its management and operating contractors, offsite contractors and grant recipients inasmuch as this remains the largest element of the Department's overall paperwork burden placed on the public.

Executive Order 12291 also provides that the regulatory agenda may be incorporated with the "regulatory flexibility agenda" required under the Regulatory Flexibility Act, 5 U.S.C. 602 et seq. The regulatory flexibility agenda must contain: (1) A brief description of the subject area and a summary of the nature of any rule which the agency expects to propose or promulgate which is "likely to have a significant economic impact on a substantial number of small entities;" (2) the objectives and legal basis for the issuance of the rule and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and (3) the name and telephone number of an agency official knowledgeable about each rule. The regulatory flexibility agenda required under 5 U.S.C. 602(a) is incorporated in today's notice.

Entries appended to this notice reflect the status of regulatory activities as of approximately August 15, 1987. Regulatory activities have been divided among categories according to their next stage: prerulemaking action, proposed rule, final rule, or completed action.

Regulations designated as "significant" are those which are also included in the Regulatory Program of the United States Government, prepared pursuant to Executive Order 12498, 50 FR 1036, January 8, 1985. Significant regulations also include those which, while not of Government-wide interest or importance, nevertheless are priorities of the Department.

Each item contains the following information: (1) DOE office or administration (that is, the DOE organizational unit responsible for the regulation); (2) RIN number (that is, the Regulation Identifier Number assigned by OMB/OIRA); (3) title; (4) significance; (5) agency contact (that is, the name, title, address and telephone number of a person who is knowledgeable about the regulation); (6) effects on small businesses and other entities (that is, whether the action is likely to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act); (7) CFR citation (that is, the section of the Code of Federal Regulations that will be affected); (8) legal authority (that is, a citation to the section of the United States Code (U.S.C.), Public Law (P.L.) or the Executive Order (E.O.) that authorizes the regulatory action); (9) abstract (that is, a description of the problem the regulation will address, the regulatory approach under consideration, the alternatives being considered for addressing the problem, and the potential costs and benefits of the action); (10) legal deadline (that is, the statutory or judicial deadline, if any); and (11) timetable (that is, the dates, and citations if applicable, for all past stages and at least the next stage of the rulemaking). In addition, each item regarding completed actions (that is, regulations completed or withdrawn and reviews completed since the preceding agenda) states the date and citation, if appropriate.

A draft of this agenda has been transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any, to fulfill the requirements of 5 U.S.C. 602(b).

DOE's next agenda will be published in April 1988.

Issued in Washington, DC on August 27, 1987.

Eric J. Fygi,

Acting General Counsel.

Conservation and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
541	Energy-Efficiency Standards for Refrigerators and Related Products, Small Gas Furnace and Television Sets	1904-AA28

Conservation and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
542	Federal Energy Management & Planning Programs Methodology & Procedures for Life Cycle Costing Analyses	1904-AA06
543	State Energy Conservation Program (SECP) -- Use of Oil Overcharge Funds for Building Energy Conservation Materials and Equipment	1904-AA30
544	Regulations Implementing National Appliance Energy Conservation Act; Certification and Enforcement, Waiver of Federal Preemption and Small Manufacturer Exemptions	1904-AA32

Conservation and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
545	Energy Conservation Performance Standards for New Buildings; Subpart A-Voluntary Performance Standards for New Commercial and Multi-Family High Rise Residential Buildings	1904-AA08
546	Energy Efficiency Test Procedures for Water Heaters	1904-AA12
547	Energy Efficiency Test Procedures for Central Air Conditioners	1904-AA23
548	Energy Conservation Performance Standards for New Buildings; Subpart C-Mandatory Performance Standards for New Federal Residential Buildings	1904-AA27
549	Amendments to the Residential Conservation Service and the Commercial and Apartment Conservation Service	1904-AA31
550	Energy Conservation Program for Consumer Products; Test Procedures for Dishwashers	1904-AA33

Defense Programs—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
551	Criteria and Procedures for Determining Eligibility for Designated Human Reliability Program Critical Positions	1992-AA11

DOE

Defense Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
552	Restrictions on Aircraft Landing and Air Delivery at Department of Energy Nuclear Sites	1992-AA12

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
553	Part 605 Special Research Grants Program; Proposed Rule	1901-AA07
554	Annotation of Land Records and Documentation of Property Owner Refusals to Participate in the Uranium Mill Tailings Remedial Action Program	1901-AA12
555	Model Federal Policy for Protection of Human Research Subjects	1901-AA13

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
556	Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste; Amendments	1901-AA11

Departmental and Others—Completed Actions

Sequence Number	Title	Regulation Identifier Number
557	Permits for Access to Restricted Data in the Uranium Enrichment Program	1901-AA14

Economic Regulatory Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
558	Proposed Rule Establishing New Administrative Procedures with Respect to Short-Term Imports and Exports of Natural Gas	1903-AA07

Management and Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
559	Proposed Rule on DOE Contractor Drug Free Workplace Policy	1991-AA39

DOE

Management and Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
560	Financial Assistance Regulations; Cooperative Agreements	1991-AA03
561	Department of Energy Acquisition Regulation Revisions; Patent Policy	1991-AA23
562	Department of Energy Acquisition Regulation; Management and Operating Contractor Purchasing Systems	1991-AA25
563	Department of Energy Property Management Regulation; Official Use of Motor Vehicles	1991-AA28
564	Department of Energy Acquisition Regulation; Miscellaneous Changes on Acquisition of Personal Property	1991-AA32
565	Department of Energy Financial Assistance Rules; Restriction of Eligibility	1991-AA35
566	Debarment and Suspension (Non-Procurement)	1991-AA40
567	Department of Energy Financial Assistance Rules; Merit Review	1991-AA41
568	Contracting for Basic and Applied Research	1991-AA42

Management and Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
569	Department of Energy Acquisition Regulation; Miscellaneous Changes to Conform to Federal Acquisition Regulation Changes and Revised Internal Procedures	1991-AA33
570	Department of Energy Acquisition Regulation; Use of Contract Carriers by Cost Reimbursable Contractors	1991-AA37

Management and Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
571	Department of Energy Financial Assistance Rules; Property Provisions	1991-AA34

Office of General Counsel—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
572	Amendments to Department of Energy Conduct of Employees	1990-AA00
573	Patent Waiver Regulation	1990-AA02
574	Foreign Gifts and Decorations	1990-AA04
575	Cooperation with the Inspector General	1990-AA06
576	Class Patent Waivers	1990-AA07

Office of General Counsel—Completed Actions

Sequence Number	Title	Regulation Identifier Number
577	Clarification of the Term Byproduct Material	1990-AA05

DEPARTMENT OF ENERGY (DOE) — **Prerule Stage**
Conservation and Renewable Energy (CE)

541. ENERGY-EFFICIENCY STANDARDS FOR REFRIGERATORS AND RELATED PRODUCTS, SMALL GAS FURNACE AND TELEVISION SETS

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Statutory. The NAECA requires DOE determinations on need to amend Federal appliance standards in a period from 7/1/89 to 1/1/94. The Statute requires completion of a second reanalysis of all then-extant standards in a period from 7/1/94 to 12/31/2006. Also statutory deadlines for a proposal on standards for (cont)

Abstract: The National Appliance Energy Conservation Act of 1987 (NAECA) was enacted March 17, 1987. The NAECA extensively amends the Department's statutory authorities and responsibilities regarding energy efficiency standards for major household appliances. The NAECA establishes initial statutory energy-efficiency standard levels for most types of major appliances and generally requires the Department to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended. These products are: refrigerators, refrigerator-freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; and kitchen ranges and ovens. Other appliances, including television sets, may be regulated by the Department essentially as provided for in prior law. This rulemaking will review the statutory standard levels for refrigerators, refrigerator-freezers, and freezers to determine whether those levels need to be (cont)

Timetable:

Action	Date	FR Cite
ANPRM	10/00/87	
ANPRM Comment Period End	12/00/87	
NPRM	04/02/88	
NPRM Comment Period End	06/00/88	
Final Action	01/00/89	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: amended; for small gas furnaces, will set an initial standard within the statutory range; and will determine whether any standard for television sets is warranted.

LEGAL DEADLINE CONT: refrigerators and related products (7/1/88) and establishment of the small gas furnace standards level (1/1/89), the earliest NAECA deadline.

Agency Contact: Michael J. McCabe, Supervisory Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904-AA28

DEPARTMENT OF ENERGY (DOE) — **Proposed Rule Stage**
Conservation and Renewable Energy (CE)

542. FEDERAL ENERGY MANAGEMENT & PLANNING PROGRAMS METHODOLOGY & PROCEDURES FOR LIFE CYCLE COSTING ANALYSES

Legal Authority: 42 USC 8255; PL 95-619, Sec 545; PL 99-509, Sec 3301; EO 11912; EO 12003; PL 99-509

CFR Citation: 10 CFR 436

Legal Deadline: None.

Abstract: Under the National Energy Conservation Policy Act, DOE has promulgated regulations establishing a methodology for estimating and comparing the life cycle costs of Federal buildings and for determining life cycle cost effectiveness. The Energy Security Act required that the regulations provide for the use of marginal energy costs in the life cycle cost analyses. DOE sought legislative revisions to authorize use of average energy costs rather than marginal costs. Appropriate legislative relief came with the Omnibus Budget Reconciliation Act of 1986. The current rulemaking would incorporate a method for determining average energy costs into the life cycle costing analyses.

Timetable:

Action	Date	FR Cite
NPRM	10/23/87	
NPRM Comment Period End	11/27/87	

Small Entity: No

Agency Contact: K. Dean DeVine, Federal Energy Management Program, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8784

RIN: 1904-AA06

543. STATE ENERGY CONSERVATION PROGRAM (SECP) -- USE OF OIL OVERCHARGE FUNDS FOR BUILDING ENERGY CONSERVATION MATERIALS AND EQUIPMENT

Legal Authority: 42 USC 6321 to 6327

CFR Citation: 10 CFR 420, (Revision)

Legal Deadline: None.

Abstract: This rulemaking would modify the prohibition in the State Energy Conservation Program (SECP) regulations on most purchases or installation of equipment and materials for energy conservation building retrofits and weatherization. The prohibition would be relaxed only with respect to whatever so-called eligible petroleum violation escrow (PVE) funds the State elects to spend through the SECP. These PVE funds redress injuries which States' citizens suffered from violations of former Federal petroleum price and allocation regulations. As with all State SECP activities, PVE-funded building retrofits and weatherization would have to be included in an approved program plan.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: No

Agency Contact: Sandra Monje, Energy Conservation Program Specialist, Department of Energy, Conservation and Renewable Energy, Energy Management and Extension, Office of State and Local Assistance, Washington, DC 20585, 202 586-8295

RIN: 1904-AA30

DOE--CE — **Proposed Rule Stage**

544. ● REGULATIONS IMPLEMENTING NATIONAL APPLIANCE ENERGY CONSERVATION ACT; CERTIFICATION AND ENFORCEMENT, WAIVER OF FEDERAL PREEMPTION AND SMALL MANUFACTURER EXEMPTIONS

Significance: Regulatory Program

Legal Authority: 42 USC 6291 to 6309

CFR Citation: 10 CFR 430.1; 10 CFR 430.2; 10 CFR 430.22; 10 CFR 430.40; 10 CFR 430.50; 10 CFR 430.60; 10 CFR 430.70

Legal Deadline: None.

Abstract: The National Appliance Energy Conservation Act of 1987 (NAECA) extensively amended the Department's statutory authorities and responsibilities regarding energy efficiency standards for major household appliances. The NAECA establishes initial statutory energy-efficiency standard levels for most types of major appliances. These products are: refrigerators, refrigerator-freezers, and freezers; room air conditioners; central air conditioners and central air conditioning heat pumps; water heaters; pool heaters; direct heating equipment; furnaces; dishwashers; clothes washers; clothes dryers; and kitchen ranges and ovens. Other appliances, including television sets, may be regulated by the Department essentially as provided for in prior law. Although the standards prescribed by the NAECA generally supersede all State and local standards for these products, the Act allows States to petition for and DOE to grant exemption from Federal preemption and allows small manufacturers to apply for temporary exemption from the standards. This rulemaking will establish procedures for these preemption and exemption provisions, and for certification (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	01/00/88	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: and enforcement aspects of the program.

Government Levels Affected: State

Agency Contact: Michael J. McCabe, Supervisory Engineer, Department of Energy, Conservation and Renewable Energy, CE-132, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904-AA32

DEPARTMENT OF ENERGY (DOE) — **Final Rule Stage**
Conservation and Renewable Energy (CE)

545. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART A-VOLUNTARY PERFORMANCE STANDARDS FOR NEW COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Statutory, October 1983. Deadline for Final Rule.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE currently is developing voluntary guidelines for the private sector and mandatory standards for the federal government.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	
NPRM Comment Period End	08/04/87	
Interim Final Rule	05/05/88	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: James A. Smith, Director, Buildings Systems Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9445

RIN: 1904-AA08

546. ENERGY EFFICIENCY TEST PROCEDURES FOR WATER HEATERS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.22

Legal Deadline: None.

Abstract: Final test procedures for 13 types of appliances were established during 1978. The test procedures form the basis of manufacturers' representations on the Federal Trade Commission's EnergyGuide label. In February 1984, DOE proposed to establish test procedures for heat pump water heaters and to eliminate the need for the test procedure waiver granted to A.O. Smith for its water heater with a thermal compensatory dip tube. Based on the comments received pursuant to the February 8, 1984 NPRM, the Department prepared a new NPRM published March 13, 1987. This NPRM proposed a single test procedure to cover gas, oil and electric water heaters as well as heat pump water heaters, and extended the test procedures to cover instantaneous type water heaters. In addition to the A.O. Smith matter, the rulemaking would eliminate the need for the test procedure waivers granted Bock Corp., Ford Products and Lockinvar Corp. for their high mass oil-fired water heaters.

Timetable:

Action	Date	FR Cite
NPRM	02/08/84	49 FR 4870
NPRM Comment Period End	05/21/84	49 FR 4870
NPRM Test Procedures for Water Heaters	03/13/87	49 FR 7972
Final Action	05/00/88	
Final Action Effective	07/00/88	

Small Entity: No

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904-AA12

DOE—CE — Final Rule Stage

547. ENERGY EFFICIENCY TEST PROCEDURES FOR CENTRAL AIR CONDITIONERS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.22

Legal Deadline: None.

Abstract: Final test procedures for 13 types of appliances were established during 1978. The test procedures form the basis of manufacturers' representations on the Federal Trade Commission's EnergyGuide label. The purpose of the rulemaking is to establish test procedures for water-source heat pumps and multi-evaporator heat pumps; to eliminate the test procedure waivers granted to Borg-Warner Central Environmental Systems and United Technologies, Carrier Corporation for their variable speed heat pumps; and to incorporate, by reference, three industry standards, the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 116-83, the Air-Conditioning and Refrigeration Institute (ARI) Standard 210/240-84 and Air-Conditioning and Refrigeration Institute Standard 325-85, into the test procedures.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	04/02/85	50 FR 13042
NPRM	10/07/86	51 FR 35736
Extension of Comment Period	11/07/86	51 FR 40442
NPRM Comment Period End	01/30/87	51 FR 40442
Final Action	12/00/87	
Final Action Effective	01/00/88	

Small Entity: No

Additional Information: A Notice of Inquiry was published in the Federal Register on April 2, 1985 to request comments on a rating procedure to determine the energy performance of a central air conditioner combination (condensing unit and indoor coil) without conducting the full laboratory procedure prescribed by the DOE test procedures. DOE proposed such a rating method in the proposed rulemaking.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9127

RIN: 1904-AA23

548. ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS; SUBPART C-MANDATORY PERFORMANCE STANDARDS FOR NEW FEDERAL RESIDENTIAL BUILDINGS

Legal Authority: 42 USC 6831 et seq

CFR Citation: 10 CFR 435

Legal Deadline: Statutory, October 1983. Deadline for Final Rule.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE currently is developing voluntary guidelines for the private sector and mandatory standards for the federal government.

Timetable:

Action	Date	FR Cite
NPRM	08/20/86	51 FR 29754
Extension of Comment Period	11/10/86	51 FR 222
NPRM Comment Period End	01/16/87	51 FR 222
Interim Final Rule	04/01/88	

Small Entity: No

Agency Contact: James A. Smith, Director, Building Systems Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-9445

RIN: 1904-AA27

549. AMENDMENTS TO THE RESIDENTIAL CONSERVATION SERVICE AND THE COMMERCIAL AND APARTMENT CONSERVATION SERVICE

Significance: Regulatory Program

Legal Authority: 42 USC 6211 et seq; 42 USC 8261 et seq; PL 99-412 Conservation Service Reform Act of 1986

CFR Citation: 10 CFR 456, (Revision); 10 CFR 458, (Deletion)

Legal Deadline: Statutory, August 28, 1988. Rules promulgated under section 212 of the National Energy Conservation Policy Act must be amended within the one hundred and eighty day period after the August 26, 1986, enactment of the Conservation Service Reform Act.

Abstract: The Conservation Service Reform Act of 1986 (Act) Requires changes to the Residential Conservation Service (RCS) and repeals the Commercial and Apartment Conservation Service (CACS) except for CACS plans approved before August 1, 1984. RCS and CACS required large electric and natural gas utilities to perform energy audits of their eligible customers upon request, and to provide other services. Required changes in the RCS program include deletion of some required services, program termination on June 30, 1989, provisions for alternative State plans, and for utilities to obtain waiver of plan requirements. Except for alternative State plans, these changes were made in a notice of interim final rulemaking because the rule reflects non-discretionary requirements which are explicitly set forth in the Act. Procedures for processing complaints about adequacy of implementation of alternative State plans, and for annual reports on any CACS State plan excepted from the general repeal of CACS involve discretion and were published in a notice of proposed rulemaking. Consistent with departmental policy, these procedures are designed to minimize the expense or other burdens of (CONT)

Timetable:

Action	Date	FR Cite
NPRM	03/04/87	52 FR 6710
Public Hearing	04/21/87	52 FR 6710
NPRM Comment Period End	05/04/87	
Interim Final Rule	09/09/87	52 FR 34130
Final Action	09/00/87	
Interim Final Rule	03/04/88	

Small Entity: No

Additional Information: ABSTRACT CONT: complying.

Agency Contact: Edna Jones, Energy Conservation Specialist, Department of Energy, Conservation and Renewable Energy, Residential and Commercial Conservation, Office of State and Local Assistance, Washington, DC 20585, 202 586-8224

RIN: 1904-AA31

DOE—CE — Final Rule Stage

550. ● ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS; TEST PROCEDURES FOR DISHWASHERS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.23

Legal Deadline: None.

Abstract: The ANDI-CO Appliances Inc., an agent for a foreign appliance manufacturer, received a temporary waiver to exclude a foreign appliance manufacturer's dishwasher from the prescribed DOE test procedures. The waiver was granted because DOE's test procedure requirements for measurement of energy consumption do not apply to dishwashers designed to operate with cold inlet water. Consistent with program rules, this rulemaking would examine changes to the dishwasher test procedures which would make this waiver no longer necessary.

Timetable:

Action	Date	FR Cite
Grant of Temporary Waiver	05/08/85	50 FR 21488
NPRM	04/15/87	52 FR 12342
NPRM Comment Period End	06/15/87	52 FR 12342
Final Action Effective	01/00/88	

Small Entity: Undetermined

Agency Contact: Michael J. McCabe, Supervisory Engineer, Department of Energy, Conservation and Renewable Energy, CE-132, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-9127

RIN: 1904-AA33

DEPARTMENT OF ENERGY (DOE)
Defense Programs (DP)

Prerule Stage

551. CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR DESIGNATED HUMAN RELIABILITY PROGRAM CRITICAL POSITIONS

Significance: Agency Priority

Legal Authority: 42 USC 2014aa Atomic Energy Act of 1954, Sec. 11aa; 42 USC 2201 Atomic Energy Act of 1954, Sec. 161; 10 CFR 710

CFR Citation: 10 CFR 710

Legal Deadline: None.

Abstract: The Department of Energy, because of its mission involving nuclear weapons and special nuclear materials, requires a reliable and drug-free work-force. At present, thousands of people within the DOE-contractor work-force are in daily close proximity to nuclear weapons, weapons components, or special nuclear material without the benefit of a human reliability program (HRP). This action would establish a Q(R) access authorization for individuals applying for or currently holding a position identified as an HRP position. The security clearance determination would integrate management and medical screening information into the existing access authorization investigation and adjudication process.

Timetable:

Action	Date	FR Cite
Statement of Policy	09/00/87	
Reports Establishing Nexus	10/00/87	
NPRM	01/00/88	
NPRM Comment Period End	02/00/88	

Small Entity: No

Additional Information: Current policy changes to proposed HRP operating procedures may negate the need for a public rule. A decision on this will be forthcoming following a formal statement of policy.

Agency Contact: Martin Hershkowitz, Coordinator for Human Reliability Programs, Department of Energy, Defense Programs, Office of Safeguards & Security, DP-343, Washington, DC 20585, 301 353-5871

RIN: 1992-AA11

DEPARTMENT OF ENERGY (DOE)
Defense Programs (DP)

Final Rule Stage

552. RESTRICTIONS ON AIRCRAFT LANDING AND AIR DELIVERY AT DEPARTMENT OF ENERGY NUCLEAR SITES

Significance: Agency Priority

Legal Authority: 42 USC 2201; 42 USC 2278.a

CFR Citation: 10 CFR 862

Legal Deadline: None.

Abstract: Regulation would enhance security at DOE nuclear sites by restricting unofficial aircraft landing and unofficial air delivery of persons or cargo. Exceptions are granted for emergencies with prior notification to DOE if possible. Impact on public would be minimal since activities restricted by regulations are not condoned by DOE currently.

Timetable:

Action	Date	FR Cite
NPRM	10/06/86	51 FR 35518
NPRM Comment Period End	11/20/86	
Final Action	00/00/00	

Small Entity: No

Public Compliance Cost: Initial Cost: $0

Government Levels Affected: Local, State, Federal

Agency Contact: John Hnatio, Security Specialist, Office of Safeguards and Security, Department of Energy,

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DOE—DP — **Final Rule Stage**

Defense Programs, Room E-335, Germantown, MD 20545, 301 353-2478

RIN: 1992-AA12

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — **Proposed Rule Stage**

553. PART 605 SPECIAL RESEARCH GRANTS PROGRAM; PROPOSED RULE

Legal Authority: 42 USC 2051; 42 USC 5817; 42 USC 5901; 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 605

Legal Deadline: None.

Abstract: This action would revise administrative guidelines in order to clarify and streamline DOE-OER pre and post award policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	

Small Entity: Not Applicable

Agency Contact: Robert Zich, Director, Acquisition and Assistance, Management Division (ER-64), Department of Energy, Departmental and Others, (ER64) Office of Energy Research, Washington, DC 20545, 301 353-5544

RIN: 1901-AA07

554. ANNOTATION OF LAND RECORDS AND DOCUMENTATION OF PROPERTY OWNER REFUSALS TO PARTICIPATE IN THE URANIUM MILL TAILINGS REMEDIAL ACTION PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 7901 Uranium Mill Tailings Radiation Control Act of 1978

CFR Citation: Not yet determined

Legal Deadline: Statutory, March 31, 1990. DOE will propose to extend UMTRA authorization period to 9/30/94.

Abstract: PL 95-604 assigned the Department of Energy the authority to conduct remedial actions at 24 processing sites and associated vicinity properties. Section 104(d) states that the Department shall issue appropriate rules and regulations concerning annotation of land records where residual radioactive materials were located and when remedial action took place. The Department will begin rulemaking proceedings during FY 1988.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: James A. Turi, Director, Uranium Mill Tailings Project Division, NE-22, Department of Energy, Departmental and Others, Office of Nuclear Energy, Washington, DC 20545, 301 353-2585

RIN: 1901-AA12

555. MODEL FEDERAL POLICY FOR PROTECTION OF HUMAN RESEARCH SUBJECTS

Significance: Agency Priority

Legal Authority: PL 95-622; PL 93-436, Sec 105A

CFR Citation: 10 CFR 745, (Revision)

Legal Deadline: None.

Abstract: In response to the First Biennial Report of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, DOE along with all other affected Federal departments and agencies following the lead of DHHS will adopt and implement a uniform code of regulations for the protection of human subjects in Federal research projects. This will replace the prior regulations adopted by DOE in 1976 and make DOE requirements uniform with the DHHS policies.

Timetable:

Action	Date	FR Cite
Proposed Model Policy for Protection of Human Subjects	06/03/86	51 FR 106
NPRM	00/00/00	

Small Entity: No

Agency Contact: Susan L. Rose, Health Scientist, Department of Energy, Departmental and Others, Office of Energy Research, Human Health and Assessments Division(ER-73), Washington, DC 20545, 301 353-4731

RIN: 1901-AA13

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — **Final Rule Stage**

556. STANDARD CONTRACT FOR DISPOSAL OF SPENT NUCLEAR FUEL AND/OR HIGH-LEVEL RADIOACTIVE WASTE; AMENDMENTS

Significance: Agency Priority

Legal Authority: 42 USC 10222

CFR Citation: 10 CFR 961, (Revision)

Legal Deadline: None.

Abstract: On April 18, 1983, the Department of Energy (DOE) published a rule which established the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste (standard disposal contract) to be used by the DOE in furnishing disposal services to the owners or generators of spent nuclear fuel and/or high-level radioactive waste (48 FR 16590). On December 6, 1985, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the ongoing 1.0 mill per kilowatt hour (1M/KWH) fee in DOE's standard disposal contract should be based on net generation of electricity rather than gross generation of electricity as adopted in the final rule (Wisconsin Electric Power Co. et al. v. Hodel, Nos. 83-1066 and 84-8571). This rule would amend the standard disposal contract to be consistent with the court's ruling. This amendment is expected to reduce revenues from the ongoing fee by about 5 to 5%.

DOE—ENDEP — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	11/07/86	51 FR 40684
NPRM Comment Period End	12/08/86	51 FR 40684
Final Action	09/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Alan Brownstein, Utility Contracts Manager, Department of Energy, Departmental and Others, Forrestal Building, GB-270, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-4973

RIN: 1901-AA11

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — **Completed Actions**

557. PERMITS FOR ACCESS TO RESTRICTED DATA IN THE URANIUM ENRICHMENT PROGRAM

Legal Authority: 42 USC 2201(v), Sec 161(v) Atomic Energy Act

CFR Citation: 10 CFR 725

Legal Deadline: None.

Abstract: There is a need to update existing regulations which permit private access to restricted data involving the gas centrifuge uranium enrichment process. This rulemaking would authorize access to certain restricted data by persons interested in acquiring centrifuge machines and related equipment and materials for commercial purposes not involving uranium enrichment. Such machines and equipment have been made surplus to DOE's needs as a result of DOE's cancellation of its Gas Centrifuge Enrichment Plant and advanced Gas Centrifuge Development Program in June 1985.

Timetable:

Action	Date	FR Cite
NPRM	04/28/87	52 FR 15324
Hearing	05/21/87	
NPRM Comment Period End	06/02/87	
Final Notice	08/13/87	52 FR 30138

Small Entity: No

Agency Contact: Larry Leiken(GC-31), Attorney, Office of General Counsel, Department of Energy, Office of General Counsel, Office of Uranium Enrichment, NE-30, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-5575

RIN: 1901-AA14

DEPARTMENT OF ENERGY (DOE)
Economic Regulatory Administration (ERA) — **Proposed Rule Stage**

558. PROPOSED RULE ESTABLISHING NEW ADMINISTRATIVE PROCEDURES WITH RESPECT TO SHORT-TERM IMPORTS AND EXPORTS OF NATURAL GAS

Significance: Agency Priority

Legal Authority: 15 USC 717b; 42 USC 7101 et seq; EO 12009

CFR Citation: 10 CFR 590

Legal Deadline: None.

Abstract: The proposed rule would amend the administrative procedure regulations contained in 10 CFR 590, by establishing a new Subpart F to provide alternative, expedited procedures regarding applications to import and export natural gas on a short-term - basis. The purpose of the proposed rule is to reduce the regulatory burden on parties wishing to import or export natural gas on a short-term or spot market basis by streamlining our licensing process, thus facilitating the operation of the market.

Timetable:

Action	Date	FR Cite
Public Hearing	06/02/87	
NPRM	00/00/00	

Small Entity: No

Agency Contact: Constance L. Buckley, Director, Natural Gas Division, Department of Energy, Economic Regulatory Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9482

RIN: 1903-AA07

DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA) — **Prerule Stage**

559. ● PROPOSED RULE ON DOE CONTRACTOR DRUG FREE WORKPLACE POLICY

Significance: Agency Priority

Legal Authority: 42 USC 2011 et seq (Atomic Energy Act)

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: Will establish comprehensive drug abuse prevention policy and program at DOE-owned or - leased operations consistent with DOE responsibility to protect public health and safety and national security. Regulation will address drug testing requirements, educational and training programs, drug counseling and rehabilitation, confidentiality and protection of privacy of employees. Costs incurred will affect cost reimbursement type contracts for managing, operating, constructing, and servicing DOE facilities. Benefits will

DOE—MA — Prerule Stage

be in establishing reasonable level of consistency among contractor programs and resultant cost to the government and in reducing risk of unacceptable damage to security environment, health and safety of employees and the public.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/87	
ANPRM Comment Period End	00/00/00	

Small Entity: Not Applicable

Agency Contact: Juanita E. Smith, Director, Employee Relations, Office of Industrial Relations, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9033

RIN: 1991-AA39

DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA)

Proposed Rule Stage

560. FINANCIAL ASSISTANCE REGULATIONS; COOPERATIVE AGREEMENTS

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 600C

Legal Deadline: None.

Abstract: This revision would conform DOE rules on cooperative agreement award and administration with DOE and government-wide financial assistance policy (the latter contained in OMB circulars A-102 and A-110) and would reflect DOE experience under the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	
NPRM Comment Period End	11/00/87	
Final Action	02/00/88	
Final Action Effective	03/00/88	

Small Entity: No

Agency Contact: Cherlyn Seckinger, Business and Financial Policy Branch, Department of Energy, Management and Administration, MA-422, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9737

RIN: 1991-AA03

561. DEPARTMENT OF ENERGY ACQUISITION REGULATION REVISIONS; PATENT POLICY

Legal Authority: 41 USC 401 et seq The Office of Federal Procurement Policy Act; 42 USC 7101 et seq The Department of Energy Organization Act; EO 12352 Procurement Reforms

CFR Citation: 48 CFR 927; 48 CFR 970

Legal Deadline: None.

Abstract: The Department of Energy Acquisition Regulation, promulgated March 29, 1984, at 49 FR 11922, supplements and implements the Federal Acquisition Regulation. A more recent Federal Acquisition Circular has been issued to establish a FAR Part 27 concerning Patents. It will be necessary to revise Part 927 of the DEAR to supplement and implement the FAR and to explain how DOE patent policy will differ due to our statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	02/00/88	
Final Action	04/00/88	
Final Action Effective	05/00/88	

Small Entity: No

Agency Contact: Ellen L. Feinsilber, Director, Procurement Policy Division, Department of Energy, Management and Administration, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-8264

RIN: 1991-AA23

562. DEPARTMENT OF ENERGY ACQUISITION REGULATION; MANAGEMENT AND OPERATING CONTRACTOR PURCHASING SYSTEMS

Legal Authority: 42 USC 2011 et seq; 42 USC 7154

CFR Citation: 48 CFR 970

Legal Deadline: None.

Abstract: This action would update and consolidate in one place all provisions applicable to the subcontracting practices of DOE management and operating contractors.

Timetable:

Action	Date	FR Cite
NPRM	06/18/87	
NPRM Comment Period End	10/01/87	
Final Action	11/30/87	
Final Action Effective	01/01/88	

Small Entity: No

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-8247

RIN: 1991-AA25

563. DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATION; OFFICIAL USE OF MOTOR VEHICLES

Legal Authority: 42 USC 7254

CFR Citation: 41 CFR 109

Legal Deadline: None.

Abstract: To update the Property Management Regulations regarding official use of motor vehicles. The rule would also make various other minor upgrading changes.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	
NPRM Comment Period End	07/31/88	
Final Action	11/30/88	
Final Action Effective	12/31/88	

Small Entity: No

Agency Contact: Robert Wilson, Supply Management Representative, Department of Energy, Management and Administration, 1000 Independence

DOE—MA — Proposed Rule Stage

Ave., SW, Washington, DC 20585, 202 586-8260

RIN: 1991-AA28

564. DEPARTMENT OF ENERGY ACQUISITION REGULATION; MISCELLANEOUS CHANGES ON ACQUISITION OF PERSONAL PROPERTY

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 906; 48 CFR 970; 48 CFR 907; 48 CFR 944; 48 CFR 945; 48 CFR 951; 48 CFR 952

Legal Deadline: None.

Abstract: To provide additional policy guidance on the acquisition of personal property in the areas concerning acquisition plans, Government supply sources, consideration for subcontracts, Government property, and updating solicitation provisions and contract clauses.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	
NPRM Comment Period End	07/31/88	
Final Action	11/30/88	
Final Action Effective	12/31/88	

Small Entity: No

Agency Contact: Robert Wilson, Supply Management Representative, Department of Energy, Management and Administration, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-8260

RIN: 1991-AA32

565. DEPARTMENT OF ENERGY FINANCIAL ASSISTANCE RULES; RESTRICTION OF ELIGIBILITY

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 600.6; 10 CFR 600.7; 10 CFR 600.14; 10 CFR 600.106

Legal Deadline: None.

Abstract: This regulatory revision of DOE Financial Assistance Rules (FAR) would establish more detailed documentation procedures and clarify the restricted eligibility requirements governing financial assistance awards on a non-competitive basis.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	12/00/87	
Final Action Effective	01/00/88	

Small Entity: No

Additional Information: Related to 1991-AA21.

Agency Contact: James J. Cavanagh, Chief, Business & Financial Policy Branch, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8173

RIN: 1991-AA35

566. ● DEBARMENT AND SUSPENSION (NON-PROCUREMENT)

Legal Authority: EO 12549

CFR Citation: 10 CFR 1035

Legal Deadline: None. OMB requests draft agency regulations be submitted by September 29, 1987.

Abstract: This regulation will implement EO 12549 and OMB Guidelines for nonprocurement debarment and suspension.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	03/00/88	
Final Action Effective	04/00/88	

Small Entity: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Thomas E. Brown, Procurement Analyst, Department of Energy, Management and Administration, 202 586-9075

RIN: 1991-AA40

567. ● DEPARTMENT OF ENERGY FINANCIAL ASSISTANCE RULES; MERIT REVIEW

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 600.3; 10 CFR 600.9; 10 CFR 600.16; 10 CFR 600.103; 10 CFR 600.105

Legal Deadline: None.

Abstract: This regulatory revision to the DOE Financial Assistance Rules would establish procedures for the merit review of applications for financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: James J. Cavanagh, Director, Business and Financial Policy Division, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8174

RIN: 1991-AA41

568. ● CONTRACTING FOR BASIC AND APPLIED RESEARCH

Legal Authority: 42 USC 7254 et seq

CFR Citation: 48 CFR 935

Legal Deadline: None.

Abstract: The purpose of this action is to amend the Acquisition Regulations (DEAR) to implement policies and procedures concerning the use of broad agency announcements, a form of competitive solicitation, as allowed by FAR 35.016.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	01/00/88	
Final Action	03/00/88	
Final Action Effective	04/00/88	

Small Entity: No

Agency Contact: Edward Simpson, Procurement Analyst, Department of Energy, Management and Administration, MA 421, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8246

RIN: 1991-AA42

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DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA)

Final Rule Stage

569. DEPARTMENT OF ENERGY ACQUISITION REGULATION; MISCELLANEOUS CHANGES TO CONFORM TO FEDERAL ACQUISITION REGULATION CHANGES AND REVISED INTERNAL PROCEDURES

Legal Authority: 42 USC 7254 Department of Energy Organization Act

CFR Citation: 48 CFR 902; 48 CFR 904; 48 CFR 913; 48 CFR 915; 48 CFR 917; 48 CFR 919; 48 CFR 925; 48 CFR 952; 48 CFR 970

Legal Deadline: None.

Abstract: This action is for the purpose of updating the Acquisition Regulation as a result of changes in the Federal Acquisition Regulation and internal procedures. It discontinues the use of DOE Small Purchase Forms as GSA has issued forms for that purpose. It increases the threshold for formal source evaluation boards from $5 to $10 million. It adds a new solicitation provision entitled "Buy America Act - Construction Materials." It also provides new guidance on Small Business Subcontract Plans Under Management Contracts.

Timetable:

Action	Date	FR Cite
NPRM	08/26/85	50 FR 34856
NPRM Comment Period End	11/27/86	50 FR 43589
Final Action	09/00/87	
Final Action Effective	10/00/87	

Small Entity: No

Agency Contact: Richard C. Loeb, Procurement Analyst, Office of Policy, (MA-42), Department of Energy, Management and Administration, 1000 Independence Ave., SW, Washington, DC 20585, 202 586-6190

RIN: 1991-AA33

570. DEPARTMENT OF ENERGY ACQUISITION REGULATION; USE OF CONTRACT CARRIERS BY COST REIMBURSABLE CONTRACTORS

Legal Authority: PL 95-91

CFR Citation: 48 CFR 952

Legal Deadline: None.

Abstract: Amend Procurement Regulations (DEAR) in order to implement GSA Bulletin FPMR A-90 and FPMR Temporary Regulation 30. Use of Government contractor airlines, hotels/motels and car rental agencies by cost reimbursable contractor employees.

Timetable:

Action	Date	FR Cite
NPRM	12/29/86	51 FR 46884
NPRM Comment Period End	01/26/87	51 FR 46884
Final Action	09/30/87	
End Review	09/30/87	

Small Entity: No

Additional Information: DOE is awaiting action by the DAR Council and the CAA Council which published a similar proposed rule on 3/24/87. Publication of their final rule for the FAR will override the need for a final rule to be published for the DEAR. Decision expected by 9/30/87.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: William Stevenson, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-8193

RIN: 1991-AA37

DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA)

Completed Actions

571. DEPARTMENT OF ENERGY FINANCIAL ASSISTANCE RULES; PROPERTY PROVISIONS

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 600.117

Legal Deadline: None.

Abstract: This revision would update and clarify the property provisions of the rule. The principal change would be to raise the dollar threshold for recipient recordkeeping and property accountability under the Department of Energy Financial Assistance Rules (FAR).

Timetable:

Action	Date	FR Cite
Withdrawn	09/01/87	

Small Entity: No

Additional Information: Related to 1991-AA21.

Changes to government-wide regulations (OMB Circular A-102 and A-110) will update property provisions and raise dollar thresholds. DOE will implement the Government-wide revisions.

Agency Contact: Cherlyn Seckinger, Procurement Analyst, Business and Financial Policy Branch, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-9737

RIN: 1991-AA34

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Proposed Rule Stage

572. AMENDMENTS TO DEPARTMENT OF ENERGY CONDUCT OF EMPLOYEES

Legal Authority: 18 USC 201 to 209; 42 USC 7211 to 7218; EO 11222

CFR Citation: 10 CFR 1010

Legal Deadline: None.

Abstract: The regulations need to be revised to reflect the provisions and requirements of the Ethics in Government Act. In addition, it is anticipated that certain sections of the regulations will be clarified and/or revised to reflect current Office of General Counsel policy and interpretations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	
NPRM Comment Period End	11/00/88	

Small Entity: No

Additional Information: As part of the revision of the Department of Energy Conduct of Employees Regulations, we propose to amend Appendix I of the Regulations. We expect final action on this amendment of the Regulations to be completed by October 1, 1987.

Agency Contact: Susan Fonner, Deputy AGC for General Law, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-1522

RIN: 1990-AA00

573. PATENT WAIVER REGULATION

Legal Authority: 42 USC 2182; 42 USC 5908; PL 96-517

CFR Citation: 10 CFR 784; 41 CFR 9-9.109-6

Legal Deadline: None.

Abstract: The regulation provides procedures and standards for obtaining a waiver of the Government's rights in inventions made under DOE research and development contracts with entities that are not small businesses or nonprofit institutions, and terms and conditions of such waivers. Currently, DOE waiver policy is provided in DOE Procurement Regulations (41 CFR 9-9.109-6). The proposed regulation places DOE patent waiver policy in a separate regulation, and also provides updates, revisions and clarifications to waiver policy as contained in 41 CFR 9-9.109-6.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	

Small Entity: Undetermined

Agency Contact: Richard E. Constant, Assistant General Counsel for Patents, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-2802

RIN: 1990-AA02

574. FOREIGN GIFTS AND DECORATIONS

Legal Authority: 5 USC 7342; 41 CFR 101-49.001-5

CFR Citation: 10 CFR 1050

Legal Deadline: None.

Abstract: The regulations need to be amended to reflect the increase in the dollar amount of "minimal value." (Whether a gift is of minimal value is a factor as to whether the regulations apply.) The dollar amount of minimal value is determined by the General Services Administration, by GSA regulation. Accordingly, the DOE regulations will reference the GSA regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Susan Fonner, Deputy AGC for General Law, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-1522

RIN: 1990-AA04

575. COOPERATION WITH THE INSPECTOR GENERAL

Legal Authority: 42 USC 7138; 42 USC 7211 to 7218; 42 USC 7254; 42 USC 6392; 42 USC 5816a; 5 USC 301; 5 USC 303(a); 5 USC (app.4) 207(a); 18 USC 201 to 209; EO 11222, as amended by EO 12565

CFR Citation: 10 CFR 1010.217, (new)

Legal Deadline: None.

Abstract: This regulation will codify existing Department of Energy policy and clarify the authority provided by existing statutes and Federal case law with respect to the obligations of Department employees to cooperate with the Office of Inspector General in official investigations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	11/00/87	

Small Entity: No

Agency Contact: Susan Fonner, Deputy AGC for General Law, Office of General Counsel, GC-43, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-1522

RIN: 1990-AA06

576. CLASS PATENT WAIVERS

Legal Authority: 42 USC 2182; 42 USC 5908

CFR Citation: 10 CFR 785

Legal Deadline: None.

Abstract: The proposed regulation would provide for certain class waivers, serving to streamline and simplify procedures for DOE contractors to seek rights in inventions made under DOE research and development contracts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	

Small Entity: No

Agency Contact: Richard Constant, Assistant General Counsel for Patents, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-2802

RIN: 1990-AA07

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DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Completed Actions

577. CLARIFICATION OF THE TERM BYPRODUCT MATERIAL

Legal Authority: 42 USC 2011 et seq (Atomic Energy Act of 1954)

CFR Citation: 10 CFR 962, (new)

Legal Deadline: None.

Abstract: This regulation will clarify the application of the term Byproduct Material, as defined in section 11(e) (1) of the Atomic Energy Act (42 USC 2014(e) (1)) to Department of Energy owned or produced radioactive waste substances, for the purpose of determining which of these waste substances are Byproduct Material under the Atomic Energy Act, and are therefore not "solid waste" as that term is defined in the Resource Conservation and Recovery Act (42 USC 6901 et seq).

Timetable:

Action	Date	FR Cite
NPRM	11/01/85	50 FR 45736
NPRM Comment Period End	01/02/86	
NPRM	03/15/87	
Final Action	05/01/87	52 FR 15937
Final Action Effective	06/01/87	
NPRM Public Comment Period End	06/15/87	

Small Entity: No

Agency Contact: Henry K. Garson, Assistant General Counsel for Environment, Department of Energy, Office of General Counsel, GC-11, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, 202 586-6947

RIN: 1990-AA05

[FR Doc. 87-21235 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26, 1987

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

20 CFR Ch. III

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Regulations

AGENCY: Department of Health and Human Services.

ACTION: Publication of unified agenda of regulations.

SUMMARY: The President's February 17, 1981, Executive Order (12291) and the Regulatory Flexibility Act of 1980 require the Department to publish an agenda of significant regulations being developed and an indication of those regulatory actions that are being analyzed for their effect on small businesses. The Department published its last agenda on April 27, 1987.

FOR FURTHER INFORMATION CONTACT: For further inquiries or comments related to specific regulations listed in the agenda, the public is encouraged to contact the appropriate responsible individual. Questions or comments on the overall agenda should be sent to: Glenn Kamber, Deputy Executive Secretary, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue, SW., Washington, DC 20201, Telephone: (202) 245-7699.

James J. Delaney,

Executive Secretary to the Department.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
578	Privacy Act Regulation	0991-AA11

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
579	Principles for Determining Costs and Cost Allocation Procedures Applicable to Grants, Contracts, and Other Agreements for Work Performed by Hospitals	0991-AA12
580	Enforcement of Nondiscrimination on the Basis of Handicap in the Department of Health and Human Services	0991-AA17
581	Administration of Grants - Implementation of OMB Circular A-102	0991-AA27
582	Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation II	0991-AA34
583	PPS FRAUD AND ABUSE SANCTION AND PRO REVISIONS	0991-AA39
584	Civil Money Penalties for Failure to Report Medical Malpractice Payments and for Breaching the Confidentiality of Information	0991-AA40
585	Program Fraud Civil Remedies	0991-AA41
586	Targeting of, and Tolerances for, Income and Eligibility Verification System Data	0991-AA42
587	Governmentwide Debarment and Suspension (Nonprocurement)	0991-AA43
588	Civil Money Penalties for Health Maintenance Organizations and Competitive Medical Plans	0991-AA44
589	Prohibition on Use of Physician Incentive Plans	0991-AA45
590	Civil Money Penalties and Exclusions for Physicians and Other Part B Providers Resulting from OBRA of 1986	0991-AA46
591	Patient and Program Protection Regulations	0991-AA47

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
592	Nondiscrimination Requirements (Including on the Basis of Sex or Religion) Applicable to Block Grants and Standard Nondiscrimination Procedures Applicable to Certain Other Programs	0991-AA02
593	Public Information Regulation	0991-AA07
594	Revision to OIG's Sanction Authorities	0991-AA21
595	Equal Opportunity in Employment: Public Broadcasting, Public Radio and Public Telecommunications Entities Receiving Federal Funds from the Corporation for Public Broadcasting	0991-AA22
596	Block Grant Programs	0991-AA25
597	Administration of Grants-Implementation of OMB Circular A-88	0991-AA29
598	Administration of Grants-Single Audit Act of 1984	0991-AA30
599	Withholding of Medicaid Payments for Fraud or Willful Misrepresentation	0991-AA36
600	Civil Money Penalties and Exclusions for Assistants at Cataract Surgery	0991-AA37

HHS

Office of the Secretary—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
601	Block Grant Programs	0991-AA38

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
602	Reimbursement of Indirect Costs Under Project Grants	0991-AA33

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
603	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02

Office of Human Development Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
604	Foster Care, Adoption Assistance, and Child Welfare Services	0980-AA08
605	Runaway and Homeless Youth Program	0980-AA11
606	Head Start Criteria for Selection of New Grantees	0980-AA17
607	Head Start Staff and Program Options Requirements	0980-AA18
608	Head Start Appeals Process	0980-AA20
609	Head Start Performance Standards for Services to Handicapped Children	0980-AA21
610	Nonrecurring Costs of Adoption	0980-AA24
611	Head Start Recruitment Selection and Enrollment of Children	0980-AA27

Office of Human Development Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
612	Head Start Personnel Policies	0980-AA10
613	Developmental Disabilities Program	0980-AA12
614	Consolidation of Grants to the Insular Areas -- Final Rule with Comment Period	0980-AA22

Office of Human Development Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
615	Head Start Program-Prerulemaking Action	0980-AA15

HHS

Social Security Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
616	Disclosure of Personal Information to Law Enforcement Agencies and Courts (Prerulemaking Activity)	0960-AB66
617	Old-Age, Survivors, and Disability Insurance, Black Lung, and Supplemental Security Income Programs; Appointing ALJ's to Hear and Decide Cases	0960-AB97
618	Supplemental Security Income Program; Treatment of Proceeds from Home Equity Conversion (HEC) Plans as Income	0960-AC00

Social Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
619	Old-Age, Survivors, and Disability Insurance, Supplemental Security Income, and Black Lung Programs; Representatives of Claimants	0960-AA64
620	Old-Age, Survivors, and Disability Insurance Program; Treatment of OASDI Lump Sum and Monthly Payments in the Aid to Families with Dependent Children Program	0960-AA90
621	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Cardiovascular System	0960-AA99
622	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Respiratory System	0960-AB00
623	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System	0960-AB01
624	Supplemental Security Income Program; What Is Not Income	0960-AB09
625	Supplemental Security Income Program; How We Count Unearned Income--Funds Used to Pay Indebtedness	0960-AB29
626	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Adjustments in SSI Benefits on Account of Retroactive Benefits Under Title II	0960-AB38
627	Supplemental Security Income Program; Limitation on Recoupment Rate in Case of Overpayment	0960-AB40
628	Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs: Evaluation of Symptoms, Including Pain	0960-AB41
629	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Evaluation Guides for Determining Substantial Gainful Activity (SGA)	0960-AB73
630	OASDI & SSI Programs; Definition of Overpayment and Liability for Repayment of an Overpayment	0960-AB78
631	Supplemental Security Income Program; Treatment of Property Held in Trust or Other Similar Legal Devices When the Property is Available for a Beneficiary's Support and Maintenance	0960-AB79
632	Organization and Procedures; Availability of Information and Records to the Public--Social Security Rulings--Acquiescence Series	0960-AB85
633	Supplemental Security Income Program; Exclusions from Income and Resources of Indian Judgement Funds and Per Capita Distributions	0960-AB86
634	Old-Age, Survivors, and Disability Insurance Program; Reduction Because of Entitlement to Other Benefits	0960-AB87
635	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Use of Work Evaluations to Evaluate Individuals with Mental Impairments	0960-AB92
636	Old-Age, Survivors, and Disability Insurance Program; Determining Disability and Blindness, Medical-Vocational Guidelines, Illiteracy and Inability to Communicate in English	0960-AB94
637	Supplemental Security Income Program; Spousal Deeming Computation Involving State Supplementation	0960-AB95
638	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Mental Disorders-Childhood	0960-AB96
639	Old-Age, Survivors, and Disability Insurance Program; Medical Evaluation Criteria for Acquired Immune Deficiency Syndrome (AIDS)	0960-AC05
640	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Decisions by Administrative Law Judges in Cases Remanded by Courts	0960-AC07
641	Supplemental Security Income Program; Presumptive Disability and Presumptive Blindness; Chronic Renal Disease	0960-AC10
642	Supplemental Security Income Program; Define Out of Resources for One Month Certain Cash Payments for Medical/Social Services	0960-AC11
643	Old-Age Survivors and Disability Insurance and Supplemental Security Income Programs; Appeals Council Review and Reopening Authority	0960-AC15
644	Old-Age Survivors and Disability Insurance Program; Nonpayment of Benefits to Prisoners, Vocational Rehabilitation Exception	0960-AC16
645	Supplemental Security Income Program; Employment Opportunities for the Disabled	0960-AC22
646	Supplemental Security Income Program; Permanent Residence in the United States Under Color of Law - Additional Category	0960-AC26
647	Old-Age, Survivors, and Disability Insurance Program; Wages-- Deferred Compensation	0960-AC27
648	Supplemental Security Income Program; Payment of Benefits Due Deceased Recipients	0960-AC28

HHS

Social Security Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
649	Old-Age, Survivors, and Disability Insurance Program; and Organization and Functions; Records of Earnings	0960-AC30
650	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Consideration of Vocational Factors	0960-AC31
651	Organization and Procedures, and Old-Age, Survivors, and Disability Insurance Programs; Social Security Number Cards for Aliens	0960-AC34
652	Old-Age, Survivors, and Disability Insurance Program; Addition of Down Syndrome to the Listing of Impairments	0960-AC35

Social Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
653	Supplemental Security Income Program; Mandatory Pass Through Under State Supplementation Provisions	0960-AA05
654	Old-Age, Survivors, and Disability Insurance Program; Coverage of Employees of State and Local Governments	0960-AA13
655	Supplemental Security Income Program; Reductions, Suspensions and Terminations	0960-AA22
656	Old-Age, Survivors, and Disability Insurance Program; Provision for Inferring a Person is Dead	0960-AA54
657	Supplemental Security Income Program; Reopening and Revising Supplemental Security Income Determinations and Decisions Within Four Years of the Notice of the Initial Determination	0960-AA59
658	Old-Age, Survivors, and Disability Insurance; Effect of Pension from Noncovered Employment	0960-AA65
659	Supplemental Security Income Program; Resource Limits for Conditional SSI Payments	0960-AA75
660	Supplemental Security Income Program; Presumptive Disability and Presumptive Blindness; Categories of Impairments-AIDS	0960-AA79
661	Old-Age, Survivors, and Disability Insurance Program; Coverage of Certain Newly Hired Federal Employees; Coverage of Earnings of Federal Judges	0960-AA89
662	Old Age Survivors Disability Insurance and Supplemental Security Income Programs; Standards for Consultative Examinations; Existing Medical Evidence	0960-AB22
663	Supplemental Security Income Programs; Assignment of Rights to Third-Party Medical Payments to State	0960-AB28
664	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Continued Payment of Benefits During Appeal	0960-AB30
665	Old Age Survivors Disability Insurance and Supplemental Security Income Programs; Qualifications of Medical Professionals Evaluating Mental Impairments	0960-AB31
666	Supplemental Security Income Program; Treatment of Overpayments When Recipient's Countable Assets Exceed Limits in Certain Cases	0960-AB32
667	Old Age Survivors Disability Insurance and Supplemental Security Income Programs; Determinations of Disability-Compliance, and Other Changes	0960-AB36
668	Old Age Survivors Disability Insurance and Supplemental Security Income Programs; Payment of Costs of Rehabilitation Services	0960-AB37
669	Old Age, Survivors, Disability Insurance and Supplemental Security Income Programs; Determining Disability and Blindness; Multiple Impairments	0960-AB39
670	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Continued Payment of Benefits to Persons in Vocational Rehabilitation Programs	0960-AC05
671	Supplemental Security Income Program; Prohibition on Direct Payment of Fees to Representatives	0960-AC08
672	Supplemental Security Income Program: Federal Administration of Optional State Supplementation	0960-AC13
673	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Application of Dependency Test to Adopted Great-Grandchildren; Demonstration Projects	0960-AC23
674	Organization and Procedures, and OASDI Programs; Evidence Required for Original or Duplicate Social Security Number Card	0960-AC32
675	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Against Equity and Good Conscience: Defined	0960-AC33

Social Security Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
676	Supplemental Security Income Program; Age 18 and Alien Deeming	0960-AA26
677	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Future Effect of Applications and Related Changes in Appeals Council Procedures	0960-AA28
678	Old-Age Survivors, and Disability Insurance Program; Wage Coverage Under Social Security	0960-AA55

HHS

Social Security Administration—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
679	Old-Age, Survivors, and Disability Insurance Program; US Residence Requirements for Non-Resident Aliens and Deductions for Work Outside the U.S.	0960-AA76
680	Black Lung Program; Establishing Dependency of Surviving Divorced Wife and Computation of Basic Rate	0960-AB05
681	Supplemental Security Income Program; Permanent Residence Under Color-of-Law	0960-AB24
682	Old-Age, Survivors, and Disability Insurance Program Reopening and Revising Determinations and Decisions Where There is Clear Error or New and Material Evidence	0960-AB34
683	Old Age, Survivors, and Disability Insurance Programs; Period of Disability--When You May Not Be Entitled to Benefits	0960-AB82
684	Old-Age, Survivors, and Disability Insurance Programs; Determining First Month of Entitlement Based on One-Half Support	0960-AB83
685	Old Age, Survivors, and Disability Insurance, Supplemental Security Income & Black Lung Programs--Own Motion Review of Fee Determination	0960-AB89
686	Old Age, Survivors, And Disability Insurance; Black Lung; Supplemental Security Income Programs; Effectuating Component Recommendation That The Appeals Council Review An ALJ Decision	0960-AB90
687	Supplemental Security Income Program; Liquid and Nonliquid Resources and Resources Determinations	0960-AC02
688	Supplemental Security Income Program; Pension Funds for Deeming Purposes and Grandfathering Provisions	0960-AC03
689	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Program; Evaluation Guides for Determining Substantial Gainful Activity	0960-AC21
690	Old-Age, Survivors, and Disability Insurance, Black Lung, and Supplemental Security Income Programs; Entities as Representatives of SS Claimants; Fee Paid by Third Party	0960-AC25
691	Supplemental Security Income Program; Treatment of Payments on a Resource with a Current Market Value of Zero - Installment Payments	0960-AC35

Public Health Service—Office of Assistant Secretary for Health (OASH)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
692	Statutory prohibition on use of appropriated funds in programs where abortion is a method of family planning	0905-AC64

Public Health Service—Office of Assistant Secretary for Health (OASH)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
693	Grants for Adolescent Pregnancy and Family Life Projects	0905-AA24

Public Health Service—Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
694	Confidentiality of Alcohol and Drug Abuse Patient Records	0905-AA26
695	Obligated Service for Mental Health Traineeships	0905-AB48

Public Health Service—Centers for Disease Control (CDC)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
696	Project Grants for Health Programs for Refugees	0905-AB43
697	Improve Standards for Respirator Devices	0905-AB58

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Public Health Service—Centers for Disease Control (CDC)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
698	Distribution of Reference Biological Standards and Biological Preparations	0905-AB49
699	Specifications for Medical Examinations of Underground Coal Miners	0905-AB51
700	Medical Examination of Aliens	0905-AB96

Public Health Service—Food and Drug Administration (FDA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
701	Drug Exports	0905-AC44

Public Health Service—Food and Drug Administration (FDA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
702	Over-the-Counter (OTC) Drug Review	0905-AA06
703	Current Good Manufacturing Practice for Finished Pharmaceuticals; Retrospective Review	0905-AA73
704	Current Good Manufacturing Practice (CGMP) for Blood and Blood Components; Retrospective Review	0905-AA75
705	New Animal Drug Approval Process	0905-AA96
706	Policies Concerning Uses of Sulfiting Agents	0905-AB52
707	Requirements for Adverse Experience Reporting for Licensed Biological Products	0905-AB53
708	Proposed Rule to Implement the Orphan Drug Amendments to the Federal Food, Drug, and Cosmetic Act	0905-AB55
709	Implementation of Title I of the "Drug Price Competition and Patent Term Restoration Act of 1984" (Title I)	0905-AB63
710	Food Labeling Information Regarding Good Nutrition and Health	0905-AB67
711	Abbreviated New Animal Drug Applications for Post-1962 Animal Drugs	0905-AB72
712	Infant Formula Recalls/Infant Formula Current Good Manufacturing Practices; Quality Control Procedures	0905-AC46
713	Common or Usual Name for Diluted Fruit or Vegetable Juice Beverages Other than Diluted Orange Juice Beverages	0905-AC48
714	Protection of Human Subjects; Informed Consent; Standards for Institutional Review Boards for Clinical Investigations	0905-AC52
715	Menstrual Tampons; Proposed User Labeling	0905-AC58
716	Grants for Long Term Faculty Training Emphasizing Geriatrics	0905-AC59

Public Health Service—Food and Drug Administration (FDA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
717	Good Laboratory Practice for Nonclinical Laboratory Studies	0905-AA84
718	Availability of Bulk New Animal Drug Substances for Use By Licensed Veterinarians	0905-AB01
719	Animal Drug Safety Policy	0905-AB04
720	Proposed User Charge; New Drug Applications, Abbreviated New Drug Applications, New Device Applications, and Antibiotic Applications Review	0905-AB56
721	Provisionally Listed Color Additives	0905-AB60
722	Antibody Test for HTLV-III; General Biological Products Stds.; Additional Standards for Human Blood and Blood Products; Serological Test for Human T-Lymphotropic Virus, Type III	0905-AB62
723	Patent Term Restoration of Regulated Products (Title II of "Drug Price Competition and Patent Term Restoration Act of 1984")	0905-AB65
724	Food Labeling; Definitions of Cholesterol Free, Low Cholesterol, and Reduced Cholesterol	0905-AB68
725	Methylene Chloride	0905-AC00

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Public Health Service—Food and Drug Administration (FDA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
726	IND Regulations Revision	0905-AB09
727	Requirements Affecting Raw Milk for Human Consumption in Interstate Commerce	0905-AC60
728	Investigational New Drug, Antibiotic, and Biological Drug Product Regulations; Treatment Use and Sale	0905-AC62

Public Health Service—Health Resources and Services Administration (HRSA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
729	Grants for Residency Training and Faculty Development in General Internal Medicine and/or General Pediatrics	0905-AB50
730	General Review and Revision of Public Law 93-638 Program and Contracting Regulations	0905-AB98
731	Changes in Public Law 93-638. Regulations to Revise the Declination Appeals Process and Clarify its Scope	0905-AB99
732	Health Education Assistance Loan (HEAL) Program: Implementation of Pub. L. 99-129	0905-AC26
733	Grants for Nurse Practitioner and Nurse Midwifery Traineeship Programs	0905-AC30
734	Grants for Health Professions Projects in Geriatrics	0905-AC33
735	Post-Baccalaureate Faculty Fellowship Program	0905-AC34
736	Grants for Community Health Services Criteria and Procedure for Determining Medically Underserved Populations (MUA)	0905-AC35
737	Health Manpower Shortage Area Designation Criteria	0905-AC50
738	Implementation of Health Care Quality Improvement Act of 1986 (Title IV, Public Law 99-660)	0905-AC51

Public Health Service—Health Resources and Services Administration (HRSA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
739	Indian Health Service, 42 CFR Part 36 Subpart I, Contracts Under the Indian Self-Determination Act: Amendments	0905-AB31
740	Grants for Nurse Anesthetist Traineeships	0905-AB33
741	Reasonable Volume of Uncompensated Services to Persons Unable to Pay (Hill-Burton)	0905-AB35
742	Health Professions Student Loan (HPSL) Program: Deferment Revisions	0905-AC06
743	Health Education Assistance Loan (HEAL) Program: Deferment Revisions	0905-AC07
744	Nursing Special Project Grants	0905-AC18
745	Area Health Education Centers (AHEC)	0905-AC22
746	Nursing Student Loan (NSL) Program: Implementation of the Law (Pub. L. 99-92)	0905-AC31
747	Health Professions Student Loan (HPSL) Program: Implementation of the Law (Pub. L. 99-129)	0905-AC32

Public Health Service—Health Resources and Services Administration (HRSA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
748	Program Grants for Migrant Health Services	0905-AA62
749	Indian Eligibility	0905-AB89
750	Grants for Community Health Centers	0905-AC01
751	Nursing Student Loan (NSL) Program: Provisions of the Law (Pub. L. 99-92)	0905-AC10
752	Grants for Nurse Practitioner and Nurse Midwifery Programs	0905-AC11
753	Grants for Graduate Programs in Health Administration	0905-AC12
754	Health Professions Student Loan (HPSL) Program: Provisions of the Law (Pub.L. 99-129)	0905-AC13
755	Programs for the Training of Physician Assistants	0905-AC15
756	Advanced Nurse Education Programs	0905-AC16
757	Financial Assistance for Disadvantaged Health Professions Students	0905-AC19
758	Grants for Residency Training and Advanced Education in the General Practice of Dentistry	0905-AC20
759	Nursing Student Loan (NSL) Program: Define Exceptional Financial Need	0905-AC29

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Public Health Service—National Institutes of Health (NIH)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
760	Misconduct in Science	0905-AB91
761	Changes in NIH Program Regulations due to P.L. 99-158, P.L. 99-149, and Title X of P.L. 99-660	0905-AC02
762	National Institutes of Health Center Grants 42 CFR Part 52a	0905-AC27

Public Health Service—National Institutes of Health (NIH)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
763	National Library of Medicine Programs. Revision of General Rules for the National Library of Medicine and National Library of Medicine Grants	0905-AA66

Health Care Financing Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
764	Discontinuation of Prevailing Charge Differentials for Specialists	0938-AD26

Health Care Financing Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
765	Amending Cost Reports and Reopening Intermediary Payment Determinations and Administrative Review Decisions	0938-AA33
766	Survey and Certification Procedures	0938-AA38
767	Medicaid Eligibility	0938-AA58
768	MMIS: Definition of "Mechanized Claims Processing and Information Retrieval System"	0938-AA63
769	Miscellaneous Medicare and Medicaid Amendments	0938-AB05
770	Deduction of Incurred Medical Expenses (Spenddown)	0938-AB07
771	Payment for Clinical Diagnostic Laboratory Services	0938-AB50
772	Waiver of Certain Membership Requirements for Certain Health Maintenance Organizations (HMOs) and State Option for Disenrollment Restrictions for Certain HMOs Under Medicaid	0938-AB54
773	Physician Certification and Plan of Care Requirements and Inspection of Care Reviews	0938-AB55
774	Medicare: Health Maintenance Organizations and Competitive Medical Plans: Coordinated Open Enrollment	0938-AB57
775	Hospital Insurance Entitlement and Supplementary Medical Insurance Enrollment and Entitlement	0938-AB60
776	Payment for the Services of Physicians Furnished in Teaching Settings and Other Providers	0938-AB61
777	Medicare/Medicaid Revaluation of Assets	0938-AB64
778	Review of Current Rules Affecting Clinical Laboratories	0938-AB96
779	Medicare Secondary Payor and Medicare Recovery Against Third Parties	0938-AC05
780	Medicare Coverage of Hepatitis B Vaccine for High and Intermediate Risk Individuals, Hemophilia Clotting and Certain X-Ray Services	0938-AC07
781	Changes in Payment Policy for Direct Graduate Medical Education Costs	0938-AC27
782	Medicaid: Eligibility Determinations Based on Disability	0938-AC31
783	Effect of Appeals on Hospital-Specific Portion of the Prospective Payment Rate	0938-AC40
784	Proposed Additions to and Deletions From Current List of Covered Surgical Procedures for Ambulatory Surgical Centers	0938-AC45
785	Use of the HCFA Hospital Wage Index for Determining Payment to Hospices	0938-AC49
786	Hospice/Case Management	0938-AC52
787	Home and Community-Based Services and Respiratory Care for Ventilator-Dependent Individuals	0938-AC55
788	Reimbursement for Physician's Outpatient Maintenance Dialysis Services	0938-AC57
789	Participation in CHAMPUS and CHAMPVA Hospital Admissions for Veterans, Discharge Rights Notice, and Hospital Responsibility for Emergency Care	0938-AC58
790	Payment for Kidneys Sent to Foreign Countries or Transplanted in Non-Medicare Beneficiaries	0938-AC59
791	Reasonable Charge Payment Limits for Enteral Products and Supplies	0938-AC67
792	Revisions to Medicare Appeals Rights	0938-AC81

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Health Care Financing Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
793	Medicaid Eligibility for Qualified Severely Impaired Individuals	0938-AC82
794	Refunding of Federal Share of Overpayments Made to Medicaid Providers	0938-AC83
795	Denial of Payment for Substandard Quality Care, Review of Beneficiary Complaints	0938-AC84
796	Revised Effective Date of Medicare/Medicaid Provider Agreement and Supplier Participation	0938-AC85
797	Recognition of College of American Pathologists Laboratory Accreditation Program	0938-AC89
798	PRO Preprocedure Review of Certain Surgical Procedures	0938-AC90
799	Part B Premium for 12-Month Period Beginning 01/01/88	0938-AC92
800	Inpatient Hospital Deductible and Coinsurance Amounts and Part A Premium for the Uninsured Aged for 1988	0938-AC94
801	Payment for the Cost of Malpractice Insurance for Hospitals Excluded from the Prospective Payment System	0938-AC97
802	Changes Concerning Determination of Allowable Interest Expense and Suspension of Payments	0938-AC99
803	Changes Concerning the Definition of Accrual Basis of Accounting	0938-AD01
804	Optional Payment System for Low Medicare Volume Skilled Nursing Facilities	0938-AD02
805	Criteria and Procedures for Medical Services Coverage Decisions	0938-AD07
806	Medicare Coverage of Immunosuppressive Drugs	0938-AD09
807	Revisions to Conditions of Participation for Hospitals and Conditions for Coverage of Services of Independent Laboratories and Suppliers of ESRD Services	0938-AD11
808	Conditions of Participation for Long Term Care Facilities	0938-AD12
809	Recognition of Joint Commission for Accreditation of Hospitals' Home Care Program Standards and the National League for Nursing's Standards for Home Health Agencies	0938-AD13
810	Explanation of Rights and Other HMO/CMP Provisions	0938-AD14
811	Eligibility of Aliens Granted Amnesty Under the Immigration Reform and Control Act	0938-AD15
812	Medicaid: Eligibility Groups Extended Coverage of Services, and Conditions of Eligibility: COBRA and TEFRA	0938-AD16
813	Medicaid Eligibility of Poverty Level Groups and Extended Coverage of Services	0938-AD17
814	Transfer of Assets	0938-AD18
815	Organ Procurement Organizations and Organ Procurement Protocols	0938-AD20
816	Payment for Services of Certified Registered Nurse Anesthetists	0938-AD25
817	Discontinuation of Bad Debt Payment for Hospitals Subject to the Prospective Payment System	0938-AD27
818	Withdrawal of Coverage of Single Photon Absorptiometry	0938-AD28
819	Home Health Agencies Aide Training and Discharge Planning, and Conforming Changes to the Hospice Program	0938-AD29
820	Modification of Certain Requirements for Health Insuring Organizations	0938-AD31
821	Occupational Therapy Physician Assistants	0938-AD32
822	Prohibition on Unbundling of Hospital Outpatient Services	0938-AD33
823	Physician Liability on Non-Assigned Claims	0938-AD34
824	Alien Eligibility, Immigration Status Verification and Waiver Procedures For AFDC State Administered Adult Assistance and Medicaid Programs	0938-AD35
825	Changes to Peer Review Organization Regulations	0938-AD36
826	Long Term Care Survey	0938-AD41
827	Administrative Sanctions for Circumventing the Prospective Payment System and PRO Disclosure to Licensing and Certification Bodies	0938-AD42
828	Revision of the Medicare Economic Index	0938-AD43
829	Update of Ambulatory Surgical Center Payment Rates for July 1, 1988	0938-AD44

Health Care Financing Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
830	Payments to Institutions	0938-AB00
831	Relations with Other Agencies, Miscellaneous Medicaid Definitions and Third Party Liability Quality Control	0938-AB21
832	Changes to the Lesser of Costs or Charges Provisions	0938-AB29
833	FFP for Services of Long Term Care Facilities	0938-AB42
834	Revisions in Reporting and Recordkeeping Requirements	0938-AB46
835	Indirect Part B Payment Procedure	0938-AB59
836	Treatment of Social Security Cost of Living Increases for Individuals Who Lose SSI Eligibility	0938-AB62
837	OMB Review of Information Collection and Recordkeeping Requirements for Home Health Agencies, Independent Laboratories, and Providers of Outpatient, Physical Therapy and/or (cont)	0938-AB66
838	Clarification of Policy on Adjusting the Hospital-Specific Portion of the Prospective Payment Rate	0938-AB71
839	Conditions for Intermediate Care Facilities for the Mentally Retarded	0938-AB76
840	Revision of Medicaid Eligibility Quality Control (MEQC) Program Requirements	0938-AB85
841	Medicaid Program; Coverage of Qualified Pregnant Women and Children and Newborn Children	0938-AC02
842	Reasonable Charge Limitations	0938-AC08

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Health Care Financing Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
843	Assignment and Reassignment of Provider-Based Home Health Agencies and Hospices to Designated Regional Intermediaries	0938-AC20
844	Fire Safety Standards for Hospitals, Skilled Nursing Facilities, Intermediate Care Facilities and Ambulatory Surgical Centers	0938-AC28
845	Employers Contribution to Health Maintenance Organizations Option	0938-AC48
846	Correction and Reduction Plans for Intermediate Care Facilities for the Mentally Retarded	0938-AC51
847	Schedule of Limits for Skilled Nursing Facility Inpatient Routine Service Costs for Cost Reporting Periods Beginning on or after October 1, 1987	0938-AC54
848	State Plan Requirements and Other Provisions Relating to State Third-Party Liability Programs	0938-AC64
849	Alternate Sanctions for ESRD Facilities	0938-AC68
850	Entities Performing Quality of Care Review of Services Provided by Risk-Basis Health Maintenance Organizations and Competitive Medical Plans	0938-AC85
851	End Stage Renal Disease Program: Responsibilities of Network Organizations	0938-AC86
852	End Stage Renal Disease Program: Revised Network Area Designations	0938-AC87
853	Medicare Economic Index for Reasonable Charges (Effective 01/01/88)	0938-AC91
854	Periodic Interim Payments for Hospitals	0938-AC96
855	Payment for Facility Services Related to Ambulatory Surgical Procedures Performed in Hospitals on an Outpatient Basis	0938-AD00
856	Standards for the Reuse of Dialysis Filters and Other Dialysis Supplies	0938-AD10
857	Supplementary Medical Insurance Premiums	0938-AD19
858	Source of State Share of Financial Participation	0938-AD36
859	Targeting Information for Income and Eligibility Verification	0938-AD37
860	Medicare, Medicaid, and Clinical Laboratories Improvement Act (CLIA) Patient Confidentiality Rules	0938-AD40

Health Care Financing Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
861	Home Health Agencies: Financial Security Requirements	0938-AA13
862	Benefit Period Determinations, Drug Regimen Reviews and Other Technical Changes	0938-AB03
863	Revisions to Medicaid Payment for Hospital and Long Term Care Facility Services	0938-AB40
864	Changes to the Return on Equity Capital Provisions and the Exception from Cost Limits for Newly Established Home Health Agencies	0938-AB70
865	Payment Adjustments for Sole Community Hospitals	0938-AB72
866	Limits on Payments for Drugs	0938-AB97
867	Lowest Charge Levels	0938-AC16
868	List of Covered Surgical Procedures for Ambulatory Surgical Centers	0938-AC21
869	Review of Information Collection and Recordkeeping Requirements for Suppliers of End-Stage Renal Disease Services	0938-AC26
870	Changes to the Inpatient Hospital Prospective Payment System and Fiscal Year 1988 Rates	0938-AC39
871	Enrollment Provisions Concerning Health Maintenance Organizations and Competitive Medical Plans	0938-AC44
872	Application Fees for Health Maintenance Organizations (HMOs)	0938-AC46
873	Schedule of Limits on HHA Costs Per Visit for Cost Reporting Periods Beginning on or after 7/1/86, but before 7/1/87, and Cost Reporting Periods beginning on or after 7/1/87	0938-AC56
874	Medicare Notice of General Statement of Policy - Procedures for Determining Whether Providers, Practitioners or Other Suppliers of Services are Liable for Certain Noncovered Services	0938-AC61
875	Appeals from Determinations that Affect Participation in Medicare	0938-AC65
876	Part A Premium for Uninsured Aged for 12-Month Period Beginning 01/01/88	0938-AC93
877	Changes to the Return on Equity Capital Provisions for Outpatient Hospital Services	0938-AC98
878	Changes to the DRG Classification System	0938-AD03
879	Update of Ambulatory Surgical Center Payment Rates	0938-AD04
880	Payments for Large Rural Hospitals That Serve a Disproportionate Share of Low-Income Patients	0938-AD05
881	Capital Payments Under the Inpatient Hospital Prospective Payment System	0938-AD06

HHS

Family Support Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
882	Scope of Payments	0970-AA00
883	Refugee Cash and Medical Assistance	0970-AA01
884	Child Support Enforcement Program; Quarterly Reporting Requirements	0970-AA02
885	Retroactive Modification of Child Support Arrearages	0970-AA03
886	Aid to Families with Dependent Children; Treatment of Utility Payments By Applicant or Recipients Living in Certain Federally Assistance Housing	0970-AA05
887	Aid to Families With Dependent Children Program; Extension of Medicaid Eligibility When Support Collections Result in Termination of AFDC Eligibility	0970-AA07
888	Regulations to Enhance Consistency for the Food Stamp Program, AFDC Program, and the Adult Assistance Programs	0970-AA08
889	Aid to Families with Dependent Children Program; Administrative Improvement in the AFDC Program	0970-AA09
890	Improved Case Processing Standards and Timeframes	0970-AA16
891	Child Support Enforcement Audit Regulations	0970-AA17
892	Distribution of Child Support Collections	0970-AA18
893	Case Closure	0970-AA24
894	State Legalization Impact Assistance Grants	0970-AA40
895	AFDC; General Admin. of Public Assistance Programs; FFP in the cost of a Statewide Mechanized Claims Processing and Information Retrieval System in the AFDC Program; NPRM	0970-AA42
896	Essential Persons	0970-AA44

Family Support Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
897	Aid to Families With Dependent Children; Definition of Permissible State Practice-Quality Control	0970-AA04
898	Aid to Families With Dependent Children Program; Implementation of the Deficit Reduction Act of 1984	0970-AA06
899	Refugee Resettlement Program; Refugee Cash and Assistance; Requirements for Job Search, Employment Services, and Employment; Refugee Medical Assistance; and Refugee Social Services	0970-AA10
900	Aid to Families with Dependent Children Program; General Administration – Public Assistance Program – Quality Control System	0970-AA11
901	Medical Support Enforcement #2	0970-AA13
902	Disregard of Child Support Payments; Regulations Implementing the Deficit Reduction Act of 1984	0970-AA15
903	Provision of Services in Interstate IV-D Cases	0970-AA23
904	Alien Verification Procedures for AFDC; State Administered Adult Assistance and Medicaid Programs; Notice of Proposed Rulemaking	0970-AA41

Family Support Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
905	Prohibition of Federal Funding of Costs of Incarceration and Counsel for Indigent Absent Parents	0970-AA14
906	Interstate Child Support Enforcement	0970-AA45

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Prerule Stage

578. PRIVACY ACT REGULATION

Legal Authority: 5 USC 552a

CFR Citation: 45 CFR 5b

Legal Deadline: None.

Abstract: This will be the first complete update since 1975 of the Department's Privacy Act Regulation implementing the Privacy Act of 1974. It will facilitate individuals' access to information and records that the Department maintains about them in more than 400 designated Privacy Act Systems of Records, clarifying and promulgating at one time all the subparts of the regulation. It will also help Departmental personnel processing Privacy Act requests by providing them with an integrated regulation that is compatible with current procedures for processing such requests. The only alternative to this complete update is to continue to operate with a regulation that in the past has been revised on a piecemeal basis.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/88	

Small Entity: No

Agency Contact: Russell M. Roberts, Director, FOI/Priv Div, Department of Health and Human Services, Office of the Secretary, Off of Pub Affairs, Rm 410B, HHH Bldg, 200 Independence Avenue, SW, Washington, DC 20201 202 472-7453

RIN: 0991-AA11

HHS—OS

Prerule Stage

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Proposed Rule Stage

579. PRINCIPLES FOR DETERMINING COSTS AND COST ALLOCATION PROCEDURES APPLICABLE TO GRANTS, CONTRACTS, AND OTHER AGREEMENTS FOR WORK PERFORMED BY HOSPITALS

Legal Authority: 5 USC 501

CFR Citation: 45 CFR 74, Appendix E; 45 CFR 78

Legal Deadline: None.

Abstract: This action will revise the Department's current cost principles for research and development activities under grants and contracts with hospitals to make them clearer, more specific, and compatible with cost principles issued by OMB for educational institutions and nonprofit organizations. The revision will also broaden the coverage of the principles to include all grants, contracts and other agreements with hospitals (except the Medicare & Medicaid programs).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: In FY 1987 OMB will revise Circulars A-21 and A-122 as a result of the Defense Procurement Improvement Act of 1985 (P.L. 99-145) and the Civilian Employee and Contractor Travel Expenses Act of 1985 (P.L. 99-234).

Agency Contact: Henry G. Kirschenmann, Jr., Deputy Assistant Secretary, Department of Health and Human Services, Office of the Secretary, Office of Procurement, Assist & Logistics, Rm 513D, HHH Bldg, 200 Independence Ave. SW, Washington, DC 20201, 202 245-6870

RIN: 0991-AA12

580. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Significance: Agency Priority

Legal Authority: 29 USC 794

CFR Citation: 45 CFR 85.1-62

Legal Deadline: None.

Abstract: Implements the amendment made to Sec. 504 of the Rehabilitation Act of 1973 by Pub.L. 95-602 in 1978, which extended Sec. 504 to the Federal sector. The proposed Part 85 is modeled on Part 84 which implements Sec. 504 with respect to recipients of Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Not Applicable

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: Federal

Agency Contact: Frank E.G. Weil, Chief, Policy Branch, Department of Health and Human Services, Office of the Secretary, Office for Civil Rights, 330 Independence Avenue SW, Room 5411, Washington, DC 20201, 202 245-6700

RIN: 0991-AA17

581. ADMINISTRATION OF GRANTS - IMPLEMENTATION OF OMB CIRCULAR A-102

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74

Legal Deadline: None.

Abstract: This action will implement revised OMB Circular No. A-102 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." The current HHS regulation codified at 45 CFR Part 74 was written by HHS to implement both Circular No. A-102 and a companion Circular A-110 which governs grants and cooperative agreements to recipients other than governments. Revised Circular A-102 will require us to adopt essentially verbatim a common regulation drafted by OMB and affecting governmental grantees only.

Timetable:

Action	Date	FR Cite
Notice of Proposed Revision of Circular A-102 published by OMB	06/18/84	49 FR 24958
Final Action	03/11/87	
NPRM	06/09/87	52 FR 21820
NPRM	00/00/00	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Joel B. Feinglass, Director, Office of Assistance & Cost Policy, Department of Health and Human Services, Office of the Secretary, Room 513-D, Hubert H. Humphrey Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-7565

RIN: 0991-AA27

582. AUTOMATIC DATA PROCESSING EQUIPMENT AND SERVICES; CONDITIONS FOR FEDERAL FINANCIAL PARTICIPATION II

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 95.601; 45 CFR 95.605; 45 CFR 95.611; 45 CFR 95.612; 45 CFR 95.613; 45 CFR 95.615; 45 CFR 95.617; 45 CFR 95.619; 45 CFR 95.621; 45 CFR 95.623; 45 CFR 95.624; 45 CFR 95.625; 45 CFR 95.631; 45 CFR 95.633; 45 CFR 95.641

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HHS—OS

Proposed Rule Stage

Legal Deadline: None.

Abstract: This NPRM will propose new regulations of 45 CFR 95.600, et seq., to reduce the amount of time necessary to review and respond to State and local agency requests for FFP. The reduction in process time will be accomplished by streamlining the review process and requiring fewer points of prior approval by the Department.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	11/30/87	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Ron Lentz, Division of State Data Systems, Department of Health and Human Services, Office of the Secretary, Room 542F HHH Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-7354

RIN: 0991-AA34

583. PPS FRAUD AND ABUSE SANCTION AND PRO REVISIONS

Legal Authority: 42 USC 1395cc; 42 USC 1395ww

CFR Citation: 42 CFR 400; 42 CFR 405; 42 CFR 412; 42 CFR 476; 42 CFR 498; 42 CFR 1001; 42 CFR 1004

Legal Deadline: None.

Abstract: This rule would set forth the Secretary's authority to levy administrative sanctions against hospital providers who engage in fraudulent and abusive practices intended to circumvent the Medicare PPS. The purpose of this rule is to clarify and strengthen OIG's existing authority to protect Medicare from abuse by terminating any hospital who fails to correct abusive practices under PPS when directed to do so by the appropriate PRO. These regulations also revise and clarify HCFA's authority with respect to corrective action procedures and procedures for program payments denial against those hospital providers who circumvent PPS. Additional, this rule would propose improvements to the process of public notification of an OIG decision to exclude a physician from Medicare.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: Undetermined

Agency Contact: Bill Libercci, Deputy Director, GCAS Staff, Office of Investigations, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 6325 Security Boulevard, Baltimore, MD 21207, 301 594-5035

RIN: 0991-AA39

584. CIVIL MONEY PENALTIES FOR FAILURE TO REPORT MEDICAL MALPRACTICE PAYMENTS AND FOR BREACHING THE CONFIDENTIALITY OF INFORMATION

Legal Authority: PL 99-660, Sec 421(c) and 427(b)

CFR Citation: 42 CFR 1003

Legal Deadline: None.

Abstract: This proposed rule would establish civil money penalties against any individual or entity that fails to report information on medical malpractice payments in accordance with the Health Care Quality Improvement Act of 1986, and against any individual who breaches the confidentiality of information reported to the data bank established to collect and disseminate required information in accordance with that Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	01/00/88	
Final Action	04/00/88	

Small Entity: No

Agency Contact: James Patton, Director, Health Care Admin. Sanctions Div., Office of Investigations, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 6325 Security Boulevard, 301timore, MD 21207, 301 594-3957

RIN: 0991-AA40

585. PROGRAM FRAUD CIVIL REMEDIES

Significance: Agency Priority

Legal Authority: PL 99-501, Sec 6103

CFR Citation: 45 CFR 79

Legal Deadline: Statutory, April 21, 1987. While final rule was due on this date, a note of proposed rulemaking was promulgated prior to the issuance of final regulations.

Abstract: This rule establishes a $5,000 civil money penalty and an assessment of double damages against any person who, with knowledge or reason to know, submits a false, fictitious or fraudulent claim or statement to the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	07/21/87	52 FR 27423
NPRM	09/00/87	
Final Action	12/00/87	

Small Entity: Not Applicable

Agency Contact: D. McCarty Thornton, Supervisory Trial Attorney, Office of the General Counsel/IG Division, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue, SW, Washington, DC 20201, 202 245-6306

RIN: 0991-AA41

586. TARGETING OF, AND TOLERANCES FOR, INCOME AND ELIGIBILITY VERIFICATION SYSTEM DATA

Significance: Agency Priority

Legal Authority: PL 99-509, Sec 9101 Reconciliation Act of 1986

CFR Citation: 42 CFR 453.952; 45 CFR 205.56

Legal Deadline: None.

Abstract: Meet Congressional intent to allow State flexibility of targeting uses of data through the Income and Eligibility Verification System. States will not be required to verify and act on all data. This changes earlier regulation which required 100% verification. States will be allowed to apply tolerances in selecting the most productive data to verify and act upon.

Timetable:

Action	Date	FR Cite
Final Action	02/28/87	
Final Action Effective	02/28/87	
NPRM	09/30/87	
NPRM Comment Period End	11/30/87	

Small Entity: No

HHS—OS

Proposed Rule Stage

Additional Information: These regulations are being issued in conjunction with regulations being issued by the Department of Agriculture to provide consistency of implementation with the Federally assisted benefit program at that department.

Government Levels Affected: State, Federal

Agency Contact: Sheldon Shalit, Director, Division of Payment Integrity, Department of Health and Human Services, Office of the Secretary, OSSSR, ASMB, 530G HHH, 200 Independence Ave., SW, Washington, DC 20201, 202 245-0384

RIN: 0991-AA42

587. ● GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 76

Legal Deadline: None.

Abstract: THIS ACTION WILL IMPLEMENT EXECUTIVE ORDER 12549 AND OMB GUIDELINES FOR NONPROCUREMENT DEBARMENT AND SUSPENSION, WHICH ESTABLISH A GOVERNMENTWIDE SYSTEM PRIMARILY COVERING ASSISTANCE PROGRAMS.

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: JOEL FEINGLASS, DIRECTOR, DIVISION OF ASSISTANCE & COST, POLICY, Department of Health and Human Services, Office of the Secretary, ROOM 513-D HHH 200 INDEPENDENCE AVENUE, SW, WASHINGTON, D.C. 20201, 202 245-7585

RIN: 0991-AA43

588. ● CIVIL MONEY PENALTIES FOR HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

Legal Authority: PL 99-501, Sec 9312; PL 99-501, Sec 9434

CFR Citation: 42 CFR 1003

Legal Deadline: None.

Abstract: This proposed rule provides that any risk-sharing organization that fails substantially to provide required medically necessary items and services to program beneficiaries under such contracts is subject to a civil money penalty for each failure.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	
NPRM Comment Period End	06/00/88	
Final Action	12/00/88	

Small Entity: Undetermined

Agency Contact: James Patton, Director, Health Care Admin. Sanctions Div., Office of Investigations, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 594-3957

RIN: 0991-AA44

589. ● PROHIBITION ON USE OF PHYSICIAN INCENTIVE PLANS

Legal Authority: PL 99-501, Sec 9313

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None.

Abstract: This proposed rule would prohibit a hospital or a risk-sharing HMO or competitive medical plan from knowingly making incentive payments to a physician as an inducement to that physician to reduce or limit services provided to program beneficiaries who are under the direct care of that physician.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	
NPRM Comment Period End	06/00/88	
Final Action	12/00/88	

Small Entity: Undetermined

Agency Contact: James Patton, Director, health Care Admin. Sanctions Div., Office of Investigations, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 594-3957

RIN: 0991-AA45

590. ● CIVIL MONEY PENALTIES AND EXCLUSIONS FOR PHYSICIANS AND OTHER PART B PROVIDERS RESULTING FROM OBRA OF 1986

Legal Authority: PL 99-501, Sec 9320; PL 99-501, Sec 9331; PL 99-501, Sec 9332; PL 99-501, Sec 9334; PL 99-501, Sec 9338

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None.

Abstract: This proposed rule provides for civil money penalties against those who bill Medicare beneficiaries on a non-assigned basis for services of a certified nurse anesthetist or a physician assistant, and for the application of program sanctions against non-participating physicians who bill for actual charges above permitted charges. Physicians failing to make timely refunds on non-assigned services deemed unnecessary would also be subject to civil money penalties and exclusions from Medicare.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	
NPRM Comment Period End	06/00/88	
Final Action	12/00/88	

Small Entity: Undetermined

Agency Contact: James Patton, Director, Health Care Admin. Sanctions Div., Office of Investigations, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 594-3957

RIN: 0991-AA46

591. ● PATIENT AND PROGRAM PROTECTION REGULATIONS

Significance: Agency Priority

Legal Authority: PL 100-93

CFR Citation: 42 CFR 1001; 42 CFR 1002; 42 CFR 1003

Legal Deadline: Statutory, September 1989. Statutory deadline applies only to "kick-back" provision.

Abstract: These regulations are designed to protect program beneficiaries from unfit health care practitioners, and otherwise to improve the anti-fraud provisions relating to Titles 5, 11, 18, 19, and 20.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: James Patton, Director, Health Care Admin. Sanctions Div., Office of Investigations, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 6325 Security Boulevard, Baltimore, Maryland 21207, 301 594-3957

RIN: 0991-AA47

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Final Rule Stage

592. NONDISCRIMINATION REQUIREMENTS (INCLUDING ON THE BASIS OF SEX OR RELIGION) APPLICABLE TO BLOCK GRANTS AND STANDARD NONDISCRIMINATION PROCEDURES APPLICABLE TO CERTAIN OTHER PROGRAMS

Legal Authority: 42 USC 9906; 42 USC 300x-7; 42 USC 728; 42 USC 8625; 42 USC 9821; 42 USC 9849

CFR Citation: 45 CFR 92

Legal Deadline: None.

Abstract: To implement the nondiscrimination requirements applicable to block grants authorized by the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2806
NPRM Comment Period End	03/24/86	51 FR 2806
Final Action	01/15/88	

Small Entity: No

Additional Information: New CFR Subpart to be assigned.

Agency Contact: Marcella Haynes, Director, Policy and Special Projects Staff, Department of Health and Human Services, Office of the Secretary, Policy and Special Staff, OCR, Room 5032, HHS North Bldg, 330 Independence Ave, SW, Washington, DC 20201, 202 245-6671

RIN: 0991-AA02

593. PUBLIC INFORMATION REGULATION

Legal Authority: 5 USC 552

CFR Citation: 45 CFR 5

Legal Deadline: None.

Abstract: This will be the first complete update since August 1974 of the Department's Public Information Regulation implementing the Freedom of Information Act. It will facilitate public access to information by making necessary revisions, clarifying, and promulgating at one time all the subparts of the regulation. It will also help Departmental personnel processing FOIA requests by providing them with an integrated regulation that is compatible with current procedures for processing FOIA requests and assessing search and copy fees that reflect the increased cost of such services. The only alternative to this complete update is to continue to operate with a regulation that in the past has been revised on a piecemeal basis.

Timetable:

Action	Date	FR Cite
NPRM	04/08/86	51 FR 13250
NPRM Comment Period End	06/17/87	51 FR 13250
Final Action	12/31/87	

Small Entity: No

Agency Contact: Russell M. Roberts, Director, FOI/Priv Div, Department of Health and Human Services, Office of the Secretary, Off of Pub Affairs, Rm 410B, Humphrey Bldg, 200 Independence Ave, SW, Washington, DC 20201, 202 472-7453

RIN: 0991-AA07

594. REVISION TO OIG'S SANCTION AUTHORITIES

Significance: Agency Priority

Legal Authority: PL 98-369, Sec 2333; PL 99-501, Sec 9317

CFR Citation: 42 CFR 1001; 42 CFR 1002

Legal Deadline: None.

Abstract: This regulation incorporates Section 2333 of P.L. 98-369 which provides authority to exclude entities that employ practitioners convicted of Medicare or Medicaid related offenses who are serving in key management positions, or where individuals convicted of a program-related crime have a five percent or more ownership interest. In addition, this rule provides technical improvements in the civil money penalty and exclusion provisions resulting from P.L. 99-501.

Timetable:

Action	Date	FR Cite
NPRM	07/09/86	51 FR 24857
NPRM Comment Period End	08/25/86	
Final Action	01/00/88	

Small Entity: Yes

Additional Information: Revisions and classifications regarding a number of legal issues in the existing OIG sanction regulations that were initially addressed in the notice of proposed rulemaking will not be addressed in this final rule. These regulatory provisions will now be revised as a result of passage of the Medicare and Medicaid Patient and Program Protection Act of 1987, and will be addressed in separate rulemaking activities.

Agency Contact: James Patton, Director, Health Care Admin. Sanctions Div., Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 6325 Security Boulevard, Baltimore, MD 21207, 301 594-3957

RIN: 0991-AA21

595. EQUAL OPPORTUNITY IN EMPLOYMENT: PUBLIC BROADCASTING, PUBLIC RADIO AND PUBLIC TELECOMMUNICATIONS ENTITIES RECEIVING FEDERAL FUNDS FROM THE CORPORATION FOR PUBLIC BROADCASTING

Legal Authority: 47 USC 2405

CFR Citation: 45 CFR 87.1-40

Legal Deadline: None.

Abstract: Implements the Equal Opportunity in Employment Provisions of the Public Telecommunications Financing Act of 1978, PUB. L. 95-267, 47 U.S.C. 398(b)(1). This provision requires that equal opportunity in employment be afforded to all persons and that no person shall be subjected to discrimination in employment on the grounds of race, color, religion, national origin, or sex by the Public Broadcasting Service, National Public Radio, and public telecommunications entities receiving Federal funds from the Corporation for Public Broadcasting.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/79	
NPRM	12/21/79	44 FR 75676
Final Action	11/00/87	

Small Entity: No

Public Compliance Cost: Yearly Recurring Cost: $6,000

Government Levels Affected: Local, State

Agency Contact: Frank E. G. Weil, Chief, Policy Branch, Department of Health and Human Services, Office of the Secretary, Office for Civil Rights, 330 Independence Avenue, SW, Room 5411, Washington, DC 20201, 202 245-6700

RIN: 0991-AA22

HHS—OS

Final Rule Stage

596. BLOCK GRANT PROGRAMS

Significance: Regulatory Program

Legal Authority: 42 USC 9901; 42 USC 300w; 42 USC 8621; 42 USC 300x

CFR Citation: 45 CFR 96

Legal Deadline: None.

Abstract: In a prior session of Congress, four of the Department's block grants were reauthorized and certain requirements imposed on the States and other recipients were changed. The block grants include those for Alcohol and Drug Abuse and Mental Health Services; Preventive Health and Health Services; Low-Income Energy Assistance and Community Services. In addition, Congress enacted the Single Audit Act of 1984 which substantially changes the Federal audit requirements imposed upon State and local governments and modifies Federal agency responsibility for oversight of those audits. These legislative changes necessitate changes in the Department's block grant regulation issued July 6, 1982. Alternative measures for addressing the problem are not being considered. None of the proposed legislative changes will involve substantial cost.

Timetable:

Action	Date	FR Cite
NPRM	07/03/86	45 FR 96
NPRM Comment Period End	09/02/86	
Final Action	09/00/87	
Final Action Effective	09/00/87	

Small Entity: No

Government Levels Affected: State

Agency Contact: Robert C. Raymond, Deputy Director, Program Systems, Department of Health and Human Services, Office of the Secretary, Room 447-D, Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, 202 245-7316

RIN: 0991-AA25

597. ADMINISTRATION OF GRANTS-IMPLEMENTATION OF OMB CIRCULAR A-88

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74.62(b), (Revised)

Legal Deadline: None.

Abstract: This action will implement revised OMB Circular A-88 which is expected to be issued sometime this year. The Circular will provide governmentwide standards for non-Federal audits of college and university recipients of Federal grants and contracts. The Circular and these amendments will replace the audit requirements currently contained in OMB Circular A-110.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Additional Information: It is expected that OMB will publish a draft of its Circular in the Federal Register and obtain public comments. The specific form and nature of our action is expected to be mandated by OMB.

Agency Contact: Joel B. Feinglass, Director, Office of Assistance & Cost Policy, Department of Health and Human Services, Office of the Secretary, Room 513D, Hubert H. Humphrey Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-7565

RIN: 0991-AA29

598. ADMINISTRATION OF GRANTS-SINGLE AUDIT ACT OF 1984

Significance: Agency Priority

Legal Authority: 5 USC 301; 31 USC 7505; PL 98-502, Sec 7505 Single Audit Act of 1984

CFR Citation: 45 CFR 74.62(a), (Revised); 45 CFR 74, Appendix I; 45 CFR 74, Appendix J

Legal Deadline: None.

Abstract: This action implements the Single Audit Act of 1984 and OMB Circular A-128 by requiring recipients that are governments to comply with Circular A-129. That Circular provides governmentwide standards for implementing the Act. The Act, Circular and these amendments replace Attachment P to Circular A-102. Attachment P contained the previous Federal policy on non-Federal audits of governmental recipients of Federal grants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/06/85	50 FR 31715
Final Action	03/11/88	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Joel B. Feinglass, Director, Office of Assistance & Cost Policy, Department of Health and Human Services, Office of the Secretary, Room 513D, Hubert H. Humphrey Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-7565

RIN: 0991-AA30

599. WITHHOLDING OF MEDICAID PAYMENTS FOR FRAUD OR WILLFUL MISREPRESENTATION

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 455

Legal Deadline: None.

Abstract: This rule specifically encourages State Medicaid agencies to withhold program payments to providers without first granting administrative review where the State agency has reliable evidence of fraudulent activity by the provider.

HHS—OS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/10/86	51 FR 44490
NPRM Comment Period End	02/09/87	
Final Action	11/00/87	

Small Entity: No

Agency Contact: James Patton, Director, Health Care Admin. Sanctions Div., Office of Investigations, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 6325 Security Boulevard, Baltimore, MD 21207, 301 594-3957

RIN: 0991-AA36

600. CIVIL MONEY PENALTIES AND EXCLUSIONS FOR ASSISTANTS AT CATARACT SURGERY

Significance: Agency Priority

Legal Authority: PL 99-272, Sec 9307; PL 99-514, Sec 1895(b)(16)

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None.

Abstract: These final regulations provide for the imposition of civil money penalties and exclusions against physicians billing the Medicare program or program beneficiaries for services of an assistant at surgery for cataract operations where prior approval has not been granted. This rule specifically responds to various comments raised as a result of the interim final, and makes a number of technical corrections to those final regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/10/87	52 FR 11649
Final Action	04/00/88	

Small Entity: No

Agency Contact: James Patton, Director, health Care Admin. Sanctions Div., Office of Investigations, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 6325 Security Boulevard, Baltimore, MD 21207, 301 594-3957

RIN: 0991-AA37

601. BLOCK GRANT PROGRAMS

Significance: Agency Priority

Legal Authority: PL 99-425

CFR Citation: 45 CFR 96

Legal Deadline: Statutory, November 29, 1986.

Abstract: The regulation provides procedures by which the Secretary may exempt states from the statutory time limits that they must meet in responding to requests for crisis assistance under the low income house energy assistance program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/30/86	45 FR 96
Final Action	10/15/87	
Final Action Effective	10/15/87	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: State

Agency Contact: Robert C. Raymond, Director, Intergovernmental Policy, Department of Health and Human Services, Office of the Secretary, 447D, Humphrey Building, 200 Independence Ave., SW, Washington, DC 20201, 202 245-7316

RIN: 0991-AA38

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Completed Actions

602. REIMBURSEMENT OF INDIRECT COSTS UNDER PROJECT GRANTS

Significance: Agency Priority

CFR Citation: 45 CFR 74.105(a)(1)

Completed:

Reason	Date	FR Cite
Final Action	06/12/87	52 FR 22530
Final Action Effective	10/01/87	52 FR 22530

Small Entity: No

Agency Contact: Joel B. Feinglass 202 245-7555

RIN: 0991-AA33

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Departmental Management (HHSDM)

Final Rule Stage

603. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None.

Abstract: The Equal Access to Justice Act requires agencies to pay attorney fees to parties prevailing against the Government in certain types of administrative proceedings. It requires each agency to issue rules implementing the Act as it applies to these proceedings. As originally enacted, the Act had a sunset clause. A recent statutory amendment eliminated the sunset provision and made other changes in the Act. The instant regulation would amend 45 CFR Part 13 (HHS's regulation implementing the Act) to eliminate the corresponding sunset provision and to make other changes conforming with the statutory changes.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/84	
NPRM	06/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Final Action	11/00/87	

Small Entity: No

Agency Contact: Darrel J. Grinstead, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Departmental Management, Room 5362, HHS North Building, 330 Independence Avenue, SW, Washington, DC 20201, 202 475-0150

RIN: 0990-AA02

HHS—HHSDM

Final Rule Stage

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Human Development Services (HDSO)

Proposed Rule Stage

604. FOSTER CARE, ADOPTION ASSISTANCE, AND CHILD WELFARE SERVICES

Legal Authority: 42 USC 670 et seq; Federal Payment for Foster Care and Adoption Assistance; 42 USC 620 et seq Child Welfare Services; 42 USC 1302 Rules and Regulations

CFR Citation: 45 CFR 1356; 45 CFR 1357

Legal Deadline: None.

Abstract: This NPRM will propose criteria the Department will use to verify that a State has met statutory requirements and is eligible to receive additional funds under Section 427 of the Social Security Act as amended by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272). The proposed rule will contain the specific criteria by which State performance in meeting the requirements of Section 427 is determined, the percentage levels and other standards for case record compliance, and procedures for conducting compliance reviews.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Betty Stewart, Associate Commissioner, Children's Bureau, ACYF, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, DC 20201, 202 755-7600

RIN: 0980-AA08

605. RUNAWAY AND HOMELESS YOUTH PROGRAM

Legal Authority: 42 USC 5701 Note The Runaway and Homeless Youth Act, as amended

CFR Citation: 45 CFR 1351

Legal Deadline: None.

Abstract: These rules will make technical changes to modify 45 CFR 1351 to conform to changes in legislation that: (1) provide for making grants to any eligible entity and no longer restrict grants to nonprofit entities; and (2) refer to "family" or "families" in place of "parent," "parents," and/or "legal guardian(s)."

Timetable:

Action	Date	FR Cite
NPRM	03/31/88	

Small Entity: No

Agency Contact: Paget W. Hinch, Associate Commissioner, ACYF/HDS, Department of Health and Human Services, Office of Human Development Services, Family and Youth Services Bureau, ACYF/HDS, PO Box 1182, Washington, DC 20013, 202 472-4426

RIN: 0980-AA11

606. HEAD START CRITERIA FOR SELECTION OF NEW GRANTEES

Legal Authority: 42 USC 9831 et seq Head Start Act

CFR Citation: 42 CFR 1302

Legal Deadline: None.

Abstract: The NPRM will propose additional new criteria that, if adopted, will be used in the selection of new Head Start grantees.

Timetable:

Action	Date	FR Cite
NPRM	03/31/88	

Small Entity: No

Agency Contact: Doug Klafehn, Chief, Program Management and Operations Branch, Head Start Bureau ACYF/OHDS, Department of Health and Human Services, Office of Human Development Services, P. O. Box 1182, Washington, DC 20013, 202 755-0590

RIN: 0980-AA17

607. HEAD START STAFF AND PROGRAM OPTIONS REQUIREMENTS

Significance: Agency Priority

Legal Authority: 42 USC 9831 et seq Head Start Act

CFR Citation: 45 CFR 1304; 45 CFR 1306

Legal Deadline: None.

Abstract: The NPRM will propose changes in existing regulations related to program design including class size, hours of operation, and program options such as center-based and home-based Head Start services. The NPRM will also propose, in a new Part, the requirements for home-based Head Start services.

Timetable:

Action	Date	FR Cite
NPRM	03/31/88	

Small Entity: No

Agency Contact: Doug Klafehn, Chief, Program Management and Operations Branch Head Start Bureau, ACYF/OHDS, Department of Health and Human Services, Office of Human Development Services, P. O. Box 1182, Washington, DC 20013, 202 755-0590

RIN: 0980-AA18

608. HEAD START APPEALS PROCESS

Legal Authority: 42 USC 9831 et seq Head Start Act

CFR Citation: 45 CFR 1303

Legal Deadline: None.

Abstract: The NPRM will propose revisions to current procedures for appeals from Head Start grantees and delegate agencies to improve the effectiveness and efficiency of the appeals process.

Timetable:

Action	Date	FR Cite
NPRM	08/30/88	

Small Entity: No

Agency Contact: Doug Klafehn, Chief, Program Management and Operations Branch, Head Start Bureau, ACYF/OHDS, Department of Health and Human Services, Office of Human Development Services, P. O. Box 1182, Washington, DC 20013, 202 755-0590

RIN: 0980-AA20

HHS—HDSO — **Proposed Rule Stage**

609. HEAD START PERFORMANCE STANDARDS FOR SERVICES TO HANDICAPPED CHILDREN

Legal Authority: 42 USC 9839

CFR Citation: 45 CFR 1308

Legal Deadline: None.

Abstract: The NPRM will propose to establish a new part 1308 setting forth proposed performance standards that must be used in providing Head Start services to handicapped children.

Timetable:

Action	Date	FR Cite
NPRM	03/31/88	

Small Entity: No

Agency Contact: Jane DeWeerd, Child Development Specialist, Department of Health and Human Services, Office of Human Development Services, Administration for Children, Youth and Families, PO Box 1182, Washington, DC 20013, 202 755-7944

RIN: 0980-AA21

610. ● NONRECURRING COSTS OF ADOPTION

Legal Authority: 42 USC 673

CFR Citation: 45 CFR 1356

Legal Deadline: None.

Abstract: This rule will implement new statutory requirements for States to establish a program to reimburse parent(s) who adopt a child with special needs for their nonrecurring costs of adoption.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: No

Agency Contact: Beverly Stubbee, Department of Health and Human Services, Office of Human Development Services, Children's Bureau, P.O. Box 1182, Washington, D.C. 20201, 202 755-7447

RIN: 0980-AA24

611. ● HEAD START RECRUITMENT SELECTION AND ENROLLMENT OF CHILDREN

Legal Authority: 45 USC 9831 et seq

CFR Citation: 45 CFR 1305

Legal Deadline: None.

Abstract: In this NPRM, the Head Start Bureau will propose amendments to existing regulations governing recruitment, selection, and enrollment of children.

Timetable:

Action	Date	FR Cite
NPRM	03/30/88	

Small Entity: No

Agency Contact: Doug Klafehn, Department of Health and Human Services, Office of Human Development Services, Head Start Bureau, Box 1182, Washington, D.C. 20013, 202 755-0590

RIN: 0980-AA27

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Human Development Services (HDSO) — **Final Rule Stage**

612. HEAD START PERSONNEL POLICIES

Significance: Regulatory Program

Legal Authority: 42 USC 9831 et seq Head Start Act

CFR Citation: 45 CFR 1301

Legal Deadline: None.

Abstract: This rule would amend existing regulations governing the recruitment and selection of Head Start staff. The rule would emphasize the importance of careful screening of employees in Head Start programs by requiring that Head Start programs have formal personnel policies and procedures in place that will provide safeguards against the possibility of abuse and neglect, including sexual abuse, occurring in the Head Start program.

Timetable:

Action	Date	FR Cite
NPRM	04/03/85	50 FR 13253
NPRM Comment Period End	06/03/85	50 FR 13253
Final Action	12/31/87	

Small Entity: No

Agency Contact: Doug Klafehn, Department of Health and Human Services, Office of Human Development Services, Head Start Bureau, Administration for Children, Youth and Families, PO Box 1182, Washington, DC 20013, 202 755-0590

RIN: 0980-AA10

613. DEVELOPMENTAL DISABILITIES PROGRAM

Legal Authority: 42 USC 6000 et seq

CFR Citation: 45 CFR 1385; 45 CFR 1386; 45 CFR 1387; 45 CFR 1388

Legal Deadline: Statutory, April 19, 1985.

Abstract: This rule will amend the regulations that implement the Developmental Disabilities Assistance and Bill of Rights Act of 1984 (Pub. L. 98-527). The regulations include changes in reporting and paperwork requirements and the addition of new program criteria for the University Affiliated Facilities program.

Timetable:

Action	Date	FR Cite
NPRM	07/17/86	51 FR 25904
NPRM Comment Period End	09/15/86	51 FR 25904
Final Action	12/00/87	

Small Entity: No

Agency Contact: James Colarusso, Department of Health and Human Services, Office of Human Development Services, Administration on Developmental Disabilities, OHDS/HHS, Rm 351-D HHH Bldg, 200 Independence Ave SW, Wash., DC 20201, 202 245-2890

RIN: 0980-AA12

614. CONSOLIDATION OF GRANTS TO THE INSULAR AREAS – FINAL RULE WITH COMMENT PERIOD

Legal Authority: 48 USC 1469a

CFR Citation: 45 CFR 97

Legal Deadline: None.

Abstract: A final rule to amend the list of Department of Health and Human Services formula and block grant programs which may be consolidated by the insular areas was published March 25, 1987 with a 60 day comment period. The rule deletes the Primary Care Block Grant as it has been repealed by Congress. It adds four new HDS formula grant programs recently enacted: (1) Dependent Care Planning and Development State Grants; (2) the Family Violence Prevention and Services Act; (3) the Children's Justice Act; and (4) the Child Development Associate Scholarship Assistance Act. A final Notice will be published after review of public comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/25/87	52 FR 9494
Final Action	10/30/87	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Howard A. Foard, Jr., Office of the Deputy Under Secretary, Department of Health and Human Services, Office of Human Development Services, Hubert H. Humphrey Bldg., Room 632-F, 200 Independence Avenue, SW, Washington, DC 20201, 202 245-6036

RIN: 0980-AA22

HHS—HDSO — **Final Rule Stage**

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Human Development Services (HDSO) — **Completed Actions**

615. HEAD START PROGRAM-PRERULEMAKING ACTION

Significance: Regulatory Program

CFR Citation: 45 CFR 1301; 45 CFR 1302; 45 CFR 1303; 45 CFR 1304; 45 CFR 1305

Completed:

Reason	Date	FR Cite
End Review New rules identified are listed in the Agenda.	06/30/87	

Small Entity: No

Agency Contact: Mr. Clennie H. Murphy, Jr. 202 755-7762

RIN: 0980-AA15

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA) — **Prerule Stage**

616. DISCLOSURE OF PERSONAL INFORMATION TO LAW ENFORCEMENT AGENCIES AND COURTS (PRERULEMAKING ACTIVITY)

Significance: Regulatory Program

Legal Authority: 5 USC 552; 5 USC 552a; 5 USC 1306; 26 USC 6103

CFR Citation: 20 CFR 401.315

Legal Deadline: None.

Abstract: Under present rules, disclosure to a law enforcement agency is allowed only when a violent crime has been committed and the subject of the information has been either indicted or convicted of that crime, or when relevant to the investigation or prosecution of criminal activity involving a social security program or other governmental health or income maintenance program. These rules severely restrict permissible disclosures. In view of the public interest in law enforcement SSA is considering a change in policy that will expand the circumstances in which information can be disclosed.Neither the current rule nor the change being considered allows disclosure of tax return information covered by 26 U.S.C. 6103.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7459

RIN: 0960-AB66

617. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE, BLACK LUNG, AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; APPOINTING ALJ'S TO HEAR AND DECIDE CASES

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383; 30 USC 923; 30 USC 936; 42 USC 401; 42 USC 421

CFR Citation: 20 CFR 404.929; 20 CFR 416.1429; 20 CFR 410.630; 20 CFR 410.634

Legal Deadline: None.

Abstract: The current regulations on assigning ALJ's to hear and decide cases do not discuss (1) the assignment of ALJ's in rotation to hear and decide cases; or (2) the exceptions to assigning ALJ's in rotation. In addition, the current regulations provide that once an ALJ has been assigned to conduct a hearing, the case may be reassigned to another ALJ "if circumstances warrant." The regulations do not discuss the circumstances which would warrant (1) assigning another ALJ to conduct the hearing; or (2) assigning another ALJ to decide a case after the original ALJ has conducted the hearing. The regulatory changes would clarify these matters by explaining the rotation system of assignment and the exceptions to assigning ALJ's to cases in rotation, and by explaining the circumstances which warrant reassignment of a case to a different ALJ from the one to whom the case was initially assigned.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-6785

RIN: 0960-AB97

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HHS—SSA

Prerule Stage

618. SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF PROCEEDS FROM HOME EQUITY CONVERSION (HEC) PLANS AS INCOME

Legal Authority: 42 USC 1302; 42 USC 1382a; 42 USC 1383

CFR Citation: 20 CFR 416.1103; 20 CFR 416.1120; 20 CFR 416.1121

Legal Deadline: None.

Abstract: Under current policy, payments received by a person as a result of a Home Equity Conversion (HEC) (e.g., reverse mortgage, sale lease back, etc.) are not considered income. The change in regulations would result in these payments being considered income. This change is being made in the realization that HEC's generate cash available for food, clothing, or shelter and meet the definition of income in 20 CFR 416.1102. Program costs and savings are considered insignificant

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 597-3409

RIN: 0960-AC00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Proposed Rule Stage

Social Security Administration (SSA)

619. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE, SUPPLEMENTAL SECURITY INCOME, AND BLACK LUNG PROGRAMS; REPRESENTATIVES OF CLAIMANTS

Significance: Regulatory Program

Legal Authority: 42 USC 406(a); 42 USC 1383(d)(2); 42 USC 405; 42 USC 1302; 30 USC 921; 30 USC 923(b); 30 USC 936(a); 30 USC 956; 30 USC 957

CFR Citation: 20 CFR 404R; 20 CFR 410F; 20 CFR 416O

Legal Deadline: None.

Abstract: The proposed regulation would revise the method for setting fees for representation. The current procedure has been criticized as too subjective and as resulting in excessively high fees. The proposed regulations would also discuss entities as representatives and payment of fees by a third party, and would revise existing regulations regarding the suspension, discipline, and disqualification of representatives. The regulations will result in a negligible administrative savings to SSA.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	01/00/89	

Small Entity: No

Agency Contact: Ellen Hylton, Department of Health and Human Services, Social Security Administration, Office of Hearings and Appeals, P.O. Box 3200, Arlington, Virginia 22203, 202 235-2963

RIN: 0960-AA64

620. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; TREATMENT OF OASDI LUMP SUM AND MONTHLY PAYMENTS IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 407; 42 USC 602; 42 USC 1302; 42 USC 1383(a)

CFR Citation: 20 CFR 404, Subpart U; 20 CFR 416, Subpart F

Legal Deadline: None.

Abstract: These proposed rules would revise 20 CFR 404.2040, which stipulates the use of benefit payments by a representative payee, explaining that retroactive and monthly title II benefits received by a representative payee who lives in the Aid to Families with Dependent Children (AFDC) Assistance Home, on behalf of a child who is a member of the AFDC Unit are income available to the AFDC Unit and may be used for other members of the Unit. If the representative payee does not live in the AFDC Home title II benefits are considered income for AFDC purposes and may be used for the unit only to the extent that the payee provides these funds to the AFDC household for the beneficiary's maintenance. Potential costs and benefits are not available at this time. We are also proposing direct payment to a beneficiary under age 18 if the beneficiary is within 7 months of attaining age 18 and is initially filing an application for benefits. This proposed revision represents a policy change and is an extension of the 4-month period in our current regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7452

RIN: 0960-AA90

621. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; CARDIOVASCULAR SYSTEM

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500ff Appendix 1, Part A

Legal Deadline: None.

Abstract: Section 4.00 of Appendix 1 of the Disability regulations (404.1501 through 404.1599) describes cardiovascular impairments considered severe enough to prevent an individual from doing any gainful activity. We are reviewing this section of the Listing of Impairments and are anticipating the need for revising the criteria to bring them more up to date with current medical technologies and practice in this area of medicine which is advancing rapidly. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

HHS—SSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Harry Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7337

RIN: 0960-AA99

622. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; RESPIRATORY SYSTEM

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500ff, Appendix 1, Part A

Legal Deadline: None.

Abstract: Section 3.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describes those respiratory impairments which are considered severe enough to prevent a person from engaging in any gainful activity. We are proposing comprehensive revision to that section to require consideration of the nature and clinical manifestations of respiratory disorders, as well as consideration of the degree of limitations such disorders may impose on an individual's ability to work. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance programs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Harry Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7337

RIN: 0960-AB00

623. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM

Legal Authority: 42 USC 1302; 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500ff, Appendix 1, Part A

Legal Deadline: None.

Abstract: Section 1.00 of Appendix 1 to the Disability Regulations 404.1501 through 404.1599 describes those musculoskeletal impairments which are considered severe enough to prevent a person from doing any gainful activity. We are proposing comprehensive revisions to that section to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age Survivors, and Disability Insurance program. The budgetary impact is unknown at this time.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7415

RIN: 0960-AB01

624. SUPPLEMENTAL SECURITY INCOME PROGRAM; WHAT IS NOT INCOME

Legal Authority: 42 USC 1382a

CFR Citation: 20 CFR 416.1103(g); 20 CFR 416.1103(a) to (b)

Legal Deadline: None.

Abstract: Federally funded needs based payments are counted dollar for dollar as income for SSI purposes regardless of the manner in which they are paid (e.g., directly to a vendor). Bills paid by "someone else" (e.g., a relative or friend) are not income if not paid with money due the recipient. Regulations need clarification that "someone else" does not mean another federally funded needs-based program. Also, cash provided by a governmental medical or social services agency is not income if it is either repayment for, or designated for the future payment of, a program-approved service.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 597-3409

RIN: 0960-AB09

625. SUPPLEMENTAL SECURITY INCOME PROGRAM; HOW WE COUNT UNEARNED INCOME—FUNDS USED TO PAY INDEBTEDNESS

Legal Authority: 42 USC 1302; 42 USC 1382a

CFR Citation: 20 CFR 416.1123(b)

Legal Deadline: None.

Abstract: The issue is whether amounts otherwise due an individual assigned to repay a legal obligation should continue to be included in income under the Supplemental Security Income (SSI) program. The proposed regulation will clarify that we count such amounts as income. Because this clarification only will reflect current operating policy, no costs/savings are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Not Applicable

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 594-3409

RIN: 0960-AB29

626. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

Significance: Regulatory Program

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Legal Authority: 42 USC 405; 42 USC 1320a-6; 42 USC 1302; 42 USC 1383; PL 98-369, Sec 2615; 42 USC 1383b; 42 USC 1327

CFR Citation: 20 CFR 404.408b; 20 CFR 416.1123; 20 CFR 416.1402(m); 20 CFR 416.1123a (New); 20 CFR 404.902

Legal Deadline: None.

Abstract: Sec. 2615 of Pub. L. 98-369 amended sec. 1127 of the Social Security Act to eliminate loopholes that permitted some people who were paid Old-Age, Survivors and Disability Insurance (OASDI) and Supplemental Security Income (SSI) benefits retroactively to receive more in total benefits for the same period than if they had been paid the benefits when regularly due. The two main changes are: (1) SSI benefits will be reduced where retroactive OASDI benefits have been paid before the SSI benefits. Under prior law, reductions could be made only in retroactive OASDI benefits and only when the retroactive SSI had been paid first. (2) OASDI or SSI benefits payable upon reinstatement following a period of suspension or termination will be reduced by the amount of SSI benefits that would not have been paid if the OASDI benefits had been paid when regularly due. We will amend our regulations to conform to the statutory changes. The program savings to SSA are estimated as $5 million a year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	12/00/88	

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-6705

RIN: 0960-AB38

627. SUPPLEMENTAL SECURITY INCOME PROGRAM; LIMITATION ON RECOUPMENT RATE IN CASE OF OVERPAYMENT

Legal Authority: 42 USC 1302; 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382c; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 416, Subpart E

Legal Deadline: None.

Abstract: These proposed rules implement section 2612 of Pub. L. 98-369 will limit the rate at which an overpayment may be recovered from an individual still receiving benefits (SSI or federally administered supplementary payments, or both) to 10 percent of the recipient's total income (countable income plus SSI and State supplementary payments) or the recipient's payment for the month, whichever is less. They will apply the 10 percent requirement only to recipients in current payment status. The 10 percent limit will not apply in situations involving conditional disposition of resources agreements, misuse of burial funds, recovery by refund, cross program adjustment for individuals not in SSI current pay or where it is determined that the overpayment occurred because of recipient fraud, willful misrepresentation, or concealment. They will, in negotiated cases, set a rate of withholding that is appropriate for the financial condition of the overpaid person after (continued)

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: factual evaluation. Such cases will also be considered initial determinations for which the recipient has appeal rights. Estimated costs are FY 1986--$2 million, FY 1987- -$2 million, FY 1988--$2 million, FY 1989--$2 million.

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7459

RIN: 0960-AB40

628. OLD-AGE, SURVIVORS, DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS: EVALUATION OF SYMPTOMS, INCLUDING PAIN

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 423; 42 USC 1382c; 42 USC 1383; 42 USC 1302

CFR Citation: 20 CFR 404, Subpart P; 20 CFR 416, Subpart I

Legal Deadline: None.

Abstract: These proposed regulations expand the existing regulations pertaining to the evaluation of cases involving pain or other symptoms to provide a more detailed explanation of SSA's current policy for evaluating symptoms, including pain.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	12/00/88	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 594-7415

RIN: 0960-AB41

629. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; EVALUATION GUIDES FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY (SGA)

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 10

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None.

Abstract: Section 10, Uniform Standards, of Public Law 98-460 requires the Secretary to establish in regulations uniform standards for the determination of disability at all levels of adjudication under titles II and XVI of the Social Security Act and issue such regulations under the rulemaking provisions of the Administrative Procedure Act. These proposed changes will comply with section 10 by incorporating into regulations of the Social Security Administration a number of policies relating to the evaluation of a person's work activity that are now in Social Security Rulings published in 1983 and 1984. Although the rulings are available to the public we believe that section 10 requires that the policy reflected in these rulings be incorporated into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	
Final Action	05/00/89	

Small Entity: No

Agency Contact: Harry Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7337

RIN: 0960-AB73

630. OASDI & SSI PROGRAMS; DEFINITION OF OVERPAYMENT AND LIABILITY FOR REPAYMENT OF AN OVERPAYMENT

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404.501; 20 CFR 404.502; 20 CFR 416.537; 20 CFR 404.501a (New)

Legal Deadline: None.

Abstract: These proposed rules implement section 12113 of Pub. L. 99-272 (Consolidated Omnibus Budget Reconciliation Act of 1985) enacted April 7, 1986. That legislation establishes liability for recovery of a Social Security benefit overpayment in certain cases when the beneficiary is deceased. Also, we propose to amend the definition of Social Security benefit overpayment and underpayment to provide for direct deposit of benefits and for garnished amounts that are paid under section 459(a) of the Social Security Act. We specify who is liable for an overpayment under other conditions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: Duane Heston, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-6129

RIN: 0960-AB78

631. SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF PROPERTY HELD IN TRUST OR OTHER SIMILAR LEGAL DEVICES WHEN THE PROPERTY IS AVAILABLE FOR A BENEFICIARY'S SUPPORT AND MAINTENANCE

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c(f); 42 USC 1383

CFR Citation: 20 CFR 416.1201

Legal Deadline: None.

Abstract: This proposed regulation provides that assets held in any revocable or irrevocable trust or any other similar legal device including but not limited to gifts made in accordance with the Uniform Gifts to Minors Act, if available for the beneficiary's support and maintenance, will be a countable resource. It would include as a resource trust assets that could be but are not disbursed to the beneficiary either at the diacretion of the trustees or at the direction of the trustor because such disbursement would adversely affect the beneficiary's eligibility for Supplemental Security Income benefits.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Henry D. Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7463

RIN: 0960-AB79

632. ORGANIZATION AND PROCEDURES; AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC--SOCIAL SECURITY RULINGS--ACQUIESCENCE SERIES

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1395; 42 USC 1395(a)(2); 42 USC 1395hh; 5 USC 552

CFR Citation: 20 CFR 422

Legal Deadline: None.

Abstract: The proposed regulations describe a new type of Social Security Ruling which is available to the public and which is issued when the decision of a Federal circuit court of Appeals differs from Social Security Administration policy. The Ruling states how the decision is applied to claims of persons living in the particular circuit. These regulations will result in negligible program or administrative costs or savings.

Timetable:

Action	Date	FR Cite
Prior Notice of Proposed Rulemaking	01/23/87	52 FR 02557
NPRM	00/00/00	

Small Entity: No

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7452

RIN: 0960-AB85

633. SUPPLEMENTAL SECURITY INCOME PROGRAM; EXCLUSIONS FROM INCOME AND RESOURCES OF INDIAN JUDGEMENT FUNDS AND PER CAPITA DISTRIBUTIONS

Legal Authority: 25 USC 1407; 25 USC 1172; 25 USC 1176; 43 USC 1601ff

CFR Citation: 20 CFR 416, Subpart K, Appendix; 20 CFR 416.1236; 20 CFR 1234

Legal Deadline: None.

Abstract: Proposed changes will update the regulations to reflect the provisions of Pub.L. 97-458 and Pub.L 98-64, concerning exclusions from income and resources provided for Native Americans and clarify SSI treatment of funds and land distributed to Alaskan natives under Pub.L. 92-203, as amended. The regulatory change will result in Federal program savings of less than $1 million annually and administrative costs that would not be significant.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Irv Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 597-3409

RIN: 0960-AB86

634. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REDUCTION BECAUSE OF ENTITLEMENT TO OTHER BENEFITS

Legal Authority: 42 USC 405; 42 USC 407; 42 USC 1302; 42 USC 402

CFR Citation: 20 CFR 404.407, (Revision); 20 CFR 404.612

Legal Deadline: None.

Abstract: Section 202(k)(4) of the Social Security Act discusses simultaneous entitlement to retirement and disability insurance benefits (RIB/DIB) and provides that SSA will pay the higher

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benefit unless the claimant elects to be paid the lower. Section 223(a)(1) explains that an application for DIB may be filed by someone other than the number holder (NH) within 3 months after the month of the NH's death. Strict interpretation had been made of section 202(k)(4) so that no one other than the NH (or proper applicant on behalf of a living NH) could make the election described in section 202(k)(4). In section 404.612(d) of the CFR, the explanation of section 223(a)(1) is given. We have recently published new operating policy which explains that the same person who files an application pursuant to CFR section 404.612(d) may make the election described in CFR 404.407(c). We are proposing to change CFR 404.407(c) to clarify that the person described in section 404.612(d) may make the election discussed in section 202(k)(4).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: We foresee minimal costs from this change since the number of potentially affected beneficiaries is small and the period of time during which they will receive the higher family maximum amount (based on the RIB) will only be for the months during which the deceased NH is simultaneously entitled to DIB. Also, this cost will be offset by administrative savings since overpayments will not be created and have to be recovered in situations where individuals are able to elect the lower family maximum (based on DIB) on behalf of the deceased NH.

Agency Contact: Lawrence V. Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7459

RIN: 0960-AB87

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635. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; USE OF WORK EVALUATIONS TO EVALUATE INDIVIDUALS WITH MENTAL IMPAIRMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404.1548; 20 CFR 416.948

Legal Deadline: None.

Abstract: The regulations that we are proposing provide the guidelines for the disability determination services concerning referral of individuals with mental impairments for a work evaluation. Work evaluations are useful in certain disability cases (both title II and title XVI) when it is necessary to evaluate the individual's ability to carry out the mental requirements of past work or other work available in the economy.

Timetable:

Action	Date	FR Cite
Notice	03/11/85	50 FR 9770

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Harry Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7337

RIN: 0960-AB92

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636. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; DETERMINING DISABILITY AND BLINDNESS, MEDICAL-VOCATIONAL GUIDELINES, ILLITERACY AND INABILITY TO COMMUNICATE IN ENGLISH

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 404P, Appendix 2; 20 CFR 416

Legal Deadline: None.

Abstract: The proposed changes will clarify the meaning of the terms "illiteracy" and "inability to communicate in English" as they are used in the disability determination regulations. The Supplemental Security Income program incorporates by reference and uses the same medical-vocational criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Harry Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7337

RIN: 0960-AB94

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637. SUPPLEMENTAL SECURITY INCOME PROGRAM; SPOUSAL DEEMING COMPUTATION INVOLVING STATE SUPPLEMENTATION

Legal Authority: Bouchard v. Secretary, USDC (Mass) Civil No. 78-0632-F; 42 USC 1382e; Livermore v. Heckler, 743 F.2d 1396 (9th Cir. 1984)

CFR Citation: 20 CFR 416.1163(d); 20 CFR 416.2025(b)

Legal Deadline: None.

Abstract: This proposed rule would use the Livermore decision as the basis for a nationwide policy providing that for purposes of calculating State supplementary payments an optional State supplementary rate for a couple would be used instead of the rate for an individual in spousal deeming cases.

Timetable:

Action	Date	FR Cite
NPRM	08/13/87	52 FR 30169
NPRM Comment Period End	10/13/87	
Final Action	07/00/88	

Small Entity: No

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7460

RIN: 0960-AB95

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638. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MENTAL DISORDERS-CHILDHOOD

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404P, Appendix 1, Part B

Legal Deadline: None.

Abstract: Section 112.00 of Appendix 1 to the Old-Age, Survivors, and Disability Insurance Disability Regulations 404.1501 through 404.1599 describe the medical criteria that apply only to the evaluation of mental impairments of persons under age 18. We are proposing comprehensive revisions to that section to ensure that the medical criteria are up to date and consistent with the latest advances in medicine. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program. Additional program costs of $3 million are expected in the first year and $6 million in the second year. There will be negligible administrative savings.

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	
Final Action	07/00/89	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7415

RIN: 0960-AB96

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639. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; MEDICAL EVALUATION CRITERIA FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404P, Appendix 1

Legal Deadline: None.

Abstract: Section 10.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describes multiple body system impairments which are severe enough to prevent a person from doing any gainful activity. We are proposing to add the criteria for evaluation of AIDS to this section. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program. The budgetary impact is unknown at this time.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7415

RIN: 0960-AC06

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640. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DECISIONS BY ADMINISTRATIVE LAW JUDGES IN CASES REMANDED BY COURTS

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383; 42 USC 401; 42 USC 421

CFR Citation: 20 CFR 404.953; 20 CFR 404.983; 20 CFR 404.984; 20 CFR 416.1453; 20 CFR 416.1483; 20 CFR 416.1484; 20 CFR 404.955; 20 CFR 404.986; 20 CFR 416.1455; 20 CFR 416.1486, (New)

Legal Deadline: None.

Abstract: If the court remands a case and the SSA Appeals Council remands it to an administrative law judge (ALJ), under current regulations the ALJ returns the case to the Appeals Council with a recommended decision, and the Appeals Council must review that decision and take further action in every case before the decision becomes final. This can involve delay. The proposed regulation would permit the ALJ to make a decision which would become final unless, within 30 days after the decision is received, the claimant files exceptions or within that period requests an extension of time to file exceptions, or within 60 days after the date of the decision the Appeals Council decides to review the decision on its own. The change will permit prompter final decisions and some administrative savings. It will not affect program cost.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7452

RIN: 0960-AC07

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641. SUPPLEMENTAL SECURITY INCOME PROGRAM; PRESUMPTIVE DISABILITY AND PRESUMPTIVE BLINDNESS; CHRONIC RENAL DISEASE

Legal Authority: 42 USC 1302; 42 USC 1381a; 42 USC 1383(a)(4)(B)

CFR Citation: 20 CFR 416.934

Legal Deadline: None.

Abstract: We may pay benefits to a person applying for supplemental security income benefits on the basis of disability or blindness before making a formal medical determination when available information indicates a high probability that disability or blindness exists. These findings of presumptive disability and blindness may be made at the Social Security district offices only for specified impairment categories; at the State agencies, they may be made for any impairment category. We are proposing to add renal disease requiring dialysis on a regularly scheduled basis to these categories in view of the predictability that the disease will result in a finding of disability. We are also proposing a restructuring of our regulations to show more clearly that two of these impairment categories require confirming contacts before findings of presumptive disability may be made by district office.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7415

RIN: 0960-AC10

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642. SUPPLEMENTAL SECURITY INCOME PROGRAM; DEFINE OUT OF RESOURCES FOR ONE MONTH CERTAIN CASH PAYMENTS FOR MEDICAL/SOCIAL SERVICES

Legal Authority: 42 USC 1382(a)(1)(B)

CFR Citation: 20 CFR 416.1201(a)

Legal Deadline: None.

Abstract: The proposed revision would provide that, for one calendar month following receipt, money paid by a medical or social services program to

enable someone to pay for an approved service would not be a resource. If still unexpended after a month, the money would be considered available for basic living expenses and so would be a resource. This will allow people a reasonable time in which to pay for services without affecting their supplemental security income eligibility. (The change would not apply to money which simply reimburses a person for a service payment already made.)

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7463

RIN: 0960-AC11

643. OLD-AGE SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; APPEALS COUNCIL REVIEW AND REOPENING AUTHORITY

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383; 42 USC 401; 42 USC 404

CFR Citation: 20 CFR 404.970; 20 CFR 404.968a; 20 CFR 416.1470; 20 CFR 416.1468a, (New); 20 CFR 404.900; 20 CFR 404.907; 20 CFR 404.920; 20 CFR 404.929; 20 CFR 404.938; 20 CFR 404.939; 20 CFR 404.944; 20 CFR 404.961

Legal Deadline: None.

Abstract: These regulations clarify the authority of the Appeals Council, an adjudicatory body within the Social Security Administration, to review an administrative law judge decision or dismissal for any reason within 60 days after the date of a hearing decision or dismissal. The current regulations have been misinterpreted as limiting the scope of the Appeals Council review authority. The regulations make it clear that where the Appeals Council grants a claimant's request to review an ALJ's decision, the Appeals Council reviews the entire record and may change the decision in its entirety, including those portions which were decided favorably to the claimant. Finally, these regulations make it clear that the Appeal's Council authority to reopen and revise an administrative law judge's decision is separate from and in addition to the Appeals's Council authority to review an administrative law judge's decision.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: Philip Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7452

RIN: 0960-AC15

644. OLD-AGE SURVIVORS AND DISABILITY INSURANCE PROGRAM; NONPAYMENT OF BENEFITS TO PRISONERS, VOCATIONAL REHABILITATION EXCEPTION

Legal Authority: 42 USC 402(x)(1); 42 USC 405

CFR Citation: 20 CFR 404

Legal Deadline: None.

Abstract: Existing regulations at 20 CFR 404.468(d) provide a vocational rehabilitation exception to the nonpayment of benefits to prisoners provision described at 20 CFR 404.468(a). Under the exception, the nonpayment provision does not apply if a prisoner who is entitled to benefits on the basis of disability is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by court of law. In addition, the Secretary must determine that the program is expected to result in the individual being able to do substantial gainful activity upon release and within a reasonable time. No benefits will be paid to the prisoner for any month prior to the approval of the program. The proposed regulations would set out more definitive criteria for applying the exception and would define terms, such as "rehabilitation program", "court of law", and "reasonable time", for purposes of applying the exception.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	

Small Entity: No

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 594-7460

RIN: 0960-AC16

645. SUPPLEMENTAL SECURITY INCOME PROGRAM; EMPLOYMENT OPPORTUNITIES FOR THE DISABLED

Significance: Regulatory Program

Legal Authority: PL 99-643, Sec 2; PL 99-643, Sec 3; PL 99-643, Sec 4; PL 99-643, Sec 5

CFR Citation: 20 CFR 416.200; 20 CFR 416.401; 20 CFR 416.901; 20 CFR 416.1100; 20 CFR 416.1325; 20 CFR 416.1403; 20 CFR 416.2040; 20 CFR 416.1402; 20 CFR 416.1404

Legal Deadline: None.

Abstract: These proposed regulations will implement statutory changes contained in sections 2, 3, 4, and 5 of P.L. 99-643. These provisions: (1) make section 1619 of the Social Security Act permanent; (2) allow certain blind and disabled beneficiaries to receive up to 2 months of SSI benefits during temporary periods when they are in certain institutions; (3) simplify the transitions among regular SSI status, special benefit status, and special Medicaid status; and (4) require that SSI recipients be appropriately informed of the availability of section 1619 benefits.

Timetable:

Action	Date	FR Cite
NPRM	11/00/88	
Final Action	11/00/89	

Small Entity: Undetermined

Agency Contact: Harry Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7337

RIN: 0960-AC22

646. SUPPLEMENTAL SECURITY INCOME PROGRAM; PERMANENT RESIDENCE IN THE UNITED STATES UNDER COLOR OF LAW - ADDITIONAL CATEGORY

Significance: Agency Priority

Legal Authority: 42 USC 1382b; PL 99-603

CFR Citation: 20 CFR 416.1616; 20 CFR 416.1615

Legal Deadline: None.

Abstract: This proposed regulation will add the specific categories of aliens legalized by P. L. 99-603 to be considered permanently residing in the United States under color of law or lawfully admitted for permanent residence in the United States.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7460

RIN: 0960-AC26

647. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; WAGES-- DEFERRED COMPENSATION

Legal Authority: PL 98-21; PL 99-514; PL 98-369

CFR Citation: 20 CFR 404.1041; 20 CFR 404.1042; 20 CFR 404.1047; 20 CFR 404.1049; 20 CFR 404.1050; 20 CFR 404.1001; 20 CFR 404.1026; 20 CFR 404.1046; 20 CFR 404.1048; 20 CFR 404.1051; 20 CFR 404.1052; 20 CFR 404.1053; 20 CFR 404.1054; 20 CFR 404.1058; 20 CFR 404.1059; ...

Legal Deadline: None.

Abstract: P. L. 98-21, the Social Security Amendments of 1983, changed the timing of crediting deferred compensation for Social Security purposes. It also changed the treatment of retirement pay depending upon whether it is paid under a qualified deferred compensation plan. Further, it excluded from coverage various fringe benefits and payments under a Simplified Employee Pension Plan (SEP). Finally, the amendments codify certain provisions pertaining to meals and lodging and tax-sheltered annuities. P.L. 98-369 amended the wage exclusion for qualified bond purchase plans. P.L. 99-514 excluded from coverage payments under a cafeteria plan as described in section 125 of the Internal Revenue Code and employee achievement awards for Social Security purposes. It extended the exclusions of Educational Assistance Programs and Group Legal Service Plans and removed the exclusion of SEP payments. The regulations will be updated to reflect and implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Additional Information: Since the new rules are mandated by legislation, any costs or effects upon small entities are a result of the legislation and not a result of the proposed regulations.

Agency Contact: Charles Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 597-3406

RIN: 0960-AC27

648. SUPPLEMENTAL SECURITY INCOME PROGRAM; PAYMENT OF BENEFITS DUE DECEASED RECIPIENTS

Legal Authority: PL 99-643, Sec 8

CFR Citation: 20 CFR 416.340; 20 CFR 416.345; 20 CFR 416.538; 20 CFR 416.542; 20 CFR 416.543; 20 CFR 416.1457(c)(4)

Legal Deadline: None.

Abstract: Section 8 of Pub. L. 99-643 provides that effective for benefits payable for months after May 1986, an underpayment shall be paid to any surviving spouse of a deceased SSI recipient whether or not the spouse was eligible for SSI, if such spouse was living in the same household with the recipient at the time of death, or within the 6 months immediately preceding the month of death, or to the parent(s) of a deceased disabled or blind child who was an SSI recipient if the child was living with the parent(s) at the time of death or within the 6 months immediately preceding the month of death. We are changing our regulations to conform to the statutory provision. Annual cost is not expected to exceed $1 million.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	

Small Entity: No

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7459

RIN: 0960-AC28

649. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; AND ORGANIZATION AND FUNCTIONS; RECORDS OF EARNINGS

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404.810; 20 CFR 404.820; 20 CFR 422.125; 20 CFR 404.820a; 20 CFR 404.831

Legal Deadline: None.

Abstract: This proposed regulation will establish rules on the evidence an individual must submit with a request to correct the Secretary's record of earnings and state the conditions under which the Secretary will assist the requester in obtaining evidence that establishes such records as incorrect. This proposed regulation will reduce the number of unproductive efforts the agency makes to investigate unsubstantiated assertions that the Secretary's records are incorrect and facilitate the correction process in many cases by relying more upon evidence readily available to the requester, rather than requiring the agency to attempt to obtain evidence from the employer.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-6785

RIN: 0960-AC30

650. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CONSIDERATION OF VOCATIONAL FACTORS

Legal Authority: 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1560; 20 CFR 416.960

Legal Deadline: None.

HHS—SSA — Proposed Rule Stage

Abstract: These proposed regulations reflect longstanding policies followed by the Social Security Administration in making disability determinations and remove an ambiguity which exists in the present regulations regarding the factors that are considered when it is determined that a claimant is not disabled because he or she is able to do his or her past work. These proposed regulations do not reflect a substantive change in policy and are intended only to clarify what has always been agency policy.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: William J. Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7415

RIN: 0960-AC31

651. ● ORGANIZATION AND PROCEDURES, AND OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; SOCIAL SECURITY NUMBER CARDS FOR ALIENS

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 422B

Legal Deadline: None.

Abstract: The proposed regulation will specify the role of the Immigration and Naturalization Service in obtaining applications for Social Security numbers from aliens when they apply for temporary legal resident status. Rules on evidence needed to support an application are being updated and revised. The proposed regulation will also enable States to obtain applications from welfare claimants and recipients. Cost/benefit estimates are not available.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-6785

RIN: 0960-AC34

652. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; ADDITION OF DOWN SYNDROME TO THE LISTING OF IMPAIRMENTS

Legal Authority: 42 USC 1302; 42 USC 405

CFR Citation: 20 CFR 404P

Legal Deadline: None.

Abstract: We proposed to add Down Syndrome to the multiple body systems, category of impairments, in Part B of the Listing of Impairments to provide for evaluation of Down syndrome claims according to the impairment criteria for the major system affected. The Listing of Impairments describes, for each of the major body systems, a level of severity which is considered sufficient to find a person disabled or blind under the disability program. Part B contains additional medical criteria that apply only to the evaluation of impairments of persons under age 18.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Harry J. Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7337

RIN: 0960-AC35

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage
Social Security Administration (SSA)

653. SUPPLEMENTAL SECURITY INCOME PROGRAM; MANDATORY PASS THROUGH UNDER STATE SUPPLEMENTATION PROVISIONS

Significance: Agency Priority

Legal Authority: 42 USC 1382g(c); PL 97-377, Sec 147; PL 98-21, Sec 402; PL 99-272, Sec 12201 (a)

CFR Citation: 20 CFR 416, Subpart T

Legal Deadline: None.

Abstract: These rules reflect the following changes in the law: after the 12-month period ending 6/82, States could switch from the "maintaining of total expenditures" method of compliance with mandatory passthrough provisions to the "maintaining of payment levels" method without first having to pass through to all current SSI recipients all the Federal cost-of-living benefit increases which have occurred since 12/76, by maintaining the payment levels in effect in December of the latest preceding total expenditures period. This option is applicable only to the period from July 1, 1982 through March 31, 1983, and the only December payment levels a State could use were those in effect in December 1981. For months after March 1983, the measure for determining passalong compliance has been changed from the concept of "State supplementary payment levels to the concept of combined supplementary and SSI payment levels and the March 1983 combined level has been established as the base for compliance for months after March 1983. Also reflected in the rules is a special method of compliance for States meeting the (continued)

Timetable:

Action	Date	FR Cite
NPRM	04/26/85	50 FR 07607
Final Action	11/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: passalong requirements by the total annual expenditures test for the period 7/1/80 through 6/30/81. The total expenditures for that period need only equal or exceed the total expenditures for 7/1/76 through 6/30/77, rather than the total expenditures for the preceding 12-month period. In addition, these rules provide a special method of compliance for the period January 1, 1984 through December 31, 1985. A State will not be found out of compliance for that period if in the period January 1, 1986 through December 31, 1986, its supplementary payment levels are not less than its supplementary payment levels in effect in December 1975 increased by the percentage by which the Federal Benefit Rate has increased after December 1975 and before February 1986.

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7460

RIN: 0960-AA05

HHS—SSA — Final Rule Stage

654. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

Legal Authority: 42 USC 418; 42 USC 1302; PL 98-21, Sec 103; PL 98-21, Sec 342; PL 99-272, Sec 12110; PL 99-509, Sec 9002

CFR Citation: 20 CFR 404, Subpart M

Legal Deadline: None.

Abstract: This proposed regulation reflects policies and procedures concerning agreements between States and the Secretary for Social Security coverage of State and local employees, payment of Social Security contributions, filing of wage reports by States, charging interest for late payments, etc. The current rules need to be organized into a logical sequence and to be updated to reflect many policies which SSA has followed for many years. In preparing this regulation, we reviewed all policies to assess their impact on the trust funds and to reduce recordkeeping burdens. We also added the provisions of sections 103 and 342 of Pub. L. 98-21. Sec. 103 prohibits termination of existing coverage under the States' agreements. Sec. 342 changes payment of Social Security contributions from once a month to twice a month. When the regulations are published in final form, we will also add language to implement Pub. L. 99-272 sec. 12110, which provides a uniform effective date for coverage agreements and modifications of agreements, and a provision of sec. 9002 of the Omnibus Budget (cont)

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	09/28/79	44 FR 55899
Notice of Available Working Draft	09/26/80	45 FR 63868
NPRM	05/29/86	51 FR 19468
NPRM Comment Period End	09/26/86	
Final Action	03/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: Reconciliation Act of 1986 which transfers from SSA to IRS all responsibility for the contributions and reporting for covered State and local wages paid after 1986.

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-8629

RIN: 0960-AA13

655. SUPPLEMENTAL SECURITY INCOME PROGRAM; REDUCTIONS, SUSPENSIONS AND TERMINATIONS

Legal Authority: 42 USC 1302; 42 USC 1382; 42 USC 1382c; 42 USC 1382d; 42 USC 1383; 42 USC 1382a; 42 USC 1382b

CFR Citation: 20 CFR 416, Subpart M

Legal Deadline: None.

Abstract: This regulation reorganizes, revises, and clarifies the rules on withholding, reducing, suspending, and terminating an SSI beneficiary's benefits. These regulations include changes in the present rules that are required by recent statutory enactments and, additionally, make the rules easier to read and understand. This regulation will have no impact on SSA programs and administrative costs.

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	06/19/79	44 FR 35241
NPRM	05/08/86	51 FR 17057
NPRM Comment Period End	07/07/86	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Charles H. Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 597-3406

RIN: 0960-AA22

656. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; PROVISION FOR INFERRING A PERSON IS DEAD

Legal Authority: 42 USC 405; 42 USC 1302; 30 USC 923

CFR Citation: 20 CFR 404, Subpart H

Legal Deadline: None.

Abstract: These final regulations clarify our regulations to explain that a claimant, in order to collect the lump-sum death payment or survivors benefits under the Old-Age, Survivors, and Disability Insurance (OASDI) program, is at all times responsible for furnishing evidence proving the insured person's death. The regulations are also revised to state that we do not infer the death of a missing person if there are known circumstances that could reasonably explain the absence, even without direct evidence that such circumstances actually were the reasons for absence.

Timetable:

Action	Date	FR Cite
NPRM	02/29/84	49 FR 07405
NPRM Comment Period End	04/30/84	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7452

RIN: 0960-AA54

657. SUPPLEMENTAL SECURITY INCOME PROGRAM; REOPENING AND REVISING SUPPLEMENTAL SECURITY INCOME DETERMINATIONS AND DECISIONS WITHIN FOUR YEARS OF THE NOTICE OF THE INITIAL DETERMINATION

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 416.1488

Legal Deadline: None.

Abstract: The proposed rules provide for the reopening and revising of Supplemental Security Income determinations within four years of the notice of the initial determination if we discover an error affecting a claimant's eligibility or benefit amount during this period through the use of information exchange and data gathering involving either our records or our records and those of other Federal or State agencies. This rule is being proposed because the two-year period in which we may reopen and revise a determination based on new and material evidence we acquire through data and exchange is often too short and often expires before the determination to correct errors revealed by the data can be made. The budgetary impact has not yet been determined.

Timetable:

Action	Date	FR Cite
NPRM	08/27/86	51 FR 30499
NPRM Comment Period End	10/27/86	

Next Action Undetermined

Small Entity: No

Agency Contact: Philip Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7452

RIN: 0960-AA59

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658. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; EFFECT OF PENSION FROM NONCOVERED EMPLOYMENT

Significance: Regulatory Program

Legal Authority: PL 98-21, Sec 113; 42 USC 415; 42 USC 433; 42 USC 1302

CFR Citation: 20 CFR 404, Subpart C

Legal Deadline: None.

Abstract: The provision of section 113 of Pub. L. 98-21 (the Social Security Amendments of 1983) eliminates the windfall that occurs when the heavy weighting in the benefit formula that is intended for workers with low wages goes instead to workers who spent many years in noncovered employment and worked only a few years in covered employment. This will be accomplished by modifying the benefit computation formula to consider a worker's pension from noncovered employment. This provision will decrease program costs by $1 million for 1983-89.

Timetable:

Action	Date	FR Cite
NPRM	12/03/85	50 FR 49558
NPRM Comment Period End	02/03/86	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-6624

RIN: 0960-AA65

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659. SUPPLEMENTAL SECURITY INCOME PROGRAM; RESOURCE LIMITS FOR CONDITIONAL SSI PAYMENTS

Legal Authority: 42 USC 1302; 42 USC 1382b(b); 42 USC 1383(d)

CFR Citation: 20 CFR 416, Subpart L

Legal Deadline: None.

Abstract: Current regulations for the Supplemental Security Income program provide that if countable liquid resources and total countable resources (liquid and nonliquid) do not exceed certain limits, conditional payment is possible while disposing of excess nonliquid resources. This regulation will eliminate the limit on total countable resources and also eliminate an operating assumption that property has no value at all because it did not sell during a conditional payment period.

Timetable:

Action	Date	FR Cite
NPRM	11/13/85	50 FR 46778
NPRM Comment Period End	01/13/86	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Henry D. Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 594-7463

RIN: 0960-AA75

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660. SUPPLEMENTAL SECURITY INCOME PROGRAM; PRESUMPTIVE DISABILITY AND PRESUMPTIVE BLINDNESS; CATEGORIES OF IMPAIRMENTS-AIDS

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.934

Legal Deadline: None.

Abstract: Section 1631(a)(4)(B) of the Social Security Act provides for the payment of benefits to persons applying for supplemental security income benefits on the basis of disability or blindness before making a formal determination of disability or blindness when available information indicates a high probability that disability or blindness exists. These presumptive disability and blindness decisions may be made at the Social Security district offices in a limited number of categories. We are adding AIDS to these categories.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/85	50 FR 5573
Final Action	00/00/00	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7415

RIN: 0960-AA79

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661. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; COVERAGE OF CERTAIN NEWLY HIRED FEDERAL EMPLOYEES; COVERAGE OF EARNINGS OF FEDERAL JUDGES

Legal Authority: PL 98-21, Sec 101; PL 98-118, Sec 4; PL 99-272, Sec 12112; PL 99-335, Sec 301; PL 97-248, Sec 278

CFR Citation: 20 CFR 404.1018

Legal Deadline: None.

Abstract: The proposed regulations would codify section 101 of Pub. L. 98-21, as amended by sec. 4 of Pub. L. 98-118, which generally provides Social Security coverage for certain Federal employees and covers certain payments to retired Federal judges after 1985. Estimated increased revenues (resulting from this legislation) for 1984-1989 are $9.4 billion. Long-range savings are estimated at .28 percent of taxable payroll. Also, the proposed regulations would codify section 12112 of Pub. L. 99-272 which provides exemption from Social Security coverage for retired Federal judges on active duty. In addition, the proposed regulations would provide: 1) that Federal employees not otherwise subject to the Social Security tax are nevertheless subject to the Health Insurance portion of the tax under Pub. L. 97-248, and 2) that individuals covered by the Civil Service Retirement System may elect during a limited time to be covered under the Federal Employees Retirement System, which includes Social Security coverage.

Timetable:

Action	Date	FR Cite
Final Action	01/00/88	

Small Entity: No

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-6625

RIN: 0960-AA89

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662. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; STANDARDS FOR CONSULTATIVE EXAMINATIONS; EXISTING MEDICAL EVIDENCE

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 9; 42 USC 405; 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1512; 20 CFR 416.912; 20 CFR 404.1519; 20 CFR 416.919; 20 CFR 404.1502; 20 CFR 416.920; 20 CFR 404.1593; 20 CFR 416.993; 20 CFR 416.902; 20 CFR 404.1513; 20 CFR 416.913; 20 CFR 404.1520; 20 CFR 404.1545; 20 CFR 416.945; 20 CFR 404.1546; ...

Legal Deadline: Statutory, April 7, 1985.

Abstract: The proposed regulations include standards for obtaining consultative examinations, the types of consultative examination referrals to be made, and monitoring procedures for consultative examinations and the referral process. The proposed regulations also provide for evaluating all medical evidence of record and developing a 12-month medical history. References to "medical assessments" will be replaced by references to medical source statements as to what a person can still do despite his or her impairment(s). The regulations also set forth the standards to be used in evaluating the medical opinions of treating and other medical sources. The changes will not have any significant impact on either administrative or program costs.

Timetable:

Action	Date	FR Cite
NPRM	04/20/87	52 FR 13014
NPRM Comment Period End	06/19/87	
Final Action	04/00/88	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7415

RIN: 0960-AB22

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663. SUPPLEMENTAL SECURITY INCOME PROGRAMS; ASSIGNMENT OF RIGHTS TO THIRD-PARTY MEDICAL PAYMENTS TO STATE

Legal Authority: 42 USC 1383c; 42 USC 1396k; 31 USC 0505; 42 USC 1396a; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.2101 to 416.2176

Legal Deadline: None.

Abstract: Our current regulations implementing section 1634 of the Social Security Act provide that SSA will make determinations for the State on whether aged, blind, or disabled people are eligible for Medicaid if the State's Medicaid requirements for these people are the same as SSI eligibility requirements. Sec. 2367 of Pub. L. 98-369 mandates that States require, as a condition of Medicaid eligibility, that a person assign to the State his or her rights (as well as the rights of any other Medicaid eligible person on whose behalf he or she has the legal authority to execute such an assignment of rights) to any medical care and support available under an order of a court or an administrative agency and any third-party payments for medical care (except Medicare). This is a Medicaid requirement that is different from SSI requirements. We plan to amend our regulations to provide that in making the Medicaid eligibility determination under a section 1634 agreement, SSA will also determine that the new assignment requirement has been met. The regulations will similarly allow for any other non-SSI Medicaid requirement mandated by Federal law, such as that added by sec. (cont.)

Timetable:

Action	Date	FR Cite
NPRM	05/09/86	51 FR 17200
NPRM Comment Period End	07/08/86	
Final Action	02/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: 9503 of Pub. L. 99-272 (concerning the provision of third party liability data). The resulting cost for SSA is estimated as less than $1 million a year, of which States would pay half. We are also rewriting and reorganizing our regulations for making Medicaid determinations.

Agency Contact: C. H. Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 597-3468

RIN: 0960-AB28

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664. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CONTINUED PAYMENT OF BENEFITS DURING APPEAL

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383; PL 97-455, Sec 2; PL 98-118, Sec 2; PL 98-460, Sec 7

CFR Citation: 20 CFR 404.1597; 20 CFR 404.1597a; 20 CFR 416.995; 20 CFR 416.996

Legal Deadline: None.

Abstract: These proposed rules which implement section 2 of Pub. L. 97-455, section 2 of Pub. L. 98-118 and section 7 of Pub. L. 98-460 provide the following groups with the option to elect to continue receiving disability/blindness benefits and/or Medicare coverage pending reconsideration and/or a hearing before an administrative law judge on a medical cessation determination; recipients of disability insurance; adult child's, disabled widow's, disabled widower's, mother's and father's, or spouse's benefits based

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on having in care a disabled adult child; recipients of benefits based on having in care, a child under age 18 but over age 15, who is disabled and receiving child's benefits; recipients of SSI benefits based on disability or blindness. Any continued payments are subject to recovery as overpayments, subject to the same waiver provisions now in current law and regulations where the medical cessation decision is upheld on appeal.

Timetable:

Action	Date	FR Cite
NPRM	05/21/86	51 FR 18611
NPRM Comment Period End	07/21/86	
Final Action	01/00/88	

Small Entity: No

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7459

RIN: 0960-AB30

665. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; QUALIFICATIONS OF MEDICAL PROFESSIONALS EVALUATING MENTAL IMPAIRMENTS

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 8; 42 USC 405; 42 USC 421; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1503; 20 CFR 404.1526; 20 CFR 404.1546; 20 CFR 404.1615; 20 CFR 404.1616; 20 CFR 404.1617; 20 CFR 416.903; 20 CFR 416.926; 20 CFR 416.946; 20 CFR 416.1015; 20 CFR 414.1016; 20 CFR 416.1017

Legal Deadline: None.

Abstract: The proposed regulations reflect the provisions of section 8 of PL 98-460 by requiring that we make every reasonable effort to have a qualified psychiatrist or psychologist to complete the medical portion of the case review and any residual functional capacity assessment in unfavorable determinations in mental impairment cases. We are also explaining the qualifications necessary to be considered a qualified psychologist and what we will consider as reasonable effort to obtain the services of a qualified psychiatrist or psychologist. State agencies must make every reasonable effort to see that the services of qualified psychiatrists and psychologists are obtained, for instance, by raising State fee schedules to provide compensation at the prevailing rates in the community. SSA may also use Federal resources, including contracting directly for these services when the State is unable to provide them due to inadequate compensation or other impediments at the State level. Costs will increase by less than $5 million in the first year that the regulations are effective. These figures were derived from the number of additional physician hours needed for State (cont.)

Timetable:

Action	Date	FR Cite
NPRM	12/13/85	50 FR 50920
NPRM Comment Period End	02/11/86	
Final Action	11/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: agency medical consultants.

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7415

RIN: 0960-AB31

666. SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF OVERPAYMENTS WHEN RECIPIENT'S COUNTABLE ASSETS EXCEED LIMITS IN CERTAIN CASES

Legal Authority: PL 98-369, Sec 2613

CFR Citation: 20 CFR 416

Legal Deadline: None.

Abstract: This proposed regulation reflects the provisions of section 2613 of P.L. 98-369 which provides for waiving recovery of an overpayment that is attributable solely to excess resources if the amount of the excess is $50 or less unless the overpaid recipient (and spouse if any) knowingly and willfully failed to report the value of his/her resources accurately and timely.

Timetable:

Action	Date	FR Cite
NPRM	07/18/86	51 FR 26026
NPRM Comment Period End	09/16/86	
Final Action	01/00/88	

Small Entity: No

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7459

RIN: 0960-AB32

667. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINATIONS OF DISABILITY-COMPLIANCE, AND OTHER CHANGES

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 421; 42 USC 1302; PL 98-460, Sec 17; 42 USC 1383

CFR Citation: 20 CFR 404.1601; 20 CFR 416.1001; 20 CFR 404.1602; 20 CFR 416.1002; 20 CFR 404.1615; 20 CFR 416.1015; 20 CFR 404.1620; 20 CFR 416.1020; 20 CFR 404.1632; 20 CFR 416.1023; 20 CFR 404.1626; 20 CFR 416.1026; 20 CFR 404.1627; 20 CFR 416.1027; 20 CFR 404.1633; ...

Legal Deadline: None.

Abstract: The regulations deal with the operation of State agencies which make disability determinations for the Social Security Disability program and the Supplemental Security Income for the Aged, Blind, and Disabled program under regulations and other written SSA guidelines. The regulations implement a provision of P.L. 98-460 which requires the Secretary to take definitive steps within specific time frames to assure the compliance of State agencies with SSA regulations and other written guidelines or proceed to terminate their participation in the SSA administered programs. The regulations also make other changes to improve the disability determination process and to clarify and update other administrative requirements. Costs/savings cannot be estimated at this time.

Timetable:

Action	Date	FR Cite
NPRM	04/25/86	51 FR 15638
NPRM Comment Period End	06/24/86	
Final Action	11/00/87	

Small Entity: No

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 597-3409

RIN: 0960-AB36

668. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; PAYMENT OF COSTS OF REHABILITATION SERVICES

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 11; 42 USC 405; 42 USC 422; 42 USC 1302; 42 USC 1382d; 42 USC 1383

CFR Citation: 20 CFR 404, Subpart V; 20 CFR 416, Subpart V

Legal Deadline: None.

Abstract: Public Law 98-460 created 2 new provisions under which SSA will pay vocational rehabilitation (VR) agencies for the costs of services provided to disabled or blind social security beneficiaries or SSI recipients. Under the first new provision, SSA will allow payment to VRA's for the costs of VR services provided to individuals continuing to receive payment because they are participating in a VR program after their period of disability has ceased due to their medical recovery. The second new provision allows payment to VRA's for the costs of VR services provided to beneficiaries/recipients who refuse without good cause to continue or to cooperate in a VR program in such a way as to preclude their successful rehabilitation with such refusal resulting in the nonpayment of their disability or blindness payments. It is estimated that the first year costs of this program will be less than 1 million dollars.

Timetable:

Action	Date	FR Cite
NPRM	10/10/86	51 FR 36510
NPRM Comment Period End	12/09/86	
Final Action	11/00/87	

Small Entity: No

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7460

RIN: 0960-AB37

669. OLD AGE, SURVIVORS, DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINING DISABILITY AND BLINDNESS; MULTIPLE IMPAIRMENTS

Legal Authority: PL 98-460, Sec 4; 42 USC 405; 42 USC 423; 42 USC 1302; 42 USC 1382c

CFR Citation: 20 CFR 404.1520; 20 CFR 404.1521; 20 CFR 404.1522; 20 CFR 404.1523; 20 CFR 416.920; 20 CFR 416.921; 20 CFR 416.922; 20 CFR 416.923

Legal Deadline: None.

Abstract: This provision of the law requires us to consider the combined effect of all of a person's impairments in determining disability regardless of whether any single impairment, if considered separately, would be of sufficient severity. If we do find a medically severe combination of impairments, the combined impact of the impairments must be considered throughout the disability determination process. We are revising regulations to reflect that we will now consider the combined effect of impairments to determine severity. When the combined effect is found to be severe, the person's impairments are evaluated throughout the full sequential evaluation process.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7415

RIN: 0960-AB39

670. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CONTINUED PAYMENT OF BENEFITS TO PERSONS IN VOCATIONAL REHABILITATION PROGRAMS

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383; 42 USC 425

CFR Citation: 20 CFR 404.316; 20 CFR 404.337; 20 CFR 404.352; 20 CFR 404.1586; 20 CFR 404.1596; 20 CFR 404.1597; 20 CFR 416.1321; 20 CFR 416.1338; 20 CFR 416.1331; 20 CFR 416.1402; 20 CFR 404.902

Legal Deadline: None.

Abstract: The purpose of these regulation changes is to allow for consideration for continued payment of disability benefits to persons who medically recover while participating in a vocational rehabilitation (VR) program, without regard to whether the person was expected at the onset of the VR program to medically recover before the scheduled completion date of the program and without regard to whether the person has any residual functional limitation. These changes bring the regulations into conformity with certain recent court decisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/14/86	51 FR 17616
Final Action	10/00/87	

Small Entity: No

Agency Contact: Harry J. Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7337

RIN: 0960-AC05

671. SUPPLEMENTAL SECURITY INCOME PROGRAM; PROHIBITION ON DIRECT PAYMENT OF FEES TO REPRESENTATIVES

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.1520; 20 CFR 416.1525; 20 CFR 416.1528; 20 CFR 416.1335

Legal Deadline: None.

Abstract: In these proposed rules, we will state explicitly our policy of not withholding money from a claimant's retroactive SSI benefits to pay a fee directly to the claimant's representative. We believe that no authority exists under the Social Security Act for such withholding. Furthermore, such withholding is prohibited by the assignment provisions of section 207 of the Social Security Act. We expect no costs.

Timetable:

Action	Date	FR Cite
NPRM	03/17/87	52 FR 8309
NPRM Comment Period End	05/18/87	

Next Action Undetermined

HHS—SSA

Final Rule Stage

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-6785

RIN: 0960-AC08

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672. SUPPLEMENTAL SECURITY INCOME PROGRAM: FEDERAL ADMINISTRATION OF OPTIONAL STATE SUPPLEMENTATION

Legal Authority: 42 USC 1382e; 42 USC 1302; PL 99-272, Sec 12201(b)

CFR Citation: 20 CFR 416.2030(a)(2); 20 CFR 416.2040(b)

Legal Deadline: None.

Abstract: 42 USC 1382e provides that at the option of a State with a federally administered optional supplementation program, the supplementation agreement between such State and the Secretary of HHS may be modified to allow Federal administration of optional supplementary payments to any individual in a medical facility where more than 50 percent of the individual's care is covered by the Medicaid program (Living Arrangements (LA) "D" recipients). The proposed regulation will reflect the amendment to the statute discussed above.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/87	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: None

Government Levels Affected: State, Federal

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 597-3409

RIN: 0960-AC13

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673. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; APPLICATION OF DEPENDENCY TEST TO ADOPTED GREAT-GRANDCHILDREN; DEMONSTRATION PROJECTS

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.362; 20 CFR 404.1599; 20 CFR 416.250

Legal Deadline: None.

Abstract: These regulations implement sections 12101 and 12104 of Pub. L. 99-272 (the Consolidated Omnibus Budget Reconciliation Act of 1985). Section 12101 of Pub. L. 99-272 extends the Secretary's waiver authority on demonstration projects in the title II disability insurance program which was originally provided for by section 505(a)(3) of the Social Security Disability Amendments of 1980 (Pub. L. 96-265). Section 12101 also effectively makes the waiver authority for title XVI demonstration projects permanent. Section 12104 of Pub. L. 99-272 amends section 202(d)(8)(D)(ii) (III) of the Social Security Act to provide that great-grandchildren of the insured individual may be entitled to child's insurance benefits as grandchildren currently are, applying the dependency test for legally adopted children.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7463

RIN: 0960-AC23

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674. ● ORGANIZATION AND PROCEDURES, AND OASDI PROGRAMS; EVIDENCE REQUIRED FOR ORIGINAL OR DUPLICATE SOCIAL SECURITY NUMBER CARD

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 422B

Legal Deadline: None.

Abstract: The proposed regulations will allow the Social Security Administration (SSA) to test procedures that will provide exceptions to the current requirements that SSA interview an applicant for a new Social Security number and that an applicant for a duplicate card submit evidence of identity. This will enable us to test procedures that would allow us to conduct much of our business in processing applications for original or duplicate Social Security number cards by telephone.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/87	

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-6785

RIN: 0960-AC32

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675. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; AGAINST EQUITY AND GOOD CONSCIENCE: DEFINED

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 1302; 42 USC 1383(b)

CFR Citation: 20 CFR 404.509; 20 CFR 416.554

Legal Deadline: None.

Abstract: The proposed change would allow us to grant waiver of recovery of the overpayment to individuals who did not receive the overpayment, who are without fault, living in a separate household at the time of the overpayment, and who had no knowledge of the overpayment.

Timetable:

Action	Date	FR Cite
NPRM	03/30/87	52 FR 10116
NPRM Comment Period End	05/29/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-6629

RIN: 0960-AC33

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA)

Completed Actions

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676. SUPPLEMENTAL SECURITY INCOME PROGRAM; AGE 18 AND ALIEN DEEMING

Significance: Agency Priority

CFR Citation: 20 CFR 416.535; 20 CFR 416.550; 20 CFR 416.570; 20 CFR 416.1148; 20 CFR 416.1149; 20 CFR 416.1160; 20 CFR 416.1161; 20 CFR 416.1163; 20 CFR 416.1165; 20 CFR 416.1166; 20 CFR 416.1166a; 20 CFR 416.1202; 20 CFR 416.1204; 20 CFR 416.1821; 20 CFR 416.1851

Completed:

Reason	Date	FR Cite
Final Action	03/20/87	52 FR 8877

Small Entity: No

Agency Contact: Henry Lerner 301 594-7463

RIN: 0960-AA26

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677. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; FUTURE EFFECT OF APPLICATIONS AND RELATED CHANGES IN APPEALS COUNCIL PROCEDURES

CFR Citation: 20 CFR 404.620(a); 20 CFR 404.976(b); 20 CFR 416.1400; 20 CFR 416.1476(b); 20 CFR 416.1479

Completed:

Reason	Date	FR Cite
Final Action	02/09/87	52 FR 4001

Small Entity: No

Agency Contact: Phil Berge 301 594-7452

RIN: 0960-AA28

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678. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; WAGE COVERAGE UNDER SOCIAL SECURITY

CFR Citation: 20 CFR 404.1043; 20 CFR 404.1055; 20 CFR 404.1059; 20 CFR 404.1060; 20 CFR 404.1341

Completed:

Reason	Date	FR Cite
Final Action	08/11/87	52 FR 29659

Small Entity: No

Agency Contact: C.H. Campbell 301 597-3406

RIN: 0960-AA55

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679. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; US RESIDENCE REQUIREMENTS FOR NON-RESIDENT ALIENS AND DEDUCTIONS FOR WORK OUTSIDE THE U.S

CFR Citation: 20 CFR 404.417; 20 CFR 404.460

Completed:

Reason	Date	FR Cite
Final Action	07/13/87	52 FR 26142

Small Entity: No

Agency Contact: C.H. Campbell 301 597-3406

RIN: 0960-AA76

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680. BLACK LUNG PROGRAM; ESTABLISHING DEPENDENCY OF SURVIVING DIVORCED WIFE AND COMPUTATION OF BASIC RATE

CFR Citation: 20 CFR 410.361; 20 CFR 410.510

Completed:

Reason	Date	FR Cite
Discontinued	07/00/87	

Small Entity: No

Agency Contact: Irving Darrow 301 597-3409

RIN: 0960-AB05

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681. SUPPLEMENTAL SECURITY INCOME PROGRAM; PERMANENT RESIDENCE UNDER COLOR-OF-LAW

Significance: Agency Priority

CFR Citation: 20 CFR 416.1618

Completed:

Reason	Date	FR Cite
Final Action	06/10/87	52 FR 21939

Small Entity: No

Agency Contact: Dave Smith 301 594-7460

RIN: 0960-AB24

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682. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM REOPENING AND REVISING DETERMINATIONS AND DECISIONS WHERE THERE IS CLEAR ERROR OR NEW AND MATERIAL EVIDENCE

CFR Citation: 20 CFR 404, Subpart J; 20 CFR 410, Subpart F

Completed:

Reason	Date	FR Cite
Discontinued	07/00/87	

Small Entity: No

Agency Contact: Phil Berge 301 594-7452

RIN: 0960-AB34

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683. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; PERIOD OF DISABILITY—WHEN YOU MAY NOT BE ENTITLED TO BENEFITS

CFR Citation: 20 CFR 404

Completed:

Reason	Date	FR Cite
Final Action	05/21/87	52 FR 19135

Small Entity: No

Agency Contact: Lawrence V. Dudar 301 594-7459

RIN: 0960-AB82

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684. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; DETERMINING FIRST MONTH OF ENTITLEMENT BASED ON ONE-HALF SUPPORT

CFR Citation: 20 CFR 404.366(b)

Completed:

Reason	Date	FR Cite
Final Action	07/17/87	52 FR 26954

Small Entity: No

Agency Contact: Dave Smith 301 594-7460

RIN: 0960-AB83

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685. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE, SUPPLEMENTAL SECURITY INCOME & BLACK LUNG PROGRAMS—OWN MOTION REVIEW OF FEE DETERMINATION

CFR Citation: 20 CFR 404.1720; 20 CFR 410.686; 20 CFR 416.1520

Completed:

Reason	Date	FR Cite
Withdrawn	05/21/87	52 FR 19169

Small Entity: No

Agency Contact: Duane Heaton 301 594-6629

RIN: 0960-AB89

686. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE; BLACK LUNG; SUPPLEMENTAL SECURITY INCOME PROGRAMS; EFFECTUATING COMPONENT RECOMMENDATION THAT THE APPEALS COUNCIL REVIEW AN ALJ DECISION

CFR Citation: 20 CFR 404.955; 20 CFR 404.967a; 20 CFR 404.987; 20 CFR 410.662a; 20 CFR 416.1455; 20 CFR 416.1467a, (New); 20 CFR 416.1487

Completed:

Reason	Date	FR Cite
Discontinued-Combine with 0960-AC15	07/00/87	

Small Entity: No

Agency Contact: Phil Berge 301 594-7452

RIN: 0960-AB90

687. SUPPLEMENTAL SECURITY INCOME PROGRAM; LIQUID AND NONLIQUID RESOURCES AND RESOURCES DETERMINATIONS

CFR Citation: 20 CFR 416.1201; 20 CFR 416.1207, (New)

Completed:

Reason	Date	FR Cite
Final Action	02/11/87	52 FR 04282

Small Entity: No

Agency Contact: Henry D. Lerner 301 594-7463

RIN: 0960-AC02

688. SUPPLEMENTAL SECURITY INCOME PROGRAM; PENSION FUNDS FOR DEEMING PURPOSES AND GRANDFATHERING PROVISIONS

CFR Citation: 20 CFR 416.1202; 20 CFR 416.1260

Completed:

Reason	Date	FR Cite
Final Action	08/12/87	52 FR 29840

Small Entity: No

Agency Contact: Henry D. Lerner 301 594-7463

RIN: 0960-AC03

689. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAM; EVALUATION GUIDES FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY

CFR Citation: 20 CFR 404.1574; 20 CFR 416.974

Completed:

Reason	Date	FR Cite
Discontinued-Combine with 0960-AB73	06/00/87	

Small Entity: No

Agency Contact: Dave Smith 301 594-7460

RIN: 0960-AC21

690. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE, BLACK LUNG, AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; ENTITIES AS REPRESENTATIVES OF SS CLAIMANTS; FEE PAID BY THIRD PARTY

CFR Citation: 20 CFR 404R; 20 CFR 410F; 20 CFR 416O

Completed:

Reason	Date	FR Cite
Discontinue-Combined with 0960-AA64	07/00/87	

Small Entity: No

Agency Contact: Jack Schanberger 301 594-6785

RIN: 0960-AC25

691. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF PAYMENTS ON A RESOURCE WITH A CURRENT MARKET VALUE OF ZERO - INSTALLMENT PAYMENTS

Legal Authority: 42 USC 1302; 42 USC 1382b; 42 USC 1383(d)

CFR Citation: 20 CFR 416.1201

Legal Deadline: None.

Abstract: We propose to amend 20 CFR 416.1201 to specify that, when a promissory note, contract, or agreement calls for installment payments against the principal, its CMV would be no less than the monthly proportion of any installment amount due against the principal. This proposal recognizes that, although the entire promissory note, property contract, or agreement may have no market, it has a minimum value in the amount of the installment amount due periodically against the principal, since that is what the market has agreed to pay. This proposal does not affect the treatment of any interest portion of an installment payment which continues to be income when received. Also, the proposal has minimal impact on the SSI program as it applies only to resources which have proceeds due. Further, it has limited effect on recipients since it does not affect payment amount, although it may affect eligibility. The cost/savings impact for this proposal is estimated to be insignificant.

Timetable:

Action	Date	FR Cite
Regulatory Action Cancelled	08/00/87	
NPRM	06/00/88	

Small Entity: No

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7463

RIN: 0960-AC36

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Office of Assistant Secretary for Health (OASH)

Proposed Rule Stage

692. ● STATUTORY PROHIBITION ON USE OF APPROPRIATED FUNDS IN PROGRAMS WHERE ABORTION IS A METHOD OF FAMILY PLANNING

Significance: Agency Priority

Legal Authority: 42 USC 300a-4

CFR Citation: 42 CFR 59

Legal Deadline: None.

Abstract: The proposed regulations would give effect to the statutory prohibition on the use of Title X appropriated funds in programs that include abortion as a method of family planning.

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	
NPRM Comment Period End	11/01/87	
Final Action	12/17/87	

Small Entity: No

Agency Contact: Nabers Cabaniss, Deputy Assistant Secretary for Population Af, fairs, Department of Health and Human Services, Public Health Service, Room 730E, HHH Bldg., 200 Independence Avenue, SW, Washington, D.C. 20201, 202 245-0152

RIN: 0905-AC84

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Office of Assistant Secretary for Health (OASH)

Completed Actions

693. GRANTS FOR ADOLESCENT PREGNANCY AND FAMILY LIFE PROJECTS

CFR Citation: 42 CFR 59

Completed:

Reason	Date	FR Cite
Withdrawn Program being phased out after FY 89; regs will not be developed.	08/13/87	

Small Entity: No

Agency Contact: Donald Underwood 202 245-0146

RIN: 0905-AA24

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)

Completed Actions

694. CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS

Significance: Agency Priority

CFR Citation: 42 CFR 2

Completed:

Reason	Date	FR Cite
Final Action	06/09/87	52 FR 21796
Final Action Effective	08/10/87	52 FR 21796

Small Entity: No

Agency Contact: Judith T. Galloway 301 443-3200

RIN: 0905-AA26

695. OBLIGATED SERVICE FOR MENTAL HEALTH TRAINEESHIPS

CFR Citation: 42 CFR 64a

Completed:

Reason	Date	FR Cite
Final Action	05/15/97	52 FR 18358
Final Action Effective	06/15/87	52 FR 18358

Small Entity: Not Applicable

Agency Contact: Diana Trunnell 301 443-4024

RIN: 0905-AB48

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Centers for Disease Control (CDC)

Final Rule Stage

696. PROJECT GRANTS FOR HEALTH PROGRAMS FOR REFUGEES

Legal Authority: 8 USC 1522(b) Section 412(b)(5) Immigration and Nationality Act; PL 96-212 Refugee Act of 1980; PL 97-363 Refugee Assistance Amendments of 1982

CFR Citation: 42 CFR 51e

Legal Deadline: None.

Abstract: Regulations are required by Department policy for this project grant program administered by the Centers for Disease Control (CDC) under an intra-agency agreement with the Office of Refugee Resettlement (ORR). The project grants are awarded to State and local health agencies to assist them in providing initial health assessments to arriving refugees. These health assessments specifically address conditions of public health concerns, like tuberculosis, and also identify personal health problems that could impair the effective resettlement of the refugee. CDC has established the program requirements, guidelines, and standards for evaluation.

Timetable:

Action	Date	FR Cite
NPRM	05/06/86	51 FR 16724
NPRM Comment Period End	07/07/86	
Final Action	12/00/87	

Small Entity: No

Additional Information: FTS 236-1602

Agency Contact: Anthony M. Scardaci, Associate Dir., Ctr. for Prevention Services, Department of Health and Human Services, Centers for Disease

HHS—PHS—CDC — **Final Rule Stage**

Control, 1600 Clifton Road, N.E., Atlanta, GA 30333, 404 329-1802

RIN: 0905-AB43

697. IMPROVE STANDARDS FOR RESPIRATOR DEVICES

Significance: Regulatory Program

Legal Authority: 30 USC 801

CFR Citation: 30 CFR 11

Legal Deadline: None.

Abstract: There are three major problems that the proposed regulatory action is intended to solve. First, the current regulatory provisions in 30 CFR 11 in some instances date back almost fifty years. As a result the provisions are not current with many of the extensive changes in respirator technology. Second, the current regulations do not provide for testing of respirators under either actual or simulated use conditions prior to certification. Third, the resources required to conduct routine respirator certification testing has made it difficult for NIOSH to keep respirator performance standards current with advances in respirator technology and with new knowledge on respirator performance characteristics. Alternatives considered: (1) the Federal government could relinquish the field entirely to the private sector. (2) The Federal government could promulgate performance standards but not be involved in assuring compliance with those standards. (3) The Federal government could continue to be the certifier of respirators but have manufacturers conduct testing. (4) The Federal government could continue its present role of total operation of the respirator system. NIOSH (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/27/87	52 FR 32402
Final Action	10/00/88	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: selected alternative number (3). Cost is yet to be determined.

Agency Contact: Glendal J. Provost, Science Advisor, Department of Health and Human Services, Public Health Service, Office of the Director, NIOSH, Centers for Disease Control, 404 329-3773

RIN: 0905-AB58

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions
Public Health Service (PHS)—Centers for Disease Control (CDC)

698. DISTRIBUTION OF REFERENCE BIOLOGICAL STANDARDS AND BIOLOGICAL PREPARATIONS

Significance: Regulatory Program

CFR Citation: 42 CFR 7, (New)

Completed:

Reason	Date	FR Cite
Final Action	04/07/87	52 FR 11072
Final Action Effective	05/07/87	52 FR 11072

Small Entity: No

Agency Contact: Elizabeth B. Ostuni 404 329-3354

RIN: 0905-AB49

699. SPECIFICATIONS FOR MEDICAL EXAMINATIONS OF UNDERGROUND COAL MINERS

CFR Citation: 42 CFR 37, (Revision)

Completed:

Reason	Date	FR Cite
Final Action	03/13/87	52 FR 7866
Final Action Effective	04/13/87	52 FR 7866

Small Entity: No

Agency Contact: Ms. Mitzie Martin 304 291-4301

RIN: 0905-AB51

700. MEDICAL EXAMINATION OF ALIENS

Significance: Regulatory Program

CFR Citation: 42 CFR 34(b)(6), (New)

Completed:

Reason	Date	FR Cite
Final Action	06/08/87	52 FR 21532
Final Action Effective	07/08/87	52 FR 21532

Small Entity: No

Agency Contact: Laurence S. Farer, M.D. 404 235-1286

RIN: 0905-AB96

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Prerule Stage
Public Health Service (PHS)—Food and Drug Administration (FDA)

701. DRUG EXPORTS

Significance: Regulatory Program

Legal Authority: PL 99-660 Drug Export Amendment Act of 1986

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: The Drug Export Amendment Act of 1986 authorizes the export for commercial marketing abroad of veterinary and human drugs not approved for marketing in the United States. Under previous law, the export of new human and animal drugs for marketing was confined to drugs that were approved by FDA for domestic use. The law establishes three separate pathways for the export of unapproved products. Under each pathway, FDA approval is required before export is permitted. As a prerulemaking activity, FDA is developing guidance material for manufacturers instructing them as to what information must be submitted to the agency to obtain approval for the export of unapproved products. The guidance material will also identify FDA sources of information on agency practices and policies concerning the implementation of the Drug Export Amendment Act of 1986. The agency will then decide what, if any, regulations are necessary for the efficient implementation of the amendment, and establish timeframes for the development of those regulations.

HHS—PHS—FDA — **Prerule Stage**

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Joseph Wilczek, Consumer Safety Officer, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drugs and Biologics (HFN-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8040

RIN: 0905-AC44

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage
Public Health Service (PHS)—Food and Drug Administration (FDA)

702. OVER-THE-COUNTER (OTC) DRUG REVIEW

Significance: Agency Priority

Legal Authority: 21 USC 321(p) Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None.

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" to be combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" to be included in NPRMs for "External Analgesic" & "Skin Protectant Products." NPRM for "Diaper Rash Products" to be included in NPRMs for "Anti-fungal," "Anti-microbial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" to be included in NPRM for (cont)

Timetable:

Acne (Topical) Products
ANPRM 03/23/82 (47 FR 12430)
NPRM 01/15/85 (50 FR 2172)
Final Action 00/00/00

Alcohol (Topical) Products
ANPRM 05/21/82 (47 FR 22344)

Alertness Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 12/00/87

Anorectal Products
ANPRM 05/27/80 (45 FR 35576)
NPRM 03/00/88

Anthelmintic Products
ANPRM 09/09/80 (45 FR 59541)
NPRM 08/24/82 (47 FR 37062)
Final Action 08/01/86 (51 FR 27756)

Antibiotic First Aid Products
ANPRM 04/01/77 (42 FR 17642)
NPRM 07/09/82 (47 FR 29986)
Final Action 01/00/88

Anticaries Products
ANPRM 03/28/80 (45 FR 20666)
NPRM 09/30/85 (50 FR 39854)
Final Action 00/00/00

Antidiarrheal Products
ANPRM 03/21/75 (40 FR 12924)
NPRM 04/30/86 (51 FR 16138)

Antidotes, Toxic Ingestion Products
ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
ANPRM 03/21/75 (40 FR 12934)
NPRM 07/13/79 (44 FR 41064)
Final Action 04/30/87 (52 FR 15886)

Antifungal (Topical) Products
ANPRM 03/23/82 (47 FR 12480)
NPRM 04/00/88

Antimicrobial Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
Revised NPRM 04/00/88

Antiperspirant Products
ANPRM 10/10/78 (43 FR 46694)
NPRM 08/20/82 (47 FR 36492)
Final Action 00/00/00

Aphrodisiac Products
ANPRM 10/01/82 (47 FR 43572)
NPRM 01/15/85 (50 FR 2168)
Final Action 00/00/00

Astringent (Wet Dressings) Products
ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
ANPRM 10/01/82 (47 FR 43566)
NPRM 02/20/87 (52 FR 5412)

Boil Ointments
ANPRM 06/29/82 (47 FR 28308)
NPRM 00/00/00

Camphorated Oil Drug Products
Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
ANPRM 02/12/80 (45 FR 9286)
NPRM 08/24/82 (47 FR 37068)
Final Action 06/10/83 (48 FR 27004)

Corn and Callus Remover Products
ANPRM 01/05/82 (47 FR 522)
NPRM 02/20/87 (52 FR 5412)

Cough/Cold (Anticholinergic) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 11/08/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
Final Action 00/00/00

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 08/12/87 (52 FR 30042)

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 10/02/86 (51 FR 35326)

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 03/00/88

Cough/Cold (Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 04/00/88

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
Final Action 00/00/00

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)

Diaper Rash Products
ANPRM 09/07/82 (47 FR 39406)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 12/00/87

Emetic Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 09/05/78 (43 FR 39544)

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/08/85 (50 FR 46594)
Final Action 00/00/00

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/08/83 (48 FR 05852)
Final Action 00/00/00

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Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 00/00/00
Fever Blister/Cold Sore Products (External)
ANPRM 09/07/82 (47 FR 39436)
Hair Grower and Hair Loss Prevention Products
ANPRM 11/27/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 00/00/00
Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 00/00/00
Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 00/00/00
Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69128)
NPRM 09/03/82 (47 FR 39120)
Final Action 00/00/00
Insect Bites and Stings (Relief) Products
ANPRM 09/07/82 (47 FR 39412)
Insect Repellant Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26986)
Final Action 06/17/85 (50 FR 25170)
Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 04/00/88
Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 00/00/00
Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
Final Action 00/00/00
Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/08/85 (50 FR 46588)
Final Action 00/00/00
Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 00/00/00
Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 04/00/88
Mercurial (Topical) Products
ANPRM 01/05/82 (47 FR 436)
Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 00/00/00
Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 12/00/87
Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 06/28/83 (48 FR 29788)
Final Action 12/00/87
Oral Cavity (Health Care) Products
ANPRM 05/25/82 (47 FR 22760)
Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 03/00/88
Oral Health Care Non-Antimicrobial Products
NPRM 12/00/87
Oral Mucosal Injury Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Oral Wound Healing Products
Final Action 07/18/86 (51 FR 26112)
Otic Products
ANPRM 12/16/77 (42 FR 63556)
NPRM 07/09/82 (47 FR 30012)
Otic Products (Earwax)
Final Action 08/08/86 (51 FR 28656)
Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 00/00/00
Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 00/00/00
Poison Ivy/Oak/Sumac Prevention
ANPRM 09/07/82 (47 FR 39412)
Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
Final Action 00/00/00
Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39108)
Final Action 03/00/88
Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
Final Action 00/00/00
Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 00/00/00
Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 00/00/00
Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 03/00/88
Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46694)
NPRM 00/00/00
Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
Final Action 00/00/00
Weight Control Products
ANPRM 02/26/82 (47 FR 8466)
NPRM 00/00/00

Small Entity: No

Additional Information: ABSTRACT CONT: "Antimicrobial Products." "Poison Ivy/Oak/Sumac Prevention" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Alcohol (Topical) Products" to be included in revised NPRM for "Antimicrobial Products."

SMALL BUSINESSES CONT: The effects, if any, vary depending on the individual rulemaking. However, the agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Agency Contact: William E. Gilbertson, Director, Division of OTC Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Drugs and Biologics (HFN-210), 5600 Fishers Lane, Rockville, MD 20857, **301 295-8000**

RIN: 0905–AA06

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703. CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS; RETROSPECTIVE REVIEW

Significance: Regulatory Program

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 360b Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 211

Legal Deadline: None.

Abstract: As part of its retrospective review, FDA plans to determine the need for any changes in the current GMPs to eliminate unnecessary requirements and to allow flexibility without undermining protection of the public health.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Agency Contact: Robert J. Meyer, Consumer Safety Officer, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drugs and Biologics (HFN-362), 5600 Fishers Lane, Rockville, MD 20857, **301 295-8049**

RIN: 0905–AA73

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704. CURRENT GOOD MANUFACTURING PRACTICE (CGMP) FOR BLOOD AND BLOOD COMPONENTS; RETROSPECTIVE REVIEW

Significance: Regulatory Program

Legal Authority: 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act; 5 USC 553 Administrative Procedures Act; 5 USC 702 Administrative Procedures Act; 5 USC 703 Administrative Procedures Act; 5 USC 704 Administrative Procedures Act

CFR Citation: 21 CFR 606

Legal Deadline: None.

Abstract: FDA is responsible for issuing regulatory standards for blood and blood components to ensure the continued safety, purity, and potency of such products. Since 1975, CGMP regulations have been in effect that provide standards for facilities, personnel, and manufacturing procedures for blood and blood components. In accordance with the Regulatory Flexibility Act, FDA has conducted a retrospective review of its CGMP regulations for blood and blood components, to determine how the regulations may be revised to relieve regulatory burdens and increase flexibility without adversely affecting the public health. Part of the retrospective review of the CGMP will be completed through FDA's implementation of an efficacy review of blood and blood derivatives which responds to recommendations of a Committee of scientific experts—the Panel on Review of Blood and Blood Derivatives. To complete the remainder of the retrospective review program regarding the CGMP, FDA will issue a proposed rule to revise the CGMP regulations.

Timetable:

Blood & Blood Components; Retrospective Review
NPRM 03/00/88
Final Action 00/00/00
Blood & Blood Derivatives; Implementation of Efficacy Review
NPRM 12/24/85 (50 FR 52602)
Comment Period Ends 03/24/86 (50 FR 52602)
Final Action 03/00/88

Small Entity: No

Agency Contact: Steven F. Falter, Consumer Safety Officer, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drugs and Biologics (HFN-364), 5600 Fishers Lane, Rockville, MD 20857, **301 295-8046**

RIN: 0905–AA75

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705. NEW ANIMAL DRUG APPROVAL PROCESS

Significance: Regulatory Program

Legal Authority: 21 USC 360(b) Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 514.1; 21 CFR 514.8

Legal Deadline: None.

Abstract: Based upon an evaluation of an action issues report, the agency has concluded that it will recommend that the Secretary propose revision of the existing regulations in a manner consistent with the current procedural regulations for human drugs where appropriate. The New Animal Drug Application (NADA) revisions would articulate general requirements in regulations containing performance standards and would complement them through detailed guidelines on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. Although the guidelines would not establish regulatory requirements, persons would be able to rely on them with confidence that action taken under a guideline would be acceptable to the agency. The proposed rule would also provide for reporting requirements for marketed animal drugs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
Final Action	02/00/89	

Small Entity: Undetermined

Agency Contact: Frank G. Pugliese, Supervisory Consumer Safety Officer, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-102), 5600 Fishers Lane, Rockville, MD 20857, **301 443-4500**

RIN: 0905–AA96

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706. POLICIES CONCERNING USES OF SULFITING AGENTS

Significance: Regulatory Program

Legal Authority: 21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; 21 USC 321(s) Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 182.3616; 21 CFR 182.3637; 21 CFR 182.3739; 21 CFR 182.3766; 21 CFR 182.3798; 21 CFR 182.3862; 21 CFR 100

Legal Deadline: None.

Abstract: Acceptable evidence and information exists to show that a subgroup of asthmatics is at moderate to severe risk for a severe reaction upon exposure to sulfites. The agency's primary tool for handling a situation where population subgroups may be at increased risk from a food ingredient that is safe for most people is to use labeling to inform those persons who need or want to avoid the ingredient. The agency issued a final rule, effective January 7, 1987, that requires that when a sulfiting agent is present to a finished food at 10 parts per million or greater, the sulfiting agent must be declared on the label. In addition, FDA issued a final rule, effective August 8, 1986, prohibiting the use of sulfiting agents on raw fruits and vegetables intended to be served or sold raw to consumers (e.g., in salad bars). The agency is now considering what it options are with regard to the GRAS status of 1) sulfiting agents used on "fresh" potatoes and 2) other food uses of sulfiting agents. Options being considered are: 1) affirming all uses of sulfiting agents as GRAS with specific limitation; 2) affirming most uses of (cont)

Timetable:

Food Labeling; Declaration of Sulfiting Agents
NPRM 04/03/85 (50 FR 13306)
Final Action 07/09/86 (51 FR 25012)
EFFECTIVE DATE 01/09/87 (51 FR 25012)
GRAS Status of the Use of Sulfiting Agents on Potatoes
NPRM 10/00/87
Final Action 00/00/00
GRAS Status of Certain Other Food Uses of Sulfiting Agents, Etc.
NPRM 12/31/87
Final Action 00/00/00
Revoking Use of Sulfiting Agents on Fruits & Vegetables, Etc.
NPRM 08/14/85 (50 FR 32836)
Final Action 07/09/86 (51 FR 25021)
Final Action Effective 08/09/86 (51 FR 25021)

Small Entity: No

Additional Information: ABSTRACT CONT: sulfiting agents as GRAS (excluding certain potato products) with specific limitations; and 3) revoking the GRAS status of all uses of sulfiting agents in food.

Agency Contact: Robert L. Martin, Division of Food and Color Additives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-334), 200 C Street, S.W., Washington, DC 20204, **202 426-9463**

RIN: 0905–AB52

707. REQUIREMENTS FOR ADVERSE EXPERIENCE REPORTING FOR LICENSED BIOLOGICAL PRODUCTS

Significance: Regulatory Program

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 374 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act

CFR Citation: 21 CFR 211; 21 CFR 310; 21 CFR 600

Legal Deadline: None.

Abstract: This regulatory action is being taken to improve the safety of marketed drug products by a reporting scheme that will require serious adverse reactions associated with licensed biological products to be reported to the Food and Drug Administration (FDA).

The purpose of the regulatory action is to require prompt reporting to the agency of serious adverse experiences for all licensed biological products.

The regulatory action being considered by FDA would be consistent with the agency's requirements regarding adverse reactions reporting for approved new drugs under 21 CFR 314.80 (see February 22, 1985; 50 FR 7452). These regulations require all "serious and unexpected" adverse drug experiences and any "significant increase in frequency" of a serious expected event to be reported to the agency within 15 working days. Known and nonserious adverse drug experiences are required to be reported to the agency at quarterly or annual intervals, depending on the length of marketing experience with the drug product. This information permits the agency to monitor effectively (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: the safety of all licensed biological products.

Agency Contact: Robert D. Bradley, Consumer Safety Officer, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drugs and Biologics (HFN-364), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8046

RIN: 0905-AB53

708. PROPOSED RULE TO IMPLEMENT THE ORPHAN DRUG AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Significance: Regulatory Program

Legal Authority: PL 97-414 Orphan Drug Act

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: The Orphan Drug Act is intended to provide incentives for drug companies to invest in the development of drugs for rare diseases or conditions. Certain incentives are necessary because "orphan drugs" are unlikely to be profitable. The agency is required to carry out provisions of the Orphan Drug Act, e.g., by designating a drug as an orphan drug, by providing protocol assistance, and by granting seven years of exclusive approval status. The proposed rule would establish procedures whereby drug sponsors can take advantage of the incentives to encourage development of orphan drugs. While several provisions of the Orphan Drug Act call for promulgation of regulations, the agency is considering the extent to which regulations will be needed to provide the framework and guidance for implementing a program of incentives to drug sponsors and manufacturers.

Timetable:

Action	Date	FR Cite
Interim Guidelines	09/09/83	48 FR 40784
Revised Interim Guidelines	05/09/85	50 FR 19583
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Emery J. Sturniolo, Assistant to the Director, Department of Health and Human Services, Food and Drug Administration, Office of Orphan Products Development (HF-35), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4713

RIN: 0905-AB55

709. IMPLEMENTATION OF TITLE I OF THE "DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT OF 1984" (TITLE I)

Significance: Regulatory Program

Legal Authority: PL 98-417, (Title I)

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: Until the passage of Title I of the "Drug Price Competition and Patent Term Restoration Act of 1984," abbreviated new drug application (ANDA) procedures were only available for generic products equivalent to pioneer drugs approved before 1962. Title I opened up the ANDA policy to generic copies of products approved after 1962. This rulemaking is intended to establish clear and uniform procedures for the review and timely approval of ANDAs. This should assist the generic drug industry by ending considerable confusion about the procedures governing review of ANDAs. In turn, with the availability of lower-cost generic products, it is estimated that consumers may save millions of dollars. The statute calls for promulgation of implementing regulations, however, the agency also expects to develop guidelines and other policy statements to assist in developing approvable applications. Revised target dates for this regulatory action are appropriate because many new issues have been identified in petitions and letters to the agency from trade associations and attorneys representing individual manufacturers concerning exclusivity, patent coverage, (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: and some of the complex provisions of the act. The resolution of these many minor issues will be reflected in the NPRM and will permit the agency to develop a comprehensive proposed rule.

Agency Contact: Marilyn Watson, Special Asst. to the Division Director, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drugs and Biologics (HFN-360), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8038

RIN: 0905-AB63

710. FOOD LABELING INFORMATION REGARDING GOOD NUTRITION AND HEALTH

Significance: Regulatory Program

Legal Authority: 15 USC 1453 Fair Packaging and Labeling Act; 15 USC 1455 Fair Packaging and Labeling Act; 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 101

Legal Deadline: None.

Abstract: In the FEDERAL REGISTER of August 4, 1986, the Food and Drug Administration (FDA) discussed a new and innovative initiative concerning the placing of health-related claims or information on food labeling and the criteria it will apply in evaluating the propriety of such labeling. Consistent with this new initiative, FDA proposed to amend certain regulations on food labeling to codify and to clarify its policy on the appropriate use of health-related messages. The agency also announced its intention to form a Public Health Service (PHS) committee that will attempt to develop "health messages" appropriate for use on food labeling.

FDA recognizes that this new initiative represents a substantive change in past agency policy, and because of the complexity of the matter and the broad public interest, wishes to proceed cautiously and deliberately in its regulatory approach.

Pending this rulemaking proceeding, the agency will employ the criteria discussed in the preamble to the notice in evaluating the propriety of bringing enforcement action against products bearing health messages on food labeling.

Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 26843
NPRM Comment Period End	11/02/87	52 FR 26843
Final Action	06/00/88	

Small Entity: No

Agency Contact: David G. Hattan, Chief, Regulatory Affairs Staff, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-204), 200 C Street, SW, Washington, DC 20204, 202 245-3117

RIN: 0905-AB67

711. ABBREVIATED NEW ANIMAL DRUG APPLICATIONS FOR POST-1962 ANIMAL DRUGS

Significance: Regulatory Program

Legal Authority: 21 USC 360b Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 514.1; 21 CFR 514.2; 21 CFR 514.3; 21 CFR 514.11

Legal Deadline: None.

Abstract: This proposed rule would permit applicants to file abbreviated new animal drug applications (ANADAs) for products identical to approved post-1962 drugs and to omit certain reports that are required in full NADAs to show safety and effectiveness of the product. It would apply only to certain drug products specified by FDA. If adopted, the proposed rule would reduce duplicative testing of drugs and also reduce the cost to the manufacturer of getting the affected drugs on the market. This issue is currently under Congressional review. Further agency action contingent upon Congressional review.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Richard A. Carnevale, Deputy Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-120), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4314

RIN: 0905-AB72

712. INFANT FORMULA RECALLS/INFANT FORMULA CURRENT GOOD MANUFACTURING PRACTICES; QUALITY CONTROL PROCEDURES

Significance: Regulatory Program

Legal Authority: 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; PL 99-570 Infant Formula Act of 1986

CFR Citation: 21 CFR 7; 21 CFR 106

Legal Deadline: None.

Abstract: The agency is preparing three proposals which will implement the Infant Formula Act of 1986. The first proposal will amend FDA's Infant Formula Recall regulations. These amended regulations will mandate the recall of infant formulas that are in violation of the Act and which have been determined by the Secretary to pose a health hazard. The second proposal will establish current good manufacturing practice regulations and strengthen the agency's existing quality control procedures for infant formulas. The third proposal will establish infant formula record retention requirements.

Timetable:

Infant Formula Current Good Practices; Qual Control Proc
NPRM 12/30/87

Infant Formula Recall
NPRM 08/14/87 (52 FR 30171)
Comment Period Ends 10/13/87 (52 FR 30171)
Final Action 00/00/00

Infant Formula Record Retention Requirements
NPRM 11/30/87

Small Entity: No

Additional Information: AGENCY CONTACT CONT: For Information Concerning Infant Formula Record Retention Requirements, Good Manufacturing Practices, and Quality Control Procedures Contact: Nicholas Duy, Consumer Safety Officer, Center for Food Safety and Applied Nutrition (HFF-204), Department of Health and Human Services, Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, (202) 245-3117

Agency Contact: Curtis Coker, Consumer Safety Officer, (For Info Concerning Infant Formula Recalls), Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-314), 200 C Street, SW, Washington, DC 20204, 202 485-0024

RIN: 0905-AC46

713. COMMON OR USUAL NAME FOR DILUTED FRUIT OR VEGETABLE JUICE BEVERAGES OTHER THAN DILUTED ORANGE JUICE BEVERAGES

Significance: Regulatory Program

HHS—PHS—FDA — Proposed Rule Stage

Legal Authority: 21 USC 321(n) Federal Food, Drug and Cosmetic Act; 21 USC 343 Federal Food, Drug and Cosmetic Act; 21 USC 371(a) Federal Food, and Cosmetic Act

CFR Citation: 21 CFR 102.33

Legal Deadline: None.

Abstract: In 1980, FDA published a regulation (21 CFR 102.33) to require the declaration of the percent of juice contained in all diluted juice beverages. This regulation was published to extend the percent juice declaration required for diluted orange juice beverages (21 CFR 102.32) to all other diluted juice beverages. These two regulations were developed to provide consumers with information as to the various amounts of juice in the diluted juice beverages offered for sale. The regulation regarding percentage juice declaration for diluted orange juice beverages had been in effect for several years and functioning well before the regulation addressing all other diluted juice beverages was published. With publication of 21 CFR 102.33, a controversy developed over the applicability of the regulation to diluted cranberry juice beverages. The controversy centered around the fact that cranberry juice is a high acid juice and is not normally consumed as a single strength juice. Due to this unresolved controversy, 21 CFR 102.33 has not been made effective. In the FEDERAL REGISTER of July 16, 1987 (52 FR 26690), the agency proposed to revoke the common or usual (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/01/84	49 FR 22831
NPRM Comment Period End	07/31/84	49 FR 22831
Final Action	00/00/00	

To revoke regulation
NPRM 07/16/87 (52 FR 26690)
Comment Period Ends 09/14/87 (52 FR 26690)

Small Entity: No

Additional Information: ABSTRACT CONT: name regulation (21 CFR 102.33) for diluted fruit or vegetable juice beverages other than diluted orange juice beverages. The revocation of this regulation will allow voluntary percentage labeling of these diluted juice beverages at the discretion of the manufacturer and according to the demands of the marketplace. Diluted orange juice beverages would continue to be subject to the percentage labeling requirement that has been in effect for diluted orange juice beverages since 1973. This proposed action also withdraws the proposed rule published in the FEDERAL REGISTER of June 1, 1984 (49 FR 22831), which, among other things, exempted cranberry juice products from percentage ingredient labeling requirements.

Agency Contact: Elizabeth Campbell, Asst. to the Director, Division of Regulatory Guidance, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-312), 200 C Street, SW, Washington, DC 20204, 202 485-0260

RIN: 0905-AC48

714. PROTECTION OF HUMAN SUBJECTS; INFORMED CONSENT; STANDARDS FOR INSTITUTIONAL REVIEW BOARDS FOR CLINICAL INVESTIGATIONS

Significance: Regulatory Program

Legal Authority: 21 USC 346(a) Federal Food, Drug and Cosmetic Act; 21 USC 351 to 357 Federal Food, Drug and Cosmetic Act; 21 USC 360 Federal Food, Drug and Cosmetic Act; 21 USC 360c to 360f Federal Food, Drug and Cosmetic Act; 21 USC 360h to 360j Federal Food, Drug and Cosmetic Act; 21 USC 371(a) Federal Food, Drug and Cosmetic Act; 21 USC 376 Federal Food, Drug and Cosmetic Act; 21 USC 381 Federal Food, Drug and Cosmetic Act; 42 USC 216 Public Health Service Act; 42 USC 241 Public Health Service Act; 42 USC 262 Public Health Service Act; 42 USC 263b to 263n Public Health Service Act

CFR Citation: 21 CFR 50; 21 CFR 56

Legal Deadline: None.

Abstract: In the FEDERAL REGISTER of June 3, 1986 (51 FR 20204), the Office of Science and Technology Policy (OSTP) issued for public comment a proposed Model Federal Policy for the Protection of Human Research Subjects. This Model Policy is to enhance uniformity in the implementation of a common core of regulations governing research with human subjects. FDA has concurred in the proposed Model Policy to the extent permitted by law. FDA will propose to amend its regulations to eliminate certain inconsistencies with the proposed Model Policy. OSTP has advised the Agency that concurrent publication of the final Model Policy and FDA's proposed rule is needed.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	

Small Entity: Undetermined

715. ● MENSTRUAL TAMPONS; PROPOSED USER LABELING

Significance: Regulatory Program

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 360; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 801.430

Legal Deadline: None.

Abstract: FDA is considering a proposal to require tampon manufacturers to include on the package label ranges representing tampon absorbency. These ranges could be used with, and would correspond to, currently used absorbency terms. The labeling would be required to include a description of absorbency terms and ranges, and their use for inter-brand comparisons, to educate consumers about the ranges and their relationship to the absorbency terms that have been used in the past and that may continue to be used. Such a proposed rule would also require that tampon absorbency, as expressed by ranges, be determined in accordance with a specific test method for absorbency. The ranges would represent the range of grams of fluid absorbed by that particular style of tampon. Although sufficient data are available for FDA to conclude that there is a significant association between the level of absorbency of tampons and the risk of toxic shock syndrome (TSS) (i.e., the greater the absorbency the greater the risk), FDA cannot know about the extent to which consumers would change their purchasing patterns of tampons if the agency were to require tampon package labels to include a description of (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Bonnie M. Lee, Public Health Advisor, Health Assessment Policy Staff, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1382

RIN: 0905-AC52

HHS—PHS—FDA — Proposed Rule Stage

Additional Information: ABSTRACT CONT: absorbency terms and ranges. In its proposal, FDA will solicit comments from the public as to how much the proposed labeling scheme would influence consumer choices in selecting a tampon with a lower absorbency.

Agency Contact: Les Weinstein, Office of Standards and Regulations, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4874

RIN: 0905-AC58

716. ● GRANTS FOR LONG TERM FACULTY TRAINING EMPHASIZING GERIATRICS

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 353 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 356 Federal Food, Drug, and Cosmetic Act; 21 USC 357 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act

CFR Citation: 42 CFR 57, Subpart PP (proposed)

Legal Deadline: None.

Abstract: These proposed rules would govern grants made to schools of medicine, schools of osteopathy, teaching hospitals and graduate medical education programs for the purpose of providing support for geriatric medicine training projects to train physicians and dentists who plan to teach geriatric medicine or geriatric dentistry, in accordance with Pub. L. 99-660, enacted November 14, 1986.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: No

Agency Contact: Donald L. Weaver, M.D., Director, Division of Medicine, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 4C-25 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 295-8049

RIN: 0905-AC59

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)—Food and Drug Administration (FDA) — Final Rule Stage

717. GOOD LABORATORY PRACTICE FOR NONCLINICAL LABORATORY STUDIES

Significance: Regulatory Program

Legal Authority: 21 USC 346 Federal Food, Drug, and Cosmetic Act; 21 USC 346a Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 353 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 356 Federal Food, Drug, and Cosmetic Act; 21 USC 357 Federal Food, Drug, and Cosmetic Act; 21 USC 360 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 376 Federal Food, Drug, and Cosmetic Act; 21 USC 381 Federal Food, Drug, and Cosmetic Act; 42 USC 216 Public Health Service Act; 42 USC 262 Public Health Service Act; 42 USC 263 Public Health Service Act

CFR Citation: 21 CFR 58

Legal Deadline: None.

Abstract: This action will revise the agency's regulations covering Good Laboratory Practice for Nonclinical Laboratory Studies based upon the agency's review of these existing rules under Executive Order 12291 and the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
NPRM	10/29/84	49 FR 43530
NPRM Comment Period End	12/28/84	49 FR 43530
Final Action	10/00/87	

Small Entity: No

Agency Contact: Paul D. Lepore, Bioresearch Coordinator, Department of Health and Human Services, Food and Drug Administration, Division of Compliance Policy (HFC-230), 5600 Fishers Lane, Rockville, MD 20857, 301 443-2390

RIN: 0905-AA84

718. AVAILABILITY OF BULK NEW ANIMAL DRUG SUBSTANCES FOR USE BY LICENSED VETERINARIANS

Significance: Regulatory Program

Legal Authority: 21 USC 360b Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 514.1

Legal Deadline: None.

Abstract: This proposed rule would permit veterinarians to obtain bulk new animal drug substances for compounding products for use in their own practice. A number of veterinarians have requested that the regulations be revised in order that bulk new animal drug substances may be legally obtained by them for use in their practices. Seventeen comments were received in response to the proposed rule, five from pharmaceutical companies, six from trade/professional associations, three from consultants, two from veterinary practitioners, and one from a Federal agency. Only three of those commenting supported the proposal. The remaining 14 comments opposed the proposal. The agency is reevaluating the proposal in light of the comments received.

Timetable:

Action	Date	FR Cite
NPRM	07/01/85	50 FR 27016
Final Action	01/00/88	

Small Entity: No

Agency Contact: Donald A. Gable, Director, Division of Therapeutic Drugs for Food Animals, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-130), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1414

RIN: 0905-AB01

719. ANIMAL DRUG SAFETY POLICY

Significance: Regulatory Program

Legal Authority: 21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 360b Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; 21 USC 376 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 70.50; 21 CFR 500.80; 21 CFR 500.82; 21 CFR 500.84; 21 CFR 500.86; 21 CFR 500.88; 21 CFR 500.90; 21 CFR 514.1; 21 CFR 514.111; 21 CFR 514.115

Legal Deadline: None.

Abstract: This reproposal would establish an operational definition of the no-residue requirements of the anti-cancer clauses of the Federal Food, Drug, and Cosmetic Act regarding food additives, color additives, and drugs intended for use in food-producing animals.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	07/18/79	44 FR 17070
NPRM	11/20/79	44 FR 17070
NPRM Amended	02/11/83	48 FR 06361
NPRM	10/31/85	50 FR 45530
Comment Period End	02/28/86	50 FR 45530
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Robert Benson, Chemist, Policy Development & Quality Control Staff, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-301), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4500

RIN: 0905-AB04

720. PROPOSED USER CHARGE; NEW DRUG APPLICATIONS, ABBREVIATED NEW DRUG APPLICATIONS, NEW DEVICE APPLICATIONS, AND ANTIBIOTIC APPLICATIONS REVIEW

Significance: Regulatory Program

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 353 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 356 Federal Food, Drug, and Cosmetic Act; 21 USC 357 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 31 USC 9701 Independent Offices Appropriation Act

CFR Citation: 21 CFR 314

Legal Deadline: None.

Abstract: The proposed rule would initiate a program that would require drug manufacturers (as beneficiaries of special services that the agency provides) to bear the costs that the agency incurs in reviewing and approving new drug and antibiotic applications, abbreviated new drug applications, new device applications, and certain supplemental applications. The agency would set fees for different types of applications. The benefit accruing to an applicant under the agency's new drug and antibiotic application review and approval activity is that the applicant may lawfully market its new drug or antibiotic upon gaining agency approval. Review by the agency also benefits applicants by helping ensure that they will market only safe and effective drug products. This, in turn, enhances public confidence in applicant's drug products. Congress has prohibited FDA from implementing user charges. Legislation has been submitted to Congress to implement user charges for both drugs and devices. The future of this proposed rule is dependent on the outcome of Congressional action.

Timetable:

Action	Date	FR Cite
NPRM	08/06/85	50 FR 31726
NPRM Comment Period End	09/05/85	50 FR 31726

Next Action Undetermined

Small Entity: No

Agency Contact: Marilyn Watson, Special Asst. to the Division Director, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drugs and Biologics (HFN-360), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8038

RIN: 0905-AB56

721. PROVISIONALLY LISTED COLOR ADDITIVES

Significance: Regulatory Program

Legal Authority: 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 376(b) to (d) Federal Food, Drug, and Cosmetic Act; 21 USC 376 note Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 81.1; 21 CFR 81.27

Legal Deadline: None.

Abstract: Substantial progress has been made in reducing the number of provisionally listed additives and only 3 color additives remain on the provisional list. The agency is presently reviewing petitions to list these color additives permanently. Because FD&C Red No. 3 animal feed studies have shown a treatment-related increased incidence of tumor bearing animals, the agency considered the use of quantitative risk assessment as a basis for assessing the safety of this color additive in external drugs and cosmetics. As a preliminary step in its consideration of this approach, the agency formed a scientific peer review panel of government scientists to consider whether it is possible to quantify the risk presented by the use of FD&C Red No. 3 based on the scientific data available to the agency and, if so, what level of risk is presented by the use of this color additive. The agency has received the report from the scientific review panel in which the panel estimates the risk of cancer from use of FD&C Red No. 3 in external drugs and cosmetics. Furthermore, for FD&C Red No. 3 the industry has postulated a secondary mechanism for the observed (cont)

Timetable:

D&C Orange No. 17	
Final Action	08/07/86 (51 FR 28331)
D&C Red No. 19	
Final Action	08/07/86 (51 FR 28346)
D&C Red No. 37	
Final Action	06/06/86 (51 FR 20786)
D&C Red No. 8 and D&C Red No. 9	
Final Action	12/05/86 (51 FR 43877)
D&C Red Nos. 33 and 36	
Final Action	11/00/87
FD&C Red No. 3	
Final Action	11/00/87
FD&C Yellow No. 5	
Final Action	07/07/86 (51 FR 24517)
FD&C Yellow No. 6	
Final Action	11/19/86 (51 FR 41765)

Small Entity: No

Additional Information: ABSTRACT CONT: tumorigenic response in the animal feeding study. The agency asked a second scientific peer review panel of government scientists to consider data relating to the issue of a possible secondary mechanism and implications for risk assessment. The panel was also asked to determine what, if any, further studies or analyses may be necessary to resolve the issues. The panel submitted its report to the Commissioner in July 1987. The report was made available to the public in August 1987. D&C Red Nos. 33 and 36 present concern about their possible carcinogenicity, as well as concern about carcinogenic impurities. Although not found to be carcinogenic in animal testing, these colors are similar in structure to D&C Red No. 9, which was found to be safe based upon a de minimis interpretation of the statute, using conservative risk assessment techniques.

Agency Contact: Donna A. Dennis, Supervisor, Division of Food and Color Additives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-330), 200 C Street, SW, Washington, DC 20204, 202 426-9463

RIN: 0905-AB60

722. ANTIBODY TEST FOR HTLV-III; GENERAL BIOLOGICAL PRODUCTS STDS.; ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS; SEROLOGICAL TEST FOR HUMAN T-LYMPHOTROPIC VIRUS, TYPE III

Significance: Regulatory Program

Legal Authority: 42 USC 216 Public Health Service Act; 42 USC 262 Public Health Service Act

CFR Citation: 21 CFR 610.45, (New); 21 CFR 640.2(f), (Revision); 21 CFR 640.5, (New); 21 CFR 640.14, (Revision); 21 CFR 640.23(a), (Revision); 21 CFR 640.33(a), (Revision); 21 CFR 640.53(a), (Revision); 21 CFR 640.67, (Revision); 21 CFR 640.70(a)(11), (New); 21 CFR 640.71(a)(4), (New); 21 CFR 640.72(a)(2), (Revision)

Legal Deadline: None.

Abstract: On February 21, 1986, the agency proposed to require that each unit of blood and blood components be tested and found nonreactive by a licensed serologic test for antibody to human T-lymphotropic virus type III (HTLV-III). HTLV-III is believed to be the causative agent of acquired immunodeficiency syndrome (AIDS). The agency believes that the routine testing of blood by an approved serologic test for antibody to HTLV-III should decrease the risk of transmitting AIDS by the transfusion of blood and blood components and by the parenteral use of certain plasma derivatives.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6362
NPRM Comment Period End	03/24/86	51 FR 6362
Final Action	12/00/87	

Small Entity: No

Agency Contact: Steven F. Falter, Consumer Safety Officer, Division of Regulatory Affairs, Department of Health and Human Services, Food and Drug Administration, Center for Drugs and Biologics (HFN-364), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8046

RIN: 0905-AB62

723. PATENT TERM RESTORATION OF REGULATED PRODUCTS (TITLE II OF "DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT OF 1984")

Significance: Regulatory Program

Legal Authority: 21 USC 348 Federal Food, Drug and Cosmetic Act; 21 USC 355 Federal Food, Drug and Cosmetic Act; 21 USC 357 Federal Food, Drug and Cosmetic Act; 21 USC 360e Federal Food, Drug and Cosmetic Act; 21 USC 376 Federal Food, Drug and Cosmetic Act; 42 USC 216 Public Health Service Act; 42 USC 241 Public Health Service Act; 42 USC 262 Public Health Service Act; 42 USC 263b to 263h Public Health Service Act; 35 USC 156 Drug Price Competition and Patent Term; Restoration Act, Title II; 35 USC 271 Drug Price Competition and Patent Term; Restoration Act, Title II; 35 USC 282 Drug Price Competition and Patent Term; Restoration Act, Title II

CFR Citation: 21 CFR 60

Legal Deadline: None.

Abstract: On July 11, 1986, the agency proposed regulations to implement the patent term restoration provisions (Title II) of the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417). Patent term restoration, extending patent life, is available for certain patents related to human drug products, and to medical devices, food additives, or color additives subject to regulation under the Federal Food, Drug, and Cosmetic Act.

Timetable:

Action	Date	FR Cite
Request for Public Comments on Implementing Title II	06/26/85	50 FR 26791
NPRM	07/11/86	51 FR 25338
NPRM Comment Period End	10/09/86	51 FR 25338
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Phil Chao, Health Assessment Policy Staff, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1382

RIN: 0905-AB65

724. FOOD LABELING: DEFINITIONS OF CHOLESTEROL FREE, LOW CHOLESTEROL, AND REDUCED CHOLESTEROL

Significance: Regulatory Program

Legal Authority: 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 321(n) Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 101.9; 21 CFR 101.25

Legal Deadline: None.

Abstract: In the FEDERAL REGISTER of November 25, 1986, the agency published a proposed rule that would provide a mechanism to allow relevant, truthful, and nonmisleading claims about cholesterol and fatty acid on product labeling for consumers. This proposed rule resulted from the medical and consumer interest in the association between dietary fat and cholesterol and the occurrence of coronary heart disease, the leading cause of death and disability in the United States today. The proposed rule would allow industry voluntarily to provide consumers with cholesterol and fatty acid information currently prohibited by regulations by permitting the use of meaningful descriptors of the cholesterol content of foods as established by regulation (e.g., "cholesterol free," "low cholesterol," and "reduced cholesterol"). Additionally, the proposal would allow the use of comparative claims (e.g., 50 percent less cholesterol than our original product), provided quantitative cholesterol content information is supplied. Public comments submitted in response to the proposed rule are being reviewed.

HHS—PHS—FDA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42584
NPRM Extension of Comment Period	01/23/87	52 FR 2558
NPRM Comment Period End	01/26/87	51 FR 42584
Final Action	07/31/88	

Small Entity: No

Agency Contact: David G. Hattan, Chief, Regulatory Affairs Staff, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-204), 200 C Street, SW, Washington, DC 20204, 202 245-3117

RIN: 0905-AB68

725. METHYLENE CHLORIDE

Significance: Regulatory Program

Legal Authority: 21 USC 361 Federal Food, Drug, and Cosmetic Act; 21 USC 362 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 700.19

Legal Deadline: None.

Abstract: Methylene chloride is used as a flame suppressant in aerosol cosmetic products (hair sprays). Recent carcinogenicity bioassay studies, however, have shown that methylene chloride is an animal carcinogen. These studies indicate that the continued use of methylene chloride, in functional amounts, in such cosmetic products may pose a significant risk to the public health, especially in specific segments of the population that are continually exposed to aerosol cosmetics containing methylene chloride. Methylene is also used as a solvent to extract caffeine from green coffee beans. However, all but a very small portion of the methylene is removed during processing. The agency has been informed of voluntary efforts by the cosmetic industry to replace methylene chloride but believes that prohibiting its use in cosmetics is the only approach that will assure that the public health will be fully safeguarded from all such products, both foreign and domestic.

Timetable:

Action	Date	FR Cite
NPRM	12/18/85	50 FR 51551
NPRM Comment Period End	02/18/86	50 FR 51551
Final Action	12/31/87	

Small Entity: No

Agency Contact: Terry C. Troxell, Division of Regulatory Guidance, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-334), 200 C Street, SW, Washington, DC 20204, 202 485-0231

RIN: 0905-AC00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Food and Drug Administration (FDA)

Completed Actions

726. IND REGULATIONS REVISION

Significance: Regulatory Program

CFR Citation: 21 CFR 312

Completed:

Reason	Date	FR Cite
Final Action	03/19/87	52 FR 8798
Final Action Effective	06/17/87	52 FR 8798

Small Entity: No

Agency Contact: Steven H. Unger 301 295-8049

RIN: 0905-AB09

727. ● REQUIREMENTS AFFECTING RAW MILK FOR HUMAN CONSUMPTION IN INTERSTATE COMMERCE

Significance: Agency Priority

Legal Authority: 42 USC 216 Public Health Service Act; 42 USC 243 Public Health Service Act; 42 USC 264 Public Health Service Act; 42 USC 271 Public Health Service Act

CFR Citation: 21 CFR 1240.61

Legal Deadline: Judicial, August 10, 1987.

Abstract: The Food and Drug Administration (FDA) issued a final regulation requiring that milk and milk products in final package form for human consumption in interstate commerce be pasteurized. The final regulation does not apply to the interstate transportation of raw (unpasteurized) milk to dairy processing plants for pasteurization or to raw milk in intrastate commerce. The final regulation also does not apply to milk and milk products for which an alternative to pasteurization is established in a standard of identity regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/11/87	52 FR 22340
NPRM Comment Period End	07/13/87	52 FR 22340
Final Action	08/10/87	52 FR 29509

Small Entity: No

Agency Contact: Robert J. Lenahan, Acting Regulations Staff Coordinator, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-302), 200 C Street, SW, Washington, DC 20204, 202 485-0162

RIN: 0905-AC60

728. ● INVESTIGATIONAL NEW DRUG, ANTIBIOTIC, AND BIOLOGICAL DRUG PRODUCT REGULATIONS; TREATMENT USE AND SALE

Significance: Regulatory Program

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 353 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 356 Federal Food, Drug, and Cosmetic Act; 21 USC 357 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act

CFR Citation: 21 CFR 312.7; 21 CFR 312.34; 21 CFR 312.35; 21 CFR 312.42

Legal Deadline: None.

Abstract: This final rule provides procedures under which promising investigational new drugs may be made available to desperately ill patients before general marketing begins. These new procedures are intended to facilitate the availability of promising new drugs to patients as early in the drug development process as possible, and to obtain additional data on the drug's safety and effectiveness. These procedures are intended to provide sufficient incentives for drug manufacturers to make investigational new drugs available to patients before general marketing begins, but under sufficient safeguards so as to prevent commercialization of the product, as well as to ensure the integrity of clinical trials.

HHS—PHS—FDA — Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8850
NPRM Comment Period End	05/05/87	52 FR 12431
Final Action	05/22/87	52 FR 19466
Final Action Effective	06/22/87	52 FR 19466

Small Entity: No

Agency Contact: Steven H. Unger, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drugs and Biologics (HFN-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8049

RIN: 0905-AC62

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

Proposed Rule Stage

729. GRANTS FOR RESIDENCY TRAINING AND FACULTY DEVELOPMENT IN GENERAL INTERNAL MEDICINE AND/OR GENERAL PEDIATRICS

Legal Authority: 42 USC 216; 42 USC 295g-4; 42 USC 295g-4(a)

CFR Citation: 42 CFR 57, Subpart FF

Legal Deadline: None.

Abstract: These regulations propose to amend the existing regulations for residency training in general internal medicine and general pediatrics and to implement section 784 (a)(3) and (4) to plan, develop, and operate a program and provide financial assistance to physicians who plan to teach in general internal medicine and general pediatrics. The President's FY 1988 budget requested no funding for this program.

Timetable:

Action	Date	FR Cite
NPRM	01/15/88	

Small Entity: No

Agency Contact: Donald L. Weaver, M.D., Director, Division of Medicine, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Public Health Service, 5600 Fishers Lane, Room 4C-25, Rockville, MD 20857, 301 443-6190

RIN: 0905-AB50

730. GENERAL REVIEW AND REVISION OF PUBLIC LAW 93-638 PROGRAM AND CONTRACTING REGULATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 40 et seq

CFR Citation: 41 CFR 3 to 4; 42 CFR 36, Subpart H and I

Legal Deadline: None.

Abstract: The Indian Self-Determination Act, Public Law 93-638 Regulations published November 1975 need to be revised and updated in light of 10 years of experience. Some provisions are now obsolete and others may impose unnecessary burden, restrictions, and require clarification. The proposed revision in effect would streamline the contract process, delete obsolete provisions, reduce unnecessary paperwork, strengthen accountability requirements and provide opportunities to strengthen autonomy and provide greater flexibility to Public Law 93-638 contractors.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	

Small Entity: Undetermined

Agency Contact: Richard J. McCloskey, Chief, Legislation and Regulations Branch, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 6A-20, Rockville, Maryland 20857, 301 443-1116

RIN: 0905-AB98

731. CHANGES IN PUBLIC LAW 93-638. REGULATIONS TO REVISE THE DECLINATION APPEALS PROCESS AND CLARIFY ITS SCOPE

Legal Authority: 25 USC 13; 42 USC 2001 et seq; 25 USC 450 et seq

CFR Citation: 42 CFR 36

Legal Deadline: None.

Abstract: Absence of a clear distribution between budget allocation and declination issues in the regulations has caused confusion for tribal organization. This proposed regulation will establish a method for tribes to seek a review of budget allocation decisions outside of the Indian Self Determination Act declination appeals procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: Undetermined

Additional Information: This is a proposed coordinated effort between Indian Health Service and the Bureau of Indian Affairs to make changes in Public Law 93-638 regulations to revise the process and provide a criterion for declination appeals.

Agency Contact: Les Morris, Senior Analyst, Legislation and Regulations Branch, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 6A-20, Rockville, Maryland 20857, 301 443-1116

RIN: 0905-AB99

732. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: IMPLEMENTATION OF PUB. L. 99-129

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: None.

Abstract: This rule proposes to implement provisions of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129) which require public comment before being published as final regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, Department of Health and Human

Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-4540**

RIN: 0905-AC26

733. GRANTS FOR NURSE PRACTITIONER AND NURSE MIDWIFERY TRAINEESHIP PROGRAMS

Legal Authority: 42 USC 216; 42 USC 296m

CFR Citation: 42 CFR 57, Subpart AA

Legal Deadline: None.

Abstract: These proposed regulations would implement the provisions of the Nurse Education Amendments of 1985 (Pub. L. 99-92) and add debt management provisions of the Debt Collection Act of 1982 (Pub. L. 97-365). The President's FY 1988 budget requested no funding for this program.

Timetable:

Action	Date	FR Cite
NPRM	01/30/88	

Small Entity: No

Agency Contact: Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-5786**

RIN: 0905-AC30

734. GRANTS FOR HEALTH PROFESSIONS PROJECTS IN GERIATRICS

Legal Authority: 42 USC 216; 42 USC 295g-8

CFR Citation: 42 CFR 57, Subpart 00 (Proposed)

Legal Deadline: None.

Abstract: These proposed regulations would implement provisions for 788 (d) of the Public Health Service Act relating to geriatric education of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129).

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	

Small Entity: No

Agency Contact: Thomas L. Louden, D.D.S., Director, Div. of Associated and Dental Health Professions, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-101, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-6853**

RIN: 0905-AC33

735. POST-BACCALAUREATE FACULTY FELLOWSHIP PROGRAM

Legal Authority: 42 USC 216; 42 USC 297

CFR Citation: 42 CFR 57, Subpart BB (proposed)

Legal Deadline: None.

Abstract: These proposed regulations would implement section 830 (b) of the Public Health Service Act relating to post-baccalaureate fellowships for faculty to conform with the Nurse Education Amendments of 1985 (Pub. L. 99-92). The President's FY 1988 budget requested no funding for this program.

Timetable:

Action	Date	FR Cite
NPRM	04/30/88	

Small Entity: No

Agency Contact: Ms. Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, **301 443-5786**

RIN: 0905-AC34

736. GRANTS FOR COMMUNITY HEALTH SERVICES CRITERIA AND PROCEDURE FOR DETERMINING MEDICALLY UNDERSERVED POPULATIONS (MUA)

Legal Authority: PL 99-280, Sec 2; 42 USC 254c(b)

CFR Citation: 42 CFR 51c102(e)

Legal Deadline: None.

Abstract: Section 330(b) of the Public Health Service Act was amended by section 2 of the Health Services Amendments Act of 1986 (P.L. 99-280). The amendment requires the secretary to publish, in regulation, criteria for the designation of areas or population groups with shortages of personnel health services. These designated areas are eligible for the award of grants for planning and operating Community Health Centers. The amendment requires that the Secretary consult with the Chief Executive Officer of a State and local officials in publishing MUA designation criteria and in designating or dedesignating MUA. The amendment also requires the Secretary to consult with State organizations representing a majority of Community Health Centers in the State.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: James P. Purvis, Director, Office of Program and Policy, Development, Department of Health and Human Services, Health Resources and Services Administration, Office of Program and Policy Dev., BHCDA, 5600 Fishers Lane, Room 7-05, Rockville, MD 20857, **301 443-2380**

RIN: 0905-AC35

737. HEALTH MANPOWER SHORTAGE AREA DESIGNATION CRITERIA

Legal Authority: 42 USC 216; 42 USC 254e

CFR Citation: 42 CFR 5

Legal Deadline: None.

Abstract: This notice proposes an amendment to the existing regulations governing the criteria for Designation of Health Manpower Shortage Areas required by section 332 of the Public Health Act. This amendment would revise the definition for the term "internees" used in the criteria for designating those Federal and State institutions which have a shortage of primary medical care, dental care, or psychiatric manpower.

Timetable:

Action	Date	FR Cite
NPRM	10/30/87	

Small Entity: No

Agency Contact: Richard C. Lee, Chief, Distribution & Shortage Analysis Br., Office of Data Analysis & Management, BHPr, Department of Health and Human Services, Public Health Service, Room 8-57, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, **301 443-6832**

RIN: 0905-AC50

738. IMPLEMENTATION OF HEALTH CARE QUALITY IMPROVEMENT ACT OF 1986 (TITLE IV, PUBLIC LAW 99-660)

Legal Authority: 42 USC 11136; 42 USC 11137

CFR Citation: 45 CFR 60, (proposed)

Legal Deadline: None.

Abstract: This rule proposes to implement the Health Care Improvement Act of 1986, Title IV of Public Law 99-660, specifically related to section 426 for the disclosure and correction of information and section 427(b) for confidentiality of information.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: No

Agency Contact: Kenneth Moritsugu, M.D., Special Assistant to the Director, Bureau of Health Professions, Department of Health and Human Services, Public Health Service, Room 8-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, **301 443-5796**

RIN: 0905-AC51

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

739. INDIAN HEALTH SERVICE, 42 CFR PART 36 SUBPART I, CONTRACTS UNDER THE INDIAN SELF-DETERMINATION ACT: AMENDMENTS

Legal Authority: 25 USC 450G

CFR Citation: 42 CFR 36, Subpart I

Legal Deadline: None.

Abstract: This is a revision to implement a policy to charge interest and penalties on delinquent debts. This is in compliance with Department of the Treasury's guidelines pertaining to debt collection activities and the joint regulations issued on April 17, 1981, by the Attorney General and the Comptroller General and is consistent with the Debt Collection Act of 1982 (P.L. 97-365). This will require a change to the Department's Indian Health Service (IHS) P.L. 93-638 regulations to include a new contract/grant clause.

Timetable:

Action	Date	FR Cite
NPRM	11/04/86	51 FR 40108
NPRM Comment Period End	12/19/86	
Final Action	04/00/88	

Small Entity: Undetermined

Agency Contact: Lloyd Fagg, Director, Div. Fiscal Services, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Pkln. Bldg. Rm. 16-05, Rockville, MD 20857, **301 443-6344**

RIN: 0905-AB31

740. GRANTS FOR NURSE ANESTHETIST TRAINEESHIPS

Legal Authority: 42 USC 216; 42 USC 297-1

CFR Citation: 42 CFR 57, Subpart F (Proposed)

Legal Deadline: None.

Abstract: These rules implement section 831 of the Public Health Service Act to make grants to public or private nonprofit institutions to cover the costs of traineeships for the training, in programs which meet such requirements as the Secretary shall by regulation prescribe and which are accredited by an entity or entities designated by the Secretary of Education, of licensed registered nurses to be nurse anesthetists. The President's FY 1988 budget requested no funding for this program.

Timetable:

Action	Date	FR Cite
NPRM	12/16/86	51 FR 45000
NPRM Comment Period End	02/17/87	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Dr. Thomas P. Phillips, Chief, Advanced Nurse Training Res. Br., Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Room 5C-25, Rockville, MD 20857, **301 443-6333**

RIN: 0905-AB33

741. REASONABLE VOLUME OF UNCOMPENSATED SERVICES TO PERSONS UNABLE TO PAY (HILL-BURTON)

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 300r; 42 USC 300s; 42 USC 300s-6

CFR Citation: 42 CFR 124, Subpart F

Legal Deadline: None.

Abstract: As a condition of receiving construction assistance under Titles VI and XVI of the PHS Act, health care facilities are required to give assurance that they will make available in the facility constructed or modernized with that assistance, a reasonable volume of services to persons unable to pay. The existing regulations at 42 CFR Part 124, Subpart F establish detailed procedural requirements that facilities must follow in order to fulfill their obligations as recipients of this assistance. The proposed final regulations will retain the basic policies of the current rules but will provide increased flexibility to obligated facilities and reduce the administrative burden while protecting the interests of intended beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	08/29/86	51 FR 31000
NPRM Comment Period End	10/28/86	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Roger McClung, Legislative Officer, Department of Health and Human Services, Health Resources and Services Administration, Office of Program Development, 5600 Fishers Lane, Room 9A-33, Rockville, MD 20857, **301 443-4273**

RIN: 0905-AB35

742. HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM: DEFERMENT REVISIONS

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 294m to 294q

BEST COPY AVAILABLE

HHS—PHS—HRSA — Final Rule Stage

CFR Citation: 42 CFR 57, Subpart C

Legal Deadline: Statutory, January 22, 1986. Within 90 days after the Act's enactment, the Secretary of HHS shall promulgate regulations to carry out Sec. 741(c)(2) of the Public Health Service Act. Although the regulations will not be published until after the legal deadline, no requests for new deferments are expected until after publication.

Abstract: This rule amends existing regulations governing the Health Professions Student Loan (HPSL) Program to include the revised deferment provisions enacted on October 22, 1985, as part of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129).

Timetable:

Action	Date	FR Cite
NPRM	10/28/86	51 FR 39460
NPRM Comment Period End	12/29/86	
Final Action	01/15/88	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4540

RIN: 0905-AC06

743. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: DEFERMENT REVISIONS

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: Statutory, January 22, 1986. Within 90 days after the Act's enactment, the Secretary of HHS shall promulgate regulations to carry out clause (ii) of Sec. 731(a)(2)(B) of the Public Health Service Act. Although the regulations will not be published until after the legal deadline, no requests for new deferments are expected until after publica.

Abstract: This rule amends existing regulations governing the Health Education Assistance Loan (HEAL) Program to include the revised deferment provisions enacted on October 22, 1985, as part of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129).

Timetable:

Action	Date	FR Cite
NPRM	10/28/86	51 FR 39464
NPRM Comment Period End	12/29/86	
Final Action	01/15/88	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4540

RIN: 0905-AC07

744. NURSING SPECIAL PROJECT GRANTS

Legal Authority: 42 USC 216; 42 USC 296k

CFR Citation: 42 CFR 57, Subpart T

Legal Deadline: None.

Abstract: This regulation would implement the provisions of the Nursing Education Amendments of 1985 (Pub. L. 99-92) and the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129) to bring the existing regulations into compliance with the law. P.L. 99-92 adds three new purposes to the nursing Special Projects Program and specific appropriation authority for demonstrations. The President's FY 1988 budget requested no funding for this program.

Timetable:

Action	Date	FR Cite
NPRM	06/05/87	52 FR 21490
NPRM Comment Period End	08/04/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Ms. Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-5786

RIN: 0905-AC18

745. AREA HEALTH EDUCATION CENTERS (AHEC)

Legal Authority: 42 USC 216; 42 USC 295g-1

CFR Citation: 42 CFR 57, Subpart MM

Legal Deadline: None.

Abstract: These regulations would implement provisions of the Health Professions Training Assistance Act of 1985 (Pub.L. 99-129) to bring the existing regulations into compliance with the law. The President's FY 1988 budget requested no funding for this program.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: Donald L. Weaver, M.D., Director, Division of Medicine, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6190

RIN: 0905-AC22

746. NURSING STUDENT LOAN (NSL) PROGRAM: IMPLEMENTATION OF THE LAW (PUB. L. 99-92)

Legal Authority: 42 USC 216; 42 USC 297a to 297h

CFR Citation: 42 CFR 57, Subpart D

Legal Deadline: None.

Abstract: These regulations propose to implement provisions of the Nurse Education Amendments of 1985 (Pub. L. 99-92) which require public comment before being published in final regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/05/87	52 FR 21486
NPRM Comment Period End	07/20/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, 0906, Department of Health and Human Services, Public Health Service, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4540

RIN: 0905-AC31

747. HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM: IMPLEMENTATION OF THE LAW (PUB. L. 99-129)

Legal Authority: 42 USC 216; 42 USC 294m to 294q

CFR Citation: 42 CFR 57, Subpart C

HHS—PHS—HRSA — Final Rule Stage

Legal Deadline: None.

Abstract: These regulations propose to implement provisions of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129) which require public comment before they can be published in final regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20969
NPRM Comment Period End	07/20/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48,Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4540

RIN: 0905-AC32

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions

Public Health Service (PHS)—Health Resources and Services Administration (HRSA)

748. PROGRAM GRANTS FOR MIGRANT HEALTH SERVICES

CFR Citation: 42 CFR 56

Completed:

Reason	Date	FR Cite
Withdrawn Issues to be addressed in General Notices for comment.	07/23/87	

Small Entity: No

Agency Contact: James P. Purvis 301 443-2380

RIN: 0905-AA62

749. INDIAN ELIGIBILITY

Significance: Regulatory Program

CFR Citation: 42 CFR 36, Subparts A, B & C

Completed:

Reason	Date	FR Cite
Final Action	09/16/87	52 FR 35044

Small Entity: Not Applicable

Agency Contact: Richard J. McCloskey 301 443-1116

RIN: 0905-AB89

750. GRANTS FOR COMMUNITY HEALTH CENTERS

CFR Citation: 42 CFR 51c

Completed:

Reason	Date	FR Cite
Withdrawn Issues to be addressed in General Notices for comment.	07/23/87	

Small Entity: No

Agency Contact: James P. Purvis 301 443-2380

RIN: 0905-AC01

751. NURSING STUDENT LOAN (NSL) PROGRAM: PROVISIONS OF THE LAW (PUB. L. 99-92)

Significance: Agency Priority

CFR Citation: 42 CFR 57, Subpart D

Completed:

Reason	Date	FR Cite
Final Action	03/30/87	52 FR 10194
Final Action Effective	03/30/87	52 FR 10194

Small Entity: No

Agency Contact: Ms. Peggy Washburn 301 443-4540

RIN: 0905-AC10

752. GRANTS FOR NURSE PRACTITIONER AND NURSE MIDWIFERY PROGRAMS

CFR Citation: 42 CFR 57, Subpart Y

Completed:

Reason	Date	FR Cite
Final Action	07/21/87	52 FR 27340
Final Action Effective	07/21/87	52 FR 27340

Small Entity: No

Agency Contact: Ms. Jo Eleanor Elliott, R.N., M.A. 301 443-5786

RIN: 0905-AC11

753. GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

CFR Citation: 42 CFR 58, Subpart A

Completed:

Reason	Date	FR Cite
Final Action	06/18/87	52 FR 23179
Final Action Effective	06/18/87	52 FR 23179

Small Entity: No

Agency Contact: William S. Brooks, D.P.A. 301 443-6757

RIN: 0905-AC12

754. HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM: PROVISIONS OF THE LAW (PUB.L. 99-129)

Significance: Agency Priority

CFR Citation: 42 CFR 57, Subpart C

Completed:

Reason	Date	FR Cite
Final Action	06/03/87	52 FR 20986
Final Action Effective	06/03/87	52 FR 20986

Small Entity: No

Agency Contact: Ms. Peggy Washburn 301 443-4540

RIN: 0905-AC13

755. PROGRAMS FOR THE TRAINING OF PHYSICIAN ASSISTANTS

Significance: Agency Priority

CFR Citation: 42 CFR 57, Subpart I

Completed:

Reason	Date	FR Cite
Final Action	06/29/87	52 FR 24158
Final Action Effective	06/29/87	52 FR 24158

Small Entity: No

Agency Contact: Donald L. Weaver, M.D. 301 443-6190

RIN: 0905-AC15

HHS—PHS—HRSA — **Completed Actions**

756. ADVANCED NURSE EDUCATION PROGRAMS

CFR Citation: 42 CFR 57, Subpart Z

Completed:

Reason	Date	FR Cite
Final Action	07/21/87	52 FR 27345
Correction Notice, published 7/30/87. 52 FR 28511		
Final Action Effective	07/21/87	52 FR 27345

Small Entity: No

Agency Contact: Ms. Jo Eleanor Elliott, R.N., M.A. 301 443-5786

RIN: 0905-AC16

757. FINANCIAL ASSISTANCE FOR DISADVANTAGED HEALTH PROFESSIONS STUDENTS

Significance: Regulatory Program

CFR Citation: 42 CFR 57, Subpart DD

Completed:

Reason	Date	FR Cite
Final Action	05/18/87	52 FR 18672
Final Action Effective	05/18/87	52 FR 18672

Small Entity: No

Agency Contact: Ms. Peggy Washburn 301 443-4540

RIN: 0905-AC19

758. GRANTS FOR RESIDENCY TRAINING AND ADVANCED EDUCATION IN THE GENERAL PRACTICE OF DENTISTRY

CFR Citation: 42 CFR 57, Subpart L

Completed:

Reason	Date	FR Cite
Final Action	05/21/87	52 FR 19144
Correction Notice Published 07/10/87, 52 FR 26122		
Final Action	05/21/87	52 FR 19144
Final Action Effective	05/21/87	52 FR 19144

Small Entity: No

Agency Contact: Richard Weaver, D.D.S. 301 443-6837

RIN: 0905-AC20

759. NURSING STUDENT LOAN (NSL) PROGRAM: DEFINE EXCEPTIONAL FINANCIAL NEED

CFR Citation: 42 CFR 57, Subpart D

Completed:

Reason	Date	FR Cite
Final Action	05/21/87	52 FR 19142
Final Action Effective	05/21/87	52 FR 19142

Small Entity: No

Agency Contact: Ms. Peggy Washburn 301 443-4540

RIN: 0905-AC29

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Proposed Rule Stage**

Public Health Service (PHS)—National Institutes of Health (NIH)

760. MISCONDUCT IN SCIENCE

Significance: Regulatory Program

Legal Authority: 42 USC 241; 42 USC 289b

CFR Citation: 42 CFR 50

Legal Deadline: None.

Abstract: Recipients of Public Health Service research and research training funds do not presently have sufficient guidance regarding their responsibility to investigate and report possible misconduct in PHS-funded research or research training. While many institutions have voluntarily established procedures for dealing with misconduct in science, they are not required to do so and in many recent instances the lack of defined procedures has delayed or compromised awardees' investigations. Institutional policies regarding reports to funding agencies vary considerably. The proposed regulation will define the point at which funding agencies are notified and will require awardees to develop procedures for dealing with misconduct in science. Section 493 of the PHS Act requires that the HHS Secretary issue regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: George J. Galasso, Ph.D., Associate Director for Extramural Affairs, Department of Health and Human Services, Public Health Service, National Inst. of Health, Bldg. 1, Rm. 111, 9000 Rockville Pike, Bethesda, MD 20892, 301 496-5356

RIN: 0905-AB91

761. CHANGES IN NIH PROGRAM REGULATIONS DUE TO P.L. 99-158, P.L. 99-149, AND TITLE X OF P.L. 99-660

Legal Authority: PL 99-158, Sec 2; PL 99-499, Sec 126; PL 99-499, Sec 209; PL 99-660, Title X

CFR Citation: 42 CFR 4; 42 CFR 52 to 52h; 42 CFR 59a; 42 CFR 64; 42 CFR 66

Legal Deadline: None.

Abstract: The regulations of the National Institutes of Health will be revised to show changed section numbers in the PHS Act and reflect program changes under the Health Research Extension Act of 1985 (P.L. 99-158), the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499), and the provisions of Title X of P.L. 99-660 concerning Alzheimer's Disease and Related Dementias Research.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Agency Contact: Lowell D. Peart, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, 31/3B03, Bethesda, MD 20892, 301 496-4606

RIN: 0905-AC02

HHS—PHS—NIH — **Proposed Rule Stage**

762. NATIONAL INSTITUTES OF HEALTH CENTER GRANTS 42 CFR PART 52A

Legal Authority: 42 USC 216; 42 USC 285a-3; 42 USC 285b-4; 42 USC 285c-5; 42 USC 285d-6; 42 USC 285e-2

CFR Citation: 42 CFR 52a

Legal Deadline: None.

Abstract: The NIH Center Grants Regulations will be revised to incorporate changes necessitated by the Health Research Extension Act of 1985 (P.L. 99-158).

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Not Applicable

Agency Contact: Lowell D. Peart, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, 31/3B07, Bethesda, MD 20892, 301 496-4606

RIN: 0905-AC27

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Final Rule Stage**

Public Health Service (PHS)—National Institutes of Health (NIH)

763. NATIONAL LIBRARY OF MEDICINE PROGRAMS. REVISION OF GENERAL RULES FOR THE NATIONAL LIBRARY OF MEDICINE AND NATIONAL LIBRARY OF MEDICINE GRANTS

Legal Authority: 42 USC 216; 42 USC 286; 42 USC 286b-2; 42 USC 286b-3; 42 USC 286b-5; 42 USC 286b-6; 42 USC 284

CFR Citation: 42 CFR 4; 42 CFR 59a; 42 CFR 63; 42 CFR 64

Legal Deadline: None.

Abstract: All of the regulations are being substantially clarified and reduced in size by eliminating out of date or otherwise available information. The regulations at 42 CFR Part 4 pertain to the access of facilities and library collections. Those at 42 CFR Part 59a deal with NLM extramural programs. Part 59a is being amended to remove the requirement that photocopies of biomedical material be provided without charge to users. The regulations at 42 CFR Part 63 deal with both NIH and NLM traineeships. Part 63 is proposed to be revised to reflect authority in section 405, PHS Act. The regulations at 42 CFR Part 64 govern the training grants of NIH and NLM.

Timetable:

Action	Date	FR Cite
NPRM	02/11/85	50 FR 05638
Final Action	01/00/88	

Small Entity: No

Agency Contact: Kenneth Carney, Executive Officer, Department of Health and Human Services, Public Health Service, National Library of Medicine, Bethesda, MD 20894, 301 496-6491

RIN: 0905-AA66

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — **Prerule Stage**

Health Care Financing Administration (HCFA)

764. ● DISCONTINUATION OF PREVAILING CHARGE DIFFERENTIALS FOR SPECIALISTS

Legal Authority: 42 USC 1395u(b)(3)

CFR Citation: 42 CFR 405.504(b)

Legal Deadline: None.

Abstract: This notice requests comments on our intent to make a change to the regulations that govern determinations of the reasonable charges that Medicare pays for physician services. We intend to discontinue establishing separate prevailing charge screens for physicians' services based on specialty practice, with the possible exception of specified medical visits and consultations.

Timetable:

Action	Date	FR Cite
Notice of Intent	12/00/87	

Small Entity: Undetermined

Agency Contact: Bernard Patashnik, Director, Division of Medical Services, Reimbursement, Department of Health and Human Services, Health Care Financing Administration, Rm. 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD. 21207, 301 597-1334

RIN: 0938-AD26

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Health Care Financing Administration (HCFA)

Proposed Rule Stage

765. AMENDING COST REPORTS AND REOPENING INTERMEDIARY PAYMENT DETERMINATIONS AND ADMINISTRATIVE REVIEW DECISIONS

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395l; 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395ww; 42 USC 1395xx; 42 USC 405; 42 USC 1395ii; 42 USC 1395oo

CFR Citation: 42 CFR 405.453; 42 CFR 405.1833; 42 CFR 405.1885; 42 CFR 405.1887; 42 CFR 405.1803(b); 42 CFR 405.1811(a); 42 CFR 405.1813; 42 CFR 405.1837(b); 42 CFR 405.1841; 42 CFR 405.1863; 42 CFR 405.1877; 42 CFR 405.1889

Legal Deadline: None.

Abstract: This proposal would establish rules to govern and distinguish between the amending of cost reports and the reopening of Medicare intermediary payment determinations and administrative review decisions. This proposal would provide guidance to intermediaries and the Provider Reimbursement Review Board concerning the circumstances under which those actions may be taken.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Harold Fishman, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medicare Eligibility Policy, Room 323 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9077

RIN: 0938-AA33

766. SURVEY AND CERTIFICATION PROCEDURES

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395bb; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 442; 42 CFR 488

Legal Deadline: None.

Abstract: This proposed rule would implement recommendations made by the National Academy of Sciences' Institute of Medicine with which HCFA contracted to study the regulation on nursing homes. In addition to proposed improvements in the survey and certification of facilities furnishing long-term care under Medicare and Medicaid, we propose to consolidate all survey and certification requirements into one Part to streamline and simplify requirements which apply to all providers, suppliers and practitioners under Medicare and Medicaid.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	47 FR 23404
Final Action	00/00/00	

Small Entity: Yes

Agency Contact: James Conrad, Chief, Survey Management Branch, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East, 6300 Security Blvd., Baltimore, MD 21207, 301 594-5014

RIN: 0938-AA38

767. MEDICAID ELIGIBILITY

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1302; 42 USC 1396a(f); 42 USC 1396a(a)(17); 42 USC 1396b(f)(1); 42 USC 1396d(a)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None.

Abstract: This regulation would conform the current regulations to changes with respect to Medicaid eligibility groups and coverage criteria made by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Most of these changes affect the provisions of September 30, 1981 regulations concerning Medicaid eligibility for the medically needy, published as a result of the Omnibus Budget Reconciliation Act of 1981. The regulations would also respond to public comments received on the September 30 regulations and make some administrative changes to clarify policy and enhance the efficient operation of the Medicaid program (for example, clarification of policy on establishing the medically needy income level for one person).

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: No

Agency Contact: Marinos Svolos, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div of Medicaid Eligibility, Room 416, East High Rise Bldg, 6325 Security Blvd, Baltimore, MD 21207, 301 594-9050

RIN: 0938-AA58

768. MMIS: DEFINITION OF "MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEM"

Legal Authority: 42 USC 1302; 42 USC 1396b

CFR Citation: 42 CFR 433.111; 42 CFR 433.112; 42 CFR 433.113; 42 CFR 433.119; 42 CFR 433.120; 42 CFR 433.121; 42 CFR 433.122; 42 CFR 433.131

Legal Deadline: None.

Abstract: This rule would change the definition of "mechanized claims processing and information retrieval systems" to clarify under what circumstances we will pay Federal financial participation at a percentage higher than 50 percent for a Medicaid Management Information System.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Guy Harriman, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medicaid Procedures, G-C-7 Meadows East, 6300 Security Blvd., Baltimore, MD 21207, 301 594-4580

RIN: 0938-AA63

769. MISCELLANEOUS MEDICARE AND MEDICAID AMENDMENTS

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 409; 42 CFR 410; 42 CFR 416; 42 CFR 421; 42 CFR 441; 42 CFR 489

Legal Deadline: None.

Abstract: These rules amend existing Medicare and Medicaid regulations to conform them to statutory and policy changes that have occurred since those regulations were last published. The pertinent statutory changes are primarily those contained in the Omnibus Reconciliation Act of 1980 (P.L. 96-499). The Appropriations Act had to do with use of Federal funds for abortions which is no longer in this package. As revised, this is a non-sequitur. There is no antecedent for this reference to the Appropriations Act.

HHS—HCFA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Luisa Iglesias, Technical Assistant, Department of Health and Human Services, Health Care Financing Administration, BERC Regulations Staff, Rm. 4230 North, 300 Independence Ave., SW, Washington, DC 20201, 202 245-0583

RIN: 0938-AB05

770. DEDUCTION OF INCURRED MEDICAL EXPENSES (SPENDDOWN)

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(10); 42 USC 1396a(a)(17)

CFR Citation: 42 CFR 435.732; 42 CFR 435.831; 42 CFR 436.831

Legal Deadline: None.

Abstract: These regulations permit States to revise the process by which medical expenses are considered in determining Medicaid eligibility. This process applies when an individual's income level during a budget period would ordinarily preclude eligibility except that incurred medical expenses reduce income to the eligibility level.

Timetable:

Action	Date	FR Cite
NPRM	09/02/83	48 FR 39959
NPRM Comment Period End	11/01/83	
Developing detailed study of issues	00/00/00	

Small Entity: No

Agency Contact: Marinos Svolos, Director, Div. of Medicaid Eligibility, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise Bldg., 6325 Security Boulevard, Baltimore, MD 21207, 301 594-9050

RIN: 0938-AB07

771. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY SERVICES

Legal Authority: 42 USC 1395l(a)(1)(D); 42 USC 1395l(a)(2)(D); 42 USC 1395l(b)(4); 42 USC 1395l(h); 42 USC 1395cc(a)(2)(A); 42 USC 1396b(i)(7)

CFR Citation: 42 CFR 405.439; 42 CFR 405.501; 42 CFR 405.502; 42 CFR 405.505; 42 CFR 405.511; 42 CFR 405.516; 42 CFR 405.1672; 42 CFR 405.1675; 42 CFR 405.1684; 42 CFR 431.54; 42 CFR 447.10; 42 CFR 447.300; 42 CFR 447.321; 42 CFR 447.342

Legal Deadline: None.

Abstract: These regulations would implement provisions of Pub.L. 98-369, 99-272, and 99-509 relating to payment and "assignment" for diagnostic laboratory tests, establishing in regulations the methods for implementing fee schedules. This rule would set forth the methods by which the fee schedules would be updated and would allow certain adjustment or exceptions to the fee schedules. In accordance with the statute, the regulations would provide that on January 1, 1990 and thereafter, fees will be determined on a nationwide basis.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Bernard Patashnik, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medical Services Reimbursement, Room 1-A-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1334

RIN: 0938-AB50

772. WAIVER OF CERTAIN MEMBERSHIP REQUIREMENTS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS (HMOS) AND STATE OPTION FOR DISENROLLMENT RESTRICTIONS FOR CERTAIN HMOS UNDER MEDICAID

Legal Authority: 42 USC 1903(m); 42 USC 1302

CFR Citation: 42 CFR 434.26; 42 CFR 434.27; 42 CFR 434.20; 42 CFR 435.212; 42 CFR 435.326

Legal Deadline: None.

Abstract: This proposal would revise current Medicaid rules to expand the waiver authority of the Secretary to permit certain health maintenance organizations (HMOs) meeting certain requirements, to exceed the composition of enrollment limit to allow certain organizations to contract on a risk basis, to permit continuation of benefits to recipients enrolled in certain organizations after they have lost entitlement of Medicaid, and give a State the option of restricting a Medicaid enrollee's right to disenroll from certain types of risk HMOs and other organizations. These regulations would conform our regulations with authority provided in section 2364 of Pub.L. 98-369, the Deficit Reduction Act of 1984, as amended by section 9517 of Pub.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Robert E. Wren, Office Director, Department of Health and Human Services, Health Care Financing Administration, Office of Coverage Policy, Room 401 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9690

RIN: 0938-AB54

773. PHYSICIAN CERTIFICATION AND PLAN OF CARE REQUIREMENTS AND INSPECTION OF CARE REVIEWS

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(26); 42 USC 1396a(a)(30)(B); 42 USC 1396a(a)(31); 42 USC 1396a(a)(44); 42 USC 1396b(g)

CFR Citation: 42 CFR 440; 42 CFR 441; 42 CFR 456

Legal Deadline: None.

Abstract: These rules would implement Sections 2363 and 2368 of the Deficit Reduction Act of 1984. The rules would make the requirements for physician certification and development of a plan of care (formerly utilization control requirements) State plan requirements. States would no longer be required to make the quarterly showings of compliance for those requirements or for utilization review. A quarterly demonstration to the Secretary of a satisfactory utilization control program would be limited to inspections of care in participating mental hospitals, skilled nursing facilities and intermediate care facilities, including intermediate care facilities for the mentally retarded.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

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Agency Contact: Thomas E. Hoyer, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div. of Provider Services & Coverage Pol., Room 405 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9446

RIN: 0938-AB55

774. MEDICARE: HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS: COORDINATED OPEN ENROLLMENT

Significance: Agency Priority

Legal Authority: 42 USC 1395mm(C)(3)(A)(ii); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 417

Legal Deadline: None.

Abstract: These regulations would implement section 2350 of Pub. L. 98-369 by requiring that HMOs and CMPs hold coordinated open enrollment periods in geographic areas that encompass two or more organizations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Stanley Katz, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div. of Medical Services Coverage Policy, Room 469 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-8561

RIN: 0938-AB57

775. HOSPITAL INSURANCE ENTITLEMENT AND SUPPLEMENTARY MEDICAL INSURANCE ENROLLMENT AND ENTITLEMENT

Legal Authority: 42 USC 426; 42 USC 426-1; 42 USC 426a; 42 USC 1395c; 42 USC 1395i-2; 42 USC 1395p; 42 USC 1395q; 42 USC 1395r; 42 USC 1395v; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 406; 42 CFR 407

Legal Deadline: None.

Abstract: This regulation would revise the Medicare rules that deal with hospital insurance entitlement and with supplementary medical insurance (SMI) enrollment and entitlement, as required by amendments to the Social Security Act. It would also revise Medicaid rules that deal with State buy-in agreements, under which States secure SMI benefits for certain Medicaid-eligible individuals, by paying their SMI premiums.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Harold Fishman, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medicare Eligibility Policy, Room 448 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9077

RIN: 0938-AB60

776. PAYMENT FOR THE SERVICES OF PHYSICIANS FURNISHED IN TEACHING SETTINGS AND OTHER PROVIDERS

Legal Authority: 42 USC 1395u; 42 USC 1395x; 42 USC 1395xx

CFR Citation: 42 CFR 405.465; 42 CFR 405.466; 42 CFR 405.480; 42 CFR 405.481; 42 CFR 405.482; 42 CFR 405.522; 42 CFR 405.523; 42 CFR 405.524; 42 CFR 405.525; 42 CFR 405.550; 42 CFR 405.551; 42 CFR 405.552; 42 CFR 405.553; 42 CFR 405.554; 42 CFR 405.555; ...

Legal Deadline: None.

Abstract: These regulations would implement provisions of section 948 of P.L. 98-499 and section 2307 of P.L. 98-369. This legislation deals with certain problems that have arisen in the Medicare program with respect to payment for physicians in the teaching setting. Specifically addressed by Congress is the problem of distinguishing between the services a physician furnishes to individual patients as a teaching provider and services furnished to the provider, as well as the method of reimbursement for these services. This proposed rule sets forth the conditions under which physicians in teaching settings would be reimbursed on a reasonable cost basis or, alternatively, on a reasonable charge basis. It also describes the methods used to determine the customary charges for the services of those physicians. This rule would also clarify related issues of physician reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Bernard Patashnik, Director, Division of Medical Services Reimbursement, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1334

RIN: 0938-AB61

777. MEDICARE/MEDICAID REVALUATION OF ASSETS

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(v)(1)(O); 42 USC 1396a(a)(13)(B); PL 99-272, Secs 9110 and 9509

CFR Citation: 42 CFR 413.130; 42 CFR 413.134; 42 CFR 447.250; 42 CFR 447.253

Legal Deadline: None.

Abstract: This proposed rule would propose changes to the regulations to implement section 2314 of Pub.L. 98-369 and section 9110 and 9509 of Pub.L. 99-272. This rule would impose new limitations on the valuation of assets acquired as the result of changes in ownership occurring on or after July 18, 1984. These changes would affect hospitals and skilled nursing facilities under the Medicare program and hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded under the Medicaid program. These changes are intended to promote economy in the Medicare and Medicaid programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	00/00/00	

Small Entity: Yes

Agency Contact: William J. Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1803

RIN: 0938-AB64

778. REVIEW OF CURRENT RULES AFFECTING CLINICAL LABORATORIES

Significance: Regulatory Program

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.1310 to 405.1317; 42 CFR 482.27

Legal Deadline: None.

Abstract: Currently, hospital-based and independent laboratories are subject to varying State Licensure requirements and to Medicare regulations that vary from requirements of private accreditation entities and from regulations governing laboratories performing tests under interstate commerce. The result is that many laboratories may be required to submit to surveys by more than one authority and be adjudged in compliance with different standards. Inconsistent standards create confusion regarding necessary credentials and performance levels. This proposed rule would identify common standards and propose other revisions to rules aimed at reducing direct and indirect costs of clinical laboratories and at increasing quality of output.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87*	

*Taken from the Regulatory Program of the United States Government 1987-1988 which projected final action in October 1987.

Small Entity: Undetermined

Agency Contact: Wayne Smith, Director, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 ME, 6300 Security Blvd., Baltimore, MD 21207, 301 594-5547

RIN: 0938-AB96

779. MEDICARE SECONDARY PAYOR AND MEDICARE RECOVERY AGAINST THIRD PARTIES

Legal Authority: 42 USC 1302; 42 USC 1395y(b); 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 411; 42 CFR 489

Legal Deadline: None.

Abstract: This proposed rule would revise regulations to reflect recent statutory provisions regarding HCFA's right to bring an action directly against certain third parties or to join or intervene in an action against a third party. It would also place certain requirements on hospitals regarding the identification and billing of potential Medicare secondary payor cases. Additionally, it would include requirements regarding timely refunds to Medicare when collections have been made from another insurer. The proposal would also clarify rules for Medicare payment for services furnished to an end-stage renal disease (ESRD) patient who is also covered under an employer group health plan. And, it would update policies pertaining to Medicare payment for services covered under a workers' compensation law or plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Agency Contact: Herbert Pollock, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Medicare Claims Payment Policy Branch, Rm. 474 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-4978

RIN: 0938-AC05

780. MEDICARE COVERAGE OF HEPATITIS B VACCINE FOR HIGH AND INTERMEDIATE RISK INDIVIDUALS, HEMOPHILIA CLOTTING AND CERTAIN X-RAY SERVICES

Legal Authority: 42 USC 1395x(s)(2)(I); 42 USC 1395x(s)(10)(B); 42 USC 1395l(k); 42 USC 1395rr(b)(11)

CFR Citation: 42 CFR 405.231(r); 42 CFR 405.232(b), (c); 42 CFR 405.310(e), (k)

Legal Deadline: None.

Abstract: This proposed rule would implement section 2323 of P.L. 98-369 which provides Medicare coverage for hepatitis B vaccine for those individuals who are eligible for Medicare and at high or intermediate risk of contracting hepatitis B. It would implement section 2324 of P.L. 98-369 that provides coverage for the self-administration of hemophilia clotting factors and the items necessary for their administration to Medicare eligibles. The proposed rule would solicit public comments on our definition of those individuals who are at high or intermediate risk of contracting hepatitis B. The proposal would also clarify Medicare coverage of certain x-ray services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: James Hannon, Chief, Physician and Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Office of Coverage Policy, Rm. 479 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1734

RIN: 0938-AC07

781. CHANGES IN PAYMENT POLICY FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS

Significance: Regulatory Program

Legal Authority: PL 99-272, Sec 9202; PL 99-509, Sec 9314

CFR Citation: 42 CFR 405.521; 42 CFR 405.522; 42 CFR 412.113; 42 CFR 413.85; 42 CFR 413.86

Legal Deadline: None.

Abstract: This rule sets forth proposed changes in Medicare Policy concerning payment for direct graduate medical education costs of providers associated with approved residency programs. These changes are necessary in order to implement section 1886(h) of the Social Security Act which was added by section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 and amended by section 9314 of the Omnibus Budget Reconciliation Act of 1986. The changes in this rule are effective for cost reporting periods beginning on or after July 1, 1985.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Yes

Agency Contact: Linda Magno, Director, Div. of Hospital Payment Policy, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-8343

RIN: 0938-AC27

782. MEDICAID: ELIGIBILITY DETERMINATIONS BASED ON DISABILITY

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396d(a); 42 USC 1302

CFR Citation: 42 CFR 435.541; 42 CFR 435.911; 42 CFR 436.541

Legal Deadline: None.

Abstract: These proposed regulations would make explicit in the regulations HCFA's policy on the relationship between State Medicaid eligibility determinations based on disability and disability determinations by SSA under the Supplemental Security Income Program. The regulations would incorporate the conditions under which the State agency must make independent determinations of disability and the effect of only SSA determination on Medicaid eligibility. The proposed regulations would also conform the Medicaid provisions on composition of medical review teams, required information, and the time limit for making determinations more closely to those used by SSA in making SSI determinations. Because of numerous questions raised and litigation, it is necessary to clarify our policy on the controlling nature of SSI disability determinations on Medicaid eligibility.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Joyce Stokes, Branch Chief, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, 436 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 597-3870

RIN: 0938-AC31

783. EFFECT OF APPEALS ON HOSPITAL-SPECIFIC PORTION OF THE PROSPECTIVE PAYMENT RATE

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395ww

CFR Citation: 42 CFR 412.71; 42 CFR 412.72; 42 CFR 412.73; 42 CFR 412.76; 42 CFR 412.128

Legal Deadline: None.

Abstract: This proposed rule would amend and clarify the prospective payment regulations governing administrative and judicial review of payment amounts in order to resolve confusion concerning interpretation of those regulations. In particular, the rule would amend and clarify the provisions pertaining to adjustment of the hospital-specific rate under the prospective payment system.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Agency Contact: Edward Rees, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Payment Determination Policy Branch, Rm. 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-6403

RIN: 0938-AC40

784. PROPOSED ADDITIONS TO AND DELETIONS FROM CURRENT LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS

Significance: Regulatory Program

Legal Authority: 42 USC 1395l(i)(1)

CFR Citation: 42 CFR 416.65

Legal Deadline: None.

Abstract: This notice announces proposed additions to and deletions from the current list of surgical procedures for which facility services are covered when the procedures are performed in an ambulatory surgical center (ASC).

Timetable:

Action	Date	FR Cite
Proposed Notice	08/11/87	52 FR 29729
Final Notice	00/00/00	

Proposed Notice
Comment Period ends 10/13/87

Small Entity: No

Agency Contact: Stan Katz, Director, Division of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 489 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 594-8561

RIN: 0938-AC45

785. USE OF THE HCFA HOSPITAL WAGE INDEX FOR DETERMINING PAYMENT TO HOSPICES

Legal Authority: 42 USC 1395f(i)

CFR Citation: 42 CFR 418.306(c)

Legal Deadline: None.

Abstract: This notice would replace the current wage index used to determine payment for hospice care furnished to Medicare beneficiaries with the HCFA survey-based hospital wage index.

Timetable:

Action	Date	FR Cite
Proposed Notice	11/00/87	

Small Entity: No

Agency Contact: Anthony Lovecchio, Director, Div. of Alternative Reimbursement Systems, Department of Health and Human Services, Health Care Financing Administration, 1-A-3 East Low Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 594-4011

RIN: 0938-AC49

786. HOSPICE/CASE MANAGEMENT

Legal Authority: 42 USC 1396d(a)(18); 42 USC 1396d(o); 42 USC 1396b(a)(13)(c); 42 USC 1396o(a)(2)(E); 42 USC 1396o(b)(2)(E); 42 USC 1396(g); PL 97-248; PL 99-509; PL 99-514

CFR Citation: 42 CFR 418.32; 42 CFR 431.50; 42 CFR 435.218; 42 CFR 436.218; 42 CFR 440.185; 42 CFR 440.190; 42 CFR 440.250; 42 CFR 441, Subpart I; 42 CFR 447.53; 42 CFR 447.327; 42 CFR 447.361 to 384; 42 CFR 435.726; 42 CFR 435.735; 42 CFR 436.231; 42 CFR 441.18; ...

Legal Deadline: None.

Abstract: These regulations would implement 3 provisions of P.L. 99-272: (1) Under 9505, Medicaid coverage of hospice care at State option. The regulations would establish eligibility requirements, covered services, reimbursement procedures and conditions of participation; (2) Under 9508, Medicaid coverage of case management services at State option, furnished to specific Medicaid groups or geographic areas within a State; (3) Under 9123, indefinite extension of the Medicare hospice benefit, which was scheduled to end on 09/30/86. These regulations would also implement sections 9411, 9412, and 9435d of Pub. L. 99-509, and section 1895(c) of Pub. L. 99-514, all relating to optional State coverage of case management and hospice services for the Medicaid population.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Yes

Agency Contact: Thomas Hoyer, Director, Div. of Provider Services & Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9446

RIN: 0938-AC52

787. HOME AND COMMUNITY-BASED SERVICES AND RESPIRATORY CARE FOR VENTILATOR-DEPENDENT INDIVIDUALS

Legal Authority: 42 USC 1302; 42 USC 1396n(c)

CFR Citation: 42 CFR 435.726; 42 CFR 435.735; 42 CFR 440.180; 42 CFR 441.301; 42 CFR 441.302; 42 CFR 441.303; 42 CFR 441.304; 42 CFR 441.305; 42 CFR 441.306; 42 CFR 441.307; 42 CFR 441.308; 42 CFR 441.310; 42 CFR 440.185; 42 CFR 440.250

Legal Deadline: None.

Abstract: This rule would revise the regulations for home and community based services as required by section 9502 of Pub.L. 99-272 and sections 9408 and 9411 of Pub.L. 99-509. Also, this proposal would provide for respiratory care services as medical assistance under the State plan, in accordance with section 9408 of Pub.L. 99-509.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Thomas Hoyer, Director, Division of Provider Services Coverage Pol., Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9446

RIN: 0938-AC55

788. REIMBURSEMENT FOR PHYSICIAN'S OUTPATIENT MAINTENANCE DIALYSIS SERVICES

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395l(a); 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1395n; 42 USC 1395ww; 42 USC 1395xx; 42 USC 1395(b); 42 USC 1395(k); 42 USC 1395u(b),(h); 42 USC 1395x(b); 42 USC 1395y(a)(14); 42 USC 1395cc(a)

CFR Citation: 42 CFR 405.439(c)(5); 42 CFR 405.502(f)(1); 42 CFR 405.542(a) to (c)

Legal Deadline: None.

Abstract: This proposal is necessitated by a court decision requiring the Secretary to reinstate a modified version of the initial method of reimbursement for physician's dialysis services. We also are proposing to clarify and modify some of the principles of the monthly capitation payment method. In addition, we will clarify that physician's services reimbursable under both the initial method and the monthly capitation payment must meet the general program requirements for dialysis services furnished to patients.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	

Small Entity: No

Additional Information: ADDITIONAL LEGAL CITE: 42 USC 1395rr(b)(3)

Agency Contact: Robert Niemann, Program Analyst, Reimbursement Policy Branch, Department of Health and Human Services, Health Care Financing Administration, 1-A-5 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 597-1810

RIN: 0938-AC57

789. PARTICIPATION IN CHAMPUS AND CHAMPVA HOSPITAL ADMISSIONS FOR VETERANS, DISCHARGE RIGHTS NOTICE, AND HOSPITAL RESPONSIBILITY FOR EMERGENCY CARE

Significance: Agency Priority

Legal Authority: 42 USC 1395c; 42 USC 1395cc; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 489.20; 42 CFR 489.24; 42 CFR 489.25; 42 CFR 489.53; 42 CFR 1003.100; 42 CFR 1003.101; 42 CFR 1003.102; 42 CFR 1003.103; 42 CFR 1003.105; 42 CFR 1003.106; 42 CFR 1003.109; 42 CFR 1003.114; 42 CFR 489.26; 42 CFR 489.27; 42 CFR 489.56

Legal Deadline: None.

Abstract: This proposed rule would implement sections 9121 and 9122 of PL 99-272. Specifically, under section 9121, Medicare participating hospitals with emergency departments would be required to provide upon request medical examinations and treatments for individuals with emergency medical conditions and women in active labor. Hospitals failing to meet those requirements may have their Medicare provider agreements suspended or terminated. In addition, the hospital and the responsible physician may each be subject to a civil money penalty for each such violation. Under section 9122, Medicare participating hospitals would be required to accept CHAMPUS and CHAMPVA payment as payment in full for services provided to CHAMPUS and CHAMPVA beneficiaries. These regulations would also implement section 233 of PL 99-576, which requires Medicare hospitals to admit veterans. They would also implement section 9305(b)(1) of PL 99-509, which requires Medicare hospitals to give patients a notice of their discharge rights.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Thomas Hoyer, Director, Div. of Provider Services & Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 405 EHR Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 594-9446

RIN: 0938-AC58

790. PAYMENT FOR KIDNEYS SENT TO FOREIGN COUNTRIES OR TRANSPLANTED IN NON-MEDICARE BENEFICIARIES

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 413.179

Legal Deadline: None.

Abstract: These proposed regulations would exclude the costs associated with kidneys sent to foreign countries or transplanted in non-Medicare recipients from Medicare payments made to organ procurement agencies. The regulations would also require Medicare intermediaries to monitor all kidneys sent to foreign transplant centers to ensure that foreign countries

pay no more than the standard acquisition costs plus the cost of transporting the kidneys.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Mark Horney, Program Analyst, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-A-5 ELR, 6325 Security Boulevard, Baltimore, MD 21207, 301 597-6939

RIN: 0938-AC59

791. REASONABLE CHARGE PAYMENT LIMITS FOR ENTERAL PRODUCTS AND SUPPLIES

Significance: Agency Priority

Legal Authority: 42 USC 1395u(b)(3); 42 USC 1395u(b)(6)

CFR Citation: 42 CFR 405.502

Legal Deadline: None.

Abstract: In this notice, we propose to establish special reasonable charge payment limits for enteral nutrients, supplies and equipment. This proposal is intended to prevent excessive Medicare payments for these products.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Agency Contact: Sharon Harris, Director, Division of Operational Initiatives, Department of Health and Human Services, Health Care Financing Administration, 340 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 594-9474

RIN: 0938-AC67

792. REVISIONS TO MEDICARE APPEALS RIGHTS

Legal Authority: 42 USC 1302; 42 USC 1395ff; 42 USC 1395hh; 42 USC 1395 et seq; 42 USC 405

CFR Citation: 42 CFR 405.701; 42 CFR 405.708; 42 CFR 405.716; 42 CFR 405.717; 42 CFR 405.718a through d; 42 CFR 405.719; 42 CFR 405.720; 42 CFR 405.722; 42 CFR 405.724; 42 CFR 405.730; 42 CFR 405.801; 42 CFR 426; 42 CFR 405.702

Legal Deadline: None.

Abstract: The proposed rule would revise current Medicare regulations to provide a beneficiary dissatisfied with a carrier hearing decision on an issue pertaining to payment of Part B benefits a right to a hearing before an administrative law judge if the amount in controversy is $500 or more. If the party is dissatisfied with the administrative law judge's decision, he may seek judicial review if the amount is $1000 or more. This rule would create a new Part 426 that would establish procedures for Medicare hearings and Appeals Board Review.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Morton Marcus, . Program Analyst, Office of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 349 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 597-3700

RIN: 0938-AC81

793. MEDICAID ELIGIBILITY FOR QUALIFIED SEVERELY IMPAIRED INDIVIDUALS

Legal Authority: 42 USC 1396a(f); 42 USC 1396a(1); 42 USC 1396d(q); 42 USC 1382h; 42 USC 1382h note; 42 USC 1396a note

CFR Citation: 42 CFR 435.120; 42 CFR 435.121; 42 CFR 435.725; 42 CFR 435.733; 42 CFR 435.832

Legal Deadline: None.

Abstract: This proposed rule would amend the Medicaid regulations to specify for Medicaid, mandatory categorically needy eligibility for individuals who, although severely impaired, work and demonstrate ability to perform substantial gainful activity and who are considered to be Supplemental Security Income (SSI) beneficiaries by virtue of 1619 of the Act. It also specifies how stated electing the option under Section 1902 to provide Medicaid under criteria more restrictive than SSI, will treat the "1619" individuals. It also would specify how SSI payments made to certain institutionalized individuals are to be disregarded as income under Medicaid for up to two months. The amendments would conform the regulations to provisions of the Omnibus Budget Reconciliation Act of 1986 and the Employment Opportunities for Disabled Americans Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: Richard Strauss, Program Analyst, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 448 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 594-6529

RIN: 0938-AC82

794. REFUNDING OF FEDERAL SHARE OF OVERPAYMENTS MADE TO MEDICAID PROVIDERS

Legal Authority: 42 USC 1396b(d)

CFR Citation: 42 CFR 433.32 to 35; 42 CFR 433.112; 42 CFR 433.116; 42 CFR 433.300 to 322

Legal Deadline: None.

Abstract: These regulations specify the requirements and procedures under which States are allowed 60 days following the date of discovery of an overpayment to a Medicaid provider to recover or attempt to recover the overpayment before the Federal share must be credited to HCFA. The Federal Government will share in any overpayments that the State documents it is unable to recover because the debts of the provider have been discharged in bankruptcy or the provider is out-of-business. The regulations, which implement section 9512 of the Consolidated Omnibus Budget Reconciliation Act of 1986, are intended to aid in recovering improperly spent Federal funds expeditiously.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: David Greenberg, Program Analyst, Bureau of Quality Control, Department of Health and Human Services, Health Care Financing Administration, Room 300 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 594-6229

RIN: 0938-AC83

795. DENIAL OF PAYMENT FOR SUBSTANDARD QUALITY CARE, REVIEW OF BENEFICIARY COMPLAINTS

Significance: Regulatory Program

Legal Authority: 42 USC 1320c-3(a); 42 USC 1395cc(a)(1)(K); PL 99-272, Sec 9403; PL 99-509, Sec 9453(c)

CFR Citation: 42 CFR 462.105; 42 CFR 466.70; 42 CFR 466.74; 42 CFR 466.83; 42 CFR 466.88; 42 CFR 466.93; 42 CFR 466.94; 42 CFR 466.96; 42 CFR 466.100; 42 CFR 466.106; 42 CFR 473.12; 42 CFR 473.14; 42 CFR 473.40; 42 CFR 476.133; 42 CFR 489.21; ...

Legal Deadline: Statutory, April 7, 1988.

Abstract: The purpose of this proposed rule is to implement section 9403 of PL 99-272 and 9453(c) of PL 99-509. Under section 9403 of PL 99-272, Peer Review Organizations (PROs) are authorized to deny Medicare payment to a physician or hospital for services furnished that are of substandard quality. The PRO determinations to deny Medicare payment for these services would be made on the basis of criteria that are consistent with guidelines established by the Secretary. Under section 9453(c) of PL 99-509, PROs would conduct an appropriate review of all written complaints from beneficiaries or their representatives about the quality of services not meeting professionally recognized standards of health care.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

Agency Contact: Mary Kay Terry, Director, Division of Review Programs, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 594-7909

RIN: 0938-AC84

796. REVISED EFFECTIVE DATE OF MEDICARE/MEDICAID PROVIDER AGREEMENT AND SUPPLIER PARTICIPATION

Legal Authority: 42 USC 1302; 42 USC 1395cc; 42 USC 1393ff(c); 42 USC 1395hh; 42 USC 1395i

CFR Citation: 42 CFR 405.1505; 42 CFR 405.1902; 42 CFR 440.10; 42 CFR 440.70; 42 CFR 442.13; 42 CFR 489.13

Legal Deadline: None.

Abstract: This proposed rule would revise Medicare and Medicaid rules to provide for a 60-day conditional certification period for facilities seeking participation in the Medicare and Medicaid program to apply uniform effective rules to all Medicare or Medicaid providers, including Medicare Suppliers, and Medicaid only hospitals and home health agencies; and to specify that effective date decisions are precluded from Medicare reconsiderations and hearings.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Agency Contact: Peter Burdette, Program Analyst, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 594-3222

RIN: 0938-AC88

797. RECOGNITION OF COLLEGE OF AMERICAN PATHOLOGISTS LABORATORY ACCREDITATION PROGRAM

Legal Authority: 42 USC 1395bb

CFR Citation: 42 CFR 482.27; 42 CFR 405.1310ff

Legal Deadline: None.

Abstract: This notice proposes that the Health Care Financing Administration recognize the accreditation program of the College of American Pathologists for clinical laboratories participating in the Medicare program. As a result of HCFA's recognition, these laboratories would not ordinarily be subject to an inspection by State survey agencies to determine their compliance with Federal requirements. They would be "deemed" to meet the Medicare Conditions of Participation for Hospital-Based Laboratories (42 CFR 482.27) or independent laboratories (42 CFR 405.1310ff).

Timetable:

Action	Date	FR Cite
Final Notice	00/00/00	
Proposed Notice	00/00/00	

Small Entity: No

Agency Contact: Mike Goldman, Chief, Laboratory and Ambulatory Services Branch, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Building, 6300 Security Boulevard, Baltimore, MD 21207, 301 594-9737

RIN: 0938-AC89

798. PRO PREPROCEDURE REVIEW OF CERTAIN SURGICAL PROCEDURES

Legal Authority: 42 USC 1320c-13; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 466.110

Legal Deadline: None.

Abstract: This proposed rule would implement section 9401 of Pub.L. 97-272, which provides that, under Medicare, a physician must request from the Professional Review Organization (PRO) preadmission review for certain inpatient elective surgical procedures and preprocedure review for certain outpatient elective procedures. Under section 9401, if the PRO determines that the procedure is not appropriate and medically necessary, the PRO will deny payment under Medicare. If the PRO cannot determine whether a surgical procedure is medically necessary and appropriate, the beneficiary would obtain an opinion from a second physician, or where the opinion of the second physician differs from the first physician, the beneficiary may obtain an opinion from a third physician.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Mary Kay Terry, Director, Division of Review Programs, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 594-7909

RIN: 0938-AC90

799. PART B PREMIUM FOR 12-MONTH PERIOD BEGINNING 01/01/88

Legal Authority: 42 USC 1395r

CFR Citation: 42 CFR 405.902

Legal Deadline: Statutory, October 1, 1987. Must be published by 10/01/87.

Abstract: This notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for the 12 months beginning January 1, 1988. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning January 1, 1988.

Timetable:

Action	Date	FR Cite
Notice	09/30/87	

Small Entity: Not Applicable

Agency Contact: Solomon Mussey, Supervisory Actuary, Department of Health and Human Services, Health Care Financing Administration, M-1 1705 Equitable Building, 6325 Security Boulevard, Baltimore, MD 21207, 301 594-2829

RIN: 0938-AC92

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800. INPATIENT HOSPITAL DEDUCTIBLE AND COINSURANCE AMOUNTS AND PART A PREMIUM FOR THE UNINSURED AGED FOR 1988

Legal Authority: 42 USC 1395e; 42 USC 1395i to 2(d)(2)

CFR Citation: 00 CFR None

Legal Deadline: Statutory, September 15, 1987. Must be published by 09/15/87.

Abstract: This notice announces the inpatient hospital deductible and coinsurance amounts and the monthly hospital insurance premium for the uninsured aged for calender year 1988 under Medicare's hospital insurance program. The Medicare statute specifies the formulae to be used to determine these amounts.

Timetable:

Action	Date	FR Cite
Notice	09/15/87	

Small Entity: Not Applicable

Agency Contact: Solomon Mussey, Supervisory Actuary, Department of Health and Human Services, Health Care Financing Administration, M-1 1705 Equitable Building, 6325 Security Boulevard, Baltimore, MD 21207, 301 594-2829

RIN: 0938-AC94

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801. PAYMENT FOR THE COST OF MALPRACTICE INSURANCE FOR HOSPITALS EXCLUDED FROM THE PROSPECTIVE PAYMENT SYSTEM

Legal Authority: 42 USC 1395(x)(u); 42 USC 1395(x)(v)

CFR Citation: 42 CFR 413.56

Legal Deadline: None.

Abstract: Medicare's share of payment for the cost of a hospital's malpractice insurance is determined in part through the use of a scaling factor formula. In this notice, we are undertaking to develop a separate set of values for use in the scaling factor formula for hospitals excluded from the prospective payment system.

Timetable:

Action	Date	FR Cite
Notice	00/00/00	

Small Entity: Undetermined

Agency Contact: Paul Trimble, Special Assistant, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 East Low Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 594-8640

RIN: 0938-AC97

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802. CHANGES CONCERNING DETERMINATION OF ALLOWABLE INTEREST EXPENSE AND SUSPENSION OF PAYMENTS

Legal Authority: 42 USC 1320b to 4; 42 USC 1395(g); 42 USC 1395(u); 42 USC 1395x(v)(1)(A)

CFR Citation: 42 CFR 413.153; 42 CFR 405.370(b)

Legal Deadline: None.

Abstract: This rule proposes changes to the Medicare regulations to provide for the following: (1) elimination of the requirement that investment income of both nonprofit and proprietary hospitals from gifts, grants, and endowments be held separately and that if not held separately, it be offset against allowable interest expenses; (2) extension of the list of exceptions to the interest expense reduction provision; and (3) elimination of the requirement that prior to suspension of payment, carriers or intermediaries make determinations that suspension of payments to providers is needed to protect the program against financial loss. This proposed rule is intended to conform the regulations with the law, to provide necessary clarification, and to promote economy and efficiency in the Administration of the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 East Low Rise Building, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1803

RIN: 0938-AC99

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803. CHANGES CONCERNING THE DEFINITION OF ACCRUAL BASIS OF ACCOUNTING

Legal Authority: 42 USC 1395x(v)

CFR Citation: 42 CFR 413.24

Legal Deadline: None.

Abstract: This rule proposes to revise the Medicare regulations to clarify the definition of "accrual basis of accounting" to indicate that expenses must be incurred by provider of health care services before Medicare will pay its share of those expenses. This change is intended to conform the regulations with the law and to promote economy and efficiency in the administration of the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1802

RIN: 0938-AD01

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804. OPTIONAL PAYMENT SYSTEM FOR LOW MEDICARE VOLUME SKILLED NURSING FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 1395yy(d)

CFR Citation: 42 CFR 413.30

Legal Deadline: None.

Abstract: This rule proposes to establish optional prospective payment rates for routine services furnished by certain skilled nursing facilities. The prospective rate would be on a per diem basis and would include payment for the cost of furnishing general inpatient routine services and associated capital-related costs. As specified in the Conference Committee Report accompanying PL 99-272, the rates paid to proprietary SNFs would include a component for the routine service portion of the return on equity capital. As specified in section 1861(v)(1)(B) of the Act, the return on equity component would only be included in the rate paid to proprietary SNFs. This rule would propose instructions for determining eligibility for payment under this system, and the methodology for calculating the prospective payment rates.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Yes

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1802

RIN: 0938-AD02

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805. CRITERIA AND PROCEDURES FOR MEDICAL SERVICES COVERAGE DECISIONS

Legal Authority: 42 USC 1395y

CFR Citation: 42 CFR 405.310; 42 CFR 405.407; 42 CFR 405.408

Legal Deadline: None.

Abstract: The proposed rule would establish in regulations generally applicable standards and procedures for HCFA determinations as to whether and under what circumstances specific medical items and services should be paid for under Medicare. It establishes and explains the criteria relied upon for determining whether an item or service is "reasonable and necessary." The objective of the criteria and procedures set forth in this proposed rule is to assure that Federal funds are expended only for medical services that are appropriate to meet an individual's medical needs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: Bart McCann, M.D., Chief, Special Coverage Issues Branch, Department of Health and Human Services, Health Care Financing Administration, 455 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 594-9370

RIN: 0938-AD07

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806. MEDICARE COVERAGE OF IMMUNOSUPPRESSIVE DRUGS

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(s)(2)(J); 42 USC 1302

CFR Citation: 42 CFR 405.231; 42 CFR 405.232; 42 CFR 410.64; 42 CFR 410.29

Legal Deadline: None.

Abstract: This proposed rule would implement section 9335(c) of Pub.L. 99-509 which authorizes Medicare coverage of immunosuppressive drugs for a period of 1-year following a Medicare-covered organ transplant. Current regulations reflect the statutory exclusion from Medicare, Part B coverage, of drugs or biologicals that can be self-administered. The regulations should be amended to reflect the new statutory requirement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: James Hannon, Chief, Physician & Other Medical Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 479 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1734

RIN: 0938-AD09

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807. REVISIONS TO CONDITIONS OF PARTICIPATION FOR HOSPITALS AND CONDITIONS FOR COVERAGE OF SERVICES OF INDEPENDENT LABORATORIES AND SUPPLIERS OF ESRD SERVICES

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(e)(6)(B); PL 99-509, Sec 9339(d); 42 USC 1395x(ee); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405.1312; 42 CFR 405.2171; 42 CFR 482.21; 42 CFR 405.2135; 42 CFR 405.2137; 42 CFR 482.27; 42 CFR 482.43

Legal Deadline: None.

Abstract: These revisions would (a) require hospitals to provide a discharge planning process; and (b) allow a laboratory director to meet State standards for qualifications, rather than federal, if they differ. These revisions would conform our regulations with requirements of Pub.L. 99-509.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Robert Wren, Director, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 401 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9690

RIN: 0938-AD11

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808. CONDITIONS OF PARTICIPATION FOR LONG TERM CARE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(j); 42 USC 1396a(a)(28); 42 USC 1396d(c); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405, Subpart K; 42 CFR 442.1; 42 CFR 442.30; 42 CFR 442.100; 42 CFR 442.101; 42 CFR 442.105; 42 CFR 442, Subparts D to F; 42 CFR 483

Legal Deadline: None.

Abstract: These conditions would replace the existing separate conditions for SNFs participating in the Medicare program, and SNFs and ICFs participating in the Medicaid program. Although some essential distinctions imposed by the statute remain, these new conditions reflect common needs in SNFs and ICFs. The purpose of these revisions is to focus on actual facility performance in meeting residents' needs in a safe and healthful environment, rather than on the capacity of a facility to provide appropriate services. The result of this change in focus will be to enforce requirements from the perspective of quality of care and life for long term care patients, not only under Medicare and Medicaid, but generally since most of these requirements pertain to all patients of a SNF or ICF. These

revisions are also expected to simplify Federal enforcement by using a single set of conditions, which apply to activities common to all facilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	05/00/88	

Small Entity: Yes

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 300 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 597-5909

RIN: 0938-AD12

809. RECOGNITION OF JOINT COMMISSION FOR ACCREDITATION OF HOSPITALS' HOME CARE PROGRAM STANDARDS AND THE NATIONAL LEAGUE FOR NURSING'S STANDARDS FOR HOME HEALTH AGENCIES

Significance: Agency Priority

Legal Authority: 42 USC 1395bb(a); 42 USC 1302; 42 USC 1395hh

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: Under this proposed notice, hospital-based home health agencies accredited by the Joint Commission for Accreditation of Hospitals and home health agencies accredited by the National League for Nursing would be considered or "deemed" to meet the Medicare conditions of participation. Thus, these agencies would not ordinarily be subject to an inspection by State survey agencies to determine their compliance with Federal requirements. As a result of the home health agency's deemed status, a State also could choose to permit the agency to participate as a provider under the Medicaid program.

Timetable:

Action	Date	FR Cite
Proposed Notice	10/00/87	

Small Entity: No

Agency Contact: Anita Heygster, Program Analyst, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, Room 429 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9625

RIN: 0938-AD13

810. EXPLANATION OF RIGHTS AND OTHER HMO/CMP PROVISIONS

Legal Authority: 42 USC 1395mm; PL 99-509, Sec 9312(a); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 417.413; 42 CFR 417.432; 42 CFR 417.436; 42 CFR 417.444; 42 CFR 417.446; 42 CFR 417.448; 42 CFR 417.494(b)

Legal Deadline: None.

Abstract: This proposed rule would revise Medicare regulations to repeal the "two-for-one" rule for Medicare enrollees; expand required information and require annual notice of HMO/CMP enrollees rights; and a provision to terminate a contract for noncompliance pertaining to restrictions on waivers of 50 percent for Medicare enrollment. These revisions would implement provisions of the Omnibus Budget Reconciliation Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Yes

Agency Contact: Joan Mahanes, Program Analyst, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Room 463 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 594-8046

RIN: 0938-AD14

811. ELIGIBILITY OF ALIENS GRANTED AMNESTY UNDER THE IMMIGRATION REFORM AND CONTROL ACT

Significance: Regulatory Program

Legal Authority: 42 USC 1396b(u); PL 99-603, Sec 201

CFR Citation: 42 CFR 435.402; 42 CFR 436.402; 42 CFR 440.200; 42 CFR 440.250; 42 CFR 436.128; 42 CFR 436.406; 42 CFR 436.408; 42 CFR 436.2; 42 CFR 440.255; 42 CFR 435.139; 42 CFR 435.406; 42 CFR 435.406; 42 CFR 435.1; 42 CFR 435.3

Legal Deadline: None.

Abstract: This proposed rule would revise Medicaid regulations for aliens lawfully admitted for permanent residence or permanently residing in the United States under the color of law. It would add to the regulations a new group of aliens now eligible for full Medicaid services and identify others eligible for only emergency services and pregnancy related services.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Marinos T. Svolos, Director, Division of Medicaid Eligibiltiy Policy, Department of Health and Human Services, Health Care Financing Administration, Room 400 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 594-9051

RIN: 0938-AD15

812. MEDICAID: ELIGIBILITY GROUPS EXTENDED COVERAGE OF SERVICES, AND CONDITIONS OF ELIGIBILITY: COBRA AND TEFRA

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1302; 42 USC 1396d(a); 42 USC 1396k(a); 42 USC 1396e; 42 USC 1383c; 42 USC 673; 42 USC 675; 42 USC 672; 42 USC 1396a(a)(25)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None.

Abstract: This proposed rule would amend the Medicaid regulations to incorporate numerous mandatory eligibility groups for Medicaid coverage: pregnant women; children in adoption and foster care; certain disabled widows and widowers; and certain disabled children being cared for at home. The rule would also provide for extended care for pregnant women after termination of pregnancy and add a condition of eligibility relating to third party liability. The amendments would conform the regulations to provisions of the Consolidated Omnibus Reconciliation Act of 1985 and the Tax Equity and Fiscal Responsibility Act of 1982. States have been informed that these provisions of the statute are self-implementing. Manual instructions containing procedures for States to implement the requirements have been issued.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 594-9050

RIN: 0938-AD16

813. MEDICAID ELIGIBILITY OF POVERTY LEVEL GROUPS AND EXTENDED COVERAGE OF SERVICES

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396a(b); 42 USC 1396a(f); 42 USC 1396a(b)(2); 42 USC 1302; 42 USC 1396a(m); 42 USC 1396a(n); 42 USC 1396b(f); 42 USC 1396b(u); 42 USC 1396d(p); 42 USC 1396d-1

CFR Citation: 42 CFR 435; 42 CFR 436; 42 CFR 440; 42 CFR 447

Legal Deadline: None.

Abstract: This proposed rule would amend the Medicaid regulations to incorporate changes relating to Medicaid eligibility groups and coverage of services made by the Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509). P.L. 99-509 added optional eligibility groups of pregnant women and infants or or children and aged and disabled individuals with incomes under the Federal nonfarm poverty line, provided for optional Medicaid coverage of Medicare cost-sharing expenses for qualified Medicare beneficiaries with income under the Federal nonfarm poverty line; clarified eligibility of homeless individuals; and added provisions for a presumptive eligibility period for pregnant women who meet income requirements under Medicaid.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: No

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9050

RIN: 0938-AD17

814. TRANSFER OF ASSETS

Legal Authority: 42 USC 1396p(c)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None.

Abstract: These regulations would implement section 132 of Pub.L. 97-248 to permit State Medicaid agencies, in determining an individual's eligibility for Medicaid, to include as a resource the uncompensated value of assets such as cash or property that the individual has transferred to someone else for less than fair market value within the 24 months preceding a Medicaid application.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Marinos Svolos, Director, Division of Medicaid Eligibility, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9050

RIN: 0938-AD18

815. ORGAN PROCUREMENT ORGANIZATIONS AND ORGAN PROCUREMENT PROTOCOLS

Significance: Regulatory Program

Legal Authority: 42 USC 1395hh; 42 USC 274; 42 USC 1302; 42 USC 273; 42 USC 1302b-8

CFR Citation: 42 CFR 485.308; 42 CFR 405.2102; 42 CFR 405.2163; 42 CFR 405.2171; 42 CFR 413.178; 42 CFR 441.10; 42 CFR 441.13; 42 CFR 482.12; 42 CFR 485.301; 42 CFR 485.302; 42 CFR 485.303; 42 CFR 485.304; 42 CFR 485.305; 42 CFR 485.306; 42 CFR 485.307; ...

Legal Deadline: Statutory, October 1, 1987. The statute applies to hospitals and OPAs, and to organs procured on or after october 1, 1987.

Abstract: The Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509) amends Title XI of the Social Security Act by inserting a new Section 1138, "Hospital Protocols for Organ Procurement and Standards for Organ Procurement Agencies (OPAs)." Section 1138(a) of the Act requires all hospitals participating in Medicare and Medicaid to have protocols for the identification of potential organ donors and requires all such hospitals which perform transplants to belong to the Network, discussed below. Section 1138(b) specifies that Medicaid or Medicare payments may not be made for organ procurement costs attributable to an OPA unless the OPA has been certified or recertified within the previous two years by the Secretary as conforming to the standards described in Section 371(b) of the PHS Act. A certified OPA must be a member of and abide by the rules of the Organ Procurement and Transplantation Network, must allocate organs according to medical criteria and Network policy, and must meet the performance standards prescribed by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	07/31/87	52 FR 28666
NPRM Comment Period End	09/29/87	
Final Action	10/01/87	

Small Entity: No

Agency Contact: Robert Wren, Director, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 401 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 594-9680

RIN: 0938-AD20

816. ● PAYMENT FOR SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS

Legal Authority: 42 USC 1395x(s)

CFR Citation: 42 CFR 405.553

Legal Deadline: Statutory, January 1, 1989.

Abstract: Section 9320 of Pub. L. 99-509 provides for payment on a fee schedule basis for services of certified registered nurse anesthetists (CRNAs) furnished to Medicare beneficiaries on or after January 1, 1989. The payment amount would be equal to the lower of 80 percent of a fee schedule established by the Secretary (and adjusted annually by the change in the Medicare economic index) or 80 percent of the actual charge. CRNAs would be required to accept assignment for all Medicare services and civil monetary penalties could be imposed for violations of this requirement. Alternatively, the hospital or physician could bill for and receive payment for services of CRNAs where an employment relationship or contract so stipulates. The hospital or physician could not bill more for CRNA services than the amount the CRNA could bill directly.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Yes

Agency Contact: Bernard Patashnik, Director, Division of Medical Services, Reimbursement, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Blvd., Baltimore, MD. 21207, 301 597-1334

RIN: 0938-AD25

817. ● DISCONTINUATION OF BAD DEBT PAYMENT FOR HOSPITALS SUBJECT TO THE PROSPECTIVE PAYMENT SYSTEM

Significance: Agency Priority

Legal Authority: 42 USC 1395x(v); 42 USC 1395ww(d); 42 USC 1395ww(h)

CFR Citation: 42 CFR 412.2; 42 CFR 412.115; 42 CFR 413.80

Legal Deadline: None.

Abstract: Under this proposed rule we would revise the regulations that govern payments under the Medicare program for bad debts incurred by hospitals due to the failure of Medicare beneficiaries to pay deductible and coinsurance amounts with certain exceptions. we would no longer pay hospitals for bad debts related to costs covered by the prospective payment system for inpatient hospital services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

Agency Contact: Charles Booth, Director, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 181 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 594-9760

RIN: 0938-AD27

818. ● WITHDRAWAL OF COVERAGE OF SINGLE PHOTON ABSORPTIOMETRY

Legal Authority: 42 USC 1395y

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: This notice announces the Medicare program's intent to withdraw Medicare coverage (including coverage under the End-Stage Renal Disease (ESRD) program) for single photon absorptiometry for measuring bone mineral density for either diagnostic or treatment purposes, and to continue noncoverage of dual photon absorptiometry.

Timetable:

Action	Date	FR Cite
Proposed Notice	02/00/88	

Small Entity: No

Agency Contact: Barton McCann, M.D., Chief, Special Coverage Issue Branch, Office of Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 455 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 594-9370

RIN: 0938-AD28

819. ● HOME HEALTH AGENCIES AIDE TRAINING AND DISCHARGE PLANNING, AND CONFORMING CHANGES TO THE HOSPICE PROGRAM

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1395x(m); 42 USC 1395x(dd); 42 USC 1395hh; 42 USC 1395x(o)

CFR Citation: 42 CFR 405.1202; 42 CFR 405.1223; 42 CFR 405.1227; 42 CFR 405.1228; 42 CFR 409.40; 42 CFR 418.94; 42 CFR 418.202

Legal Deadline: None.

Abstract: These regulations would establish home health aid training, supervision, and duty requirements applicable to all home health agencies that provide home health aide services under Part A or B of the Medicare program and would require that for the services of a home health aide to be covered by the Medicare program, the aide must have completed a training program that we approve. Conforming changes would be made to the hospice regulation with respect to hospice personnel that perform home health aide services. These regulations would also require that an HHA establish a discharge plan for its patients and include a discussion of that plan in a discharge summary that is provided to the patient's attending physician and the patient.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Thomas Hoyer, Director, Division of Provider Services, Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 405 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 594-9445

RIN: 0938-AD29

820. ● MODIFICATION OF CERTAIN REQUIREMENTS FOR HEALTH INSURING ORGANIZATIONS

Legal Authority: 42 USC 1302; 42 USC 1903(m)(2)(A); PL 99-272, Sec 9517(c); PL 99-514, Sec 1895(c)(4); PL 99-509, Sec 9435(e)

CFR Citation: 42 CFR 434.14; 42 CFR 434.20; 42 CFR 434.40; 42 CFR 434.42; 42 CFR 434.44

Legal Deadline: None.

Abstract: The proposed rule describes the conditions under which a Health Insuring Organization (HIO) is subject to Medicaid Health Maintenance Organization (HMO) regulations. It would require that an HIO which becomes operational on or after January 1, 1986 and arranges for the delivery of services to recipients be subject to HMO requirements. The regulations would specify that exemptions from certain HMO rules are permitted for HIOs which began operations on or after January 1, 1986 if the HIOs obtained a section 1915(b) waiver prior to that date, or if an HIO is otherwise identified in the law. The rule exemptions last only until the expiration of a section 1915(b) waiver.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Robert E. Wren, Office Director, Department of Health and Human Services, Health Care Financing Administration, Office of Coverate Policy, Rm. 401 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 594-9690

RIN: 0938-AD31

821. ● OCCUPATIONAL THERAPY PHYSICIAN ASSISTANTS

Legal Authority: 42 USC 1302; 42 USC 1395f; 42 USC 1395m; 42 USC 1395k; 42 USC 1395l; 42 USC 1395n; 42 USC 1395x(r); 42 USC 1395x(s); 42 USC 1395x(cc); 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395x; 42 USC 1395aa; 42 USC 1395cc

CFR Citation: 42 CFR 405.1634; 42 CFR 405.1701; 42 CFR 405.1702; 42 CFR 405.1716; 42 CFR 405.1717; 42 CFR 405.1718; 42 CFR 405.1722; 42 CFR 405.1731; 42 CFR 405.1732; 42 CFR 405.1733; 42 CFR 405.1737; 42 CFR 405.1738; 42 CFR 410.10; 42 CFR 410.64; 42 CFR 410.150

Legal Deadline: None.

Abstract: This proposed rule would implement sections 9337 and 9338 of Pub.L 99-509 which provides Medicare coverage for outpatient occupational therapy services furnished by providers and independent practitioners, identical to the coverage for outpatient physical therapy.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Sheridan Gladhill, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Rm. 403, EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 594-9440

RIN: 0938-AD32

822. ● PROHIBITION ON UNBUNDLING OF HOSPITAL OUTPATIENT SERVICES

Legal Authority: 42 USC 1302; 42 USC 1395y(a)(14); 42 USC 1395CC(a)(1)(H); 42 USC 1395cc(g); 42 USC 1395hh

CFR Citation: 42 CFR 405.301; 42 CFR 409.3; 42 CFR 489.20; 42 CFR 1003.101; 42 CFR 1003.102; 42 CFR 1003.105

Legal Deadline: None.

Abstract: This proposed rule, issued jointly by HCFA and OIG, would prohibit Medicare payment for nonphysician services furnished to a hospital outpatient by a provider or supplier other than the hospital, unless the services are furnished under an arrangement with the hospital. The hospital would be obligated by its provider agreement to furnish the services directly or under an arrangement. These regulations would also authorize OIG to impose a civil money penalty, not to exceed $2,000, against any individual who knowingly and willfully presents, or causes to be presented, a bill or request for payment for a hospital outpatient service under Part B of Medicare in violation of an arrangement. These regulations would implement sections 9343(c)(1), (c)(2), and (c)(3) of the Omnibus Budget Reconciliation Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Tom Hoyer, Director, Division of Provider Services and, Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 405 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 594-9446

RIN: 0938-AD33

823. ● PHYSICIAN LIABILITY ON NON-ASSIGNED CLAIMS

Legal Authority: PL 99-509, Sec 9332

CFR Citation: 42 CFR 405.359

Legal Deadline: None.

Abstract: This regulation would implement Section 9332(c) of the Omnibus Budget Reconciliation Act of 1986 under which nonparticipating physicians who provide on an unassigned basis services which are determined to be medically unnecessary may be required to refund to the beneficiary any amounts collected for such services.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Elmer Smith, Director, Office of Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Rm. 400 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 594-9682

RIN: 0938-AD34

824. ● ALIEN ELIGIBILITY, IMMIGRATION STATUS VERIFICATION AND WAIVER PROCEDURES FOR AFDC STATE ADMINISTERED ADULT ASSISTANCE AND MEDICAID PROGRAMS

Legal Authority: 42 USC 1320b-7; 42 USC 1302

CFR Citation: 42 CFR 433.15; 42 CFR 435.970; 42 CFR 435.972; 42 CFR 435.974; 42 CFR 435.976; 42 CFR 435.978; 42 CFR 435.980; 42 CFR 435.982; 42 CFR 435.1015; 42 CFR 435.4; 42 CFR 435.402; 42 CFR 435.900; 42 CFR 435.945; 42 CFR 435.948; 42 CFR 435.1010; ...

Legal Deadline: None.

Abstract: These regulations implement section 121 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603), which requires that State agencies verify the immigration status of aliens applying for, and receiving benefits under the Aid to Families with Dependent Children (AFDC) program, Adult Assistance program and Medicaid programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: David L. Landis, Director, Division of Performance, Evaluation, Bureau of Quality Control, Department of Health and Human Services, Health Care Financing Administration, Rm. 233 EHR, 6325 Security Blvd., 301 594-9000

RIN: 0938-AD35

825. ● CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS

Legal Authority: 42 USC 1395y(a); 42 USC 1395x(s)(a); 42 USC 1320c-2(b)(2)(A); 42 USC 1320c-3(a)(4); 42 USC 1396a(a)(30)

CFR Citation: 42 CFR 405.310; 42 CFR 431.630; 42 CFR 433.15; 42 CFR 434.53; 42 CFR 456.2; 42 CFR 456.650; 42 CFR 462.101; 42 CFR 462.102; 42 CFR 462.106; 42 CFR 462.107; 41 CFR 466.71; 42 CFR 466.76; 42 CFR 466.78; 42 CFR 466.83; 42 CFR 466.93

Legal Deadline: None.

Abstract: This proposed rule sets forth several changes to the Medicare regulations governing Peer Review Organizations. Some of these changes are the result of the passage of the Consolidated Omnibus Budget Reconciliation Act of 1985 and the

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Omnibus Budget Reconciliation Act of 1986. Other changes are of a technical nature and are intended to clarify and correct existing regulations on the Peer Review Organization Program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Mary Kay Terry, Director, Division of Review Programs, Department of Health and Human Services, Health Care Financing Administration, Rm. 2-D-2 Meadows East Bdlg., 6325 Security Blvd., Baltimore, MD. 21207, 301 594-7909

RIN: 0938-AD36

826. ● LONG TERM CARE SURVEY

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395bb; 42 USC 1395cc; 42 USC 1395hh; 42 USC 1395rr

CFR Citation: 42 CFR 405.1906; 42 CFR 442.30

Legal Deadline: Judicial, July 1, 1987. (Note: Published in Federal Register 7/1/87)

Abstract: These regulations respond to a U.S. District Court decision, which declared a previous rule affecting long term care surveys published in the Federal Register on June 13, 1986, to be procedurally invalid. The Court ordered that, by July 1, 1987, we publish a new proposed rule to correct the inadequacies identified by the Court.

Accordingly, the proposed regulations described in detail HCFA's survey methodology, guidelines, and forms used in surveys, and the duties of the State survey agency. HCFA also solicited comments on the guidelines and forms that constitute the survey system, set forth in appendices to the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	07/01/87	52 FR 24752
NPRM Comment Period End	09/29/87	52 FR 24752
Final Action	03/00/88	

Small Entity: Yes

Agency Contact: Wayne Smith, Director, Office of Survey and Certification, Department of Health and Human Services, Health Care Financing Administration, 6325 Security Blvd, Baltimore, MD 21207, 301 594-5547

RIN: 0938-AD41

827. ● ADMINISTRATIVE SANCTIONS FOR CIRCUMVENTING THE PROSPECTIVE PAYMENT SYSTEM AND PRO DISCLOSURE TO LICENSING AND CERTIFICATION BODIES

Legal Authority: 42 USC 1395hh; 42 USC 1395ww; 42 USC 1302

CFR Citation: 42 CFR 400; 42 CFR 412; 42 CFR 476; 42 CFR 498; 42 CFR 1001

Legal Deadline: None.

Abstract: This proposed rule would set forth the Secretary's authority to levy administrative sanctions against hospital providers who engage in fraudulent and abusive practices intended to circumvent the Prospective Payment System (PPS) under the Medicare program. The purpose of these proposed regulations is to clarify and strengthen the OIG's existing authority to protect the Medicare program from abuse by terminating any hospital who fails to correct abusive practices under PPS when directed to do so by the appropriate utilization and quality control Peer Review Organization (PRO). These regulations also revise and clarify HCFA's authority with respect to corrective action procedures and procedures for program payment denial against those hospital providers who circumvent PPS.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Mary Kay Terry, Director, Division of Review Programs, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East, 6325 Security Boulevard, Baltimore, MD 21207, 301 594-7909

RIN: 0938-AD42

828. ● REVISION OF THE MEDICARE ECONOMIC INDEX

Legal Authority: PL 92-603; PL 99-509

CFR Citation: 42 CFR 405.504

Legal Deadline: None.

Abstract: This proposed rule would establish in regulations the revised proxy measures which we believe have a sounder economic foundation than the current ones and meet the requirements of the Omnibus Budget Reconciliation Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Roland King, Chief Actuary, Department of Health and Human Services, Health Care Financing Administration, 1705 Equitable Building Room 100, 6325 Security Blvd, Baltimore, MD 21207, 301 594-2826

RIN: 0938-AD43

829. ● UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATES FOR JULY 1, 1988

Significance: Agency Priority

Legal Authority: 42 USC 1395l(a)(4); 42 USC 1395l(i)

CFR Citation: 42 CFR 416.130

Legal Deadline: Statutory, July 1, 1988.

Abstract: We would update the payment amounts for ambulatory surgical services, effective July 1,1988, based on a survey of costs and charges reported by Medicare participating ambulatory surgical centers.

Timetable:

Action	Date	FR Cite
Proposed Notice	02/00/88	
Final Notice	06/01/88	

Small Entity: Yes

Agency Contact: Charles Booth, Director, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, Health Care Financing Administration, Room 181 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9760

RIN: 0938-AD44

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Health Care Financing Administration (HCFA)

830. PAYMENTS TO INSTITUTIONS

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(10); 42 USC 1396a(a)(17)

CFR Citation: 42 CFR 435.725; 42 CFR 435.733; 42 CFR 435.832; 42 CFR 436.832; 42 CFR 435.722

Legal Deadline: None.

Abstract: This regulation alleviates problems encountered by States in calculating patient income to be applied to the cost of care in institutions. It is intended to permit States greater flexibility in administering their programs (Regulatory Reform). These regulations also implement a provision of Pub. L. 99-272. This provision requires that when States elect to use a special income standard for institutionalized individuals, Medicaid eligibility must begin with the first day of a period of not less than 30 consecutive days of institutionalization.

Timetable:

Action	Date	FR Cite
NPRM	03/19/85	50 FR 10992
NPRM Comment Period End	05/20/85	
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Marinos Svolos, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medicaid Eligibility, Room 416 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9050

RIN: 0938-AB00

831. RELATIONS WITH OTHER AGENCIES, MISCELLANEOUS MEDICAID DEFINITIONS AND THIRD PARTY LIABILITY QUALITY CONTROL

Legal Authority: 42 USC 1302; PL 97-12, Sec 402; PL 98-619, Sec 204

CFR Citation: 42 CFR 431.625; 42 CFR 435.1009; 42 CFR 440.2; 42 CFR 440.10; 42 CFR 440.20; 42 CFR 440.80; 42 CFR 431.800; 42 CFR 440.30; 42 CFR 441.200; 42 CFR 441.201; 42 CFR 441.202; 42 CFR 441.203; 42 CFR 441.206; 42 CFR 441.208

Legal Deadline: None.

Abstract: These regulations: (1) revise Medicaid policy on State payments of cost sharing amounts under Medicare Part B "buy-in" agreements; (2) revise and clarify certain Medicaid definitions; (3) remove the requirement that State plans include third party liability quality control reviews as a part of the State's Medicaid quality control system; and update provisions relating to payment for abortions to conform them to several public laws that limit use of Federal funds for that purpose.

Timetable:

Action	Date	FR Cite
NPRM	03/11/83	49 FR 10378
NPRM Comment Period End	05/11/83	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Thomas Hoyer, Director, Division of Provider Services, Department of Health and Human Services, Health Care Financing Administration, Room 409 EHR, 6325 Security Boulevard, Baltimore, MD 21207, 301 594-9446

RIN: 0938-AB21

832. CHANGES TO THE LESSER OF COSTS OR CHARGES PROVISIONS

Significance: Regulatory Program

Legal Authority: 42 USC 1395f(b); 42 USC 1395f(k); 42 USC 1395l(a); PL 98-369, Sec 2308

CFR Citation: 42 CFR 413.13

Legal Deadline: None.

Abstract: This regulation eliminates application of the lesser of costs or charges aggregation method for determining payment for services furnished under Part A or Part B of Medicare effective with cost reporting periods beginning on or after October 1, 1984 (section 2308(a) of Pub.L. 98-369). We also eliminate the accumulation and carryover of unreimbursed costs to subsequent cost reporting periods applicable with cost reporting periods beginning on or after the effective date of the final rule. It revises the nominal charge provisions for providers that furnish services either free of charge or at a nominal charge in accordance with section 2308(b) of Pub.L. 98-369. It also revises the payment provisions for durable medical equipment furnished by home health agencies effective on or after July 18, 1984.

Timetable:

Action	Date	FR Cite
NPRM	09/18/86	51 FR 33074
NPRM Comment Period End	11/17/86	
Final Action	12/00/87	

Small Entity: Yes

Agency Contact: William Goeller, Director, Division of Payment & Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 East Low Rise, 6325 Security Boulevard, Baltimore, MD 21207, 301 597-1863

RIN: 0938-AB29

833. FFP FOR SERVICES OF LONG TERM CARE FACILITIES

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 442.16; 42 CFR 442.40; 42 CFR 442.42

Legal Deadline: None.

Abstract: These rules will modify and clarify policy on Federal financial participation (FFP) in State Medicaid payments to a skilled nursing facility (SNF) or an intermediate care facility (ICF) after the facility's provider agreement has been terminated or has expired and not been renewed.

Timetable:

Action	Date	FR Cite
NPRM	10/16/85	50 FR 42192
NPRM Comment Period End	12/17/85	50 FR 42192
Final Action	10/00/87	

Small Entity: No

Affected Sectors: 919 General Government, Not Elsewhere Classified

Government Levels Affected: State

Agency Contact: Gilda Martin, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Financial Policy Branch, Rm. 350 Meadows East, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1399

RIN: 0938-AB42

834. REVISIONS IN REPORTING AND RECORDKEEPING REQUIREMENTS

Legal Authority: 42 USC 1302; 42 USC 1395x(p); 42 USC 1395x(s)(3)(11) to (12); 42 USC 1395aa; 42 USC 1395hh

CFR Citation: 42 CFR 405.1413(c); 42 CFR 405.1716(c); 42 CFR 405.1716(d); 42 CFR 405.1717(b); 42 CFR 405.1717(e); 42 CFR 405.1725(a); 42 CFR 405.1702(d), (f) to (k); 42 CFR 405.1731(a),(c); 42 CFR 434.36; 42 CFR 434.55; 42 CFR 405.1733(a),(b); 42 CFR 434.27(a)

Legal Deadline: None.

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HHS—HCFA

Final Rule Stage

Abstract: This final rule sets forth changes in several regulations containing collection of information requirements. The changes are HCFA's response to the Office of Management and Budget requirement to eliminate regulations that are overly prescriptive, duplicative, or lack practical utility. The requirements affect the providers and suppliers of outpatient physical therapy and speech pathology services; physical therapists in independent practice; portable X-ray services; and Medicaid contracts with health maintenance organizations and prepaid health plans.

Timetable:

Action	Date	FR Cite
NPRM	02/24/86	51 FR 6429
Final Action	10/00/87	

Small Entity: No

Agency Contact: Stanley Katz, Director Division of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 489 East High Rise Bldg., 6325 Security Blvd., Baltimore, Maryland 21207, 301 594-8561

RIN: 0938-AB46

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835. INDIRECT PART B PAYMENT PROCEDURE

Legal Authority: 42 USC 1395u; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 405.1672; 42 CFR 405.1679; 42 CFR 405.1685; 42 CFR 405.1686

Legal Deadline: None.

Abstract: This regulation implements provisions of Pub.L. 98-369 that allow payment for services furnished under Part B of Medicare to be made to a health benefits plan.

Timetable:

Action	Date	FR Cite
NPRM	07/01/86	51 FR 23792
NPRM Comment Period End	07/31/86	51 FR 23792
Final Action	00/00/00	

Small Entity: No

Agency Contact: Harold Fishman, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medicare Eligibility, Room 448 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9077

RIN: 0938-AB59

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836. TREATMENT OF SOCIAL SECURITY COST OF LIVING INCREASES FOR INDIVIDUALS WHO LOSE SSI ELIGIBILITY

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1396a(note)

CFR Citation: 42 CFR 435.135; 42 CFR 435.136

Legal Deadline: None.

Abstract: This revision to Medicaid rules provides that a State, in determining categorically needy financial eligibility for an individual who would still be eligible for benefits under SSI but for receipt of a section 215(i) cost of living increase after April 1977, must treat that individual as if he or she were still receiving SSI benefits. Section 215(i) cost of living increases are made to persons who receive monthly Social Security cash benefits. (This regulation was developed pursuant to a court order.)

Timetable:

Action	Date	FR Cite
NPRM	04/12/85	50 FR 14397
NPRM Comment Period End	06/11/85	
Interim Final Rule	04/10/86	51 FR 12325
Final Action	05/00/88	

Small Entity: No

Agency Contact: Roy Trudel, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Division of Medicaid Eligibility Policy, Room 416 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9128

RIN: 0938-AB62

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837. OMB REVIEW OF INFORMATION COLLECTION AND RECORDKEEPING REQUIREMENTS FOR HOME HEALTH AGENCIES, INDEPENDENT LABORATORIES, AND PROVIDERS OF OUTPATIENT, PHYSICAL THERAPY AND/OR (CONT)

Legal Authority: 42 USC 1302; 42 USC 1395u; 42 USC 1395x; 42 USC 1395y; 42 USC 1395gg; 42 USC 1395hh; 42 USC 1395x(s)(10) to (11); 42 USC 1395aa; 42 USC 1395x(o)

CFR Citation: 42 CFR 405.1221(e); 42 CFR 405.1221(f); 42 CFR 405.1221(g); 42 CFR 405.1221(i); 42 CFR 405.1223(b); 42 CFR 405.1229(a); 42 CFR 405.1315(f); 42 CFR 405.1316(f); 42 CFR 405.1720(b); 42 CFR 405.1721; 42 CFR 405.1224; 42 CFR 405.1228; 42 CFR 405.1225(a); 42 CFR 405.1226; 42 CFR 405.1314; ...

Legal Deadline: None.

Abstract: The purpose of this rule is to set forth changes in several regulations containing information collection requirements, and to obtain public comments on the proposed changes.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	51 FR 47266
NPRM Comment Period End	03/02/87	51 FR 47266
Final Action	00/00/00	

Small Entity: No

Additional Information: TITLE CONT: Speech Pathology Services

Agency Contact: Stefan Miller, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Office of Coverage Policy, Room 400 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-6394

RIN: 0938-AB68

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838. CLARIFICATION OF POLICY ON ADJUSTING THE HOSPITAL-SPECIFIC PORTION OF THE PROSPECTIVE PAYMENT RATE

Significance: Agency Priority

Legal Authority: 42 USC 1395ww(d)

CFR Citation: 42 CFR 412.72

Legal Deadline: None.

Abstract: This final rule clarifies Medicare's policy on adjusting the hospital-specific portion of the prospective payment rate for inpatient hospital services as the result of adjustments to a hospital's target amount for events occurring in the year following its base year. It clarifies that exemptions, exceptions, or adjustments granted under section 1886(b)(4) of the Act or 42 CFR 413.30 or 413.40(e)-(h) for periods subsequent to the base year have no effect on the hospital-specific portion of the prospective payment rates.

HHS—HCFA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/10/86	51 FR 8208
NPRM Comment Period End	04/19/86	51 FR 8208
Final Action	00/00/00	

Small Entity: No

Agency Contact: Edward Rees, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Payment Determination Policy Branch, DHPP, R. 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-6403

RIN: 0938-AB71

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839. CONDITIONS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1396d(c); 42 USC 1396d(d)

CFR Citation: 42 CFR 435; 42 CFR 442; 42 CFR 431.610(f)(1); 42 CFR 440.150(c)(3); 42 CFR 483

Legal Deadline: None.

Abstract: This rule revises the format and content of the standards for intermediate care facilities for the mentally retarded and persons with related conditions (ICFs/MR). The new format will be that of "conditions of participation" and will make the regulations for ICFs/MR consistent with the organization of the Medicare and Medicaid regulations for skilled nursing facilities. Revisions to the content of the regulations are intended to shift the focus away from facility-oriented requirements to client-oriented requirements. Thus, the rule is designed to increase the focus on the provision of active treatment services for clients, clarify Federal requirements, and maintain essential client protection.

Timetable:

Action	Date	FR Cite
NPRM	03/04/86	51 FR 7520
NPRM Comment Period End	05/05/86	51 FR 7520
Final Action	11/00/87	

Small Entity: No

Agency Contact: Samuel Kidder, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Long Term Care Branch, Room 429 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-5309

RIN: 0938-AB76

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840. REVISION OF MEDICAID ELIGIBILITY QUALITY CONTROL (MEQC) PROGRAM REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 1396b; 42 USC 1302

CFR Citation: 42 CFR 431.800 to 431.808; 42 CFR 431.810 to 431.822; 42 CFR 431.830 to 431.836; 42 CFR 431.861 to 431.865

Legal Deadline: None.

Abstract: This final rule revises the regulations governing the Medicaid eligibility quality control (MEQC) program to include more specified program requirements and to establish new time frames for completing and reporting MEQC case findings to HCFA. The final rule also establishes a performance-based threshold for States to meet before HCFA will consider good faith waiver requests of disallowance of Federal financial participation in erroneous Medicaid payments and provides more definitive criteria for evaluating States good faith efforts to meet the national standard error rate. In addition, the rule makes several technical changes and specifies that States may rebut their quarterly projected error rates when they can present evidence that the projected rates were based on erroneous data. The revisions will strengthen the MEQC program and provide flexibility and incentives to States to produce more accurate Medicaid eligibility determinations.

Timetable:

Action	Date	FR Cite
NPRM	01/26/87	52 FR 02733
NPRM Comment Period End	03/27/87	52 FR 02733
Final Action	02/00/88	

Small Entity: No

Agency Contact: Randolph Graydon, Acting Director, Div. of Program Benefits Assessment, Department of Health and Human Services, Health Care Financing Administration, Bureau of Quality Control, 207-L ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1352

RIN: 0938-AB85

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841. MEDICAID PROGRAM; COVERAGE OF QUALIFIED PREGNANT WOMEN AND CHILDREN AND NEWBORN CHILDREN

Legal Authority: 42 USC 1396a(a)(10)(A)(i)(III); 42 USC 1396a(e)(4); 42 USC 1302; 42 USC 1396d(n)

CFR Citation: 42 CFR 435.3; 42 CFR 435.115; 42 CFR 435.116; 42 CFR 435.117; 42 CFR 435.301; 42 CFR 436.2; 42 CFR 436.114; 42 CFR 436.120; 42 CFR 436.124; 42 CFR 436.301

Legal Deadline: None.

Abstract: The final rule amends the Medicaid regulations to incorporate two mandatory eligibility groups of individuals for Medicaid coverage: (1) qualified pregnant women and certain children under age 5; and (2) newborn children of Medicaid-eligible women. These amendments conform the regulations to statutory changes made under the Deficit Reduction Act of 1984 and the Consolidated Omnibus Reconciliation Act of 1985. States have been informed that these provisions of the statute are self-implementing. In addition, manual instructions containing procedures for States to implement the requirements have been issued to States.

Timetable:

Action	Date	FR Cite
NPRM	11/21/85	50 FR 48102
NPRM Comment Period End	01/21/86	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Richard Strauss, Program Analyst, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, Office of Eligibility Policy, Rm. 448, EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-6529

RIN: 0938-AC02

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842. REASONABLE CHARGE LIMITATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 1395u(b)(3); 42 USC 1395u(b)(8); 42 USC 1395u(b)(9)

CFR Citation: 42 CFR 405.502

Legal Deadline: None.

Abstract: This rule revises the regulations concerning special reasonable charge limits for Part B

HHS—HCFA — Final Rule Stage

Services. It will conform the regulations to section 9333 of the Omnibus Budget Reconciliation Act of 1986 that specifies changes to the procedures for establishing special reasonable charge limits.

Timetable:

Action	Date	FR Cite
NPRM	02/18/86	51 FR 5726
Final Action with Comment Period	08/11/86	51 FR 28710
Final Action Comment Period End	10/10/86	
Final Action	01/00/88	

Small Entity: No

Agency Contact: Bernard Patashnik, Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medical Services Reimbursement, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1334

RIN: 0938-AC08

843. ASSIGNMENT AND REASSIGNMENT OF PROVIDER-BASED HOME HEALTH AGENCIES AND HOSPICES TO DESIGNATED REGIONAL INTERMEDIARIES

Significance: Regulatory Program

Legal Authority: 42 USC 1395h(e)

CFR Citation: 42 CFR 421.3; 42 CFR 421.117; 42 CFR 421.126

Legal Deadline: None.

Abstract: This regulation requires all home health agencies and hospices to be served by designated regional intermediaries, instead of permitting provider-based HHAs and hospices to use the intermediaries their parent providers use. This reduces the number of intermediaries serving the HHAs and hospices, thus resulting in more consistent payment determinations and more effective and efficient administration.

Timetable:

Action	Date	FR Cite
NPRM	01/22/87	52 FR 02424
NPRM Comment Period End	03/23/87	52 FR 02424
Final Action	12/00/87	

Small Entity: No

Agency Contact: Irvin Robinson, Director, Division of Procurement, Department of Health and Human Services, Health Care Financing Administration, Room 334 Meadows East Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 594-8003

RIN: 0938-AC20

844. FIRE SAFETY STANDARDS FOR HOSPITALS, SKILLED NURSING FACILITIES, INTERMEDIATE CARE FACILITIES AND AMBULATORY SURGICAL CENTERS

Significance: Agency Priority

Legal Authority: 42 USC 1395x(e)(9); 42 USC 1395x(j)(13); 42 USC 1395hh; 42 USC 1396d(c); 42 USC 1396d(d); 42 USC 1302

CFR Citation: 42 CFR 405.1022(b)(1); 42 CFR 405.1134(a); 42 CFR 416.44(b); 42 CFR 442.321(a); 42 CFR 442.321(c); 42 CFR 442.322; 42 CFR 442.323

Legal Deadline: None.

Abstract: This final rule amends the fire safety standards for hospitals, skilled nursing facilities, intermediate care facilities and ambulatory surgical centers to incorporate by reference the 1985 edition of the Life Safety Code of the National Fire Protection Association.

Timetable:

Action	Date	FR Cite
NPRM	01/26/87	52 FR 02430
NPRM Comment Period End	03/23/87	52 FR 02430
Final Action	00/00/00	

Small Entity: No

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, 300 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 597-5909

RIN: 0938-AC28

845. EMPLOYERS CONTRIBUTION TO HEALTH MAINTENANCE ORGANIZATIONS OPTION

Significance: Regulatory Program

Legal Authority: 42 USC 300e-9

CFR Citation: 42 CFR 110.808, (removed)

Legal Deadline: None.

Abstract: This final rule removes from the regulations the requirement that employers contribute an equal amount to a Health Maintenance Organization employee benefit plan as they do to other employee health benefit plans.

Timetable:

Action	Date	FR Cite
NPRM	01/13/87	52 FR 01343
NPRM Comment Period End	03/16/87	
Next Action	Undetermined*	

*The Regulatory Program of the United States Government 1987-1988 projected final action in July, 1987.

Small Entity: No

Additional Information: The Regulatory Program of the United States Government 1987-1988 projected final publication in July, 1987.

Agency Contact: Carolyn Cocotas, Special Assistant, Office of Prepaid Health Care, Department of Health and Human Services, Health Care Financing Administration, 317H HHH Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-8036

RIN: 0938-AC46

846. CORRECTION AND REDUCTION PLANS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

Legal Authority: 42 USC 1302; 42 USC 1396r

CFR Citation: 42 CFR 442.1; 42 CFR 442.2; 42 CFR 442.109; 42 CFR 442.110; 42 CFR 442.111; 42 CFR 442.112; 42 CFR 442.113; 42 CFR 442.114; 42 CFR 442.115; 42 CFR 442.116

Legal Deadline: None.

Abstract: These final regulations provide States additional options under which an ICF/MR found to have substantial deficiencies that do not pose an immediate threat to the clients' health and safety may remedy those deficiencies. The regulations provide the State Medicaid agency with options to submit written plans either to correct the necessary staff and physical plant deficiencies, and all other deficiencies, within 6 months of the approval date of the plan, or to reduce permanently the number of beds in certified units within 36 months of the approval date of the plan. These regulations are necessary to implement section 9516 of P.L. 99-272.

Timetable:

Action	Date	FR Cite
NPRM	07/25/86	51 FR 26718
NPRM Comment Period End	09/25/86	51 FR 26718
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Mary Pratt, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Health Standards and Quality Bureau, Rm. 2-D-2 ME. 6300 Security Blvd., Baltimore, MD 21207, 301 594-0065

RIN: 0938-AC51

HHS—HCFA — Final Rule Stage

847. SCHEDULE OF LIMITS FOR SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS FOR COST REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1987

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(v)(1); 42 USC 1395yy

CFR Citation: 42 CFR 413.30

Legal Deadline: None.

Abstract: This notice would set forth a revised schedule of limits on skilled nursing facility inpatient routine service costs that are reimbursed under Medicare. This schedule would apply to cost reporting periods beginning on or after October 1, 1987.

Timetable:

Action	Date	FR Cite
Final Notice	09/01/87	
Final Action Effective	10/01/87	

Small Entity: No

Agency Contact: William Goeller, Director, Division of Payment and Reporting Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1802

RIN: 0938-AC54

848. STATE PLAN REQUIREMENTS AND OTHER PROVISIONS RELATING TO STATE THIRD-PARTY LIABILITY PROGRAMS

Significance: Agency Priority

Legal Authority: 42 USC 1396a(a)(25); 42 USC 1302

CFR Citation: 42 CFR 433.136; 42 CFR 433.139; 42 CFR 447.20; 42 CFR 447.21

Legal Deadline: Statutory, October 7, 1988. Section 9503 of Pub. L. 99-272 (April 7, 1986) requires that final regulations be published 6 months from date of enactment.

Abstract: This rule implements, in part, those portions of sec. 9503 of Pub. L. 99-272 that set forth State plan requirements and other provisions relating to State third-party liability (TPL) programs. The provisions deal with (1) the integration of a State's pursuit of third-party claims with its Mechanized Claims Processing and Information Retrieval Systems and the Secretary's responsibility to develop performance standards to assess TPL collection efforts with respect to this integration; (2) certain exceptions to the cost avoidance method of claims payment in TPL situations; and (3) provider restrictions and provider penalties related to attempts at collection of cost sharing or portions of those amounts from Medicaid recipients when third party liability has been established.

Timetable:

Action	Date	FR Cite
NPRM	03/02/87	52 FR 06350
NPRM Comment Period End	04/02/87	52 FR 06350
Final Action	06/00/88	

Small Entity: No

Agency Contact: Sue Knesley, Program Analyst, Bureau of Quality Control, Department of Health and Human Services, Health Care Financing Administration, Third Party Liability Branch, 233 EHR. 6325 Security Blvd., Baltimore, MD 21207, 301 597-3631

RIN: 0938-AC64

849. ALTERNATE SANCTIONS FOR ESRD FACILITIES

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395rr

CFR Citation: 42 CFR 405

Legal Deadline: None.

Abstract: These rules provide that, when the only deficiency cited for a supplier of ESRD services is a failure to cooperate in achieving the plans and objectives of the ESRD network of which the supplier is a member, and that failure does not jeopardize patient health and safety, HCFA may, as an alternative to terminations of Medicare coverage of the facility's ESRD services, impose alternative sanctions such as denial of payment for services furnished to patients accepted for care after the effective date of the sanction, or a gradual reduction in the payments for all patients.

Timetable:

Action	Date	FR Cite
NPRM	04/09/87	52 FR 11517
NPRM Comment Period End	06/08/87	
Final Action	00/00/00	

Small Entity: Yes

Agency Contact: Spencer B. Colburn, Chief, Hospital Services Branch, Department of Health and Human Services, Health Care Financing Administration, Room 2-D-2 ME Bldg., 6300 Security Blvd., Baltimore, MD 21207, 301 594-3413

RIN: 0938-AC68

850. ENTITIES PERFORMING QUALITY OF CARE REVIEW OF SERVICES PROVIDED BY RISK-BASIS HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

Legal Authority: 42 USC 1302; 42 USC 1320c-3(a)(4); 42 USC 1320c-9

CFR Citation: 42 CFR 466.70; 42 CFR 466.71; 42 CFR 466.72; 42 CFR 466.73; 42 CFR 476.137; 42 CFR 476.138

Legal Deadline: None.

Abstract: This rule provides for review by Utilization and Quality Control Peer Review Organizations (PROs) of the quality of care furnished by risk-based health maintenance organizations and competitive medical plans (CMPs). This rule also provides for the same review by non-PRO entities and identifies the requirements that these non-PRO entities must meet.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	
Final Action with Comment Period	10/00/87	

Small Entity: No

Agency Contact: Kay Terry, Chief, Quality Review Branch, Office of Medical Review, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Building, 6325 Security Blvd., Baltimore, MD 21207, 301 594-7909

RIN: 0938-AC85

851. END STAGE RENAL DISEASE PROGRAM: RESPONSIBILITIES OF NETWORK ORGANIZATIONS

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 405.2112; 42 CFR 405.2113

Legal Deadline: None.

Abstract: These regulations will revise final regulations published on August 26, 1986 (51 FR 30358) pertaining to the End Stage Renal Disease (ESRD) networks and organizations to reflect certain provisions of the ESRD program amendments contained in sections 9335(d) through (h) of the Omnibus Budget Reconciliation Act of 1986. These regulations will revise the responsibilities of network organizations.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17777
NPRM Comment Period End	07/13/87	52 FR 17777
Final Action	11/00/87	

Small Entity: No

Agency Contact: Spencer Colburn, Branch Chief, Hospital Services Branch, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Building, 6300 Security Blvd., Baltimore, MD 21207, 301 594-3413

RIN: 0938-AC86

852. END STAGE RENAL DISEASE PROGRAM: REVISED NETWORK AREA DESIGNATIONS

Significance: Agency Priority

Legal Authority: 42 USC 1395rr

CFR Citation: Not applicable

Legal Deadline: Statutory, May 1, 1987.

Abstract: This notice provides for 18 End Stage Renal Disease (ESRD) network areas, sets forth the geographic areas of the new network organizations, and the criteria used to designate the new areas. This notice also sets forth evaluation criteria and performance indicators for monitoring the performance of network organizations.

Timetable:

Action	Date	FR Cite
Proposed Notice	04/09/87	52 FR 11550
Final Notice	10/00/87	
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Spencer Colburn, Branch Chief, Hospital Services Branch, Department of Health and Human Services, Health Care Financing Administration, 2-D-2 Meadows East Building, 6300 Security Blvd., Baltimore, MD 21207, 301 594-3413

RIN: 0938-AC87

853. MEDICARE ECONOMIC INDEX FOR REASONABLE CHARGES (EFFECTIVE 01/01/88)

Legal Authority: 42 USC 1395u(b)(3)

CFR Citation: 42 CFR 405.504

Legal Deadline: None.

Abstract: This notice sets forth the economic index used in the calculation of prevailing charges for physicians' services under Part B of Medicare.

Timetable:

Action	Date	FR Cite
Notice	10/00/87	

Small Entity: Undetermined

Agency Contact: Roland King, Chief Actuary, Economic and Actuarial Analysis Branch, Department of Health and Human Services, Health Care Financing Administration, L-1, 1705 Equitable Building, 6325 Security Blvd., Baltimore, MD 21207, 301 594-2826

RIN: 0938-AC91

854. PERIODIC INTERIM PAYMENTS FOR HOSPITALS

Legal Authority: 42 USC 1395g

CFR Citation: 42 CFR 413.60

Legal Deadline: Statutory, July 1, 1987.

Abstract: These regulations would implement provisions of section 9311 of PL. 99-509, which deals with payment of periodic interim payments (PIPs) to providers. This legislation eliminates PIP for prospective payment hospitals except for certain hospitals that serve a disproportionate share of low-income patients and hospitals with 100 or fewer beds that are located in a rural area. Hospitals that are excluded from the prospective payment system, hospitals receiving payment under a State reimbursement control system that incorporates payment on a PIP-basis and all other providers may continue to elect PIP payments. In addition, the legislation provides that a prospective payment hospital may continue to receive PIP payments until its fiscal intermediary demonstrates that it has complied with prompt payment requirements for at least three consecutive months. If at any time the intermediary fails to meet these requirements for three consecutive months, the hospital may again request PIP.

Timetable:

Action	Date	FR Cite
Final Action with Comment Period	10/00/87	

Small Entity: Yes

Agency Contact: William Goeller, Director, Div. of Payment & Reporting Policy, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 East Low Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1802

RIN: 0938-AC96

855. PAYMENT FOR FACILITY SERVICES RELATED TO AMBULATORY SURGICAL PROCEDURES PERFORMED IN HOSPITALS ON AN OUTPATIENT BASIS

Significance: Agency Priority

Legal Authority: 42 USC 1395l(a)(4); 42 USC 1395l(i); PL 99-509, Sec 9343(a)

CFR Citation: 42 CFR 413.13; 42 CFR 413.118

Legal Deadline: None.

Abstract: This final rule sets forth the methodology that will be used to determine payments for hospital outpatient services furnished to Medicare beneficiaries in connection with ambulatory surgical procedures. This rule implements section 9343(a) of the Omnibus Budget Reconciliation Act of 1986. This rule is effective for hospital cost reporting periods beginning on or after October 1, 1987.

Timetable:

Action	Date	FR Cite
NPRM	06/02/87	52 FR 20623
NPRM Comment Period End	08/03/87	
Final Action	09/30/87	

Small Entity: Yes

Agency Contact: William Goeller, Director, Division of Provider Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-F-5 East Low Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 597-1803

RIN: 0938-AD00

856. STANDARDS FOR THE REUSE OF DIALYSIS FILTERS AND OTHER DIALYSIS SUPPLIES

Significance: Regulatory Program

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 405.2136; 42 CFR 405.2139; 42 CFR 405.2140

Legal Deadline: None.

Abstract: This proposed rule revises Medicare rules to include standards and conditions for safe and effective dialyzer reuse and processing, enforceable as a condition of Medicare participation effective October 1, 1987. The standards are those adopted by the Association for the Advancement of Medical Instrumentation in July 1986. The rule also provides standards for reuse of dialyzer caps and prohibits reuse of transducer filters in ESRD facilities.

Timetable:

Action	Date	FR Cite
NPRM	06/17/87	52 FR 23055
NPRM Comment Period End	08/17/87	
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Rita McGrath, Chief, Alternative Delivery Organizations Br, Division of Medical Services Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 469 East High Rise Building, 6325 Security Blvd., Baltimore, MD 21207, 301 594-5719

RIN: 0938-AD10

857. SUPPLEMENTARY MEDICAL INSURANCE PREMIUMS

Legal Authority: 42 USC 1395r; 42 USC 1395s; 42 USC 1302; 42 USC 1395hh; 42 USC 1395rr(d); 42 USC 1395q(b); 42 USC 1395v(d); 31 USC 3711

CFR Citation: 42 CFR 405; 42 CFR 408

Legal Deadline: None.

Abstract: These rules amend Medicare regulations that deal with supplementary medical insurance premiums to conform them to changes made in the Medicare law since those regulations were last published.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	
Final Action with Comment Period	10/00/87	

Small Entity: No

Agency Contact: Luisa V. Iglesias, Technical Assistant, Department of Health and Human Services, Health Care Financing Administration, Room 4243 North Bldg., 300 Independence Ave., SW, Washington, DC 20201, 202 245-0383

RIN: 0938-AD19

858. ● SOURCE OF STATE SHARE OF FINANCIAL PARTICIPATION

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 433, (revised)

Legal Deadline: None.

Abstract: This rule revises the current regulations concerning State's use of public and private donations as sources of the state share of financial participation in Medicaid.

Timetable:

Action	Date	FR Cite
Final Action with Comment Period	12/00/87	

Small Entity: No

Agency Contact: Thomas Ashman, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Rm. 350 ME Bldg., 6325 Security Blvd., Baltimore, MD. 21207, 301 594-7330

RIN: 0938-AD36

859. ● TARGETING INFORMATION FOR INCOME AND ELIGIBILITY VERIFICATION

Legal Authority: 42 USC 1302; 42 USC 1320b-7

CFR Citation: 42 CFR 433.138; 42 CFR 435.941; 42 CFR 435.945; 42 CFR 435.952; 42 CFR 435.953

Legal Deadline: None.

Abstract: This regulation implements section 9101 of PL 99-509, which amended section 1137 of the Social Security Act so that the Secretary may not require agencies that have an income and eligibility verification system to use all the information received through the system. Instead, this regulation allows the States the option to target their uses to those identified in the State plan as most likely to be productive.

Timetable:

Action	Date	FR Cite
Final Action with comment	10/00/87	

Small Entity: No

Agency Contact: David Landis, Director, Division of Performance Analysis, Department of Health and Human Services, Health Care Financing Administration, Rm. 233 EHR, 6325 Security Blvd., Baltimore, MD. 21207, 301 594-9000

RIN: 0938-AD37

860. ● MEDICARE, MEDICAID, AND CLINICAL LABORATORIES IMPROVEMENT ACT (CLIA) PATIENT CONFIDENTIALITY RULES

Legal Authority: 42 USC 216; 42 USC 1302; 42 USC 1395x; 42 USC 1395hh

CFR Citation: 42 CFR 74; 42 CFR 405; 42 CFR 441

Legal Deadline: None.

Abstract: This rule eliminates the requirement that a laboratory maintain the name and other identification of individuals undergoing testing to determine the presence of the Human Immunodeficiency Virus (HIV) antibody or causative agent, if the laboratory is not seeking Medicare or Medicaid payment for these tests.

Timetable:

Action	Date	FR Cite
Final Action with comment period	12/31/87	

Small Entity: Undetermined

Agency Contact: Mike Goldman, Chief, Laboratory and Ambulatory Branch, Department of Health and Human Services, Health Care Financing Administration, 2D2 Meadows East, 6300 Security Blvd., Baltimore, MD 21207, 301 594-9737

RIN: 0938-AD40

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Completed Actions

861. HOME HEALTH AGENCIES: FINANCIAL SECURITY REQUIREMENTS

CFR Citation: 42 CFR 405.402; 42 CFR 405.419; 42 CFR 405.429; 42 CFR 405.1201 to 405.1202; 42 CFR 405.1231

Completed:

Reason	Date	FR Cite
Withdrawn Regulation determined to be unnecessary.	08/14/87	

Small Entity: No

Agency Contact: Ward Pleines 301 597-0323

RIN: 0938-AA13

862. BENEFIT PERIOD DETERMINATIONS, DRUG REGIMEN REVIEWS AND OTHER TECHNICAL CHANGES

CFR Citation: 42 CFR 405.1127(a); 42 CFR 409.60; 42 CFR 442.336(a); 42 CFR 405.704; 42 CFR 405.702

Completed:

Reason	Date	FR Cite
Final Action	06/15/87	52 FR 22638
Final Action Effective	07/15/87	

Small Entity: Undetermined

Agency Contact: Thomas Hoyer 301 594-9446

RIN: 0938-AB03

863. REVISIONS TO MEDICAID PAYMENT FOR HOSPITAL AND LONG TERM CARE FACILITY SERVICES

Significance: Agency Priority

CFR Citation: 42 CFR 447.253; 42 CFR 447.256; 42 CFR 447.257; 42 CFR 447.272; 42 CFR 447.280; 42 CFR 447.321; 42 CFR 400.310

Completed:

Reason	Date	FR Cite
Final Action	07/28/87	52 FR 28141
Final Action Effective	10/26/87	52 FR 28141

Small Entity: No

Agency Contact: Tzvi Hefter 301 597-1008

RIN: 0938-AB40

864. CHANGES TO THE RETURN ON EQUITY CAPITAL PROVISIONS AND THE EXCEPTION FROM COST LIMITS FOR NEWLY ESTABLISHED HOME HEALTH AGENCIES

Significance: Regulatory Program

CFR Citation: 42 CFR 413.5; 42 CFR 413.157; 42 CFR 413.30

Completed:

Reason	Date	FR Cite
Final Action	06/04/87	52 FR 21216
Final Action Effective	07/06/87	

Small Entity: Yes

Agency Contact: William Goeller 301 597-1802

RIN: 0938-AB70

865. PAYMENT ADJUSTMENTS FOR SOLE COMMUNITY HOSPITALS

Significance: Agency Priority

CFR Citation: 42 CFR 400.310; 42 CFR 412.92

Completed:

Reason	Date	FR Cite
Final Action Comment period closes 10/13/87.	08/14/87	52 FR 30362
Final Action Effective	09/14/87	

Small Entity: No

Agency Contact: Charles Booth 301 594-9769

RIN: 0938-AB72

866. LIMITS ON PAYMENTS FOR DRUGS

Significance: Regulatory Program

CFR Citation: 42 CFR 413.110; 42 CFR 447; 45 CFR 1.2; 45 CFR 19; 42 CFR 430.0

Completed:

Reason	Date	FR Cite
Final Action	07/31/87	52 FR 28648
Final Action Effective	10/29/87	52 FR 28648

Small Entity: No

Agency Contact: Anthony Lovecchio 301 594-4010

RIN: 0938-AB97

867. LOWEST CHARGE LEVELS

Significance: Regulatory Program

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	04/20/87	52 FR 12969
Final Action Effective	05/02/87	

Small Entity: Yes

Agency Contact: Bernard Patashnik 301 597-1334

RIN: 0938-AC16

868. LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS

Significance: Regulatory Program

CFR Citation: 42 CFR 416.65

Completed:

Reason	Date	FR Cite
Final Action	04/21/87	52 FR 13176

Small Entity: Yes

Agency Contact: Stan Katz 301 594-8561

RIN: 0938-AC21

869. REVIEW OF INFORMATION COLLECTION AND RECORDKEEPING REQUIREMENTS FOR SUPPLIERS OF END-STAGE RENAL DISEASE SERVICES

CFR Citation: 42 CFR 405.2135; 42 CFR 405.2137; 42 CFR 405.2139

Completed:

Reason	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: John Powell 301 597-0565

RIN: 0938-AC26

870. CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1988 RATES

Significance: Regulatory Program

CFR Citation: 42 CFR 405.553; 42 CFR 412.1; 42 CFR 412.2; 42 CFR 412.23; 42 CFR 412.60; 42 CFR 412.63; 42 CFR 412.71; 42 CFR 412.73; 42 CFR 412.82; 42 CFR 412.84; 42 CFR 412.92; 42 CFR 412.96; 42 CFR 412.200 to 412.220; 42 CFR 413.40; 42 CFR 466.70

HHS—HCFA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	09/01/87	52 FR 33034
Final Action Effective	10/01/87	

Small Entity: Yes

Agency Contact: Linda Magno 301 594-9343

RIN: 0938-AC39

871. ENROLLMENT PROVISIONS CONCERNING HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

CFR Citation: 42 CFR 417.426; 42 CFR 417.440; 42 CFR 417.450; 42 CFR 417.460

Completed:

Reason	Date	FR Cite
Final Action	03/20/87	52 FR 8898
Final Action Effective	04/20/87	

Small Entity: Undetermined

Agency Contact: Rita McGrath 301 594-8719

RIN: 0938-AC44

872. APPLICATION FEES FOR HEALTH MAINTENANCE ORGANIZATIONS (HMOS)

Significance: Regulatory Program

CFR Citation: 42 CFR 110.604, (revised); 42 CFR 110.101; 42 CFR 417.406; 42 CFR 417.407; 42 CFR 417.494; 42 CFR 434.2

Completed:

Reason	Date	FR Cite
Final Action	06/11/87	52 FR 22311
Final Action Effective	07/13/87	

Small Entity: Yes

Agency Contact: Cynthia Trower 202 245-0787

RIN: 0938-AC46

873. SCHEDULE OF LIMITS ON HHA COSTS PER VISIT FOR COST REPORTING PERIODS BEGINNING ON OR AFTER 7/1/86, BUT BEFORE 7/1/87, AND COST REPORTING PERIODS BEGINNING ON OR AFTER 7/1/87

Significance: Regulatory Program

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	07/07/87	52 FR 25562
Final Action Effective	07/01/87	

Small Entity: No

Agency Contact: William J. Goeller 301 597-1803

RIN: 0938-AC56

874. MEDICARE NOTICE OF GENERAL STATEMENT OF POLICY - PROCEDURES FOR DETERMINING WHETHER PROVIDERS, PRACTITIONERS OR OTHER SUPPLIERS OF SERVICES ARE LIABLE FOR CERTAIN NONCOVERED SERVICES

CFR Citation: 42 CFR 405.332; 42 CFR 405.334; 42 CFR 405.336

Completed:

Reason	Date	FR Cite
Withdrawn Implemented by Intermediary Letter 7/87	05/01/87	

Small Entity: Yes

Agency Contact: Denis M. Garrison 301 594-9435

RIN: 0938-AC61

875. APPEALS FROM DETERMINATIONS THAT AFFECT PARTICIPATION IN MEDICARE

CFR Citation: 42 CFR 405; 42 CFR 416; 42 CFR 420; 42 CFR 431; 42 CFR 485; 42 CFR 489; 42 CFR 498; 42 CFR 1001; 42 CFR 1004

Completed:

Reason	Date	FR Cite
Final Action	06/12/87	52 FR 22444

Small Entity: Yes

Agency Contact: Luisa V. Iglesias 202 245-0353

RIN: 0938-AC65

876. PART A PREMIUM FOR UNINSURED AGED FOR 12-MONTH PERIOD BEGINNING 01/01/88

CFR Citation: 42 CFR 405.106

Completed:

Reason	Date	FR Cite
Withdrawn Combined with RIN 0938-AC94	08/01/87	

Small Entity: Not Applicable

Agency Contact: Solomon Mussey 301 594-2829

RIN: 0938-AC93

877. CHANGES TO THE RETURN ON EQUITY CAPITAL PROVISIONS FOR OUTPATIENT HOSPITAL SERVICES

Significance: Regulatory Program

CFR Citation: 42 CFR 413.157

Completed:

Reason	Date	FR Cite
Final Action	09/01/87	52 FR 32920
Final Action Effective	10/01/87	

Small Entity: Undetermined

Agency Contact: John Rogers 301 597-2799

RIN: 0938-AC98

878. CHANGES TO THE DRG CLASSIFICATION SYSTEM

CFR Citation: 42 CFR 412.10

Completed:

Reason	Date	FR Cite
Final Action	09/01/87	52 FR 33143
Final Action Effective	10/01/87	

Small Entity: No

Agency Contact: Linda Magno 301 594-9349

RIN: 0938-AD03

879. UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATES

Significance: Regulatory Program

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	06/01/87	52 FR 20466
Final Action Effective	07/01/87	

Small Entity: Yes

HHS—HCFA

Completed Actions

Agency Contact: Charles Booth 301 594-9760

RIN: 0938-AD04

880. PAYMENTS FOR LARGE RURAL HOSPITALS THAT SERVE A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS

CFR Citation: 42 CFR 412.63; 42 CFR 412.106; 42 CFR 412.116

Completed:

Reason	Date	FR Cite
Final Action	06/25/87	52 FR 23832
Final Action Effective	07/27/87	

Small Entity: No

Agency Contact: Charles Booth 301 594-9760

RIN: 0938-AD05

881. CAPITAL PAYMENTS UNDER THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM

Significance: Regulatory Program

CFR Citation: 42 CFR 412.1; 42 CFR 412.2; 42 CFR 412.63; 42 CFR 412.65; 42 CFR 412.66; 42 CFR 412.67; 42 CFR 412.82; 42 CFR 412.84; 42 CFR 412.92; 42 CFR 412.96; 42 CFR 412.113; 42 CFR 412.125; 42 CFR 412.214

Completed:

Reason	Date	FR Cite
Final Action	09/01/87	52 FR 33166
Final Action Effective	10/01/87	

Small Entity: Yes

Agency Contact: Charles Booth 301 594-9760

RIN: 0938-AD06

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Family Support Administration (FSA)

Proposed Rule Stage

882. SCOPE OF PAYMENTS

Significance: Agency Priority

Legal Authority: 42 USC 1102; 42 USC 602

CFR Citation: 45 CFR 233.20(a)(2)(i); 45 CFR 233.20(a)(2)(V); 45 CFR 233.120(b)(3)

Legal Deadline: None.

Abstract: This proposed rule would clarify certain provisions in the Aid to Families with Dependent Children program under title IV-A of the Social Security Act. This clarification is being issued in order to prevent Federal funds from being used to provide a separate standard of need based on the type of housing in which an AFDC family resides and to prevent Emergency Assistance funds from being used to meet ongoing needs.

Timetable:

Action	Date	FR Cite
ANPRM	03/01/87	
NPRM	11/01/87	
Final Action	02/01/88	

Small Entity: No

Additional Information: Split off from Regulation on Administrative Improvement in the AFDC Program (RIN 0960-AB72).

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: Local, State, Federal

Agency Contact: Mark Ragan, Acting Director, Division of Policy, OFA, Department of Health and Human Services, Family Support Administration, 2100 Second Street, SW, Washington, DC 20201, 202 245-3290

RIN: 0970-AA00

883. REFUGEE CASH AND MEDICAL ASSISTANCE

Significance: Agency Priority

Legal Authority: 8 USC 1522(a)(9)

CFR Citation: 45 CFR 400

Legal Deadline: None.

Abstract: This NPRM will provide special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) for the 12-month period beginning with the first month a refugee entered the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	01/15/88	
Final Action Effective	02/15/88	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Philip A. Holman, Director, Div. of Policy & Analysis, Office of Refugee Resettlement, Department of Health and Human Services, Family Support Administration, Rm 1229, 330 C Street, SW, Washington, DC 20201, 202 245-1037

RIN: 0970-AA01

884. CHILD SUPPORT ENFORCEMENT PROGRAM; QUARTERLY REPORTING REQUIREMENTS

Legal Authority: 42 USC 1302; 42 USC 652; 42 USC 654

CFR Citation: 45 CFR 301; 45 CFR 304

Legal Deadline: None.

Abstract: This proposed rule amends program regulations governing State Reporting requirements by deleting outdated references and by requiring more expeditious reporting to the Office of Child Support Enforcement by State IV-D agencies.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	05/00/88	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Joyce Linder, Program Specialist, Department of Health and Human Services, Family Support Administration, 330 C Street, S.W., Washington, DC 20201, 202 245-1773

RIN: 0970-AA02

885. RETROACTIVE MODIFICATION OF CHILD SUPPORT ARREARAGES

Legal Authority: PL 99-509, Sec 9103

CFR Citation: 45 CFR 302; 45 CFR 303; 45 CFR 304

Legal Deadline: None.

Abstract: This NPRM requires, as a result of the Omnibus Budget Reconciliation Act of 1986, that child support payments be judgments on and after the day they fall due as well as requires that States have procedures to prohibit the retroactive modification of child support arrearages.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	07/00/88	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Susan Corriveau, Program Specialist, Department of Health and Human Services, Family Support Administration, 330 C Street, S.W., Washington, DC 20201, 202 245-1978

RIN: 0970-AA03

886. AID TO FAMILIES WITH DEPENDENT CHILDREN; TREATMENT OF UTILITY PAYMENTS BY APPLICANT OR RECIPIENTS LIVING IN CERTAIN FEDERALLY ASSISTANCE HOUSING

Legal Authority: PL 98-181, Sec 221; 42 USC 602; 42 USC 1302; PL 98-479, Sec 102

CFR Citation: 45 CFR 233.20

Legal Deadline: None.

Abstract: The proposed rule will provide that Housing and Urban Development Assisted Aid to Families With Dependent Children tenants who pay at HUD's direction utilities but no rent to landlord will have their utility payment considered rent by a State IV-A agency in computing the AID to Families With Dependent Children grant.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Mark Ragan, Acting Director, Division of Policy, OFA, Department of Health and Human Services, Family Support Administration, Office of Family Assistance, 2100 Second St., SW, Washington, DC 20201, 202 245-3290

RIN: 0970-AA05

887. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; EXTENSION OF MEDICAID ELIGIBILITY WHEN SUPPORT COLLECTIONS RESULT IN TERMINATION OF AFDC ELIGIBILITY

Legal Authority: 42 USC 606; 42 USC 1302; PL 98-378, Sec 20

CFR Citation: 45 CFR 233; 42 CFR 435; 42 CFR 436

Legal Deadline: None.

Abstract: This NPRM rule, which implements section 20 of the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378) specifies that in any case where the collection or increased collection of support under title IV-D of the Social Security Act contributes wholly or partly to a family's ineligibility for AFDC, the family is deemed, but only for the purpose of Medicaid eligibility, to be receiving AFDC for a period of four calendar months after the last month of AFDC eligibility. This applies only to families who receive AFDC in three of the six months immediately preceding the month of ineligibility. "Received" includes those individuals denied an AFDC payment solely because the payment amount is under $10, the recoupment of an overpayment, or because the payment is determined to be zero as a result of rounding. The estimated costs are: FY 1985–$30 million, FY 1986–$45 million, FY 1987–$50 million, and FY 1988–$55 million.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	
Final Action	12/00/88	
Final Action Effective	12/00/88	

Small Entity: No

Affected Sectors: None

Government Levels Affected: State

Agency Contact: Mark Ragan, Acting Director, Division of Policy, OFA, Department of Health and Human Services, Family Support Administration, Office of Family Assistance, 2100 Second St., SW, Washington, DC 20201, 202 245-3290

RIN: 0970-AA07

888. REGULATIONS TO ENHANCE CONSISTENCY FOR THE FOOD STAMP PROGRAM, AFDC PROGRAM, AND THE ADULT ASSISTANCE PROGRAMS

Significance: Regulatory Program

Legal Authority: 42 USC 1302; Sec. 1102, 49 Stat. 647

CFR Citation: 45 CFR 205.10(a)(4)(ii); 45 CFR 233.31(b); 45 CFR 233.20(a)(6)(v)(B); 45 CFR 205.10(a)(7); 45 CFR 205.10(a)(13); 45 CFR 205.52; 45 CFR 233.20(a)(3)(ii)(D); 45 CFR 233.20(a)(3)(iii)

Legal Deadline: None.

Abstract: Proposed rule will provide increased consistency in eligibility policies and procedures between the AFDC and Food Stamp programs, within existing statutory requirements. The aim is to improve and simplify program administration and ease the burden placed upon the State agencies and individuals applying for assistance.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/85	50 FR 6970
ANPRM Comment Period End	04/22/85	50 FR 6970
NPRM	10/01/87	
Final Action	07/00/88	

Small Entity: Undetermined

Agency Contact: Mark Ragan, Acting Director, Division of Policy, OFA, Department of Health and Human Services, Family Support Administration, Office of Family Assistance, 2100 Second Street, SW, Washington, DC 20201, 202 245-3290

RIN: 0970-AA08

889. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; ADMINISTRATIVE IMPROVEMENT IN THE AFDC PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 303; 42 USC 602; 42 USC 606; 42 USC 1403; 42 USC 1383 Note; 42 USC 1302

CFR Citation: 45 CFR 205; 45 CFR 224; 45 CFR 232; 45 CFR 233; 45 CFR 238

Legal Deadline: None.

Abstract: The proposed rule will organize and codify those administrative changes which will better target program resources, reduce administrative cost, or increase State flexibility.

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Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	01/31/88	
Final Action	04/30/88	

Small Entity: No

Agency Contact: Mark Regan, Acting Director, Division of Policy, OFA, Department of Health and Human Services, Family Support Administration, Office of Family Assistance, 2100 Second Street, SW, Washington, DC 20201, 202 245-3290

RIN: 0970-AA09

890. IMPROVED CASE PROCESSING STANDARDS AND TIMEFRAMES

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 302; 45 CFR 303; 45 CFR 305

Legal Deadline: None.

Abstract: These proposed regulations will revise requirements and program standards to streamline and improve case processing within the IV-D agency. Specific standards and timeframes will be proposed for certain actions required to be taken in processing an IV-D case.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	07/00/88	

Small Entity: No

Agency Contact: Joyce Linder, Program Specialist, Office of Child Support Enforcement, FSA, Department of Health and Human Services, Family Support Administration, 330 C Street, S.W., Washington, DC 20201, 202 245-1773

RIN: 0970-AA16

891. CHILD SUPPORT ENFORCEMENT AUDIT REGULATIONS

Significance: Agency Priority

Legal Authority: 42 USC 603(h); 42 USC 604(d); 42 USC 652(a)(1); 42 USC 652(a)(4); 42 USC 1302

CFR Citation: 45 CFR 305

Legal Deadline: None.

Abstract: OCSE is proposing to amend the current program regulations governing child support program audits. These proposed rules would streamline the current audit process and requirements and make corrections to certain inaccuracies in the audit regulations. In addition, we propose to update the current scoring system for the performance indicators now in effect, and to provide the initial scoring methodology which would be used in evaluating the accounts receivable performance indicators.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	06/00/88	

Small Entity: No

Agency Contact: Mary Brogan, Program Specialist, Office of Child Support Enforcement, FSA, Department of Health and Human Services, Family Support Administration, 330 C Street, S.W., Washington, DC 20201, 202 245-1774

RIN: 0970-AA17

892. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS

Legal Authority: 42 USC 657; 42 USC 1302

CFR Citation: 45 CFR 302.51

Legal Deadline: None.

Abstract: OCSE is proposing to revise the child support enforcement program regulations governing the distribution of child support collections. These proposed rules would clarify the requirements that State child support enforcement agencies must adhere to when distributing payments made to AFDC families.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	09/00/88	

Small Entity: No

Agency Contact: Susan Corriveau, Program Specialist, Office of Child Support Enforcement, FSA, Department of Health and Human Services, Family Support Administration, 330 C Street, S.W., Washington, DC 20201, 202 245-1978

RIN: 0970-AA18

893. ● CASE CLOSURE

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 303

Legal Deadline: None.

Abstract: OCSE is proposing to amend current program regulations by outlining specific criteria for States to follow in determining which child support cases qualify for closure.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	06/00/88	

Small Entity: No

Agency Contact: Craig Hathaway, Program Specialist, Office of Child Support Enforcement, FSA, Department of Health and Human Services, Family Support Administration, 330 C. Street, SW, Washington, DC 20201, 202 245-1973

RIN: 0970-AA24

894. ● STATE LEGALIZATION IMPACT ASSISTANCE GRANTS

Significance: Agency Priority

Legal Authority: PL 99-603, Sec 204; Immigration Reform and Control Act of 1986

CFR Citation: 45 CFR 16; 45 CFR 402

Legal Deadline: Statutory, October 1, 1987.

Abstract: Sec 204 of the Immigration Reform and Control Act of 1986 (PL 99-603), enacted on November 6, 1986, establishes State Legalization Impact Assistance Grants (SLIAG) for States for fiscal year 1988 and for each of the three succeeding fiscal years.The purpose of SLIAG is to provide interim funding to State and local governments for certain costs that may result from the adjustment of immigration status under the Act of certain groups of aliens residing in the States, the District of Columbia, Puerto Rico, the Virgin Islands and Guam. SLIAG is not a new program in the usual sense. Rather, it is primarily a mechanism for providing funds for State and local activities. SLIAG funds may be applied by States with approved applications to certain costs resulting from the legalization program that are associated with providing public assistance, public health assistance, and educational services to eligible legalized aliens.

Timetable:

Action	Date	FR Cite
NPRM	08/13/87	52 FR 30194
NPRM Comment Period End	09/14/87	
Final Action	11/01/87	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Norman L. Thompson, Director, Div. of State Legalization Assist., Office of Refugee Resettlement, Department of Health and Human Services, Family Support Administration, 330 Independence Ave, SW, Washington, DC 20201, 202 245-9582

RIN: 0970-AA40

895. ● AFDC; GENERAL ADMIN. OF PUBLIC ASSISTANCE PROGRAMS; FFP IN THE COST OF A STATEWIDE MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEM IN THE AFDC PROGRAM; NPRM

Significance: Agency Priority

Legal Authority: PL 98-272, Sec 12303; Consolidated Omnibus Budget Reconciliation Act

CFR Citation: 45 CFR 205

Legal Deadline: None.

Abstract: COBRA instructs the Secretary of HHS to recover the 40% Family Assistance Management Information System (FAMIS) incentive funding (difference between the 90% FAMIS match and regular 50% administrative match) if a State does not meet the implementation date in its approved Advance Planning Document (APD). The Secretary could extend the implementation deadline if the State demonstrates that it was unable to meet the deadline because of circumstances that were clearly beyond its control. Examples that would be considered beyond the States control include: An act of God, or changes imposed by Federal legislative requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	11/30/87	
Final Action	04/01/88	

Small Entity: No

Additional Information: The conditions set forth in this provision, in part, are already covered under our current regulations at 45 CFR 205 and/or the Automated Application Processing and Information Retrieval System (AAPIRS) Guide. The AAPIRS guide requires that a State provide as part of its APD a proposed activity schedule which describes the major project milestones and target dates for phase and task completion. Additionally, our regulations state that FSA will suspend approval of the APD if the State fails to comply with the conditions and criteria set forth in this document. Suspension of approval will result in the disallowance of incentive funds invested to date towards development of the system that exceed the normal administrative FFP.

Agency Contact: Naomi B. Marr, Associate Administrator for, Management and Information Systems, Department of Health and Human Services, Family Support Administration, 330 Independence Ave, SW, Washington, DC 20201, 202 245-0392

RIN: 0970-AA42

896. ● ESSENTIAL PERSONS

Significance: Agency Priority

Legal Authority: 42 USC 602; 42 USC 1302

CFR Citation: 45 CFR 233.20

Legal Deadline: None.

Abstract: The proposed regulation would preclude States from considering individuals to be essential persons for purposes of the AFDC program if they do not provide an essential benefit or service to the family.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
Final Action	02/29/88	

Small Entity: No

Additional Information: Split off from Regulation 00 Administrative Improvement in the AFDC Program (RIN 0970-AB72)

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: Local, State, Federal

Agency Contact: Mark Regan, Acting Director, Division of Policy, OFA, Department of Health and Human Services, Family Support Administration, 2100 Second Street, SW, Washington, DC 20201, 202 245-3290

RIN: 0970-AA44

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Family Support Administration (FSA)

897. AID TO FAMILIES WITH DEPENDENT CHILDREN; DEFINITION OF PERMISSIBLE STATE PRACTICE-QUALITY CONTROL

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 602

CFR Citation: 45 CFR 205.40(a)(6)

Legal Deadline: None.

Abstract: This rule will amend the definition of "Permissible State Practice." The rule will enable quality control to review against Federal statutes and regulations when a state plan is not amended to reflect new federal rules, or when a State plan amendment is submitted which is inconsistent with new federal rules but the Department has not yet acted upon it or when a State plan amendment is submitted which is inconsistent with current Federal rules and there is no current applicable State plan provision.

Timetable:

Action	Date	FR Cite
NPRM	06/18/85	50 FR 25269
NPRM Comment Period End	08/19/85	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Mark Regan, Acting Director, Division of Policy, OFA, Family Support Administration, Department of Health and Human Services, Family Support Administration, Office of Family

Assistance, 2100 Second St., SW, Washington, DC 20201, 202 245-3290

RIN: 0970-AA04

890. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; IMPLEMENTATION OF THE DEFICIT REDUCTION ACT OF 1984

Significance: Agency Priority

Legal Authority: 42 USC 1302; PL 98-369 The Deficit Reduction Act of 1984; PL 99-514 The Tax Reform Act of 1986

CFR Citation: 45 CFR 233.36; 45 CFR 237.50; 45 CFR 238.18; 45 CFR 238.20; 45 CFR 238.50; 45 CFR 239.12; 45 CFR 239.14; 45 CFR 239.16; 45 CFR 239.24; 45 CFR 239.58; 45 CFR 239.82; 45 CFR 233.10; 45 CFR 233.90; 45 CFR 232.20; 45 CFR 233.35; ...

Legal Deadline: None.

Abstract: The final regulations will clarify provisions first published in the Interim Final Rules implementing the Deficit Reduction Act of 1984 and as clarified by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/10/84	49 FR 35586
Final Action	12/31/87	

Small Entity: No

Agency Contact: Mark Ragan, Acting Director, Division of Policy, OFA, Family Support Administation, Department of Health and Human Services, Family Support Administration, Office of Family Assistance, 2100 Second St., SW, Washington, DC 20201, 202 245-3290

RIN: 0970-AA06

899. REFUGEE RESETTLEMENT PROGRAM; REFUGEE CASH AND ASSISTANCE; REQUIREMENTS FOR JOB SEARCH, EMPLOYMENT SERVICES, AND EMPLOYMENT; REFUGEE MEDICAL ASSISTANCE; AND REFUGEE SOCIAL SERVICES

Significance: Regulatory Program

Legal Authority: 8 USC 1522(a)(9)

CFR Citation: 45 CFR 400

Legal Deadline: None.

Abstract: This regulation will establish requirements governing refugee cash assistance; refugee medical assistance; and refugee support (social) services, including job search employability services, and employment.

Timetable:

Action	Date	FR Cite
NPRM	01/30/86	51 FR 03918
NPRM Comment Period End	04/30/86	
Final Action	11/01/87	
Final Action Effective	12/01/87	

Small Entity: No

Agency Contact: Philip A. Holman, Director, Div. of Policy & Analysis, Department of Health and Human Services, Family Support Administration, Rm 1229, 330 C Street, SW, Washington, DC 20201, 202 245-1927

RIN: 0970-AA10

900. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; GENERAL ADMINISTRATION — PUBLIC ASSISTANCE PROGRAM — QUALITY CONTROL SYSTEM

Significance: Agency Priority

Legal Authority: 42 USC 1302; PL 97-248; PL 98-123

CFR Citation: 45 CFR 205.42; 45 CFR 205.44

Legal Deadline: None.

Abstract: These proposed rules amend the QC regulations under the AFDC program by establishing more definitive criteria to be used in determining whether waivers will be granted to states that fail to meet the statutory error standard.

Timetable:

Action	Date	FR Cite
NPRM	02/02/87	52 FR 21
NPRM Comment Period End	04/03/87	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Gary Ashcraft, Director, Division of Program Evaluation,OFA, Department of Health and Human Services, Family Support Administration, Office of Family Assistance, 2100 Second Street, SW, Washington, DC 20201, 202 245-2637

RIN: 0970-AA11

901. MEDICAL SUPPORT ENFORCEMENT #2

Significance: Regulatory Program

Legal Authority: 42 USC 652(f); 42 USC 1302

CFR Citation: 45 CFR 306

Legal Deadline: None.

Abstract: These proposed regulations would revise existing requirements governing cooperative agreements between Medicaid and IV-D agencies to provide medical support enforcement services and require enhanced State IV-D agency efforts in medical support enforcement.

Timetable:

Action	Date	FR Cite
NPRM	05/27/87	52 FR 19738
Final Action	01/00/88	

Small Entity: No

Additional Information: Related to RIN 0992-AA12 - Medical Support Enforcement.

Agency Contact: Mary Brogan, Program Specialist, Office of Child Support Enforcement, OFA, Department of Health and Human Services, Family Support Administration, 330 C Street, S.W., Washington, DC 20201, 202 245-1774

RIN: 0970-AA13

902. DISREGARD OF CHILD SUPPORT PAYMENTS; REGULATIONS IMPLEMENTING THE DEFICIT REDUCTION ACT OF 1984

Legal Authority: 42 USC 1302; 42 USC 657(b)(1)

CFR Citation: 45 CFR 302.51

Legal Deadline: None.

Abstract: This final rule implements the Deficit Reduction Act of 1984 which amends the Social Security Act to require that the first $50 collected on a monthly support obligation be paid to the Aid to Families with Dependent Children (AFDC) family. This amount does not affect the family's AFDC eligibility or the amount of assistance to which they were entitled.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/10/84	49 FR 35586
Final Action	12/00/87	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Carol Jordan, Program Specialist, Office of Child Support Enforcement, FSA, Department of Health and Human Services, Family Support Administration, 330 C Street, S.W., Washington, DC 20201, 202 245-1979

RIN: 0970-AA15

903. ● PROVISION OF SERVICES IN INTERSTATE IV-D CASES

Legal Authority: 42 USC 1302; 42 USC 654(9)

CFR Citation: 45 CFR 301; 45 CFR 302; 45 CFR 303; 45 CFR 305

Legal Deadline: None.

Abstract: This regulation would clarify the responsibility of the initiating and responding States in referring and processing interstate IV-D cases and would revise existing audit criteria to reflect changes.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43550
NPRM Comment Period End	02/02/87	
Final Action Effective	11/00/87	

Small Entity: No

Agency Contact: Joyce Linder, Program Specialist, Office of Child Support Enforcement, FSA, Department of Health and Human Services, Family Support Administration, 330 C. Street, SW, Washington, DC 20201, 202 245-1773

RIN: 0970-AA23

904. ● ALIEN VERIFICATION PROCEDURES FOR AFDC; STATE ADMINISTERED ADULT ASSISTANCE AND MEDICAID PROGRAMS; NOTICE OF PROPOSED RULEMAKING

Significance: Agency Priority

Legal Authority: PL 99-603, Sec 121; Immigration Reform and Control Act of 1986

CFR Citation: 42 CFR 431; 42 CFR 435; 45 CFR 205; 45 CFR 206; 45 CFR 232

Legal Deadline: Statutory, October 1, 1987. INS must make an alien verification system that can be accessed by States by October 1, 1987. States may claim 100% reimbursement for implementing and operating SAVE on October 1, 1987.

Abstract: IRCA imposes new procedures on the AFDC, Adult Assistance Programs and Medicaid to verify immigration status of aliens applying for benefits under these programs with the Immigration and Naturalization Service. Under the law, States must be reimbursed at 100% for costs of their implementation and operation to access the alien status verification system. This regulation will specify what costs incurred by states will be subject to 100% reimbursement. To provide uniformity and consistency between the AFDC and Medicaid programs with respect to reimbursement, the proposed rule will be issued jointly with a common preamble.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/01/87	
Final Action Effective	10/01/87	
Final Action	12/30/87	

Small Entity: No

Additional Information: The IRCA Implementing Task Force serves as the primary focal point for coordinating HHS responsibility under IRCA. The Task Force is the contact source for the issuance of the joint FSA/HCFA rule regarding alien verification procedures under the AFDC, Medicaid and Adult Assistance programs.

Government Levels Affected: State

Agency Contact: Norman L. Thompson, Director, IRCA Implementation Task Force, Department of Health and Human Services, Family Support Administration, 330 Independence Ave, SW, Washington, DC 20201, 202 245-0562

RIN: 0970-AA41

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Family Support Administration (FSA)

Completed Actions

905. PROHIBITION OF FEDERAL FUNDING OF COSTS OF INCARCERATION AND COUNSEL FOR INDIGENT ABSENT PARENTS

CFR Citation: 45 CFR 304.23; 45 CFR 304.27

Completed:

Reason	Date	FR Cite
Final Action	08/26/87	52 FR 32130
Final Action Effective	08/26/87	

Small Entity: No

Agency Contact: Joyce Linder 202 245-1773

RIN: 0970-AA14

906. INTERSTATE CHILD SUPPORT ENFORCEMENT

Significance: Regulatory Program

CFR Citation: 45 CFR 302.36; 45 CFR 303.7; 45 CFR 303.52; 45 CFR 305.20; 45 CFR 305.32

Completed:

Reason	Date	FR Cite
Final Action	06/30/87	

Small Entity: No

Agency Contact: Joyce Linder 202 245-1773

RIN: 0970-AA45

[FR Doc. 87-21792 Filed 10-23-87; 8:45 am]

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Monday
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Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. N-87-1732]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual agenda, under Executive Order 12291 and the Regulatory Flexibility Act, of regulations expected to be issued and under review.

SUMMARY: In accordance with section 5 of Executive Order 12291, "Federal Regulation," the Department is publishing its agenda of proposed regulations already issued or expected to be issued, and of currently effective rules that are under review. Also, under section 602 of the Regulatory Flexibility Act, the Department has prepared a regulatory flexibility agenda of regulations expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12291 and the Regulatory Flexibility Act, the two agendas are combined for publication.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Executive Order 12291, "Federal Regulation," issued on February 17, 1981 (46 FR 13193), requires each agency to publish semiannually an agenda of regulations that the agency has issued or expects to issue and of currently effective regulations that are under agency review.

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires each agency to publish semiannually a regulatory flexibility agenda of rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12291 and section 605 of the Regulatory Flexibility Act each permit incorporation of the agenda it requires with any other prescribed agenda. Accordingly, the agenda set out below combines the information required by the Executive Order and by the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive Order or by the Act which the Department considers useful, both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

For purposes of Executive Order 12291, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency," subject to certain exceptions. The agenda published below concentrates upon regulatory material contained, or expected to be contained, in the Code of Federal Regulations (CFR) (or incorporated therein by reference) following publication in the **Federal Register**. As appropriate, however, issuances in the nature of general statements of policy may be published in the **Federal Register** but not for codification in the CFR.

The Department also is subject to certain requirements involving congressional review of rulemaking actions, including publication of an agenda. Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight (the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days of continuous session of Congress after transmittal of the agenda. If, within such period, either Committee notifies the Secretary that it intends to review any rule or regulation or portion thereof which appears on the agenda, the Secretary must submit to both Committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days of continuous session before it is published for comment. The Semiannual Agenda appearing hereinafter is the agenda transmitted to the Committees in compliance with the foregoing requirement.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publications or other implementations of notices of proposed rulemaking, (iii) publications or other implementations of final rules, and (iv) completed actions. Within each grouping, rules are listed in chronological order by the Part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected Part number. Priority rules include all regulations designated for priority development by the Department.

Items listed in this agenda are from the following Offices within the Department: Office of the Secretary; Office of Housing; Office of Public and Indian Housing; Office of Community Planning and Development; Office of Fair Housing and Equal Opportunity; Office of Administration; and Government National Mortgage Association.

Dated: September 2, 1987.

J. Michael Dorsey,

General Counsel.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
907	24 CFR 50 Departmental Policies, Responsibilities, and Procedures for Protection and Enhancement of Environmental Quality (S-4-85; FR-2206)	2501-AA30

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Office of the Secretary—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
906	24 CFR 56 Flood Insurance Requirements for Mortgage Insurance Loan and Grant Programs (S-3-85; FR-2007)	2501-AA59
909	24 CFR 0058 Environmental Review Procedures for the Community Development Block Grant, Rental Rehabilitation and Housing Development Grant Programs (S-13-86; FR-2316)	2501-AA39
910	24 CFR 81.41 Secondary Market Operations of the Federal National Mortgage Association (FNMA) (S-3-81)	2501-AA10

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
911	24 CFR 0003 Elimination of Obsolete Regulations (S-16-86; FR-2261)	2501-AA50
912	24 CFR 10 Amending Rules on Rules and FOIA Rules (S-3-87; FR-2320)	2501-AA57
913	24 CFR 15.14 Freedom of Information Reform Act of 1986--Fee Schedule and Fee Waiver Regulations (S-6-87; FR2362)	2501-AA62
914	24 CFR 28 Administrative Remedies for False Claims and Statements (S-2-87; FR-2310)	2501-AA58
915	24 CFR 46 Protection of Human Subjects in Research (S-6-83; FR-1807)	2501-AA15
916	24 CFR 50 Procedure for Floodplain Management and the Protection of Wetlands. Implementation of Executive Orders 11988 and 11990 (S-7-84; FR-865)	2501-AA23
917	24 CFR 0060 Determination of Wage Rates for Maintenance and Technical Employees of Public Housing Agencies and Indian Housing Authorities (S-5-86; FR-2211)	2501-AA40
918	24 CFR 200 Restrictions on Housing Assistance to Ineligible Aliens (S-7-87; FR-2383 (formerly FR-1588))	2501-AA63

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
919	24 CFR 17 Administrative Claim: Implementing Certain Provisions of the Debt Collection Act of 1982 (S-10-86; FR-1644)	2501-AA55
920	24 CFR 24 Suspension and Debarment (S-2-79; FR-1676)	2501-AA05
921	24 CFR 24 Debarment Suspension and Limited Denial of Participation--All Sales Exception (S-4-87; FR2358)	2501-AA60
922	24 CFR 58 Environmental Review Procedures - Rental Rehabilitation and Housing Development Grant Program (S-6-84; FR-1965)	2501-AA25
923	24 CFR 200 Restrictions on Housing Assistance to Ineligible Aliens (S-7-86; FR-1588)	2501-AA56

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
924	24 CFR 00 Standards of Conduct (S-5-85; FR-2146)	2501-AA31
925	24 CFR 15 Testimony, Production and Disclosure of Material or Information by HUD Employees (S-17-86; FR-2273)	2501-AA51
926	24 CFR 17.65 Authority to Compromise Claims or to Suspend or Terminate Collection Action (S-5-87; FR-2375)	2501-AA61
927	24 CFR 14 Implementation of the Equal Access to Justice Act in Administrative Proceedings (S-2-86; FR-2156)	2501-AA44
928	24 CFR 0813.106 Amendments to Definition of Income (S-12-86; FR-2184)	2501-AA46

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Office of Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
929	24 CFR 203 Single Family Mortgage Insurance Premium (H-11-87)	2502-AD93
930	24 CFR 203 FHA Single Family Borrower Eligibility (H-12-87)	2502-AD94
931	24 CFR 207 Limitation on Prepayment of Mortgages on Multifamily Rental Housing (H-54-84; FR-1952)	2502-AC49
932	24 CFR 219 Flexible Subsidy Program; 1983 Amendments (H-50-84)	2502-AC31
933	24 CFR 3280 Manufactured Home Construction & Safety Construction on Siding & Roofing Materials & Application Criteria (H-8-87; FR2327)	2502-AE06

Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
934	00 CFR 000 Supportive Housing Demonstration Program (H-34-87; FR2385)	2502-AE13
935	24 CFR 200 Use of Materials Bulletin No. 40c - Grademarking of Plywood (H-21-85; FR2407)	2502-AD01
936	24 CFR 200 Issuance of FHA Debentures (H-36-86; FR-2268)	2502-AD68
937	24 CFR 200 Use of Material Bulletin used in HUD Bldg. Product Standards and Certification Program for Mat-Formed Particleboard Sheathing Panels(H-7-87; FR-2322)	2502-AD92
938	24 CFR 200 Revision of Use of Materials Bulletin used in the HUD Bldg. Product Standard and Certification Program (H-4-87; FR2308)	2502-AE04
939	24 CFR 200.935 Rev. of UMB 44d to allow the Use of Carpet in Bathrooms & Kitchens Over a Concrete-Masonry Flooring System and a New Classification System for Carpet (H-20-87; FR 2402)	2502-AE07
940	24 CFR 201 Amendments to the Title I Regulations (H-19-87; FR2370)	2502-AE15
941	24 CFR 203 One-Time Mortgage Insurance Premium for Non-Mutual Fund - Single Family Insurance Program (H-40-84; FR-1930)	2502-AC35
942	24 CFR 203 Retention Period for Mortgagee Single Family Claim Records (H-81-84)	2502-AC50
943	24 CFR 203 Penalty for Lack of Documentation (H-80-84)	2502-AC54
944	24 CFR 203 HUD Inspections - No Duty of Care (H-1-85; FR-2025)	2502-AC82
945	24 CFR 203 Types of Satisfactory Title Evidence (H-48-86)	2502-AD83
946	24 CFR 203 Elimination of Prohibition on the Payment of Fees to Third Parties in Multifamily Insurance Mortgage Transaction (H-5-87; FR-2314)	2502-AD90
947	24 CFR 203 Deregulation of Post-Endorsement and Loan Origination Fees in FHA Single Family Housing (H-18-87; FR-2333)	2502-AD98
948	24 CFR 203 Single Family Downpayment Requirements (H-17-87; FR-2334)	2502-AD99
949	24 CFR 203 Acceptance of Partial Payments during TMAP/Assignment Processing (H-27-87; FR-2366)	2502-AE08
950	24 CFR 203.366 Mortgagee Charges for Serious Title Defects (H-28-87; FR-2368)	2502-AE11
951	24 CFR 215 State Agency Amendments (H-70-84; FR-1997)	2502-AC73
952	24 CFR 221.55 Assignment Option (H-44-86)	2502-AD78
953	24 CFR 252 Coinsurance for Nursing Homes and Intermediate Care Facilities (H-32-86; FR-2256)	2502-AD74
954	24 CFR 3282 Manufactured Home Procedural and Enforcement Regulations Interpretative Bulletins (H-31-87; FR2380)	2502-AE10
955	24 CFR 791 Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds (S-10-84; FR-1696)	2502-AA73
956	24 CFR 882 Conforming Section 8 Existing Certificate Regulation to Housing Voucher Format (H-2-87; FR-2294)	2502-AD91
957	24 CFR 882 Section 8 Housing Assistance Payments Programs-- Miscellaneous Amendments (H-19-87; FR-2335)	2502-AE00
958	24 CFR 885 Management Rules and Comprehensive Housing and Community Development Amendments (H-34-83; FR-1761)	2502-AC03
959	24 CFR 885 Loans for Housing for the Elderly or Handicapped--Allocation of Loan Authority, Processing of Applications, Direct Loan Processing Procedures (H-21-87; FR2345)	2502-AE20
960	24 CFR 886 Provision of Section 8 Existing Housing Assistance for Projects at Foreclosure Sales (H-3-86; FR-2158)	2502-AD43
961	24 CFR 886.310 Miscellaneous Revisions of Part 886 (H-37-86; FR-2275)	2502-AD89
962	24 CFR 887 Section 8 Housing Assistance Payments Program - Housing Vouchers (H-42-85; FR-2170)	2502-AD26
963	24 CFR 1710 Land Registration (H-21-86)	2502-AD54
964	24 CFR 1710 Exemption from Interstate Land Sales Registration (H-47-86)	2502-AD81
965	24 CFR 3280 Manufactured Home Construction and Safety Standards - Deregulatory Proposals (H-39-86; FR-2277)	2502-AD59
966	24 CFR 3280.504 Part 3280 - Interpretative Bulletin on the Vapor Barrier Requirements of 24 CFR 3280.504 (H-46-86; FR-2265)	2502-AD82
967	24 CFR 3280 Notice Requesting a Private Organization to Develop and Maintain the Federal Manufactured Home Construction and Safety Standards (H-9-87; FR-2271)	2502-AD85

HUD

Office of Housing—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
968	24 CFR 3280.308 Manufactured Home Construction and Safety Standards - Formaldehyde Regulations (H-10-87; FR-2332)	2502-AE02
969	24 CFR 3280.309 Notice of Formaldehyde; Manufactured Home Construction and Safety (H-23-87; FR2349)	2502-AE21
970	24 CFR 3282 Manufactured Home Procedural and Enforcement System (H-40-86; FR-2278)	2502-AD60
971	24 CFR 3282 Manufactured Home Design Inspection System (H-41-86; FR-2279)	2502-AD61
972	24 CFR 3500 Real Estate Settlement Procedures Act -- Controlled Business Provisions and Miscellaneous Amendments (H-45-84; FR-1942)	2502-AC09

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
973	24 CFR 200 Applicability of Minimum Property Standards Manufactured Homes under Title II of the National Housing Act (H-82-82; FR-1578)	2502-AB24
974	24 CFR 200 Minimum Property Standards (MPS) for Housing -- Water Supply Systems (H-31-86; FR-2255)	2502-AD64
975	24 CFR 200.163 Direct Endorsement Underwriter's Certification (H-29-86; FR-2241)	2502-AD71
976	24 CFR 200 Lead Standards in Water Piping - Subpart S - MPS (H-1-87; FR2290)	2502-AE03
977	24 CFR 200 Restrictions on All-Cash Sales (Amendment to Part 200) (H-30-87; FR-2374)	2502-AE12
978	24 CFR 203 Conveyance of One- to Four-Family Properties Occupied by Tenants or Former Mortgagors (H-9-85; FR-2064)	2502-AB10
979	24 CFR 203.49 Insurance of Single Family Adjustable Rate Mortgages (H-32-84; FR-1916)	2502-AC43
980	24 CFR 203 Temporary Mortgage Assistance Payments (TMAP) and Assignments to HUD (H-44-85; FR-2147)	2502-AD34
981	24 CFR 203 Single Family Foreclosures--Deficiency Judgements (H-6-86; FR-2193)	2502-AD38
982	24 CFR 203 Criteria for Acceptability of Insured 10-Year Protection Plans (H-28-86; FR-2036)	2502-AD65
983	24 CFR 203 Allegany Reservation of the Seneca Nation (H-32-87; FR-2382)	2502-AE09
984	24 CFR 207 Mortgage Insurance Programs under National Housing Act (H-48-81; FR-1525)	2502-AA90
985	24 CFR 215 Preference in the Provision of Housing for Families Who Are Occupying Substandard Housing, Are Involuntarily Displaced, or Are Paying More Than 50% of Family Income (H-22-80; FR-1597)	2502-AA34
986	24 CFR 241 Additional Revisions - Hospital Insurance (H-24-86; FR-2227)	2502-AD70
987	24 CFR 290 HUD-Owned Multifamily Projects-Management and Disposition (H-69-78; FR-432)	2502-AC68
988	24 CFR 850 Housing Development Grant Program (H-26-84; FR-1902)	2502-AC23
989	24 CFR 882.101 Section 8 Housing Assistance Payments Programs Portability of Section 8 Existing Housing Certificates (H-46-83; FR-1800)	2502-AB88
990	24 CFR 882 Shared Housing in the Section 8 Moderate Rehabilitation Program (H-26-86; FR-2238)	2502-AD66
991	24 CFR 247 Revisions to Part 886 Termination of Tenancy (H-59-84; FR-1950)	2502-AC59
992	24 CFR 3280 Manufactured Home Construction and Safety Standards - General (H-33-86; FR-2276)	2502-AD58
993	24 CFR 3280 Manufactured Home Construction and Safety Standards - Thermal Energy Standards Deregulation (H-42-86; FR-2280)	2502-AD62

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
994	24 CFR 200.935 Use of Materials Bulletin No. 86 - HUD Building Product Standards and Certification Program for EPDM Roofing (H-106-82)	2502-AA68
995	24 CFR 0200 Definition of Master Conditional Commitment (H-15-86; FR 2123)	2502-AD48
996	24 CFR 200 Manufactured Home Construction and Safety Standards for Lead in Water Piping (H-3-87; FR2296)	2502-AE05
997	24 CFR 0201 Miscellaneous Amendments to Part 201--Property Improvement and Manufactured Home Loans (FR-2171; H-4-86)	2502-AD37
998	24 CFR 201.54 Filing Period for Resubmission of Denied Claims (H-43-86)	2502-AD80
999	24 CFR 201 Mortgage and Loan Insurance Programs; Title I Property Improvement and Manufactured Home Loans (H-22-87; FR2347)	2502-AE16
1000	24 CFR 201 Amendments to the Title I Regulations (H-19-87; FR2370)	2502-AE19
1001	24 CFR 203 Elimination of Closing Costs as an Item Eligible for Inclusion as Part of an FHA Insured Single Family Mortgage (H-10-86; FR-2203)	2502-AD39
1002	24 CFR 203.43 Refinancing of Existing HUD-Insured Mortgages (H-8-86; FR-2197)	2502-AD41

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Office of Housing—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1003	24 CFR 0203 Single Family Claim Settlements - Waivers of Amounts due Mortgagees or HUD of $50 or Less (H-11-86; FR-2204)	2502-AD50
1004	24 CFR 203 Termination of Section 245(b) GPM Program (H-34-86; FR-2266)	2502-AD63
1005	24 CFR 203 Penalties for Mortgagees Conveying Properties with Title Defects (H-16-87)	2502-AD97
1006	24 CFR 203.366 Mortgage Charges for Serious Title Defects (H-26-87; FR-2368)	2502-AE17
1007	24 CFR 207 Multifamily Mortgage Insurance (H-96-82)	2502-AA63
1008	24 CFR 0207.32a Eligibility of Mortgages on Existing Properties - Inspection Fees (H-20-86; FR-2224)	2502-AD47
1009	24 CFR 0207 Requirements for Insurance of Leaseholds on Multifamily Mortgages (H-22-86; FR-2222)	2502-AD53
1010	24 CFR 219 Flexible Subsidy Program (H-46-82)	2502-AA53
1011	24 CFR 232 Interest Rates for Fire Safety Equipment in Nursing Homes to be Set by FR Notice (H-10-85; FR-2065)	2502-AC85
1012	24 CFR 234 Condominium Ownership Mortgage Insurance-1983 Act Amendments (H-71-84; FR-1999)	2502-AC79
1013	24 CFR 235.361 Recovery of Section 235 Assistance Payments (H-18-86)	2502-AD45
1014	24 CFR 255 Technical Revisions - Coinsurance for the Purchase or Refinancing of Multifamily Housing Projects (H-35-86; FR-2267)	2502-AD73
1015	24 CFR 880 Shared Housing in the Section 8 New Construction and Substantial Rehabilitation Programs (H-27-86; FR-2239)	2502-AD67
1016	24 CFR 882 Section 8 Housing Assistance Payments Program-Public Housing Agency Administrative Fees (H-12-86; FR-2207)	2502-AD95
1017	24 CFR 882 Section 8 Moderate Rehabilitation Assistance Program for SRO Dwellings (H-36-87; FR2390)	2502-AE18
1018	24 CFR 885 Section 202 - Loans for Housing for the Elderly or Handicapped (H-10-84; FR-1899)	2502-AC53
1019	24 CFR 886 Additional Assistance Program for Projects with HUD-Insured or HUD-Held Mortgages (H-89-78)	2502-AA41
1020	24 CFR 3282.113 Manufactured Home Procedural and Enforcement Regulations Interpretative Bulletins (H-31-87; FR2380)	2502-AE14

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1021	24 CFR 0042 Uniform Relocation Act Amendments of 1987 (CPD-3-87; FR-2357)	2506-AA78
1022	24 CFR 570.488 Community Development Block Grants: State's Program (CPD-7-83; FR-1877)	2506-AA38
1023	24 CFR 0570.511 Community Development Block Grant Program: Escrow Accounts (CPD-2-86; FR-2164)	2506-AA86
1024	24 CFR 0570 Amendments to Community Development Block Grant Regulations; Entitlement Program (CPD-4-86)	2506-AA66
1025	24 CFR 570.450 to 465 Community Development Block Grants, Urban Development Action Grants (CPD-9-86)	2506-AA72
1026	24 CFR 570 Urban Development Action Grant Applications from Consortia of Small Cities (CPD-6-87; FR2381)	2506-AA76
1027	24 CFR 571.702 (b) Indian Community Development Block Grant Program: Revision to Corrective and Remedial Action (CPD-13-84; FR-2102)	2506-AA58
1028	24 CFR 576 Emergency Shelter Grants ('87 Act) (CPD-7-87; FR2387)	2506-AA77

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1029	24 CFR 511 Residential Rental Rehabilitation Program (CPD-7-84; FR-1901)	2506-AA55
1030	24 CFR 570 Community Development Block Grant Regulations (CPD-6-84; FR-1895)	2506-AA47
1031	24 CFR 575 Emergency Shelter Grant Program (CPD-1-87; FR-2298)	2506-AA74

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1032	24 CFR 511.33 Rental Rehabilitation Program; Reallocation of Rental Rehabilitation Grant Amounts (CPD-5-87; FR-2371)	2506-AA75

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Office of Community Planning and Development—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1033	24 CFR 570 Technical Assistance: Discretionary Awards (CPD-6-79; FR-1115)	2506-AA30
1034	24 CFR 0596 Designation of Enterprise Zones (CPD-11-83; FR-1913)	2506-AA45

Government National Mortgage Association—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1035	24 CFR 203 Book-Entry Securities of GNMA (GNMA-2-85)	2503-AA03
1036	24 CFR 390.17 GNMA Fees (GNMA-1-87; FR2395)	2503-AA05

Government National Mortgage Association—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1037	24 CFR 390 Mortgage-Backed Securities - Revision to Date for First Monthly Payment to Principal and Interest (GNMA-1-85; FR-2135)	2503-AA04

Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1038	24 CFR 9.101 Nondiscrimination Based on Handicapped in Programs Conducted by HUD (FR-2163; FH&EO-2-85)	2529-AA28
1039	24 CFR 111 Redesign for Fair Housing Assistance Program (FHEO-2-87; FR2403)	2529-AA33
1040	24 CFR 115 Recognition of Juriadiction with Substantially Fair Housing Laws (FHEO-1-87)	2529-AA31
1041	24 CFR 120 Amendments of the Community Housing Resource Board Regulations (FH&EO-1-85; FR-2085)	2529-AA27

Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1042	24 CFR 8 Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities (FH&EO-4-84; FR-770)	2529-AA26
1043	24 CFR 105 Procedure for Processing Complaints under Section 804 of the Fair Housing Act (FH&EO-6-84; FR 2012)	2529-AA24

Office of Fair Housing and Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1044	24 CFR 100 Affirmative Fair Housing, Marketing Technical Amendments (FH&EO-2-83; FR-1670)	2529-AA17
1045	24 CFR 111 Audit Requirements for the Fair Housing Assistance Program and the Community Housing Resource Boards (FH&EO-1-86; FR-2140)	2529-AA30
1046	24 CFR 111 Fair Housing Assistance Program; Program Description and Eligibility Criteria (FHEO-2-87)	2529-AA32

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Office of Fair Housing and Equal Opportunity—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1047	24 CFR 146 Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from HUD (FH & EO-1-79; FR-1161)	2529-AA01

Office of Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1048	24 CFR 3 Organization, Function, and Delegations of Authority Subpart C - Secretary's Delegations of Authority to Heads of Offices (ADM-2-82)	2535-AA01

Office of Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1049	48 CFR Chap. 24 Amendment of the HUD Acquisition Regulations (ADM-5-85; FR-2131)	2535-AA10
1050	24 CFR 29 OMB Cir. A-110, Uniform Administrative Requirements for Grants and Agreements with Universities, Hospitals and Other Nonprofit Organizations (ADM-1-87; FR2376)	2535-AA15
1051	24 CFR 570 Federal Procurement of Cement Containing Fly Ash (ADM-1-84; FR-1938)	2535-AA05

Office of Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1052	24 CFR 0045 OMB Circular A-102, Uniform Requirement for Assistance to State and Local Governments (ADM-1-86, FR-2178)	2535-AA13

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1053	24 CFR 904 Turnkey III Homeownership Opportunities Program (P-3-85; FR-2138)	2577-AA34
1054	24 CFR 905 Indian Housing Program–Revised Program Regulations (P-2-86; FR-2208)	2577-AA32
1055	24 CFR 905.211 Preemption of Certain State-Determined Prevailing Wage Rates Applicable to Public and Indian Housing Projects (P-6-86; FR-2231)	2577-AA42
1056	24 CFR 812 Increase in Single Person Occupancy Limits (P-48-84; FR-2063)	2577-AA07
1057	24 CFR 965 PHA-Owned and Leased Project; Maintenance and Operation; Tenant Allowance for Utilities (P-8-86; FR-2260)	2577-AA40
1058	24 CFR 968.12(i) Decontrol of Public Housing Authorities; CIAP Development (P-5-87; FR2408)	2577-AA46
1059	24 CFR 969 Effects of Debt Forgiveness on Public Housing Agency Annual Contributions Contracts (P-6-87; FR2409)	2577-AA51
1060	24 CFR 989 PHA Obligations with respect to Residual Receipts in the Public Housing, Turnkey III, and Sec. 23 Programs; (P-2-87; FR2354; formerly H-27-87)	2577-AA49
1061	24 CFR 989 Disallowance of Legal Fees; Litigation Controls for HUD Assistance Recipients (P-2-85; FR-2134)	2577-AA33
1062	24 CFR 990.102 Change in Inflation Factor Used to Calculate Public Housing Operating Subsidy (P-1-87 (formerly H-24-87); FR-2353)	2577-AA47

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Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1063	24 CFR 968 Public and Indian Housing - Cost Containment Procedures (P-1-86; FR-2191)	2577-AA37
1064	24 CFR 905.20y Indian Preference (P-4-87; FR2391)	2577-AA50
1065	24 CFR 960 Public Housing – Tenant Leases and PHA Grievance Hearings (P-26-79; FR-1164)	2577-AA18
1066	24 CFR 965.304 Individual Metering of Utilities of Existing PHA-Owned Projects (P-36-83; FR-1769)	2577-AA27
1067	24 CFR 968 Public and Indian Housing Cost Containment Procedures - Comprehensive Improvement Assistance Program and Indian Housing (P-9-86; FR-2262)	2577-AA43

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1068	24 CFR 913 Revised Occupancy Policies in Public and Indian Housing (P-7-86; FR-2240)	2577-AA41
1069	24 CFR 941 Public and Indian Housing - Application Processing Procedures (P-10-86; FR-1946)	2577-AA44
1070	24 CFR 990.106 Technical Amendments to the Performance Funding System for Public Housing Operating Subsidy (P-3-87 (formerly H-26-87); FR-2355)	2577-AA46

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Prerule Stage

Office of the Secretary (HUDSEC)

907. DEPARTMENTAL POLICIES, RESPONSIBILITIES, AND PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY (S-4-85; FR-2206)

Legal Authority: 42 USC 4321; PL 95-557

CFR Citation: 24 CFR 50

Legal Deadline: None.

Abstract: This rule proposes revisions in the regulations governing HUD's consideration of environmental factors in decision-making under HUD programs other than the Community Development Block Grant, Urban Development Action Grant, Rental Rehabilitation, and Housing Development Grant Programs. The rule is intended to reduce regulatory burdens and procedural details based on experience under the existing regulations; reflect field office reorganization; and implement sec. 535 of the Housing Act of 1949, as amended.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Replaces RIN: 2506-AA10

Agency Contact: Walter Prybyla, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environment and Energy, 202 755-6611

RIN: 2501-AA30

908. FLOOD INSURANCE REQUIREMENTS FOR MORTGAGE INSURANCE LOAN AND GRANT PROGRAMS (S-3-85; FR-2007)

Legal Authority: 42 USC 4012(a); 42 USC 4106(a)

CFR Citation: 24 CFR 56; 24 CFR 207; 24 CFR 232; 24 CFR 234; 24 CFR 236; 24 CFR 241; 24 CFR 242; 24 CFR 244; 24 CFR 250; 24 CFR 511; 24 CFR 570; 24 CFR 884; 24 CFR 904; 24 CFR 905

Legal Deadline: None.

Abstract: This rule would implement HUD's responsibilities under the Flood Disaster Protection Act of 1973. It would add a new Part 56 to specify HUD's responsibilities to require that flood insurance be obtained for eligible properties. This part would then be cross-referenced in the rules governing programs involving mortgage insurance, loans and grants.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Replaced RIN: 2502-AC76

Agency Contact: Walter Prybyla, Deputy Director, Environmental Mgt. Div., Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6611

RIN: 2501-AA59

909. ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT, RENTAL REHABILITATION AND HOUSING DEVELOPMENT GRANT PROGRAMS (S-13-86; FR-2316)

Legal Authority: EO 11514; EO 11991; 42 USC 1437(i); 42 USC 4332; 42 USC 5304(f)

CFR Citation: 24 CFR 0058

Legal Deadline: None.

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Abstract: This rule is related to RIN: 2501-AA25 (S-6-84; FR-1965). It proposes revisions in the regulations governing environmental review, decisionmaking and other actions by recipients of HUD assistance under the CDBG, Rental Rehabilitation and Housing Development grant programs that are not appropriate for final rulemaking. The proposed rulemaking is intended to solicit comments from the public on revisions to environmental policy that program experience has indicated may enhance compliance with NEPA, other environmental authorities and HUD legislation under the affected assistance programs.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Charles E. Thomsen, Architect, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environment and Energy, 202 755-6611

RIN: 2501-AA39

910. SECONDARY MARKET OPERATIONS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA) (S-3-81)

Legal Authority: 12 USC 1723a; 42 USC 3535(d)

CFR Citation: 24 CFR 81.41; 24 CFR 81.45

Legal Deadline: None.

Abstract: This rule would amend the definition of "FNMA security" at 24 CFR 81.41(b) to delete the exclusionary parenthetical and to remove the provision in 24 CFR 81.45(b) which allows FNMA debentures in book-entry form only.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Walter T. Cassidy, Assistant General Counsel for Finance, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7260

RIN: 2501-AA10

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Proposed Rule Stage

Office of the Secretary (HUDSEC)

911. ELIMINATION OF OBSOLETE REGULATIONS (S-16-86; FR-2261)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 0003; 24 CFR 0043; 24 CFR 0052; 24 CFR 0130; 24 CFR 0200; 24 CFR 0203; 24 CFR 0205; 24 CFR 0207; 24 CFR 0209; 24 CFR 0210; 24 CFR 0211; 24 CFR 0213; 24 CFR 0215; 24 CFR 0220; 24 CFR 0221; ...

Legal Deadline: None.

Abstract: This rule would remove regulations that are obsolete or duplicative. The rule would also decontrol some programs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Tim Coward, Attorney Advisor, Office of Regulations, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7055

RIN: 2501-AA50

912. AMENDING RULES ON RULES AND FOIA RULES (S-3-87; FR-2320)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 10; 24 CFR 15; 24 CFR 1720

Legal Deadline: None.

Abstract: The Department is reviewing its procedural rules to determine to what extent they need to be updated. This includes the rules the Department uses in developing new rules or amending existing regulations, and the procedures the public may use in commenting on a rulemaking or must use to obtain information from HUD under the Freedom of Information Act as well as procedures applicable to the Interstate Land Sales Registration Program. It is the Department's intention to streamline procedures, to make procedures more uniform, to clarify procedures for public petition for rulemaking, and to be more explicit about the kinds of rulemaking that will be subject to public participation and the circumstances under which rules may receive expedited treatment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7055

RIN: 2501-AA57

913. ● FREEDOM OF INFORMATION REFORM ACT OF 1986—FEE SCHEDULE AND FEE WAIVER REGULATIONS (S-6-87; FR2362)

Legal Authority: 5 USC 552

CFR Citation: 24 CFR 15.14; 24 CFR 15.15; 24 CFR 15.16; 24 CFR 15.17; 24 CFR 15.18; 24 CFR 15.21; 24 CFR 15.31; 24 CFR 15.32; 24 CFR 15.33; 24 CFR 15.41; 24 CFR 15.42; 24 CFR 2002

Legal Deadline: None.

Abstract: Rule conforms HUD's FOIA Authorities in 24 CFR Parts 15 and 2002 to requirements of Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	09/24/87	52 FR 35923
Final Action	12/00/87	
Final Action Effective	03/00/88	

Small Entity: Undetermined

Agency Contact: David D. White, Assistant General Counsel for Administrative, Law, Department of Housing and Urban Development,

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Office of the General Counsel, 202 755-7137

RIN: 2501-AA62

914. ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS (S-2-87; FR-2310)

Significance: Agency Priority

Legal Authority: PL 99-501

CFR Citation: 24 CFR 28

Legal Deadline: Statutory, April 21, 1987.

Abstract: This rule would implement the Program Fraud Civil Remedies Act of 1986 by establishing administrative procedures for imposing civil penalties and assessments against persons who file false claims or statements while applying for certain benefits provided by the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: Undetermined

Agency Contact: Patricia M. Black, Assistant General Counsel, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7200

RIN: 2501-AA58

915. PROTECTION OF HUMAN SUBJECTS IN RESEARCH (S-6-83; FR-1807)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 46

Legal Deadline: None.

Abstract: In response to a Presidential Commission, an Interagency Task Force on the Protection of Human Subjects in Research has proposed that all Federal agencies adopt a common policy and uniform regulations for the protection of human subjects in research.

HUD has agreed to adopt the policy and to issue a regulation based on a model to be promulgated by the Office of Science and Technology Policy.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Compliance costs for HUD's adoption of the model regulation will be minimal, because almost all research conducted by HUD falls within categories exempted from the requirements of the model regulation. The infrequent projects that may not be exempt (perhaps one every two years) have in the past been proposed by organizations already subject to the Department of Health and Human Services regulation, and thus would not have any incremental compliance costs for the organization, other than the actual project requirements.

Costs would be slight.

Affected Sectors: Profit and Non-profit Research Organizations.

Levels of Government Affected: only HUD itself.

Agency Contact: Arthur S. Newburg, Senior Advisor for Research Management, Department of Housing and Urban Development, Office of the Secretary, 202 755-6230

RIN: 2501-AA15

916. PROCEDURE FOR FLOODPLAIN MANAGEMENT AND THE PROTECTION OF WETLANDS. IMPLEMENTATION OF EXECUTIVE ORDERS 11988 AND 11990 (S-7-84; FR-865)

Legal Authority: EO 11988; EO 11900; 42 USC 3535(d)

CFR Citation: 24 CFR 50; 24 CFR 55; 24 CFR 58; 24 CFR 200

Legal Deadline: None.

Abstract: This regulation sets forth the policy, procedure and responsibilities of the Department of Housing and Urban Development to implement and enforce Executive Order 11988, Floodplain Management, and Executive Order 11990, the Protection of Wetlands. This regulation replaces a general statement of Departmental policy (44 FR 47623; August 14, 1979) implementing these Executive Orders. In addition, this rule would revise HUD's Minimum Property Standards for One and Two Family Dwellings to accord with Executive Order 11988 and FEMA's regulations for its National Flood Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Richard H. Broun, Director, Office of Environment & Energy, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-7884

RIN: 2501-AA23

917. DETERMINATION OF WAGE RATES FOR MAINTENANCE AND TECHNICAL EMPLOYEES OF PUBLIC HOUSING AGENCIES AND INDIAN HOUSING AUTHORITIES (S-5-86; FR-2211)

Legal Authority: 42 USC 1437j

CFR Citation: 24 CFR 0060

Legal Deadline: None.

Abstract: This rule would describe the Department's policies and procedures for determining or adopting prevailing wage rates under section 12 of the United States Housing Act of 1937.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Kathy Beckwith, Department of Housing and Urban Development, Office of the Secretary, Office of Labor Relations, 202 755-5370

RIN: 2501-AA40

918. ● RESTRICTIONS ON HOUSING ASSISTANCE TO INELIGIBLE ALIENS (S-7-87; FR-2383 (FORMERLY FR-1588))

Significance: Regulatory Program

Legal Authority: 42 USC 1436a

CFR Citation: 24 CFR 200; 24 CFR 215; 24 CFR 235; 24 CFR 236; 24 CFR 247; 24 CFR 812; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 885; 24 CFR 886; 24 CFR 887; 24 CFR 912

Legal Deadline: None.

Abstract: This proposed rule will implement section 214 of the Housing and Community Development Act of 1980, as amended in 1981 and 1986. That Act prohibits the Secretary from providing financial assistance to substantially all illegal aliens as well as to most classes of aliens admitted for temporary purposes. The restriction applies to the Public and Indian Housing programs, the Section 8 Housing Assistance Payments programs, the Rent Supplement program, the Section 236 program, and

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the Section 235 homeownership assistance program.

This rule will replace the rule published on April 1, 1986, which was not made effective, but is being withdrawn. This new rule will provide that alien status must be verified with the Immigration and Naturalization Service by the entity responsible for tenant selection (or approval of a mortgage application).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: A final rule was published on this subject with RIN: 2501-AA56 on April 1, 1986, but it was not made effective. That rule is being withdrawn and this proposed rule will be the means of implementing the statutory requirements regarding restrictions on housing assistance to ineligible aliens.

ADDITIONAL CONTACT PERSON (Public and Indian Housing):

Edward Whipple, Director, Rental and Occupancy Branch, Office of Public Housing, (202) 426-0744

Agency Contact: James J. Tahash, Director, Program Planning Division, Office of Multifamily Hsg. Management, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2501-AA63

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Final Rule Stage
Office of the Secretary (HUDSEC)

919. ADMINISTRATIVE CLAIM: IMPLEMENTING CERTAIN PROVISIONS OF THE DEBT COLLECTION ACT OF 1982 (S-10-86; FR-1644)

Legal Authority: 42 USC 3711; 42 USC 3717; 42 USC 3535(d)

CFR Citation: 24 CFR 17

Legal Deadline: None.

Abstract: This rule would make final an interim rule published in 1984, implementing the administrative offset and salary offset provisions of the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/84	49 FR 32346
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: Previously listed as 2535-AA09. Includes: ADM-1-82.

Agency Contact: Samuel B. Rothman, Attorney Advisor, Office of Program Enforcement, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7184

RIN: 2501-AA55

920. SUSPENSION AND DEBARMENT (S-2-79; FR-1676)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None.

Abstract: This proposed rule would make additional conforming changes to Part 24 based on the OMB final Guidelines for Nonprocurement Debarment and Suspension. The most substantive of these changes would (1) provide for government-wide effect of sanctions to all tiers of nonprocurement participants; and (2) implement a participant certification requirement that would require certain participants to verify that they have not, in the preceding three years, been subjected to, or been proposed for, sanctions or otherwise been indicted, convicted or had a civil judgment rendered against them for specified offenses.

Timetable:

Action	Date	FR Cite
NPRM	10/11/83	48 FR 46072
NPRM Comment Period End	12/12/83	48 FR 46072
Interim Final Rule	10/02/87	52 FR 37112
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	

Small Entity: No

Agency Contact: Patricia Black, Asst Gen Coun for Insp Gen & Admn Proceedngs, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7200

RIN: 2501-AA05

921. ● DEBARMENT SUSPENSION AND LIMITED DENIAL OF PARTICIPATION--ALL SALES EXCEPTION (S-4-87; FR2356)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None.

Abstract: This interim rule would delete or modify the all-cash sales exception at 24 CFR Section 24.3. Under the existing provision, individuals are permitted to purchase HUD-owned property at all-cash, public sales despite the imposition of sanctions under Part 24. This provision will be modified or removed entirely under the interim rule as a response to fraudulent practices experienced by the Department.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/87	

Small Entity: Undetermined

Agency Contact: Patricia Black, Assistant General Counsel for, Inspector General & Admin Proceedings, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7200

RIN: 2501-AA60

922. ENVIRONMENTAL REVIEW PROCEDURES - RENTAL REHABILITATION AND HOUSING DEVELOPMENT GRANT PROGRAM (S-6-84; FR-1965)

Legal Authority: 42 USC 1437o(i); 42 USC 5304(l)

CFR Citation: 24 CFR 58

Legal Deadline: None.

Abstract: This agenda item makes final two outstanding interim rules. These rules provide policies and procedures by which assisted communities and participating States discharge Federal environmental review responsibilities. They also streamline and reduce environmental requirements. They include: (1) an expanded listing of block grant activities and projects exempt or categorically excluded from the NEPA requirements; (2) a definitive list of related statutes and authorities that must be observed by grant recipients for the release of block grant funds as required by HUD legislation; and (3) additional provisions needed to conform with and implement innovative measures included in the HUD Amendments of 1981, such as the State-administered block grant program for small cities and the assumption of the environmental oversight responsibilities by States; and (4) (CONT)

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/07/84	49 FR 23610
Interim Rule Effective	07/31/84	49 FR 23610
Final Action	11/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: for extending and adopting the environmental procedures, including historic preservation requirements, to the programs established by title III of the Housing and Urban-Rural Recovery Act of 1983.

Includes: RIN 2506-AA05 (CPD-21-81; FR-1027)

Agency Contact: Charles E. Thomsen, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environmental and Energy, Environmental Management Division, 202 755-6611

RIN: 2501-AA25

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923. RESTRICTIONS ON HOUSING ASSISTANCE TO INELIGIBLE ALIENS (S-7-86; FR-1588)

Significance: Regulatory Program

Legal Authority: 42 USC 1436a; PL 99-603

CFR Citation: 24 CFR 200; 24 CFR 215; 24 CFR 235; 24 CFR 247; 24 CFR 812; 24 CFR 880; 24 CFR 881; 24 CFR 883; 24 CFR 884; 24 CFR 886; 24 CFR 912

Legal Deadline: None.

Abstract: Section 214 of the Housing and Community Development Act of 1980, as amended by section 329 of the Housing and Community Development Amendments of 1981 and by the Immigration Reform and Control Act of 1986, prohibits the Secretary from making financial assistance available under certain HUD programs for the benefit of any alien who is not a lawful resident of the United States under the Immigration and Nationality Act. The programs affected are public and Indian housing, the Section 8 Housing Assistance Payments programs, the Housing Voucher program, the Rent Supplement program, the section 235 assisted homeownership program, and the section 236 rental housing program.

These laws require that an applicant or participant in the programs declare whether he or she is a citizen or alien, and if an alien, the person must submit documents to show eligible status. Alien status will be verified with the Immigration and Naturalization Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/86	51 FR 11198
Postponement of Effective Date	11/21/86	51 FR 40288
Final rule withdrawing April 1,1986	11/00/87	

Small Entity: No

Additional Information: This rule was removed from the agenda when the final rule was published in April of 1986. It was first expected to be made effective in July, and then in September. Now that there is a new law to be implemented, the Immigration Reform and Control Act of 1986, and the Department has been prohibited from spending appropriated funds to enforce the April 1986 rule in fiscal year 1987, it has been decided that (1) a final rule withdrawing the April 1, 1986 rule will be published closing out this item; and (2) a new proposed rule will be published to implement the 1980 Act as amended in 1981 and 1986 (and possibly in 1987)--see new agenda entry for S-7-87, FR-2383.

ADDITIONAL CONTACT PERSON (Public and Indian Housing):

Edward Whipple, Director; Rental and Occupancy Branch; Office of Public Housing; 202-426-0744

Agency Contact: James J. Tahash, Director, Program Planning Division, Office of Multifamily Hsg. Management, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2501-AA56

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Completed Actions
Office of the Secretary (HUDSEC)

924. STANDARDS OF CONDUCT (S-5-85; FR-2146)

CFR Citation: 24 CFR 00

Completed:

Reason	Date	FR Cite
Final Action	07/17/87	52 FR 27110
Final Action Effective	09/18/87	52 FR 27110

Small Entity: No

Agency Contact: David D. White 202 755-7137

RIN: 2501-AA31

925. TESTIMONY, PRODUCTION AND DISCLOSURE OF MATERIAL OR INFORMATION BY HUD EMPLOYEES (S-17-86; FR-2273)

CFR Citation: 24 CFR 15

Completed:

Reason	Date	FR Cite
Final Action	04/15/87	52 FR 12159
Final Action Effective	05/20/87	52 FR 12159

Small Entity: No

Agency Contact: Carolyn B. Lieberman 202 755-7250

RIN: 2501-AA51

HUD—HUDSEC — Completed Actions

926. ● AUTHORITY TO COMPROMISE CLAIMS OR TO SUSPEND OR TERMINATE COLLECTION ACTION (S-5-87; FR-2375)

Legal Authority: 31 USC 3711; 31 USC 3716; 31 USC 3718; 05 USC 5514; 05 USC 2653; 31 USC 3720A

CFR Citation: 24 CFR 17.65

Legal Deadline: None.

Abstract: This final rule expands the authority of HUD claims collection officers to compromise claims or to suspend or terminate collection actions under the Debt Collection Act beyond the current $400 limit, up to a maximum amount to be established periodically by the Assistant Secretary for Administration. Rule also enables Title I Insurance Division to compromise, suspend or terminate collection action on property improvement loans and manufactured home loans that exceed $20,000, instead of limiting such authority to property improvement loans.

Timetable:

Action	Date	FR Cite
Final Action	09/21/87	52 FR 35413
Final Action Effective	10/26/87	52 FR 35413

Small Entity: Undetermined

Agency Contact: Samuel B. Rothman, Office of General Counsel, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7184

RIN: 2501-AA61

927. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN ADMINISTRATIVE PROCEEDINGS (S-2-86; FR-2156)

CFR Citation: 24 CFR 14; 24 CFR 20.10

Completed:

Reason	Date	FR Cite
Final Action	07/17/87	52 FR 27124
Final Action Effective	09/16/87	52 FR 27124

Small Entity: No

Agency Contact: Grant E. Mitchell 202 755-6550

RIN: 2501-AA44

928. AMENDMENTS TO DEFINITION OF INCOME (S-12-86; FR-2184)

CFR Citation: 24 CFR 0813.106; 24 CFR 0913.106; 24 CFR 0215.21; 24 CFR 0236.3

Completed:

Reason	Date	FR Cite
Final Action	09/09/87	52 FR 34106
Final Action Effective	11/01/87	52 FR 34106

Small Entity: No

Agency Contact: Nancy Chisholm 202 755-6713

RIN: 2501-AA46

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Prerule Stage

Office of Housing (OH)

929. SINGLE FAMILY MORTGAGE INSURANCE PREMIUM (H-11-87)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: FHA single-family mortgage insurance premiums would be set at levels comparable to those charged by the highest rated private mortgage insurers. Specifically, the mortgage insurance premium (MIP) will be calculated as if HUD were a AAA Moody's-rated private mortgage insurer. Such an MIP calculation would assume that FHA were required to maintain sufficient reserves to withstand Moody's 10-year depression stress test, earn a market return on an imputed tax rate on its "earnings", etc. Pending approval of a legislative amendment removing the present cap on FHA premiums, this regulation will be deferred.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Morris E. Carter, Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing, 202 755-6720

RIN: 2502-AD93

930. FHA SINGLE FAMILY BORROWER ELIGIBILITY (H-12-87)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: Implement legislation (proposed) to limit eligibility in the FHA single family insurance program to buyers of primary residences.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Morris E. Carter, Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing, 202 755-6720

RIN: 2502-AD94

931. LIMITATION ON PREPAYMENT OF MORTGAGES ON MULTIFAMILY RENTAL HOUSING (H-54-84; FR-1952)

Significance: Regulatory Program

Legal Authority: 12 USC 1715z-15

CFR Citation: 24 CFR 207; 24 CFR 221; 24 CFR 215; 24 CFR 886; 24 CFR 245; 24 CFR 277; 24 CFR 219; 24 CFR 231; 24 CFR 242; 24 CFR 244

Legal Deadline: None.

Abstract: Rule will restrict prepayment of multifamily project mortgages whenever Secretary has prepayment approval responsibilities. Prepayment will not be approved unless project is no longer needed for lower income

HUD—OH — Prerule Stage

housing, tenants have been given notice and opportunity to comment, and a relocation assistance plan has been put in place. Similar restrictions will apply to termination of insurance. Where the Secretary is not responsible for approving prepayment and therefore cannot restrict it, priority will be given for additional section 8 and troubled project assistance in order to discourage prepayment.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: James Tahash, Director, Department of Housing and Urban Development, Office of Housing, Program Planning, Office of Multifamily Housing Management, 202 755-3070

RIN: 2502-AC49

932. FLEXIBLE SUBSIDY PROGRAM; 1983 AMENDMENTS (H-50-84)

Legal Authority: PL 98-181, Sec 217

CFR Citation: 24 CFR 219

Legal Deadline: None.

Abstract: Implements section 217 of the Housing and Urban Rural Recovery Act of 1983.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: James J. Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of the General Counsel, Office of Multifamily Housing Management, 202 426-3970

RIN: 2502-AC31

933. MANUFACTURED HOME CONSTRUCTION & SAFETY CONSTRUCTION ON SIDING & ROOFING MATERIALS & APPLICATION CRITERIA (H-8-87; FR2327)

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3280

Legal Deadline: None.

Abstract: This Advance Notice of Proposed Rulemaking requests public comment on those portions of the Manufactured Home Construction and Safety Standards (Standards) that are applicable to the materials and application criteria for external coverings. The Department is concerned that certain siding and roofing materials, more common to conventional-type construction may not be compatible in important aspects with typical manufactured home construction. Consumer complaint information indicates that the current Standards do not address certain important problems areas.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Mark W. Holman, Acting Director, Manufactured Hsg. &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-6590

RIN: 2502-AE06

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Proposed Rule Stage

Office of Housing (OH)

934. ● SUPPORTIVE HOUSING DEMONSTRATION PROGRAM (H-34-87; FR2385)

Legal Authority: 42 USC 11381-88

CFR Citation: 00 CFR 000

Legal Deadline: None.

Abstract: This proposed rule would implement the Supportive Housing Demonstration Program contained in Subtitle C of Title IV of the Stewart B. McKinney Homeless Housing Act (Pub. L. 100-77, approved July 22, 1987). The program is designed to develop innovative approaches to providing supportive housing especially to deinstitutionalized homeless individuals, homeless families with children and homeless individuals with mental disabilities and other handicapped persons.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Lawrence Goldberger, Director, Office of Elderly & Assisted, Housing, Department of Housing and Urban Development, Office of Housing, 202 755-5720

RIN: 2502-AE13

935. USE OF MATERIALS BULLETIN NO. 40C - GRADEMARKING OF PLYWOOD (H-21-85; FR2407)

Legal Authority: 12 USC 1735e

CFR Citation: 24 CFR 200

Legal Deadline: None.

Abstract: This rule would establish standards for Grademarking of Plywood approved for use in structures insured under the National Housing Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Donald Fairman, Chief, Technical Support Branch, Department of Housing and Urban Development, Office of Housing, Office of Manufactured Housing and Regulatory Functions, 202 755-5718

RIN: 2502-AD01

936. ISSUANCE OF FHA DEBENTURES (H-36-86; FR-2268)

Legal Authority: 12 USC 1710

CFR Citation: 24 CFR 200; 24 CFR 203; 24 CFR 207

Legal Deadline: None.

Abstract: This proposed rule would amend HUD regulations to authorize the transfer of authority for the issuance of FHA Debentures from United States Department of the Treasury to the Federal Reserve Bank of Philadelphia.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Robert A. Spiegel, Office of Finance and Accounting, Department of Housing and Urban Development, Office of Administration, 202 755-5256

RIN: 2502-AD68

937. USE OF MATERIAL BULLETIN USED IN HUD BLDG. PRODUCT STANDARDS AND CERTIFICATION PROGRAM FOR MAT-FORMED PARTICLEBOARD SHEATHING PANELS(H-7-87; FR-2322)

Legal Authority: 42 USC 3535(d); 12 USC 1701 to 1715z-18

CFR Citation: 24 CFR 200

Legal Deadline: None.

Abstract: This rule would adopt UMB 88 that reference a standard of the American National Standards Institute (ANSI A 208.1.1979).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Leslie Breden, Office of Manufactured Hsg. & Reg. Functions, Department of Housing and Urban Development, Office of Housing, 202 755-5929

RIN: 2502-AD92

938. REVISION OF USE OF MATERIALS BULLETIN USED IN THE HUD BLDG. PRODUCT STANDARD AND CERTIFICATION PROGRAM (H-4-87; FR2308)

Legal Authority: 12 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None.

Abstract: This rule would revise the following existing UM Bulletins in order to update the standards referenced in the UM's in accordance with 24 CFR 200.935.

UM 39a Aluminum Windows, Sliding Glass Doors and Storm Doors UM 48a Pressure Treated Lumber & Plywood UM 52a Wood Flush Doors UM 71 Polystyrene Form Insulation Sheathing Board UM 84 Solid Fuel Type Room Heaters & Fireplace Stove.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Undetermined

Agency Contact: Leslie H. Breden, Officed of Manufactured Housing & Regulatory, Functions, Department of Housing and Urban Development, Office of Housing, 202 755-5929

RIN: 2502-AE04

939. REV. OF UMB 44D TO ALLOW THE USE OF CARPET IN BATHROOMS & KITCHENS OVER A CONCRETE-MASONRY FLOORING SYSTEM AND A NEW CLASSIFICATION SYSTEM FOR CARPET (H-20-87; FR 2402)

Legal Authority: Technical Suitability of Products Program of the Nat'l Hsg Act

CFR Citation: 24 CFR 200.935

Legal Deadline: None.

Abstract: A revised standard for carpet was issued on June 23, 1986 as Use of Materials Bulletin No. 44d to recognize the use of wall-to- wall carpet as a technically suitable material for finished flooring. The value of carpet is included in HUD mortgage insurance programs. A typical life for carpet of 8 years was used to compare the replacement cost of carpet versus other materials used as flooring such as ceramic tile, or vinyl tile or sheet flooring. Any reduction in the life expectancy that would increase the replacement cost of carpet also would not be a reasonable economic justification for including the cost of carpet under HUD's mortgage insurance program. The American Textile Manufacturers Institute has recommended the use of carpet in bathrooms and kitchens provided that they are composed of nylon of textures A,B, or C Type I Class 2 or polypropylene of textures A or B Type I Class 2, and is maintained properly. HUD (CONT'D)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: (ABSTRACT CONT'D) is revising UM 44d to incorporate these changes in a proposed rule provided that the carpet is applied over a concrete-masonry flooring system. Comments on this change to UM 44d will be requested. In addition, a new classification system for attached cushion is proposed.

Agency Contact: Donald R. Fairman, Chief, Technical Support Branch, Manf. Hsg. & Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5718

RIN: 2502-AE07

940. ● AMENDMENTS TO THE TITLE I REGULATIONS (H-19-87; FR2370)

Legal Authority: 12 USC 1703

CFR Citation: 24 CFR 201

Legal Deadline: None.

Abstract: This rule would involve the following revisions to the Title I loan insured program:(1) a requirement that affected new manufactured homes meet the thermal energy requirements in HUD's minimum Property Standards; (2) restrictions on the use of loan proceeds for the acquisition of furniture; (3) a reduction of the length of hazard insurance coverage; (4) an increase in the property improvement loan amount on which a security interest is required and (5) the collection of a higher percentage of the loan insurance premium in the early years when the risks of default are greatest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Robert J. Coyle, Director, Title I Insurance Division, Department of Housing and Urban Development, Office of Housing, 202 755-6880

RIN: 2502-AE15

941. ONE-TIME MORTGAGE INSURANCE PREMIUM FOR NON-MUTUAL FUND - SINGLE FAMILY INSURANCE PROGRAM (H-40-84; FR-1930)

Legal Authority: 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 203; 24 CFR 221; 24 CFR 220; 24 CFR 227; 24 CFR 234

Legal Deadline: None.

Abstract: This rule would extend the one-time mortgage insurance premium provision for single-family mortgages to funds other than the Mutual Mortgage Insurance Fund.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: James B. Mitchell, Director, Department of Housing and Urban Development, Office of Housing, Financial Policy Division, 202 426-4325

RIN: 2502-AC35

942. RETENTION PERIOD FOR MORTGAGEE SINGLE FAMILY CLAIM RECORDS (H-81-84)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: Under the new Single Family Claims System, the mortgagee is not required to provide documentation to support the fiscal data reported or entered on the new claim form. Instead, the mortgagee will be randomly audited; at which time, the mortgagee is expected to produce all the supporting receipts, payment ledger records, etc.

Regulations will be changed to specify the retention period and file contents for records supporting single family claim payments and mortgagee reviews.

Timetable:

Action	Date	FR Cite
NPRM	02/01/88	

Small Entity: Yes

Agency Contact: John J. Coonts, Deputy Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AC50

943. PENALTY FOR LACK OF DOCUMENTATION (H-80-84)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: The new single family process provides for "random audits" of mortgagees' records when single family claims for insurance benefits are filed with HUD. During the audit, the mortgagee will be required to provide specific supporting documentation. When the mortgagee cannot produce the required documentation, HUD will penalize the mortgagee for the amount not supported plus the current interest rate on that unsupported amount from the date of payment.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Linda Gibbs, Director, Mortgage Insurance Accounting and, Servicing, Department of Housing and Urban Development, Office of Administration, Office of Finance and Accounting, 202 755-2832

RIN: 2502-AC54

944. HUD INSPECTIONS - NO DUTY OF CARE (H-1-85; FR-2025)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203; 24 CFR 234

Legal Deadline: None.

Abstract: Proposed regulation to protect HUD against suits brought under the Federal Tort Claims Act claiming negligent inspection of FHA-insured properties.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: John J. Coonts, Deputy Director, Office of Insured Single, Family Housing Division, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AC92

945. TYPES OF SATISFACTORY TITLE EVIDENCE (H-49-86)

Significance: Agency Priority

Legal Authority: 12 USC 1710

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: This rule would amend 24 CFR 203.385 to withdraw approval for use of attorney certificates of title used with mortgagee title policies and abstracts of title and attorneys' opinions. This change is intended to accommodate a plan for HUD to provide general warranty deeds to the purchasers of HUD 1-to-4-family properties. The amended regulation would provide approval for only those evidences of title which will provide protection to HUD even after sale of the property.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: John J. Coonts, Deputy Director, Office of Insured Single, Family Housing Division, Department of Housing and Urban Development, Office of Housing, Office of Insured Single Family Housing, 202 755-3046

RIN: 2502-AD83

946. ELIMINATION OF PROHIBITION ON THE PAYMENT OF FEES TO THIRD PARTIES IN MULTIFAMILY INSURANCE MORTGAGE TRANSACTION (H-5-87; FR-2314)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: This rule proposes to allow mortgagees to share the fees permitted in connection with multifamily insurance transactions with other parties provided that no portion of the shared fee may be paid to the mortgagor or principals of the mortgagor entity.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: James Hamernick, Director, Office of Insured Multifamily Hsg, Department of Housing and Urban Development, Office of Housing, 202 755-6500

RIN: 2502-AD90

947. DEREGULATION OF POST-ENDORSEMENT AND LOAN ORIGINATION FEES IN FHA SINGLE FAMILY HOUSING (H-18-87; FR-2333)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: Post-endorsement fees in the FHA single family program will be deregulated, as will loan origination fees.

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Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Morris E. Carter, Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing, 202 755-6720

RIN: 2502-AD98

948. SINGLE FAMILY DOWNPAYMENT REQUIREMENTS (H-17-87; FR-2334)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: A minimum 5 percent downpayment (as a percent of purchase price) will be required in the single family program for families earning over $40,000 per year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Morris E. Carter, Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing, 202 755-6720

RIN: 2502-AD99

949. ● ACCEPTANCE OF PARTIAL PAYMENTS DURING TMAP/ASSIGNMENT PROCESSING (H-27-87; FR-2366)

Legal Authority: 12 USC 1715u

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: This proposed rule would require a mortgagee to accept partial payments during the period after initial default when the mortgagor is being considered for foreclosure relief—either TMAP or assignment. It would also encourage mortgagors to make partial payments during the period by permitting consideration of the mortgagor's efforts to pay during this period as part of the determination of whether the mortgagor has a reasonable prospect of being able to resume full payments and repay the entire indebtedness.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: John Coonts, Deputy Director, Insured Single Family Hsg., Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AE06

950. ● MORTGAGEE CHARGES FOR SERIOUS TITLE DEFECTS (H-28-87; FR-2368)

Legal Authority: 12 USC 1710; 12 USC 1715(b); 12 USC 1709

CFR Citation: 24 CFR 203.366; 24 CFR 203.403

Legal Deadline: None.

Abstract: Proposed rule is intended to impose graduated charges on mortgagees who convey FHA-insured properties to HUD with serious title defects. These charges would increase with the length of time required by the mortgagee to rectify the defects.

Exploring the base on which the graduated charges will be calculated; i.e., whether to use a percentage of the total insured claim or materials averages of daily holding costs.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: Undetermined

Agency Contact: Jacqueline Campbell, Dir., Single Family Property Disposition, Division, Department of Housing and Urban Development, Office of Housing, 202 755-5740

RIN: 2502-AE11

951. STATE AGENCY AMENDMENTS (H-70-84; FR-1997)

Legal Authority: 12 USC 1715z-16(b); 12 USC 1715z-16(c)

CFR Citation: 24 CFR 215; 24 CFR 221; 24 CFR 236; 24 CFR 245

Legal Deadline: None.

Abstract: This rule would make the Department's regulations on prohibited lease terms applicable to section 236 projects financed by state housing agencies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: James Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 426-3978

RIN: 2502-AC73

952. ASSIGNMENT OPTION (H-44-86)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 221.55

Legal Deadline: None.

Abstract: This rule would make it possible for a mortgagee to net the escrow from the claim amount on automatic assignments. The escrow account can be built through a non-cash transaction in the Thrift system. This would eliminate misrouting of checks through the mail.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Agency Contact: Linda Gibbs, Director, Mortgage Insurance Accounting and Servicing, Department of Housing and Urban Development, Office of Housing, 202 755-2632

RIN: 2502-AD78

953. COINSURANCE FOR NURSING HOMES AND INTERMEDIATE CARE FACILITIES (H-32-86; FR-2256)

Legal Authority: 12 USC 1715z(9)

CFR Citation: 24 CFR 252

Legal Deadline: None.

Abstract: The rule would authorize the coinsurance of mortgages covering nursing homes or intermediate care facilities pursuant to section 244 of the National Housing Act. It would also authorize the full insurance of existing nursing homes or intermediate care facilities pursuant to section 223(f) of the National Housing Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Undetermined

Agency Contact: James L. Hamernick, Director, Office of Insured Multifamily Hsg., Department of Housing and Urban Development, Office of Housing, 202 755-6500

RIN: 2502-AD74

954. ● MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS INTERPRETATIVE BULLETINS (H-31-87; FR2380)

Legal Authority: 42 USC 5424

CFR Citation: 24 CFR 3282

Legal Deadline: None.

Abstract: This proposed rule would amend the Manufactured Home Procedural and Enforcement Regulations in order to remove the issuance of Interpretative Bulletins from the rulemaking process. The purpose of this procedural modification is to promote efficiency in issuing Interpretative Bulletins so that important guidance can be provided to the manufactured housing industry in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Mark W. Holman, Acting Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AE10

955. REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATION OF HOUSING ASSISTANCE FUNDS (S-10-84; FR-1896)

Legal Authority: 42 USC 1439

CFR Citation: 24 CFR 791

Legal Deadline: None.

Abstract: The rule revises HUD's regulations for the allocation of housing assistance funds to conform with statutory changes made by the Housing and Urban-Rural Recovery Act of 1983. It contains an explicit description of the allocation formula, including some modifications to the factors making up the formula; deletes specific requirements on allocating funds in accordance with approved Housing Assistance Plans; and eliminates the requirements for local consultation in the allocation process. Part 791 would also be amended to consolidate local government submission requirements and HUD criteria for review of applications for housing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Additional Information: Includes: H-4-81, FR-1512.

Agency Contact: Stephen Cooley, Office of Housing Policy, Department of Housing and Urban Development, Office of Housing, 202 755-6454

RIN: 2502-AA73

956. CONFORMING SECTION 8 EXISTING CERTIFICATE REGULATION TO HOUSING VOUCHER FORMAT (H-2-87; FR-2294)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 882

Legal Deadline: None.

Abstract: Upon publication of the Department's housing voucher regulation, work will begin to incorporate into Part 882, containing the Section 8 Certificate regulations, the various policies and simplified procedures of housing vouchers that can be applied to certificates.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 755-6887

RIN: 2502-AD91

957. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS— MISCELLANEOUS AMENDMENTS (H-19-87; FR-2335)

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 882; 24 CFR 888

Legal Deadline: None.

Abstract: This rule would effect miscellaneous changes in the Section 8 Existing Housing Program aimed at promoting efficiency and uniformity in the several subprograms under Section 8. This proposal will make changes in the procedures associated with Annual Adjustments to rent, to facilitate downward adjustments in the annual adjustment factors where relevant indices of costs and prices call for such adjustments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Department of Housing and Urban Development, Office of Housing, 202 755-6887

RIN: 2502-AE00

958. MANAGEMENT RULES AND COMPREHENSIVE HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS (H-34-83; FR-1761)

Legal Authority: 12 USC 1701q; 42 USC 3535(d)

CFR Citation: 24 CFR 885

Legal Deadline: None.

Abstract: This rule would amend HUD's current regulations on loans for housing for the elderly or handicapped. The proposed regulation would add regulatory provisions to govern section 202/8 project operations and management; would incorporate changes required by recent statutory amendments governing housing assistance payments contracts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: James J. Tahash, Director, Department of Housing and Urban Development, Office of Housing, Program Planning Division, Office of Multifamily Housing Management, 202 426-3970

RIN: 2502-AC03

959. ● LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED—ALLOCATION OF LOAN AUTHORITY, PROCESSING OF APPLICATIONS, DIRECT LOAN PROCESSING PROCEDURES (H-21-87; FR2345)

Legal Authority: 12 USC 1701g

CFR Citation: 24 CFR 885

Legal Deadline: None.

Abstract: This proposed rule would revise Part 885 procedures governing the allocation of loan funds, processing of application for fund reservation, and direct loan processing. The proposed changes would implement certain provisions of the Housing and Urban-Rural Recovery Act of 1983, incorporate fund reservation requirements regularly included in HUD's annual announcement of fund availability and invitation for applications, and make certain other modification.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Undetermined

Agency Contact: Robert Wilden, Assisted Elderly and Handicapped Housing, Division, Department of Housing and Urban Development, Office of Housing, 202 755-6730

RIN: 2502-AE20

960. PROVISION OF SECTION 8 EXISTING HOUSING ASSISTANCE FOR PROJECTS AT FORECLOSURE SALES (H-3-86; FR-2156)

Legal Authority: 42 USC 1437f; 12 USC 3706; 12 USC 3717; 12 USC 1713(k)

CFR Citation: 24 CFR 886; 24 CFR 27

Legal Deadline: None.

Abstract: This proposed rule would amend Parts 886 and 27 to make Section 8 assistance available for projects sold at foreclosure sales.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: James J. Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 426-3944

RIN: 2502-AD43

961. MISCELLANEOUS REVISIONS OF PART 886 (H-37-86; FR-2275)

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f

CFR Citation: 24 CFR 886.310; 24 CFR 886.330; 24 CFR 886.331; 24 CFR 886.334; 24 CFR 886.322; 24 CFR 886.333; 24 CFR 886.122

Legal Deadline: None.

Abstract: This proposed rule would amend Part 886 which governs procedures for additional assistance for projects with HUD-insured or HUD-held mortgages (Subpart A) and the Section 8 housing assistance payments program for the disposition of HUD owned projects (Subpart C). This rule would (1) modify the maximum monthly rent provisions of Subpart C to reflect Section 102(b)(7) of the Housing and Community Development Amendments of 1984; (2) amend the work write-up, cost estimate and cost certification provisions governing the rehabilitation of projects under Subpart C and (3) make other miscellaneous changes to Part 886.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: This proposal was originally included as part of FR-1950.

Agency Contact: James Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, 202 426-3970

RIN: 2502-AD59

962. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM - HOUSING VOUCHERS (H-42-85; FR-2170)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 887

Legal Deadline: None.

Abstract: The Department has proposed legislation to make the Housing Voucher Demonstration Program a permanent housing assistance payment program, and currently is developing a final rule based on the Housing Voucher Notices of Funding Availability for Fiscal Years 1984, 1985, and 1986. The rule will enhance the administration of the Housing Voucher Program. If approved as a permanent program, Housing Vouchers would become the principal vehicle for future funding of housing assistance payments under Section 8 of the United States Housing Act of 1937.

Timetable:

Action	Date	FR Cite
NPRM	08/14/87	52 FR 30368
NPRM Comment Period End	09/14/87	52 FR 30368
Final Action	12/00/87	
Final Action Effective	03/00/88	

Small Entity: No

Agency Contact: Gerald Benoit, Director, Housing Voucher Division, Department of Housing and Urban Development, Office of Housing, Office of Elderly and Assisted Housing, 202 755-6477

RIN: 2502-AD26

963. LAND REGISTRATION (H-21-86)

Legal Authority: 15 USC 1701

CFR Citation: 24 CFR 1710

Legal Deadline: None.

Abstract: This rule would adjust the reporting and registering requirements for land registration and adjust the fee payment procedures.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Lionel Cabrera, Chief, Land Sales Policy Examination Branch, Department of Housing and Urban Development, Office of Housing, 202 755-6924

RIN: 2502-AD54

964. EXEMPTION FROM INTERSTATE LAND SALES REGISTRATION (H-47-86)

Significance: Agency Priority

Legal Authority: 15 USC 1718; 42 USC 3535(d)

CFR Citation: 24 CFR 1710

Legal Deadline: None.

Abstract: The Department is proposing to amend the regulatory exemption section of its regulations to provide further relief from registration requirements with no loss in consumer protection.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: John L. Brady, Director, Interstate Land Registration Division, Department of Housing and Urban Development, Office of Housing, 202 755-0502

RIN: 2502-AD61

965. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS - DEREGULATORY PROPOSALS (H-39-86; FR-2277)

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3280

Legal Deadline: None.

Abstract: This rule will amend the Manufactured Home Construction and Safety Standards by deregulating matters which are not related to health, safety or durability issues. Rule will also reduce the Federal role in the Standards by referencing appropriate private sector requirements in lieu of maintaining government-originated criteria.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: Mark W. Holman, Acting Director, Manufactured Hsg &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AD59

966. PART 3280 - INTERPRETATIVE BULLETIN ON THE VAPOR BARRIER REQUIREMENTS OF 24 CFR 3280.504 (H-46-86; FR-2285)

Legal Authority: 42 USC 5401

CFR Citation: 24 CFR 3280.504

Legal Deadline: None.

Abstract: This interpretative bulletin will propose to interpret 24 CFR 3280.504, a provision of the Federal Manufactured Home Construction and Safety Standards, as prohibiting the use of ventilation systems using ceiling vents that discharge inside conditioned air into the attic/ceiling cavity. Section 3280.504 (a) currently requires ceilings to have a vapor barrier having a permeance not greater than 1 perm (dry cup method) installed on the lining side of the roof cavity. This proposed interpretation will clarify that ceiling-vent systems as described above violate section 3280.504(a) by intentionally allowing air migration into the ceiling cavity.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Mark W. Holman, Acting Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AD82

967. NOTICE REQUESTING A PRIVATE ORGANIZATION TO DEVELOP AND MAINTAIN THE FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS (H-9-87; FR-2271)

Significance: Regulatory Program

Legal Authority: 42 USC 5401

CFR Citation: 24 CFR 3280

Legal Deadline: None.

Abstract: In the Notice, HUD requested a private standards organization to develop and maintain the Federal Manufactured Home Construction Construction and Safety Standards (FMHCSS) (24 CFR Part 3280). HUD published a Notice in the FEDERAL REGISTER of February 13, 1987 (52 FR 4663 that announced HUD's interest in having a nationally recognized building code or model industry standards redraft all of the HUD standards now in the FMHCSS. HUD would retain the responsibility and authority to promulgate and enforce revisions to the FMHCSS, after formal notice and comment rulemaking. Model standards developed under this process would then become preemptive and be enforced as HUD standards.

Timetable:

Action	Date	FR Cite
ANPRM	02/13/87	52 FR 4663
ANPRM Comment Period End	04/14/87	52 FR 4663

Next Action Undetermined

Small Entity: No

Agency Contact: Mark W. Holman, Acting Director, Manufactured Housing and, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AD85

968. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS - FORMALDEHYDE REGULATIONS (H-10-87; FR-2332)

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3280.308; 24 CFR 3280.309; 24 CFR 3280.406

Legal Deadline: None.

Abstract: Medium density fiberboard is not currently covered by the standards but is a major emitter of formaldehyde. It is used extensively in cabinet construction and can cause problems similar to particleboard or plywood, materials already regulated by the standards.

Second, the Department has received a number of complaints concerning the language and posting requirements of the health notice. Consideration will be given to different notice requirements if the manufactured home meets more than the minimum standard of formaldehyde levels.

Third, the current rule requires recertification of plywood and particleboard following treatment with a product containing formaldehyde.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Mark W. Holman, Acting Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban

HUD—OH

Proposed Rule Stage

Development, Office of Housing, 202 755-5210

RIN: 2502-AE02

969. ● NOTICE OF FORMALDEHYDE; MANUFACTURED HOME CONSTRUCTION AND SAFETY (H-23-87; FR2349)

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3280.309

Legal Deadline: None.

Abstract: This rule would revise the Health Notice on formaldehyde emissions required under the Manufactured Home Construction and Safety Standards at 24 CFR 3280.309. The primary revisions would involve the shortening of the background information in the Notice on health risks arising from formaldehyde and engineering options to reduce formaldehyde levels, and the addition of an option for manufacturers concerning the location of the Notice.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Mark W. Holman, Acting Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-6590

RIN: 2502-AE21

970. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT SYSTEM (H-40-86; FR-2278)

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3282

Legal Deadline: None.

Abstract: This rule would propose revisions to HUD enforcement regulations at 24 CFR Part 3282 to improve the effectiveness of Production Inspection Primary Inspection Agencies (IPIAs).

Timetable:

Action	Date	FR Cite
ANPRM	05/08/87	52 FR 17411
NPRM	11/00/87	
Final Action	04/00/88	

Small Entity: Undetermined

Agency Contact: Mark W. Holman, Acting Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AD60

971. MANUFACTURED HOME DESIGN INSPECTION SYSTEM (H-41-86; FR-2279)

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3282

Legal Deadline: None.

Abstract: This proposed rule will deregulate the current design inspection system on manufactured homes and substitute a procedure for manufacturer certification,among other revisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	04/00/88	

Small Entity: Undetermined

Agency Contact: Mark W. Holman, Acting Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AD61

972. REAL ESTATE SETTLEMENT PROCEDURES ACT – CONTROLLED BUSINESS PROVISIONS AND MISCELLANEOUS AMENDMENTS (H-45-84; FR-1942)

Significance: Agency Priority

Legal Authority: 12 USC 2601; 12 USC 2607; PL 98-181

CFR Citation: 24 CFR 3500

Legal Deadline: None.

Abstract: The rule will implement statutory amendments established by Section 461 of the Housing and Urban Rural Recovery Act of 1983 (Pub.L.98-181). The amendments address a problem identified as "controlled business" and the manner in which Section 8 of the Real Estate Settlement Procedures Act (12 USC 2607), the kickback prohibition of RESPA, is to be applied to such arrangements. No alternatives are being considered because of the statutory mandate. The potential costs cannot be accurately projected but are believed to be incidental. The rule will also contain other miscellaneous changes to clarify and update the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: John Coonts, Office of Insured Single Family Housing, (202) 755-3046.

Agency Contact: Grant E. Mitchell, Assistant General Counsel, Department of Housing and Urban Development, Office of the General Counsel, Office of Equal Opportunity and Admin. Law, Fiscal Management and Energy Division, 202 755-6550

RIN: 2502-AC09

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Final Rule Stage

Office of Housing (OH)

973. ● APPLICABILITY OF MINIMUM PROPERTY STANDARDS MANUFACTURED HOMES UNDER TITLE II OF THE NATIONAL HOUSING ACT (H-82-82; FR-1578)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 200; 24 CFR 203

Legal Deadline: None.

Abstract: Would insure financing of properties with manufactured homes under Title II of the National Housing Act, as a means to broaden affordable home ownership opportunities. To qualify for such financing, the manufactured homes, foundations and sites must meet prescribed standards to insure adequate security for HUD-insured mortgages. By such action homeowners can expect reduced housing cost without sacrificing housing quality or durability.

HUD—OH

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Morris Carter, Director, Single Family Development, Division, Department of Housing and Urban Development, Office of Housing, 202 755-6700

RIN: 2502-AB24

974. MINIMUM PROPERTY STANDARDS (MPS) FOR HOUSING – WATER SUPPLY SYSTEMS (H-31-86; FR-2255)

Legal Authority: 12 USC 1701 to 1715e-16

CFR Citation: 24 CFR 200

Legal Deadline: None.

Abstract: This proposed rule would amend the regulation relating to the applicability of the chemical and bacteriological standards of local health authorities to HUD-insured one- and two-family dwellings. This proposal provides that in the absence of local standards, those of the appropriate State agency would apply. This revision would simplify the requirements for water supply systems while furthering the Department's policy of relying on acceptable State and local building codes.

Timetable:

Action	Date	FR Cite
NPRM	06/08/87	52 FR 21596
NPRM Comment Period End	08/07/87	52 FR 21596
Final Action	11/00/87	

Small Entity: No

Agency Contact: Mark W. Holman, Acting Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AD64

975. DIRECT ENDORSEMENT UNDERWRITER'S CERTIFICATION (H-29-86; FR-2241)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 200.163

Legal Deadline: None.

Abstract: The rule would authorize the mortgage lender (rather than its underwriter) to certify personally as to the correctness of certain items relating to the closing of a loan under the Department's direct endorsement program.

Timetable:

Action	Date	FR Cite
NPRM	04/10/87	52 FR 11666
NPRM Comment Period End	05/11/87	52 FR 11666
Final Action	11/00/87	

Small Entity: No

Agency Contact: John J. Coonts, Deputy Director, Office of Insured Single, Family Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AD71

976. LEAD STANDARDS IN WATER PIPING - SUBPART S - MPS (H-1-87; FR2290)

Legal Authority: 12 USC 1701

CFR Citation: 24 CFR 200

Legal Deadline: None.

Abstract: This final rule implements a provision of the Safe Drinking Water Act Amendments of 1986 that prohibits the insurance of a mortgage or the furnishing of assistance to newly constructed l residential property which contains a potable water system unless the system uses only lead free pipe, solder and flux. The provision is effective 24 months after the enactment of the Amendment.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Mark W. Holman, Acting Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AE03

977. ● RESTRICTIONS ON ALL-CASH SALES (AMENDMENT TO PART 200) (H-30-87; FR-2374)

Legal Authority: 12 USC 1703; 12 USC 1715b

CFR Citation: 24 CFR 200

Legal Deadline: None.

Abstract: This interim rule is intended to prohibit assumptors of a mortgage, or other persons purchasing property subject to a mortgage, on which an insured claim has been paid by the Department, from participating in a HUD "all cash public sale."

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/87	

Small Entity: Undetermined

Agency Contact: John J. Coonts, Deputy Director, Office of Single Family, Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AE12

978. CONVEYANCE OF ONE- TO FOUR-FAMILY PROPERTIES OCCUPIED BY TENANTS OR FORMER MORTGAGORS (H-8-85; FR-2064)

Legal Authority: 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: This rule would amend the current rule on occupied conveyances of HUD-acquired properties. Included are revised criteria for determining when HUD will accept conveyance of a one- to four-family property by a mortgagee when there are tenants of a former mortgagor in occupancy.

Timetable:

Action	Date	FR Cite
NPRM	02/25/86	51 FR 6558
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Jacqueline B. Campbell, Director, Department of Housing and Urban Development, Office of Housing, Single Family Property Disposition Division, 202 755-5740

RIN: 2502-AB10

979. INSURANCE OF SINGLE FAMILY ADJUSTABLE RATE MORTGAGES (H-32-84; FR-1916)

Legal Authority: 12 USC 1715z; PL 98-181, Sec 443

CFR Citation: 24 CFR 203.49

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HUD—OH

Final Rule Stage

Legal Deadline: None.

Abstract: Regulations governing the insuring of mortgages, the terms of which permit adjustments to a mortgagor's payments based on changes in an interest rate index.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/06/84	49 FR 23580
Interim Rule Effective	07/30/84	49 FR 23580
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entity: No

Additional Information: Under the 1985 Regulatory Program this appeared as part of RIN 2502-AD20.

Agency Contact: Morris Carter, Director, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, Office of Insured Single Family Housing, 202 755-6700

RIN: 2502-AC43

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980. TEMPORARY MORTGAGE ASSISTANCE PAYMENTS (TMAP) AND ASSIGNMENTS TO HUD (H-44-85; FR-2147)

Significance: Agency Priority

Legal Authority: 12 USC 1715b; 12 USC 1715u

CFR Citation: 24 CFR 203; 24 CFR 204

Legal Deadline: None.

Abstract: Amendments to TMAP and Assignment rule in light of statutory changes, court holdings, and policy developments. This rule was identified in earlier Agendas as RIN 2502-AB79; H-29-81; FR-1415.) Minor changes to apply these programs to coinsurance are needed.

Timetable:

Action	Date	FR Cite
NPRM	01/09/86	51 FR 216
NPRM Comment Period End	03/04/86	51 FR 216
Final Action	03/05/87	52 FR 6906
Final Action Effective	02/00/88	

Small Entity: No

Agency Contact: John Coonts, Deputy Director, Office of Insured Single, Family Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AD34

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981. SINGLE FAMILY FORECLOSURES—DEFICIENCY JUDGEMENTS (H-8-86; FR-2193)

Significance: Regulatory Program

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: This rule would permit HUD to require lenders to seek deficiency judgments after a single family home foreclosure and would provide reimbursement to the lender for its costs.

Timetable:

Action	Date	FR Cite
NPRM	02/12/87	52 FR 4507
NPRM Comment Period End	03/16/87	52 FR 4507
Final Action	00/00/00	

Small Entity: No

Agency Contact: John J. Coonts, Deputy Director, Office of Insured Single, Family Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AD36

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982. CRITERIA FOR ACCEPTABILITY OF INSURED 10-YEAR PROTECTION PLANS (H-28-86; FR-2036)

Significance: Agency Priority

Legal Authority: 12 USC 1709, Sec 203, 211; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: This proposed rule would revise the existing administrative criteria for acceptability of insured 10-year protection Plans (Plans). The Department began this proceeding by publishing a Notice informing the public that HUD intended to revise the criteria. This rule describes, among other things, criteria related to Plan acceptability, insurance and financial backing, Plan coverage, and methods for determining Plan obligations.

HUD acceptance of these Plans is a prerequisite to reduced inspection requirements on a property accepted for mortgage insurance before the commencement of construction. It is also a prerequisite to high loan-to-value insured financing for existing one-to-four family dwellings that are less than one year old and that were not approved and inspected by HUD or the Veterans Administration before the start of construction.

Timetable:

Action	Date	FR Cite
NPRM	06/10/87	52 FR 21961
NPRM Comment Period End	08/10/87	52 FR 21961
Final Action	12/00/87	

Public Comments

Notice of Solicitation 11/14/84 (49 FR 45075)

Small Entity: No

Agency Contact: John Coonts, Deputy Director, Office of Insured, Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 755-6924

RIN: 2502-AD65

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983. ◉ ALLEGANY RESERVATION OF THE SENECA NATION (H-32-87; FR-2382)

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: This rule implements Public Law 99-601. The law authorizes the Secretary of HUD, notwithstanding any contrary requirements in the National Housing Act, to insure single family mortgages covering certain properties located on lands within the Allegany Reservation of the Seneca Indian Nation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/87	

Small Entity: Undetermined

Agency Contact: John J. Coonts, Deputy Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing, 202 755-3046

RIN: 2502-AE09

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984. MORTGAGE INSURANCE PROGRAMS UNDER NATIONAL HOUSING ACT (H-48-81; FR-1525)

Legal Authority: 12 USC 1713; 12 USC 1715

HUD—OH

Final Rule Stage

CFR Citation: 24 CFR 207; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 231; 24 CFR 232; 24 CFR 234; 24 CFR 242

Legal Deadline: None.

Abstract: Would amend Parts 207, 213, 220, 221, 231, 232, 234, 242 and 244 to allow up to a 20% increase in maximum project mortgage amounts to cover increased costs due to the installation of a solar energy system or residential energy conservation measures.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: April LeClair, Director, Insurance Division, Department of Housing and Urban Development, Office of Housing, Office of Insured Multifamily Housing Dev., 202 755-6223

RIN: 2502-AA90

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985. PREFERENCE IN THE PROVISION OF HOUSING FOR FAMILIES WHO ARE OCCUPYING SUBSTANDARD HOUSING, ARE INVOLUNTARILY DISPLACED, OR ARE PAYING MORE THAN 50% OF FAMILY INCOME (H-22-80; FR-1597)

Significance: Regulatory Program

Legal Authority: 12 USC 1701s; 42 USC 1437d; 42 USC 1437f; PL 96-181, Sec 209

CFR Citation: 24 CFR 215; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 886; 24 CFR 904; 24 CFR 905; 24 CFR 960; 24 CFR 965

Legal Deadline: None.

Abstract: Final rule establishes preferences in the Public Housing, Section 8 and Rent Supplement programs for those "living in substandard housing", for those who are "involuntarily displaced" and for those paying more than 50 percent of their income for rent. The Department published a proposed rule on 09/28/84 .

Timetable:

Action	Date	FR Cite
Final Action	11/00/87	

Small Entity: No

Additional Information: Additional contact persons:

1. Nancy Chisholm, Office of Policy, Office of Public and Indian Housing, 202 755-6713

2. Madeline Hastings, Existing Housing Division, Office of Housing, 202 755-6887

Agency Contact: James Tahash, Director, Department of Housing and Urban Development, Office of Housing, Program Planning Division, 202 426-3970

RIN: 2502-AA34

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986. ADDITIONAL REVISIONS - HOSPITAL INSURANCE (H-24-86; FR-2227)

Significance: Regulatory Program

Legal Authority: 12 USC 1715b; 12 USC 1715z-6; 12 USC 1715z-7

CFR Citation: 24 CFR 241; 24 CFR 242

Legal Deadline: None.

Abstract: This rule includes RIN 2502-AC61, Mortgage Insurance Requirements for Private and Public Hospitals (H-69-84; FR-1992) and RIN 2502-AC64, Maximum Mortgage Amounts for Hospitals (H-72-84; FR-2004). In addition, this rule would (1) provide more detail concerning the factors HHS considers in determining the feasibility of a hospital proposal; (2) establish as a condition of eligibility for insurance that a hospital have a projected need for public support that is less than 10 percent of its projected operations support; (3) require a minimum cash investment equal to 10 percent of the estimated cost of construction or rehabilitation; and (4) make several other miscellaneous revisions.

Timetable:

Action	Date	FR Cite
NPRM	01/12/87	52 FR 1201
Final Action	11/00/87	

Small Entity: No

Agency Contact: James L. Hamernick, Director, Office of Insured Multifamily Development, Department of Housing and Urban Development, Office of Housing, 202 755-6500

RIN: 2502-AD70

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987. HUD-OWNED MULTIFAMILY PROJECTS-MANAGEMENT AND DISPOSITION (H-69-78; FR-432)

Significance: Regulatory Program

Legal Authority: 12 USC 1715z-16; 12 USC 1701z-11; 12 USC 1701z-12; 12 USC 1713; 12 USC 1715b

CFR Citation: 24 CFR 290; 24 CFR 866

Legal Deadline: None.

Abstract: Would conform current regulation more closely to Section 203 of the Housing and Community Development Act of 1978, as amended; decrease reliance on project-based Section 8 subsidies as a means of maintaining availability of units for low- and moderate-income persons.

Timetable:

Action	Date	FR Cite
NPRM	10/18/84	49 FR 40688
NPRM Comment Period End	12/17/84	49 FR 40688
Final Action	11/00/87	

Small Entity: No

Agency Contact: Marc Harris, Multifamily Property Disposition Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 755-9280

RIN: 2502-AC68

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988. HOUSING DEVELOPMENT GRANT PROGRAM (H-26-84; FR-1902)

Legal Authority: 42 USC 1437o

CFR Citation: 24 CFR 850

Legal Deadline: None.

Abstract: Implements the Housing Development Grant Program established by Section 301 of the Housing and Urban-Rural Recovery Act of 1983. Under this Program, the Secretary is authorized to make grants to cities and urban counties and to States acting on behalf of units of general local government to support new construction or substantial rehabilitation of residential rental housing. At least 20 percent of the units in a project assisted under this Program must be leased to, or made available for occupancy by, lower income families for a period of 20 years. The rent for these units cannot exceed 30 percent of the adjusted income of a family at 50 percent of area median income. Assisted projects must be located within eligible areas, special purpose areas or neighborhood preservation areas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/14/84	49 FR 24834
Interim Rule effective	08/07/84	49 FR 24834

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HUD—OH

Final Rule Stage

Action	Date	FR Cite
Final Action	01/00/88	

Small Entity: No

Agency Contact: Jessica Franklin, Director, Department of Housing and Urban Development, Office of Housing, Development Grant Division, 202 755-6142

RIN: 2502-AC23

989. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS PORTABILITY OF SECTION 8 EXISTING HOUSING CERTIFICATES (H-46-83; FR-1800)

Legal Authority: 42 USC 1437f; PL 96-161, Sec 207

CFR Citation: 24 CFR 882.101; 24 CFR 882.102; 24 CFR 882.110; 24 CFR 882.116; 24 CFR 882.118; 24 CFR 882.119; 24 CFR 882.209; 24 CFR 882.210; 24 CFR 882.216; 24 CFR 882.218

Legal Deadline: None.

Abstract: This rule provides for a system of permitting national mobility of certificate holders and participants in the Section 8 Existing Housing Certificate Program. This would enable families to move from the jurisdiction of one PHA to another and would enhance voluntary PHA mobility mechanisms already in place.

Timetable:

Action	Date	FR Cite
NPRM	10/19/84	49 FR 41072
NPRM Comment Period End	12/18/84	49 FR 41072
Final Action	00/00/00	

Small Entity: No

Agency Contact: Madeline Hastings, Director, Department of Housing and Urban Development, Office of Housing, Office of Elderly and Assisted Housing, Existing Housing Division, 202 755-6887

RIN: 2502-AB88

990. SHARED HOUSING IN THE SECTION 8 MODERATE REHABILITATION PROGRAM (H-26-86; FR-2238)

Significance: Agency Priority

Legal Authority: 42 USC 1437f(p); 42 USC 3535(d)

CFR Citation: 24 CFR 882

Legal Deadline: None.

Abstract: This final rule will permit eligible applicants and tenants to share housing units with other eligible applicants or tenants in Section 8 Moderate Rehabilitation units, in accordance with the statutory directive in 42 USC 1437f(p). A proposed rule that included this program was published in 1984. A final rule was published for one of the programs covered by the proposed rule, the Section 8 Certificate program, on June 11, 1986 (51 FR 21300). No effective date has been published yet for that rule, but the Department expects to be ready to implement it by November 1987.

Timetable:

Action	Date	FR Cite
NPRM	12/07/84	49 FR 48005
NPRM Comment Period End	02/05/85	49 FR 48005
Final Action	12/00/87	
Final Action Effective	03/00/88	

Small Entity: No

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Department of Housing and Urban Development, Office of Housing, 202 755-6887

RIN: 2502-AD66

991. REVISIONS TO PART 886 TERMINATION OF TENANCY (H-59-84; FR-1950)

Legal Authority: 42 USC 1437a; 14 USC 1437c; 14 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 247; 24 CFR 886

Legal Deadline: None.

Abstract: This rule would make various amendments to Part 886-Section 8 Housing Assistance Payments Programs. The changes would remove requirements for PHA and HUD participation in terminations of tenancy; apply 24 CFR Part 247 - Evictions from Certain Subsidized and HUD-Owned Projects, to terminations of tenancy, and make other miscellaneous related revisions to lease requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16403
Final Action	02/00/88	

Small Entity: No

Agency Contact: James J. Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 426-3970

RIN: 2502-AC59

992. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS - GENERAL (H-33-86; FR-2276)

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3280

Legal Deadline: None.

Abstract: This action will make final portions of the Manufactured Home Construction and Safety Standards on which changes were proposed in 48 FR 37136, August 16, 1983.

Timetable:

Action	Date	FR Cite
NPRM	08/16/83	48 FR 37136

Next Action Undetermined

Small Entity: No

Agency Contact: Mark W. Holman, Acting Director, Manufactured Hsg &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AD58

993. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS - THERMAL ENERGY STANDARDS DEREGULATION (H-42-86; FR-2280)

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3280

Legal Deadline: None.

Abstract: This action will deregulate thermal energy and appliance efficiency requirements by removing 24 CFR Part 3280, Subpart F (with the exception of the condensation control standards in Sec. 3280.504) from the Manufactured Home Construction and Safety Standards.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17896
Final Action	11/00/87	

Small Entity: No

Agency Contact: Mark W. Holman, Acting Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AD62

HUD—OH

Final Rule Stage

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Completed Actions

994. USE OF MATERIALS BULLETIN NO. 86 - HUD BUILDING PRODUCT STANDARDS AND CERTIFICATION PROGRAM FOR EPDM ROOFING (H-106-82)

CFR Citation: 24 CFR 200.935

Completed:

Reason	Date	FR Cite
Withdrawn	07/22/87	

Small Entity: Yes

Agency Contact: Tsou-Liang Tang 202 755-5929

RIN: 2502-AA56

995. DEFINITION OF MASTER CONDITIONAL COMMITMENT (H-15-86; FR 2123)

CFR Citation: 24 CFR 0200

Completed:

Reason	Date	FR Cite
Final Action	03/05/87	52 FR 6778
Final Action Effective	04/06/87	52 FR 6778

Small Entity: No

Agency Contact: John J. Coonts 202 426-3045

RIN: 2502-AD48

996. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS FOR LEAD IN WATER PIPING (H-3-87; FR2296)

CFR Citation: 24 CFR 200

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/87	

Small Entity: Undetermined

Agency Contact: Mark W. Holman 202 755-5210

RIN: 2502-AE05

997. MISCELLANEOUS AMENDMENTS TO PART 201--PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS (FR-2171; H-4-86)

CFR Citation: 24 CFR 0201

Completed:

Reason	Date	FR Cite
Withdrawn Replaced by FR 2370 (RIN: 2502-AE10)	08/25/87	

Small Entity: No

Agency Contact: Christopher Peterson 202 755-5210

RIN: 2502-AD37

998. FILING PERIOD FOR RESUBMISSION OF DENIED CLAIMS (H-43-86)

Significance: Agency Priority

CFR Citation: 24 CFR 201.54

Completed:

Reason	Date	FR Cite
Withdrawn	07/22/87	

Small Entity: Yes

Agency Contact: Linda Gibbs 202 755-2632

RIN: 2502-AD80

999. ● MORTGAGE AND LOAN INSURANCE PROGRAMS; TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS (H-22-87; FR2347)

Legal Authority: 12 USC 1703

CFR Citation: 24 CFR 201

Legal Deadline: None.

Abstract: This final rule amends Title I regulatory provisions relating to (1) refinancing of Title I loans and (2) extensions for late filing of insurance claims.

Timetable:

Action	Date	FR Cite
Final Action	09/03/87	52 FR 33404
Final Action Effective	10/13/87	52 FR 33404

Small Entity: Undetermined

Agency Contact: Robert J. Coyle, Director, Title I Insurance Division, Department of Housing and Urban Development, Office of Housing, 202 755-6880

RIN: 2502-AE16

1000. ● AMENDMENTS TO THE TITLE I REGULATIONS (H-19-87; FR2370)

Legal Authority: 12 USC 1703

CFR Citation: 24 CFR 201

Legal Deadline: None.

Abstract: This rule would involve the following revisions to the Title I loan insured program; (1) a requirement that affected new manufactured homes meet the thermal energy requirements in HUD's minimum Property Standards; (2) restrictions on the use of loan proceeds for the acquisition of furniture; (3) a reduction of the length of hazard insurance coverage; (4) an increase in the property improvement loan amount on which a security interest is required and (5) the collection of a higher percentage of the loan insurance premium in the early years when the risks of default are greatest.

Timetable:

Action	Date	FR Cite
Withdrawn (Included in RIN: 2502-AE15)	09/02/87	

Small Entity: Undetermined

Agency Contact: Robert J. Coyle, Director, Title I Insurance Division, Department of Housing and Urban Development, Office of Housing, 202 755-6880

RIN: 2502-AE19

HUD—OH

Completed Actions

1001. ELIMINATION OF CLOSING COSTS AS AN ITEM ELIGIBLE FOR INCLUSION AS PART OF AN FHA INSURED SINGLE FAMILY MORTGAGE (H-10-86; FR-2203)

Significance: Regulatory Program

CFR Citation: 24 CFR 203; 24 CFR 220; 24 CFR 221; 24 CFR 234

Completed:

Reason	Date	FR Cite
Withdrawn	04/00/87	

Small Entity: No

Agency Contact: John J. Coonts 202 755-3046

RIN: 2502-AD39

1002. REFINANCING OF EXISTING HUD-INSURED MORTGAGES (H-8-86; FR-2197)

Significance: Regulatory Program

CFR Citation: 24 CFR 203.43; 24 CFR 221; 24 CFR 234

Completed:

Reason	Date	FR Cite
Final Action	10/06/87	52 FR 37286

Small Entity: No

Agency Contact: John Coonts 202 755-3046

RIN: 2502-AD41

1003. SINGLE FAMILY CLAIM SETTLEMENTS - WAIVERS OF AMOUNTS DUE MORTGAGEES OR HUD OF $50 OR LESS (H-11-86; FR-2204)

Significance: Agency Priority

CFR Citation: 24 CFR 0203

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/87	

Small Entity: No

Agency Contact: S. A. Evans 202 755-6310

RIN: 2502-AD50

1004. TERMINATION OF SECTION 245(B) GPM PROGRAM (H-34-86; FR-2266)

Significance: Agency Priority

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	08/28/87	52 FR 32754
Final Action Effective	10/13/87	52 FR 32754

Small Entity: No

Agency Contact: John J. Coonts 202 755-3046

RIN: 2502-AD63

1005. PENALTIES FOR MORTGAGEES CONVEYING PROPERTIES WITH TITLE DEFECTS (H-16-87)

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Withdrawn (Included in RIN: 2502-AE11)	09/02/87	

Small Entity: Undetermined

Agency Contact: Jacqueline Campbell 202 755-5740

RIN: 2502-AD97

1006. ● MORTGAGE CHARGES FOR SERIOUS TITLE DEFECTS (H-28-87; FR-2368)

Legal Authority: 12 USC 1710; 12 USC 1715(b); 12 USC 1709

CFR Citation: 24 CFR 203.366; 24 CFR 203.403

Legal Deadline: None.

Abstract: This proposed rule is intended to impose graduated charges on mortgagees who convey FHA-insured properties to HUD with serious title defects. These charges would increase with the length of time required by the mortgage to rectify the defects.

Timetable:

Action	Date	FR Cite
Withdrawn (Included in RIN: 2502-AE11)	09/00/87	

Small Entity: Undetermined

Agency Contact: Jacqueline Campbell, Director, Single Family Disposition, Division, Department of Housing and Urban Development, Office of Housing, 202 755-5740

RIN: 2502-AE17

1007. MULTIFAMILY MORTGAGE INSURANCE (H-96-82)

CFR Citation: 24 CFR 207; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 232; 24 CFR 241; 24 CFR 242; 24 CFR 244

Completed:

Reason	Date	FR Cite
Withdrawn	07/22/87	

Small Entity: No

Agency Contact: April LeClair 202 755-5223

RIN: 2502-AA63

1008. ELIGIBILITY OF MORTGAGES ON EXISTING PROPERTIES - INSPECTION FEES (H-20-86; FR-2224)

CFR Citation: 24 CFR 0207.32a

Completed:

Reason	Date	FR Cite
Final Action	08/25/87	52 FR 31990
Final Action Effective	10/12/87	52 FR 31990

Small Entity: No

Agency Contact: William Bornecheuer 202 755-8223

RIN: 2502-AD47

1009. REQUIREMENTS FOR INSURANCE OF LEASEHOLDS ON MULTIFAMILY MORTGAGES (H-22-86; FR-2222)

CFR Citation: 24 CFR 0207; 24 CFR 0213; 24 CFR 0221; 24 CFR 0234; 24 CFR 0242

Completed:

Reason	Date	FR Cite
Final Action	10/06/87	52 FR 37288

Small Entity: Undetermined

Agency Contact: Linda Cheatham 202 426-0035

RIN: 2502-AD53

1010. FLEXIBLE SUBSIDY PROGRAM (H-48-82)

CFR Citation: 24 CFR 219

Completed:

Reason	Date	FR Cite
Withdrawn	09/02/87	

Small Entity: No

Agency Contact: James J. Tahash 202 426-3944

RIN: 2502-AA53

HUD—OH

Completed Actions

1011. INTEREST RATES FOR FIRE SAFETY EQUIPMENT IN NURSING HOMES TO BE SET BY FR NOTICE (H-10-85; FR-2065)

CFR Citation: 24 CFR 232

Completed:

Reason	Date	FR Cite
Withdrawn	09/02/87	

Small Entity: No

Agency Contact: Michael Phillips 202 755-7055

RIN: 2502-AC85

1012. CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE-1963 ACT AMENDMENTS (H-71-84; FR-1999)

CFR Citation: 24 CFR 234

Completed:

Reason	Date	FR Cite
Final Action	09/08/87	52 FR 33804
Final Action Effective	10/13/87	52 FR 33804

Small Entity: No

Agency Contact: John Coonts 202 755-3046

RIN: 2502-AC79

1013. RECOVERY OF SECTION 235 ASSISTANCE PAYMENTS (H-18-86)

CFR Citation: 24 CFR 235.361

Completed:

Reason	Date	FR Cite
Withdrawn	07/22/87	

Small Entity: Yes

Agency Contact: Fred W. Pfaender 202 755-6672

RIN: 2502-AD45

1014. TECHNICAL REVISIONS - COINSURANCE FOR THE PURCHASE OR REFINANCING OF MULTIFAMILY HOUSING PROJECTS (H-35-86; FR-2267)

CFR Citation: 24 CFR 255

Completed:

Reason	Date	FR Cite
Final Action	05/04/87	52 FR 16240
Final Action Effective	06/05/87	52 FR 16240

Small Entity: Undetermined

Agency Contact: James Hamernick 202 755-6500

RIN: 2502-AD73

1015. SHARED HOUSING IN THE SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION PROGRAMS (H-27-86; FR-2239)

CFR Citation: 24 CFR 880; 24 CFR 881

Completed:

Reason	Date	FR Cite
Withdrawn	07/31/87	

Small Entity: No

Agency Contact: James J. Tahash 202 426-3944

RIN: 2502-AD67

1016. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM-PUBLIC HOUSING AGENCY ADMINISTRATIVE FEES (H-12-86; FR-2207)

CFR Citation: 24 CFR 882; 24 CFR 887

Completed:

Reason	Date	FR Cite
Withdrawn	05/26/87	

Small Entity: Undetermined

Agency Contact: Madeline Hasting 202 755-6887

RIN: 2502-AD95

1017. ● SECTION 8 MODERATE REHABILITATION ASSISTANCE PROGRAM FOR SRO DWELLINGS (H-36-87; FR2390)

Legal Authority: 42 USC 11361; 42 USC 11401

CFR Citation: 24 CFR 882

Legal Deadline: None.

Abstract: The Sec. 8 Mod Rehab Assistance Program for Single Room Occupancy Dwellings, authorized in Sec. 441 of the McKinney Homeless Assistance Act provides for assistance in the mod rehab of single room occupancy units for occupancy by homeless single individuals. Under the program, HUD will provide assistance to those public housing agencies (PHAs) selected on the basis of a national competition which best demonstrate a need for the assistance and the ability to undertake and carry out a program to be assisted under Sec. 441. The assistance will be in the form of compensation for mod rehab under an annual contributions contract entered into with a PHA. HUD will make the assistance available for 10 years, and has the option to renew the contract for an additional 10 years. The Notice of Fund Availability is intended to inform the public of the requirements that will govern the use of the $35 million appropriated for the program.

Timetable:

Action	Date	FR Cite
Withdrawn	09/02/87	

Small Entity: Undetermined

Agency Contact: Lawrence Goldberger, Director, Office of Elderly and, Assisted Housing, Department of Housing and Urban Development, Office of Housing, 202 755-5720

RIN: 2502-AE18

1018. SECTION 202 - LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED (H-10-84; FR-1899)

Significance: Agency Priority

CFR Citation: 24 CFR 885

Completed:

Reason	Date	FR Cite
Final Action	08/05/87	52 FR 29010
Final Action Effective	10/12/87	52 FR 29010

Small Entity: No

Agency Contact: Robert W. Wilden 202 426-8730

RIN: 2502-AC53

1019. ADDITIONAL ASSISTANCE PROGRAM FOR PROJECTS WITH HUD-INSURED OR HUD-HELD MORTGAGES (H-59-78)

Significance: Agency Priority

CFR Citation: 24 CFR 886

Completed:

Reason	Date	FR Cite
Withdrawn	09/02/87	

Small Entity: No

Agency Contact: James J. Tahash 202 426-3944

RIN: 2502-AA41

HUD—OH

Completed Actions

1020. ● MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS INTERPRETATIVE BULLETINS (H-31-87; FR2380)

Legal Authority: 42 USC 5424

CFR Citation: 24 CFR 3282.113

Legal Deadline: None.

Abstract: This proposed rule would amend the Manufactured Home Procedural and Enforcement Regulations in order to remove the issuance of Interpretative Bulletins from the rulemaking process. The purpose of this procedural modification is to promote efficiency in issuing Interpretative Bulletins so that important guidance can be provided to the manufactured housing industry in a timely manner.

Timetable:

Action	Date	FR Cite
Withdrawn (included in RIN: 2502-AE10)	09/02/87	

Small Entity: Undetermined

Agency Contact: Mark W. Holman, Acting Director, Manufactured Housing &, Construction Standards Division, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AE14

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of Community Planning and Development (CPD)

1021. ● UNIFORM RELOCATION ACT AMENDMENTS OF 1987 (CPD-3-87; FR-2357)

Legal Authority: 42 USC 4601

CFR Citation: 24 CFR 0042

Legal Deadline: None.

Abstract: This proposed rule would revise the existing regulations on relocation assistance in accordance with the recently enacted Uniform Relocation Act Amendments of 1987. (A government-wide common rule is expected to be developed, to which HUD will be a signatory agency.)

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Undetermined

Agency Contact: Harold J. Huecker, Director, Relocation and Real Estate Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6336

RIN: 2506-AA78

1022. COMMUNITY DEVELOPMENT BLOCK GRANTS: STATE'S PROGRAM (CPD-7-83; FR-1877)

Significance: Regulatory Program

Legal Authority: 42 USC 5301; PL 98-181, Sec 104; PL 98-181, Sec 101

CFR Citation: 24 CFR 570.488

Legal Deadline: None.

Abstract: This revision would implement 1983 amendments. The rule includes definitions of low and moderate income persons, requirements for meeting the three national objectives, the 51% test for low and moderate income benefit, added local and state public participation, coverage of program income, performance reporting and record keeping, and consequences of States' dropping program administration after FY 85.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Richard J. Kennedy, Asst. Dir. State Small Cities Div., Department of Housing and Urban Development, Office of Community Planning and Development, Office of Block Grant Assistance, State and Small Cities Division, 202 755-6322

RIN: 2506-AA38

1023. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM: ESCROW ACCOUNTS (CPD-2-86; FR-2164)

Legal Authority: 42 USC 5301 to 5321

CFR Citation: 24 CFR 0570.511

Legal Deadline: None.

Abstract: The Department is proposing to establish a rule that would govern the circumstances under which CDBG program recipients could establish escrow accounts for the purpose of disbursing funds to contractors expeditiously. The rule reflects U.S. Treasury Department requirements governing cash withdrawals.

Timetable:

Action	Date	FR Cite
NPRM	10/05/87	52 FR 37162
NPRM Comment Period End	12/04/87	
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Paul D. Webster, Dir., Financial Management Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-1871

RIN: 2506-AA66

1024. AMENDMENTS TO COMMUNITY DEVELOPMENT BLOCK GRANT REGULATIONS; ENTITLEMENT PROGRAM (CPD-4-86)

Legal Authority: Yet to be determined

CFR Citation: 24 CFR 0570

Legal Deadline: None.

Abstract: This rule would modify the Entitlement Program rules as necessary to implement changes to the authorization statute which have been proposed for consideration by the Congress.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Government Levels Affected: Local

Agency Contact: James R. Broughman, Director, Entitlement Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6587

RIN: 2506-AA72

HUD—CPD

Proposed Rule Stage

1025. COMMUNITY DEVELOPMENT BLOCK GRANTS, URBAN DEVELOPMENT ACTION GRANTS (CPD-9-86)

Significance: Agency Priority

Legal Authority: Not yet determined

CFR Citation: 24 CFR 570.450 to 465

Legal Deadline: None.

Abstract: This rule would implement a legislative revision of the UDAG selection system formula and criteria, and would incorporate technical changes listed in previous semiannual agendas. (The rule depends on law revisions not yet adopted by the Congress.)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: Includes: CPD-14-83 (RIN: 2506-AA40)

Affected Sectors: All

Government Levels Affected: Local, Federal

Agency Contact: Michael McMahon, Dir., Policy/Support Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6227

RIN: 2506-AA72

1026. ● URBAN DEVELOPMENT ACTION GRANT APPLICATIONS FROM CONSORTIA OF SMALL CITIES (CPD-6-87; FR2381)

Legal Authority: 42 USC 5318

CFR Citation: 24 CFR 570

Legal Deadline: None.

Abstract: The Housing and Urban-Rural Recovery Act of 1983 permits consortia of small cities to apply for UDAG funds. This would allow geographically proximate small communities to apply jointly for funds to deal with common economic development problems beyond the administrative or financial capacities of any one of the communities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Undetermined

Agency Contact: Stanley Newman, Director, Office of Urban Development, Action Grants, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6290

RIN: 2506-AA76

1027. INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM: REVISION TO CORRECTIVE AND REMEDIAL ACTION (CPD-13-84; FR-2102)

Legal Authority: 42 USC 5301 to 5320

CFR Citation: 24 CFR 571.702 (b); 24 CFR 571.302(a)

Legal Deadline: None.

Abstract: This rule would amend the corrective and remedial actions available against grant recipients who fail to perform properly. One of the actions to be taken is to require recipients to reimburse their program account Letter of Credit in any amounts improperly expended. This amendment would allow the recipient to make such reimbursement through an in-kind contribution if sufficient cash is not available. In addition, it would allow alternative, non-cash transfer remedies to prevent a recurrence of the previous problems.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Leroy P. Gonnella, Director, Secretary's Fund Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6092

RIN: 2506-AA58

1028. ● EMERGENCY SHELTER GRANTS ('87 ACT) (CPD-7-87; FR2387)

Legal Authority: 42 USC 11371-77

CFR Citation: 24 CFR 576

Legal Deadline: None.

Abstract: This rule will implement statutory changes to the Emergency Shelter Grant Program required by amendments to the program set out in subtitles A and B of Title IV, McKinney Homeless Assistance Act, 42 USC 11301-77.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	04/00/88	
Final Action Effective	05/00/88	

Small Entity: Undetermined

Additional Information: In September 1987, the Department published a Notice specifying the conditions under which the Emergency Shelter Grant Program would operate during the period preceding the effectiveness of amended rules implementing the McKinney Act Amendments.

Agency Contact: Don I. Patch, Director, Office of Block Grants Assistance, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6587

RIN: 2506-AA77

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Final Rule Stage

1029. RESIDENTIAL RENTAL REHABILITATION PROGRAM (CPD-7-84; FR-1901)

Legal Authority: 42 USC 1437o; 42 USC 3535(d); PL 98-479, Sec 103; PL 98-181, Sec 302; PL 98-181, Sec 301

CFR Citation: 24 CFR 511

Legal Deadline: None.

Abstract: This rule implements the Rental Rehabilitation Program authorized by section 17 of the U.S. Housing Act of 1937. The regulation (1) sets out a variety of program and other requirements to be met by grantees, State recipients and others that use or benefit from rental rehabilitation grants amounts, (2) enumerates the requirements for participating in the Rental Rehabilitation Program, (3) sets forth the formula by which allocations of rental rehabilitation grant amounts will be made to eligible grantees, (4) explains the rental housing assistance available for tenants, (5) enumerates administrative requirements for the Program, and (6) explains how HUD will review program performance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/84	49 FR 16936
Interim Rule Effective	05/24/84	49 FR 16936
Final Action	12/00/87	

Small Entity: No

Additional Information: Includes: CPD-17-82; CPD-8-84; FR-1912; FR-2055 (RIN: 2506-AA60)

Agency Contact: Mary Kolesar, Director, Rental Rehabilitation Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5970

RIN: 2506-AA55

1030. COMMUNITY DEVELOPMENT BLOCK GRANT REGULATIONS (CPD-6-84; FR-1895)

Significance: Regulatory Program

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 570

Legal Deadline: None.

Abstract: As a result of the 1983 and 1984 amendments to the Housing and Community Development Act of 1974 as amended, this proposed rule would set forth new requirements governing the administration of Community Development Block Grant funds under Subpart A (General Provisions), C (Eligible Activities), D (Entitlement Grants), F (Small Cities Programs), K (Other Applicable Laws), M (Loan Guarantees), J (Grant Administration), and O (Program Management).

Timetable:

Action	Date	FR Cite
NPRM	10/31/84	49 FR 43852
NPRM Comment Period End	12/31/84	49 FR 43852
Final Action	00/00/00	

Small Entity: No

Additional Information: Includes: FR-1825, FR-1852, FR-1854; FR-1572

Government Levels Affected: Local, Federal

Agency Contact: James R. Broughman, Director, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Block Grant Assistance, Entitlement Cities Division, 202 755-9267

RIN: 2506-AA47

1031. EMERGENCY SHELTER GRANT PROGRAM (CPD-1-87; FR-2298)

Significance: Regulatory Program

Legal Authority: PL 99-500, Sec 101(g)

CFR Citation: 24 CFR 575

Legal Deadline: Statutory, October 8, 1987. Final rule must be published within one year of date of enactment

Abstract: This rule implements the Emergency Shelter Grant Program enacted in Part C of the Homeless Housing Act of 1986. Under this program HUD initially provides grants to States, metropolitan cities and urban counties and may also provide grants to units of general local government and private nonprofit organizations. These grants are to be used to assist the homeless through (1) renovation, major rehabilitation or conversion of buildings to be used as emergency shelters; (2) provision of essential services; and (3) payment of specified costs related to operating emergency shelters.

Timetable:

Action	Date	FR Cite
NPRM	12/17/86	51 FR 45278
Final Action	10/00/87	

Small Entity: No

Agency Contact: James Broughman, Director, Entitlement Cities Division, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5977

RIN: 2506-AA74

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Completed Actions

1032. ● RENTAL REHABILITATION PROGRAM; REALLOCATION OF RENTAL REHABILITATION GRANT AMOUNTS (CPD-5-87; FR-2371)

Legal Authority: 42 USC 1437o

CFR Citation: 24 CFR 511.33

Legal Deadline: None.

Abstract: This final rule will revise the regulation at 24 CFR 511.33(b) to allow a Rental Rehabilitation grantee to receive reallocated funds in an amount not exceeding 30 percent of the cumulative amount initially obligated to the grantee for the current fiscal year and for any preceding fiscal years for which rehabilitation grant funds remain available for obligation. This rule will permit reallocations to a grantee so long as the cumulative allocation does not exceed 130 percent of the total amount initially obligated to the grantee for the current fiscal year and for any previous fiscal year for which rehabilitation grant funds remain available for obligation. (Reallocated grant amounts may come from any fiscal year's appropriation for which funds remain available for reallocation.)

HUD—CPD

Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	07/08/87	52 FR 25593
Final Action Effective	08/07/87	52 FR 25593

Small Entity: Undetermined

Agency Contact: Mary Anne Kolesar, Director, Rehabilitation Management Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5978

RIN: 2506-AA75

1033. TECHNICAL ASSISTANCE: DISCRETIONARY AWARDS (CPD-6-79; FR-1115)

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Withdrawn	07/07/87	

Small Entity: No

Agency Contact: Jerome Friedman 202 755-8909

RIN: 2506-AA30

1034. DESIGNATION OF ENTERPRISE ZONES (CPD-11-83; FR-1913)

Significance: Agency Priority

CFR Citation: 24 CFR 0596

Completed:

Reason	Date	FR Cite
Withdrawn	09/02/87	

Small Entity: No

Agency Contact: Michael T. Savage 202 755-6587

RIN: 2506-AA45

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Proposed Rule Stage

1035. BOOK-ENTRY SECURITIES OF GNMA (GNMA-2-85)

Significance: Agency Priority

Legal Authority: 12 USC 1701

CFR Citation: 24 CFR 203

Legal Deadline: None.

Abstract: The regulation will provide for utilization of a book-entry system to govern the issuance and custody of GNMA securities. The system allows for maintenance of records by an Agent Bank and utilization of wire transfers. Further, the book-entry system will curtail loss, theft and repeated pledging of GNMA securities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Walter T. Cassidy, Assistant General Counsel for Finance, Department of Housing and Urban Development, Office of the General Counsel, Office of Insured Housing and Finance, 202 755-7260

RIN: 2503-AA03

1036. ● GNMA FEES (GNMA-1-87; FR2395)

Legal Authority: 00 USC 0000

CFR Citation: 24 CFR 390.17

Legal Deadline: None.

Abstract: This proposed rule would revise the regulations in accordance with a recent statutory amendment relating to the charges and fees that GNMA may charge for its guaranty of mortgage-backed securities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Walter J. Cassidy, Assistant General Counsel for Finance, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7260

RIN: 2503-AA05

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Completed Actions

1037. MORTGAGE-BACKED SECURITIES - REVISION TO DATE FOR FIRST MONTHLY PAYMENT TO PRINCIPAL AND INTEREST (GNMA-1-85; FR-2135)

CFR Citation: 24 CFR 390

Completed:

Reason	Date	FR Cite
Final Action	09/29/86	51 FR 34465
Final Action Effective	11/01/87	52 FR 37608

Small Entity: No

Agency Contact: Robert P. Kalish 202 755-5593

RIN: 2503-AA04

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Proposed Rule Stage

1038. NONDISCRIMINATION BASED ON HANDICAPPED IN PROGRAMS CONDUCTED BY HUD (FR-2163; FH&EO-2-85)

Significance: Regulatory Program

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 9.101; 24 CFR 9.102; 24 CFR 9.103; 24 CFR 9.110; 24 CFR 9.111; 24 CFR 9.130; 24 CFR 9.140; 24 CFR 9.149; 24 CFR 9.150; 24 CFR 9.151; 24 CFR 9.160; 24 CFR 9.170

Legal Deadline: None.

Abstract: This proposed rule would implement section 504 of the Rehab Act of 1973 (as extended by the Rehab. Comprehensive Service and Developmental Disabilities Act of 1978) for HUD-conducted programs or activities. This proposed rule will be a companion rule to the Department's rule on nondiscrimination based on handicap in federally assisted programs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: David Enzel, Attorney, Department of Housing and Urban Development, Office of the General Counsel, 202 755-6207

RIN: 2529-AA28

1039. ● REDESIGN FOR FAIR HOUSING ASSISTANCE PROGRAM (FHEO-2-87; FR2403)

Significance: Regulatory Program

Legal Authority: 42 USC 3601-9

CFR Citation: 24 CFR 111

Legal Deadline: None.

Abstract: This proposed rule would change the current funding mechanism of the Fair Housing Assistance Program (FHAP) from a dual noncompetitive and competitive system to a single comprehensive noncompetitive funding mechanism. The new system will allow the same disbursement of 5 million dollars to substantially equivalent agencies. The FHAP agencies would be funded for cases processed and other eligible activities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Maxine Cunningham, Director, Federal, State & Local Programs, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-0455

RIN: 2529-AA33

1040. RECOGNITION OF JURISDICTION WITH SUBSTANTIALLY FAIR HOUSING LAWS (FHEO-1-87)

Legal Authority: 42 USC 3610; 42 USC 3535(d)

CFR Citation: 24 CFR 115

Legal Deadline: None.

Abstract: Some of the Sections in this Regulation need to be changed to add definitions, set out specific issues and examples that qualify as acceptable/unacceptable under the rule; and clarify time frames. The proposed revisions will make application and recognition procedures easier for the Department relative to implementation. Agencies presently recognized will not be affected. However, agencies in the interim recognition stage may be affected.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
NPRM Comment Period End	02/00/88	
Final Action	04/00/88	

Small Entity: No

Affected Sectors: 919 General Government, Not Elsewhere Classified

Government Levels Affected: Local, State, Federal

Agency Contact: Wagner Jackson, Acting Director, Office of Fair Housing, Enforcement & Sec. 3 Compliance, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-6636

RIN: 2529-AA31

1041. AMENDMENTS OF THE COMMUNITY HOUSING RESOURCE BOARD REGULATIONS (FH&EO-1-85; FR-2085)

Legal Authority: 42 USC 3601 to 3619

CFR Citation: 24 CFR 120

Legal Deadline: None.

Abstract: This proposed rule would amend the current rule for the Community Housing Resources Board at 24 CFR Part 120. This rule would establish further program features, including provisions for grant administration and accountability monitoring.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Includes FR-1407 (RIN-2529-AA06)

Agency Contact: Nathaniel K. Smith, Director, Housing and Community Development Div., Office of Voluntary Compliance, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-5992

RIN: 2529-AA27

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Final Rule Stage

1042. NONDISCRIMINATION BASED ON HANDICAP IN FEDERALLY-ASSISTED PROGRAMS AND ACTIVITIES (FH&EO-4-84; FR-770)

Significance: Regulatory Program

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 8

Legal Deadline: None.

Abstract: Would add a new 24 CFR 8 Part to set forth procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving Federal financial assistance.

HUD—FHEO

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Additional Information:

Proposed rule published 04/19/78 43 FR 16652

Interim rule published 05/06/83 48 FR 20638

Republished 05/18/83 48 FR 22470

Effective date revoked 06/15/83 48 FR 27528

(Interim rule was thereafter treated as a proposed rule.)

Agency Contact: David Enzel, Attorney, Department of Housing and Urban Development, Office of the General Counsel, 202 755-6207

RIN: 2529-AA26

1043. PROCEDURE FOR PROCESSING COMPLAINTS UNDER SECTION 804 OF THE FAIR HOUSING ACT (FH&EO-6-84; FR 2012)

Significance: Regulatory Program

Legal Authority: 42 USC 3601 to 3619; 42 USC 3535(d)

CFR Citation: 24 CFR 105

Legal Deadline: None.

Abstract: This rule would amend 24 CFR Part 105, which governs the processing of complaints under section 810 of the Fair Housing Act. The rule would reorganize Part 105 and would add more specific descriptions of the procedures used to investigate fair housing complaints, to make a determination to resolve matters raised in complaints, and to try to eliminate and correct alleged discriminatory housing practices.

Timetable:

Action	Date	FR Cite
NPRM	10/16/84	49 FR 40528
NPRM Comment Period End	12/17/84	49 FR 40528
Final Action	01/00/88	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Charles M. Farbstein, Assistant General Counsel, Department of Housing and Urban Development, Office of the General Counsel, Equal Opportunity, 202 755-5570

RIN: 2529-AA24

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Completed Actions

1044. AFFIRMATIVE FAIR HOUSING, MARKETING TECHNICAL AMENDMENTS (FH&EO-2-83; FR-1670)

CFR Citation: 24 CFR 100; 24 CFR 108; 24 CFR 200

Completed:

Reason	Date	FR Cite
Withdrawn	08/27/87	

Small Entity: Undetermined

Agency Contact: Peter Kaplan 202 755-7727

RIN: 2529-AA17

1045. AUDIT REQUIREMENTS FOR THE FAIR HOUSING ASSISTANCE PROGRAM AND THE COMMUNITY HOUSING RESOURCE BOARDS (FH&EO-1-86; FR-2140)

CFR Citation: 24 CFR 111; 24 CFR 120

Completed:

Reason	Date	FR Cite
Withdrawn	02/11/87	

Small Entity: No

Agency Contact: Charles M. Farbstein 202 755-5570

RIN: 2529-AA30

1046. FAIR HOUSING ASSISTANCE PROGRAM; PROGRAM DESCRIPTION AND ELIGIBILITY CRITERIA (FHEO-2-87)

CFR Citation: 24 CFR 111

Completed:

Reason	Date	FR Cite
Withdrawn	09/02/87	

Small Entity: Undetermined

Agency Contact: Thomas J. Jankowski 202 755-6636

RIN: 2529-AA32

1047. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM HUD (FH & EO-1-79; FR-1161)

CFR Citation: 24 CFR 146

Completed:

Reason	Date	FR Cite
Final Action	12/17/86	51 FR 45264
Final Action Effective	04/10/87	52 FR 7408

Small Entity: No

Agency Contact: Myra B. Kennedy 202 755-5904

RIN: 2529-AA01

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Prerule Stage

1048. ORGANIZATION, FUNCTION, AND DELEGATIONS OF AUTHORITY SUBPART C - SECRETARY'S DELEGATIONS OF AUTHORITY TO HEADS OF OFFICES (ADM-2-82)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 3

Legal Deadline: None.

Abstract: Subpart C delegates authority from the Secretary to the Comptroller and then to certain Divisions. This subpart is almost entirely obsolete. The alternatives being considered are to eliminate Subpart C entirely or to update all of the obsolete references. The benefits of both alternatives are to eliminate a potentially confusing delegation of authority.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Peggy A. Grant, Acting Dir., Mortgage Insurance Accnt.&Serv., Department of Housing and Urban Development, Office of Administration, Office of Finance and Accounting, 202 755-5645

RIN: 2535-AA01

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Proposed Rule Stage

1049. AMENDMENT OF THE HUD ACQUISITION REGULATIONS (ADM-5-85; FR-2131)

Legal Authority: 40 USC 486(c); 42 USC 3535(d)

CFR Citation: 48 CFR Chap. 24

Legal Deadline: None.

Abstract: The rule would add Part 2452, Solicitation Provisions and Contract Clauses and Part 2453, Forms. When the original HUDAR was published in March, 1984, solicitation provisions and contract clauses were incorrectly placed, and no HUD forms were included at all.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Gladyes Gines, Deputy Director, Policy & Evaluation, Divisioin, Department of Housing and Urban Development, Office of Administration, Office of Procurement and Contracts, 202 755-5294

RIN: 2535-AA10

1050. ● OMB CIR. A-110, UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH UNIVERSITIES, HOSPITALS AND OTHER NONPROFIT ORGANIZATIONS (ADM-1-87; FR2376)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 29

Legal Deadline: None.

Abstract: This proposed rule would follow a government-wide common rule to provide uniformity to the administrative requirements for grants and agreements with universities, hospitals and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/88	

Small Entity: Undetermined

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Division, Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration, 202 755-5294

RIN: 2535-AA15

1051. FEDERAL PROCUREMENT OF CEMENT CONTAINING FLY ASH (ADM-1-84; FR-1938)

Legal Authority: 42 USC 3535(d); 42 USC 6962

CFR Citation: 24 CFR 570; 24 CFR 207

Legal Deadline: None.

Abstract: Rule will provide restrictions on Federal procurement of cement and concrete containing fly ash. Will be patterned on Environmental Protection Agency guidelines.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Ed Girovasi, Director, Department of Housing and Urban Development, Office of Administration, Policy and Evaluation Division, Office of Procurement And Contracts, 202 755-5294

RIN: 2535-AA05

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Final Rule Stage

1052. OMB CIRCULAR A-102, UNIFORM REQUIREMENT FOR ASSISTANCE TO STATE AND LOCAL GOVERNMENTS (ADM-1-86, FR-2178)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 0045

Legal Deadline: None.

Abstract: In tandem with the government-wide rule to be issued by OMB, this rule would promulgate standards for the administration of grants to State and local governments and to federally recognized Indian tribal government.

HUD—OA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21826
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Edward L. Girovasi, Director, Policy & Evaluation Division, Department of Housing and Urban Development, Office of Administration, 202 755-5294

RIN: 2535-AA12

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Proposed Rule Stage

1053. TURNKEY III HOMEOWNERSHIP OPPORTUNITIES PROGRAM (P-3-85; FR-2138)

Significance: Agency Priority

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 904

Legal Deadline: None.

Abstract: This would make miscellaneous amendments to the existing Turnkey III program regulations to facilitate program administration and to allow flexibility to address specific local problems. The amendments will clarify appropriate procedures to use when existing occupants are eligible to become homebuyers to facilitate the actual sales of the units.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Undetermined

Agency Contact: Wayne Hunter, Senior Program Analyst, Department of Housing and Urban Development, Office of Public and Indian Housing, Office of Public Housing, 202 755-6713

RIN: 2577-AA34

1054. INDIAN HOUSING PROGRAM—REVISED PROGRAM REGULATIONS (P-2-86; FR-2206)

Legal Authority: 25 USC 450e(b)

CFR Citation: 24 CFR 905

Legal Deadline: None.

Abstract: This rule will constitute a consolidation of relevant provisions of regulations flowing from the U.S. Housing Act of 1937, as these affect the Indian housing programs. It is the Department's intention that this consolidated Part 905, followed with a comprehensive Indian Housing Handbook, should be the controlling regulatory package governing the development and operation of Indian housing projects.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Additional Information: Includes: P-31-82 (RIN: 2577-AA17)

Agency Contact: Patricia Arnaudo, Deputy Director, Office of Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-1015

RIN: 2577-AA32

1055. PREEMPTION OF CERTAIN STATE-DETERMINED PREVAILING WAGE RATES APPLICABLE TO PUBLIC AND INDIAN HOUSING PROJECTS (P-8-86; FR-2231)

Legal Authority: 42 USC 1437j

CFR Citation: 24 CFR 905.211

Legal Deadline: None.

Abstract: This rule would make State-determined prevailing wage rates inapplicable to Public and Indian Housing projects if these wage rates exceed the applicable federally-determined prevailing wage rates.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Nancy S. Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577-AA42

1056. INCREASE IN SINGLE PERSON OCCUPANCY LIMITS (P-48-84; FR-2063)

Legal Authority: 42 USC 1437a

CFR Citation: 24 CFR 812; 24 CFR 912

Legal Deadline: None.

Abstract: Implements Section 202 of the Housing and Urban-Rural Recovery Act of 1983 to permit the Secretary to increase from 15 percent to 30 percent the number of units that may be occupied by single persons and that is within the jurisdiction of any public housing agency. In addition, this rule would revise the procedures for HUD's approval of single person occupancy for affected dwelling units.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Additional Information: ADDITIONAL CONTACT PERSON: James J. Tahash; Director, Program Planning Division; Office of Multifamily Housing Management. (202) 426-3970.

Agency Contact: Edward Whipple, Chief, Occupancy Branch, Office of Public Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-0744

RIN: 2577-AA07

1057. PHA-OWNED AND LEASED PROJECT; MAINTENANCE AND OPERATION; TENANT ALLOWANCE FOR UTILITIES (P-9-86; FR-2260)

Legal Authority: 42 USC 1437; 42 USC 1437a; 42 USC 1437d; 42 USC 1437g

CFR Citation: 24 CFR 965

Legal Deadline: None.

Abstract: HUD's procedures for the establishment and administration by PHAs of allowances for utilities and surcharges for excess consumption are contained in Part 965, Subpart E. This proposed rule would amend Subpart E to clarify how utility consumption attributable to air conditioning and certain tenant supplied major equipment will be treated under the allowance and surcharge provisions.

HUD—PIH — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Charles Ashmore, Utility Specialist, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6640

RIN: 2577-AA40

1058. ● DECONTROL OF PUBLIC HOUSING AUTHORITIES; CIAP DEVELOPMENT (P-5-87; FR2408)

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 968.12(i); 24 CFR 968.15; 24 CFR 941.205(c)

Legal Deadline: None.

Abstract: This rule change to Part 968 would allow for PHAs who qualify as Recognized Performers to certify compliance with HUD requirements instead of obtaining HUD approval in two areas: management improvement contracts and line item budget revisions. Recognized Performers would still be required to include all elements of the appropriate certification specified in the rule, and to maintain the certification in their files.

Additionally, Part 941.205(c), pertaining to development would be changed to give Recognized Performers the maximum possible authority to execute contracts without HUD review.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Nancy S. Chisholm, Director, Policy Staff, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577-AA48

1059. ● EFFECTS OF DEBT FORGIVENESS ON PUBLIC HOUSING AGENCY ANNUAL CONTRIBUTIONS CONTRACTS (P-6-87; FR2409)

Legal Authority: 00 USC 0000

CFR Citation: 24 CFR 968; 24 CFR 970

Legal Deadline: None.

Abstract: This rule would clarify the Department's policy with reference to the effects of the debt forgiveness provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) on public housing agency's annual contributions contracts (ACC) with HUD. The rule will amend 24 CFR Parts 968 and 970 to provide that debt forgiveness under COBRA does not constitute "payment in full" of ACC indebtedness, and that accordingly the obligations of a PHA under its ACC after debt forgiveness will continue until expiration of the term of the original indebtedness.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Robert Kenison, Associate General Counsel for Assisted, Housing & Community Development, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-5212

RIN: 2577-AA51

1060. ● PHA OBLIGATIONS WITH RESPECT TO RESIDUAL RECEIPTS IN THE PUBLIC HOUSING, TURNKEY III, AND SEC. 23 PROGRAMS; (P-2-87; FR2354; FORMERLY H-27-87)

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 989

Legal Deadline: None.

Abstract: This rule would reiterate the requirement of the Annual Contributions Contract that a PHA must submit to HUD its residual receipt within 60 days of the end of its fiscal year. The rule would also prescribe the method for determining the rate of interest due when residuals are not remitted on time. The rule will contain provisions for retention of residual receipts by the PHA under certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Nancy Chisholm, Director, Office of Policy, Office of Policy & Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577-AA49

1061. DISALLOWANCE OF LEGAL FEES; LITIGATION CONTROLS FOR HUD ASSISTANCE RECIPIENTS (P-2-85; FR-2134)

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 999

Legal Deadline: None.

Abstract: This proposed rule will declare HUD policy regarding PHA legal expenses for litigation against HUD and prescribe limited litigation reporting procedures for HUD assistance recipients.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577-AA33

1062. ● CHANGE IN INFLATION FACTOR USED TO CALCULATE PUBLIC HOUSING OPERATING SUBSIDY (P-1-87 (FORMERLY H-24-87); FR-2353)

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 990.102

Legal Deadline: None.

Abstract: This proposed rule would change the calculations of the allowable expense level used to determine operating subsidy eligibility under the Performance Funding System by using the lower of the local inflation factor now used or the Section 8 annual adjustment factor for the area.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Nancy S. Chisholm, Director, Policy Staff, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577-AA47

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH) — **Final Rule Stage**

1063. PUBLIC AND INDIAN HOUSING - COST CONTAINMENT PROCEDURES (P-1-86; FR-2191)

Significance: Regulatory Program

Legal Authority: 42 USC 1437d; PL 99-160

CFR Citation: 24 CFR 968; 24 CFR 941; 24 CFR 905

Legal Deadline: None.

Abstract: This rule will amend Public housing development regulations to reflect the repeal of Sec. 6(b) of the United States Housing Act. Sec. 6(b) limits on dwelling construction and equipment cost for the different areas of the country. The rule will also amend these regulations to incorporate new cost containment procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/24/86	51 FR 33904
Final Action	12/00/87	

Small Entity: No

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577-AA37

1064. ● INDIAN PREFERENCE (P-4-87; FR2391)

Legal Authority: 25 USC 450e(b)

CFR Citation: 24 CFR 905.20y

Legal Deadline: None.

Abstract: This rule contains technical amendments to a final rule (Indian Preference) that was published in the FEDERAL REGISTER ON January 3, 1987 and became effective on March 15, 1987.

Timetable:

Action	Date	FR Cite
Final Action	11/00/87	

Small Entity: Undetermined

Agency Contact: Joan Ladesh, Office of Indian Housing, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-1015

RIN: 2577-AA50

1065. PUBLIC HOUSING -- TENANT LEASES AND PHA GRIEVANCE HEARINGS (P-26-79; FR-1164)

Significance: Regulatory Program

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 960; 24 CFR 966

Legal Deadline: None.

Abstract: Would amend the regulations to simplify the requirements for provisions included in the lease between a PHA and its tenants and the requirements for the grievance procedure.

Timetable:

Action	Date	FR Cite
NPRM	07/23/86	51 FR 26504
NPRM Comment Period End	09/22/86	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Edward Whipple, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-0744

RIN: 2577-AA18

1066. INDIVIDUAL METERING OF UTILITIES OF EXISTING PHA-OWNED PROJECTS (P-36-83; FR-1769)

Legal Authority: 42 USC 1437 note; 42 USC 1437a; 42 USC 1437d; 42 USC 1437g

CFR Citation: 24 CFR 965.304; 24 CFR 965.310; 24 CFR 965.404; 24 CFR 965.408

Legal Deadline: None.

Abstract: Rule would revise the factors that PHAs use in estimating utility consumption savings resulting from conversions from mastermetered utilities systems to individually metered system and would amend energy audit provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/14/83	48 FR 51785
NPRM Comment Period End	01/13/84	48 FR 51785

Next Action Undetermined

Small Entity: No

Agency Contact: Charles R. Ashmore, Utilities Officer, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6640

RIN: 2577-AA27

1067. PUBLIC AND INDIAN HOUSING COST CONTAINMENT PROCEDURES - COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AND INDIAN HOUSING (P-9-86; FR-2262)

Legal Authority: 42 USC 1437d; PL 99-160

CFR Citation: 24 CFR 968; 24 CFR 905

Legal Deadline: None.

Abstract: This rule would amend the Comprehensive Improvement Assistance Program and the Indian Housing Program regulations to reflect the repeal of Section 6(b) of the United States Housing Act. Section 6(b) limits dwelling construction and equipment costs for various areas of the country. This rule will also amend the regulations to incorporate new cost containment procedures.

Timetable:

Action	Date	FR Cite
NPRM	02/11/87	52 FR 4349
NPRM Comment Period End	04/13/87	52 FR 4349
Final Action	01/00/88	

Small Entity: No

Additional Information: This proposed rule was split off from FR-2191.

Government Levels Affected: Local

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577-AA43

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Completed Actions

1068. REVISED OCCUPANCY POLICIES IN PUBLIC AND INDIAN HOUSING (P-7-86; FR-2240)

CFR Citation: 24 CFR 913; 24 CFR 960; 24 CFR 912

Completed:

Reason	Date	FR Cite
Withdrawn	05/28/87	

Small Entity: No

Agency Contact: Nancy Chisholm 202 755-6713

RIN: 2577-AA41

1069. PUBLIC AND INDIAN HOUSING - APPLICATION PROCESSING PROCEDURES (P-10-86; FR-1946)

CFR Citation: 24 CFR 941

Completed:

Reason	Date	FR Cite
Withdrawn	06/30/87	

Smal Entity: Undetermined

Agency Contact: Ray Hamilton 202 426-0938

RIN: 2577-AA44

1070. ● TECHNICAL AMENDMENTS TO THE PERFORMANCE FUNDING SYSTEM FOR PUBLIC HOUSING OPERATING SUBSIDY (P-3-87 (FORMERLY H-26-87); FR-2355)

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 990.108; 24 CFR 990.114; 24 CFR 990.105; 24 CFR 990.104; 24 CFR 990.109

Legal Deadline: None.

Abstract: This final rule will permit PHAs that receive less than $25,000 per year in Federal financial assistance to obtain operating subsidy to cover the cost of an annual independent audit, as do the PHAs that receive at least $25,000, even though an audit is no longer required for these PHAs. The rule will also remove an obsolete requirement that rentals payable to a PHA must equal at least one-fifth of the total income of all tenant families.

Timetable:

Action	Date	FR Cite
Final Action	08/06/87	52 FR 29360
Final Action Effective	10/12/87	52 FR 29360

Small Entity: Undetermined

Agency Contact: Nancy S. Chisholm, Director, Policy Staff, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577-AA46

[FR Doc. 87-21545 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26, 1987

Part X

Department of the Interior

Semiannual Regulatory Agenda

DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II, IV and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual agenda of rules scheduled for review or development.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between October 1987 and April 1988. An agenda is required by Executive Order 12291 and the Regulatory Flexibility Act.

ADDRESS: Unless otherwise indicated, all Agency Contacts are located at the Department of the Interior, 18th and C Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the appropriate Agency Contact. General comments relating to the agenda should be directed to the Division of Directives and Regulatory Management, Office of Management Analysis, Department of the Interior, at the address above or on 202-343-6191.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12291 that the Department publish in April and October of each year an agenda of rules that have been issued or are expected to be issued, and currently effective rules that are scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that an agenda be published in April and October of each year identifying rules which will have significant economic effects on a substantial number of small entities; those rules which will have such effects are specifically identified in the agenda.

This agenda also identifies rules determined to be "significant" under Executive Order 12498 and which are included in this Department's 1988 regulatory program. A more comprehensive discussion of this program and the rules are contained in the Regulatory Program of the United States Government which is published by the Office of Management and Budget.

Dated: August 18, 1987.

Joseph W. Gorrell,

Principal Deputy Assistant Secretary of the Interior.

Assistant Secretary for Policy, Budget, and Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1071	Department of the Interior - Nonprocurement Debarment and Suspension Regulation	1090-AA12
1072	Department of the Interior Acquisition Regulation (FAR)	1090-AA10
1073	Department of the Interior Acquisition Regulation	1090-AA14
1074	Department of the Interior Acquisition Regulation	1090-AA13

Assistant Secretary for Policy, Budget, and Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1075	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	1090-AA11

Office of the Solicitor—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1076	Practices Before the Department	1092-AA00
1077	Take Pride in America	1092-AA06

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Office of the Solicitor—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1078	Records and Testimony; Freedom of Information Act	1092-AA02
1079	Trans-Alaska Pipeline Liability Fund	1092-AA03
1080	Implementation of the Program Fraud Civil Remedies Act	1092-AA05

Office for Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1081	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1091-AA00
1082	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance	1091-AA02

Office for Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1083	Enforcement of Nondiscrimination on the Basis of Handicap in Department of the Interior Programs	1091-AA01

Office of Hearings and Appeals—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1084	Special Rules Applicable to Indian Affairs Hearings and Appeals	1094-AA31
1085	Burden of Proof in Civil Penalty Proceedings	1094-AA33
1086	Tribal Acquisition of Interests Under Special Statute	1094-AA08
1087	Special Rules Applicable to Public Land Hearings and Appeals	1094-AA25
1088	Special Rules Applicable to Public Land Hearings and Appeals	1094-AA30

Office of Hearings and Appeals—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1089	Department Hearings and Appeals Procedures	1094-AA26
1090	Special Rules Applicable to Surface Coal Mining Hearings and Appeals	1094-AA28
1091	Special Rules Applicable to Surface Coal Mining Hearings and Appeals	1094-AA29
1092	Department Hearings and Appeals Procedures; Subpart A--General; Office of Hearings and Appeals; Power of the Secretary and Director	1094-AA32

Office of Hearings and Appeals—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1093	Special Rules Applicable to Public Land Hearings and Appeals	1094-AA01
1094	Special Rules Applicable to Surface Coal Mining Hearings and Appeals	1094-AA10

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Office of Hearings and Appeals—Completed Actions—Continued

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1095	Special Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA15

United States Fish and Wildlife Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1096	Injurious Wildlife - Mitten Crabs	1018-AB04
1097	Injurious Wildlife	1018-AB13
1098	Endangered and Threatened Wildlife and Plants	1018-AA10
1099	Proposed Determination of Nonessential Experimental Population Status for an Introduced Population of the Yellowfin Madtom in Virginia	1018-AB06
1100	Captive Bred Wildlife	1018-AB10
1101	Proposed Determination of Nonessential Experimental Population Status for an Introduced Population of the Nashville Crayfish in Tennessee	1018-AB12
1102	Marine Mammals: Incidental Taking by Commercial Fishing Operations	1018-AA96
1103	Marine Mammal Protection Act and Endangered Species Act Revisions	1018-AB05
1104	Subsistence Take of Migratory Birds in Alaska	1018-AB03
1105	General Permit Procedures and Migratory Bird Permits: Raptor Propagation and Falconry Regulations	1018-AB01
1106	Endangered Species Convention	1018-AA29
1107	Sport Fishing	1018-AA50
1108	Implementation of Klamath River Basin Fishery Resources Restoration Act	1018-AB11

United States Fish and Wildlife Service—Final Rule Stage

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1110	Importation, Exportation, and Transportation of Wildlife	1018-AA79
1111	Endangered and Threatened Wildlife and Plants	1018-AA84
1112	Endangered and Threatened Wildlife and Plants	1018-AA85
1113	Endangered and Threatened Wildlife and Plants	1018-AA95
1114	Endangered and Threatened Wildlife and Plants	1018-AA98
1115	Endangered and Threatened Wildlife and Plants	1018-AB02
1116	Endangered and Threatened Wildlife and Plants	1018-AB06
1117	Proposed Determination of Experimental Population Status for an Introduced Population of Colorado Squawfish	1018-AB09
1118	Marine Mammals: Reporting and Sealing Requirements for Alaska Natives	1018-AA20
1119	Migratory Bird Hunting	1018-AA24
1120	Subsistence Take of Migratory Birds	1018-AA92
1121	Nontoxic Shot Regulations for Hunting Migratory Birds	1018-AA93
1122	Public Entry and Use	1018-AA36
1123	Hunting	1018-AA71
1124	Fish and Wildlife Restoration Grants; Interest Earned on License Fees	1018-AA97

United States Fish and Wildlife Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
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1126	National Wildlife Refuges	1018-AA35

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National Park Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1127	Appraisal Authority Under the Land and Water Conservation Fund State Grant Program	1024-AB68
1128	National Park Service Acquisition Regulation	1024-AB35

National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1129	Upper Delaware SRR: Fishing	1024-AA87
1130	Appalachian National Scenic Trail	1024-AB07
1131	Hawaii Volcanoes National Park: Fishing Regulations	1024-AB66
1132	Mammoth Cave NP: Fishing	1024-AA94
1133	Cape Hatteras National Seashore: Off-Road Vehicle Regulations	1024-AB54
1134	Rocky Mountain National Park: Fishing Regulations	1024-AB46
1135	Rocky Mountain National Park: Trucking Regulations	1024-AB67
1136	Glen Canyon National Recreation Area: Commerical Operations and Whitewater Boating Regulations	1024-AB72
1137	Big Thicket National Preserve: Hunting Regulations	1024-AB48
1138	Whiskeytown National Recreation Area Fishing Regulations	1024-AB61
1139	Whiskeytown Unit, Whiskeytown - Shasta - Trinity NRA Gold Panning Regulations	1024-AB71
1140	Cape Lookout National Seashore: Off-Road Vehicles	1024-AA89
1141	NPS Units in Alaska: Concessions	1024-AB18
1142	Fire Island National Seashore: Zoning	1024-AA80
1143	Archeological and Historic Preservation Act; Department of the Interior Regulations	1024-AA49
1144	Historic Preservation Certifications Pursuant to Section 48(g) and Section 170(h) of the Internal Revenue Code of 1986	1024-AB73
1145	Curation of Federally Owned and Administered Archeological Collections	1024-AB13
1146	Cemetery Sites and Historical Places	1024-AA54

National Park Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1147	Applicability and Scope	1024-AB64
1148	Discrimination in Employment Practices and Furnishing Public Services	1024-AB65
1149	Cuyahoga Valley NRA: Off-Road Vehicles and Snowmobiles	1024-AB44
1150	Canyon De Chelly National Monument	1024-AB47
1151	Springfield Armory Museum Closure	1024-AB70
1152	Fort Jefferson NM: Fishing; Boundary Adjustments	1024-AA96
1153	Jean Lafitte NHP: Crawfishing Regulations	1024-AB33
1154	Everglades NP: Mining	1024-AB10
1155	Lake Mead National Recreation Area: Noise Abatement Exemption	1024-AB50
1156	Lake Chelan NRA: Target Practice	1024-AB19
1157	Rose Lake NRA: Target Practice	1024-AB28
1158	Delaware Water Gap NRA: Fishing	1024-AA98
1159	Big Cypress National Preserve: Indian Use and Occupancy	1024-AA07
1160	Bighorn Canyon National Recreation Area - Fishing Regulations	1024-AB63
1161	Management of Mining Claim Activities	1024-AB37
1162	NPS Units in Alaska: Closure Regulations	1024-AA71
1163	National Register of Historic Places	1024-AA44
1164	Determination of Eligibility for Inclusion in the National Register of Historic Places	1024-AA46

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National Park Service—Completed Actions

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1165	Vehicles and Traffic Safety	1024-AB06
1166	Fire Island National Seashore: Off-Road Vehicles	1024-AA14
1167	Yellowstone National Park: Fishing Regulations	1024-AB57
1168	Shenandoah National Park: Fishing Regulations	1024-AB51
1169	Blue Ridge Parkway: Commercial Vehicles	1024-AB36
1170	Buffalo National River: Fishing Regulations	1024-AB49
1171	Rocky Mountain NP: Mountain Climbing and Winter Use	1024-AB16
1172	Archeological Resources Protection Act; Department of the Interior Supplemental Regulations	1024-AA83

Bureau of Indian Affairs—Prerule Stage

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1173	Revision of the Membership Roll of the Eastern Band of Cherokee Indians, North Carolina	1076-AB54
1174	Procedures for Depositing Funds to the Credit of 14X6140- Deposits of Proceeds of Lands Withdrawn for Native Selection, BIA	1076-AB67
1175	Land Records and Title Documents	1076-AB66
1176	Leasing of Osage Reservation Lands for Oil and Gas Mining	1076-AB79

Bureau of Indian Affairs—Proposed Rule Stage

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1177	Appeals from Administrative Actions	1076-AB21
1178	The Indian Police	1076-AB98
1179	Financial Assistance and Social Services Program	1076-AB99
1180	Federal Schools For Indians (Revision)	1076-AB47
1181	Education Personnel	1076-AB02
1182	The Indian School Equalization Program (New School Starts, Program Expansions, School Closures, Consolidations, and Program Reductions)	1076-AB48
1183	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AA11
1184	Administration of the Indian Adult Education Programs	1076-AA15
1185	Use or Distribution of Indian Judgment Funds	1076-AB20
1186	Loans to Indians from the Revolving Loan Fund	1076-AC00
1187	Revolving Cattle Pool	1076-AC02
1188	Loan Guaranty, Insurance, and Interest Subsidy	1076-AC01
1189	Annuity and Other Per Capita Payments	1076-AB45
1190	Individual Indian Money Accounts	1076-AB91
1191	Management of Osage Judgment Funds for Education and Socio-Economic Programs	1076-AB51
1192	Roads of the Bureau of Indian Affairs	1076-AB05
1193	San Carlos Indian Irrigation Project, Arizona	1076-AC08
1194	Life Estates and Future Interests	1076-AC06
1195	Leasing of Restricted Lands of Members of Five Civilized Tribes, Oklahoma, for Mining	1076-AB41
1196	Leasing of Osage Reservation Lands for Oil and Gas Mining	1076-AC09
1197	Contracts Under Indian Self-Determination Act (Subpart H - New School Starts and Program Expansions)	1076-AB49
1198	Small Tribes Governmental Assistance Grant Program	1076-AC10
1199	Indian Business Development Program	1076-AA55
1200	Tribal Gaming Management Contracts	1076-AC07
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1203	Law Enforcement Expenditures	1076-AB97
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1205	Enrollment Appeals	1076-AB95
1206	Enrollment of Indians of the San Pasqual Band of Mission Indians in California	1076-AB58
1207	Attorney Fee Contracts with Indian Tribes; Payment of Tribal Attorney Fees with Federally Appropriated Funds	1076-AB87
1208	Navajo Grazing Regulations	1076-AA33
1209	Rights-of-Way Over Indian Lands	1076-AB89
1210	Contracts for Prospecting and Mining on Indian Mineral Lands	1076-AA38
1211	Leasing of Allotted Lands for Mining	1076-AA39
1212	Oil and Gas Mineral Agreements	1076-AA82
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Bureau of Indian Affairs—Completed Actions

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1215	Financial Assistance and Social Services Program	1076-AB92
1216	Care of Indian Children in Contract Schools	1076-AB76
1217	Indian Education Policies	1076-AB64
1218	Indian School Equalization Program	1076-AA09
1219	Regulations for Pro Rata Shares of Tribal Funds	1076-AB65
1220	Distribution of Judgement Funds Awarded to the Osage Tribe of Indians in Oklahoma	1076-AB66
1221	Land Acquisitions	1076-AA81
1222	Issuance of Patents in Fee, Certificates of Competency, Removal of Restrictions, and Sale of Certain Indian Lands	1076-AB90
1223	Colorado River Irrigation Project, Arizona	1076-AC04
1224	Leasing of Osage Reservation Lands, Oklahoma, for Mining Except Oil and Gas	1076-AB42
1225	Operation, Reclamation and Conservation on Mineral Lands	1076-AA40
1226	Wind River Reservation Game Code	1076-AB43
1227	Fraser River Convention Sockeye and Pink Salmon Fishery	1076-AC03
1228	Heritage Preservation	1076-AA45
1229	Subchapter M – Indian Self-Determination and Education Assistance Act Programs	1076-AB62
1230	Contracts Under Indian Self-Determination Act	1076-AC05
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1232	Special Grants for Economic Development and Core Management Grants to Small Tribes.; Subpart B - Special Grants for Economic Development	1076-AB94

Minerals Management Service—Prerule Stage

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Minerals Management Service—Proposed Rule Stage

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1234	Valuation of Coal for Royalty Purposes from Federal and Indian Leases	1010-AA83
1235	Onshore Production Reporting and Accounting	1010-AB10
1236	Recoupments and Refunds of Excess Payments Under Federal Offshore Mineral Leases	1010-AB11
1237	Extension of Protection of Proprietary Data and Information Until a Subsequent Lease Sale in an Area	1010-AA93
1238	Leasing of Minerals Other than Oil, Gas, and Sulphur in the Outer Continental Shelf	1010-AA82

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1240	Valuation of Oil for Royalty Purposes from Federal and Indian Leases	1010-AA30
1241	Valuation of Gas and Gas Products for Royalty Purposes, from Federal and Indian Leases	1010-AA54
1242	Change Effective Date of Adopted Modifications to NTL-5	1010-AB09
1243	Royalty-In-Kind Crude Oil	1010-AA31
1244	Oil and Gas and Sulphur Operations on the Outer Continental Shelf (OCS)	1010-AA53
1245	Supplemental Sales	1010-AB05
1246	Nondiscrimination in Employment in the Outer Continental Shelf	1010-AA87
1247	Prospecting for Minerals Other than Oil, Gas, and Sulphur in the Outer Continental Shelf	1010-AA71

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1249	Assessments for Incorrect or Late Reports and Failure to Report	1010-AB08
1250	Providing Information Claiming Rewards under the Federal Oil and Gas Royalty Management Act of 1982	1010-AB02
1251	Threshold Requirement for Payments by Electronic Funds Transfer	1010-AB03
1252	Data and Information to be Made Available to the Public	1010-AB07
1253	Accidents, Fires, and Malfunctions Fact-Findings Proceedings	1010-AA88
1254	Report of Cessation of Production	1010-AB04

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

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1256	Surface Coal Mining and Reclamation Operations; Two Acre Exemption Repeal	1029-AB16
1257	Surface Coal Mining Operations; Definition of In Connection With	1029-AB06
1258	Permanent Regulatory Program; Requirements for Permits for Special Categories of Mining	1029-AA54
1259	Permanent Program Performance Standards; Surface and Underground Activities; Roads	1029-AA60
1260	Permanent Regulatory Program Definition of Support Facilities	1029-AA04
1261	Exemption for Coal Extraction Incidental to Government Financed Construction	1029-AA58
1262	Requirements for Coal Exploration--Permit Requirements for Exploration Removing More than 250 Tons of Coal	1029-AA92
1263	Federal Regulatory Programs; Permit Application Fees	1029-AB15
1264	Federal Lands Program	1029-AA76
1265	Surface Coal Mining and Reclamation Operations on Indian Lands	1029-AB04
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1267	Lands Unsuitable Regulations	1029-AA90
1268	Substantial Legal and Financial Commitment	1029-AB01
1269	Permit Processing	1029-AB14
1270	Permanent Regulatory Program; Requirements for Permits, Information on Hydrologic Impacts	1029-AB11
1271	Permanent Regulatory Program Definitions; Areas Unsuitable for Mining	1029-AA80
1272	Requirements for Permits for Special Categories of Mining; Experimental Practices	1029-AB06
1273	Permanent Program Performance Standards; Disposal of Coal Mine Waste	1029-AB09
1274	Permanent Program Performance Standards; Surface Mining Activities; Contemporaneous Reclamation	1029-AB02
1275	Permanent Program Performance Standards; Surface and Underground Mining Activities; Backfilling and Grading	1029-AA57

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Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage—Continued

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1278	Permanent Program Performance Standards - Surface Mining Activities, Underground Mining Activities - Impoundments	1029-AA79
1279	Disposal of Excess Spoil on Preexisting Benches	1029-AB18
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1281	Ten Day Notice Review Criteria	1029-AB12
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Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1285	Exemption for Coal Extraction Incidental to the Extraction of Other Minerals	1029-AA55
1286	Individual Civil Penalties	1029-AA81
1287	Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Federal Program for A State; Procedural Requirements	1029-AA71
1288	Unsuitability Petition Process	1029-AB00
1289	Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program-Ownership And Control	1029-AA56
1290	Requirements For Permits and Permit Processing; Permit Applications Minimum Requirements For Legal Financial Civil Penalties	1029-AA66
1291	Permanent Regulatory Program - Ownership Information	1029-AA96
1292	Surface Mining Permit Applications; Minimum Requirements for Information on Environmental Resources	1029-AA74
1293	Permanent Regulatory Program - Mountaintop Removal	1029-AA97
1294	Requirement to Release Performance Bonds	1029-AA91
1295	Permanent Program Performance Standards Underground Mining Activities - Hydrologic Balance Protection	1029-AA75
1296	Special Permanent Program Performance Standards; Operations on Prime Farmland	1029-AA64
1297	Collection of AML Fees - Moisture Content of Coal	1029-AB03
1298	State-Federal Cooperative Agreements	1029-AA40

Office of Surface Mining Reclamation and Enforcement—Completed Actions

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1300	Permanent Regulatory Program Definitions	1029-AA84
1301	Permanent Program Performance Standards Definitions, Previously Mined Areas	1029-AA88
1302	Criteria for Designating Areas as Unsuitable for Mining Operations Fragile and Historic	1029-AA62
1303	Requirements for Permits and Permit Processing	1029-AA87
1304	Abandoned Mine Land Funding - Eligibility of Land Reaffected by Mining	1029-AA95

Bureau of Reclamation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1305	Off-Road Vehicle Use	1006-AA06

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Bureau of Reclamation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1306	Acreage Limitation Rules and Regulations	1006-AA16

Bureau of Reclamation—Completed Actions

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Bureau of Land Management—Proposed Rule Stage

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1309	Minerals (Nonmineral Entries on Mineral Lands)	1004-AB20
1310	Exchanges - General Procedures	1004-AB28
1311	Land Classification	1004-AB19
1312	Indian Allotments	1004-AB10
1313	Rights-of-Way, Principles and Procedures	1004-AB00
1314	Rights-of-Way under the Mineral Leasing Act	1004-AA98
1315	Recreation and Public Purposes Act Leases	1004-AA73
1316	Exploration Activity; Oil and Gas Leasing; Geothermal Resource Leasing - General	1004-AB13
1317	Oil and Gas Leasing - Fees, Rentals and Royalties	1004-AB31
1318	Onshore Oil and Gas Order No. 8 - Well Workovers, Completions, Abandonments	1004-AB37
1319	Onshore Oil and Gas Order No. 7 - Disposal of Produced Water	1004-AA66
1320	Onshore Oil and Gas Order No. 6 - Hydrogen Sulfide Operations	1004-AA67
1321	Onshore Oil and Gas Operations - Onshore Oil and Gas Order Number 4-Measurement of Crude Oil	1004-AA96
1322	Onshore Oil and Gas Operations - Cooperative Agreements, Delegations of Authority and Contracts for Oil and Gas Inspection and Enforcement	1004-AB32
1323	Geothermal Resource Operations	1004-AB18
1324	Sales of Forest Products; General - Preparation for Sale	1004-AB34
1325	Management of Existing Leases	1004-AB38
1326	Onshore Oil and Gas Order No. 5 - Measurement of Natural Gas	1004-AB22
1327	Operating Regulations for Exploration, Development and Production	1004-AA68
1328	Multiple Use: Mining: Mining Claims Under the General Mining Laws	1004-AB04
1329	Mining Claims Under the General Mining Laws	1004-AB36
1330	Sales of Forest Products; Conduct of Sales	1004-AB39
1331	Sales of Forest Products; Award of Contract	1004-AB40
1332	Conduct of Sales (Timber)	1004-AB35
1333	Protection of Special Status Plants	1004-AB09
1334	Cultural Resource Management	1004-AA69
1335	Paleontology	1004-AA27
1336	Recreation: General	1004-AA35
1337	Off-Road Vehicles	1004-AB26
1338	Cadastral Survey	1004-AB07
1339	Unauthorized Use of Public Lands	1004-AA38

Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1340	Geothermal Resource Leasing - General	1004-AA97
1341	Alaska State Selection	1004-AA12
1342	Leases, Permits and Easements	1004-AB29

DOI

Bureau of Land Management—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1343	Onshore Oil and Gas Order No. 2 - Drilling Operations	1004-AB21
1344	Onshore Oil and Gas Order No. 3 - Site Security	1004-AB24
1345	Competitive Leasing; Environment	1004-AB25
1346	Grazing Administration - Exclusive of Alaska	1004-AB23
1347	Use Authorizations; Special Recreation Permits	1004-AA36

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1348	Opening and Closing Lands	1004-AA78
1349	Rights-of-Way: Principles and Procedures	1004-AA17
1350	Rights-of-Way; Principles and Procedures; Oil and Natural Gas Pipelines and Related Facilities, General	1004-AA74
1351	Oil and Gas Leasing	1004-AB30
1352	Onshore Oil and Gas Operations - Cooperative Agreements, Delegations of Authority and Contracts for Oil and Gas Inspection and Enforcement	1004-AB17
1353	Noncompetitive Leases	1004-AB33

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1354	Department of the Interior, Procurement Ethics Regulation	1093-AA06

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1355	Natural Resource Damage Assessment - Type B Amendments	1093-AA05

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1356	Natural Resource Damage Assessments	1093-AA04

DEPARTMENT OF THE INTERIOR (DOI)

Proposed Rule Stage

Assistant Secretary for Policy, Budget, and Administration (ASPBA)

1071. DEPARTMENT OF THE INTERIOR - NONPROCUREMENT DEBARMENT AND SUSPENSION REGULATION

Legal Authority: 5 USC 301; EO 12549

CFR Citation: 43 CFR 12

Legal Deadline: None.

Abstract: This notice of proposed rulemaking proposes common regulations implementing the Office of Management and Budget guidelines which prescribe the scope, government criteria, minimum due process procedures, and other guidance for a

DOI—ASPBA — **Proposed Rule Stage**

system for nonprocurement debarment or suspension of a nonprocurement program participant and will have governmentwide effect.

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	

Small Entity: Undetermined

Agency Contact: Colonel C. Armstrong, Chief, Division of Acquisition and Grants, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, Washington, DC 20240, 202 343-6431

RIN: 1090-AA12

1072. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION (FAR)

Legal Authority: 5 USC 301

CFR Citation: 48 CFR 1400

Legal Deadline: None.

Abstract: This rule will implement changes in the FAR as a result of the Small Business and Federal Procurement Competition Enhancement Act of 1984, P.L. 98-577.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: William S. Opdyke, Chief, Branch of Policy and Regulations, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1090-AA10

1073. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION

Legal Authority: 5 USC 301

CFR Citation: 48 CFR 1400

Legal Deadline: None.

Abstract: This rule makes miscellaneous revisions to the Department of the Interior Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: William Opdyke, Chief, Branch of Policy and Regulations, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1090-AA14

1074. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION

Legal Authority: 5 USC 301

CFR Citation: 48 CFR 1415

Legal Deadline: None.

Abstract: This rule will establish formal source selection procedures for the Department pursuant to FAR 15.612.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	

Small Entity: No

Agency Contact: William Opdyke, Chief, Division of Acquisition and Grants, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1090-AA13

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Budget, and Administration (ASPBA)

Final Rule Stage

1075. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: 31 USC 501 et seq; 16 USC 452; EO 11541; 31 USC 6503 to 6504; Act of 1966; 16 USC 831h; 31 USC 6301; 5 USC 301; 24 USC 278; 31 USC 701 et seq as amended; 40 USC 474 et seq; 41 USC 5 et seq

CFR Citation: 43 CFR 12

Legal Deadline: None.

Abstract: This Notice of Proposed Rulemaking proposes common regulations establishing consistency and uniformity among Federal agencies in the administration of grants to State, local, and federally recognized Indian tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21837
Final Action	03/11/88	

Small Entity: No

Agency Contact: Colonel C. Armstrong, Chief, Division of Acquisition and Grants, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Streets, NW, Washington, DC 20240, 202 343-6431

RIN: 1090-AA11

[FR Doc. 87-21236 Filed 10-23-87; 8:45 am]

BILLING CODE 4310-RK-T

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Solicitor (OSOL)

Proposed Rule Stage

1076. PRACTICES BEFORE THE DEPARTMENT

Legal Authority: 43 USC 1464

CFR Citation: 43 CFR 1

Legal Deadline: None.

Abstract: This rule governs practice in administrative proceedings before the Department. It will be revised to update its provisions and assure that they are consistent with the Department's employee conduct regulations (43 CFR Part 20) and the Ethics in Government Act.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	

Small Entity: No

Additional Information: Originally scheduled: January 1981.

Agency Contact: Deborah Ryan Howard, Attorney-Advisor, Department of the Interior, Office of the Solicitor, 18th and C Streets, NW, Washington, DC 20240, 202 343-5216

RIN: 1092-AA00

DOI—OSOL — **Proposed Rule Stage**

1077. ● TAKE PRIDE IN AMERICA

Legal Authority: 5 USC 301; 15 USC Chapter 22; 18 USC 701

CFR Citation: 43 CFR 37

Legal Deadline: None.

Abstract: The regulation will govern the commercial and noncommercial use of the Take Pride in America campaign slogan and logo by Federal agencies, States, and the private sector.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Deborah Ryan Howard, Attorney-Advisor, Department of the Interior, Office of the Solicitor, 18th and C Streets, NW, Washington, DC 20240, 202 343-5216

RIN: 1092-AA06

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Solicitor (OSOL)

Final Rule Stage

1078. RECORDS AND TESTIMONY; FREEDOM OF INFORMATION ACT

Legal Authority: 5 USC 552

CFR Citation: 43 CFR 2

Legal Deadline: None.

Abstract: The Department's regulation will be amended to incorporate amendments to the FOIA made by the FOIA Reform Act of 1986, P.L. 99-570, and to update and clarify provisions that have been in effect since 1975.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17780
NPRM Comment Period End	06/11/87	
Final Action	09/00/87	

Small Entity: No

Agency Contact: Barbara Abate, Paralegal, Department of the Interior, Office of the Solicitor, 18th & C Streets, NW, Washington, DC 20240, 202 343-5216

RIN: 1092-AA02

1079. TRANS-ALASKA PIPELINE LIABILITY FUND

Legal Authority: 43 USC 1653(c); 33 USC 1321(p)(1),(2)

CFR Citation: 43 CFR 29

Legal Deadline: None.

Abstract: These regulations, which supervise and administer the Fund provided for by Sec. 204(c) of the Trans-Alaska Pipeline Authorization Act, 43 USC Sec 1653(c) will be amended to eliminate inconsistencies between the existing regulations and the Act, clarify language which has been found to be confusing, delete provisions that are no longer necessary, and provide a more efficient process for filing and considering claims made against the Fund.

Timetable:

Action	Date	FR Cite
NPRM	06/29/87	52 FR 24181
NPRM Comment Period End	08/28/87	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Robert H. Moll, Attorney-Advisor, Department of the Interior, Office of the Solicitor, Washington, DC 20240, 202 343-5216

RIN: 1092-AA03

1080. ● IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT

Legal Authority: 15 USC 301; 31 USC 3801 to 3812

CFR Citation: 43 CFR 35

Legal Deadline: Statutory, April 19, 1987.

Abstract: The regulation will implement the Program Fraud Civil Remedies Act of 1986. It will establish administrative procedures for imposing the statutorily authorized civil penalties and assessments against any person who makes, submits, or presents a false, fictitious, or fraudulent claim or written statement to the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	06/29/87	52 FR 24186
NPRM Comment Period End	07/29/87	
Final Action	09/00/87	

Small Entity: No

Agency Contact: Barbara Abate, Paralegal, Department of the Interior, Office of the Solicitor, 18th & C Streets, NW, Washington, DC 20240, 202 343-5216

RIN: 1092-AA05

[FR Doc. 87-21236 Filed 10-23-87; 8:45 am]

BILLING CODE 4310-17-T

DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)

Proposed Rule Stage

1081. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: The Age Discrimination Act of 1975, as amended; 42 USC 6101; 45 CFR 90

CFR Citation: 43 CFR 17, Subpart C

Legal Deadline: None.

Abstract: This rule will set forth guidelines for non-discrimination on the basis of age in programs or activities receiving Federal financial assistance from the Department.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	45 FR 976
Final Action	04/00/88	

Small Entity: No

Additional Information: LEGAL AUTHORITY: Originally scheduled: January 1979.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1986

Affected Sectors: None

Government Levels Affected: Local, State

Agency Contact: Melvin C. Fowler, Supervisory Equal Opportunity Spc., Department of the Interior, Office for Equal Opportunity, 18th and C Streets, NW, Washington, DC 20240, 202 343-3455

RIN: 1091-AA00

1082. ● NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: PL 92-318 Title IX of the Education Amendment of 1972; PL 93-568; PL 94-482; 20 USC 1681 to 1686

CFR Citation: 43 CFR 17, Subpart D

Legal Deadline: None.

Abstract: The Title IX regulation is intended to address the problem of discrimination on the basis of sex in any education program or activity receiving or benefiting from Federal financial assistance administered by the Department of the Interior (DOI).

No alternative for addressing problems of discrimination in DOI's education programs can be considered due to the fact that Title IX requires each Federal agency which extends Federal financial assistance to any educational program or activity, to issue rules and regulations implementing Title IX.

DOI's recipients are anticipated to incur expenses in two (2) areas: (1) Data collection and recordkeeping; (2) rectifying areas of noncompliance with Title IX. With respect to DOI, expenses will be incurred in three (3) areas: (1) Development and publication of the Title IX rule; (2) Provision of technical assistance; and (3) Accomplishing compliance reviews and enforcement activities.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	
NPRM Comment Period End	02/28/88	

Small Entity: Not Applicable

Agency Contact: Henry Harper, Equal Opportunity Specialist, Department of the Interior, Office for Equal Opportunity, Washington, DC 20240, 202 343-3913

RIN: 1091-AA02

DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)

Completed Actions

1083. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN DEPARTMENT OF THE INTERIOR PROGRAMS

Legal Authority: PL 95-602, Sec 504; 29 USC 794

CFR Citation: 43 CFR 17, Subpart E

Legal Deadline: Judicial. The Court asked that the rules be published as quickly as possible.

Abstract: This rule will provide for the enforcement of section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap as applied to programs or activities conducted by the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	09/11/85	50 FR 37006
NPRM Comment Period End	11/11/85	
Final Action	03/04/87	52 FR 6549

Small Entity: No

Additional Information: Originally scheduled: October 1985.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1986

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Joseph A. Canedo, Departmental Section 504 Program Manager, Department of the Interior, Office for Equal Opportunity, 18th and C Streets, NW, Washington, DC 20240, 202 343-7494

RIN: 1091-AA01

[FR Doc. 87-21236 Filed 10-23-87; 8:45 am]

BILLING CODE 4310-RE-T

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Proposed Rule Stage

1084. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 36 Stat. 855, as amended; 38 Stat. 586; 42 Stat. 1185, as amended; 56 Stat. 1021-1022; R.S. 463; R.S. 465; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b

CFR Citation: 43 CFR 4, Subpart D

Legal Deadline: None.

Abstract: The agency is proposing to make changes to its regulations governing appeals to the Board of Indian Appeals in order to ensure compatibility between those regulations and proposed changes to administrative appeals regulations of the Bureau of Indian Affairs in 25 CFR Part 2. The rulemaking would incorporate two specific changes to regulations in 43 CFR Part 4, Subpart D, listed on previous agenda.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Kathryn Lynn, Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3816

RIN: 1094-AA31

1085. ● BURDEN OF PROOF IN CIVIL PENALTY PROCEEDINGS

Legal Authority: 30 USC 1268; 5 USC 301

CFR Citation: 43 CFR 4.1155

Legal Deadline: None.

Abstract: The proposed amendment of 43 CFR 4.1155 would correct the allocation of the ultimate burden of persuasion as to the fact of a violation in a civil penalty proceeding under section 518 of the Surface Mining Control and Reclamation Act of 1977 by changing it from the Office of Surface Mining Reclamation and Enforcement to the person who petitions for review of the civil penalty.

Timetable:

Action	Date	FR Cite
NPRM	09/15/87	
NPRM Comment Period End	10/15/87	
Interim Final Rule	12/01/87	
Final Action Effective	01/01/88	

Small Entity: No

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094-AA33

1086. TRIBAL ACQUISITION OF INTERESTS UNDER SPECIAL STATUTE

Legal Authority: 25 USC 2201 to 2210

CFR Citation: 43 CFR 4.300; 43 CFR 4.301; 43 CFR 4.302; 43 CFR 4.303; 43 CFR 4.304; 43 CFR 4.305; 43 CFR 4.306; 43 CFR 4.307; 43 CFR 4.308

Legal Deadline: None.

Abstract: The Indian Land Consolidation Act (Act) was enacted on January 12, 1983, and changes existing law regarding the descent of Indian trust and restricted lands. The Act provides that certain undivided fractional interests in such lands can now be acquired by the tribe instead of descending by intestacy or devise. Existing regulations governing the probate of Indian lands by Indian Probate Judges must therefore be amended to conform with the Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Bruce A. Johnson, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203, 703 235-3810

RIN: 1094-AA08

1087. SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.401(c); 43 CFR 4.413

Legal Deadline: None.

Abstract: Rulemaking is being proposed to amend the requirements for proof of service of documents to require that a party serving a document other than the notice of appeal certify that he sent the document to the adverse party by mail.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Wm. Philip Horton, Chief Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094-AA25

1088. SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.411

Legal Deadline: None.

Abstract: The agency will propose to amend its procedural regulations to provide relief to appellants who mistakenly file their notices of appeal with the Board instead of the office specified in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	

Small Entity: No

Agency Contact: David L. Hughes, Attorney-Advisor, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094-AA30

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Final Rule Stage

1089. DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4, Subpart B

Legal Deadline: None.

Abstract: Rulemaking is being proposed o make express provision for in t imera review of information which is exempt, protected, or prohibited from unauthorized disclosure by Federal statute when such information is submitted in an administrative proceeding.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20755
NPRM Comment Period End	07/06/87	52 FR 20755
Final Action	11/00/87	

Small Entity: No

Agency Contact: Bruce A. Johnson, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3810

RIN: 1094-AA26

1090. SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Legal Authority: 30 USC 1201

CFR Citation: 43 CFR 4.1100 et seq, Subpart L

Legal Deadline: None.

Abstract: Regulations will be proposed to add procedures for the assessment of individual civil penalties under 30 USC 1268(f).

Timetable:

Action	Date	FR Cite
NPRM	12/24/86	51 FR 46846
NPRM Comment Period End	02/23/87	51 FR 46846
Final Action	09/01/87	

Small Entity: Undetermined

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094-AA28

1091. SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Legal Authority: 30 USC 1201

CFR Citation: 43 CFR 4.1100 et seq, Subpart L

Legal Deadline: None.

Abstract: Regulations are being proposed to add procedures for hearings and appeals under the permanent regulatory program of the Surface Mining Control and Reclamation Act of 1977 (including review of approval or disapproval of applications for permits).

Timetable:

Action	Date	FR Cite
NPRM	10/02/86	51 FR 35248
NPRM Comment Period End	11/03/86	51 FR 35248
Final Action	09/01/87	

Small Entity: Undetermined

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094-AA29

1092. ● DEPARTMENT HEARINGS AND APPEALS PROCEDURES; SUBPART A--GENERAL; OFFICE OF HEARINGS AND APPEALS; POWER OF THE SECRETARY AND DIRECTOR

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.5

Legal Deadline: None.

Abstract: The rulemaking corrects the language in the regulation to except from the reserved powers of the Secretary and the Director in appellate and other review proceedings before the Department only those proceedings before the Interior Board of Contract Appeals which are subject to the Contract Disputes Act of 1978. Other editorial changes are made to clarify the reserved powers of the Director under delegated authority of the Secretary.

Timetable:

Action	Date	FR Cite
Final Action	09/01/87	

Small Entity: No

Agency Contact: Frances A. Patton, Special Counsel to the Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3810

RIN: 1094-AA32

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Completed Actions

1093. SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Legal Authority: 43 USC 1201; 43 USC 1701

CFR Citation: 43 CFR 4, Subpart E

Legal Deadline: None.

Abstract: Rulemaking has been initiated to revise existing rules to place time limitations on the filing of petitions for reconsideration of decisions of the Board of Land Appeals.

Timetable:

Action	Date	FR Cite
NPRM	10/10/86	51 FR 36414
NPRM Comment Period End	11/10/86	51 FR 36414
Final Action	06/05/87	52 FR 21307
Final Action Effective	07/06/87	52 FR 21307

Small Entity: No

Additional Information: Originally scheduled: July 1979.

Agency Contact: James R. Kleiler, Attorney Advisor, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094-AA01

DOI--OHA

Completed Actions

1094. SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Legal Authority: 30 USC 1275; 5 USC 301

CFR Citation: 43 CFR 4.1276

Legal Deadline: None.

Abstract: The proposed rulemaking will revise existing rules relating to time limitations on the filing of petitions for reconsideration of decisions of the Board of Land Appeals.

Timetable:

Action	Date	FR Cite
Existing rule will remain unchanged	00/00/00	

Small Entity: No

Agency Contact: James R. Kleiler, Attorney-Advisor, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203, 703 235-3750

RIN: 1094-AA10

1095. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b

CFR Citation: 43 CFR 4.231(b); 43 CFR 4.236; 43 CFR 4.320(c); 43 CFR 4.323

Legal Deadline: None.

Abstract: The agency is proposing that the transcription of hearings before administrative law judges (Indian probate), which is presently required in all cases, should be made discretionary.

Timetable:

Action	Date	FR Cite
NPRM	08/12/86	51 FR 28846
NPRM Comment Period End	10/14/86	51 FR 28846
Final Action	07/14/87	52 FR 26344
Final Action Effective	08/13/87	52 FR 26344

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Bruce A. Johnson, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3810

RIN: 1094-AA15

[FR Doc. 87-21236 Filed 10-23-87; 8:45 am]

BILLING CODE 4310-79-T

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

1096. INJURIOUS WILDLIFE - MITTEN CRABS

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None.

Abstract: Regulations will be developed which would determine whether to add the mitten crab to the list of injurious wildlife, under the Lacey Act. Such act prohibits importation and introduction into the natural eco-system of the United States any species which may pose a threat to agriculture, the health and welfare of human beings and the welfare and survival of native wildlife species.

Timetable:

Action	Date	FR Cite
ANPRM	01/26/87	52 FR 2748
Request for Information Mitten crabs	01/26/87	52 FR 2748
NPRM	03/00/88	

Small Entity: Not Applicable

Agency Contact: Lynn B Starnes, Chief, Division of Fish and Wildlife, Management Assistance, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 632-2202

RIN: 1018-AB04

1097. ● INJURIOUS WILDLIFE

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None.

Abstract: Regulations will be revised regarding importation of fish or fish eggs of the fish family Salmonidae.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Undetermined

Agency Contact: Joseph J Webster, Acting Chief, National Fish Hatcheries, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, D.C. 20240, 202 653-8746

RIN: 1018-AB13

1098. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Statutory. In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Aleutian shield-fern
NPRM 04/24/87 (52 FR 13729)
Final Action 04/00/88

Barbaco
NPRM 04/24/87 (52 FR 13790)
Final Action 04/00/88

California freshwater shrimp
NPRM 04/22/87 (52 FR 13754)
Final Action 04/00/88

Chisos Mountain hedgehog cactus
NPRM 07/06/87 (52 FR 25275)
Final Action 07/00/88

Cumberland sandwort
NPRM 07/06/87 (52 FR 25268)
Final Action 07/00/88

Daphnopsis hellerana
NPRM 07/06/87 (52 FR 25265)
Final Action 07/00/88

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DOI—FWS

Proposed Rule Stage

Granite outcrop plants
NPRM 02/19/87 (52 FR 5150)
Final Action 02/00/88
Heller's blazing star
NPRM 02/19/87 (52 FR 5155)
Final Action 02/00/88
Higuero de Sierra
NPRM 01/14/87 (52 FR 1494)
Final Action 01/00/88
Houghton's goldenrod
NPRM 08/19/87 (52 FR 31045)
Final Action 08/00/88
Kearney's blue star
NPRM 07/10/87 (52 FR 26030)
Final Action 07/00/88
Lakeside daisy
NPRM 08/19/87 (52 FR 31048)
Final Action 08/00/88
Large-fruited sand verbena
NPRM 06/16/87 (52 FR 22944)
Final Action 06/00/88
Louisiana pearlshell
NPRM 04/24/87 (52 FR 13794)
Final Action 04/00/88
Mathis spiderling
NPRM 07/10/87 (52 FR 26033)
Final Action 07/00/88
Mexican and Sanborn's long nosed bats
NPRM 07/06/87 (52 FR 25271)
Final Action 07/00/88
Palo de Nigua
NPRM 04/24/87 (52 FR 13792)
Final Action 04/00/88
Pitcher's thistle
NPRM 07/20/87 (52 FR 27229)
Final Action 07/00/88
Relict trillium
NPRM 06/04/87 (52 FR 21088)
Final Action 06/00/88
Sacramento prickly poppy
NPRM 07/13/87 (52 FR 26164)
Final Action 07/00/88
Shasta crayfish
NPRM 07/10/87 (52 FR 26036)
Extend Comment Period 09/09/87 (52 FR 33980)
Final Action 11/00/88
Silverling
Withdrawn 10/25/83 (48 FR 49316)
Tipton kangaroo rat
NPRM 07/10/87 (52 FR 26040)
Extend Comment Period 09/09/87 (52 FR 33980)
Final Action 11/00/88
Visayan deer
NPRM 08/19/87 (52 FR 31051)
Final Action 08/00/88
White-haired goldenrod
NPRM 04/24/87 (52 FR 13797)
Final Action 04/00/88

Small Entity: No

Additional Information: After reviewing the biological status of candidate and listed species, the Service promptly proceeds to propose rules to list, delist, or reclassify such species as appropriate. Generally, final action on the proposed rules must be taken within one year.

Agency Contact: William E Knapp, Acting Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-2771

RIN: 1018-AA10

1099. ● PROPOSED DETERMINATION OF NONESSENTIAL EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF THE YELLOWFIN MADTOM IN VIRGINIA

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None.

Abstract: The Service proposes to reintroduce a small catfish, the yellow madtom (Noturus flavipinnis), into the North Fork Holston River, Smyth County, Virginia, and determine this population to be a nonessential experimental population according to Section 10(j) of the Endangered Species Act of 1973, as amended. The Yellowfin madtom once likely inhabited many of the lower gradient streams of the Tennessee River basin upstream of Chattanooga, Tennessee. Presently, populations are confined to only three stream reaches in the Tennessee River Valley. This action is being taken in an effort to reestablish the yellowfin madtom within its historic range.

Timetable:

Action	Date	FR Cite
NPRM	09/08/87	52 FR 33850
Final Action	06/00/88	

Small Entity: Not Applicable

Agency Contact: William E Knapp, Acting Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-2771

RIN: 1018-AB08

1100. ● CAPTIVE BRED WILDLIFE

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None.

Abstract: This rule will be revised to relieve certain restrictions on the public that have been determined to be outmoded, burdensome and counter productive.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Not Applicable

Agency Contact: Larry LaRochelle, Wildlife Biologist, Office of, Management Authority, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1903

RIN: 1018-AB10

1101. ● PROPOSED DETERMINATION OF NONESSENTIAL EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF THE NASHVILLE CRAYFISH IN TENNESSEE

Significance: Regulatory Program

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None.

Abstract: The Service proposes to reintroduce the Nashville Crayfish (Orconectes shoupi), federally listed as an endangered species, into Richland Creek, Davison County, Tennessee, and to determine this population to be a nonessential experimental population according to Section 10(j) of the Endangered Species Act of 1973, as amended. Section 10(j) of the Act authorizes nonessential experimental populations to be treated as if they were proposed species for the purposes of Section 7 of the Act. The Nashville crayfish is presently know to inhabit Mill Creek and five of its tributaries in Davidson and Williamson Counties, Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	06/00/88	

Small Entity: Not Applicable

Agency Contact: William E Knapp, Acting Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 235-2771

RIN: 1018-AB12

1102. MARINE MAMMALS: INCIDENTAL TAKING BY COMMERCIAL FISHING OPERATIONS

Legal Authority: 16 USC 13

CFR Citation: 50 CFR 18

Legal Deadline: None.

DOI—FWS

Proposed Rule Stage

Abstract: The Service will develop regulations to implement a provision contained in the 1981 amendments to the Marine Mammal Protection Act, concerning the incidental taking of marine mammals by commercial fishermen. The rules would apply to those species of marine mammals for which the Service has responsibility, i.e. sea otters, walrus, polar bears, manatees, and dugongs, except those listed as depleted.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	06/00/88	

Small Entity: Undetermined

Agency Contact: Lynn Starnes, Chief, Division of Fish and Wildlife, Management Assistance, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 632-2202

RIN: 1018-AA96

1103. MARINE MAMMAL PROTECTION ACT AND ENDANGERED SPECIES ACT REVISIONS

Legal Authority: 16 USC 1371; 16 USC 1536

CFR Citation: 50 CFR 18; 50 CFR 402

Legal Deadline: None.

Abstract: This rule will implement the 1986 amendments to the Marine Mammal Protection Act to allow the incidental take of depleted as well as non-depleted marine mammals, modify standards for determining whether to allow incidental taking and require that the incidental take of endangered or threatened marine mammals not be authorized until authorized under the provisions of the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Agency Contact: Lynn B Starnes, Chief, Division of Fish and, Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 632-2202

RIN: 1018-AB05

1104. SUBSISTENCE TAKE OF MIGRATORY BIRDS IN ALASKA

Significance: Regulatory Program

Legal Authority: 16 USC 703

CFR Citation: 50 CFR 20

Legal Deadline: None.

Abstract: The Service will develop regulations that provide for subsistence harvest of migratory birds in Alaska. This action is being developed in cooperation with the State of Alaska, Alaskan Native organizations, and Canada.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Marvin L. Plenert, Acting Assistant Director, Refuge and Wildlife, Department of the Interior, United States Fish and Wildlife Service, Room 3252 Interior, US Fish and Wildlife Service, Washington, DC 20240, 202 343-5333

RIN: 1018-AB03

1105. GENERAL PERMIT PROCEDURES AND MIGRATORY BIRD PERMITS: RAPTOR PROPAGATION AND FALCONRY REGULATIONS

Legal Authority: 16 USC 703; 16 USC 1531

CFR Citation: 50 CFR 21; 50 CFR 13

Legal Deadline: None.

Abstract: This action will examine changes to the restrictions concerning propagation of raptors and standards for falconry. The Service will expand authorized activities and de-regulate certain other activities.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/86	51 FR 18812
ANPRM Comment Period End	05/23/86	51 FR 18812
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Clark Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, Room 300 Hamilton, US Fish and Wildlife Service, Washington, DC 20240, 202 343-8242

RIN: 1018-AB01

1106. ● ENDANGERED SPECIES CONVENTION

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 23

Legal Deadline: None.

Abstract: The regulations implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) will be clarified and revised to incorporate recommendations of the Parties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Richard Jachowski, Acting Chief, Wildlife Permit Office, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1937

RIN: 1018-AA29

1107. ● SPORT FISHING

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 33

Legal Deadline: None.

Abstract: The Service will review annually, and prior to each fishing season may amend fishing regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	10/05/87	52 FR 37186
Final Action	12/00/87	

Small Entity: No

Additional Information: Originally scheduled: October 1983

Agency Contact: James F. Gillett, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA50

DOI—FWS

Proposed Rule Stage

1106. ● IMPLEMENTATION OF KLAMATH RIVER BASIN FISHERY RESOURCES RESTORATION ACT

Legal Authority: 16 USC 460

CFR Citation: 50 CFR 72

Legal Deadline: None.

Abstract: This rule is necessary to implement the Klamath River Basin Fishery Resources Restoration Act. These include designation of the Klamath River Basin Conservation Area, establishment of qualifications of volunteers who carry out surveys, censuses, and other scientific studies, establishment of standards for determining the value of in-kind contributions and real and personal property provided by non-Federal sources to implement the conservation area restoration program, and establishment of the basis for determining whether matching funds will be provided in a timely and appropriate manner.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/87	52 FR 9550
ANPRM Comment Period End	05/11/87	
NPRM	11/00/87	

Small Entity: Not Applicable

Agency Contact: Gary Edwards, Assistant Director - Fisheries, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-6394

RIN: 1018-AB11

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1109. HUMANE TRANSPORT OF WILD MAMMALS AND BIRDS

Significance: Regulatory Program

Legal Authority: PL 97-79, 95 Stat, 073

CFR Citation: 50 CFR 14

Legal Deadline: Statutory. 180 days after enactment of Public Law 97-79, dated November 16, 1981.

Abstract: Section 9(d) of the Lacey Act Amendments of 1981 shifts authority for prescribing requirements for the humane and healthful transport of wild mammals and birds from the Secretary of the Treasury to the Secretary of the Interior. This authority will be promulgated in Part 14.

Timetable:

Action	Date	FR Cite
ANPRM Notice of Public Meeting	02/26/82	47 FR 8386
ANPRM	06/30/82	47 FR 28431
NPRM	12/04/85	50 FR 49709
NPRM Comment Period End	03/05/86	51 FR 4945
Final Action	10/00/87	

Small Entity: No

Additional Information: Originally scheduled: April 1982.

Agency Contact: Richard Jachowski, Acting Chief, Wildlife Permit Office, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1937

RIN: 1018-AA07

1110. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Legal Authority: 16 USC 3376(a)(2)

CFR Citation: 50 CFR 14

Legal Deadline: None.

Abstract: The Service would amend the requirements for marking and labeling containers or packages containing fish or wildlife in a joint rulemaking with the Department of Commerce. The Lacey Act Amendments of 1981 make it unlawful to import, export, or transport in interstate commerce any containers or packages containing fish or wildlife that are not marked or labeled in accordance with regulations jointly issued by the Secretaries of the Interior and of Commerce. Such regulations will be in accordance with existing commercial practices.

Timetable:

Action	Date	FR Cite
NPRM	07/07/86	51 FR 24559
NPRM Comment Period End	09/05/86	51 FR 24559
Final Action	12/00/87	

Small Entity: No

Additional Information: Originally scheduled: October 1983.

Agency Contact: Clark R. Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-6242

RIN: 1018-AA79

1111. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Statutory. In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:

Action	Date	FR Cite
NPRM Reopen comment period	10/31/86	51 FR 39758
Final Action Withdrawn	07/27/87	52 FR 28026
Flattened musk turtle		
Final Action	06/11/87	(52 FR 22418)
Pecos bluntnose shiner		
NPRM	05/11/84	(49 FR 20031)
Final Action	02/20/87	(52 FR 5295)
Sacramento Mountains thistle		
NPRM	05/16/84	(49 FR 20735)
Final Action	06/16/87	(52 FR 22933)
Thornber's fishhook cactus		
NPRM	04/24/84	(49 FR 17551)
Final Action	00/00/00	
Welsh's milkweed		
NPRM	06/06/84	(49 FR 23392)
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: Originally scheduled: October 1984.

DOI—FWS

Final Rule Stage

Agency Contact: William E Knapp, Acting Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 235-2771

RIN: 1018-AA84

1112. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Statutory. In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify, or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:

Bay Checkerspot butterfly
NPRM Reopen comment period 07/02/86 (51 FR 24178)
Final Action 09/16/87 (52 FR 35366)
Blackside dace
NPRM 05/21/86 (51 FR 18624)
Final Action 00/00/00
Inyo brown towhee (critical habitat)
NPRM 08/03/87 (52 FR 28787)
Final Action 00/00/00
Inyo brown towhee(listing)
NPRM 03/07/85 (50 FR 9300)
Final Action 08/03/87 (52 FR 28717)

Small Entity: Not Applicable

Additional Information: Originally scheduled: April 1985.

Agency Contact: William E Knapp, Acting Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th & C Streets, NW, Washington, DC 20240, 703 235-2771

RIN: 1018-AA85

1113. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Statutory. In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Least Bell's vireo critical habitat
Final Action 00/00/00
Least Bell's vireo listing
NPRM 05/03/85 (50 FR 18968)
Final Action 05/02/86 (51 FR 16474)
Little Colorado spinedace
NPRM 05/22/85 (50 FR 21095)
Final Action 09/16/87 (52 FR 35034)

Small Entity: Not Applicable

Additional Information: After reviewing the biological status of candidate and listed species, the Service promptly proceeds to propose rules to list, delist, or reclassify such species as appropriate. Generally, final action on the proposed rules must be taken within one year.

Agency Contact: William E Knapp, Acting Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 6th Floor Broyhill (OES), Washington, DC 20240, 703 235-2771

RIN: 1018-AA95

1114. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Statutory. In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Alabama red bellied turtle
NPRM 07/08/86 (51 FR 24730)
Final Action 06/16/87 (52 FR 22939)
American alligator
NPRM 06/02/86 (51 FR 19760)
Final Action 06/04/87 (52 FR 21059)
Audubon's crested caracara
NPRM 06/23/86 (51 FR 22838)
Final Action 07/06/87 (52 FR 25229)
Blackside dace
NPRM 05/22/86 (51 FR 18624)
Final Action 06/12/87 (52 FR 22580)
Blowout penstemon
Bruneau hot spring snail
NPRM 12/30/86 (51 FR 47033)
Final Action 12/00/87
Hayun lagu
NPRM 10/25/85 (50 FR 43423)
Final Action 02/18/87 (52 FR 4907)
Jesup's milk vetch
NPRM 12/19/85 (50 FR 51718)
Final Action 06/05/87 (52 FR 21481)
Leopard, goral, serow in Nepal
NPRM 06/14/85 (50 FR 24917)
Final Action 00/00/00
Tinian monarch
NPRM 11/01/85 (50 FR 45632)
Final Action 04/06/87 (52 FR 10890)
Waccamaw silverside
NPRM 01/16/86 (51 FR 2409)
Final Action 04/06/87 (52 FR 11277)

Small Entity: Not Applicable

Agency Contact: William E Knapp, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-2271

RIN: 1018-AA98

1115. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 17

Legal Deadline: Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

NPRM 04/29/86 (51 FR 15929)
Final Action 00/00/00

Camberus zophonastes
NPRM 05/05/86 (51 FR 16589)
Final Action 04/07/87 (52 FR 11170)

Cape Fear Shiner
NPRM 07/11/86 (51 FR 25219)
Final Action 09/25/87 (52 FR 36034)

Fish Creek Springs tui chub
NPRM 03/10/86 (51 FR 8215)
Final Action 00/00/00

Florida scrub jay
NPRM 05/21/86 (51 FR 18827)
Final Action 06/03/87 (52 FR 20715)

Geocarpon minimum
NPRM 04/10/86 (51 FR 12463)
Final Action 06/16/87 (52 FR 22930)

Gopher tortoise
NPRM 07/08/86 (51 FR 24723)
Final Action 07/07/87 (52 FR 25376)

Mount Graham red squirrel
NPRM 05/21/86 (51 FR 18630)
Final Action 06/03/87 (52 FR 20894)

Mussels, Curtis' et al
NPRM 04/07/86 (51 FR 11761)
Final Action 04/07/87 (52 FR 11162)

Nashville crayfish
NPRM 01/24/86 (51 FR 3229)
Final Action 09/26/87 (51 FR 34410)

Palo de Ramon
NPRM 04/10/86 (51 FR 12455)
Final Action 01/14/87 (52 FR 1459)

Ranched Nile crocodile-Zimbabwe
NPRM 03/07/86 (51 FR 7965)
Final Action 06/17/87 (52 FR 23148)

Ringed sawback turtle
NPRM 01/21/86 (51 FR 2741)
Final Action 12/23/86 (51 FR 45907)

Rough leaved loosestrife
NPRM 04/10/86 (51 FR 12451)
Final Action 06/12/87 (52 FR 22585)

Running Buffalo clover
NPRM 03/10/86 (51 FR 8217)
Final Action 06/05/87 (52 FR 21478)

San Rafael cactus
NPRM 03/27/86 (51 FR 10560)
Final Action 09/16/87 (52 FR 34914)

Scrub lupine
NPRM 04/24/86 (51 FR 15514)
Final Action 04/07/87 (52 FR 11172)

Spreading wild buckwheat
NPRM 04/07/86 (51 FR 11880)
Extend Comment Period 09/08/87 (52 FR 33649)
Final Action 09/00/88

Virgin River chub
NPRM 06/24/86 (51 FR 22949)
Final Action 00/00/00

Wheeler's peperomia
NPRM 04/10/86 (51 FR 12457)
Final Action 01/14/87 (52 FR 1459)

White bladderpod
NPRM 04/09/86 (51 FR 12184)
Final Action 03/11/87 (52 FR 7424)

Wide leaf warea
NPRM 05/16/86 (51 FR 18010)
Final Action 04/29/87 (52 FR 15501)

Wild Nile crocodile-Zimbabwe
NPRM 01/21/87 (52 FR 2227)
Final Action 01/00/88

Small Entity: Not Applicable

Agency Contact: William E Knapp, Acting Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-2771

RIN: 1018-AB02

1116. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 017

Legal Deadline: Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM Extension of deadline	07/21/87	52 FR 27437

Black capped vireo
NPRM 12/12/86 (51 FR 44808)
Final Action 12/00/87

Bradshaw's lomatium
NPRM 11/21/86 (51 FR 42116)
Final Action 11/00/87

Cyathea dryopteroides and Ilex cookii
NPRM 09/25/86 (51 FR 34103)
Final Action 06/16/87 (52 FR 22936)

Florida bonamia
NPRM 11/04/86 (51 FR 40044)
Final Action 11/00/87

Florida lizards
NPRM 01/21/87 (52 FR 2242)
Final Action 01/00/88

Huachuca vole
NPRM 01/05/87 (52 FR 306)
Final Action 10/01/87 (52 FR 36776)

Miami palmetto
NPRM Extend Comment Period 07/21/87 (52 FR 27437)
Final Action 05/00/88

Pawnee montane skipper
NPRM 09/25/86 (51 FR 34106)
Final Action 09/25/87 (52 FR 36176)

Puerto Rican crested toad
NPRM 12/23/86 (51 FR 45923)
Final Action 12/00/87

Roseate tern
NPRM 11/04/86 (51 FR 40047)
Final Action 11/00/87

Small Entity: Not Applicable

Agency Contact: William E Knapp, Acting Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-2771

RIN: 1018-AB06

1117. ● PROPOSED DETERMINATION OF EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF COLORADO SQUAWFISH

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None.

Abstract: The Service proposes to introduce Colorado squawfish (Ptychocheilus lucius) into the lower Colorado River in Arizona and to determine the population to be "nonessential experimental" population according to Section 10(j) of the Endangered Species Act. The Service will propose a special rule to allow take in accordance with State law. In the past, Colorado squawfish were more widespread in the State of Arizona, occurring in several river drainages. This action is being taken in an effort to establish an additional population within the species' historic range.

Timetable:

Action	Date	FR Cite
NPRM	06/26/87	52 FR 32143
Final Action	06/00/88	

Small Entity: Not Applicable

Agency Contact: William E Knapp, Acting Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington DC 20240, 703 235-2771

RIN: 1018-AB09

1118. MARINE MAMMALS: REPORTING AND SEALING REQUIREMENTS FOR ALASKA NATIVES

Legal Authority: 16 USC 1382(a)

CFR Citation: 50 CFR 18

Legal Deadline: None.

Abstract: The Service will propose rules that would require the marking, tagging, or otherwise identifying of raw parts of certain marine mammals lawfully taken for Alaska Natives for purposes of subsistence or the creation and selling of authentic native articles of handicrafts and clothing. This rule is necessary for management purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/03/85	50 FR 49577
Extend comment period	03/25/86	51 FR 10243
Final Action	03/00/88	

Small Entity: No

Additional Information: Originally scheduled: July 1980.

Agency Contact: Lynn Starnes, Chief, Division of Fish and Wildlife, Management Assistance, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 632-2302

RIN: 1018-AA20

1119. MIGRATORY BIRD HUNTING

Significance: Regulatory Program

Legal Authority: 16 USC 703 to 711

CFR Citation: 50 CFR 20

Legal Deadline: None.

Abstract: The Service annually publishes a series of documents establishing migratory bird hunting regulations for the 1988-89 season. This annual process consists of proposed frameworks providing outside limits for dates and hours of shooting, as well as bag and possession limits; final frameworks for hunting seasons from which States may select regulations; and final rules approving such State selections.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/88	
NPRM	06/00/88	
Final Action	09/00/88	

1987-88 seasons
ANPRM 03/13/87 (52 FR 7900)
NPRM 05/03/87 (52 FR 20757)
Final Action 09/29/87 (52 FR 36496)

1987-88 seasons final frameworks
Final Action 08/06/87 (52 FR 28176)

Small Entity: Yes

Additional Information: SMALL BUSINESSES CONT: Small entities likely to be affected by these rules include some sporting goods stores, hardware stores, motels and hotels, restaurants, clothing stores, boat and marine equipment stores, marinas, gasoline stations, private hunting clubs, land owners' leasing hunting rights, and mail order houses selling hunting equipment and supplies. Originally scheduled: April 1985. E.O. 12291: These rules are major because of the economic values associated with migratory game bird hunting; however, the need to obtain and consider the latest population data for these migratory birds requires that the regulatory schedule be shortened. The regulatory impact analysis, as required by E.O. 12291, and the small entity flexibility analysis, as required by 5 U.S.C. 601 et seq., have been combined into one analysis as provided for by both authorities. Copies of the combined analysis will be available from the Agency Contact upon publication of the Notice of Intent in March 1985.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Rollin D. Sparrowe, Chief, Migratory Bird Management Office, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 254-3207

RIN: 1018-AA24

1120. SUBSISTENCE TAKE OF MIGRATORY BIRDS

Significance: Regulatory Program

Legal Authority: 16 USC 701 to 718

CFR Citation: 50 CFR 20

Legal Deadline: None.

Abstract: In 1979, the United States and Canada signed a protocol to amend the 1916 treaty concerning management of migratory birds. The protocol initiated efforts to recognize historical native subsistence of such birds. A rule will be developed to implement this international agreement.

Timetable:

Action	Date	FR Cite
ANPRM	03/10/83	48 FR 10101
NPRM	05/19/86	51 FR 18349
Final Action	02/00/88	

Small Entity: Undetermined

Additional Information: This action will follow that in RIN 1018-AA90 that is listed in the Regulatory Program of the United States Government. The Protocol in 1018-AA90 was reviewed by Canadian officials and they wish to reopen negotiations. This will delay indefinitely final action on development of an international agreement.

Agency Contact: Marvin Plenert, Acting Assistant, Director - Refuges and Wildlife, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-5333

RIN: 1018-AA92

1121. NONTOXIC SHOT REGULATIONS FOR HUNTING MIGRATORY BIRDS

Significance: Regulatory Program

Legal Authority: 16 USC 701 to 718

CFR Citation: 50 CFR 20

Legal Deadline: None.

Abstract: The Service, in coordination with the States, identifies areas of migratory bird hunting where the use of conventional lead shotshells results in lead poisoning of such birds and other wildlife. The Service will review existing nontoxic shot zones for the continued need for inclusion, and propose new areas for consideration as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
Final Action	09/00/88	

1987-88 season zones
Final Action 10/05/87 (52 FR 37147)

1988-89 season zones
Final Action 09/00/88

Small Entity: No

Agency Contact: Rollin Sparrowe, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 536 Matomic, Washington, DC 20240, 202 254-3207

RIN: 1018-AA93

1122. PUBLIC ENTRY AND USE

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 26

Legal Deadline: None.

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DOI—FWS — **Final Rule Stage**

Abstract: Regulations will be proposed which will simplify and reduce administrative costs related to the process by which special regulations, relating to public, access use, and recreation are issued for units of the National Wildlife Refuge system. Special regulations will be used for public access use and recreation on individual national wildlife refuges.

Timetable:

Action	Date	FR Cite
Final Action	12/00/88	
Public entry and use Final Action	12/00/87	

Small Entity: No

Additional Information: Originally scheduled: April 1981.

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA36

1123. HUNTING

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 32

Legal Deadline: None.

Abstract: The Service will review annually and prior to each hunting season may amend hunting regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	51 FR 24179
Final Action	09/00/88	
1987-89 seasons Final Action	09/00/87	

Small Entity: No

Additional Information: Originally scheduled: April 1983.

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA71

1124. FISH AND WILDLIFE RESTORATION GRANTS; INTEREST EARNED ON LICENSE FEES

Legal Authority: 16 USC 669i; 16 USC 777i

CFR Citation: 50 CFR 80

Legal Deadline: None.

Abstract: This action proposes to incorporate general accepted accounting principles related to interest earned on fees collected by the States through the sale of hunting and fishing licenses. The rule would require States to ensure that such interest is used in their fish and wildlife conservation programs.

Timetable:

Action	Date	FR Cite
NPRM	12/09/85	51 FR 50185
NPRM Comment Period End	03/28/86	51 FR 7579
Final Action	03/00/88	

Small Entity: No

Agency Contact: Conley Moffett, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1526

RIN: 1018-AA97

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS) — **Completed Actions**

1125. SOUTHERN SEA OTTER EXPERIMENTAL POPULATION

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None.

Abstract: Regulations will be proposed to identify an experimental population for the southern sea otter (Euhydra lutris nereis) as provided by Section 19(j) of the 1982 amendments to the ESA. The experimental population designation will increase management flexibility to enhance the recovery effort for this species.

Timetable:

Action	Date	FR Cite
NPRM	08/15/86	51 FR 29362
ANPRM Comment Period End	11/17/86	51 FR 29362
Final Action Final Rule - Established experimental population	08/11/87	52 FR 29754
Final Action Effective	08/11/87	52 FR 29754

Small Entity: Undetermined

Agency Contact: William E Knapp, Acting Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th & C Streets, NW, Washington, DC 20240, 703 235-2771

RIN: 1018-AA87

1126. NATIONAL WILDLIFE REFUGES

Legal Authority: 16 USC 668dd et seq; Withdrawal Proclamation of 2/11/80, Sec 204(c) (45 FR 9582)

CFR Citation: 50 CFR 26

Legal Deadline: None.

Abstract: The emergency management rules for the twelve areas in Alaska, which were withdrawn and reserved as National Wildlife Refuges, will be rescinded.

Timetable:

Action	Date	FR Cite
NPRM Emergency rule	03/04/80	45 FR 14192
NPRM Propose rescinding rule	04/30/86	51 FR 16083
Withdrawn	12/12/86	51 FR 44791

Small Entity: Undetermined

Additional Information: Originally scheduled: July 1980.

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th

DOI—FWS — **Completed Actions**

and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA35

[FR Doc. 87-21230 Filed 10-23-87; 8:45 am]

BILLING CODE 4310-55-T

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS) — **Prerule Stage**

1127. APPRAISAL AUTHORITY UNDER THE LAND AND WATER CONSERVATION FUND STATE GRANT PROGRAM

Legal Authority: 42 USC 4601; 42 USC 4633

CFR Citation: 41 CFR 114-50

Legal Deadline: None.

Abstract: Currently, appraisals of land acquisitions supported by Land and Water Conservation Fund State Grants must be reviewed by the National Park Service if they are estimated at $100,000 or more. The National Park Service will examine whether this is an appropriate threshold given the administrative burden placed on the States and the potential for abuse of the program.

Timetable:

Action	Date	FR Cite
Complete review and evaluation of current policy	12/31/87	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Sam Hall, Chief of Recreation Grants Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013, 202 343-3780

RIN: 1024-AB68

1128. NATIONAL PARK SERVICE ACQUISITION REGULATION

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 1469; 48 CFR 1452.280; 48 CFR 1453.2; 48 CFR 1453.3

Legal Deadline: None.

Abstract: The proposed regulation would establish Bureau-specific solicitation provisions, contract clauses and prescriptions for their use. These are necessary to supplement and implement the Federal Acquisition Regulation and the Department of the Interior Acquisition Regulation. This will provide standard contractual language for provisions and clauses not otherwise available in the Federal or Interior regulations that are needed by our operational contracting activities. This action should result in cost savings as this development and standardization will relieve the individual contracting activities of the responsibility of developing their own.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Lawrence E. Sawler, Chief, Acquisition and Assistance, System Branch, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 523-5821

RIN: 1024-AB35

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS) — **Proposed Rule Stage**

1129. UPPER DELAWARE SRR: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7

Legal Deadline: None.

Abstract: This regulation pertains to the Upper Delaware Scenic and Recreation River in New York State. The final regulations published on June 30, 1983 prohibit certain fishing methods that are allowed by New York State law. This proposed regulation would authorize fishing in any manner consistent with existing State law.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: William Supernaugh, Acting Chief, Ranger Activities, Department of the Interior, National Park Service, 143 South Third Street, Philadelphia, PA 19106, 215 597-7875

RIN: 1024-AA87

1130. APPALACHIAN NATIONAL SCENIC TRAIL

Legal Authority: 16 USC 3; 16 USC 1246(i)

CFR Citation: 36 CFR 7.100

Legal Deadline: None.

Abstract: The Service proposes to review the levels of resource and visitor protection on the Appalachian Trail provided by the General Regulations in 36 CFR Parts 1 and 2 and to revise 36 CFR 7.100 accordingly.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: David A. Ritchie, Project Manager, Department of the Interior, National Park Service, Appalachian Trail Project Office,

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DOI—NPS

Proposed Rule Stage

Harpers Ferry Center, Harpers Ferry, WV 25425, 304 535-2346

RIN: 1024-AB07

1131. HAWAII VOLCANOES NATIONAL PARK: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.25

Legal Deadline: None.

Abstract: The Service is proposing to revise the fishing regulations that pertain to Hawaii Volcanoes National Park to clarify provisions that address Native Hawaiian fishing rights in the Kalapana extension area of the Park.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: David Ames, Superintendent, Hawaii Volcanoes National Park, Department of the Interior, National Park Service, Hawaii 96718-0052, 808 967-7311

RIN: 1024-AB66

1132. MAMMOTH CAVE NP: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.36

Legal Deadline: None.

Abstract: This proposed regulation pertains to Mammoth Cave National Park. The regulation will allow fishing to take place in accordance with applicable Kentucky State law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024-AA94

1133. CAPE HATTERAS NATIONAL SEASHORE: OFF-ROAD VEHICLE REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.58

Legal Deadline: None.

Abstract: The Service proposes to designate by regulation routes available for off-road vehicle use at Cape Hatteras National Seashore, NC.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Undetermined

Agency Contact: Thomas Hartman, Superintendent, Cape Hatteras National Seashore, Department of the Interior, National Park Service, Route 1, Box 675, Manteo, NC 27954, 919 473-2111

RIN: 1024-AB54

1134. ROCKY MOUNTAIN NATIONAL PARK: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.7(a)

Legal Deadline: None.

Abstract: The service proposes to revise this section to further define waters closed to fishing as well as to further clarify the possession limit of fish.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Undetermined

Agency Contact: David R. Stevens, Research Biologist, Department of the Interior, National Park Service, Rocky Mountain National Park, Estes Park, CO 80517, 303 586-2371

RIN: 1024-AB46

1135. ROCKY MOUNTAIN NATIONAL PARK: TRUCKING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.7

Legal Deadline: None.

Abstract: The Service proposes to revise regulations that address permit requirements and establish a fee schedule for commercial trucks that use Trail Ridge Road within Rocky Mountain National Park.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: Undetermined

Agency Contact: David Essex, Chief Ranger, Rocky Mountain National Park, Department of the Interior, National Park Service, Estes Park, CO 80517, 303 586-2371

RIN: 1024-AB67

1136. ● GLEN CANYON NATIONAL RECREATION AREA: COMMERICAL OPERATIONS AND WHITEWATER BOATING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.70

Legal Deadline: None.

Abstract: The service proposes to amend special regulations that apply to Glen Canyon National Recreation Area by clarifying provisions that pertain to commercial operations and deleting duplicative provisions that pertain to Colorado River Whitewater boat trips.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: No

Agency Contact: John Lancaster, Superintendent, Department of the Interior, National Park Service, Glen Canyon National Recreation Area, Box 1507, Page, AZ 86040, 602 645-2471

RIN: 1024-AB72

1137. BIG THICKET NATIONAL PRESERVE: HUNTING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.65

Legal Deadline: None.

Abstract: The Service proposes to revise the hunting regulations that apply to the Big Thicket. Changes proposed include dates for open seasons, the use of temporary blinds, permits, the use of calling devices and the use of dogs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Ken Mabery, Park Ranger, Department of the Interior, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, NM 87501, 505 988-6371

RIN: 1024-AB48

DOI—NPS

Proposed Rule Stage

1138. WHISKEYTOWN NATIONAL RECREATION AREA FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.91

Legal Deadline: None.

Abstract: The Service is proposing to allow fishing at Whiskeytown National Recreation area in any manner authorized under applicable state law.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Undetermined

Agency Contact: Ray Foust, Superintendent, Department of the Interior, National Park Service, PO Box 188, Whiskeytown, CA 96095, 916 241-6584

RIN: 1024-AB61

1139. ● WHISKEYTOWN UNIT, WHISKEYTOWN - SHASTA - TRINITY NRA GOLD PANNING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.91

Legal Deadline: None.

Abstract: The service proposes to allow visitors to engage in limited Gold Panning Activities, using pan and trowel only, in certain designated streams within the recreation area. Any gold recovered by such methods could be retained for personal, non-commercial use.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Ray Foust, Superintendent, Department of the Interior, National Park Service, Whiskeytown National Recreation Area, Box 188, Whiskeytown, CA 96095, 916 241-6584

RIN: 1024-AB71

1140. CAPE LOOKOUT NATIONAL SEASHORE: OFF-ROAD VEHICLES

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.98

Legal Deadline: None.

Abstract: This proposed regulation pertains to Cape Lookout National Seashore and will establish criteria for the operation of vehicles in off road situations consistent with existing NPS policy.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024-AA89

1141. NPS UNITS IN ALASKA: CONCESSIONS

Legal Authority: 16 USC 1

CFR Citation: 36 CFR 13

Legal Deadline: None.

Abstract: This rulemaking will establish procedures for providing commercial visitor services in certain Alaska national park areas as provided for by the Alaska National Interest Lands Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: William Tanner, Staff Park Ranger, Department of the Interior, National Park Service, Alaska Regional Office - NPS, 2525 Gambell Street, Anchorage, AK 99503, 907 271-4551

RIN: 1024-AB18

1142. FIRE ISLAND NATIONAL SEASHORE: ZONING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 28

Legal Deadline: None.

Abstract: This rule will be revised to add new definitions, to amend permitted and prohibited uses and to update zoning standards to reflect Seashore policy and local zoning ordinances.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Larry Hovig, Department of the Interior, National Park Service, North Atlantic Regional Office, 15 State Street, Boston, MA 02109, 617 223-1178

RIN: 1024-AA80

1143. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT DEPARTMENT OF THE INTERIOR REGULATIONS

Legal Authority: 16 USC 469; 16 USC 470; 16 USC 470aa

CFR Citation: 36 CFR 66

Legal Deadline: None.

Abstract: This rule is part of the Department's proposed overall rulemaking with respect to the Archeological and Historic Preservation Act of 1974. This guidance will facilitate the Department's coordination of activities authorized under the Act, and its reporting to Congress on the scope and effectiveness of the program, as required by section 5(c) of the Act.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/85	50 FR 43587
ANPRM Comment Period End	11/27/85	50 FR 43587
NPRM	04/00/88	
Final Action	12/00/88	

Small Entity: Undetermined

Additional Information: Draft rules have been prepared and circulated for comment to Bureaus in the Department of the Interior. Following review and approval within the Department, the rules will be sent to other Federal Agencies for comment.

Agency Contact: Bennie Keel, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-1876

RIN: 1024-AA49

1144. ● HISTORIC PRESERVATION CERTIFICATIONS PURSUANT TO SECTION 48(G) AND SECTION 170(H) OF THE INTERNAL REVENUE CODE OF 1986

Legal Authority: 16 USC 470(a) (1)(A); 26 USC 48 (g); 26 USC 170(h)

CFR Citation: 36 CFR 67, (Revised)

Legal Deadline: None.

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DOI—NPS

Proposed Rule Stage

Abstract: This proposed rule restates and makes amendments to the procedures by which owners desiring tax benefits for rehabilitation of historic buildings apply for certifications pursuant to Section 48(g) and Section 170(h) of the Internal Revenue Code of 1986. These tax laws require certifications from the Secretary of the Interior in order for taxpayers to receive tax benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: No

Agency Contact: H. Ward Jandl, Chief, Technical Preservation Services Branch, Department of the Interior, National Park Service, P O Box 37127, Washington, DC 20013-7127, 202 343-9584

RIN: 1024-AB73

1145. CURATION OF FEDERALLY OWNED AND ADMINISTERED ARCHEOLOGICAL COLLECTIONS

Legal Authority: 16 USC 470a; 16 USC 470dd

CFR Citation: 36 CFR 79

Legal Deadline: None.

Abstract: This rule fulfills the Secretary of the Interior's responsibility to issue regulations on the disposition, exchange and curation of federally-owned and administered prehistoric and historic archeological artifacts and associated records recovered under the Antiquities Act of 1906, the Reservoir Salvage Act of 1960 (as amended by the Archeological and Historic Preservation Act of 1974), Section 110 of the National Historic Preservation Act of 1966 (as amended) and the Archeological Resources Protection Act of 1979. The regulation will establish (a) minimum standards for repositories that provide long-term curatorial services; (b) guidelines for Federal agencies for entering into contracts and agreements with repositories and other parties for the care and management of collections; (c) guidelines for access to, loan of and use of collections; and (d) guidelines for the exchange and ultimate disposition of collections.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/85	50 FR 41527
ANPRM Comment Period End	11/12/85	50 FR 41527
NPRM	09/00/87	
Final Action	03/00/88	

Small Entity: No

Additional Information: The proposed rule has been approved by the Department of the Interior and sent to the Office of Management and Budget for review and clearance. Once cleared, the rule will be sent to the House Committee on Interior and Insular Affairs and to the Senate Committee on Energy and Natural Resources thirty days prior to publication in the Federal Register for public comments.

Agency Contact: Dr. Bennie C. Keel, Departmental Consulting Archeologist, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-1876

RIN: 1024-AB13

1146. CEMETERY SITES AND HISTORICAL PLACES

Legal Authority: 16 USC 3

CFR Citation: 43 CFR 2653

Legal Deadline: None.

Abstract: The Service is proposing to amend 43 CFR 2653.5 by deleting all references to the Service as the consulting agency concerning the cultural value and significance of existing Alaska Native cemetery sites and historical places. This revision will relieve the Service from the responsibility of being the consulting agency for sites located on all Federal lands in Alaska, thus eliminating an expensive duplication of Federal effort.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

Agency Contact: Rich O'Guinn, Department of the Interior, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503, 907 271-4551

RIN: 1024-AA84

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

National Park Service (NPS)

1147. APPLICABILITY AND SCOPE

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 1.2; 36 CFR

Legal Deadline: None.

Abstract: The Service intends to make minor administrative changes to eleven general regulations to clarify their applicability on non-Federal lands under the legislative jurisdiction of the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/14/87	52 FR 12037
NPRM Comment Period End	05/14/87	52 FR 12037
Final Action	10/08/87	

Small Entity: No

Agency Contact: Andy Ringgold, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-1360

RIN: 1024-AB64

1148. DISCRIMINATION IN EMPLOYMENT PRACTICES AND FURNISHING PUBLIC SERVICES

Significance: Agency Priority

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 5.8; 36 CFR 5.9

Legal Deadline: None.

Abstract: The Service intends to update these two regulations to reflect provisions of existing nondiscrimination statutes and Executive Orders, although the standard provisions of contracts issued by the Service reflect current nondiscrimination policies, these regulations were not revised as new statutory provisions were enacted.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: Yes

Agency Contact: David Gackenbach, Chief, Concessions Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-8953

RIN: 1024-AB65

DOI—NPS

Final Rule Stage

1149. CUYAHOGA VALLEY NRA: OFF-ROAD VEHICLES AND SNOWMOBILES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.17

Legal Deadline: None.

Abstract: The Service proposes to designate routes for off-road vehicles and snowmobile use in compliance with Executive Order 11644, in an area west of Riverview Road bounded by I-80 and I-271.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22662
NPRM Comment Period End	07/15/87	52 FR 22662
Final Action	02/00/88	

Small Entity: Undetermined

Agency Contact: Brian McHugh, Chief Park Ranger, Cuyahoga Valley NRA, Department of the Interior, National Park Service, 15610 Vaughn Road, Brecksville, Ohio 44141, 216 526-5256

RIN: 1024-AB44

1150. CANYON DE CHELLY NATIONAL MONUMENT

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.19

Legal Deadline: None.

Abstract: This proposed rulemaking will establish criteria for the operation of horse rental facilities within Canyon De Chelly National Monument.

Timetable:

Action	Date	FR Cite
NPRM	05/27/87	52 FR 19735
NPRM Comment Period End	06/26/87	52 FR 19735
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Ken Mabery, Park Ranger, Department of the Interior, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, NM 87501, 505 988-6371

RIN: 1024-AB47

1151. ● SPRINGFIELD ARMORY MUSEUM CLOSURE

Significance: Agency Priority

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.23

Legal Deadline: None.

Abstract: The service is issuing an interim rule closing the Springfield Armory Museum to public access and use from September 8, 1987, through April 3, 1988. This closure is necessary because of serious public safety hazards that will exist during the complete renovation of the museum and research facilities.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Agency Contact: W. Douglas Lindsay, Superintendent, Department of the Interior, National Park Service, Springfield Armory National Historic Site, One Armory Square, Springfield, MA 01105, 413 734-6477

RIN: 1024-AB70

1152. FORT JEFFERSON NM: FISHING; BOUNDARY ADJUSTMENTS

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.27

Legal Deadline: None.

Abstract: This proposed regulation pertains to Fort Jefferson National Monument and will delete references to the taking of crayfish and Conch. Information will be included to redefine the park boundary. These changes are necessary to reflect a closure of park waters to the removal of crayfish and conch and to update boundary changes mandated by Congressional action in 1980 that enlarged the park area.

Timetable:

Action	Date	FR Cite
NPRM	06/05/86	51 FR 20110
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024-AA96

1153. JEAN LAFITTE NHP: CRAWFISHING REGULATIONS

Legal Authority: 16 USC 3; 16 USC 230d

CFR Citation: 36 CFR 7.37

Legal Deadline: None.

Abstract: The proposed rulemaking pertains to Jean Lafitte National Historical Park located in Louisiana. The rulemaking will establish criteria for the harvesting of crawfish in the Barataria Unit and will establish a recreational and subsistence season. The policy is consistent with Public Law 95-625 and existing National Park Service and Department of the Interior policies.

Timetable:

Action	Date	FR Cite
NPRM	06/18/86	51 FR 29498
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: James L. Isenogle, Superintendent, Jean Lafitte National Historical Park, Department of the Interior, National Park Service, 423 Canal Street, Rm. 206, New Orleans, LA 70130, 504 589-3882

RIN: 1024-AB33

1154. EVERGLADES NP: MINING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.45(a)

Legal Deadline: None.

Abstract: This deletion applies to Everglades National Park in Florida. Section 7.45(a) will be deleted because it is a duplication of the General Regulations 36 CFR, Sections 1.6, 1.7 and 2.1.

Timetable:

Action	Date	FR Cite
NPRM	06/05/86	51 FR 20108
NPRM Comment Period End	09/04/86	51 FR 20108
Final Action	12/00/87	

Small Entity: No

Additional Information: FTS 242-4916.

DOI—NPS

Final Rule Stage

Agency Contact: William Sturgeon, Regional Law Enforcement Specialist, Department of the Interior, National Park Service, Southeast Regional Office, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024-AB10

1155. LAKE MEAD NATIONAL RECREATION AREA: NOISE ABATEMENT EXEMPTION

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.48(i)

Legal Deadline: None.

Abstract: The proposed rulemaking pertains to Lake Mead National Recreation Area, located in Arizona and Nevada. It would allow motor vessels to exceed existing noise limitations while participating in regattas; thereby, making possible the continuation of a traditional activity.

Timetable:

Action	Date	FR Cite
NPRM	12/20/85	50 FR 51866
NPRM Comment Period End	01/21/86	50 FR 51866
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Newton Sikes, Chief Ranger, Department of the Interior, National Park Service, 601 Nevada Hwy., Boulder City, NV 89005, 702 293-9041

RIN: 1024-AB50

1156. LAKE CHELAN NRA: TARGET PRACTICE

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.62

Legal Deadline: None.

Abstract: This proposed rulemaking pertains to Lake Chelan NRA and will designate a specially designed and constructed facility and time and location for target practice.

Timetable:

Action	Date	FR Cite
NPRM	05/09/85	50 FR 19546
NPRM Comment Period End	06/10/85	50 FR 19546
Final Action	12/00/87	

Small Entity: No

Agency Contact: John Reynolds, Superintendent, North Cascades National Park, Department of the Interior, National Park Service, 800 State Street, Sedro Wooley, WA 98284, 206 855-1331

RIN: 1024-AB19

1157. ROSS LAKE NRA: TARGET PRACTICE

Legal Authority: 16 USC 1

CFR Citation: 36 CFR 7.69

Legal Deadline: None.

Abstract: This proposed rulemaking pertains to Ross Lake National Recreation Area and will designate a specially designed and constructed facility and time and location for target practice.

Timetable:

Action	Date	FR Cite
NPRM	05/09/85	50 FR 19546
NPRM Comment Period End	06/10/85	50 FR 19546
Final Action	12/00/87	

Small Entity: No

Agency Contact: John Reynolds, Superintendent, North Cascades National Park, Department of the Interior, National Park Service, 800 State Street, Sedro Wooley, WA 98284, 206 855-1331

RIN: 1024-AB28

1158. DELAWARE WATER GAP NRA: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.71

Legal Deadline: None.

Abstract: Final regulations published June 30, 1983 in the Federal Register prohibit several fishing methods that are authorized by State laws in Pennsylvania and New Jersey. This proposed regulation affects the Delaware Water Gap National Recreation Area and would allow fishing in any manner consistent with the State laws of Pennsylvania and New Jersey.

Timetable:

Action	Date	FR Cite
NPRM	02/12/87	52 FR 4511
NPRM Comment Period End	03/16/87	52 FR 4511
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: William Supernaugh, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 143 South Third Street, Philadelphia, PA 19106, 215 597-7057

RIN: 1024-AA98

1159. BIG CYPRESS NATIONAL PRESERVE: INDIAN USE AND OCCUPANCY

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.86

Legal Deadline: None.

Abstract: This rule will define the Statutory rights of the Miccosukee and Seminole Indians within Big Cypress National Preserve. Although a proposed rule was published in 1981, a revised proposed rulemaking will be developed.

Timetable:

Action	Date	FR Cite
NPRM	11/21/81	46 FR 55709
Final Action	12/00/87	

Small Entity: No

Additional Information: Originally scheduled: January 1981.

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities, Department of the Interior, National Park Service, Southeast Regional Office, 75 Spring Street, SW, Atlanta, GA 30303, 404 242-4916

RIN: 1024-AA07

1160. BIGHORN CANYON NATIONAL RECREATION AREA - FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.92

Legal Deadline: None.

Abstract: The Service proposes to authorize fishing at Bighorn Canyon National Recreation area in any manner authorized under the applicable laws of Montana and Wyoming.

Timetable:

Action	Date	FR Cite
NPRM	10/10/86	51 FR 36409
NPRM Comment Period End	11/10/86	51 FR 36409
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Richard Lake, Chief, Park Ranger, Bighorn Canyon NRS, Department of the Interior, National

DOI—NPS

Final Rule Stage

Park Service, PO Box 458, Ft. Smith, MT 59035, 406 666-2412

RIN: 1024-AB63

1161. MANAGEMENT OF MINING CLAIM ACTIVITIES

Legal Authority: 16 USC 3 et seq NPS Organic Act; 16 USC 1901 et seq Mining in the Parks Act of 1976

CFR Citation: 36 CFR 9, Subpart A

Legal Deadline: None.

Abstract: As mandated by the "Mining In The Parks Act of 1976," the NPS promulgated its existing regulations to assure that operations on valid mining claims within units of the National Park System are conducted so as to prevent or minimize damage to park resources. The experience gained by the application of these regulations over the past eight years indicates that certain adjustments are now necessary to clarify and simplify the existing regulatory language and to improve the management of mineral resources within NPS units. Specifically, several sections of the current regulations either have proven difficult to interpret or pertain to a surface disturbance moratorium that expired in 1980 thus rendering them obsolete.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/84	49 FR 29415
ANPRM Comment Period End	08/20/84	49 FR 29415
30 day extension to ANPRM comment period to	09/20/84	
NPRM	04/03/87	52 FR 10866
Final Action	09/00/87	

Small Entity: No

Agency Contact: Carol McCoy, Chief, Policy and Regulations Branch, Department of the Interior, National Park Service, Room 3223 (480), Box 37127, Washington, DC 20013-7127, 202 343-4360

RIN: 1024-AB37

1162. NPS UNITS IN ALASKA: CLOSURE REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13

Legal Deadline: None.

Abstract: This rule will provide for the closure of certain areas within Denali National Park and Preserve, Glacier Bay National Park and Preserve and Katmai National Park and Preserve to snowmachines, motorboats and aircraft use.

Timetable:

Action	Date	FR Cite
NPRM	04/06/83	48 FR 14978
NPRM Comment Period End	06/06/83	48 FR 14978
Comment Period Extension Begin	06/06/83	48 FR 26319
Comment Period Extension Ends	08/06/83	
Final Action	04/00/88	

Small Entity: No

Additional Information: Originally scheduled: April 1982.

Agency Contact: Bill Tanner, Department of the Interior, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503, 907 271-4551

RIN: 1024-AA71

1163. NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 60

Legal Deadline: None.

Abstract: This rule is being amended to revise: appeals for listing nominations by persons or local governments in States without approved State historic preservation programs; procedures for nominations from State and Federal agencies; and procedures for making changes to listed properties and removals from the National Register, including appeals, and to incorporate 36 CFR Part 63.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/16/81	
NPRM	08/05/86	51 FR 28204
NPRM Comment Period End	10/06/86	51 FR 28204
Final Action	05/16/88	
Final Action Effective	06/16/88	

Small Entity: No

Additional Information: Originally scheduled: January 1981.

Agency Contact: Carol Shull, Chief, National Register Branch, Interagency Resources Division, Department of the Interior, National Park Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-8500

RIN: 1024-AA44

1164. DETERMINATION OF ELIGIBILITY FOR INCLUSION IN THE NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 63

Legal Deadline: None.

Abstract: This rule incorporates certain revisions responding to the National Historic Preservation Act Amendments of 1980. In addition to responding to the new law, these changes update and revise in other minor respects the procedures for determining the eligibility of properties for the National Register. This rule will be consolidated with 36 CFR Part 60. Proposed rule (36 CFR Part 1204) was published May 23, 1980 (45 FR 34909).

Timetable:

Action	Date	FR Cite
NPRM 36 CFR 1204	05/23/80	45 FR 34909
NPRM	08/05/86	51 FR 28216
NPRM Comment Period End	10/06/86	51 FR 28216
Final Action	05/16/88	
Final Action Effective	06/16/88	

Small Entity: No

Additional Information: Originally scheduled: July 1979.

Agency Contact: Carol Shull, Chief, National Register Branch, Interagency Resources Division, Department of the Interior, National Park Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-9539

RIN: 1024-AA45

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DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Completed Actions

1165. VEHICLES AND TRAFFIC SAFETY

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 4

Legal Deadline: None.

Abstract: The service proposes to review and revise the regulations in this part, which has not undergone major revision since 1986. Revisions are expected, at a minimum, to reflect the abolishment of management categories, to provide for consistency with state vehicle codes and to strengthen the regulation pertaining to driving under the influence of alcohol or drugs.

Timetable:

Action	Date	FR Cite
NPRM	06/16/86	51 FR 21840
NPRM Comment Period End	08/15/86	51 FR 21840
Final Action	04/02/87	52 FR 10670
Final Action Effective	06/01/87	52 FR 10670

Small Entity: No

Agency Contact: Andrew T. Ringgold, Staff Park Ranger, Department of the Interior, National Park Service, Branch of Ranger Activities, 18th and C Streets, NW, Washington, DC 20240, 202 343-4187

RIN: 1024-AB06

1166. FIRE ISLAND NATIONAL SEASHORE: OFF-ROAD VEHICLES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7

Legal Deadline: None.

Abstract: This rule will amend existing regulations pertaining to off-road vehicle use by designating routes for their use.

Timetable:

Action	Date	FR Cite
NPRM	07/25/83	48 FR 33722
Final Action	03/10/87	52 FR 7372
Final Action Effective	04/09/87	52 FR 7372

Small Entity: No

Additional Information: Originally scheduled: October 1981.

Agency Contact: Len Frank, Department of the Interior, National Park Service, North Atlantic Regional Office, 15 State Street, Boston, MA 02109, 617 223-3765

RIN: 1024-AA14

1167. YELLOWSTONE NATIONAL PARK: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.13

Legal Deadline: None.

Abstract: The Service proposes to revise existing Fishing Regulations that pertain to Yellowstone National Park. The purposes of this revision are to simplify the regulations and to improve the Service's ability to manage Fishery Resources by species.

Timetable:

Action	Date	FR Cite
NPRM	02/17/87	52 FR 4784
NPRM Comment Period End	03/19/87	52 FR 4784
Final Action	05/22/87	52 FR 19345
Final Action Effective	06/22/87	52 FR 19345

Small Entity: Undetermined

Agency Contact: Gary Brown, Assistant Chief Ranger, Department of the Interior, National Park Service, Yellowstone National Park, P.O. Box 168, Yellowstone NP, WY 82190, 307 344-7381

RIN: 1024-AB57

1168. SHENANDOAH NATIONAL PARK: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.15

Legal Deadline: None.

Abstract: The service proposes to revise regulations at Shenandoah National Park, VA pertaining to Fishing Seasons, Creel Limits, Equipment Restrictions and Stream Closures.

Timetable:

Action	Date	FR Cite
NPRM	10/01/86	51 FR 35009
NPRM Comment Period End	10/31/86	51 FR 35009
Final Action	05/22/87	52 FR 19343
Final Action Effective	06/22/87	52 FR 19343

Small Entity: Undetermined

Agency Contact: Larry Hakel, Chief Ranger, Department of the Interior, National Park Service, Shenandoah National Park, Route 4, Box 292, Luray, VA 22835, 703 999-2243

RIN: 1024-AB51

1169. BLUE RIDGE PARKWAY: COMMERCIAL VEHICLES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.34(f),(g)

Legal Deadline: None.

Abstract: The Service proposes to delete these two sections which are duplicated by provisions found in 36 CFR parts 1 and 5.

Timetable:

Action	Date	FR Cite
NPRM	08/05/86	51 FR 28107
NPRM Comment Period End	09/04/86	51 FR 28107
Final Action	06/01/87	52 FR 20367
Final Action Effective	07/01/87	52 FR 20367

Small Entity: No

Agency Contact: Gary Everhardt, Superintendent, Department of the Interior, National Park Service, 700 Northwestern Bank Bldg., Asheville, NC 28801, 704 259-0351

RIN: 1024-AB36

1170. BUFFALO NATIONAL RIVER: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.35

Legal Deadline: None.

Abstract: The proposed rule will allow fishing activities within Buffalo National River to continue in the traditional manner. It will permit gigging of rough fish, noncommercial capture of bait fish using traps or seines, and fishing with set lines or troutlines. It will also allow the possession and collection of terrestrial and aquatic insects by hand or hand-held net for use as bait. It will allow the possession and collection by hand-held net or seine of crayfish for consumption or bait.

Timetable:

Action	Date	FR Cite
NPRM	10/20/86	51 FR 37201
NPRM Comment Period End	11/19/86	51 FR 37201
Final Action	05/22/87	52 FR 19342
Final Action Effective	06/22/87	52 FR 19342

DOI—NPS

Completed Actions

Small Entity: Undetermined

Agency Contact: Ken Mabery, Park Ranger, Department of the Interior, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, NM 87501, 505 988-6371

RIN: 1024-AB49

1171. ROCKY MOUNTAIN NP: MOUNTAIN CLIMBING AND WINTER USE

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.7

Legal Deadline: None.

Abstract: This Service proposes to delete the mandatory registration system required for technical mountain climbing or winter backcountry use at Rocky Mountain National Park. This requirement has not proven effective in providing notification of overdue parties in this area and has hampered rather than supported search and rescue programs.

Timetable:

Action	Date	FR Cite
NPRM	02/03/87	52 FR 3285
NPRM Comment Period End	03/05/87	52 FR 3285
Final Action	06/19/87	52 FR 23304
Final Action Effective	07/20/87	52 FR 23304

Small Entity: Undetermined

Agency Contact: Thomas J. McDonnell, Regional Law Enforcement Specialist, Department of the Interior, National Park Service, Rocky Mountain Regional Office, 655 Parfet Street, Denver, CO 80225, 303 234-3070

RIN: 1024-AB16

1172. ARCHEOLOGICAL RESOURCES PROTECTION ACT DEPARTMENT OF THE INTERIOR SUPPLEMENTAL REGULATIONS

Legal Authority: 16 USC 470aa et seq

CFR Citation: 43 CFR 7(b)

Legal Deadline: None.

Abstract: This rule supplements the uniform regulations in 43 CFR Part 7 which implement the Archeological Resources Protection Act. This rule adds a Subpart B and redesignates the uniform rule as Subpart A. The rule in Subpart B, for the Department of the Interior, provides supplemental definitions, procedures for determining loss or absence of archeological interest regarding certain material remains, detail on permitting for Indian lands, procedures for permit appeals and disputes, and supplemental civil penalty procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/14/85	50 FR 47073
NPRM Comment Period End	01/13/86	50 FR 47073
Final Action	03/23/87	52 FR 9165
Final Action Effective	04/22/87	52 FR 9165

Small Entity: No

Agency Contact: Bennie C. Keel, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-1878

RIN: 1024-AA82

[FR Doc. 87-21236 Filed 10-23-87; 8:45 am]

BILLING CODE 4310-70-T

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Prerule Stage

1173. REVISION OF THE MEMBERSHIP ROLL OF THE EASTERN BAND OF CHEROKEE INDIANS, NORTH CAROLINA

Legal Authority: PL 85-154

CFR Citation: 25 CFR 75

Legal Deadline: None.

Abstract: This rule, which is subject to review, governed the revision authorized by the Act of August 21, 1957, Pub. L. 85-154, (71 Stat. 374), of the membership roll of the Eastern Band of Cherokee Indians, North Carolina, prepared and approved in accordance with the Act of June 4, 1924 (43 Stat. 376), and the Act of March 4, 1931 (46 Stat. 1518). The rule also provides procedures for maintaining a current membership roll. This Part has been redesignated from 25 CFR Part 47.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/85	
End Review	09/00/87	

Small Entity: Undetermined

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB54

1174. PROCEDURES FOR DEPOSITING FUNDS TO THE CREDIT OF 14X6140-DEPOSITS OF PROCEEDS OF LANDS WITHDRAWN FOR NATIVE SELECTION, BIA

Legal Authority: PL 94-204, 89 Stat. 1146; 43 USC 1613; 94 Stat. 2371

CFR Citation: 25 CFR 124, (Revision)

Legal Deadline: None.

Abstract: Provide up to date and correct deposit procedures to be used by all Departments and Agencies of the Federal Government and the State of Alaska for the deposit of proceeds derived from contracts, leases, permits, and rights-of-way or easements pertaining to affected lands or resources in affected lands withdrawn for Native selection pursuant to the Alaska Native Claims Settlement Act.

Timetable:

Action	Date	FR Cite
End Review	12/00/87	

Small Entity: Undetermined

Public Compliance Cost: Initial Cost: $0

Affected Sectors: None

Agency Contact: Betty L. Wilkinson, Chief, Division of Accounting Management, Department of the Interior, Bureau of Indian Affairs, Room 4604, Main Interior, 18th & C Sts., NW, Washington, DC 20245, 202 343-7336

RIN: 1076-AB67

1175. LAND RECORDS AND TITLE DOCUMENTS

Legal Authority: 25 USC 5; 25 USC 9

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DOI—BIA

Prerule Stage

CFR Citation: 25 CFR 150; 43 CFR 4

Legal Deadline: None.

Abstract: This regulation will be reviewed with only minor changes expected due to a realignment of responsibilities concerning our title plants. This rule sets forth authorities, policy and procedures governing the recording, custody, maintenance, use and certification of title documents, and the issuance of title status reports for Indian land.

Timetable:

Action	Date	FR Cite
Begin Review	03/01/87	
End Review	12/31/87	

Small Entity: No

Agency Contact: Howard Plepenbrink, Acting Chief, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, Rm. 4520-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-5473

RIN: 1076-AB68

1176. LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

Legal Authority: Sec 3, 34 Stat. 543; Sec 1, 45 Stat. 1478; Sec 2, 45 Stat. 1478; Sec 1, 45 Stat. 1479; Sec 2, 45 Stat. 1479

CFR Citation: 25 CFR 226; 25 CFR 2

Legal Deadline: None.

Abstract: The regulations in this part provide procedures and processes for oil and gas mining leasing of Osage Reservation lands. Changes are being considered.

Timetable:

Action	Date	FR Cite
End Review	12/00/87	

Small Entity: Undetermined

Agency Contact: Joseph C. Johnston, Chief, Div. of Energy & Mineral Resources, Department of the Interior, Bureau of Indian Affairs, Rm. 4529-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2790

RIN: 1076-AB79

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Proposed Rule Stage

1177. APPEALS FROM ADMINISTRATIVE ACTIONS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 2

Legal Deadline: None.

Abstract: The present administrative appeal regulations are ambiguous and misleading. It is difficult to tell what issues may be appealed and to whom the appeal should be sent. Most deadlines are uncertain. Those that are certain are often unrealistic. It is also unclear when a final decision will be rendered by the Interior Board of Indian Appeals and when it will be rendered by the Assistant Secretary for Indian Affairs. Alternatives will be developed by reviewing the existing appeal regulations of other agencies. Consideration will be given to specifying which types of appeals go to the Assistant Secretary and which to the Board. The alternative of providing for the Assistant Secretary to make a case-by-case decision whether or not to refer the matter to the Board will also be considered. The primary benefit should be reduced frustration for both appellants and the BIA officials who handle the appeals. The greatest cost may be that both appellants and BIA officials may have to comply with more specified procedures and meet more deadlines in order for the system to work.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Anne Bolton, Management Analyst, Department of the Interior, Bureau of Indian Affairs, Room 320 - Interior South, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4669

RIN: 1076-AB21

1178. THE INDIAN POLICE

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None.

Abstract: The Bureau of Indian Affairs is revising its regulations governing the Bureau's police operations to make them consistent with contemporary enforcement policies and procedures and changes in the Interior Department Manual and the DIA Manual.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	11/00/87	
Final Action	04/00/88	

Small Entity: No

Agency Contact: James P. Donovan, Acting Chief, Division of Law Enforcement Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Ave., NW, Room 1342, Code 430, Washington, DC 20245, 202 343-5786

RIN: 1076-AB98

1179. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Legal Authority: 25 USC 13; PL 98-473

CFR Citation: 25 CFR 20

Legal Deadline: None.

Abstract: The Bureau is amending existing Financial Assistance and Social Services Program regulations to further define the adult care services provided to Indian people. These proposed regulations define the extent of the program, establish eligibility requirements, and establish adult care services as a social services program separate and distinct from the general assistance program. The Bureau is also amending miscellaneous assistance provisions to conform with the congressional directive in Public Law 98-473. Miscellaneous assistance will be revised and defined as burial assistance. Emergency assistance previously provided under miscellaneous assistance has been transferred to general assistance by revision of CFR 20(c) on September 30, 1985.

DOI—BIA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	11/00/87	
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Louise Reyes, Acting Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Ave., NW, Washington, DC 20245, 202 343-6434

RIN: 1076-AB99

1180. FEDERAL SCHOOLS FOR INDIANS (REVISION)

Legal Authority: 34 Stat. 1018; 35 Stat. 783; 40 Stat. 564; 25 USC 288; 25 USC 289

CFR Citation: 25 CFR 31, (Revision)

Legal Deadline: None.

Abstract: The purpose of the proposed revision is to define the various types of schools funded by the Bureau and to clarify and define eligibiltiy for non-Indian and Indian children of less than one-fourth blood who wish to attend Bureau-funded day and boarding schools. This proposed revision will also address criteria by which these students may attend Bureau-funded schools and tuition payments related thereto. Costs related to this part will be assumed by the public school district in the form of tuition payments, at no cost to the Bureau. Tuition fees charged will be comparable to but will not exceed the tuition cost charged by the State or County in which the Bureau school is located.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	01/00/88	
Final Action	05/00/88	

Small Entity: No

Additional Information: Section 31.3 was revised separately and published as a proposed rule. The passage of Pub. L. 99-228 supersedes that earlier revision and the conditions under which non-eligible students may attend Bureau-funded schools are incorporated in the current revision.

Agency Contact: Elizabeth Holmgren, Education Specialist, Branch of Elementary and Secondary Programs, Department of the Interior, Bureau of Indian Affairs, 18th & C Sts. NW, Washington, DC 20240, 202 343-4071

RIN: 1076-AB47

1181. EDUCATION PERSONNEL

Significance: Agency Priority

Legal Authority: 25 USC 2011; 25 USC 2015

CFR Citation: 25 CFR 36, (Revision)

Legal Deadline: None.

Abstract: The review of this rule is to update and/or delete the requirements that apply to all individuals appointed or converted to contract education positions in the Bureau of Indian Affairs. The review applies to employees with continuing tenure in both the competitive and excepted service who incumber education positions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: George D. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4872

RIN: 1076-AB02

1182. THE INDIAN SCHOOL EQUALIZATION PROGRAM (NEW SCHOOL STARTS, PROGRAM EXPANSIONS, SCHOOL CLOSURES, CONSOLIDATIONS, AND PROGRAM REDUCTIONS)

Significance: Regulatory Program

Legal Authority: 92 Stat 2320; 42 Stat 208

CFR Citation: 25 CFR 39, Sec 22

Legal Deadline: None.

Abstract: The addition of regulations for "School Closures and Consolidations" will address a uniform procedure for school closure and consolidation in the Bureau-operated and funded schools. The new rule would provide the Bureau advance planning time in the development of its future budgets. The companion regulation on new school starts and program expansions will appear at 25 CFR 271, Subpart H and are incorporated by reference in this Part.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	04/00/88	

Small Entity: No

Agency Contact: George D. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, 18th & C Streets, NW, Washington, DC 20240, 202 343-4872

RIN: 1076-AB48

1183. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Significance: Agency Priority

Legal Authority: 25 USC 1815; 25 USC 640

CFR Citation: 25 CFR 41, (Revision)

Legal Deadline: None.

Abstract: The Secretary proposes to revise the current regulations which are used to govern the administration of grants to the Tribally Controlled Community Colleges. The revision is mandatory since the current regulations do not apply to the new requirements which were made under the Amendments Act. The revision will govern the new requirements which include: 1. Planning Grants; 2. Forward Funding; 3. Facility Construction; 4. Endowments; and 5. New Method of Counting Students.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Esther Whalen, Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4871

RIN: 1076-AA11

1184. ADMINISTRATION OF THE INDIAN ADULT EDUCATION PROGRAMS

Significance: Agency Priority

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 46

Legal Deadline: None.

Abstract: These proposed regulations are designed to provide standardized administrative procedures for administering and operating Indian adult education programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Esther Whalen, Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4871

RIN: 1076-AA15

1185. USE OR DISTRIBUTION OF INDIAN JUDGMENT FUNDS

Legal Authority: 5 USC 301; 87 Stat 466; 87 Stat 467; 87 Stat 468; 96 Stat 2512; 96 Stat 2513; 96 Stat 2514

CFR Citation: 25 CFR 87

Legal Deadline: None.

Abstract: The regulations govern the preparation of proposed plans for the use or distribution of all judgment funds awarded to Indian tribes and groups by the Indian Claims Commission, the United States Court of Claims or the United States Claims Court, excepting any tribe or group whose trust relationship with the Federal Government has been terminated and for which there exists legislation authorizing the disposition of its judgment funds; and of all funds deriving from judgments entered prior to the date of the Act for which there has been no enabling legislation. The regulations are being revised to eliminate gender-specific terminology, incorporate the provisions of the Act of January 12, 1983 and for clarification. The revisions will make the regulations current to existing laws and should enable parties affected to more easily understand the regulations. The proposed revisions are a result of a review of the rules completed on July 16, 1984.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: No

Additional Information: The proposed revisions to 25 CFR 87 have necessitated minor technical revisions to 25 CFR 115 which will be processed in conjunction with the proposed rule.

Agency Contact: John A. Shapard, Branch Chief, Acknowledgment & Research, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3568

RIN: 1076-AB20

1186. LOANS TO INDIANS FROM THE REVOLVING LOAN FUND

Legal Authority: 25 USC 1451; PL 93-262

CFR Citation: 25 CFR 101

Legal Deadline: None.

Abstract: This part is being revised to incorporate legislative changes made pursuant to the Amendments to the Indian Financing Act of 1984, to reflect policy changes in program administration and to add clarifying language to the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	01/00/88	
Final Action	06/00/88	

Small Entity: No

Agency Contact: Joe G. Weller, Chief, Division of Financial Assistance, Office of Trust and Economic Development, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-5831

RIN: 1076-AC00

1187. REVOLVING CATTLE POOL

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 102

Legal Deadline: None.

Abstract: This program was transferred to the Bureau of Indian Affairs in the 1950's and is currently inactive. There have been no funds appropriated for the program; therefore, this part is proposed for removal. The terms and conditions of loans of cattle by the United States government to tribes, tribal corporations or tribal members were prescribed in 25 CFR 102. The loans consisted of cattle repayable in kind or assignment of cattle under specific agreements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	01/00/88	
Final Action	06/00/88	

Small Entity: No

Agency Contact: Joe G. Weller, Chief, Division of Financial Assistance, Office of Trust and Economic Development, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-3657

RIN: 1076-AC02

1188. LOAN GUARANTY, INSURANCE, AND INTEREST SUBSIDY

Legal Authority: 88 Stat. 77

CFR Citation: 25 CFR 103

Legal Deadline: None.

Abstract: This part is being revised to incorporate legislative changes made pursuant to the Amendments to the Indian Financing Act of 1984, to reflect policy changes in program administration and to add clarifying language to the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	01/00/88	
Final Action	06/00/88	

Small Entity: No

Agency Contact: Joe G. Weller, Chief, Division of Financial Assistance, Office of Trust and Economic Development, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-5831

RIN: 1076-AC01

1189. ANNUITY AND OTHER PER CAPITA PAYMENTS

Legal Authority: 5 USC 301; PL 98-64

CFR Citation: 25 CFR 111, (Revision)

Legal Deadline: None.

Abstract: Procedures will describe standards by which per capita payments to Indians out of Tribal Trust Revenue may be made by either the Secretary of the Interior or by Tribal governments.

Information on cost or benefits, if applicable, is unknown at this point.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Barbara Davis, Trust Fund Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Trust Responsibilities, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2963

RIN: 1076-AB45

1190. INDIVIDUAL INDIAN MONEY ACCOUNTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 43 USC 1457

CFR Citation: 25 CFR 115

Legal Deadline: None.

Abstract: The Individual Indian Money Account program involves funds held in trust status for individuals. Although the rule generally prohibits voluntary accounts, except in circumstances of substantial hardship, the Bureau currently maintains many such accounts in the program. The current regulations will be revised to include specific criteria which must be met by voluntary depositors and which determine cases of "substantial hardship" as required by the regulations.

Timetable:

Action	Date	FR Cite
Revise regulations for Exception Criteria	01/31/87	
NPRM	09/00/87	
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Betty L. Wilkinson, Chief, Division of Accounting Management, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4507

RIN: 1076-AB91

1191. MANAGEMENT OF OSAGE JUDGMENT FUNDS FOR EDUCATION AND SOCIO-ECONOMIC PROGRAMS

Significance: Agency Priority

Legal Authority: 86 Stat 1295

CFR Citation: 25 CFR 122

Legal Deadline: None.

Abstract: The implementing rule for 25 CFR 122 has been reviewed and a determination was made that the portion of the regulations governing socio-economic programs is no longer needed. The rule will be revised to remove that portion of the program.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Undetermined

Agency Contact: Esther Whalen, Chief, Branch of Postsecondary Education, Division of Education Programs, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4871

RIN: 1076-AB51

1192. ROADS OF THE BUREAU OF INDIAN AFFAIRS

Significance: Agency Priority

Legal Authority: 25 USC 13; 25 USC 318(a); PL 97-424, Sec 105(a)(3); 23 USC 109(o); 23 USC 112(b); 23 USC 114(c); 23 USC 202(e); 23 USC 204; 23 USC 217

CFR Citation: 25 CFR 170

Legal Deadline: None.

Abstract: Indian reservation road construction is funded from the Highway Trust Fund. Other provisions include a requirement for proper maintenance of roads, applications of the "Buy Indian" and Indian Self Determination Acts, and joint program management by the Secretaries of Interior and Transportation. These changes in the law make changes in regulations imperative. The no-action alternative would leave program managers with outdated guidelines. Cost of the action will be minimal and it imposes no burden on the public. Benefits will be a better ordered road construction and maintenance program on Indian reservations, greater management efficiency, and clarity of procedures for federal managers, legislators and tribal officials. This part is also scheduled for review.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: James T. Ball, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4359

RIN: 1076-AB05

1193. ● SAN CARLOS INDIAN IRRIGATION PROJECT, ARIZONA

Significance: Agency Priority

Legal Authority: 43 Stat 476, Sec 5; 45 Stat 210; 45 Stat 211; 5 USC 301

CFR Citation: 25 CFR 177

Legal Deadline: None.

Abstract: The Bureau of Indian Affairs is amending the pertinent sections of the regulations governing charges and costs assessed the electric power customers for the electric power, energy and associated electric power services provided by the San Carlos Indian Irrigation (Project), Arizona. The purpose of the regulatory amendments is to increase the costs to the public for the services provided by the electric power division of the Project. The proposed rules increase the electric power assessment rates in the residential and general service rate schedules. This action causes the generation of needed additional revenues for the Project. The increased assessment rates reflect the increased operating costs associated with labor, equipment and supplies. The electric power bills for service under the residential and general rate schedules will be increased by approximately 12.4 percent.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	
NPRM Comment Period End	09/16/87	
Final Action	10/01/87	

Small Entity: No

Agency Contact: Samuel Miller, Water and Land Resources Officer, Division of Water and Land Resources, Department of the Interior, Bureau of Indian Affairs, 18th and C Street, NW, Washington, SC 20240, 202 343-6094

RIN: 1076-AC08

1194. LIFE ESTATES AND FUTURE INTERESTS

Significance: Agency Priority

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DOI—BIA — Proposed Rule Stage

Legal Authority: 25 USC 372; 25 USC 373; 25 USC 487; 25 USC 607; 25 USC 2201 to 2211

CFR Citation: 25 CFR 179

Legal Deadline: None.

Abstract: The proposed rule would add a new part 179 to Title 25 of the Code of Federal Regulations to set forth the authorities, policy, and procedures to be followed in the administration of life estates and future interests on Indian land. These regulations are being proposed to address the need for a clearly stated uniform policy. At the present time, there are no regulations dealing with life estates and future interests, even though these have become increasingly prevalent in the activities of Indians and the Bureau of Indian Affairs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: Not Applicable

Agency Contact: Howard Piepenbrink, Chief, Branch of Titles and Research, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 18th & C Street, NW, Washington, DC 20240, 202 343-5473

RIN: 1076-AC06

1195. LEASING OF RESTRICTED LANDS OF MEMBERS OF FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Legal Authority: Sec. 2, 35 Stat. 312; Sec. 18, 41 Stat. 426; Sec. 1, 45 Stat. 495; Sec. 1, 47 Stat. 777; 25 USC 356; Secs. 3, 11, 35 Stat. 313, 316; Sec. 6, 47 Stat. 779

CFR Citation: 25 CFR 213

Legal Deadline: None.

Abstract: This rule is being revised to insure consistency with existing law and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land, the processing of lease payments through the Minerals Management Service, and the approval process for division orders. There are no alternatives being considered and the potential cost is unknown.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Not Applicable

Agency Contact: Joseph Johnston, Chief, Division of Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2790

RIN: 1076-AB41

1196. ● LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

Legal Authority: Sec 3, 34 Stat 543; Sec 1, 45 Stat 1478; Sec 2, 45 Stat 1478; Sec 1, 45 Stat 1479; Sec 2, 45 Stat 1479

CFR Citation: 25 CFR 226

Legal Deadline: None.

Abstract: The rules are being amended to strengthen the management of the Osage mineral estates and relieve the Osage oil lessees from basing the payment of royalties to the Osage Tribe on the offered or posted price of a major purchaser in the Kansas-Oklahoma area. These regulations will improve the management of the Osage mineral estate and will alleviate the economic hardship placed on the oil lessees.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	01/00/88	

Small Entity: No

Agency Contact: Joseph Johnston, Chief, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-2790

RIN: 1076-AC09

1197. CONTRACTS UNDER INDIAN SELF-DETERMINATION ACT (SUBPART H - NEW SCHOOL STARTS AND PROGRAM EXPANSIONS)

Significance: Agency Priority

Legal Authority: 88 Stat. 2203; 42 Stat. 208

CFR Citation: 25 CFR 271

Legal Deadline: None.

Abstract: The purpose of the addition of the new rule "New Starts and Program Expansions," is to establish uniform application procedures and approval criteria for tribes seeking to operate new schools or to expand existing education programs through funding by the Indian School Equalization Formula. This rule would provide further clarification of the clause "adequate, free public school facilities" and refine existing criteria.

Timetable:

Action	Date	FR Cite
Hearings held with Indian leadership	06/00/86	
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	04/00/88	

Small Entity: No

Additional Information: Adds a new Subpart H to 25 CFR 271.

Agency Contact: Elizabeth Holmgren, Education Specialist, Department of the Interior, Bureau of Indian Affairs, 18th & C Sts., NW, Washington, DC 20245, 202 343-4071

RIN: 1076-AB49

1198. ● SMALL TRIBES GOVERNMENTAL ASSISTANCE GRANT PROGRAM

Significance: Agency Priority

Legal Authority: 25 USC 450; 25 USC 13

CFR Citation: 25 CFR 279

Legal Deadline: None.

Abstract: This is a new program which will provide grants to small tribes to enable them to establish, improve or maintain basic governmental functions. This grant program will provide resources needed to allow small tribes to improve their capacity and ability to govern. The program also represents a refocus or redirection of activities previously conducted under the Self-Determination and Small Tribes Core Management Grant Programs, therefore, Parts 272 and 278 are proposed for removal from 25 CFR Subchapter M.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	02/00/88	

Small Entity: No

Agency Contact: George Clark, Division of Self-Determination Services, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4096

RIN: 1076-AA55

DOI—BIA — Proposed Rule Stage

1200. TRIBAL GAMING MANAGEMENT CONTRACTS

Significance: Regulatory Program

Legal Authority: 25 USC 81; 25 USC 415; 25 USC 301

CFR Citation: 25 CFR 287

Legal Deadline: None.

Abstract: The Bureau of Indian Affairs is proposing a new rule which establishes the requirements to be met and procedures to be followed to obtain approval of management contracts for tribal gaming enterprises. This action is necessary because the federal courts have held that such management contracts are null and void without Secretarial approval pursuant to 25 U.S.C. 81. The intended effect of this rule is to replace the administrative guidelines previously announced by the Bureau for approval of such contracts and to establish uniform minimum standards for the review and approval of all such gaming management contracts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Catherine Wilson, Staff Assistant, Office of the Assistant Secretary, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Ave., NW, Washington, DC 20245, 202 343-4576

RIN: 1076-AC07

1201. BUY INDIAN ACT CONTRACTING

Legal Authority: 25 USC 47; 36 Stat. 861

CFR Citation: 48 CFR 1480

Legal Deadline: None.

Abstract: This rule will be codified as the new 48 CFR 1480 instead of the old 41 CFR Part 14H to establish policies and procedures concerning the Bureau of Indian Affairs acquisition management system. This issuance pertains to contracts (excluding building construction) entered pursuant to the Act of June 25, 1910 (25 U.S.C. 47), which is usually referred to as the "Buy Indian Act."

Timetable:

Action	Date	FR Cite
Proposed	11/15/84	49 FR 45187
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	04/00/88	

Small Entity: Yes

Additional Information: Originally scheduled: April 1982.

Agency Contact: Peter A. Campanelli, Procurement Analyst, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-3498

RIN: 1076-AA56

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Final Rule Stage

1202. LAW AND ORDER ON INDIAN RESERVATIONS

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None.

Abstract: This Part is being revised to provide Courts of Indian Offenses with a complete and updated code of laws and to clarify the jurisdiction of those courts and their relationship to tribal governments and the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	10/24/85	50 FR 43235
NPRM Comment Period End	01/31/86	51 FR 400
Final Action	11/30/87	

Small Entity: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: Joseph Little, Judicial Services Staff, Law Enforcement, Services, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-1710

RIN: 1076-AA01

1203. LAW ENFORCEMENT EXPENDITURES

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None.

Abstract: The Bureau of Indian Affairs is developing a rule prohibiting the expenditure of Bureau of Indian Affairs law enforcement funds in those areas of

DOI—BIA

Final Rule Stage

Indian country where there is state jurisdiction over criminal offenses committed by or against Indians.

Timetable:

Action	Date	FR Cite
NPRM	03/26/87	52 FR 9669
NPRM Comment Period End	05/26/87	52 FR 9669
Final Action	09/00/87	

Small Entity: No

Agency Contact: James P. Donovan, Acting Chief, Division of Law Enforcement Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Room 1342, Code 430, Washington, DC 20245, 202 343-5786

RIN: 1076-AB97

1204. ADMINISTRATION OF THE HIGHER EDUCATION PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 13; PL 67-85

CFR Citation: 25 CFR 40

Legal Deadline: None.

Abstract: This rule will revise established policies and provide uniform procedures to govern the higher education program administered under the authority of 25 U.S.C. 13. This rule applies only to educational grants; Bureau educational loans are governed by 25 CFR Part 91. This Part has been redesignated from 25 CFR Part 32.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6482
NPRM Comment Period End	05/04/87	52 FR 11503
Final Action	09/00/87	

Small Entity: No

Additional Information: Originally scheduled: January 1980.

Agency Contact: Esther Whalen, Chief, Branch of Postsecondary Education, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4871

RIN: 1076-AA10

1205. ENROLLMENT APPEALS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 1401 et seq

CFR Citation: 25 CFR 62

Legal Deadline: None.

Abstract: The regulations contained in 25 CFR Part 62 are general regulations that govern appeals from adverse enrollment actions. This rulemaking action will revise the regulations to clarify the purpose of the rule and to make general changes of an administrative nature including the elimination of sex-based and gender specific terminology. This Part has been redesignated from 25 CFR Part 42.

Timetable:

Action	Date	FR Cite
Final Action	09/30/87	

Small Entity: Undetermined

Additional Information: It has been determined that this is a rule of agency procedure and practice and therefore does not require publication of a proposed rule.

Government Levels Affected: Federal

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3592

RIN: 1076-AB95

1206. ENROLLMENT OF INDIANS OF THE SAN PASQUAL BAND OF MISSION INDIANS IN CALIFORNIA

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 1401 et seq

CFR Citation: 25 CFR 76

Legal Deadline: None.

Abstract: This rule governed the enrollment of persons in the San Pasqual Band of Mission Indians in California as of January 1, 1959. The rule also provides procedures for maintaining a current membership roll. As a result of review, it has been determined that there is a continued need for this rule. However, the regulations do need to be revised. This rulemaking action will revise the regulations to make general revisions of an administrative nature including the elimination of sex-based and gender specific terminology and to provide procedures for the preparation of a current roll to serve as the basis for the distribution of judgment funds. This Part has been redesignated from 25 CFR Part 48.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20727
NPRM Comment Period End	06/03/87	52 FR 20727
Final Action	09/00/87	

Small Entity: No

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB59

1207. ATTORNEY FEE CONTRACTS WITH INDIAN TRIBES; PAYMENT OF TRIBAL ATTORNEY FEES WITH FEDERALLY APPROPRIATED FUNDS

Significance: Agency Priority

Legal Authority: 5 USC 301; 25 USC 476; 25 USC 13; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 89.40 to .46

Legal Deadline: None.

Abstract: The Bureau of Indian Affairs proposes to revise the rule concerning the circumstances under which the Bureau of Indian Affairs, in the performance of the Federal Government's trust responsibility to Indian tribes, may, in its discretion, provide Departmental funds to an Indian tribe or other Indian organization for the payment of a private attorney's legal services. The proposed revisions would not change the underlying policy of the current rule which is to pay for private counsel to represent Indian tribes only in exceptional circumstances. The principal changes involve representation in child custody proceedings, services of tribal court personnel, and non-litigation services. The proposed revision would also provide that when trust resources are involved, tribes and individual Indian allottees are eligible to apply for and receive Federally appropriated funds under 25 CFR 89.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2722
NPRM Comment Period End	03/24/86	51 FR 2722
Final Action	12/00/87	

Small Entity: No

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Final Rule Stage

Agency Contact: Frank Keel, Special Assistant, Office of Trust and Economic Development, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 201, Washington, DC 20245, 202 343-1861

RIN: 1076-AB87

1208. NAVAJO GRAZING REGULATIONS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 640d; 25 USC 640d-28

CFR Citation: 25 CFR 167

Legal Deadline: None.

Abstract: This rule will be revised to clarify the Secretary's responsibilities over grazing control and range restoration activities in the area formerly known as the Joint Use Area under the July 9, 1960 amendments to the Navajo-Hopi Settlement Act, 25 U.S.C. 640d and 640d-28. The rule will form Subpart B of the Existing Navajo Grazing Regulations, which are redesignated as Subpart A of 25 CFR Part 167.

Timetable:

Action	Date	FR Cite
NPRM	03/05/87	52 FR 6822
NPRM Comment Period End	06/03/87	52 FR 6822
Final Action	09/00/87	

Small Entity: No

Additional Information: In May 1982, the District Court for the District of Arizona invalidated the regulation of 25 CFR 167 and ordered the Bureau to publish new regulations. The Bureau published interim regulations on Hopi partitioned lands on September 8, 1982. During the past year several meetings have been held with the Navajo Tribe to obtain concurrence to include Navajo partitioned land in the regulations. The Navajo Tribe expressed the desire for separate regulations and Bureau has drafted a new regulation for Navajo Partitioned Land within the existing 25 CFR Part 167.

Agency Contact: Frank H. Khattat, Natural Resources Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-3959

RIN: 1076-AA33

1209. RIGHTS-OF-WAY OVER INDIAN LANDS

Legal Authority: 5 USC 301; 25 USC 323 to 328

CFR Citation: 25 CFR 169

Legal Deadline: None.

Abstract: The Bureau of Indian Affairs intends to amend several sections of its rights-of-way regulations which impose a variety of specific requirements on grantees of rights-of-way over Indian lands. These requirements were intended to implement public laws enacted around the turn of the century which authorized the Secretary of the Interior to issue rights-of-way for various specific purposes. In 1948 Congress gave the Department comprehensive authority to grant rights-of-way for any purpose or any term of years without the antiquated restrictions of the older statutes. The regulations continue to reflect the old requirements and the result has been inconsistent application of the 1948 Act. The removal or revisions of these sections would end that practice.

Timetable:

Action	Date	FR Cite
Final Action	04/00/88	

Small Entity: No

Agency Contact: Frank Hissong, Realty Specialist, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 220, Washington, DC 20245, 202 343-3611

RIN: 1076-AB89

1210. CONTRACTS FOR PROSPECTING AND MINING ON INDIAN MINERAL LANDS

Significance: Agency Priority

Legal Authority: 25 USC 396; 25 USC 396d; 25 USC 415; 25 USC 476; 25 USC 477

CFR Citation: 25 CFR 211

Legal Deadline: None.

Abstract: The regulations in this Part govern contracts for the prospecting and mining of Indian-owned minerals, other than oil and gas. Revisions will be made which would combine rules for the review and approval of mineral development contracts on both tribal and allotted lands into one Part. This Part has been redesignated from 25 CFR Part 171.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
NPRM	07/12/83	48 FR 31978
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Joseph Johnston, Chief, Div. of Energy & Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2790

RIN: 1076-AA38

1211. LEASING OF ALLOTTED LANDS FOR MINING

Significance: Agency Priority

Legal Authority: 25 USC 396; 35 Stat. 396

CFR Citation: 25 CFR 212

Legal Deadline: None.

Abstract: As a result of review, it has been determined that this Part is no longer necessary and should be revoked. The rules which currently govern the leasing of oil and gas on Indian allotted lands will be replaced by a new 25 CFR Part 225 and in the revisions to 25 CFR Part 211. This Part has been redesignated from 25 CFR Part 172.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
Removal of rule	10/00/87	

Small Entity: No

Agency Contact: Joseph Johnston, Chief, Div. of Energy & Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2790

RIN: 1076-AA39

1212. OIL AND GAS MINERAL AGREEMENTS

Legal Authority: PL 97-382; 52 Stat. 347; 35 Stat. 783

CFR Citation: 25 CFR 225

Legal Deadline: None.

Abstract: The Bureau proposes to publish regulations that will govern mineral agreements for the development of Indian owned oil and gas resources pursuant to the Indian Mineral

Development Act of 1982, Public Law 97-382, which authorizes the tribes to enter into negotiated agreements rather than go through the previously required competitive advertising procedure.

Timetable:

Action	Date	FR Cite
NPRM	07/12/83	48 FR 31978
Final Action	10/00/87	

Small Entity: Undetermined

Additional Information: Originally scheduled: April 1983.

Agency Contact: Joseph Johnston, Chief, Div. of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2790

RIN: 1076-AA82

1213. INDIAN FISHING: HOOPA VALLEY INDIAN RESERVATION

Legal Authority: 25 USC 2; 25 USC 9; 5 USC 301; Reorganization Plan No. 3 of 1950; 64 Stat. 1262

CFR Citation: 25 CFR 250

Legal Deadline: None.

Abstract: This rule, which contains the regulations for the Hoopa fishery, will be revised to remove burdensome requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/24/83	48 FR 29004
Final Action	09/00/87	

Small Entity: Undetermined

Additional Information: Originally scheduled: April 1983.

Agency Contact: Gary L. Rankel, Chief, Branch of Fish, Wildlife & Recreation, Department of the Interior, Bureau of Indian Affairs, Main Interior, 18th & C Streets, NW, Washington, DC 20245, 202 343-4068

RIN: 1076-AA83

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Indian Affairs (BIA)

Completed Actions

1214. SAFETY CODE COMPLIANCE

Significance: Regulatory Program

Legal Authority: 25 USC 2005(b)

CFR Citation: 25 CFR Not yet determined

Legal Deadline: None.

Abstract: Legislation in Public Law 95-561 (25 U.S.C. 2005(b)) requires the establishment of a central jurisdictional authority for the adoption, interpretation, administration and enforcement of Bureau-wide adopted codes and standards. The Bureau will develop standards by which to measure the quality of building construction and safety and will establish a central authority to perform oversight functions to assure adequate life and structural safety.

Timetable:

Action	Date	FR Cite
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: Undetermined

Agency Contact: Pete Dexter, Safety Specialist, Department of the Interior, Bureau of Indian Affairs, Division of Safety Management, Field Safety Office, P.O. Box 2186, Albuquerque, NM 87103, 505 766-3963

RIN: 1076-AB61

1215. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 13; PL 98-473

CFR Citation: 25 CFR 20

Legal Deadline: None.

Abstract: The Bureau is developing a quality assurance system for inclusion in 25 CFR 20. The system would provide for an ongoing evaluation of the administration of the Bureau's general assistance program in accordance with established Bureau policies and procedures. The rulemaking actions will complete an earlier initiative to develop a quality assurance system which began in a previous rulemaking action with regard to the implementation of the provisions of Public Law 98-473.

Timetable:

Action	Date	FR Cite
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: Undetermined

Agency Contact: Louise Reyes, Acting Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-6434

RIN: 1076-AB92

1216. CARE OF INDIAN CHILDREN IN CONTRACT SCHOOLS

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 22

Legal Deadline: None.

Abstract: This rule is being proposed for removal.

The rule governed the contracting by missions, associations and other eleemosynary institutions for care of Indian children who resided within the exterior boundaries of Indian reservations under the jurisdiction of the Bureau of Indian Affairs.

Timetable:

Action	Date	FR Cite
NPRM	05/13/87	52 FR 17988
Proposed removal	05/13/87	52 FR 17988
NPRM Comment Period End	06/12/87	52 FR 17988
Final Rule Removal	08/18/87	52 FR 30920

Small Entity: No

Agency Contact: Louise Reyes, Acting Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Ave., NW, Code 450 - Room 312 South, Washington, DC 20245, 202 343-6434

RIN: 1076-AB76

1217. INDIAN EDUCATION POLICIES

Significance: Regulatory Program

Legal Authority: 25 USC 2010; 25 USC 2013

CFR Citation: 25 CFR 32

Legal Deadline: None.

Abstract: Policy statements under this part are generally broad, rhetorical, and nonmeasurable. The revision will address the strengthening of the policies that seemed unmeasurable, conflicting and needed clarification.

Timetable:

Action	Date	FR Cite
Consultation with tribes	03/00/87	
Withdrawn No further action will be taken on the rule at this time.	10/00/87	

Small Entity: Undetermined

Agency Contact: Ron Eden, Acting Director, OIEP, Department of the Interior, Bureau of Indian Affairs, Rm. 3530-Main Int., 18th & C Streets, NW, Washington, DC 20245, 202 343-2175

RIN: 1076-AB64

1218. INDIAN SCHOOL EQUALIZATION PROGRAM

Significance: Agency Priority

Legal Authority: PL 95-561; 25 USC 2008

CFR Citation: 25 CFR 39, (Revision)

Legal Deadline: None.

Abstract: This rule, which contains the funding mechanism for Bureau operated and contract elementary and secondary schools, has been reviewed and will be revised when academic and dormitory standards are finalized in 25 CFR Part 36.

Timetable:

Action	Date	FR Cite
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: No

Agency Contact: George D. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4672

RIN: 1076-AA09

1219. REGULATIONS FOR PRO RATA SHARES OF TRIBAL FUNDS

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 112

Legal Deadline: None.

Abstract: Procedures and criteria for filing application for pro rata share of tribal funds. No alternatives are under active consideration. Regulations will be reviewed for any necessary updates, clarity, etc. No cost or benefit estimates applicable at this time.

Timetable:

Action	Date	FR Cite
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: Undetermined

Agency Contact: Barbara Davis, Trust Funds Specialist, Department of the Interior, Bureau of Indian Affairs, Rm. 4513-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2963

RIN: 1076-AB65

1220. DISTRIBUTION OF JUDGEMENT FUNDS AWARDED TO THE OSAGE TRIBE OF INDIANS IN OKLAHOMA

Legal Authority: 86 Stat. 1295

CFR Citation: 25 CFR 121

Legal Deadline: None.

Abstract: 25 CFR 121 is being reviewed as scheduled under the Bureau's Regulatory Reform Act.

The regulations in this part govern the distribution, pursuant to the act of October 27, 1972, of judgement funds awarded to the Osage Tribe of Indians of Oklahoma.

Timetable:

Action	Date	FR Cite
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: No

Agency Contact: Barbara Davis, Trust Funds Specialist, Department of the Interior, Bureau of Indian Affairs, Room 4513, Main Interior, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2963

RIN: 1076-AB66

1221. LAND ACQUISITIONS

Legal Authority: PL 97-459

CFR Citation: 25 CFR 151

Legal Deadline: None.

Abstract: The Bureau proposes to publish amendments to Part 151 dealing with acquisition of fractional interests in land. Simultaneously, this rule will be reviewed to determine if all provisions are current and up-to-date.

Timetable:

Action	Date	FR Cite
NPRM	06/23/87	52 FR 23560
NPRM Comment Period End	06/07/87	52 FR 23560
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: Undetermined

Additional Information: A recent District Court opinion has held that a portion of our Land Acquisition Regulations are unconstitutional. This decision is being appealed to the Supreme Court. Depending on outcome, these rules may have to be revised.

Agency Contact: Lee Maytubby, Realty Specialist, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-3837

RIN: 1076-AA81

1222. ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

Significance: Agency Priority

Legal Authority: 25 USC 378 to 379; 25 USC 404 to 405; 25 USC 372 to 373; 25 USC 483; 25 USC 355; 25 USC 2201 to 2211

CFR Citation: 25 CFR 152

Legal Deadline: None.

Abstract: The Bureau of Indian Affairs proposes to revise certain sections of 25 CFR 152 which involve the issuance of fee patents, removal of restrictions, certificates of competency and the sale of certain Indian land. These regulations preclude the sale and/or exchange of tribal land except through special authorized legislation. The Indian Land Consolidation Act, Public Law 97-459, enacted on January 12, 1983 and subsequently amended on October 30, 1984, enables Indian tribes to sell or

exchange tribal land for the express purpose of consolidating tribal landholdings. The regulations are being revised to reflect the changes made by the legislation. In addition, the partitioning section is being revised for the purpose of clarification.

Timetable:

Action	Date	FR Cite
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: Undetermined

Agency Contact: Lee Maytubby, Realty Specialist, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 220, Washington, DC 20245, 202 343-3637

RIN: 1076-AB90

1223. COLORADO RIVER IRRIGATION PROJECT, ARIZONA

Legal Authority: 5 USC 301; 62 Stat. 273

CFR Citation: 25 CFR 175; 25 CFR 176; 25 CFR 177

Legal Deadline: None.

Abstract: This action consolidates Parts 175, 176 and 177 into Part 175 to provide consistent administration of the electric power portion (utilities) of the Colorado River, Flathead, and San Carlos irrigation projects, respectively, as well as other existing and future utilities within the Bureau of Indian Affairs. Additionally, new procedures are established for adjusting electric power rates and service fees, including public involvement in the rate setting process, and updating the policy, practices, and procedures of the utilities as needed. Part 175 would be retitled, "Electric Power Utilities" and Parts 176 and 177 would be removed.

Timetable:

Action	Date	FR Cite
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: No

Agency Contact: Samuel Miller, Water and Land Resources Officer, Division of Water and Land Resources, Department of the Interior, Bureau of Indian Affairs, 18th and C Street, NW, Washington, DC 20240, 202 343-4004

RIN: 1076-AC04

1224. LEASING OF OSAGE RESERVATION LANDS, OKLAHOMA, FOR MINING EXCEPT OIL AND GAS

Legal Authority: Sec. 3, 34 Stat. 543

CFR Citation: 25 CFR 214

Legal Deadline: None.

Abstract: This rule is being reviewed and updated to take account of changes in mineral market conditions, interest rates, and various aspects of the local situation on the Osage Reservation since the rule was originally published.

Timetable:

Action	Date	FR Cite
Withdrawn No further action will be taken on the rule at this time.	10/00/87	

Small Entity: No

Agency Contact: Joseph Johnston, Chief, Division of Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2790

RIN: 1076-AB42

1225. OPERATION, RECLAMATION AND CONSERVATION ON MINERAL LANDS

Legal Authority: 25 USC 380; 25 USC 396; 25 USC 396d; 25 USC 415; 25 USC 476; 25 USC 477; 42 USC 4332

CFR Citation: 25 CFR 216

Legal Deadline: None.

Abstract: This rule will provide for mining and exploration plans, performance plans and other operational aspects of mining on Indian lands, including compliance with the National Environmental Policy Act. This Part has been redesignated from 25 CFR Part 177. This part is also scheduled for review.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: No

Agency Contact: Joseph Johnston, Chief, Div. of Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2790

RIN: 1076-AA40

1226. WIND RIVER RESERVATION GAME CODE

Legal Authority: 43 USC 1457; 25 USC 2; 25 USC 9; 64 Stat. 1262; 18 USC 1165; 16 USC 3371 to 3378; 15 Stat. 673; 5 USC 301

CFR Citation: 25 CFR 244

Legal Deadline: None.

Abstract: The interim rule will provide regulations governing hunting of big and small game on the Wind River Indian Reservation in Wyoming, to conserve, protect and increase the currently depleted populations. No alternative actions for addressing the problem are being considered. The program will be confined to a localized area, and economic effects will be relatively insignificant. Benefits will be conservation of existing populations through reduced hunting mortality. Costs for personnel and equipment to enforce the regulations are estimated at $235,000 for the first year and $200,000 annually thereafter, to be derived by reallocation of existing funding.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/84	49 FR 39308
Final Action	06/25/87	52 FR 23805
Final Action Effective	07/27/87	52 FR 23805

Small Entity: No

Agency Contact: Gary Rankel, Chief, Branch of Fish, Wildlife & Recreation, Department of the Interior, Bureau of Indian Affairs, Main Interior - 18th and C Sts., NW, Room 4555, Washington, DC 20245, 202 343-4018

RIN: 1076-AB43

1227. FRASER RIVER CONVENTION SOCKEYE AND PINK SALMON FISHERY

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 301

CFR Citation: 25 CFR 249

Legal Deadline: None.

Abstract: It is proposed that 25 CFR 249, Subpart B, Fraser River Convention Sockeye and Pink Salmon Fishery, be removed as a result of the United States and Canada entering into a new treaty on January 28, 1985, which terminated both the 1930 Convention and the International Pacific Salmon Fisheries Commission (IPSFC). Based on the 1985 treaty, there is no longer a need for this subpart. In 1986, and thereafter, the fishery will be governed by the regulations adopted by the Fraser River Panel and approved by the State Department and by Tribal regulations that are consistent with the Fraser River Panel regulations.

Timetable:

Action	Date	FR Cite
Final Action	03/26/87	52 FR 9655
Final Action Effective	03/26/87	52 FR 9655

Small Entity: No

Agency Contact: Gary Rankel, Chief, Branch of Fish, Wildlife and Recreation, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4068

RIN: 1076-AC03

1228. HERITAGE PRESERVATION

Legal Authority: 16 USC 469; 16 USC 470aa; 16 USC 470f; 42 USC 1996

CFR Citation: 25 CFR 261

Legal Deadline: None.

Abstract: This rule will establish procedures for implementing the requirements of legislation relating to cultural resources. Subpart A will implement the requirements of the National Historic Preservation Act as it pertains to Bureau actions which may affect properties that are listed on the National Register of Historic Places. Subpart B will implement the requirements of the Archaeological Resources Protection Act, particularly the requirement that no archaeological resources may be excavated without a permit. This Part has been redesignated from 25 CFR Part 261.

Timetable:

Action	Date	FR Cite
NPRM Subpart A	09/15/80	45 FR 60923
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: Undetermined

Additional Information: DETERMINATION UNDER E.O. 12291: The effects of this document were previously considered under the provisions of E.O. 12044 which was revoked by E.O. 12291 on February 17, 1981. The document will be reconsidered under the provisions of E.O. 12291 before it is published as a final rule. Originally scheduled: April 1981.

Agency Contact: George Farris, Chief, Environmental Services Staff, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-6574

RIN: 1076-AA45

1229. SUBCHAPTER M — INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT PROGRAMS

Significance: Regulatory Program

Legal Authority: 25 USC 450 et seq; PL 96-250

CFR Citation: 25 CFR 271; 25 CFR 272; 25 CFR 274; 25 CFR 276; 25 CFR 277; 25 CFR 278

Legal Deadline: None.

Abstract: Technical amendments to the Indian Self-Determination Act permit Indian tribes, by mutual agreement, to enter into grants, cooperative agreements and contracts with the Bureau of Indian Affairs. As there are no regulatory provisions for the award of grants or cooperative agreements, the regulations will be revised to include such awards, as well as make general revisions to simplify and clarify the regulatory provisions pertaining to the contractibility of the trust, administrative and legal service functions performed by the Bureau.

Timetable:

Action	Date	FR Cite
Withdrawn No action taken at this time due to pending legislation.	10/00/87	

Small Entity: Undetermined

Additional Information: Individual regulatory actions for 25 CFR Parts 271, 272, 274, 276, 277 and 278 have been consolidated as one action in the semi-annual agenda and the Regulatory Planning Program. The regulatory identification number for Subchapter M in the Regulatory Planning Program is 1076-AB62 which now includes all previous regulatory actions identified under 1076-AA47, 1076-AA48, 1076-AA50, 1076-AA52, 1076-AA53, and 1076-AA54, respectively, for the 25 CFR Parts listed above.

Agency Contact: Joseph Little, Actg. Chief, Division of Self-Determination, Office of Indian Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4796

RIN: 1076-AB62

1230. CONTRACTS UNDER INDIAN SELF-DETERMINATION ACT

Significance: Agency Priority

Legal Authority: 25 USC 450f

CFR Citation: 25 CFR 271.54

Legal Deadline: None.

Abstract: Various procedures associated with the operation of the indirect cost system have imposed major difficulties on projecting funding and the recovery of all indirect costs by tribal contractors. The Bureau is proposing to revise its regulations to reduce critical problems tribal contractors experience while operating under the indirect cost system. The proposed rule also will bring the procedure for funding tribal contractors fully in line with the intent of PL 93-638, Section 106(h). The proposed rule change will be effective for PL 93-638 contracts consummated or awarded under the Act on or after October 1, 1987.

Timetable:

Action	Date	FR Cite
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: No

Agency Contact: Joseph Little, Actg. Chief, Division of Self-Determination, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, 18th & C Streets, NW, Washington, DC 20240, 202 343-4796

RIN: 1076-AC05

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DOI—BIA

Completed Actions

1231. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR CONTRACTS AND GRANTS

Legal Authority: PL 93-638

CFR Citation: 25 CFR 276

Legal Deadline: None.

Abstract: This rule establishes the requirements for the uniform administration of contracts and grants to Indian Tribal Governments pursuant to P.L. 93-638.

Timetable:

Action	Date	FR Cite
NPRM	09/13/82	47 FR 40353
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: Peter Campanelli, Procurement Analyst, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-3496

RIN: 1076-AA52

1232. SPECIAL GRANTS FOR ECONOMIC DEVELOPMENT AND CORE MANAGEMENT GRANTS TO SMALL TRIBES. SUBPART B - SPECIAL GRANTS FOR ECONOMIC DEVELOPMENT

Significance: Agency Priority

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 278, Subpart B

Legal Deadline: None.

Abstract: Special Grants for Economic Development - Subpart B should be deleted from 25 CFR 278. With the enactment of Public Law 98-449 "Indian Financing Act Amendments" and the completion of appropriate revisions to 25 CFR 286, Indian Business Development Program, it will be possible to remove 25 CFR 278.

Timetable:

Action	Date	FR Cite
Withdrawn No action will be taken at this time.	10/00/87	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Woody Sneed, Financial Analyst, Office of Trust and Economic Development, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-1401

RIN: 1076-AB94

[FR Doc. 87-21236 Filed 10-23-87; 8:45 am]

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DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Prerule Stage

1233. AIR QUALITY

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.57

Legal Deadline: None.

Abstract: Amendments to the DOI Air Quality regulation for oil and gas operations will be proposed for Outer Continental Shelf areas adjacent to California. The changes would provide additional safeguards for those pollutants which could be critical to air quality in the region. A determination of potential costs and benefits cannot be made until responses to the Advance Notice of Proposed Rulemaking are analyzed. The DOI has conducted a conflict assessment to determine the likelihood of the interested and affected parties being able to reach an agreement on an air quality regulatory program. If the affected parties involved can develop a mutually agreeable set of requirements, then DOI will initiate rulemaking based on that agreement.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/85	50 FR 838
ANPRM Comment Period End	03/08/85	
Begin conflict assessment phase of negotiated rulemaking process	04/15/86	
Determine potential for negotiated agreement	07/30/86	
Reach agreement on a negotiated rule or begin development of rule through standard processes	10/00/87	
Complete Determination of Effects of Rules	01/00/88	
NPRM	03/00/88	
NPRM Comment Period End	06/00/88	
Final Action	12/00/88	

Small Entity: Undetermined

Agency Contact: William S. Cook, Petroleum Engineer, Department of the Interior, Minerals Management Service, Mail Stop 646, Reston, VA 22091, 703 648-7818

RIN: 1010-AA61

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1234. VALUATION OF COAL FOR ROYALTY PURPOSES FROM FEDERAL AND INDIAN LEASES

Significance: Regulatory Program

Legal Authority: 30 USC 192 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None.

Abstract: This regulation will provide consistent valuation procedures for coal for the purpose of royalty computations. It is being prepared in response to a Linowes Commission recommendation for a detailed definitive product valuation regulation which contains clear terms and procedures.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/86	51 FR 4507
ANPRM Comment Period End	04/07/86	
NPRM	01/15/87	52 FR 1840
NPRM Comment Period End	04/15/87	
Reopen Public Comment Period	07/09/87	52 FR 25887
Reopened Public Comment Period End	07/23/87	
Reopen Public Comment Period	08/12/87	52 FR 29868
Reopened Public Comment Period End	10/13/87	
Final Action	07/00/88	

Small Entity: No

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AA83

1235. ONSHORE PRODUCTION REPORTING AND ACCOUNTING

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 216; 43 CFR 3160

Legal Deadline: None.

Abstract: This rulemaking is needed to redesignate the Bureau of Land Management regulations at 43 CFR 3160 applicable to production reporting and accounting to Minerals Management Service regulations at 30 CFR 216 to reflect the transfer in functions. Also, a requirement will be added for unique information needed to report information by oil and gas well.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	11/00/87	

Small Entity: Undetermined

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB10

1236. RECOUPMENTS AND REFUNDS OF EXCESS PAYMENTS UNDER FEDERAL OFFSHORE MINERAL LEASES

Legal Authority: 43 USC 1339

CFR Citation: 30 CFR 230

Legal Deadline: None.

Abstract: This rulemaking is needed to add new regulations covering recoupment and refunds of excess payments made under Federal offshore mineral leases which are subject to section 10 of the Outer Continental Shelf Lands Act of 1953 (OCSLA), 43 USC 1339. This rule would establish requirements and guidelines for crediting (recouping) excess payments of royalties, rentals, bonuses, or other amounts against a current or future payment obligation or refunding such excess payment to any person lawfully entitled to receive a refund or credit for an overpayment made under an offshore lease. The new regulation is intended to lessen confusion on the part of payors, operators, and the Minerals Management Service.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Undetermined

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB11

1237. EXTENSION OF PROTECTION OF PROPRIETARY DATA AND INFORMATION UNTIL A SUBSEQUENT LEASE SALE IN AN AREA

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 251.14

Legal Deadline: None.

Abstract: In some instances, current regulations result in release of proprietary data and information before the company which collected the data and information is able to use it during a lease sale in the area to which the data and information pertain. The proposed rule will revise the regulations to ensure that parties generating proprietary data and information are able to use the data and information in at least one lease sale.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	

Small Entity: No

Additional Information: RIN's 1010-AA93 and 1010-97 have been combined into 1010-AA93.

Agency Contact: Jane Roberts, Legislative Specialist, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7820

RIN: 1010-AA93

1238. LEASING OF MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 281

Legal Deadline: None.

Abstract: Proposes the desirability of new regulations to govern lease issuance on the Outer Continental Shelf (OCS) for minerals other than oil, gas, and sulphur under the authority of the OCS Lands Act; and requests comments and recommendations from interested parties. Alternative is to not have leasing requirements in regulations. Promulgation of regulation for leasing of hard mineral resources is not expected to add to the cost to industry. Regulations will ensure uniform leasing policy for all interested parties.

DOI—MMS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	04/19/85	50 FR 15590
ANPRM Comment Period End	06/19/85	
NPRM	09/00/87	
NPRM Comment Period End	12/00/87	

Small Entity: Undetermined

Agency Contact: Jane Roberts, Legislative Specialist, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7820

RIN: 1010-AA82

1239. DEVELOPMENT AND PRODUCTION OPERATIONS FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 282

Legal Deadline: None.

Abstract: Proposes the desirability of new regulations to govern Production and Development Operations on the Outer Continental Shelf (OCS) for minerals other than oil, gas, and sulphur under the authority of the OCS Lands Act; and requests comments and recommendations from interested parties. Alternative is to specify requirements in a lease document. Promulgation of regulation is not expected to result in costs significantly more than those incurred through the unregulated use of good commercial practices. The regulation will require that hard mineral operations are conducted in a manner that will ensure safety and protection of the environment.

Timetable:

Action	Date	FR Cite
ANPRM	04/09/86	51 FR 12163
ANPRM Comment Period End	06/07/86	
NPRM	10/00/87	
NPRM Comment Period End	01/00/88	

Small Entity: Undetermined

Agency Contact: Jane Roberts, Legislative Specialist, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7820

RIN: 1010-AA81

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Minerals Management Service (MMS)

1240. VALUATION OF OIL FOR ROYALTY PURPOSES FROM FEDERAL AND INDIAN LEASES

Significance: Regulatory Program

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 206; 25 CFR 211; 25 CFR 212

Legal Deadline: None.

Abstract: Consistent oil valuation for royalty computation purposes from Federal and Indian leases will be prepared in response to a Linowes Commission recommendation that the Minerals Management Service issue detailed, definitive product valuation guidelines.

Timetable:

Action	Date	FR Cite
Notice of Proposed Guidelines	11/29/82	47 FR 53822
Notice of Proposed Guidelines	12/21/82	47 FR 56871
ANPRM	02/05/86	51 FR 4507
ANPRM Comment Period End	04/07/86	
NPRM	01/15/87	52 FR 1858
NPRM Comment Period End	04/15/87	
Further Notice of Proposed Rulemaking	08/17/87	52 FR 30826
Final Action	09/00/87	

Small Entity: No

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AA30

1241. VALUATION OF GAS AND GAS PRODUCTS FOR ROYALTY PURPOSES, FROM FEDERAL AND INDIAN LEASES

Significance: Regulatory Program

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None.

Abstract: Consistent gas and gas products valuation regulations for Royalty computation purposes, from Federal and Indian leases will be prepared. These regulations are in response to a Linowes Commission recommendation that Minerals Management Service issue detailed, definitive product valuation regulations. These regulations will provide clear terms and procedures and will help clarify areas which are ambiguous.

Timetable:

Action	Date	FR Cite
Notice of Proposed Guidelines	11/29/82	47 FR 53822
Notice of Proposed Guidelines	12/21/82	47 FR 56871
ANPRM	02/05/86	51 FR 4507
ANPRM Comment Period End	04/07/86	
NPRM	02/13/87	52 FR 4732
NPRM	08/17/87	52 FR 30776
Final Action	09/00/87	

Small Entity: No

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AA54

DOI—MMS

Final Rule Stage

1242. CHANGE EFFECTIVE DATE OF ADOPTED MODIFICATIONS TO NTL-5

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None.

Abstract: The Minerals Management Service (MMS) published a Notice in the Federal Register on July 25, 1986 (51 FR 26759), to modify Notice to Lessees Number 5 (NTL-5) to provide more flexibility in valuing for royalty purposes, natural gas produced from onshore Federal and Indian leases. The modification was effective on August 1, 1986. However, MMS has received many complaints from industry that the prospective August 1, 1986, effective date of the modification, in some cases, leads to results which are unreasonable and contrary to applicable mineral leasing laws. Consequently, MMS proposes to make the effective date retroactive to a date to be established based on comments received.

Timetable:

Action	Date	FR Cite
NPRM	01/15/87	52 FR 1671
NPRM Comment Period End	02/17/87	
Reopen Public Comment Period	07/01/87	52 FR 24536
Extend Reopened Public Comment Period	07/15/87	52 FR 26575
Reopened Public Comment Period End	07/15/87	
Reopened Public Comment Period End	07/31/87	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB09

1243. ● ROYALTY-IN-KIND CRUDE OIL

Significance: Regulatory Program

Legal Authority: 30 USC 181 et seq; 43 USC 1331 et seq; 30 USC 1701 et seq

CFR Citation: 30 CFR 206; 30 CFR 209

Legal Deadline: None.

Abstract: The Royalty-In-Kind provisions of these rules, some of which were transferred from the Department of Energy, will be revised in order to simplify and streamline the Federal Government's process for selling its royalty crude oil. The contents of existing 30 CFR 206 and 30 CFR 209 will be combined at new 30 CFR 208. 30 CFR 209 will be removed. The revised rule would establish uniformity within the regulatory text, provide industry with a more efficient and responsive Royalty-in-Kind Program and improve the Federal Government's administration of this program.

Timetable:

Action	Date	FR Cite
ANPRM	10/10/82	47 FR 50924
ANPRM Comment Period End	01/10/83	
NPRM	01/20/87	52 FR 2202
Final Action	09/00/87	
Final Action Effective	10/00/87	

Small Entity: No

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg. 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AA31

1244. OIL AND GAS AND SULPHUR OPERATIONS ON THE OUTER CONTINENTAL SHELF (OCS)

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250, (Revision)

Legal Deadline: None.

Abstract: The rules at 30 CFR 250 will be revised by consolidating regulations, OCS Orders, Notices to Lessees, and related offshore operating requirements into a unified body of regulations; eliminating burdensome and counterproductive requirements; adding performance standards; and simplifying and streamlining these rules to the maximum extent practicable. Other alternatives considered were not revising the regulations and revising only those regulations identified by industry.

Timetable:

Action	Date	FR Cite
NPRM	03/18/86	51 FR 9318
NPRM Comment Period End	11/25/86	51 FR 40819
Complete Initial Review of public comments	09/00/87	
Complete draft of Final Rule	12/00/87	
Final Action	04/00/88	
Final Action Effective	07/00/88	

Small Entity: No

Additional Information: Merged in whole or in part into one rulemaking: 1010-AA11, 30 CFR 250.70 and .80, Penalties; 1010-AA13, 30 CFR 250.3, Disclosure of Information; 1010-AA25, OCS Order No. 2, para. 6, Safety Requirements for Drilling Operations in an H2S Environment; 1010-AA26, OCS Order No. 6, Well Completion of Oil & Gas Wells; 1010-AA28, OCS Order No. 11, Oil & Gas Production Rates, Prevention Waste, & Protection of Correlative Rights; 1010-AA32, 30 CFR 250.45, Reports of Accidents & Malfunctions; 1010-AA34, 30 CFR 250.75, Self-Inspection; 1010-AA47, 30 CFR 250.80-2, Remedies & Penalties; 1010-AA48, 30 CFR 250, Environmental Reports; 1010-AA49, 30 CFR 250, Protection of Cultural Resources; 1010-AA50, 30 CFR 250.35, Effects of Drilling & Reworking on Lease Term; 1010-AA51, OCS Order No. 5, Production Safety Systems; 1010-AA52, OCS Order No. 9, Pipelines; 1010-AA96, 30 CFR 250.44, Borehole Abandonment.

Agency Contact: Gerald D. Rhodes, Chief, Rules, Orders, and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 646, Reston, VA 22091, 703 648-7816

RIN: 1010-AA53

1245. SUPPLEMENTAL SALES

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 256.12; 30 CFR 256.26

Legal Deadline: None.

Abstract: The rules at 30 CFR Part 256 will be revised to provide for supplemental sales and to establish limits on those supplemental sales. This rule is intended to allow the offering of rejected bid blocks, drainage blocks,

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and development blocks. The alternative is to operate under the current regulation and delay the leasing of certain blocks which may be critical to the development of an area or may be susceptible to loss of hydrocarbons.

Timetable:

Action	Date	FR Cite
NPRM	03/26/87	52 FR 9672
NPRM Comment Period End	04/27/87	
Comment Period Reopened	08/06/87	52 FR 29222
Final Action	12/00/87	
Final Action Effective	01/00/88	

Small Entity: No

Agency Contact: Mary McDonald, Program Analyst, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7817

RIN: 1010-AB05

1246. NONDISCRIMINATION IN EMPLOYMENT IN THE OUTER CONTINENTAL SHELF

Legal Authority: 43 USC 1863; 43 USC 1331 et seq; 42 USC 2000d to 2000e

CFR Citation: 30 CFR 271

Legal Deadline: None.

Abstract: There are no provisions in current Minerals Management Service regulations which provide a mechanism for remedy of unlawful discrimination in Outer Continental Shelf (OCS) employment. Rules would be developed to provide a process whereby persons who believed they had been denied employment because of unlawful discrimination would have a forum. These rules would implement the purposes of section 604 of the OCS Lands Act Amendment of 1978. Alternatives considered are no action, issuance of a policy statement and no rules, and proposal of extensive affirmative action rules similar to those rescinded in the past. Very few complaints are expected to arise as there has been no evidence of discrimination to date. Therefore, costs are expected to be minimal. Benefits would be the assurance that the requirements of section 604 are being fully carried out.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17770
NPRM Comment Period End	06/11/87	
Final Action	09/00/87	
Final Action Effective	10/00/87	

Small Entity: No

Agency Contact: Mary McDonald, Program Analyst, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7817

RIN: 1010-AA87

1247. PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 280

Legal Deadline: None.

Abstract: Proposes the desirability of new regulations to govern exploration on the Outer Continental Shelf (OCS) for minerals other than oil, gas, and sulphur under the authority of the OCS Lands Act; and requests comments and recommendations from interested parties. Alternative is to specify requirements in a permitting document rather than in regulations. Promulgation of regulations is not expected to result in costs significantly more than those incurred through the unregulated use of good commercial practices. The rules will require that hard mineral operations will be conducted in a manner which will ensure safety and protection of the environment.

Timetable:

Action	Date	FR Cite
ANPRM	12/07/84	49 FR 47871
ANPRM Comment Period End	04/08/85	
NPRM	03/26/87	52 FR 9758
NPRM Comment Period End	06/24/87	
Final Action	11/00/87	
Final Action Effective	12/00/87	

Small Entity: No

Agency Contact: Jane Roberts, Legislative Specialist, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7820

RIN: 1010-AA71

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

Completed Actions

1248. ADMINISTRATION OF 20 PERCENT SET ASIDE

Significance: Regulatory Program

Legal Authority: 43 USC 1331 et seq

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: A review is under way to evaluate the implementation of section 8(b)(7) of the Outer Continental Shelf Lands Act. The alternative is to provide oversight under a more structured program, possibly involving new regulations. The potential benefits and costs of this action have not been determined.

Timetable:

Action	Date	FR Cite
Withdrawn Current regulations are adequate	07/09/87	

Small Entity: Undetermined

Agency Contact: Mary McDonald, Program Analyst, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7817

RIN: 1010-AA73

1249. ASSESSMENTS FOR INCORRECT OR LATE REPORTS AND FAILURE TO REPORT

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 216.40; 30 CFR 218.40

Legal Deadline: None.

Abstract: Current assessments, in some instances, are out of line with costs and the nature of the error. This burden on industry must be relieved as soon as possible. The assessment regulations in 30 CFR 216.40 and 218.40 reserve to the Minerals Management Service (MMS) the discretion whether or not to assess a reporter. However, the existing regulations do not give MMS any flexibility in determining the amount of assessment per line--it must be $10. After experience in making such assessments, MMS has determined that it must be able to vary the amount of the assessments. Therefore, MMS is amending the regulations that relate to the Auditing and Financial System (AFS) reporting in 30 CFR 218.40 and the regulations that relate to the Production Accounting and Auditing System (PAAS) reporting in 30 CFR 216.40 to provide that the assessment will be an amount "up to $10" for each report as defined in the respective regulations.

Timetable:

Action	Date	FR Cite
Final Action	07/22/87	52 FR 27545
Final Action Effective	08/21/87	

Small Entity: No

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AB08

1250. PROVIDING INFORMATION CLAIMING REWARDS UNDER THE FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982

Legal Authority: 30 USC 1701; 30 USC 1723

CFR Citation: 30 CFR 218

Legal Deadline: None.

Abstract: Regulation for providing information and claiming rewards is needed to implement section 113 of the Federal Oil and Gas Royalty Management Act of 1982. No procedures are established on rewards. Rules would be developed to provide a process whereby persons having information on royalty or other payments owed to the United States could provide information and claim rewards. Alternatives considered are no action, issue a policy statement and no rule, or perform an extensive study. Very few information submissions and claims for rewards are expected as there is minimal interest to date. Therefore, costs are expected to be insignificant. Benefits would be assurance that the requirements of section 113 are being implemented and informants can provide information on amounts owed to the United States. Additional revenue is expected to be recovered.

Timetable:

Action	Date	FR Cite
NPRM	01/14/87	52 FR 1471
NPRM Comment Period End	03/16/87	
Final Action	07/01/87	52 FR 24450
Final Action Effective	07/31/87	

Small Entity: No

Agency Contact: Dennis W. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, Colorado 80225, 303 231-3432

RIN: 1010-AB02

1251. THRESHOLD REQUIREMENT FOR PAYMENTS BY ELECTRONIC FUNDS TRANSFER

Legal Authority: 43 USC 1221 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None.

Abstract: The Minerals Management Service (MMS) is proposing to amend 30 CFR 218 to change the threshold from $50,000 to $10,000 for royalty, bonus, and rental payments required to be made by Electronic Fund Transfer (EFT). This action would accelerate the collection and deposit cycle for MMS since payments under $50,000 are now made in the form of checks. The increased use of EFT would result in interest savings to the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/06/87	52 FR 687
NPRM Comment Period End	03/09/87	
Final Action	06/25/87	52 FR 23812
Final Action Effective	07/27/87	

Small Entity: No

Agency Contact: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, Colorado 80225, 303 231-3432

RIN: 1010-AB03

1252. DATA AND INFORMATION TO BE MADE AVAILABLE TO THE PUBLIC

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.3

Legal Deadline: None.

Abstract: The Minerals Management Service proposes to revise the timeframes for protection of proprietary geological data and information collected on a lease in the Outer Continental Shelf. This revision will provide additional assurance that the party that incurred the cost to produce the geological data and information will have a reasonable opportunity for exclusive use of it during at least one subsequent lease sale. The rule would apply to leases that are within the primary term.

Timetable:

Action	Date	FR Cite
Final Action	04/22/87	52 FR 13235
Final Action Effective	05/22/87	

Small Entity: No

Agency Contact: Jane Roberts, Legislative Specialist, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7820

RIN: 1010-AB07

1253. ACCIDENTS, FIRES, AND MALFUNCTIONS FACT-FINDINGS PROCEEDINGS

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.45(c), (new)

Legal Deadline: None.

Abstract: Proposes to establish procedures to obtain testimony from witnesses or persons who have knowledge of serious accidents, fires, blowouts, or spills that occurred during oil and gas and sulphur operations in the Outer Continental Shelf. The testimony would help accident investigation panels to determine the cause or probable cause of an accident under investigation. The procedures would facilitate meetings of

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investigatory panels and would reduce legal challenges to future Minerals Management Service fact-finding investigations. The alternative would be not to have procedures. The proposed rule is procedural in nature; therefore, it does not imply cost.

Timetable:

Action	Date	FR Cite
NPRM	04/24/86	51 FR 15502
NPRM Comment Period End	05/27/86	
Final Action	06/11/87	52 FR 22305
Final Action Effective	07/13/87	

Small Entity: No

Agency Contact: William Cook, Petroleum Engineer, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7818

RIN: 1010-AA88

1254. REPORT OF CESSATION OF PRODUCTION

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.93

Legal Deadline: None.

Abstract: The Minerals Management Service (MMS) proposes to add the requirement for a report of cessation of production for leases in their extended term which have ceased production. This proposed regulation addresses a situation created by the elimination of the Monthly Report of Operations. Without the Monthly Report of Operations, MMS does not have timely information concerning the status of a lease. The alternative is to continue collecting the Monthly Report of Operations.

Timetable:

Action	Date	FR Cite
NPRM	10/20/86	51 FR 37200
NPRM Comment Period End	11/19/86	
Final Action	06/25/87	52 FR 23815
Final Action Effective	07/27/87	

Small Entity: No

Agency Contact: John Mirabella, Senior Regulatory Policy Analyst, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 648-7815

RIN: 1010-AB04

[FR Doc. 87-21236 Filed 10-23-87; 8:45 am]

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DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1255. TERMINATION OF JURISDICTION UNDER SMCRA

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 700.11

Legal Deadline: None.

Abstract: The Surface Mining Control and Reclamation Act (SMCRA) does not specifically define the cutoff point at which a person's reclamation obligations are absolved, therefore a rule is needed to specify when liability is terminated. The significant and sensitive nature of this issue warrants rulemaking to resolve the issue of when a person's liability under SMCRA ends. The regulations in question are specific to the responsibilities of the Depart. of the Interior, OSMRE, and they implement SMCRA. No other Federal agency is authorized to undertake this action on behalf of the Department. OSMRE has never addressed this issue in a rulemaking. The regulatory authority will issue a written determination ending liability under the Act where the following conditions apply. For permanent program operations it proposes to terminate an operator's liability under the Act at the time of final bond release where all applicable regulatory program requirements have been met. For initial program operations, liability will end where all requirements of the Act and regulations have been met.

Timetable:

Action	Date	FR Cite
NPRM	06/26/87	52 FR 24092
NPRM Comment Period End	09/04/87	52 FR 24092
Final Action	02/00/88	

Small Entity: No

Agency Contact: Daniel Stocker, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5385

RIN: 1029-AB07

1256. ● SURFACE COAL MINING AND RECLAMATION OPERATIONS; TWO ACRE EXEMPTION REPEAL

Legal Authority: 30 USC 1201 et seq; PL 100-34

CFR Citation: 30 CFR 700.11

Legal Deadline: None.

Abstract: Section 528(2) of the Surface Mining Control and Reclamation Act of 1977, exempted from the requirements of the Act "the extraction of coal for commercial purposes where the surface mining operation affects two acres or less." On May 7, 1987, the President signed Pub. L. 100-34 which repealed the exemption. The rule action would remove the exemption provision from the regulations at 30 CFR 700.

Timetable:

Action	Date	FR Cite
Notice of Suspension: Two-Acre Exemption Repeal	06/04/87	52 FR 21228
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Arthur Abbs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5351

RIN: 1029-AB16

1257. SURFACE COAL MINING OPERATIONS; DEFINITION OF IN CONNECTION WITH

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 700.5

Legal Deadline: None.

Abstract: The rule will codify the definition of the phrase "in connection with" as used in the definition of surface coal mining operations at 30 CFR 700.5. The definition of "in connection with" will clarify which activities are associated with surface coal mining operations and therefore subject to the requirements of the Surface Mining Control and Reclamation Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: No

Agency Contact: Raymond E. Aufmuth, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1514

RIN: 1029-AB08

1258. PERMANENT REGULATORY PROGRAM REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5; 30 CFR 785.19(d)

Legal Deadline: None.

Abstract: This proposed rule would respond to a ruling by the District Court for the District of Columbia which stated that the definition of farming and agricultural activities were not equal as it related to Alluvial Valley Floors as defined in OSM's regulations. The Court ordered that the definition be repromulgated in a manner consistent with Congressional intent. Pursuant to the Court ruling, additional guidance would be provided as to what the "essential hydrologic functions" are of AVFs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Doug Growitz, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1507

RIN: 1029-AA54

1259. PERMANENT PROGRAM PERFORMANCE STANDARDS SURFACE AND UNDERGROUND ACTIVITIES ROADS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5; 30 CFR 816.150; 30 CFR 816.151; 30 CFR 817.150; 30 CFR 817.151

Legal Deadline: None.

Abstract: The regulation will address the sections that were remanded back to OSM by the action of the Court and modify some provisions that are confusing in the existing file. The changes will provide additional guidance to the surface coal mine operator in fulfilling the performance standards of the Act. Costs will not be increased because the regulations will amplify existing requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Robert Wiles, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1502

RIN: 1029-AA60

1260. PERMANENT REGULATORY PROGRAM DEFINITION OF SUPPORT FACILITIES

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5

Legal Deadline: None.

Abstract: The proposed rule will amend the definition of the term support facilities as a result of the District Court for the District of Columbia's opinion of July 6, 1984. The proposed regulation would bring additional support facilities under the Permanent Program Regulations of the Surface Mining Control and Reclamation Act and amend the definition of support facility to connote a functional relationship with a regulated facility. This proposed rule would impose only minor costs to the coal industry since relatively few operations will be affected.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: Undetermined

Agency Contact: Raymond Aufmuth, Physical Scientist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1514

RIN: 1029-AA94

1261. EXEMPTION FOR COAL EXTRACTION INCIDENTAL TO GOVERNMENT FINANCED CONSTRUCTION

Legal Authority: 30 USC 1202; 30 USC 1211; 30 USC 1278

CFR Citation: 30 CFR 707; 30 CFR 874

Legal Deadline: None.

Abstract: The current limiting language in 30 CFR Part 707 can have at least three adverse results for the Abandoned Mine Lands (AML) Program. The inability to remove incidental amounts of coal encountered during reclamation activities can result in: 1) the loss of a valuable energy resource, 2) a no-cost subsidy of a future mining operation, and 3) a windfall profit to the mineral owner. In addition, the Federal and State governments are unable to reduce the costs of their AML projects. Participation in the incidental recovery of coal and resulting reduction in reclamation costs would allow the Federal and State AML programs to accomplish more reclamation at a substantial saving. To correct these deficiencies and to allow greater flexibility for the AML Program to remove incidental amounts of coal encountered during AML-financed reclamation activities, the clarification and expansion of Parts 707 and 874 is being proposed.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: No

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Agency Contact: James Fary, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-3375

RIN: 1029-AA58

1262. REQUIREMENTS FOR COAL EXPLORATION—PERMIT REQUIREMENTS FOR EXPLORATION REMOVING MORE THAN 250 TONS OF COAL

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 772.11; 30 CFR 772.12

Legal Deadline: None.

Abstract: The proposed rule would comply with a court order of the District Court for the District of Columbia which remanded OSM reporting requirements for surface coal exploration. The proposed rule would revise existing requirements to include the filing of a notice by all individuals or operators planning coal exploration, and specify the information required on applications for coal exploration. The obligation to report is a standing requirement of existing regulations. This rule would expand the requirement to report. Because affected States already have the expanded requirement in place, no additional costs or benefits are expected to be associated with the rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Undetermined

Agency Contact: Fred Block, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4553

RIN: 1029-AA92

1263. ● FEDERAL REGULATORY PROGRAMS; PERMIT APPLICATION FEES

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 736; 30 CFR 740; 30 CFR 746; 30 CFR 750; 30 CFR 772

Legal Deadline: None.

Abstract: The proposed rule would govern the collection by OSMRE of application fees for permits to conduct surface coal mining and reclamation operations, and for permits to conduct coal exploration, as well as fees for processing mining plans and for midterm review of surface coal mining and reclamation permits. Recipients of these services would be required to reimburse OSMRE for costs incurred in providing the services.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Arthur Abbs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5351

RIN: 1029-AB15

1264. FEDERAL LANDS PROGRAM

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; 30 USC 181 et seq

CFR Citation: 30 CFR 740; 30 CFR 745; 30 CFR 746

Legal Deadline: None.

Abstract: Various language changes will be proposed in 30 CFR 740, 745, and 746 in response to a ruling by the District Court for the District of Columbia with respect to the definition of "mining plans," the applicability of the Federal lands program, and for technical accuracy and to clarify ambiguous language that has surfaced since publication of the rules in February 1983.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	
NPRM Comment Period End	08/00/88	
Final Action	02/00/89	

Small Entity: Undetermined

Agency Contact: Leonard Richeson, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5150

RIN: 1029-AA76

1265. SURFACE COAL MINING AND RECLAMATION OPERATIONS ON INDIAN LANDS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 750

Legal Deadline: None.

Abstract: The proposed rule would implement Court approved settlements involving OSMRE, the State of New Mexico, and the National Coal Association/American Mining Congress Joint Committee in regard to final Indian lands regulations. The rule would delete the reference to the American Indian Religious Freedom Act and revise the requirements addressing inclusion of surface coal mining and reclamation provisions in Indian leases.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Suzanne Hudak, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4540

RIN: 1029-AB04

1266. DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Significance: Regulatory Program

Legal Authority: 30 USC 1254; 30 USC 1272

CFR Citation: 30 CFR 761.5; 30 CFR 761.11(h)

Legal Deadline: None.

Abstract: OSM is repromulgating certain portions of its regulations which define "valid existing rights" and prohibit surface coal mining on lands within units of the National Park System, National Wildlife Refuge System and certain other areas designated by Congress. OSM is repromulgating these regulations as a result of a District Court Decision in Round III of the present litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
Notice of EIS and RIA Scoping Meeting, Request for Comments	01/22/87	52 FR 2421
Scoping Hearings for NEPA and RIA	02/06/87	
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	02/00/88	

Small Entity: Yes

Agency Contact: Annetta Cheek, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-7951

RIN: 1029-AA77

1267. LANDS UNSUITABLE REGULATIONS

Significance: Agency Priority

Legal Authority: 30 USC 1254; 30 USC 1272

CFR Citation: 30 CFR 761.5; 30 CFR 761.11(a); 30 CFR 761.11(c); 30 CFR 769.14(a)(3); 30 CFR 769.14(b)(2)

Legal Deadline: None.

Abstract: OSMRE is repromulgating certain portions of its regulations under Subchapter F which contain criteria for and describe the petition process for designating lands unsuitable for surface coal mining operations. OSM is repromulgating these regulations as a result of a District Court decision in Round III of the present litigation on OSMRE's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: No

Agency Contact: Jerry Schwartz, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5144

RIN: 1029-AA80

1268. SUBSTANTIAL LEGAL AND FINANCIAL COMMITMENT

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 762.5

Legal Deadline: None.

Abstract: The proposed rule would amend the definition of the phrase "substantial legal and financial commitments" as required by a District Court decision in Round III of the present litigation on OSMRE's permanent program regulations. The definition will clarify what is needed for a determination of a "substantial legal and financial commitment" in a surface coal mining operation. Such a determination would exempt land from a designation as unsuitable for surface coal mining operations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: James M. Kress, Federal Land Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5145

RIN: 1029-AB01

1269. ● PERMIT PROCESSING

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 773.11

Legal Deadline: None.

Abstract: The proposed rule would require operators of surface coal mining operations who operated during the initial regulatory program without a permit to cease mining until they secure a permanent program permit. Only operators who held initial program permits may continue to operate after the Secretary has approved a State regulatory program, if they have submitted an application for a permanent program permit. The proposed rule responds to a remand of previously proposed regulation, in which the U.S. District Court concluded that the rule was inconsistent with the statute.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Patrick Boyd, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4561

RIN: 1029-AB14

1270. PERMANENT REGULATORY PROGRAM; REQUIREMENTS FOR PERMITS, INFORMATION ON HYDROLOGIC IMPACTS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 780.21(f); 30 CFR 784.14(e)

Legal Deadline: None.

Abstract: The rule sets a life of permit as the parameter for the determination of the probable hydrologic consequences (PHC) of the proposed operation upon the quality and quantity of surface and groundwater under seasonal flow conditions for the proposed permit and adjacent areas. The rule re-promulgates the suspended 1983 rules with an expanded preamble and record to support the rule language. This was requested by the Court as a result of litigation. The rule will result in lower costs to industry and a reduction in their information collection requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: No

Agency Contact: Doug Growitz, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1587

RIN: 1029-AB11

1271. PERMANENT REGULATORY PROGRAM DEFINITIONS; AREAS UNSUITABLE FOR MINING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 784

Legal Deadline: None.

Abstract: The proposed rule would clarify the applicability of the prohibitions in section 522(e)(4) a· d (5)

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DOI—OSMRE

Proposed Rule Stage

of the Surface Mining Control and Reclamation Act to the surface impacts of underground mining. The issue of the relationship between section 522(e) and mining related subsidence will be addressed in the proposed rulemaking. The rulemaking will seek to clarify whether OSM's rules have the effect of prohibiting underground mining operations related to the features and facilities within the distance limitations enumerated in sections 522(e)(4) and (5) of the Act. The proposed rulemaking will address the issue of what is a "Surface Impact" incident to an underground mine.

Timetable:

Action	Date	FR Cite
ANPRM	04/03/85	50 FR 13250
ANPRM Comment Period End	06/27/85	50 FR 13250
Notice of EIS and RIA Scoping Meeting and Request for Comments	01/22/87	52 FR 2421
EIS and RIA Scoping Meeting	02/06/87	
NPRM	09/00/87	
Hearing on Draft EIS	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	02/00/88	
Final Action Effective	03/00/88	

Small Entity: Yes

Additional Information: The Office of Surface Mining has determined that the proposed rulemaking constitutes a major Federal action requiring an EIS to meet the requirements of the National Environmental Policy Act. OSM has also made the determination that the proposed rule may be significant within the meaning of E.O. 12291. Precise cost/price impacts cannot be determined prior to further development of the regulation, but such costs are anticipated to be significant in terms of E.O. 12291 and the Regulatory Flexibility Act. Therefore, a Preliminary Regulatory Impact Analysis and Small Entity Flexibility Analysis are being prepared.

Agency Contact: Dermot Winters, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1928

RIN: 1029-AA80

1272. REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING; EXPERIMENTAL PRACTICES

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 785.13

Legal Deadline: None.

Abstract: The proposed rule would revise the permit application requirements applicable to experimental practices as provided by section 711 of SMCRA. Section 711 allows for departures from the environmental protection performance standards of section 515 and 516 of the Act. The rule would be revised to encourage advances in mining and reclamation practices and special alternative postmining land uses. No additional costs to the environment would occur because experimental practices cannot be authorized if they are not as environmentally protective as the requirements of section 515 and 516. The rule revision may provide coal mine operators the ability to utilize more cost efficient mining and reclamation practices. OSMRE is discussing experimental practice issues with external groups. The scope of future rulemaking action will be developed following these discussions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: John Parsons, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1505

RIN: 1029-AB06

1273. PERMANENT PROGRAM PERFORMANCE STANDARDS; DISPOSAL OF COAL MINE WASTE

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None.

Abstract: The rule will reexamine performance standards and design criteria for coal waste disposal. The action is in response to a District Court for the District of Columbia remand order which cited procedural defects in an earlier rulemaking (47 FR 44006, September 28, 1983), involving inadequate notice and comment and an inadequate administrative record.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Dr. C. Y. Chen, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1501

RIN: 1029-AB09

1274. PERMANENT PROGRAM PERFORMANCE STANDARDS; SURFACE MINING ACTIVITIES; CONTEMPORANEOUS RECLAMATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.100; 30 CFR 816.101

Legal Deadline: None.

Abstract: The rule is being proposed in response to a remand by the Court to provide additional guidance to the regulatory authorities. The proposed rule should ensure that all reclamation efforts proceed as contemporaneously as practicable with surface coal mining operations in accordance with Section 515(b)(16) of the Surface Mining Control and Reclamation Act of 1977.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Robert Wiles, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1502

RIN: 1029-AB02

1275. PERMANENT PROGRAM PERFORMANCE STANDARDS SURFACE AND UNDERGROUND MINING ACTIVITIES BACKFILLING AND GRADING

Significance: Regulatory Program

DOI—OSMRE

Proposed Rule Stage

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.102(g)(2); 30 CFR 816.104; 30 CFR 816.105

Legal Deadline: None.

Abstract: The regulation will address the sections that were remanded back to OSM by the action of the Court. The regulation will provide additional guidance to the surface coal mine operator in fulfilling the performance standards of the Act. Costs will not be increased because the regulations will amplify existing requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	12/00/87	
Final Action	06/00/88	

Small Entity: Undetermined

Agency Contact: Robert Wiles, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1502

RIN: 1029-AA57

1276. PERMANENT PROGRAM PERFORMANCE STANDARDS; HIGHWALL POLICY

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.102

Legal Deadline: None.

Abstract: The proposed regulation is in accordance with a Court approved settlement agreement and would provide a method of calculating civil penalties when compliance with Section 30 CFR 816.102(a) cannot be accomplished using Best Technology Currently Available or where compliance would result in significant harm to the environment and the operation does not qualify for an exemption to total highwall elimination in accordance with 30 CFR 816.102(k). The regulation will require an undetermined information collection requirement on the regulatory authority, the cost of which has not been calculated.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: No

Agency Contact: Ralph McDonald, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1514

RIN: 1029-AB10

1277. PERMANENT PROGRAM PERFORMANCE STANDARDS - SURFACE MINING ACTIVITIES, UNDERGROUND MINING ACTIVITIES -- REVEGETATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.116(b)(3)(ii); 30 CFR 816.116(c)(4); 30 CFR 817.116(b)(3)(ii); 30 CFR 817.116(c)(4); 30 CFR 816.116(c)(2); 30 CFR 817.116(c)(2)

Legal Deadline: None.

Abstract: This rule is being proposed in response to an order of the U.S. District Court remanding several aspects of OSM regulations concerning revegetation which has inadequate support in the administrative record. OSM will propose rules concerning replanting of trees as a normal husbandry practice, the period for revegetation success, and rills and gullies control as a normal conservation practice. Costs and benefits of this action have not been determined since the final scope of the rule is not certain. This analysis will be based in large part on public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: Undetermined

Agency Contact: Arlo Dalrymple, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5245

RIN: 1029-AA86

1278. PERMANENT PROGRAM PERFORMANCE STANDARDS - SURFACE MINING ACTIVITIES, UNDERGROUND MINING ACTIVITIES - IMPOUNDMENTS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.49; 30 CFR 817.49

Legal Deadline: None.

Abstract: The regulation will address the issue addressed in a district court challenge to OSM regulations. The rule will address the problem of combination spillways and will specify a spillway configuration that must be installed to safely pass the designed precipitation event. In some cases, the rule may allow one spillway to serve as a combination principal and emergency spillway. The proposed action may reduce costs in those cases where one spillway will safely pass the design precipitation event with no corresponding decrease in environmental protection.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Robert Wiles, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1502

RIN: 1029-AA79

1279. ● DISPOSAL OF EXCESS SPOIL ON PREEXISTING BENCHES

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.74; 30 CFR 817.74

Legal Deadline: None.

Abstract: The regulations at 30 CFR 816.74/817.74 allow, with the approval of the regulatory authority, the disposal of excess spoil through placement on preexisting benches provided that the standards set forth in sections 816.71/817.71 are met. These standards contain the general requirements for the disposal of excess spoil. Based on the draft study entitled "Encouraging Abandoned Mine Land Reclamation via Remining: A Federal, State and Industry Initiative" and comments received, OSMRE has reviewed these regulations. Based on this review, OSMRE has concluded that excess spoil, when placed on the benches is similar to backfilling and grading of a highwall and bench and therefore could be

regulated under the backfilling and grading regulations in section 816.102/817.102, in lieu of the "excess spoil" standards while maintaining the same environmental and safety standards. The proposed rule would apply the backfilling and grading requirements to disposal of excess spoil on preexisting benches.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Raymond Aufmuth, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1514

RIN: 1029-AB18

1280. SURFACE COAL MINING AND RECLAMATION OPERATIONS; PERMANENT REGULATORY PROGRAMS; PERMANENT PROGRAM INSPECTION AND ENFORCEMENT PROCEDURES

Significance: Regulatory Program

Legal Authority: 30 USC 1267

CFR Citation: 30 CFR 840; 30 CFR 842; 30 CFR 843

Legal Deadline: None.

Abstract: The proposed rule would define an "abandoned site" and address the inspection frequency for those sites. The rule would enable regulatory authorities to allocate inspector resources to ongoing operations where they are most needed by reducing the inspection frequency for abandoned sites as necessary to monitor conditions or changes of status without sacrificing environmental quality control.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Daniel E. Stocker, Chief, Section of Inspection, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5384

RIN: 1029-AA67

1281. ● TEN DAY NOTICE REVIEW CRITERIA

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 842.11; 30 CFR 843.12

Legal Deadline: None.

Abstract: The proposed rule would provide guidance to OSMRE in its evaluation of State responses to ten day notices. It would provide that OSMRE must accept a State's response as constituting appropriate action to cause a violation to be corrected or showing good cause for such failure, unless that response is arbitrary, capricious, or an abuse of discretion under the State program. The rule would also provide a mechanism whereby a State could seek informal review within OSMRE of an initial decision to inspect a mine site when OSMRE rejects the State's response to the ten day notice. The rulemaking is being proposed in response to a decision on a petition for rulemaking submitted to the Director, OSMRE.

Timetable:

Action	Date	FR Cite
Notice of Decision on Petition for Rulemaking	06/08/87	52 FR 21598
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Daniel Stocker, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5185

RIN: 1029-AB12

1282. ● ABANDONED MINE LAND RECLAMATION; STATE RECLAMATION GRANTS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 886

Legal Deadline: None.

Abstract: Cases have been identified where coal mine operators have also contracted with a State to conduct reclamation of abandoned mine land. This reclamation is conducted under the Abandoned Mine Land (AML) Reclamation Program and is funded by fees paid by coal operators on productions. Under the proposed rule, a reclamation contract could not be let to an operator with certain outstanding violations of the Surface Mining Control and Reclamation Act. The violations would include outstanding cessation orders and unpaid civil penalties and abandoned mine reclamation fees. The rule action is being initiated to prevent operators in violation of SMCRA from benefiting from the Act by receiving contracts funded under the AML program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Danny Lytton, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 653-2929

RIN: 1029-AB13

1283. CALIFORNIA FEDERAL PROGRAM

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 905

Legal Deadline: None.

Abstract: The proposed rule would establish a Federal program for the State of California. Under the Federal program, surface coal mining and reclamation operations in California will be subject to the OSMRE's permanent program requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Pat Boyd, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-4561

RIN: 1029-AB05

1284. ● TENNESSEE PROGRAM AMENDMENT; SIGNIFICANT PERMIT REVISIONS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 942.774

Legal Deadline: None.

Abstract: The rule applies to the Federal program for Tennessee and would establish guidelines for determining whether a proposed revision to an existing coal mining permit is significant. Significant permit revisions are subject to public comment and hearing requirements. The rule would assist OSMRE in making consistent determinations concerning the significance of permit revisions in Tennessee. The rule is being proposed in response to a decision on a petition for rulemaking, submitted to the Director, OSMRE.

Timetable:

Action	Date	FR Cite
Notice of Decision on Petition for Rulemaking	03/05/87	52 FR 6827
NPRM	10/00/87	

Small Entity: No

Agency Contact: James Tate, Jr., Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Washington, DC 20240, 202 343-4500

RIN: 1029-AB17

DEPARTMENT OF THE INTERIOR (DOI) — Final Rule Stage

Office of Surface Mining Reclamation and Enforcement (OSMRE)

1285. EXEMPTION FOR COAL EXTRACTION INCIDENTAL TO THE EXTRACTION OF OTHER MINERALS

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 702

Legal Deadline: None.

Abstract: The Surface Mining Act exempts mining operations that extract other minerals where coal does not exceed 16 2/3 percent of tonnage of minerals removed for sale. Evidence of abuse of this exemption has been identified. Proposed regulations would establish procedures to administer the exemption. The costs of compliance for these operations are undetermined. Benefits would be to the public in terms of protection of health, safety, and environment from detrimental effects of mining. Legitimate noncoal operators would be able to compete fairly with those operations now using the exemption to undersell their legitimate competitors.

Timetable:

Action	Date	FR Cite
NPRM	06/01/87	52 FR 20546
NPRM Comment Period End	08/10/87	52 FR 20546
Final Action	01/00/88	

Small Entity: No

Agency Contact: James Fary, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-3375

RIN: 1029-AA53

1286. INDIVIDUAL CIVIL PENALTIES

Significance: Regulatory Program

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 723; 30 CFR 724; 30 CFR 845; 30 CFR 846, (New)

Legal Deadline: None.

Abstract: The proposed rule will improve the implementation of Section 518(f) of the Surface Mining Control and Reclamation Act by clarifying the meaning of "knowing and willful" and defining the manner in which a daily penalty will be assessed for a continuing violation. Corporate officials associated with a permittee in violation of the Act will be identified and assessed individual civil penalties in addition to any penalties imposed on the Corporate entity.

Timetable:

Action	Date	FR Cite
NPRM	12/24/86	51 FR 46838
NPRM Comment Period End	03/04/87	51 FR 46838
Final Action	11/00/87	

Small Entity: No

Agency Contact: Andrew DeVito, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Washington, DC 20240, 202 343-5241

RIN: 1029-AA81

1287. SURFACE COAL MINING AND RECLAMATION OPERATIONS; PERMANENT REGULATORY PROGRAM; FEDERAL PROGRAM FOR A STATE; PROCEDURAL REQUIREMENTS

Legal Authority: 30 USC 1251; 30 USC 1253 to 1269; 30 USC 1271; 30 USC 1272; 30 USC 1295

CFR Citation: 30 CFR 736

Legal Deadline: None.

Abstract: OSMRE will propose revisions to its rules governing standards and procedures for the promulgation, implementation, revision, and termination of a Federal program for a State for coal exploration and surface coal mining operations on non-Federal and non-Indian lands within that State.

Timetable:

Action	Date	FR Cite
NPRM	05/31/87	52 FR 10352
NPRM Comment Period End	06/01/87	52 FR 10352
Final Action	12/00/87	

Small Entity: No

Agency Contact: Andrew DeVito, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, Room 134S, 202 343-5241

RIN: 1029-AA71

1288. UNSUITABILITY PETITION PROCESS

Significance: Agency Priority

DOI—OSMRE

Final Rule Stage

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 764; 30 CFR 769

Legal Deadline: None.

Abstract: The proposed rule would amend the State and Federal process for designating land unsuitable for surface coal mining operations. The revision would standardize the State and Federal procedures and establish new time frames for processing petitions. The revisions are required by a District Court decision in Round III of the present litigation on OSMRE's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21904
NPRM Comment Period End	08/18/87	52 FR 21904
Final Action	04/00/88	

Small Entity: No

Agency Contact: Catie Roy, Program Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5143

RIN: 1029-AB00

1289. SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMANENT REGULATORY PROGRAM-OWNERSHIP AND CONTROL

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 773

Legal Deadline: None.

Abstract: The proposed rule would require the regulatory authority to make findings prior to permit issuance that the applicant and persons or business entities closely connected to the applicant do not have any outstanding unabated violations, delinquent AML reclamation fee accounts, or unpaid final civil penalties.

Timetable:

Action	Date	FR Cite
NPRM	04/05/85	50 FR 13724
NPRM Comment Period End	06/28/85	
NPRM Comment Period Reopened	04/16/86	51 FR 12879
Reopen NPRM Comment Period Extended	06/25/86	51 FR 23085
Reopen NPRM Comment Period End	08/11/86	51 FR 23085
Reopen NPRM Comment Period Extended	06/03/87	52 FR 16275
Final Action	10/00/87	

Small Entity: No

Agency Contact: Andrew F. DeVito, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5241

RIN: 1029-AA58

1290. REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING PERMIT APPLICATIONS MINIMUM REQUIREMENTS FOR LEGAL FINANCIAL CIVIL PENALTIES

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 773, (Revision); 30 CFR 843

Legal Deadline: None.

Abstract: The existing rules pertaining to the requirements for permit and permit processing, permit applications and civil penalties are to be amended. The proposed revisions expressly establish an affirmative obligation on permittees and permit applicants to pay uncontested penalties and abate uncontested violations. Permittees and applicants for permits must meet these obligations prior to the issuance of a permit and as a condition of continued operation under existing permits.

Timetable:

Action	Date	FR Cite
NPRM	07/16/86	51 FR 25822
NPRM Comment Period End	10/24/86	51 FR 25822
Final Action	10/00/87	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Andrew DeVito, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5241

RIN: 1029-AA66

1291. PERMANENT REGULATORY PROGRAM - OWNERSHIP INFORMATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 778

Legal Deadline: None.

Abstract: The Office of Surface Mining Reclamation and Enforcement is proposing to revise 30 CFR 778 which specifies what information must be furnished in a surface coal mining permit application. The permit application requirements are being revised in order to conform them to proposed revisions in 30 CFR 773 which govern the issuance of surface coal mining permits. The proposed revisions to 30 CFR 778 will require the submission of more detailed information on the ownership and control of permit applicants. It is not anticipated that the revision will impose a substantial financial burden on those applying for permits.

Timetable:

Action	Date	FR Cite
NPRM	05/28/87	52 FR 20032
NPRM Comment Period End	08/06/87	52 FR 20032
Final Action	02/00/88	

Small Entity: No

Agency Contact: Andrew DeVito, Senior Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5241

RIN: 1029-AA96

1292. SURFACE MINING PERMIT APPLICATIONS MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 779.20; 30 CFR 780.16; 30 CFR 783.20; 30 CFR 784.21; 30 CFR 816.97(a); 30 CFR 816.97(b); 30 CFR 817.97

Legal Deadline: None.

DOI—OSMRE

Final Rule Stage

Abstract: OSM is amending Fish and Wildlife performance standards at 30 CFR 816.97 to comply with the District Court's decision of October 1, 1984, which pertains to protection of endangered and threatened species and the exclusion of wildlife from toxic ponds. In addition, OSM is amending the Fish and Wildlife permitting requirements at 30 CFR 779.20 and 780.16 to provide greater flexibility and clarity.

Timetable:

Action	Date	FR Cite
NPRM	05/29/86	51 FR 19498
NPRM Comment Period End	08/07/86	51 FR 19498
Final Action	09/00/87	

Small Entity: No

Agency Contact: Chuck Wolf, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Ten Parkway Center, Pittsburgh, PA 15220, 412 937-2897

RIN: 1029-AA74

1293. PERMANENT REGULATORY PROGRAM - MOUNTAINTOP REMOVAL

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 785

Legal Deadline: None.

Abstract: The proposed rule amends the rules for "Permits for Special Categories of Mining -- Mountaintop Removal Mining." This action will correct an inadvertent error whereby certain substantive provisions concerning mountaintop removal mining in the Surface Mining Control and Reclamation Act of 1977 (the Act) were not included in previous implementing regulations. These provisions include a finding for permit issuance that the applicant has presented specific plans for the proposed postmining land use and has made appropriate assurances for the use. The addition of these provisions will make the rules for mountaintop removal mining consistent with the Act, as well as with the Secretary's brief In Re: Permanent Surface Mining Regulation Litigation II, (round III). The requirements of the proposed rule will ensure that all the substantive provisions of the Act are applied to mountaintop removal coal mining operations.

Timetable:

Action	Date	FR Cite
NPRM	03/25/87	52 FR 9640
NPRM Comment Period End	06/03/87	52 FR 9640
Final Action	11/00/87	

Small Entity: No

Agency Contact: Ralph McDonald, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5245

RIN: 1029-AA97

1294. REQUIREMENT TO RELEASE PERFORMANCE BONDS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 800-40(a)(2)

Legal Deadline: None.

Abstract: This proposed rule would require that an applicant for bond release include the name of the permittee in the application. This action is being taken as a result of a commitment made during litigation on bonding requirements before the District Court for the District of Columbia where it was found that an explicit requirement for providing the name of the applicant was necessary. Also the proposed revision would allow certain third parties to guarantee self-bond. This action is being taken as a result of OSMRE on June 13, 1986 accepting a proposal to revise self-bonding regulations sought in a petition for rulemaking by the National Coal Association/American Mining Congress (NCA/AMC) Joint Committee on Surface Mine Regulations. There will be no increase or decrease in the cost/benefits of this rule.

Timetable:

Action	Date	FR Cite
NPRM	11/26/86	51 FR 42984
NPRM Comment Period End	02/04/87	
Final Action	09/00/87	

Small Entity: No

Agency Contact: Frank Mancino, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5143

RIN: 1029-AA91

1295. PERMANENT PROGRAM PERFORMANCE STANDARDS UNDERGROUND MINING ACTIVITIES - HYDROLOGIC BALANCE PROTECTION

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 817.41(b)(2)

Legal Deadline: None.

Abstract: The rulemaking is in response to a challenge of this issue in District Court where the Office agreed to suspend 30 CFR 817.41(b)(2), concerning requirement to restore groundwater recharge capacity, and repromulgate the rule to develop the administrative records. OSM will propose two options: (1) removing 817.41(b)(2) and (2) retaining this paragraph while asking for comments concerning its legality, technological validity, and environmental impacts. Since this rule will be repromulgated with options, a determination of its potential costs and benefits cannot be assessed until comments are received and options chosen.

Timetable:

Action	Date	FR Cite
NPRM	12/11/86	51 FR 44742
NPRM Comment Period End	02/19/87	
Final Action	09/00/87	

Small Entity: No

Agency Contact: Raymond Aufmuth, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 5010 L, 1951 Constitution Ave., NW, Washington, DC, 202 343-1514

RIN: 1029-AA75

1296. SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS OPERATIONS ON PRIME FARMLAND

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 823.11(a); 30 CFR 823.11(b)

Legal Deadline: None.

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Abstract: These regulations are being revised as ordered by the District Court for the District of Columbia. They will amend OSM's permanent program performance standards with respect to prime farmlands by allowing last cut lakes to remain after mining is complete only where they are beneficial or necessary to agricultural activity and allowing for a support facility exemption only for underground mines. These changes are mandated by Court Order, thus, no alternatives to this action are being considered.

Timetable:

Action	Date	FR Cite
NPRM	03/25/87	52 FR 9644
NPRM Comment Period End	06/03/87	52 FR 9644
Final Action	11/00/87	

Small Entity: No

Agency Contact: Donald Smith, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1510

RIN: 1029-AA64

1297. COLLECTION OF AML FEES - MOISTURE CONTENT OF COAL

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None.

Abstract: The present regulations require the weight of coal (for the purpose of calculating the tonnage upon which the AML fee is calculated) to be determined at the point of first sale. This weight includes not only that of the saleable coal, but also that of the extraneous material including the moisture content. Recent action by the Internal Revenue Service (IRS) issued a revenue-ruling for the Black Lung Tax to allow for the deduction of a moisture content allowance from the tonnage upon which the Black Lung Tax is collected. The IRS decision to make this change in its regulations was based on a Federal court decision. Taft Coal Co. v. U.S., 605 F. Supp. 366, (N.D. Ala. 1984). OSMRE proposes to change the existing regulations to create a standard moisture allowance which would be consistent with that allowed by the IRS for the Black Lung Tax program. Regulations dealing with the basis upon which a tax or fee is assessed should be consistent for administrative convenience and equity to the coal operator. Federal action is required since OSMRE is directly responsible for collecting the AML fee and for establishing the regulations promulgating (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/18/87	52 FR 18660
NPRM Comment Period End	07/27/87	52 FR 18660
Final Action	01/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: standards under which the fee is collected. The regulations in question are specific to the responsibilities of the Department of the Interior, OSMRE, and they implement SMCRA. No other Federal agency is authorized to undertake this action on behalf of the Department. The regulation will be changed to include a moisture content allowance. Standards will be developed to establish a percentage allowance consistent with the IRS approach for the Black Lung Program and with industry technical standards for moisture content calculation.

Agency Contact: Jane Robinson, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-2853

RIN: 1029-AB03

1298. STATE-FEDERAL COOPERATIVE AGREEMENTS

Legal Authority: 30 USC 1201 et seq.

CFR Citation: 30 CFR Subchapter T

Legal Deadline: None.

Abstract: This Subchapter will incorporate the State-Federal Cooperative Agreements for the permanent regulatory programs on Federal lands in various States. The affected Parts in Title 30 are indicated in parentheses after each State.

Timetable:

Illinois (913)
NPRM 03/24/87 (52 FR 9402)
Final Action 09/00/87

Utah (944)
NPRM 03/31/82 (47 FR 13738)
Final Action 03/13/87 (52 FR 7843)

Virginia (946)
NPRM 06/27/83 (48 FR 29545)
Final Action 04/07/87 (52 FR 11044)

Small Entity: No

Agency Contact: Art Abbs, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5351

RIN: 1029-AA40

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Completed Actions

1299. PERMANENT REGULATORY PROGRAM DEFINITION OF COAL PREPARATION PLANTS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 700; 30 CFR 701.5; 30 CFR 785; 30 CFR 827

Legal Deadline: None.

Abstract: The proposed rule will revise the 1983 definition of "coal preparation or coal processing" which was formulated on the basis of OSMRE's previous interpretation of Section 701(28)(A) of the Act. In accordance with the District Court of the District of Columbia decision, OSMRE would adopt a new definition which would include chemical or physical processing or cleaning, concentrating or other processing or preparation of coal. Facilities not involving separation of coal from its impurities would be included within this definition. The definition of coal preparation plant will be revised to track the new definition of "coal preparation." Also the definition of support facilities will be removed from this rule and proposed separately. The proposed rule for coal preparation plants would bring on a large number of additional facilities under the jurisdiction of SMCRA therefore adding to environmental protection and could impose added costs to industry.

Timetable:

Action	Date	FR Cite
NPRM	07/10/85	50 FR 28180
Interim Final Rule	07/10/85	50 FR 28186
NPRM Comment Period End	11/24/85	
Final Action	05/11/87	52 FR 17724
Final Action Effective	06/10/87	52 FR 17724

Small Entity: No

Agency Contact: Raymond Aufmuth, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1514

RIN: 1029-AA73

1300. PERMANENT REGULATORY PROGRAM DEFINITIONS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5

Legal Deadline: None.

Abstract: The proposed rulemaking is in response to a court order of the District Court for the District of Columbia which remanded the portion of OSM's definition of "affected area" relating to the description and inclusion of roads in "affected areas." The proposed regulation will address alternative definitions and descriptions of roads as part of the definition of "affected areas" and clarify the relationship of these terms to various provisions of the Surface Mining Control and Reclamation Act of 1977. OSM is unable at this time to determine precisely what additional costs would be associated with the rule. It should be minimal, however, as this rule is intended only to identify the limitations on roads to be included in surface mining operations. The definition of "affected area" was suspended insofar as it excludes roads which are included in the definition of "surface coal mining operations" (November 20, 1986; 51 FR 41952). Additional rulemaking action is suspended pending review of issues related to the two-acre exemption provision of the Act. The exemption was repealed May 7, 1987, by Public Law 100-34 (June 4, 1987; 52 FR 21228).

Timetable:

Action	Date	FR Cite
Withdrawn Action on this rule was suspended	05/11/87	

Small Entity: Undetermined

Agency Contact: Pat Boyd, Policy Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 5121, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-4561

RIN: 1029-AA84

1301. PERMANENT PROGRAM PERFORMANCE STANDARDS DEFINITIONS, PREVIOUSLY MINED AREAS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5; 30 CFR 773

Legal Deadline: None.

Abstract: This rulemaking action is in response to a Court Order by the U.S. District Court for the District of Columbia In re; Permanent Surface Mining Regulation Litigation II, July 15, 1985. The proposed regulation would amend the definition of previously mined area to include only those lands mined prior to May 3, 1978, or prior to January 1, 1979 for certain small operators exempted under 30 CFR 710.12, and not reclaimed to the standards of the Act. This rule may lead to a reduction of environmental benefits since there will be less incentive for remining and reclamation of mines abandoned after May 3, 1978. Otherwise, there is no significant increase or decrease in costs.

Timetable:

Action	Date	FR Cite
NPRM	07/31/86	51 FR 27508
NPRM Comment Period End	10/09/86	51 FR 27508
Final Action	05/08/87	52 FR 17526
Final Action Effective	06/08/87	52 FR 17526

Small Entity: No

Agency Contact: Raymond E. Aufmuth, Physical Scientist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1514

RIN: 1029-AA68

1302. CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR MINING OPERATIONS FRAGILE AND HISTORIC

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 762.5

Legal Deadline: None.

Abstract: The objection to the definitions of the terms "fragile lands" and "historic lands" in 762.5 is their requirement that damage from proposed mining to historic and other values must be irreparable or permanent before lands can be classified as fragile or historic and therefore, eligible for consideration as being unsuitable for mining. The court order requires only a finding of significant damage, in accordance with Section 522(a)(3)(b) of the Act. In as much as the required wording "significant damage" is used in 762.11(b)(2) in the fragile-or-historic-lands criterion for designating lands as unsuitable, rather than using the wording of the two definitions, the proposed rule change would remove the degree-of-damage requirement from the definitions and thereby remove the wording objected to. The cost and benefits would remain unchanged because a finding of only significant damage and the combined term are already in place in 762.11(b)(2).

Timetable:

Action	Date	FR Cite
NPRM	07/25/85	50 FR 30408
NPRM Comment Period End	10/03/85	
NPRM Comment Period Reopened	12/10/86	51 FR 44484
Reopen NPRM Comment Period End	02/09/87	51 FR 44484
Final Action	05/19/87	52 FR 18792
Final Action Effective	06/18/87	52 FR 18792

Small Entity: No

Agency Contact: Annetta Cheek, Archeologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-1514

RIN: 1029-AA62

DOI—OSMRE — Completed Actions

1303. REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 773

Legal Deadline: None.

Abstract: This regulation is intended to clarify existing requirements concerning protection of historic properties which may be affected by surface coal mining and reclamation operations. This rule would clarify that States with regulatory programs approved by the Secretary of the Interior have authority to require specific actions to assist the Secretary of the Interior comply with section 106 of the National Historic Preservation Act. Since this is a clarification of existing requirements, no change in costs are expected. Benefits will be seen in more clarity in regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/11/86	51 FR 8466
NPRM Comment Period End	06/09/86	51 FR 8466
Final Action	02/10/87	52 FR 4244
Final Action Effective	03/12/87	52 FR 4244

Small Entity: No

Agency Contact: Annetta Cheek, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-7951

RIN: 1029-AA87

1304. ABANDONED MINE LAND FUNDING - ELIGIBILITY OF LAND REAFFECTED BY MINING

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 874

Legal Deadline: None.

Abstract: The proposed rule would clarify what land is eligible for abandoned mine land reclamation funding. Under existing regulations, abandoned mine land reaffected after August 3, 1977, the date of enactment of Surface Mining Control and Reclamation Act, is ineligible for reclamation funding. The Office of Surface Mining Reclamation and Enforcement believes that non-eligibility for reclamation funding places an undue hardship on surrounding communities. The rule would allow expenditure of Abandoned Mine Land Reclamation Funds if such projects meet certain specific criteria in order to restore affected environments.

Timetable:

Action	Date	FR Cite
Withdrawn Action on this rule was suspended	05/14/87	

Small Entity: Undetermined

Agency Contact: James Fary, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-3375

RIN: 1029-AA95

[FR Doc. 87-21236 Filed 10-23-87; 8:45 am]

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DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB) — Proposed Rule Stage

1305. OFF-ROAD VEHICLE USE

Legal Authority: 43 USC 391 et seq

CFR Citation: 43 CFR 420

Legal Deadline: None.

Abstract: This rule governs the use of off-road vehicles on Bureau Lands and provides for the opening of only those lands where the use of such vehicles will not adversely affect associated project features or facilities. The provisions of this rule will be expanded to cover the use of ultralight vehicles, since, by definition, these vehicles are excluded from control of the Federal Aviation Administration.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	

Small Entity: No

Additional Information: Originally scheduled: October 1983.

Agency Contact: Fred Glentke, Chief, Water O&M Branch, Department of the Interior, Bureau of Reclamation, Bldg 67, Federal Center, Denver, CO 80225, 303 776-8081

RIN: 1006-AA06

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB) — Final Rule Stage

1306. ACREAGE LIMITATION RULES AND REGULATIONS

Legal Authority: 5 USC 552; 43 USC 371; 43 USC 390

CFR Citation: 43 CFR 426

Legal Deadline: None.

Abstract: This rule will be amended to remove reference to the term "gift" in section 426.16(a).

Timetable:

Action	Date	FR Cite
NPRM	06/27/87	52 FR 24041
NPRM Comment Period End	07/27/87	
Final Action	11/01/87	
Final Action Effective	12/01/87	

Small Entity: No

Agency Contact: James Cook, Chief, Division of Water and Land, Department of the Interior, Bureau of Reclamation, 18th & C Sts., NW, Washington, DC 20240, 202 343-5104

RIN: 1006-AA16

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB) — Completed Actions

1307. ACREAGE LIMITATION: REVISED PROPOSED RULES AND REGULATIONS

Significance: Regulatory Program

Legal Authority: 5 USC 552; 43 USC 371; 43 USC 390

CFR Citation: 43 CFR 426

Legal Deadline: Statutory, April 17, 1987.

Abstract: Under the Reclamation Reform Act (RRA) of 1982, districts and individuals have the option of coming under the acreage limitation provisions of the new law or remaining subject to those of prior Reclamation law. Section 203(b) of the RRA provides that districts have 4 1/2 years from the date of enactment of the RRA to amend their existing repayment and water service contracts to come under the RRA provisions. After April 12, 1987, individuals in nonamending districts will be required to pay full cost for water supplied to leased land in excess of 160 acres.

The final rules published in December 1983 did not address implementation of section 203(b). The existing rules need to be revised in order to implement this provision, as required by law.

Timetable:

Action	Date	FR Cite
NPRM	11/07/86	51 FR 43742
NPRM Comment Period End	02/05/87	
Final Action	04/13/87	52 FR 11954
Final Action Effective	05/13/87	

Small Entity: No

Agency Contact: James Cook, Chief, Division of Water and Land, Department of the Interior, Bureau of Reclamation, 18th & C Sts., NW, Washington, DC 20240, 202 343-5104

RIN: 1006-AA15

[FR Doc. 87-21236 Filed 10-23-87; 8:45 am]

BILLING CODE 4310-05-T

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM) — Proposed Rule Stage

1308. PUBLIC LAND RECORDS

Legal Authority: 5 USC 301; 43 USC 2; 44 USC 3101; 43 USC 13; 43 USC 751; 43 USC 1201; 43 USC 2457; 43 USC 1740

CFR Citation: 43 CFR 1813

Legal Deadline: None.

Abstract: This rule will amend the existing regulations by updating them to reflect and accommodate the transition from the Manual Record System (Tract Books, Master Plats, etc.), to an Automated Records System.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Undetermined

Agency Contact: Robert Nauert, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AA77

1309. MINERALS (NONMINERAL ENTRIES ON MINERAL LANDS)

Legal Authority: 30 USC 186; 30 USC 124

CFR Citation: 43 CFR Subpart 2093

Legal Deadline: None.

Abstract: The amendments made by this rulemaking would eliminate portions of the existing regulations that refer to repealed authorities and make minor changes that reflect the merger of functions between the Bureau of Land Management and the Minerals Management Service.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Gary Rowe, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AB20

1310. EXCHANGES - GENERAL PROCEDURES

Legal Authority: 43 USC 1715; 43 USC 1716; 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2200

Legal Deadline: None.

Abstract: This rule will amend the existing regulations to provide procedures to facilitate and expedite the processing of land exchanges.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: No

Agency Contact: Dave Hemstreet, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AB28

1311. LAND CLASSIFICATION

Legal Authority: 43 USC 315f; 43 USC 869; 43 USC 1701 et seq

CFR Citation: 43 CFR 2400

Legal Deadline: None.

Abstract: The rulemaking will revise the existing land classification regulations, will remove obsolete provisions, remove burdensome provisions, simplify the land classification system and provide a new protest system for use in connection with land classification decisions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: No

Agency Contact: Annette Jameson, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AB19

1312. INDIAN ALLOTMENTS

Legal Authority: 25 USC 334

CFR Citation: 43 CFR 2530

Legal Deadline: None.

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DOI—BLM

Proposed Rule Stage

Abstract: This rule would revise the existing regulations to remove obsolete and burdensome provisions and clarify and simplify the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Gary Rowe, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AB10

1313. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

Legal Authority: 43 USC 1746

CFR Citation: 43 CFR 2000

Legal Deadline: None.

Abstract: This rule will be amended to provide for improved administration of rights-of-way under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Darrell Barnes, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-5441

RIN: 1004-AB00

1314. RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Legal Authority: 30 USC 185

CFR Citation: 43 CFR 2880

Legal Deadline: None.

Abstract: This rule will be amended to provide for improved administration of rights-of-way under the Mineral Leasing Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Undetermined

Agency Contact: Darrell Barnes, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-5441

RIN: 1004-AA98

1315. RECREATION AND PUBLIC PURPOSES ACT LEASES

Legal Authority: 43 USC 869 et seq

CFR Citation: 43 CFR 2910; 43 CFR 2912

Legal Deadline: None.

Abstract: The rule will amend the existing regulations to implement policy changes as they relate to the granting of public lands for recreation and public purposes under the Recreation and Public Purposes Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Rob Nauert, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AA73

1316. EXPLORATION ACTIVITY; OIL AND GAS LEASING; GEOTHERMAL RESOURCE LEASING - GENERAL

Legal Authority: 30 USC 181 et seq; 30 USC 301 to 306; 30 USC 351 to 359; 43 USC 1701 et seq; PL 96-514; 40 Op. Atty. Gen. 41

CFR Citation: 43 CFR 3040; 43 CFR 3100; 43 CFR 3130; 43 CFR 3200

Legal Deadline: None.

Abstract: This rule would amend the existing regulations as they relate to bond coverage for oil and gas and geothermal resources. As a result of comments and a study by a special Task Force, several alternatives for bonding have been identified. These alternatives will be addressed in a second proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/01/85	50 FR 18614
NPRM Comment Period End	07/01/85	50 FR 18614
NPRM	11/00/87	

Small Entity: No

Agency Contact: Mona Schermerhorn, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2190

RIN: 1004-AB13

1317. OIL AND GAS LEASING - FEES, RENTALS AND ROYALTIES

Legal Authority: 16 USC 3101 et seq; 30 USC 181 et seq; 30 USC 351 to 359; 40 USC 760 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 3100

Legal Deadline: None.

Abstract: This rule would amend the existing regulations to maintain all noncompetitive lease rentals at $1 per acre per year. This change would primarily be applicable to those noncompetitive leases that are later determined to be included in a known geologic structure.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Mona Schermerhorn, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2190

RIN: 1004-AB31

1318. ● ONSHORE OIL AND GAS ORDER NO. 8 - WELL WORKOVERS, COMPLETIONS, ABANDONMENTS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3162; 43 CFR 3164.1(b)

Legal Deadline: None.

Abstract: This Order is being issued under the Oil and Gas Operations regulations as found in 43 CFR Part 3160. The Order details the minimum standards of performance when conducting workover, completions, and abandonment of existing wells on Federal and Indian lands (except Osage Tribe). It also will contain enforcement actions that will result from the failure to meet the minimum standards.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Undetermined

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004-AB37

DOI—BLM

Proposed Rule Stage

1319. ONSHORE OIL AND GAS ORDER NO. 7 - DISPOSAL OF PRODUCED WATER

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None.

Abstract: This order is being issued under the revised oil and gas regulations as found in 43 CFR Part 3160. The order details the requirements for the handling, storing or disposing of water produced from oil or gas wells. It replaces NTL-2B. The Order will also contain inspection standards. This order is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004-AA66

1320. ONSHORE OIL AND GAS ORDER NO. 6 - HYDROGEN SULFIDE OPERATIONS

Significance: Regulatory Program

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None.

Abstract: This order is being issued under the revised oil and gas regulations as found in 43 CFR Part 3160. The order details the requirements for protecting workers and the public from hydrogen sulfide. It specifies documentation needed prior to operation and measures required during drilling and production. This order is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	10/15/84	49 FR 40354
NPRM Comment Period End	01/14/85	49 FR 48576
NPRM Second	09/00/87	

Small Entity: No

Agency Contact: George F. Brown, Assistant Director, Fluid Leasable Minerals, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004-AA67

1321. ONSHORE OIL AND GAS OPERATIONS - ONSHORE OIL AND GAS ORDER NUMBER 4- MEASUREMENT OF CRUDE OIL

Legal Authority: 30 USC 189; 30 USC 359; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.7

Legal Deadline: None.

Abstract: This document is being issued under the oil and gas operations regulations as found in 43 CFR Part 3160. The order details the requirements for the accurate measurement and recording of the volumes of crude oil and lease condensation produced and sold from Federal and Indian (except Osage) leases. This includes such production from other leases which is allocated to a covered lease. This order will also contain inspection standards. This is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004-AA96

1322. ONSHORE OIL AND GAS OPERATIONS - COOPERATIVE AGREEMENTS, DELEGATIONS OF AUTHORITY AND CONTRACTS FOR OIL AND GAS INSPECTION AND ENFORCEMENT

Legal Authority: 30 USC 1701; 30 USC 1732; 30 USC 1735; 30 USC 1751

CFR Citation: 43 CFR 3190

Legal Deadline: None.

Abstract: This rule will provide the procedures for implementing the provisions of the Federal Oil and Gas Royalty Management Act authorizing delegations of authority to States in connection with oil and gas operations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Undetermined

Agency Contact: Susan Pepperney, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2200

RIN: 1004-AB32

1323. GEOTHERMAL RESOURCE OPERATIONS

Legal Authority: 30 USC 1001 to 1025

CFR Citation: 43 CFR 3200; 43 CFR 3260; 43 CFR 3270

Legal Deadline: None.

Abstract: This rulemaking will revise provisions related to geothermal leasing and geothermal operations conducted on Federal lands. The changes are designed to remove burdensome and cumbersome provisions and simplify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: Sie Ling Chiang, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2129

RIN: 1004-AB18

1324. SALES OF FOREST PRODUCTS; GENERAL - PREPARATION FOR SALE

Legal Authority: PL 90-554

CFR Citation: 43 CFR 5400; 43 CFR 5420

Legal Deadline: None.

Abstract: Existing regulations permit timber export and purchase volumes to "rachet" upward at a questionable rate, leading to substitution. The existing regulations need simplification. The rule would correct both of these concerns.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Gary Ryan, Department of the Interior, Bureau of

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DOI—BLM

Proposed Rule Stage

Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004-AB34

1325. ● MANAGEMENT OF EXISTING LEASES

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 521 to 531; 30 USC 1201 et seq

CFR Citation: 43 CFR 3450

Legal Deadline: None.

Abstract: This rule would eliminate the right of a lessee to object to readjusted lease terms and conditions that are mandated by law or required by regulation, and also would make the readjusted royalty and rental rates effective as of the date of the lease readjustment, regardless of whether there is a subsequent appeal of the readjusted terms and conditions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Harry W. Moritz, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-7722

RIN: 1004-AB36

1326. ONSHORE OIL AND GAS ORDER NO. 5 - MEASUREMENT OF NATURAL GAS

Legal Authority: 30 USC 189; 30 USC 359; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.7

Legal Deadline: None.

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR Part 3160. The order details the requirements for the accurate measurement of the volumes of natural gas produced and sold from Federal and Indian (except Osage) leases. This includes such production from other leases which is allocated to a covered lease. The order also will contain inspection standards. This order is to be referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Undetermined

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004-AB22

1327. OPERATING REGULATIONS FOR EXPLORATION, DEVELOPMENT AND PRODUCTION

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3570

Legal Deadline: None.

Abstract: This rule will revise the existing regulations to streamline them and to have them reflect current policy and industry operating practices relating to the leasing of minerals other than oil and gas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Harry Moritz, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-7722

RIN: 1004-AA66

1328. MULTIPLE USE: MINING: MINING CLAIMS UNDER THE GENERAL MINING LAWS

Legal Authority: 30 USC 22 et seq; 30 USC 521 to 540; 30 USC 601 to 615; 30 USC 621 to 625; 43 USC 2; 43 USC 1732; 43 USC 1740; 61 Stat. 681

CFR Citation: 43 CFR Group 3700;, 43 CFR Group 3600

Legal Deadline: None.

Abstract: These two groups of regulations will be combined into a single group, with the language being revised to remove burdensome, cumbersome and unnecessary provisions. In addition, the language will be updated and clarified and some provisions will be revised to meet the needs of today's conditions.

Timetable:

Action	Date	FR Cite
Notice of Intent to Proposed Rulemaking	12/27/82	47 FR 57521
NPRM	01/00/88	

Small Entity: Undetermined

Agency Contact: Eugene Carlet, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8537

RIN: 1004-AB04

1329. ● MINING CLAIMS UNDER THE GENERAL MINING LAWS

Legal Authority: 30 USC 22; 43 USC 1201; 43 USC 1744; 43 USC 1734; 43 USC 1740

CFR Citation: 43 CFR Subpart 3809; 43 CFR Subpart 3833

Legal Deadline: None.

Abstract: The rule would make amendments to the regulatory provisions dealing with the recordation of mining claims and surface management of mining claims to incorporate changes recommended by Task Forces that studied these areas.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Eugene Carlet, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8537

RIN: 1004-AB36

1330. ● SALES OF FOREST PRODUCTS; CONDUCT OF SALES

Legal Authority: 30 USC 601 et seq; 43 USC 1181a

CFR Citation: 43 CFR 5400

Legal Deadline: None.

Abstract: This rule will amend the existing regulations to specify the conditions under which the provisions of this subpart are applicable to contracts that are not completed.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Gary Ryan, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004-AB39

1331. ● SALES OF FOREST PRODUCTS; AWARD OF CONTRACT

Legal Authority: 30 USC 601 et seq; 43 USC 1181a

DOI—BLM

Proposed Rule Stage

CFR Citation: 43 CFR 5400; 43 CFR 5450

Legal Deadline: None.

Abstract: This rule will amend the existing regulations as they relate to timber sale contract performance bonds to discourage bidding at such a rate that the bidder, if awarded the contract, would be unable to perform under the terms of the contract.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Gary Ryan, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004-AB40

1332. ● CONDUCT OF SALES (TIMBER)

Legal Authority: 43 USC 1181e; 30 USC 601 et seq

CFR Citation: 43 CFR 5440

Legal Deadline: None.

Abstract: This rule would amend the existing regulations to define more precisely when someone may be disbarred from participating in a timber sale and would provide notice and opportunity for a hearing to those who are subject to debarment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Gary Ryan, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8864

RIN: 1004-AB35

1333. PROTECTION OF SPECIAL STATUS PLANTS

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 6950

Legal Deadline: None.

Abstract: This rule will provide the procedure for protecting rare plants located on the public lands. The uncontrolled collection of these rare plants will endanger their existence.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Undetermined

Agency Contact: William H. Radtkey, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8202

RIN: 1004-AB09

1334. CULTURAL RESOURCE MANAGEMENT

Legal Authority: 43 USC 1701 et seq; 16 USC 470 et seq; 42 USC 4321; 16 USC 432; 16 USC 470aa et seq; 42 USC 1996; 16 USC 433; 36 CFR 800.11

CFR Citation: 43 CFR 8100; 43 CFR 8110; 43 CFR 8111; 43 CFR 8140; 43 CFR 8141; 43 CFR 8142; 43 CFR 8143

Legal Deadline: None.

Abstract: The rule will adapt a Governmentwide compliance procedure to a Bureau-specific procedure, with substantial streamlining, reduction of outside consultation, quicker management decisions that are more rapidly carried out, public land users being allowed to proceed with land or resource use with less delay and cultural resources being protected as effectively as under the existing system of review.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: John G. Douglas, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-9353

RIN: 1004-AA59

1335. PALEONTOLOGY

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 8270

Legal Deadline: None.

Abstract: This rule will be revised to provide the procedures for the management of paleontological specimens located on the public lands.

Timetable:

Action	Date	FR Cite
NPRM	08/17/82	47 FR 35914
NPRM - Second	11/00/87	

Small Entity: No

Agency Contact: Carl Barna, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-3207

RIN: 1004-AA27

1336. RECREATION: GENERAL

Legal Authority: 43 USC 1701 et seq; 43 USC 869; 43 USC 1181a; 43 USC 315; 43 USC 4321 et seq; 16 USC 460l to 461; 16 USC 1131; 16 USC 1271 to 1287; 16 USC 1241; 16 USC 670; 29 USC 794

CFR Citation: 43 CFR Subpart 8300

Legal Deadline: None.

Abstract: This rule will be amended to revise the policy statement for recreation management of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: Undetermined

Agency Contact: Rodger Schmitt, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-9353

RIN: 1004-AA35

1337. OFF-ROAD VEHICLES

Legal Authority: 43 USC 1201; 43 USC 315a; 16 USC 1531 et seq; 16 USC 1281c; 16 USC 670 et seq; 16 USC 4601 to 6a; 16 USC 1241 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 8340

Legal Deadline: None.

Abstract: This rule will amend the existing regulations to clarify some of the definitions to remove confusion that has arisen since the implementation of the existing regulations and to improve the public notification process provided by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/17/87	52 FR 27017
NPRM Comment Period End	09/15/87	52 FR 27017

Small Entity: Undetermined

Agency Contact: Richard E. Traylor, Department of the Interior, Bureau of Land Management, 1800 C Street, NW,

DOI—BLM

Proposed Rule Stage

Room 2661, Main Interior Bldg., Washington, DC 20240, 202 343-9353

RIN: 1004-AB26

1338. CADASTRAL SURVEY

Legal Authority: 43 USC 1701 et seq; 48 USC 351; 43 USC 772; 43 USC 773

CFR Citation: 43 CFR 9180

Legal Deadline: None.

Abstract: This rule would revise the existing regulations to remove obsolete and burdensome provisions and clarify and simplify the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Bernard W. Hostrop, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8798

RIN: 1004-AB07

1339. UNAUTHORIZED USE OF PUBLIC LANDS

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 9230

Legal Deadline: None.

Abstract: This rule will be amended to clarify those activities that are prohibited on the public lands, to provide managers with additional authority to resolve existing violations and to clarify the authority of the Secretary of the Interior in instances of mineral trespass.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: Undetermined

Agency Contact: Walter I. Johnson, Jr., Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 653-8815

RIN: 1004-AA38

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Final Rule Stage

1340. GEOTHERMAL RESOURCE LEASING - GENERAL

Legal Authority: 16 USC 3101 et seq; 30 USC 181 et seq; 30 USC 351 to 359; 40 USC 760 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 1820; 43 CFR 3040; 43 CFR Group 3100; 43 CFR Group 3200

Legal Deadline: None.

Abstract: This rulemaking will make corrections and modifications to the existing regulations, including procedural changes that have resulted from operations under the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/12/87	52 FR 22592
NPRM Comment Period End	08/11/87	52 FR 22592
Final Action	03/00/88	

Small Entity: No

Agency Contact: Mona Schermerhorn, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2228

RIN: 1004-AA97

1341. ALASKA STATE SELECTION

Legal Authority: 84 Stat. 2437

CFR Citation: 43 CFR Subpart 2627

Legal Deadline: None.

Abstract: This rule will be amended to provide a change in selection procedures for the State of Alaska as provided for in the amendments to the Alaska Statehood Act.

Timetable:

Action	Date	FR Cite
NPRM	11/18/83	48 FR 48400
Final Action	10/00/87	

Small Entity: No

Agency Contact: Robert Faithful, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-6511

RIN: 1004-AA12

1342. LEASES, PERMITS AND EASEMENTS

Legal Authority: 43 USC 1732; 43 USC 1740; 43 USC 1733; 43 USC 1734

CFR Citation: 43 CFR 2920; 43 CFR 9260

Legal Deadline: None.

Abstract: This rule will amend the existing regulations to provide penalties for unauthorized use of public lands.

Timetable:

Action	Date	FR Cite
NPRM	07/27/87	52 FR 28024
NPRM Comment Period End	09/26/87	
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Annette Jameson, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AB29

1343. ONSHORE OIL AND GAS ORDER NO. 2 - DRILLING OPERATIONS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 226; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None.

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR Part 3160. The order details the uniform national minimum standards of performance which are expected for drilling operations on Federal and Indian (except Osage) lands. It also will contain enforcement actions that will result from failure to meet the minimum standards.

Timetable:

Action	Date	FR Cite
NPRM	06/13/87	52 FR 30310
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004-AB21

DOI—BLM

Final Rule Stage

1344. ONSHORE OIL AND GAS ORDER NO. 3 - SITE SECURITY

Significance: Regulatory Program

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 1701 et seq.; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3161.3; 43 CFR 3162.7-1; 43 CFR 3162.7-4

Legal Deadline: None.

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR Part 3160. The order supplements the minimum standards found in the regulations at 43 CFR 3162.7-4(b), (c) and (d).

Timetable:

Action	Date	FR Cite
NPRM	06/13/87	52 FR 30282
Final Action	02/00/88	

Small Entity: Undetermined

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004-AB24

1345. COMPETITIVE LEASING; ENVIRONMENT

Legal Authority: 30 USC 181 et seq; 30 USC 201a; 30 USC 351 to 359; 30 USC 1201 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 3420; 43 CFR 3460

Legal Deadline: None.

Abstract: This rule will modify the existing regulations as they relate to the 20 coal unsuitability criteria and their application during the Bureau of Land Management's land use planning process. The changes made by the rule are a result of the Office of Technology Assessment's study of the Federal coal programs treatment of environmental issues.

Timetable:

Action	Date	FR Cite
NPRM	05/15/87	52 FR 18404
NPRM Comment Period End	06/15/87	52 FR 18404
Final Action	10/00/87	

Small Entity: No

Agency Contact: Walter Rewinski, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Room 3600, Main Interior Bldg., Washington, DC 20240, 202 343-6821

RIN: 1004-AB25

1346. GRAZING ADMINISTRATION - EXCLUSIVE OF ALASKA

Legal Authority: 43 USC 315a to 315r; 43 USC 1701 et seq; 43 USC 118(d); 43 USC 1901 et seq

CFR Citation: 43 CFR 4100

Legal Deadline: None.

Abstract: The amendment made by this rulemaking would bring the existing regulations into compliance with the decision in Natural Resources Defense Council, Inc. v. Hodel, et al., No. CIV. S-84-616 RAR (1985). It also would update the existing regulations to have them conform to recent grazing policy changes.

Timetable:

Action	Date	FR Cite
NPRM	05/20/87	52 FR 19032
NPRM Comment Period End	08/19/87	52 FR 27321
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Billy R. Templeton, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-9195

RIN: 1004-AB23

1347. USE AUTHORIZATIONS; SPECIAL RECREATION PERMITS

Legal Authority: 43 USC 1201 et seq; 43 USC 1701 et seq; 43 USC 1181a; 16 USC 460 to 6a

CFR Citation: 43 CFR Subpart 8372

Legal Deadline: None.

Abstract: This rule is being revised to reflect revised, special recreation policies.

Timetable:

Action	Date	FR Cite
NPRM	09/16/85	50 FR 37555
NPRM Comment Period End	11/15/85	50 FR 37555
Final Action	02/00/88	

Small Entity: No

Agency Contact: Gary Marsh, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-9353

RIN: 1004-AA36

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Completed Actions

1348. OPENING AND CLOSING LANDS

Legal Authority: 43 USC 1740; 43 USC 1201

CFR Citation: 43 CFR 2090; 43 CFR 2091

Legal Deadline: None.

Abstract: This rule will amend the existing regulations to: (1) clarify how and when specific actions close or open public lands; (2) provide the procedure under which information concerning opening and closing of public lands will be published in the Federal Register; and (3) eliminate confusion about when lands are open or closed by specifying if and when the record notation rule will apply.

Timetable:

Action	Date	FR Cite
NPRM	06/07/85	50 FR 24124
NPRM Comment Period End	08/08/85	50 FR 24124
Final Action	04/15/87	52 FR 12171
Final Action Effective	05/15/87	52 FR 12171

Small Entity: No

Agency Contact: Claire Newcomer, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-6846

RIN: 1004-AA78

1349. RIGHTS-OF-WAY: PRINCIPLES AND PROCEDURES

Significance: Regulatory Program

Legal Authority: 43 USC 1746; 30 USC 185

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DOI—BLM — **Completed Actions**

CFR Citation: 43 CFR 2600

Legal Deadline: None.

Abstract: This rule will be amended to revise the schedule used in the cost reimbursement process for processing and monitoring right-of-way grants (2803.1-1; 2883.1-1).

Timetable:

Action	Date	FR Cite
NPRM	01/17/83	48 FR 2110
NPRM	07/25/86	51 FR 26836
NPRM Comment Period End	10/28/86	51 FR 33279
Final Action	07/08/87	52 FR 25802
Final Action Effective	08/07/87	52 FR 25802

Small Entity: No

Agency Contact: Darrell Barnes, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-5441

RIN: 1004-AA17

1350. RIGHTS-OF-WAY; PRINCIPLES AND PROCEDURES; OIL AND NATURAL GAS PIPELINES AND RELATED FACILITIES, GENERAL

Significance: Regulatory Program

Legal Authority: 43 USC 1746; 30 USC 181 et seq

CFR Citation: 43 CFR 2800; 43 CFR 2880

Legal Deadline: None.

Abstract: This rule will amend the existing right-of-way regulations to provide a clear and streamlined procedure for setting the annual rental for rights-of-way.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/84	49 FR 19049
ANPRM Comment Period End	07/03/84	49 FR 19049
ANPRM - Second	01/18/85	50 FR 2697
ANPRM - Second	03/19/85	50 FR 2697
NPRM	09/05/86	51 FR 31886
NPRM Comment Period End	10/20/86	51 FR 31886
Final Action	07/08/87	52 FR 25794
Final Action Effective	08/07/87	52 FR 25794

Small Entity: Undetermined

Agency Contact: Theodore Bingham, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-5441

RIN: 1004-AA74

1351. OIL AND GAS LEASING

Legal Authority: 16 USC 3101 et seq; 30 USC 181 et seq; 30 USC 351 to 359; 40 USC 760 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 3100

Legal Deadline: None.

Abstract: This rule would revise the existing regulations to permit the current lessee of an oil and gas interest to obtain a Federal lease for the same minerals without competitive bidding when those minerals vest in the United States.

Timetable:

Action	Date	FR Cite
Combined with 1004-AA97	08/27/87	

Small Entity: Undetermined

Agency Contact: Mona Schermerhorn, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2199

RIN: 1004-AB30

1352. ONSHORE OIL AND GAS OPERATIONS - COOPERATIVE AGREEMENTS, DELEGATIONS OF AUTHORITY AND CONTRACTS FOR OIL AND GAS INSPECTION AND ENFORCEMENT

Legal Authority: 30 USC 1701; 30 USC 1732; 30 USC 1735; 30 USC 1751

CFR Citation: 43 CFR 3190

Legal Deadline: None.

Abstract: This rulemaking will provide the procedures for implementing the provisions of the Federal Oil and Gas Royalty Management Act authorizing cooperative agreements with States and Indian tribes for inspection and enforcement.

Timetable:

Action	Date	FR Cite
NPRM	10/14/86	51 FR 36565
NPRM Comment Period End	12/15/86	51 FR 36565
Final Action	07/17/87	52 FR 27180
Final Action Effective	08/17/87	52 FR 27180

Small Entity: No

Agency Contact: Susan Pepperney, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2200

RIN: 1004-AB17

1353. NONCOMPETITIVE LEASES

Legal Authority: 30 USC 201(b)

CFR Citation: 43 CFR 3430

Legal Deadline: None.

Abstract: This rule will provide detailed procedures for use in processing preference right lease applications for coal and will allow full public participation throughout the administrative process and will comply with the court order and opinion in Natural Resources Defense Council v. Berklund.

Timetable:

Action	Date	FR Cite
NPRM	02/20/87	52 FR 5398
NPRM Comment Period End	03/23/87	
Final Action	07/08/87	52 FR 25794
Final Action Effective	08/07/87	52 FR 25794

Small Entity: No

Agency Contact: Carole Smith, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-4774

RIN: 1004-AB33

[FR Doc. 87-6609 Filed 10-23-87; 8:45 am]

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DEPARTMENT OF THE INTERIOR (DOI)
Office of the Secretary (OS) — **Proposed Rule Stage**

1354. ● DEPARTMENT OF THE INTERIOR, PROCUREMENT ETHICS REGULATION

Legal Authority: 5 USC 301; EO 11222; 43 CFR 20.735

CFR Citation: 48 CFR 1400

Legal Deadline: None.

Abstract: This notice of proposed rulemaking proposes to provide implementing regulations in the Department of the Interior Acquisition Regulation for E. O. 11222 governing ethics conduct for Government employees. The proposed rule would also provide a special code of conduct for employees with procurement responsibilities in accordance with 43 CFR 20.735-2(h).

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: William S. Opdyke, Chief, Division of Acquistion and Assistance, Department of the Interior, Office of the Secretary, 18th and C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1093-AA06

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Secretary (OS) — **Final Rule Stage**

1355. NATURAL RESOURCE DAMAGE ASSESSMENT - TYPE B AMENDMENTS

Legal Authority: 42 USC 9651(c)(1) CERCLA as amended

CFR Citation: 43 CFR 11

Legal Deadline: Statutory, April 17, 1987. SARA calls for any necessary amendments to be prepared within 6 months of enactment of SARA (Oct. 17, 1986).

Abstract: CERCLA allows trustees of natural resources that have been damaged by a release of a hazardous substance or a discharge of oil to bring a claim against the potentially responsible party of the Superfund. Section 301(c) requires the development of regulations for the assessment of damages to natural resources. Two sets of regulations are required by the Act: a set of simplified procedures that require minimal field investigations, referred to as the type A procedures, and a set of alternative procedures for the testing, sampling, and valuing of natural resource damages, referred to as the type B procedures. The Superfund Amendments and Reauthorization Act of 1986 (SARA), enacted on October 17, 1986, amended certain sections of CERCLA that pertain to natural resource damages and the Section 301(c) damage assessment regulations. This submittal covers the amendments required to the Section 301(c) damage assessment regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/17/87	52 FR 12886
NPRM Comment Period End	06/17/87	52 FR 19896
Final Action	09/01/87	
Final Action Effective	10/01/87	

Small Entity: No

Affected Sectors: None

Agency Contact: Alison Ling, Project Chair, Department of the Interior, Office of the Secretary, 18th & C Sts., NW, Washington, DC 20240, 202 343-1301

RIN: 1093-AA05

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Secretary (OS) — **Completed Actions**

1356. NATURAL RESOURCE DAMAGE ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: Judicial, March 15, 1987. Judicial deadline requires statement concerning special resources by 3/15/87

Abstract: In the natural resource damage assessment regulations, published as a proposed rule 12/20/85, there was an exception proposed to the general common law rule of damages (that damages are calculated as the lesser of: restoration or replacement costs; or diminution of use value) for a certain class of resources called "special resources," those resources were viewed as requiring special protection. Due to the large number of diverse comments on this issue, the "special resources" exception was deleted from the final type B rule (published on 06/01/86) and further comments were requested. This submittal is to address those comments and the issue of special resources.

Timetable:

Action	Date	FR Cite
Final Action	06/12/87	52 FR 22451

Small Entity: No

Additional Information: Notice of Response to Comments; based on comments, no further action needed.

Affected Sectors: None

Agency Contact: Alison Ling, Project Chair, Department of the Interior, Office of the Secretary, 18th and C Sts., NW, Washington, DC 20240, 202 343-1301

RIN: 1093-AA04

[FR Doc. 87-21236 Filed 10-23-87; 8:45 am]

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Part XI

Department of Justice

Semiannual Regulatory Agenda

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DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

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48 CFR Ch. 28

Regulatory Agenda

AGENCY: Justice Management Division, Justice.

ACTION: Regulatory agenda.

SUMMARY: The Department of Justice is publishing its October 1987 regulatory agenda pursuant to Executive Order No. 12291, "Federal Regulation," 3 CFR Part 127 (1981 Compilation), the Regulatory Flexibility Act, 5 U.S.C.A. 601-612 (West 1984), and Office of Management and Budget Bulletin No. 87-16, June 25, 1987.

FOR FURTHER INFORMATION CONTACT: Terry Samuels, Executive Secretariat, Justice Management Division, Department of Justice, Room 1110, 10th and Constitution Avenue, NW., Washington, DC 20530 (202-633-3123).

Dated: September 2, 1987.

Anthony C. Moscato,

Counselor to the Assistant Attorney General for Administration.

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1357	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1190-AA03
1358	Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups	1190-AA15
1359	Enforcement of Nondiscrimination on the Basis of Handicap in Department of Justice Programs	1190-AA16
1360	Unfair Immigration - Related Employment Practices	1190-AA17

General Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1361	Justice Acquisition Regulations Title 48 2801 Career Management Program	1103-AA10

General Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1362	Implementation of the Program Fraud Civil Remedies of 1986	1103-AA15
1363	Procedures for Tax Refund Offsets for the Collection of Judgments	1103-AA16

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1364	Representation and Appearances	1103-AA05
1365	Rules of Practice and Procedure for Administrative Hearings Before Administrative Law Judges in Cases Involving Allegations of Unlawful Employment of Aliens and Unfair (Cont)	1103-AA14

General Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1366	Executive Office for Immigration Review Representation and Appearances	1103-AA03
1367	Motions to Reopen Deportation Proceedings	1103-AA07
1368	Justice Acquisition Regulations Title 48 2822 Nondiscrimination on the Basis of Handicap in DOJ Contracting Activities	1103-AA11

DOJ

General Administration—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1369	Suspension of Deportation and Voluntary Departure	1103-AA13

Immigration and Naturalization Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1370	Inspection of Persons Applying for Admission	1115-AA27
1371	Nonimmigrant Classes; Special Requirements for Admission; Extension and Maintenance of Status	1115-AA68

Immigration and Naturalization Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1372	Asylum Procedures	1115-AA13
1373	Seizure and Forfeiture of Vehicles, Vessels and Aircraft	1115-AA26
1374	Immigration User Fee	1115-AA30
1375	Detention and Release of Juveniles	1115-AA53
1376	Display of Control Numbers	1115-AA54
1377	Definitions of Felony and Misdemeanor	1115-AA58
1378	Nonimmigrant Classes, Special Requirements	1115-AA65
1379	Application for Verification of Information from INS Service Records; Form and Fee Cancellation	1115-AA66
1380	Prevention of Unauthorized Landing of Aliens, by Owners and Operators of Railroad Lines, International Bridges, or Toll Roads	1115-AA72
1381	Establishment of National Fines Office	1115-AA73
1382	Immigration User Fee, Conforming Amendments	1115-AA81
1383	Special Agricultural Workers	1115-AA83

Immigration and Naturalization Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1384	Documentary Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole; Direct Transits	1115-AA19
1385	Nonimmigrant Classes; Temporary Employees	1115-AA25
1386	Powers and Duties of Service Officers; Availability of Service Records	1115-AA28
1387	Powers and Duties of Service Officers; Availability of Service Records; Nonimmigrant Classes	1115-AA29
1388	Adjustment of Status to that of Persons Admitted for Permanent Residence; Creation of Records of Lawful Admission of Permanent Residence	1115-AA31
1389	Marriage Fraud Amendment Regulations	1115-AA32
1390	Documentary Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole; Judicial Recommendations Against Deportation; Proceedings to Determine Deportability	1115-AA34
1391	Bonds	1115-AA41
1392	Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act	1115-AA44
1393	Addition of New Service Office	1115-AA49
1394	State Employment Agencies	1115-AA50
1395	Temporary Disqualification of Certain Newly Legalized Aliens from Receiving Benefits from Federal Programs of Financial Assistance	1115-AA55
1396	Special Agricultural Workers	1115-AA57
1397	Documentary Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole	1115-AA59
1398	Revision of Field Office Listing	1115-AA60
1399	Adjustment of Status; Persons Admitted for Permanent Residence	1115-AA61
1400	Documentary Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole Judicial Recommendations Against Deportation Proceedings	1115-AA63

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Immigration and Naturalization Service—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1401	Adjustment of Status for Certain Aliens	1115-AA84
1402	Certificate of Citizenship	1115-AA87
1403	Nonimmigrant Classes; Requirements for Admission, Extension, and Maintenance of Status	1115-AA89
1404	Control of Employment of Aliens	1115-AA71
1405	Documentary Requirements, Nonimmigrants	1115-AA74
1406	Visa Waiver Pilot Program	1115-AA75
1407	Equal Treatment of Fathers	1115-AA76
1408	Rule Revision to Add New Special Immigrant and Nonimmigrant Classifications	1115-AA80
1409	Change of Nonimmigrant Classification	1115-AA87
1410	Contracts with Transportation Lines	1115-AA88

Immigration and Naturalization Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1411	Nonimmigrant Classes; Temporary Employees and Intracompany Transferees	1115-AA18
1412	Nonimmigrant Classes; F-1 Academic Students	1115-AA24
1413	Adjustment of Status for Special Agricultural Workers	1115-AA37
1414	Applicant Processing for Special Agricultural Worker and Legalization Programs; Conforming Amendments, etc	1115-AA39
1415	Statement of Organization; Powers and Duties of Service Officers; Availability of Service Records	1115-AA42
1416	Control of Employment of Aliens	1115-AA43
1417	Special Agricultural Workers	1115-AA45
1418	Fair Petition	1115-AA46
1419	Admission of Refugees	1115-AA47
1420	Nonimmigrant Classes	1115-AA48
1421	Immigration Reform and Control Act: Notice to Employers	1115-AA51
1422	Adjustment of Status for Certain Aliens	1115-AA52
1423	Verfication of Immigration Status of Aliens Applying for Benefits under Certain Programs	1115-AA56
1424	Automatic Conversion of Classification of Beneficiary	1115-AA62
1425	Petition to Classify Alien as Immediate Relative of a U.S. Citizen or as a Preference Immigrant	1115-AA70
1426	8 CFR Part 245a, Aliens, Temporary Resident Status, Permanent Resident Status	1115-AA77
1427	Application for Certificate of Citizenship, Form and Fee Cancellation	1115-AA78
1428	Relationship by Adoption	1115-AA79
1429	Definitions	1115-AA82
1430	Public Notice to Transportation Carriers	1115-AA84
1431	Immigration Reform and Control Act; Notice to Employers and Persons Desiring Work Authorizations	1115-AA85
1432	Documentary Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole	1115-AA86
1433	Contracts with Transportation Lines	1115-AA89
1434	Contracts with Transportation Lines; Addition of Continental Airlines	1115-AA90

Legal Activities—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1435	Implementation of the Equal Access to Justice Act in Department of Justice Administrative Proceedings	1105-AA05

Office of Justice Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1436	Criminal Intelligence Systems Operating Policies	1121-AA12

DOJ

Office of Justice Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1437	Equal Employment Opportunity Program Guidelines	1121-AA10
1438	Nondiscrimination in Federal Assisted Programs – Implementation of Section 809 (c) (1) of the Justice Assistance Act of 1984	1121-AA11

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1357. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6103

CFR Citation: 28 CFR 42, Subpart I, (New)

Legal Deadline: None.

Abstract: This regulation will implement the Age Discrimination Act of 1975, as amended, in programs or activities assisted by the Department of Justice (DOJ). The statute, 42 USC 6103(a)(4), requires that Federal agencies providing Federal financial assistance promulgate implementing regulations consistent with the general regulations issued by the Secretary of Health and Human Services (HHS), and the statute provides that such agency regulations shall not be effective until approved by HHS. In 1980 the proposed rule was published for comment, modified, approved by the DOJ Office of Legal Counsel, and on November 10, 1980 a draft final rule was forwarded to HHS for approval. On July 13, 1984 HHS conditionally approved the draft regulation.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	06/18/80	45 FR 32710
Final Action	00/00/00	

Small Entity: No

Agency Contact: Doreen Dennis, Attorney, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66118, Washington, DC 20035-6118, 202 724-2219

RIN: 1190-AA03

1358. IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 1973b; 42 USC 1973j(d); 42 USC 1973aa-1a; 42 USC 1973aa-2

CFR Citation: 28 CFR 55

Legal Deadline: None.

Abstract: Revision of the minority language guidelines is needed to conform them to new determinations of coverage and to changes mandated by the 1982 Amendments to the Voting Rights Act, PL 97-205. Affected entities and interested persons will have more accurate information with respect to the application of the minority language requirements of the Voting Rights Act.

Timetable:

Action	Date	FR Cite
Final Action	09/30/87	
Final Action Effective	09/30/87	

Small Entity: Not Applicable

Agency Contact: David H. Hunter, Attorney, Voting Section, Department of Justice, Civil Rights Division, P.O. Box 66128, Washington, DC 20035-6128, 202 724-5898

RIN: 1190-AA15

1359. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN DEPARTMENT OF JUSTICE PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 28 CFR 42

Legal Deadline: None.

Abstract: This proposed regulation would amend the regulation issued by the Department of Justice for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards.

Timetable:

Action	Date	FR Cite
NPRM	03/01/87	
Final Action	12/31/87	

Small Entity: No

Agency Contact: Merrily Raffa, Attorney, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66118, Washington, DC 20035-6118, 202 724-2216

RIN: 1190-AA16

1360. UNFAIR IMMIGRATION - RELATED EMPLOYMENT PRACTICES

Legal Authority: PL 99-603, Sec 102 Immigration Reform and Control Act of 1986

CFR Citation: 28 CFR 44

Legal Deadline: None.

Abstract: This rule establishes standards and procedures for the enforcement of section 102 of the Immigration Reform and Control Act of 1986, which prohibits certain unfair immigration-related employment practices.

Timetable:

Action	Date	FR Cite
NPRM	03/23/87	52 FR 9274
Final Action	09/15/87	
Final Action Effective	10/15/87	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

DOJ—CRT — **Final Rule Stage**

Affected Sectors: All

Government Levels Affected: Local, State, Federal

Agency Contact: Mary E. Mann, Actg Special Counsel for Immigration-, Related Unfair Employment Practices, Department of Justice, Civil Rights Division, Off. of the Special Counsel for Immigration Related Unfair Employment Practices, P.O. Box 65490, Washington, DC 20035-5490, 202 653-8121

RIN: 1190-AA17

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM) — **Prerule Stage**

1361. JUSTICE ACQUISITION REGULATIONS TITLE 48 2801 CAREER MANAGEMENT PROGRAM

Legal Authority: EO 12352

CFR Citation: 48 CFR 2801

Legal Deadline: None.

Abstract: 48 CFR 2801. The rules will enhance the qualifications and professionalism of the Department's procurement workforce. There will be no cost to the public. Benefits will include more competitive contracting and lower costs to the Government in the purchase of supplies and services.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: W. L. Vann, Acting Procurement Executive, Department of Justice, General Administration, 601 D Street, NW, Room 9000, Washington, DC 20530, 202 272-8354

RIN: 1103-AA10

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM) — **Proposed Rule Stage**

1362. ● IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES OF 1986

Legal Authority: 31 USC 3801 to 3812; 28 USC 509; 28 USC 510; 5 USC 301

CFR Citation: 28 CFR Not yet determined

Legal Deadline: Statutory, April 29, 1987.

Abstract: These regulations will implement the Program Fraud Civil Remedies Act with respect to actions initiated by the Department of Justice. The rules will establish administrative procedures for imposing statutorily authorized civil penalties against any person who makes, submits or presents a false, fictitious, or fraudulent claim or written statement to the Department of Justice.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	10/30/87	
Final Action Effective	11/30/87	

Small Entity: No

Affected Sectors: None

Agency Contact: Janis Sposato, General Counsel, Justice Management Division, Department of Justice, General Administration, 10th and Constitution Avenue, NW, Washington, DC 20530, 202 633-3452

RIN: 1103-AA15

1363. ● PROCEDURES FOR TAX REFUND OFFSETS FOR THE COLLECTION OF JUDGMENTS

Legal Authority: 31 USC 3720A; 31 USC 3716; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR Not yet determined

Legal Deadline: None.

Abstract: The proposed regulation will establish procedures for referring to the Department of the Treasury debts for collection by offset against Federal income tax refunds.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	10/30/87	
Final Action Effective	11/30/87	

Small Entity: No

Agency Contact: Robert C. Niffenegger, Department of Justice, General Administration, 10th Street and Constitution Avenue, NW, Washington, DC 20530, 202 633-5345

RIN: 1103-AA16

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM) — **Final Rule Stage**

1364. REPRESENTATION AND APPEARANCES

Significance: Agency Priority

Legal Authority: 8 USC 1103; 8 USC 1362

CFR Citation: 8 CFR 292.1

Legal Deadline: None.

Abstract: The contemplated regulation change would limit practice of foreign-licensed attorneys outside the definition of attorney under 8 CFR 1.1(f) to matters arising outside the United States and to those instances where the Immigration and Naturalization Service allows such practice. This is designed to help assure the high quality of representation in immigration matters.

Timetable:

Action	Date	FR Cite
NPRM	01/29/87	52 FR 2951
NPRM Comment Period End	03/02/87	52 FR 2951
Next Action Undetermined		

Small Entity: No

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103-AA05

DOJ—DOJADM — **Final Rule Stage**

1365. ● RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES IN CASES INVOLVING ALLEGATIONS OF UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR (CONT)

Significance: Agency Priority

Legal Authority: 5 USC 301; 5 USC 554; 8 USC 1103; 8 USC 1324a; 8 USC 1324b

CFR Citation: 28 CFR 68

Legal Deadline: None.

Abstract: These regulations will provide the rules of practice and procedure in administrative hearings regarding allegations of unlawful hiring, recruiting or referring for a fee, for employment in the United States of aliens knowing that the aliens are not authorized to work in the United States, or the continued employment of aliens in the United States knowing the aliens are (or have become) unauthorized to work in the United States, failure to comply with the employment verification requirements and unfair immigration-related employment practices.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: TITLE CONT: Immigration-Related Employment Practices

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Executive Office for Immigration Review, 5203 Leesburg Pike, Suite 1609, Falls Church, VA 22041, 703 756-6470

RIN: 1103-AA14

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM) — **Completed Actions**

1366. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW REPRESENTATION AND APPEARANCES

Significance: Agency Priority

CFR Citation: 8 CFR 292.3; 8 CFR 3.1

Completed:

Reason	Date	FR Cite
Final Action	07/02/87	52 FR 24980
Final Action Effective	08/03/87	52 FR 24980

Small Entity: No

Agency Contact: Gerald S. Hurwitz 703 756-6470

RIN: 1103-AA03

1367. MOTIONS TO REOPEN DEPORTATION PROCEEDINGS

Significance: Agency Priority

CFR Citation: 8 CFR 242

Completed:

Reason	Date	FR Cite
Final Action	07/15/87	52 FR 26470
Final Action Effective	08/14/87	52 FR 26470

Small Entity: No

Agency Contact: Gerald S. Hurwitz 703 756-6470

RIN: 1103-AA07

1368. JUSTICE ACQUISITION REGULATIONS TITLE 48 2822 NONDISCRIMINATION ON THE BASIS OF HANDICAP IN DOJ CONTRACTING ACTIVITIES

CFR Citation: 48 CFR 2822

Completed:

Reason	Date	FR Cite
Prerule withdrawn	08/27/87	

Small Entity: No

Agency Contact: W. L. Vann 202 272-8354

RIN: 1103-AA11

1369. SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

Significance: Agency Priority

CFR Citation: 8 CFR 244.2

Completed:

Reason	Date	FR Cite
Final Action	07/02/87	52 FR 24982
Final Action Effective	08/03/87	52 FR 24982

Small Entity: No

Agency Contact: Gerald S. Hurwitz 703 756-6470

RIN: 1103-AA13

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS) — **Prerule Stage**

1370. INSPECTION OF PERSONS APPLYING FOR ADMISSION

Legal Authority: 31 USC 9701

CFR Citation: 8 CFR 235.11

Legal Deadline: None.

Abstract: This proposed rule would amend existing regulations to charge carriers for the administrative costs and

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DOJ—INS — **Prerule Stage**

the Service's portion of the Social Security taxes associated with billable 1931 Act overtime.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Federal

Agency Contact: Charles S. Thomason, Jr., Systems Accountant, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-4705

RIN: 1115-AA27

1371. ● NONIMMIGRANT CLASSES; SPECIAL REQUIREMENTS FOR ADMISSION; EXTENSION AND MAINTENANCE OF STATUS

Legal Authority: 8 USC 1101 (a)(15)(B); 8 USC 1184

CFR Citation: 8 CFR 214.2(b)

Legal Deadline: None.

Abstract: This notice announces the intent of the Immigration and Naturalization Service ("the Service") to set forth, in regulatory form, the special requirements for admission, extension and maintenance of status of nonimmigrant alien visitors for business and visitors for pleasure. Much of the Service's written policy relating to this subject is now contained in the Service's Operations Instructions at O.I. 214.2(b). Because it is more appropriate for interpretations and rules to be set forth in regulatory form, this information will become part of 8 CFR 214. In addition, the proposed rulemaking will clarify the criteria for according B-1 classification to members of certain occupations (such as participants in religious programs and members of foreign film crews). By issuing this advance notice, the Service is providing an opportunity to the public to submit comments and make suggestions at an earlier stage of the process. This will result in a proposed rule which is more comprehensive in its scope and more understandable to the public.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3946

RIN: 1115-AA68

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Proposed Rule Stage

1372. ASYLUM PROCEDURES

Significance: Regulatory Program

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1252; 8 USC 1253; 8 USC 1283

CFR Citation: 8 CFR 208; 8 CFR 236.3; 8 CFR 242.17(c); 8 CFR 243.9; 8 CFR 253.1(f)

Legal Deadline: None.

Abstract: The proposed rule would set forth procedures to be used in adjudicating asylum and withholding of deportation applications under sections 208 and 243(h) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Ralph B. Thomas, Immigration Inspector, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-5463

RIN: 1115-AA13

1373. SEIZURE AND FORFEITURE OF VEHICLES, VESSELS AND AIRCRAFT

Legal Authority: 8 USC 1324

CFR Citation: 8 CFR 274

Legal Deadline: None.

Abstract: The proposed changes would amend existing regulations relating to the seizure and forfeiture of vehicles, vessels and aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Paul Virtue, Assistant General Counsel, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-2658

RIN: 1115-AA26

1374. IMMIGRATION USER FEE

Significance: Regulatory Program

Legal Authority: 8 USC 1356; PL 99-591; 8 USC 1103; 8 USC 1356

CFR Citation: 8 CFR 286

Legal Deadline: None.

Abstract: This proposed rule would add a new 8 CFR 286 to reflect certain provisions of the DOJ Appropriation Act of 1987, concerning the collection and remittance of the Immigration User Fee.

Timetable:

Action	Date	FR Cite
NPRM	06/12/87	52 FR 29663
NPRM Comment Period End	10/13/87	52 FR 29663
Final Action	01/00/88	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Charles S. Thompson, Jr., Systems Accountant, Department of Justice, Immigration and Naturalization Service, 425 Eye Street, NW, Washington, DC 20536, 202 633-4705

RIN: 1115-AA30

1375. ● DETENTION AND RELEASE OF JUVENILES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1226; 8 USC 1252; 8 USC 1182b; 8 USC 1182c; 8 USC 1254; 8 USC 1255; 8 USC 1357; 8 USC 1362

CFR Citation: 8 CFR 212; 8 CFR 242

Legal Deadline: None.

DOJ—INS — **Proposed Rule Stage**

Abstract: The proposed rule would add a new Section 242.24 and would replace existing Subsection 212.5(a)(2)(ii) with a new section. The purpose of this regulation is to codify Service policy regarding detention and release of juvenile aliens and to provide a single policy for juveniles in both deportation and exclusion proceedings.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Mary Ruth Calhoun, Juvenile Detention Specialist, Department of Justice, Immigration and Naturalization Service, 202 633-4120

RIN: 1115-AA53

1376. ● DISPLAY OF CONTROL NUMBERS

Legal Authority: 66 Stat. 173; 8 USC 1103

CFR Citation: 8 CFR 299.5

Legal Deadline: None.

Abstract: A new Section 299.5 is being added to 8 CFR Part 299. The new section, titled, Display of Control Numbers, will allow the Immigration and Naturalization Service (Service), to compile, in one centralized location within its regulations, a listing of all current Service public use forms and their respective control numbers as assigned by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. The consolidated identification of public use forms will enable both Service officials and the public to easily identify those public use forms in current use by the Immigration and Naturalization Service.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Sharon A. Andrade, Management Analyst, Department of Justice, Immigration and Naturalization Service, 202 633-3291

RIN: 1115-AA54

1377. ● DEFINITIONS OF FELONY AND MISDEMEANOR

Legal Authority: 8 USC 1255A

CFR Citation: 8 CFR 245a

Legal Deadline: None.

Abstract: Amends the definition of felony and misdemeanor as it applies to applicants for temporary resident status under the legalization program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Francheseo Isgro, Acting Deputy General Counsel, Department of Justice, Immigration and Naturalization Service, 202 633-2517

RIN: 1115-AA58

1378. ● NONIMMIGRANT CLASSES, SPECIAL REQUIREMENTS

Legal Authority: 8 USC 1101; 8 USC 1184

CFR Citation: 8 CFR 214.2(b)

Legal Deadline: None.

Abstract: The Immigration and Naturalization Service ("the Service") proposes to restrict the types of situations under which an alien may apply for an extension of stay as a nonimmigrant visitor for pleasure (B-2). Faced with ever-increasing adjudications caseloads and with resources which fail to keep pace with those increases, the Service must continually seek ways to carry out its responsibilities in a more efficient manner. By limiting the situations under which a visitor for pleasure may seek an extension of stay, the Service will decrease the amount of resources which must be dedicated to this area and will be able to increase its efforts in other areas having higher priority.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3946

RIN: 1115-AA65

1379. ● APPLICATION FOR VERIFICATION OF INFORMATION FROM INS SERVICE RECORDS; FORM AND FEE CANCELLATION

Legal Authority: 8 USC 1103; 31 USC 9701

CFR Citation: 8 CFR 103.7

Legal Deadline: None.

Abstract: The Immigration and Nationalization Service ("the Service") entertains numerous requests for Verification of Information from INS Service Records, via Form G-641. This form has been misused as a substitute document, while other INS documents are being prepared (i.e.: I-94, I-551 or Certificate of Naturalization or Citizenship). Should an applicant need to have his or her status verified while waiting for one of these documents to be processed, and such verification can be satisfied by obtaining a copy of a document (Certified if necessary), an FOIA/PA request can be made. If verification is needed to obtain a benefit and a copy will not suffice, the agency needing verification can make a direct request to the INS and it will be handled as appropriate.

Discontinuing the use of Form G-641 will also eliminate the need to request Form G-350, Certification of Birth Data. Requests for this document are minimal since foreign-born children are issued an alien registration receipt card or a citizenship document by INS and no other form of identification should be necessary.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Ramonia Law-Hill, Information Management Specialist, Department of Justice, Immigration and Naturalization Service, 202 633-2552

RIN: 1115-AA66

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Proposed Rule Stage

1380. ● PREVENTION OF UNAUTHORIZED LANDING OF ALIENS, BY OWNERS AND OPERATORS OF RAILROAD LINES, INTERNATIONAL BRIDGES, OR TOLL ROADS

Legal Authority: 8 USC 1103; 8 USC 1321

CFR Citation: 8 CFR 271

Legal Deadline: None.

Abstract: It has long been the contention of owners of international bridges that sufficient safeguards to fine procedures were lacking in the statutory language of Section 271 (8 U.S.C. 1321) of the Immigration and Nationality Act, as amended. The Immigration Reform and Control Act of 1986, Public Law 99-603 Part B at Section 114 provides amelioration to some degree of this contention. This regulation provides for an inspection by the Attorney General, at the request of owners and operators of facilities which provide a means for the unlawful entry of aliens into the United States. If a determination is made that adequate measures have been taken by the owners to prevent such unlawful entry, the owners will be relieved from liability to fine proceedings as long as the facility remains in the condition in which approved.

Timetable:

Action	Date	FR Cite
NPRM	01/16/87	52 FR 1920
NPRM Comment Period End	02/17/87	52 FR 1920

Next Action Undetermined

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Daniel Stephan, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 202 633-2745

RIN: 1115-AA72

1381. ● ESTABLISHMENT OF NATIONAL FINES OFFICE

Legal Authority: PL 99-591

CFR Citation: 8 CFR 280

Legal Deadline: None.

Abstract: This rule establishes a centralized handling of administrative fines; dept established as a precursor of National Collections office. Removes workload from district examiners.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	12/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Daniel J. Stephan, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 202 633-2660

RIN: 1115-AA73

1382. ● IMMIGRATION USER FEE, CONFORMING AMENDMENTS

Significance: Regulatory Program

Legal Authority: 8 USC 1103; 8 USC 1356; PL 99-591

CFR Citation: 8 CFR 232; 8 CFR 233; 8 CFR 235; 8 CFR 237; 8 CFR 238; 8 CFR 239; 8 CFR 271; 8 CFR 273; 8 CFR 280; 8 CFR 299

Legal Deadline: None.

Abstract: Section 101(b) subsection 205 of the Department of Justice Appropriation Act, 1987 (P.L. 99-591) establishes the collection, payment, and remittance of a specific user fee for the Immigration inspection or preinspection of passengers (with certain exceptions) arriving in the U.S. aboard commercial aircraft or commercial vessels. Subsection 206 of P.L. 99-591 places the responsibility for physical custody of excludable aliens pursuant to former section 233 of the I & N Act of 1952, as amended on the INS. This proposed rule addresses this change from carrier responsibility to INS responsibility. This rule would also amend present regulations to conform to statutory deletions and amendments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	02/00/88	
Final Action	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Charles S. Thomason, Jr., Systems Accountant, Department of Justice, Immigration and Naturalization Service, 202 633-4705

RIN: 1115-AA81

1383. ● SPECIAL AGRICULTURAL WORKERS

Significance: Agency Priority

Legal Authority: PL 99-603; 100 Stat. 3359; 8 USC 1101 note

CFR Citation: 8 CFR 210.2(c)(1)

Legal Deadline: None.

Abstract: 8 CFR 210.2(c)(1) is amended to provide that the entry cut-off date for eligibility to apply for Special Agricultural Worker status in the United States applies only to aliens who entered unlawfully. This is consistent with the intent of INS in setting such a date.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Aaron Bodin, Deputy Assistant Commissioner, Special Agricultural Workers (SAW), Department of Justice, Immigration and Naturalization Service, 202 786-3658

RIN: 1115-AA83

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Final Rule Stage

1384. DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE; DIRECT TRANSITS

Legal Authority: 8 USC 1182

CFR Citation: 8 CFR 212.7(d)

Legal Deadline: None.

Abstract: This final rule outlines requirements for approval of section 212(k) waivers, including an amended I-193 for use in making the application.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	
Final Action Effective	12/00/87	

Small Entity: No

Agency Contact: Kathryn Sheehan, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-2725

RIN: 1115-AA19

1385. NONIMMIGRANT CLASSES; TEMPORARY EMPLOYEES

Significance: Regulatory Program

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1258

CFR Citation: 8 CFR 214.2(h)

Legal Deadline: None.

Abstract: The Immigration Reform and Control Act of 1986 (IRCA) imposes sanctions against employers who hire aliens not authorized to work. Since many of the nation's agricultural employers have become dependent upon such workers to meet production and harvesting needs, Congress created the Special Agricultural Workers (SAW) Program and the Replenishment Agricultural Workers (RAW) Program to provide permanent resident status to certain agricultural workers. To clarify the process through which employers can employ nonimmigrant seasonal and temporary agricultural workers, Congress moved agricultural employment from H-2 classification into a separate H-2A class, and incorporated a labor certification process into the statute. This interim rule establishes special H-2A regulatory criteria. It supplements the Department of Labor's rules covering the temporary agricultural labor certification process. This rule amends Service regulations relating therefore to temporary alien workers seeking classification under section 101(a)(15) (H) of the Immigration and Nationality Act

Timetable:

Action	Date	FR Cite
NPRM	08/06/86	51 FR 28576
NPRM Comment Period End	10/07/86	52 FR 28576
Interim Final Rule	06/01/87	52 FR 20554
Interim Rule Effective Date	06/01/87	52 FR 20554
Final Action	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Michael L. Aytes, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-3946

RIN: 1115-AA25

1386. POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 103.2(b)

Legal Deadline: None.

Abstract: This proposed rule would authorize a district director to withhold adjudication of a visa petition or application when determined necessary to pursue a criminal investigation.

Timetable:

Action	Date	FR Cite
NPRM	05/30/86	51 FR 19559
NPRM Comment Period End	07/29/86	51 FR 19559

Next Action Undetermined

Small Entity: No

Agency Contact: Lori Scialabba, Assistant General Counsel, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-3197

RIN: 1115-AA28

1387. POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS; NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1351; 8 USC 1454; 8 USC 1455

CFR Citation: 8 CFR 103.1(f)(1); 8 CFR 214.4

Legal Deadline: None.

Abstract: This proposed rule would revise the procedures and authority to withdraw approval of a school to enroll foreign students.

Timetable:

Action	Date	FR Cite
NPRM	11/05/86	51 FR 40207
NPRM Comment Period End	01/05/87	51 FR 40207
Final Action	02/00/88	

Small Entity: No

Agency Contact: Joanna London, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-2895

RIN: 1115-AA29

1388. ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR PERMANENT RESIDENCE; CREATION OF RECORDS OF LAWFUL ADMISSION OF PERMANENT RESIDENCE

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255; 8 USC 1257; 8 USC 1259

CFR Citation: 8 CFR 245.1; 8 CFR 245.6; 8 CFR 245.7; 8 CFR 245.8; 8 CFR 245.9; 8 CFR 249.2

Legal Deadline: Statutory, November 6, 1986.

Abstract: This interim rule will implement sections 117, 202, and 203 of the Immigration Reform and Control Act of 1986. Section 107 contains prohibitions on adjustment of lawful permanent resident status by certain individuals. Section 202 provides for adjustment to lawful permanent resident status by certain nationals of Cuba and Haiti. Section 203 changes the registry date for creation of record of lawful permanent residence from June 30, 1948 to January 1, 1972.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/03/87	52 FR 6320
Correction of legal citation	04/27/87	52 FR 13827
Final Action	00/00/00	

Small Entity: No

Government Levels Affected: Federal

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DOJ—INS

Final Rule Stage

Agency Contact: Joseph D. Cuddihy, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-3320

RIN: 1115–AA31

1389. MARRIAGE FRAUD AMENDMENT REGULATIONS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1181; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1203; 8 USC 1225; 8 USC 1226; 8 USC 1227; PL 99-639

CFR Citation: 8 CFR 204.1; 8 CFR 205.1; 8 CFR 211.1; 8 CFR 212.7; 8 CFR 214.2; 8 CFR 216.1; 8 CFR 216.2; 8 CFR 216.3; 8 CFR 216.4; 8 CFR 216.5; 8 CFR 223.2; 8 CFR 223a.4; 8 CFR 235.11; 8 CFR 242.7; 8 CFR 242.17; ...

Legal Deadline: None.

Abstract: The Immigration Marriage Fraud Amendments of 1986 (Pub.L. 99-639) became effective on November 10, 1986. The law provides for conditional permanent resident status for certain alien spouses, sons and daughters of US citizens and lawful permanent residents. It also provides for the removal of the conditional basis of such residence upon the filing of a joint petition by the conditional resident and the petitioning spouse. Additionally, the law provides for the termination of an alien's lawful permanent residence for failure to file the necessary petition or for other reasons. This rulemaking creates interim regulations necessary for the implementation of the law pending preparation of final regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entity: No

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-3946

RIN: 1115–AA32

1390. DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE; JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION; PROCEEDINGS TO DETERMINE DEPORTABILITY

Significance: Regulatory Program

Legal Authority: 8 USC 1182(a)(23); 8 USC 1251(a)(11); 8 USC 1252(i); 8 USC 1357(d); PL 99-570; PL 99-603; 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1182b; 8 USC 1183c; 100 Stat. 3207

CFR Citation: 8 CFR 212.3(a) & (b); 8 CFR 241.1(a) & (b); 8 CFR 242.2; 8 CFR 287.1(g) to (i); 8 CFR 287.7(a) to (f)

Legal Deadline: None.

Abstract: The changes would amend the present rules by (1) addition of supplementary definitions to those already found in the regulations; (2) establishment of procedures for expeditious processing of aliens convicted of offenses which render them deportable from the United States; and (3) establishment of procedures for making determinations necessary as to issuing detainers against aliens arrested for controlled substance violations. These changes are necessitated by the provisions of two recently passed statutes relating to criminal aliens and alien narcotics traffickers, which amended certain provisions of the INA: the Anti-Drug Abuse Act of 1986, Pub. L. 99-570; and the Immigration Reform and Control Act of 1986, Pub. L. 99-603. Prompt establishment of the procedures contained in this rule is necessary to ensure that Service operations are conducted in a manner consistent with the Congressional intent of both Acts.

Timetable:

Action	Date	FR Cite
Public Notice of Pilot Project	04/22/87	52 FR 13330
Interim Final Rule	05/05/87	52 FR 16370
Final Action	00/00/00	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Walter D. Cadman, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 786-4502

RIN: 1115–AA34

1391. ● BONDS

Legal Authority: 5 USC 552(A); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1455; 28 USC 1746; 7 USC 2243; ...

CFR Citation: 8 CFR 103

Legal Deadline: None.

Abstract: This rule proposes to eliminate surety bonds as acceptable security on immigration appearance, public charge, and maintenance of status and departure bonds. This change is necessary to increase alien appearances and minimize dollar losses to the U.S.

Timetable:

Action	Date	FR Cite
NPRM	07/01/87	52 FR 24475
NPRM Comment Period End	07/31/87	52 FR 24475
Interim Final Rule	11/00/87	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: James H. Walsh, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, 202 633-1261

RIN: 1115–AA41

1392. ● TEMPORARY ALIEN WORKERS SEEKING CLASSIFICATION UNDER THE IMMIGRATION AND NATIONALITY ACT

Legal Authority: 8 USC 1101

CFR Citation: 8 CFR 214.2(h)

Legal Deadline: None.

Abstract: The proposed rule amends regulations of the INS relating to Temporary Alien Workers seeking classification under section 101(a) (15) (H) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM	08/06/86	51 FR 28576
NPRM Comment Period End	10/07/86	51 FR 28576
Interim Final Rule	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Flora Richardson, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3240

RIN: 1115–AA44

1393. ● ADDITION OF NEW SERVICE OFFICE

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 204

Legal Deadline: None.

Abstract: 8 CFR 204.1(a)(2)(iii) determines the jurisdiction assumed by consular officers who are authorized to approve Forms I-130, Petitions for Alien Relatives. Consular officers located in areas where an Immigration and Naturalization Service office exists are not authorized to adjudicate Forms I-130. The opening of a Service office in New Delhi, India, rescinds the authority of consular officers in India to approve I-130 petitions. This notice clarifies that Form I-130, Petitions for Alien Relatives, which are filed by petitioners who reside in India are to be filed at the INS office at New Delhi and not at the American consulate office located in India.

Timetable:

Action	Date	FR Cite
Final Action	09/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Yolanda Sanchez-K, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115–AA49

1394. ● STATE EMPLOYMENT AGENCIES

Significance: Agency Priority

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; PL 99-603

CFR Citation: 8 CFR 274a.6

Legal Deadline: None.

Abstract: This interim rule amends the regulations at 8 CFR 274a.6, defining procedures for state employment agencies in verifying the identity and employment eligibility of individuals and certifying verifications to employers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Steven M. Hurst, Senior Special Agent, Department of Justice, Immigration and Naturalization Service, 202 633-4495

RIN: 1115–AA50

1395. ● TEMPORARY DISQUALIFICATION OF CERTAIN NEWLY LEGALIZED ALIENS FROM RECEIVING BENEFITS FROM FEDERAL PROGRAMS OF FINANCIAL ASSISTANCE

Significance: Agency Priority

Legal Authority: 8 USC 1101, (Note); PL 99-603; 100 Stat. 3359

CFR Citation: 8 CFR 245a

Legal Deadline: None.

Abstract: This proposed rule implements section 245A of the Immigration and Nationality Act ("ACT"), as amended by Section 201 of the Immigration Reform and Control Act of 1986, Pub.L. 99-603 ("IRCA"). Section 245A(h) of the Act provides that, with certain exceptions, aliens granted lawful temporary resident status pursuant to section 245A(a) are not eligible for a period of five years after such grant to receive benefits from programs of financial assistance furnished under Federal law on the basis of financial need. The Attorney General is required by section 245A(h)(1)(A)(i) of the Act to identify such programs after consultation with other appropriate heads of the various departments and agencies of government. This proposed rule implements such provision.

Timetable:

Action	Date	FR Cite
NPRM	06/24/87	52 FR 31784
Final Action	12/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Michael D. Cronin, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-4657

RIN: 1115–AA57

1396. ● SPECIAL AGRICULTURAL WORKERS

Significance: Agency Priority

Legal Authority: 8 USC 1101 note

CFR Citation: 8 CFR 210

Legal Deadline: None.

Abstract: This rule incorporates in 8 CFR 210, a reference to the rules established by the Secretary of Agriculture for implementation of the special agricultural worker provisions of the Immigration Reform and Control Act of 1986 (IRCA).

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Michael D. Cronin, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-4657

RIN: 1115–AA55

1397. ● DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

Legal Authority: 8 USC 1103; 8 USC 1182

CFR Citation: 8 CFR 212.1(e)(3)

Legal Deadline: None.

Abstract: This rule amends the listing of countries, for which transit without visa privileges are unavailable, to include Syria.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Y. Peggy Wong, Assistant Chief Inspector, Department

DOJ—INS

Final Rule Stage

DOJ—INS

Final Rule Stage

of Justice, Immigration and Naturalization Service, 202 633-4033

RIN: 1115–AA59

1398. ● REVISION OF FIELD OFFICE LISTING

Legal Authority: 66 Stat. 173; 8 USC 1103

CFR Citation: 8 CFR 100.4(d)

Legal Deadline: None.

Abstract: Amending the list of Border Patrol Sectors to include Puerto Rico under the Eastern Region.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Luis Barker, Deputy Chief, Border Patrol, Department of Justice, Immigration and Naturalization Service, 202 633-1109

RIN: 1115–AA60

1399. ● ADJUSTMENT OF STATUS; PERSONS ADMITTED FOR PERMANENT RESIDENCE

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255; 8 USC 1257

CFR Citation: 8 CFR 245

Legal Deadline: None.

Abstract: This regulatory change will require that all future applicants for permanent residence under the Cuban Adjustment Act submit with their application local police clearances from every jurisdiction in the United States where they have lived for six months or more. This action is necessary because the number of applicants has decreased to the point where the automated record checks previously conducted are no longer practical.

Timetable:

Action	Date	FR Cite
NPRM	04/10/87	52 FR 11659
NPRM Comment Period End	05/11/87	52 FR 11659
Final Action	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Joseph D. Cuddihy, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3320

RIN: 1115–AA61

1400. ● DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION PROCEEDINGS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1182b; 8 USC 1182c; 8 USC 1251; 8 USC 1357; 8 USC 1254; 8 USC 1362

CFR Citation: 8 CFR 212; 8 CFR 241; 8 CFR 242; 8 CFR 287

Legal Deadline: None.

Abstract: These changes amend the present rules by (1) addition of supplementary definitions to those already found in the regulations; (2) establishment of procedures for expeditious processing of aliens convicted of offenses which render them deportable from the United States; and (3) establishment of procedures for making determinations necessary as to issuing detainers against aliens arrested for controlled substance violations. These changes are necessitated by the provisions of two recently passed statutes relating to criminal aliens and aliens narcotics traffickers, which amended certain provisions of the Immigration and Nationality Act: The Anti-Drug Abuse Act of 1986, Pub. L. 99-570; and the Immigration Reform and Control Act of 1986, Pub. L. 99-603.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/05/87	52 FR 16370
Final Action	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Walter D. Cadman, Deputy Assistant Commissioner Investigations, Department of Justice, Immigration and Naturalization Service, 202 786-4502

RIN: 1115–AA63

1401. ● ADJUSTMENT OF STATUS FOR CERTAIN ALIENS

Legal Authority: PL 99-603; Stat. 3359; 8 USC 1101 note

CFR Citation: 8 CFR 245a

Legal Deadline: None.

Abstract: This regulation provides technical corrections to existing Service regulations published on May 1, 1987 at 52 FR 16205, and provides additional guidance as required.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Terrance M. O'Reilly, Deputy Assistant Commissioner, Legalization, Department of Justice, Immigration and Naturalization Service, 202 633-4557

RIN: 1115–AA64

1402. ● CERTIFICATE OF CITIZENSHIP

Legal Authority: PL 99-653; 8 USC 1103; 8 USC 1409(c); 8 USC 1434; 8 USC 1444; 8 USC 1448; 8 USC 1452; 8 USC 1455

CFR Citation: 8 CFR 341

Legal Deadline: Statutory, November 6, 1986.

Abstract: This rule change will implement section 22 of Public Law 99-653, the Immigration and Nationality Act Amendments of 1986, regarding issuance of certificates of citizenship for adopted children. The effect of this rule change is to facilitate acquisition of United States citizenship by adopted alien children once they enter the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/22/87	52 FR 13229
Notice of Final Action	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Thomas E. Cook, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115–AA67

DOJ—INS

Final Rule Stage

1403. ● NONIMMIGRANT CLASSES; REQUIREMENTS FOR ADMISSION, EXTENSION, AND MAINTENANCE OF STATUS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184

CFR Citation: 8 CFR 214

Legal Deadline: None.

Abstract: This proposed rule would revise the documentary requirements for submission of an application for extension of stay by an alien temporarily in the United States. Current regulations require that an alien's passport be valid for at least six months beyond the date on which he or she intends to depart from the United States. Under the proposed rulemaking the alien would be required to certify at the time of application for extension that the passport is valid and that he or she will maintain the validity of the passport throughout his or her stay. The alien would no longer be required to establish that the passport is valid for six months beyond the anticipated departure date.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22661
NPRM Comment Period End	07/15/87	52 FR 22661
Final Action	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3048

RIN: 1115–AA69

1404. ● CONTROL OF EMPLOYMENT OF ALIENS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a

CFR Citation: 8 CFR 274a

Legal Deadline: None.

Abstract: Technical amendments to 8 CFR 274a which provide clarification and amplification where needed and correct technical errors.

Timetable:

Action	Date	FR Cite
Final Action	11/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Walter D. Cadman, Deputy Assistant Commissioner Investigations, Department of Justice, Immigration and Naturalization Service, 202 786-4502

RIN: 1115–AA71

1405. ● DOCUMENTARY REQUIREMENTS, NONIMMIGRANTS

Legal Authority: PL 99-396

CFR Citation: 8 CFR 212

Legal Deadline: Statutory, November 27, 1986.

Abstract: Waives the nonimmigrant visitor visa for Nationals of certain countries admitted onto GUAM.

Timetable:

Action	Date	FR Cite
Final Action	09/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Kathryn E. Sheehan, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 202 633-2725

RIN: 1115–AA74

1406. ● VISA WAIVER PILOT PROGRAM

Significance: Agency Priority

Legal Authority: Sec 217 IRCA

CFR Citation: 8 CFR 212

Legal Deadline: None.

Abstract: Waives nonimmigrant tourist visa for nationals of eight different countries.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/88	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Kathryn E. Sheehan, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 202 633-2725

RIN: 1115–AA75

1407. ● EQUAL TREATMENT OF FATHERS

Legal Authority: PL 99-603; 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 204

Legal Deadline: Statutory, November 6, 1987.

Abstract: This revision is to assist in the implementation of Pub. L. 99-603, the Immigration Reform and Control Act of 1986, which recognizes, for preference petition purposes, the relationship between a biological father and his illegitimate child.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Thomas E. Cook, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115–AA76

1408. ● RULE REVISION TO ADD NEW SPECIAL IMMIGRANT AND NONIMMIGRANT CLASSIFICATIONS

Legal Authority: 8 USC 1103; 8 USC 1101; 8 USC 1184

CFR Citation: 8 CFR 101; 8 CFR 214

Legal Deadline: Statutory, November 6, 1987. Interim rules effective date.

Abstract: This revision was issued to assist in the implementation of P.L. 99-603, which created new special immigrant and nonimmigrant classifications. This provision was intended to alleviate hardships of international organizations and their immediate family members. The new nonimmigrant classification was added to minimize any family separations caused by ineligibility for special immigrant status on behalf of certain parents and children of persons accorded Section 101(a)(27)(I) status.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Notice of Final Action	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Thomas E. Cook, Senior Immigration Examiner,

DOJ—INS — Final Rule Stage

Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115-AA80

1409. ● CHANGE OF NONIMMIGRANT CLASSIFICATION

Legal Authority: PL 99-603; 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1257; 8 USC 1258

CFR Citation: 8 CFR 248

Legal Deadline: Statutory, November 6, 1987. Effective date Pub. L. 99-603

Abstract: This rule change will implement section 312 of Pub. L. 99-603, the Immigration Reform and Control Act of 1986, to facilitate an application for a change to nonimmigrant (N) status while in the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/11/87	52 FR 11621
Notice for Final Action	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Thomas E. Cook, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115-AA87

1410. ● CONTRACTS WITH TRANSPORTATION LINES

Legal Authority: 8 USC 1103; 8 USC 1228

CFR Citation: 8 CFR 238

Legal Deadline: None.

Abstract: This rule amends the listing of transportation lines which have entered into agreements with the INS for the preinspection of their passengers and crew at locations outside the United States.

Timetable:

Action	Date	FR Cite
Quarterly update of listing	09/00/87	
Quarterly update of listing	12/00/87	
Quarterly update of listing	03/00/88	
Quarterly update of listing	06/00/88	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Janet M. Charney, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 202 633-2694

RIN: 1115-AA88

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Completed Actions

1411. NONIMMIGRANT CLASSES; TEMPORARY EMPLOYEES AND INTRACOMPANY TRANSFEREES

CFR Citation: 8 CFR 214.2(h); 8 CFR 214.2(l)

Completed:

Reason	Date	FR Cite
Final Action	02/26/87	52 FR 5736
Final Action Effective	03/30/87	52 FR 5736

Small Entity: No

Agency Contact: Flora Richardson 202 633-3240

RIN: 1115-AA18

1412. NONIMMIGRANT CLASSES; F-1 ACADEMIC STUDENTS

CFR Citation: 8 CFR 214.2(f); 8 CFR 214.3(g); 8 CFR 248.1(e)

Completed:

Reason	Date	FR Cite
Final Action	04/22/87	52 FR 13223
Final Action Effective	05/22/87	

Small Entity: No

Agency Contact: Joseph D. Cuddihy 202 633-3320

RIN: 1115-AA24

1413. ● ADJUSTMENT OF STATUS FOR SPECIAL AGRICULTURAL WORKERS

Significance: Regulatory Program

Legal Authority: PL 99-603; 100 Stat. 3359; 8 USC 1101

CFR Citation: 8 CFR 210

Legal Deadline: Statutory, June 1, 1987.

Abstract: This rule establishes Part 210 of 8 CFR, a new part added to conform with the new section 210 of the Immigration and Nationality Act established by Pub. L. 99-603, the Immigration Reform and Control Act of 1986 (IRCA). This rule sets the criteria and procedures to be used to adjust the status of special agricultural workers to that of temporary residents; sets standards for maintenance of that status; outlines the benefits accruing to temporary residents and the distinctions between temporary and permanent resident status; sets criteria and procedures for termination of temporary resident status; and establishes procedures for adjustment of the status of temporary resident special agricultural workers to that of permanent residents.

Timetable:

Action	Date	FR Cite
ANPRM	01/20/87	52 FR 2115
NPRM	03/19/87	52 FR 8745
NPRM Comment Period End	04/20/87	52 FR 8745
Final Action	05/01/87	52 FR 16195
Final Action Effective	06/01/87	52 FR 16195

Small Entity: No

Agency Contact: William S. Slattery, Assistant Commissioner, Legalization, Department of Justice, Immigration and Naturalization Service, 202 633-4657

RIN: 1115-AA37

1414. ● APPLICANT PROCESSING FOR SPECIAL AGRICULTURAL WORKER AND LEGALIZATION PROGRAMS; CONFORMING AMENDMENTS, ETC

Significance: Regulatory Program

Legal Authority: 8 USC 1103; 28 USC 1746; 31 USC 9701; PL 99-603; OMB Circular A-25; EO 12356

DOJ—INS — Completed Actions

CFR Citation: 8 CFR 100; 8 CFR 103; 8 CFR 211; 8 CFR 212; 8 CFR 234; 8 CFR 242; 8 CFR 264; 8 CFR 299

Legal Deadline: Statutory, May 1, 1987.

Abstract: This rule sets forth conforming amendments to existing regulations. These provisions relate to the processing of applicants for lawful temporary resident status under the Special Agricultural Worker and Legalization programs, as authorized by the enactment of the Immigration Reform and Control Act of 1986.

This rule sets forth the lines of authority and organization for the Legalization and Special Agricultural Worker programs; sets procedures for appeals, motions, and certifications on applications for adjustment of status under sections 210 and 245A of the Immigration and Nationality Act; sets fees and form numbers and titles for legalization and special agricultural worker applications; establishes documentary requirements and conditions governing the travel of temporary residents and the entry into the United States of prospective applicants or legalization for special agricultural worker status; and provides for the designation of additional civil surgeons to accommodate the large number of applicants anticipated.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8740
NPRM Comment Period End	04/20/87	52 FR 8740
Final Action	05/01/87	52 FR 16190
Final Action Effective	05/01/87	52 FR 16190

Small Entity: Undetermined

Agency Contact: William S. Slattery, Assistant Commissioner, Legalization, Department of Justice, Immigration and Naturalization Service, 202 633-4657

RIN: 1115-AA39

1415. ● STATEMENT OF ORGANIZATION; POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Legal Authority: 31 USC 9701; 7 USC 2243; 28 USC 1746; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1351; 8 USC 1443; 8 USC 1454; 8 USC 1455

CFR Citation: 8 CFR 100; 8 CFR 103

Legal Deadline: None.

Abstract: The Service closed its office in Naples, Italy on February 1, 1987, and opened new office in New Delhi, India on the same date to provide for more efficient management and administration of its overseas operations.

Timetable:

Action	Date	FR Cite
Final Action Effective	02/01/87	52 FR 22629
Final Action	06/15/87	52 FR 22629

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Bruce J. Nicholl, Immigration Inspector, Department of Justice, Immigration and Naturalization Service, 202 633-5463

RIN: 1115-AA42

1416. ● CONTROL OF EMPLOYMENT OF ALIENS

Significance: Regulatory Program

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324A

CFR Citation: 8 CFR 274a

Legal Deadline: Statutory, June 1, 1987.

Abstract: This rule adds Part 274a and redesignates Part 109 with amendments as Part 274a, Subpart B, by: (1) defining terms to clarify the regulations; (2) adding new sections to establish procedures for the verification of employment eligibility for workers in the United States; (3) delineating new sections to establish enforcement and process procedures for violations; (4) redesignating Part 109 (Employment Authorization) as Subpart B of Part 274a to consolidate into one part that would otherwise be dispersed regulations. The rule is necessitated by the Immigration Reform and Control Act of 1986, Public Law 99-603, which amended the Immigration and Nationality Act (Act) by adding provisions prohibiting the unlawful employment of aliens. These provisions make it unlawful to hire, recruit or refer for a fee for employment, unauthorized aliens in the United States. The rule provides for an employment eligibility verification system designed to prevent the employment of unauthorized aliens.

Timetable:

Action	Date	FR Cite
Final Action	05/01/87	52 FR 16216
Final Action Effective	06/01/87	52 FR 16216

Small Entity: Yes

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Agency Contact: Walter D. Cadman, Deputy Assistant Commissioner Investigations, Department of Justice, Immigration and Naturalization Service, 202 786-4502

RIN: 1115-AA43

1417. ● SPECIAL AGRICULTURAL WORKERS

Significance: Agency Priority

Legal Authority: 8 USC 1101; PL 99-603; 100 Stat. 3359

CFR Citation: 8 CFR 210

Legal Deadline: None.

Abstract: This rule incorporates various amendments to the regulations governing the Special Agricultural Worker Program and establishes a temporary transitional admission standard and other temporary transitional program adjustments designed to expedite the overseas processing of special agricultural workers.

The temporary transitional admission program will provide for the entry of SAW eligible aliens who were not present in the United States prior to June 28, 1987. This rule also advances from May 1, 1987, to June 28, 1987, the date before which applicants must have entered the United States in order to be eligible to apply in the United States for special agricultural worker status. Finally, the rule adjusts the provisions for administration of the numerical limitations on applicants who may be accorded Group 1 special agricultural worker classification.

Timetable:

Action	Date	FR Cite
Final Action	07/31/87	52 FR 28660
Final Action Effective	07/31/87	52 FR 28660

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Aaron Bodin, Deputy Assistant Commissioner, Special Agricultural Workers, Department of Justice, Immigration and Naturalization Service, 202 633-4657

RIN: 1115–AA45

1418. ● FAIR PETITION

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 109.1

Legal Deadline: None.

Abstract: On October 28, 1986 (51 FR 39385) the Immigration and Naturalization Service ("the Service") published a petition for rulemaking submitted by the Federation for American Immigration Reform ("FAIR"). The petition sought the rescission of 8 CFR 109.1(b) relating to employment authorization for aliens in the United States because the petitioner believed that the Service had exceeded its authority in promulgating the regulation. In publishing the FAIR petition, the Service explained that it was taking no position on the issues raised in the petition, but was seeking comments from interested parties. The period for submission of comments was initially designated as from October 28, 1986 to December 29, 1986, but was extended on December 18, 1986 until January 28, 1987 to afford the public an opportunity to submit comments in light of the Immigration Reform and Control Act of 1986. Upon a thorough review of the comments received, the Service now denies the petition.

Timetable:

Action	Date	FR Cite
Denial of Petition	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3946

RIN: 1115–AA46

1419. ● ADMISSION OF REFUGEES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1157; 8 USC 1159; 8 USC 1182

CFR Citation: 8 CFR 207

Legal Deadline: None.

Abstract: The Immigration and Naturalization Service is withdrawing its proposal to amend 8 CFR 207 which would have modified the procedure to be used in determining eligibility to be considered for refugee admission under Sec 207 of the Immigration and Nationality Act, as amended by the Refugee Act of 1980. After careful consideration of all comments received in response to the proposed rulemaking we believe there was a misunderstanding on what this service was attempting to accomplish. Consequently, we have decided to withdraw the proposal at this time. The modification would have required that applicants eligible for immigrant visas under the preference classes established in subsection 203(a) of the Act and for whom a visa number would be available within one year not be admitted as refugees unless it was in the public interest. As a result of this action, we will continue with the status quo on refugee processing.

Timetable:

Action	Date	FR Cite
NPRM	12/12/86	51 FR 44795
NPRM Comment Period End	03/03/87	52 FR 4913
Withdrawn	06/19/87	52 FR 23307

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Daniel Solis, Immigration Inspector, Department of Justice, Immigration and Naturalization Service, 202 633-5683

RIN: 1115–AA47

1420. ● NONIMMIGRANT CLASSES

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184

CFR Citation: 8 CFR 214.2

Legal Deadline: None.

Abstract: This notice clarifies certain questions raised concerning the amendment to 8 CFR 214.2, issued by the Immigration and Naturalization Service December 3, 1986 and published in the Federal Register on December 9, 1986 at 51 FR 44206. This notice also explains the basis for the foregoing amendment.

Timetable:

Action	Date	FR Cite
Public Notice	08/14/87	52 FR 30329

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3946

RIN: 1115–AA48

1421. ● IMMIGRATION REFORM AND CONTROL ACT: NOTICE TO EMPLOYERS

Significance: Agency Priority

Legal Authority: PL 99-603

CFR Citation: 8 CFR 274a

Legal Deadline: None.

Abstract: The purpose of this notice is to provide the public with the materials that the Immigration and Naturalization Service (INS) has developed for employers to comply with the employer sanctions provisions of the Immigration Reform and Control Act of 1986 (Pub.L. No. 99-603). Enforcement of the employers sanctions provisions of the Immigration Reform and Control Act (IRCA) is statutorily mandated to begin on June 1, 1987. Contained in this notice are the "Employment Eligibility Verification Form I-9" which is to be used by employers to verify the employment eligibility of employees hired after November 6, 1986, and the M-274 "Handbook for Employers" which provides employers with step-by-step instructions on how to complete the Form I-9 and other information regarding compliance with the new immigration law.

Timetable:

Action	Date	FR Cite
Public Notice	06/05/87	52 FR 21454

Small Entity: Yes

Government Levels Affected: State, Federal

Agency Contact: Walter D. Cadman, Deputy Assistant Commissioner, Investigations, Department of Justice, Immigration and Naturalization Service, 202 786-4502

RIN: 1115–AA51

1422. ● ADJUSTMENT OF STATUS FOR CERTAIN ALIENS

Significance: Regulatory Program

Legal Authority: 8 USC 1101; PL 99-603; 100 Stat. 3359

CFR Citation: 8 CFR 245a

Legal Deadline: Statutory, May 1, 1987.

Abstract: This rule implements section 245A of the Immigration and Nationality Act as amended by section 201 of the Immigration Reform and Control Act of 1986 ("IRCA"). Section 201 of IRCA directs the Attorney General to adjust the status of certain aliens to that of aliens lawfully admitted for temporary residence if they meet certain requirements. This section also directs the Attorney General to adjust the status of a temporary resident alien to that of an alien lawfully admitted for permanent residence if the alien meets certain requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8752
NPRM Comment Period End	04/20/87	52 FR 8752
Final Action	05/01/87	52 FR 16205
Final Action Effective	05/01/87	52 FR 16205

Small Entity: No

Agency Contact: William S. Slattery, Assistant Commissioner, Legalization, Department of Justice, Immigration and Naturalization Service, 202 633-4657

RIN: 1115–AA52

1423. ● VERIFICATION OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS

Significance: Agency Priority

Legal Authority: PL 99-603; 100 Stat. 3359

CFR Citation: 8 CFR C 121

Legal Deadline: None.

Abstract: This notice describes the Systematic Alien Verification for Entitlements (SAVE) Program as it relates to Section 121 of the Immigration Reform and Control Act of 1986 (IRCA) which requires immigration status verification of alien applicants under certain federally subsidized entitlement programs. SAVE will provide a data base specifically designed to capture information contained in INS records which when used by the entitlement issuing authority will allow it to verify the alien's immigration status. This verification will assist the federal or state issuing authority in determining the eligibility of the alien applicant to receive federally subsidized benefits. Each overseeing agency affected by this provision will publish separate regulations, as necessary, describing the use of this system. Those agencies and the designated programs include: the Department of Agriculture; the Department of Housing and Urban Development; the Department of Labor; the Department of Education; and the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
Public Notice	09/00/87	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Neville W. Cramer, Director, SAVE Program, Department of Justice, Immigration and Naturalization Service, 202 633-2317

RIN: 1115–AA56

1424. ● AUTOMATIC CONVERSION OF CLASSIFICATION OF BENEFICIARY

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 204.5

Legal Deadline: None.

Abstract: Title 8, Code of Federal Regulations, Part 204.5, Automatic Conversion of Classification of Beneficiary, should clearly show that the priority date for visa-issuing purposes remains the same priority date as when the initial petition was filed, even though the event changing the classification of the beneficiary was subsequent to the approval of the petition. This amendment to the regulations clarifies for the service, immigration attorneys and representatives, and the public, the process for the automatic conversion of classification of a beneficiary of an approved Form I-130, Petition for Alien Relative, to the proper classification and priority date.

Timetable:

Action	Date	FR Cite
Final Action	09/00/87	

Small Entity: No

Agency Contact: Yolanda Sanchez-K, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115–AA62

1425. ● PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERENCE IMMIGRANT

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 204

Legal Deadline: None.

Abstract: This rulemaking changes the method by which a third preference or sixth preference priority date is established. Under regulations which have been in effect since June 20, 1986, a priority date established by the submission of a request for labor certification is lost if the immigrant visa petition seeking third or sixth preference classification is not filed within 60 days of the date of issuance of the certification, or if the petition is not resubmitted within 60 days of being returned to the petitioner for additional information. The regulations were promulgated in order to prevent certain abuses which existed under the prior regulations. However, the enactment of the Immigration Reform and Control Act of 1986 (IRCA) on November 6, 1986 made the June 20 changes superfluous, since IRCA more effectively prevents the same abuses.

Timetable:

Action	Date	FR Cite
NPRM	05/14/87	52 FR 18236
NPRM Comment Period End	06/15/87	52 FR 18236
Final Action	08/18/87	52 FR 30899
Final Action Effective	09/17/87	52 FR 30899

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3946

RIN: 1115–AA70

1426. ● 8 CFR PART 245A, ALIENS, TEMPORARY RESIDENT STATUS, PERMANENT RESIDENT STATUS

Significance: Agency Priority

Legal Authority: PL 99-603; 100 Stat. 3359; 8 USC 1101 note

DOJ—INS

Completed Actions

CFR Citation: 8 CFR 245 a.2(b)(8)

Legal Deadline: None.

Abstract: This regulation amends Sec. 245a.2(b)(8) by replacing existing language with new language addressing alien entry after January 1, 1982.

Timetable:

Action	Date	FR Cite
ANPRM	01/20/87	52 FR 2115
NPRM	03/19/87	52 FR 8752
NPRM Comment Period End	04/20/87	52 FR 8752
Final Action	05/01/87	52 FR 16205
Final Action Effective	05/01/87	52 FR 16205

Small Entity: No

Agency Contact: Terrance O'Reilly, Deputy Assistant Commissioner, Legalization, Department of Justice, Immigration and Naturalization Service, 202 633-4657

RIN: 1115-AA77

1427. ● APPLICATION FOR CERTIFICATE OF CITIZENSHIP, FORM AND FEE CANCELLATION

Legal Authority: 66 Stat. 173; 66 Stat. 290; 8 USC 1103; 31 USC 483a

CFR Citation: 8 CFR 101; 8 CFR 341

Legal Deadline: Statutory, June 26, 1987. Effective date of rule.

Abstract: This final rule amends Form N-400, Application to File Petition for Naturalization, instructions, and the fee schedule of the Immigration and Naturalization Service. This change will cancel Form N-604, Application for a Certificate of Citizenship (made on Form N-400), to be replaced by Form N-600, Application for Certificate of Citizenship.

Timetable:

Action	Date	FR Cite
Final Action	05/27/87	52 FR 19718

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Thomas E. Cook, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115-AA78

1428. ● RELATIONSHIP BY ADOPTION

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1255

CFR Citation: 8 CFR 204

Legal Deadline: Statutory, November 14, 1986.

Abstract: The Immigration and Nationality Act Amendments of 1986, Public Law 99-653, became effective November 14, 1986, and changes the legal custody requirement of section 101(b)(1)(E) of the Act. The amendment retains the two-year requirement for legal custody; however, instead of measuring the two-year requirement of legal custody from the date of the adoption decree as with the previous law, the requirement is now computed from the date the adopting parent(s) was first awarded legal custody of the child. This change will facilitate meeting of two-year legal custody requirement by children who have been residing in the legal custody of the adopting parents, but whose adoptions have not been finalized until the latter stages of the pre-immigration relationship. This problem was inherent in the old law because the legal custody time did not begin to toll until the child had been adopted.

Timetable:

Action	Date	FR Cite
Final Action Effective	11/14/86	52 FR 16233
Final Action	05/04/87	52 FR 16233

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Jeffrey D. Trecartin, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-5014

RIN: 1115-AA79

1429. ● DEFINITIONS

Legal Authority: 66 Stat. 173; 8 USC 1103; 28 USC 509; 28 USC 510; 5 USC 301

CFR Citation: 8 CFR 1

Legal Deadline: None.

Abstract: The Immigration and Naturalization Service entertains numerous applications, petitions, motions and appeals from individuals seeking benefits under the Immigration and Nationality Act, many of which require that the moving party take action within a certain number of days of a particular event. The current regulations do not make provisions for situations in which the final day falls on a Saturday, even though Service offices are generally not open for business on Saturdays and a moving party would not normally be able to take the required action on that day. The proposed rulemaking would extend the period for taking action until the end of the next business day when the final day falls on a Saturday.

Timetable:

Action	Date	FR Cite
NPRM	05/27/87	52 FR 19733
NPRM Comment Period End	06/26/87	52 FR 19733
Withdrawn	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Michael L. Shaul, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3048

RIN: 1115-AA82

1430. ● PUBLIC NOTICE TO TRANSPORTATION CARRIERS

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231.2

Legal Deadline: None.

Abstract: On December 19, 1986, an INS Task Force was empaneled to review the Transit Without Visa (TWOV) process as a result of a significant rise in the number of complaints from the transportation carriers regarding inaccurate billings for TWOV liquidated damages. Based upon the Task Force's findings of major administrative problems in the TWOV process on the part of both the Service and the carriers, notice is hereby given to all transportation carriers signatory to a Transit Without Visa Agreement, INS Form I-426, that: (1) effective May 27, 1987, a moratorium has been declared on any unresolved notice letters and unresolved bills to the carriers regarding TWOV liquidated damages and (2) October 1, 1987, is the scheduled target date for implementation of the revised TWOV program. The new TWOV process will serve to streamline processing, yield efficiency in operations, and enhance the enforcement of the TWOV contract.

Timetable:

Action	Date	FR Cite
Public Notice	10/00/87	

Small Entity: Undetermined

DOJ—INS

Completed Actions

Government Levels Affected: Federal

Agency Contact: Kathryn E. Sheehan, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 202 633-3725

RIN: 1115-AA84

1431. ● IMMIGRATION REFORM AND CONTROL ACT; NOTICE TO EMPLOYERS AND PERSONS DESIRING WORK AUTHORIZATIONS

Legal Authority: PL 99-603

CFR Citation: 8 CFR 210(d)(1); 8 CFR 245A(e)(1)

Legal Deadline: Statutory, 06/01/87 and 05/05/87

Abstract: The purpose of this notice is to provide information for employers about the New Immigration Law and also information to persons interested in obtaining employment authorization. In addition, pursuant to the Court's direction in a proposed stipulated dismissal of the work authorization claims in the case of Catholic Social Services, Inc., et al. v. Edwin Meese, III, Civil No. S-86-1343-LKK (Eastern District of Columbia), this notice as part of the FEDERAL REGISTER publication of an employer brochure, described in the stipulated dismissal, is intended to constitute notice to the class, as later defined, of the proposed dismissal with prejudice of the classwide work authorization claims.

Timetable:

Action	Date	FR Cite
Informational Notice	04/09/87	52 FR 11567

Small Entity: Yes

Government Levels Affected: Local, State, Federal

Agency Contact: Esmeralda Cabrera, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, 202 633-2895

RIN: 1115-AA85

1432. ● DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1252; 8 USC 1182b; 8 USC 1182c; 8 USC 1228

CFR Citation: 8 CFR 212

Legal Deadline: None.

Abstract: This final rule provides for the approval of applications pursuant to 212(c) of the Immigration and Nationality Act for certain aliens who wish to depart from the United States and later return to their unrelinquished domicile in the United States. The approval would be in effect only for the specific grounds of exclusion and/or deportation described in the application for which relief is granted. This modification is intended to reduce the paperwork burden for frequent travelers and the Service.

Timetable:

Action	Date	FR Cite
Final Action	04/10/87	52 FR 11620

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Margaret M. Smitherman, Senior Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 202 633-3320

RIN: 1115-AA86

1433. ● CONTRACTS WITH TRANSPORTATION LINES

Legal Authority: 8 USC 1103; 8 USC 1228

CFR Citation: 8 CFR 238.3

Legal Deadline: None.

Abstract: This rule removes Sylvester Marine, Inc., and adds Antone Sylvester Tug Service, Inc. to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. This action will allow the line to begin the services agreed to in the contract.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/02/87	52 FR 26945
Final Action	07/17/87	52 FR 26945

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Janet M. Charney, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 202 633-2894

RIN: 1115-AA89

1434. ● CONTRACTS WITH TRANSPORTATION LINES; ADDITION OF CONTINENTAL AIRLINES

Legal Authority: 8 USC 1103; 8 USC 1228

CFR Citation: 8 CFR 238

Legal Deadline: None.

Abstract: This rule amends the listing of transportation lines which have entered into agreements with the Service for the preinspection of their passengers and crew at locations outside the United States by adding the name of Continental Airlines.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/27/87	52 FR 26944
Final Action	07/17/87	52 FR 26944

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Janet M. Charney, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 202 633-2894

RIN: 1115-AA90

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DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Proposed Rule Stage

1435. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN DEPARTMENT OF JUSTICE ADMINISTRATIVE PROCEEDINGS

Legal Authority: 5 USC 504 Equal Access to Justice Act

CFR Citation: 28 CFR 24, (Revision)

Legal Deadline: None.

Abstract: The Equal Access to Justice Act was reauthorized on August 5, 1985. Various new amendments have been adopted which require revision of the procedures for applications for attorneys fees, eligible parties and proceedings covered.

Timetable:

Action	Date	FR Cite
NPRM	04/15/88	
NPRM Comment Period End	07/15/88	
Final Action	09/15/88	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, Federal

Analysis: Regulatory Impact Analysis

Agency Contact: John Wilson, Associate General Counsel, Department of Justice, Legal Activities, 633 Indiana Ave., NW, Room 1268, Washington, DC 20531, 202 724-7792

RIN: 1105-AA05

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Proposed Rule Stage

1436. CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES

Legal Authority: 42 USC 3789(g) (c) and (d)

CFR Citation: 28 CFR 23

Legal Deadline: None.

Abstract: To change Office and Bureau nomenclature to comply with changes resulting from the Justice Assistance Act of 1984, Pub. L. 98-473, and clarification of policy issues relating to time periods for validation of intelligence information.

Timetable:

Action	Date	FR Cite
NPRM	12/15/87	
NPRM Comment Period End	02/15/88	

Small Entity: No

Public Compliance Cost: Initial Cost: $0

Government Levels Affected: Local, State

Agency Contact: John Wilson, Associate General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Ave., NW, Rm. 1254-C, Washington, DC 20531, 202 724-7795

RIN: 1121-AA12

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Final Rule Stage

1437. EQUAL EMPLOYMENT OPPORTUNITY PROGRAM GUIDELINES

Legal Authority: 42 USC 3789d(c)

CFR Citation: 28 CFR 42.301

Legal Deadline: None.

Abstract: To change Departmental nomenclature to comply with nomenclature changes in the Justice Assistance Act of 1984 and eliminate references to Title IV of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1977 which are not specifically applicable.

Timetable:

Action	Date	FR Cite
Final Action	10/15/87	

Small Entity: No

Agency Contact: Winifred A. Dunton, Director, Office of Civil Rights Compliance, Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW, Room 1269, Washington, DC 20531, 202 724-7681

RIN: 1121-AA10

1438. NONDISCRIMINATION IN FEDERAL ASSISTED PROGRAMS – IMPLEMENTATION OF SECTION 809 (C) (1) OF THE JUSTICE ASSISTANCE ACT OF 1984

Legal Authority: 42 USC 3789d(c)

CFR Citation: 28 CFR 42.201

Legal Deadline: None.

Abstract: To change Departmental nomenclature to comply with nomenclature changes in the Justice Assistance Act of 1984 and eliminate references to Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1977 which are not specifically applicable.

Timetable:

Action	Date	FR Cite
Final Action	10/15/87	

Small Entity: No

Agency Contact: Winifred A. Dunton, Director, Office of Civil Rights Compliance, Department of Justice, Office of Justice Programs, 633 Indiana Avenue, NW, Room 1269, Washington, DC 20531, 202 724-7681

[FR Doc. 87-21914 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26, 1987

Part XII

Department of Labor

Semiannual Regulatory Agenda

VOL 52 ISS 206 OC 26 1987 UMI

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, and VII

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual agenda of regulations selected for review or development.

SUMMARY: This document sets forth the Department's Semiannual Agenda of Regulations which have been selected for review or development during the coming one-year period. The agenda complies with the requirements of both Executive Order 12291 and the Regulatory Flexibility Act.

DATES: The agenda includes all regulations which are expected to be under review or development between October 1987 and October 1988.

FOR FURTHER INFORMATION CONTACT: Roland G. Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, Department of Labor, 200 Constitution Avenue, NW., Room S-2312, Washington, DC 20210, (202) 523-9058.

Note: Information pertaining to a specific regulation can be obtained from the Agency Contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12291 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations.

Executive Order 12291 became effective February 17, 1981, and in substance requires the Department of Labor to publish an agenda, listing all the regulations it expects to have under active consideration for promulgation, proposal or review during the coming one-year period. It also requires the Department to conduct a Regulatory Impact Analysis for all "major" regulations being developed.

The Regulatory Flexibility Act became effective on January 1, 1981. It applies only to regulations for which a notice of proposed rulemaking was issued on or after January 1, 1981, and requires the Department of Labor to publish an agenda, listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602). For any regulation that will have this impact, the Department must conduct a Regulatory Flexibility Analysis to gauge the economic consequences of the rule, and to analyze the availability of more flexible approaches for lightening the rule's regulatory burden on "small entities."

If a proposed regulation will not have a "significant economic impact on a substantial number of small entities," the Department of Labor must publish a certification to that effect at the time of the general notice of proposed rulemaking or at the time of the publication of the final rule. That certification must be accompanied by a succinct statement explaining the reasons for the agency's determinations.

As permitted by law, the Department of Labor is combining in this publication its agendas under the Regulatory Flexibility Act and Executive Order 12291.

The regulatory reform process, of which the Unified Agenda is a part, continues to be an extremely valuable aid in the development of better regulations by the Department. We believe that our regulatory reform program has resulted in improved regulatory management, more clearly written regulations and significantly less burdensome regulations.

Further improvement is certainly needed, and we are constantly seeking new and innovative approaches in pursuit of this goal. All interested members of the public are invited and encouraged to let Departmental Officials know how our regulatory reform process can be further improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

The Department of Labor's next semiannual agenda, under Executive Order 12291 and the Regulatory Flexibility Act, will be published in April 1988.

William E. Brock,
Secretary of Labor.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1439	Right to Financial Privacy Act	1290-AA06
1440	Implementation of the Program Fraud Civil Remedies Act	1290-AA07

Employment Standards Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1441	Child Labor Regulations, Orders and Statements of Interpretation (ESA/W-H)	1215-AA09

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Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1442	Government Contractors: Nondiscrimination and Affirmative Action Obligations (ESA/OFCCP)	1215-AA01
1443	Nondiscrimination and Affirmative Action Obligations for Disabled Veterans, Veterans of Vietnam Era, and Handicapped Workers (ESA/OFCCP)	1215-AA02
1444	Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity. . ." (ESA/W-H)	1215-AA14
1445	Employment of Handicapped Workers Under Special Certificates	1215-AA34
1446	Labor Standards on Projects or Productions Assisted by Grants from the National Endowment for the Arts (ESA/W-H)	1215-AA35

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1447	Labor Standards Provisions, Davis-Bacon and Related Acts (ESA/WH)	1215-AA07
1448	General Regulations Under the Walsh-Healey Public Contracts Act	1215-AA33
1449	Employment of Homeworkers in Certain Industries	1215-AA36
1450	Claims for Compensation Under the War Hazards Compensation Act	1215-AA42
1451	Labor Standards for Foreign Agricultural Workers	1215-AA43
1452	Migrant and Seasonal Agricultural Worker Protection	1215-AA44

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1453	Black Lung: Obligations of Lessors for Claims for Benefits (ESA/OWCP)	1215-AA03
1454	Records to be Kept by Employers (ESA/W-H)	1215-AA22

Employment and Training Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1455	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring and Enforcement	1205-AA37
1456	Disaster Unemployment Assistance Program (DUA)	1205-AA50

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1457	Airline Deregulation: Employee Benefit Program	1205-AA07
1458	Limitations on Tax Credit Reductions and Interest on Advances to States	1205-AA14
1459	Unemployment Compensation for Ex-Servicemembers	1205-AA26
1460	Use of Funds Transferred to the States Under Section 903(c) of the Social Security Act (Reed Act)	1205-AA43
1461	Job Corps Program Under Title IV-B of the Job Training Partnership Act	1205-AA54
1462	Trade Adjustment Assistance for Workers	1205-AA61
1463	Labor Surplus Area Program Population Criteria Change as Revised by PL 99-272	1205-AA62
1464	Refocus of the Public Employment Service	1205-AA63
1465	Income and Eligibility Verification System	1205-AA64

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Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1466	Federal-State Extended Unemployment Compensation Act of 1970	1205-AA15
1467	Senior Community Service Employment Program	1205-AA29
1468	Administrative Procedure	1205-AA46
1469	Job Training Partnership Act Audits	1205-AA53
1470	Preference in Federal Procurement For Labor Surplus Areas Under Executive Orders 12073 and 10582	1205-AA55
1471	Labor Certification Process for Temporary Employment of Alien Workers in Agriculture: The H-2A Program	1205-AA59
1472	Implementation of Job Training Partnership Act Amendments of 1986	1205-AA60

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1473	Unemployment Insurance Quality Control Program	1205-AA26
1474	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA33
1475	Labor Certification Process for Temporary Employment of Alien Workers in Agriculture: Montana Adverse Effect Wage Rate	1205-AA48
1476	Review SESA Administrative Financing System	1205-AA51
1477	Labor Certification Process for Temporary Employment of Alien Workers in Agriculture: Adverse Effect Wage Rates for Idaho and Oregon	1205-AA52
1478	Labor Certification Process for Permanent Employment of Aliens in the United States; Establishment of Board of Alien Labor Certification Appeals	1205-AA57
1479	Certification of Eligibility to Apply for Worker Adjustment Assistance	1205-AA58

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1480	Participant Directed Individual Account Plans	1210-AA08
1481	Loans to Participants	1210-AA09
1482	Adequate Consideration	1210-AA15
1483	Qualified Domestic Relations Orders Under the Retirement Equity Act	1210-AA19
1484	Top Hat Plans	1210-AA21
1485	Proposed Regulation Exempting Certain Broker-Dealers and Investment Advisers From Bonding Requirements	1210-AA25
1486	Prohibited Transaction Exemption Procedures	1210-AA26
1487	Amount Of Bond For FERS Thrift Savings Fund	1210-AA28

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1488	Individual Benefit Reporting - Recordkeeping - Multiple Employer Plans	1210-AA02
1489	Individual Benefit Reporting and Recordkeeping for Single Employer Plans	1210-AA03
1490	Definition of Plan Assets -- Employee Contributions	1210-AA16
1491	Procedures for Administrative Imposition of Civil Sanctions	1210-AA20
1492	Adoption of Temporary Bonding Regulations Under ERISA Section 412 for Purposes Of FERSA Section 8478	1210-AA29

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Office of Labor Management Standards—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1493	General Statement Concerning the Election Provisions of the Labor-Management Reporting and Disclosure Act of 1959 Characteristics of Candidates	1294-AA02

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1494	Diesel-Powered Equipment for Underground Coal Mines	1219-AA27
1495	Surface Coal Mine Electrical Standards	1219-AA32
1496	Notification, Investigation, Reports and Records of Accidents Injuries, Illnesses, Employment, and Coal Production in Mines	1219-AA33
1497	Automatic Brakes on Self-Propelled Electric Face Equipment	1219-AA39
1498	Coal Air Quality	1219-AA41

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1499	Pattern of Violations	1219-AA04
1500	Underground Coal Mine Electrical Standards	1219-AA10
1501	Underground Coal Mine Ventilation	1219-AA11
1502	Review of Metal and Nonmetal Electrical Standards	1219-AA14
1503	Review of Metal and Nonmetal Explosives Standards	1219-AA17
1504	Metal and Nonmetal Air Quality Standards	1219-AA21
1505	Mine Plan Approvals	1219-AA26
1506	Certification and Qualification of Persons	1219-AA36
1507	Escapeways and Escape Facilities	1219-AA37
1508	Automatic Warning Devices for Mobile Equipment	1219-AA38
1509	Electric Mine Lamps Other Than Standard Cap Lamps	1219-AA40
1510	Multiple-Shot Blasting Units	1219-AA42

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1511	Procedures for Approval of Mining Equipment	1219-AA06
1512	Underground Coal Mine Roof Control	1219-AA13
1513	Explosives and Blasting in Underground Coal Mines	1219-AA16
1514	Safety Standards for Loading, Hauling and Dumping at Metal and Nonmetal Mines	1219-AA18
1515	Safety Standards for Machinery and Equipment at Metal and Nonmetal Mines	1219-AA19
1516	Approval Requirements for Explosives and Sheathed Explosive Units	1219-AA23
1517	Metal and Nonmetal Radiation Standards	1219-AA28
1518	Approval Criteria for Respiratory Protective Devices	1219-AA30
1519	Hands-on Training in SCSR's	1219-AA43

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Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1520	Review of Self-Contained Self Rescue Devices (SCSR) Standards Applicable to Coal Mining	1219-AA08
1521	Review of Hoisting and Transportation of Persons and Material Standards Applicable to Coal Mining	1219-AA12
1522	Metal and Nonmetal Gassy Mines	1219-AA15
1523	Updating Fees Associated with Equipment Approvals	1219-AA29

Office of the Assistant Secretary for Administration and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1524	Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance from the Department of Labor	1291-AA02
1525	Guidelines for Nonprocurement Suspension and Debarment	1291-AA11

Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1526	Department of Labor Acquisition Regulation (DOLAR) Implementation of Competition in Contracting Act of 1984 (CICA) (Pub. L. 98-369) into DOLAR	1291-AA06
1527	Public Contracts and Property Management; Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements	1291-AA10

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1528	Manual Lifting (Parts 1910, 1915, 1917, 1918, 1919, 1926 and 1928)	1218-AA95
1529	Gear Certification (Part 1919)	1218-AA97
1530	Bloodborne Infectious Diseases	1218-AB15

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1531	Carcinogen Policy	1218-AA01
1532	Ethylene Oxide	1218-AA03
1533	Respiratory Protection	1218-AA05
1534	Asbestos, Tremolite, Anthophyllite and Actinolite	1218-AA26
1535	Methods of Compliance	1218-AA28
1536	Electrical Safety-Related Work Practices (Part 1910)	1218-AA32
1537	Oil and Gas Well Drilling and Servicing (Part 1910)	1218-AA34
1538	Excavations (Part 1926)	1218-AA36
1539	Fall Protection Systems (Personal Protective Equipment) (Part 1910)	1218-AA48
1540	Confined Space (Part 1910)	1218-AA51
1541	Logging (Part 1910)	1218-AA52
1542	Control of Hazardous Energy Sources (Lockout/Tagout) (Part 1910)	1218-AA53
1543	Safety and Health Regulations for Longshoring (Part 1918)	1218-AA56
1544	4,4'-Methylenedianiline	1218-AA58
1545	Electric Power Generation, Transmission and Distribution (Part 1910)	1218-AA59
1546	Pulp, Paper and Paperboard Mills (Part 1910)	1218-AA61

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Occupational Safety and Health Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1547	Motor Vehicles, Mechanized Equipment, and Marine Operations (Part 1926)	1218-AA63
1548	Steel Erection (Part 1926)	1218-AA65
1549	Fall Protection (Part 1915)	1218-AA66
1550	Scaffolds (Part 1915)	1218-AA68
1551	Access and Egress (Part 1915)	1218-AA70
1552	Face, Head, Eye and Foot Protection (Personal Protective Equipment) (Part 1910)	1218-AA71
1553	Welding, Cutting and Brazing (Part 1910)	1218-AA72
1554	Welding, Cutting and Heating (Part 1915)	1218-AA73
1555	Personal Protective Equipment (Part 1915)	1218-AA74
1556	Compressed Air (Part 1926)	1218-AA76
1557	1,3-Butadiene	1218-AA83
1558	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol and their Acetates	1218-AA84
1559	Explosive and Other Dangerous Atmospheres (Part 1915)	1218-AA91
1560	Surface Preparation and Preservation (Part 1915)	1218-AA96
1561	Methylene Chloride	1218-AA98
1562	Walking and Working Surfaces (Part 1910)	1218-AB04
1563	Hazardous Waste Operations and Emergency Response (Part 1910)	1218-AB13
1564	Cadmium	1218-AB16
1565	Permissible Exposure Limit Update	1218-AB17
1566	Hazardous Materials (Part 1910)	1218-AB20

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1567	Occupational Exposures to Toxic Substances in Laboratories	1218-AA00
1568	Ethylene Dibromide (EDB)	1218-AA06
1569	Access to Employee Exposure and Medical Records	1218-AA15
1570	Concrete and Masonry Construction (Part 1926)	1218-AA20
1571	Grain Handling Facilities (Parts 1910 and 1917)	1218-AA22
1572	Powered Platforms for Exterior Building Maintenance (Part 1910)	1218-AA33
1573	Fall Protection (Part 1926)	1218-AA37
1574	Underground Construction (Tunnels and Shafts)(Part 1926)	1218-AA38
1575	Scaffolds (Part 1926)	1218-AA40
1576	Safety Testing/Certification (Part 1910)	1218-AA42
1577	Crane or Derrick Suspended Platforms (Part 1926)	1218-AA45
1578	Benzene	1218-AA47
1579	Presence Sensing Device Initiation of Mechanical Power Presses (Part 1910)	1218-AA54
1580	Stairways and Ladders (Part 1926)	1218-AA57
1581	Formaldehyde	1218-AA82
1582	Lead (Reconsideration of the Feasibility of Compliance in Nine Industry Sectors)	1218-AB18

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1583	Hazardous Materials–Flammable and Compressed Gases (Part 1910)	1218-AA31
1584	Scaffolds and Similar Work Surfaces (Part 1910)	1218-AA46
1585	Ladders and Similar Climbing Devices (Part 1910)	1218-AA50
1586	Servicing Single Piece Rim Wheels (Part 1917)	1218-AA75
1587	Hazardous Materials–Flammable and Combustible Liquids (Part 1910)	1218-AA77
1588	Hazard Communication in Shipyard Employment (Part 1915)	1218-AA88
1589	Hazard Communication	1218-AB02
1590	Revision of Telecommunications Training Records (Part 1910)	1218-AB07
1591	Revision of Construction Industry Test and Inspection Records (Part 1926)	1218-AB12

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DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Final Rule Stage

1439. RIGHT TO FINANCIAL PRIVACY ACT

Legal Authority: 12 USC 3401 et seq Right to Financial Privacy Act of 1978

CFR Citation: 29 CFR 19. (New)

Legal Deadline: None.

Abstract: These proposed regulations would authorize Department of Labor units to request financial records from a financial institution pursuant to the formal written request procedure established by the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., and would set forth the conditions under which such requests may be made. Section 1108(2) of the Right to Financial Privacy Act of 1978 requires that the formal written request be authorized by regulations promulgated by the head of the agency or department. These proposed regulations would thus, once implemented, enable Department of Labor units to utilize the formal written request procedure to obtain financial records.

Timetable:

Action	Date	FR Cite
NPRM	04/02/85	50 FR 13049
NPRM Comment Period End	05/02/85	50 FR 13049
Final Action	11/00/87	
Final Action Effective	12/00/87	

Small Entity: No

Agency Contact: Seth D. Zinman, Associate Solicitor, for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N2428, FPBldg., Washington, DC 20210, 202 523-8201

RIN: 1290-AA05

1440. IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT

Significance: Agency Priority

Legal Authority: 31 USC 3801 to 3812

CFR Citation: 29 CFR 22

Legal Deadline: Statutory, April 21, 1987. The Act requires agencies to have implementing regulations within 180 days of the passage of the statute.

Abstract: This regulation will implement the Program Fraud Civil Remedies Act of 1986 (PL 99-509, Secs. 6101 to 6104). Specifically, this part will (i) establish administrative procedures for imposing civil remedies and assessment against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and (ii) specify the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

Timetable:

Action	Date	FR Cite
NPRM	06/02/87	52 FR 20606
NPRM Comment Period End	07/02/87	52 FR 20606
Final Action	11/00/87	
Final Action Effective	12/00/87	

Small Entity: Undetermined

Agency Contact: Seth D. Zinman, Associate Solicitor for Legislation and, Legal Counsel, Department of Labor, Office of the Solicitor, 200 Constitution Avenue, NW RM N2428, Washington, DC 20210, 202 523-8201

RIN: 1290-AA07

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Prerule Stage

1441. CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 203

CFR Citation: 29 CFR 570

Legal Deadline: None.

Abstract: Section 3(1) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary also is directed to designate occupations that may be particularly hazardous for minors between 16 and 18 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14 and 15 year olds may be employed. In addition, this regulation specifies the number of hours in a day and in a week, and time periods within a day that such minors may be employed. The nonagricultural hazardous occupations orders which prohibit the employment of minors in such occupations are also contained in 29 CFR 570. Changes in technology and job content over the years require a review of these regulations. In order to increase job opportunities for such minors, while maintaining essential protection for their well-being, modifications to these regulations may be needed. The Department will establish a Child (cont)

Timetable:

Action	Date	FR Cite
Establish Child Labor Advisory Committee	11/00/87	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: Labor Advisory Committee to advise the Secretary on the effective administration of the child labor provisions of the FLSA. The recommendations of the committee will be given careful consideration in the review of these regulations.

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA09

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

1442. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS (ESA/OFCCP)

Significance: Regulatory Program

Legal Authority: EO 11246, as amended; 38 USC 2012; 29 USC 793; 29 USC 1781

CFR Citation: 41 CFR 60-1; 41 CFR 60-2; 41 CFR 60-4; 41 CFR 60-20; 41 CFR 60-30; 41 CFR 60-50; 41 CFR 60-60; 41 CFR 60-250; 41 CFR 60-741

Legal Deadline: Statutory, October 1, 1983. Rules implementing Section 481 of the 1982 JTPA (29 USC 1781) are required to be published under the Act. The operational aspects of such rules need to be coordinated with the pending revisions discussed above, which has resulted in a delay.

Abstract: These provisions contain OFCCP's rules covering nondiscrimination and affirmative action obligations of Federal contractors under EO 11246, 38 USC 2012, the Vietnam Era Veterans Readjustment Assistance Act of 1974, and Sec. 503 of the Rehabilitation Act of 1973. The rule would be revised to make them more cost effective, reduce paperwork burdens and assure that contractors hire the best qualified person regardless of race, color, religion, sex, or national origin. Proposed changes to the regulations were published in the Federal Register on 12/28/79 and 02/22/80, and a final rule on these issues was published on 12/30/80 (45 FR 86215). The rule was stayed and reviewed in accordance with the President's Executive Order 12291 of 02/17/81. An ANPRM was published on 07/14/81 (46 FR 36213) and supplemented on 08/21/81 (46 FR 42490) to elicit comments on several issues pertaining to the regulation. A notice of proposed rulemaking was published on 08/25/81 (46 FR 42966) with comments due by 10/26/81. The proposal further suspended the effective date of the 12/30/80 regulation, and proposed revision of that regulation. A supplemental proposal (cont)

Timetable:

Action	Date	FR Cite
ANPRM	07/14/81	46 FR 36213
Supplement to ANPRM	08/21/81	46 FR 42490
Previous NPRM & Suspend Eff Date	08/25/81	46 FR 42966
NPRM	04/23/82	47 FR 17770
NPRM Comment Period End	05/24/82	
NPRM (Section 481, 29 USC 1781)	12/00/87	

Small Entity: Yes

Additional Information: ABSTRACT CONT: was published 04/23/82 (47 FR 17770). A final rule will be forwarded to OMB for review and publication in the Federal Register by September 1987. In addition, in accordance with Section 481 of the Job Training Partnership Act of 1982 (JTPA), a Notice of Proposed Rulemaking, to permit Federal contractors to meet their Executive Order affirmative action obligations through approved JTPA programs, will be forwarded to OMB for review and publication in the Federal Register by September 1987.

Agency Contact: Leonard J. Biermann, Deputy Director, Office of Federal Contract, Compliance Programs, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm C3324, FPBldg., Washington, DC 20210, 202 523-9475

RIN: 1215-AA01

1443. NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS FOR DISABLED VETERANS, VETERANS OF VIETNAM ERA, AND HANDICAPPED WORKERS (ESA/OFCCP)

Significance: Agency Priority

Legal Authority: 29 USC 793; 38 USC 2012

CFR Citation: 41 CFR 60-1; 41 CFR 60-250; 41 CFR 60-741

Legal Deadline: None.

Abstract: This proposal would make the definition section of these regulations consistent with 1978 amendments to the Rehabilitation Act of 1973 and the 1980 amendments to the Vietnam Era Veterans' Readjustment Assistance Act, and conform these rules to changes in DOL's regulations implementing employment under Section 504 of the Rehabilitation Act. The provisions reflecting statutory changes have been incorporated into the 08/25/81 "main" OFCCP proposal (46 FR 42966). A final rule incorporating only the statutory changes to the definition of "Veteran of the Vietnam Era" was published in the Federal Register on August 26, 1986 (51 FR 30467).

Timetable:

Action	Date	FR Cite
NPRM	12/30/80	45 FR 86205
NPRM Comment Period End	03/02/81	45 FR 86205
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Leonard J. Biermann, Deputy Director, Office of Federal Contract, Compliance Programs, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm C3324, FPBldg., Washington, DC 20210, 202 523-9475

RIN: 1215-AA02

1444. DEFINING AND DELIMITING THE TERMS "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY..." (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 213(a)(1)

CFR Citation: 29 CFR 541

Legal Deadline: None.

Abstract: These regulations set forth the criteria used in the determination of the application of the Fair Labor Standards Act exemption for "executive," "administrative," "professional" and "outside sales employees" from the minimum wage and overtime requirements of the Act. The existing regulation was targeted for review by the President's Task Force on Regulatory Relief. A final rule increasing the salary test criteria was published on 01/13/81 (46 FR 3010) and was scheduled to become effective on 02/13/81. On 02/12/81 (46 FR 11972) an indefinite stay of the final rule was published. On 03/27/81 (46 FR 18998) a proposal to suspend the final rule indefinitely was published with comments due by 04/28/81. As a result of numerous comments and petitions received from industry groups regarding the duties and responsibilities tests as set forth in the regulations, as well as recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed and decided to reopen the comment period and broaden the scope of the review to

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DOL—ESA

Proposed Rule Stage

include all aspects of the regulations. An ANPRM was published on 11/19/85 and its comment period was (cont)

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal to Suspend Rule Indefinitely	03/27/81	46 FR 18998
Comments Due on Suspension Proposal	04/28/81	
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment Period from 01/2l/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525
NPRM	12/00/87	

Small Entity: Yes

Additional Information: ABSTRACT CONT: subsequently extended to 03/22/86. Action on this regulation was delayed due to other regulatory priorities.

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Rm S3502, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8305

RIN: 1215-AA14

1445. EMPLOYMENT OF HANDICAPPED WORKERS UNDER SPECIAL CERTIFICATES

Significance: Regulatory Program

Legal Authority: 29 USC 214; 29 USC 211

CFR Citation: 29 CFR 524; 29 CFR 525; 29 CFR 529

Legal Deadline: None.

Abstract: These regulations establish the terms and conditions, pursuant to section 14(c) of the Fair Labor Standards Act (FLSA), under which handicapped workers may be employed, under certificate, at wage rates less than those otherwise required by statute. The 1986 Amendments to the FLSA substantially revised section 14(c) to simplify worker certification by eliminating separate certification for more productive workers, multiple handicapped individuals, and those in evaluation or training and work activities centers. Three affected regulations (29 CFR 524, 525 and 529) will be combined into a single proposed new rule which will be published for public comments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	04/00/88	

Small Entity: Yes

Agency Contact: Paula V. Smith, Administator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Rm S3502, FPBldg., 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8305

RIN: 1215-AA34

1446. LABOR STANDARDS ON PROJECTS OR PRODUCTIONS ASSISTED BY GRANTS FROM THE NATIONAL ENDOWMENT FOR THE ARTS (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 20 USC 954(i) to (j); 20 USC 956 (g)

CFR Citation: 29 CFR 505

Legal Deadline: Statutory, June 18, 1986.

Abstract: The National Foundation on the Arts and Humanities Act of 1965, as amended in 1976, requires the Secretary to determine the prevailing minimum compensation for professional performers and related or supporting professional personnel employed on projects or productions assisted by grants from the National Endowment for the Arts and the National Endowment for the Humanities. As originally enacted, these labor standards only applied to the Arts; the existing regulations do not reflect the amendments which applied the same labor standards to the Humanities. The Arts, Humanities, and Museums Amendments of 1985, which were enacted on December 20, 1985, require the Secretary of Labor to issue regulations to assure that prevailing minimum compensation is provided to all professional performers and related or supporting professional personnel employed on projects or productions financed in whole or in part by the National Endowment for the Humanities.

Timetable:

Action	Date	FR Cite
NPRM	09/21/87	52 FR 35447
NPRM Comment Period End	10/21/87	
Final Action	02/00/88	

Small Entity: Undetermined

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, FPBldg., 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8305

RIN: 1215-AA35

DEPARTMENT OF LABOR (DOL)

Employment Standards Administration (ESA)

Final Rule Stage

1447. LABOR STANDARDS PROVISIONS, DAVIS-BACON AND RELATED ACTS (ESA/WH)

Significance: Regulatory Program

Legal Authority: 40 USC 276a to 276a7; 40 USC 276c; 40 USC 327 to 332; 5 USC Appendix Reorganization Plan No. 14 of 1950; 29 USC 25a

CFR Citation: 29 CFF 1; 29 CFR 5

Legal Deadline: None.

Abstract: These regulations govern labor standards applicable to federally funded or assisted construction contracts subject to the Davis- Bacon and Related Acts (as well as contracts subject to the Contract Work Hours and Safety Standards Act). The Department plans to implement provisions in these regulations that would permit contractors to expand their use of semi-skilled "helpers" on Davis-Bacon covered projects at wages lower than those paid to skilled journeymen. Revised final rules were originally published 05/28/82 (47 FR 23658), but were deferred on 07/26/82 (47 FR 32070) due to an injunction issued by the U.S. District Court. Although the U.S. Court of Appeals for the D.C.

DOL—ESA

Final Rule Stage

Circuit has since upheld most of the key provisions published in 1982, the district court injunction remains in effect against certain provisions dealing with helpers. The Department intends to implement the helper provisions in accordance with the decisions of the district and appeals courts.

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 31366
Final Action	04/00/88	

Small Entity: Yes

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA07

1448. GENERAL REGULATIONS UNDER THE WALSH-HEALEY PUBLIC CONTRACTS ACT

Legal Authority: 41 USC 38

CFR Citation: 41 CFR 50-201.101(b)(6); 41 CFR 50-201.1201

Legal Deadline: None.

Abstract: The proposed rule would revise the role of the Small Business Administration (SBA) in determining a small business concern's eligibility as a "manufacturer" or "regular dealer" under the Walsh-Healey Public Contracts Act (PCA). Current procedures for small businesses require SBA review of all contracting agency findings of ineligibility, as well as all protests which challenge an agency's findings of eligibility. SBA did not have an opportunity to comment when the current rules were first adopted following enactment of the 1977 Amendments to the Small Business Act (P.L. 95-89, 91 Stat. 561 (15 USC 637(b)(7)(B)). SBA believes its review authority under the Act is restricted to only executive branch agency findings of noneligibility under PCA, and has requested revisions to the regulations which would eliminate SBA review in protest cases which challenge an agency's findings that a small business is eligible for award. Additional revisions requested by SBA would streamline the processing of cases between SBA and Wage Hour. An additional procedural change, which was published separately as a Final Rule on 03/02/87 (cont)

Timetable:

Action	Date	FR Cite
Final Action Discontinuance of reporting requirements	03/02/87	52 FR 6146
NPRM	03/13/87	52 FR 7892
NPRM Comment Period End	05/12/87	
Final Action	11/00/87	

Small Entity: Yes

Additional Information: ABSTRACT CONT: (52 FR 6146) discontinued the reporting requirement for federal contracting agencies to submit Standard Form (SF) 99, Notice of Award of Contract, to the Wage and Hour Division for contracts subject to the Walsh-Healey Public Contracts Act (PCA). A similar rule change was promulgated under the Service Contract Act (SCA) regulations (29 CFR 4.8) published October 27, 1983 (48 FR 49770). The reduced administrative burden for the affected procurement agencies resulting from the rule change under both SCA and PCA is expected to produce estimated annual cost savings governmentwide of nearly $410,000, the majority of which is attributable to PCA contract awards.

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S-3502, FP Building, Washington, DC 20210, 202 523-8305

RIN: 1215-AA33

1449. EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

Significance: Regulatory Program

Legal Authority: 29 USC 211

CFR Citation: 29 CFR 530

Legal Deadline: None.

Abstract: This regulation sets forth restrictions on industrial homework and governs the issuance of certificates authorizing the employment of homeworkers in certain industries, pursuant to Section 11(d) of the Fair Labor Standards Act (FLSA). As originally issued, these regulations restricted the employment of industrial homework in seven industries: knitted outerwear; women's apparel; jewelry; buttons and buckles; gloves and mittens; handkerchiefs; and embroideries. The ban was removed on homework in the knitted outerwear industry by the Department 11/9/81 following extensive hearings and public comment. This action was subsequently upheld by the District Court for the District of Columbia. However, on appeal the ban was reimposed 2/29/84 by the U.S. Court of Appeals for the District of Columbia Circuit. On 3/27/84 the Department published a proposed rule rescinding the ban on homework in the knitted outerwear industry only. In addition to soliciting comments on the proposed recission, the Department sought comments on various alternatives to such action (49 FR 11786). On November 5, 1984, a final rule was published lifting the ban on homework for employers (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/21/86	51 FR 30036
NPRM Comment Period End	12/04/86	51 FR 37298
Final Action	04/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: in the knitted outerwear industry who obtain a certificate from the Department. Based on analysis of the results of its enforcement experience under the new certification procedure, the Department is proposing to rescind the remaining restrictions in the other industries for employers who currently obtain certificates. A Notice of Proposed Rulemaking was published on August 21, 1986 (51 FR 30036). A notice extending the comment period to December 4, 1986 was published on October 21, 1986 (51 FR 37298).

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA36

1450. CLAIMS FOR COMPENSATION UNDER THE WAR HAZARDS COMPENSATION ACT

Significance: Agency Priority

Legal Authority: 42 USC 1701 et seq

CFR Citation: 20 CFR 61; 20 CFR 62

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DOL—ESA — Final Rule Stage

Legal Deadline: None.

Abstract: The War Hazards Compensation Act regulations are being reviewed to determine whether modifications should be proposed to (1) reflect amendments made to the Act which replaced the World War II frame of reference in the Act with language applicable to the current and future conditions faced by employees of contractors working in hazardous overseas locations; (2) simplify and clarify the requirements for filing a claim under the Act; (3) remove unnecessary and repetitious sections in the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/01/87	52 FR 20536
NPRM Comment Period End	08/19/87	52 FR 27417
Final Action	12/00/87	
Final Action Effective	12/00/87	

Small Entity: Not Applicable

Agency Contact: Thomas M. Markey, Associate Director for Federal Employees', Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm S3229 - FPBldg., Washington, DC 20210, 202 523-7522

RIN: 1215-AA42

1451. LABOR STANDARDS FOR FOREIGN AGRICULTURAL WORKERS

Significance: Regulatory Program

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline: Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration will issue regulations that incorporate the labor standards issued by the Employment and Training Administration and set forth procedures for enforcement of these labor standards.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	52 FR 16795
Interim Final Rule	06/01/87	52 FR 20524
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA43

1452. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

Significance: Agency Priority

Legal Authority: 29 USC 1801 to 1872; PL 99-603

CFR Citation: 29 CFR 500

Legal Deadline: Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 amended the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) in a number of areas concerning the recruitment and employment of illegal aliens. Certain changes to the existing MSPA regulations are needed to conform them to the amended Act. These statutory changes became effective June 1, 1987. In addition, minor clarifying changes will be made in certain definitions in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 16859
NPRM Comment Period End	06/05/87	52 FR 16859
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA44

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Completed Actions

1453. BLACK LUNG: OBLIGATIONS OF LESSORS FOR CLAIMS FOR BENEFITS (ESA/OWCP)

Legal Authority: 30 USC 901 et seq

CFR Citation: 20 CFR 725.491(b)(2)

Legal Deadline: None.

Abstract: The intent of this proposal was to make explicit the Department's policy that a lessor of a coal mine, who had never actually operated such a mine, would not be held liable for the payment of benefits for black lung contracted in the course of employment in that mine and, therefore, need not insure against that possibility. However, serious questions concerning the approach taken in the notice of proposed rulemaking have arisen. After review of the comments received in response to the proposed rule and review of the Department's experience during the intervening period under the current rule, it has been decided that the current practices and policy of making such determinations of liability on the facts of each individual case have served the Department well and that no change in the regulation or that policy will be implemented at this time. The Department will, however, continue to monitor the situation to ascertain whether the initiation of any additional rulemaking is necessary. The proposed rule is withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	01/27/81	46 FR 8570
NPRM Comment Period End	03/30/81	46 FR 8570
Withdrawn	07/14/87	52 FR 26352

Small Entity: Undetermined

Agency Contact: James DeMarce, Associate Director, Office of Workers', Compensation Programs, Department of Labor, Employment Standards Administration, Rm C3520, FPBldg., 200

DOL—ESA — Completed Actions

Constitution Ave., NW, Washington, DC 20210, 202 523-6692

RIN: 1215-AA03

1454. RECORDS TO BE KEPT BY EMPLOYERS (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 211(c)

CFR Citation: 29 CFR 516

Legal Deadline: None.

Abstract: Revisions to these regulations have been made to reflect the repeal or modification of certain minimum wage and overtime exemptions by the 1974 and 1977 amendments to the Fair Labor Standards Act, and to simplify regulatory language.

Timetable:

Action	Date	FR Cite
NPRM	09/15/86	51 FR 32744
NPRM Comment Period End	11/14/86	
Final Action	07/01/87	52 FR 24894
Final Action Effective	07/31/87	52 FR 24894

Small Entity: Yes

Agency Contact: Paula V. Smith, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Rm S3502, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8305

RIN: 1215-AA22

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Prerule Stage

1455. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING AND ENFORCEMENT

Significance: Regulatory Program

Legal Authority: 29 USC 49(k)

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None.

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under Title V of the Job Training Partnership Act. It is anticipated that an ANPRM and subsequent rulemaking may result.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/88	

Small Entity: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor, Certifications, Department of Labor, Employment and Training Administration, 200 Constitution Ave., NW, Rm N4456, FPBldg., Washington, DC 202103, 202 535-0163

RIN: 1205-AA37

1456. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM (DUA)

Significance: Agency Priority

Legal Authority: 42 USC 5177

CFR Citation: 20 CFR 625, (Revision)

Legal Deadline: None.

Abstract: A few technical amendments are necessary to update the DUA Final Regulations which were published September 26, 1977. A clarification is needed on the administration of DUA in the Virgin Islands. Also, the Canal Zone should be deleted from the eligible "States." The formula for computing DUA weekly benefit amounts needs to be simplified. The first week of DUA payable needs to be clarified and the appropriate share of Federal-State costs needs to be determined.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Disaster Relief Act was not amended, therefore, no need to revise regulations. Significance policy decisions were put on hold that would have required changes.

Affected Sectors: None

Government Levels Affected: State, Federal

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm C4514, FPBldg., Washington, DC 20210, 202 535-0309

RIN: 1205-AA50

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Proposed Rule Stage

1457. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM

Significance: Agency Priority

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 638

Legal Deadline: None.

Abstract: These regulations are being developed to implement the benefit provisions contained in Sec. 43 of the Airline Deregulation Act of 1978. The Act requires the Secretary of Labor to specify the percentage of prior salary which an "eligible protected employee" would receive as a benefit payment under the Act. An eligible protected employee is a person who has had at least 4 years of employment with a certificated air carrier as of October 24, 1978 and who loses his or her job during the ten years following such date in a bankruptcy or major employment contraction if and only if the Department of Transportation determines that the principal causes of such job loss was deregulation. On May 17, 1984 the U.S. District Court for the District of Columbia held that Section 43 of the Airline Deregulation Act was

unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that the employee protection provisions of Section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987 that the legislative veto provisions were unconstitutional but the first right-to-hire provisions were constitutional, therefore, rulemaking can proceed on the (Cont'd)

Timetable:

Action	Date	FR Cite
NPRMPrevious	03/30/79	44 FR 19146
NPRM First right of hire	09/17/82	47 FR 41304
Comments due First right of hire NPRM	10/18/82	
NPRM	12/00/87	
NPRM Comment Period End	01/00/88	
Final Action	08/00/88	

Small Entity: No

Additional Information: ABSTRACT (CONT'D): monetary benefit aspects of the employee protection provisions.

Government Levels Affected: State, Federal

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm C4514, FPBldg., Washington, DC 20210, 202 535-0309

RIN: 1205–AA07

1458. LIMITATIONS ON TAX CREDIT REDUCTIONS AND INTEREST ON ADVANCES TO STATES

Significance: Regulatory Program

Legal Authority: 26 USC 3302; 42 USC 1302; PL 97-35, Sec 2408

CFR Citation: 20 CFR 606, (New)

Legal Deadline: None.

Abstract: The Omnibus Budget Reconciliation Act of 1981 amended the tax credit provisions of FUTA to authorize the placing of a "cap" on reductions in tax credits on a State-by-State basis in certain prescribed circumstances. The amendment requires these determinations to be made in accordance with regulations prescribed by the Secretary of Labor. The same Act also amended Title XII of the Social Security Act to assess interest on advances to States, the payment of which is prohibited from State unemployment funds. The proposal would implement these statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	04/00/88	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: James Manning, Chief, Division of Actuarial Services, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm S4519, FPBldg., Washington, DC 20210, 202 535-0640

RIN: 1205–AA14

1459. UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS

Significance: Regulatory Program

Legal Authority: 5 USC 8506; 5 USC 8521 to 8525

CFR Citation: 20 CFR 614

Legal Deadline: None.

Abstract: Section 201 of Public Law 97-362 (Miscellaneous Revenue Act of 1982) amends the eligibility requirements for unemployment compensation for ex-servicemembers. The proposed regulations would implement these new requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	12/00/87	
Final Action	06/00/88	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm C4514, FPBldg., Washington, DC 20210, 202 535-0309

RIN: 1205–AA26

1460. USE OF FUNDS TRANSFERRED TO THE STATES UNDER SECTION 903(C) OF THE SOCIAL SECURITY ACT (REED ACT)

Legal Authority: 26 USC 3304; 42 USC 1302; 42 USC 503; 42 USC 1103

CFR Citation: 20 CFR 601; 20 CFR 651; 20 CFR 652; 20 CFR 658; 41 CFR 29 to 70

Legal Deadline: None.

Abstract: This regulation sets out Reed Act requirements for States. It covers: restoration of Reed Act funds used to pay unemployment benefits; appropriation by the States and use of funds for administration; and disposition, reduced usage, and replacement of Reed Act-financed property. The regulation implements P.L. 97-248 and updates existing material issued as manuals. Alternatives being considered include: (1) Issuing a regulation, another type of directive, or nothing; (2) Limiting the scope of the regulation to areas involving compliance with Federal law or not limiting scope; and (3) which rules, if any, should be issued regarding the calculation of Reed Act balances, restorations of Reed Act funds, program income, and sales, other dispositions, and reduced usage of property acquired with Reed Act funds. Issuing a regulation will benefit grantees by reducing their uncertainty as to the applicable rules. No significant additional costs will result.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	01/00/88	
Final Action	04/00/88	
Final Action Effective	07/00/88	

Small Entity: Not Applicable

Public Compliance Cost: Initial Cost: $5,000; Yearly Recurring Cost: $5,000; Base Year for Dollar Estimates: 1984

Affected Sectors: 94 Administration of Human Resource Programs

Government Levels Affected: State, Federal

Agency Contact: David Henson, Chief, Division of Fiscal Policy, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room C5317, FPBldg., Washington, DC 20210, 202 535-8762

RIN: 1205–AA43

1461. JOB CORPS PROGRAM UNDER TITLE IV-B OF THE JOB TRAINING PARTNERSHIP ACT

Legal Authority: 29 USC 1579

CFR Citation: 20 CFR 684

Legal Deadline: None.

Abstract: The regulations will revise and streamline the existing rules for the Job Corps program. These changes will not create new cost nor materially change the existing program. The new rules will be in compliance with Title IV-B of the Job Training Partnership Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
NPRM Comment Period End	03/00/88	
Final Action	06/00/88	

Small Entity: Undetermined

Agency Contact: Peter E. Rell, Director, Office of Job Corps, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4508, FPBldg., Washington, DC 20210, 202 535-0550

RIN: 1205–AA54

1462. ● TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Significance: Regulatory Program

Legal Authority: PL 99-272 Consolidated Omnibus Budget Reconciliation Act (1985)

CFR Citation: 20 CFR 617

Legal Deadline: None.

Abstract: These regulations implement PL 99-272, enacted on April 7, 1986, which amended the trade adjustment assistance provisions of the Trade Act of 1974, by extending the program for six (6) years to September 30, 1991; requiring participation in a job search program, where reasonably available, as a condition for receiving TRA payments; changing the number of weeks of employer authorized leave credited to satisfy the 26 weeks of employment in the last 52 weeks to qualify for TRA; extending the period to receiving basic TRA from 52 weeks to 104 weeks (no increase in the number of weeks payable); and making other changes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	11/00/87	
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Glenn M. Zech, Deputy Director, Office of Trade, Adjustment Assistance, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 6434, FPBldg., Washington, DC 20213, 202 376-2846

RIN: 1205–AA61

1463. LABOR SURPLUS AREA PROGRAM POPULATION CRITERIA CHANGE AS REVISED BY PL 99-272

Significance: Agency Priority

Legal Authority: EO 12073; EO 10582; PL 95-89; PL 98-302; PL 99-272

CFR Citation: 20 CFR 654

Legal Deadline: Statutory, July 7, 1988.

Abstract: The Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) Section 18003 amended the Small Business Act to require the Secretary of Labor to reduce the population criteria for labor surplus areas from fifty-thousand to twenty-five thousand. Section 18003 of Public Law 99-272 became effective on July 7, 1986. The Department of Labor is in the process of implementing the new requirements of the Law but such data did not exist for such areas on a monthly basis at the time Public Law 99-272 was enacted. Implementation has, therefore, been hampered while the data for hundreds of areas were being developed on a monthly basis going back to January 1984.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	01/00/88	
Final Action	04/00/88	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Clayton J. Cottrell, Chief, Division of Planning and Operations, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, N.W., Rm N4456, FPBldg., Washington, DC 20210, 202 535-0192

RIN: 1205–AA62

1464. REFOCUS OF THE PUBLIC EMPLOYMENT SERVICE

Legal Authority: PL 97-300 Wagner-Peyser Act as amended by the JTPA

CFR Citation: 20 CFR 652; 20 CFR 653

Legal Deadline: None.

Abstract: In September 1986, the Department of Labor announced in the Federal Register its review of the public employment service, raising the concern of the employment service capability to meet the current and future labor market needs, particularly the labor market needs that will emerge in the year 2000. The announcement provided the public an opportunity to respond either orally at public meetings held in October, 1986 or in writing directly to the Department. The announcement described the concern of the questions concerning the purpose and role of the employment service. An analysis of the public response to the announcement, as well as other data available to the Department from other research, studies, and papers provides the basis for the Department to propose a refocus of the employment service to address current and emerging labor force trends. Regulations maybe proposed to the extent needed, to either implement any new legislation that may emerge or to achieve the new direction.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	01/00/88	
Final Action	05/00/88	

Small Entity: Undetermined

Agency Contact: Clayton J. Cottrell, Chief, Division of Planning and Operations, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4456, FPBldg., Washington, DC 20210, 202 535-0192

RIN: 1205–AA63

1465. ● INCOME AND ELIGIBILITY VERIFICATION SYSTEM

Legal Authority: 42 USC 1302

CFR Citation: 20 CFR 603, (Revision)

Legal Deadline: None.

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DOL—ETA

Proposed Rule Stage

Abstract: Include the Federal Parent Locator Service as an agency that will participate in the State Income Eligibility Verification System.

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	
NPRM Comment Period End	08/00/88	
Final Action	04/00/89	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm C4514, FPBldg., Washington, DC 20210, 202 535-0309

RIN: 1205-AA64

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Final Rule Stage

1466. FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

Significance: Regulatory Program

Legal Authority: 26 USC 3304 Note; 42 USC 1302

CFR Citation: 20 CFR 615

Legal Deadline: None.

Abstract: These regulations would be amended to implement various statutory amendments of 1980, 1981, 1982, and 1983 to the Federal-State Extended Unemployment Compensation Act of 1970. The regulations would (1) provide for the denial of extended benefits to certain interstate claimants and to individuals who fail to actively engage in seeking work or refuse to accept an offer of suitable work, (2) provide for the purging of certain disqualifications in order to establish eligibility for extended benefits, and (3) establish the method of determining the rate of insured unemployment for extended benefit claims, the State trigger rates and removal of the National trigger.

Timetable:

Action	Date	FR Cite
NPRM	10/24/86	51 FR 37741
NPRM Comment Period End	11/24/86	51 FR 37741
Final Action	11/00/87	

Small Entity: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm C4514, FPBldg., Washington, DC 20210, 202 535-0309

RIN: 1205-AA15

1467. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 3056 et seq, Older Americans Community Svcs Employ Act

CFR Citation: 20 CFR 674

Legal Deadline: Statutory, May 8, 1985. P.L. 98-459, Section 205(c)

Abstract: The regulations will revise and update the existing rules for the Senior Community Service Employment Program. These changes will not create new cost nor materially change the existing program. However, the new rules will place the program in compliance with the 1984 Amendments to the Older Americans Act.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29606
NPRM Comment Period End	08/27/85	50 FR 34725
Extension of Comment Period to 9/19/85	08/27/85	50 FR 34725
Final Action	00/00/00	

Small Entity: No

Agency Contact: Paul A. Mayrand, Director, Office of Special Targeted, Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4641, FPBldg., Washington, DC 20210, 202 535-0500

RIN: 1205-AA29

1468. ADMINISTRATIVE PROCEDURE

Significance: Agency Priority

Legal Authority: 42 USC 1302

CFR Citation: 20 CFR 601.9, (Revision)

Legal Deadline: None.

Abstract: The regulation will provide States with administrative appeal rights before the Office of Administrative Law Judges for final determinations disallowing costs or imposing corrective actions as a result of all audits in the Federal-State unemployment compensation program and related Federal unemployment benefit and allowance programs. Currently, no such appeal rights exist and if a State seeks review of one of the above actions the only appeal forum is the Federal Court. Provision of these appeal rights before the Office of Administrative Law Judges should reduce the workload of the Federal Court system and allow the Department of Labor to adjudicate the issues in a more informal setting with the Administrative Law Judges, who are more accustomed to dealing with the particular issues involved. The regulation will also correct what is perceived as an inequity, since most Employment and Training Administration programs have administrative appeal rights.

Timetable:

Action	Date	FR Cite
NPRM	06/10/86	51 FR 20991
NPRM Comment Period End	07/10/86	51 FR 20991
Final Action	10/00/87	

Small Entity: No

Additional Information: A Department of Labor Inter-Agency Task Force established to implement the Single Audit Act has decided that all Department of Labor programs shall have some type of appeal rights within the Department of Labor. The Office of the Assistant Secretary for Employment and Training Administration decided that appeal rights for all Employment and Training Administration programs shall be provided by the Office of Administrative Law Judges.

Government Levels Affected: State, Federal

Agency Contact: Linda D. Kontnier, Chief, Division of Debt Management, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4671, FPBldg., Washington, DC 20210, 202 535-0704

RIN: 1205-AA46

DOL—ETA

Final Rule Stage

1469. JOB TRAINING PARTNERSHIP ACT AUDITS

Significance: Agency Priority

Legal Authority: Section 164 Job Training Partnership Act; Section 169 Job Training Partnership Act

CFR Citation: 20 CFR 629.42

Legal Deadline: None.

Abstract: Governors are responsible for resolving audits of their JTPA subgrantees and subcontractors. Current ETA policy requires federal review and approval of these resolutions only in cases of fraud, gross mismanagement and abuse. More routine audit resolutions are only reviewed on a sample basis during onsite compliance reviews. However, a recent legal opinion stated that the JTPA regulations as presently written could be construed as requiring federal review and approval of all Governors' audit resolutions. The regulations may have to be amended in order to implement ETA's policy.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Affected Sectors: None

Government Levels Affected: State, Federal

Agency Contact: David O. Williams, Administrator, Office of Financial and, Administrative Management, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4671, FPBldg., Washington, DC 20210, 202 535-0690

RIN: 1205-AA53

1470. PREFERENCE IN FEDERAL PROCUREMENT FOR LABOR SURPLUS AREAS UNDER EXECUTIVE ORDERS 12073 AND 10582

Significance: Regulatory Program

Legal Authority: EO 12073; EO 10582

CFR Citation: 20 CFR 654.5(b)

Legal Deadline: None.

Abstract: Currently the Department of Labor only classifies civil jurisdictions (counties, cities over 50,000 population as well as townships and towns in certain selected States) as labor surplus areas. This policy has resulted in some employment centers in the nation's large metropolitan areas not being classified as labor surplus areas, even though the entire Metropolitan Statistical Areas or Primary Metropolitan Statistical Areas would meet the labor surplus area criteria if such geographic areas were classified. The proposed rule would grant the Assistant Secretary for Employment and Training the authority to classify Metropolitan Statistical Areas and Primary Metropolitan Statistical Areas as labor surplus areas to help alleviate unemployment in these areas. The change will add some additional labor surplus areas to the current list but it will not increase the funds going to such designated areas.

Timetable:

Action	Date	FR Cite
NPRM	07/24/86	51 FR 26555
NPRM Comment Period End	08/25/86	51 FR 26555
Final Action	11/00/87	

Small Entity: No

Agency Contact: Robert A. Schaerfl, Director, United States Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Ave., NW, Rm N4470 FPBldg., Washington, DC 20210, 202 535-0157

RIN: 1205-AA55

1471. LABOR CERTIFICATION PROCESS FOR TEMPORARY EMPLOYMENT OF ALIEN WORKERS IN AGRICULTURE: THE H-2A PROGRAM

Significance: Regulatory Program

Legal Authority: 8 USC 1101(a)(15)(H)(ii)(a)

CFR Citation: 20 CFR 655

Legal Deadline: Statutory, June 1, 1987.

Abstract: The regulation will implement the new H-2A program created by the Immigration Reform and Control Act of 1986 (IRCA). IRCA established H-2A as a new nonimmigrant subcategory for the admission of Foreign Temporary Agricultural Workers.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16770
NPRM Comment Period End	05/05/87	52 FR 16770
Interim Final Rule	06/01/87	52 FR 20496
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor, Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4456, FPBldg., Washington, DC 20210, 202 535-0153

RIN: 1205-AA59

1472. IMPLEMENTATION OF JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1986

Significance: Regulatory Program

Legal Authority: JTPA Amendments of 1986

CFR Citation: 20 CFR 626, (Revision); 20 CFR 627, (Revision); 20 CFR 628, (Revision); 20 CFR 629, (Revision); 20 CFR 630, (Revision); 20 CFR 631, (Revision)

Legal Deadline: None.

Abstract: Issue regulations to implement those provisions of the 1986 amendments requiring regulatory revision. These include: (1) clarification on the use of six percent funds for technical assistance and post-program data collection; (2) clarification of the requirements for summer program plans and their approval/ disapproval; and (3) Title III eligibility criteria. Further, in areas not related to the JTPA Amendments, the Department intends to propose rulemaking. This will be policy clarifications, technical corrections, or to address other policy areas in the regulations which have emerged as problems.

DOL—ETA — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	01/16/87	52 FR 1932
ANPRM Comment Period End	02/17/87	52 FR 1932
NPRM	06/24/87	52 FR 23681
NPRM Comment Period End	07/24/87	52 FR 23681
Final Action	11/00/87	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Carolyn Golding, Director, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm S4231, FPBldg., Washington, DC 20210, 202 535-0600

RIN: 1205-AA28

DEPARTMENT OF LABOR (DOL) — **Completed Actions**

Employment and Training Administration (ETA)

1473. UNEMPLOYMENT INSURANCE QUALITY CONTROL PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 503; 42 USC 1302

CFR Citation: 20 CFR 602

Legal Deadline: None.

Abstract: The establishment of a UI QC program is a major initiative to reduce administrative errors and abuse in the UI system. Reported error rates are 10 times lower than those found under the QC sampling methodology. A one percent reduction in the error rate could potentially translate to a savings of millions of dollars in the benefit payment process. Additional savings may be realized when the program is extended to the revenue function.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38083
ANPRM Comment Period End	10/26/84	49 FR 38083
NPRM	07/25/86	51 FR 26846
NPRM Comment Period End	09/25/86	51 FR 26846
Final Action	09/03/87	52 FR 33520
Final Action Effective	10/05/87	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Carolyn Golding, Director, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm S4231, FPBldg., Washington, DC 20210, 202 535-0600

RIN: 1205-AA28

1474. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Significance: Regulatory Program

Legal Authority: 8 USC 1182(a)(14)

CFR Citation: 20 CFR 656

Legal Deadline: None.

Abstract: Physicians are currently on the Department's Schedule A precertification list if they are to be employed in a designated Health Manpower Shortage Area (HMSA) or an area which has an insufficient number of physicians as designated by the Public Health Service (PHS). The PHS has recommended removal of physicians from Schedule A, or in the alternative leave only those physicians on Schedule A that are to be employed in the HMSA's. According to the PHS: (1) neither Congress nor the Department of Health and Human Services recognizes the existence of a national shortage of physicians; (2) alien physicians after they are certified do not go to the HMSA's or the area with an insufficient number of physicians, or if they do go to these areas they leave shortly after starting work. Thus, the labor certification program has not had a significant effect in alleviating the shortage of physicians in the HMSA's or in the areas with an insufficient number of physicians. Consequently, ETA proposes to remove all physicians from Schedule A.

Timetable:

Action	Date	FR Cite
NPRM	01/24/86	51 FR 3192
Final Action	06/02/87	52 FR 20593
Final Action Effective	07/02/87	52 FR 20593

Small Entity: No

Action	Date	FR Cite
Final Action Effective	12/00/87	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: Local, State

Agency Contact: Robert N. Colombo, Director, Office of Employment and Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm N4469, FPBldg., Washington, DC 20210, 202 535-0577

RIN: 1205-AA60

Affected Sectors: 80 Health Services; 82 Educational Services

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor, Certification, Department of Labor, Employment and Training Administration, 200 Constitution Ave., NW, Rm N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205-AA33

1475. LABOR CERTIFICATION PROCESS FOR TEMPORARY EMPLOYMENT OF ALIEN WORKERS IN AGRICULTURE: MONTANA ADVERSE EFFECT WAGE RATE

Legal Authority: 8 USC 1101(a)(15)(H)(ii); 8 USC 1184

CFR Citation: 20 CFR 655, Subpart C

Legal Deadline: None.

Abstract: Propose to add Montana to the list of States in which annual adverse effect wage rates are established.

Timetable:

Action	Date	FR Cite
NPRM	12/10/85	50 FR 50311
NPRM Comment Period End	01/09/86	50 FR 50311
Extension of Comment Period to 3/31/86	02/28/86	51 FR 7084
Incorporated with H-2 Regulations	06/01/87	52 FR 20496

Small Entity: No

Affected Sectors: 013 Field Crops, Except Cash Grains; 016 Vegetables and Melons; 017 Fruits and Tree Nuts; 019 General Farms, Primarily Crop; 071 Soil Preparation Services; 072 Crop Services

DOL—ETA — **Completed Actions**

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Div. of Foreign Labor Certifications, Department of Labor, Employment and Training Administration, 200 Constitution Ave., NW, Rm N4456 FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205-AA48

1476. REVIEW SESA ADMINISTRATIVE FINANCING SYSTEM

Significance: Regulatory Program

Legal Authority: 42 USC 501 to 504; 42 USC 1302

CFR Citation: 20 CFR 601.6

Legal Deadline: None.

Abstract: States and other interested parties have questioned the adequacy of the existing method for financing and allocating SESA administrative resources in general and unemployment insurance (UI) administrative resources in particular. Problems identified include: (1) basis and methodology for allocating SESA administrative resources among States; (2) insufficient flexibility to meet State management needs; (3) excessive Federal intervention and prescription; (4) possible duplicative and unnecessary reporting requirements; (5) inadequate State accountability and authority; (6) disincentives for improving productivity; (7)inadequate resources for nonpersonal services. The framework for the basic UI system is outlined in the Social Security Act (SSA) and the Federal Unemployment Tax Act (FUTA). Title III of the SSA states that the Secretary of Labor shall provide the administrative funds needed by each State approved under FUTA for the proper and efficient administration of the UI program. A formal consultation process has been initiated to solicit public comments on problems and proposed (cont.)

Timetable:

Action	Date	FR Cite
Incorporated with Trade Act of 1987	08/05/87	

Small Entity: No

Additional Information: (ABSTRACT CONT:) changes to the current SESA administrative financial system. Planned changes will be announced upon completion of this review.

Government Levels Affected: State, Federal

Agency Contact: Carolyn M. Golding, Director, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Rm S4231, FPBldg., Washington, DC 20210, 202 535-0600

RIN: 1205-AA51

1477. LABOR CERTIFICATION PROCESS FOR TEMPORARY EMPLOYMENT OF ALIEN WORKERS IN AGRICULTURE: ADVERSE EFFECT WAGE RATES FOR IDAHO AND OREGON

Legal Authority: 8 USC 1101(a)(15)(H)(ii); 8 USC 1184

CFR Citation: 20 CFR 655, Subpart C

Legal Deadline: None.

Abstract: Propose to add Idaho and Oregon to the list of States for which annual adverse effect wage rates are established.

Timetable:

Action	Date	FR Cite
NPRM	04/08/86	51 FR 11942
NPRM Comment Period End	05/08/86	51 FR 11942
Incorporated with H-2 Regulations	06/01/87	52 FR 20496

Small Entity: No

Affected Sectors: 013 Field Crops, Except Cash Grains; 016 Vegetables and Melons; 017 Fruits and Tree Nuts; 019 General Farms, Primarily Crop; 071 Soil Preparation Services; 072 Crop Services

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor, Certifications, Department of Labor, Employment and Training Administration, 200 Constitution Ave., NW, Rm N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205-AA52

1478. LABOR CERTIFICATION PROCESS FOR PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES; ESTABLISHMENT OF BOARD OF ALIEN LABOR CERTIFICATION APPEALS

Legal Authority: 8 USC 1182(a)(14)

CFR Citation: 20 CFR 656

Legal Deadline: None.

Abstract: The Department of Labor proposes to revise the procedures for review of denials of certifications for the permanent employment of immigrant aliens in the United States. The revised procedures would establish a Board of Alien Labor Certification Appeals in the Office of Administrative Law Judges to hear and decide such appeals.

Timetable:

Action	Date	FR Cite
Final Action	04/08/87	52 FR 11217
Final Action Effective	05/08/87	52 FR 11217

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor, Certifications, Department of Labor, Employment and Training Administration, 200 Constitution Ave., NW, Rm N4456, FPBldg., Washington, DC 20210, 202 535-0163

RIN: 1205-AA57

1479. CERTIFICATION OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Significance: Agency Priority

Legal Authority: 19 USC 2217 to 2322

CFR Citation: 29 CFR 90

Legal Deadline: None.

Abstract: The Department of Labor proposes to revise the regulations on certification of eligibility to apply for worker adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974 (Pub. L. 93-618), as amended. The proposed rule is intended to reduce the time required for completing fact finding investigations and issuing determinations on petitions by reassigning the responsibility for certifying worker groups for adjustment assistance and to make such other changes that will help facilitate decision actions on petitions.

DOL—ETA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	02/20/87	52 FR 5310
NPRM Comment Period End	03/23/87	52 FR 5310
Final Action	06/19/87	52 FR 23400
Final Action Effective	06/19/87	52 FR 23400

Small Entity: No

Agency Contact: Glenn M. Zech, Deputy Director, Office of Trade Adjustment, Assistance, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 6434, PHBldg., Washington, DC 20213, 202 376-2646

RIN: 1205-AA58

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Proposed Rule Stage

1480. PARTICIPANT DIRECTED INDIVIDUAL ACCOUNT PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1104(c); 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None.

Abstract: The regulation would describe the kinds of participant directed individual account plans referred to in Section 404(c) of ERISA, the circumstances under which a participant or beneficiary will be considered to have exercised control over his individual account, and the consequences under section 404(c) of such an exercise of control.

Timetable:

Action	Date	FR Cite
NPRM	09/03/87	52 FR 33508
NPRM Comment Period End	11/02/87	
Final Action	12/00/88	

Small Entity: Undetermined

Agency Contact: Shelby J. Hoover, Assistant Counsel, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9502

RIN: 1210-AA08

1481. LOANS TO PARTICIPANTS

Legal Authority: 29 USC 1135; 29 USC 1108

CFR Citation: 29 CFR 2550

Legal Deadline: None.

Abstract: This rule describes the circumstances under which the exemption in Section 408(b)(1) of ERISA from the prohibited transaction provisions for loans by a plan to plan participants will be available.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	12/00/88	

Small Entity: Undetermined

Agency Contact: Susan Rees, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9596

RIN: 1210-AA09

1482. ADEQUATE CONSIDERATION

Significance: Regulatory Program

Legal Authority: 29 USC 1002(3)(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None.

Abstract: This regulation would provide guidance as to what constitutes adequate consideration under Section 3(18) of ERISA for securities for which there is no generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	02/00/88	
Final Action	12/00/88	

Small Entity: Undetermined

Agency Contact: Daniel J. Maguire, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9596

RIN: 1210-AA15

1483. QUALIFIED DOMESTIC RELATIONS ORDERS UNDER THE RETIREMENT EQUITY ACT

Legal Authority: 29 USC 1056(d)(3)(L); 29 USC 1135

CFR Citation: 29 CFR 2530

Legal Deadline: None.

Abstract: This regulation would clarify the application of the qualified domestic relations order provisions of Section 206(d)(3) of ERISA added by the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: Undetermined

Agency Contact: Jean Van Ness, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9593

RIN: 1210-AA19

1484. TOP HAT PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None.

Abstract: This regulation would provide guidance as to what constitutes an unfunded employee benefit plan maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees ("top hat" plans) for purposes of Title I of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Jean Van Ness, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9593

RIN: 1210-AA21

DOL—PWBA

Proposed Rule Stage

1485. PROPOSED REGULATION EXEMPTING CERTAIN BROKER-DEALERS AND INVESTMENT ADVISERS FROM BONDING REQUIREMENTS

Significance: Agency Priority

Legal Authority: 29 USC 1135; 29 USC 1112

CFR Citation: 29 CFR 2580

Legal Deadline: None.

Abstract: The proposed regulation is intended to provide an exemption from the bonding requirements of Section 412 (a) of ERISA for certain broker dealers and investment advisers who handle plan assets if the proposed regulation's alternative bonding requirements are met. If adopted, the regulation would permit broker-dealer and their investment adviser affiliates to substitute the fidelity bond required by the self-regulatory organizations of which they are members, subject to a minimum level of coverage, for the bond otherwise required by Section 412 of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 31039
NPRM Comment Period End	10/19/87	52 FR 31039
Final Action	04/00/88	

Small Entity: No

Agency Contact: Linda Shore, Employee Benefit Plan Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Rm N5667 FPBuilding, Washington, DC 20210, 202 523-8671

RIN: 1210-AA25

1486. PROHIBITED TRANSACTION EXEMPTION PROCEDURES

Significance: Agency Priority

Legal Authority: 29 USC 1108; 29 USC 1135; 5 USC 8477 (C) (3)

CFR Citation: 29 CFR 2570

Legal Deadline: None.

Abstract: This regulation describes the procedures for filing and processing applications for exemptions from the prohibited transaction provisions of ERISA of 1974 and IRC and FERSA of 1986. The proposed regulation updates the description of the Department's procedures to reflect changes in the Department of Labor's exemption authority and to clarify the procedures by providing a more detailed description of the prohibited transaction exemption process.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Jean Van Ness, Staff Attorney, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Rm N4611, FPBuilding, Washington, DC 20210, 202 523-9594

RIN: 1210-AA26

1487. AMOUNT OF BOND FOR FERS THRIFT SAVINGS FUND

Significance: Agency Priority

Legal Authority: 5 USC 8478

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: Section 8478(b)(1) requires the Secretary of Labor to prescribe the amount of a bond at the beginning of each Fiscal Year of the fund. This rulemaking accomplishes that objective.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	05/00/88	

Small Entity: No

Agency Contact: Rudy F. Nuissl, Employee Benefit Plan Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Rm N5669 FP Building, Washington, DC 20210, 202 523-7901

RIN: 1210-AA28

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Final Rule Stage

1488. INDIVIDUAL BENEFIT REPORTING - RECORDKEEPING - MULTIPLE EMPLOYER PLANS

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None.

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in multiple employer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the single employer plan benefit reporting regulations.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM	08/08/80	45 FR 52824
NPRM Comment Period End	10/08/80	
Notice of Public Hearing on 11/25/80	11/12/80	45 FR 74727
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Howard Hensley, Chief, Division of Reporting and Disclosure, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW, Rm N5669, FPBldg., Washington, DC 20210, 202 523-8377

RIN: 1210-AA02

1489. INDIVIDUAL BENEFIT REPORTING AND RECORDKEEPING FOR SINGLE EMPLOYER PLANS

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None.

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in single employer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to

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provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the multiple employer plan benefit reporting regulation.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM	08/01/80	45 FR 51231
Notice of Public Hearing on 11/25/80	11/12/80	45 FR 74728
NPRM Comment Period End	10/01/81	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Howard Hensley, Chief, Division of Reporting and Disclosure, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW, Rm N5669, FPBldg., Washington, DC 20210, 202 523-8377

RIN: 1210-AA03

1490. DEFINITION OF PLAN ASSETS — EMPLOYEE CONTRIBUTIONS

Significance: Regulatory Program

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None.

Abstract: This regulation would describe when monies paid to, or withheld by, an employer as contributions to an employee benefit plan are considered "Plan Assets" for purposes of Title I of ERISA and certain related provisions of the Internal Revenue Code. Proposed regulations dealing with this matter were published by the Department on August 28, 1979.

Timetable:

Action	Date	FR Cite
NPRM	08/28/79	44 FR 50363
NPRM Comment Period End	01/07/80	
Public Hearings	02/27/80	
Final Action	12/00/87	

Small Entity: No

Additional Information: Subpart of RIN 1210-AA06 (Definition of Plan Assets) which will be handled separately.

Agency Contact: Nancy Rooney, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9596

RIN: 1210-AA16

1491. PROCEDURES FOR ADMINISTRATIVE IMPOSITION OF CIVIL SANCTIONS

Significance: Regulatory Program

Legal Authority: 29 USC 1132 (l); 29 USC 1135

CFR Citation: 29 CFR 2560; 29 CFR 2570

Legal Deadline: None.

Abstract: This procedural rule would implement Section 502(i) of ERISA which authorizes the Secretary of Labor to impose civil sanctions against parties in interest (as defined in ERISA Section 3(14)) who engage in prohibited transactions with welfare plans and nonqualified pension plans.

Timetable:

Action	Date	FR Cite
NPRM	08/27/86	51 FR 30501
NPRM Comment Period End	10/27/86	51 FR 30501
Final Action	12/00/87	

Small Entity: No

Agency Contact: Susan Rees, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N4611, FPBldg., Washington, DC 20210, 202 523-9596

RIN: 1210-AA20

1492. ADOPTION OF TEMPORARY BONDING REGULATIONS UNDER ERISA SECTION 412 FOR PURPOSES OF FERSA SECTION 8478

Significance: Agency Priority

Legal Authority: 5 USC 8478; PL 99-556 SECTION 113

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: Section 8478 of FERS Requires the Secretary of Labor to prescribe within regulations concerning the bonding (for loss through theft or embezzlement) of property of the thrift savings fund. Section 113 of the Federal Employees' Retirement System Technical Corrections Act of 1986 authorizes the Secretary of Labor to apply the temporary bonding regulations under ERISA Section 412 to FERSA Section 8478 (until January 1, 1990). This rulemaking effects such interim adoption of the ERISA bonding regulations for FERSA purposes.

Timetable:

Action	Date	FR Cite
Interim Final Action Effective	04/01/87	
Interim Final Rule	09/23/87	52 FR 35864
NPRM	10/00/87	
End of Comment Period	11/23/87	
NPRM Comment Period End	12/00/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Rudy F. Nuisal, Employee Benefit Plan Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Rm N5669 FP Building, Washington, DC 20210, 202 523-7901

RIN: 1210-AA29

DEPARTMENT OF LABOR (DOL)
Office of Labor Management Standards (OLMS) — **Final Rule Stage**

1493. GENERAL STATEMENT CONCERNING THE ELECTION PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959 CHARACTERISTICS OF CANDIDATES

Legal Authority: 29 USC 481; 29 USC 482

CFR Citation: 29 CFR 452.46

Legal Deadline: None.

Abstract: This regulation will amend 29 CFR 452.46 regarding maximum age restrictions on candidacy for union office. The amendment is required in part to conform the regulations to a recent amendment to the Age Discrimination in Employment Act of 1967.

Timetable:

Action	Date	FR Cite
Final Action	11/00/87	

Small Entity: Not Applicable

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Kay Oshel, Chief, Division of Interpretations and, Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue, NW, Rm N5613, FPBldg., Washington, DC 20210, 202 523-7373

RIN: 1294-AA02

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA) — **Prerule Stage**

1494. DIESEL-POWERED EQUIPMENT FOR UNDERGROUND COAL MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 7; 30 CFR 70; 30 CFR 75

Legal Deadline: None.

Abstract: MSHA has established a mining equipment approval program, including evaluation criteria, and corresponding safety standards requiring the use of certain equipment. Existing approval regulations do not generally apply to the diesel equipment now being used in underground coal mines. An Advisory Committee will be established to make recommendations concerning what standards and regulations would be appropriate for coal mines.

Timetable:

Action	Date	FR Cite
Establishment of Advisory Committee	10/06/87	52 FR 37381

Small Entity: Yes

Additional Information: The Advisory Committee is expected to convene in October 1987. Under statutory requirements, the Advisory Committee must submit a report to the Secretary of Labor within 180 days of convening.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA27

1495. SURFACE COAL MINE ELECTRICAL STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 77.500; 30 CFR 77.600; 30 CFR 77.700; 30 CFR 77.800; 30 CFR 77.900; 30 CFR 77.1000; 30 CFR 77.1800

Legal Deadline: None.

Abstract: Existing electrical standards for surface coal mines would be reorganized, clarified, and updated. General incorporations by reference of the National Electric Code would be eliminated and replaced with specific standards applicable to surface coal mining operations. The Agency is also currently developing a proposal for its underground electrical standards. Because of the common issues, the status of this rulemaking is, in part, contingent upon revisions now being developed for the underground proposal.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA32

1496. NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS INJURIES, ILLNESSES, EMPLOYMENT, AND COAL PRODUCTION IN MINES

Significance: Regulatory Program

Legal Authority: 30 USC 957; 30 USC 813(d)

CFR Citation: 30 CFR 50

Legal Deadline: None.

Abstract: In response to concerns raised by members of Congress and the mining community about the nature and accuracy of existing reporting obligations, MSHA established an intra-agency task force to review its requirements for reports of accidents, injuries and illnesses in coal and metal and nonmetal mines. The Agency focused on several aspects of the reporting requirements including the definition of an occupational injury or illness, and an expanded audit program. In December 1986, MSHA issued Program Information Bulletin No. 86-6C and 86-3M on this subject to the mining community. The Agency is reviewing its program in light of overall Departmental initiatives in this area, with the goal of assuring a system of accurate and reliable reporting.

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DOL—MSHA

Prerule Stage

Timetable:

Action	Date	FR Cite
Begin Review	12/01/85	
Task Force Report Completed	03/03/86	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA33

1497. ● AUTOMATIC BRAKES ON SELF-PROPELLED ELECTRIC FACE EQUIPMENT

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.523-3

Legal Deadline: None.

Abstract: In 1973, the Agency issued installation and performance requirements for automatic emergency brakes on rubber-tired, self-propelled electric face equipment for underground coal mines. However, there was not sufficient technical data to develop criteria for evaluating the designs of these braking systems. On July 30, 1974, the effective dates for compliance with 75.523-3 were suspended indefinitely. MSHA now has sufficient technical data to begin reviewing the standard during this calendar year for possible implementation.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm. 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA39

1498. ● COAL AIR QUALITY

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70

Legal Deadline: None.

Abstract: Permissible exposure limits for most noxious and poisonous gases in underground coal mines are addressed in 30 CFR 75.301-2. This ventilation standard incorporates by reference an outdated national consensus standard. MSHA would replace the incorporation by reference with updated standards that are more specific to the mining industry. These standards would be recodified with other health standards for underground coal mining in 30 CFR 70.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA41

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Proposed Rule Stage

1499. PATTERN OF VIOLATIONS

Significance: Regulatory Program

Legal Authority: 30 USC 814(e); 30 USC 957

CFR Citation: 30 CFR 104

Legal Deadline: None.

Abstract: In 1980, a proposal was issued but subsequently withdrawn as a result of certain Review Commission decisions and other policy considerations. A second ANPRM which outlined new procedures for implementing the statutory provision for pattern of violations was issued in 1985. Commenters to the ANPRM raised several critical issues and the Agency is currently reviewing enforcement data to assess how to best implement this statutory provision. The proposal will contain a meaningful procedure and appropriate criteria for identifying operators who are potential pattern violators.

Timetable:

Action	Date	FR Cite
ANPRM	02/06/85	50 FR 5470
Withdrawal of 1980 NPRM	02/06/85	50 FR 5470
Extension of Comment Period to 5/10/85	04/05/85	50 FR 13617
ANPRM Comment Period End	04/09/85	50 FR 5470
NPRM	12/00/87	

Small Entity: Yes

Additional Information: MSHA is responding to DOL's request for further data analysis prior to publication of the proposal.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA04

1500. UNDERGROUND COAL MINE ELECTRICAL STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.500; 30 CFR 75.600; 30 CFR 75.700; 30 CFR 75.800; 30 CFR 75.900; 30 CFR 75.1000

Legal Deadline: None.

Abstract: Existing electrical standards for underground coal mines would be substantially reorganized, clarified, and updated. General incorporations by reference of the National Electric Code would be eliminated and replaced with specific standards applicable to underground coal mining operations. The Agency is in the process of developing a proposed rule that addresses the wide range of issues raised by commenters.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	05/23/86	51 FR 18899
Comment Period Extended to 8/15/86	07/03/86	51 FR 24387
ANPRM Comment Period End	07/22/86	51 FR 18899
NPRM	03/00/88	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA10

1501. UNDERGROUND COAL MINE VENTILATION

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.300

Legal Deadline: None.

Abstract: The Agency will publish a proposed rule concerning ventilation in underground mines which will include provisions for the introduction of new technology for systematic monitoring of explosive methane gas, as well as gases that may indicate a mine fire. Other important issues would include ventilation of worked-out areas; timeframes for tests for methane; and using intake air that has been used to ventilate a belt conveyor entry.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	11/19/85	50 FR 47702
Extension of ANPRM Comment Period to 4/4/86	02/14/86	51 FR 5546
ANPRM Comment Period End	02/18/86	
NPRM	11/00/87	

Small Entity: Yes

Additional Information: Public hearings are anticipated to be held during April 1988.

DOL—MSHA

Proposed Rule Stage

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA11

1502. REVIEW OF METAL AND NONMETAL ELECTRICAL STANDARDS

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.12000; 30 CFR 57.12000

Legal Deadline: None.

Abstract: The electrical standards are part of the overall review of regulations dealing with metal and nonmetal mines and mills. General incorporations by reference of the National Electric Code would be eliminated and replaced with standards applicable to metal and nonmetal mining and mills.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/83	45 FR 19267
ANPRM	05/20/83	48 FR 22895
ANPRM Comment Period End	07/19/83	
NPRM	05/00/88	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA14

1503. REVIEW OF METAL AND NONMETAL EXPLOSIVES STANDARDS

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.6000; 30 CFR 57.6000

Legal Deadline: None.

Abstract: The explosives standards are part of the overall review of regulations dealing with metal and nonmetal mines and mills. These standards would be clarified and updated consistent with technological advances.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	08/20/84	49 FR 33087
Extension of ANPRM Comment Period to 11/16/84	09/25/84	49 FR 37640
ANPRM Comment Period End	10/19/84	
NPRM	03/00/88	

Small Entity: Yes

Additional Information: Public hearings will most likely be held during May 1988.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA17

1504. METAL AND NONMETAL AIR QUALITY STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 55.5; 30 CFR 56.5

Legal Deadline: None.

Abstract: The Agency is developing a NPRM which would replace an incorporation by reference with updated permissible exposure limits which are specifically applicable to the hazards encountered in metal and nonmetal mining. The proposal would solicit comment on which means of control would provide the necessary protection from airborne contaminants. Standards for use of respiratory protective equipment would replace an outdated incorporation by reference. Other issues being considered are: requirements for exposure monitoring and precautions for handling restricted-use chemicals; notification of workers of overexposures; and access to exposure records. The Department is in the process of developing a uniform policy on air quality in the work place.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	07/06/83	48 FR 31171

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Action	Date	FR Cite
Extension of Comment Period to 10/06/83	08/12/83	48 FR 36789
Extension of Comment Period to 11/07/83	09/16/83	48 FR 41747
ANPRM Comment Period End	11/07/83	
NPRM	02/00/88	

Small Entity: Yes

Additional Information: Public hearings will most likely be held during April 1988.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA21

1505. MINE PLAN APPROVALS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR "Chapter I"

Legal Deadline: None.

Abstract: In March 1985, the Agency issued an ANPRM requesting comment on the existing plan approval process. After reviewing the comments, the Agency is reconsidering its draft proposal. Further information will be available in the next Regulatory Program of the U.S. Government and Agenda.

Timetable:

Action	Date	FR Cite
Request for comments	03/22/85	50 FR 11644

Next Action Undetermined

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA26

1506. ● CERTIFICATION AND QUALIFICATION OF PERSONS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.100; 30 CFR 75.150; 30 CFR 77.100; 30 CFR 77.105

Legal Deadline: None.

Abstract: Certain MSHA regulations require persons working in coal mines to be qualified or certified to perform certain tasks, e.g., testing for methane, making ventilation examinations, etc. The existing rule requires operators to submit certification and qualification applications to MSHA every six months for recertification. The proposal eliminates the six-month limitation, permitting persons to remain certified or qualified for as long as they continue to satisfy the substantive requirements and remain employed at the same coal mine or independent contractor.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Yes

Additional Information: Public hearings would probably be held in March 1988.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA36

1507. ● ESCAPEWAYS AND ESCAPE FACILITIES

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1704; 30 CFR 75.1707

Legal Deadline: None.

Abstract: Escapeways are the primary means of egress during a fire or similar life threatening situation. MSHA's existing standards need to be updated and clarified to assure that escapeways are properly maintained and miners are informed of escape procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Yes

Additional Information: Public hearings would probably be held in April 1988.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA37

1508. ● AUTOMATIC WARNING DEVICES FOR MOBILE EQUIPMENT

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 77.410

Legal Deadline: None.

Abstract: MSHA's existing standard requires mobile equipment to be equipped with devices which automatically sound an alarm when the equipment is put in reverse. MSHA is considering revising the standard to exclude pickup trucks if the driver has an unobstructed rear view. The Agency is also considering allowing alternatives to automatic warning devices.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Yes

Additional Information: Public hearings would probably be held during March 1988.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 631, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA38

1509. ● ELECTRIC MINE LAMPS OTHER THAN STANDARD CAP LAMPS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 20

Legal Deadline: None.

Abstract: Under existing standards MSHA is limited to investigating and approving lamps which meet the design, construction and test requirements specifically set forth in 30 CFR 20. As a result, the Agency is restricted from approving lamps that incorporate alternative technology. The proposal would amend Part 20 to enable the Agency to issue approvals for lamps which, after testing, are found to be safe for their intended use and provide, at a minimum, the same degree of protection as lamps currently approved under the existing standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Yes

Additional Information: Public hearings would probably be held in March 1988.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA40

DOL—MSHA — **Proposed Rule Stage**

1510. ● MULTIPLE-SHOT BLASTING UNITS

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 25

Legal Deadline: None.

Abstract: The requirements for approval of blasting units are part of the overall coal review to update standards. The revision of existing Part 25 specifications is to be proposed as Subpart D to Part 7. Under this concept, testing would be done by the applicant or a third party, subject to Agency requirements and approval.

Timetable:

Action	Date	FR Cite
ANPRM	06/05/84	49 FR 23281
Notice of Public Conferences for 7/11/84	06/05/84	49 FR 23281
Extension of Comment Period to 9/24/84	07/31/84	49 FR 30636
ANPRM Comment Period End	06/10/84	49 FR 23281
NPRM	01/00/88	

Small Entity: Yes

Additional Information: The review of 30 CFR 25 was originally listed in the Agenda in 1984. In the October 1985 Agenda, MSHA consolidated the Review of Part 25 under 1219-AA16. A proposal is expected to be published in January 1988 which will revise 30 CFR 25 and combine it as a subpart of 30 CFR 7.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA42

DEPARTMENT OF LABOR (DOL) — Final Rule Stage

Mine Safety and Health Administration (MSHA)

1511. PROCEDURES FOR APPROVAL OF MINING EQUIPMENT

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 7

Legal Deadline: None.

Abstract: This would be a new Part. Under existing regulations, certain equipment must be tested and approved by MSHA prior to use in certain underground mines. The proposal would permit manufacturers or independent laboratories to test certain equipment prior to issuance of the Agency's approval. The actual authority for approval would continue to remain with the government. The final rule will also contain a mechanism for monitoring quality assurance and conducting post-approval audits.

Timetable:

Action	Date	FR Cite
ANPRM	03/04/83	48 FR 09475
Notice of Public Hearings	03/18/83	48 FR 11665
ANPRM Comment Period End	05/03/83	
NPRM	02/06/86	51 FR 4686
Notice of Public Hearings	02/06/86	51 FR 4668
Extension of Comment Period to 5/7/86	04/04/86	51 FR 11586
NPRM Comment Period End	04/07/86	51 FR 4686
Final Action	12/00/87	

Small Entity: Yes

Additional Information: Public hearings were held during July 1986.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA06

1512. UNDERGROUND COAL MINE ROOF CONTROL

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.200

Legal Deadline: None.

Abstract: The final rule will clarify, revise, and update MSHA's existing standards for controlling roof falls in underground coal mines. The final rule will also recognize technical advances in roof support, such as the ATRS system which is a new and developing technology that stabilizes unsupported roof during the installation of support.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	09/02/83	48 FR 40165
ANPRM Comment Period End	11/18/83	48 FR 40165
NPRM	10/15/85	50 FR 41784
Extension of Comment Period to 02/17/86	12/13/85	50 FR 50925
Notice of Public Hearings	01/17/86	51 FR 2525
Final Action	11/00/87	

Small Entity: Yes

Additional Information: Public hearings were held during February 1986.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department

of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA13

1513. EXPLOSIVES AND BLASTING IN UNDERGROUND COAL MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1300

Legal Deadline: None.

Abstract: The existing standards governing the use of explosives in underground coal mines are outdated and incomplete. MSHA's final rule will substantially reorganize, clarify and update these requirements. In addition, the rule will recognize new explosive technology and will permit future changes in technology with assurances for a safe mining environment.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	05/08/84	49 FR 19601
ANPRM Comment Period End	07/20/84	49 FR 19601
NPRM	05/09/86	51 FR 17284
Extension of Comment Period to 7/31/86	07/03/86	51 FR 24367
NPRM Comment Period End	07/08/86	51 FR 17284
Notice of Public Hearings	10/21/86	51 FR 37376
Supplemental Public Hearing	03/26/87	52 FR 9670
Final Action	01/00/88	

Small Entity: Yes

Additional Information: Public hearings were held in November 1986. See also RIN 1219-AA23 for abstract and timetables of related rulemaking to revise approval specifications for explosives. A supplemental public hearing was held 4/22/87 in Bruceton, PA in conjunction with public hearings on 30 CFR Part 15.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA16

1514. SAFETY STANDARDS FOR LOADING, HAULING AND DUMPING AT METAL AND NONMETAL MINES

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.9000; 30 CFR 57.9000

Legal Deadline: None.

Abstract: The loading, hauling and dumping standards are part of the overall review of regulations dealing with metal and nonmetal mines and mills. As a result of consideration of the public rulemaking records relating to both the machinery and equipment and loading, hauling and dumping standards, the Agency reorganized the standards to more accurately and clearly identify the hazards. The Agency will publish a combined final rule of these two sections.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	04/22/83	48 FR 17513
ANPRM Comment Period End	06/21/83	
NPRM	12/18/84	49 FR 49202
Extension of Time to Comment to 03/22/85	01/25/85	50 FR 3681
NPRM Comment Period End	02/19/85	49 FR 49202
Notice of Public Hearings	07/03/85	50 FR 27566
Final Action	12/00/87	

Small Entity: Yes

Additional Information: Public hearings were held during August 1985. See also 1219-AA19 for additional information.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA18

1515. SAFETY STANDARDS FOR MACHINERY AND EQUIPMENT AT METAL AND NONMETAL MINES

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.14000; 30 CFR 57.14000

Legal Deadline: None.

Abstract: The machinery and equipment standards are part of the overall review of regulations dealing with metal and nonmetal mines and mills. As a result of consideration of the public rulemaking records relating to both the machinery and equipment and loading, hauling and dumping standards, the Agency reorganized the standards to more accurately and clearly identify the hazards. The Agency will publish a combined final rule of these two sections.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	02/11/83	48 FR 6489
ANPRM Comment Period End	04/15/83	
NPRM	03/06/84	49 FR 8375
NPRM Comment Period End	05/07/84	49 FR 8375
Notice of Public Hearings	05/21/84	49 FR 21494
Final Action	12/00/87	

Small Entity: Yes

Additional Information: See also 1219-AA18 for additional information.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA19

1516. APPROVAL REQUIREMENTS FOR EXPLOSIVES AND SHEATHED EXPLOSIVE UNITS

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 15

Legal Deadline: None.

Abstract: The requirements for approval of explosives are part of the overall coal review of high priority standards. These standards would update and clarify existing specifications and tests. New provisions would recognize the development of sheathed explosive units. Public hearings were held during April 1987.

Timetable:

Action	Date	FR Cite
ANPRM	06/05/84	49 FR 23281
ANPRM Comment Period End	08/10/84	
NPRM	11/12/86	51 FR 41046
NPRM Comment Period End	01/12/87	51 FR 41046
Notice of Public Hearings	03/26/87	52 FR 9670
Final Action	01/00/88	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA23

1517. METAL AND NONMETAL RADIATION STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57.5037 to 57.5047

Legal Deadline: None.

Abstract: MSHA is reviewing its radiation standards for underground metal and nonmetal mines and has identified certain issues with respect to regulatory action. The Agency published a proposal in December 1986 revising its existing ionizing radiation standards. Public hearings were held in August 1987.

Timetable:

Action	Date	FR Cite
Request for Comments	01/29/85	50 FR 4144
Extension of Comment Period to 5/3/85	03/22/85	50 FR 11638
ANPRM	11/19/85	50 FR 47700
ANPRM Comment Period End	02/18/86	
NPRM	12/19/86	51 FR 45678
NPRM Comment Period End	02/16/87	51 FR 45678
Notice of Hearings	07/14/87	52 FR 26352
Final Action	03/00/88	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA26

1518. APPROVAL CRITERIA FOR RESPIRATORY PROTECTIVE DEVICES

Significance: Regulatory Program

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 11

Legal Deadline: None.

Abstract: Under the 1977 Mine Act, MSHA and the National Institute for Occupational Safety and Health (NIOSH) jointly approve respirators for use in hazardous atmospheres. New technology has been developed which has not been accommodated by the existing regulations. In addition, questions have been raised about laboratory testing and field performance of respirators. The decision has been made for NIOSH to have the lead in approval of respirators. MSHA will be involved with the devices which are uniquely adapted or required for mining. A proposed rule to remove MSHA's regulations upon completion of a concurrent NIOSH rulemaking was published in August 1987. However, further rulemaking is contingent upon NIOSH's timetables.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32313
Final Action	10/00/88	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Actng Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va 22203, 703 235-1910

RIN: 1219-AA30

1519. ● HANDS-ON TRAINING IN SCSR'S

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1714

Legal Deadline: None.

Abstract: An emergency temporary standard (ETS) was published (6/30/87, 52 FR 24374) which required all coal miners to receive hands-on training in the use of SCSR's by 9/28/87. The ETS was issued in accordance with Section 101(b) of the Mine Act and revises 30 CFR 75.1714. In conjunction with the ETS, MSHA published a proposed rule (6/30/87; 52 FR 24378) which will supersede the ETS when promulgated in final form.

Timetable:

Action	Date	FR Cite
NPRM	06/30/87	52 FR 24378
Emergency Temporary Standard	06/30/87	52 FR 24374
NPRM Comment Period End	08/14/87	52 FR 24378
Final Action	06/00/88	

Small Entity: Yes

Additional Information: The ETS was effective on the date of publication (6/30/87). Public Hearings on the proposed rule should be held in October 1987. Neither the ETS nor the proposed rule for hands-on training replace the comprehensive review of 30 CFR 1714 (See 1219-AA08) which will be undertaken at a later date.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA43

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DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Completed Actions

1520. REVIEW OF SELF-CONTAINED SELF RESCUE DEVICES (SCSR) STANDARDS APPLICABLE TO COAL MINING

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1714

Legal Deadline: None.

Abstract: The self-contained self rescue devices (SCSR) standards would be revised to incorporate technological advances. MSHA is currently evaluating the state of technology. Pending completion of that review, the Agency is deferring further rulemaking action at this time. This entry is, therefore, removed from future Agendas.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	07/01/83	48 FR 30589
ANPRM Comment Period End	08/30/83	
Deferred	09/01/87	
End Review	09/01/87	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA08

1521. REVIEW OF HOISTING AND TRANSPORTATION OF PERSONS AND MATERIAL STANDARDS APPLICABLE TO COAL MINING

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1400

Legal Deadline: None.

Abstract: The hoisting and transportation standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry. The Agency is reviewing the nature and extent of the hazards associated with these areas. However, the Agency expects no further action during this calendar year. Therefore, this item is removed from the Agenda.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	07/01/83	48 FR 30589
ANPRM Comment Period End	08/30/83	
Deferred	09/01/87	
End Review	09/01/87	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA12

1522. METAL AND NONMETAL GASSY MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57.21000

Legal Deadline: None.

Abstract: The safety standards for methane (formerly known as Gassy Mines) were part of the overall metal and nonmetal review of high priority sections. The final rule places all underground mines in one of six categories based on the degree of hazard present at the mine. Each category has its own set of standards specific to the gradation of hazard present at the mine.

MSHA is issuing amendments to the final rule to eliminate internal inconsistencies in the rule. MSHA is also making editorial and technical corrections and is providing additional explanation to clarify the intent of other standards. In addition, MSHA is staying the effective date of the standard that requires blasting from the surface in Subcategory I-A mines to permit additional public comment and Agency analysis of technical issues.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/83	45 FR 19267
ANPRM	06/10/83	48 FR 27025
ANPRM Comment Period End	08/09/83	
Extension of Comment Period to 09/09/83	08/12/83	48 FR 36709
NPRM	06/04/85	50 FR 23612
Extension of Comment Period to 09/05/85	07/19/85	50 FR 29437
NPRM Comment Period End	08/05/85	50 FR 23612
Notice of Public Hearings	09/17/85	50 FR 37615
Final Action	07/01/87	52 FR 24924
Correction Notice	07/24/87	52 FR 27903
Interim Final Rule, Corrections and Stay	10/16/87	
Final Action Effective	10/29/87	52 FR 24924

Small Entity: Yes

Additional Information: Public hearings were held in October 1985. This entry is removed from future Agendas.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA15

1523. UPDATING FEES ASSOCIATED WITH EQUIPMENT APPROVALS

Significance: Regulatory Program

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 11 to 36

Legal Deadline: None.

Abstract: Under this final rule, MSHA will charge a fee for the testing of certain types of equipment submitted by manufacturers for Agency approval. The final rule establishes the general criteria to be used in determining costs to the government. These criteria will be used to compute fees on a periodic basis so that fees will be current and relevant. The computation criteria were published in the Federal Register. Fee schedules will be made available to manufacturers on an annual basis.

Timetable:

Action	Date	FR Cite
NPRM	04/16/86	51 FR 12966
NPRM Comment Period End	06/16/86	51 FR 12966
Notice of Hearings	06/30/86	51 FR 23559
Final Action	05/06/87	52 FR 17506
Final Action Effective	10/01/87	52 FR 17506

Small Entity: Yes

Additional Information: Public hearings were held in July 1986. This entry is removed from future Agendas.

Agency Contact: Patricia W. Silvey, Acting Associate Assistant Secretary, for Mine Safety and Health, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA29

DOL—MSHA

Completed Actions

DEPARTMENT OF LABOR (DOL)
Office of the Assistant Secretary for Administration and Management (OASAM)

Proposed Rule Stage

1524. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Significance: Regulatory Program

Legal Authority: 29 USC 794; 42 USC 6101 to 6107; 42 USC 2000d to 2000d-4; 20 USC 1681 to 1683; 15 USC 3151; 29 USC 1501 et seq; 20 USC 1685; 20 USC 1686

CFR Citation: 29 CFR 31

Legal Deadline: Statutory, October 1, 1983. The statutory effective date for JTPA implementing regulations is 10/01/83; the ADA required implementing regulations within 90 days of the HHS guidance regulation which was published on June 12, 1979.

Abstract: DOL's existing regulations implementing Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, as amended would be amended and revised as a single comprehensive civil rights regulation covering all DOL statutory authority relating to nondiscrimination in Federally assisted programs with uniform administrative and enforcement procedures.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: No

Additional Information: Draft proposed regulations were submitted to DOJ and EEOC for approval under E.O. 12250 and E.O. 12067, respectively. EEOC's approval was obtained August 20, 1985. The Department is currently considering substantive policy issues raised by DOJ in its August 1986 conditional approval of the proposed regulations. Upon resolution of these issues DOL will forward the regulations to the Office of Management and Budget for review pursuant to E.O. 12291, prior to publication as an NPRM.

Public Compliance Cost: Initial Cost: $0

Affected Sectors: None

Government Levels Affected: Local, State

Agency Contact: William J. Harris, Director, Directorate of Civil Rights, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm N4123, FPBldg., Washington, DC 20210, 202 523-9327

RIN: 1291-AA02

1525. ● GUIDELINES FOR NONPROCUREMENT SUSPENSION AND DEBARMENT

Significance: Agency Priority

Legal Authority: EO 12549

CFR Citation: 29 CFR 98

Legal Deadline: Statutory, September 26, 1987. OMB Guidelines were published on May 26, 1987 and provided for rulemaking by September 26, 1987.

Abstract: Executive Order 12549 provides that to the extent permitted by law, Executive Departments and agencies shall participate in a debarment and suspension from programs and activities involving Federal financial assistance. This proposed regulation covers the Department of Labor's participation in voluntary common rulemaking to implement the Executive Order. OMB has developed the guidelines and the proposed common rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	01/00/88	
Final Action	05/00/88	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Theodore Goldberg, Director, Office of Procurement and Grant, Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue, NW, Rm S1522, FPBldg., Washington, DC 20210, 202 523-9174

RIN: 1291-AA11

DEPARTMENT OF LABOR (DOL)
Office of the Assistant Secretary for Administration and Management (OASAM)

Final Rule Stage

1526. DEPARTMENT OF LABOR ACQUISITION REGULATION (DOLAR) IMPLEMENTATION OF COMPETITION IN CONTRACTING ACT OF 1984 (CICA) (PUB. L. 98-369) INTO DOLAR

Significance: Agency Priority

Legal Authority: 5 USC 301; 29 USC 551; 40 USC 486(c); 41 USC 401; PL 98-369, Sec 2701; EO 12352; EO 12291

CFR Citation: 48 CFR 29

Legal Deadline: None.

Abstract: Develop Department of Labor Acquisition Regulations to implement new regulations incorporated into the Federal Acquisition Regulation (FAR) mandated by the Competition in Contracting Act of 1984 (Pub. L. 98-369).

DOL—OASAM

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/86	51 FR 40372
Final Action	10/00/87	

Small Entity: No

Affected Sectors: All

Agency Contact: Theodore Goldberg, Director, Division of Procurement and Grant, Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm S1522, FPBldg., Washington, DC 20210, 202 523-9174

RIN: 1291-AA06

1527. PUBLIC CONTRACTS AND PROPERTY MANAGEMENT; FEDERAL STANDARDS FOR AUDIT OF FEDERALLY FUNDED GRANTS, CONTRACTS AND AGREEMENTS

Significance: Agency Priority

Legal Authority: 5 USC 301; 31 USC 7505(a); OMB Circular No. A-128; OMB Circular No. A-110

CFR Citation: 29 CFR 96

Legal Deadline: None.

Abstract: Amends administrative requirements for audit by adding sections on audit resolution and audit appeals.

Timetable:

Action	Date	FR Cite
NPRM	06/27/86	51 FR 23433
NPRM Comment Period End	08/26/86	51 FR 23433
Final Action	12/00/87	
Final Action Effective	01/00/88	

Small Entity: No

Agency Contact: Theodore Goldberg, Director, Division of Procurement and Grant, Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm S1522, FPBldg., Washington, DC 20210, 202 523-9174

RIN: 1291-AA10

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Prerule Stage

1528. MANUAL LIFTING (PARTS 1910, 1915, 1917, 1918, 1919, 1926 AND 1928)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: The Nation's number one injury problem is back injuries. These injuries account for one of five compensation claims and one of four dollars expended for compensation. The purpose of the proposed request for comments and information is to enable OSHA to determine a course of action--possibly either rulemaking or informal guidance-aimed at reducing the number of back-related injuries which result from improper manual lifting. The request will identify a number of approaches to improving manual lifting, and invite public comments and suggestions. Specific engineering and administrative controls should reduce the pain, suffering, and lost time of the workforce as well as reduce the associated economic costs.

Timetable:

Action	Date	FR Cite
Request for Information onManual Lifting-Related Injuries	10/02/86	51 FR 35241
Reopening of Comment Period and Expansion of Scope	04/17/87	52 FR 12559
Determination of next action	12/00/87	

Small Entity: Undetermined

Additional Information: A Reopening of Written Comment Period and Expansion of Scope of Request for Comments and Information was published in the Federal Register on April 17, 1987, in response to requests by commenters. The new comments are currently being reviewed.

Affected Sectors: All

Government Levels Affected: State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA95

1529. GEAR CERTIFICATION (PART 1919)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 941

CFR Citation: 29 CFR 1919, (Revision)

Legal Deadline: None.

Abstract: In its May 7, 1987, Federal Register notice the Agency requested information to assist in the possible revision of 29 CFR Part 1919. Part 1919, entitled "Gear Certification," implements requirements located in each of OSHA's maritime standards which cover work carried out within the Federal maritime jurisdiction. Changes in the design and composition of cargo handling gear which have evolved since these rules were last amended (1989) provided questions as to the efficacy of the current rules. Additionally, the Agency sought comments that would suggest ways in which the administrative function of the accreditation program could be improved. Comment period ended: August 5, 1987.

Timetable:

Action	Date	FR Cite
Request for Information	05/07/87	52 FR 17302
Comment Period Closed	08/05/87	
Determine if Revision is Necessary	12/00/87	

Small Entity: Undetermined

Affected Sectors: 37 Transportation Equipment; 44 Water Transportation

DOL—OSHA

Prerule Stage

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA97

1530. ● BLOODBORNE INFECTIOUS DISEASES

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR Not yet determined

Legal Deadline: None.

Abstract: Many health-care workers are exposed to blood and body fluids from patients who have active bloodborne infections or are carriers of these infections. Such exposure presents a potential risk of disease for the health-care workers. One such disease, hepatitis B, has been shown to present a substantially increased risk for health-care workers. Data received by OSHA indicate that of the approximately 250,000 cases of hepatitis B diagnosed in the U.S. each year, approximately 5.5 percent, or 15,000 cases, are among health-care workers. It has been estimated that 222-285 health-care workers die each year as a result of hepatitis B and associated complications. About half of the nation's five million health-care workers are at increased risk from exposure to bloodborne infectious diseases. The highest risks are experienced by emergency room workers, dialysis unit workers, operating room personnel, intensive care unit workers and blood bank employees. OSHA's personal protective equipment standard, 29 CFR 1910.132(a), provisions for general housekeeping, 29 CFR 1910(a)(1) and waste disposal, 29 CFR 1910. 141(a)(4)(ii)) along with Section 5(a)(i) of the Act (Cont'd)

Timetable:

Action	Date	FR Cite
ANPRM	10/00/87	
ANPRM Comment Period End	12/00/87	
NPRM	10/00/88	

Small Entity: Undetermined

Additional Information: ABSTRACT (CONT'D): requiring employers to provide employment and a place of employment free of recognized hazards ..., will be used to reduce some, but not all of the hazards of bloodborne diseases. In 1983, the Agency issued voluntary guidelines for reducing the occupational risk of hepatitis B infection. In September 1986, OSHA was petitioned by the American Federation of State, County and Municipal Employees and other unions for the issuance of an emergency temporary standard to protect workers from occupational exposure to bloodborne infectious diseases, such as hepatitis B and acquired immune deficiency syndrome (AIDS).

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, Dc 20210, 200 523-7075

RIN: 1218-AB15

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

1531. CARCINOGEN POLICY

Significance: Regulatory Program

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1990

Legal Deadline: None.

Abstract: The Carcinogen Policy describes the criteria and procedures OSHA will use to identify, classify, and then regulate carcinogens. The Policy also establishes a process for screening chemicals and for setting priorities for potential rulemaking activities. The Carcinogen Policy explicitly recognizes that periodic revisions are necessary in order to incorporate the latest scientific advances and techniques into the regulatory process. Hence, given the very rapid advances since 1980 in the understanding of the mechanisms of carcinogenesis, it is time for OSHA to review and modernize the Carcinogen Policy. The original standard was issued in 1980 before the Supreme Court "benzene" decision on significant risk. Thereafter, a final rule deleting provisions of the Carcinogen Policy that were inconsistent with the benzene decision was published on 1/19/81 (46 FR 4880). A proposal was published on 1/23/81 (46 FR 7402) to permit alternatives to the risk analysis section of the carcinogen policy to be addressed. The proposal was withdrawn on 3/27/81 (46 FR 19000). An advance notice of proposed rulemaking was published on 1/5/82 (47 FR 187) with comments due by 4/5/82. That document (cont)

Timetable:

Action	Date	FR Cite
ANPRM	01/05/82	47 FR 187
End of Comment Period on stay	02/19/82	
ANPRM Comment Period End	04/05/82	
Stay published	01/04/83	48 FR 241
NPRM	01/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: also proposed to stay the publication of the candidate and priority lists. The final stay was published on 1/4/83 (48 FR 241). As part of its evaluation of the policy, OSHA is reviewing the public comments received in response to the document published by the Office of Science and Technology Policy entitled "Chemical Carcinogens, Review of the Science and its Associated Principles, May 1984" and is reviewing the later version of that document which was published March 14, 1985.

Government Levels Affected: Federal

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA01

1532. ETHYLENE OXIDE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1047

Legal Deadline: Judicial, March 1988. In a July 21, 1987, decision the U.S. Court of Appeals for the District of Columbia Circuit ordered OSHA to adhere to the schedule set out in its response to petitioners' contempt motion and issue its final decision on the EtO STEL issue no later than March 1988.

Abstract: On July 25, 1986, in Public Citizen HRG v. Tyson, Docket No. 84-1252, the United States Court of Appeals for the District of Columbia upheld most of the final standard on EtO, including the 1 ppm TWA. However, the Court remanded the standard to the Agency for further proceedings on whether a short term exposure limit is necessary to further reduce the significant risk that exists with a 1 ppm TWA alone. In accordance with the Court's order, OSHA intends to reopen the EtO rulemaking record to review the issue of the STEL. This will be accomplished by publication of a notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA03

1533. RESPIRATORY PROTECTION

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None.

Abstract: The present respiratory protection standards have been in place for more than 10 years and do not take into consideration the current state-of-the-art for respiratory protection. In addition, the general industry standard for respirators contains redundancies and includes several advisory provisions which should be eliminated or changed OSHA has reviewed the current standards and intends to propose revisions.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
Public Comment Period onPreproposal Draft Ends	11/29/85	
NPRM	10/00/87	
Public Hearings on Proposal	02/00/88	
Final Action	12/00/88	

Small Entity: Yes

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA05

1534. ASBESTOS, TREMOLITE, ANTHOPHYLLITE AND ACTINOLITE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1001; 29 CFR 1926.58

Legal Deadline: None.

Abstract: On June 17, 1986, OSHA issued revised standards governing occupational exposure to asbestos, tremolite, anthophyllite, and actinolite in general industry and in the construction industry. These standards replaced OSHA's previous asbestos standard promulgated in 1972. Since the issuance of the revised standards OSHA has received letters and petitions, from both rulemaking participants and nonparticipants, that contain additional comments, assertions and information that the rulemaking record may not fully reflect. These letters and petitions concern the appropriateness of regulating nonasbestiform tremolite, anthophyllite and actinolite as presenting the same health risk as asbestos. OSHA has granted a temporary stay of the effective dates of the current standards as they apply to nonasbestiform varieties of tremolite, anthophyllite and actinolite. This action was taken, in part, to enable the Agency to review letters and memoranda from the National Institute for Occupational Safety and Health as well as submissions by the R.T. Vanderbilt Company and various other (Cont'd)

Timetable:

Action	Date	FR Cite
Notice of partial administrative stay	10/17/86	51 FR 37002
NPRM	01/00/88	

Small Entity: Yes

Additional Information: ABSTRACT (CONT'D): trade associations concerning the appropriateness of regulating nonasbestiform tremolite, anthophyllite and actinolite in the revised standards. In addition, the temporary stay was imposed to allow sufficient time for OSHA to reopen the rulemaking record and conduct supplemental proceedings on the issue of whether, and how, to regulate occupational exposure to the nonasbestiform varieties of tremolite, anthophyllite and actinolite.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA26

1535. METHODS OF COMPLIANCE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000(e); 29 CFR 1910.134(a)(1)

Legal Deadline: None.

Abstract: OSHA's policy concerning the use of engineering controls and respirators was targeted for review by the President's Task Force on Regulatory Relief in 1981. Current OSHA regulations require that employers implement feasible engineering controls to maintain air contaminant concentrations in the workplace at or below the prescribed permissible exposure limits. The use of respirators is permitted only in those cases where engineering controls are not feasible, not yet installed, or not adequate. This policy has been criticized as being inflexible, not cost-effective, and often unnecessary for employee health protection. OSHA believes that any changes to the policy for use of engineering controls must be closely coordinated with revisions in the respiratory protection regulations (29 CFR 1910.134). This rulemaking does not address the assessment and reduction of any absolute existing risks, but rather addresses the possible change in risk abatement associated with the use of respirators instead of engineering controls.

Timetable:

Action	Date	FR Cite
ANPRM	02/22/83	48 FR 7473
ANPRM Comment Period End	06/22/83	
NPRM	11/00/87	
Final Action	11/00/88	

Small Entity: Yes

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3718, FPBldg. 200 Constitution Ave., NW, Washington, DC 20210, 202 523-7075

RIN: 1218-AA28

1536. ELECTRICAL SAFETY-RELATED WORK PRACTICES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.331

Legal Deadline: None.

Abstract: Standards are currently under review for the second part (Subpart S of Part 1910) of OSHA's electrical standard which would establish a performance-oriented standard for electrical safety- related work practices to complement the existing electrical installation standards. The proposed standard includes requirements for work performed on or near exposed energized and deenergized parts of electrical equipment and includes requirements for both the safe use of the electrical equipment as well as the use of personal protection devices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	11/00/88	

Small Entity: Undetermined

Affected Sectors: All

Government Levels Affected: Local, State, Federal

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA32

1537. OIL AND GAS WELL DRILLING AND SERVICING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.270

Legal Deadline: None.

Abstract: Employees in oil and gas well drilling and servicing are exposed to a variety of safety hazards which are not specifically covered by present OSHA safety standards. It has proved difficult to apply the existing general industry standards to control the unique nature of this industry. OSHA is considering a standard which will address the unique problems of oil and gas well drilling and servicing.

Timetable:

Action	Date	FR Cite
NPRM	12/28/83	48 FR 57202
NPRM Comment Period End	06/04/84	49 FR 9913
Public Hearing Held 07/24/84 thru	08/10/84	49 FR 9913
NPRM - Second	07/00/88	

Small Entity: Yes

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA34

1538. EXCAVATIONS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.650; 29 CFR 1926.651; 29 CFR 1926.652; 29 CFR 1926.653

Legal Deadline: None.

Abstract: This rule prescribes the minimum measures to be taken to protect employees from injury during excavation work. A revision of the existing rule is being considered because trench and excavation sidewall failures that have resulted in death and injury to workers continue in significant numbers. Claims that the standards are ambiguous and too restrictive, especially with respect to the type of soil involved, have also been made.

Timetable:

Action	Date	FR Cite
NPRM	04/15/87	52 FR 12288
NPRM Comment Period End	10/14/87	
Final Action	07/00/88	

Small Entity: Undetermined

Additional Information: 1. 29 CFR 1926.650 through .653 currently entitled: "Excavations, Trenching, and Shoring.

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA36

1539. FALL PROTECTION SYSTEMS (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, Subpart I

Legal Deadline: None.

Abstract: Existing standards do not contain criteria for personal fall protection systems. Consequently, requirements containing criteria for personal fall protection systems would be added to 29 CFR Part 1910; Subpart I, Personal Protection Equipment, to enhance employee protection from injury and death due to falls to different elevations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
Final Action	05/00/89	

Small Entity: No

Additional Information: 1. 1218-AA48 will be issued concurrently with 1218-AB04.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605,

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FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA48

1540. CONFINED SPACE (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.146

Legal Deadline: None.

Abstract: Entry into confined spaces has been responsible for many employee deaths and injuries. However, current standards do not specifically address the hazards associated with entry into confined spaces. Therefore, OSHA is proposing certain criteria and precautions which are necessary to minimize the hazards associated with employees entering confined spaces.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	03/00/89	

Small Entity: Undetermined

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA51

1541. LOGGING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.266, (Revision)

Legal Deadline: None.

Abstract: Logging is a very hazardous industry. It has an incidence rate nearly twice that of manufacturing, and reflecting the seriousness of the injuries incurred, a lost workday rate nearly four times as high. The purpose of the standard will be to protect workers from the ever-present hazards of chain saw operation, falling objects (trees, branches), rolling or sliding logs, falls from trees, and materials handling accidents. At present there is no OSHA standard specifically applicable to logging in general. There is a standard, 29 CFR 1910.266, applicable only to pulpwood logging; however, pulpwood logging is estimated to account for less than half of the logging activity in the United States. Development of a national OSHA standard addressing all types of logging will provide coverage for those loggers not now protected. The new regulation will provide coverage where there is no approved state regulation and will set a minimum safety level for those states that chose to develop a state regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	01/00/89	

Small Entity: Undetermined

Additional Information: A preproposal draft standard was circulated for public comment. The proposed standard will be developed to incorporate public comment as appropriate.

Affected Sectors: 24 Lumber and Wood Products, Except Furniture

Government Levels Affected: State, Federal

Agency Contact: Mr. Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA52

1542. CONTROL OF HAZARDOUS ENERGY SOURCES (LOCKOUT/TAGOUT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.147, (New)

Legal Deadline: None.

Abstract: The proposed standard will fill a major gap in our current regulations which now depend for enforcement on the general duty clause, 5(a)(1). It will apply to those situations where the unexpected energization, start up or the release of stored energy could cause injury to employees. Providing comprehensive and uniform control procedures is also expected to reduce significantly the potential for injury and death of employees because the hazards targeted for control exist in virtually every workplace. Further, the proposed standard will respond to the concerns of organized labor who petitioned OSHA in 1979 and again in 1982 for regulatory action to protect employees and to the American National Standards Institute's petition for OSHA to adopt its consensus standard ANSI Z244.1-1982. Regulatory options involve developing a comprehensive standard covering all potentially hazardous energy sources or limiting the scope and application to those certain machines or industries that are causing most of the injuries.

Timetable:

Action	Date	FR Cite
ANPRM	06/17/80	45 FR 41012
ANPRM Comment Period End	09/15/80	
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	11/00/88	

Small Entity: Yes

Affected Sectors: Multiple

Government Levels Affected: State, Federal

Agency Contact: Mr. Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm. N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA53

1543. SAFETY AND HEALTH REGULATIONS FOR LONGSHORING (PART 1918)

Significance: Regulatory Program

Legal Authority: 29 USC 655 Occupational Safety and Health Act of 1970; 33 USC 941 Longshoremen's and Harborworkers Compensation Act

CFR Citation: 29 CFR 1910.16; 29 CFR 1918, (Revision)

Legal Deadline: None.

Abstract: The purpose of this regulatory action would be to update and revise a standard first issued in 1960. The current language in many instances addresses the hazards to cargo handling involving methods long since abandoned, and fails to address the serious hazards of newer methods. Because much of the current standard is out of date, there are problems with compliance. These revised requirements will provide both employers and employees with a blueprint for effective and safe workpractices in the cargo handling industry. No alternative other than revision is contemplated. The annual cost of the revision is expected to be minimal -- less than five million dollars.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	03/00/89	

Small Entity: Yes

Affected Sectors: 44 Water Transportation

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605 FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA56

1544. 4,4'-METHYLENEDIANILINE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None.

Abstract: 4,4'-Methylenedianiline (MDA) is a chemical used primarily to manufacture methylenediphenyl diisocyanate, which is used to make polyurethane foams and elastomers. Recent scientific data indicate that MDA is a carcinogen in animals and a potential carcinogen in humans. In 1983, OSHA and the Environmental Protection Agency participated in a joint effort to publish an advance notice of proposed rulemaking to solicit information on MDA production and use, estimates of environmental and occupational exposure, and studies of its toxic and carcinogenic effects. EPA evaluated the data received in response to the advance notice and concluded that the chemical presents an unreasonable risk of injury to the health of exposed workers. Under the provisions of section 9(a) of the Toxic Substances Control Act, EPA referred MDA to OSHA for action. OSHA responded to the EPA referral on 2/26/86. OSHA established a mediated rulemaking advisory committee composed of interested parties from labor, industry and government to assist the agency in developing a proposed standard. The Committee completed its work in June 1987 (Cont'd)

Timetable:

Action	Date	FR Cite
ANPRM	09/20/83	48 FR 42836
ANPRM Comment Period End	11/23/83	48 FR 42836
Publication of Committee Recommendation	07/16/87	52 FR 26778
NPRM	10/00/87	
NPRM Comment Period End	11/00/87	
Final Action	10/00/88	

Small Entity: Undetermined

Additional Information: ABSTRACT (CONT'D): and forwarded its recommendations to the Agency. OSHA published the Committee's recommendations on July 16, 1987, and intends to publish a proposed standard for MDA within 90 days.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA58

1545. ELECTRIC POWER GENERATION, TRANSMISSION AND DISTRIBUTION (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.269

Legal Deadline: None.

Abstract: A major area of coverage not addressed in the current OSHA electrical standards for general industry (29 CFR 1910) involves the maintenance and operation practices associated with electrical transmission and distribution lines, substations and generating stations. It is intended that the proposed standard fill this void by establishing minimum requirements for electrical safety work practices for employees working on or near facilities whose purpose is the generation and distribution of electricity.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	02/00/89	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA59

1546. PULP, PAPER AND PAPERBOARD MILLS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.261, (Revision)

Legal Deadline: None.

Abstract: This regulatory action will revise the existing standards covering mills where pulp, paper, and paperboard are manufactured and converted. The revision will develop performance oriented standards that address current gaps in coverage, the use of new technology, the elimination of outmoded or redundant provisions, and the use of appropriate OSHA general industry standards.

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	
Final Action	07/00/89	

Small Entity: Undetermined

Affected Sectors: 26 Paper and Allied Products

Government Levels Affected: State, Federal

Agency Contact: Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA61

1547. MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.600; 29 CFR 1926.601; 29 CFR 1926.602; 29 CFR 1926.603; 29 CFR 1926.604; 29 CFR 1926.605; 29 CFR 1926.606

Legal Deadline: None.

Abstract: This regulatory action is being made to update the rollover protective structures to reflect the latest technology. In addition, the action will eliminate redundant provisions, remove outdated referenced consensus standards, and delete ambiguous language from the existing provisions which address motor vehicles, material handling equipment, pile driving equipment, site clearing, and marine operations and equipment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/88	
Final Action	12/00/89	

Small Entity: Undetermined

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA63

1548. STEEL ERECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 40 USC 333

CFR Citation: 29 CFR 1926.750, (Revision); 29 CFR 1926.751, (Revision); 29 CFR 1926.752, (Revision)

Legal Deadline: None.

Abstract: The purpose of this regulatory action is to remove from the Steel Erection Standard all requirements relating to fall protection for employees engaged in steel erection. (Requirements on this subject will be introduced in a separate rulemaking into the general fall protection standard constitution Subpart M of Part 1929). In addition, this action will consolidate, clarify, and revise the existing provisions governing steel erection assembly, flooring, bolting, riveting, fitting-up, and plumbing-up. .

Timetable:

Action	Date	FR Cite
NPRM	12/00/88	
Final Action	12/00/89	

Small Entity: Undetermined

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA65

1549. FALL PROTECTION (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.201; 29 CFR 1915.202; 29 CFR 1915.203; 29 CFR 1915.73; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.77

Legal Deadline: None.

Abstract: This regulatory action will revise the existing shipyard standard covering fall protection and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	12/00/88	

Small Entity: Undetermined

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.21 - .23.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA66

1550. SCAFFOLDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71; 29 CFR 1910.28; 29 CFR 1910.29

Legal Deadline: None.

Abstract: This regulatory action will revise the existing shipyard standards covering scaffolds and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	12/00/88	

Small Entity: Undetermined

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.28 - .29.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA68

1551. ACCESS AND EGRESS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None.

Abstract: This regulatory action will revise the existing shipyard standards covering access and egress and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	12/00/88	

Small Entity: Undetermined

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.24 - .27; 29 CFR 1910.36 - .37.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA70

1552. FACE, HEAD, EYE AND FOOT PROTECTION (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None.

Abstract: Existing standards for eye, face, head, and foot protection reference outdated national consensus standards which have been updated and improved. Consequently, criteria for personal protective equipment for eye, face, head, and foot would be revised to reflect improved developments in these types of equipment. This would allow the use of better personal protective equipment and would result in improved employee protection from eye, face, head, and foot hazards.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	03/00/89	

Small Entity: Undetermined

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605 FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA71

1553. WELDING, CUTTING AND BRAZING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.251; 29 CFR 1910.252; 29 CFR 1910.253; 29 CFR 1910.254

Legal Deadline: None.

Abstract: OSHA proposes to revise and update its existing Subpart Q covering welding, cutting and brazing operations, and to develop performance-oriented standards designed to reduce the number of deaths and injuries due to unsafe equipment and unsafe operations. There has been no substantial revision to Subpart Q since its adoption in 1971. A complete and comprehensive revision is needed at this time to bring the standard into line with the current state-of-the art and updated consensus standards.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	
Final Action	07/00/89	

Small Entity: Undetermined

Affected Sectors: Multiple

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA72

1554. WELDING, CUTTING AND HEATING (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.51; 29 CFR 1915.52; 29 CFR 1915.53; 29 CFR 1915.54; 29 CFR 1915.55; 29 CFR 1915.56; 29 CFR 1915.57

Legal Deadline: None.

Abstract: This regulatory action will revise the existing shipyard standard covering welding, cutting, and heating. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. In addition, it will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	12/00/88	

Small Entity: Undetermined

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.251 - .252.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA73

1555. PERSONAL PROTECTIVE EQUIPMENT (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.151; 29 CFR 1915.152; 29 CFR 1915.153; 29 CFR 1915.154

Legal Deadline: None.

Abstract: This regulatory action will revise the existing shipyard standard covering personal protective equipment. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. It will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	12/00/88	

Small Entity: Undetermined

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.132 through .137.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA74

1556. COMPRESSED AIR (PART 1926)

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.803

Legal Deadline: None.

Abstract: OSHA published a "Request for Comments and Information" on April 22, 1985, on the subject of working in compressed air and decompression (50 FR 15756). Based on the information obtained, OSHA has determined that immediate action will not be taken. The Agency intends to continue data collection, and to reevaluate the decision in light of additional input, staff resources, and Agency priorities within 12 to 18 months.

DOL—OSHA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Request for Comments and Information	04/22/85	50 FR 15756
Comment Period Closed	07/22/85	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Room N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA76

1557. 1,3-BUTADIENE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000, Table Z-1

Legal Deadline: None.

Abstract: On October 10, 1985, EPA referred 1,3-butadiene (BD) to OSHA for possible regulatory action under section 9(a) of the Toxic Substance Control Act. On April 11, 1986, OSHA responded to the EPA referral indicating that the Agency has preliminarily concluded that BD poses risk to the occupationally exposed population at the current OSHA permissible exposure limit and that the risk can be reduced or prevented through the promulgation of a revised standard. OSHA intends to initiate rulemaking to revise the standard for BD pursuant to section 6(b) of the Occupational Safety and Health Act.

Timetable:

Action	Date	FR Cite
EPA Referral	10/10/85	50 FR 41393
Request for Comments	12/27/85	50 FR 52952
Response to EPA Referral	04/11/86	51 FR 12526
ANPRM	10/01/86	51 FR 35003
ANPRM Comment Period End	12/30/86	
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA83

1558. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL AND THEIR ACETATES

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None.

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under Section 9(a) of the Toxic Substances Control Act, stating that EPA has reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use is unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA announced that it would begin rulemaking proceedings for these chemicals.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
NPRM	04/00/88	

Small Entity: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA84

1559. EXPLOSIVE AND OTHER DANGEROUS ATMOSPHERES (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.7; 29 CFR 1915.11; 29 CFR 1915.12; 29 CFR 1915.13; 29 CFR 1915.14; 29 CFR 1915.15; 29 CFR 1915.16

Legal Deadline: None.

Abstract: This regulatory action will revise the existing shipyard standard covering explosive and other dangerous atmospheres. This revision will develop, in part, a performance-oriented standard, address any gaps in coverage, recognize new technology, and eliminate outmoded or redundant standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	12/00/88	

Small Entity: Undetermined

Affected Sectors: 373 Ship and Boat Building and Repairing

Government Levels Affected: State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8063

RIN: 1218-AA91

1560. SURFACE PREPARATION AND PRESERVATION (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.32; 29 CFR 1915.33; 29 CFR 1915.34; 29 CFR 1915.35; 29 CFR 1915.36

Legal Deadline: None.

Abstract: This regulatory action will revise the existing shipyard standard covering surface preparation and preservation in enclosed confined and other spaces. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. It will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

DOL—OSHA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	
Final Action	09/00/89	

Small Entity: Yes

Additional Information: Applicable Part 1910 provisions under consideration: 29 CFR 1910.94; 29 CFR 1910.106 - .107.

Government Levels Affected: State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA96

1561. METHYLENE CHLORIDE

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None.

Abstract: In July 1985, OSHA was petitioned by the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) to issue a hazard alert; issue an emergency temporary standard; and to begin work on a new permanent standard for methylene chloride (DCM). This request was based on information obtained from the Environmental Protection Agency and the National Toxicology Program indicating that DCM is an animal carcinogen and may have the potential to cause cancer in humans. In November 1986, OSHA notified the UAW that its petition had been granted, in part, and denied, in part. Specifically, OSHA has issued a set of guidelines for controlling occupational exposure to DCM and has decided to proceed with rulemaking to develop a new permanent standard. OSHA denied that portion of the petition requesting the issuance of an emergency temporary standard.

Timetable:

Action	Date	FR Cite
ANPRM	11/24/86	51 FR 42257
ANPRM Comment Period End	02/23/87	51 FR 42257
NPRM	03/00/88	
Informal Public Hearings	05/00/88	

Small Entity: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3716, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA98

1562. ● WALKING AND WORKING SURFACES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.21; 29 CFR 1910.22; 29 CFR 1910.23; 29 CFR 1910.24; 29 CFR 1910.25; 29 CFR 1910.26; 29 CFR 1910.27; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1910.30; 29 CFR 1910.31; 29 CFR 1910.32

Legal Deadline: None.

Abstract: Existing standards for walking and working surfaces need to be revised because they are out of date and restrict technological innovation. The proposed revision is performance-oriented and permits flexibility for compliance.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
Final Action	05/00/89	

Small Entity: Undetermined

Additional Information: The agenda RIN 1218-AB04 is an aggregate of RIN 1218-AA46 (Scaffolds and Similar Work Surfaces (Part 1910)) and RIN 1218-AA50 (Ladders and Similar Climbing Devices (Part 1910)).

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AB04

1563. HAZARDOUS WASTE OPERATIONS AND EMERGENCY RESPONSE (PART 1910)

Significance: Regulatory Program

Legal Authority: PL 99-499 Section 126; 29 USC 655; 29 USC 657; 5 USC 552(a); 5 USC 533

CFR Citation: 29 CFR 1910.120 (Subpart H)

Legal Deadline: Statutory, October 16, 1987.

Abstract: Public Law 99-499 requires the Secretary of Labor to promulgate a final standard for Hazardous Operations and Emergency Response by October 17, 1987. The law requires the proposed rule to address eleven areas: site analysis, training, medical surveillance, protective equipment, engineering controls, maximum surveillance, protective equipment, engineering controls, maximum exposure limits, informational programs, handling and labeling, new technology programs, decontamination procedures, and emergency response. The agency has developed a Preliminary Regulatory Impact Analysis which is available in the docket. The analysis estimates that the benefits are significant and that annualized costs are $71 million for training, $17 million for medical surveillance, $12 million for decontamination, $11 million for protection suits and $37 million for other requirements. OSHA intends to conduct public hearings in two locations across the country to enhance public comment and participation in this rulemaking.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/19/86	51 FR 45654
NPRM	08/10/87	52 FR 29620
NPRM Comment Period End	10/05/87	52 FR 29620
Public Hearings through 10/16/87 in DC; 10/27 - 10/30 in San Francisco, CA.	10/13/87	52 FR 29620
Final Action	02/00/88	

Small Entity: Undetermined

Additional Information: INFORMATION REGARDING ITEM #6: Because Public Law 99-499 requires the use of trained workers, there may be some impact or subcontractors who will either need to hire trained employees, than existing employees, or not participate in the cleanup of hazardous wastes.

Affected Sectors: All

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DOL—OSHA — **Proposed Rule Stage**

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AB13

1564. ● CADMIUM

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910, Table Z-2

Legal Deadline: None.

Abstract: On June 18, 1986, the International Chemical Workers Union and the Public Citizen Health Research Group petitioned OSHA to issue an emergency temporary standard reducing the permissible exposure limit for cadmium to one microgram of cadmium per cubic meter of air. On June 25, 1987 the union and HR 6 filed a petition with the Court of Appeals requesting the Court to order OSHA to promulgate an ETS. In its July 1, 1987, response to the petitioners, OSHA stated that issuance of an emergency standard was not warranted, but that exposure to cadmium at levels permitted under the current standard represented a significant risk to worker health which would be addressed through section 6(b) rulemaking procedures. OSHA is in the process of developing a proposed standard.

Timetable:

Action	Date	FR Cite
Response to Petitioners	07/01/87	
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AB16

1565. ● PERMISSIBLE EXPOSURE LIMIT UPDATE

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910.1000, Tables Z-1 to Z-3

Legal Deadline: None.

Abstract: In 1972, OSHA promulgated permissible exposure limits (PELs) for a number of toxic substances, pursuant to authority granted by section 6(a) of the Act, which allowed OSHA (for a limited period) to adopt existing Federal standards or industry consensus standards as enforceable OSHA standards. Accordingly, the lists of toxic substances now codified at 29 CFR 1910.1000, Tables Z-1 and Z-3, were Federal standards adopted under the Walsh-Healey Public Contracts Act, which, in turn, were adopted from the American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values (TLVs) for 1968. The substances listed at 29 CFR 1910.1000, Table Z-2, were adopted from American National Standards Institute standards. Industrial experience, new developments in control technology, and scientific data acquired since 1968 have led the ACGIH to make changes in its TLVs over the years. Many of the TLVs have been lowered, and limits for additional chemicals have been established. During this period, OSHA has promulgated revised standards for toxic substances on a substance-by-substance basis. This process, however, has not kept up with (Cont'd)

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	10/00/88	

Small Entity: Yes

Additional Information: ABSTRACT (CONT'D): the number of changes made by ACGIH. OSHA believes that 29 CFR 1910.1000, Tables Z-1, Z-2 and Z-3 should be updated, as appropriate, to conform with current scientific and technical knowledge. OSHA intends to initiate rulemaking to accomplish this update.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AB17

1566. ● HAZARDOUS MATERIALS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, Subpart H

Legal Deadline: None.

Abstract: Standards in 29 CFR Part 1910, Subpart H, which address the storage, handling and use of hazardous materials, such as compressed gases, acetylene, hydrogen, oxygen, liquified petroleum gases, and flammable and combustible liquids, would be revised to update the existing criteria which is specification oriented and replaced with performance-oriented requirements that address hazardous materials generically. That is, the hazards of material such as flammability, explosiveness, corrosiveness and toxic effects would be addressed by the requirements rather than the specific materials themselves being individually addressed. The proposed action is intended to simplify, clarify and consolidate standards on hazardous materials and assist employers and employees in general industry to better understand and better focus on the hazards inherent in the use, handling, and storage of such materials.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/81	46 FR 7692
ANPRM Comment Period End	02/01/82	46 FR 7692
NPRM	12/00/88	
Final Action	12/00/89	

Small Entity: Undetermined

Additional Information: This action merges two previous actions, "Hazardous Materials-- Flammable and Compressed Gases (Part 1910)" and "Hazardous Materials--Flammable and Combustible Liquids (Part 1910)" and will also include storage and handling of toxic materials.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AB20

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA) — **Final Rule Stage**

1567. OCCUPATIONAL EXPOSURES TO TOXIC SUBSTANCES IN LABORATORIES

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1450

Legal Deadline: None.

Abstract: Existing OSHA standards are designed to protect employees who are engaged in work involving exposure to only a few toxic chemicals during relatively standardized, continuous or repetitive processes. In contrast, laboratory workers are exposed to a multitude of toxic substances under frequently changing or unpredictable conditions. During this rulemaking, OSHA will examine whether prudent work practices and protective equipment, chosen for the specific facility and task, are more effective, feasible and economical for laboratory work than adhering to OSHA's current substance-specific standards. Accordingly, OSHA has proposed a special performance-oriented work practices standard that, if promulgated, would apply to laboratory workers and would contain provisions specifically designed for laboratory conditions.

Timetable:

Action	Date	FR Cite
ANPRM	04/14/81	46 FR 21785
ANPRM Comment Period End	07/15/81	
NPRM	07/24/86	51 FR 26660
NPRM Comment Period End	10/22/86	51 FR 26660
Public Hearings	03/24/87	52 FR 1212
Final Action	02/00/88	

Small Entity: Yes

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA00

1568. ETHYLENE DIBROMIDE (EDB)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1048

Legal Deadline: None.

Abstract: Recent scientific studies have reported that ethylene dibromide causes cancer when administered orally, by inhalation and by skin application in laboratory animals. In addition, other studies have shown the chemical to be a mutagen, teratogen and testicular toxin in experimental animals. On the basis of these reports, OSHA has determined that its current permissible exposure limit of 20 ppm does not provide exposed workers adequate protection against cancer and other adverse health effects. A proposed standard for ethylene dibromide was published 10/07/83 (43 FR 45956). Public hearings were held in February 1984. OSHA is currently in the process of decisionmaking on the provisions to be included in the final standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/81	46 FR 61671
ANPRM Comment Period End	05/31/82	
NPRM	10/07/83	48 FR 45956
NPRM Comment Period End	11/21/83	48 FR 45956
Public HearingHeld	02/08/84	
Final Action	02/00/88	

Small Entity: Yes

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA06

1569. ACCESS TO EMPLOYEE EXPOSURE AND MEDICAL RECORDS

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.20

Legal Deadline: None.

Abstract: The existing record access rule was promulgated in May 1980. The rule requires employers to preserve and maintain exposure and medical records pertinent to employee exposure to toxic substances, and to ensure access to these records by employees, designated employee representatives and OSHA. As a result of numerous requests and suggestions for changes to the standard, OSHA published a proposal to revise the standard in 1982. OSHA intends to publish soon a final rule that resolves many of the issues raised in the 1982 proposal. This regulation will be similar to the regulation promulgated in 1980 with certain exceptions relating to: (1) first-aid records and medical records of short-term employees; (2) the microfilm storage of employee X-rays; (3) employer trade secrets; (4) employee exposure record requirements for other records; and (5) unconsented access to employee exposure records by union representatives.

Timetable:

Action	Date	FR Cite
NPRM	07/13/82	47 FR 30420
NPRM Comment Period End	09/21/82	
Public Hearing Held	10/05/82	
Final Action	10/00/87	

Small Entity: Undetermined

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA15

1570. CONCRETE AND MASONRY CONSTRUCTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.700; 29 CFR 1926.701; 29 CFR 1926.702

Legal Deadline: None.

Abstract: One of the greatest hazards associated with concrete and masonry structures in the construction industry is the collapse or failure of the entire structure or its forms and shoring. The catastrophic failures of recent years indicate that revision of the existing standard applicable to such construction operations is necessary. The current concrete standard contains outdated referenced standards, gaps in coverage, redundant provisions, and provisions which need clarification. The referenced standards are being updated and placed in the body of the standard. New standards are being added to cover precast concrete erection and masonry wall construction. The provisions that were identified as being redundant are being removed and the

ambiguous provisions are being clarified.

Timetable:

Action	Date	FR Cite
ANPRM	02/09/82	47 FR 5910
ANPRM Comment Period End	04/10/82	
NPRM	09/16/85	50 FR 37543
Comment Period Extended 30 Daysto 12/16/85	10/21/85	50 FR 42571
NPRM Comment Period End	11/15/85	50 FR 37543
Public Hearing Scheduled	04/08/86	51 FR 11945
Public Hearing Rescheduled and Held June 17-18, 1986	05/09/86	51 FR 17203
Final Action	12/00/87	

Small Entity: Undetermined

Additional Information: 1. 29 CFR 1926, Subpart Q currently entitled: "Concrete, Concrete Forms, and Shoring.

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA20

1571. GRAIN HANDLING FACILITIES (PARTS 1910 AND 1917)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1910; 29 CFR 1917

Legal Deadline: None.

Abstract: Hazards associated with fires and explosions in grain handling facilities have existed for many years. These hazards continue to exist, and pose a risk of harm to employees working in these facilities. Based on an extensive rulemaking record resulting from a proposed standard for grain handling facilities, OSHA is developing a final rule to mitigate the hazards associated with these facilities. OSHA is carefully considering the record to assure that the scope, application and other provisions of the standard appropriately address the hazards.

Timetable:

Action	Date	FR Cite
ANPRM	02/11/83	48 FR 6368
ANPRM Comment Period End	03/14/83	48 FR 6368
NPRM	01/22/85	50 FR 2890
NPRM Comment Period End	03/25/85	50 FR 2890

Timetable:

Action	Date	FR Cite
ANPRM	02/15/80	45 FR 10732
ANPRM Comment Period End	03/24/80	
NPRM	01/06/84	49 FR 996
NPRM Comment Period End	06/06/84	49 FR 6923
Public Hearings held through 07/12/84	06/12/84	49 FR 6923
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8061

RIN: 1218-AA22

1572. POWERED PLATFORMS FOR EXTERIOR BUILDING MAINTENANCE (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.66

Legal Deadline: None.

Abstract: The present standard, which requires positive engagement of a powered platform with a building face to provide stabilization, may need to be revised because many variance designs have been submitted which do not provide positive engagement of the platform, yet claim equal stability. The agency believes there may be merit to this claim. The proposal provides flexibility in compliance through performance-oriented provisions as alternatives to positive engagement. It would also expand the scope of the current standard to include requirements covering additional suspension equipment, fall protection, and employee training.

Timetable:

Action	Date	FR Cite
Reopening of NPRM Comment Period to 8/1/85	07/02/85	50 FR 27307
Informal Public Hearing	02/20/86	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA33

1573. FALL PROTECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.104; 29 CFR 1926.105; 29 CFR 1926.500; 29 CFR 1926.501; 29 CFR 1926.502; 29 CFR 1926.107(b); 29 CFR 1926.250(b)(2); 29 CFR 1926.651(t) and (w); 29 CFR 1926.700(b)(1); 29 CFR 1926.951(b)(4)(i); 29 CFR 1926.107(c); 29 CFR 1926.107(f)

Legal Deadline: None.

Abstract: The existing standard has been proposed for revision because it is poorly formatted, contains unnecessary and restrictive provisions, and does not properly address the fall protection needs of certain areas and operations. The proposal raises several significant issues including (1) when fall protection systems must be installed, (2) whether work surface inspections are necessary to insure adequate structural integrity before commencing work, and (3) whether body belt systems or body harness systems are appropriate for use as fall protection. (Subpart M revised)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20616
Final Action	08/00/88	

Small Entity: Undetermined

Additional Information: This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Agency Contact: Barry White, Director, Safety Standards Programs, Department

of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8061

RIN: 1218-AA37

1574. UNDERGROUND CONSTRUCTION (TUNNELS AND SHAFTS)(PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.800

Legal Deadline: None.

Abstract: The existing standards are being revised to update the treatment of hazards of construction in underground locations such as tunnels, shafts, chambers, passageways and covered excavations. In some cases, the existing standards are too restrictive. In addition, existing language is being rewritten to clarify the requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/05/83	48 FR 35774
NPRM Comment Period extended to 02/17/84	12/19/83	48 FR 56087
Public Hearing Held	03/13/84	
Limited Reopening of Comment Period Until 10/18/85	08/19/85	50 FR 33357
Final Action	03/00/88	

Small Entity: No

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA38

1575. SCAFFOLDS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1926.752(k)

Legal Deadline: None.

Abstract: The existing standard has been proposed for revision because it is poorly formatted, contains unnecessary and restrictive provisions, and omits necessary specific coverage for certain types of scaffolds. The proposal raises several significant issues including: (1) the use of crossbraces as guardrails, (2) the use of fall protection during scaffold erection and dismantling operations, and (3) the role of engineers in scaffold design. (Subpart L, revised)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20616
Final Action	08/00/88	

Small Entity: Undetermined

Additional Information: This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8061

RIN: 1218-AA40

1576. SAFETY TESTING/CERTIFICATION (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1907, (Revision); 29 CFR 1910, (Revision); 29 CFR 1935, (New); 29 CFR 1936, (New)

Legal Deadline: None. On June 5, 1987, MET Electrical Testing Company sued the Department of Labor with respect to this rulemaking. The agency failed to meet its March 30, 1985 deadline established pursuant to settlement agreement with MET Electrical Testing Company, Inc. The suit is currently pending.

Abstract: This rulemaking would establish procedures for recognizing those competent to fulfill testing and certification requirements contained in many OSHA safety standards. It would also amend a number of existing OSHA standards by deleting references to two product testing groups, UL and FM, that are included in these standards which were originally adopted as national consensus standards under Section 6(a) of the Act. OSHA's unimplemented regulation, Accreditation of Testing Laboratories, 29 CFR Part 1907, would be superseded as a result of these changes.

Timetable:

Action	Date	FR Cite
ANPRM	01/04/83	48 FR 270
ANPRM Comment Period End	03/15/83	48 FR 7204
NPRM	03/06/84	49 FR 8326
NPRM Comment Period End	06/21/84	49 FR 19336
Informal Public Hearing	09/25/84	49 FR 28739
Limited Reopening of Record	11/30/84	49 FR 47049
Final Action	11/00/87	

Small Entity: No

Additional Information: 1. Settlement agreement: MET Electrical Testing Company, Inc. v. Raymond J. Donovan, Secretary of Labor: Civil No. Y-82-1133, in the U.S. District Court for the District of Maryland. 2. ANPR Title: "Accreditation of Testing Laboratories" 3. NPRM Title: "Safety Testing or Certification of Certain Workplace Equipment and Materials (formerly entitled Accreditation of Testing Laboratories)."

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, Washington, D.C. 20210, 202 523-8061

RIN: 1218-AA42

1577. CRANE OR DERRICK SUSPENDED PLATFORMS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.550

Legal Deadline: None.

Abstract: The use of cranes and derricks to suspend personnel in platforms is a hazardous operation that is not currently covered by OSHA Construction Standards. OSHA has issued administrative instructions on this practice, but this alternative to rulemaking has not been successful. This final rule has been developed to reduce the number of accidents, many of which involve multiple fatalities, that result from equipment inadequacies and failures or improper work practices.

DOL—OSHA

Final Rule Stage

Data to determine the potential costs and benefits from this rulemaking are currently being evaluated by OSHA's Office of Regulatory Analysis.

Timetable:

Action	Date	FR Cite
NPRM	02/17/84	49 FR 6260
NPRM Comment Period End	06/10/84	49 FR 25248
Public Hearing Held	09/18/84	
Final Action	02/00/88	

Small Entity: No

Affected Sectors: 15 Building Construction-General Contractors and Operative Builders; 16 Heavy Construction Other Than Building Construction-Contractors; 17 Construction-Special Trade Contractors

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Barry White, Director, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Ave. NW, Washington, DC 20210, 202 523-8061

RIN: 1218-AA45

1578. BENZENE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000, Table Z-2; 29 CFR 1910.1028

Legal Deadline: None.

Abstract: OSHA has amended its standard for occupational exposure to benzene by reducing the permissible exposure limit from 10 parts benzene per million parts of air (10 ppm) to an eight-hour time-weighted average of 1 ppm and by adding appropriate industrial hygiene and medical surveillance provisions necessary for the protection of employee health. This action is based on OSHA's determination that the amendments are needed to reduce the risk of leukemia and other adverse health effects associated with occupational exposure to benzene.

OSHA published its final amendment to the standard on September 11, 1987. Due to technical problems associated with the completion of a detailed study of feasibility in barge and tanker cleaning and repair operations, however, OSHA exempted these operations from certain provisions of the standard. OSHA intends to issue a proposal to amend the benzene standard which will address the factors specific to the barge and tanker cleaning and repair industry.

Timetable:

Action	Date	FR Cite
NPRM	12/10/85	50 FR 50512
Notice Changing Public Hearing	01/28/86	51 FR 3474
NPRM Comment Period End	02/14/86	50 FR 50512
Public Hearings	03/11/86	50 FR 50512
Final Action	09/11/87	52 FR 34460
Final Action Effective	12/10/87	
NPRM on Barge/Tanker Cleaning and Repair Operations	03/00/88	

Small Entity: Yes

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA47

1579. PRESENCE SENSING DEVICE INITIATION OF MECHANICAL POWER PRESSES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.211, (Revision); 29 CFR 1910.217, (Revision)

Legal Deadline: None.

Abstract: This regulatory action will remove an existing provision which prohibits presence sensing device initiation of mechanical power presses, and will add provisions which will enable the presence sensing device initiation to be done safely. Presence sensing device initiation has been identified as presenting potential increases in safety and productivity with an ergonomic advantage of less worker fatigue. A final regulatory impact analysis has been completed. It is estimated that the discounted savings over the first 10 years the standard will be in effect will be approximately $535 million.

Timetable:

Action	Date	FR Cite
NPRM	03/29/85	50 FR 12700
NPRM Comment Period End	06/27/85	50 FR 12700
Final Action	10/00/87	

Small Entity: No

Additional Information: A preproposal draft standard was circulated for public comment.

Affected Sectors: Multiple

Agency Contact: Mr. Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA54

1580. STAIRWAYS AND LADDERS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.452; 29 CFR 1926.501; 29 CFR 1926.502; 29 CFR 1926.1050; 29 CFR 1926.1051

Legal Deadline: None.

Abstract: The existing standard has been proposed for revision because it contains references to non-government voluntary regulations by topic. The proposal raises several significant issues including: (1) what is the appropriate height limit where the use of ladders as a means of access should be required, and (2) what are appropriate field tests for determining ladder strength. (New Subpart X)

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20616
Final Action	08/00/88	

Small Entity: Undetermined

Additional Information: This new Subpart X is a revision of the ladder and stairway portions of existing Subparts L (ladders and scaffolds) and M (Floor and Wall Openings and Stairways). The remaining portions of Subparts L and M are being revised as Subparts L (Scaffolds) and M (Fall Protection). (RIN 1218-AA37 - Fall Protection; RIN 1218-AA40 - Scaffolds.)

DOL—OSHA

Final Rule Stage

This agenda entry is part of Regulatory Program RIN 1218-AB05; Elevated Surfaces (Part 1926).

Affected Sectors: Multiple

Government Levels Affected: State, Federal

Agency Contact: Barry White, Director, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA57

1581. FORMALDEHYDE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1000; 29 CFR 1910.1048; 29 CFR 1910.19

Legal Deadline: None. There is currently no applicable legal deadline. However, OSHA has submitted documents to the U.S. Court of Appeals for the District of Columbia Circuit indicating its intention to complete this regulatory action in November 1987.

Abstract: Studies indicate adverse health effects in humans and animals exposed to airborne formaldehyde at concentrations permitted by OSHA's present standard. In humans, formaldehyde causes reversible sensory irritation of the eyes, nose, and throat, asthma and dermal irritation sensitization. Chronic studies in animals suggest that formaldehyde may also pose a carcinogenic risk in humans. This information indicates that the present OSHA standard for formaldehyde may need revision. On December 10, 1985, OSHA published a proposed standard. Public hearings were held in May 1985. OSHA is currently in the process of decisionmaking on the provisions to be included in the final standard.

Timetable:

Action	Date	FR Cite
ANPRM	04/17/85	50 FR 15179
ANPRM Comment Period End	06/15/85	50 FR 15179
NPRM	12/10/85	50 FR 50412
NPRM Comment Period End	03/10/86	50 FR 50412
Public Hearings	05/05/86	51 FR 75842
Final Action	11/00/87	

Small Entity: Yes

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA82

1582. ● LEAD (RECONSIDERATION OF THE FEASIBILITY OF COMPLIANCE IN NINE INDUSTRY SECTORS)

Significance: Regulatory Program

Legal Authority: 29 USC 655 et seq

CFR Citation: 29 CFR 1910.1025

Legal Deadline: Judicial, October 1, 1987.

Abstract: On December 11, 1981 (46 FR 60758), OSHA published a Revised Statement of Reasons concerning the feasibility of compliance with paragraph (e)(1) of the standard for occupational exposure to lead, which had been promulgated in 1978. In this revised statement, OSHA stated that it could not reach a conclusion regarding feasibility, on the basis of the existing rulemaking record, for eight specific industry sectors: lead chromate pigments, lead chemicals, nonferrous foundries, brass and bronze ingot production, secondary copper smelting leaded steel, shipbuilding and ship repair, stevedoring, and battery breaking separate from secondary smelting, and that in addition, it wished to reexamine the applicability of the lead standard to the stevedoring industry. OSHA requested that the record (which was under review by the U.S. Court of Appeals for the District of Columbia Circuit) be remanded for supplementary administrative proceedings. The Court granted OSHA's December 1981 request on March 31, 1987, and remanded the record to OSHA for further administrative proceedings to determine the feasibility of section (e)(1) for the nine industry sectors OSHA had (Cont'd)

Timetable:

Action	Date	FR Cite
Reopening of Lead Rulemaking Records	06/03/87	52 FR 26727
End of Comment Period	09/16/87	
Public Hearings	09/29/87	
Final Action	01/00/88	

Small Entity: Yes

Additional Information: ABSTRACT (CONT'D): listed. The Court further ordered OSHA to return the record on or before October 1, 1987. On June 17, 1987, OSHA filed with the Court a motion requesting a 90-day extension to January 1, 1988. On July 31, 1987 the Court granted OSHA's motion. OSHA published in the Federal Register on August 3, 1987, a notice of a limited reopening of the rulemaking record (limited to the issue of feasibility) and specified September 2, 1987 for the receipt of comments from the public and September 15, 1987 for public hearings. Thereafter, at the request of industry and labor, OSHA deferred the relevant dates for the rulemaking until September 16 and 29, 1987, respectively.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AB18

DEPARTMENT OF LABOR (DOL)

Completed Actions

Occupational Safety and Health Administration (OSHA)

1583. HAZARDOUS MATERIALS—FLAMMABLE AND COMPRESSED GASES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, Subpart H

Legal Deadline: None.

Abstract: The present Subpart H, Hazardous Materials, standard is out of date and in some respects is oriented towards public safety and property protection. OSHA has been petitioned

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to cover many other hazardous materials operations where presently it has no standards. It is the purpose of this revision to consolidate the existing standards for flammable and compressed gases by providing general requirements and specific requirements for selected gases which warrant special attention due to their hazards and uses within the industrial environment. The overall intended effect of the revision is to update and simplify the existing requirements while enhancing employee safety and health.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/81	46 FR 7692
ANPRM Comment Period End	02/01/82	46 FR 7692
Integrated into 1218-AB20 Combined with 1218-AA77 and 1218-AA94	08/11/87	

Small Entity: Undetermined

Additional Information: This agenda RIN 1218-AA31 has been combined with RIN 1218-AA77 and Regulatory Program RIN 1218-AA94.

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA31

1584. SCAFFOLDS AND SIMILAR WORK SURFACES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.28

Legal Deadline: None.

Abstract: Existing standards for scaffolds and similar working surfaces need to be revised because they are out of date and restrict technological innovation. The proposed revision is performance oriented and permits flexibility for compliance.

Timetable:

Action	Date	FR Cite
Integrated into 1218-AB04 Combined with 1218-AA50	08/11/87	

Small Entity: Undetermined

Additional Information: This agenda RIN 1218-AA46 has been combined with RIN 1218-AA50 in aggregate RIN 1218-AB04 (Walking and Working Surfaces).

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, D.C. 20210, 202 523-8061

RIN: 1218–AA46

1585. LADDERS AND SIMILAR CLIMBING DEVICES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.21; 29 CFR 1910.22; 29 CFR 1910.23; 29 CFR 1910.24; 29 CFR 1910.25; 29 CFR 1910.26; 29 CFR 1910.27; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1910.30

Legal Deadline: None.

Abstract: Existing standards for ladders and similar climbing devices need to be revised because they are out of date and restrict technological innovation. The proposed revision is performance oriented and permits flexibility for compliance.

Timetable:

Action	Date	FR Cite
Integrated into 1218-AB04	08/11/87	

Small Entity: Undetermined

Additional Information: This agenda RIN 1218-AA50 has been combined with RIN 1218-AA46 in aggregate RIN 1218-AB04 (Walking and Working Surfaces).

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA50

1586. SERVICING SINGLE PIECE RIM WHEELS (PART 1917)

Significance: Regulatory Program

Legal Authority: 33 USC 941; 29 USC 655

CFR Citation: 29 CFR 1917.44(o), (Revision)

Legal Deadline: None.

Abstract: OSHA has proposed to revise Section 1917.44(o), which currently covers only the servicing of multi-piece rim wheels, to include the servicing of single piece rim wheels. When the general industry rule for single piece rim wheels was issued (02/03/84), the Agency stated its intention to extend the same type of coverage to the maritime industry. The Agency has been petitioned by maritime labor and management groups to initiate this action. The proposal would reference the general industry standard, Section 1910.177, which would now apply to marine terminals in lieu of the current requirements of Section 1917.44(o).

Timetable:

Action	Date	FR Cite
NPRM	08/25/86	51 FR 30230
NPRM Comment Period End	09/24/86	51 FR 30230
Final Action	09/25/87	52 FR 36023
Final Action Effective	10/26/87	

Small Entity: No

Affected Sectors: 44 Water Transportation

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA75

1587. HAZARDOUS MATERIALS—FLAMMABLE AND COMBUSTIBLE LIQUIDS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.106, (Revision)

Legal Deadline: None.

Abstract: Standards for flammable and combustible liquids, contained in 29 CFR 1910, Subpart H, would be revised to update existing criteria and to provide more flexibility by correcting problems associated with the specificity of some of the existing requirements. The proposed revision would address current problem areas as liquid transfer, system leakage, and vapor recovery.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/81	46 FR 7692
ANPRM Comment Period End	02/01/82	46 FR 7692
Integrated into 1218-AB20 Combined with 1218-AA31 and 1218-AA94	08/11/87	

Small Entity: Undetermined

Additional Information: This agenda RIN 1218-AA77 has been combined with RIN 1218-AA31 and Regulatory Program RIN 1218-AA94.

Affected Sectors: Multiple

Government Levels Affected: State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, FP Building, 200 Constitution Avenue, NW, Washington, DC 20210, 202 523-8061

RIN: 1218–AA77

1588. HAZARD COMMUNICATION IN SHIPYARD EMPLOYMENT (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655 Occupational Safety and Health Act of 1970; 33 USC 941 Longshore and Harborworkers Compensation Act

CFR Citation: 29 CFR 1915.97, (Revision)

Legal Deadline: None.

Abstract: As the shipbuilding and ship repairing industries (SIC 37) were covered under the scope of the Hazard Communication Standard (29 CFR 1910.1200), duplication of regulations existed due to similar requirements in Section 1915.97 dealing with informing employees about hazardous materials. This action proposed to eliminate this duplication in the shipbuilding and ship repairing industries by deleting from 29 CFR 1915.97 those regulations (paragraphs (a), (b) and (d) of section 1915.97) dealing with hazard communication and referencing the Hazard Communication Standard. Shipbreaking, (SIC 44), was to remain under the coverage of section 1915.97(a), (b) and (d). The mandatory use of the OSHA Form 20 (MSDS), currently required by section 1915.97(c), was to be eliminated for all three shipyard industries. In its revised Hazard Communication Standard, published on August 24, 1987, OSHA extended coverage of 29 CFR 1910.1200 to all sectors of shipyard employment, adding a new section 1915.99 and deleting paragraphs (a) and (d) of section 1915.97. Because the purposes of the proposed revisions of section 1915.97 have been accomplished by (Cont'd)

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17991
NPRM Comment Period End	07/15/86	51 FR 17991
Withdrawn	08/27/87	

Small Entity: Yes

Additional Information: ABSTRACT (CONT'D): the revised Hazard Communication rule, OSHA is withdrawing the section 1915.97 proposal.

Affected Sectors: 37 Transportation Equipment; 44 Water Transportation

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218–AA88

1589. HAZARD COMMUNICATION

Significance: Regulatory Program

Legal Authority: 29 USC 653; 29 USC 655(b); 29 USC 657; 33 USC 941; 40 USC 333; 5 USC 553

CFR Citation: 29 CFR 1910.1200; 29 CFR 1915.97; 29 CFR 1915.99; 29 CFR 1917.28; 29 CFR 1918.90; 29 CFR 1926.59; 29 CFR 1926.21

Legal Deadline: Judicial, May 29, 1987.

Abstract: This action complies with the May 29, 1987, order of the U.S. Court of Appeals for the Third Circuit directing OSHA to publish "a hazard communication standard applicable to all workers covered by the Occupational Safety Health Act, including those which have not been covered in the hazard communication standard as presently written or a statement of reasons why, on the basis of the present administrative record, a hazard communication standard is infeasible." Because the present administrative record as a whole indicates the hazard communication standard is feasible for all industries, the Agency is complying with the court order by revising the standard, currently applicable to the manufacturing sector, to cover all employers with employees potentially exposed to hazardous chemicals in their workplaces. Expansion of the coverage of the standard requires, among other things, nonmanufacturing employers to establish hazard communication programs to transmit information on the hazards of the chemicals to their employees by means of labels on containers, material safety data sheets and training programs. Interested persons are also invited to submit additional (Cont'd)

Timetable:

Action	Date	FR Cite
ANPRM	11/27/85	50 FR 48794
ANPRM Comment Period End	02/25/86	50 FR 48794
Final Action	08/24/87	52 FR 31852
Final Action Effective	09/23/87	52 FR 31852
Comment Period End	10/23/87	52 FR 31852

Small Entity: Yes

Additional Information: ABSTRACT (CONT'D): information regarding the feasibility or practicability of the rule as it applies to the nonmanufacturing sector and recommendations for further rulemaking by 10/23/87.

Agency Contact: Charles E. Adkins, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3718, FPBldg., 200 Constitution Avenue, NW, Washington, DC 20210, 202 523-7075

RIN: 1218–AB02

1590. REVISION OF TELECOMMUNICATIONS TRAINING RECORDS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.268(c)

Legal Deadline: None.

Abstract: This regulatory action will revise the current recordkeeping requirement that telecommunications employers maintain a record of employee training (under Subpart R) by

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requiring instead that employers certify that an employee has received the appropriate training outlined in the employer-developed training program. This action is being undertaken in compliance with the Paperwork Reduction Act and Section 8(d) of the OSH Act.

Timetable:

Action	Date	FR Cite
NPRM	04/14/87	52 FR 12116
Final Action	09/28/87	52 FR 36384
Final Action Effective	10/28/87	

Small Entity: No

Agency Contact: Mr. Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AB07

1591. REVISION OF CONSTRUCTION INDUSTRY TEST AND INSPECTION RECORDS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None.

Abstract: The purpose of this regulatory action is to revise three provisions in Part 1926, Construction Safety and Health Regulations, to allow employers to prepare a record to certify that regulatory requirements have been met instead of requiring employers to maintain extensive and burdensome records of the results and findings of various tests and inspections required in the standards. OSHA is undertaking this action in compliance with the Paperwork Reduction Act of 1980 and Section 8(d) of the OSH Act.

Timetable:

Action	Date	FR Cite
NPRM	04/14/87	52 FR 12120
Final Action	09/28/87	52 FR 36378
Final Action Effective	10/28/87	

Small Entity: No

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, RM N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AB12

[FR Doc. 87-21915 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26, 1987

Part XIII

Department of State

Semiannual Regulatory Agenda

DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATF

22 CFR Ch. I

[Docket No. SD - 211]

Semiannual Agenda of Regulations and Regulatory Flexibility Agenda

AGENCY: Department of State.

ACTION: Publication of regulatory agenda.

SUMMARY: As required by Executive Order 12291 and OMB Bulletin 87-10, the October 1987 agenda of regulations of the Department of State is set forth below. The agenda also contains regulatory flexibility information required by the Regulatory Flexibility Act of 1980 (Pub. L. No. 96-354).

FOR FURTHER INFORMATION CONTACT: James H. Thessin, Assistant Legal Adviser for Management, Department of State, Room 4427A, 2201 C Street, NW., Washington, DC 20520, telephone (202) 647-2350.

Dated: August 20, 1987.

Ronald I. Spiers,

Under Secretary for Management.

DEPARTMENT OF STATE (STATE)

Prerule Stage

1592. ESTABLISHMENT OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Legal Authority: Eventual U.S. ratification of 1973 Convention; providing a Uniform Law on the Form of an International Will; will provide basis for establishing Registry

CFR Citation: 22 CFR 92.81(3), amendment to

Legal Deadline: None.

Abstract: By resolution of the international diplomatic conference that adopted the final text of the Convention (see 3, above), there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the Convention to the Senate on July 2, 1986 with the recommendation that the Senate give its advice and consent to U.S. ratification of the Convention, and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29).

Timetable:

Action	Date	FR Cite
Hearing of Senate Foreign Relations Committee on the Convention	00/00/00	

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Carmen A. DiPlacido, Director, Office of Citizens Consular Services, Department of State, Bureau of Consular Affairs, Washington, DC 20520, 202 647-3666

RIN: 1400-AA09

1593. FISHERMEN'S PROTECTIVE ACT PROCEDURES UNDER SECTION 7

Legal Authority: 22 USC 1977

CFR Citation: 22 CFR 33, (Revision)

Legal Deadline: None.

Abstract: This regulation clarifies procedures for the administration of the Fishermen's Guaranty Fund and claims evaluation, under Section 7 of the Fishermen's Protective Act, 22 USC 1971 et seq.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Peter H. Flournoy, Attorney-Adviser, Department of State, Office of the Legal Adviser, Washington, DC 20520, 202 647-2252

RIN: 1400-AA10

1594. REGULATIONS IMPLEMENTING THE PROGRAM FRAUD CIVIL REMEDIES ACT

Legal Authority: PL 99-509, Sec 6104; 31 USC 3801 to 3812

CFR Citation: Not yet determined

Legal Deadline: Statutory, April 21, 1987.

Abstract: Regulations implement the Program Fraud Civil Remedies Act of 1986, which establishes an administrative remedy for fraudulent claims or statements submitted to agencies. Anyone who, with knowledge or reason to know, submits a false, fictitious or fraudulent claim or statement to an agency is liable for a $5,000 penalty and an assessment of double damages.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Jean Bailly, Attorney Adviser, Department of State, L/M, Room 4427A, 2201 C Street, NW, Washington, DC 20520, 202 647-4446

RIN: 1400-AA13

1595. ● SOUTH AFRICA AND FAIR LABOR STANDARDS

Legal Authority: 22 USC 5034; 22 USC 5035; 22 USC 5111; 22 USC 5113

CFR Citation: 22 CFR 60; 22 CFR 65

Legal Deadline: None.

Abstract: Executive Order 12532 of September 9, 1985 required U.S. firms operating in South Africa to take good faith measures with respect to certain fair labor standards. A final rule was promulgated for this purpose after receiving public comments. The requirements of this Executive Order were later codified in the Comprehensive Anti-Apartheid Act of October 2, 1986, and amendments to the regulations were promulgated as a final rule on October 22, 1986. The first annual review of the labor practices of U.S. firms is scheduled to be completed in August 1987. The Department of State intends to conduct a review of the regulations after this occurs and to determine whether the regulations and the questionnaire relied on to collect the needed information should be revised.

STATE

Prerule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Yes

Government Levels Affected: Local, State, Federal

Agency Contact: Robert Bruce, Executive Director, South Africa Fair Labor Standards Program, Department of State, AF/S, Department of State, 2201 C Street, N.S., Washingtor 20520, 202 647-9866

RIN: 1400-AA19

DEPARTMENT OF STATE (STATE)

Proposed Rule Stage

1596. FOREIGN MISSIONS ACT REGULATIONS

Significance: Regulatory Program

Legal Authority: 22 USC 4301 et seq; 22 USC 254(e)

CFR Citation: 22 CFR 151

Legal Deadline: None.

Abstract: The Foreign Missions Act creates certain authorities for the Secretary of State relating to the regulation of foreign missions, diplomatic, consular, and international organizations. Exercise of those authorities could involve restricting or controlling the access of such missions to American vendors of goods and services. Exercise of other authorities in the Foreign Missions Act could affect the location of premises of foreign missions. Exercise of authority in the Diplomatic Relations Act, 22 USC 254(a) et seq., as amended by Title VI of P.L. 98-164, will have an impact on the acquisition of liability insurance coverage for the operation of motor vehicles, vessels, and aircraft by personnel of foreign missions, and could in certain situations, subject foreign missions to surcharges or fees. The regulations under consideration would provide procedures for exercise of these authorities. These regulations are at the stage of preliminary consideration. No timetable has been established other than that established in Title VI of P.L. 98-164.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: James E. Nolan, Director, Office of Foreign Missions, Department of State, Room 2105, 2201 C Street, NW, Washington, DC 20520, 202 647-3416

RIN: 1400-AA04

1597. IMPLEMENTATION OF 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Significance: Regulatory Program

Legal Authority: None, until ratification of treaty.

CFR Citation: 22 CFR Not yet determined

Legal Deadline: None.

Abstract: The 1980 Hague Convention provides for the prompt return of children habitually resident in one contracting State who have been wrongfully abducted to another, including wrongful retention by a non-custodial parent. When the United States ratifies the Convention and Congress enacts the federal legislation, the Bureau of Consular Affairs will be tasked by executive order to serve as U.S. Central Authority (CA) under the Convention. Thus it will receive applications for the return of children wrongfully abducted to or retained in the United States. In conjunction with cooperating authorities in the U.S. State where the child is believed to be located, the CA's task will include seeking to locate the child, facilitating the initiation of a court action to require the child's return, arranging for the provision of information about the child's circumstances in the country of its habitual residence, and arranging for the child's return transportation if return is ordered. The President transmitted the convention for advice and consent to ratification by the Senate on October 30, 1985 (Senate Treaty Doc. 99-11). The Senate gave its advice and consent on October 9, 1986.

Timetable:

Action	Date	FR Cite
Senate Advice and Consent to ratification	10/09/86	

Next Action Undetermined

Small Entity: Not Applicable

Additional Information: Detailed legal analysis of Convention, submitted to Senate Foreign Relations Committee Chairman Lugar (January 1986), was published with Convention text and other documents in the Federal Register of March 26, 1986 (pages 10494 to 10516). Legislation to facilitate implementation of the Convention has been introduced in the Senate (S.1347) and the House (H.R.2673).

Agency Contact: Carmen A. DiPlacido, Dir., Office of Citizens Consular Services, Department of State, Bureau of Consular Affairs, Washington, DC 20520, 202 647-3666

RIN: 1400-AA05

1598. BANKING SERVICES - PROCEDURES FOR RESTRICTING

Legal Authority: 22 USC 4301 et seq

CFR Citation: 22 CFR 152

Legal Deadline: None.

Abstract: The rule will set out the procedures that the Department of State will follow whenever the banking services of particular foreign missions are restricted pursuant to the Foreign Missions Act, 22 USC 4301 et seq.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Not Applicable

Government Levels Affected: State, Federal

STATE — **Proposed Rule Stage**

Agency Contact: James Nolan, Director, Office of Foreign Missions, Department of State, Room 2105, 2201 C Street, NW, Washington, DC 20520, 202 647-3416

RIN: 1400–AA07

1599. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH UNIVERSITIES, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Legal Authority: 22 USC 2658

CFR Citation: 22 CFR 136, (new)

Legal Deadline: None.

Abstract: The Department of State will participate in the promulgation of a common regulation that establishes uniform administrative requirements for grants and cooperative agreements to universities, hospitals, and other nonprofit organizations. This effort will revise the current Office of Management and Budget (OMB) Circular A-110 (same title) for the purpose of restoring commonality between A-110 and OMB Circular A-102, "Uniform Administrative Requirements for Grants to State and Local Governments." Under the revised Circular A-102, and as directed by President Reagan on March 12, 1987, all affected agencies have proposed simultaneously common regulations that adopt government-wide terms and conditions. This procedure will be used to implement the revised Circular A-110. No other alternatives are being considered. The rule will be intended to promote consistency and uniformity among the participating agencies.

Timetable:

Action	Date	FR Cite
Notice requesting comments on OMB Circular A-110 review	06/24/87	52 FR 23729
Begin Review	06/24/87	52 FR 23729
NPRM	11/00/88	

Small Entity: Undetermined

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 227, SA-6, Department of State, Washington, DC 20520, 703 235-9528

RIN: 1400–AA20

1600. ● GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT)

Legal Authority: 22 USC 2658

CFR Citation: 22 CFR 137, (new)

Legal Deadline: None.

Abstract: The Department of State is publishing this rule as an adoption of a common regulation establishing a uniform system of non-procurement debarment and suspension among many Federal agencies. This system is intended to curb fraud, waste, and abuse in non-procurement activities using Federal assistance. Guidelines for the system were developed by a Task Force on Non - Procurement Suspension and Debarment. The task force was convened by the Office of Management and Budget (OMB), pursuant to its responsibilities established by President Reagan under Executive Order 12549, Debarment and Suspension (February 18, 1986). As a Federal agency, the Department of State must either adopt this common rule or promulgate a separate system that meets the requirements of Executive Order 12549.

Timetable:

Action	Date	FR Cite
Notice requesting comments on guidelines	02/21/86	51 FR 06372
Notice setting forth guidelines	05/29/87	52 FR 20360
NPRM	10/20/87	
NPRM Comment Period End	00/00/00	

Small Entity: No

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 227, SA-6, Department of State, Washington, DC 20520, 703 235-9528

RIN: 1400–AA21

DEPARTMENT OF STATE (STATE) — **Final Rule Stage**

1601. DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Legal Authority: 5 USC 301; 22 USC 2658; 40 USC 486(c)

CFR Citation: 48 CFR 601 to 653, (New)

Legal Deadline: None.

Abstract: The Department of State is publishing the Department of State Acquisition Regulation (DOSAR) as part of the Federal Acquisition Regulations System, which consists of the Federal Acquisition Regulation (FAR) and agency acquisition regulations that implement or supplement the FAR. This action is necessary to provide regulatory guidelines not otherwise found in the FAR for Department of State acquisitions. There are no other alternatives for addressing the problem; the DOSAR must be established in accordance with FAR Subpart 1.3. By this action, the Department of State will establish a single regulation for its acquisition policies, procedures, contract clauses, solicitation procedures, and forms that govern its relationship with its contractors and prospective contractors.

Timetable:

Action	Date	FR Cite
NPRM	05/26/87	52 FR 19990
NPRM Comment Period End	06/29/87	52 FR 19990
Final Action	09/00/87	
Final Action Effective	09/00/87	
Begin Review	09/00/87	
End Review	00/00/00	

Small Entity: No

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 227, SA-6, Washington, DC 20520, 202 235-9258

RIN: 1400–AA16

1602. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: 22 USC 2658

CFR Citation: 22 CFR 135, (new)

Legal Deadline: None.

Abstract: The Department of State is publishing this rule to adopt a common regulation that establishes uniform administrative requirements for grants and cooperative agreements to state and local governments and federally recognized Indian tribal governments. Office of Management and Budget (OMB) Circular number A-102, "Uniform Requirements for Assistance to State and Local Governments," was reviewed by a task force chaired by OMB for the purposes of revising, clarifying, and simplifying A-102. OMB Circular A-102 directs Federal agencies to promulgate implementing regulations. Toward that end, on March 12, 1987, President Reagan directed all affected agencies to simultaneously propose common regulations that adopt government-wide terms and conditions for this purpose. Therefore, there are no other alternatives for this problem. This rule is intended to promote consistency and uniformity among the participating agencies.

Timetable:

Action	Date	FR Cite
Notice requesting comments on OMB Circular A-102 review	06/18/84	49 FR 24958
Begin Review	06/18/84	49 FR 24958
Notice of proposed, revised grant application and financial reporting forms	05/29/87	52 FR 20187
NPRM	06/09/87	52 FR 21820
NPRM Comment Period End	08/10/87	52 FR 21820
Final Action	03/00/88	
Final Action Effective	03/00/88	

Small Entity: No

Agency Contact: John J. Conway, Procurement Executive, Department of State, Room 227, SA-6, Department of State, Washington, DC 20520, 703 235-9528

RIN: 1400–AA22

STATE — **Final Rule Stage**

DEPARTMENT OF STATE (STATE) — **Completed Actions**

1603. GUIDELINES FOR EXTRAORDINARY PROTECTION OF FOREIGN MISSIONS

Significance: Agency Priority

CFR Citation: 22 CFR 2(a)

Completed:

Reason	Date	FR Cite
Final Action	08/07/86	51 FR 28391
Final Action Effective	05/15/87	52 FR 12154

Small Entity: Not Applicable

Agency Contact: Sidney Teleford 202 647-2596

RIN: 1400–AA03

[FR Doc. 87-21237 Filed 10-23-87; 8:45 am]

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Part XIV

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

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[OST Docket No. 59; Notice 87-2]

Department Regulations Agenda; Semiannual Summary

AGENCY: Department of Transportation.

ACTION: Department regulations agenda.

SUMMARY: The Regulations Agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding twelve months or such longer period as may be anticipated, or for which action has been completed since the last agenda. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate in, the Department's regulatory activity.

ADDRESSES: The mailing address for the initiating offices of the Department which appear in the agenda is 400 Seventh Street, SW., Washington, DC 20590, except for the Federal Aviation Administration which is located at 800 Independence Avenue, SW., Washington, DC 20591; the U.S. Coast Guard, which is located at 2100 Second Street, SW., Washington, DC 20593; and the Saint Lawrence Seaway Development Corporation, which is located at 400 Seventh Street, SW., Room 5424, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the agenda, in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, 202-366-4723.

Specific

For further information about any particular item on the agenda, contact the individual listed in the column headed "Agency Contact" for that item.

SUPPLEMENTARY INFORMATION:

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Agenda

Background

Improvement of government regulations is a prime goal of the Reagan Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation ("Department") achieve these goals, and in accordance with Executive Order 12291 ("Federal Regulation"; 46 FR 13193; February 19, 1981) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual Regulations Agenda for publication in the **Federal Register**. The agenda summarizes all current and projected rulemaking, reviews of existing regulations and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding twelve months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the initiating offices in January and July each year. After these reports are consolidated for, and reviewed by, the Department Regulations Council, the Department's Regulations Agenda is prepared and published in the **Federal Register**. The Department's last agenda was published in the **Federal Register** on April 27, 1987 (52 FR 14547). The next one is scheduled for publication in the **Federal Register** in April 1988.

Regulatory Flexibility Act

In 1980, Congress passed the Regulatory Flexibility Act (RFA), Pub. L. 96-354, which requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared, i.e., those regulations that would have a significant economic impact on a substantial number of small entities. The heading "Small Entity" will indicate whether a Regulatory Flexibility Analysis is required by a "yes" or a "no." If a Regulatory Flexibility Analysis will be prepared for a particular rulemaking, that fact also will be noted under the heading "Analysis."

The RFA also requires that each year the Department publish a list of those regulations that have a significant economic impact on a substantial number of small entities and are to be reviewed under the Act during the succeeding twelve months. The agenda includes those regulations to be reviewed under the RFA or those for which review has been concluded since the last agenda. A "yes" or "no" will be found under the heading "small entity," for each such regulation. It should be noted, however, that after a preliminary assessment of the regulations listed for RFA review, it may be found that the regulations, in fact, do not have a significant economic impact on a substantial number of small entities and a full RFA review will be unnecessary.

Definitions

The agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

(1) *Initiating office* means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(2) *Significant regulation* means a regulation that is not an emergency regulation and that in the judgment of the head of the initiating office, or the Secretary, or the Deputy Secretary

(a) Is a major regulation;

(b) Concerns a matter on which there is substantial public interest or controversy;

(c) Has a major impact on another operating administration or other parts of the Department or other Federal Agency;

(d) Has a substantial effect on State and local governments;

(e) Has a substantial impact on a major transportation safety problem;

(f) Initiates a substantial regulatory program or change in policy;

(g) Is substantially different from international requirements or standards; or

(h) Otherwise involves important Department policy.

(3) *Major regulation* means a significant regulation for which a Regulatory Impact Analysis is required to be prepared.

(4) *Emergency regulation* means (a) a regulation that, in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the **Federal Register**; or (b) is governed by short-term statutory or judicial deadlines.

(5) *Nonsignificant regulation* means a regulation that, in the judgment of the head of the initiating office, is neither a significant nor an emergency regulation.

A preliminary and final Regulatory Impact Analysis is required for each proposed and final regulation, respectively; that

(1) Is likely to result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major effect on the general economy in terms of costs, consumer prices, or production;

(c) A major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions;

(d) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets; or

(2) The Secretary or head of the initiating office determines requires such an analysis.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget Bulletin No. 86-16 (July 2, 1986).

First, the agenda is divided by initiating offices. Then, in accordance with the OMB Bulletin, for each initiating office the agenda is divided into four categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, and (4) completed actions. For each entry, the agenda provides the following information: (1) The "significance" of the action (i.e., whether it is significant because it is on the Regulatory Program or because of agency priority; or whether it is nonsignificant or routine and frequent); (2) a short descriptive title; (3) the legal basis for the action being taken or the regulation being reviewed; (4) the related regulatory citation in the Code of Federal Regulations; (5) an indication of any legal deadline; (6) an abstract of the review or the proposed or final regulation; (7) a timetable, including the earliest expected date for a decision on whether to issue the proposed or final regulation, or complete the review and determine the corrective action to be taken. (The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12291 and the Department's Regulatory Policies and Procedures.); (8) a statement as to whether the Regulatory Flexibility Act applies because of the rulemaking's effect on small entities; (9) if there is information that does not fit in the other categories, it will be included under a separate heading, entitled "Additional Information"; (10) a listing, where determined, of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., a Regulatory Impact Analysis or Evaluation, an Environmental Impact Statement (EIS), a Regulatory Flexibility Analysis, or an Urban Impact Analysis. (It should be noted that, even though a Regulatory Impact Analysis is not required for some items on the agenda, the Department requires an economic analysis for all of its regulations. This economic analysis is contained in the Regulatory Evaluation if a Regulatory Impact Analysis is not prepared); (11) an agency contact office or official who can provide further information, including advice on how to obtain documents referenced in the agenda; and (12) a "RIN" number assigned solely to identify an individual action in the agenda.

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules) to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it may be provided under the "Additional Information" heading. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number.

In the "Timetable" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a future date in this column is not an indication that a proposed or a final rule will be issued on that date; it is the earliest date on which a decision is expected to be made on whether to issue the document listed. Submittal of any proposed or final rule to the Office of Management and Budget for review, under Executive Order 12291,

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must follow such a decision. For major rules, this review could take 60 days or more. If any document is issued, publication in the **Federal Register** would follow within a few days. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (●) preceding an entry indicates that the entry appears in the agenda for the first time.

Mailing Lists for Regulatory Documents

To assist the public in obtaining regulatory documents issued within the Department of Transportation, an Appendix A has been included in this document. The appendix contains instructions on how to be placed on mailing lists for copies of regulatory documents, including the Department's Semiannual Regulations Agenda, issued by the operating administrations of the Department and the Office of the Secretary. There is no charge for this service; however, because of the costs involved, the number of copies of a document forwarded to an individual requestor may be limited. Persons already on mailing lists for particular documents within the Department will remain on those lists and should not reapply.

By following the instructions specified in the appendix, a person can be placed on a mailing list for future copies of the Department's Regulations Agenda, which will be updated and published in the **Federal Register** every year during April and October. By using the agenda, individuals can determine which Notice or Advance Notice of Proposed Rulemaking, to be issued by elements of the Department, is of interest to them. Then, using the instructions in the appendix, such persons also can be placed on a mailing list to ensure that, after the document of interest is issued, a copy will be mailed to them for their review and comment. In this way, individuals will be relieved of the burden of having to review the **Federal Register**, perhaps on a daily basis. The Department expects that this process will ensure that those people placed on mailing lists will receive early notice so that their views on the document can be adequately prepared and presented within the established comment period.

General Rulemaking Contact Persons

To assist persons desiring to obtain general information concerning the rulemaking process within the Department's operating administrations, an Appendix B has been added to the agenda. This appendix sets forth the addresses and the telephone numbers of the persons who can respond quickly to requests for general rulemaking information. Please note, however, that questions related to particular rulemaking actions should still be referred to the contact person listed with the particular rulemaking on the agenda.

Public Rulemaking Dockets

To facilitate the inspection of docket files and the submission of comments by the public, an Appendix C sets forth the addresses and working hours for the Rules Docket for each operating administration.

Request for Comments

Agenda

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information as well as make the agenda easier to use. We would also like you, the public, to make suggestions or comments on how the agenda could be further improved. For example, do you find the information presented in an easily understandable manner? Do you find it easy to follow a regulation's development from agenda to agenda? Do you find that the format for setting out the information enables you to use the agenda easily? Do you find that the presentation of the information in the agenda is clearly explained in the preamble to the agenda? Your responses to these questions or any other comments or suggestions you may have should be sent to Neil R. Eisner, whose address appears above.

Reviews

In an effort to comply further with the spirit of Executive Order 12291 and the Regulatory Flexibility Act, we are also seeking suggestions on existing regulations that should be included in our review of existing regulations; that is, which existing regulations issued by an operating administration of the Department or the Office of the Secretary do you believe need to be reviewed to determine whether they should be revised or revoked? The Department is particularly interested in obtaining information on requirements that have a "significant economic impact on small entities" and therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary, at the appropriate address noted in the "Addresses" paragraph above.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that are targeted for review under the RFA. Those comments should be addressed to the "contact" person of the operating administration involved, at the appropriate address noted in the "Addresses" paragraph above.

Purpose

The Department is publishing this Regulations Agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible. This publication in the **Federal Register** does not impose any binding obligation on the Department, or any of the offices within the Department, with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded. If further information is desired on any of the items listed in the agenda, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the agenda, in general, or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, DC on September 21, 1987.

Elizabeth Hanford Dole,

Secretary of Transportation.

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Appendix A - Instructions for Obtaining Copies of Regulatory Documents

United States Coast Guard (USCG)

Persons who desire to obtain a copy of any regulatory document to be issued by the USCG that is listed in this agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), United States Coast Guard, 2100 Second Street, SW., Washington, DC 20593.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for Notices and Advance Notices of Proposed Rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling 202-267-3479 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-200, 800 Independence Avenue, SW., Washington, DC 20591.

Federal Highway Administration (FHWA)

The FHWA has in the past maintained a consumer mailing list for individuals and agencies wishing to routinely receive Federal-aid highway related rulemaking actions. Due to staff and budgetary constraints, it has become necessary to discontinue the availability of this service.

Persons who desire to obtain a copy of any regulatory document to be issued by the FHWA that is listed in this agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Federal Highway Administration 400 7th Street, SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

Persons who desire to obtain a copy of any regulatory document to be issued by the FRA that is listed in this agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Federal Railroad Administration, 400 7th Street, SW., Washington, DC 20590.

National Highway Traffic Safety Administration (NHTSA)

Persons who desire to obtain a copy of any regulatory document to be issued by the NHTSA that is listed in this agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC 20590.

Urban Mass Transportation Administration (UMTA)

Persons who desire to obtain a copy of any regulatory document to be issued by UMTA that is listed in this agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Urban Mass Transit Administration, 400 7th Street, SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

Persons who desire to obtain a copy of any regulatory document to be issued by SLSDC that is listed in this agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the address specified below: (Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street, SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

Persons wishing to be placed on mailing lists for regulatory documents to be issued by RSPA should contact: Mr. David A. Watson, Training Unit, DHM-51, OHMT/RSPA, 400 7th Street, SW., Washington, DC 20590.

Maritime Administration (MARAD)

Anyone desiring a copy of a MARAD regulatory document referred to in the agenda may request a copy of that document by contacting James Saari, Secretary, Maritime Administration, 400 Seventh Street, SW., [Room 7300B], Washington, DC 20590, (202) 366-5746.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Regulations Agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired. Persons requesting a rulemaking document on an aviation matter (of the kind formerly handled by the CAB) will be placed on a mailing list for all OST aviation-related rulemakings.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - Bruce Novak, Marine Safety Council, USCG Headquarters Building, Room 2110, 2100 Second Street, SW., Washington, DC 20593. Telephone: 202/267-1477.

FAA - John H. Cassady, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave., SW., Room 915A, Washington, DC 20591. Telephone: 202/267-3073.

FHWA - Michael J. Laska, Office of the Chief Counsel, 400 7th Street, SW., Room 4223, Washington, DC 20590. Telephone: 202/366-1383.

FRA - Mike Haley, Office of Chief Counsel, 400 7th Street, SW., Room 8201, Washington, DC 20590. Telephone: 202/366-0767.

NHTSA - Steve Kratzke, Office of Chief Counsel, 400 7th Street, SW., Room 5219, Washington, DC 20590. Telephone: 202/366-2992.

UMTA - Daniel Duff, Office of Chief Counsel, 400 7th Street, SW., Room 9228, Washington, DC 20590. Telephone: 202/366-4011.

SLSDC - Fredrick A. Bush, General Counsel's Office, 400 7th Street, SW.,

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Room 5424, Washington, DC 20590. Telephone: 202/366-0101.

RSPA - Mary Crouter, Office of Chief Counsel, 400 7th Street, SW., Room 8420, Washington, DC 20590. Telephone: 202/366-4367.

MARAD - James Saari, Secretary, Maritime Administration, 400 7th Street, SW., Room 7300B, Washington, DC 20590. Telephone: 202/366-5746.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street, SW., Room 10424, Washington, DC 20590. Telephone: 202/366-4723.

Appendix C - Public Rulemaking Dockets

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand deliver comments on advance notices and notices of proposed rulemaking:

USCG - Marine Safety Council, 2100 2nd Street, SW., Room 2110, Washington, DC 20593. Working Hours: 7:30-4:00 (Monday-Friday).

FAA - Rules Docket, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave., SW., Room 915G, Washington, DC 20591. Working Hours: 8:30-5:00.

FHWA - Docket Room, 400 7th Street, SW., Room 4205, (Federal Motor Carrier Safety Regulations in Room 3404), Washington, DC 20590. Working Hours: 7:45-4:15.

FRA - Docket Clerk, 400 7th Street, SW., Room 8201, Washington, DC 20590. Working Hours: 8:30-5:00.

NHTSA - Docket Room, 400 7th Street, SW., Room 5108, Washington, DC 20590. Working Hours: 8:00-4:00.

UMTA - Docket Clerk, 400 7th Street, SW., Room 9223, Washington, DC 20590. Working Hours: 8:30-5:00.

SLSDC - 400 7th Street, SW., Room 5424, Washington, DC 20590. Working Hours: 8:15-4:45.

RSPA - Docket Branch, 400 7th Street, SW., Room 8426, Washington, DC 20590. Working Hours: 8:30-5:00.

MARAD - Docket Clerk, 400 7th Street, SW., Room 7300, Washington, DC 20590. Working Hours: 9:00-5:30.

OST - Docket Clerk, 400 7th Street, SW., Room 4107, Washington, DC 20590. Working Hours: 9:00-5:30.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1604	+ Review of Department-Wide Drug Regulations	2105-AB24
1605	+ Consumer Protection for Default by Scheduled Air Carriers	2105-AA98
1606	+ Certification of Speed-Limit Enforcement	2105-AB22
1607	+ Escrow/Bond Protection for Airline Tickets	2105-AB26
1608	Air Carrier Cargo Tariff Publications	2105-AA31
1609	Overseas Military Personnel Air-Charter Tariffs	2105-AA87
1610	Unfair and Deceptive Practices by Airline Ticket Agents	2105-AA70
1611	Direct Flights	2105-AA73
1612	Cargo Rate Changes on 30 Days' Notice	2105-AA99
1613	Comprehensive Review of CAB Consumer Rules	2105-AB03
1614	Price Advertising	2105-AB25

+ Designates significant regulation.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1615	+ Electronic Filing of Tariffs	2105-AB00
1616	+ Minority Business Enterprise Program (Financial Assistance Programs)	2105-AA04
1617	+ Nondiscrimination on the Basis of Handicap (Air Travel)	2105-AA18
1618	+ Commercial Space Transportation: Liability Requirements for Commercial Space Launch Activities	2105-AA26
1619	+ Liberalization of Air-Carrier Charter Rules	2105-AA41
1620	+ Smoking Aboard Aircraft; Notice to Passengers	2105-AA72
1621	Nondiscrimination in Federally-Assisted Programs of the Department of Transportation–State Transportation Agencies' EEO Affirmative Action Programs	2105-AA06
1622	Nondiscrimination on the Basis of Handicap (Directly Conducted Programs)	2105-AA29
1623	Airline Time and Mileage Guides	2105-AA39
1624	Diversion of Flights Within a Metropolitan Area	2105-AA78
1625	Baggage Liability Notices in International Air Transportation	2105-AA84
1626	Simplified Airline Counter-Sign Notices	2105-AA88
1627	Update the Department of Transportation Acquisition Regulations to Implement the Competition in Contracting Act as Set Forth in the Federal Acquisition Regulations–Proposed Rules	2105-AB15
1628	Warranty Regulations for Major System Acquisitions of the United States Coast Guard - Proposed Rule	2105-AB16
1629	Names of Air Carriers and Foreign Air Carriers	2105-AB18

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Office of the Secretary—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1630	Counting UMTA Reduced-Fare Program Costs Toward 504 Cost Cap	2105-AB29

+ Designates significant regulation.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1631	+ Commercial Space Transportation: Licensing Regulations	2105-AA25
1632	+ Public Availability of Information	2105-AA05
1633	+ Nondiscrimination on the Basis of Handicap (Commuter Rail Programs)	2105-AB23
1634	Title VI Civil Rights Regulation	2105-AA02
1635	Minority Business Enterprise Program (Direct Contracting)	2105-AA03
1636	Consolidation of Transportation Grants to U.S. Territories	2105-AA08
1637	Nondiscrimination on the Basis of Age in DOT Financial Assistance Programs	2105-AA09
1638	Minority Business Enterprise Program (Financial Assistance Programs); Counting Credit for Suppliers and Other Service Providers	2105-AA20
1639	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
1640	Zones for Airline Mail Rates	2105-AA44
1641	Air Travelers: Age Discrimination	2105-AA45
1642	Policy Statement on Airline Preemption	2105-AA46
1643	Insurance for On-Demand Air-Taxi Operators and Canadian Air Taxis	2105-AA47
1644	Effect of Expiration of a Bilateral on Foreign Air-Carrier Authority	2105-AA68
1645	Implementation of Statute Requiring Interest on Subsidy Claims	2105-AA77
1646	Simplified Aviation Exemption Procedures	2105-AA82
1647	Exemption From Prior-Approval Requirements for Certain Transactions	2105-AB20

+ Designates significant regulation.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1648	+ Airline Service Quality Performance	2105-AB28

+ Designates significant regulation.

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1649	+ California Offshore Routing System (83-032)	2115-AB29
1650	+ Imposition of User Fees for Certain Coast Guard Services; Documentation and Licensing (CGD 87-020)	2115-AC74
1651	Casualty Reporting Requirements for Recreational Boats (82-015)	2115-AA82
1652	Training in the Use of Automatic Radar Plotting Aids (ARPA) (85-089)	2115-AB99
1653	Inspected Fish Processing and Fish Tender Vessels (86-026)	2115-AC27
1654	Uninspected Fish-Processing Vessels (86-025)	2115-AC34
1655	SOLAS 74/83 Emergency Drinking Water and Food Approval Requirements (85-202)	2115-AC48
1656	SOLAS 74/83 Revision of Pyrotechnic Distress Signal Approval Requirements (85-203)	2115-AC49
1657	SOLAS 74/83 Revision of Disembarkation Ladder Approval Requirements (85-204)	2115-AC50
1658	SOLAS 74/83 Revision of Hydraulic Release Device Approval Requirements (85-206)	2115-AC52
1659	SOLAS 74/83 Revision of Davit and Winch Approval Requirements (85-207)	2115-AC53
1660	SOLAS 74/83 Radar Reflector Approval Requirements (85-209)	2115-AC54
1661	SOLAS 74/83 Revision of Lifebuoy Approval Requirements (85-210)	2115-AC55
1662	SOLAS 74/83 Revision of Life Jacket Light Approval Requirements (85-211)	2115-AC56

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U.S. Coast Guard—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number

+ Designates significant regulation.

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1663	+ Revisions of the Regulations on Outer Continental Shelf Activities (84-098)	2115-AB74
1664	+ Mandatory Alcohol and Drug Testing Following Serious Marine Incidents Involving Commercial Vessels (CGD 86-080)	2115-AC62
1665	+ Qualifications of the Person in Charge of Oil Transfer Operations: Tankerman Requirements (79-116)	2115-AA03
1666	+ User Fees for Coast Guard Services (84-026)	2115-AB73
1667	+ Vessel Bridge-to-Bridge Radiotelephone Communications on the Great Lakes (84-040)	2115-AB89
1668	+ Drug Detection for Merchant Marine Personnel (CGD 86-067)	2115-AC45
1669	+ Regulations for Self-Elevating Offshore Service and Support Vessels (CGD 86-074)	2115-AC83
1670	Fixed Fire-Extinguishing Systems on Uninspected Vessels (74-284)	2115-AA06
1671	Hopper Dredge Working Freeboard - Load Line and Stability Requirements (76-080)	2115-AA11
1672	Miscellaneous Changes to 46 CFR 56 (77-140)	2115-AA17
1673	Crane Operator Qualifications and Standards for Offshore Crane Design, Inspection, Testing, and Operation (79-059)	2115-AA34
1674	Inflatable Liferaft Stability (80-113)	2115-AA50
1675	Maneuvering Performance Regulations (80-136)	2115-AA53
1676	Servicing Inflatable Liferafts (81-010)	2115-AA57
1677	Personal Flotation Devices (81-023)	2115-AA58
1678	General Revision of 46 CFR 151, Barges Carrying Certain Bulk Dangerous Cargoes (81-082)	2115-AA70
1679	Offshore Supply Vessel Regulations (82-004)	2115-AA77
1680	General Revisions of Pollution-Prevention Regulations for Tankers (82-030)	2115-AA88
1681	Hand Held Flashlights (82-042)	2115-AA91
1682	Aids to Navigation on Outer Continental Shelf (82-054)	2115-AA92
1683	Safety Standards for Self-Propelled Vessels Carrying Bulk Liquefied Gases (82-058)	2115-AA95
1684	Nautical Schools: Implementing the Maritime Educational Training Act of 1980 (82-092)	2115-AB21
1685	Reassessment of Coast Guard Fire Protection Regulations to Incorporate SOLAS 1974 (83-026)	2115-AB36
1686	Reassessment of Coast Guard Marine Engineering Regulations -- Incorporation of SOLAS 74 Amendments (83-043)	2115-AB41
1687	Hazardous Materials Used as Ship's Stores Onboard Vessels (84-044)	2115-AB65
1688	Oil-Water Interface Detectors (CGD 84-052)	2115-AB66
1689	Licensing of Pilots-Manning of Vessels (84-060)	2115-AB67
1690	Marine Portable Tanks (84-043)	2115-AB69
1691	Personal Flotation Device Components (84-068)	2115-AB70
1692	Lifesaving Equipment--Implementation of 1983 Amendments to SOLAS 1974 (84-069)	2115-AB72
1693	Mobile Offshore Drilling Unit Regulations Revision (83-071a)	2115-AB88
1694	Safety Rules for Ships Carrying Hazardous Liquids (84-085)	2115-AB92
1695	Certification of Seamen (84-088)	2115-AC02
1696	Inland Waterway Navigation Regulations; All Waters Tributary to the Gulf of Mexico (85-096)	2115-AC03
1697	Delegation of Authority to United States Classification Societies (85-019)	2115-AC10
1698	Fire Detection and Alarm Systems (85-051)	2115-AC13
1699	Intervals for Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks (85-061)	2115-AC18
1700	Revisions to the Electrical Engineering Regulations (85-063)	2115-AC20
1701	Subchapter "T" Title 46, General Updates and Revisions (85-080)	2115-AC22
1702	46 CFR Subchapter 1. Editorial Revisions and Corrections (86-033)	2115-AC26
1703	Hazardous Substances Pollution Prevention (86-034)	2115-AC29
1704	Updating Approval Requirements for Breathing Apparatus (86-036)	2115-AC30
1705	Revised Approval Specifications for Noncombustibles and Prohibition of Asbestos for Commercial Vessels (86-035)	2115-AC32
1706	Compatibility of Cargoes (86-100)	2115-AC35
1707	Load Lines (86-013)	2115-AC37
1708	Offshore Evacuation Procedures (84-096(b))	2115-AC41
1709	Navigation Bridge Visibility (CGD 85-099)	2115-AC42
1710	Fire Extinguishers (Portable and Semi-Portable) - Revising Approval Specifications and Updating Carriage Requirements (86-072)	2115-AC43
1711	SOLAS 74/83 Life Jacket Approval Requirements Revision (85-200)	2115-AC46
1712	SOLAS 74/83 Lifeboat and Rescue Boat Approval Requirements (85-201)	2115-AC47
1713	SOLAS 74/83 Revision to Inflatable Liferaft Approval (85-205)	2115-AC51
1714	Advance Notice of Arrival (CGD 86-055)	2115-AC58
1715	Measurement of Vessels (87-015 b)	2115-AC67

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U.S. Coast Guard—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1716	Posting Requirements on Inspected Vessels (87-031)	2115-AC68
1717	Emergency Position Indicating Radio Beacons for Uninspected Fishing, Fish Processing, and Fish Tending Vessels (87-016)	2115-AC69
1718	Delegation of Authority to Measure Vessels (87-015a)	2115-AC70
1719	Inland Waterway Navigation Rules - San Joaquin and Sacramento River Deep Water Ship Channels (CGD 86-078)	2115-AC77
1720	Port Access Routes; Approach to Freeport, Texas (CGD 87-038)	2115-AC79
1721	Port Access Routes; Approach to Tampa Bay, Florida (CGD 85-097)	2115-AC79
1722	Port Access Routes; Approach to Mobile, Alabama (CGD 86-008)	2115-AC81
1723	Assistance Towing Licenses (CGD 87-017)	2115-AC82

+ Designates significant regulation.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1724	+ Intervals for Drydocking and Tailshaft Examination on Inspected Vessels (84-024)	2115-AB56
1725	+ Operating a Vessel While Intoxicated (84-099)	2115-AC23
1726	+ Joint U.S.-Canada Vessel Traffic Management Regulations for the Pacific Region (79-131)	2115-AA39
1727	+ Licensing of Maritime Personnel (CGD 81 - 059)	2115-AA64
1728	+ Safety Rules for Vessels Engaged in Chemical Waste Incineration at Sea (84-025)	2115-AB60
1729	Defect Notification and First-Purchaser Information (77-115)	2115-AA16
1730	Liquefied Natural Gas Waterfront Facility (78-038)	2115-AA22
1731	Hybrid Personal Flotation Devices: Establishment of Approval Requirements (78-174)	2115-AA29
1732	Launching Devices for Liferafts (79-168)	2115-AA45
1733	Vital System Automation (CGD 81-030)	2115-AA59
1734	General Bridge Permit Regulations (81-057)	2115-AA61
1735	Safety/Security Zone Regulations	2115-AA97
1736	Anchorage Area Regulations	2115-AA98
1737	Documentation of Vessels; Controlling Interest (82-105)	2115-AB27
1738	Carriage and Use of Liquefied or Nonliquefied Flammable Gas as Cooking Fuels on Vessels Carrying Passengers for Hire (83-013)	2115-AB35
1739	Licensing of Officers and Operators for Mobile Offshore Drilling Units (81-59a)	2115-AB91
1740	MARPOL Pollution Prevention Regulations (85-026)	2115-AC11
1741	Carriage and Operational Requirements for Inflatable Life Jackets (78-174b)	2115-AC16
1742	U.S. Aid to Navigation Systems (86-031)	2115-AC33
1743	Self-Inspection of Fixed OCS Facilities (CGD 84-098(a))	2115-AC40
1744	Immersion Suits (84-069a)	2115-AC66
1745	Incorporations by Reference, Voluntary Industry Standards (CGD 87-046)	2115-AC72
1746	Electrical System Standard (CGD 87-009)	2115-AC73
1747	Security Measures: Placarding (CGD 87-044)	2115-AC75
1748	York Spit Channel, Chesapeake Bay, Navigation (CGD 86-066)	2115-AC76

+ Designates significant regulation.

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1749	+ Operating a Vessel While Intoxicated: Recreational Vessels (84-099A)	2115-AC24
1750	+ Identification of the Horizontal Datum Referenced in Coast Guard Regulations (86-082)	2115-AC44
1751	Construction and Equipment; Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases (77-069)	2115-AA00
1752	Revocation of Military Explosives Regulations (83-006)	2115-AB33
1753	Accommodations, Rails and Guards (84-073)	2115-AB80
1754	Heald Bank Cutoff Safety Fairway (85-062)	2115-AC19
1755	Berwick Bay Vessel Traffic Service (85-076)	2115-AC21
1756	Boating Safety; Fuel System Standard (85-098)	2115-AC36
1757	Great Lakes Pilotage Rates (86-020)	2115-AC38
1758	Coast Guard Auxiliary Ensign (85-073)	2115-AC71

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U.S. Coast Guard—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1759	Shipping Safety Fairways; Approach to New York (CGD 84-004)	2115-AC80

+ Designates significant regulation.

Federal Aviation Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1760	+ Powered Ultralights: Airman Certification Requirements	2120-AB69
1761	+ Ultralight Aircraft Registration and Marking	2120-AC09
1762	+ Fire Protection Requirements for Cargo and Baggage Compartments - Parts 121 and 135	2120-AC04
1763	+ Terminal Control Areas at 10,000 Feet Mean Sea level (MSL); Mode C Transponders above 10,000 feet MSL	2120-AC52
1764	+ Flight Plan Filing Requirements; National Airspace Review Recommendation	2120-AC56
1765	Review of Medical Standards and Certification Procedures	2120-AA70
1766	Review: Part 21--Certification Procedures for Products and Parts	2120-AB09
1767	Review of Parts 61, 141, 143 - Pilot, Pilot School and Ground Instructor Rules	2120-AB12
1768	Review: Part 121 -- Certification and Operations: Domestic, Flag and Supplemental Air Carriers and Commercial Operators of Large Aircraft	2120-AB27
1769	Review: Part 135 -- Air Taxi Operators and Commercial Operators	2120-AB28
1770	Review Part 75 for Retention or Revocation	2120-AC55
1771	Part 91, Subpart B, Review for Simplification	2120-AA07
1772	Accelerated Ground Training - Flight Engineers' Skill Requirements	2120-AA79
1773	Instrument Flight Rule Requirements	2120-AA82
1774	Amendment of Sections 91.171, 91.172, and Appendices E and F of Part 43	2120-AA98
1775	Fatigue Evaluation, Bird Impact, and Lightning Protection for Propellers of Composite Construction	2120-AB05
1776	Standards for Approval for High Altitude Operation of Subsonic Airplanes	2120-AB18
1777	Primary Category Aircraft; Powered Ultralight; Falsification of Applications, Reports, or Records	2120-AB53
1778	Part 157 Review	2120-AB74
1779	Antiblocking Device	2120-AB92
1780	Passenger-Carrying and Cargo Air Operations for Compensation or Hire	2120-AC08
1781	Aircraft Registration; Recording of Aircraft Titles and Security Documents	2120-AC17
1782	Temporary Flight Restrictions	2120-AC40
1783	Alternate Airport Weather Minimum	2120-AC41
1784	Improve Safety and Effectiveness of Islip Airport Radar Service Area (ARSA)	2120-AC47
1785	Global Positioning System Use in Terminal Control Areas	2120-AC54
1786	National Airspace Review Recommendation - Operations in the Vicinity of an Airport	2120-AC57

+ Designates significant regulation.

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1787	+ Review and Revision of Repair Station Requirements	2120-AC38
1788	+ Low-Altitude Windshear Equipment Requirements for Takeoffs/Landings of Transport Category Airplanes	2120-AA01
1789	+ Metropolitan Washington Airports Policy	2120-AA89
1790	+ Revision of Foreign Repair Station Rules	2120-AC50
1791	+ Amend Part 23 to Include Requirements for Crash-Resistant Fuel Systems	2120-AA57
1792	+ Airplane Cabin-Fire Protection	2120-AB22
1793	+ Occupant Restraint in Normal and Transport Category Rotorcraft	2120-AB35
1794	+ Proposed Department of Energy Prohibited Areas	2120-AB39
1795	+ Elimination of Airport Delays	2120-AB42
1796	+ Proposed Limits on the Growth of Noise from Certain Airplanes and Airplane Types	2120-AB50
1797	+ Proposed Revision of Noise Certification of Turbojet and Large Transport Category Aircraft	2120-AB88
1798	+ Flight Attendant Flight-Time Limitations and Rest Requirements	2120-AB97
1799	+ SST Stage 3 Compliance	2120-AC22
1800	+ Location of Passenger Emergency Exits in Transport-Category Airplanes	2120-AC29
1801	+ Flight Attendant Requirements During Deplaning and Boarding	2120-AC32
1802	+ Control of Drug and Alcohol Use for Personnel Engaged in Commercial and General Aviation Activities	2120-AC33

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Federal Aviation Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1803	+ Installation of Traffic Control Avoidance System in Domestic Transport Category Airplanes	2120-AC34
1804	+ Part 129 Security Program for Foreign Air Carriers	2120-AC42
1805	+ Type and Number of Passenger Emergency Exits Required in Transport Category Airplanes	2120-AC43
1806	+ Improved Access to Type III and Type IV Emergency Exits	2120-AC46
1807	+ Commuter Category Airplanes: Cockpit Voice Recorder (CVR) and Flight Data Recorder (FDR) Requirements	2120-AC48
1808	+ Pilots Convicted of Driving While Intoxicated (DWI)/Under Influence (DUI)	2120-AC51
1809	Part 77 Review, Objects Affecting Navigable Airspace	2120-AA09
1810	Cessna Finance Petition	2120-AA15
1811	Inoperative Instruments or Equipment	2120-AA19
1812	Rotorcraft Regulatory Review Program Notice No. 4	2120-AA29
1813	Implementation of SAFER Propulsion System Recommendations	2120-AA49
1814	Miscellaneous Amendments	2120-AA50
1815	Aircraft Simulator Use in Airman Training and Certification	2120-AA83
1816	National Airspace Review (NAR): Terminal Airspace Task Group Recommendations	2120-AB02
1817	Standards for Approval of a Reduced V1 Methodology for Takeoff on Wet and Contaminated Runways	2120-AB17
1818	Transport Category Rotorcraft Performance	2120-AB36
1819	Miscellaneous Operational Amendments	2120-AB45
1820	Low-Fuel-Quantity Alerting System	2120-AB46
1821	Part 101 Review Program	2120-AB75
1822	Engine Fuel and Induction Systems	2120-AB76
1823	Amend Section 43.17 to Allow for Maintenance of U.S. Aeronautical Products in Canada in Compliance with the U.S.-Canadian Bilateral Airworthiness Agreement	2120-AB89
1824	Revised One-Engine-Inoperative Ratings for Rotorcraft	2120-AB90
1825	Turbine Burst Protection for Transport Category Helicopters	2120-AB91
1826	Controlled Air Space Designations in International Air Space	2120-AB93
1827	Airspace Reclassification	2120-AB95
1828	Terminal Control Area (TCA) San Diego (Modification)	2120-AB98
1829	Transponder Requirements in Coastal Air Defense Identification Zones (ADIZ)	2120-AB99
1830	Changes Requiring a New Type Certificate	2120-AC05
1831	Part 23 Airworthiness Review, Notice No. 5 (Equipment, Systems, and Installation)	2120-AC14
1832	Part 23 Airworthiness Review, Notice No. 2	2120-AC15
1833	Noise and Emission Standards for Aircraft Powered by Advanced Turboprop (Propfan) Engines	2120-AC20
1834	Rotorcraft Certification Requirements; Coordination with European Airworthiness Authorities Steering Committee (AASC)	2120-AC27
1835	Part 99: Air Defense Identification Zones and Miscellaneous Editorial Revision	2120-AC37
1836	Improved Structural Requirements for Pressurized Cabins and Compartments in Transport Category Airplanes	2120-AC44
1837	Miscellaneous Changes to Emergency Evacuation Demonstration Procedures, Exit Handle Illumination, and PA Handsets	2120-AC45

+ Designates significant regulation.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1838	+ Update of Part 139	2120-AA10
1839	+ Improved Seat-Safety Standards	2120-AA88
1840	+ Certification of Recreational Pilots and Annual Flight Review	2120-AA54
1841	+ Civil Helicopter Noise Certification	2120-AB33
1842	+ Proposed Revision to Noise Certification Standards for Propeller-Driven Small Airplanes	2120-AB47
1843	+ Independent Power Source for Public Address System in Transport Category Airplanes	2120-AB77
1844	+ Part 23 Airworthiness Review - Notice No. 1 (Crashworthiness)	2120-AC16
1845	+ Terminal Control Area Classification and Pilot/Equipment Requirements	2120-AC35
1846	Revision of Part 91	2120-AA13
1847	Rotorcraft Regulatory Review Program Amendment No. 3	2120-AA28
1848	Standards for Approval of an Automatic Takeoff Thrust Control System	2120-AA46
1849	Transport Category Airplane Airworthiness Standards	2120-AA47
1850	Amend Part 23 to Include Empennage Fatigue Requirements	2120-AA58
1851	Noise Standards: Aircraft Type and Airworthiness Certification	2120-AA74
1852	Rotorcraft Structural Fatigue Including Tolerance to Flaws	2120-AA84
1853	Nighttime VFR Weather Minimums	2120-AB04

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Federal Aviation Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1854	Airworthiness Standards: Aircraft Engines, Electrical and/or Electronic Engine Control Systems	2120-AB06
1855	Helicopter Instrument Flight	2120-AB87
1856	Flight Plan and Transponder-On Requirements in Air Defense Identification Zones (ADIZ)	2120-AC00
1857	Aircraft Identification and Retention of Fuel System Modification Records	2120-AC11
1858	Part 150 - Airport Noise-Compatibility Planning	2120-AC19
1859	Mandatory Reporting for Emergency Evacuation Systems and Components	2120-AC49
1860	Part 95 Instrument Flight Rules	2120-AA63
1861	Airworthiness Directives	2120-AA64
1862	Standard Instrument Approach Procedures	2120-AA65
1863	Airspace Actions	2120-AA66

+ Designates significant regulation.

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1864	+ Carry-On Baggage	2120-AC06
1865	+ Protective Breathing Equipment	2120-AB32
1866	+ Charges for Use of Metropolitan Washington Airports	2120-AB46
1867	+ Terminal Control Area Pilot and Equipment Requirements	2120-AC36
1868	+ Minimum Upper Limit for Terminal Control Areas	2120-AC55
1869	Review: Part 67--Medical Standards and Certification	2120-AB13
1870	Review: Part 141--Pilot Schools	2120-AB14
1871	Review: Carriage of Weapons and Other Dangerous Objects at Washington National Airport and Washington Dulles International Airport	2120-AC01
1872	Foreign Air Carriers and Operators of Certain Large U.S.- Registered Airplanes	2120-AA42
1873	Aircraft Fleet Modernization Strategies	2120-AC03
1874	Preflight Assembly of Gliders and Balloons	2120-AC10

+ Designates significant regulation.

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1875	+ Driver's Record of Duty Status; Onboard Recording Devices	2125-AB95
1876	Highway Beautification: Outdoor Advertising: Technical Amendment	2125-AB32
1877	Manual on Uniform Traffic Control Devices; Restructure	2125-AB57
1878	National Standards For Traffic Control Devices; Revision of Part VI of the Manual On Uniform Traffic Control Devices	2125-AB83
1879	Qualification of Drivers; Diabetes	2125-AB91

+ Designates significant regulation.

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1880	+ Federal Motor Carrier Safety Regulations: General	2125-AA34
1881	+ Controlled Substances	2125-AA79
1882	+ Employee Safety and Health Standards	2125-AB50
1883	+ Driving a Motor Vehicle	2125-AB51
1884	+ Truck Size and Weight; Specialized Equipment; Boat Transporters	2125-AB55
1885	+ Semitrailer-Semitrailer; B-Train	2125-AB66
1886	+ Commercial Driver Test and Licensing Standards	2125-AB68

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Federal Highway Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1887	+ Truck Size and Weight; Reasonable Access	2125-AB70
1888	+ Blood Alcohol Concentration Standard for Commercial Vehicle Operators	2125-AB79
1889	+ Truck Size and Weight; Special Permits	2125-AB80
1890	+ Air Quality Procedures for Use in Federal-Aid Highway and Federally Funded Transit Programs	2125-AB10
1891	+ Minimum Requirements for Private Motor Carriers of Passengers and Drivers of Private Motor Vehicles of Passengers	2125-AB62
1892	+ Minimum Levels of Financial Responsibility for Motor Carriers: Self-Insurance	2125-AB65
1893	+ Uniform Relocation Act Amendments of 1987; General	2125-AB85
1894	+ Certification of Speed Limit Enforcement	2125-AC00
1895	Review: General Materials Requirements	2125-AA19
1896	Contract Procedures	2125-AA18
1897	Compliance with Motor Carrier Noise Standards	2125-AA27
1898	Pavement Design Policy	2125-AA88
1899	State Highway Agency Construction Contracts; Equal Opportunity Compliance Review; Program Requirements	2125-AB08
1900	Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supportive Services)	2125-AB15
1901	Federal-Aid Programs Approval and Project Authorization	2125-AB18
1902	Railroad-Highway Projects	2125-AB25
1903	Administration of Contracts	2125-AB30
1904	Right-of-Way	2125-AB58
1905	Property Management, Disposals and Airspace	2125-AB60
1906	Labor and Employment; Convict Labor and Materials	2125-AB62
1907	National Standards For Traffic Control Devices; Revision of Uniform Traffic Control Devices; Passing and No-Passing Zone Standards	2125-AB84
1908	Construction and Maintenance; Contract Procedures; Standardized Contract Clauses	2125-AB87
1909	Truck Size and Weight; National Network	2125-AB98
1910	Manual on Uniform Traffic Control Devices	2125-AA37

+ Designates significant regulation.

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1911	+ Splash/Spray Suppressant Devices on Truck Tractors, Semitrailers and Trailers	2125-AA84
1912	+ Truck Size and Weight; Grandfather Semitrailer Lengths	2125-AB26
1913	+ Truck Size and Weight; Tandem Truck Safety Act	2125-AB28
1914	+ Inspection, Repair, and Maintenance	2125-AB34
1915	+ Hours of Service	2125-AB39
1916	+ Truck Size and Weight; Automobile Transporters	2125-AB42
1917	+ Parts and Accessories Necessary for Safe Operation; General	2125-AB45
1918	+ Safety Fitness Determination	2125-AB46
1919	+ Truck Size and Weight; Specialized Equipment; Maxi-Cube	2125-AB48
1920	+ Qualification of Drivers; Hazardous Materials Drivers	2125-AB64
1921	+ Accommodation of Utilities; Longitudinal Utility Use of Freeway Right-of-Way	2125-AB76
1922	+ Uniform Relocation Act Amendments of 1987; Specific Payments	2125-AB96
1923	Railroad Grade Crossings	2125-AA36
1924	Transfer of Federal-Aid Highway Funds	2125-AA64
1925	Acceleration of Projects	2125-AA87
1926	Erosion and Sediment Control on Highway Construction Projects	2125-AB05
1927	Labor and Employment	2125-AB37
1928	Structural Supports for Highway Signs, Luminaries and Traffic Signals	2125-AB56
1929	Reimbursement for Railroad Work	2125-AB59
1930	National Bridge Inspection Standards; Frequency of Inspection and Inventory	2125-AB71
1931	Cargo Preference	2125-AB73
1932	Minimum Levels of Financial Responsibility for Motor Carriers; Environmental Restoration	2125-AB77
1933	Construction and Maintenance; Contract Procedures	2125-AB88
1934	State Education and Training Program	2125-AB92

+ Designates significant regulation.

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Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1935	+ Federal Motor Carrier Safety Regulations	2125-AB35
1936	+ Truck Size and Weight; Lane Widths	2125-AB43
1937	+ Commercial Driver Licensing Standards; Requirements and Penalties	2125-AB76
1938	+ Environmental Impact and Related Procedures	2125-AA05
1939	Emergency Relief	2125-AA50
1940	Navigational Clearances for Bridges	2125-AB07
1941	Required Contract Provisions	2125-AB20
1942	Agreement Provisions Regarding Overruns in Contract Time	2125-AB49
1943	Landscape and Roadside Development	2125-AB89
1944	Driving of Motor Vehicles; Out-of-Service Criteria	2125-AB90
1945	Bridge Toll Procedures; Rescission	2125-AB97

+ Designates significant regulation.

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1946	+ Review: Impact Protection for the Driver from the Steering Control System	2127-AB78
1947	+ Side Impact Protection, Head/Neck Protection, and Occupant Ejection Mitigation	2127-AB85
1948	+ Uniform Tire-Quality Grading	2127-AA52
1949	Review: Schoolbus Seating Systems	2127-AA55
1950	Review: Seating Systems	2127-AA69
1951	Review: Lamps, Reflective Devices, and Associated Equipment	2127-AB76
1952	Review Roof Crush Resistance	2127-AC20
1953	Flammability of School Bus Interior Materials	2127-AA44
1954	Consumer Information - Wet Stopping Distance	2127-AA56
1955	Occupant Protection In Interior Impact	2127-AB16
1956	Federal Motor Vehicle Safety Standard No. 301 - Fuel System Integrity	2127-AB43
1957	Occupant Crash Protection: Dynamic-Testing Petition	2127-AC00
1958	Non-Pneumatic Tires for Passenger Cars	2127-AC18

+ Designates significant regulation.

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1959	+ Crashworthiness Ratings	2127-AA03
1960	+ Commercial Vehicle Conspicuity	2127-AA12
1961	+ Truck Rear Underride Protection	2127-AA43
1962	+ Pedestrian Protection	2127-AA45
1963	+ Anthropomorphic Test Dummies: Side-Impact Thorax Protection	2127-AA48
1964	+ Splash and Spray Suppression Devices	2127-AA97
1965	+ Uniform Tire Quality Grading Standards - Treadwear Amendments	2127-AB21
1966	+ Side Impact Protection: Thorax Protection	2127-AB86
1967	+ Lighting Simplification--Potential Amendments to Simplify FMVSS 108 Lamps, Reflective Devices, and Associated Equipment	2127-AB87
1968	+ 1990-1991 Model Year Light-Truck Fuel-Economy Standards	2127-AC05
1969	+ Heavy Duty Vehicle Brake Systems (Formerly Truck and Trailer Brake Systems)	2127-AA00
1970	+ Vehicle Classification	2127-AA57
1971	+ Voluntary Tire Registration	2127-AB16
1972	+ Heavy Trailer Stability	2127-AB42
1973	+ Occupant Crash Protection	2127-AB91
1974	+ Head Restraints	2127-AC06
1975	Passenger Car Brake Systems	2127-AA13
1976	Rearview Mirror Systems: Heavy Vehicles	2127-AA21
1977	Rearview Mirror Systems: Light Vehicles	2127-AA23
1978	Air-Brake Systems	2127-AA27

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National Highway Traffic Safety Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1979	Procedures for Considering Environmental Impacts	2127-AB79
1980	Voluntary Vehicle Identification Standard (Theft Prevention Standard)	2127-AB93
1981	Anthropomorphic Test Dummies Representing Children	2127-AB94
1982	Glazing Materials	2127-AB98
1983	Anthropomorphic Test Dummies Representing Children	2127-AC09
1984	Anthropomorphic Test Dummies Representing Children	2127-AC10
1985	Federal Motor Vehicle Safety Standard No. 208 - Occupant Crash Protection	2127-AC11
1986	Supplemental FMVSS No. 208 Injury Criteria - Facial Lacerations, Neck Injury, Knee Shear, Tibia and Ankle Injuries	2127-AC12
1987	Mandatory Use of the Part 572(e) Dummy in FMVSS 208 Compliance Testing	2127-AC13
1988	Federal Motor Vehicle Safety Standards No. 205, Glazing Materials	2127-AC14
1989	New Pneumatic Tires for Passenger Cars	2127-AC16
1990	Federal Motor Vehicle Safety Standard No. 221, Schoolbus Body Joint Strength	2127-AC19
1991	Gear Lock; Theft Protection	2127-AC24
1992	Power-Operated Window Systems	2127-AC25

+ Designates significant regulation.

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1993	+ Post-1988 Passenger Car Fuel-Economy Standards	2127-AB75
1994	+ Petitions for Exemption From the Vehicle Theft Prevention Standard	2127-AB91
1995	+ Federal Motor Vehicle Safety Standards; Schoolbus Passenger Seating and Crash Protection	2127-AB84
1996	+ Daytime Running Lights	2127-AB92
1997	+ Occupant Crash Protection: Light-Truck Safety Belt Dynamic Testing	2127-AC01
1998	Steering Control Rearward Displacement	2127-AA32
1999	Motorcycle Helmets	2127-AA40
2000	Seating Reference Point/Motor Vehicle Driver's Eye Range	2127-AA46
2001	Consumer Information--Stopping Distance	2127-AA50
2002	Rearview Mirrors	2127-AA68
2003	Hydraulic and Air Brake Systems	2127-AA92
2004	Seat Belt Assembly Anchorages	2127-AA95
2005	Air Brake Systems	2127-AB12
2006	Occupant Crash Protection	2127-AB71
2007	Child Restraint Systems -- Built-in Child Restraints	2127-AB97
2008	Standard No. 112, Headlamp Concealment Devices	2127-AC21
2009	Standard No. 108, Lamps, Reflective Devices, and Associated Equipment	2127-AC22
2010	Motor Vehicle Brake Fluids	2127-AC26

+ Designates significant regulation.

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2011	Controls and Displays	2127-AA06
2012	Standard No. 108, Lamps, Reflective Devices, and Associated Equipment	2127-AC23

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2013	+ Review of Radio Communication	2130-AA34
2014	Review: Regulatory Flexibility Act Reviews	2130-AA10

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Federal Railroad Administration—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2015	Review of Locomotive Cab Safety	2130-AA32
2016	Review: Special Safety Inquiry; Power Brake Regulations	2130-AA40
2017	Safety Standards for Cabooses	2130-AA01
2018	Amendments to Regulations Implementing Section 905 of the 4R Act	2130-AA04
2019	Rules of Practice	2130-AA07
2020	Special Safety Inquiry; Rail-Highway Grade Crossing Safety	2130-AA27

+ Designates significant regulation.

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2021	+ Informal Safety Inquiry and Rulemaking; Control of Alcohol and Drug Use in Railroad Operations	2130-AA43

+ Designates significant regulation.

Urban Mass Transportation Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2022	+ Maintenance of Equipment and Facilities	2132-AA26

+ Designates significant regulation.

Urban Mass Transportation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2023	+ Implementation of Section 19 of the Urban Mass Transportation Act of 1964 as Amended -- Nondiscrimination	2132-AA01
2024	+ Major Capital Investment Projects	2132-AA22
2025	+ Extension of Safety Requirements to all Federally Assisted Buses	2132-AA24
2026	+ Control of Drug Use in Federally Funded Mass Transportation Operations	2132-AA33
2027	School Bus Operations	2132-AA09
2028	Air Quality Procedures for Use in Federal-Aid Highway and Federally Funded Transit Programs	2132-AA19
2029	Rolling Stock Purchase Audits	2132-AA29
2030	Bus Testing Guidelines	2132-AA30
2031	Project Management Oversight	2132-AA31
2032	Charter Bus Operations	2132-AA32

+ Designates significant regulation.

Urban Mass Transportation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2033	+ Environmental Impact and Related Procedures	2132-AA03
2034	+ "Buy America" Requirements of the Surface Transportation Assistance Act of 1982	2132-AA15
2035	Innovative Techniques and Methods	2132-AA05
2036	Miscellaneous Amendments - Organization, Functions, and Procedures	2132-AA06
2037	Technology Introduction	2132-AA07
2038	Section 15 Reporting Requirements for Section 9 Apportionment Grants; Penalty Procedures for Noncompliance	2132-AA23

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Urban Mass Transportation Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2039	Capital Leases	2132-AA28

+ Designates significant regulation.

Urban Mass Transportation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2040	+ Charter Bus Operations	2132-AA04

+ Designates significant regulation.

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2041	+ Gas Gathering Line Definition	2137-AB15
2042	+ OST-FAA Information Rules: Standardized Regulatory Flexibility Requirements	2137-AB16
2043	+ Industry Training for Hazardous Materials Transportation	2137-AB26
2044	+ Hazardous Materials in Intrastate Commerce	2137-AB37
2045	Review of Commuter Air Traffic and Market Data Reporting	2137-AB18
2046	Revision of Operating Procedures for Motor Vehicles	2137-AA07
2047	Consolidation and Revision of Requirements for the Carriage of Explosives by Vessel	2137-AA10
2048	Private Carriers Licensed to Use Radioactive Materials	2137-AA28
2049	Specification Packages of Type B and Fissile Radioactive Materials	2137-AA29
2050	Quality Assurance for Radioactive Materials Shippers	2137-AA30
2051	DOT Specification 51 Portable Tanks	2137-AA36
2052	Specification 8W and 8WA Welded Steel Cylinders	2137-AA63
2053	Revision of the IM Tank Table	2137-AA64
2054	Rewrite and Recodification of Section 173.34	2137-AA73
2055	Airline Revenue/Nonrevenue, First Class/Coach Passengers: Revised Definitions	2137-AB00
2056	Subsidized Commuter Carriers and Foreign Air Carriers: Records and Retention Periods	2137-AB04

+ Designates significant regulation.

Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2057	+ Performance-Oriented Packaging Standards	2137-AA01
2058	+ Collection of Service Segment Data and Charter Data from Foreign Air Carriers	2137-AA97
2059	+ Alignment of Airline Uniform System of Accounts and Reports with Generally Accepted Accounting Principles	2137-AA99
2060	+ Collection of Service Segment Data and Charter Data from U.S. Air Carriers	2137-AB01
2061	+ Confidentiality of Parts 241 and 298 Airline Reports	2137-AB05
2062	+ State Pipeline Safety Inspector Standards	2137-AB26
2063	+ Recodification of Explosive Regulations	2137-AA93
2064	+ Proposals for Pipeline Safety	2137-AB27
2065	+ Pipeline Operator Qualifications	2137-AB38
2066	Review: Consolidation of Specifications for High-Pressure Seamless Cylinders	2137-AA92
2067	Definition of a Flammable Solid	2137-AA05
2068	Oxidizing Materials Definition, Criteria and Proposed Regulations	2137-AA11
2069	Emergency Response Communication Standards	2137-AA88
2070	Collection of Financial Information from the Commuter Air Carrier Industry	2137-AA98
2071	Exception from Pressure Testing Non-Welded Tie-In Joints	2137-AB19
2072	Confirmation or Revision of Maximum Allowable Operating Pressure; Alternate Method	2137-AB20
2073	Transportation of Natural and Other Gas by Pipeline; Miscellaneous Amendments	2137-AB22

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Research and Special Programs Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2074	Reporting Unsafe Conditions on Gas and Hazardous Liquid Pipelines	2137-AB23
2075	Deletion of Standards Affecting Iron and Copper Pipe and Other Materials	2137-AB24
2076	Enforcement of Motor Carrier Financial Responsibility Requirements	2137-AB35
2077	Standards for Construction of Fireworks and Approval for Transportation	2137-AB36

+ Designates significant regulation.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2078	+ Requirements for Cargo Tanks	2137-AA42
2079	+ Data Collection and Reporting: Hazardous Materials Incident Reports	2137-AA51
2080	Use of Interested Inspectors for Cylinder Inspections	2137-AA08
2081	Odorization of LP Gas	2137-AA25
2082	Transportation of Hazardous Materials; Miscellaneous Amendments	2137-AA44
2083	Modifications to DOT Specification 21PF-1 Overpacks	2137-AA72
2084	Limitation Aboard Aircraft	2137-AA85
2085	Hazardous Materials: Uranium Hexafluoride	2137-AB10
2086	Molten Sulfur; Molten Materials Generally	2137-AB31
2087	State Designations of Alternative Routes for Radioactive Materials Transportation	2137-AB32
2088	Notification to RSPA of Route Plans for Radioactive Materials Transportation	2137-AB33
2089	Rear Bumpers on Cargo Tank Trucks	2137-AB34

+ Designates significant regulation.

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2090	+ Review of the Form 41 Report of Financial and Operating Statistics for Large Certificated Air Carriers	2137-AA96
2091	+ Confidential Treatment: Aviation Economics - Related Material	2137-AB02
2092	+ Performance-Oriented Classification and Packaging Standards for Explosives and Blasting Agents	2137-AB25
2093	Confirmation or Revision of Maximum Allowable Operating Pressure Near Certain Occupied Buildings or Outside Areas	2137-AA62
2094	Gas Pipeline Damage Prevention Program	2137-AA71
2095	Bulk Packagings and Miscellaneous Rule Changes	2137-AA90
2096	Fire Protection and Security of Liquefied Natural Gas Facilities	2137-AB13

+ Designates significant regulation.

Maritime Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2097	+ Regulations and Minimum Standards for State, Territorial or Regional Maritime Academies and Colleges	2133-AA57
2098	+ Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Oil from Alaska in the Domestic Trade	2133-AA62
2099	Statistical Data for Use in Operating-Differential Subsidy (ODS) Application Hearings	2133-AA16

+ Designates significant regulation.

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Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2100	+ Approval of Marine Hull Underwriters	2133-AA50
2101	+ Cargo Preference - Implementation of P.L. 99-198	2133-AA55
2102	Review: War Risk Insurance	2133-AA54
2103	Rules of Practice and Procedures for Hearing in ODS Applications	2133-AA20
2104	Requirements for Conducting Vessel Subsidy Condition Surveys and for Accomplishing Subsidized Vessel Maintenance and Repairs	2133-AA64

+ Designates significant regulation.

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2105	+ Cargo Preference U.S.-Flag Vessels; Determination of Fair and Reasonable Rates for Liner Vessels	2133-AA02
2106	+ Cargo Preference, U.S.-Flag Vessels: Determination of Fair and Reasonable Rates for Bulk Vessels	2133-AA43
2107	+ Cargo Preference, U.S.-Flag Vessels: Evaluation of Bids for Subsidized Liner Vessels	2133-AA52
2108	Suspension of ODS Agreements for All or Portion of the Vessels Included Therein	2133-AA17
2109	Marine Protection and Indemnity Insurance Instructions Under General Agency and Berth Agency Agreements	2133-AA51

+ Designates significant regulation.

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2110	+ Notice of Intent to Redesignate Essential Trade Routes	2133-AA44
2111	+ Construction-Differential Subsidy Repayment	2133-AA61
2112	Review of All MARAD Program Regulations	2133-AA56
2113	Documentation, Transfer or Charter of Vessels; Amendment of Processing Procedures for Certain Applications	2133-AA59
2114	Regulations Governing Public Buildings and Grounds at the U.S. Merchant Marine Academy	2133-AA60
2115	Admission and Training of Midshipmen at the United States Merchant Marine Academy; Pay Increase	2133-AA63

+ Designates significant regulation.

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

Office of the Secretary (OST)

1604. + REVIEW OF DEPARTMENT-WIDE DRUG REGULATIONS

Significance: Agency Priority

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: The Department will review existing regulations to determine whether changes are necessary for each of the Modal Administrations' drug regulations. The Department seeks to address the use of drugs through its regulatory authority. The review will encompass each Modal Administration's program.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Samuel E. Whitehorn, Attorney, Office of the General Counsel, Department of Transportation, Office of the Secretary, Regulations and Enforcement, 400 7th St., SW, Washington, DC 20590, 202 366-9307

RIN: 2105-AB24

1605. + CONSUMER PROTECTION FOR DEFAULT BY SCHEDULED AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1381

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: Transamerica petitioned the CAB to investigate ways to protect consumers against service defaults by scheduled air carriers in domestic, overseas, and foreign air transportation. Transamerica suggested that the Board condition the award of operating

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authority to perform direct carrier scheduled service on air carriers developing a default protection plan. For foreign air travel, it suggested that the obligation be limited to outbound flights. The petitioner argued that prompt action is necessary in order to ensure continued public confidence in scheduled air service and to protect passengers from unnecessary financial hardship. DOT is considering what action should be taken on the petition.

Timetable:

Action	Date	FR Cite
Petition filed in Docket 42368	07/25/84	

Next Action Undetermined

Small Entity: No

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AA98

1606. + CERTIFICATION OF SPEED-LIMIT ENFORCEMENT

Significance: Agency Priority

Legal Authority: 23 USC 141; 23 USC 154; 23 USC 118; 23 USC 315

CFR Citation: 23 CFR 659; 49 CFR 1.50; 49 CFR 1.48

Legal Deadline: None.

Abstract: The Department will review the existing 55 MPH procedural regulations to determine if they can be made more efficient and to update the regulation where necessary. Provisions addressing the effect of future compliance (for a State found not to be in compliance in a given fiscal year) on the reinstatement of funds withheld will also be reviewed.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Government Levels Affected: State

Agency Contact: Sam Whitehorn, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9307

RIN: 2105-AB22

1607. + ESCROW/BOND PROTECTION FOR AIRLINE TICKETS

Significance: Agency Priority

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1381

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: This petition, filed by Mr. Theodore Harris, addresses the problem of airline passengers whose airline goes bankrupt after they bought their ticket but before they use it. The petitioner asks that airlines be required to protect such "unearned revenue" by escrowing it or by posting a bond in an amount equal to 150% of average unearned revenue. Exemptions could be granted to airlines which file evidence of ticket insurance plans or which enter into agreements with other airlines to accept the tickets of bankrupt carriers.

Timetable:

Action	Date	FR Cite
Petition for rulemaking (Dkt 44304)	08/27/86	

Next Action Undetermined

Small Entity: No

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AB26

1608. AIR CARRIER CARGO TARIFF PUBLICATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1373; 49 USC 1482

CFR Citation: 14 CFR 221.171; 14 CFR 221.173

Legal Deadline: None.

Abstract: This petition proposes to amend the requirement that air carriers post cargo tariffs at stations, offices, and locations other than their principal office. The petitioners proposed to allow carriers to maintain a memorandum tariff at each location and have a toll-free number for shippers to obtain access to complete tariff information. Petitioners alleged that such a change would substantially reduce the cost and time burden of maintaining and continually updating voluminous files of current and past tariffs at each location. Further action on the proposal will depend on developments in rulemaking docket 43343, Electronic Filing of Tariffs, RIN 2105-AB00.

Timetable:

Action	Date	FR Cite
Petition Filed in Docket 42660	11/27/84	

Next Action Undetermined

Small Entity: No

Additional Information: Petition under consideration.

Agency Contact: Lawrence Myers, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9183

RIN: 2105-AA31

1609. OVERSEAS MILITARY PERSONNEL AIR-CHARTER TARIFFS

Significance: Nonsignificant

Legal Authority: 49 USC 1373; 49 USC 1386

CFR Citation: 14 CFR 372

Legal Deadline: None.

Abstract: The reference to tariffs in the rule governing Overseas Military Personnel Charters (OMPC) has become obsolete, at least with respect to domestic air transportation. The CAB was considering whether to eliminate the tariff requirement for all OMPC's and replace it with consumer-protection requirements similar to those in its Public Charter rule in Part 380. This proposal is still being considered by DOT.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AA67

1610. UNFAIR AND DECEPTIVE PRACTICES BY AIRLINE TICKET AGENTS

Significance: Nonsignificant

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Legal Authority: 49 USC 1378; 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None.

Abstract: Enforcement policies currently make reference to tariffs. DOT is considering whether to limit these provisions to foreign air transportation or to eliminate them entirely.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AA70

1611. DIRECT FLIGHTS

Significance: Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None.

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: Petition under consideration. It has been filed in Docket 41217.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AA73

1612. CARGO RATE CHANGES ON 30 DAYS' NOTICE

Significance: Nonsignificant

Legal Authority: 49 USC 1373

CFR Citation: 14 CFR 221.160

Legal Deadline: None.

Abstract: This rule would amend regulations to allow cargo tariffs which are within the zones established under 14 CFR 399.41 to be filed on 30 days' notice. There are two alternatives: either maintain the status quo (60 days' notice) or change cargo tariff filing regulations to 30 days' notice to be consistent with passenger tariff-filing requirements. Standardization of the regulatory tariff-filing requirements for both cargo and passenger tariffs would benefit the industry.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Tom Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 7th Street, SW, Washington, DC 20590, 202 366-2414

RIN: 2105-AA99

1613. COMPREHENSIVE REVIEW OF CAB CONSUMER RULES

Significance: Nonsignificant

Legal Authority: 49 USC 1301 et seq Federal Aviation Act of 1958, as amended

CFR Citation: 14 CFR 201.6; 14 CFR 203; 14 CFR 205; 14 CFR 221, Subpart N; 14 CFR 249; 14 CFR 250; 14 CFR 252; 14 CFR 253; 14 CFR 254; 14 CFR 296.6 and 297.30; 14 CFR 298.30; 14 CFR 379; 14 CFR 380; 14 CFR 382; 14 CFR 399, Subpart G

Legal Deadline: None.

Abstract: The Civil Aeronautics Board was an independent agency; its rules have now been transferred to DOT, a cabinet department. This review will identify any CAB rules which are not consistent with Department or Administration regulatory criteria, such as those that impose an unnecessarily high cost or those with paperwork burdens that can be reduced or which involve a level of benefits or costs which are either higher or lower than necessary. The review will examine all alternatives, from strengthening a given rule to eliminating it. Nonregulatory approaches, including the supplying of information by the Government, or regulation by another level of government, will be also considered. The benefits and costs will be known only after these alternatives have been developed. This review is a priority because it involves important departmental policy.

Timetable:

Action	Date	FR Cite
Begin Review	02/25/85	

Next Action Undetermined

Small Entity: Yes

Additional Information: The committee conducting this review will examine all CAB consumer rules. Rulemaking proceedings on individual regulations may follow, depending on the committee's findings and recommendations.

Agency Contact: William C. Boyd, Senior Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Room 5102, Washington, DC 20590, 202 366-1053

RIN: 2105-AB03

1614. PRICE ADVERTISING

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380.30(e); 14 CFR 399.84

Legal Deadline: None.

Abstract: The DOT rules cited above state that any price stated for air transportation, a tour or a tour component must be the entire price for that transportation, tour or component. In this petition, Mr. Donald Pevsner complains that some tour operators advertise prices which do not include additional features which must be purchased and which cost extra. He asks that the rules be amended to state that such additional features may only be priced separately if they may be purchased separately, i.e., if they are optional rather than mandatory.

Timetable:

Action	Date	FR Cite
Petition for rulemaking (Dkt 43147)	05/22/85	

Next Action Undetermined

Small Entity: No

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of

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the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AB25

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

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1615. + ELECTRONIC FILING OF TARIFFS

Significance: Regulatory Program

Legal Authority: 49 USC 1373

CFR Citation: 14 CFR 221

Legal Deadline: None.

Abstract: DOT will examine whether conversion from a paper document system to a computerized system of filing and monitoring air carrier tariffs can reduce paper flow, speed up processing, and allow the industry to utilize computer and telecommunications technology to communicate with DOT. The alternative is to maintain the current paper tariffs system. Potential savings to the industry may be greater than to the Government, since airlines already utilize automated fare and rate systems. In addition, airlines may be able to implement changes faster, thus responding more quickly to market conditions, and may be less burdened with the cost of producing and transmitting paper documents. The Department may reduce paper flow, experience savings in processing time and staffing, and improve the accuracy and control of tariff data. In order to assure that users' needs are taken into consideration and that the private sector is involved to the maximum extent in the design, implementation, and operation of such a system, the Department established an Advisory Committee to make continuing recommendations on technical, operational, and policy objectives of the electronic tariff system.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/85	50 FR 33452
ANPRM Comment Period End	11/18/85	
Federal Register Notice establishing Advisory Committee	11/24/86	51 FR 42327

Next Action Undetermined

Small Entity: Undetermined

Additional Information: As a consequence of discussions with the Committee the Department is planning to experiment with existing data base and electronic mail systems, to determine whether any such systems can fulfill Departmental requirements for an electronic tariff system.

Agency Contact: Thomas Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2414

RIN: 2105-AB00

1616. + MINORITY BUSINESS ENTERPRISE PROGRAM (FINANCIAL ASSISTANCE PROGRAMS)

Significance: Agency Priority

Legal Authority: 42 USC 2000d Civil Rights Act of 1964, Title VI; 49 USC 1730; 45 USC 906; 49 USC 1615; PL 97-424, Sec 105(f); PL 100-17, Sec 106(c)

CFR Citation: 49 CFR 23

Legal Deadline: None.

Abstract: The Department is reviewing its regulation establishing a minority business enterprise (MBE) program in its financial assistance programs (49 CFR Part 23). This regulation has been controversial, is of interest to most DOT grant recipients and contractors, and affects the operations of all DOT financial assistance programs. Section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 extended and modified the program as applied to FHWA and UMTA; similar legislation is currently under consideration in Congress for the FAA. The DOT intends to publish final rule to make the changes required by the 1987 Act and subsequently issue an NPRM that would propose further changes in the regulation.

Timetable:

Action	Date	FR Cite
Final Action	03/31/80	45 FR 21172
NPRM make interim amend to final rule, pend. revision of entire rule	03/12/81	46 FR 16282
Final Action for interim amendment	04/27/81	46 FR 23457
NPRM	12/15/87	
NPRM Comment Period End	03/15/88	

Small Entity: Yes

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/27/81

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105-AA04

1617. + NONDISCRIMINATION ON THE BASIS OF HANDICAP (AIR TRAVEL)

Significance: Agency Priority

Legal Authority: 29 USC 794; Section 404(a) of the Federal Aviation Act of 1958, as amended

CFR Citation: 49 CFR 27; 14 CFR 382

Legal Deadline: Statutory, January 30, 1987.

Abstract: The Civil Aeronautics Board (CAB) has a regulation providing protection of the rights of handicapped air travellers. Based on recent Congressional action, DOT began enforcing this regulation on January 1, 1985. The Supreme Court's decision in U.S. Department of Transportation v. Paralyzed Veterans of America held that Section 504 of the Rehabilitation Act of 1973 does not apply to nonsubsidized air carriers. This decision left the existing regulation intact. The Air Carrier Access Act of 1986 directed DOT to publish new regulations prohibiting disability-based discrimination in air travel. The Department will use comments received

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in response to its August 1986 information notice on issues affecting blind passengers as part of the record for this rulemaking. The Department has convened an advisory committee and is pursuing this rulemaking through a negotiated rulemaking process.

Timetable:

Action	Date	FR Cite
NPRM	12/07/87	
Final Action	04/30/88	

Small Entity: No

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105-AA18

1618. + COMMERCIAL SPACE TRANSPORTATION: LIABILITY REQUIREMENTS FOR COMMERCIAL SPACE LAUNCH ACTIVITIES

Significance: Agency Priority

Legal Authority: PL 98-575, Secs 15(c) and 16 Commercial Space Launch Act

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: Persons authorized to conduct commercial launch activities by a license issued by OCST are required to have in effect at least that amount of third-party liability insurance prescribed by DOT for the licensed activity. In addition, launch firms must secure an amount of insurance, or offer other assurance, that will be adequate to protect the Government when its property or personnel are directly involved in the conduct of commercial launch activities. Rulemaking sets out the criteria OCST will consider in setting the appropriate amount of third-party liability and other insurance firms subject to its authority must carry.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/85	50 FR 19280
ANPRM Comment Period End	07/08/85	50 FR 19280

Next Action Undetermined

Small Entity: No

Agency Contact: Gerald Musarra, Department of Transportation, Office of the Secretary, Commercial Space Transportation, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9305

RIN: 2105-AA26

1619. + LIBERALIZATION OF AIR-CARRIER CHARTER RULES

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1381; 49 USC 1386

CFR Citation: 14 CFR 207; 14 CFR 208; 14 CFR 212; 14 CFR 298; 14 CFR 380

Legal Deadline: None.

Abstract: The CAB proposed new charter rules for direct and indirect air carriers. The proposed rules retain the financial protections of existing rules for direct air carriers while eliminating rules restricting the types of groups (such as "affinity" or "single-entity") to whom charters may be sold. The proposal would also retain a security instrument and depository system for indirect air carriers, along with contract rules for public protection. The proposal also highlights depository bank and travel agent responsibilities in handling passenger funds. The proposal replaces one made earlier. DOT is considering what action should be taken.

Timetable:

Action	Date	FR Cite
NPRM (EDR-439/SPDR-86, Docket 40336)	02/19/82	47 FR 7443
NPRM Comment Period End	04/20/82	
Reply Comment Period End	05/10/82	
NPRM	04/12/83	48 FR 15639
NPRM (EDR-456/SPDR-88, Docket 40336)	04/12/83	48 FR 15639
NPRM Comment Period End	06/13/83	
Reply Comment Period End	06/28/83	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AA41

1620. + SMOKING ABOARD AIRCRAFT; NOTICE TO PASSENGERS

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386

CFR Citation: 14 CFR 252; 14 CFR 253

Legal Deadline: None.

Abstract: This rule would inform passengers of their right to a seat in a nonsmoking section of an aircraft by one of two proposed alternatives. The first would require airlines to include a prescribed notice on or with their tickets. The second would include smoking in the list of subjects incorporated by reference in the contract of carriage, which would inform passengers that additional information may be obtained from the place of ticketing.

Timetable:

Action	Date	FR Cite
NPRM (EDR-449, Docket 41009)	11/19/82	47 FR 52190
NPRM Comment Period End	12/20/82	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AA72

1621. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION—STATE TRANSPORTATION AGENCIES' EEO AFFIRMATIVE ACTION PROGRAMS

Significance: Nonsignificant

Legal Authority: Federal-Aid Highway Act of 1968, as amended, Sec 22(a); RR Revitalization & Regulatory Reform Act of 1976, Sec 905; 49 USC 1615 Urban Mass Transportation Act of 1964, as amended; 29 USC 794 Rehabilitation Act of 1973, Sec 504

CFR Citation: 49 CFR 1.48(c); 49 CFR 2.49(u); 49 CFR 1.51(a)

Legal Deadline: None.

Abstract: The proposed regulation would set forth requirements and procedures for all State Departments of Transportation (DOTs) equal employment opportunity compliance programs. It would also consolidate FHWA, FRA, and UMTA responsibilities in this area. This proposed regulation is significant

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because it would affect the equal opportunity employment programs of all State transportation agencies. It is needed because OST, FHWA, FRA, and UMTA each have responsibility for implementing the equal employment opportunity programs of State DOTs. This proposed rule would assure full coordination among these departmental elements, reduce the burden on the recipients, simplify reporting requirements, and eliminate duplication of effort.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: The proposed regulation was forwarded to EEOC for review and coordination. The primary issue addressed by this proposal was raised in the course of reviewing a related regulation. Farther action will be delayed pending the outcome of that review.

Agency Contact: Dorsey Thomas, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4754

RIN: 2105-AA06

1622. NONDISCRIMINATION ON THE BASIS OF HANDICAP (DIRECTLY CONDUCTED PROGRAMS)

Significance: Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 49 CFR 26

Legal Deadline: None.

Abstract: This regulation would implement the 1978 amendments to section 504 of the Rehabilitation Act of 1973 which made its prohibition of discrimination on the ground of handicap applicable to the directly conducted programs of Federal agencies as well as to their financial assistance programs. The rule would apply to DOT facilities, personnel practices, and regulatory programs. It would be based on a model rule developed by the Department of Justice. The rule would also apply to DOT activities and functions transferred from the Civil Aeronautics Board after that agency's "sunset." A CAB NPRM that was being developed on this subject will be subsumed in this project. A draft NPRM is now being reviewed by the Department of Justice.

Timetable:

Action	Date	FR Cite
NPRM	10/15/87	

Small Entity: Undetermined

Agency Contact: Robert Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105-AA29

1623. AIRLINE TIME AND MILEAGE GUIDES

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Legal Deadline: None.

Abstract: The DOT currently prohibits fares or rates based upon units of time. This rule would remove these restrictions.

Timetable:

Action	Date	FR Cite
NPRM (EDR-448, Docket 41034)	10/27/82	47 FR 47599
Next Action Undetermined		

Small Entity: No

Agency Contact: Thomas Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2414

RIN: 2105-AA39

1624. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1481; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504; ...

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None.

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is now considering what action to take.

Timetable:

Action	Date	FR Cite
NPRM (EDR-468/PSDR-81, Docket 41683)	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	
Reply Comment Period	11/28/83	
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601.

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AA78

1625. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1373; 49 USC 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Legal Deadline: None.

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading.

Timetable:

Action	Date	FR Cite
NPRM (EDR-477, Docket 41690)	12/18/84	49 FR 4911

DOT—OST

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	03/19/85	
Next Action Undetermined		

Small Entity: No

Agency Contact: Timothy Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AA84

1626. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None.

Abstract: The American Association of Airport Executives, the Airport Operators Council International and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. The CAB adopted an NPRM that proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted and whether a smoking notice should be included. DOT is now considering what action to take in response to the notice and comments filed.

Timetable:

Action	Date	FR Cite
NPRM (EDR-474, Docket 41971)	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	
Next Action Undetermined		

Small Entity: Yes

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AA88

1627. UPDATE THE DEPARTMENT OF TRANSPORTATION ACQUISITION REGULATIONS TO IMPLEMENT THE COMPETITION IN CONTRACTING ACT AS SET FORTH IN THE FEDERAL ACQUISITION REGULATIONS—PROPOSED RULES

Significance: Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301; 48 CFR 1.301; 49 CFR 1.59; PL 98-369, Title VII

CFR Citation: 48 CFR 1201, (Revision)

Legal Deadline: None.

Abstract: The Competition in Contracting Act (CICA) P.L. 98-369, effective April 1, 1985, makes major changes in the structure and control of the Federal acquisition process. These changes have been effected by the Federal Acquisition Regulation (FAR). The intent of the update of the Department's acquisition regulation is to implement the FAR coverage of CICA where required, and make other changes necessary to implement FAR changes through Federal Acquisition Circular #14.

Timetable:

Action	Date	FR Cite
NPRM	09/15/87	

Small Entity: Yes

Agency Contact: Roger C. Martino, Chief, Procurement Management Division, Department of Transportation, Office of the Secretary, Room 9100, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4271

RIN: 2105-AB15

1628. WARRANTY REGULATIONS FOR MAJOR SYSTEM ACQUISITIONS OF THE UNITED STATES COAST GUARD - PROPOSED RULE

Significance: Nonsignificant

Legal Authority: PL 98-473

CFR Citation: 48 CFR 1246

Legal Deadline: None.

Abstract: This rulemaking would establish the regulations for Coast Guard warranties that shall be included in all contracts with prime contractors for major system acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	02/25/87	52 FR 5547
NPRM Comment Period End	04/27/87	52 FR 5547
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Joseph Brooks, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9349

RIN: 2105-AB18

1629. NAMES OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Significance: Nonsignificant

Legal Authority: 49 USC 1381; 49 USC 204(a); 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 215, (Revision)

Legal Deadline: None.

Abstract: The Department must now routinely decide issues of name similarity whenever an airline wishes to use a different name for its operations or a new applicant wishes to use a name for its proposed operations. The issue arises even where there is no evidence that use of a certain name will cause or has caused confusion with an existing name. The current rule is duplicative of other statutes. The issue can be decided privately without routine, active government intervention, or can be handled on a case-by-case basis. The proposed rule would 1) delete specific criteria for decisions on name cases, 2) emphasize ad hoc enforcement, and 3) change the rule to make it a form of registration. Removal of routine intervention would reduce delay in applications for name changes. It would not result in less protection for travelers when there is a real need for action.

Timetable:

Action	Date	FR Cite
NPRM	09/15/87	

Small Entity: Undetermined

Agency Contact: Roger Martino, Department of Transportation, Office of the Secretary, Room 9100, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4271

RIN: 2105-AB16

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DOT—OST — **Proposed Rule Stage**

1630. ● COUNTING UMTA REDUCED-FARE PROGRAM COSTS TOWARD 504 COST CAP

Significance: Nonsignificant

Legal Authority: 29 USC 704; 49 USC 1612(d)

CFR Citation: 49 CFR 27

Legal Deadline: None.

Abstract: The Department is considering whether or not to eliminate a provision in its rule concerning mass transit services for disabled persons, which permits incremental expenditures by recipients for the off-peak, reduced-fare program for elderly and handicapped passengers on mainline mass transit services to be counted in the calculation of the three-percent limit on required expenditures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Robert Ashby, Deputy Ass't General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 7th St SW, Washington, DC 20590, 202 366-9306

RIN: 2105-AB29

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage

Office of the Secretary (OST)

1631. + COMMERCIAL SPACE TRANSPORTATION: LICENSING REGULATIONS

Significance: Regulatory Program

Legal Authority: PL 98-575

CFR Citation: 14 CFR 400 to 415

Legal Deadline: None.

Abstract: The rulemaking addresses the general organization and procedures of the Office of Commercial Space Transportation and the review procedures and information requirements pertaining to launch license applications. The final regulations will identify the general factors the government will consider, in the absence of published technical standards, in the course of determining whether to grant a launch license request. The process identified in the final regulations will set out in greater detail the two-part process initially described in the Department's Notice of Policy published in the Federal Register on February 25, 1985. That process consists of a Mission Review, focusing on national security and foreign-policy issues, and a Safety Review, focusing on public safety issues. The final regulations will contain revisions that will respond to comments received by the Department on the interim regulations published February 26, 1986. These regulations are significant because they involve issues of substantial interest to the public and important DOT policies.

Timetable:

Action	Date	FR Cite
Notice of Policy and Request for Comments	02/25/85	
Comment Period on Notice 02/25/85 to	04/26/85	
Interim Final Rule	02/26/86	51 FR 6870
Comment on Interim Final Rule 02/26/86 to	04/28/86	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Gerald Musarra, Department of Transportation, Office of the Secretary, Commercial Space Transportation, 400 Seventh Street, SW, Washington, DC 20590, 202 366-6305

RIN: 2105-AA25

1632. + PUBLIC AVAILABILITY OF INFORMATION

Significance: Agency Priority

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 49 CFR 7

Legal Deadline: Statutory, April 27, 1987. The Freedom of Information Act of 1986, Pub. L. 99-570, Title I, Subtitle Q, requires agencies to promulgate regulations implementing the Act's new fee schedule, and establish guidelines for fee waivers within 180 days after the date of enactment.

Abstract: This involves a revision of DOT's Freedom of Information Act regulations. Specific areas addressed include fees to be charged for search and reproduction costs and the establishment of more precise criteria to enable the Department to determine when a waiver of fees is in the public interest. It also addressed records relating to those functions of the Civil Aeronautics Board that were transferred to the Department . This rulemaking is significant because of substantial public interest. It is needed to comply with recent statutory changes, including OMB and Department of Justice guidance, and periodic revisions to keep current with policy changes.

Timetable:

Action	Date	FR Cite
NPRM	11/12/85	50 FR 42049
NPRM Comment Period End	12/16/85	
SNPRM/Interim Final Rule	01/16/87	52 FR 1992
Comment Period End	02/17/87	
Final Action	10/00/87	
Final Action Effective	11/00/87	

Small Entity: No

Additional Information: Further, the timeframe for a supplemental NPRM addressing PUB. L. 99-570 (fee schedule, fee waiver and law enforcement provisions) is in accordance with statutory requirements and cognizant of soon to be published OMB guidelines.

Agency Contact: Rebecca H. Lima, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4542

RIN: 2105-AA05

1633. + NONDISCRIMINATION ON THE BASIS OF HANDICAP (COMMUTER RAIL PROGRAMS)

Significance: Agency Priority

Legal Authority: 29 USC 704; 49 USC 1612(d)

DOT—OST — **Final Rule Stage**

CFR Citation: 49 CFR 27, Subpart E

Legal Deadline: None.

Abstract: This notice asks comment on several alternatives for providing accessible commuter rail service, or a substitute for it, to disabled persons. The notice also requests information on the likely ridership and cost effects of the alternative approaches suggested in the notice. Comments have been received and are being reviewed. Studies have been received or are expected to be received in the near future. Final actions being considered include a number of alternatives spelled out in the notice, including various regulatory steps and taking no further regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	01/19/81	46 FR 5588
NPRM Comment Period End	04/20/81	
To be withdrawn	12/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 01/19/81

Agency Contact: Dorsey Thomas, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4754

RIN: 2105-AA02

1635. MINORITY BUSINESS ENTERPRISE PROGRAM (DIRECT CONTRACTING)

Significance: Nonsignificant

Legal Authority: EO 11625; EO 12138; 45 USC 803; PL 95-507

CFR Citation: 49 CFR 23

Legal Deadline: None.

Abstract: As part of the NPRM that proposed its minority business program rule (49 CFR Part 23), the Department proposed rules concerning minority business involvement in direct DOT procurement. However, because of the program established by Public Law 95-507, these proposed rules became unnecessary, and were never finalized. That program provides for subcontracting plans and goals in certain direct Federal contracts as well as for disadvantaged business set-asides under the Small Business Administration 8(a) program. The Department intends to withdraw this proposal.

Timetable:

Action	Date	FR Cite
NPRM	05/23/86	51 FR 19032
NPRM Comment Period End	09/22/86	
Final Action	10/15/87	

Small Entity: No

Government Levels Affected: State

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 7th St., SW, Washington, DC 20590, 202 366-9306

RIN: 2105-AB23

1634. TITLE VI CIVIL RIGHTS REGULATION

Significance: Nonsignificant

Legal Authority: 42 USC 2000d-4

CFR Citation: 49 CFR 21

Legal Deadline: None.

Abstract: In 1981, the Department proposed a consolidation and expansion of its existing Title VI regulation (49 CFR Part 21). Few comments were received on this NPRM, and a final regulation was never published. The Department reviewed the existing regulation to determine if changes were needed. It was concluded that the Department can continue to enforce Title VI appropriately through the existing regulation. Consequently the Department does not anticipate further rulemaking action, and intends to withdraw the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	05/17/79	44 FR 28928
NPRM Comment Period End	07/16/79	
Final Action concerning financial assistance programs	03/31/80	45 FR 21172
Withdraw Proposed Rule	09/00/87	

Small Entity: No

Additional Information: The Department published a final rule concerning its financial assistance programs on March 31, 1980 (45 FR 21172). The Department has concluded that further rulemaking in the direct contracting field is unnecessary at this time, and intends to withdraw this proposed rule.

Analysis: Regulatory Evaluation 05/17/79

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105-AA03

1636. CONSOLIDATION OF TRANSPORTATION GRANTS TO U.S. TERRITORIES

Significance: Nonsignificant

Legal Authority: PL 95-134, Title V

CFR Citation: 49 CFR 29

Legal Deadline: None.

Abstract: Title V of Pub. L. 95-134 permits departments and agencies to consolidate grant programs, reduce reporting requirements, and waive local matching fund requirements. This proposal is being withdrawn because of problems concerning legal requirements with changing grant conditions.

Timetable:

Action	Date	FR Cite
NPRM	01/08/79	44 FR 1765
To be withdrawn	10/00/87	

Small Entity: No

Agency Contact: Jack Bennett, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9669

RIN: 2105-AA08

1637. NONDISCRIMINATION ON THE BASIS OF AGE IN DOT FINANCIAL ASSISTANCE PROGRAMS

Significance: Nonsignificant

Legal Authority: PL 94-135, Title III

CFR Citation: 29 CFR 1691

Legal Deadline: None.

Abstract: This regulation would prohibit age discrimination by recipients of DOT financial assistance programs. Few comments were received on the NPRM. The Department intends to publish a final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/22/79	44 FR 60946
Final Action	12/00/88	

Small Entity: No

DOT—OST

Final Rule Stage

Agency Contact: Joseph Austin, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-5992

RIN: 2105-AA09

1636. MINORITY BUSINESS ENTERPRISE PROGRAM (FINANCIAL ASSISTANCE PROGRAMS); COUNTING CREDIT FOR SUPPLIERS AND OTHER SERVICE PROVIDERS

Significance: Nonsignificant

Legal Authority: 42 USC 2000d; 49 USC 1730; 45 USC 906; 49 USC 1615; PL 97-424, Sec 105(f), Surface Transp. Assist. Act of 1982

CFR Citation: 49 CFR 27.47(e)(f)

Legal Deadline: None.

Abstract: The current DOT MBE rule provides that recipients and contractors may receive a maximum of 20 percent credit for the cost of goods purchased from MBE suppliers who do not manufacture the goods. The Department is considering regulatory changes to correct unintended anomalies that may have resulted from this approach. The Department published an NPRM on this rule October 3, 1985, and now anticipates taking final action as part of a final rule to be issued to implement section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987. (See entry for RIN 2105-AA04)

Timetable:

Action	Date	FR Cite
NPRM	10/03/85	50 FR 40422
Final Action	10/00/87	

Small Entity: No

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105-AA20

1639. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None.

Abstract: This rule would make direct air carriers responsible for returning charter passengers stranded by strikes or other interruptions of their services by eliminating the force majeure clause from charter contracts. However, the Department is considering a comprehensive proposal (RIN 2105-AA41 in this agenda) to revise and simplify air charter rules. The Department's final action in this proceeding will be consistent with the comprehensive review of the charter rule.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM (EDR-405, Docket 37169)	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	

Next Action Undetermined

Small Entity: No

Agency Contact: Tim Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2220

RIN: 2105-AA40

1640. ZONES FOR AIRLINE MAIL RATES

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1376; 49 USC 1551(b)(1)(D)

CFR Citation: 14 CFR 233, (Proposed)

Legal Deadline: None.

Abstract: This proposed rule would end the current practice of prescribing fixed rates for the transportation of mail by air, and in its place establish zones for each category of mail. Each zone would be defined by maximum and minimum rates prescribed by DOT, and airlines would be free to contract with the Postal Service for the carriage of mail at any price within the zone. The rule is now moot with regard to domestic mail rates except in Alaska.

Timetable:

Action	Date	FR Cite
NPRM	09/07/79	44 FR 52246
NPRM (EDR-367/PDR-68, Docket 36497)	09/07/79	44 FR 52246
NPRM Supplemental (EDR-387C/PDR-68C)	12/18/80	45 FR 83510
Comment Period End	02/17/81	
NPRM Supplemental	12/15/85	
Final Action	10/15/87	

Small Entity: No

Agency Contact: Lawrence Myers, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9183

RIN: 2105-AA44

1641. AIR TRAVELERS: AGE DISCRIMINATION

Significance: Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376, (Proposed)

Legal Deadline: None.

Abstract: This rule will prohibit discrimination against air travelers on the basis of age and implement the Age Discrimination Act of 1975. A final rule was adopted by the CAB on April 10, 1980, and was forwarded to the Secretary of HHS for approval, as required by the Age Discrimination Act. The rule was approved by HHS on July 13, 1984, with changes. However, these changes have not been incorporated. DOT is considering combining this rulemaking with a broader DOT age discrimination rule on which work is now under way.

Timetable:

Action	Date	FR Cite
NPRM (SPDR-74, Docket 36639)	09/26/79	44 FR 55363
Final Action adopted by the Board	04/10/80	
HHS approved Final Rule with changes	07/13/84	

Next Action Undetermined

Small Entity: No

Agency Contact: Robert Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9306

RIN: 2105-AA45

DOT—OST

Final Rule Stage

1642. POLICY STATEMENT ON AIRLINE PREEMPTION

Significance: Nonsignificant

Legal Authority: 49 USC 1305

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: This rule will set out Department policies for regulation of the rates, routes, and services of airlines that have interstate authority. The CAB concluded that under section 105 of the Federal Aviation Act of 1958 it, not the States, was responsible for economic regulation (or deregulation, as the case may be) of all the routes, rates, or services of any airline holding either (i) a certificate of public convenience and necessity to provide interstate air transportation, or (ii) an exemption under section 416 of the Act from the requirement for such a certificate.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9953
Interim Final Rule (PS-83, Docket 34684)	02/15/79	44 FR 9946
Request for comments on Interim Rule (PSDR-56, Docket 34684)	02/15/79	44 FR 9953
Comment Period End	04/16/79	
Final Action	03/31/88	

Small Entity: Yes

Agency Contact: Lawrence Myers, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9183

RIN: 2105-AA46

1643. INSURANCE FOR ON-DEMAND AIR-TAXI OPERATORS AND CANADIAN AIR TAXIS

Significance: Nonsignificant

Legal Authority: PL 95-504; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 205; 14 CFR 298

Legal Deadline: None.

Abstract: This rule would set the minimum per-person aircraft accident liability insurance limits for U.S. and Canadian on-demand air taxi operators at $150,000, instead of at $300,000 as it is for other air carriers. The NPRM further includes alternative proposals to set the per-person limit at $75,000 or $100,000 or to eliminate all minimum amounts, requiring a public notice instead. Other rules for insurance coverage for these carriers would be as in 14 CFR Part 205, including the prohibition on safety-related exclusions.

Timetable:

Action	Date	FR Cite
NPRM (EDR-395, Docket 37531)	02/04/80	45 FR 7566
NPRM (EDR-395B, Docket 37531)	10/27/81	46 FR 52565
NPRM Comment Period End	12/28/81	
Reply Comment Period End	01/18/82	
NPRM (EDR-395C, Docket 37531)	03/10/83	48 FR 10073
Comment Period End	05/17/83	
Final Action	04/30/88	

Small Entity: Yes

Agency Contact: John Hokanson, Chief, Regulatory Analysis Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1035

RIN: 2105-AA47

1644. EFFECT OF EXPIRATION OF A BILATERAL ON FOREIGN AIR-CARRIER AUTHORITY

Significance: Nonsignificant

Legal Authority: 49 USC 1159b; 49 USC 1324; 49 USC 1372; 49 USC 1386; 49 USC 1481; 49 USC 1502; 5 USC 558; 5 USC 559

CFR Citation: 14 CFR 377

Legal Deadline: None.

Abstract: In the past, the CAB had held that a foreign air carrier's permit or exemption authority continues after the underlying bilateral Service Agreement expired, by virtue of section 558(c) of the Administrative Procedure Act. Further review has determined the contemplated change is unwarranted.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	08/02/83	
To be withdrawn (SPDR-89 and SPDR-89A, Docket 41497)	11/00/87	

Small Entity: No

Agency Contact: Richard M. Loughlin, Chief, Licensing Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Room 6412, Washington, DC 20590, 202 366-2388

RIN: 2105-AA68

1645. IMPLEMENTATION OF STATUTE REQUIRING INTEREST ON SUBSIDY CLAIMS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1376; 49 USC 1389; PL 97-369

CFR Citation: 14 CFR 326, (Proposed)

Legal Deadline: None.

Abstract: Under section 322 of the FY 1983 Transportation Appropriations Act, interest may be paid on certain "hold-in" subsidy claims by certificated air carriers under sections 419 and 406 of the Act. This rule would set procedures for payment of that interest.

Timetable:

Action	Date	FR Cite
NPRM (PDR-87, Docket 41855)	12/21/83	48 FR 56599
NPRM Comment Period End	02/21/84	
Reply Comment Period End	03/02/84	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Robert Ross, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9154

RIN: 2105-AA77

1646. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 389; 14 CFR 399

Legal Deadline: None.

Abstract: The CAB proposed updating its rules applicable to exemption procedures to conform the rules to the changes brought about by the Airline Deregulation Act and the International Air Transportation Competition Act of 1979, and to modernize the evidentiary and service requirements. The Department is evaluating comments received.

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DOT—OST

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM (PDR-68/ODR-27/PSDR-83)	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
Final Action	12/01/87	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Nancy Trowbridge, (202) 366-2406.

Agency Contact: Gwyneth Radloff, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-9305

RIN: 2105-AA82

1647. EXEMPTION FROM PRIOR-APPROVAL REQUIREMENTS FOR CERTAIN TRANSACTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1303; 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1378; 49 USC 1379; 49 USC 1382; 49 USC 1384; 49 USC 1386; 49 USC 1388; 49 USC 1551

CFR Citation: 14 CFR 303

Legal Deadline: None.

Abstract: The Department is reviewing current aviation-merger procedural regulations to reduce regulatory obstacles to air carrier acquisitions of other air carriers.

Timetable:

Action	Date	FR Cite
NPRM	05/02/86	51 FR 17490
NPRM Comment Period End	06/12/86	
Final Action	03/00/88	

Small Entity: No

Agency Contact: George Baranko, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 366-5621

RIN: 2105-AB20

DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

Completed Actions

1648. ● + AIRLINE SERVICE QUALITY PERFORMANCE

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1377; 49 USC 1381

CFR Citation: 14 CFR 234; 14 CFR 255

Legal Deadline: None.

Abstract: Certain large air carriers are required to report data on flights serving specified airports and data on mishandled baggage to the Department. They also must provide an on-time performance summary by flight to computerized reservation system (CRS) vendors for display in primary CRS screens. Disclosure of this information should reduce consumers' frustration with delays, since carriers will have the incentive to construct more realistic schedules and correct baggage-handling problems within their control.

Timetable:

Action	Date	FR Cite
NPRM	06/10/87	52 FR 22046
NPRM Comment Period End	07/10/87	52 FR 22046
Final Rule amended to delete termination date	09/09/87	52 FR 34077
Final Action	09/09/87	52 FR 34056
Final Action Effective	09/09/87	52 FR 34056

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Sam Whitehorn/Gwyneth Radloff, Attorneys, Department of Transportation, Office of the Secretary, 400 Seventh St, SW, Washington, DC 20590, 202 366-9307

RIN: 2105-AB28

DEPARTMENT OF TRANSPORTATION (DOT)

U.S. Coast Guard (USCG)

Prerule Stage

1649. + CALIFORNIA OFFSHORE ROUTING SYSTEM (83-032)

Significance: Regulatory Program

Legal Authority: 33 USC 1223; 33 USC 1224

CFR Citation: 33 CFR 166; 33 CFR 167

Legal Deadline: None.

Abstract: Would implement the results of the Port Access Route Study mandated by the Ports and Waterways Safety Act. As a result of the study, the Coast Guard has preliminarily determined that potential conflicts between oil drilling and shipping require creation of a fairway system off the coast of California from the vicinity of San Francisco to Los Angeles/Long Beach and changes to the San Francisco and Santa Barbara channel traffic-separation schemes. No structures would be permitted in the fairway.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Results of the Port Access Study for California were published in the Federal Register on June 24, 1982 (47 FR 27430) and on October 14, 1982 (47 FR 46043), and on December 5, 1985 (50 FR 49861). This rulemaking is still in the early stage of development with the Minerals Management Service and DOT.

Analysis: Regulatory Impact Analysis

Agency Contact: LTJG D. Reese, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0384

RIN: 2115-AB29

DOT—USCG

Prerule Stage

1650. ● + IMPOSITION OF USER FEES FOR CERTAIN COAST GUARD SERVICES; DOCUMENTATION AND LICENSING (CGD 87-020)

Significance: Agency Priority

Legal Authority: PL 99-509

CFR Citation: 46 CFR 169; 46 CFR 175

Legal Deadline: None.

Abstract: This proposal would enumerate selected Coast Guard services for which user fees would be charged, indicate how the charges are to be charged, indicate how the charges are to be made, and how they are to be paid. User fees are being considered for the following services to small passenger vessels and sailing school vessels: initial inspection for certification, inspection for certification, reinspection, drydock examination, licensing/certification, and documentation.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/87	

Small Entity: Yes

Analysis: Regulatory Evaluation 11/00/87

Agency Contact: LCDR Thompson, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1483

RIN: 2115-AC74

1651. CASUALTY REPORTING REQUIREMENTS FOR RECREATIONAL BOATS (82-015)

Significance: Nonsignificant

Legal Authority: 46 USC 1486

CFR Citation: 33 CFR 173; 33 CFR 174

Legal Deadline: None.

Abstract: Amend casualty and accident reporting requirements for operators of recreational boats involved in boating accidents, by raising the threshold for requiring an accident report from $200 to $500.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. CGD 82-015.

Agency Contact: Mr. C. Perry, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0979

RIN: 2115-AA82

1652. TRAINING IN THE USE OF AUTOMATIC RADAR PLOTTING AIDS (ARPA) (85-069)

Significance: Nonsignificant

Legal Authority: 33 USC 1223; 46 USC 3703

CFR Citation: 33 CFR 164

Legal Deadline: None.

Abstract: Requests comments on the International Maritime Organization resolution to require ARPA training for all masters, chief mates, and officers in charge of a navigational watch. Regulatory action may follow depending on public comments.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/85	50 FR 53316
ANPRM Comment Period End	12/23/85	
Next Action Undetermined		

Small Entity: No

Agency Contact: Mr. Robert Spears Jr., Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0224

RIN: 2115-AB99

1653. INSPECTED FISH PROCESSING AND FISH TENDER VESSELS (86-026)

Significance: Nonsignificant

Legal Authority: 46 USC Subtitle II; PL 98-364

CFR Citation: 46 CFR 105

Legal Deadline: None.

Abstract: This rulemaking project will implement the provision of the Commercial Fishing Industry Vessel Act which requires development of regulations reflecting the specialized nature and economics of fish processing and fish tender vessel operations.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: LCDR W. J. Morani, Jr., Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1053

RIN: 2115-AC27

1654. UNINSPECTED FISH-PROCESSING VESSELS (86-025)

Significance: Nonsignificant

Legal Authority: 46 USC 4502 ;(a)

CFR Citation: 46 CFR 27

Legal Deadline: None.

Abstract: This rulemaking project would implement the provisions of the Commercial Fishing Industry Vessel Act which requires development of regulations for uninspected fish processing vessels that enter into service after December 31, 1987 and carry more than 16 persons who are primarily employed in the preparation of fish products.

Timetable:

Action	Date	FR Cite
ANPRM	07/09/87	52 FR 25890
Correction to ANPRM	08/10/87	52 FR 29556
ANPRM Comment Period End	09/08/87	52 FR 25890

Small Entity: Undetermined

Agency Contact: LCDR W. J. Morani, Jr., Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1056

RIN: 2115-AC34

1655. SOLAS 74/83 EMERGENCY DRINKING WATER AND FOOD APPROVAL REQUIREMENTS (85-202)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Establish U.S. Coast Guard approval requirements for emergency drinking water and food meeting the 1983 Amendments to the Safety of Life at Sea Convention.

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DOT—USCG — **Prerule Stage**

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Next action will be determined when a project manager is assigned.

Agency Contact: Ms. Lissa Martinez, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC48

1656. SOLAS 74/83 REVISION OF PYROTECHNIC DISTRESS SIGNAL APPROVAL REQUIREMENTS (85-203)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Establish U.S. Coast Guard approval requirements for pyrotechnic distress signals meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Next action will be determined when a project manager is assigned.

Agency Contact: LCDR W. Riley, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC49

1657. SOLAS 74/83 REVISION OF DISEMBARKATION LADDER APPROVAL REQUIREMENTS (85-204)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Establish U.S. Coast Guard approval requirements for disembarkation ladders meeting the 1983 Amendments to the Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Next action will be determined when a project manager is assigned.

Agency Contact: LCDR W. Riley, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC50

1658. SOLAS 74/83 REVISION OF HYDRAULIC RELEASE DEVICE APPROVAL REQUIREMENTS (85-205)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Establish U.S. Coast Guard approval requirements for hydraulic releases meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Next action will be determined when a project manager is assigned.

Agency Contact: Mr. Milton Daniels, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC52

1659. SOLAS 74/83 REVISION OF DAVIT AND WINCH APPROVAL REQUIREMENTS (85-207)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Establish U.S. Coast Guard approval requirements for davits and winches meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Next action will be determined when a project manager is assigned.

Agency Contact: Mr. Milton Daniels, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC53

1660. SOLAS 74/83 RADAR REFLECTOR APPROVAL REQUIREMENTS (85-209)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Establish U.S. Coast Guard approval requirements for radar reflectors meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Next action will be determined when a project manager is assigned.

Agency Contact: LCDR W. Riley, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC54

1661. SOLAS 74/83 REVISION OF LIFEBUOY APPROVAL REQUIREMENTS (85-210)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Establish U.S. Coast Guard approval requirements for lifebuoys meeting the 1983 Amendments of the 1974 Safety of Life at Sea Convention.

DOT—USCG — **Prerule Stage**

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Next action will be determined when a project manager is assigned.

Agency Contact: Mr. Samuel Wehr, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC55

1662. SOLAS 74/83 REVISION OF LIFE JACKET LIGHT APPROVAL REQUIREMENTS (85-211)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 161

Legal Deadline: None.

Abstract: Establish U.S. Coast Guard approval requirement for life jacket lights meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Next action will be determined when a project manager is assigned.

Agency Contact: LCDR W. Riley, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AC56

DEPARTMENT OF TRANSPORTATION (DOT) — Proposed Rule Stage
U.S. Coast Guard (USCG)

1663. + REVISIONS OF THE REGULATIONS ON OUTER CONTINENTAL SHELF ACTIVITIES (84-098)

Significance: Regulatory Program

Legal Authority: 43 USC 1331

CFR Citation: 33 CFR 140; 33 CFR 141; 33 CFR 142; 33 CFR 143; 33 CFR 144; 33 CFR 145; 33 CFR 146

Legal Deadline: None.

Abstract: Would modify 33 CFR Subchapter N by extending coverage of workplace safety rules and by modernizing material standards for fixed platforms.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/85	50 FR 9290
Extension of Comment Period to 09/03/85	05/16/85	50 FR 20445
ANPRM Comment Period End	09/03/85	50 FR 20445

Next Action Undetermined

Small Entity: No

Additional Information: CGD 84-098(a) Self-inspection of Fixed OCS Facilities separated from CGD 84-098. CGD 84-098(b) Offshore Evacuation Procedures separated from CGD 84-098.

Analysis: Regulatory Evaluation 00/00/00

Agency Contact: Mr. L. Demaio, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2307

RIN: 2115–AB74

1664. + MANDATORY ALCOHOL AND DRUG TESTING FOLLOWING SERIOUS MARINE INCIDENTS INVOLVING COMMERCIAL VESSELS (CGD 86-080)

Significance: Regulatory Program

Legal Authority: 33 USC 1231; 43 USC 1331; 46 USC 6101; 46 USC 6103

CFR Citation: 46 CFR 4

Legal Deadline: None.

Abstract: This notice proposes regulations which would: 1) require the owner, charterer, managing operator, agent, master, or person in charge of a commercial vessel (designated the "marine employer") to obtain blood, urine, and breath samples as appropriate from persons directly involved in certain serious marine incidents, within prescribed time limits; 2) define the serious marine incident criteria for which this requirement would be applicable; 3) require the marine employer to ship blood and urine samples to a laboratory designated by the Coast Guard for appropriate chemical analysis; and, 4) establish procedures regarding accountability for and processing of blood and urine samples from the time of sampling to the time of receipt of samples at the laboratory. The Coast Guard believes that these proposed regulations are necessary to better identify the extent of alcohol and drug involvement as primary or contributing causes of serious incidents, i.e., those which result in death, injury or significant property or environmental damage; to emphasize the seriousness with which the Federal Government views the problems of alcohol and drug use and abuse in the marine (cont.)

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: transportation field; to establish a stronger and more effective deterrent to alcohol and drug use aboard or in connection with commercial vessels; and to provide more reliable information upon which to base enforcement actions.

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: LCDR David F. Wallace, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2215

RIN: 2115–AC62

1665. + QUALIFICATIONS OF THE PERSON IN CHARGE OF OIL TRANSFER OPERATIONS: TANKERMAN REQUIREMENTS (79-116)

Significance: Agency Priority

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 8703; 46 USC 9101; 46 USC 9102

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CFR Citation: 33 CFR 155; 46 CFR 12; 46 CFR 13; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 70; 46 CFR 90; 46 CFR 98; 46 CFR 105; 46 CFR 151; 46 CFR 153; 46 CFR 157

Legal Deadline: None.

Abstract: Rulemaking would redefine and establish more stringent qualifying criteria for individuals engaged in transporting and transferring various categories of oil and dangerous liquid cargoes. The Port and Tanker Safety Act of 1978 mandated the establishment of personnel qualification and manning standards for tank vessels. In addition, the International Convention on the Standards for Training, Certification, and Watchkeeping for Seafarers (STCW), 1978 has entered into effect and establishes international standards for tank vessel personnel qualifications.

Timetable:

Action	Date	FR Cite
NPRM	12/18/80	45 FR 83268
Begin Public Hearings	01/00/81	
End Public Hearings	02/00/81	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Mr. C. Heizer, Department of Transportation, U S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-0226

RIN: 2115–AA03

1666. + USER FEES FOR COAST GUARD SERVICES (84-026)

Significance: Agency Priority

Legal Authority: 31 USC 9701

CFR Citation: 33 CFR 27; 33 CFR 66; 33 CFR 74; 33 CFR 100

Legal Deadline: None.

Abstract: This proposal would impose fees for certain Coast Guard services in keeping with the Administration's policy of recovering costs of services provided by the Federal Government to identifiable beneficiaries to extent practicable. This rulemaking is significant because it is likely to be of substantial interest to the public.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Yes

Additional Information: Further action must await enabling legislation.

Analysis: Regulatory Evaluation 11/00/87

Agency Contact: Mr. J. Kursban, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2420

RIN: 2115–AB73

1667. + VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE COMMUNICATIONS ON THE GREAT LAKES (84-040)

Significance: Agency Priority

Legal Authority: 33 USC 1201; 33 USC 1202; 33 USC 1203; 33 USC 1204; 33 USC 1205; 33 USC 1206; 33 USC 1207; 33 USC 1208

CFR Citation: 33 CFR 26

Legal Deadline: None.

Abstract: Recreational boat use of Channel 16, a distress and safety frequency on the Great Lakes, has become so great that commercial vessels have been having difficulty communicating navigational information. The Coast Guard is considering making modifications to the existing radiotelephone requirements. Draft changes have been exchanged between the Canadian and U.S. Coast Guards to change the technical regulations of the Great Lakes Radio agreement. Review and re-exchange of drafts currently being considered. Both governments agree on channel 13. Sequential monitoring will not be accepted by either government as filling the requirements of a "continuous watch." Which size and type of vessels that will be required to monitor channel 13 needs to be clarified.

Timetable:

Action	Date	FR Cite
Request for comments	07/06/84	49 FR 27786
NPRM	12/00/87	

Small Entity: No

Additional Information: Project Active. Draft changes to agreement being considered by both governments, after which diplomatic notes will be exchanged.

Analysis: Regulatory Evaluation 12/00/87

Agency Contact: Mr. P. Palmer, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0352

RIN: 2115–AB89

1668. + DRUG DETECTION FOR MERCHANT MARINE PERSONNEL (CGD 86-067)

Significance: Agency Priority

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 198; 46 USC 7701; 49 CFR 1.46

CFR Citation: 46 CFR 5; 46 CFR 16

Legal Deadline: None.

Abstract: The purpose of this proposal is to eliminate safety risks posed by the use of dangerous drugs by merchant marine personnel. The option being considered is a requirement that individuals applying for licenses, certificates of registry, and merchant mariners' documents provide the results of drug tests before issuance or renewal. The proposal will also address random drug-testing programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Mr. S. T. Connaughton, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0214

RIN: 2115–AC45

1669. + REGULATIONS FOR SELF-ELEVATING OFFSHORE SERVICE AND SUPPORT VESSELS (CGD 86-074)

Significance: Agency Priority

Legal Authority: 46 USC 3306; 46 USC 3301

CFR Citation: 46 CFR 125 to 136; 46 CFR 170; 46 CFR 173; 46 CFR 174

Legal Deadline: None.

Abstract: The Coast Guard is proposing regulations that will establish safety standards for self-elevating offshore service vessels commonly known as liftboats. The high rate of casualties which have been experienced by these vessels has emphasized the need for specific regulations addressing the hazards inherent in their operations.

These vessels support the offshore mineral and energy industry by performing a multitude of services such as dive support, painting, sandblasting and well servicing, among others. In performing these services, these vessels fall within the statutory definition of Offshore Supply Vessels (OSV) and are therefore subject to inspection as OSVs. The Coast Guard will consider using existing standards wherever possible, particularly those that have and are being applied to conventional OSVs. However, because of the unique design and operating characteristics exhibited by these liftboats, many of the current regulations used to inspect and certificate conventional OSVs are inadequate to ensure the safe operation of these vessels. The Coast Guard believes that development and enforcement of standards specifically addressing these (CONT)

Timetable:

Action	Date	FR Cite
ANPRM	04/16/87	52 FR 12439

Next Action Undetermined

Small Entity: Undetermined

Additional Information: unique hull forms and operating characteristics will significantly improve their safety record. These rules are not expected to impose substantial costs on industry. On February 14, 1983, the Coast Guard published an ANPRM concerning new construction of Offshore Supply Vessels (OSVs)(48 FR 6636). The information in the ANPRM presents the Coast Guard's overall approach with respect to developing comprehensive standards for conventional offshore supply vessels as contrasted with liftboats and other nonconventional OSVs. On March 7, 1985, the Coast Guard published an ANPRM on Revision of the Regulations on Outer Continental Shelf Activities (50 FR 9290). That ANPRM (CGD 84-098) solicited specific comments regarding appropriate standards that should be applied to the various types of vessels used for OCS activities. Some comments were received that addressed liftboats. These comments will be considered with the comments received in response to this rulemaking effort.

Agency Contact: LCDR S. Ciccalone, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-2307

RIN: 2115–AC63

1670. FIXED FIRE-EXTINGUISHING SYSTEMS ON UNINSPECTED VESSELS (74-284)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 4104; 46 USC 4105; 46 USC 4302; 49 USC 108

CFR Citation: 46 CFR 162.029

Legal Deadline: None.

Abstract: Would establish standards for the construction and installation of Halon 1301 and other fixed fire extinguishing systems as optional systems for compliance with existing regulations. SNPRM will address new comments received requesting that industry specifications be used and incorporated by reference.

Timetable:

Action	Date	FR Cite
NPRM	04/19/82	47 FR 16648
SNPRM	06/00/88	

Small Entity: No

Additional Information: Docket No. CGD 74-284.

Analysis: Regulatory Evaluation 04/19/82 (47 FR 16648)

Agency Contact: Mr. K. Wahle, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115–AA08

1671. HOPPER DREDGE WORKING FREEBOARD - LOAD LINE AND STABILITY REQUIREMENTS (76-080)

Significance: Nonsignificant

Legal Authority: 43 USC 1333(d); 46 USC 3306; 46 USC 3703; 46 USC 5115

CFR Citation: 46 CFR 42; 46 CFR 44; 46 CFR 45; 46 CFR 174; 46 CFR 170

Legal Deadline: None.

Abstract: Would permit self-propelled hopper dredge to load to a deeper draft (working freeboard). Only dredges desiring working freeboard must comply. Requirements for load line and stability are promulgated.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/76	41 FR 32237
NPRM	12/10/79	44 FR 70791
SNPRM	01/24/80	45 FR 5780
SNPRM	11/00/87	

Small Entity: No

Additional Information: Comments received on NPRM were substantial and raised additional technical questions. More than three years passed since NPRM. Therefore, SNPRM is being prepared, and then a final rule will be issued.

Analysis: Regulatory Evaluation 11/00/87

Agency Contact: LCDR McCarthy, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2958

RIN: 2115–AA11

1672. MISCELLANEOUS CHANGES TO 46 CFR 56 (77-140)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 50; 46 CFR 56

Legal Deadline: None.

Abstract: Would update Title 46, Subchapter F - Marine Engineering. Some facets of these regulations for shipboard piping systems have become obsolete as a result of technological developments and changes in cited codes and standards. An SNPRM will issue, to include additional clarifying language and to delete the manufacturers' affidavit system.

Timetable:

Action	Date	FR Cite
NPRM	01/09/85	50 FR 1073
NPRM Comment Period End	03/11/85	
Comment Period Extension	03/21/85	50 FR 11397
SNPRM	10/00/87	

Small Entity: No

Additional Information: Docket No. CGD 77-140.

Analysis: Regulatory Evaluation 01/09/85 (50 FR 1073)

Agency Contact: Mr. H. Hime, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW,

Washington, DC 20593-0001, 202 267-2206

RIN: 2115-AA17

1673. CRANE OPERATOR QUALIFICATIONS AND STANDARDS FOR OFFSHORE CRANE DESIGN, INSPECTION, TESTING, AND OPERATION (79-059)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 6101; 46 USC 6301; 49 USC 105

CFR Citation: 33 CFR 140; 33 CFR 143; 33 CFR 149; 46 CFR 107; 46 CFR 108; 46 CFR 109

Legal Deadline: None.

Abstract: Would develop required qualifications for crane operators employed on the Outer Continental Shelf and standards for crane design, inspection, and testing. SNPRM will address comments received on lessening the impact on small entities and other controversial issues.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/80	45 FR 2052
NPRM	02/14/86	51 FR 5547
NPRM Comment Period End	08/15/86	51 FR 21378
SNPRM	11/00/87	

Small Entity: No

Additional Information: Docket No. CGD 79-059.

Analysis: Regulatory Evaluation 02/14/86 (51 FR 5547)

Agency Contact: LDCR Stephen Johnson, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115-AA34

1674. INFLATABLE LIFERAFT STABILITY (80-113)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Would provide specific rules for function, size, and placement of stability appendages. Based on comments received, an SNPRM will issue.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/81	46 FR 33341
NPRM	01/11/85	50 FR 1558
NPRM Comment Period End	04/11/85	
Extension of Comment Period	07/05/85	50 FR 37628
SNPRM	06/00/88	

Small Entity: No

Additional Information: Docket No. CGD 80-113. Comment period extended to 10/14/85.

Analysis: Regulatory Evaluation 01/11/85 (50 FR 1538)

Agency Contact: Mr. M. Daniels, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AA50

1675. MANEUVERING PERFORMANCE REGULATIONS (80-136)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 1

Legal Deadline: None.

Abstract: Would establish requirements to improve ship maneuvering and stopping ability for new tank vessels and possibly all vessels in response to mandates in 46 USC 3703. International Maritime Organization recommendations will be considered.

Timetable:

Action	Date	FR Cite
ANPRM	09/14/81	46 FR 45631
ANPRM	07/17/84	49 FR 28893
NPRM	01/00/88	

Small Entity: No

Additional Information: The Subcommittee on Ship Design and Equipment, IMO, completed action on this item in May 1986 and the results are being included in the NPRM.

Analysis: Regulatory Evaluation 01/00/88

Agency Contact: Mr. P. Cojeen, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-2988

RIN: 2115-AA53

1676. SERVICING INFLATABLE LIFERAFTS (81-010)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Would allow liferaft servicing in U.S. and foreign ports without Coast Guard Marine Inspectors being present.

Timetable:

Action	Date	FR Cite
ANPRM	09/14/86	51 FR 29117
Public Meeting	01/27/87	51 FR 45783
ANPRM Comment Period End	02/10/87	
NPRM	06/00/88	

Small Entity: No

Additional Information: Docket No. CGD 81-010.

Analysis: Regulatory Evaluation 06/00/88

Agency Contact: LT Keegan, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AA57

1677. PERSONAL FLOTATION DEVICES (81-023)

Significance: Nonsignificant

Legal Authority: 46 USC 1454; 46 USC 1486

CFR Citation: 33 CFR 175; 33 CFR 181

Legal Deadline: None.

Abstract: Revokes an obsolete provision and makes several editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	04/12/82	47 FR 15606

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. CGD 81-023.

Analysis: Regulatory Evaluation 04/12/82 (47 FR 15606)

Agency Contact: Mr. C. Perry, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW,

Washington, DC 20593-0001, 202 267-0979

RIN: 2115-AA58

1678. GENERAL REVISION OF 46 CFR 151, BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES (81-082)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 151

Legal Deadline: None.

Abstract: Would revise the rules for barges carrying bulk cargoes by clarifying the language, eliminating unnecessary requirements, and upgrading some existing requirements.

Timetable:

Action	Date	FR Cite
ANPRM	06/04/84	49 FR 23085
NPRM	01/00/89	

Small Entity: No

Additional Information: Docket No. CGD 81-082.

Docket No. CGD 81-087.

This project is being evaluated by the Chemical Transportation Advisory Committee.

Agency Contact: R. M. Query, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1217

RIN: 2115-AA70

1679. OFFSHORE SUPPLY VESSEL REGULATIONS (82-004)

Significance: Nonsignificant

Legal Authority: 46 USC 3301(3); 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 125 to 136

Legal Deadline: None.

Abstract: Create new 46 CFR subchapter governing Offshore Supply Vessels.

Timetable:

Action	Date	FR Cite
ANPRM	02/14/83	48 FR 6636
NPRM	12/00/87	

Small Entity: No

Additional Information: Docket No. CGD 82-004.

Analysis: Regulatory Evaluation 12/00/87

Agency Contact: LT. B. Russell, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115-AA77

1680. GENERAL REVISIONS OF POLLUTION-PREVENTION REGULATIONS FOR TANKERS (82-030)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 2104; 46 USC 3703

CFR Citation: 33 CFR 157

Legal Deadline: None.

Abstract: Amend pollution regulations to clarify, correct minor errors, and incorporate policy decisions and international interpretations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	

Small Entity: No

Additional Information: This project is related to CGD 82-028, Segregated Ballast, Dedicated Clean Ballast, and Crude Oil Washing. Any further action on this project must wait until the rulemaking process for CGD 82-028 is completed because any policy decisions that result will be applicable to this rulemaking.

Analysis: Regulatory Evaluation 05/00/88

Agency Contact: LCDR W. P. Cummins, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1053

RIN: 2115-AA88

1681. HAND HELD FLASHLIGHTS (82-042)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 33; 46 CFR 35; 46 CFR 75; 46 CFR 77; 46 CFR 94; 46 CFR 96; 46 CFR 108; 46 CFR 154; 46 CFR 160; 46 CFR 161; 46 CFR 192; 46 CFR 195

Legal Deadline: None.

Abstract: Would remove two-cell flashlight requirements, and revise material and testing requirements in flashlight-approval specification.

Timetable:

Action	Date	FR Cite
NPRM	09/25/87	52 FR 36062
NPRM Comment Period End	11/09/87	52 FR 36062
Final Action	03/00/88	

Small Entity: No

Additional Information: An industry standard has been developed and will be incorporated by reference in the applicable parts.

Analysis: Regulatory Evaluation 11/00/87

Agency Contact: Mr. T. Nolan, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-2206

RIN: 2115-AA91

1682. AIDS TO NAVIGATION ON OUTER CONTINENTAL SHELF (82-054)

Significance: Nonsignificant

Legal Authority: 14 USC 2; 14 USC 83; 14 USC 85; 14 USC 92; 14 USC 633

CFR Citation: 33 CFR 67

Legal Deadline: None.

Abstract: This item will modify existing requirements to allow for the following: central approval of aids to navigation lighting equipment, conformance to International Association of Lighthouse Authorities marking recommendations for offshore structures, and realistic light-intensity requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	

Small Entity: No

Additional Information: Docket No. 82-054.

Analysis: Regulatory Evaluation 05/00/88

Agency Contact: Mr. C. B. Mosher, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0350

RIN: 2115-AA92

1683. SAFETY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES (82-058)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

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CFR Citation: 46 CFR 154

Legal Deadline: None.

Abstract: Would revise the standards for self-propelled vessels carrying bulk liquefied gases by adopting Amendments 1 through 4 of the International Maritime Organization Code for the construction and equipment of ships carrying gases in bulk.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Additional Information: Docket No. 82-058

Analysis: Regulatory Evaluation 01/00/88

Agency Contact: LCDR R. Fitch, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1217

RIN: 2115-AA95

1684. NAUTICAL SCHOOLS: IMPLEMENTING THE MARITIME EDUCATIONAL TRAINING ACT OF 1980 (82-092)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 12959(e)

CFR Citation: 46 CFR 166; 46 CFR 167; 46 CFR 168

Legal Deadline: None.

Abstract: Would update authority cites for Nautical Schools Inspection Regulations (46 CFR Subchapter "R") and update certain parts to conform with current inspection policies. Nautical School vessels operated by the United States (formerly called "Public Nautical School Ships") between 15 and 300 gross tons would be subject to inspection for the first time.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: Docket No. CGD 82-092.

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: LCDR Vanhaverbeke, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1055

RIN: 2115-AB21

1685. REASSESSMENT OF COAST GUARD FIRE PROTECTION REGULATIONS TO INCORPORATE SOLAS 1974 (83-026)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306; 46 USC 3503; 46 USC 3703

CFR Citation: 46 CFR Subchapter D; 46 CFR Subchapter H; 46 CFR Subchapter I; 46 CFR Subchapter U

Legal Deadline: None.

Abstract: Would bring Coast Guard regulations into agreement with the international requirements of SOLAS 1974 (Safety of Life at Sea) and its amendments.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/84	49 FR 38672
ANPRM Comment Period End	11/30/84	
NPRM	12/00/87	

Small Entity: No

Additional Information: Docket No. CGD 83-026. Incorporates part of docket CGD 81-090.

Analysis: Regulatory Evaluation 08/00/87

Agency Contact: Dr. A. Schneider, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2987

RIN: 2115-AB36

1686. REASSESSMENT OF COAST GUARD MARINE ENGINEERING REGULATIONS -- INCORPORATION OF SOLAS 74 AMENDMENTS (83-043)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306; 46 USC 3307

CFR Citation: 46 CFR Subchapter F

Legal Deadline: None.

Abstract: Would effect a general reassessment of Subchapter F and incorporation of international requirements of Sept. 1984.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: No

Additional Information: Docket No. CGD 83-043.

Analysis: Regulatory Evaluation 02/00/88

Agency Contact: Mr. M. Mattina, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115-AB41

1687. HAZARDOUS MATERIALS USED AS SHIP'S STORES ONBOARD VESSELS (84-044)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 2; 46 CFR 31; 46 CFR 34; 46 CFR 58; 46 CFR 71; 46 CFR 76; 46 CFR 91; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 147; 46 CFR 167; 46 CFR 176; 46 CFR 181; 46 CFR 189; ...

Legal Deadline: None.

Abstract: Would reduce the burden on shippers and manufacturers by deleting the requirement for separate Coast Guard classification of Ship's Stores and adopting the classification and identification provisions found in 49 CFR Subchapter C which are already required for the transportation of hazardous materials. It would also eliminate requirements for materials no longer in use and delete Table S.

Timetable:

Action	Date	FR Cite
NPRM	07/07/87	52 FR 25409
Correction to NPRM	07/10/87	52 FR 26121
NPRM Comment Period End	10/05/87	52 FR 25409
Final Action	12/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 07/07/87 (52 FR 25409)

Agency Contact: Mr. C. Rivkin, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1217

RIN: 2115-AB65

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1688. OIL-WATER INTERFACE DETECTORS (CGD 84-052)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 162

Legal Deadline: None.

Abstract: This project would propose a new specification for approval of oil-water interface detectors presently required by Annex 1 of MARPOL 73/78 (Marine Pollution Prevention).

Timetable:

Action	Date	FR Cite
NPRM	11/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 11/00/88

Agency Contact: Ms. L. Martinez, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1071

RIN: 2115-AB66

1689. LICENSING OF PILOTS-MANNING OF VESSELS (84-060)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 7101; 46 USC 7109; 46 USC 7112; 46 USC 8101; 46 USC 8502

CFR Citation: 46 CFR 157; 46 CFR 10.07

Legal Deadline: None.

Abstract: This proposal would define "pilotage waters" and "coastwise seagoing vessel." In addition, it would require first class pilots to have experience on vessels of more that 40,000 gross tons in order to be authorized to pilot vessels of more than 50,000 gross tons; and allow a written test alternative to the chart sketch for a first-class pilot's license restricted to tug and barge only. Based on comments received, an SNPRM will issue.

Timetable:

Action	Date	FR Cite
NPRM	06/24/85	50 FR 26117
NPRM Comment Period End	12/23/85	
SNPRM Supplemental	10/00/87	

Small Entity: No

Additional Information: This proposal has been split from a previously published NPRM identified by the same title with Coast Guard Docket number 77-084 and RIN 2115-AA04.

Analysis: Regulatory Evaluation 06/27/85 (50 FR 26117)

Agency Contact: Mr. J. Hartke, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0217

RIN: 2115-AB67

1690. MARINE PORTABLE TANKS (84-043)

Significance: Nonsignificant

Legal Authority: 49 USC 1801

CFR Citation: 46 CFR 64

Legal Deadline: None.

Abstract: This proposal would discontinue the Coast Guard specifications for Marine Portable Tanks. In their place, the Coast Guard would recognize tanks approved by the Department of Transportation, Research and Special Programs Administration as Intermodal Tanks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Mr. F. Thompson, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1577

RIN: 2115-AB69

1691. PERSONAL FLOTATION DEVICE COMPONENTS (84-058)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a); 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 164; 46 CFR 160

Legal Deadline: None.

Abstract: This project would add state-of-the-art synthetic materials as standard components, add performance requirements for nonstandard components, and upgrade out-dated requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 12/00/88

Agency Contact: Mr. S. Wahr, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AB70

1692. LIFESAVING EQUIPMENT--IMPLEMENTATION OF 1983 AMENDMENTS TO SOLAS 1974 (84-069)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 33 CFR 175; 46 CFR 31; 46 CFR 33; 46 CFR 35; 46 CFR 71; 46 CFR 75; 46 CFR 78; 46 CFR 91; 46 CFR 94; 46 CFR 97; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 154; 46 CFR 160; ...

Legal Deadline: None.

Abstract: This project would implement the provisions of the 1983 amendments to SOLAS 1974 (Safety of Life at Sea) which came into force in July of 1986. It would also reorganize the lifesaving equipment regulations in order to simplify, clarify, and reduce redundancy.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	49 FR 50745
ANPRM Comment Period End	03/01/85	
NPRM	06/00/88	

Small Entity: No

Additional Information: 46 CFR 30; 46 CFR 90; 46 CFR 112; 46 CFR 113; 46 CFR 167; 46 CFR 189; 46 CFR 192; 46 CFR 196; 46 CFR 199

Analysis: Regulatory Evaluation 06/00/88

Agency Contact: Mr. R. Markle, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AB72

1693. MOBILE OFFSHORE DRILLING UNIT REGULATIONS REVISION (83-071A)

Significance: Nonsignificant

Legal Authority: 46 USC 86; 46 USC 2104; 46 USC 2303; 46 USC 3305; 46 USC 3306; 46 USC 3311; 46 USC 3312; 46 USC 3318

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CFR Citation: 46 CFR 56; 46 CFR 58; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 111; 46 CFR 174

Legal Deadline: None.

Abstract: This project would revise the regulations in subchapter I-A to clarify them, bring them up to date, delete some unnecessary requirements, and incorporate the recommendations developed from major casualties. These changes are largely editorial in nature.

Timetable:

Action	Date	FR Cite
ANPRM	01/25/85	50 FR 11741
Extension of Comment Period	05/16/85	50 FR 20461
ANPRM Comment Period End	09/23/85	
NPRM	07/00/89	

Small Entity: No

Analysis: Regulatory Evaluation 07/00/89

Agency Contact: LCDR Dupree, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2307

RIN: 2115-AB88

1694. SAFETY RULES FOR SHIPS CARRYING HAZARDOUS LIQUIDS (84-085)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 49 USC 1803

CFR Citation: 46 CFR 153

Legal Deadline: None.

Abstract: This project would amend 46 CFR Part 153 to incorporate changes to the International Maritime Organization code for the construction and equipment of ships carrying dangerous chemicals in bulk.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 04/00/88

Agency Contact: Mr. R. M. Query, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1217

RIN: 2115-AB92

1695. CERTIFICATION OF SEAMEN (84-088)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 2104; 46 USC 7301; 46 USC 7302; 46 USC 7303; 46 USC 7304; 46 USC 7305; 46 USC 7306; 46 USC 7307; 46 USC 7308; 46 USC 7309; 46 USC 7310

CFR Citation: 46 CFR 12

Legal Deadline: None.

Abstract: This rulemaking would simplify and restructure the entire part. Among the changes contemplated are the addition of several new endorsements to seamen's documents and new ratings. An ANPRM was issued to gather necessary additional information.

Timetable:

Action	Date	FR Cite
ANPRM	02/04/85	50 FR 4875
Comment Period Extended	06/03/85	50 FR 23318
ANPRM Comment Period End	08/01/85	
NPRM	01/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 01/00/88

Agency Contact: Mr. S. Connaughton, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0214

RIN: 2115-AC02

1696. INLAND WATERWAY NAVIGATION REGULATIONS; ALL WATERS TRIBUTARY TO THE GULF OF MEXICO (85-096)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 162

Legal Deadline: None.

Abstract: Proposes to revise and update the inland waterways navigation regulations for the Gulf Intercoastal Waterway from St. Marks, Fla. to the Rio Grande River.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 01/00/88

Agency Contact: Mr. Powers, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0404

RIN: 2115-AC03

1697. DELEGATION OF AUTHORITY TO UNITED STATES CLASSIFICATION SOCIETIES (85-019)

Significance: Nonsignificant

Legal Authority: 46 USC 3316

CFR Citation: 46 CFR 2

Legal Deadline: None.

Abstract: The Coast Guard, under 46 U.S.C. 3316, delegates plan review and inspection to the American Bureau of Shipping. Other classification societies have requested similar acceptance. The proposed advance notice solicited information on what criteria should be used to determine who will be allowed to work on the Coast Guard's behalf.

Timetable:

Action	Date	FR Cite
ANPRM	10/03/85	50 FR 40413
ANPRM Comment Period End	01/03/86	
NPRM	02/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 02/00/88

Agency Contact: Mr. J. Kinsey, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1045

RIN: 2115-AC10

1698. FIRE DETECTION AND ALARM SYSTEMS (85-051)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 161

Legal Deadline: None.

Abstract: This rulemaking would update the 30 year old Coast Guard specification for fire detection and alarm systems to use modern terminology and address modern systems. Consensus standards would be adopted by reference.

DOT—USCG

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 07/00/88

Agency Contact: LCDR S. Johnson, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115-AC13

1699. INTERVALS FOR INTERNAL EXAMINATION AND HYDROSTATIC TESTING OF PRESSURE VESSEL TYPE CARGO TANKS (85-061)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 38; 46 CFR 151

Legal Deadline: None.

Abstract: This rulemaking proposes revising inspection intervals for Pressure Vessel Cargo Tanks. An ANPRM was issued seeking public and industry views on the adequacy of present intervals and suggested intervals.

Timetable:

Action	Date	FR Cite
ANPRM	12/03/85	50 FR 49536
ANPRM Comment Period End	03/03/86	
NPRM	09/08/87	52 FR 33841
NPRM Comment Period End	12/07/87	
Final Action	08/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 09/08/87 (52 FR 33841)

Agency Contact: LCDR Powers, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1045

RIN: 2115-AC18

1700. REVISIONS TO THE ELECTRICAL ENGINEERING REGULATIONS (85-063)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 2113; 46 USC 3301; 46 USC 3306; 46 USC 3318; 46 USC 3703; 46 USC 4104

CFR Citation: 46 CFR 110; 46 CFR 111; 46 CFR 112; 46 CFR 113

Legal Deadline: None.

Abstract: This rulemaking would generally update and revise 46 CFR Subchapter J to address changes in technology, include international conventions (Amendments to SOLAS '74), clarify requirements, and reflect experience gained as a result of vessel reflaggings.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 12/00/87

Agency Contact: Mr. Thomas Nolan, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2206

RIN: 2115-AC20

1701. SUBCHAPTER "T" TITLE 46, GENERAL UPDATES AND REVISIONS (85-060)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 175; 46 CFR 176; 46 CFR 177; 46 CFR 178; 46 CFR 179; 46 CFR 180; 46 CFR 181; 46 CFR 182; 46 CFR 183; 46 CFR 184; 46 CFR 185; 46 CFR 186; 46 CFR 187

Legal Deadline: None.

Abstract: This rulemaking would revise Subchapter "T" to reflect recent statutory changes, incorporate new technology, and improve safety requirements. Among the changes contemplated would be a change in inspection intervals and drydocking intervals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Yes

Analysis: Regulatory Evaluation 12/00/87

Agency Contact: LCDR W. Cummins, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1053

RIN: 2115-AC22

1702. 46 CFR SUBCHAPTER 1. EDITORIAL REVISIONS AND CORRECTIONS (86-033)

Significance: Nonsignificant

Legal Authority: 46 USC 170

CFR Citation: 46 CFR 140 to 155

Legal Deadline: None.

Abstract: This proposed rule would correct or remove outdated cross-references and statutory citations related to the transportation of hazardous materials throughout 46 CFR Chapter 1.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Additional Information: Project entails replacement of words "46 CFR" with "49 CFR" with necessary revised lead-ins.

Agency Contact: Mr. F. Thompson, Department of Transportation, U.S. Coast Guard, 2100 2nd St. SW, Washington, DC 20593-0001, 202 267-1577

RIN: 2115-AC26

1703. HAZARDOUS SUBSTANCES POLLUTION PREVENTION (86-034)

Significance: Nonsignificant

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 154 to 156

Legal Deadline: None.

Abstract: This regulatory project will apply the present oil pollution prevention regulations in 33 CFR Parts 154-156 to vessels and onshore and offshore facilities transferring hazardous substances.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Yes

Analysis: Regulatory Evaluation 12/00/87

Agency Contact: LCDR J. Whitehead, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-0491

RIN: 2115-AC29

DOT—USCG

Proposed Rule Stage

1704. UPDATING APPROVAL REQUIREMENTS FOR BREATHING APPARATUS (86-036)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160; 46 CFR 35 to 20

Legal Deadline: None.

Abstract: This proposal will update the approval specifications for breathing apparatus for merchant vessels by citing present certification agencies and test schedules. It is also proposed to revise the tank vessel regulations for the carriage of approved pressure-demand type self-contained breathing apparatus.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: Yes

Analysis: Regulatory Evaluation 06/00/88

Agency Contact: Mr. K. Wahle, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AC30

1705. REVISED APPROVAL SPECIFICATIONS FOR NONCOMBUSTIBLES AND PROHIBITION OF ASBESTOS FOR COMMERCIAL VESSELS (86-035)

Significance: Nonsignificant

Legal Authority: 46 USC 3306 (a)

CFR Citation: 46 CFR 30 to 40; 46 CFR 70; 46 CFR 188 to 196; 46 CFR 140 to 154; 46 CFR 90

Legal Deadline: None.

Abstract: This proposal will revise the approval specifications for noncombustible materials for merchant vessel construction to delete asbestos as an acceptable noncombustible material.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: Yes

Analysis: Regulatory Evaluation 04/00/88

Agency Contact: Mr. K. Wahle, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AC32

1706. COMPATIBILITY OF CARGOES (86-100)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 49 USC 1304

CFR Citation: 46 CFR 150; 46 CFR 1.46(b); 46 CFR 1.46(t); 46 CFR 1.46(u)

Legal Deadline: None.

Abstract: The Coast Guard periodically issues rules listing additional cargoes which may be carried on tank vessels. Since this action is recurrent, the Coast Guard has established a continuing docket for this type of action. Notices for this rule are anticipated in Jan./Feb. of each year. Final rules will be completed prior to September 30 of each year.

Timetable:

Action	Date	FR Cite
NPRM	12/08/86	48 FR 44182
NPRM Comment Period End	01/06/87	
Final Rule	06/04/87	52 FR 21036
NPRM	12/00/87	

Small Entity: No

Agency Contact: Dr. M. Parnarouskis, Chemical Engineer, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-1577

RIN: 2115-AC35

1707. LOAD LINES (86-013)

Significance: Nonsignificant

Legal Authority: 46 USC 5115; HR 1362

CFR Citation: 46 CFR 41 to 48

Legal Deadline: None.

Abstract: This proposal will revise 46 CFR Parts 42 and 44 through 46 and add Parts 41, 43, 47 and 48 (Subchapter E) to correct errors, replace previous omissions, incorporate new policies which have not been published and implement provisions of the new Load Line Law enacted on 21 Oct 86 and now in effect.

Timetable:

Action	Date	FR Cite
NPRM	03/05/88	

Small Entity: Undetermined

Analysis: Regulatory Evaluation 03/00/88

Agency Contact: Mr. Frank Perrini, Naval Architect, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-2985

RIN: 2115-AC37

1708. OFFSHORE EVACUATION PROCEDURES (84-098(B))

Significance: Nonsignificant

Legal Authority: 43 USC 1333(d); 43 USC 1348(c); 43 USC 1356; 49 CFR 1.46(z)

CFR Citation: 33 CFR 140; 33 CFR 146

Legal Deadline: Statutory, September 1, 1987. Omnibus Budget Reconciliation Act of 1986 (PL 99-509)

Abstract: Would modify 33 CFR Subchapter N to require evacuation procedures for all OCS facilities on the U.S. OCS. This would apply to MODUs, both foreign and U.S.-flag; Fixed Platforms and Floating Facilities. An alternative being considered is the mandatory use of stand-by boats.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/85	50 FR 9290
ANPRM Comment Period End	09/03/85	50 FR 20445

Next Action Undetermined

Small Entity: No

Additional Information: CGD 84-098(b) Offshore Evacuation Procedures for OCS facilities separated from CGD 84-096.

Agency Contact: LCDR A. Dupree, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2307

RIN: 2115-AC41

1709. NAVIGATION BRIDGE VISIBILITY (CGD 85-099)

Significance: Nonsignificant

Legal Authority: 46 USC 369; 46 USC 391a

CFR Citation: 33 CFR 164; 46 CFR 32; 46 CFR 72; 46 CFR 91; 46 CFR 92; 46 CFR 108; 46 CFR 157; 46 CFR 190

Legal Deadline: None.

Abstract: Limited visibility from the navigation bridge of vessels has been identified as a factor in vessel casualties and near-misses. This action would establish standards for acceptable limits of visibility based on existing international guidelines. Because the primary focus is on new vessel design, costs are estimated to be minimal compared to potential benefits in casualties prevented.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Mr. Edward J. LaRue, Jr., Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0416

RIN: 2115-AC42

1710. FIRE EXTINGUISHERS (PORTABLE AND SEMI-PORTABLE) - REVISING APPROVAL SPECIFICATIONS AND UPDATING CARRIAGE REQUIREMENTS (86-072)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 162; 46 CFR 25; 46 CFR 34; 46 CFR 76; 46 CFR 95; 46 CFR 108; 46 CFR 168; 46 CFR 181; 46 CFR 193; 33 CFR 145; 33 CFR 149

Legal Deadline: None.

Abstract: Update approval specifications for portable and semi-portable fire extinguishers to incorporate minimum acceptance standards, and minimum factory quality control and independent laboratory inspection levels. Update extinguisher carriage and inspection requirements on vessels to reflect current fire extinguisher technology.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/88

Agency Contact: Mr. Klaus Wahle, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AC43

DOT—USCG

Proposed Rule Stage

1711. SOLAS 74/83 LIFE JACKET APPROVAL REQUIREMENTS REVISION (85-200)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: This project is to establish U.S. Coast Guard approval requirements for lifejackets meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
NPRM	07/00/89	

Small Entity: No

Additional Information: This is the first in a series of projects, numbered 85-200 to 85-211, which have been split off from Coast Guard 84-089 which implemented the 1983 Amendments to SOLAS 1974. So many revisions were necessary that it was better to make several small and easily identifiable projects rather than a large and confusing one. Because of staffing assignments, the projects may not be completed in numerical order, and many cannot be given estimated completion dates.

Analysis: Regulatory Evaluation 07/00/89

Agency Contact: Mr. Samuel Wehr, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AC46

1712. SOLAS 74/83 LIFEBOAT AND RESCUE BOAT APPROVAL REQUIREMENTS (85-201)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Establish U.S. Coast Guard approval requirements for lifeboats and rescue boats meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
NPRM	10/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 10/00/88

Agency Contact: LCDR W. Riley, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AC47

1713. SOLAS 74/83 REVISION TO INFLATABLE LIFERAFT APPROVAL (85-205)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Establish U.S. Coast Guard approval requirement for inflatable liferafts meeting the 1983 Amendments to the 1974 Safety of Life at Sea Convention.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 06/00/88

Agency Contact: Mr. Milton Daniels, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AC51

1714. ADVANCE NOTICE OF ARRIVAL (CGD 86-055)

Significance: Nonsignificant

Legal Authority: 33 USC 1223(a)(5)

CFR Citation: 33 CFR 160

Legal Deadline: None.

Abstract: This revision to 33 CFR 160 Subpart C would require advance notices from all foreign commercial vessels of less than 1600 gross tons bound for parts or places in the Miami Captain of the Port zone. Currently 33 CFR 160.201(c)(1) excepts all vessels of less than 1600 gross tons from reporting advance notices of arrival. The revision would require vessels of more than 1600 gross tons to provide to the COTP crew makeup and charter information at least 24 hours prior to entering ports or places within the COTP zone. The revision would also delete the advance-notice requirement that ships bound for ports and places on the Great Lakes

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Proposed Rule Stage

notify the Ninth Coast Guard District Commander prior to entering the Shell Locks in Massena, N.Y.

Timetable:

Action	Date	FR Cite
NPRM	10/30/87	

Small Entity: Undetermined

Analysis: Regulatory Evaluation 10/30/87

Agency Contact: Lt. J. McDowell, Office of Marine Safety, Security and Environmental Protection, Department of Transportation, U.S. Coast Guard, Commandant (G-MPS-3), 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0491

RIN: 2115-AC58

1715. ● MEASUREMENT OF VESSELS (87-015 B)

Significance: Nonsignificant

Legal Authority: 46 USC Part J, Chap 141

CFR Citation: 46 CFR 69

Legal Deadline: None.

Abstract: This project is to establish the International Convention on Tonnage Measurement of Ships, 1969, as the primary tonnage measurement system for measuring vessels of 79 feet and longer. The project will also extend simplified measurement to all vessels of less than 79 feet in length and eliminate all vessels of 79 feet in length and over from being measured under the simplified system.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 12/00/87

Agency Contact: Mr. Dennis Lamont, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593, 202 267-1109

RIN: 2115-AC67

1716. ● POSTING REQUIREMENTS ON INSPECTED VESSELS (87-031)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 31; 46 CFR 71; 47 CFR 91; 46 CFR 167; 46 CFR 176; 46 CFR 189

Legal Deadline: None.

Abstract: Various laws, international agreements, and Coast Guard regulations require the posting of specific certificates, licenses, plans, operating instructions, and warnings onboard vessels. Some of these contain essential operational data which must be accessible at all times; other are primarily informational. This rulemaking project will seek to reduce posting requirements for nonessential operational data to reduce the burden on the public. Alternatives such as having items readily available are being considered.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Additional Information: A notice inviting public comment is being published under a separate docket. The NIPC will contain questions relevant to this project the answers to which may be used in developing an NPRM.

Analysis: Regulatory Evaluation 01/00/88

Agency Contact: LCDR W. J. Morani, Jr., Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-1053

RIN: 2115-AC68

1717. ● EMERGENCY POSITION INDICATING RADIO BEACONS FOR UNINSPECTED FISHING, FISH PROCESSING, AND FISH TENDING VESSELS (87-016)

Significance: Nonsignificant

Legal Authority: 46 USC 4102 as amended by Coast Guard Authorization Act of 1986

CFR Citation: 46 CFR 25; 46 CFR 26

Legal Deadline: None.

Abstract: The Coast Guard Authorization Act of 1986 amended 46 USC 4102 to require uninspected fishing, fish processing, and fish tender vessels operating on the high seas to carry "the number and type of Emergency Position Indicating Radio Beacons (EPIRBS) prescribed by regulation." By implementing the law the proposed regulations will ensure rapid and effective search and rescue during emergency situations.

Timetable:

Action	Date	FR Cite
NPRM	09/03/87	52 FR 33448
NPRM Comment Period End	10/19/87	52 FR 33448
Final Action	03/00/88	

Small Entity: No

Analysis: Draft Regulatory Evaluation 05/14/87

Agency Contact: LCDR W. M. Riley, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AC69

1718. ● DELEGATION OF AUTHORITY TO MEASURE VESSELS (87-015A)

Significance: Nonsignificant

Legal Authority: 46 USC 14103

CFR Citation: 46 CFR 69

Legal Deadline: None.

Abstract: This project will propose standards to enable maritime-related organizations to participate with the American Bureau of Shipping in measuring U.S. vessels.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 12/00/87

Agency Contact: Mr. Joseph T. Lewis, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593, 202 267-2992

RIN: 2115-AC70

1719. ● INLAND WATERWAY NAVIGATION RULES - SAN JOAQUIN AND SACRAMENTO RIVER DEEP WATER SHIP CHANNELS (CGD 86-078)

Significance: Nonsignificant

Legal Authority: 33 USC 1231; 49 CFR 1.46

CFR Citation: 33 CFR 162.205

Legal Deadline: None.

Abstract: Will revise regulation to reflect current use and operation of waterway. Change will delete requirements covered in other regulations and laws.

DOT—USCG

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	

Small Entity: No

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 10/01/87

Agency Contact: Mr. Michael J. Powers, Project Manager, Department of Transportation, U.S. Coast Guard, COMDT (NSS-2), 2100 2nd St., SW, Washington, DC 20593, 202 267-0415

RIN: 2115-AC77

1720. ● PORT ACCESS ROUTES; APPROACH TO FREEPORT, TEXAS (CGD 87-038)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 166

Legal Deadline: None.

Abstract: A study of fairway anchorage sites and areas adjacent to the fairway in the approach to Freeport, Texas, has been completed and comments requested on the results.

Timetable:

Action	Date	FR Cite
Fairway study completed	07/02/87	52 FR 25039
NPRM	07/01/88	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: LTJG Daphne Reese, Project Manager, Department of Transportation, U.S. Coast Guard, COMDT (G-NSS-2), 2100 2nd St., SW, Washington, DC 20593, 202 267-0364

RIN: 2115-AC78

1721. ● PORT ACCESS ROUTES; APPROACH TO TAMPA BAY, FLORIDA (CGD 85-097)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 166

Legal Deadline: None.

Abstract: Based on the results of a Port Access Route study the Coast Guard proposes to eliminate the existing Southern Tampa Fairway Anchorage and to establish a new fairway anchorage in the approach to Tampa Bay, Florida.

Timetable:

Action	Date	FR Cite
NPRM	07/27/87	52 FR 28019
NPRM Comment Period End	09/25/87	52 FR 28019
Final Action	12/00/87	

Small Entity: No

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 07/27/87 (52 FR 28019)

Agency Contact: LTJG Daphne Reese, Project Manager, Department of Transportation, U.S. Coast Guard, COMDT (G-NSS-2), 2100 2nd St., SW, Washington, DC 20593, 202 267-0364

RIN: 2115-AC79

1722. ● PORT ACCESS ROUTES; APPROACH TO MOBILE, ALABAMA (CGD 86-008)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 166

Legal Deadline: None.

Abstract: The Coast Guard is studying the request by an oil company to modify the fairway in the approach to Mobile, Alabama.

Timetable:

Action	Date	FR Cite
NPRM	03/01/88	

Small Entity: No

Additional Information: A public meeting will probably be held to discuss the issues in the study.

Government Levels Affected: Local, State, Federal

Agency Contact: LTJG Daphne Reese, Project Manager, Department of Transportation, U.S. Coast Guard, COMDT (G-NSS-2), 2100 2nd ST., SW, Washington, DC 20593, 202 267-0364

RIN: 2115-AC81

1723. ● ASSISTANCE TOWING LICENSES (CGD 87-017)

Significance: Nonsignificant

Legal Authority: 46 USC 8904; 46 USC 7101; 49 CFR 1.46

CFR Citation: 46 CFR 10; 46 CFR 157; 46 CFR 187

Legal Deadline: Statutory, January 1, 1988. Amendment to 46 USC 8904 requiring assistance towing licenses becomes effective 1 January 1988

Abstract: Rule proposes to amend the regulations for the licensing of maritime personnel to include specific licensing and manning requirements for all vessels, regardless of size, which tow a disabled vessel for consideration. This proposal is made in response to a statutory change requiring such licenses. This action is intended to provide assurance to all involved parties that all persons who provide assistance towing services have met minimum established standards for knowledge and experience.

Timetable:

Action	Date	FR Cite
NPRM	06/20/87	52 FR 31429
NPRM Comment Period End	10/19/87	52 FR 31429
Final Action	12/00/87	
Final Action Effective	02/00/88	

Small Entity: No

Public Compliance Cost: Initial Cost: $18,750; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1987

Analysis: Regulatory Evaluation 08/20/87 (52 FR 31429)

Agency Contact: LCDR Gary Kaminski, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., S.W., Washington, DC 20593-0001, 202 267-6218

RIN: 2115-AC82

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DEPARTMENT OF TRANSPORTATION (DOT)

U.S. Coast Guard (USCG)

Final Rule Stage

1724. + INTERVALS FOR DRYDOCKING AND TAILSHAFT EXAMINATION ON INSPECTED VESSELS (84-024)

Significance: Regulatory Program

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 31; 46 CFR 61; 46 CFR 71; 46 CFR 91; 46 CFR 167; 46 CFR 189; 46 CFR 189

Legal Deadline: None.

Abstract: Various Coast Guard regulations specify the intervals for drydocking and tailshaft examinations on inspected vessels. The Coast Guard has proposed to extend the interval between drydockings because extension of the interval can result in significant savings to vessel operators without diminishing overall vessel safety. This regulation is significant because it involves important departmental safety policy.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/84	49 FR 19050
ANPRM Comment Period End	08/02/84	
NPRM	05/30/86	51 FR 19720
Correction	06/09/86	51 FR 20847
NPRM Comment Period End	09/30/86	51 FR 29116
Interim Final Rule	10/00/87	

Small Entity: Yes

Additional Information: Regulatory Evaluation will be completed at same time as final rule.

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: LCDR Powers, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1045

RIN: 2115-AB58

1725. + OPERATING A VESSEL WHILE INTOXICATED (84-099)

Significance: Regulatory Program

Legal Authority: 46 USC 6101; 46 USC 7701; 46 USC 8105; 46 USC 7101; 46 USC 3306; 46 USC 2302(a)

CFR Citation: 33 CFR 95; 33 CFR 146; 33 CFR 150; 33 CFR 173; 33 CFR 177; 46 CFR 26; 46 CFR 4; 46 CFR 5; 46 CFR 35; 46 CFR 78; 46 CFR 97; 46 CFR 109. 46 CFR 167; 46 CFR 185; 46 CFR 196 to 197

Legal Deadline: None.

Abstract: Proposes (1) to prohibit crewmembers on vessels subject to inspection from performing any duties while intoxicated or within four hours of consuming alcohol, (2) civil penalties for owners, charterers, managing operators, agents, masters or individuals in charge of vessels subject to inspection that allow crewmembers to perform any duties while intoxicated, and (3) to allow personnel licensed, documented or certificated by the Coast Guard to seek rehabilitation prior to being subject to a proceeding to suspend or revoke the license, certificate or document (4) to allow Coast Guard personnel to terminate the use of certain vessels when the operator is under the influence of an intoxicant to the extent that further operation of the vessel creates an unsafe condition (5) to amend the regulations requiring reports of all marine casualties to include specific information on the role of alcohol or drugs in the casualty (6) to set a Federal standard for determining whether an individual is operating a recreational vehicle while intoxicated.

Timetable:

Action	Date	FR Cite
NPRM	05/23/86	51 FR 18902
NPRM Comment Period End	08/21/86	
SNPRM Ext.Comment Period to 5/11/87 (52 FR 4116)	02/09/87	52 FR 4116
Final Action	10/00/87	

Small Entity: No

Additional Information: This project has been combined with Coast Guard docket 84-099a, Operating a Vessel While Intoxicated: Recreational Vessels. The RIN for that project was 2115-AC24.

Analysis: Regulatory Evaluation 05/23/86 (51 FR 18902)

Agency Contact: LCDR Wallace/Mr. S. Connaughton/Mr. Perry, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-6214

RIN: 2115-AC23

1726. + JOINT U.S.-CANADA VESSEL TRAFFIC MANAGEMENT REGULATIONS FOR THE PACIFIC REGION (79-131)

Significance: Agency Priority

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 161

Legal Deadline: None.

Abstract: Would implement the provisions of an agreement for a cooperative vessel traffic management system for the Pacific region.

Timetable:

Action	Date	FR Cite
NPRM	08/18/83	48 FR 37433

Next Action Undetermined

Small Entity: No

Additional Information: All action on this proposal has been suspended pending legislative action by the Canadian Government.

Agency Contact: LTJG K. Bradley, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0412

RIN: 2115-AA39

1727. + LICENSING OF MARITIME PERSONNEL (CGD 81 - 059)

Significance: Agency Priority

Legal Authority: 46 USC 3306; 46 USC 7101; 46 USC 7102; 46 USC 7103; 46 USC 7104; 46 USC 7105; 46 USC 7106; 46 USC 7107; 46 USC 7108; 46 USC 7009; 46 USC 7110; 46 USC 7111; 46 USC 7112; 46 USC 7113; 46 USC 7114

CFR Citation: 46 CFR 10; 46 CFR 35; 46 CFR 157; 46 CFR 175; 46 CFR 185; 46 CFR 186; 46 CFR 187

Legal Deadline: None.

Abstract: Would amend the licensing regulations to simplify administration and improve readability to the public. Also to provide a license structure for all mariners with which to advance in an orderly career pattern. Will also delete many unnecessary and outdated licenses. This regulation has been made significant because of its far-reaching impact on all licensed officers of the merchant marine.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/81	46 FR 53624
NPRM	08/08/83	48 FR 35920
Comment Period extended	11/10/83	48 FR 51650
NPRM Supplemental	10/24/85	50 FR 43316
Interim Final Rule	10/00/87	

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Small Entity: No

Additional Information: ADDITIONAL LEGAL AUTHORITIES: 46 USC 6101; 46 USC 6105; 46 USC 6104; 46 USC 8301; 46 USC 8302; 46 USC 8303; 46 USC 8304; 46 USC 8502; 46 USC 7701; 46 USC 7702; 46 USC 7703; Comment period runs until 02/21/88. Public hearings held in Washington, D.C.; New York, New York; Seattle, Washington; San Francisco, California; and New Orleans, Louisiana.

Analysis: Regulatory Evaluation 08/06/83 (48 FR 35920)

Agency Contact: LCDR Jenkins, Program Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-0224

RIN: 2115-AA64

1728. + SAFETY RULES FOR VESSELS ENGAGED IN CHEMICAL WASTE INCINERATION AT SEA (84-025)

Significance: Agency Priority

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 150

Legal Deadline: None.

Abstract: Would establish safety rules for the design of vessels engaged in the incineration of chemical wastes at sea. This regulation is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/25/86	51 FR 30241
NPRM Comment Period End	10/24/86	
Final Action	11/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 11/00/87

Agency Contact: CDR R. Tanner, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1217

RIN: 2115-AB60

1729. DEFECT NOTIFICATION AND FIRST-PURCHASER INFORMATION (77-115)

Significance: Nonsignificant

Legal Authority: 46 USC 4310

CFR Citation: 33 CFR 179.01 to 179.19

Legal Deadline: None.

Abstract: This rulemaking would require marine dealers to furnish boat and engine manufacturers with serial numbers of new boats and engines sold and the names and addresses of retail first purchasers of those products. Manufacturers would use the information to locate purchasers of boats and engines recalled for defects which create a substantial risk of personal injury to the public and for failures to comply with applicable regulations. Currently many manufacturers cannot obtain sufficient first-purchaser information and their attempts to notify during recalls are inadequate.

Timetable:

Action	Date	FR Cite
NPRM	12/29/80	45 FR 85475
Supplemental NPRM	05/29/87	52 FR 20115

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. CGD 77-115.

Agency Contact: Mr. Colihan, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-6967

RIN: 2115-AA16

1730. LIQUEFIED NATURAL GAS WATERFRONT FACILITY (78-038)

Significance: Nonsignificant

Legal Authority: 33 USC 1225

CFR Citation: 33 CFR 127

Legal Deadline: None.

Abstract: Would establish LNG Waterfront Facility Safety Regulations in accordance with Memorandum of Understanding between USCG and Research and Special Programs Administration.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/78	43 FR 34362
ANPRM Supplementary	03/06/79	44 FR 12693
NPRM	05/16/86	51 FR 18276
Final Action	11/00/87	

Small Entity: Yes

Additional Information: Docket No. CGD 78-038.

Analysis: Regulatory Evaluation 05/16/86 (51 FR 18276)

Agency Contact: LCDR T. Whitehead, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0491

RIN: 2115-AA22

1731. HYBRID PERSONAL FLOTATION DEVICES: ESTABLISHMENT OF APPROVAL REQUIREMENTS (78-174)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703; 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: Would establish performance standards for hybrid PFDs and procedures for granting product approval to these devices.

Timetable:

Action	Date	FR Cite
ANPRM	03/15/79	44 FR 15933
NPRM	05/29/85	50 FR 21862
NPRM Comment Period End	07/15/85	
Interim Final Rule	08/22/85	50 FR 33923
Final Action	04/00/89	

Small Entity: No

Additional Information: Docket No. CGD 78-174. Two additional projects split from this one. They are listed in this Agenda as CGD 78-174a, Carriage and Operational Requirements for Hybrid PFDs and CGD 78-174b, Carriage and Operational Requirements for Inflatable Life Jackets. Entries for these projects follow in the agenda.

Analysis: Regulatory Evaluation 08/22/85 (50 FR 33923)

Agency Contact: Mr. S. Wehr, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AA29

1732. LAUNCHING DEVICES FOR LIFERAFTS (79-168)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306

CFR Citation: 46 CFR 160; 46 CFR 163

Legal Deadline: None.

DOT—USCG

Final Rule Stage

Abstract: Proposed standards, procedures, and tests for approving equipment used to launch inflatable liferafts from vessels and offshore platforms.

Timetable:

Action	Date	FR Cite
NPRM	02/13/86	50 FR 5377
NPRM Comment Period End	05/13/86	
Final Action	02/00/88	

Small Entity: No

Additional Information: Docket No. CGD 79-168.

Analysis: Regulatory Evaluation 02/13/86 (51 FR 5377)

Agency Contact: LCDR Riley, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AA45

1733. VITAL SYSTEM AUTOMATION (CGD 81-030)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3105

CFR Citation: 46 CFR 52; 46 CFR 56; 46 CFR 58; 46 CFR 61; 46 CFR 62; 46 CFR 110; 46 CFR 111; 46 CFR 113

Legal Deadline: None.

Abstract: Would implement the provisions for periodically unattended machinery spaces and automated machinery in the 1974 Safety of Life at Sea (SOLAS) Amendments and the guidance on system design in the Coast Guard Navigation and Inspection Circulars on Automated Main and Auxiliary Machinery.

Timetable:

Action	Date	FR Cite
NPRM	09/23/85	50 FR 38608
NPRM Comment Period End	02/21/86	
Final Action	04/00/88	

Small Entity: No

Additional Information: Docket No. CGD 81-030.

NPRM comment period closed 21 Feb, 1986.

Analysis: Regulatory Evaluation 09/23/85 (50 FR 38608)

Agency Contact: LT Randall, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-2206

RIN: 2115-AA59

1734. GENERAL BRIDGE PERMIT REGULATIONS (81-057)

Significance: Nonsignificant

Legal Authority: 33 USC 401

CFR Citation: 33 CFR 115

Legal Deadline: None.

Abstract: Would establish the general bridge-permit program. There is an initiative to transfer the Bridge Program to the Corps of Engineers. If the Corps agrees and Congress approves, the program will be transferred.

Timetable:

Action	Date	FR Cite
NPRM	09/23/82	47 FR 41968
NPRM Supplemental	04/24/86	51 FR 15503

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. CGD 81-057.

Analysis: Regulatory Evaluation 04/24/86 (51 FR 15503)

Agency Contact: Mr. N. Mpras, Assistant Division Chief, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0368

RIN: 2115-AA61

1735. SAFETY/SECURITY ZONE REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None.

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to range from 04/87 to 04/88.

Timetable:

Action	Date	FR Cite
Total actions expected to end	04/00/88	

Small Entity: No

Agency Contact: Mr. M. Powers, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115-AA97

1736. ANCHORAGE AREA REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None.

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to range from 04/87 to 04/88.

Timetable:

Action	Date	FR Cite
Total actions expected to end	04/00/88	

Small Entity: No

Agency Contact: Mr. M. Powers, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115-AA98

1737. DOCUMENTATION OF VESSELS; CONTROLLING INTEREST (82-105)

Significance: Nonsignificant

Legal Authority: 46 USC 12121; 49 USC 108

CFR Citation: 46 CFR 67

Legal Deadline: None.

Abstract: This item will define the term "controlling interests" for the purpose of documenting vessels owned by partnerships.

Timetable:

Action	Date	FR Cite
ANPRM	11/12/82	47 FR 51170
NPRM	07/16/84	49 FR 28744
NPRM Comment Period End	10/15/84	49 FR 35967
Final Action	12/00/87	

Small Entity: Undetermined

DOT—USCG

Final Rule Stage

Additional Information: Docket No. CGD 82-105. Comment period extended 9/13/84.

Analysis: Regulatory Evaluation 07/16/84 (49 FR 28744)

Agency Contact: Mr. T. L. Willis, Merchant Vessel Inspection and Documentation Division, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1492

RIN: 2115-AB27

1738. CARRIAGE AND USE OF LIQUEFIED OR NONLIQUEFIED FLAMMABLE GAS AS COOKING FUELS ON VESSELS CARRYING PASSENGERS FOR HIRE (83-013)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 4104; 46 USC 4105; 46 USC 4302

CFR Citation: 46 CFR 25; 46 CFR 58; 46 CFR 147; 46 CFR 184

Legal Deadline: None.

Abstract: Proposed requirements for the use of liquefied flammable gas and compressed natural gas as cooking fuels on passenger vessels.

Timetable:

Action	Date	FR Cite
NPRM	03/22/84	49 FR 10685
SNPRM	04/18/86	50 FR 15522
Final Action	10/00/87	

Small Entity: Yes

Additional Information: Docket No. CGD 83-013.

Analysis: Regulatory Evaluation 03/22/84 (49 FR 10685)

Agency Contact: LCDR Vanhaverbeke, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1055

RIN: 2115-AB35

1739. LICENSING OF OFFICERS AND OPERATORS FOR MOBILE OFFSHORE DRILLING UNITS (81-59A)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 7101; 46 USC 7102; 46 USC 7103; 46 USC 7104; 46 USC 7105; 46 USC 7106; 46 USC 7107; 46 USC 7108; 46 USC 7009; 46 USC 7110; 46 USC 7111; 46 USC 7112; 46 USC 7113; 46 USC 7114; ...

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None.

Abstract: This project resulted from comments received on Coast Guard proposed rulemaking 81-59, Licensing of Officers and Motorboat Operators and Registration of Staff Officers which is contained in this agenda under another listing. The comments suggested that licensing of officers on Mobile Offshore Drilling Units be discussed in a separate rulemaking. This project is the result of those suggestions; it would establish licensing requirements for officers on Mobile Drilling Units.

Timetable:

Action	Date	FR Cite
NPRM	08/08/83	48 FR 35920
SNPRM	10/24/85	50 FR 43316
Interim Final Rule	10/00/87	

Small Entity: No

Additional Information: This project was split from Coast Guard docket 81-059, Licensing of Officers and Motorboat Operators and Registration of Staff Officers, which is listed elsewhere in this agenda with the RIN 2115-AA64.

Analysis: Regulatory Evaluation 10/24/85 (50 FR 43316)

Agency Contact: LCDR Jenkins, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0224

RIN: 2115-AB91

1740. MARPOL POLLUTION PREVENTION REGULATIONS (85-026)

Significance: Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1902; 33 USC 1903

CFR Citation: 33 CFR 155; 33 CFR 151

Legal Deadline: None.

Abstract: This rulemaking would implement various provisions of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 Relating Thereto (MARPOL 73/78). These proposed changes are largely editorial.

Timetable:

Action	Date	FR Cite
NPRM	02/07/86	51 FR 4768
Final Action	11/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 11/00/87; Environmental Assessment 11/00/87

Agency Contact: CDR David Pascoe, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0421

RIN: 2115-AC11

1741. CARRIAGE AND OPERATIONAL REQUIREMENTS FOR INFLATABLE LIFE JACKETS (78-174B)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703; 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 25; 46 CFR 26; 46 CFR 30; 46 CFR 33; 46 CFR 35; 46 CFR 70; 46 CFR 75; 46 CFR 78; 46 CFR 90; 46 CFR 94; 46 CFR 97; 46 CFR 108; 46 CFR 109; 46 CFR 160; 46 CFR 167; ...

Legal Deadline: None.

Abstract: This rulemaking proposes approval and operating requirements for inflatable life jackets. Their use would be optional.

Timetable:

Action	Date	FR Cite
NPRM	05/29/85	50 FR 21878
Final Action	07/00/88	

Small Entity: No

Additional Information: This project, and a companion, Recreational Hybrid PFD's (78-174a), split from the rule titled Hybrid PFD's; Establishment of Approval Requirements (78-174) (RIN: 2115-AA29),which was published as an interim final rule (50 FR 33923).

Analysis: Regulatory Evaluation 05/29/85 (50 FR 21878)

Agency Contact: Mr. Wehr, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AC16

1742. U.S. AID TO NAVIGATION SYSTEMS (85-031)

Significance: Nonsignificant

DOT—USCG — Final Rule Stage

Legal Authority: 14 USC 81; 14 USC 87; 14 USC 92; 14 USC 93; 14 USC 633; 14 USC 85; 33 USC 1233; 43 USC 1333(d)

CFR Citation: 33 CFR 60; 33 CFR 66; 33 CFR 100

Legal Deadline: None.

Abstract: This regulation would amend 33 CFR Part 62 - United States Aid to Navigation Systems -- to include the International Association of Lighthouse Authorities System.

Timetable:

Action	Date	FR Cite
NPRM	05/24/87	52 FR 11506
Final Action	10/00/88	

Small Entity: Undetermined

Analysis: Regulatory Evaluation 05/24/87 (52 FR 11506)

Agency Contact: LTJG Wulfkuhle, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-0346

RIN: 2115-AC33

1743. SELF-INSPECTION OF FIXED OCS FACILITIES (CGD 84-098(A))

Significance: Nonsignificant

Legal Authority: 43 USC 1333(d)(1); 43 USC 1348(c); 43 USC 1356; 43 USC 1.46(z)

CFR Citation: 33 CFR 140; 33 CFR 143

Legal Deadline: None.

Abstract: Would modify 33 CFR Subchapter N by requiring owners/operators of fixed OCS facilities to conduct an annual inspection for compliance with Coast Guard regulations and report the results of the self-inspection to the Coast Guard on a Coast Guard-provided form. This proposal minimizes cost to the industry and, by allowing available Coast Guard resources to be concentrated on program oversight and on those operations with poor safety records would improve safety on the OCS.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/85	50 FR 9290
ANPRM Comment Period End	09/03/85	50 FR 20445
NPRM	07/07/87	52 FR 25392
NPRM Comment Period End	08/21/87	52 FR 25392
Final Action	03/00/88	

Small Entity: No

Additional Information: CGD 84-098(a) Self-Inspection of Fixed OCS Facilities separated from CGD 84-098 on 28 Mar. 1986.

Analysis: Draft Regulatory Evaluation 07/07/87 (52 FR 25392)

Agency Contact: LCDR A. Dupree, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-2307

RIN: 2115-AC40

1744. ● IMMERSION SUITS (84-069A)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 160

Legal Deadline: None.

Abstract: The Coast Guard is revising the specifications for approval of exposure suits. Existing approvals for exposure suits under 46 CFR 160.071 would be terminated on the effective date of these regulations and new approval would be issued for immersion suits under 46 CFR 160.171 after supplemental testing. Existing vessels could continue to use exposure suits approved under 46 CFR 160.071 as long as the suits remain serviceable. Ships, the construction or conversion of which started on or after July 1, 1986, would be required to have immersion suits approved under 46 CFR 160.071. The changes are needed to conform the regulations to the International Convention for Safety of Life at Sea, 1974, as amended (SOLAS 74/83). This rule was suspended to incorporate two additional changes regarding immersion suit testing.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	
NPRM	02/04/86	51 FR 4401
NPRM Comment Period End	05/05/86	51 FR 4401
Final Action	01/12/87	52 FR 1185
Supplemental Notice of Proposed Rulemaking	04/23/87	52 FR 13479
Suspension of Effective Date	04/23/87	52 FR 13445
Comment Period End	06/08/87	
Final Action	12/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 02/04/86 (51 FR 4401)

Agency Contact: LCDR W. M. Riley, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW, Washington, DC 20593-0001, 202 267-1444

RIN: 2115-AC66

1745. ● INCORPORATIONS BY REFERENCE, VOLUNTARY INDUSTRY STANDARDS (CGD 87-046)

Significance: Nonsignificant

Legal Authority: 46 USC 4302; 49 CFR 1.46

CFR Citation: 33 CFR 183.5; 33 CFR 183.430; 33 CFR 183.435; 33 CFR 183.505; 33 CFR 183.516; 33 CFR 183.610

Legal Deadline: None.

Abstract: Rule amends 33 CFR 183, Subparts I, J and K, adopting the latest versions of voluntary industry standards by incorporation by reference. These changes do not involve substantive changes and are being published as as a final rule (editorial change).

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	
Final Action Effective	06/00/88	

Small Entity: Yes

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Mr. Alston Colihan, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0981

RIN: 2115-AC72

1746. ● ELECTRICAL SYSTEM STANDARD (CGD 87-009)

Significance: Nonsignificant

Legal Authority: 46 USC 4302; 49 CFR 1.46

CFR Citation: 33 CFR 183 to 435(a)(4); 33 CFR 183 to 435(a)(5)

Legal Deadline: None.

Abstract: Rule proposes to amend current regulations on electrical systems for new boats by incorporating Underwriters Laboratories (UL) Standard 1428 by reference to replace UL Standard 83 in Subpart I of Part 83. The proposed rule would also delete a general reference to acceptable wire types in circuits of 50 volts or more. The intended effect is to recognize one of the most widely used wire types, UL boat cable, and to delete a very general reference that is not considered useful.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	
Final Action Effective	06/00/88	

Small Entity: Yes

Analysis: Regulatory Evaluation 12/00/87

Agency Contact: Mr. Alston Colihan, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0981

RIN: 2115-AC73

1747. ● SECURITY MEASURES: PLACARDING (CGD 87-044)

Significance: Nonsignificant

Legal Authority: 50 USC 191; EO 10173

CFR Citation: 33 CFR 122

Legal Deadline: None.

Abstract: This project would delete the requirement to post a placard showing atomic attack safety instructions. The information on the placard is either outdated or found in other publications required to be maintained on board merchant vessels.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: LCDR Joel Whitehead, Department of Transportation, U.S. Coast Guard, Commandant (G-MPS-3), 2100 Second St., SW, Washington, DC 20593-0001, 202 267-0507

RIN: 2115-AC75

1748. ● YORK SPIT CHANNEL, CHESAPEAKE BAY, NAVIGATION (CGD 86-066)

Significance: Nonsignificant

Legal Authority: 33 USC 1231; 49 CFR 1.46

CFR Citation: 33 CFR 162.45

Legal Deadline: None.

Abstract: Will delete navigation requirements that are outdated and no longer administered or enforced. [33 CFR 162.45)

Timetable:

Action	Date	FR Cite
NPRM	05/21/87	52 FR 19173
NPRM Comment Period End	07/06/87	52 FR 19173
Final Action	11/00/87	

Small Entity: No

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Mr. Michael J. Powers, Project Manager, Department of Transportation, U.S. Coast Guard, COMDT (NSS-2), 2100 2nd St., SW, Washington, DC 20593, 202 267-0415

RIN: 2115-AC76

DOT—USCG — Final Rule Stage

DEPARTMENT OF TRANSPORTATION (DOT) — Completed Actions

U.S. Coast Guard (USCG)

1749. + OPERATING A VESSEL WHILE INTOXICATED: RECREATIONAL VESSELS (84-099A)

Significance: Regulatory Program

Legal Authority: 46 USC 2302; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701; 46 USC 8105; 49 USC 1.46(b)

CFR Citation: 33 CFR 95

Legal Deadline: None.

Abstract: Solicits public assessment of the appropriateness of a Federal standard for determining whether an individual is operating a recreational vessel while intoxicated.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/86	51 FR 18900
ANPRM Comment Period End	08/21/86	
NPRM	02/09/87	52 FR 4116
NPRM Comment Period End	05/11/87	
Merged with Docket 84-099 : (RIN 2115-AC23)	00/00/00	

Small Entity: No

Additional Information: The Coast Guard has combined the proposed rules for intoxicated operation of recreational and commercial vessels into one proposal. The combined proposal will carry the Coast Guard docket number 84-099 and RIN AC23.

Agency Contact: Mr. C. Perry, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0979

RIN: 2115-AC24

1750. + IDENTIFICATION OF THE HORIZONTAL DATUM REFERENCED IN COAST GUARD REGULATIONS (86-082)

Significance: Agency Priority

Legal Authority: 14 USC 633

CFR Citation: 33 CFR 3; 33 CFR 80; 33 CFR 100; 33 CFR 110; 33 CFR 147; 33 CFR 150; 33 CFR 161; 33 CFR 162; 33 CFR 165; 33 CFR 166; 33 CFR 167; 33 CFR 177

Legal Deadline: None.

Abstract: The National Geodetic Survey is coordinating a datum conversion from the various existing datums to NAD 83. The shift is being made to NAD 83 in order to eliminate errors in the former datums. The datums of the geographic positions (latitude/longitude) published in 33 CFR 1 to 199 are currently indeterminate. This regulation is published to assist in identifying to which datum the published positions are referenced.

Timetable:

Action	Date	FR Cite
Final Action	09/08/87	52 FR 33809
Final Action Effective	09/08/87	

Small Entity: No

Analysis: Regulatory Evaluation 09/08/87

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Agency Contact: Mr. F. L. Parker, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0357

RIN: 2115-AC44

1751. CONSTRUCTION AND EQUIPMENT; EXISTING SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES (77-069)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 154

Legal Deadline: None.

Abstract: Would amend regulations for existing self-propelled vessels that carry bulk liquefied gases by including the substantive requirements for the "Code for Existing Ships Carrying Liquefied Gases in Bulk" adopted by the International Maritime Organization (IMO). These amended regulations would increase safety levels for existing ships carrying gas.

Timetable:

Action	Date	FR Cite
ANPRM	06/30/77	42 FR 33353
NPRM	03/14/85	50 FR 10264
Final Action	08/21/87	52 FR 31623
Final Action Effective	10/05/87	

Small Entity: No

Additional Information: Docket No. 77-069.

Analysis: Draft Regulatory Evaluation 03/14/85 (50 FR 10264)

Agency Contact: LCDR R. Fitch, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-1217

RIN: 2115-AA00

1752. REVOCATION OF MILITARY EXPLOSIVES REGULATIONS (83-006)

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806; 49 USC 1807; 49 USC 1808; 46 USC 170

CFR Citation: 46 CFR 146

Legal Deadline: None.

Abstract: Would revoke 46 CFR concurrently with the Research and Special Programs Administration's rulemaking and revise other sections in Title 46 accordingly.

Timetable:

Action	Date	FR Cite
Terminated	05/01/87	

Small Entity: No

Additional Information: This action has been consolidated with a current RSPA rulemaking action, HM-181A (RIN 2137-AA10), which is to consider revisions to the regulations governing transportation of explosives on vessels; a related RSPA rulemaking (RIN 2137-AA93) involves such transportation on all other modes.

Agency Contact: Mr. F. Thompson, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-1577

RIN: 2115-AB33

1753. ACCOMMODATIONS, RAILS AND GUARDS (84-073)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 3703; 46 USC 10104

CFR Citation: 46 CFR 32; 46 CFR 77; 46 CFR 96; 46 CFR 195

Legal Deadline: None.

Abstract: This proposal eliminates duplicative regulations and clarifies language in certain areas.

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	50 FR 39729
NPRM Comment Period End	11/29/85	50 FR 39729
Final Action	05/15/87	52 FR 18360
Correction Notice	06/15/87	52 FR 22751
Final Action Effective	06/15/87	52 FR 18360

Small Entity: No

Analysis: Regulatory Evaluation 09/30/85 (50 FR 39729)

Agency Contact: Mr. John M. Kinsey, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-2997

RIN: 2115-AB68

1754. HEALD BANK CUTOFF SAFETY FAIRWAY (85-062)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 166

Legal Deadline: None.

Abstract: A study of port access in the Galveston area showed need for a new fairway for deep-draft vessels in the vicinity of Heald Bank. This rule establishes that fairway.

Timetable:

Action	Date	FR Cite
NPRM	03/06/86	51 FR 7814
NPRM Comment Period End	05/05/86	
Final Action	05/14/87	52 FR 18231
Final Action Effective	06/15/87	

Small Entity: No

Analysis: Regulatory Evaluation 03/06/86 (51 FR 7814)

Agency Contact: LTJG Reese, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 267-6364

RIN: 2115-AC19

1755. BERWICK BAY VESSEL TRAFFIC SERVICE (85-076)

Significance: Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 161

Legal Deadline: None.

Abstract: This rulemaking would replace currently used categorical horsepower-tow length requirements with stricter straight-line ratio requirements which have proven effective in preventing tow/bridge collisions.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	52 FR 806
Final Action	09/04/87	52 FR 33585
Final Action Effective	10/05/87	

Small Entity: No

Analysis: Regulatory Evaluation 01/09/87 (52 FR 806)

Agency Contact: Mr. M. Powers, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0415

RIN: 2115-AC21

1756. BOATING SAFETY; FUEL SYSTEM STANDARD (85-098)

Significance: Nonsignificant

Legal Authority: 46 USC 4302

CFR Citation: 33 CFR 183.1; 33 CFR 183.5; 33 CFR 183.505; 33 CFR 183.528; 33 CFR 183.532; 33 CFR 183.540; 33 CFR 183.558; 33 CFR 183.568; 33 CFR 183.590

Legal Deadline: None.

Abstract: This rule requires gasoline fuel hose installed in new recreational boats to meet performance requirements of SAE Standard J1527DEC 85 instead of SAE Standard J30C. The change reflects safety questions about the effects increasing levels of aromatics and alcohols in fuels have on permeation rates and longevity of hose meeting SAE Standard J30C.

Timetable:

Action	Date	FR Cite
NPRM	03/20/86	51 FR 9689
Final Action	05/27/87	52 FR 19726
Final Action Effective	11/23/87	52 FR 19726

Small Entity: No

Analysis: Draft Regulatory Evaluation 03/20/86 (51 FR 9689); Regulatory Evaluation 05/27/87 (52 FR 19726)

Agency Contact: Alston Colihan, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-0001, 202 267-0981

RIN: 2115-AC36

1757. GREAT LAKES PILOTAGE RATES (86-020)

Significance: Nonsignificant

Legal Authority: 46 USC 6105; 46 USC 9303; 46 USC 9304

CFR Citation: 46 CFR 401

Legal Deadline: None.

Abstract: This proposal amends the Great Lakes Pilotage Regulations to cause pilotage rates in Districts 1 and 3 to increase by 13% and 6% respectively, to meet pilot needs to cover increased costs; no increase is proposed for District 2.

Timetable:

Action	Date	FR Cite
NPRM	05/22/86	51 FR 18806
Final Action	04/09/87	52 FR 1468
Final Action Effective	05/11/87	52 FR 1468

Small Entity: Yes

Analysis: Regulatory Evaluation 04/09/87 (52 FR 11468)

Agency Contact: Mr. John Hartke, Department of Transportation, U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593, 202 267-0217

RIN: 2115-AC38

1758. ● COAST GUARD AUXILIARY ENSIGN (85-073)

Significance: Nonsignificant

Legal Authority: 14 USC 633; 14 USC 638; 14 USC 891

CFR Citation: 33 CFR 5.47; 33 CFR 5.48

Legal Deadline: None.

Abstract: Rule describes specifications for a Coast Guard Auxiliary Ensign and a Coast Guard Auxiliary Patrol Boat Ensign.

Timetable:

Action	Date	FR Cite
Final Action	10/01/87	52 FR 36760

Small Entity: No

Analysis: Regulatory Evaluation 10/01/87 (52 FR 36760)

Agency Contact: Mr. C. Perry, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001, 202 267-0979

RIN: 2115-AC71

1759. ● SHIPPING SAFETY FAIRWAYS; APPROACH TO NEW YORK (CGD 84-004)

Significance: Nonsignificant

Legal Authority: 33 USC 1223; 33 USC 1224

CFR Citation: 33 CFR 166; 33 CFR 167

Legal Deadline: None.

Abstract: The Coast Guard proposes to establish two parallel fairways to connect the Eastern approach, off Nantucket and the Eastern approach, off Ambrose lanes of the Traffic Separation Scheme off New York. The rulemaking will also repromulgate the Off-New York Traffic Separation Scheme under the Ports and Waterways Safety Act.

Timetable:

Action	Date	FR Cite
NPRM	12/08/86	51 FR 44672
Final Action	09/04/87	52 FR 33587
Final Action Effective	10/05/87	

Small Entity: No

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: LTJG Daphne Reese, Project Manager, Department of Transportation, U.S. Coast Guard, COMDT (G-NSS-2), 2100 2nd St., SW, Washington, DC 20593, 202 267-0364

RIN: 2115-AC80

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Prerule Stage

1760. + POWERED ULTRALIGHTS: AIRMAN CERTIFICATION REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401 to 1406; 49 USC 1421 to 1432; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); 42 USC 4321

CFR Citation: 14 CFR 1; 14 CFR 61; 14 CFR 91; 14 CFR 103

Legal Deadline: None.

Abstract: Action would propose to establish airman certification requirements for persons operating powered ultralight aircraft. These mandatory certification standards are being considered because the response by ultralight operators to voluntary training programs has not been adequate. These proposed certification requirements are intended to achieve an acceptable level of safety in the operation of these aircraft.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Analysis: Regulatory Evaluation 02/00/86

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DOT—FAA

Prerule Stage

Agency Contact: William Cook, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3844

RIN: 2120-AB69

1761. + ULTRALIGHT AIRCRAFT REGISTRATION AND MARKING

Significance: Regulatory Program

Legal Authority: 49 USC 1348; 49 USC 1354; 49 USC 1401; 49 USC 1402; 49 USC 1421 to 1430; 49 USC 1423; 49 USC 1522; 49 USC 1655(c); 49 USC 1347; 49 USC 1357(d)(2); 49 USC 1372; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1432

CFR Citation: 14 CFR 1; 14 CFR 103

Legal Deadline: None.

Abstract: This action would establish registration and marking requirements for powered ultralight aircraft. These requirements are needed to enforce existing ultralight air traffic safety requirements effectively and to enable the FAA to issue important safety information to powered ultralight operators. The FAA intends that these requirements will better protect the safety of other airspace users and persons and property on the ground from unsafe powered ultralight activity.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Analysis: Regulatory Evaluation

Agency Contact: Joseph Gwiazdowski, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-9541

RIN: 2120-AC09

1762. + FIRE PROTECTION REQUIREMENTS FOR CARGO AND BAGGAGE COMPARTMENTS - PARTS 121 AND 135

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449; 49 USC 1472; 49 USC 1355(a); 49 USC 1431

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None.

Abstract: This action would propose requirements to improve cargo compartment fire protection for transport category airplanes operated under Parts 121 and 135 after a specified date. This action would propose a new rule which would require, within two years, replacement of ceiling and sidewall (including door and bulkhead) cargo compartment fire resistant liner panels in Class C and D cargo compartments greater than 200 cubic feet in volume in certain transport category airplanes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Gary L. Killion, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120-AC04

1763. ● + TERMINAL CONTROL AREAS AT 10,000 FEET MEAN SEA LEVEL (MSL); MODE C TRANSPONDERS ABOVE 10,000 FEET MSL

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983); 14 CFR 11.69; 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472

CFR Citation: 14 CFR 71.12; 14 CFR 71.40; 14 CFR 91.24

Legal Deadline: None.

Abstract: The Air Line Pilots Association requested amendment to Parts 71 and 91 to top all terminal control areas at 10,000 feet mean sea level and to require Mode C transponders above 10,000 mean sea level. ANPRM would propose amendment accordingly.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	

Small Entity: Undetermined

Additional Information: LEGAL AUTHORITY CONT: 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983),

Regulatory Project No: ATO-200-86-3 (Docket #24496)

Agency Contact: Robert G. Burns, Manager, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9239

RIN: 2120-AC52

1764. ● + FLIGHT PLAN FILING REQUIREMENTS; NATIONAL AIRSPACE REVIEW RECOMMENDATION

Significance: Agency Priority

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514

CFR Citation: 14 CFR 91.83

Legal Deadline: None.

Abstract: Review flight-plan filing requirements and revise according to National Airspace Review Recommendations 2-3.1.4, 2-3.1.5, 2-3.1.6, 2-3.1.7, and 2-3.1.8 i.e., to establish lower ceiling and visibility criteria for rotorcraft so as to reduce the frequency of required IFR alternate airport filings; to allow fixed-wing aircraft to file IFR alternate airports that meet the same criteria as rotorcraft; to require pilots to indicate, in their flight plans, when their aircraft is equipped with special equipment.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	

Small Entity: Undetermined

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983)

Regulatory Project No: ATO-200-85-12R

Agency Contact: William C. Davis, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9249

RIN: 2120-AC56

DOT—FAA

Prerule Stage

1765. REVIEW OF MEDICAL STANDARDS AND CERTIFICATION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1427 Federal Aviation Act of 1958, Sec. 607

CFR Citation: 14 CFR 67

Legal Deadline: None.

Abstract: These regulations specify the medical standards which must be met before a medical certificate is issued to an airman. For example, a medical certificate is required before a person can obtain a pilot license. During rulemaking involving these regulations, a considerable number of commenters expressed the belief that the current standards should and could be revised to state, in generally applicable objective terms, all those circumstances in which the FAA will issue medical certificates. In the past, some certificates have been issued on a case-by-case basis, with appropriate limitations, under exemption and waiver provisions where strict compliance with the existing standards was not essential in the interest of safety. A comprehensive review of these regulations is necessary to determine if the commenters' arguments are correct. If they are and the requested regulatory changes are possible, it could greatly reduce burdens, both on the FAA and airmen, associated with the processing of medical certificates.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: The FAA contracted with the American Medical Association (AMA) on August 29, 1983, to develop a comprehensive report which will be used by the FAA as part of its evaluation of Part 67 standards. AMA completed a professional review of the medical standards for civil airmen. The FAA announced the availability of the AMA report in the Federal Register on May 23, 1986 (51 FR 19040). RIN 2120-AB13 has been combined into this review.

Agency Contact: William H. Hark, M.D., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3902

RIN: 2120-AA70

1766. REVIEW: PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 21

Legal Deadline: None.

Abstract: This part prescribes procedural requirements for the issuance of type certificates and changes to those certificates; the issuance of production certificates; the issuance of airworthiness certificates; and the issuance of export airworthiness approvals. In addition it prescribes rules governing the holders of these certificates and procedural requirements for the approval of certain materials, parts, processes, and appliances. The review will also evaluate the impact on small entities in accordance with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Analysis: Regulatory Flexibility Analysis

Agency Contact: M. C. Beard, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9372

RIN: 2120-AB09

1767. REVIEW OF PARTS 61, 141, 143 - PILOT, PILOT SCHOOL AND GROUND INSTRUCTOR RULES

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 141; 14 CFR 143

Legal Deadline: None.

Abstract: The objective of this rulemaking project is to update and revise Parts 61, 141, and 143 of the Federal Aviation Regulations and determine the feasibility and need for consolidating Parts 61, 141, and 143 into a single regulation covering the entire spectrum of pilot training and certification.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: RIN 2120-AB14 has been combined into this review.

Agency Contact: John D. Lynch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8150

RIN: 2120-AB12

1768. REVIEW: PART 121 — CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1401 Federal Aviation Act of 1958, Sec. 501; 49 USC 1421 to 1430 Federal Aviation Act of 1958, Secs. 601-610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 121

Legal Deadline: None.

Abstract: Review of rules governing the certification and operations of air carriers, supplemental air carriers, and commercial air carriers engaging in: (1) interstate or overseas transportation under a certificate of public convenience and necessity; (2) foreign air transportation under a certificate of public convenience and necessity; (3) charter flights or other special service operations; and (4) carriage of persons or property in air commerce for compensation or hire. These regulations are being reviewed to comply with the Regulatory Flexibility Act.

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DOT—FAA

Prerule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Analysis: Regulatory Flexibility Analysis

Agency Contact: Gary Martindell, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3749

RIN: 2120–AB27

1769. REVIEW: PART 135 – AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421 to 1430 Federal Aviation Act of 1958, Secs. 601-610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 135

Legal Deadline: None.

Abstract: Review of rules governing: (1) air taxi operations conducted under Part 298; (2) transportation of mail by aircraft conducted under a postal service contract; and (3) carriage of persons or property for compensation or hire as a commercial operator in specified aircraft. These regulations are being reviewed to comply with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Analysis: Regulatory Flexibility Analysis

Agency Contact: Warren Kurtze, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3755

RIN: 2120–AB28

1770. ● REVIEW PART 75 FOR RETENTION OR REVOCATION

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983); 14 CFR 11.69; 49 CFR 1.47

CFR Citation: 14 CFR 75

Legal Deadline: None.

Abstract: Review Part 75 per National Airspace Review Recommendations toward revocation and establish nonrulemaking procedures for handling Jet Route actions.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	

Small Entity: Undetermined

Additional Information: Regulatory Project No: ATO-200-84-24R

Agency Contact: Robert G. Burns, Manager, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9239

RIN: 2120–AC55

1771. PART 91, SUBPART B, REVIEW FOR SIMPLIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1353; 49 USC 1354; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; ...

CFR Citation: 14 CFR 91

Legal Deadline: None.

Abstract: The agency set up a National Airspace Review Task Group for the review of 14 CFR Part 91, Subpart B. This action will cover the recommendations made by the group.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: LEGAL AUTHORITY CONT: 49 USC 1427; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431; 49 USC 1471; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121; 49 USC 2122; 49 USC 2123; 49 USC 2124; 49 USC 2125; 49 USC 4321 et seq; EO 11514; 49 USC 106(g) Revised Pub L 97-449 January 12, 1983 Regulatory Project ATO-200-85-28R

Agency Contact: Joe Gill, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9252

RIN: 2120–AA07

1772. ACCELERATED GROUND TRAINING - FLIGHT ENGINEERS' SKILL REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 63; 14 CFR 91; 14 CFR 125

Legal Deadline: None.

Abstract: This proposed action would amend the regulations to allow the flight engineers' normal procedure practical test to be conducted in an approved flight simulator in lieu of conducting it, in flight, in an airplane.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. 22781.

Agency Contact: Michael J. Coffey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3750

RIN: 2120–AA79

1773. INSTRUMENT FLIGHT RULE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 135

Legal Deadline: None.

Abstract: The FAA is considering rulemaking to revise several sections of Part 135 dealing with instrument flight rules. The action is, in part, in response to petitions from Owen Aviation and Liberal Aircraft. The proposed rules would restore the right of single engine airplanes to operate in instrument flight rule conditions under specified conditions, relax minimums at foreign and military airports, and add visibility and ceiling requirements at airports without standard instrument approach procedures.

DOT—FAA

Prerule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. 20164

Agency Contact: Michael J. Coffey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3750

RIN: 2120–AA82

1774. AMENDMENT OF SECTIONS 91.171, 91.172, AND APPENDICES E AND F OF PART 43

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601

CFR Citation: 14 CFR 43; 14 CFR 91

Legal Deadline: None.

Abstract: This action would delay an October 15, 1992, compliance date to afford operators additional time to accomplish tests and inspections required by Sec. 91.171, correct inappropriate references, and delete a requirement for integrated system tests of ATC transponders by operators.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Robert Baker, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8322

RIN: 2120–AA98

1775. FATIGUE EVALUATION, BIRD IMPACT, AND LIGHTNING PROTECTION FOR PROPELLERS OF COMPOSITE CONSTRUCTION

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 35

Legal Deadline: None.

Abstract: Would revise Part 35 Fatigue Limit Test (Propellers) to add requirement for composite propellers to include environmental effects in fatigue evaluation, bird impact, and lightning protection.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Analysis: Regulatory Evaluation 12/00/86

Agency Contact: M. Buckman, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, ANE-110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7079

RIN: 2120–AB05

1776. STANDARDS FOR APPROVAL FOR HIGH ALTITUDE OPERATION OF SUBSONIC AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None.

Abstract: This proposal would review special conditions issued for high altitude operation and consolidate and incorporate these special conditions into Part 25.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Affected Sectors: Multiple

Analysis: Regulatory Evaluation 06/27/84

Agency Contact: Gary Lium, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2134

RIN: 2120–AB18

1777. PRIMARY CATEGORY AIRCRAFT; POWERED ULTRALIGHT; FALSIFICATION OF APPLICATIONS, REPORTS, OR RECORDS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 42 USC 1857(f)-10; 42 USC 4321 et seq; EO 11514; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21; 14 CFR 36; 14 CFR 43; 14 CFR 91; 14 CFR 141; 14 CFR 147

Legal Deadline: None.

Abstract: Action will propose to establish a new category of aircraft for type, production, and airworthiness certification. These aircraft will be designed for pleasure and personal use, and classified as a primary category aircraft. In addition, the notice will propose simplified type, production, and airworthiness certification procedures, special maintenance criteria, and associated changes to pilot requirements for this category of aircraft.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: John McGrath, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-9580

RIN: 2120–AB53

1778. PART 157 REVIEW

Significance: Nonsignificant

Legal Authority: Secs 309, 313(a), 314, 72 Stat. 751.; 49 USC 1350; 49 USC 1354(a); 49 USC 1355

CFR Citation: 14 CFR 157

Legal Deadline: None.

Abstract: Revision of FAR Part 157 to include issues relating to ultralight activities and to require notice of proposed traffic patterns and changes thereto. Pending completion of Regulatory Evaluation.

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DOT—FAA — Prerule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Regulatory Project ATO-200-86-13R

Analysis: Regulatory Evaluation 00/00/00

Agency Contact: William C. Davis, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9249

RIN: 2120-AB74

1779. ANTIBLOCKING DEVICE

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 106(g) Revised Pub. L. 97-449, January 12, 1983; 14 CFR 11.45; 49 USC 1354(a)

CFR Citation: 14 CFR 91

Legal Deadline: None.

Abstract: Mr. John G. Rutty submitted a petition for rulemaking seeking to amend the FAR to require antiblocking and stuck microphone (ABD) relief circuitry operatively associated with aircraft voice communications radios employed in certain high-density air traffic areas. Action pending operational evaluation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: Docket Number 23755. Regulatory Project ATO-200-84-2P

Agency Contact: Reginald C. Matthews, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9245

RIN: 2120-AB92

1780. PASSENGER-CARRYING AND CARGO AIR OPERATIONS FOR COMPENSATION OR HIRE

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 1485; 49 USC 106(g)

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 129; 14 CFR 135

Legal Deadline: None.

Abstract: The FAA proposes to update and clarify the certification and operations specifications requirements for persons who operate aircraft for compensation or hire by (1) codifying the Special Federal Aviation Regulation pertaining to the certification requirements and (2) consolidating into one part the certification and operations specifications requirements for persons who operate under Part 121 or Part 135. The proposal responds to the termination of the Civil Aeronautics Board (CAB) and to changes in the air transportation industry since the Airline Deregulation Act of 1978. The proposal would provide a guide enabling persons who operate aircraft for compensation or hire to determine the certification and operations requirements with which they must comply.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Michael J. Coffey, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3752

RIN: 2120-AC08

1781. AIRCRAFT REGISTRATION RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1401(a); 49 USC 1401(b); 49 USC 1402; 49 USC 1403(g); 49 USC 1405

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None.

Abstract: This is a recodification of 14 CFR Parts 47 and 49 in order to modernize these parts, making them compatible with modern business practices, in keeping with FAA policy.

The potential costs have not yet been assessed, but are considered to be negligible as the impact will be procedural and not substantive.

The potential benefits are the clarification of regulatory language and facilitation of procedures for registration of aircraft and recordation of conveyances affecting ownership of or interest in US civil aircraft.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Agency Contact: Alonso J. Rodriguez, Attorney Advisor, Department of Transportation, Federal Aviation Administration, P.O. Box 25082, Oklahoma City, OK 73125, 405 686-2296

RIN: 2120-AC17

1782. ● TEMPORARY FLIGHT RESTRICTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 3101(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; ...

CFR Citation: 14 CFR 91.91

Legal Deadline: None.

Abstract: Proposal to amend Section 91.91 to prevent interference with ground or aerial search or investigation by non-participating aircraft.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	

Small Entity: Undetermined

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983).

Regulatory Project No: ATO-200-87-9R

Agency Contact: William C. Davis, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9249

RIN: 2120-AC40

1783. ● ALTERNATE AIRPORT WEATHER MINIMUM

Significance: Nonsignificant

DOT—FAA — Prerule Stage

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; ...

CFR Citation: 14 CFR 91.83(c)

Legal Deadline: None.

Abstract: Would revise Section 91.83(c)(l) of the Federal Aviation Regulations to include words that "any airport may be designated as an alternate airport if the forecast weather conditions will permit descent from the minimum en route altitude, approach, and landing under basic visual flight rules."

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	

Small Entity: Undetermined

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983)

Regulatory Project No: ATO-200-87-6 (Docket #25213)

Agency Contact: William C. Davis, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9249

RIN: 2120-AC41

1784. ● IMPROVE SAFETY AND EFFECTIVENESS OF ISLIP AIRPORT RADAR SERVICE AREA (ARSA)

Significance: Nonsignificant

Legal Authority: 49 USC 1341(a); 49 USC 1343(d); 49 USC 1348; 49 USC 1354(a); 49 USC 1401 to 1405; 49 USC 1421 to 1431; 49 USC 1461; 49 USC 1502; 49 USC 106(g), (Review Pub L. 97-449, January 12, 1983); 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983); 14 CFR 11.69

CFR Citation: 14 CFR 11; 14 CFR 71

Legal Deadline: None.

Abstract: To amend Regulations to reduce the size of the regulatory airport radar service area to approximately a 5-mile radius inner core and a 7-mile radius outer core north of south shore of Long Island. This ARSA requires only two-way radio communication to enter or operate in the ARSA.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	

Small Entity: Undetermined

Additional Information:

Regulatory Project No: ATO-200-87-10P (Docket #25277)

Agency Contact: Robert Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9255

RIN: 2120-AC47

1785. ● GLOBAL POSITIONING SYSTEM USE IN TERMINAL CONTROL AREAS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; ...

CFR Citation: 14 CFR 91.90

Legal Deadline: None.

Abstract: Adoption of this recommendation would allow aircraft operating in a Group I or II Terminal Control Area to be equipped with Global Position System (GPS), Very High Frequency Omnirange Station (VOR) or Tactical Air Navigation (TACAN) equipment.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	

Small Entity: Undetermined

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983)

Regulatory Project No: ATO-200-85-17R

Agency Contact: Robert G. Burns, Manager, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9239

RIN: 2120-AC54

1786. ● NATIONAL AIRSPACE REVIEW RECOMMENDATION - OPERATIONS IN THE VICINITY OF AN AIRPORT

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1452 to 1455; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; ...

CFR Citation: 14 CFR 91.85; 14 CFR 91.87; 14 CFR 91.89

Legal Deadline: None.

Abstract: This action would reorganize Sections 91.85, and 91.89 into two sections: a general section concerning aircraft turns and traffic flows, and another section dealing with rules at airports with control towers. Certain current provisions would be deleted.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	

Small Entity: Undetermined

Additional Information: LEGAL AUTHORITY CONT: 49 USC 106(g), (Revised Pub. L. 97-449, January 12, 1983)

Regulatory Project No: ATO-200-85-14R

Agency Contact: William C. Davis, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9249

RIN: 2120-AC57

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DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Proposed Rule Stage

1787. + REVIEW AND REVISION OF REPAIR STATION REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1355; 49 USC 1421; 49 USC 1427

CFR Citation: 14 CFR 145

Legal Deadline: None.

Abstract: Current repair station rules were developed during the infancy of the aviation industry. Very few changes were made to those rules since they were adopted in 1952. This rulemaking project proposes to review foreign repair-station requirements and update the rules to reflect the current international and domestic environment and needs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: Raymond E. Ramakis, Division Manager, AFS-300, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3546

RIN: 2120-AC38

1788. + LOW-ALTITUDE WINDSHEAR EQUIPMENT REQUIREMENTS FOR TAKEOFFS/LANDINGS OF TRANSPORT CATEGORY AIRPLANES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 135

Legal Deadline: None.

Abstract: This notice proposes to require that all turbojet-powered airplanes operated in accordance with Part 121 have airborne systems that warn a flightcrew of the presence of low-altitude windshear conditions and then provide flight guidance to follow that would produce the optimal flight path for a missed approach procedure. This proposal would require that any Part 121 operator using an approved simulator as a part of its training program develop a specific windshear-related simulator flight training course for its flightcrews. This proposal would require that Part 121 and 135 operators using an approved training program include training concerning the low-altitude windshear phenomenon as a part of their normal ground training. Low-altitude windshear has been a prime causal factor in numerous air carrier accidents and possibly has contributed to a number of general aviation accidents.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/79	44 FR 25807
NPRM	06/01/87	52 FR 20580
NPRM Comment Period End	09/28/87	

Small Entity: No

Additional Information: Docket No. 19110. In 1975, the FAA began a two-year effort to develop a windshear program. As part of the program, FAA began work to develop a windshear warning and pilot aiding device which has achieved encouraging results. Following the initial announcement of this proposal, it was determined that a regulatory analysis would not be required; however, an evaluation will be made and docketed. ANPRM No. 79-11 was published on May 3, 1979 (44 FR 25807) and comment period closed August 3, 1979. (14 CFR Parts 91, 121 & 135).

Agency Contact: Gary Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3752

RIN: 2120-AA01

1789. + METROPOLITAN WASHINGTON AIRPORTS POLICY

Significance: Regulatory Program

Legal Authority: 49 USC 1303 Federal Aviation Act of 1958, Sec. 103; 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(b) Federal Aviation Act of 1958, Sec. 307(b); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); Act for the Administration of Washington National Airport; Second Washington Airport Act; 64 Stat. 770, Sec. 4

CFR Citation: 14 CFR 93

Legal Deadline: None.

Abstract: This action proposed various operational ceilings at Washington National Airport and contemplated future guidance on operation and development of National and Dulles Airports. Proposed action has been superseded by the Metropolitan Washington Airports Act of 1986 and will be withdrawn.

Timetable:

Action	Date	FR Cite
SNPRM	07/16/84	49 FR 24626
Comment Period		
To be withdrawn	12/00/87	

Small Entity: No

Additional Information: Superseded by Metropolitan Washington Airports Act of 1986.

Analysis: Regulatory Evaluation 06/14/84

Agency Contact: Edward P. Faberman, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3773

RIN: 2120-AA89

1790. ● + REVISION OF FOREIGN REPAIR STATION RULES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355(a); 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; 49 USC 1427; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431; 49 USC 1502; 49 USC 106(g); ...

CFR Citation: 14 CFR 145

Legal Deadline: None.

Abstract: This notice proposes to update the regulations for certificating foreign repair stations to accommodate the increasing demand for maintenance and alteration of U.S.-registered aircraft manufactured worldwide.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Undetermined

Agency Contact: Raymond E. Ramakis, Manager, Aircraft Maintenance Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3546

RIN: 2120-AC50

1791. + AMEND PART 23 TO INCLUDE REQUIREMENTS FOR CRASH-RESISTANT FUEL SYSTEMS

Significance: Agency Priority

DOT—FAA

Proposed Rule Stage

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421. Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 23

Legal Deadline: None.

Abstract: This action would amend Part 23 to include requirements for crash-resistant fuel tanks, lines and fittings. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	

Next Action Undetermined

Small Entity: No

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 374-6930

RIN: 2120-AA57

1792. + AIRPLANE CABIN-FIRE PROTECTION

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None.

Abstract: To develop a revision to FAR 25.853 to improve fire protection for lavatories and galleys by requiring that smoke detectors and fire extinguishers, among other things, be installed. This rulemaking is significant because it involves important Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: Project follows completion of Part 121 rulemaking.

Analysis: Regulatory Evaluation 09/00/85

Agency Contact: Gary L. Killion, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120-AB22

1793. + OCCUPANT RESTRAINT IN NORMAL AND TRANSPORT CATEGORY ROTORCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1344 Federal Aviation Act of 1958, Sec. 303; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604; 49 USC 1425 Federal Aviation Act of 1958, Sec. 605; 49 USC 1428 Federal Aviation Act of 1958, Sec. 608; 49 USC 1429 Federal Aviation Act of 1958, Sec. 609; 49 USC 1430 Federal Aviation Act of 1958, Sec. 610; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None.

Abstract: This project proposes to amend the rotorcraft airworthiness standards in Parts 27 and 29 of the FAR. These proposals would add two dynamic crash-impact design requirement conditions for seat and occupant restraint systems, increase the static design load factors for seating devices and items of mass in the cabin or adjacent to the cabin as prescribed, prescribe a shoulder harness for each occupant, and add human impact injury criteria for the dynamic crash-impact conditions. These proposals are intended to significantly improve occupant protection levels in a survivable emergency landing impact.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20938
NPRM Comment Period End	12/30/87	

Small Entity: No

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 06/07/86

Agency Contact: James Major, Department of Transportation, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76193-0111, 817 624-5117

RIN: 2120-AB35

1794. + PROPOSED DEPARTMENT OF ENERGY PROHIBITED AREAS

Significance: Agency Priority

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 106(g) Revised, Pub. L. 97-449, January 12, 1983

CFR Citation: 14 CFR 11.65; 14 CFR 73

Legal Deadline: None.

Abstract: The proposed establishment or modification of prohibited airspace over these sites is one segment of a Department of Energy (DOE) comprehensive effort to enhance the protection of vital nuclear weapons research, development, and production facilities. If established, helicopter operations at any altitude over the designated sites would be prohibited without prior DOE authorization. This rulemaking is significant because it may be controversial. A summary of written and oral comments received in response to notices and hearings was sent to the DOE February 22, 1985, for them to address. DOE has conducted an indepth review of security at all sites. A draft final report is undergoing internal DOE coordination. Upon completion, DOE will decide if they will proceed with, modify, or withdraw part or all of their request for a proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/84	49 FR 04765
Public Hearings Announced	07/20/84	49 FR 29411
Extension of Comment Period	08/07/84	49 FR 31435

Next Action Undetermined

Small Entity: Yes

Agency Contact: Paul Gallant, Special Use Airspace, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9253

RIN: 2120-AB39

1795. + ELIMINATION OF AIRPORT DELAYS

Significance: Agency Priority

Legal Authority: 49 USC 1303 Federal Aviation Act of 1958, Sec. 103; 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 14 CFR 11.49

CFR Citation: 14 CFR 93

Legal Deadline: None.

DOT—FAA

Proposed Rule Stage

Abstract: This proposed rule is designed to alleviate increased delays throughout the air traffic system. If implemented, the FAA would alter current airline scheduling through a lottery process to more evenly space arrivals and departures throughout the day. Alternatives include voluntary schedule changes by the airlines. The rule, or the alternatives, would benefit the airline industry and the public by limiting delays. This regulation is significant because of its involvement with important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	08/20/84	49 FR 33082

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 24206.

Agency Contact: Edward P. Faberman, Deputy Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3773

RIN: 2120-AB42

1796. + PROPOSED LIMITS ON THE GROWTH OF NOISE FROM CERTAIN AIRPLANES AND AIRPLANE TYPES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431(b) Federal Aviation Act of 1958, Sec. 611(b); 49 USC 1421 et seq National Environmental Policy Act, Title I; EO 11514; 49 USC 106(g)

CFR Citation: 14 CFR 36; 14 CFR 91

Legal Deadline: None.

Abstract: Would revise both noise certification standards and operating noise rules to ensure that aircraft certificated within certain broad noise groups or "stages" remain within those stages. Those proposals would apply to transport category large aircraft and to turbojet powered aircraft regardless of category. The proposed rule would prohibit modification of both individual airplanes and whole airplane types where those modifications would result in the growth of noise beyond the limits of the airplane's current stage. While the proposal would not restrict airplane changes that result in lower noise, it would in some cases prohibit re-modification of those aircraft to return to their original noise levels. The FAA believes that these rules are necessary to correct a defect in the current regulations and to protect airports, aircraft operators and the public from the effects of that defect. This rulemaking is significant because of intense public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/17/87	52 FR 23144
NPRM Comment Period End	09/14/87	

Small Entity: Undetermined

Analysis: Draft Regulatory Evaluation

Agency Contact: Steven Albersheim, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120-AB50

1797. + PROPOSED REVISION OF NOISE CERTIFICATION OF TURBOJET AND LARGE TRANSPORT CATEGORY AIRCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431(b) Federal Aviation Act of 1958, Sec. 611(b); 49 USC 1421 et seq National Environmental Policy Act, Title I; EO 11514

CFR Citation: 14 CFR 36; 14 CFR 91

Legal Deadline: None.

Abstract: Would revise certification and operational requirements for aircraft produced after January 1, 1988. On that date the current two stage noise requirements would be replaced with a simpler single standard corresponding to the current Stage 3.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 03/00/88

Agency Contact: Steven Albersheim, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120-AB88

1798. + FLIGHT ATTENDANT FLIGHT-TIME LIMITATIONS AND REST REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None.

Abstract: The Association of Flight Attendants and the Joint Council of Flight Attendant Unions have petitioned the FAA to amend Part 121 and 135 to establish maximum duty timelimits and minimum hours of rest for flight attendants. Summaries of the petitions were published (50 FR 6185 and 50 FR 25252) and requested comments to assist the FAA in determining what, if any, regulatory proposals should be developed.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Gary Martindell, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3757

RIN: 2120-AB97

1799. + SST STAGE 3 COMPLIANCE

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423; 49 USC 1431

CFR Citation: 14 CFR 36

Legal Deadline: None.

Abstract: Part 36 prescribes noise type certification standards for turbojet airplanes. This proposal would revise Part 36 so that new type certificated supersonic aircraft would be required to meet Stage 3 noise levels. Action is considered significant because of the substantial public interest which may be generated on the issue.

DOT—FAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	10/30/86	51 FR 39603
Comment Period Reopened Until 07/01/87	03/12/87	52 FR 7618

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Docket No. 25109 was open 10/30/86 through 2/27/87

Agency Contact: Steven Albersheim, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120-AC22

1800. + LOCATION OF PASSENGER EMERGENCY EXITS IN TRANSPORT-CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21; 14 CFR 25; 14 CFR 121

Legal Deadline: None.

Abstract: NPRM will propose to establish standards for transport category airplanes, to limit the distance a passenger seat may be from an exit, and the distance between adjacent exits. Purpose is to ensure passengers do not have to traverse excessive distances to escape the aircraft in an emergency, and to prevent U.S. carriers from deactivating the overwing exits of the Boeing 747. Escape-path distance was a major issue of the recent Emergency Evacuation Task Force. Current regulations do not limit escape-path distance. Action is significant because of substantial public interest associated with issues involving aircraft passenger safety.

Timetable:

Action	Date	FR Cite
NPRM	10/15/87	

Small Entity: No

Agency Contact: Henri Branting, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-9577

RIN: 2120-AC29

1801. + FLIGHT ATTENDANT REQUIREMENTS DURING DEPLANING AND BOARDING

Significance: Agency Priority

Legal Authority: None

CFR Citation: 14 CFR 121

Legal Deadline: None.

Abstract: This action proposes to revise the regulation dealing with the required number of flight attendants to clarify the original intent of the regulation. The current regulations are confusing and not clearly understood. The proposed amendments would clarify the number of flight attendants required when passengers are onboard an airplane, including during boarding and deplaning. The proposals would allow for a reduced number of flight attendants onboard an airplane during specified periods. The proposals would specify the conditions to be met to reduce the number of flight attendants at these stops. Additionally, the proposals would allow other authorized persons to be substituted for the required flight attendants at these stops, and the proposals would clearly establish the requirements for training for those authorized persons. The FAA proposes a new rule that would clarify where the required flight attendants and other persons must be located when they are onboard the airplane.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: David L. Catey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8096

RIN: 2120-AC32

1802. + CONTROL OF DRUG AND ALCOHOL USE FOR PERSONNEL ENGAGED IN COMMERCIAL AND GENERAL AVIATION ACTIVITIES

Significance: Agency Priority

Legal Authority: None

CFR Citation: 14 CFR 91

Legal Deadline: None.

Abstract: This notice invites comments on drug and alcohol abuse by personnel in the aviation industry and the options available for regulatory or other actions in the interest of aviation safety. It is intended to gather additional information on the extent to which abuse of drugs or alcohol is impairing the performance of personnel in the aviation community, such as commercial and general aviation pilots and mechanics, and on the costs and effectiveness of various drug and alcohol countermeasures. The rulemaking will cover mandatory random testing.

Timetable:

Action	Date	FR Cite
ANPRM	12/09/86	51 FR 44432
ANPRM Comment Period End	01/23/87	
Comment Period Extended to 02/23/87	01/23/87	52 FR 2547

Next Action Undetermined

Small Entity: No

Agency Contact: Dr. Robert S. Bartanowicz, Assistant Manager, Safety Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9579

RIN: 2120-AC33

1803. + INSTALLATION OF TRAFFIC CONTROL AVOIDANCE SYSTEM IN DOMESTIC TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: None

CFR Citation: 14 CFR 121; 14 CFR 25

Legal Deadline: None.

Abstract: This action would propose to require that domestic transport category airplanes be equipped with a traffic collision avoidance system. To facilitate the requirements, it would also be necessary to develop a technical standard order.

Timetable:

Action	Date	FR Cite
NPRM	10/26/87	

Small Entity: Undetermined

Agency Contact: Frank Rock, Department of Transportation, Federal

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DOT—FAA

Proposed Rule Stage

Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9567

RIN: 2120-AC34

1804. ● + PART 129 SECURITY PROGRAM FOR FOREIGN AIR CARRIERS

Significance: Agency Priority

Legal Authority: 49 USC 1346; 49 USC 1345(a); 49 USC 1356; 49 USC 1357; 49 USC 1421; 49 USC 1502; 49 USC 1511; 49 USC 106(g)

CFR Citation: 14 CFR 129

Legal Deadline: None.

Abstract: This notice proposes to require foreign air carriers that land or take off in the United States to submit to the Administrator for approval a written security program that describes the procedures, facilities, and equipment used by the foreign air carrier to provide for the protection of persons and property traveling in air transportation against acts of criminal violence and air piracy.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: David Smith, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3466

RIN: 2120-AC42

1805. ● + TYPE AND NUMBER OF PASSENGER EMERGENCY EXITS REQUIRED IN TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449; 49 CFR 1.47(a)

CFR Citation: 14 CFR 25

Legal Deadline: None.

Abstract: This notice will propose to revise the current requirements for passenger emergency exits and to adopt two new exit types into the regulations. These proposals are intended to provide more consistent standards with respect to exit types and quantities required for passenger seating configurations while retaining the same level of safety. This notice also will propose to reduce the maximum inflation time of an escape slide to reflect the current state of the art. These proposals resulted from the Public Technical Conference on Emergency Evacuation of Transport Airplanes held in Seattle, Washington on September 3-6, 1985.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Franklin Tiangsing, Regulations Branch, Transport Standards Staff, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South C-68966, Seattle, WA 98168, 206 431-2134

RIN: 2120-AC43

1806. ● + IMPROVED ACCESS TO TYPE III AND TYPE IV EMERGENCY EXITS

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None.

Abstract: This notice proposes to amend Parts 25 and 121 of the FAR to provide for improved access to Type III and Type IV emergency exits. These proposals are intended to improve the ability of occupants to evacuate an airplane under emergency conditions.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Frank Tiangsing, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2121

RIN: 2120-AC46

1807. ● + COMMUTER CATEGORY AIRPLANES: COCKPIT VOICE RECORDER (CVR) AND FLIGHT DATA RECORDER (FDR) REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355(a); 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; 49 USC 1427; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431; 49 USC 1502; 49 USC 106(g)

CFR Citation: 14 CFR 135

Legal Deadline: None.

Abstract: This notice would initiate supplemental rulemaking action amending Part 135 to include requirements for CVR's/FDR's in multiengine, turbine-powered airplanes configured to carry six or more passengers and requiring two pilots.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: No

Agency Contact: Frank Rock, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9567

RIN: 2120-AC48

1808. ● + PILOTS CONVICTED OF DRIVING WHILE INTOXICATED (DWI)/UNDER INFLUENCE (DUI)

Significance: Agency Priority

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1422; 49 USC 1427; 49 USC 106(g)

CFR Citation: 14 CFR 61; 14 CFR 65; 14 CFR 67

Legal Deadline: None.

Abstract: This notice proposes to amend the existing Federal Aviation Regulations to allow pilot certification action when a pilot has been convicted of multiple DWI/DUI motor-vehicle offenses.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Dr. Robert Bartanowicz, Department of Transportation, Federal Aviation Administration, 800 Independence

DOT—FAA

Proposed Rule Stage

Avenue, SW, Washington, DC 20591, 202 267-9679

RIN: 2120-AC51

1809. PART 77 REVIEW, OBJECTS AFFECTING NAVIGABLE AIRSPACE

Significance: Nonsignificant

Legal Authority: 49 USC 1304 Federal Aviation Act of 1958, Sec. 104; 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1431 Federal Aviation Act of 1958, Sec. 611; 49 USC 1501 Federal Aviation Act of 1958, Sec. 1101

CFR Citation: 14 CFR 77

Legal Deadline: None.

Abstract: Would revise and reorganize 14 CFR Part 77 in a more logical sequence and present regulatory requirements relating to proposed construction or alteration and their impact on navigable airspace. It is also intended to clarify and strengthen agency actions in determining whether a particular object would be a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
National Airspace Review Begins	07/09/84	

Next Action Undetermined

Small Entity: No

Additional Information: No docket number assigned; Regulatory Project ATO-200-85-15R

Agency Contact: Gene Barnett, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8251

RIN: 2120-AA09

1810. CESSNA FINANCE PETITION

Significance: Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 1354; 49 USC 1401; 49 USC 1403; 49 USC 1405; 49 USC 1406; 49 USC 1502; 4 USC 1830

CFR Citation: 14 CFR 49; 14 CFR 47

Legal Deadline: None.

Abstract: Petition for rulemaking to amend Parts 47 and 49 to provide all persons who hold a security interest in aircraft the same protection now afforded the seller of an aircraft under a conditional sales contract.

Timetable:

Action	Date	FR Cite
ANPRM	10/20/77	42 FR 55891
NPRM	05/22/80	45 FR 34826

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 17311.

Analysis: Regulatory Evaluation 05/22/80

Agency Contact: Anges M. Jones, Aircraft Regulation Specialist, Department of Transportation, Federal Aviation Administration, PO Box 25724, Okla City, OK 73125, 405 686-2284

RIN: 2120-AA15

1811. INOPERATIVE INSTRUMENTS OR EQUIPMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421(a) to 1430 Fed. Av. Act 1958, Secs. 601(a) to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 43; 14 CFR 91

Legal Deadline: None.

Abstract: This notice supplements NPRM 81-14, which proposed to permit the operation of powered aircraft with certain inoperative instruments and equipment that are not essential for the safe operation of the aircraft. After further review of the comments from the public, the FAA concluded that provisions in that notice could be accomplished with less paperwork, and the concept could be further modified to conform to other pertinent regulations. This supplemental notice proposes to permit rotorcraft and nonturbine powered airplanes (for which a master minimum equipment list has not been developed), that are not being utilized in an air carrier operation, to be operated with certain inoperative instruments and equipment. Furthermore, this supplemental notice proposes to permit flight operations with certain inoperative instruments and equipment for small multiengine rotorcraft and nonturbine-powered small multiengine airplanes (for which a master minimum equipment list has been developed and that are not being utilized in an air carrier operation) the option of selecting the minimum equipment (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/26/81	46 FR 52278
NPRM Comment Period End	01/25/82	
NPRM Supplemental (SNPRM)	09/28/87	

Small Entity: No

Additional Information: ABSTRACT CONT: list concept or complying with the provision contained in the new proposed regulations.

Analysis: Regulatory Evaluation 10/26/81

Agency Contact: John Lynch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3841

RIN: 2120-AA19

1812. ROTORCRAFT REGULATORY REVIEW PROGRAM NOTICE NO. 4

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(A); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; 49 USC 1429; 49 USC 1430; 49 USC 106(G); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None.

Abstract: This is the fourth of a series of notices to be issued as part of the FAA's comprehensive Rotorcraft Regulatory Review Program. This notice contains proposals which would amend and update the airframe and related equipment requirements in Parts 27 and 29 of the Federal Aviation Regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	

Small Entity: No

Analysis: Regulatory Impact Analysis

Agency Contact: James Major, Department of Transportation, Federal

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Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5117

RIN: 2120-AA29

1813. IMPLEMENTATION OF SAFER PROPULSION SYSTEM RECOMMENDATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None.

Abstract: This action would amend Sec. 25.975 to require fuel tank vent protection during ground fires and Sec. 25.1189 to require design practices which maximize the probability of engine fuel supply shut-off in a potential fire situation.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 24251

Agency Contact: James M. Walker, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2116

RIN: 2120-AA49

1814. MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1352 Federal Aviation Act of 1958, Sec. 311; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421 to 1430 Fed Aviation Act of 1958, Secs. 601 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None.

Abstract: This action would amend various sections of the regulations. Some of the amendments are clarifying or editorial in nature or correct improper or obsolete references. Others relax certain existing requirements. Others allow issuance of special flight permits for an additional purpose, relax a requirement for passenger information signs, and eliminate the bulk erasure device on cockpit voice recorders. This action is in response to numerous complaints, suggestions, and petitions for exemption concerning several regulatory requirements received from users of the National Airspace System. These users state that these sections contain obsolete references and vague, complex, and inadequate language and that, in some instances, the cost of compliance is not justified by the benefits derived.

Timetable:

Action	Date	FR Cite
NPRM	12/03/83	48 FR 45214

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 23761.

Analysis: Regulatory Evaluation 10/03/83

Agency Contact: Jean Casciano, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9683

RIN: 2120-AA50

1815. AIRCRAFT SIMULATOR USE IN AIRMAN TRAINING AND CERTIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 61; 14 CFR 135

Legal Deadline: None.

Abstract: This notice will propose to amend Part 61 to permit additional use of and establish approval criteria for aircraft simulators and training devices for airman training and certification by amending various sections of Part 61 and appendices including additional appendices for rotorcraft and helicopters and by adding a new appendix for advanced simulation criteria. Additionally, this notice will propose to permit additional usage of aircraft simulators and training devices for the pilot-in-command proficiency requirements of Part 61 for airmen operating large or multiengine turbojet-powered aircraft.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: Alberta A. Brown, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8150

RIN: 2120-AA83

1816. NATIONAL AIRSPACE REVIEW (NAR): TERMINAL AIRSPACE TASK GROUP RECOMMENDATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a)

CFR Citation: 14 CFR 1; 14 CFR 71; 14 CFR 91

Legal Deadline: None.

Abstract: Would: (1) reclassify terminal control areas into one category; (2) apply the operating requirements of the current Group I TCA to Group II TCA's; (3) require student pilots to obtain a logbook endorsement from a certified instructor pilot prior to operating in any TCA; (4) replace the term "airport traffic area" with the term "control tower area," (5) apply the two-way radio communications requirements of Section 91.87 for operations at an airport with an operating control tower operated by other entities; (6) adopt a new definition for airport traffic areas (control tower areas); (7) redefine control zones with a standard ceiling of 3,000 feet AGL; and (8) use nautical miles versus statute miles to describe certain terminal airspace designations.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/85	50 FR 5054
ANPRM Comment Period End	06/06/85	50 FR 5054

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Regulatory Project ATO-200-83-17R

Agency Contact: William C. Davis, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9249

RIN: 2120-AB02

1817. STANDARDS FOR APPROVAL OF A REDUCED V1 METHODOLOGY FOR TAKEOFF ON WET AND CONTAMINATED RUNWAYS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a) to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None.

Abstract: This action proposes amendments to Parts 25, 121, and 135 of the Federal Aviation Regulations (FAR) to add new standards for transport category airplanes which would provide for approval of a reduced takeoff decision speed (V1) methodology for takeoff on wet and contaminated runways.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Analysis: Regulatory Evaluation 11/15/85

Agency Contact: Denny Whitmire, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2119

RIN: 2120-AB17

1818. TRANSPORT CATEGORY ROTORCRAFT PERFORMANCE

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(A); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None.

Abstract: This project is to solicit public comment on possible revision and clarification of transport rotorcraft performance and airworthiness standards and to establish minimum gradients of climb during takeoff.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42126
ANPRM Comment Period End	06/06/86	
NPRM	04/30/88	

Small Entity: Undetermined

Agency Contact: Jim S. Honaker, Department of Transportation, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76193-0111, 817 624-5109

RIN: 2120-AB36

1819. MISCELLANEOUS OPERATIONAL AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958 Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958 Sec. 601; 49 USC 1423 Federal Aviation Act of 1958 Sec. 603; 49 USC 1424 Federal Aviation Act of 1958 Sec. 604

CFR Citation: 14 CFR 121; 14 CFR 91; 14 CFR 125; 14 CFR 135

Legal Deadline: None.

Abstract: This notice will propose to amend the regulations that deal with passenger information, safe passenger egress, child restraint, and emergency equipment. The proposals would prohibit smoking at any time in any location displaying a "no smoking" sign or placard. They would require that passengers wear safety belts at any time a "fasten seatbelts" sign is turned on. They would require that the "fasten seatbelts" sign be turned on during taxi. They would clearly establish a requirement for an assisting means of egress and the stowage of passenger service equipment prior to taxi. They would make the pilot in command or, in the case of operations under Part 121, the certificate holder responsible for informing the passengers that they may be liable for a civil penalty should they fail to comply with FAA regulations. They would require that supplementary child restraint devices be accepted by a certificate holder when requested by the child's attendant.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Undetermined

Agency Contact: Gary Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3752

RIN: 2120-AB45

1820. LOW-FUEL-QUANTITY ALERTING SYSTEM

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None.

Abstract: Possible revision to FAR 25.1305 to include a requirement to install a means to alert the flightcrew of potentially unsafe low fuel.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	

Small Entity: No

Additional Information: Docket No 25213.

Analysis: Regulatory Evaluation 05/16/85

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2135

RIN: 2120-AB46

1821. PART 101 REVIEW PROGRAM

Significance: Nonsignificant

Legal Authority: Secs 307, 313(a), 402, 601, 602, 603, 902, 1110, 1302; 72 Stat 749; 49 USC 1348; 49 USC 1354; 49 USC 1372; 49 USC 1421; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1510; 49 USC 1522

CFR Citation: 14 CFR 1; 14 CFR 91; 14 CFR 101

Legal Deadline: None.

Abstract: This Review Program is intended to provide full public participation in matters concerning

DOT—FAA

Proposed Rule Stage

FAA evaluation of the operation of moored balloons, kites, unmanned rockets, and unmanned free balloons. Pending completion of Regulatory Evaluation. NPRM is being drafted.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Additional Information: Part 91 revision also required to provide comprehensive treatment of manned balloon operations and to clarify the respective applicability and requirements of both parts 91 and 101 with respect to balloon operations. Regulatory Project ATO-200-84-20R

Analysis: Regulatory Evaluation 00/00/00

Agency Contact: Reginald C. Matthews, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9245

RIN: 2120-AB75

1822. ENGINE FUEL AND INDUCTION SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 33

Legal Deadline: None.

Abstract: Advance notice proposed the addition of a new paragraph, FAR Section 33.35(f), to incorporate requirements for the fuel mixture to go to full-rich if a disconnect occurs in the mixture linkage. NPRM would add additional requirement for safety of operation in the event throttle linkage operation occurs.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 1724
ANPRM Comment Period End	04/29/86	

Next Action Undetermined

Small Entity: No

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: George Mulcahy, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7077

RIN: 2120-AB76

1823. AMEND SECTION 43.17 TO ALLOW FOR MAINTENANCE OF U.S. AERONAUTICAL PRODUCTS IN CANADA IN COMPLIANCE WITH THE U.S.-CANADIAN BILATERAL AIRWORTHINESS AGREEMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 106(g)

CFR Citation: 14 CFR 43

Legal Deadline: None.

Abstract: The proposed amendment would revise Section 43.17 to provide for the acceptance of maintenance, alteration, or modification accomplished on U.S.-registered aircraft, other aeronautical products, and components, in Canada, by persons authorized by Transport Canada Airworthiness Group and approved for return to service in accordance with the U.S.-Canadian Bilateral Airworthiness Agreement.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: Undetermined

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: Angelo Mastrullo, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3805

RIN: 2120-AB69

1824. REVISED ONE-ENGINE-INOPERATIVE RATINGS FOR ROTORCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(A); 49 USC 1355; 49 USC 1421; 49 USC 1523; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(G); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29; 14 CFR 33

Legal Deadline: None.

Abstract: This project proposes to revise Parts 27 and 29 to set forth qualifications and performance associated with optional 30-second/2-minute one-engine-inoperative (OEI) ratings for rotorcraft.

Timetable:

Action	Date	FR Cite
NPRM	09/15/88	

Small Entity: No

Analysis: Regulatory Evaluation 11/30/87

Agency Contact: Wilbur F. Wells, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193-0111, 817 624-5123

RIN: 2120-AB90

1825. TURBINE BURST PROTECTION FOR TRANSPORT CATEGORY HELICOPTERS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(A); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(G); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None.

Abstract: This project proposes to revise Part 29 to require design features or other provisions to minimize the hazards of failure of high speed rotors used in turbine engines in transport category helicopters.

Timetable:

Action	Date	FR Cite
NPRM	04/30/88	

Small Entity: No

Analysis: Regulatory Evaluation 03/20/87

Agency Contact: Wilbur F. Wells, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193-0111, 817 624-5123

RIN: 2120-AB91

1826. CONTROLLED AIR SPACE DESIGNATIONS IN INTERNATIONAL AIR SPACE

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) F.A. Act, Section 307(a); 49 USC 1354(a) F.A. Act, Section 313(a)

CFR Citation: 14 CFR 71; 14 CFR 75

Legal Deadline: None.

DOT—FAA

Proposed Rule Stage

Abstract: User organizations recommended under the National Airspace Review to simplify the classification of offshore airspace designations.

Timetable:

Action	Date	FR Cite
ANPRM	07/29/85	50 FR 30798
ANPRM Comment Period End	10/28/85	50 FR 30798

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Regulatory Project ATO-200-84-19R/ATO-200-84-7R

Analysis: Regulatory Evaluation 07/00/85 (50 FR 30798)

Agency Contact: William C. Davis, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9249

RIN: 2120-AB93

1827. AIRSPACE RECLASSIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 14 CFR 11.45; 14 CFR 11.65

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75; 14 CFR 91; 14 CFR 103; 14 CFR 105; 14 CFR 1

Legal Deadline: None.

Abstract: Users organizations recommended, under the National Airspace Review, to redesign the airspace system to a more simple system similar to the systems in place in Canada and proposed under ICAO recommendations.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/85	50 FR 5046
ANPRM Comment Period End	06/06/85	50 FR 5046

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Docket number 24456.

Regulatory Project ATO-200-84-7R

Analysis: Regulatory Evaluation 01/01/86

Agency Contact: William C. Davis, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9249

RIN: 2120-AB95

1828. TERMINAL CONTROL AREA (TCA) SAN DIEGO (MODIFICATION)

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510

CFR Citation: 49 CFR 71

Legal Deadline: None.

Abstract: Terminal Control Areas (TCA) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment.

Timetable:

Action	Date	FR Cite
NPRM	02/26/86	51 FR 07448
NPRM Comment Period End	05/05/86	

Next Action Undetermined

Small Entity: No

Agency Contact: Robert L. Laser, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9255

RIN: 2120-AB98

1829. TRANSPONDER REQUIREMENTS IN COASTAL AIR DEFENSE IDENTIFICATION ZONES (ADIZ)

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 106(g) Revised Pub L 97-449, January 12, 1983

CFR Citation: 14 CFR 99

Legal Deadline: None.

Abstract: This proposal would require aircraft to have an operating transponder when operating into, within, or out of the United States through coastal air defense identification zones (ADIZ).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: Regulatory Project ATO-200-85-8R

Affected Sectors: Multiple

Agency Contact: Reginald C. Matthews, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9245

RIN: 2120-AB99

1830. CHANGES REQUIRING A NEW TYPE CERTIFICATE

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 42 USC 1857f-10; 42 USC 4321 et seq; EO 11514; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21

Legal Deadline: None.

Abstract: This notice would propose to amend the Federal Aviation Regulations to permit certain aircraft product changes to be accomplished under amended type certification or supplemental type certification procedure in lieu of applying for a new type certificate. The granting of several exemptions emphasized the need for a review of established criteria mandating an application for a new type certificate. The availability of advanced, high performance, light-weight engines and superior replacement systems requires this rule change for the upgrading of older seasoned designs to increase safety, utility, performance, and reliability, and reduce operational cost. The rule remains unchanged for aircraft product modifications which are so extensive that a substantially complete investigation of compliance is required.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Affected Sectors: Multiple

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DOT—FAA — Proposed Rule Stage

Agency Contact: Nick Dobl, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-9568

RIN: 2120-AC05

1831. PART 23 AIRWORTHINESS REVIEW, NOTICE NO. 5 (EQUIPMENT, SYSTEMS, AND INSTALLATION)

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 23

Legal Deadline: None.

Abstract: This proposed amendment to Part 23 would allow certification of small airplanes with systems critical to safe flight that are not now approved without special conditions, exemptions, or equivalent safety findings.

Timetable:

Action	Date	FR Cite
NPRM	10/23/87	

Small Entity: No

Additional Information: This notice results from a regulatory review of Part 23 conducted in late 1984.

Analysis: Regulatory Evaluation 02/04/86

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 374-6930

RIN: 2120-AC14

1832. PART 23 AIRWORTHINESS REVIEW, NOTICE NO. 2

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec 313; 49 USC 1421 Federal Aviation Act of 1958, Sec 601; 49 USC 1423 Federal Aviation Act of 1958, Sec 603

CFR Citation: 14 CFR 23

Legal Deadline: None.

Abstract: This notice will propose design requirements applicable to advancements in technology being incorporated into current designs, reducing the hazards from bird strike, allowing certification of spin resistant airplanes, reducing the regulatory burden in showing compliance with some requirements, and providing requirements for new technology that is being utilized in the development of small airplanes.

Timetable:

Action	Date	FR Cite
NPRM	11/20/87	

Small Entity: No

Additional Information: This notice results from a regulatory review of Part 23 conducted in late 1984.

Analysis: Regulatory Evaluation 01/30/87

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 374-6930

RIN: 2120-AC15

1833. NOISE AND EMISSION STANDARDS FOR AIRCRAFT POWERED BY ADVANCED TURBOPROP (PROPFAN) ENGINES

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423; 49 USC 1431

CFR Citation: 14 CFR 36

Legal Deadline: None.

Abstract: Part 36 prescribes noise standards for type certification of airplanes. A new generation of aircraft powered by prop-fan engines may present a noise problem that is not currently addressed by Part 36 in that enroute noise at cruise altitude (25,000 to 30,000 ft) may require a new standard. This proposal would establish a new standard to control high altitude flyover noise from these new types of aircraft.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/87	52 FR 8050
ANPRM Comment Period End	06/11/87	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Steven Starley, Manager, Noise Abatement Division, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3553

RIN: 2120-AC20

1834. ROTORCRAFT CERTIFICATION REQUIREMENTS; COORDINATION WITH EUROPEAN AIRWORTHINESS AUTHORITIES STEERING COMMITTEE (AASC)

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 29; 14 CFR 27

Legal Deadline: None.

Abstract: Rotorcraft manufacturers and foreign airworthiness authorities would like one set of standards to reduce cost of airworthiness certifications. Many countries now use FAR Parts 27 and 29, with some national differences, as their standards.

Timetable:

Action	Date	FR Cite
NPRM	06/29/88	

Small Entity: Undetermined

Agency Contact: R. W. Weaver, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5122

RIN: 2120-AC27

1835. PART 99: AIR DEFENSE IDENTIFICATION ZONES AND MISCELLANEOUS EDITORIAL REVISION

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 106(g) Revised Pub L 97-449, January 12, 1983

CFR Citation: 14 CFR 99

Legal Deadline: None.

Abstract: North American Air Defense modernization requires realignment of the Air Defense Identification Zones to bring them in line with planned coverage and current capabilities.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Regulatory Project ATO-200-86-20P

Agency Contact: Reginald C. Matthews, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8245

RIN: 2120-AC37

DOT—FAA — Proposed Rule Stage

1836. ● IMPROVED STRUCTURAL REQUIREMENTS FOR PRESSURIZED CABINS AND COMPARTMENTS IN TRANSPORT CATEGORY AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449; 49 CFR 1.47(a)

CFR Citation: 14 CFR 25

Legal Deadline: None.

Abstract: This notice proposes to amend Part 25 of the Federal Aviation Regulations (FAR) to upgrade the structural requirements for transport category airplane pressurized cabins by (1) amending the criteria for evaluation of the secondary effects of openings in the pressure vessel, and (2) extending the area of consideration to include openings anywhere within the pressure vessel. The required opening sizes to be considered would not be changed. The proposal is the result of an FAA review of the pressurized cabin load requirements and is intended to make the pressurized cabin load requirements less design-dependent and more objective. It would require evaluation of openings in any pressurized compartment and examination of the effects of differential pressure loads on any critical structure inside or outside of the pressurized cabin.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: James Haynes, Policy and Procedures Branch, Transport Standards Staff, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South C-68966, Seattle, WA 98168, 206 431-2113

RIN: 2120-AC44

1837. ● MISCELLANEOUS CHANGES TO EMERGENCY EVACUATION DEMONSTRATION PROCEDURES, EXIT HANDLE ILLUMINATION, AND PA HANDSETS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355 to 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1472; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None.

Abstract: This notice proposes to modify the procedures for conducting an emergency evacuation demonstration by requiring that the flight-crew take no active role in the demonstration and changing the age/sex distribution requirement for demonstration participants. This notice also proposes to standardize the illumination requirements for the handles of the various types of passenger emergency exits. In addition, it is proposed to add a requirement for a "push to talk" switch to the public address system. These proposals are intended to enhance the provisions of transport category airplanes for egress of occupants during emergency conditions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Frank Tiangsing, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2121

RIN: 2120-AC45

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Final Rule Stage

1838. + UPDATE OF PART 139

Significance: Regulatory Program

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1429 Federal Aviation Act of 1958, Sec. 609; 49 USC 1430 Federal Aviation Act of 1958, Sec. 610; 49 USC 1432 Federal Aviation Act of 1958, Sec. 612

CFR Citation: 14 CFR 139

Legal Deadline: None.

Abstract: Revision of 14 CFR Part 139 to update and clarify the part including fire-fighting, rescue, and airport fueling operation requirements. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/23/85	50 FR 43094
NPRM Comment Period End	01/21/86	
Final Action	09/01/87	
Final Action Effective	10/01/87	

Small Entity: Yes

Additional Information: This project was initiated on June 25, 1975, in response to a GAO evaluation of the FAA's Airport Certification Program and the result it has on improving the safety of airports. Recent delays have occurred due to industry concerns over aviation fueling responsibilities. FAA has reviewed proposals presented by a group of aviation organizations and changes have been made to the NPRM. The NPRM was published in the Federal Register on October 23, 1985. The comment period closed on January 21, 1986.

Agency Contact: Jose Roman, Jr., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8724

RIN: 2120-AA10

1839. + IMPROVED SEAT-SAFETY STANDARDS

Significance: Regulatory Program

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

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DOT—FAA

Final Rule Stage

CFR Citation: 14 CFR 25

Legal Deadline: None.

Abstract: To develop improved load-test criteria for occupant seat restraint systems on transport airplanes based on the ongoing joint FAA/NASA/industry transport airplane crashworthiness program which encompasses tests and studies of past survivable accident data. This rulemaking is significant because it involves important Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	07/17/86	51 FR 25982
NPRM Comment Period End	01/14/87	
Final Action	02/00/88	

Small Entity: No

Additional Information: Docket No. 25040

Analysis: Regulatory Evaluation 07/17/86 (51 FR 25982)

Agency Contact: Iven Connally, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2120

RIN: 2120-AA88

1840. + CERTIFICATION OF RECREATIONAL PILOTS AND ANNUAL FLIGHT REVIEW

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 Federal Aviation Act of 1958, Sec. 602

CFR Citation: 14 CFR 61

Legal Deadline: None.

Abstract: This final rule would establish a recreational pilot certificate which would allow a student pilot to receive certification to fly certain aircraft after fewer hours of training than are currently required of a private pilot applicant. The recreational pilot certificate is intended to be a low-cost alternative to a private pilot certificate for persons interested in flying basic, experimental, or homebuilt aircraft in close proximity to a home airport that is not in airspace in which communication with an air traffic control facility is required. The rule would also establish an annual flight review requirement for noninstrument-rated private pilots with fewer than 400 flight hours.

Timetable:

Action	Date	FR Cite
NPRM	06/25/85	50 FR 26286
NPRM Comment Period End	09/24/85	

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 24685

Agency Contact: Edna French, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3844

RIN: 2120-AA54

1841. + CIVIL HELICOPTER NOISE CERTIFICATION

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431(b) Federal Aviation Act of 1958, Sec. 611(b); 42 USC 4321 et seq. National Environmental Policy Act, Title I; EO 11514

CFR Citation: 14 CFR 21; 14 CFR 36

Legal Deadline: None.

Abstract: Would revise noise certification standards for aircraft to add provisions applicable to helicopters. These would apply to civil helicopters in the normal, transport, and restricted categories, and would provide noise-level limits and test procedures for the issuance of new and amended type certificates. It would also prohibit changes in type design of helicopters that might increase their noise levels beyond certain limits. Although this notice contains several provisions similar to those in an earlier notice, which was withdrawn in 1981, it differs from that notice in several important aspects. One is the absence of any limit on manufacture of older non-conforming types; another is the increased commonality between these proposed standards and those adopted by the International Civil Aviation Organization (ICAO).

Timetable:

Action	Date	FR Cite
NPRM	03/06/86	51 FR 7878
NPRM Comment Period End	09/02/86	

Next Action Undetermined

Small Entity: No

Additional Information: Part 36 of the Federal Aviation Regulations (14 CFR Part 36) contains noise standards for aircraft type and airworthiness certification. As the part is currently organized, Subparts B and C and Appendices A, B, and C apply to transport category large airplane and subsonic turbojet-powered airplanes regardless of category. Appendix F contains the provisions applicable to propeller-driven light airplanes. This notice proposes to prescribe noise levels and test procedures for civil helicopters certificated in the normal, transport, and restricted categories. These proposals include rules governing the issuance of new and amended type certificates for helicopters for which application is made on and after the publication date of this notice. The proposed rule would prohibit certain growth or other design changes if those changes might result in noise levels beyond prescribed limits. The proposed rule also provides the test conditions and procedures for conducting helicopter noise tests to demonstrate compliance with the prescribed noise levels.

Analysis: Regulatory Evaluation 09/00/85; Environmental Analysis 09/00/85

Agency Contact: Steven Albersheim, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3560

RIN: 2120-AB33

1842. + PROPOSED REVISION TO NOISE CERTIFICATION STANDARDS FOR PROPELLER-DRIVEN SMALL AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431 Federal Aviation Act of 1958, Sec. 611

CFR Citation: 14 CFR 21; 14 CFR 36

Legal Deadline: None.

DOT—FAA

Final Rule Stage

Abstract: Would revise noise certification standards for propeller-driven small airplanes to substitute the use of actual takeoff tests for the level flyover tests currently specified. This proposal would revise test procedures applicable to noise certification tests conducted on or after January 1, 1988. It would also revise the noise-level limit numbers to approximate the equivalent of the sound levels measured and corrected in accordance with the current standard. These proposals result from industry requests for certification to be more directly based upon typical inservice noise measurements and from studies conducted in several nations over a three-year period under the auspices of the International Civil Aviation Organization. In addition, the FAA proposes to exempt antique airplanes and changes involving the addition of floats or skis from the acoustical change measurement and documentation requirements of Part 21. This regulation is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/14/85	51 FR 25500
NPRM Comment Period End	10/09/86	
Final Action	10/00/87	

Small Entity: No

Analysis: Draft Regulatory Evaluation 10/00/85

Agency Contact: Steven Albersheim, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120-AB47

1843. + INDEPENDENT POWER SOURCE FOR PUBLIC ADDRESS SYSTEM IN TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None.

Abstract: This action would amend the regulations to require an independent power source for the public address (PA) system in certain transport category airplanes. The requirement would be applicable to future type certification of airplanes that are required to have PA systems for use in air carrier service and to such airplanes manufactured after a specified date, regardless of the date of application for type certificate.

Timetable:

Action	Date	FR Cite
NPRM	05/27/86	51 FR 19140
NPRM Comment Period End	11/24/86	

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 24995

Analysis: Regulatory Evaluation 05/27/86

Agency Contact: Robert Hall, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2143

RIN: 2120-AB77

1844. + PART 23 AIRWORTHINESS REVIEW - NOTICE NO. 1 (CRASHWORTHINESS)

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 23

Legal Deadline: None.

Abstract: This notice proposes changes to the airworthiness standards to enhance cabin safety and occupant protection by raising the level of crashworthiness for new designs of small airplanes type certificated after a certain date.

Timetable:

Action	Date	FR Cite
NPRM	12/12/86	51 FR 44878
NPRM Comment Period End	06/12/87	

Next Action Undetermined

Small Entity: No

Additional Information: This notice is the first of several planned notices resulting from a regulatory review of Part 23 conducted in late 1984.

Analysis: Regulatory Evaluation 12/12/85

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 374-6930

RIN: 2120-AC16

1845. + TERMINAL CONTROL AREA CLASSIFICATION AND PILOT/EQUIPMENT REQUIREMENTS

Significance: Agency Priority

Legal Authority: None

CFR Citation: 14 CFR 71; 14 CFR 91

Legal Deadline: None.

Abstract: Proposes to establish a single-class TCA having common pilot and equipment requirements. This proposed action is consistent with determinations made by the National Airspace Review and FAA TCA Review Teams that different classifications of TCA airspace are outdated and no longer valid, and that all aircraft, including helicopters, should operate under a single set of pilot and equipment requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/16/87	52 FR 22918
NPRM Comment Period End	08/17/87	

Next Action Undetermined

Small Entity: Undetermined

Additional Information: RIN 2120-AC36 has been combined into this proceeding.

Analysis: Regulatory Evaluation 01/21/87

Agency Contact: Robert G. Burns, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9239

RIN: 2120-AC35

1846. REVISION OF PART 91

Significance: Nonsignificant

BEST COPY AVAILABLE

DOT—FAA — **Final Rule Stage**

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1401 Federal Aviation Act of 1958, Sec. 501; 49 USC 1402 Federal Aviation Act of 1958, Sec. 502; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 to 1430 Fed. Aviation Act of 1958, Secs. 602 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 91

Legal Deadline: None.

Abstract: This proposed amendment reorganizes and realigns the general operating and flight rules to make them more understandable and easier to use. Also, several changes are being made to provide more flexibility for certain operations. These changes resulted from comments received from the general public and aviation industry in response to a request for specific comments to help identify substantive areas needing review.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/79	44 FR 4571
NPRM	09/10/81	46 FR 45256
NPRM	03/20/85	50 FR 11282
NPRM Comment Period End	07/18/85	

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 18334.

Analysis: Regulatory Evaluation 09/10/81

Agency Contact: Marion Clemens or Edna French, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9150

RIN: 2120-AA13

1847. ROTORCRAFT REGULATORY REVIEW PROGRAM AMENDMENT NO. 3

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1354(A); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(G); PL 97-449

CFR Citation: 14 CFR 1; 14 CFR 27; 14 CFR 29; 14 CFR 33

Legal Deadline: None.

Abstract: This amendment changes Parts 1, 27, 29, and 33 in the area of propulsion system requirements. New rules or changes to rules are included in the area of engine ratings, detailed combustion heater requirements, lightning protection, system tests, and oil requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/27/84	49 FR 46670
NPRM Comment Period End	03/26/85	
Final Action	11/01/87	

Small Entity: No

Analysis: Regulatory Evaluation 11/27/84

Agency Contact: Wilbur Wells, Department of Transportation, Federal Aviation Administration, PO Box 1689, Fort Worth, TX 76193-0111, 817 624-5123

RIN: 2120-AA28

1848. STANDARDS FOR APPROVAL OF AN AUTOMATIC TAKEOFF THRUST CONTROL SYSTEM

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None.

Abstract: This action would review certain special conditions issued for Part 25 airplanes and incorporate in Part 25 those that have not been previously incorporated.

Timetable:

Action	Date	FR Cite
NPRM	04/27/84	49 FR 18240
Extension of Comment Period	07/20/84	49 FR 29410
NPRM Comment Period End	06/27/84	

Next Action Undetermined

Small Entity: No

Additional Information: The special conditions included in this project are automatic take-off thrust control systems (ATTCS). Docket No. 24046.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: Multiple

Analysis: Regulatory Evaluation 09/10/85

Agency Contact: James M. Walker, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2116

RIN: 2120-AA46

1849. TRANSPORT CATEGORY AIRPLANE AIRWORTHINESS STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 25

Legal Deadline: None.

Abstract: This action would amend the airworthiness standards contained in Part 25 applicable to transport category airplanes to: (1) relieve the regulatory burden wherever possible, (2) ensure the airworthiness standards are practicable for the light transport airplanes common to regional air carrier operation, and (3) update Part 25 for clarity and accuracy.

Timetable:

Action	Date	FR Cite
NPRM	12/03/84	49 FR 47358
NPRM Comment Period End	04/04/85	

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 24344

Affected Sectors: Multiple

Analysis: Regulatory Evaluation 12/03/84

Agency Contact: Gary Killion, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2112

RIN: 2120-AA47

1850. AMEND PART 23 TO INCLUDE EMPENNAGE FATIGUE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

DOT—FAA — **Final Rule Stage**

CFR Citation: 14 CFR 23

Legal Deadline: None.

Abstract: This action would provide for fatigue integrity of small airplane empennage structure where present Part 23 fatigue requirements apply only to the wing.

Timetable:

Action	Date	FR Cite
NPRM	09/22/86	51 FR 33700
NPRM Comment Period End	01/21/87	

Next Action Undetermined

Small Entity: No

Additional Information: The FAA is evaluating additional data obtained from NASA.

Analysis: Regulatory Evaluation 02/16/86 (51 FR 33700)

Agency Contact: Earsa L. Tankesley, Manager, Standards Office, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 374-6930

RIN: 2120-AA58

1851. NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431 Federal Aviation Act of 1958, Sec. 611

CFR Citation: 14 CFR 36

Legal Deadline: None.

Abstract: Part 36 prescribes noise type certification standards for turbo jet powered airplanes and propeller driven small airplanes regardless of category. This review will examine the need to reorganize and realign the noise standards to make them more understandable and easier to use. This review would reorganize existing material into several new subparts, and utilize an improved numbering system to provide for the easier inclusion of future changes. Other improvements would be made by deleting redundancies, obsolete compliance dates, and making other minor changes. Additionally, Part 36 will be reviewed in accordance with Executive Order 12291 to reduce regulatory burdens on the public, including the preparation of both a Regulatory Evaluation and a Regulatory Flexibility Analysis.

Timetable:

Action	Date	FR Cite
NPRM	01/29/85	50 FR 4172
NPRM Comment Period End	04/24/85	
Final Action	12/16/87	

Small Entity: Yes

Additional Information: Will also consider Petition for Rulemaking from the Aerospace Industries of America (Docket No. 23340; Petition Notice No. PR-82-13). Comment Period closed January 20, 1983.

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 01/29/85; Environmental Assessment 07/00/85

Agency Contact: Steven Albersheim, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3560

RIN: 2120-AA74

1852. ROTORCRAFT STRUCTURAL FATIGUE INCLUDING TOLERANCE TO FLAWS

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(A); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(G); PL 97-449

CFR Citation: 14 CFR 29

Legal Deadline: None.

Abstract: This amendment would revise Section 29.571 to add flaw tolerance to the fatigue evaluation of rotorcraft structure.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/83	48 FR 772
ANPRM Comment Period End	04/18/83	48 FR 772
NPRM	09/22/86	51 FR 33704
NPRM Comment Period End	04/03/87	51 FR 45343
Final Action	02/01/88	

Small Entity: No

Additional Information: Docket No. 23485.

Public meeting held on February 8, 1983.

Analysis: Regulatory Evaluation 09/16/85

Agency Contact: Robert T. Weaver, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0111, 817 624-5122

RIN: 2120-AA84

1853. NIGHTTIME VFR WEATHER MINIMUMS

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1353; 49 USC 1354; 49 USC 1355; 49 USC 1401; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; ...

CFR Citation: 14 CFR 91

Legal Deadline: None.

Abstract: Would standardize weather minimums in all airspace at night.

Timetable:

Action	Date	FR Cite
NPRM	07/23/85	50 FR 30124
NPRM Comment Period End	09/23/85	50 FR 30124

Next Action Undetermined

Small Entity: No

Additional Information: LEGAL AUTHORITY CONT: 49 USC 1427; 48 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121; 49 USC 2122; 49 USC 2123; 49 USC 2124; 49 USC 2125; 42 USC 4321 et seq; EO 11514 49 USC 106(a) Revised Pub. L. 97-449 January 12, 1983 Regulatory Project ATO-200-83-16R

Agency Contact: William C. Davis, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9249

RIN: 2120-AB04

1854. AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES, ELECTRICAL AND/OR ELECTRONIC ENGINE CONTROL SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 33

Legal Deadline: None.

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Abstract: Would add a new section, FAR 33.28 to incorporate requirements for electronic controls for aircraft engines.

Timetable:

Action	Date	FR Cite
NPRM	02/14/85	50 FR 6186
NPRM Comment Period End	07/29/85	

Next Action Undetermined

Small Entity: No

Analysis: Regulatory Evaluation 02/14/85

Agency Contact: Cosimo J. Bosco, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, ANE-110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 270-2492

RIN: 2120-AB06

1855. HELICOPTER INSTRUMENT FLIGHT

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1354(A); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; 49 USC 1429; 49 USC 1430; 49 USC 106(G); PL 97-449

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None.

Abstract: This project revises Appendix B of Parts 27 and 29 to permit IFR operations at airspeeds below the normal minimum instrument airspeed during approach and landing.

Timetable:

Action	Date	FR Cite
NPRM	06/06/86	51 FR 21488
NPRM Comment Period End	04/03/87	51 FR 45343
Final Action	07/15/88	

Small Entity: No

Additional Information: The FAA has determined that adoption of this proposal will not result in an economic burden on the public. It is a relieving rule that removes a minimum speed limitation when certain optional performance standards are met.

Agency Contact: Jim S. Honaker, Department of Transportation, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76193-0111, 817 624-5100

RIN: 2120-AB87

1856. FLIGHT PLAN AND TRANSPONDER-ON REQUIREMENTS IN AIR DEFENSE IDENTIFICATION ZONES (ADIZ)

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 106(g) Revised Pub L 97-449, January 12, 1983

CFR Citation: 14 CFR 99

Legal Deadline: None.

Abstract: The proposal would require that all civil aircraft operating into, within, or out of the United States through a coastal air defense identification zone be operated under a filed flight plan regardless of true airspeed. Each such operation by an aircraft equipped with a functioning air traffic control (ATC) transponder would have to be conducted with that transponder on and replying on the appropriate code or on a code assigned by ATC.

Timetable:

Action	Date	FR Cite
NPRM	10/07/86	51 FR 37882
NPRM Comment Period End	12/23/86	

Next Action Undetermined

Small Entity: No

Additional Information: Regulatory Project ATO-200-85-13R

Agency Contact: Reginald C. Matthews, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9345

RIN: 2120-AC00

1857. AIRCRAFT IDENTIFICATION AND RETENTION OF FUEL SYSTEM MODIFICATION RECORDS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421 to 1430; 49 USC 106(g); 49 USC 1355; 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 2121 to 2125

CFR Citation: 14 CFR 43; 14 CFR 45; 14 CFR 91

Legal Deadline: None.

Abstract: The FAA proposes to require: (1) that 12-inch high nationality and registration marks (N-numbers) be displayed on aircraft that penetrate an Air Defense Identification Zone (ADIZ) or a Defense Early Warning Identification Zone (DEWIZ); (2) that a civil aircraft identification (ID) plate be displayed in a visible area on the exterior of an aircraft near the right rear-most entrance; and (3) that a copy of the FAA Form 337 for the installation of a temporary extended range fuel system be obtained and kept in the aircraft by the owner or operator until the system is removed. The U.S. Customs Service has requested the FAA to consider amending these regulations to assist in identifying aircraft suspected of being involved in drug trafficking.

Timetable:

Action	Date	FR Cite
NPRM	07/10/86	51 FR 25174
NPRM Comment Period End	09/09/86	
Final Action	11/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 07/00/86 (51 FR 25174)

Agency Contact: Joseph Gwiazdowski, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-9541

RIN: 2120-AC11

1858. PART 150 - AIRPORT NOISE-COMPATIBILITY PLANNING

Significance: Nonsignificant

Legal Authority: 49 USC 1348(c); 49 USC 1354(a); 49 USC 1421; 49 USC 1431(b); 49 USC 1655(c); 49 USC 2101 to 2104(b); 49 USC 1.47(m); 49 USC 2201 et seq.

CFR Citation: 14 CFR 150

Legal Deadline: None.

Abstract: Part 150 of the Federal Aviation Regulations prescribes requirements for airport operators who voluntarily choose to submit compatibility planning programs to the FAA. Operators of airports whose maps and programs have been accepted by the FAA as meeting the Part 150 standards are then eligible to apply for funding noise-control projects under the Airport Improvement Program and are further afforded certain legal rights under the law. The current rule includes

heliports that are located on public-use airports; the proposed rule would extend coverage to free-standing public-use heliports.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/86	51 FR 40037
ANPRM Comment Period End	02/03/87	
Interim Final Rule	10/00/87	

Small Entity: Undetermined

Analysis: Economic Assessment 08/15/84

Agency Contact: Robert B. Hixson, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3585

RIN: 2120-AC19

1859. ● MANDATORY REPORTING FOR EMERGENCY EVACUATION SYSTEMS AND COMPONENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 1426; 49 USC 1427; 49 USC 1428; 49 USC 1429; 49 USC 1430; ...

CFR Citation: 14 CFR 121.703(a)

Legal Deadline: None.

Abstract: This notice proposes to amend the mechanical reliability reporting requirement contained in Part 121 to require certificate holders to report each failure, malfunction, or defect of emergency evacuation systems and components. This action is necessary to collect, record, analyze, and disseminate data concerning those failures, malfunctions, or defects that occur during training, testing, or actual emergency conditions to improve the levels of reliability and safety.

Timetable:

Action	Date	FR Cite
NPRM	05/03/87	52 FR 20982
Final Action	00/00/00	

Small Entity: No

Agency Contact: George Johnson, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3798

RIN: 2120-AC49

1860. PART 95 INSTRUMENT FLIGHT RULES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348 F.A. Act of 1958, Sec. 307; 49 USC 1510 F.A. Act of 1958, Sec. 1110

CFR Citation: 14 CFR 95

Legal Deadline: None.

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2500. 05/00/87 - 05/00/88.

Timetable:

Action	Date	FR Cite
Final Action	05/00/88	

Small Entity: No

Agency Contact: Don Funai, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8277

RIN: 2120-AA63

1861. AIRWORTHINESS DIRECTIVES

Significance: Routine and Frequent

Legal Authority: 49 USC 1354(a) F.A. Act, Sec. 313(a); 49 USC 1421 F.A. Act, Sec. 601; 49 USC 1423 F.A. Act, Sec. 603; 49 USC 1431(b) F.A. Act, Sec. 611(b)

CFR Citation: 14 CFR 39

Legal Deadline: None.

Abstract: Nonsignificant regulations issued routinely and frequently in order to correct known or expected safety problems on type certificated products. Total actions expected--300. 10/00/86 - 10/00/87

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: Undetermined

Agency Contact: Jack McGrath, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9580

RIN: 2120-AA64

1862. STANDARD INSTRUMENT APPROACH PROCEDURES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348 F.A. Act, Sec. 307; 49 USC 1354(a) F.A. Act, Sec. 313(a); 49 USC 1421 F.A. Act, Sec. 601; 49 USC 1510 F.A. Act, Sec. 1110

CFR Citation: 14 CFR 97

Legal Deadline: None.

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2800. 05/00/87 - 05/00/88.

Timetable:

Action	Date	FR Cite
Final Action	05/00/88	

Small Entity: No

Agency Contact: Don Funai, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8277

RIN: 2120-AA65

1863. AIRSPACE ACTIONS

Significance: Routine and Frequent

Legal Authority: 49 USC 1348(a) F.A. Act, Sec. 307(a); 49 USC 1354(a) F.A. Act, Sec. 313(a)

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None.

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--525. 10/00/86 - 10/00/87.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Agency Contact: John Watterson, Department of Transportation, Federal Aviation Administration, 800

DOT—FAA — Final Rule Stage

Independence Avenue, SW,
Washington, DC 20591, 202 267-8783

RIN: 2120-AA56

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA) — Completed Actions

1864. + CARRY-ON BAGGAGE

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121

Legal Deadline: None.

Abstract: This rule requires Part 121 air carriers to develop and use approved carry-on baggage programs. The rule also requires air carriers to verify that each article of baggage is properly stowed before the last cabin door is closed prior to pushback or taxi.

Timetable:

Action	Date	FR Cite
NPRM	05/27/86	51 FR 19134
NPRM Comment Period End	07/28/86	
Final Action	06/05/87	52 FR 21472
Final Action Effective	07/06/87	

Small Entity: Undetermined

Additional Information: Compliance date is 01/01/88.

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: David L. Catey, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-8096

RIN: 2120-AC06

1865. + PROTECTIVE BREATHING EQUIPMENT

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 121

Legal Deadline: None.

Abstract: This rule amends the regulations applicable to PBE by (1) incorporating the requirements of Section 25.1439 into current Section 121.337, (2) providing new standards for PBE for crewmembers that may fight smoke or fire in the airplane while in flight, (3) requiring the performance of an approved firefighting drill using PBE; (4) requiring that additional PBE be located within 3 feet of each required hand fire extinguisher in passenger compartments when possible; and (5) clarifying certain recommendations of the NTSB, which found during an accident investigation that smoke goggles used by several air carriers did not adequately protect the flight crew and that some goggles restricted the user's vision.

Timetable:

Action	Date	FR Cite
NPRM	10/10/85	
NPRM Comment Period End	02/10/86	50 FR 41452
Final Action	06/03/87	52 FR 20950
Final Action Effective	07/06/87	

Small Entity: Yes

Additional Information: Docket No. 24792. Compliance date is 7/6/89.

Analysis: Regulatory Flexibility Analysis

Agency Contact: David L. Catey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8096

RIN: 2120-AB32

1866. + CHARGES FOR USE OF METROPOLITAN WASHINGTON AIRPORTS

Significance: Agency Priority

Legal Authority: 49 USC 2401 to 2407; 49 USC 2421 to 2433; PL 99-500, Sec 6005(c)(10)

CFR Citation: 14 CFR 159.181 to 185

Legal Deadline: Statutory, June 1, 1987. P.L. 99-500 Sec. 6005(c)(10) requires new fees to be in place on date of airport transfer.

Abstract: Revision reflects changed costs of operating the airports. This rulemaking was required to revise fees in accordance with P.L. 99-500, Sec. 6005(c)(10) and contractual obligations.

Timetable:

Action	Date	FR Cite
NPRM	03/13/87	52 FR 8040
Final Action Effective	06/05/87	
Final Action	06/09/87	52 FR 21908

Small Entity: No

Additional Information: Metropolitan Washington Airports transferred under P.L. 99-500 (October 1986) to the Metropolitan Washington Airports Authority effective June 7, 1987.

Agency Contact: Edward S. Faggen, Department of Transportation, Federal Aviation Administration, Washington National Airport, Hangar 9, Washington, DC 20001, 703 557-8123

RIN: 2120-AB48

1867. + TERMINAL CONTROL AREA PILOT AND EQUIPMENT REQUIREMENTS

Significance: Agency Priority

Legal Authority: None

CFR Citation: 14 CFR 91

Legal Deadline: None.

Abstract: Proposes common pilot and equipment requirements for aircraft operations within terminal control areas. Proposed action is consistent with determination made by FAA TCA Review Group that all aircraft, including helicopters, operate under a single set of pilot and equipment requirements.

Timetable:

Action	Date	FR Cite
Combined with RIN 2120-AC35	06/16/87	52 FR 22918

Small Entity: Undetermined

Additional Information: Regulatory Project ATO-200-86-22R/ATO-200-86-21R

Analysis: Regulatory Evaluation 01/21/87

DOT—FAA — Completed Actions

Agency Contact: Robert G. Burns, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9239

RIN: 2120-AC35

1868. ● + MINIMUM UPPER LIMIT FOR TERMINAL CONTROL AREAS

Significance: Agency Priority

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510; EO 10854; 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983); 14 CFR 11.69; 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472

CFR Citation: 14 CFR 71.12; 14 CFR 91.24(b)(4)

Legal Deadline: None.

Abstract: Proposal to amend Part 71 (Terminal Control Area Description) by establishing minimum upper altitude limit for TCA's at 10,000 feet mean sea level and concurrently amending Part 91.24(b)(4) so as to lower the altitude above which Mode C is required in controlled airspace. This entry is duplicative of RIN 2120-AC52 and is therefore deleted.

Timetable:

Action	Date	FR Cite
Deleted as duplicative of RIN 2120-AC52	08/12/87	

Small Entity: Undetermined

Additional Information: LEGAL AUTHORITY CONT: 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 42 USC 4321 et seq; EO 11514; 49 USC 106(g), (Revised Pub L. 97-449, January 12, 1983).

Regulatory Project No: ATO-200-85-20P (Docket #24496)

Agency Contact: Robert G. Burns, Manager, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-9239

RIN: 2120-AC53

1869. REVIEW: PART 67—MEDICAL STANDARDS AND CERTIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1427 Federal Aviation Act of 1958, Sec. 607

CFR Citation: 14 CFR 67

Legal Deadline: None.

Abstract: This part prescribes the medical standards and procedures that apply to the issuance of medical certificates to airmen. The review will also evaluate the impact on small entities in accordance with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Combined with RIN #2120-AA70	06/22/87	

Small Entity: Undetermined

Additional Information: This review is combined with RIN #2120-AA70 "Review of Medical Standards and Certification Procedures."

Agency Contact: William H. Hark, M.D., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-3802

RIN: 2120-AB13

1870. REVIEW: PART 141—PILOT SCHOOLS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 Federal Aviation Act of 1958, Sec. 602; 49 USC 1427 Federal Aviation Act of 1958, Sec. 607

CFR Citation: 14 CFR 141

Legal Deadline: None.

Abstract: This part prescribes the requirements for issuing pilot school certificates, provisional pilot school certificates, and associated ratings and the general operating rules for the holders of those certificates and ratings; the personnel and aircraft requirements for a pilot school or a provisional pilot school certificate; and the facilities an applicant must have available to hold a pilot school or provisional pilot school certificate. Also prescribed are the curriculum and course outline requirements for the issuance of a pilot school or provisional pilot school certificate or rating; the requirements for the issuance of an examining authority to the holder of a pilot school certificate and the privileges and limitations of that authority; and the operating rules that are applicable to a pilot school or provisional pilot school certificated under this part. The review will also evaluate the impact on small entities in accordance with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
This review was combined with RIN #2120-AB12	06/16/87	

Small Entity: Undetermined

Analysis: Regulatory Flexibility Analysis

Agency Contact: John S. Kern, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8237

RIN: 2120-AB14

1871. REVIEW: CARRIAGE OF WEAPONS AND OTHER DANGEROUS OBJECTS AT WASHINGTON NATIONAL AIRPORT AND WASHINGTON DULLES INTERNATIONAL AIRPORT

Significance: Nonsignificant

Legal Authority: 49 USC 2401; 49 USC 2407; 49 USC 2421 to 2433

CFR Citation: 14 CFR 159.79

Legal Deadline: None.

Abstract: Amendment clarifies existing rules governing the carriage of weapons and other dangerous objects on Washington National Airport and Dulles International Airport so that rule more closely conforms to regulations governing aviation security and to existing local ordinances. The change makes it easier for the public to comply with airports' rules without compromising airport security.

Timetable:

Action	Date	FR Cite
NPRM	11/13/86	51 FR 41290
NPRM Comment Period End	01/12/87	
Final Action Effective	06/05/87	
Final Action	06/08/87	52 FR 21502

Small Entity: No

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DOT—FAA — Completed Actions

Affected Sectors: Multiple

Agency Contact: Edward S. Faggen or Jana E. McIntyre, Legal Counsel, Attorney, Department of Transportation, Federal Aviation Administration, Metropolitan Washington Airports, Washington National Airport, Hangar 9, Washington, DC 20001, 703 557-8123

RIN: 2120-AC01

1872. FOREIGN AIR CARRIERS AND OPERATORS OF CERTAIN LARGE U.S.- REGISTERED AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 to 1430 Fed Aviation Act of 1958, Secs. 601 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None.

Abstract: These amendments require that U.S.-registered aircraft leased by foreign persons be maintained in accordance with acceptable maintenance standards and clarify certain rules to preclude the commingling of noncommon (private) and common-carriage operations.

Timetable:

Action	Date	FR Cite
NPRM	12/10/85	50 FR 50588
NPRM Comment Period End	04/10/86	
Final Action	05/26/87	52 FR 20026
Final Action Effective	08/25/87	

Small Entity: No

Additional Information: Docket No. 24856

Agency Contact: David L. Catey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 267-8096

RIN: 2120-AA42

1873. AIRCRAFT FLEET MODERNIZATION STRATEGIES

Significance: Nonsignificant

Legal Authority: 49 USC 1348(c); 49 USC 1354(a); 49 USC 1421; 49 USC 1431(b); 49 USC 1655(c); 42 USC 4321 et seq

CFR Citation: 14 CFR 21, (Revision); 14 CFR 23, (Revision); 14 CFR 25, (Revision); 14 CFR 36, (Revision); 14 CFR 91, (Revision)

Legal Deadline: None.

Abstract: The FAA was directed by the Appropriations Committee of the U.S. House of Representatives (H. Report 99-256) to report on alternatives available to provide incentives to air carriers to accelerate modernization of the commercial aircraft fleet. This report detailed those alternatives, including a program of regulatory actions that might be taken by the FAA over a period of five to seven years, for implementation for up to fifteen years. This item will no longer appear in the Agenda.

Timetable:

Action	Date	FR Cite
Public Hearing Announcement	12/01/85	50 FR 45701
Public Hearing	12/10/85	
Report to Congress (Reg. Program) Description of Regulatory Alternative for Fleet Modernization	04/01/86	
End Review	04/01/86	

Small Entity: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Steve Starley, Manager, Noise Abatement Division, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3553

RIN: 2120-AC03

1874. PREFLIGHT ASSEMBLY OF GLIDERS AND BALLOONS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421 to 1430; 49 USC 106(g); 49 USC 1355; 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125

CFR Citation: 14 CFR 43; 14 CFR 61; 14 CFR 91

Legal Deadline: None.

Abstract: These amendments discontinue classifying glider and balloon assembly as preventive maintenance, except in certain circumstances; add training requirements for pilots in preflight assembly of gliders and balloons, and add preflight assembly and post assembly inspections to the preflight responsibilities for glider and balloon pilots. The amendments are needed to ensure the continued assignment of responsibilities for preflight assembly and inspection of gliders and balloons while simultaneously reducing the recording burden on the public.

Timetable:

Action	Date	FR Cite
NPRM	06/13/86	51 FR 21722
Final Action	05/06/87	52 FR 17276
Final Action Effective	06/05/87	

Small Entity: No

Analysis: Regulatory Evaluation 05/00/86 (51 FR 21722)

Agency Contact: George Johnson, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 267-3796

RIN: 2120-AC10

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage

Federal Highway Administration (FHWA)

1875. ● + DRIVER'S RECORD OF DUTY STATUS; ONBOARD RECORDING DEVICES

Significance: Agency Priority

Legal Authority: 49 USC App 2505; 49 USC 3102

CFR Citation: 49 CFR 395

Legal Deadline: None.

Abstract: The FHWA has initiated rulemaking to address the use of onboard recording devices in motor vehicles operating in interstate commerce. This action is being taken in response to a petition filed by the Insurance Institute for Highway Safety (IIHS) on 2/25/87. The original IIHS petition (10/86) requested that the FHWA require motor carriers to use onboard recording devices for recording the driver's hours of service. This rulemaking is considered significant because of the substantial public interest involved.

Timetable:

Action	Date	FR Cite
ANPRM	07/13/87	52 FR 26289
ANPRM Comment Period End	10/13/87	52 FR 26289
NPRM	01/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 01/00/88

Agency Contact: Mr. Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 202 366-4049

RIN: 2125-AB95

DOT—FHWA — Prerule Stage

1876. HIGHWAY BEAUTIFICATION: OUTDOOR ADVERTISING: TECHNICAL AMENDMENT

Significance: Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315

CFR Citation: 23 CFR 750

Legal Deadline: None.

Abstract: The FHWA is proposing to amend its regulations in order to clarify existing FHWA policy that temporary political campaign signs and other signs, displays, and devices associated with Federal, State, or local elections may be permitted without violating the Highway Beautification Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: A 45-day public comment period will be provided.

Analysis: Reg. Evaluation (Minimal Impact) 00/00/00

Agency Contact: Edward V. A. Kussy, Department of Transportation, Federal Highway Administration, 700 Seventh Street, SW, Washington, DC 20590, 202 366-0791

RIN: 2125-AB32

1877. MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; RESTRUCTURE

Significance: Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None.

Abstract: The FHWA is considering the need for a new Manual on Uniform Traffic Control Devices (MUTCD) and a new format. The MUTCD is incorporated by reference in 23 CFR Part 655, Subpart F and is recognized as the national standard for traffic control devices on all public roads. The FHWA is interested in possible ways to simplify, clarify, or expedite the present format and procedures.

Timetable:

Action	Date	FR Cite
ANPRM	06/09/86	51 FR 20840
ANPRM Comment Period End	07/20/87	51 FR 20840
ANPRM Extend Comment Period to	09/01/87	52 FR 11502
NPRM	10/00/87	

Small Entity: No

Additional Information: An extensive public comment period was provided and extended to 09/01/87. FHWA docket # 86-12 has been assigned to this rulemaking action.

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Philip O. Russell, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2184

RIN: 2125-AB57

1878. ● NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; REVISION OF PART VI OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

Significance: Nonsignificant

Legal Authority: 23 USC 109(b); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None.

Abstract: The FHWA has initiated rulemaking to consider the need to update the standards in Part VI, Traffic Controls For Street and Highway Construction and Maintenance Operations, of the Manual On Uniform Traffic Control Devices (MUTCD). If adopted, these standards could be incorporated into the MUTCD.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/87	

Small Entity: No

Additional Information: FHWA Docket # 86-12 has been assigned to this rulemaking action.

Analysis: Reg. Evaluation (Minimal impact) 10/00/87

Agency Contact: Mr. Philip O. Russell, Department of Transportation, Federal Highway Administration, 202 366-0411

RIN: 2125-AB83

1879. ● QUALIFICATION OF DRIVERS; DIABETES

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC App 2505; 23 USC 315

CFR Citation: 49 CFR 391.41(b)(3)

Legal Deadline: None.

Abstract: This rulemaking action responds to a petition filed by the American Diabetes Association (ADA) and others. The current diabetic rule prohibits insulin-using diabetics from driving in interstate or foreign commerce. The ADA has petitioned to change the regulation to provide for exemptions. The purpose of this action is to consider the proposed exemption program.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/87	
NPRM	06/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 06/00/88

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 202 366-4049

RIN: 2125-AB91

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Proposed Rule Stage

1880. + FEDERAL MOTOR CARRIER SAFETY REGULATIONS: GENERAL

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 206

CFR Citation: 49 CFR 390

Legal Deadline: None.

Abstract: This rulemaking action will address the general provisions regarding the Motor Carrier Safety Regulations (FMCSR) contained in Part 390 of 49 CFR. This rulemaking is being undertaken to implement section 206 of the Motor Carrier Safety Act (MCSA) of 1984 which mandated the reissuance of the FMCSR. The revisions seek to assist the various segments of the truck and bus industries in their efforts to comply with the FMCSR by (1) incorporating definitions from the Motor Carrier Safety Act of 1984; (2) clarifying and updating the regulations; (3) eliminating redundancy; (4) combining and locating in a single place the definitions of many general items presently located throughout the FMCSR; and (5) addressing comments concerning the elimination of certain regulatory exemptions.

Timetable:

Action	Date	FR Cite
ANPRM Fertilizer	02/10/82	47 FR 5273
ANPRM	01/23/85	50 FR 2998
Fertilizer ANPRM Withdrawn	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	50 FR 2998
NPRM	07/13/87	52 FR 26278
NPRM Comment Period End	09/11/87	52 FR 26278
Final Action	06/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 07/13/87 (52 FR 26278)

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AA34

1881. + CONTROLLED SUBSTANCES

Significance: Regulatory Program

Legal Authority: 49 USC 3102; 23 USC 315; 49 USC 104; 49 USC App 2505

CFR Citation: 49 CFR 382

Legal Deadline: None.

Abstract: The FHWA is requesting comments on a proposal which would mandate chemical testing of interstate drivers of commercial motor vehicles for the use of drugs. The impetus for this action is the safety and health concern associated with the use of drugs by these personnel. The goal of the proposed rule is to reduce accidents and casualties that result from the use of drugs. This NPRM was preceded by two drug rulemaking actions which were published in the Federal Register on 5/13/86 (BMCS Docket No. MC-116, Amendment No. 83-17, 51 FR 17568; BMCS Docket No. MC-120, Notice No. 86-3, 51 FR 17572). The latter of those actions proposed a drug test plan (much less comprehensive than proposed here) for drivers of hazardous materials. The former requested comments on specific questions regarding the various aspects of a drug control program applicable to interstate drivers. The intent of this NPRM is to consolidate the subject matter of the previous actions and propose a comprehensive drug control program applicable to all drivers in interstate commerce. Because the impact of this proposal (cont)

Timetable:

Action	Date	FR Cite
ANPRM	09/27/82	47 FR 42383
Initial ANPRM Withdrawn	01/23/85	50 FR 2998
ANPRM	05/13/86	51 FR 17568
Extension Notice	07/08/86	51 FR 24722
ANPRM Comment Period End	08/11/86	51 FR 17568
NPRM	12/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: will result in an annual effect on the economy of over $100 million, this action is considered major under Executive Order 12291. This NPRM proposes a comprehensive drug testing program that incorporates a DOT modal approach to creating a drug-free transportation environment.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AA79

1882. + EMPLOYEE SAFETY AND HEALTH STANDARDS

Significance: Regulatory Program

Legal Authority: PL 98-554, Sec 206; 49 USC App 2505

CFR Citation: 49 CFR 399

Legal Deadline: None.

Abstract: The Federal Highway Administration (FHWA) is considering proposing to revise Part 399 of the Federal Motor Carrier Safety Regulations (FMCSR) to implement Section 206 of the Motor Carrier Safety Act of 1984. This proposal would establish the duties of employers and drivers regarding employee safety and health. A motor carrier would be responsible for furnishing to each driver a place of employment that is free from recognized hazards that cause or are likely to cause death or injury to drivers. A driver would be responsible for cooperating with a motor carrier's safety program. It is anticipated that this general duty rule will cover those aspects of the driver environment (such as hot surfaces, lack of insulation, and broken equipment in or on the vehicle) that are not covered by present standards under the FMCSR.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 10/00/87

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AB50

1883. + DRIVING A MOTOR VEHICLE

Significance: Regulatory Program

Legal Authority: PL 98-554, Sec 206; 49 USC App 2505

CFR Citation: 49 CFR 392

Legal Deadline: None.

Abstract: The Federal Highway Administration (FHWA) is proposing to amend Part 392 of the Federal Motor Carrier Safety Regulations (FMCSR) to (1) relax the requirement concerning a spare set of corrective lenses, (2) add language to include pretrip inspection of hazardous materials-laden vehicles

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and cargo tanks, (3) require drivers of hazardous materials-laden vehicles to notify emergency response personnel anytime a vehicle is disabled because of an accident or if the driver suspects an unintentional release of hazardous materials, (4) strengthen the disqualification criteria of drivers of hazardous materials-laden vehicles, (5) require a means of communication between the driver and passengers on an articulated vehicle, (6) delete the time requirement for the operation of head lamps, and (7) delete the prohibited practice rule concerning unauthorized passengers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 10/00/87

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AB51

1884. + TRUCK SIZE AND WEIGHT; SPECIALIZED EQUIPMENT; BOAT TRANSPORTERS

Significance: Regulatory Program

Legal Authority: 23 USC 315; 23 USC 2311(d); PL 100-17, Sec 133

CFR Citation: 23 CFR 658

Legal Deadline: None.

Abstract: The FHWA is seeking comments on a request to designate boat transporters as specialized equipment under provision of section 411(d) of the Surface Transportation Assistance Act of 1982 (STAA). Of prime concern are comments and information on the following issues relating to boat transporters: maneuvering characteristics, safety, control, offtracking, crosswind effects, and the need for overall length limits on boat transporters. Information on the similarities and dissimilarities between boat transporters and auto transporters would be most helpful as would information on the consistency of truck configurations used for hauling boats. The FHWA would also appreciate comments regarding the need to preempt current State regulation of this vehicle, as well as an actual definition and description of boat transporters. Comments are also being sought on the types of vehicles that should be considered as specialized equipment as well as an actual definition.

Timetable:

Action	Date	FR Cite
ANPRM	03/18/86	51 FR 10234
ANPRM Comment Period End	05/09/86	51 FR 10234
NPRM	10/00/87	
Final Action	04/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Philip W. Blow, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4036

RIN: 2125-AB55

1885. + SEMITRAILER-SEMITRAILER; B-TRAIN

Significance: Regulatory Program

Legal Authority: 23 USC 325; PL 97-424, Sec 411; PL 97-424, Sec 413

CFR Citation: 23 CFR 658

Legal Deadline: None.

Abstract: The FHWA will request comments on a proposal to interpret 23 CFR 658.13 such that a combination of vehicles described as a truck-tractor semitrailer-semitrailer be considered as a truck-tractor semitrailer-trailer for purposes of 23 CFR 658. It is FHWA's intent to implement the Surface Transportation Assistance Act of 1982 so that all configurations that offer safety and productivity advantages will be recognized under the regulations. This action is significant because of industry interest and that of the general public.

Timetable:

Action	Date	FR Cite
NPRM	03/01/85	50 FR 8342
NPRM Comment Period End	04/30/85	50 FR 8342
NPRM Supplemental	10/00/87	
Final Action	02/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Philip W. Blow, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4036

RIN: 2125-AB66

1886. + COMMERCIAL DRIVER TEST AND LICENSING STANDARDS

Significance: Regulatory Program

Legal Authority: 49 USC 2505; 49 USC 3102; PL 99-570, Sec 12005; PL 99-570, Sec 12006; PL 99-570, Sec 12009

CFR Citation: 49 CFR 383; 49 CFR 391

Legal Deadline: Statutory, July 15, 1988.

Abstract: Sections 12005 and 12006 of Pub. L. 99-570 require certain requirements to be in place by July 15, 1988 regarding minimum Federal standards which States must use for testing and licensing commercial motor vehicle drivers. FHWA will issue a notice of proposed rulemaking proposing the standards. Included in the proposal will be other requirements placed on the State in section 12009 pertaining to a check with the information system before issuing a license. This rulemaking action is considered significant because of the substantial public interest involved.

Timetable:

Action	Date	FR Cite
ANPRM	08/01/86	51 FR 27567
ANPRM Comment Period End	11/05/86	51 FR 35538
NPRM	10/00/87	
Final Action	07/00/88	

Small Entity: No

Additional Information: A 90-day public comment period will be provided for the NPRM.

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Jill L. Hochman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4001

RIN: 2125-AB68

1887. + TRUCK SIZE AND WEIGHT; REASONABLE ACCESS

Significance: Regulatory Program

Legal Authority: 49 USC 2311(d); 23 USC 315

CFR Citation: 23 CFR 658

Legal Deadline: None.

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Abstract: The FHWA is requesting information and comments on the existing FHWA regulation governing reasonable access by commercial vehicles with lengths and widths authorized by the Surface Transportation Assistance Act of 1982 (STAA) as amended. This action has been initiated in response to a petition filed by the National Industrial Transportation League (NITL).

Timetable:

Action	Date	FR Cite
ANPRM	01/05/87	52 FR 298
ANPRM Comment Period End	05/05/87	52 FR 298
NPRM	10/00/87	

Small Entity: No

Additional Information: A 120-day public comment period was provided for the ANPRM.

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Kevin E. Heanue, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2951

RIN: 2125-AB70

1888. + BLOOD ALCOHOL CONCENTRATION STANDARD FOR COMMERCIAL VEHICLE OPERATORS

Significance: Regulatory Program

Legal Authority: PL 99-570, Sec 12008; 49 USC App. 2505; 49 USC 3102

CFR Citation: 49 CFR 383; 49 CFR 391

Legal Deadline: Statutory, October 27, 1988.

Abstract: The FHWA is requesting comments from interested parties concerning the establishment of a commercial driver blood alcohol concentration (BAC) standard. This action is in response to Congress' enactment of the Commercial Motor Vehicle Safety Act of 1986 (Act). Section 12008 of the Act calls for the National Academy of Sciences (NAS) to conduct a study of the appropriateness of selecting one of several alternative BAC levels as the level at which a person operating a commercial motor vehicle would be deemed to be driving under the influence of alcohol. Based on the results of the study and the rulemaking comments, the Secretary of Transportation must promulgate a commercial driver BAC standard. States would be required to enact laws providing that any driver who operates a commercial motor vehicle at the Federal BAC level or above it is deemed to be driving under the influence of alcohol. States not enacting a BAC-level law for commercial motor vehicle drivers risk the loss of Federal-aid highway funds. The comments received will be made available to the NAS and will serve as the docket comments, along with the NAS study for a future Notice of Proposed Rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9192
ANPRM Comment Period End	05/22/87	
NPRM	03/01/88	
Final Action	10/00/88	

Small Entity: No

Additional Information: If the Secretary does not promulgate a Federal standard by October 27, 1988, the BAC standard shall be deemed to be 0.04 percent.

Analysis: Regulatory Evaluation 03/01/88

Agency Contact: John Viner, Senior Research Engineer, Traffic Safety Research Division (HSR-30), Department of Transportation, Federal Highway Administration, 6300 Georgetown Pike, McLean, VA. 22101, 703 285-3419

RIN: 2125-AB79

1889. + TRUCK SIZE AND WEIGHT; SPECIAL PERMITS

Significance: Regulatory Program

Legal Authority: 23 USC 127; 49 USC 2311; 49 USC 2313; 49 USC App. 2316; 23 USC 315

CFR Citation: 23 CFR 658

Legal Deadline: None.

Abstract: This rulemaking action will delete language pertaining to the issuance of special permits in section 658.17 and will request that States identify grandfather rights claimed for single and tandem axle weight, gross weight, alternate bridge formula and special permit authority. The weights identified as having been determined by the States will be recognized as grandfather rights.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	02/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: John MacGowan, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4032

RIN: 2125-AB80

1890. + AIR QUALITY PROCEDURES FOR USE IN FEDERAL-AID HIGHWAY AND FEDERALLY FUNDED TRANSIT PROGRAMS

Significance: Agency Priority

Legal Authority: 23 USC 109(h); 23 USC 109(j); 23 USC 315; 42 USC 4332; 42 USC 7401; 42 USC 7506

CFR Citation: 23 CFR 770

Legal Deadline: None.

Abstract: This regulation proposes to consolidate and amend existing air quality requirements for transportation projects into a single amended air quality regulation. The amended regulation is intended to streamline and simplify (1) the process of determining which highway projects are exempt from the Federal assistance limitations of section 176(a) of the Clean Air Act (CAA), and (2) the conformity and priority procedures contained in 23 CFR 770. The amendments are also intended to provide more authority and flexibility to State and local agencies and to meet the objectives of the CAA in the most cost-effective and expeditious manner. The amendments are significant because they involve important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Jocelyn Karp (202) 366-4063.

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: James M. Shrouds, Department of Transportation, Federal Highway Administration, 400 Seventh

Street, SW, Washington, DC 20590, 202 366-4836

RIN: 2125-AB10

1891. + MINIMUM REQUIREMENTS FOR PRIVATE MOTOR CARRIERS OF PASSENGERS AND DRIVERS OF PRIVATE MOTOR VEHICLES OF PASSENGERS

Significance: Agency Priority

Legal Authority: 49 USC 104; 49 USC 3102; 49 USC App 2503; 49 USC App 2505

CFR Citation: 49 CFR 384

Legal Deadline: None.

Abstract: The FHWA is considering proposing revisions to the requirements for private motor carriers of passengers and the drivers of private motor vehicles of passengers. The proposed revisions would require private motor carriers of passengers and drivers of private motor vehicles of passengers to operate under the Federal Motor Carrier Safety Regulations (FMCSR). However, the paperwork burden of these requirements will be minimized and several parts of the FMCSR will not apply to either private motor carriers of passengers or to drivers of such vehicles. This rulemaking is significant in that it is controversial, involving bringing new carriers under the regulatory scheme.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	50 FR 2998
NPRM	04/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 04/00/88

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AB62

1892. + MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS: SELF-INSURANCE

Significance: Agency Priority

Legal Authority: 49 USC 10927 Note

CFR Citation: 49 CFR 387

Legal Deadline: None.

Abstract: The FHWA has determined that the issues associated with its authority to permit motor carriers to self-insure need to be examined in light of the insurance crisis affecting the motor carrier industry. The FHWA is seeking public comment from interested parties concerning self-insurance as a viable and effective mechanism for demonstrating financial responsibility as required by the Motor Carrier Act of 1980. This rulemaking action is considered significant because of the public interest in the issue being considered. This rulemaking action will also address the issue of requiring all for-hire motor carriers of passengers to carry evidence of having obtained financial responsibility meeting the statutory minimums in any motor vehicle being operated in for-hire service. A petition was filed by the American Bus Association (ABA).

Timetable:

Action	Date	FR Cite
ANPRM	06/18/86	51 FR 22086
ANPRM Comment Period End	07/18/86	51 FR 22086
NPRM	04/00/88	

Small Entity: No

Additional Information: An interim final rule was published on June 18, 1986, at 51 FR 22080 permitting motor carriers of property to satisfy the financial responsibility requirements of the DOT (FHWA) by self-insuring if they have received approval from the ICC to self-insure and have maintained an FHWA "satisfactory" safety rating. This rulemaking action will further analyze the issues addressed in the interim final rule.

Analysis: Regulatory Evaluation 04/00/88

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AB65

1893. ● + UNIFORM RELOCATION ACT AMENDMENTS OF 1987; GENERAL

Significance: Agency Priority

Legal Authority: 42 USC 4601 et seq; PL 100-17, Title IV

CFR Citation: 23 CFR 740

Legal Deadline: Statutory, April 2, 1989. A final rule must be promulgated by 4/2/89.

Abstract: This rulemaking action addresses the implementation of Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. 100-17, 101 Stat. 132 (STURAA). Title IV of STURAA amends the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), 42 U.S.C. sections 4601 to 4655 (1982). Title IV establishes: a lead agency (FHWA) to insure consistent Federal implementation; an increase in the maximum monetary benefits that can be provided to persons forced to relocate by Federal or federally assisted projects; an expansion of the Uniform Act's coverage to insure more types of displacing activities; and an allowance for a State certification program. This rulemaking action is considered significant because of the substantial public interest involved.

Timetable:

Action	Date	FR Cite
NPRM	01/15/88	

Small Entity: No

Analysis: Regulatory Evaluation 01/15/88

Agency Contact: Barbara Reichart, Department of Transportation, Federal Highway Administration, 202 366-0116

RIN: 2125-AB85

1894. ● + CERTIFICATION OF SPEED LIMIT ENFORCEMENT

Significance: Agency Priority

Legal Authority: 23 USC 141; 23 USC 154; 23 USC 315; PL 100-17, Sec 174

CFR Citation: 23 CFR 659

Legal Deadline: None.

Abstract: The FHWA and the National Highway Traffic Safety Administration (NHTSA) are amending the regulations on certification of speed limit enforcement in order to streamline the sanction process and to take into account the provisions mandated by section 174 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Section 174 of STURAA amended 23 U.S.C. 154 by giving the States the authority to increase, without loss of Federal-aid funds, the maximum speed limit to no more than 65 miles per hour

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(mph) on certain Interstate System highways. A notice of proposed rulemaking will be issued proposing revisions to the sanction process contained in 23 CFR Part 659. A separate final rulemaking action has been issued in order to provide the States the authority to adjust the speed sampling and analysis plan required for determining the level of 55 mph noncompliance.

Timetable:

Action	Date	FR Cite
Final Action Adjusting Sampling Plans	08/03/87	52 FR 28691
NPRM	11/00/87	

Small Entity: No

Additional Information: This rulemaking action, as well as the final rule on sampling plans (Supplemental), are considered significant because of the substantial public interest involved.

Analysis: Regulatory Evaluation 11/00/87

Agency Contact: Sheldon G. Strickland, Department of Transportation, Federal Highway Administration, 202 366-1993

RIN: 2125-AC00

1895. REVIEW: GENERAL MATERIALS REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128

CFR Citation: 23 CFR 635D

Legal Deadline: None.

Abstract: This regulation would simplify procedures relating to general material requirements for Federal-aid construction work.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Additional Information: An initial NPRM was issued on 01/29/81 (46 FR 9642). It has been determined to issue another NPRM based on further review.

Analysis: Reg. Evaluation (Minimal Impact) 11/00/87

Agency Contact: William Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1584

RIN: 2125-AA16

1896. CONTRACT PROCEDURES

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128

CFR Citation: 23 CFR 635

Legal Deadline: None.

Abstract: This revision will update and simplify existing Federal-aid contract, procedures.

Timetable:

Action	Date	FR Cite
NPRM	08/18/78	43 FR 36685
NPRM Supplemental	11/00/87	

Small Entity: No

Additional Information: An initial NPRM was issued on 08/18/78, 43 FR 36685. It has been determined to issue another NPRM after further review.

Analysis: Regulatory Evaluation 11/00/87

Agency Contact: William Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1584

RIN: 2125-AA16

1897. COMPLIANCE WITH MOTOR CARRIER NOISE STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 3102

CFR Citation: 49 CFR 325

Legal Deadline: None.

Abstract: The FHWA is considering amending the noise emission standards to add a new minimum distance of 31 feet from which to measure highway noise. FHWA is also considering eliminating the correction factor which allowed a variance for noise tests taken at hard sites, e.g., asphalt, compared to those taken at soft sites, e.g., grassy areas.

Timetable:

Action	Date	FR Cite
NPRM	04/03/80	45 FR 22120

Next Action Undetermined

Small Entity: No

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AA27

1898. PAVEMENT DESIGN POLICY

Significance: Nonsignificant

Legal Authority: 23 USC 109(a)(b)(c); 23 USC 315

CFR Citation: 23 CFR 626; 23 CFR 625

Legal Deadline: None.

Abstract: The existing regulation on pavement design would be modified to eliminate unnecessary requirements and duplicative provisions. Currently, the Federal Highway Administration (FHWA) uses the "American Association of State Highway and Transportation Officials (AASHTO) Interim Guide for Design of Pavement Structures, 1972," Chapter III Revised, 1981, to evaluate the adequacy of the proposed pavement designs for Federal-aid projects. AASHTO has approved a new Pavement Design Guide. FHWA will solicit public comment on the revised guide and evaluate whether the revised guide should be adopted for application on Federal-aid projects.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Additional Information: A Federal Register notice was published on 4/24/85 (50 FR 16103) outlining and explaining the procedural steps the FHWA would take to effectuate Federal adoption of the revised guide.

Analysis: Reg. Evaluation (Minimal Impact) 11/00/87

Agency Contact: Norman Van Ness, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1324

RIN: 2125-AA88

1899. STATE HIGHWAY AGENCY CONSTRUCTION CONTRACTS; EQUAL OPPORTUNITY COMPLIANCE REVIEW; PROGRAM REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 112(b); 23 USC 140(a); 23 USC 315

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CFR Citation: 23 CFR 230

Legal Deadline: None.

Abstract: The proposed revisions would amend the existing FHWA regulation governing construction contract equal employment opportunity (EEO) compliance procedures, which concern the employment practices of construction contractors on Federal highway projects. This proposal would eliminate existing detailed compliance procedures and allow States flexibility in adopting a procedure with respect to contract compliance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 12/00/87

Agency Contact: Glenn R. Reed, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1585

RIN: 2125-AB05

1900. EQUAL EMPLOYMENT OPPORTUNITY ON FEDERAL AND FEDERAL-AID CONSTRUCTION CONTRACTS (INCLUDING SUPPORTIVE SERVICES)

Significance: Nonsignificant

Legal Authority: 23 USC 101; 23 USC 112; 23 USC 117; 23 USC 140; 23 USC 315

CFR Citation: 23 CFR 230; 23 CFR 640; 23 CFR 642

Legal Deadline: None.

Abstract: This revision will amend and update the existing policies and procedures relative to the equal employment opportunity program on Federal and Federal-aid highway construction contracts. In addition, this revision will amend the on-the-job training (OJT) special provisions and procedures for implementation of OJT supportive services programs to increase program effectiveness and address the current need for upgrading minorities and women in the skilled construction trades.

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 52470
NPRM Comment Period End	12/22/82	47 FR 52470
NPRM Supplemental	12/00/87	

Small Entity: No

Additional Information: A supplemental NPRM will be issued in order to propose updated revisions. The supplemental NPRM will address all procedures and provisions contained in 23 CFR 420. Therefore, the proposed rulemaking action explained under the entry (RIN No. 2125-AB27) formerly located in the "Proposed Rule Stage" portion of the agenda has been merged with this rulemaking action.

Analysis: Reg. Evaluation (Minimal Impact) 11/22/82 (47 FR 52470)

Agency Contact: Glenn Reed, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1588

RIN: 2125-AB15

1901. FEDERAL-AID PROGRAMS APPROVAL AND PROJECT AUTHORIZATION

Significance: Nonsignificant

Legal Authority: 23 USC 105; 23 USC 106; 23 USC 116; 23 USC 134; 23 USC 315

CFR Citation: 23 CFR 630

Legal Deadline: None.

Abstract: This action addresses FHWA's programming and authorization policies and procedures for projects under the Federal-aid program. The purpose of this action will be to determine if revisions are warranted in order to improve overall management of the Federal-aid highway program.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/84	49 FR 31079
NPRM	02/00/88	

Small Entity: Undetermined

Analysis: Reg. Evaluation (Minimal Impact) 11/00/87

Agency Contact: James A. Carney, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0450

RIN: 2125-AB18

1902. RAILROAD-HIGHWAY PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 109(e); 23 USC 120(d); 23 USC 130; 23 USC 315; 23 USC 405

CFR Citation: 23 CFR 646

Legal Deadline: None.

Abstract: The FHWA is proposing to amend its regulation prescribing policies and procedures for advancing Federal-aid and direct Federal highway projects involving railroad facilities. The proposed amendment will incorporate and clarify existing FHWA policy regarding participation with Federal-aid highway funds in providing specified horizontal and vertical clearances for railroad overpass and underpass structures at highways. Upon a review of comments received to the NPRM, it has been decided that a supplemental NPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	02/20/85	50 FR 7067
NPRM Comment Period End	04/22/85	
NPRM Supplemental	10/00/87	

Small Entity: No

Additional Information: A 60-day comment period is being provided.

Analysis: Reg. Evaluation (Minimal Impact) 02/20/85 (50 FR 7067)

Agency Contact: James A. Carney, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0450

RIN: 2125-AB25

1903. ADMINISTRATION OF CONTRACTS

Significance: Nonsignificant

Legal Authority: 23 USC 315; 23 USC 104(f); 23 USC 114(a); 23 USC 307(c); 23 USC 402; PL 100-17, Sec 111(b)

CFR Citation: 23 CFR 172

Legal Deadline: None.

Abstract: Revisions to the existing regulation will be made to standardize the minimum requirements by including FHWA's interpretation of OMB Circular A-102 requirements. Inclusion of OMB Circular A-102 as an appendix to the regulations will be deleted. This

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rulemaking action will also address the changes to the selection procedures as required by section 111(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: A 60-day comment period will be provided.

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 10/00/87

Agency Contact: Si Silence, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4528

RIN: 2125-AB30

1904. RIGHT-OF-WAY

Significance: Nonsignificant

Legal Authority: 23 USC 315

CFR Citation: 23 CFR 710; 23 CFR 712; 23 CFR 720

Legal Deadline: None.

Abstract: The FHWA intends to publish an NPRM to update and reorganize its right-of-way regulations for the Federal-aid highway program. Subjects to be addressed include State highway agency responsibilities, authorizations, and reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 11/00/87

Agency Contact: Douglas A. Wubbels, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2019

RIN: 2125-AB58

1905. PROPERTY MANAGEMENT, DISPOSALS AND AIRSPACE

Significance: Nonsignificant

Legal Authority: 23 USC 315

CFR Citation: 23 CFR 713

Legal Deadline: None.

Abstract: The FHWA intends to issue an NPRM proposing to update its regulations on property management, disposal and airspace relative to the Federal-aid highway program. This rulemaking action will reflect current departmental decisions and policies as well as recent legislative mandates.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 11/00/87

Agency Contact: Douglas A. Wubbels, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2019

RIN: 2125-AB60

1906. ● LABOR AND EMPLOYMENT; CONVICT LABOR AND MATERIALS

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128; 23 USC 315; 31 USC 6505; 42 USC 3334; 42 USC 4601 et seq; PL 100-17, Sec 112

CFR Citation: 23 CFR 635

Legal Deadline: None.

Abstract: The FHWA is amending its regulation on the use of convict labor and convict produced materials on Federal-aid highway projects to implement provisions mandated by section 112 of the Federal-Aid Highway Act of 1987 (PL 100-17). Section 112 amended section 114 of 23 USC by prohibiting the use of materials produced by convict labor on Federal-aid highway projects unless produced by convicts who are on parole, supervised release, or probation and limited in quantity not to exceed a designated prior amount produced. The regulations implementing 23 USC 114(b) are being revised to reflect the statutory amendment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 10/00/87

Agency Contact: William Weseman, Chief, Const. and Maintenance Division, Department of Transportation, Federal Highway Administration, 202 366-1548

RIN: 2125-AB82

1907. ● NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; REVISION OF UNIFORM TRAFFIC CONTROL DEVICES; PASSING AND NO-PASSING ZONE STANDARDS

Significance: Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None.

Abstract: The FHWA has initiated a rulemaking action to consider a petition filed by the Center for Auto Safety (CAS) to revise no-passing zone standards. If adopted, the revised standards could be incorporated into the Manual On Uniform Traffic Control Devices (MUTCD).

Timetable:

Action	Date	FR Cite
ANPRM	06/11/86	51 FR 21180
ANPRM Comment Period End	07/20/87	51 FR 21180
NPRM	12/00/87	

Small Entity: No

Additional Information: FHWA Docket # 86-11 has been assigned to this rulemaking.

Analysis: Regulatory evaluation 12/00/87

Agency Contact: Mr. Philip O. Russell, Department of Transportation, Federal Highway Administration, 202 366-0411

RIN: 2125-AB84

1908. ● CONSTRUCTION AND MAINTENANCE; CONTRACT PROCEDURES; STANDARDIZED CONTRACT CLAUSES

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 117; 23 USC 315; PL 100-17, Sec 111(c)

CFR Citation: 23 CFR 635

Legal Deadline: None. A final rule must be issued by 4/2/89.

Abstract: The FHWA is amending its regulations on contract procedures to implement the provisions of Section 111(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Section 111(c) of STURAA amends 23 USC 112 to require a standardized contract clause in all Federal-aid contracts unless otherwise provided for by State law. The standardized contract clause is to provide for the equitable adjustment of contract terms: (1) where site conditions differ from those specified in the contract; (2) where work has been suspended by order of the contracting agency (other than a suspension of work caused by the fault of the contractor or by weather); and (3) where there are material changes in the scope of the work.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 10/00/87

Agency Contact: William A. Weseman, Chief, Construction and Maint. Division, Department of Transportation, Federal Highway Administration, 202 366-1548

RIN: 2125-AB87

DOT—FHWA — **Proposed Rule Stage**

1909. ● TRUCK SIZE AND WEIGHT; NATIONAL NETWORK

Significance: Nonsignificant

Legal Authority: 23 USC 127; 23 USC 315; 49 USC 2311; 49 USC 2313

CFR Citation: 23 CFR 658

Legal Deadline: None.

Abstract: The FHWA is proposing to modify the National Network for commercial motor vehicles by adding routes in Georgia. The National Network was established by the final rule on Truck Size and Weight published at 49 FR 23302 on June 5, 1984. It is maintained under 23 CFR 658, Appendix A, as amended.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 10/00/87

Agency Contact: Philip W. Blow, Department of Transportation, Federal Highway Administration, 202 366-4036

RIN: 2125-AB98

1910. MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

Significance: Routine and Frequent

Legal Authority: 23 USC 109(b); 23 USC 109(d); 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None.

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2. 12/00/88.

Timetable:

Action	Date	FR Cite
Total actions expected to end	12/00/88	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 12/00/88

Agency Contact: P. Russell, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2184

RIN: 2125-AA37

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Highway Administration (FHWA) — **Final Rule Stage**

1911. + SPLASH/SPRAY SUPPRESSANT DEVICES ON TRUCK TRACTORS, SEMITRAILERS AND TRAILERS

Significance: Regulatory Program

Legal Authority: 49 USC 2314; 49 USC 3102; Section 414 of STAA of 1982

CFR Citation: 49 CFR 393

Legal Deadline: Statutory, April 2, 1988.

Abstract: Section 414 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424) states that Congress declares the visibility on wet roadways in the Interstate System should be improved by reducing splash and spray from truck tractors, semitrailers and trailers. Congress instructed the Secretary to establish, by regulation, minimum standards with respect to the performance and installation of splash and spray suppression devices on truck tractors, semitrailers and trailers. Further, Congress mandated that all vehicles in use 5 years from date of enactment be equipped with such devices. The revisions to 49 CFR 393 will implement this mandate. This rulemaking is considered significant because of its economic impact on the motor carrier industry. Section 205 of the Surface Transportation Assistance Act of 1987 (P.L. 100-17) establishes a deadline of 4/2/88 for final action unless the Secretary determines that insufficient technology exists with which to base a final rule. As part of the Surface Transportation Reauthorization bill, introduced for consideration in the last Congress and reintroduced in this session, the Administration proposed a provision that would amend the existing splash and spray suppression-devices statute. The amendment is intended to give greater flexibility to the Department in dealing with this problem and to ensure that the Department's final decision can take the costs and benefits of various alternatives fully into account.

Timetable:

Action	Date	FR Cite
NPRM	04/12/85	50 FR 14630
Comment Period Extended	06/11/85	50 FR 24549
NPRM Comment Period End	08/12/85	50 FR 24549
Final Action	04/02/88	

Small Entity: Yes

Additional Information: The public comment period was extended to 8/12/85 by a notice published on 6/11/85 (50 FR 24549).

Analysis: Regulatory Evaluation 04/12/85 (50 FR 14630)

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AA84

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DOT—FHWA — Final Rule Stage

1912. + TRUCK SIZE AND WEIGHT; GRANDFATHER SEMITRAILER LENGTHS

Significance: Regulatory Program

Legal Authority: PL 97-424, Sec 133; PL 97-424, Sec 411; PL 97-424, Sec 412; PL 97-424, Sec 413; PL 97-424, Sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None.

Abstract: An analysis of comments to the March 1, 1985 NPRM indicates insufficient rationale to establish grandfathered semitrailer lengths in all States. A final rule will be prepared and will establish the grandfather semitrailer lengths for States where adequate documentation exists. For those other States, the FHWA will request additional information and comments.

Timetable:

Action	Date	FR Cite
NPRM	03/01/85	50 FR 8342
NPRM Comment Period End	04/30/85	50 FR 8342
Final Action	10/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 03/01/85 (50 FR 8342)

Agency Contact: Philip W. Blow, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4036

RIN: 2125-AB26

1913. + TRUCK SIZE AND WEIGHT; TANDEM TRUCK SAFETY ACT

Significance: Regulatory Program

Legal Authority: 23 USC 315; PL 97-424, Sec 133; PL 97-424, Sec 411; PL 97-424, Sec 412; PL 97-424, Sec 413; PL 97-424, Sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None.

Abstract: The FHWA is proposing to provide a statement of FHWA interpretation and policy addressing the size and weight provisions contained in the Tandem Truck Safety Act of 1984 (TTSA) which amended the Surface Transportation Assistance Act of 1982 (STAA). This action addresses (1) conditions under which segments of the National System of Interstate and Defense Highways may be deleted from the National Truck Network, (2) conditions affecting the designation of new routes on the Federal-Aid Primary System as part of the National Truck Network, and (3) new provisions for 102-inch wide 28 1/2-foot semi-trailers. The issue relative to the qualifications of highways previously designated with lane widths less than 12 feet is the subject of a separate rulemaking action. See entry under RIN # 2125-AB43.

Timetable:

Action	Date	FR Cite
NPRM	09/18/85	50 FR 37970
NPRM Comment Period End	11/04/85	50 FR 37970
Final Action	10/00/87	

Small Entity: No

Additional Information: This action had previously been characterized as significant in the agenda. Upon further review, it has been determined that since this rulemaking proposes to technically amend the June 5, 1984, final rule on Truck Size and Weight and to finalize certain issues left unresolved, it is not considered significant. A Regulatory Impact Analysis has been prepared for the June 5 rulemaking and is available for inspection in the Headquarters office of FHWA, 400 Seventh Street, SW, Washington, D.C.

Analysis: Regulatory Evaluation 09/18/85 (50 FR 37970)

Agency Contact: C. John MacGowan, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4032

RIN: 2125-AB28

1914. + INSPECTION, REPAIR, AND MAINTENANCE

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 210; PL 98-554, Sec 204; 23 USC 315

CFR Citation: 49 CFR 396; 49 CFR 390; 48 CFR 393

Legal Deadline: None.

Abstract: The FHWA is seeking public comment concerning the development of Federal commercial motor vehicle inspection standards which would be applicable to motor carriers engaged in interstate or foreign commerce. This action is required by section 210 of the Motor Carrier Safety Act of 1984. The proposed revisions will require motor carriers to comply with Federal inspection standards, a State inspection program or an authorized self-inspection program.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/85	50 FR 1245
ANPRM Comment Period End	02/24/85	
NPRM	02/26/87	52 FR 5913
NPRM Comment Period End	05/29/87	52 FR 13853
Final Action	02/00/88	

Small Entity: No

Additional Information: The NPRM will propose revisions after having fully taken into account the public comments received to the ANPRM (01/10/85, 50 FR 1245). The 1/10/85 ANPRM also solicited comments on the provisions relating to the parts and accessories necessary for the safe operation of commercial motor vehicles. This section (parts and accessories) and comments made thereto will be the subject of a separate rulemaking action. See "Proposed Rule Stage" portion of agenda. The public comment period was extended to 6/29/87 by a notice published on 4/27/87 at 52 FR 13853.

Analysis: Regulatory Evaluation 02/26/87 (52 FR 5913)

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AB34

1915. + HOURS OF SERVICE

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 206

CFR Citation: 49 CFR 395

Legal Deadline: None.

Abstract: Section 206 of the Motor Carrier Safety Act of 1984 (Act) directs the DOT to reissue regulations pertaining to commercial motor vehicle safety. On November 23, 1984, the FHWA published a final rule at 49 FR 46145 regarding Hours of Service in order to comply with an opinion of the United States Court of Appeals for the District of Columbia Circuit. A docket was opened (MC-99-1) in order to request comments for further consideration of revisions to the requirement of the driver's record of duty status. Pursuant to section 206 of

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the Act, an ANPRM was issued (1/23/85; 50 FR 2998) and again requested comments regarding the requirement for recorded hours of service. This rulemaking action will incorporate all comments received to the above mentioned published rulemaking actions. This document will consider the possible elimination of certain items required on the driver's record of duty status and extending the 12-hour limitation in the 100 mile radius exemption to 15 hours or permitting a 50 mile radius rule as an option with the 15 hour rule. This rulemaking is considered significant because of the potential cost savings which may result from (con't)

Timetable:

Action	Date	FR Cite
ANPRM	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	50 FR 2998
NPRM	05/09/86	51 FR 17214
NPRM Comment Period End	06/09/86	51 FR 17214
Extension Notice	07/08/86	51 FR 24722
Final Action	10/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: the reduction in requirements for maintaining the driver's record of duty status. Previous RIN for published final rule on 11/23/84 is 2125-AB22. By notice dated 07/08/86 (51 FR 24722), the NPRM comment period was extended to 08/18/86.

Analysis: Regulatory Evaluation 05/09/86 (51 FR 17214)

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AB39

1916. + TRUCK SIZE AND WEIGHT; AUTOMOBILE TRANSPORTERS

Significance: Regulatory Program

Legal Authority: 23 USC 315; PL 97-424, Sec 133; PL 97-424, Sec 411; PL 97-424, Sec 412; PL 97-424, Sec 413; PL 97-424, Sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None.

Abstract: The FHWA is proposing revisions to certain provisions established by the final rule on truck size and weight published at 49 CFR 23302 on June 5, 1984. This action proposes: (1) a definition for an automobile-transporter; (2) a minimum 75-foot overall length for a stinger-steered automobile-transporter; (3) the allowance of triple saddlemount combinations with a minimum length of 65 feet; and, (4) no overall length limitations for conventional tractor-semitrailer automobile transporters when the semitrailer is 48 feet in length. The purpose of this rulemaking action is to clarify and further define certain issues contained in the June 5, 1984, final rule.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/84	49 FR 38956
ANPRM Comment Period End	11/17/84	49 FR 38956
NPRM	11/25/85	50 FR 48431
NPRM Comment Period End	01/09/86	50 FR 48431
Final Action	10/00/87	

Small Entity: No

Additional Information: A Regulatory Impact Analysis which had been prepared for the June 5, 1984, final rule on truck size and weight provisions is available for inspection in the Headquarters office of FHWA, 400 Seventh Street, SW, Washington, DC.

Analysis: Reg. Evaluation (Minimal Impact) 11/25/85 (50 FR 48431)

Agency Contact: Chester F. Phillips, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2251

RIN: 2125-AB42

1917. + PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; GENERAL

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 110

CFR Citation: 49 CFR 393

Legal Deadline: None.

Abstract: This rulemaking action responds to section 210 of the Motor Carrier Safety Act of 1984. Section 210 requires the Department to open Part 393 of the Federal Motor Carrier Safety Regulations (FMCSR), which concerns the parts and accessories necessary for the safe operation of commercial motor vehicles for public comment and review. In essence, Part 393 is the basis for the vehicle inspection currently performed on vehicles operated by motor carriers subject to the jurisdiction of the DOT. Public comment has been requested pursuant to an ANPRM 01/10/85.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/85	50 FR 1245
ANPRM Comment Period End	02/25/85	50 FR 1245
NPRM	02/26/87	52 FR 5892
NPRM Comment Period End	06/29/87	52 FR 13853
Final Action	02/00/88	

Small Entity: No

Additional Information: For the rulemaking action specifically addressing 49 CFR 393.42 (Front Wheel Brakes), see the entry entitled "Parts and Accessories Necessary for Safe Operation; Front Wheel Brakes," in the "Final Rule Stage" portion of the agenda, RIN 2125-AB63. The public comment period was extended to 6/29/87 by a notice published on 4/27/87 at 52 FR 13853.

Analysis: Regulatory Evaluation 02/26/87 (52 FR 5892)

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AB45

1918. + SAFETY FITNESS DETERMINATION

Significance: Regulatory Program

Legal Authority: PL 98-554, Sec 215; 49 USC 3102

CFR Citation: 49 CFR 385

Legal Deadline: None.

Abstract: Section 215 of the Motor Carrier Safety Act of 1984 requires the FHWA, in cooperation with the Interstate Commerce Commission, to establish a procedure to determine the safety fitness of owners and operators of commercial motor vehicles including persons seeking new or additional operating authority as motor carriers. Comments are being requested regarding the proposed changes in the current safety rating procedures and a new proposal for those carriers who have not previously been assigned a

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safety rating or who intend to be a new entrant into the motor carrier industry. It has been determined that this rulemaking action is a significant regulation under the regulatory policies and procedures of the Department of Transportation because of the total estimated indirect benefits that may result.

Timetable:

Action	Date	FR Cite
NPRM	06/25/86	51 FR 23088
NPRM Comment Period End	08/11/86	51 FR 23088
Final Action	12/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 06/25/86 (51 FR 23088)

Agency Contact: Gerald J. Davis, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2698

RIN: 2125-AB46

1919. + TRUCK SIZE AND WEIGHT; SPECIALIZED EQUIPMENT; MAXI-CUBE

Significance: Regulatory Program

Legal Authority: 23 USC 315; 49 USC 2311(d); PL 99-591, Sec 324

CFR Citation: 23 CFR 658

Legal Deadline: None.

Abstract: An ANPRM had been issued requesting public comment on a petition to designate a particular combination of vehicles as specialized equipment under the provisions of section 411(d) of the Surface Transportation Assistance Act of 1982 (STAA). The final rule will now implement section 324 of the House Bill 5205 which was incorporated into law by section 302 of the Act Making Continuing Appropriations for Fiscal Year 1987, Pub. L. 99-591, 101 Stat. 3341, enacted on October 16, 1986. This section amended section 411(c) of the Surface Transportation Assistance Act of 1982 to authorize the "maxi-cube" vehicle to operate on the National Network in the same way as vehicles previously authorized by that section. The "maxi-cube" vehicle is a particular combination of vehicles described in the law. This action also withdraws the advance notice of proposed rulemaking (ANPRM) published at 50 FR 52940 (12/27/85) and 51 FR 7085 (Supplemental notice: 2/28/86) on the designation of the "maxi-cube" design as specialized equipment under section 411(d) of the STAA of 1982.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/85	50 FR 52940
ANPRM Comment Period End	02/10/86	50 FR 52940
ANPRM Supplemental	02/28/86	51 FR 7065
Final Action	10/00/87	

Small Entity: No

Additional Information: A supplemental ANPRM was issued on February 28, 1986 (51 FR 7085), and provided additional information on the vehicle combination referred to as "Maxi-Cube." Comments were requested until March 17, 1986. The supplemental ANPRM will also be withdrawn.

Analysis: Reg. Evaluation (Minimal Impact) 10/00/87

Agency Contact: Philip W. Blow, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4036

RIN: 2125-AB48

1920. + QUALIFICATION OF DRIVERS; HAZARDOUS MATERIALS DRIVERS

Significance: Regulatory Program

Legal Authority: 49 USC 3102; 49 USC App 2505

CFR Citation: 49 CFR 391

Legal Deadline: None.

Abstract: The notice of proposed rulemaking published on 5/13/86 (51 FR 17572) which proposed to establish stricter driver qualification rules for drivers of vehicles containing certain classes of hazardous materials will be withdrawn. Certain rulemaking actions mandated by the Commercial Motor Vehicle Safety Act of 1986 will supersede this action. The subject matter of this rulemaking action will be addressed by the Research and Special Programs Administration (RSPA) in subsequent rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/13/86	51 FR 17572
NPRM Comment Period End	08/11/86	51 FR 17572
Withdrawal Notice	10/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 05/13/86 (51 FR 17572)

Agency Contact: Michael L. Trentacoste, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4041

RIN: 2125-AB64

1921. + ACCOMMODATION OF UTILITIES; LONGITUDINAL UTILITY USE OF FREEWAY RIGHT-OF-WAY

Significance: Regulatory Program

Legal Authority: 23 USC 109; 23 USC 116; 23 USC 315

CFR Citation: 23 CFR 645

Legal Deadline: None.

Abstract: The FHWA is proposing to revise its regulation on the accommodation of utility facilities and private lines on the right-of-way of Federal-aid and direct Federal highway projects to clarify requirements regarding utility use of Federal-aid highways and to modify the conditions under which certain types of utilities may be located longitudinally on Federal-aid freeways (Interstate highways). This action considers the interest expressed by the telecommunication industry to gain access to the Interstate System for installation of underground fiber optics cable systems.

Timetable:

Action	Date	FR Cite
NPRM	12/19/86	51 FR 45479
Comment Period Extended to 03/17/87	02/11/87	52 FR 4349
NPRM Comment Period End	03/17/87	52 FR 4349
Final Action	10/00/87	

Small Entity: No

Additional Information: A general notice was published in the Federal Register on April 1, 1986 (51 FR 11055) announcing the intention of FHWA to initiate reexamination of its regulation and policy on longitudinal use of Interstate right-of-way.

Analysis: Regulatory Evaluation 12/19/86 (51 FR 45479)

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Agency Contact: James A. Carney, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4652

RIN: 2125-AB76

1922. ● + UNIFORM RELOCATION ACT AMENDMENTS OF 1987; SPECIFIC PAYMENTS

Significance: Agency Priority

Legal Authority: PL 100-17, Title IV; 42 USC 4601 et seq

CFR Citation: 23 CFR 740

Legal Deadline: None.

Abstract: This rulemaking action will implement those provisions of Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) which are non-controversial. These amendments to the Uniform Relocation Act will primarily address the increases in the maximum specific dollar amounts paid by Federal, State and local agencies from project funds to persons who are forced to relocate by Federal or federally assisted projects. These revisions will be issued expeditiously so that displacing agencies who are currently authorized under State law can begin to provide the additional assistance provided by law. This rulemaking action is considered significant because of the substantial public interest involved. By taking this action, the FHWA is carrying out its responsibility as lead agency as required by STURAA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 09/21/87

Agency Contact: Barbara Reichart, Department of Transportation, Federal Highway Administration, 202 366-0116

RIN: 2125-AB96

1923. RAILROAD GRADE CROSSINGS

Significance: Nonsignificant

Legal Authority: 49 USC 3102

CFR Citation: 49 CFR 392.10

Legal Deadline: None.

Abstract: The FHWA had considered a revision that would make this Federal regulation more consistent with the Uniform Vehicle Code with respect to stopping requirements. However, after further review it has been determined that no further action by the FHWA is needed in this area. Therefore, the 11/18/82 ANPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	11/18/82	47 FR 51904
Withdrawal Notice	10/00/87	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AA36

1924. TRANSFER OF FEDERAL-AID HIGHWAY FUNDS

Significance: Nonsignificant

Legal Authority: Surface Transportation Assistance Act of 1982, Sec. 116

CFR Citation: 23 CFR 160, Subpart A; 23 CFR 160, Subpart B; 23 CFR 160, Subpart C

Legal Deadline: None.

Abstract: This regulation revision will reflect the required statutory changes included in section 116 of the STAA of 1982 regarding the transfer of Interstate construction funds.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 12/00/87

Agency Contact: Larry C. Hanna, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0673

RIN: 2125-AA64

1925. ACCELERATION OF PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 140; 23 USC 315; Surface Transportation Assistance Act of 1982, Sec. 129

CFR Citation: 23 CFR 630

Legal Deadline: None.

Abstract: This revision would expedite the processing of Federal-aid highways projects by promoting wider use of the findings and recommendations of the demonstration project carried out under section 141 of the 1976 Federal-Aid Highway Act. This action is also being taken pursuant to section 129 of the Surface Transportation Assistance Act of 1982.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/83	48 FR 38854
ANPRM Comment Period End	11/25/83	48 FR 57330
To be withdrawn	10/00/87	

Small Entity: No

Additional Information: An interim policy statement was published 6/6/83 (48 FR 25181) to implement acceleration methods for selected projects within existing regulations. Initially, FHWA had considered issuing a new regulation as a vehicle for accelerating Federal-aid projects pursuant to Section 129 of the STAA of 1982. However, it has been determined that the objectives of Section 129 can be best implemented by revisions to existing regulations. Therefore, separate regulations will not be issued regarding the acceleration program. This approach received the concurrence of Deputy Administrator Lamm on April 11, 1984. This regulation will be withdrawn.

Analysis: Reg. Evaluation (Minimal impact) 08/26/83 (48 FR 38854)

Agency Contact: S. M. Silence, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4520

RIN: 2125-AA87

1926. EROSION AND SEDIMENT CONTROL ON HIGHWAY CONSTRUCTION PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 109(g); 23 USC 315; 23 USC 109(h); 33 USC 1323

CFR Citation: 23 CFR 650

Legal Deadline: None.

Abstract: The proposed rule was intended to adopt the AASHTO Guide Specifications for water pollution control. After careful consideration of

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comments submitted in response to the NPRM and based upon a further review by FHWA, it has been determined that rulemaking in this area is no longer necessary. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	01/18/85	50 FR 2694
NPRM Comment Period End	03/18/85	
To be withdrawn	10/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal impact) 01/18/85 (50 FR 2694)

Agency Contact: Philip L. Thompson, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4611

RIN: 2125-AB05

1927. LABOR AND EMPLOYMENT

Significance: Nonsignificant

Legal Authority: 23 USC 113; 23 USC 315

CFR Citation: 23 CFR 635

Legal Deadline: None.

Abstract: This amendment would revise the existing regulation prescribing the inclusion of prevailing wage rates determined by the Secretary of Labor in advertisements and contracts for Federal-aid highway projects. The proposed amendment would preclude the payment of Federal-aid funds for the excess labor costs due to State prevailing wage rates which are higher than those determined by the Department of Labor on Federal-aid projects.

Timetable:

Action	Date	FR Cite
NPRM	09/27/85	50 FR 30137
NPRM Comment Period End	11/12/85	50 FR 30137
Final Action	10/00/87	

Small Entity: No

Analysis: Reg. Evaluation (minimal impact) 09/27/85 (50 FR 30137)

Agency Contact: Ruth Anders, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1394

RIN: 2125-AB37

1928. STRUCTURAL SUPPORTS FOR HIGHWAY SIGNS, LUMINARIES AND TRAFFIC SIGNALS

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None.

Abstract: FHWA proposes to adopt for Federal-aid application the 1985 AASHTO publication entitled "Standard Specification for Structural Supports for Highway Signs, Luminaries and Traffic Signals" which is incorporated in 23 CFR Part 625 as a specification. In May of 1985, the American Association of State Highway and Transportation Officials (AASHTO) approved a new edition of the 1975 edition. FHWA is reviewing comments received.

Timetable:

Action	Date	FR Cite
NPRM	11/10/86	51 FR 40817
NPRM Comment Period End	05/11/87	51 FR 40817
Final Action	05/00/88	

Small Entity: No

Analysis: Regulatory Evaluation 11/10/86 (51 FR 40817)

Agency Contact: James H. Hatton, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1329

RIN: 2125-AB56

1929. REIMBURSEMENT FOR RAILROAD WORK

Significance: Nonsignificant

Legal Authority: 23 USC 101; 23 USC 120(d); 23 USC 130; 23 USC 315

CFR Citation: 23 CFR 140

Legal Deadline: None.

Abstract: The FHWA is proposing to amend its regulation on reimbursement for railroad work to allow Federal-aid highway funds to be used to pay for various overhead and indirect construction costs incurred by railroad forces accomplishing work on Federal-aid highway projects.

Timetable:

Action	Date	FR Cite
NPRM	12/17/86	51 FR 44996
NPRM Comment Period End	02/17/87	51 FR 44996
Final Action	11/00/87	

Small Entity: No

Additional Information: A 60-day comment period was provided.

Analysis: Reg. Evaluation (Minimal Impact) 12/17/86 (51 FR 44996)

Agency Contact: James A. Carney, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4652

RIN: 2125-AB59

1930. NATIONAL BRIDGE INSPECTION STANDARDS; FREQUENCY OF INSPECTION AND INVENTORY

Significance: Nonsignificant

Legal Authority: 23 USC 109(h); 23 USC 116(d); 12 USC 144; 23 USC 315

CFR Citation: 23 CFR 650

Legal Deadline: None.

Abstract: The FHWA is requesting comments to a proposal to revise the National Bridge Inspection Standards (NBIS). The revised regulation would permit States to increase the maximum time interval between the inspections for certain types or groups of bridges, as opposed to retaining the mandatory 2-year interval as required by regulations currently in effect. The proposed revisions would also require that States identify those bridges having fracture critical members or bridges which warrant underwater inspection consideration. The proposed revisions would provide State highway agencies greater flexibility with which to use available inspection resources in a cost-effective manner. It is intended that the proposed revisions would encourage efficient use of resources while ensuring that the safety of the traveling public is protected.

Timetable:

Action	Date	FR Cite
NPRM	04/07/87	52 FR 11092
Notice Extension of public comments	06/03/87	52 FR 20726
NPRM Comment Period End	07/09/87	52 FR 20726
Final Action	12/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 04/07/87 (52 FR 11092)

Agency Contact: John J. Ahlskog, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4617

RIN: 2125-AB71

1931. CARGO PREFERENCE

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 114; 23 USC 315; 23 USC 113; 23 USC 128; 31 USC 6506; 42 USC 3334; 42 USC 4602 et seq

CFR Citation: 23 CFR 635

Legal Deadline: None.

Abstract: The Federal Highway Administration (FHWA) is incorporating into its regulations the cargo preference requirements as mandated by the Cargo Preference Act of 1954 (Act) and its implementing regulations (46 CFR 381) developed by the Maritime Administration (MARAD). This final rule clarifies policies and procedures for the application of the Act's requirements to Federal-aid highway construction projects.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 12/00/87

Agency Contact: William Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1564

RIN: 2125-AB73

1932. MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS; ENVIRONMENTAL RESTORATION

Significance: Nonsignificant

Legal Authority: 49 USC 10927 note

CFR Citation: 49 CFR 387

Legal Deadline: None.

Abstract: The FHWA issued an interim final rule to redefine "environmental restoration" as that term is used in FHWA's financial responsibility regulations. This action was taken in response to a joint petition filed by the American Insurance Association (AIA) and the American Trucking Associations (ATA), and because of the current insurance crisis facing the motor carrier industry. This action made clear the motor carriers are required to provide evidence of financial responsibility to satisfy claims for damage to human health and to the environment including necessary restoration costs, but not for potential or speculative damages for which they would not otherwise be found liable.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/86	51 FR 33854
Final Action	10/00/87	

Small Entity: No

Additional Information: Upon issuances of the interim final rule, the FHWA gave notice that comments would be accepted on the rulemaking action. A comment period was provided and Docket No. MC-126; Amendment No. 83-14 was established to receive comments. The FHWA will consider all comments and information received in order to determine whether to make the change permanent.

Analysis: Regulatory Evaluation 09/23/86 (51 FR 33854)

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4049

RIN: 2125-AB77

1933. ● CONSTRUCTION AND MAINTENANCE; CONTRACT PROCEDURES

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 117; 23 USC 315; PL 100-17, Sec 111(a)

CFR Citation: 23 CFR 635

Legal Deadline: None.

Abstract: This rulemaking action revises 23 CFR Part 635, Subpart A, B, and C to implement the provisions mandated by Section 111(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Section 111(c) of STURAA amends section 112(b) of Title 23, U.S.C., to add emergency situations to the conditions under which a Federal-aid project may be awarded by a method other than competitive bidding.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 10/00/87

Agency Contact: William A. Weseman, Chief, Construction and Maint. Division, Department of Transportation, Federal Highway Administration, 202 366-1548

RIN: 2125-AB88

1934. ● STATE EDUCATION AND TRAINING PROGRAM

Significance: Nonsignificant

Legal Authority: 23 USC 315; 23 USC 321(b) and (c); PL 100-17, Sec 131

CFR Citation: 23 CFR 260

Legal Deadline: None.

Abstract: The FHWA is amending 23 CFR 260 to implement Section 131 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) enacted on April 2, 1987. Section 131 of the STURAA amends Section 321 of Title 23, United States Code, by allowing the States to use Federal-aid funds to pay 75 percent of the cost of education and training purchased from any source including the National Highway Institute. The provisions contained in 23 CFR 260 addressing the administration of Federal-aid funds for education and training of State and local highway department employees are being revised to reflect the statutory amendment.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 10/00/87

Agency Contact: Larry Jones, National Highway Institute, Department of Transportation, Federal Highway Administration, 202 285-2779

RIN: 2125-AB92

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DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Completed Actions

1935. + FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 3102; PL 98-554, Sec 206

CFR Citation: 49 CFR 390 to 399

Legal Deadline: Statutory, April 30, 1966.

Abstract: Section 206 of the Motor Carrier Act of 1984 (Pub. L 98-554) (the Act) directs the Secretary of Transportation to issue regulations pertaining to commercial motor vehicle safety. The Department has issued regulations, the Federal Motor Carrier Safety Regulations (FMCSR), on this subject under earlier authority (49 U.S.C. 3102). The purpose of this advance notice of proposed rulemaking (ANPRM) was to identify and solicit comment on specific changes which should be made to the FMCSR prior to reissuance in order to effectuate the purposes of the Act. The purposes of the Act are to ensure that: commercial motor vehicles are safely maintained, equipped, loaded and operated; the responsibilities of drivers do not impair their ability to drive safely; the physical condition of drivers is adequate to enable them to drive safely; and the operation of the vehicles does not have deleterious effects on drivers. This rulemaking has been a comprehensive effort, and thus the Agency has incorporated certain other regulatory actions which have been proposed but have not yet been completed. The purposes of this ANPRM have been served. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	
Action completed.	07/07/87	

Small Entity: No

Additional Information: (ABSTRACT CONT:) Therefore, there is no reason to carry this entry on the agenda any further. This rulemaking action has been terminated. See "Proposed Rule Stage" and "Final Rule Stage" portions of the agenda for actions resulting from this entry.

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1019

RIN: 2125-AB35

1936. + TRUCK SIZE AND WEIGHT; LANE WIDTHS

Significance: Regulatory Program

Legal Authority: 23 USC 315; PL 97-424, Sec 416; PL 98-554, Sec 105; PL 97-424, Sec 411; PL 97-424, Sec 412; PL 97-424, Sec 413

CFR Citation: 23 CFR 658

Legal Deadline: None.

Abstract: By this action, the FHWA is taking steps to implement the 12-foot-wide lane provisions contained in the Surface Transportation Assistance Act of 1982 (STAA) as amended by the Tandem Truck Safety Act of 1984 (TTSA). An ANPRM published 4/1/85 at 50 FR 12825 identified for re-examination specific routes on the National Network containing sections with lanes less than 12 feet wide in those States which do not otherwise permit 102-inch wide vehicles on the National Network, pursuant to State law. These States are Alabama, Florida, Kentucky, Maryland, Missouri, New Hampshire, New Jersey, New York, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virginia. After a review, FHWA has deleted highways with lane widths less than 12 feet wide found to be inconsistent with highway safety.

Timetable:

Action	Date	FR Cite
ANPRM	04/01/85	50 FR 12825
ANPRM Comment Period End	05/16/85	50 FR 12825
NPRM	03/12/86	51 FR 8511
NPRM Comment Period End	05/11/86	51 FR 8511
Final Action	09/17/87	52 FR 35064
Final Action Effective	09/17/87	52 FR 35064

Small Entity: No

Additional Information: Further Agency Contact is Mr. D. C. Oliver, (202) 366-1354. Also, a Regulatory Impact Analysis which had been prepared for the June 5, 1984, final rule on truck size and weight provisions is available for inspection in the headquarters office of FHWA, 400 Seventh Street, SW, Washington, DC.

Analysis: Regulatory Evaluation 09/17/87 (52 FR 35064)

Agency Contact: Philip W. Blow, Department of Transportation, Federal Highway Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-4036

RIN: 2125-AB43

1937. + COMMERCIAL DRIVER LICENSING STANDARDS; REQUIREMENTS AND PENALTIES

Significance: Regulatory Program

Legal Authority: PL 99-570, Sec 12002

CFR Citation: 49 CFR 383; 49 CFR 391

Legal Deadline: Statutory, July 1, 1987.

Abstract: Section 12002 of Pub. L. 99-570 requires that effective July 1, 1987, drivers of commercial motor vehicles possess but one driver's license. A final rule was issued to implement this statutory mandate.

Timetable:

Action	Date	FR Cite
Final Action	06/01/87	52 FR 20574
Final Action Effective	07/01/87	52 FR 20574

Small Entity: No

Additional Information: The final rule published 6/1/87 (52 FR 20574) requested comments on a possible expansion of the rule's applicability to include drivers of commercial motor vehicles not now subject to this final rule and to further define the term "serious traffic violations." Further rulemaking actions concerning these issues will be determined at a later date. Any further rulemaking actions will be addressed under the entry entitled "Commercial Driver Test and Licensing Standards" (RIN No. 2125-AB68).

Analysis: Regulatory Evaluation 06/01/87 (52 FR 20574)

Agency Contact: Michael F. Trentacoste, Chief, Standards Review Division, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4001

RIN: 2125-AB78

1938. + ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Significance: Agency Priority

Legal Authority: 42 USC 4321 et seq; 23 USC 101 et seq; 49 USC 1601 et seq; 49 USC 303(c); 49 USC 303

DOT—FHWA

Completed Actions

CFR Citation: 23 CFR 771; 49 CFR 622; 23 CFR 790; 23 CFR 635.309; 23 CFR 640.107; 23 CFR 650.109; 23 CFR 712.204

Legal Deadline: None.

Abstract: This regulation covers the preparation of environmental impact statements and related documents and compliance with other Federal environmental requirements under FHWA and UMTA grant programs. The changes are intended to streamline the project development process and provide increased decisionmaking authority to agency field offices. The amendments are significant because they involve important departmental policy. They are needed to reduce burdens associated with the environmental review process.

Timetable:

Action	Date	FR Cite
Notice and Request for Comments on Priority Review	04/13/81	46 FR 21620
NPRM	08/01/83	48 FR 34894
Final Action	08/28/87	52 FR 32645
Final Action Effective	11/27/87	52 FR 32645

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: A. Joseph Ossi, UMTA (202) 366-0096.

Analysis: Regulatory Evaluation 08/28/87 (52 FR 32645)

Agency Contact: Fred Skaer, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2050

RIN: 2125-AA05

1939. EMERGENCY RELIEF

Significance: Nonsignificant

Legal Authority: 23 USC 101; 23 USC 120(f); 23 USC 315; 42 USC 5155; PL 100-17, Sec 118

CFR Citation: 23 CFR 668

Legal Deadline: None.

Abstract: This final rulemaking revised procedures for the administration of emergency funds for the repair or reconstruction of Federal-aid highways, which are found to have suffered serious damage by natural disasters over a wide area or catastrophic failures. These revisions will improve the effectiveness of program implementation. The final rule brings the existing regulation up-to-date considering recent legislative and administrative changes in the program, including section 116 of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	09/17/85	50 FR 37688
NPRM Comment Period End	12/16/85	50 FR 37688
Final Action	06/10/87	52 FR 21945
Final Action Effective	06/10/87	52 FR 21945

Small Entity: No

Additional Information: This rulemaking resulted from a review of the regulation.

Analysis: Reg. Evaluation (Minimal impact) 06/10/87 (52 FR 21945)

Agency Contact: J. A. Carney, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0450

RIN: 2125-AA50

1940. NAVIGATIONAL CLEARANCES FOR BRIDGES

Significance: Nonsignificant

Legal Authority: 23 USC 144(h); 23 USC 315; 33 USC 401; 33 USC 491; 33 USC 511; PL 100-17, Sec 123

CFR Citation: 23 CFR 650

Legal Deadline: None.

Abstract: This regulation establishes FHWA policy and sets forth coordination procedures for Federal-aid highway bridges which require navigational clearances. The revisions summarize existing policies and procedures regarding the construction of bridges over navigable waterways for the purpose of strengthening and improving the coordination between highway interests and waterway interests, and achieving cost-effective designs. In addition, the rulemaking incorporates the exact statutory language mandated by section 123(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) concerning the need for U.S. Coast Guard permits for highway projects on certain minor waterways.

Timetable:

Action	Date	FR Cite
NPRM	04/11/85	50 FR 14251
NPRM Comment Period End	07/11/85	50 FR 14251
Final Action	07/28/87	52 FR 28137
Final Action Effective	08/27/87	52 FR 28137

Small Entity: No

Additional Information: A 90 day comment period was provided.

Analysis: Reg. Evaluation (Minimal impact) 07/28/87 (52 FR 28137)

Agency Contact: Philip Thompson, Hydraulics Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4611

RIN: 2125-AB07

1941. REQUIRED CONTRACT PROVISIONS

Significance: Nonsignificant

Legal Authority: 23 USC 114; 23 USC 315

CFR Citation: 23 CFR 633

Legal Deadline: None.

Abstract: This revision will restructure the existing regulation and remove from it all provisions covered by other regulations. This will facilitate the handling of FHWA form 1273 as a non-regulatory action.

Timetable:

Action	Date	FR Cite
Final Action	10/02/87	52 FR 36919
Final Action Effective	10/02/87	52 FR 36919

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 10/02/87 (52 FR 36919)

Agency Contact: William Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1584

RIN: 2125-AB20

1942. AGREEMENT PROVISIONS REGARDING OVERRUNS IN CONTRACT TIME

Significance: Nonsignificant

DOT—FHWA — **Completed Actions**

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 109; 23 USC 110; 23 USC 113; 23 USC 115; 23 USC 120(f); 23 USC 121(c); 23 USC 125; 23 USC 315; 23 USC 320

CFR Citation: 23 CFR 630

Legal Deadline: None.

Abstract: Revised regulations require each State highway agency (SHA) to keep liquidated damage provisions current so that amounts recovered through contractor assessments would at a minimum cover SHA's average daily construction engineering cost attributable to the contract time overrun. The FHWA rate table presently in the regulation is removed and the provisions for FHWA recovery of costs are modified.

Timetable:

Action	Date	FR Cite
NPRM	03/18/86	51 FR 9417
NPRM Comment Period End	05/02/86	51 FR 9417
Final Action	08/20/87	52 FR 31388
Final Action Effective	10/05/87	52 FR 31388

Small Entity: No

Government Levels Affected: Local, State

Analysis: Reg. Evaluation (Minimal Impact) 08/20/87 (52 FR 31388)

Agency Contact: William Weseman, Department of Transportation, Federal Highway Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-1564

RIN: 2125-AB49

1943. ● LANDSCAPE AND ROADSIDE DEVELOPMENT

Significance: Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315; 23 USC 319; 42 USC 4321 et seq; PL 100-17, Sec 130

CFR Citation: 23 CFR 752

Legal Deadline: None.

Abstract: The FHWA amended its regulation on landscape development to implement a requirement for planting native wildflowers along Federal-aid highways as mandated by section 130 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Section 130 of STURAA amended 23 U.S.C. 319 by adding a requirement that at least one-quarter of one percent of funds expended for landscaping projects be used to plant native wildflowers. This provision requires every landscaping project to include the planting of native wildflower seeds and/or seedlings, unless a waiver has been granted.

Timetable:

Action	Date	FR Cite
Final Action	09/14/87	52 FR 35638
Final Action Effective	09/14/87	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 09/14/87 (52 FR 35638)

Agency Contact: Larry Isaacson, Chief, Environmental Analy. Division, Department of Transportation, Federal Highway Administration, 202 366-0173

RIN: 2125-AB89

1944. ● DRIVING OF MOTOR VEHICLES; OUT-OF-SERVICE CRITERIA

Significance: Nonsignificant

Legal Authority: 49 USC 3102; 49 USC App 2505; 23 USC 315

CFR Citation: 49 CFR 392

Legal Deadline: None.

Abstract: This rulemaking action responds to section 12008(d) of the Commercial Motor Vehicle Safety Act of 1986 (Pub. L. 99-570). The FHWA is amending part 392 to establish and enforce an out-of-service period of twenty-four hours for any commercial vehicle driver of a motor carrier who violates the provisions of 49 CFR 392.

Timetable:

Action	Date	FR Cite
Final Action	07/20/87	52 FR 27200
Final Action Effective	08/19/87	52 FR 27200

Small Entity: No

Analysis: Regulatory Evaluation 07/20/87 (52 FR 27200)

Agency Contact: Thomas P. Kozlowski, Department of Transportation, Federal Highway Administration, 202 366-4049

RIN: 2125-AB90

1945. ● BRIDGE TOLL PROCEDURES; RESCISSION

Significance: Nonsignificant

Legal Authority: PL 100-17, Sec 135; 23 USC 315

CFR Citation: 49 CFR 310

Legal Deadline: None.

Abstract: The FHWA regulation on bridge toll procedural rules has been rescinded because the provisions are obsolete. Section 135 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) repealed the legislation providing for Federal regulation and review of toll increases on certain toll bridges. For this reason, Part 310 is no longer operative, and has been, therefore, rescinded.

Timetable:

Action	Date	FR Cite
Final Action Effective	04/02/87	52 FR 22473
Final Action	06/12/87	52 FR 22473

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 06/12/87 (52 FR 22473)

Agency Contact: Mr. Edward J. Mullaney, Department of Transportation, Federal Highway Administration, 202 366-1356

RIN: 2125-AB97

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage

National Highway Traffic Safety Administration (NHTSA)

1946. + REVIEW: IMPACT PROTECTION FOR THE DRIVER FROM THE STEERING CONTROL SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.203

Legal Deadline: None.

Abstract: This review involves detailed quantitative analysis of factors limiting the performance of energy-absorbing steering assemblies in cars and an evaluation of the assemblies' fatality and injury reduction in light trucks.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/86	
End Review	12/31/88	

Small Entity: Undetermined

Agency Contact: Frank G. Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, NNP-10, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127-AB78

DOT—NHTSA — **Prerule Stage**

1947. + SIDE IMPACT PROTECTION, HEAD/NECK PROTECTION, AND OCCUPANT EJECTION MITIGATION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.214

Legal Deadline: None.

Abstract: Would propose amending the current standard to include head/neck protection and to mitigate ejection through side windows and doors.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB85

1948. + UNIFORM TIRE-QUALITY GRADING

Significance: Agency Priority

Legal Authority: 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None.

Abstract: Would include rolling resistance for tires as a substitute for top temperature resistance grade in the Uniform Tire Quality Grading Standards.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Orron Kee, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0846

RIN: 2127-AA52

1949. REVIEW: SCHOOLBUS SEATING SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.222

Legal Deadline: None.

Abstract: This regulation was selected for review because of public interest.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/85	
Next Action Undetermined		

Small Entity: No

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127-AA65

1950. REVIEW: SEATING SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.207

Legal Deadline: None.

Abstract: This regulation was selected for review because of costs.

Timetable:

Action	Date	FR Cite
Begin Review	05/01/86	
Preliminary evaluation report published	02/10/87	52 FR 4818
End Review	12/00/87	

Small Entity: No

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127-AA69

1951. REVIEW: LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None.

Abstract: The standard requires passenger cars sold after Oct. 1, 1985 to be equipped with center high-mounted stop lamps. The evaluation will determine the reduction of rear-impact collisions that occurs after the lamps are introduced in the vehicle fleet, as well as the cost of the lamps.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
Preliminary evaluation report published	03/20/87	52 FR 9600
Interim Report	01/01/88	
End Review	10/01/89	

Small Entity: Undetermined

Additional Information: The preliminary evaluation report indicated that cars equipped with center high mounted stop lamps were 22 percent less likely to be struck in the rear while braking than cars without the lamps.

Agency Contact: Frank G. Ephraim, Director, Office of Standards Evalution, Department of Transportation, National Highway Traffic Safety Administration, NPP-10, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127-AB76

1952. ● REVIEW ROOF CRUSH RESISTANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.216

Legal Deadline: None.

Abstract: This program was selected for review because of costs. The evaluation will study the effect of roof crush strength on the crashworthiness of passenger cars in rollover crashes.

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DOT—NHTSA

Prerule Stage

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	12/31/88	

Small Entity: No

Agency Contact: Frank Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-1574

RIN: 2127-AC20

1953. FLAMMABILITY OF SCHOOL BUS INTERIOR MATERIALS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None.

Abstract: Would utilize guidelines prescribed by UMTA to define flammability characteristics of school bus interior materials.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA44

1954. CONSUMER INFORMATION - WET STOPPING DISTANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 575.105

Legal Deadline: None.

Abstract: Would develop a new rule for consumer information if tests indicate that there are significant differences in wet stopping distances among different models of cars on asphalt or concrete road surfaces.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Orron Kee, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0846

RIN: 2127-AA56

1955. OCCUPANT PROTECTION IN INTERIOR IMPACT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.201

Legal Deadline: None.

Abstract: This standard, which is applicable to passenger cars, light trucks and buses, and multi-purpose passenger vehicles, includes requirements for padded instrument panels, seat backs, sun visors and arm rests. Its purpose is to provide impact protection for occupants. This regulation was selected for review because of costs, safety benefits and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/86	
End Review	12/00/87	

Small Entity: No

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127-AB16

1956. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 301 - FUEL SYSTEM INTEGRITY

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.301

Legal Deadline: None.

Abstract: This standard, which is applicable to passenger cars, light trucks, and school buses, specifies requirements for the integrity of motor vehicle fuel systems. The purpose of the standard is to reduce deaths and injuries caused by fires which result from fuel spillage after motor vehicle crashes. This evaluation follows up and expands on a prior study on passenger cars which showed that, while the regulation was effective in preventing deaths and injuries, the incidence of crash fires appeared to be increasing. This evaluation will also provide the initial assessment of the regulation as it applies to light trucks. A review has determined that this rule has minimal effects on small entities, and therefore a Regulatory Flexibility Act review is not required. The rule will still be reviewed as a priority review item. Subsequent to completion of the study and provision for public comment, the Agency will consider whether changes should be made in the standard's requirements.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
End Review	09/00/88	

Small Entity: No

Agency Contact: Frank Ephraim, Director, Office of Program Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127-AB43

1957. OCCUPANT CRASH PROTECTION: DYNAMIC-TESTING PETITION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None.

Abstract: The American Seat Belt Council petitioned the agency to amend Standard No. 208 to require that automatic belts and dynamically tested manual belts meet the webbing requirements of Standard No. 209. NHTSA is currently reviewing the petition, to consider appropriate action.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Analysis: Evaluation type to be determined

DOT—NHTSA

Prerule Stage

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC00

1958. ● NON-PNEUMATIC TIRES FOR PASSENGER CARS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.109

Legal Deadline: None.

Abstract: Based on a petition, the agency is considering creation of a new standard for temporary-use non-pneumatic spare tires. At the present time Federal Motor Vehicle Safety Standard No. 110 prohibits the use of non-pneumatic tires.

Timetable:

Action	Date	FR Cite
Request for Comments	09/23/87	52 FR 35740
Comment Period End	12/22/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC18

DEPARTMENT OF TRANSPORTATION (DOT)

National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

1959. + CRASHWORTHINESS RATINGS

Significance: Regulatory Program

Legal Authority: 15 USC 1401; 15 USC 1941

CFR Citation: 49 CFR Chapter 5

Legal Deadline: None.

Abstract: Ratings: Would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. 79-17. NPRM, Notice 1. Comment due date extended to October 22, 1981 by notice published April 2, 1981 (46 FR 19947; Notice 2).

Analysis: Regulatory Impact Analysis

Agency Contact: Charles Gauthier, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4905

RIN: 2127-AA03

1960. + COMMERCIAL VEHICLE CONSPICUITY

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None.

Abstract: Would improve the conspicuity of commercial vehicles by establishing in FMVSS 108 performance requirements for the total lighting and marking system of commercial vehicles (excluding headlights).

Timetable:

Action	Date	FR Cite
ANPRM	05/27/80	45 FR 35405
Request for Comments	09/18/87	52 FR 35345
Comment Period End	11/09/87	

Small Entity: No

Additional Information: Docket No. 80-9.

Research underway.

Analysis: Regulatory Flexibility Analysis

Agency Contact: M. Finkelstein, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1537

RIN: 2127-AA12

1961. + TRUCK REAR UNDERRIDE PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None.

Abstract: Would require protective devices to reduce vehicle penetration under the rear ends of heavy trucks and trailers (without resulting in overly severe forces being transmitted to restrained and unrestrained occupants in vehicles that crash into the devices).

Timetable:

Action	Date	FR Cite
NPRM	01/08/81	46 FR 2136
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: Docket No. 1 11. NPRM, Notice 8.

Research underway.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA43

1962. + PEDESTRIAN PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None.

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DOT—NHTSA — **Proposed Rule Stage**

Abstract: Would reduce adult pedestrian leg injuries and child injuries through modification of the vehicle bumper area.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7015

Next Action Undetermined

Small Entity: Yes

Additional Information: Docket No. 78-19. NPRM, Notice 1. Research underway.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA45

1963. + ANTHROPOMORPHIC TEST DUMMIES: SIDE-IMPACT THORAX PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None.

Abstract: Would provide performance criteria for the adult surrogate dummies which would be required in dynamic testing of vehicles if Standard 214, Side Door Strength, is upgraded.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA48

1964. + SPLASH AND SPRAY SUPPRESSION DEVICES

Significance: Regulatory Program

Legal Authority: 49 USC 2314

CFR Citation: 49 CFR 583

Legal Deadline: None. Standard for new vehicles is now required to take effect one year after final rule is published.

Abstract: In accordance with the mandate of section 414 of the Surface Transportation Assistance Act of 1982, would establish minimum standards with respect to the performance of splash and spray suppression devices on truck tractors, semitrailers and trailers. Would also establish minimum standards with respect to the installation of splash and spray suppression devices on new vehicles. This regulation is significant because it is potentially controversial.

Timetable:

Action	Date	FR Cite
NPRM	04/12/85	50 FR 14632
NPRM Comment Period Extended	02/13/86	51 FR 5383
NPRM Comment Period End	04/14/86	51 FR 5383
Request for comment and Notice of Public Meetings	09/28/87	52 FR 36285
Comment Period End	11/27/87	

Small Entity: Yes

Additional Information: NHTSA's rulemaking would only affect new vehicles and equipment. However, section 414 of the Surface Transportation Assistance Act also mandates that the Department of Transportation establish minimum standards with respect to the installation of splash and spray devices for vehicles already in service. The Federal Highway Administration will conduct the rulemaking to satisfy that mandate. The Federal Highway Administration has classified its rulemaking as major. The costs of that rulemaking are expected to be much greater than NHTSA's rulemaking since (1) the population of vehicles in service is many times the annual production of new trucks, (2) a truck manufacturer will pay less per unit for each splash and spray suppression device when ordered in large quantities, and (3) the labor time to install the devices is far less for a new truck manufacturer, since it can be done at the assembly plant. In 1984, the Surface Transportation Assistance Act was amended to change the implementation date from 1/1/85, for new vehicles and 1/1/88, for vehicles in service, to one year after publication of the Final Rule for new vehicles & 3 years later for vehicles in service.

Analysis: Preliminary Regulatory Evaluation 04/12/85 (50 FR 14632)

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA97

1965. + UNIFORM TIRE QUALITY GRADING STANDARDS - TREADWEAR AMENDMENTS

Significance: Regulatory Program

Legal Authority: 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None.

Abstract: Would amend treadwear grading procedures of the Uniform Tire Quality Grading Standards to assure greater reliability of grading information for consumers. Test procedures would be amended to reduce variability. This regulation is significant because it involves important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Analysis: Preliminary Regulatory Evaluation 00/00/00

Agency Contact: Orron Kee, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0846

RIN: 2127-AB21

1966. + SIDE IMPACT PROTECTION: THORAX PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.214

Legal Deadline: None.

Abstract: Would propose amending the current standard to upgrade thoracic protection in passenger-car side impacts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB87

DOT—NHTSA — **Proposed Rule Stage**

1967. + LIGHTING SIMPLIFICATION--POTENTIAL AMENDMENTS TO SIMPLIFY FMVSS 108 LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None.

Abstract: Proposes a comprehensive review of headlighting requirements of FMVSS No. 108 which may be simplified, while being consistent with motor vehicle safety. The agency has concentrated its efforts into five principal areas. The first is the feasibility of a standard directed toward on-board original equipment headlighting performance rather than toward performance of individual aftermarket headlamps in a laboratory environment. The second is the desirability of specifications for headlamp life. The third concerns the necessity of dimensional specifications for headlamp equipment. The fourth is the issue of headlamp aim. The fifth is the elimination of obsolete photometric requirements.

Timetable:

Action	Date	FR Cite
ANPRM	10/22/85	50 FR 42735
ANPRM Comment Period End	03/06/86	51 FR 1542
NPRM	10/00/87	

Small Entity: Undetermined

Additional Information: Docket No. 85-15, Notice 1.

Docket No. 85-15, Notice 2.

Federal Register Notice (51 FR 1542) extended comments period from a closing date of Jan. 21, 1986 to March 6, 1986.

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB87

1968. + 1990-1991 MODEL YEAR LIGHT-TRUCK FUEL-ECONOMY STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 533

Legal Deadline: Statutory. Light truck fuel economy standards are required to be set at least 18 months prior to the beginning of the model year(s).

Abstract: In accordance with the mandatory requirements of Section 502 (b) of the Motor Vehicle Information and Cost Savings Act, this rulemaking will establish light-truck average fuel-economy standards for Model Years 1990 and 1991.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	12/00/88	

Small Entity: Not Applicable

Agency Contact: Orron Kee, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, NRM-21 400 Seventh St., SW, Washington, DC 20590, 202 366-4936

RIN: 2127-AC05

1969. + HEAVY DUTY VEHICLE BRAKE SYSTEMS (FORMERLY TRUCK AND TRAILER BRAKE SYSTEMS)

Significance: Agency Priority

Legal Authority: 15 USC 1392 National Traffic & Motor Vehicle Safety Act of 1966; 15 USC 1407 National Traffic & Motor Vehicle Safety Act of 1966

CFR Citation: 49 CFR 571.121; 49 CFR 571.105

Legal Deadline: None.

Abstract: Would establish a new brake standard for all trucks, buses and trailers with a Gross Vehicle Weight Rating (GVWR) over 10,000 pounds. This standard would replace Standard No. 121, Air Brake Systems, and that portion of Standard No. 105, Hydraulic Brake Systems, that applies to vehicles with a GVWR over 10,000 pounds. It would also establish new requirements for heavy trailers having other than air-actuated brakes. In developing the standard, the agency will consider compatibility with international regulations. Research programs in support of this new standard and possible future upgradings of the standard will investigate such long-term advanced braking system concepts as antilock systems, automatic brake adjustors, load-sensing proportioning values, air driers, and retarders for heavy trucks, buses, and trailers. This rule is considered significant because of the level of public and Congressional interest. It is necessary to prevent and reduce the severity of accidents involving heavy vehicles by providing increased accident avoidance capability.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/79	44 FR 9783
ANPRM	02/26/80	45 FR 13155

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 79-03. ANPRM, Notice 1; Second ANPRM, Notice 3.

Research underway.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA00

1970. + VEHICLE CLASSIFICATION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407; 15 USC 2001

CFR Citation: 49 CFR 571

Legal Deadline: None.

Abstract: In response to a petition for rulemaking, the notice would invite comment on possible amendments to the safety regulations with respect to the manner in which compact vans/station wagons and certain other vehicles are classified.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Deborah Parker, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4931

RIN: 2127-AA57

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1971. + VOLUNTARY TIRE REGISTRATION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407; 15 USC 1418; 15 USC 1421

CFR Citation: 49 CFR 574

Legal Deadline: None.

Abstract: This regulation requires that independent tire dealers provide customers with a card to register newly purchased tires so that the customer may send in the completed card. These dealers were formerly required to register the tires for the customer, a requirement which has been retained for manufacturer-owned stores. The Motor Vehicle Safety and Cost Savings Authorization Act of 1982 requires that an evaluation be conducted.

Timetable:

Action	Date	FR Cite
Begin Review	07/01/83	
Prelim. Evaluation Report Published	09/27/85	50 FR 188
ANPRM	12/23/86	51 FR 45916
ANPRM Comment Period End	02/06/87	51 FR 45916

Next Action Undetermined

Small Entity: No

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1574

RIN: 2127-AB18

1972. + HEAVY TRAILER STABILITY

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None.

Abstract: In response to a petition for rulemaking, the agency is proposing a new regulation to add a requirement that 102-inch wide trailers be equipped with axle tracks having a minimum axle width of 77 inches. An advanced notice of proposed rulemaking seeking comments on the safety issue raised by the petition was published on May 22, 1984 (49 FR 21551). This rulemaking is significant because of the possible substantial impact on the industry and because it is a joint venture involving two operating administrations.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/84	49 FR 21551
ANPRM Comment Period End	08/20/84	49 FR 21551

Next Action Undetermined

Small Entity: Yes

Additional Information: This regulation is a joint endeavor of NHTSA and the Bureau of Motor Carrier Safety (BMCS). A departmental task force was formed in February 1985 to analyze the economic issues associated with this undertaking. Thus, further public action awaits the results of the task force analysis, which are anticipated in 1987.

Analysis: To Be Determined

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB42

1973. + OCCUPANT CRASH PROTECTION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None.

Abstract: ANPRM will request comments on proposing an amendment to Standard No. 208, Occupant Crash Protection, to require Type 2 safety belts in the outboard seating positions in the rear seats of passenger cars and MPVs and trucks with GVWR of 10,000 pounds or less. This action is significant because of the recent NTSB report on lap-belt injuries and resultant public interest expected.

Timetable:

Action	Date	FR Cite
ANPRM	06/16/87	52 FR 22818
ANPRM Comment Period End	07/31/87	52 FR 22818
NPRM	10/00/87	

Small Entity: Undetermined

Analysis: Regulatory Impact Analysis 00/00/00

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB91

1974. + HEAD RESTRAINTS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.202

Legal Deadline: None.

Abstract: Petition for rulemaking to require head restraints on vehicles other than passenger cars. NHTSA is currently reviewing the petition, to determine appropriate action.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Analysis: Regulatory Impact Analysis

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC06

1975. PASSENGER CAR BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None.

Abstract: Would propose a New Standard No. 135, "Passenger Car Brake System," which would replace Standard No. 105, "Hydraulic Brake System," as it applies to that vehicle type. New Standard would differ from the existing one primarily in that it contains a revised and shortened test procedure based on a draft harmonized international procedure developed by the United Nations Economic Commission for Europe (ECE).

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19744
Extended comment period to 01/13/86	09/17/85	50 FR 37702
NPRM Comment Period End	10/07/85	50 FR 19744
SNPRM	01/14/87	52 FR 1474
SNPRM Comment Period End	10/13/87	

Small Entity: No

Additional Information: Docket No. 85-06.

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA13

1976. REARVIEW MIRROR SYSTEMS: HEAVY VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None.

Abstract: Would amend FMVSS No. 111 to improve mirror systems for trucks, buses and multipurpose passenger vehicles with a GVWR over 10,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 71-3a. NPRM, Notice 4.

Research underway.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA21

1977. REARVIEW MIRROR SYSTEMS: LIGHT VEHICLES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None.

Abstract: Would amend Federal Motor Vehicle Safety Standard No. 111 to improve mirror systems for trucks, buses, and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 71-3a. NPRM, Notice 4.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA23

1978. AIR-BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None.

Abstract: Would revise the requirements in Standard No. 121 for parking and emergency brake functions for trailers. Based on comments to NPRM of 02/23/81 (46 FR 37952) a new NPRM is deemed necessary.

Timetable:

Action	Date	FR Cite
NPRM	07/23/81	46 FR 37952
SNPRM Supplemental	10/00/87	

Small Entity: No

Additional Information: Docket No. 79-03. NPRM, Notice 5.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA27

1979. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Significance: Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None.

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR Parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	12/00/88	

Small Entity: No

Agency Contact: Kathleen C. DeMeter, Ass't Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1834

RIN: 2127-AB79

1980. VOLUNTARY VEHICLE IDENTIFICATION STANDARD (THEFT PREVENTION STANDARD)

Significance: Nonsignificant

Legal Authority: 15 USC 2033

CFR Citation: 49 CFR to be determined

Legal Deadline: None.

Abstract: NHTSA will promulgate a voluntary vehicle identification standard under which any person may elect to inscribe or affix an identifying number or symbol on major parts of any motor vehicle manufactured or owned by such person for purposes of section 511 of Title 18, United States Code, and related provisions. Compliance with this standard shall not relieve any manufacturer of motor vehicles from compliance with the requirements of the Federal motor vehicle theft prevention standard (49 CFR Part 541), or any other applicable regulation. Action is significant because it supplements the statutory requirement of 15 USC 2033 by allowing consumers to protect their vehicles and parts by identifying them.

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Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Agency Contact: Barbara Kurtz, Senior Program Analyst, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, NRM-20, 400 Seventh St., SW, Washington, DC 20590, 202 366-4807

RIN: 2127-AB93

1981. ANTHROPOMORPHIC TEST DUMMIES REPRESENTING CHILDREN

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None.

Abstract: Would update the specifications of Part 572 covering the three-year-old child dummy to allow optional use of new accelerometers and a new head design.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB94

1982. GLAZING MATERIALS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None.

Abstract: Possible amendment to Standard No. 205, Glazing Materials, to require markings remain visible when glazing is installed in vehicles.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB98

1983. ● ANTHROPOMORPHIC TEST DUMMIES REPRESENTING CHILDREN

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None.

Abstract: Would add the specifications covering the 6-year-old child dummy to Part 572 to allow its use in evaluation of child restraints designated for older children.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC09

1984. ● ANTHROPOMORPHIC TEST DUMMIES REPRESENTING CHILDREN

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None.

Abstract: Would add the specification covering the 9-month-old child test dummy to Part 572 to allow its use in evaluation of restraints designated for infants and small toddlers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC10

1985. ● FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 208 - OCCUPANT CRASH PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None.

Abstract: In response to a petition from the Ford Motor Company to extend the current one car credit (for vehicles equipped with a driver side air bag and a manual lap/shoulder belt at the passenger side) beyond the phase-in period to allow consolidation of engineering efforts to produce passenger side air bags as well as driver side air bags, an NPRM was issued on November 25, 1986 (51 FR 42598).Responses were favorable and subsequently, on March 30, 1987, a Final Rule (52 FR 10096) was issued permitting the extension of the one car credit, but limited to an additional four years beyond the end of the current phase-in period. Petition for reconsideration is being reviewed; decision is to be made by 10/00/87.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Resolution of petition for reconsideration	10/00/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC11

1986. ● SUPPLEMENTAL FMVSS NO. 208 INJURY CRITERIA - FACIAL LACERATIONS, NECK INJURY, KNEE SHEAR, TIBIA AND ANKLE INJURIES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None.

DOT—NHTSA

Proposed Rule Stage

Abstract: The intention to apply in Federal Motor Vehicle Safety Standard No. 208 rulemaking additional injury criteria in order to prevent facial lacerations, neck injury, knee shear, tibia, and ankle trauma was announced in Notice 39 Docket 74-14. The final rule (Notice 40) stated that the agency will issue another Notice on the additional injury criteria to gain additional information about the potential effects of adopting these criteria. Alternatives and potential costs were addressed in Notice 39.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC12

1987. ● MANDATORY USE OF THE PART 572(E) DUMMY IN FMVSS 208 COMPLIANCE TESTING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None.

Abstract: Petitions for reconsideration have raised the question of whether the Part 572(e) dummy's chest deflection limit of 2 in. is appropriate for belt restraints. The rulemaking will address the petitioner's issues.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC13

1988. ● FEDERAL MOTOR VEHICLE SAFETY STANDARDS NO. 205, GLAZING MATERIALS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None.

Abstract: Based on a petition, would amend Federal Motor Vehicle Safety Standard No. 205, Glazing Materials, to revise the ball drop test (Test 12) for glass-plastic glazing. NHTSA is evaluating the petition.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC14

1989. ● NEW PNEUMATIC TIRES FOR PASSENGER CARS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.109

Legal Deadline: None.

Abstract: Non-substantive amendments to Federal Motor Vehicle Safety Standard No. 109 to add an inflation pressure for reinforced tires. This increase in inflation pressure will be done without an increase in the tire load capacity. This change will allow reinforced tires (extra-load tires) to operate at a higher pressure for safety and optimum vehicle handling. No cost is involved.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC16

1990. ● FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 221, SCHOOLBUS BODY JOINT STRENGTH

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.221

Legal Deadline: None.

Abstract: Requests comments on three items, all related to FMVSS No. 221 School Bus Body Joint Strength. These are: (a) possible new standard requiring minimum floor strength for large school buses over 10,000 lbs. GVWR, (b) revision of exemption provision for maintenance access panels, and (c) revision of test procedures of FMVSS No. 221

Timetable:

Action	Date	FR Cite
ANPRM	06/15/87	52 FR 23314
ANPRM Comment Period End	08/03/87	52 FR 23314
Comment Period Extended to	10/15/87	52 FR 29873

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC19

1991. ● GEAR LOCK; THEFT PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.114

Legal Deadline: None.

Abstract: An amendment to Federal Motor Vehicle Safety Standard (FMVSS) No. 114 to prevent the inadvertent knocking out of gear of the gear shift lever and potential accidents, injuries and fatalities from vehicles rolling out of control. This amendment is in response to a petition for rulemaking relating to an inadvertent knock-out-of-gear accident resulting in

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a fatality. In addition, FMVSS 114 is proposed to be amended to insure that, if a steering column locking device is employed, the device cannot be activated until the key is removed and the vehicle must be in park on automatic transmission to remove the key and either reverse or first gear for manual transmissions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC24

1992. ● POWER-OPERATED WINDOW SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1393; 15 USC 1407

CFR Citation: 49 CFR 571.118

Legal Deadline: None.

Abstract: Amendments are proposed to Federal Motor Vehicle Safety Standard No. 118 to extend applicability of the standard to light trucks to broaden the safety potential, to allow lowering of power windows after the key is removed to provide more consumer convenience without degrading safety, and to change the terminology of the exterior activation device from key-locking to just locking which allows alternative locking systems, such as touch-pad locks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC25

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage
National Highway Traffic Safety Administration (NHTSA)

1993. + POST-1986 PASSENGER CAR FUEL-ECONOMY STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 531

Legal Deadline: Statutory. Amendments reducing the fuel economy standard for a particular model year are required to be made by the beginning of a model year.

Abstract: General Motors (GM) and Ford have petitioned for reduction of the passenger car average fuel economy standards for Model Year 1986 and beyond. The Center for Auto Safety and the Environmental Policy Institute petitioned to raise the standards for Model Years 1987 through 1990. All of these petitions were addressed in rulemakings which reduced the standard from 27.5 miles per gallon (mpg) to 26.0 mpg for Model Years 1986 through 1988 (10/06/86, 51 FR 35594) Further rulemaking action, for Model Years 1989 and beyond, is undetermined at this time, pending potential legislative action to repeal or amend the CAFE legislation.

Timetable:

Action	Date	FR Cite
NPRM	01/22/86	51 FR 2912
NPRM Comment Period End	03/24/86	51 FR 2912
SNPRM	07/30/86	51 FR 27224

Next Action Undetermined

Small Entity: No

Agency Contact: Orron Kee, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0846

RIN: 2127-AB75

1994. + PETITIONS FOR EXEMPTION FROM THE VEHICLE THEFT PREVENTION STANDARD

Significance: Agency Priority

Legal Authority: 15 USC 2025

CFR Citation: 49 CFR 543

Legal Deadline: None. Statute requires petitions for exemption to be submitted 8 months before start of production of passenger vehicle line.

Abstract: Establishes procedures to be followed by manufacturers in preparing and submitting petitions for exemptions from the vehicle theft prevention standard. Passenger motor vehicle manufacturers may petition NHTSA for these exemptions for vehicle lines whose standard equipment includes an antitheft device that is likely to be as effective as compliance with the vehicle theft prevention standard in deterring and reducing vehicle theft. Procedures are also established which the agency will follow in processing these petitions and in reaching determinations on whether they should be granted. These procedures have been issued as an interim final rule for MY 1987 and as a proposed rule for MYs 1988 and thereafter.

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 715
Interim Final Rule	01/07/86	51 FR 706
NPRM Comment Period End	03/10/86	51 FR 715
Final Action	10/00/87	

Small Entity: No

Analysis: Preliminary Regulatory Evaluation 01/07/86 (51 FR 706)

Agency Contact: Barbara Kurtz, Senior Program Analyst, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, NRM-20, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4807

RIN: 2127-AB81

1995. + FEDERAL MOTOR VEHICLE SAFETY STANDARDS; SCHOOLBUS PASSENGER SEATING AND CRASH PROTECTION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.222

Legal Deadline: None.

DOT—NHTSA — **Final Rule Stage**

Abstract: Would amend Federal Motor Vehicle Safety Standard No. 222, School Bus Passenger Seating and Crash Protection, to set requirements for safety belts when belts are voluntarily installed on school buses having gross vehicle weight ratings greater than 10,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	10/10/85	50 FR 41368
NPRM Comment Period End	11/25/85	50 FR 41368
Final Action	12/00/87	

Small Entity: No

Additional Information: Notice grants a petition for rulemaking submitted by the Wayne Corporation and proposes an amendment to Federal Motor Vehicle Safety Standard No. 222, "School Bus Passenger Seating and Crash Protection."

Analysis: Regulatory Impact Analysis

Agency Contact: Robert Williams, Department of Transportation, National Highway Traffic Safety Administration, NRM-12, 400 Seventh Steet, SW, Washington, DC 20590, 202 366-4919

RIN: 2127-AB84

1996. + DAYTIME RUNNING LIGHTS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None.

Abstract: A petition was received from the Insurance Institute for Highway Safety (IIHS) on November 8, 1985. It requests that the Federal lighting regulation (FMVSS No. 108) be changed to allow installation of daytime running lights (DRLs) by original equipment manufacturers. Although the existing standard does not specifically prohibit DRLs, some changes to FMVSS No. 108 would be required to accommodate various suggested DRL configurations. NHTSA has exchanged information with Transport Canada on DRLs, and on the evaluation of effectiveness of various DRL configurations. Canada issued a proposed regulation which would require that new vehicles be equipped with DRLs. The agency would like to ensure that changes made in FMVSS No. 108 are compatible with the final technical specifications of Transport Canada. NHTSA plans to take action on the IIHS petition now that the Canadian NPRM is published. Proceeding is significant because of the importance of keeping pace with the Canadian action.

Timetable:

Action	Date	FR Cite
NPRM	03/24/87	52 FR 9316
NPRM Comment Period End	05/08/87	52 FR 9316
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Ralph J. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4910

RIN: 2127-AB92

1997. + OCCUPANT CRASH PROTECTION: LIGHT-TRUCK SAFETY BELT DYNAMIC TESTING

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None.

Abstract: Proposes an amendment to Standard No. 208 to require dynamic testing of manual belts in light-duty trucks.

Timetable:

Action	Date	FR Cite
NPRM	04/12/85	50 FR 14589
NPRM Comment Period End	05/28/85	50 FR 14589
Final Action	12/00/87	

Small Entity: Undetermined

Analysis: Evaluation type to be determined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC01

1998. STEERING CONTROL REARWARD DISPLACEMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.204

Legal Deadline: None.

Abstract: Would extend the applicability of the Standard from vehicles with an unloaded weight of 4,000 pounds to vehicles with an unloaded weight of 5,500 pounds.

Timetable:

Action	Date	FR Cite
NPRM	04/04/85	50 FR 13402
NPRM Comment Period End	07/19/85	50 FR 20919
Final Action	12/00/87	

Small Entity: No

Analysis: Regulatory Flexibility Analysis; Preliminary Regulatory Evaluation 04/04/85 (50 FR 13402); Final Regulatory Evaluation 10/00/87

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA32

1999. MOTORCYCLE HELMETS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.218

Legal Deadline: None.

Abstract: The proposal would add new headform sizes to Federal Motor Vehicle Safety Standard No. 218.

Timetable:

Action	Date	FR Cite
NPRM	09/27/85	50 FR 39144
NPRM Comment Period End	11/26/85	50 FR 39144
Final Action	10/00/87	

Small Entity: Undetermined

Analysis: Preliminary Regulatory Evaluation 09/27/85 (50 FR 39144)

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA40

2000. SEATING REFERENCE POINT/MOTOR VEHICLE DRIVER'S EYE RANGE

Significance: Nonsignificant

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Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None.

Abstract: Would update the definition of Seating Reference Point to incorporate latest industry practices.

Timetable:

Action	Date	FR Cite
ANPRM	03/08/82	47 FR 9865
NPRM	06/05/86	51 FR 20536
NPRM Comment Period End	08/04/86	51 FR 20536
Final Action	12/00/87	

Small Entity: No

Additional Information: Docket No. 82-05.

Analysis: Regulation Evaluation (Minimal) 06/05/86 (51 FR 20536)

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA46

2001. CONSUMER INFORMATION—STOPPING DISTANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 575.101

Legal Deadline: None.

Abstract: Would modify requirements for stopping-distance consumer information. A notice was published approving various alternatives concerning the requirement to provide stopping-distance information. Comments are under review and analysis.

Timetable:

Action	Date	FR Cite
NPRM	06/30/83	48 FR 30166
NPRM Comment Period End	08/05/83	48 FR 30166
Final Action	10/00/87	

Small Entity: No

Additional Information: Docket No. 83-09. NPRM, Notice 1.

Agency Contact: Charles Gauthier, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4805

RIN: 2127-AA50

2002. REARVIEW MIRRORS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None.

Abstract: This proposal would amend Federal Motor Vehicle Safety Standard No. 111 by establishing requirements for passenger cars to: a) reduce the blind areas by upgrading mirror visibility using improved compliance testing procedures, b) upgrade occupant protection requirements and add pedestrian protection requirements using shatter resistant and breakaway or foldaway tests, c) set specifications for day-night reflectance requirements to reduce headlight glare, d) set specifications for convex mirror quality and use, and e) minimize obstruction of the forward view by establishing mirror location specifications. Final Rule to permit use of passenger side convex mirrors published. Final Rule responding to petitions and clarifying 1982 Final Rule published.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657
Final Action to permit use of passenger side convex mirrors published	09/02/82	47 FR 38698
Final Action responding to petitions and clarifying 1982 FR published	08/26/83	48 FR 38842

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 71-3a. NPRM, Notice 4; FR, Notice 6; FR, Notice 7.

Action to be terminated with respect to other issues.

Agency Contact: R. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA88

2003. HYDRAULIC AND AIR BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None.

Abstract: In response to a petition for rulemaking, would amend the brake burnish procedures specified for vehicles over 10,000 pounds by Standards No. 105 and No. 121.

Timetable:

Action	Date	FR Cite
NPRM	06/27/83	48 FR 29560
NPRM Comment Period End	08/26/83	48 FR 29560
SNPRM published comment period ended 11/19/85	05/23/85	50 FR 21313
Final Action	10/00/87	

Small Entity: No

Additional Information: Docket Nos. 70-27 and 83-07. NPRM, Docket No. 70-27, Notice 26; Docket No. 83-07, Notice 1.

Analysis: Regulatory Evaluation (Minimal) 05/23/85 (50 FR 21313)

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA92

2004. SEAT BELT ASSEMBLY ANCHORAGES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.210

Legal Deadline: None.

Abstract: Proposes amending Standard No. 210 to harmonize the strength of the anchorage test with the United Nations Economic Commission for Europe (ECE) Regulation No. 14 and to upgrade other requirements and clarify language.

Timetable:

Action	Date	FR Cite
NPRM	02/03/87	52 FR 3293
NPRM Comment Period End	04/06/87	52 FR 3293
Final Action	12/00/87	

Small Entity: No

Analysis: Evaluation type to be determined

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA95

2005. AIR BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None.

Abstract: Would amend the brake application and release timing requirements and test devices in Federal Motor Vehicle Safety Standard No. 121 in order to better simulate the real-world performance with respect to towing and towed units, especially multi-trailer combinations.

Timetable:

Action	Date	FR Cite
NPRM	05/14/85	50 FR 20113
NPRM Comment Period End	06/28/85	50 FR 20113
NPRM Comment Period Extended to 12-30-85	07/01/85	50 FR 27032
Final Action	10/00/87	

Small Entity: No

Analysis: Regulatory Evaluation (minimal) 05/14/85 (50 FR 20113)

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB12

2006. OCCUPANT CRASH PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None.

Abstract: Proposes an amendment to standard No. 208, Occupant Crash Protection, to upgrade the safety belt requirements for new trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating of more than 10,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	05/24/85	50 FR 23041
NPRM Comment Period End	07/15/85	
Final Action	12/00/87	

Small Entity: Undetermined

Analysis: Regulatory Evaluation (Minimal) 05/24/85 (50 FR 23041)

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB71

2007. CHILD RESTRAINT SYSTEMS—BUILT-IN CHILD RESTRAINTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 47 CFR 571.213

Legal Deadline: None.

Abstract: Modify standard no. 213 to allow built-in child restraints and specify performance requirements for these built-in restraints.

Timetable:

Action	Date	FR Cite
NPRM	03/23/87	52 FR 9194
NPRM Comment Period End	05/22/87	
Final Action	10/00/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 Seventh St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AB97

2008. ● STANDARD NO. 112, HEADLAMP CONCEALMENT DEVICES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.112

Legal Deadline: None.

Abstract: Chrysler Corporation petitioned for a change to Federal Motor Vehicle Safety Standard No. 112, Headlamp Concealment Devices. It requested that a requirement, for no light to be projected to the left or above the final position of a headlamp beam during the operation of a concealed headlamp from closed to open or vice versa, be changed to a performance test. Agency review of the petition and standard found that the design restrictive requirement did not appear to solve a significant safety problem. The agency proposed deletion of the requirement rather than amending it as Chrysler requested.

Timetable:

Action	Date	FR Cite
NPRM	02/23/87	52 FR 5474
NPRM Comment Period End	04/09/87	52 FR 5474
Final Action	10/00/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC21

2009. ● STANDARD NO. 108, LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None.

Abstract: Volkswagen of America petitioned to change Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment to permit an additional standardized replaceable light source for motor vehicle headlamps. The type of light source proposed was that currently used in European headlamps, the type H-4. Review of the merits of the petition found that, as used in Europe, the light source was not capable of achieving the

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level of performance required of U.S. light sources and NHTSA subsequently proposed a U.S. version to be known as the type HB2, which would have interchangeability and performance aspects compatible with U.S. safety needs. Comments by the U.S. and foreign lighting and vehicle manufacturers led to a supplemental notice.

Timetable:

Action	Date	FR Cite
NPRM	05/13/85	50 FR 19961
NPRM Comment Period End	06/27/85	50 FR 19961
Supplemental NPRM comment period ended 07/14/86	06/13/86	51 FR 21696
Final Action	10/00/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St., SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC22

2010. ● MOTOR VEHICLE BRAKE FLUIDS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.116

Legal Deadline: None.

Abstract: Non-substantive amendment to Federal Motor Vehicle Safety Standard No. 116 to allow use of adhesive type labels on fluid containers. Present standard allows only lithographed or silk screen type labels directly on surface of containers. The latter type labels are considered more expensive for small volume lots. No cost is involved.

Timetable:

Action	Date	FR Cite
NPRM	03/30/87	52 FR 10775
NPRM Comment Period End	06/02/87	52 FR 10775
Final Action	10/31/87	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC26

DEPARTMENT OF TRANSPORTATION (DOT) — **Completed Actions**

National Highway Traffic Safety Administration (NHTSA)

2011. CONTROLS AND DISPLAYS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.101

Legal Deadline: None.

Abstract: Final rule amends Standard No. 101 to permit greater flexibility in the illumination and identification of controls and displays. The rule allows gauges to have a two-level lighting intensity, rather than being continuously variable over a wide range. It distinguishes between critical telltales, such as the turn signal indicators, which must be visible under all lighting conditions, and less significant telltales, such as the water temperature indicator, which are permitted the same range of intensity as gauges. The term, "informational readout display" is eliminated as no longer useful. To accommodate new display technologies, the rule permits the cancellation of messages, but requires them to be retrievable by the driver. The use of specified words to identify controls is permitted, as an alternative to the symbols now required for many controls. This action was initiated in response to several petitions for rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	09/12/85	50 FR 37240
NPRM Comment Period End	10/28/85	50 FR 37240
Final Action	02/03/87	52 FR 3244
Final Action Providing partial response to petition	03/09/87	52 FR 7150
Final Action	09/03/87	52 FR 33416

Small Entity: No

Additional Information: Docket No. 1-18. NPRM, Notice 21. The comments to the Notice of Proposed Rulemaking, NPRM, of 02/01/82 (47 FR 4541) and an agency task force review led to the decision to issue a new NPRM on the subject.

In March 1987, a partial response to petitions for reconsideration was published. Remaining issues will be addressed in a separate notice.

Analysis: Regulatory Evaluation (minimal) 09/12/85 (50 FR 37240)

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AA06

2012. ● STANDARD NO. 108, LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None.

Abstract: BMW of North America petitioned to permit headlamp mechanical aiming pad configurations specified for sealed beam headlamps with circular lenses to be used on replaceable bulb headlamps. Agency review of the petition found that no safety reason exists that should prohibit such a use and that the omission from the current standard was inadvertent. Consequently, NHTSA will permit such use.

Timetable:

Action	Date	FR Cite
NPRM	02/25/87	52 FR 5563
NPRM Comment Period End	04/13/87	52 FR 5563
Final Action	09/14/87	52 FR 34654

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St, SW, Washington, DC 20590, 202 366-0842

RIN: 2127-AC23

DOT—NHTSA — **Completed Actions**

DEPARTMENT OF TRANSPORTATION (DOT) — **Prerule Stage**

Federal Railroad Administration (FRA)

2013. + REVIEW OF RADIO COMMUNICATION

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 437

CFR Citation: 49 CFR 220

Legal Deadline: None.

Abstract: The Agency is engaged in a review of the issue of radio communication in the railroad industry. The review will evaluate possible future courses of action to enhance the safety of railroad operations involving radio communication.

Timetable:

Action	Date	FR Cite
Notice of Special Safety Inquiry	11/04/86	51 FR 40101
Public Hearing, Washington, DC 1/27/87 to	01/29/87	

Next Action Undetermined

Small Entity: No

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130-AA34

2014. REVIEW: REGULATORY FLEXIBILITY ACT REVIEWS

Significance: Nonsignificant

Legal Authority: PL 96-354

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: In accordance with the Regulatory Flexibility Act (RFA) review plan published in the Federal Register on June 30, 1981 (46 FR 33693), FRA has not selected any specific regulations for RFA review at this time. Instead, FRA has established a plan to develop regulatory definitions of the criteria used in the RFA for the selection of regulations to be reviewed. A notice was published in the Federal Register or August 3, 1981 (46 FR 39461) initiating a safety inquiry to evaluate the effectiveness of the safety regulatory program as it applies to small railroads.

Timetable:

Action	Date	FR Cite
Review Plan	06/30/81	46 FR 33693
Notice of Safety Inquiry Review	08/03/81	46 FR 39461

Next Action Undetermined

Small Entity: Yes

Agency Contact: Lawrence I. Wagner, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0628

RIN: 2130-AA10

2015. REVIEW OF LOCOMOTIVE CAB SAFETY

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 437; 45 USC 22; 45 USC 23; 45 USC 28; 45 USC 34

CFR Citation: 49 CFR 229

Legal Deadline: None.

Abstract: The Agency is engaged in a review of the issue of locomotive cab environment. The review will evaluate possible future courses of action to enhance the safety of railroad employees who occupy locomotive cabs.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130-AA32

2016. REVIEW: SPECIAL SAFETY INQUIRY; POWER BRAKE REGULATIONS

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 437

CFR Citation: 49 CFR 232

Legal Deadline: None.

Abstract: The inquiry will obtain information to assist in evaluation of the impact of the change in the power brake regulations made in August 1982 in Docket PB-6.

Timetable:

Action	Date	FR Cite
Notice of Special Safety Inquiry	09/03/85	50 FR 35643
Notice of Change of Hearing Date	09/26/85	50 FR 39025
Public Hearing, Washington, D.C.	10/24/85	

Next Action Undetermined

Small Entity: No

Additional Information: Docket RSSI-85-1.

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130-AA40

2017. SAFETY STANDARDS FOR CABOOSES

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 438

CFR Citation: 49 CFR 237

Legal Deadline: None.

Abstract: The proposed rule would seek to establish comprehensive safety standards for cabooses.

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Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. RSC-76-6

Analysis: Regulatory Evaluation

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130-AA01

2018. AMENDMENTS TO REGULATIONS IMPLEMENTING SECTION 905 OF THE 4R ACT

Significance: Nonsignificant

Legal Authority: PL 94-210

CFR Citation: 49 CFR 265

Legal Deadline: None.

Abstract: This action would amend 49 CFR Part 265 to make changes necessitated by the promulgation of the Department of Transportation's comprehensive Minority Business Enterprise regulation (49 CFR Part 23). Part 265 will be revised to omit those provisions now covered in Part 23.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Analysis: Regulatory Evaluation

Agency Contact: William Fashouer, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0621

RIN: 2130-AA04

2019. RULES OF PRACTICE

Significance: Nonsignificant

Legal Authority: PL 96-354

CFR Citation: 49 CFR 211

Legal Deadline: None.

Abstract: Action would amend 49 CFR Part 211 to respond to the provisions of the Regulatory Flexibility Act of 1980 by defining the criteria used by FRA in determining whether any regulatory proposal or final rule will have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Analysis: Regulatory Evaluation 00/00/00

Agency Contact: Lawrence I. Wagner, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0628

RIN: 2130-AA07

2020. SPECIAL SAFETY INQUIRY; RAIL-HIGHWAY GRADE CROSSING SAFETY

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 437

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: The inquiry will obtain information from the public to assist in evaluating possible future courses of action to enhance public safety at railroad-highway grade crossings.

Timetable:

Action	Date	FR Cite
Notice of Special Safety Inquiry	06/18/84	49 FR 24968
Public Hearing, St. Paul, Minnesota	07/16/84	
Notice of Special Safety Inquiry	12/24/84	49 FR 49961
Public Hearing, Washington, D.C. begins 01/23/85	01/24/85	
Summary Report on Hearings	07/16/85	
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. RSSI - 84-3.

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130-AA27

DEPARTMENT OF TRANSPORTATION (DOT) — **Proposed Rule Stage**

Federal Railroad Administration (FRA)

2021. + INFORMAL SAFETY INQUIRY AND RULEMAKING; CONTROL OF ALCOHOL AND DRUG USE IN RAILROAD OPERATIONS

Significance: Agency Priority

Legal Authority: 45 USC 431; 45 USC 438

CFR Citation: 49 CFR 219

Legal Deadline: None.

Abstract: Based on experience derived from the first year of administration of FRA's rule on Control of Alcohol and Drug Use in Railroad Operations, FRA has identified the need for additional capability to detect and control drug use that can impact on the safety of rail transportation. Accordingly, FRA is developing a proposed rule prohibiting any unauthorized use of controlled substances by employees subject to the current rule and mandating random testing of those employees for controlled substances. FRA has also conducted a special safety inquiry on the administration of the present rule and is developing a notice of proposed rulemaking to refine and enhance the existing regulatory requirements.

Timetable:

Action	Date	FR Cite
Notice of Informal Safety Inquiry	01/20/87	52 FR 2118
Public Hearing, Washington, D.C.	02/18/87	
NPRM	11/15/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Walter C. Rockey, Jr., Executive Assistant to the Associate Administrator for Safety, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0897

RIN: 2130-AA43

DOT—FRA — **Proposed Rule Stage**

DEPARTMENT OF TRANSPORTATION (DOT) — **Prerule Stage**

Urban Mass Transportation Administration (UMTA)

2022. + MAINTENANCE OF EQUIPMENT AND FACILITIES

Significance: Agency Priority

Legal Authority: 49 USC 1602; 49 USC 1607

CFR Citation: 49 CFR 636

Legal Deadline: None.

Abstract: This regulation would require each transit agency that receives Federal financial assistance to have a maintenance program that states maintenance goals and objectives, provides for adequate maintenance for both fixed facilities and equipment, and provides for adequate personnel to meet the goals and objectives of the program. The proposed rule would also require that each transit agency retain or assemble information necessary for UMTA to review the transit agency's actual maintenance activities and make determinations on compliance as required by statute. This rule is significant because it concerns a matter on which there is substantial controversy. UMTA is reviewing this initiative to determine if rulemaking is practicable.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: The Surface Transportation Assistance Act of 1982 (1982 STAA) included maintenance provisions in both sections 3 and 9 of the UMT Act. In the new section 9 block grant program, Congress provided that all recipients must certify that they will maintain facilities and equipment. UMT Act section 9(e)(3)(B). Section 9(g)(1) authorizes UMTA to determine by review or audit whether the recipients have complied with the maintenance requirement. The 1982 STAA also amended the section 3 discretionary grant and loan program by adding a provision that requires applicants to have sufficient capability to maintain facilities and equipment obtained with Federal assistance. UMT Act 3(a)2(A)(iii). This proposed regulation would provide UMTA with the information necessary to implement these provisions.

Agency Contact: Kenneth F. Bolton, Department of Transportation, Urban Mass Transportation Administration, Office of Policy, UMTA, 400 Seventh Street, SW, Room 9311, Washington, DC 20590, 202 366-4060

RIN: 2132-AA25

DEPARTMENT OF TRANSPORTATION (DOT) — **Proposed Rule Stage**

Urban Mass Transportation Administration (UMTA)

2023. + IMPLEMENTATION OF SECTION 19 OF THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED — NONDISCRIMINATION

Significance: Agency Priority

Legal Authority: 49 USC 1615 UMT Act Sec. 19

CFR Citation: 49 CFR 626

Legal Deadline: None.

Abstract: The proposed regulations would unify the civil rights regulations that recipients of funds under the Urban Mass Transportation Act must meet. This rulemaking is significant because substantial public interest is anticipated. Regulations are needed to implement a new statutory provision which consolidates UMTA's authority to assure effective and uniform compliance with civil rights and equal employment opportunity requirements in a manner comparable to other agencies within the Department of Transportation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

Additional Information: Section 19 was added to the UMT Act in November 1978 by the Surface Transportation Assistance Act of 1978. UMTA plans to issue an NPRM in 1987.

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Clifford T. Lee, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Room 7412, Washington, DC 20590, 202 366-0814

RIN: 2132-AA01

2024. + MAJOR CAPITAL INVESTMENT PROJECTS

Significance: Agency Priority

Legal Authority: 49 USC 1602; 49 USC 1604; 49 USC 1607; 49 USC 1607a-1; 23 USC 103(e)(4); 23 USC 142

CFR Citation: 49 CFR 615

Legal Deadline: None.

Abstract: This regulation, which is being developed in light of recent legislative action, would set out the process applicants for grants under the UMT Act (49 USC 1601 et seq.) and the Federal-Aid Highway Act should follow in order to be eligible for Federal financial assistance for major urban mass transportation investments. A major urban mass transportation investment is any project that involves the construction of a new fixed guideway segment, or extension of an existing fixed guideway, for use by buses or rail vehicles. This regulation is significant because it involves important departmental policy.

Timetable:

Action	Date	FR Cite
Notice of Policy	05/18/84	49 FR 21284
NPRM	10/00/87	

Small Entity: Undetermined

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Don Emerson/Theodore A. Munter, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Room 9228, Washington, DC 20590, 202 366-1936

RIN: 2132-AA22

2025. + EXTENSION OF SAFETY REQUIREMENTS TO ALL FEDERALLY ASSISTED BUSES

Significance: Agency Priority

Legal Authority: 49 USC 1602; 49 USC 1607

CFR Citation: 49 CFR 637

Legal Deadline: None.

Abstract: On October 1, 1982, UMTA rescinded its policy making advanced design bus specifications (The "White Book") mandatory for its grantees, but continued to mandate certain safety requirements applicable to advanced design buses. On October 16, 1984, UMTA issued an ANPRM on whether these safety requirements should be extended to other buses financed by UMTA. This rulemaking is significant because of substantial public interest and controversy and because of the potential impact on the bus industry.

Timetable:

Action	Date	FR Cite
ANPRM	10/16/84	49 FR 40426
NPRM	10/00/87	

Small Entity: Undetermined

Additional Information: ANPRM asked for comments on what benefits would be derived from mandating these requirements; what their financial impact on manufacturers and grantees would be; and whether competition in bus markets would significantly be affected by these.

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Kenneth E. Bolton, Director of Policy, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Room 9300, Washington, DC 20590, 202 366-4060

RIN: 2132-AA24

2026. ● + CONTROL OF DRUG USE IN FEDERALLY FUNDED MASS TRANSPORTATION OPERATIONS

Significance: Agency Priority

Legal Authority: 49 USC 1601; 49 USC 1602; 49 USC 1607; 49 USC 1618

CFR Citation: 49 CFR New Part

Legal Deadline: None.

Abstract: The purpose of this proposal is to eliminate the use of dangerous drugs by operators of mass transit vehicles or other transit safety sensitive workers. The proposal would require a recipient of Federal transit grants to certify that it has established a drug program consistent with the requirements of the regulation and providing for chemical testing of safety sensitive employees on a random basis as well as for pre-employment, post-accident, and reasonable suspicion.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Daniel Duff, Assistant Chief Counsel, Department of Transportation, Urban Mass Transportation Administration, Room 9316, 400 7th St., SW, Washington, DC 20590, 202 366-4063

RIN: 2132-AA33

2027. SCHOOL BUS OPERATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1602(g); 49 USC 1608(c)(6); 23 USC 103(e)(4); 23 USC 142(a); 23 USC 142(c)

CFR Citation: 49 CFR 605

Legal Deadline: None.

Abstract: This regulation provides information regarding the restrictions imposed by section 3(g) of the UMT Act (49 USC 1602(g)) on the school bus operations by UMTA recipients. UMTA plans to issue an NPRM in 1987.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/82	47 FR 44795
ANPRM Comment Period End	11/26/82	
NPRM	10/00/87	

Small Entity: Yes

Additional Information: UMTA originally issued this regulation on April 1, 1976 (41 FR 14128). UMTA reviewed this regulation and issued an ANPRM that proposed three alternatives to the current regulation: (1) retain the existing regulation, (2) modify the definition of "tripper services," and (3) define "exclusive" school bus service. The public comment period closed November 26, 1982.

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/00/87

Agency Contact: Daniel Duff, Assistant Chief Counsel, Legislation, and Regulations Division, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4063

RIN: 2132-AA09

2028. AIR QUALITY PROCEDURES FOR USE IN FEDERAL-AID HIGHWAY AND FEDERALLY FUNDED TRANSIT PROGRAMS

Significance: Nonsignificant

Legal Authority: 23 USC 109(h); 23 USC 109(j); 23 USC 315; 42 USC 4332; 42 USC 7401; 42 USC 7506

CFR Citation: 23 CFR 770; 49 CFR 623

Legal Deadline: None.

Abstract: This regulation proposes to consolidate and amend existing air quality requirements for transportation projects into a single amended air quality regulation. The amended regulation is intended to streamline and simplify (1) the process of determining which highway projects are exempt from the Federal assistance limitations of section 176(a) of the Clean Air Act (CAA), and (2) the conformity and priority procedures contained in 23 CFR 770. The amendments are also intended to provide more authority and flexibility to State and local agencies and to meet the objectives of the CAA in the most cost-effective and expeditious manner.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: James N. Shrouds, (202) 366-4836 of FHWA. RIN 2125-AB10.

Analysis: Regulatory Evaluation 10/00/87

Agency Contact: Abbe Marner, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0096

RIN: 2132-AA19

2029. ● ROLLING STOCK PURCHASE AUDITS

Significance: Nonsignificant

Legal Authority: PL 100-17

CFR Citation: 49 CFR 641

Legal Deadline: None.

Abstract: This regulation would implement a statutory provision that requires an independent pre-award and post-delivery audit of any grant used for the purchase of transit rolling stock to assure compliance with Federal motor vehicle safety standards, Buy American requirements, and adherence to bid specifications requirements. Manufacturer certification of compliance with this requirement is not sufficient and independent inspections and auditing are required.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 Seventh Street, SW, Room 9316, Washington, DC 20590, 202 366-4011

RIN: 2132-AA29

2030. ● BUS TESTING GUIDELINES

Significance: Nonsignificant

Legal Authority: PL 100-17

CFR Citation: 49 CFR 642

Legal Deadline: None.

Abstract: This regulation would serve as a guideline for the testing of new model buses to be done at a facility in Altoona, Pennsylvania. By law, any "new model bus" purchased with UMTA funds after September 30, 1989, must first have been tested at such facility.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: Undetermined

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation, and Regulation, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4011

RIN: 2132-AA30

2031. ● PROJECT MANAGEMENT OVERSIGHT

Significance: Nonsignificant

Legal Authority: PL 100-17

CFR Citation: 49 CFR 647

Legal Deadline: Statutory, October 1987.

Abstract: This regulation would implement a statutory provision that permits UMTA to use a portion of the funding of its major capital programs to hire outside contractors to perform project management oversight of major capital projects, and require an UMTA grantee constructing a major capital project to prepare and, after UMTA approval, implement a project management plan.

Timetable:

Action	Date	FR Cite
NPRM	06/11/87	52 FR 29709
NPRM Comment Period End	10/13/87	52 FR 29709

Small Entity: Undetermined

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation, and Regulations, Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, 400 Seventh Street, SW, Room 9316, Washington, DC 20590, 202 366-4011

RIN: 2132-AA31

2032. ● CHARTER BUS OPERATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1602(f); 49 USC 1608(c)

CFR Citation: 49 CFR 604

Legal Deadline: None.

Abstract: This rulemaking, which implements section 3(f) of the UMT Act (49 U.S.C 1602(f)) would amend the existing charter bus operations regulations which were published on April 13, 1987. The amendment would concern the ability of certain non-profit entities to obtain handicap-accessible vehicles for charter service, or to receive service that otherwise would be unavailable to them.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Yes

Additional Information: On April 13, 1987, UMTA published its final rule on charter bus service. Under this regulation a recipient of UMTA funds is prohibited from providing any charter service using UMTA funded equipmen or facilities if there is at least one available charter operator willing and able to provide the charter service that the recipient of Federal funds proposes to provide. The House Appropriations Committee is concerned that under the requirements of this regulation, non-profit entities may not be able to afford the services of private charter operators, or, in the case of certain organizations, obtain the necessary handicap-accessible vehicles for charter service. This amendment would address those concerns.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Theodore Munter, Assistant Chief Counsel, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1936

RIN: 2132-AA32

DEPARTMENT OF TRANSPORTATION (DOT)
Urban Mass Transportation Administration (UMTA)

Final Rule Stage

2033. + ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Significance: Agency Priority

Legal Authority: 42 USC 4321 et seq; 23 USC 101 et seq; 49 USC 1601 et seq; 49 USC 1653(f)

CFR Citation: 23 CFR 771; 49 CFR 622

Legal Deadline: None.

Abstract: This regulation covers the preparation of environmental impact statements and related documents and compliance with other Federal environmental requirements under UMTA and FHWA grant programs. The changes are intended to streamline the project development process and provide increased decisionmaking authority to agency field offices. This rulemaking is significant because it involves important departmental policy. It is needed to reduce burdens associated with the environmental review process.

Timetable:

Action	Date	FR Cite
Notice and Request for Comments	04/13/81	46 FR 21620
NPRM	08/01/83	48 FR 34894
Final Action	10/00/87	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Fred Skaer, FHWA, (202) 366-2050. Notice and request for comments on priority review of environmental process published on April 13, 1981 (46 FR 21620). An NPRM was published on August 1, 1983.

Analysis: Regulatory Evaluation 06/01/83

Agency Contact: Robert W. Stout, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0096

RIN: 2132-AA03

2034. + "BUY AMERICA" REQUIREMENTS OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Significance: Agency Priority

Legal Authority: PL 97-424 Surface Transportation Assistance Act of 1982 Sec 165; PL 100-17 Surface Transportation and Uniform Relocation; Assistance of 1987

CFR Citation: 49 CFR 661

Legal Deadline: None.

Abstract: UMTA will issue an NPRM to implement new statutory provisions and will also amend existing regulations to reflect experiences in implementing the existing regulation.

Timetable:

Action	Date	FR Cite
Emergency Final Rule	09/15/83	49 FR 41562
Final Action	11/00/87	

Small Entity: Yes

Additional Information: Section 337 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 amends the "Buy American" provisions of Section 165 of the STAA of 1982. UMTA will issue an NPRM concerning the implementation of the statutory changes.

Government Levels Affected: Local, State, Federal

Agency Contact: Edward J. Gill, Jr., Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4063

RIN: 2132-AA15

2035. INNOVATIVE TECHNIQUES AND METHODS

Significance: Nonsignificant

Legal Authority: 49 USC 1603(i)

CFR Citation: 49 CFR 644

Legal Deadline: None.

Abstract: These regulations would prescribe policies and procedures for administering the grant programs for projects using innovative techniques and methods in the management and operation of public transportation services under Section 4(i) of the UMT Act as amended.

Timetable:

Action	Date	FR Cite
NPRM	12/01/80	45 FR 79669
To be withdrawn	10/00/87	

Small Entity: No

Additional Information: UMTA will prepare a Circular dealing with Innovative Techniques and Methods 4(i). UMTA will withdraw the NPRM and publish a Circular that will be described in the Federal Register. Until then, however, the NPRM should be used as guidance.

Analysis: Regulatory Evaluation 12/01/80 (45 FR 79669)

Agency Contact: Joseph Goodman, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4995

RIN: 2132-AA05

2036. MISCELLANEOUS AMENDMENTS - ORGANIZATION, FUNCTIONS, AND PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1657; 49 USC 1659

CFR Citation: 49 CFR 601

Legal Deadline: None.

Abstract: These amendments will reflect modifications in the organization and distribution of functions within the Urban Mass Transportation Administration.

Timetable:

Action	Date	FR Cite
Final Action	11/30/87	

Small Entity: No

Agency Contact: Henry T. Carter, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2485

RIN: 2132-AA06

2037. TECHNOLOGY INTRODUCTION

Significance: Nonsignificant

Legal Authority: 49 USC 1602(a)(1)(c)

CFR Citation: 49 CFR 641

Legal Deadline: None.

Abstract: These regulations would implement Section 3(a)(1)(c) of the UMT Act of 1964, as amended, by prescribing policies and procedures for administering the grant program for projects that would introduce new technology into public transportation.

Timetable:

Action	Date	FR Cite
NPRM	01/19/81	46 FR 5832
To be withdrawn	10/00/87	

Small Entity: No

Additional Information: UMTA will prepare a Circular dealing with Technology Introduction 3(a)(1)(c). UMTA has decided to withdraw this rulemaking activity and to issue it as a Circular that will be described in the Notice section of the Federal Register. Until then, the January 19, 1981 NPRM should be used as guidance.

Analysis: Regulatory Evaluation 01/19/81 (46 FR 5832)

Agency Contact: George Izumi, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-0220

RIN: 2132-AA07

DOT—UMTA

Final Rule Stage

2038. SECTION 15 REPORTING REQUIREMENTS FOR SECTION 9 APPORTIONMENT GRANTS; PENALTY PROCEDURES FOR NONCOMPLIANCE

Significance: Nonsignificant

Legal Authority: 49 USC 1607; 49 USC 1611

CFR Citation: 49 CFR 630

Legal Deadline: None.

Abstract: This regulation would simplify Part 630 and implement procedures to handle late reporters, missing certifications and deadhead miles in order to provide more timely Section 9 formula apportionments based on the most valid data available.

Timetable:

Action	Date	FR Cite
NPRM	05/08/86	51 FR 17144
NPRM Comment Period End	07/07/86	
Final Action	10/00/87	

Small Entity: No

Additional Information: This NPRM was published on May 7, 1986, with the comment period ending July 7, 1986. A Final Rule will be published in 1987.

Analysis: Regulatory Evaluation 05/07/86 (51 FR 17144)

Agency Contact: Ron Fisher, Director, Information Services, Department of Transportation, Urban Mass Transportation Administration, URT-7, 202 366-0157

RIN: 2132-AA23

2039. ● CAPITAL LEASES

Significance: Nonsignificant

Legal Authority: PL 100-17

CFR Citation: 49 CFR 633

Legal Deadline: Statutory, November 1987.

Abstract: The purpose of this regulation, which implements a statutory provision, is to prescribe procedures and policies governing the eligibility and treatment of certain leases which are determined to be cost-effective as capital rather than operating assistance project under the formula grant program of Section 9 of the UMT Act.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: Undetermined

Agency Contact: Daniel Duff, Assistant Chief Counsel for Legislation and Regulation Division, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Room 9315, Washington, DC 20590, 202 366-4011

RIN: 2132-AA28

DEPARTMENT OF TRANSPORTATION (DOT)
Urban Mass Transportation Administration (UMTA)

Completed Actions

2040. + CHARTER BUS OPERATIONS

Significance: Regulatory Program

Legal Authority: 49 USC 1602(f); 49 USC 1608(c)

CFR Citation: 49 CFR 604

Legal Deadline: None.

Abstract: These regulations provide information regarding the restrictions imposed by section 3(f) of the UMT Act (49 USC 1602(f)) on charter bus operations by UMTA recipients.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/82	47 FR 44795
NPRM	03/06/86	51 FR 7892
NPRM Comment Period End	06/19/86	51 FR 18966
Final Action	04/13/87	52 FR 11916
Final Action Effective	05/13/87	

Small Entity: Yes

Public Compliance Cost: Initial Cost: $11,322; Yearly Recurring Cost: $10,272

Affected Sectors: Multiple

Government Levels Affected: Local, State

Analysis: Draft Regulatory Analysis 03/06/86 (51 FR 7892); Final Regulatory Analysis 04/13/87 (52 FR 11916)

Agency Contact: Theodore Munter, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-1936

RIN: 2132-AA04

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Prerule Stage

2041. + GAS GATHERING LINE DEFINITION

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192.3

Legal Deadline: None.

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry.

Action is significant because the definition is the subject of litigation.

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Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Suggested terminology is being coordinated with the Technical Pipeline Safety Standards Committee and State agencies in advance of a formal proposal for public comment.

Agency Contact: P. Cory, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4561

RIN: 2137-AB15

2042. + OST-FAA INFORMATION RULES: STANDARDIZED REGULATORY FLEXIBILITY REQUIREMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1387

CFR Citation: 14 CFR 241; 14 CFR 298; 14 CFR 399

Legal Deadline: None.

Abstract: The threshold for the aviation-information program for regulatory flexibility analysis is 60 seats or maximum payload of 18,000 pounds or less. Carriers operating aircraft under these limits are considered small carriers. FAA, on the other hand, uses a threshold based on the operational certificate requirements (Part 121 versus Part 135) with the threshold established at 30 seats or maximum payload of 7,500 pounds for a Part 135 certificate. FAA regulatory analysis for safety, congestion, etc., centers around the lower threshold which means much of the aviation economic information that they use has to be manipulated to fit their needs. This proposal of standardizing the threshold within the Department would save considerable resources and would eliminate much confusion in the air transportation industry. Most carriers, especially the newer ones, are familiar with FAA's requirements.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Jack Calloway, Deputy Director, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137-AB16

2043. + INDUSTRY TRAINING FOR HAZARDOUS MATERIALS TRANSPORTATION

Significance: Agency Priority

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 172 to 177

Legal Deadline: None.

Abstract: This regulation proposes to establish detailed training requirements for persons involved with the transportation of hazardous materials. Establishing more detailed training requirements should diminish the number of hazardous materials transportation incidents which can be attributed to human error. At this time, the potential cost of establishing this program is unknown.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/87	

Small Entity: Undetermined

Agency Contact: Lee Jackson, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AB26

2044. ● + HAZARDOUS MATERIALS IN INTRASTATE COMMERCE

Significance: Agency Priority

Legal Authority: 49 USC 1802 to 1808

CFR Citation: 49 CFR 171 to 179

Legal Deadline: None.

Abstract: ANPRM invites comments on the need for, and possible consequences of, DOT extending the application of its Hazardous Materials Regulations to all intrastate transportation of hazardous materials in commerce.

Timetable:

Action	Date	FR Cite
ANPRM	05/29/87	52 FR 24195
ANPRM Comment Period End	09/28/87	

Small Entity: Undetermined

Additional Information: Docket No. HM-200

Agency Contact: John Gale, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AB37

2045. REVIEW OF COMMUTER AIR TRAFFIC AND MARKET DATA REPORTING

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 298

Legal Deadline: None.

Abstract: Currently commuter air carriers providing scheduled passenger service file two quarterly traffic schedules. One schedule summarizes nine traffic elements while the other schedule provides the origination and destination for all the carriers' on-line passengers. The Department is considering proposing a new traffic and market data system for certificated and foreign air carriers. This system could be used for commuter air carriers, providing the Department with one automated traffic and market data system for all carriers. This system would be less burdensome for the commuter air carriers and be more efficient for the user.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Jack Calloway, Deputy Director, Department of Transportation, Research and Special Programs Administration, DAI-1 Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137-AB18

DOT—RSPA — Prerule Stage

2046. REVISION OF OPERATING PROCEDURES FOR MOTOR VEHICLES

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 177

Legal Deadline: None.

Abstract: Proposed simplification and recodification of the existing operating procedures for transportation of hazardous materials by motor vehicles as prescribed in Part 177. Development of driver training requirements (formerly Project 270-78).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Project 261-78

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA07

2047. CONSOLIDATION AND REVISION OF REQUIREMENTS FOR THE CARRIAGE OF EXPLOSIVES BY VESSEL

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 176

Legal Deadline: None.

Abstract: Proposed consolidation and revision of requirements for the carriage of military and commercial explosives by vessel and adoption of United Nations scheme for classification and compatibility of explosives for the water mode.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Project 279-78

Agency Contact: H. Mitchell/F. Thompson (USCG), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA10

2048. PRIVATE CARRIERS LICENSED TO USE RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173; 49 CFR 177

Legal Deadline: None.

Abstract: The Department is considering proposing exceptions from the regulations for private carriers which are licensed to use radioactive materials in the course of their businesses.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Project 298-82.

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137-AA28

2049. SPECIFICATION PACKAGES OF TYPE B AND FISSILE RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173

Legal Deadline: None.

Abstract: The Department is considering addressing the possibility of continued use and needed modifications of certain radioactive materials package designs.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: Project 300-83.

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137-AA29

2050. QUALITY ASSURANCE FOR RADIOACTIVE MATERIALS SHIPPERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173

Legal Deadline: None.

Abstract: The Department is considering this proposal to solicit comments on the desirability of establishing quality assurance program requirements for all shippers of radioactive materials.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: Project 291-80.

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137-AA30

2051. DOT SPECIFICATION 51 PORTABLE TANKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 178.245; 49 CFR 173

Legal Deadline: None.

Abstract: The Department is considering revising the requirements for DOT Specification 51 Portable Tanks. Consideration will also be given to adopting certain provisions of the recommendations of the United Nations and the International Maritime Organization.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: Project 302-83.

Agency Contact: Lee Jackson, Department of Transportation, Research and Special Programs Administration,

DOT—RSPA — **Prerule Stage**

400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA36

2052. SPECIFICATION 8W AND 8WA WELDED STEEL CYLINDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 178

Legal Deadline: None.

Abstract: Would eliminate existing Specifications 8 and 8AL and provide a consolidated specification for the manufacture of acetylene cylinders.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. HM-23.

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA63

2053. REVISION OF THE IM TANK TABLE

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None.

Abstract: The proposed rule would revise the IM Tank Table by incorporating interim approvals which have been granted since 1981.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. HM-167A

Agency Contact: Lee Jackson/Charles Ke, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590 202 366-4488

RIN: 2137-AA64

2054. REWRITE AND RECODIFICATION OF SECTION 173.34

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173.34

Legal Deadline: None.

Abstract: The recodification and rewrite of Sec. 173.34 would provide industry with regulations set up by the functions to be performed. It is anticipated that the rewrite would provide a more simplified and readable regulation. The proposal would include the consolidation of DOT specification seamless steel and aluminum cylinders (Project 123-71) and the requalification, maintenance, and use requirements which will be provided under the new Part 180.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Project No. 305-83

Agency Contact: M. Morris, Technical Staff, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA73

2055. AIRLINE REVENUE/NONREVENUE, FIRST CLASS/COACH PASSENGERS: REVISED DEFINITIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1373

CFR Citation: 14 CFR 241

Legal Deadline: None.

Abstract: The present definition of revenue and nonrevenue passengers for aviation reporting purposes is stated in terms of the exemptions for free and reduced-rate transportation in section 403(b) of the Federal Aviation Act of 1958. These definitions have become outmoded in the process of air-fare deregulation. In addition, first class and coach passengers are defined in terms of the type of fare paid with premium or standard fares being the benchmark for first class. With deregulation and the proliferation of new air fares in the marketplace, these definition may also be outmoded. The DOT is considering several options for revising these definitions.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Jack Calloway, Deputy Director, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137-AB00

2056. SUBSIDIZED COMMUTER CARRIERS AND FOREIGN AIR CARRIERS: RECORDS AND RETENTION PERIODS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 249

Legal Deadline: None.

Abstract: This rule would require commuter air carriers receiving subsidy to retain certain records in support of their claims for subsidy; require foreign air carriers submitting traffic and market data to retain records in support of their submissions; modify or eliminate several of the records prescribed for retention by public charter operators and overseas operators. In addition, the proposal would transfer the record retention requirements contained in Part 374a to Part 249.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Jack Calloway, Deputy Director, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137-AB04

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA) — **Proposed Rule Stage**

2057. + PERFORMANCE-ORIENTED PACKAGING STANDARDS

Significance: Regulatory Program

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline: None.

Abstract: To develop performance-oriented packaging standards and hazardous material classification based on the United Nations Committee of Experts on the Transport of Dangerous Goods. Also includes former non-significant rulemakings entitled "Consolidation of Specifications and Establishment of Performance Standards for Specification Bags" (Docket No. HM-153), "Specifications for and use of Specification 17 Steel Drums" (Docket No. HM-182), and "Organic Peroxide Requirements" (Project 186-72). The rulemaking is significant because a large number of specifications for packaging in the Hazardous Materials Regulations would be affected by this project. To a large extent the complexity and mass of the present Hazardous Materials Regulations are due to the detailed specification-type packaging standards contained in these regulations. To replace these with standards based on the U.N. system would both simplify the present regulations and facilitate international trade.

Timetable:

Action	Date	FR Cite
ANPRM	04/15/82	47 FR 16268
Correction Document and Notice of Meeting	06/17/82	47 FR 26172
Extension of Comment Period to 01/13/83	09/16/82	47 FR 40816
NPRM	05/05/87	52 FR 16482
NRPM Comment Period extended to 2/26/88	09/08/87	52 FR 33906

Small Entity: No

Additional Information: Docket No. HM-181. NPRM published 5/5/87. Comment period extended to 2/26/88.

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 03/01/87

Agency Contact: E. Mazzullo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA01

2058. + COLLECTION OF SERVICE SEGMENT DATA AND CHARTER DATA FROM FOREIGN AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1301; 49 USC 1374; 49 USC 1381; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 217; 14 CFR 241

Legal Deadline: None.

Abstract: DOT is proposing a rule that would require submission to DOT of nonstop market data from foreign carriers providing scheduled service between their home countries and the United States. This information is needed to evaluate existing bilateral agreements and reciprocity between U.S. and foreign countries. In addition international charter data currently collected from carriers may also be incorporated with reporting. This nonstop market data should replace much of the data currently collected by the Immigration and Naturalization Service (INS) on Form I-92. Although there will be some start-up costs, it is anticipated that over the long run there will be substantial savings for both the industry and the government. See 2137-AB01 for companion rule for U.S. air carriers.

Timetable:

Action	Date	FR Cite
NPRM	07/15/87	52 FR 26498
NPRM Comment Period extended to 10/14/87	09/15/87	52 FR 34889
Final Action	01/01/88	

Small Entity: No

Affected Sectors: 45 Transportation by Air

Agency Contact: Jack Calloway, Deputy Director, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137-AA97

2059. + ALIGNMENT OF AIRLINE UNIFORM SYSTEM OF ACCOUNTS AND REPORTS WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377

CFR Citation: 14 CFR 241

Legal Deadline: None.

Abstract: As part of the continuing effort to align the DOT's aviation accounting rules with generally accepted accounting principles, certain sections of the Uniform System of Accounts and Reports need to be deleted or amended. These changes would provide relief from the present requirements for most air carriers.

Timetable:

Action	Date	FR Cite
NPRM	11/01/87	
NPRM Comment Period End	01/01/88	
Final Action	03/31/88	

Small Entity: No

Affected Sectors: 45 Transportation by Air

Agency Contact: Jack Calloway, Deputy Director, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137-AA99

2060. + COLLECTION OF SERVICE SEGMENT DATA AND CHARTER DATA FROM U.S. AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1387

CFR Citation: 14 CFR 241

Legal Deadline: None.

Abstract: Large U.S. air carriers file detailed service segment data in ADP format for scheduled operations, while smaller carriers file a condensed version on a hardcopy form. Charter data is filed on another form. The Department will issue a rulemaking proposing to incorporate all three systems onto one automated data system by standardizing the reporting between scheduled and charter

operations. Much of the data currently collected will be proposed for elimination. Also, much of the data reported on the hardcopy Form 41 T-Schedules can be eliminated, since data for these schedules can be extracted from the automated system. Further, the foreign air carrier traffic and market reporting (2137-AA97) will be incorporated into this automated system providing a uniform traffic and market system for the Department.

Timetable:

Action	Date	FR Cite
NPRM	07/15/87	52 FR 26498
NRPM Comment Period extended to 10/14/87	09/15/87	52 FR 34889
Final Action	01/01/88	

Small Entity: No

Affected Sectors: 45 Transportation by Air

Agency Contact: Jack Calloway, Deputy Director, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137-AB01

2061. + CONFIDENTIALITY OF PARTS 241 AND 298 AIRLINE REPORTS

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1373; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 241; 14 CFR 298

Legal Deadline: None.

Abstract: This rule would consider whether some components of individual carrier's reports submitted under Parts 241 and 298 should be kept confidential and for how long.

Timetable:

Action	Date	FR Cite
NPRM	12/15/87	
NPRM Comment Period End	02/28/88	
Final Action Effective	01/01/89	

Small Entity: No

Agency Contact: Jack Calloway, Deputy Director, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137-AB05

2062. + STATE PIPELINE SAFETY INSPECTOR STANDARDS

Significance: Regulatory Program

Legal Authority: 49 USC 2004; 49 USC 1674

CFR Citation: 49 CFR 190

Legal Deadline: None.

Abstract: This action will propose standards for State personnel who engage in compliance activities under the Federal/State cooperative pipeline safety program. Members of Congress and the Department's pipeline safety advisory committees support this initiative to obtain uniformity and competency in carrying out the nationwide pipeline safety enforcement program.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: C. DeLeon, Assistant Director for Regulations, Office of Pipeline Safety, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-1640

RIN: 2137-AB28

2063. + RECODIFICATION OF EXPLOSIVE REGULATIONS

Significance: Agency Priority

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None.

Abstract: Proposed consolidation and revision of the regulations on the classification and packaging of explosives, and the alignment of these regulations with the recommendations of the United Nations Committee of experts on the transport of Dangerous Goods.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: Docket No. HM-181B

Agency Contact: Charles Ke/H. Mitchell, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA93

2064. + PROPOSALS FOR PIPELINE SAFETY

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 1804; 49 USC 2002

CFR Citation: 49 CFR 191; 49 CFR 192; 49 CFR 195

Legal Deadline: None.

Abstract: This action sets forth various pipeline program options and requests public comment. Topics range from line marking to enhanced public education. The comments will be considered in determining the future course of action with respect to the pipeline program.

Timetable:

Action	Date	FR Cite
ANPRM	02/11/87	52 FR 4361
ANPRM Comment Period End	03/30/87	52 FR 4361
NPRM	10/00/87	

Small Entity: Undetermined

Agency Contact: B. Liebler, Office of Pipeline Safety, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-4560

RIN: 2137-AB27

2065. ● + PIPELINE OPERATOR QUALIFICATIONS

Significance: Agency Priority

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None.

Abstract: The competency of operator personnel has been questioned by State agencies and a Congressional committee. This action explores the need for government action, and if action is needed, whether it should be taken by Federal, State, or local governments. Comments are also sought on the alternatives of additional regulations directed toward personnel training and testing or certification of personnel either by operators or government agencies.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9189
ANPRM Comment Period End	05/07/87	52 FR 9189

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2036

RIN: 2137-AB38

2066. REVIEW: CONSOLIDATION OF SPECIFICATIONS FOR HIGH-PRESSURE SEAMLESS CYLINDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None.

Abstract: The Department will propose revision of requalification requirements for cylinders and proposed consolidation and revision of the specifications for high-pressure seamless cylinders. (Project No. 123-71)

Timetable:

Action	Date	FR Cite
NPRM	03/01/88	

Small Entity: No

Agency Contact: James O'Steen, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137-AA92

2067. DEFINITION OF A FLAMMABLE SOLID

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None.

Abstract: The Notice of Proposed Rulemaking would propose new standards for classifying a material as a flammable solid. This rule was previously a part of Docket HM-118 which was terminated May 22, 1980 (45 FR 34560) to permit publication of this ANPRM on May 7, 1981 (46 FR 25492).

Timetable:

Action	Date	FR Cite
ANPRM	05/07/81	46 FR 25492
NPRM	12/00/87	

Small Entity: No

Additional Information: Docket No. HM-178

Agency Contact: C. Ke, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4496

RIN: 2137-AA05

2068. OXIDIZING MATERIALS DEFINITION, CRITERIA AND PROPOSED REGULATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None.

Abstract: Development of new standards for classifying a material as an oxidizing material.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/81	46 FR 31294

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. HM-179

Agency Contact: M. Morris/C. Schultz, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA11

2069. EMERGENCY RESPONSE COMMUNICATION STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 172

Legal Deadline: None.

Abstract: This proposal solicits comments on the potential benefits and consequences of requiring additional emergency-response information on shipping papers and in vehicles when transporting hazardous materials.

Timetable:

Action	Date	FR Cite
ANPRM	03/16/84	49 FR 10048
Public Hearing held, Washington, D.C.	05/02/84	49 FR 10048
ANPRM Comment Period End	06/26/84	49 FR 10048
NPRM	08/20/87	52 FR 31486
NPRM Comment Period extended to 12/22/87	09/04/87	52 FR 33611

Small Entity: Yes

Additional Information: HM-126C

Agency Contact: Lee Jackson, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-4415

RIN: 2137-AA88

2070. COLLECTION OF FINANCIAL INFORMATION FROM THE COMMUTER AIR CARRIER INDUSTRY

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 298

Legal Deadline: None.

Abstract: DOT is proposing to collect basic financial information from the commuter carriers providing scheduled passenger service. Data would be used for fitness reviews; various economic analyses such as trust-fund revenue generation; airport and airways development; econometric modeling and regulatory cost-benefit analysis to aid aviation policy and regulatory decisions; and FAA's allocation planning for its inspection resources.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	
NPRM Comment Period End	12/01/87	

Small Entity: No

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DOT—RSPA — Proposed Rule Stage

Agency Contact: Jack Calloway, Deputy Director, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137-AA98

2071. EXCEPTION FROM PRESSURE TESTING NON-WELDED TIE-IN JOINTS

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192.503(d)

Legal Deadline: None.

Abstract: The current exception from pressure testing welded tie-in joints would be expanded to include all types of tie-in joints. This change would be consistent with the intent of the original rule and would have minimal cost impact.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: Petition P-20; New England Gas Association; January 27, 1983

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4560

RIN: 2137-AB19

2072. CONFIRMATION OR REVISION OF MAXIMUM ALLOWABLE OPERATING PRESSURE; ALTERNATE METHOD

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192.611(a)

Legal Deadline: None.

Abstract: This action proposes an alternate method for confirmation or revision of the maximum allowable operating pressure of pipe - lines previously tested to less than 90 percent of specified minimum yield strength. The alternate method would allow operators to establish a maximum allowable operating pressure in proportion to the level permitted for pipelines tested to 90 percent of specified minimum yield strength, or more, without retesting the pipeline. Considerable cost savings are expected.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Additional Information: Petition P-29, Gas Piping Technology Committee

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4560

RIN: 2137-AB20

2073. TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192

Legal Deadline: None.

Abstract: Various clarifying and editorial changes would be made to the gas pipeline safety standard. Minimal cost and benefits are expected.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: Petition P-15; New England Gas Association; June 19, 1981

Agency Contact: B. Liebler, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-4560

RIN: 2137-AB22

2074. REPORTING UNSAFE CONDITIONS ON GAS AND HAZARDOUS LIQUID PIPELINES

Significance: Nonsignificant

Legal Authority: 49 USC 1672(a); 49 USC 2002(a)

CFR Citation: 49 CFR 191; 49 CFR 192; 49 CFR 195

Legal Deadline: Statutory, October 22, 1987. PL 99-516 (10/22/86)

Abstract: Operators would be required to report within five days of discovery any condition that could be an imminent danger or affect pipeline operational safety. The report would enable State and Federal agencies to investigate promptly. Few reports are expected, and the cost impact would be minimal.

Timetable:

Action	Date	FR Cite
NPRM	09/25/87	52 FR 36068
NPRM Comment Period End	11/09/87	

Small Entity: No

Agency Contact: L. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 366-2392

RIN: 2137-AB23

2075. DELETION OF STANDARDS AFFECTING IRON AND COPPER PIPE AND OTHER MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 1804

CFR Citation: 49 CFR 192

Legal Deadline: None.

Abstract: This action proposes to delete the existing incorporation by reference of various documents intended for use in the design of gas pipelines. The materials to which the documents pertain are no longer generally used for gas pipelines so that reference to the documents can be deleted without affecting safety.

Timetable:

Action	Date	FR Cite
ANPRM	06/04/87	52 FR 21087
ANPRM Comment Period End	08/03/87	52 FR 21087
NPRM	10/00/87	

Small Entity: No

Additional Information: Docket No. PS-95

Agency Contact: P. Cory, Department of Transportation, Research and Special Programs Administration, 400 Seventh

DOT—RSPA — Proposed Rule Stage

Street, SW, Washington, DC 20590, 202 366-4561

RIN: 2137-AB24

2076. ● ENFORCEMENT OF MOTOR CARRIER FINANCIAL RESPONSIBILITY REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1805; 49 USC 1808 to 1809; 49 USC 1655; 49 USC 1655(c); 49 USC 10927

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 387

Legal Deadline: None.

Abstract: This notice solicits comments on the merits of a petition for rulemaking from the National Tank Truck Carriers proposing to amend the Hazardous Materials Regulations to require shippers of hazardous materials by highway, in cargo tanks, to obtain documentary proof that the motor carrier possesses the minimum level of financial responsibility required by 49 CFR Part 387.

Timetable:

Action	Date	FR Cite
ANPRM	05/20/87	52 FR 19116
ANPRM Comment Period End	08/18/87	

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Docket No. HM-199

Agency Contact: Joseph S. Nalevanko, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4484

RIN: 2137-AB35

2077. ● STANDARDS FOR CONSTRUCTION OF FIREWORKS AND APPROVAL FOR TRANSPORTATION

Significance: Nonsignificant

Legal Authority: 49 USC 1802 to 1808

CFR Citation: 49 CFR 171; 49 CFR 173

Legal Deadline: None.

Abstract: Proposes to eliminate a requirement for examination of fireworks prior to their approval for transportation by the Director, Office of Hazardous Materials Transportation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	11/00/87	
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: Christine E. Whitney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4515

RIN: 2137-AB36

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Final Rule Stage

2078. + REQUIREMENTS FOR CARGO TANKS

Significance: Agency Priority

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173; 49 CFR 177; 49 CFR 178

Legal Deadline: None.

Abstract: The rule would modify cargo tank specifications in section 178.337-178.343 to improve clarity, quality control and safety and to provide for the manufacture of vacuum-loaded cargo tanks. It would also provide inspection, test, maintenance, repair, and requalification standards for cargo tanks. This rulemaking is being performed in conjunction with the FHWA.

Timetable:

Action	Date	FR Cite
ANPRM	06/28/82	47 FR 27876
NPRM	09/17/85	50 FR 37767
Corrections and Clarifications	12/05/85	50 FR 49866
NPRM Comment Period End	05/22/86	
Final Action	12/00/88	

Small Entity: Undetermined

Additional Information: Docket Nos. HM-183, 183A.

Analysis: Regulatory Evaluation 09/17/85 (50 FR 37767)

Agency Contact: J. O'Steen/ J. Pena, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137-AA42

2079. + DATA COLLECTION AND REPORTING: HAZARDOUS MATERIALS INCIDENT REPORTS

Significance: Agency Priority

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1809

CFR Citation: 49 CFR 171

Legal Deadline: None.

Abstract: The current regulations require reports of hazardous material incidents. The objective of this review is to determine if the current data requirements can be modified to reduce the burden on industry but still result in the collection of the information needed for the hazardous materials safety program. Although safety programs, such as the one covered by these regulations, require data in order to function properly, it is possible that the data collection can be made less burdensome.

Timetable:

Action	Date	FR Cite
ANPRM	03/16/84	49 FR 10042
NPRM	03/27/87	52 FR 9996
NPRM Comment Period End	07/29/87	
Final Action	10/00/87	

Small Entity: No

Additional Information: Docket HM-36B.

Agency Contact: D. Raines, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA51

2080. USE OF INTERESTED INSPECTORS FOR CYLINDER INSPECTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

DOT—RSPA

Final Rule Stage

CFR Citation: 49 CFR 178

Legal Deadline: None.

Abstract: Proposal would result in ending of permitting "Interested" inspectors to perform inspections and testing of domestically manufactured low pressure gas cylinders.

Timetable:

Action	Date	FR Cite
NPRM	03/17/76	41 FR 1179

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. HM-74A

Agency Contact: H. Mitchell, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA08

2081. ODORIZATION OF LP GAS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 172

Legal Deadline: None.

Abstract: NPRM solicited comments on the benefit of requiring LP gas to be odorized. Odorization would enhance its identification during transportation in commerce. Comments to the NPRM indicated that further study should be made before proceeding to a final rule.

Timetable:

Action	Date	FR Cite
NPRM	09/27/84	49 FR 38164

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. HM-126E

Agency Contact: D. Raines, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA25

2082. TRANSPORTATION OF HAZARDOUS MATERIALS; MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None.

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. NPRM approximately every four months, with FR targeted approximately two months thereafter.

Timetable:

Action	Date	FR Cite
Periodic Update	03/19/85	50 FR 11048
NPRM	06/03/86	51 FR 19866
NPRM Comment Period End	09/04/86	51 FR 27223
Periodic Update	04/20/87	52 FR 13034

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Docket No. HM-166.

Analysis: Regulatory Evaluation 03/22/84 (49 FR 10780)

Agency Contact: D. Raines, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA44

2083. MODIFICATIONS TO DOT SPECIFICATION 21PF-1 OVERPACKS

Significance: Nonsignificant

Legal Authority: 49 USC 178; 49 USC 1803; 49 USC 1804; 49 USC 1806

CFR Citation: 49 CFR 178

Legal Deadline: None.

Abstract: This rulemaking responds to a Department of Energy request that we improve the water resistance of overpacks used in the transportation of enriched uranium hexafluoride.

Timetable:

Action	Date	FR Cite
NPRM	08/16/84	49 FR 32774
NPRM Comment Period End	09/12/84	
Final Action	03/01/88	

Small Entity: No

Additional Information: Docket No. HM-190.

Analysis: Regulatory Evaluation 08/16/84 (49 FR 32774)

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137-AA72

2084. LIMITATION ABOARD AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1807; 49 USC 1808

CFR Citation: 49 CFR 175

Legal Deadline: None.

Abstract: Proposes the removal of the fifty-pound limit on the quantity that may be stowed in an inaccessible location.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	49 FR 13717
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	50 FR 6013

Next Action Undetermined

Small Entity: No

Additional Information: Further action to be determined based on NPRM comments.

Analysis: Regulatory Evaluation 02/13/85 (50 FR 6013)

Agency Contact: Ann Boylan, Transportation Reg. Specialist, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA85

2085. HAZARDOUS MATERIALS: URANIUM HEXAFLUORIDE

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806; 49 USC 1807; 49 USC 1808

CFR Citation: 49 CFR 172.101; 49 CFR 173.420

Legal Deadline: None.

Abstract: RSPA proposes to incorporate the existing industry packaging standards for Uranium Hexafluoride (UF6), specifically, American National Standards Institute Standard N 14.1 - 1982, into the Hazardous Materials Regulations (49 CFR Parts 100-179). Additionally, the requirement that UF6 be shipped in solid form is believed necessary to reduce the possibility of packaging failure and/or accidental release of UF6 during transportation. Because of the safety record exhibited by packagings filled and maintained in accordance with the ANSI Standard, development of new standards would be impractical. Incorporation of existing standards believed to be currently followed by industry is the most cost-effective method of establishing Federal standards and increasing conformity and safety in transportation of UF6. In response to numerous petitions for reconsideration from industry dealing with the use of existing packagings, the Department will reopen this specific issue in the new NPRM.

Timetable:

Action	Date	FR Cite
NPRM	04/11/86	51 FR 12529
NPRM Comment Period End	07/01/86	51 FR 12529
Interim Final Rule	11/18/86	51 FR 41631
Revision to Final Rule	12/24/86	51 FR 46674
Emergency Final Rule	03/12/87	52 FR 7581
NPRM New	07/06/87	52 FR 25342
Revision to Final Rule	07/06/87	52 FR 25340

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. HM-166V

Agency Contact: M. Wangler, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137-AB10

2086. ● MOLTEN SULFUR; MOLTEN MATERIALS GENERALLY

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None.

Abstract: RSPA is proposing to regulate molten sulfur as a hazardous material and make it subject to the hazardous warning communications requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/21/86	51 FR 42114
NPRM Comment Period End	02/19/87	51 FR 42114
Final Action	10/00/87	

Small Entity: No

Additional Information: Docket No. HM-198

Agency Contact: John Potock, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, NW, Washington, DC 20590, 202 366-4488

RIN: 2137-AB31

2087. ● STATE DESIGNATIONS OF ALTERNATIVE ROUTES FOR RADIOACTIVE MATERIALS TRANSPORTATION

Significance: Nonsignificant

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 177

Legal Deadline: None.

Abstract: Proposes to amend the Hazardous Materials Regulations to require that when a State routing agency designates an alternative route for the transportation of highway route controlled quantities of radioactive materials, the State must give written notice of such designations to RSPA. The creation of a repository for these designations would provide shippers, carriers, enforcement and emergency-response personnel, State agencies, local governments, and RSPA with definitive information concerning those alternative routes.

Timetable:

Action	Date	FR Cite
NPRM	07/16/87	52 FR 26928
NPRM Comment Period End	08/31/87	52 FR 26928
Final Action	10/00/87	

Small Entity: No

Additional Information: Docket No. HM-164A

Agency Contact: John Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AB32

2088. ● NOTIFICATION TO RSPA OF ROUTE PLANS FOR RADIOACTIVE MATERIALS TRANSPORTATION

Significance: Nonsignificant

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 173; 49 CFR 177

Legal Deadline: None.

Abstract: Proposes to require carriers, rather than shippers, to give written notice to RSPA of route plans and other information relating to transportation of highway route controlled quantities of radioactive materials.

Timetable:

Action	Date	FR Cite
NPRM	07/16/87	52 FR 26932
NPRM Comment Period End	08/31/87	52 FR 26932
Final Action	10/00/87	

Small Entity: No

Additional Information: Docket No. HM-164B

Agency Contact: John Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AB33

2089. ● REAR BUMPERS ON CARGO TANK TRUCKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 173

Legal Deadline: None.

Abstract: Proposes to provide a period of 36 months to allow operators of cargo tank trucks operated in combination with cargo tank full trailers to modify their front units by adding the required rear bumper.

This rulemaking is being performed in conjunction with the FHWA.

Timetable:

Action	Date	FR Cite
NPRM	08/08/86	51 FR 28605
NPRM Comment Period End	09/22/86	

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Docket No. HM-183B

DOT—RSPA — Final Rule Stage

Agency Contact: James O'Steen/D. Billings (FWHA), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4545

RIN: 2137-AB34

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Completed Actions

2090. + REVIEW OF THE FORM 41 REPORT OF FINANCIAL AND OPERATING STATISTICS FOR LARGE CERTIFICATED AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1387

CFR Citation: 14 CFR 241

Legal Deadline: None.

Abstract: OMB stated that the continuation of uniform, detailed financial and operating reporting of domestic air transportation appears to be contrary to airline deregulation. This final rule concluded that certain domestic Form 41 data is still needed by the Department. This rule eliminated three schedules and over 30 percent of the data elements contained in the Form 41 report. Operating expenses are to be reported by cost pools instead of by function and objective account.

Timetable:

Action	Date	FR Cite
ANPRM	01/02/85	50 FR 101
NPRM	08/23/85	50 FR 34366
NPRM Comment Period End	10/22/85	
Final Action	03/23/87	52 FR 9122
Final Action Effective	07/01/87	

Small Entity: No

Affected Sectors: 45 Transportation by Air

Agency Contact: Jack Calloway, Deputy Director, Department of Transportation, Research and Special Programs Administration, Office of Aviation Information Management, DAI-1/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4383

RIN: 2137-AA96

2091. + CONFIDENTIAL TREATMENT: AVIATION ECONOMICS - RELATED MATERIAL

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1482

CFR Citation: 14 CFR 302

Legal Deadline: None.

Abstract: This rule would have revised the procedures governing requests for confidential treatment of material filed with the Department to clarify the relation between those procedures and the Freedom of Information Act.

Because the requests are few in number and infrequent, it was determined that a rulemaking is not warranted. Therefore, the project was terminated on 6/1/87.

Timetable:

Action	Date	FR Cite
Project terminated	06/01/87	

Small Entity: No

Agency Contact: Joseph S. Nalevanko, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4484

RIN: 2137-AB02

2092. + PERFORMANCE-ORIENTED CLASSIFICATION AND PACKAGING STANDARDS FOR EXPLOSIVES AND BLASTING AGENTS

Significance: Agency Priority

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177; 49 CFR 178

Legal Deadline: None.

Abstract: This rulemaking would amend the Hazardous Materials Regulations (HMR) pertaining to Explosives and Blasting Agents to incorporate features found in the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods.

Timetable:

Action	Date	FR Cite
Removed from Agenda because it duplicates 2137-AA93	06/22/87	

Small Entity: Undetermined

Agency Contact: Charles H. Ke, Chemist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4495

RIN: 2137-AB25

2093. CONFIRMATION OR REVISION OF MAXIMUM ALLOWABLE OPERATING PRESSURE NEAR CERTAIN OCCUPIED BUILDINGS OR OUTSIDE AREAS

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192.5(d)(2)

Legal Deadline: None.

Abstract: This rule amends the criteria requiring operators to confirm or revise the maximum allowable operating pressure of a pipeline, when a building or recreational area that will be used infrequently is constructed near the pipeline.

Timetable:

Action	Date	FR Cite
ANPRM	09/05/85	50 FR 36116
ANPRM Comment Period End	01/03/86	50 FR 45845
NPRM	08/18/86	51 FR 29504
NPRM Comment Period End	11/17/86	51 FR 29504
Final Action	09/01/87	52 FR 32924
Final Action Effective	10/01/87	

Small Entity: No

Additional Information: Docket No. PS-84

Analysis: Regulatory Evaluation 09/18/86 (51 FR 29504)

DOT—RSPA — Completed Actions

Agency Contact: P. Cory, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4561

RIN: 2137-AA62

2094. GAS PIPELINE DAMAGE PREVENTION PROGRAM

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192.614

Legal Deadline: None.

Abstract: Current damage-prevention program requirements are revised so that pipeline operators will not have to take any action when notified of excavations in areas that do not contain buried gas pipelines.

Timetable:

Action	Date	FR Cite
NPRM	12/03/85	50 FR 49575
NPRM Comment Period End	02/03/86	50 FR 49575
Final Action	08/31/87	52 FR 32798
Final Action Effective	09/30/87	52 FR 32798

Small Entity: No

Additional Information: Docket No. PS-88

Analysis: Regulatory Evaluation 12/03/85 (50 FR 49575)

Agency Contact: P. Cory, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4561

RIN: 2137-AA71

2095. BULK PACKAGINGS AND MISCELLANEOUS RULE CHANGES

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173

Legal Deadline: None.

Abstract: Prescribes marking requirements for bulk packagings and bulk transport vehicles that are not portable tanks, cargo tanks or tank cars. A definition for bulk packaging is provided. Also included are five minor revisions pertinent to marking, to correct, clarify, and enhance compliance with the communication regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/27/84	49 FR 38164
NPRM Comment Period End	12/26/84	49 FR 38164
Final Action	08/10/87	52 FR 29526
Final Action Effective	02/01/88	

Small Entity: No

Additional Information: Docket No. HM-126D.

Agency Contact: D. Raines, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-4488

RIN: 2137-AA90

2096. FIRE PROTECTION AND SECURITY OF LIQUEFIED NATURAL GAS FACILITIES

Significance: Nonsignificant

Legal Authority: 49 USC 1674a

CFR Citation: 49 CFR 2801; 49 CFR 2901

Legal Deadline: None. 49 USC 1674a(b)

Abstract: The action extends the scope of existing regulations for fire protection and security of liquefied natural gas facilities to cover facilities at waterfront plants except facilities used in marine cargo transfer and facilities located in navigable waters. Minimal costs and benefits are expected, but action complies with statutory mandate for regulation.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 18007
NPRM Comment Period End	08/14/86	51 FR 18007
Final Action	01/08/87	52 FR 674
Final Action Effective	01/08/88	52 FR 674

Small Entity: No

Additional Information: (Docket No. PS-89) Fire protection and security of marine cargo transfer facilities and facilities in navigable waters are to be regulated by the U.S. Coast Guard under a memorandum of understanding governing waterfront plants.

Agency Contact: L. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2392

RIN: 2137-AB13

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MarAd)

Prerule Stage

2097. + REGULATIONS AND MINIMUM STANDARDS FOR STATE, TERRITORIAL OR REGIONAL MARITIME ACADEMIES AND COLLEGES

Significance: Agency Priority

Legal Authority: 46 USC 1295

CFR Citation: 46 CFR 310

Legal Deadline: None.

Abstract: The Maritime Administration provides support to six State maritime schools for maritime education. The Federal support is outlined in agreements that have been executed between MARAD and the schools. The existing regulations will be revised to reflect changes in these agreements due to decreased federal support.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway; 822 Colleges, Universities, Professional Schools, and Junior Colleges

Government Levels Affected: State, Federal

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DOT—MarAd — Prerule Stage

Agency Contact: Arthur W. Friedberg, Director, Office of Maritime Labor & Training, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-5755

RIN: 2133-AA57

2098. + PARTICIPATION BY VESSELS BUILT WITH CONSTRUCTION-DIFFERENTIAL SUBSIDY IN THE CARRIAGE OF OIL FROM ALASKA IN THE DOMESTIC TRADE

Significance: Agency Priority

Legal Authority: 46 USC 1114(b); 46 USC 1156

CFR Citation: 46 CFR 250

Legal Deadline: None.

Abstract: This regulation now establishes conditions for MARAD approval of tanker vessels over 100,000 dwt built with CDS, for participation in the carriage of Alaskan oil from Alaska to the Panama Canal. MARAD is reassessing the need for this regulation in light of the experience in administering its provisions, its policy of allowing total repayment of CDS (46 CFR Part 276) and litigation challenging these policies.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Frances Olsen, Chief, Division of Trade Studies, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8117, Washington, DC 20590, 202 366-2282

RIN: 2133-AA62

2099. STATISTICAL DATA FOR USE IN OPERATING-DIFFERENTIAL SUBSIDY (ODS) APPLICATION HEARINGS

Significance: Nonsignificant

Legal Authority: 46 USC 1175

CFR Citation: 46 CFR 207

Legal Deadline: None.

Abstract: Rulemaking would propose procedures that would assist preparation of standard forecasts of liner cargo (if a Final Rule covering ODS application hearing procedures is issued) in which forecast procedures would be included.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Further action dependent on disposition of RIN 2133-AA20.

Affected Sectors: 441 Deep Sea Foreign Transportation of Freight

Agency Contact: Edmond J. Fitzgerald, Director, Office of Trade Analysis and Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2400

RIN: 2133-AA16

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MarAd) — Proposed Rule Stage

2100. + APPROVAL OF MARINE HULL UNDERWRITERS

Significance: Agency Priority

Legal Authority: 46 USC 1114(b); 46 USC 1279(b)

CFR Citation: 46 CFR 299, (New)

Legal Deadline: None.

Abstract: This notice of proposed rulemaking would establish MARAD's criteria for accepting an organization as an underwriter on any policy of insurance covering vessels under Title XI and Title VI programs or other MARAD administered aid programs.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/85	50 FR 41531
ANPRM Comment Period End	11/12/85	
Public meeting	04/17/86	
NPRM	10/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 03/01/87

Agency Contact: William B. Ebersold, Maritime Aids Specialist, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8126, Washington, DC 20590, 202 366-0364

RIN: 2133-AA50

2101. + CARGO PREFERENCE - IMPLEMENTATION OF P.L. 99-198

Significance: Agency Priority

Legal Authority: 46 USC 1241

CFR Citation: 46 CFR 381

Legal Deadline: None.

Abstract: These amendments to the existing cargo-preference regulations will implement S1142 of P.L. 98-198, the Food Security Act of 1985, that clarifies the applicability of cargo-preference requirements to the shipment of U.S. agricultural products. It provides for an increase in the required percentage of carriage on U.S.-flag vessels of agricultural commodities not specifically exempted from cargo-preference requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation of Freight

Government Levels Affected: Federal

Analysis: Draft Evaluation 10/00/87

Agency Contact: Lewis C. Paine, Director, Office of Market Development, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-5517

RIN: 2133-AA55

2102. REVIEW: WAR RISK INSURANCE

Significance: Nonsignificant

Legal Authority: 46 USC 1283

CFR Citation: 46 CFR 308

Legal Deadline: None.

Abstract: MARAD is considering whether to expand eligibility for War Risk Insurance to foreign flag vessels other than those documented under the

DOT—MarAd — Proposed Rule Stage

laws of Panama, Liberia or Honduras, that are effectively U.S.-controlled vessels.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Affected Sectors: 44 Water Transportation; 633 Fire, Marine, and Casualty Insurance

Agency Contact: Edmond J. Fitzgerald, Director, Office of Trade Analysis & Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8117, Washington, DC 20590, 202 366-2400

RIN: 2133-AA54

2103. RULES OF PRACTICE AND PROCEDURES FOR HEARING IN ODS APPLICATIONS

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b)

CFR Citation: 46 CFR 201; 46 CFR 209; 46 CFR 251

Legal Deadline: None.

Abstract: Amendments to existing agency rules of practice and procedure and regulations governing applications for financial assistance, as well as new Part 208, that would establish a standard discovery order and standard techniques for forecasting the adequacy of U.S.-flag liner service in hearings required under the Merchant Marine Act, 1936.

Timetable:

Action	Date	FR Cite
NPRM	06/25/79	44 FR 37003
Next Action Undetermined		

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation of Freight; 443 Freight Transportation on the Great Lakes-St. Lawrence Seaway

Agency Contact: Edmond J. Fitzgerald, Director, Office of Trade Analysis and Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2400

RIN: 2133-AA20

2104. ● REQUIREMENTS FOR CONDUCTING VESSEL SUBSIDY CONDITION SURVEYS AND FOR ACCOMPLISHING SUBSIDIZED VESSEL MAINTENANCE AND REPAIRS

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b); 46 USC 1173

CFR Citation: 46 CFR 272

Legal Deadline: None.

Abstract: MARAD is considering a proposal to amend its regulations concerning the requests for conducting condition surveys of subsidized vessels and accomplishing subsidized maintenance and repairs, in order to conform the regulations to reflect existing procedures of the agency and to advise the public of MARAD organizational changes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation of Freight

Government Levels Affected: Federal

Agency Contact: John J. Davis, Chief, Div. of Ship Management, Department of Transportation, Maritime Administration, DOT/MARAD, 400 Seventh St., SW, Washington, DC 20590, 202 366-5776

RIN: 2133-AA64

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MarAd) — Final Rule Stage

2105. + CARGO PREFERENCE U.S.-FLAG VESSELS; DETERMINATION OF FAIR AND REASONABLE RATES FOR LINER VESSELS

Significance: Regulatory Program

Legal Authority: 46 USC 1241(b); 46 USC 1114(b)

CFR Citation: 46 CFR 382, (New)

Legal Deadline: None.

Abstract: Regulation would require provision of rate and cost data to MARAD so it can determine fair and reasonable rates for carriage of preference cargo at the request of concerned Federal agencies. This rulemaking is significant because it concerns a matter on which there is substantial public interest. It is needed to clarify the meaning of a statutory term.

Timetable:

Action	Date	FR Cite
NPRM	02/10/86	51 FR 5012
Final Action	10/00/87	

Small Entity: No

Analysis: Final Regulatory Evaluation 10/00/87

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Assistance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2323

RIN: 2133-AA02

2106. + CARGO PREFERENCE, U.S.-FLAG VESSELS: DETERMINATION OF FAIR AND REASONABLE RATES FOR BULK VESSELS

Significance: Regulatory Program

Legal Authority: 46 USC 1241(b); 46 USC 1114(b)

CFR Citation: 46 CFR 382, (New)

Legal Deadline: None.

Abstract: This regulation would require provision of rate and cost data to MARAD so it can determine fair and reasonable rates for carriage of preference cargo in bulk vessels at the request of concerned Federal agencies. MARAD would calculate guideline fair and reasonable rates using a methodology which would base those rates on a vessel's actual or constructed costs as determined from data submitted by the operator. It would

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establish requirements for submission of data on which the methodology would be based. This rulemaking is significant because it concerns a matter on which there is substantial public interest. It would clarify the meaning of a statutory term.

Timetable:

Action	Date	FR Cite
NPRM	08/06/85	50 FR 31735
NPRM Comment Period End	10/07/85	
NPRM Supplemental	12/17/86	51 FR 45135
Final Action	12/00/87	

Small Entity: No

Additional Information: This rulemaking has split from an earlier rulemaking: Cargo Preference - U.S. Flag Vessels - Determination of Fair and Reasonable Rates for Liners (RIN = 2133-AA02). Cargo preference regulation was last revised in 1977 (46 CFR 381).

Affected Sectors: 441 Deep Sea Foreign Transportation of Freight

Analysis: Supplemental Draft Evaluation 12/17/86 (51 FR 45135)

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Assistance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2323

RIN: 2133-AA43

2107. + CARGO PREFERENCE, U.S.-FLAG VESSELS: EVALUATION OF BIDS FOR SUBSIDIZED LINER VESSELS

Significance: Agency Priority

Legal Authority: 46 USC 1241

CFR Citation: 46 CFR 381.8

Legal Deadline: None.

Abstract: This regulation would establish procedures governing the evaluation by U.S. shipper agencies of bids from subsidized U.S.-flag-liner vessel operators for the carriage of open rated civilian and military preference cargoes.

Timetable:

Action	Date	FR Cite
NPRM	02/10/86	51 FR 5015
Final Action	12/00/87	

Small Entity: No

Additional Information: On 11/11/84, MARAD issued a final rule setting forth procedures governing the evaluation by shipper agencies of bids from U.S.-flag bulk vessel operators for the carriage of dry bulk preference cargoes.

Government Levels Affected: Federal

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Assistance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2323

RIN: 2133-AA52

2108. SUSPENSION OF ODS AGREEMENTS FOR ALL OR PORTION OF THE VESSELS INCLUDED THEREIN

Significance: Nonsignificant

Legal Authority: 46 USC 1184; 46 USC 1114(b); PL 97-35

CFR Citation: 46 CFR 295, (New)

Legal Deadline: None.

Abstract: These regulations would implement Sec. 1603 of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), which adds a new Sec. 614 to the Merchant Marine Act, 1936 (46 App. U.S.C. 1184).

Timetable:

Action	Date	FR Cite
NPRM	08/18/83	48 FR 37449
To Be Withdrawn	10/01/87	

Small Entity: No

Additional Information: NPRM being withdrawn because the Maritime Subsidy Board final Opinion and Order in Docket S-764, that does not require CDS repayment for bulk vessels carrying preference cargoes, is a more attractive alternative for operators than ODS suspension that requires CDS repayment. Also, operator of only liner vessels to make election is in bankruptcy.

Affected Sectors: 441 Deep Sea Foreign Transportation of Freight

Agency Contact: Raymond Barberesi, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-2256

RIN: 2133-AA17

2109. MARINE PROTECTION AND INDEMNITY INSURANCE INSTRUCTIONS UNDER GENERAL AGENCY AND BERTH AGENCY AGREEMENTS

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b)

CFR Citation: 46 CFR 326

Legal Deadline: None.

Abstract: These amendments would reflect existing Maritime Administration (MARAD) practices, office names and addresses concerning the handling of marine protection insurance (P&I) claims by Agents under Agreements with the United States, acting by and through the Director, National Shipping Authority in MARAD, with respect to vessels under MARAD control in the National Defense Reserve Fleet.

Timetable:

Action	Date	FR Cite
NPRM	05/14/86	51 FR 17659
NPRM Comment Period End	07/14/86	
Final Action	10/00/87	

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight

Agency Contact: Edmond J. Fitzgerald, Director, Office of Trade Analysis & Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8117, Washington, DC 20590, 202 366-2400

RIN: 2133-AA51

DEPARTMENT OF TRANSPORTATION (DOT) **Completed Actions**
Maritime Administration (MarAd)

2110. + NOTICE OF INTENT TO REDESIGNATE ESSENTIAL TRADE ROUTES

Significance: Regulatory Program

Legal Authority: 46 USC 1121

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: The MARAD Administrator has redesignated trade routes determined to be essential for the promotion, development, expansion and maintenance of the foreign commerce of the United States, under authority in the Merchant Marine Act, 1936. There have been no substantial changes in essential trade route designations since the Act's enactment, other than inclusion of the U.S. Great Lakes. This action recognizes that in recent years major changes in shipping technology and U.S. trade patterns have emerged. It consolidated the former 29 essential trade routes and essential trade areas into fewer essential trade areas.

Timetable:

Action	Date	FR Cite
Notice of Intent to Redesignate Essential Trade Routes	03/08/85	50 FR 9532
Public Comment Period Begins	03/08/85	
Public Comment Period Ends	05/15/85	50 FR 16036
Final Action	05/12/87	
Final Action Effective	05/12/87	52 FR 17879

Small Entity: No

Additional Information: It reflects the current pattern of vessel operations. It contemplates amendments to the Operating-Differential Subsidy Agreement for a subsidized operator upon request made to the Maritime Subsidy Board. A detailed discussion of the factors supporting this action is contained in a study of the Agency, Reevaluation of U.S.-Liner Trade Routes. This study is available upon request, as is an economic review.

Agency Contact: Edmond J. Fitzgerald, Director, Office of Trade Analysis and Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8117, Washington, DC 20590, 202 366-2400

RIN: 2133-AA44

2111. + CONSTRUCTION-DIFFERENTIAL SUBSIDY REPAYMENT

Significance: Regulatory Program

Legal Authority: 46 USC 1114(b); 46 USC 1117; 46 USC 1204; 46 USC 1156

CFR Citation: 46 CFR 276.3

Legal Deadline: Judicial, July 16, 1987.

Abstract: The Department issued a rule in 1985 allowing vessels built with construction-differential subsidy (CDS) to repay that CDS in exchange for permission to operate in the domestic trade. Section 506 of the Merchant Marine Act of 1936, as amended, prohibits CDS vessels from operating in the domestic trade. The court delayed the effective date of its order to vacate the rule until July 16, 1987, to allow the Department to undertake further proceedings to address the problems of the merchant-marine trade. The Department initiated a rulemaking proceeding to replace the vacated rule by the court's deadline. This rulemaking addressed the decision by U.S. Court of Appeals for the District of Columbia which vacated the Department's CDS Repayment rule (50 FR 19170, May 7, 1985.)

Timetable:

Action	Date	FR Cite
NPRM	04/15/87	
NPRM Comment Period End	05/15/87	52 FR 12199
Final Action	06/22/87	
Final Action Effective	06/22/87	52 FR 23522

Small Entity: No

Affected Sectors: 442 Deep Sea Domestic Transportation of Freight

Agency Contact: Lynne Adams-Whitaker, Chief, Division of Regulations, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 366-5181

RIN: 2133-AA61

2112. REVIEW OF ALL MARAD PROGRAM REGULATIONS

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b)

CFR Citation: 46 CFR Chapter II

Legal Deadline: None.

Abstract: MARAD reviewed its regulations in their entirety to identify regulations that are obsolete, or which need updating. Revisions or deletions will be handled by separate rulemaking by subject.

Timetable:

Action	Date	FR Cite
End Review	06/30/87	

Small Entity: No

Affected Sectors: 373 Ship and Boat Building and Repairing; 441 Deep Sea Foreign Transportation of Freight

Agency Contact: Harris L. Kane, Attorney-Adviser, Office of Chief Counsel, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 7221, Washington, DC 20590, 202 366-5181

RIN: 2133-AA56

2113. DOCUMENTATION, TRANSFER OR CHARTER OF VESSELS; AMENDMENT OF PROCESSING PROCEDURES FOR CERTAIN APPLICATIONS

Significance: Nonsignificant

Legal Authority: 46 USC 808; 46 USC 835; 46 USC 839; 46 USC 841a

CFR Citation: 46 CFR 221

Legal Deadline: None.

Abstract: Final rule amended the regulation that imposes fees for processing applications for MARAD approval of the sale, transfer or charter to noncitizens of vessels owned by U.S. citizens and documented under U.S. law, or the transfer of such vessels to foreign registry. This amendment will allow MARAD to reduce any fee, or waive the fee entirely, in appropriate circumstances.

Timetable:

Action	Date	FR Cite
Final Action	03/03/87	
Final Action Effective	04/02/87	52 FR 6329

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight

Government Levels Affected: Federal

Agency Contact: Jessie Fernanders, Ship Disposal Foreign Transfer Officer, Department of Transportation, Maritime Administration, 400 Seventh Street, SW,

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Room 2112, Washington, DC 20590, 202 366-5111

RIN: 2133-AA59

2114. REGULATIONS GOVERNING PUBLIC BUILDINGS AND GROUNDS AT THE U.S. MERCHANT MARINE ACADEMY

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b)

CFR Citation: 46 CFR 386, New

Legal Deadline: None.

Abstract: MARAD adopted new regulations to enhance the security of buildings and grounds at the U.S. Merchant Marine Academy, located at Kings Point, New York, as well as the security of persons entering in or on such property. MARAD has the responsibility for operating the Academy, pursuant to authority delegated by the General Services Administration and the Secretary of Transportation. The regulations also confirm the appointment of special police for the protection of buildings, grounds and equipment at the Academy.

Timetable:

Action	Date	FR Cite
NPRM	02/11/87	52 FR 4357
NPRM Comment Period End	03/30/87	52 FR 4357
Final Action	06/08/87	
Final Action Effective	07/08/87	52 FR 21534

Small Entity: No

Affected Sectors: 822 Colleges, Universities, Professional Schools, and Junior Colleges

Government Levels Affected: State, Federal

Agency Contact: John J. White, Logistics Management Specialist, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 7225, Washington, DC 20590, 202 366-2812

RIN: 2133-AA60

2115. ● ADMISSION AND TRAINING OF MIDSHIPMEN AT THE UNITED STATES MERCHANT MARINE ACADEMY; PAY INCREASE

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b); 46 USC 1295 to 1295g

CFR Citation: 46 CFR 310

Legal Deadline: None.

Abstract: MARAD is amending its regulations on merchant marine training to set the rate of pay that midshipmen at the United States Merchant Marine Academy (USMMA) receive while assigned to U.S.-flag merchant vessels for their one year of at-sea training to be the same as the monthly salary rate received by cadets/midshipmen at the other Federal academies. This will eliminate the need to amend these regulations periodically following a pay increase for cadets/midshipmen at the other Federal academies. The rulemaking was expedited to effect comparability in pay since the cadets/midshipmen at the other Federal academies have been receiving pay raises since the beginning of 1987.

Timetable:

Action	Date	FR Cite
Final Action	06/08/87	52 FR 21533
Final Action Effective	06/08/87	

Small Entity: No

Affected Sectors: 822 Colleges, Universities, Professional Schools, and Junior Colleges; 829 Schools and Educational Services, Not Elsewhere Classified

Agency Contact: Mr. Crawford Ellerbe, Program Analyst, Department of Transportation, Maritime Administration, 400 Seventh Street, SW - Room 7302B, Washington, DC 20590, 202 366-2643

RIN: 2133-AA63

[FR Doc. 87-22218 Filed 10-23-87; 8:45 am]

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§§ 1.501–1.640	15.00	Apr. 1, 1987
§§ 1.641–1.850	17.00	Apr. 1, 1987
§§ 1.851–1.1000	27.00	Apr. 1, 1987
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600–End	6.00	Apr. 1, 1987
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200–End	13.00	Apr. 1, 1987
28	21.00	July 1, 1986
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500–899	24.00	July 1, 1987
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1900–1910	27.00	July 1, 1986
1911–1925	6.50	July 1, 1987

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43 Parts:		
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CFR Index and Findings Aids	27.00	Jan. 1, 1987
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Individual copies	3.75	1987

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.

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Part XV

Department of the Treasury

Semiannual Regulatory Agenda

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DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda

AGENCY: Departmental Offices, Treasury.

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 ("Federal Regulation," February 17, 1981), which require the publication of a semiannual agenda of regulations. The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda Format developed by the Regulatory Information Service Center (RISC).

FOR FURTHER INFORMATION CONTACT: For additional information about a specific Departmental Offices regulation, contact the "agency contact" listed in the specific regulatory action. For general information concerning the agenda, contact Richard S. Carro, Director, Office of Legislation, Litigation, and Regulation, Office of the General Counsel, Room 1422, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, (202) 566-2556, not a toll-free call.

SUPPLEMENTARY INFORMATION: The semiannual agenda of the Departmental Offices includes the Office of the General Counsel and the Office of Revenue Sharing.

Dated: August 28, 1987.

Robert B. Zoellick,

Executive Secretary.

Departmental Offices—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2116	31 CFR 10 Due Diligence Standards With Respect to Persons Practicing Before the Internal Revenue Service	1505-AA17
2117	31 CFR 103 Bank Secrecy Act Reporting Requirements of the United States Postal Service	1505-AA27

Departmental Offices—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2118	31 CFR 103 Disclosure of Bank Secrecy Act Data	1505-AA25

Departmental Offices—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2119	31 CFR 1 Disclosure of Records	1505-AA01
2120	17 CFR 4 Implementing Regulations; Government Securities Act of 1986	1505-AA21
2121	31 CFR 103 Administrative Ruling System under the Bank Secrecy Act Regulations	1505-AA26

DEPARTMENT OF THE TREASURY (TREAS) — Proposed Rule Stage
Departmental Offices (DO)

2116. DUE DILIGENCE STANDARDS WITH RESPECT TO PERSONS PRACTICING BEFORE THE INTERNAL REVENUE SERVICE

Legal Authority: 5 USC 301; 31 USC 330; 31 USC 321

CFR Citation: 31 CFR 10

Legal Deadline: None.

Abstract: The proposed regulation would modify the current regulations governing practice before the Internal Revenue Service by clarifying the requirements relating to due diligence standards imposed on tax practitioners.

Timetable:

Action	Date	FR Cite
NPRM	08/14/86	51 FR 29113
Extend Public Comment Period to 11/13/86	08/27/86	51 FR 30510

TREAS—DO — Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	10/14/86	51 FR 29113
Extend public comment period to 02/13/87	11/06/86	51 FR 40340

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Mr. Leslie S. Shapiro, Director of Practice, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 535-6787

RIN: 1505-AA17

2117. ● BANK SECRECY ACT REPORTING REQUIREMENTS OF THE UNITED STATES POSTAL SERVICE

Legal Authority: 12 USC 1892b; 12 USC 1951 to 1959; 31 USC 5311 to 5324

CFR Citation: 31 CFR 103

Legal Deadline: None.

Abstract: This document would place the United States Postal Service under the reporting requirements of the Bank Secrecy Act with respect to cash purchases of postal money orders exceeding $10,000, in response to the problem of drug money laundering through the purchase of postal money orders.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	

Small Entity: No

Agency Contact: Jonathan J. Rusch, Director, Office of Financial Enforcement, Department of the Treasury, Departmental Offices, Room 4320, Washington, DC 20220, 202 566-8022

RIN: 1505-AA27

DEPARTMENT OF THE TREASURY (TREAS) — Final Rule Stage
Departmental Offices (DO)

2118. ● DISCLOSURE OF BANK SECRECY ACT DATA

Legal Authority: 12 USC 1892b; 12 USC 1951 to 1959; 31 USC 5311 to 5324

CFR Citation: 31 CFR 103

Legal Deadline: None.

Abstract: This regulation would clarify current rules pertaining to disclosure of information reported under the Bank Secrecy Act and to add a new provision that would authorize charging of fees for costs incidental to certain disclosures to state and local government agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21699
NPRM Comment Period End	07/08/87	52 FR 21699
Final Action	09/00/87	

Small Entity: No

Agency Contact: Jonathan J. Rusch, Director, Office of Financial Enforcement, Department of the Treasury, Departmental Offices, Room 4320, Washington, DC 20220, 202 566-8022

RIN: 1505-AA25

DEPARTMENT OF THE TREASURY (TREAS) — Completed Actions
Departmental Offices (DO)

2119. DISCLOSURE OF RECORDS

Legal Authority: 5 USC 552; 5 USC 552a; 31 USC 321

CFR Citation: 31 CFR 1

Legal Deadline: None.

Abstract: This regulation amends the Department's regulations implementing the Freedom of Information and Privacy Acts. The proposed amendments are intended to facilitate and simplify public requests for information, and to assure accurate and consistent application of policies and procedures throughout the Department.

Timetable:

Action	Date	FR Cite
NPRM	04/14/87	52 FR 12003
NPRM Comment Period End	04/24/87	52 FR 12003
Final Action	07/24/87	52 FR 26302

Small Entity: No

Agency Contact: Phyllis De Piazza, Departmental Disclosure Officer, Department of the Treasury, Departmental Offices, Washington, DC 20220, 202 566-2789

RIN: 1505-AA01

2120. IMPLEMENTING REGULATIONS; GOVERNMENT SECURITIES ACT OF 1986

Significance: Regulatory Program

Legal Authority: 15 USC 780-4; 31 USC 3121; 31 USC 9110

CFR Citation: 17 CFR 4

Legal Deadline: Statutory. Proposed regulations: 02/25/87; Temporary regulations: 05/26/87; Final regulations: 07/25/87

Abstract: These regulations will implement the Government Securities Act of 1986 (Pub. L. 99-571), which requires the Secretary of the Treasury to adopt regulations concerning the financial responsibility, protection of customer securities and balances, recordkeeping, reporting and audit of brokers and dealers in government securities.

Timetable:

Action	Date	FR Cite
NPRM	02/25/87	52 FR 05660
NPRM Comment Period End	03/27/87	52 FR 05660
Interim Final Rule	05/26/87	52 FR 19641
Final Action	07/24/87	52 FR 27909

TREAS—DO — **Completed Actions**

Small Entity: Undetermined

Agency Contact: Ellen Seidman, Special Assistant to the Undersecretary, Department of the Treasury, Departmental Offices, 1500 Pennsylvania Ave., NW, Room 4414, Washington, DC 20220, 202 566-2278

RIN: 1505-AA21

2121. ● ADMINISTRATIVE RULING SYSTEM UNDER THE BANK SECRECY ACT REGULATIONS

Legal Authority: 12 USC 1892b; 12 USC 1951 to 1959; 31 USC 5311 to 5324

CFR Citation: 31 CFR 103

Legal Deadline: None.

Abstract: In order to facilitate dissemination of Treasury Department interpretations of the Bank Secrecy Act and regulations, this document institutes an administrative ruling system similar to those used by the Internal Revenue Service and the Customs Service.

Timetable:

Action	Date	FR Cite
Final Action	09/00/87	
Final Action Effective	10/00/87	

Small Entity: No

Agency Contact: Jonathan J. Rusch, Director, Office of Financial Enforcement, Department of the Treasury, Departmental Offices, Room 4320, Washington, DC 20220, 202 566-8022

RIN: 1505-AA26

[FR Doc. 87-21238 Filed 10-23-87; 8:45 am]

BILLING CODE 4810-25-T

Office of Revenue Sharing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2122	31 CFR 51 Final Wind-Down of Revenue Sharing Program	1507-AA12

DEPARTMENT OF THE TREASURY (TREAS) — **Prerule Stage**

Office of Revenue Sharing (ORS)

2122. FINAL WIND-DOWN OF REVENUE SHARING PROGRAM

Legal Authority: 31 USC 6701 to 6724; PL 99-272

CFR Citation: 31 CFR 51

Legal Deadline: None.

Abstract: Congress has repealed the Revenue Sharing Act effective December 31, 1986 or the adjournment sine die of the 99th Congress whichever is earlier. Some regulatory changes have been made but final changes may need to be made in the regulations in order to effectuate this repeal. No alternative to wind-down of the Program or repeal of the Act exists. The elimination of the Program will be a substantial cost-cutting action.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Richard S. Isen, Chief Counsel, Department of the Treasury, Office of Revenue Sharing, 2401 E Street, NW, Washington, DC 20226, 202 634-5182

RIN: 1507-AA12

[FR Doc. 87-21238 Filed 10-23-87; 8:45 am]

BILLING CODE 4810-25-T

DEPARTMENT OF THE TREASURY (TREAS)

Financial Management Service (FMS)

Fiscal Service

31 CFR Ch. II

Semiannual Agenda

AGENCY: Financial Management Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 ("Federal Regulation," February 17, 1981), which require publication of a semiannual agenda of regulations under development or review.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation contained in this agenda, contact the "agency contact" listed in the specific regulatory action.

SUPPLEMENTARY INFORMATION: The proposed regulations are not considered to be major regulations within the meaning of E.O. 12291 and will not have a significant impact on small entities

TREAS—FMS

within the meaning of the Regulatory Flexibility Act.

Dated: August 20, 1987.

Marcus W. Page,

Acting Commissioner.

Financial Management Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2123	31 CFR 205 Revision of 31 CFR Part 205 (TDC No. 1075), Payments Between the Federal Government and Recipient Organizations	1510-AA00
2124	31 CFR 210, (Revision) Federal Payments through Financial Institutions by the Automated Clearing House Method	1510-AA09
2125	31 CFR 235 Time Limitation on Payment and Cancellation of Treasury Checks and Reclamation Actions and Claims	1510-AA11
2126	31 CFR 225, (Revision) Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds	1510-AA13

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2127	31 CFR 223, (Revision) Regulations Governing Surety Companies Doing Business with the United States	1510-AA12

DEPARTMENT OF THE TREASURY (TREAS) — **Prerule Stage**

Financial Management Service (FMS)

2123. REVISION OF 31 CFR PART 205 (TDC NO. 1075), PAYMENTS BETWEEN THE FEDERAL GOVERNMENT AND RECIPIENT ORGANIZATIONS

Significance: Agency Priority

Legal Authority: 31 USC 6503

CFR Citation: 31 CFR 205

Legal Deadline: None.

Abstract: Revision of 31 CFR 205 will implement a new funding technique for Federal programs. The regulation would require a State to pay interest on Federal funds from the time they are deposited to the State's account until the time those funds are paid out to redeem checks or warrants or make payments by other means. This new "Checks Issued-Interest Remitted" technique was developed in response to statutes in some States that require that funds reside in a bank account prior to the issuance of checks. This revision also provides for the remittance of interest by the Federal Government if a State disburses its own funds for program purposes in accordance with Federal law, regulation or Federal/State agreement.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: In addition, other cash management issues discussed by the State/Federal Cash Management Reform Task Force will be addressed in this regulation.

Government Levels Affected: Local, State, Federal

Agency Contact: Katherine Payne, Manager, Treasury Programs Branch, Department of the Treasury, Financial Management Service, Treasury Anx. 1, PB 802, Madison Place and Pennsylvania, NW, Washington, DC 20226, 202 634-5704

RIN: 1510-AA00

2124. FEDERAL PAYMENTS THROUGH FINANCIAL INSTITUTIONS BY THE AUTOMATED CLEARING HOUSE METHOD

Significance: Agency Priority

Legal Authority: 5 USC 5525; 12 USC 391; 31 USC 321

CFR Citation: 31 CFR 210, (Revision)

Legal Deadline: None.

Abstract: Revision of 31 CFR 210 will expand the Direct Deposit/Electronic Funds Transfer (DD/EFT) program so that payments to meet Federal obligations can be made directly by DD/EFT. These include non-benefit payments such as vendor payments, miscellaneous payments, Internal Revenue Service (IRS) tax refunds, savings bonds, grants and loans. It will also include the payment of discretionary allotments of net pay of Federal employees' salaries by DD/EFT. Electronic funds thus transferred through the Federal Reserve System eliminate the possibility of checks being lost, stolen, or forged. The Federal Government's operating

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TREAS—FMS — **Prerule Stage**

efficiency will be improved, productivity will be increased, and the costs associated with the current methods will be reduced.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Frasia Trice, Manager, Policy and Research Branch, Department of the Treasury, Financial Management Service, Treasury Annex 1, Room 204, Washington, DC 20226, 202 566-9839

RIN: 1510-AA09

2125. ● TIME LIMITATION ON PAYMENT AND CANCELLATION OF TREASURY CHECKS AND RECLAMATION ACTIONS AND CLAIMS

Significance: Agency Priority

Legal Authority: PL 100-86, Sec 1005 Title X; 31 USC 3328; 31 USC 3334; 31 USC 3712(a)

CFR Citation: 31 CFR 235; 31 CFR 240; 31 CFR 245

Legal Deadline: Statutory, 00/00/00. Amendments shall become effective 6 months after the date of enactment of PL 100-86 or on such later date as the Secretary of the Treasury may prescribe in regulations.

Abstract: These regulations are required under PL 100-86, Sec 1005, and they will prescribe rules and procedures necessary in order to implement the time limitation on payment and cancellation of Treasury checks and reclamation actions and claims.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Agency Contact: David A. Ingold, Chief Counsel, Department of the Treasury, Financial Management Service, Madison Pl. & Pennsylvania Ave., NW, Washington, DC 20226, 202 566-7534

RIN: 1510-AA11

2126. ● ACCEPTANCE OF BONDS, NOTES, OR OTHER OBLIGATIONS ISSUED OR GUARANTEED BY THE UNITED STATES AS SECURITY IN LIEU OF SURETY OR SURETIES ON PENAL BONDS

Significance: Agency Priority

Legal Authority: 31 USC 9303

CFR Citation: 31 CFR 225, (Revision)

Legal Deadline: None.

Abstract: Revision of 31 CFR 225 will address two major issues: the definition of authorized depositories eligible to act as custodian of securities pledged under these regulations, and the definition of acceptable U.S. Notes or Bonds, i.e., those that may be pledged in lieu of a surety bond.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Terry Boyer, Manager, Surety Bond Branch, Department of the Treasury, Financial Management Service, 1725 I Street, NW, Room 1006A, Washington, DC, 20226, 202 634-2101

RIN: 1510-AA13

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)
Proposed Rule Stage

2127. ● REGULATIONS GOVERNING SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Significance: Agency Priority

Legal Authority: 31 USC 9301 to 9309

CFR Citation: 31 CFR 223, (Revision)

Legal Deadline: None.

Abstract: Revision of 31 CFR Part 223, contains several substantive changes, as well as editorial changes and a realignment of sections. Substantive changes include: 1) a 3-year aging requirement in order to qualify for Treasury certification, 2) elimination of the alternative to use collateral for protecting excess risks, and 3) a requirement that all reinsurance on Federal bonds be placed with companies recognized by Treasury for reinsurance purposes. The proposed regulations provide provisions for exceptions to the aging and reinsurance regulations under certain circumstances. These regulations will help Treasury ensure that certified companies are capable of carrying out their surety contracts.

Timetable:

Action	Date	FR Cite
NPRM	08/05/87	52 FR 29039
NPRM Comment Period End	10/04/87	52 FR 29039
Final Action	11/30/87	
Final Action Effective	12/31/87	

Small Entity: No

Agency Contact: Terry Boyer, Manager, Surety Bond Branch, Department of the Treasury, Financial Management Service, 1725 I Street, NW Rm. 1006A, Washington, DC 20226, 202 634-2101

RIN: 1510-AA12

[FR Doc. 87-21239 Filed 10-23-87; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Bureau of Alcohol, Tobacco and Firearms

27 CFR Ch. I

[Notice No. 640]

Unified Agenda of Federal Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF); Treasury.

ACTION: General notice; Unified Agenda of Federal Regulations of regulatory projects under development, consideration, and review.

SUMMARY: Pursuant to section 5 of Executive Order 12291, entitled "Federal Regulations," ATF is publishing an agenda of proposed regulations that are expected to be issued and of proposed regulations that have been issued and an agenda of existing regulations that are being reviewed under the terms of the Executive Order, within the next six months. The latter agenda also lists regulatory projects identified for review pursuant to the ATF Regulatory Reform Program. Pursuant to section 610 of the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 610), ATF is also indicating whether a regulatory project is likely to have a significant economic impact upon a substantial number of small entities.

This general notice is designed to give the public adequate notice of the regulatory activities being contemplated by ATF.

The agenda is based on information available at the present time. The next Unified Agenda of Federal Regulations will be published in the Federal Register of April 1988.

FOR FURTHER INFORMATION CONTACT: For information about any particular regulatory project, contact the person listed in the subheading "Agency Contact," for the regulatory project.

For general information about this general notice, contact Lori Weins, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226; (202) 566-7626.

Issuance

By Direction of the Secretary of the Treasury, this general notice reads as set forth below.

Dated: August 12, 1987.

Phillip C. McGuire,

Acting Director.

Bureau of Alcohol, Tobacco and Firearms—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2128	27 CFR 4.73 Standards of Fill for Wine and Distilled Spirits	1512-AA77

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2129	27 CFR 9 American Viticultural Areas	1512-AA07
2130	27 CFR 4 Recodification of 27 CFR Part 4	1512-AA17
2131	27 CFR 197 Nonbeverage Drawback	1512-AA20
2132	27 CFR 4.29 Grape Harvest Labeling for Wine	1512-AA31
2133	27 CFR 4 Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages; Appearance of Athletes and Depiction of Athletic Events	1512-AA50
2134	27 CFR 250 Recodification of 27 CFR Part 250 as 27 CFR Part 26	1512-AA59
2135	27 CFR 4.24 Non-Generic Designations of Grape Wine Having Geographical Significance	1512-AA71
2136	27 CFR 27 Recodification of 27 CFR Part 251 as 27 CFR Part 27	1512-AA72
2137	27 CFR 4.32 Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages; Disclosure of FD & C Yellow No. 6	1512-AA76
2138	27 CFR 25 Operation of a Retail Beer Dealership for on-premises consumption at a Brewery	1512-AA78
2139	27 CFR 55 Fireworks Regulations	1512-AA52
2140	27 CFR 285 27 CFR Part 285, Manufacture of Cigarette Papers and Tubes	1512-AA33

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2141	27 CFR 19.11 Implementation of the "Wine Impact Bill"	1512-AA06
2142	27 CFR 5.22 Standard of Identity for Vodka	1512-AA10

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Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2143	27 CFR 5.22(b)(1)(iii) Change in Standard of Identity for Straight Whiskies of the Same Type	1512-AA32
2144	27 CFR 240.180 to 240.400 Recodification of Wine Regulations (Subparts A to O)	1512-AA42
2145	27 CFR 4 Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages; Use of the Word Light (Lite)	1512-AA48
2146	27 CFR 240 Materials and Processes for the Production and Treatment of Wine	1512-AA81
2147	27 CFR 4 Winegrape Varietal Designations	1512-AA67
2148	27 CFR 4.35 Winemaking Terminology	1512-AA70
2149	27 CFR 7 Use of Terms in the Labeling and Advertising of Malt Beverages Having an Alcohol Content of Less Than .5% by Volume	1512-AA73
2150	27 CFR 5 Listing of Principal Place of Business on Distilled Spirits Labels	1512-AA74
2151	27 CFR 72 Amendments to the Gun Control Act of 1968	1512-AA75
2152	27 CFR 178 Restrictions on Manufacture, Importation and Sale of Armor Piercing Ammunition	1512-AA79
2153	27 CFR 178 Simplified Recordkeeping for Low-volume Firearms Dealers	1512-AA80
2154	27 CFR 270.11 Manufacturer's Identification on Tobacco Products Packages	1512-AA28

Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2155	27 CFR 4.26 Estate Bottled	1512-AA34

DEPARTMENT OF THE TREASURY (TREAS)

Prerule Stage

Bureau of Alcohol, Tobacco and Firearms (BATF)

ALCOHOL

2128. STANDARDS OF FILL FOR WINE AND DISTILLED SPIRITS

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.73; 27 CFR 5.47

Legal Deadline: None.

Abstract: ATF is considering amending the standard of fill requirements for wine and distilled spirits. Based, in part, on a petition it has received, the Bureau wishes to gather information by inviting comments from the public and industry concerning the existing standards of fill.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/87	52 FR 23385
ANPRM Comment Period Extended	08/21/87	
ANPRM Comment Period End	08/24/87	
ANPRM Extended Comment Period Ends	10/23/87	
NPRM	12/00/88	

Small Entity: No

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7628

RIN: 1512-AA77

DEPARTMENT OF THE TREASURY (TREAS)

Proposed Rule Stage

Bureau of Alcohol, Tobacco and Firearms (BATF)

ALCOHOL

2129. AMERICAN VITICULTURAL AREAS

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None.

Abstract: Establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Ben Lomond Mountain, CA (contact Robert White)
NPRM 04/27/87 (52 FR 13644)
NPRM Comment Period End 05/27/87
Final Action 12/00/87

Cayuga Lake, NY (contact Jim Ficaretta)
NPRM 09/16/87 (52 FR 34927)
NPRM Comment Period End 10/16/87
Final Action 06/00/88

El Dorado, CA - Amendment (contact Jim Hunt)
NPRM 06/03/86 (51 FR 19853)
NPRM Comment Period End 07/03/86
Final Action 06/24/87 (52 FR 23650)

Middle Rio Grande Valley, NM (contact Ed Reisman)
NPRM 05/26/87 (52 FR 19535)
NPRM Comment Period End 06/29/87
Final Action 12/00/87

Monticello, VA - Amendment (contact Jim Hunt)
NPRM 06/03/86 (51 FR 19856)
NPRM Comment Period End 07/03/86
Final Action 06/24/87 (52 FR 23651)

Northern Neck, VA (contact Ed Reisman)
NPRM 09/17/85 (50 FR 37692)
NPRM Comment Period End 11/01/85
Final Action 04/21/87 (52 FR 13079)

Old Mission Peninsula, MI (contact Ed Reisman)
NPRM 11/18/86 (51 FR 41639)
NPRM Comment Period End 01/02/87
Final Action 06/08/87 (52 FR 21513)

Ozark Highlands, MO (contact Steve Simon)
NPRM 02/09/87 (52 FR 4036)
NPRM Comment Period End 03/26/87
Final Action 08/03/87 (52 FR 32783)

San Benito, CA (contact Steve Simon)
NPRM 04/10/87 (52 FR 11689)
NPRM Comment Period End 05/11/87
Final Action 10/05/87 (52 FR 37135)

Sierra Foothills, CA (contact Mike Breen)
NPRM 05/26/87 (52 FR 19532)
NPRM Comment Period End 07/27/87
Final Action 12/00/87

Sonoma Coast, CA (contact John Linthicum)
NPRM 10/24/86 (51 FR 37755)
NPRM Comment Period End 01/22/87
Final Action 06/11/87 (52 FR 22302)

Stags Leap District, CA (contact Jim Ficaretta)
NPRM 02/11/87 (52 FR 4350)
NPRM Comment Period End 04/13/87
Final Action 06/00/88

Warren Hills, NJ (contact Steve Simon)
NPRM 09/29/87 (52 FR 36432)
NPRM Comment Period End 11/13/87
Final Action 06/00/88

Western Connecticut Highlands, CT (contact Ed Reisman)
NPRM 08/11/87 (52 FR 29705)
NPRM Comment Period End 09/25/87
Final Action 06/00/88

Wild Horse Valley, CA (contact Ed Reisman)
NPRM 09/16/87 (52 FR 34924)
NPRM Comment Period End 11/02/87
Final Action 06/00/88

Small Entity: No

Agency Contact: See supplemental timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA07

2130. RECODIFICATION OF 27 CFR PART 4

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None.

Abstract: To revise the wine labeling and advertising regulations; where applicable, to incorporate production regulations; and due to statutory amendments requested, may result in a legislative submission.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: No

Additional Information: Additional Agency Contact: Ed Reisman

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA17

2131. NONBEVERAGE DRAWBACK

Significance: Agency Priority

Legal Authority: 26 USC 5131 et seq

CFR Citation: 27 CFR 197

Legal Deadline: None.

Abstract: To update, clarify, simplify, and recodify the regulations relating to drawback of tax on distilled spirits used in the manufacture of non-beverage products.

Timetable:

Action	Date	FR Cite
NPRM	07/29/87	52 FR 28286
NPRM Comment Period End	10/29/87	
Final Action	12/00/88	

Small Entity: Yes

Additional Information: SMALL BUSINESSES CONT: This regulation affects approximately 500 entities.

Agency Contact: Steve Simon, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA20

2132. GRAPE HARVEST LABELING FOR WINE

Significance: Agency Priority

Legal Authority: 27 USC 205e; 27 USC 205f

CFR Citation: 27 CFR 4.29

Legal Deadline: None.

Abstract: Late harvest designations, based on the Brix (percent by weight) level of the grapes at harvest would indicate to consumers that the grapes used to produce the wine were left on the vine for express purpose of increasing the sugar content. The designations would indicate additional techniques and processes were used in the production of the wine.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: No

Agency Contact: Michael Breen, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA31

2133. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES; APPEARANCE OF ATHLETES AND DEPICTION OF ATHLETIC EVENTS

Significance: Agency Priority

Legal Authority: 27 USC 205e to f

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None.

Abstract: Discusses present policy on prohibition of active athletes and requests comments on whether the policy should be relaxed, retained, expanded to include all celebrities. On athletic events, comments are requested if the present prohibition should be expanded to include any athletic event, regardless of when the participants are shown consuming, or preparing to consume, alcohol beverages.

TREAS—BATF — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA50

2134. RECODIFICATION OF 27 CFR PART 250 AS 27 CFR PART 26

Significance: Agency Priority

Legal Authority: 26 USC 7651 to 7652; PL 85-859; 26 USC 5314; 26 USC 7805

CFR Citation: 27 CFR 250

Legal Deadline: None.

Abstract: As part of the recodification of Part 250, we plan to simplify, consolidate and or eliminate as many sections of regulations as possible placing particular emphasis on reducing the number of recordkeeping requirements, forms, and customs responsibilities. Wherever possible, we plan to utilize a proprietor's commercial records in lieu of requiring the proprietor to submit public use forms. These changes to Part 250 should considerably reduce the burden hours on industry.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Agency Contact: Richard Langford, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20026, 202 566-7531

RIN: 1512-AA69

2135. NON-GENERIC DESIGNATIONS OF GRAPE WINE HAVING GEOGRAPHICAL SIGNIFICANCE

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.24

Legal Deadline: None.

Abstract: This proposal expands the list of names officially recognized under 27 CFR Part 4, as being non-generic for the purposes of labeling and advertising of wine. This proposal is the result of petitions from numerous foreign countries for ATF recognition of non-generic wine designations which, in their view, denote distinctive national products. This proposal is also an outgrowth of one of the commitments made by the United States, in the Exchange of Letters of July 26, 1983 with the Commission of the European Communities, to work within the regulatory framework of 27 CFR Part 4, to prevent erosion of non-generic designations of geographic significance. For practical reasons it is being proposed that only "examples" of non-generic designations be listed in Part 4 while a complete list of all non-generic designations be listed in a new Part 12.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Agency Contact: Lilla Vannett, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 535-6245

RIN: 1512-AA71

2136. RECODIFICATION OF 27 CFR PART 251 AS 27 CFR PART 27

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 27; 27 CFR 251

Legal Deadline: None.

Abstract: To update and clarify regulations relating to the Importation of Distilled Spirits, Wines and Beer and to incorporate related ATF Rulings into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: No

Agency Contact: Robert Petrangelo, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512-AA72

2137. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS, AND MALT BEVERAGES; DISCLOSURE OF FD & C YELLOW NO. 6

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.32; 27 CFR 5.32; 27 CFR 7.22

Legal Deadline: None.

Abstract: ATF is proposing to amend the regulations by requiring the mandatory disclosure of FD & C Yellow No. 6 on labels of alcoholic beverages, because of evidence indicating the possibility of allergic-type reactions to the color additive. As in the case of FD & C Yellow No. 5, which also requires label disclosure under existing regulations FD & C Yellow No. 6 is used infrequently in the production of alcoholic beverages being limited to mostly cocktails, liqueurs, and other specialty products.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA76

2138. OPERATION OF A RETAIL BEER DEALERSHIP FOR ON-PREMISES CONSUMPTION AT A BREWERY

Significance: Agency Priority

Legal Authority: 26 USC 5411

CFR Citation: 27 CFR 25

Legal Deadline: None.

Abstract: ATF is proposing to establish criteria and procedures for operating a retail beer dealership for on-premises consumption at a brewery. This proposal is the result of a petition submitted by Mr. Bill Owens, proprietor of Buffalo Bill's Brewery, located in Hayward, CA.

TREAS—BATF — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	08/31/87	52 FR 32814
NPRM Comment Period End	10/30/87	
Final Action	06/00/88	

Small Entity: Yes

Agency Contact: John Linthicum, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA78

FIREARMS

2139. FIREWORKS REGULATIONS

Significance: Agency Priority

Legal Authority: 18 USC Chapter 40

CFR Citation: 27 CFR 55

Legal Deadline: None.

Abstract: Information gathering on Safe Handling of Explosive Materials in the Fireworks industry is necessary due to accidental explosions causing death. Injuries and property damage have occurred at fireworks manufacturing and assembling plants. Damage has been in the millions of dollars and some regulatory changes are needed. This notice to gather information is to determine changes needed and potential costs.

Timetable:

Action	Date	FR Cite
General Notice	06/08/84	49 FR 23872
NPRM	12/00/87	

Small Entity: No

Agency Contact: Larry White, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7591

RIN: 1512-AA52

TOBACCO PRODUCTS

2140. 27 CFR PART 285, MANUFACTURE OF CIGARETTE PAPERS AND TUBES

Significance: Agency Priority

Legal Authority: 26 USC 7805 (68A Stat 917)

CFR Citation: 27 CFR 285

Legal Deadline: None.

Abstract: To reduce or eliminate administrative and recordkeeping burdens under 27 CFR Part 285.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/84	
ANPRM Comment Period End	10/02/84	
NPRM	04/00/88	

Small Entity: Undetermined

Agency Contact: Cliff Mullen, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512-AA33

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule Stage

ALCOHOL

2141. IMPLEMENTATION OF THE "WINE IMPACT BILL"

Significance: Agency Priority

Legal Authority: 26 USC 5010

CFR Citation: 27 CFR 19.11; 27 CFR 19.37 to 19.40; 27 CFR 19.42; 27 CFR 19.346; 27 CFR 19.372; 27 CFR 19.402; 27 CFR 19.505; 27 CFR 19.566; 27 CFR 19.681; 27 CFR 19.748; 27 CFR 19.763; 27 CFR 19.764; 27 CFR 19.778 to 19.780; 27 CFR 170.661 to 170.691; 27 CFR 197.105; ...

Legal Deadline: None.

Abstract: Restores the tax system which existed for distilled spirits products containing wine or alcoholic flavoring materials prior to the enactment of the Distilled Spirits Tax Revision Act of 1979; also permits spirits bottled for industrial purposes to be transferred in bond between distilled spirits plants.

Timetable:

Action	Date	FR Cite
NPRM	03/27/87	52 FR 9873
NPRM Comment Period End	06/25/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Richard Langford, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512-AA06

2142. STANDARD OF IDENTITY FOR VODKA

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22

Legal Deadline: None.

Abstract: Considers clarifying the standard of identity for vodka by revoking Revenue Ruling 56-98 which permits the use of small quantities of sugar or citric acid in vodka; or would propose a new class and type of vodka which contains trace amounts of sugar or citric acid.

Timetable:

Action	Date	FR Cite
ANPRM	01/11/82	47 FR 1148
ANPRM Comment Period End	07/11/82	
NPRM	02/19/86	51 FR 6009
NPRM Comment Period End	05/20/86	
Final Action	06/00/88	

Small Entity: No

Agency Contact: John Linthicum, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Riod Federal Building, 1200 Pennsylvania Avenue.

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NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA10

2143. CHANGE IN STANDARD OF IDENTITY FOR STRAIGHT WHISKIES OF THE SAME TYPE

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22(b)(1)(iii); 27 CFR 19.346(b)

Legal Deadline: None.

Abstract: Current regulations do not provide for distilled spirits plant proprietors to mingle and still designate as straight whiskies of the same type produced at different distilleries or produced by different distillers. This project will allow such whiskies to be labeled as straight as long as the whiskies are produced within the same state. Their only alternative is to leave the regulations as they are and to not allow such whiskies to be mingled and designated as straight. We do not anticipate any extra costs to result from this change in regulations. This change will result in greater flexibility for distilled spirits plant proprietors.

Timetable:

Action	Date	FR Cite
NPRM	05/08/84	49 FR 19333
NPRM Comment Period End	07/06/84	
NPRM Comment Period Extended	07/13/84	49 FR 30538
Extended NPRM Comment Period Ends	10/29/84	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Robert White, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA32

2144. RECODIFICATION OF WINE REGULATIONS (SUBPARTS A TO O)

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 240.180 to 240.400

Legal Deadline: None.

Abstract: To update, simplify, and clarify regulations relating to wine; and to incorporate ATF rulings into the Regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/07/86	51 FR 8098
NPRM Comment Period End	07/07/86	
NPRM Comment Period Extended	07/08/86	51 FR 24719
NPRM Extended Comment Period Ends	12/31/86	
Final Action	01/00/88	

Small Entity: No

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA42

2145. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES; USE OF THE WORD LIGHT (LITE)

Significance: Agency Priority

Legal Authority: 27 USC 205e to f

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None.

Abstract: "Light (Lite)" was addressed to a limited extent in Notice No. 362 (45 FR 83530). However, subsequent to its publication ATF was petitioned by the Center for Science in the Public Interest (CSPI), requesting mandatory caloric labeling on all alcohol beverages, as well as the establishment of upper limits on calories in products labeled as "light (lite)." Comments will be requested on CSPI's petition as well as other issues involving use of the term "light (lite)."

Timetable:

Action	Date	FR Cite
NPRM	08/12/86	51 FR 28836
NPRM Comment Period End	11/10/86	
NPRM Comment Period Reopened	11/14/86	51 FR 41355
NPRM Reopened Comment Period Ends	12/31/86	
Final Action	02/00/88	

Small Entity: No

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA48

2146. MATERIALS AND PROCESSES FOR THE PRODUCTION AND TREATMENT OF WINE

Significance: Agency Priority

Legal Authority: 27 USC 5382

CFR Citation: 27 CFR 240

Legal Deadline: None.

Abstract: Updates, clarifies, and simplifies the regulations relating to the production and treatment of wine.

Timetable:

Action	Date	FR Cite
NPRM	09/24/84	49 FR 37527
NPRM Comment Period Extended	01/22/85	50 FR 2832
NPRM Comment Period End	01/23/85	
Extended NPRM Comment Period Ends	03/01/85	
Final Action	10/00/87	

Small Entity: No

Additional Information: This was formerly part of RIN 1512-AA12 Materials and Processes for the Production and Treatment of Wine.

Agency Contact: Mike Breen, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA61

2147. WINEGRAPE VARIETAL DESIGNATIONS

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None.

Abstract: This proposal would establish standardized lists of winegrape varietal names which may be used on domestic wine labels. In addition we are proposing a method by which new names may be added to the list. These standardized lists will assure more accurate and truthful identification of the wine.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4392
NPRM Comment Period End	04/07/86	
NPRM Comment Period Extended	04/08/86	51 FR 11944
NPRM Extended Comment Period Ends	07/07/86	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Charles Bacon, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7569

RIN: 1512-AA67

2148. WINEMAKING TERMINOLOGY

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4.35

Legal Deadline: None.

Abstract: ATF is proposing to define words denoting winemaking operations for use on wine labels in conjunction with the name and address of the bottler. This project partially fulfills the requirements of the court order in Wawskiewicz v. Department of the Treasury, 480 F. Supp. 739 (D.D.C. 1979), aff'd. in part, rev'd in part, 670 F.2d 298.

Timetable:

Action	Date	FR Cite
NPRM	05/29/86	51 FR 19361
NPRM Comment Period End	09/26/86	
Final Action	06/00/88	

Small Entity: No

Agency Contact: John Linthicum, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA70

2149. USE OF TERMS IN THE LABELING AND ADVERTISING OF MALT BEVERAGES HAVING AN ALCOHOL CONTENT OF LESS THAN .5% BY VOLUME

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 7

Legal Deadline: None.

Abstract: ATF is proposing to incorporate into the regulations two Rulings (Rev. Rul. 57-322 and ATF Rul. 85-11) regarding the use of the terms "Non-Alcoholic," "Alcohol-Free," "Near Beer," and "Cereal Beverage" in the labeling and advertising of Malt Beverages.

Timetable:

Action	Date	FR Cite
NPRM	10/30/86	51 FR 39666
NPRM Comment Period End	01/28/87	
Final Action	01/00/88	

Small Entity: No

Agency Contact: Jim Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA73

2150. LISTING OF PRINCIPAL PLACE OF BUSINESS ON DISTILLED SPIRITS LABELS

Significance: Agency Priority

Legal Authority: 26 USC 7805; 27 USC 205

CFR Citation: 27 CFR 5; 27 CFR 19

Legal Deadline: None.

Abstract: Will allow producers of distilled spirits who operate more than one distilled spirits plant to use a principal place of business as the address shown on labels in lieu of listing the actual place of production, provided the producer establishes a coding system for identifying where the product was actually bottled.

Timetable:

Action	Date	FR Cite
NPRM	01/23/86	51 FR 37605
NPRM Comment Period End	12/24/86	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Jim Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA74

FIREARMS

2151. AMENDMENTS TO THE GUN CONTROL ACT OF 1968

Significance: Agency Priority

Legal Authority: PL 99-308; PL 99-360

CFR Citation: 27 CFR 72; 27 CFR 178; 27 CFR 179

Legal Deadline: None.

Abstract: Implements changes required by Public Law 99-308 (Firearms Owners Protection Act of 1986), and amendments thereto (Public Law 99-360).

Timetable:

Action	Date	FR Cite
NPRM	10/29/86	51 FR 39635
Interim Final Rule	10/29/86	51 FR 39612
NPRM Comment Period End	01/27/87	
NPRM Comment Period Extended	01/28/87	52 FR 2865
NPRM Extended Comment Period Ends	02/27/87	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Dan Crowley, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7591

RIN: 1512-AA75

TREAS—BATF **Final Rule Stage**

2152. RESTRICTIONS ON MANUFACTURE, IMPORTATION AND SALE OF ARMOR PIERCING AMMUNITION

Significance: Agency Priority

Legal Authority: 18 USC 926

CFR Citation: 27 CFR 178

Legal Deadline: None.

Abstract: ATF is amending regulations to implement provisions of Public Law 99-408. The amended regulations will restrict the manufacture, importation and sale of armor piercing ammunition.

Timetable:

Action	Date	FR Cite
NPRM	01/16/87	52 FR 2053
Interim Final Rule	01/16/87	52 FR 2048
NPRM Comment Period End	04/16/87	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Daniel Crowley, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7591

RIN: 1512-AA79

2153. SIMPLIFIED RECORDKEEPING FOR LOW-VOLUME FIREARMS DEALERS

Significance: Agency Priority

Legal Authority: 18 USC 926

CFR Citation: 27 CFR 178

Legal Deadline: None.

Abstract: ATF is proposing to simplify recordkeeping procedures for sales or other dispositions of firearms by low-volume dealers.

Timetable:

Action	Date	FR Cite
NPRM	02/12/87	52 FR 4509
NPRM Comment Period End	05/13/87	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Daniel crowley, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA80

TOBACCO PRODUCTS

2154. MANUFACTURER'S IDENTIFICATION ON TOBACCO PRODUCTS PACKAGES

Significance: Agency Priority

Legal Authority: 26 USC 5723

CFR Citation: 27 CFR 270.11; 27 CFR 270.212; 27 CFR 275.163; 27 CFR 275.170; 27 CFR 275.172; 27 CFR 275.174; 27 CFR 290.11; 27 CFR 290.181; 27 CFR 290.185; 27 CFR 290.241 to 290.267; 27 CFR 295.42

Legal Deadline: None.

Abstract: To liberalize requirements relating to manufacturer identification on tobacco products packages and to make other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	01/12/87	52 FR 1207
NPRM Comment Period End	03/13/87	
Final Action	04/00/88	

Small Entity: No

Agency Contact: Cliff Mullen, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7531

RIN: 1512-AA26

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF) **Completed Actions**

2155. ESTATE BOTTLED

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.26

Legal Deadline: None.

Abstract: To redefine estate bottled requirements and provide for additional terms to provide requirements for imported wine.

Timetable:

Action	Date	FR Cite
Withdrawn	08/05/87	

Small Entity: No

Agency Contact: John Linthicum, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Areil Riod Federal Building, 1200 Pennsylvania Avenue, NW, Washington DC 20226, 202 566-7626

RIN: 1512-AA34

[FR Doc. 87-21242 Filed 10-23-87; 8:45 am]

BILLING CODE 4810-31-T

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Comptroller of the Currency

12 CFR Ch. I

Semiannual Agenda of Regulatory Actions

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: As required by the Regulatory Flexibility Act and Executive Order 12291, the Office of the Comptroller of the Currency (Office) has prepared this semiannual agenda of its rules and regulations currently under review and scheduled for review. Regulatory actions taken since the publication of the Office's previous semiannual agenda on April 27, 1987 (52 FR 14695) are also included. It is expected that this semiannual agenda will enable the public to be more aware of, and allow it to more effectively participate in, the Office's regulatory activity.

ADDRESS: The mailing address for all contacts: Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: For general information about this semiannual agenda, contact Nancy Lowther, Financial Analyst, Legislative and Regulatory Analysis Division, (202) 447-1177.

For additional information about a particular item on this semiannual agenda, contact the individual identified as the contact person.

SUPPLEMENTARY INFORMATION: The Office has determined that none of the rulemakings discussed in this semiannual agenda requires a regulatory flexibility analysis; all entries have been determined not to have a "significant impact on a substantial number of small entities," and therefore are not subject to the provisions of the Act. Additionally, none of the rules is a "major" rule as defined by Executive Order 12291. Executive Order 12291 defines a "major" rule as one likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dated: August 18, 1987.

Robert L. Clarke,

Comptroller of the Currency.

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2156	12 CFR 9 Fiduciary Powers of National Banks and Collective Investment Funds	1557-AA04
2157	12 CFR 19 Rules of Practice and Procedure	1557-AA43
2158	12 CFR 4.19 Production of Documents and Testimony in Litigation Where the Comptroller or the Office is Not a Party	1557-AA57
2159	12 CFR 11, (New Subsection) Securities Exchange Act Disclosure Rules	1557-AA58
2160	12 CFR 1 Investment Securities Regulation	1557-AA60
2161	12 CFR 16 Securities Offering Disclosure Rules	1557-AA65
2162	12 CFR 9 Fiduciary Powers of National Banks and Collective Investment Funds	1557-AA66
2163	12 CFR 4 Supervision of Bank Operations	1557-AA67
2164	12 CFR 29 Real Estate Lending	1557-AA69
2165	12 CFR 5.33 Merger, Consolidation, Purchase and Assumption	1557-AA71
2166	12 CFR 32 Lending Limits	1557-AA72

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2167	12 CFR 5 Rules, Policies, and Procedures for Corporate Activities	1557-AA00
2168	12 CFR 18 Annual Financial Disclosures to Shareholders	1557-AA44
2169	12 CFR 3 Minimum Capital Ratios; Issuance of Directives	1557-AA61

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Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2170	12 CFR 21.5 Minimum Security Devices and Procedures, Reports of Crimes and Suspected Crimes and Bank Secrecy Act Compliance	1557-AA68

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Proposed Rule Stage

2156. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Legal Authority: Sec 1, 77 Stat 668; 12 USC 92a; 12 USC 481

CFR Citation: 12 CFR 9

Legal Deadline: None.

Abstract: Comments in response to a prior rulemaking Final Rule Docket No. 80-16 (46 FR 71571) published October 29, 1980 included recommendations that additional amendments should be made to 12 CFR Part 9. The Office believes that the issues raised by the commenters can best be addressed through a comprehensive review of its regulations concerning national bank fiduciary powers and collective investment funds. The Office requested comments from the public as to the desirability and feasibility of a comprehensive review of its trust regulations pertaining to collective investment funds, including specific matters which should be addressed. In view of the favorable disposition of litigation impacting on the fiduciary powers of national banks and collective investment funds (Investment Company Institute v. Clarke, 789 F.2d 175 (2d Cir. 1986), cert. denied, 55 U.S.L.W. 3316 (U.S. Nov. 4, 1986); Investment Company Institute v. Conover, 790 F.2d 925 (D.C. Cir. 1986), cert. denied, 55 U.S.L.W. 3316 (U.S. Nov. 4, 1986); Investment Company Institute v. Clarke, 793 F.2d 220 (9th Cir. 1986), cert. denied, 55 U.S.L.W. 3316 (U.S. Nov. 4, 1986); Investment Company Institute v. Clarke, No.

Timetable:

Action	Date	FR Cite
ANPRM	06/25/82	47 FR 27833
ANPRM Comment Period End	09/23/82	47 FR 27833
NPRM	12/00/87	
NPRM Comment Period End	02/00/88	
Final Action	06/00/88	

Small Entity: No

Additional Information: ABSTRACT CONTINUED: 86-3725 (W.D.N.C. August 25, 1986), appeal withdrawn by stipulation, Jan. 6, 1987), the project has been reactivated. The effect on small entities will be considered in the development of this rulemaking.

Agency Contact: John Bruno, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557-AA04

2157. RULES OF PRACTICE AND PROCEDURE

Legal Authority: 12 USC 1817(j); 12 USC 1818; 12 USC 1820; 15 USC 78l(h); 15 USC 78l(i); 15 USC 78o-4(c); 15 USC 78u; 15 USC 78w; 5 USC 554 to 557; PL 95-630; 12 USC 3102; 12 USC 3108(a)

CFR Citation: 12 CFR 19

Legal Deadline: None.

Abstract: The proposed regulation will set forth amendments to the hearing rules for administrative hearings. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	02/00/88	
Final Action	06/00/88	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Brenda Curry, Senior Attorney, Legislative and Regulatory Analysis Division, (202) 447-1632, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Robert L. Davis, Assistant Director, Department of the Treasury, Comptroller of the Currency, Enforcement and Compliance Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1818

RIN: 1557-AA43

2158. PRODUCTION OF DOCUMENTS AND TESTIMONY IN LITIGATION WHERE THE COMPTROLLER OR THE OFFICE IS NOT A PARTY

Legal Authority: 5 USC 301; 12 USC 481; 5 USC 552(b)(8)

CFR Citation: 12 CFR 4.19; 12 CFR 4.18(c); 12 CFR 7.6025(c); 12 CFR 4.18(a); 12 CFR 4.18(b)

Legal Deadline: None.

Abstract: This rule governs the release by this Office of confidential documents, especially reports of examination, and testimony for use in litigation in which the Office is not a party. The Office is considering changing the rule to spell out the exact requirements for a request for such release, and the situations under which release might be authorized. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Lester N. Scall, Senior Trial Attorney, Department of the Treasury, Comptroller of the Currency, Litigation Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1893

RIN: 1557-AA57

2159. SECURITIES EXCHANGE ACT DISCLOSURE RULES

Legal Authority: 15 USC 78

CFR Citation: 12 CFR 11, (New Subsection)

Legal Deadline: None.

Abstract: The proposed rule would require that more detailed and meaningful information be provided to shareholders and this Office concerning banks' loan portfolios, including loans to borrowers in foreign countries experiencing liquidity problems, other sources of income and exposure to risks. This will assist shareholders in evaluating proposals for mergers, consolidations, acquisitions and similar matters and will assist the Office in administering and enforcing the Securities Exchange Act of 1934 as it applies to national banks. The Office considered not proposing the additional amendments or proposing them as a general guide rather than a rule. However, the Office determined it was appropriate to propose the additional requirements as amendments to part 11 because the Office believes the proposed requirements will help to clarify the types of disclosures which the Office, shareholders and the public would consider material in analyzing various Exchange Act filings and statements. The effect on small entities will be considered in the development of this rulemaking

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	04/00/88	

Small Entity: No

Agency Contact: Michael C. Dugas, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557-AA58

2160. INVESTMENT SECURITIES REGULATION

Legal Authority: 12 USC 1 et seq; 12 USC 24(7)

CFR Citation: 12 CFR 1

Legal Deadline: None.

Abstract: The Office proposes to amend this regulation to provide adequate safeguards for the purchase of mortgage-backed securities by national banks for their own accounts. The proposal will require that issues of such securities, in order to be eligible for purchase by national banks, must satisfy the Office's standards of investment quality and marketability. The proposal is considered a desirable alternative to leaving national banks without guidance in this area. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	02/00/88	

Small Entity: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Owen Carney, Director, Investment Securities Division, 202 447-1901, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Jonathan Rushdoony, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA60

2161. SECURITIES OFFERING DISCLOSURE RULES

Legal Authority: 12 USC 1 et seq; 12 USC 1818; 12 USC 93a

CFR Citation: 12 CFR 16

Legal Deadline: None.

Abstract: This regulation contains the Office's disclosure requirements for securities offerings by national banks. The Office is considering revisions which would clarify the coverage of the rule, specify the Office's enforcement authority in connection with the rule, liberalize nonpublic offering requirements, provide for more meaningful disclosure requirements in public offerings, revise financial information requirements to be more consistent with 12 CFR Part 11, and where practicable, incorporate by reference provisions of 12 CFR Part 11. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	
NPRM Comment Period End	07/00/88	
Final Action	12/00/88	

Small Entity: Undetermined

Agency Contact: Michael C. Dugas, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557-AA65

2162. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Legal Authority: 12 USC 92a

CFR Citation: 12 CFR 9

Legal Deadline: None.

Abstract: The Office proposes to amend this regulation to clarify the requirements concerning national bank fiduciary investment of uninvested or undistributed cash in fiduciary accounts. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Barrett Aldemeyer, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA66

2163. SUPERVISION OF BANK OPERATIONS

Legal Authority: 12 USC 1 et seq; 12 USC 481; 5 USC 552

CFR Citation: 12 CFR 4

Legal Deadline: None.

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TREAS—OCC — Proposed Rule Stage

Abstract: The proposed regulation will set forth amendments to the existing description of supervision of bank operations by the Office of the Comptroller of the Currency. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
NPRM Comment Period End	05/00/88	
Final Action	07/00/88	

Small Entity: No

Agency Contact: James F. E. Gillespie, Jr., Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA67

2164. REAL ESTATE LENDING

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 371; 12 USC 1701j-3

CFR Citation: 12 CFR 29; 12 CFR 30; 12 CFR 34

Legal Deadline: None.

Abstract: The proposed rule will revise 12 CFR 29 on adjustable-rate mortgages to conform disclosure requirements with Regulation Z, 12 CFR 226. Coverage of the regulation will be limited to consumer credit, and secondary market authority will be expanded. Obsolete portions of 12 CFR 30 on due-on-sale clauses will be rescinded. The revised adjustable-rate mortgages regulations and remaining regulations on due-on-sale clauses will then be transferred to 12 CFR 34 so that all substantive regulations on real estate lending will be found in the same place. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	10/00/88	

Small Entity: No

Agency Contact: Linda Gottfried, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA69

2165. ● MERGER, CONSOLIDATION, PURCHASE AND ASSUMPTION

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 181; 12 USC 214a; 12 USC 215; 12 USC 215a; 12 USC 1828(c); 15 USC 78

CFR Citation: 12 CFR 5.33; 12 CFR 11.590

Legal Deadline: None.

Abstract: The Office proposes to amend 12 CFR 5.33 to set forth the Office's merger proxy statement filing requirements for banks that do not have a class of equity securities registered under the Securities Exchange Act of 1934 ("Exchange Act"), and to specify the disclosure that is required of such banks for various types of merger transactions. This proposal may also include an amendment to relevant portions of 12 CFR 11.590 so as to clarify the Office's merger proxy requirements for Exchange Act registered banks and to ensure that these requirements will be consistent with those to be proposed at 12 CFR 5.33. These actions are expected to assist bank merger applicants in preparing their merger proxy materials, which are subject to Office review and clearance pursuant to the Office's merger procedures. The effect on small entities will be considered in development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	02/00/88	
Final Action	06/00/88	

Small Entity: Undetermined

Agency Contact: James F. E. Gillespie, Jr., Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA72

2166. ● LENDING LIMITS

Legal Authority: 12 USC 1 et seq; 12 USC 84; 12 USC 93a

CFR Citation: 12 CFR 32

Legal Deadline: None.

Abstract: The Office is considering several amendments to the lending limits regulation to simplify, clarify and improve that regulation. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
NPRM Comment Period End	04/00/88	
Final Action	06/00/88	

Small Entity: Undetermined

Agency Contact: Laura Plaza, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557-AA71

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Final Rule Stage

2167. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

Significance: Agency Priority

Legal Authority: 12 USC 1 et seq

CFR Citation: 12 CFR 5

Legal Deadline: None.

Abstract: The Office is engaged in a continuing review of its rules, policies, and procedures governing corporate activities. The Office proposes to make several miscellaneous technical amendments to this regulation to cause the regulation to conform to recent adjustments to Office procedures for processing corporate filings. These proposals are expected to benefit national banks and the Office by removing burdensome and costly regulatory requirements, while maintaining the Office's ability to render an informed decision on the proposed activity. The effect on small entities is considered in the development of each rulemaking.

Timetable:

Action	Date	FR Cite
Final Action	11/00/87	

Small Entity: No

Agency Contact: Randall J. Miller, Director for Licensing Policy and Systems, Department of the Treasury, Comptroller of the Currency, Bank Organization & Structure Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1184

RIN: 1557-AA00

TREAS—OCC — Final Rule Stage

2168. ANNUAL FINANCIAL DISCLOSURES TO SHAREHOLDERS

Significance: Regulatory Program

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818

CFR Citation: 12 CFR 18

Legal Deadline: None.

Abstract: The proposed regulation revises certain disclosure requirements of this Office. It would require all national banks to prepare an annual disclosure statement. This statement would include two consecutive years' comparative financial statements. The information to be disclosed is currently publicly available from the Call Report. The bank would have the option of including a narrative discussion of matters they deem important. The bank would notify shareholders along with the annual meeting notice and depositors and potential depositors via a lobby poster in the main office and each branch. Banks currently subject to 12 CFR 11 may use their F-2 form. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	07/13/84	49 FR 28566
ANPRM Comment Period End	10/11/84	49 FR 28566
NPRM	10/30/85	50 FR 45372
NPRM Comment Period End	02/28/86	51 FR 04504
NPRM	06/22/87	52 FR 23456
NPRM Public Comment Period End	08/21/87	52 FR 23457
Final Action	12/00/87	

Small Entity: No

Agency Contact: Emily R. McNaughton, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Commercial Examinations Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1185

RIN: 1557-AA44

2169. MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

Significance: Regulatory Program

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None.

Abstract: The proposed guidelines will make explicit adjustments for differences in the riskiness of assets and the existence of off-balance sheet activities in assessing bank capital adequacy. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/86	51 FR 10602
ANPRM Comment Period End	06/25/86	51 FR 10602
NPRM	06/17/87	52 FR 23045
NPRM Comment Period End	08/17/87	52 FR 23045
Final Action	10/00/87	

Small Entity: No

Agency Contact: Ed Irmler, Associate Director, Department of the Treasury, Comptroller of the Currency, Economic and Policy Analysis Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1924

RIN: 1557-AA61

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Completed Actions

2170. MINIMUM SECURITY DEVICES AND PROCEDURES, REPORTS OF CRIMES AND SUSPECTED CRIMES AND BANK SECRECY ACT COMPLIANCE

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 1818; 12 USC 1881 to 1884; 31 USC 5311 et seq

CFR Citation: 12 CFR 21.5

Legal Deadline: None.

Abstract: These amendments to 12 CFR 21.5 will reduce a reporting burden by requiring a biennial instead of an annual compliance report and will eliminate the requirement to keep records of consultation. This action will reduce a bank's cost of complying with government regulation. This rulemaking will not have a significant economic impact on a substantial number of small banks or other entities.

Timetable:

Action	Date	FR Cite
Final Action	08/03/87	52 FR 28681
Final Action Effective	10/02/87	52 FR 28681

Small Entity: No

Agency Contact: Thomas C. Lehmkuhl, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Commercial Activities Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1164

RIN: 1557-AA68

[FR Doc. 87-21240 Filed 10-23-87; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Customs Service

19 CFR Ch. I

Semiannual Agenda

AGENCY: Customs Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: In response to Pub. L. 96-354, the "Regulatory Flexibility Act," and Executive Order 12291, "Federal Regulations," Customs has prepared and is publishing for public information a list of regulations either under development or under review.

FOR FURTHER INFORMATION CONTACT: For additional information regarding the substance of any particular regulatory project described in the agenda, please communicate with the person identified as the "Agency Contact." All agency contact persons are located at U.S. Customs Service Headquarters, the address of which is noted below. Comments or inquiries of a general nature about the agenda itself should be directed to Gertrude A. Bresnahan, Regulations Control Branch, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, Room 2324, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

Background

Public Law 96-354, the "Regulatory Flexibility Act" (RFA) and Executive Order (E.O.) 12291 of February 17, 1981, "Federal Regulations," require semiannual publication, in April and October of each year, or an agenda of regulations which are "likely to have a significant economic impact on a substantial number of small entities" and "major" regulations, respectively. The RFA and E.O. 12291 also require agencies to include in their agendas currently effective rules which are under agency review. Customs agenda includes a brief abstract of each regulatory project ("project") being considered, an indication of whether the project will have an RFA impact, the section(s) of the Code of Federal Regulations affected, the legal authority for the action being taken, the name, title, and telephone number of an agency contact and, where applicable, an approximate timetable of completing action on any project for which Customs has published a notice of proposed rulemaking. In addition, the status of projects referred to in previously published agendas is shown. It has been determined that none of the projects listed as being under development meets the standards required of a "major" regulation provided in E.O. 12291.

General statutory authority for the development or review of regulations relating to Customs matters is found in section 301, title 5, United States Code (5 U.S.C. 301), and in sections 66 and 1624, title 19, United States Code (19 U.S.C. 66, 1624). When appropriate, additional specific statutory authority is indicated as the legal authority for the project.

Dated: August 6, 1987.

Harvey B. Fox,

Acting Director, Office of Regulations and Rulings.

United States Customs Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2171	19 CFR 19 Customs Warehouses; Duty-Free Stores	1515-AA22

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2172	19 CFR 141 Entry of Consolidated Shipments	1515-AA55
2173	19 CFR 134 Country of Origin Marking	1515-AA59
2174	19 CFR 113 Continuous Importation and Entry Bond Secured by Corporate Sureties	1515-AA60

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2175	19 CFR 6 Air Commerce Regulations	1515-AA47
2176	19 CFR 4 Customs User Fees	1515-AA50
2177	19 CFR 12 Semiconductor Chip Products	1515-AA51
2178	19 CFR 24 Formal Entry User Fee	1515-AA53
2179	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2180	19 CFR 141 Liens by Customs Brokers	1515-AA58

TREAS—CUSTOMS

United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2181	19 CFR 133 Copyright	1515-AA07
2182	19 CFR 141 Entry Documentation Filing	1515-AA49

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Prerule Stage

2171. CUSTOMS WAREHOUSES; DUTY-FREE STORES

Legal Authority: 19 USC 1556; 19 USC 1565; 19 USC 1623

CFR Citation: 19 CFR 19; 19 CFR 144

Legal Deadline: None.

Abstract: Consideration of various actions in regard to administration of duty-free stores. Actions range from abolition of stores to their designation as class of bonded warehouse and/or increased regulation. Actions necessary due to need for increased efficiency of store administration by Customs and to address enforcement problems related to stores. Public comment requested on actions under consideration, as well as store operations in general. Work Plan 83-1 approved.

Timetable:

Action	Date	FR Cite
ANPRM	07/21/83	48 FR 33318
ANPRM Comment Period End	09/19/83	
Notice of Status Pending Congressional Action	07/07/86 00/00/00	51 FR 24535

Small Entity: No

Agency Contact: John R. Holl, Operation Officer, Department of the Treasury, United States Customs Service, Room 2428, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5354

RIN: 1515-AA22

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Proposed Rule Stage

2172. ● ENTRY OF CONSOLIDATED SHIPMENTS

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141; 19 CFR 178

Legal Deadline: None.

Abstract: Amendment to the Customs Regulations relating to entry procedures for consolidated shipments of imported merchandise. The amendment would ensure that if individual shipments of merchandise having various consignees are consolidated into a large shipment, the entry would not be made by a broker, or at a port of entry, designated by the consignee named in the master bill of lading or master air waybill if any individual bill of lading or individual air waybill within that shipment specifies a different broker, or port of entry, for making entry, or that entry will be made by the actual owner or purchaser.

Timetable:

Action	Date	FR Cite
NPRM	12/24/85	50 FR 52532
NPRM Comment Period End	02/24/86	
NPRM in Treasury Review	09/11/87	

Small Entity: No

Additional Information: After consideration of the comments received in response to the previous notice proposing this change, and meetings with affected persons, it has been determined that many people did not understand the proposal. Accordingly, the document has been modified and it should be republished to allow all affected persons an opportunity to submit comments before any final decisions are made.

Agency Contact: Jerry Laderberg, Attorney, Department of the Treasury, United States Customs Service, Room 2343, 1301 Constitution Avenue NW, Washington, DC 20229, 202 566-5765

RIN: 1515-AA56

2173. ● COUNTRY OF ORIGIN MARKING

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None.

Abstract: Amendment to the Customs Regulations relating to the requirement that every imported article of foreign origin, or its container, shall be legibly and conspicuously marked to indicate to an ultimate purchaser in the U.S., the English name of the country of origin of the article. Proposal would require that whenever the full or abbreviated name of a country or place other than the country of origin, or a symbol readily associated with a country or place other than the country of origin appears anywhere on a foreign article or its container, then the actual country of

TREAS—CUSTOMS — **Proposed Rule Stage**

origin of the article must be marked on the article or its container in close proximity to each reference to the country or place not the country of origin, or a hang tag or sticker affixed to a highly conspicuous portion of the article.

Timetable:

Action	Date	FR Cite
NPRM in Treasury Review	07/00/87	
NPRM	10/00/87	

Small Entity: No

Agency Contact: Lorrie Rodbart, Attorney, Department of the Treasury, United States Customs Service, Room 2343, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5765

RIN: 1515-AA59

2174. ● CONTINUOUS IMPORTATION AND ENTRY BOND SECURED BY CORPORATE SURETIES

Legal Authority: 19 USC 66; 19 USC 1484; 19 USC 1551; 19 USC 1565; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 113

Legal Deadline: None.

Abstract: Amendment to the Customs Regulations to provide that a continuous importation and entry bond secured by a corporate surety may only be filed with Customs under cover of a letter signed by an authorized officer or agent of that surety. Such an amendment would protect the Government from unnecessary delays in receiving payment from sureties of an importer's liabilities, for which the surety is also responsible, when the surety denies liability because it claims to have no record of the bond upon which the demand is made.

Timetable:

Action	Date	FR Cite
NPRM under Customs Review	07/10/87	
NPRM	10/00/87	

Small Entity: No

Agency Contact: William Lawlor, Attorney, Department of the Treasury, United States Customs Service, Room 2417, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5706

RIN: 1515-AA60

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Final Rule Stage

2175. AIR COMMERCE REGULATIONS

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1624; 19 USC 1644; 49 USC 1509

CFR Citation: 19 CFR 6

Legal Deadline: None.

Abstract: Revises rules relating to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft. Sets forth the general Customs requirements applicable to all air commerce.

Timetable:

Action	Date	FR Cite
NPRM	07/26/85	50 FR 30455
NPRM Comment Period End	10/24/85	
TD In Customs Review	08/00/87	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Larry L. Burton, Attorney, Department of the Treasury, United States Customs Service, Room 2417, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5706

RIN: 1515-AA47

2176. CUSTOMS USER FEES

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701; PL 99-272

CFR Citation: 19 CFR 4; 19 CFR 6; 19 CFR 24; 19 CFR 111; 19 CFR 123; 19 CFR 145

Legal Deadline: Statutory, July 7, 1986.

Abstract: Amends Customs Regulations to provide for payment of specific fees to Customs for the processing of persons, aircraft, vehicles and merchandise arriving in the U.S. as well as for the payment of an annual fee by Customs brokers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/11/86	51 FR 21152
TD in Customs Review	07/01/87	
Final Action	11/00/87	

Small Entity: Undetermined

Agency Contact: Denise Crawford, Operations Officer, Department of the Treasury, United States Customs Service, Room 4133, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-9125

RIN: 1515-AA50

2177. SEMICONDUCTOR CHIP PRODUCTS

Legal Authority: 17 USC 910; 19 USC 66; 19 USC 1202; 19 USC 1337; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None.

Abstract: Implements Semiconductor Chip Protection Act by amending Customs Regulations to require persons seeking exclusion of infringing semiconductor chip products to first obtain a court order enjoining, or an order of the U.S. International Trade Commission excluding the importation of the products. Customs will then enforce the court order or exclusion orders.

Timetable:

Action	Date	FR Cite
NPRM	07/29/86	51 FR 27057
NPRM Comment Period End	09/29/86	
TD In Treasury Review	07/00/87	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Samuel Orandle, Attorney, Department of the Treasury, United States Customs Service, Room 2343, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5765

RIN: 1515-AA51

2178. FORMAL ENTRY USER FEE

Significance: Agency Priority

Legal Authority: PL 99-514

TREAS—CUSTOMS — **Final Rule Stage**

CFR Citation: 19 CFR 24

Legal Deadline: Statutory, December 1, 1986.

Abstract: Amends Customs Regulations to implement a provision of the Omnibus Budget Reconciliation Act of 1986 which authorizes Customs to assess a merchandise processing user fee on formal entries of imported merchandise.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/01/86	51 FR 43168
NPRM Comment Period End	01/30/87	
TD Under Development	06/00/87	
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Thomas Banner, Operations Officer, Department of the Treasury, United States Customs Service, 1301 Constitution Ave., NW, Room 4108, Washington, DC 20229, 202 535-4136

RIN: 1515-AA53

2179. ● HARBOR MAINTENANCE FEE

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 81a to 81u; 19 USC 1202; 19 USC 623; 19 USC 1624; 31 USC 9701; PL 99-272; PL 99-509; PL 99-662

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 148; 19 CFR 178

Legal Deadline: Statutory, April 1, 1987.

Abstract: Amendments to the Customs Regulations to implement provisions of the Water Resources Development Act of 1986 which authorizes Customs to assess a harbor maintenance fee of 0.04 percent (.0004) on the value of commercial cargo loaded on or unloaded from a commercial vessel at a port unless specifically exempted from the fee. Proceeds of the fee are deposited in a trust fund for the U.S. Army Corps of Engineers to use for the improvement and maintenance of U.S. ports and harbors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	
Interim Final Rule Public Comment Period End	06/26/87	
Comments being analyzed	10/00/87	
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Tracy Denning, Department of the Treasury, United States Customs Service, Room 4118, 1301 Constitution Ave., NW, Washington, DC 20229, 202 566-8301

RIN: 1515-AA57

2180. ● LIENS BY CUSTOMS BROKERS

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141; 19 CFR 171

Legal Deadline: None.

Abstract: Amendment to the Customs Regulations to implement a statutory provision which allows brokers to file liens for freight, charges, or contribution in general average, until proof has been produced that the lien has been satisfied or discharged. Imported merchandise cannot be released from Customs custody until the lien has been satisfied or discharged.

Timetable:

Action	Date	FR Cite
NPRM	02/25/86	51 FR 6555
NPRM Comment Period End	04/28/86	
TD under development	08/00/87	
Final Action	11/00/87	

Small Entity: No

Agency Contact: Jerry Laderberg, Attorney, Department of the Treasury, United States Customs Service, Room 2343, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5765

RIN: 1515-AA58

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Completed Actions

2181. COPYRIGHT

Legal Authority: 17 USC 1603

CFR Citation: 19 CFR 133

Legal Deadline: None.

Abstract: Amendments to Customs Regulations relating to recordation of copyrights with Customs, to implement provisions of Pub. L. 94-533, "Copyright Act of 1976." The project would reduce administrative costs to Customs and copyright applicants. Work Plan 82-17 approved.

Timetable:

Action	Date	FR Cite
NPRM	07/07/83	48 FR 31245
NPRM Comment Period End	10/05/83	
Revised T.D. In Customs Review	01/05/87	
Final Action TD 87-40	03/25/87	52 FR 9471
Final Action Effective	04/24/87	

Small Entity: No

Agency Contact: Samuel Orandle, Attorney, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5765

RIN: 1515-AA07

2182. ENTRY DOCUMENTATION FILING

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141

Legal Deadline: None.

Abstract: Amends Customs Regulations to provide optional procedure under which importers could file entry documentation at one port to be analyzed by Customs to determine if examination of cargo is necessary. If not, the cargo could be released when it arrives, even at another port.

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Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	07/22/86	51 FR 26266
NPRM Comment Period End	09/22/86	
T.D. under development	12/04/86	

Action	Date	FR Cite
Final Action TD 87-78	06/29/87	52 FR 24153
Final Action Effective	07/29/87	

Small Entity: No

Agency Contact: Steven Knox, Operations Officer, Department of the Treasury, United States Customs Service, Room 4135, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5354

RIN: 1515-AA49

[FR Doc. 87-21241 Filed 10-23-87; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Internal Revenue Service

26 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: This semiannual agenda lists the regulations that the Internal Revenue Service will be developing from October 1, 1987, through September 31, 1988. Determinations with respect to the agenda were made as of July 31, 1987. The purpose of this semiannual agenda is to give the public adequate notice of regulatory activities of the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Cynthia E. Grigsby, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR (202-343-0232), not a toll-free call.

SUPPLEMENTARY INFORMATION:

General

Section 5 of Executive Order 12291 and section 602 of the Regulatory Flexibility Act both require that a semiannual agenda of regulations under development and review be published in the **Federal Register**. The next semiannual agenda of the Internal Revenue Service will be published in the **Federal Register** in April of 1988.

Description

This Semiannual Agenda of Regulations lists all projects within the Internal Revenue Service (I.R.S.) as of July 31, 1987, for the development of regulations to appear in the Code of Federal Regulations. This agenda lists existing regulations under development by the Legislation and Regulations Division, the Employee Plans and Exempt Organizations Division and the Office of Associate Chief Counsel (International) of the Office of Chief Counsel, I.R.S. The following information is provided for each regulation project: The title; priority status; its effect, if any, on small business; the part of the Code of Federal Regulations affected; the legal authority for issuing the regulation; a brief description of the problem to be addressed in the regulation; and a timetable of action taken and to be taken. Under additional information there is provided the control number of the project within the Chief Counsel's Office, and the names and telephone numbers of the drafting and reviewing attorneys.

By direction of the Secretary of the Treasury.

James I. Owens,

Acting Commissioner of Internal Revenue.

Internal Revenue Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2183	05 USC 0552 Statement of Procedural Rules--Miscellaneous Amendments	1545-AJ53
2184	05 USC 0552 Miscellaneous amendments	1545-AJ95
2185	26 USC 0061 Taxation, valuation, and reporting of "frequent flyer" or similar bonus payments	1545-AK02
2186	26 USC 0145 Qualified 501 (c) (3) bonds	1545-AJ39
2187	26 USC 0146 State volume cap for tax-exempt bonds	1545-AJ37
2188	26 USC 0168 Tax-exempt entity leasing	1545-AJ36
2189	26 USC 0168 Modification of ACRS	1545-AJ38
2190	26 USC 0263A (f) Capitalization of certain interest expenses-- Notice of Proposed Rulemaking	1545-AK01
2191	26 USC 0336 Certain stock sales and distributions treated as asset transfers	1545-AK29
2192	26 USC 0336 Treatment of an affiliated group of corporations as a selling consolidated group for purposes of elective recognition under section 338 (h) (10)	1545-AK31
2193	26 USC 0382 Computation of section 382 limitation	1545-AK27
2194	26 USC 0383 Special limitations on certain credit and loss carryovers	1545-AK26
2195	26 USC 0832 Treatment of salvage and reinsurance in determining losses of property and casualty insurance companies	1545-AK49
2196	26 USC 0861 Income Tax - Interest and Dividends of 80-20 Companies	1545-AJ58
2197	26 USC 0865 Source rules for personal property sales	1545-AJ83

TREAS—IRS

Internal Revenue Service—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2198	26 USC 0876 Exclusion of possession source income from gross income of certain individuals and treatment of corporations organized in Guam, Samoa or CNMI	1545-AJ80
2199	26 USC 0883 Income Tax - Reciprocal Exemptions for Certain Transportation Income	1545-AJ57
2200	26 USC 0887 Four percent tax on gross transportation income and ECI	1545-AJ60
2201	26 USC 0901 Amendment of Section 1.901-2(e)(3)	1545-AJ90
2202	26 USC 0904 Income Tax Regulations Under Section 121 of the Tax Reform Act of 1984 Relating to Resourcing Certain Amounts Received From A U.S. Owned Foreign Corporation	1545-AI33
2203	26 USC 0904 Separate Application of section 904 with respect to certain categories of income	1545-AJ69
2204	26 USC 0952 Subpart F - Use of Deficits	1545-AJ71
2205	26 USC 0954 Subpart F FPHC Definitions	1545-AJ61
2206	26 USC 1059A Customs Limitation on taxpayer's basis in property imported from related persons	1545-AJ92
2207	26 USC 1503(d) Dual Resident Companies Limitation on Consolidated Losses	1545-AJ54
2208	26 USC 3405 Information Regarding Resident Status: Withholding on Certain Deferred Payments Outside the United States	1545-AJ93
2209	26 USC 4981 Excise taxes relating to real estate investment trusts and regulated investment companies under the Tax Reform Act of 1986	1545-AJ02
2210	26 USC 6038A Information with respect to certain foreign-owned corporations	1545-AJ56
2211	26 USC 6050M Reporting requirements pertaining to returns relating to persons receiving contracts from Federal executive agencies	1545-AJ05
2212	26 USC 9999 Statement of Procedural Rules--Amendments to Statement of Procedural Rules--1981-1	1545-AD55

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2213	26 USC 0001 Income Tax--Deduction for Bus Operating Authorities and Freight	1545-AJ18
2214	26 USC 0001 (i) Income Tax--Unearned of Minor Children	1545-AJ17
2215	26 USC 0025 Substantiation requirement for mortgage interest credit certificates	1545-AK38
2216	26 USC 0032 Income Tax--Notice to Employees of Earned Income Credit	1545-AK00
2217	26 USC 0042 Low-income housing credit for federally assisted buildings acquired during 10-year period	1545-AK92
2218	26 USC 0042 Low-Income Housing Credit for Federally-Assisted Buildings acquired during 10-year period	1545-AL05
2219	26 USC 0047 Amendment of Income Tax Regulations Under Sections 47, 48 and 196 Relating to Basis Adjustment to Reflect Investment Tax Credit	1545-AF06
2220	26 USC 0055 Income Tax--Alternative Minimum Tax	1545-AE80
2221	26 USC 0055 Alternative minimum tax for individuals	1545-AJ86
2222	26 USC 0056 Net Book Income Adjustment for U.S. Branches of Foreign Corporations	1545-AK22
2223	26 USC 0056 Net Book Income Adjustment for U.S. Branches of Foreign Corporations	1545-AK23
2224	26 USC 0056 Income Tax--Inventory Adjustment for the Alternative Minimum Tax	1545-AL02
2225	26 USC 0057 Income Tax-Minimum Tax. Item of Tax Preference for Intangible Drilling Costs Incurred in Drilling Oil, Gas or Geothermal Wells	1545-AA34
2226	26 USC 0058 Tax Benefit Rule for Corporate Add-On Minimum Tax under the Internal Revenue Code of 1954	1545-AK20
2227	26 USC 0058 Tax Benefit Rule for Corporate Add-On Minimum Tax under the Internal Revenue Code of 1954	1545-AK21
2228	26 USC 0067 2-Percent Floor on Miscellaneous Itemized Deductions	1545-AJ49
2229	26 USC 0072 Loans Treated as Distributions	1545-AE41
2230	26 USC 0079 Update and gender-neutralize mortality table used to determine permanent group-term life insurance benefits	1545-AK50
2231	26 USC 0089 Nondiscrimination Rules for Non-Pension Employee Benefit Plans	1545-AI78
2232	26 USC 0101(d) Income Tax Regulations--Mortality tables to be used to determine amount held by insurer with respect to a beneficiary	1545-AK14
2233	26 USC 0103 To Provide Regulations Under Section 147 (b)--Relating to Limitation on Maturity of Private Activity Bonds	1545-AE69
2234	26 USC 0103 Regulations Relating to Federally Guaranteed Bonds	1545-AG84
2235	26 USC 0103 Definition of "Reissuance" Under Section 103	1545-AI65
2236	26 USC 0103A To Revise Definition of Areas of Chronic Economic Distress for Purposes of Mortgage Subsidy Bonds	1545-AG88
2237	26 USC 0108 Income Tax--Discharge of Indebtedness	1545-AA67
2238	26 USC 0111 Income Tax--Part 1--Income Tax Regulations Under Section 111 Relating to Inclusion of Tax Benefit Items	1545-AH17
2239	26 USC 0117 Exclusion of qualified scholarships and fellowships from gross income	1545-AJ87
2240	26 USC 0117 (d) Qualified Tuition Reductions (Section 532 of the Tax Reform Act of 1984)	1545-AI13

TREAS—IRS

Internal Revenue Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2241	26 USC 0119 (d) Income Tax--Tax Treatment of Faculty Housing	1545-AJ21
2242	26 USC 0130 Income Tax--Part 1 Personal Injury Liability Assignments	1545-AF39
2243	26 USC 0132 Income Tax--Prizes and Awards	1545-AJ19
2244	26 USC 0141 Income tax--Definition of "private activity bond"	1545-AJ34
2245	26 USC 0142 Tax-exempt bonds for residential rental projects	1545-AJ66
2246	26 USC 0144 Income tax--Student Loan Bonds	1545-AJ42
2247	26 USC 0146 Arbitrage restrictions on tax-exempt bonds; Rebate requirement	1545-AJ67
2248	26 USC 0148 General Arbitrage Restrictions of Tax-exempt bonds	1545-AJ81
2249	26 USC 0162 Income Tax--To Provide Better Definitions in the Area of Political Advertising & Grassroots Lobbying	1545-AA79
2250	26 USC 0162 (g) Definition of Related Violation	1545-AK83
2251	26 USC 0163 Income Tax Regulations--Limitations on deductions for nonbusiness interest	1545-AK17
2252	26 USC 0168 Income Tax--Normalization Requirement for Public Utility Property	1545-AA88
2253	26 USC 0170 Income Tax -- to Provide Regulations Relating to Contributions to Private Foundations	1545-AI09
2254	26 USC 0170 Final Regulations relating to the charitable contributions deduction in the context of bargain sales	1545-AJ85
2255	26 USC 0183 Election to Postpone Determination with Respect to the Presumption That an Activity is Engaged In for Profit	1545-AG27
2256	26 USC 0195 Income Tax--To Add Provisions Relating to Start-Up Expenditures	1545-AB02
2257	26 USC 0216 Provisions Relating to Cooperative Housing Corporations	1545-AJ96
2258	26 USC 0219 Income Tax -- Part 1, Excise Tax -- Part 54, Individual Retirement Accounts after TRA '86	1545-AK47
2259	26 USC 0246A Income Tax-Debt-Financed Portfolio Stock	1545-AH39
2260	26 USC 0263A Practical capacity	1545-AK56
2261	26 USC 0274 Income Tax--To Add Provisions Relating to Foreign Conventions (as Amended by Section 4 of Public Law 96-608)	1545-AB04
2262	26 USC 0280G Notice of Proposed Rulemaking Relating to Restrictions on Golden Parachute Payments	1545-AH49
2263	26 USC 0302 Waiver of Family Attribution by Entities	1545-AF13
2264	26 USC 0336 Cross-reference--Recognition of gain or loss on liquidating sales and distributions of property (TRA 1986; [631 to 633)	1545-AK90
2265	26 USC 0338 Income Tax--Application of Installment Method to deemed sale of assets	1545-AK25
2266	26 USC 0367 Transfer of Intangibles subject to Section 367 or 482 of the Code	1545-AJ91
2267	26 USC 0367 (b) Foreign Liquidations and Reorganizations (NPRM)	1545-AJ78
2268	26 USC 0368 Income Tax--Cross-reference-reorganizations involving financially troubled thrift institutions	1545-AB29
2269	26 USC 0386 Corporate Reorganization Amendments - Bankruptcy Tax Act of 1980	1545-AK33
2270	26 USC 0382 Income Tax--Limitation on Corporate Net Operating Loss Deduction	1545-AI99
2271	26 USC 0382 Income Tax--Ownership Change	1545-AJ00
2272	26 USC 0401 Defined Benefit Plan Terminations and the Reversion of Assets	1545-AF81
2273	26 USC 0401 (k) Cash or Deferred Arrangements (Tax Reform Act of 1986)	1545-AI79
2274	26 USC 0401 (L) Income Tax -- Part 1-- Application of Nondiscrimination rules to integrated plans	1545-AI86
2275	26 USC 0401 (m) Nondiscrimination requirements for employer matching contributions and employee contributions	1545-AI80
2276	26 USC 0401(a)(26) Income Tax - - Part 1--Additional Participation Requirements	1545-AK48
2277	26 USC 0401(a)(4) Study of Need for Special Antidiscrimination Rules for Pension, Etc. Plans of State and Local Governments	1545-AK44
2278	26 USC 0403 Nondiscrimination and other Rules Applicable to Section 402(b) Annuities	1545-AI90
2279	26 USC 0404 Income Tax--Employee Stock Ownership Plan Loan Payments	1545-AD77
2280	26 USC 0408 Study of Need for Regulations Relating to Simplified Employee Pensions as Affected by the Tax Reform Act of 1986	1545-AK45
2281	26 USC 0409 Income Tax--Requirements for Tax Credit Employee Stock Ownership Plans, Employee Plan Credit, and Defined Contribution Plan Voting Rights	1545-AD82
2282	26 USC 0409 Inc. Tax -- Part 1; Estate Tax -- Part 20, Employee Stock Ownership Plan rules Affected by TRA 1986	1545-AI87
2283	26 USC 0410 Retirement Equity Act Changes to Participation, Vesting, etc. Rules	1545-AH03
2284	26 USC 0410(b) Coverage and separate lines of business rules	1545-AK41
2285	26 USC 0411 Rules Clarifying the Income Tax Regulations, Part 1, with Respect to Service Computation Under Pension, etc. Plans	1545-AE39
2286	26 USC 0411 Income Tax-Part I - Reduction of Accrued Benefits To Qualify for a Standard Termination of a Single Employer Defined Benefit Pension Plan	1545-AI46
2287	26 USC 0411 Inc. Tax -- Part 1 -- Benefit Accrual Beyond Normal Retirement Age	1545-AI85
2288	26 usc 0411 Income Tax - Part 1 - Minimum Vesting Standards	1545-AI88
2289	26 USC 0412 Income Tax-Part 1 - Variance From Minimum Funding Standard	1545-AI55
2290	26 USC 0414 Income Tax--Definitions and Special Rules; Service for Predecessor	1545-AD87
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Internal Revenue Service—Final Rule Stage—Continued

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2534	26 USC 0593 Income Tax--Limitation on Additions to Bank Loss Reserves	1545-AB66
2535	26 USC 0613A Income Tax--Supplementary Rules on Limitations on Percentage Depletion for Oil & Gas	1545-AB73
2536	26 USC 0613A Income Tax--To Conform to Sec 3 of the Act of 12/28/80	1545-AB74
2537	26 USC 0702 Income Tax - Application of effective date for new rules regarding deductions for meal, travel, and entertainment to partnerships and S corporations	1545-AK85
2538	26 USC 0706 (b) Taxable years of Certain Partnerships (temporary)	1545-AJ46
2539	26 USC 0807 (d) Mortality and Morbidity Tables to be used for Insurance Products for which there are not applicable commissioner's tables	1545-AK04
2540	26 USC 0817 Income Tax Regulations-Diversification Requirements for Variable Annuity, Endowment, and Life Insurance Contracts	1545-AG79
2541	26 USC 0832 Treatment of Salvage and Reinsurance in determining Losses of Property and Casualty Insurance Companies	1545-AK48
2542	26 USC 0846 Temporary Income Tax Regulations--Discounting of unpaid losses of property and casualty insurance companies	1545-AI96
2543	26 USC 0871 Income Tax--Original Issue Discount	1545-AB93
2544	26 USC 0884 Branch Profits Tax (General Rule and Definitions) and Second Level Withholding Taxes (Temporary Regulations)	1545-AJ77
2545	26 USC 0904 Income Tax--Recapture of Overall Foreign Losses	1545-AC05
2546	26 USC 0905 Income Tax--Temporary Regulations--Taxpayer's Obligation to File a Notice of Redetermination of Foreign Tax and Civil Penalties for Failure to File	1545-AC09
2547	26 USC 0924 FSC Transfer Pricing Rules, Distributions, Dividends Received, Deduction and Other Special Rules for FSC	1545-AI16
2548	26 USC 1058 Income Tax--Transfers of Securities Under Certain Agreements	1545-AC20
2549	26 USC 1060 Income Tax--Special Allocation Rules for Certain Asset Acquisitions	1545-AJ03
2550	26 USC 1092 (b) Income Tax Regulations Under the Tax Reform Act of 1984 Relating to Mixed Straddles	1545-AH59
2551	26 USC 1092 (b) Income Tax Regulations Under the Economic Recovery Tax Act of 1981 and the Tax Reform Act of 1984, Relating to Straddles	1545-AH60
2552	26 USC 1254 Income Tax--Gain from Disposition of Interest in Oil or Gas Property	1545-AC35
2553	26 USC 1256(e) Hedging Exception to Mark-to-Market Rules for Section 1256 Contracts, Deferral of Certain Straddle Losses, and Wash-Sale and Short-Sale Principles Applicable to Certain Straddle Transactions	1545-AI72
2554	26 USC 1275 Regulations Under Section 1271 Through 1275 Relating to Tax Treatment of Debt Instruments Having Original Issue Discount	1545-AH46
2555	26 USC 1374 Temporary Regulation--Application of section 1374 Built-in Gain tax to C corporation's electing S corporation status	1545-AK91
2556	26 USC 1378 Income Tax--Certain Elections Under the Subchapter S Revision Act of 1982	1545-AF30
2557	26 USC 1402 (e) Applications for exemption from self-employment taxes for ministers, etc.	1545-AJ94
2558	26 USC 1441 Withholding on Items of Income Covered by an Income Tax Convention	1545-AH86
2559	26 USC 1502 Income Tax--Credit & Deductions etc., for Consolidated Returns	1545-AC48
2560	26 USC 1502 Investment Adjustments Under the Consolidated Return Regulations	1545-AI58
2561	26 USC 1502 Temporary Regulations-Consolidated return investment adjustments with respect to an acquired subsidiary's built-in gains or losses	1545-AK95
2562	26 USC 1504 Cross-reference--Alaska Native Corporations; Requirements for affiliation in order to file a consolidated return	1545-AK88
2563	26 USC 1563 Income Tax--To Reflect the U.S. Supreme Court in U.S. v. Vogel Fertilizer Co., Holding that Each Member of Stockgroup must Own Stock in Each Brother-Sister Corp	1545-AC59
2564	26 USC 2036 Estate & Gift Taxes--Inclusion of Stock in Estate Where Decedent Retained Voting Rights	1545-AC63
2565	26 USC 2056 Estate and Gift Taxes--Increase in Limitations on Marital Deductions	1545-AC67
2566	26 USC 2653 (b) Estate Tax--Generation Skipping Transfer Tax	1545-AJ12
2567	26 USC 3121 Employment Tax--To Require Withholding of Social Security and Railroad Retirement Tax from Certain Payments of Sick Pay	1545-AC77
2568	26 USC 3402 Submission of certain withholding exemption certificates and entitlements to additional withholding exemption	1545-AJ30
2569	26 USC 3406 To Provide Temporary Regulations Relating to Backup Withholding Where the Service Notifies Payor to Withhold Due to an Incorrect Taxpayer Identification Number	1545-AF90
2570	26 USC 3508 Treatment of Real Estate Agents and Direct Sellers as Nonemployees for Employment Tax Purposes--Reporting Requirements with Respect to Direct Sellers	1545-AE62
2571	26 USC 4041 Sales of diesel and special motor fuel from unattended locations	1545-AK99
2572	26 USC 4051 Temporary Regulation Excise Taxes on Heavy Trucks, Truck Trailers and Semitrailers, and Tractors Sold at Retail	1545-AF79
2573	26 USC 4052 Excise Tax - Excise Tax on Heavy Trucks, Truck Trailers and Semitrailers, and Tractors	1545-AI62
2574	26 USC 4081 Manufacturers and Retailers Excise Taxes--Taxes on Fuels, Tires and Gasoline	1545-AF58
2575	26 USC 4481 Reduction of the heavy vehicle use tax for foreign-based trucks	1545-AK97

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Internal Revenue Service—Final Rule Stage—Continued

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2576	26 USC 453C Transitional rules relating to indebtedness treated as payment on installment obligations	1545-AK54
2577	26 USC 4911 Income Tax--Lobbying by Public Charities	1545-AE02
2578	26 USC 4977 Excise Tax--Election to Aggregate Lines of Business for Purposes of Certain Fringe Benefit Exclusions	1545-AI63
2579	26 USC 4991 Excise Tax--Definition of Newly Discovered Oil	1545-AC96
2580	26 USC 4992 Excise Tax--Issues Arising Where Multiple Parties Share in Production, Including Unitizations, Partnerships, Trusts and Estates	1545-AC94
2581	26 USC 4993 Excise Tax--Incremental Tertiary Oil	1545-AD04
2582	26 USC 4994 Excise Tax--Oil From a Stripper Well Property	1545-AD01
2583	26 USC 4996 Excise Tax--Definition of Property Under the Crude Oil Windfall Profit Tax Act 1980	1545-AD06
2584	26 USC 6011 Elimination of Form 941 Filing Requirement for Quarters in Which Seasonal Employers Pay no Wages	1545-AI56
2585	26 USC 6011 Excise Tax -- Part 54 -- Procedure and Administration-- Part 301 -- Filing of Returns for Payment of Pension Excise Tax on Reversions of Qualified Plan Assets	1545-AI83
2586	26 USC 6031 Income Tax-Amendments to Requirements for Return of Partnership Income	1545-AE40
2587	26 USC 6031 Nominee Reporting of Partnership Information	1545-AJ87
2588	26 USC 6041 Information Reporting of Allowances, or Reimbursements, or Charges for Travel and Other Expenses of Public Sector Employees and Certain Other Persons	1545-AI42
2589	26 USC 6045 Information Returns of Brokers	1545-AG02
2590	26 USC 6045 Information Returns of Brokers	1545-AG52
2591	26 USC 6045 Information Reporting on Real Estate Transactions	1545-AJ25
2592	26 USC 6050H Income Tax--Mortgage Interest Reporting	1545-AG93
2593	26 USC 6050J Final Regulations Relating to Reports of Foreclosures and Abandonments of Security Under the Tax Reform Act of 1984	1545-AG48
2594	26 USC 6111 Proposed Regulations Under Sections 6111 and 6709, Relating to Tax Shelter Registration	1545-AG45
2595	26 USC 6157 Time and Manner of Making Quarterly Payments of the Railroad Unemployment Repayment Tax (NPRM)	1545-AI60
2596	26 USC 6205 Interest on Hospital Insurance Taxes on Wages of State and Local Government Employees	1545-AI45
2597	26 USC 6222 Miscellaneous Rules Relating to Consolidated Administrative and Judicial Proceedings to Determine the Tax Treatment of Partnership Items	1545-AE51
2598	26 USC 6241 Small S Corporation exception and definition of Subchapter S item	1545-AJ99
2599	26 USC 6302 Income Tax--Deposit of Estimated Income Tax by Certain Private Foundations and Tax-Exempt Organizations	1545-AJ43
2600	26 USC 6323 Electronic filing of notice of Federal tax lien	1545-AL00
2601	26 USC 6402 Proposed Regulations Under the Spending Reduction Act of 1984, Relating to Reduction of Tax Overpayments by the Amount of Past-Due Legally Enforceable Debt Owed to Federal Agency	1545-AG95
2602	26 USC 6402 Procedure and Administrative--Reduction of Tax Overpayments by amount of past due legally enforceable debt owed to Federal Agency	1545-AK12
2603	26 USC 6404(e) Procedure and Administration - Abatement of Interest	1545-AK70
2604	26 USC 6611 Procedure and Administration Regulations--Modifications of Interest Payments for Certain Periods	1545-AF10
2605	26 USC 6621 Procedure and Administration Regulations - Increased Rate of Interest on Substantial Underpayments Attributable to Certain Tax Motivated Transactions	1545-AG75
2606	26 USC 6655 To Provide Regulations Relating to Accelerated Payment of Estimated Taxes by Corporations	1545-AE37
2607	26 USC 6723 Penalty for failure to include correct information on information returns and payee statements	1545-AJ26
2608	26 USC 7103 (b) Procedure and Administration--Property seized by the Internal Revenue Service under the Money Laundering Control Act of 1986	1545-AL04
2609	26 USC 7216 Amendment of Regulations to Permit Disclosure of Tax Return Information between Franchisees who Jointly Operate a Tax Service	1545-AH91
2610	26 USC 7502 Procedure and Administration--Amendment of Regulations Relating to the Timely Mailing of Returns, Taxes and Deposits	1545-AD42
2611	26 USC 7805 Effective Dates and Other Questions Arising Under Employee Benefit Provisions of the Tax Reform Act of 1984	1545-AI21
2612	26 USC 7871 Indian Tribal Governments Treated as States for Certain Purposes	1545-AF77
2613	26 USC 7872 Regulations on Income Tax Under the Tax Reform Act of 1984, Relating to Below-Market Loans	1545-AH72
2614	26 USC 9999 Income Tax--Maritime Capital Construction Fund	1545-AD46

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Internal Revenue Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2615	26 USC 0023 Income Tax--Joint Ownership of Energy Items & Renewable Energy Source Expenditures for Purposes of the Residential Energy Credit to Conform to Secs 201(a) & 202 of the ETC	1545-AA03
2616	26 USC 0032 Income Tax--Notice to employees of earned income credit	1545-AI77
2617	26 USC 0042 Low-income housing credit	1545-AJ64
2618	26 USC 0048 Income Tax--Amendment of [1.48-9 (c)(10),(d),&(e) to partially remove the limitation on the business energy credit for equipment that uses energy from both a qualified and a nonqualified source	1545-AI97
2619	26 USC 0056 Corporate Alternative Minimum Tax Book Income Adjustment	1545-AK19
2620	26 USC 0066 Income Tax--Part 1--Treatment of income of certain innocent Spouses in Community Property States	1545-AK55
2621	26 USC 0072 Income Tax--Early Withdrawals from Deferred Annuities	1545-AF08
2622	26 USC 0101 Income Tax--Flexible Premium Contracts	1545-AF28
2623	26 USC 0103 (o) Private Loan Bonds	1545-AH97
2624	26 USC 0118 Income Tax--Contributions in Aid of Construction for Certain Utilities	1545-AA71
2625	26 USC 0149 Information reporting for tax-exempt bonds	1545-AJ62
2626	26 USC 0162 (k) Continuation Coverage Requirement of Group Health Plans	1545-AI94
2627	26 USC 0163 Allocation of Interest Expense Among Expenditures	1545-AK09
2628	26 USC 0168 Accelerated Cost Recovery System--Replacement- Retirement-Betterment (RRB) Property	1545-AJ22
2629	26 USC 0263A Practical capacity	1545-AK58
2630	26 USC 0280 Income Tax--Amortization of Production Cost of Motion Pictures, Books, Records, and Other Similar Property	1545-AB08
2631	26 USC 0367 Amendment of the Income Tax Regulations Under Section 367 of the Code (Transfers to Foreign Corporations) to Reflect Section 131 of the Tax Reform Act of 1984 (P.L. 98-369)	1545-AG68
2632	26 USC 0441 Limitations on Accounting Period Changes	1545-AK59
2633	26 USC 0448 Limitation on the use of the cash method of accounting	1545-AK53
2634	26 USC 0461 (i) Temporary Income Tax Regulations--Taxable Year of Deduction for Amounts Paid by Cash Method Tax Shelters	1545-AH31
2635	26 USC 0461 (i) Income Tax Regulations--Taxable Year of Deduction for Amounts Paid by Cash Method Tax Shelters	1545-AH35
2636	26 USC 0463 Income Tax--Part 1--To Provide Regulations relating to the Election for Accrual Vacation Pay under Transitional Rule Provided in Section 91(i) of TRA 1984	1545-AK51
2637	26 USC 0467 Income Tax Regulations - Deferred Payments for Use of Property or Services	1545-AG80
2638	26 USC 0473 Income Tax--Part 1. Crude oil Windfall Profit Tax Act of 1980 relating to qualified liquidations of LIFO inventories	1545-AK66
2639	26 USC 0505 Nondiscrimination Requirements under Sections 501 (c) (9) and (20)	1545-AG23
2640	26 USC 0818 Treatment of Graded Premium Policies Under the Approximate Revaluation Method of Recomputing Reserves	1545-AF03
2641	26 USC 0820 Income Tax--To Clarify the Treatment of Certain Amounts Refunded in Reinsurance Transactions	1545-AB86
2642	26 USC 0861 Amendments of regulations to conform to section 861(a)(7) (relating to source of income of underwriting income) as added by section 1036 of Pub. Law 94-455	1545-AK67
2643	26 USC 0904(d) Proposed Regulations Relating to Certain Amounts Treated as Interest for Purposes of the Limitation on the Foreign Tax Credit	1545-AH84
2644	26 USC 0921 FSC General Rules, Requirements, Definitions, and Special Rules	1545-AG67
2645	26 USC 0925 Temporary Regulations Relating to FSC Transfer Pricing Rules, Distributions, Dividends Received Deduction and Other Special Rules for FSCs	1545-AI17
2646	26 USC 103A To Provide Regulations Relating to Extension of Mortgage Subsidy Bonds	1545-AI36
2647	26 USC 1056 Income Tax--Part 1, Basis limitation and recapture of depreciation on player contracts	1545-AK69
2648	26 USC 1372 Income Tax--Treatment of S corporation as a Partnership for Certain Purposes of the Internal Revenue Code of 1954	1545-AE26
2649	26 USC 1402 (e) Applications for exemption from self-employment taxes for ministers, etc.	1545-AJ82
2650	26 USC 1504 Temporary Regulations--Alaska Native Corporations; Requirements for affiliation in order to file a consolidated return	1545-AK89
2651	26 USC 263A Capitalization and inclusion in inventory costs of certain expenses	1545-AI95
2652	26 USC 3121 Empl. Tax--Social Security Tax on Employers of Individuals who Receive Income from Tips	1545-AC76
2653	26 USC 3121 (w) Elections by Churches and Qualified Church-Controlled Organizations to Exclude Service Performed in Their Employ from Employment	1545-AH63
2654	26 USC 3121(v) Notice of proposed rulemaking relating to the application of Medicare tax to newly hired state and local government employees	1545-AI76
2655	26 USC 3402 Submission of certain withholding exemption certificates and entitlement to additional withholding exemption	1545-AJ32
2656	26 USC 3406 Regulations on Backup Withholding in Case of a Notified Payee Underreporting	1545-AH83
2657	26 USC 3406 Temporary Regulations on backup withholding in case of a notified payee underreporting	1545-AJ33
2658	26 USC 6011 Excise Tax--Part 54 -- Procedure and Administration--Part 301--Filing of Returns for Payment of Pension Excise Tax on Reversions of Qualified Plan Assets	1545-AI84
2659	26 USC 6011 (e) Returns required on magnetic media	1545-AJ50
2660	26 USC 6045 Information Reporting on Real Estate Transactions	1545-AK60

TREAS—IRS

Internal Revenue Service—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
2661	26 USC 6046 Income Tax--Regulations Relating to Returns as to Interests in Foreign Partnerships	1545-AE47
2662	26 USC 6053 Employee Tip Reporting and Substantiation Requirements	1545-AH24
2663	26 USC 6112 Procedure and Administration--Part 301--Regulations relating to the Requirement to Maintain a list of Investors in Potentially Abusive Tax Shelters	1545-AK52
2664	26 USC 6157 Time and Manner of Making Quarterly Payments of the Railroad Unemployment Repayment Tax (Temporary)	1545-AI73
2665	26 USC 6221 Miscellaneous provisions relating to the tax treatment of partnership items	1545-AJ88
2666	26 USC 6231 (c) (1) Special Rules for Certain Refund Claims Treated as Special Enforcement Areas Under Rules for Consolidated Partnership Proceedings	1545-AH00
2667	26 USC 6402 Procedure and Administration--Reduction of Tax Overpayments by amount of past-due legally enforceable debt owed to Federal Agency	1545-AK13
2668	26 usc 6655 Income Tax--Exception to corporate estimated tax penalty for certain installment payments due before July 1, 1987	1545-AK37
2669	26 USC 6851 Amendment of the Income Tax Regulations Under Section 6851(d) Dealing with Certificates of Compliance with the Income Tax Laws Issued to Aliens Departing the United States	1545-AF80
2670	26 USC 7701 Procedure and Administration--Part 301--Inclusion of Nonrecourse Indebtedness in Fair Market Value of Property for Purposes of Determining Gain or Loss	1545-AK68

DEPARTMENT OF THE TREASURY (TREAS) **Prerule Stage**

Internal Revenue Service (IRS)

2183. STATEMENT OF PROCEDURAL RULES—MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 26 CFR 601; 26 CFR 602

Legal Deadline: None.

Abstract: The document contains miscellaneous amendments to the Statement of Procedural Rules (SPR). The SPR sets forth the procedural rules of the Internal Revenue Service for all taxes administered by the Service as well as certain rules that apply to the Bureau of Alcohol, Tobacco and Firearms. Some amendments update the SPR to reflect changes in nomenclature. The other amendments are described in the order of the sections of the SPR being amended.

Timetable:

Action	Date	FR Cite
Statement of Procedural Rules	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-257-83.

Drafting Author: B. Faye Easley (202) 343-0232.

Reviewing attorneys: George H. Bradley (202) 343-0231 and Charles Whedbee (202) 566-3458.

Agency Contact: Brenda Faye Easley, Paralegal Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 343-0232

RIN: 1545-AJ53

2184. MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 26 CFR 601

Legal Deadline: None.

Abstract: Amends two separate paragraphs in the statement of procedural rules to conform with recent revenue procedures.

Timetable:

Action	Date	FR Cite
Statement of procedural rules	09/15/87	

Small Entity: No

Additional Information: LR-9-87

Drafting attorney: George H. Bradley (202) 343-0231.

Reviewing attorney: Charles Whedbee (202) 566-3458.

Agency Contact: George H. Bradley, Chief, Technical Section, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 343-0231

RIN: 1545-AJ95

2185. TAXATION, VALUATION, AND REPORTING OF "FREQUENT FLYER" OR SIMILAR BONUS PAYMENTS

Legal Authority: 26 USC 61 Internal Revenue Code of 1986; 26 USC 6041 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will require information reporting with respect to "frequent flyer" or similar bonus payments in order to increase compliance. The regulation will also provide valuation rules to assist taxpayers in valuing the bonuses.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/87	

Small Entity: Undetermined

Additional Information: LR-79-86

Drafting attorney: Annette Guarisco (202) 566-3238.

Reviewing attorney: Paul A. Francis (202) 566-3218.

Treasury attorney: Susan Scherbel (202) 535-6965.

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RIN: 1545-AK02

2186. QUALIFIED 50L (C) (3) BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 145 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules for qualified 501 (c) (3) bonds.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	

Small Entity: Not Applicable

Additional Information: LR-84-86.

Drafting attorney: Robert Beatson (202) 566-3459.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3459

RIN: 1545-AJ39

2187. STATE VOLUME CAP FOR TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 146 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would provide state volume cap rules for tax-exempt bonds.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	

Small Entity: Not Applicable

Additional Information: LR-85-86

Drafting attorney: Robert Beatson (202) 566-3459.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3459

RIN: 1545-AJ37

2188. TAX-EXEMPT ENTITY LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would provide rules for tax-exempt entity leasing.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	
Final Action	03/01/88	

Small Entity: Not Applicable

Additional Information: LR-166-86

Drafting attorney: Robert Beatson (202) 566-3459.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3459

RIN: 1545-AJ36

2189. MODIFICATION OF ACRS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would provide rules concerning the accelerated cost recovery system

Timetable:

Action	Date	FR Cite
ANPRM	06/00/88	

Small Entity: Not Applicable

Additional Information: LR-86-86.

Drafting attorney: Robert Beatson (202) 566-3459.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3459

RIN: 1545-AJ38

2190. CAPITALIZATION OF CERTAIN INTEREST EXPENSES-- NOTICE OF PROPOSED RULEMAKING

Legal Authority: 26 USC 263A (f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance concerning the capitalization of certain interest expenses and the allocation interest to property subject to the capitalization rules.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-121-86.

Drafting attorney: Annette Guarisco (202) 566-3238.

Reviewing attorney: John Fischer (202) 566-3394.

Treasury attorney: Patricia McClanahan (202) 566-2928.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK01

2191. ● CERTAIN STOCK SALES AND DISTRIBUTIONS TREATED AS ASSET TRANSFERS

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance for making an election under section 336 (e), and the consequences which result from making such an election.

Timetable:

Action	Date	FR Cite
ANPRM	03/01/88	
ANPRM Comment Period End	05/01/88	

Small Entity: Not Applicable

Additional Information: LR-52-87

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK29

2192. ● TREATMENT OF AN AFFILIATED GROUP OF CORPORATIONS AS A SELLING CONSOLIDATED GROUP FOR PURPOSES OF ELECTIVE RECOGNITION UNDER SECTION 338 (H) (10)

Legal Authority: 26 USC 338 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide the guidance for making elections under section 338 (h) (10) when the selling group is an affiliated group of corporations which does not file a consolidated federal income tax return, and the consequences of making such an election.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/87	
ANPRM Comment Period End	02/01/88	

Small Entity: Not Applicable

Additional Information: LR-50-87

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury attorney: Thomas Wessel (20) 566-4979.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK31

2193. ● COMPUTATION OF SECTION 382 LIMITATION

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would explain the manner and method of computing the section 382 limitation under circumstances when there are successive ownership changes, capital contributions, mergers and liquidations, and in instances when one corporation controls another corporation.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/87	
ANPRM Comment Period End	11/01/87	

Small Entity: Not Applicable

Additional Information: LR-67-87

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury attorney: Richard D'Avino (202) 566-5455.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK27

2194. ● SPECIAL LIMITATIONS ON CERTAIN CREDIT AND LOSS CARRYOVERS

Legal Authority: 26 USC 383 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would specify the manner and method on applying the special limitations on certain credit and loss carryovers under section 383.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/87	
ANPRM Comment Period End	11/01/87	

Small Entity: Not Applicable

Additional Information: LR-69-87

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Richard D'Avino (202) 566-5455.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK26

2195. ● TREATMENT OF SALVAGE AND REINSURANCE IN DETERMINING LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7005 Internal Revenue Code of 1986; 26 USC 832 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the treatment of salvage and reinsurance recoverable in determining the paid and unpaid losses of property and casualty insurance companies.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: LR-65-87

Drafting attorney: Bill Blagg (202) 566-3238.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Treasury attorney: Don Rocap (202) 566-8278.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK49

2196. INCOME TAX - INTEREST AND DIVIDENDS OF 80-20 COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation would provide rules with respect to the sourcing of dividends and interest paid by so-called "80-20" companies, that is, companies with 80% or more foreign source income.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-950-86

Drafting Attorney: Riea Lainoff (202) 566-3289

Reviewing Attorney: Phyllis E. Marcus (202) 566-3289

Treasury Attorney: Mary Bennett (202) 566-2964

Agency Contact: Riea Lainoff, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AJ58

2197. SOURCE RULES FOR PERSONAL PROPERTY SALES

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 865 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide rules for determining the source of income from sales of personal property. The regulation will set forth rules for sales by U.S. residents and non-residents and specify special rules for depreciable personal property, intangibles, sales connected with an office or other fixed place of business, and sales of a foreign affiliate by a U.S. corporation.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-946-86

Drafting Attorney: Carol P. Tello (202) 566-3226

Reviewing Attorney: Phyllis E. Marcus (202) 566-3323

Treasury Attorney: Mary Bennett (202) 566-2964

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3226

RIN: 1545-AJ83

2198. EXCLUSION OF POSSESSION SOURCE INCOME FROM GROSS INCOME OF CERTAIN INDIVIDUALS AND TREATMENT OF CORPORATIONS ORGANIZED IN GUAM, SAMOA OR CNMI

Legal Authority: 26 USC 876 Internal Revenue Code of 1986; 26 USC 881 Internal Revenue Code of 1986; 26 USC 931 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The Tax Reform Act of 1986 eliminates the requirement that there be a mirrored system of taxation in Guam and the CNMI, and coordinates the tax system of these possessions and of American Samoa with the U.S. tax system. Guam the CNMI and American Samoa are granted full authority over their own local income tax systems, with respect to income from sources within or effectively connected with the conduct of a trade or business within any of these possessions. This grant of authority is effective, however, only if and so long as an implementing agreement is in effect between the possession at issue and the United States which provides for elimination of double taxation, prevention of evasion or avoidance of U.S. tax exchange of information, and other administrative matters.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: INTL-968-86

Drafting Attorney: Lilo A. Hester (202) 287-4851.

Reviewing Attorney: Michael Patton (202) 287-4851.

Treasury Attorney: Peter Barnes (202) 566-5791.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545-AJ80

2199. INCOME TAX - RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 883 Internal Revenue Code of 1986; 26 USC 872 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation would provide rules with respect whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-948-86

Drafting Attorney: Patricia A. Bray (202) 566-3289.

Reviewing Attorney: Phyllis E. Marcus (202) 566-3289.

Treasury Attorney: David Crowe (202) 566-5791.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AJ57

2200. FOUR PERCENT TAX ON GROSS TRANSPORTATION INCOME AND ECI

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 887 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Four percent tax in gross transportation income. The regulation will address the circumstances in which persons must pay a transportation on tax on a gross basis, and the circumstances in which they have effectively connected transportation income so that they must file a tax return and pay the tax on a net basis.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-940-86

Drafting Attorney: David L. Paul (202) 566-3289

Reviewing Attorney: John F. Dean (202) 566-3289

Treasury Attorney: Peter Daub (202) 566-5791

Agency Contact: David L. Paul, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AJ50

2201. AMENDMENT OF SECTION 1.901-2(E)(3)

Legal Authority: 26 USC 901(i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide rules to implement 1986 Tax Act amendment to Section 901 concerning certain tax subsidiaries used by foreign governments. Proposal will deny foreign tax credit to the extent that there is a subsidy.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: INTL-942-86

Drafting Attorney: Charles P. Besecky (202) 566-3319.

Reviewing Attorney: Benedetta A. Kissel (202) 566-3179.

Treasury Attorney: David Crowe (202) 566-5791.

Agency Contact: Charles P. Besecky, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3319

RIN: 1545-AJ90

2202. INCOME TAX REGULATIONS UNDER SECTION 121 OF THE TAX REFORM ACT OF 1984 RELATING TO RESOURCING CERTAIN AMOUNTS RECEIVED FROM A U.S. OWNED FOREIGN CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 904(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance on the resourcing of section 951 and 551 inclusions, and interest and dividends from certain U.S. owned foreign corporations. The regulations will provide rules for determining what interest amounts will be subject to resourcing.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/87	
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-931-86

Drafting attorney: Marnie J. Carro (202) 566-3499 and Carolyn Dupuy (202) 566-3289.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-5791.

Agency Contact: Marnie J. Carro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3499

RIN: 1545-AI33

2203. SEPARATE APPLICATION OF SECTION 904 WITH RESPECT TO CERTAIN CATEGORIES OF INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 904 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide rules for determining the separate application of the foreign tax credit limitation with respect to certain categories of income. The regulation will define the separate limitations, provide operational rules for determining the separate limitations (including look-through rules) and provide certain transition rules.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-931-86

Drafting Attorneys: Carolyn Dupuy (202) 566-3289

Marnie Carro (202) 566-3499

Reviewing Attorney: Carol Doran Klein (202) 566-6419

Treasury Attorney: Peter Daub

Agency Contact: Carolyn M. Dupuy & Marnie J. Carro, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AJ69

2204. SUBPART F - USE OF DEFICITS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 952 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986; 26 USC 955 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide rules for determining the extent to which the amount included in the gross income of any U.S. shareholder under section 951(a)(1)(A)(i) for any taxable years may be reduced by the shareholder's share of qualified deficits. The regulation also will provide rules for applying the section 954(b)(3) deminimus and full inclusion rule and the section 954(b)(4) exception for certain income subject to high foreign tax and certain other rules concerning miscellaneous changes to the Subpart F provisions.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-954-86

Drafting Attorney: Carolyn Dupuy (202) 566-3289

Reviewing Attorney: Phyllis E. Marcus (202) 566-3323

Treasury Attorney: Peter Daub (202) 566-5711

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Agency Contact: Carolyn M. Dupuy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AJ71

2205. SUBPART F FPHC DEFINITIONS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986; 26 USC 957 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Definition of FPHC income. Particular issues include the definition of income equivalent to interest, of property which does not give rise to income.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-953-86

Drafting Attorney: David L. Paul (202) 566-3289

Reviewing Attorney: Phyllis Marcus (202) 566-3289

Treasury Attorney: Peter Daub (202) 566-5791

Agency Contact: David L. Paul, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AJ61

2206. CUSTOMS LIMITATION ON TAXPAYER'S BASIS IN PROPERTY IMPORTED FROM RELATED PERSONS

Legal Authority: PL 99-514, Sec 1248

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Prior to the Tax Reform Act of 1986 importers could claim a transfer price for customs purposes that was too low to be consistent with the price they claim for income tax purposes. Section 1248 of the Tax Reform Act of 1986 addressed this problem by enacting Section 1059A of the Internal Revenue Code, under which importers cannot claim a transfer price for income tax purposes that is higher than would be consistent with the value they claim for customs purposes. Regulations will be needed to provide rules for coordinating customs and tax valuation principles. It is anticipated that as a result of Section 1059A of the Internal Revenue Code, some taxpayers will claim higher transfer prices for customs purposes. No estimate has been made of the revenue.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/87	

Small Entity: Not Applicable

Additional Information: INTL-960-86

Drafting Attorney: W. Edward Williams (202) 287-4851

Reviewing Attorney: George Sellinger (202) 287-4851

Treasury Attorney: Stephen Shay (202) 566-5046

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545-AJ92

2207. DUAL RESIDENT COMPANIES LIMITATION ON CONSOLIDATED LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1503(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: If a U.S. Corporation is subject to a foreign country's tax on worldwide income, or on a residence basis as opposed to a source basis, any taxable loss it incurs cannot reduce the taxable income of any other member of a U.S. affiliated group for any other taxable year. Where a corporation is subject to foreign tax on a residence basis, then for U.S. purposes, its loss will be available to offset income of that corporation in other years, but not income of another U.S. Corporation. Regulations may exempt a U.S. corporation from this rule to the extent that its losses do not offset the income of foreign corporations for foreign tax purposes.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-992-86

Drafting Attorney: Rlea M. Lainoff (202) 566-3289

Reviewing Attorney: Phyllis Marcus.

Treasury Attorney: David Crowe (202) 566-8275.

Agency Contact: Rlea Lainoff, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AJ54

2208. INFORMATION REGARDING RESIDENT STATUS: WITHHOLDING ON CERTAIN DEFERRED PAYMENTS OUTSIDE THE UNITED STATES

Legal Authority: 26 USC 3405 Internal Revenue Code of 1986; 26 USC 6039E Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will prescribe the information to be gathered by the State Department and Immigration and Naturalization Service on Passport and Green card applicants and the penalties to be imposed on the applicant if the applicant does not supply the information to the State Department or Immigration and Naturalization Service. The regulations under 26 USC 3405 will provide circumstances under which an election for no withholding on employer deferred compensation plan payments may not be made.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/87	

Small Entity: Not Applicable

Additional Information: INTL-956-86

Drafting Attorney: Helen M. Lokey (202) 287-4851

Reviewing Attorney: Michael F. Patton (202) 287-4851

Treasury Attorney: David Crowe (202) 566-8275

Agency Contact: Helen Lokey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545-AJ93

2209. EXCISE TAXES RELATING TO REAL ESTATE INVESTMENT TRUSTS AND REGULATED INVESTMENT COMPANIES UNDER THE TAX REFORM ACT OF 1986

Legal Authority: 26 USC 4981 Internal Revenue Code of 1986; 26 USC 4982 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986; 26 USC 6061 Internal Revenue Code of 1986; 26 USC 6071 Internal Revenue Code of 1986; 26 USC 6151 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 55

Legal Deadline: None.

Abstract: The regulation would provide guidance pertaining to the excise taxes relating to real estate investment trusts and regulated investment companies under the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/87	
ANPRM Comment Period End	10/30/87	

Small Entity: Not Applicable

Additional Information: LR-104-86.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Don Rocap (202) 566-8278.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AJ02

2210. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS

Legal Authority: PL 99-514, Sec 1245

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Prior to the Tax Reform Act of 1986 foreign controlled foreign corporations doing business in the US and foreign controlled US corporations are required to report transactions with related foreign corporations. The 86 Act requires such entities to report transactions with all related foreign parties, whether or not corporations. The Act also provides a new definition for the term related parties, and requires information necessary to carry out the installment sales rules, as amended by such Act, to also be reported.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/87	

Small Entity: Yes

Additional Information: INTL-958-86

Drafting Attorney: Charles A. Ray (202) 287-4851.

Reviewing Attorney: Michael F. Patton (202) 287-4851.

Treasury Attorney: Stephen Shay (202) 566-5046.

Agency Contact: Charles A. Ray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545-AJ56

2211. REPORTING REQUIREMENTS PERTAINING TO RETURNS RELATING TO PERSONS RECEIVING CONTRACTS FROM FEDERAL EXECUTIVE AGENCIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6050M Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation would provide guidance to the heads of Federal executive agencies for purposes of complying with information and reporting requirements prescribed by section 6050M.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/87	
ANPRM Comment Period End	10/31/87	

Small Entity: Not Applicable

Additional Information: LR-133-86

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Patricia McClanahan (202) 566-2926.

Government Levels Affected: Federal

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AJ05

2212. STATEMENT OF PROCEDURAL RULES—AMENDMENTS TO STATEMENT OF PROCEDURAL RULES—1981-1

Legal Authority: 5 USC 552; 5 USC 301

CFR Citation: 26 CFR 601

Legal Deadline: None.

Abstract: Semi-annual update of the Statement of Procedural Rules.

Timetable:

Action	Date	FR Cite
Statement of Procedural Rules	06/30/88	

Small Entity: Not Applicable

Additional Information: LR-154-81.

Paralegal Specialist: Carroll Field (202) 566-3935.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Agency Contact: Carroll Field, Paralegal Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3935

RIN: 1545-AD55

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DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Proposed Rule Stage

2213. INCOME TAX–DEDUCTION FOR BUS OPERATING AUTHORITIES AND FREIGHT

Legal Authority: 26 USC 1 et seq Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules allowing taxpayers an ordinary deduction ratably over a 60-month period for the adjusted basis of bus operating authorities and freight forwarders held or acquired on certain specified dates.

Timetable:

Action	Date	FR Cite
NPRM	07/01/89	

Small Entity: Not Applicable

Additional Information: LR-110-86

Drafting attorney: Christopher Wilson (202) 566-4336.

Reviewing attorney: Ada Rousso (202) 566-3287.

Treasury attorney: Bryan Collins (202) 566-4979.

Agency Contact: Christopher J. Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AJ18

2214. INCOME TAX–UNEARNED OF MINOR CHILDREN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1 (i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules for determining the tax on unearned income of certain minor children.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information:

LR-112-86.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Fred E. Grundeman (202) 566-3287.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AJ17

2215. ● SUBSTANTIATION REQUIREMENT FOR MORTGAGE INTEREST CREDIT CERTIFICATES

Legal Authority: 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation provides compliance rules for MCCs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-47-87

Drafting Attorney: Robert Beatson (202) 566-3459.

Reviewing Attorney: John Coulter (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D. C. 20224, 202 566-3459

RIN: 1545-AK38

2216. INCOME TAX–NOTICE TO EMPLOYEES OF EARNED INCOME CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 32 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide the procedures necessary to implement the statutory requirement that employers notify certain employees whose wages are not subject to income tax withholding that they may be eligible for the refundable earned income credit.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-98-86.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: John G. Schmalz (202) 566-3297.

Office of Legislative Counsel attorney: Marjorie Roberts (202) 566-2565.

Duplicate of RIN 1545-AI77

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AK00

2217. ● LOW-INCOME HOUSING CREDIT FOR FEDERALLY ASSISTED BUILDINGS ACQUIRED DURING 10-YEAR PERIOD

Legal Authority: 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation provides rules for federally-assisted buildings acquired during a 10-year period.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information: LR-62-87

Drafting Attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John Coulter (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AK92

2218. ● LOW-INCOME HOUSING CREDIT FOR FEDERALLY-ASSISTED BUILDINGS ACQUIRED DURING 10-YEAR PERIOD

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation provides rules for Federally-assisted buildings acquired during a 10-year period.

TREAS—IRS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information: LR-62-87

Drafting Attorney: Robert Beatson (202) 566-3459.

Reviewing Attorney: John Coulter (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AL05

2219. AMENDMENT OF INCOME TAX REGULATIONS UNDER SECTIONS 47, 48 AND 196 RELATING TO BASIS ADJUSTMENT TO REFLECT INVESTMENT TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 47 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986; 26 USC 196 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations would provide rules concerning a basis adjustment in the case of the investment tax credit.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-183-82.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF06

2220. INCOME TAX–ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 55 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The Regulations will provide rules for the computation of the alternative minimum tax and the computation of the credits that may be used to reduce that tax, as well as rules for determining the amount of tax preference for excluded dividends and interest, mining exploration and development costs, and circulation, research and experimental expenditures. The Regulations will also provide rules relating to the optional 10 year write off of certain tax preferences.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	

Small Entity: Not Applicable

Additional Information: LR-235-82.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Ada Rousso (202) 566-3287.

Treasury attorney: Neil Kimmelfield (202) 566-8528.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AE80

2221. ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS

Legal Authority: 26 USC 55 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This project will address issues relating to the alternative minimum tax for individuals. The issues addressed will include the adjustment to inventory to take into account alternative tax depreciation, determination of the preference amount for charitable contributions of appreciated property, and application of alternative tax adjustments in determining the alternative tax liability of a trust or estate.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Not Applicable

Additional Information: LR-2-87

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Ada Rousso (202) 566-3287.

Treasury attorney: Neil Kimmelfield (202) 566-8528.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-4336

RIN: 1545-AJ86

2222. ● NET BOOK INCOME ADJUSTMENT FOR U.S. BRANCHES OF FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules for computing the alternative minimum tax net book income adjustment of a foreign corporation engaged in a trade or business in the United States.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-54-87

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Tax Legislative Counsel Reviewing Attorney: Richard Harvey (202) 535-5960.

International Tax Counsel Reviewing Attorney: Peter Daub (202) 566-5791.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AK22

2223. ● NET BOOK INCOME ADJUSTMENT FOR U.S. BRANCHES OF FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules for computing the alternative minimum tax net book income adjustment of a foreign corporation engaged in a trade or business in the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-55-87

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Tax Legislative Counsel Reviewing attorney: J. Richard Harvey (202) 535-8960.

International Tax Counsel Reviewing attorney: Peter Daub (202) 566-5791.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AK23

2224. ● INCOME TAX—INVENTORY ADJUSTMENT FOR THE ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation provides guidance with respect to inventory adjustments for the alternative minimum tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-85-87

Drafting Attorney: William Jackson (202) 566-4336.

Reviewing Attorney: Ada Rousso (202) 566-3287.

Agency Contact: William Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-4336

RIN: 1545-AL02

2225. INCOME TAX-MINIMUM TAX. ITEM OF TAX PREFERENCE FOR INTANGIBLE DRILLING COSTS INCURRED IN DRILLING OIL, GAS OR GEOTHERMAL WELLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 57 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will explain the application and determination of the tax preference item for intangible drilling costs which was added by the Tax Reform Act of 1976. The regulations will provide rules for determining a taxpayer's net income from oil and gas properties, rules for determining if a well is nonproductive and rules for determining the proper preference tax if a well proves to be nonproductive after the close of a taxable year for which a tax return has already been filed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/88	

Small Entity: Not Applicable

Additional Information: LR-209-78.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Mo Schuldinger (202) 566-2928.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AA34

2226. ● TAX BENEFIT RULE FOR CORPORATE ADD-ON MINIMUM TAX UNDER THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations provide rules for taking into account credit carryovers in applying the minimum tax benefit rule for corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-56-87

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Treasury attorney: Neil Kimmelfield (202) 566-8528.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AK20

2227. ● TAX BENEFIT RULE FOR CORPORATE ADD-ON MINIMUM TAX UNDER THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 58 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations provide rules for taking into account credit carryovers in applying the minimum tax benefit rule for corporations.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-53-87

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Treasury attorney: Neil Kimmelfield (202) 566-8528.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AK21

2228. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 67 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance regarding the miscellaneous itemized deductions that are subject to the 2-percent floor and provide expense allocation rules for regulated investment companies and REMICs.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: Not Applicable

Additional Information: LR-97-86.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328

Charles M. Whedbee (202) 566-3458

Susan T. Baker (202) 566-3294.

Treasury attorney: Blake Rubin (202) 566-2927

Don Rocap (202) 566-8278.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AJ49

2229. LOANS TREATED AS DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 72 Internal Revenue Code of 1956

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide guidance on the application of new rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The new loan rules are provided in new section 72(p) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Not Applicable

Additional Information: EE-106-82.

Drafting attorney: Nerman Dobynes Hubbard (202) 566-3430.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Jeffrey A. Quinn (202) 566-2175.

Agency Contact: Nerman Dobynes Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE41

2230. ● UPDATE AND GENDER-NEUTRALIZE MORTALITY TABLE USED TO DETERMINE PERMANENT GROUP-TERM LIFE INSURANCE BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 79 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations will update and gender-neutralize the mortality table used under section 79 to determine the value of permanent group-term life insurance benefits provided to employees.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Undetermined

Additional Information: LR-77-87

Drafting attorney: Bill Blagg (202) 566-3238.

Reviewing attorney: John Parcell (202) 566-3336.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK50

2231. NONDISCRIMINATION RULES FOR NON-PENSION EMPLOYEE BENEFIT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 89 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide the following: an explanation of the eligibility, benefits and alternative tests contained in section 89; an explanation as to which plans are subject to section 89 requirements; and, rules concerning how the requirements will be applied in actual operation.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Undetermined

Additional Information: EE-130-86

Drafting Attorney: Steven T. Miller (202) 566-3422

Reviewing Attorney: James L. Brokaw (202) 566-3422

Treasury Attorneys: Harry Conaway (202) 566-8278and Susan Scherbel (202) 535-8963.

Agency Contact: Steven T. Miller, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AI78

2232. INCOME TAX REGULATIONS—MORTALITY TABLES TO BE USED TO DETERMINE AMOUNT HELD BY INSURER WITH RESPECT TO A BENEFICIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 101 (d)(2)(B)(ii) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will prescribe the mortality table to be used to determine the amount held by an insurer with respect to a beneficiary of a life insurance contract.

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Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-135-86

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK14

2233. TO PROVIDE REGULATIONS UNDER SECTION 147 (B)—RELATING TO LIMITATION ON MATURITY OF PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Rules will provide guidance with respect to computation of weighted average economic life and weighted average maturity. Rules limit the average length of the maturity of all private act activity bonds (including qualified 501 (c) (3) bonds), other than mortgage revenue bonds and student loan bonds.

Timetable:

Action	Date	FR Cite
NPRM	03/31/88	

Small Entity: Not Applicable

Additional Information: LR-220-82.

Drafting attorney: Richard G. Blumenreich (202) 566-3459.

Reviewing attorney: Gerald Rock (202) 566-3287.

Office of Tax Legislative Counsel reviewing attorney: Elliot Stern (202) 566-2566.

Agency Contact: Richard G. Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE69

2234. REGULATIONS RELATING TO FEDERALLY GUARANTEED BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations would provide guidance regarding the provisions enacted by the Tax Reform Act of 1984 which denies Federal income tax exemption for bonds issued by State or local governmental units if payments of principal or interest with respect to such bonds are directly or indirectly guaranteed by the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-156-84.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel reviewing attorney: Elliott Stern (202) 566-2566.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AG84

2235. DEFINITION OF "REISSUANCE" UNDER SECTION 103

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposed Regulations would provide guidance regarding whether changes in the terms of an outstanding obligation result in that obligation being treated as retired and reissued as a new obligation.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	12/31/88	

Small Entity: Not Applicable

Additional Information: LR-29-86.

Drafting attorney: Richard G. Blumenreich (202) 566-3459.

Reviewing attorney: Gerald Rock (202) 566-3287.

Treasury attorney: Elliott Stern (202) 566-2566.

Agency Contact: Richard G. Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3459

RIN: 1545-AI65

2236. TO REVISE DEFINITION OF AREAS OF CHRONIC ECONOMIC DISTRESS FOR PURPOSES OF MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.103A-2

Legal Deadline: None.

Abstract: The regulations will clarify the rules under section 103A relating to designations of areas of chronic economic distress. The regulations would provide objective tests to be used in analyzing requests for such designations.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-307-84.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AG88

2237. INCOME TAX—DISCHARGE OF INDEBTEDNESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 108 Internal Revenue Code of 1986; 26 USC 1017 Internal Revenue Code of 1986; PL 96-589, Sec 2 Bankruptcy Tax Act 1980

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This proposal would provide rules relating to certain income from the discharge of indebtedness, including rules relating to the election to reduce the basis of assets in lieu of recognizing income.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: LR-91-81.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel reviewing attorney: Patricia McClanahan.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA67

2238. INCOME TAX—PART 1—INCOME TAX REGULATIONS UNDER SECTION 111 RELATING TO INCLUSION OF TAX BENEFIT ITEMS

Legal Authority: 26 USC 111 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation will revise the rules for determining whether the recovery of an amount deducted in a prior taxable year must be included in income, to reflect changes in section 111 made by section 170 of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	12/00/88	

Small Entity: Not Applicable

Additional Information: LR-303-84.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Paul A. Francis (202) 566-3318.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AH17

2239. EXCLUSION OF QUALIFIED SCHOLARSHIPS AND FELLOWSHIPS FROM GROSS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 117 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations will provide rules relating to the exclusion of certain amounts received as a qualified scholarship or fellowship grant.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: Not Applicable

Additional Information: LR-3-87

Drafting attorney: Ruth Hoffman (202) 566-4336.

Reviewing attorney: Margaret O'Connor (202) 566-3287.

Treasury attorney: Majorie Roberts (202) 566-2565.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution, N.W., Washington, DC 20224, 202 566-4336

RIN: 1545-AJ87

2240. QUALIFIED TUITION REDUCTIONS (SECTION 532 OF THE TAX REFORM ACT OF 1984)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 117(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations contain rules explaining when qualified tuition reductions provided for education below the graduate level to an employee of an educational organization or to a person treated as an employee will be excluded from the employee's gross income. The proposed regulations include rules relating to tuition reductions which discriminate in favor of officers, owners or highly compensated employees and so are includible in income.

Timetable:

Action	Date	FR Cite
NPRM	12/00/88	

Small Entity: Not Applicable

Additional Information: LR-35-85.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Gerald Rock (202) 566-3287.

Treasury attorney: Susan Scherbel (202) 535-0965.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AI13

2241. INCOME TAX—TAX TREATMENT OF FACULTY HOUSING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 119 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the definition of a "qualified appraisal". In addition, the regulations will set forth the time and manner in which the appraisal shall be reviewed and updated.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	

Small Entity: Not Applicable

Additional Information:

LR-109-86.

Drafting attorney: Maurice B. Foley (202) 566-4336.

Reviewing attorney: Ada Rousso (202) 566-3287.

Treasury attorney: Susan Scherbel.

Agency Contact: Maurice B. Foley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AJ21

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2242. INCOME TAX—PART 1 PERSONAL INJURY LIABILITY ASSIGNMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 130 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation project will provide rules on the exclusion from gross income for amounts received for agreeing to the assignment of a liability to make periodic payments as damages on account of personal injury or sickness.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-82-83.

Drafting attorney: Bill Blagg (202) 566-3238.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF39

2243. INCOME TAX—PRIZES AND AWARDS

Legal Authority: 26 USC 74 Internal Revenue Code of 1986; 26 USC 132 Internal Revenue Code of 1986; 26 USC 170 Internal Revenue Code of 1986; 26 USC 274 Internal Revenue Code of 1986; 26 USC 6041 Internal Revenue Code of 1986; 26 USC 102 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will incorporate changes with respect to the tax treatment of prizes and awards and certain employee achievement awards. They will provide guidance so that effective designations and transfers of awards may be accomplished as well as rules with respect to allowance of exclusions and deductions for awards given in an employment context.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	

Small Entity: Undetermined

Additional Information: LR-111-86.

Drafting attorney: Christopher J. Wilson (202) 566-4336.

Reviewing attorney: Fredric Grundeman (202) 566-3287.

Treasury attorney: Majorie Roberts (202) 566-2565.

Agency Contact: Christopher J. Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AJ10

2244. INCOME TAX—DEFINITION OF "PRIVATE ACTIVITY BOND"

Legal Authority: 26 USC 141 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation would provide guidance regarding the definition of private activity bonds", issued by State or local governmental units, which are generally taxable unless a specific exception applies to such bond issue. The Tax Reform Act of 1986 made significant revisions regarding this subject matter.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-87-86.

Drafting Attorney: John A. Tolleris (202) 566-3590.

Reviewing Attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel attorney: Stern

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3590

RIN: 1545-AJ34

2245. TAX-EXEMPT BONDS FOR RESIDENTIAL RENTAL PROJECTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This project will provide regulations relating to tax-exempt bonds issued to provide qualified residential rental projects.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Not Applicable

Additional Information: LR-89-86

Drafting attorney: Richard G. Blumenreich (202) 566-3459.

Reviewing attorney: John Coulter (202) 566-4473.

Treasury attorney: Elliott Stern (202) 566-2566.

Agency Contact: Richard G. Blumenreich, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3459

RIN: 1545-AJ66

2246. INCOME TAX—STUDENT LOAN BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144 (b) Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: To provide guidance to issuers of tax-exempt student loan bonds regarding quarterly with the rules relating to qualified student loan bonds.

Timetable:

Action	Date	FR Cite
NPRM	12/31/88	

Small Entity: Not Applicable

Additional Information: LR-80-86.

Drafting Attorney: Renay France (202) 566-3459.

Reviewing Attorney: John M. Coulter (202) 566-4473.

Treasury Attorney: Elliott Stern (202) 566-2566.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3458

RIN: 1545-AJ42

2247. ARBITRAGE RESTRICTIONS ON TAX-EXEMPT BONDS; REBATE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This project will provide regulations relating to the requirement that arbitrage profits earned on tax-exempt bonds be paid to the United States.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	

Small Entity: Not Applicable

Additional Information: LR-91-86

Drafting attorneys: Thomas J. Kane (202) 566-3458 and Richard G. Blumenreich (202) 566-3459.

Reviewing attorney: Gerald Rock (202) 566-3287.

Treasury attorney: Elliott Stern (202) 566-2566.

Agency Contact: Thomas J. Kane, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3458

RIN: 1545-AJ67

2248. GENERAL ARBITRAGE RESTRICTIONS OF TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 148 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This project will provide rules relating to the arbitrage restrictions on tax-exempt bonds, other than the rebate requirement.

Timetable:

Action	Date	FR Cite
NPRM	06/01/88	

Small Entity: Not Applicable

Additional Information: LR-90-86

Drafting attorneys: Thomas J. Kane (202) 566-3458 and Richard G. Blumenreich (202) 566-3459.

Reviewing attorney: Gerald Rock (202) 566-3287.

Treasury attorney: Elliott Stern (202) 566-2566.

Agency Contact: Thomas J. Kane, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3458

RIN: 1545-AJ81

2249. INCOME TAX—TO PROVIDE BETTER DEFINITIONS IN THE AREA OF POLITICAL ADVERTISING & GRASSROOTS LOBBYING

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 162 Internal Revenue Code of 1986; 26 USC 4945 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would provide better definitions in the area of political advertising and grassroots lobbying.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	

Small Entity: Not Applicable

Additional Information: LR-190-77.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: David R. Haglund (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: McDowell.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA79

2250. ● DEFINITION OF RELATED VIOLATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations would amend the definition of "related violations" under section 162(g) of the Internal Revenue Code of 1986 in order to update such definition in light of subsequent events.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: No

Additional Information: LR-27-87

Drafting Attorney: Joel S. Rutstein (202) 566-3297.

Reviewing Attorney: John S. Bromell (202) 566-3326.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AK83

2251. INCOME TAX REGULATIONS—LIMITATIONS ON DEDUCTIONS FOR NONBUSINESS INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance relating to the disallowance of a deduction for personal interest, including guidance regarding the definitions of qualified residence, qualified residence interest and qualified indebtedness.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-137-86

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John Fischer (202) 566-3394.

Treasury attorney: Reed Shuldiner (202) 566-6983.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK17

2252. INCOME TAX—NORMALIZATION REQUIREMENT FOR PUBLIC UTILITY PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168(e)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The temporary regulations would provide guidance to public utilities relating to the transitional rules for the public utility normalization requirements of ACRS under section 168 (e) (3). Prior to ACRS some public utilities did not have to normalize in order to use accelerated depreciation. Under the transitional rule these utilities are given until January 1, 1983 to meet the normalization requirements of section 168 (e) (3).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-244-81.

Drafting attorney: Paulette C. Galanko (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Evans.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA88

2253. INCOME TAX -- TO PROVIDE REGULATIONS RELATING TO CONTRIBUTIONS TO PRIVATE FOUNDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the percentage limitations for charitable contributions to private foundations. The regulations will also provide rules relating to "qualified appreciated stock" as that term is defined in section 170 (e) (5) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Not Applicable

Additional Information: LR-231-84.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AI09

2254. FINAL REGULATIONS RELATING TO THE CHARITABLE CONTRIBUTIONS DEDUCTION IN THE CONTEXT OF BARGAIN SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations provide that a charitable contribution deduction will be disallowed if the amount of the contribution is less than the amount of gain that would have been recognized had the contributed portion of the property been sold by the donor of its fair market value at the time of the sale or exchange.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: LR-7-87

Drafting attorney: Joel S. Rutstein (202) 566-3297.

Reviewing attorney: David R. Haglund (202) 566-3297.

Agency Contact: Joel S. Rustein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3297

RIN: 1545-AJ85

2255. ELECTION TO POSTPONE DETERMINATION WITH RESPECT TO THE PRESUMPTION THAT AN ACTIVITY IS ENGAGED IN FOR PROFIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 183(e)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the election to postpone the determination whether the section 183 (d) presumption applies until the activity has been conducted for five (or seven) years. The regulations will specify who can make the election and the time and manner of making the election.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-73-84.

Drafting attorney: Bill Blagg (202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG27

2256. INCOME TAX--TO ADD PROVISIONS RELATING TO START-UP EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 195 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance to taxpayers electing to amortize start-up expenditures relating to the creation or acquisition of an active trade or business.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-38-81.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John Fischer (202) 566-3394.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB02

2257. PROVISIONS RELATING TO COOPERATIVE HOUSING CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 216 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations provide rules for determining a tenant-stockholder's proportionate share of taxes or interest in the case where the cooperative housing corporation has made the election provided in section 216 (b) (3) (B) of the Code. These regulations also provide rules for determining whether a deduction claimed by a tenant-stockholder should be disallowed as more proper allocable to the corporation's capital account.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-102-86.

Drafting attorney: Joel S. Rutstein (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AJ98

2258. ● INCOME TAX -- PART 1, EXCISE TAX -- PART 54, INDIVIDUAL RETIREMENT ACCOUNTS AFTER TRA '86

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 219 Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; 26 USC 72 Internal Revenue Code of 1986; 26 USC 6693 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 25; 26 CFR 31; 26 CFR 54; 26 CFR 301

Legal Deadline: None.

Abstract: The regulations set forth rules for sponsors of and participants in individual retirement plans and spousal individual retirement plans.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Not Applicable

Additional Information: EE-26-87

Drafting Attorney: Mary E. Brennan (202) 566-3430.

Review Attorney: Richard J. Wickersham (202) 566-3250.

Agency Contact: Mary E. Brennan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AK47

2259. INCOME TAX-DEBT-FINANCED PORTFOLIO STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 246A Internal Revenue Code of 1986; 26 USC 7701(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Amendment of the regulations to interpret the rule contained in section 246A of the Internal Revenue Code of 1954 relating to the dividends received deduction where portfolio stock is debt financed.

Timetable:

Action	Date	FR Cite
NPRM	10/01/88	

Small Entity: Not Applicable

Additional Information: LR-261-84.

Drafting attorney: Patricia W. Pellervo (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Patricia W. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH39

2260. ● PRACTICAL CAPACITY

Legal Authority: 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations provide guidance on specific issues relating to when section 263A applies and whether certain accounting principles are permitted in accounting for the costs of property produced or property acquired for resales.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	

Small Entity: Not Applicable

Additional Information: LR-73-87

Drafting attorney: Paulette C. Galanko (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

Treasury attorney: Thomas Evans (202) 566-2784.

Agency Contact: Paulette Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK56

2261. INCOME TAX--TO ADD PROVISIONS RELATING TO FOREIGN CONVENTIONS (AS AMENDED BY SECTION 4 OF PUBLIC LAW 96-608)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 274(h) Internal Revenue Code of 1986; PL 96-606, Sec 4; PL 97-424, Sec 543; PL 98-67, Sec 222

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules to assist taxpayers in determining whether it is as reasonable to hold a convention, seminar, or similar meeting outside North America as within it, and thus whether expenses relating to attendance at the convention are deductible.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-114-81.

Drafting attorney: Christopher Wilson (202) 566-4336.

Reviewing attorney: John M. Fischer (202) 566-3394.

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Draft of notice to Treasury for review 11/06/82.

Agency Contact: Christopher Wilson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AB04

2262. NOTICE OF PROPOSED RULEMAKING RELATING TO RESTRICTIONS ON GOLDEN PARACHUTE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280G Internal Revenue Code of 1986

CFR Citation: 26 CFR 280G

Legal Deadline: None.

Abstract: These regulations will provide rules relating to restrictions on golden parachute payments. The regulations will provide guidance to taxpayers, who must comply with section 280G, by delineating the circumstances under which payments may be considered excess parachute payments.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-217-84.

Drafting attorney: Stuart Wessler (202) 566-3297.

Reviewing attorney: Sharon Galm (202) 566-3930.

Treasury attorney: Don Rocap (202) 566-8278.

Agency Contact: Stuart Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH49

2263. WAIVER OF FAMILY ATTRIBUTION BY ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 302(c)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would interpret the definitions and special rule for waiver of family attribution by entities contained in section 302 (c) (2) of the Internal Revenue Code of 1954, which relates to the tax treatment of certain redemptions of corporate stock.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: LR-189-82.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3487.

Treasury attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF13

2264. ● CROSS-REFERENCE--RECOGNITION OF GAIN OR LOSS ON LIQUIDATING SALES AND DISTRIBUTIONS OF PROPERTY (TRA 1986; [631 TO 633)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 336 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide rules for the recognition of gain or loss on a corporations liquidating sales or distributions

Timetable:

Action	Date	FR Cite
NPRM	09/01/88	

Small Entity: Not Applicable

Additional Information:

LR-79-87.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK90

2265. ● INCOME TAX--APPLICATION OF INSTALLMENT METHOD TO DEEMED SALE OF ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 336 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will explain how the installment sale method will be applied to a stock acquisition in which a section 338 (h) (10) election is made.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-75-81.

Drafting attorney: Judith C. Winkler (202) 566-3456.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK25

2266. TRANSFER OF INTANGIBLES SUBJECT TO SECTION 367 OR 482 OF THE CODE

Legal Authority: PL 99-514, Sec 1231

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Prior to the Reform Act of 1986, U.S. taxpayers were able to shift income out of the U.S. by transferring intangibles to Section 936 possessions corporations, contributing intangibles to related foreign corporations in Section 367 transactions or selling or licensing intangibles to related foreign parties at less than arm's-length prices and transactions subject to section 482. Valuing such transfers (at the time of transfer) has proven to be difficult and non-productive. The Reform Act of 1986 provides that payments to be received by the transferor of intangibles must be commensurate with the income from the intangible. Major issue - What portion of the income from the intangible will constitute "commensurate"? Provisions will raise large amounts of revenue.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Additional Information: INTL-937-86

Drafting Attorney: Bobby D. Burns (202) 287-4851

Reviewing Attorney: George Sellinger (202) 287-4851

Treasury Attorney: Mark Beams (202) 566-0247

Agency Contact: Bobby D. Burns, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545-AJ91

2267. FOREIGN LIQUIDATIONS AND REORGANIZATIONS (NPRM)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 7

Legal Deadline: None.

Abstract: Proposal would provide guidance concerning requirements relating to certain exchanges involving a foreign corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: Not Applicable

Additional Information: INTL-988-86

Drafting Attorney: Richard Chewning (202) 566-3490

Reviewing Attorney: Bernard Bress (202) 566-6440

Office of International Tax Counsel Reviewing Attorney: Steve Shay (202) 566-5046

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AJ78

2268. INCOME TAX--CROSS-REFERENCE-REORGANIZATIONS INVOLVING FINANCIALLY TROUBLED THRIFT INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 597 Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Provision would provide regulations dealing with reorganizations of financially troubled thrift institutions and with the tax consequences of financial assistance payments made to such an institution by a supervisory governmental agency, thereby giving the public needed guidance on how the Internal Revenue intends to interpret these issues.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-63-81.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB29

2269. ● CORPORATE REORGANIZATION AMENDMENTS - BANKRUPTCY TAX ACT OF 1980

Legal Authority: 26 USC 354 Internal Revenue Code of 1986; 26 USC 355 Internal Revenue Code of 1986; 26 USC 357 Internal Revenue Code of 1986; 26 USC 358 Internal Revenue Code of 1986; 26 USC 361 Internal Revenue Code of 1986; 26 USC 362 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance with respect to amendments to the Internal Revenue Code by the Bankruptcy Tax Act of 1980. Dealing with bankruptcy and other insolvency reorganizations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: LR-74-87.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK33

2270. INCOME TAX--LIMITATION ON CORPORATE NET OPERATING LOSS DEDUCTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 383 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will explain and illustrate the limitations provided under sections 382 and 383 of the Internal Revenue Code of 1986 on a corporations use of certain carryovers, including the net operating loss carryover, the capital loss carryover, and certain credit carryovers.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-103-86.

Drafting attorneys: John Broadbent, Keith Stanley, Tom Kane (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202)566-3458.

Treasury attorney: Thomas Wessel (202)566-4979.

Agency Contact: Keith Stanley, John Broadbent, Thomas Kane, Attorneys, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AI99

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2271. INCOME TAX–OWNERSHIP CHANGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide guidance on what constitutes "ownership change under section 382 of the Internal Revenue Code of 1986 (generally, an "ownership change" is a shift in loss corporation stock ownership (after which the corporation's net operating loss carryovers are limited).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-106-86.

Drafting attorneys: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Keith Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AJ00

2272. DEFINED BENEFIT PLAN TERMINATIONS AND THE REVERSION OF ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations describe when, in fact, a defined benefit pension plan has been terminated so as to permit reversion to the employer of excess assets.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: EE-106-83.

Drafting attorney: Suzanne K. Tank (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Treasury attorney: Conaway.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AF81

2273. CASH OR DEFERRED ARRANGEMENTS (TAX REFORM ACT OF 1986)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Statutory, January 31, 1988.

Abstract: These regulations will provide rules relating to cash or deferred arrangements brought about because of the amendment of section 401(k) by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information: EE-158-86

Drafting Attorney: William D. Gibbs (202) 566-3430.

Reviewing Attorney: Mary E. Oppenheimer (202) 566-3544.

Treasury Attorney: Harry J. Conaway (202) 566-8278.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AI79

2274. INCOME TAX – PART 1– APPLICATION OF NONDISCRIMINATION RULES TO INTEGRATED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(l) Internal Revenue Code of 1986; 26 USC 401(a)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Statutory, February 1, 1988. Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules with regard to the application of the nondiscrimination rules to integrated plans.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	

Small Entity: Undetermined

Additional Information: EE-159-86

Drafting Attorney: Michael Garvey (202) 566-3430.

Reviewing Attorney: Richard J. Wickersham (202) 566-3250.

Treasury Attorney: Harry Conaway (202) 566-8277.

Agency Contact: Michael Garvey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AI86

2275. NONDISCRIMINATION REQUIREMENTS FOR EMPLOYER MATCHING CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: Statutory, January 31, 1988.

Abstract: These regulations will provide rules relating to nondiscrimination requirements for employer matching contributions and employee contributions. The regulations will also provide rules on computing the excise tax on excess contributions made under a cash or deferred arrangement and on excess aggregate contributions.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information: EE-160-86

Drafting Attorney: William D. Gibbs (202) 566-3430.

Reviewing Attorney: Mary E. Oppenheimer (202) 566-3544.

Treasury Attorney: Harry J. Conaway (202) 566-8278.

Agency Contact: William B. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AI80

2276. ● INCOME TAX - - PART 1– ADDITIONAL PARTICIPATION REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(26) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Statutory, February 1, 1988. 02/01/88 Deadline for final regulations

Abstract: The regulations set forth rules relating to minimum participation requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	

Small Entity: Undetermined

Additional Information: EE-44-87

Drafting attorney: Mary E. Brennan (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3205.

Agency Contact: Mary E. Brennan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AK46

2277. ● STUDY OF NEED FOR SPECIAL ANTIDISCRIMINATION RULES FOR PENSION, ETC. PLANS OF STATE AND LOCAL GOVERNMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(4) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Study of need for rules relating to antidiscrimination for state and local government plans.

Timetable:

Action	Date	FR Cite
NPRM	12/31/88	

Small Entity: Not Applicable

Additional Information: EE-51-87

Drafting Attorney: Mary E. Brennan (202) 566-3430.

Reviewing Attorney: Richard J. Wickersham (202) 566-3250.

Agency Contact: Mary Brennan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AK44

2278. NONDISCRIMINATION AND OTHER RULES APPLICABLE TO SECTION 402(B) ANNUITIES

Legal Authority: 26 USC 403(b)(10) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Statutory, February 1, 1988.

Abstract: The regulations will provide guidance regarding the nondiscrimination and other rules applicable to tax- sheltered section 403(b) annuities.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: EE-163-86

Drafting Attorney: Sylvia F. Hunt (202) 566-6212.

Reviewing Attorney: Michael A. Thrasher (202) 566-3961.

Treasury Attorneys: Scherbel/Conaway (202) 566-4902.

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AI90

2279. INCOME TAX–EMPLOYEE STOCK OWNERSHIP PLAN LOAN PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 404(a)(9) Internal Revenue Code of 1986; 26 USC 415(c)(6) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance relating to the deduction limitations when employer contributions to an employee stock ownership plan are used to repay the principal and interest of an exempt loan that was made to the employee stock ownership plan.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Not Applicable

Additional Information: EE-152-81.

Drafting attorney: Mary Oppenheimer (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Agency Contact: Mary Oppenheimer, Technical Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD77

2280. ● STUDY OF NEED FOR REGULATIONS RELATING TO SIMPLIFIED EMPLOYEE PENSIONS AS AFFECTED BY THE TAX REFORM ACT OF 1986

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; 26 USC 404 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 25; 26 CFR 31; 26 CFR 54; 26 CFR 301

Legal Deadline: None.

Abstract: Study of need for rules relating to simplified employee pensions as affected by Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/31/88	

Small Entity: Not Applicable

Additional Information: EE-59-87

Drafting Attorney: Mary E. Brennan (202) 566-3430.

Reviewing Attorney: Richard J. Wickersham (202) 566-3250.

Agency Contact: Mary E. Brennan, Attoreny, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AK45

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2281. INCOME TAX--REQUIREMENTS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS, EMPLOYEE PLAN CREDIT, AND DEFINED CONTRIBUTION PLAN VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986; 26 USC 401 Internal Revenue Code of 1986; 26 USC 6699 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations provide rules for electing the employee plan credit under section 48 of the Internal Revenue Code, establishing a tax credit employee stock ownership plan under section 409 of the Internal Revenue Code and providing voting rights to participants of certain defined contribution plans under section 401(a)(22) of the Internal Revenue Code. Further, the regulations provide guidance for determining the applicability of and calculating the assessable penalties relating to tax credit employee stock ownership plans under section 6699 of the Internal Revenue Code. The regulations reorganize and modify the current regulations which are based on section 301(d), (e), and (f) of the Tax Reduction Act of 1975, and provide a single set of rules that would apply to tax credit employee stock ownership plans established under the provisions of the Tax Reduction Act of 1975 and the 1978 Revenue Act.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: EE-49-80.

Drafting attorney: John T. Ricotta (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD82

2282. INC. TAX -- PART 1; ESTATE TAX -- PART 20, EMPLOYEE STOCK OWNERSHIP PLAN RULES AFFECTED BY TRA 1986

Legal Authority: 26 USC 409 Internal Revenue Code of 1986; 26 USC 401(a)(28) Internal Revenue Code of 1986; 26 USC 401(a)(23) Internal Revenue Code of 1986; 26 USC 133 Internal Revenue Code of 1986; 26 USC 404(k) Internal Revenue Code of 1986; 26 USC 2057 Internal Revenue Code of 1986; 26 USC 1042 Internal Revenue Code of 1986; 26 USC 2210 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 20

Legal Deadline: None.

Abstract: The proposed regulations would set forth requirements for the tax qualification of ESOPs and for various ESOP tax incentives.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Undetermined

Additional Information: EE-164-86

Drafting Attorney: John Ricotta (202) 566-3544.

Reviewing Attorney: Michael Thrasher (202) 566-3961.

Treasury Attorneys: Susan Scherbel/ Harry Conaway (202) 566-8278.

Agency Contact: John Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AI87

2283. RETIREMENT EQUITY ACT CHANGES TO PARTICIPATION, VESTING, ETC. RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 98-297, Sec 301 Retirement Equity Act of 1984

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations provide rules relating to amendments to section 401(a)(25), 402(f), 410, 411, 6057(e), and 6652(j) of the Code, enacted by the Retirement Equity Act of 1984. The regulations will apply changes in the participation and vesting rules to plans that use the elapsed time method of service counting, and to class-year plans. In addition, the rules provide a sample notice that may be used to satisfy section 402(f). Rules governing reductions in accrued benefits will also be provided.

Timetable:

Action	Date	FR Cite
NPRMDocument published is only a portion of total NPRM project	01/30/86	51 FR 03798
Hearing	05/22/86	51 FR 12340
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: EE-95-84.

Drafting attorney: Nancy J. Marks (202) 566-3903.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-4902.

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3903

RIN: 1545-AH03

2284. ● COVERAGE AND SEPARATE LINES OF BUSINESS RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410(b) Internal Revenue Code of 1986; 26 USC 414(r) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Statutory, February 1, 1988.

Abstract: Rules relating to minimum coverage requirements and the scope, meaning and application of provisions with respect to separate lines of business.

Timetable:

Action	Date	FR Cite
NPRM	10/30/87	

Small Entity: Not Applicable

Additional Information: EE-128-86

Drafting Attorney: Nancy J. Marks (202) 566-3903.

Reviewing Attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney Harry J. Conaway (202) 566-4902.

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3903

RIN: 1545-AK41

2285. RULES CLARIFYING THE INCOME TAX REGULATIONS, PART 1, WITH RESPECT TO SERVICE COMPUTATION UNDER PENSION, ETC. PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410 Internal Revenue Code of 1986; 26 USC 411 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This project was undertaken in order to clarify permissible methods of crediting service by qualified plans for purposes of vesting and participation.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	

Small Entity: Not Applicable

Additional Information: EE-65-82.

Drafting attorney: Nancy J. Marks (202) 566-3903.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Conaway.

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3903

RIN: 1545-AE39

2286. INCOME TAX-PART I - REDUCTION OF ACCRUED BENEFITS TO QUALIFY FOR A STANDARD TERMINATION OF A SINGLE EMPLOYER DEFINED BENEFIT PENSION PLAN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidelines for reducing accrued benefits for certain key employees in order to qualify for a standard termination of a single-employer defined benefit pension plan.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Not Applicable

Additional Information: EE-45-86.

Drafting attorney: Mary E. Brennan (202) 566-3903.

Reviewing attorney: Mary Oppenheimer (202) 566-3544.

Cross-referenced with temporary regulations EE-47-86.

Agency Contact: Mary E. Brennan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3903

RIN: 1545-AI46

2287. INC. TAX -- PART 1 -- BENEFIT ACCRUAL BEYOND NORMAL RETIREMENT AGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 411(b)(1)(H) Internal Revenue Code of 1986; 26 USC 411(b)(2) Internal Revenue Code of 1986; 26 USC 410(a)(2) Internal Revenue Code of 1986; 26 USC 411(a)(8)(B) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Statutory, February 1, 1988. Final regulations are required to be issued by February 1, 1988.

Abstract: The regulations would provide rules with regard to benefit accruals after attainment of normal retirement age and maximum age conditions on participating in certain type of plans.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	

Small Entity: Undetermined

Additional Information: EE-184-86

Drafting Attorney: Michael Garvey (202) 566-3430

Reviewing Attorney: Richard J. Wickersham (202) 566-3250

Treasury Attorney: Harry Conaway (202) 566-8277

Agency Contact: Michael Garvey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AI85

2288. INCOME TAX - PART 1 - MINIMUM VESTING STANDARDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410 Internal Revenue Code of 1986; PL 99-514, Sec 1113 Tax Reform Act of 1986; PL 99-514, Sec 1141 Tax Reform Act of 1986; 26 USC 411 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Statutory, February 1, 1988. Deadline set by Section 1141 of PL 99-514 "Tax Reform Act of 1986"

Abstract: These regulations will amend existing rules to reflect changes made by section 1113 of the Tax Reform Act of 1986, relating to minimum vesting standards and participation standards.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information: EE-167-86

Drafting Attorney: V.A. Moore (202) 566-3422.

Reviewing Attorney: James Brokaw (202) 566-4173.

Treasury Attorney: Susan Scherbel (202) 566-4902.

Agency Contact: V. A. Moore, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AI88

2289. INCOME TAX-PART 1 - VARIANCE FROM MINIMUM FUNDING STANDARD

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations would supersede Rev. Proc. 83-41 and prescribe a standard waiver application form.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Undetermined

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Additional Information: EE-42-86.

Drafting attorney: Mary E. Brennan (202) 566-3903.

Reviewing attorney: Jonathan Marget (202) 566-3651.

Agency Contact: Mary Brennan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3903

RIN: 1545-AI55

2290. INCOME TAX—DEFINITIONS AND SPECIAL RULES; SERVICE FOR PREDECESSOR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulation will provide guidance to employers maintaining plans on when service with a predecessor employer must or may be treated as service under their plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-22-78.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD87

2291. INCOME TAX REGULATIONS—AFFILIATED SERVICE GROUPS AND EMPLOYEE LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414(n)Internal Revenue Code of 1986; 26 USC 414(m)(5)Internal Revenue Code of 1986; 26 USC 414(o)Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules regarding the treatment of certain leased employees. In addition, the regulations will provide guidance regarding the aggregation of certain management companies as affiliated service groups.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	

Small Entity: Not Applicable

Additional Information: EE-111-82.

Drafting attorney: Michael Garvey (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel reviewing attorney: Conaway.

Agency Contact: Michael Garvey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE91

2292. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE" AND "COMPENSATION"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 99-514, Sec 1114 Tax Reform Act of 1986; PL 99-514, Sec 1115 Tax Reform Act of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations provide rules relating to the definitions of "highly compensation contained in subsections 414(q) and (s) of The Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	

Small Entity: No

Additional Information: EE-129-86

Drafting Attorney: Nancy J. Marks (202) 566-3903.

Reviewing Attorney: Richard J. Wickersham (202) 566-3250.

Office of Legislative Counsel (Treasury reviewing attorneys: Susan Scherbel (202) 566-4902, Harry S. Conaway (202) 566-4902.

Cross Reference to EE-74-87

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3903

RIN: 1545-AI91

2293. ● LIMITATIONS ON CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0415 Internal Revenue Code of 1986; 26 USC 401(a)(17) Internal Revenue Code of 1986; 26 USC 404(1) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will address changes to limitations on contributions and benefits under qualified plans, a limit on the annual compensation which may be taken into account, special treatment of certain medical benefit accounts, retirement savings for church employees, and special rules for disabled participants. A special rule applies to participants with less than ten years of participation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-25-87

Drafting Attorney: Monice Rosenbaum (202) 566-3422.

Reviewing Attorney: Richard J. Wickersham (202) 566-3250.

Treasury Attorney: Harry J. Conaway (202) 566-8278.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AK42

2294. JOINT AND SURVIVOR ANNUITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 417 Internal Revenue Code of 1986; 26 USC 401(a)(11) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules on how plans which intend to qualify under section 401 can comply with the qualified joint and survivor annuity rules added to the Code by the Retirement Equity Act of 1984. The regulations will deal with which plans must provide survivor annuities, in what forms the survivor annuities may be paid, the notice and election procedures for survivor annuities and restrictions on a plan's ability to cash out a participant and spouse.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: EE-94-84.

Drafting attorney: William D. Gibbs (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Treasury attorney: Harry J. Conaway (202) 566-8278.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AG72

2295. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Legal Authority: 26 USC 419 Internal Revenue Code of 1986; 26 USC 419A Internal Revenue Code of 1986; 26 USC 1239(d) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance concerning the treatment of contributions made by an employer to a welfare benefit plan.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: Not Applicable

Additional Information: EE-66-84.

Drafting attorney: Mark Schwimmer (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Treasury attorney: Harry Conaway (202) 566-8276.

Agency Contact: Mark Schwimmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-6212

RIN: 1545-AG14

2296. ● TAXABLE YEARS OF CERTAIN ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance to S corporations, personal service corporations and partnerships, that must conform their taxable years, in general, to the taxable year of their owners.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	

Small Entity: No

Additional Information: LR-45-87

Drafting attorney: Arthur E. Davis III (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Richard Harvey (202) 566-6960.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK63

2297. INC. TAX—PART 1—AMENDMENT OF SECTION 1.442-1 TO PROVIDE SIMPLIFIED PROCEDURES FOR CHANGES OF ANNUAL ACCOUNTING PERIOD BY CERTAIN EXEMPT ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 442 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Revenue Procedure 85-58 provides change of accounting period approval procedures for exempt organizations. It substantially simplifies the former procedures in Revenue Procedure 76-9. The regulations under section 1.442-1 will be amended to reflect Revenue Procedure 85-58.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: EE-06-86.

Drafting attorney: Suzanne K. Tank (202) 566-3422.

Reviewing attorney: Paul G. Accettura (202) 566-3544.

Office of Tax Legislative Counsel (Treasury) reviewing attorney:Suzanne Ross McDowell (202) 566-8278.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3422

RIN: 1545-AI68

2298. INCOME TAX — GAIN OR LOSS ON THE DISPOSITION OF AN INSTALLMENT OBLIGATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453B Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide rules for reporting gain or loss upon the disposition of an installment obligation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-103-81.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB41

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2299. INCOME TAX—INSTALLMENT SALES BETWEEN RELATED PARTIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide rules for reporting installment sales between related parties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-2-81.

Drafting attorney: Arthur E. Davis III (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Suzanne McDowell (202) 566-5453.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB45

2300. INCOME TAX—INSTALLMENT SALES REVISION ACT OF 1980, REGULATIONS RELATING TO WRAP-AROUND MORTGAGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide regulations for reporting sales of property under a wrap-around mortgage arrangement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-147-82.

Drafting attorney: Paulette C. Galanko (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Blake Rubin (202) 566-2927.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB46

2301. INCOME TAX REGULATIONS—PART I. INSTALLMENT SALES BY NONTAXABLE ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This project will provide rules relating to installment sales by nontaxable entities and the election provision by foreign personal holding companies.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: No

Additional Information: LR-143-83.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF73

2302. INCOME TAX REGULATIONS—PART 1—SPECIAL RULES RELATING TO INSTALLMENT OBLIGATIONS THAT ARE READILY TRADABLE OR PAYABLE ON DEMAND

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to installment obligations that are readily tradable or payable on demand.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: LR-54-84.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG37

2303. INCOME TAX – DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 457 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Internal Revenue Code section 457 provides an exclusion from gross income, in the case of a participant in an eligible deferred compensation plan, for any amounts deferred under the plan and any income attributable to the amounts attributable to the amounts so deferred.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-166-86

Drafting Attorney: Monice Rosenbaum (202) 566-3422.

Reviewing Attorney: James L. Brokaw (202) 566-4173.

Treasury Attorney: Conaway (202) 566-8278.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AI89

2304. INCOME TAX REGULATIONS—THE ECONOMIC PERFORMANCE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 461(h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide guidance relating to when economic performance occurs with respect to a liability and how the recurring item exception applies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-258-84.

Drafting attorney: Bill Blagg (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AH32

2305. EXTENSION OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance to taxpayers with respect to the extension of the at-risk rules to all activities other than the holding of real property. The regulations would also provide guidance with respect to the exception to the at-risk rules for closely-held corporations actively engaged in equipment leasing, and the recapture provision.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: Not Applicable

Additional Information: LR-192-78.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Lorry Spitzer (202) 535-6968.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF86

2306. AGGREGATION OF CERTAIN ACTIVITIES FOR PURPOSES OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The Regulation will provide rules for aggregating certain activities for purposes of applying the at-risk rules under section 465. In general, the at-risk rules limit the amount of loss deductible in a taxable year with respect to an activity to the amount the taxpayer is at risk in the activity. The aggregation rules will apply to taxable years beginning after December 31, 1985.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-108-85.

Drafting attorney: Arthur E. Davis (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: A. Lorry Spitzer (202) 535-6969.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AI02

2307. EXTENSION OF AT RISK LIMITATIONS TO REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986; 26 USC 752 Internal Revenue Code of 1986; 26 USC 46 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will explain the application of the at risk limitations to the activity of holding real property and the exception for qualified nonrecourse financing.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: Not Applicable

Additional Information: LR-124-86.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK08

2308. ESSENTIAL ISSUES IN CONNECTION WITH LIMITATIONS ON LOSSES AND CREDITS FROM PASSIVE ACTIVITIES

Legal Authority: 26 USC 469 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance to taxpayers on the most essential issues in connection with the computation at a taxpayer's passive activity loss and passive activity credit.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information: LR-126-86

Drafting attorney: Michael J.Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury,

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Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3288

RIN: 1545-AK18

2309. ● LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469(k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Pursuant to the grant of regulatory authority in section 469(k), the regulations will define activity, material participation, active participation, and portfolio income, and prescribe the treatment of master limited partnerships and other passive income generators.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Not Applicable

Additional Information: LR-48-87

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3330.

Tax Legislative Counsel: Neil D. Kimmelfield (202) 566-8528.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK62

2310. INVENTORY COMPUTED BY USE OF CONSUMER OR PRODUCER PRICE INDEXES

Legal Authority: 26 USC 472 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations would provide examples and further clarification of the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-57-83.

Drafting attorney: Arthur E. Davis (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF65

2311. ● SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 474 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance to certain small businesses that are eligible to elect a simplified dollar- value LIFO method of inventory valuation. This method requires the use of published government indexes.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	

Small Entity: No

Additional Information: LR-31-87

Drafting attorney: Arthur E. Davis III(202) 566-3236.

Reviewing attorney: Cynthia L. Clark (202 566-3288.

Treasury attorney: Tom Evans (202) 566-2784.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK64

2312. INCOME TAX--UNRELATED TRADE OR BUSINESS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 512(a) Internal Revenue Code of 1986; 26 USC 514(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will address the issue of what constitutes real property acquired by a qualified trust. The guidance provided on this issue will determine the scope of the exception under 26 USC 514(c)(9) for such acquisitions from the term acquisition indebtedness. Under 26 USC 514, the existence of such indebtedness on income producing property gives rise to unrelated debt-financed taxable income. The regulation will also address the issue of the proper allocation method to determine fixed indirect expenses connected with the unrelated trade or business use of an exempt organization's property.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-27-81.

Drafting attorney: Monice Rosenbaum (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE00

2313. BAD DEBT RESERVES OF FINANCIAL INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 585 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This document will provide proposed regulations that relate to the repeal of the bad debt reserve for large banks.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Not Applicable

Additional Information:

LR-81-86.

Drafting Attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing Attorney: Susan Baker (202) 566-3294.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service,

1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3459

RIN: 1545-AJ31

2314. TREATMENT OF FORECLOSED PROPERTY BY CERTAIN CREDITORS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 595 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposed regulation would amend the existing regulations relating to the treatment of amounts realized and expended with respect to property securing loans which have been foreclosed on by certain banks.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-83-82.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3294.

Office of Tax Legislative Counsel reviewing attorney: Quinn

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AF00

2315. INCOME TAX--RESTORATION OF DEPLETION DEDUCTIONS ON BONUS AND ADVANCED ROYALTIES IN CERTAIN CASES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 612 Internal Revenue Code of 1986; 26 USC 613 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules relating to the restoration of depletion deductions on bonuses and advanced royalties and the deferment of the exclusion of advanced royalties from gross income from the property.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-1148.

Drafting attorney: Walter H. Woo (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: Walter H. Woo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB69

2316. PROPERTY DISTRIBUTED IN KIND AND TREATMENT OF MULTIPLE TRUSTS (SEC: 81 AND 82 OF THE TAX REFORM ACT OF 1984)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 643 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the tax consequences when property is distributed in kind from a trust or estate, including rules specifying what gain is recognized upon distribution, who recognizes such gain, and what the basis of the distributed property is in the hands of the distributee. The regulations also explain election rules available to the distributing trust or estate. The regulations also explain rules under which certain multiple trusts will be treated as a single trust.

Timetable:

Action	Date	FR Cite
NPRM	12/00/88	

Small Entity: Not Applicable

Additional Information: LR-34-85.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AI06

2317. CLARIFICATION OF SECTION 1.643 (A)-3 RELATING TO THE INCLUSION OF CAPITAL GAIN IN DISTRIBUTABLE NET INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 643(a)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulation will revise rules specifying when capital gains will be included in distributable net income.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-146-85.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AI31

2318. INCOME TAXATION OF TRUSTS AND ESTATES

Legal Authority: 26 USC 645 Internal Revenue Code of 1986; 26 USC 672 Internal Revenue Code of 1986; 26 USC 673 Internal Revenue Code of 1986; 26 USC 6654 (k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules regarding taxable years of trusts and estates, taxation of grantor trusts, and payment of estimated tax by trusts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/88	

Small Entity: Not Applicable

Additional Information:

LR-108-86.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Fred Grandeman (202) 566-3287.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury,

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Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AJ20

2319. INCOME TAX--PROCEDURE & ADMINISTRATION--FOREIGN TRUSTS HAVING U.S. BENEFICIARIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 679 Internal Revenue Code of 1986; 26 USC 678(b) Internal Revenue Code of 1986; 26 USC 643(a) Internal Revenue Code of 1986; 26 USC 643(c)(6)(C) Internal Revenue Code of 1986; 26 USC 643(c)(6)(D) Internal Revenue Code of 1986; 26 USC 643(d) Internal Revenue Code of 1986; 26 USC 6048 Internal Revenue Code of 1986; 26 USC 6677 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None.

Abstract: These regulations will provide to what extent a grantor of a foreign trust with United States beneficiaries will be treated as an owner of that trust, and thus taxed currently on the trust's income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-187-76.

Drafting attorney: Fred E. Grundeman (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Office of International Tax Counsel (Treasury) reviewing attorney: Steven R. Lainoff.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AB79

2320. ● INCOME TAX - APPLICATION OF EFFECTIVE DATE FOR NEW RULES REGARDING DEDUCTIONS FOR MEAL, TRAVEL, AND ENTERTAINMENT TO PARTNERSHIPS AND S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 702 Internal Revenue Code of 1986; 26 USC 1366 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide guidance to taxpayers relating to the effective date for new rules regarding deductions for meals, travel, and entertainment to partnerships and S corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-29-87

Drafting Attorney: David R. Haglund (202) 566-3297

Reviewing Attorney: Walter Woo (202) 566-3297

Office of Tax Legislative Counsel Attorney: Marjorie Roberts (202) 566-2565

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AK80

2321. TO PROVIDE SPECIAL RULES CONCERNING RELATED PARTY LOANS IN THE CASE OF PARTNERSHIP ALLOCATIONS ATTRIBUTABLE TO NONRECOURSE DEBT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This project will provide regulations relating to loans made to a partnership by a person related to a partner of the partnership.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-30-86.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Lorry Spitzer (202) 535-6960.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3297

RIN: 1545-AI66

2322. ALLOCATIONS OF INCOME GAIN, LOSS, AND DEDUCTION WITH RESPECT TO PROPERTY CONTRIBUTED TO A PARTNERSHIP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules and examples relating to the requirement to allocate income, gain, loss, and deduction so as to take into account the variation between the basis of the property and its fair market value at the time of contribution.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: No

Additional Information: LR-164-83.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Blake Rubin (202) 566-4902.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AG98

2323. INCOME TAX--ITEMS ALLOCATED TO PORTION OF YEAR PARTNER HELD INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 706(d) Internal Revenue Code of 1986; 26 USC 704 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide the methods to be used for allocating partnership items to partners whenever a partner's interest varies during the partnership taxable year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-265-78.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Spitzer.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB81

2324. TAXABLE YEARS OF CERTAIN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 706 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules for determining the appropriate taxable year for certain partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-101-86.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Treasury reviewer: J. Richard Harvey (202) 566-4902.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AJ47

2325. INCOME TAX--TREATMENT OF PAYMENTS TO PARTNERS NOT ACTING IN THEIR CAPACITY AS PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 707 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide guidance to taxpayers relating to the treatment of certain allocations and distributions to partners for services and transfers of property where the partner is not acting in his capacity as a partner.

Timetable:

Action	Date	FR Cite
NPRM	10/31/88	

Small Entity: Not Applicable

Additional Information: LR-234-84.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Neil Kimmelfield (202) 566-8527.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AG83

2326. AMENDMENT OF INCOME TAX REGULATIONS WITH RESPECT TO TREATMENT OF DISGUISED SALES BY PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 707 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules for determining when partnership transactions are to be treated as disguised sales.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-163-84.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Kimmelfield.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH22

2327. CONTRIBUTIONS TO A PARTNERSHIP OF UNREALIZED RECEIVABLES, INVENTORY ITEMS OR CAPITAL LOSS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 724 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide rules for determining the character of gain or loss upon the disposition by a partnership of unrealized receivables, inventory items or capital loss property contributed to the partnership by a partner.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: Not Applicable

Additional Information: LR-232-84.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AG85

2328. PARTNER'S SHARE OF PARTNERSHIP LIABILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 98-369, Sec 79 Tax Reform Act of 1984

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations revise the Income Tax Regulations under section 752 of the Internal Revenue Code of 1954 to conform such regulations to changes in the law with respect to a partner's share of partnership liabilities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-229-84.

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Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: John G. Schmalz (202) 566-3297.

Treasury attorney: A.L. Spitzer (202) 535-6968.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH26

2329. IMPUTED EARNINGS RATE FOR MUTUAL LIFE INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 809(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance to mutual life insurance companies regarding the computation of the imputed earnings rate.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-159-84.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG63

2330. INCOME TAX REGULATIONS—DISCOUNTING OF UNPAID LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 846 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the discounting of unpaid losses of property and casualty insurance companies. It is anticipated that the regulations will provide guidance with respect to the treatment of salvage and subrogation and the use of a company's loss payment pattern.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-139-86.

Drafting attorney: Bill Blagg (202) 566-3238.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3238

RIN: 1545-AJ51

2331. ● APPORTIONMENT OF EXPENSES IN THE FSC AND DISC CONTEXTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide guidance on how expenses in the DISC and FSC contexts will be apportioned.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: Not Applicable

Additional Information: INTL-028-86

Drafting Attorney: Richard Chewning (202) 566-3490.

Reviewing Attorney: T. Timothy Tuerff (202) 566-9050.

Treasury Attorney: Unassigned.

Agency Contact: Richard Chewning, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AK78

2332. TRANSPORTATION INCOME SOURCE RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the source of income attributable to transportation which begins or ends in the United States.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Not Applicable

Additional Information: INTL-947-86

Drafting Attorney: Ann Zukas (202) 566-3289

Reviewing Attorney: Jack Feldman (202) 566-3289.

Treasury Attorney: Peter Daub (202) 566-5791

Agency Contact: Ann Zukas, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AJ68

2333. PROPOSED INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986 – SOURCE OF INCOME RULES FOR INCOME DERIVED FROM SPACE AND OCEAN ACTIVITIES INCLUDING TELECOMMUNICATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 863(d) Internal Revenue Code of 1986; 26 USC 863(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide guidance relating to determining the source of income derived from space, and certain ocean activities (excluding mining within the continental shelf.) The regulation will also provide guidance on determining the source of income derived from international telecommunications activities.

Timetable:

Action	Date	FR Cite
NPRM	12/31/88	

Small Entity: Not Applicable

Additional Information: INTL-949-86

Drafting Attorney: Joseph M. Rosenthal (202) 566-3872

Reviewing Attorney: Benedetta Kissel (202) 566-3179

Treasury Attorney: David Crowe (202) 566-8275

Agency Contact: Joseph M. Rosenthal, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3872

RIN: 1545-AJ64

2334. REGULATIONS RELATING TO THE APPLICATION OF SECTIONS 864 AND 956 TO RELATED PARTY INTERNATIONAL FACTORING TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 864(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the treatment of income derived by foreign corporations from factoring the receivables of related persons.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	

Small Entity: Not Applicable

Additional Information: INTL-49-86.

Drafting attorney: Ann Zukas (202) 566-3289.

Reviewing attorney: Phyllis Marcus (202) 566-3223.

Agency Contact: Ann Zukas, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AH85

2335. REPEAL OF 30 PERCENT WITHHOLDING BY THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 871 Internal Revenue Code of 1986; 26 USC 881 Internal Revenue Code of 1986; 26 USC 1441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the definition of portfolio interest, the certifications required in the case of obligations that are issued in registered form, and related matters.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: INTL-39-86

Drafting attorney: Carl Cooper (202) 566-3388.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-5791.

Agency Contact: Carl Cooper, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3388

RIN: 1545-AG66

2336. EMPLOYMENT TAXES: APPLICATION OF THE REPEAL OF 30% WITHHOLDING BY THE TAX REFORM ACT OF 1984 AND OF INFORMATION REPORTING AND BACKUP WITHHOLDING IN LIGHT OF SUCH REPEAL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 871 Internal Revenue Code of 1954; 26 USC 881 Internal Revenue Code of 1954; 26 USC 1441 Internal Revenue Code of 1954; 26 USC 1442 Internal Revenue Code of 1954; 26 USC 3406 Internal Revenue Code of 1954; 26 USC 6041 Internal Revenue Code of 1954; 26 USC 6045 Internal Revenue Code of 1954; 26 USC 6049 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations provide rules relating to the repeal of 30 percent withholding by the Tax Reform Act of 1984 and to the application of information reporting and backup withholding in light of such repeal.

Timetable:

Action	Date	FR Cite
Hearing held	01/28/85	49 FR 47870
NPRM	08/20/85	50 FR 33552
NPRM Comment Period End	10/22/85	50 FR 33552
NPRM	12/31/87	

Small Entity: No

Additional Information: INTL-53-86.

Drafting attorney: Carl Cooper (202) 566-3388.

Reviewing attorney:Carol Doran Klein (202) 566-6419.

Treasury attorney: Peter Daub (202) 566-5791.

Agency Contact: Carl Cooper, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3388

RIN: 1545-AH15

2337. EXEMPTIONS FROM WITHHOLDING OF NRA'S AND FOREIGN CORPORATIONS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 871(i) Internal Revenue Code of 1986; 26 USC 881(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Implement regulations concerning exemptions from withholding of non-resident aliens and foreign corporations under sections 871(i) and 881(d) of the Code. Specifically, the proposed regulation will address the individual or corporation that meets the 80 percent foreign business requirements for active foreign business income.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: INTL-951-86

Drafting Attorney: David A. Alvarez (202) 566-3289

Reviewing Attorney: John Dean (202) 566-3289

Treasury Attorney: Mary Bennett (202) 566-5815

Agency Contact: David A. Alvarez, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AJ59

2338. UNTIMELY FILING BY FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide rules regarding deductibility of expenses by a

foreign corporation that does not file a timely tax return.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: Not Applicable

Additional Information: INTL-74-86

Drafting Attorney: Richard Chewning (202) 566-3490.

Reviewing Attorney: Bernard Bress (202) 566-6440.

Office of International Tax Counsel reviewing attorney: unassigned.

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AJ74

2339. BRANCH PROFITS TAX (GENERAL RULE AND DEFINITIONS) AND 2ND LEVEL WITHHOLDING TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 884 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance on the calculation of the branch profits tax. The regulations will provide rules for the treatment of interest allocable to effectively connected income.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Undetermined

Additional Information: INTL-834-86

Drafting Attorney: Richard M. Elliott (202) 566-6457

Reviewing Attorney: Benedetta A. Kissel (202) 566-3179

Treasury Attorney: Peter Daub (202) 566-5791

Agency Contact: Richard M. Elliott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6457

RIN: 1545-AJ73

2340. ● IMPOSITION OF TAX ON GROSS TRANSPORTATION INCOME OF NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 887 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation will provide rules for implementing the four percent tax on gross transportation income of nonresident aliens and foreign corporations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: INTL-940-86

Drafting Attorney: Patricia Bray (202) 566-3289.

Reviewing Attorney: Jacob Feldman (202) 566-3289.

Treasury Attorney: Peter Daub (202) 566-2964.

Agency Contact: Patricia A. Bray, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C., 202 566-3289

RIN: 1545-AK76

2341. INCOME TAX—INCOME OF FOREIGN GOVERNMENTS AND OF INTERNATIONAL ORGANIZATIONS

Legal Authority: 26 USC 892(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules governing the taxation of income of foreign governments and international organizations.

Timetable:

Action	Date	FR Cite
NPRM	10/31/87	

Small Entity: Not Applicable

Additional Information: INTL-959-86.

Drafting Attorney: David A. Juster (202) 566-6384

Reviewing Attorney: Bernard T. Bress (202) 566-6440

Office of International Tax Counsel (Treasury) Reviewing Attorney: Peter Daub (202) 566-5791

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6384

RIN: 1545-AJ79

2342. INCOME TAX—PARTNERSHIP RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN U.S. REAL PROPERTY INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 897(e)(2) Internal Revenue Code of 1986; 26 USC 897(g) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation would provide rules for foreign partners to compute gain or loss on the sale or disposition of United States real property interests upon the sale of a partnership interest or a distribution in liquidation of a partnership interest.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Not Applicable

Additional Information: INTL-48-86

Drafting attorney: Jacob Feldman (202) 566-3289.

Reviewing attorney: Charles Saverude (202) 566-6008.

Treasury attorney: David Crowe (202) 566-5791.

Agency Contact: Jacob Feldman, Senior Reviewer, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB98

2343. TEMPORARY REGULATIONS—NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Legal Authority: 26 USC 897 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations would provide rules concerning the effect of certain distributions, including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Regulations would also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-38-86.

Drafting attorney: Charles P. Besecky (202) 566-3319.

Reviewing attorney: Charles C. Saverude (202) 566-6008.

Treasury attorney: David Crowe (202) 566-5791.

Agency Contact: Charles P. Besecky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3319

RIN: 1545-AF17

2344. ● NOTICE OF PROPOSED RULEMAKING—NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Legal Authority: 26 USC 897 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide rules concerning the effect of certain distributions including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Proposal would also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: INTL-491-87

Drafting Attorney: Charles P. Besecky (202) 566-3319.

Reviewing Attorney: Charles C. Saverude (202) 566-6008.

Treasury Attorney: David Crowe (202) 566-5791.

Agency Contact: Charles P. Besecky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3319

RIN: 1545-AK79

2345. STATUTE OF LIMITATIONS - NATIONALIZED COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would define FOGEI and FORI.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: Not Applicable

Additional Information: INTL-59-86

Drafting Attorney: Richard Chewning (202) 566-3490

Reviewing Attorney: Charles Saverude (202) 566-9050

Office of International Tax Counsel Reviewing Attorney: Steve Shay (202) 566-5046

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AJ75

2346. SEPARATE APPLICATION OF SECTION 904 WITH RESPECT TO CERTAIN CATEGORIES OF INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 904 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide guidance to taxpayers in computing the foreign tax credit limitations with respect to certain categories of income.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Additional Information: INTL-931-86

Drafting Attorney: Marnie Carro (202) 566-3499 and Carolyn Dupuy (202) 566-3289.

Reviewing Attorney: Carol Doran Klein (202) 566-6419.

Agency Contact: Marnie J. Carro, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3494

RIN: 1545-AJ72

2347. INCOME TAX—PROCEDURE & ADMINISTRATION—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 905(c) Internal Revenue Code of 1954; 26 USC 6689 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None.

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information: INTL - 61-86

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Drafting attorney: Gerard Traficanti (202) 566-6384.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Office of International Tax Counsel (Treasury) reviewing attorney: Shay.

Draft of the Notice to International Tax Counsel of October 19, 1982. -duplicate of RIN A119

Agency Contact: Gerard Traficanti, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 5531, Washington, D.C. 20224, 202 566-8384

RIN: 1545-AC06

2348. AMENDMENT OF REGULATIONS UNDER SECTION 907 OF THE INTERNAL REVENUE CODE OF 1954 TO CONFORM THEM TO SECTION 211 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 907 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would amend the regulations under section 907 of the Internal Revenue Code of 1954, relating to the foreign tax credit for taxes on oil and gas income, to conform them to section 211 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	04/01/88	

Small Entity: Not Applicable

Additional Information: INTL - 152-86.

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Charles C. Saverude (202) 566-9050.

Office of International Tax Counsel (Treasury) reviewing attorney: Shay.

Agency Contact: Richard Chewning, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AE34

2349. COORDINATION OF U.S. AND VIRGIN ISLANDS TAXES

Legal Authority: PL 99-514, Sec 1274

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Prior to the Tax Reform Act of 1986, inhabitants of the Virgin Islands satisfied their U.S. tax liability by filing a return with the Virgin Islands. The Tax Reform Act of 1986 repealed the inhabitant rule to correct an erroneous interpretation of its operation in connection with the Virgin Islands mirror code. Section 1274 of the Tax Reform Act of 1986 clarifies the filing obligations of individuals in the Virgin Islands. Bona fide residents of the Virgin Islands are required to file only one return with the Virgin Islands in which they report worldwide income and identify the sources of income from the Virgin Islands will be required to file two identical tax returns one with the US and one with the Virgin Islands and pay a pro rata amount of tax to each. Regulations are needed to clarify who qualifies as a bona fide resident. It is anticipated that the regulations will provide a facts and circumstances test for determining bona fide resident status. It is unknown what the operational costs will be.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: INTL-969-86

Drafting Attorney: Grace Perez-Navarro (202) 287-4851.

Reviewing Attorney: Michael Patton (202) 287-4851.

Treasury Attorney: Peter Barns (202) 566-5815.

Agency Contact: Grace Perez-Navarro, Associate Attorney, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, SW, Room 3319, Washington, D.C. 20024, 202 287-4851

RIN: 1545-AJ55

2350. INCOME TAX--DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO & POSSESSION TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936(d)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation would provide rules with respect to what constitutes qualified possession source investment income for purposes of the Puerto Rico and possession tax credit.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	51 FR 2726

Small Entity: Not Applicable

Additional Information: INTL -44-86

Drafting attorney: Philip L. Garlett (202) 566-3289.

Reviewing attorney: Jacob Feldman (202) 566-3289.

Treasury attorney: Mary Bennett (202) 566-5815.

Agency Contact: Philip L. Garlett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC10

2351. ◆ AMENDMENT OF SECTION 936(H) WITH RESPECT TO ELECTION OF PRODUCT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 936(h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would require that once a product election was made it could not be amended.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: INTL-450-87

Drafting Attorney: Philip Garlett (202) 566-3289.

Reviewing Attorney: Jacob Feldman (202) 566-3289.

Treasury Attorney: Mary Bennett (202) 566-5992.

Agency Contact: Philip Garlett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AK77

2352. SPECIAL RULE FOR FOREIGN CAPTIVE INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 953(c)(5) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would implement the statute which taxes currently U.S. persons utilizing offshore captive insurance companies. These U.S. owned or controlled companies were previously e: ming income the U.S., tax on which was deferred until repatriated to the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: INTL-939-86

Drafting Attorney: John F. Dean (202) 566-3289

Reviewing Attorney: Jack Feldman (202) 566-3289

Treasury Attorney: Peter Barnes (202) 566-5815

Agency Contact: John F. Dean, Senior Technical Reviewer, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AJ70

2353. CURRENT TAXATION OF FOREIGN OIL RELATED INCOME OF CONTROLLED FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 954 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would define and interpret when foreign oil related income will be subject to current taxation under section 954 of the Internal Revenue Code of 1954. Changes to the applicable law were made by section 212 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: Not Applicable

Additional Information: INTL-57-86.

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Charles C. Saverude (202) 566-9050.

Office of International Tax Counsel reviewing attorney: Steve Shay.

Agency Contact: Richard Chewning, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AE38

2354. PROPOSED INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO INTEREST CHARGE DISCS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 995 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The Regulations will provide guidance relating to the Interest Charge imposed on DISC shareholders for taxable years ending after 1984. The regulations will explain how the Deemed Distribution is computed and how the Interest Charge is computed.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information: LR-172-84.

Drafting attorney: Joseph M. Rosenthal (202) 566-3872.

Reviewing attorney: Jacob Feldman (202) 566-3289.

Treasury attorney: Jane Sarosdy (202) 566-8275.

Agency Contact: Joseph M. Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3872

RIN: 1545-AG71

2355. RULES RELATING TO THE INAPPLICABILITY OF SECTION 1031 TO PARTNERSHIP INTERESTS AND THE LIMITATION ON THE PERIOD DURING WHICH LIKE KIND EXCHANGES MAY BE MADE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation will provide guidance with respect to changes made to section 1031 by the Tax Reform Act of 1984 including the inapplicability of section 1031 to partnership interests and the limitation on the period during which like kind exchanges may be made.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-237-84.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Treasury attorney: Blake Rubin (202) 566-2927.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH43

2356. INCOME TAX--NOTICE OF PROPOSED RULEMAKING - AMENDMENT OF REGULATIONS RELATING TO BASIS REDUCTIONS FOR NON-TAXED PORTION OF EXTRAORDINARY DIVIDENDS TO REFLECT TRA 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1059 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Amendment of the regulations to interpret the rule contained in section 1059 of the Internal Revenue Code of 1954 relating to the

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non-taxed portion of extraordinary dividends. The regulations will explain what dividends are extraordinary, the operations of the required basis reduction, the application of the holding period rule in section 246 (c), etc.

Timetable:

Action	Date	FR Cite
NPRM	10/01/88	

Small Entity: Not Applicable

Additional Information: LR-260-84.

Drafting attorney: Patricia W. Pellervo (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Patricia W. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH41

2357. INCOME TAX--SPECIAL ALLOCATION RULES FOR CERTAIN ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1060 Internal Revenue Code of 1986; 26 USC 755 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 1031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation will explain and illustrate the application of the residual method of allocation to the purchase price in certain asset acquisitions. It will also provide certain informational reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-119-86.

Drafting attorney: Judith C. Winkler (202) 566-3458.

Reviewing attorney: Patricia W. Pellervo (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AJ06

2358. INCOME TAX--TAX STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 Internal Revenue Code of 1986; 26 USC 6653 Internal Revenue Code of 1986; 26 USC 263(g) Internal Revenue Code of 1986; 26 USC 1256 Internal Revenue Code of 1986; 26 USC 1212 Internal Revenue Code of 1986; 26 USC 1236 Internal Revenue Code of 1986; 26 USC 1234A Internal Revenue Code of 1986; 26 USC 1232 Internal Revenue Code of 1986; 26 USC 1221 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide the rules under Title 5 of the Economic Recovery Tax Act of 1981 for tax straddles. These regulations will affect the tax treatment of regulated futures contracts, forward contracts, and positions in commodities.

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	

Small Entity: Not Applicable

Additional Information: LR-187-81.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: John M. Fischer (202) 566-3394.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC21

2359. INCOME TAX--GAIN FROM SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1248 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would amend existing regulations with respect to the section 1248 amount attributable to stock of lower tier subsidiaries and stock in less developed country corporations. The regulations would also provide rules for determining the section 1248 amount due to certain dispositions on which gain is not recognized. The regulations would also expand the foreign tax credit available with respect to the section 1248 amount attributable to third-tier subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: INTL - 42-86

Drafting attorney: David A. Juster (202) 566-6384.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Office of International Tax Counsel (Treasury) reviewing attorney:

Draft of notice in International Tax Counsel for review.

Agency Contact: David A. Juster, Attorney CC:INTL:Br3, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6384

RIN: 1545-AC31

2360. INCOME TAX--TO CLARIFY TAX TREATMENT OF TRANSFERS OF FRANCHISES, TRADEMARKS, & TRADE NAMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1253 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation would clarify the tax treatment of the transfer of a franchise trademark, or trade name under section 1253 of the Internal Revenue Code of 1954. It would also provide guidance regarding how to allocate the basis among the portions of the sale proceeds which are treated as arising from the sale of a capital asset and other portions which are ordinary income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-183-81.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel reviewing attorney: Marjorie Roberts

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AC34

2361. HEDGING EXCEPTION TO MARK-TO-MARKET RULES FOR SECTION 1256 CONTRACTS, DEFERRAL OF CERTAIN STRADDLE LOSSES, AND WASH-SALE AND SHORT-SALE PRINCIPLES APPLICABLE TO CERTAIN STRADDLE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1256 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the hedging transaction exception for section 1256 contracts and straddles.

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	

Small Entity: Not Applicable

Additional Information: LR-11-86.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: John M. Fischer (202) 566-3394.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3287

RIN: 1545-AI59

2362. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME; DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1276 Internal Revenue Code of 1986; 26 USC 1278 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the Treatment of Gain Realized on the Disposition of any Market Discount Bond as Ordinary Income. These regulations will also prescribe the extent to which a deduction for interest allocable to accrued market discount is deferred.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-21-85.

Drafting attorney: Michel A. Daze (202) 566-6456.

Reviewing attorney: Susan T. Baker (202) 566-3294.

Treasury Attorney: Bryan Collins (202) 566-4979.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C.20224, 202 566-6456

RIN: 1545-AH82

2363. INCOME TAX-TREATMENT OF STRIPPED BONDS AND STRIPPED COUPON

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1286 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the tax treatment of stripped bonds and stripped coupons purchased after July 1, 1982. In particular, guidance will be given as to the proper method for allocation of basis and purchase price.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-19-85.

Drafting attorney: Ewan D. Purkiss (202) 566-3238.

Reviewing attorney: John A. Fischer (202) 566-3394.

Office of Tax Legislative Counsel reviewing attorney: Reed Shuldiner (202) 535-6963.

Agency Contact: Ewan D. Purkiss, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AH75

2364. INCOME TAX--TREATMENT OF OBLIGATIONS WHICH PURPORT TO REPRESENT DEBT AS A SECOND CLASS OF STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1361 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance to shareholders and debt instrument holders who must comply with the law relating to subchapter S corporations. The regulations will provide rules relating to whether or not a subchapter S corporation has more than one class of stock.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-4-73.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Brian Collins.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC37

2365. INCOME TAX—DEFINITION OF S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1361 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would address the following matters: (1) the number of permitted shareholders of a small business corporation, (2) the types of trusts that are permitted to be shareholders of a small business corporation, (3) whether shares are permitted to be owned as a split interest and (4) the rules relating to corporations that are ineligible to be an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	10/07/87	51 FR 35659
NPRM Comment Period End	12/08/87	
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-262-82.

Drafting attorney: Joel S. Rutstein (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Collins.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE86

2366. AMENDMENT OF INCOME TAX REGULATIONS UNDER CODE SECTIONS 1362 AND 1363 RELATING TO THE ELECTION, REVOCATION, AND TERMINATION OF AN S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1362 Internal Revenue Code of 1986; 26 USC 1363 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidelines for electing, revoking and terminating S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-260-82.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Treasury attorney: Bryan Collins (202) 566-4979.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE26

2367. INCOME TAX—PASS-THRU OF S CORPORATION ITEMS TO SHAREHOLDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1366 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules relating to the tax treatment of income and loss items passed through to the shareholders.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: LR-261-82.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Collins.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE85

2368. INCOME TAX—RULES RELATING TO ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS OF S CORPORATION AND TO DETERMINATION OF BASIS OF PROPERTY DISTRIBUTION BY CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1367 Internal Revenue Code of 1986; 26 USC 1368 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations would provide rules for adjusting the basis of stock of a shareholder in an S corporation and rules for determining the treatment of property distributions by an S corporation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: LR-264-82.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Collins.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE88

2369. INCOME TAX—APPLICATION OF SUBCHAPTER C RULES TO S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1371 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposal would amend the regulations under section 1371 to changes made by the subchapter S Revision Act of 1982 relating to the application of subchapter C rules to S corporations and other technical amendments under sections 2, 5, and 6 of the Act. The regulation would provide the public with guidance to comply with the Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-265-82.

Drafting attorney: Joel S. Rutstein (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Collins.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE90

2370. ● CROSS-REFERENCE—APPLICATION OF SECTION 1374 BUILT-IN GAIN TAX TO C CORPORATION'S ELECTING S CORPORATION STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1374 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal will provide rules relating to the section 1374 built-in gains tax to C corporations electing S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	03/04/88	

Small Entity: Not Applicable

Additional Information:

LR-80-87.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK93

2371. INCOME TAX—DEFINITIONS AND SPECIAL RULES PERTAINING TO S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1377 Internal Revenue Code of 1986; 26 USC 1379 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations would define and interpret special rules contained in Sections 1377 and 1379 of the Internal Revenue Code of 1986, the thereby giving guidance to the public on how the Internal Revenue Service intends interpret those sections of the Code.

Timetable:

Action	Date	FR Cite
NPRM	01/01/88	

Small Entity: Not Applicable

Additional Information: LR-268-82.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE94

2372. INVESTMENT ADJUSTMENTS UNDER THE CONSOLIDATED RETURN REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Provision would amend the consolidated return investment adjustment rules by changing the computation of earnings and profits where section 312 (k), (l), (m), or (n) applies.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: LR-222-81.

Drafting attorney: Judith C. Winkler (202) 566-3458.

Reviewing attorney: John Broadbent (202) 566-3458.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC47

2373. INCOME TAX—APPLICATION OF SECTION 465 AT RISK LIMITATIONS TO MEMBERS THAT JOIN IN FILING CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Provision would amend the consolidated returns regulations to provide rules applying the at-risk limitations of section 465 of the Internal Revenue Code of 1954 to affiliated groups filing consolidated returns, thereby giving the public needed guidance as to how these rules apply to such groups.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-75-79.

Drafting attorney: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Patricia McClanahan (202) 566-4902.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC55

2374. INCOME TAX—DELETION OF THE REQUIREMENT OF SECTION 1.1502-47 (D) (12) (V) (C) THAT, IN APPLYING TACKING RULE, PROFITABLE AND LOSS LIFE ACTIVITIES NOT BE SEPARATED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will prospectively delete the requirement of section 1.1502-47 (d) (12) (v) (C) relating to the restriction on the separation of profitable activities from loss activities in applying the tacking rule to life insurance companies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-157-86

Drafting attorney: Keith Stanley (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Patricia McClanahan (202) 566-2928.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AI98

2375. ● CROSS-REFERENCE—CONSOLIDATED RETURN INVESTMENT ADJUSTMENTS WITH RESPECT TO AN ACQUIRED SUBSIDIARY'S BUILT-IN GAINS OR LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 337 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal will prevent the consolidated return investment adjustments from reflecting the recognized built-in gains or losses of assets acquired in certain corporation acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	03/11/88	

Small Entity: Not Applicable

Additional Information:

LR-78-87

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: John Broadbent (202) 566-3458.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK94

2376. INCOME TAX—INCLUDIBILITY IN AN AFFILIATED GROUP OF SUBSIDIARIES FORMED TO COMPLY WITH FOREIGN LAWS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules relating to an election to treat a foreign subsidiary of a United States corporation as a domestic corporation if the subsidiary is formed in a contiguous country to comply with foreign law.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-169-77.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Shay.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC58

2377. INCOME TAX — AMENDMENT OF REGULATIONS UNDER SECTION 1504 (A) OF THE CODE, AS AMENDED BY SECTION 60 OF THE TAX REFORM ACT OF 1984, DEFINING "AFFILIATED GROUP"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules defining "affiliated group" for purposes of subtitle A of the Code.

Timetable:

Action	Date	FR Cite
NPRM	02/01/88	

Small Entity: Not Applicable

Additional Information: LR-152-84.

Drafting attorney: Patricia W. Pellervo (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bryan Collins.

Agency Contact: Patricia W. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH09

2378. ESTATE AND GIFT TAXES, INCOME TAXES-UNIFIED CREDIT IN LIEU OF EXEMPTIONS, UNIFIED RATE SCHEDULE FOR ESTATE AND GIFT TAXES SITUS OF FOREIGN PARTNERSHIPS FOR ESTATE TAXATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2001 Internal Revenue Code of 1986; 26 USC 2010 Internal Revenue Code of 1986; 26 USC 2011 Internal Revenue Code of 1986; 26 USC 2012(a) Internal Revenue Code of 1986; 26 USC 2012(c) Internal Revenue Code of 1986; 26 USC 2013(b) Internal Revenue Code of 1986; 26 USC 2013(e)(1) Internal Revenue Code of 1986; 26 USC 2014(b)(2) Internal Revenue Code of 1986; 26 USC 2035 Internal Revenue Code of 1986; 26 USC 2038(a) Internal Revenue Code of 1986; 26 USC 2044 Internal Revenue Code of 1986; 26 USC 2052 Internal Revenue Code of 1986; 26 USC 2104 Internal Revenue Code of 1986; 26 USC 2106 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25; 26 CFR 1

Legal Deadline: None.

Abstract: The unified rate schedule for estate and gift taxes and unified credit in lieu of exemptions will be implemented by the regulation. The regulations also relate to the estate tax consequences of transfers made within three years of death. In addition, the regulations clarify the situs test of foreign partnerships for purposes of the estate taxation of nonresident alien decedents. The regulations also provide rules relating to charitable remainder trusts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/88	

Small Entity: Not Applicable

Additional Information: LR-212-76.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Fred E. Grundeman (202) 566-3287.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AC60

2379. ESTATE TAX—VALUATION OF CERTAIN FARM, ETC. REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2032A Internal Revenue Code of 1986; 26 USC 2013(f) Internal Revenue Code of 1986; 26 USC 1016(c) Internal Revenue Code of 1986; 26 USC 1040 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 1

Legal Deadline: None.

Abstract: Special use valuation of certain farm and closely held business real property is available to qualifying estates. The regulation will contain definitions and rules relating to the various requirements which an estate must satisfy and will provide rules governing the imposition and payment of the "additional estate tax" should a qualified heir fail to meet the post-death requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: Not Applicable

Additional Information: LR-209-81.

Drafting attorney: Fred E. Grundeman (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Office of the Tax Legislative Counsel (Treasury) reviewing attorney: Susan Himes (202) 566-8527.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC62

2380. CAPITALIZATION OF CERTAIN PENSION, ETC. COSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986; 26 USC 460 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide guidance relating to the requirement that certain costs of deferred compensation must be capitalized rather than deducted currently.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	

Small Entity: Not Applicable

Additional Information: EE-56-78

Drafting Attorney: Michael Garvey (202) 566-3430.

Review Attorney: Jonathan P. Marget (202) 566-3981.

Treasury Attorney: Harry Conaway (202) 566-8277.

Agency Contact: Michael Garvey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AI92

2381. ESTATE TAX—GENERATION SKIPPING TRANSFER TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2653 Internal Revenue Code of 1986; 26 USC 2662 Internal Revenue Code of 1986; 26 USC 2663 Internal Revenue Code of 1986

CFR Citation: 26 CFR 26; 26 CFR 26a

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the effective date provisions, return requirements, definitions, and certain special rules for the tax on generation skipping transfers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	01/00/88	

Small Entity: Not Applicable

Additional Information:

LR-128-86.

Drafting attorney: Maurice B. Foley (202) 566-4336.

Reviewing attorney: Fred E. Grundeman (202) 566-3287.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Maurice B. Foley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AJ11

2382. AMENDMENT OF THE EMPLOYMENT TAX REGULATIONS UNDER CODE SECTION 3121 TO CONFORM TO SECTION 321 OF THE SOCIAL SECURITY AMENDMENTS OF 1983

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986

CFR Citation: 26 CFR 36

Legal Deadline: None.

Abstract: The regulation would provide guidance to taxpayers with respect to agreements entered into under section 3121 of the Internal Revenue Code of 1954 as that Section was amended by section 321 of the Social Security Amendments of 1983.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-192-83.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3297.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF91

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2383. TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302(c) Internal Revenue Code of 1886

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: Proposal would provide rules concerning the treatment of certain deferred compensation and salary reduction arrangements under section 3121 (v) and section 3306 (r) of the Internal Revenue Code of 1954, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the code.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Not Applicable

Additional Information: LR-195-83.

Drafting attorney: Nerman Dobynes Hubbard (202) 566-3430.

Reviewing attorney: John B. Bromell (202) 566-3297.

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Nerman Dobynes Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AF97

2384. EMPLOYMENT TAX—WITHHOLDING FROM PENSIONS, ANNUITIES, AND OTHER DEFERRED INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3405 Internal Revenue Code of 1986; 26 USC 6047(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 35

Legal Deadline: None.

Abstract: Proposed regulations would clarify and amend the temporary regulations relating to withholding from pensions, annuities, and other deferred income.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Not Applicable

Additional Information: EE-115-82.

Drafting attorney: Mary E. Brennan (202) 566-3903.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Agency Contact: Mary E. Brennan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3436

RIN: 1545-AE96

2385. TO PROVIDE REGULATIONS RELATING TO BACKUP WITHHOLDING UNDER SECTION 3406

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: The regulations will provide that a tax equal to 20 percent of any reportable payment is required to be withheld if certain conditions exist. With respect to reportable interest or dividends, backup withholding applies if (1) no number is provided in the manner required, (2) the Service notifies the payor that the payee's taxpayer identification number is not correct, (3) the payee is subject to backup withholding due to a notified payee underreporting, and (4) the payee fails to certify when required that he or she is not subject to backup withholding due to notified payee underreporting. With respect to other reportable payments (such as rents, royalties, nonemployee compensation, broker transactions, or barter exchanges), backup withholding applies if (1) no taxpayer identification number is provided, or (2) the Service notifies the payor that the payee's taxpayer identification number is not correct.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-224-82.

Drafting attorney: Renay France (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury Attorneys: Susan Himes and Richard D'Avino (202) 566-5455 and (202) 566-8527, respectively.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE20

2386. ELECTION TO HAVE CERTAIN DIESEL FUEL TAXES IMPOSED ON SALES TO RETAILERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None.

Abstract: The regulations will provide guidance to assist diesel fuel retailers in making an election to have the diesel fuel excise tax collected by the wholesaler at the time the liquid is sold to the retailer.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information:

LR-114-86.

Drafting attorney: Lauren G. Shaw (202) 566-3287.

Treasury attorney: Moshe Schuldinger (202) 566-2928.

Agency Contact: Lauren G. Shaw, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AJ13

2387. EXCISE TAX—RETAILERS EXCISE TAXES ON MOTOR VEHICLES

Legal Authority: 26 USC 4052 Internal Revenue Code of 1986; 26 USC 4051 Internal Revenue Code of 1986; 26 USC 4053 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None.

Abstract: The regulations will provide guidance as to what kinds of vehicles are taxable and how the tax is computed.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	

Small Entity: Not Applicable

Additional Information: LR-30-83.

Drafting attorney: Maurice B. Foley (202) 566-3287.

Reviewing attorney: Ada Rousso (202) 566-3297.

Treasury attorney: Mark Perlis (202) 566-8278.

Agency Contact: Maurice B. Foley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AF61

2388. EXCISE TAX - EXCISE TAX ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS

Legal Authority: 26 USC 4052 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None.

Abstract: These regulations will clarify the definition of first retail sale.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	
Final Action	03/00/88	

Small Entity: No

Additional Information: LR-17-86.

Drafting attorney: Maurice B. Foley (202) 566-4336.

Reviewing attorney: Ada Rousso (202) 566-3287.

Treasury attorney: Mark Perlis (202) 566-8278.

Agency Contact: Maurice B. Foley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AI51

2389. EXCISE TAX—COLLECTION OF GASOLINE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986; 26 USC 4082 Internal Revenue Code of 1986; 26 USC 4101 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None.

Abstract: The regulations will provide rules relating to excise tax imposed on the sale or removal of gasoline. The regulations will also provide procedural requirements for any required registration and bonding, and obtaining applicable refunds or credits relating to the excise tax.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information:

LR-115-86.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Treasury attorney: Moshe Schuldinger (202) 566-2928.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AJ09

2390. ● REDUCTION OF THE HEAVY VEHICLE USE TAX FOR FOREIGN-BASED TRUCKS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4481 Internal Revenue Code of 1986

CFR Citation: 26 CFR 41

Legal Deadline: None.

Abstract: This project will address how the heavy vehicle use tax will be imposed on foreign-based trucks at a reduced rate and what proof of payment of the tax must be presented upon entry into the United States.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information: LR-33-87

Drafting Attorney: William A. Jackson (202) 566-4336.

Reviewing Attorney: Ada Rousso (202) 566-3287.

Treasury Attorney: Mark Perlis (202) 566-8278.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AK98

2391. CERTAIN INDEBTEDNESS TREATED AS PAYMENT ON INSTALLMENT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453C Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance with respect to the requirement that certain indebtedness of a taxpayer be treated as a payment on certain installment obligations held by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-93-86

Drafting Attorney: Ewan D. Purkiss (202) 566-3238.

Reviewing Attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Lorry Spitzer (202) 535-0950.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AJ27

2392. INCOME TAX, EXCISE TAX, AND ENVIRONMENTAL TAX—IMPOSITION OF TAXES ON PETROLEUM, CERTAIN CHEMICALS, AND CORPORATIONS AND ADDITIONAL EXCISE TAXES ON CERTAIN FUELS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 59A Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986; 26 USC 4042 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986; 26 USC 4611 Internal Revenue Code of 1986; 26 USC 4612 Internal Revenue Code of 1986; 26 USC 4661 Internal Revenue Code of 1986; 26 USC 4662 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 49; 26 CFR 52

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Legal Deadline: None.

Abstract: The regulations will provide rules for the computation of the environmental taxes on petroleum, certain chemicals, and additional excise taxes on certain fuels. The regulations will also provide rules for the computation of the environmental tax imposed on the modified alternative minimum taxable income of corporations.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Not Applicable

Additional Information:

LR-158-86.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AJ23

2393. INCOME TAX—EXCISE TAX—PROCEDURE AND ADMINISTRATION—VARIOUS PRIVATE FOUNDATION PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4940 Internal Revenue Code of 1986; 26 USC 4941 Internal Revenue Code of 1986; 26 USC 4942 Internal Revenue Code of 1986; 26 USC 4943 Internal Revenue Code of 1986; 26 USC 4945 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 53

Legal Deadline: None.

Abstract: These regulations will amend existing rules to reflect changes made by the Tax Reform Act of 1984 relating to the excise taxes on private foundations.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: EE-76-84.

Drafting attorney: V. A. Moore (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: V. A. Moore, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AG18

2394. FOUNDATION EXCISE TAX-EXCESS BUSINESS HOLDINGS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4943 Internal Revenue Code of 1986; PL 91-172, Sec 101 Tax Reform Act of 1969; PL 98-369, Sec 307 Tax Reform Act of 1984; PL 98-369, Sec 308; PL 98-369, Sec 309; PL 98-369, Sec 310; PL 98-369, Sec 314

CFR Citation: 26 CFR 53

Legal Deadline: None.

Abstract: Amendments to conform regulations to provisions enacted by the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-65-84.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) Reviewing Attorney: unassigned

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AG49

2395. EXCISE TAX – PART 54, REVERSION OF QUALIFIED PLAN ASSETS TO EMPLOYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4980 Internal Revenue Code of 1986; PL 99-514, Sec 1132

CFR Citation: 26 CFR 54

Legal Deadline: None.

Abstract: The regulations would provide guidance regarding the excise tax on reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Additional Information: EE-165-86

Drafting Attorney: Suzanne K. Tank (202) 566-3422.

Reviewing Attorney: James L. Brokaw (202) 566-4173.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-8277.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AI82

2396. EXCISE TAX – EXCESS DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4961 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules for determining the amount of the excise tax on excess distributions from qualified retirement plans.

Timetable:

Action	Date	FR Cite
NPRM	10/30/87	

Small Entity: Undetermined

Additional Information: EE-162-86

Drafting Attorney: Marjorie Hoffman (202) 566-3430.

Review Attorney: Richard J. Wickersham (202) 560-3250.

Treasury Attorneys: Susan Scherbel/Harry Conaway (202) 566-8277.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AI81

2397. EXCISE TAX—WITH RESPECT TO THE DEFINITION OF TAXABLE CRUDE OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4991 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None.

Abstract: These regulations would provide rules relating to the definitions of crude oil, condensate, and tar sand for purposes of the windfall profit tax. These definitions are important because only crude oil is subject to the windfall profit tax.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-228-81.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD09

2398. ● ELECTRONIC FILING OF TAX RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations will provide guidance and standards to taxpayers governing the electronic filing of individual income tax returns.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: Not Applicable

Additional Information: LR-21-87

Drafting Attorney: Lauren G. Shaw (202) 566-3287.

Reviewing Attorney: Gerald Rock (202) 566-3287.

Treasury Attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Lauren G. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AL01

2399. NOMINEE REPORTING OF PARTNERSHIP INFORMATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to nominee reporting of partnership interest which such nominee holds for another person. The regulations will provide the information that the nominee is required to provide and will also provide the manner in which this information is to be reported to the partnership.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	

Small Entity: Not Applicable

Additional Information: LR-156-86.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel Reviewing attorney: A. L. Spitzer (202) 535-6868.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AJ98

2400. AMENDMENT OF SECTION 1.6033-2(G)(5) RELATING TO RETURNS BY AN INTEGRATED AUXILIARY OF A CHURCH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 91-172, Sec 101(d)(1) Tax Reform Act of 1969

CFR Citation: 26 CFR 1.6033-2(g)

Legal Deadline: None.

Abstract: These regulations will revise the definition of integrated auxiliary of a church in Section 1.6033-2 (g) (5) of the Treasury Regulations to be consistent with Rev. Proc. 86-23, 1986-1 CB 564.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: Not Applicable

Additional Information: EE-41-86.

Drafting attorney: V.A. Moore (202) 566-3422.

Reviewing attorney: Paul Accettura (202) 566-3422.

Agency Contact: V.A. Moore, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AI52

2401. RETURNS, ETC. ON CERTAIN FRINGE BENEFIT PLANS

Legal Authority: 26 USC 6039D Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations will provide guidance concerning a return required by specified fringe benefit plans.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: Not Applicable

Additional Information: EE-117-84.

Drafting attorney: Sylvia F. Hunt (202) 566-6212.

Reviewing attorney: Harry Beker (202) 566-6212.

Treasury attorneys: Scherbel/Conaway (202) 566-4902.

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AI22

2402. ● INCOME TAX REGULATIONS RELATING TO RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6046A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report their activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: Not Applicable

Additional Information: INTL-879-86

Drafting Attorney: Charles A. Ray (202) 287-4851.

Reviewing Attorney: George M. Sellinger (202) 287-4851.

Treasury Attorney: Mark Beams (202) 566-5992.

Agency Contact: Charles A. Ray, Attorney, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Washington, D.C. 20024, 202 287-4851

RIN: 1545-AK75

2403. ● INCOME TAX--TO REQUIRE ISSUERS OF CERTIFICATES OF DEPOSIT TO FURNISH ISSUE PRICE TO BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposed regulations would amend existing regulations to require issuers to furnish the issue price to brokers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-63-87

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing attorney: Susan Baker (202) 566-3294.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, llll ConstitutionrAve., N.W., Washington, D. C. 20224, 202 566-3459

RIN: 1545-AK36

2404. TREATMENT OF NET CAPITAL LOSSES OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS-RELATIONSHIPS BETWEEN CHAPTER 44 EXCISE TAXES AND TAXABLE INCOME

Legal Authority: 26 USC 852(b)(3) Internal Revenue Code of 1986; 26 USC 857(b)(3) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would establish rules pertaining to the relationship and effect of net capital losses of RICs and REITs attributable to transactions after the cut-off date for capital transactions and the taxable income if the entity for the subsequent taxable year.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: LR-116-86.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Don Rocap (202) 566-8278.

Government Levels Affected: Federal

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AJ04

2405. ESTATE TAX--PROCEDURE AND ADMINISTRATION--DEFERRAL AND INSTALLMENT PAYMENT OF ESTATE TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6166 Internal Revenue Code of 1986; 26 USC 6161 Internal Revenue Code of 1986; 26 USC 6151 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None.

Abstract: The regulations will provide guidance to executors wishing to extend the time for payment of estate tax where the estate contains an interest in a closely held business. The regulations will provide rules in determining what qualifies as an interest in a closely held business. In addition, the regulations will explain when the installment privileges allowed by section 6166 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: Not Applicable

Additional Information: LR-210-76.

Drafting attorney: Maurice B. Foley (202) 343-0231.

Reviewing attorney: Fred E. Grundeman (202) 566-3287.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Maurice B. Foley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 343-0231

RIN: 1545-AD23

2406. INTEREST ON HOSPITAL INSURANCE TAXES ON WAGES OF STATE AND LOCAL GOVERNMENT EMPLOYEES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6205 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: This regulation will permit interest-free adjustments for underpayments of hospital insurance taxes with respect to wages of State and local government employees hired after March 31, 1986.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: LR-46-86.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury Attorney: Susan Scherbel (202) 535-6965.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AI50

2407. STATEMENT OF PROCEDURAL RULES TO PROVIDE PROCEDURES FOR PARTNERSHIP-LEVEL PROCEEDINGS WITH RESPECT TO PARTNERSHIP ITEMS

Legal Authority: 5 USC 3011 Internal Revenue Code of 1986; 5 USC 6111 Internal Revenue Code of 1986

CFR Citation: 26 CFR 601

Legal Deadline: None.

Abstract: The amendment of the Statement of Procedural Rules will provide procedures for partnership-level proceedings with respect to partnership items.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-237-82.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3218.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AI08

2408. DETERMINATION OF THE TAX TREATMENT OF SUBCHAPTER S ITEMS AT THE CORPORATE LEVEL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6242 Internal Revenue Code of 1986; 26 USC 6243 Internal Revenue Code of 1986; 26 USC 6244 Internal Revenue Code of 1986; 26 USC 6233 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 51

Legal Deadline: None.

Abstract: Proposed regulations would provide new rules for determining the tax treatment of any subchapter S item at the corporate level. Regulations would provide rules similar to rules for determining the tax treatment of partnership items.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-269-82.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel Reviewing attorney: Bryan Collins (202) 566-4979.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE96

2409. ● TO REQUIRE FINANCIAL INSTITUTIONS TO DEPOSIT ESTIMATED TAX ON TRUSTS AND ESTATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 25 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations would require certain financial institutions to make through the Federal Tax Deposit system quarterly estimated income tax payments with respect to certain trusts and estates.

Timetable:

Action	Date	FR Cite
NPRM	10/15/87	
NPRM Comment Period End	11/15/87	

Small Entity: Not Applicable

Additional Information: LR-81-87

Drafting attorney: John A. Tolleris (202) 566-3829.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, llll Constitution Ave., N.W., Washington, D. C. 20224, 202 566-3829

RIN: 1545-AK35

2410. PROCEDURE AND ADMINISTRATION REGULATIONS--PAYMENT OF TAXES BY CHECK OR MONEY ORDER AND LIABILITY OF FINANCIAL INSTITUTIONS FOR UNPAID TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6311 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations will describe the circumstances under which taxpayers may pay taxes by check, money order or other guaranteed draft and the circumstances under which financial institutions on which such instruments are drawn may be liable for unpaid taxes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-161-85.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Michael J. Grace, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AI24

2411. ● ELECTRONIC FILING OF NOTICE OF FEDERAL TAX LIEN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6323 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulation clarifies that the term "Form 668" as used in section 6323 (f) (3) of the Code includes a notice of federal tax lien filed by the use of an electronic or magnetic medium where the law of the state in which a notice of Federal tax lien is filed permits such method of filing.

Timetable:

Action	Date	FR Cite
NPRM	09/15/87	

Small Entity: Not Applicable

Additional Information: LR-39-87

Drafting Attorney: Lauren G. Shaw (202) 566-3287.

Reviewing Attorney: Ada S. Rousso (202) 566-3287.

Treasury Attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Lauren G. Shaw, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AK96

2412. PROCEDURE AND ADMINISTRATION—RELEASE OF LIENS, NOTICE BEFORE LEVY, PROPERTY EXEMPT FROM LEVY REDEMPTION OF LEVIED REAL PROPERTY AND AMOUNT OF DAMAGES IN CASE OF WRONGFUL LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6325 Internal Revenue Code of 1986; 26 USC 6331 Internal Revenue Code of 1986; 26 USC 6334 Internal Revenue Code of 1986; 26 USC 6337 Internal Revenue Code of 1986; 26 USC 7426 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulation will provide guidance in obtaining the issuance of a certificate of release of a notice of Federal tax lien. The regulation will revise existing regulations relating to the size of the exemption from levy available for certain property. The proposed regulation also increases the length of post-sale redemption period currently specified in the regulations. The proposed regulations provide rules for service employees administering the Code for providing notice of intention to levy upon the property of a delinquent taxpayer. The proposed regulations increase the amount of damages allowed where property has been levied wrongfully.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-253-82.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AE82

2413. ● PROCEDURE AND ADMINISTRATION - ABATEMENT OF INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations will provide guidance on the definition of ministerial act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-34-87

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK71

2414. PROCEDURE AND ADMINISTRATION REGULATIONS—EXTENSION OF THE PERIOD FOR ASSESSMENT OF TAX IN CERTAIN CIRCUMSTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6501 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will describe circumstances under which the normal three-year period for the assessment and collection of tax may be extended.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-162-85.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Michael J. Grace, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AI23

2415. ESSENTIAL ISSUES IN CONNECTION WITH DIFFERENTIAL INTEREST RATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will explain the computation of interest on underpayments and overpayments of tax, including the extent to which underpayments and overpayments will be offset in computing interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: Not Applicable

Additional Information: LR-123-86

Drafting attorney: Michael J. Grace (202)566-3288.

Reviewing attorney: John H. Parcell (202)566-3336.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK06

2416. PROCEDURE & ADMINISTRATION—ADDITION TO TAX IN THE CASE OF VALUATION OVERSTATEMENTS AND UNDERSTATEMENTS, AND INCREASE IN THE NEGLIGENCE PENALTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6659 Internal Revenue Code of 1986; 26 USC 6653 Internal Revenue Code of 1986; 26 USC 6660 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules and definitions with respect to the addition to tax in the case of valuation overstatements and understatements, including rules for computing the portion of an underpayment that is attributable to a valuation overstatement or understatement. The regulations would also provide rules with respect to the increase in the negligence and fraud penalties.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: Not Applicable

Additional Information: LR-272-81.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AD39

2417. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6700 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations would provide rules and definitions relating to the penalty for promoting abusive tax shelters.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-273-82.

Drafting attorney: Bill Blagg (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Perlis.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AE99

2418. PENALTY FOR AIDING AND ABETTING IN THE UNDERSTATEMENT OF TAX LIABILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6701 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: Proposal will provide rules with respect to the penalty imposed on a person who aids and abets in the understatement of a third party's tax liability. The proposal also provides the standards which will subject one to the penalty.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-274-82.

Drafting attorney: Bill Blagg (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel reviewing attorney: Mark Perlis.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF01

2419. PENALTY FOR FAILURE TO INCLUDE CORRECT INFORMATION ON INFORMATION RETURNS AND PAYEE STATEMENTS

Legal Authority: 26 USC 6723 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations provide guidance on the penalty for failing to provide correct information on information returns and payee statements

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	

Small Entity: No

Additional Information:

LR-142-86.

Drafting Attorney: Renay France (202) 566-3459.

Reviewing Attorney: Sharon Galm (202) 566-3930.

Treasury Attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-3459

RIN: 1545-AJ29

2420. INCOME TAX—PRESUMPTION OF JEOPARDY IN THE CASE OF ILLEGAL ACTIVITY CASH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6867 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance for applying the presumptions that an amount of cash in excess of ten thousand dollars without an acknowledged owner (1) represents gross income to a single individual, (2) is taxable at a rate of fifty percent, and (3) that collection of the tax is in jeopardy for the purposes of sections 6851 and 6861.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-309-82.

Drafting attorney: Ewan Purkiss (202) 566-3238.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AE30

2421. ● FORFEITURE OF LAND SALES CONTRACT WITH RESPECT TO DISCHARGE OF FEDERAL TAX LIEN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulation will address the issue of when a land sales contract is considered to be forfeited for Federal tax purposes. It may be necessary, in so doing, to provide a definition or other guidelines as to what constitutes a land sales contract for purposes of this provision.

Timetable:

Action	Date	FR Cite
NPRM	07/31/88	

Small Entity: Not Applicable

Additional Information: LR-38-87

Drafting Attorney: Lauren G. Shaw (202) 566-3287.

Reviewing Attorney: Ada S. Rousso (202) 566-3287.

Treasury Attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Lauren G. Shaw, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AK24

2422. ● PROCEDURE AND ADMINISTRATION - SUSPENSION OF STATUES OF LIMITATIONS IN ABSENCE OF THIRD-PARTY RECORDKEEPER RESPONSE TO SUMMONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations will provide guidance to taxpayers with regard to the changes made to section 7609 by the Tax Reform Act of 1986. Under those changes, statutes of limitations are suspended in certain cases in which a summons is served to a third-party recordkeeper and in which there is no resolution of the third- party recordkeeper's response to the summons.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-25-87

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK72

2423. INCOME TAX--INVESTMENT CREDIT IN CASE OF PROPERTY USED BY TAX EXEMPT ORGANIZATIONS & GOVERNMENTAL UNITS; PRACTICE &PROCEDURE --DEFINITION OF SERVICE CONTRACTS & OTHER ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 48(a)(4) Internal Revenue Code of 1986; 26 USC 48(a)(5) Internal Revenue Code of 1986; 26 USC 7701(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: Proposal would change the definition of use of property by a tax exempt organization or a governmental unit, for purpose of applying rules relating to the investment tax credit. The regulations would also define service contracts and other arrangements, for purposes of analysis vis a vis leasing arrangements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-223-78.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: Ada Rousso (202) 566-3287.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3459

RIN: 1545-AA23

2424. AMENDMENT OF PROCEDURE AND ADMINISTRATION REGULATIONS UNDER SECTION 7701(B) (DEFINITION OF RESIDENT ALIENS) TO REFLECT SECTION 138 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7701(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 301

Legal Deadline: None.

Abstract: These regulations provide rules for determining whether an alien individual is a resident or a nonresident alien of the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: INTL-55-86.

Drafting attorney: Marnie Carro (202) 566-3494.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Treasury attorney: Mary Bennett (202) 566-5615.

Agency Contact: Marnie J. Carro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3494

RIN: 1545-AH13

2425. INCOME TAX--ESSENTIAL ISSUES RELATING TO REAL ESTATE MORTGAGE INVESTMENT CONDUITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 860E Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations will provide guidance on real estate mortgage investment conduits, a new entity established to clarify the tax treatment of investment in real estate mortgages and mortgage backed securities.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-86-86.

Drafting Attorney: Michel A. Daze (202) 566-6456.

Reviewing Attorney: Susan T. Baker (202) 566-3294.

Treasury Attorney: Reed Shuldiner (202) 535-6963.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-6456

RIN: 1545-AJ35

2426. PROPOSED AMENDMENTS TO THE PROCEDURE AND ADMINISTRATION REGULATIONS UNDER THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984 RELATING TO THE REDUCTION OF TAX OVERPAYMENTS BY AMOUNTS ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 42 USC 664 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: These proposed regulations provide rules relating to the reduction of a taxpayer's overpayment of tax (i.e. tax refund) by the amount of any past due support which a State has agreed to collect under section 454 (6) of the Social Security Act. The regulations explain the steps a State must take to have a tax overpayment reduced by an amount of past-due support.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-85-85.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: David Dickinson (202) 566-6655.

TITLE CONT: of Past-Due Support Owed.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH99

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Final Rule Stage

2427. TO PROVIDE REGULATIONS RELATING TO MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.25-1 to 1.25-8T; 26 CFR 1.6709-1

Legal Deadline: None.

Abstract: The regulations will provide guidance on the issuance of mortgage credit certificates rules. Guidance will be provided with respect to the various eligibility requirements that mortgagors must satisfy as well as the various program requirements that issuers must satisfy.

Timetable:

Action	Date	FR Cite
NPRM	05/08/85	50 FR 19383
NPRM Comment Period End	07/08/85	50 FR 19383
Hearing	08/14/85	
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-245-84.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AH06

2428. INCOME TAX--INFORMATION REPORTING FOR MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance to issuers of mortgage credit certificates relating to the information to be collected with respect to each recipient of a mortgage credit certificate. The regulations will also provide guidance regarding the time and manner of filing this information with the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	09/03/85	50 FR 35572
NPRM Comment Period End	11/04/85	
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-114-85.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AI39

2429. ● SUBSTANTIATION REQUIREMENT FOR MORTGAGE INTEREST CREDIT CERTIFICATES

Legal Authority: 26 USC 25 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation provides compliance rules for MCCs.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-46-87

Drafting Attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John Coulter (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, llll Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AK34

2430. CREDIT FOR CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 28 Internal Revenue Code of 1986; 26 USC 280C Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None.

Abstract: These regulations will amend the Income Tax Regulations to conform the regulations to sections 28 and 280C of the Internal Revenue Code of 1986, relating to the credit for clinical testing expenses for rare diseases or conditions. The regulations will provide the public with the guidance needed to comply with the law and will affect taxpayers seeking to obtain the credit.

Timetable:

Action	Date	FR Cite
NPRM	04/23/85	50 FR 15930
NPRM Comment Period End	06/24/85	50 FR 15930
Final Action	01/01/88	

Small Entity: Not Applicable

Additional Information: LR-55-83.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF64

2431. INCOME TAX—NOTICE TO EMPLOYEES OR EARNED INCOME CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 32 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide the procedures necessary to implement the statutory requirement that employers noting certain employees whose wages are not subject to income tax withholding that they may be eligible for the refundable earned income credit.

Timetable:

Action	Date	FR Cite
NPRM	06/11/87	52 FR 22345
NPRM Comment Period End	08/10/87	
Final Action	03/31/88	

Small Entity: Not Applicable

Additional Information: LR-99-86

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: John G. Schmalz (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) Reviewing

attorney: Jorie Roberts.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AJ44

2432. LOW-INCOME HOUSING CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would provide low-income housing credit rules.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23471
NPRM Comment Period End	08/21/87	52 FR 23471
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-83-86

Drafting attorney: Robert Beatson (202) 566-3459.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3459

RIN: 1545-AJ65

2433. ● LOW-INCOME HOUSING CREDIT FOR FEDERALLY-ASSISTED BUILDINGS ACQUIRED DURING 10-YEAR PERIOD

Legal Authority: 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations provide rules for federally-assisted buildings acquired during a 10-year period.

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/01/87	

Small Entity: Not Applicable

Additional Information: LR-61-87

drafting attorney: Robert Beatson (202) 566-3459

Reviewing attorney: John Coulter (202) 566-4473

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AK39

2434. INCOME TAX—CREDIT FOR INCREASING RESEARCH ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 30 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide the extent to which taxpayers will be entitled to an income tax credit for increases in certain research activity.

Timetable:

Action	Date	FR Cite
NPRM	01/21/83	
NPRM Comment Period End	03/19/83	
Hearing	04/19/83	
Final Action	06/20/88	

Small Entity: Not Applicable

Additional Information: LR-236-81.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John Fischer (202) 566-3394.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Himes.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA07

2435. INCOME TAX—THE INVESTMENT CREDIT FOR QUALIFIED PROGRESS EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 46 Internal Revenue Code of 1986; 26 USC 47 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations add a new section to provide rules for claiming the investment credit for qualified progress expenditures.

Timetable:

Action	Date	FR Cite
NPRM	01/30/79	44 FR 05910
NPRM Comment Period End	04/01/79	44 FR 05910
Hearing	06/27/79	
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-73-75.

Drafting attorney: Michel A. Daze (202) 566-6456.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Suzanne McDowell (202) 566-5453.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6456

RIN: 1545-AA13

2436. INCOME TAX—TAX TREATMENT OF MASS ASSETS FOR INVESTMENT CREDIT PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 38 Internal Revenue Code of 1986; 26 USC 46 Internal Revenue Code of 1986; 26 USC 47 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would clarify the investment tax credit recapture treatment of mass assets thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret this area.

Timetable:

Action	Date	FR Cite
NPRM	12/20/85	50 FR 51874
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-92-73.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA10

2437. INCOME TAX—INCREASE IN INVESTMENT TAX CREDIT FOR QUALIFIED REHABILITATION EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations provide rules and definitions relating to terms such as qualified rehabilitated expenditures, qualified rehabilitated building, substantial rehabilitation and certified historic structure.

Timetable:

Action	Date	FR Cite
NPRM	06/26/85	50 FR 26794
NPRM Comment Period End	08/27/85	
Hearing	11/15/85	
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-236-81.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA12

2438. INCOME TAX—DEFINITION OF FILMS THAT ARE "TOPICAL OR OTHERWISE ESSENTIALLY TRANSITORY IN NATURE"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 48(k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations more specifically define what movie and television films and videotapes qualify for the investment credit.

Timetable:

Action	Date	FR Cite
NPRM	06/03/82	47 FR 24142
NPRM Comment Period End	08/02/82	47 FR 24142
Final Action	10/31/88	

Small Entity: Not Applicable

Additional Information: LR-143-80.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Himes.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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TREAS—IRS — **Final Rule Stage**

Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA22

2439. INCOME TAX—SPECIAL RULES ADDED BY SEC 223(C) OF CRUDE OIL WINDFALL PROFIT TAX ACT 1980, RELATING TO REDUCTION OF CREDIT WHERE PROPERTY IS FINANCED BY SUBSIDIZED ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 48(l) Internal Revenue Code of 1986; PL 96-223, Sec 223(c)

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide that subsidized energy financing and proceeds of exempt industrial development bonds used to finance a facility reduce the qualified investment in the energy property contained in that facility for purposes of determining the amount of the energy tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/26/82	47 FR 03559
NPRM Comment Period End	03/20/82	47 FR 03559
Hearing	06/03/82	
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-176-80.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury attorney: Moshe Schuldinger (202) 566-2928.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA26

2440. CORPORATE ALTERNATIVE MINIMUM TAX BOOK INCOME ADJUSTMENT

Legal Authority: 26 USC 55 Internal Revenue Code of 1986; 26 USC 56(c)(1) Internal Revenue Code of 1986; 26 USC 56(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will describe rules for the computation of the alternative minimum net book income adjustment imposed on corporations.

Timetable:

Action	Date	FR Cite
NPRM	04/27/87	52 FR 15339
NPRM Comment Period End	06/29/87	
Final Action	01/00/88	

Small Entity: No

Additional Information: LR-107-86.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Office of Tax Legislative Counsel Attorney: Tom Evans

(202) 566-4902.

Office of Tax Legislative Counsel Attorney: Richard Harvey

(202) 535-6960.

Office of Tax Legislative Counsel Attorney: Neil Kimmelfield

(202)566-8528.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AJ14

2441. ● INCOME TAX—INVENTORY ADJUSTMENT FOR THE ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 56 (a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation provides guidance with respect to inventory adjustment for the alternative minimum tax.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-84-87

Drafting Attorney: William Jackson (202) 566-4336.

Reviewing Attorney: Ada Rousso (202) 566-3287.

Agency Contact: William Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-4336

RIN: 1545-AL03

2442. INCOME TAX—NONQUALIFIED SALARY REDUCTION AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 61 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation would provide guidance regarding the tax treatment of nonqualified deferred compensation arrangements established by tax exempt charitable organizations such as non-profit hospitals for their employees.

Timetable:

Action	Date	FR Cite
NPRM	02/03/78	43 FR 4638
Final Action Effective	03/06/78	
NPRM Comment Period End	04/04/78	43 FR 4638
Hearing	05/14/78	
News release issued for comment	06/11/79	
Hearing	11/27/79	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-194-77.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AA35

TREAS—IRS — **Final Rule Stage**

2443. INCOME TAX—TAXATION OF FRINGE BENEFITS AND EXCLUSIONS FROM GROSS INCOME FOR CERTAIN FRINGE BENEFITS

Legal Authority: 26 USC 61 Internal Revenue Code of 1986; 26 USC 132 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations will provide guidance on the taxation and valuation of fringe benefits. The regulations will also address the requirements for certain fringe benefit exclusions, including nondiscrimination and line of business restrictions.

Timetable:

Action	Date	FR Cite
Hearing	04/16/85	50 FR 7072
NPRM Comment Period End	02/21/86	50 FR 52333
Hearing	03/03/86	51 FR 2898
Hearing	04/29/86	51 FR 8517
NPRM	12/23/86	50 FR 52333
Interim Final Rule	12/23/86	50 FR 52281
Final Action	12/00/87	

Small Entity: Undetermined

Additional Information: LR-216-84

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Paul A. Francis (202) 566-3218.

Treasury attorney: Susan Scherbel (202) 535-6965.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3238

RIN: 1545-AH73

2444. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 67 (c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance regarding the miscellaneous itemized deductions that are subject to the 2-percent floor and provide expense allocation rules for regulated investment companies and REMICs.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/01/87	

Small Entity: Not Applicable

Additional Information: LR-96-86.

Drafting attorney: Beverly A. Baughman(202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Charles M. Whedbee (202) 566-3458.

Susan T. Baker (202) 566-3294.

Treasury attorney: Blake Rubin (202) 566-2927.

Don Rocap (202) 566-8278.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave.,N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AJ48

2445. TREATMENT OF TRANSFER OF PROPERTY BETWEEN SPOUSES, TAX TREATMENT OF ALIMONY AND SEPARATE MAINTENANCE PAYMENTS, AND DEPENDENCY EXEMPTION IN THE CASE OF CHILD OF DIVORCED PARENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 71 Internal Revenue Code of 1986; 26 USC 215 Internal Revenue Code of 1986; 26 USC 1041 Internal Revenue Code of 1986; 26 USC 152 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance to assist taxpayers in determining whether alimony and separate maintenance payments are deductible from income by the payor and includible in income by the payee, whether property transferred between spouses or between spouses incident to divorce has a carryover basis and whether the custodial or noncustodial parent is entitled to the dependency exemption.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34451
NPRM Comment Period End	10/20/84	49 FR 34528
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-153-84.

Drafting attorney: Lauren G. Shaw (202) 566-3287.

Treasury attorney: Don Rocap (202) 566-8278.

Agency Contact: Lauren G. Shaw, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AI49

2446. INCOME TAX REGULATIONS—MORTALITY TABLES TO BE USED TO DETERMINE AMOUNT HELD BY INSURER WITH RESPECT TO A BENEFICIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 101(d)(2)(B)(ii) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will prescribe mortality tables to be used to determine the amount held by an insurer with respect to a beneficiary of a life insurance contract.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-134-86

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK15

2447. INCOME TAX—EXEMPTION FOR INDUSTRIAL DEVELOPMENT BONDS FOR WATER FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 142(e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

TREAS—IRS

Final Rule Stage

Legal Deadline: None.

Abstract: This regulation would provide guidance to determine the rules under which facilities for furnishing water to members of the general public can be financed with tax-exempt industrial development bonds under section 142 (e) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
Final Action Effective	11/07/78	
NPRM	08/22/84	49 FR 33283
NPRM Comment Period End	10/22/84	49 FR 33283
Hearing	01/30/85	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-190-78.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AA49

2448. INCOME TAX--TO DEFINE THE TERM "PRINCIPAL USER OF A FACILITY"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation would define the meaning of the term "principal user of a facility" for purposes of applying the limitation set by the Internal Revenue Code upon the permissible size of a small issue of tax-exempt industrial development bonds, as diminished by certain other capital expenditures. This regulation would help identify other facilities the capital expenditures from which must be taken into account in determining whether that issue exceeds the small issue limitation

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6274
NPRM Comment Period End	04/22/86	51 FR 6274
Hearing	06/04/86	51 FR 6273
Final Action Effective	06/23/86	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-59-74.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel reviewing attorney: Stern.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N W, Washington, D C 20224, 202 566-3590

RIN: 1545-AA56

2449. INCOME TAX--MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules which interpret the provisions of section 103a, relating to Mortgage Subsidy Bonds. Mortgage Subsidy Bonds are any obligations a significant portion of the proceeds of which are used to provide financing for owner-occupied residences.

Timetable:

Action	Date	FR Cite
NPRM - Previous	07/01/81	46 FR 34348
Hearing	11/05/81	
NPRM	11/10/81	46 FR 55513
NPRM Comment Period End	01/09/82	46 FR 55513
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-10-81.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AA63

2450. TO PROVIDE REGULATIONS REQUIRING CERTAIN DEBT OBLIGATIONS TO BE ISSUED IN REGISTERED FORM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149(a) Internal Revenue Code of 1986; 26 USC 163(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The rules will provide that certain debt obligations issued after December 31, 1982, must be in registered form. The rules will provide examples of certain obligations that are not subject to the registration requirements. The sanctions for not issuing an obligation in registered form are the denial of an interest deduction, loss of capital gains treatment, loss of an earnings and profits adjustment, and loss of tax-exempt interest status.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51414
Final Action Effective	12/31/82	
NPRM Comment Period End	01/14/83	47 FR 51414
Hearing	01/25/83	47 FR 51413
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-255-82.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Elliot Stern (202) 566-2566.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE18

TREAS—IRS

Final Rule Stage

2451. TO PROVIDE REGULATIONS UNDER SECTION 103(K) AND (L)--RELATING TO PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS FOR PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposal will clarify the information reporting requirements with respect to private activity bonds. Industrial development bonds must be publicly approved--failure to fulfill this requirement results in loss of tax exemption for the interest on these bonds. Issuers of student loan bonds, charitable use bonds and industrial development bonds are required to supply certain information to the Internal Revenue Service. Failure to comply with this requirement will result in the loss of tax exemption for the bond's interest.

Timetable:

Action	Date	FR Cite
NPRM	05/11/83	48 FR 21166
NPRM Comment Period End	07/11/83	48 FR 21166
Final Action	12/15/87	

Small Entity: Not Applicable

Additional Information: LR-221-82.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE24

2452. REGULATIONS RELATING TO $40 MILLION SMALL ISSUE LIMIT ON TAX-EXEMPT BONDS PER TAXPAYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 144(a)(10) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations would provide guidance regarding the provision enacted by the Tax Reform Act of 1984 which generally denies Federal income tax exemption for a small issue of development bonds if any of its beneficiaries receives the benefits of more than $40 million of prior outstanding industrial development bonds allocated to itself, including its allocated portion of the small issue in question. These regulations would also provide guidance regarding how the proceeds of an issue of industrial development bonds are to be allocated among its beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6270
NPRM Comment Period End	04/22/86	51 FR 6270
Hearing	06/04/86	51 FR 6273
Final Action Effective	06/23/86	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-157-84.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel reviewing attorney: Elliott Stern

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AH19

2453. INCOME TAX--TO CLARIFY THE DEFINITION OF PROPERTY WHICH IS A POLLUTION CONTROL FACILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103 (b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will define the term "air or water pollution control facilities". The regulations will further determine the portion of the cost of such facilities that may be financed with tax-exempt industrial development bonds, whenever the facilities also serve certain other purposes.

Timetable:

Action	Date	FR Cite
NPRM	08/20/75	40 FR 36371
Hearing	11/21/75	
NPRM Comment Period End	11/28/75	40 FR 36371
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-9-75.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3459

RIN: 1545-AK10

2454. TO PROVIDE REGULATIONS RELATING TO THE TAX EXEMPTION OF OBLIGATIONS TO FINANCE MIXED-USE RESIDENTIAL RENTAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1.103-8

Legal Deadline: None.

Abstract: The regulations will clarify the rule relating to obligations to provide residential rented property. The regulations will make clear that a residential rental project can consist in part of non-residential rental property.

Timetable:

Action	Date	FR Cite
NPRM	10/07/85	50 FR 46303
NPRM Comment Period End	01/06/86	
Hearing	02/10/86	51 FR 1392
Final Action	12/31/88	

Small Entity: Not Applicable

Additional Information: LR-269-84.

Drafting attorney: Richard G. Blumenreich (202) 566-3450.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Elliot Stern (202) 566-2566.

Agency Contact: Richard G. Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AH68

2455. AMENDMENT OF REGULATIONS RELATING TO ARBITRAGE ON NONPURPOSE OBLIGATIONS TO REFLECT SECTION 624 OF TRA OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103(c)(6) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules relating to arbitrage on nonpurpose investments with respect to industrial development bonds. Rules will be the limitation on nonpurpose investments and the rebate requirement.

Timetable:

Action	Date	FR Cite
NPRM	01/07/85	50 FR 00637
NPRM Comment Period End	03/08/85	50 FR 00837
Final Action	11/30/87	

Small Entity: Not Applicable

Additional Information: LR-192-84.

Drafting attorneys: Thomas J. Kane (202) 566-3458 and Richard G. Blumenreich (202) 566-3459.

Reviewing attorney: Gerald Rock (202) 566-3238.

Treasury attorney: Elliott Stern (202) 566-2566.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH07

2456. INCOME TAX—PREPAID LEGAL EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 120 Internal Revenue Code of 1986; 26 USC 501(c)(20) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules relating to the establishment and operation of a qualified group legal services plan. Employer contributions to, and benefits provided under, a qualified plan are excluded from an employee's gross income.

Timetable:

Action	Date	FR Cite
NPRM	04/29/80	45 FR 28360
NPRM Comment Period End	06/30/80	45 FR 28360
Hearing	09/04/80	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-5-76.

Drafting attorney: Monice Rosenbaum (202) 566-3422.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel (Treasury) reviewing attorney:

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AD62

2457. INCOME TAX—TAX TREATMENT OF CAFETERIA PLANS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 125 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations establish rules for the tax treatment of cafeteria plans meeting certain nondiscrimination standards. A cafeteria plan permits participating employees to select the particular fringe benefits desired from a package of employer-provided benefits which include statutory nontaxable benefits and cash.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	49 FR 50733
NPRM Comment Period End	01/30/85	
Hearing	04/11/85	
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: EE-16-78.

Drafting attorney: Harry Beker (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD63

2458. INCOME TAX-EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 126 Internal Revenue Code of 1986; 26 USC 1255 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide rules on the exclusion from income of certain cost sharing payments and on the amount recaptured when the property improved with government payments is sold within a certain specified period of time.

Timetable:

Action	Date	FR Cite
NPRM	05/21/81	46 FR 27723
NPRM Comment Period End	07/20/81	46 FR 27723
Hearing	12/01/81	46 FR 58808
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-222-78.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Ewan D. Purkiss (202) 566-3238.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AA73

2459. INCOME TAX—PART I EXCLUSION FROM GROSS INCOME FOR CERTAIN FOSTER CARE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 131 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation project will explain what foster child care payments may be excluded from the gross income of a foster parent.

Timetable:

Action	Date	FR Cite
NPRM	02/01/85	50 FR 4702
NPRM Comment Period End	04/02/85	50 FR 4702
Hearing	06/25/85	
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-83-83.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF52

2460. TO PROVIDE REGULATIONS RELATING TO THE STATE VOLUME CAP ON PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 103(m) Internal Revenue Code of 1954; 26 USC 0146 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the limitation on the aggregate amount of private activity bonds. The regulations will define the terms private activity bond and state ceiling. The regulations will also provide rules for carrying forward any unused private activity bond limit.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39344
NPRM Comment Period End	12/04/84	49 FR 39344
Hearing	04/22/85	
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-144-84.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Elliott Stern (202) 566-2566.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AH62

2461. INFORMATION REPORTING FOR TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would provide information reporting rules for tax-exempt bonds.

Timetable:

Action	Date	FR Cite
Hearing	05/26/86	
NPRM	03/11/87	52 FR 7449
NPRM Comment Period End	05/11/87	52 FR 7449
Final Action Effective	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-146-86

Drafting attorney: Robert Beatson (202) 566-3459.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3459

RIN: 1545-AJ63

2462. CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 106(b) Internal Revenue Code of 1986; 26 USC 162(i)(2) Internal Revenue Code of 1986; 26 USC 162(k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide guidance relating to the requirement that a group health plan provide continuation coverage to individuals who would otherwise lose coverage as a result of certain events.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22716
NPRM Comment Period End	08/14/87	52 FR 22716
Final Action	06/00/88	

Small Entity: Not Applicable

Additional Information: EE-143-86

Drafting Attorney: Mark Schwimmer (202) 566-6212.

Review Attorney: Michael A. Thrasher (202) 566-6212.

Treasury Attorney: Susan Scherbel (202) 566-6965.

Cross Reference to EE-144-86.

Agency Contact: Mark Schwimmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AI83

2463. INCOME TAX REGULATIONS—LIMITATIONS ON DEDUCTIONS FOR NONBUSINESS INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance relating to the disallowance of a deduction for personal interest, including guidance regarding the definitions of qualified residence, qualified residence interest and qualified indebtedness.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-138-86

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John Fischer (202) 566-3394.

Treasury attorney: Reed Shuldiner (202) 535-6903.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK16

2464. INCOME TAX REGULATIONS—TAX STRADDLES RELATING TO SECTION 108 OF THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 165 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules under section 108 of the Tax Reform Act of 1984 and section 1808 (d) of the Tax Reform Act of 1986, relating to the treatment of certain losses on straddles entered into before the effective date of the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	08/23/84	49 FR 33458
NPRM Comment Period End	10/22/84	49 FR 33458
Hearing	11/29/84	
Final Action	09/08/88	

Small Entity: Not Applicable

Additional Information: LR-147-84.

Drafting attorney: Timothy J. McKenna (202) 566-3287

Reviewing attorney: John Fischer (202) 566-3394.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AG57

2465. INCOME TAX—ACCELERATED COST RECOVERY SYSTEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986; 26 USC 179 Internal Revenue Code of 1986; 26 USC 1245 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 1250 Internal Revenue Code of 1986; 26 USC 57(a)(12) Internal Revenue Code of 1986; 26 USC 312(k) Internal Revenue Code of 1986; 26 USC 172(b) Internal Revenue Code of 1986; 26 USC 812(b) Internal Revenue Code of 1986; 26 USC 46(b) Internal Revenue Code of 1986; 26 USC 53(c) Internal Revenue Code of 1986; 26 USC 381(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: To provide regulations under section 168 and accompanying provisions clarifying the operation of the new accelerated cost recovery scheme. This new cost recovery system generally applies to property placed in service after December 31, 1980. Generally, section 168 applies to "recovery property" which is defined as tangible property of a character subject to the allowance for depreciation which is used in a trade or business, or held for the production of income.

Timetable:

Action	Date	FR Cite
NPRM	02/16/84	49 FR 5940
NPRM Comment Period End	05/16/84	49 FR 5940
Hearing held	05/21/84	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-185-81.

Drafting attorney: Ada S. Rousso (202) 566-3287.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Mark Perlis (202) 566-6278.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AA87

2466. TAX-EXEMPT ENTITY LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 168 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These proposed regulations will provide rules relating to tax-exempt entity leasing and tax-exempt use property under section 168 (j) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	07/02/85	50 FR 27297
NPRM Comment Period End	09/03/85	50 FR 27297
Hearing	11/25/85	
Final Action	12/01/87	

Small Entity: Not Applicable

Additional Information: LR-31-85.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John Tolleris (202) 566-3459.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AH76

2467. DEDUCTIONS IN EXCESS OF $5,000 CLAIMED FOR CERTAIN CHARITABLE CONTRIBUTIONS OF PROPERTY AND INFORMATION REPORTING BY DONEES WHO MAKE CERTAIN DISPOSITIONS OF DONATED PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 170(a)(1) Internal Revenue Code of 1986; 26 USC 6050L Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to deductions for charitable contributions. The regulations provide that deductions for certain charitable contributions made by an individual, closely held corporations, personal service corporation, partnership, or S corporation shall not be allowed unless the donor obtains a qualified appraisal and attaches an appraisal summary to the donor's return on which the deduction is first claimed. Additionally, the regulations require the donee of certain charitable deduction property to make an information return.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	49 FR 50740
NPRM Comment Period End	03/01/85	49 FR 50740
Hearing	06/28/85	
Final Action	10/01/87	

Small Entity: Not Applicable

Additional Information: LR-200-84.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Treasury attorney: A.L. Spitzer (202) 535-0966.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AG86

2468. INDIVIDUAL RETIREMENT PLANS AND SIMPLIFIED EMPLOYEE PENSIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 62 Internal Revenue Code of 1986; 26 USC 219 Internal Revenue Code of 1986; 26 USC 220 Internal Revenue Code of 1986; 26 USC 404(h) Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 2503 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986; 26 USC 3306 Internal Revenue Code of 1986; 26 USC 4973 Internal Revenue Code of 1986; 26 USC 4974 Internal Revenue Code of 1986; 26 USC 6693 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 25; 26 CFR 31; 26 CFR 54; 26 CFR 301

Legal Deadline: None.

Abstract: The regulations set forth rules for sponsors of and participants in individual retirement plans, spousal individual retirement plans, and simplified employee pensions.

Timetable:

Action	Date	FR Cite
NPRM	07/14/81	46 FR 36196
NPRM Comment Period End	09/14/81	46 FR 36196
Final Action	12/31/88	

Small Entity: Not Applicable

Additional Information: EE-7-78.

Drafting attorney: Mary E. Brennan (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8278.

Agency Contact: Mary E. Brennan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD59

2469. INDIVIDUAL RETIREMENT PLANS, SIMPLIFIED EMPLOYEE PENSIONS, AND QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 219 Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; 26 USC 409 Internal Revenue Code of 1986; 26 USC 415 Internal Revenue Code of 1986; 26 USC 2039 Internal Revenue Code of 1986; 26 USC 2517 Internal Revenue Code of 1986; 26 USC 6652 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25; 26 CFR 301

Legal Deadline: None.

Abstract: These regulations set forth rules for individual retirement plans, simplified employee pensions, and qualified voluntary employee contributions after amendment of the Internal Revenue Code of 1954 by the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	01/23/84	49 FR 2794
NPRM Comment Period End	03/23/84	49 FR 2794
Final Action	12/31/88	

Small Entity: No

Additional Information: EE-148-81.

Drafting attorney: Mary E. Brennan (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8278.

Agency Contact: Mary E. Brennan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD66

2470. TEMPORARY REGULATION—CAPITALIZATION OF CERTAIN INTEREST EXPENSES

Legal Authority: 26 USC 263A(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance concerning the capitalization of certain interest expenses and the allocation of interest to property subject to the capitalization rules.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-120-86.

Drafting attorney: Annette Guarisco (202) 566-3238.

Reviewing attorney: John Fischer (202) 566-3394.

Treasury attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK03

2471. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 253A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the costs incurred in the production and acquisition of property for resale in a trade or business or activity conducted for profit.

Timetable:

Action	Date	FR Cite
NPRM	03/31/87	52 FR 10118
NPRM Comment Period End	05/29/87	
Final Action	00/00/00	

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Small Entity: Not Applicable

Additional Information: LR-168-86.

Drafting attorney: Paulette C. Galanko (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK05

2472. REGULATIONS UNDER SECTION 267 OF THE CODE TO REFLECT SECTION 174 OF THE TAX REFORM ACT OF 1984 RELATING TO LOSSES, EXPENSES, AND INTEREST IN TRANSACTIONS BETWEEN RELATED TAXPAYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 267 Internal Revenue Code of 1986; 26 USC 706 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation deals with changes in section 267 arising from section 174 of the Tax Reform Act of 1984. It deals with the matching of payor deductions and payee income items in the case of expenses and interest where the accrual method payor and the cash method payee are related persons. The regulation also deals with the deferral and restoration of loss on the sale or exchange of property from one member of a controlled group of corporations to another member.

Timetable:

Action	Date	FR Cite
NPRM	11/30/84	49 FR 47046
NPRM Comment Period End	01/29/85	49 FR 47046
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-183-84.

Drafting attorney: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Keith E. Stanley, John G. Schmalz, Attorneys, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AG11

2473. INCOME TAX—PERSONAL SERVICE CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 269A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal will provide rules for determining when the Internal Revenue Service may reallocate income or tax benefits between a personal service corporation and its employee-owners.

Timetable:

Action	Date	FR Cite
NPRM	03/31/83	48 FR 13438
NPRM Comment Period End	05/31/83	48 FR 13438
Hearing	07/19/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-188-82.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: John M. Fischer (202) 566-3394.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF11

2474. INCOME TAX—DEDUCTIBILITY OF GIFTS BY EMPLOYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 274(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would reflect the modification by the Economic Recovery Tax Act of 1981 of the third exception to the term "gift" (i.e., the exception within certain dollar limitations for awards of tangible personal property). The regulations would define the term "qualified plan award." The regulations would clarify the existing regulations under section 274 (b) of the Internal Revenue Code of 1954 by excluding from the term "tangible personal property" any award of cash, or of a gift certificate, or of a right to choose among 5 or more different items.

Timetable:

Action	Date	FR Cite
NPRM	12/16/82	47 FR 56367
NPRM Comment Period End	02/14/83	47 FR 56367
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-252-81.

Drafting attorney: John B. Bromell (202) 566-3326.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of: Tax Legislative Counsel (Treasury)

Reviewing Attorney: Roberts.

Agency Contact: John B. Bromell, Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB06

2475. INCOME TAX—SUBSTANTIATION REQUIREMENTS WITH RESPECT TO LISTED PROPERTY AND SUBSTANTIATION REQUIREMENTS RELATING TO THE TAXATION OF FRINGE BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will set forth the requirements to substantiate any deduction or credit for certain business-related expenses with adequate records or sufficient evidence corroborating a taxpayer's own statement.

Timetable:

Action	Date	FR Cite
NPRM	11/06/85	50 FR 46006
NPRM Comment Period End	01/06/86	50 FR 46006
Hearing	03/04/86	51 FR 02898
Final Action Effective	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-140-86.

Drafting Attorney: Michel A. Daze (202) 566-6456.

Reviewing Attorney: Sharon Galm (202) 566-3930.

Treasury Attorney: Jeff Quinn (202) 566-2175.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-6456

RIN: 1545-AJ40

2476. INCOME TAX—DEDUCTIONS FOR EXPENSES ATTRIBUTABLE TO BUSINESS USE OF HOMES, RENTAL OF VACATION HOMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules for determining the deductibility of expenses incurred in connection with the business use, or rental to others, of a dwelling unit. The regulations provide rules for determining when the taxpayer uses a dwelling unit for personal use or when use by another person of the unit is treated as personal use of the unit by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	07/21/83	48 FR 33326
NPRM Comment Period End	09/21/83	
Hearing	10/04/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-261-76.

Drafting attorney: Gail H. Morse (202) 566-3218.

Reviewing attorney: Paul Francis (202) 566-3218.

Office of Tax Legislative Counsel reviewing attorney:

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB09

2477. LIMITATIONS ON AMOUNT OF DEPRECIATION AND INVESTMENT TAX CREDIT FOR LUXURY AUTOMOBILES AND CERTAIN OTHER PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280F Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will clarify the rules limiting the investment tax credit and cost recovery deductions allowable with respect to passenger automobiles and certain other "listed property."

Timetable:

Action	Date	FR Cite
NPRM	10/24/84	49 FR 42743
NPRM Comment Period End	12/24/84	49 FR 42743
Second Hearing	03/04/86	51 FR 2698
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-145-84.

Drafting attorney: Michel A. Daze (202) 566-6456.

Reviewing attorney: Sharon Galm (202) 566-3930.

Treasury attorney: Marjorie Roberts (202) 566-2565.

Agency Contact: Michel Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6456

RIN: 1545-AG99

2478. INCOME TAX—PART 1 TEMPORARY REGULATIONS-RECOGNITION OF GAIN OR LOSS LIQUIDATING SALES AND DISTRIBUTIONS OF PROPERTY (TRA 1986, [[631 TO 633)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 336 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations would provide rules for the recognition of gain or loss on a corporation's liquidation sales or distributions.

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/01/88	

Small Entity: Not Applicable

Additional Information: LR-117-86.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AJ01

2479. ● CERTAIN STOCK SALES AND DISTRIBUTIONS TREATED AS ASSET TRANSFERS

Legal Authority: 26 USC 336 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance for making an election under section 336 (e) and the consequences which result from making such an election

Timetable:

Action	Date	FR Cite
Temporary Regulation	03/01/88	

Small Entity: Not Applicable

Additional Information: LR-51-87

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK30

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TREAS—IRS **Final Rule Stage**

2480. DEEMED SALE PRICE WHEN CERTAIN STOCK PURCHASES ARE TREATED AS ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal will prescribe rules for computing the basis of stock purchased in certain stock acquisitions and for allocating this basis among the assets of the corporation whose stock was thus acquired.

Timetable:

Action	Date	FR Cite
NPRM	07/01/86	51 FR 23790
NPRM Comment Period End	09/02/86	
Final Action	10/01/88	

Small Entity: Not Applicable

Additional Information: LR-191-82.

Drafting attorney: Patricia W. Pellervo (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Office of Tax Legislative Counsel reviewing attorney: Thomas Wessel.

Agency Contact: Patricia W. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF29

2481. INCOME TAX-ELECTIONS UNDER SECTION 338, AS ADDED BY SECTION 224 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 AS AMENDED BY THE TECHNICAL CORRECTIONS ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986; PL 97-248, Sec 224; PL 97-448, Sec 306

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation will provide rules for making elections under section 338, which permits certain stock purchases to be treated as asset acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	01/08/86	51 FR 763
NPRM Comment Period End	03/10/86	
Final Action	10/01/88	

Small Entity: Not Applicable

Additional Information: LR-216-83.

Drafting attorney: Patricia W. Pellervo (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Office of Tax Legislative Counsel reviewing attorney: Thomas Wessel.

Agency Contact: Patricia W. Pellervo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF38

2482. REGULATIONS UNDER SECTION 338 (H) (10) AS ADDED TO THE CODE BY SECTION 306 OF THE TECHNICAL CORRECTIONS ACT OF 1982, RELATING TO SPECIAL ELECTIVE RECOGNITION OF GAIN OR LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would interpret the rules of section 338 (h) (10) under which a special election can be made so that target recognizes gain or loss on the deemed sale of its assets. The proposal is necessary so that affected taxpayers can make election under the provision.

Timetable:

Action	Date	FR Cite
NPRM	09/06/84	49 FR 35144
NPRM Comment Period End	11/05/84	

Next Action Undetermined

Small Entity: Not Applicable

Additional Information: LR-26-83.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury attorney: Thomas F. Wessel (202) 566-4979.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF38

2483. INCOME TAX--APPLICATION OF SECTION 338 TO STOCK AND ASSET ACQUISITIONS IN THE INTERNATIONAL CONTEXT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 338

Legal Deadline: None.

Abstract: These regulations will provide rules relating to section 338 as it applies to stock and asset acquisitions in the international context.

Timetable:

Action	Date	FR Cite
NPRM	02/12/86	51 FR 5208
NPRM Comment Period End	04/14/86	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-35-84.

Drafting attorney: Duane H. Pellervo (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C., 20224, 202 566-3458

RIN: 1545-AG13

2484. QUESTIONS AND ANSWERS RELATING TO DOMESTIC MATTERS UNDER SECTION 338 OF THE INTERNAL REVENUE CODE OF 1954 - CROSS REFERENCE TO THE TEMPORARY REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations provide guidance on a broad range of issues under section 338.

TREAS—IRS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	04/25/85	50 FR 16430

Next Action Undetermined

Small Entity: Not Applicable

Additional Information: LR-33-85.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury attorney: Thomas F. Wessel (202) 566-4979.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH88

2485. STATEMENTS OF ELECTION AND DUE DATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations provide guidance to taxpayers who make express elections under section 338 pursuant to the extended July 15, 1986, filing deadline where the statute of limitations in the target's taxable year which includes the acquisition date has expired prior to July 15, 1986, or will expire shortly thereafter.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17989
NPRM Comment Period End	07/15/86	51 FR 17989

Next Action Undetermined

Small Entity: Undetermined

Additional Information: LR-8-86.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury Attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Thomas J. Kane, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AI53

2486. INCOME TAX--APPLICATION OF INSTALLMENT METHOD TO DEEMED SALE OF ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will explain how the installment sale method will be applied to a stock acquisition in which a section 338 (h) (10) election is made.

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/30/87	

Small Entity: Not Applicable

Additional Information: LR-76-86

Drafting attorney: Judith C. Winkler (202) 566-3458.

Reviewing attorneys: Robert J. Mason (202) 566-3463.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AJ07

2487. ● TREATMENT OF AN AFFILIATED GROUP OF CORPORATIONS AS A SELLING CONSOLIDATED GROUP FOR PURPOSES OF ELECTIVE RECOGNITION UNDER SECTION 338 (H) (10)

Legal Authority: 26 USC 338 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide the guidance for making elections under section 338 (h) (10) when the selling group is an affiliated group of corporations which does not file a consolidated federal income tax return, and the consequences of making such an election.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/01/87	

Small Entity: Not Applicable

Additional Information: LR-49-87

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK32

2488. INCOME TAX--DISTRIBUTION OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 355 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposal relates to the income tax treatment of the distribution of stock and securities of a controlled corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/21/77	42 FR 3866
NPRM Comment Period End	03/22/77	42 FR 3866

Next Action Undetermined

Small Entity: Not Applicable

Additional Information: LR-936.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury attorney: Bryan Collins (202) 566-4979.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB20

2489. INCOME TAX--TRIANGULAR REORGANIZATIONS, BASIS AND OTHER CONSEQUENCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules relating to basis of stock of a corporation acquiring property in exchange for stock of a corporation in control of the acquiring corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/02/81	46 FR 112
NPRM Comment Period End	03/03/81	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-993-71.

Drafting attorney: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Evans.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB21

2490. INCOME TAX--TREATMENT OF EXCHANGES DESCRIBED IN SECTION 367 (B)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 24 CFR 0820; 13 CFR 6787; 05 CFR 0314; 22 CFR 3456

Legal Deadline: None. As an alternative to a no-rule position on this issue, the Service could publish a revenue procedure that contains the terms and conditions of a plan that must be.

Abstract:

Proposal would amend the regulations under section 367 (b) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/30/77	42 FR 65152
NPRM Comment Period End	03/01/78	42 FR 65152
Notice amended	10/02/79	44 FR 57390
Notice amended	12/27/82	47 FR 57502
Final Action	06/01/88	

Small Entity: Not Applicable

Additional Information: INTL - 76-86

Drafting attorney: Richard Chewning (202 566-3490.

Reviewing attorney: Bernard Bress (202) 566-6440.

Office of International Tax Counsel (Treasury) reviewing attorneys: Unassigned.

Office of Chief Counsel (INTL) for preparation of Treasury decision.

Affected Sectors: Multiple

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AB26

2491. ● AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The Income Tax Regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporations will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-610-86

Drafting Attorney: Steven Lipschutz (202) 566-3319.

Reviewing Attorney: Charles Saverude (202) 566-6008.

Treasury Attorney: Mary Bennet (202) 566-3992.

Agency Contact: Steven Lipschutz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3319

RIN: 1545-AK74

2492. FOREIGN LIQUIDATIONS AND REORGANIZATIONS (TEMPORARY REGULATIONS)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367(b)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 7

Legal Deadline: None.

Abstract: Temporary regulations would provide guidance concerning requirements relating to certain exchanges involving a foreign corporation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/01/87	

Small Entity: Not Applicable

Additional Information: INTL-991-86

Drafting Attorney: Richard Chewning (202) 566-3490

Reviewing Attorney: Bernard Bress (202) 566-6440

Office of International Tax Counsel Reviewing Attorney: Steve Shay (202) 566-5046

Agency Contact: Richard Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AJ76

2493. INCOME TAX--PART 1--TEMPORARY-WHETHER EARNINGS AND PROFITS SHOULD BE ALLOCATED TO AN ACQUIRING CFC FROM AN ACQUIRED CFC FOLLOWING A NON-RECOGNITION TRANSACTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 367(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Should earnings and profits be allocated to an acquiring CFC from an acquired CFC following a transaction which qualified for non-recognition treatment.

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/01/87	

Small Entity: Not Applicable

Additional Information: INTL-76-86.

Drafting attorney: Marnie Carro (202) 566-3494

Reviewing attorney: Bernard Bress (202) 566-6440.

Office of International Tax Counsel (Treasury) reviewing attorney: unassigned.

Agency Contact: Marnie Carro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 4109, Washington, D.C. 20224, 202 566-3494

RIN: 1545-AI32

2494. INCOME TAX--TEMPORARY REGULATIONS--REORGANIZATIONS INVOLVING FINANCIALLY TROUBLED THRIFT INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986; 26 USC 381 Internal Revenue Code of 1986; 26 USC 597 Internal Revenue Code of 1986

CFR Citation: 26 CFR 5c

Legal Deadline: None.

Abstract: Provision would provide temporary regulations dealing with reorganizations of financially troubled thrift institutions and with the tax consequences of financial assistance payments made to such an institution by a supervisory governmental agency, thereby giving the public needed guidance on how the Internal Revenue Service intends to interpret these issues.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-230-81.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AB26

2495. INCOME TAX--EXCHANGE FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 368(a)(2)(F) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules relating to reorganizations of undiversified investment companies.

Timetable:

Action	Date	FR Cite
NPRM	01/07/81	46 FR 1744
NPRM Comment Period End	03/06/81	46 FR 1744

Next Action Undetermined

Small Entity: Not Applicable

Additional Information: LR-135-76.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB31

2496. INCOME TAX--OWNERSHIP CHANGE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 382 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance on what constitutes "ownership change" under section 382 of the Internal Revenue Code of 1986 (generally, an "ownership change" is a shift in loss corporate stock ownership (after which the corporation's net operating loss carryovers are limited)).

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/01/87	

Small Entity: Not Applicable

Additional Information: LR-105-86

Drafting attorneys: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Thomas Wessel (202) 566-4979.

Agency Contact: Keith Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AJ08

2497. ● COMPUTATION OF SECTION 382 LIMITATION

Legal Authority: 26 USC 382 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would explain the manner and method of computing the section 382 limitation under circumstances when there are successive ownership changes, capital contributions, mergers liquidations, and in instances when one corporation controls another corporation.

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/01/87	

Small Entity: Not Applicable

Additional Information:

LR-66-87.

Drafting attorney: Thomas J. Kane (202) 566-3458.

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Reviewing attorney: Robert J. Mason (202) 566-3463.

Treasury attorney: Richard D'Avino (202) 566-5455.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK87

2498. ● SPECIAL LIMITATIONS ON CERTAIN CREDIT AND LOSS CARRYOVERS

Legal Authority: 26 USC 383 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would specify the manner and method on applying the special limitations on certain credit and loss carryovers under section 383.

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/01/87	

Small Entity: Not Applicable

Additional Information: LR-68-87

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Richard D'Avino (202) 566-5455.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK28

2499. INCOME TAX—REFUND OF MISTAKEN CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(a)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations describe those circumstances under which an employer contribution or withdrawal liability payment to a multiemployer pension plan may be refunded due to a mistake of law or fact.

Timetable:

Action	Date	FR Cite
NPRM	03/11/83	48 FR 10374
NPRM Comment Period End	05/10/83	48 FR 10374
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: EE-133-80.

Drafting attorney: John T. Ricotta (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD68

2500. CERTAIN CASH OR DEFERRED ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 401(k) Internal Revenue Code of 1986; 26 USC 402(a)(8) Internal Revenue Code of 1986; PL 95-600, Sec 135 Revenue Act of 1978

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulation will provide definitions and interpretations governing qualified cash or deferred arrangements described in section 401(k) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	11/10/81	46 FR 55544
NPRM Comment Period End	02/15/82	47 FR 00988
Hearing	04/20/82	
Final Action	09/01/87	

Small Entity: Not Applicable

Additional Information: EE-169-78.

Drafting attorney: William D. Gibbs (202) 566-3430.

Reviewing attorney: Mary E. Oppenheimer (202) 566-3544.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-8278

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD72

2501. INCOME TAX—REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT ACCOUNTS AND PARTIAL ROLLOVERS OF INDIVIDUAL RETIREMENT ACCOUNTS

Legal Authority: 26 USC 408(a)(6) Internal Revenue Code of 1986; 26 USC 401(a)(9) Internal Revenue Code of 1986; 26 USC 408(b)(3) Internal Revenue Code of 1986; 26 USC 408(d)(3)(C) Internal Revenue Code of 1986; 26 USC 219(d)(4) Internal Revenue Code of 1986; 26 USC 403(b)(10) Internal Revenue Code of 1986; 26 USC 4974Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This project will revise the Income Tax Regulations to incorporate the changes made in the law by the Tax Equity and Fiscal Responsibility Act of 1982 and the Tax Reform Act of 1984, and Income Tax Reform Act of 1986 concerning the required distributions from qualified plans, individual retirement accounts and 403(b) annuities and custodial accounts.

Timetable:

Action	Date	FR Cite
NPRM	07/27/87	52 FR 28070
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-113-82.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE95

2502. NOTICE, ELECTION, AND CONSENT RULES UNDER THE RETIREMENT EQUITY ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

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CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None.

Abstract: The regulations would provide rules relating to notices, elections and consents required under the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29436
NPRM Comment Period End	09/17/85	50 FR 29436
Final Action	09/01/87	

Small Entity: Not Applicable

Additional Information: EE-35-85.

Drafting attorney: William D. Gibbs (202) 566-3430

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

This is included in the Regulatory Program of the United States under overall RIN 1545-AH71.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3903

RIN: 1545-AH80

2503. INCOME TAX—TREATMENT OF CERTAIN LUMP SUM DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 402(a)(2) Internal Revenue Code of 1986; 26 USC 402(e) Internal Revenue Code of 1986; 26 USC 403(a)(2)(A)(iii) Internal Revenue Code of 1986; 26 USC 411(d)(1) Internal Revenue Code of 1986; PL 93-406, Sec 2005 Employee Retirement Income Security Act; PL 94-455, Sec 1512 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations will provide definitions and other guidance relating to income tax treatment of certain distributions from qualified employee plans.

Timetable:

Action	Date	FR Cite
NPRM	04/30/75	40 FR 18798
Corrected NPRM	05/23/75	40 FR 22548
NPRM Comment Period End	06/16/75	40 FR 18798
Notice of Hearing	07/03/75	40 FR 28102
Hearing	08/12/75	
NPRM - Additional Comment Period until	05/31/79	44 FR 31228
Final Action	07/30/79	44 FR 31228
	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-14-78.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD73

2504. INCOME TAX—DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 404A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance relating to the limitations on deductions and adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans.

Timetable:

Action	Date	FR Cite
NPRM	04/08/85	50 FR 13821
NPRM Comment Period End	06/07/85	50 FR 13821
Hearing	09/20/85	
Final Action	04/30/88	

Small Entity: Not Applicable

Additional Information: EE-14-81.

Drafting attorney: Nerman D. Hubbard (202) 566-3430.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of International Tax Counsel (Treasury) reviewing attorney: Jane Sarosdy (202) 566-8471.

Agency Contact: Nerman D. Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD81

2505. ANNUAL INFORMATION REPORTS BY TRUSTEES AND ISSUERS OF INDIVIDUAL RETIREMENT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 408 Internal Revenue Code of 1986; PL 98-369, Sec 147

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: On June 28, 1983, the Internal Revenue Service issued news release IR-83-88 requiring new information reporting by trustees of individual retirement accounts and issuers of individual retirement annuities (including accounts and annuities that are simplified employee pensions). Form 5498, Individual Retirement Arrangement Information, was prescribed in the news release as the information return to be used for this purpose. This regulation project will amend the regulations under section 408 to conform them to the reporting requirements announced in the news release. In addition, section 147 of the Tax Reform Act of 1984 amended section 408 (i) of the Code to require that contributions be identified as to the taxable year to which they apply. This amendment will be included in this regulation period.

Timetable:

Action	Date	FR Cite
NPRM	11/16/84	49 FR 45450
NPRM Comment Period End	01/15/85	49 FR 45450
Final Action	06/30/88	

Small Entity: Not Applicable

Additional Information: EE-65-83.

Drafting attorney: Mary D. Brennan (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-4902.

Agency Contact: Mary D. Brennan, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AF83

2506. ● INCOME TAX - TEMPORARY REGULATIONS ON MINIMUM VESTING STANDARDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 410 Internal Revenue Code of 1986; 26 USC 411 Internal Revenue Code of 1986; PL 99-514, Sec 1113 Tax Reform Act of 1986; PL 99-514, Sec 1141 Tax Reform Act of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Statutory, February 1, 1988. Deadline set by section 1141 of PL 99-514 "Tax Reform Act of 1986"

Abstract: These temporary regulations will amend existing rules to reflect changes made by section 1113 of the Tax Reform Act of 1986, relating to minimum vesting standards and participation standards for qualified employee plans.

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/01/87	

Small Entity: Not Applicable

Additional Information: EE-73-87

Drafting Attorney: V.A. Moore (202) 566-3422.

Reviewing Attorney: James Brokaw (202) 566-4173.

Treasury Attorney: Susan Scherbel (202) 566-4902.

Agency Contact: V.A. Moore, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AK43

2507. INCOME TAX--COORDINATION OF VESTING AND NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 411(d)(1) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This project was developed to prescribe rules for determining if the vesting schedule of a qualified plan discriminates in favor of employees who are officers, shareholders, or highly compensated.

Timetable:

Action	Date	FR Cite
NPRM	04/09/80	45 FR 24201
Partial Revised Notice	06/12/80	45 FR 39869
Hearing	07/10/80	45 FR 29308
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-164-78.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD83

2508. SURVIVOR BENEFITS, DISTRIBUTION RESTRICTIONS AND VARIOUS OTHER ISSUES UNDER THE RETIREMENT EQUITY ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the effective dates, transitional rules, restrictions on distributions from employee plans and other issues arising under the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29436
NPRM Comment Period End	09/17/85	50 FR 29436
Final Action	09/01/87	

Small Entity: Not Applicable

Additional Information: EE-3-85

Drafting attorney: William D. Gibbs (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel reviewing attorney: Harry J. Conaway.

This is included in the Regulatory Program of the United States under overall RIN 1545-AH71.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3903

RIN: 1545-AH01

2509. INCOME TAX-PART 1 - REDUCTION OF ACCRUED BENEFITS TO QUALIFY FOR A STANDARD TERMINATION OF A SINGLE EMPLOYER DEFINED BENEFIT PENSION PLAN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide temporary guidelines for reducing benefits for certain key employees in order to qualify for a standard termination of a single-employer defined benefit pension plan.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/30/88	

Small Entity: Not Applicable

Additional Information: EE-47-86.

Drafting attorney: Mary E. Brennan (202) 566-3903.

Reviewing attorney: Mary Oppenheimer (202) 566-3544.

Cross-referenced with NPRM EE-48-86.

Agency Contact: Mary E. Brennan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3903

RIN: 1545-AI48

2510. INCOME TAX--EXCISE TAX REGULATIONS--FUNDING FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 412 Internal Revenue Code of 1986; 26 USC 413(b) Internal Revenue Code of 1986; PL 93-406, Sec 1013

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None.

Abstract: The regulations would provide guidance relating to the minimum funding requirements for employee pension benefit plans, and to excise taxes for failure to meet the minimum funding standards.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54093
NPRM Comment Period End	01/31/83	47 FR 54093
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-99-78.

Drafting attorney: Suzanne K. Tank (202) 566-3422.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AD84

2511. INCOME TAX--DEFINITIONS & SPECIAL RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414(b) Internal Revenue Code of 1986; 26 USC 414(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations relate to the definition of controlled groups of corporations and businesses under common control for purposes of certain provisions of the Employee Retirement Income Security Act of 1974 and pension related provisions of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	11/05/75	40 FR 51467
NPRM Comment Period End	01/04/76	40 FR 51467
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-209-74.

Drafting attorney: Michel A. Daze (202) 566-8456.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Conaway.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-8456

RIN: 1545-AB35

2512. INCOME TAX--EMPLOYEES OF AN AFFILIATED SERVICE GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414(m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules with regard to the aggregation of employees of certain organizations for purposes of certain pension requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/26/83	48 FR 8293
NPRM Comment Period End	04/29/83	
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: EE-3-81.

Drafting attorney: Michael Garvey (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-4902.

Agency Contact: Michael Garvey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD90

2513. ● DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE" AND "COMPENSATION"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 414(q) Internal Revenue Code of 1986; 26 USC 414(s) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: Statutory, February 1, 1988.

Abstract: Provisions relating to the scope and meaning of the terms "highly compensated employee" and "compensation".

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/30/87	

Small Entity: Not Applicable

Additional Information: EE-74-87

Drafting Attorney: Nancy J. Marks (202) 566-3903.

Reviewing Attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-4902.

Cross Reference to EE-129-86

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C., 202 566-3903

RIN: 1545-AK40

2514. INCOME TAX--CREATION & TREATMENT OF INCENTIVE STOCK OPTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 422A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance for taxpayers who either grant or receive incentive stock options. The grant of an incentive stock option to an employee by an employer will not be a taxable event. At the time such option is exercised by the employee no amount of the spread between the fair market value of the stock at exercise and the option price will be included in the employee's gross income. When the stock acquired through the exercise of the option is sold, the entire gain will be treated as capital gain and not ordinary income if certain holding period and employment relationship requirements are met.

Timetable:

Action	Date	FR Cite
NPRM	02/07/84	49 FR 4504
NPRM Comment Period End	04/09/84	49 FR 4504
Hearing	06/21/84	49 FR 17040
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-279-81.

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Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Treasury attorney: Susan Scherbel (202) 535-6965.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB36

2515. ● TAXABLE YEARS OF CERTAIN ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 441 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would provide guidance to S corporations, personal service corporations and partnerships that must conform their taxable years, in general, to the taxable year of their owners.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/01/87	

Small Entity: No

Additional Information: LR-44-87

Drafting attorney: Arthur E. Davis III (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Richard Harvey (202) 535-6960.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK61

2516. LIMITATION OF THE USE OF THE CASH METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 448 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance to certain C Corporations, partnerships with a corporate partner and tax shelters prohibited from using the cash method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	06/16/87	52 FR 22796
Interim Final Rule	06/30/88	

Small Entity: Not Applicable

Additional Information: LR-122-86.

Drafting attorney: Ewan D. Purkiss (202) 566-3238.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorney: Tom Evans (202) 566-4902.

Agency Contact: Ewan D. Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3238

RIN: 1545-AJ52

2517. ACCOUNTING FOR LONG-TERM CONTRACTS; CORPORATIONS FILING CONSOLIDATED RETURNS WITH A CONTRACTOR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation provides rules for the manufacturer of components and subassemblies reasonably expected to be incorporated in the subject matter of an extended period long-term contract in the case of members of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	01/06/86	51 FR 3
NPRM Comment Period End	03/07/86	51 FR 3
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-121-85.

Drafting attorney: Paulette C. Galanko (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Evans (202) 566-4902.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AI19

2518. INCOME TAX—GENERAL RULES RELATING TO INSTALLMENT SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Treasury decision will provide general rules and rules for reporting contingent installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	02/04/81	46 FR 10749
NPRM Comment Period End	04/06/81	46 FR 10749
Hearing	10/01/81	46 FR 40774
Final Action	12/31/87	

Small Entity: Yes

Additional Information: LR-173-80.

Drafting attorney: Ewan Purkiss (202) 566-3238.

Reviewing attorney: John Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Blake Rubin (202) 566-2927.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB42

2519. INCOME TAX—INSTALLMENT OBLIGATIONS RECEIVED FROM A LIQUIDATING CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide rules for reporting gain in respect of installment obligations received as liquidating distributions from corporations under a plan of complete liquidation.

Timetable:

Action	Date	FR Cite
NPRM	01/13/84	49 FR 1742
NPRM Comment Period End	03/16/84	49 FR 1742
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-184-80.

Drafting attorney: Paulette C. Galanko (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Blake Rubin (202) 566-2927.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB43

2520. INCOME TAX—INSTALLMENT OBLIGATIONS RECEIVED IN TRANSACTIONS IN WHICH GAIN OR LOSS IS GENERALLY NOT RECOGNIZED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453 Internal Revenue Code of 1956

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide rules for reporting installment obligations that are received as boot in certain exchanges in which gain is not generally recognized.

Timetable:

Action	Date	FR Cite
NPRM	05/03/84	49 FR 18866
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-186-80.

Drafting attorney: Paulette C. Galanko (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Blake Rubin (202) 566-2927.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB44

2521. INCOME TAX—INSTALLMENT METHOD REPORTING BY DEALERS IN PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide rules for installment method reporting by dealers in personal property.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	51 FR 26909
NPRM Comment Period End	09/29/86	
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-148-81.

Drafting attorney: Paulette C. Galanko (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Blake Rubin (202) 566-2927.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB47

2522. INCOME TAX REGULATIONS—PART 1. INSTALLMENT SALE BY DEALERS IN PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This project will provide rules relating to sales by dealers of personal property on the installment plan.

Timetable:

Action	Date	FR Cite
NPRM	07/28/86	
NPRM Comment Period End	09/26/86	
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-141-83.

Drafting attorney: Paulette C. Galanko (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel reviewing attorney: Blake Rubin (202) 566-2927.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF71

2523. INCOME TAX—EXCLUSION FROM GROSS INCOME WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORD RETURNS AFTER CLOSE OF TAXABLE YEAR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 458 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide rules on the exclusion from gross income of income attributable to the sale of magazines, paperbacks, or records that are returned.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34520
Final Action	12/31/88	

Small Entity: Not Applicable

Additional Information: LR-195-78.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB48

2524. ACCOUNTING FOR LONG-TERM CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 460 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

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Legal Deadline: None.

Abstract: The regulations will provide rules relating to accounting for costs incurred in the performance of long-term contracts.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-130-86

Drafting Attorney: Paulette C. Galanko (202) 566-3288.

Reviewing Attorney: John M. Fischer (202) 566-3394.

Treasury Attorney: R. J. Harvey (202) 566-6960.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AJ28

2525. TEMPORARY INCOME TAX REGULATIONS--THE ECONOMIC PERFORMANCE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 461 (h) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide guidance relating to when economic performance occurs with respect to a liability and how the recurring item exception applies.

Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-257-84.

Drafting attorney: Bill Blagg (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AH33

2526. INCOME TAX--LIMITATION ON DEDUCTIONS IN CASE OF FARMING SYNDICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 464 Internal Revenue Code of 1986; 26 USC 278(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide that enterprises which qualify as farming syndicates must deduct expenses for feed, seed fertilizer, etcetera, only when used or consumed and to capitalize certain cost of poultry. Furthermore, farming syndicates are to capitalize certain expenses of groves, orchards and vineyards to the extent such expenses are incurred before the grove, orchard or vineyard becomes productive.

Timetable:

Action	Date	FR Cite
NPRM	11/15/83	48 FR 51936
NPRM Comment Period End	01/16/84	48 FR 51936
Hearing	03/08/84	
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-144-76.

Drafting attorney: Ewan D. Purkiss (202) 566-3238.

Reviewing attorney: Cynthia C. Clark (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Evans.

Agency Contact: Ewan D. Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB51

2527. INCOME TAX--DETERMINATION OF AMOUNTS AT RISK WITH RESPECT TO CERTAIN ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986; PL 94-455, Sec 204 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance to taxpayers for purposes of determining the amount the taxpayer is at risk in certain activities. This guidance is necessary because a taxpayer's deductions are limited to the amount the taxpayer is at risk in the activity. This at risk limit applies to most activities except the holding of real property and certain equipment leasing by closely-held corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/05/79	44 FR 32235
NPRM Comment Period End	08/06/79	44 FR 32235
Hearing	09/27/79	44 FR 49701
Final Action	06/00/88	

Small Entity: Not Applicable

Additional Information: LR-168-76.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Lorry Spitzer (202) 535-6968.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB52

2528. AGGREGATION OF CERTAIN ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 465 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This temporary regulation will provide rules for aggregating certain activities for purposes of applying the at-risk rules under section 465. In general, the at-risk rules limit the amount of loss deductible in a taxable year with respect to an activity to the amount the taxpayer is at risk in the activity.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-155-85.

Drafting attorney: Arthur E. Davis III (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

TREAS—IRS **Final Rule Stage**

Treasury attorney: A. Lorry Spitzer (202) 535-6968.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AI41

2529. TEMPORARY INCOME TAX REGULATIONS-DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 467 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1T

Legal Deadline: None.

Abstract: The regulations will provide rules to the accrual of rents for the use of tangible property (and interest on rent that accrues but is not paid) under a section 467 rental agreement. A section 467 rental agreement will be defined. Certain tax avoidance transactions will be defined. Rules will be provided for the recapture of prior understated inclusions. Comparable rules for services will be provided.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-292-84.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Reed Shuldiner (202) 535-6963.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG81

2530. INCOME TAX REGULATIONS -- SPECIAL RULES RELATING TO NUCLEAR DECOMMISSIONING COSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 468A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the Federal income tax treatment of nuclear power plant decommissioning costs. The regulations will provide guidance with respect to the manner of making the election, the determination of the amount to be deducted, and the qualification requirements for the nuclear decommissioning fund.

Timetable:

Action	Date	FR Cite
NPRM	07/10/86	51 FR 25070
NPRM Comment Period End	09/08/86	51 FR 25070
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-18-85.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AI01

2531. INCOME TAX--THREE-YEAR AVERAGING FOR INCREASES IN INVENTORY VALUE WHEN ELECTING LIFO METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 472(d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide for three-year averaging for increases in inventory value when electing the LIFO method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	02/10/83	48 FR 6134
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-254-81.

Drafting attorney: Arthur E. Davis III (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: J. Richard Harvey (202) 535-6960.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB55

2532. ● SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0474 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance to certain small businesses that are eligible to elect a simplified dollar- value LIFO method of inventory valuation. This method requires the use of published government indexes.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/01/87	

Small Entity: No

Additional Information: LR-30-87

Drafting attorney: Arthur E. Davis III(202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Treasury attorney: Tom Evans (202) 566-2784.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK65

2533. INCOME TAX--RULES CLARIFYING THE REGULATIONS WITH RESPECT TO THE COMPUTATION OF "GROSS INCOME" OF AN ELECTRIC COOPERATIVE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 501(c)(12) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide that electric cooperatives would take into account costs of goods sold when determining income under the 85 percent member-income test.

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Timetable:

Action	Date	FR Cite
NPRM	01/10/84	49 FR 1244
NPRM Comment Period End	03/12/84	49 FR 1244
Hearingheld 5/31/84	03/26/84	49 FR 1186
Final Action	12/01/87	

Small Entity: Not Applicable

Additional Information: EE-17-81.

Drafting attorney: William D. Gibbs (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Jewett, McCarty.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD99

2534. INCOME TAX--LIMITATION ON ADDITIONS TO BANK LOSS RESERVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 585 Internal Revenue Code of 1986; PL 97-34, Sec 273

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would impose a requirement of a minimum addition to bad debt reserves of mutual savings banks in order to conform the treatment of these institutions to financial institutions described in section 585.

Timetable:

Action	Date	FR Cite
NPRM	12/19/83	48 FR 56083
NPRM Comment Period End	02/17/84	48 FR 56083
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-152-79.

Drafting attorney: Ada S. Rousso (202) 566-3287.

Reviewing attorney: Susan Thompson Baker (202) 566-3294.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AB66

2535. INCOME TAX--SUPPLEMENTARY RULES ON LIMITATIONS ON PERCENTAGE DEPLETION FOR OIL & GAS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 613(a) Internal Revenue Code of 1986; 26 USC 703(a) Internal Revenue Code of 1986; 26 USC 705(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would clarify the circumstances under which percentage depletion will be available in the case of oil and gas wells.

Timetable:

Action	Date	FR Cite
NPRM	05/13/77	42 FR 24279
Hearing	08/31/78	
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-105-75.

Drafting attorney: Walter H. Woo (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: Walter H. Woo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB73

2536. INCOME TAX--TO CONFORM TO SEC 3 OF THE ACT OF 12/28/80

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 613A(c)(10) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would provide guidance to taxpayers using the section 613A(c)(10) exception to the transfer rules under section 613A(c)(9). In general section 613A(c)(9) disallows percentage depletion to the transferee of proven oil or gas property. Section 613A(c)(10) relates to the transfer of qualified property by an individual to a qualified transferee corporation solely in exchange for stock.

Timetable:

Action	Date	FR Cite
NPRM	10/03/84	49 FR 39076
NPRM Comment Period End	12/03/84	49 FR 39076
Hearing	03/15/85	
Final Action	07/31/89	

Small Entity: Not Applicable

Additional Information: LR-35-81.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB74

2537. ● INCOME TAX - APPLICATION OF EFFECTIVE DATE FOR NEW RULES REGARDING DEDUCTIONS FOR MEAL, TRAVEL, AND ENTERTAINMENT TO PARTNERSHIPS AND S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 702 Internal Revenue Code of 1986; 26 USC 1366 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide guidance to taxpayers relating to the effective date for new rules regarding deductions for meal, travel and entertainment to partnerships and S corporations.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-28-87

Drafting Attorney: David R. Haglund (202) 566-3297.

Reviewing Attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Roberts.

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Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AK85

2538. TAXABLE YEARS OF CERTAIN PARTNERSHIPS (TEMPORARY)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 706 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The project provides temporary regulations with respect to the taxable year of certain partnerships.

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/01/87	

Small Entity: Not Applicable

Additional Information: LR-100-86.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Treasury reviewer: J. Richard Harvey (202) 566-4902.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AJ46

2539. MORTALITY AND MORBIDITY TABLES TO BE USED FOR INSURANCE PRODUCTS FOR WHICH THERE ARE NOT APPLICABLE COMMISSIONER'S TABLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 807 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This project will provide rules relating to the mortality and morbidity tables to be used in computing reserves for life insurance contracts for which there are no applicable Commissioner's standard tables.

Timetable:

Action	Date	FR Cite
NPRM	01/02/87	52 FR 0063
NPRM Comment Period End	03/03/87	
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-71-86.

Drafting attorney: Sharon Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK04

2540. INCOME TAX REGULATIONS-DIVERSIFICATION REQUIREMENTS FOR VARIABLE ANNUITY, ENDOWMENT, AND LIFE INSURANCE CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 817 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide diversification requirements for variable annuity, endowment, and life insurance contracts. The testing of diversification for various periods and applicable effective dates.

Timetable:

Action	Date	FR Cite
NPRM	09/15/86	51 FR 32664
NPRM Comment Period End	11/14/86	51 FR 32664
Hearing	07/01/87	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-295-84.

Drafting attorney: Ewan D. Purkiss (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Donald Rocap (202) 566-8278.

Agency Contact: Ewan D. Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG79

2541. ● TREATMENT OF SALVAGE AND REINSURANCE IN DETERMINING LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 832 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the treatment of salvage and reinsurance recoverable in determining the paid and unpaid losses of property and casualty insurance companies.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Not Applicable

Additional Information: LR-64-87

Drafting attorney: Bill Blagg (202) 566-3238.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Treasury attorney: Don Rocap (202) 566-8278.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK48

2542. TEMPORARY INCOME TAX REGULATIONS--DISCOUNTING OF UNPAID LOSSES OF PROPERTY AND CASUALTY INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 846 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the discounting of unpaid losses by property and casualty insurance companies. It is anticipated that the regulations will provide guidance with respect to the treatment of salvage and subrogation and the use of company's loss payment pattern.

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Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-138-86.

Drafting attorney: Bill Blagg (202) 566-3238.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Agency Contact: Bill Blagg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, **202 566-3238**

RIN: 1545-AI96

2543. INCOME TAX--ORIGINAL ISSUE DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 871 Internal Revenue Code of 1986; 26 USC 881 Internal Revenue Code of 1986; 26 USC 1441 Internal Revenue Code of 1986; 26 USC 1442 Internal Revenue Code of 1986; 26 USC 3401 Internal Revenue Code of 1956

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None.

Abstract: The regulations would provide rules with respect to the taxation of original issue discount on bonds and obligations held by nonresident alien individuals and foreign corporations. The regulations would also provide guidance to withholding agents for withholding tax on original issue discount on such bonds and obligations.

Timetable:

Action	Date	FR Cite
NPRM	07/12/76	41 FR 28517
NPRM Comment Period End	09/09/76	41 FR 28517
Hearing	11/18/76	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL-237-86

Drafting attorney: Theresa E. Bearman (202) 566-3407.

Reviewing attorney: Robert A. Katcher (202) 566-3407.

Agency Contact: Theresa E. Bearman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, **202 566-3407**

RIN: 1545-AB93

2544. BRANCH PROFITS TAX (GENERAL RULE AND DEFINITIONS) AND SECOND LEVEL WITHHOLDING TAXES (TEMPORARY REGULATIONS)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 884 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance on the calculation of the branch profits tax. The regulations will provide rules for the treatment of interest allocable to effectively connected income.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/87	

Small Entity: Undetermined

Additional Information: INTL-979-86

Drafting Attorney: Richard M. Elliott (202) 566-6457

Reviewing Attorney: Benedetta A. Kissel (202) 566-3179

Treasury Attorney: Peter Daub (202) 566-5791

Agency Contact: Richard M. Elliott, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-6457**

RIN: 1545-AJ77

2545. INCOME TAX--RECAPTURE OF OVERALL FOREIGN LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 904(f) Internal Revenue Code of 1986; PL 97-248, Sec 211

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules for determining the amount of and recapturing overall foreign losses. An overall foreign loss under any one of the separate limitations on the foreign tax credit may offset the taxpayer's United States tax on United States source income in the year of the loss. The recapture rules provide that a portion of the taxpayer's foreign taxable income under the same limitation in subsequent years is to be recharacterized as United States source income, thereby reducing the taxpayer's foreign tax credit and preventing a double tax benefit from the loss.

Timetable:

Action	Date	FR Cite
NPRM	01/24/86	51 FR 3193
Hearing	06/05/86	51 FR 11323
Final Action	10/31/87	

Small Entity: Not Applicable

Additional Information: INTL-47-86

Drafting attorney: Carolyn M. DuPuy (202) 566-3289.

Reviewing attorney: Jacob Feldman (202) 566-3289.

Treasury attorney: Peter Barnes (202) 566-5615.

Agency Contact: Carolyn M. DuPuy, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3289**

RIN: 1545-AC05

2546. INCOME TAX--TEMPORARY REGULATIONS--TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 905(c) Internal Revenue Code of 1954; 26 USC 6689 Internal Revenue Code of 1954

CFR Citation: 26 CFR 4

Legal Deadline: None.

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

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Timetable:

Action	Date	FR Cite
Temporary Regulation	00/00/00	

Small Entity: Not Applicable

Additional Information: INTL - 61-86

Drafting attorney: Gerard Traficanti (202) 566-6384.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

Office of International Tax Counsel (Treasury) reviewing attorney: Shay

Draft of the Treasury decision to International Tax Counsel, on October 19, 1982.

Agency Contact: Gerard Traficanti, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 5531, Washington, D.C. 20224, **202 566-6384**

RIN: 1545-AC09

2547. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION AND OTHER SPECIAL RULES FOR FSC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 925(b)(1) Internal Revenue Code of 1986; 26 USC 925(b)(2) Internal Revenue Code of 1986; 26 USC 927(d)(2)(B) Internal Revenue Code of 1986; 26 USC 927(e)(1) to 927(e)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide rules for Application of the FSC Transfer Pricing Rules, Distributions, Dividends Received Deductions and Other Special FSC provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	52 FR 6467
Final Action	04/01/88	

Small Entity: Not Applicable

Additional Information: INTL - 153-86.

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Carol Doran Klein (202) 566-3289.

Office of International Tax Counsel reviewing attorney: D. Crowe (302) 566-8275.

Agency Contact: Richard Chewning, Attorney - Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, **202 566-3490**

RIN: 1545-AI16

2548. INCOME TAX--TRANSFERS OF SECURITIES UNDER CERTAIN AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1058 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide that so long as the provisions of section 1058 and these regulations are met, the lender will neither recognize gain or loss on the transfer of securities nor upon the return of identical securities.

Timetable:

Action	Date	FR Cite
NPRM	07/26/83	48 FR 33912
NPRM Comment Period End	09/26/83	48 FR 33912
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-182-78.

Drafting attorney: Arthur E. Davis III (202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3238**

RIN: 1545-AC20

2549. INCOME TAX--SPECIAL ALLOCATION RULES FOR CERTAIN ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1060 Internal Revenue Code of 1986; 26 USC 755 Internal Revenue Code of 1986; 26 USC 338 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 167 Internal Revenue Code of 1986; 26 USC 1031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation will explain and illustrate the application of the residual method of allocation to the purchase price in certain asset acquisitions. It will also provide certain information reporting requirements.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/15/87	

Small Entity: Not Applicable

Additional Information: LR-118-86.

Drafting attorney: Judith C. Winkler (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, **202 566-3458**

RIN: 1545-AJ03

2550. INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO MIXED STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092(b)(1) Internal Revenue Code fo 1986; 26 USC 1092(b)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to mixed straddles. The regulations will explain the application of the straddle-by-straddle identification rules of mixed straddles and the establishment of mixed straddle accounts.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3351
NPRM Comment Period End	03/25/85	50 FR 3351
Hearing	05/02/85	
Final Action	07/00/88	

Small Entity: Not Applicable

Additional Information: LR-299-84.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: John M. Fischer (202) 566-3394.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AH59

2551. INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981 AND THE TAX REFORM ACT OF 1984, RELATING TO STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1092 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to tax straddles. The regulations will explain the general loss deferral rule under section 1092, and the application of rules similar to section 1091 and 1233 to straddles.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3352
NPRM Comment Period End	03/25/85	50 FR 3352
Hearing	05/02/85	
Final Action	07/00/88	

Small Entity: Not Applicable

Additional Information: LR-297-84.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: John M. Fischer (202) 566-3294.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AH60

2552. INCOME TAX--GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1254 Internal Revenue Code of 1986; 26 USC 751 Internal Revenue Code of 1986; PL 94-455, Sec 205 Tax Reform Act of 1976; PL 94-455, Sec 1901 Tax Reform Act of 1976; PL 95-618, Sec 402 Energy Tax Act of 1978

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will determine the tax treatment of gain from the disposition of certain oil, gas, or geothermal property to determine how much of the gain from the disposition is subject to recapture under section 1254 and accorded ordinary income treatment. The regulations also will define intangible drilling and development costs, disposition, and oil, gas and geothermal property for purposes of section 1254.

Timetable:

Action	Date	FR Cite
NPRM	06/11/80	45 FR 39512
NPRM Comment Period End	08/11/80	45 FR 39512
Hearing	09/09/80	
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-276-76.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Mo Schuldinger (202) 566-2928.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AC35

2553. HEDGING EXCEPTION TO MARK-TO-MARKET RULES FOR SECTION 1256 CONTRACTS, DEFERRAL OF CERTAIN STRADDLE LOSSES, AND WASH-SALE AND SHORT-SALE PRINCIPLES APPLICABLE TO CERTAIN STRADDLE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1256 (e) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the hedging transaction exception for section 1256 contracts and straddles.

Timetable:

Action	Date	FR Cite
Temporary Regulation	07/00/88	

Small Entity: Not Applicable

Additional Information: LR-10-86.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: John M. Fischer (202) 566-3394.

Treasury attorney: Kathleen Ferrell (202) 566-2175.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3287

RIN: 1545-AI72

2554. REGULATIONS UNDER SECTION 1271 THROUGH 1275 RELATING TO TAX TREATMENT OF DEBT INSTRUMENTS HAVING ORIGINAL ISSUE DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1275 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations would provide guidance as to computation of amount to be included in income by holders and amount to be deducted by issuers of certain bonds issued after July 1, 1982. With respect to these bonds, original issue discount is computer based on constant interest accrual. Guidance is also provided as to the computation of original issue discount in special circumstances where the bond contains a variable interest rate, where put and call options are present, and in other circumstances.

Timetable:

Action	Date	FR Cite
NPRM	05/08/86	51 FR 12022
Hearing	11/17/86	51 FR 24162
Final Action	06/00/88	

Small Entity: Not Applicable

Additional Information: LR-189-84.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing attorney: Susan T. Baker (202) 566-3294.

Treasury attorney: Jeff Quinn (202) 566-2175.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AH46

2555. ● TEMPORARY REGULATION--APPLICATION OF SECTION 1374 BUILT-IN GAIN TAX TO C CORPORATION'S ELECTING S CORPORATION STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1374 Internal Revenue Code of 1986; 26 USC 337 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations will provide ruling relating to the section 1374 built-in gains tax to C corporations electing S corporation status

Timetable:

Action	Date	FR Cite
Temporary Regulation	03/04/88	

Small Entity: Not Applicable

Additional Information:

LR-6-87.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK91

2556. INCOME TAX--CERTAIN ELECTIONS UNDER THE SUBCHAPTER S REVISION ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1361 Internal Revenue Code of 1986; 26 USC 1362 Internal Revenue Code of 1986; 26 USC 1377 Internal Revenue Code of 1986; 26 USC 1378 Internal Revenue Code of 1986; 26 USC 1379 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations relate to the time and manner of making certain elections, consents, and refusals under the Subchapter S Revision Act of 1982 and to the taxable year which a corporation may select in order to make the election to be an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/26/83	48 FR 03637
NPRM Comment Period End	03/28/83	48 FR 03637
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1-83.

Drafting attorney: Walter H. Woo (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Collins.

Agency Contact: Walter H. Woo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF30

2557. APPLICATIONS FOR EXEMPTION FROM SELF-EMPLOYMENT TAXES FOR MINISTERS, ETC

Legal Authority: 26 USC 1402 (e) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation will provide guidance with respect to applications for exemption from self-employment taxes under section 1402 (e) for ministers, members of a religious order and Christian Science practitioners.

Timetable:

Action	Date	FR Cite
NPRM	04/15/87	52 FR 12194
NPRM Comment Period End	06/15/87	52 FR 12194
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-154-86

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John Bromell (202) 566-3297.

Treasury attorney: Susan Scherbel (202) 566-4902.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3297

RIN: 1545-AJ94

2558. WITHHOLDING ON ITEMS OF INCOME COVERED BY AN INCOME TAX CONVENTION

Legal Authority: PL 97-248, Sec 342; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None.

Abstract: These regulations relate to the withholding on certain items of income subject to a reduced rate of, or exemption from, U.S. tax under an income tax convention to which the United States is a party. These regulations would amend the existing regulations to provide a certification requirement for obtaining reduced rates of, or exemption from, U.S. withholding tax on payments of fixed or determinable annual or periodical income and certain other income.

Timetable:

Action	Date	FR Cite
NPRM	09/10/84	49 FR 35511
NPRM Comment Period End	11/09/84	49 FR 35511
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: INTL-41-86

Drafting attorney: Lilo A. Hester (202) 566-5862.

Reviewing attorney: Michael F. Patton (202) 566-5862.

Treasury attorney: Peter Daub (202) 566-5791.

Agency Contact: Lilo Alfreida Hester, Attorney, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South, S.W., Suite 3319, Washington, DC 20024, 202 287-4851

RIN: 1545-AH86

2559. INCOME TAX--CREDIT & DEDUCTIONS ETC., FOR CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

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CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Provision would amend the consolidated returns regulations to clarify, among other things, the rules relating to net operating loss carrybacks of a member of an affiliated group filing consolidated returns to a year in which the member was not in existence, thereby giving the public needed guidance on what the rule is in that situation.

Timetable:

Action	Date	FR Cite
NPRM	07/31/84	49 FR 30528
NPRM Comment Period End	10/01/84	
Hearing	12/10/84	
Final Action	12/31/87	

Small Entity: No

Additional Information: LR-97-79.

Drafting attorney: Judith C. Winkler (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Patricia McClanahan (202) 566-4902.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC48

2560. INVESTMENT ADJUSTMENTS UNDER THE CONSOLIDATED RETURN REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Provision would amend the consolidated return investment adjustment rules by changing the computation of earnings and profits where section 312 (k), (l), (m), or (n) applies.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: LR-15-86.

Drafting attorney: Judith C. Winkler (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Agency Contact: Judith C. Winkler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3458

RIN: 1545-AI58

2561. ● TEMPORARY REGULATIONS-CONSOLIDATED RETURN INVESTMENT ADJUSTMENTS WITH RESPECT TO AN ACQUIRED SUBSIDIARY'S BUILT-IN GAINS OR LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986; 26 USC 337 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations will prevent the consolidated return investment adjustments from reflecting the recognized built-in gains or losses of assets acquired in certain corporate acquisitions.

Timetable:

Action	Date	FR Cite
Temporary Regulation	03/11/88	

Small Entity: Not Applicable

Additional Information:

LR-4-87.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: John Broadbent (202) 566-3458.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK95

2562. ● CROSS-REFERENCE—ALASKA NATIVE CORPORATIONS; REQUIREMENTS FOR AFFILIATION IN ORDER TO FILE A CONSOLIDATED RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal will provide rules relating to the affiliated requirements of Alaska Native Corporations with certain other corporations in order to file a consolidated return.

Timetable:

Action	Date	FR Cite
NPRM	03/18/87	52 FR 8471
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information:

LR-23-87.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: John Broadbent (202) 566-3458.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AK88

2563. INCOME TAX—TO REFLECT THE U.S. SUPREME COURT IN U.S. V. VOGEL FERTILIZER CO., HOLDING THAT EACH MEMBER OF STOCKGROUP MUST OWN STOCK IN EACH BROTHER-SISTER CORP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1563(a)(2) Internal Revenue Code of 1986; 26 USC 52 Internal Revenue Code of 1986; 26 USC 414(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations relating to the definition of a brother-sister controlled group of corporations are to be amended to conform to the Supreme Court decision in U.S. v. Vogel Fertilizer Company, which held that a person's stock ownership is not taken into account for purposes of the 80% ownership test unless that person owns stock in each brother-sister corporation.

Timetable:

Action	Date	FR Cite
NPRM	11/16/83	48 FR 52081
NPRM Comment Period End	01/16/84	48 FR 52081
Final Action	12/31/87	

Small Entity: Not Applicable

TREAS—IRS **Final Rule Stage**

Additional Information: LR-35-82.

Drafting attorney: Michel A. Daze (202) 566-6456.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Rocap.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6456

RIN: 1545-AC59

2564. ESTATE & GIFT TAXES—INCLUSION OF STOCK IN ESTATE WHERE DECEDENT RETAINED VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2036(a) Internal Revenue Code of 1986

CFR Citation: 26 CFR 20

Legal Deadline: None.

Abstract: These regulations will provide the extent to which the retention of voting rights by a transferor of stock will require that the value of that stock be included in the transferor's gross estate.

Timetable:

Action	Date	FR Cite
NPRM	08/03/83	48 FR 35143
NPRM Comment Period End	11/03/83	48 FR 35143
Final Action	12/00/88	

Small Entity: Not Applicable

Additional Information: LR-161-76.

Drafting attorney: Fred E. Grundeman (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Susan Himes (202) 566-8527.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC63

2565. ESTATE AND GIFT TAXES—INCREASE IN LIMITATIONS ON MARITAL DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2012 Internal Revenue Code of 1986; 26 USC 2014 Internal Revenue Code of 1986; 26 USC 2055 Internal Revenue Code of 1986; 26 USC 2056 Internal Revenue Code of 1986; 26 USC 2207A Internal Revenue Code of 1986; 26 USC 2519 Internal Revenue Code of 1986; 26 USC 2523 Internal Revenue Code of 1986; 26 USC 6019 Internal Revenue Code of 1986

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None.

Abstract: These regulations will clarify the estate and gift tax treatment of transfers of property between spouses. They will provide how an executor may elect to treat certain property as qualified terminable interest property, in which case the imposition of transfer taxes will be delayed until the latter of (1) the surviving spouse's disposition of an interest in the property or (2) the surviving spouse's death.

Timetable:

Action	Date	FR Cite
NPRM	05/21/84	49 FR 21350
NPRM Comment Period End	07/20/84	49 FR 21350
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-211-76.

Drafting attorney: Christopher J. Wilson (202) 566-4336.

Reviewing attorney: Fredric E. Grundeman (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Scherbel.

Agency Contact: Christopher J. Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AC67

2566. ESTATE TAX—GENERATION SKIPPING TRANSFER TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 2653 (b) Internal Revenue Code of 1986; 26 USC 2662 Internal Revenue Code of 1986; 26 USC 2663 Internal Revenue Code of 1986

CFR Citation: 26 CFR 26; 26 CFR 26a

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the effective date provisions, return requirements, definitions, and certain special rules for the tax on generation-skipping transfers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/87	
Final Action	01/00/88	

Small Entity: Not Applicable

Additional Information:

LR-127-86.

Drafting attorney: Maurice B. Foley (202) 566-4336.

Reviewing attorney: Fred E. Grundeman (202) 566-3287.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Maurice B. Foley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AJ12

2567. EMPLOYMENT TAX—TO REQUIRE WITHHOLDING OF SOCIAL SECURITY AND RAILROAD RETIREMENT TAX FROM CERTAIN PAYMENTS OF SICK PAY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3121 Internal Revenue Code of 1986; 26 USC 3231 Internal Revenue Code of 1986; PL 97-123, Sec 3

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: The regulations will provide guidance to third parties paying sick pay which is subject to social security or railroad retirement tax, employees receiving the sick pay, and employers of the employees.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/82	
NPRM	07/06/82	47 FR 29266
NPRM Comment Period End	09/06/82	
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-23-82.

Drafting Attorney: Renay France (202) 566-3459.

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Reviewing Attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury Attorney: Susan Scherbel (202) 566-4902.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AC77

2568. SUBMISSION OF CERTAIN WITHHOLDING EXEMPTION CERTIFICATES AND ENTITLEMENTS TO ADDITIONAL WITHHOLDING EXEMPTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3402 (m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: This document provides proposed regulations that relate to the submission of withholding exemption certificates when the total number of withholding exemptions claimed on a certificate exceed 10 and to the requirements that an employee must meet to be entitled to the additional withholding exemption in respect of the standard deduction.

Timetable:

Action	Date	FR Cite
NPRM	12/17/86	51 FR 45132
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information:

LR-144-86.

Drafting Attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing Attorney: John M. Coulter (202) 566-4473.

Treasury Attorney: Pat McClanahan (202) 566-2929.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3459

RIN: 1545-AJ30

2569. TO PROVIDE TEMPORARY REGULATIONS RELATING TO BACKUP WITHHOLDING WHERE THE SERVICE NOTIFIES PAYOR TO WITHHOLD DUE TO AN INCORRECT TAXPAYER IDENTIFICATION NUMBER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 Internal Revenue Code of 1986; 26 USC 6676 Internal Revenue Code of 1986

CFR Citation: 26 CFR 35a

Legal Deadline: None.

Abstract: These regulations will prescribe when withholding is required when the Internal Revenue Service notifies the payor of an incorrect taxpayer identification number. The regulations will also describe that no withholding is required if the payee, within 30 days of the Service's notification, certifies under penalties of perjury that the name and taxpayer identification number are correct. If no certification is received within 30 days, backup withholding applies until such certification is received.

Timetable:

Action	Date	FR Cite
Temporary regulation	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-7-84.

Drafting attorney: Renay France (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Susan Himes (202) 535-6963.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AF90

2570. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES--REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3508 Internal Revenue Code of 1986; 26 USC 3509 Internal Revenue Code of 1986; 26 USC 6041A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None.

Abstract: The proposed regulations would provide rules for the treatment of real estate agents and direct sellers as independent contractors for employment tax purposes. The proposed rules would also provide guidance for the reporting requirements of sales to direct sellers. The proposed rules would also provide guidance for computing certain employer liability for employment taxes.

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 619
NPRM Comment Period End	03/10/86	51 FR 619
Hearing	06/18/86	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-214-82.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John Bromell (202) 566-3297.

Treasury Attorney: Susan Scherbel (202) 566-4902.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE62

2571. ● SALES OF DIESEL AND SPECIAL MOTOR FUEL FROM UNATTENDED LOCATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None.

Abstract: This project will address the requirements for nontaxable sales of diesel or special motor fuel from unattended locations and what recordkeeping requirements must be met for such sales.

Timetable:

Action	Date	FR Cite
Final Action	09/01/87	

Small Entity: Not Applicable

Additional Information: LR-60-87

Drafting Attorney: William A. Jackson (202) 566-4336.

Reviewing Attorney: Ada Rousso (202) 566-3287.

Treasury Attorney: Moshe Schuldinger (202) 566-2926.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AK99

2572. TEMPORARY REGULATION EXCISE TAXES ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS SOLD AT RETAIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4051 Internal Revenue Code of 1986; 26 USC 4052 Internal Revenue Code of 1986; 26 USC 4053 Internal Revenue Code of 1986

CFR Citation: 26 CFR 145

Legal Deadline: None.

Abstract: The regulations will provide guidance to dealers in paying tax on the sale of heavy trucks, trailers, and tractors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/88	

Small Entity: Not Applicable

Additional Information: LR-142-83.

Drafting attorney: Maurice B. Foley (202) 566-3287.

Reviewing attorney: Ada Rousso (202) 566-3287.

Treasury attorney: Mark Perlis (202) 566-8278.

Agency Contact: Maurice B. Foley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AF79

2573. EXCISE TAX - EXCISE TAX ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS

Legal Authority: 26 USC 4052 Internal Revenue Code of 1986

CFR Citation: 26 CFR 145

Legal Deadline: None.

Abstract: These regulations will define the term "first retail sale" and provide rules relating to the determination if the retail sales price where the tax is paid by the manufacturer and where a long-term lease is treated as a taxable sale.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/01/87	
Final Action	03/00/88	

Small Entity: No

Additional Information: LR-1-86.

Drafting attorney: Maurice B. Foley (202) 566-4336.

Reviewing attorney: Ada Rousso (202) 566-3287.

Treasury attorney: Mark Perlis (202) 566-8278.

Agency Contact: Maurice B. Foley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-4336

RIN: 1545-AI62

2574. MANUFACTURERS AND RETAILERS EXCISE TAXES--TAXES ON FUELS, TIRES AND GASOLINE

Legal Authority: 26 USC 4071 Internal Revenue Code of 1986; 26 USC 4041 Internal Revenue Code of 1986; 26 USC 4081 Internal Revenue Code of 1986; 26 USC 6420 Internal Revenue Code of 1986; 26 USC 6427 Internal Revenue Code of 1986

CFR Citation: 26 CFR 48

Legal Deadline: None.

Abstract: The regulations will provide guidance concerning the rates of tax on certain fuels and gasohol. In addition, the regulations will provide guidance concerning the tax on tires.

Timetable:

Action	Date	FR Cite
NPRM	08/22/85	50 FR 33977
NPRM Comment Period End	10/21/85	
Hearing	01/14/86	
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-119-83.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Mo Schuldinger (202) 566-2928.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AF58

2575. ● REDUCTION OF THE HEAVY VEHICLE USE TAX FOR FOREIGN-BASED TRUCKS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4481 Internal Revenue Code of 1986

CFR Citation: 26 CFR 41

Legal Deadline: None.

Abstract: This project will address how the heavy vehicle use tax will be imposed on foreign-based trucks at a reduced rate and what proof of payment of the tax must be presented upon entry into the United States.

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/01/87	

Small Entity: Not Applicable

Additional Information: LR-32-87

Drafting Attorney: William A. Jackson (202) 566-4336.

Reviewing Attorney: Ada Rousso (202) 566-3287.

Treasury Attorney: Mark Perlis (202) 566-8278.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AK97

2576. ● TRANSITIONAL RULES RELATING TO INDEBTEDNESS TREATED AS PAYMENT ON INSTALLMENT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 453C Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide guidance to taxpayers in applying a 3-year phase-in transitional rule on the application of section 453C,

which treats indebtedness as the receipt of payments on installment obligations.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-20-87

Drafting attorney: Ewan D. Purkiss (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Lorry Spitzer (202) 535-6968.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK54

2577. INCOME TAX—LOBBYING BY PUBLIC CHARITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 501(h) Internal Revenue Code of 1986; 26 USC 504 Internal Revenue Code of 1986; 26 USC 4911 Internal Revenue Code of 1986; 26 USC 170(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 53; 26 CFR 56

Legal Deadline: None.

Abstract: The regulations will provide rules primarily applicable to tax exempt organizations described in section 501(c)(3) that elect to have the provisions of section 501(h) and 4911 apply to their lobbying expenditures.

Timetable:

Action	Date	FR Cite
NPRM	11/05/86	51 FR 40211
NPRM Comment Period End	04/03/87	52 FR 802
Hearing	05/11/87	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-154-78.

Drafting attorney: Paul G. Accettura (202) 566-3544.

Reviewing attorney: Paul G. Accettura (202) 566-3544.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McDowell, Spitzer.

Agency Contact: Paul G. Accettura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AE02

2578. EXCISE TAX—ELECTION TO AGGREGATE LINES OF BUSINESS FOR PURPOSES OF CERTAIN FRINGE BENEFIT EXCLUSIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4977 Internal Revenue Code of 1986

CFR Citation: 26 CFR 54

Legal Deadline: None.

Abstract: Regulations will provide guidance in the manner of making an election under section 4977. The regulations will also provide rules concerning the requirements for making a section 4977 election.

Timetable:

Action	Date	FR Cite
NPRM	01/07/85	50 FR 836
NPRM Comment Period End	03/08/85	
Hearing See additional information	04/16/85	50 FR 7072
Final Action	06/30/88	

Small Entity: No

Additional Information: LR-16-86.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Paul A. Francis (202) 566-3218.

Treasury attorney: Susan Scherbel (202) 535-6965.

Proposed and temporary regulations under section 4977 were published together with other fringe benefits regulations (LR-216-84) and the subject of public hearings. Additional section 4977 regulations will be provided exclusively in this project.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3238

RIN: 1545-AI63

2579. EXCISE TAX—DEFINITION OF NEWLY DISCOVERED OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4997 Internal Revenue Code of 1986; 26 USC 4991 Internal Revenue Code of 1986; 26 USC 4996 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None.

Abstract: The regulations would provide guidance on the requirements for the qualification of crude oil as newly discovered oil, as well as a definition of production in "commercial quantities" that affects the net income limitation on windfall profit and the exemption for Alaskan oil.

Timetable:

Action	Date	FR Cite
NPRM	11/05/82	47 FR 50306
NPRM Comment Period End	01/04/83	47 FR 50306
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-224-81.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC96

2580. EXCISE TAX—ISSUES ARISING WHERE MULTIPLE PARTIES SHARE IN PRODUCTION, INCLUDING UNITIZATIONS, PARTNERSHIPS, TRUSTS AND ESTATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4986 to 4998 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None.

Abstract: These regulations would provide rules relating to production from a unitized property of imputed stripper well crude oil, imputed heavy crude oil, and imputed newly discovered crude oil for purposes of the windfall profit tax. The regulations would provide rules for determining the amount of imputed oil and rules for allocating the imputed oil among the producers of the unitized property.

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	51 FR 34653
NPRM Comment Period End	12/01/86	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-225-81.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Moshe Schuldinger (202) 566-2928.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC94

2581. EXCISE TAX—INCREMENTAL TERTIARY OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4993 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None.

Abstract: The regulations would clarify the rules relating to incremental tertiary oil. The regulations provide procedural rules for requesting approval from the Service of tertiary recovery methods which are not already approved under Department of Energy regulations. The regulations also define "project beginning date" and "tertiary injectant".

Timetable:

Action	Date	FR Cite
NPRM	09/10/84	49 FR 35517
NPRM Comment Period End	11/09/84	49 FR 35517
Hearing	07/26/85	
Final Action	12/01/87	

Small Entity: Not Applicable

Additional Information: LR-67-80.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD04

2582. EXCISE TAX—OIL FROM A STRIPPER WELL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4991 Internal Revenue Code of 1986; 26 USC 4992 Internal Revenue Code of 1986; 26 USC 4994 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None.

Abstract: The proposed regulations provide rules and definitions relating to oil from a stripper well property for purposes of tier 2 oil and exempt stripper well oil.

Timetable:

Action	Date	FR Cite
NPRM	01/20/83	48 FR 2552
NPRM Comment Period End	03/20/83	48 FR 2552
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-217-81.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD01

2583. EXCISE TAX—DEFINITION OF PROPERTY UNDER THE CRUDE OIL WINDFALL PROFIT TAX ACT 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4996 Internal Revenue Code of 1986

CFR Citation: 26 CFR 51

Legal Deadline: None.

Abstract: These proposed regulations would provide rules relating to the definition of "property" for purposes of the crude oil windfall profit tax. These regulations are important because the rate of tax depends, in part, on the characteristics of the property from which the crude oil is produced.

Timetable:

Action	Date	FR Cite
NPRM	09/25/86	51 FR 34095
NPRM Comment Period End	11/24/86	51 FR 34095
Hearing	02/25/87	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-34-82.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: David A. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD08

2584. ELIMINATION OF FORM 941 FILING REQUIREMENT FOR QUARTERS IN WHICH SEASONAL EMPLOYERS PAY NO WAGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: Regulations would direct the public to the instructions to Form 941 to find exceptions to the filing requirements of the form for seasonal and intermittent employers with respect to quarters in which no wages were paid.

Timetable:

Action	Date	FR Cite
Final Action	11/01/87	

Small Entity: Not Applicable

Additional Information: LR-57-86.

Drafting attorney: Joel S. Rutstein (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury,

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Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3297

RIN: 1545-AI56

2585. EXCISE TAX -- PART 54 -- PROCEDURE AND ADMINISTRATION--PART 301 -- FILING OF RETURNS FOR PAYMENT OF PENSION EXCISE TAX ON REVERSIONS OF QUALIFIED PLAN ASSETS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4980 Internal Revenue Code of 1986

CFR Citation: 26 CFR 54; 26 CFR 602

Legal Deadline: None.

Abstract: The regulations would provide guidance regarding the payment of the excise tax by employers receiving reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/02/87	52 FR 10583
NPRM Comment Period End	06/01/87	52 FR 10583
Final Action	12/31/87	

Small Entity: No

Additional Information: EE-151-86

Drafting Attorney: Suzanne K. Tank (202) 566-3422.

Reviewing Attorney: James L. Brokaw (202) 566-4173.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-8277.

Cross Reference to EE-150-86.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4322

RIN: 1545-AI83

2586. INCOME TAX-AMENDMENTS TO REQUIREMENTS FOR RETURN OF PARTNERSHIP INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidelines for determining when and what information a partnership must provide to its partners. The regulations also provide guidelines for determining what foreign partnerships must file information returns.

Timetable:

Action	Date	FR Cite
NPRM	01/23/86	51 FR 3075
Final Action	12/01/87	

Small Entity: Not Applicable

Additional Information: LR-198-82.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Treasury attorney: Mary Bennett (202) 566-5815.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE40

2587. NOMINEE REPORTING OF PARTNERSHIP INFORMATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6031 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These temporary regulations will provide rules relating to nominee reporting of partnership interest which such nominee hold s for another person. The regulations will provide the information that the nominee is required to provide and will also provide the manner in which this information is to be reported to the partnership.

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/30/87	

Small Entity: Not Applicable

Additional Information: LR-155-86.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel Reviewing attorney: A. L. Spitzer (202) 535-6968.

Agency Contact: Walter H. Woo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AJ97

2588. INFORMATION REPORTING OF ALLOWANCES, OR REIMBURSEMENTS, OR CHARGES FOR TRAVEL AND OTHER EXPENSES OF PUBLIC SECTOR EMPLOYEES AND CERTAIN OTHER PERSONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6041 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations would make clear that all employers, including the United States, a State, Territory or a political subdivision thereof, and the District of Columbia, are required to report amounts provided to persons in the military or civil service as allowances reimbursements, or charges for traveling and other business expenses, including an allowance for meals and lodging or a per diem allowance in lieu of subsistence, except to the extent that such persons are required to and do account to the employer for such expenses within the meaning of Sec. 1.162-17(b)(4).

Timetable:

Action	Date	FR Cite
NPRM	01/09/86	51 FR 985
NPRM Comment Period End	03/10/86	51 FR 985
Final Action	10/01/87	

Small Entity: Not Applicable

Additional Information: LR-59-85.

Drafting attorney: Renay France (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

TLC attorney: Marjorie Roberts (202) 566-2561.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AI42

2589. INFORMATION RETURNS OF BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations in this project clarify the definition of the term "commodity" for purposes of broker reporting. Rules are provided for determining whether personal property (including gold and silver) is a commodity. Generally, the term "commodity" is defined as personal property that is deliverable in satisfaction of a regulated futures contract, certain specified personal property that the secretary determines is to be treated as a commodity or any form or quality of or any interest in such personal property. The term "commodity" does not include a security, regulated futures contract, forward contract, or a form of tangible personal property if the gross proceeds from its sale exceed by more than 15 percent its value as a commodity. The rules proposed include alternative methods (the "exact" and "approximate" methods) of tangible personal property valuation.

Timetable:

Action	Date	FR Cite
NPRM	01/05/84	49 FR 646
NPRM Comment Period End	03/05/84	49 FR 646
Hearing	03/28/84	49 FR 645
Final Action	00/00/00	

Small Entity: No

Additional Information: LR-201-83.

Drafting attorney: Arthur E. Davis III (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Susan Himes (202) 566-8527.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG02

2590. INFORMATION RETURNS OF BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations provide a special rule for broker reporting with respect to transactions made through a cash on delivery account (COD). In addition, these regulations make technical corrections to the list of recipients exempted from coverage under the reporting requirement, and expand the class of brokers which qualify for the multiple broker rule.

Timetable:

Action	Date	FR Cite
NPRM	05/29/84	49 FR 22343
NPRM Comment Period End	07/30/84	49 FR 22343
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-62-84.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG52

2591. INFORMATION REPORTING ON REAL ESTATE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation would propose rules relating to the reporting of real estate transactions

Timetable:

Action	Date	FR Cite
NPRM	04/03/87	52 FR 10774
Hearing	07/22/87	52 FR 23308
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-95-86.

Drafting attorney: Arthur E. Davis III (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3238

RIN: 1545-AJ25

2592. INCOME TAX--MORTGAGE INTEREST REPORTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6050H Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations propose rules relating to information reporting of mortgage interest received in a trade or business from individuals, including the persons and interest subject to the reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33551
NPRM Comment Period End	10/21/85	50 FR 33551
Hearing	01/07/86	50 FR 46674
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-214-84.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Ewan D. Purkiss (202) 566-3238.

Treasury attorney: Reed Shuldiner (202) 535-6963.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG93

2593. FINAL REGULATIONS RELATING TO REPORTS OF FORECLOSURES AND ABANDONMENTS OF SECURITY UNDER THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6050J Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

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Abstract: The regulations proposed rules relating to information reporting of foreclosures, abandonments, and other acquisitions of property securing indebtedness, including the persons and property subject to the reporting requirement and the information required to be reported, and when a person has reason to know that property has been abandoned.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34518
NPRM Comment Period End	10/31/84	49 FR 34518
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-181-84.

Drafting attorney: Arthur E. Davis III (202) 566-3238.

Reviewing attorney: Annette J. Guarisco (202) 566-3238.

Agency Contact: Arthur E. Davis III, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG48

2594. PROPOSED REGULATIONS UNDER SECTIONS 6111 AND 6709, RELATING TO TAX SHELTER REGISTRATION

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6111 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: This project will provide rules explaining what investments are tax shelters that must be registered with the Internal Revenue Service. The project will also provide rules relating to the persons required to register tax shelters and to the furnishing of tax shelter registration numbers to investors in tax shelters.

Timetable:

Action	Date	FR Cite
NPRM	08/15/84	49 FR 32726
NPRM Comment Period End	10/15/84	49 FR 32726
Hearing held	01/17/85	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-142-84.

Drafting attorney: Paulette Galanko (202) 566-3288.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG45

2595. TIME AND MANNER OF MAKING QUARTERLY PAYMENTS OF THE RAILROAD UNEMPLOYMENT REPAYMENT TAX (NPRM)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6157 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986; 26 USC 6071 Internal Revenue Code of 1986; 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: The regulations will provide rules with respect to the time and manner of making quarterly payments of the railroad repayment tax.

Timetable:

Action	Date	FR Cite
NPRM	11/05/86	
NPRM Comment Period End	01/05/87	
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-13-86.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Susan Scherbel (202) 535-6963.

Duplicate of RIN 1545-AI73

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AI60

2596. INTEREST ON HOSPITAL INSURANCE TAXES ON WAGES OF STATE AND LOCAL GOVERNMENT EMPLOYEES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6205 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: This temporary regulation will permit interest-free adjustments for underpayments of hospital insurance taxes with respect to wages of state and local government employees hired after March 31, 1986.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/00/87	

Small Entity: No

Additional Information: LR-47-86.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing attorney: John M. Coulter Jr., (202) 566-4473.

Treasury attorney: Susan Scherbel (202) 535-6965.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3459

RIN: 1545-AI45

2597. MISCELLANEOUS RULES RELATING TO CONSOLIDATED ADMINISTRATIVE AND JUDICIAL PROCEEDINGS TO DETERMINE THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6222 Internal Revenue Code of 1986; 26 USC 6223 Internal Revenue Code of 1986; 26 USC 6224 Internal Revenue Code of 1986; 26 USC 6227 Internal Revenue Code of 1986; 26 USC 6230 Internal Revenue Code of 1986; 26 USC 6231 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The proposed regulations would set forth miscellaneous procedural rules for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items. The regulations would provide guidance for various elections under these new procedures and for filing requests for an administrative adjustment.

Timetable:

Action	Date	FR Cite
NPRM	04/16/86	51 FR 13231
NPRM Comment Period End	06/17/86	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-205-82.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: Gerald W. Rock (202) 566-3930.

Treasury Attorney: Blake Rubin (202) 566-2927.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE51

2598. SMALL S CORPORATION EXCEPTION AND DEFINITION OF SUBCHAPTER S ITEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6241 Internal Revenue Code of 1986; 26 USC 6245 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301; 26 CFR 602; 26 CFR 51

Legal Deadline: None.

Abstract: These regulations will provide a small S corporation exception to the unified corporate audit procedures of subchapter D of chapter 63 of the Internal Revenue Code. These regulations also will define subchapter S items for purposes of the income tax and windfall profit tax.

Timetable:

Action	Date	FR Cite
NPRM	01/30/87	52 FR 3027
NPRM Comment Period End	03/31/87	
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-74-86.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel Reviewing attorney: Bryan P. Collins (202) 566-4979.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AJ99

2599. INCOME TAX—DEPOSIT OF ESTIMATED INCOME TAX BY CERTAIN PRIVATE FOUNDATIONS AND TAX-EXEMPT ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6302 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation would provide guidance regarding deposits by certain private foundations and tax-exempt organizations of estimated income taxes. The Tax Reform Act of 1986 requires these organizations to make quarterly estimated tax payments.

Timetable:

Action	Date	FR Cite
NPRM	12/24/86	51 FR 46680
NPRM Comment Period End	01/23/87	51 FR 46689
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-132-86.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel reviewing attorney: Spitzer.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3590

RIN: 1545-AJ43

2600. ● ELECTRONIC FILING OF NOTICE OF FEDERAL TAX LIEN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6323 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulation clarifies that the term "Form 668" as used in section 6323 (f) (3) of the Code includes a notice of magnetic medium where the law of the state in which a notice of Federal tax lien is filed permits such method of filing.

Timetable:

Action	Date	FR Cite
Temporary Regulation	09/15/87	

Small Entity: Not Applicable

Additional Information: LR-18-87

Drafting Attorney: Lauren G. Shaw (202) 566-3287.

Reviewing Attorney: Ada S. Rousso (202) 566-3287.

Treasury Attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Lauren G. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AL00

2601. PROPOSED REGULATIONS UNDER THE SPENDING REDUCTION ACT OF 1984, RELATING TO REDUCTION OF TAX OVERPAYMENTS BY THE AMOUNT OF PAST-DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: These proposed regulations will provide rules relating to the reduction of a taxpayer's overpayment of tax (i.e., tax refund) by the amount of any past-due legally enforceable debt owed to a federal agency by the taxpayer. The regulations explain which debts qualify for offset, and the steps a federal agency must make to refer a debt to the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	50 FR 39713
NPRM Comment Period End	11/30/85	50 FR 39713
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-291-84.

Drafting attorney: Sharon L. Hall (202) 566-3288.

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Reviewing attorney: David Dickinson (202) 566-6655.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG95

2602. PROCEDURE AND ADMINISTRATIVE--REDUCTION OF TAX OVERPAYMENTS BY AMOUNT OF PAST DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: These regulations will amend proposed regulations published September 30, 1985 relating to the reduction of a taxpayer's overpayment of tax by the amount of past-due legally enforceable debt owed to a federal agency by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	05/13/87	52 FR 17949
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-72-86

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: David Dickinson (202) 566-6655.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK12

2603. ● PROCEDURE AND ADMINISTRATION - ABATEMENT OF INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations will provide guidance on the definition of ministerial act.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/87	

Small Entity: Not Applicable

Additional Information: LR-35-87

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK70

2604. PROCEDURE AND ADMINISTRATION REGULATIONS--MODIFICATIONS OF INTEREST PAYMENTS FOR CERTAIN PERIODS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6611 Internal Revenue Code of 1986; 26 USC 6601 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulation would provide rules for determining the period during which interest accrues on an underpayment or an overpayment of tax as provided in sections 6601 and 6611 of the Internal Revenue Code of 1954. The period would be determined, in part, by the dates the return and the claim for refund are filed and by whether they were filed in a way that they can be processed.

Timetable:

Action	Date	FR Cite
NPRM	10/09/84	49 FR 39566
NPRM Comment Period End	12/10/84	
Final Action	06/00/88	

Small Entity: Not Applicable

Additional Information: LR-280-82.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF10

2605. PROCEDURE AND ADMINISTRATION REGULATIONS - INCREASED RATE OF INTEREST ON SUBSTANTIAL UNDERPAYMENTS ATTRIBUTABLE TO CERTAIN TAX MOTIVATED TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6621 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations provide guidance to taxpayers subject to the increased rate of interest on substantial underpayments attributable to certain tax motivated transactions. The regulations define tax motivated transaction and accounting methods that may result in a substantial distortion of income. The regulations also provide rules for determining the amount of a tax motivated underpayment and the accrual of interest at the increased rate.

Timetable:

Action	Date	FR Cite
NPRM	12/28/84	49 FR 50406
NPRM Comment Period End	02/26/85	49 FR 50406
Final Action	06/00/88	

Small Entity: Not Applicable

Additional Information: LR-180-84.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Patricia A. McClanahan (202) 566-2927.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG75

2606. TO PROVIDE REGULATIONS RELATING TO ACCELERATED PAYMENT OF ESTIMATED TAXES BY CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6655 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

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Legal Deadline: None.

Abstract: Rules will provide for acceleration of estimated payments by corporations, new seasonal income exception, and clarify the annualization rules. The amount of estimated tax payments required for all corporations is increased from 80 to 90 percent of current year's tax liability.

Timetable:

Action	Date	FR Cite
NPRM	02/26/84	49 FR 11186
Hearing	06/26/84	
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-228-82.

Drafting attorney: Renay France (202) 566-3829.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Marjorie Roberts (202) 566-2567.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3829

RIN: 1545-AE37

2607. PENALTY FOR FAILURE TO INCLUDE CORRECT INFORMATION ON INFORMATION RETURNS AND PAYEE STATEMENTS

Legal Authority: 26 USC 6723 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations provide guidance on the penalty for failing to provide correct information on information returns and payee statements.

Timetable:

Action	Date	FR Cite
Temporary Regulation	10/01/87	

Small Entity: No

Additional Information: LR-141-86

Drafting Attorney: Renay France (202) 566-3459.

Reviewing Attorney: Sharon Galm (202) 566-3930.

Treasury Attorney: Patricia McClanahan (202) 566-2926.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, IIII Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AJ26

2608. ● PROCEDURE AND ADMINISTRATION--PROPERTY SEIZED BY THE INTERNAL REVENUE SERVICE UNDER THE MONEY LAUNDERING CONTROL ACT OF 1986

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7103 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 405

Legal Deadline: None.

Abstract: This regulation provides guidance with respect to property seized by the Internal Revenue Service under the Money Laundering Control Act of 1986.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-24-87

Drafting Attorney: David Haglund (202) 566-3297.

Agency Contact: David Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, 202 566-3297

RIN: 1545-AL04

2609. AMENDMENT OF REGULATIONS TO PERMIT DISCLOSURE OF TAX RETURN INFORMATION BETWEEN FRANCHISEES WHO JOINTLY OPERATE A TAX SERVICE

Legal Authority: 26 USC 7216 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would allow disclosure of tax return information by tax return preparers for the purpose of monitoring quality of return preparation.

Timetable:

Action	Date	FR Cite
NPRM	11/19/85	50 FR 47563
NPRM Comment Period End	12/19/85	
Final Action	12/31/87	

Small Entity: Not Applicable

Additional Information: LR-3-85.

Drafting attorney: Patricia W. Pellervo (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3463.

Office of International Tax Counsel reviewing attorney: Mark Perlis.

Agency Contact: Patricia W. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH91

2610. PROCEDURE AND ADMINISTRATION--AMENDMENT OF REGULATIONS RELATING TO THE TIMELY MAILING OF RETURNS, TAXES AND DEPOSITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations would amend existing regulations, relating to the timely mailing of documents, to provide for the timely mailing of returns, taxes and deposits.

Timetable:

Action	Date	FR Cite
NPRM	12/11/79	44 FR 71430
NPRM Comment Period End	02/11/80	44 FR 71430
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1406.

Drafting attorney: Ewan Purkiss (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: unassigned.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111

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Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AD42

2611. EFFECTIVE DATES AND OTHER QUESTIONS ARISING UNDER EMPLOYEE BENEFIT PROVISIONS OF THE TAX REFORM ACT OF 1984

Legal Authority: PL 98-369, Sec 511 to 561

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation will provide proposed rules relating to effective dates and other questions arising under the employee benefit provisions of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4391
Hearing	06/26/86	51 FR 15916

Next Action Undetermined

Small Entity: Not Applicable

Additional Information: EE-96-85.

Drafting attorney: John T. Ricotta (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Treasury attorney: Harry Conaway (202) 566-4902.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AI21

2612. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7701 Internal Revenue Code of 1986; 26 USC 7871 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations would provide guidance to certain Indian tribal governments as to their treatment as States under designated sections of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	05/07/84	49 FR 19329
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-221-83.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Office of Tax Legislative Counsel: Mark Perlis.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF77

2613. REGULATIONS ON INCOME TAX UNDER THE TAX REFORM ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7872 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations provide guidance to taxpayers who enter into certain below-market interest rate loan transactions. The regulations explain what type of transactions are treated as loans and what type of loans are subject to the provisions of section 7872. If the loan is subject to section 7872, the below-market loan will be recharacterized as an arm's length market-interest rate loan coupled with a payment by the lender to the borrower in an amount generally equal to the amount of imputed interest. The regulations provide rules for determining the amount and the character of the imputed transfers.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33553
NPRM Comment Period End	10/20/85	50 FR 33553
Hearing	01/09/86	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-165-84.

Drafting attorney: Sharon L. Hall (202) 566-3828.

Reviewing attorney: John Fischer (202) 566-3394.

Treasury attorney: Marjorie Roberts

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3828

RIN: 1545-AH72

2614. INCOME TAX—MARITIME CAPITAL CONSTRUCTION FUND

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 46 USC 1177 Merchant Marine Act of 1936

CFR Citation: 26 CFR 3

Legal Deadline: None.

Abstract: The proposal would provide rules for the income tax treatment with respect to capital construction funds for certain vessels.

Timetable:

Action	Date	FR Cite
NPRM	01/29/76	41 FR 04280
NPRM Comment Period End	03/29/76	41 FR 04280
Hearing	07/07/76	
Final Action	10/01/88	

Small Entity: Not Applicable

Additional Information: LR-149-75.

Drafting attorney: Patricia W. Pellervo (202) 566-3458.

Reviewing attorney: Robert J. Mason (202) 566-3403.

Agency Contact: Patricia W. Pellervo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AD46

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS) — **Completed Actions**

2615. INCOME TAX—JOINT OWNERSHIP OF ENERGY ITEMS & RENEWABLE ENERGY SOURCE EXPENDITURES FOR PURPOSES OF THE RESIDENTIAL ENERGY CREDIT TO CONFORM TO SECS 201(A) & 202 OF THE ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 23 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide the public with guidance to comply with changes made to section 44C by the Energy Tax Act of 1978 and the Windfall Profit Tax Act of 1980 relating to defining passive and active solar system, subsidized energy financing and other terms pertaining to the residential energy credit.

Timetable:

Action	Date	FR Cite
NPRM	10/31/85	50 FR 45423
NPRM Comment Period End	12/30/85	50 FR 45423
Hearing	02/14/86	
Final Action T.D. 8146	07/16/87	52 FR 26867

Small Entity: Not Applicable

Additional Information: LR-73-80.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Moshe Schuldinger (202) 566-2928.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA03

2616. INCOME TAX—NOTICE TO EMPLOYEES OF EARNED INCOME CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 32 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide the procedures necessary to implement the statutory requirement that employers notify certain employees whose wages are not subject to income tax withholding that they may be eligible for the refundable earned income credit.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8142	06/11/87	52 FR 22301

Small Entity: Not Applicable

Additional Information: LR-96-86

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: John G. Schmalz (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Roberts (202) 566-2565.

Duplicate of RIN 1545-AK00

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AI77

2617. LOW-INCOME HOUSING CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 42 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would provide low-income housing credit rules.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8144	06/22/87	

Small Entity: Not Applicable

Additional Information: LR-82-86

Drafting attorney: Robert Beatson (202) 566-3459.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave.,N.W., Washington, DC 20224, 202 566-3459

RIN: 1545-AJ64

2618. INCOME TAX—AMENDMENT OF [1.48-9 (C)(10),(D),&(E) TO PARTIALLY REMOVE THE LIMITATION ON THE BUSINESS ENERGY CREDIT FOR EQUIPMENT THAT USES ENERGY FROM BOTH A QUALIFIED AND A NONQUALIFIED SOURCE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These proposed regulations will amend [1.48-9 (c) (10) (d), & (e) relating to the business energy investment credit ("business energy credit") for solar, wind, and geothermal energy property in order to allow certain equipment that uses solar, wind, or geothermal energy ("qualified energy") and other kinds of energy ("non-qualified energy") to be eligible for the business energy credit to the extent of its basis or cost allocable to its annual use of qualified energy so long as the use of non-qualified energy input of the equipment in any calendar year.

Timetable:

Action	Date	FR Cite
NPRM	12/09/86	51 FR 44315
NPRM Comment Period End	02/09/87	
Final Action T.D. 8147	07/21/87	52 FR 27336

Small Entity: Not Applicable

Additional Information: LR-160-83

Drafting attorney: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Moshe Schuldinger (202) 566-2928.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AI97

2619. ● CORPORATE ALTERNATIVE MINIMUM TAX BOOK INCOME ADJUSTMENT

Legal Authority: 26 USC 55 Internal Revenue Code of 1986; 26 USC 56(c)(1) Internal Revenue Code of 1986; 26 USC 56(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

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Legal Deadline: None.

Abstract: The regulation will describe rules for the computation of the alternative minimum net book income adjustments imposed on corporations.

Timetable:

Action	Date	FR Cite
Final Action -T.D. 8138	04/27/87	52 FR 15305

Small Entity: No

Additional Information: LR-11-87

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Office of Tax Legislative Counsel attorney: Tom Evans (202) 566-4902.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AK19

2620. ● INCOME TAX--PART 1--TREATMENT OF INCOME OF CERTAIN INNOCENT SPOUSES IN COMMUNITY PROPERTY STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 66 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations provide guidance on the treatment of income of certain innocent spouses in community property states.

Timetable:

Action	Date	FR Cite
Closed without regulations	02/23/87	

Small Entity: Not Applicable

Additional Information: LR-41-81

Drafting attorney: Paulette Galanko (202) 566-3288.

Reviewing attorney: John Parcell (202) 566-3336.

Agency Contact: Paulett Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK55

2621. INCOME TAX--EARLY WITHDRAWALS FROM DEFERRED ANNUITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 72 Internal Revenue Code of 1956

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal will provide rules for reporting amounts withdrawn from deferred annuities.

Timetable:

Action	Date	FR Cite
Closed without regulations	12/09/86	

Small Entity: Not Applicable

Additional Information: LR-279-82.

Drafting attorney: Alice M. Bennett (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Donald Rocap (202) 566-2926.

Agency Contact: Alice M. Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF08

2622. INCOME TAX--FLEXIBLE PREMIUM CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 101(f) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal will provide rules for determining what portion (if any) of a flexible premium life insurance contract is life insurance for purposes of section 101 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
Closed without regulations	12/09/87	

Small Entity: Not Applicable

Additional Information: LR-308-82.

Drafting attorney: Alice Bennett (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Alice M. Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF28

2623. PRIVATE LOAN BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to private loan bonds. The regulations will explain the meaning of the term "loan" for purposes of this provision. The regulations will also provide guidance on which obligations are not private loan bonds.

Timetable:

Action	Date	FR Cite
Closed without regulations	02/23/87	

Small Entity: Not Applicable

Additional Information: LR-20-85.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Elliott Stern (202) 566-2566.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AH97

2624. INCOME TAX--CONTRIBUTIONS IN AID OF CONSTRUCTION FOR CERTAIN UTILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 118(b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Notice would define and interpret when a utility has received a contribution in aid of construction. Changes to the applicable law were made by section 2120 of the Tax Reform Act of 1976 and section 364 of the Tax Reform Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM - Previous Closed without regulations	09/27/78 12/09/86	

Small Entity: Not Applicable

Additional Information: LR-136-76.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Rocap.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA71

2625. INFORMATION REPORTING FOR TAX-EXEMPT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 149 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation would provide information reporting rules for tax-exempt bonds.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8129	03/11/87	

Small Entity: Not Applicable

Additional Information: LR-145-86

Drafting attorney: Robert Beatson (202) 566-3459.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3459

RIN: 1545-AJ52

2626. CONTINUATION COVERAGE REQUIREMENT OF GROUP HEALTH PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 106(b) Internal Revenue Code of 1986; 26 USC 162(i)(2) Internal Revenue Code of 1986; 26 USC 162(k) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide guidance relating to the requirement that a group health plan provide continuation coverage to individuals who would otherwise lose coverage as a result of certain events.

Timetable:

Action	Date	FR Cite
Closed without regulations	06/10/87	

Small Entity: Not Applicable

Additional Information: EE-144-86

Drafting Attorney: Mark Schwimmer (202) 566-6212.

Reviewing Attorney: Michael Thrasher (202) 566-6212.

Treasury Attorney: Susan Scherbel (202) 566-4902.

Cross Reference to EE-143-86.

Agency Contact: Mark Schwimmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AI94

2627. ALLOCATION OF INTEREST EXPENSE AMONG EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 469 (k)(4) Internal Revenue Code of 1986; 26 USC 163 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will explain how to allocate interest expense among expenditures in order to apply the passive loss, investment interest, personal interest, and other limitations on interest expense.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/87	52 FR 24996
NPRM	07/02/87	52 FR 25036
Final Action T.D. 8145	07/02/87	52 FR 24996
NPRM Comment Period End	08/31/87	52 FR 25036

Small Entity: Not Applicable

Additional Information: LR-125-86

Drafting attorney: Michael J. Grace (202)566-3288.

Reviewing attorney: John H. Parcell (202)566-3336.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK09

2628. ACCELERATED COST RECOVERY SYSTEM--REPLACEMENT-RETIREMENT-BETTERMENT (RRB) PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: To provide regulations under section 168 (f) (3) relating to the cost recovery of retirement-replacement-betterment (RRB) property placed in service before January 1, 1985.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8116	12/24/86	51 FR 46618

Small Entity: Not Applicable

Additional Information:

LR-147-86.

Drafting attorney: Ada S. Rousso (202) 566-3287.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Neil Kimmelfield (202) 566-8527.

Agency Contact: Ada S. Rousso, Acting Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AJ22

2629. ● PRACTICAL CAPACITY

Legal Authority: 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations provide guidance on specific issues relating to when section 263A applies and whether certain accounting principles are permitted in accounting for the costs of property produced or property acquired for resale.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8148	08/07/87	52 FR 29375
Temporary Regulation	10/01/87	

Small Entity: Yes

Additional Information: LR-36-87

Drafting attorney: Paulette C. Galanko (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

Treasury attorney: Thomas Evans (202) 566-2784.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK58

2630. INCOME TAX—AMORTIZATION OF PRODUCTION COST OF MOTION PICTURES, BOOKS, RECORDS, AND OTHER SIMILAR PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 280 Internal Revenue Code of 1986; PL 94-455, Sec 210 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance to taxpayers relating to the amortization of certain production costs that are otherwise not capitalized. The regulations relate to production costs for motion pictures, books, records, and similar property.

Timetable:

Action	Date	FR Cite
Closed without regulations	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-220-76.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB08

2631. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 367 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The Income Tax Regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognitions provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the section conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8087	05/16/86	51 FR 17936
Hearing	12/01/86	

Small Entity: Not Applicable

Additional Information: INTL-40-86.

Drafting attorney: Steven Lipschutz (202) 566-3319.

Reviewing attorney: Charles Saverude (202) 566-6008.

Treasury attorney: Mary Bennet (202) 566-5992.

Amendments to LR-150-84 (INTL-40-86) will be made by INTL-765-86.

Agency Contact: Steven Lipschutz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3319

RIN: 1545-AG68

2632. ● LIMITATIONS ON ACCOUNTING PERIOD CHANGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 441 Internal Revenue Code of 1954; 26 USC 442 Internal Revenue Code of 1954; 26 USC 1378 Internal Revenue Code of 1954; 26 USC 706 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The temporary regulations relate to certain changes, adoptions, and retentions of annual accounting period. In general, the temporary regulations limit the ability of certain taxpayers to change to, adopt, or retain a taxable year that is a fiscal year (including a 52-53-week taxable year ending with reference to the month of December) during the period to which the temporary regulations apply.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8135	02/05/87	52 FR 03615

Small Entity: Not Applicable

Additional Information: LR-92-86

Drafting attorney: Arthur Davis (202) 566-3238.

Reviewing attorney: John Parcell (202) 566-3336.

Treasury attorney: J. Richard Harvey (202) 535-6960.

Agency Contact: Arthur Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238.

RIN: 1545-AK59

2633. ● LIMITATION ON THE USE OF THE CASH METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 0448 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance to certain C corporations, partnerships with such C corporations as partners and tax shelter's prohibited from using the cash method of accounting.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8143	06/16/87	52 FR 22764

Small Entity: Not Applicable

Additional Information: LR-19-87

Drafting attorney: Ewan D. Purkiss (202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Treasury attorney: Tom Evans (202) 566-2784.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK53

2634. TEMPORARY INCOME TAX REGULATIONS—TAXABLE YEAR OF DEDUCTION FOR AMOUNTS PAID BY CASH METHOD TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 461(i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the taxable year of deduction for amounts paid by cash method tax shelters. The regulations will provide guidance with respect to the definition of a tax shelter, the time when economic performance occurs and the calculation of cash basis.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/11/87	

Small Entity: Not Applicable

Additional Information: LR-161-84.

Drafting attorneys: C. Scott McLeod/Sharon L. Hall (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH31

2635. INCOME TAX REGULATIONS—TAXABLE YEAR OF DEDUCTION FOR AMOUNTS PAID BY CASH METHOD TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 461 (i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the taxable year of deduction for amounts paid by cash method tax shelters. The regulations will provide guidance with respect to the definition of a tax shelter, the time when economic performance occurs and the calculation of cash basis.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/11/87	

Small Entity: Not Applicable

Additional Information: LR-259-84.

Drafting attorneys: C. Scott McLeod/Sharon L. Hall (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH35

2636. ● INCOME TAX—PART 1—TO PROVIDE REGULATIONS RELATING TO THE ELECTION FOR ACCRUAL VACATION PAY UNDER TRANSITIONAL RULE PROVIDED IN SECTION 91(I) OF TRA 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 463 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide guidance in making the election for accrued vacation pay under the transitional rule provided in section 91(i) of TRA 1984.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/11/87	

Small Entity: Not Applicable

Additional Information: LR-255-84

Drafting attorney: Annette Guarisco (202) 566-3238.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Agency Contact: Annette Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK51

2637. INCOME TAX REGULATIONS - DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 467 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the accrued of rent for the use of tangible property (and interest on rent that accrued but is not paid) under a section 467 rental agreement. A section 467 rental agreement will be defined. Certain tax avoidance transactions will be defined. Rules will be provided for the recapture of prior understated inclusions. Comparable rules for services will be provided.

Timetable:

Action	Date	FR Cite
Closed without regulations	04/16/87	

Small Entity: Not Applicable

Additional Information: LR-293-84.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Jeffrey Quinn (202) 566-2175.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG80

2638. ● INCOME TAX—PART 1. CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980 RELATING TO QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 473 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The proposed regulations relate to certain liquidations of inventories accounted for under the last-in, first-out method. Changes to the applicable tax law were made by the Crude Oil Windfall Profit Tax Act of 1980. The proposed regulations would provide the public with the guidance needed to comply with the law.

Timetable:

Action	Date	FR Cite
Closed without regulations	04/28/87	

Small Entity: Not Applicable

Additional Information: LR-82-80

Drafting attorney: Sharon Hall (202) 566-3288.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Treasury attorney: Thomas Evans (202) 568-4902.

Agency Contact: Sharon Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK86

2639. NONDISCRIMINATION REQUIREMENTS UNDER SECTIONS 501 (C) (9) AND (20)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 505 (a) Internal Revenue Code of 1986; 26 USC 505 (b) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance with respect to the nondiscrimination requirements for voluntary employees' beneficiary associations and group legal service plans.

Timetable:

Action	Date	FR Cite
Closed without regulations	06/12/87	

Small Entity: Not Applicable

Additional Information: EE-68-84.

Drafting attorney: Nerman Dobynes Hubbard (202) 566-3430.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Treasury attorney: Harry Conaway (202) 566-4902.

Agency Contact: Nerman Dobynes Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AG23

2640. TREATMENT OF GRADED PREMIUM POLICIES UNDER THE APPROXIMATE REVALUATION METHOD OF RECOMPUTING RESERVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 818(c) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide rules relating to the treatment by life insurance companies of graded premium policies for purposes of recomputing life insurance reserves under the approximate revaluation method.

Timetable:

Action	Date	FR Cite
NPRM	11/06/83	48 FR 51331
NPRM Comment Period End	01/09/84	48 FR 51331
Closed without final regulations	12/09/87	

Small Entity: Not Applicable

Additional Information: LR-276-82.

Drafting attorney: Alice Bennett (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF03

2641. INCOME TAX—TO CLARIFY THE TREATMENT OF CERTAIN AMOUNTS REFUNDED IN REINSURANCE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 809 Internal Revenue Code of 1986; 26 USC 820 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The rules will clarify the treatment of certain amounts refunded in reinsurance transaction, and provide rules with respect to the allocation of certain items in modified coinsurance contracts for purposes of an election under section 820. These regulations would affect life insurance companies that enter into coinsurance and modified coinsurance transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/19/82	47 FR 11682
NPRM Comment Period End	05/18/82	47 FR 11682
Withdrawn	01/26/87	52 FR 2724

Small Entity: Not Applicable

Additional Information: LR-276-81.

Drafting attorney: Alice Bennett (202)566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB56

2642. ● AMENDMENTS OF REGULATIONS TO CONFORM TO SECTION 861(A)(7) (RELATING TO SOURCE OF INCOME OF UNDERWRITING INCOME) AS ADDED BY SECTION 1036 OF PUB. LAW 94-455

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 861 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would provide guidance on amounts received as underwriting income treated as income from sources within the United States.

Timetable:

Action	Date	FR Cite
Closed without regulations	04/28/87	

Small Entity: Not Applicable

Additional Information: LR-71-77

Drafting attorney: Sharon Hall (202) 566-3288.

Reviewing attorney: John Parcell (202) 566-3336.

Agency Contact: Sharon Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK67

2643. PROPOSED REGULATIONS RELATING TO CERTAIN AMOUNTS TREATED AS INTEREST FOR PURPOSES OF THE LIMITATION ON THE FOREIGN TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 904 (d) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the treatment of interest income of a U.S. person that is attributable to separate limitation interest income of a RICs or certain foreign corporations for purposes of the separate foreign tax credit limitations for interest.

Timetable:

Action	Date	FR Cite
Withdrawn	01/16/87	52 FR 438
NPRM	12/00/87	

Small Entity: Not Applicable

Additional Information: INTL-83-86.

Drafting attorney: Marnie J. Carro (202) 566-3494.

Reviewing attorney: Charles C. Saverude (202) 566-3913.

Agency Contact: Marnie Carro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3494

RIN: 1545-AH84

2644. FSC GENERAL RULES, REQUIREMENTS, DEFINITIONS, AND SPECIAL RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 921 Internal Revenue Code of 1986; 26 USC 922 Internal Revenue Code of 1986; 29 USC 927 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations provide general rules regarding the requirements that a corporation must meet to be a foreign sales corporation (FSC) (or small FSC) and tax treatment of a FSC (or a small FSC) and specific rules regarding the requirements for FSC or small FSC status, the methods of elections and terminating FSC status, and the definition of and computation of carrying charges on sales of property by an FSC.

Timetable:

Action	Date	FR Cite
NPRM	12/12/84	49 FR 48322
Final Action Effective	01/01/85	52 FR 6468
NPRM Comment Period End	02/11/85	49 FR 48322
Hearing held	05/13/85	
Final Action T.D. 8127	03/03/87	52 FR 6468

Small Entity: Not Applicable

Additional Information: INTL-46-86.

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Jack Feldman (202) 566-3289.

Treasury attorney: D. Crowe (202) 566-8275.

Agency Contact: Richard Chewning, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AG57

2645. TEMPORARY REGULATIONS RELATING TO FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED DEDUCTION AND OTHER SPECIAL RULES FOR FSCS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 925(b)(1) Internal Revenue Code of 1986; 26 USC 925(b)(2) Internal Revenue Code of 1986; 26 USC 927(d)(2)(B) Internal Revenue Code of 1986; 26 USC 927(e)(1) to 927(e)(2) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Proposal would provide temporary rules for application of the FSC Transfer Pricing Rules, Distributions, Dividends Received Deductions and other special FSC Provisions.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/85	52 FR 6426
Final Action T.D. 8126	03/03/87	52 FR 6426

Small Entity: Not Applicable

Additional Information: INTL - 154-86.

Drafting attorney: Richard Chewning (202) 566-3490.

Reviewing attorney: Carol Doran Klein (202) 566-3289.

Office of International Tax Counsel reviewing attorney: D. Crowe (202) 566-8275.

Agency Contact: Richard Chewning, Attorney - Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AI17

2646. TO PROVIDE REGULATIONS RELATING TO EXTENSION OF MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 103A Internal Revenue Code of 1986

CFR Citation: 26 CFR 6a.103A-3

Legal Deadline: None.

Abstract: These regulations will provide rules relating to the additional requirements enacted to restrict the issuance of qualified veterans' mortgage bonds.

Timetable:

Action	Date	FR Cite
NPRM	12/12/84	49 FR 48323
Final Action Effective	01/01/85	50 FR 35540
NPRM Comment Period End	02/12/85	
Final Action T.D. 8049	09/03/85	50 FR 35540

Small Entity: Not Applicable

Additional Information: LR-240-84.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Suzanne McDowell (202) 566-8277.

Agency Contact: Mitchell H. Rapaport, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AI36

2647. ● INCOME TAX—PART 1, BASIS LIMITATION AND RECAPTURE OF DEPRECIATION ON PLAYER CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1056 Internal Revenue Code of 1986; 26 USC 1245 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide guidance on the basis limitation and recapture of depreciation on player contracts.

Timetable:

Action	Date	FR Cite
Closed without regulations	04/28/87	

Small Entity: Not Applicable

Additional Information: LR-222-76

Drafting attorney: Sharon Hall (202) 566-3288.

Reviewing attorney: John Parcell (202) 566-3336.

Treasury attorney: John Wessel (202) 566-4979.

Agency Contact: Sharon Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3298

RIN: 1545-AK69

2648. INCOME TAX—TREATMENT OF S CORPORATION AS A PARTNERSHIP FOR CERTAIN PURPOSES OF THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1372 Internal Revenue Code of 1986; 26 USC 1373 Internal Revenue Code of 1986; 26 USC 613A Internal Revenue Code of 1986; 26 USC 4996 Internal Revenue Code of 1986; 26 USC 48 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulation will provide guidance to taxpayers relating to the treatment of S corporation as partnership for purposes of certain provisions of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
Closed without regulations	02/23/87	

Small Entity: Not Applicable

Additional Information: LR-266-82.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: Brian Collins

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE28

2649. APPLICATIONS FOR EXEMPTION FROM SELF-EMPLOYMENT TAXES FOR MINISTERS, ETC

Legal Authority: 26 USC 1402 (e) Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation will provide guidance with respect to applications for exemption from self-employment taxes under section 1402 (e) for ministers, members of a religious order and Christian Science practitioners.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/87	52 FR 12161
Final Action T.D. 8136	04/15/87	52 FR 12161

Small Entity: Not Applicable

Additional Information: LR-153-86

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John G.Schmalz (202) 566-3297.

Treasury attorney: Susan Scherbel (202) 566-4902.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3297

RIN: 1545-AJ82

2650. ● TEMPORARY REGULATIONS—ALASKA NATIVE CORPORATIONS; REQUIREMENTS FOR AFFILIATION IN ORDER TO FILE A CONSOLIDATED RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 1504 Internal Revenue Code of 1986; 26 USC 1502 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: Regulations will provide rules relating to the affiliation requirements of Alaska Native Corporations with certain other corporations in order to file a consolidated return.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8130	03/13/87	52 FR 8447

Small Entity: Not Applicable

Additional Information:

LR-5-87.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: John Broadbent (202) 566-3458.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3158

RIN: 1545-AK89

2651. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 263A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations will provide rules relating to the costs incurred in the production and acquisition of property for resale in a trade or business or activity conducted for profit.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8131	03/30/87	52 FR 10052

Small Entity: Not Applicable

Additional Information: LR-129-86

Drafting attorney: Paulette C. Galanko (202) 566-3297.

Reviewing attorney: John M. Fischer (202) 566-3394.

Agency Contact: Paulette C. Galanko, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AI95

2652. EMPL. TAX—SOCIAL SECURITY TAX ON EMPLOYERS OF INDIVIDUALS WHO RECEIVE INCOME FROM TIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3121(t) Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: The regulations would provide guidance for determining the amount of wages on which an employer of a tipped employee must pay social security tax if the employer pays the employee less than the minimum wage.

Timetable:

Action	Date	FR Cite
Closed without regulations	12/09/86	

Small Entity: Not Applicable

Additional Information: LR-35-78.

Drafting attorney: Beverly Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC76

2653. ELECTIONS BY CHURCHES AND QUALIFIED CHURCH-CONTROLLED ORGANIZATIONS TO EXCLUDE SERVICE PERFORMED IN THEIR EMPLOY FROM EMPLOYMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3121 (w) Internal Revenue Code of 1986

CFR Citation: 26 CFR 1; 26 CFR 5h; 26 CFR 31

Legal Deadline: None.

Abstract: These regulations provide the manner in which churches and qualified church-controlled organizations may elect to exclude service performed in their employ from employment and the subsequent treatment of remuneration from such excluded service with respect to self employment taxes.

Timetable:

Action	Date	FR Cite
Closed without regulations	02/04/87	

Small Entity: Not Applicable

Additional Information: LR-239-84.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John G. Schmalz (202) 566-3297.

Treasury attorney: Susan Scherbel (202) 566-4902.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH63

2654. NOTICE OF PROPOSED RULEMAKING RELATING TO THE APPLICATION OF MEDICARE TAX TO NEWLY HIRED STATE AND LOCAL GOVERNMENT EMPLOYEES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: These regulations proved guidance on the application of the Medicare tax to newly hired state and local government employees.

Timetable:

Action	Date	FR Cite
Closed without regulations	02/23/87	

Small Entity: No

Additional Information: LR-56-85

Drafting attorney: Joel S. Rutstein (202) 566-3297.

Reviewing attorney: John Bromell (202) 566-3226.

Agency Contact: Joel S. Rutstein, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AI76

2655. SUBMISSION OF CERTAIN WITHHOLDING EXEMPTION CERTIFICATES AND ENTITLEMENT TO ADDITIONAL WITHHOLDING EXEMPTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3402 (m) Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: This document provides temporary regulations that relate to the submission of withholding exemption certificates when the total number of withholding exemptions claimed on a certificate exceeds 10, and to the requirements that an employee must meet to be entitled to the additional withholding exemption in respect of the standard deduction.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8112	12/17/86	

Small Entity: Not Applicable

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Additional Information: LR 143-86.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Patricia McClanahan (202) 566-2929.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 566-3459

RIN: 1545-AJ32

2656. REGULATIONS ON BACKUP WITHHOLDING IN CASE OF A NOTIFIED PAYEE UNDERREPORTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406(i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: These regulations will provide rules relating to when a payer of reportable interest and dividends must withhold on such payments, how to inform payees when they are subject to withholding, and how payees can correct the situation that subjected them to backup withholding.

Timetable:

Action	Date	FR Cite
Closed Without Regulations	04/16/87	

Small Entity: Not Applicable

Additional Information: LR-86-85.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing attorney: John M. Coulter (202) 566-4473 and Renay France (202) 566-3459.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AH83

2657. TEMPORARY REGULATIONS ON BACKUP WITHHOLDING IN CASE OF A NOTIFIED PAYEE UNDERREPORTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 3406 (i) Internal Revenue Code of 1986

CFR Citation: 26 CFR 35a

Legal Deadline: None.

Abstract: These temporary regulations will provide rules relating to when a payor of reportable interest and dividends must withhold on each payments, how to inform payees when they are subject to withholding, and how payees can correct the situation that subjected them to backup withholding.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8137	04/23/87	

Small Entity: Not Applicable

Additional Information: LR-160-86.

Drafting Attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing Attorney: John M. Coulter (202) 566-4473.

Reviewing Attorney: Renay France (202) 566-3459.

Treasury Attorney: Richard D'Avino (202) 566-4979.

Treasury Attorney: Susan Hines (202) 566-8527.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, 202 566-3459

RIN: 1545-AJ33

2658. EXCISE TAX—PART 54 — PROCEDURE AND ADMINISTRATION—PART 301—FILING OF RETURNS FOR PAYMENT OF PENSION EXCISE TAX ON REVERSIONS OF QUALIFIED PLAN ASSETS

Significance: Agency Priority

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 4980 Internal Revenue Code of 1986

CFR Citation: 26 CFR 54; 26 CFR 602

Legal Deadline: None.

Abstract: The regulations would provide guidance regarding the payment of the excise tax by employers receiving reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8133	04/02/87	52 FR 10563

Small Entity: No

Additional Information: EE-150-86

Drafting Attorney: Suzanne K. Tank (202) 566-3422

Reviewing Attorney: James L. Brokaw (202) 566-4173

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-6277

Cross Reference to EE-151-86

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AI84

2659. RETURNS REQUIRED ON MAGNETIC MEDIA

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6011 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations will clarify that the failure to file an information return on a machine-readable form when required to do so is treated as a failure to file the return and may result in the imposition of a failure to file penalty.

Timetable:

Action	Date	FR Cite
Final Action : T.D. 8140	05/21/87	52 FR 19136

Small Entity: Not Applicable

Additional Information: LR-162-86.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Ave., N.W., Washington, DC 20224, 202 566-3288

RIN: 1545-AJ50

2660. ● INFORMATION REPORTING ON REAL ESTATE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6045 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The temporary regulations relate to information that must be reported to the IRS with respect to real estate transactions. Changes to the applicable law were made by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8123	04/03/87	52 FR 10742

Small Entity: Not Applicable

Additional Information: LR-94-86

Drafting attorney: Arthur Davis (202) 566-3238.

Reviewing attorney: John Parcell (202) 566-3336.

Treasury attorney: Patricia McClanahan (202) 566-2928.

Agency Contact: Arthur Davis, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK60

2661. INCOME TAX—REGULATIONS RELATING TO RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6046A Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report their activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable:

Action	Date	FR Cite
Closed without regulations	05/11/87	
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-203-82.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Treasury attorney: Steven Lainoff (202) 566-5046.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE47

2662. EMPLOYEE TIP REPORTING AND SUBSTANTIATION REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; PL 98-369, Sec 1072 (b) Tax Reform Act of 1984

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: The regulations contain rules relating to employee tip reporting and recordkeeping requirements to reflect changes in the tax law made by section 1072 of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	07/23/85	50 FR 29990
NPRM Comment Period End	09/23/85	
Final Action T.D. 8141	06/08/87	52 FR 21509

Small Entity: Not Applicable

Additional Information: LR-162-84.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Marjorie Roberts (202) 566-2565.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH24

2663. ● PROCEDURE AND ADMINISTRATION—PART 301—REGULATIONS RELATING TO THE REQUIREMENT TO MAINTAIN A LIST OF INVESTORS IN POTENTIALLY ABUSIVE TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6112 Internal Revenue Code of 1986; 26 USC 6708 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations provides guidance in the requirement to maintain a list of investors in potentially abusive tax shelters.

Timetable:

Action	Date	FR Cite
NPRM	08/29/84	49 FR 34246
Closed without final regulations	05/11/87	

Small Entity: Not Applicable

Additional Information: LR-149-84

Drafting attorney: Annette Guarisco (202) 566-3238.

Reviewing attorney: John Parcell (202) 566-3336.

Agency Contact: Annette Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AK52

2664. TIME AND MANNER OF MAKING QUARTERLY PAYMENTS OF THE RAILROAD UNEMPLOYMENT REPAYMENT TAX (TEMPORARY)

Legal Authority: 26 USC 6011 Internal Revenue Code of 1986; 26 USC 6302 Internal Revenue Code of 1986; 26 USC 6071 Internal Revenue Code of 1986; 26 USC 6157 Internal Revenue Code of 1986; 26 USC 7805 Internal Revenue Code of 1986

CFR Citation: 26 CFR 31

Legal Deadline: None.

Abstract: These temporary regulations will provide rules with respect to the time and manner of making quarterly payments of the railroad unemployment repayment tax.

Timetable:

Action	Date	FR Cite
Final Action	11/05/86	51 FR 49167

Small Entity: Not Applicable

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Additional Information: LR-13-86.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Susan Scherbel (202) 535-6963.

Duplicate of RIN 1545-AI60

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3297

RIN: 1545-AI73

2665. MISCELLANEOUS PROVISIONS RELATING TO THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6222 Internal Revenue Code of 1986; 26 USC 6223 Internal Revenue Code of 1986; 26 USC 6224 Internal Revenue Code of 1986; 26 USC 6227 Internal Revenue Code of 1986; 26 USC 6230 Internal Revenue Code of 1986; 26 USC 6231 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The temporary regulations would set forth miscellaneous procedural rules for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items.

Timetable:

Action	Date	FR Cite
Final Action -T.D. 8126	03/05/87	52 FR 6779

Small Entity: Not Applicable

Additional Information: LR-1-87

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: Gerald W. Rock (202) 566-3287.

Treasury attorney: Blake Rubin (202) 566-2927.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3297

RIN: 1545-AJ66

2666. SPECIAL RULES FOR CERTAIN REFUND CLAIMS TREATED AS SPECIAL ENFORCEMENT AREAS UNDER RULES FOR CONSOLIDATED PARTNERSHIP PROCEEDINGS

Legal Authority: 26 USC 6231 (c)(1) Internal Revenue Code of 1986; 26 USC 6231 (c)(3) Internal Revenue Code of 1986

CFR Citation: 26 CFR 301T

Legal Deadline: None.

Abstract: These regulations will provide rules relating to special enforcement areas under the rules for consolidated partnership proceedings. Specifically they will identify certain applications for tentative adjustments ("Quick Refunds") and refund claims attributable to abusive tax shelters as areas that have been determined to present special enforcement considerations.

Timetable:

Action	Date	FR Cite
NPRM	12/13/84	49 FR 48573
NPRM Comment Period End	02/11/85	
Closed without regulations	02/23/87	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-242-84.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: Gerald W. Rock (202) 566-3287.

Treasury attorney: Blake Rubin (202) 566-2927.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH00

2667. PROCEDURE AND ADMINISTRATION—REDUCTION OF TAX OVERPAYMENTS BY AMOUNT OF PAST-DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 31 USC 3720A Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: These regulations will amend temporary regulations published September 30, 1985 relating to the reduction of a taxpayer's overpayment of tax by the amount of past-due legally enforceable debt owed to a federal agency by the taxpayer.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8139	05/13/87	52 FR 17949
Temporary Regulation	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-70-86

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: David Dickinson (202) 566-6655.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK13

2668. ● INCOME TAX—EXCEPTION TO CORPORATE ESTIMATED TAX PENALTY FOR CERTAIN INSTALLMENT PAYMENTS DUE BEFORE JULY 1, 1987

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6655 Internal Revenue Code of 1986

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation provides a safe harbor for installment payments of corporate estimated tax due before July 1, 1987.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8132	03/30/87	52 FR 10049

Small Entity: Not Applicable

Additional Information: LR-22-87

Drafting Attorney: Renay France (202) 566-3459.

Reviewing Attorney: John Coulter (202) 566-4473.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AK37

2669. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 6851(D) DEALING WITH CERTIFICATES OF COMPLIANCE WITH THE INCOME TAX LAWS ISSUED TO ALIENS DEPARTING THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 6815 (d)

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: This regulation will clarify which classes of aliens departing the United States are required to obtain certificates of compliance with the income tax laws, providing the public with the guidance needed to comply with the law.

Timetable:

Action	Date	FR Cite
Withdrawn	02/02/87	

Small Entity: Not Applicable

Additional Information: LR-2-84.

Drafting attorney: Marylouise Dionne (202) 566-3499.

Reviewing attorney: Carol Doran Klein (202) 566-6419.

In Legislation and Regulations Division for preparation of notice. Withdrawal under current consideration.

Agency Contact: Marylouise Dionne, Attorney-Advisor Branch 3, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3499

RIN: 1545-AF80

2670. ● PROCEDURE AND ADMINISTRATION—PART 301—INCLUSION OF NONRECOURSE INDEBTEDNESS IN FAIR MARKET VALUE OF PROPERTY FOR PURPOSES OF DETERMINING GAIN OR LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1986; 26 USC 7701 Internal Revenue Code of 1986

CFR Citation: 26 CFR 301

Legal Deadline: None.

Abstract: The regulations would provide guidance on the clarification of fair market value in the case of nonrecourse indebtedness.

Timetable:

Action	Date	FR Cite
Closed without regulations	04/28/87	

Small Entity: Not Applicable

Additional Information: LR-264-84

Drafting attorney: Sharon Hall (202) 566-3288.

Reviewing attorney: John Parcell (202) 566-3336.

Treasury attorney: Blake Rubin (202) 566-2927.

Agency Contact: Sharon Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AK68

[FR Doc. 87-21243 Filed 10-23-87; 8:45 am]

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Part XVI

ACTION

Semiannual Regulatory Agenda

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ACTION (ACTION)

ACTION

45 CFR Ch. XII

Executive Order 12291 (Federal Regulation), Semiannual Agenda of Regulations

AGENCY: ACTION.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations that ACTION will have under development, revision or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the Agency official listed for the particular agenda item. For other information concerning ACTION regulations or this semiannual agenda, contact Robert C. MacKichan, Jr., General Counsel, ACTION, 806 Connecticut Avenue, NW., Washington, DC 20525, (202) 634-9333.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 (Federal Regulation) and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

ACTION has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public; and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required under 5 U.S.C. 602.

DATED: August 27, 1987.

Donna M. Alvarado,

Director.

ACTION (ACTION) — Prerule Stage

2671. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 2000(d)(1); 42 USC 5057; 42 USC 5060

CFR Citation: 45 CFR 1203

Legal Deadline: None.

Abstract: In accordance with 42 USC 2000(d)(1) ACTION will promulgate regulations implementing provisions of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, as amended, and section 417 of the Domestic Volunteer Service Act of 1973, as amended, which prohibit discrimination on the basis of race, color, national origin, religion or sex, in federally assisted programs. Relevant provisions of existing ACTION title VI regulations will be subsumed into this new regulation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Jess Quintero, Deputy Director for Equal Opportunity, Office of Compliance, ACTION, 806 Connecticut Ave., NW, Washington, DC 20525, 202 634-9312

RIN: 3001-AA06

2672. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN ACTION PROGRAMS

Legal Authority: 29 USC 794; 42 USC 5057; 42 USC 5060

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: In accordance with section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), ACTION will promulgate implementing regulations which prohibit discrimination on the basis of handicap in federally conducted programs and activities. ACTION regulations prohibiting discrimination on the basis of handicap in federally assisted programs are contained in 45 CFR 1232.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Jess Quintero, Deputy Director for Equal Opportunity, Office of Compliance, ACTION, 806 Connecticut Ave., NW, Washington, DC 20525, 202 634-9312

RIN: 3001-AA07

2673. INSPECTION AND COPYING OF RECORDS: RULES FOR COMPLIANCE WITH PUBLIC INFORMATION ACT

Legal Authority: 5 USC 552; 42 USC 4951

CFR Citation: 45 CFR 1215

Legal Deadline: None.

Abstract: In accordance with the Freedom of Information Act, (5 USC 522), the Agency is updating its regulation concerning the release of Agency Information.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Charles Coleman, Director of Administrative Services, Office of Administration, ACTION, 806 Conn. Ave., NW, Washington, DC 20525, 202 634-9242

RIN: 3001-AA09

2674. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL ASSISTANCE FROM ACTION

Legal Authority: 42 USC 6101; 42 USC 4951

CFR Citation: 45 CFR 1221

Legal Deadline: None.

Abstract: In accordance with 42 USC 6101 and 42 USC 4951 ACTION will promulgate regulations implementing provisions of the Age Discrimination Act of 1975, as amended, and Section 417 of the Domestic Volunteer Service Act of 1973, as amended, which prohibits discrimination on the basis of

ACTION — Prerule Stage

age in programs or activities receiving Federal financial assistance.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Jess Quintero, Director, Equal Opportunity Division, Office of Compliance, ACTION, 806 Conn. Ave., NW, Washington, DC 20525, 202 634-9312

RIN: 3001-AA10

ACTION (ACTION) — Final Rule Stage

2675. SENIOR COMPANION PROGRAM: NON-STIPENDED VOLUNTEERS

Legal Authority: PL 99-551

CFR Citation: 45 CFR 1207

Legal Deadline: None.

Abstract: In accordance with provisions included in P.L. 99-551, Domestic Volunteer Service Act Amendments of 1986, regarding volunteers serving without stipend in the Foster Grandparent and Senior Companion Programs, ACTION will publish proposed additions to existing Senior Companion Program regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/18/87	52 FR 8479
Final Action	10/00/87	

Small Entity: No

Agency Contact: C. Wade Freeman, Assistant Director, Older American Volunteer Programs, ACTION, 806 Conn. Ave., NW, Washington, DC 20525, 202 634-9355

RIN: 3001-AA11

2676. FOSTER GRANDPARENT PROGRAM: NON-STIPENDED VOLUNTEERS

Legal Authority: PL 99-551

CFR Citation: 45 CFR 1208

Legal Deadline: None.

Abstract: In accordance with provisions included in P.L. 99-551, Domestic Volunteer Service Act Amendments of 1986, regarding volunteers serving without stipend in the Foster Grandparent and Senior Companion Programs, ACTION will publish proposed additions to existing Foster Grandparent Program regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/18/87	52 FR 8480
Final Action	10/00/87	

Small Entity: No

Agency Contact: C. Wade Freeman, Assistant Director, Older American Volunteer Programs, ACTION, 806 Conn. Ave., NW, Washington, DC 20525, 202 634-9355

RIN: 3001-AA12

[FR Doc. 87-21244 Filed 10-23-87; 8:45 am]

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Part XVII

Agency for International Development

Semiannual Regulatory Agenda

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AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Ch. II

Federal Regulations; Agency Regulatory Agenda Semiannual Summary

AGENCY: Agency for International Development, IDCA.

ACTION: Agency regulations agenda.

SUMMARY: The Agency for International Development (A.I.D.) is publishing this agenda as required by section 5(a) of Executive Order 12291, Federal Regulation (46 FR 13193, February 19, 1981) and by the Regulatory Flexibility Act (Pub. L. 96-354, September 30, 1980). This agenda reports the status of those regulations currently under review and gives A.I.D.'s plan for the issuance of proposed regulations during the next twelve months. It is expected that the information provided in this agenda will enable the public to be more aware of and more effectively participate in A.I.D.'s rulemaking process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list, in general, contact: Mr. Fred D. Allen, Office of Information Resources Management, Agency for International Development, Washington, DC 20523, Telephone (703) 875-1573.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

Regulatory Flexibility Act (RFA)

The Agency does not have any rulemaking activity that falls within the requirements of RFA and does not anticipate any during the next reporting period.

Dated: September 8, 1987.

Ain H. Kivimae,

Deputy Assistant to the Administrator for Management.

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Proposed Rule Stage

2677. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT -- EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 209

Legal Deadline: None.

Abstract: The regulation will address the problem of discrimination on the basis of race, color, or national origin in any program or activity receiving assistance from the Agency for International Development. The regulation provides that no person in the United States on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance from AID. The regulation provides procedures for 1) assuring that such discrimination does not occur and 2) effecting compliance. The Agency is not considering any alternatives for addressing the problem. There will be some minor costs in administering the regulation; there are potential benefits to individuals who might otherwise be discriminated against.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: **Leticia Peoples**, Equal Opportunity Officer, Agency for International Development, Office of Equal Opportunity Programs (EOP), Room 1224 SA - 1, Washington, DC 20523, **202 663-1340**

RIN: 0412-AA01

2678. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 20 USC 1681 to 1683; 20 USC 1686

CFR Citation: 22 CFR 219, (New)

Legal Deadline: None.

Abstract: This regulation will address the problem of discrimination on the basis of sex in education programs and activities receiving or benefitting from financial assistance from the Agency for International Development. The regulation is intended to implement Title IX of the Education Amendments of 1972, as amended. The regulation provides procedures for 1) assuring that such discrimination does not occur and 2) effecting compliance. The Agency is not considering any alternatives for addressing the problem. There will be some minor costs in administering the regulation; there are potential benefits to individuals who might otherwise be discriminated against.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: **Leticia Peoples**, Equal Opportunity Officer, Agency for International Development, Office of Equal Opportunity Programs (EOP), Room 1224 SA - 1, Washington, DC 20523, **202 663-1340**

RIN: 0412-AA04

2679. DONATION OF AGRICULTURAL COMMODITIES/PRODUCTS TO ASSIST NEEDY PERSONS OVERSEAS (416 PROGRAM)

Legal Authority: 7 USC 1431; PL 97-253, Sec 110

CFR Citation: 22 CFR 210, (New)

Legal Deadline: None.

Abstract: This regulation sets forth provisions of the Agency for International Development (A.I.D.), acting as an Agent for the USDA/Commodity Credit Corporation (CCC), to carry out part of the responsibilities for selecting, approving,

administering and implementing the Section 416 program of the Agricultural Act of 1949, as amended. This program will assist needy persons overseas and reduce surplus stocks of dairy and wheat products in CCC inventory. The donation of commodities under this new authority will be coordinated with, but not replace, assistance provided under the Agricultural Trade Development and Assistance Act of 1954, as amended, Pub. L. 83-480. The Agency is not considering any alternatives for addressing the problem. There are some minor costs in administering the regulation. The potential benefits will go to needy persons overseas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/84	49 FR 22024

Next Action Undetermined

Small Entity: No

Agency Contact: **Jessie C. Vogler**, Program Officer, Agency for International Development, Office of Food for Peace, Bureau for Food for Peace and Voluntary Assistance, Washington, DC 20523, **703 235-9193**

RIN: 0412-AA05

2680. TRANSFER OF FOOD COMMODITIES FOR USE IN DISASTER RELIEF AND ECONOMIC DEVELOPMENT AND OTHER ASSISTANCE

Legal Authority: 7 USC 1705; 7 USC 1721 to 1723; 7 USC 1693

CFR Citation: 22 CFR 211

Legal Deadline: None.

Abstract: This regulation prescribes the terms and conditions governing the transfer of agricultural commodities to foreign governments, U.S. voluntary agencies, or intergovernmental organizations. The regulation is being reviewed to assess its current procedures and requirements with an intent to improve its effectiveness and efficiency. There will be internal administrative and operational costs. There are potential benefits to aid-receiving countries.

Timetable:

Action	Date	FR Cite
Begin Review	12/15/83	

Next Action Undetermined

Small Entity: No

Agency Contact: **Jessie C. Vogler**, Program Officer, Agency for International Development, Office of Food For Peace, Bureau For Food For Peace and Voluntary Assistance, Washington, DC 20523, **703 235-9193**

RIN: 0412-AA06

[FR Doc. 87-21546 Filed 10-23-87; 8:45 am]

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Part XVIII

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulations

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Submission of Unified Agenda of Federal Regulations.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the agency during the next twelve months. This regulatory agenda may be revised and/or refined by the agency during the coming months as a result of action taken by the Board. In addition to any regulatory actions, the Board may also consider issuing advisory standards and/or policy statements as part of its statutory responsibilities. When appropriate, these standards and policies will also be published in the **Federal Register.**

ADDRESS: U.S. Architectural and Transportation Barriers Compliance Board, 330 C Street, SW., Room 1010, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact Mr. Nicholas Chiarkas, General Counsel, 202/245-1591 (voice or TDD).

Thomas E. Harvey,

Chairperson, Architectural and Transportation Barriers Compliance Board.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Proposed Rule Stage

2681. MINIMUM GUIDELINES AND REQUIREMENTS FOR ACCESSIBLE DESIGN

Significance: Agency Priority

Legal Authority: 29 USC 792(b)(7) Rehabilitation Act of 1973, as amended

CFR Citation: 36 CFR 1190

Legal Deadline: None.

Abstract: Specific provisions of the ATBCB Minimum Guidelines and Requirements for Accessible Design have been reserved until sufficient research information and/or field experience is obtained. At present the ATBCB is reviewing comments on the proposed rule to add provisions for leased facilities. In a separate notice of proposed rulemaking, the Board will propose the incorporation of certain technical specifications (including detectible warnings and signage) of the Uniform Federal Accessibility Standards and American National Standards Institute A117.1 (1986) standard into the ATBCB Minimum Guidelines and Requirements for Accessible Design.

Timetable:

ANSI/UFAS Technical Specifications
NPRM 09/16/87 (52 FR 34955)
NPRM Comment Period End 11/16/87

Leased Facilities
NPRM 02/11/87 (52 FR 4352)
NPRM Public Comment Period End 03/13/87
Final Action 01/00/88

Small Entity: No

Additional Information: Phone number of agency contact is voice or TDD.

Government Levels Affected: Federal

Agency Contact: Mark W. Smith, General Attorney, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW, Room 1010, Washington, DC 20202, 202 245-1801

RIN: 3014-AA00

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Final Rule Stage

2682. COMPLIANCE WITH STANDARDS FOR ACCESS TO AND USE OF BUILDINGS BY HANDICAPPED PERSONS

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 36 CFR 1150

Legal Deadline: None.

Abstract: The current regulation sets forth procedures to ensure compliance with standards issued under the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended, 42 U.S.C. 4151 et seq. The Board has published an interim rule revising this regulation to provide a 180-day period for informally resolving complaints in place of the previous 90-day period. This interim rule is expected to be published as a final rule. Other procedures to streamline the process may be considered in proposed rulemaking.

Timetable:

Action	Date	FR Cite
Interim Final Rule with Request for Comment	05/22/86	51 FR 18788
Interim Final Rule Comment Period End	07/21/86	

Next Action Undetermined

Small Entity: No

Agency Contact: Mr. Nicholas Chiarkas, General Counsel, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW, Room 1010, Washington, DC 20202, 202 245-1801

RIN: 3014-AA03

ATBCB — Final Rule Stage

requests as required by the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Mark W. Smith, General Attorney, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW, Mailstop 2101, Washington, DC 20202, 202 245-1801

RIN: 3014-AA04

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Completed Actions

2684. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD PROGRAMS

Significance: Agency Priority

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 36 CFR 1154

Legal Deadline: None.

Abstract: This final regulation sets forth procedures and policies to assure nondiscrimination on the basis of handicap in programs and activities conducted by the Board. It is patterned on the prototype regulation prepared by the Department of Justice.

Timetable:

Action	Date	FR Cite
NPRM	03/11/85	50 FR 9686
Final Action	05/15/87	52 FR 16374

Small Entity: No

Additional Information: Phone number of agency contact is voice or TDD.

Agency Contact: Mr. Nicholas Chiarkas, General Counsel, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW, Room 1010, Washington, DC 20202, 202 245-1801

RIN: 3014-AA02

[FR Doc. 87-21245 Filed 10-23-87; 8:45 am]

BILLING CODE 6820-BP-T

2683. ● INFORMATION AVAILABILITY: PROCEDURES (36 CFR, PART 1120)

Legal Authority: 5 USC 552

CFR Citation: 36 CFR 1120, (Revision)

Legal Deadline: Statutory, April 25, 1987.

Abstract: This interim final rule amends the ATBCB's regulations to establish a schedule and system for collecting fees to recover certain direct costs associated with responding to Freedom of Information Act (FOIA)

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Part XIX

Commission on Civil Rights

Semiannual Regulatory Agenda

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COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: Commission on Civil Rights.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the 12-month period from October 1, 1987 through September 30, 1988. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda in general, contact: William H. Gillers, Solicitor, U.S. Commission on Civil Rights, Room 608, Washington, DC 20425, (202) 376-8514.

Specific: For further information about any particular item on the agenda, contact the individual listed under that item.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "major" rules within the meaning of E.O. 12291 and no Regulatory Impact Analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public; nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required.

William H. Gillers,

Solicitor.

COMMISSION ON CIVIL RIGHTS (CCR) — Proposed Rule Stage

2685. ● IMPLEMENTATION OF FREEDOM OF INFORMATION REFORM ACT

Significance: Agency Priority

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552

CFR Citation: 45 CFR 704.1, (Revision)

Legal Deadline: Statutory, April 25, 1987.

Abstract: The regulation implements the 1986 statutory amendments to the Freedom of Information Act (FOIA) (5 USC 552). The revised provisions modify the terms of exemption 7 and also establish new procedures regarding the charging and waiving of fees pursuant to a FOIA request.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	11/00/87	

Small Entity: No

Agency Contact: Willian H. Gillers, Solicitor, Commission on Civil Rights, 1121 Vermont Avenue, NW, Room 608, Washington, DC 20425, 202 376-8514

RIN: 3035-AA00

2686. ● IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504-HANDICAPPED DISCRIMINATION PROHIBITION

Legal Authority: 29 USC 794

CFR Citation: 45 CFR 707

Legal Deadline: None.

Abstract: The proposed regulation provides for the implementation of Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Commission.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	

Small Entity: No

Agency Contact: William J. Howard, General Counsel, Commission on Civil Rights, 1121 Vermont Avenue, NW, Room 600, Washington, DC 20425, 202 376-8351

RIN: 3035-AA01

[FR Doc. 87-21271 Filed 10-23-87; 8:45am]

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Part XX

Environmental Protection Agency

Semiannual Regulatory Agenda

BEST COPY AVAILABLE

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-3263-2]

Regulatory Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA revises the Regulatory Agenda semiannually and it appears in the **Federal Register** each April and October. It provides specific information on the status of regulations that are under development, revision, and review at the Agency. The agenda is published to keep interested parties informed of the progress of EPA regulations.

ADDRESSES: For specific information on any item in the agenda, please contact the person listed with each entry.

If you want to be on the mailing list for future agendas, please call or write to Bridgette Dent, Regulation Management Branch, EPA, PM-223, Washington, DC 20460, (202) 382-5475.

If you have any suggestions for improving this publication, or need general information about the agenda, please call or write to Angela Tyler, Regulation Management Branch, EPA, PM-223, Washington, DC 20460, (202) 382-7205.

FOR FURTHER INFORMATION CONTACT: Angela Tyler, (202) 382-7205.

SUPPLEMENTARY INFORMATION:

Statutes Covered in the Agenda

The statutory areas covered in the agenda are:

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)
Federal Food, Drug, and Cosmetics Act (FFDCA)
Toxic Substances Control Act (TSCA)
Asbestos Hazard Emergency Response Act (AHERA)
Clean Water Act (CWA)
Marine, Protection, Research, and Sanctuaries Act (MPRSA)
Atomic Energy Act (AEA)
Safe Drinking Water Act (SDWA)
Resource Conservation and Recovery Act (RCRA)
Hazardous and Solid Waste Amendments (HSWA)
Clean Air Act (CAA)
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
Superfund Amendments and Reauthorization Act (SARA)
General -- Other Acts (including grant and procurement regulations and regulations that cut across several program areas)

Organization of the Agenda

The agenda is organized by statute, in the order of the statutes listed above. In a few cases, the agenda combines regulations with differing statutory authorities that have closely-related subject matter. For example, the Asbestos-in-Schools Inspection, Abatement, and Disposal regulation is written under AHERA, but appears with regulations under TSCA.

Within each statutory listing, the regulations are ordered numerically, by section number of the authorizing legislation. For example, all RCRA regulations under section 3001 appear before those under section 3006.

Within each statutory area the entries are further divided into four categories: (1) Prerule Stage; (2) Proposed Rule Stage; (3) Final Rule Stage; and (4) Completed Actions (regulations that EPA is deleting from the agenda because the Agency has completed, withdrawn, or postponed them indefinitely). Detailed information on each of these sections is presented below.

Appendix A includes a list of abbreviations of terms used in this document.

I. Prerulemakings

Prerulemaking actions include activities intended to determine whether or how to initiate rulemaking. These activities include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking; significant studies or analyses of the possible need for regulatory action; requests for public comment on the need for regulatory action; or important pre-regulatory policy proposals.

This section also includes existing EPA regulations that are now under review. The purpose of such reviews is to determine whether the Agency should revise the rule, rescind it, or leave it unchanged. When finished, these reviews will appear in the completed section of the agenda. If EPA decides to revise or rescind the regulation, the action will appear in the proposed rule section of the next agenda, which will state the timetable for completing the revision or rescission.

For each regulation under review, the agenda provides the title, a short abstract, legal authority, CFR reference, any analysis EPA is preparing, contact person, and the schedule for completing the review. It also indicates the "review authority," which may be different from the regulation's statutory authority. EPA reviews regulations under various mandates, and some reviews satisfy more than one of these mandates. The principal mandates are:

Executive Order 12498 is intended to establish annually the Administration's Regulatory Program. It defines priority activities that Federal Departments and Agencies will work on during the upcoming year. Its purpose is to minimize duplication and conflict among regulatory activities and enhance public understanding of the Administration's regulatory objectives.

Executive Order 12291 establishes the general policy that Federal Departments and Agencies should review their regulations to ensure that the costs of the regulations are justified by the benefits of the regulation.

The Regulatory Flexibility Act requires that Federal Departments and Agencies review existing regulations that have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governments, at least once every ten years. EPA invites public comment on the need to revise the list of regulations EPA is reviewing under the Regulatory Flexibility Act.

Reviews under the RFA are identified by a "Yes" in the "small entity" category. When the Agency completes reviews of regulations with a significant impact on small entities, the agenda entry includes an abstract that announces the Agency's decision of whether to revise, rescind, or leave the regulation unchanged. This announcement complies with the RFA and EPA's July 10, 1981 plan (46 FR 36930) for reviewing regulations under the Act.

The Paperwork Reduction Act requires Federal Departments and Agencies to review its information collection activities to assure that they need and will use the information and manage it efficiently. They must also ensure that the information to be collected is of high quality, appropriate for its intended use, and does not already exist at EPA or at some other Federal agency. In addition, the Act requires agencies to review the cost of collecting the information, so that it will be held to a minimum for both the respondent and the agencies.

EPA

II. Proposed and Final Rules

EPA generally lists regulations in the agenda once they are within a year of scheduled publication as a notice of proposed rulemaking (NPRM) or final action. Very important regulations under development will usually appear even if the scheduled publication dates are more than a year away.

Proposed and final rules appear as: (a) Actions that will create new CFR parts, subparts, or subsections; or (b) actions that revise or amend already existing CFR parts, subparts, or subsections. The word "revision" will appear in parentheses after the title of each regulation undergoing revision. All regulations appearing in the agenda for the first time are marked with bullets (●).

This section includes all "significant" EPA regulations. Some are priority regulations under development that are subject to Executive Order 12498; or the Agency has designated for priority development or revision.

However, the listings exclude: (a) Specialized categories of actions (such as EPA approvals of State plans and other actions that do not apply nationally); and (b) routine actions (such as pesticide tolerances and minor amendments to existing rules).

For each proposed and final regulation, the agenda includes:

- Title
- Priority classification (if applicable)
- Legal authority
- CFR reference
- Legal deadline
- Short abstract
- Analysis section (if the Agency is preparing a Regulatory Impact Analysis and/or a Regulatory Flexibility Analysis)
- Timetable of existing and scheduled actions
- Reference to small entity impacts
- Agency contact, and
- Additional information section

The additional information section includes the FTS phone number for the Agency contact. It also includes the Start Action Request number, which is assigned to the regulation for internal tracking purposes.

III. Completed Actions

These are actions that appeared in the last agenda, which EPA is deleting because they are completed or are no longer under consideration. Information on these regulations and reviews of regulations is less detailed than for those that are still under consideration. Generally, entries include: (1) An explanation of why the Agency is deleting the regulation from the agenda, and (2) the publication date and **Federal Register** citation.

John M. Campbell,

Acting Assistant Administrator for Policy, Planning, and Evaluation.

Appendix A--(Abbreviations)

ANPRM - Advance Notice of Proposed Rulemaking
BAT - Best Available Technology
BCT - Best Conventional Technology
BOD - Biochemical Oxygen Demand
BPT - Best Practicable Technology
CA - Cooperative Agreements
CAG - Carcinogenic Assessment Group
CBOD - Carbonaceous Biochemical Oxygen Demand
CEQ - Council on Environmental Quality
CFR - Code of Federal Regulations
DOE - Department of Energy
EAF - Electric Arc Furnaces
FR - Federal Register
FTS - Federal Telecommunications System
HDE - Heavy-Duty Engine
HDT - Heavy-Duty Truck
HDV - Heavy-Duty Vehicle
ICS - Intermittent Control System
LDT - Light-Duty Truck
LDV - Light-Duty Vehicle
MCL - Maximum Contaminant Level
NEPA - National Environmental Policy Act
NESHAPS - National Emission Standards for Hazardous Air Pollutants
NPDES - National Pollutant Discharge Elimination System
NPRM - Notice of Proposed Rulemaking
NRDC - Natural Resources Defense Council
NSO - Nonferrous Smelter Orders
NSPS - New Source Performance Standards
OAQPS - Office of Air Quality Planning and Standards
OPP - Office of Pesticide Programs
OPTS - Office of Pesticides and Toxic Substances
OSHA - Occupational Safety and Health Administration
PCB - Polychlorinated Biphenyl
POTW - Publicly Owned Treatment Work
PSD - Prevention of Significant Deterioration
PSES - Pretreatment Standards for Existing Sources
PSNS - Pretreatment Standards for New Sources
RFA - Regulatory Flexibility Act
RIA - Regulatory Impact Analysis
RIN - Regulation Identifier Number
RMCL - Recommended Maximum Contaminant Level
SAR - Start Action Request
SIC - Standard Industrial Code
SSC - State Superfund Contracts
TSS - Total Suspended Solids
UIC - Underground Injection Control
USC - United States Code
VOC - Volatile Organic Chemical

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2687	SAR No. 2406. Pesticide Applicator Certification Fees for EPA Administered Programs	2070-AB76

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EPA

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2688	Registration Data Requirements for Pesticide Product Performance and Companion Pesticide Assessment Guidelines	2070-AB82
2689	SAR No. 2444. Procedures for Amending and Repealing Tolerances or Exemptions from Tolerances Under Section 408 and 409 of FFDCA	2070-AB78
2690	SAR No. 2317. Restricted Use Classification for Certain Active Ingredients Used in Termiticides	2070-AB53
2691	SAR No. 2351. Restricted Use Classification for Groundwater Contaminating Pesticides	2070-AB60
2692	SAR No. 1703. FIFRA Good Laboratory Practice Standards (Revision)	2070-AB66
2693	SAR No. 2337. Sale of Restricted Use Pesticides to Noncertified Persons	2070-AB48
2694	SAR No. 2446. Regulations on Certification of Pesticide Applicators (Revision)	2070-AB75
2695	SAR No. 2445. Experimental Use Permits (Revision)	2070-AB77
2696	SAR No. 1640. Worker Protection Standards for Agricultural Pesticides (Revision)	2070-AA49

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2697	SAR No. 1964. Comprehensive Revision of Pesticide Registration and Classification Procedures (Revision)	2070-AA56
2698	SAR No. 2289. Labeling Requirements for Pesticides and Devices (Revision)	2070-AB46
2699	SAR No. 2338. Reporting Requirements for Risk/Benefits Information	2070-AB50
2700	SAR No. 1747. Registration of Pesticide Producing Establishments (Revision)	2070-AA04
2701	SAR No. 2314. Pesticide Advertising	2070-AB47
2702	SAR No. 2013. User Charges for Pesticide Registrations	2070-AB52

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2703	SAR No. 2351. Restricted Use Rule for Groundwater Contaminating Pesticides	2070-AB69
2704	SAR No. 2006. Guidelines on Disposal and Storage of Pesticides (Revision)	2070-AA61
2705	SAR No. 2352. Generic Listing of Pesticides as Acute Hazardous Wastes	2070-AB70

Toxic Substances Control Act (TSCA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2706	PCB Notification and Manifesting Rule	2070-AB83

Toxic Substances Control Act (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2707	Restrictions on Disposal of Drained Electrical Equipment	2070-AB80
2708	SAR No. 1137. Decisions on Test Rules	2070-AB07
2709	SAR No. 1886. TSCA Good Laboratory Practice Standards (Revision)	2070-AB65
2710	SARA Section 110 Chemicals Generic Test Rule	2070-AB84
2711	SAR No. 1923. Follow-up Rules on Existing Chemicals	2070-AA58
2712	SAR No. 2246. Chemical Specific Significant New Use Rules to Extend Provisions of Section 5(e) Orders	2070-AB27
2713	SAR No. 2247. Generic Significant New Use Rule for Acrylate Compounds	2070-AB56
2714	Rulemaking Concerning Certain Microbial Products ("Biotechnology")	2070-AB61

EPA

Toxic Substances Control Act (TSCA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2715	SAR No. 2149. Nitrosamines in Metalworking Fluids	2070-AB09
2716	SAR No. 2146. Regulatory Investigation of Formaldehyde	2070-AB14
2717	SAR No. 2150. Polychlorinated Biphenyls (PCBs): Applications for Exemptions from the Ban on Manufacturing, Processing, and Distribution	2070-AB20
2718	SAR No. 2284. Regulatory Investigation of Chlorinated Solvents	2070-AB41
2719	SAR No. 2297. PCB Spill Cleanup Recordkeeping Rule	2070-AB45
2720	Procedures for Termination of Polychlorinated Biphenyl Disposal Approvals	2070-AB81

Toxic Substances Control Act (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2721	SAR No. 2404. SARA Section 313 Toxic Chemical Release Reporting Rule	2070-AB71
2722	SAR No. 2245. Negotiated Consent/Procedural Test Rule (Revision)	2070-AB30
2723	SAR No. 1976. Follow-up Rules on Non-5(e) New Chemicals	2070-AA59
2724	SAR No. 2250. General Regulations on Significant New Use Rules (SNURs) (Revision)	2070-AB26
2725	SAR No. 2375. Procedural Rule for Expedited New Chemical Follow-up	2070-AB67
2726	SAR No. 2244. Polychlorinated Biphenyls (PCBs): Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Exclusions and Use Authorizations (Revision)	2070-AB25
2727	SAR No. 2296. Action Concerning Commercial and Industrial Use of Asbestos	2070-AB29
2728	SAR No. 2408. Asbestos-in-Schools Inspection and Abatement Rule	2070-AB44
2729	PCBs in Electrical Transformers (Revision)	2070-AB74
2730	SAR No. 2178. Section 8 (a) Preliminary Assessment Information Rules	2070-AB08
2731	SAR No. 1139a. Section 8(d) Health and Safety Data Reporting Rules	2070-AB11
2732	SAR No. 2129. TSCA Section 8(a) Comprehensive Assessment Information Rule (CAIR)	2070-AB13
2733	SAR No. 2324. User Fees for Processing PMNs	2070-AB54
2734	Recodification of TSCA CFR Section 721	2070-AB85

Toxic Substances Control Act (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2735	SAR No. 2253. Dioxins/Furans: Testing Rule and Requirements for Data Submission	2070-AB21
2736	Rulemaking Concerning Certain Microbial Products ("Biotechnology")	2070-AB66

Clean Water Act (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2737	SAR No. 1962. Secondary Treatment/Percent Removal Requirements for Combined Sewer Systems	2040-AB13
2738	SAR No. 2163. State Sludge Program Regulations	2040-AA73
2739	Water Quality Standards-Revision	2040-AB34
2740	SAR No. 1649. Effluent Guidelines for Offshore Oil and Gas Extraction Industry (Revision)	2040-AA12
2741	SAR No. 1910. Effluent Guidelines for Adhesives and Sealants	2040-AA30
2742	Effluent Guidelines for Nonferrous Metals Manufacturing (Phase II) (Revisions)	2040-AB31
2743	Effluent Guidelines for Pesticides Chemicals	2040-AB32
2744	SAR No. 2395. Definition of "Waters of the United States"	2040-AB01
2745	Water Quality Standards--Revision for Indian Tribes	2040-AB36
2746	NPDES Regulatory Revisions	2040-AB38
2747	Revisions to regulations for modification of secondary treatment requirements for municipal discharge into marine waters	2040-AB29
2748	SAR No. 2200. NPDES Regulations: Stormwater Application Requirements (Revision)	2040-AA79
2749	SAR No. 2304. Future Effluent Guidelines – Standards Initiatives	2040-AA90

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Clean Water Act (CWA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2750	NPDES Permit Application Form 2C, Standard Form A, and Short Form A Revision	2040-AB39
2751	SAR No. 2162. Sewage Sludge Use and Disposal Regulations	2040-AA74
2752	SAR No. 2189. Comprehensive Revisions to Ocean Dumping Regulations	2040-AA78
2753	SAR No. 2342. General Pretreatment Regulations - Modifications to Address Recommendations of the Domestic Sewage Study	2040-AA99

Clean Water Act (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2754	SAR No. 2300. Guidelines for Classifying Ground Water under the EPA Ground Water Protection Strategy	2040-AA85
2755	Water Quality Planning and Management Grants for Indian Tribes	2040-AB35
2756	SAR No. 1722. Simplifying Construction Grants Regulations (Revision)	2040-AA70
2757	Comprehensive Construction Grant Revision	2040-AB25
2758	SAR No. 1415. Effluent Guidelines for Organic Chemicals and Plastics and Synthetic Fibers	2040-AA05
2759	SAR No. 1427. Effluent Guidelines for Pharmaceuticals	2040-AA13
2760	SAR No. 1425. Effluent Guidelines for Gum and Wood (Revision)	2040-AA17
2761	SAR No. 1969. Effluent Guidelines for Pulp, Paper, and Paperboard (PCB's) (Revision)	2040-AA63
2762	SAR No. 1413. Effluent Guidelines for Ore Mining and Dressing (Placer Mining)	2040-AA65
2763	SAR No. 1409. Effluent Guidelines for Leather Tanning (Revision)	2040-AA91
2764	SAR No. 1410. Effluent Guidelines for Nonferrous Metals: (Phase I) (Revision)	2040-AA96
2765	Effluent Guidelines for Nonferrous Metals Forming (Revision)	2040-AB30
2766	Effluent Guidelines for Aluminum Forming (Revision)	2040-AB33
2767	SAR No. 1866. General Pretreatment Regulations: Removal Credits (Revision)	2040-AB02
2768	SAR No. 1579. Discharge of Oil (Revision)	2040-AA48
2769	SAR No. 1451. Hazardous Substances Pollution Prevention for Facilities Subject to Permitting Requirements of Section 402	2050-AC33
2770	SAR No. 2212. General Pretreatment Regulations: Response to PIRT (Revision)	2040-AA81
2771	SAR No. 1973. Section 404 State Program Regulations (Revision)	2030-AA00
2772	SAR No. 2140. Ocean Incineration Regulation (Revision)	2040-AA72
2773	Ocean Incineration Site Evaluation, Solicitation, and Designation	2040-AB28

Clean Water Act (CWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2774	SAR No. 1420. Effluent Guidelines for Rubber Processing (Revision)	2040-AA42
2775	SAR No. 2213. Effluent Guidelines for Plastics Molding and Forming (Phthalates)	2040-AA77
2776	SAR No. 1433. Effluent Guidelines for Copper Forming (Revision)	2040-AA93
2777	SAR No. 1900. General Pretreatment Regulations: Definitions for Passthrough and Interference (Revision)	2040-AA46
2778	SAR No. 2420. Water Quality Planning and Management Standards (Revision)	2040-AB19
2779	SAR No. 2301. Incineration-at-Sea Site Designations (North Atlantic and Pacific)	2040-AA68
2780	SAR No. 2321. Implementation of RCRA Corrective Action for POTWs	2040-AB00

Atomic Energy Act (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2781	SAR No. 1727. Environmental Protection Standards for Low-Level Radioactive Waste	2060-AA04
2782	SAR No. 2073. Residual Radioactivity	2060-AB31
2783	Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes	2060-AC30

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Atomic Energy Act (AEA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2784	SAR No. 1166. Ground Water Protection Standards for Inactive Uranium Tailing Sites	2060-AC03

Atomic Energy Act (AEA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2785	SAR No. 1162. Transuranium Elements	2060-AA01
2786	SAR No. 1525. Radiofrequency Radiation Guidance	2060-AA02

Safe Drinking Water Act (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2787	SAR No. 2440. Indian Rule for the Wellhead Protection Program and Sole Source Aquifer Demonstration Program	2040-AB18
2788	SAR No. 2254. Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions; Amendments To Technical Requirements for Class I Hazardous Waste Injection Wells	2040-AB03
2789	Revision to Public Water System Supervision (PWSS) State Primacy Requirements	2040-AB26
2790	Amendments to Underground Injection Control Program	2040-AB27
2791	SAR No. 1755. National Primary Drinking Water Regulations: Synthetic Organic Chemicals and Inorganic Chemicals, Monitoring for Unregulated Contaminants	2040-AA55
2792	SAR No. 2281. National Primary Drinking Water Regulation: Radionuclides	2040-AA94
2793	SAR No. 2340. National Primary Drinking Water Regulations: Disinfection, Disinfectants and Disinfection By-Products (Revision)	2040-AA97
2794	SAR No. 2396. National Primary Drinking Water Regulations: Inorganic and Organic Compounds	2040-AB11
2795	SAR No. 2376. Criteria for Filtration of Surface Water and Primary Drinking Water Regulations for Microbiological Contaminants	2040-AB24
2796	SAR No. 2381/(PWSS) SAR No. 1972/(UIC) Public Water Supply Supervision Program and Underground Injection Control Program: Administrative Enforcement Implementation Procedures	2040-AB07
2797	SAR No. 2378. Public Water System Supervision Program: Ban on Lead in Plumbing	2040-AB05

Safe Drinking Water Act (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2798	SAR No. 2377. National Primary Drinking Water Regulation: Contaminants in Drinking Water that May Require Regulation	2040-AB12
2799	SAR No. 1756. Public Water Supply Supervision Program: General Public Notification Requirements and New Lead Public Notice	2040-AB08
2800	SAR No. 2131. Underground Injection Control Program: Indian Lands	2040-AA76
2801	SAR No. 2383. Indian Primacy Regulation	2040-AB04

Safe Drinking Water Act (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2802	SAR No. 1567. National Primary Drinking Water Regulations: Maximum Contaminant Levels for Volatile Organic Chemicals Found in Drinking Water	2040-AA53
2803	SAR No. 2376. National Primary Drinking Water Regulations: Microbials and Filtration of Surface Drinking Water Supplies	2040-AB10

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Safe Drinking Water Act (SDWA)—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
2804	SAR No. 1972. Underground Injection Control Program: Administrative Enforcement Implementation Procedures	2040-AB06

Noise Control Act (NCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2805	SAR No. 2046. Withdrawal of Products from the Agency's Reports Identifying Major Noise Sources and Withdrawal of Proposed Rules	2060-AB24

Resource Conservation and Recovery Act (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2806	SAR No. 2449. Determination on Wastes from the Exploration, Development on Production of Crude Oil, Natural Gas, and Geothermal Energy	2050-AC08
2807	SAR No. 2434. Management of Waste Oil as Hazardous Waste	2050-AC17
2808	SAR No. 2465. Underground Storage Tanks Containing Hazardous Substances- Financial Responsibility Requirements	2050-AC15

Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2809	SAR No. 2332. Mandatory Inspections of Hazardous Waste Management Facilities	2050-AB59
2810	SAR No. 2224. Solid Waste Disposal Facility Criteria	2050-AB21
2811	SAR No. 2507 Test Methods for Evaluating Solid Waste Manual SW846 - Incorporation by Reference and Mandatory Good Laboratory Practices	2050-AC32
2812	SAR No. 2068. Sampling and Analysis Methods for Waste Testing	2050-AA82
2813	SAR No. 2462 Concentration-Based Relisting of Wastes from Chlorinated Aliphatics and 2,4-D Pesticide Industries	2050-AC30
2814	SAR No. 2483 Concentration-Based Relisting of Wastes from Explosives, Inorganic Chemicals, and Iron and Steel Industries	2050-AC31
2815	SAR No. 2277. Groundwater Monitoring at Hazardous Waste Facilities	2050-AB20
2816	SAR No. 2303. Location Standards for Hazardous Waste Facilities	2050-AB67
2817	SAR No. 2487 (previously listed as SAR No. 2393) Receipt of Non-hazardous Waste at Hazardous Waste Management Facilities	2050-AB71
2818	SAR No. 2390. Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80
2819	SAR No. 2453. Metals Emissions and Products of Incomplete Combustion (PICs) Emission Controls for Hazardous Waste Incinerators	2050-AB90
2820	SAR No. 2461. Land Disposal Restrictions for Soil and Debris Containing Hazardous Wastes	2050-AC03
2821	SAR No. 2439. Permitting Experimental Facilities Conducting Hazardous Waste Research	2050-AC04
2822	SAR No. 2452. Land Disposal Restrictions for First Third of Scheduled Wastes	2050-AC13
2823	SAR No. 1805. Permit Modifications for Hazardous Waste Management Facilities	2050-AC22
2824	SAR No. 2503 Corrective Action for Releases to Groundwater from Regulated Hazardous Waste Units	2050-AC28
2825	SAR No. 2435. List (Phase 2) of Hazardous Constituents for Groundwater Monitoring	2050-AC05
2826	SAR No. 2158. Compliance Monitoring and Enforcement Requirements for State Hazardous Waste Management Programs	2050-AB01
2827	SAR No. 2389. Mining Waste Management Under RCRA Subtitle D	2050-AB77
2828	SAR No. 2257. Guidelines for Content in Re-refined oil Procured by the Federal Government	2050-AB53
2829	SAR No. 2433. Minimum Recovered Materials Content in Paper and Paper Products Procured by the Federal Government	2050-AC18

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Resource Conservation and Recovery Act (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2830	SAR No. 2207. Disposal of Containerized Liquids in Hazardous Waste Landfills	2050-AB12
2831	Identification and Listing of Hazardous Wastes	2050-AB46
2832	SAR No. 2391. Landfill, Surface Impoundment, and Waste Pile Closures for Hazardous Waste Management Facilities	2050-AB81
2833	SAR No. 2398 Changes to Interim Status and Permitted Facilities for Hazardous Waste Management; Procedures for Post-Closure Permitting	2050-AC29
2834	SAR No. 2062. Identification of Hazardous Wastes by Toxicity Characteristic and Listing of Additional Organic Toxicants	2050-AA78
2835	SAR No. 1817. Hazardous Waste Miscellaneous Units	2050-AA23
2836	SAR No. 2078. Burning of Hazardous Waste in Boilers and Industrial Furnaces	2050-AA72
2837	SAR No. 2080. Liners and Leak Detection for Hazardous Waste Land Disposal Units	2050-AA76
2838	SAR No. 2273. Liability Requirements for Hazardous Waste Facilities - Corporate Guarantee	2050-AB47
2839	SAR No. 2187. Codification Rule for the 1984 RCRA Amendments	2050-AB58
2840	SAR No. 2388. Double Liner and Leachate Collection Systems for Hazardous Waste Land Disposal Units	2050-AB76
2841	SAR No. 2436. Statistical Methods for Evaluating Groundwater Monitoring Data from Hazardous Waste Facilities	2050-AB82
2842	SAR No. 2460. Liability Requirements for Hazardous Waste Facilities - Other Instruments	2050-AC19
2843	SAR No. 2397. Permitting Mobile Hazardous Waste Treatment Units and Delisting Hazardous Wastes	2050-AC20
2844	SAR No. 2011. Guideline for Recovered Materials Content in Paper Products Procured by the Federal Government	2050-AA68
2845	SAR No. 2202, 2221, and 2256. Underground Storage Tanks - Technical Requirements	2050-AB19
2846	SAR No. 2234. Underground Storage Tanks - State Program Approval	2050-AB31
2847	SAR No. 2255. Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements	2050-AB89

Resource Conservation and Recovery Act (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2848	SAR No. 2211. Restriction of Underground Injection of Certain Hazardous Wastes	2050-AB34
2849	SAR No. 2367. Corrective Action for Hazardous Releases at Federal Facilities	2050-AB63
2850	SAR No. 2364. Variances for Hazardous Waste Management of Radioactive Mixed Wastes	2050-AB75
2851	SAR No. 1957. Small Quantity Generator Accumulation Tanks for Hazardous Waste	2050-AB72
2852	SAR No. 1844. Class Permits for Storing Hazardous Wastes	2050-AA36
2853	SAR No. 2225. Financial Responsibility for Corrective Action for Continuing Releases at Hazardous Waste Management Facilities	2050-AB22
2854	SAR No. 2229 and 2273. List (Phase 1) of Hazardous Constituents for Groundwater Monitoring	2050-AB27
2855	SAR No. 2254. Land Disposal Restrictions for Certain Hazardous Wastes - California List	2050-AB65
2856	SAR No. 2374. Development of Corrective Action Programs After Permitting Hazardous Waste Land Disposal Facilities	2050-AB74

Clean Air Act (CAA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2857	SAR No. 1004. Review of NAAQS for Nitrogen Dioxide	2060-AC06
2858	SAR No. 1001. Review of NAAQS for Carbon Monoxide	2060-AC07
2859	Secondary NAAQS for Particulate Matter (Fine Particles)	2060-AC32
2860	SAR No. 2387. NSPS: Coal Preparation Plants	2060-AB84
2861	SAR No. 2430. NSPS: Asphalt Processing and Asphalt Roofing Manufacturing Plants(Review)	2060-AC21
2862	NSPS: Municipal Waste Combustors	2060-AC26
2863	SAR No. 2181. Decisions on Regulating Various Air Pollutants	2060-AB56
2864	SAR No. 1869. NESHAPS: Cadmium	2060-AB92
2865	SAR No. 2365. Fuel and Fuel Additive Health Emissions Effects Testing	2060-AC10
2866	SAR No. 2366. Diesel Fuel Modification	2060-AC11

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Clean Air Act (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2867	SAR No. 1002. NAAQS for Sulfur Oxides (Revision)	2060-AA61
2868	SAR No. 1919. NAAQS: Lead	2060-AA95
2869	SAR No. 1920. NAAQS: Ozone	2060-AA96
2870	SAR No. 1119. NSPS: Perchloroethylene Dry Cleaning	2060-AA14
2871	SAR No. 1695. NSPS: Solvent Degreasing (111d)	2060-AA33
2872	SAR No. 1691. NSPS: Polymer and Resin Manufacture	2060-AA37
2873	SAR No. 2164. NSPS: SOCMI Reactor Processes	2060-AB55
2874	SAR No. 2239. NSPS: Small Boilers	2060-AB95
2875	SAR No. 1714. NESHAP: Asbestos (Revision)	2060-AB51
2876	SAR No. 2181. NESHAPS: Chromium	2060-AB83
2877	SAR No. 2386. NESHAP: Chromium--Industrial Cooling Towers	2060-AC12
2878	SAR No. 2386. NESHAP: Chromium--Comfort Cooling Towers	2060-AC13
2879	SAR No. 2386. NESHAP: Chromium--Electroplating	2060-AC14
2880	SAR No. 2363. Hazardous Organic NESHAP	2060-AC19
2881	NESHAP: Perchloroethylene Dry Cleaning	2060-AC27
2882	NESHAP: Ethylene Oxide from Commercial Sterilization	2060-AC28
2883	NESHAP: Organic Solvent Cleaning	2060-AC31
2884	SAR No. 2372. Stratospheric Ozone Protection Strategy	2060-AC09
2885	PSD Set II for PM10	2060-AC33
2886	SAR No. 2267. Hydrocarbon Standards for Light-Duty Trucks (Revision)	2060-AB85
2887	SAR No. 2384. Decision on Air Pollution Regulatory Strategies for the Gasoline Marketing Industry	2060-AC04
2888	SAR No. 1315. Trading and Banking of Heavy-duty Engine NOx and PM Emission Credits	2060-AC05
2889	SAR No. 2143. Small-Volume Manufacturers Certification Procedure (Revision)	2060-AB54
2890	SAR No. 2373. Test Procedures for Trap-Equipped Diesel Vehicles and Engines	2060-AC08
2891	Amendments to Selective Enforcement Auditing Regulations	2060-AC34
2892	SAR No. 2136. Emission Performance Warranty Regulations (Revision)	2060-AB53
2893	SAR No. 2215. Fuel and Fuel Additives: Preventative Action Program to Prevent Self-Serve Fuel Switching	2060-AB59
2894	PSD Regulations for NOx	2060-AC29
2895	Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans; Surface Coal Mines	2060-AC40
2896	Nonconformance Penalties for 1991 through 1994 Model Year Emission Standards for Heavy-Duty Vehicles and Engines	2060-AC39
2897	Selective Enforcement Auditing Regulations (Revision)	2060-AC36
2898	SAR No. 2289. Fuel Economy Test Procedures; Adjustment to Test Results to Account for Test Procedure Changes (light-duty trucks)	2060-AB86
2899	SAR No. 2240. Treatment, Storage, and Disposal Facility Area Source Air Emissions - RCRA Standards	2060-AB94

Clean Air Act (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2900	SAR No. 1845. New Source Review (Revision)	2060-AA68
2901	SAR No. 2428. Federal Promulgation of State Implementation Plans to Protect Visibility	2060-AC20
2902	SAR No. 1010. NSPS: Solvent Degreasing	2060-AA12
2903	SAR No. 1615. NSPS: Rubber Products Industry-Tire Manufacturing	2060-AA24
2904	SAR No. 1618. NSPS: Synthetic Organic Chemical Industry: Air Oxidation Process	2060-AA30
2905	SAR No. 1733. NSPS: Distillation Operations	2060-AA35
2906	SAR No. 1736. NSPS: Petroleum Refinery, FCC Regenerators	2060-AA36
2907	SAR No. 2029. NSPS: Sewage Treatment Plants (Revision)	2060-AB05
2908	SAR No. 2044. NSPS: Automobile and Light-Duty Truck Coating Operations (Revision)	2060-AB22
2909	SAR No. 2083. NSPS: Fossil Fuel-Fired Steam Generators (Revision)	2060-AB29
2910	SAR No. 2075. NSPS: Industrial Boilers, S02	2060-AB33
2911	SAR No. 2186. NSPS: Cement Plants (Revision)	2060-AB38
2912	SAR No. 2236. NSPS: Surface Coating of Plastic Parts for Business Machines	2060-AB66
2913	SAR No. 2237. NSPS: Polymeric Coating of Supporting Substrates	2060-AB67
2914	SAR No. 2238. NSPS: Residential Wood Combustion	2060-AB68
2915	SAR No. 1696. NSPS: VOC Emissions from Petroleum Refinery Wastewater Systems	2060-AB81
2916	SAR No. 1928. NSPS: Magnetic Tape Manufacturing	2060-AB88
2917	NSPS: Asphalt Processing and Asphalt Roofing Manufacturing Plants	2060-AC23
2918	SAR No. 1685. NESHAPS: Benzene in Coke Oven By-Product Plants	2060-AA42

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Clean Air Act (CAA)—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2919	SAR No. 1686. NESHAPS: Coke Oven Emissions from Coke Oven Charging, Door Leaks, and Topside Leaks on Wet-Coal-Charged Batteries	2060-AA48
2920	SAR No. 1941. "Guideline on Air Quality Models" (Revision)	2060-AB13
2921	SAR No. 2112. Emission Standards and Test Procedures for Methanol-Fueled New Motor Vehicles	2060-AB28
2922	SAR No. 2318. Control of Excess Evaporative Emissions/Fuel Volatility	2060-AB89
2923	SAR No. 2416. Particulate Emission Standards for Certain 1987 and Later Model Year Light-Duty Diesel Trucks (Revision)	2060-AC18
2924	SAR No. 1317. Importation of Motor Vehicles and Motor Vehicle Engines (Revision)	2060-AA54
2925	SAR No. 2290. Removal of Lead from EPA Certification and Test Fuels (Revision)	2060-AB87
2926	SAR No. 2145. Voluntary Aftermarket Parts Certification Regulations (Revision)	2060-AB58
2927	SAR No. 2214. Fuel and Fuel Additives: Gasoline Lead Content (Revision)	2060-AB60

Clean Air Act (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2928	SAR No. 1003. NAAQS for Particulate Matter (Revision)	2060-AA62
2929	SAR No. 1741. Quality Assurance Procedures, Appendix F, Procedure 1	2060-AA09
2930	SAR No. 1612. NSPS: Volatile Organic Liquids Storage	2060-AA23
2931	SAR No. 2137. NESHAPS: Mercury (Revision)	2060-AB44

Superfund (CERCLA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2932	SAR No. 2336. Designation and Reportable Quantities for Releases of Non-carcinogens and Non-chronic Toxicants on the Extremely Hazardous Substances List	2050-AB62
2933	SAR No. 2394. Reporting Exemption for Federally Permitted Releases of Hazardous Substances	2050-AB82
2934	SAR No. 2429. Reportable Quantities (RQ) for Releases of Potential Carcinogens and Chronic Toxicants on the Extremely Hazardous Substances List	2050-AC14
2935	SAR No. 2411 (previously listed as SAR 1642C). Reporting Continuous Releases of Hazardous Substances	2050-AA46
2936	SAR No. 2459. Reportable Quantities (RQs) for Releases of Methyl Isocyanate (MIC) and Lead; Delisting of Ammonium Thiosulfate	2050-AC21
2937	SAR No. 2437. Accidental Release Information Program (ARIP) for Hazardous Substance Releases	2050-AC02
2938	SAR No. 2400. National Oil and Hazardous Substances Pollution Contingency Plan (NCP)	2050-AA75
2939	SAR No. 2065. Hazard Ranking System for Uncontrolled Hazardous Substance Releases	2050-AB73
2940	SAR No. 2463, SAR No. 2513, SAR No. 2514. National Priorities List for Uncontrolled Hazardous Waste Sites - Update 7, RCRA Sites, and Federal Facilities Sites	2050-AC16
2941	SAR No. 2160. Response Claims Procedures for the Hazardous Substances Superfund	2050-AA90
2942	Administrative Hearing Procedure for Superfund Claims	2050-AC26
2943	SAR No. 2464. Reporting Hazardous Substances Activity When Transferring Federal Real Property	2050-AC00
2944	SAR No. 2427. Worker Protection Standards for Hazardous Waste Operations and Emergency Response	2050-AC12
2945	Trade Secret Claims for Emergency Planning and Community Right-to-Know Information; Tradesecret Disclosures to Health Professionals	2050-AC27

Superfund (CERCLA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2946	SAR No. 2104. Reportable Quantities (RQs) for Releases of Potential Carcinogens and Other Hazardous Substances	2050-AA80
2947	SAR No. 2335. Reportable Quantities (RQs) for Releases of Radionuclides	2050-AB60

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Superfund (CERCLA)—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2948	SAR No. 2457. Withdrawal of Arbitration Procedures and Natural Resource Claims Procedures for the Hazardous Substance Superfund	2050-AC06
2949	SAR Nos. 2077, 2516, 2517. National Priorities List (NPL) for Uncontrolled Hazardous Wastes Sites - Updates 3,4,5 and 6	2050-AA79
2950	SAR No. 2401. Technical Assistance Grants to Groups at National Priority List (NPL) Sites	2050-AC10
2951	SAR No. 2409. Reimbursement of Local Governments for Emergency Response to Hazardous Substance Releases	2050-AC11
2952	SAR No. 2412. Emergency and Hazardous Chemical Inventory Forms and Community Right to Know Reporting Requirements	2050-AB88

Superfund (CERCLA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2953	SAR No. 2407. Extremely Hazardous Substances List and Threshold Planning Quantities; Emergency Planning and Release Notification Requirements	2050-AB86

General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2954	SAR No. 2410 Program Fraud Civil Remedies	2020-AA11
2955	SAR No. 2196. Denial or Restriction of Disposal Sites (Revision)	2040-AB20
2956	SAR No. 2195. Confidentiality Regulations: Special Rules Governing Certain Information Under FIFRA (Revision)	2020-AA06
2957	SAR No. 2415 Amending regulations implementing the Freedom of Information Reform Act of 1986	2020-AA12
2958	Amending regulations implementing the Freedom of Information Reform Act of 1986	2040-AB37

General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2959	SAR No. 1825. Regulations for the Federal Claims Collection Act	2020-AA01
2960	SAR No. 2218. Nondiscrimination on the Basis of Age in Programs Receiving Financial Assistant from the EPA(Revision)	2020-AA07
2961	SAR No. 2307. Notice Requirements for Citizen Suits under the SDWA	2020-AA10

General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2962	SAR No. 2049. Nondiscrimination on the Basis of Handicap for Programs Conducted by EPA	2020-AA05

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Prerule Stage

2687. PESTICIDE APPLICATOR CERTIFICATION FEES FOR EPA ADMINISTERED PROGRAMS

Legal Authority: 31 USC 9701/FIFRA 4

CFR Citation: 40 CFR 171.12

Legal Deadline: None.

Abstract: This rule is intended to implement a program for assessing fees for certification and training of commercial and private applicators who apply restricted use pesticides. Fees will be collected in States with Federally-administered pesticide certification and training programs, and will cover the costs of administering such programs.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2406.

FTS:8-475-9580

Agency Contact: John MacDonald, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-788), Washington, DC 20460, 202 475-9580

RIN: 2070-AB76

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Proposed Rule Stage

2688. ● REGISTRATION DATA REQUIREMENTS FOR PESTICIDE PRODUCT PERFORMANCE AND COMPANION PESTICIDE ASSESSMENT GUIDELINES

Legal Authority: 7 USC 136 /FIFRA 3

CFR Citation: 40 CFR 158.160

Legal Deadline: None.

Abstract: The objective in revising the regulations is to make explicit the Agency's requirement of pesticide producers to submit quantitative data on the yield/quality enhancing performance of their pesticides as compared to alternative pesticides. These data will improve the quality and timeliness of benefit analyses the Agency uses in making risk/benefit decisions to regulate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The companion revised guidelines regarding how to conduct studies will produce the acceptable comparative performance data. Registrants might experience very minor cost increases to register pesticide products. The benefit would be substantial in the form of better and more uniform data on pesticide product performance, for use by Agency analysts and others.

Timetable:

Chemigation Guidelines, Part 158 Rule Revision
Herbicide, Nematicide and 11/00/87
Defoliant Guidelines
Plant Regulator, Desiccant and 08/00/88
Part 158 Rule Revision
Vertebrate Control Guidelines, 01/00/88
Aquatic Plant Control Guidelines 03/00/88

Small Entity: Undetermined

Additional Information: FTS:8-557-1765

Agency Contact: Bernard A. Schneider, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-768c), Washington, DC 20460, 703 557-1765

RIN: 2070-AB82

2689. PROCEDURES FOR AMENDING AND REPEALING TOLERANCES OR EXEMPTIONS FROM TOLERANCES UNDER SECTION 408 AND 409 OF FFDCA

Legal Authority: 21 USC 136a/FFDCA 409

CFR Citation: 40 CFR 180.32

Legal Deadline: None.

Abstract: This regulation will set forth procedures by which food additive tolerances, required by section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA), may be amended or revoked. It may include revisions to FIFRA section3 and FFDCA section 408 regulations to make them consistent with the new regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2444.

FTS:8-557-7700

Agency Contact: Ferial Bishop, Branch Chief, Registration Support and Emergency Response, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-788), Washington, DC 20460, 703 557-7700

RIN: 2070-AB78

2690. RESTRICTED USE CLASSIFICATION FOR CERTAIN ACTIVE INGREDIENTS USED IN TERMITICIDES

Significance: Regulatory Program

Legal Authority: 7 USC 136 /FIFRA 3

CFR Citation: 40 CFR 162.31

Legal Deadline: None.

Abstract: FIFRA requires that pesticides be classified for either general use or restricted to trained, certified pesticide applicators. This rule would classify certain active ingredients in termiticides for restricted use based on the hazards of misuse. Classification for restricted use permits the continued use of certain pesticides which, if used without restrictions, may have adverse effects on human health and the environment.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: SAR No. 2317.

FTS: 8-557-5096

Agency Contact: James Roelofs, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, D.C. 20460, 703 557-0064

RIN: 2070-AB53

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2691. ● RESTRICTED USE CLASSIFICATION FOR GROUNDWATER CONTAMINATING PESTICIDES

Significance: Regulatory Program

Legal Authority: 7 USC 136 /FIFRA

CFR Citation: 40 CFR 162.30

Legal Deadline: None.

Abstract: This rule will provide a scheme for identifying pesticides which may pose an unacceptable hazard because of a tendency to leach into groundwater. Options for mitigating the hazard of pesticides having the potential for leaching into groundwater will be developed as well as criteria for classifying them for restricted use. Restricted use pesticides generally may be applied only by state certified applicators. Other restrictions on conditions or locations of use will be considered when application by skilled persons may not be sufficient to prevent pesticides from posing a hazard due to its tendency to leach into groundwater.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Additional Information: SAR No. 2351.

FTS: 8-557-3942

Agency Contact: David Alexander, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767c), Washington, DC 20460, 202 557-3942

RIN: 2070-AB60

2692. FIFRA GOOD LABORATORY PRACTICE STANDARDS (REVISION)

Legal Authority: 7 USC 136 /FIFRA 3; 21 USC 346; 21 USC 348; 21 USC 371

CFR Citation: 40 CFR 160

Legal Deadline: None.

Abstract: This action will expand the scope of the FIFRA Good Laboratory PracticeS (GLPs) to include 1) additional types of testing not covered by the current 40 CFR 160 and certain changes from the recent FDA GLP regulation amendments. Specifically, environmental fate, certain other chemistry tests, ecological effects and efficiency are among the types of tests to be added.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	06/00/88	

Small Entity: No

Additional Information: SAR No. 1703.

FTS:8-382-7825

Agency Contact: Dan Helfgott, Environmental Protection Agency, Pesticides and Toxic Substances, EN-342, Washington, DC 20460, 202 382-7825

RIN: 2070-AB66

2693. SALE OF RESTRICTED USE PESTICIDES TO NONCERTIFIED PERSONS

Legal Authority: 42 USC 136 /FIFRA 4, 12

CFR Citation: 40 CFR 162

Legal Deadline: None.

Abstract: This action is intended to develop regulations to allow the sale of restricted use pesticides to persons who are not certified under special circumstances as set forth by Congress in 1978. Regulatory development will be coordinated with the review of state plans under FIFRA Section 4 to determine both need and compatibility with State authorities and programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2337.

FTS: 8-382-3949

Agency Contact: Connie Musgrove, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-788), Washington, D.C. 20460, 202 475-9582

RIN: 2070-AB48

2694. REGULATIONS ON CERTIFICATION OF PESTICIDE APPLICATORS (REVISION)

Legal Authority: 42 USC 136/FIFRA 4

CFR Citation: 40 CFR 171

Legal Deadline: None.

Abstract: This action is intended to revise existing regulations on certification of pesticide applicators. The current standards and requirements may need to be updated to clarify definitions and to reflect changes in technology and current needs in State programs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Additional Information: SAR No. 2446.

FTS:382-3847

Agency Contact: Maureen Lydon, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-788), Washington, DC 20460, 202 382-3847

RIN: 2070-AB75

2695. EXPERIMENTAL USE PERMITS (REVISION)

Legal Authority: 7 USC 136 /FIFRA 4

CFR Citation: 40 CFR 172

Legal Deadline: None.

Abstract: This proposed revision will amend the existing regulations (40 CFR 172) pertaining to Experimental Use Permits (EUPs) to incorporate the policies set forth in the Office of Science and Technology Policy, which were published in the Federal Register on June 26, 1986 (51 FR 23313). The existing regulations exempt prospective registrants from the requirement of obtaining an EUP if they propose to conduct tests which will involve less than 10 acres of land and less than one surface acre of water. The proposed revision would require them to notify EPA if tests are to involve genetically altered or manipulated microorganisms or nonindigenous pathogenic microorganisms and will describe certain data required to be submitted at the time of notification so that the Agency may determine whether an EUP will be required.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2445.

FTS:8-557-8196

Agency Contact: Henry Jacoby, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-769C), Washington, DC 20460, 703 557-8196

RIN: 2070-AB77

2696. WORKER PROTECTION STANDARDS FOR AGRICULTURAL PESTICIDES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136 / FIFRA 25

CFR Citation: 40 CFR 170

Legal Deadline: None.

Abstract: The worker protection standards for agricultural pesticides will be revised to reflect new and developing requirements for the registration, reregistration and use of pesticides. The current standards need to be revised in order to increase the scope of coverage, update the provisions, clarify definitions and responsibilities, and improve implementation, compliance, and enforcement.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/84	49 FR 32605
NPRM	12/00/87	

Small Entity: No

Additional Information: SAR No. 1640.

FTS: 8-557-7666.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; RIA

Agency Contact: Patricia Breslin, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-766C), Washington, DC 20460, 703 557-7666

RIN: 2070-AA49

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — Final Rule Stage

2697. COMPREHENSIVE REVISION OF PESTICIDE REGISTRATION AND CLASSIFICATION PROCEDURES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136(a) / FIFRA 3

CFR Citation: 40 CFR 162

Legal Deadline: None.

Abstract: These regulations will revise procedures and requirements for the registration, reregistration and classification of pesticide products as restricted use. The revisions are intended to improve the clarity of the existing rule and to integrate into the procedures aspects of the registration process, such as the Registration Standards program, which were initiated since the original regulation was promulgated.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/79	44 FR 76311
NPRM	09/26/84	49 FR 37915
Final Action	12/00/87	

Small Entity: No

Additional Information: SAR No. 1964.

FTS: 8-557-0944.

Analysis: RIA

Agency Contact: Jean Frane, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, DC 20460, 703 557-0944

RIN: 2070-AA56

2698. LABELING REQUIREMENTS FOR PESTICIDES AND DEVICES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136 / FIFRA 3

CFR Citation: 40 CFR 156; 40 CFR 167

Legal Deadline: None.

Abstract: This regulation will revise and expand the labeling requirements for pesticide products and devices. The revisions will provide for pesticide producers a comprehensive description of pesticide labeling requirements, and will result in better quality pesticide labeling for users.

Timetable:

Action	Date	FR Cite
NPRM	09/26/84	49 FR 37959
Final Action	06/00/88	

Small Entity: No

Additional Information: SAR No. 2289.

FTS: 8-557-0944.

Split away from RIN: 2070-AA56

Analysis: RIA

Agency Contact: Jean Frane, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767c), Washington, DC 20460, 703 557-0944

RIN: 2070-AB46

2699. REPORTING REQUIREMENTS FOR RISK/BENEFITS INFORMATION

Legal Authority: 7 USC 136 /FIFRA 6

CFR Citation: 40 CFR 153

Legal Deadline: None.

Abstract: FIFRA Section 6(a)(2) requires that registrants report to EPA additional factual information regarding unreasonable adverse effects of their products. In September 1985, EPA revised its 1979 section 6 (a)(2) enforcement policy by publishing a notice which expanded upon the types of factual information which must be reported and established uniform timeframes for compliance. In response to comments received on this notice, the Agency is revising it to clarify the types of information which registrants must report to EPA.

Timetable:

Action	Date
Policy Statement	
Final Action	12/00/87

Small Entity: No

Additional Information: SAR No. 2338.

FTS: 8-557-3942

Agency Contact: David Alexander, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, D.C. 20460, 703 557-3942

RIN: 2070-AB50

2700. REGISTRATION OF PESTICIDE PRODUCING ESTABLISHMENTS (REVISION)

Legal Authority: 7 USC 136 / FIFRA 7

CFR Citation: 40 CFR 167

Legal Deadline: None.

Abstract: This regulation amends the existing regulations on registering establishments that produce pesticides.

EPA—FIFRA — **Final Rule Stage**

The regulation implements the Congressional mandate to register establishments that produce active ingredients used in pesticides.

Timetable:

Action	Date	FR Cite
NPRM	07/09/80	45 FR 46100
NPRM	03/25/87	52 FR 9504
Final Action	11/00/87	

Small Entity: No

Additional Information: SAR No. 1747.

FTS: 8-382-7825.

Agency Contact: David Hannemann, Environmental Protection Agency, Pesticides and Toxic Substances, (EN-342), Washington, DC 20460, 202 382-7825

RIN: 2070-AA04

2701. PESTICIDE ADVERTISING

Legal Authority: 7 USC 136 /FIFRA 12, 18

CFR Citation: 40 CFR 153.12; 40 CFR 156.7

Legal Deadline: None.

Abstract: EPA is proposing to treat as unlawful under FIFRA section 12 or restrict the advertising of certain uses of pesticides authorized for experimental use, emergency use, and special local needs. The proposed policy will also address advertising of other unregistered pesticides and pesticide use patterns. This policy is intended to prevent misuse of pesticides which could cause unreasonable adverse effects on humans or the environment.

Timetable:

Interpretive Rulemaking
Final Action 12/00/87
Policy Statement
Proposal 07/03/86 (51 FR 24393)

Small Entity: No

Additional Information: SAR No. 2314.

FTS: 8-557-3942

Agency Contact: David Alexander, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, D.C. 20460, 703 557-3942

RIN: 2070-AB47

2702. USER CHARGES FOR PESTICIDE REGISTRATIONS

Significance: Regulatory Program

Legal Authority: 31 USC 9701 /Independent Offices Appropriation Act of 1952

CFR Citation: 40 CFR Not applicable

Legal Deadline: None.

Abstract: Under the authority of the Independent Offices Appropriation Act (IOAA) of 1952, the Agency is proposing to establish user fees for processing pesticide registration actions which constitute special services to registrants. The Agency is also considering establishing fees for other special services such as re-registration. The proposed registration fee system would place all or part of the burden of payment for the Agency's services on those who benefit from the service rather than on the Agency.

Timetable:

Action	Date	FR Cite
NPRM	11/26/86	51 FR 42974
Final Action	02/00/88	

Small Entity: No

Additional Information: SAR No. 2013.

FTS: 8-557-7711

Agency Contact: Robert Brennis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-757C), Washington, D.C. 20460, 703 557-7711

RIN: 2070-AB52

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — Completed Actions

2703. RESTRICTED USE RULE FOR GROUNDWATER CONTAMINATING PESTICIDES

Significance: Regulatory Program

CFR Citation: 40 CFR 162.30

Completed:

Reason	Date	FR Cite
Now RIN 2070-AB60	08/27/87	

Small Entity: No

Agency Contact: David Alexander 202 557-3942

RIN: 2070-AB69

2704. GUIDELINES ON DISPOSAL AND STORAGE OF PESTICIDES (REVISION)

CFR Citation: 40 CFR 165

Completed:

Reason	Date	FR Cite
No action anticipated in foreseeable future	09/27/87	

Small Entity: No

Agency Contact: Raymond F. Krueger 703 557-7347

RIN: 2070-AA61

2705. GENERIC LISTING OF PESTICIDES AS ACUTE HAZARDOUS WASTES

CFR Citation: 40 CFR 261

Completed:

Reason	Date	FR Cite
Withdrawn	09/00/87	

Small Entity: No

Agency Contact: Jean Frane 202 557-0944

RIN: 2070-AB70

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Toxic Substances Control Act (TSCA) — Prerule Stage

2706. ● PCB NOTIFICATION AND MANIFESTING RULE

Legal Authority: 15 USC 2605/TSCA 6; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 761

Legal Deadline: None.

Abstract: Under the authority of TSCA, EPA is considering rulemaking which would require that all PCB wastes be manifested for disposal. The purposes of the regulation would be 1) to obtain information about handlers and storers of PCB wastes; and 2) to track shipment of wastes containing PCBs. Issues still under consideration are the scope of the generator's obligation to notify, and whether to exclude small quantities of wastes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information:

FTS:8-382-3866

Agency Contact: Martin Halper, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070-AB83

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Toxic Substances Control Act (TSCA) — Proposed Rule Stage

2707. ● RESTRICTIONS ON DISPOSAL OF DRAINED ELECTRICAL EQUIPMENT

Legal Authority: 15 USC 2605

CFR Citation: 40 CFR 761.60(b)(4)

Legal Deadline: None.

Abstract: EPA is considering rulemaking to address the issues posed by improper disposal of electrical equipment which once contained PCB contaminated oil. Alternatives being considered are regulation of the scrapyards which receive the drained equipment. Benefits of the regulatory action may be a reduction in the number of Superfund sites.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Additional Information:

FTS:8-382-3866

Agency Contact: Martin Halper, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070-AB80

2708. DECISIONS ON TEST RULES

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: None.

Abstract: The following table lists chemicals for which EPA will initiate rulemaking to require testing or publish a notice which provides the reasons for not doing so. The list includes chemicals which have been designated for priority testing consideration by the Interagency Testing Committee as well as those chemicals (i.e., recommended and non-designated chemicals) for which the 12-month statutory requirement does not apply. The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other EPA program offices and through TSCA review processes.

Timetable:

Alkyl Phthalates (Enviro) (ITC List 1)
Final Action 06/00/88
Anilines (ITC List 4)
ANPRM 01/03/84 (49 FR 108)
Final Action 01/00/88
Anthraquinone (ITC List 15)
NPRM 11/06/85 (50 FR 46090)
Final Action 06/04/87 (52 FR 21018)
Aryl Phosphates (ITC List 2)
ANPRM 12/29/83 (48 FR 57452)
NPRM 00/00/00
Benzyl Butyl Phthalate (ITC List 7)
Notice 10/30/81 (46 FR 53775)
Notice 01/05/82 (47 FR 335)
NPRM 09/06/85 (50 FR 36446)
Final Action 10/00/87
Biphenyl (Test Standards)(ITC List 10)
NPRM 07/15/86 (51 FR 25577)
Final Action 10/00/87
C.I. Disperse Blue 79 (ITC List 19)
NPRM 00/00/00
Chlorinated Benzenes (environmental)(ITC List 1)
NPRM 01/13/84 (49 FR 1760)
Final Action 07/01/87 (52 FR 24460)
Commercial Hexane
NPRM 05/15/86 (51 FR 17854)
Final Action 09/00/88
Cresols (Test Standards) (ITC List 1)
NPRM 04/28/86 (51 FR 15803)
Final Action 05/20/87 (52 FR 19082)
Cumene (ITC List 15)
NPRM 11/06/85 (50 FR 46104)
Final Action 05/00/88
Cyclohexane (ITC List 18)
NPRM 05/20/87 (52 FR 19096)
Diethylene glycol butyl ether acetate (DGBA) (ITC LIST 13)
ANPRM 11/19/84 (49 FR 45606)
NPRM 08/04/86 (51 FR 27880)
Final Action 05/00/88
Diethylene Glycol Butyl Ether (ITC List 13)
ANPRM 11/19/84 (49 FR 45606)
NPRM 08/04/86 (51 FR 27880)
Final Action 05/00/88
Diisodecyl Phenyl Phosphate (ITC List 17)
NPRM 00/00/00
Environmental Monitoring Test Rule
NPRM 00/00/00
Ethylbenzene (ITC List 20)
NPRM 00/00/00
Ethylene Glycol Ethers Category
NPRM 00/00/00
Fluoroalkenes (ITC List 7)
ANPRM 10/30/81 (46 FR 53704)
NPRM 06/04/84 (49 FR 23112)
NPRM 11/06/85 (50 FR 46133)
Final Action 06/06/87 (52 FR 21516)
Glycidols (ITC List 3)
ANPRM 12/30/83 (48 FR 57562)
NPRM 10/00/88
Hexafluoropropylene Oxide (ITC List 2)
NPRM 12/30/83 (48 FR 57686)
Final Action 00/00/00
Hydroquinone (Test Standards)(ITC List 5)
NPRM 12/30/85 (50 FR 53160)
Final Action 05/28/87 (52 FR 19865)
ISOPROPANOL (ITC LIST 19)
NPRM 04/00/88
Mercaptobenzothiazole (ITC List 15)
NPRM 11/06/85 (50 FR 53160)
Final Action 07/00/88
Mesityl Oxide (ITC List 4)
Final Action 05/20/87 (52 FR 19088)
Methy ethyl ketoxime (ITC List 19)
NPRM 09/00/88
Methyl tert-butyl ether (ITC List 19)
Final Action 05/00/88
Methylcyclopentane (ITC List 16)
NPRM 05/15/86 (51 FR 17854)
Final Action 04/00/88
Methylolurea (ITC List 12)

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ANPRM 05/21/84 (49 FR 21371)
NPRM 00/00/00
Nonylphenol
NPRM 00/00/00
Octamethylcyclotetrasiloxane (ITC List 15)
NPRM 10/30/85 (50 FR 45123)
Final Action 00/00/00
Oleyamine (Pharmocokinetics) (ITC List 13)
NPRM 12/00/87
Oleyamine (Test Standards) (ITC List 13)
NPRM 09/00/87
Oleylamine (ITC List 13)
NPRM 11/19/84 (49 FR 45610)
Final Action 09/00/87
Other Disperse Blue Dyes (ITC List 20)
NPRM 00/00/00
OSW Generic Test Rule
NPRM 05/29/87 (52 FR 20336)
Final Action 04/00/88
Pentabromoethylbenzene (ITC List 15)
NPRM 11/13/85 (50 FR 46785)
Final Action 01/00/88
Phenol, 2,6,-bis(1,1-dimethyl ethyl) (ITC List 18)
NPRM 00/00/00
Phenylenediamines and Toluenediamines (ITC List 6)
ANPRM 01/08/82 (47 FR 973)
NPRM 01/06/86 (31 FR 472)
NPRM 10/00/87
Phosphoric acid, tri-butyl ester (ITC List 18)
NPRM 00/00/00
Propylene Oxide (Test Standards) (ITC List 1)
NPRM 11/27/85 (50 FR 48803)
Final Action 09/00/87
Tetrabromobisphenol A (ITC List 16)
NPRM 05/15/86 (51 FR 17872)
Final Action 07/06/87 (52 FR 25219)
Tributyl phosphate (ITC List 19)
NPRM 10/00/87
Triethylene Glycol Monomethyl,Monoethyl,Monobutyl Ethers(List16)
NPRM 05/15/86 (51 FR 17883)
Final Action 01/00/88
Trimethylbenzene (Test Standards) (List 10)
NPRM 03/27/86 (51 FR 10557)
Final Action 01/23/87 (52 FR 2522)
Vinylidene Chloride
NPRM 08/12/86 (51 FR 28840)
Final Action 00/00/00
1,1,1-Trichloroethane (muta/neuro) (ITC List 2)
NPRM 01/00/88
1,2-Dichloropropane (Test Standards) (ITC List 3)
NPRM 09/09/86 (51 FR 32107)
Final Action 09/00/87
2-Ethylhexanoic acid (ITC List 14)
NPRM 05/17/85 (50 FR 20678)
Final Action 11/06/86 (51 FR 40318)
2-Ethylhexanol
NPRM 12/19/86 (51 FR 45487)
Final Action 00/00/00
2,6-Di-tert-butylphenol (ITC List 18)
NPRM 06/25/87 (52 FR 23662)
Final Action 07/00/88
3,4-Dichlorobenzotrifluoride (ITC List 14)
Final Action 06/23/87 (52 FR 23547)

Small Entity: No

Additional Information: SAR No. 1137.

FTS: 8-475-8130.

Agency Contact: Gary Timm, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-788), Washington, DC 20460, 202 475-8130

RIN: 2070-AB07

2709. TSCA GOOD LABORATORY PRACTICE STANDARDS (REVISION)

Legal Authority: 15 USC 2603 /TSCA 4

CFR Citation: 40 CFR 792

Legal Deadline: None.

Abstract: Expand the scope of the rule to include: 1) additional types of testing not covered by the current 40 CFR 792, 2) TSCA section 4 consent agreements, and 3) certain changes in the recent FDA GLP regulation amendment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	06/00/88	

Small Entity: No

Additional Information: SAR No. 1886.

FTS:8-382-7825

Agency Contact: Dan Helfgott, Environmental Protection Agency, Pesticides and Toxic Substances, EN-342, 202 382-7825

RIN: 2070-AB65

2710. ● SARA SECTION 110 CHEMICALS GENERIC TEST RULE

Legal Authority: 15 USC 2603 / TSCA Section 4

CFR Citation: 40 CFR 790

Legal Deadline: None.

Abstract: The regulation will set forth the policies and procedures to be used in using the TSCA Section 4 testing authority to obtain toxicity and chemical fate testing to fill certain data needs identified in toxicity profiles of chemicals prepared pursuant to Section 110 of the Superfund Amendments and Reauthorization Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
NPRM Comment Period End	03/00/88	
Final Action	12/00/88	

Small Entity: No

Additional Information:

FTS:8-475-8130

Agency Contact: Gary E. Timm, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-788), Washington, DC 20460, 202 475-8130

RIN: 2070-AB84

2711. FOLLOW-UP RULES ON EXISTING CHEMICALS

Legal Authority: 15 USC 2604 / TSCA 5; 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None.

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under TSCA section 5 and/or 8 to require reporting by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:
Anthraquinone
NPRM 11/06/85 (50 FR 26090)
Final Action 06/04/87 (52 FR 21018)
Epibromohydrin
NPRM 01/02/87 (52 FR 107)
Final Action 10/00/88
Ethylenediaminetetra (Methylenephosphonic Acid) and its Salts
NPRM 01/00/88
Hexafluoropropylene Oxide
NPRM 01/02/87 (52 FR 107)
Final Action 10/00/88
Methyl Butyl Ketone
NPRM 07/07/86 (51 FR 24551)
Final Action 04/13/87 (52 FR 11822)
Trichlorobutylene Oxide
NPRM 01/02/87 (52 FR 107)
Final Action 10/00/88
Tris/2,3-Dibromopropyl Phosphate
NPRM 07/07/86 (51 FR 24555)
Final Action 01/26/87 (52 FR 2699)
1-Chloro-2-bromoethane
NPRM 09/04/87 (52 FR 33606)
11-Aminoundecanoic Acid
NPRM 07/22/86 (51 FR 26273)
Final Action 05/28/87 (52 FR 19860)

Small Entity: No

Additional Information: SAR No. 1923.

FTS: 8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AA58

2712. CHEMICAL SPECIFIC SIGNIFICANT NEW USE RULES TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Legal Authority: 15 USC 2604 /TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None.

Abstract: When the Agency determines that in the absence of adequate safety data, the uncontrolled manufacture, import, processing, distribution, use or disposal of a PMN substance may present an unreasonable risk, it may issue a proposed order under section 5(e) to limit the aforementioned activities. However, section 5(e) orders apply only to the PMN submitter. Once the substance is placed on the TSCA chemical inventory, other persons process the substance without controls. Therefore EPA, by rule, are free to manufacture, import, or process the substance without controls. Therefore EPA, by rule, designates manufacture, import, or processing of the substances for use without the specified controls as a significant new use. These SNURs ensure that the original submitter is not at a competitive disadvantage and that no uncontrolled activities will occur without an opportunity for prior Agency review.

Timetable:
(see additional information for title)
NPRM 00/00/00
(84-274) (see additional information for title)
NPRM 08/26/85 (50 FR 34505)
Final Action 00/00/00
(85-1176) (see additional information for title)
NPRM 00/00/00
(85-564) (see additional information for title)
NPRM 00/00/00
(85-703) (see additional information for title)
NPRM 03/27/85 (50 FR 12046)
NPRM 06/23/86 (51 FR 22831)
Final Action 00/00/00
Alkyl Aryl Phosphine (83-1023)
NPRM 09/20/84 (49 FR 36880)
Final Action 00/00/00
Alkyl Glycoether Acrylic Acid Derivative(84-27)
NPRM 12/24/84 (49 FR 49868)
Final Action 00/00/00
Brominated Aryl Alkyl Ether, Ethylated Amino Phenol Amino ETC
NPRM (83-906/908/909/910) 09/28/84 (49 FR 38303)
Final Action 00/00/00
Certain Acrylate and Methacrylate Chemicals (84-176, 180-184)
NPRM 03/27/85 (50 FR 12046)
Final Action 00/00/00
Certain Acrylate Chemicals (84-341-344)
NPRM 04/04/86 (51 FR 11591)
Final Action 00/00/00
Methylammonium n-Methyldithiocarbamate (84-1042)
NPRM 03/24/86 (51 FR 10027)
Methylammonium n-Methyldithiocarbamate(84-1042)
Final Action 00/00/00
N,N,N'N'-Tetrakis (oxiranylmethyl) 1,3-Cyclohexanedimethanamine
NPRM (84-7) 01/13/86 (51 FR 1396)
Final Action 00/00/00
Polyol Polyacrylate (85-718)
NPRM 00/00/00
Substituted Benzene, Halogenated (85-612)
NPRM 00/00/00
Substituted Benzene, Halogenated (84-660 and 84-704)
NPRM 03/18/86 (51 FR 9221)
Final Action 00/00/00
Substituted Bromothiophene (83-769)
NPRM 09/28/84 (49 FR 38310)
Final Action 00/00/00
Substituted Methylpyridine (83-237)
NPRM 02/06/84 (49 FR 4390)
Final Action 00/00/00
Substituted Polyester Resin (85-395)
NPRM 00/00/00
Substituted Tetrafluoro Alkanes and Alkanes (84-105/106/107)
NPRM 03/21/85 (50 FR 11384)
Final Action 00/00/00
2-Butenedioic Acid(z), Mono'2-'(1-Oxo-2-propenyl)Oxy'Ethyl'-Ester
NPRM (85-543) 00/00/00
2-Propenoic Acid-3-Dimethylamino)-2,2-Dimethyl-Propyl Ester
NPRM 00/00/00
2-Propenoic Acid, 2-Methyl-3,3,5-trimetylcyclohexylester (85-546)
NPRM 00/00/00
2-Propenoic Acid, 3,3,5-Trimethylcyclohexylester(85-547)
NPRM 00/00/00

Small Entity: No

Additional Information: SAR No. 2246.

FTS:8-382-3771.

(85-1176) Alcohols, C1-4, ethers with Polyethylent-polypropulene glycol mono (2-aminopropyl) ether, polymer with maleic anhydride and trimethylolpropane triacrylate

(85-564) Isocyanic acid, polymethylene-polyphenylene ester, polymer with 1,1-methylenebis ;4-isocyanatobenzene!, 2-hydroxyethyl acrylate-blocked

(85-703) Poly 2-hydroxpropyl melamine, polymers with 5-isocyana to 1-isocyanatomethyl-1,3,3-trimethylcyclohexane 2-hydroxyethyl acrylate-blocked

(84-274) Poly(oxy-1,4-butanediyl)-alpha-(1-oxo-2-propenyl) -omega-[(1-oxo-2-propenyl)-oxy)

NPRM 2-Propenoic Acid, 2-Methyl-7,7,9-Trimethyl-4,13-Dioxo-3, 14-Dioxo-t,12-Diazahexadecane, 1,16-Diyl Ester

Agency Contact: John Bowser, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3771

RIN: 2070-AB27

2713. GENERIC SIGNIFICANT NEW USE RULE FOR ACRYLATE COMPOUNDS

Legal Authority: 15 USC 2694 /TSCA Section 5

CFR Citation: 40 CFR 721

Legal Deadline: None.

Abstract: The generic acrylate significant new use rule may require any person who proposes to manufacture, import, or process an acrylate/methacrylate subject to the category definition contained within the proposed rule to notify EPA at least 90 days in advance of the initiation of a significant new use. The significant new use rule will apply to a subset of acrylates and methacrylates added to the inventory after the effective date of the rule. It will no longer be necessary to issue routine 5(e) orders or chemical specific SNURs for those acrylates covered by the rule.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: SAR No. 2247.

FTS: 8-382-3779

Agency Contact: Lynda Priddy, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, D.C. 20460, 202 382-3969

RIN: 2070-AB56

2714. ● RULEMAKING CONCERNING CERTAIN MICROBIAL PRODUCTS ("BIOTECHNOLOGY")

Significance: Regulatory Program

Legal Authority: 15 USC 2604 /TSCA 5; 15 USC 2607 /TSCA 8

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CFR Citation: 40 CFR 704; 40 CFR 720; 40 CFR 721

Legal Deadline: None.

Abstract: Under the authority of the Toxic Substances Control Act, the agency is proposing three separate regulatory actions for manufacturers, importers, and processors of certain microbial products of biotechnology. Under section 5, the Agency is propos proposing to amend its definition of "small quantities solely for research and development" contained in the Premanufacture Notification (PMN) Rule, thereby requiring persons to submit PMNs prior to testing new microorganisms in the environment. EPA also is proposing significant new use notification requirements under section 5(a)(2), which would require persons to notify the Agency of new environmental applications of certain pathogens. In addition, the Agency may be proposing section 8(a) reporting requirements for persons who are using microorganisms in the requirements. The primary objective of these actions is to ensure uses of microorganisms in the environment, and to obtain data for use in evaluating the biotechnology programs and the biotechnology industry. (CONT)

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: Finally, the Agency has requested information which will permit the Agency to make the necessary statutory findings to propose a section 5(h)(4) exemption to PMN requirements for biotechnology-related products of low risk.

SAR NO. 2325 (SNUR for Certain Biotech Products); 2326 (PMN for Certain Biotech Products); 2327 (8(a) for Certain Biotech Products)

FTS:8-382-3856

Agency Contact: Jane Rissler, Environmental Protection Agency, Pesticides and Toxic Substances, TS-794, Washington, DC 20460, 202 382-3856

RIN: 2070-AB61

2715. NITROSAMINES IN METALWORKING FLUIDS

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6

CFR Citation: 40 CFR 747

Legal Deadline: None.

Abstract: The formulation of water-based metalworking fluids with nitrite in combination with alkanolamines may present an unreasonable risk to machinists due to the formulation of nitrosamines, particularly n-nitrosodiethanolamine (NDELA). Recent studies indicate that NDELA is a potent animal carcinogen. EPA may either propose to prohibit the intentional addition of inorganic nitrites to water-containing metalworking fluids that contain amines, refer occupational risks to the Occupational Safety and Health Administration under section 9(a) of TSCA, or initiate other actions.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/84	49 FR 2767

Next Action Undetermined

Small Entity: Yes

Additional Information: SAR No. 2149.

FTS: 8-382-3945.

Analysis: RFA; RIA

Agency Contact: Joseph DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3945

RIN: 2070-AB09

2716. REGULATORY INVESTIGATION OF FORMALDEHYDE

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6; 15 USC 2608 / TSCA 9

CFR Citation: 40 CFR 765

Legal Deadline: None.

Abstract: As described in the Federal Register on May 23, 1984, the Agency has been investigating regulatory options for the reduction of three categories of exposure to formaldehyde: 1) residents exposed to formaldehyde emissions from wood products used in the construction of manufactured homes: 2) similarly exposed residents of conventional homes: 3) apparel manufacture employees exposed to formaldehyde released from treated fabrics. Because OSHA proposed a standard in December 1985 that applies to all occupational exposure, EPA has terminated its investigation with respect to apparel manufacturing employees. Investigation of risks from exposure to formaldehyde emissions from wood products is being conducted in consultation with HUD and CPSC. This investigation may lead to the initiation of various control alternatives, including section 9 referral to other agencies and/ or section 6 regulations.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/84	49 FR 21870
Section 9(d) and Notice of Termination for Apparel Workers	03/19/86	51 FR 9469
Section 9 Report, NPRM, or Statement of No Unreasonable Risk Regarding Wood Products	10/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2146.

FTS: 8-382-3945.

Agency Contact: Joseph DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3945

RIN: 2070-AB14

2717. POLYCHLORINATED BIPHENYLS (PCBS): APPLICATIONS FOR EXEMPTIONS FROM THE BAN ON MANUFACTURING, PROCESSING, AND DISTRIBUTION

Legal Authority: 5 USC 556 / TSCA 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None.

Abstract: Section 6(e)(3)(b) of TSCA provides that the Administrator may grant, by rule, exemptions from the prohibitions on the manufacture, processing and distribution in commerce of PCBs upon finding (1) that granting the exemption will not pose an unreasonable risk of injury to health or the environment, and (2) that good faith efforts have been made to develop a PCB substitute which does not pose an unreasonable risk of injury to health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: SAR No. 2150.

FTS: 8-382-3935.

Analysis: RIA

Agency Contact: Martin Halper, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070-AB20

2718. REGULATORY INVESTIGATION OF CHLORINATED SOLVENTS

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6; 15 USC 2608 / TSCA 9

CFR Citation: 40 CFR 754

Legal Deadline: None.

Abstract: EPA, in consultation with the Consumer Product Safety Commission, Occupational Safety and Health Administration and Food and Drug Administration, is developing a comprehensive and integrated strategy for a regulatory investigation of methylene chloride and five other chlorinated solvents. In some cases, these chlorinated solvents are competitive and can be easily substituted for each other in a number of uses. The integrated effort is being conducted to reach general agreement on the risks associated with the solvents and to avoid ineffective risk management actions that may occur due to solvent switching or pollutant transfer among media which could be caused by piecemeal regulation. Data are being gathered for six solvents (methylene chloride, perchloroethylene, trichloroethylene, methyl chloroform, carbon tetrachloride, and CFC-113) and their potential substitutes. This regulatory investigation is focused on four major use categories: dry cleaning, metal degreasing, paint stripping and aerosol application. The investigation will determine whether coordinated regulatory controls are needed to eliminate or reduce exposure to these solvents.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42037
NPRM	05/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2284.

FTS: 8-382-3945.

Agency Contact: Joseph DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3945

RIN: 2070-AB41

2719. PCB SPILL CLEANUP RECORDKEEPING RULE

Legal Authority: 15 USC 2605(e)(3)(B) / TSCA 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None.

Abstract: This regulation will require parties responsible for PCB spill clean up to maintain records of the cleanup. The information required to be included in the records will likely be the same as that required in the PCB spills cleanup policy. The recordkeeping requirements will facilitate verification of PCB spill cleanup.

Timetable:

Action	Date	FR Cite
Policy Statement	04/02/87	52 FR 10688
NPRM	04/00/88	

Small Entity: No

Additional Information: SAR No. 2297.

FTS: 382-3866.

Agency Contact: Martin Halper, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070-AB45

2720. ● PROCEDURES FOR TERMINATION OF POLYCHLORINATED BIPHENYL DISPOSAL APPROVALS

Legal Authority: 15 USC 2605/TSCA 6; 5 USC 556 et seq

CFR Citation: 40 CFR 761

Legal Deadline: None.

Abstract: Under section 6(e) of TSCA, the Agency is considering establishing uniform procedures for the revocation of TSCA disposal permits. The regulation would establish uniform revocation procedures and thereby ensure fairness in permit revocation proceedings.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Additional Information:

FTS:8-382-3866

Agency Contact: Martin Halper, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070-AB81

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Toxic Substances Control Act (TSCA)

Final Rule Stage

2721. SARA SECTION 313 TOXIC CHEMICAL RELEASE REPORTING RULE

Significance: Regulatory Program

Legal Authority: SARA Sec 313

CFR Citation: 40 CFR Not applicable

Legal Deadline: Statutory, December 1987.

Abstract: This action publishes a uniform Toxic Chemical Release Reporting form for the annual reporting of emissions of over 300 designated toxic chemicals and compounds to all environmental media. As required by statute, owners and operators of facilities in SIC Codes 20-39 with 10 or more full time employees must report annually on their emissions if they manufacture, process, or otherwise use a listed toxic chemical in amounts that exceed thresholds as outlined in the statute.

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Timetable:

Action	Date	FR Cite
NPRM	06/04/87	52 FR 21152
Final Action	12/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2404.

FTS:8-382-3667

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Michael Shapiro, Director, Economics and Technology Division, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-779), Washington, DC 20460, 202 382-3667

RIN: 2070-AB71

2722. NEGOTIATED CONSENT/PROCEDURAL TEST RULE (REVISION)

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None.

Abstract: This amends the test rule development and exemptions procedural rule published October 10, 1984 (49 FR 39776) to allow for rulemaking to be conducted in a single phase (i.e., a proposed rule and a final rule covering both the effects for which testing is necessary and the testing methodology) and adds consent orders as a means of obtaining test data required under Section 4 of TSCA. In addition, this rule will simplify the procedures governing the development and implementation of testing requirements under 2-phase rulemaking, and amend the current procedures governing modification of test standards and schedules for tests required under test rules and testing consent agreements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/85	50 FR 20652
Interim Final Rule	06/30/86	51 FR 23706
Interim Final Rule	09/00/87	
Interim Final Rule	09/00/87	
Final Action	12/00/88	

Small Entity: No

Additional Information: SAR No. 2245.

FTS:8-475-8130.

Agency Contact: Gary Timm, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-777), Washington, DC 20460, 202 475-8130

RIN: 2070-AB30

2723. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICALS

Legal Authority: 15 USC 2604 / TSCA 5; 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None.

Abstract: EPA has instituted a program to follow the commercial development of selected new chemicals that have completed premanufacture notice review. EPA will issue rules on new chemicals of concern as they are identified to require follow-up reporting under TSCA Section 5 or 8, by the manufacturers and processors of the chemicals.

Timetable:

Alkyl, Sulfonic Acid, Ammonium Salt (84-1058)
NPRM 06/11/86 (51 FR 21199)
Final Action 00/00/00

Dinitrophenyl Azo-2,4-Diamino-5-Methoxybenzene Derivatives
NPRM 10/25/84 (49 FR 42960)
Final Action 00/00/00

Substituted Methylpyridine/Substituted 2-Phenoxypyridine
NPRM 02/06/84 (49 FR 4390)
Final Action 00/00/00

Small Entity: No

Additional Information: SAR No. 1976.

FTS: 8-382-3771.

Agency Contact: John Bowser, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, D.C. 20460, 202 382-3771

RIN: 2070-AA59

2724. GENERAL REGULATIONS ON SIGNIFICANT NEW USE RULES (SNURS) (REVISION)

Legal Authority: 15 USC 2604 /TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None.

Abstract: Subpart A of part 721 of 40 CFR contains general provisions for Significant New Use Rules (SNURs). The Agency has received comments requesting that the general provisions be modified to revise its hazard communication provisions to make them more compatible with OSHA's Hazard Communication Standard; and to allow manufacturers and processors to seek Agency approval, outside the context of a PMN submission, for risk management measures which are equivalent to those described in a SNUR. Based on comments, EPA has proposed revisions to the general provisions for SNURs.

Timetable:

Action	Date	FR Cite
NPRM	04/22/86	51 FR 15104
Final Action	04/00/88	

Small Entity: No

Additional Information: SAR No. 2250.

FTS:8-382-3771.

Agency Contact: John Bowser/Andrew Cherry, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3771

RIN: 2070-AB26

2725. PROCEDURAL RULE FOR EXPEDITED NEW CHEMICAL FOLLOW-UP

Significance: Regulatory Program

Legal Authority: 15 USC 2604 /TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None.

Abstract: This rulemaking would establish criteria and procedures by which certain chemicals could be administratively added to or withdrawn from a list of chemicals subject to section 5(a)(2) of TSCA. This would reduce the time and resources required to regulate individual chemicals under the new chemical follow-up program. This rulemaking would also establish reporting requirements under sections 8(a) and 8(d) for manufacturers and processors of certain chemicals that meet the criteria mentioned above.

Timetable:

Action	Date	FR Cite
NPRM	04/29/87	52 FR 15594
Final Action	03/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2375.

FTS:8-382-2439

Agency Contact: John Bowser, Environmental Protection Agency,

Pesticides and Toxic Substances, TS-794, Washington, DC 20460, 202 382-2439

RIN: 2070-AB67

2726. POLYCHLORINATED BIPHENYLS (PCBS): MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE, AND USE PROHIBITIONS; EXCLUSIONS AND USE AUTHORIZATIONS (REVISION)

Legal Authority: 5 USC 556 /TSCA 6

CFR Citation: 40 CFR 761

Legal Deadline: None.

Abstract: On July 10, 1984, EPA promulgated a rule for inadvertently generated PCBs and authorizing the limited use of PCBs in heat transfer and hydraulic systems (49 FR 28172). EPA will propose amendments to the July 10 Rule in response to two petitions for judicial review of the Rule. The proposed amendments will be based on EPA evaluation of new information submitted by the petitioners and other interested parties.

Timetable:

Action	Date	FR Cite
NPRM	07/08/87	52 FR 25838
Final Action	04/00/88	

Small Entity: No

Additional Information: SAR No. 2244.

FTS:8-382-3935.

Agency Contact: Martin Halper, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3866

RIN: 2070-AB25

2727. ACTION CONCERNING COMMERCIAL AND INDUSTRIAL USE OF ASBESTOS

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6

CFR Citation: 40 CFR 763

Legal Deadline: None.

Abstract: Asbestos is a known human carcinogen. Persons are exposed to asbestos from releases to the environment during all phases of the lifecycle of asbestos products. Because of the serious risk presented to many people from exposure to asbestos during the lifecycle of asbestos products, EPA has proposed a rule under Section 6 of TSCA to ban certain asbestos products for which substitutes are currently available and to phase out all or most asbestos mining and importation over 10 years.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/79	44 FR 60057
NPRM	01/29/85	51 FR 3738
Final Action	07/00/88	

Small Entity: Yes

Additional Information: SAR No. 2296.

FTS: 382-3849.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; RIA, RFA

Agency Contact: Joseph DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3945

RIN: 2070-AB29

2728. ASBESTOS-IN-SCHOOLS INSPECTION AND ABATEMENT RULE

Significance: Regulatory Program

Legal Authority: 15 USC 2605 /AHERA

CFR Citation: 40 CFR 763

Legal Deadline: Statutory, October 17, 1987.

Abstract: On October 22, 1986, the Asbestos Hazard Emergency Response Act (AHERA) of 1986 (Public Law 99-519) was signed into law. Under AHERA, EPA is directed to promulgate regulations which provide a framework for addressing asbestos problems in public and private schools. The statute sets deadlines of 180 days after enactment for EPA to issue proposed rules and 360 days for issuance of final rules. EPA must develop regulations which include requirements for: the inspection of all school buildings for asbestos-containing materials (ACM); the identification of circumstances requiring response actions; descriptions of the appropriate response actions; the implementation of response actions; the establishment of a periodic surveillance program for ACM; the establishment of an operations and maintenance program for friable ACM; the preparation and implementation of asbestos management plans by local educational agencies; and the transportation and disposal of waste ACM from schools.

Timetable:

Action	Date	FR Cite
ANPRM	08/12/86	51 FR 28913
NPRM	04/30/87	52 FR 15820
Final Action	10/17/87	

Small Entity: Yes

Additional Information: SAR No. 2408.

FTS: 382-3949.

Analysis: Regulatory Flexibility Analysis; RFA

Agency Contact: Michael Stahl, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-788A), Washington, DC 20460, 202 382-3934

RIN: 2070-AB44

2729. PCBS IN ELECTRICAL TRANSFORMERS (REVISION)

Legal Authority: 15 USC 2605 /TSCA 6

CFR Citation: 40 CFR 761

Legal Deadline: None. Toxic Substances Control act, Section 6(e)

Abstract: Section 6(e) of TSCA authorizes the Administrator to promulgate rules governing the manufacture, processing and distribution in commerce, use and disposal of PCBs. EPA promulgated a rule, which was published in the Federal Register of July 17, 1985 (50 FR 29170), to amend portions of an existing EPA rule concerning the use of PCBs by placing additional restrictions and conditions on the use of PCB transformers. EPA will propose amendments to the July 17, 1985 rule in response to the terms set forth in a settlement agreement in Mississippi Power Company v. EPA.

Timetable:

Action	Date	FR Cite
NPRM	08/21/87	52 FR 31738
Final Action	06/00/88	

Small Entity: No

Additional Information:

FTS:8-382-3866 SAR No. 2447.

Agency Contact: Martin Halper, Environmental Protection Agency, Pesticides and Toxic Substances, TS-798, Washington, DC 20460, 202 382-3866

RIN: 2070-AB74

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2730. SECTION 8 (A) PRELIMINARY ASSESSMENT INFORMATION RULES

Legal Authority: 15 USC 2607a / TSCA 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None.

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the TSCA Section 8(a) Preliminary Assessment Information Rule - (40 CFR Part 712). These chemicals are identified by OTS, other EPA offices, and other Agencies, as well as chemicals recommended by the Interagency Testing Committee (ITC) on the TSCA Section4(e) priority list. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. It will also support risk assessment and test rule decisions.

Timetable:

OAQPS/OTS Chemicals PAIR
NPRM 05/14/87 (52 FR 18250)
Final Action 12/00/87
Pesticide Inerts
NPRM 05/14/87 (52 FR 18245)
Final Action 00/00/00
20th ITC List Chemicals
Final Action 05/20/87 (52 FR 19027)
21st ITC List Chemicals
Final Action 11/00/87

Small Entity: No

Additional Information: SAR No. 2178.

FTS: 8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20640, 202 382-3436

RIN: 2070-AB08

2731. SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Legal Authority: 15 USC 2607(d)/TSCA 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None.

Abstract: These rules add chemicals to the list of chemicals and mixture Subject to the requirements of the TSCA Section 8(d) Health and Safety Data Reporting Rule. These chemicals are identified by OTS, other EPA offices, other Agencies, as well as chemicals recommended by the Interagency Testing committee (ITC) on the TSCA Section 4(e) Priority List. Manufacturers, importers, and processors of listed substances must submit unpublished health and safety data on those listed substances.

Timetable:

Pesticide Inerts
NPRM 05/14/87 (52 FR 18245)
Final Action 00/00/00
Substances Contained in Water, Solid Waste and Consumer Products
NPRM 08/08/86 (51 FR 27562)
Final Action 05/01/87 (52 FR 16022)
20th ITC List Chemicals
Final Action 05/20/87 (52 FR 19027)
21st ITC List Chemicals
Final Action 11/00/87

Small Entity: No

Additional Information: SAR No. 1139a.

FTS: 8-382-3436.

Docket No. OPTS 84012.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AB11

2732. TSCA SECTION 8(A) COMPREHENSIVE ASSESSMENT INFORMATION RULE (CAIR)

Significance: Regulatory Program

Legal Authority: 15 USC 2607(a) / TSCA 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None.

Abstract: This rule will contain a comprehensive list of questions for industry reporting which will provide necessary information to complete chemical assessments. Each time EPA needs information on a chemical, the Agency will amend the rule to add the chemical. Not all questions will be selected for each chemical added to the rule; only the most relevant questions will be selected for each chemical. The information obtained by this rule will be used by EPA and other Federal Agencies to support assessments of and rulemaking on chemical substances.

Timetable:

Action	Date	FR Cite
NPRM	10/07/86	51 FR 35762
Final Action	03/00/88	

Small Entity: No

Additional Information: SAR No. 2129.

FTS: 8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AB13

2733. USER FEES FOR PROCESSING PMNS

Significance: Regulatory Program

Legal Authority: 15 USC 2625 /TSCA 26(B)

CFR Citation: 40 CFR 700

Legal Deadline: None.

Abstract: Section 26(b) of TSCA authorizes EPA, by rule, to require the payment of a fee from any person required to submit data under section 4 or 5 of TSCA. The fee may not exceed $2,500 or, in the case of a small business concern, $100. EPA intends to propose a rule under this authority to require fees for Agency review of premanufacture notices (PMNs) and PMN exemption notices and applications for new chemical substances, and significant new use notices for new and existing chemicals.

Timetable:

Action	Date	FR Cite
NOTICE	07/11/86	51 FR 25250
NPRM	04/20/87	52 FR 12940
Final Action	02/00/88	

Small Entity: No

Additional Information: SAR No. 2324.

FTS: 8-382-3945

Agency Contact: Joseph A. DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, D.C. 20460, 202 382-3945

RIN: 2070-AB54

2734. ● RECODIFICATION OF TSCA CFR SECTION 721

Legal Authority: 15 USC 2604

CFR Citation: 40 CFR 721

Legal Deadline: None.

Abstract: Section 721 of 40 CFR contains general provisions for Significant New Use Rules and a list of significant new uses for specific chemical substances. It is the Agency's intent to restructure Part 721 to allow 1) insertion of new generic SNUR triggers, and 2) other reorganization amendments to the SNUR regulations to make SNUR requirements more clear.

Timetable:

Action	Date	FR Cite
Final Action	03/00/88	

Small Entity: No

Additional Information:

FTS:8-382-3436

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AB85

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Toxic Substances Control Act (TSCA)

Completed Actions

2735. DIOXINS/FURANS: TESTING RULE AND REQUIREMENTS FOR DATA SUBMISSION

Significance: Regulatory Program

CFR Citation: 40 CFR 799; 40 CFR 712

Completed:

Reason	Date	FR Cite
Final Action	06/05/87	52 FR 21412

Small Entity: No

Agency Contact: Martin Halper 202 382-3866

RIN: 2070-AB21

2736. RULEMAKING CONCERNING CERTAIN MICROBIAL PRODUCTS ("BIOTECHNOLOGY")

Significance: Regulatory Program

CFR Citation: 40 CFR 704; 40 CFR 720; 40 CFR 721

Completed:

Reason	Date	FR Cite
Now RIN 2070-AB61	08/27/87	

Small Entity: Undetermined

Agency Contact: Jane Rissler 202 382-3856

RIN: 2070-AB66

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Water Act (CWA)

Proposed Rule Stage

2737. SECONDARY TREATMENT/PERCENT REMOVAL REQUIREMENTS FOR COMBINED SEWER SYSTEMS

Legal Authority: 33 USC 1311(b)(1)(B) /CWA 301(b)(1)(B); 33 USC 1314(d)(1) /CWA 304(d)(1)

CFR Citation: 40 CFR 133

Legal Deadline: None.

Abstract: In this amendment the Agency will propose a mechanism for permit adjustments for treatment plants served by Combined Sewer Systems similar to that which was recently promulgated (June 3, 1985) for separate sewer systems. The existing regulation requires 85% removal of BOD5 and suspended solids (65% for equivalent treatment) from treatment plants served by combined sewers during dry weather flow conditions. Problems exist in meeting these requirements when plants experience less concentrated influents.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	08/00/88	

Small Entity: No

Additional Information: SAR No. 1962.

FTS:8-382-7371.

Agency Contact: Lam Lim, Environmental Protection Agency, Water, (WH-595), 202 382-7371

RIN: 2040-AB13

2738. STATE SLUDGE PROGRAM REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 1251(b) /CWA 101(b); 33 USC 1285(j) /CWA 205(j); 33 USC 1313(e) /CWA 303(e); 33 USC 1317(b) /CWA 307(b); 33 USC 1318 /CWA 308; 33 USC 1345 /CWA 405; 33 USC 1361(a) /CWA 501(a); 33 USC 1370 /CWA 510; 42 USC 6905(b) /RCRA 1006(b); 42 USC 6907 /RCRA 1008; 42 USC 6912(a) /RCRA 2002(a); 42 USC 6944 /RCRA 4004; 42 USC 6945 /RCRA 4005; 42 USC 7410 /CAA 110; 42 USC 7411 /CAA 111; ...

CFR Citation: 40 CFR 501

Legal Deadline: Statutory. 12/15/86 for state program approval procedures (Water Quality Act of 1987).

Abstract: The agency proposed requiring States to develop and obtain approval for sludge management programs. Included in the proposal were: 1) program approval procedures; and 2) the elements of an approvable State program, including compliance monitoring and enforcement provisions. The agency will be developing revised state program regulations to conform to the new requirements of the Water Quality Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4458
Reproposal	12/00/87	
Final Action	11/00/88	

Small Entity: No

Additional Information: SAR No. 2163.

This item was listed in the April 1, 1986 to March 31, 1987 Regulatory Program of the United States Government as RIN 2040-AA73.

ADDITIONAL LEGAL AUTHORITY: Water Quality Act of 1987.

Agency Contact: Martha Kirkpatrick, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9517

RIN: 2040-AA73

2739. ● WATER QUALITY STANDARDS-REVISION

Legal Authority: 33 USC 1258 /CWA 108

CFR Citation: 40 CFR 131

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Legal Deadline: None.

Abstract: A proposal to revise existing paragraph 131.41(a)(2) dealing with adoption of criteria for toxic pollutants to strengthen the factors for adoption, review, and approval of methods to implement narrative criteria for toxic pollutants in order to make the regulation consistent with the Water Quality Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
NPRM Comment Period End	04/00/88	
Final Action	10/00/88	

Small Entity: Undetermined

Additional Information:

FTS:8-245-3042

Government Levels Affected: State

Agency Contact: David K. Sabock, Environmental Protection Agency, Water, (WH-585), Washington, DC 20460, 202 245-3042

RIN: 2040-AB34

2740. EFFLUENT GUIDELINES FOR OFFSHORE OIL AND GAS EXTRACTION INDUSTRY (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 435

Legal Deadline: Judicial, December 1985.

Abstract: The Agency will promulgate BAT, BCT and NSPS regulations for drilling fluids and drill cuttings waste streams from offshore oil and gas extraction facilities to limit discharges of pollutants from the offshore segment of the oil and gas extraction point source category.

Timetable:

Action	Date	FR Cite
NPRM	08/26/85	50 FR 34592
NPRM (Offshore)	08/26/85	50 FR 34592
NOTICE	11/13/85	50 FR 46784
NOTICE	12/31/85	50 FR 53348
NOTICE	11/00/87	
Final Action	05/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 1649.

This item was included under RIN 2040-AA89 in the April 27, 1987 Regulatory Program of the United States Government.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Dennis Ruddy, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7131

RIN: 2040-AA12

2741. EFFLUENT GUIDELINES FOR ADHESIVES AND SEALANTS

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 463

Legal Deadline: None.

Abstract: The Agency has decided to exclude portions of the Adhesives and Sealants point source category from toxic pollutant regulation. Authority for this decision is provided under the EPA-NRDC Settlement Agreement, Paragraph 8. A guidance document summarizing the technical findings may be developed, however a timetable for possible publication has not been determined.

Timetable:

Action	Date	FR Cite
Guidance Document	00/00/00	

Small Entity: No

Additional Information: SAR No. 1910.

FTS:8-382-7190.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Elwood Forsht, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7190

RIN: 2040-AA30

2742. ● EFFLUENT GUIDELINES FOR NONFERROUS METALS MANUFACTURING (PHASE II) (REVISIONS)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 421

Legal Deadline: None.

Abstract: In response to settlement agreements, the Agency will propose and promulgate amendments to the regulation previously promulgated on September 20, 1985 (50 FR 38276). These amendments are in response to settlements arrived with six petitioners and will affect six subcategories, primary beryllium subcategory, primary molybdenum and rhenium subcategory, second molybdenum and vanadium subcategory, secondary precious metals subcategory and secondary tungsten and cobalt subcategory. The amendments will revise BPT, BAT, NSPS and standards pretreatment to limit the discharge of pollutants from these subcategories.

Timetable:

Action	Date	FR Cite
NPRM	06/27/84	49 FR 26352
NPRM Comment Period End	09/20/85	50 FR 38276
NPRM	12/00/87	
Final Action	12/00/88	

Small Entity: No

Additional Information:

FTS:8-382-7126

Government Levels Affected: Local, State, Federal

Agency Contact: Ernest P. Hall, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040-AB31

2743. ● EFFLUENT GUIDELINES FOR PESTICIDES CHEMICALS

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 455

Legal Deadline: Statutory, December 31, 1986. Statutory deadline indicates Congressional intent that this regulation be expeditiously promulgated.

Abstract: On October 4, 1985 the EPA promulgated a final regulation establishing best available technology economically achievable, new source performance standards, pretreatment standards for existing sources and pretreatmemt standards for new sources for the pesticide industry under the Clean Water Act. In response to a joint motion filed by the Agency ad interested parties for a voluntary remand, on July 25, 1986, the final regulation was remanded to the EPA by the Eleventh Circuit Court of Appeals. EPA removed the BAT, NSPS, PSNS, and PSES pesticide regulation from the Code of Federal Regulations at the direction of the Court, and informed the public that the regulation is no longer effective (December 15, 1986; 51 FR 44911). The Agency intends to reconsider this regulation and to establish new effluent limitation guidelines and standards for the pesticide manufacturers and formulator/packagers industry in a future rulemaking. This action does not in any way affect the best practicable control technology currently available limitations which were published on April 25, 1978 and September 29, 1978. These limitations are still effective.

Timetable:

Action	Date	FR Cite
NPRM	12/00/89	
Final Action	06/00/91	
Final Action Effective	09/00/91	

Small Entity: Undetermined

Additional Information:

FTS:8-382-7156

Government Levels Affected: Local, State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Thomas Fielding, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7156

RIN: 2040-AB32

2744. DEFINITION OF "WATERS OF THE UNITED STATES"

Legal Authority: 33 USC 1251 /CWA 303

CFR Citation: 40 CFR 122.2

Legal Deadline: None.

Abstract: This action will revise the definition of "Waters of the United States". It is necessary to replace the existing definition that was suspended in 1980.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 2395.

FTS:8-475-9539

Agency Contact: George Young, Environmental Protection Agency, Water, EN-336, 202 475-9539

RIN: 2040-AB01

2745. ● WATER QUALITY STANDARDS—REVISION FOR INDIAN TRIBES

Legal Authority: 33 USC 1251 et seq; 33 USC 1313 et seq; 33 USC 1342 et seq; 33 USC 1344 et seq

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 131; 40 CFR 230; 40 CFR 231; 40 CFR 232; 40 CFR 233

Legal Deadline: Statutory, August 3, 1988.

Abstract: Treatment of Tribes as States for Section 303, 402, and 404. The revised regulation will also incorporate a mechanism to resolve any disputes that might arise from unreasonable consequences occurring if Indian tribes and States adopt differing water quality standards for common bodies of water.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	02/00/88	
Final Action	08/00/88	

Small Entity: No

Additional Information:

FTS:8-475-7318

Agency Contact: David Sabock, Environmental Protection Agency, Water, (WH-585), Washington, DC 20460, 202 475-7318

RIN: 2040-AB36

2746. ● NPDES REGULATORY REVISIONS

Legal Authority: 33 USC 1251 /CWA 303

CFR Citation: 40 CFR 122; 40 CFR 123

Legal Deadline: None.

Abstract: This action will revise the NPDES Regulations to conform to requirements contained in the 1987 Water Quality Act. In addition, several other changes will be made to clarify existing requirements and policies. These revisions will not encompass requirements mandated by Section 406 (sewage sludge) of the 1987 Water Quality Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: No

Additional Information:

FTS:8-475-9539

Agency Contact: George Young, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9539

RIN: 2040-AB38

2747. ● REVISIONS TO REGULATIONS FOR MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR MUNICIPAL DISCHARGE INTO MARINE WATERS

Legal Authority: 33 USC 1311(h)/CWA 301(h)

CFR Citation: 40 CFR 125

Legal Deadline: None.

Abstract: The revisions to the regulations primarily are intended to respond to statutory changes made to sec. 301(h) of the Clean Water Act (33 USC 1311(h)), which governs secondary treatment waivers for municipal discharges into marine waters. The statutory changes to be addressed include, among other things, new requirements for minimum treatment levels and additional requirements for pretreatment programs for certain waiver applicants. In addition, the Agency is considering revising the regulations to more specifically address procedures and requirements for the renewal of secondary treatment waivers. The revised regulations will affect only a limited number of municipal treatment plants since the statutory deadline for applying for a secondary treatment waiver expired in 1982.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	
NPRM Comment Period End	11/00/88	
Final Action	05/00/89	

Small Entity: Undetermined

Additional Information:

FTS:8-475-7134

Agency Contact: Barry Burgan, Environmental Protection Agency,

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Water, (WH-556F), Washington, DC 20460, 202 475-7134

RIN: 2040-AB29

2748. NPDES REGULATIONS: STORMWATER APPLICATION REQUIREMENTS (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1251 /CWA 402

CFR Citation: 40 CFR 122

Legal Deadline: None.

Abstract: These revisions to the NPDES permit program application requirements for stormwater discharges are in response to concerns about the difficulty of complying the April 26, 1985 deadline for application submittals. These changes will address the deadline for application submission and the information required within the application.They will also reflect 1987 amendments to the Clean Water Act.

Timetable:

Action	Date	FR Cite
NPRM Deadline and Requirements	03/07/85	50 FR 9362
NPRM Reproposed Requirements	08/12/85	50 FR 32548
Final Action Deadline (CWA amendments)	08/29/85	50 FR 35200
NPRM Deadline Extension	09/00/87	
NPRM Reproposed Requirements	02/00/88	

Small Entity: No

Additional Information: SAR No. 2200.

FTS: 8-475-9537.

Agency Contact: Harry Thron, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9537

RIN: 2040-AA79

2749. FUTURE EFFLUENT GUIDELINES -- STANDARDS INITIATIVES

Significance: Regulatory Program

Legal Authority: 33 USC 1251 /CWA 402, 301, 304, 306, 307, 501

CFR Citation: 40 CFR 400

Legal Deadline: None.

Abstract: EPA will evaluate additional categories of industrial discharges for hazardous or toxic pollutants; identify subcategories based upon production processes, pollutants, and applicable technologies; and determine the extent of the environmental problem and the practicality and efficiency of issuing effluent guidelines. Potential industrial categories for analysis will be selected based on requests from the EPA regional offices, states, and municipalities and from results of internal studies. Examples of industrial categories which will be evaluated include: hazardous waste treaters; solvent, barrel, and waste oil reclaimers; hospitals; equipment manufacturers; transportation sources; industrial laundries; and several others. Regulations for these industries, if appropriate, will be based on complex engineering and economic studies to determine wastewater characteristics and treatment capabilities of each industrial category and subcategory.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: SAR No. 2304.

FTS: 8-382-7137.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Tom O'Farrell, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7137

RIN: 2040-AA90

2750. ● NPDES PERMIT APPLICATION FORM 2C, STANDARD FORM A, AND SHORT FORM A REVISION

Legal Authority: 33 USC 1342/CWA 402

CFR Citation: 40 CFR 122

Legal Deadline: None.

Abstract: This action will revise the current NPDES Permit Application Form 2C (industrial), Standard Form A (municipal), and Short Form A (municipal) to reflect amendments to the Clean Water Act and changes in program requirements and emphasis. The new application forms will replace the old versions and enable permit writers to obtain more pertinent information regarding expected discharges and the environmental impact of proposal operations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information:

FTS:8-475-9528

Agency Contact: William A. Collins, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9528

RIN: 2040-AB39

2751. SEWAGE SLUDGE USE AND DISPOSAL REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 1345 / CWA 405

CFR Citation: 40 CFR 503

Legal Deadline: Statutory. Proposal November 30, 1986; Final August 31, 1987.

Abstract: The Agency plans to provide technical criteria and management practices by issuing technical sludge regulations under Section 405 of the Clean Water Act as amended by the Water Quality Act of 1987. These regulations will address: Distribution and Marketing, Application of sludge to lands which are used for Food and Non-food Chain crops, Ocean Disposal, Incineration and Landfilling. Thirty-two chemicals are currently being evaluated for the various reuse and disposal options.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	
Final Action	09/00/89	

Small Entity: Undetermined

Additional Information: SAR No. 2162.

FTS: 8-475-7311.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Alan Rubin, Environmental Protection Agency, Water, WH-585, Washington, DC 20460, 202 475-7311

RIN: 2040-AA74

2752. COMPREHENSIVE REVISIONS TO OCEAN DUMPING REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 1401 et seq /MPRSA

CFR Citation: 40 CFR 220 to 229

Legal Deadline: None.

Abstract: These amendments are necessary to clarify the existing regulations, incorporate program experience, and respond to statutory amendments and the results of two lawsuits. Those lawsuits are the City of New York decision (543 F. Supp.1084), which involved the consideration of the need for ocean dumping and availability and impacts of land-based alternatives, and NWF v. Costle decision (629 F. 2d 118), which involved dredged material issues. Among other things, the statutory amendments to be addressed in the Regulatory Revisions include provisions applicable to the ocean disposal of low-level radioactive waste. Significant impacts on small entities (i.e., small business and small governmental jurisdictions) seem unlikely.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	01/00/89	

Small Entity: No

Additional Information: SAR No. 2169.

FTS: 8-475-7126

Agency Contact: John Lishman, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 475-7126

RIN: 2040-AA78

2753. GENERAL PRETREATMENT REGULATIONS - MODIFICATIONS TO ADDRESS RECOMMENDATIONS OF THE DOMESTIC SEWAGE STUDY

Significance: Regulatory Program

Legal Authority: 42 USC 6939 / RCRA 3018

CFR Citation: 40 CFR 403

Legal Deadline: Statutory, August 1987.

Abstract: The Agency plans to prepare proposed changes to the General Pretreatment Regulations that address: specific and general discharge prohibitions; controls on spills and batch dischargers and dischargers by liquid waste haulers; industrial user notification requirements; and local limits. These changes will be responsive to the recommendations of the Domestic Sewage Study submitted to Congress February 8, 1986 and are to improve the control of hazardous wastes discharged through sewers to publicly-owned treatment works.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2342.

FTS 8-475-9534.

Agency Contact: Marilyn Goode, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9534

RIN: 2040-AA99

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Water Act (CWA) — Final Rule Stage

2754. GUIDELINES FOR CLASSIFYING GROUND WATER UNDER THE EPA GROUND WATER PROTECTION STRATEGY

Significance: Regulatory Program

Legal Authority: None

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: In August 1984, EPA issued Groundwater Protection Strategy to provide objectives to guide the Agency's efforts to protect ground water. The strategy incorporated views of State and local governments, industry, a broad-cross section of public-interest groups, and other Federal agencies who had been invited to comment on the development of the strategy. One of the major factors toward the development of the strategy was the need to achieve greater consistency among the many EPA programs in protecting ground water and the need to take into account its value and vulnerability in developing protection and cleanup approaches. These guidelines are designed to provide operational definitions for assisting in implementing such a differential protection approach. The Agency published draft final guidelines and solicited public comment through March 1987. The Agency will finalize the guidelines based on comments received.

Timetable:

Action	Date	FR Cite
Draft Guidelines	12/03/86	51 FR 43664
Final Guidelines	11/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2300.

FTS: 8-382-7077.

Agency Contact: Marian Mlay, Environmental Protection Agency, Water, Washington, DC 20460, (WH-550G), 202 382-7077

RIN: 2040-AA85

2755. ● WATER QUALITY PLANNING AND MANAGEMENT GRANTS FOR INDIAN TRIBES

Legal Authority: 42 USC 1324 /CWA 314

CFR Citation: 40 CFR 35; 40 CFR 130

Legal Deadline: Statutory, August 1988.

Abstract: Treatment of Indian Tribes as States for Section 106, 205(j), 314 and 319 of the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/88	

Small Entity: Not Applicable

Additional Information:

FTS:8-475-8637

Agency Contact: Patricia Morris, Environmental Protection Agency, Water, (WH-586), Washington, DC 20460, 202 475-8637

RIN: 2040-AB35

2756. SIMPLIFYING CONSTRUCTION GRANTS REGULATIONS (REVISION)

Legal Authority: 33 USC 1361 / CWA 201

CFR Citation: 40 CFR 35, Appendix A

Legal Deadline: None.

Abstract: A revised interim final regulation describing allowable and unallowable costs for construction grant projects was published February 17,

1984. This rule updates these regulations pursuant to the Water Quality Act of 1987.

Timetable:

Action	Date	FR Cite
NPRM - Previous	11/06/81	46 FR 55220
NPRM	05/12/82	47 FR 20470
Interim Final Rule	05/12/82	47 FR 20450
Interim Final Rule Revised	02/17/84	49 FR 6224
Final Action	05/00/88	

Small Entity: No

Additional Information: SAR No. 1722.

Docket No. G-81-5.

FTS: 8-382-7256.

Agency Contact: Geoffery Cooper, Environmental Protection Agency, Water, (WH-546), Washington, DC 20460, 202 382-2287

RIN: 2040-AA70

2757. ● COMPREHENSIVE CONSTRUCTION GRANT REVISION

Significance: Regulatory Program

Legal Authority: 33 USC 1281 / CWA 201; 33 USC 1377; 33 USC 1381

CFR Citation: 40 CFR 35

Legal Deadline: Statutory, August 5, 1988. Deadline applies only to amendment to 40 CFR Part 35, Subpart J to implement Indian provisions of WQA of 1987.

Abstract: This regulation will amend existing regulations to implement the Water Quality Act of 1987 that amended portions of the construction grants program, provided for grants to Indian Tribes under a national set-aside, and may include, as needed regulations to implement a new Title VI to the CWA for capitalization grants to states for state ban programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/88	
Final Action	03/00/89	
Final Action Effective	05/00/89	

Small Entity: No

Additional Information:

FTS: 8-382-2287

Government Levels Affected: Local, State

Agency Contact: Geoffery Cooper, Environmental Protection Agency, Water, WH-546, Washington, DC 20460, 202 382-2287

RIN: 2040-AB25

2758. EFFLUENT GUIDELINES FOR ORGANIC CHEMICALS AND PLASTICS AND SYNTHETIC FIBERS

Significance: Regulatory Program

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1461 / CWA 501

CFR Citation: 40 CFR 414; 40 CFR 416

Legal Deadline: Judicial, August 31, 1987.

Abstract: The Agency will promulgate BPT, BCT, BAT, NSPS and pretreatment standards for the organic chemicals portion of this industry (SIC 2865, 2869). Pollutants include aromatic chlorinated hydrocarbons, phenolic compounds, and metals. EPA is also promulgating BPT, BAT, BCT, NSPS, and pretreatment standards for the plastics and synthetics portion of this industry (SIC 2821, 2823, 2824). Pollutants of concern include phenols, acrolein, ethylbenzene, vinyl chloride, and metals. A notice of availability and request for comments announced the availability of technical and economic data and related documentation received after proposal.

Timetable:

Action	Date	FR Cite
NPRM	03/21/83	48 FR 11828
Notice	08/29/84	48 FR 34295
Notice	05/15/85	50 FR 20290
Notice of New Data	07/17/85	50 FR 29066
NOTICE	10/11/85	50 FR 41526
Final Action	10/00/87	

Small Entity: Yes

Additional Information: SAR No. 1415.

This item was included under RIN 2040-AA89 in the April 1, 1985 Regulatory Program of the United States Government.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; RIA

Agency Contact: E.H. Forsht, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7190

RIN: 2040-AA05

2759. EFFLUENT GUIDELINES FOR PHARMACEUTICALS

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 439

Legal Deadline: None.

Abstract: EPA has promulgated final BPT, BAT, NSPS, PSES and PSNS effluent limitations and standards for the pharmaceutical manufacturing point source category. Additionally, the Agency may promulgate NSPS regulations to control the discharge of conventional pollutants from new source direct dischargers. BCT limitations have been established based on the final BCT cost test methodology (51 FR 24974). The Agency will also finalize BAT and NSPS regulations to control the discharge of the nonconventional pollutant, COD, at a later time.

Timetable:

Action	Date	FR Cite
NPRM	11/26/82	47 FR 53584
NPRM NSPS	10/27/83	48 FR 49832
Final Action	10/27/83	48 FR 49806
NOTICE	11/01/83	48 FR 50322
NOTICE	01/10/84	49 FR 1190
NPRM BCT Cost	03/09/84	49 FR 8967
NOTICE	04/26/84	49 FR 17978
NOTICE New Data	07/02/84	49 FR 27145
NOTICE	01/31/85	50 FR 4513
NOTICE	05/01/85	50 FR 18486
NOTICE New Data	09/09/85	50 FR 36638

Next Action Undetermined
(BCT)
Final Action 12/16/86 (51 FR 45094)

Small Entity: No

Additional Information: SAR No. 1427.

FTS:8-382-7182.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Frank Hund, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7182

RIN: 2040-AA13

2760. EFFLUENT GUIDELINES FOR GUM AND WOOD (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 454

Legal Deadline: None.

Abstract: The Agency will promulgate BPT for subcategories A through F (promulgated as interim final on May 18, 1976 and subcategory G proposed November 29, 1979). NSPS regulations for four subcategories will also be promulgated, as proposed on November 29, 1979. All seven subcategories of the gum and wood chemicals industry (proposed in 1979), have been excluded from toxic pollutant control under authority of the NRDC/EPA settlement agreement (Paragraph 8). Therefore, BAT and pretreatment standards for new and existing sources (proposed in November 1979) will be withdrawn. The Agency will publish guidance describing wastewater treatment alternatives, and the bases for the exclusion of BAT and pretreatment standards.

Timetable:

Action	Date	FR Cite
NPRM	11/29/79	44 FR 68710
SUBCATEGORY G	11/29/79	44 FR 68710
Final Action	06/00/88	
Notice of Availability - Guidance Document	07/00/88	

SUBCATEGORIES A-F
Interim Final Rule 07/18/76 (41 FR 20511)
WITHDRAWAL (BAT/PRETREATMENT)
NOTICE 06/00/88

Small Entity: Undetermined

Additional Information: SAR No. 1425.

FTS:8-382-7186.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Richard E. Williams, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7186

RIN: 2040-AA17

2761. EFFLUENT GUIDELINES FOR PULP, PAPER, AND PAPERBOARD (PCB'S) (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 430

Legal Deadline: None.

Abstract: EPA promulgated effluent limitations guidelines and standards for BPT, BAT, NSPS and PSES for the pulp, paper and paperboard point source category (ro CFR 430) including builder's paper and board mills (40 CFR 431). The final BCT methodology was published on July 9, 1986 and EPA promulgated final BCT regulations for the pulp, paper and paperboard point source category on December 17, 1986 (51 CFR 45232). The Agency may promulgate PCB regulations for the fine and tissue paper sector of the de-ink subcategory and BOD5 limitations for the acetate grade production in the dissolving sulfite pulp subcategory.

Timetable:

Action	Date	FR Cite
NPRM	01/06/81	46 FR 1430
Final Action	11/18/82	47 FR 52006
Notice	01/21/83	48 FR 2804
Notice	03/30/83	48 FR 13176
Final Action	07/08/83	48 FR 31414
Notice	10/18/84	49 FR 40546

Next Action Undetermined
(BCT)
Final Action 12/17/86 (51 FR 45232)
(BOD5/Acetate)
NPRM 03/12/80 (45 FR 15952)
(PCB)
NPRM 11/18/82 (47 FR 52066)

Small Entity: Undetermined

Additional Information: SAR No. 1969.

FTS:8-382-7137.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Thomas O'Farrell, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7137

RIN: 2040-AA63

2762. EFFLUENT GUIDELINES FOR ORE MINING AND DRESSING (PLACER MINING)

Significance: Regulatory Program

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 144.103; 40 CFR 144.104; 40 CFR 440.142; 40 CFR 440.144; 40 CFR 440.143; 40 CFR 440.145

Legal Deadline: Judicial, October 30, 1987.

Abstract: The Agency is developing BPT, BCT, BAT and NSPS for mines and mills that beneficiate gold ores by gravity separation methods. These methods include mining of placer deposits, dredge mining, and hydraulic mining operations. These limitations will apply to wastewater generated by these operations and are an addition to those Ore Mining and Dressing subcategories for which final regulations were issued on December 3, 1982. During the month of September, the Agency will file a motion for modification of the Consent Decree to extend the date for promulgation.

Timetable:

Action	Date	FR Cite
NPRM	11/20/85	50 FR 47982
Notice new data	02/14/86	51 FR 5563
Notice	04/10/86	51 FR 12344
Notice	03/24/87	52 FR 9414
Final Action	04/00/88	

Small Entity: Yes

Additional Information: SAR No. 1413.

FTS 8-382-7191.

Analysis: Regulatory Flexibility Analysis

Agency Contact: Willis E. Umboltz, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7191

RIN: 2040-AA65

2763. EFFLUENT GUIDELINES FOR LEATHER TANNING (REVISION)

Legal Authority: 33 USC 1311 /CWA 301; 33 USC 1314 /CWA 304;; 33 USC 1316 /CWA 306; 33 USC 1317 /CWA 307;; 33 USC 1361 /CWA 501

CFR Citation: 40 CFR 425

Legal Deadline: None.

Abstract: In response to a Settlement Agreement with the Tanners' Council of America (December 11, 1984), the Agency will propose and promulgate amendments to existing regulations which limit the discharge of toxic pollutants to U.S. waters and publicly owned treatment works by the leather tanning and finishing industry.

Timetable:

Action	Date	FR Cite
NPRM	01/21/87	52 FR 2370
Final Action	12/00/87	

Small Entity: No

Additional Information: SAR No. 1409.

FTS: 8-382-7146.

Agency Contact: Rexford R. Gile, Jr., Environmental Protection Agency,

Water, (WH-552), Washington, DC 20460, 202 382-7146

RIN: 2040-AA91

2764. EFFLUENT GUIDELINES FOR NONFERROUS METALS: (PHASE I) (REVISION)

Legal Authority: 33 USC 1311 /CWA 301; 33 USC 1314 /CWA 304; 33 USC 1316 /CWA 306; 33 USC 1317 /CWA 307; 33 USC 1361 /CWA 501

CFR Citation: 40 CFR 421

Legal Deadline: None.

Abstract: In response to Settlement Agreements, the Agency promulgated amendments to the regulations previously issued on 3/6/84 (49 FR 8742). The first portion of these amendments is in response to a Settlement Agreement (11/27/85) affecting the primary and secondary aluminum subcategories. The recently promulgated amendments for this segment include regulations for BAT, pretreatment, and new source standards to limit the discharge of pollutants from facilities in these subcategories. In response to separate Settlement 6/26/85, EPA will promulgate amendments for the primary tungsten subcategory. These amendments addressed limitations for BPT, BAT, pretreatment and new source standards to limit the discharge of pollutants from facilities in this subcategory.

Timetable:

Action	Date	FR Cite
NPRM	02/17/83	48 FR 7032
Final Action	03/06/84	49 FR 8742
NOTICE	06/29/84	49 FR 26736
NOTICE	07/24/84	49 FR 29792
NOTICE	03/28/85	50 FR 12252
Primary and Secondary Aluminum		
NOTICE 05/20/86 (51 FR 18530)		
NOTICE 07/07/87 (52 FR 25552)		
Primary Tungsten		
NOTICE 01/22/87 (52 FR 2480)		
NOTICE FINAL 11/00/87		

Small Entity: No

Additional Information: SAR No. 1410.

FTS: 8-382-7126

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Ernest P. Hall, Environmental Protection Agency, Water, (WH-552), Washington, D.C. 20460, 202 382-7126

RIN: 2040-AA96

2765. ● EFFLUENT GUIDELINES FOR NONFERROUS METALS FORMING (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1341 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 471

Legal Deadline: None.

Abstract: In response to settlement agreements, the Agency will propose and promulgate amendments to the regulation previously promulgated on August 23, 1985 (50 FR 34242). These amendments are in response to settlements arrived with two petitioners and will affect two subcategories: the nickel-cobalt forming subcategory, and zirconium-hafnium subcategory. The amendments will revise BPT, BAT, NSPS and pretreatment standards to limit the discharge of pollutants from these subcategories.

Timetable:

Action	Date	FR Cite
NPRM	03/06/84	49 FR 8112
NPRM Comment Period End	08/23/85	50 FR 34242
Final Action	12/00/88	

Small Entity: No

Additional Information:

FTS: 8-382-7126

Government Levels Affected: Local, State, Federal

Agency Contact: Ernest P. Hall, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040-AB30

2766. ● EFFLUENT GUIDELINES FOR ALUMINUM FORMING (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 467

Legal Deadline: None.

Abstract: In response to settlement agreements, the Agency has proposed and will promulgate amendments to the regulation previously promulgated on October 24, 2983 (48 FR 49126). These amendments are in response to settlements arrived at with two groups of petitioners and will affect two subcategories: the extrusion subcategory, and forging subcategory. The amendments will revise BAT, and pretreatment standards to limit the discharge of pollutants from these subcategories.

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 5262
Final Action	10/24/83	48 FR 49126
NPRM Comment Period End	03/19/86	51 FR 9616
Final Action	01/00/88	

Small Entity: Undetermined

Additional Information:

FTS:8-382-7126

Government Levels Affected: Local, State, Federal

Agency Contact: Ernest P. Hall, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7126

RIN: 2040-AB33

2767. GENERAL PRETREATMENT REGULATIONS: REMOVAL CREDITS (REVISION)

Legal Authority: 33 USC 1317 /CWA 307

CFR Citation: 40 CFR 403.7

Legal Deadline: None.

Abstract: The Agency is preparing revisions to the removal credits provisions of the General Pretreatment Regulations. These revisions will address the Third Circuit Court of Appeals decision overturning portions of the removal credits provision promulgated on August 3, 1984 and remanding the rule to the Agency.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Additional Information: SAR No. 1866.

FTS:8-475-9533

Agency Contact: Craig Jakubowics, Environmental Protection Agency, Water, EN-336, 202 475-9533

RIN: 2040-AB02

2768. DISCHARGE OF OIL (REVISION)

Legal Authority: 33 USC 1321 / CWA 311

CFR Citation: 40 CFR 110

Legal Deadline: None.

Abstract: This regulation defines harmful quantities of oil for purposes of section 18(m)(3) of the Deepwater Port Act of 1974 and incorporates the 1977, 1978 and 1980 amendments to section 311 of the Clean Water Act (CWA). Generally, this action extends reporting requirements for oil spills beyond the continuous zone to ocean waters and provides for an exemption from section 311 for oil discharges covered under MARPOL and section 402 of the CWA.

Timetable:

Action	Date	FR Cite
NPRM	03/11/85	50 FR 9776
Final Action	10/00/87	

Small Entity: No

Additional Information: SAR No. 1579.

For information call the RCRA/Superfund Hotline (800-424-9346); in D.C. Metropolitan Area (382-3000).

Agency Contact: Hubert Watters, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548B), Washington, DC 20460, 202 382-2463

RIN: 2040-AA48

2769. HAZARDOUS SUBSTANCES POLLUTION PREVENTION FOR FACILITIES SUBJECT TO PERMITTING REQUIREMENTS OF SECTION 402

Legal Authority: 33 USC 1321 / CWA 311

CFR Citation: 40 CFR 151

Legal Deadline: None.

Abstract: This regulation's purpose is to prevent spills of hazardous substances into navigable waters. It sets forth requirements for the Spills Prevention Control and Countermeasure Plans for facilities which (a) are not related to transportation, (b) which store, manufacture or otherwise handle hazardous substances at their facilities, and (c) are subject to NPDES permits. The Agency will likely exempt any small facilities which store less than ten times the reportable quantities of spilled, hazardous substances.

Timetable:

Action	Date	FR Cite
NPRM	09/01/78	43 FR 39276
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1451.

FTS:8-382-3000. RCRA/CERCLA Hotline 800-424-9346

Agency Contact: John Riley, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548B), Washington, DC 20460, 202 382-2190

RIN: 2050-AC33

2770. GENERAL PRETREATMENT REGULATIONS: RESPONSE TO PIRT (REVISION)

Legal Authority: 33 USC 1317 /CWA 307

CFR Citation: 40 CFR 403

Legal Deadline: None.

Abstract: Revisions to the General Pretreatment Regulations will be proposed to address final recommendations of the Pretreatment Implementation Review Task Force (PIRT) and the need for other adjustments to the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/12/86	51 FR 21454
Final Action	01/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2212.

FTS: 8-475-7054.

Agency Contact: Tom Laverty, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-7054

RIN: 2040-AA81

2771. SECTION 404 STATE PROGRAM REGULATIONS (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1344 / CWA 404

CFR Citation: 40 CFR 124; 40 CFR 232; 40 CFR 233

Legal Deadline: None.

Abstract: Under Section 404(g) of the Clean Water Act, EPA is responsible for approving and overseeing assumption of the 404 "dredge and fill" program by States. In response to comments from the States, EPA is revising its State program regulations (formerly part of the Consolidated Permit Regulations), to provide increased incentives and simplified procedures for State assumption of the Section 404 program.

Timetable:

Action	Date	FR Cite
NPRM	10/02/84	49 FR 39012

Next Action Undetermined

Small Entity: No

Additional Information: SAR No. 1973.

FTS: 8-382-5043.

Agency Contact: Suzanne Schwartz, Environmental Protection Agency, Administration and Resource Management, Office of Wetlands Protection, (A-104), Washington, DC 20460, 202 382-5043

RIN: 2030-AA00

2772. OCEAN INCINERATION REGULATION (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1410 / MPRSA

CFR Citation: 40 CFR 220; 40 CFR 227; 40 CFR 228; 40 CFR 234

Legal Deadline: None.

Abstract: The Agency plans to provide specific permitting regulations for the ocean incineration of liquid hazardous and nonhazardous wastes. These regulations will be an independent part of the Ocean Dumping Regulations. The existing Ocean Dumping Regulations provide no specific criteria or standards for the review of ocean incineration permit applications.

Timetable:

Action	Date	FR Cite
NPRM	02/28/85	50 FR 8222
Final Action	01/00/88	

Small Entity: No

Additional Information: SAR No. 2140.

FTS: 8-382-7166.

Agency Contact: Darrell Brown, Environmental Protection Agency, Water, (WH-556F), Washington, DC 20460, 202 382-7166

RIN: 2040-AA72

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EPA—CWA — **Final Rule Stage**

2773. ● OCEAN INCINERATION SITE EVALUATION, SOLICITATION, AND DESIGNATION

Legal Authority: 33 USC 1410 /MPRSA

CFR Citation: 40 CFR 228; 40 CFR 234

Legal Deadline: None.

Abstract: This action is a finalization of a portion of the ocean incineration regulation, which was proposed on February 28, 1985. This rule provides specific criteria for evaluating candidate sites, selecting specific sites and establishes the procedures for designating and listing sites for use after issuance of and under the terms of an ocean incineration permit. Designation of sites is a prerequisite to issuance of a permit for use of a site. Promulgation of this rule will allow the Agency to begin the lengthy process of site evaluation, selection and designation.

Timetable:

Action	Date	FR Cite
Final Action	11/00/87	

Small Entity: Not Applicable

Additional Information:

FTS:8:382-7166

Agency Contact: Darrell Brown, Environmental Protection Agency, Water, (WH-556), Washington, DC 20460, 202 382-7166

RIN: 2040-AB28

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Water Act (CWA) — **Completed Actions**

2774. EFFLUENT GUIDELINES FOR RUBBER PROCESSING (REVISION)

CFR Citation: 40 CFR 428

Completed:

Reason	Date	FR Cite
Withdrawn	09/00/87	

Small Entity: Undetermined

Agency Contact: J. S. Vitalis 202 382-7172

RIN: 2040-AA42

2775. EFFLUENT GUIDELINES FOR PLASTICS MOLDING AND FORMING (PHTHALATES)

CFR Citation: 40 CFR 463

Completed:

Reason	Date	FR Cite
Withdrawn	08/27/87	

Small Entity: No

Agency Contact: Robert M. Southworth 202 382-7150

RIN: 2040-AA77

2776. EFFLUENT GUIDELINES FOR COPPER FORMING (REVISION)

CFR Citation: 40 CFR 468

Completed:

Reason	Date	FR Cite
Withdrawn	09/00/87	

Small Entity: Undetermined

Agency Contact: Jan Goodwin 202 382-7152

RIN: 2040-AA93

2777. GENERAL PRETREATMENT REGULATIONS: DEFINITIONS FOR PASSTHROUGH AND INTERFERENCE (REVISION)

CFR Citation: 40 CFR 403

Completed:

Reason	Date	FR Cite
Final Action	01/14/87	52 FR 1586

Small Entity: No

Agency Contact: Debra Clovis 202 475-9520

RIN: 2040-AA46

2778. WATER QUALITY PLANNING AND MANAGEMENT STANDARDS (REVISION)

CFR Citation: 40 CFR 130

Completed:

Reason	Date	FR Cite
Withdrawn	09/00/87	

Small Entity: No

Agency Contact: Ed Richards 202 382-7160

RIN: 2040-AB19

2779. INCINERATION-AT-SEA SITE DESIGNATIONS (NORTH ATLANTIC AND PACIFIC)

CFR Citation: 40 CFR 234

Completed:

Reason	Date	FR Cite
No Action Expected in Next Six Months	08/27/87	

Small Entity: Undetermined

Agency Contact: Tudor Davies 202 382-7166

RIN: 2040-AA88

2780. IMPLEMENTATION OF RCRA CORRECTIVE ACTION FOR POTWS

CFR Citation: 40 CFR 270.60(c)

Completed:

Reason	Date	FR Cite
Postponed indefinitely	08/27/87	

Small Entity: Undetermined

Agency Contact: Gary Cohen 202 475-7050

RIN: 2040-AB00

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Atomic Energy Act (AEA) — **Proposed Rule Stage**

2781. ENVIRONMENTAL PROTECTION STANDARDS FOR LOW-LEVEL RADIOACTIVE WASTE

Significance: Regulatory Program

Legal Authority: 42 USC 2021(h) /AEA 274(h) /Reorganization Plan No. 3 of 1970

CFR Citation: 40 CFR 193

Legal Deadline: None.

Abstract: The Agency intends to set generally applicable standards for the management and disposal of low-level radioactive wastes, possibly to include some natural and accelerator produced radioactive wastes. The Agency is considering criteria for declaring certain wastes as below regulatory concern as part of this activity.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/83	48 FR 39563
NPRM	01/00/88	
Final Action	05/00/89	

Small Entity: Undetermined

Additional Information: SAR No. 1727.

FTS:8-475-9633.

Agency Contact: James M. Gruhlke, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 202 475-9633

RIN: 2060-AA04

2782. RESIDUAL RADIOACTIVITY

Significance: Regulatory Program

Legal Authority: 42 USC 2201 / AEA 274; 42 USC 2021 / AEA 274

CFR Citation: 40 CFR 194

Legal Deadline: None.

Abstract: The Agency is determining what standards and/or guidance is needed to control radiation exposure levels to the public from residual radioactivity after cleanup of sites and facilities where radionuclides were used and where unrestricted use will be allowed. This action may also control radiation exposure levels to the general public from materials contaminated with radionuclides which will be recycled into general commerce.

Timetable:

Action	Date	FR Cite
ANPRM	06/16/86	51 FR 22264
NPRM	05/00/89	
Final Action	05/00/91	

Small Entity: Undetermined

Additional Information: SAR No. 2073.

FTS: 8-475-9620.

Analysis: Regulatory Impact Analysis

Agency Contact: Stanley Lichtman, Environmental Protection Agency, Air and Radiation, ANR-460, Washington, DC 20460, 202 475-9620

RIN: 2060-AB31

2783. ● ENVIRONMENTAL STANDARDS FOR THE MANAGEMENT AND DISPOSAL OF SPENT NUCLEAR FUEL, HIGH-LEVEL AND TRANSURANIC RADIOACTIVE WASTES

Legal Authority: 42 USC 2021(h) / AEA 274(h)

CFR Citation: 40 CFR 191

Legal Deadline: None.

Abstract: On August 15, 1987, the Agency promulgated generally applicable environmental standards for the management and disposal of spent nuclear fuel, high-level and transuranic radioactive wastes. These Standards applied to management and disposal of such materials generated by activities under the jurisdiction of the Department of Energy or regulated by the Nuclear Regulatory Commission. They established limits for the release of radioactive materials to the environmental, several petitions for review were filed and consolidated in the U.S. Court of Appeals for the First Circuit. On July 17, 1987, the Court vacated and remanded the Standards to the Agency for revision consistent with its ruling.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information:

FTS: 8-475-9633

Agency Contact: Ray Clark, Environmental Protection Agency, Air and Radiation, ANR-460, Washington, DC 20460, 202 475-9633

RIN: 2060-AC30

2784. GROUND WATER PROTECTION STANDARDS FOR INACTIVE URANIUM TAILING SITES

Legal Authority: 42 USC 2022(a) / AEA 275(a)

CFR Citation: 40 CFR 192

Legal Deadline: None.

Abstract: The Tenth Circuit Court of Appeals has remanded the ground water standards as 40 CFR 192.20(a)(2) and (3). The new standards will replace these remanded standards.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	06/00/88	

Small Entity: No

Additional Information: SAR No. 1166.

FTS:8-475-9630

Agency Contact: Kurt Feldmann, Environmental Protection Agency, Air and Radiation, ANR-460, 202 475-9630

RIN: 2060-AC03

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Atomic Energy Act (AEA) — **Final Rule Stage**

2785. TRANSURANIUM ELEMENTS

Legal Authority: 42 USC 2021(h) /AEA 274(h) /Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: Interim recommendations to Federal Agencies will establish dose rate limits for people exposed to transuranium elements in the general environment. These recommendations are in the process of internal and interagency reviews. al Radioactivity.

EPA—AEA — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	11/30/77	42 FR 60956
Interim Final Rule	00/00/00	

Small Entity: No

Additional Information: SAR No. 1162.

FTS:8-475-9600.

Agency Contact: Gordon Burley, Environmental Protection Agency, Air and Radiation, (ANR-458), Washington, DC 20460, 202 475-9600

RIN: 2060-AA01

2786. RADIOFREQUENCY RADIATION GUIDANCE

Significance: Regulatory Program

Legal Authority: 42 USC 2021(h) /AEA 274(h) /Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: This guidance will serve to limit exposure of the general public to radiofrequency radiation, which may pose a potential health risk.The Agency has delayed this project in order to extend the comment period on the NPRM as requested by several Federal and industry organizations.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/82	47 FR 57338
NPRM	07/30/86	51 FR 27318
Final Action	07/00/89	

Small Entity: Undetermined

Additional Information: SAR No. 1525.

FTS: 8-475-9626.

Background Information Reports: a) Biological Effects of Radiofrequency Radiation, b) the Radiofrequency Radiation Environment, c) Analysis of the Radiofrequency Fields Produced by Broadcast Antennas, and d) Analysis of Economic Impact of Federal Radiation Protection Guidance (to Limit Exposure of the Public to Radiofrequency Radiation).

Agency Contact: David E. Janes, Environmental Protection Agency, Air and Radiation, (ANR-461), Washington, DC 20460, 202 475-9638

RIN: 2060-AA02

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Safe Drinking Water Act (SDWA)

Proposed Rule Stage

2787. INDIAN RULE FOR THE WELLHEAD PROTECTION PROGRAM AND SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

Legal Authority: 42 USC 300 /SDWA 1451

CFR Citation: 40 CFR 35

Legal Deadline: Statutory, December 1987.

Abstract: The Safe Drinking Water Act Amendments of 1986 authorizes the EPA Administrator to treat Indian tribes as States, where appropriate. EPA is to issue associated regulations by eighteen months after the date of enactment (signed June 19, 1986). The Indian rule for the Wellhead Protection and Sole Source Aquifer Demonstration Programs will allow Indian tribes to apply for these two grant programs, treating them as States.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	12/00/87	

Small Entity: No

Additional Information: SAR No. 2440.

FTS:8-382-7077

Agency Contact: Marian Mlay, Environmental Protection Agency, Water, (WH-550G), Washington, DC 20460, 202 382-7077

RIN: 2040-AB16

2788. UNDERGROUND INJECTION CONTROL PROGRAM: HAZARDOUS WASTE DISPOSAL INJECTION RESTRICTIONS; AMENDMENTS TO TECHNICAL REQUIREMENTS FOR CLASS I HAZARDOUS WASTE INJECTION WELLS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004; 42 USC 3001 et seq; 42 USC 6901 et seq

CFR Citation: 40 CFR 124; 40 CFR 144; 40 CFR 146; 40 CFR 148

Legal Deadline: Statutory, August 8, 1988.

Abstract: This action proposes to amend the regulations governing the underground injection of hazardous wastes in two major areas. Additions to Part 146 propose to impose stricter standards on the construction and operating requirements applicable to owners and operators of Class I hazardous waste wells. New Part 148 would codify the EPA's regulatory framework for implementing the land disposal restrictions that are directly applicable to injection wells. Amendments to Parts 124 and 144 modify administrative procedures that applicable to Class I wells.

Timetable:

Action	Date	FR Cite
NPRM	08/25/87	52 FR 32446
Public Hearing	09/21/87	
NPRM Comment Period End	10/00/87	
Final Action	02/00/88	
Final Action Effective	02/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2254.

FTS:8-382-5508

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis

Agency Contact: John Atcheson, Environmental Protection Agency, Water, Office of Drinking Water, WH-550-A, 202 382-5508

RIN: 2040-AB03

2789. ● REVISION TO PUBLIC WATER SYSTEM SUPERVISION (PWSS) STATE PRIMACY REQUIREMENTS

Legal Authority: 42 USC 300 /SDWA 1417

CFR Citation: 40 CFR 142

Legal Deadline: None.

Abstract: The regulation revision will set the requirements, application procedures, and administrative process

EPA—SDWA — **Proposed Rule Stage**

for submission of State program revisions for EPA review and approval. The existing primacy regulations apply only to the process for initial primacy (i.e., primacy for drinking water regulations in place at the time the State initially receives primacy). This revision will identify what the States will have to do to receive primacy for specific drinking water regulations as they are promulgated.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	09/00/88	

Small Entity: No

Additional Information:

FTS:8-382-5530

Analysis: Regulatory Flexibility Analysis

Agency Contact: Francoise Brasier, Environmental Protection Agency, Water, WH-550-E, Washington, DC 20460, 202 382-5530

RIN: 2040-AB27

2791. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SYNTHETIC ORGANIC CHEMICALS AND INORGANIC CHEMICALS, MONITORING FOR UNREGULATED CONTAMINANTS

Significance: Regulatory Program

Legal Authority: 42 USC 300 / SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Statutory, June 19, 1988.

Abstract: EPA is reproposing maximum contaminant level goals (MCLGs) and proposing National Primary Drinking Water Regulations (NPDWRs) for about 40 synthetic organic chemicals and inorganic chemicals. The NPDWRs consist of proposed maximum contaminants level (MCLs), as well as proposed monitoring, reporting, and public notification requirements for these compounds. This notice proposes the best available technology (BAT) upon which the MCLs are based and BAT for the purposes of issuing variances. In addition to the NPDWRs for the synthetic organic chemicals and organic chemicals, the notice proposes monitoring requirements for other synthetic organic chemicals which are not regulated by NPDWRs.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
NPRM	11/13/85	50 FR 46936
NPRM MCLs	12/00/87	
Final Action	06/00/88	

Small Entity: Yes

Additional Information: SAR No. 1755.

FTS:8-382-7575.

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-7575

RIN: 2040-AA55

2792. NATIONAL PRIMARY DRINKING WATER REGULATION: RADIONUCLIDES

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Statutory, June 19, 1989.

Abstract: EPA will propose Maximum Contaminant Levels Goals (MCLGs) and Primary Drinking Water Standards for radionuclide in drinking water. These radionuclides include radium, uranium, radon, gross alpha, and gross beta and photon emitters.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
ANPRM	09/30/86	51 FR 34836
NPRM	02/00/88	
Final Action	06/00/89	

Small Entity: Undetermined

Additional Information: SAR No. 2281.

FTS: 8-382-7575.

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, Water, (WH-559), Washington, DC 20460, 202 382-7575

RIN: 2040-AA94

2790. ● AMENDMENTS TO UNDERGROUND INJECTION CONTROL PROGRAM

Legal Authority: 42 USC 300 /SDWA 1445

CFR Citation: 40 CFR 144; 40 CFR 146

Legal Deadline: None.

Abstract: Amendments to the Underground Injection Control (UIC) Program will clarify the intent of the regulations covering authorization-by-rule requirement at 40 CFR Part 144 Subpart C will be modified to clarify how existing injection wells became authorized by rule and when injection is prohibited for failure to comply with authorization-by-rule requirements. Additionally EPA will propose amendments to the noncompliance and program reporting requirements at 40 CFR 144.S, to the mechanical integrity requirements at 40 CFR 144.28(f) and 144.51(p), definitions for the terms "convert" and "conversion". A new regulation to codify Sec. 1445(a)(1) of the Safe Drinking Water Act as it applies to the UIC program will also be proposed.

2793. NATIONAL PRIMARY DRINKING WATER REGULATIONS: DISINFECTION, DISINFECTANTS AND DISINFECTION BY-PRODUCTS (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Statutory, June 19, 1989.

Abstract: EPA will propose that all public water systems use disinfection treatment processes; variances will be available and variance criteria will be available. The Agency will propose MCLGs and MCLs for disinfectants and disinfection by-products.

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Timetable:

Action	Date	FR Cite
NPRM	01/00/90	
Final Action	01/00/91	

Small Entity: Undetermined

Additional Information: SAR No. 2340.

FTS: 8-382-7575

Agency Contact: Joseph A. Cotruvo, Environmental Protection Agency, Water, Water, WH-550D, 202 382-7575

RIN: 2040-AA97

2794. NATIONAL PRIMARY DRINKING WATER REGULATIONS: INORGANIC AND ORGANIC COMPOUNDS

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Statutory, June 19, 1989.

Abstract: This rule will set MCLGs and MCLs/Monitoring requirements for about 30 inorganic and organic chemicals specified in the SDWA.

Timetable:

MCLs
NPRM 09/00/88
Final Action 07/00/89

RMCLs
ANPRM 10/05/83 (48 FR 45502)
NPRM 11/13/85 (50 FR 16936)

Small Entity: Undetermined

Additional Information: SAR No. 2390.

FTS:8-382-7575

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, Water, Water, WH-550D, 202 382-7575

RIN: 2040-AB11

2795. ● CRITERIA FOR FILTRATION OF SURFACE WATER AND PRIMARY DRINKING WATER REGULATIONS FOR MICROBIOLOGICAL CONTAMINANTS

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Statutory, December 19, 1987.

Abstract: EPA plans to establish regulations specifying criteria that States will use to determine which surface water systems will be required to install filtration. The regulations will also address performance criteria for filtration systems. The basis of the regulations is protection from potential disease caused by Giardia, viruses, and other pathogens. MCLGs and MCLs monitoring requirements will also be set for microbiological contaminants, such as total coliforms and turbidity.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
NPRM	09/00/87	
Final Action	12/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2376.

FTS:8-382-7575.

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, Water, WH-550, 202 382-7575

RIN: 2040-AB24

2796. PUBLIC WATER SUPPLY SUPERVISION PROGRAM AND UNDERGROUND INJECTION CONTROL PROGRAM: ADMINISTRATIVE ENFORCEMENT IMPLEMENTATION PROCEDURES

Legal Authority: 42 USC 300 / SDWA 1414

CFR Citation: 40 CFR 144; 40 CFR 148

Legal Deadline: None.

Abstract: EPA is required to promulgate regulations to describe procedures for the notice and opportunity for public hearing, and conference with primacy States concerning administrative orders under Section 1414(g) of the Safe Drinking Water Act. The Agency will also amend 40 CFR Part 22 to include PWS penalty assessments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	04/00/88	

Small Entity: No

Additional Information: SAR No. 2381/(PWSS) SAR No. 1972/(UIC)

FTS:8-382-5558

Agency Contact: Don Olson, Environmental Protection Agency, Water, Water, WH-550, 202 382-5558

RIN: 2040-AB07

2797. PUBLIC WATER SYSTEM SUPERVISION PROGRAM: BAN ON LEAD IN PLUMBING

Legal Authority: 42 USC 300 /SDWA 1422

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Statutory, June 19, 1988.

Abstract: EPA is required to promulgate regulations, which implement statutory provision to prohibit use of lead solders, flux and pipes in the installation or repair of public water systems and plumbing connected to public water systems. The Rule will also require public notification by public water systems of potential lead contamination sources, health effects and mitigation measures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	06/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2378.

FTS:8-382-5526

Agency Contact: John Trax, Environmental Protection Agency, Water, Water, WH-550, 202 382-5526

RIN: 2040-AB05

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Safe Drinking Water Act (SDWA) — **Final Rule Stage**

2798. NATIONAL PRIMARY DRINKING WATER REGULATION: CONTAMINANTS IN DRINKING WATER THAT MAY REQUIRE REGULATION

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Statutory, January 1, 1988.

Abstract: A list of contaminants that may require regulation under the SDWA will be published. The Agency will then set Primary Drinking Water Regulations for any contaminant that may have any adverse effect upon the health of persons and which is known or anticipated to occur in public water systems. MCLGs and MCLs/Monitoring will be established for at least 25 of the contaminants on the list by January 1, 1991. Also, the Agency will determine which contaminants it will replace from the eighty-three contaminants that the SDWA lists for regulation. Seven substitutions are allowed. Those replaced will be put on the list of unregulated contaminants.

Timetable:

Action	Date	FR Cite
NPRM	07/08/87	52 FR 25720
NOTICE	07/08/87	52 FR 25720
Final Action	01/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2377.

FTS:8-382-7575

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, Water, Water, WH-550D, 202 382-7575

RIN: 2040-AB12

2799. PUBLIC WATER SUPPLY SUPERVISION PROGRAM: GENERAL PUBLIC NOTIFICATION REQUIREMENTS AND NEW LEAD PUBLIC NOTICE

Legal Authority: 42 USC 300 /SDWA 141/SDWA 1417

CFR Citation: 40 CFR 141; 40 CFR 142; 40 CFR 143

Legal Deadline: Statutory. Statutory, September 1987 (for general public notification)

Abstract: EPA is required to revise the regulations for notification of the public, in cases of violations of the Drinking Water regulations. The changes will allow different types and frequencies of notice, based on the severity and frequency of the violation. EPA is also required to issue new regulations to specify requirements for a public notice for the existence of lead materials in the delivery system.

Timetable:

Action	Date	FR Cite
NPRM	04/06/87	52 FR 10972
Final Action	09/00/87	

Small Entity: No

Additional Information: SAR No. 1756.

FTS:8-257-2815

Agency Contact: Ralph Langemeier, Environmental Protection Agency, Water, Region VII - Water Branch, EPA, Kansas City, Mo., 913 236-2815

RIN: 2040-AB08

2800. UNDERGROUND INJECTION CONTROL PROGRAM: INDIAN LANDS

Legal Authority: 42 USC 300 /SDWA 1422

CFR Citation: 40 CFR 147

Legal Deadline: None.

Abstract: EPA is required to prescribe an Underground Injection Control (UIC) Program in States that do not have an approved UIC program. In addition, all Indian lands not under the jurisdiction of an approved State program must be covered by a Federal program. The program is to take into consideration the unique conditions and the Tribal concerns for each nation.

Timetable:

Action	Date	FR Cite
NPRM	05/11/87	52 FR 17684
Final Action	11/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2131.

FTS: 8-382-5558

Agency Contact: Donald M. Olson, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-5558

RIN: 2040-AA76

2801. INDIAN PRIMACY REGULATION

Legal Authority: 42 USC 300 /SDWA 1422

CFR Citation: 40 CFR 142; 40 CFR 145; 40 CFR 35

Legal Deadline: Statutory, December 19, 1987.

Abstract: EPA is required to promulgate final regulations, specifying conditions, under which Indian Tribes may be treated as States, be delegated primacy enforcement authorities, and receive grants for both the Underground Injection Control and the Public Water System Supervision programs.

Timetable:

Action	Date	FR Cite
NPRM	07/27/87	52 FR 26112
Final Action	12/00/87	

Small Entity: No

Additional Information: SAR No. 2383.

FTS:8-382-5555

Agency Contact: Al Havinga, Environmental Protection Agency, Water, Office of Drinking Water, WH-550D, 202 382-5555

RIN: 2040-AB04

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ENVIRONMENTAL PROTECTION AGENCY (EPA) —Safe Drinking Water Act (SDWA)

Completed Actions

2802. NATIONAL PRIMARY DRINKING WATER REGULATIONS: MAXIMUM CONTAMINANT LEVELS FOR VOLATILE ORGANIC CHEMICALS FOUND IN DRINKING WATER

Significance: Regulatory Program

CFR Citation: 40 CFR 141

Completed:

Reason	Date	FR Cite
Final Action	07/08/87	52 FR 25690

Small Entity: Undetermined

Agency Contact: Joseph Cotruvo 202 382-7575

RIN: 2040-AA53

2803. NATIONAL PRIMARY DRINKING WATER REGULATIONS: MICROBIALS AND FILTRATION OF SURFACE DRINKING WATER SUPPLIES

Significance: Regulatory Program

CFR Citation: 40 CFR 141

Completed:

Reason	Date	FR Cite
Deleted at agency request consultation - should be 2040-ab24 as in Reg Program	10/05/87	

Small Entity: Undetermined

Agency Contact: Joseph Cotruvo 202 382-7575

RIN: 2040-AB10

2804. UNDERGROUND INJECTION CONTROL PROGRAM: ADMINISTRATIVE ENFORCEMENT IMPLEMENTATION PROCEDURES

CFR Citation: 40 CFR 144

Completed:

Reason	Date	FR Cite
Deleted This regulation was merged with RIN 2040-AB07.	09/00/87	

Small Entity: No

Agency Contact: Don Olson 202 382-5558

RIN: 2040-AB06

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Noise Control Act (NCA)

Final Rule Stage

2805. WITHDRAWAL OF PRODUCTS FROM THE AGENCY'S REPORTS IDENTIFYING MAJOR NOISE SOURCES AND WITHDRAWAL OF PROPOSED RULES

Legal Authority: 42 USC 4904(b)(1) / NCA 5(b)(1); 42 USC 4905 / NCA 6(a)(1)

CFR Citation: 40 CFR 51

Legal Deadline: None.

Abstract: This action withdraws certain products from the Agency's report identifying major noise sources issued under authority of Section 5(b)(1) of the Noise Control Act of 1972. These products are: Truck Transport Refrigeration Units, Power Lawn Mowers, Pavement Breakers, Rock Drills, Wheel and Crawler Tractors and Buses. This action also withdraws proposed noise regulations for Wheel and Crawler Tractors, and Buses, issued under the authority of Section 6(a)(1) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54108
Final Action	12/00/87	

Small Entity: No

Additional Information: SAR No. 2046.

FTS: 8-382-7403

No CFR parts pertain. This action withdraws proposals which were not codified.

Agency Contact: K.E. Feith, Environmental Protection Agency, Air and Radiation, (ANR-443), 202 382-4966

RIN: 2060-AB24

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Resource Conservation and Recovery Act (RCRA)

Prerule Stage

2806. DETERMINATION ON WASTES FROM THE EXPLORATION, DEVELOPMENT ON PRODUCTION OF CRUDE OIL, NATURAL GAS, AND GEOTHERMAL ENERGY

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6982 /RCRA 8002

CFR Citation: Not yet determined

Legal Deadline: Statutory, June 30, 1988. Consent order 6/30/88

Abstract: EPA is presently conducting studies of drilling fluids, produced waters, and other wastes associated with the exploration, development, and production of oil, natural and gas, and geothermal energy. The studies are in response to section 8002(m) of RCRA and will culminate in a Report to Congress in December 1987. As required by RCRA section 3001(b)(2), the Agency shall, after public hearings and opportunity for comment, determine within 6 months of submitting the report, whether to promulgate regulations for these wastes.

Timetable:

Action	Date	FR Cite
Regulatory Determination	06/00/88	

Small Entity: Not Applicable

Additional Information: SAR No. 2449.

FTS: 8-382-3608

Agency Contact: Dan Derkics, Environmental Protection Agency, Solid Waste and Emergency Response, WH-565, Washington DC 20460, 202 382-3606

RIN: 2050-AC08

2807. MANAGEMENT OF WASTE OIL AS HAZARDOUS WASTE

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6925 /RCRA 3005; 42 USC 6930 /RCRA 3010

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 266; 40 CFR 270; 40 CFR 271

Legal Deadline: Statutory, November 8, 1988.

Abstract: EPA has determined not to list recycled oil as a hazardous waste. Furthermore, the 11/19/86 notice 51 FR 41900 delineates the Agency's intention to pursue different strategies to control used oil which is to be recycled and use oil bound for disposal. Used oil bound for disposal will be regulated either under section 6 of TSCA or under a RCRA disposal listing. The 11/19/86 notice sets out schedules for both the TSCA and RCRA regulatory development strategies. The notice states that although some controls on recycling may be promulgated in the interim, comprehensive recycling management rules will not be issued until the disposal controls, under either TSCA or RCRA, are issued. The Agency does not have a more specific schedule for proposing these recycling regulations.

Timetable:

Action	Date	FR Cite
Regulatory Determination	NOTICE 11/00/87	

Small Entity: Yes

Additional Information: SAR No. 2434.

FTS:8-382-7917

Docket No. 3014

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Hope Pillsbury, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565), Washington, DC 20460, 202 382-7917

RIN: 2050-AC17

2808. UNDERGROUND STORAGE TANKS CONTAINING HAZARDOUS SUBSTANCES- FINANCIAL RESPONSIBILITY REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 6991 /RCRA 9003

CFR Citation: 40 CFR 280

Legal Deadline: Statutory, August 8, 1988.

Abstract: This regulation will establish, under Subtitle I of RCRA (as amended by SARA), requirements for demonstrating financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by releases from underground storage tanks (USTs) containing hazardous substances. An ANPRM is being developed to help gather data (e.g., frequency of releases from such USTs, costs of corrective action and third-party damages, and the regulated community's financial condition and use of financial assurance mechanisms) needed for the development of a proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/87	
NPRM	12/00/88	
Final Action	06/00/89	

Small Entity: Undetermined

Additional Information: SAR No. 2465.

FTS:8-382-7903

Agency Contact: Sammy K. Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562A), Washington, DC 20460, 202 382-7903

RIN: 2050-AC15

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Resource Conservation and Recovery Act (RCRA)

Proposed Rule Stage

2809. MANDATORY INSPECTIONS OF HAZARDOUS WASTE MANAGEMENT FACILITIES

Legal Authority: 42 USC 6925 / RCRA 3007

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: This action establishes requirements for mandatory inspections of treatment, storage, and disposal facilities for hazardous waste. The regulation establishes the manner, frequency, recordkeeping, and reporting of the inspections.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	06/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2332.

FTS: 8-475-9315

Agency Contact: Susan Hodges, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-527), Washington, D.C. 20460, 202 475-9315

RIN: 2050-AB59

2810. SOLID WASTE DISPOSAL FACILITY CRITERIA

Legal Authority: 42 USC 6907a / RCRA 1008a; 42 USC 6944 / RCRA 4004; 42 USC 6949 / RCRA 4010

CFR Citation: 40 CFR 257

Legal Deadline: Statutory, March 31, 1988.

Abstract: The Hazardous and Solid Waste Amendments of 1984 (HSWA) require EPA, by March 31, 1987, to revise the subtitle D criteria for facilities that may receive hazardous household wastes or hazardous wastes from small quantity generators. In response to this statutory mandate, EPA is revising the subtitle D criteria for those facilities. At a minimum these criteria must include ground-water monitoring requirements, location restrictions, and corrective action requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	03/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2224.

FTS-382-4489

Analysis: Regulatory Impact Analysis

Agency Contact: Michael Flynn, Environmental Protection Agency, Solid

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Waste and Emergency Response, (WH-565E), Washington, DC, 202 382-4480

RIN: 2050-AB21

2811. ● TEST METHODS FOR EVALUATING SOLID WASTE MANUAL SW846 - INCORPORATION BY REFERENCE AND MANDATORY GOOD LABORATORY PRACTICES

Legal Authority: 42 USC 6912 /RCRA 2002

CFR Citation: 40 CFR 261

Legal Deadline: None.

Abstract: This action proposes to update testing methods in the RCRA testing regulations to: a) permit persons to use the latest (3rd) edition of Test Methods for Evaluating Solid Waste (SW-846); and b) require that all testing conducted in support of the RCRA regulatory program follow minimum good laboratory practices and quality assurance procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	10/00/88	

Small Entity: No

Additional Information: SAR No. 2507

FTS:8-382-7458

Agency Contact: Denise Zabinski, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC 20460, 202 382-7458

RIN: 2050-AC32

2812. SAMPLING AND ANALYSIS METHODS FOR WASTE TESTING

Legal Authority: 42 USC 6921 to 6925 / RCRA 3001 to 3005; 42 USC 6912 / RCRA 2002

CFR Citation: 40 CFR 261

Legal Deadline: None.

Abstract: This action deals with annual updates to the RCRA manual of approved test methods (Test Methods for Evaluating Solid Waste, SW-846). It adds additional approved methods and modifies the existing methods to reflect the latest available performance data.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	12/00/88	

Small Entity: No

Additional Information: SAR No. 2068.

FTS-8-382-7458.

Agency Contact: Denise Zabinski, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC 20460, 202 382-7458

RIN: 2050-AA82

2813. ● CONCENTRATION-BASED RELISTING OF WASTES FROM CHLORINATED ALIPHATICS AND 2,4-D PESTICIDE INDUSTRIES

Legal Authority: 42 USC 6921 /RCRA 3001

CFR Citation: 40 CFR 261

Legal Deadline: None.

Abstract: This action removes from regulation any currently listed wastes that are not hazardous because the hazardous constituents are present at levels lower than the concentration levels established by this rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	01/00/89	

Small Entity: No

Additional Information: SAR No. 2482

FTS:8-475-6679

Agency Contact: Yvonne M. Garbe, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC 20460, 202 475-6679

RIN: 2050-AC30

2814. ● CONCENTRATION-BASED RELISTING OF WASTES FROM EXPLOSIVES, INORGANIC CHEMICALS, AND IRON AND STEEL INDUSTRIES

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001

CFR Citation: 40 CFR 261

Legal Deadline: None.

Abstract: This action removes from regulation any currently listed wastes that are not hazardous because the hazardous constituents are present at levels lower than the concentration levels established by this rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	08/00/88	

Small Entity: No

Additional Information: SAR No. 2277.

FTS-382-4685

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565E), Washington, DC 20460, 202 382-4495

RIN: 2050-AB20

2815. GROUNDWATER MONITORING AT HAZARDOUS WASTE FACILITIES

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264

Legal Deadline: None.

Abstract: This action will change the subpart F groundrules monitoring regulation. The following is a summary of the major changes:

o allow site-specific data for groundwater monitoring variances;

o allow flexibility in well installation requirements when access to waste management boundary is difficult;

o clarify definition of waste management area;

o allow a return to detection or compliance monitoring as appropriate;

o allow flexibility in schedules for submittal of information upon approval of Regional Administrator;

o require flow rate and direction determination upon change in ground water gradient;

o clarify monitoring authority of the uppermost aquifer; and

o clarify R.A.'s authority to allow monitoring of a subset of Appendix IX constituents.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	08/00/88	

Small Entity: No

Additional Information: SAR No. 2277.

FTS-382-4685

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565E), Washington, DC 20460, 202 382-4495

RIN: 2050-AB20

2816. LOCATION STANDARDS FOR HAZARDOUS WASTE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264.18

Legal Deadline: None.

Abstract: Section 3004(o)(7) of RCRA requires EPA to promulgate additional standards for the location of hazardous waste treatment, storage, and disposal facilities. Two location standards (floodplain and seismic restrictions) already exist at 40 CFR Part 264.18. Additional standards will specify criteria for the acceptable location of new and existing treatment, storage and disposal facilities.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
Final Action	02/00/89	

Small Entity: Yes

Additional Information: SAR No. 2303.

FTS:8-382-4658.

Agency Contact: Glen R. Galen, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565E), Washington, DC 20460, 202 382-4658

RIN: 2050-AB67

2817. RECEIPT OF NON-HAZARDOUS WASTE AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Legal Authority: 42 USC 6924 /RCRA 3004; 42 USC 6925 /RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: None.

Abstract: The current regulations require that closure of a hazardous waste unit begin after the final receipt of hazardous wastes. The proposed rule will identify the circumstances under which a unit that ceases to receive hazardous wastes may continue to accept non-hazardous wastes. Amendments will identify conditions for the subsequent use of a unit for non-hazardous waste management and coordination with other closure activities of a hazardous waste management facility. Portions of the closure requirements (Subpart G) will be amended in both parts 264 and 265. These changes will increase the flexibility in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	09/00/88	

Small Entity: No

Additional Information: SAR No. 2487 (previously listed as SAR No. 2393)

FTS: 8-475-6725

Agency Contact: Sharon Frey, Environmental Protection Agency, Solid Waste and Emergency Response, WH-563, Washington, DC 20460, 202 475-6725

RIN: 2050-AB71

2818. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004(u), 3004(v)

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None.

Abstract: These regulations set forth the technical and procedural requirements for conducting corrective action to clean up significant releases to air, surface water, ground water and soil at solid waste management units (SWMUs) at operating, closed, or closing RCRA facilities. The regulations will be used to define the structure of the program, and the requirements for implementing remedial action, remedy selection and corrective measures. Currently, the permitting agencies must make case-by-case decisions on action.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	10/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2390.

FTS:8-382-4497

Agency Contact: David Fagan, Environmental Protection Agency, Solid Waste and Emergency Response, WH-563, 202 382-4497

RIN: 2050-AB80

2819. METALS EMISSIONS AND PRODUCTS OF INCOMPLETE COMBUSTION (PICS) EMISSION CONTROLS FOR HAZARDOUS WASTE INCINERATORS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004, 3005

CFR Citation: 40 CFR 264

Legal Deadline: None.

Abstract: The incinerator standards of Subpart (O) of Part 264 will be strengthened by proposed additional controls on emissions of metals and residual organic compounds.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	08/00/88	

Small Entity: No

Additional Information: SAR No. 2453.

Analysis: Regulatory Impact Analysis

Agency Contact: Marc Turgeon, Environmental Protection Agency, Solid Waste and Emergency Response, WH-565A, Washington DC 20460, 202 475-6672

RIN: 2050-AB90

2820. LAND DISPOSAL RESTRICTIONS FOR SOIL AND DEBRIS CONTAINING HAZARDOUS WASTES

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: Statutory, January 15, 1988.

Abstract: The Agency is investigating the need to set separate treatment standards for soil and debris containing hazardous wastes. By statute, these wastes do not become subject to the Land Disposal Restrictions Rule (51 FR 40572 and 52 FR 25760) for Solvents and Dioxins (RCRA 3004(e)) and the California List (RCRA 3004(d)) until 11/8/88. If necessary, the Agency will further subcategorize the waste streams to provide separate treatment standards applicable to such wastes.

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Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	11/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2461.

FTS:8-382-4770

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Stephen Weil, Environmental Protection Agency, Solid Waste and Emergency Response, WH-562B, Washington, DC 20460, 202 382-4770

RIN: 2050-AC03

2821. PERMITTING EXPERIMENTAL FACILITIES CONDUCTING HAZARDOUS WASTE RESEARCH

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None.

Abstract: This proposal establishes special permitting procedures for experimental facilities conducting research and development on the storage, treatment, or disposal of hazardous waste. The regulations would allow experimental facilities considerable flexibility in operating according to an approved research plan, without requiring frequent permit modifications as details of the research changed.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
Final Action	12/00/88	

Small Entity: No

Additional Information: SAR No. 2439.

Agency Contact: Barbara Foster, Environmental Protection Agency, Solid Waste and Emergency Response, WH-563, 202 382-7729

RIN: 2050-AC04

2822. LAND DISPOSAL RESTRICTIONS FOR FIRST THIRD OF SCHEDULED WASTES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: Statutory, November 8, 1988.

Abstract: This rule establishes land disposal restrictions decisions for the first group of wastes identified by the schedule. Submitted to the Congress and published May 28, 1986 (51 FR 19300). See related action in the final section.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	08/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2452.

Analysis: Regulatory Impact Analysis

Agency Contact: Stephen Weil, Environmental Protection Agency, Solid Waste and Emergency Response, WH-562B, Washington DC 20460, 202 382-4770

RIN: 2050-AC13

2823. PERMIT MODIFICATIONS FOR HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6925 /RCRA 3004 and 3005

CFR Citation: 40 CFR 270

Legal Deadline: None.

Abstract: This regulation will amend RCRA procedures (codified at 40 CFR 270.41 and 270.42) for modifying hazardous waste management permits. The rulemaking provides EPA, authorized states, and permittees more flexibility in modifying permits, particularly where modifications will increase public and environmental protection or facilitate compliance with new regulations. At the same time, the regulation will provide for improved public participation in the permit modifications. The rule is being developed through regulatory negotiation with representatives of EPA, the states, industry, and public interest groups. RIN 2050-AA37 has been combined with this action.

Timetable:

Action	Date	FR Cite
NPRM	09/23/87	52 FR 35838
Final Action	06/00/88	

Small Entity: No

Additional Information: SAR No. 1805.

FTS 8-382-2223

Agency Contact: Frank McAlister, Section Chief, Permits Policy Section, Permits Branch, Office of Solid Waste, Environmental Protection Agency, Solid Waste and Emergency Response, WH-563, Washington, DC 20460, 202 382-2223

RIN: 2050-AC22

2824. ● CORRECTIVE ACTION FOR RELEASES TO GROUNDWATER FROM REGULATED HAZARDOUS WASTE UNITS

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264

Legal Deadline: None.

Abstract: These regulations will amend the technical and procedural requirements for conducting corrective action to clean up significant releases to groundwater from regulated hazardous waste units at operating, closed, or closing RCRA facilities. The regulations will be used to amend the structure of the program and the requirements for implementing remedial action, remedy selection and corrective measures. The requirements for regulated units will be amended to conform to the corrective action requirements for solid waste management units.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	01/00/89	

Small Entity: No

Additional Information: SAR No. 2503

FTS:8-382-4895

Analysis: Regulatory Impact Analysis

Agency Contact: Joanne Bahura, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565-E), Washington, DC 20460, 202 382-4895

RIN: 2050-AC26

2825. LIST (PHASE 2) OF HAZARDOUS CONSTITUENTS FOR GROUNDWATER MONITORING

Legal Authority: 42 USC 3251 / RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None.

Abstract: The Appendix IX of 40 CFR Part 264 is a list of hazardous constituents presently referenced in 40 CFR Part 264 for use in groundwater monitoring. This proposed amendment would revise the Appendix IX list for the purposes of this use. This amendment would also create a new list for the first part (Detection Monitoring) of the ground water monitoring program. See the related action RIN 2050-AB27.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	12/00/88	

Small Entity: No

Additional Information: SAR No. 2435.

FTS: 475-7415

Agency Contact: Jerry Garman, Environmental Protection Agency, Solid Waste and Emergency Response, WH-565E, Washington DC 20460, 202 475-7415

RIN: 2050-AC05

2826. COMPLIANCE MONITORING AND ENFORCEMENT REQUIREMENTS FOR STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

Legal Authority: 49 USC 6926 / RCRA 3006

CFR Citation: 40 CFR 271.15; 40 CFR 271.16

Legal Deadline: None.

Abstract: Regulations governing State Authorization requirements for compliance monitoring and enforcement actions will be revised to reflect the Hazardous and Solid Waste Amendments of 1984. EPA will consider other changes such as requirement for states to have administrative penalty authority.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	12/00/88	

Small Entity: No

Additional Information: SAR No. 2158.

FTS: 8-475-9325.

Agency Contact: David Levenstein, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-527), Washington, DC 20460, 202 475-9325

RIN: 2050-AB01

2827. MINING WASTE MANAGEMENT UNDER RCRA SUBTITLE D

Significance: Regulatory Program

Legal Authority: 42 USC 6941 to 6949 /RCRA 4001-4009

CFR Citation: 40 CFR 261

Legal Deadline: None.

Abstract: Based on the mining waste Report to Congress submitted 12/31/85, comments on the report, and other available information, EPA has determined that regulation of mining waste under Subtitle C of the Resource Conservation and Recovery Act (RCRA) is not warranted at this time (51 FR 24496). Instead, EPA plans to develop a program for mining waste under Subtitle D of RCRA, working with the States to determine the specific nature of their current mining waste activities and their future plans to administer such programs. EPA will also work with other Federal agencies (e.g., DOI, USGS) to avoid duplication.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
Final Action	04/00/90	

Small Entity: Undetermined

Additional Information: SAR No. 2389.

FTS: 8-382-3608

Agency Contact: Dan Derkics, Environmental Protection Agency, Solid Waste and Emergency Response, WH-565, 202 382-3608

RIN: 2050-AB77

2828. GUIDELINES FOR CONTENT IN RE-REFINED OIL PROCURED BY THE FEDERAL GOVERNMENT

Legal Authority: 42 USC 3251 / RCRA 6002

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None.

Abstract: This action establishes the guidelines for the Federal procurement of re-refined waste lubricating oils and hydraulic fluids. This action will encourage the recovery of waste oil and reduce the environmental threat waste oil represents.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	10/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2257.

FTS-382-4502

Agency Contact: William Sanjour, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565), Environmental Protection Agency, Washington, DC 20460, 202 382-4502

RIN: 2050-AB53

2829. MINIMUM RECOVERED MATERIALS CONTENT IN PAPER AND PAPER PRODUCTS PROCURED BY THE FEDERAL GOVERNMENT

Legal Authority: 42 USC 6962 /RCRA 6002

CFR Citation: 40 CFR 250

Legal Deadline: None.

Abstract: This action establishes recommended minimum levels of recovered materials in paper and paper products procured by the Federal government. The purpose of this action is to encourage the recovery of post-consumer recovered materials and reduce the volume of solid waste.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	09/00/88	

Small Entity: No

Additional Information: SAR No. 2433.

FTS:8-382-4502

Agency Contact: William Sanjour, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565A), Washington, DC 20460, 202 382-4502

RIN: 2050-AC18

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Resource Conservation and Recovery Act (RCRA)

Final Rule Stage

2830. DISPOSAL OF CONTAINERIZED LIQUIDS IN HAZARDOUS WASTE LANDFILLS

Significance: Regulatory Program

Legal Authority: 42 USC 6924(c) / RCRA 3004(c)

CFR Citation: 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 271

Legal Deadline: Statutory, February 8, 1986.

Abstract: The Agency has proposed these regulations under the Hazardous and Solid Waste Amendment of 1984. The regulation will 1) minimize the placement of containers holding liquid hazardous waste and free liquids in hazardous waste landfills, 2) minimize the presence of free liquids in containers holding hazardous waste to be disposed of in landfills and 3) prohibit the use of absorbents that biodegrade or release liquids when compressed.

Timetable:

Action	Date	FR Cite
NPRM	12/24/86	51 FR 46824
Final Action	02/00/88	
Notice of Availability of Supplemental Information		
Notice	06/24/87	(52 FR 23695)

Small Entity: No

Additional Information: SAR No. 2207.

FTS:8-382-4658

Agency Contact: Paul Cassidy, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565E), Washington, DC 20460, 202 382-4662

RIN: 2050-AB12

2831. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

Legal Authority: 42 USC 6905 / RCRA 1006; 42 USC 6912(a) / RCRA 2002(a); 42 USC 6921 / RCRA 3001; 42 USC 6922 / RCRA 3002

CFR Citation: 40 CFR 261

Legal Deadline: Statutory, 2/28/86 for wastes listed with (1); None for other wastes listed.

Abstract: These actions announce EPA's decision whether or not to list a waste as hazardous under RCRA. If a waste is listed as hazardous it will be subject to those requirements contained in 40 CFR Parts 262-266 and Parts 270, 271 and 124. The Agency has suspended development of several actions; only the actions under development are listed in this agenda.

Timetable:

Chlorinated Aliphatic Compounds (SAR 1854)(1)
- NPRM 02/10/84 (49 FR 5313)
- Interim Final Rule 02/10/84 (49 FR 5308)
- Final Action 01/00/88

Coke By-Product Wastes (SAR 2227)(1)
- NPRM 10/00/88
- Final Action 00/00/00

Dimethylhydrazine (SAR 1954)(1)
- NPRM 12/20/84 (49 FR 49556)
- Final Action 01/00/89

Methyl Bromide (SAR 2157)(1)
- NPRM 04/25/85 (50 FR 16432)
- NPRM 04/25/85 (50 FR 16432)
- Final Action 04/00/88

Petroleum Refinery Fuel Oil Tank Bottoms (SAR 2459)
- NPRM 06/00/88
- Final Action 06/00/89

Petroleum Refinery Primary Treatment Sludge (SAR 2226)
- NPRM 11/12/80 (45 FR 74893)
- Final Action 11/00/88

Wood Preserving (SAR 2174)
- NPRM 03/00/88
- Final Action 03/00/89

Small Entity: No

Additional Information: Separate SAR numbers are indicated for each action.

For further information contact the RCRA/Superfund Hotline (800-424-9346); in the Metropolitan Area (202-382-3000)

Agency Contact: RCRA Hotline, Environmental Protection Agency, Solid Waste and Emergency Response, Washington, DC 20460, 800 424-9346

RIN: 2050-AB46

2832. LANDFILL, SURFACE IMPOUNDMENT, AND WASTE PILE CLOSURES FOR HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: None.

Abstract: These regulations will provide an alternate closure option for EPA and authorized states to establish closure and post-closure requirements on a site-specific basis. The regulations address waste and site characteristics potential pathways of hazardous constituent migration, and health effects.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8712
Final Action	05/00/88	

Small Entity: No

Additional Information: SAR No. 2391.

FTS:8-475-8859

Agency Contact: Lauris Davies, Environmental Protection Agency, Solid Waste and Emergency Response, WH-565E, 202 475-8859

RIN: 2050-AB81

2833. ● CHANGES TO INTERIM STATUS AND PERMITTED FACILITIES FOR HAZARDOUS WASTE MANAGEMENT; PROCEDURES FOR POST-CLOSURE PERMITTING

Legal Authority: 42 USC 6912(a) /RCRA 2002(a); 42 USC 6924 /RCRA 3004; 42 USC 6925 /RCRA 3005; 42 USC 6926 /RCRA 3006

CFR Citation: 40 CFR 265; 40 CFR 270; 40 CFR 271

Legal Deadline: None.

Abstract: These regulations will: (1) facilitate modifications at interim status facilities that are necessary to respond to RCRA requirements, (2) expedite Agency approval for permitted facilities to handle newly listed or identified hazardous wastes, and (3) allow the Agency to deny permits for the active life of a facility while a permit decision with respect to the post-closure period remains pending.

Timetable:

Action	Date	FR Cite
NPRM	08/14/87	52 FR 30570
Final Action	09/00/88	

Small Entity: No

Additional Information: SAR No. 2396

FTS:8-382-4751

Agency Contact: Barbara Foster, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-563), Washington, DC 20460, 202 382-4751

RIN: 2050-AC29

2834. IDENTIFICATION OF HAZARDOUS WASTES BY TOXICITY CHARACTERISTIC AND LISTING OF ADDITIONAL ORGANIC TOXICANTS

Significance: Regulatory Program

EPA—RCRA

Final Rule Stage

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261

Legal Deadline: Statutory, March 8, 1987. Statutory, November 8, 1986 for adding additional characteristics; March 8, 1987 for revising the extraction procedure.

Abstract: The EPA is proposing to amend its hazardous waste identification regulations by introducing a new extraction procedure to be used in the Toxicity Characteristic and by expanding the Toxicity Characteristic to include approximately 38 additional organic toxicants.

Timetable:

Action	Date	FR Cite
NPRM	06/13/86	51 FR 21648
Final Action	06/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2062.

FTS-8-382-4770.

Analysis: RIA and RFA

Agency Contact: Deb Dobkowski, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC 20460, 202 382-8551

RIN: 2050-AA78

2835. HAZARDOUS WASTE MISCELLANEOUS UNITS

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 260; 40 CFR 270

Legal Deadline: None.

Abstract: General performance requirements will be established for hazardous waste management units that are not covered by 40 CFR Part 264, so that permits can be obtained. These types of facilities under Subpart X include deep mines, silos, salt mines, thermal treatment units, and open detonation units.

Timetable:

Action	Date	FR Cite
NPRM	11/07/86	51 FR 40726
Final Action	09/00/87	

Small Entity: No

Additional Information: SAR No. 1817.

Docket No. 3004.

FTS:8-382-4654update

Agency Contact: Kent Anderson, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565), Washington, DC 20460, 202 382-4651

RIN: 2050-AA23

2836. BURNING OF HAZARDOUS WASTE IN BOILERS AND INDUSTRIAL FURNACES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004, 3005

CFR Citation: 40 CFR 266

Legal Deadline: Statutory, November 8, 1986.

Abstract: Burning of hazardous waste in boilers for the purpose of heat recovery is currently exempt from regulation under RCRA. The Hazardous and Solid Waste Amendments of 1984 require the Agency to develop technical standards for the burning of hazardous waste fuels. This regulation will establish standards for controlling emissions of organic compounds, metals, and hydrogen chloride from boilers and industrial furnaces that burn hazardous waste.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 16982
Final Action	06/00/88	

Small Entity: No

Additional Information: SAR No. 2078.

FTS-8-382-7917.

Contains previous RIN 2050-AA29.

Analysis: Regulatory Impact Analysis

Agency Contact: Dwight Hlustick, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565A), Washington, DC 20460, 202 382-7917

RIN: 2050-AA72

2837. LINERS AND LEAK DETECTION FOR HAZARDOUS WASTE LAND DISPOSAL UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 260; 40 CFR 270; 40 CFR 271

Legal Deadline: Statutory, May 8, 1987.

Abstract: EPA has proposed these regulations under the authority of section 3004(a) and 3004(o)(4) of the Resource Conservation and Recovery Act. The regulations will require: 1) new landfills, surface impoundments, waste piles, and land treatment units for the treatment, storage, or disposal of hazardous wastes to utilize an approved leak detection system; 2) double liners and leachate collection systems for waste piles, and certain landfills and surface impoundments; and 3) development of a construction quality assurance program for certain landfills and surface impoundments, as well as final covers at land treatment units.

Timetable:

Action	Date	FR Cite
NPRM	05/29/87	52 FR 20218
Final Action	06/00/88	

Small Entity: No

Additional Information: SAR No. 2080.

FTS-8-382-4490.

Includes previous RINs 2050-AA21, 2050-AA50, and 2050-AA52.

Analysis: Regulatory Impact Analysis

Agency Contact: Paul Cassidy, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565E), Washington, DC 20460, 202 382-4662

RIN: 2050-AA76

2838. LIABILITY REQUIREMENTS FOR HAZARDOUS WASTE FACILITIES - CORPORATE GUARANTEE

Legal Authority: 42 USC 6901 / RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: None.

Abstract: The Agency is authorizing use of a corporate guarantee as a mechanism for providing liability coverage for bodily injury and property damage resulting from accidental occurrences at hazardous waste treatment, storage, and disposal facilities. The corporate guarantee, though restricted to parent corporations of hazardous waste facility owners and operators, enables more firms to comply with liability coverage requirements because it is an additional mechanism to insurance and the financial test. See related action in the proposed rule section of this Agenda.

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Timetable:

Action	Date	FR Cite
NPRM	08/25/85	50 FR 33902
Interim Final Rule	07/11/86	51 FR 25350
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2273.

FTS-382-4780.

Agency Contact: Carlos Lago, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-563A), Washington, DC 20460, 202 382-4780

RIN: 2050-AB47

2839. CODIFICATION RULE FOR THE 1984 RCRA AMENDMENTS

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 260 to 271; 40 CFR 122 to 124

Legal Deadline: None.

Abstract: The purpose of this rule is to expand and elaborate on specific portions of the Final Codification Rule which was effective on July 15, 1985. The Final Codification Rule codified those requirements specified by the 1984 amendments to RCRA which were effective immediately or shortly after enactment. More specifically, this rule addresses such areas as corrective action for prior releases from solid waste management units, and permit modifications and post-closure permits.

Timetable:

Action	Date	FR Cite
NPRM	03/28/86	51 FR 10706
Final Action	09/00/87	

Small Entity: No

Additional Information: SAR No. 2187.

FTS 8-382-4497.

Analysis: Regulatory Impact Analysis

Agency Contact: David Fagan, Environmental Protection Agency, Solid Waste and Emergency Response, WH-563, Washington, DC 20460, 202 382-4497

RIN: 2050-AB58

2840. DOUBLE LINER AND LEACHATE COLLECTION SYSTEMS FOR HAZARDOUS WASTE LAND DISPOSAL UNITS

Significance: Regulatory Program

Legal Authority: 42 USC 6924(o) /RCRA 3004(o)

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 260; 40 CFR 270; 40 CFR 144

Legal Deadline: Statutory, November 8, 1986.

Abstract: This rule establishes minimum technology requirements (e.g., double liners and leachate collection systems) for new hazardous waste landfills and surface impoundments, as well as lateral expansions and replacements to existing landfills and surface impoundments. This rule will establish standards for these systems enabling unit owners and operators to design and construct systems that will protect human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/28/86	51 FR 10706
Notice of Availability of Information	04/17/87	52 FR 12566
Final Action	06/03/88	

Small Entity: Undetermined

Additional Information: SAR No. 2388.

FTS: 8-382-4654

Agency Contact: Ken Skahn, Environmental Protection Agency, Solid Waste and Emergency Response, WH-565E, 202 382-4654

RIN: 2050-AB76

2841. STATISTICAL METHODS FOR EVALUATING GROUNDWATER MONITORING DATA FROM HAZARDOUS WASTE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 264

Legal Deadline: None.

Abstract: EPA previously promulgated regulations for detecting contamination of groundwater at hazardous waste disposal facilities under the Resource Conservation and Recovery Act of 1976 (RCRA). The statistical methods for evaluating the groundwater data have been criticized by industry for a number of reasons. EPA is proposing revisions to the regulations. See related action in this Agenda section.

Timetable:

Action	Date	FR Cite
ANPRM	08/20/86	51 FR 29812
NPRM	08/24/87	52 FR 31948
Final Action	06/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2436.

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, WH-565E, Washinton DC 20460, 202 382-4685

RIN: 2050-AB92

2842. LIABILITY REQUIREMENTS FOR HAZARDOUS WASTE FACILITIES - OTHER INSTRUMENTS

Legal Authority: 42 USC 6901 /RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: None.

Abstract: The Agency is considering further revisions to the financial responsibility requirements for liability coverage for third- party bodily injury and property damage resulting from accidental occurrences at hazardous waste treatment, storage, and disposal facilities. The revisions under development are intended to provide relief for hazardous waste facility owners and operators who have encountered difficulties in obtaining insurance and cannot otherwise meet liability coverage requirements. Other instruments, such as a nonparent corporate guarantee, are being analyzed for inclusion in this rulemaking. See related action in the final rule section of this Agenda.

Timetable:

Action	Date	FR Cite
NPRM	08/25/85	50 FR 33902
NPRM	08/25/85	50 FR 33902
Interim Final Rule	04/00/88	
Final Action	04/00/89	

Small Entity: No

Additional Information: SAR No. 2460.

FTS:8-382-4780

Agency Contact: Carlos Lago, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-563), Washington, DC 20460, 202 382-4780

RIN: 2050-AC19

2843. PERMITTING MOBILE HAZARDOUS WASTE TREATMENT UNITS AND DELISTING HAZARDOUS WASTES

Significance: Regulatory Program

Legal Authority: 42 USC 6905 /RCRA 3005

CFR Citation: 40 CFR 260; 40 CFR 265; 40 CFR 270

Legal Deadline: None.

Abstract: This action responds to a petition submitted to EPA by the Hazardous Waste Treatment Council (HWTC). It establishes state-wide permitting procedures for mobile hazardous waste treatment units and modifies hazardous waste delisting procedures, so that hazardous waste treatment residues could be delisted as part of the permitting process. In addition, the petition response will solicit comment on HWTC's request that EPA exempt certain treatment technologies from the requirements for hazardous waste management.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20914
Final Action	02/00/88	

Small Entity: No

Additional Information: SAR No. 2397.

FTS:8-382-4498

Agency Contact: Robin Anderson, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-563), Washington, DC 20460, 202 382-4498

RIN: 2050-AC20

2844. GUIDELINE FOR RECOVERED MATERIALS CONTENT IN PAPER PRODUCTS PROCURED BY THE FEDERAL GOVERNMENT

Legal Authority: 42 USC 6962 / RCRA 6002

CFR Citation: 40 CFR 250

Legal Deadline: Statutory, March 8, 1985.

Abstract: This action establishes a guideline for the Federal procurement of paper and paper products made from recovered materials. The purpose of this action is to encourage the recovery of post- consumer recovered materials and reduce the volume of solid waste.

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 14076
Final Action	09/00/87	

Small Entity: No

Additional Information: SAR No. 2011.

FTS: 8-382-4502.

Agency Contact: William Sanjour, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565 A), Washington, DC 20460, 202 382-4502

RIN: 2050-AA68

2845. UNDERGROUND STORAGE TANKS - TECHNICAL REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 6993(b) /RCRA 9003

CFR Citation: 40 CFR 280

Legal Deadline: Statutory. New and Existing Petroleum Tanks (02/08/87), New Chemical Tanks (08/08/87), Existing Chemical Tanks (08/08/88)

Abstract: This regulation will establish, under Subtitle I of RCRA, requirements for release detection, prevention, and corrective action all underground storage tanks holding petroleum and other regulated substances. Because of the large size of the regulated community, this rule could impact a significant number of small business entities and a Regulatory Flexibility Analysis would be conducted by EPA. Promulgation of this rule, will, for the first time, establish national requirements for storing regulated substances, including petroleum products, in underground tanks. It will not apply to underground tanks storing hazardous wastes, which are currently regulated under Subtitle C of RCRA. These regulations will include: performance standards for new tanks; address leak detection and upgrading of existing tanks; and specify response actions to releases.

Timetable:

Action	Date	FR Cite
NPRM	04/17/87	52 FR 12662
Final Action	05/00/88	

Small Entity: Yes

Additional Information: SAR No. 2202, 2221, and 2256.

FTS 8-382-7601

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; RIA and RFA

Agency Contact: David O'Brien, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562A), Washington, DC20460, 202 382-7601

RIN: 2050-AB19

2846. UNDERGROUND STORAGE TANKS - STATE PROGRAM APPROVAL

Legal Authority: 42 USC 6994(C) /RCRA 9004

CFR Citation: 40 CFR 281

Legal Deadline: None.

Abstract: The Hazardous and Solid Waste Amendments of 1984 (HSWA) allow EPA to approve State underground storage tank programs to operate in lieu of the Federal program. This rule will establish the requirements for States to apply for the EPA approval of such State programs.

Timetable:

Action	Date	FR Cite
NPRM	04/17/87	52 FR 12853
Final Action	05/00/88	

Small Entity: No

Additional Information: SAR No. 2234.

FTS: 382-7601

Agency Contact: Gwen Gebhard, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562A), Washington, DC 20460, 202 382-7601

RIN: 2050-AB31

2847. UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM - FINANCIAL RESPONSIBILITY REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 6991(b) /RCRA 9003

CFR Citation: 40 CFR 280

Legal Deadline: Statutory, February 8, 1987.

Abstract: This regulation will establish, under Subtitle I of RCRA, requirements for owners and operators to demonstrate financial responsibility for taking corrective action and compensating third parties for bodily

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injury and property damage caused by sudden and nonsudden accidental releases arising from operating an underground storage tank containing petroleum. These requirements are applicable to all owners and operators, excluding Federal and State entities. The Agency is proposing aggregate levels of coverage for multiple tanks and will allow a variety of mechanisms to provide evidence of financial responsibility.

Timetable:

Action	Date	FR Cite
NPRM	04/17/87	52 FR 786
Final Action	05/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2255.

FTS:8-382-7903

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Sammy Ng, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562A), Washington, DC 20460, 202 382-7641

RIN: 2050-AB89

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Resource Conservation and Recovery Act (RCRA) — Completed Actions

2848. RESTRICTION OF UNDERGROUND INJECTION OF CERTAIN HAZARDOUS WASTES

Significance: Regulatory Program

CFR Citation: 40 CFR Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn Agency is developing this under RIN 2040-AB03.	09/00/87	

Small Entity: Undetermined

Agency Contact: Francoise Brasier 202 382-5508

RIN: 2050-AB34

2849. CORRECTIVE ACTION FOR HAZARDOUS RELEASES AT FEDERAL FACILITIES

Significance: Regulatory Program

CFR Citation: 40 CFR 264; 40 CFR 271

Completed:

Reason	Date	FR Cite
Withdrawn	09/00/87	

Small Entity: Not Applicable

Agency Contact: Paul Connor 202 382-2210

RIN: 2050-AB63

2850. VARIANCES FOR HAZARDOUS WASTE MANAGEMENT OF RADIOACTIVE MIXED WASTES

CFR Citation: 40 CFR 262; 40 CFR 265; 40 CFR 264; 40 CFR 270

Completed:

Reason	Date	FR Cite
Withdrawn Postponed Indefinitely	09/00/87	

Small Entity: No

Agency Contact: Betty Shackleford 202 382-2210

RIN: 2050-AB75

2851. SMALL QUANTITY GENERATOR ACCUMULATION TANKS FOR HAZARDOUS WASTE

CFR Citation: 40 CFR 262; 40 CFR 265

Completed:

Reason	Date	FR Cite
Withdrawn The Agency has suspended development at this time.	09/00/87	

Small Entity: Yes

Agency Contact: William Kline 202 382-7917

RIN: 2050-AB72

2852. CLASS PERMITS FOR STORING HAZARDOUS WASTES

CFR Citation: 40 CFR 270

Completed:

Reason	Date	FR Cite
Withdrawn The Agency has suspended development at this time.	09/00/87	

Small Entity: No

Agency Contact: Juan Baez-Martinez 202 382-7917

RIN: 2050-AA36

2853. FINANCIAL RESPONSIBILITY FOR CORRECTIVE ACTION FOR CONTINUING RELEASES AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Significance: Regulatory Program

CFR Citation: 40 CFR 264

Completed:

Reason	Date	FR Cite
Withdrawn Merged with RIN:2050-AB80	09/00/87	

Small Entity: No

Agency Contact: Elizabeth Cotsworth 202 382-4761

RIN: 2050-AB22

2854. LIST (PHASE 1) OF HAZARDOUS CONSTITUENTS FOR GROUNDWATER MONITORING

Significance: Agency Priority

CFR Citation: 40 CFR 264; 40 CFR 270

Completed:

Reason	Date	FR Cite
Final Action	07/09/87	52 FR 25942

Small Entity: No

Agency Contact: Jerry Garman 202 475-7415

RIN: 2050-AB27

2855. LAND DISPOSAL RESTRICTIONS FOR CERTAIN HAZARDOUS WASTES - CALIFORNIA LIST

Significance: Regulatory Program

CFR Citation: 40 CFR 268

Completed:

Reason	Date	FR Cite
Final Action	07/08/87	52 FR 25760

EPA—RCRA — **Completed Actions**

Small Entity: Undetermined

Agency Contact: Stephen Weil 202 382-4770

RIN: 2050-AB65

2856. DEVELOPMENT OF CORRECTIVE ACTION PROGRAMS AFTER PERMITTING HAZARDOUS WASTE LAND DISPOSAL FACILITIES

CFR Citation: 40 CFR 270

Completed:

Reason	Date	FR Cite
Final Action	06/22/87	52 FR 23447

Small Entity: No

Agency Contact: George Faison 202 382-4422

RIN: 2050-AB74

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Air Act (CAA) — Prerule Stage

2857. REVIEW OF NAAQS FOR NITROGEN DIOXIDE

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.11

Legal Deadline: Statutory, December 31, 1980. Statutory, Review by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reviewing the health and welfare information that has become available since the last review of the NO2 NAAQS was completed in June 1985. The Agency will revise the standard if needed to protect the public health and welfare.

Timetable:

Action	Date	FR Cite
Complete review of criteria document and staff paper	09/00/90	

Small Entity: No

Additional Information: SAR No. 1004.

FTS: 8-629-5656

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, N.C. 27711, 919 541-5656

RIN: 2060-AC06

2858. REVIEW OF NAAQS FOR CARBON MONOXIDE

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.8

Legal Deadline: Statutory, December 31, 1980. Statutory, Review by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reviewing the health and welfare information that has become available since the last review of the CO NAAQS was completed in September 1985. The Agency will revise the standard if needed to protect the public health and welfare.

Timetable:

Action	Date	FR Cite
Complete review of criteria document and staff paper	09/00/90	

Small Entity: No

Additional Information: SAR No. 1001.

FTS: 8-629-5656

Analysis: Regulatory Impact Analysis

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060-AC07

2858. ● SECONDARY NAAQS FOR PARTICULATE MATTER (FINE PARTICLES)

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA, Section 108; 42 USC 7409 / CAA, Section 109

CFR Citation: 40 CFR 50.7

Legal Deadline: None.

Abstract: On July 1, 1987, EPA issued an ANPRM soliciting public comment on the development of a new secondary (welfare-based) NAAQS for fine particles (those particles less than 2.5 micrometers in aerodynamic diameter). This action represents a continuation of the review process for the secondary standards for particulate matter discussed by the Agency on March 20, 1984 (49 FR 10408). The principal welfare effect to be addressed by such a standard is impairment of visibility. Once the comments on the ANPRM have been evaluated, a schedule for further action will be developed.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/87	52 FR 24670
ANPRM Comment Period End	09/00/87	

Small Entity: No

Additional Information:

FTS: 8:629-5656

Analysis: Regulatory Impact Analysis

Agency Contact: Bruce C. Jordan, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060-AC32

2860. NSPS: COAL PREPARATION PLANTS

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Statutory, January 1980. First reviewed in 1980, four years after standards were promulgated. Second review was due in 1984.

Abstract: EPA is reviewing the standard to determine if revisions are warranted. The review will assess performance and costs of emission control systems at coal preparations plants as well as the experience of the industry and control agencies in implementing the standard. EPA will issue a notice in the Federal Register announcing the results of its review.

Timetable:

Action	Date	FR Cite
Begin Review	02/11/85	
End Review	01/00/88	

Small Entity: No

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Additional Information: SAR No. 2387
FTS: 8-629-5602.

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, 919 541-5602

RIN: 2060-AB84

2861. NSPS: ASPHALT PROCESSING AND ASPHALT ROOFING MANUFACTURING PLANTS(REVIEW)

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Statutory, August 1986.

Abstract: EPA is reviewing this NSPS to determine whether revisions are warranted. The review will assess performance and costs of asphalt processing an asphalt roofing manufacturing plant control systems as well as the experience of the industry and control agencies in implementing the standard. EPA will announce the results of its review in the Federal Register.

Timetable:

Action	Date	FR Cite
Begin Review	06/00/88	
End Review	06/00/88	

Small Entity: No

Additional Information: SAR No. 2430.

FTS:8-629-5425.

Agency Contact: Kenneth Durkee, Chief, Standards Documentation Section, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5425

RIN: 2060-AC21

2862. ● NSPS: MUNICIPAL WASTE COMBUSTORS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None.

Abstract: The EPA has completed a preliminary assessment of air emissions from municipal waste combustors (MWC). Based on this assessment, EPA has concluded that MWC emissions may reasonably be anticipated to contribute to the endangerment of public health and welfare. As a result, EPA issued a notice in the Federal Register (52 FR 25399) that announces its intent to regulate emissions from new and modified MWC under Section 111(b). Pollutants to be regulated will include one or more designated pollutants (pollutants not regulated under Sections 108-110 or 112) thus invoking Section 111(d) which will require the issuance by EPA of existing source guidelines for use by States in the development of additional emissions standards for existing MWC.

Timetable:

Action	Date	FR Cite
ANPRM	07/07/87	51 FR 13424
ANPRM Comment Period End	09/00/87	
NPRM	11/00/89	
NPRM Comment Period End	01/00/90	
Final Action	12/00/90	

Small Entity: No

Additional Information:

FTS:8-629-5602

Government Levels Affected: Local

Agency Contact: Alfred E. Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 2771, 919 541-5602

RIN: 2060-AC26

2863. DECISIONS ON REGULATING VARIOUS AIR POLLUTANTS

Significance: Regulatory Program

Legal Authority: 42 USC 1857 et seq / CAA

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None.

Abstract: The Agency is reviewing the health effects, sources, emissions to the ambient air, and the public exposure of these pollutants. The Agency will publish the decisions whether these pollutants should be controlled as a specified air pollutant under the Clean Air Act or other regulatory mechanisms in order to protect the public health.

Timetable:

Municipal Waste Combustor Emissions
Decision on Regulation 07/07/87 (52 FR 25399)
Naphthalene
Decision on Regulation 10/00/87
Propylene Oxide
Decision on Regulation 04/00/88
Zinc and Zinc Oxide
Decision on Regulation 09/00/87

Small Entity: Undetermined

Additional Information: SAR No. 2181.

FTS 8-629-5505.

Agency Contact: Kent Berry, Assistant Director, Strategies and Air Standards Division, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5505

RIN: 2060-AB56

2864. NESHAPS: CADMIUM

Significance: Regulatory Program

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None.

Abstract: EPA issued a notice of intent to list cadmium under Section 112 (50 FR 42000). We are investigating emissions of cadmium and techniques that are available to control the emissions from identified source categories. If EPA decides that emission standards are warranted, cadmium will be listed under section 112, and EPA will develop proposed standards.

Timetable:

Action	Date	FR Cite
Decision on whether to regulate	04/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 1869.

FTS:8-629-5602

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5602

RIN: 2060-AB92

2865. FUEL AND FUEL ADDITIVE HEALTH EMISSIONS EFFECTS TESTING

Legal Authority: 42 USC 7545(e) / CAA 211(e)

CFR Citation: 40 CFR 79; 40 CFR 80

Legal Deadline: Statutory, August 7, 1978.

Abstract: The CAA mandates that testing protocols be developed to address at a minimum, the possible carcinogenic, mutagenic, and teratogenic effects of fuels and fuel additives as well as their effect on emissions and emission control devices. This action would implement protocols for such testing, which would have to be performed prior to: 1) fuel or additive registration, and 2) introduction of the fuel or additive into the marketplace. Fuels and additives already registered or on sale would also have to undergo testing, as provided for by the CAA.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/89	

Small Entity: Yes

Additional Information: SAR No. 2365.

FTS:8-374-8408

Analysis: Regulatory Flexibility Analysis

Agency Contact: Glenn Passavant, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8408

RIN: 2060-AC10

EPA—CAA — Prerule Stage

2866. DIESEL FUEL MODIFICATION

Significance: Regulatory Program

Legal Authority: 42 USC 7545 / CAA 211

CFR Citation: 40 CFR 79; 40 CFR 80

Legal Deadline: None.

Abstract: Trap oxidizers, the use of which may be required to meet 1991 and later model-year heavy duty diesel particulate standards, may require the use of low sulfur diesel fuels. In promulgating the particulate standard, EPA promised to examine the need for low-sulfur fuel. In addition, fuel sulfur and aromatics content have been shown to have a direct effect on particulate emissions. This action will determine the costs and benefits of improving diesel fuel quality.

Timetable:

Action	Date	FR Cite
Publish Study	04/00/88	
Workshop	05/00/88	

Small Entity: Yes

Additional Information: SAR No. 2366.

FTS:8-374-8339

Analysis: Regulatory Flexibility Analysis

Agency Contact: Richard Rykowski, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4339

RIN: 2060-AC11

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Air Act (CAA) — Proposed Rule Stage

2867. NAAQS FOR SULFUR OXIDES (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.4; 40 CFR 50.5

Legal Deadline: Statutory, December 31, 1980. Statutory, Reviews due by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA has reviewed the scientific criteria used as a basis for establishing ambient air quality standards for sulfur oxides. The Agency will revise the standards if and as appropriate to protect public health and welfare.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/79	44 FR 56730
NPRM	11/00/87	
Final Action	01/00/89	

Small Entity: No

Additional Information: SAR No. 1002.

Docket No. OAQPS-79-7.

FTS:8-629-5656.

Analysis: Regulatory Impact Analysis

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060-AA61

2868. NAAQS: LEAD

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.12

Legal Deadline: Statutory, December 1980. Statutory, Reviews due by December 1980 and at 5-year intervals thereafter.

Abstract: EPA is reassessing the health and welfare information that has become available since the last revision of the standard. A staff paper is in preparation for review by the Clean Air Scientific Advisory Committee (CASAC).

Timetable:

Action	Date	FR Cite
CASAC Review	06/00/88	
NPRM	11/00/89	

Small Entity: No

Additional Information: SAR No. 1919.

FTS: 8-629-5656.

Analysis: Regulatory Impact Analysis

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060-AA95

2869. NAAQS: OZONE

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.9

Legal Deadline: Statutory, December 31, 1980. Statutory, Reviews due by December 31, 1980 and at 5-year intervals thereafter.

Abstract: EPA is reassessing health and welfare information which has become available since the last revision of the standard. In order to retain a unified regulatory review package in light of the emerging data base on health and welfare effects associated with longer-term averaging times, EPA has chosen to continue review of standards until such information is published and reviewed in the criteria document. The major issue is whether the new information will indicate that new standards with longer-term averaging times are required to protect public health and welfare.

Timetable:

Action	Date	FR Cite
NPRM	10/00/90	

Small Entity: Undetermined

Additional Information: SAR No. 1920.

FTS: 8-629-5656.

REVIEW AUTHORITY: CAA 109.

Analysis: Regulatory Impact Analysis

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air

and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5656

RIN: 2060-AA96

2870. NSPS: PERCHLOROETHYLENE DRY CLEANING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart OO

Legal Deadline: Statutory, August 1982.

Abstract: Some new issues have arisen, and EPA is deciding whether to go forward with this rule. Some small perchloroethylene facilities may be affected by this standard.

Timetable:

Action	Date	FR Cite
NPRM	11/25/80	45 FR 78174
Decision on need for standard expected by	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1119.

Docket No. A-79-30.

FTS:8-629-5566.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060-AA14

2871. NSPS: SOLVENT DEGREASING (111D)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None.

Abstract: This action will require States to control organic solvent cleaners to reduce emissions of specific organic solvents designated under a separate NSPS action (SAR 1010). This action may impact any manufacturing operations that employ organic solvent cleaners to remove grease and oils from parts prior to assembly. Some new issues have arisen and EPA is deciding whether to go forward with this rule.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1695.

FTS:8-629-5624.

Analysis: RFA

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA33

2872. NSPS: POLYMER AND RESIN MANUFACTURE

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Statutory, August 1982. Statutory - Promulgation due 8/00/82

Abstract: This rule will control volatile organic compound (VOC) emissions in exhaust streams from polymerization processes in the manufacture of organic polymers and resins.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	08/00/88	

Small Entity: No

Additional Information: SAR No. 1691.

Docket No. A-82-19.

FTS:8-629-5578.

Affected Sectors: Multiple

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA37

2873. NSPS: SOCMI REACTOR PROCESSES

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Statutory, August 1982.

Abstract: The scope of the Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactor processes includes all reactor processes (other than air oxidation reactor processes) used to manufacture 173 synthetic organic chemicals produced in quantities of at least 100 million 1b/yr. These large-volume chemicals account for about 90 percent of the total domestic chemical production from the SOCMI. Furthermore, production of these large-volume chemicals is expected to have the greatest impact on nationwide VOC emissions, since the magnitude of emissions from reactor process units are generally proportional to chemical production rates.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	01/00/89	

Small Entity: No

Additional Information: SAR No. 2164.

FTS:8-629-5566.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060-AB55

2874. NSPS: SMALL BOILERS

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Judicial, Judicial - NPRM, June 1, 1989, Final September 1, 1990

Abstract: The purpose of this action is to develop new source performance standards for small industrial-commercial-institutional boilers with heat input capacities of 100 millions Btu/hr or less.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	09/00/90	

Small Entity: Yes

Additional Information: SAR No. 2239.

FTS:8-629-5595

Analysis: Regulatory Flexibility Analysis

Agency Contact: Kenneth Durkee, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5505

RIN: 2060-AB95

2875. NESHAP: ASBESTOS (REVISION)

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None.

Abstract: The asbestos NESHAP standard is being revised to require the addition of monitoring requirements for asbestos mills, asbestos manufacturing operations and asbestos waste disposal operations. The demolition and renovation standard is being revised to require specific recordkeeping and reporting requirements designed to help

improve compliance of these sources, which is currently believed to be low.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	01/00/89	

Small Entity: Undetermined

Additional Information: SAR No. 1714.

FTS 8-629-5625.

Agency Contact: Gilbert Wood, Chief, Standards Support Section, Environmental Protection Agency, Air and Radiation, MD-13, RTP, North Carolina, 919 541-5625

RIN: 2060-AB51

2876. NESHAPS: CHROMIUM

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None.

Abstract: EPA issued a notice of intent to list total chromium or hexavalent chromium under Section 112 (50 FR 24317). We are further assessing the public health risks of chromium compounds. Also, we are investigating emissions of chromium and techniques that are available to control the emissions from 11 identified source categories. If EPA decides that emission standards are warranted, chromium or hexavalent chromium will be listed under Section 112, and EPA will develop proposed standards.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	
Final Action	03/00/90	

Small Entity: Undetermined

Additional Information: SAR No. 2181.

FTS: 8-629-5590

Agency Contact: James Crowder, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5596

RIN: 2060-AB83

2877. NESHAP: CHROMIUM--INDUSTRIAL COOLING TOWERS

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None.

Abstract: EPA issued a notice of intent to list total chromium or hexavalent chromium under Section 112 (50 FR 24137). We are further assessing the public health risks of chromium compounds. Preliminary assessment performed by EPA has identified industrial process cooling towers as a source category which the proposal of national emission standards may be warranted. We are presently investigating in detail alternative feasible control options, and the economic, energy, and environmental impacts, and the effect on public health risks that would result from their application. If EPA decides, based on these investigations, that emissions standards are warranted, chromium or hexavalent chromium will be listed under Section 112 and EPA will develop standards.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	
Final Action	03/00/90	

Small Entity: No

Additional Information: SAR No. 2386.

FTS-8-629-5602

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, 919 541-5602

RIN: 2060-AC12

2878. NESHAP: CHROMIUM--COMFORT COOLING TOWERS

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None.

Abstract: EPA issued a notice of intent to list total chromium or hexavalent chromium under Section 112 (50 FR 24317). We are further assessing the public health risks of chromium compounds and investigating emissions of chromium and techniques that are available to control the emissions from identified source categories. Because emissions from cooling towers using chromium chemicals in the recirculating water are predominantly hexavalent, a detailed investigation of the technical feasibility of using chromium substitutes or high efficiency drift eliminators is being conducted. EPA has decided that emissions standards are warranted, and standards will be proposed under Section 6 of TSCA.

Timetable:

Action	Date	FR Cite
Notice of Solicitation	09/15/86	51 FR 32668
NPRM	11/00/87	
Final Action	02/00/89	

Small Entity: No

Additional Information: SAR No. 2386.

FTS-8-629-5625

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, MD-13, 919 541-5625

RIN: 2060-AC13

2879. NESHAP: CHROMIUM--ELECTROPLATING

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None.

Abstract: EPA issued a notice of intent to list chromium or hexavalent chromium under Section 112 (50 FR 24317). We are further assessing the public health risks of chromium compounds. A preliminary assessment performed by EPA has identified chromium electroplating as a source category which emits significant quantities of chromium to the atmosphere and for which the proposal of national emission standards may be warranted. We are presently investigating in detail alternative feasible control options, and the economic, energy, and environmental impacts, and the effect on public health risks that would result from their application. If EPA decides, based on these investigations, that emission standards are warranted, chromium or hexavalent chromium will be listed under Section 112, and standards will be proposed.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	
Final Action	03/00/90	

Small Entity: Undetermined

Additional Information: SAR No. 2386.

FTS-8-629-5602.

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, 919 541-5602

RIN: 2060-AC14

2880. HAZARDOUS ORGANIC NESHAP

Significance: Agency Priority

Legal Authority: 42 USC 7412/CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None.

Abstract: This regulation will control emissions of butadiene, ethylene oxide, ethylene dichloride, chloroform, carbon tetrachloride, perchloroethylene, trichloroethylene, and methylene chloride, as hazardous pollutants under Section 112. The regulation will cover the production categories and some use categories for these eight pollutants. It will require installation of combustion devices to control process vents and an inspection and monitoring program to control leaks from pumps and valves.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	
Final Action	11/00/89	

Small Entity: No

Additional Information: SAR No. 2363.

FTS:8-629-5578

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AC19

2881. ● NESHAP: PERCHLOROETHYLENE DRY CLEANING

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None.

Abstract: This regulation will control emissions of perchloroethylene, which is intended to be designated as hazardous under Section 112. Carbon absorbers or refrigerated condensers will be required on all dry cleaning machines to effectively reduce perchloroethylene emissions. The standard will apply to all types of machines and may also address auxiliary equipment and safe workplace practices.

Timetable:

Action	Date	FR Cite
NPRM	08/00/88	
Final Action	11/00/89	

Small Entity: Undetermined

Additional Information:

FTS: 8-629-5608

Agency Contact: Robert E. Rosensteel, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060-AC27

2882. ● NESHAP: ETHYLENE OXIDE FROM COMMERCIAL STERILIZATION

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None.

Abstract: This standard will control ethylene oxide emissions from sterilization chambers. The emission reduction being considered would require add-on controls for sterilizers.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	
Final Action	11/00/89	

Small Entity: Undetermined

Additional Information:

FTS: 8-629-5608

Agency Contact: Robert E. Rosensteel, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060-AC28

2883. ● NESHAP: ORGANIC SOLVENT CLEANING

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None.

Abstract: These regulations apply to organic solvent cleaners (degreasers) and will control emissions of perchloroethylene, methylene chloride, and trichloroethylene from new and existing sources. The emission reduction techniques being considered are combinations of add-on control hardware and improved operating practices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/88	
Final Action	02/00/90	

Small Entity: Undetermined

Additional Information:

FTS: 8-629-5608

Agency Contact: Robert E. Rosensteel, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5608

RIN: 2060-AC31

2884. STRATOSPHERIC OZONE PROTECTION STRATEGY

Significance: Regulatory Program

Legal Authority: 42 USC 4547 / CAA 157(6)

CFR Citation: 40 CFR Not yet determined

Legal Deadline: Judicial, November 1987. Revised proposal by December 1987 and Final action by August 1988

Abstract: This action initiates a comprehensive research effort by EPA to assess issues related protection of the stratosphere, as directed by Part B, Section 157 of the CAA. The plan proposed that EPA enhance its research and analysis, participate in a series of domestic and international workshops related to stratospheric ozone, and arrive at a decision by November, 1987 whether additional regulation, either domestic or international, of stratospheric perturbants, is necessary. The plan also served as a basis for a settlement agreement between EPA and NRDC in a suit brought before the DC Circuit Court.

Timetable:

Action	Date	FR Cite
ANPRM	10/07/80	45 FR 66726
NPRM	12/00/87	
Final Action	08/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2372.

FTS: 8-382-4036

Agency Contact: Eileen Claussen, Environmental Protection Agency, Air and Radiation, ANR-445, 202 382-7407

RIN: 2060-AC09

2885. ● PSD SET II FOR PM10

Significance: Regulatory Program

Legal Authority: 42 USC 1857/CAA 166

CFR Citation: 40 CFR 52.21; 40 CFR 51.166

Legal Deadline: Statutory, July 30, 1989.

Abstract: The purpose of this action is to prevent significant deterioration of air quality as measured by the new indicator for particulate matter, PM10. The existing PSD program has

particulate matter increments based on the original TSP indicator. The EPA has now promulgated a PM10 NAAQS to replace the original TSP-based particulate matter NAAQS. Therefore, EPA is preparing to revise the PSD program by promulgating PM10 increments in accordance with section 166 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/88	
NPRM Comment Period End	11/00/88	
Final Action	07/00/89	
Final Action Effective	07/00/90	

Small Entity: No

Additional Information:

FTS: 8-541-5390

Agency Contact: Nancy Mayer, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711, 919 541-5390

RIN: 2060-AC33

2886. HYDROCARBON STANDARDS FOR LIGHT-DUTY TRUCKS (REVISION)

Legal Authority: 42 USC 7521 / CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: Through this action, EPA will consider the establishment of more stringent hydrocarbon emission standards for light-duty trucks based upon the belief that very cost-effective hydrocarbon control is available from these vehicles. The new standards for lighter light-duty trucks would be no more stringent than the existing passenger car standard and an equivalently stringent standard for heavier light-duty trucks.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/86	51 FR 32032
NPRM	09/00/88	

Small Entity: No

Additional Information: SAR No. 2287.

FTS: 8-374-8496.

Agency Contact: J. Anderson, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4496

RIN: 2060-AB85

2887. DECISION ON AIR POLLUTION REGULATORY STRATEGIES FOR THE GASOLINE MARKETING INDUSTRY

Significance: Regulatory Program

Legal Authority: 42 USC 7521 / CAA 202; 42 USC 7525 / CAA 206;; 42 USC 7412 /CAA 212; 42 USC 7502 /CAA 172

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: Evaporative hydrocarbons emitted during vehicle refueling contribute to the failure of many urban areas to attain the National Ambient Air Quality Standard for ozone. Through this action, if deemed feasible and desirable, EPA will control emissions at the time of refueling.

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 31162
Supplemental NPRM	09/00/88	
Final Action	09/00/89	

Small Entity: No

Additional Information: SAR No. 2384.

FTS:8-374-8408

Analysis: Regulatory Impact Analysis

Agency Contact: Richard S. Wilcox, Environmental Protection Agency, Air and Radiation, Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, MI 48105, 313 668-4390

RIN: 2060-AC04

2888. TRADING AND BANKING OF HEAVY-DUTY ENGINE NOX AND PM EMISSION CREDITS

Significance: Regulatory Program

Legal Authority: 42 USC 7521 / CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: In March 1985 the EPA promulgated NOx and PM emission standards for heavy-duty vehicles and engines. The rulemaking included a provision for emissions averaging for the final stages of standard implementation in order to mitigate the economic impact of the stringent standards. EPA realized that the averaging mechanism could provide more benefits to manufacturers with a broader product line. In order to address this issue, EPA included in the final package a provision to study the potential for mitigating this uneven distribution of benefits through an emissions credit trading program. The study was expanded to include the concept of 'banking' emissions credit. The study has been completed and made available to the public and a technical workshop was held in January 1987. EPA is analyzing the comments received from the public and from the workshop.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	

Small Entity: No

Additional Information: SAR No. 1315.

FTS: 8-374-8408

Agency Contact: Glenn Passavant, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4488

RIN: 2060-AC05

2889. SMALL-VOLUME MANUFACTURERS CERTIFICATION PROCEDURE (REVISION)

Legal Authority: 42 USC 7525 / CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: This action will result in amended rules to provide for certification of emissions compliance by small-volume manufacturers, including commercial importers importing vehicles into the United States. By a separate action, the Manufacturers Operations Division is revising its rules for nonconforming vehicle importation. This action is appropriate to improve the certification regulations and assure compliance with the exhaust emission standards. Current rules for small-volume manufacturers were not intended to specifically apply to conversion of previously manufactured but uncertified configurations. However, increasingly large numbers of manufacturers who import vehicles for resale have applied for EPA certification as an alternative to individual vehicle importation. This will primarily impact small businesses involved in importing motor vehicles. The likely impact of these changes will

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be increased costs to these changes will be increased costs to these businesses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	12/00/88	

Small Entity: Yes

Additional Information: SAR No. 2143.

FTS: 8-374-4444.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Charlie Cole, Environmental Protection Agency, Air and Radiation, 2625 Plymouth Road, Ann Arbor, MI 48105, 313 668-4414

RIN: 2060-AB54

2890. TEST PROCEDURES FOR TRAP-EQUIPPED DIESEL VEHICLES AND ENGINES

Legal Authority: 42 USC 7525 / CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: The particulate standards for 1987 and later model year Light- duty Diesel Vehicles and 1991 and later model year Heavy-duty Diesel Engines may require the use of trap-oxidizers for some vehicles and engines. The existing test procedures do not expressly describe how to deal with emissions and fuel economy effects during trap regeneration. This revision to the test procedures will provide specific instructions for consideration of these trap effects and in testing.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2373.

FTS: 8-374-8496

Agency Contact: John Anderson, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4496

RIN: 2060-AC08

2891. ● AMENDMENTS TO SELECTIVE ENFORCEMENT AUDITING REGULATIONS

Legal Authority: 42 USC 7525(b)/CAA 206; 42 USC 7542(a); 42 USC 7601(a)/CAA 501

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: These amendments would delete the mandatory reporting of manufacturers' internal quality assurance emission test data. Prior to promulgation of this requirement in 1980, many manufacturers voluntarily submitted their internal quality assurance data. The deletion of this requirement is not expected to improve the SEA program, especially since many manufacturers will continue to provide the data voluntarily.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	07/00/88	

Small Entity: No

Additional Information:

FTS: 8-382-4104

Agency Contact: Stephen Sinkez, Environmental Protection Agency, Air and Radiation, EN-340-F, 401 M St., SW, Washington, DC 20460, 202 382-4104

RIN: 2060-AC34

2892. EMISSION PERFORMANCE WARRANTY REGULATIONS (REVISION)

Legal Authority: 42 USC 7541(b) / CAA 207(b)

CFR Citation: 40 CFR 85

Legal Deadline: None.

Abstract: This rulemaking will address the issue of establishing: (1) test procedures and standards for heavy-duty gasoline vehicles, (2) new standards for light-duty vehicles and light-duty trucks, and (3) alternative dynamometer loadings for the loaded short tests. These amendments are appropriate so that owners of heavy-duty vehicles will have emissions warranty protection and additional owners of light-duty vehicles and trucks will be entitled to warranty protection.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	
Final Action	10/00/88	

Small Entity: No

Additional Information: SAR No. 2136.

FTS: 8-374-8416.

Agency Contact: James McCargar, Environmental Protection Agency, Air and Radiation, 2625 Plymouth Road, Ann Arbor, MI 48105, 313 668-4416

RIN: 2060-AB53

2893. FUEL AND FUEL ADDITIVES: PREVENTATIVE ACTION PROGRAM TO PREVENT SELF-SERVE FUEL SWITCHING

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601(a) /CAA 301(a)

CFR Citation: 40 CFR 80.22; 40 CFR 80.23

Legal Deadline: None.

Abstract: This action will develop a voluntary "Preventative Action Program" to be used by gasoline retailers to help prevent self-serve fuel switching. Retailers will be afforded an affirmative defense to allegations of "allowing" fuel switching if they have effectively implemented this program. This action would also change the language of the fuel switching regulation to prohibit fuel switching in all vehicles designed to use unleaded gasoline, and not just those that still have an "unleaded only" label or fuel inlet restrictor.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 2215.

FTS: 8-382-2633

Agency Contact: Richard Kozlowski, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 382-2633

RIN: 2060-AB59

2894. ● PSD REGULATIONS FOR NOX

Significance: Regulatory Program

Legal Authority: 42 USC 1857 /CAA 211

CFR Citation: 40 CFR 52.21; 40 CFR 51.166

Legal Deadline: Judicial, October 9, 1989.

Abstract: In March 1986, the Sierra Club, et al., filed suit against EPA for not promulgating regulations pursuant to section 166 of the Clean Air Act for nitrogen oxides (NOx). The court decision issued by the District Court for the Northern District of California on April 1, 1987, requires the EPA to propose regulations by February 9, 1988, and promulgate regulations by October 9, 1988. Work started in November on the development of PSD increment (or its equivalent) for NOx, comply with this court action.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
NPRM Comment Period End	03/00/88	
Final Action	10/00/88	
Final Action Effective	10/00/89	

Small Entity: No

Additional Information:

FTS: 8-541-5592

Agency Contact: Gary McCutchen, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711, 919 541-5592

RIN: 2060-AC29

2895. ● REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS; APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS; SURFACE COAL MINES

Legal Authority: 42 USC 7401 /CAA 111

CFR Citation: 40 CFR 52.21; 40 CFR 51.166; 40 CFR 52.24; 40 CFR 51, Appendix S

Legal Deadline: None.

Abstract: The various EPA regulations that govern new construction under the Clean Air Act generally apply to "major" new stationary sources of air pollution and "major" modifications of existing sources. They require fugitive emissions to be included in threshold applicability determinations of whether a new project is "major," but only for 30 categories of sources. The purpose of this action is to determine if surface coal mines should be added to the existing list of 30 categories.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information:

FTS:8-629-5375.

Agency Contact: David Solomon, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5375

RIN: 2060-AC40

2896. ● NONCONFORMANCE PENALTIES FOR 1991 THROUGH 1994 MODEL YEAR EMISSION STANDARDS FOR HEAVY-DUTY VEHICLES AND ENGINES

Legal Authority: 42 USC 7524 /CAA 205

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: This action will address the availability of nonconformance penalties (NCPs) and specific upperlimits and penalty rates for 1991 through 1994 model year emission standards for heavy-duty vehicles and engines. The availability of NCPs will allow a manufacturer, whose vehicles or engines fail to conform with certain applicable emission standards, but which do not exceed a designated upper limit, to be issued a certificate of conformity upon payment of a monetary penalty. This rule is the third phase of NCP rulemaking. The first, published August 30, 1985 established generic aspects of NCPs. The second, published December 31, 1985, addressed NCPs applicable to 1987 and 1988 model years.

Timetable:

Action	Date	FR Cite
NPRM	08/00/88	
Final Action	00/00/00	

Small Entity: No

Additional Information:

FTS:8-382-2535. SAR 2431.

Agency Contact: Richard Babst, Environmental Protection Agency, Air and Radiation, (EN-340-F), Washington, DC 20460, 202 382-2535

RIN: 2060-AC39

2897. ● SELECTIVE ENFORCEMENT AUDITING REGULATIONS (REVISION)

Legal Authority: 42 USC 7525 /CAA 206; 42 USC 7542 /CAA 211; 42 USC 7601 /CAA 501

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: EPA intends to delete the mandatory reporting of manufacturers' internal quality assurance test data with these amendments. Prior to promulgation of this requirement, in 1980, many manufacturers voluntarily submitted their internal quality assurance data. EPA expects that many manufacturers will continue to voluntarily provide the data even after these amendments are published.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	07/00/88	

Small Entity: No

Additional Information:

FTS:8-382-4104.

SAR 2385.

Agency Contact: Stephen Sinkez, Environmental Protection Agency, Air and Radiation, (EN-340-F), Washington, DC 20460, 202 382-4104

RIN: 2060-AC36

2898. FUEL ECONOMY TEST PROCEDURES; ADJUSTMENT TO TEST RESULTS TO ACCOUNT FOR TEST PROCEDURE CHANGES (LIGHT-DUTY TRUCKS)

Legal Authority: 42 USC 2003 / EPCA 503

CFR Citation: 40 CFR 600

Legal Deadline: None.

Abstract: In January 1982, the United States Court of Appeals for the Sixth Circuit issued an order requiring EPA to initiate rulemaking to establish procedures for determining what, if any adjustments were due for the 1980-85 Corporate Average Fuel Economy (CAFE) test results. Adjustments for light-duty vehicles have been finalized. This rule will address the need for adjusting test results of light-duty trucks. Specifically, a supplemental proposal will consider further whether the adjustments in CAFE made for light-duty vehicles should be made for light-duty trucks.

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EPA—CAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/01/85	50 FR 27188
NPRM (Supplemental)	10/00/87	
Final Action	06/00/88	

Small Entity: No

Additional Information: SAR No. 2289.

FTS: 8-374-8479.

Agency Contact: Robert Larson, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4479

RIN: 2060-AB86

2899. TREATMENT, STORAGE, AND DISPOSAL FACILITY AREA SOURCE AIR EMISSIONS - RCRA STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 6924/RCRA 3004, 3007

CFR Citation: 40 CFR 264, Subparts I,J,K,L,M,N

Legal Deadline: Statutory, May 1987.

Abstract: The purpose of this action is to investigate the magnitude of the area non-combustion source air emissions from hazardous waste treatment, storage, and disposal facilities and to develop standards for monitoring and control as needed. Area sources include surface impoundments, landfills, waste piles, land treatment operations and waste water treatment facilities. Pollutants to be considered by such standards would include volatile organic compounds, particulate matter, specific toxic substances, or a combination of these. The mandate for standards development under RCRA is to protect human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/88	
Final Action	11/00/89	

Small Entity: Undetermined

Additional Information: SAR No. 2240.

FTS:8-629-5672.

Agency Contact: James F. Durham, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5672

RIN: 2060-AB94

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Air Act (CAA)

Final Rule Stage

2900. NEW SOURCE REVIEW (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 6910 / CAA 110

CFR Citation: 40 CFR 51; 40 CFR 52

Legal Deadline: None.

Abstract: This action would revise EPA's new source requirements for new major stationary sources in PSD and Nonattainment areas. EPA is taking this action to implement a settlement agreement with Chemical Manufacturer's Association and other parties who challenged the regulation amendments promulgated on August 7, 1980.

Timetable:

Action	Date	FR Cite
NPRM	08/25/83	49 FR 38742
Final Action	12/00/87	

Small Entity: No

Additional Information: SAR No. 1845.

FTS:8-629-5697.

Agency Contact: David Solomon, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711, 919 541-5697

RIN: 2060-AA66

2901. FEDERAL PROMULGATION OF STATE IMPLEMENTATION PLANS TO PROTECT VISIBILITY

Legal Authority: 42 USC 7410/CAA 110; 42 USC 7491/CAA 169

CFR Citation: 40 CFR 51.300-307

Legal Deadline: Judicial, August 31, 1987.

Abstract: Section 169 of the Clean Air Act requires EPA to remedy existing and prevent future visibility impairment in certain national parks, wildernesses, and international parks. In 1980 EPA promulgated these regulations for 36 states. On July 12, 1986 EPA published Federal promulgation of SIPs to cover visibility new source review and monitoring. On March 12, 1987, as required by a settlement agreement EPA proposed federal promulgation of SIPs to cover the remaining elements for 32 states which have not submitted adequate SIPs. Unless states submit revised SIPs to EPA by August 31, 1987, EPA must publish the Federal promulgation of the SIPs by November 12, 1987. Under the settlement agreement, EPA deferred action on remedying existing impairment in 4 states until August 1988.

Timetable:

Action	Date	FR Cite
NPRM	03/12/87	52 FR 7802
Final Action	11/00/87	
Remedying Existing Impairment		
NPRM	08/00/88	
Final Action	04/00/89	

Small Entity: No

Additional Information: SAR No. 2428.

FTS:8-629-5540

Agency Contact: Janet Metsa, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5540

RIN: 2060-AC20

2902. NSPS: SOLVENT DEGREASING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart JJ

Legal Deadline: Statutory, August 1982.

Abstract: Some new issues have arisen, and EPA is deciding whether to go forward with this rule. A Federal Register notice requesting public participation in information gathering for Organic Solvent Cleaning was published August 10, 1987 (52 FR 29548).

Timetable:

Action	Date	FR Cite
NPRM	06/11/80	45 FR 39766
Final Action	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1010.

Docket No. OAQPS 78-12.

EPA—CAA

Final Rule Stage

FTS:8-629-5568.

Analysis: Regulatory Flexibility Analysis

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060-AA12

2903. NSPS: RUBBER PRODUCTS INDUSTRY-TIRE MANUFACTURING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart BBB

Legal Deadline: Statutory, August 1982. Statutory: Final Action due 8/82

Abstract: This standard will control VOC (volatile organic compound) emissions from solvent application during undertread/sidewall cementing, tread end cementing, bead cementing and green tire coating in rubber tire manufacturing plants. It will require use of less solvent or installation of a 75% efficient emission reduction system.

Timetable:

Action	Date	FR Cite
NPRM	01/20/83	48 FR 2676
Final Action	09/00/87	

Small Entity: No

Additional Information: SAR No. 1615.

Docket No. A-80-9. PFTS:8-629-5625.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060-AA24

2904. NSPS: SYNTHETIC ORGANIC CHEMICAL INDUSTRY: AIR OXIDATION PROCESS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart III

Legal Deadline: Statutory, August 1982.

Abstract: This regulation will control emissions of volatile organic compounds from the manufacture of synthetic organic chemicals via air oxidation processes.The Agency is still considering whether to go forward with this rule.

Timetable:

Action	Date	FR Cite
NPRM	10/21/83	48 FR 48932
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1618.

FTS:8-629-5578.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060-AA30

2905. NSPS: DISTILLATION OPERATIONS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Statutory, August 1982.

Abstract: This regulation will control emissions of volatile organic compounds from new, modified, and reconstructed distillation facilities at petroleum refineries and synthetic organic chemical plants.New issues have arisen and the Agency is deciding whether to go forward with this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/30/83	48 FR 57538
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1733.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060-AA35

2906. NSPS: PETROLEUM REFINERY, FCC REGENERATORS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None.

Abstract: This standard will require control of sulfur dioxide from fluidized catalytic cracking units.

Timetable:

Action	Date	FR Cite
NPRM	11/08/85	50 FR 46464
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1736.

FTS:8-629-5625.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060-AA36

2907. NSPS: SEWAGE TREATMENT PLANTS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None.

Abstract: EPA has reviewed this standard and determined that revisions to the monitoring, recordkeeping and reporting requirements are warranted. The review assessed the performance and cost of control systems as well as experience in implementing the existing standard. EPA has issued a notice in the Federal Register announcing the results of its review and proposing revisions to the monitoring, recordkeeping and reporting requirements (51 FR 13424).

Timetable:

Action	Date	FR Cite
NPRM	04/10/86	51 FR 43424
Final Action	11/00/87	

Small Entity: No

Additional Information: SAR No. 2028.

FTS: 8-629-5602.

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5602

RIN: 2060-AB05

2908. NSPS: AUTOMOBILE AND LIGHT-DUTY TRUCK COATING OPERATIONS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None.

Abstract: EPA is revising the NSPS for automobile and light-duty truck coating operations which was promulgated in December 1980 to reflect additional operational data of the best demonstrated prime coat system. This revision of the standard does not reflect a change in the basis of the prime coat standard, but a better understanding of the performance of the prime coat system upon which the standard was originally based.

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Timetable:

Action	Date	FR Cite
NPRM	07/29/82	47 FR 32743
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2044.

FTS: 8-629-5625.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060-AB22

2909. NSPS: FOSSIL FUEL-FIRED STEAM GENERATORS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111; 42 USC 7601(a)

CFR Citation: 40 CFR 60

Legal Deadline: None.

Abstract: These revisions to the existing NSPS for large fossil fuel-fired steam generators would establish sulfur dioxide compliance, emission monitoring, and reporting requirements on a 30-day rolling average basis.

Timetable:

Action	Date	FR Cite
NPRM	10/21/83	48 FR 48960
Final Action	12/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2083.

FTS: 8-629-5251.

Analysis: Regulatory Impact Analysis

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5251

RIN: 2060-AB29

2910. NSPS: INDUSTRIAL BOILERS, SO2

Significance: Regulatory Program

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Judicial. NPRM, June 1986; Final Rule, December 1987

Abstract: Industrial boilers are a significant stationary source of sulfur dioxide. EPA is developing performance standards for industrial boilers to achieve continuous emission reduction. The Agency will base emission standards upon the best available system of control taking costs, environmental impacts and energy requirements into account.

Timetable:

Action	Date	FR Cite
NPRM	06/19/86	51 FR 22384
Final Action	12/00/87	

Small Entity: No

Additional Information: SAR No. 2075.

FTS: 8-629-5251.

Analysis: Regulatory Impact Analysis; RIA

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5251

RIN: 2060-AB33

2911. NSPS: CEMENT PLANTS (REVISION)

Legal Authority: 42 USC 7411 /CAA 111; 42 USC 7414 /CAA 114

CFR Citation: 40 CFR 60

Legal Deadline: None.

Abstract: EPA has completed a four-year review of this NSPS. As a result, the Agency intends to revise the monitoring requirements associated with the standard to require installation of continuous opacity monitors on all kilns and clinker coolers subject to the standards after August 17, 1971.

Timetable:

Action	Date	FR Cite
NPRM	09/10/85	50 FR 36956
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2186.

FTS: 8-629-5568

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060-AB38

2912. NSPS: SURFACE COATING OF PLASTIC PARTS FOR BUSINESS MACHINES

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Statutory, August 1982.

Abstract: This action would limit volatile organic compounds emissions from new, modified, and reconstructed plants that coat plastic parts for business machines.

Timetable:

Action	Date	FR Cite
NPRM	01/08/86	51 FR 854
Final Action	09/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2236.

FTS:8-629-5578.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Environmental Protection Agency, Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060-AB66

2913. NSPS: POLYMERIC COATING OF SUPPORTING SUBSTRATES

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Statutory, August 1982.

Abstract: This regulation would limit volatile organic compounds emissions from new, modified, and reconstructed plants that coat polymeric compounds onto supporting substrates.

Timetable:

Action	Date	FR Cite
ANPRM	08/17/84	49 FR 32868
NPRM	04/30/87	52 FR 15906
Final Action	05/00/88	

Small Entity: No

Additional Information: SAR No. 2237.

FTS:8-629-5566.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Environmental Protection Agency, Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060-AB67

2914. NSPS: RESIDENTIAL WOOD COMBUSTION

Significance: Regulatory Program

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None. The Agency has entered into a settlement agreement under which it will taken proposed and final action by 1/31/87 and 1/31/88 respectively.

Abstract: This regulation would limit particulate matter emissions from new residential wood combustion units. A study continues to assess the performance and costs of technology utilized to control these emissions and to analyze the economic aspects of the industry.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/85	50 FR 31504
NPRM	02/18/87	52 FR 4994
Final Action	01/00/88	

Small Entity: Yes

Additional Information: SAR No. 2238.

FTS:8-629-5578.

Analysis: Regulatory Flexibility Analysis

Agency Contact: Rick Colyer, Environmental Protection Agency, Air and Radiation, (MD-13), Environmental Protection Agency, Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AB68

2915. NSPS: VOC EMISSIONS FROM PETROLEUM REFINERY WASTEWATER SYSTEMS

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Statutory, August 1982.

Abstract: This regulation is intended to limit emissions of volatile compounds from new, modified, and reconstructed refinery wastewater systems.

Timetable:

Action	Date	FR Cite
NPRM	05/04/87	52 FR 16334
Final Action	09/00/88	

Small Entity: No

Additional Information: SAR No. 1696.

FTS: 8-629-5625.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060-AB81

2916. NSPS: MAGNETIC TAPE MANUFACTURING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Statutory, August 1982.

Abstract: This regulation is intended to limit emissions of volatile organic compounds from new, modified, and reconstructed magnetic tape manufacturing lines.

Timetable:

Action	Date	FR Cite
NPRM	01/22/86	51 FR 2996
Final Action	12/00/87	

Small Entity: No

Additional Information: SAR No. 1928.

FTS: 8-629-5625.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060-AB88

2917. NSPS: ASPHALT PROCESSING AND ASPHALT ROOFING MANUFACTURING PLANTS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Statutory, August 1986.

Abstract: EPA is reviewing this NSPS to determine whether revisions are warranted. The review will assess performance and costs of asphalt processing and asphalt roofing manufacturing plant control systems as well as the experience of the industry and control agencies in implementing the standard. EPA will announce the results of its review in the Federal Register.

Timetable:

Action	Date	FR Cite
Begin Review	08/00/86	
Final Action	06/00/88	

Small Entity: No

Agency Contact: Kenneth Durkee, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC, 919 541-5595

RIN: 2060-AC23

2918. NESHAPS: BENZENE IN COKE OVEN BY-PRODUCT PLANTS

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: Statutory, December 1984. Statutory - Promulgation due 12/00/84

Abstract: This regulation will control benzene emissions generated by the processing of gaseous and liquid streams at coke by-product plants. The emission sources to be controlled include process equipment, storage vessels, and fugitive emissions. The standards may consist of equipment specifications, work practices, design specifications, and emission limits.

Timetable:

Action	Date	FR Cite
NPRM	06/06/84	49 FR 23528
Final Action	10/00/87	

Small Entity: No

Additional Information: SAR No. 1685.

FTS:8-629-5625.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5625

RIN: 2060-AA42

2919. NESHAPS: COKE OVEN EMISSIONS FROM COKE OVEN CHARGING, DOOR LEAKS, AND TOPSIDE LEAKS ON WET-COAL-CHARGED BATTERIES

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61 G

Legal Deadline: Statutory, March 1985. Statutory - Proposal due 3/00/85

Abstract: This regulation will control emissions of coke oven emissions, which have been designated as hazardous under section 112. It will require improved maintenance and operation to limit visible emissions from wet-coal-charged coke oven batteries. The standards may apply to charging and leaks from doors, lids, or offtakes for all existing or new sources.

Timetable:

Action	Date	FR Cite
NPRM	04/23/87	52 FR 13586
Final Action	07/00/88	

Small Entity: No

Additional Information: SAR No. 1686.

Docket No. A-79-15.

FTS:8-629-5568.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5568

RIN: 2060-AA48

2920. "GUIDELINE ON AIR QUALITY MODELS" (REVISION)

Legal Authority: CAA 165(e)

CFR Citation: 40 CFR 51.24(l); 40 CFR 52.21(m)

Legal Deadline: None.

Abstract: These guidelines were promulgated on September 9, 1986. However, a supplemental proposed rule was also published on that date which includes: (1) addition of specific version of the Rough Terrain Dispersion Model (RTDM) as a screening model; (2) modification of the downwash algorithm of the Industrial Source Complex (ISC) model; (3) addition of the Offshore and Coastal Dispersion (OCD) model to Appendix A; and (4) addition of the AVACTA II model to Appendix B. The purpose of the proposed changes is to augment the guidance in response to a substantial number of public comments urging the Agency to do so. EPA is only soliciting public comment on these four proposed changes.

Timetable:

Action	Date	FR Cite
NPRM	09/09/86	51 FR 32180
(Supplemental)		
Final Action	09/09/86	51 FR 32176
Final Action (Supplemental)	10/00/87	

Small Entity: No

Additional Information: SAR No. 1941.

FTS: 8-629-5561.

Docket No. A-80-46.

Agency Contact: Joseph Tikvart, Environmental Protection Agency, Air and Radiation, MD-14, Research Triangle Park, N.C. 27711, 919 541-5561

RIN: 2060-AB13

2921. EMISSION STANDARDS AND TEST PROCEDURES FOR METHANOL-FUELED NEW MOTOR VEHICLES

Legal Authority: 42 USC 7521 / CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: This rule will develop emission standards and test procedures applicable to methanol-fueled light-duty vehicles, light-duty trucks, heavy-duty engines, and motorcycles. Current regulations apply only to gasoline-fueled and diesel-powered vehicles. The lack of regulations is a hindrance to the development of methanol-fueled vehicles.

Timetable:

Action	Date	FR Cite
ANPRM	04/10/84	49 FR 14244
NPRM	08/29/86	51 FR 30984
Final Action	06/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2112.

FTS: 8-374-8227.

Agency Contact: Mike Gold, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8227

RIN: 2060-AB26

2922. CONTROL OF EXCESS EVAPORATIVE EMISSIONS/FUEL VOLATILITY

Significance: Regulatory Program

Legal Authority: 42 USC 7521 /CAA 202; 42 USC 7525 /CAA 206; 42 USC 7545 /CAA 211; 42 USC 7601 /CAA 301(a)

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: In-use motor vehicle evaporative hydrocarbon emissions greatly exceed their applicable EPA emissions standards. A major reason is that the volatility of commercial gasoline is substantially greater than that of the certification test fuel specified by EPA. This rule will consider options to deal with this problem including control of commercial fuel volatility and a change to certification test fuel volatility.

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 31274
Final Action	09/00/89	

Small Entity: No

Additional Information: SAR No. 2318.

FTS:8-374-8339

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Richard A. Rykowski, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313 668-4339

RIN: 2060-AB89

2923. PARTICULATE EMISSION STANDARDS FOR CERTAIN 1987 AND LATER MODEL YEAR LIGHT-DUTY DIESEL TRUCKS (REVISION)

Legal Authority: 42 USC 7521/CAA 202; 42 USC 7525/CAA 206; 42 USC 7601/CAA 501

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: EPA is considering revising the particulate emission standards for light-duty diesel trucks with a loaded vehicle weight equal to or greater than 3751 pounds. The standard would be relaxed for the 1987-1990 model years, allowing manufacturers to devote their resources to developing particulate trap oxidizer technology. Then in 1991, the standard would be tightened to 0.13 grams per mile which is twice as stringent as the current applicable standard.

Timetable:

Action	Date	FR Cite
NPRM	06/14/87	52 FR 21075
Final Action	02/00/88	

Small Entity: No

Additional Information: SAR No. 2416.

FTS:8-382-2485

Agency Contact: Carol Bengle, Environmental Protection Agency, Air and Radiation, (EN-340F), Washington, DC 20460, 202 382-2485

RIN: 2060-AC16

2924. IMPORTATION OF MOTOR VEHICLES AND MOTOR VEHICLE ENGINES (REVISION)

Legal Authority: 42 USC 7522 / CAA 203

CFR Citation: 40 CFR 85

Legal Deadline: None.

Abstract: EPA is considering various options for improving the effectiveness and administration of EPA's present regulation concerning the importation of nonconforming vehicles. Nonconforming vehicles are ones which have not been demonstrated to conform with Federal emission requirements. The regulatory revision options range from requiring that only certificate holders may import the vehicles (thereby bearing responsibility for their emission performance) to continuing the approach in the current regulation with various improvements, to elimination of importation of such vehicles (with minor exceptions). EPA is also considering elimination of any personal use exceptions.

Timetable:

Action	Date	FR Cite
NPRM	07/21/80	45 FR 48812
NPRM - Supplemental	09/09/85	50 FR 36838
Final Action	09/00/87	

Small Entity: Yes

Additional Information: SAR No. 1317.

Docket No. EN-79-9.

FTS:8-382-2500.

Analysis: Regulatory Flexibility Analysis

Agency Contact: Zachary Fraser, Environmental Protection Agency, Air and Radiation, (EN-340F), Washington, DC 20460, 202 382-2500

RIN: 2060-AA54

2925. REMOVAL OF LEAD FROM EPA CERTIFICATION AND TEST FUELS (REVISION)

Legal Authority: 42 USC 7525 /CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None.

Abstract: EPA proposed amendments to require the use of unleaded gasoline in all emissions and fuel economy testing of gasoline fueled light-duty vehicles, light-duty trucks, motorcycles and heavy-duty engines. EPA believes that leaded fuel is no longer needed for new gasoline fueled vehicles or engines.

Timetable:

Action	Date	FR Cite
NPRM	07/07/86	51 FR 24606
Final Action	12/00/87	

Small Entity: No

Additional Information: SAR No. 2290.

FTS: 8-374-8340.

Agency Contact: Peter Hutchins, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4340

RIN: 2060-AB87

2926. VOLUNTARY AFTERMARKET PARTS CERTIFICATION REGULATIONS (REVISION)

Legal Authority: 42 USC 7541(b) /CAA 207(b)

CFR Citation: 40 CFR 85

Legal Deadline: None.

Abstract: The U.S. Court of Appeals for the D.C. Circuit has directed EPA to amend the aftermarket parts certification regulations. There were four specific areas which the Court directed EPA to revisit. EPA was directed to develop better procedures for determining adequate grounds for manufacturer denial of a warranty claim; reconsider inclusion of specialty parts into the certification system; improve the procedure for resolution of warranty cost claims by vehicle manufacturers' against certified parts manufacturers; and labeling for certified parts.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	52 FR 924
Final Action	03/00/88	

Small Entity: Yes

Additional Information: SAR No. 2145.

FTS: 8-374-8316

Analysis: Regulatory Flexibility Analysis

Agency Contact: Mike Sabourin, Environmental Protection Agency, Air and Radiation, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4316

RIN: 2060-AB58

2927. FUEL AND FUEL ADDITIVES: GASOLINE LEAD CONTENT (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601(a) /CAA 301(a)

CFR Citation: 40 CFR 80

Legal Deadline: None.

Abstract: EPA is examining information relevant to a ban on the use of lead in gasoline. The Agency is considering a set of alternatives ranging from no regulatory action to a ban. The Agency recently completed a cooperative study with the U.S. Department of Agriculture to assess the effects of a lead ban on farm equipment. A report to Congress is due in the fall.

Timetable:

Action	Date	FR Cite
NPRM	03/07/85	50 FR 9386
Final Action	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 2214.

FTS: 8-382-2633.

Analysis: Regulatory Flexibility Analysis; RIA, RFA

Agency Contact: Richard Kozlowski, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 382-2633

RIN: 2060-AB60

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Clean Air Act (CAA)

Completed Actions

2928. NAAQS FOR PARTICULATE MATTER (REVISION)

Significance: Regulatory Program

CFR Citation: 40 CFR 50.6; 40 CFR 50.7

Completed:

Reason	Date	FR Cite
Final Action	07/01/87	52 FR 24634

Small Entity: No

Agency Contact: Bruce Jordan 919 541-5655

RIN: 2060-AA62

2929. QUALITY ASSURANCE PROCEDURES, APPENDIX F, PROCEDURE 1

CFR Citation: 40 CFR 60, Appendix F

Completed:

Reason	Date	FR Cite
Final Action	06/04/87	52 FR 21003

Small Entity: No

Agency Contact: Darryl von Lehmden 919 541-2415

RIN: 2060-AA09

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2930. NSPS: VOLATILE ORGANIC LIQUIDS STORAGE

CFR Citation: 40 CFR 60, Subpart Kb

Completed:

Reason	Date	FR Cite
Final Action	04/08/87	52 FR 11420

Small Entity: No

Agency Contact: Doug Bell 919 541-5578

RIN: 2060-AA23

2931. NESHAPS: MERCURY (REVISION)

CFR Citation: 40 CFR 61

Completed:

Reason	Date	FR Cite
Final Action	03/19/87	52 FR 8724

Small Entity: No

Agency Contact: Gilbert H. Wood 919 541-5578

RIN: 2060-AB44

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Superfund (CERCLA)

Proposed Rule Stage

2932. DESIGNATION AND REPORTABLE QUANTITIES FOR RELEASES OF NON-CARCINOGENS AND NON-CHRONIC TOXICANTS ON THE EXTREMELY HAZARDOUS SUBSTANCES LIST

Significance: Regulatory Program

Legal Authority: 42 USC 9601 /CERCLA 101; 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 302

Legal Deadline: None.

Abstract: This rule will propose to designate extremely hazardous substances, as defined in Section 302 of SARA, as hazardous substances with assigned RQs pursuant to Section 102 of CERCLA. This rule will also propose to adjust under Section 102 of CERCLA and 304 of SARA the reportable quantities for the non-carcinogens and non-chronic toxicants on the Extremely Hazardous Substances List.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	10/00/88	

Small Entity: No

Additional Information: SAR No. 2336.

RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (202-382-3000)

Agency Contact: Gerain H. Perry, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548B), Washington, D.C. 20460, 202 382-3000

RIN: 2050-AB62

2933. REPORTING EXEMPTION FOR FEDERALLY PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9601 /CERCLA 101

CFR Citation: 40 CFR 100; 40 CFR 117; 40 CFR 300; 40 CFR 302; 40 CFR 355

Legal Deadline: None.

Abstract: In the May 25, 1983 NPRM (48 FR 23552) that proposed to adjust certain reportable quantities (RQs) for releases of hazardous substances, EPA explained the Agency's interpretation of each of the types of releases exempted by the definition of "federally permitted release" in Section 101(10) of CERCLA. Because of the amount of time that has passed and additional analysis undertaken since that NPRM, this action reproposes regulations to clarify the statutory language in Section 101(10) of CERCLA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	10/00/88	

Small Entity: No

Additional Information: SAR No. 2394.

RCRA/Superfund Hotline 800-424-9346, in Washington DC 202-382-3000

Agency Contact: Hubert Watters, Environmental Protection Agency, Solid Waste and Emergency Response, WH-548B, 202 382-3000

RIN: 2050-AB82

2934. REPORTABLE QUANTITIES (RQ) FOR RELEASES OF POTENTIAL CARCINOGENS AND CHRONIC TOXICANTS ON THE EXTREMELY HAZARDOUS SUBSTANCES LIST

Significance: Regulatory Program

Legal Authority: 42 USC 11002 / SARA 302; 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 302

Legal Deadline: None.

Abstract: This action adjusts RQs for carcinogens and chronic toxicants on the Extremely Hazardous Substances List and proposed for designation as CERCLA hazardous substances.

Timetable:

Action	Date	FR Cite
NPRM	10/00/88	
Final Action	10/00/89	

Small Entity: No

Additional Information: SAR No. 2429.

Agency Contact: Ivette O. Vega, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548B), Washington, DC 20460, 202 382-3000

RIN: 2050-AC14

2935. REPORTING CONTINUOUS RELEASES OF HAZARDOUS SUBSTANCES

Significance: Agency Priority

Legal Authority: 42 USC 9603 / CERCLA 103

CFR Citation: 40 CFR 302; 40 CFR 355

Legal Deadline: None.

Abstract: The purpose of this action is to clarify the reduced reporting requirements pursuant to Section 103(f)(2) of CERCLA for facilities that have continuous and stable releases of hazardous substances in amounts at or above their reportable quantities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	10/00/88	

Small Entity: No

Additional Information: SAR No. 2411 (previously listed as SAR 1642C).

For further information contact the RCRA/Superfund Hotline (800-424-

9346); in Metropolitan Area (202-382-3000)

Agency Contact: Hubert Watters, Environmental Protection Agency, Solid Waste and Emergency Response, WH 548B, Washington, DC 20460, 202 382-3000

RIN: 2050-AA46

2936. REPORTABLE QUANTITIES (RQS) FOR RELEASES OF METHYL ISOCYANATE (MIC) AND LEAD; DELISTING OF AMMONIUM THIOSULFATE

Significance: Regulatory Program

Legal Authority: 42 USC 9601 /CERCLA 102

CFR Citation: 40 CFR 117; 40 CFR 302

Legal Deadline: Statutory, NPRM, December 31, 1986; Final Action, April 30, 1988.

Abstract: The proposed reportable quantity (RQ) adjustments for methyl isocyanate (MIC) and lead were withdrawn by the Agency on April 4, 1985 (50 FR 13472) and September 29, 1986 (51 FR 34534), respectively. The Agency decided to retain the statutory one-pound RQs for these substances pending further technical analysis. The purpose of this action is to propose and promulgate final RQ adjustments for lead and four lead compounds. The statutory RQ for MIC will be retained until analysis of human data. The agency is proposing to delist ammonium thiosulfate as a CERCLA hazardous substance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	03/00/88	

Small Entity: No

Additional Information: SAR No. 2459.

RCRA/Superfund Hotline 800-424-9346; in Washington, DC 382-3000.

Agency Contact: Gerain H. Perry, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548B), Washington, DC 20460, 202 382-3000

RIN: 2050-AC21

2937. ACCIDENTAL RELEASE INFORMATION PROGRAM (ARIP) FOR HAZARDOUS SUBSTANCE RELEASES

Legal Authority: 42 USC 9601 /CERCLA 104(e)

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: The Accidental Release Information Program (ARIP) will require facilities having repeated or severe accidental releases to submit to EPA information on what caused the releases and what prevention measures will be taken as a result of the releases. The proposed rule will effect small entities to the extent that they have large on frequent releases. At this point, the terms "repeated", "severe", "large", and "frequent" are under discussion.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
Final Action	05/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2437.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Cathleen Shepherd, Environmental Scientist, Environmental Protection Agency, Solid Waste and Emergency Response, WH-548, 202 475-8247

RIN: 2050-AC02

2938. NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN (NCP)

Significance: Regulatory Program

Legal Authority: 33 USC 1321 / CWA 311; 42 USC 9605 / CERCLA 105

CFR Citation: 40 CFR 300

Legal Deadline: Statutory, April 17, 1988.

Abstract: The National Contingency Plan (NCP) is the primary regulation directing government and responsible party response to and cleanup of discharges of oil, and releases of hazardous substances, pollutants and contaminants. The Superfund Amendments and Reauthorization Act of 1986 mandated that the NCP be revised within 18 months of the date of enactment to incorporate statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
Final Action	04/00/88	

Small Entity: No

Additional Information: SAR No. 2400.

FTS-8-382-2182.

Agency Contact: Arthur Weissman, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548D), Washington, DC 20460, 202 382-2182

RIN: 2050-AA75

2939. HAZARD RANKING SYSTEM FOR UNCONTROLLED HAZARDOUS SUBSTANCE RELEASES

Significance: Regulatory Program

Legal Authority: 42 USC 9605(A)(8)(a) / CERCLA 105(A)(8)(A); 42 USC 9605(c) / CERCLA 105(C)

CFR Citation: 40 CFR 300, Appendix A

Legal Deadline: Statutory, April 17, 1988. Deadline of 4/88 required by SARA

Abstract: This action revises the Hazard Ranking System (HRS) which is Appendix A of the National Contingency Plan. The HRS is a system for determining the relative severity of risks among releases of hazardous substances. The HRS is the primary mechanism for establishing the National Priorities List under CERCLA. SARA requires that the HRS be amended to assure, to the extent feasible, that it accurately assesses relative risk to public health and the environment. SARA specifically requires that the HRS take into consideration natural resource damages that may affect the human food chain as well as potential air contamination. The HRS must also appropriately assess human health risks associated with contamination of surface waters for drinking or recreation.

Timetable:

Action	Date	FR Cite
ANPRM	04/09/87	52 FR 11513
NPRM	11/00/87	
Final Action	04/00/88	

Small Entity: No

Additional Information: SAR No. 2065.

FTS: 8-382-4604

Agency Contact: Steve Caldwell, Environmental Protection Agency, Solid Waste and Emergency Response, 202 382-4604

RIN: 2050-AB73

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2940. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES - UPDATE 7, RCRA SITES, AND FEDERAL FACILITIES SITES

Significance: Regulatory Program

Legal Authority: 42 USC 9605 /CERCLA 105; 42 USC 9620 /CERCLA 120

CFR Citation: 40 CFR 300.66

Legal Deadline: Statutory. Annual Update.

Abstract: This action revises the National Priorities List (NPL) for uncontrolled hazardous waste sites in the National Contingency Plan (NCP). CERCLA requires that the NPL be revised at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites. The Agency will propose Update 7. RCRA sites, and Federal facilities sites. See the related action in the final rule section of this document.

Timetable:

Action	Date	FR Cite
RCRA Sites	10/00/87	
Update 7	11/00/87	
Federal Facilities	02/00/88	
RCRA Sites	04/00/88	
Federal Facilities	10/00/88	
Update 7	10/00/88	

Small Entity: No

Additional Information: SAR No. 2463, SAR No. 2513, SAR No. 2514.

FTS:8-382-5632

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548E), Washington, DC 20460, 202 382-3412

RIN: 2050-AC16

2941. RESPONSE CLAIMS PROCEDURES FOR THE HAZARDOUS SUBSTANCES SUPERFUND

Legal Authority: 42 USC 9612 / CERCLA 112

CFR Citation: 40 CFR 307

Legal Deadline: None.

Abstract: This action prescribes the forms and procedures for persons other than the Government to recover response costs incurred in carrying out the National Contingency Plan.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	04/00/88	

Small Entity: No

Additional Information: SAR No. 2498.

Agency Contact: William D. Ross, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548E), Washington, DC 20460, 202 382-4645

RIN: 2050-AC26

2942. ● ADMINISTRATIVE HEARING PROCEDURE FOR SUPERFUND CLAIMS

Legal Authority: 42 USC 9612(b) /CERCLA 112(b)

CFR Citation: 40 CFR 305

Legal Deadline: None.

Abstract: Section 112(b)(2) of CERCLA as amended, provides that a person who has made a claim against the Superfund and is dissatisfied with the award by EPA may request an administrative hearing. Such hearings shall be before an administrative law judge. The purpose of this rule would be to establish procedures for conducting administrative hearings. The procedures of this rule would replace the Arbitration procedures, formerly codified at 40 CFR Part 305, revoked as a result of the amendments to section 112.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	04/00/88	

Small Entity: No

Additional Information:

FTS:8-382-4645. SAR No. 2498.

Agency Contact: William D. Ross, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548E), Washington, DC 20460, 202 382-4645

RIN: 2050-AC26

2943. REPORTING HAZARDOUS SUBSTANCES ACTIVITY WHEN TRANSFERRING FEDERAL REAL PROPERTY

Legal Authority: 42 USC Undetermined /SARA 120

CFR Citation: 40 CFR Undetermined

Legal Deadline: Statutory, April 17, 1988.

Abstract: This section of SARA requires that EPA, in consultation with the General Services Administration promulgate rules which will require the disclosure of the type and quantity of any hazardous substances that have been stored, released or disposed of on federally owned land when such land is sold or otherwise transferred from the federal domain. These regulations also require that: (1) the agencies holding such land provide, at the time of transfer, a covenant warranting that all remedial actions necessary for protection of human health and the environment have been taken; and (2) any additional action found to be necessary after the transfer will be undertaken by the U.S.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	04/00/88	

Small Entity: No

Additional Information: SAR No. 2464.

FTS:8-382-5647

Agency Contact: Richard Dailey, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-527), Washington, DC 20460, 202 382-5647

RIN: 2050-AC00

2944. WORKER PROTECTION STANDARDS FOR HAZARDOUS WASTE OPERATIONS AND EMERGENCY RESPONSE

Legal Authority: 42 USC 9626(f) /SARA Sec 126(f)

CFR Citation: 40 CFR Undetermined

Legal Deadline: Statutory. 90 days after the Department of Labor promulgates standards.

Abstract: The Superfund Amendments and Reauthorization Act of 1986 (SARA) required the Secretary of Labor, within one year of the date of enactment, to promulgate standards for the health and safety protection of

employees engaged in hazardous waste operations. SARA requires the Administrator of EPA to promulgate identical standards. The EPA apply to employees of State and Local governments in each State (currently 30) that does not have in effect an approved State Plan under section 18 of the Occupational Safety and Health Act of 1970.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	03/00/88	

Small Entity: No

Additional Information: SAR No. 2427.

Agency Contact: Rodney Turpin, Environmental Protection Agency, Solid Waste and Emergency Response, 201 321-6745

RIN: 2050-AC12

2945. ● TRADE SECRET CLAIMS FOR EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW INFORMATION; TRADESECRET DISCLOSURES TO HEALTH PROFESSIONALS

Legal Authority: 42 USC 11042 /SARA 322; 42 USC 11043 /SARA 323

CFR Citation: 40 CFR 350

Legal Deadline: None.

Abstract: The regulations under section 322 provide information submitted under sections 303, 311, 312 and 313 of the Superfund Amendments and Reauthorization Act of 1986 may be claimed trade secret. Included here will be the methods for making claims of trade secrecy with the Agency, as well as Agency procedures for handling petitions from the public requesting disclosure of information claimed trade secret. The regulations under section 323 provide that health professionals may under certain circumstances request trade secret information directly from the person making the trade secret claim. Included here will be the procedures for making such a request, and the standards for documents (a statement of need and a confidentiality agreement) which must accompany the request.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	05/00/88	

Small Entity: No

Additional Information:

FTS:8-382-5460

SAR No. 2419

Analysis: Regulatory Impact Analysis

Agency Contact: Beverly Horn, Environmental Protection Agency, Solid Waste and Emergency Response, (LE-132G), Washington, DC 20460, 202 382-5460

RIN: 2050-AC27

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Superfund (CERCLA)

Final Rule Stage

2946. REPORTABLE QUANTITIES (RQS) FOR RELEASES OF POTENTIAL CARCINOGENS AND OTHER HAZARDOUS SUBSTANCES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 / CERCLA 102; 33 USC 1321 / CWA 311

CFR Citation: 40 CFR 117; 40 CFR 302

Legal Deadline: Statutory. Legislation imposed a 12/31/86 deadline for proposal and a 4/30/88 deadline for the final rule.

Abstract: In March 1987 the Agency proposed adjusting, where appropriate, the statutory reportable quantities (RQs) for 273 of the hazardous substances identified in Section 101(14) of CERCLA, as amended. Most (269) of these substances have been evaluated for potential carcinogenicity. SARA 202 amends CERCLA 306 to require the Department of Transportation (DOT) to list and regulate as hazardous materials all CERCLA hazardous substances. These regulations require that when these materials are shipped in quantities equal to or greater than their RQs, they be identified as hazardous substances on shipping papers and package markings. DOT promulgated this rule with an effective date of July 1, 1987. The DOT has received several inquiries concerning six frequently transported CERCLA hazardous substances that had their RQs proposed to be adjusted in the March 16, 1987 rule. EPA has decided to expedite the final RQ adjustments for these six substances to relieve the regulatory burden on industry.

Timetable:

Action	Date	FR Cite
NPRM	03/16/87	52 FR 8140
Final Action for six substances	03/00/88	
Final Action	11/00/87	

Small Entity: No

Additional Information: SAR No. 2104.

For further information contact the RCRA/Superfund Hotline (800-424-9346); in Metropolitan D.C. (382-3000).

Agency Contact: Ivette O. Vega, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548B), Washington, DC 20460, 202 382-3000

RIN: 2050-AA80

2947. REPORTABLE QUANTITIES (RQS) FOR RELEASES OF RADIONUCLIDES

Significance: Regulatory Program

Legal Authority: 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 302

Legal Deadline: Statutory. Legislation imposes a 12/31/86 deadline for proposal and a 4/30/88 deadline for the final rule.

Abstract: EPA is adjusting the statutory one-pound reportable quantity (RQ) for radionuclides pursuant to Section 102 of CERCLA. Radionuclides consist of approximately 1,800 radioactive isotopes whose release represents differing degrees of potential harm to human health and the environment. The Agency has proposed individual adjusted RQs for 757 radionuclides, and an RQ of one curie for all of the remaining radionuclides.

Timetable:

Action	Date	FR Cite
NPRM	03/16/87	52 FR 8172
Final Action	04/00/88	

Small Entity: No

Additional Information: SAR No. 2335.

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EPA—CERCLA — **Final Rule Stage**

For further information contact the RCRA/Superfund Hotline (800-424-9346); in Metropolitan Area (202-382-3000)

Agency Contact: Barbara Hostage, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548B), Washington, D.C. 20460, 202 382-3000

RIN: 2050-AB60

2948. WITHDRAWAL OF ARBITRATION PROCEDURES AND NATURAL RESOURCE CLAIMS PROCEDURES FOR THE HAZARDOUS SUBSTANCE SUPERFUND

Legal Authority: 42 USC 9612 /CERCLA 112 and SARA 517

CFR Citation: 40 CFR 305; 40 CFR 306

Legal Deadline: None.

Abstract: The rule on CERCLA arbitration procedures will be withdrawn because the Superfund Amendments and Reauthorization Act (SARA) revoked the authority for claims arbitration. The rule on CERCLA natural resource claims procedures will be withdrawn because SARA revoked the appropriation for any Superfund monies to be utilized to pay such claims.

Timetable:

Action	Date	FR Cite
NPRM	07/13/87	52 FR 26160
Final Action	10/00/87	

Small Entity: No

Additional Information: SAR No. 2457.

FTS 8-382-4645

Agency Contact: William Ross, Environmental Protection Agency, Solid Waste and Emergency Response, WH-548, Washington DC 20460, 202 382-4645

RIN: 2050-AC06

2949. NATIONAL PRIORITIES LIST (NPL) FOR UNCONTROLLED HAZARDOUS WASTES SITES - UPDATES 3,4,5 AND 6

Significance: Regulatory Program

Legal Authority: 42 USC 9605(a)(8)(B) /CERCLA 105(a)(8)(B); 42 USC 9620 (d)(2) /CERCLA 120(d)(2)

CFR Citation: 40 CFR 300.66

Legal Deadline: Statutory. Annual Update.

Abstract: This action revises the National Priorities List (NPL) for uncontrolled hazardous waste sites in the National Contingency Plan (NCP). CERCLA requires that the NPL be revised at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substances releases and to delete sites that have been cleaned up. EPA uses the Hazard Ranking System (HRS) to evaluate the sites. The Agency will promulgate Updates 3, 4, 5, and 6. See the related action in the proposed rule section of this Agenda.

Timetable:

Update 5
NPRM 06/10/86 (51 FR 21099)
Final Action 04/00/88
Update 6
NPRM 01/22/87 (52 FR 2492)
Final Action 10/00/88
Updates 3 and 4
Final Action 07/22/87 (52 FR 27620)

Small Entity: No

Additional Information: SAR Nos. 2077, 2516, 2517.

FTS: 8-382-3412.

Agency Contact: Sandra J. Crystall, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548A), Washington, DC 20460, 202 382-3412

RIN: 2050-AA79

2950. TECHNICAL ASSISTANCE GRANTS TO GROUPS AT NATIONAL PRIORITY LIST (NPL) SITES

Legal Authority: 42 USC 9617 / SARA 117

CFR Citation: 40 CFR Undetermined

Legal Deadline: None.

Abstract: Superfund Amendments and Reauthorization Act 1986 requires that EPA develop grant regulations for technical assistance for citizen groups. Under Section 117(e) groups of individuals may apply for the technical assistance grants only at NPL sites. The grants are limited to $50,000 per site and the grant recipient is required to contribute a 20% match. These limits may be waived.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/87	52 FR 22244
Interim Final Rule	02/00/88	
Final Action	08/00/88	

Small Entity: No

Additional Information: SAR No. 2401.

FTS:8-382-2460

Agency Contact: Daphne Gemmill, Environmental Protection Agency, Solid Waste and Emergency Response, WH-548A, Washington DC 20460, 202 382-2460

RIN: 2050-AC10

2951. REIMBURSEMENT OF LOCAL GOVERNMENTS FOR EMERGENCY RESPONSE TO HAZARDOUS SUBSTANCE RELEASES

Legal Authority: 42 USC 9623 / SARA 123

CFR Citation: 40 CFR 310

Legal Deadline: Statutory, October 17, 1987.

Abstract: This provision authorizes reimbursement of local governments for costs incurred in providing temporary emergency measures in response to releases of hazardous substances. Reimbursement is limited to $25,000 per incident and is not intended to supplant local funds normally provided for response. Total funds available to this program is limited, by statute, to not more than $8.5 million over the 5 year period beginning 10/01/86.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/87	
Final Action	10/00/88	

Small Entity: No

Additional Information: SAR No. 2409.

Agency Contact: Karen Z. Burgan, Environmental Protection Agency, Solid Waste and Emergency Response, WH-545B, Washington DC 20460, 202 382-3382

RIN: 2050-AC11

2952. EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORMS AND COMMUNITY RIGHT TO KNOW REPORTING REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 11011 / SARA 311; 42 USC 11012 / SARA 312

CFR Citation: 40 CFR 370

Legal Deadline: None.

Abstract: Under Sections 311 and 312 of SARA, facilities required to prepare or have available a material safety data sheet (MSDS) under the OSHA and its implementing regulations must submit the MSDS and the hazardous chemical inventory forms to local and state officials. The purpose of the rule is to publish the inventory forms and establish regulations to implement the material safety data sheet (MSDS) and inventory reporting requirement.

Timetable:

Action	Date	FR Cite
NPRM	01/27/87	52 FR 2836
Final Action	09/00/87	

Small Entity: No

Additional Information: SAR No. 2412.

Analysis: Regulatory Impact Analysis

Agency Contact: Kathleen Brody, Environmental Protection Agency, Solid Waste and Emergency Response, WH-548, Washington DC 20460, 202 475-8353

RIN: 2050-AB88

EPA—CERCLA — **Final Rule Stage**

ENVIRONMENTAL PROTECTION AGENCY (EPA) —Superfund (CERCLA) — **Completed Actions**

2953. EXTREMELY HAZARDOUS SUBSTANCES LIST AND THRESHOLD PLANNING QUANTITIES; EMERGENCY PLANNING AND RELEASE NOTIFICATION REQUIREMENTS

Significance: Regulatory Program

CFR Citation: 40 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	04/22/87	52 FR 13378

Small Entity: Undetermined

Agency Contact: Richard A. Horner 202 382-7945

RIN: 2050-AB86

ENVIRONMENTAL PROTECTION AGENCY (EPA) —General — **Proposed Rule Stage**

2954. ● PROGRAM FRAUD CIVIL REMEDIES

Legal Authority: 31 USC 3809

CFR Citation: 40 CFR 27

Legal Deadline: Statutory, April 21, 1987.

Abstract: These regulations will implement the Program Fraud Civil Remedies Act of 1986, Pub. L. No 99-509. They (1) establish administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to the Environmental Protection Agency, and (2) specify the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2410

FTS:8-475-6660

Agency Contact: Marla Diamond, Environmental Protection Agency, General Counsel and Enforcement Counsel, Office of General Counsel (LE-132I), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202 475-6660

RIN: 2020-AA11

2955. DENIAL OR RESTRICTION OF DISPOSAL SITES (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1344 /CWA 404(c)

CFR Citation: 40 CFR 231

Legal Deadline: None.

Abstract: This action will revise EPA's existing 404(c) regulations, in effect since October 9, 1979. It will establish the procedures to be used when EPA is considering the use of Section 404(c) of the CWA to prevent the discharge of dredged or fill material into a defined area of the waters of the United States. Section 404(c) gives the Administrator authority to prohibit or withdraw the specification of a site as a disposal site or to deny or restrict use of a disposal site. The revisions will reflect our experiences to date under Section 404(c), and more clearly address use of 404(c) in advance of a specific proposed discharge.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: SAR No. 2136.

FTS: 8-382-5043

Agency Contact: Suzanne Schwartz, Environmental Protection Agency, Water, Office of Wetlands Protection, (A-104), Washington, DC 20460, 202 382-5043

RIN: 2040-AB20

2956. CONFIDENTIALITY REGULATIONS: SPECIAL RULES GOVERNING CERTAIN INFORMATION UNDER FIFRA (REVISION)

Legal Authority: 5 USC 552 / Freedom of Information Act ; 7 USC 136h / FIFRA 10

CFR Citation: 40 CFR 2.307

Legal Deadline: None.

Abstract: This action would make changes in EPA's procedures for handling business information under FIFRA to reflect amendments to Section 10 of the Act. It would also clarify existing regulations on the treatment of confidential business information under FIFRA.

EPA—GENERAL — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	05/00/88	

Small Entity: No

Additional Information: SAR No. 2195.

FTS: 8-382-5460

Agency Contact: Jane Roemer, Office of General Counsel, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-132G), Washington, DC 20460, 202 382-5460

RIN: 2020-AA06

2957. ● AMENDING REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION REFORM ACT OF 1986

Legal Authority: FOIA

CFR Citation: 40 CFR 2

Legal Deadline: Statutory, April 2, 1987.

Abstract: These regulations will modify the rules and guidelines that implement the charging of fees and granting of fee waivers, amend the exemptions, and add the exclusions to reflect the amendments enacted by the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	08/05/87	52 FR 29045
NPRM Comment Period End	09/04/87	52 FR 29045
Final Action	10/00/87	

Small Entity: No

Additional Information: SAR No. 2415

FTS: 8-382-5460

Agency Contact: Mary K. Adler, Environmental Protection Agency, General Counsel and Enforcement Counsel, 401 M St., SW, Washington, DC 20460, 202 382-5460

RIN: 2020-AA12

2958. ● AMENDING REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION REFORM ACT OF 1986

Legal Authority: FOIA

CFR Citation: 40 CFR 2

Legal Deadline: Statutory, April 2, 1987.

Abstract: These regulations will modify the rules and guidelines that implement the charging of fees and granting of fee waivers, amend the exemptions, and add the exclusions to reflect the amendments enacted by the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	08/05/87	52 FR 29045
NPRM Comment Period End	09/04/87	52 FR 29045
Final Action	10/00/87	

Small Entity: No

Additional Information:

SAR No. 2415

FTS:8-382-5460

Agency Contact: Mary K. Adler, Environmental Protection Agency, Water, (LE-132G), Washington, DC 20460, 202 382-5460

RIN: 2040-AB37

ENVIRONMENTAL PROTECTION AGENCY (EPA) —General — **Final Rule Stage**

2959. REGULATIONS FOR THE FEDERAL CLAIMS COLLECTION ACT

Legal Authority: 31 USC 3711

CFR Citation: 40 CFR 13

Legal Deadline: None.

Abstract: These regulations will set standards for EPA's debt collection actions under the Federal Claims Collection Act.

Timetable:

Action	Date	FR Cite
NPRM	08/21/87	
Interim Final Rule	12/00/87	

Small Entity: No

Additional Information: SAR No. 1825.

FTS: 8-382-4548.

Agency Contact: Ray Spears, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-132G), Washington, DC 20460, 202 382-4548

RIN: 2020-AA01

2960. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS RECEIVING FINANCIAL ASSISTANT FROM THE EPA(REVISION)

Legal Authority: 42 USC 6101 /Age Discrimination Act of 1979

CFR Citation: 40 CFR 7

Legal Deadline: None.

Abstract: This action is necessary to add age as a basis for nondiscrimination to EPA's Federally-Assisted Nondiscrimination Regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/01/81	46 FR 2306
Final Action	09/00/88	

Small Entity: No

Additional Information: SAR No. 2218.

FTS: 8-382-4567

Agency Contact: Nereid Maxey, Environmental Protection Agency, General Counsel and Enforcement Counsel, Office of Civil Rights, (A-105), Washington, DC 20460, 202 382-4567

RIN: 2020-AA07

2961. NOTICE REQUIREMENTS FOR CITIZEN SUITS UNDER THE SDWA

Legal Authority: 42 USC 300j-8 /SDWA 1449

CFR Citation: 40 CFR 135

Legal Deadline: None.

Abstract: These regulations will specify on whom the notice of intent to file suit should be served, the manner of service, the addresses of such persons, and the contents of the notice. These regulations are similar to those implementing the notice provisions of the Clean Water Act (CWA) and the Resource Conservation and Recovery Act (RCRA).

Timetable:

Action	Date	FR Cite
NPRM	08/15/88	51 FR 29426
Final Action	12/00/87	

Small Entity: Not Applicable

Additional Information: SAR No. 2307.

EPA—GENERAL — **Final Rule Stage**

FTS:8-382-7706

Agency Contact: Margaret Silver, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-132W), Washington, D.C. 20460, 202 382-7706

RIN: 2020-AA10

ENVIRONMENTAL PROTECTION AGENCY (EPA) —General — **Completed Actions**

2962. NONDISCRIMINATION ON THE BASIS OF HANDICAP FOR PROGRAMS CONDUCTED BY EPA

CFR Citation: 40 CFR 12

Completed:

Reason	Date	FR Cite
Final Action	08/14/87	52 FR 30598

Small Entity: No

Agency Contact: Nereid Maxey 202 382-4567

RIN: 2020-AA05

[FR Doc. 87-22219 Filed 10-23-87; 8:45 am]

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Part XXI

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission is publishing its semiannual regulatory agenda pursuant to Executive Order No. 12291, 3 CFR Part 127 (1981 Compilation) and the Regulatory Flexibility Act, 5 U.S.C. Chapter 6. The agenda contains all regulations which are scheduled for review or development during the next twelve months.

FOR FURTHER INFORMATION CONTACT: Dianna B. Johnston, Acting Assistant Legal Counsel for Coordination, Office of the Legal Counsel, Equal Employment Opportunity Commission, 2401 "E" Street, NW., Washington, DC 20507; telephone (202) 634-7581.

SUPPLEMENTARY INFORMATION: The Commission identified sixteen current and projected rulemakings for inclusion in the agenda. Ten are currently under development or review by Commission staff. Three are currently in effect as interim regulations. Two of the listings have been circulated as NPRMs and one regulation has been approved in final for submission to OMB.

Signed in Washington, DC, this 28th day of August, 1987.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2963	Equal Employment in the Federal Government; Processing of Complaints Filed under the Equal Pay Act	3046-AA16

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2964	Uniform Guidelines on Employee Selection Procedures	3046-AA00
2965	Equal Employment Opportunity in the Federal Government; Individual and Class EEO Complaints Processing	3046-AA11
2966	Procedures for Administrative Exemptions under Section 9 of the Age Discrimination in Employment Act	3046-AA22
2967	Equal Employment Opportunity in the Federal Government: Handicap	3046-AA23
2968	Uniform Guidelines on Employee Selection Procedures	3046-AA24
2969	Enforcement of Nondiscrimination on the Basis of Handicap in Equal Employment Opportunity Commission Programs	3046-AA30
2970	Pension Accruals and Contributions Under ADEA	3046-AA31

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2971	Equal Employment Opportunity in the Federal Government; Remedial Relief under Section 717	3046-AA06
2972	Coordination of Federal Equal Employment Opportunity Programs	3046-AA10
2973	Equal Employment in the Federal Government; Allegations of Reprisal	3046-AA13
2974	Equal Employment Opportunity in the Federal Government; Mixed Case Complaints	3046-AA14
2975	Equal Employment Opportunity in the Federal Government; EEO Complaint Processing and EEO Appeals	3046-AA17
2976	Interpretative Bulletin on Employee Benefit Plans	3046-AA18

Completed Actions

Sequence Number	Title	Regulation Identifier Number
2977	Coverage of Apprenticeship Programs under the Age Discrimination in Employment Act	3046-AA21
2978	Administrative Exemption Allowing for Waivers Under the ADEA	3046-AA26

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Prerule Stage

2963. EQUAL EMPLOYMENT IN THE FEDERAL GOVERNMENT; PROCESSING OF COMPLAINTS FILED UNDER THE EQUAL PAY ACT

Legal Authority: 29 USC 206(d) et seq Equal Pay Act of 1963; 29 USC 204(f) Fair Labor Standards Act of 1938, as amended; 29 USC 206(d) Fair Labor Standards Act of 1938, as amended

CFR Citation: 29 CFR 1613

Legal Deadline: None.

Abstract: Development of procedural regulations for processing Federal sector complaints filed under the Equal Pay Act. Under development.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Nicholas M. Inzeo, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046-AA16

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Proposed Rule Stage

2964. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Agency Priority

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1607

Legal Deadline: None.

Abstract: UGESP Recordkeeping Provisions. On March 15, 1983, the Commission voted to review those portions of the recordkeeping provisions of the Guidelines which relate to the maintenance of data necessary to determine adverse impact. Pursuant to that vote, the Commission published in the Federal Register a notice seeking public comment in general and on several specific questions about UGESP recordkeeping. 48 Fed. Reg. 34766 (Aug. 1, 1983). Approximately 45 comments were received. The Commission is currently reviewing the comments and is considering further action. On June 12, 1984, the Commission voted to prepare an NPRM concerning certain UGESP recordkeeping requirements. Prior to publication for comment, co-signatories to UGESP will engage in discussion of recommended changes and other affected agencies will be consulted under E.O. 12067.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Additional Information: This is included in the Regulatory Program of the United States under the overall RIN 3046-AA24.

Agency Contact: Philip Lyons, Special Assistant to the Chairman, Office of the Chairman, Equal Employment Opportunity Commission, 202 634-6700

RIN: 3046-AA00

2965. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; INDIVIDUAL AND CLASS EEO COMPLAINTS PROCESSING

Significance: Agency Priority

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1614, (Proposed)

Legal Deadline: None.

Abstract: Comprehensive revision of regulations for processing individual and class EEO complaints in the Federal sector. Under development.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Federal Sector Programs, Equal Employment Opportunity Commission, 202 634-6753

RIN: 3046-AA11

2966. PROCEDURES FOR ADMINISTRATIVE EXEMPTIONS UNDER SECTION 9 OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Legal Authority: 29 USC 628 Age Discrimination in Employment Act

CFR Citation: 29 CFR 1627.15

Legal Deadline: None.

Abstract: The purpose of the proposed amendment to 29 CFR 1627.15 is to give those covered by the ADEA more specific information about what they should do if they wish to seek an exemption from any or all of the ADEA's prohibitions. The advantage is that the establishment of a specific procedure will facilitate the processing of exemption requests.

Timetable:

Action	Date	FR Cite
Submission of Staff Recommendations to Commission	03/13/84	
Next Action Undetermined		

Small Entity: No

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046-AA22

2967. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT: HANDICAP

Significance: Regulatory Program

Legal Authority: 29 USC 701 et seq Rehabilitation Act of 1973, as amended

CFR Citation: 29 CFR 1613.701 et seq

Legal Deadline: None.

Abstract: The Commission is considering alternative ways of resolving various interpretative issues involving the definition of handicapped persons used in its section 501 regulations. One alternative would be

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to amend the definitions in the regulation itself. The purpose of these revisions would be to clarify the scope of the definitions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Richard D. Komer, Legal Counsel, Equal Employment Opportunity Commission, 202 634-6460

RIN: 3046-AA23

2968. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Regulatory Program

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1607

Legal Deadline: None.

Abstract: On March 15, 1983, the Commission voted to review the recordkeeping portions of the Guidelines. During that review process, several questions arose which pertained to the substantive, non-recordkeeping provisions of the Guidelines. Consequently, the Commission decided to review the substantive portions of the Guidelines. The major substantive areas under review are: 1) the purpose of the Guidelines and whether there is still a need for the Guidelines; 2) the theory of adverse impact and the method of determining when such impact is significant; and 3) how to establish test validity. When the review is completed, the Commission will decide whether any regulatory revisions are needed.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/84	
NPRM	12/00/87	

Small Entity: No

Additional Information: This action resulted from splitting previous entry RIN 3046-AA00 Uniform Guidelines on Employee Selection Procedures.

It is included in the Regulatory Program of the United States under overall RIN 3046-AA25.

Agency Contact: Philip Lyons, Special Assistant to the Chairman, Office of the Chairman, Equal Employment Opportunity Commission, 202 634-6760

RIN: 3046-AA24

2969. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PROGRAMS

Significance: Agency Priority

Legal Authority: 29 USC 794

CFR Citation: 29 CFR 1615, Proposed

Legal Deadline: None.

Abstract: This proposed regulation provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Equal Employment Opportunity Commission.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: The Commission has submitted the proposed rule to the Department of Justice for final review pursuant to Executive Order 12250.

Government Levels Affected: Federal

Agency Contact: Elizabeth M. Thornton, Associate Legal Counsel, Coordination & Guidance Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046-AA30

2970. PENSION ACCRUALS AND CONTRIBUTIONS UNDER ADEA

Significance: Agency Priority

Legal Authority: 29 USC 628 The Age Discrimination in Employment Act of 1967; PL 99-509, Sec 9204

CFR Citation: 29 CFR 1625.10

Legal Deadline: Statutory, January 31, 1988.

Abstract: Regulations, as may be necessary, to carry out congressional enactments regarding Pension Accruals and Contributions under ADEA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046-AA31

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Final Rule Stage

2971. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; REMEDIAL RELIEF UNDER SECTION 717

Legal Authority: 42 USC 2000e-16 Section 717 of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1613

Legal Deadline: None.

Abstract: Interim amendments provide that an agency or the Commission may award a complainant reasonable attorney's fees and costs and backpay when an allegation of discrimination prohibited by Section 717 is resolved in favor of the complainant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/09/80	45 FR 24130
Interim Regulations effective	04/11/80	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Nicholas M. Inzeo, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046-AA06

EEOC — **Final Rule Stage**

2972. COORDINATION OF FEDERAL EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Legal Authority: EO 12067 Sec 1-303; EO 12067 Sec 1-304

CFR Citation: 29 CFR 1690

Legal Deadline: None.

Abstract: These amendments to 29 CFR 1690 will implement an agreement reached by EEOC and the Department of Justice with the Office of Management and Budget which clarified the sequence to be followed when agencies are required to seek prepublication clearance of equal employment opportunity rules from EEOC under E.O. 12067, DOJ under E.O. 12250, and from OMB under E.O. 12291 and the Paperwork Reduction Act. In addition to clearance by the EEOC under E.O. 12067, equal employment opportunity rules issued under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, or any other provision of Federal statutory law which prohibits discrimination under any program or activity receiving Federal financial assistance, require clearance from DOJ under E.O. 12250.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Elizabeth M. Thornton, Associate Legal Counsel, Coordination and Guidance Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046-AA10

2973. EQUAL EMPLOYMENT IN THE FEDERAL GOVERNMENT; ALLEGATIONS OF REPRISAL

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Legal Deadline: None.

Abstract: Development of procedural regulations for the Federal sector requiring that all allegations of reprisal discrimination be processed as regular complaints. Staff draft transmitted to Federal agencies for comments, Sept. 1982. Published as interim regulations; now preparing to publish for adoption as final regulations.

Timetable:

Action	Date	FR Cite
Draft transmitted to agencies	09/00/82	
Interim Final Rule	05/02/83	48 FR 19705
Final Action	00/00/00	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Federal Sector Programs, Office of Program Operations, Equal Employment Opportunity Commission, 202 634-6753

RIN: 3046-AA13

2974. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; MIXED CASE COMPLAINTS

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Legal Deadline: None.

Abstract: Development of procedural regulations for processing complaints of discrimination about personnel actions which are appealable to the Merit Systems Protection Board (mixed case complaints). Staff draft transmitted to Federal agencies for comments, Sept. 1982. Published as interim regulations; now preparing to publish for adoption as final regulations.

Timetable:

Action	Date	FR Cite
Draft transmitted to agencies	09/00/82	
Interim Final Rule	05/02/83	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Federal Sector Programs, Office of Program Operations, Equal Employment Opportunity Commission, 202 634-6753

RIN: 3046-AA14

2975. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; EEO COMPLAINT PROCESSING AND EEO APPEALS

Legal Authority: 42 USC 2000e-16 Sec 717 of Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act; 5 USC 7121 Civil Service Reform Act of 1978

CFR Citation: 29 CFR 1613

Legal Deadline: None.

Abstract: The proposed notice incorporates EEOC's remedies' policy into the federal sector regulations and makes other changes in complaints processing. In addition, it addresses the processing of federal sector EEO appeals on the questions of finality, requests to reopen, compliance with, enforcement of, and clarity of Commission decisions.

Timetable:

Action	Date	FR Cite
NPRM	08/16/86	51 FR 29482

Next Action Undetermined

Small Entity: No

Agency Contact: Nicholas M. Inzeo, Assistant Legal Counsel, Legal Services, Office of the Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046-AA17

2976. INTERPRETATIVE BULLETIN ON EMPLOYEE BENEFIT PLANS

Significance: Agency Priority

Legal Authority: 29 USC 628 The Age Discrimination in Employment Act of 1967

CFR Citation: 29 CFR 1625.10

Legal Deadline: None.

Abstract: In response to a court order, the Commission has published a proposed rule that would require continued pension contributions and accruals for persons working beyond normal retirement age. The court also ordered publication of a final rule but that part of the order was reversed by the court of appeals. The Commission will further study the issues to determine whether additional rulemaking is appropriate.

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Timetable:

Action	Date	FR Cite
Publication of Request for Comments	09/15/83	
Completion of Regulatory Impact Analysis	07/24/86	
NPRM	04/02/87	52 FR 10584
Commission to determine if rulemaking appropriate	00/00/00	

Small Entity: Yes

Analysis: Regulatory Impact Analysis

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046-AA18

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Completed Actions

2977. COVERAGE OF APPRENTICESHIP PROGRAMS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT

CFR Citation: 29 CFR 1625.13; 29 CFR 1625.21

Completed:

Reason	Date	FR Cite
EEOC voted to retain current regs excluding bona fide apprenticeship programs from ADEA coverage	07/30/87	52 FR 33609

Small Entity: No

Agency Contact: Joseph N. Cleary 202 634-6743

RIN: 3046-AA21

2978. ADMINISTRATIVE EXEMPTION ALLOWING FOR WAIVERS UNDER THE ADEA

CFR Citation: 29 CFR 1627.16(c)

Completed:

Reason	Date	FR Cite
Final Action	06/27/87	52 FR 32293

Small Entity: No

Agency Contact: Joseph N. Cleary 202 634-7643

RIN: 3046-AA28

[FR Doc. 87-21246 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26, 1987

Part XXII

Federal Emergency Management Agency

Semiannual Regulatory Agenda

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FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual agenda.

SUMMARY: Pursuant to section 5 of Executive Order 12291 ("Federal Regulations") the Federal Emergency Management Agency is publishing its semiannual agenda for FEMA. The agenda lists regulations that will be under development or review during the period October 1, 1987 to October 1, 1988.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 840, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: For general information, contact Susan Kantor Bank, Office of General Counsel, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3973. For additional information about a specific regulation, contact the person listed as the contact point in the agenda.

SUPPLEMENTARY INFORMATION: Executive Order 12291, "Federal Regulations," directs each Executive agency to adopt procedures to improve existing and future regulations. Publication of an agenda of significant regulations is called for at least semiannually in order to give the public adequate notice of agency rulemaking activities; also publication of a regulatory flexibility agenda concerning rules likely to have a significant impact on a substantial number of small entities must be published in accordance with 5 U.S.C. 601 et seq.

In fulfillment of requirements imposed by the Executive Order and 5 U.S.C. 601 et seq., this agenda describes current and projected regulations, and regulations which will be under review during the period October 1, 1987 to October 1, 1988. This agenda also contains information on regulations on which action was completed since the last FEMA semiannual agenda published April 27, 1987 at 52 FR 14930.

Public comment on the agenda, including that by State and local governments, is invited and should be submitted to the Rules Docket Clerk.

The agenda is not limited to major or significant rules and contains as much information as possible concerning all FEMA regulations to be published in the next 12 months except for routine flood elevation determinations, listing of eligible communities under the National Flood Insurance Program, listing of suspended communities and similar designations, and organizational and management matters.

Dated: August 27, 1987.

Spence W. Perry,

General Counsel.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2979	Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas	3067-AA32
2980	Policy Guidance and Delegation of Authorities for Use of Priorities and Allocations to Maximize Domestic Energy Supplies	3067-AA33
2981	Use of Priorities and Allocation Authority for Federal Supply Classification (FSC) Common Use Items (DMO-12)	3067-AA34
2982	General Policies for Strategic and Critical Materials Stockpiling (DMO-11)	3067-AA35
2983	Policy on Use of Government-Owned Industrial Plant Equipment by Private Industry (DMO-10A)	3067-AA36
2984	Policy Guidance for a National Emergency Blood Program	3067-AA37
2985	Emergency Health and Medical Occupations	3067-AA38
2986	National Security Policy Governing Scientific and Engineering Manpower (DMO-5)	3067-AA43
2987	Guidance on Priority Use of Resources in Immediate Post Attack Period (DMO-4)	3067-AA44
2988	Defense Production Priorities and Allocations Authority	3067-AA45
2989	Maintenance of the Mobilization Base	3067-AA46
2990	Dispersion and Protective Construction: Policy, Criteria Responsibilities (DMO-1)	3067-AA47
2991	Comprehensive Cooperative Agreement (CCA) Policies, Procedures, and Associated Programs	3067-AB18

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2992	Nondiscrimination in Federally-Assisted Programs	3067-AA00
2993	State Assistance Programs for Training and Education in Comprehensive Emergency Management	3067-AA70
2994	Review and Approval of State and Local Emergency Response Plans	3067-AA76
2995	Radiological Emergency Planning and Preparedness	3067-AA77
2996	Permanent Relocation Assistance	3067-AA84
2997	Reimbursement of Other Federal Agencies	3067-AA92
2998	Flood Insurance Rating System Changes	3067-AA98
2999	Disaster Preparedness Assistance	3067-AB05
3000	National Flood Insurance Program Redefinition of Coastal High Hazard Area	3067-AB08
3001	National Flood Insurance Program Changes	3067-AB09

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Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3002	Criteria for Hurricane Preparedness Assistance to State and Local Governments	3067-AB11
3003	Flood Insurance Subsidized Rate Change	3067-AB12
3004	Civil Defense: State and Local Emergency Management Assistance Program (EMA)	3067-AB14
3005	Nondiscrimination in Federally Assisted Programs on the Basis of Age	3067-AB16
3006	Changes in NFIP Regulations for Write-Your-Own Program	3067-AB17

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3007	Nondiscrimination on the Basis of Handicap in FEMA	3067-AA42
3008	Temporary Relocation Assistance - Superfund	3067-AA72
3009	Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	3067-AA90
3010	Community Disaster Loans	3067-AA95
3011	Criteria for Earthquake Hazards Reduction Assistance to State and Local Governments	3067-AA99
3012	Changes in National Flood Insurance Program Commissions to Insurance Agents	3067-AB10
3013	Federal Crime Insurance Program	3067-AB13

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3014	Superfund Cost Share Eligibility Criteria for Permanent and Temporary Relocation	3067-AA83
3015	National Flood Insurance Program Changes	3067-AA96
3016	Flood Insurance Rate Changes	3067-AA97

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Prerule Stage

2979. PRESERVATION OF THE MOBILIZATION BASE THROUGH THE PLACEMENT OF PROCUREMENT AND FACILITIES IN LABOR SURPLUS AREAS

Legal Authority: EO 10480; EO 12148

CFR Citation: 44 CFR 331

Legal Deadline: None.

Abstract: This part sets policy and makes assignments with respect to award of contracts, etc. in labor surplus areas for purposes of preserving the mobilization base.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA32

2980. POLICY GUIDANCE AND DELEGATION OF AUTHORITIES FOR USE OF PRIORITIES AND ALLOCATIONS TO MAXIMIZE DOMESTIC ENERGY SUPPLIES

Legal Authority: 50 USC 2061 et seq; PL 94-163, Sec 104

CFR Citation: 44 CFR 330

Legal Deadline: None.

Abstract: This regulation establishes policy guidance on determination and use of priorities and allocations for materials and equipment to maximize domestic energy supplies pursuant to section 101(c) of the Defense Production Act.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA33

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Prerule Stage

2981. USE OF PRIORITIES AND ALLOCATION AUTHORITY FOR FEDERAL SUPPLY CLASSIFICATION (FSC) COMMON USE ITEMS (DMO-12)

Legal Authority: 50 USC App 2061 et seq; EO 10480

CFR Citation: 44 CFR 329

Legal Deadline: None.

Abstract: This part provides policy guidance concerning the use of priorities and allocations authority in Title I of Defense Production Act for the procurement of common use items in the Federal Supply Classification.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA34

2982. GENERAL POLICIES FOR STRATEGIC AND CRITICAL MATERIALS STOCKPILING (DMO-11)

Legal Authority: 50 USC 98 et seq

CFR Citation: 44 CFR 328

Legal Deadline: None.

Abstract: This part sets forth policies for the administration of strategic and critical materials stockpiling under the Strategic and Critical Materials Stock Piling Act.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA35

2983. POLICY ON USE OF GOVERNMENT-OWNED INDUSTRIAL PLANT EQUIPMENT BY PRIVATE INDUSTRY (DMO-10A)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 327

Legal Deadline: None.

Abstract: This part establishes policy on use by private industry of Government-owned industrial plant equipment to maintain a reserve of such equipment for emergency preparedness.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA36

2984. POLICY GUIDANCE FOR A NATIONAL EMERGENCY BLOOD PROGRAM

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 326

Legal Deadline: None.

Abstract: This regulation prescribes objectives, policies and responsibilities of the National Emergency Blood Program.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA37

2985. EMERGENCY HEALTH AND MEDICAL OCCUPATIONS

Legal Authority: 50 USC App 2061; EO 11490

CFR Citation: 44 CFR 325

Legal Deadline: None.

Abstract: This regulation lists emergency health and medical occupations in support of functions under Executive Order Assigning Emergency Preparedness Functions.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA38

2986. NATIONAL SECURITY POLICY GOVERNING SCIENTIFIC AND ENGINEERING MANPOWER (DMO-5)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 324

Legal Deadline: None.

Abstract: This part provides policy on the training and utilization of the scientific and engineering workforce as it affects national security.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA43

2987. GUIDANCE ON PRIORITY USE OF RESOURCES IN IMMEDIATE POST ATTACK PERIOD (DMO-4)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 323

Legal Deadline: None.

Abstract: This regulation states policy on use of resources in a post attack period and provides general guidance for Federal, State and local governments on activities to be accorded priority in use of resources, and lists items essential to national survival.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

FEMA

Prerule Stage

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA44

2988. DEFENSE PRODUCTION PRIORITIES AND ALLOCATIONS AUTHORITY

Legal Authority: 50 USC App 2061 et seq; EO 10480

CFR Citation: 44 CFR 322

Legal Deadline: None.

Abstract: This regulation establishes policy guidance and delegates authority with respect to priorities and allocation functions in the Defense Production Act.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA45

2989. MAINTENANCE OF THE MOBILIZATION BASE

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 321

Legal Deadline: None.

Abstract: This regulation deals with policies concerning the mobilization base for Department of Defense, Department of Energy, and Maritime Administration and includes procedures relating to selection and maintenance of the base.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA46

2990. DISPERSION AND PROTECTIVE CONSTRUCTION: POLICY, CRITERIA RESPONSIBILITIES (DMO-1)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 320

Legal Deadline: None.

Abstract: This regulation establishes policy and criteria to encourage dispersal of facilities important to the national security and that these be located so as to reduce the risk of damage in event of attack.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Paul Krueger, Assistant Associate Director, Office of Mobilization Preparedness, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3544

RIN: 3067-AA47

2991. ● COMPREHENSIVE COOPERATIVE AGREEMENT (CCA) POLICIES, PROCEDURES, AND ASSOCIATED PROGRAMS

Legal Authority: 50 USC 2286; 50 USC 2251; 42 USC 5121; 42 USC 5151; 42 USC 7701; 42 USC 4001; PL 95-224; PL 96-295; PL 99-499; PL 93-288; PL 95-124; PL 90-486; PL 93-234; PL 90-577; EO 12148

CFR Citation: 44 CFR 305; 44 CFR 302; 44 CFR 360; 44 CFR 301; 5 CFR 900

Legal Deadline: None.

Abstract: The comprehensive aspect of the CCA process itself was not created by legislation or even by regulation; Presidential emphasis on grants consolidation and FEMA policy on integrating programs created the CCA. The cooperative agreement aspect of the CCA process is based on PL 95-224, the Federal Grant and Cooperative Agreement Act of 1977. Cooperative agreements are used when stimulating a public purpose (the multiple programs delivered in each CCA are aimed at stimulating public purposes, primarily civil defense). The Federal Civil Defense Act of 1950, as amended, authorizes the major portion of CCA programs and assistance dollars, and is therefore the major legislative authority underpinning the CCA process. Various Civil Preparedness Guides, primarily CPG 1-38 and CPG 1-3 address the CCA process and associated programs. However, a regulation would provide complete notice to States and interested parties and complete the policy and procedural requirements identified by the Office of General Counsel. Specific quantitative estimates cannot be cited. However, the use of FEMA funds for CCA associated programs could be substantially improved as a (CONT)

Timetable:

Action	Date	FR Cite
ANPRM	01/15/88	
ANPRM Comment Period End	07/15/88	

Small Entity: No

Additional Information: ABSTRACT CONT: result of regulatory authority.

Agency Contact: Nancy J. Holt, Program Analyst, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3505

RIN: 3067-AB18

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FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — **Proposed Rule Stage**

2992. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS

Legal Authority: 42 USC 2000d-1; 29 USC 794; 20 USC 1682; 42 USC 6103; 42 USC 5151; Reorganization Plan No. 3 of 1978; EO 12127; EO 12148

CFR Citation: 44 CFR 7

Legal Deadline: None.

Abstract: This rule effectuates for FEMA the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and section 311 of the Disaster Relief Act of 1974. A draft regulation is undergoing interagency review. The Notice of proposed rulemaking will be issued as soon as interagency clearances are obtained.

Timetable:

Action	Date	FR Cite
NPRM	11/01/87	
NPRM Comment Period End	01/01/88	
Interim Final Rule	03/01/88	

Small Entity: No

Agency Contact: John R. Curran, Sr., Director, Office of Personnel & Equal Opportunity, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3962

RIN: 3067-AA00

2993. STATE ASSISTANCE PROGRAMS FOR TRAINING AND EDUCATION IN COMPREHENSIVE EMERGENCY MANAGEMENT

Legal Authority: Reorganization Plan No. 3, 1978; EO 12127; EO 12148

CFR Citation: 44 CFR 360

Legal Deadline: None.

Abstract: This regulation revises existing regulation governing the State Assistance Program for Training and Education in Comprehensive Emergency Management to reflect program and administrative changes occurring since issuance of the regulation in 1981.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Robert T. Petersen, Deputy Superintendent, Emergency Management Institute, Federal Emergency Management Agency, Emmitsburg, MD 21727, 301 447-6771

RIN: 3067-AA70

2994. REVIEW AND APPROVAL OF STATE AND LOCAL EMERGENCY RESPONSE PLANS

Legal Authority: 50 USC App. 225g; EO 12148

CFR Citation: 44 CFR 350

Legal Deadline: None.

Abstract: Updates existing regulation governing policies and procedures for review and approval of State and local emergency plans and preparedness for the offsite effects of a radiological emergency which might occur at a commercial nuclear power plant.

Timetable:

Action	Date	FR Cite
NPRM	01/15/88	
NPRM Comment Period End	03/15/88	

Small Entity: No

Agency Contact: Marshall Sanders, Chief, Program Development Branch, State and Local Programs Directorate, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-4131

RIN: 3067-AA76

2995. RADIOLOGICAL EMERGENCY PLANNING AND PREPAREDNESS

Legal Authority: EO 12148; EO 12241

CFR Citation: 44 CFR 351

Legal Deadline: None.

Abstract: Updates regulations which set out Federal Agency roles and assigns tasks regarding Federal assistance to States and local governments in their radiological emergency planning and preparedness activities connected with radiological accidents at commercial nuclear power plants.

Timetable:

Action	Date	FR Cite
NPRM	10/31/87	
NPRM Comment Period End	12/31/87	

Small Entity: No

Agency Contact: Marshall Sanders, Chief, Program Development Branch, State & Local Programs Directorate, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-4131

RIN: 3067-AA77

2996. PERMANENT RELOCATION ASSISTANCE

Significance: Regulatory Program

Legal Authority: 42 USC 9601 et seq

CFR Citation: 44 CFR 221

Legal Deadline: None.

Abstract: This part prescribes the policies to be followed by the Federal Emergency Management Agency or any State or local government when implementing permanent relocation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	01/00/88	
Final Action Effective	02/00/88	

Small Entity: No

Agency Contact: Charles D. Robinson, Chief, Superfund & Relocation Assistance Br., Disaster Assistance Program, SLPS, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3605

RIN: 3067-AA84

2997. REIMBURSEMENT OF OTHER FEDERAL AGENCIES

Legal Authority: 42 USC 5201

CFR Citation: 44 CFR 205, Subpart I

Legal Deadline: None.

Abstract: This updates the existing regulation which specifies procedures for obtaining or authorizing the provision of services or use of resources of other Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	08/21/85	50 FR 33783
NPRM Comment Period End	10/21/85	
NPRM	01/31/88	
NPRM Comment Period End	02/28/88	
Final Action	03/31/88	

FEMA — **Proposed Rule Stage**

Small Entity: No

Agency Contact: John F. Guerre, Emergency Management Specialist, Federal Emergency Management Agency, Office of Disaster Assistance Programs, 500 C Street, SW, Washington, DC 20472, 202 646-3675

RIN: 3067-AA92

2998. FLOOD INSURANCE RATING SYSTEM CHANGES

Significance: Regulatory Program

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 61

Legal Deadline: None.

Abstract: National Flood Insurance Program premium rating system changes under consideration include a community rating system and a system to use revised FIRM's producing higher rates for existing policyholders, subject to a rate cap. The community rating system would be designed to recognize circumstances within local communities that mitigate or exacerbate the flooding risk, such as the inaction of a community in addressing flood problems or the performance of a community that goes beyond minimum NFIP floodplain management requirements. The use of revised FIRM's for existing policyholders would replace the current practice of allowing premium rates for such policyholders to be based on the map in existence at the time of construction so long as the construction met the requirements at that time.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/87	52 FR 24482
ANPRM Comment Period End	08/31/87	
NPRM	11/30/88	
NPRM Comment Period End	01/29/89	
Final Action	08/01/89	
Final Action Effective	10/01/89	

Small Entity: No

Agency Contact: Francis V. Reilly, Deputy Administrator, FIA, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2782

RIN: 3067-AA95

2999. DISASTER PREPAREDNESS ASSISTANCE

Legal Authority: 42 USC 5121 et seq; Reorganization Plan No. 3 of 1978; EO 12148

CFR Citation: 44 CFR 300

Legal Deadline: None.

Abstract: This regulation revises and makes technical corrections to the regulations governing assistance under title II of the Disaster Relief Act of 1974.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Dan Sullivan, Emergency Management Specialist, Federal Emergency Management Agency, Off. of Disaster Assistance Programs, State & Local Programs Directorate, 500 C Street, SW, Washington, DC 20472, 202 646-3666

RIN: 3067-AB05

3000. NATIONAL FLOOD INSURANCE PROGRAM REDEFINITION OF COASTAL HIGH HAZARD AREA

Significance: Regulatory Program

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 59

Legal Deadline: None.

Abstract: The proposed rule would modify the definition of "coastal high hazard area" at 44 CFR 59.1 to include the primary frontal dune on barrier islands and other sandy shorelines exposed to the open coast. Including primary frontal dunes in the definition of coastal high hazard areas would recognize their inherent susceptibility to flood and erosion hazards during major coastal storms. Classification of these dunes as VE zones on Flood Insurance Rate Maps would assure that adequate insurance rates are assessed and that the construction standards, appropriate to the hazards, are imposed should new construction on the primary frontal dunes be permitted by State or local ordinances.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	
NPRM Comment Period End	01/29/88	
Final Action	07/01/88	
Final Action Effective	10/01/88	

Small Entity: No

Agency Contact: Brian R. Mrazik, Assistant Administrator, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2766

RIN: 3067-AB08

3001. NATIONAL FLOOD INSURANCE PROGRAM CHANGES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 61; 44 CFR 72

Legal Deadline: None.

Abstract: Possible changes to the NFIP regulations include changes in the standard flood insurance policy, a change to flood plain management standards by specifying criteria under which communities may permit flood plain and floodway developments which would increase base flood elevations and the procedures to be followed in revising maps when these situations occur, a change to flood plain management standards by providing criteria which clarify a community's responsibilities with regard to the maintenance of altered water courses, a change to the procedures for map correction under the provisions of 44 CFR 70.3 by correcting an inconsistency with a subsequent section, and a change in the fee exemption provisions of 44 CFR 72.5 to give the Administrator discretion in waiving fees associated with the review of proposed projects that, when completed, could result in a NFIP map revision.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	
NPRM Comment Period End	01/29/88	
Final Action	07/01/88	
Final Action Effective	10/01/88	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Insurance Administration, Federal Emergency Management Agency, 500 C

FEMA — **Proposed Rule Stage**

Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067-AB09

3002. CRITERIA FOR HURRICANE PREPAREDNESS ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Significance: Agency Priority

Legal Authority: 42 USC 5131; 50 USC App. 2251 to 2297; EO 12148; EO 12381

CFR Citation: 44 CFR 362

Legal Deadline: None.

Abstract: Under PL 93-288, the Federal Emergency Management Agency provides financial and technical assistance to States and local governments in their hurricane preparedness planning. Except for some instances, FEMA has provided 100 percent funding to designated States that have high risk hurricane hazard areas for the development of population preparedness and property protection studies. This proposed rulemaking will establish a plan for having States share the cost of these activities. These changes to 44 CFR 300.6 will affect only the hurricane preparedness portion of this rule; the earthquake hazards reduction portion will be revised in a separate concurrent rulemaking effort.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Government Levels Affected: Local, State, Federal

Agency Contact: Richard Krimm, Assistant Associate Director, Office of Natural & Technological Hazards Programs, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2871

RIN: 3067-AB11

3003. FLOOD INSURANCE SUBSIDIZED RATE CHANGE

Significance: Regulatory Program

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 61

Legal Deadline: None.

Abstract: FEMA has determined that there is an imbalance between the general taxpayers and the NFIP policyholders in shouldering the costs of the NFIP that should be rectified by the policyholders, the direct Program beneficiaries, bearing more of the costs. The proposed rule would increase the chargeable (subsidized) premium rates, which apply to all structures in communities participating in the emergency program of the National Flood Insurance Program and to certain structures in communities in the regular program.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	
NPRM Comment Period End	01/29/88	
Final Action	08/01/88	
Final Action Effective	10/01/88	

Small Entity: No

Agency Contact: Howard Leikin, Special Assistant, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2784

RIN: 3067-AB12

3004. CIVIL DEFENSE: STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE PROGRAM (EMA)

Legal Authority: 50 USC (App) 2253; Reorganization Plan No. 3 of 1978; EO 12148

CFR Citation: 44 CFR 302, (Revision)

Legal Deadline: None.

Abstract: Changes within existing regulation to delete one allocation formula factor.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
NPRM Comment Period End	11/30/87	
Interim Final Rule	12/30/87	
Final Action	01/29/88	
Final Action Effective	02/29/88	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: John McKay, Chief, Emergency Management Systems Development Division, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-4252

RIN: 3067-AB14

3005. ● NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS ON THE BASIS OF AGE

Legal Authority: 42 USC 6103

CFR Citation: 44 CFR 7, Subpart E

Legal Deadline: None.

Abstract: This rule effectuates for FEMA the nondiscrimination requirements of the Age Discrimination Act of 1975.

Timetable:

Action	Date	FR Cite
NPRM	10/01/87	
NPRM Comment Period End	12/01/87	
Final Action	01/00/88	
Final Action Effective	01/00/88	

Small Entity: No

Agency Contact: Alan Clive, Equal Employment Manager, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3957

RIN: 3067-AB16

3006. ● CHANGES IN NFIP REGULATIONS FOR WRITE-YOUR-OWN PROGRAM

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 61; 44 CFR 62

Legal Deadline: None.

Abstract: Possible changes to the National Flood Insurance Program regulations governing the Write-Your-Own (WYO) Program include changes in the provisions on investing funds, remitting excess funds, audits of WYO companies, State or municipal taxes, loss adjustment expenses, and termination of WYO arrangements.

Timetable:

Action	Date	FR Cite
NPRM	11/06/87	
NPRM Comment Period End	01/05/88	
Final Action	04/15/88	
Final Action Effective	05/15/88	

Small Entity: No

FEMA — **Proposed Rule Stage**

Agency Contact: Donald L. Collins, Assistant Administrator, FIA, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067-AB17

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Final Rule Stage

3007. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEMA

Legal Authority: 29 USC 794

CFR Citation: 44 CFR 16

Legal Deadline: None.

Abstract: This rule effectuates for FEMA the nondiscrimination requirements of section 504 of the Rehabilitation Act of 1973, as amended in 1978 to include activities conducted directly by Federal agencies. A draft regulation has been prepared and submitted to the Department of Justice and the Equal Employment Opportunity Commission for review.

Timetable:

Action	Date	FR Cite
NPRM	07/02/87	52 FR 25124
Interim Final Rule	07/15/87	
NPRM Comment Period End	08/31/87	
Final Action	10/00/87	

Small Entity: No

Agency Contact: John R. Curran, Sr., Director, Office of Personnel & Equal Opportunity, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3962

RIN: 3067-AA42

3008. TEMPORARY RELOCATION ASSISTANCE - SUPERFUND

Legal Authority: 42 USC 9601 et seq

CFR Citation: 44 CFR 220

Legal Deadline: None.

Abstract: This part prescribes policy and program guidance to be followed when implementing temporary relocation assistance under the Comprehensive Environmental Response, Compensation and Liability Act, 1980 (CERCLA) Superfund.

Timetable:

Action	Date	FR Cite
NPRM	06/10/86	51 FR 20995
NPRM Comment Period End	08/11/86	
Begin Review	10/01/86	
End Review	04/30/87	
Final Action	09/01/87	

Small Entity: No

Agency Contact: Karen Forbes, Emergency Management Specialist, Federal Emergency Management Agency, Room 701, 500 C Street, SW, Washington, DC 20472, 202 646-3807

RIN: 3067-AA72

3009. ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: Reorganization Plan No. 3 of 1978; EO 12148

CFR Citation: 44 CFR 13

Legal Deadline: None.

Abstract: This part will establish uniform administrative rules for Federal grants and cooperative agreements to State and local governments and federally recognized Indian Tribal governments. These will be common regulations issued with other government agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21820
NPRM Comment Period End	08/10/87	
Final Action	00/00/00	

Small Entity: No

Additional Information: Revision of A-102 subject to common rule published by the Office of Management and Budget.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Arthur Curry, Chief, Policy Division, Off. of Comptroller, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3718

RIN: 3067-AA90

3010. COMMUNITY DISASTER LOANS

Legal Authority: 42 USC 5201

CFR Citation: 44 CFR 205, Subpart F

Legal Deadline: None.

Abstract: To provide FEMA policies and procedures for administering the Community Disaster Loan Program under section 414, PL 93-288.

Timetable:

Action	Date	FR Cite
NPRM	04/28/87	52 FR 15348
NPRM Comment Period End	06/29/87	
Final Action	09/01/87	

Small Entity: No

Government Levels Affected: Local

Agency Contact: Gene Morath, Program Officer, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3683

RIN: 3067-AA95

3011. CRITERIA FOR EARTHQUAKE HAZARDS REDUCTION ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Significance: Regulatory Program

Legal Authority: EO 12148; EO 12381; 42 USC 7701 et seq

CFR Citation: 44 CFR 361

Legal Deadline: None.

Abstract: The National Earthquake Hazards Reduction Act of 1977 provides for Federal assistance to States and local units of government to support earthquake hazards reduction activities. With but two exceptions, FEMA has provided 100 percent funding to States on an annual basis for their earthquake hazards reduction programs. This proposed rulemaking will establish a plan for having States share the cost of these activities. The proposed rule also identifies criteria for identifying those

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FEMA — **Final Rule Stage**

areas eligible for funding assistance, and defines eligible earthquake hazards reduction activities. These changes to 44 CFR 3006 will affect only the earthquake preparedness portion of this rule; the hurricane preparedness portion will be revised in a separate rulemaking effort.

Timetable:

Action	Date	FR Cite
NPRM	07/06/87	52 FR 25257
NPRM Comment Period End	08/05/87	
Final Action	09/01/87	
Final Action Effective	10/01/87	

Small Entity: Not Applicable

Government Levels Affected: Local, State, Federal

Agency Contact: Richard W. Krimm, Assistant Associate Director, Office of Natural & Technological Hazards Program, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2871

RIN: 3067-AA99

3012. CHANGES IN NATIONAL FLOOD INSURANCE PROGRAM COMMISSIONS TO INSURANCE AGENTS

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 62

Legal Deadline: None.

Abstract: Changes under consideration would increase the insurance agents' commission on new NFIP policies and decrease the commission on direct bill renewals, resulting in an overall decrease in the average commission.

Timetable:

Action	Date	FR Cite
NPRM	05/20/87	52 FR 18929
NPRM Comment Period End	07/27/87	
Final Action	09/01/87	
Final Action Effective	10/01/87	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067-AB10

3013. FEDERAL CRIME INSURANCE PROGRAM

Legal Authority: 12 USC 1749bbb-17

CFR Citation: 44 CFR 80; 44 CFR 81; 44 CFR 82; 44 CFR 83

Legal Deadline: None.

Abstract: These revisions to the Federal Crime Insurance Program are proposed to achieve the following: redefine the definition of "burglary" under the residential policy; revise residential crime insurance rates to permit the purchase of crime insurance in increments of $1,000, up to the maximum limit of $10,000; permit a premium discount on the residential policy for the installation of an alarm system; revise the classification and alarm requirements of several commercial risks; raise the commercial crime insurance limits of coverage from $15,000 to $30,000 for each insured premises; eliminate coverage for loss from a night depository in a bank; and require the payment of an installment service charge on policies where the annual premium is not paid in full at the time of application.

Timetable:

Action	Date	FR Cite
NPRM	05/08/87	52 FR 17415
NPRM Comment Period End	07/15/87	
Final Action	08/21/87	
Final Action Effective	09/20/87	

Small Entity: No

Agency Contact: Robert J. DeHenzel, Chief, Urban Property Insurance Operations, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3440

RIN: 3067-AB13

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Completed Actions

3014. SUPERFUND COST SHARE ELIGIBILITY CRITERIA FOR PERMANENT AND TEMPORARY RELOCATION

CFR Citation: 44 CFR 222

Completed:

Reason	Date	FR Cite
Final Action	03/05/87	52 FR 6799
Final Action Effective	04/06/87	52 FR 6799

Small Entity: No

Agency Contact: Karen Forbes 202 646-3807

RIN: 3067-AA83

3015. NATIONAL FLOOD INSURANCE PROGRAM CHANGES

CFR Citation: 44 CFR 59; 44 CFR 60; 44 CFR 77

Completed:

Reason	Date	FR Cite
Final Action	04/29/87	52 FR 15498
Final Action Effective	06/01/87	

Small Entity: No

Agency Contact: Donald L. Collins 202 646-3419

RIN: 3067-AA96

3016. FLOOD INSURANCE RATE CHANGES

CFR Citation: 44 CFR 61

Completed:

Reason	Date	FR Cite
Final Action	02/27/87	52 FR 5977
Final Action Effective	06/01/87	

Small Entity: No

Agency Contact: Donald L. Collins 202 646-3419

RIN: 3067-AA97

[FR Doc. 87-21793 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26, 1987

Part XXIII

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

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FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS)

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Semiannual agenda required by the Regulatory Flexibility Act of 1980.

SUMMARY: The Federal Mediation and Conciliation Service is redrafting one regulation subject to the Regulatory Flexibility Act during the six month period from October 1987 to April 1988.

FOR FURTHER INFORMATION CONTACT: Daniel P. Dozier, Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, (202) 653-5305.

Jack Johnson,

Executive Director.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Prerule Stage

3017. REVIEW OF EXISTING ARBITRATION REGULATION

Significance: Agency Priority

Legal Authority: 29 USC 172; 5 USC 552; 29 USC 173

CFR Citation: 29 CFR 1404

Legal Deadline: None.

Abstract: The Federal Mediation and Conciliation Service is in the process of redrafting its existing Arbitration Services regulation at 29 CFR Part 1404. The Service will have completed its initial draft by April 1988. A proposed rule will be published soon thereafter and public comments solicited.

Timetable:

Action	Date	FR Cite
End Review	10/00/87	
NPRM	05/00/88	

Small Entity: No

Agency Contact: Daniel P. Dozier, Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW, Washington, DC 20427, 202 653-5305

RIN: 3076-AA01

[FR Doc. 87-21547 Filed 10-23-87; 8:45 am]

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Monday
October 26, 1987

Part XXIV

General Services Administration

Semiannual Regulatory Agenda

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GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 101, 105, and 201

48 CFR Ch. 5

Unified Agenda of Federal Regulations

AGENCY: General Services Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those actions that were completed since April 1987. This agenda was developed under the guidelines in OMB Bulletin 87-16, dated June 25, 1987. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier, Chief, Directives and Reports Management Branch (202) 566-0666.

SUPPLEMENTARY INFORMATION: None of the regulations will have an effect on small businesses or other entities. None of the regulations listed are considered major under Executive Order 12291, Federal Regulations.

Dated: August 27, 1987.

Paul Trause,

Acting Administrator of General Services.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3018	Utilization, Donation, and Disposal of Foreign Gifts and Decoration	3090-AC85
3019	Prepayment Transportation Audit Procedures	3090-AC92
3020	Federal Property Management Regulations; Annual Real Property Inventories	3090-AC74

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3021	General Services Administration Acquisition Regulation Change Subpart 46.7	3090-AB82
3022	General Services Administration Acquisition Regulation, Change Receipt of Proposals and Quotations	3090-AB83
3023	General Services Administration Acquisition Regulation Change Part 501	3090-AB95
3024	Buy American Act - Construction Materials (GSAR 5-131)	3090-AC37
3025	Miscellaneous Changes on the Acquisition of Leasehold Interests in Real Property (GSAR 5-155)	3090-AC59
3026	Contract Closeout Procedures (GSAR 5-96)	3090-AC67
3027	Multiyear Contracts and Contracts with Options (GSAR 5-106)	3090-AC68
3028	Small Business Subcontracting Plans (GSAR 5-122)	3090-AC69
3029	Federal Property Management Regulations; Revises the Reporting Requirements for Real Property	3090-AB31
3030	Revision of Acquisition and Management Provisions regarding the Changing Telecommunication Marketplace, including the Detariffing of Customer Premises Equipment (84.06A)	3090-AB08
3031	Establishment of Policies and Procedures for Federal Agencies' Management of Electronic Recordkeeping, Project 86.83A	3090-AC54
3032	Federal Advisory Committee Management	3090-AA82
3033	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs	3090-AC48
3034	Nondiscrimination on the Basis of Race, Color, National Origin, and where applicable, sex	3090-AC49

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3035	Supply Sources and Related Programs	3090-AA89
3036	General Services Administration Acquisition Regulation Change Part 519	3090-AB76
3037	Federal Procurement Data System (FPDS) Reporting Requirements (GSAR 5-113)	3090-AC56
3038	Multiple Award Schedule Program (GSAR 5-38A)	3090-AC51
3039	Revision of Public Voucher for Transportation Charges, Standard Form 1113	3090-AB89
3040	Audit Procedures for Commercial Bills of Lading- Cost-Reimbursement-Type Contracts	3090-AC20
3041	National Defense Stockpile Disposal Regulations	3090-AA40
3042	Reporting of Excess Real Property - PCB	3090-AC90
3043	Donation of Personal Property	3090-AA23
3044	Donation of Abandoned and Forfeited Personal Property	3090-AA24
3045	Acquisition and Use of Excess Personal Property	3090-AA30

GSA

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3046	Utilization, Donation, Sale, Abandonment or Destruction of Hazardous Materials	3090-AA42
3047	Utilization and Disposal of Personal Property	3090-AA45
3048	Change to Federal Travel Regulations (FTR), FPMR 101-7, Supplement (Unassigned)	3090-AC24
3049	Use of Cash for Official Travel (Temporary Regulation)	3090-AC91
3050	Change to Federal Travel Regulations (FTR), FPMR 101-7, Supplement (Unassigned)	3090-AC93
3051	Revision of ADPE Reutilization Policies and Procedures Including Instructions for SF 120, Project 86.14A	3090-AC25
3052	Update of Governmentwide Policies and Regulations regarding Federal Employee use of Government Telephone Systems (87.14A)	3090-AC75
3053	Interim implementation of Pub. L. 99-500 Title VIII Brooks Act Amendment-Extension of Temporary Regulation	3090-AD01

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3054	Management of Buildings and Grounds	3090-AA69
3055	General Services Administration Acquisition Regulation (GSAR)- Small Business Technical Advisors	3090-AB39
3056	General Service Administration Acquisition Regulation, Bankruptcy, Insolvency or Dissolution of Business, Chge. 42	3090-AC72
3057	GSAR, Acquisition Circular AC-87-1, Comparison of Retirement Costs under OMB Circular A-76	3090-AC94
3058	GSAR, Change 39, Procedures for Voiding and Rescinding Contracts	3090-AC95
3059	GSAR, Change 41, Consulting Services and Communication Centers	3090-AC96
3060	GSAR, Chge. 44, Status report of orders and shipments	3090-AC97
3061	GSAR, Chge. 45, Suspension and Debarment	3090-AC98
3062	GSAR, Change 46, Commerce Business Daily Requirements	3090-AC99
3063	GSAR, Acquisition Circular AC-87-2, Annual Report from Federal Contractors	3090-AD00
3064	Department of Defense Reservist/Retiree Military Emergency Travel Warrant	3090-AA05
3065	Revision of Voucher and Schedule of Payments Standard Form 1166 Instructions	3090-AB97
3066	Revision of Standard Form 1203 - US Government Bill of Lading - Privately Owned Personal Property	3090-AC21
3067	Disposals to Public Agencies	3090-AB55
3068	Property for Correctional Facilities	3090-AB72
3069	Cost Effective Procurement of Personal Property	3090-AA95
3070	Change to Federal Travel Regulations (FTR), FPMR 101-7 Supplement (Unassigned)	3090-AC00
3071	Payment of Substitute Documents	3090-AC36
3072	Change to Federal Travel Regulations (FTR), FPMR 101-7, Supplement 25	3090-AC38
3073	Change to Federal Travel Regulation (FTR), FPMR 101-7 Supplement 25	3090-AC42
3074	Change to Federal Travel Regulations (FTR), FPMR 101-7, Supplement 24	3090-AC52
3075	FIRMR Implementation of the ADP Dispute Resolution Section of the Competition in Contracting Act of 1984 - Project 84.63A	3090-AB64
3076	Implementation of Federal Processing Standards (FIPS) and a Federal Telecommunications Standard (FED-STD) in FIRMR	3090-AC86
3077	Federal Employee Parking	3090-AA68

GENERAL SERVICES ADMINISTRATION (GSA) — Prerule Stage

FEDERAL SUPPLY AND SERVICES

3018. UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATION

Legal Authority: 40 USC 486(c); 5 USC 7342

CFR Citation: 41 CFR 101-49

Legal Deadline: None.

Abstract: This rule updates and revises GSA's policy and procedure concerning the utilization, donation, and disposal of foreign gifts and decorations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Mr. SStanley M. Duda, Director, General Services Administration, General Services ADministration, Property Management Division, Washington, DC 20406, 703 557-1240

RIN: 3090-AC85

CSA — Prerule Stage

3019. ● PREPAYMENT TRANSPORTATION AUDIT PROCEDURES

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101

Legal Deadline: None.

Abstract: This proposed rule implements Pub. L. 99-627 relating to prepayment audits of selected transportation bills. This rule also prescribes procedures, conditions, and limitations relevant to any delegation of authority to another agency for the purpose of conducting prepayment audits.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/87	

Small Entity: No

Agency Contact: John W. Sandfort, Chief, Regulations, Procedures, and, Review Branch (FWCP), General Services Administration, 18th & F Streets, NW, Washington, DC 20405, 202 786-3065

RIN: 3090-AC92

PUBLIC BUILDINGS SERVICE

3020. FEDERAL PROPERTY MANAGEMENT REGULATIONS; ANNUAL REAL PROPERTY INVENTORIES

Legal Authority: EO 12411

CFR Citation: 41 CFR 101-3

Legal Deadline: None.

Abstract: This regulation will be reviewed and updated in light of the governmentwide space reductions initiatives mandated by Executive Order 12411-Government Work Space Management Reforms, Temporary Regulation D-71 and corresponding supplements, and Temporary Regulation D-73 on Quality Workplace Environment to assess the impact on real property inventories.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Judy Kraft, Acting Director, Governmentwide Policy Div., General Services Administration, GSA Office of Governmentwide Real Property, Policy and Oversight (PG), Washington, DC 20405, 202 566-0507

RIN: 3090-AC74

GENERAL SERVICES ADMINISTRATION (GSA) — Proposed Rule Stage

ACQUISITION POLICY

3021. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION CHANGE SUBPART 46.7

Legal Authority: 40 USC 486(c) Sec. 205(c), 63 Stat. 390

CFR Citation: 48 CFR 546

Legal Deadline: None.

Abstract: GSA to issue a GSAR amendment to implement and supplement the FAR Subpart 46.7 by providing agency policies and procedures on the use of Warranties.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	12/00/87	

Small Entity: Not Applicable

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Sts., NW Room 4026, Washington, DC 20405, 202 523-3822

RIN: 3090-AB82

3022. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION, CHANGE RECEIPT OF PROPOSALS AND QUOTATIONS

Legal Authority: 40 USC 486(c) Sec. 205(c), 63 Stat. 390

CFR Citation: 48 CFR 515; 48 CFR 552

Legal Deadline: None.

Abstract: GSA to issue a GSAR amendment which will (1) revise Section 515.411, Receipt of Proposals and Quotations, to require the use of the appropriate Business Service Center for receipt and safeguarding of proposals or quotations (except small purchases) unless an exemption is obtained; (2) amend Part 515 to establish a special Late Proposals provision for Multiple Award Federal Supply Schedules that will preclude an offeror from adding additional items to an offer after the time set for submission of offer; and (3) revise clause 552.210-78, Charges for Packaging and Packing.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	12/00/87	

Small Entity: Not Applicable

Agency Contact: Margorie Ashby, Management Analyst Analyst, General Services Administration, GSA Acquistion Policy and Regulations, 18th & F Sts., NW Room 4026, Washington, DC 20405, 202 523-3822

RIN: 3090-AB83

3023. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION CHANGE PART 501

Legal Authority: 40 USC 486(c) Sec. 205(c), 63 Stat. 390

CFR Citation: 48 CFR 501

Legal Deadline: None.

Abstract: To issue a GSAR amendment to implement the requirements of the Competition Enhancement Act of 1984 (Pub. L. 98-577) regarding publicizing proposed regulations in Part 501, General Services Administration Acquisition Regulations System.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	12/00/87	

Small Entity: Not Applicable

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Sts., NW Room 4027, Washington, DC 20405, 202 523-3822

RIN: 3090-AB86

GSA — Proposed Rule Stage

3024. BUY AMERICAN ACT - CONSTRUCTION MATERIALS (GSAR 5-131)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 525; 48 CFR 552

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to add sections that will address the method of evaluation of offers based on the use of non-domestic construction materials in construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	01/00/88	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Washington, DC 20405, 202 523-3822

RIN: 3090-AC37

3025. MISCELLANEOUS CHANGES ON THE ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY (GSAR 5-155)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 570

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to codify in the regulation the revised contract clauses approved for use in lease contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	01/00/88	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC59

3026. CONTRACT CLOSEOUT PROCEDURES (GSAR 5-96)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 504

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulations (GSAR) will be amended to implement one of the recommendations resulting from a Federal Procurement Reform study under Executive Order 12352 by providing agency procedures in Part 504.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	01/00/88	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC67

3027. MULTIYEAR CONTRACTS AND CONTRACTS WITH OPTIONS (GSAR 5-106)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 517

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to incorporate the deviation from FAR 52.217-1, Limitations of Price and Contractor Qualifications and FAR 52.217-2, Cancellation of Items; and to consider the applicability of FAR Part 17 to Federal Supply Service multiyear contracts and contracts with options.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC68

3028. SMALL BUSINESS SUBCONTRACTING PLANS (GSAR 5-122)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 519

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to include information and instructions regarding various types and need for subcontracting plans; and to insert a reference to reflect the applicability of Subpart 519.7 to leases of real property in Section 501.103(b).

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	01/00/88	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC69

OFFICE OF THE COMPTROLLER

3029. FEDERAL PROPERTY MANAGEMENT REGULATIONS; REVISES THE REPORTING REQUIREMENTS FOR REAL PROPERTY

Legal Authority: EO 12411

CFR Citation: 41 CFR 101-3

Legal Deadline: None.

Abstract: This regulation revises FPMR 101-3 with changes and additions to the data elements currently collected as part of the World-Wide Real Property Inventory System. It also displays the revised forms to be used when supplying this information. These changes are necessary to monitor government-wide space reduction initiatives mandated by Executive Order 12411 - Government Work Space Management Reforms and Temporary Regulation D-70-Work Space Management Plans.

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Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Bobby Daniels, Accounting Specialists, General Services Administration, GSA Office of Governmentwide Real Property, Policy and Oversight(PG), Washington, DC 20405, 202 566-1426

RIN: 3090-AB31

OFFICE OF INFORMATION RESOURCES MANAGEMENT

3030. REVISION OF ACQUISITION AND MANAGEMENT PROVISIONS REGARDING THE CHANGING TELECOMMUNICATION MARKETPLACE, INCLUDING THE DETARIFFING OF CUSTOMER PREMISES EQUIPMENT (84.06A)

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201 to 21; 41 CFR 201 to 36; 41 CFR 201 to 39; 41 CFR 201 to 40

Legal Deadline: None.

Abstract: This project revises FIRMR Provisions relating to Federal Telecommunications acquisition and management. It will include changes brought about by the Federal Communications Commission Computer II inquiry and the divestiture of AT&T. This regulation will update GSA policies and provisions impacting Government-wide telecommunication management and will specifically address the need for requirements definition and analysis for local and intercity service. It will revise "major change" requirements and state what GSA needs from agencies if GSA is expected to provide services or if GSA is reviewing service for individual agency acquisitions. All obsolete provisions will be eliminated.

Timetable:

Action	Date	FR Cite
NPRM FIRMR Amendment	11/00/87	

Small Entity: No

Agency Contact: John F. Stewart, Supervisory Communications Specialist, General Services Administration, Regulations Branch (KMPR), Information Resources Management Service, Washington, DC 20405, 202 566-0194

RIN: 3090-AB08

3031. ESTABLISHMENT OF POLICIES AND PROCEDURES FOR FEDERAL AGENCIES' MANAGEMENT OF ELECTRONIC RECORDKEEPING, PROJECT 86.83A

Legal Authority: 40 USC 486(f); 40 USC 751(f)

CFR Citation: 41 CFR 201-22; 41 CFR 201-34; 41 CFR 201-45

Legal Deadline: None.

Abstract: This project establishes a new Subpart 201-45.2 in the FIRMR to establish the responsibilities of Federal agencies in their management of electronic recordkeeping. The responsibilities of the pertinent central management agencies, GSA and the National Archives and Records Administration, will be included.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	01/00/88	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Carolyn A. Thomas, Program Analyst, General Services Administration, Regulations Branch (KMPR), Information Resources Management Service, Washington, DC 20405, 202 566-0194

RIN: 3090-AC54

OFFICE OF ORGANIZATION AND PERSONNEL

3032. FEDERAL ADVISORY COMMITTEE MANAGEMENT

Significance: Regulatory Program

Legal Authority: 5 USC App Federal Advisory Committee Act of 1972 as amended; EO 12024

CFR Citation: 41 CFR 101-6.10

Legal Deadline: None.

Abstract: This regulation will provide administrative and interpretive guidelines and management controls for Federal agencies concerning the implementation of the Federal Advisory Committee Act (FACA), as amended. It fulfills GSA's responsibilities under FACA and Executive Order 12024 and will replace an interim final rule (48 FR 19324; April 28, 1983).

Timetable:

Action	Date	FR Cite
ANPRM	02/13/87	52 FR 4631
ANPRM Comment Period End	03/16/87	
NPRM	05/19/87	52 FR 18774
NPRM Comment Period End	09/17/87	

Small Entity: No

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Charles F. Howton, Committee Management Specialist, General Services Administration, Committee Management Secretariat, Washington, DC 20405, 202 523-4564

RIN: 3090-AA62

3033. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

Legal Authority: PL 95-602, Sec 119

CFR Citation: 41 CFR 105-8

Legal Deadline: None.

Abstract: The General Services Administration proposes this regulation to implement the above cited laws. These statutes prohibit discrimination on the basis of handicap as it applies to any programs or activities conducted by GSA.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: This proposed rule has been circulated internally and externally for comments. Comments have been received from the Equal Employment Opportunity Commission. We are still waiting for the Department of Justice's approval and comment on the regulation. Employment Opportunity Commission. The Department of Justice's comments on regulation with respect to GSA's role as the Federal Government landlord have been received. Comments regarding the program portion of the regulation have not been received. Comments regarding the program portion of the regulation were received on June 4, 1987 from the Department of Justice (DOJ). Reconciling of comments with Public Building Services and DOJ is presently occurring.

Government Levels Affected: Federal

Agency Contact: Thomas E. Henderson, Equal Employment Specialist (CTC), General Services Administration, General Services Administration, 18th and F Streets, NW, Washington, DC 20405, 202 566-1368

RIN: 3090-AC48

3034. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, AND WHERE APPLICABLE, SEX

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-8.2

Legal Deadline: None.

Abstract: The General Services Administration proposes this regulation to implement all of the above cited Federal laws. These statutes prohibit discrimination, in whole or in part, so that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program activity receiving Federal assistance from the General Services Administration. In addition, the objectives of the regulation are to streamline certain administrative procedural requirements by consolidating prohibitions of discrimination into one regulation and to make requirements clear and convenient for applicants and recipients to comply with, as well as making the regulation manageable for GSA to administer.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Thomas E. Henderson, EEO Specialist, General Services Administration, General Services Administration, 18th and F Streets, NW, Washington, DC 20405, 202 566-1368

RIN: 3090-AC49

GENERAL SERVICES ADMINISTRATION (GSA) — Final Rule Stage

ACQUISITION POLICY

3035. SUPPLY SOURCES AND RELATED PROGRAMS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-26

Legal Deadline: None.

Abstract: Part 101-26 prescribes policies and procedures for the procurement of personal property and nonpersonal services by Federal agencies from established Government supply sources. A number of executive agencies have indicated that this part needs to be revised to update, improve, clarify and streamline these regulations. GSA officials and representatives from the major executive agencies are developing a draft revision of this part to meet their requirements more adequately.

Timetable:

Action	Date	FR Cite
Final Action	10/30/87	

Small Entity: No

Agency Contact: Donna M. Stright, Director, General Services Administration, Regulations and Policy Division (FFY), Washington, DC 20406, 703 557-1253

RIN: 3090-AA89

3036. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION CHANGE PART 519

Legal Authority: 40 USC 486(c) Sec. 205(c), 63 Stat. 390

CFR Citation: 48 CFR 519

Legal Deadline: None.

Abstract: To issue a GSAR amendment in Part 519, Small Business and Small Disadvantaged Business Concerns, regarding the subcontracting plan reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/10/84	50 FR 14122
NPRM Comment Period End	05/10/84	
Final Action	09/21/87	

Small Entity: Not Applicable

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Sts., NW Room 4026, Washington, DC 20405, 202 523-3822

RIN: 3090-AB76

3037. FEDERAL PROCUREMENT DATA SYSTEM (FPDS) REPORTING REQUIREMENTS (GSAR 5-113)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 504; 48 CFR 553

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to incorporate the material currently in the Procurement Management Information System handbook into the regulation; the handbook provides guidance, procedures, and instructions on the preparation of various recurring procurement reporting requirements.The Federal Procurement Data System provides a comprehensive mechanism for assembling, organizing and presenting contract order, lease, schedule, and placement data for the Federal Government.

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Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC56

3038. MULTIPLE AWARD SCHEDULE PROGRAM (GSAR 5-38A)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 515; 48 CFR 538; 48 CFR 552

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation will be amended to revise Section 515.804-3 to add instructions on claiming and granting exemptions to the requirement for submission on cost or pricing data in the multiple award schedule (MAS) contracting process; to add Section 515.804-70 to provide the format of the discount schedule and marketing data sheets to be used in MAS solicitations; to add Part 538 to provide procedures on the GSA schedule contracting process; and to add Section 552.238-70 to provide text of the price reductions clause to be used in certain MAS solicitations and contracts.

Timetable:

Action	Date	FR Cite
NPRM	08/12/86	51 FR 31344
Final Action	11/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC61

OFFICE OF THE COMPTROLLER

3039. REVISION OF PUBLIC VOUCHER FOR TRANSPORTATION CHARGES, STANDARD FORM 1113

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None.

Abstract: This rule revises Public Voucher for Transportation Charges, Standard Form 1113, to eliminate various information blocks because certain agency fiscal control numbers are no longer required. This change will reduce the amount of time agencies spend in processing these documents.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: No

Agency Contact: Gracie Jones, Transportation Specialist, General Services Administration, Regulations and Procedures Section (FWCP/R), Washington, DC 20405, 202 786-3007

RIN: 3090-AB69

3040. AUDIT PROCEDURES FOR COMMERCIAL BILLS OF LADING-COST-REIMBURSEMENT-TYPE CONTRACTS

Legal Authority: 31 USC 3726; 40 USC 486 (c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None.

Abstract: This rule requires contractors doing business with the United States Government to submit cost reimbursement-type contract commercial bills of lading to GSA for audit.

Timetable:

Action	Date	FR Cite
NPRM	07/05/85	50 FR 27625
Final Action	11/00/87	

Small Entity: No

Agency Contact: Carolyn F. West, Transportation Specialist, General Services Administration, FWCP, Washington, DC 20405, 202 786-3025

RIN: 3090-AC20

FEDERAL PROPERTY RESOURCES SERVICE

3041. NATIONAL DEFENSE STOCKPILE DISPOSAL REGULATIONS

Legal Authority: 50 USC 98; EO 12155

CFR Citation: 41 CFR 101-14.4

Legal Deadline: None.

Abstract: These regulations indicate the procedures for disposing of strategic and critical materials that are excess to National Defense Stockpile needs and have been authorized for disposal by Congress, pursuant to the Stock Piling Act of 1979 50 USC 98 et seq. These regulations will be responsive to public sector, intergovernment and intragovernment comments reflecting on the lack of published regulations governing GSA's stockpile disposal policies and procedures.

Timetable:

Action	Date	FR Cite
Final Action	06/30/88	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1983

Government Levels Affected: Federal

Agency Contact: J. Wayne Kulig, Assistant Commissioner, General Services Administration, Office of National Defense Stockpile (DN), Washington, DC 20405, 202 535-7671

RIN: 3090-AA40

3042. ● REPORTING OF EXCESS REAL PROPERTY - PCB

Legal Authority: 40 USC 483(b)

CFR Citation: 41 CFR 101-47.202-2(b); 40 CFR 761

Legal Deadline: None.

Abstract: 41 CFR 101-47.202-2(b)(9) is added to require that certification be included in reports of excess real property to disclose the presence of any equipment containing polychlorinated biphenyls (PCB's) in the reported property and to assure that any such equipment will be maintained in compliance with the requirements of 40 CFR 761 unit disposal of the property.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: Undetermined

Government Levels Affected: Federal

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Agency Contact: Marjorie L. Lomax, Director, Policy and Planning Div. (DRP), General Services Administration, 18th & F Sts., NW, Washington, DC 20405, 202 535-7652

RIN: 3090-AC90

FEDERAL SUPPLY AND SERVICES

3043. DONATION OF PERSONAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-44.000; 41 CFR 101-44.001; 41 CFR 101-44.105; 41 CFR 101-44.106; 41 CFR 101-44.108; 41 CFR 101-44.112; 41 CFR 101-44.116; 41 CFR 101-44.120; 41 CFR 101-44.200; 41 CFR 101-44.204; 41 CFR 101-44.205; 41 CFR 101-44.207; 41 CFR 101-44.208; 41 CFR 101-44.4701; 41 CFR 101-44.4901-123; ...

Legal Deadline: None.

Abstract: This rule updates GSA's policies and procedures concerning the Federal surplus personal property donation program. It would: (1) prescribe new and revised definitions; (2) implement Title IX of the Education Amendments of 1972; (3) change procedures for donating aircraft, drugs, biologicals, and reagents; (4) clarify cannibalization procedures; (5) add additional terms to the State agency distribution documents; (6) clarify that conditional title, not unrestricted title, passes to a donee at the time it takes possession of the property; (7) prohibit reimbursement to State agencies for certain sales expenses; (8) change reporting requirements; and (9) revise eligibility criteria for educational activities. This amendment is necessary to comply with the provisions of Title IX of the Education Amendments of 1972, section 502(a) of Public Law 94-241, and the Congressional Reports Elimination Act of 1980 (Public Law 96-470). Its intent is to increase the efficiency and effectiveness of the donation program.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Stanley M.Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-1240

RIN: 3090-AA23

3044. DONATION OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Legal Authority: 26 USC 5688(a)

CFR Citation: 41 CFR 101-48.2

Legal Deadline: None.

Abstract: This rule would emphasize that all forfeited distilled spirits, wine, or malt beverages donated to eleemosynary institutions are to be used only by their inpatients for medicinal purposes. Allegations of misuse of these donated spirits have created a need for this regulation. There should be no significant costs to the public as a result of this rule. It has been determined that potential benefits to society from this rule will outweigh potential costs.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-1240

RIN: 3090-AA24

3045. ACQUISITION AND USE OF EXCESS PERSONAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43

Legal Deadline: None.

Abstract: A number of miscellaneous changes will be made to clarify procedures for the acquisition and use of excess personal property by federal agencies and other authorized recipients.

Timetable:

Action	Date	FR Cite
Final Action	12/01/87	

Small Entity: No

Agency Contact: Mr. Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-1240

RIN: 3090-AA30

3046. UTILIZATION, DONATION, SALE, ABANDONMENT OR DESTRUCTION OF HAZARDOUS MATERIALS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43; 41 CFR 101-44; 41 CFR 101-45; 41 CFR 101-46; 41 CFR 101-48; 41 CFR 101-49

Legal Deadline: None.

Abstract: Revisions and additions to existing rules are proposed to establish a separate regulatory section concerning the utilization, donation, sale, abandonment or destruction of hazardous materials.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Proposals are to be circulated among Federal agencies on an information basis before rulemaking consideration.

Agency Contact: Mr. Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-1240

RIN: 3090-AA42

3047. UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-42; 41 CFR 101-43; 41 CFR 101-44; 41 CFR 101-45; 41 CFR 101-46; 41 CFR 101-48

Legal Deadline: None.

Abstract: Parts 42-46 and Part 48 prescribe policies and procedures for the utilization and disposal of personal property by Federal agencies. A number of executive agencies have indicated that these parts need to be revised to update, improve, clarify, and streamline these regulations. GSA officials and representatives from the major executive agencies are developing a draft revision of these parts to meet their requirements more adequately.

Timetable:

Action	Date	FR Cite
Final Action	10/30/87	

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Small Entity: No

Agency Contact: Stanley M. Duda, Director, Property MGMT Div., General Services Administration, Property Management Division (FBP), Washington, DC 20405, 202 557-0607

RIN: 3090-AA45

3048. CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR), FPMR 101-7, SUPPLEMENT (UNASSIGNED)

Legal Authority: 40 USC 486(c); 5 USC 5724(a)(4); EO 11609; EO 12466

CFR Citation: 41 CFR 101-7

Legal Deadline: None.

Abstract: FTR change transmitted by GSA Bulletin FPMR A-40, Supplement (unassigned). FTR change will implement amendments to Chapter 2, Part 6, to adjust, according to Consumer Price Index change, the maximum dollar amounts for reimbursement of allowable real estate sale and purchase expenses incident to a change of official station

Timetable:

Action	Date	FR Cite
Final Action	11/00/87	

Small Entity: No

Agency Contact: Audrey E. Rish, Supervisory Traffic Management Specialist, General Services Administration, Regulations and Policy Division (FFY), Federal Supply Service, Washington, DC 20406, 703 557-1253

RIN: 3090-AC24

3049. ● USE OF CASH FOR OFFICIAL TRAVEL (TEMPORARY REGULATION)

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101

Legal Deadline: None.

Abstract: This temporary regulation will raise the monetary limit on cash purchases of official passenger transportation services from $100 to $500. This increase will eliminate the requirement for agencies to request a written exemption from the General Services Administration before reimbursing travelers for nonemergency cash purchases up to $500.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Betty J. Brown, Transportation Specialist, General Services Administration, 18th & F Street, NW, Washington, DC 20405, 202 786-3011

RIN: 3090-AC91

3050. ● CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR), FPMR 101-7, SUPPLEMENT (UNASSIGNED)

Legal Authority: 5 USC 5724(b)

CFR Citation: 41 CFR 101-7

Legal Deadline: None.

Abstract: FTR change transmitted by GSA Bulletin FPMR A-40, Supplement (Unassigned). FTR change implements new tables for determining the Federal and State marginal tax rate for use in calculating the relocation income tax allowance covering relocation expense reimbursements received during the 1987 tax year.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: No

Agency Contact: Audrey E. Rish, Supervisory Traffic Management Specialist, General Services Administration, Regulations and Policy Division (FFY), Washington, DC 20406, 703 557-1253

RIN: 3090-AC93

OFFICE OF INFORMATION RESOURCES MANAGEMENT

3051. REVISION OF ADPE REUTILIZATION POLICIES AND PROCEDURES INCLUDING INSTRUCTIONS FOR SF 120, PROJECT 86.14A

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201 to 33

Legal Deadline: None.

Abstract: This project revises FIRMR provisions regarding the reutilization of excess and exchange/sale Automatic Data Processing Equipment (ADPE). Instructions for agency submission of Standard Form 120 to GSA are included. The objective is to streamline the removal of excess ADPE equipment from agencies and encourage only efficient reuse by other agencies.

Timetable:

Action	Date	FR Cite
NPRM	09/04/86	51 FR 31674
Final Action	11/00/87	

Small Entity: No

Agency Contact: Phillip R. Patton, Procurement Analyst, General Services Administration, Regulations Branch (KMPR), Information Resources Management Service, Washington DC 20405, 202 566-0194

RIN: 3090-AC25

3052. UPDATE OF GOVERNMENTWIDE POLICIES AND REGULATIONS REGARDING FEDERAL EMPLOYEE USE OF GOVERNMENT TELEPHONE SYSTEMS (87.14A)

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 40 USC 751 (f)

CFR Citation: 41 CFR 201-38

Legal Deadline: None.

Abstract: This regulation changes provisions in the Federal Information Resources Management Regulation regarding Federal employee use of Government telephone systems. The intent is to take a more rational approach to what abuse is and to reasonably reflect the practice in the private sector. Enforcement of the new provisions should deter abuse by making it possible to detect and control genuine abuse.

Timetable:

Action	Date	FR Cite
NPRM	03/27/87	52 FR 9900
NPRM Comment Period End	05/26/87	52 FR 9900
Final Action	11/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Roger W. Walker, Chief, Regulations Branch, General Services Administration, GSA Information Resources Mgt. Service KMPR, 202 566-0194

RIN: 3090-AC75

GSA — Final Rule Stage

3053. ● INTERIM IMPLEMENTATION OF PUB. L. 99-500 TITLE VIII BROOKS ACT AMENDMENT-EXTENSION OF TEMPORARY REGULATION

Significance: Agency Priority

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201-1; 41 CFR 201-2; 41 CFR 201-23; 41 CFR 201-24

Legal Deadline: Statutory, October 18, 1986. Pub. L. 99-500 was enacted on October 18, 1986. FIRMR Temporary Regulation 13, effective December 23, 1986, applies retroactively to the enactment of Pub. L. 99-500. The Supplement 1 extends the effectivity of provisions in Temporary Regulation 13 which expires December 23, 1987.

Abstract: This supplement 1 to the Federal Information Resources Management Regulation (FIRMR) Temporary Regulation 13 extends the expiration date 1 year beyond current expiration of December 23, 1987. The extension allows additional time for agency comments useful to modification of FIRMR provisions prior to codification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/87	

Small Entity: No

Agency Contact: William Loy, Procurement Analyst, General Services Administration, Information Resources Management Service, Washington, DC 20405, KMPR, 202 566-0194

RIN: 3090-AD01

GENERAL SERVICES ADMINISTRATION (GSA) — Completed Actions

3054. MANAGEMENT OF BUILDINGS AND GROUNDS

CFR Citation: 41 CFR 101-20

Completed:

Reason	Date	FR Cite
Final Action	04/08/87	52 FR 11263
Final Action Effective	04/08/87	52 FR 11263

Small Entity: No

Agency Contact: James F. Steele, Jr 202 566-1563

RIN: 3090-AA69

3055. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR)- SMALL BUSINESS TECHNICAL ADVISORS

CFR Citation: 48 CFR 519

Completed:

Reason	Date	FR Cite
Final Action	04/22/87	52 FR 16390
Final Action Effective	04/22/87	52 FR 16390

Small Entity: Not Applicable

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AB39

3056. GENERAL SERVICE ADMINISTRATION ACQUISITION REGULATION, BANKRUPTCY, INSOLVENCY OR DISSOLUTION OF BUSINESS, CHGE. 42

CFR Citation: 48 CFR 542

Completed:

Reason	Date	FR Cite
Final Action	04/01/87	52 FR 11825
Final Action Effective	04/01/87	52 FR 11825

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC72

3057. ● GSAR, ACQUISITION CIRCULAR AC-87-1, COMPARISON OF RETIREMENT COSTS UNDER OMB CIRCULAR A-76

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 507; 48 CFR 552

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation was temporarily amended to implement Office of Management and Budget (OMB) Transmittal Memorandum No. 4 which revised OMB Circular A-76 procedures for calculation and comparison of retirement costs.

Timetable:

Action	Date	FR Cite
Final Action	03/09/87	52 FR 8589
Final Action Effective	03/09/87	52 FR 8589

Small Entity: No

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy & Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC94

3058. ● GSAR, CHANGE 39, PROCEDURES FOR VOIDING AND RESCINDING CONTRACTS

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 503

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation was amended to revise Part 503 by adding Subpart 503.7 which implements Subpart 3.7 of the Federal Acquisition Regulation (FAR) by providing agency procedures for voiding and rescinding contracts.

Timetable:

Action	Date	FR Cite
Final Action	02/09/87	52 FR 5981
Final Action Effective	02/09/87	52 FR 5981

Small Entity: No

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA, Office of Acquisition Policy and, Regulations, 18th & F Streets NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC95

3059. ● GSAR, CHANGE 41, CONSULTING SERVICES AND COMMUNICATION CENTERS

Legal Authority: 40 USC 486 (c)

CFR Citation: 48 CFR 514; 48 CFR 515; 48 CFR 533; 48 CFR 537; 48 CFR 552

Legal Deadline: None.

Abstract: The GSAR was amended by revising Part 514 to delete material that pertains to the GSA Communications Centers because the centers have closed; by amending Part 515 to provide for the use of Standard and GSA forms for recording offers in GSA procurements and to delete material related to the GSA Communications Centers; by amending Part 533 to reflect the current organizational structure of Office of General Counsel, to delete reference to the GSA Communications Centers and to make other miscellaneous changes; by amending Part 537 to make minor editorial changes to conform to requirements in GSA Order, Procurement of Consulting Services, ADM 2800.12c; by amending Part 552 to delete material that repeats prescriptive language in Parts 514 and 515, and to delete the text of Sections 552.214-72 and 552.215-72.

Timetable:

Action	Date	FR Cite
Final Action	02/18/87	52 FR 6562
Final Action Effective	02/18/87	52 FR 6562

Small Entity: No

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA, Office of Acquisition Policy and, Regulations, 18th & F Streets NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC96

3060. ● GSAR, CHGE. 44, STATUS REPORT OF ORDERS AND SHIPMENTS

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 542; 48 CFR 552; 48 CFR 553

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation was amended to revise Section 542.1107 to provide for the use of the Status Report of Orders and Shipments clause in contracts for special order program items as well as contracts for stock items; to revise Section 552.242-70 to incorporate the clause revised by Acquisition Circular AC-86-6 and to cancel the circular; to revise Section 553.270-3 to delete the instructions on modifying certain articles of GSA Form 3507, Supply Contract Clauses, and to illustrate the form in Section 553.370-3507.

Timetable:

Action	Date	FR Cite
NPRM	05/26/87	52 FR 21056
Final Action	05/26/87	52 FR 21056

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC97

3061. ● GSAR, CHGE. 45, SUSPENSION AND DEBARMENT

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 509

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation was amended to revise Part 509 to conform to the current organizational title, to delete reference to the Automated Consolidated List, and to add text to provide guidance concerning treatment to be accorded bids and proposals received from suspended, debarred, or ineligible contractors.

Timetable:

Action	Date	FR Cite
NPRM	03/27/87	52 FR 10913
NPRM Comment Period End	04/27/87	52 FR 10913
Final Action	06/03/87	52 FR 22655
Final Action Effective	06/03/87	52 FR 22655

Small Entity: No

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC98

3062. ● GSAR, CHANGE 46, COMMERCE BUSINESS DAILY REQUIREMENTS

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 505

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation was amended to revise Part 505 to provide for publication of proposed acquisitions of real property appraisal services in local newspapers, to authorize direct submission of synopsis messages to the Commerce Business Daily (CBD) by contracting officers rather than through the GSA Business Service Centers, and to provide an exception to the CBD publication requirement and publicizing and response times for proposed acquisitions of real property appraisal. Acquisition Circular AC-86-7 is canceled.

Timetable:

Action	Date	FR Cite
Final Action	06/09/87	52 FR 22654
Final Action Effective	06/09/87	52 FR 22654

Small Entity: No

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Office of Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC99

3063. ● GSAR, ACQUISITION CIRCULAR AC-87-2, ANNUAL REPORT FROM FEDERAL CONTRACTORS

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 522; 48 CFR 552

Legal Deadline: None.

Abstract: The General Services Administration Acquisition Regulation was temporarily amended to implement the Department of Labor (DOL) regulations published in the March 4, 1987 Federal Register (52 FR 6674-6679). The DOL regulations require Federal Contractors to submit a report at least annually to the Secretary of Labor regarding employment of Vietnam era and special disabled veterans.

Timetable:

Action	Date	FR Cite
Final Action	04/03/87	52 FR 12182
Final Action Effective	04/03/87	52 FR 12182

Small Entity: No

Agency Contact: Marjorie Ashby, Management Analyst, General Services

Administration, Office of Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AD00

3064. DEPARTMENT OF DEFENSE RESERVIST/RETIREE MILITARY EMERGENCY TRAVEL WARRANT

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action * Published as a notice	03/18/87	52 FR 8533

Small Entity: No

Agency Contact: John W. Sandfort 202 786-3014

RIN: 3090-AA05

3065. REVISION OF VOUCHER AND SCHEDULE OF PAYMENTS STANDARD FORM 1166 INSTRUCTIONS

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action	04/15/87	52 FR 12168

Small Entity: No

Agency Contact: John W. Sandfort 202 786-3014

RIN: 3090-AB97

3066. REVISION OF STANDARD FORM 1203 - US GOVERNMENT BILL OF LADING - PRIVATELY OWNED PERSONAL PROPERTY

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action	06/09/87	52 FR 21682

Small Entity: No

Agency Contact: John W. Sandfort 202 786-3014

RIN: 3090-AC21

3067. DISPOSALS TO PUBLIC AGENCIES

CFR Citation: 41 CFR 101-47.303-2; 41 CFR 101-47.303-2(b); 41 CFR 101-47.303-2(d); 41 CFR 101-47.303-2(e); 41 CFR 101-47.303-2(b); 41 CFR 101-47.303-2(g); 41 CFR 101-47.4906; 41 CFR 101-47.4906-2

Completed:

Reason	Date	FR Cite
Final Action	03/27/87	52 FR 9829
Final Action Effective	03/27/87	52 FR 9829

Small Entity: No

Agency Contact: James M. Kearns 202 535-7052

RIN: 3090-AB55

3068. PROPERTY FOR CORRECTIONAL FACILITIES

CFR Citation: 41 CFR 101-47.308-9

Completed:

Reason	Date	FR Cite
Final Action	03/27/87	52 FR 9831
Final Action Effective	03/27/87	52 FR 9831

Small Entity: Undetermined

Agency Contact: James M. Kearns 202 535-7052

RIN: 3090-AB72

3069. COST EFFECTIVE PROCUREMENT OF PERSONAL PROPERTY

CFR Citation: 41 CFR 101-26.100-2; 41 CFR 101-26.102; 41 CFR 101-26.3; 41 CFR 101-26.4; 41 CFR 101-26.5; 41 CFR 101-26.39; 41 CFR 101-40; 41 CFR 101-43; 41 CFR 101-45

Completed:

Reason	Date	FR Cite
Final Action	06/24/87	52 FR 23656
Final Action Effective	06/01/87	52 FR 23656

Small Entity: No

Agency Contact: Donna M. Stright 703 557-1253

RIN: 3090-AA95

3070. CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR), FPMR 101-7 SUPPLEMENT (UNASSIGNED)

CFR Citation: 41 CFR 101-7

Completed:

Reason	Date	FR Cite
Withdrawn	07/17/87	

Small Entity: No

Agency Contact: Audrey E. Rish 703 557-1253

RIN: 3090-AC00

3071. PAYMENT OF SUBSTITUTE DOCUMENTS

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action	06/09/87	52 FR 21683

Small Entity: No

Agency Contact: Betty Brown 202 786-3011

RIN: 3090-AC36

3072. CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR), FPMR 101-7, SUPPLEMENT 25

CFR Citation: 41 CFR 101-7

Completed:

Reason	Date	FR Cite
Final Action	07/15/87	52 FR 29568
Final Action Effective	08/01/87	52 FR 29568

Small Entity: No

Agency Contact: Audrey E. Rish 703 557-1253

RIN: 3090-AC38

3073. CHANGE TO FEDERAL TRAVEL REGULATION (FTR), FPMR 101-7 SUPPLEMENT 25

CFR Citation: 41 CFR 101-7

Completed:

Reason	Date	FR Cite
Final Action	05/26/87	52 FR 19576
Final Action Effective	01/01/87	52 FR 19576

Small Entity: No

Agency Contact: Audrey E. Rish 703 557-1253

RIN: 3090-AC42

3074. CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR), FPMR 101-7, SUPPLEMENT 24

CFR Citation: 41 CFR 101-7

Completed:

Reason	Date	FR Cite
Final Action	07/15/87	52 FR 26630
Final Action Effective	08/01/87	52 FR 26630

Small Entity: No

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Completed Actions

Agency Contact: Audrey E. Rish 703 557-1253

RIN: 3090-AC52

3075. FIRMR IMPLEMENTATION OF THE ADP DISPUTE RESOLUTION SECTION OF THE COMPETITION IN CONTRACTING ACT OF 1984 - PROJECT 84.63A

CFR Citation: 41 CFR 201-32

Completed:

Reason	Date	FR Cite
Final Action	04/01/87	52 FR 10379
Final Action Effective	06/01/87	52 FR 10379

Small Entity: No

Agency Contact: William R. Loy 202 566-0194

RIN: 3090-AB64

3076. IMPLEMENTATION OF FEDERAL PROCESSING STANDARDS (FIPS) AND A FEDERAL TELECOMMUNICATIONS STANDARD (FED-STD) IN FIRMR

CFR Citation: 41 CFR 201-8

Completed:

Reason	Date	FR Cite
Final Action	07/31/87	52 FR 28556
Final Action Effective	10/00/87	

Small Entity: No

Agency Contact: Mary Anderson 202 566-0194

RIN: 3090-AC86

3077. FEDERAL EMPLOYEE PARKING

CFR Citation: 41 CFR 101-20

Completed:

Reason	Date	FR Cite
Withdrawn	08/00/87	

Small Entity: No

Agency Contact: John Quigley 202 566-0959

RIN: 3090-AA68

[FR Doc. 87-21247 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26, 1987

Part XXV

Merit Systems Protection Board

Semiannual Regulatory Agenda

VOL 52 ISS 206 OCT 26 1987 UMI

MERIT SYSTEMS PROTECTION BOARD (MSPB)

MERIT SYSTEMS PROTECTION BOARD

5 CFR Ch. II

Regulatory Agenda

AGENCY: Merit Systems Protection Board.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Merit Systems Protection Board (MSPB) regulations are scheduled for review or development from October 1987 through September 1988. They are submitted herein for publication in the Unified Agenda of Federal Regulations, E.O. 12291. Regulatory action may not be limited to the items listed.

FOR FURTHER INFORMATION CONTACT: Paul D. Mahoney, Director, Office of Policy and Evaluation, (202) 653-8900.

Dated: August 24, 1987.

Merit Systems Protection Board.

Daniel R. Levinson,

Chairman.

MERIT SYSTEMS PROTECTION BOARD (MSPB) — Prerule Stage

3078. PART 1205 - PRIVACY ACT

Legal Authority: 5 USC 552a Privacy Act

CFR Citation: 5 CFR 1205

Legal Deadline: None.

Abstract: Pursuant to 5 USC 552a(f), the Board is required to promulgate regulations pursuant to notice and receipt of public comment establishing procedures for responding to individual requests for access to records covered by the Privacy Act; for the amendment of records covered by the Act and for appeals of adverse rulings on such requests; and for fees to be charged for copying requested records. Such regulations were issued in 44 FR 43448, July 24, 1979. The Board proposes to review these regulations to ensure that they are easily understood by all persons. If indicated by the review, the Board plans to publish these regulations in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	09/00/87	
End Review	02/00/88	
Final Action	07/00/88	

Small Entity: No

Agency Contact: Michael H. Hoxie, Director, Information Services Division, Merit Systems Protection Board, 1120 Vermont Ave., NW, Washington, DC 20419, 202 653-7200

RIN: 3124-AA05

3079. PART 1206 OPEN MEETINGS

Legal Authority: 5 USC 552b Government in the Sunshine Act

CFR Citation: 5 CFR 1206

Legal Deadline: None.

Abstract: Pursuant to 5 U.S.C. 552b, the Board is required to promulgate regulations, pursuant to notice and receipt of public comment, establishing procedures by which it will conduct open meetings. Such regulations were issued in 44 FR 43448, July 24, 1979. The Board proposes to review these regulations to ensure that they are easily understood by all persons. If indicated by the review, the Board plans to publish these regulations in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
End Review	02/00/88	
Final Action	07/00/88	

Small Entity: No

Agency Contact: Michael H. Hoxie, Director, Information Services Division, Merit Systems Protection Board, 1120 Vermont Ave., NW, Washington, DC 20419, 202 653-7200

RIN: 3124-AA06

3080. ● PART 1203 - HEARING PROCEDURES FOR ORIGINAL JURISDICTION CASES

Legal Authority: 5 USC 1205(a)(4); 5 USC 1205(e); 5 USC 1205(g)

CFR Citation: 5 CFR 1203.1 to 1203.18

Legal Deadline: None.

Abstract: The Board proposes to review the regulations in this Part to ensure that these regulations are easily understood by all persons. If indicated by the review, the Board plans to republish these regulations in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	08/00/87	
End Review	02/00/88	
Republish in "plain English"	07/00/88	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Paul D. Mahoney, Director, Office of Policy and Evaluation, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-8900

RIN: 3124-AA07

3081. ● PART 1204 - FREEDOM OF INFORMATION ACT

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 1204.1 to 1204.22

Legal Deadline: None.

Abstract: The Board issued interim final regulations in 52 FR 28123, July 28, 1987. The Board proposes to monitor these interim regulations carefully and begin a new review to ensure that these regulations are easily understood. If indicated by the review, the Board plans to rewrite them in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	08/00/87	
End Review	02/00/88	
Republish in "plain English"	07/00/88	

Small Entity: No

MSPB — Prerule Stage

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Michael H. Hoxie, Director, Information Services Division, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-7200

RIN: 3124-AA08

3082. ● ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS CONDUCTED BY THE MERIT SYSTEMS PROTECTION BOARD

Legal Authority: 29 USC 791

CFR Citation: 5 CFR 1207.1 to 1207.99

Legal Deadline: None.

Abstract: The Board issued proposed regulations in 52 FR 25123, July 2, 1987, and expects to issue final or interim final regulations during October 1987. The Board proposes to monitor these regulations and immediately begin a new review to ensure that these regulations are easily understood by all persons. If indicated by the review, the Board plans to rewrite them in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
End Review	02/00/88	
Publish Regulations in "plain English"	07/00/88	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Sara B. Rearden, Acting Director, Equal Employment Division, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-6180

RIN: 3124-AA09

3083. ● PART 1201 - PRACTICES AND PROCEDURES

Legal Authority: 5 USC 1205; 5 USC 7701

CFR Citation: 5 CFR 1201.1 to 1201.222

Legal Deadline: None.

Abstract: The Board proposes to review the regulations in this Part to ensure that these regulations are easily understood by all persons appearing before the Board. If indicated by the review, the Board plans to republish these regulations in "plain English."

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
End Review	02/00/88	
Publish Regulations in "plain English"	07/00/88	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Paul D. Mahoney, Director, Office of Policy and Evaluation, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-8900

RIN: 3124-AA10

MERIT SYSTEMS PROTECTION BOARD (MSPB) — Final Rule Stage

3084. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS CONDUCTED BY THE MERIT SYSTEMS PROTECTION BOARD

Legal Authority: 29 USC 791

CFR Citation: 5 CFR 1207.1 to 1207.99, (New)

Legal Deadline: None.

Abstract: To effectuate Section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, amending Section 504 of P.L. 95-602.

Timetable:

Action	Date	FR Cite
NPRM	07/02/87	52 FR 25123
NPRM Comment Period End	08/31/87	52 FR 25123
Final Action	10/00/87	
Final Action Effective	10/00/87	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Sara B. Rearden, Acting Director, Equal Employment Division, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-6180

RIN: 3124-AA01

3085. PART 1200 - BOARD ORGANIZATION

Legal Authority: 5 USC 552 Public Information; 5 USC 1205(g) and (i) Authority

CFR Citation: 5 CFR 1200

Legal Deadline: None.

Abstract: Pursuant to 5 U.S.C. 552, the Board provides the public current information regarding the Board's organization and a statement of functions assigned to each organizational unit. Certain title changes and other realignments are planned (or are in process) since January 27, 1986 when the Board's organization was published last (51 FR 3321).

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	
Final Action Effective	10/00/87	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Paul D. Mahoney, Director, Office of Policy and Evaluation, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-8900

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MERIT SYSTEMS PROTECTION BOARD (MSPB) — **Completed Actions**

3086. PART 1204 - FREEDOM OF INFORMATION ACT

CFR Citation: 5 CFR 1204, (Revision)

Completed:

Reason	Date	FR Cite
Final Action	07/28/87	52 FR 28123
Final Action Effective	07/28/87	52 FR 28123

Small Entity: No

Agency Contact: Michael H. Hoxie 202 653-7208

RIN: 3124-AA03

[FR Doc. 87-21248 Filed 10-23-87; 8:45 am]

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Monday
October 26, 1987

Part XXVI

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

VOL 52 ISS 206 OCT 26 1987 UMI

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration.

ACTION: Regulatory agenda.

SUMMARY: This regulatory agenda describes the proposed regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESS: Acting Director, General Management Division (Code NP), Office of Management, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, 202/453-2922.

SUPPLEMENTARY INFORMATION: OMB Bulletin No. 87-16, "Unified Agenda of Federal Regulations for October 1987," Executive Order 12291, "Federal Regulation," and NASA Management Instruction 1410.10E, "Federal Register: Delegation of Authority and Requirements for Publication of NASA Documents," require a regulatory agenda of proposed regulations under development and review be published in the **Federal Register** each April and October.

Dated: August 26, 1987.

Rayburn A. Metcalfe,

Acting Director, General Management Division.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3087	General Provisions Regarding Flight of Reimbursable Payloads Aboard the Space Shuttle	2700-AA14
3088	Major System Acquisitions	2700-AA36
3089	Source Evaluation Board Manual	2700-AA39
3090	Data and Copyrights	2700-AA40
3091	Space Transportation System; Reimbursement for Shuttle Services Provided to Non-U.S. Government Users; Reimbursement for Shuttle Services Provided to Civil U.S. Government Users and Foreign Etc	2700-AA45
3092	Delegation of Authority of Certain Civil Rights Functions to the Department of Health, Education, and Welfare	2700-AA47
3093	Payload Specialists for NASA or NASA Related Payloads	2700-AA52
3094	Extraterrestrial Exposure	2700-AA53
3095	Policy Concerning Data Obtained from Space Science Flight Investigations	2700-AA54
3096	Release of Information to News and Information Media	2700-AA58
3097	Broad Agency Announcements	2700-AA65
3098	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Assistance by NASA	2700-AA69
3099	Implementation of the Program Fraud Civil Remedies Act of 1986	2700-AA71

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3100	Space Transportation System; Insurance and Indemnification of NASA Space Vehicle Users	2700-AA00
3101	Space Transportation System; Reimbursement for Spacelab Services	2700-AA01
3102	Patent Waiver Regulations	2700-AA10
3103	NASA Seal, Insignia, Logotype Insignia, Program and Astronaut Badges, and Flags	2700-AA15
3104	Tracking and Data Relay Satellite System (TDRSS); Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3105	Emergency Personnel Security Adjudication and Procedures	2700-AA31
3106	Availability of Agency Records to Members of the Public	2700-AA49
3107	Nondiscrimination in Federally-Assisted Programs of NASA	2700-AA50
3108	Duty-Free Entry of Space Articles	2700-AA62
3109	Environmental Quality; Floodplain and Wetlands Management	2700-AA70
3110	Delegation of Authority--To Take Statutory Action for "Liquidated Damage" Assessment Under the Contract Work Hours and Safety Standards Act, and Associated Labor Statute Actions	2700-AA73

NASA

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3111	Monetary Claims (General); Collection of Civil Claims and Offset	2700-AA22
3112	Nondiscrimination on the Basis of Handicap	2700-AA24
3113	Standards of Conduct	2700-AA30
3114	Implementation of the Equal Access to Justice Act in Agency Proceedings	2700-AA42
3115	Statement of Organization and General Information	2700-AA72

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Proposed Rule Stage

3087. GENERAL PROVISIONS REGARDING FLIGHT OF REIMBURSABLE PAYLOADS ABOARD THE SPACE SHUTTLE

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214, Subpart 1

Legal Deadline: None.

Abstract: Sets forth the general provisions regarding flight of reimbursable payloads aboard the NASA Space Shuttle. Incorporates pricing principles for the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: No

Additional Information: RIN = 2700-AA13 merged with RIN = 2700-AA14.

Agency Contact: Lowell E. Primm, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2536

RIN: 2700-AA14

3088. MAJOR SYSTEM ACQUISITIONS

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 00

Legal Deadline: None.

Abstract: Revise and update procedures for major systems acquisition.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Agency Contact: John E. Horvath, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters (Code HS), Washington, DC 20546, 202 453-2062

RIN: 2700-AA38

3089. SOURCE EVALUATION BOARD MANUAL

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 00

Legal Deadline: None.

Abstract: Revise and update procedures for conduct of Source Evaluation Boards.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: Not Applicable

Agency Contact: Charles R. Yetter, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters (Code HS), Washington, DC 20546, 202 453-2074

RIN: 2700-AA39

3090. DATA AND COPYRIGHTS

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 00

Legal Deadline: None.

Abstract: Change to conform regulations with Federal Acquisition Regulations changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Agency Contact: Stuart J. Evans, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters (Code H), Washington, DC 20546, 202 453-2090

RIN: 2700-AA40

3091. SPACE TRANSPORTATION SYSTEM; REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO NON-U.S. GOVERNMENT USERS; REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO CIVIL U.S. GOVERNMENT USERS AND FOREIGN ETC

Legal Authority: PL 85-568, Sec 203; 72 Stat 429; 42 USC 2473; PL 87-624, Sec 201(b); 76 Stat 421; 47 USC 721(b)

CFR Citation: 14 CFR 1214, Subpart 1; 14 CFR 1214, Subpart 2

Legal Deadline: None.

Abstract: This revision will incorporate provisions for scheduled shared-flight retrieval service and for equitable charging for use of the downweight capability of the shuttle.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Additional Information: TITLE CONT: Users Who Have Made Substantial Investment in the STS Program

Agency Contact: Lowell E. Primm, Office of Space Flight, National Aeronautics and Space Administration, NASA Headquarters (Code MC), Washington, DC 20546, 202 453-2536

RIN: 2700-AA45

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3092. DELEGATION OF AUTHORITY OF CERTAIN CIVIL RIGHTS FUNCTIONS TO THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Legal Authority: 42 USC 2473(b)(1), (3), (5), (6), and (14); 14 CFR 1250.111(c)

CFR Citation: 14 CFR 1204.508

Legal Deadline: None.

Abstract: Amends existing NASA regulation to reflect changes in the Federal sector and to include new civil rights laws enacted since the original regulation was published.

Timetable:

Action	Date	FR Cite
NPRM	10/00/88	

Small Entity: No

Agency Contact: Lewin S. Warren, Office of Equal Opportunity Programs, (Code U), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2163

RIN: 2700-AA47

3093. PAYLOAD SPECIALISTS FOR NASA OR NASA RELATED PAYLOADS

Legal Authority: PL 85-568, Sec 203; 42 USC 2473 72 Stat 429 as amended; PL 87-624, Sec 201(b); 47 USC 721(b) 76 Stat 421

CFR Citation: 14 CFR 1214, Subpart 3

Legal Deadline: None.

Abstract: Revises existing regulation to reflect current practices.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: No

Agency Contact: Robert A. Schmitz, Office of Space Science and Applications, (Code EM), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1783

RIN: 2700-AA52

3094. EXTRATERRESTRIAL EXPOSURE

Legal Authority: Secs 203, 304, 72 Stat 429, 433; 42 USC 2455; 42 USC 2456; 42 USC 2473; 18 USC 799

CFR Citation: 14 CFR 1211

Legal Deadline: None.

Abstract: Revision updates the existing regulation to conform to current agency practices.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: No

Agency Contact: Stephan W. Fogleman, Office of Space Science and Applications, (Code EB), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1530

RIN: 2700-AA53

3095. POLICY CONCERNING DATA OBTAINED FROM SPACE SCIENCE FLIGHT INVESTIGATIONS

Legal Authority: 42 USC 2454

CFR Citation: 14 CFR 1205, Subpart 1

Legal Deadline: None.

Abstract: Amends regulation to reflect current agency practices.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	

Small Entity: No

Agency Contact: John F. Devlin, Office of Space Science and Applications, (Code EPS), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1630

RIN: 2700-AA54

3096. RELEASE OF INFORMATION TO NEWS AND INFORMATION MEDIA

Legal Authority: 42 USC 2473(a)(3) Sec 203(a)(3)

CFR Citation: 14 CFR 1213, Subpart 1

Legal Deadline: None.

Abstract: Sets forth NASA policy governing the release of information in any form to news and information media.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: No

Agency Contact: James W. McCulla, Office of Communications (Code LM), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8396

RIN: 2700-AA58

3097. BROAD AGENCY ANNOUNCEMENTS

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 00

Legal Deadline: None.

Abstract: NASA implementation of announcements authorized at FAR Subpart 6.1.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: No

Agency Contact: W. A. Greene, Office of Procurement, NASA Headquarters (Code HP), National Aeronautics and Space Administration, Washington, DC 20546, 202 453-2119

RIN: 2700-AA65

3098. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM ASSISTANCE BY NASA

Legal Authority: Title IX of the Education Amendments of 1972; 20 USC 1681 et seq

CFR Citation: 14 CFR 1253

Legal Deadline: None.

Abstract: This regulation proposes to establish for NASA a set of rules prohibiting sex discrimination in educational programs or activities receiving financial assistance from NASA. Under authority provided by the Education Amendments of 1974 law, this regulation seeks to ensure that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefit of, or otherwise be subject to discrimination under any program or activity receiving Federal financial assistance from NASA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/88	

Small Entity: No

Agency Contact: Lewin S. Warren, Office of Equal Opportunity Program, NASA Headquarters (Code U), National Aeronautics and Space Administration, Washington, DC 20546, 202 453-2163

RIN: 2700-AA59

3099. IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

Legal Authority: 42 USC 2473(c); 31 USC 3801 et seq; PL 99-509

CFR Citation: 14 CFR 1264

Legal Deadline: None.

Abstract: Proposed regulation to implement the Program Fraud Civil Remedies Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Sara Najjar, Office of General Counsel (Code GG), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2465

RIN: 2700-AA71

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Final Rule Stage

3100. SPACE TRANSPORTATION SYSTEM; INSURANCE AND INDEMNIFICATION OF NASA SPACE VEHICLE USERS

Legal Authority: PL 85-568, Sec 203; 42 USC 2473 Sec 308 of the Space Act as amended; 42 USC 2458(b)

CFR Citation: 14 CFR 1214, Subpart 13

Legal Deadline: None.

Abstract: Describes the policy on when users of the Space Transportation System must obtain financial protection against third-party claims and the conditions under which NASA will provide insurance or indemnification of users. Comments on the proposed rule were received from several individuals.

Timetable:

Action	Date	FR Cite
NPRM	11/10/80	45 FR 74499
Final Action	00/00/00	

Small Entity: No

Agency Contact: Robert J. Wojtal, National Aeronautics and Space Administration, Office of General Counsel, Code GK, Washington, DC 20546, 202 453-2448

RIN: 2700-AA00

3101. SPACE TRANSPORTATION SYSTEM; REIMBURSEMENT FOR SPACELAB SERVICES

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214, Subpart 8

Legal Deadline: None.

Abstract: Describes the policy for Spacelab services provided by NASA to users during the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/30/85	50 FR 30807
Final Action	06/00/88	

Small Entity: No

Agency Contact: Lowell E. Primm, Office of Space Flight, Code MC, National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2536

RIN: 2700-AA01

3102. PATENT WAIVER REGULATIONS

Legal Authority: 42 USC 2457 et seq

CFR Citation: 14 CFR 1245, Subpart 1

Legal Deadline: None.

Abstract: To adopt Presidential Memorandum on Government Patent Policy of 02/18/83.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/83	48 FR 22132
NPRM	07/01/87	52 FR 24477
Final Action	04/00/88	

Small Entity: No

Agency Contact: Robert F. Kempf, Asst. Gen. Counsel for Patent Matters, National Aeronautics and Space Administration, Code GP, NASA Headquarters, Washington, DC 20546, 202 453-2424

RIN: 2700-AA10

3103. NASA SEAL, INSIGNIA, LOGOTYPE INSIGNIA, PROGRAM AND ASTRONAUT BADGES, AND FLAGS

Legal Authority: 42 USC 2473(a); 42 USC 2473(b)(1)

CFR Citation: 14 CFR 1221, Subpart 1

Legal Deadline: None.

Abstract: Sets forth NASA policy, procedures, and guidelines for use of NASA Logotype Insignia.

Timetable:

Action	Date	FR Cite
Final Action	04/00/88	

Small Entity: No

Agency Contact: Robert Schulman, Office of Communications (Code LP), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8315

RIN: 2700-AA15

3104. TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS); USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Legal Authority: PL 85-568 Sec 203; 72 Stat as amended; 42 USC 2473

CFR Citation: 14 CFR 1215

Legal Deadline: None.

Abstract: Annual revision of Appendix A to reflect each Calendar Year rate change for TDRSS services.

Timetable:

Action	Date	FR Cite
Final Action for CY 1988 Rate Change	04/06/87	52 FR 10881
Final Action for CY 1989 Rate Change	05/00/88	

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NASA — **Final Rule Stage**

Small Entity: No

Agency Contact: Eugene Ferrick, Office of Space Operations, National Aeronautics and Space Administration, NASA Headquarters (Code T), Washington, DC 20546, 202 453-2930

RIN: 2700-AA29

3105. EMERGENCY PERSONNEL SECURITY ADJUDICATION AND PROCEDURES

Legal Authority: 42 USC 2451 ET SEQ; 5 USC 552 A; 5 USC 5596; EO 10450; EO 12356; 5 USC 7312; 5 USC 7531 TO 7533

CFR Citation: 14 CFR 1203

Legal Deadline: None.

Abstract: 14 CFR Part 1203 is amended by adding this new Subpart J, "Emergency Personnel Security Adjudication and Procedures." This proposed rule sets forth NASA's personnel security adjudication policy and procedures. The intended effect of this proposed rule is to inform individuals of the procedures within NASA with respect to those individuals whose employment with NASA may not be clearly consistent with the interests of national security.

Timetable:

Action	Date	FR Cite
NPRM	01/23/87	52 FR 2548
Final Action	12/00/87	

Small Entity: No

Agency Contact: Jerome Verba, National Aeronautics and Space Administration, NASA Security Office, NASA Headquarters (Code NIS), Washington, DC 20546, 202 453-2946

RIN: 2700-AA31

3106. AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

Legal Authority: 42 USC 2473; 5 USC 552 as amended by PL 93-504; 5 USC 552a Privacy Act of 1974; PL 99-570 FOIA Reform Act

CFR Citation: 14 CFR 1206

Legal Deadline: None.

Abstract: The purpose of this proposed revision is to identify the current costs for obtaining materials and update organizational structure.

Timetable:

Action	Date	FR Cite
NPRM	05/20/87	52 FR 18905
Final Action	12/00/87	

Small Entity: No

Agency Contact: Patricia M. Riep, Freedom of Information Act Officer (Code LN), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8346

RIN: 2700-AA49

3107. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF NASA

Legal Authority: Title VI of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Age Discrimination Act of 1975; EO 12250

CFR Citation: 14 CFR 1250

Legal Deadline: None.

Abstract: NASA is revising 14 CFR Part 1250, "Nondiscrimination in Federally-Assisted Programs of NASA," to reflect changes in the NASA organization and processes through which this regulation is implemented. The purpose of this Part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964, as amended.

Timetable:

Action	Date	FR Cite
Final Action	10/00/88	

Small Entity: No

Agency Contact: Lewis S. Warren, Office of Equal Opportunity Programs, (Code U), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2163

RIN: 2700-AA50

3108. DUTY-FREE ENTRY OF SPACE ARTICLES

Legal Authority: PL 98-573 Sec 124; PL 97-446 Sec 116 and Sec 156; 96 Stat 2335-2336 and 2345-2346; 19 USC 1202 note .

CFR Citation: 14 CFR 1214 Subpart 15

Legal Deadline: None.

Abstract: Amending 14 CFR Subpart 1214.15 to reflect the changes on the duty-free entry of communication satellites imposed by PL 98-573.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/88	

Small Entity: No

Agency Contact: Robert J. Wojtal, Office of General Counsel, NASA Headquarters (Code GK), National Aeronautics and Space Administration, Washington, DC 20546, 202 453-2446

RIN: 2700-AA62

3109. ENVIRONMENTAL QUALITY; FLOODPLAIN AND WETLANDS MANAGEMENT

Legal Authority: EO 11988; EO 11990; 42 USC 2473(c)(1)

CFR Citation: 14 CFR 1216 Subpart 2

Legal Deadline: None.

Abstract: Revises regulation to reflect current organization and responsibilities of NASA officials.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: No

Agency Contact: Lewis E. Andrews, Office of Management, NASA Headquarters (NXG), National Aeronautics and Space Administration, Washington, DC 20546, 202 453-1972

RIN: 2700-AA70

3110. ● DELEGATION OF AUTHORITY--TO TAKE STATUTORY ACTION FOR "LIQUIDATED DAMAGE" ASSESSMENT UNDER THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, AND ASSOCIATED LABOR STATUTE ACTIONS

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1204.500

Legal Deadline: None.

Abstract: Delegates authority to act for the Administrator in all matters where the agency head is directed to act under 29 CFR Part 5 regarding the assessment of liquidated damages.

Timetable:

Action	Date	FR Cite
Final Action	04/00/88	

Small Entity: No

NASA — **Final Rule Stage**

Agency Contact: Gordon K. Gilson, Industrial Relations Office (Code NR), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2882

RIN: 2700-AA73

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Completed Actions

3111. MONETARY CLAIMS (GENERAL); COLLECTION OF CIVIL CLAIMS AND OFFSET

CFR Citation: 14 CFR 1261

Completed:

Reason	Date	FR Cite
Final Action	05/26/87	52 FR 19487

Small Entity: No

Agency Contact: Sara Najjar 202 453-2465

RIN: 2700-AA22

3112. NONDISCRIMINATION ON THE BASIS OF HANDICAP

CFR Citation: 14 CFR 1250

Completed:

Reason	Date	FR Cite
Final Action	07/28/86	51 FR 26862

Small Entity: No

Agency Contact: Lynda Sampson 202 453-2177

RIN: 2700-AA24

3113. STANDARDS OF CONDUCT

CFR Citation: 14 CFR 1207

Completed:

Reason	Date	FR Cite
Final Action	06/16/87	52 FR 22755

Small Entity: No

Agency Contact: Elizabeth N. Siegel 202 453-2465

RIN: 2700-AA30

3114. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

CFR Citation: 14 CFR 1262

Completed:

Reason	Date	FR Cite
Final Action	04/23/86	51 FR 15311

Small Entity: No

Agency Contact: Sara Najjar 202 453-2432

RIN: 2700-AA42

3115. STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

CFR Citation: 14 CFR 1201

Completed:

Reason	Date	FR Cite
Final Action	08/25/87	52 FR 31985

Small Entity: No

Agency Contact: Margaret M. Herring 202 453-2922

RIN: 2700-AA72

[FR Doc. 87-21249 Filed 10-23-87; 8:45 am]

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Part XXVII

National Archives and Records Administration

Semiannual Regulatory Agenda

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: National Archives and Records Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since April 1987. This agenda was developed under the guidelines in OMB Bulletin No. 87-16, dated June 25, 1987. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to provide a systematic means of monitoring regulatory activity in NARA. None of the regulations listed in the agenda are considered major under Executive Order 12291, Federal Regulation.

FOR FURTHER INFORMATION CONTACT: John A. Constance, Chief, Information Management and Directives Branch, (202) 523-3214.

Claudine J. Weiher,

Acting Archivist of the United States.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3116	Transfers to the National Personnel Records Center	3095-AA15

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3117	Transfers to the National Personnel Records Center	3095-AA16
3118	Membership on State Historical Records Advisory Boards	3095-AA20
3119	Restrictions on Access to Archival Records	3095-AA21
3120	Micrographics Records Management	3095-AA22
3121	NARA Implementation of Presidential Records Act	3095-AA24
3122	NARA Standards of Conduct	3095-AA25
3123	Statistical Research in Records Containing Personal Information	3095-AA26
3124	Electronic Records Management	3095-AA29
3125	NARA Fee Schedule	3095-AA33
3126	Loans of Original Records for Exhibition Purposes	3095-AA37
3127	Implementation of Government-wide Nonprocurement Debarment and Suspension System	3095-AA38

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3128	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	3095-AA23
3129	Disposition of Federal Records	3095-AA30
3130	Enforcement Nondiscrimination on the Basis of Handicap in Federally-conducted Programs	3095-AA35

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3131	Public Use of the National Archives Building	3095-AA06
3132	Adequate and Proper Documentation	3095-AA07
3133	Use of Privately Owned Microfilm Equipment to Copy Records in the National Archives and Presidential Libraries	3095-AA28
3134	FOIA Amendments	3095-AA34

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Prerule Stage

3116. TRANSFERS TO THE NATIONAL PERSONNEL RECORDS CENTER

Legal Authority: 44 USC 3101

CFR Citation: 36 CFR 1228.154

Legal Deadline: None.

Abstract: Consideration is being given to acceptance of individual earnings and pay cards and comprehensive payrolls in microfiche or computer output microfilm format only.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
End Review	08/00/88	

Small Entity: Not Applicable

Agency Contact: Gregory A. Pomicter, Dir., Field Operations Division (NCF), National Archives and Records Administration, Washington, DC 20408, 202 653-8388

RIN: 3095-AA15

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Proposed Rule Stage

3117. TRANSFERS TO THE NATIONAL PERSONNEL RECORDS CENTER

Legal Authority: 44 USC 3101

CFR Citation: 36 CFR 1228.154

Legal Deadline: None.

Abstract: As a result of FPM Letter 293-20 which established an Employee Medical Folder (EMF) for all civilian employees, this regulation will be expanded to include the EMF. In addition, a separate request form will be developed similar to the SF 127, Request for Official Personnel Folder.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	11/00/87	
Final Action	01/00/88	

Small Entity: Not Applicable

Agency Contact: Gregory A. Pomicter, Dir., Field Operations Division (NCF), National Archives and Records Administration, Washington, DC 20408, 202 653-8388

RIN: 3095-AA16

3118. MEMBERSHIP ON STATE HISTORICAL RECORDS ADVISORY BOARDS

Legal Authority: 44 USC 2505

CFR Citation: 36 CFR 1206

Legal Deadline: None.

Abstract: This regulation will restructure the State Historical Records Advisory Boards and redefine their functions in the grant review process.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
NPRM Comment Period End	04/00/88	
Final Action	05/00/88	

Small Entity: Not Applicable

Agency Contact: Nancy Sahli, Acting Dir., Records Program (NP), National Archives and Records Administration, Washington, DC 20408, 202 523-5386

RIN: 3095-AA20

3119. RESTRICTIONS ON ACCESS TO ARCHIVAL RECORDS

Legal Authority: 44 USC 2108(a); 44 USC 2104(a)

CFR Citation: 36 CFR 1256.40

Legal Deadline: None.

Abstract: This rule will add specific agency restrictions on the use of certain accessioned archival records. The restrictions will be in conformity with the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
NPRM Comment Period End	02/00/88	
Final Action	04/00/88	

Small Entity: Not Applicable

Agency Contact: Trudy H. Peterson, Assistant Archivist, Office of National Archives, National Archives and Records Administration, Washington, DC 20408, 202 523-3130

RIN: 3095-AA21

3120. MICROGRAPHICS RECORDS MANAGEMENT

Legal Authority: 44 USC 2907; 44 USC 3302; 44 USC 3312

CFR Citation: 36 CFR 1230

Legal Deadline: None.

Abstract: This rule will update existing regulations on micrographics records management to correct references to Federal and industry micrographics standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Dir., Program Policy and Eval. Div. (NAA), National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA22

3121. NARA IMPLEMENTATION OF PRESIDENTIAL RECORDS ACT

Legal Authority: 44 USC 2206

CFR Citation: 36 CFR 1270

Legal Deadline: None.

Abstract: 44 USC 2206 requires that the Archivist promulgate regulations to carry out the Presidential Records Act. The law requires that the regulations provide for:

1. advance public notice of intention to dispose of valueless records;

2. notice to the former President of impending opening of otherwise restrictable records in response to judicial process, a request from the

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NARA — Proposed Rule Stage

incumbent President, or request from Congress;

3. notice to the former President when disclosure of documents may adversely affect any rights or privileges he may have; and

4. establishment of procedures for consultation between the Archivist and appropriate Federal agencies regarding Presidential records which may be restricted as investigatory records compiled for law enforcement purposes.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	10/00/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Gary Brooks, Act. Dir., Legal Services Staff (NSL), National Archives and Records Administration, Washington, DC 20408, 202 523-3618

RIN: 3095-AA24

3122. NARA STANDARDS OF CONDUCT

Legal Authority: 5 CFR 735; 44 USC 2104(a)

CFR Citation: 36 CFR 1204

Legal Deadline: None.

Abstract: These regulations will establish standards of conduct for NARA employees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	11/00/87	
Final Action	12/00/87	

Small Entity: Not Applicable

Agency Contact: Gary Brooks, Act. Designated Agency Ethics Official, National Archives and Records Administration, Washington, DC 20408, 202 523-3618

RIN: 3095-AA25

3123. STATISTICAL RESEARCH IN RECORDS CONTAINING PERSONAL INFORMATION

Legal Authority: 44 USC 2104

CFR Citation: 36 CFR 1256

Legal Deadline: None.

Abstract: The National Archives of the United States includes certain records containing information of a highly personal nature about living individuals. Use of these records by researchers is limited by 36 CFR 1256.16 to researchers conducting statistical or quantitative research. This rule will provide procedures for granting access to these records for statistical or quantitative purposes and for ensuring the protection of the privacy of the individual whose record is disclosed.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, Program Policy and Evaluation Div., (NAA), National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA26

3124. ELECTRONIC RECORDS MANAGEMENT

Legal Authority: 44 USC 2904; 44 USC 3102

CFR Citation: 36 CFR 1234

Legal Deadline: None.

Abstract: Federal agencies increasingly are recording their policies and authorities electronically. The proposed regulation will provide comprehensive standards for the creation, maintenance, use and disposition of electronic records.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
NPRM Comment Period End	11/00/87	
Final Action	01/00/88	

Small Entity: Not Applicable

Agency Contact: Mary Ann Wallace, Director, Agency Services Division (NIA), National Archives and Records Administration, Washington, DC 20408, 202 724-1453

RIN: 3095-AA29

3125. NARA FEE SCHEDULE

Legal Authority: 44 USC 2116 (c)

CFR Citation: 36 CFR 1258

Legal Deadline: None.

Abstract: This rule will update NARA fees for reproductions of administrative records requested under the Freedom of Information Act and of archival records, to reflect the current costs of providing the reproductions.

Timetable:

Action	Date	FR Cite
NPRM	08/00/87	
NPRM Comment Period End	09/00/87	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, Program Policy and Evaluation Division (NAA), National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA33

3126. ● LOANS OF ORIGINAL RECORDS FOR EXHIBITION PURPOSES

Legal Authority: 44 USC 2104a; 44 USC 2109

CFR Citation: 36 CFR 1254

Legal Deadline: None.

Abstract: NARA lends original records for exhibition purposes to qualified institutions that are capable of providing care comparable with that provided at NARA. This regulation will make NARA's existing minimum requirements for security, environmental conditions, lighting, handling and advance notice more conveniently available to potential borrowers. Since loan requests are reviewed in accordance with an established administrative procedure and are subject to existing requirements, no additional costs will be involved.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	12/00/87	
Final Action	02/00/88	

Small Entity: Not Applicable

Agency Contact: Adrienne C. Thomas, Director, Program Policy and Evaluation Division, National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA37

NARA — Proposed Rule Stage

3127. ● IMPLEMENTATION OF GOVERNMENT-WIDE NONPROCUREMENT DEBARMENT AND SUSPENSION SYSTEM

Legal Authority: EO 12549; 44 USC 2104(a)

CFR Citation: 36 CFR 1209

Legal Deadline: Statutory, May 26, 1988.

Abstract: NARA will join other agencies in the voluntary common rule for implementing E.O. 12549. This order calls for the establishment of a system of government-wide nonprocurement and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, Program Policy and Evaluation Division, National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA38

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Final Rule Stage

3128. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: 44 USC 2104; 44 USC 2504

CFR Citation: 36 CFR 1207

Legal Deadline: None.

Abstract: NARA will join other agencies in the common rule for implementing revised OMB Circular A-102, Uniform Requirements for Grants to State and Local Governments.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21820
NPRM Comment Period End	08/10/87	52 FR 21820
Awaiting joint rule	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Agency Contact: Adrienne C. Thomas, Dir., Program Policy and Eval. Div. (NAA), National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA23

3129. DISPOSITION OF FEDERAL RECORDS

Legal Authority: 44 USC 2901 to 2909; 44 USC 3101 to 3106; 44 USC 3301 to 3314

CFR Citation: 36 CFR 1228

Legal Deadline: None.

Abstract: Provisions for the disposition of Federal records will be reviewed and updated or revised as necessary to conform with current NARA procedures and records administration policies.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: Not Applicable

Agency Contact: Kenneth F. Rossman, Director, Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408, 202 724-1457

RIN: 3095-AA30

3130. ENFORCEMENT NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY-CONDUCTED PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 36 CFR 1208

Legal Deadline: None.

Abstract: The National Archives and Records Administration is joining with the Department of Justice and other agencies in the third joint publication of regulations implementing Section 504 of the Rehabilitation Act of 1973, as amended.

Timetable:

Action	Date	FR Cite
NPRM	07/02/87	52 FR 25124
NPRM Comment Period End	08/31/87	52 FR 25124
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Dir., Program Policy and Evaluation Div., (NAA), National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA35

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Completed Actions

3131. PUBLIC USE OF THE NATIONAL ARCHIVES BUILDING

CFR Citation: 36 CFR 1280

Completed:

Reason	Date	FR Cite
Final Action	06/25/87	52 FR 23820
Final Action Effective	06/25/87	52 FR 23821

Small Entity: No

Agency Contact: Adrienne C. Thomas 202 523-3214

RIN: 3095-AA06

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3132. ADEQUATE AND PROPER DOCUMENTATION

CFR Citation: 44 CFR 101-11.202; 36 CFR 1220.20

Completed:

Reason	Date	FR Cite
Withdrawn	06/30/87	

Small Entity: No

Agency Contact: Mary Ann Wallace 202 724-1453

RIN: 3095-AA07

3133. USE OF PRIVATELY OWNED MICROFILM EQUIPMENT TO COPY RECORDS IN THE NATIONAL ARCHIVES AND PRESIDENTIAL LIBRARIES

CFR Citation: 36 CFR 1254

Completed:

Reason	Date	FR Cite
Final Action	05/29/87	52 FR 20077
Final Action Effective	05/29/87	52 FR 20077

Small Entity: Yes

Agency Contact: Adrienne C. Thomas 202 523-3214

RIN: 3095-AA28

3134. FOIA AMENDMENTS

CFR Citation: 36 CFR 1250; 36 CFR 1258

Completed:

Reason	Date	FR Cite
Final Action	08/10/87	52 FR 29517

Small Entity: Undetermined

Agency Contact: Adrienne C. Thomas 202 523-3214

RIN: 3095-AA34

[FR Doc. 87-21250 Filed 10-23-87; 8:45 am]

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Part XXVIII

National Endowment for the Arts

Semiannual Regulatory Agenda

VOL 52 ISS 206 OCT 26 1987 UMI

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Agenda of Regulations

AGENCY: National Endowment for the Arts.

ACTION: Publication of the semiannual agenda.

SUMMARY: Pursuant to Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 605), the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Mr. Frederic R. Kellogg, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 or call (202) 682-5418.

Peter J. Basso,

Deputy Chairman for Management, National Endowment for the Arts.

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Proposed Rule Stage

3135. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR OR NATIONAL ORIGIN IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM NEA

Significance: Agency Priority

Legal Authority: 42 USC 2000d et seq Title VI of the Civil Rights Act of 1964; EO 12250

CFR Citation: 45 CFR 1110

Legal Deadline: None.

Abstract: This regulation will be applicable only to the National Endowment for the Arts grantees. Modifications will be made in procedures and definitions. The draft notice of proposed rulemaking is currently under review within the Endowment. It will be published after completion of that review and review by the Department of Justice and the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
NPRM	02/09/81	
NPRM Comment Period End	04/10/81	
NPRM	02/00/88	

Small Entity: Not Applicable

Agency Contact: Mr. Frederic R. Kellogg, General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 682-5418

RIN: 3135-AA00

3136. COLLECTION OF CLAIMS

Significance: Agency Priority

Legal Authority: PL 97-365; 31 USC 3711; 31 USC 3716 to 3718; 5 USC 5514; 5 USC 552a

CFR Citation: 45 CFR 1150

Legal Deadline: None.

Abstract: The proposed rule amends the National Endowment for the Arts regulation for collecting debts. Principally, the amendments implement the Debt Collection Act of 1982 (PL 97-365), which amended the Federal Claims Collection Act of 1966 (31 USC 3711, 3716-3718) to authorize among other things, charging of interest penalties and administrative costs, and the use of administrative offset, private collection agencies and credit agencies by the Government. The amendments also implement government-wide regulations issued by the Department of Justice and the General Accounting Office (49 FR 8889) and Office of Personnel Management (49 FR 27470).

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
NPRM Comment Period End	04/00/88	

Small Entity: Not Applicable

Agency Contact: Mr. Frederic R. Kellogg, General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 682-5418

RIN: 3135-AA01

3137. NONDISCRIMINATION ON THE BASIS OF AGE

Significance: Agency Priority

Legal Authority: 42 USC 6101 et seq

CFR Citation: 45 CFR 1154

Legal Deadline: None.

Abstract: This final rule prohibits discrimination on the basis of age in programs and activities receiving assistance from the National Endowment for the Arts. These regulations are issued pursuant to the requirements of the Age Discrimination Act and consistent with the general government-wide regulations issued by the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
NPRM	10/02/79	44 FR 56725
NPRM Comment Period End	11/15/79	44 FR 56725

Next Action Undetermined

Small Entity: No

Agency Contact: Mr. Frederic R. Kellogg, General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 682-5418

RIN: 3135-AA03

3138. ● CLAIMS COLLECTION: SALARY OFFSET

Legal Authority: 5 USC 5514; EO 11609 (redesignated EO 12107); 5 CFR 550, Subpart K

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: This regulation provides procedures for the collection by administrative offset of a federal employee's salary without his/her consent to satisfy certain debts owed to the Federal government. The regulation outlines certain procedural protections that must be accorded to an employee prior to commencing offset.

NEA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Murray R. Welsch, Director, Administrative Services Division, National Endowment for the Arts, 1100 Pennsylvania Ave., NW, Washington, DC 20506, 202 682-5401

RIN: 3135-AA04

[FR Doc. 87-21251 Filed 10-23-87; 8:45 am]

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Part XXIX

National Endowment for the Humanities

Semiannual Regulatory Agenda

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NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Regulations

AGENCY: National Endowment for the Humanities.

ACTION: Publication of the unified agenda of regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, and Executive Order 12291, "Federal Regulations," dated February 17, 1981, the National Endowment for the Humanities is required to publish in April and October of each year an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/786-0322.

Lynne Cheney,

Chairman.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Proposed Rule Stage

3139. STATEMENT FOR THE GUIDANCE OF THE PUBLIC - ORGANIZATION, PROCEDURES AND AVAILABILITY OF INFORMATION

Legal Authority: 5 USC 552(a)(4)(A) Freedom of Information Act

CFR Citation: 45 CFR 1100

Legal Deadline: None.

Abstract: The revised regulation will clarify the fees charged for document search and duplication. Information on the organization will be updated.

Timetable:

Action	Date	FR Cite
Being revised to implement the Freedom of Information Reform Act of 1986	04/25/87	
NPRM	05/18/87	52 FR 18585
NPRM Comment Period End	06/17/87	

Next Action Undetermined

Small Entity: No

Agency Contact: Mr. Stephen J. McCleary, Deputy General Counsel, Office of the General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 786-0322

RIN: 3136-AA03

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Final Rule Stage

3140. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS (COMMON RULE)

Legal Authority: 20 USC 959(a)(1)

CFR Citation: 45 CFR 1174

Legal Deadline: None.

Abstract: This action proposes common regulations establishing consistency and uniformity among the Federal agencies in the administration of grants and cooperative agreements to State, local, and Federally recognized Indian tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21819
NPRM Comment Period End	08/10/87	
Final Action	03/12/88	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 786-0322

RIN: 3136-AA08

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Completed Actions

3141. ● CLAIMS COLLECTION: SALARY OFFSET

Legal Authority: 5 USC 5514; EO 11809, (Redesignated EO 12107); 5 CFR 550, Subpart K

CFR Citation: 45 CFR 1179

Legal Deadline: None.

Abstract: This regulation provides procedures for the collection by administrative offset of a federal employee's salary without his/her consent to satisfy certain debts owed to the Federal government. The regulation outlines certain procedural protections that must be accorded to an employee prior to commencing offset.

Timetable:

Action	Date	FR Cite
NPRM	06/02/87	52 FR 20628
NPRM Comment Period End	07/02/87	

NEH — Completed Actions

Action	Date	FR Cite
Final Action	07/30/87	52 FR 28471

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Tracy J. Joselson, Attorney, National Endowment for the Humanities, 1100 Pennsylvania Ave., NW, Washington, DC 20506, 202 786-0322

RIN: 3136-AA07

[FR Doc. 87-21252 Filed 10-23-87; 8:45 am]

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National Science Foundation

Semiannual Regulatory Agenda

NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Federal Regulation; Semiannual Regulations Agenda

AGENCY: National Science Foundation.

ACTION: Publication of semiannual regulations agenda.

SUMMARY: The National Science Foundation (NSF) publishes its semiannual agenda of regulations under development or review as required by Executive Order 12291, Federal Regulation (46 FR 13193, February 17, 1981). This agenda has been prepared in accordance with OMB Bulletin No. 87-16, Unified Agenda of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: For additional information regarding any particular regulatory action contained in the agenda, contact the individual identified as the contact person in the agenda. Comments or inquiries of a general nature about the agenda should be directed to Sukari S. Smith, Office of the General Counsel, National Science Foundation, Washington, DC 20550, (202) 357-9435.

Dated: August 25, 1987.

Sukari S. Smith,

Regulatory Contact.

NATIONAL SCIENCE FOUNDATION (NSF) — Prerule Stage

3142. EFFECTUATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1982 (SEX DISCRIMINATION)

Legal Authority: 20 USC 1681; PL 93-568, Sec 901 to 902; PL 93-380, Sec 844

CFR Citation: 45 CFR 620, (New)

Legal Deadline: None.

Abstract: This regulation is to effectuate Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in connection with education programs and activities receiving Federal financial assistance from the National Science Foundation. Costs, if any, should be nominal since most NSF recipients are also covered by HHS regulations. Potential benefits are to ensure that any educational program or activity receiving financial assistance from NSF does not, on the basis of sex (1) exclude any person from participation in, (2) deny any person the benefits of, or subject any such person to discrimination under that program or activity.

Timetable:

Action	Date	FR Cite
Clearance with EEOC and Justice under Executive Order 12250	05/01/87	
ANPRM	07/01/87	
ANPRM Comment Period End	09/01/87	

Small Entity: No

Agency Contact: Brenda Brush, Director, Office of Equal Opportunity, National Science Foundation, 1800 G Street, NW, Washington, DC 20550, 202 357-9819

RIN: 3145-AA06

NATIONAL SCIENCE FOUNDATION (NSF) — Proposed Rule Stage

3143. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN NATIONAL SCIENCE FOUNDATION

Legal Authority: 29 USC 794; PL 95-602, Sec 504

CFR Citation: 45 CFR 606, (New); 45 CFR 86

Legal Deadline: None.

Abstract: This regulation provides for the enforcement of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the National Science Foundation. Potential costs are not known. Any benefits derived will be to ensure that the handicapped will not be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity conducted by the National Science Foundation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Brenda Brush, Director, Office of Equal Opportunity, National Science Foundation, 1800 G Street, NW, Washington, DC 20550, 202 357-9819

RIN: 3145-AA05

3144. ● NONPROCUREMENT DEBARMENT AND SUSPENSION

Legal Authority: 42 USC 1870(a); EO 12459

CFR Citation: 45 CFR 620

Legal Deadline: None.

Abstract: The regulations implement section 6 of EO 12459 and set forth criteria and procedures for debarment and suspension of individuals and organizations receiving assistance from the National Science Foundation under its nonprocurement programs and activities.

These regulations are required to be established under the guidelines issued by OMB in the May 29, 1987, Federal Register (52 F.R. 20360)

NSF — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

Additional Information: NSF is joining with other executive branch agencies in a voluntary common rulemaking. This effort is being coordinated by OMB.

Agency Contact: Arthur J. Kusinski, Assistant General Counsel, National Science Foundation, 1800 G Street, NW, Room 501, Washington, DC 20550, 202 357-9435

RIN: 3145-AA11

NATIONAL SCIENCE FOUNDATION (NSF) — Final Rule Stage

3145. PATENTS

Legal Authority: 42 USC 1870(a) The Natl. Sci. Found. Act of 1950, as amended; 35 USC 200 et seq The Bayh-Dole Act, as amended

CFR Citation: 45 CFR 650

Legal Deadline: None.

Abstract: The Bayh-Dole Act (34 USC 200 et seq) was amended by Title V of PL 98-620 (98 Stat. 3364, 3368). The Department of Commerce has prepared a Government-wide implementing regulation. The Foundation's Patents regulation (45 CFR 650) conform to it. Because the revision to the NSF Patents regulation will merely echo a Government-wide regulation on which the public will have had an opportunity to comment, the Foundation expects that the revision will be published as a final rule. No additional costs will be imposed on the public as a result of the revision.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Additional Information: The notable changes to be made in the revision of the NSF Patents regulation will be: elimination of restrictions on the licensing of NSF-supported inventions by nonprofit organizations, including universities; modification of the criteria and procedures for determining that "exceptional circumstances" warrant restricting a grantee's right to retain principal patent rights to its employees' NSF-supported inventions; and elimination of the Foundation's authority to waive the Government license and "march-in" rights in awards not subject to the Bayh-Dole Act. All these changes are required by amendments to the Bayh-Dole Act.

Agency Contact: John Chester, Intellectual Property Attorney, National Science Foundation, Office of the General Counsel, Room 501, Washington, DC 20550, 202 357-9447

RIN: 3145-AA07

NATIONAL SCIENCE FOUNDATION (NSF) — Completed Actions

3146. CIVIL RIGHTS - TITLE VI REGULATIONS

CFR Citation: 45 CFR 611

Completed:

Reason	Date	FR Cite
No action expected in next twelve months	08/27/87	

Small Entity: No

Agency Contact: Brenda Brush 202 357-9819

RIN: 3145-AA01

3147. MISCONDUCT IN SCIENCE AND ENGINEERING RESEARCH

CFR Citation: 45 CFR 689

Completed:

Reason	Date	FR Cite
Final Action	07/01/87	52 FR 24466
Final Action Effective	07/01/87	

Small Entity: No

Agency Contact: Arthur J. Kusinski 202 357-9435

RIN: 3145-AA08

[FR Doc. 87-21253 Filed 10-23-87; 8:45 am]

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Part XXXI

Office of Management and Budget

Semiannual Regulatory Agenda

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OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III

Federal Regulations; OMB Directives Included in the Semiannual Agenda of Upcoming Activities

AGENCY: Office of Management and Budget.

ACTION: Publication of semiannual agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities on OMB Circulars and Office of Federal Procurement Policy Letters (OFPP Policy Letters). This action is in accordance with OMB's internal procedures for implementing Executive Order No. 12291. OMB directives are issued under authority derived from several sources including: Subtitles I, II, and V of Title 31, United States Code, Executive Order No. 11541, and other specific authority as cited. The agenda includes actions on issuances which are not regulations, but which are of public interest.

OMB Circulars and OFPP Policy Letters are directives that communicate significant government-wide policy of a continuing nature. For purposes of this agenda, we have included Circulars and Policy Letters which are designed to implement, interpret, or prescribe law or policy, or describe the procedure or practice requirements of an agency. Excluded are directives that outline procedures to be followed in connection with the President's budget and legislative programs, and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Darrell A. Johnson (202/395-7250) at the above address.

Darrell A. Johnson,

Assistant Director for Administration.

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Prerule Stage

3148. ● POLICIES ON GOVERNMENT PUBLICATIONS (CIRCULAR NO. A-3)

Significance: Agency Priority

Legal Authority: 44 USC 1108

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: OMB Circular No. A-3, Government Publications, last revised in May 1985, prescribes policies and procedures for approving funding for government periodicals to fulfill the requirements of 44 USC 1108, and for reporting periodicals and non-recurring publications. This Circular is under review. OMB will consider modifications reflecting current policies on electronic dissemination of information.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	

Small Entity: No

Agency Contact: J. Timothy Sprehe, Room 3235 NEOB, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-4814

RIN: 0348-AA77

3149. POLICIES ON CONSTRUCTION OF FAMILY HOUSING (CIRCULAR NO. A-18)

Legal Authority: Budget and Accounting Act of 1921; See preamble

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: OMB Circular A-18, last revised in August 1967, sets forth policies for budgeting, planning, and undertaking the construction of federally-owned housing (exclusive of military barracks) for Federal personnel and for employees of Government contractors. Housing standards, concepts of living space requirements, the housing market and economic factors bearing on it have changed significantly since the Circular was last issued; and updating and revision may be appropriate.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/88	
End Review	06/01/88	

Small Entity: No

Agency Contact: David F. Baker, Assoc. Admin. for Management Controls, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-7207

RIN: 0348-AA08

3150. FEDERAL GOVERNMENT USER CHARGES POLICY (CIRCULAR NO. A-25)

Legal Authority: Budget and Accounting Act of 1921; PL 93-344; See preamble

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: General policies for Federal agencies on administering user charges and formulating legislative proposals regarding user charges are set forth in OMB Circular No. A-25. Public comments have been received on a revised draft of the Circular. They are currently being considered.

Timetable:

Action	Date	FR Cite
Draft Published for Comment	07/01/87	52 FR 24890
Considering Public Comments	11/01/87	

Small Entity: Yes

Agency Contact: Ellen Balis, Financial Economist, Office of Management and Budget, Fiscal Analysis Branch, Budget Review Division, Washington, D.C. 20503, 202 395-4574

RIN: 0348-AA41

OMB — Prerule Stage

3151. POLICY GOVERNING CHARGES FOR RENTAL QUARTERS AND RELATED FACILITIES (CIRCULAR NO. A-45)

Legal Authority: 5 USC 5911(F); EO 11609 (Section 9)

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: This policy document was revised and updated in 1984. The purpose of this review is to assure that it continues to be current.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/88	
End Review	06/01/88	
Final Action	01/01/89	

Small Entity: No

Agency Contact: David F. Baker, Assoc. Admin. for Mgmt. Controls, Office of Management and Budget, OFPP, 726 Jackson Place, Washington, D.C. 20352, 202 395-7207

RIN: 0348-AA70

3152. MAJOR SYSTEM ACQUISITIONS (CIRCULAR NO. A-109)

Legal Authority: PL 93-400; See preamble

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: Some agencies report difficulty working under the Circular. A review, in light of experience gained, is warranted with a goal of revision and simplification while maintaining the current general policy thrust of A-109.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Agency Contact: Robert Cooper, Procurement Analyst, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3300

RIN: 0348-AA12

3153. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS (CIRCULAR NO. A-110)

Legal Authority: 31 USC 65 et seq; 41 USC 401 et seq; See preamble

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: An OMB and HHS-chaired task force will review the current requirements of Circular A-110, compare them with the proposed Circular A-102 and governmentwide common rule published in the Federal Register June 9, 1987, determine the need for changes to restore uniformity, and propose a revised Circular A-110 and common rule for public comment.

Timetable:

Action	Date	FR Cite
Begin Review	06/15/87	
ANPRM	06/24/87	52 FR 23729
Next Action Undetermined		

Small Entity: No

Agency Contact: Johnathan D. Breul, Acting Deputy Associate Director for Financial Management, Office of Management and Budget, Financial Management Division, Washington, DC 20503, 202 395-3056

RIN: 0348-AA69

3154. ● POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (CIRCULAR NO. A-130)

Significance: Agency Priority

Legal Authority: 44 USC 35; 5 USC 552a; 40 USC 759; 40 USC 487; 31 USC 11

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: OMB Circular No. A-130, Management of Federal Information Resources, issued December 12, 1985, establishes policy for the management of Federal information resources, and provides certain procedural and analytic guidelines for implementing specific aspects of these policies. OMB is reviewing the Circular for certain technical adjustments, and for policies on electronic collection and dissemination of information.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	

Small Entity: No

Agency Contact: J. Timothy Sprehe, Room 3235 NEOB, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, 202 395-4814

RIN: 0348-AA75

3155. BOARD OF CONTRACT APPEALS - POSITION ALLOCATION PURSUANT TO PUBLIC LAW 95-563 (OFPP POLICY LETTER 79-2, SUPPLEMENT NO. 1)

Legal Authority: 41 USC 401 et seq; See preamble

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: The Contract Disputes Act provides for establishment of Boards of Contract Appeals (BCAs) in the various executive agencies; initial allocation of positions was made by the Administrator, OFPP, based on workload studies of existing BCAs. The Act provides for update of workload studies every three years; update of the Policy Letter appears necessary, due to update of workload studies.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/87	
Draft Policy Letter for Comment	03/01/88	
End Review	03/01/88	

Small Entity: No

Agency Contact: Allen Brown, Acting Associate Administrator for Procurement Law and Legislation, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3501

RIN: 0348-AA16

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OFFICE OF MANAGEMENT AND BUDGET (OMB) — Proposed Rule Stage

3156. WRITING AND ADMINISTERING PERFORMANCE WORK STATEMENTS (PART II OF SUPPLEMENT TO CIRCULAR NO. A-76)

Legal Authority: 31 USC 501 et seq; 41 USC 401 et seq

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: This document describes a systematic means for developing Performance Work Statements and Quality Assurance Surveillance plans for Government management of commercial activities. It also includes procedures for contracting personnel who develop, review, award, and administer service contracts.

Timetable:

Action	Date	FR Cite
Draft for Public Comment	10/00/87	
Final Action	01/00/88	

Small Entity: Yes

Agency Contact: David L. Muzio, Dep. Assoc. Adm. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6810

RIN: 0348-AA34

3157. PERFORMANCE OF COMMERCIAL ACTIVITIES (CIRCULAR NO. A-76)

Legal Authority: 31 USC 501 et seq; 41 USC 401 et seq

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: OMB Circular No. A-76, last revised in August 1983, sets forth the policy of acquiring commercial products and services from the private sector, and provides guidance on the development of performance work statements and on comparing the cost of Government performance with contractor performance. This Circular is currently under revision to incorporate changes to provide more management flexibility to directly contract certain functions and to emphasize productivity enhancement as a major theme.

Timetable:

Action	Date	FR Cite
Begin Review	09/15/84	
Draft for public comment	10/00/87	
Final Action	12/00/87	
Final Action Effective	01/00/88	

Small Entity: Yes

Agency Contact: David L. Muzio, Dep. Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6810

RIN: 0348-AA45

3158. STATISTICAL POLICY DIRECTIVES

Legal Authority: 31 USC 1104 Budget & Accounting Procedures Act 1950 (Sec 103); PL 96-511 Paperwork Reduction Act of 1980; See preamble

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: The Directives give general policies for gathering, compiling, analyzing, publishing, and disseminating statistical information by the agencies in the Executive Branch of the Federal Government. The Directives are currently under review and may be replaced by an OMB circular. Affected agencies will be consulted on proposed changes as provided in E.O. 10253.

Timetable:

Action	Date	FR Cite
Proposed Revisions for Public Comment	10/00/87	

Small Entity: No

Agency Contact: Suzann K. Evinger, Statistical Policy Analyst, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, 202 395-3093

RIN: 0348-AA43

3159. CONTROLLING PAPERWORK BURDEN ON THE PUBLIC: REGULATORY CHANGES REFLECTING AMENDMENTS TO THE PAPERWORK REDUCTION ACT

Legal Authority: 44 USC 3502(11); 44 USC 3507; 44 USC Chapter 35

CFR Citation: 5 CFR 1320

Legal Deadline: None.

Abstract: The recently enacted Paperwork Reduction Reauthorization Act of 1986 amended the Paperwork Reduction Act of 1980. The Office of Management and Budget will amend its existing paperwork clearance rules to reflect this legislative change and otherwise to improve the management of Federal paperwork.

Timetable:

Action	Date	FR Cite
NPRM	07/23/87	52 FR 27768
NPRM Comment Period End	09/21/87	
Final Action	11/00/87	

Small Entity: Yes

Agency Contact: Jefferson B. Hill, Assistant Chief, Commerce, and Lands Branch, Office of Management and Budget, 202 395-5807

RIN: 0348-AA71

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Final Rule Stage

3160. INDIRECT COST RATES, AUDIT, AND AUDIT FOLLOWUP AT EDUCATIONAL INSTITUTIONS (CIRCULAR A-88)

Legal Authority: 31 USC 65 et seq; 41 USC 401 et seq; See preamble

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: The review will develop proposed changes to the Circular needed to call for "single audit" of universities.

Timetable:

Action	Date	FR Cite
Published in the Federal Register for Public Comment	11/06/85	50 FR 46244
Circular to be issued	02/00/88	

Small Entity: No

Additional Information: Current policy for independent audits of universities is contained in Circular A-110 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations." The proposed revision will be merged with current policy for Federal audits of universities contained in Circular A-88.

Agency Contact: Jimmie D. Brown, Chief, Financial Systems and Policy Branch, Office of Management and Budget, Financial Management Division, Washington, D.C. 20503, 202 395-6823

RIN: 0348-AA68

3161. UNIFORM REQUIREMENTS FOR ASSISTANCE TO STATE AND LOCAL GOVERNMENTS (CIRCULAR NO. A-102)

Legal Authority: 31 USC 65 et seq; 42 USC 4212 et seq; 41 USC 401 et seq; See preamble

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: The purpose of the review is to develop changes to administrative policies which will further reduce the regulatory burden on State and local governments.

Timetable:

Action	Date	FR Cite
Advance Notice of Policy Review	06/18/84	49 FR 24958
Notice of Proposed Policy	06/19/87	52 FR 21816
Final Action	03/11/88	

Small Entity: No

Additional Information: On March 12, 1987, the President signed a memorandum directing the 23 grant-making agencies to simultaneously propose common grants management regulations that adopt Governmentwide terms and conditions for grants to State and local governments. Within one year the departments and agencies must issue final common rules.

Agency Contact: Jonathan D. Breul, Grants Management Projects Director, Office of Management and Budget, Financial Management Division, Washington, D.C. 20503, 202 395-3050

RIN: 0348-AA11

3162. PROMPT PAYMENT (CIRCULAR A-125)

Legal Authority: 31 USC 65 et seq; 41 USC 401 et seq; See preamble; 31 USC 3901 et seq

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: The review has been completed and the circular A-125 has been revised. It was issued in the June 9, 1987 Federal Register as an interim final rule with comments requested.

Timetable:

Action	Date	FR Cite
Review by Federal agencies	07/08/86	
Issuance of Revised Circular	06/09/87	
Analysis of Comments	12/00/87	

Small Entity: No

Agency Contact: Jack Donahue, Acting Chief, Credit and Cash Management Branch, Office of Management and Budget, Financial Management Division, Washington, D.C. 20503, 202 395-3066

RIN: 0348-AA67

[FR Doc. 87-21254 Filed 10-23-87; 8:45 am]

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Monday
October 26, 1987

Part XXXII

Office of Personnel Management

Semiannual Regulatory Agenda

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OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Office of Personnel Management regulations are scheduled for development or review from October 1, 1987, through September 30, 1988. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12291, Federal Regulation, and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: JoAnn G. Blackler, (202) 653-7252.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3163	Executive Assignment System	3206-AC03
3164	Executive and Management Development	3206-AC12
3165	Suitability -- Suitability Disqualifications/Rating Actions	3206-AC19
3166	Personnel Security and Related Programs	3206-AC21
3167	Investigations	3206-AB92

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3168	Excepted Service -- Schedule B Authority to Appoint and Convert Cooperative Education Students	3206-AD20
3169	Excepted Service -- Schedule A Authority to Appoint and Convert Presidential Management Interns	3206-AD21
3170	Employment (General); Employment Practices	3206-AB41
3171	Employment (General); Time-in-Grade Restrictions	3206-AC01
3172	Procedures for Selecting Candidates for Appointment	3206-AD18
3173	Appointment, Reassignment, Transfer, and Reinstatement in the Senior Executive Service	3206-AA09
3174	Appointment, Reassignment, Transfer and Reinstatement in the Senior Executive Service (SES Career Appointment by Reinstatement)	3206-AA11
3175	Employment in the Senior Executive Service	3206-AC81
3176	General Recruitment/Placement Principles	3206-AC07
3177	Qualifications Requirements (Medical)	3206-AA91
3178	Removal from the Senior Executive Service; Guaranteed Placement in Other Personnel Systems	3206-AA21
3179	Removal from the Senior Executive Service; Guaranteed Placement in Other Personnel Systems	3206-AA23
3180	Training	3206-AD06
3181	Performance Management System	3206-AD22
3182	Productivity Gainsharing	3206-AC71
3183	Pay Under the General Schedule; Determining Rate of Basic Pay	3206-AA32
3184	Pay Under the General Schedule; Prevailing Rate Systems; Grade and Pay Retention	3206-AC36
3185	Prevailing Rate Systems	3206-AC82
3186	Pay Under Other Systems (Pay Under the Senior Executive Service)	3206-AB29
3187	Pay Administration (General); Severance Pay	3206-AC41
3188	Pay Administration under the FLSA: Compliance	3206-AA40
3189	Processing Garnishment Orders for Child Support and/or Alimony	3206-AB42
3190	Political Activity of Federal Employees	3206-AA47
3191	Employee Responsibilities and Conduct	3206-AB66
3192	Post Employment Conflict of Interest	3206-AB12
3193	Retirement; Credit and Deposits for Military Service	3206-AB73
3194	Retirement; Disability Retirement	3206-AB77
3195	Retirement; Recovery of Annuity Overpayments	3206-AB78
3196	Federal Employees Group Life Insurance	3206-AB80
3197	Continuation of Federal Employees Health Benefits and Federal Employees Group Life Insurance Coverage under FERS	3206-AD11
3198	Federal Employees Health Benefits Program; Technical Corrections	3206-AB83
3199	Federal Employees Health Benefits for Former Spouses of CIA Employees	3206-AD28
3200	Federal Employees Health Benefits Program; Continuation of Enrollment	3206-AB88
3201	Federal Employees Health Benefits Program; Reenrollment of Certain Annuitants	3206-AD23

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Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3202	Federal Employees Health Benefits Program; Continuation of Coverage During Military Service	3206-AD24
3203	OPM Procurement Regulations	3206-AB28

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3204	Excepted Service -- Schedule A Authority for Employment of Students	3206-AD17
3205	Organization of the Government for Personnel Management; Personnel Management in Agencies	3206-AA66
3206	Performance Management System; Recordkeeping	3206-AB27
3207	Availability of Official Information	3206-AD05
3208	Protection of Privacy and Personnel Records	3206-AA70
3209	Overseas Employment	3206-AA71
3210	Noncompetitive Appointment of Certain Former Overseas Employees	3206-AD16
3211	Promotion and Internal Placement	3206-AA60
3212	Restoration to Duty from Military Service and Injury Compensation	3206-AC34
3213	Reduction in Grade and Removal Based on Unacceptable Performance	3206-AB21
3214	Eligibility of District of Columbia Government Employees for Superior Qualifications Appointments	3206-AD19
3215	Prevailing Rate Systems	3206-AC59
3216	Pay Administration (General); Overtime Pay Computation	3206-AC98
3217	Allowances and Differentials; Cost of Living Allowance and Post Differential--Nonforeign Areas	3206-AB34
3218	Absence and Leave; Coverage of D.C. Government Employees	3206-AC47
3219	Executive Personnel Financial Disclosure Requirements	3206-AA93
3220	Post Employment Conflict of Interest; 1986 Designation of Certain Positions and Agencies	3206-AD00
3221	Post Employment Conflict of Interest; 1987 Designation of Certain Positions and Agencies	3206-AD04
3222	Adverse Actions	3206-AC23
3223	Adverse Actions (Regulatory Requirements for Taking Adverse Actions Under the Senior Executive Service)	3206-AA50
3224	Retirement; Order of Precedence for Statutory Withholdings from Annuity	3206-AB70
3225	Retirement; Part-time Employees	3206-AC95
3226	Retirement; Underdeductions of Retirement Contributions	3206-AC96
3227	Retirement; Processing Court Orders for Apportionment of Civil Service Retirement System Annuity and Competing Claims for Survivor Benefits	3206-AC93
3228	Retirement; Credit for Service under CSRS for Certain Service as National Guard Technicians, Cadet Nurse, and Nonappropriated Fund Employees	3206-AD13
3229	Retirement; Credit for Service; Food Service Employees of the House of Representatives May Retain CSRS or FERS	3206-AD14
3230	Retirement; Credit for Service; Employees Who Transfer to Airports Authority	3206-AD15
3231	Retirement; Implementing Regulations for Civil Service Retirement Spouse Equity Act of 1984	3206-AB75
3232	Retirement; Law Enforcement Officers and Firefighters	3206-AB09
3233	Retirement; Deposits for Military Service	3206-AB35
3234	Civil Service Retirement, FEGLI, and FEHBP Coverage for D.C. Government Employees Hired After September 30, 1987	3206-AD09
3235	Retirement; Federal Employees' Retirement System Act of 1986	3206-AC84
3236	Continuation of Federal Employees' Group Life Insurance Coverage During Military Service	3206-AD10
3237	Standardization of Terms Used under the Federal Employees Group Life Insurance Program	3206-AD27
3238	An Additional Opportunity for Annuitants to Enroll for Federal Employees' Health Benefits Coverage	3206-AD12
3239	Credit for CHAMPUS Coverage for the Purpose of Continuing an FEHB Enrollment During Retirement	3206-AD26
3240	Federal Employees Health Benefits Program; Termination of Enrollment	3206-AB84
3241	Federal Employees Health Benefits Program; Registration and Enrollment	3206-AB87
3242	Programs for Specific Positions and Examinations (Miscellaneous) Administrative Law Judges	3206-AB91

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3243	Reduction in Force, Identification of Employees for Transfer of Function	3206-AC33
3244	Performance Management System for Prevailing Rate Employees	3206-AD01

OPM

Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3245	Payment of Travel and Transportation Expenses to First Post of Duty for New Appointees, GS-15 and Below	3206-AD02
3246	Absence and Leave; Annual and Sick Leave	3205-AA44
3247	Employee Conduct and Responsibilities	3206-AC22
3248	Retirement; Order of Precedence for Application of Service Credit Deposits	3206-AB79
3249	Retirement; Survivor Benefits	3206-AB74
3250	Reconsideration Procedures Under Either FEGLI or FEHBP Following Denial of the Opportunity to Enroll or Change Enrollment	3206-AD08
3251	Federal Employees Health Benefits Program: Impaired Doctor/Patient Relationship	3206-AC90
3252	Federal Employees Health Benefits Program; Health Benefits Plans	3206-AB86
3253	Federal Employees Health Benefits Acquisition Regulations	3206-AB07

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Prerule Stage

3163. EXECUTIVE ASSIGNMENT SYSTEM

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3324; EO 10577

CFR Citation: 5 CFR 305

Legal Deadline: None.

Abstract: Review of regulations on executive assignment system (GS-16/18). Regulations need to be reviewed in light of the establishment of the Senior Executive Service, which incorporated most GS-16/18 positions, and delegations to agencies under the CSRA.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/87	
End Review	03/00/88	

Small Entity: No

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4625

RIN: 3206-AC03

3164. EXECUTIVE AND MANAGEMENT DEVELOPMENT

Legal Authority: 5 USC 3397

CFR Citation: 5 CFR 412, Subparts A and E

Legal Deadline: None.

Abstract: Review of executive and management development program authority for possible reconstructing.

Timetable:

Action	Date	FR Cite
Begin Review	01/15/88	
End Review	05/15/88	

Small Entity: No

Agency Contact: Frank Masterson, Program Manager, Training and Development Policy, Office of Personnel Management, Training and Investigations Group, 1121 Vermont Avenue, NW; P.O. Box 7230, Washington, D.C. 20044, 202 632-6171

RIN: 3206-AC12

3165. SUITABILITY -- SUITABILITY DISQUALIFICATIONS/RATING ACTIONS

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731, Subparts B and C

Legal Deadline: None.

Abstract: Comprehensive review of suitability standards. Current revision of personnel security program by Presidentially-directed task force will likely result in the need for conforming changes in personnel suitability standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	01/01/89	

Small Entity: No

Agency Contact: Frances Sclafani, Associate Director, Training and Investigations Group, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-4426

RIN: 3206-AC19

3166. PERSONNEL SECURITY AND RELATED PROGRAMS

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None.

Abstract: Comprehensive review of security standards. Current revision of personnel security program by Presidentially-directed task force will likely result in the need for conforming changes in personnel security standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	01/01/89	

Small Entity: No

Agency Contact: Frances Sclafani, Associate Director, Training and Investigations Group, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-4426

RIN: 3206-AC21

OPM

Prerule Stage

3167. INVESTIGATIONS

Legal Authority: PL 93-579; 5 USC 522a

CFR Citation: 5 CFR 736

Legal Deadline: None.

Abstract: Review of Governmentwide background investigations standards. Current revision of personnel security program by Presidentially directed task force will likely result in the need for conforming changes in personnel investigations standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	01/01/89	

Small Entity: No

Agency Contact: Frances Sclafani, Associate Director, Training and Investigations Group, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, 202 632-4426

RIN: 3206-AB92

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Proposed Rule Stage

3168. ● EXCEPTED SERVICE -- SCHEDULE B AUTHORITY TO APPOINT AND CONVERT COOPERATIVE EDUCATION STUDENTS

Legal Authority: EO 12015

CFR Citation: 5 CFR 213.3202

Legal Deadline: None.

Abstract: Current regulations unnecessarily limit agencies' ability to make full use of cooperative education programs. Changes under consideration would increase program flexibility and effectiveness and eliminate a number of current restrictions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	06/00/88	

Small Entity: No

Agency Contact: Ken Bates, Personnel Staffing Specialist, Office of Personnel Management, Recruiting and Intake Programs Division, Career Entry Group, 1900 E St., NW; Washington, DC 20415, 202 632-0496

RIN: 3206-AD21

3169. ● EXCEPTED SERVICE -- SCHEDULE A AUTHORITY TO APPOINT AND CONVERT PRESIDENTIAL MANAGEMENT INTERNS

Legal Authority: EO 12364

CFR Citation: 5 CFR 213.3101; 5 CFR 315.708

Legal Deadline: None.

Abstract: Current regulations unduly restrict agencies' ability to make full use of Presidential Management Intern positions. Changes under consideration would increase program flexibility and eliminate a number of current restrictions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	01/00/88	

Small Entity: No

Agency Contact: Ken Bates, Personnel Staffing Specialist, Office of Personnel Management, Recruiting and Intake Programs Division, Career Entry Group, 1900 E St., NW; Washington, DC 20415, 202 632-0496

RIN: 3206-AD20

3170. EMPLOYMENT (GENERAL); EMPLOYMENT PRACTICES

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3304

CFR Citation: 5 CFR 300

Legal Deadline: None.

Abstract: Clarification of the policy and appeal procedures used in developing and implementing employment practices in the recruitment, measurement and selection of individuals for appointments and promotion within the competitive service. The proposed amendments would remove a non-statutory appeal procedure which was created to provide a simple, streamlined administrative review procedure but which has, instead, become a time-consuming, convoluted process. Additionally, the proposed changes would avoid a duplicative enforcement procedure currently subject to review by OPM and MSPB, which is, more properly, within the sole jurisdiction of the EEOC.

Timetable:

Action	Date	FR Cite
EEOC Coordination	07/01/86	
NPRM	12/00/87	

Small Entity: No

Agency Contact: James S. Green, Assistant General Counsel, Office of Personnel Management, Office of the General Counsel, 1900 E Street, NW, Washington, DC 20415, 202 632-5087

RIN: 3206-AB41

3171. EMPLOYMENT (GENERAL); TIME-IN-GRADE RESTRICTIONS

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 300, Subpart F

Legal Deadline: None.

Abstract: Regulations based on review of time-in-grade restrictions. Regulations will address inconsistencies and clarify certain provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Donald L. Holum, Chief, Staffing Policy Division, Office of Personnel Management, Career Entry Group, 1900 E Street, NW, Washington, D.C. 20415, 202 632-6817

RIN: 3206-AC01

3172. ● PROCEDURES FOR SELECTING CANDIDATES FOR APPOINTMENT

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302

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OPM — Proposed Rule Stage

CFR Citation: 5 CFR 302; 5 CFR 333

Legal Deadline: None.

Abstract: Permits agencies to rank and refer candidates for either excepted appointments or appointments outside registers in one of two ways: (1) in the same way as in the competitive service (i.e., numerical scores from 70 to 100, extra points for veterans preference, and rule of three); or (2) referral in order of veterans preference without ranking. (Currently, the first method is required for all excepted appointments, and the second method is required for all appointments outside registers.)

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Agency Contact: Tracy Spencer, Personnel Staffing Specialist, Office of Personnel Management, Staffing Policy Division, Career Entry Group, 1900 E St., NW; Washington, DC 20415, 202 632-5817

RIN: 3206-AD18

3173. APPOINTMENT, REASSIGNMENT, TRANSFER, AND REINSTATEMENT IN THE SENIOR EXECUTIVE SERVICE

Legal Authority: 5 USC 3392; 5 USC 3393; 5 USC 3394; 5 USC 3397

CFR Citation: 5 CFR 317

Legal Deadline: None.

Abstract: Proposed regulations to govern appointment actions in the SES, including establishment of qualifications standards, agency recruitment and selection procedures for career appointments, operations of OPM Qualifications Review Boards, and completion of the one-year probationary period for career appointees. Regulations are intended to set forth basic staffing requirements to assure compliance with merit system provisions and to implement staffing provisions of Pub. L. 98-615, November 8, 1984.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: Regulatory Program RIN 3206-AC81 combines this item with RINs 3206-AA21, 3206-AA23, 3206-AB29, and 3206-AA50.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4625

RIN: 3206-AA09

3174. APPOINTMENT, REASSIGNMENT, TRANSFER AND REINSTATEMENT IN THE SENIOR EXECUTIVE SERVICE (SES CAREER APPOINTMENT BY REINSTATEMENT)

Legal Authority: 5 USC 3593

CFR Citation: 5 CFR 317, Subpart G

Legal Deadline: None.

Abstract: Proposed regulations on reinstatement to an SES career appointment following (a) voluntary separation from SES, or (b) separation from a Presidential appointment of a former SES career appointee. These reinstatements are authorized by law. The regulations set the procedures for implementing the law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/05/80	45 FR 80468
NPRM	10/00/87	

Small Entity: No

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4625

RIN: 3206-AA11

3175. EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

Significance: Regulatory Program

Legal Authority: 5 USC 3392; 5 USC 3393; 5 USC 3394; 5 USC 3397; 5 USC 1302; 5 USC 3595; 5 USC 3596; 5 USC 5383; 5 USC 5385; 5 USC 7543

CFR Citation: 5 CFR 317; 5 CFR 359; 5 CFR 534; 5 CFR 752

Legal Deadline: None.

Abstract: This is a Regulatory Program entry that combines RINs 3206-AA09, 3206-AA21, 3206-AA23, 3206-AB29, and 3206-AA50.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Analyze comments	01/00/88	

Small Entity: No

Agency Contact: Kirke Harper, Director, Office of Executive Personnel, Office of Executive Administation, Office of Personnel Management, 1900 E St., N.W., Washington, DC 20415, 202 632-4466

RIN: 3206-AC81

3176. GENERAL RECRUITMENT/PLACEMENT PRINCIPLES

Legal Authority: 5 USC 1302; 5 USC 3302; 5 USC 3315; 5 USC 3502

CFR Citation: 5 CFR 330; 5 CFR 351

Legal Deadline: None.

Abstract: Proposed regulations based on review of Reemployment Priority List and Displaced Employee Program authorities. Regulations would focus on the need to provide assistance to employees in cutbacks.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Donald L. Holum, Chief, Staffing Policy Division, Office of Personnel Management, Career Entry Group, 1900 E Street, NW, Washington, D.C. 20415, 202 632-6817

RIN: 3206-AC07

3177. QUALIFICATIONS REQUIREMENTS (MEDICAL)

Legal Authority: 5 USC 3301; 5 USC 3304; 5 USC 3312

CFR Citation: 5 CFR 339

Legal Deadline: None.

Abstract: Proposed regulations to clarify procedures for establishing physical requirements for jobs and for documenting and processing disabilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

OPM — Proposed Rule Stage

Agency Contact: Raleigh Neville, Personnel Staffing Specialist, Office of Personnel Management, Staffing Policy Division, Career Entry Group, 1900 E Street, NW, Washington, DC 20415, 202 632-5817

RIN: 3206-AA91

3178. REMOVAL FROM THE SENIOR EXECUTIVE SERVICE; GUARANTEED PLACEMENT IN OTHER PERSONNEL SYSTEMS

Legal Authority: 5 USC 1302; 5 USC 3594; 5 USC 3596

CFR Citation: 5 CFR 359

Legal Deadline: None.

Abstract: Proposed regulations on (1) the removal of SES career appointees during probation or for less than fully successful executive performance, (2) the removal of other than career appointees, (3) placement rights in other personnel systems of certain SES career appointees. These actions are authorized by law. The regulations establish procedures for implementing previous law and the new Pub. L. 98-615, November 8, 1984.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/31/79	44 FR 44815
NPRM	10/00/87	

Small Entity: No

Additional Information: Regulatory Program RIN 3206-AC81 combines this item with RINs 3206-AA09, 3206-AA23, 3206-AB29, and 3206-AA50.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4625

RIN: 3206-AA21

3179. REMOVAL FROM THE SENIOR EXECUTIVE SERVICE; GUARANTEED PLACEMENT IN OTHER PERSONNEL SYSTEMS

Legal Authority: 5 USC 3595; 5 USC 3596

CFR Citation: 5 CFR 359

Legal Deadline: None.

Abstract: Proposed regulations to add a new subpart to implement Pub. L. 97-35, August 13, 1981, as amended by Pub.L. 97-346, October 15, 1982, and Pub. L. 98-615, November 8, 1984, which added provisions to Title 5 to govern SES reduction-in-force actions affecting career executives. Regulations are needed to cover certain areas not in the law, such as notification to employees and retention of records, and to implement the provisions in the law dealing with OPM's responsibility to help place career executives identified for reduction in force and with "fallback" rights following a RIF.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Additional Information: Regulatory Program RIN 3206-AC81 combines this item with RINs 3206-AA09, 3206-AA21, 3206-AB29, and 3206-AA50.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4625

RIN: 3206-AA23

3180. TRAINING

Legal Authority: 5 USC 4118

CFR Citation: 5 CFR 410

Legal Deadline: None.

Abstract: Revision of training regulations to remove obsolete or unessential reporting requirements and remove or modify any other outmoded regulation (e.g., outmoded references to training forms and provisions in Office of Management and Budget Circular A-76 which have undergone modification).

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: No

Agency Contact: Frank Masterson, Program Manager, Training and Development Policy, Office of Personnel Management, Training and Investigations Group, 1121 Vermont Avenue, NW; P.O. Box 7230, Washington, DC 20044, 202 632-6171

RIN: 3206-AD06

3181. ● PERFORMANCE MANAGEMENT SYSTEM

Legal Authority: 5 USC Ch 43; 5 USC Ch 45; 5 USC Ch 53; 5 USC Ch 54

CFR Citation: 5 CFR 430

Legal Deadline: None.

Abstract: Establishes requirements for the Performance Management Systems for General Schedule, Prevailing Rate, and SES employees. Regulations will be streamlined to eliminate impediments to management flexibility while still assuring pay-for-performance systems.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	06/00/88	

Small Entity: No

Agency Contact: Janice B. Smith, Chief, Performance Management Branch, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-7630

RIN: 3206-AD22

3182. PRODUCTIVITY GAINSHARING

Significance: Regulatory Program

Legal Authority: 5 USC Ch 45; 5 USC Ch 54

CFR Citation: 5 CFR 451

Legal Deadline: None.

Abstract: The proposed regulation would provide a framework for encouraging agency efforts to establish productivity gainsharing programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	06/00/88	

Small Entity: No

Agency Contact: James P. Hellings, Chief, Workforce Management Division, Office of Pay and Performance, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E St., NW, Washington, DC 20415, 202 632-8644

RIN: 3206-AC71

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3183. PAY UNDER THE GENERAL SCHEDULE; DETERMINING RATE OF BASIC PAY

Legal Authority: 5 USC 5305(a); 5 USC 5334(a); 5 USC 5338; EO 11721

CFR Citation: 5 CFR 531, Subpart B

Legal Deadline: None.

Abstract: Proposed regulations would restructure the General Schedule pay administration rules to clarify the flexibility agencies would have in establishing pay rates for employees upon promotion, demotion, reassignment, transfer, reemployment, or change in type of appointment. In addition, proposed regulations would revise the current regulations to conform to the principles of the Performance Management System and correct certain longstanding basic pay administration problems.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: No

Agency Contact: Jan Karicher, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW, Washington, DC 20415, 202 632-5056

RIN: 3206-AA32

3184. PAY UNDER THE GENERAL SCHEDULE; PREVAILING RATE SYSTEMS; GRADE AND PAY RETENTION

Legal Authority: 5 USC 5334(a); 5 USC 5338; 5 USC 5365

CFR Citation: 5 CFR 531; 5 CFR 532; 5 CFR 536

Legal Deadline: None.

Abstract: Under current regulations, numerous pay administration problems exist in movements between Federal pay systems. For example, the method of determining entitlement to grade retention in movements between pay systems results in unnecessary expenditures of Federal funds and false expectations for affected employees. Proposed regulations would revise definitions of "promotion" and "demotion" to improve pay administration and minimize the number of employees entitled to grade retention in movements between pay systems.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Jan Karicher, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E Street, NW; Washington, DC 20415, 202 632-5056

RIN: 3206-AC36

3185. PREVAILING RATE SYSTEMS

Significance: Regulatory Program

Legal Authority: 5 USC 5342; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None.

Abstract: Proposed rule changes would revise Monroney regulations so that only non-Department of Defense Federal Wage System positions would be covered. Legislation has removed DOD employees from Monroney.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: Allan Summers, Pay Specialist, Office of Personnel Management, Wage System Division, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-7830

RIN: 3206-AC82

3186. PAY UNDER OTHER SYSTEMS (PAY UNDER THE SENIOR EXECUTIVE SERVICE)

Legal Authority: 5 USC 5383; 5 USC 5385

CFR Citation: 5 CFR 534, Subpart D

Legal Deadline: None.

Abstract: Proposed regulations on setting individual basic pay under the SES. Regulations are needed to clarify the intent and application of 5 USC 5383(a) on changes in SES pay rates and to implement provisions in Pub. L. 98-615, November 8, 1984, on aggregate compensation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Additional Information: Regulatory Program RIN 3206-AC81 combines this item with RINs 3206-AA09, 3206-AA21, 3206-AA23, and 3206-AA50.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4625

RIN: 3206-AB29

3187. PAY ADMINISTRATION (GENERAL); SEVERANCE PAY

Legal Authority: 5 USC 5595; EO 11228

CFR Citation: 5 CFR 550, Subpart G

Legal Deadline: None.

Abstract: Proposed regulations would make eligibility for involuntary retirement and severance pay parallel, since the same circumstances give rise to both. Proposed regulations also would clarify severance pay coverage for certain employees serving under time-limited appointments and eliminate the current restriction on eligibility for severance pay for an employee who accepts an offer of employment with a private sector contractor for a Federal function.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Jan Karicher, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-5056

RIN: 3206-AC41

3188. PAY ADMINISTRATION UNDER THE FLSA: COMPLIANCE

Legal Authority: 29 USC 204(f); 5 USC 1103(a)(5)

CFR Citation: 5 CFR 551, Subpart F

Legal Deadline: None.

Abstract: Proposed new regulation to implement the FLSA Compliance Program and simplify the FLSA claims handling process.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Jack Tapping, Personnel Management Specialist, Office of Personnel Management, Personnel and Systems and Oversight Group, Agency Compliance and Evaluation, 1900 E St., NW, Washington, DC 20415, 202 632-4530

RIN: 3206-AA40

3189. PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

Legal Authority: 42 USC 659; 42 USC 661 to 662; 15 USC 1673; EO 12105

CFR Citation: 5 CFR 581

Legal Deadline: None.

Abstract: Update regulation in response to ongoing suggestions and corrections, especially changes to Appendix A which contains an obsolete list of agents designated to accept legal process.

Timetable:

Action	Date	FR Cite
NPRM	04/28/86	51 FR 15787
NPRM	09/00/87	

Small Entity: No

Agency Contact: Murray Meeker, Attorney, Office of Personnel Management, Office of the General Counsel, 1900 E Street, NW, Room 7544, Washington, DC 20415, 202 632-5090

RIN: 3206-AB42

3190. POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

Legal Authority: 5 USC 1308; 5 USC 3301; 5 USC 3302; 5 USC 7301; 5 USC 7321 to 7325; 5 USC 7327; 42 USC 2729; EO 10577 3 CFR, 1954-1958 Comp. p. 218; 5 USC 7701 et seq; EO 12107

CFR Citation: 5 CFR 733

Legal Deadline: None.

Abstract: Prescribes (1) regulations under the Hatch Act and related provisions of law that restrict the political activity of Federal employees; (2) definitional and structural revisions; and (3) possible addition and/or recision of partial exceptions by the Director for municipalities or political subdivisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: JoAnn Chabot, Attorney, Office of Personnel Management, Office of the General Counsel, 1900 E St., NW, Room 7538, Washington, DC 20415, 202 632-5030

RIN: 3206-AA47

3191. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: EO 11222; PL 95-521

CFR Citation: 5 CFR 735

Legal Deadline: None.

Abstract: Amends portions of final regulation, 5 CFR Part 735, to clarify and update general provisions dealing with employee conduct.

Timetable:

Action	Date	FR Cite
NPRM	06/02/88	
Final Action	10/02/88	

Small Entity: No

Agency Contact: Jane Ley, Staff Attorney, Office of Personnel Management, Office of Government Ethics, P.O. Box 14108, Washington, DC 20044, 202 632-5569

RIN: 3206-AB66

3192. POST EMPLOYMENT CONFLICT OF INTEREST

Legal Authority: 18 USC 207; PL 95-521

CFR Citation: 5 CFR 737

Legal Deadline: None.

Abstract: Proposed technical and conforming regulations to clarify the post employment rules.

Timetable:

Action	Date	FR Cite
NPRM	09/30/88	

Small Entity: No

Agency Contact: Gary Davis/Jane Ley, Staff Attorneys, Office of Personnel Management, Office of Government Ethics, P.O. Box 14108, Washington, DC 20044, 202 632-7642

RIN: 3206-AB12

3193. RETIREMENT; CREDIT AND DEPOSITS FOR MILITARY SERVICE

Legal Authority: PL 97-253, Sec 306(b); PL 98-94, Sec 1257; PL 98-369, Sec 2205

CFR Citation: 5 CFR 831, Subparts C and U

Legal Deadline: None.

Abstract: Public Laws 97-253, 98-94, and 98-369 amend the provisions of the retirement law that deal with crediting military service and making deposits for military service. Proposed regulations would revise the affected regulations to implement these laws.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	01/00/88	

Small Entity: No

Agency Contact: John A. Elliott, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-4682

RIN: 3206-AB73

3194. RETIREMENT; DISABILITY RETIREMENT

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart L

Legal Deadline: None.

Abstract: Comprehensive revision of disability retirement regulations to clarify (1) OPM'S authority to find a disability annuitant recovered from a disability when the annuitant is reemployed in the Federal service in a position equivalent in grade to the one from which he or she retired, and (2) the rules used to determine whether a disability annuitant has been restored to earning capacity.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	02/00/88	

Small Entity: No

Agency Contact: John A. Elliott, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206-AB77

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3195. RETIREMENT; RECOVERY OF ANNUITY OVERPAYMENTS

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart M

Legal Deadline: None.

Abstract: Proposed regulations to add further guidelines on debt collection activities under the Debt Collection Act of 1982. Current regulations need to be expanded to (1) exclude collections made by Treasury under 31 CFR 210.10 from OPM procedures for recovery of debts, and (2) add provisions for collecting debts due the Civil Service Retirement Fund from a deceased debtor.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	06/00/88	

Small Entity: No

Agency Contact: Patricia A. Rochester, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., N.W.; Washington, D.C. 20415, 202 632-4682

RIN: 3206-AB78

3196. FEDERAL EMPLOYEES GROUP LIFE INSURANCE

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873

Legal Deadline: None.

Abstract: Technical and conforming amendments to bring current regulations up to date by correcting reference errors, deleting obsolete provisions, etc.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Bonnie Rose, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, D.C. 20415, 202 632-4634

RIN: 3206-AB80

3197. CONTINUATION OF FEDERAL EMPLOYEES HEALTH BENEFITS AND FEDERAL EMPLOYEES GROUP LIFE INSURANCE COVERAGE UNDER FERS

Legal Authority: 5 USC 8913; 5 USC 8716

CFR Citation: 5 CFR 890; 5 CFR 870

Legal Deadline: None.

Abstract: Regulations to specify that individuals entitled to immediate or survivor annuities under the new Federal Employees Retirement System (FERS) and former spouses entitled to annuity payments under FERS may continue their coverage under the Federal Employees Health Benefits and the Federal Employees Group Life Insurance Programs under the same conditions as apply to individuals under the traditional Civil Service Retirement System. This is provided under Public Law 99-335, enacted on June 6, 1986.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: No

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD11

3198. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; TECHNICAL CORRECTIONS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None.

Abstract: Technical and conforming amendments to bring current regulations up to date by correcting errors, deleting obsolete provisions, etc.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Barbara Myers, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD28

3200. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; CONTINUATION OF ENROLLMENT

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart C

Legal Deadline: None.

Abstract: Proposed regulations to reflect established OPM practice of allowing surviving family members to continue FEHBP participation under multiple enrollments in split-award survivor annuity cases. If multiple enrollments are not allowed, certain eligible family members might lose FEHBP coverage.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD29

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Bonnie Rose, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AB88

3201. ● FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; REENROLLMENT OF CERTAIN ANNUITANTS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart C

Legal Deadline: None.

Abstract: Proposed regulations to permit reenrollment of annuitants who cancelled FEHB enrollment to enroll in a Health Maintenance Organization or Competitive Medical Plan under a Medicare risk contract and need to return to FEHB coverage.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Barbara Myers, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD23

3202. ● FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; CONTINUATION OF COVERAGE DURING MILITARY SERVICE

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart C

Legal Deadline: None.

Abstract: Proposed regulations to permit employees who enter military service on active duty or active duty for training to continue their FEHB coverage for up to one year.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Barbara Myers, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD24

3203. OPM PROCUREMENT REGULATIONS

Legal Authority: 48 CFR Chapter 1

CFR Citation: 48 CFR 17

Legal Deadline: None.

Abstract: Regulations to implement and supplement the Federal Acquisition Regulations (FAR). The FAR were effective April 1, 1984.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Robert Lawshe, Chief, Acquisition Branch, Office of Personnel Management, Acquisition Branch, Room 1466, 1900 E Street, NW, Washington, DC 20415, 202 254-8492

RIN: 3206-AB26

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Final Rule Stage

3204. ● EXCEPTED SERVICE — SCHEDULE A AUTHORITY FOR EMPLOYMENT OF STUDENTS

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 213

Legal Deadline: None.

Abstract: Permits agencies to appoint student assistants under Schedule A section 213.3102(q) to positions outside the General Schedule.

Timetable:

Action	Date	FR Cite
NPRM	06/17/87	52 FR 23040
Final Action	10/00/87	

Small Entity: No

Agency Contact: Tracy Spencer, Personnel Staffing Specialist, Office of Personnel Management, Staffing Policy Division, Career Entry Group, 1900 E St., NW; Washington, DC 20415, 202 632-6817

RIN: 3206-AD17

3205. ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT; PERSONNEL MANAGEMENT IN AGENCIES

Legal Authority: 5 USC 1104; 5 USC 1302; 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 230; 5 CFR 250

Legal Deadline: None.

Abstract: Deletes Part 230 and transfers its regulations to Part 250, to maintain parallel structure with 5 U.S.C. Combines material formerly in Part 230 with regulations now found in Part 250 to present all regulations on agencies' authorities for personnel management in a single part of the Code of Federal Regulations. Changes improve the technical integrity of the CFR by eliminating redundancies and improving the efficiency of OPM's regulations. No change in the coverage or substance of affected regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/20/83	48 FR 22728
Final Action	10/30/88	

Small Entity: No

Agency Contact: Walter Townsend, Program Analyst, Office of Personnel Management, Analysis and Evaluation Division, Administration Group, 1900 E St., NW, Washington, DC 20415, 202 653-6341

RIN: 3206-AA66

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OPM — Final Rule Stage

3206. PERFORMANCE MANAGEMENT SYSTEM; RECORDKEEPING

Legal Authority: 5 USC 552; 5 USC 4302a; 5 USC 4315; EO 12107; 5 USC 1103; 5 USC 1104; 5 USC 1302; 5 CFR 7.2; EO 9830

CFR Citation: 5 CFR 293

Legal Deadline: None.

Abstract: This section establishes requirements for the Performance Management System on filing and transfer of performance records. The proposed regulation is a technical change that would bring the OPF subpart into conformance with the EPF subpart, indicating that performance ratings of records, and the performance plans on which they are based, may be filed in either the OPF or the EPF.

Timetable:

Action	Date	FR Cite
NPRM	03/11/86	51 FR 8422
Final Action	12/00/87	

Small Entity: No

Agency Contact: Janice B. Smith, Chief, Performance Management Branch, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-7130

RIN: 3206-AB27

3207. AVAILABILITY OF OFFICIAL INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 294

Legal Deadline: Statutory, April 25, 1987.

Abstract: Pursuant to the promulgation of new guidelines by the Director of the Office of Management and Budget, the Freedom of Information Reform Act of 1986 requires each agency to specify (a) the schedule of fees applicable to the processing of FOIA requests and (b) procedures and guidelines for determining when fees should be waived or reduced.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/22/87	52 FR 13215
Final Action	09/00/87	

Small Entity: No

Agency Contact: William C. Duffy, Chief, Information Plans and Policies Division, Office of Personnel Management, Administration Group, 1900 E Street, NW; Room 6410, Washington, DC 20415, 202 632-7714

RIN: 3206-AD05

3208. PROTECTION OF PRIVACY AND PERSONNEL RECORDS

Legal Authority: 5 USC 552a

CFR Citation: 5 CFR 297

Legal Deadline: None.

Abstract: The proposed regulations would revise regulations implementing the Privacy Act (5 U.S.C. 552a) to reflect any changes resulting from case law or OPM policy and remove unnecessary material.

Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 28833
Final Action	01/00/88	

Small Entity: No

Agency Contact: John Sanet, Information Specialist, Office of Personnel Management, Office of Workforce Information, Personnel Systems and Oversight Group, 1900 E St., NW, Washington, DC 20415, 202 632-4455

RIN: 3206-AA70

3209. OVERSEAS EMPLOYMENT

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 301

Legal Deadline: None.

Abstract: Deletes prohibition on agency use of overseas limited appointments in certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33548
Final Action	10/00/87	

Small Entity: No

Agency Contact: Ed McHugh, Personnel Staffing Specialist, Office of Personnel Management, Staffing Policy Division, Career Entry Group, 1900 E St., NW, Washington, DC 20415, 202 632-6817

RIN: 3206-AA71

3210. ● NONCOMPETITIVE APPOINTMENT OF CERTAIN FORMER OVERSEAS EMPLOYEES

Legal Authority: EO 12585

CFR Citation: 5 CFR 315

Legal Deadline: None.

Abstract: Regulations to implement Executive Order 12585, which revised appointment criteria of Executive Order 12362. The regulations authorize Federal agencies to make appointments under the criteria of E.O. 12585. Family members (of U.S. Government personnel) who work overseas while accompanying their sponsors on official assignment are eligible for noncompetitive appointment to civil service positions when they return to the United States. Family members must have 18 months of creditable overseas service and may be appointed within the 3-year period following their return to the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/30/87	52 FR 15706
Final Action	10/00/87	

Small Entity: No

Agency Contact: Ellen Russell, Personnel Staffing Specialist, Office of Personnel Management, Staffing Policy Division, Career Entry Group, 1900 E St., NW; Washington, DC 20415, 202 632-6817

RIN: 3206-AD16

3211. PROMOTION AND INTERNAL PLACEMENT

Significance: Regulatory Program

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 335

Legal Deadline: None.

Abstract: Proposed regulations to revise the Federal Merit Promotion Program to strengthen management rights, and clarify important concepts.

Timetable:

Action	Date	FR Cite
NPRM	11/07/86	51 FR 40436
Analyze comments	02/28/87	
Final Action	12/00/87	

Small Entity: No

OPM — Final Rule Stage

Agency Contact: Raleigh M. Neville, Personnel Staffing Specialist, Office of Personnel Management, Staffing Policy Division, Career Entry Group, 1900 E Street, NW, Washington, DC 20415, 202 632-6817

RIN: 3206-AA90

3212. RESTORATION TO DUTY FROM MILITARY SERVICE AND INJURY COMPENSATION

Legal Authority: 38 USC 2021 et seq; 5 USC 8151

CFR Citation: 5 CFR 353

Legal Deadline: None.

Abstract: Complete revision of Part 353 to update, simplify, and clarify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/10/87	52 FR 11657
Final Action	10/00/87	

Small Entity: No

Agency Contact: Raleigh Neville, Personnel Staffing Specialist, Office of Personnel Management, Staffing Policy Division, Career Entry Group, 1900 E St., NW; Washington, DC 20415, 202 632-6817

RIN: 3206-AC34

3213. REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Legal Authority: 5 USC 4303; 5 USC 4305

CFR Citation: 5 CFR 432

Legal Deadline: None.

Abstract: Proposed regulations would clarify the procedures agencies must follow in removing or reducing in-grade employees whose performance is unacceptable. These changes are necessary due to changing legal requirements brought about by court decisions and OPM interpretations of 5 U.S.C. chapter 43 requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/23/87	52 FR 5463
Final Action	10/00/87	

Small Entity: No

Agency Contact: Tim Dirks, Chief, Employee Relations Division, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E Street, NW, Washington, DC 20415, 202 653-8551

RIN: 3206-AB21

3214. ● ELIGIBILITY OF DISTRICT OF COLUMBIA GOVERNMENT EMPLOYEES FOR SUPERIOR QUALIFICATIONS APPOINTMENTS

Legal Authority: 5 USC 5333

CFR Citation: 5 CFR 531

Legal Deadline: None.

Abstract: Permits District of Columbia Government employees to be appointed to positions at grades GS-11 and above at rates above the first step of the grade based on their superior qualifications. (Current requirement in section 531.203(b) for a 90-day break in service following D.C. Government employment has been made obsolete by the Home Rule Act.)

Timetable:

Action	Date	FR Cite
NPRM	08/12/87	52 FR 29862
Final Action	11/00/87	

Small Entity: No

Agency Contact: Tracy Spencer, Personnel Staffing Specialist, Office of Personnel Management, Staffing Policy Division, Career Entry Group, 1900 E St., NW; Washington, DC 20415, 202 632-6817

RIN: 3206-AD19

3215. PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None.

Abstract: Proposed rule changes would revise Monroney regulations to limit the use of private sector specialized industry data obtained outside a wage area in setting pay rates for positions in that area.

Timetable:

Action	Date	FR Cite
NPRM	10/08/85	50 FR 40979
Final Action	03/00/88	

Small Entity: No

Agency Contact: Allan Summers, Pay Specialist, Office of Personnel Management, Wage Systems Division, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-7830

RIN: 3206-AC59

3216. PAY ADMINISTRATION (GENERAL); OVERTIME PAY COMPUTATION

Legal Authority: 5 USC 5548

CFR Citation: 5 CFR 550, Subpart A

Legal Deadline: None.

Abstract: Final regulations would clearly distinguish between overtime work in excess of 8 hours in a day outside the basic 40-hour workweek and overtime work in excess of 8 hours in a day within the basic 40-hour workweek. This change would correct a recent Comptroller General decision that results in an improper payment for overtime work for employees on unusual work schedules.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17762
Final Action	11/00/87	

Small Entity: No

Agency Contact: Edward I. Magee, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-5858

RIN: 3206-AC98

3217. ALLOWANCES AND DIFFERENTIALS; COST OF LIVING ALLOWANCE AND POST DIFFERENTIAL—NONFOREIGN AREAS

Legal Authority: 5 USC 5941; EO 10000

CFR Citation: 5 CFR 591, Subpart B

Legal Deadline: None.

Abstract: Comprehensive revision of regulations to reflect revised methodology used to establish nonforeign cost-of-living allowances. (See Alaniz v. Office of Personnel Management, 728 F. 2d 1460 (Fed. Cir. 1984).)

Timetable:

Action	Date	FR Cite
NPRM	10/21/85	50 FR 42531
Final Action	12/00/87	

Small Entity: No

Agency Contact: Barry E. Shapiro, Deputy Assistant Director, Office of

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Pay and Performance, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E Street, NW, Washington, DC 20415, 202 632-7858

RIN: 3206-AB34

3218. ABSENCE AND LEAVE; COVERAGE OF D.C. GOVERNMENT EMPLOYEES

Legal Authority: 5 USC 6311; DC Law 2-139, as amended

CFR Citation: 5 CFR 630

Legal Deadline: None.

Abstract: Current regulations contain obsolete references to D.C. government employees, who are no longer covered by chapter 63 of title 5 of the United States Code. Final regulations would delete these obsolete references.

Timetable:

Action	Date	FR Cite
NPRM	02/27/85	50 FR 7922
Final Action	09/00/88	

Small Entity: No

Agency Contact: Frank Derby, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Performance, Personnel Systems and Oversight Group, 1900 E St., NW; Washington, DC 20415, 202 632-5056

RIN: 3206-AC47

3219. EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 5 USC App 207(a); PL 95-521

CFR Citation: 5 CFR 735

Legal Deadline: None.

Abstract: Proposed new regulation to supersede portions of 5 CFR Part 735 dealing with confidential financial disclosure for grades below GS-16.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Analyze comments	05/31/87	
Final Action	12/01/87	

Small Entity: No

Agency Contact: David H. Martin, Director, Office of Government Ethics, Office of Personnel Management, P.O. Box 14108, Washington, DC 20044, 202 632-2782

RIN: 3206-AA93

3220. POST EMPLOYMENT CONFLICT OF INTEREST; 1986 DESIGNATION OF CERTAIN POSITIONS AND AGENCIES

Legal Authority: 18 USC 207(b)(1)(c); PL 95-521

CFR Citation: 5 CFR 737

Legal Deadline: None.

Abstract: Final regulation to meet the annual requirement to designate senior employees (for CY 1986) who are subject to the conflict-of-interest provisions of the Ethics in Government Act.

Timetable:

Action	Date	FR Cite
Final Action	09/00/87	

Small Entity: No

Agency Contact: Gary Davis/Bob Flynn, Staff Attorney/Management Analyst, Office of Personnel Management, Office of Government Ethics, P.O. Box 14108, Washington, DC 20044, 202 632-7642

RIN: 3206-AD00

3221. POST EMPLOYMENT CONFLICT OF INTEREST; 1987 DESIGNATION OF CERTAIN POSITIONS AND AGENCIES

Legal Authority: 18 USC 207(b)(1)(c); PL 95-521

CFR Citation: 5 CFR 737

Legal Deadline: None.

Abstract: Final regulation to meet the annual requirement to designate senior employees (for CY 1987) who are subject to the conflict-of-interest provisions of the Ethics in Government Act.

Timetable:

Action	Date	FR Cite
Final Action	07/00/88	

Small Entity: No

Agency Contact: Gary Davis/Bob Flynn, Staff Attorney/Management Analyst, Office of Personnel Management, Office of Government Ethics, P.O. Box 14108, Washington, DC 20044, 202 632-7642

RIN: 3206-AD04

3222. ADVERSE ACTIONS

Legal Authority: 5 USC 7504; 5 USC 7514

CFR Citation: 5 CFR 752

Legal Deadline: None.

Abstract: Revisions to current regulations would clarify agency authorities and obligations in taking adverse actions by incorporating recent decisions of the courts and further explaining existing policy in regard to agencies and employees' responsibilities and rights in situations involving adverse actions.

Timetable:

Action	Date	FR Cite
NPRM	03/27/87	52 FR 9867
Final Action	10/00/87	

Small Entity: No

Agency Contact: Tim Dirks, Chief, Employee Relations Division, Office of Personnel Management, Personnel Systems and Oversight Group, 1900 E Street, N.W., Washington, D.C. 20415, 202 653-8551

RIN: 3206-AC23

3223. ADVERSE ACTIONS (REGULATORY REQUIREMENTS FOR TAKING ADVERSE ACTIONS UNDER THE SENIOR EXECUTIVE SERVICE)

Legal Authority: 5 USC 7543

CFR Citation: 5 CFR 752, Subpart F

Legal Deadline: None.

Abstract: Final regulations on (1) suspensions for more than 14 days and (2) removal from the civil service of SES career appointees. These actions were authorized by Pub. L. 95-454 (October 13, 1978), which was amended by Pub. L. 97-35 (August 13, 1981) and Pub. L. 98-615 (November 8, 1984). The regulations establish procedures for implementing the law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/31/79	44 FR 44818
NPRM	05/30/86	51 FR 19554
Final Action	09/00/87	

Small Entity: No

Additional Information: Regulatory Program RIN 3206-AC61 combines this item with RINs 3206-AA09, 3206-AA21, 3206-AA23, and 3206-AB29.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4625

RIN: 3206-AA50

3224. RETIREMENT; ORDER OF PRECEDENCE FOR STATUTORY WITHHOLDINGS FROM ANNUITY

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart A

Legal Deadline: None.

Abstract: Regulations to improve administration of the Civil Service Retirement and Disability Fund by establishing a uniform order of precedence for purposes of offsetting civil service annuity benefits to satisfy statutory obligations, such as state income tax withholding requests and court orders directing apportionment or garnishment of such benefits. Regulations would consolidate disparate rules and practices which have developed for determining the net annuity available for offset for various purposes.

Timetable:

Action	Date	FR Cite
NPRM	05/06/86	51 FR 16701
Final Action	12/00/87	

Small Entity: No

Agency Contact: Ray Kirk, Supervisory Paralegal Specialist, Acting Chief, Retirement Policy Division, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., N.W.; Washington, D.C. 20415, 202 632-4682

RIN: 3206-AB70

3225. RETIREMENT; PART-TIME EMPLOYEES

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart A

Legal Deadline: None.

Abstract: Final regulation to implement new method of computing annuities of part-time employees, as enacted by Pub. L. 99-272, to pro-rate the benefit.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/15/87	52 FR 1621
Final Action	12/00/87	

Small Entity: No

Agency Contact: John A. Elliott, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206-AC95

3226. RETIREMENT; UNDERDEDUCTIONS OF RETIREMENT CONTRIBUTIONS

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart A

Legal Deadline: None.

Abstract: Regulations to establish procedures for correcting errors resulting in underdeductions of civil service retirement contributions. Agencies would be required to submit the agency's contribution and employees would have the option to make a deposit at any time prior to retirement.

Timetable:

Action	Date	FR Cite
NPRM	05/21/87	52 FR 19150
Final Action	12/00/87	

Small Entity: No

Agency Contact: Patricia Rochester, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206-AC96

3227. RETIREMENT; PROCESSING COURT ORDERS FOR APPORTIONMENT OF CIVIL SERVICE RETIREMENT SYSTEM ANNUITY AND COMPETING CLAIMS FOR SURVIVOR BENEFITS

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subparts A and Q

Legal Deadline: None.

Abstract: Regulations to establish streamlined procedures for handling court orders for apportionment of civil service retirement annuity and competing claims for survivor benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/30/86	51 FR 47021
Final Action	09/00/87	

Small Entity: No

Agency Contact: Patricia A. Rochester, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206-AC93

3228. RETIREMENT; CREDIT FOR SERVICE UNDER CSRS FOR CERTAIN SERVICE AS NATIONAL GUARD TECHNICIANS, CADET NURSE, AND NONAPPROPRIATED FUND EMPLOYEES

Legal Authority: 5 USC 8347; PL 99-638; PL 99-661

CFR Citation: 5 CFR 831, Subpart C

Legal Deadline: Statutory, January 10, 1987. Deadline for PL 99-638 is January 10, 1987. Deadline for PL 99-661 is October 1, 1987.

Abstract: Public Laws 99-638 and 99-661 provide that service performed as a National Guard technician prior to 1968 or two or more years of service in the Cadet Nurse Corps during World War II may be creditable service if certain conditions are met. Public Law 99-638 also extends CSRS service credit to certain nonappropriated fund employees who were employed after June 18, 1952, and before January 1, 1966, and who were subject to CSRS on November 9, 1986. The regulations implement the new provisions of law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/06/87	52 FR 3785
Final Action	10/00/87	

Small Entity: No

Agency Contact: Patricia Rochester, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206-AD13

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3229. RETIREMENT; CREDIT FOR SERVICE; FOOD SERVICE EMPLOYEES OF THE HOUSE OF REPRESENTATIVES MAY RETAIN CSRS OR FERS

Legal Authority: 5 USC 8347; PL 99-500

CFR Citation: 5 CFR 831, Subpart C

Legal Deadline: None.

Abstract: Food service employees of the House of Representatives who lose their Federal jobs but remain employed by the private contractor assuming the House food services operations may elect to retain retirement coverage under CSRS or FERS. OPM must, in consultation with the Architect of the Capitol, prescribe implementing regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/87	52 FR 5069
Final Action	09/00/87	

Small Entity: No

Agency Contact: John Elliott, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206-AD14

3230. RETIREMENT; CREDIT FOR SERVICE; EMPLOYEES WHO TRANSFER TO AIRPORTS AUTHORITY

Legal Authority: 5 USC 8347; PL 99-500

CFR Citation: 5 CFR 831, Subpart C

Legal Deadline: None.

Abstract: The Metropolitan Airports Transfer Act of 1986 provides that any Federal employee who transfers to the Airports Authority and who on the day before the date the lease takes effect is subject to CSRS or FERS may retain that coverage so long as continually employed by the Airports Authority. The regulations implement the new provisions of law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/87	52 FR 5069
Final Action	11/00/87	

Small Entity: No

Agency Contact: John Elliott, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206-AD15

3231. RETIREMENT; IMPLEMENTING REGULATIONS FOR CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984

Legal Authority: 5 USC 8347; PL 98-615

CFR Citation: 5 CFR 831, Subparts F, Q, and T

Legal Deadline: None.

Abstract: The Civil Service Retirement Spouse Equity Act of 1984 includes provisions for new benefits available to former spouses of deceased Federal employees and provisions governing survivor benefits for current spouses. These regulations are necessary to implement the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/85	50 FR 20064
Interim Final Rule -- Revised	09/08/86	51 FR 31927
Final Action	12/00/87	

Small Entity: No

Agency Contact: Patricia A. Rochester, Paralegal Specialist, Retirement and Insurance Group, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-4662.

RIN: 3206-AB75

3232. RETIREMENT; LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

Legal Authority: 5 USC 8347; 5 USC 8336(c)

CFR Citation: 5 CFR 831, Subpart I

Legal Deadline: None.

Abstract: Current regulations do not adequately articulate the criteria for determining whether an employee meets the statutory definition of "law enforcement officer" or "firefighter." Regulations would clarify the criteria used by OPM to establish eligibility of employees under the special retirement provisions for law enforcement officers and firefighters.

Timetable:

Action	Date	FR Cite
NPRM	12/19/86	51 FR 45471
Final Action	09/00/87	

Small Entity: No

Agency Contact: Ray Kirk, Supervisory Paralegal Specialist, Acting Chief, Retirement Policy Division, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E Street, NW; Washington, DC 20415, 202 632-4682

RIN: 3206-AB09

3233. RETIREMENT; DEPOSITS FOR MILITARY SERVICE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart U

Legal Deadline: None.

Abstract: Final regulations to extend eligibility to make deposits for military service to separated individuals who were prevented from making a timely deposit due to administrative error or misinformation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/84	49 FR 20631
Final Action	11/00/87	

Small Entity: No

Agency Contact: John A. Elliott, Paralegal Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4682

RIN: 3206-AB35

3234. CIVIL SERVICE RETIREMENT, FEGLI, AND FEHBP COVERAGE FOR D.C. GOVERNMENT EMPLOYEES HIRED AFTER SEPTEMBER 30, 1987

Legal Authority: 5 USC 8347; 5 USC 8716; 5 USC 8913

CFR Citation: 5 CFR 831; 5 CFR 870; 5 CFR 890

Legal Deadline: None.

Abstract: Regulations to specify that D.C. Government employees first hired after September 30, 1987, are excluded from Civil Service Retirement coverage and participation under the Federal Employees' Group Life Insurance and the Federal Employees' Health Benefits

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Programs by virtue of Public Law 99-335, enacted on June 6, 1986.

Timetable:

Action	Date	FR Cite
NPRM	05/08/87	52 FR 17387
Final Action	10/00/87	

Small Entity: No

Agency Contact: Eleanor Goodwin, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD09

3235. RETIREMENT; FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 841 to 846

Legal Deadline: None. New system took effect January 1, 1987.

Abstract: Final regulations to implement the statutory provision for a new Federal Employees' Retirement System and conforming changes to the current Civil Service Retirement System.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/86	51 FR 47185
Interim Final Rule	01/16/87	52 FR 2056
Interim Final Rule	02/11/87	52 FR 4472
Final Action	03/31/88	

Small Entity: No

Agency Contact: Mary Sugar, FERS Task Force, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-5560

RIN: 3206-AC94

3236. CONTINUATION OF FEDERAL EMPLOYEES' GROUP LIFE INSURANCE COVERAGE DURING MILITARY SERVICE

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: None.

Abstract: Interim regulations, with a period of time provided for comments, to specify that coverage under the Federal Employees' Group Life Insurance Program may now be continued for up to 12 months for an employee who enters the military on active duty or active duty for training in the same way coverage is continued in other types of non-pay status. This change was effected by Public Law 99-335, enacted on June 6, 1986.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/15/87	52 FR 12133
Final Action	09/00/87	

Small Entity: No

Agency Contact: Barbara Myers, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD10

3237. ● STANDARDIZATION OF TERMS USED UNDER THE FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870; 5 CFR 874

Legal Deadline: None.

Abstract: Provides uniform definitions for such terms as "child" and "parent" which appear in the statutory order of precedence for making payments under the Federal Employees Group Life Insurance (FEGLI) Program. These regulations would present a standardized approach to inheritance rights under the FEGLI Program no matter where the potential heirs might reside.

Timetable:

Action	Date	FR Cite
NPRM	08/04/87	52 FR 28841
Final Action	12/00/87	

Small Entity: No

Agency Contact: John Ray, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD27

3238. AN ADDITIONAL OPPORTUNITY FOR ANNUITANTS TO ENROLL FOR FEDERAL EMPLOYEES' HEALTH BENEFITS COVERAGE

Legal Authority: 5 USC 8716; 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None.

Abstract: These regulations would permit an annuitant who is covered by the FEHB enrollment of another person to enroll for self only or self and family coverage in the same plan and option when the covering enrollment is cancelled. The existing regulations currently permit only active employees to take such actions.

Timetable:

Action	Date	FR Cite
NPRM	05/07/87	52 FR 17300
Final Action	10/00/87	

Small Entity: No

Agency Contact: John Ray, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD12

3239. ● CREDIT FOR CHAMPUS COVERAGE FOR THE PURPOSE OF CONTINUING AN FEHB ENROLLMENT DURING RETIREMENT

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None.

Abstract: These regulations would clarify OPM's intention to no longer allow credit for time spent under CHAMPUS when considering whether a retiring employee has been enrolled or covered by an FEHB plan for a sufficient period of time prior to retirement. CHAMPUS time would not be credited for individuals retiring on or after January 1, 1993.

Timetable:

Action	Date	FR Cite
NPRM	05/21/87	52 FR 19151
Final Action	10/00/87	

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Small Entity: No

Agency Contact: John Ray, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AD26

3240. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; TERMINATION OF ENROLLMENT

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart A

Legal Deadline: None.

Abstract: Regulations to extend OPM'S authority to terminate an individual's enrollment in an FEHB group practice comprehensive medical plan to include individual practice comprehensive medical plans and mixed-model medical plans.

Timetable:

Action	Date	FR Cite
NPRM	06/26/87	52 FR 24014
Final Action	10/00/87	

Small Entity: No

Agency Contact: Bonnie R. Rose, Pay and Benefits Specialist, Office of Personnel Management, Office of Retirement and Insurance Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AB84

3241. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; REGISTRATION AND ENROLLMENT

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart C

Legal Deadline: None.

Abstract: Regulations to allow an employee or annuitant to change to self and family coverage if a non-federally employed spouse or former spouse loses non-Federal health insurance coverage under certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	06/12/87	52 FR 22475
Final Action	11/00/87	

Small Entity: No

Agency Contact: Barbara Myers, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Retirement and Insurance Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AB87

3242. PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS) ADMINISTRATIVE LAW JUDGES

Legal Authority: 5 USC 553-9; 5 USC 1104(a)(2); 5 USC 1305; 5 USC 3105; 5 USC 3344; 5 USC 4301(2)(d); 5 USC 5335(a)(3)(B); 5 USC 5372; 5 USC 7521

CFR Citation: 5 CFR 930, Subpart B

Legal Deadline: None.

Abstract: Update and clarification of OPM regulations governing examining and employment of Administrative Law Judges. These regulations have not been reviewed as a whole for many years and contain out-of-date terminology.

Timetable:

Action	Date	FR Cite
NPRM	03/20/87	52 FR 8909
Final Action	09/00/87	

Small Entity: No

Agency Contact: Craig B. Pettibone, Assistant Director for, Administrative Law Judges, Office of Personnel Management, Career Entry Group, 1900 E Street, N.W., Washington, D.C. 20415, 202 632-5677

RIN: 3206-AB91

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Completed Actions

3243. REDUCTION IN FORCE, IDENTIFICATION OF EMPLOYEES FOR TRANSFER OF FUNCTION

CFR Citation: 5 CFR 351

Completed:

Reason	Date	FR Cite
Final Action	03/30/87	52 FR 10023
Final Action Effective	04/29/87	

Small Entity: No

Agency Contact: Tom Glennon 202 632-6817

RIN: 3206-AC33

3244. PERFORMANCE MANAGEMENT SYSTEM FOR PREVAILING RATE EMPLOYEES

Significance: Regulatory Program

CFR Citation: 5 CFR 430

Completed:

Reason	Date	FR Cite
Withdrawn	05/30/87	

Small Entity: No

Agency Contact: Claudia Cooley 202 632-5796

RIN: 3206-AD01

3245. PAYMENT OF TRAVEL AND TRANSPORTATION EXPENSES TO FIRST POST OF DUTY FOR NEW APPOINTEES, GS-15 AND BELOW

CFR Citation: 5 CFR 572

Completed:

Reason	Date	FR Cite
Final Action	06/04/87	52 FR 28815
Final Action Effective	09/03/87	

Small Entity: No

Agency Contact: Tracy Spencer 202 632-6817

RIN: 3206-AD02

3246. ABSENCE AND LEAVE; ANNUAL AND SICK LEAVE

CFR Citation: 5 CFR 630, Subparts A to E

Completed:

Reason	Date	FR Cite
Withdrawn	07/24/87	

Small Entity: No

OPM — Completed Actions

Agency Contact: James Matteson 202 632-5056

RIN: 3206-AA44

3247. EMPLOYEE CONDUCT AND RESPONSIBILITIES

CFR Citation: 5 CFR 735

Completed:

Reason	Date	FR Cite
Withdrawn	08/20/87	

Small Entity: No

Agency Contact: Stuart D. Rick 202 632-5030

RIN: 3206-AC22

3248. RETIREMENT; ORDER OF PRECEDENCE FOR APPLICATION OF SERVICE CREDIT DEPOSITS

CFR Citation: 5 CFR 831

Completed:

Reason	Date	FR Cite
Final Action	08/27/87	
Final Action Effective	09/28/87	

Small Entity: No

Agency Contact: Ray Kirk 202 632-4682

RIN: 3206-AB79

3249. RETIREMENT; SURVIVOR BENEFITS

CFR Citation: 5 CFR 831, Subpart F

Completed:

Reason	Date	FR Cite
Final Action	03/31/87	52 FR 10215
Final Action Effective	04/30/87	

Small Entity: No

Agency Contact: Ray Kirk 202 632-4682

RIN: 3206-AB74

3250. RECONSIDERATION PROCEDURES UNDER EITHER FEGLI OR FEHBP FOLLOWING DENIAL OF THE OPPORTUNITY TO ENROLL OR CHANGE ENROLLMENT

CFR Citation: 5 CFR 870; 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	07/06/87	52 FR 25197
Final Action Effective	08/05/87	

Small Entity: No

Agency Contact: John Ray 202 632-4634

RIN: 3206-AD08

3251. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: IMPAIRED DOCTOR/PATIENT RELATIONSHIP

CFR Citation: 5 CFR 890.103

Completed:

Reason	Date	FR Cite
Withdrawn (Action taken under RIN 3206-AB84.)	08/07/87	

Small Entity: No

Agency Contact: Bonnie Rose 202 632-4634

RIN: 3206-AC90

3252. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; HEALTH BENEFITS PLANS

CFR Citation: 5 CFR 890, Subpart B

Completed:

Reason	Date	FR Cite
Final Action	06/26/87	52 FR 23933
Final Action Effective	07/27/87	

Small Entity: No

Agency Contact: John Ray 202 632-4634

RIN: 3206-AB86

3253. FEDERAL EMPLOYEES HEALTH BENEFITS ACQUISITION REGULATIONS

CFR Citation: 48 CFR 16

Completed:

Reason	Date	FR Cite
Final Action	05/01/87	52 FR 16032
Final Action Effective	01/01/87	

Small Entity: No

Agency Contact: Mary Ann Mercer 202 632-4634

RIN: 3206-AB07

[FR Doc. 87-21255 Filed 10-23-87; 8:45 am]

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Part XXXIII

Panama Canal Commission

Semiannual Regulatory Agenda

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PANAMA CANAL COMMISSION (PANAMA)

PANAMA CANAL COMMISSION

35 CFR Ch. I

Unified Agenda of Federal Regulations

AGENCY: Panama Canal Commission.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Panama Canal Commission. This information will allow the public to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project. For general information, contact Michael Rhode, Jr., Secretary, Panama Canal Commission, 2000 L Street, NW., Suite 550, Washington, DC 20036-4996, (202) 634-6441 TDD; or John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, APO Miami 34011-5000.

SUPPLEMENTARY INFORMATION: Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. require that executive agencies publish in the **Federal Register** a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the agency's regulatory review and development process. This agenda was prepared under the guidelines established by OMB Bulletin No. 87-16.

Dated: August 26, 1987.

Michael Rhode, Jr.,

Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Prerule Stage

3254. ● TOLLS FOR USE OF CANAL

Significance: Agency Priority

Legal Authority: PL 96-70, Sec 1601

CFR Citation: 35 CFR 133, (Revision)

Legal Deadline: None.

Abstract: Due to operating cost increases, including inflation, since the last toll rate increase (March 1983), the Panama Canal Commission is currently considering increasing the rates of tolls charged vessels transiting the Canal. An approximate 9% increase may be proposed effective in FY 1989 to achieve the Commission's regulatory requirement to recover from users all costs of operating and maintaining the waterway.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Michael Rhode, Jr., Secretary, Panama Canal Commission, 2000 L Street NW, Suite 550, Washington, DC 20036-4996, 202 634-6441

RIN: 3207-AA04

PANAMA CANAL COMMISSION (PANAMA) — Proposed Rule Stage

3255. ● CLASSIFIED INFORMATION

Legal Authority: EO 12356

CFR Citation: 35 CFR 60, (Revision)

Legal Deadline: None.

Abstract: The Panama Canal Commission proposes to revise 35 CFR 60 which governs its use of security information to incorporate certain provisions of Presidential Executive Order 12356.

Timetable:

Action	Date	FR Cite
NPRM	04/01/88	

Small Entity: No

Agency Contact: Thomas C. Duty, Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011-5000, 202 634-6441

RIN: 3207-AA01

3256. PANAMA CANAL COMMISSION ACQUISITION REGULATION

Significance: Agency Priority

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR Chapter 35

Legal Deadline: None.

Abstract: The proposed regulation sets forth policies and procedures of the Panama Canal Commission for the acquisition of supplies and services, including construction. The regulation implements and supplements the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	

Small Entity: Undetermined

Agency Contact: R. D. Morgan, Procurement Executive, Panama Canal Commission, APO Miami 34011-5000, 202 634-6441

RIN: 3207-AA10

3257. ● PRIVACY ACT SYSTEMS OF RECORDS

Legal Authority: 5 USC 552

CFR Citation: 35 CFR 10, (Revisions)

Legal Deadline: None.

Abstract: The Panama Canal Commission is required by the Privacy Act of 1974, 5 USC 552a(e)(4), to give annual notice in the Federal Register of the existence and character of the systems of records it maintains.

Timetable:

Action	Date	FR Cite
NPRM	11/01/87	

Small Entity: No

Agency Contact: Thomas C. Duty, Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011-5000, 202 634-6441

RIN: 3207-AA15

PANAMA — Proposed Rule Stage

3258. ● EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: 22 USC 3622

CFR Citation: 35 CFR 255, (Revision)

Legal Deadline: None.

Abstract: The Panama Canal Commission proposes to amend its regulations to implement the Ethics in Government Act, the Commission's Code of Conduct as approved by its Board of Directors, and supplementary regulations that clarify certain provisions of the Code of Conduct.

Timetable:

Action	Date	FR Cite
NPRM	02/01/88	

Small Entity: No

Agency Contact: Thomas C. Duty, Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011-5000, 202 634-6441

RIN: 3207-AA16

PANAMA CANAL COMMISSION (PANAMA) — Final Rule Stage

3259. IMPLEMENTATION OF THE FOI REFORM ACT OF 1986 AND REVISIONS TO THE FEE SCHEDULE OF THE FOIA

Legal Authority: 5 USC 552

CFR Citation: 35 CFR 9A, (Revision)

Legal Deadline: None.

Abstract: The Panama Canal Commission proposes to amend its regulations to implement the Freedom of Information Reform Act of 1986 and to update its fee schedule for Freedom of Information and Privacy Act requests. These proposed changes would identify different types of requestors and bring the fees into conformance with current costs incurred by the agency in processing requests.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/20/87	
Interim Final Rule Comment Period Ends	10/19/87	

Small Entity: No

Agency Contact: Thomas C. Duty, Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011, 202 634-6441

RIN: 3207-AA13

PANAMA CANAL COMMISSION (PANAMA) — Completed Actions

3260. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PANAMA CANAL COMMISSION PROGRAMS

CFR Citation: 35 CFR 257

Completed:

Reason	Date	FR Cite
Final Action	07/10/87	52 FR 26001

Small Entity: No

Agency Contact: John L. Haines, Jr. 202 634-6441

RIN: 3207-AA08

[FR Doc. 87-21256 Filed 10-23-87; 8:45 am]

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Part XXXIV

Peace Corps

Semiannual Regulatory Agenda

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PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Executive Order 12291, Federal Regulations, Semiannual Agenda of Regulations

AGENCY: Peace Corps.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 12-month period from October 1, 1987 through September 30, 1988. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the Agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Robert Martin, Associate General Counsel, Peace Corps, 806 Connecticut Avenue, NW., Washington, DC 20526, (202) 254-3114.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291, Federal Regulations, and the Regulatory Flexibility Act (5 U.S.C. 605) executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by Peace Corps are not "major" rules within the meaning of E.O. 12291 and no Regulatory Impact Analysis is required. Peace Corps has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public; and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required under 5 U.S.C. 602.

Margaret H. Thome,
Acting Associate Director for Management.

PEACE CORPS (PEACE) — Proposed Rule Stage

3261. EMPLOYEE DISCRIMINATION COMPLAINT PROCEDURE

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 22 CFR 310

Legal Deadline: None.

Abstract: Comprehensive regulations for processing individual and class EEO complaints of Peace Corps employees. Under development.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Not Applicable

Agency Contact: H. Zeke Rodriguez, Equal Opportunity Manager, Peace Corps, 806 Connecticut Avenue, NW, Washington, DC 20526, 202 254-8320

RIN: 0420-AA01

3262. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURES

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 22 CFR 306

Legal Deadline: None.

Abstract: Comprehensive regulations for processing individual and class EEO complaints of Peace Corps Volunteers. Under development.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Not Applicable

Agency Contact: H. Zeke Rodriguez, Equal Opportunity Manager, Peace Corps, 806 Connecticut Avenue, NW, Room M-1107, Washington, DC 20526, 202 254-8320

RIN: 0420-AA02

3263. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504 - HANDICAPPED DISCRIMINATION PROHIBITION

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 311

Legal Deadline: None.

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) which prohibits discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: No

Agency Contact: John Scales, General Counsel, Peace Corps, 806 Connecticut Avenue, NW, Room M-1207, Washington, DC 20526, 202 254-3114

RIN: 0420-AA03

PEACE CORPS (PEACE) — Completed Actions

3264. COLLECTION OF CLAIMS BY ADMINISTRATIVE OFFSET

CFR Citation: 22 CFR 309

Completed:

Reason	Date	FR Cite
Final Action	04/30/87	52 FR 15719
Final Action Effective	04/30/87	

Small Entity: Not Applicable

Agency Contact: Richard M. Brewer 202 254-6794

RIN: 0420-AA00

3265. PEACE CORPS STANDARDS OF CONDUCT

Significance: Agency Priority

CFR Citation: 22 CFR 307

Completed:

Reason	Date	FR Cite
Final Action	08/13/87	52 FR 30151
Final Action Effective	08/13/87	

Small Entity: Not Applicable

Agency Contact: Randi Greenwald 202 254-3114

RIN: 0420-AA04

[FR Doc. 87-21257 Filed 10-23-87; 8:45 am]

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Part XXXV

Pennsylvania Avenue Development Corporation

Semiannual Regulatory Agenda

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PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC)

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Ch. IX

Unified Agenda of Federal Regulations

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: This document sets forth the Pennsylvania Avenue Development Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The Agenda lists regulations currently under rulemaking review that PADC expects to have as a final rule during the next twelve months.

FOR FURTHER INFORMATION CONTACT: Talbot J. Nicholas II, Attorney, Office of the General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, NW., Washington, DC 20004; (202) 724-9088.

Dated: August 20, 1987.

M. J. Brodie,

Executive Director, Pennsylvania Avenue Development Corporation.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Prerule Stage

3266. ● DEVELOPMENT POLICIES AND PROCEDURES

Legal Authority: 40 USC 875(5)

CFR Citation: 36 CFR 911, (New)

Legal Deadline: None.

Abstract: The Corporation is studying ways to apply past experience to update its Development Policies and Procedures.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Madeleine B. Schaller, Deputy General Counsel, Pennsylvania Avenue Development Corporation, 1331 Pennsylvania Avenue, NW, Suite 1220 North, Washington, DC 20004, 202 724-9088

RIN: 3208-AA06

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Proposed Rule Stage

3267. PROCEDURES AND UNIFORM STANDARDS FOR PUBLIC USE OF PARKS AND PLAZAS

Legal Authority: 40 USC 875(5)

CFR Citation: 36 CFR 912

Legal Deadline: None.

Abstract: The Pennsylvania Avenue Development Corporation (PADC) has received an increasing number of requests for public use of parks and plazas within the Pennsylvania Avenue Development Area. The proposed regulations would ensure equality of opportunity for use of PADC parks and plazas while protecting public property, safety, and tranquility.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Madeleine B. Schaller, Deputy General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, NW, Washington, DC 20004, 202 724-9088

RIN: 3208-AA01

3268. PRIVACY ACT UPDATE; DISCLOSURES OF PERSONAL INFORMATION DURING LITIGATION

Legal Authority: 5 USC 552(a); 40 USC 870

CFR Citation: 36 CFR 903

Legal Deadline: None.

Abstract: These regulations adopt rules regarding the routine use of records contained in PADC record systems for disclosure to the Department of Justice and to PADC during the course of litigation. The regulations are intended to make nonconsensual disclosure of personal information routinely used in litigation more consistent with the requirements of the Privacy Act.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/85	50 FR 45841
Comment Period End		
NPRM	11/04/85	50 FR 45841

Next Action Undetermined

Small Entity: No

Agency Contact: Talbot J. Nicholas II, Attorney, Pennsylvania Avenue Development Corporation, 1331 Pennsylvania Avenue, NW, Suite 1220 North, Washington, DC 20004, 202 724-9088

RIN: 3208-AA04

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Completed Actions

3269. ● FREEDOM OF INFORMATION ACT; TRADE SECRETS OR FINANCIAL INFORMATION THAT IS PRIVILEGED OR CONFIDENTIAL

Significance: Agency Priority

Legal Authority: EO 12600

CFR Citation: 36 CFR 902.54

Legal Deadline: None.

Abstract: This addition to the FOIA regulation implements the President's Executive Order requiring Federal agencies to establish predisclosure notification procedures governing FOIA requests for release of records containing confidential commercial and financial information disclosure of which can reasonably be expected to result in substantial competitive harm to the submitter.

Timetable:

Action	Date	FR Cite
NPRM	04/24/87	52 FR 13722
Final Action	07/16/87	52 FR 26677

Small Entity: No

Agency Contact: Talbot J. Nicholas II, Attorney, Pennsylvania Avenue Development Corporation, 1331 Pennsylvania Avenue, NW, Suite 1220 North, Washington, DC 20004, 202 724-9088

RIN: 3208-AA07

[FR Doc. 87-21258 Filed 10-23-87; 8:45 am]

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Part XXXVI

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

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PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Agenda of regulations.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or that PBGC expects to have under development during the next twelve months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESS: Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact J. Ronald Goldstein, Attorney, Office of the General Counsel, 202-778-8850. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's Order on Federal Regulation, Executive Order 12291, 46 FR 13193, each agency is required to publish in April and October an agenda of regulations currently or soon to be under development. The Executive Order requires that the agenda also include those currently effective regulations that are being reviewed by the agency pursuant to the Executive Order. The Regulatory Flexibility Act, Pub. L. 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines (OMB Bulletin No. 87-16) prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next twelve months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

3270. TRANSFERS FROM MULTIEMPLOYER PLANS TO SINGLE-EMPLOYER PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1412; 29 USC 1414

CFR Citation: 29 CFR 2678

Legal Deadline: None.

Abstract: Sections 4232 and 4234 of ERISA prescribe rules governing the transfer of liabilities and assets from a multiemployer plan to a single-employer plan and prohibit certain transfers unless approved by PBGC. The regulation will establish procedures for requesting and criteria for PBGC approval of transfers which require approval and guidelines for satisfying the statutory requirements pertaining to other transfers. The regulation will also establish standards for the PBGC's waiver of a multiemployer plan's contingent liability arising from the transfer of unfunded vested benefits to a single-employer plan.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
NPRM Comment Period End	03/00/88	

Small Entity: No

Additional Information: Publication of this proposed regulation has been delayed because of the need to revise the portions dealing with waiver of a multiemployer plan's contingent liability to reflect certain changes in related statutory provisions made by the Single-Employer Pension Plan Amendments Act of 1986.

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA20

3271. ADJUSTMENT OF WITHDRAWAL LIABILITY FOR A WITHDRAWAL SUBSEQUENT TO A PARTIAL WITHDRAWAL

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1386(b)

CFR Citation: 29 CFR 2649

Legal Deadline: None.

Abstract: Under section 4206(b) of ERISA, if an employer partially or completely withdraws from a multiemployer plan subsequent to an earlier partial withdrawal from that plan, the employer's liability for the second withdrawal must be reduced by the amount of its liability for the earlier partial withdrawal. The purpose of this credit is to avoid plans double-charging employers for the same unfunded liabilities. Section 4206(b) also requires the PBGC to prescribe regulations adjusting this credit to ensure that the employer's liability for its second withdrawal properly reflects the employer's share of liability with respect to the plan.

The need for this adjustment to the credit can be seen from the following example. In a plan that uses the rolling-5 allocation method, an employer's withdrawal liability is based on its last five years' participation in the plan. If an employer's second withdrawal occurs more than five years after its partial withdrawal, the liability for the second withdrawal is based solely on plan participation subsequent to the partial (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/06/87	52 FR 37329
NPRM Comment Period End	12/07/87	

Small Entity: No

Additional Information: ABSTRACT CONT: withdrawal. Thus, there is no double-charging with respect to the old liabilities and no reason to give the employer a credit against its liability for the second withdrawal. However, without this regulation, the employer would get that credit under the statute. There are many other possible situations in which the employer's credit should similarly be reduced in order to ensure equitable treatment of the withdrawing employer vis-a-vis the other employers still contributing to the plan.

This regulation will result in some shifting of liabilities among employers contributing to a multiemployer plan. An employer that has another withdrawal following a partial withdrawal may incur greater liability for the second withdrawal because of the reduction in the credit for the prior partial withdrawal. However, this increase in liability would reduce the unfunded vested benefits allocable to other employers that withdraw thereafter. In the aggregate, the regulation will impose no new costs.

Agency Contact: Ms. Debra Bisco, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8824

RIN: 1212-AA37

3272. PLAN RULES FOR REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1387(b)

CFR Citation: 29 CFR 2647 (Amendment)

Legal Deadline: None.

Abstract: Under section 4207(a) of ERISA, the PBGC has issued a regulation (29 CFR Part 2647) providing for the reduction or waiver of an employer's liability for complete withdrawal upon the employer's resumption of participation under the plan from which it withdrew. The statute also requires the PBGC to prescribe procedures and standards under which multiemployer plans may adopt their own rules abating complete withdrawal liability upon an employer's return to the plan (section 4207(b)).

The purpose of letting plans adopt their own abatement rules is obvious: a specific rule adopted by a plan may well work better under the facts and circumstances of that particular plan than the broad rules adopted by the PBGC. This regulation will permit a plan to fashion the rules it needs to encourage the return of withdrawn employers, while at the same time protecting the plan from the loss of withdrawal liability payments without a compensating resumption of contributions to the plan by a formerly withdrawn employer. The PBGC is unable to (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	
NPRM Comment Period End	03/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: quantify the benefits and costs of this regulation because it cannot predict how many plans will exercise the authority conferred by this regulation.

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA38

3273. DETERMINATION OF WITHDRAWAL LIABILITY FOLLOWING A MERGER

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1391(f)

CFR Citation: 29 CFR 2642 (Amendment)

Legal Deadline: None.

Abstract: The merger of two multiemployer plans creates a problem as to how the successor plan's unfunded vested benefits are to be allocated in order to determine withdrawal liability for post-merger withdrawals. Frequently, the two plans will have been using different allocation methods prior to the merger. Even if they were using the same method, if they had different plan years, that would create different allocations.

For this reason, section 4211(f) of ERISA requires the PBGC to issue regulations prescribing rules for the post-merger allocation of unfunded vested benefits. The PBGC proposes to establish rules that parallel the statutory allocation methods: i.e., there would be a presumptive allocation method that would apply to plans unless they chose otherwise, and plans would be permitted to adopt certain modifications to this presumptive method without the PBGC's approval and other more significant modifications with the PBGC's approval. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	12/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: This regulation will remove a significant impediment to multiemployer plan mergers by eliminating employers' concern and confusion over how their withdrawal liability would be calculated after a merger. Plan mergers are generally to be encouraged since a larger plan is typically a stronger plan because of its broader contribution base, and because portability of benefits is increased. This regulation will impose no new costs.

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA39

3274. ALLOCATING UNFUNDED VESTED BENEFITS: FULLY FUNDED PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341(c)

CFR Citation: 29 CFR 2642

Legal Deadline: None.

Abstract: In a notice published in the FEDERAL REGISTER on December 31, 1986 (51 FR 47342), the PBGC issued its interpretation that ERISA section 4211 does not permit the assessment of withdrawal liability against an employer by a multiemployer plan that had no unfunded vested benefits as of the end of the plan year preceding the employer's withdrawal. This interpretation raises certain questions as to the proper manner of applying the allocation methods prescribed in section 4211(b) and (c)(2) by a plan that at one time was fully funded, but is no longer. The PBGC plans to issue a

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PBGC — **Proposed Rule Stage**

proposed amendment to its regulation on allocating unfunded vested benefits dealing with this issue.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	
NPRM Comment Period End	07/00/88	

Small Entity: No

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counselons Department, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA51

3275. VALUATION OF PLAN BENEFITS IN SINGLE-EMPLOYER PLANS

Legal Authority: 29 USC 1302; 29 USC 1341; 29 USC 1344; 29 USC 1362

CFR Citation: 29 CFR 2619

Legal Deadline: None.

Abstract: This rule would amend PBGC's regulation on Valuation of Plan Benefits in Single-Employer Plans, 29 CFR Part 2619. That regulation sets forth the rules for valuing benefits in terminating plans that are covered by the insurance program under ERISA, which valuation is needed to determine if plan assets are sufficient to provide for plan benefits and to properly allocate assets to those benefits. After review of this regulation pursuant to Executive Order 12291, the PBGC is amending the rules for valuing benefits payable as lump sums upon termination. The effect of this amendment is to prescribe a new standard for the interest rates used to value lump sums that are paid in lieu of annuities, and to require that in valuing involuntary lump sums, pre-retirement mortality is to be disregarded. The amendment is needed to protect recipients of lump sum distributions from loss of benefit value resulting from the use of inappropriate valuation methods.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
NPRM Comment Period End	01/00/88	

Small Entity: No

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA26

3276. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1342

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042 of ERISA, it pays benefits to participants pursuant to plan provisions and section 4022 of ERISA. This regulation will contain rules and policies relating to the payment of such benefits. The regulation will enable the PBGC to process and administer PBGC-trusteed plans more efficiently with resultant cost savings. It also will reduce costs to the public and the PBGC by providing payment rules, thereby reducing the number of requests for administrative review.

Timetable:

Action	Date	FR Cite
NPRM	04/00/89	
NPRM Comment Period End	06/00/88	

Small Entity: No

Agency Contact: Mr. Harold Ashner, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8823

RIN: 1212-AA35

3277. RETIREMENT EQUITY ACT AMENDMENTS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1341; 29 USC 1344

CFR Citation: 29 CFR 2613; 29 CFR 2618; 29 CFR 2619

Legal Deadline: None.

Abstract: Part 2613 of the PBGC's regulations defines "nonforfeitable" and "guaranteed" benefits for the purposes of Title IV of ERISA. Part 2618 implements the statutory rules for allocating plan assets to pay benefits upon plan termination. Part 2619 prescribes rules for valuing plan benefits, including rules for determining the form of benefit to be valued. Each of these regulations is effected by the Retirement Equity Act of 1984 ("REA").

REA provides that certain early retirement benefits and retirement-type subsidies and optional benefit forms will be treated as accrued benefits, and that their elimination will be treated as an impermissible reduction in accrued benefits. These amendments will conform PBGC's regulations to the provisions of REA. The amendments will impose no new costs on plans and may alleviate administrative burdens by providing definitive rules.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	
NPRM Comment Period End	06/00/88	

Small Entity: No

Agency Contact: Mrs. Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA36

3278. EMPLOYER LIABILITY FOR WITHDRAWALS FROM AND TERMINATIONS OF SINGLE-EMPLOYER PLANS: INTEREST RATE

Legal Authority: 29 USC 1302(b); 29 USC 1362 to 1364; 29 USC 1367 to 1368

CFR Citation: 29 CFR 2622

Legal Deadline: None.

Abstract: The PBGC's employer liability regulation incorporates by reference the interest rate charged under section 6601 of the Internal Revenue Code as the interest rate charged, or credited, on late payments, or overpayments, of employer liability. The Tax Reform Act of 1986 significantly changed the way in which the section 6601 rate is established and creates two interest rates: one for underpayments and another, lower rate for overpayments. Because of these changes, the PBGC plans to conduct a new rulemaking proceeding to determine whether it should continue to use the section 6601 interest rates under the employer liability regulation or whether it should adopt a new rate(s) for this purpose.

PBGC — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
NPRM Comment Period End	02/00/88	

Small Entity: No

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA48

3279. DISTRESS TERMINATIONS OF SINGLE-EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: PL 99-272, Sec 11007; PL 99-272, Sec 11009

CFR Citation: 29 CFR 2616

Legal Deadline: None.

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 substantially revised ERISA section 4041 dealing with the voluntary termination of single-employer pension plans. Under amended section 4041, unless a plan has sufficient assets to satisfy all plan benefit commitments, it may voluntarily terminate only in a "distress" termination; i.e., a termination in which the plan sponsor and the substantial members of its controlled group are able to demonstrate either such financial hardship or unduly burdensome pension costs that, as a practical matter, the sponsor is unable to continue to maintain the plan. The statutory rules and procedures for distress terminations are substantially different from the prior rules and procedures for terminating insufficient plans. Therefore, it is necessary to revise the PBGC's plan termination regulations to reflect these new rules and procedures. This regulation covering distress terminations and a companion rule covering standard terminations (to be codified in Part 2617) will replace the PBGC's principal termination regulations on notices of intent to terminate and termination of sufficient plans (existing Parts 2616 and 2617).

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33318
NPRM Comment Period End	11/02/87	
Final Action	07/00/88	

Small Entity: No

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA41

3280. STANDARD TERMINATIONS OF SINGLE-EMPLOYER PLANS

Significance: Regulatory Program

Legal Authority: PL 99-272, Sec 11007; PL 99-272, Sec 11008

CFR Citation: 29 CFR 2617

Legal Deadline: None.

Abstract: Under the Single-Employer Pension Plan Amendments Act of 1986, absent a showing of financial hardship or unduly burdensome pension costs that would satisfy the requirements for a distress termination, a single-employer plan my be voluntarily terminated only if it is sufficient for all benefit commitments (i.e., all nonforfeitable benefits). This is referred to as a "standard" termination. The Act also modifies many of the termination rules and procedures that applied under prior law, both to increase the protections afforded plan participants and beneficiaries and to simplify and expedite the PBGC's processing of these sufficient plan terminations. It is, therefore, necessary to promulgate this new regulation implementing SEPPAA's new rules and procedures for standard terminations. This regulation and its companion regulation covering distress terminations (to be codified in Part 2616) will replace the PBGC's principal termination regulations on notices of intent to terminate and termination of sufficient plans (existing Parts 2616 and 2617).

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33318
NPRM Comment Period End	11/02/87	
Final Action	07/00/88	

Small Entity: No

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA47

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Final Rule Stage

3281. RULES UNDER SECTIONS 4041A AND 4281 FOR PLANS TERMINATED BY MASS WITHDRAWAL

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1341A ERISA; 29 USC 1441 ERISA

CFR Citation: 29 CFR 2675

Legal Deadline: None.

Abstract: Section 4041A of ERISA provides rules with respect to the termination of multiemployer plans and the payment of benefits under those plans. Under section 4041A(f)(2), PBGC is authorized to prescribe rules for the administration of those plans that are appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the insurance system. Under section 4281(b), the plan sponsor of a plan that has terminated by mass withdrawal is required annually to determine the value of the plan's nonforfeitable benefits and assets. If the value of the benefits exceeds the value of the assets, the sponsor must amend the plan to eliminate benefits not eligible for PBGC's guarantee under section 4022A(b), to the extent necessary to insure that the plan assets are sufficient to pay all nonforfeitable benefits. This determination of sufficiency is to be made in accordance with rules prescribed by PBGC. This regulation would establish the rules for administering plans that have terminated by mass withdrawal, including the rules for determining sufficiency in the circumstances described above. The primary purpose (cont)

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Timetable:

Action	Date	FR Cite
NPRM	07/07/86	51 FR 24536
NPRM Comment Period End	09/05/86	
Final Action	11/00/87	
Final Action Effective	12/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: and benefit of this regulation will be to establish rules that encourage the efficient administration of these plans. By thus helping to preserve plan assets, these rules will, in the first instance, benefit plan participants and beneficiaries and secondarily, the multiemployer insurance system and premium payers. PBGC lacks adequate data to be able to quantify these benefits.

Agency Contact: J. Ronald Goldstein, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA19

3282. ALLOCATING UNFUNDED VESTED BENEFITS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1391(c)

CFR Citation: 29 CFR 2642

Legal Deadline: None.

Abstract: On January 19, 1981, PBGC issued an interim regulation dealing with alternative methods for allocating unfunded vested benefits in multiemployer pension plans. PBGC now plans to re-promulgate that regulation in order to correct ambiguities that have arisen under it, to conform the procedures contained in it to other PBGC regulations, and to reduce the information reporting requirements in the regulation. The regulation will impose no new costs on the public and may reduce costs for plans adopting certain alternative allocation rules by reducing the reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/09/85	50 FR 36603
NPRM Comment Period End	11/08/85	
Final Action	10/00/87	
Final Action Effective	11/00/87	

Small Entity: No

Agency Contact: Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA21

3283. REDUCTION OR WAIVER OF PARTIAL WITHDRAWAL LIABILITY

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b)(3); 29 USC 1388(e)(3)

CFR Citation: 29 CFR 2646

Legal Deadline: None.

Abstract: Section 4208 of ERISA provides for the reduction or elimination under certain circumstances of an employer's partial withdrawal liability arising from a 70 percent reduction in contribution base units. That section also authorizes the PBGC to prescribe rules for the reduction or elimination of partial withdrawal liability under other conditions. The regulation will provide for the abatement of partial withdrawal liability arising from the cessation of the obligation to contribute under a collective bargaining agreement or with respect to a facility. Section 4208 also requires the PBGC to issue a regulation under which a multiemployer plan may adopt rules for the reduction or elimination of partial withdrawal liability. This regulation will allow plans to ease the statutory partial withdrawal liability rules where, for example, the rules are harmful to the plan because they discourage an employer from increasing its participation under the plan, or where the statutory rules create administrative burdens which outweigh the protections afforded by the rules.

Timetable:

Action	Date	FR Cite
NPRM	06/05/87	52 FR 21319
NPRM Comment Period End	08/04/87	
Final Action	03/00/88	
Final Action Effective	11/00/87	

Small Entity: No

Agency Contact: Ms. Debra Bisco, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8824

RIN: 1212-AA22

3284. THE RETIREMENT EQUITY ACT AMENDMENTS: CASH-OUT LIMITATION

Legal Authority: 29 USC 1302(b); 29 USC 1341; 29 USC 1344; 29 USC 1362; PL 99-272, Sec 11008 to 11009; PL 99-272, Sec 11011

CFR Citation: 29 CFR 2613; 29 CFR 2617; 29 CFR 2619

Legal Deadline: None.

Abstract: The PBGC's guaranteed benefits regulation (29 CFR Part 2613) provides that the PBGC will not pay lump sum benefits under insufficient plans unless the value of the benefit is $1,750 or less. Similarly, the plan sufficiency and valuation of benefits regulations (29 CFR Parts 2617 and 2619) permit plan administrators of terminating sufficient plans to pay lump sum benefits without a participant's consent if the value of the benefit is $1,750 or less. This $1,750 limit corresponds to the "cash-out" provisions in ERISA section 204(d) and Internal Revenue Code section 411(b)(7)(B). These provisions were amended by the Retirement Equity Act of 1984 to raise the cash-out limit to $3,500, in recognition of the effects of inflation on the value of small pension benefits. The PBGC believes that the same consideration supports its raising the lump sum limitation in these several regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/12/86	51 FR 44798
NPRM Comment Period End	02/10/87	
Final Action	10/00/87	

Small Entity: No

Additional Information: This amendment had previously been included in RIN 1212-AA36, "Retirement Equity Act Amendments". However, that project is large and complex, and therefore, those amendments will not be issued for some time. The PBGC believes that the interest of plan participants is best served by splitting out this one amendment so that it may be issued more quickly.

Agency Contact: Mrs. Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA49

3285. ● PAYMENT OF PREMIUMS

Significance: Agency Priority

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 2610

Legal Deadline: None. When legislation is finally enacted, it may contain a deadline, but none exists currently.

Abstract: Congress is currently considering, as part of the budget reconciliation, legislation to increase the premium paid by single-employer plans, and, perhaps, to change the way the premium is determined as well. Any change in the premium will necessitate conforming amendments to the PBGC's regulation on payment of premiums. The PBGC currently anticipates that the new premium would be effective for plan years beginning on or after January 1, 1988.

Timetable:

Action	Date	FR Cite
Final Action	01/00/88	

Small Entity: Not Applicable

Agency Contact: Mrs. Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, D.C. 20006, 202 778-8850

RIN: 1212-AA53

3286. MISCELLANEOUS SEPPAA AMENDMENTS

Significance: Regulatory Program

Legal Authority: 29 USC 1302(b); 29 USC 1322; 29 USC 1343; 29 USC 1344; 29 USC 1362 to 1364; 29 USC 1367 to 1368; PL 99-272, Sec 11008 to 11011; PL 99-272, Sec 11016

CFR Citation: 29 CFR 2606; 29 CFR 2615; 29 CFR 2622; 29 CFR 2623

Legal Deadline: None.

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") made several changes in Title IV rules and procedures that effect and, in some cases, override portions of several PBGC regulations. For this reason, these regulations - administrative review of agency decisions, benefit reductions in terminated plans, reportable events and employer liability - must be amended to conform them to SEPPAA's new provisions. For example, because SEPPAA alters the determinations that the PBGC may make with respect to voluntary plan terminations, the list in 29 CFR 2606.1(b) of determinations subject to agency review must be amended.

Similarly, SEPPAA contains, for distress terminations, specific benefit cutback rules. These rules differ somewhat from those set forth in 29 CFR Part 2623 and, therefore, conforming amendments to Part 2623 are required. SEPPAA also increases the liability to the PBGC of an employer that terminates an underfunded plan, providing for liability in excess of 30% of the employer's net worth in cases where the plan asset insufficiency substantially exceeds the net worth limitation. (CONT)

Timetable:

Action	Date	FR Cite
Final Action	02/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: SEPPAA also provides special payment rules for this additional liability. The employer liability regulation needs to be amended to reflect these changes.

This rulemaking reflects the merger of four separate items on the PBGC's last regulation agenda (51 FR 39086): RINS 1212-AA43, 1212-AA44, 1212-AA45 and 1212-AA46. Since each of these items dealt with amendments necessitated by the enactment of SEPPAA, and since there will be few amendments to the regulations (save, perhaps, to the employer liability regulation), the PBGC determined that it would be more efficient to combine the four projects into one.

After reviewing the employer liability regulation, the PBGC has determined that SEPPAA's rules creating employer liability to section 4049 trusts and to the section 4042 trustees (referred to in the prior regulation agenda) should not be added to the existing regulation. Any PBGC rules implementing these new liability provisions will be the subject of a separate regulation.

Agency Contact: Mrs. Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, (22500), 2020 K St., NW, Washington, DC 20006, 202 778-8850

RIN: 1212-AA50

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Completed Actions

3287. IMPLEMENTATION GUIDELINES (TRANSACTIONS INVOLVING REVERSIONS OF RESIDUAL ASSETS)

Legal Authority: 29 USC 1302; 29 USC 1321; 29 USC 1322; 29 USC 1341; 29 USC 1344

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: On May 23, 1984, the PBGC announced that it, along with the Treasury Department and the Department of Labor, had adopted implementation guidelines for processing defined benefit pension plan terminations involving asset reversions to the plan sponsor. This regulation will implement those principles and provide more detailed rules concerning the requirements that certain types of transactions must satisfy in order to be recognized as valid terminations under Title IV of ERISA.

Timetable:

Action	Date	FR Cite
Withdrawn	07/10/87	

Small Entity: No

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General

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PBGC

Completed Actions

Counsel, (22500), 2020 K St., NW.
Washington, DC 20006, 202 778-8850

RIN: 1212-AA27

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Monday
October 26, 1987

Part XXXVII

Railroad Retirement Board

Semiannual Regulatory Agenda

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RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Agenda of regulations under development or review.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next twelve months and regulations that are scheduled to be reviewed in that period.

ADDRESS: 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4935 (FTS 386-4935).

SUPPLEMENTARY INFORMATION: Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda. Current regulations that are proposed to be modified based on a completed review of the regulations are listed in the agenda.

Dated: September 1, 1987.
By Authority of the Board.
For the Board.

Beatrice Ezerski,
Secretary to the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3288	Part 220 Disability Determinations	3220-AA01
3289	Initial Determinations Under the Railroad Unemployment Insurance Act and Reviews of and Appeals from such Determinations	3220-AA11
3290	Annuity Beginning and Ending Dates	3220-AA13
3291	Evidence Required for Payment	3220-AA14
3292	Eligibility for an Annuity	3220-AA15
3293	Application for Annuity or Lump Sum	3220-AA16
3294	Enforcement of Nondiscrimination on the Basis of Handicapped in Programs or Activities Conducted by the Railroad Retirement Board	3220-AA22
3295	Transfer or Assignment of Payments	3220-AA43
3296	Erroneous Payments	3220-AA44
3297	Sickness Benefits and Maternity Benefits	3220-AA45
3298	Debt Collection	3220-AA47
3299	Recovery of Debts Owed to the United States Government by Employees	3220-AA49
3300	Employer Status	3220-AA51
3301	Employer Status	3220-AA52
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Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3304	Primary Insurance Amount Determinations	3220-AA02
3305	Railroad Employers Reports and Responsibilities	3220-AA25
3306	Creditable Railroad Service	3220-AA26
3307	Creditable Railroad Compensation	3220-AA27

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3308	Computing the Employee and Spouse Annuity	3220-AA03
3309	Jurisdiction Determinations	3220-AA28
3310	Family Relationship	3220-AA29
3311	Survivor Annuity Computations	3220-AA30
3312	Social Security Overall Minimum Annuity	3220-AA31
3313	Deductions for Work	3220-AA32
3314	Federal Health Insurance Benefits for the Aged and Disabled	3220-AA33
3315	Eligibility for Federal Health Insurance Benefits	3220-AA34

RRB

Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3316	Premium Collection for Federal Health Insurance Supplementary Medical Insurance Benefits	3220-AA35
3317	Federal Health Insurance Benefits Coverage Outside the United States	3220-AA36
3318	Withholding Payment	3220-AA41
3319	Waiver of Annuity	3220-AA42
3320	Administration of Estates	3220-AA48

RAILROAD RETIREMENT BOARD (RRB) — Proposed Rule Stage

3288. PART 220 DISABILITY DETERMINATIONS

Significance: Regulatory Program

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 220

Legal Deadline: None.

Abstract: The Board's regulations with respect to disability determinations have not been updated for several years and they are, in certain respects, obsolete. When revised, this regulation should ease the administration of disability benefits and result in greater consistency in disability determinations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Not Applicable

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Grace Koester, Regulations Project Director, Railroad Retirement Board, Bureau of Hearings and Appeals, 844 Rush Street, Chicago, IL 60611, 312 751-4783

RIN: 3220-AA01

3289. INITIAL DETERMINATIONS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND REVIEWS OF AND APPEALS FROM SUCH DETERMINATIONS

Legal Authority: 45 USC 355(b); 45 USC 362(l)

CFR Citation: 20 CFR 320; 20 CFR 340

Legal Deadline: None.

Abstract: The Board's regulation setting forth the procedures to be followed in rendering initial decisions and in requesting and handling reconsiderations and appeals from these decisions has been reviewed and a proposal to make certain revisions in Part 320 is being developed. The regulation will conform the procedures more closely to those applicable under the Railroad Retirement Act. The amendment to Part 340 explains when and under what circumstances waiver of recovery of erroneous payments may occur.

Timetable:

Action	Date	FR Cite
NPRM	08/14/87	52 FR 30383
NPRM Comment Period End	10/13/87	52 FR 30383
Final Action	12/00/87	

Small Entity: Not Applicable

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4935

RIN: 3220-AA11

3290. ANNUITY BEGINNING AND ENDING DATES

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 216

Legal Deadline: None.

Abstract: Part 216 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	

Small Entity: Not Applicable

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4935

RIN: 3220-AA13

3291. EVIDENCE REQUIRED FOR PAYMENT

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 219

Legal Deadline: None.

Abstract: Part 219 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	09/00/88	

Small Entity: Not Applicable

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, Bureau of Law, 844 Rush Street, Chicago, IL 60611, 312 751-4935

RIN: 3220-AA14

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3292. ELIGIBILITY FOR AN ANNUITY

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 216

Legal Deadline: None.

Abstract: Part 216 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	

Small Entity: Not Applicable

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Karl Blank, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4841

RIN: 3220-AA15

3293. APPLICATION FOR ANNUITY OR LUMP SUM

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 217

Legal Deadline: None.

Abstract: Part 217 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	10/00/88	

Small Entity: Not Applicable

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, Bureau of Law, 844 Rush Street, Chicago, IL 60611, 312 751-4935

RIN: 3220-AA16

3294. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAPPED IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE RAILROAD RETIREMENT BOARD

Legal Authority: 29 USC 791; 29 USC 792; 29 USC 794 Rehabilitation Act of 1973; 42 USC 4151 to 4157; EO 12067; EO 12250; PL 95-602, Sec 119

CFR Citation: 20 CFR 364; 20 CFR 41; 28 CFR 41.3(f); 28 CFR 41.5(b)(2); 28 CFR 41.31; 28 CFR 41.32; 28 CFR 41.51; 28 CFR 41.56 to 41.58; 29 CFR 1613; 41 CFR 101-19.600 to 101-19.607

Legal Deadline: None.

Abstract: The proposed regulation provides for the enforcement of Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Railroad Retirement Board.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Not Applicable

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Michael C. Litt, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4929

RIN: 3220-AA22

3295. TRANSFER OR ASSIGNMENT OF PAYMENTS

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 243; 20 CFR 295; 20 CFR 262.5; 20 CFR 350

Legal Deadline: None.

Abstract: Currently, regulations concerning this subject matter appear in several parts of the Board's regulations. The new Part 243 will bring together or cross-reference the several related regulatory sections.

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	

Small Entity: Not Applicable

Government Levels Affected: State, Federal

Agency Contact: Michael C. Litt, General Attorney, Railroad Retirement Board, Bureau of Law, 844 Rush Street, Chicago, IL 60611, 312 751-4929

RIN: 3220-AA43

3296. ERRONEOUS PAYMENTS

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 255

Legal Deadline: None.

Abstract: Part 255 is being revised to clarify when and how erroneous payments under the Railroad Retirement Act must be recovered.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Not Applicable

Agency Contact: Stanley Jay Shuman, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4568

RIN: 3220-AA44

3297. SICKNESS BENEFITS AND MATERNITY BENEFITS

Legal Authority: 45 USC 362; 45 USC 355

CFR Citation: 20 CFR 335

Legal Deadline: None.

Abstract: Part 335 will be amended to delete obsolete provisions and to simplify and clarify the language of that part.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Not Applicable

Agency Contact: Walter Witkovich, Regulations and Legal Specialist, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4750

RIN: 3220-AA45

3298. DEBT COLLECTION

Legal Authority: 31 USC 3711; 31 USC 3717

CFR Citation: 4 CFR 102.13; 20 CFR 200

Legal Deadline: None.

Abstract: The Railroad Retirement Board proposes to amend 20 CFR 200 to provide for assessment of interest, penalties, and collection costs, as authorized by the Debt Collection Act of 1982, in connection with the collection of certain debts arising from erroneous benefit payments under the several Acts administered by the Board. Section 11 of the Debt Collection Act of 1982 (Pub. L. 97-365) amended section 3(e) of the Federal Claims Collection Act of 1966 to provide that the head of an agency shall charge interest on claims owed the agency, assess penalties on delinquent debts, and assess charges to cover the costs of processing delinquent claims. Section 11 imposes a mandatory requirement that interest, penalties, and charges be assessed except as specifically provided in that section.

Timetable:

Action	Date	FR Cite
NPRM	07/27/87	52 FR 27997
NPRM Comment Period End	09/25/87	52 FR 27997
Final Action	11/00/87	

Small Entity: Not Applicable

Agency Contact: Stanley Jay Shuman, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4568

RIN: 3220-AA47

3299. RECOVERY OF DEBTS OWED TO THE UNITED STATES GOVERNMENT BY EMPLOYEES

Legal Authority: 5 USC 5514(b)(1)

CFR Citation: 20 CFR 361

Legal Deadline: None.

Abstract: The Railroad Retirement Board is proposing regulations to provide for the administration of its authority under the Debt Collection Act of 1982, 5 USC 5514, to recover debts owed to the United States by installment collections from the current pay account of Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA49

3300. ● EMPLOYER STATUS

Legal Authority: 45 USC 231f; 45 USC 362(l)

CFR Citation: 20 CFR 202

Legal Deadline: None.

Abstract: The Board's regulations with respect to Employer Status have not been updated in recent years and may, in some respects, be obsolete. Part 202 will be amended to conform it to current law, delete obsolete provisions, and to simplify and clarify the language of this part.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Affected Sectors: 40 Railroad Transportation

Government Levels Affected: State, Federal

Agency Contact: Thomas W. Sadler, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA51

3301. ● EMPLOYER STATUS

Legal Authority: 45 USC 231f; 45 USC 362(l)

CFR Citation: 20 CFR 203

Legal Deadline: None.

Abstract: The Board's regulations with respect to Employee Status have not been updated in recent years and may, in some respects, be obsolete. Part 203 will be amended to conform it to current law, delete obsolete provisions, and to simplify and clarify the language of this part.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Affected Sectors: 40 Railroad Transportation

Government Levels Affected: State, Federal

Agency Contact: Edward S. Hintzke, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4944

RIN: 3220-AA52

3302. ● EMPLOYMENT RELATION

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 204

Legal Deadline: None.

Abstract: The Board's regulations with respect to Employment Relation have not been updated in recent years and may, in some respects, be obsolete. Part 204 will be amended to conform it to current law, delete obsolete provisions, and to simplify and clarify the language of this part.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Affected Sectors: 40 Railroad Transportation

Government Levels Affected: State, Federal

Agency Contact: Edward S. Hintzke, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4937

RIN: 3220-AA53

3303. ● EMPLOYEE REPRESENTATIVE

Legal Authority: 45 USC 231f; 45 USC 362(l)

CFR Citation: 20 CFR 205

Legal Deadline: None.

Abstract: The Board's regulations with respect to Employee Representative have not been updated in recent years and may, in some respects, be obsolete. Part 205 will be amended to conform it to current law, delete obsolete provisions, and to simplify and clarify the language of this part.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Affected Sectors: 40 Railroad Transportation

Government Levels Affected: State, Federal

Agency Contact: Edward S. Hintzke, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4937

RIN: 3220-AA55

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RAILROAD RETIREMENT BOARD (RRB) — Final Rule Stage

3304. PRIMARY INSURANCE AMOUNT DETERMINATIONS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 225

Legal Deadline: None.

Abstract: The computation of benefits under the Railroad Retirement Act of 1974 is quite complex and is not easily understood by beneficiaries. This proposed regulation would explain primary insurance amount determinations in a manner that will enable claimants and beneficiaries to more easily understand this phase of benefit computations.

Timetable:

Action	Date	FR Cite
NPRM	09/07/83	48 FR 40390
Final Action	03/00/88	

Small Entity: Not Applicable

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4711

RIN: 3220-AA02

3305. RAILROAD EMPLOYERS REPORTS AND RESPONSIBILITIES

Legal Authority: 45 USC 231f(b)(5) to 231f(b)(6); 45 USC 231h; 45 USC 231l

CFR Citation: 20 CFR 209

Legal Deadline: None.

Abstract: The Railroad Retirement Board proposes to amend 20 CFR 209 to comply with changes required by the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	01/23/87	52 FR 2553
NPRM Comment Period End	02/23/87	52 FR 2553
Final Action	12/00/87	

Small Entity: Not Applicable

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Ann T. Alden, Chief of Coverage and Procedures, Railroad Retirement Board, Compensation and Certification, 844 Rush Street, Chicago, IL 60611, 312 751-3369

RIN: 3220-AA26

3306. CREDITABLE RAILROAD SERVICE

Legal Authority: 45 USC 231(d) to 231(f); 45 USC 231(i); 45 USC 231f(b)(5)

CFR Citation: 20 CFR 210

Legal Deadline: None.

Abstract: The Railroad Retirement Board proposes to amend 20 CFR 210 to comply with changes required by the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	01/23/87	52 FR 2553
NPRM Comment Period End	02/23/87	52 FR 2553
Final Action	12/00/87	

Small Entity: Not Applicable

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Ann T. Alden, Chief of Coverage and Procedures, Railroad Retirement Board, Compensation and Certification, 844 Rush Street, Chicago, IL 60611, 312 751-3369

RIN: 3220-AA27

3307. CREDITABLE RAILROAD COMPENSATION

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 211

Legal Deadline: None.

Abstract: The Railroad Retirement Board proposes to amend 20 CFR 211 to comply with the changes required by the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	01/23/87	52 FR 2553
NPRM Comment Period End	02/23/87	52 FR 2553
Final Action	12/00/87	

Small Entity: Not Applicable

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Ann T. Alden, Chief of Coverage and Procedures, Railroad Retirement Board, Compensation and Certification, 844 Rush Street, Chicago, IL 60611, 312 751-3369

RIN: 3220-AA26

RAILROAD RETIREMENT BOARD (RRB) — Completed Actions

3308. COMPUTING THE EMPLOYEE AND SPOUSE ANNUITY

CFR Citation: 20 CFR 226

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/14/87	

Small Entity: Not Applicable

Agency Contact: Steven A. Bartholow 312 751-4935

RIN: 3220-AA03

3309. JURISDICTION DETERMINATIONS

CFR Citation: 20 CFR 221

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

Agency Contact: Steven A. Bartholow 312 751-4935

RIN: 3220-AA28

RRB — Completed Actions

3310. FAMILY RELATIONSHIP

CFR Citation: 20 CFR 222

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

Agency Contact: Steven A. Bartholow 312 751-4935

RIN: 3220-AA29

3311. SURVIVOR ANNUITY COMPUTATIONS

CFR Citation: 20 CFR 228

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

Agency Contact: Steven A. Bartholow 312 751-4935

RIN: 3220-AA30

3312. SOCIAL SECURITY OVERALL MINIMUM ANNUITY

CFR Citation: 20 CFR 229

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

Agency Contact: Steven A. Bartholow 312 751-4935

RIN: 3220-AA31

3313. DEDUCTIONS FOR WORK

CFR Citation: 20 CFR 230

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

Agency Contact: Steven A. Bartholow 312 751-4935

RIN: 3220-AA32

3314. FEDERAL HEALTH INSURANCE BENEFITS FOR THE AGED AND DISABLED

CFR Citation: 20 CFR 270

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

Agency Contact: Steven A. Bartholow 312 751-4935

RIN: 3220-AA33

3315. ELIGIBILITY FOR FEDERAL HEALTH INSURANCE BENEFITS

CFR Citation: 20 CFR 271

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

Agency Contact: Steven A. Bartholow 312 751-4935

RIN: 3220-AA34

3316. PREMIUM COLLECTION FOR FEDERAL HEALTH INSURANCE SUPPLEMENTARY MEDICAL INSURANCE BENEFITS

CFR Citation: 20 CFR 272

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

Agency Contact: Steven A. Bartholow 312 751-4935

RIN: 3220-AA35

3317. FEDERAL HEALTH INSURANCE BENEFITS COVERAGE OUTSIDE THE UNITED STATES

CFR Citation: 20 CFR 273

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

Agency Contact: Roger L. Flood 312 751-4935

RIN: 3220-AA36

3318. WITHHOLDING PAYMENT

CFR Citation: 20 CFR 241

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

Agency Contact: Steven A. Bartholow 312 751-4935

RIN: 3220-AA41

3319. WAIVER OF ANNUITY

CFR Citation: 20 CFR 242; 20 CFR 262

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

Agency Contact: Steven A. Bartholow 312 751-4935

RIN: 3220-AA42

3320. ADMINISTRATION OF ESTATES

CFR Citation: 20 CFR 236

Completed:

Reason	Date	FR Cite
Withdrawn because no activity planned in the next 12 months.	08/17/87	

Small Entity: Not Applicable

RRB — Completed Actions

Agency Contact: Karl T. Blank 312 751-4941

RIN: 3220-AA48

[FR Doc. 87-21916 Filed 10-23-87; 8:45 am]

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Monday
October 26, 1987

Part XXXVIII

Selective Service System

Semiannual Regulatory Agenda

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SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 et seq.). This information will allow the public to participate in the System's decision-making at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, DC 20435, telephone (202) 724-1167.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12291. Selective Service Regulations appear in 32 CFR Chapter XVI.

Dated: August 24, 1987.

Jerry D. Jennings,

Acting Director of Selective Service.

SELECTIVE SERVICE SYSTEM (SSS)

Prerule Stage

3321. SELECTIVE SERVICE REGULATIONS

Legal Authority: 50 USC App. 451 et seq Military Selective Service Act

CFR Citation: 32 CFR Chapter XVI

Legal Deadline: None.

Abstract: Various sections of 32 CFR Chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1023 31st Street, NW, Washington, DC 20435, 202 724-1167

RIN: 3240-AA01

[FR Doc. 87-21260 Filed 10-23-87; 8:45 am]

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Monday
October 26, 1987

Part XXXIX

Small Business Administration

Semiannual Regulatory Agenda

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SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Publication of the semiannual agenda of regulations under review or development by the Small Business Administration.

SUMMARY: This is SBA's 17th semiannual agenda of regulations. Although not a regulatory Agency, SBA has attempted to draft agendas that met both the criteria and the spirit of the regulatory review process. This agenda is published pursuant to Executive Order 12291 and the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., Pub. L. 96-354, effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the public is encouraged to contact the individual Agency official listed for the particular item.

For information concerning SBA overall Regulatory Review and Development Program or general semiannual agenda questions, contact Martin D. Teckler, Deputy General Counsel, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, 202/653-6644.

SUPPLEMENTARY INFORMATION: The SBA agenda will contain many regulations which are limited in public impact, but they are included to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process.

Public comments on SBA's previous agendas have been general, and all were positive. None were directed at specific contents, nor were any changes suggested or recommended.

The agenda format has four parts. Part I, Pre-Rulemakings, includes investigations and reviews to be conducted prior to deciding whether or not to propose a rule or rule change. Part II, Proposed Rules, includes rulemaking which will be proposed during the six-month period covered by the agenda. Part III, Final Rules, includes proposed rules which will be finalized during the period covered by the agenda. Part IV, Completed Actions, includes regulations completed or withdrawn, and reviews completed since the preceding agenda.

Publication of this agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Additional regulatory action not listed on the agenda is not precluded.

Dated: September 4, 1987.

James Abdnor,

Administrator.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3322	Size Standards; Certain Retail and Service Industries	3245-AB03
3323	Definition of Small Business for Dredging	3245-AB23
3324	Size Standards: Timber Industry	3245-AB34
3325	Size Standards: Manufacturing	3245-AB43

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3326	Certificate of Competency	3245-AA74
3327	Size Standards, Export Trading Companies	3245-AA83
3328	Regulations Applying Small Business Size Standards	3245-AA84
3329	Size Standards: Construction	3245-AA95
3330	Small Business Investment Company Regulations: Compliance Audits	3245-AB07
3331	Loans to State and Local Development Companies	3245-AB10
3332	Size Rule for Small Business Innovation Research Program Time of Size Determination	3245-AB15
3333	Procurement Assistance: User Fees for PASS	3245-AB20
3334	Minority Small Business	3245-AB26
3335	Small Business Investment Companies	3245-AB29
3336	Small Business Lending Companies	3245-AB30
3337	Minority Small Business and Capital Ownership Development Assistance	3245-AB31
3338	Small Business Institutes - Counseling Fees	3245-AB32
3339	Loans to State and Local Development Companies	3245-AB33
3340	Loans to State and Local Development Companies	3245-AB35
3341	Nondiscrimination in Federally-Assisted Programs	3245-AB36
3342	Nondiscrimination in Financial Assistance Programs	3245-AB37
3343	Small Business Size Standards; Public Notice to Solicit Comments on Impact of Public Law 99-591 and 99-661	3245-AB38
3344	User Fees for SBA Programs	3245-AB44

SBA

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3345	Surety Bond Guarantee Regulations	3245-AA20
3346	Civil Rights Compliance: Discrimination on the Basis of Handicap	3245-AA21
3347	Size Standards; Travel Agencies	3245-AA58
3348	Size Standard: Real Estate Agents	3245-AA88
3349	Small Business Size Standards: Commercial Fishing	3245-AB00
3350	Small Business Investment Companies	3245-AB12
3351	Small Business Development Centers	3245-AB17
3352	Small Business Size Standards; Modification of Size Standards to Make Existing Size Standards Compatible with New Standard Industrial Classification System (SIC)	3245-AB19
3353	Freedom of Information Act Fee and Fee Waivers Regulations	3245-AB25
3354	Program Fraud Civil Remedies Regulations	3245-AB27
3355	Business Loans; Small Business Lending Companies	3245-AB40
3356	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Proposed Revision of Circular A-102	3245-AB41

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3357	Delegation of Authority to Conduct Program Activities in Field Offices; Surety Guarantee	3245-AB39
3358	Disaster Home Loans; Debt Collection	3245-AB42

SMALL BUSINESS ADMINISTRATION (SBA) — Prerule Stage

3322. SIZE STANDARDS; CERTAIN RETAIL AND SERVICE INDUSTRIES

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None.

Abstract: To review and revise, as necessary, the small business size standards for certain retail and service industries.

Timetable:

Action	Date	FR Cite
Begin Review	10/15/86	
End Review	10/00/87	

Small Entity: Yes

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AB03

3323. DEFINITION OF SMALL BUSINESS FOR DREDGING

Significance: Regulatory Program

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: Judicial, November 3, 1986. This change is in response to an order from the District Court for the District of Columbia which set aside the current dredging size standard ($13.5 million) but left in place the previous size standard ($9.5 million).

Abstract: To clarify for the public and others who use SBA size standards that as of November 3, 1986, the applicable size standard for the dredging industry will be $9.5 million average annual receipts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/86	51 FR 44036
Begin Review	10/00/87	
End Review	04/00/88	

Small Entity: Yes

Agency Contact: Harvey D. Bronstein, Economist, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, D.C. 20416, 202 653-6373

RIN: 3245-AB23

3324. ◉ SIZE STANDARDS: TIMBER INDUSTRY

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None.

Abstract: Study related to natural resources sales program to determine whether rule change is needed.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/87	
End Review	04/00/88	

Small Entity: Yes

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street,

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SBA — **Prerule Stage**

N.W., Room 601, Washington, D.C. 20416, 202 653-6373

RIN: 3245-AB34

3325. ● SIZE STANDARDS: MANUFACTURING

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None.

Abstract: To review and revise, as necessary, the small business size standards for certain manufacturing industries.

Timetable:

Action	Date	FR Cite
Begin Review	10/15/86	
End Review	10/00/87	

Small Entity: Yes

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 601, Washington, D.C. 20416, 202 653-6373

RIN: 3245-AB43

SMALL BUSINESS ADMINISTRATION (SBA) — Proposed Rule Stage

3326. CERTIFICATE OF COMPETENCY

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 125.5

Legal Deadline: None.

Abstract: Overall revision to Certificate of Competency regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

Agency Contact: Robert Moffitt, Deputy Associate Administrator for Procurement Assistance, Small Business Administration, 1441 L Street, NW, Room 626, Washington, DC 20416, 202 653-6582

RIN: 3245-AA74

3327. SIZE STANDARDS, EXPORT TRADING COMPANIES

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None.

Abstract: Propose size standard for Export Trading Companies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

Agency Contact: Harvey Bronstein, Economist, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6373

RIN: 3245-AA83

3328. REGULATIONS APPLYING SMALL BUSINESS SIZE STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None.

Abstract: Revision of substantive rules governing compliance with small business size standards.

Timetable:

Action	Date	FR Cite
NPRM	08/31/87	52 FR 32870
NPRM Comment Period End	10/30/87	
Final Action	06/00/88	

Small Entity: Yes

Agency Contact: David R. Kohler, Associate General Counsel, Small Business Administration, 1441 L Street, NW, Room 706, Washington, DC 20416, 202 653-6660

RIN: 3245-AA84

3329. SIZE STANDARDS: CONSTRUCTION

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None.

Abstract: Establishing an updated size standard for the construction industry.

Timetable:

Action	Date	FR Cite
Begin Review	10/15/86	
NPRM	10/00/87	
End Review	10/00/87	
NPRM Comment Period End	12/00/87	

Small Entity: Yes

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AA95

3330. SMALL BUSINESS INVESTMENT COMPANY REGULATIONS: COMPLIANCE AUDITS

Legal Authority: 15 USC 687(b)

CFR Citation: 13 CFR 107

Legal Deadline: None.

Abstract: Establishment of new system of periodic compliance audits of small business investment companies by independent certified public accountants.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	
NPRM Comment Period End	09/00/88	

Small Entity: No

Agency Contact: Daniel Peyser, Counsel to the Inspector General, Small Business Administration, 1441 L Street, NW, Room 1018, Washington, DC 20416, 202 653-6370

RIN: 3245-AB07

3331. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Significance: Agency Priority

Legal Authority: PL 99-272, Sec 18008

CFR Citation: 13 CFR 108

Legal Deadline: None.

Abstract: Rules for conducting a two year pilot program through which debentures guaranteed under section

SBA — **Proposed Rule Stage**

503 of the Small Business Investment Act and interests in pools of debentures issued under section 504 of that Act are sold to investors through public sale or private placement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/06/86	51 FR 20781
Public comment period ends	08/05/86	
Interim Final Rule	07/23/87	52 FR 27672
NPRM Comment Period End	09/27/87	
Final Action	01/00/88	

Small Entity: Yes

Agency Contact: LeAnn Oliver, Financial Analyst, Small Business Administration, 1441 L Street, NW, Room 720, Washington, DC 20416, 202 653-6566

RIN: 3245-AB10

3332. SIZE RULE FOR SMALL BUSINESS INNOVATION RESEARCH PROGRAM TIME OF SIZE DETERMINATION

Legal Authority: 15 USC 632; 15 USC 638

CFR Citation: 13 CFR 121.7

Legal Deadline: None.

Abstract: Establishing the time a firm's size will be determined at the time of award of the funding agreement.

Timetable:

Action	Date	FR Cite
NPRM	08/10/87	52 FR 29532
NPRM Comment Period End	09/09/87	
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Richard Shane, Associate Administrator for Innovation, Research and Technology, Small Business Administration, 1441 L Street, NW, Room 500, Washington, DC 20416, 202 653-7875

RIN: 3245-AB15

3333. PROCUREMENT ASSISTANCE: USER FEES FOR PASS

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 125

Legal Deadline: None.

Abstract: Increase user fee for PASS system to recoup costs of program.

Timetable:

Action	Date	FR Cite
NPRM	08/25/87	52 FR 32017
NPRM Comment Period End	09/24/87	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Monika Harrison, Associate Administrator for Procurement, Assistance, Small Business Administration, 1441 L Street, N.W., Room 600, Washington, D.C. 20416, 202 653-6635

RIN: 3245-AB20

3334. MINORITY SMALL BUSINESS

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 124

Legal Deadline: None.

Abstract: Regulations governing the participation of Indian tribes in the Section 8(a) program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	
NPRM Comment Period End	04/00/88	

Small Entity: Yes

Agency Contact: Wilfredo Gonzalez, Associate Administrator/Minority Small, Business/Capital Ownership Development, Small Business Administration, 1441 L Street, N.W., Room 602, Washington, D.C. 20416, 202 653-6407

RIN: 3245-AB26

3335. ● SMALL BUSINESS INVESTMENT COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 107

Legal Deadline: None.

Abstract: Major revision to Part 107 of title 13 governing Small Business Investment Companies. The regulation will cover changes to ownership or control of a licensee, definition of private capital, deposits and investments of idle funds, other permissible financing, leverage for Section 301(d) SBICs, definition of small business concerns, control of small concern, operational requirements, cost of money, funds to licensee, conflicts of interest redemption provisions, commitments, and the purchase, sale or guarantee of securities evidencing leverage.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Agency Contact: John Werner, Director, Office of Investment, Small Business Administration, 1441 L Street,N.W., Room 808, Washington, DC 20416, 202 653-6584

RIN: 3245-AB29

3336. ● SMALL BUSINESS LENDING COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 120.302

Legal Deadline: None.

Abstract: Cancellation of participation authority of Small Business Lending Companies that have not been active for five years or more.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

Agency Contact: Danny J. Gibb, Director, Office of Financial Institutions, Small Business Administration, 1441 L Street, N.W., Room 804, Washington, DC 20416, 202 653-2585

RIN: 3245-AB30

3337. ● MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT ASSISTANCE

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 124

Legal Deadline: None.

Abstract: Technical corrections to the regulation governing minority small business and capital ownership development. Substantive changes to provisions on program eligibility.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

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SBA — **Proposed Rule Stage**

Agency Contact: Edward Neal, Deputy Associate Administrator/MSB-COD, Small Business Administration, 1441 L Street, N.W., Room 602, Washington, D.C. 20416, 202 653-6407

RIN: 3245-AB31

3338. ● SMALL BUSINESS INSTITUTES - COUNSELING FEES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 129

Legal Deadline: None.

Abstract: User fees for training conducted by SBA cosponsors under Section 8(b)(1) of the Small Business Act for training (management and/or technical), and for training and counseling provided by Small Business Institutes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

Agency Contact: John Cox, Associate Administrator for Business, Development, Small Business Administration, 1441 L Street, N.W., Room 317, Washington, D.C. 20416, 202 653-6881

RIN: 3245-AB32

3339. ● LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 108

Legal Deadline: None.

Abstract: Institution of a 2 percent guarantee fee for debentures sold by development companies through the 504 program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

Agency Contact: LeAnn Oliver, Financial Analyst, Small Business Administration, 1441 L Street, N.W., Room 720, Washington, D.C. 20416, 202 653-6566

RIN: 3245-AB33

3340. ● LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 108

Legal Deadline: None.

Abstract: Complete revision of the Section 502 local development company rules.

Timetable:

Action	Date	FR Cite
NPRM	08/00/88	

Small Entity: Yes

Agency Contact: LeAnn Oliver, Financial Analyst, Small Business Administration, 1441 L Street, N.W., Room 720, Washington, D.C. 20416, 202 653-6566

RIN: 3245-AB35

3341. ● NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 112

Legal Deadline: None.

Abstract: Technical amendment to SBA's current regulation to clarify that if recipients of assistance under any of SBA's programs are found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Yes

Agency Contact: George Robinson, Director, Equal Employment Opportunity & Compliance, Small Business Administration, 1441 L Street, N.W., Room 501, Washington, D.C. 20416, 202 653-6050

RIN: 3245-AB36

3342. ● NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 113

Legal Deadline: None.

Abstract: Technical amendment to SBA's current regulation to clarify that if a beneficiary of one of SBA's financial assistance programs is found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance or accelerating a loan.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Yes

Agency Contact: George Robinson, Director, Equal Employment Opportunity & Compliance, Small Business Administration, 1441 L Street, N.W., Room 501, Washington, D.C. 20416, 202 653-6050

RIN: 3245-AB37

3343. ● SMALL BUSINESS SIZE STANDARDS; PUBLIC NOTICE TO SOLICIT COMMENTS ON IMPACT OF PUBLIC LAW 99-591 AND 99-661

Legal Authority: PL 99-591; PL 99-661

CFR Citation: 13 CFR 121

Legal Deadline: Statutory, April 30, 1987. The Small Business Administration is required to complete a review of certain industry size standards during April 1987.

Abstract: Will address the size standards in the following industry groups: construction, architecture and engineering services (including surveying and mapping), shipbuilding and ship repair, and refuse systems and related services. It will also examine possible industry subdivisions and limitations on subcontracting.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/87	52 FR 08261
ANPRM Comment Period End	04/16/87	52 FR 08261
NPRM	10/00/87	

Small Entity: Yes

Agency Contact: Gene VanArsdale, Director, Office of Procurement Policy and Liaison, Small Business Administration, 1441 L Street, N.W., Room 600, Washington, D.C. 20416, 202 653-6588

RIN: 3245-AB38

3344. ● USER FEES FOR SBA PROGRAMS

Legal Authority: 15 USC 687(c); 15 USC 687d; 15 USC 687g; 15 USC 694a; 15 USC 694b; 5 USC App 1; 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 631; 15 USC 637(b); 15 USC 636(i); 15 USC 636(j); PL 93-113

SBA — **Proposed Rule Stage**

CFR Citation: 13 CFR 101; 13 CFR 107; 13 CFR 115; 13 CFR 121; 13 CFR 124; 13 CFR 125; 13 CFR 129

Legal Deadline: None.

Abstract: Establishment or modification of user fees for the following: use of SBA's Office of Advocacy database, guaranty of debentures issued by Small Business Investment Companies, guaranty of surety bonds, appeals of size determinations and and standard industrial classification code designations, application to the Minority Small Business (Section 8(a)) Program, training sponsored by the Service Corps of Retired Executives (SCORE), SBA's Office of Women's Business Ownership, and SBA's Office of Veterans Affairs, counseling by Small Business Institutes and application for a Certificate of Competency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
NPRM Comment Period End	11/00/87	

Small Entity: Yes

Agency Contact: Ramona Powell, Attorney Adviser, Small Business Administration, 1441 L Street, N.W., Room 722, Washington, DC 20416, 202 653-6437

RIN: 3245-AB44

SMALL BUSINESS ADMINISTRATION (SBA) — **Final Rule Stage**

3345. SURETY BOND GUARANTEE REGULATIONS

Legal Authority: 15 USC 634(b)(6); 15 USC 694b(d)

CFR Citation: 13 CFR 115

Legal Deadline: None.

Abstract: Revision of the existing regulations for SBA's Surety Bond Guarantee Program. These changes will allow SBA to vary the percentage of its guarantee depending upon SBA's experience with the surety company requesting the guarantee. It also makes the fee which SBA charges for its guarantee negotiable.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/83	48 FR 37658
ANPRM Comment Period End	10/19/83	
NPRM	08/21/85	50 FR 33766
NPRM Comment Period End	10/21/85	
Final Action Effective	11/00/87	

Small Entity: Yes

Agency Contact: Howard F. Huegel, Director, Office of Special Guarantees, Small Business Administration, 4040 N. Fairfax Drive, Arlington, VA 22203, 703 235-2900

RIN: 3245-AA20

3346. CIVIL RIGHTS COMPLIANCE: DISCRIMINATION ON THE BASIS OF HANDICAP

Legal Authority: 42 USC 2000d-1

CFR Citation: 13 CFR 136

Legal Deadline: None.

Abstract: Prohibition of discrimination in SBA programs on the basis of handicap.

Timetable:

Action	Date	FR Cite
NPRM	07/02/84	49 FR 27164
NPRM Comment Period End	10/30/84	
Final Action	12/00/87	

Small Entity: No

Agency Contact: George H. Robinson, Director, Small Business Administration, Office of EEO&C, 1441 L Street, NW, Washington, DC 20416, 202 653-6050

RIN: 3245-AA21

3347. SIZE STANDARDS; TRAVEL AGENCIES

Significance: Regulatory Program

Legal Authority: 15 USC 632; 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None.

Abstract: Review of Size Standards necessitated by GSA awards of travel contracts resulted in decision to modify proposed standard.

Timetable:

Action	Date	FR Cite
NPRM	07/30/86	51 FR 27192
NPRM Comment Period End	09/29/86	
Final Action Effective	10/00/87	

Small Entity: Yes

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AA58

3348. SIZE STANDARD: REAL ESTATE AGENTS

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None.

Abstract: Establishing a size standard for the real estate agents industry for the first time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	50 FR 27418
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Harvey Bronstein, Economist, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AA88

3349. SMALL BUSINESS SIZE STANDARDS: COMMERCIAL FISHING

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None.

SBA — Final Rule Stage

Abstract: Size standard for commercial fishing firms.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/15/85	50 FR 15411
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 601, Washington, DC 20416, 202 653-6373

RIN: 3245-AB00

3350. SMALL BUSINESS INVESTMENT COMPANIES

Significance: Agency Priority

Legal Authority: 15 USC 320

CFR Citation: 13 CFR 107

Legal Deadline: Statutory, June 7, 1986.

Abstract: Establishment of mechanism for selling to the public certificates of interest backed by pools of SBIC guaranteed debentures and of a system of registration of such sales.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/86	51 FR 21484
Final Action	11/00/87	

Small Entity: Yes

Agency Contact: Robert G. Lineberry, Deputy Associate Administrator/Investment, Small Business Administration, 1441 L Street, NW, Room 806, Washington, DC 20416, 202 653-6645

RIN: 3245-AB12

3351. SMALL BUSINESS DEVELOPMENT CENTERS

Significance: Agency Priority

Legal Authority: PL 96-302; PL 98-395

CFR Citation: 13 CFR 129

Legal Deadline: None.

Abstract: Comprehensive regulations governing the Small Business Development Center Program.

Timetable:

Action	Date	FR Cite
NPRM	10/23/86	51 FR 37500
Comment period extended to 1/21/87	11/24/86	51 FR 42255
NPRM Comment Period End	12/22/86	
Final Action	11/00/87	

Small Entity: Yes

Agency Contact: Janice Wolf, Deputy Associate Administrator for Business Development, Small Business Administration, 1441 L Street, NW, Room 317, Washington, DC 20416, 202 653-6768

RIN: 3245-AB17

3352. SMALL BUSINESS SIZE STANDARDS; MODIFICATION OF SIZE STANDARDS TO MAKE EXISTING SIZE STANDARDS COMPATIBLE WITH NEW STANDARD INDUSTRIAL CLASSIFICATION SYSTEM (SIC)

Significance: Regulatory Program

Legal Authority: 15 USC 637(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None. This deadline was created by OMB's publication of comprehensive changes to the Standard Industrial Classification Code System, effective 1/1/87.

Abstract: The SBA is modifying its size standards to conform with the newly revised SIC system which has been revised by the Office of Management and Budget effective January 1, 1987.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/06/87	52 FR 397
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Harvey D. Bronstein, Economist, Size Standards Staff, Small Business Administration, 1441 L Street, N.W., Room 801, Washington, D.C. 20416, 202 653-6373

RIN: 3245-AB19

3353. FREEDOM OF INFORMATION ACT FEE AND FEE WAIVERS REGULATIONS

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 102.6

Legal Deadline: Statutory, April 26, 1987.

Abstract: Amendments to Fee and Fee Waiver provisions to conform to the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	05/18/87	52 FR 18570
NPRM Comment Period End	06/17/87	
Final Action	01/00/88	

Small Entity: No

Agency Contact: Nicholas Kalcounos, Director, Freedom of Information/Privacy Acts, Small Business Administration, 2100 K Street, N.W., Room 300, Washington, D.C. 20416, 202 653-6466

RIN: 3245-AB25

3354. PROGRAM FRAUD CIVIL REMEDIES REGULATIONS

Legal Authority: PL 99-501, Sec 6103

CFR Citation: 13 CFR 141

Legal Deadline: Statutory, April 21, 1987.

Abstract: Regulations implementing the Program Fraud Civil Remedies

Timetable:

Action	Date	FR Cite
NPRM	05/21/87	52 FR 19156
NPRM Comment Period End	06/22/87	52 FR 19156
Final Action	11/00/87	

Small Entity: No

Agency Contact: Patricia R. Forbes, Chief Counsel for Legislation, Small Business Administration, 1441 L Street, N.W., Room 722, Washington, D.C. 20416, 202 653-6573

RIN: 3245-AB27

3355. ● BUSINESS LOANS; SMALL BUSINESS LENDING COMPANIES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 120

Legal Deadline: None.

Abstract: This proposed rule change would treat a Small Business Lending Company (SBLC) as other lenders which participate with the Small Business Administration in making SBA guaranteed loans. It would also clarify that an SBLC could participate in the secondary market and could assemble pools comprised of SBA guaranteed portions of loans made by others as well as pools of loans it has generated.

Timetable:

Action	Date	FR Cite
NPRM	05/21/87	52 FR 19155
NPRM Comment Period End	06/22/87	52 FR 19155
Final Action	10/00/87	

Small Entity: Yes

Agency Contact: Danny Gibb, Director, Office of Financial Institutions, Small Business Administration, 1441 L Street, N.W., Room 800, Washington, D.C. 20416, 202 653-2585

RIN: 3245-AB40

SBA — Final Rule Stage

3356. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS; PROPOSED REVISION OF CIRCULAR A-102

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 143

Legal Deadline: None.

Abstract: The regulation establishes a uniform administrative rule for the Small Business Administration's cooperative agreements and State grants.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21824
NPRM Comment Period End	08/10/87	52 FR 21820
Final Action	03/00/88	

Small Entity: Yes

Agency Contact: Patricia R. Forbes, Chief Counsel for Legislation, Small Business Administration, 1441 L Street, N.W., Room 722, Washington, D.C. 20416, 202 653-6573

RIN: 3245-AB41

SMALL BUSINESS ADMINISTRATION (SBA) — Completed Actions

3357. ● DELEGATION OF AUTHORITY TO CONDUCT PROGRAM ACTIVITIES IN FIELD OFFICES; SURETY GUARANTEE

Legal Authority: PL 85-536; PL 85-699; PL 99-386

CFR Citation: 13 CFR 101

Legal Deadline: None.

Abstract: This regulation increases the delegated authority of specified officers in SBA field offices by increasing the dollar amount of contracts these officers can guarantee.

Timetable:

Action	Date	FR Cite
Final Action	05/15/87	52 FR 18352
Final Action Effective	05/15/87	52 FR 18352

Small Entity: Yes

Agency Contact: Howard Huegel, Director, Office of Surety Guarantees, Small Business Administration, 4040 N. Fairfax Drive, Arlington, Virginia 22203, 703 235-2900

RIN: 3245-AB39

3358. ● DISASTER HOME LOANS; DEBT COLLECTION

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 144

Legal Deadline: None.

Abstract: This regulation addresses a one-time program to permit the prepayment at a discount of certain outstanding disaster home loans. The regulation would also provide for a methodology for computing the discounted value of the loan to be paid.

Timetable:

Action	Date	FR Cite
NPRM	07/10/87	52 FR 26019
NPRM Comment Period End	08/10/87	52 FR 26019
Final Action	08/20/87	52 FR 32156

Small Entity: Yes

Agency Contact: James Hammersley, Financial Analyst, Small Business Administration, Small Business Administration, 1441 L Street, N.W., Room 800, Washington, D.C. 20416, 202 653-5954

RIN: 3245-AB42

[FR Doc. 87-21548 Filed 10-23-87; 8:45 am]

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Part XL

Tennessee Valley Authority

Semiannual Regulatory Agenda

VOL 52 ISS 206 OC 26 1987 UMI

TENNESSEE VALLEY AUTHORITY (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates very few regulations. However, TVA has one regulation under development and has published final rules with regard to three other regulations. TVA has also published a notice of intent with regard to a fifth regulation. TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order No. 12291.

FOR FURTHER INFORMATION CONTACT: For further information please contact the persons listed.

W. F. Willis,

General Manager.

TENNESSEE VALLEY AUTHORITY (TVA) — Proposed Rule Stage

3359. PROTECTION OF ARCHAEOLOGICAL RESOURCES

Legal Authority: 16 USC 470aa to 470ll

CFR Citation: 18 CFR 1312

Legal Deadline: None.

Abstract: The planned regulations will implement provisions of the Archaeological Resources Protection Act of 1979 by providing protection of archaeological resources on public lands in TVA custody and control. TVA will seek to protect such resources through permits authorizing excavation or removal of resources, through civil penalties for unauthorized excavation or removal, through preservation of archaeological resource collections and data, and through assuring confidentiality of information about resources when disclosure would threaten the resources. The planned regulations will supplement existing uniform regulations by assigning specific responsibilities within TVA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Maxwell D. Ramsey, Program Manager, Cultural Resources, Tennessee Valley Authority, 238 Natural Resources Building, Norris, TN 37828, 615 632-1585

RIN: 3316-AA02

3360. ALTERNATIVE PROGRAM FOR SHARING PATENT-RELATED INCOME

Legal Authority: 15 USC 3710, amended by PL 99-502

CFR Citation: 18 CFR Not yet determined

Legal Deadline: Statutory, October 1988.

Abstract: Pursuant to new section 14 of the Stevenson-Wydler Act, TVA has elected to promulgate regulations providing for an alternative program for sharing royalties and other patent-related income with its employee-inventors.

Timetable:

Action	Date	FR Cite
ANPRM	01/14/87	52 FR 1469
NPRM	00/00/00	

Small Entity: No

Agency Contact: George F. Dilworth, Jr., Manager of Technology Utilization, Tennessee Valley Authority, 400 West Summit Hill Drive, W12 D134 C-K, Knoxville, TN 37902, 615 632-2871

RIN: 3316-AA05

TENNESSEE VALLEY AUTHORITY (TVA) — Completed Actions

3361. PRIVACY ACT OF 1974; EXEMPT SYSTEM OF RECORDS

Significance: Agency Priority

Legal Authority: 5 USC 552a

CFR Citation: 18 CFR 1301.24(d), (New)

Legal Deadline: None.

Abstract: The regulation exempts a new system of records maintained by the Tennessee Valley Authority's Office of the Inspector General (OIG) for investigations and entitled "OIG Investigative Records - TVA" from subsections (c)(3), (d), (e) (1), (e)(4)(G), (H), and (I) and (f) of 5 USC 552a (section 3 of the Privacy Act). This exemption is required because application of those subsections could alert investigation subjects to the existence or scope of investigations, disclose investigative techniques or procedures, reduce the cooperativeness of witnesses, or otherwise impair investigations.

Timetable:

Action	Date	FR Cite
NPRM	12/05/86	51 FR 43934
Final Action	03/11/87	52 FR 7407

Small Entity: No

Agency Contact: Sue E. Wallace, Assistant to the Director of Personnel, Tennessee Valley Authority, 423 Gay Street, 305 MIB-K, Knoxville, TN 37902, 615 632-2170

RIN: 3316-AA06

3362. FREEDOM OF INFORMATION ACT; SCHEDULE OF FEES

Significance: Agency Priority

Legal Authority: 5 USC 552

CFR Citation: 18 CFR 1301.2

Legal Deadline: Statutory, April 25, 1987.

Abstract: The regulation implements section 1804(b)(1) of the Freedom of Information Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/03/87	52 FR 10772
Final Action	05/13/87	52 FR 17938
Final Action Effective	06/12/87	

Small Entity: No

TVA — Completed Actions

Agency Contact: Craven Crowell, Manager, Office of Governmental and Public Affairs, Tennessee Valley Authority, 400 West Summit Hill Drive, E12 A4 C-K, Knoxville, TN 37902, 615 632-8315

RIN: 3316-AA07

3363. ● ADMINISTRATIVE COST RECOVERY

Legal Authority: 16 USC 831 to 831dd; 31 USC 9701

CFR Citation: 18 CFR 1310.2(c); 18 CFR 1310.3(d); 18 CFR 1310.3(e)

Legal Deadline: None.

Abstract: Hunters at the Tennessee Valley Authority's (TVA) Land Between The Lakes (LBL) must hold a State hunting permit for the State in which they are hunting (Kentucky or Tennessee), and a hunter use permit from TVA for which TVA charges a fee. Because of the large number of people desiring to hunt deer at LBL, TVA must limit participation by random selection of applicants for special quota deer hunt permits as part of an intensive managed hunting program. In order to participate in quota deer hunts, hunters must complete an application form which must be received by TVA by established deadlines well in advance of the fall deer hunt. A drawing is conducted by computer and a quota hunt permit or rejection notice is mailed to the applicant. The $2 application fee for LBL quota deer hunt permits will recover administrative costs associated with processing the forms, conducting the drawing, and notifying applicants of rejection or selection.

Timetable:

Action	Date	FR Cite
NPRM	05/27/87	52 FR 19734
Final Action	07/08/87	52 FR 25592

Small Entity: No

Agency Contact: Billy J. Bond, Manager of Natural Resources and Economic Development, Tennessee Valley Authority, 1E61 Old City Hall Building, Knoxville, TN 37902, 615 632-6367

RIN: 3316-AA08

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Part XLI

Veterans Administration

Semiannual Regulatory Agenda

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VETERANS ADMINISTRATION (VA)

VETERANS ADMINISTRATION

38 CFR Ch. I

Agenda of Federal Regulations

AGENCY: Veterans Administration.

ACTION: Publication of agenda of regulations.

SUMMARY: This agenda announces the regulations that the Veterans Administration will have under review, development, or revision during the 12-month period from October 1987 to October 1988. The purpose in publishing this Agency's regulatory development activities is to allow all interested persons the opportunity to participate in the rulemaking process.

ADDRESSES: Interested persons are invited to comment on the regulations listed in the agenda by contacting the individual agency contact listed for each regulation, or by writing to: Paperwork Management and Regulations Service (731), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: M'Liz McLendon (202) 233-2308.

SUPPLEMENTARY INFORMATION: Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act (Pub. L. 96-354) require that executive agencies publish in the **Federal Register** in April and October of each year an agenda of regulations under development and review.

The Veterans Administration has no regulations considered major under the terms of Executive Order 12291; however, all of this Agency's proposed rules and current rules under review, except those considered to be internal agency policy management or routine regulations, have been listed in accordance with section 5(a) of the Executive Order.

This agenda incorporates those categories of information required pursuant to 5 U.S.C. 602(a) and 610(c) of the Regulatory Flexibility Act.

This agenda has been prepared in accordance with OMB Bulletin 87-16.

Dated: August 25, 1987.
By direction of the Administrator.
David A. Cox,
Associate Deputy Administrator for Management.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3364	Community Residential Care	2900-AB32
3365	Disposition of Veteran's Personal Funds and Effects on Facility upon Death, or Discharge, or Unauthorized Absence, and of Funds and Effects Found on Facility	2900-AB61
3366	Confidential Quality Assurance Program Records and Documents	2900-AC27
3367	Veterans Administration Health Professional Scholarship Program	2900-AC66
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VETERANS ADMINISTRATION (VA) — Proposed Rule Stage

DEPARTMENT OF MEDICINE AND SURGERY

3364. COMMUNITY RESIDENTIAL CARE

Legal Authority: 38 USC 630

CFR Citation: 38 CFR 17.51h to 17.51q

Legal Deadline: None.

Abstract: These regulations will clarify the legal status of the Community Residential Care program, setting standards and criteria for health and safety, facility resources, guidelines for costs of care, conditions under which the agency may cease referrals to non-complying facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	12/00/88	

Small Entity: No

Agency Contact: James R. Kelly, Chief, Community Care Programs, Veterans Administration, Department of Medicine & Surgery (181), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3692

RIN: 2900-AB32

3365. DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS ON FACILITY UPON DEATH, OR DISCHARGE, OR UNAUTHORIZED ABSENCE, AND OF FUNDS AND EFFECTS FOUND ON FACILITY

Legal Authority: 38 USC 210c

CFR Citation: 38 CFR 12.0 to 12.24

Legal Deadline: None.

Abstract: Section 208 of Public Law 94-581 provides that unclaimed property or funds and effects left by a dependent or survivor of a veteran receiving medical care at a VA facility as a CHAMPVA beneficiary will be disposed of in the same or similar manner as such property left by a veteran. Also, estates of dependents or survivors of a veteran who dies intestate and without legal heirs while a patient in any VA facility or any hospital, while being furnished care or treatment therein by the VA will escheat to the U.S. Government. Some of these regulations have not been updated since 1948, therefore, editorial changes will be made which will not affect policy.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Paul Tryhus, Medical Administration Program Specialist, Veterans Administration, Department of Medicine & Surgery (136F), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900-AB61

3366. CONFIDENTIAL QUALITY ASSURANCE PROGRAM RECORDS AND DOCUMENTS

Legal Authority: 38 USC 3305; 38 USC 4151; 38 USC 4152

CFR Citation: 38 CFR 17.500 to 17.522

Legal Deadline: None.

Abstract: Final regulations implementing 38 USC 3305 were made effective Oct. 22, 1982. Those regulations govern the VA's QA (quality assurance) program activities and records and documents which are made confidential and privileged. Sec. 3305 prohibits the VA from designating any QA program activity, for the purpose of confidentiality, unless such activity has been specified in regulation. PL 99-166 amends 38 USC 4151 and 4152 to require that QA program activities include an evaluation of the quality of surgical care in DM&S, as evidenced by outcome measures of mortality and morbidity; a report to Congress indicating deficiencies in the quality of care is required. 38 USC 3305 was amended to clarify that aggregate statistical data is not to be made confidential provided individuals are not identified. The definitions and descriptions of the QA program are outdated; unreflective of a systems' approach, and too restrictive to accommodate periodic policy developments or redirections within DM&S. No alternatives are being considered. There are no potential costs to the action. The benefits would be in the form of programmatic improvements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Robert Lubran, Health System Specialist, Department of Medicine and Surgery (10Q), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2600

RIN: 2900-AC27

VA — Proposed Rule Stage

3367. VETERANS ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

Legal Authority: 38 USC 4141 to 4146

CFR Citation: 38 CFR 17.600

Legal Deadline: None.

Abstract: Current regulations set forth requirements for awarding scholarships to students receiving academic training in the disciplines of medicine, osteopathy, and nursing, and if needed by the VA, students in other specified health care disciplines. Regulations are being amended to include requirements for awarding scholarships to students in disciplines currently specified as well as to students in all title 38 health care disciplines. Proposed regulations also revise the method for determining length of service obligation for part-time student participants.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Agency Contact: Gertrude Keough, Director, Health Professional Scholarship Program, Veterans Administration, Department of Medicine & Surgery (14N), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-5071

RIN: 2900-AC66

3368. CONTRACT MEDICAL CARE

Legal Authority: PL 99-576

CFR Citation: 38 CFR 17.50b; 38 CFR 17.87

Legal Deadline: None.

Abstract: The VA and the Department of Health and Human Services will be proposing to amend applicable regulations to permit the VA to pay for authorized or private hospital care in amounts based on the rates allowed by Medicare under the prospective payment system. This step will help ensure that payments made by the VA are consistent with those made by the largest Federal health care program for similar services in the community.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	03/00/88	

Small Entity: No

Agency Contact: Kasea Walters, Chief, Policies and Procedures Division, Medical Administration Service, Veterans Administration, Department of Medicine & Surgery (136F), 810 Vermont Avenue NW, Washington, DC 20420, 202 233-2143

RIN: 2900-AC69

3369. ● AUTOMOBILE ALLOWANCE AND ADAPTIVE EQUIPMENT ELIGIBILITY; DEVICES TO OVERCOME THE HANDICAP OF DEAFNESS

Legal Authority: 38 USC 1901; 38 USC 1902; 38 USC 617(b)

CFR Citation: 38 CFR 3.807; 38 CFR 3.808; 38 CFR 17.115d

Legal Deadline: None.

Abstract: This proposal would amend the VA adjudication and medical regulations concerning the automobile allowance and adaptive equipment eligibility for certain severely disabled individuals. These amendments are necessary to implement provisions of law and to properly divide regulatory responsibility for these programs consistent with agency organizational and functional alignments. The effect of these amendments will be to extend automobile adaptive equipment eligibility for certain severely disabled persons, more clearly define program responsibility, and more accurately describe prerequisites for obtaining devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders).

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Agency Contact: Frederick Downs (121) (for Part 17), Robert M. White (211B) (for Part 3), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2011

RIN: 2900-AD08

DEPARTMENT OF VETERANS BENEFITS

3370. EMPLOYEE FIDUCIARIES

Legal Authority: 38 USC 210

CFR Citation: 38 CFR 0.735-21

Legal Deadline: None.

Abstract: The existing regulation falls under the general rules of conduct for employees. The intended change will bar most employees from becoming fiduciaries for beneficiaries of VA benefits and establish an exemption to the bar under a limited number of circumstances such as when the employee is a close relative.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: William B. Saliski, Jr., Program Analyst, Veterans Administration, Department of Veterans Benefits (273), 810 Vermont Avenue,

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NW, Washington, DC 20420, 202 233-3643

RIN: 2900-AB50

3371. TEMPORARY PROGRAM OF VOCATIONAL TRAINING FOR CERTAIN NEW PENSION RECIPIENTS

Significance: Regulatory Program

Legal Authority: PL 98-543, Sec 301

CFR Citation: 38 CFR 21.6001 to 21.6420, (New)

Legal Deadline: None.

Abstract: The pilot program is directed to evaluating the effectiveness of vocational training and related services in restoring veterans to gainful employment and realizing cost benefits. During the period February 1, 1985, through January 31, 1989, veterans awarded pension may be eligible for up to 24 months or more of vocational training to prepare for and enter employment. Under this program every veteran under age 50 who begins to receive a pension award on or after February 1, 1985, will participate in a vocational evaluation to be arranged by the VA. Veterans who are age 50 and older and are awarded pension after February 1, 1985, may apply for an evaluation of their ability to profit from vocational training. Vocational training for up to 24 months or more and up to 18 months of employment services will be provided for program participants. A veteran will continue to receive pension during the period of training and employment services. Pension will be reduced or terminated following adjustment in employment when work income exceeds the annual income limitation applicable to pension.

Timetable:

Action	Date	FR Cite
NPRM	08/13/87	52 FR 30178
NPRM Comment Period End	09/10/87	52 FR 30178
Final Action	02/00/88	

Small Entity: No

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (226), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2886

RIN: 2900-AB53

3372. RESERVISTS EDUCATION; NEW EDUCATION PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

Legal Authority: 10 USC 2131 et seq

CFR Citation: 38 CFR 21

Legal Deadline: None.

Abstract: A new education program for members of the Selected Reserve has been established by law. Regulations are needed so that the new program may be properly administered.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: Undetermined

Agency Contact: June C. Schaeffer, Assistant Director for Educational Policy, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AB69

3373. 1. VETERANS SERVICES OFFICER TO SELECT AND APPOINT OR RECOMMEND FOR APPOINTMENT THE PERSON OR LEGAL ENTITY TO RECEIVE VETERANS ADMINISTRATION BENEFITS IN A FIDUCIARY CAPACITY 2. DIRECT PAYMENT

Legal Authority: 38 USC 3202(a)

CFR Citation: 38 CFR 13.55; 38 CFR 13.56

Legal Deadline: None.

Abstract: 38 CFR 13.55 authorizes the VSO to select and appoint a fiduciary and defines the types of payees authorized to receive payments in fiduciary cases. The intended change updates the authority language to more closely reflect changes to 38 USC 3202; removes gender specific terminology and reference to mental illness; and, further clarifies the types of payees available for selection.

38 CFR 13.56 defines classes of beneficiaries who may be paid directly. The intended change clarifies the conditions for direct payment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: William B. Saliski, Jr., Program Analyst, Veterans Administration, Department of Veterans Benefits (273), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900-AB75

3374. 1. PAYMENT TO THE WIFE OR HUSBAND OF AN INCOMPETENT VETERAN 2. LEGAL CUSTODIAN

Legal Authority: 38 USC 3202

CFR Citation: 38 CFR 13.57; 38 CFR 13.58

Legal Deadline: None.

Abstract: 38 CFR 13.57 specifies types of VA benefits that may be paid to spouse payee. The intended change broadens the class of payments to include VA insurance.

38 CFR 13.58 explains in part duties expected of a legal custodian. The intended change will clarify the custodian's authority to purchase a burial agreement for the incompetent beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: William B. Saliski, Jr., Program Analyst, Veterans Administration, Department of Veterans Benefits (273), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900-AB76

3375. INVESTMENTS BY LEGAL CUSTODIANS

Legal Authority: 38 USC 3202

CFR Citation: 38 CFR 13.103

Legal Deadline: None.

Abstract: The regulation gives Federally appointed legal custodian fiduciaries authority to invest surplus VA funds in savings bonds, or interest or dividend-paying accounts in State or Federally insured institutions. The intended regulation will give authority for investments in pre-need burial plans.

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33248
NPRM Comment Period End	10/05/87	
Final Action	01/31/88	

Small Entity: No

Agency Contact: William B. Saliski, Jr., Program Analyst, Veterans Administration, Department of Veterans Benefits (273), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900-AB77

3376. 1. VETERANS SERVICES OFFICER'S ACTION WHEN VETERAN'S ESTATE EQUALS OR EXCEEDS $1,500 2. DETERMINATION OF VALUE OF ESTATE; 38 USC 3203(B)(1)

Legal Authority: 38 USC 3203(b)(1); PL 98-543, Sec 402

CFR Citation: 38 CFR 13.108; 38 CFR 13.109

Legal Deadline: None.

Abstract: 38 CFR 13.108 defines the VSO's action and responsibility when a veteran is subject to discontinuance of payments under 38 USC 3203(b)(1). The intended change simplifies the title, updates the language of subsection (a) and further defines the VSO responsibilities regarding waiver of discontinuance under PL 98-543.

38 CFR 13.109 defines estate for purposes of the $1,500 limitation. The intended change further defines assets and incorporates two new exclusions on the basis of PL 98-543 and an unpublished General Counsel's opinion.

Timetable:

Action	Date	FR Cite
NPRM	09/02/87	52 FR 33248
NPRM Comment Period End	10/05/87	
Final Action	01/31/88	

Small Entity: No

Agency Contact: William B. Saliski, Jr., Program Analyst, Veterans Administration, Department of Veterans Benefits (273), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3643

RIN: 2900-AB78

3377. ELIGIBILITY FOR EMPLOYMENT SERVICES, EMPLOYMENT HANDICAP, EMPLOYMENT ASSISTANCE, OVERVIEW OF EMPLOYMENT SERVICES

Legal Authority: 38 USC 1501; 38 USC 1502; 38 USC 1505(b); 38 USC 1516; 38 USC 1517

CFR Citation: 38 CFR 21.47; 38 CFR 21.51; 38 CFR 21.73; 38 CFR 21.250

Legal Deadline: None.

Abstract: The VA has determined that employment assistance may be provided a veteran eligible for chapter 31, if the veteran though trained and qualified for suitable employment, has an employment handicap that prevents him or her from obtaining such employment, even if he or she is not a prior participant in a vocational rehabilitation program. It has previously been held that eligibility for employment services was limited to veterans who were current or prior participants under chapter 31.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (226), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2886

RIN: 2900-AB89

3378. INTEREST AND PENALTIES ON UNTIMELY SUBMISSION OF FUNDING FEES BY LENDERS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1)

CFR Citation: 38 CFR 36.4254; 38 CFR 36.4312

Legal Deadline: None.

Abstract: Public Law 97-253, the Omnibus Budget Reconciliation Act of 1982 (38 U.S.C. 1829) establishes that a funding fee will be collected on VA loans but the law does not establish any time limits within which it must be paid to the VA. Current VA Loan Guaranty procedures allow lenders up to 60 days from the loan closing date to remit loan funding fees and this delay in their collection and deposit has resulted in a significant amount of potential interest lost to the Federal government. The proposed regulation would require lenders to submit the fees to the VA within a 15 day period from the loan closing date and would implement penalty charges and interest assessments on delinquent submissions. Adoption of this regulation should improve collection timeliness and result in the collection of the interest income that is currently being lost as well as income from interest and penalty charges.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Department of Veterans Benefits (264), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900-AC03

3379. INCREASED COVERAGE FOR SERVICEMEN'S AND VETERAN'S GROUP LIFE INSURANCE

Legal Authority: 38 USC 767; 38 USC 777; PL 99-166, Sec 401

CFR Citation: 38 CFR 9.1 to 9.8, (Revision); 38 CFR 9.16, (Revision); 38 CFR 9.22, (Revision); 38 CFR 9.27, (Revision); 38 CFR 9.36, (Revision)

Legal Deadline: None.

Abstract: Section 401 of PL 99-166 increases the maximum amount of coverage available under the Servicemen's and Veteran's Group Life Insurance programs to $50,000. It also extends eligibility for Veteran's Group Life Insurance to members of the Individual Ready Reserves and Inactive National Guard. Regulations are being amended to reflect these changes.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: No

Agency Contact: Paul F. Koons, Assistant Director for Insurance, Department of Veterans Benefits (29), Veterans Administration, Veterans Administration Insurance Center, P.O. Box 8079, Philadelphia, PA 19101, 215 951-5360

RIN: 2900-AC06

3380. COMPUTATION OF ENTITLEMENT UNDER CHAPTER 31

Legal Authority: 38 USC 1505

CFR Citation: 38 CFR Not yet determined

Legal Deadline: None.

Abstract: To establish a specific method for determining entitlement changes under chapter 31. In view of the number of education and training programs now authorized under title 38, a specific statement of chapter 31 policy for determining entitlement changes is needed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (226), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2886

RIN: 2900-AC08

3381. NONDUPLICATION - FEDERAL PROGRAMS

Legal Authority: 38 USC 1508(f)

CFR Citation: 38 CFR 21.22; 38 CFR 21.264

Legal Deadline: None.

Abstract: A veteran eligible for assistance under the vocational rehabilitation program (chapter 31, title 38 USC) and under the all volunteer force educational assistance program (chapter 30, title 38 USC) may elect to pursue a program of education under chapter 30 as a part of a vocational rehabilitation program under chapter 31. A veteran making such an election would only receive benefits otherwise payable under chapter 30.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (226), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2886

RIN: 2900-AC41

3382. VETERANS EDUCATION; DEFICIENCY COURSE MEASUREMENT

Legal Authority: 38 USC 1661; 38 USC 1677(b); 38 USC 1691

CFR Citation: 38 CFR 21.1045

Legal Deadline: None.

Abstract: Current regulations do not state how to charge entitlement when a veteran or eligible person is pursuing some courses for which entitlement is charged concurrently with refresher, remedial or deficiency courses for which no charge is made against entitlement. This has led to confusion as to how entitlement should be charged in such situations. This proposal will eliminate this confusion.

This proposed regulation was originally published on September 5, 1986 (51 FR 31782). Due to the substantive comments received, the VA has decided that it will address these comments in a new proposed regulation.

Timetable:

Action	Date	FR Cite
NPRM	09/05/86	51 FR 31782
NPRM Comment Period End	10/06/86	51 FR 31782
NPRM	10/00/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Educational Policy, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AC42

3383. PROVIDING AN INITIAL EVALUATION FOR A VETERAN NOT RESIDING IN A STATE

Legal Authority: 38 USC 111; 38 USC 1506

CFR Citation: 38 CFR 21.100; 38 CFR 21.376

Legal Deadline: None.

Abstract: An initial evaluation is provided each veteran requesting assistance under the vocational rehabilitation program. The purpose of the initial evaluation is to determine eligibility and entitlement to vocational rehabilitation and plan a program of vocational rehabilitation for eligible veterans. The initial evaluation is provided by VA counseling psychologists in the United States. Since interpersonal discussion is the essence of counseling, providing an initial evaluation to a veteran residing overseas by a VA counselor located in this country poses logistical and other problems. We are proposing that current regulations be amended to allow for greater flexibility in providing initial evaluations to veterans not residing in a state, including those veterans residing overseas. The alternatives to the present system include, but are not limited to contracting with qualified counseling staff located in the area in which the veteran resides, to conduct a part of the evaluation. All decisions as to eligibility for services would continue to be made by VA staff.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (226), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2886

RIN: 2900-AC46

3384. VETERANS EDUCATION; FEDERAL EQUAL OPPORTUNITY LAWS

Legal Authority: 42 USC 2000d; 20 USC 1681; 29 USC 794; 42 USC 6101

CFR Citation: 38 CFR 21.4300; 38 CFR 21.4301; 38 CFR 21.4302; 38 CFR 21.4304; 38 CFR 21.4305; 38 CFR 21.4306; 38 CFR 21.4307; 38 CFR 21.4135

Legal Deadline: None.

Abstract: The VA is proposing to rescind several regulations. These regulations concern the implementation of Title VI, Civil Rights Act of 1964 in the education programs which the VA administers. The regulations either conflict with or repeat unnecessarily other regulations which deal with the implementation of that Act. Rescinding these regulations will eliminate any confusion in the public's perception of the way the VA is implementing this Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Educational Policy, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3092

RIN: 2900-AC52

3385. PROCEDURAL DUE PROCESS

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.103; 38 CFR 3.105; 38 CFR 3.109; 38 CFR 3.110; 38 CFR 3.114

Legal Deadline: None.

Abstract: These changes expand the procedural due process provided to beneficiaries, especially when benefits are proposed to be reduced or terminated. There is also a clarification of the effective date rule applicable to liberalizing laws or administrative issues.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Robert M. White, Chief, Regulations Staff, Veterans Administration, Department of Veterans Benefits (211B), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AC54

3386. SYSTEMIC DISEASES, ET AL

Legal Authority: 38 USC 355

CFR Citation: 38 CFR 4.16; 38 CFR 4.29; 38 CFR 4.30; 38 CFR 4.88a

Legal Deadline: None.

Abstract: These changes clarify temporary total disability awards based on hospitalization, unemployability ratings in psychiatric cases, and provide new schedules for rating numerous systemic diseases including acquired immune deficiency syndrome (AIDS).

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Robert M. White, Chief, Regulations Staff, Veterans Administration, Department of Veterans Benefits (211B), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AC57

3387. EVALUATIONS FOR DIPLOPIA (DOUBLE VISION)

Legal Authority: 38 USC 355

CFR Citation: 38 CFR 4.77; 38 CFR 4.88a

Legal Deadline: None.

Abstract: The present rating schedule for double vision is based on use of the Motor Field Chart which is an outdated testing method. This change provides a method for evaluating double vision based on the current testing method using the Goldmann Perimeter.

Timetable:

Action	Date	FR Cite
NPRM	08/27/87	52 FR 32318
NPRM Comment Period End	09/28/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Robert M. White, Chief, Regulations Staff, Veterans Administration, Department of Veterans Benefits (211B), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AC58

3388. EXTENSION OF TIME LIMIT FOR CLAIMS

Legal Authority: 38 USC 3013

CFR Citation: 38 CFR 21.32

Legal Deadline: None.

Abstract: Current provisions for filing claims or evidence in support of claims preclude the extension of the period for filing even if the agency fails to inform the veteran of limitations on the period. It has been held that this policy is in violation of due process. We are proposing to amend the regulations to allow for extension of the time period for filing a claim or filing supporting evidence of a claim when the agency fails to inform the veteran of such limitations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (226), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2886

RIN: 2900-AC61

3389. COMPLIANCE WITH CIVIL RIGHTS PROVISIONS

Legal Authority: 38 USC 1515

CFR Citation: 38 CFR 21.324

Legal Deadline: None.

Abstract: Compliance with civil rights provisions require that payment of benefits to veterans be terminated upon a finding that a veteran is attending a facility which has been found in non-compliance with applicable provisions of Part 18, Nondiscrimination in Federally Assisted Programs of the Veterans Administration. We propose to amend 38 CFR 21.324 to reflect this new requirement. This proposed regulatory amendment includes the provisions of RIN 2900-AC40, which was withdrawn from the Agenda.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Additional Information: 2900-AC40, Reduction or Termination Dates of Subsistence Allowance, has been merged with this RIN.

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (226), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-5449

RIN: 2900-AC72

3390. TRAINING OUTSIDE OF STATE UNDER 38 CFR 21.130

Legal Authority: 38 USC 1514

CFR Citation: 38 CFR 21.130

Legal Deadline: None.

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Abstract: The provision of training outside a state is subject to certain limitations not applicable to training pursued within the United States. The VA is proposing to amend these provisions in the case of veterans who wish to become employed outside the United States. The purpose of the change is to help assure that vocational rehabilitation services lead to suitable employment given the special problems inherent in providing vocational rehabilitation programs outside the United States.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (226), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2886

RIN: 2900-AC73

3391. ELECTION OF BENEFITS

Legal Authority: PL 99-576; 38 USC 1781

CFR Citation: 38 CFR 21.21

Legal Deadline: None.

Abstract: Public Law 99-576 bars provision of benefits under the vocational rehabilitation program and another education program administered by the VA. This change is effective October 28, 1986. Prior policy allowed a veteran to receive benefits under two programs under certain conditions. This section is revised to reflect both changes.

Timetable:

Action	Date	FR Cite
NPRM	08/20/87	52 FR 31416
NPRM Comment Period End	09/21/87	52 FR 31416
Final Action	12/00/87	

Small Entity: No

Additional Information: This proposed regulation now reflects RIN 2900-AC16 which has been withdrawn.

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (226), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2886

RIN: 2900-AC74

3392. VOCATIONAL REHABILITATION PANEL

Legal Authority: 38 USC 1504(a)

CFR Citation: 38 CFR 21.62; 38 CFR 21.53; 38 CFR 21.198

Legal Deadline: None.

Abstract: The VA reviews all cases in which findings of infeasibility for vocational rehabilitation or termination of rehabilitation programs is being considered for seriously disabled veterans. These reviews are currently conducted by the Vocational Rehabilitation Panel, a multidisciplinary advisory group. The Panel forwards its recommendations to the counseling psychologist who may accept or reject these recommendations. The VA proposes to reassign this review responsibility to the Vocational Rehabilitation and Counseling Officer, the counseling psychologist's immediate supervisor. Program experience indicates that this change will improve program administration and maintain quality of service for seriously disabled veterans.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (226), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2886

RIN: 2900-AC75

3393. VETERANS EDUCATION; AMENDMENTS NEEDED TO IMPLEMENT PUB. L. 99-576

Legal Authority: PL 99-576

CFR Citation: 38 CFR 21.1022; 38 CFR 21.3022; 38 CFR 21.3046; 38 CFR 21.4022; 38 CFR 21.4100; 38 CFR 21.4101; 38 CFR 21.4102; 38 CFR 21.4104; 38 CFR 21.4136; 38 CFR 21.4137; 38 CFR 21.4138; 38 CFR 21.4230; 38 CFR 21.4231; 38 CFR 21.4232; 38 CFR 21.4233; ...

Legal Deadline: None.

Abstract: The Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 contains several provisions which affect the administration of Dependents' Educational Assistance and benefits provided under the Vietnam Era GI Bill. The most important provisions include a change to the way in which the VA must measure certain courses which do not lead to a standard college degree; a change in the way the eligibility period is determined for some spouses eligible to receive Dependents' Educational Assistance; and a change to the provision governing receipt of benefits under the Vietnam Era GI Bill and other education programs administered by the VA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Educational Policy, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AC76

3394. VETERANS EDUCATION; AMENDMENTS TO VEAP REQUIRED BY PUB. L. 99-576

Legal Authority: PL 99-576

CFR Citation: 38 CFR 21.5021; 38 CFR 21.5030; 38 CFR 21.5041; 38 CFR 21.5052; 38 CFR 21.5064; 38 CFR 21.5100; 38 CFR 21.5131; 38 CFR 21.5138; 38 CFR 21.5022; 38 CFR 21.5040; 38 CFR 21.5042; 38 CFR 21.5054; 38 CFR 21.5072; 38 CFR 21.5132; 38 CFR 21.5145

Legal Deadline: None.

Abstract: The Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 contains several provisions which affect VEAP (Post-Vietnam Era Veterans' Educational Assistant Program). The most important changes include provision of apprenticeship and other on-job training in this program; extension of the veteran's period of eligibility if he or she is disabled during the eligibility period; and closing of VEAP to new enrollments. This proposal will implement the law.

Timetable:

Action	Date	FR Cite
NPRM	02/00/88	

Small Entity: Yes

Agency Contact: June Schaeffer, Assistant Director for Educational Policy, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AC81

3395. EXTENSION OF THE INDEPENDENT LIVING SERVICES PROGRAM

Legal Authority: 38 USC 1520; PL 99-576

CFR Citation: 38 CFR 21.160; 38 CFR 21.162; 38 CFR 21.294

Legal Deadline: None.

Abstract: The program of independent living services has been extended through FY 89. The current rules governing this program are amended to incorporate the statutory extension of the program, and make other changes to simplify and improve program administration. These proposed changes reflect, in part, reductions in reporting requirements previously required under the law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2886

RIN: 2900-AC82

3396. SUSPENSION OF INDIVIDUAL EMPLOYEES OF MANUFACTURED HOME DEALERS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1819(g)

CFR Citation: 38 CFR 36.4235

Legal Deadline: None.

Abstract: Present regulations authorize the Administrator to refuse to guarantee loans to purchase manufactured homes from dealers determined by the Administrator to have engaged in contracts of sale or methods or practices which are unfair or prejudicial to veteran purchasers. It is proposed to amend this regulation to also authorize suspension of individual employees of manufactured home dealers who engage in unfair or prejudicial practices.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits (264), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900-AC83

3397. LOANS TO PURCHASE MANUFACTURED HOMES

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1819(g)

CFR Citation: 38 CFR 36.4202; 38 CFR 36.4204; 38 CFR 36.4222; 38 CFR 36.4232; 38 CFR 36.4283

Legal Deadline: None.

Abstract: A number of regulatory changes will be proposed for the VA manufactured home loan program. VA would conform to HUD's practices on certifications, invoicing and volume rebates. Lenders would be permitted to file claims upon receipt of VA's resale price and thereafter retain the profit or loss which results from subsequent sale of the home. Broader insurance coverage would be required to cover missing items at repossession. Actual freight costs would be allowed in the invoice, and the amounts and items which could be included in the loan would be revised.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits (264), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900-AC85

3398. VA HOME LOAN CREDIT STANDARDS; NEW SAH GRANT

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1819(g); PL 99-576

CFR Citation: 38 CFR 4200 et seq.; 38 CFR 4300 et seq.; 38 CFR 4400 et seq.

Legal Deadline: None.

Abstract: Regulations will be amended to implement the requirements of Public Law 99-576. The new law adds a new specially adapted housing grant purpose and requires that VA home loan credit standards be in regulatory form.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits (264), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900-AC90

3399. ● IMPROVEMENTS IN VETERANS' BENEFITS

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.22; 38 CFR 3.23; 38 CFR 3.271; 38 CFR 3.272; 38 CFR 3.309; 38 CFR 3.342; 38 CFR 3.343; 38 CFR 3.383; 38 CFR 3.384; 38 CFR 3.501; 38 CFR 3.557; 38 CFR 3.800; 38 CFR 3.809a

Legal Deadline: None.

Abstract: These changes implement legislation that extended improved eligibility and entitlement criteria for certain veterans' benefits and define the term "hardship" for considering the exclusion of a child's income in pension cases.

Timetable:

Action	Date	FR Cite
NPRM	10/05/87	52 FR 37170
NPRM Comment Period End	11/04/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Robert M. White, Chief, Regulations Staff, Department of Veterans Benefits (211B), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AC99

3400. ● ALLOWABLE FEES FOR TRUSTEE AND LEGAL SERVICES

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1); 38 USC 1819(g)

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CFR Citation: 38 CFR 36.4276(b); 38 CFR 36.4313(b)

Legal Deadline: None.

Abstract: Presently a maximum of $350 may be included for trustee's fees and legal services allowable on claims under guaranty on defaulted VA guaranteed loans. In some areas this fee structure is insufficient to allow loan holders to secure the services of experienced legal counsel necessary to complete foreclosure action in a timely manner. The proposed maximum would be increased from $350 to $700.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: Raymond Brodie, Assistant Director for Loan Management, Department of Veterans Benefits (261), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3688

RIN: 2900-AD01

3401. ● VETERANS EDUCATION; REVISION OF DELIMITING DATES

Legal Authority: 38 USC 1662; 38 USC 3103

CFR Citation: 38 CFR 21.1042; 38 CFR 21.5041

Legal Deadline: None.

Abstract: The VA has determined that veterans who were affected by the liberalization of 38 CFR 3.12(d) have a delimiting period under ch. 32 or ch. 34 which begins on the date the VA makes an administrative decision finding that the veteran's discharge was not dishonorable. The appropriate regulations governing delimiting dates will be amended to reflect this opinion.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Educational Policy, Department of Veterans Benefits (225), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AD02

3402. ● VETERANS EDUCATION; EFFECT OF INTERNAL VA REORGANIZATION

Legal Authority: 38 USC 212

CFR Citation: 38 CFR 2.76; 38 CFR 2.80; 38 CFR 2.81; 38 CFR 2.82; 38 CFR 2.98; 38 CFR 21.74; 38 CFR 21.98; 38 CFR 21.100; 38 CFR 21.162; 38 CFR 21.222; 38 CFR 21.254; 38 CFR 21.256; 38 CFR 21.258; 38 CFR 21.292; 38 CFR 21.382; ...

Legal Deadline: None.

Abstract: The Vocational Rehabilitation and Counseling Service and the Education Service within the Department of Veterans Benefits of the VA have been merged. Many regulations make specific reference to either the Director, Education Service or the Director, Vocational Rehabilitation and Counseling. The amended regulations will replace all references to the Director, Education Service, and the Director, Vocational Rehabilitation and Counseling Service, with reference to the Director, Vocational Rehabilitation and Education Service.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Educational Policy, Department of Veterans Benefits (225), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AD04

BOARD OF VETERANS APPEALS

3403. APPEALS REGULATIONS AND RULES OF PRACTICE- STATUS OF LEGAL INTERNS, LAW STUDENTS AND PARALEGALS

Legal Authority: 38 USC 3401; 38 USC 3404; 38 USC 4005(b)(2)

CFR Citation: 38 CFR 19.152, (Revision)

Legal Deadline: None.

Abstract: The regulation will be amended to clarify the status of attorneys to be employed by service organizations and to allow legal interns, law students and paralegals to work with these attorneys who are presenting appeals in any capacity.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Jan Donsbach, Special (Legal) Assistant, Veterans Administration, Board of Veterans Appeals (01C), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2978

RIN: 2900-AC11

3404. APPEALS REGULATIONS AND RULES OF PRACTICE - HEARING DATE

Legal Authority: 38 USC 4002; 38 USC 4005A

CFR Citation: 38 CFR 19.159, (Revision)

Legal Deadline: None.

Abstract: This regulation will be revised to provide an appellant or representative a 60-day period in which to reschedule a hearing date. The revision will remedy scheduling conflicts created by multiple requests for a change of hearing date from the same appellant and/or representative, without abridging the appellant's right to due process.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Jan Donsbach, Special (Legal) Assistant, Veterans Administration, Board of Veterans Appeals (01C), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2978

RIN: 2900-AC88

BOARD OF CONTRACT APPEALS/CONTRACT APPEALS BOARD

3405. EQUAL ACCESS TO JUSTICE; PROCEDURAL RULES

Legal Authority: 5 USC 504 The Equal Access to Justice Act; PL 99-80

CFR Citation: 38 CFR 1.790

Legal Deadline: None.

Abstract: The Equal Access to Justice Act provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to appeals before the Board of Contract Appeals. An eligible party may receive an award when it prevails over the Government, unless the Government's position was substantially justified or special circumstances make an award unjust. This document describes the standards for eligibility and the procedures for application and processing by the Board.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	00/00/00	

Small Entity: Not Applicable

Government Levels Affected: Federal

Agency Contact: Sally Pfund, Legal Assistant, Board of Contract Appeals (09), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 275-0430

RIN: 2900-AC33

OFFICE OF EQUAL OPPORTUNITY

3406. NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERAL ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Legal Authority: 20 USC 1681 et seq; 38 USC 210(a); EO 12250

CFR Citation: 38 CFR 18

Legal Deadline: None.

Abstract: To establish standards and procedures for enforcing Title IX of the Education Amendments of 1972 in educational programs and activities receiving Federal financial assistance from the VA. Title IX prohibits discrimination on the basis of sex. There are no alternatives to the issuance of the regulations. Participants, potential participants and the public in general will benefit from Federally assisted programs provided free from prohibited discrimination based on sex.

This originally appeared as a proposed rule in the Federal Register of April 25, 1979 (44 FR 24320). Because of the extended time frame due to internal agency consultation with the Department of Justice, the VA is planning to repropose these regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Genevieve W. Cornelius, Director, Affirmative Action Service, Veterans Administration, Office of Equal Opportunity (06A), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3281

RIN: 2900-AB51

3407. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Legal Authority: 29 USC 794

CFR Citation: 38 CFR 18.423(c); 38 CFR 18.401 to 18.426, App A

Legal Deadline: None.

Abstract: To incorporate a reference to the Uniform Federal Accessibility Standards (UFAS) and update the list of Federal financial assistance programs administered by the VA. The existing regulations require that new construction and alteration of facilities be made in an accessible manner. The regulations provide that new construction or alteration of facilities in conformance with the American National Standard Specifications for Making Building and Facilities Accessible to, and Usable by, the Physically Handicapped (ANSI A117.1-1961 (B 1971)) shall constitute compliance with the accessibility requirements for new construction and alteration of facilities. The proposed revision will replace the current standard with the UFAS, published under the Architectural Barriers Act of 1968. Because some facilities subject to the accessibility requirements of section 504 of the Rehabilitation Act of 1973 are also subject to the accessibility requirements of the Architectural Barriers Act, this proposal would eliminate any potential conflict between standards enforced under the two statutes.

Timetable:

Action	Date	FR Cite
NPRM	10/31/87	

Small Entity: No

Agency Contact: Genevieve W. Cornelius, Director, Affirmative Action Service, Veterans Administration, Office of Equal Opportunity (06A), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3281

RIN: 2900-AB87

OFFICE OF THE GENERAL COUNSEL

3408. EFFECT OF GENERAL COUNSEL OPINIONS

Legal Authority: 38 USC 210(c)(1); 38 USC 4004(c)

CFR Citation: 38 CFR 14.507

Legal Deadline: None.

Abstract: Clarifies the effect of General Counsel opinions with respect to binding and precedential legal interpretations. No alternatives are being considered. The change will assist VA personnel in understanding the effect of General Counsel opinions. It will benefit the public by enhancing the accessibility of General Counsel opinions.

Timetable:

Action	Date	FR Cite
NPRM	10/31/87	

Small Entity: No

Agency Contact: Andrew J. Mullen, Deputy Assistant General Counsel, Veterans Administration, Office of the General Counsel (022A), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2440

RIN: 2900-AB22

OFFICE OF INTERGOVERNMENTAL AFFAIRS

3409. ● NONPROCUREMENT DEBARMENT AND SUSPENSION

Legal Authority: EO 12549; 38 USC 210

CFR Citation: 38 CFR 44.100 to 44.505

Legal Deadline: None.

Abstract: There has been a system in place for governmentwide debarment and suspension of contractors (procurement) that defraud the Federal government or otherwise fail to meet their contractual obligations. No similar system exists for grantees or other entities that participate in government programs. The VA is participating in a governmentwide implementation of EO 12549 by issuing regulations on Nonprocurement Debarment and Suspension, consistent with OMB

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guidelines published on February 21, 1986 (51 FR 6372).

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	

Small Entity: Yes

Agency Contact: Gail A. Gompf, Director, Intergovernmental Affairs (00A1), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3116

RIN: 2900-AD06

3410. ● PARKING FEES AT VA MEDICAL FACILITIES

Legal Authority: 38 USC 5009; 38 USC 210; PL 99-576

CFR Citation: 38 CFR 1.300 to 1.303

Legal Deadline: None.

Abstract: The Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, Pub. L. 99-576, Sec. 223, Parking Facilities, amends 38 U.S.C. 5009, and provides for the establishment and collection of parking fees at certain VA medical facilities, with the deposit of fees collected into a Revolving Fund. The law provides that fees shall not be charged for the accommodation of any vehicle used to transport, to or from a medical facility a veteran or eligible person seeking examination or treatment, or, a volunteer worker in connection with such worker performing services for the benefit of veterans or eligible persons receiving care at a medical facility. The proposed regulation will provide definitions to be used in implementing the law, including a definition of the term "volunteer worker;" provide for the terms and conditions under which such parking will be provided; and establish a methodology for determining reasonable parking charges to be established by the Administrator at affected medical facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Donald E. Johnson, Chief, Real Property Program Management Division (084A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-5026

RIN: 2900-AD05

OFFICE OF FACILITIES

3411. PROTECTION OF ARCHAEOLOGICAL RESOURCES

Legal Authority: 16 USC 470ii Archaeological Resources Protection Act

CFR Citation: 38 CFR 27

Legal Deadline: None.

Abstract: The Act requires that Federal land managers promulgate rules and regulations consistent with Uniform Regulations as may be appropriate to carry out his/her function and authorities under the Act to protect archaeological resources on Federal lands. This rule making will enable the VA to protect archaeological resources on VA-managed public lands by issuing permits for authorized excavations and/or removal of archaeological resources, by imposing civil penalties for unauthorized excavation, removal, alteration, damage or defacement of archaeological resources, by providing for the preservation of archaeological collections and data, and by ensuring confidentiality of information about archaeological resources when disclosure would threaten the resources.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Affected Sectors: None

Agency Contact: Gjore J. Mollenhoff, Historic Preservation Officer, Office of Facilities (086B), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3447

RIN: 2900-AC26

OFFICE OF INFORMATION MANAGEMENT AND STATISTICS

3412. FEES CHARGED WHEN RESPONDING TO REQUESTS FOR RECORDS

Legal Authority: 38 USC 3302; 5 USC 552(a)(4)(A); 5 USC 552a(f)(5)

CFR Citation: 38 CFR 1.526; 38 CFR 1.555; 38 CFR 1.577(f)

Legal Deadline: None.

Abstract: Revise VA fee schedules currently in effect for the Privacy Act, the Freedom of Information Act, and 38 U.S.C. 3301 to remove inconsistencies, to establish a comprehensive uniform fee schedule and to establish certain requirements for determining the fees that will be charged. The VA is adding to its FOIA fee regulations the six factors which the Department of Justice has recommended be considered in determining when fees should be waived or reduced under the new statutory standard. The regulations are being revised also to conform to VA policy that a VA beneficiary or applicant will be given one complete set of his/her own beneficiary records free.

Timetable:

Action	Date	FR Cite
NPRM	10/31/87	

Small Entity: No

Agency Contact: Donald R. Howell, Management Analyst, Veterans Administration, Office of Info. Mgmt. & Statistics (733), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3648

RIN: 2900-AB18

3413. ● EXEMPTIONS FROM PUBLIC ACCESS TO AGENCY RECORDS

Legal Authority: 5 USC 552(b)(7)

CFR Citation: 38 CFR 1.554(a)(7)

Legal Deadline: None.

Abstract: Revises the regulation that allows withholding of records under the Freedom of Information Act for law enforcement purposes. The revision is necessary to conform to the wording contained in the Freedom of Information Act statute.

Timetable:

Action	Date	FR Cite
NPRM	10/31/87	

Small Entity: No

Agency Contact: Donald R. Howell, Management Analyst, Office of Info. Mgmt. & Statistics (733), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 202 233-3648

RIN: 2900-AC94

VA — **Proposed Rule Stage**

3414. ● DISCLOSURE OF CONFIDENTIAL COMMERCIAL INFORMATION

Legal Authority: 5 USC 552(b)(4); EO 12600

CFR Citation: 38 CFR 1.554

Legal Deadline: None.

Abstract: Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information, establishes certain mandatory and uniform procedures for handling Freedom of Information Act (FOIA) requests for records which may contain confidential commercial information, protected by FOIA exemption (5 U.S.C. 552(b)(4)). The Executive Order requires the notification and designation procedures be established in agency regulations. Accordingly, the revision to 38 CFR 1.554 will comply with the requirements of the Executive Order.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: Donald R. Howell, Management Analyst, Office of Info. Mgmt. and Statistics (733), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3648

RIN: 2900-AD09

OFFICE OF PROCUREMENT AND SUPPLY

3415. VETERANS ADMINISTRATION ACQUISITION REGULATION - CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Legal Authority: 38 USC 210; 40 USC 486c

CFR Citation: 48 CFR 836

Legal Deadline: None.

Abstract: This proposed Veterans Administration regulation will update and clarify construction contracting procedures and clauses.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Agency Contact: Marsha J. Grogan, Supply Management Representative, Office of Procurement and Supply (91A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2334

RIN: 2900-AC87

VETERANS ADMINISTRATION (VA) — **Final Rule Stage**

DEPARTMENT OF MEDICINE AND SURGERY

3416. USE OF COMMUNITY NURSING HOME FACILITIES

Legal Authority: 38 USC 620

CFR Citation: 38 CFR 17.51a

Legal Deadline: None.

Abstract: Existing regulations that permit an extension to an approved 6-month period of Community Nursing Home Care at VA expense are not definitive enough regarding the circumstances of an unusual nature which provide the impetus for granting such extensions. The proposed change will correct that deficiency.

Timetable:

Action	Date	FR Cite
NPRM	06/11/87	52 FR 22351
NPRM Comment Period End	07/10/87	52 FR 22351
Final Action	11/00/87	

Small Entity: No

Agency Contact: James R. Kelly, Patient Treatment Service, Department of Medicine and Surgery (181), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3692

RIN: 2900-AB21

3417. BEREAVEMENT COUNSELING

Legal Authority: 38 USC 601(6)

CFR Citation: 38 CFR 17.60f

Legal Deadline: None.

Abstract: This regulation will amend existing regulations at 38 CFR 17.60(f) in order to implement provisions of P.L. 99-576.

Timetable:

Action	Date	FR Cite
NPRM	07/06/87	52 FR 25254
NPRM Comment Period End	08/04/87	52 FR 25254
Final Action	10/00/87	
Final Action Effective	11/00/87	

Small Entity: No

Agency Contact: Karen Walters, Chief, Policies and Procedures Division, Medical Administration Service, Veterans Administration, Department of Medicine & Surgery (136F), 810 Vermont Avenue NW, Washington, DC 20420, 202 233-2143

RIN: 2900-AC68

3418. ● TRANSPORTATION OF CLAIMANTS AND BENEFICIARIES

Legal Authority: 38 USC 111(e)(1)

CFR Citation: 38 CFR 17.100

Legal Deadline: None.

Abstract: This amendment would continue in place the application of a deductible to beneficiary travel payments, but would eliminate the requirement that to be eligible for travel payments, a veteran must reside more than 100 miles from a VA facility. After implementation of the amended regulations, the VA became aware of an inequitable situation in Hawaii and a few other locations in which veterans living less than 100 miles from a VA health care facility are unable to get to that facility without using costly public transportation. This amendment would permit veterans living less than 100 miles from a facility to be reimbursed, subject to the deductible, for the costs of expensive public transportation

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which is necessary for them to get to a VA health care facility.

Timetable:

Action	Date	FR Cite
Final Action	10/00/87	

Small Entity: No

Agency Contact: Stuart E. Mount, Medical Administration Program Specialist, Department of Medicine and Surgery (136F), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2504

RIN: 2900-AD07

DEPARTMENT OF VETERANS BENEFITS

3419. ACQUISITION OF PROPERTY

Legal Authority: 38 USC 210(c); 38 USC 1816(a); PL 99-369, Sec 2512

CFR Citation: 38 CFR 36.4320; 38 CFR 36.4319(f); 38 CFR 36.4321(a); 38 CFR 36.4300

Legal Deadline: None.

Abstract: There are currently no specific regulatory requirements as to when the VA may or may not accept conveyance of a property on which the VA-guaranteed loan securing it has been foreclosed. Pursuant to PL 99-369 the changed regulation will provide formulas and specifically define when the VA may acquire a property. The changed regulations will also clarify establishment of a cut off date for claim computation in cases in which liquidation of a loan is unduly delayed.

Timetable:

Action	Date	FR Cite
NPRM	06/02/87	52 FR 20617
NPRM Comment Period End	07/14/87	52 FR 20617
Final Action	12/00/87	

Small Entity: No

Agency Contact: Raymond Brodie, Assistant Director for Loan Management, Veterans Administration, Department of Veterans Benefits (261), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3668

RIN: 2900-AB34

3420. VETERANS EDUCATION; NEW EDUCATION PROGRAM FOR VETERANS

Legal Authority: 38 USC 1401 et seq

CFR Citation: 38 CFR 21

Legal Deadline: None.

Abstract: A new education program for veterans and service members has been established by law. Regulations are needed so that the new program may be properly administered.

Timetable:

Action	Date	FR Cite
NPRM	07/08/87	52 FR 25736
NPRM Comment Period End	08/04/87	52 FR 25736
Final Action	01/00/88	

Small Entity: Undetermined

Agency Contact: June C. Schaeffer, Assistant Director for Educational Policy, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AB70

3421. DEFINITION OF FRAUD

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.1(aa), New; 38 CFR 3.901

Legal Deadline: None.

Abstract: The definition of fraud for veterans' benefits purposes is being placed in the general definitions section and is being amended to include acts of omission as well as acts of commission. This action will allow a finding of fraud in certain cases where a beneficiary receives or retains benefits based on a knowing failure to provide necessary information.

Timetable:

Action	Date	FR Cite
NPRM	11/18/86	51 FR 41644
NPRM Comment Period End	12/17/86	51 FR 41644
Final Action	12/00/87	

Small Entity: No

Agency Contact: Robert M. White, Chief, Regulations Staff, Veterans Administration, Department of Veterans Benefits (211B), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AC01

3422. 1. APPORTIONMENT OF BENEFITS TO DEPENDENTS 2. PAYMENT OF COST OF VETERAN'S MAINTENANCE IN INSTITUTION 3. RECOMMENDATION FOR PAYMENT

Legal Authority: 38 USC 210; 38 USC 3202; 38 USC 3203; PL 98-543, Sec 402

CFR Citation: 38 CFR 13.70; 38 CFR 13.71; 38 CFR 13.74

Legal Deadline: None.

Abstract: 38 CFR 13.70 defines the conditions under which the Veterans Services Officer may recommend an apportionment of benefits to dependents. The proposed amendment will clarify these conditions. The amendment will also remove a reference to mental illness as the sole criteria for a rating of incompetency.

38 CFR 13.71 is to be amended to make clear that the signing of an institutional award agreement does not waive an institution's right to claim payments under 38 USC 641. This action is the result of an unpublished General Counsel opinion.

38 CFR 13.74 is based on the provisions of 38 USC Sec. 3203(b) (1)(A); however, where the law refers to more than one type of institutional care, the regulation refers only to instances of hospitalization. This would seem to preclude application of the regulation when veterans are in State run nursing homes or other institutions operated by the United States or a political subdivision. The VA, therefore, proposes to correct this defect by substituting the terms "institution" and "institutionalization" where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	01/05/87	52 FR 300
NPRM Comment Period End	02/05/87	52 FR 300
Final Action	12/00/87	

Small Entity: No

Government Levels Affected: State

Agency Contact: William Saliski, Program Analyst, Veterans Administration, Department of Veterans Benefits (273), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2091

RIN: 2900-AC10

3423. PAYMENTS TO DEPENDENTS OF VETERANS IN TRAINING

Legal Authority: 38 USC 1508

CFR Citation: 38 CFR 21.260; 38 CFR 21.322

Legal Deadline: None.

Abstract: The regulation is being revised to specify that payment for dependents may not be made earlier than the date of the dependent's existence in those cases in which dependency benefits are to be paid after the veteran enters or reenters the rehabilitation program. This represents a clarification of current policy, rather than a change in policy.

Timetable:

Action	Date	FR Cite
NPRM	05/21/87	52 FR 19174
NPRM Comment Period End	06/22/87	52 FR 19174
Final Action	10/00/87	

Small Entity: No

Agency Contact: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Veterans Administration, Department of Veterans Benefits (226), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2886

RIN: 2900-AC18

3424. USE OF CREDIT REPORTS FOR REFINANCING AND RESCHEDULING OF VA-GUARANTEED LOANS AND CLAIM SUBMISSIONS

Legal Authority: 38 USC 210(c)(1); 38 USC 1803(c)(1); 38 USC 1819(g)

CFR Citation: 38 CFR 36.4200; 38 CFR 36.4300

Legal Deadline: None.

Abstract: OMB Circular A-129 requires agencies managing Federal credit programs to obtain credit reports for all new applicants, when refinancing, and when loans are rescheduled in order to verify the information presented in the application. The circular further provides that rescheduling or reamortization shall be permitted only when it is in the best intereat of the Government and where the agency has determined that recovery of all or a portion of the amount owed is reasonably assured. Credit reports must also be required in connection with claims on defaulted guaranteed loans to facilitate agency determinations of the next collection steps to be pursued. These revisions will enable VA to better determine whether a proposed loan reamortization is in the best interest of the government and will facilitate improvements in debt collection practices.

Timetable:

Action	Date	FR Cite
NPRM	05/28/87	52 FR 19891
NPRM Comment Period End	06/26/87	52 FR 19891
Final Action	12/00/87	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits (264), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3042

RIN: 2900-AC19

3425. VETERANS MORTGAGE LIFE INSURANCE - MAXIMUM AMOUNT OF INSURANCE

Legal Authority: 38 USC 806

CFR Citation: 38 CFR 8a.2, (Revision); 38 CFR 8a.3, (Revision); 38 CFR 8a.4, (Revision)

Legal Deadline: None.

Abstract: These regulations are being revised to allow veterans insured under the Veterans' Mortgage Life Insurance program to again be eligible for full coverage up to the $40,000 statutory limit upon the sale of the insured's existing dwelling unit. Eligibility will not be reinstated where an existing dwelling unit is being remortgaged or refinanced.

Timetable:

Action	Date	FR Cite
NPRM	07/14/87	52 FR 26356
NPRM Comment Period End	08/13/87	52 FR 26356
Final Action	02/00/88	

Small Entity: No

Agency Contact: Paul F. Koons, Assistant Director for Insurance, Veterans Administration, Department of Veterans Benefits (29), P.O. Box 8079, Philadelphia, PA 19101, 215 951-5360

RIN: 2900-AC43

3426. VETERANS EDUCATION; DISENROLLMENT FROM VEAP AND OTHER TECHNICAL AMENDMENTS

Legal Authority: 38 USC 1621

CFR Citation: 38 CFR 21.5001; 38 CFR 21.5052; 38 CFR 21.5062; 38 CFR 21.5130; 38 CFR 21.5131

Legal Deadline: None.

Abstract: The VA wishes to permit a veteran who has received a refund of his or her VEAP contributions to retain his or her eligibility if the refund check is returned to the VA. The current regulations do not permit this.

Timetable:

Action	Date	FR Cite
NPRM	05/15/87	52 FR 18399
NPRM Comment Period End	06/15/87	52 FR 18399
Final Action	02/00/88	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Educational Policy, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AC49

3427. NOMENCLATURE AND DESCRIPTIVE TERMS FOR MENTAL DISORDERS

Legal Authority: 38 USC 355

CFR Citation: 38 CFR 4.125; 38 CFR 4.126; 38 CFR 4.127; 38 CFR 4.128; 38 CFR 4.129; 38 CFR 4.130; 38 CFR 4.131; 38 CFR 4.132

Legal Deadline: None.

Abstract: These changes are designed to promote uniformity in the terminology used to describe various levels of disability for mental disorders and to conform the diagnostic nomenclature to that used in the last edition of the American Psychiatric Association's Diagnostic and Statistical Manual.

Timetable:

Action	Date	FR Cite
NPRM	05/02/86	51 FR 16350
NPRM Comment Period End	06/02/86	51 FR 16350
Final Action	12/00/87	
Final Action Effective	01/00/88	

Small Entity: No

Agency Contact: Robert M. White, Chief, Regulations Staff, Veterans Administration, Department of Veterans Benefits (211B), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AC60

3428. DECREASE TIME ALLOWED HOLDER TO START FORECLOSURE

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1)

CFR Citation: 38 CFR 36.4319(f)

Legal Deadline: None.

Abstract: Upon written request from the Administrator, a holder of a loan in default must begin foreclosure action within two months and must prosecute such action with reasonable diligence. The regulation will be amended to require action within 30 days after written request from the Administrator.

Timetable:

Action	Date	FR Cite
NPRM	05/15/87	52 FR 18401
NPRM Comment Period End	06/15/87	52 FR 18401
Final Action	12/00/87	

Small Entity: No

Agency Contact: Raymond L. Brodie, Assistant Director for Loan Management, Veterans Administration, Department of Veterans Benefits (261), 810 Vermont Avenue NW, Washington, DC 20420, 202 233-3668

RIN: 2900-AC71

3429. VETERANS EDUCATION; ENTITLEMENT CHARGES FOR OVERPAYMENTS UNDER VEAP

Legal Authority: 38 USC 1631

CFR Citation: 38 CFR 21.5076

Legal Deadline: None.

Abstract: Interest, administrative costs of collection, court costs, and marshal fees are now being charged on overpayments of educational assistance allowance. At times a veteran will discharge such a debt in bankruptcy, or the debt will be waived or compromised. This proposal would amend the pertinent section of the Code of Federal Regulations to provide that when any of these actions occurs with regard to a debt incurred under VEAP (the Post-Vietnam Era Veterans Educational Assistance Program), an unrecovered portion of interest, administrative costs of collection, court costs marshal fees will not result in a charge against a veteran's entitlement to educational assistance allowance.

Timetable:

Action	Date	FR Cite
NPRM	05/13/87	52 FR 17990
NPRM Comment Period End	06/09/87	52 FR 17990
Final Action	02/00/88	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Educational Policy, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AC77

3430. VETERANS EDUCATION; TRANSFER OF ENTITLEMENT UNDER 38 USC CH. 107

Legal Authority: PL 99-145

CFR Citation: 38 CFR 21.5743

Legal Deadline: None.

Abstract: The Department of Defense Authorization Act, 1986 contains a provision which affects some people who are eligible to receive educational assistance and subsistence allowance under the Educational Assistance Test Program. This provision makes it easier for some members or veterans of the Navy or Marine Corps to transfer their educational entitlement to their dependents. This proposal will implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	07/10/87	52 FR 26026
NPRM Comment Period End	08/10/87	52 FR 26026
Final Action	02/00/88	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Educational Policy, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AC78

3431. CERTIFICATION OF CONTINUED ELIGIBILITY

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.500(v); 38 CFR 3.652; 38 CFR 3.158

Legal Deadline: None.

Abstract: This change provides the VA broader regulatory authority to require beneficiaries to certify, when requested, the continued existence of any or all eligibility factors which established entitlement to benefits being paid.

Timetable:

Action	Date	FR Cite
NPRM	01/23/87	52 FR 2559
NPRM Comment Period End	02/23/87	52 FR 2559
Final Action	12/00/87	
Final Action Effective	01/00/88	

Small Entity: No

Agency Contact: Robert M. White, Chief, Regulations Staff, Veterans Administration, Department of Veterans Benefits (211B), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AC79

3432. VETERANS EDUCATION; NONPUNITIVE GRADES

Legal Authority: 38 USC 1780

CFR Citation: 38 CFR 21.4135

Legal Deadline: None.

Abstract: A veteran's award of educational assistance allowance must be reduced when he or she withdraws from a course or when he or she received a nonpunitive grade for a course. Regulations exist for determining the effective date of the reduction. Some readers of the regulations have been uncertain as to which of the pertinent regulations apply when a veteran withdraws from a course and, as a result of that withdrawal, received a nonpunitive grade for it. This proposal will eliminate this problem.

Timetable:

Action	Date	FR Cite
NPRM	05/15/87	52 FR 18400
NPRM Comment Period End	06/15/87	52 FR 18400
Final Action	10/00/87	

Small Entity: No

Agency Contact: June Schaeffer, Assistant Director for Educational Policy, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AC80

3433. ● HOMELESS CLAIMANTS

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.159

Legal Deadline: None.

Abstract: These changes provide instructions for processing the claims of homeless individuals to ensure the delivery of benefits to such persons for whom no established mailing address is available.

Timetable:

Action	Date	FR Cite
NPRM	06/18/87	52 FR 23318
NPRM Comment Period End	07/20/87	52 FR 23318
Final Action	01/00/88	

Small Entity: No

Agency Contact: Robert M. White, Chief, Regulations Staff, Department of Veterans Benefits (211B), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AD00

3434. ● DEPENDENTS' EDUCATION; AFFECT OF THE 85-15% RATIO REQUIREMENT

Legal Authority: 38 USC 1434

CFR Citation: 38 CFR 21.4201

Legal Deadline: None.

Abstract: The law and the Code of Federal Regulations prohibit the VA from approving new enrollments under many of the education programs which the VA administers when the VA or the educational institution pay to or for 85 percent or more of the students enrolled all or part of their tuition, fees, or other charges. The Code of Federal Regulations includes students receiving benefits under the Dependents' Educational Assistance Program as being subject to this restriction. A review of the Code of Federal Regulations revealed that this restriction is not required by law. This proposal will lift the restriction.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21709
NPRM Comment Period End	07/10/87	52 FR 21709
Final Action	10/00/87	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Educational Policy, Department of Veterans Benefits (225), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2092

RIN: 2900-AD03

3435. ● EVALUATION OF HEARING LOSS

Legal Authority: 38 USC 355

CFR Citation: 38 CFR 4.84b; 38 CFR 4.85; 38 CFR 4.86a; 38 CFR 4.87; 38 CFR 4.87a

Legal Deadline: None.

Abstract: These amendments are designed to make the method of evaluating hearing loss, for compensation purposes, compatible with new testing methods which give a more complete picture of disability attributable to hearing loss.

Timetable:

Action	Date	FR Cite
NPRM	05/11/87	52 FR 17607
NPRM Comment Period End	07/09/87	52 FR 17607
Final Action	11/00/87	
Final Action Effective	11/00/87	

Small Entity: No

Agency Contact: Robert M. White, Chief, Regulations Staff, Department of Veterans Benefits (211B), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3005

RIN: 2900-AD10

OFFICE OF BUDGET AND FINANCE

3436. ● STANDARDS FOR CLAIMS COLLECTION; COMMITTEE ON WAIVERS AND COMPROMISES

Legal Authority: 31 USC 3701 to 3719; 5 USC 5584; 38 USC 3102

CFR Citation: 38 CFR 1.900 to 1.954; 38 CFR 1.957; 38 CFR 1.963a

Legal Deadline: None.

Abstract: A proposed revision to the VA regulations on claims collection and collection and compromise (sections 1.900-1.954 and 1.957) was prepared to comply with 31 USC 3701-3719 and 4 CFR Parts 101-105, which were amended as the result of the Debt Collection Act of 1982 (Pub. L. 97-365). A proposed revision to section 1.963a was also prepared to provide the VA with authority to consider waiver of erroneous payments of travel, transportation, and relocation expenses in accordance with the amended 5 USC 5584. These proposed regulations were published in the Federal Register on June 9, 1987, and no comments were received during the 30-day public comment period.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21700
NPRM Comment Period End	07/09/87	52 FR 21700
Final Action	11/00/87	

Small Entity: No

Agency Contact: Peter T. Mulhern, Special Assistant, Office of Budget and Finance (047F5), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3405

RIN: 2900-AC96

OFFICE OF EQUAL OPPORTUNITY

3437. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN VA PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 38 CFR 15

Legal Deadline: None.

Abstract: Provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, as it applies to programs or activities conducted by the VA. Section 504 prohibits discrimination on the basis of handicap. There is no other alternative to the issuance of this regulation since it implements a legislative mandate. Qualified handicapped individuals will be assured of equal participation in programs or activities conducted by the VA.

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Timetable:

Action	Date	FR Cite
NPRM	07/02/87	52 FR 25124
NPRM Comment Period End	08/31/87	52 FR 25124
Final Action	00/00/00	

Small Entity: No

Agency Contact: Genevieve W. Cornelius, Director, Affirmative Action Service, Veterans Administration, Office of Equal Opportunity (06A), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3281

RIN: 2900-AA87

OFFICE OF THE GENERAL COUNSEL

3438. RECOGNITION OF ORGANIZATIONS, REPRESENTATIVES, AGENTS, AND ATTORNEYS

Legal Authority: 38 USC 210(c)(1); 38 USC 3401 to 3404

CFR Citation: 38 CFR 14.627 to 14.637

Legal Deadline: None.

Abstract: This proposal includes definitions; requirements for recognition of organizations by the VA; requirements for recognition of representatives, agents, and attorneys; powers of attorney; use of paralegals, law clerks, and law students; and requirements for space and office facilities.

Timetable:

Action	Date	FR Cite
NPRM	03/18/87	52 FR 8472
NPRM Comment Period End	04/17/87	52 FR 8472
Final Action	10/31/87	

Small Entity: No

Agency Contact: Andrew J. Mullen, Deputy Assistant General Counsel, Veterans Administration, Office of the General Counsel (022A), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2440

RIN: 2900-AC89

3439. STANDARDS IMPLEMENTING THE PROGRAM FRAUD CIVIL REMEDIES ACT

Legal Authority: PL 99-509 6101-6104, 100 Stat. 1874

CFR Citation: 38 CFR 42

Legal Deadline: Statutory, April 21, 1987.

Abstract: These regulations would implement the Program Fraud Civil Remedies Act, which the Veterans Administration must promulgate by April 21, 1987. The regulations would permit VA to bring administrative proceedings against persons who knowingly make, present, or submit a false claim or statement against the Agency under $150,000 in value. VA could, under the regulations, recover up to twice the amount of the false claim or statement plus impose a civil penalty or up to $5,000 for each separate false claim. The regulations would proscribe specific procedures when VA receives allegations of a false claim: an investigation by the VA Inspector General, a review of the investigation by the General Counsel or designee, referral to the Attorney General, and action by the reviewing official if approved by the Attorney General. The person found liable could request a hearing before an Administrative Law Judge with all the due process protections under the Administrative Procedure Act. The person could appeal to the VA Administrator and then to the U.S. District Court. All penalties or assessments could be set off against (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16409
NPRM Comment Period End	06/04/87	52 FR 16409
Final Action	00/00/00	

Small Entity: Yes

Additional Information: ABSTRACT CONT: any amount due the person liable from the Government, except Federal tax refunds. All recoveries would be deposited in the U.S. Treasury.

Agency Contact: Audley Hendricks, Assistant General Counsel, Office of General Counsel (023), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3671

RIN: 2900-AC92

OFFICE OF INTERGOVERNMENTAL AFFAIRS

3440. ● UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: EO 11541; 38 USC 210

CFR Citation: 38 CFR 43.1 to 43.52

Legal Deadline: None.

Abstract: The effect upon the Veterans Administration will be felt in its State home construction grants and its State cemetery grants program. Specifically, the regulation will affect applicants for Federal assistance from the VA for construction of State extended care facilities and State cemeteries.

Timetable:

Action	Date	FR Cite
NPRM	06/09/87	52 FR 21834
NPRM Comment Period End	08/10/87	52 FR 21834
Final Action	03/11/88	

Small Entity: No

Agency Contact: Gail A. Gompf, Director, Intergovernmental Affairs (00A1), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3116

RIN: 2900-AC97

OFFICE OF INFORMATION MANAGEMENT AND STATISTICS

3441. RELEASE OF VA LISTS OF NAMES AND ADDRESSES AND PENALTY PROCEDURES FOR UNAUTHORIZED USE

Legal Authority: 38 USC 3301(f)

CFR Citation: 38 CFR 1.519

Legal Deadline: None.

Abstract: The VA is amending the existing regulations concerning VA lists of names and addresses and is also proposing administrative procedures to use when these lists are used for purposes not authorized by law. This action results from the need to amend the regulations to reflect current procedures, organizational changes, and concern expressed by veterans and some service organizations regarding unsolicited mail. The proposed regulatory amendments will allow the VA to enforce its statutory duty to protect the privacy of information concerning veterans and their dependents, establish procedures to suspend recipients who misuse VA

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name and address lists of veterans/ dependents, and give advance notice to recipients of what constitutes an authorized/unauthorized use of veterans/ dependents names and address lists, thereby protecting the due process rights of any recipient before penalties are enforced.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8624
NPRM Comment Period End	04/20/87	52 FR 8624
Final Action	12/00/87	

Small Entity: No

Agency Contact: LaVerne Butler, Management Analyst (723B), Veterans Administration, Office of Information Mgmt. & Statistics, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2545

RIN: 2900-AC63

OFFICE OF PROCUREMENT AND SUPPLY

3442. VETERANS ADMINISTRATION ACQUISITION REGULATION - SMALL BUSINESS CONCERNS

Legal Authority: 38 USC 210; 40 USC 486c

CFR Citation: 48 CFR 819, (Revision)

Legal Deadline: None.

Abstract: This proposed VA Acquisition Regulation provides guidance to contracting offices so they can submit appeals when the Small Business Administration makes a decision to issue a Certificate of Competency (COC) to a small business. Also, the regulation is being revised to show the VA's intent to give the Vietnam era and disabled veteran-owned firms every opportunity to participate in the acquisition process.

Timetable:

Action	Date	FR Cite
NPRM	05/04/87	52 FR 16290
NPRM Comment Period End	06/03/87	52 FR 16290
Final Action	11/00/87	

Small Entity: Yes

Agency Contact: Chris Figg, Chief, Policy Division, Office of Procurement and Supply (91A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2334

RIN: 2900-AC36

3443. VETERANS ADMINISTRATION ACQUISITION REGULATION - ACQUISITION PLANNING

Legal Authority: 38 USC 210; 40 USC 486c

CFR Citation: 48 CFR 807, (Revision); 48 CFR 852, (Revision)

Legal Deadline: None.

Abstract: This proposed VA Acquisition Regulation provides coverage regarding contracting aspects of OMB Circular A-76 cost comparison.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/87	
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Chris A. Figg, Chief, Policy Division, Veterans Administration, Office of Procurement & Supply (91A), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2334

RIN: 2900-AC37

3444. VETERANS ADMINISTRATION ACQUISITION REGULATION - SPECIFICATIONS

Legal Authority: 38 USC 210; 40 USC 486c

CFR Citation: 48 CFR 810, (New); 48 CFR 836, (Revision)

Legal Deadline: None.

Abstract: This proposed VA Acquisition Regulation is a new part and provides guidance on the use of specifications.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/87	52 FR 280
Final Action	11/00/87	

Small Entity: Yes

Agency Contact: Marsha J. Grogan, Supply Management Representative, Veterans Administration, Office of Procurement and Supply (91A), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-3784

RIN: 2900-AC38

3445. VETERANS ADMINISTRATION ACQUISITION REGULATION - CONSULTING SERVICE

Legal Authority: 38 USC 210; 40 USC 486c

CFR Citation: 48 CFR 837

Legal Deadline: None.

Abstract: This Veterans Administration regulation provides coverage regarding contracting aspects of OMB Circular A-120 consulting services.

Timetable:

Action	Date	FR Cite
Final Action	11/00/87	

Small Entity: Not Applicable

Agency Contact: C. Ford Heard, Supply Management Representative, Veterans Administration, Office of Procurement & Supply (91A), 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2334

RIN: 2900-AC85

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VETERANS ADMINISTRATION (VA) — **Completed Actions**

3446. TELECAPTION TELEVISION DECODERS

CFR Citation: 38 CFR 17.115b; 38 CFR 17.115c

Completed:

Reason	Date	FR Cite
Withdrawn - combined with RIN 2900-AD08.	08/12/87	

Small Entity: No

Agency Contact: Donald N. Babb 202 233-2011

RIN: 2900-AB56

3447. NURSING HOME CARE IN THE PHILIPPINES

CFR Citation: 38 CFR 17.36 to 17.40

Completed:

Reason	Date	FR Cite
The VA withdraws this regulation from the Agenda	08/27/87	

Small Entity: No

Agency Contact: Stuart Mount 202 233-2504

RIN: 2900-AB57

3448. ADULT DAY HEALTH CARE

Significance: Agency Priority

CFR Citation: 38 CFR 17.51c to 17.51q

Completed:

Reason	Date	FR Cite
Final Action	04/23/87	52 FR 13440
Final Action Effective	04/23/87	52 FR 13440

Small Entity: No

Agency Contact: James R. Kelly 202 233-3692

RIN: 2900-AB99

3449. STATE HOME FACILITIES

CFR Citation: 38 CFR 17.170 to 17.177

Completed:

Reason	Date	FR Cite
Final Action	06/25/87	52 FR 23824

Small Entity: No

Agency Contact: F. Brent Baker 202 233-3854

RIN: 2900-AC25

3450. VETERANS EDUCATION; CERTIFICATIONS OF ENROLLMENT

CFR Citation: 38 CFR 21.4137; 38 CFR 21.4203; 38 CFR 21.4204

Completed:

Reason	Date	FR Cite
Withdrawn - enactment of legislation prohibited further action.	04/21/87	52 FR 13110

Small Entity: No

Agency Contact: June Schaeffer 202 233-2092

RIN: 2900-AA58

3451. VETERANS EDUCATION; FOREIGN MEDICAL SCHOOLS

CFR Citation: 38 CFR 21.4260

Completed:

Reason	Date	FR Cite
Final Action	04/22/87	52 FR 13238
Final Action Effective	03/31/87	52 FR 13238

Small Entity: No

Agency Contact: June C. Schaeffer 202 233-2092

RIN: 2900-AB09

3452. REDUCTION OR TERMINATION DATES OF SUBSISTENCE ALLOWANCE

CFR Citation: 38 CFR 21.324

Completed:

Reason	Date	FR Cite
Withdrawn - combined with 2900-AC72.	07/31/87	

Small Entity: No

Agency Contact: Morris Triestman 202 233-2086

RIN: 2900-AC40

3453. NATIONAL SERVICE LIFE INSURANCE - POLICY LOANS

CFR Citation: 38 CFR 8.28, (Revision)

Completed:

Reason	Date	FR Cite
Final Action	10/02/87	52 FR 36925
Final Action Effective	11/02/87	

Small Entity: No

Agency Contact: Paul F. Koons 215 951-5360

RIN: 2900-AC44

3454. LOAN GUARANTY: INCREASE IN VALUE OF SECURITY WHICH CAN BE RELEASED WITHOUT PRIOR APPROVAL

CFR Citation: 38 CFR 36.4324(a)

Completed:

Reason	Date	FR Cite
Final Action	07/14/87	52 FR 26342
Final Action Effective	08/13/87	52 FR 26342

Small Entity: No

Agency Contact: Raymond L. Brodie 202 233-3668

RIN: 2900-AC50

3455. VETERANS EDUCATION; APPROVAL OF PROGRAMS LEADING TO HIGH SCHOOL DIPLOMAS

CFR Citation: 38 CFR 21.4230

Completed:

Reason	Date	FR Cite
Final Action	05/13/87	52 FR 17951
Final Action Effective	04/20/87	52 FR 17951

Small Entity: No

Agency Contact: June C. Schaeffer 202 233-2092

RIN: 2900-AC51

3456. REMOVAL OF MONETARY RATES

CFR Citation: 38 CFR 3.23; 38 CFR 3.24; 38 CFR 3.25; 38 CFR 3.26; 38 CFR 3.27; 38 CFR 3.28; 38 CFR 3.262; 38 CFR 3.802; 38 CFR 3.1600; 38 CFR 3.1601; 38 CFR 3.1604; 38 CFR 3.1612

Completed:

Reason	Date	FR Cite
Final Action	09/16/87	52 FR 34906
Final Action Effective	10/16/87	

Small Entity: No

Agency Contact: Robert M. White 202 233-3005

RIN: 2900-AC53

VA — **Completed Actions**

3457. MEDICAL REPORTS AS INFORMAL CLAIMS/RECOUPMENT OF SEPARATION PAY

CFR Citation: 38 CFR 3.157; 38 CFR 3.700

Completed:

Reason	Date	FR Cite
Final Action	07/21/87	52 FR 27339
Final Action Effective	08/20/87	52 FR 27339

Small Entity: No

Agency Contact: Robert M. White 202 233-3005

RIN: 2900-AC55

3458. EVIDENCE OTHER THAN EVIDENCE OF SERVICE-ACCEPTABILITY OF PHOTOCOPIES

CFR Citation: 38 CFR 3.202; 38 CFR 3.204

Completed:

Reason	Date	FR Cite
Final Action	05/22/87	52 FR 19347
Final Action Effective	06/22/87	52 FR 19347

Small Entity: No

Agency Contact: Robert M. White 202 233-3005

RIN: 2900-AC56

3459. ● APPEALS REGULATIONS AND RULES OF PRACTICE--REASSIGNMENT OF BOARD MEMBERS

Legal Authority: 38 USC 4002; 38 USC 210

CFR Citation: 38 CFR 19.110

Legal Deadline: None.

Abstract: The regulation is revised to permit the Chairman or Vice Chairman of the Board to reassign for good cause a participating Member of a Section of the Board prior to the promulgation of the decision. from the VA for construction of State extended care facilities and State cemeteries.

Timetable:

Action	Date	FR Cite
Withdrawn - VA decision not to proceed with regulation.	08/20/87	

Small Entity: No

Agency Contact: Jan Donsback, Special Legal Assistant, Board of Veterans Appeals (01C), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2978

RIN: 2900-AC95

3460. INVENTIONS BY EMPLOYEES OF VETERANS ADMINISTRATION AS COINVENTORS UNDER FUNDING AGREEMENTS

CFR Citation: 38 CFR 1.635 to 1.643

Completed:

Reason	Date	FR Cite
Withdrawn due to enactment of the Pub. L. 99-502.	07/31/87	

Small Entity: No

Agency Contact: Diana M. Bloss 202 233-3651

RIN: 2900-AB47

3461. RELEASE OF RECORDS AND OTHER INFORMATION CUSTOMARILY FURNISHED THE PUBLIC

CFR Citation: 38 CFR 1.553

Completed:

Reason	Date	FR Cite
Combined with RIN 2900-AB18	10/06/87	

Small Entity: No

Agency Contact: Donald R. Howell 202 233-3648

RIN: 2900-AC64

3462. VETERANS ADMINISTRATION ACQUISITION REGULATION - COMPETITION IN CONTRACTING

CFR Citation: 48 CFR 802, (Revision); 48 CFR 805, (Revision); 48 CFR 806, (Revision); 48 CFR 813, (Revision); 48 CFR 814, (Revision); 48 CFR 815, (Revision); 48 CFR 833, (Revision); 48 CFR 852, (Revision); 48 CFR 819, (Revision); 48 CFR 836, (Revision); 48 CFR 842, (Revision); 48 CFR 801, (Revision); 48 CFR 808, (Revision)

Completed:

Reason	Date	FR Cite
Final Action	07/31/87	52 FR 28558
Final Action Effective	07/31/87	52 FR 28558

Small Entity: Yes

Agency Contact: Chris A. Figg 202 233-2334

RIN: 2900-AC12

3463. VETERANS ADMINISTRATION ACQUISITION REGULATION - CONTRACT MODIFICATIONS

CFR Citation: 48 CFR 843, (Revision); 48 CFR 852, (Revision)

Completed:

Reason	Date	FR Cite
Withdrawn - Part 843 not codified; Part 852 incorporated into CICA regs.	07/31/87	

Small Entity: Yes

Agency Contact: Chris A. Figg 202 233-2334

RIN: 2900-AC39

3464. VETERANS ADMINISTRATION ACQUISITION REGULATIONS - BUY AMERICAN ACT - SUPPLIES

CFR Citation: 48 CFR 825, (Revision)

Completed:

Reason	Date	FR Cite
Final Action	08/25/87	52 FR 32012
Final Action Effective	09/24/87	52 FR 32012

Small Entity: Yes

Agency Contact: Marsha J. Grogan 202 233-2334

RIN: 2900-AC91

3465. VA CONTRACTING OFFICER CERTIFICATION PROGRAM

CFR Citation: 48 CFR 801, (Revision); 48 CFR 802, (Revision)

Completed:

Reason	Date	FR Cite
Final Action	06/26/87	52 FR 24010

Small Entity: Not Applicable

Agency Contact: C. Ford Heard 202 233-2334

RIN: 2900-AC93

3466. ● VETERANS ADMINISTRATION ACQUISITION REGULATION - CONTRACTING WITH SBA

Legal Authority: 38 USC 210; 40 USC 486(c)

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VA

Completed Actions

CFR Citation: 48 CFR 819

Legal Deadline: Statutory, October 1, 1987.

Abstract: The VA will be issuing an interim final rule in order to implement requirements of Public Law 99-591 as it relates to the Small Business Act revision.

Timetable:

Action	Date	FR Cite
Final Action	10/06/87	52 FR 37316

Small Entity: No

Agency Contact: Chris A. Figg, Chief, Policy Division, Office of Procurement and Supply (91A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 233-2334

RIN: 2900-AC98

[FR Doc. 87-21261 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26, 1987

Part XLII

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation;
Semiannual Regulatory Agenda

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DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. I

Semiannual Agenda

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council, in compliance with Executive Order 12291, Federal Regulation. This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The FAR Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions, however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, (202) 523-4755.

SUPPLEMENTARY INFORMATION: DOD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the Federal Acquisition Regulation (FAR) and prescribe the FAR system. Revisions to the FAR are made through periodic issuance of Federal Acquisition Circulars (FAC's). None of the regulations listed in this agenda are considered major under Executive Order 12291, Federal Regulation.

Dated: August 27, 1987.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3467	Amendment to Federal Acquisition Regulation (FAR Case 87-22)	9000-AB82
3468	Amendment to Federal Acquisition Regulation (FAR Case 87-24)	9000-AB83
3469	Amendment to Federal Acquisition Regulation (FAR Case 87-25)	9000-AB84

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3470	Federal Acquisition Regulation (FAR) - Federal Acquisition Circular 84-10(FAR Case 85-32)	9000-AA00
3471	Federal Acquisition Regulation (FAR) - Federal Acquisition Circular 84-9	9000-AA01
3472	Federal Acquisition Regulation (FAR) - Federal Acquisition Circular 84-11(FAR Case 85-38)	9000-AA02
3473	Amendment to Federal Acquisition Regulation (FAR Case 83-7)	9000-AA12
3474	Amendment to Federal Acquisition Regulation (FAR Case 84-53)	9000-AA24
3475	Amendment to Federal Acquisition Regulation (FAR Case 84-31)	9000-AA26
3476	Amendment to Federal Acquisition Regulation (FAR Case 84-45)	9000-AA29
3477	Amendment to Federal Acquisition Regulation (FAR Case 85-16)	9000-AA35
3478	Federal Acquisition Regulation (FAR) FAR Case 85-63	9000-AA49
3479	Federal Acquisition Regulation (FAR) - FAR Case 85-75	9000-AA61
3480	Federal Acquisition Regulation (FAR) - FAR Case 85-32	9000-AA68
3481	Federal Acquisition Regulation (FAR) - FAR Case 85-43	9000-AA69
3482	Federal Acquisition Regulation (FAR) - FAR Case 85-47	9000-AA73
3483	Amendment to Federal Acquisition Regulation (FAR Case 84-30)	9000-AA93
3484	Amendment to Federal Acquisition Regulation (FAR Case 85-25)	9000-AA95
3485	Amendment to Federal Acquisition Regulation (FAR Case 86-12)	9000-AA97
3486	Amendment to Federal Acquisition Regulation (FAR Case 86-18)	9000-AB03
3487	Amendment to Federal Acquisition Regulation (FAR Case 86-23)	9000-AB08
3488	Amendment to Federal Acquisition Regulation (FAR Case 86-24)	9000-AB09
3489	Amendment to Federal Acquisition Regulation (FAR Case 86-31)	9000-AB16
3490	Amendment to Federal Acquisition Regulation (FAR Case 86-32)	9000-AB17
3491	Amendment to Federal Acquisition Regulation (FAR Case 86-33)	9000-AB18
3492	Amendment to Federal Acquisition Regulation (FAR Case 86-34)	9000-AB19
3493	Amendment to Federal Acquisition Regulation (FAR Case 86-35)	9000-AB20
3494	Amendment to Federal Acquisition Regulation (FAR Case 86-51)	9000-AB37

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Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3495	Amendment to Federal Acquisition Regulation (FAR Case 86-54)	9000-AB40
3496	Amendment to Federal Acquisition Regulation (FAR Case 86-58)	9000-AB44
3497	Amendment to Federal Acquisition Regulation (FAR Case 86-59)	9000-AB45
3498	Amendment to Federal Acquisition Regulation (FAR Case 86-64)	9000-AB50
3499	Amendment to the Federal Acquisition Regulation (FAR Case 86-65)	9000-AB51
3500	Amendment to Federal Acquisition Regulation (FAR Case 86-66)	9000-AB53
3501	Amendment to Federal Acquisition Regulation (FAR Case 86-67)	9000-AB54
3502	Amendment to Federal Acquisition Regulation (FAR Case 86-69)	9000-AB55
3503	Amendment to Federal Acquisition Regulation (FAR Case 86-52)	9000-AB60
3504	Amendment to Federal Acquisition Regulation (FAR Case 86-57)	9000-AB61
3505	Amendment to Federal Acquisition Regulation (FAR Case 87-13)	9000-AB73
3506	Amendment to Federal Acquisition Regulation (FAR Case 87-14)	9000-AB74
3507	Amendment to Federal Acquisition Regulation (FAR Case 87-15)	9000-AB75
3508	Amendment to Federal Acquisition Regulation (FAR Case 87-16)	9000-AB76
3509	Amendment to Federal Acquisition Regulation (FAR Case 87-12)	9000-AB79
3510	Amendment to Federal Acquisition Regulation (FAR Case 87-18)	9000-AB80
3511	Amendment to Federal Acquisition Regulation (FAR Case 87-19)	9000-AB81
3512	Amendment to Federal Acquisition Regulation (FAR Case 87-30)	9000-AB85
3513	Amendment to Federal Acquisition Regulation (FAR Case 87-31)	9000-AB86
3514	Amendment to Federal Acquisition Regulation (FAR Case 87-32)	9000-AB87
3515	Amendment to Federal Acquisition Regulation (FAR Case 87-33)	9000-AB88

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3516	Amendment to Federal Acquisition Regulation (FAR Case 85-39)	9000-AA14
3517	Amendment to Federal Acquisition Regulation (FAR Case 84-32)	9000-AA28
3518	Amendment to Federal Acquisition Regulation (FAR Case 85-26)	9000-AA31
3519	Amendment to Federal Acquisition Regulation (FAR Case 84-16)	9000-AA33
3520	Amendment to Federal Acquisition Regulation (FAR Case 84-40)	9000-AA34
3521	Amendment to Federal Acquisition Regulation (FAR Case 84-33)	9000-AA39
3522	Federal Acquisition Regulation (FAR) - FAR Case 85-51	9000-AA77
3523	Federal Acquisition Regulation (FAR) - FAR Case 85-53	9000-AA79
3524	Federal Acquisition Regulation (FAR) - FAR Case 85-58	9000-AA84
3525	Amendment to Federal Acquisition Regulation (FAR Case 86-11)	9000-AA96
3526	Amendment to Federal Acquisition Regulation (FAR Case 86-13)	9000-AA98
3527	Amendment to Federal Acquisition Regulation (FAR Case 86-19)	9000-AB04
3528	Amendment to Federal Acquisition Regulation (FAR Case 86-21)	9000-AB06
3529	Amendment to Federal Acquisition Regulation (FAR Case 86-25)	9000-AB10
3530	Amendment to Federal Acquisition Regulation (FAR Case 86-27)	9000-AB12
3531	Amendment to Federal Acquisition Regulation (FAR Case 86-40)	9000-AB26
3532	Amendment to Federal Acquisition Regulation (FAR Case 86-44)	9000-AB30
3533	Amendment to Federal Acquisition Regulation (FAR Case 86-45)	9000-AB31
3534	Amendment to Federal Acquisition Regulation (FAR Case 86-46)	9000-AB32
3535	Amendment to Federal Acquisition Regulation (FAR Case 86-47)	9000-AB33
3536	Amendment to Federal Acquisition Regulation (FAR Case 86-49)	9000-AB35
3537	Amendment to Federal Acquisition Regulation (FAR Case 86-50)	9000-AB36
3538	Amendment to Federal Acquisition Regulation (FAR Case 86-53)	9000-AB39
3539	Amendment to Federal Acquisition Regulation (FAR Case 86-55)	9000-AB41
3540	Amendment to Federal Acquisition Regulation (FAR Case 86-56)	9000-AB42
3541	Amendment to Federal Acquisition Regulation (FAR Case 86-60)	9000-AB46
3542	Amendment to Federal Acquisition Regulation (FAR Case 86-61)	9000-AB47
3543	Amendment to Federal Acquisition Regulation (FAR Case 86-62)	9000-AB48
3544	Amendment to Federal Acquisition Regulation (FAR Case 86-66)	9000-AB52
3545	Amendment to Federal Acquisition Regulation (FAR Case 87-05)	9000-AB56
3546	Amendment to Federal Acquisition Regulation (FAR Case 87-06)	9000-AB57
3547	Amendment to Federal Acquisition Regulation (FAR Case 86-10)	9000-AB58
3548	Amendment to Federal Acquisition Regulation (FAR Case 86-48)	9000-AB59
3549	Amendment to Federal Acquisition Regulation (FAR Case 86-63)	9000-AB62

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Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3550	Amendment to Federal Acquisition Regulation (FAR Case 85-58)	9000-AB64
3551	Amendment to Federal Acquisition Regulation (FAR Case 85-26)	9000-AB65
3552	Amendment to Federal Acquisition Regulation (FAR Case 85-36)	9000-AB66
3553	Amendment to Federal Acquisition Regulation (FAR Case 86-44)	9000-AB67
3554	Amendment to Federal Acquisition Regulation (FAR Case 87-04)	9000-AB68
3555	Amendment to Federal Acquisition Regulation (FAR Case 87-08)	9000-AB69
3556	Amendment to Federal Acquisition Regulation (FAR Case 87-07)	9000-AB70
3557	Amendment to Federal Acquisition Regulation (FAR Case 87-10)	9000-AB71
3558	Amendment to Federal Acquisition Regulation (FAR Case 87-11)	9000-AB72
3559	Amendment to Federal Acquisition Regulation (FAR Case 87-17)	9000-AB77
3560	Amendment to Federal Acquisition Regulation (FAR Case 87-20)	9000-AB78

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

3467. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-22)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to incorporate amendments to the Truth in Negotiations Act required by Section 952 of the Defense Acquisition Improvement Act of 1986 (Pub. L. 99-500).

Timetable:

Action	Date	FR Cite
NPRM	07/14/87	52 FR 26446
NPRM Comment Period End	09/14/87	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB82

3468. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-24)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 44; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation concerning debarment and suspension procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/31/87	52 FR 28642
NPRM Comment Period End	09/28/87	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB83

3469. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-25)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation concerning guaranteed maximum shipping weights and dimensions.

Timetable:

Action	Date	FR Cite
NPRM	08/21/87	52 FR 31722
NPRM Comment Period End	10/20/87	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB84

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

3470. FEDERAL ACQUISITION REGULATION (FAR) - FEDERAL ACQUISITION CIRCULAR 84-10(FAR CASE 85-32)

Legal Authority: 40 USC 486 (c); 42 USC 2453 (c); 10 USC Chapter 137

CFR Citation: 48 CFR 7; 48 CFR 15; 48 CFR 19; 48 CFR 34; 48 CFR 52

Legal Deadline: Statutory, May 1, 1985.

Abstract: (1) Implement Sec. 1213 of Pub. L. 98-525 and Sec. 201 of Pub. L. 98-577 by (a) requiring that the contracting officer, prior to contracting, review the acquisition history of the supplies or services and the description of the supplies, and (b) specifying new requirements applicable to planning for the solicitation of a major system production contract; (2) Implement Sec. 1245 of Pub. L. 98-525 and Sec. 501 of Pub. L. 98-577 by specifying that offerors/contractors (a) are required to distribute costs within contracts on a basis that ensures that unit prices of supplies are in proportion to the item's base cost, (b) may be required to identify supplies that they will not manufacture or to which they will not contribute significant value, and (c) are required to flow the requirement down to subcontractors; (3) Implement Sec. 1216 of Pub. L. 98-525 and Sec. 204 of Pub. L. 98-577 by requiring offerors/contractors in certain acquisitions to certify that the prices offered for those items of supply that the contractor offers for sale to the public are no higher than any lower price charged to any other customer during the preceding 60 days, or submit a written justification for any (cont)

Timetable:

Action	Date	FR Cite
Final Action FAR Case 85-30, Planning for Future Competition	07/29/86	51 FR 27114
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: differences; (4) Implement Sec. 402 of Pub. L. 98-577 by (a) widening the area where subcontracting possibilities are considered to exist, (b) further specifying the types of acquisitions that are to be considered for contracting and subcontracting with small and small disadvantaged business concerns, and (c) stating the policy of the United States that its prime contractors establish procedures to ensure timely payments to small and small disadvantaged subcontractors; and (5) Implement Sec. 1211 of Pub. L. 98-525 and Sec. 102 of Pub. L. 98-577 by specifying a definition of "major system."

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA00

3471. FEDERAL ACQUISITION REGULATION (FAR) - FEDERAL ACQUISITION CIRCULAR 84-9

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 12; 48 CFR 33; 48 CFR 52

Legal Deadline: None.

Abstract: To revise the FAR to comply with revised Department of Justice advice concerning the General Accounting Office (GAO) "stay" provisions in 31 U.S.C. 3553(c) and (d) and the GAO "damages" provision in 31 U.S.C. 3554(c) regarding payment of costs of filing and pursuing a protest and preparing the bid and proposal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/85	50 FR 25680
Final Action	00/00/00	

Small Entity: Undetermined

3472. FEDERAL ACQUISITION REGULATION (FAR) - FEDERAL ACQUISITION CIRCULAR 84-11(FAR CASE 85-38)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 3; 48 CFR 7; 48 CFR 9; 48 CFR 14; 48 CFR 15; 48 CFR 52

Legal Deadline: Statutory, May 1, 1985.

Abstract: To revise the FAR to (1) Prohibit contractors and subcontractors from asserting or agreeing to unreasonable restrictions on direct sales by subcontractors to the Government; (2) Prescribe policies, procedures, and a solicitation provision for gathering and using information from offerors to assist the Government in planning the most advantageous quantities in which supplies should be purchased; and (3) Prescribe policies, procedures, and a solicitation provision regarding the establishment and enforcement of qualification requirements for sources and products.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/85	50 FR 35474
Final Action FAR Case 85-37 Unreasonable Restrictions on Subcontractor Sales	07/29/86	51 FR 27114
Final ActionFAR Case 85-36 Economic Order Quantities	08/12/87	52 FR 30074
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA02

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3473. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 83-7)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 22

Legal Deadline: None.

Abstract: Amend the Federal Acquisition Regulation to provide Governmentwide acquisition policy with respect to labor standards for contracts involving construction.

Timetable:

Action	Date	FR Cite
NPRM	11/03/86	51 FR 39965
NPRM Comment Period End	02/02/87	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA12

3474. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-53)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 9; 48 CFR 19

Legal Deadline: None.

Abstract: Amend the Federal Acquisition Regulation to bring the FAR into conformance with section 8(b)(7) of the Small Business Act with the award of a contract to a small business pending final determination of its eligibility for award under the Walsh-Healey Public Contracts Act.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA24

3475. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-31)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 32

Legal Deadline: None.

Abstract: Amend the Federal Acquisition Regulation to implement the Debt Collection Act.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA26

3476. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-45)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 35

Legal Deadline: None.

Abstract: Amend the Federal Acquisition Regulation to implement OFPP Letter 84-1 on Federally Funded Research and Development Centers.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Steets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA29

3477. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 14; 48 CFR 52

Legal Deadline: None.

Abstract: Amend the Federal Acquisition Regulation to provide guidance under the rules of sealed bidding with respect to acceptable evidence in establishing the date of mailing of a late bid.

Timetable:

Action	Date	FR Cite
NPRM	03/22/85	50 FR 11522
NPRM Comment Period End	05/21/85	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA35

3478. FEDERAL ACQUISITION REGULATION (FAR) FAR CASE 85-63

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453 (c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1986.

Abstract: Amend the FAR to provide that any cost made specifically unallowable under FAR 31.205, Selected costs, cannot be allowed under any other section of FAR Subpart 31.2, Contracts with Commercial Organizations.

Timetable:

Action	Date	FR Cite
NPRM	04/30/87	52 FR 15884
NPRM Comment Period End	06/29/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA49

3479. FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-75

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None.

Abstract: Amend the FAR to clarify the contractor's responsibility for Government-furnished property under service contracts performed at Government installations.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6360
NPRM Comment Period End	04/22/86	
Final Action	00/00/00	

Small Entity: Yes

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA61

3480. FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-32

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 52

Legal Deadline: Statutory. October 18, 1986 (Public Law 99-500) May 1, 1985 (Public Law 98-577)

Abstract: Amend the FAR to implement Sec. 926 of Public Law 99-500 and Sec. 264 of Public Law 98-577, by requiring offerors in certain noncompetitive acquisitions to certify that prices offered for spare or repair parts that the contractor offers for sale to the public are no higher than the lowest commercial price at which such parts were sold during the most recent regular monthly, quarterly, or other period (but not less than 30 days) in duration for which sales data are reasonably available, or submit a written justification for any differences.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	50 FR 27560
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA68

3481. FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-43

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None.

Abstract: Amend the FAR to alleviate inequities in contract clauses regarding FOB origin.

Timetable:

Action	Date	FR Cite
NPRM	11/22/85	50 FR 48332
NPRM Comment Period End	01/21/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA69

3482. FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-47

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 27; 48 CFR 52

Legal Deadline: Statutory, November 1, 1985.

Abstract: Amend the FAR to implement Pub L 98-525 and Pub L 98-577 concerning the validation of restrictive markings on technical data delivered by a contractor to the Government.

Timetable:

Action	Date	FR Cite
NPRM	10/03/85	50 FR 40416
NPRM Comment Period End	01/09/86	50 FR 45442
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA73

3483. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-30)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to adopt as Subpart 32.9, Prompt Payment, the provisions of the Prompt Payment Act (Pub. L. 97-177) and the related OMB Circular A-125 "Prompt Payment" and attachments 1 and 2 of that Circular.

Timetable:

Action	Date	FR Cite
NPRM	03/18/87	52 FR 8576
NPRM Comment Period End	05/18/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA93

3484. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-25)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 1

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to provide uniform guidance concerning ratification of unauthorized commitments.

Timetable:

Action	Date	FR Cite
NPRM	03/18/86	51 FR 9429
NPRM Comment Period End	05/19/86	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA95

3485. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-12)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 53

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to revise Standard Form 1417 to eliminate unnecessary delays in securing solicitation documents by requiring

construction contractors to obtain a certified check or cashiers check.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA97

3486. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-18)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 8

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to clarify Federal Prison Industries' priority status in the acquisition of services.

Timetable:

Action	Date	FR Cite
NPRM	06/12/86	51 FR 21496
NPRM Comment Period End	08/11/86	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB03

3487. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-23)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 13; 48 CFR 19; 48 CFR 20; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to provide for the use of small purchase procedures in awarding set-aside contracts between $10,000 and $25,000.

Timetable:

Action	Date	FR Cite
NPRM	06/26/86	51 FR 23396
NPRM Comment Period End	07/28/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB08

3488. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-24)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to clarify in the small business set-aside notice that an acquisition is to be made only from a small business concern furnishing a product manufactured in the U.S., its territories, or possessions, Puerto Rico, or the Trust Territory of the Pacific Islands.

Timetable:

Action	Date	FR Cite
NPRM	07/29/86	51 FR 27129
NPRM Comment Period End	09/29/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB09

3489. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-31)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 1; 48 CFR 15; 48 CFR 30; 48 CFR 31; 48 CFR 52; 48 CFR 53

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to incorporate the Cost Accounting Standards and certain rules and regulations promulgated by the CAS Board under Pub. L. 91-379.

Timetable:

Action	Date	FR Cite
NPRM	06/03/86	51 FR 20238
NPRM Comment Period End	08/04/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB16

3490. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-32)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 15; 48 CFR 53

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to ensure that the contracting officer and the authorized representative have access to all the data which impacts contract price.

Timetable:

Action	Date	FR Cite
NPRM	06/26/86	51 FR 23396
NPRM Comment Period End	08/25/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB17

3491. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-33)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 48; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to incorporate changes to provide improved value engineering coverage.

Timetable:

Action	Date	FR Cite
NPRM	09/02/86	51 FR 31197
NPRM Comment Period End	10/02/86	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB18

3492. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-34)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 30

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to delete the requirement to use state rates in discounting certain self-insured losses to present value.

Timetable:

Action	Date	FR Cite
NPRM	07/08/86	51 FR 24788
NPRM Comment Period End	09/08/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB19

3493. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-35)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 30

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to increase the minimum acquisition cost criterion for capitalization purposes from $1,000 to $1,500.

Timetable:

Action	Date	FR Cite
NPRM	07/09/86	51 FR 24971
NPRM Comment Period End	09/08/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB20

3494. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-51)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 32; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the FAR regarding penalties charged under DOD contracts for submission of defective cost or pricing data and interest charged from the date of overpayment on all Government contracts in defective pricing cases.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB37

3495. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-54)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 15

Legal Deadline: None.

Abstract: To amend the FAR to permit the use of letter requests for proposals for sole source acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	10/15/86	51 FR 36777
NPRM Comment Period End	12/15/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB40

3496. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-58)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 52

Legal Deadline: None.

Abstract: To amend the FAR to (1) clarify service of protest requirements and (2) provide for designation of officials or locations where an information copy of the protest must be delivered.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42805
NPRM Comment Period End	01/26/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB44

3497. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-59)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 40 USC 2453(c)

CFR Citation: 48 CFR 14

Legal Deadline: None.

Abstract: To amend the FAR to clarify that contracting offices may require written requests for the release of lists of prospective bidders furnished copies of plans and specifications on construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/19/86	51 FR 41897
NPRM Comment Period End	01/20/87	

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FAR — Final Rule Stage

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW 20405, Washington, DC 20405, 202 523-4755

RIN: 9000-AB45

3498. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-64)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 13

Legal Deadline: None.

Abstract: To amend the FAR to implement OMB Circular A-125 and EO 12352, Task Group 5, Module 7, regarding Fast Pay procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/09/86	51 FR 44410
NPRM Comment Period End	02/09/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB50

3499. AMENDMENT TO THE FEDERAL ACQUISITION REGULATION (FAR CASE 86-65)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 52

Legal Deadline: None.

Abstract: To amend the FAR to remove the $100,000 limitation on the amount the contracting officer is authorized to withhold on a cost reimbursement contract to protect the Government's interest pending final cost settlement.

Timetable:

Action	Date	FR Cite
NPRM	01/02/87	52 FR 226
NPRM Comment Period End	03/03/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB51

3500. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-66)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the FAR to provide a clearer statement of what constitutes special versus general purpose test equipment.

Timetable:

Action	Date	FR Cite
NPRM	02/09/87	52 FR 4086
NPRM Comment Period End	04/10/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB53

3501. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-67)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 9; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the FAR to clarify what constitutes a "qualification requirement" and to whom or what it applies.

Timetable:

Action	Date	FR Cite
NPRM	02/09/87	52 FR 4082
NPRM Comment Period End	04/10/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB54

3502. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-69)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 15; 48 CFR 31; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the FAR to include more specific regulatory coverage concerning the termination of overfunded defined benefit pension plans and the resultant employer withdrawal of excess pension fund assets.

Timetable:

Action	Date	FR Cite
NPRM	02/09/87	52 FR 4084
NPRM Comment Period End	04/10/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB55

3503. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-52)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 17; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the FAR to clarify when agencies should evaluate offers for option quantities in awarding the basic contract and when exercise of an option will satisfy the requirements of full and open competition contained in Part 6 of the FAR.

Timetable:

Action	Date	FR Cite
NPRM	10/28/86	51 FR 39456
NPRM Comment Period End	12/29/86	
Final Action	00/00/00	

Small Entity: No

FAR — Final Rule Stage

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB60

3504. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-57)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 7

Legal Deadline: None.

Abstract: To amend the FAR to require contracting officers to address in acquisition plans how subcontract competition will be sought, promoted, and sustained throughout an acquisition.

Timetable:

Action	Date	FR Cite
NPRM	10/28/86	51 FR 39456
NPRM Comment Period End	12/29/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB61

3505. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-13)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5; 48 CFR 13; 48 CFR 19; 48 CFR 52

Legal Deadline: Statutory, April 16, 1987.

Abstract: To amend the Federal Acquisition Regulation to (1) raise the threshold for publicizing proposed acquisitions, other than sole source acquisitions, from $10,000 to $25,000, (2) require posting of notices of solicitations expected to exceed $10,000 but not to exceed $25,000, and (3) raise the limitation for small business, small purchase set-asides from $10,000 to $25,000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/87	52 FR 21885
Comment Period End	08/10/87	52 FR 21885
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB73

3506. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-14)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 6

Legal Deadline: Statutory, April 16, 1987.

Abstract: To amend the Federal Acquisition Regulation to expand the authority for DoD and NASA to contract without providing for full and open competition if the supplies or services being contracted for are available from only one or a limited number of responsible sources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/87	52 FR 21885
Comment Period End	08/10/87	52 FR 21885
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB74

3507. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-15)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15

Legal Deadline: Statutory, April 16, 1987.

Abstract: To amend the Federal Acquisition Regulation to require contracting officers to address quality in every source selection.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/87	52 FR 21885
Comment Period End	08/10/87	52 FR 21885
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB75

3508. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15; 48 CFR 52

Legal Deadline: Statutory, April 16, 1987.

Abstract: To amend the Federal Acquisition Regulation requirements regarding the prevention of unit price distortions and identification of supplies that offerors will not manufacture, so that for DoD and NASA, they no longer will apply to commercial items where the price is based on an established catalog or market price.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/87	52 FR 21885
Comment Period End	08/10/87	52 FR 21885
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB76

3509. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-12)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5; 48 CFR 6; 48 CFR 35

Legal Deadline: None.

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FAR — **Final Rule Stage**

Abstract: To amend the Federal Acquisition Regulation pertaining to research and development contracting procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/06/87	52 FR 17280
NPRM Comment Period End	07/06/87	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB79

3510. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-18)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to clarify allowability policy concerning trade, business, technical and professional activity costs.

Timetable:

Action	Date	FR Cite
NPRM	05/13/87	52 FR 18158
NPRM Comment Period End	07/13/87	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4766

RIN: 9000-AB80

3511. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-19)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to clarify the allowability of extraordinary compensation and certain organization costs incurred in connection with mergers and other business combinations.

Timetable:

Action	Date	FR Cite
NPRM	05/13/87	52 FR 18158
NPRM Comment Period End	07/13/87	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW', Washington, DC 20405, 202 523-4755

RIN: 9000-AB81

3512. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-30)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation concerning visits to contractor facilities.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB85

3513. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-31)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 29

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to include federal tax exemptions other than for manufacturers or special fuels excise taxes.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB86

3514. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-32)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 25

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to revise the European Economic Community list.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB87

3515. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-33)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to delete certain language affecting severance pay.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB88

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR) — **Completed Actions**

3516. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-39)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 27; 48 CFR 52

Legal Deadline: Statutory, October 19, 1985.

Abstract: Amend the Federal Acquisition Regulation to provide Governmentwide acquisition policy with respect to rights in data and copyrights.

Timetable:

Action	Date	FR Cite
NPRM	08/15/85	50 FR 32870
NPRM Comment Period End	09/30/85	
Final Action	05/13/87	52 FR 18140

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA14

3517. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-32)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 13; 48 CFR 52

Legal Deadline: None.

Abstract: Amend the Federal Acquisition Regulation to include, for use in small purchases, a clause on federal, state, and local taxes.

Timetable:

Action	Date	FR Cite
Withdrawn	10/22/86	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA28

3518. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-26)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 52

Legal Deadline: None.

Abstract: Public comments were solicited in the Federal Register on May 23, 1985, to ascertain the extent of general concurrence with comments received concerning problems with the FAR's contract clauses entitled Changes. Based on the comments received, revisions to the clauses were formulated, and were published as a final rule in the Federal Register on August 12, 1987.

Timetable:

Action	Date	FR Cite
NPRM	05/02/86	51 FR 16462
NPRM Comment Period End	06/16/86	
Final Action	08/12/87	52 FR 30074

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA31

3519. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: Amend the Federal Acquisition Regulation to revise the contract cost principle on allowability of costs for compensated personal absences.

Timetable:

Action	Date	FR Cite
NPRM	07/13/84	49 FR 28571
NPRM Comment Period End	09/11/84	
Withdrawn	07/27/87	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA33

3520. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-40)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 16

Legal Deadline: None.

Abstract: Amend the Federal Acquisition Regulation to require inclusion of contract identification codes on Standard Form 26, Award/Contract, and Standard Form 33, Solicitation, Offer, and Award.

Timetable:

Action	Date	FR Cite
Withdrawn	06/24/87	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA34

3521. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-33)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 3

Legal Deadline: None.

Abstract: Amend the Federal Acquisition Regulation to exclude debarred and suspended contractors from conducting business with the Government as agents or representatives of other contractors.

Timetable:

Action	Date	FR Cite
NPRM	10/28/85	50 FR 43633
NPRM Comment Period End	11/27/85	
Final Action	03/20/87	52 FR 9036

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA39

3522. FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-51

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: Amend the FAR to revise the contract cost principle on advance agreements to highlight training and education costs as an example of costs for which advance agreements may be particularly important.

Timetable:

Action	Date	FR Cite
NPRM	11/01/85	50 FR 45708
NPRM Comment Period End	12/31/85	
Final Action	03/20/87	52 FR 9036

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA77

3523. FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-53

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: Amend the FAR to revise the contract cost principle on relocation costs to clarify language defining the time requirement for a permanent change of station, correct the list of allowable relocation costs, and clarify the allowability of relocation costs of employees who are hired, relocated, and returned to their point of hire in connection with specific contracts or long-term field projects.

Timetable:

Action	Date	FR Cite
NPRM	11/26/85	50 FR 48735
NPRM Comment Period End	01/27/86	
Final Action	03/20/87	52 FR 9036

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA79

3524. FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-58

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None.

Abstract: Amend the FAR to adjust customary progress payment rates commensurate with recent trends in interest rates in the private sector, and to promote uniformity throughout the FAR system on these rates.

Timetable:

Action	Date	FR Cite
NPRM	09/02/86	51 FR 31194
NPRM Comment Period End	10/02/86	
Final Action	06/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA84

3525. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-11)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to shift the burden of proof on the issue of reasonableness of contract costs from the Government to the contractor, abolish the presumption of reasonableness which attaches to incurred costs and simplify the list of considerations that impact reasonableness determinations.

Timetable:

Action	Date	FR Cite
NPRM	03/03/86	51 FR 7379
NPRM Comment Period End	05/02/86	
Final Action	05/27/87	52 FR 19800

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA96

3526. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-13)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to revise and clarify coverage on the costs of stock-related employee compensation.

Timetable:

Action	Date	FR Cite
NPRM	04/14/86	51 FR 12676
NPRM Comment Period End	06/13/86	
Final Action	05/27/87	52 FR 19800

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA98

3527. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-19)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 15

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to expand existing requirements to summarize proposed, recommended, and negotiated amounts by specifically requiring that the summary be in terms of major cost elements.

Timetable:

Action	Date	FR Cite
NPRM	04/22/86	51 FR 15264
NPRM Comment Period End	05/22/86	
Final Action	05/27/87	52 FR 19800

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB04

3528. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-21)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to specifically preclude the acceptance of unallowable costs as the result of using equipment ownership and operating cost schedules.

Timetable:

Action	Date	FR Cite
NPRM	04/22/86	51 FR 15264
NPRM Comment Period End	05/22/86	
Final Action	05/27/87	52 FR 19800

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB05

3529. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-25)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation with respect to Government purchases of products from countries designated under the Caribbean Basin Economic Recovery Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/06/86	51 FR 16802
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB10

3530. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-27)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to clarify the intent of legislative lobbying costs.

Timetable:

Action	Date	FR Cite
NPRM	05/29/86	51 FR 19506
NPRM Comment Period End	07/28/86	
Final Action	03/20/87	52 FR 9036

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB12

3531. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-40)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 8

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to add coverage on the use of color coded schedules under the Federal Supply Schedules Program.

Timetable:

Action	Date	FR Cite
Withdrawn	02/27/87	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB26

3532. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-44)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 45

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to clarify instructions for preparing the Standard Form 1432 relative to the descriptive information about special tooling and special test equipment that must be reported.

Timetable:

Action	Date	FR Cite
NPRM	09/02/86	51 FR 31196
NPRM Comment Period End	11/03/86	
Final Action	06/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB30

3533. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-45)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 9

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to provide a greater degree of uniformity in the treatment of firms and individuals that are debarred/suspended from contracts with the U.S. Government.

Timetable:

Action	Date	FR Cite
Withdrawn	08/11/86	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB31

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3534. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-46)

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: Statutory, August 19, 1986.

Abstract: To amend the Federal Acquisition Regulation to implement Article 15 of the U.S.-Israel Free Trade Agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/86	51 FR 30618
Final Action	08/12/87	52 FR 30074

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB32

3535. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-47)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 13

Legal Deadline: None.

Abstract: To amend the FAR to clarify that BPA's shall not cite accounting and appropriation data.

Timetable:

Action	Date	FR Cite
Final Action	03/20/87	52 FR 9036

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB33

3536. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-49)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 52

Legal Deadline: None.

Abstract: Amend the FAR to clarify the requirement that telegraphic proposals must be submitted to the office specified in the solicitation.

Timetable:

Action	Date	FR Cite
Final Action	03/20/87	52 FR 9036

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB35

3537. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-50)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None.

Abstract: To amend the FAR to eliminate the need for separate provisions in overseas solicitations.

Timetable:

Action	Date	FR Cite
Final Action	03/20/87	52 FR 9036

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB36

3538. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-53)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 5

Legal Deadline: None.

Abstract: To amend the FAR to revise the exceptions to synopsizing contract awards in FAR 5.301 to reflect current statutory exceptions.

Timetable:

Action	Date	FR Cite
Final Action	05/27/87	52 FR 19800

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB39

3539. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-55)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 32; 48 CFR 44

Legal Deadline: None.

Abstract: To amend the FAR to clarify contracting officer responsibilities in reviewing prime contractor administration of subcontractor progress payments.

Timetable:

Action	Date	FR Cite
Final Action	03/20/87	52 FR 9036

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB41

3540. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-56)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 25

Legal Deadline: None.

Abstract: To amend the FAR to clarify that not all ammunition purchases are subject to the Buy American Act.

Timetable:

Action	Date	FR Cite
Final Action	05/27/87	52 FR 19800

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB42

3541. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-60)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 4

Legal Deadline: None.

Abstract: To amend the FAR to eliminate the requirement to retain records for procurements of $25,000 or less when small purchase procedures are not used.

Timetable:

Action	Date	FR Cite
Final Action	05/27/87	52 FR 19800

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB46

3542. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-61)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 13

Legal Deadline: None.

Abstract: To amend the FAR to clarify the policy on the use of oral solicitations under small purchase procedures.

Timetable:

Action	Date	FR Cite
Final Action	05/27/87	52 FR 19800

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB47

3543. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-62)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 7

Legal Deadline: None.

Abstract: To amend the FAR to clarify the requirement that the clause at 52.207-3, Right of First Refusal of Employment, is to be included in all solicitations whether or not a cost comparison was performed.

Timetable:

Action	Date	FR Cite
Final Action	03/20/87	52 FR 9036

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB48

3544. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-66)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 22

Legal Deadline: None.

Abstract: To amend the FAR to be consistent with the policies of the Office of Federal Contract Compliance Programs (OFCCP) as published in 41 CFR 60-1.20(d) relating to equal opportunity preaward clearance of subcontracts in construction contracts.

Timetable:

Action	Date	FR Cite
Final Action	05/27/87	52 FR 19800

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB52

3545. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-05)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: To amend the FAR to modify FAR 31.205-38 to limit the restriction associated with foreign sales to "direct selling efforts," as defined in FAR 31.205-38(c).

Timetable:

Action	Date	FR Cite
Final Action	05/27/87	52 FR 19800

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB56

3546. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-06)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 5

Legal Deadline: None.

Abstract: To amend the FAR to permit agency determination of the thresholds above which routine reporting and announcement of contract awards will be made.

Timetable:

Action	Date	FR Cite
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB57

3547. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-10)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 22; 48 CFR 52; 48 CFR 53

Legal Deadline: None.

Abstract: To amend the FAR to implement Section 1241 of Public Law 99-145 and Department of Labor regulatory revisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/09/86	51 FR 12292
Final Action	03/20/87	52 FR 9036

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB58

3548. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-48)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 8

Legal Deadline: None.

Abstract: To amend the FAR to revise the coverage on the acquisition of printing and related supplies to reflect the Supreme Court's decision regarding approval procedures, substitution of a notification requirement, and definitions.

Timetable:

Action	Date	FR Cite
Final Action	03/20/87	52 FR 9036

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB59

3549. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-63)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 28

Legal Deadline: None.

Abstract: To amend the FAR to permit agencies to require only separate bid bonds as bid guarantees for construction contracts.

Timetable:

Action	Date	FR Cite
Final Action	05/27/87	52 FR 19800

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB62

3550. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-58)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to revise the customary progress payment rates, incorporate limitations, and provide guidance when more than one rate is used.

Timetable:

Action	Date	FR Cite
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB64

3551. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-26)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to specify that a contractor must assert its right to an adjustment in a contract's price and/or delivery schedule within 30 days from the date of the issuance of a change to the contract.

Timetable:

Action	Date	FR Cite
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB65

3552. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-36)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 7

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to assist the Government in planning the purchase of supplies by using information from offerors.

Timetable:

Action	Date	FR Cite
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB66

3553. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 86-44)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to clarify contractor requirements when reporting excess special tooling and test equipment for disposal action.

Timetable:

Action	Date	FR Cite
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB67

3554. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-04)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 19

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to revise current SBA size standards to conform with modifications published by the SBA on January 6, 1987.

Timetable:

Action	Date	FR Cite
Final Action	06/09/87	52 FR 21885

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB68

3555. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-06)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 5

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to allow agencies to announce awards at a minimum dollar threshold other than $3 million.

Timetable:

Action	Date	FR Cite
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB69

3556. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-07)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to add a reference to "federally recognized Indian tribal governments."

Timetable:

Action	Date	FR Cite
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB70

3557. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-10)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 53

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to authorize a pen and ink change to a form pending publication of a new edition.

Timetable:

Action	Date	FR Cite
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB71

3558. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-11)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 22

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to provide an alternative definition for a regular dealer in specialty advertising products.

Timetable:

Action	Date	FR Cite
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB72

3559. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-17)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 28

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to permit a waiver for bid guarantees for construction work to be performed overseas.

Timetable:

Action	Date	FR Cite
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB77

3560. ● AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 87-20)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45

Legal Deadline: None.

Abstract: To amend the Federal Acquisition Regulation to specify a dollar threshold for Government property usage analyses, and update terminology on plants and equipment retained for mobilization.

Timetable:

Action	Date	FR Cite
Final Action	08/12/87	52 FR 30074

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AB78

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Commodity Futures Trading Commission

Semiannual Regulatory Agenda

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COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 (202) 254-7360.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601, et seq. ("RFA"), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of October and April of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

5 U.S.C. 602(a). Accordingly, the Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1] In addition, the agenda lists rulemaking actions which have been completed since the April agenda was prepared.

The Commission's agenda represents its best estimate of significant rules which will be considered over the next twelve months.[2] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Commission is publishing its October 1987 Regulatory Flexibility Agenda as part of the October Unified Agenda of Federal Regulations. The Unified Agenda of Federal Regulations is coordinated by the Office of Management and Budget pursuant to Executive Order 12291. While participation by executive agencies in the Agenda is mandatory, independent agencies, such as the Commission, participate in the Unified Agenda on a voluntary basis.

The Commission's October 1987 Regulatory Flexibility Agenda is set forth below.

Issued in Washington, DC on September 3, 1987, by the Commission.

Jean A. Webb,

Secretary of the Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3561	Regulations governing Commission review of certain actions of registered futures associations	3038-AA57

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3562	Regulations Permitting the Grant, Offer and Sale of Options on Physical Commodities (Dealer Options)	3038-AA03
3563	Minimum Financial and Related Reporting Requirements for Futures Commission Merchants	3038-AA10
3564	Revision of Federal Speculative Position Limits	3038-AA52
3565	Activities of Self-Regulatory Organization Governing Members who Possess Material, Non-Public Information	3038-AA53

[1] The Commission has published its definition of small entity to be used by the Commission in connection with rulemaking proceedings. 47 FR 18618 (April 30, 1982). Pursuant to those definitions, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. *See* 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, listing of an event in this regulatory flexibility agenda should not, in any event, be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations.

[2] In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar listing rules that the Commission intends to consider that month.

CFTC

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3566	Exemption from registration as a commodity trading advisor	3038-AA54

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3567	Regulations Governing the Offer and Sale of Foreign Futures and Option Contracts in the United States	3038-AA33
3568	Review of Exchange Disciplinary Actions	3038-AA49

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Proposed Rule Stage

3561. ● REGULATIONS GOVERNING COMMISSION REVIEW OF CERTAIN ACTIONS OF REGISTERED FUTURES ASSOCIATIONS

Legal Authority: 7 USC 21(h); 7 USC 21(i); 7 USC 21(o)(2); 7 USC 12a(5)

CFR Citation: 17 CFR 3

Legal Deadline: None.

Abstract: The Commission has statutory authority to review the actions of registered futures associations such as the National Futures Association. Such actions include registration decisions, membership decisions and decisions in disciplinary actions. The Commission currently reviews registration decisions by the National Futures Association pursuant to Subpart F of 17 CFR Part 3. Section 107 of the Futures Trading Act of 1986 mandates that the Commission develop regulations relating to notice of membership decisions and decisions in disciplinary actions made by registered futures associations and to expedited consideration by the Commission of a motion to stay the effect of a decision by a registered futures association pending the Commission review of the decision. The Commission intends to propose rules to govern its review of actions by self regulatory organizations in light of this Congressional mandate and the need to assure that review by the Commission is fair, expeditious and consistent with the policies of self-regulation.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
Final Action	03/31/88	

Small Entity: No

Agency Contact: James C. Bohling, Esq., Office of the General Counsel, Commodity Futures Trading Commission, 2033 K St. N.W., Washington, D.C. 20581, 202 254-9880

RIN: 3038-AA57

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Final Rule Stage

3562. REGULATIONS PERMITTING THE GRANT, OFFER AND SALE OF OPTIONS ON PHYSICAL COMMODITIES (DEALER OPTIONS)

Legal Authority: 7 USC 6c(b); 7 USC 6c(d); 7 USC 12a(5)

CFR Citation: 17 CFR 1; 17 CFR 3; 17 CFR 32

Legal Deadline: None.

Abstract: Congress has directed the Commission to issue regulations permitting grantors and futures commission merchants to grant, offer and sell so-called "dealer options" on certain physical commodities subject to certain conditions specified by statute and such other uniform and reasonable requirements as the Commission may prescribe. At present, the only persons who may lawfully grant dealer options are United States domiciles who, on May 1, 1978, were in the business of buying, selling, producing or otherwise using that commodity. The Commission has reproposed rules, principally concerning registration of dealer option grantors, requirements for the segregation of customer funds, disclosure to customers and prospective customers, and minimum financial requirements. The Commission intends to re-evaluate the proposed rules in light of regulatory changes that have occurred since 1980.

Timetable:

Action	Date	FR Cite
NPRM	12/20/78	43 FR 59396
NPRM	04/27/81	46 FR 23469
ANPRM	03/18/85	50 FR 10788
Final Action	09/30/88	

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CFTC — Final Rule Stage

Small Entity: No

Affected Sectors: Multiple

Agency Contact: Robert H. Rosenfeld, Esquire, Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA03

3563. MINIMUM FINANCIAL AND RELATED REPORTING REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS

Legal Authority: 7 USC 6c; 7 USC 6f; 7 USC 6g; 7 USC 12a

CFR Citation: 17 CFR 1.12; 17 CFR 1.17

Legal Deadline: None.

Abstract: The Commission adopted two amendments to its minimum financial and related requirements for futures commission merchants (FCMs). One amendment will preserve the one-day grace period for debit/ deficit accounts unless the account had been in debit/deficit status on the previous business day and the present day's debit or deficit was not timely satisfied in its entirety by the deposit of new funds. The second amendment is an enhancement of the financial early warning system which requires an FCM to notify its designated self-regulatory organization and the Commission immediately when it determines that an account it is carrying is undermargined by an amount which exceeds its adjusted net capital. The Commission also reproposed a rule to clarify the requirements for and treatment of a guaranteed account.

Timetable:

Action	Date	FR Cite
NPRM	06/25/80	45 FR 42633
NPRM	12/01/80	45 FR 79498
NPRM	08/05/85	50 FR 31612
NPRM	07/29/87	52 FR 28281
Final Action	00/00/00	

Small Entity: No

Additional Information: Two final rules published 7/29/87, 52 FR 28246 and 52 FR 28248. Effective date: 8/28/87. Guaranteed account rule reproposed on 7/29/87, 52 FR 28281.

Agency Contact: Lawrence Patent or Gary Miller, Assoc. Chief Counsel and Asst. Chief Acct., Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA10

3564. REVISION OF FEDERAL SPECULATIVE POSITION LIMITS

Legal Authority: 7 USC 6a; 7 USC 12a(5)

CFR Citation: 17 CFR 150.1; 17 CFR 150.2; 17 CFR 150.3; 17 CFR 150.4; 17 CFR 150.5; 17 CFR 150.10; 17 CFR 150.11; 17 CFR 150.12; 17 CFR 150.6, (new); 17 CFR 150.7, (new)

Legal Deadline: None.

Abstract: It has been a longstanding policy of the Commodity Futures Trading Commission ("Commission") to establish and enforce under its rulemaking authority speculative position limits for futures contracts on various agricultural commodities. Generally, the appropriateness of the particular levels of these speculative position limits has not been reviewed in recent years. In this regard, the Commission has received petitions for rulemaking concerning these matters. Accordingly, the Commission is undertaking generally to review these speculative position limits and to revise them as appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	09/04/86	51 FR 31648
ANPRM Comment Period End	11/03/86	
NPRM	03/05/87	52 FR 6812
NPRM Comment Period End	06/03/87	
Final Action	12/30/87	

Small Entity: No

Agency Contact: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K St. N. W., Washington, D. C. 20581, 202 254-6990

RIN: 3038-AA52

3565. ACTIVITIES OF SELF-REGULATORY ORGANIZATION GOVERNING MEMBERS WHO POSSESS MATERIAL, NON-PUBLIC INFORMATION

Legal Authority: 7 USC 5; 7 USC 6b; 7 USC 7; 7 USC 7a; 7 USC 8; 7 USC 13a; 7 USC 12; 7 USC 12a; 7 USC 13; 7 USC 21; 7 USC 26(b)

CFR Citation: 17 CFR 1

Legal Deadline: None.

Abstract: The Commission proposed adopting a regulation which would require designated self-regulatory organizations (SROs) to adopt rules to prohibit the disclosure and misuse of material, non-public information obtained by SRO members by nature of their participation on governing boards or committees. The regulation would also require SROs and clearing organizations to adopt rules to require, subject to certain exceptions, the immediate publication of final decisions by governing boards and committees. The Commission proposes to include these new requirements as amendments to the existing Regulations 1.59 pertaining to the use of non-public information by SRO employees.

Timetable:

Action	Date	FR Cite
NPRM	06/11/85	50 FR 24533
NPRM	08/00/87	
Final Action	12/30/87	

Small Entity: No

Additional Information: Further request for comments 12/12/86 (51 FR 44871)

Agency Contact: De'Ana Hamilton Brown, Esquire, Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K St. N.W., Washington, D. C. 20581, 202 254-8953

RIN: 3038-AA53

3566. ● EXEMPTION FROM REGISTRATION AS A COMMODITY TRADING ADVISOR

Legal Authority: 7 USC 2; 7 USC 4; 7 USC 6; 7 USC 6b; 7 USC 6c; 7 USC 6d; 7 USC 6e; 7 USC 6f; 7 USC 6g; 7 USC 6h; 7 USC 6i; 7 USC 6k; 7 USC 6m; 7 USC 6n; 7 USC 6o

CFR Citation: 17 CFR 4.6; 17 CFR 4.12; 17 CFR 4.14

Legal Deadline: None.

Abstract: Rule 4.6 will exclude certain otherwise regulated persons, such as state-regulated insurance companies, from the definition of the term "commodity trading advisor" (CTA), and Rule 4.14 will exempt certain other persons, such as registered investment advisors, from registration as a CTA. To implement these rules, certain other amendments will be made to the Commission's regulations. Rule 4.12 will provide relief from specific compliance with the disclosure, reporting and recordkeeping requirements of Part 4 for registered commodity pool operators who operate pools which, among other things, trade generally and routinely in securities instruments and who intend to commit no more than 10 percent of the fair market value of their pools' assets as initial margin or as option premiums for commodity interest trading.

Timetable:

Action	Date	FR Cite
NPRM	05/26/87	52 FR 19522
NPRM Comment Period End	07/10/87	
Final Action	10/31/87	

Small Entity: No

Agency Contact: Barbara Stern Gold, Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K St. N.W., Washington D.C. 20581, 202 254-8955

RIN: 3038-AA54

CFTC — Final Rule Stage

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Completed Actions

3567. REGULATIONS GOVERNING THE OFFER AND SALE OF FOREIGN FUTURES AND OPTION CONTRACTS IN THE UNITED STATES

CFR Citation: 17 CFR 30

Completed:

Reason	Date	FR Cite
Final Action	08/05/87	52 FR 28980
Final Action Effective	01/04/88	

Small Entity: Undetermined

Agency Contact: Jane C. Kang 202 254-8955

RIN: 3038-AA33

3568. REVIEW OF EXCHANGE DISCIPLINARY ACTIONS

CFR Citation: 17 CFR 9

Completed:

Reason	Date	FR Cite
Final Action	07/07/87	52 FR 25362
Final Action Effective	08/06/87	

Small Entity: No

Agency Contact: Phillip V. McGuire 202 254-8955

RIN: 3038-AA49

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Consumer Product Safety Commission

Semiannual Regulatory Agenda

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CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of regulatory flexibility and unified agendas.

SUMMARY: The Regulatory Flexibility Act (RFA) requires each Federal agency to publish twice each year a regulatory flexibility agenda listing the rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governmental units. In this document, the Commission publishes its semiannual regulatory flexibility agenda.

Additionally, although not required to do so, the Commission has elected to comply voluntarily with those provisions of Executive Order 12291 which require executive agencies to publish an agenda of regulatory actions expected to be under development or review by the agency during the succeeding 12 months and which further provide that such an agenda may be combined with an agency's regulatory flexibility agenda published in accordance with the RFA.

DATE: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by December 31, 1987.

ADDRESS: Comments on the regulatory flexibility agenda should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-6800, and should be titled "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-6980. All inquiries from the press and broadcast media should be directed to Lou Brott, Office of Media Relations, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-5540. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601-612, contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the Act, 5 U.S.C. 602, requires each agency to publish twice each year a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated which is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule, the objectives and legal basis for the rule, and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking. The Regulatory Flexibility Agenda shall also contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

In addition, President Reagan's Executive Order 12291 requires executive agencies to publish, twice each year, a regulatory agenda of proposed regulations under development or current regulations under review and further states that such an agenda may be combined with an agenda published under the RFA. While the Commission, as an independent regulatory agency, is not required to follow Executive Order 12291, the Commission is complying voluntarily with those provisions concerning publication of a regulatory agenda.

The regulatory flexibility agenda published below lists, for a 12-month period, the regulatory activities expected to be under development or review. These include all such activities, not only those which may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207.

Dated: September 24, 1987

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3569	Rule review	3041-AA20
3570	Rule review	3041-AA24
3571	Rule review	3041-AA25
3572	Petition HP 84-1. Petition to request amendment to the regulations on electrical toys to exempt electronic video games	3041-AA41
3573	All-Terrain Vehicles	3041-AA53
3574	Petition PP 85-2. Petition for rule to make disposable lighters child-resistant	3041-AA56
3575	Petition CP 86-1 requesting issuance of rule to address tip-over hazards of mobile television carts and related products for use in schools, institutions, and government agencies	3041-AA60

CPSC

Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3576	Petition HP 86-1 requesting issuance of a rule to require labeling of disposable diapers	3041-AA61
3577	Petition HP 87-1 requesting a ban of certain household products containing more than 0.01 percent tremolite	3041-AA63
3578	Petition PP 87-1 requesting that certain conjugated estrogens be exempted from Poison Prevention Packaging Act regulations requiring child-resistant packaging	3041-AA65
3579	Petition CP 86-2 requesting a consumer product safety standard for bunk beds	3041-AA66
3580	Petition HP 87-2 to request amendment to the CPSC small parts regulation for items intended for children under three years of age	3041-AA67
3581	Petition CP 87-1 requesting development of a product safety rule for kerosene heaters and requiring a label to warn against flare-up	3041-AA68
3582	Petition PP 87-2 requesting that certain effervescent acetaminophen tablets be exempted from Poison Prevention Packaging Act regulations requiring child-resistant packaging	3041-AA69
3583	Petition PP 87-4 requesting that certain unflavored aspirin in powder form be exempted from Poison Prevention Packaging Act regulations requiring child-resistant packaging	3041-AA70
3584	Petition PP 87-3 requesting that certain medroxyprogesterone acetate tablets be exempted from Poison Prevention Packaging Act regulations requiring child-resistant packaging	3041-AA71
3585	Possible standard or ban to address injuries to children caused by children playing with lawn darts	3041-AA72

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3586	Requirements for the special packaging of household substances; advance notice of proposed rulemaking and notice of opportunity for oral presentations	3041-AA22
3587	Federal Hazardous Substances Act regulations for first aid labeling of products containing 10 percent or more of benzene, toluene, xylene, or petroleum distillates	3041-AA52
3588	Petition HP 85-1. Petition requesting ban of household products containing methylene chloride	3041-AA58
3589	Household substances containing methylene chloride; status as hazardous substances; proposed rule	3041-AA59

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Prerule Stage

3569. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1193 Flammable Fabrics Act; 15 USC 1194 Flammable Fabrics Act; 15 USC 2079 Consumer Product Safety Act

CFR Citation: 16 CFR 1608; 16 CFR 1610; 16 CFR 1611; 16 CFR 1615; 16 CFR 1616; 16 CFR 1630; 16 CFR 1631; 16 CFR 1632

Legal Deadline: Statutory, December 31, 1990.

Abstract: On February 2, 1984, the Commission published a Federal Register notice listing eight (8) rules and standards issued under the Flammable Fabrics Act and soliciting comments on those rules. The Commission will review these rules under the provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	02/02/84	49 FR 4103
Public Comment Period Ends	04/02/84	49 FR 4103

Next Action Undetermined

Small Entity: Yes

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041-AA20

3570. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700; 16 CFR 1701; 16 CFR 1702; 16 CFR 1704

Legal Deadline: Statutory, December 31, 1990.

Abstract: The Commission plans to publish a Federal Register notice listing four (4) rules and standards issued under the Poison Prevention Packaging Act and soliciting comments on those rules. The Commission will review these rules under the provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Yes

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety

CPSC — Prerule Stage

Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041-AA24

3571. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500; 16 CFR 1501; 16 CFR 1505; 16 CFR 1507; 16 CFR 1508; 16 CFR 1509; 16 CFR 1510; 16 CFR 1511; 16 CFR 1512

Legal Deadline: Statutory, December 31, 1990.

Abstract: On February 22, 1984, the Commission published a Federal Register notice listing nine (9) rules and standards issued under the Federal Hazardous Substances Act and soliciting comments on those rules. The Commission will review these rules under provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	02/22/84	49 FR 6504
Public Comment Period Ends	04/23/84	49 FR 6504

Next Action Undetermined

Small Entity: Yes

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041-AA25

3572. PETITION HP 84-1, PETITION TO REQUEST AMENDMENT TO THE REGULATIONS ON ELECTRICAL TOYS TO EXEMPT ELECTRONIC VIDEO GAMES

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1505

Legal Deadline: None.

Abstract: In correspondence dated December 21, 1983, the Consumer Electronic Group of the Electronic Industries Association petitioned the Commission to amend the regulation on electrical toys to exempt electronic video games from coverage. If the Commission grants the petition, it will proceed to develop a proposed exemption to the standard.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Elaine Tyrrell, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA41

3573. ALL-TERRAIN VEHICLES

Significance: Agency Priority

Legal Authority: 15 USC 2051 et seq Consumer Product Safety Act; 15 USC 1262(f) Federal Hazardous Substances Act

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: On May 31, 1985, the Commission published an advance notice of proposed rulemaking (ANPR) to announce its preliminary determination that an unreasonable risk of injury may be associated with all-terrain vehicles. An all-terrain vehicle (ATV) is a motorized machine intended to be ridden by one person and designed for off-road use. ATVs are manufactured in three-wheel and four-wheel designs. Hearings were held in six cities from May 1985 through March 1986. On April 3, 1985, the Commission established a staff ATV Task Force to study and evaluate this matter. The Task Force submitted a report and recommendations. On December 18, 1986, the Commission directed its staff to: (1) continue to work with the industry to develop voluntary performance standards and do the technical work required to issue a NPRM to address the performance characteristics of ATVs, (2) prepare a letter to state governors, the Department of the Interior, and other appropriate federal agencies stressing the importance of ATV safety, and inform consumers and states of ATV safety hazards, (3) update the ATV safety alert and actively conduct Clearinghouse (cont.)

Timetable:

Action	Date	FR Cite
ANPRM	05/31/85	50 FR 23139
ANPRM Comment Period End	09/30/85	50 FR 31391

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ABSTRACT CONT. activities on ATV safety, (4) develop a program to provide all the types of notice and warning necessary to advise consumers of the risks associated with ATVs and how to minimize the risks, (5) prepare a letter for Commission approval advising the Specialty Vehicle Industry Association (SVIA) of the Commission's displeasure at the progress to date in developing voluntary standards, and (6) prepare a letter for Commission approval asking that ATV manufacturers voluntarily cease marketing ATVs intended for use by children under 12 years of age. Letters were sent to the Governors of the fifty states on January 28, 1987, and to Federal agencies on February 26, 1987. A letter setting forth the Commission's concern about progress in developing voluntary standards for ATVs was sent to SVIA on March 30, 1987. The Consumer Alert on ATVs was updated and made available to the public on May 7, 1987.

Agency Contact: Nick Marchica, Chairman, ATV Task Force, Consumer Product Safety Commission, Office of the Executive Director, Washington, D. C. 20207, 301 492-6550

RIN: 3041-AA53

3574. PETITION PP 85-2, PETITION FOR RULE TO MAKE DISPOSABLE LIGHTERS CHILD-RESISTANT

Legal Authority: 15 USC 1471 et seq. Poison Prevention Packaging Act

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: On May 3, 1985, the Commission received a petition from Diane L. Denton, R.N., requesting the Commission to initiate a rulemaking proceeding to establish requirements applicable to disposable lighters to make those products child-resistant. Information available to the Commission staff indicates that a significant number of young children die each year from fires involving disposable lighters. However, this information is not adequate to determine what action, if any, could be taken to reduce this hazard. A study is in progress to obtain information about possible means of addressing risks of death and injury to young children associated with disposable lighters. The field portion of the study has been completed, and an analysis of the data obtained is in progress. The staff will prepare a briefing package for consideration by the Commission in deciding whether to grant or deny the petition.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: L. J. Sharman, Fire Programs Officer, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D. C. 20207, 301 492-6554

RIN: 3041-AA56

3575. PETITION CP 86-1 REQUESTING ISSUANCE OF RULE TO ADDRESS TIP-OVER HAZARDS OF MOBILE TELEVISION CARTS AND RELATED PRODUCTS FOR USE IN SCHOOLS, INSTITUTIONS, AND GOVERNMENT AGENCIES

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 2051 et seq Consumer Product Safety Act

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: By letter dated June 3, 1986, James L. Dieringer petitioned the Commission to begin a proceeding for issuance of a rule to address the tip-over hazards of mobile television carts and related equipment for use in schools, institutions, and government agencies. The staff is preparing a briefing package for consideration by the Commission when deciding whether to grant or deny the petition. If the Commission grants the petition, it will begin a rulemaking proceeding under the Consumer Product Safety Act. A Commission decision is expected in October 1987.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Stan Morrow, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA60

3576. PETITION HP 86-1 REQUESTING ISSUANCE OF A RULE TO REQUIRE LABELING OF DISPOSABLE DIAPERS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 et seq. Federal Hazardous Substances Act

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: By letter dated February 12, 1986, the Coalition of Concerned Parents requested the Commission to begin a proceeding for issuance of a rule to require labeling of disposable diapers and disposable diaper boxes to warn of ingestion and flammability hazards. The staff is preparing a briefing package for consideration by the Commission when deciding whether to grant or deny the petition. If the Commission grants the petition, it will begin a rulemaking proceeding under the Federal Hazardous Substances Act.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: L. James Sharman, Fire Programs Officer, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA61

3577. PETITION HP 87-1 REQUESTING A BAN OF CERTAIN HOUSEHOLD PRODUCTS CONTAINING MORE THAN 0.01 PERCENT TREMOLITE

Legal Authority: 15 USC 1261(q)(1)(B) Federal Hazardous Substances Act; 5 USC 553(e) Administrative Procedure Act

CFR Citation: 16 CFR 1500

Legal Deadline: None.

Abstract: On October 14, 1986, Mr. Mark Germaine petitioned the Commission to ban: consumer products that contain limestone, including lawn and garden limestones, both granular and pulverized; sand products, including play sand; and consumer gravel products; if such products contain more than 0.01 percent of tremolite. Mr. Germaine bases his request for a ban on a concern that tremolite in these products is carcinogenic and causes mesothelioma. The staff will prepare a briefing package for consideration by the Commission in deciding whether to grant or deny the petition. If the Commission grants the petition, it will begin a rulemaking proceeding under the Federal Hazardous Substances Act.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Sandra Eberle, Program Manager, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA63

3578. PETITION PP 87-1 REQUESTING THAT CERTAIN CONJUGATED ESTROGENS BE EXEMPTED FROM POISON PREVENTION PACKAGING ACT REGULATIONS REQUIRING CHILD-RESISTANT PACKAGING

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1471 to 1474 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None.

Abstract: A petition dated October 26, 1986, from Ayerst Laboratories requested that the Commission increase the present exemption from special packaging requirement for conjugated estrogens from 26.5 to 32 milligrams per mnemonic package. The staff is preparing a briefing package on this petition for submission to the Commission in September 1987. If the Commission grants the petition, it will initiate a rulemaking proceeding under the Poison Prevention Packaging Act.

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Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Virginia White, Project Manager, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA65

3579. PETITION CP 86-2 REQUESTING A CONSUMER PRODUCT SAFETY STANDARD FOR BUNK BEDS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act; 15 USC 2056 Consumer Product Safety Act; 15 USC 2058 Consumer Product Safety Act; 15 USC 2079(d) Consumer Product Safety Act

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: In correspondence dated August 26, 1986, the Consumer Federation of America petitioned the Commission to begin a proceeding to issue a consumer product safety standard for bunk beds. The petition alleges that unreasonable risks of death or injury to children are associated with bunk beds in that (1) supporting structures for mattresses can be inadequate to prevent the mattress from falling on children, (2) guardrails can be positioned far enough above the upper surface of the mattress to allow a child's body to slip between the guardrail and the mattress, resulting in head entrapment and strangulation, and (3) the absence of a guardrail on the side of the bed next to a wall can result in entrapment of a child's head or chest between the mattress and the wall, causing strangulation. If the petition is granted, the Commission will begin a rulemaking proceeding under either the Consumer Product Safety Act or the Federal Hazardous Substances Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Elaine Tyrrell, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA66

3580. ● PETITION HP 87-2 TO REQUEST AMENDMENT TO THE CPSC SMALL PARTS REGULATION FOR ITEMS INTENDED FOR CHILDREN UNDER THREE YEARS OF AGE

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1261-62 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1501.4

Legal Deadline: None.

Abstract: In correspondence dated April 20, 1987, the Consumer Federation of America (CFA) petitioned the Commission on behalf of CFA and the New York State Attorney General's Office to amend the small parts regulation to require the diameter of the small parts cylinder specified in the regulation to be increased from 1.25 inches to at least 1.68 inches, in order to decrease choking incidents. The facts claimed to support the need for an amendment of the small parts regulation are derived from a CPSC Human Factors analysis of choking incidents in children (1983), a 1986 CPSC listing of choking incidents from in-depth investigations, and a written opinion by Bernard Dreyer, M.D. If the petition is granted, the Commission will begin a rulemaking proceeding under the Federal Hazardous Substances Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Elaine Tyrrell, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA67

3581. ● PETITION CP 87-1 REQUESTING DEVELOPMENT OF A PRODUCT SAFETY RULE FOR KEROSENE HEATERS AND REQUIRING A LABEL TO WARN AGAINST FLARE-UP

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2056 Consumer Product Safety Act; 15 USC 2058 Consumer Product Safety Act; 15 USC 2076 Consumer Product Safety Act

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: On September 19, 1986, the Commission received a petition from the National Kerosene Heater Association (NKHA). The association requested that the Commission initiate proceeding under the Consumer Product Safety Act to develop a kerosene heater rule containing requirements to limit nitrogen dioxide emissions of kerosene heaters and all of the requirements for kerosene heaters now contained in UL Standard 647. At about the same time, the International Association of Fire Chiefs (IAFC) requested the Commission to require the kerosene heater industry to provide notice and warning labels on all kerosene heaters sold in the United States alerting the consumer that unvented portable kerosene heaters are subject to spontaneous and uncontrollable flare-up with flames extending outside the cabinet. The staff is preparing a briefing package on these requests for consideration by the Commission. If the Commission grants the petition from NKHA or the request from IAFC, it will begin a rulemaking proceeding under the Consumer Product Safety Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: L. James Sharman, Fire Programs Officer, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA68

3582. ● PETITION PP 87-2 REQUESTING THAT CERTAIN EFFERVESCENT ACETAMINOPHEN TABLETS BE EXEMPTED FROM POISON PREVENTION PACKAGING ACT REGULATIONS REQUIRING CHILD-RESISTANT PACKAGING

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1471 et seq. Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None.

Abstract: A petition dated April 21, 1987, from Miles Laboratories, Inc. requested the Commission to increase the present exemption from special packaging requirements for effervescent acetaminophen tablets from an acetaminophen content of less than 10 percent to one of less than 15 percent. In October, 1987, the staff will send a briefing package to the Commission with recommendations for action on the petition. If the Commission grants the petition, it will initiate a rulemaking proceeding under the Poison Prevention Packaging Act.

Timetable:

Action	Date	FR Cite
Staff sends briefing package to Commission	10/00/87	

Small Entity: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA69

3583. ● PETITION PP 87-4 REQUESTING THAT CERTAIN UNFLAVORED ASPIRIN IN POWDER FORM BE EXEMPTED FROM POISON PREVENTION PACKAGING ACT REGULATIONS REQUIRING CHILD-RESISTANT PACKAGING

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1471 et seq. Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None.

Abstract: A petition dated May 20, 1987, from Block Drug Company requested the Commission to increase the present exemption from special packaging requirements for unflavored aspirin preparations in powder form which are packaged in unit doses from 13 grains per unit dose to 15.4 grains per unit dose. In January, 1988, the staff will send a briefing package to the Commission with recommendations for action on the petition.

Timetable:

Action	Date	FR Cite
Staff sends briefing package to Commission	01/00/88	

Small Entity: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA70

3584. ● PETITION PP 87-3 REQUESTING THAT CERTAIN MEDROXYPROGESTERONE ACETATE TABLETS BE EXEMPTED FROM POISON PREVENTION PACKAGING ACT REGULATIONS REQUIRING CHILD-RESISTANT PACKAGING

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1471 et seq. Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None.

Abstract: A petition dated April 27, 1987, Ayerst Laboratories asked the Commission to exempt from special packaging requirements for oral prescription drugs, medroxyprogesterone acetate tablets when dispensed in mnemonic packages containing no more than 100 milligrams of the drug. If the Commission grants the petition, it will initiate a rulemaking proceeding under the Poison Prevention Packaging Act. In December, 1987, the staff will send a briefing package to the Commission with recommendations for action on the petition.

Timetable:

Action	Date	FR Cite
Staff sends briefing package to Commission	12/00/87	

Small Entity: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA71

3585. ● POSSIBLE STANDARD OR BAN TO ADDRESS INJURIES TO CHILDREN CAUSED BY CHILDREN PLAYING WITH LAWN DARTS

Legal Authority: 15 USC 1261 to 1262 Federal Hazardous Substances Act; 15 USC 2056 to 2058 Consumer Product Safety Act

CFR Citation: 16 CFR 1500.18(a)(4); 16 CFR 1500.86(a)(3)

Legal Deadline: None.

Abstract: The Commission has been considering options to address injuries and deaths in children caused by children playing with lawn darts. On October 1, 1987, the Commission directed its staff to prepare an ANPR for Commission approval that would indicate that the Commission may either require five labeling, instructions, and marketing actions that the Commission previously had asked the industry to do voluntarily or ban lawn darts. The latter action would include the possibility of revoking the current FHSA exemption that allows the marketing of certain lawn darts. The particular action to be taken ultimately would take into account the results of a surveillance program to be conducted by the staff 3 months after the ANPR to determine if the industry is in substantial compliance with the requested five actions. The final action would also depend on an evaluation of whether such voluntary or mandatory standards, if enforced, could be expected to protect consumers from unreasonable risk of injuries. The ANPR would include inquiries to the public to determine whether the current exemption should be revoked or amended. The staff was directed to vigorously enforce current FHSA provisions on (cont)

Timetable:

Action	Date	FR Cite
ANPRM	10/20/87	
ANPRM Comment Period End	12/20/87	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: lawn darts and to issue a consumer alert on an annual basis. Shortly before the Commission's vote, a petition (No. CP 87-3) was received from David A. Snow, asking for a ban of lawn darts.

Agency Contact: Elaine Tyrrell, Project Manager, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207, 301 492-6554

RIN: 3041-AA72

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CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Proposed Rule Stage

3586. REQUIREMENTS FOR THE SPECIAL PACKAGING OF HOUSEHOLD SUBSTANCES; ADVANCE NOTICE OF PROPOSED RULEMAKING AND NOTICE OF OPPORTUNITY FOR ORAL PRESENTATIONS

Legal Authority: 15 USC 1472 Poison Prevention Packaging Act; 15 USC 1473 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.20

Legal Deadline: None.

Abstract: On January 19, 1983, the Commission published an Advance Notice of Proposed Rulemaking soliciting comments on ways to amend the existing requirements for child-resistant packaging to improve the effectiveness and efficiency of these requirements. In June, 1985, the Commission staff completed testing to determine the feasibility of using some of the alternate procedures for evaluation of child-resistant packaging described in the ANPR. In August 1987, the Commission considered the comments received in response to the ANPR and the staff's recommendations regarding revision of existing requirements for child-resistant packaging. The Commission directed the staff to prepare draft proposals to amend the test protocols used to evaluate the effectiveness of child-resistant packaging. The staff is preparing a briefing package concerning specific revisions to the child test protocol and the adult test protocol. The staff anticipates that it will transmit the briefing package to the Commission in December 1987.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/83	48 FR 2389
ANPRM Comment Period End	03/21/83	48 FR 2389

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Virginia A. White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, DC 20207, 301 492-6554

RIN: 3041-AA22

3587. FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS FOR FIRST AID LABELING OF PRODUCTS CONTAINING 10 PERCENT OR MORE OF BENZENE, TOLUENE, XYLENE, OR PETROLEUM DISTILLATES

Legal Authority: 15 USC 1261(p)(1) Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500.14(b)(3)

Legal Deadline: None.

Abstract: On December 13, 1985, the Commission proposed a regulation to amend the FHSA regulations for first aid labeling of products containing 10 per cent or more of benzene, toluene, xylene, or petroleum distillates by eliminating the current requirement that such labeling must contain the direction "if swallowed, do not induce vomiting." Current expert opinion is that the decision of whether to induce vomiting as a first aid treatment should be made on a case-by-case basis, depending on the toxicity of the individual product and the amount ingested. The staff is preparing a briefing package with an analysis of comments received on the proposed amendment for submission to the Commission in September 1987.

Timetable:

Action	Date	FR Cite
NPRM	12/13/85	50 FR 50918
NPRM Comment Period End	02/11/86	50 FR 50918

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Virginia A. White, Project Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D. C.20207, 301 492-6554

RIN: 3041-AA52

3588. PETITION HP 85-1, PETITION REQUESTING BAN OF HOUSEHOLD PRODUCTS CONTAINING METHYLENE CHLORIDE

Legal Authority: 15 USC 1261(q)(1)(B) Federal Hazardous Substances Act; 15 USC 1262(a) Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None.

Abstract: On September 3, 1985, the Consumer Federation of America (CFA) petitioned the Commission to begin a proceeding for issuance of a rule under provisions of section 3(a) of the Federal Hazardous Substances Act (FHSA) to declare that household products containing methylene chloride are hazardous substances. By letter dated December 20, 1985, CFA amended the petition to also request that a proceeding be initiated to declare household products containing methylene chloride to be "banned hazardous substances" under provisions of section 2(q)(1)(B) of the FHSA upon issuance of the rule to classify such products as hazardous substances. Methylene chloride is a solvent used in paint strippers, spray paints, and other consumer products. On August 20, 1986, the Commission proposed a rule to declare household products containing methylene chloride to be hazardous substances. This had the effect of granting CFA's first request. In August 1987, the Commission determined that there was insufficient controversy to warrant a rulemaking proceeding and issued a statement of enforcement policy stating the Commission's view that (cont.)

Timetable:

Action	Date	FR Cite
NPRM	08/20/86	51 FR 29778
NPRM Comment Period End	10/20/86	51 FR 29778
Policy published	09/14/87	52 FR 34698

Next Action Undetermined

Small Entity: Undetermined

Additional Information: CONT household products that contain methylene chloride and that expose consumers to significant levels of methylene chloride are hazardous substances and subject to the FHSA's labeling requirements. If the Commission grants the remainder of CFA's petition, it will publish an advance notice of proposed rulemaking under the provisions of the FHSA.

Agency Contact: Sandra Eberle, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA58

3589. HOUSEHOLD SUBSTANCES CONTAINING METHYLENE CHLORIDE; STATUS AS HAZARDOUS SUBSTANCES; PROPOSED RULE

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CPSC

Proposed Rule Stage

CFR Citation: 16 CFR 1500.12(a)(2)

Legal Deadline: None.

Abstract: On August 20, 1986, the Commission proposed a rule to declare that household products containing methylene chloride are hazardous substances under the Federal Hazardous Substances Act. These products include some paint strippers and spray paints. The Commission's concern arises from animal tests showing that methylene chloride is a carcinogen by inhalation and studies indicating a significant human exposure as a result of reasonably foreseeable use of products containing methylene chloride. The initiation of this rulemaking proceeding granted one part of a petition (HP 85-1) from the Consumer Federation of America. The staff provided an analysis of the comments on the proposed rule to the Commission in June 1987. In August 1987, the Commission determined that there was insufficient controversy over the status of methylene chloride as a hazardous substance; therefore, the Commission suspended the rulemaking and issued a statement of enforcement policy stating the Commission's view that household products that contain methylene chloride and that expose consumers to significant levels of methylene chloride are (cont.)

Timetable:

Action	Date	FR Cite
NPRM	08/20/86	51 FR 29778
NPRM Comment Period End	10/20/86	51 FR 29778
Policy published	09/14/87	52 FR 34698

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: subject to the FHSA's labeling requirements.

Agency Contact: Sandra Eberle, Program Manager, Consumer Product Safety Commission, Office of Program Management and Budget, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA59

[FR Doc. 87-22220 Filed 10-23-87; 8:45 am]

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Part XLV

Farm Credit Administration

Semiannual Regulatory Agenda

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FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulations

AGENCY: Farm Credit Administration.

ACTION: Department Unified Agenda of Regulations and review list.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency in voluntary compliance with Executive Order 12291, sets forth the following agenda of regulations which it will have under development and review during the period of October 1987 through April 1988.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703-883-4020).

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601, et seq.), contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. Farm Credit Administration regulations which apply to Farm Credit System banks and associations do not and will not have a substantial impact on small entities. None of the entities regulated by the FCA fall within the definition of small entities in the Regulatory Flexibility Act. While many associations through which banks lend are smaller in size than their banks, they are not independently operated, as they are closely supervised by the banks, which must approve most of their operating policies. The associations rely exclusively on their supervising banks for their source of funds. Furthermore, the associations do not compete with each other since, as with their supervising banks, each serves only a particular geographic area.

While FCA is an independent agency exempt from Executive Order 12291, we believe that participating in this joint publication will further the public interest by including FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations.

Dated: September 8, 1987.

Elizabeth Kirby,

Acting Secretary, Farm Credit Administration Board.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3590	Part 612; Personnel Administration; Standards of Conduct for Directors, Officers and Employees of System Institutions	3052-AA81
3591	Examinations	3052-AA89

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3592	Part 602 - Releasing Information	3052-AA05
3593	Compensation of District Director Board Members	3052-AA09
3594	Cooperative Eligibility	3052-AA11
3595	Loans Outside of Bank's Territory - Banks for Cooperatives	3052-AA13
3596	Methods of Financing	3052-AA36
3597	Obligations Eligible for Discount or Purchase	3052-AA37
3598	Overall Review of 12 CFR Parts 611 - 618	3052-AA48
3599	Banks for Cooperatives	3052-AA51
3600	Part 614 - Loan Policies and Operations Subpart Q -- Banks for Cooperatives Financing International Trade	3052-AA52
3601	Part 615 - Funding and Fiscal Affairs	3052-AA60
3602	Funding and Fiscal Affairs; Capital Adequacy	3052-AA79
3603	Loan Policies and Operations; Borrower Rights	3052-AA83
3604	Interest Rates	3052-AA84
3605	Disclosure to Shareholders; Accounting and Reporting Requirements	3052-AA86
3606	Capital Corporation Assessments	3052-AA87
3607	Capital Adequacy Related	3052-AA88

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3608	Part 606 - Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Farm Credit Administration	3052-AA67

FCA

Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3609	Part 624-Farm Credit System Regulatory Accounting Practices; Temporary Regulations	3052-AA82

FARM CREDIT ADMINISTRATION (FCA) — Prerule Stage

3590. PART 612; PERSONNEL ADMINISTRATION; STANDARDS OF CONDUCT FOR DIRECTORS, OFFICERS AND EMPLOYEES OF SYSTEM INSTITUTIONS

Legal Authority: 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 612.2150

Legal Deadline: None.

Abstract: Amendment to present regulation which would prohibit an individual from serving simultaneously as an employee of a Farm Credit System bank and the System association it supervises.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4020)

Agency Contact: Dorothy J. Acosta, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA81

3591. ● EXAMINATIONS

Legal Authority: PL 92-181; 12 USC 2243; 12 USC 2246; 12 USC 2252

CFR Citation: 12 CFR 614.4000; 12 CFR 614.4030; 12 CFR 614.4040; 12 CFR 614.4050; 12 CFR 614.4051; 12 CFR 614.4060

Legal Deadline: None.

Abstract: Review various regulations regarding examination authorities.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: FOR ADDITIONAL INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Nancy Lynch, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA89

FARM CREDIT ADMINISTRATION (FCA) — Proposed Rule Stage

3592. PART 602 - RELEASING INFORMATION

Legal Authority: PL 92-181; PL 99-205; 12 USC 2252(a)(10)

CFR Citation: 12 CFR 602.200 to 602.245; 12 CFR 617.7080; 12 CFR 618.8300 to 618.8350

Legal Deadline: None.

Abstract: Clarify existing policies and procedures with respect to the release of information and/or documents obtained in or resulting from the conduct of official business by employees of the Farm Credit Administration and the Farm Credit System.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA05

3593. COMPENSATION OF DISTRICT DIRECTOR BOARD MEMBERS

Legal Authority: PL 92-181; PL 96-592; 12 USC 2211; 12 USC 2252(a)(10); PL 99-205

CFR Citation: 12 CFR 611.1031; 12 CFR 611.1020; 12 CFR 611.1021; 12 CFR 611.1022; 12 CFR 611.1030

Legal Deadline: None.

Abstract: Revision being made per order of the Farm Credit Administration Board regarding prior approval of district board directors special

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assignments and compensation of district board directors.

Timetable:

Action	Date	FR Cite
NPRM	12/09/86	51 FR 44308
NPRM Comment Period End	02/09/87	51 FR 44308

Next Action Undetermined

Small Entity: No

Additional Information: FOR ADDITIONAL INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Nancy E. Lynch, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA09

3594. COOPERATIVE ELIGIBILITY

Legal Authority: PL 92-181; 12 USC 2129; 12 USC 2252(a)(10); PL 99-205

CFR Citation: 12 CFR 613.3110

Legal Deadline: None.

Abstract: Amend eligibility standards for cooperatives, and reference services of cooperatives.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA11

3595. LOANS OUTSIDE OF BANK'S TERRITORY - BANKS FOR COOPERATIVES

Legal Authority: PL 92-181; PL 96-592; 12 USC 2128; 12 USC 2252(a)(10); PL 99-205

CFR Citation: 12 CFR 614.4060

Legal Deadline: None.

Abstract: Amend international trade financing regulations to eliminate statutory conflict and address the issue of which bank will finance particular international transactions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA13

3596. METHODS OF FINANCING

Legal Authority: PL 92-181; PL 96-592; 12 USC 2075; 12 USC 2252(a)(10); PL 99-205

CFR Citation: 12 CFR 614.4600

Legal Deadline: None.

Abstract: Loan qualification to be qualified as to eligibility requirements.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA36

3597. OBLIGATIONS ELIGIBLE FOR DISCOUNT OR PURCHASE

Legal Authority: PL 92-181; PL 96-592; 12 USC 2075; 12 USC 2252(a)(10); PL 99-205

CFR Citation: 12 CFR 614.4610

Legal Deadline: None.

Abstract: Loan participations to be qualified as to eligibility requirements.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA37

3598. OVERALL REVIEW OF 12 CFR PARTS 611 - 618

Legal Authority: 12 USC 2252(a)(10); PL 92-181; 12 USC 2227; 12 USC 2183; 12 USC 2129; 12 USC 2253; 12 USC 2226; 12 USC 2071; 12 USC 2011; PL 99-205

CFR Citation: 12 CFR 611.1010(c); 12 CFR 611.1140; 12 CFR 612.2110; 12 CFR 612.2120(b); 12 CFR 612.2080; 12 CFR 612.2090; 12 CFR 613.3020(c); 12 CFR 613.3040; 12 CFR 613.3110(a)(4); 12 CFR 613.3110(b)(2); 12 CFR 614.4015; 12 CFR 614.4051; 12 CFR 614.4070; 12 CFR 614.4130; 12 CFR 614.4160(c); ...

Legal Deadline: None.

Abstract: Under review by FCA staff to determine whether to recommend the elimination or retention of existing FCA regulatory approval requirements affecting the operations of Farm Credit System institutions or replacement with regulatory guidelines.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: ADDITIONAL CFR CITATIONS: 12 CFR 614.4165(f); 12 CFR 614.4190(b); 12 CFR 614.4190(c); 12 CFR 614.4281; 12 CFR 614.4330(a); 12 CFR 614.4354(a)(4); 12 CFR 614.4354(e); 12 CFR 614.4460; 12 CFR 614.4511; 12 CFR 614.4630(a); 12 CFR 614.4630(b); 12 CFR 615.5040; 12 CFR 615.5102; 12 CFR 615.5103; 12 CFR 615.5104; 12 CFR 615.5105; 12 CFR 615.5135; 12 CFR 615.5330(a); 12 CFR 615.5340; 12 CFR 615.5370; 12 CFR 615.5420; 12 CFR 615.5453; 12 CFR 615.5550; 12 CFR 615.5160; 12 CFR 615.5220; 12 CFR 615.5290; 12 CFR 615.5320; 12 CFR

614.4345; 12 CFR 614.4450; 12 CFR 614.4455; 12 CFR 615.5100; 12 CFR 615.5140(a)(15); 12 CFR 613.3045; 12 CFR 614.4080; CFR 614.4120; 12 CFR 614.4210; 12 CFR 614.4220; 12 CFR 614.4261; 12 CFR 614.4334(c); 12 CFR 614.4770; 12 CFR 614.4710; 12 CFR 614.4720; 12 CFR 614.4300; 12 CFR 614.4900; 12 CFR 615.5151; 12 CFR 615.5320(b)(1); 12 CFR 615.5400; 12 CFR 618.8020

Agency Contact: Gary L. Norton, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA48

3599. BANKS FOR COOPERATIVES

Legal Authority: 12 USC 2252(a)(10); PL 92-181; PL 99-205

CFR Citation: 12 CFR 614.4354

Legal Deadline: None.

Abstract: Changes in lending limits for banks for cooperatives.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: FOR ADDITIONAL INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA51

3600. PART 614 - LOAN POLICIES AND OPERATIONS SUBPART Q -- BANKS FOR COOPERATIVES FINANCING INTERNATIONAL TRADE

Legal Authority: 12 USC 2128; 12 USC 2252(a)(10); PL 92-181; PL 99-205

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: Regulation to define "substantial benefit" as it refers to banks for cooperatives ability to enter into international financing agreements.

Timetable:

Action	Date	FR Cite
NPRM	07/23/86	51 FR 26402
NPRM Comment Period End	09/22/86	51 FR 26402

Next Action Undetermined

Small Entity: No

Additional Information: FOR ADDITIONAL INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA52

3601. PART 615 - FUNDING AND FISCAL AFFAIRS

Legal Authority: 12 USC 2252(a)(10); PL 92-181; PL 99-205

CFR Citation: 12 CFR 615.5135; 12 CFR 615.5136; 12 CFR 615.5140; 12 CFR 615.5141; 12 CFR 615.5142; 12 CFR 615.5144; 12 CFR 615.5130

Legal Deadline: None.

Abstract: Amendments to establish detailed criteria for bank investment policies and broaden the types of investment with the more stringent policy criteria..

Timetable:

Action	Date	FR Cite
ANPRM	12/12/85	50 FR 50798
ANPRM Comment Period End	02/10/86	50 FR 50798
NPRM	12/09/86	51 FR 44310
NPRM Comment Period End	01/08/87	51 FR 44310

Next Action Undetermined

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA60

3602. FUNDING AND FISCAL AFFAIRS; CAPITAL ADEQUACY

Legal Authority: 12 USC 2154; 12 USC 2243; 12 USC 2252(a)(10); PL 99-205

CFR Citation: 12 CFR 615.5200; 12 CFR 615.5202; 12 CFR 615.5204; 12 CFR 615.5206; 12 CFR 615.5208; 12 CFR 615.5210; 12 CFR 615.5212; 12 CFR 615.5213; 12 CFR 615.5214; 12 CFR 615.5220; 12 CFR 615.5225; 12 CFR 615.5230

Legal Deadline: None.

Abstract: Regulations to ensure adequate capital is maintained by Farm Credit System institutions.

Timetable:

Action	Date	FR Cite
NPRM	07/23/86	51 FR 26402
NPRM Comment Period End	09/22/86	51 FR 26402

Next Action Undetermined

Small Entity: No

Additional Information: FOR ADDITIONAL INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Gary L. Norton, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA79

3603. ● LOAN POLICIES AND OPERATIONS; BORROWER RIGHTS

Legal Authority: 12 USC 2183; 12 USC 2199; 12 USC 2202; 12 USC 2243; 12 USC 2244; 12 USC 2252(a)(10); PL 99-205; PL 92-181

CFR Citation: 12 CFR 614.4440 to 614.4444

Legal Deadline: None.

Abstract: Revision under consideration regarding the internal procedures of Farm Credit institutions concerning review of denial of loan applications and to permit the designation of an alternate who may perform the credit review committee duties of Board members but who also must be a member of the institution's Board.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: FOR ADDITIONAL INFORMATION CONTACT: Cindy R. Nicholson,

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FCA — **Proposed Rule Stage**

Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Nancy Lynch, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4020

RIN: 3052-AA83

3604. ● INTEREST RATES

Legal Authority: PL 92-181; 12 USC 2243; 12 USC 2246; 12 USC 2252

CFR Citation: 12 CFR 614.4270 to 614.4321

Legal Deadline: None.

Abstract: Review various regulations which were affected by the Farm Credit Act Amendments of 1986 relating to competitive interest rates.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: FOR ADDITIONAL INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Nancy Lynch, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4020

RIN: 3052-AA84

3605. ● DISCLOSURE TO SHAREHOLDERS; ACCOUNTING AND REPORTING REQUIREMENTS

Legal Authority: PL 99-205; 12 USC 2252(9); 12 USC 2252(10); 12 USC 2252(a)(9)(10)

CFR Citation: 12 CFR 620; 12 CFR 621

Legal Deadline: None.

Abstract: Revision under consideration relating to required shareholder disclosure, including disclosure of problem loans to senior officers, directors, their immediate family members and affiliated organizations; and also relating to accounting requirements and call reports.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: FOR ADDITIONAL INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Dorothy Acosta, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4020

RIN: 3052-AA85

3606. ● CAPITAL CORPORATION ASSESSMENTS

Legal Authority: PL 99-205

CFR Citation: 12 CFR 611.1142(h)

Legal Deadline: None.

Abstract: Revision regarding the criteria pursuant to which the Farm Credit System Capital Corporation may assess Farm Credit System institutions and require System institutions to purchase the Corporation's capital stock and debt obligations.

Timetable:

Action	Date	FR Cite
NPRM	04/24/87	52 FR 13694

Next Action Undetermined

Small Entity: No

Additional Information: FOR ADDITIONAL INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Gary Norton, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4020

RIN: 3052-AA87

3607. ● CAPITAL ADEQUACY RELATED

Legal Authority: PL 99-205; 12 USC 2252(a)(10); 12 USC 2154; 12 USC 2243

CFR Citation: 12 CFR 614.4270; 12 CFR 614.4280; 12 CFR 614.4320; 12 CFR 614.4330; 12 CFR 615.5320; 12 CFR 615.5330; 12 CFR 615.5335; 12 CFR 615.5340; 12 CFR 615.5350; 12 CFR 615.5360; 12 CFR 615.5370

Legal Deadline: None.

Abstract: Revisions to various regulations relating to capital adequacy and minimal capital requirements for Farm Credit System institutions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: FOR ADDITIONAL INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Gary Norton, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, 703 883-4020

RIN: 3052-AA88

FARM CREDIT ADMINISTRATION (FCA) — **Final Rule Stage**

3608. PART 606 - ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FARM CREDIT ADMINISTRATION

Legal Authority: 12 USC 2252(a)(10); PL 92-181; 29 USC 794; PL 99-205

CFR Citation: 12 CFR 606.601-699

Legal Deadline: None.

Abstract: Provide enforcement of section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap, as it applies to the programs or activities conducted by the Farm Credit Administration.

Timetable:

Action	Date	FR Cite
NPRM	12/18/85	50 FR 51540
NPRM Comment Period End	02/17/86	50 FR 51540

Next Action Undetermined

Small Entity: No

Additional Information: FOR ADDITIONAL INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Nancy E. Lynch, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA67

3609. PART 624-FARM CREDIT SYSTEM REGULATORY ACCOUNTING PRACTICES; TEMPORARY REGULATIONS

Legal Authority: PL 99-509; 12 USC 2001; 12 USC 2159; 12 USC 2205; 12 USC 2254; 12 USC 2014; 12 USC 2073; 12 USC 2093; 12 USC 2122

CFR Citation: 12 CFR 624.100; 12 CFR 624.101; 12 CFR 624.102; 12 CFR 624.103; 12 CFR 624.104; 12 CFR 624.110; 12 CFR 624.111; 12 CFR 624.112; 12 CFR 624.113; 12 CFR 624.114

Legal Deadline: None.

Abstract: Utilization of regulatory accounting practices by Farm Credit System institutions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/24/86	52 FR 13428
Begin Review	12/24/86	52 FR 2670
End Review	02/24/87	

Next Action Undetermined

Small Entity: No

Additional Information: FOR ADDITION INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703) 883-4020

Agency Contact: Gary L.Norton, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA82

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Federal Communications Commission

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FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

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Unified Agenda of Federal Regulations; October 1987

AGENCY: Federal Communications Commission.

ACTION: Publication of the Unified Agenda of Federal Regulations.

SUMMARY: Twice a year, the Commission publishes a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. The agenda also provides the CFR Citations and Legal Authorities which govern these proceedings. The Regulatory Flexibility Act (94 Stat. 1167; 5 U.S.C. 605) includes notations on the applicability of the Regulatory Flexibility Act to each item.

The Unified Agenda is published in the **Federal Register** in April and October of each year.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Claudette Pride, Office of Managing Director, (202) 632-3906.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings.

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB publishes the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

A Docket Number - is assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry in regard to the matter under consideration. Since January 1, 1978, the Commission has used docket numbers which consist of the last two digits of the calendar year in which the docket was established plus a sequential number which begins at 1 with the first docket initiated during a calendar year (e.g., Docket 80-1 or Docket 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "Docket 79-164." When a docket number consists of only five digits (e.g., Docket 29622), this indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) - issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM) - issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Memorandum Opinion and Order (MO&O) - issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number - assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

Report & Order (R&O) - issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

William J. Tricarico,

Secretary, Federal Communications Commission.

COMMON CARRIER BUREAU—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3610	Satellite Communications	3060-AD70
3611	MTS and WATS Market Structure Amendment of Part 67/Establishment of Joint Board	3060-AD89

COMMON CARRIER BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3612	Cellular Radio Licensing Procedures for Small Markets	3060-AD38
3613	In the Matter of Revision of Part 21 of the Commission's Rules, CC Docket No. 86-128	3060-AD71
3614	Jurisdictional Separations	3060-AD93
3615	Application of Access Charges with regard to Providers of Enhanced Services	3060-AE01
3616	Deregulation of Certain Basic Services	3060-AE02
3617	Regulatory Policies and International Telecommunications: Notice of Inquiry and Proposed Rulemaking	3060-AE03
3618	Jurisdictional Separations Procedures: Central Office Equipment Category 3, Local Switching Equipment	3060-AE06
3619	Jurisdictional separations procedures: Reconsideration of the decision to exclude access revenues from the allocation of marketing expenses	3060-AE07

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COMMON CARRIER BUREAU—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3620	Jurisdictional Separation Procedures: Petitions for Reconsideration of items in order reflected in the new Part 36 Separation Manual	3060-AE14

COMMON CARRIER BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3621	Jurisdictional Separations Procedures: Central Office Equipment (Circuit Equipment) and Cable and Wire Facilities	3060-AE05

OFFICE OF ENGINEERING AND TECHNOLOGY—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3622	900 MHz G/NG Fixed	3060-AD55

OFFICE OF ENGINEERING AND TECHNOLOGY—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3623	STI, LAOAD, and LMCC Petitions	3060-AC91
3624	DORCMA/SEIA-REMOTE CONTROL/SECURITY DEVICES	3060-AC96
3625	Public Safety National Plan	3060-AD66
3626	LTTS Reallocation	3060-AD67
3627	Part 15 Review (Auditory Assistance and Iggulton Petitions to be Disposed of Concurrent with this Action)	3060-AD68
3628	900 MHz Reserve Reconsideration	3060-AD91
3629	EIA Petition for Extension of Time for 46/49 MHz	3060-AD95
3630	Reconsideration of Third & Order re 1-40 GHz	3060-AD96
3631	EIA Petition for Cordless Telephone Allocation at 900 MHz	3060-AD97
3632	Alternative Type Acceptance Procedure	3060-AD99

OFFICE OF ENGINEERING AND TECHNOLOGY—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3633	Additional Sharing of UHF TV Channels by Private LM Services	3060-AC93

MASS MEDIA BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3634	Technical Deregulation: Part 73: TV	3060-AD58
3635	Section 73.37(e): Petition for Reconsideration	3060-AD63
3636	Foreign Clears: Ct. Remand: Non-Technical Acceptance Criteria	3060-AD72
3637	Broadcast EEO	3060-AD73
3638	FM Technical Clean-up	3060-AD74

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MASS MEDIA BUREAU—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3639	Main Studio Location	3060-AD75
3640	Noncommercial Broadcast: Issues-Programs Lists	3060-AD76
3641	AM Daytimers: Daylight Savings Time	3060-AD77
3642	Radio Multiple Ownership & Cross Ownership Rules	3060-AD78
3643	Satellite Television Stations	3060-AD79
3644	Radio Reading Services	3060-AD80
3645	Broadcast Call Signs	3060-AD81
3646	UHF Impact Policy/Carroll Doctrine	3060-AD83
3647	Daytimers Issues	3060-AD85
3648	AM Expanded Band: Domestic	3060-AD92
3649	Wireless Cameras	3060-AE10
3650	FM Translators: Moody Bible	3060-AE11
3651	FM/TV Directional Antenna	3060-AE12
3652	Channels 14/69 Interference: NOI/NPRM	3060-AE13

MASS MEDIA BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3653	AM: New Look	3060-AD61
3654	FM and TV Boosters	3060-AD82
3655	AM Interference Standards	3060-AD86

MASS MEDIA BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3656	Verification of Parts 73, 74, and Devices	3060-AE00

MASS MEDIA BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3657	Cellular Flexibility	3060-AE15

PRIVATE RADIO BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3658	External Frequency Controls	3060-AD53
3659	Wireline Common Carriers - Operation of SMRS	3060-AD54
3660	Revision and reorganization of Aviation rules (Part 87)	3060-AE08
3661	Multiple Address Systems	3060-AE09

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PRIVATE RADIO BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
* 3662	Part 90 Review - Subparts M&S incl. ASNA pet., Subpart S Wait List	3060-AD69

FEDERAL COMMUNICATIONS COMMISSION (FCC) —COMMON CARRIER BUREAU

Prerule Stage

3610. SATELLITE COMMUNICATIONS

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 553

CFR Citation: 47 CFR 25

Abstract: The Commission seeks to develop a record & to solicit comments on the proposed rules. These proposed rules are designed to implement recommendations made by the joint industry/government Advisory Committee on 2 degree satellite spacing; and they will codify basic applications requirements for satellite services. The proposed rules would apply to all entities including small entities who seek authorization under Part 25 of the Commission's rules to construct and operate Fixed-Satellite communications facilities. The proposed rules would establish operational and technical procedures designed to alleviate adjacent satellite interference and may increase the reporting and cost burdens on all satellite licensees. The rules codifying basic applications requirements are codifications of existing policies. Will impose no additional burdens, and may, in fact, reduce the burden by eliminating several current requirements. In order to be effective, these rules must apply to all licensees and thus there is no significant alternative.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/87	
ANPRM Comment Period End	11/00/87	
Final Action	06/00/88	
Final Action Effective	06/00/88	

Small Entity: Yes

Agency Contact: Rosalee Gorman or Fern Jarmulnik, Staff Attorney, Federal Communications Commission, 2025 M Street, N.W., Room 6324, Washington, D.C. 20554, 202 634-1624

RIN: 3060-AD70

3611. MTS AND WATS MARKET STRUCTURE AMENDMENT OF PART 67/ESTABLISHMENT OF JOINT BOARD

Significance: Agency Priority

Legal Authority: 47 USC 410

CFR Citation: 47 CFR 67; 47 CFR 69

Abstract: With the issuance of this Further Notice of Proposed Rulemaking, we initiate a proceeding to examine the effects of (1) subscriber line charges, (2) the federal lifeline assistance program, and (3) our present measures to assist high cost telephone companies on the primary goals of our access charge proceeding. Preserving universal service, promoting economic efficiency, eliminating service pricing discrimination, and deterring uneconomic bypass are the four longstanding goals in our access charge proceeding.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/87	
R&O	00/00/00	

Small Entity: Yes

Additional Information: CC Docket No. 78-72 CC Docket No. 80-286

Agency Contact: Cindy Work, Federal Communications Commission, 202 632-6363

RIN: 3060-AD89

FEDERAL COMMUNICATIONS COMMISSION (FCC) —COMMON CARRIER BUREAU

Proposed Rule Stage

3612. CELLULAR RADIO LICENSING PROCEDURES FOR SMALL MARKETS

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 301; 47 USC 303; 47 USC 307; 47 USC 308; 47 USC 309

CFR Citation: 47 CFR 22.900

Abstract: Modification of licensing procedures for cellular mobile radio systems in smaller markets to make cellular radio service available more rapidly.

Timetable:

Action	Date	FR Cite
R&O	07/18/86	
FNPRM	10/16/86	
R&O	12/00/87	

Small Entity: Yes

Additional Information: cc 85-388

Agency Contact: G. Goldstein, Attorney, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-6450

RIN: 3060-AD38

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FCC—CCB

Proposed Rule Stage

3613. IN THE MATTER OF REVISION OF PART 21 OF THE COMMISSION'S RULES, CC DOCKET NO. 86-126

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(r); 47 USC 154(i); 47 USC 303; 47 USC 4; 5 USC 553

CFR Citation: 47 CFR 21

Abstract: Make licensing procedure as efficient as possible for carriers and FCC staff, update and simplify the rules to reflect recent changes in the industry and the introduction of new communication services; and to eliminate those requirements that appear to be no longer necessary. By replacing a two-step licensing process with a one-step licensing process and eliminating unnecessary regulations, the burden on small businesses (applicants) will be substantially reduced, delays in implementing services will be minimized and service will be provided to the public in the most efficient and expeditious manner possible.

Timetable:

Action	Date	FR Cite
ANPRM	04/11/87	
R&O	09/30/87	

Small Entity: Yes

Agency Contact: Geraldine A. Matise, Attorney, Federal Communications Commission, 1919 M Street, N.W., Room 6010, Washington, D.C. 20554, 202 634-1841

RIN: 3060-AD71

3614. ● JURISDICTIONAL SEPARATIONS

Significance: Agency Priority

Legal Authority: 47 USC 410; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 218

CFR Citation: 47 CFR 67, 47 CFR 69

Abstract: This proceeding concerns the allocation between the state and federal jurisdictions of the costs of special access lines (including those used with WATS service) that carry significant amounts of both interstate and intrastate traffic.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Yes

Agency Contact: Claudia Pabo, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C., 202 632-4047

RIN: 3060-AD93

3615. ● APPLICATION OF ACCESS CHARGES WITH REGARD TO PROVIDERS OF ENHANCED SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 201 to 205; 47 USC 218; 47 USC 403

CFR Citation: 47 CFR 69.2; 47 CFR 69.5; 47 CFR 69.105; 47 CFR 69.106; 47 CFR 69.107; 47 CFR 69.108; 47 CFR 69.111; 47 CFR 69.112

Abstract: Enhanced service providers currently have an exemption from interstate access charges. The NPRM proposes to eliminate that exemption and have enhanced service providers pay the same interstate access charges that other service providers pay now.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: Yes

Agency Contact: Ruth Milkman, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-6363

RIN: 3060-AE01

3616. ● DEREGULATION OF CERTAIN BASIC SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 218; 47 USC 220; 47 USC 303(g); 47 USC 303(r); 47 USC 403; 47 USC 404; 5 USC 553

CFR Citation: 47 CFR 1.48; 47 CFR 1.49; 47 CFR 1.419

Abstract: Proposed reduction of regulation for certain basic services offered by dominant carriers based on a service-by-service analysis of competition. Contract services and packet switched services are targeted for such potential deregulation.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	
NPRM Comment Period End	04/10/87	

Next Action Undetermined

Small Entity: Yes

Additional Information: CC Docket 86-421

Agency Contact: Melanie Haratunian, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-4047

RIN: 3060-AE02

3617. ● REGULATORY POLICIES AND INTERNATIONAL TELECOMMUNICATIONS: NOTICE OF INQUIRY AND PROPOSED RULEMAKING

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 214; 47 USC 218 to 222; 47 USC 301; 47 USC 302

CFR Citation: 47 CFR 63.01; 47 CFR 63.701; 47 CFR 68.226; 47 CFR 63.703; 47 CFR 63.10

Abstract: This Notice of Inquiry and Propose Rulemaking asks whether the public interest requires that the Commission consider the telecommunications policies of foreign governments in the formulation of its regulatory policies concerning the provision of telecommunications services and goods within the United States and the provision of services between the United States and foreign countries. The Notice proposes certain information gathering measures designed to increase the Commission's knowledge of the extent of participation in the US market by foreign companies and service providers.

Timetable:

Action	Date	FR Cite
NPRM	01/30/87	
NPRM Comment Period End	05/22/87	

Next Action Undetermined

Small Entity: Yes

Agency Contact: William Kirsch, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-4047

RIN: 3060-AE03

FCC—CCB

Proposed Rule Stage

3618. ● JURISDICTIONAL SEPARATIONS PROCEDURES: CENTRAL OFFICE EQUIPMENT CATEGORY 3, LOCAL SWITCHING EQUIPMENT

Significance: Agency Priority

Legal Authority: 47 USC 221 (C); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36

Abstract: With the issuance of this Order inviting comments and requests for Data we are seeking further comments on the development of other relative use allocators, including Switched Minutes of Use (SMOU) to allocate Central Office Equipment investment included in the Local Switching Equipment Category in the Part 36 Separations Manual.

Timetable:

Action	Date	FR Cite
Order Inviting Comments	05/07/86	51 FR 21000
R&O	05/01/87	52 FR 17228
NPRM	02/00/88	
Joint Board		
Recommended Decision and Order	04/08/87 (52 FR 15354)	
Request for Data (Joint Board)		
Order Inviting Comments	06/26/87	

Small Entity: Yes

Additional Information: CC Docket 286

Agency Contact: Michael Wilson, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-7500

RIN: 3060-AE06

3619. ● JURISDICTIONAL SEPARATIONS PROCEDURES: RECONSIDERATION OF THE DECISION TO EXCLUDE ACCESS REVENUES FROM THE ALLOCATION OF MARKETING EXPENSES

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36; 47 CFR 69

Abstract: With the issuance of this order we are addressing the petitions for reconsideration filed by parties urging the FCC to reconsider its decision to exclude access revenues from the allocation factor for marketing expenses. We also are initiating a further proceeding to re-examine the separations treatment of marketing expenses.

Timetable:

Action	Date	FR Cite
Order Inviting Comments	05/07/86	51 FR 21000
R&O	05/01/87	52 FR 17228
ANPRM	02/00/88	
(RD&O) (Joint Board)		
Recommended Decision and Order	04/08/87 (52 FR 15354)	
Recon. & Supp. NPRM		
MO&O	09/00/87	

Small Entity: Yes

Additional Information: CC Docket 78-72 CC Docket 80-286 CC Docket 86-297

Agency Contact: Michael Wilson, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-7500

RIN: 3060-AE07

3620. ● JURISDICTIONAL SEPARATION PROCEDURES: PETITIONS FOR RECONSIDERATION OF ITEMS IN ORDER REFLECTED IN THE NEW PART 36 SEPARATION MANUAL

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36; 47 CFR 69

Abstract: With the issuance of this order we are addressing the petitions for reconsideration of the FCC Report and Order released May 1, 1987. The FCC Order adopted the Federal State Joint Board's recommendations regarding the jurisdictional separations treatment of revenue accounting expenses in account 662 and procedures prescribed in the new Separations Manual which will conform to the new USOA.

Timetable:

Action	Date	FR Cite
Order Inviting Comments	05/07/86	51 FR 21000
R&O	05/01/87	52 FR 17228
MO&O	12/00/87	

Small Entity: Yes

Additional Information: CC Docket No. 78-72 CC Docket No. 80-286 CC Docket No. 86-297

Agency Contact: Michael Wilson, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-7500

RIN: 3060-AE14

FEDERAL COMMUNICATIONS COMMISSION (FCC) —COMMON CARRIER BUREAU

Final Rule Stage

3621. ● JURISDICTIONAL SEPARATIONS PROCEDURES: CENTRAL OFFICE EQUIPMENT (CIRCUIT EQUIPMENT) AND CABLE AND WIRE FACILITIES

Significance: Agency Priority

Legal Authority: 47 USC 221(c); 47 USC 403; 47 USC 410

CFR Citation: 47 CFR 36

Abstract: With the issuance of this Order inviting comments and requests for data we are seeking comments on the appropriate subcategorization and allocation of Central Office Equipment (Circuit Equipment) Investment and Cable & Wire Facilities investment. We will use the data to calculate the effects of alternative allocators and examine the need for changes in the jurisdictional separations procedures for this investment.

Timetable:

Action	Date	FR Cite
Order Inviting Comments	05/07/86	51 FR 21000
Recommended Decision and Order	04/08/87	52 FR 15354
R&O	09/01/87	52 FR 17228
& Request for Data (Joint Board)		
Order Inviting Comments	09/00/87	

Small Entity: Yes

Additional Information: CC Docket No. 80-286

Agency Contact: Michael Wilson, Federal Communications Commission,

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FCC—CCB — **Final Rule Stage**

1919 M Street, N.W., Washington, D.C. 20554, 202 632-7500

RIN: 3060-AE05

FEDERAL COMMUNICATIONS COMMISSION (FCC) —OFFICE OF ENGINEERING AND TECHNOLOGY — Prerule Stage

3622. 900 MHZ G/NG FIXED

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 74; 47 CFR 94

Abstract: Development of operating rules and sharing arrangement for use of the 932-935 and 941-943 MHz bands for G/NG fixed services.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	
R&O	03/31/88	

Small Entity: Yes

Additional Information: 82-243

Agency Contact: Rodney Small, Federal Communications Commission, 2025 M St., NW, Rm. 7332, Washington, DC 20554, 202 653-8116

RIN: 3060-AD55

FEDERAL COMMUNICATIONS COMMISSION (FCC) —OFFICE OF ENGINEERING AND TECHNOLOGY — Proposed Rule Stage

3623. STI, LAOAD, AND LMCC PETITIONS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 90; 47 CFR 97

Abstract: STI Petition requests allocation of 216-222 MHz for NB land mobile operations; LAOAD Petition requests NB use of 216-220 MHz; and LMCC Petition requests NB use of 220-225 MHz.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	
NPRM	12/31/86	
R&O	03/31/88	

Small Entity: Yes

Additional Information: RM-4831, RM-4983, RM-4829

Agency Contact: Fred Thomas, Federal Communications Commission, 2025 M St., N.W., Rm. 7320, Washington, D.C. 20554, 202 653-8112

RIN: 3060-AC91

3624. DORCMA/SEIA-REMOTE CONTROL/SECURITY DEVICES

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15.201 to 215

Abstract: Review and overhaul of technical standards for remote control and security devices in Part 15. Initiated by petitions for rulemaking filed by Door Operator and Remote Control Manufactures association, the Security Equipment Industry Association, and Transcience Industries.

Timetable:

Action	Date	FR Cite
NPRM	10/22/86	
R&O	12/31/87	

Small Entity: Yes

Additional Information: RM-4637 and RM-4813

Agency Contact: John Reed, Federal Communications Commission, 2025 M St., N.W., Rm. 8302, Washington, D.C. 20554, 202 653-7313

RIN: 3060-AC96

3625. PUBLIC SAFETY NATIONAL PLAN

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 90

Abstract: Phase III of a project to meet spectrum allocation needs of the public safety community.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	
R&O	12/31/87	

Small Entity: Yes

Agency Contact: Larry Petak, Federal Communications Commission, 2025 M Street, N.W., Room 7130, Washington, D.C. 20554, 202 632-7025

RIN: 3060-AD66

3626. LTTS REALLOCATION

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 2; 47 CFR 74

Abstract: Response to petition from Chadborne and Parke requesting secondary allocation of frequencies to the local transmission service.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	
R&O	12/00/87	

Small Entity: Yes

Additional Information: RM-5321

Agency Contact: Ray LaForge, Federal Communications Commission, 2025 M Street, N.W., Room 7328, Washington, D.C. 20554, 202 653-8106

RIN: 3060-AD67

3627. PART 15 REVIEW (AUDITORY ASSISTANCE AND IGGULTON PETITIONS TO BE DISPOSED OF CONCURRENT WITH THIS ACTION)

Significance: Agency Priority

FCC—OET — **Proposed Rule Stage**

Legal Authority: 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 4(i)

CFR Citation: 47 CFR 15

Abstract: Revision of Part 15 of the rules to open up consumer bands and re-establish emission limits based on interference potential.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
R&O	06/30/88	

Small Entity: Yes

Agency Contact: John Reed, Federal Communications Commission, 2025 M Street, N.W., Room 7122, Washington, D.C. 20554, 202 653-7313

RIN: 3060-AD68

3628. ● 900 MHZ RESERVE RECONSIDERATION

Significance: Agency Priority

Legal Authority: 47 USC 301

CFR Citation: 47 CFR 2

Abstract: In this MO&O, the Commission will address eight petitions for reconsideration of frequency allocations made in the R&O in this proceeding. Principal issues are: (1) a request to allocate an additional 2 MHz to public safety, (2) a request to reallocate the general purpose mobile radio service instead to private land mobile, and (3) a request from aeronautical interests to delete the L-band allocation for mobile-satellite service and retain the band exclusively for aeronautical mobile-satellite (R) service.

Timetable:

Action	Date	FR Cite
MO&O	09/30/97	

Small Entity: Yes

Additional Information: 84-1231, 84-1233, and 84-1234

Agency Contact: Julie Knapp, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-8106

RIN: 3060-AD91

3629. ● EIA PETITION FOR EXTENSION OF TIME FOR 46/49 MHZ

Significance: Agency Priority

Legal Authority: 47 USC 301

CFR Citation: 47 CFR 15

Abstract: The Electronic Industry Association has requested an extension of time from February 1989 to February 1994 to continue manufacture of cordless telephones on government frequencies at 46/49 MHz under Part 15.

Timetable:

Action	Date	FR Cite
R&O	09/30/87	

Small Entity: Yes

Additional Information: RM-5320

Agency Contact: Julie Knapp, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-8108

RIN: 3060-AD95

3630. ● RECONSIDERATION OF THIRD & ORDER RE 1-40 GHZ

Significance: Agency Priority

Legal Authority: 47 USC 301

CFR Citation: 47 CFR 21; 47 CFR 74; 47 CFR 94

Abstract: This MO&O responds to seven petitions for reconsideration of decisions made in the Commission's Third Report & Order in this proceeding. Key issues are : (1) request to limit or reverse decision to permit cable interests to utilize the 1.9 & 6.8 GHz auxiliary broadcast bands, (2) request that Commission take steps to facilitate improved frequency coordination at 6.4 GHz, and (3) requests to modify minimum path length requirements.

Timetable:

Action	Date	FR Cite
MO&O	09/30/87	

Small Entity: Yes

Additional Information: 82-334

Agency Contact: Julie Knapp, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-8108

RIN: 3060-AD96

3631. ● EIA PETITION FOR CORDLESS TELEPHONE ALLOCATION AT 900 MHZ

Significance: Agency Priority

Legal Authority: 47 USC 301

CFR Citation: 47 CFR 2

Abstract: The Electronic Industries Association has petitioned the Commission seeking an allocation of 4 MHz for cordless telephones in the 800/900 MHz land mobile reserve.

Timetable:

Action	Date	FR Cite
R&O	09/30/87	

Small Entity: Yes

Additional Information: RM-4780

Agency Contact: Julie Knapp, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-8108

RIN: 3060-AD97

3632. ● ALTERNATIVE TYPE ACCEPTANCE PROCEDURE

Significance: Agency Priority

Legal Authority: 47 USC 4(i); 47 USC 303(r)

CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Abstract: That proceeding in Docket No. 85-171 proposed a new technique that would allow maximum flexibility in getting innovative new equipment designs into the marketplace. This proposal will be a new approach to solve some of the technical and administrative problems identified in Docket 85-171.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
R&O	06/30/88	

Small Entity: Yes

Additional Information: 85-171

Agency Contact: Ken Nichols, Federal Communications Commission, 7435 Oakland Mills Road, Guilford, MD 21045, 301 725-1585

RIN: 3060-AD99

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FEDERAL COMMUNICATIONS COMMISSION (FCC) —OFFICE OF ENGINEERING AND TECHNOLOGY

Completed Actions

3633. ADDITIONAL SHARING OF UHF TV CHANNELS BY PRIVATE LM SERVICES

Significance: Agency Priority

CFR Citation: 47 CFR 2; 47 CFR 90

Completed:

Reason	Date	FR Cite
Withdrawn	03/12/87	

Small Entity: Yes

Agency Contact: Julius Knapp 202 653-8108

RIN: 3060-AC93

FEDERAL COMMUNICATIONS COMMISSION (FCC) —MASS MEDIA BUREAU

Proposed Rule Stage

3634. TECHNICAL DEREGULATION: PART 73: TV

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Abstract: This item examines all of the technical TV broadcast rules for deregulation.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	
R&O	00/00/00	

Small Entity: Yes

Agency Contact: Mike Lewis, Federal Communications Commission, 202 632-9660

RIN: 3060-AD58

3635. SECTION 73.37(E): PETITION FOR RECONSIDERATION

Legal Authority: 47 USC 307

CFR Citation: 47 CFR 73.37(e)

Abstract: On October 31, 1985, the Commission adopted a Report and Order deleting the non-technical AM application acceptance criteria in Section 73.37(e) of the Commission's Rules. Reconsideration Requested.11

Timetable:

Action	Date	FR Cite
NPRM	02/13/85	
R&O	10/31/85	
MO&O	00/00/00	

Small Entity: Yes

Additional Information: mm-077 NPRM mm-85-39 R&O

Agency Contact: Jonathan David, Federal Communications Commission, 202 632-6855

RIN: 3060-AD63

3636. FOREIGN CLEARS: CT. REMAND: NON-TECHNICAL ACCEPTANCE CRITERIA

Significance: Agency Priority

Legal Authority: 47 USC 307

CFR Citation: 47 CFR 73.3571

Abstract: Remand from the Court of Appeals of Commission decision regarding new stations to be established on Foreign Class I-A AM clear channels.

Timetable:

Action	Date	FR Cite
R&O	04/26/85	
MO&O	02/03/86	
FNPRM	07/28/87	
2nd R&O	03/00/88	

Small Entity: Yes

Additional Information: mm-84-281 mm-84-281(a)

Agency Contact: Jonathan David, Federal Communications Commission, 202 632-6855

RIN: 3060-AD72

3637. BROADCAST EEO

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.2080

Abstract: The Commission will consider amending its rules and procedures regarding equal opportunities for employment in the broadcast industry. In particular, the Commission will consider new EEO reporting requirements in response to OMB's disapproval of the existing forms and their associated guidelines

Timetable:

Action	Date	FR Cite
NPRM	11/14/85	
Interim Final Rule	10/31/86	
R&O	04/16/87	
MO&O	12/31/87	

Small Entity: Yes

Additional Information: mmb-298 NPRM mm-85-350 FNPRM

Agency Contact: Marcia Glauberman, Federal Communications Commission, 202 632-6302

RIN: 3060-AD73

3638. FM TECHNICAL CLEAN-UP

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.211; 47 CFR 73.206; 47 CFR 73.207; 47 CFR 73.213

Abstract: This rule making proceeding addresses FM station coverage prediction; intermediate frequency taboos; distance computations; and grandfathered short spaced facilities.

Timetable:

Action	Date	FR Cite
NPRM	04/03/86	
R&O	12/31/87	

Small Entity: Yes

Additional Information: mmb-311 NPRM

Agency Contact: Michael Lewis, Federal Communications Commission, 202 632-9660

RIN: 3060-AD74

3639. MAIN STUDIO LOCATION

Significance: Agency Priority

Legal Authority: 47 USC 154(i)

CFR Citation: 47 CFR 73.1125; 47 CFR 73.1130

Abstract: The Commission will consider whether to revise or eliminate the main studio and programming origination requirements of the Rules.

Timetable:

Action	Date	FR Cite
NPRM	10/16/86	
R&O	04/16/87	
MO&O	12/31/87	

Small Entity: Yes

Additional Information: mmb-410 NPRM mmb-86-406

Agency Contact: Eileen Huggard, Federal Communications Commission, 202 632-7792

RIN: 3060-AD75

3640. NONCOMMERCIAL BROADCAST: ISSUES-PROGRAMS LISTS

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.3527

Abstract: The Commission will consider adopting a Report and Order to conform noncommercial stations issues/programs list public file requirement with that applicable to commercial stations.

Timetable:

Action	Date	FR Cite
NPRM	12/29/86	
R&O	12/00/87	

Small Entity: Yes

Additional Information: mm-83-670(b) mmb-418 NPRM

Agency Contact: Barbara A. Kreisman, Federal Communications Commission, 202 632-7792

RIN: 3060-AD76

3641. AM DAYTIMERS: DAYLIGHT SAVINGS TIME

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 307(b)

CFR Citation: 47 CFR 73.99

Abstract: The Commission will consider whether to allow AM daytime-only stations to begin pre-sunrise operation at 6:00 a.m. for the month of April. This proceeding was initiated as a result of the enactment of legislation changing the beginning of Daylight Savings Time from the fourth to the first Sunday in April.

Timetable:

Action	Date	FR Cite
NPRM	01/06/87	
R&O	12/00/87	

Small Entity: Yes

Agency Contact: Lou Stephens, Federal Communications Commission, 202 632-6955

RIN: 3060-AD77

3642. RADIO MULTIPLE OWNERSHIP & CROSS OWNERSHIP RULES

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.3555

Abstract: The Commission has proposed to relax a portion of the "duoploy" rule as it applies to AM and FM station ownership. The Commission also has proposed to relax a section of the one-to-a-market" rule to permit combinations of AM, FM, and UHF television stations in the top fifty markets. Under the proposed rule, common ownership of radio-television combinations would be considered on a case-by-case basis.

Timetable:

Action	Date	FR Cite
NPRM	01/15/87	
R&O	12/31/87	

Small Entity: Yes

Additional Information: mmb-414 NPRM

Agency Contact: Andrew J. Rhodes, Federal Communications Commission, 202 632-7792

RIN: 3060-AD78

3643. SATELLITE TELEVISION STATIONS

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.614

Abstract: The FCC proposes to: (1) eliminate authorization of satellites in urban areas of larger markets, allowing them only in rural areas that cannot economically support a full service operation; and (2) either remove restrictions limiting locally originated programming or, in the alternative, establishing a cap on the amount of programming originated once satellite operation has been justified. Also, the FCC seeks comment as to how urban and rural areas should be defined.

Timetable:

Action	Date	FR Cite
NPRM	01/15/87	
R&O	12/31/87	

Small Entity: Yes

Additional Information: mmb-421 NPRM

Agency Contact: Barbara A. Kreisman, Federal Communications Commission, 202 632-7792

RIN: 3060-AD79

3644. RADIO READING SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 73.593

Abstract: In this proceeding the Commission seeks comments on appropriate costs to be imposed by noncommercial educational radio stations for radio reading services for the visually impaired.

Timetable:

Action	Date	FR Cite
NPRM	01/16/87	
Policy Statement	12/31/87	

Small Entity: Yes

Additional Information: RM-5434(PRB) RM-5509 NOI

Agency Contact: Freda Lippert Thyden, Federal Communications Commission, 202 632-7792

RIN: 3060-AD80

3645. BROADCAST CALL SIGNS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 73.3550

Abstract: This proceeding examines the Commission's rules concerning assignment of call letters to broadcast stations.

FCC—MMB — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/04/87	
R&O	00/00/00	

Small Entity: Yes

Additional Information: mmb-424 NPRM

Agency Contact: Sharon Briley, Federal Communications Commission, 202 632-6302

RIN: 3060-AD81

3646. UHF IMPACT POLICY/CARROLL DOCTRINE

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 308(b)

CFR Citation: 47 CFR 73

Abstract: A study to re-examine the court's decision re Carroll Broadcasting Company vs. FCC, which held that the Commission, upon a proper showing should determine whether the economic effect of a new station would result in a net loss of service to an extent inconsistent with the public interest. The Commission will also re-examine its UHF impact policy, which essentially protects UHF television stations from adverse economic competition.

Timetable:

Action	Date	FR Cite
NOI	03/26/87	
MO&O	12/00/87	

Small Entity: Yes

Agency Contact: Judith Herman, Federal Communications Commission, 202 632-6302

RIN: 3060-AD83

3647. DAYTIMERS ISSUES

Significance: Agency Priority

Legal Authority: 47 USC 303; 47 USC 307(b)

CFR Citation: 47 CFR 73.21

Abstract: The Commission will consider a proposal to provide nighttime operation for existing daytime-only stations and to end the licensing of new daytime-only stations.

Timetable:

Action	Date	FR Cite
NPRM	04/29/87	
R&O	12/00/87	

Small Entity: Yes

Agency Contact: Lou Stephens, Federal Communications Commission, 202 632-6955

RIN: 3060-AD85

3648. ● AM EXPANDED BAND: DOMESTIC

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Abstract: Inquiry into domestic issues resulting from expansion of the Am broadcasting band.

Timetable:

Action	Date	FR Cite
NOI	12/31/87	
NPRM	00/00/00	

Small Entity: Yes

Agency Contact: Freda Thyden, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-7792

RIN: 3060-AD92

3649. ● WIRELESS CAMERAS

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 74.602; 47 CFR 74.604; 47 CFR 74.636; 47 CFR 74.637; 47 CFR 74.802

Abstract: Proposal to permit low power wireless cameras to operate on vacant UHF and VHF TV channels.

Timetable:

Action	Date	FR Cite
FNPRM	05/04/87	
R&O	12/31/87	

Small Entity: Yes

Additional Information: MM-85-36(a)

Agency Contact: Hank Van Deursen, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-6660

RIN: 3060-AE10

3650. ● FM TRANSLATORS: MOODY BIBLE

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 74.1231

Abstract: This proceeding addresses the possible use of satellite and microwave facilities to deliver signals to noncommercial FM translators that are owned and operated by the primary noncommercial FM stations.

Timetable:

Action	Date	FR Cite
NPRM	04/03/86	
R&O	12/31/87	

Small Entity: Yes

Additional Information: mmb-311 RM-5219

Agency Contact: Eugenia R. Hull, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-6302

RIN: 3060-AE11

3651. ● FM/TV DIRECTIONAL ANTENNA

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 73.316; 47 CFR 73.211

Abstract: Proposal for routine use of directional antennas to accommodate short-spaced transmitter/antenna locations.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	
R&O	00/00/00	

Small Entity: Yes

Agency Contact: Bill Ericson, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-6660

RIN: 3060-AE12

3652. ● CHANNELS 14/69 INTERFERENCE: NOI/NPRM

Significance: Agency Priority

Legal Authority: 47 USC 154; 47 USC 304

CFR Citation: 47 CFR 73

Abstract: On its own motion, the Commission will consider initiation of a rule making proceeding addressing in a comprehensive manner the interference problems caused by the positioning of television Channels 14 and 69 immediately adjacent to frequencies that have been allocated to land mobile operations.

FCC—MMB — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NOI/NPRM	12/00/87	
R&O	00/00/00	

Small Entity: Yes

Agency Contact: Louis Whitsett, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-7792

RIN: 3060-AE13

FEDERAL COMMUNICATIONS COMMISSION (FCC) —MASS MEDIA BUREAU — Completed Actions

3653. AM: NEW LOOK

CFR Citation: 47 CFR 73, Subpart A

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/87	

Small Entity: Yes

Agency Contact: Wilson LaFollette 202 632-5414

RIN: 3060-AD61

3654. FM AND TV BOOSTERS

Significance: Agency Priority

CFR Citation: 47 CFR 74.1231; 47 CFR 74.1232; 47 CFR 74.2135; 47 CFR 74.1236

Completed:

Reason	Date	FR Cite
Final Action	07/16/87	

Small Entity: Yes

Agency Contact: Marcia Glauberman 202 632-6302

RIN: 3060-AD82

3655. AM INTERFERENCE STANDARDS

Significance: Agency Priority

CFR Citation: 47 CFR 73.182

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/87	

Small Entity: Yes

Agency Contact: Wilson LaFollette 202 632-5414

RIN: 3060-AD86

FEDERAL COMMUNICATIONS COMMISSION (FCC) —MASS MEDIA BUREAU — Proposed Rule Stage

3656. ● VERIFICATION OF PARTS 73, 74, AND DEVICES

Significance: Agency Priority

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 73; 47 CFR 74; 47 CFR 78

Abstract: Proposal for relaxation of the rules to change the equipment authorization procedure for certain devices subject to Parts 73, 74, and 78 from notification to the less burdensome verification procedure.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
R&O	05/30/88	

Small Entity: Yes

Agency Contact: Paul Marrangoni, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-8107

RIN: 3060-AE00

FEDERAL COMMUNICATIONS COMMISSION (FCC) —MASS MEDIA BUREAU — Final Rule Stage

3657. ● CELLULAR FLEXIBILITY

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 22

Abstract: Proceeding will investigate approach to relax technical standards for new cellular spectrum at 800 MHZ in order to provide flexibility to licensees for implementation of new technologies and new service offerings.

Timetable:

Action	Date	FR Cite
NPRM	06/30/87	
R&O	09/30/88	

Small Entity: Yes

Additional Information: 84-1231

Agency Contact: Julie Knapp, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 653-8108

RIN: 3060-AE15

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FEDERAL COMMUNICATIONS COMMISSION (FCC) —PRIVATE RADIO BUREAU

Proposed Rule Stage

3658. EXTERNAL FREQUENCY CONTROLS

Legal Authority: 47 USC 4(i); 47 USC 303(c); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r); 47 USC 332

CFR Citation: 47 CFR 90.203

Abstract: The FCC has proposed, on its own motion, to restrict the operation of radio equipment with external frequency selection capability on frequencies above 25 MHz allocated to the Private Land Mobile Radio Services.

Timetable:

Action	Date	FR Cite
ANPRM	01/30/86	51 FR 6149
NPRM	01/30/86	51 FR 6149
Interim Final Rule	02/20/86	
NPRM Comment Period End	07/21/86	
FNPRM	04/29/87	52 FR 18935
R&O	12/00/87	

Small Entity: Yes

Agency Contact: Rockie Patterson, Federal Communications Commission, 202 634-6497

RIN: 3060-AD53

3659. WIRELINE COMMON CARRIERS - OPERATION OF SMRS

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90

Abstract: The FCC has proposed amending Subparts M & S of Part 90 of its rules governing private land mobile radio to permit wireline common carriers to be eligible to apply for a license in the Specialized Mobile Radio Service.

Timetable:

Action	Date	FR Cite
NPRM	01/03/86	51 FR 2910
NPRM Comment Period End	07/03/86	
R&O	07/00/88	

Small Entity: Yes

Agency Contact: Nia Cresham, Federal Communications Commission, 202 634-2443

RIN: 3060-AD54

3660. ● REVISION AND REORGANIZATION OF AVIATION RULES (PART 87)

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 87

Abstract: NPRM proposes to reorganize and revise the rules for the aviation services. Includes proposals regarding aeronautical advisor stations, making greater use of 25 and 50 MHz channels, and licensing of Civil Air Patrol.

Timetable:

Action	Date	FR Cite
NPRM	06/10/87	52 FR 26360
NPRM Comment Period End	10/21/87	
R&O	06/00/88	

Small Entity: Yes

Agency Contact: M. Cesaitis, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 632-7175

RIN: 3060-AE08

3661. ● MULTIPLE ADDRESS SYSTEMS

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 94

Abstract: The FCC has proposed to re-examine rules and policies governing 900 MHz multiple address system (MAS) operations. A number of rule sections are proposed for revision and clarification.

Timetable:

Action	Date	FR Cite
NPRM	01/15/87	52 FR 4161
NPRM Comment Period End	04/07/87	
R&O	03/00/88	

Small Entity: Yes

Agency Contact: Herb Zeiler/Molly Nichols, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C. 20554, 202 634-2443

RIN: 3060-AE09

FEDERAL COMMUNICATIONS COMMISSION (FCC) —PRIVATE RADIO BUREAU

Final Rule Stage

3662. PART 90 REVIEW - SUBPARTS M&S INCL. ASNA PET., SUBPART S WAIT LIST

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 90.364; 47 CFR 90.627

Abstract: NPRM proposes to permit greater flexibility and enhanced service options for SMR licensees and end users. Includes proposals regarding loading standards, waiting list procedures and eligibility requirements.

Timetable:

Action	Date	FR Cite
ANPRM	10/16/86	51 FR 45025
ANPRM Comment Period End	02/20/87	
NPRM	04/03/87	
R&O	12/00/87	

Small Entity: Yes

Agency Contact: Nia Cresham, Federal Communications Commission, 202 634-2443

RIN: 3060-AD69

[FR Doc. 87-21551 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26 1987

Part XLVII

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

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FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is hereby publishing items for the October 1987 Regulatory Agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. The address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 70858, December 28, 1979; 49 FR 7288, February 28, 1984).

FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

Interested persons may petition the FDIC for the issuance, amendment or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

Prerule Stage

Sequence Number	Title		Regulation Identifier Number
3663	12 CFR 335	Securities of Insured Nonmember Banks	3064-AA45
3664	12 CFR 308	Rules of Practice and Procedures: Subpart B -- Rules of Practice Generally	3064-AA84
3665	12 CFR 309	Disclosure of Information	3064-AA85
3666	12 CFR 311	Rules Governing Public Observation of Meetings of the Corporation's Board of Directors	3064-AA66
3667	12 CFR 330	Clarification and Definition of Deposit Insurance Coverage	3064-AA68
3668	12 CFR 346	Foreign Banks	3064-AA78

Proposed Rule Stage

Sequence Number	Title		Regulation Identifier Number
3669	12 CFR 344	Securities Recordkeeping and Confirmations	3064-AA30
3670	12 CFR 338	Fair Housing	3064-AA81

Final Rule Stage

Sequence Number	Title		Regulation Identifier Number
3671	12 CFR 350	Disclosure of Financial and Other Information by FDIC Insured State Nonmember Banks	3064-AA83
3672	12 CFR 337	Unsafe and Unsound Banking Practices	3064-AA80
3673	12 CFR 332	Powers Inconsistent with Purposes of Federal Deposit Insurance Law	3064-AA29
3674	12 CFR 325	Capital Maintenance	3064-AA82

FDIC

Completed Actions

Sequence Number	Title		Regulation Identifier Number
3675	12 CFR 303	Delegations of Authority	3064-AA54
3676	12 CFR 346	Foreign Banks	3064-AA85
3677	12 CFR 310	Privacy Act Regulations	3064-AA86
3678	12 CFR 309	Disclosure of Information	3064-AA79

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Prerule Stage

3663. SECURITIES OF INSURED NONMEMBER BANKS

Legal Authority: 12 USC 1819 Federal Deposit Insurance Act; 15 USC 78l(i) Securities Exchange Act of 1934

CFR Citation: 12 CFR 335

Legal Deadline: None.

Abstract: The Securities Exchange Act of 1934 requires the FDIC to issue regulations substantially similar to regulations of the Securities and Exchange Commission, or publish reasons for not doing so. The staff will likely propose such conforming amendments for public comment following rulemaking actions by the Commission.

Timetable:

Action	Date	FR Cite
Waiting SEC Rulemaking Action	00/00/00	

Small Entity: No

Agency Contact: Lawrence H. Pierce, Securities Activities Officer, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6885

RIN: 3064-AA45

3664. RULES OF PRACTICE AND PROCEDURES: SUBPART B -- RULES OF PRACTICE GENERALLY

Legal Authority: 5 USC 504; 12 USC 1819; 12 USC 1972; 15 USC 78w

CFR Citation: 12 CFR 308

Legal Deadline: None.

Abstract: Subpart B to Part 308 prescribes rules of practice and procedures followed by the FDIC in hearings pursuant to the provisions of the Federal Deposit Insurance Act or other applicable law pertaining to involuntary termination of the insured status of any bank; issuance of cease-and-desist orders against any nonmember bank or its official; assessment of civil penalties against a bank or its official; issuance of orders that remove or suspend from office a director or officer of an insured nonmember bank; disapproval of a proposed acquisition of control of an insured nonmember bank; and imposition of sanctions upon a municipal securities dealer or a person associated with such a dealer.

This regulation has been selected for review under the FDIC's Regulation Review Program.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Eugene A. Miller, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3705

RIN: 3064-AA64

3665. DISCLOSURE OF INFORMATION

Legal Authority: 5 USC 552; 12 USC 1819

CFR Citation: 12 CFR 309

Legal Deadline: None.

Abstract: Part 309 sets forth the basic policies of the FDIC regarding the information it maintains and the procedures for obtaining access to such information.

This regulation has been selected for review under the FDIC's Regulation Review Program.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6750

RIN: 3064-AA65

3666. RULES GOVERNING PUBLIC OBSERVATION OF MEETINGS OF THE CORPORATION'S BOARD OF DIRECTORS

Legal Authority: 5 USC 552b; 12 USC 1819

CFR Citation: 12 CFR 311

Legal Deadline: None.

Abstract: Part 311 implements the policy of the "Government in the Sunshine Act," section 552b of Title 5, United States Code, which is to provide the public with as much information as possible regarding the decision-making processes of certain Federal agencies, including the FDIC, while preserving the rights of individuals and the ability of the agency to carry out its responsibilities.

This regulation has been selected for review under the FDIC's Regulation Review Program.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Hoyle L. Robinson, Executive Secretary, Federal Deposit

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FDIC — **Prerule Stage**

Insurance Corporation, Washington, DC 20429, 202 898-3813

RIN: 3064-AA66

3667. CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE

Legal Authority: 12 USC 1813; 12 USC 1817; 12 USC 1821; 12 USC 1822

CFR Citation: 12 CFR 330

Legal Deadline: None.

Abstract: Part 330 provides for the determination by the FDIC of the insured depositors of an insured bank and the amount of their insured deposit accounts. It sets forth the rules for determining the insurance coverage of deposit accounts maintained by depositors.

This regulation has been selected for review under the FDIC's Regulation Review Program.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: J. William Via, Jr., Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3733

RIN: 3064-AA68

3668. ● FOREIGN BANKS

Legal Authority: 12 USC 1815; 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 3103; 12 USC 3104; 12 USC 3108

CFR Citation: 12 CFR 346

Legal Deadline: None.

Abstract: Part 346 sets out the rules governing FDIC-insured branches of foreign banks. It implements the insurance provisions of section 6 of the International Banking Act of 1978 (12 USC 3104). The rules relate to: policy regarding the operation of insured and noninsured branches by a foreign bank; pledge of assets; and asset maintenance.

This regulation has been selected for review under FDIC's Regulation Review Program for 1987, and action has been initiated which will result in a comprehensive review of Part 346 for the purpose of revising, simplifying, and for clarifying the regulation where appropriate.

Timetable:

Action	Date	FR Cite
Begin Review	06/02/87	
End Review	12/00/87	

Small Entity: No

Agency Contact: Charles V. Collier, Assistant Director, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6850

RIN: 3064-AA78

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

3669. SECURITIES RECORDKEEPING AND CONFIRMATIONS

Legal Authority: 12 USC 1817; 12 USC 1818; 12 USC 1819

CFR Citation: 12 CFR 344

Legal Deadline: None.

Abstract: The FDIC expects to propose an amendment to 12 CFR Part 344, which governs an insured nonmember bank's recordkeeping and confirmation requirements for securities transactions. The proposed amendment would expand an existing exception under Part 344 for low activity. The exception would be increased to allow banks which effect an average of fewer than 1,000 securities transactions per year to be exempt from certain recordkeeping and written policymaking requirements. The current "low-activity" threshold is 200 transactions per year. The amendment is needed to eliminate unnecessary paperwork burden and is intended to reduce the impact of FDIC's regulation on insured nonmember banks that engage in a low number of securities transactions per year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: No

Agency Contact: John F. Harvey, Chief, Review Unit, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6762

RIN: 3064-AA30

3670. ● FAIR HOUSING

Legal Authority: 12 USC 1817; 12 USC 1818; 12 USC 1819; 12 USC 1820; 15 USC 1691 et seq; 42 USC 3605; 42 USC 3606

CFR Citation: 12 CFR 338

Legal Deadline: None.

Abstract: The FDIC has proposed amending its fair housing regulation, 12 CFR Part 338, which applies to insured state nonmember banks. The proposed amendment would eliminate home-equity loans, as well as home improvement, maintenance and repair loans from the data-gathering requirement. Accordingly, the data-gathering requirement would then only apply to home purchase, construction and refinancing loans. The FDIC believes that the proposed amendment would reduce the paperwork burden on the banking industry without impairing enforcement of fair housing lending laws.

Timetable:

Action	Date	FR Cite
NPRM	08/18/87	52 FR 30928
NPRM Comment Period End	10/19/87	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Patricia A. McCormick, Fair Lending Analyst, Office of Consumer Affairs, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3536

RIN: 3064-AA81

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Final Rule Stage

3671. ● DISCLOSURE OF FINANCIAL AND OTHER INFORMATION BY FDIC INSURED STATE NONMEMBER BANKS

Legal Authority: 12 USC 1817; 12 USC 1819

CFR Citation: 12 CFR 350

Legal Deadline: None.

Abstract: The FDIC has proposed a new regulation that would require state-chartered FDIC insured commercial and savings banks that are not members of the Federal Reserve System ("insured state nonmember banks") to provide basic information about themselves to shareholders, borrowers, depositors and others to whom they offer banking services. A disclosure statement would be required by February 15, or March 1 for banks with foreign offices, each year and would include pertinent financial data for the previous two years and, at the option of the bank, a management discussion and analysis section.

Timetable:

Action	Date	FR Cite
NPRM	06/23/87	52 FR 23554
NPRM Comment Period End	08/24/87	
Final Action	12/00/87	

Small Entity: No

Agency Contact: William P. Carley, Planning and Program Development Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6903

RIN: 3064-AA83

3672. ● UNSAFE AND UNSOUND BANKING PRACTICES

Legal Authority: 12 USC 1819; 12 USC 1828; PL 97-320, Sec 442

CFR Citation: 12 CFR 337

Legal Deadline: None.

Abstract: On June 16, 1986, the Board of Directors of the FDIC granted the request of several petitioners that the FDIC reconsider the provisions of FDIC's rule governing securities subsidiaries and affiliates of insured nonmember banks which deal with the use of a common name or logo and separate offices. A request for comment on whether or not these provisions should be retained, modified, or eliminated was published at 51 FR 29657, August 20, 1986. A subsequent proposed rule was published for comment on April 9, 1987. Insured nonmember banks that prior to December 28, 1984, became affiliated with a securities company, or prior to that date established or acquired a subsidiary that engages in securities activities, were required to comply with the common name or logo and separate office restrictions of the regulation by June 30, 1987. On June 17,1987, the FDIC extended the compliance deadline until October 15,1987, in order to provide staff further time to consider the comments on the proposed rule. See 52 FR 23543, June 23, 1987.

Timetable:

Action	Date	FR Cite
NPRM	04/09/87	52 FR 11492
NPRM Comment Period End	05/11/87	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Pamela E. F. LeCren, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3743

RIN: 3064-AA80

3673. POWERS INCONSISTENT WITH PURPOSES OF FEDERAL DEPOSIT INSURANCE LAW

Legal Authority: 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1819; 12 USC 1821(f); 12 USC 1828(j)(2)

CFR Citation: 12 CFR 332

Legal Deadline: None.

Abstract: The FDIC has proposed amending Part 332 of its regulations governing "Powers Inconsistent with the Purposes of Federal Deposit Insurance Law." The proposed amendment would, among other things, prohibit insured banks, subject to certain exceptions, from directly engaging in real estate development and insurance underwriting activities and establish certain restrictions on the indirect conduct of such activities.

Timetable:

Action	Date	FR Cite
ANPRM	09/12/83	48 FR 40900
ANPRM Comment Period End	11/14/83	48 FR 40900
NPRM	12/13/84	49 FR 48552
NPRM Comment Period End	02/11/85	49 FR 48552
NPRM- Revised	06/07/85	50 FR 23964
Revised NPRM Comment Period Begin	06/07/85	50 FR 23964
Revised NPRM Comment Period End	07/22/85	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Pamela E. F. LeCren, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3743

RIN: 3064-AA29

3674. ● CAPITAL MAINTENANCE

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 325

Legal Deadline: None.

Abstract: The FDIC is amending its capital regulation by revising the definitions of the terms "assets classified loss," "subordinated note or debenture" and "total assets." The amendments also would allow the FDIC to include in primary and secondary capital any capital instrument or account that has the characteristics of capital. Also included is a safety and soundness test regarding the terms and conditions affecting capital instruments. Finally, limits are set on when the FDIC may deny mergers solely because a capital deficiency would exist in the resulting entity.

Timetable:

Action	Date	FR Cite
NPRM	04/10/87	52 FR 11660
NPRM Comment Period End	06/09/87	
Final Action	10/00/87	

Small Entity: No

Agency Contact: Robert F. Storch, Planning and Program Development Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6903

RIN: 3064-AA82

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FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

Completed Actions

3675. ● DELEGATIONS OF AUTHORITY

Legal Authority: 5 USC 504; 12 USC 1815; 12 USC 1816; 12 USC 1817; 12 USC 1818; 12 USC 1819; 12 USC 1972; 15 USC 78w; 15 USC 1607

CFR Citation: 12 CFR 303; 12 CFR 308

Legal Deadline: None.

Abstract: The FDIC has amended its regulations (12 CFR Parts 303 and 308) to redelegate authority to act on those applications and administrative enforcement matters formerly exercised by the Board of Review to officials in the FDIC's Division of Bank Supervision. The amendments also delegate additional authority to act on certain applications and administrative enforcement matters to officials within the Division of Bank Supervision.

Timetable:

Action	Date	FR Cite
Final Action	09/21/87	52 FR 35396
Final Action Effective	09/21/87	

Small Entity: No

Agency Contact: Alan J. Kaplan, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3734

RIN: 3064-AA84

3676. ● FOREIGN BANKS

Legal Authority: 12 USC 1818; 12 USC 1817; 12 USC 1819; 12 USC 1820; 12 USC 3103; 12 USC 3104; 12 USC 3108

CFR Citation: 12 CFR 346

Legal Deadline: None.

Abstract: The FDIC amended its regulations governing FDIC-insured United States branches of foreign banks to permit those branches to pledge obligations of the African Development Bank as collateral to meet FDIC insurance requirements. In the event the FDIC is required to pay the insured deposits of an insured United States branch of a foreign bank, the pledged assets would become the property of the FDIC to be used to the extent necessary to protect the FDIC's deposit insurance fund.

Timetable:

Action	Date	FR Cite
Final Action	09/10/87	52 FR 34208
Final Action Effective	09/10/87	

Small Entity: No

Agency Contact: Joseph Duffy, Senior Financial Analyst, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-6821

RIN: 3064-AA85

3677. ● PRIVACY ACT REGULATIONS

Legal Authority: 5 USC 552a

CFR Citation: 12 CFR 310

Legal Deadline: None.

Abstract: The FDIC amended its regulations implementing the Privacy Act of 1974 so that appeals of adverse agency determinations on requests for access to or amendment of records will be considered by the FDIC's General Counsel (or designee). In addition, the FDIC removed its "Legal Compliance and Enforcement Records" system from the list of systems of records exempt by regulation from certain provisions of the Privacy Act because the system itself has become obsolete.

Timetable:

Action	Date	FR Cite
Final Action	09/10/87	52 FR 34208
Final Action Effective	09/10/87	

Small Entity: No

Agency Contact: Robert E. Feldman, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3811

RIN: 3064-AA66

3678. ● DISCLOSURE OF INFORMATION

Legal Authority: 12 USC 1819; 5 USC 552

CFR Citation: 12 CFR 309

Legal Deadline: None.

Abstract: The FDIC amended its regulations to implement the provisions of the Freedom of Information Reform Act of 1986, Pub. L. 99-570, and the Uniform Freedom of Information Act Fee Schedule and Guidelines adopted by the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
NPRM	04/27/87	52 FR 13943
NPRM Comment Period End	05/27/87	
Final Action	06/22/87	52 FR 23425
Final Action Effective	07/22/87	

Small Entity: No

Agency Contact: Margaret M. Olsen, Deputy Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3812

RIN: 3064-AA79

[FR Doc. 87-21283 Filed 10-23-87, 8:45 am]

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federal register

Monday
October 26, 1987

Part XLVIII

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

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FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In response to Office of Management and Budget Bulletin No. 87-10, the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 34 rulemakings listed, 22 are current and projected rulemakings, 6 are completed actions, and 6 have been withdrawn.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See various dates listed for each specific rulemaking.

ADDRESS: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

Kenneth F. Plumb,

Secretary.

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Prerule Stage

3679. NOI - REGULATION OF ELECTRICITY SALES - FOR RESALES AND TRANSMISSION SERVICE

Legal Authority: 16 USC 2601 to 2645 PURPA; 15 USC 791a to 828c FPA

CFR Citation: 18 CFR 290; 18 CFR 35

Legal Deadline: None.

Abstract: The Notice of Inquiry seeks information on the pricing and risk allocation for electric wholesale requirements service. RM85-17-000

Timetable:

Action	Date	FR Cite
Notice of Inquiry Phase I	06/04/85	50 FR 23445
Notice of Inquiry Phase II	07/05/85	50 FR 27804
End Review	00/00/00	

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA58

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Proposed Rule Stage

3680. FEES FOR HYDROPOWER PROJECTS

Legal Authority: 31 USC 9701 Independent Offices Appropriations Act; 16 USC 803 Federal Power Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009

CFR Citation: 18 CFR 381

Legal Deadline: None.

Abstract: The rulemaking would establish a fee for services performed by the Commission under the FPA for hydropower projects. The rule would cover permits, licenses and exemptions. Docket No. RM83-33-000

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA48

3681. AMENDMENTS TO UNIFORM SYSTEM OF ACCOUNTS TO REVISE ACCOUNTING RETIREMENT FOR NUCLEAR FUEL

Legal Authority: 42 USC 7102 to 7352; 16 USC 791a to 828c; 16 USC 2601 to 2645; EO 12009, 3 CFR 142

CFR Citation: 18 CFR 101

Legal Deadline: None.

Abstract: The rule would revise the accounting treatment for the acquisition, maintenance and disposal of nuclear fuel by electric utilities. Docket No. RM83-28-000.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA52

3682. ACCOUNTING AND RATEMAKING TREATMENT FOR NUCLEAR PLANT DECOMMISSIONING COSTS

Legal Authority: 16 USC 791 to 828c Federal Power Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009

CFR Citation: 18 CFR 35; 18 CFR 101; 18 CFR 141

Legal Deadline: None.

Abstract: Rulemaking would establish appropriate accounting and ratemaking treatment for nuclear plant decommissioning costs that public utilities are beginning to incur. Docket No. RM85-5-000

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

FERC — Proposed Rule Stage

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA64

3683. HYDROELECTRIC APPLICANTS SEEKING BENEFITS UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 ON PROJECTS LOCATED AT A NEW DAM OR DIVERSION. PETITION ALLEGING COMMITMENT OF (CONT)

Significance: Agency Priority

Legal Authority: 16 USC 791a to 825r (1982) Federal Power Act; 16 USC 2601 to 2645 (1982) Pub. Utility Reg. Pol. Act of 1978; 42 USC 7101 to 7352 (1982) Dept. of Energy Organization Act; EO 12009, 3 CFR 142 (1978)

CFR Citation: 18 CFR 4; 18 CFR 292; 18 CFR 375

Legal Deadline: None.

Abstract: This interim rule prescribes the form in which a petition alleging commitment of substantial monetary resources prior to the enactment of the Electric Consumers Protection Act of 1986 (ECPA) will be filed and processed. This petition, if granted, would except from some of the provisions of section 8 of ECPA a hydroelectric project that impounds or diverts the water of a natural watercourse by means of a new dam or diversion, for which benefits under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) are sought, if application for license or exemption for the project is filed between October 16, 1986 and April 16, 1988. Docket No. RM87-8-000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/20/87	52 FR 5276
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: No

Additional Information: TITLE CONT: Substantial Monetary Resources.

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA78

3684. NATURAL GAS RATE DESIGN

Significance: Agency Priority

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: The Commission is proposing to establish new gas sales rate designs. Docket No. RM87-27-000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA82

3685. ● GENERIC DETERMINATION OF RATE OF RETURN ON COMMON EQUITY FOR PUBLIC UTILITIES

Significance: Agency Priority

Legal Authority: 42 USC 7102 to 7352 (1982); EO 12009, 3 CFR 142 (1978); 5 USC 551 to 557, (1982); 15 USC 717 to 717w, (1982); 16 USC 791 to 828c, (1982); 15 USC 3301 to 3402, (1982); 16 USC 2601 to 2645, (1982)

CFR Citation: 18 CFR 37

Legal Deadline: None.

Abstract: The Commission is issuing a notice of proposed rulemaking establishing procedures to determine an estimate of the average cost of common equity for the jurisdictional operations of public utilities for the year ending June 30, 1987, and a quarterly indexing procedure to establish benchmark rates of return on common equity for use in individual rate cases. It is proposed that these benchmark rates of return remain advisory only. Docket No. RM87-35-000.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	00/00/00	

Small Entity: Not Applicable

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA83

3686. ● NATURAL GAS DATA COLLECTION SYSTEM

Significance: Agency Priority

Legal Authority: 42 USC 7102 to 7352, (1982); EO 12009, 3 CFR 142 (1978); 5 USC 551 to 557, (1982); 15 USC 717 to 717w, (1982); 16 USC 791 to 828c, (1982); 15 USC 3301 to 3402, (1982); 16 USC 2601 to 2645, (1982)

CFR Citation: 18 CFR 154; 18 CFR 157; 18 CFR 260; 18 CFR 284

Legal Deadline: None.

Abstract: The rule proposes to amend the Commission's regulations to establish the Natural Gas Data Collection System through the adoption of FERC Form No. 591. FERC Form No. 591 requires natural gas pipelines to submit various data, rate filings and certificate applications to the Commission on 9-track magnetic tape. In addition, FERC Form No. 591 revises the data presently submitted by natural gas pipelines to reflect the Commission's current regulatory responsibilities. This revision results in the filing of much of the same data at the same time as presently, eliminates data presently filed and requires the submission of data in more detail or more frequently than presently filed. Docket No. RM-87-17-000.

Timetable:

Action	Date	FR Cite
NPRM	07/07/87	52 FR 25530
NPRM Comment Period End	09/08/87	52 FR 25530
Final Action	01/00/88	

Small Entity: Not Applicable

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA94

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FERC — Proposed Rule Stage

3687. ● PROCEDURES FOR THE ASSESSMENT OF CIVIL PENALTIES UNDER SECTION 31 OF THE FEDERAL POWER ACT

Significance: Agency Priority

Legal Authority: 42 USC 7102 to 7352, (1982); EO 12009, 3 CFR 142 (1978); 5 USC 551 to 557, (1982); 15 USC 717 to 717w, (1982); 16 USC 791 to 828c, (1982); 15 USC 3301 to 3402, (1982); 16 USC 2601 to 2645, (1982)

CFR Citation: 18 CFR 385

Legal Deadline: None.

Abstract: The Federal Energy Regulatory Commission is issuing a notice of proposed rulemaking establishing procedures for the assessment of civil penalties pursuant to section 12 of the Electric Consumers Protection Act of 1986, which amended and added a new section 31 to the Federal Power Act. Docket No. RM87-24-000.

Timetable:

Action	Date	FR Cite
NPRM	08/03/87	52 FR 29216
NPRM Comment Period End	10/05/87	52 FR 29216
Final Action	00/00/00	

Small Entity: Not Applicable

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA96

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Final Rule Stage

3688. REVISION OF FERC RULES OF PRACTICE, SEPARATION OF FUNCTIONS AND EX PARTE RULES FOR TRIAL-TYPE PROCEEDINGS

Legal Authority: 5 USC 557

CFR Citation: 18 CFR 385.2201; 18 CFR 385.2202

Legal Deadline: None.

Abstract: Rule would establish uniform ex parte and separation of functions rules for all trial-type proceedings. Docket No. RM80-60-000.

Timetable:

Action	Date	FR Cite
NPRM	05/29/80	45 FR 36094
Final Action	00/00/00	

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA31

3689. CALCULATION OF CASH WORKING CAPITAL ALLOWANCE FOR PUBLIC UTILITIES

Legal Authority: 16 USC 791a to 828c

CFR Citation: 18 CFR 35

Legal Deadline: None.

Abstract: Proposed rule would provide that a public utility that files electric rate schedules may include in rate base no cash working capital allowance, unless it is demonstrated that the payment of certain current operating expenses by that utility is not, on the average, closely timed with the receipt of revenues from ratepayers, producing a significant "lead" or "lag" in revenue collection in relation to the payment of expenses. The new section would prescribe the expense elements includable in cash working capital, the parameters of the presumption against a cash working capital allowance, and the nature of the studies that may be submitted in support of, or in opposition to, any request for a cash working capital allowance. Docket No. RM84-9.

Timetable:

Action	Date	FR Cite
NPRM	04/05/84	49 FR 14384
NPRM Comment Period End	06/04/84	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA33

3690. LIST OF UNITS OF PROPERTY FOR USE IN ACCOUNTING FOR ADDITIONS AND RETIREMENTS OF REACTOR PLANT EQUIPMENT

Legal Authority: 42 USC 7102 to 7352; 16 USC 791a to 828c; 16 USC 7601 to 7645

CFR Citation: 18 CFR 116

Legal Deadline: None.

Abstract: Proposed rule would establish list of retirement units for nuclear reactor plants for purposes of the Commission's Uniform Systems of Accounts. Docket No. RM83-39-000.

Timetable:

Action	Date	FR Cite
NPRM	09/27/85	50 FR 39134
NPRM Comment Period End	11/26/85	
Final Action	01/00/88	

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA43

3691. EXEMPTION FROM THE LICENSING REQUIREMENTS OF PART I OF THE FEDERAL POWER ACT OF CERTAIN CATEGORIES OF SMALL HYDROELECTRIC POWER PROJECTS WITH AN INSTALLED CAPACITY OF 5 MW OR LESS

Legal Authority: 16 USC 823a Federal Power Act; 16 USC 2708 PURPA; 42 USC 7101 to 7352 DOE Organization Act; EO 12009

CFR Citation: 18 CFR 4.109; 18 CFR 4.110; 18 CFR 4.111; 18 CFR 4.112

Legal Deadline: None.

Abstract: The Commission has requested a remand from the U.S. Court of Appeals for the D.C. Circuit of its categorical exemptions rule for small hydroelectric power projects in order to determine whether or not to repeal the categorical exemption regulations. Docket No. RM81-7-000

FERC — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/08/87	52 FR 21576
Interim Final Rule	07/08/87	
Final Action	11/00/87	

Small Entity: Undetermined

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA59

3692. REGULATION OF NATURAL GAS PIPELINES AFTER PARTIAL WELLHEAD DECONTROL; PART D

Significance: Agency Priority

Legal Authority: 42 USC 7101 to 7352 DOE Organization Act; EO 12009; 15 USC 717 to 717w Natural Gas Act; 15 USC 3301 to 3432 Natural Gas Policy Act

CFR Citation: 18 CFR 154

Legal Deadline: None.

Abstract: The Commission seeks additional comment on its block billing procedures. In the original notice, the Commission proposed: -A three-part gas rate for pipeline gas sales, to preserve the benefits of "old" gas for existing firm sales customers and to mitigate competitive distortions resulting from the lingering effects of existing wellhead price controls; -A first block containing "old gas" under sections 104, 106(a) and 109 of the NGPA; -That after a pipeline permitted its firm sales customers to reduce 100 percent of their contract demands and offered those customers non-discriminatory self-implementing transportation, then the sales price assigned to the second block was presumed to be just and reasonable. The revised proposal is as follows: -Eliminating "Block 3" with revisions to clarify that the "as-billed" principle continues to apply to fixed costs; -Extending the base period to include the period between December 1, 1978, to December 31, 1984; -Including interruptible purchases for purposes of determining block 1 allocation factors; -Clarifying that the presumption of justness and reasonableness for block 2 gas; -Clarifications re implementation. RM85-1-000.

Timetable:

Action	Date	FR Cite
NPRM	10/09/85	50 FR 42372
NPRM Comment Period End	11/18/85	50 FR 42372
Final Action	00/00/00	

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA70

3693. ABANDONMENT OF SALES AND PURCHASES OF NATURAL GAS UNDER EXPIRED, TERMINATED, OR MODIFIED CONTRACTS

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w; 42 USC 7101 to 7352; EO 12009, 3 CFR 142; 15 USC 3301 to 3432

CFR Citation: 18 CFR 157; 18 CFR 284

Legal Deadline: None.

Abstract: Rule proposes to permit sellers and purchasers of natural gas subject to the Commission's jurisdiction to abandon their sales of purchases when the contracts expire, terminate or are mutually terminated or modified. Docket No. RM87-16-000.

Timetable:

Action	Date	FR Cite
NPRM	05/19/87	52 FR 18703
NPRM Comment Period End	06/18/87	
Final Action Effective	01/00/88	

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA81

3694. FEES FOR HYDROELECTRIC PROJECT APPLICATIONS, TO REIMBURSE FISH AND WILDLIFE AGENCIES

Significance: Agency Priority

Legal Authority: PL 99-495 Electric Consumers Protection Act of 1986; 16 USC 791 to 825r Federal Power Act; 16 USC 2601 to 2645 (1982) Pub. Utility Reg. Pol. Act of 1978; 42 USC 7101 to 7352 (1982) Dept. of Energy Organization Act; EO 12009, 3 CFR 142 (1978)

CFR Citation: 18 CFR 4; 18 CFR 11; 18 CFR 375

Legal Deadline: None.

Abstract: The Commission proposes to adopt new regulations governing applications for licenses and exemptions to implement section 7 (c) of the Electric Consumers Protection Act of 1986 (ECPA).Under the proposed rule, license and exemption applicants for projects required to meet the terms and conditions of fish and wildlife agencies under section 30(c) of the Federal Power Act, as amended by section 7(b) of ECPA, would reimburse the National Marine Fisheries Service (NMFS), the United States Fish and Wildlife Service (USFWS), and the state agency responsible for fish and wildlife resources for any reasonable costs incurred in setting mandatory terms and conditions. The rule also proposes that any fees paid would be deducted from the total annual charge assessed against licensees under section 10(e) of the Federal Power Act for costs of administering Part I of the Federal Power Act. Docket No. RM87-6-000.

Timetable:

Action	Date	FR Cite
NPRM	03/18/87	52 FR 8463
NPRM Comment Period End	05/18/87	
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA84

3695. INFORMATION THAT EXISTING HYDROELECTRIC LICENSEES MUST MAKE AVAILABLE UPON NOTICE OF THEIR INTENTION TO FILE FOR AN APPLICATION FOR A NEW LICENSE

Significance: Agency Priority

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Legal Authority: 16 USC 791a to 825r Federal Power Act; PL 99-495 Electric Consumers Protection Act of 1986; 42 USC 7101 to 7352 (1982) Dept. of Energy Organization Act; EO 12009, 3 CFR 142 (1978)

CFR Citation: 18 CFR 16

Legal Deadline: None.

Abstract: This interim rule prescribes the information that an existing hydroelectric licensee must make available to the public upon notifying the Commission whether or not it intends to file an application for new license. Docket No. RM87-7-000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 11035
Final Action	01/00/88	

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA88

3696. INQUIRY INTO ALLEGED ANTICOMPETITIVE PRACTICES RELATING TO MARKETING AFFILIATES OF INTERSTATE PIPELINES

Significance: Agency Priority

Legal Authority: 15 USC 717 to 717w (1982) Natural Gas Act; 15 USC 3301 to 3432 (1982) Natural Gas Policy Act of 1978

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: The notice of inquiry seeks information about allegations of anticompetitive activity related to the relationship between interstate pipelines and their marketing affiliates. The notice of inquiry also seeks information on how to ensure competitive business practices by pipelines and their marketing affiliates in the natural gas sales and transportation markets. Docket No. RM87-5-000.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	11/14/86	51 FR 41982
NPRM	06/08/87	52 FR 21578
NPRM Comment Period End	07/23/87	52 FR 21578
Final Action	01/00/88	

Small Entity: No

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA90

3697. ● REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Significance: Agency Priority

Legal Authority: 42 USC 7101 to 7352, (1982); 3 CFR 1978 Comp p. 142; 16 USC 792 to 825r, (1982); 15 USC 717 to 717w, (1982); 15 USC 3301 to 3432, (1982); 16 USC 2601 to 2645, (1982); 16 USC 4321 to 4361, (1978)

CFR Citation: 18 CFR 2; 18 CFR 380

Legal Deadline: None.

Abstract: The Federal Energy Regulatory Commission is proposing to revise its regulations that govern the collection, evaluation, and dissemination of environmental information. The proposed regulations would replace and elaborate on existing Commission regulations under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321-4347, and adopt many of the NEPA regulations promulgated by the Council on Environmental Quality, 40 CFR Parts 1500-1508, as amended. This rulemaking docket incorporates former Docket No. RM79-69-000. Docket No. RM 87-15-000.

Timetable:

Action	Date	FR Cite
NPRM	05/29/87	52 FR 20314
NPRM Comment Period End	07/28/87	52 FR 20314
Final Action	00/00/00	

Small Entity: Not Applicable

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA91

3698. ● REVISION OF FREEDOM OF INFORMATION ACT RULES

Significance: Agency Priority

Legal Authority: 5 USC 552; 5 USC 553

CFR Citation: 18 CFR 3; 18 CFR 381; 18 CFR 388

Legal Deadline: None.

Abstract: The Federal Energy Regulatory Commission proposes to amend its general regulations governing public information, and requests for information made pursuant to the Freedom of Information Act. The proposal consolidates regulations which are currently provided in Section 3.6 and Part 388 of the Commission's regulations. The proposal also incorporates changes mandated by Congress in the Freedom of Information Reform Act of 1986. This docket incorporates Docket No. RM83-42-000. Docket No. RM87-21-000.

Timetable:

Action	Date	FR Cite
NPRM	06/26/87	52 FR 24027
NPRM Comment Period End	07/27/87	52 FR 24027
Final Action	00/00/00	

Small Entity: Not Applicable

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA92

3699. ● REVISIONS TO THE PURCHASED GAS ADJUSTMENT REGULATIONS

Significance: Agency Priority

Legal Authority: 42 USC 7101 to 7352, (1982); 5 USC 551 to 557, (1982); 15 USC 717 to 717w, (1982); 16 USC 791a to 828c, (1982); 16 USC 2601 to 2645, (1982); 49 USC 1 to 27, (1976)

CFR Citation: 18 CFR 154; 18 CFR 282; 18 CFR 375; 18 CFR 381

Legal Deadline: None.

Abstract: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations governing the procedures by which a natural gas pipeline company (company or pipeline) passes through the cost of purchased gas to its jurisdictional customers.

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The Commission is proposing to modify the mechanism by which a company can bill its purchased gas costs (purchased gas adjustment or PGA) by requiring a company to file a comprehensive annual PGA filing instead of two semi-annual filings and updating the annual PGA filing with three additional quarterly filings. This docket incorporates RM84-12 and RM86-14. Docket No. RM87-11-000.

Timetable:

Action	Date	FR Cite
NPRM	06/03/87	52 FR 20828
NPRM Comment Period End	08/03/87	52 FR 20828
Final Action	00/00/00	

Small Entity: Not Applicable

Agency Contact: Michael A. Stosser, Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-5597

RIN: 1902-AA95

3700. ● REGULATION OF NATURAL GAS PIPELINES AFTER PARTIAL WELLHEAD DECONTROL

Significance: Agency Priority

Legal Authority: 42 USC 7102 to 7352 (1982); EO 12009, 3 CFR 142 (1978); 5 USC 551 to 557, (1982); 15 USC 717 to 717w, (1982); 16 USC 791 to 828c, (1982); 15 USC 3301 to 3402, (1982); 16 USC 2601 to 2645, (1982)

CFR Citation: 18 CFR 2; 18 CFR 284.10

Legal Deadline: None.

Abstract: Order on remand of the Commission's Order No. 436 which, among other things, established a voluntary transportation program. Docket No. RM87-34-000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Susan J. Court, Associate General Counsel, Gas and Oil, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8468

RIN: 1902-AA97

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Completed Actions

3701. REVISION TO FERC RULES OF PRACTICE, PART 3, DISCOVERY

CFR Citation: 18 CFR 1.23; 18 CFR 1.26

Completed:

Reason	Date	FR Cite
Final Action	03/06/87	52 FR 6957
Final Action Effective	04/06/87	52 FR 6957

Small Entity: No

Agency Contact: Michael A. Stosser 202 357-5597

RIN: 1902-AA13

3702. REVISIONS TO PGA REGULATIONS

CFR Citation: 18 CFR 157

Completed:

Reason	Date	FR Cite
Withdrawn The issues in RM84-12-000 will be incorporated in RM87-11-000.	06/03/87	52 FR 20828

Small Entity: No

Agency Contact: Michael A. Stosser 202 357-5597

RIN: 1902-AA50

3703. REVISIONS TO THE BILLING PROCEDURES FOR ANNUAL CHARGES FOR ADMINISTERING PART I OF THE FEDERAL POWER ACT AND TO THE METHODOLOGY FOR ASSESSING FEDERAL LAND USE CHARGES

Significance: Agency Priority

CFR Citation: 18 CFR 11.01; 18 CFR 11.02; 18 CFR 11.03; 18 CFR 11.04

Completed:

Reason	Date	FR Cite
Final Action	05/14/87	52 FR 18201
Final Action Effective	07/28/87	52 FR 18201

Small Entity: Undetermined

Agency Contact: Michael A. Stosser 202 357-5597

RIN: 1902-AA71

3704. REVISIONS TO PGA REGULATIONS

Significance: Agency Priority

CFR Citation: 18 CFR 154.38; 18 CFR 154.301 to 154.310; 18 CFR 375; 18 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	07/07/87	52 FR 25530

Small Entity: No

Agency Contact: Michael A. Stosser 202 357-5597

RIN: 1902-AA73

3705. COMPRESSION ALLOWANCES AND PROTEST PROCEDURES UNDER NGPA SECTION 110

Significance: Agency Priority

CFR Citation: 18 CFR 271

Completed:

Reason	Date	FR Cite
Final Action	06/03/87	52 FR 21660
Final Action Effective	08/10/87	52 FR 21660

Small Entity: No

Agency Contact: Michael A. Stosser 202 357-5597

RIN: 1902-AA74

3706. OIL PIPELINE FEES

Significance: Agency Priority

CFR Citation: 18 CFR 346

Completed:

Reason	Date	FR Cite
Withdrawn Docket administratively terminated on September 29, 1986.	09/29/86	

Small Entity: No

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Completed Actions

Agency Contact: Michael A. Stosser
202 357-5597

RIN: 1902-AA75

3707. CONSTRUCTION WORK IN PROGRESS

Significance: Agency Priority

CFR Citation: 18 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	06/26/87	52 FR 23948
Final Action Effective	07/27/87	

Small Entity: No

Agency Contact: Michael A. Stosser
202 357-5597

RIN: 1902-AA76

3708. REVISION OF FREEDOM OF INFORMATION ACT RULES

Significance: Agency Priority

CFR Citation: 18 CFR 3; 18 CFR 388

Completed:

Reason	Date	FR Cite
Withdrawn Combined with 1902-AA92	06/26/87	52 FR 24027

Small Entity: No

Agency Contact: Michael A. Stosser
202 357-5597

RIN: 1902-AA79

3709. COMPUTERIZATION OF SECTION 4 RATE FILING DATA SUBMISSIONS

Significance: Agency Priority

CFR Citation: 18 CFR 154

Completed:

Reason	Date	FR Cite
Withdrawn	07/07/87	52 FR 25530

Small Entity: No

Agency Contact: Michael A. Stosser
202 357-5597

RIN: 1902-AA83

3710. REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Significance: Agency Priority

CFR Citation: 18 CFR 380

Completed:

Reason	Date	FR Cite
Withdrawn Combined with 1902-AA91	05/29/87	55 FR 29314

Small Entity: No

Agency Contact: Michael A. Stosser
202 357-5597

RIN: 1902-AA86

3711. RATE CHANGES RELATING TO FEDERAL CORPORATE INCOME TAX RATE FOR PUBLIC UTILITIES

Significance: Agency Priority

CFR Citation: 18 CFR 35; 18 CFR 389

Completed:

Reason	Date	FR Cite
Final Action	06/26/87	52 FR 24987
Final Action Effective	06/26/87	52 FR 24987

Small Entity: No

Agency Contact: Michael A. Stosser
202 357-5597

RIN: 1902-AA87

3712. ANNUAL CHARGES UNDER OMNIBUS BUDGET RECONCILIATION ACT OF 1986

Significance: Agency Priority

CFR Citation: 18 CFR 375; 18 CFR 382

Completed:

Reason	Date	FR Cite
Final Action	06/15/87	52 FR 21263
Final Action Effective	07/06/87	52 FR 21263

Small Entity: No

Agency Contact: Michael A. Stosser
202 357-5597

RIN: 1902-AA89

[FR Doc. 87-21284 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26, 1987

Part XLIX

Federal Home Loan Bank Board

Semiannual Regulatory Agenda

VOL 52 ISS 206 OCT 26 1987 UMI

FEDERAL HOME LOAN BANK BOARD (FHLBB)

FEDERAL HOME LOAN BANK BOARD

12 CFR Ch. V

[No. 87-932]

Agenda of Federal Regulations

AGENCY: Federal Home Loan Bank Board.

ACTION: Publication of agenda items.

SUMMARY: The Federal Home Loan Bank Board is hereby publishing items for the "October Unified Agenda of Federal Regulations."

ADDRESS: Information Services Division, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: See persons listed below for specific agenda items.

DATES: August 27, 1987.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Prerule Stage

3713. ● REGULATIONS REQUIRED BY THE COMPETITIVE EQUALITY BANKING ACT OF 1987

Significance: Agency Priority

Legal Authority: PL 100-86

CFR Citation: 12 CFR 500 to 591

Legal Deadline: Statutory, January 7, 1988. The Competitive Equality Banking Act of 1987, PL 100-86, 101 Stat. 552, requires the Bank Board to adopt certain regulations identified in this advance notice of proposed rulemaking by January 7, 1988.

Abstract: The Bank Board is issuing an advance notice of proposed rulemaking to inform the public of its intention to promulgate regulations required by the Competitive Equality Banking Act of 1987 ("CEBA"). Within 2 to 9 months of the date of CEBA's enactment, the Bank Board is required to issue regulations or guidelines in the following areas: qualified thrift lender test; classification of assets; appraisals; uniform generally accepted accounting principles; gain and loss deferrals; capital forebearance; minimum capital requirements; procedures setting time limits for approval or disapproval of applications submitted to Bank Board; and asset disposition. The Bank Board is requesting comment on these areas and others to assist in implementing the requirements of the CEBA. Additionally, the Bank Board is soliciting comment on the possible promulgation of other regulations not covered by this notice as well as amendments to existing regulations that may be necessary to implement the provisions of the CEBA the most effective way. Since the proposal is only an advance notice of proposed rulemaking, the potential costs and benefits of a proposed (cont)

Timetable:

Action	Date	FR Cite
ANPRM	08/00/87	
ANPRM Comment Period End	09/00/87	

Small Entity: No

Additional Information: Abstract Cont: regulation on the industry have not been quantified.

Agency Contact: Christine M. Gattuso, Acting Regulatory Counsel, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6649

RIN: 3068-AA38

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Proposed Rule Stage

3714. ● SETTLEMENT OF INSURANCE; FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Legal Authority: 12 USC 1724 to 1730g

CFR Citation: 12 CFR 564.2; 12 CFR 564.9

Legal Deadline: None.

Abstract: The Bank Board is proposing to amend its regulations pertaining to the settlement of insurance on accounts held jointly. The Bank Board proposes to delete the current requirement that each co-owner of a joint account must personally execute a signature card for the account in order for the account to be separately insured. The Bank Board believes the current rule may have caused hardship to depositors and added to the recordkeeping burden on institutions without appreciably reducing the risks of fraudulent claims of entitlement to separate joint account insurance coverage. The Bank Board also is proposing to consolidate provisions of its regulations governing joint accounts and to clarify the provisions affecting joint accounts established by intermediaries.

There are no alternatives that would be less burdensome than the rule in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
NPRM	07/10/87	52 FR 26017
NPRM Comment Period End	09/08/87	52 FR 26017
Final Action	00/00/00	

Small Entity: No

Analysis: Regulatory Flexibility Analysis

Agency Contact: Deborah Dakin, Assistant Director, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6445

RIN: 3068-AA23

FHLBB — **Proposed Rule Stage**

3715. ● APPRAISAL POLICIES AND PRACTICES OF INSURED INSTITUTIONS AND SERVICE CORPORATIONS

Legal Authority: 12 USC 1421 to 1429; 12 USC 1437; 12 USC 1724 to 1730

CFR Citation: 12 CFR 563.17-1a, (new section); 12 CFR 571.1b, (new section)

Legal Deadline: None.

Abstract: The Bank Board is proposing to adopt a rule and a statement of policy pertaining to appraisal policies and practices of insured institutions and service corporations of such institutions. The proposed rule is intended to codify the standards to be used by insured institutions and service corporations, as well as examiners and supervisory staff, in determining compliance with the appraisal requirements of 12 CFR 563.17-1 and 563.17-2. The proposed rule and policy statement address the same four components of the Bank Board's appraisal standards and reporting requirements addressed in R-41c as clarified: management policies, appraisal management, appraisal content, and related considerations. This proposed rule, however, has been designed to clarify and simplify the R-41c guidelines. The proposed rule would apply equally to all insured institutions.

There are no alternatives that would be less burdensome than the rule in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
NPRM	05/15/87	52 FR 18366
NPRM Comment Period End	09/01/87	52 FR 27219
Final Action	12/00/87	

Small Entity: No

Analysis: Regulatory Flexibility Analysis

Agency Contact: Kathy L. Kresch, Attorney, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6417

RIN: 3068-AA35

3716. ● CLASSIFICATION OF ASSETS

Legal Authority: 12 USC 1464; 12 USC 1726; 12 USC 1730

CFR Citation: 12 CFR 561.15; 12 CFR 561.16c; 12 CFR 563.13; 12 CFR 563.17-2; 12 CFR 571.1a

Legal Deadline: None.

Abstract: The Bank Board is proposing to revise its present regulations governing the classification of assets of insured institutions. The proposed rule would ensure the use of broader, but judicious, examiner discretion in the classification of assets, consistent with the examination practices of the bank regulatory agencies. Specifically, the proposal employs the existing classification categories of Substandard, Doubtful and Loss, but significantly alters the consequences of the respective classifications with respect to both reserve requirements and minimum capital requirements. Assets classified substandard would no longer be treated as scheduled items, thus, twenty percent of substandard assets would not be included in calculating the contingency component of an insured institution's minimum regulatory capital requirement. Moreover, with respect to assets classified Doubtful, the Bank Board would no longer require institutions to establish specific allowances for loan losses. With respect to assets classified Substandard or Doubtful, if the examiner concludes that the valuation allowances established by the institutions are inadequate, the examiner (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/15/87	52 FR 18369
Publication of Board Action	05/15/87	52 FR 18369
NPRM Comment Period End	09/01/87	52 FR 27218
Final Action	12/00/87	

Small Entity: No

Additional Information: Abstract Cont: would determine the need for, and extent of, any increase necessary in the insured institution's general allowances for loan losses, subject to review by the Principal Supervisory Agent. For the portion of assets classified Loss, the Bank Board would continue to require institutions either to establish specific allowances for losses of 100 percent of the amount classified, or charge off such amount. Institutions would also be required to classify their own assets and to establish prudent general allowances for loan losses. The proposed rule would apply equally to all insured institutions.

There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Analysis: Regulatory Flexibility Analysis

Agency Contact: Daniel G. Lonergan, Staff Attorney, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6458

RIN: 3068-AA37

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Final Rule Stage

3717. CONSERVATORS AND RECEIVERS

Legal Authority: 12 USC 1464; 12 USC 1724(d); 12 USC 1729; PL 99-120, Sec 6

CFR Citation: 12 CFR 547; 12 CFR 548; 12 CFR 549; 12 CFR 563.8-3, (proposed new section); 12 CFR 563.39(a); 12 CFR 569a; 12 CFR 569b, (proposed new Part); 12 CFR 569c, (proposed new Part)

Legal Deadline: None.

Abstract: The Board is proposing extensive revisions to its regulations governing the conservatorship and receivership of associations chartered by the Board or the accounts of which that are insured by the Federal Savings and Loan Insurance Corporation. The Board will unify the appointment of receiver procedures for state and federal institutions; adopt procedures

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FHLBB — Final Rule Stage

for appointment of receivers under section 406(c)(1)(B) of the National Housing Act; and address the priorities in liquidation and participation interests in liquidation, which are absent from or inadequately covered in the present regulations. The Board is also proposing that its regulations cover topics such as the effect of the receivership appointment on executory contracts, employment agreements, certain "Golden Parachute" agreements, participation agreements, repurchase agreements, and on agreements relating to secured and unsecured borrowings by an insured institution, including agreements providing for prepayment or default penalties. The proposed regulations provide for new rules of general applicability in the areas previously mentioned, clarify existing provisions, and reorganize and recodify all the (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/06/85	50 FR 46970
Publication of Board Action	11/27/85	50 FR 48970
NPRM Comment Period End	01/22/86	
Final Action	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: regulations governing conservatorships and receiverships.

There are no alternatives being considered by the Board in lieu of the proposed regulation that would have less impact on small institutions, consistent with the intended result, than the concerns expressed in the supplementary information to the proposed rule and the existing statutory requirements concerning receiverships and conservatorships.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Agency Contact: Lawrence W. Hayes, Deputy General Counsel for FSLIC, O.G.C., Federal Home Loan Bank Board, 1700 G St. NW, Washington, DC 20552, 202 377-6428

RIN: 3068-AA07

3718. LOANS TO ONE BORROWER

Legal Authority: 12 USC 1421 to 1429; 12 USC 1464(c); 12 USC 1724 to 1730

CFR Citation: 12 CFR 563.9-3

Legal Deadline: None.

Abstract: The Bank Board proposes to amend its regulation pertaining to loans to one borrower in a number of ways, most significantly to reduce the amount of aggregate loans to one borrower that may be made by an institution the accounts of which are insured by the FSLIC. The proposal is intended to reduce risk to insured institutions and the FSLIC without depriving institutions of appropriate operational flexibility. To this end, the Board invites comment on all aspects of the proposal.

The Bank Board is soliciting comment on possible alternatives to the rule as proposed in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

The proposed rule would apply equally to all insured institutions.

Timetable:

Action	Date	FR Cite
NPRM	08/15/86	51 FR 30225
Publication of Board Action	08/25/86	51 FR 30225
NPRM Comment Period End	10/24/86	51 FR 30225

Next Action Undetermined

Small Entity: Yes

Analysis: Regulatory Flexibility Analysis

Agency Contact: Carol J. Johnson, Attorney, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6357

RIN: 3068-AA19

3719. ● REGULATORY CAPITAL REQUIREMENTS OF INSURED INSTITUTIONS

Legal Authority: 12 USC 1726

CFR Citation: 12 CFR 563.3-10; 12 CFR 563.13

Legal Deadline: None.

Abstract: The Bank Board is proposing to amend its regulation setting the regulatory capital requirements for institutions insured by the Federal Savings and Loan Insurance Corporation by changing the method of computing the annual calculation of industry profits; by deleting the provision concerning the effect upon base liabilities of acquisitions and sales of less than substantially all of the liabilities of an insured institution (branch sales); and by amending the earnings-based accounts regulation to conform that regulation's provisions establishing regulatory capital thresholds to the current regulatory capital requirements. The proposed rule would apply equally to all insured institutions.

There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
NPRM	06/25/87	52 FR 23845
NPRM Comment Period End	08/24/87	52 FR 23845
Final Action	00/00/00	

Small Entity: No

Analysis: Regulatory Flexibility Analysis

Agency Contact: Jerilyn Rogin, Staff Attorney, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-7018

RIN: 3068-AA22

3720. ● BANK SECRECY ACT COMPLIANCE PROCEDURES

Significance: Agency Priority

Legal Authority: 31 CFR 103; 12 USC 1464; 12 USC 1730; PL 99-570, Sec 1359; 31 USC 5311 to 5322

CFR Citation: 12 CFR 563.17-7

Legal Deadline: Statutory, April 27, 1987. Section 1359 of the Anti-Drug Abuse Act of 1986, Pub.L.No. 99-570, required establishment of a Bank Secrecy Act compliance program by April 27, 1987.

Abstract: The Bank Board is proposing to amend for purposes of clarification, its recently adopted regulation which requires insured institutions to establish and maintain procedures to assure and monitor compliance with the requirements of the Bank Secrecy Act ("BSA"), including the Currency and Foreign Transactions Reporting Act and the implementing regulations of the U.S. Department of the Treasury, 31 CFR Part 103. The proposed rule sets forth in greater detail the elements required to be in a BSA compliance program, in particular, the requirements of BSA compliance testing and continuing education. The proposed rule would apply equally to all insured institutions.

The proposed rule for BSA compliance programs establishes a minimum system for verifying and encouraging compliance with the BSA in accordance with Congressional concern. Alternatively, the Bank Board could have required an in-depth audit of insured institutions' compliance by independent auditors. The Bank Board believes that such an alternative would have been less flexible and more restrictive for insured institutions. (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/08/87	52 FR 17406
NPRM Comment Period End	07/07/87	52 FR 17406
Final Action	00/00/00	

Small Entity: No

Additional Information: 9. Abstract Cont:

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Analysis: Regulatory Flexibility Analysis

Agency Contact: C. Dawn Causey, Attorney, Office of Enforcement, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 653-2624

RIN: 3068-AA24

3721. ● CORPORATE GOVERNANCE, PARTS III AND IV

Legal Authority: 12 USC 1464; 12 USC 2609

CFR Citation: 12 CFR 501.12, (new section); 12 CFR 543.10-5; 12 CFR 544.9-2, (new section); 12 CFR 544.10-6; 12 CFR 545.2; 12 CFR 545.3; 12 CFR 545.12; 12 CFR 545.21; 12 CFR 454.32; 12 CFR 545.33; 12 CFR 545.34; 12 CFR 545.46; 12 CFR 545.74; 12 CFR 545.91; 12 CFR 545.95; ...

Legal Deadline: None.

Abstract: The Bank Board is proposing extensive revisions to its regulations regarding the corporate governance of Federal associations in order to update and clarify these regulations. Due to the magnitude of the revisions, the Bank Board has presented the proposal in parts, issued separately for public comment. The proposed regulations would reorganize portions of Subchapter C (the regulations for federally chartered associations) and amend and add sections to provide a more cohesive and complete body of rules for the corporate governance of Federal associations. Part I, previously proposed, would provide definitions and rules for the organization and incorporation of Federal associations. Part II, also previously proposed, would contain provisions regarding the corporate structure and governing processes for Federal stock associations and Federal mutual associations. Part III proposes revisions to the rules governing operations of and charter conversion from and to Federal associations. Part IV proposes provisions regarding conservatorships, receiverships, trust powers, miscellaneous provisions, Board rulings, and statements of policy. The (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/09/87	52 FR 25870
NPRM Comment Period End	09/08/87	52 FR 25870

Next Action Undetermined

Small Entity: No

Additional Information: CFR citation (cont'd) 12 CFR 545.114, 12 CFR 545.121, 12 CFR 545.123, 12 CFR 545.131, 12 CFR 546.1, 12 CFR 546.2, 12 CFR 546.3, 12 CFR 546.4, 12 CFR 546.5, 12 CFR 546.6, 12 CFR 546.7, 12 CFR 546.8, 12 CFR 546.9, 12 CFR 546.10, 12 CFR 546.11, and 12 CFR 551.

Abstract Cont: proposed rule would apply equally to all insured institutions.

There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
NPRM	02/05/87	52 FR 3665
NPRM Comment Period End	03/09/87	52 FR 3665

Next Action Undetermined

Small Entity: No

Analysis: Regulatory Flexibility Analysis

Agency Contact: Stephen D. Johnson, Attorney/Advisor, Division of Consumer and Civil Rights, Office of Community Investment, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 653-2962

RIN: 3068-AA26

3722. ● ADJUSTABLE-RATE MORTGAGE HOME LOAN DISCLOSURES

Legal Authority: 12 USC 1724 to 1730; 12 USC 3801 et seq; 12 CFR 226.17; 12 CFR 226.19

CFR Citation: 12 CFR 545.33; 12 CFR 563.9-9

Legal Deadline: None.

Abstract: The Bank Board proposed to amend its regulations regarding the disclosures and notices that lenders must give to borrowers concerning adjustable-rate mortgage ("ARM") home loans. The proposed rule would retain the Bank Board's current regulations concerning the timing for disclosures and continue to allow the use of the ARMs Handbook, but would require additional disclosure of specific information concerning the ARM program being offered to the consumer. The revision would clarify the Bank Board's regulation and would implement the uniform disclosure of ARMs recommended by the Federal Financial Institutions Examination Council on August 12, 1986. In addition, the proposal would consolidate and clarify existing Bank Board regulations on disclosures and notices for all loans. The proposed rule would apply equally to all insured institutions.

There are no alternatives that would be less burdensome than the proposed rule in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
NPRM	02/05/87	52 FR 3665
NPRM Comment Period End	03/09/87	52 FR 3665

Next Action Undetermined

Small Entity: No

Analysis: Regulatory Flexibility Analysis

Agency Contact: Stephen D. Johnson, Attorney/Advisor, Division of Consumer and Civil Rights, Office of Community Investment, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 653-2962

RIN: 3068-AA26

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3723. ● ACCOUNTING POLICY RELATING TO ACQUISITION, DEVELOPMENT AND CONSTRUCTION LOANS

Legal Authority: Notice to Practitioners on ADC Loans, CPA Letter, Feb 10, 1986

CFR Citation: 12 CFR 571.17

Legal Deadline: None.

Abstract: The Bank Board proposed to amend its statement of accounting policy relating to acquisition, development and construction ("ADC") loans used by all institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") or affiliates thereof when preparing reports or financial statements for filing with the Bank Board or the FSLIC. The amendments relate to the recent "Notice to Practitioners" issued by the American Institute of Certified Public Accountants, which superseded two prior notices issued in November 1983 and November 1984, and to the public position regarding the effective date of the recent notice taken by the Chief Accountant of the Securities and Exchange Commission. By proposing this amendment to its statement of policy, the Bank Board is adhering to its policy that insured institutions are expected to apply the guidance of the accounting profession for determining whether a transaction characterized as an ADC loan is in fact a loan or whether, in substance, it is a real estate investment or a joint venture. The proposed rule would apply equally to all insured institutions. (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/13/87	52 FR 7887
NPRM Comment Period End	05/12/87	52 FR 7887

Next Action Undetermined

Small Entity: No

Additional Information:

There are no alternatives that would be less burdensome than the proposed rule in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Analysis: Regulatory Flexibility Analysis

Agency Contact: Carol Johnson, Staff Attorney, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6357

RIN: 3068-AA27

3724. ● INSURANCE TERMINATION PROVISIONS

Legal Authority: 12 USC 1464; 12 USC 1727; 12 USC 1730

CFR Citation: 12 CFR 565

Legal Deadline: None.

Abstract: The Bank Board is reviewing a number of issues relating to the extent to which institutions insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") that terminate their insured status in connection with transfers by operation of law must pay a final insurance premium to the FSLIC. As part of its review, the Bank Board is soliciting public comment to ascertain whether to issue a proposal in this area. On October 7, 1986, the Bank Board adopted a clarifying amendment to the definition of "transfers" set forth in its statement of policy regarding mergers and transfers of assets. (12 CFR 571.5(a)). However, as the clarification indicates, the interpretation did not specifically address the separate issues of whether an insured institution undertaking a transfer of assets and liabilities by operation of law in which the surviving entity is not FSLIC-insured must pay a final insurance premium to the FSLIC, and if so, the amount of such payment. The Bank Board has been reviewing this so-called "exit premium" issue on an ongoing basis and as yet has made no final determination with respect to this matter.

Timetable:

Action	Date	FR Cite
ANPRM	05/08/87	52 FR 17408
ANPRM Comment Period End	07/07/87	52 FR 17408

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: In view of the contined importance of this issue as it relates to the financial condition of the FSLIC insurance fund and the recapitalization proposals now before the Congress, the Bank Board is hereby soliciting public comment on this subject.

Since the proposal is only an advance notice of proposed rulemaking, the potential costs and benefits of a proposed regulation on the industry have not been quantified.

Agency Contact: John A. Buchman, Assistant Deputy Director, Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6963

RIN: 3068-AA26

3725. ● INDEMNIFICATION OF DIRECTORS, OFFICERS AND EMPLOYEES OF FEDERAL HOME LOAN BANKS

Legal Authority: 5 USC 553

CFR Citation: 12 CFR 522.72

Legal Deadline: None.

Abstract: The Bank Board is proposing to amend its regulations governing the indemnification of directors, officers, and employees of the Federal Home Loan Banks ("FHL Banks"). This amendment would clarify that expenses incurred by FHL Bank directors, officers, and employees in connection with litigation are to be reimbursed as they are incurred, but that, by majority vote of its board of directors, a FHL Bank could require repayment of expenses that it finds to have been beyond the scope of the Bank Board's indemnification regulation. The proposal applies only to directors, officers, and employees of the FHL Banks, none of which falls within the definition of a "small financial institution" given by the Small Business Administration.

There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed above.

The potential costs and benefits of the proposal on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
NPRM	04/16/87	52 FR 12425
NPRM Comment Period End	06/15/87	52 FR 12425

Next Action Undetermined

Small Entity: No

Analysis: Regulatory Flexibility Analysis

Agency Contact: Joan Van Berg, Attorney, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-7023

RIN: 3068-AA30

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FEDERAL HOME LOAN BANK BOARD (FHLBB) — Completed Actions

3726. DEFINITION OF REGULATORY CAPITAL

Legal Authority: 12 USC 1464(b); 12 USC 1726(b)

CFR Citation: 12 CFR 500 to 591 (revision of Chapter V); 12 CFR 541.17 (revised section); 12 CFR 541.20; 12 CFR 545.115; 12 CFR 561.13 (revised section); 12 CFR 563.17-4; 12 CFR 563.23-1; 12 CFR 563.23-2; 12 CFR 563.23-3; 12 CFR 563c.14; 12 CFR 570.4; 12 CFR 570.11; 12 CFR 570.12

Legal Deadline: None.

Abstract: The Board proposes to amend its regulations to require that all financial statements issued by insured institutions, including statements of condition required pursuant to 12 CFR 545.115, and all financial reports filed with the Board shall be prepared in accordance with generally accepted accounting principles. The proposed rule would also substitute the term "regulatory capital" for "regulatory net worth" and would define "regulatory capital" to mean the sum of equity capital as determined in accordance with generally accepted accounting principles plus certain other items as determined appropriate by the Board based on risk analysis report. The Board believes that these actions will aid its supervisory efforts in evaluating the viability of insured institutions and the related risk to the Corporation.

There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
NPRM	04/24/86	51 FR 16542
Publication of Board Action	05/05/86	51 FR 16542
NPRM Comment Period End	07/07/86	51 FR 16542
Final Action	05/15/87	52 FR 18340
Final Action Effective	01/01/88	52 FR 18340

Small Entity: No

Agency Contact: Christina M. Gattuso, Attorney, Regulations & Legislation Division, OGC, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6649

RIN: 3068-AA12

3727. ● USE OF PENALTY MAIL IN THE LOCATION AND RECOVERY OF MISSING CHILDREN

Legal Authority: 5 USC 553; 39 USC 3220; 50 FR 46622; 42 USC 5601 et seq

CFR Citation: 12 CFR 510A, (new part); 12 CFR 510a.1, (new section); 12 CFR 510a.2, (new section); 12 CFR 510a.3, (new section); 12 CFR 510a.4, (new section); 12 CFR 510a.5, (new section); 12 CFR 510a.6, (new section)

Legal Deadline: None.

Abstract: The Bank Board created a new part 510A and established procedures for the use of official United States Government Mail franked for Bank Board use ("penalty mail") to assist in the location and recovery of missing children pursuant to 39 USC 3220(a)(2). With the enactment of PL 99-87, Congress has extended this federal commitment to all executive departments and independent establishments of the United States Government by authorizing the use of missing children photographs and biographical data on penalty mail in accordance with guidelines prescribed by the Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

The potential costs and benefits of the rule on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
Final Action	05/08/87	52 FR 17392
Final Action Effective	05/08/87	52 FR 17392

Small Entity: No

Agency Contact: Charles J. Szlenker, Attorney, Administration Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6550

RIN: 3068-AA29

3728. ● TRANSFERS OF ASSETS OF INSURED INSTITUTIONS

Legal Authority: 12 USC 1464; 12 USC 1730

CFR Citation: 12 CFR 571.5

Legal Deadline: None.

Abstract: The Bank Board is adopting a clarifying amendment to its statement of policy regarding mergers and transfers of assets. The purpose of the amendment is to make clear the Bank Board's regulations governing transfers of assets, savings accounts, and other liabilities by institutions insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") are applicable to all transfers in bulk not made in the ordinary course of business, including transfers by operation of law effected pursuant to charter conversions, mergers, consolidations, and other business combinations and reorganizations, in which an FSLIC-insured institution is not the surviving entity, and that, accordingly, application to and approval by the Bank Board are required for such transactions. The amendment is a slightly modified version of an interpretive rule adopted by the Bank Board in October, 1986. The Bank Board is issuing this clarification to resolve any uncertainty that may exist concerning the types of transfers that are subject to the Bank Board's regulations. The rule applies equally to all insured institutions. (cont)

Timetable:

Action	Date	FR Cite
Final Action	06/26/87	52 FR 23937
Final Action Effective	07/26/87	52 FR 26295

Small Entity: No

Additional Information: Abstract Cont: There are no alternatives that would be less burdensome than the rule in

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addressing the concerns expressed above.

The potential costs and benefits of the regulation on the industry have not been quantified.

Analysis: Regulatory Flexibility Analysis

Agency Contact: John A. Buchman, Assistant Deputy Director, Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6963

RIN: 3068-AA31

3729. ● PROCEDURES FOR MONITORING BANK SECRECY ACT COMPLIANCE

Significance: Agency Priority

Legal Authority: 31 CFR 103; 5 USC 553; 12 USC 1464; 12 USC 1730; 31 USC 5311 to 5322; PL 99-570, Sec 1359

CFR Citation: 12 CFR 563.17-7, (new section)

Legal Deadline: Statutory, January 27, 1987. Immediate adoption of this final rule is necessary to comply with the requirements of section 1359 of the Anti-Drug Abuse Act of 1986, Pub. L. No. 99-570, which requires the Bank Board to promulgate regulations to take effect by January 27, 1987.

Abstract: The Bank Board adopted this final rule to require regulated institutions to establish and maintain a program designed to assure and monitor compliance with the requirements of the Bank Secrecy Act and the implementing regulations promulgated thereunder by the Department of the Treasury. An institution's compliance program must, at a minimum, consist of a system of internal controls to assure ongoing compliance and provide for independent testing of compliance by the institution's personnel or by an outside party. The institution shall also designate an individual responsible for coordinating and monitoring day-to-day compliance and provide training for appropriate personnel.

There are no alternatives that would be less burdensome than the rule in addressing the concerns expressed above.

The potential costs and benefits of the regulation on the industry have not been quantified.

Timetable:

Action	Date	FR Cite
Final Action	01/27/87	52 FR 2858
Final Action Effective	01/27/87	52 FR 2858

Small Entity: No

Agency Contact: John Downing, Assistant Director, Office of Enforcement, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 653-2604

RIN: 3068-AA32

3730. ● FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, SETTLEMENT OF INSURANCE

Legal Authority: 12 USC 1724 to 1730g

CFR Citation: 12 CFR 564.0, (new section); 12 CFR 564.1; 12 CFR 564.2; 12 CFR 564.3; 12 CFR 564.4; 12 CFR 564.5; 12 CFR 564.6; 12 CFR 564.7; 12 CFR 564.8; 12 CFR 564.9; 12 CFR 564.10; 12 CFR 564.11

Legal Deadline: None.

Abstract: The Bank Board proposed comprehensive revisions to its regulations pertaining to insurance of accounts. The proposal would reorganize those regulations in order to clarify their operation, simplify and expedite the insurance settlement procedure, and limit potential abuses and evasions of the insurance coverage limitations. Experience with payment of insurance on accounts in defaulted institutions since the original April 1985 proposal has brought to the attention of the Bank Board issues not fully addressed by the proposed regulations. The Bank Board believes that the most appropriate way to address such issues is to develop revised proposed changes to the Insurance Regulations and seek comment on them. Development of such revised changes also would give the Bank Board an opportunity to work with the Federal Deposit Insurance Corporation in an effort to promulgate Insurance Regulations, which are uniform to the extent possible. Consequently, the Bank Board hereby withdraws the proposed revisions to its Insurance Regulations. The proposed rule would have applied equally to all insured institutions. (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/07/85	50 FR 19185
NPRM Comment Period End	06/28/85	50 FR 19185
Withdrawn	03/19/87	52 FR 8611

Small Entity: No

Additional Information: Abstract Cont: There are no alternatives that would have been less burdensome than the proposed rule in addressing the concerns expressed above.

The potential costs and benefits of the proposed regulation on the industry were not quantified.

Analysis: Regulatory Flexibility Analysis

Agency Contact: Jerome Edelstein, Assistant Director, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-7057

RIN: 3068-AA33

3731. ● MEMBERSHIP IN FEDERAL HOME LOAN BANKS

Legal Authority: 12 USC 1424; 12 USC 1426; 12 USC 1427; 28 USC 1332

CFR Citation: 12 CFR 523.3-2; 12 CFR 523.3-3; 12 CFR 523.10; 12 CFR 523.11; 12 CFR 523.12; 12 CFR 523.29

Legal Deadline: None.

Abstract: The Bank Board proposes to amend its Federal Home Loan Bank System regulations to provide a method for determining appropriate Federal Home Loan Bank ("Bank") district membership for all institutions eligible to become Bank members. Under the amendment, an institution could become a member only in the Bank district in which it maintained its principal office, normally as shown in its charter, unless the Principal Supervisory Agent were to determine that membership was inconsistent with the actual location of control over the institution's records or operations. The amendment would eliminate an option that allows an institution to become a member of a Bank outside the district in which its home office is located by naming a state in which it does substantial business as its principal place of business in accordance with the provisions of 28 USC 1332(c). Institutions that have taken advantage of the current option could choose to be grandfathered, but would be immune from future application of a procedure for the mandatory transfer of membership established in the proposal. The proposed rule would apply equally to all insured institutions. (cont)

Timetable:

Action	Date	FR Cite
NPRM	02/04/87	52 FR 3450
NPRM Comment Period End	04/06/87	52 FR 3450
Final Action	08/13/87	52 FR 30140
Final Action Effective	10/13/87	52 FR 30140

Small Entity: No

Additional Information: Abstract Cont: There are no alternatives, other than commencement of individual enforcement actions that would achieve the Board's objectives.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Analysis: Regulatory Flexibility Analysis

Agency Contact: Jonathan Curtis, Program Analysis Development Division, Office of the District Banks, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6709

RIN: 3068-AA34

FHLBB — Completed Actions

3732. ● REGULATION OF EQUITY RISK INVESTMENTS BY INSURED INSTITUTIONS; DIRECT INVESTMENTS, CERTAIN LAND LOANS AND CERTAIN NONRESIDENTIAL CONSTRUCTION LOANS

Legal Authority: 12 USC 1421 to 1429; 12 USC 1464; 12 USC 1724 to 1730

CFR Citation: 12 CFR 563.9-8; 12 CFR 563.13; 12 CFR 563.13-2; 12 CFR 563.37; 12 CFR 563.38

Legal Deadline: None.

Abstract: The Bank Board amended its regulation concerning investment in equity securities, real estate, service corporations, and operating subsidiaries by institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. This amendment expands the scope of the current direct investment regulation to include land loans and nonresidential construction loans with loan-to-value ratios greater than 80 percent. This rule also amends the diversification requirement for investment in a single real estate project applicable under the direct investment rule. The amendment provides that no institution may invest, without prior supervisory approval, in any one real estate project an amount greater than its applicable aggregate loans-to-one-borrower limitation set forth in 12 CFR 563.9-3. Finally, the rule amends the Bank Board's regulatory capital regulation to require incremental capital of up to 10 percent for all equity risk investments including, in addition to direct investments, land loans and nonresidential construction loans with loan-to-value ratios greater than 80 percent. The rule would apply equally to all insured institutions. (cont)

Timetable:

Action	Date	FR Cite
Final Action	06/25/87	52 FR 23787
Final Action Effective	07/27/87	52 FR 23787

Small Entity: No

Additional Information: Abstract Cont: There are no alternatives that would be less burdensome than the rule in addressing the concerns expressed above.

The potential costs and benefits of the regulation on the industry have not been quantified.

Analysis: Regulatory Flexibility Analysis

Agency Contact: Christina M. Gattuso, Acting Regulatory Counsel, Regulations and Legislation Division, Office of General Counsel Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, 202 377-6649

RIN: 3068-AA36

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FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Unified Regulatory Agenda

AGENCY: Federal Maritime Commission.

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to section 5 of E.O. 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Commission anticipates having under consideration during the period from October 1, 1987 to September 30, 1988 actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Joseph C. Polking, Secretary, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 5 of Executive Order 12291 also requires executive agencies to publish a regulatory agenda; the Commission voluntarily complies with this section.

The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's Unified Regulatory Agenda. The agenda does not necessarily include all petitions for rulemakings which are under staff review.

In addition, the Commission is publishing a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda (April, 1987). This list will be made available to the press and interested groups.

Joseph C. Polking,
Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3733	Public Information - Freedom of Information Act	3072-AA12
3734	Costs of Proceedings	3072-AA45
3735	Information Required for Section 18 Study	3072-AA50
3736	Independent Action - Miscellaneous Provisions	3072-AA53
3737	Information Form for Agreements: Miscellaneous Amendments	3072-AA55
3738	Automated Tariff Filing	3072-AA61
3739	Common and Contract Carriage - Miscellaneous Provision	3072-AA63
3740	Index of Documents for Agreements	3072-AA64
3741	User Fees to Recover Agency Costs	3072-AA70
3742	Miscellaneous Amendments to Regulations Implementing Section 19 of the Merchant Marine Act of 1920	3072-AA75
3743	Financial Responsibility of Passenger Vessel Operators for Non-Performance	3072-AA76
3744	Independent Action - Miscellaneous Provisions	3072-AA83
3745	Public Information - Miscellaneous Amendments	3072-AA84
3746	Rates Quoted Subject to Booking	3072-AA86
3747	Terminal Agreements and Leases - Exculpatory Provisions	3072-AA92
3748	Financial Reports of Vessel Operating Common Carriers by Water in the Domestic Offshore Trades	3072-AA93
3749	Service Contract Provisions; Most Favored Shippers and Liquidated Damages Clauses	3072-AA95
3750	Practices of Common Carriers Regarding Payment of Inland Divisions Petition for Rulemaking	3072-AA99
3751	Service Contracts - Most Favored Shipper and Liquidated Damages Provisions - Petition for Rulemaking	3072-AB00

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3752	Regulation of Agreements of Domestic Carriers - Miscellaneous Amendments	3072-AA68
3753	Tariff Publication of Free Time and Detention Charges Applicable to Carrier Equipment Interchanged With Shippers or Their Agents (Docket 85-19)	3072-AA73
3754	Conference Service Contract Authority	3072-AA87
3755	Service Contract Record Retention and Production of Documents	3072-AA97

FMC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3756	Marine Terminal Agreements	3072-AA48
3757	Service Contracts	3072-AA62
3758	Inquiry Concerning Interpretations of Sections 8(a) and 8(c), Shipping Act of 1984; Excepted Commodities	3072-AA65
3759	Ocean Freight Forwarders - Miscellaneous Amendments	3072-AA69
3760	Attorneys Fees in Reparation Proceedings	3072-AA72
3761	Definition of "Joint Service/Consortium"	3072-AA76
3762	Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984	3072-AA88
3763	Rules Implementing the Equal Access to Justice Act	3072-AA89
3764	Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984	3072-AA91
3765	Rules Implementing Program Fraud Civil Remedies Act of 1986	3072-AA94
3766	Automobile Measurement Rule	3072-AA96
3767	Filing of Comments Pertaining to Agency Meetings	3072-AB01
3768	FOIA Reform Act Implementation	3072-AB02

FEDERAL MARITIME COMMISSION (FMC) — Prerule Stage

3733. PUBLIC INFORMATION - FREEDOM OF INFORMATION ACT

Legal Authority: 5 USC 552(b)(4); 46 USC app 841(a)

CFR Citation: 46 CFR 503

Legal Deadline: None.

Abstract: Amendments to current rules governing treatment of FOIA requests will provide for notification to filers of "business confidential" information to permit responses before a decision to release or not to release information requested under the Act.

Timetable:

Action	Date	FR Cite
End Review	01/01/88	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA12

3734. COSTS OF PROCEEDINGS

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1716; 46 USC app 1717(a)(4)

CFR Citation: 46 CFR 502

Legal Deadline: Statutory, September 20, 1989.

Abstract: Section 18(a)(4) of the Shipping Act requires the Commission to collect and analyze data concerning the impact of the Act on the costs of major types of regulatory proceedings before the Commission. This action will provide the regulations needed to obtain this information.

Timetable:

Action	Date	FR Cite
End Review	06/01/88	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA45

3735. INFORMATION REQUIRED FOR SECTION 18 STUDY

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1714; 46 USC app 1716; 46 USC app 1717(a)

CFR Citation: 46 CFR (New)

Legal Deadline: Statutory, September 20, 1989. Legal deadline applies to information to be compiled, not necessarily by a rulemaking.

Abstract: Section 18(a) of the Shipping Act of 1984 requires the Commission to collect information concerning the impact of the Act upon the international ocean shipping industry for a period of 5 years ending on March 20, 1989. To the extent such data are not available, this review will consider Commission rules or orders to develop such information from the regulated industry.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/84	
End Review	09/00/87	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA50

3736. INDEPENDENT ACTION - MISCELLANEOUS PROVISIONS

Legal Authority: 46 USC 553; 46 USC app 1704; 46 USC app 1709; 46 USC app 1716

CFR Citation: 46 CFR 572

Legal Deadline: None.

Abstract: Section 5(b)(8) of the Shipping Act of 1984 requires that conference members be allowed to take independent rate action under certain conditions. The Commission is considering a rule to require accurate reporting and to clarify other situations with regard to this statutory right.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	03/00/88	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime

Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA53

3737. INFORMATION FORM FOR AGREEMENTS: MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 553; 46 USC app 1703 to 1705; 46 USC app 1716

CFR Citation: 46 CFR 572.405; 46 CFR 572, Appendix A

Legal Deadline: None.

Abstract: The information form that must accompany certain types of agreements filed under 46 CFR Part 572 may need to be amended to ensure Commission jurisdiction and to show the affiliates of the filing parties.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	03/00/88	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA55

3738. AUTOMATED TARIFF FILING

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 816; 46 USC app 817; 46 USC app 841a; 46 USC app 1707; 46 USC app 1708; 46 USC app 1715; 46 USC app 1716; 46 USC app 1717

CFR Citation: 46 CFR 515; 46 CFR 550; 46 CFR 580

Legal Deadline: None.

Abstract: The Commission is considering the development of a fully automated system whereby tariff matters can be made available to the public and to the Commission through automatic data processing in order to reduce paperwork and other burdens. An Industry Advisory Committee is assisting the Commission in the project.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/84	
Notice of Intent to form Advisory Committee	04/12/85	50 FR 14453
Notice of Second Meeting	05/19/86	51 FR 18376
Notice of Third Meeting	10/21/86	51 FR 37347
End Review	01/00/88	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA61

3739. COMMON AND CONTRACT CARRIAGE - MISCELLANEOUS PROVISION

Legal Authority: 5 USC 553; 46 USC app 801; 46 USC app 841a; 46 USC app 1702; 46 USC app 1716

CFR Citation: 46 CFR 510; 46 CFR 515; 46 CFR 525; 46 CFR 550; 46 CFR 552; 46 CFR 553; 46 CFR 560; 46 CFR 572; 46 CFR 580

Legal Deadline: None.

Abstract: This review will attempt to clarify the status of common carriers vis-a-vis contract carriers and provide reasonable regulations for operations by common carriers subject to the shipping statutes.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	06/00/88	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA63

3740. INDEX OF DOCUMENTS FOR AGREEMENTS

Legal Authority: 5 USC 553; 46 USC app 1703 to 1706; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714; 46 USC app 1716; 46 USC app 1717

CFR Citation: 46 CFR 572.704

Legal Deadline: None.

Abstract: Section 572.704 of Title 46 Code of Federal Regulations requires agreement parties who are required to file minutes to maintain an index of certain reports, studies and documents used for certain decisions, and to file such an index quarterly with the Commission. This requirement is being considered along with requirements to file minutes and other reports and with record retention provisions.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	03/00/86	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA64

3741. USER FEES TO RECOVER AGENCY COSTS

Significance: Agency Priority

Legal Authority: 5 USC 552 to 553

CFR Citation: 46 CFR 503.43

Legal Deadline: None.

Abstract: The Commission is reviewing existing fees for services in order to determine whether they are adequate to recover costs.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	09/01/87	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA70

3742. MISCELLANEOUS AMENDMENTS TO REGULATIONS IMPLEMENTING SECTION 19 OF THE MERCHANT MARINE ACT OF 1920

Legal Authority: 5 USC 553; 46 USC app 876(1)(b); 46 USC app 1714; 46 USC app 1716

CFR Citation: 46 CFR 585

Legal Deadline: None.

Abstract: Review would determine necessity of updating the regulations to implement Section 19 of the Merchant Marine Act of 1920.

Timetable:

Action	Date	FR Cite
Begin Review	01/10/86	
End Review	06/01/88	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA75

3743. FINANCIAL RESPONSIBILITY OF PASSENGER VESSEL OPERATORS FOR NON-PERFORMANCE

Legal Authority: 5 USC 553; 46 USC app 817c; 46 USC app 841a; 46 USC app 1716

CFR Citation: 46 CFR 540

Legal Deadline: None.

Abstract: Review would attempt to develop a formula for the amount of bond required to ensure financial responsibility of passenger vessel operators for non-performance.

Timetable:

Action	Date	FR Cite
Begin Review	01/10/86	
End Review	03/01/88	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA78

3744. INDEPENDENT ACTION - MISCELLANEOUS PROVISIONS

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717; 46 USC app 1718

CFR Citation: 46 CFR 572; 46 CFR 580

Legal Deadline: None.

Abstract: Review would attempt to analyze certain conference practices to ensure that they do not unduly inhibit the right of individual members to take independent action as provided by the Shipping Act of 1984.

Timetable:

Action	Date	FR Cite
Begin Review	01/10/86	
End Review	06/01/88	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA83

3745. PUBLIC INFORMATION - MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 552; 5 USC 552a; 5 USC 552b; 5 USC 553; EO 12356

CFR Citation: 46 CFR 503

Legal Deadline: None.

Abstract: Review would determine need to update regulations relating to Freedom of Information, Privacy and Sunshine Acts.

Timetable:

Action	Date	FR Cite
Begin Review	07/00/86	
End Review	03/01/88	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA84

3746. RATES QUOTED SUBJECT TO BOOKING

Legal Authority: 5 USC 553; 46 USC app 812; 46 USC app 814 to 815; 46 USC app 817(a); 46 USC app 820; 46 USC app 833a; 46 USC app 841a; 46 USC app 843 to 847; 46 USC app 1702 to 1705; 46 USC app 1707; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718

CFR Citation: 46 CFR 550; 46 CFR 580

Legal Deadline: None.

Abstract: Review would determine the necessity of regulations governing the parties of quoting rates subject to booking. Related to FMC Spec. Dkt. 1343.

Timetable:

Action	Date	FR Cite
Begin Review	02/14/86	
End Review	06/01/88	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA86

3747. TERMINAL AGREEMENTS AND LEASES - EXCULPATORY PROVISIONS

Significance: Agency Priority

Legal Authority: 46 USC app 801; 46 USC app 814; 46 USC app 816 to 817; 46 USC app 833a; 46 USC app 841a; 46 USC app 1701 to 1707; 46 USC app 1709; 46 USC app 1715 to 1716

CFR Citation: 46 CFR 515; 46 CFR 516, (New); 46 CFR 558; 46 CFR 559; 46 CFR 560; 46 CFR 572

Legal Deadline: None.

Abstract: Review would determine whether further regulations are needed with regard to exculpatory provisions in terminal agreements and leases. (Docket No. 86-32).

Timetable:

Action	Date	FR Cite
Petition Noticed in Federal Register	07/10/86	51 FR 25101
Begin Review	08/10/86	
Petition Noticed in Federal Register	12/24/86	51 FR 46694
End Review	11/00/87	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA92

3748. FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

Legal Authority: 5 USC 553; 46 USC app 817(a); 46 USC app 820; 46 USC app 841a; 46 USC app 843; 46 USC app 844; 46 USC app 845a; 46 USC app 847

CFR Citation: 46 CFR 522

Legal Deadline: None.

Abstract: Current rule providing for domestic rate-making and justification methodology is being reviewed to determine if requirements can be made less stringent.

Timetable:

Action	Date	FR Cite
Begin Review	01/09/86	
End Review	06/01/88	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA93

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FMC — Prerule Stage

3749. SERVICE CONTRACT PROVISIONS; MOST FAVORED SHIPPERS AND LIQUIDATED DAMAGES CLAUSES

Legal Authority: 5 USC 553; 46 USC app 1707(c)

CFR Citation: 46 CFR 580

Legal Deadline: None.

Abstract: The Commission is reviewing the service contract regulations to determine the legality of permitting clauses involving liquidated damages or most favored shippers.

Timetable:

Action	Date	FR Cite
Petition for rulemaking	01/22/87	52 FR 2443
Begin Review	01/22/87	52 FR 2443
Extend time for comments	02/11/87	52 FR 4384
End Review	11/01/87	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA95

3750. ● PRACTICES OF COMMON CARRIERS REGARDING PAYMENT OF INLAND DIVISIONS PETITION FOR RULEMAKING

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1709; 46 USC app 1716

CFR Citation: 46 CFR IV

Legal Deadline: None.

Abstract: This petition for rulemaking seeks a requirement that ocean common carriers timely pay over inland divisions to surface carriers participating in through movements.

Timetable:

Action	Date	FR Cite
Notice of Filing of Petition for Rulemaking	06/25/87	52 FR 23890
End Review	12/00/87	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA99

3751. ● SERVICE CONTRACTS - MOST FAVORED SHIPPER AND LIQUIDATED DAMAGES PROVISIONS - PETITION FOR RULEMAKING

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1707; 46 USC app 1716

CFR Citation: 46 CFR 581

Legal Deadline: None.

Abstract: This Petition for rulemaking seeks a regulation prohibiting most favored shipper clauses and de minimis liquidated damage clauses in service contracts.

Timetable:

Action	Date	FR Cite
Notice of Filing of Petition for Rulemaking	01/22/87	52 FR 2443
End Review	12/00/87	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AB00

FEDERAL MARITIME COMMISSION (FMC) — Final Rule Stage

3752. REGULATION OF AGREEMENTS OF DOMESTIC CARRIERS - MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 553; 46 USC app 801 et seq

CFR Citation: 46 CFR 556 to 569

Legal Deadline: None.

Abstract: The Shipping Act, 1916, after amendment by the Shipping Act of 1984, applies only to domestic operations. In order to properly implement the 1984 Act, the Commission made the essential, limiting changes to its domestic regulations of agreements within the deadline established by the 1984 Act. This review will now determine what further, substantive changes in the domestic agreements may be desirable.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	03/00/87	
NPRM	05/04/87	52 FR 16282
NPRM Comment Period End	06/03/87	52 FR 16282
Supplemental NPRM	08/11/87	52 FR 29708
Final Action	01/00/88	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA68

3753. TARIFF PUBLICATION OF FREE TIME AND DETENTION CHARGES APPLICABLE TO CARRIER EQUIPMENT INTERCHANGED WITH SHIPPERS OR THEIR AGENTS (DOCKET 85-19)

Legal Authority: 5 USC 553; 46 USC app 817(a); 46 USC app 841a; 46 USC app 844; 46 USC app 1707; 46 USC app 1708; 46 USC app 1709; 46 USC app 1716

CFR Citation: 46 CFR 550.5; 46 CFR 580.5; 46 CFR 580.7

Legal Deadline: None.

Abstract: Docket 85-19 - Clarification of requirement that terms and conditions, including free time and detention, governing use of carrier-provided equipment by shippers or their agents be published in tariffs and service contracts. (Formal Rulemaking)

FMC — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/08/85	50 FR 32097
NPRM Comment Period End	09/23/85	50 FR 32097
Final Action	01/01/88	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA73

3754. CONFERENCE SERVICE CONTRACT AUTHORITY

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572

Legal Deadline: None.

Abstract: Clarifies steamship conference authority over the use of service contracts under the Shipping Act of 1984 (Docket No. 86-16).

Timetable:

Action	Date	FR Cite
NPRM	05/02/86	51 FR 16354
NPRM Comment Period End	07/01/86	51 FR 16354
Final Action	12/01/87	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA87

3755. SERVICE CONTRACT RECORD RETENTION AND PRODUCTION OF DOCUMENTS

Legal Authority: 5 USC 553; 46 USC app 1702; 46 USC app 1703; 46 USC app 1704; 46 USC app 1705; 46 USC app 1707; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714; 46 USC app 1715; 46 USC app 1716; 46 USC app 1718

CFR Citation: 46 CFR 580

Legal Deadline: None.

Abstract: Docket No. 86-29 - Will require carriers employing service contracts to keep records in U.S. and make them available to FMC upon request.

Timetable:

Action	Date	FR Cite
Correction	02/01/86	51 FR 43267
NPRM	11/13/86	51 FR 41132
NPRM Comment Period End	02/13/87	52 FR 1938
Final Action Effective	08/00/87	
Final Action	09/01/87	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA97

FEDERAL MARITIME COMMISSION (FMC) — Completed Actions

3756. MARINE TERMINAL AGREEMENTS

Legal Authority: 5 USC 553; 46 USC app 801; 46 USC app 814; 46 USC app 833a; 46 USC app 841a; 46 USC app 1701 to 1705; 46 USC app 1706; 46 USC app 1715 to 1716

CFR Citation: 46 CFR 572; 46 CFR 516; 46 CFR 558; 46 CFR 559; 46 CFR 560

Legal Deadline: None.

Abstract: The Shipping Act of 1984 created new procedures for agreements required to be filed with the Commission. This action will accommodate terminal agreements which may involve both domestic and foreign commerce and establish exemptions for those types of terminal agreements which are not likely to have anti-competitive effects. (Docket 85-10).

Timetable:

Action	Date	FR Cite
NPRM	04/05/85	50 FR 13617
Correction	05/10/85	50 FR 19727
NPRM Comment Period End	06/04/85	50 FR 19727
Final Action	05/19/87	52 FR 18692
Final Action Effective	07/20/87	52 FR 18692

Small Entity: No

Additional Information: This action treats one of the issues in former Docket 83-38 Notice of Inquiry and Intent to Review Regulation of Ports and Marine Terminal Operators (RIN - 3072-AA30).

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA48

3757. SERVICE CONTRACTS

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1702; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718

CFR Citation: 46 CFR 581; 46 CFR 580.7

Legal Deadline: None.

Abstract: Service Contract Rule at 46 CFR 580.7 is being reviewed to: clarify ambiguities and legal distinctions; provide for rational limitations to properly implement the Shipping Act of 1984 and to allow the maximum flexibility of use by carriers so as to promote wider use of service contracts in foreign commerce (Docket No. 86-6).

Timetable:

Action	Date	FR Cite
NPRM	02/18/86	51 FR 5734
NPRM Comment Period End	05/09/86	51 FR 13535
Final Action	06/26/87	52 FR 23989
Correction	07/22/87	52 FR 27612
Final Action Effective	07/27/87	52 FR 23990

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA62

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3758. INQUIRY CONCERNING INTERPRETATIONS OF SECTIONS 8(A) AND 8(C), SHIPPING ACT OF 1984; EXCEPTED COMMODITIES

Legal Authority: 5 USC 553; 46 USC app 1702 to 1707; 46 USC app 1709; 46 USC app 1715; 46 USC app 1716

CFR Citation: 46 CFR 572; 46 CFR 580

Legal Deadline: None.

Abstract: Section 8(a)(1) of The Shipping Act of 1984 exempts from tariff filing certain commodities such as bulk cargo, forest products, recycled metal scrap, waste paper and paper waste. This review will clarify the legal consequences of conferences which agree to fix rates on such commodities. (Docket No. 85-6)

Timetable:

Action	Date	FR Cite
ANPRM	03/18/85	50 FR 10807
Extend comment time to 05/17/85	04/10/85	50 FR 14122
ANPRM Comment Period End	04/17/85	50 FR 10807
Withdrawn	05/12/87	52 FR 17767

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA65

3759. OCEAN FREIGHT FORWARDERS - MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 553; 46 USC app 1716; 46 USC app 1718

CFR Citation: 46 CFR 510

Legal Deadline: None.

Abstract: Various amendments to 46 CFR Part 510 are being considered to clarify Ocean Freight Forwarder regulations and to better implement the Shipping Act of 1984.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
Petition noticed in Federal Register	04/28/86	51 FR 15834
Petition Denied	04/27/87	
Reconsideration Requested	05/27/87	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA69

3760. ATTORNEYS FEES IN REPARATION PROCEEDINGS

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 821; 46 USC app 841a; 46 USC app 1710(g)

CFR Citation: 46 CFR 502

Legal Deadline: None.

Abstract: Section 11(g) of the Shipping Act of 1984 provides for reasonable attorneys' fees in Commission reparation proceedings. The action here would establish Commission policy with regard to eligibility, reasonableness and when to award. (Docket No. 86-27).

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	09/01/86	
NPRM	10/27/86	51 FR 37917
NPRM Comment Period End	12/12/86	51 FR 37917
Final Action	03/03/87	52 FR 6330
Final Action Effective	04/02/87	52 FR 6330

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA72

3761. DEFINITION OF "JOINT SERVICE/CONSORTIUM"

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572

Legal Deadline: None.

Abstract: Clarifies the definition of "Joint Service/Consortium" for purposes of agreement filing regulations.

Timetable:

Action	Date	FR Cite
Withdrawn	05/01/87	

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA76

3762. AGREEMENTS BY OCEAN COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

Legal Authority: 5 USC 553; 5 USC app 1701 to 1707; 5 USC app 1709 to 1710; 5 USC app 1712; 5 USC app 1714 to 1717

CFR Citation: 46 CFR 572.103

Legal Deadline: None.

Abstract: Rule would provide that agreements subject to the Shipping Act of 1984 would affect only future or prospective activities and may not affect past activities or events. FMC Dkt. 85-22.

Timetable:

Action	Date	FR Cite
NPRM	12/17/85	50 FR 51418
NPRM Comment Period End	02/18/86	50 FR 51418
Withdrawn	05/19/87	52 FR 18722

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA88

3763. RULES IMPLEMENTING THE EQUAL ACCESS TO JUSTICE ACT

Legal Authority: 5 USC 504; 5 USC 553 28 USC 2412

CFR Citation: 46 CFR 502

Legal Deadline: None.

Abstract: Rule would incorporate model provisions developed by the Administrative Conference of the United States into the Commission's regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/15/87	52 FR 12208
NPRM Comment Period End	05/15/87	52 FR 12208
Final Action	07/29/87	52 FR 28264
Final Action Effective	08/28/87	52 FR 28264

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA90

3764. AGREEMENTS BY OCEAN COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572

Legal Deadline: None.

Abstract: Action would completely review agreement regulations to accommodate changes since the enactment of the Shipping Act of 1984.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/86	
Withdrawn	03/01/87	
End Review	03/01/87	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA91

3765. RULES IMPLEMENTING PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

Legal Authority: 5 USC 553

CFR Citation: 46 CFR 502; 46 CFR 505

Legal Deadline: Statutory, April 21, 1987.

Abstract: The Program Fraud Civil Remedies Act of 1986 requires each affected agency to promulgate final regulations by April 21, 1987.

Timetable:

Action	Date	FR Cite
Withdrawn	05/01/87	

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA94

3766. AUTOMOBILE MEASUREMENT RULE

Legal Authority: 5 USC 553; 46 USC app 812; 46 USC app 814; 46 USC app 815; 46 USC app 817(a); 46 USC app 820; 46 USC app 833a; 46 USC app 841a; 46 USC app 843 to 847

CFR Citation: 46 CFR 550

Legal Deadline: None.

Abstract: The rule would permit carriers in domestic offshore commerce to rate automobiles on other than a weight or cube measurement basis.

Timetable:

Action	Date	FR Cite
Petition for Rulemaking	09/29/86	51 FR 34502
NPRM	02/09/87	52 FR 4040
NPRM Comment Period End	03/11/87	52 FR 4040
Final Action	07/15/87	52 FR 26477
Final Action Effective	08/14/87	52 FR 26477

Small Entity: Undetermined

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA96

3767. ● FILING OF COMMENTS PERTAINING TO AGENCY MEETINGS

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1716 (a)

CFR Citation: 46 CFR 502; 46 CFR 503

Legal Deadline: None.

Abstract: The action amends Commission rules implementing the Government in the Sunshine Act to establish a cutoff date for filing comments, information, etc. on matters scheduled for consideration at an agency meeting. Docket No. 87-8.

Timetable:

Action	Date	FR Cite
NPRM	04/15/87	52 FR 12212
NPRM Comment Period End	05/15/87	52 FR 16418
Final Action	07/17/87	52 FR 27001
Final Action Effective	07/17/87	52 FR 27001

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AB01

3768. ● FOIA REFORM ACT IMPLEMENTATION

Significance: Agency Priority

Legal Authority: 5 USC 552; 5 USC 552a; 5 USC 552b; 5 USC 553; EO 12356

CFR Citation: 46 CFR 503

Legal Deadline: Statutory, April 25, 1987.

Abstract: This action incorporates recent changes to the Freedom of Information Act regarding requests for agency enforcement records and fees for search, review and duplication of records. Docket No. 87-5.

Timetable:

Action	Date	FR Cite
NPRM	03/19/87	52 FR 8628
NPRM Comment Period End	04/06/87	52 FR 9756
Final Action	04/24/87	52 FR 13681
Final Action Effective	05/26/87	52 FR 13681

Small Entity: No

Agency Contact: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AB02

[FR Doc. 87-21266 Filed 10-23-87; 8:45 am]

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FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Notice of Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual agenda.

SUMMARY: The Board is issuing this Agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period from October 1, 1987, through April 1, 1988. The next Semiannual Agenda will be published in April 1988.

DATE: Comments about the form or content of the Agenda may be submitted any time during the next six months.

ADDRESS: Comments should be addressed to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its October 1987 Agenda as part of the October 1987 Unified Agenda of Federal Regulations, which is coordinated by the Office of Management and Budget under Executive Order 12291. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's Agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next six months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further.

A dot (●) preceding an entry indicates a new matter that was not a part of the Board's previous Agenda, and which the Board has not completed.

Barbara R. Lowrey,

Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3769	Regulation: E - Electronic Fund Transfers	7100-AA77
3770	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System	7100-AA85
3771	Regulation: K - International Banking Operations	7100-AA67
3772	Regulation: P - Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks	7100-AA69
3773	Regulation: T - Credit by Brokers and Dealers	7100-AA72
3774	Regulation: T - Credit by Brokers and Dealers	7100-AA80
3775	Regulation: Y - Bank Holding Companies and Change in Bank Control	7100-AA41
3776	Regulation: Z - Truth in Lending	7100-AA81

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3777	Regulation: D - Reserve Requirements of Depository Institutions (Docket Number: R-0571)	7100-AA62
3778	Regulation: F - Securities of State Member Banks (Docket Number: R-0609)	7100-AA82
3779	Regulation: K - International Banking Operations (Docket Number: R-0550)	7100-AA58
3780	Regulation: Q - Interest on Deposits (Docket Number R-0514)	7100-AA56
3781	Regulation: T - Credit by Brokers and Dealers (Docket Number R-0611)	7100-AA71
3782	Regulation: U - Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks (Docket Number: R-0608)	7100-AA83
3783	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0536)	7100-AA51
3784	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0537)	7100-AA52
3785	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0567)	7100-AA66
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3787	Proposed Guidelines Regarding the Bank Bribery Act (Docket Number: R-0603)	7100-AA84
3788	Further Proposals to Reduce Risks on Large-Dollar Wire Transfer Systems (Docket Numbers: R-0587 through R-0592)	7100-AA76
3789	Rules Regarding Availability of Information (Docket Number: R-0601)	7100-AA73

FRS

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Sequence Number	Title	Regulation Identifier Number
3790	Regulation: E - Electronic Fund Transfers (Docket Number: R-0578)	7100-AA60
3791	Regulation: T - Credit by Brokers and Dealers (Docket Number R-0600)	7100-AA70
3792	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0572)	7100-AA74
3793	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0595)	7100-AA78

FEDERAL RESERVE SYSTEM (FRS) — Proposed Rule Stage

3769. REGULATION: E - ELECTRONIC FUND TRANSFERS

Legal Authority: 15 USC 1693 et seq Electronic Fund Transfer Act

CFR Citation: 12 CFR 205

Abstract: During the next six months, the Board will conduct a review of Regulation E, which implements the Electronic Fund Transfer Act, and establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of financial institutions that offer these services (whether or not these institutions hold the consumer's account). The review will consider whether any provisions of the regulation are in need of updating and whether any substantive changes are necessary because of technological developments. Public comment will be requested on any proposals that may be developed following the review. It is not anticipated that revisions would have significant impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board will consider revisions to Regulation E during the next six months	04/00/88	

Small Entity: No

Agency Contact: Dolores S. Smith, Assistant Director, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100-AA77

3770. REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Legal Authority: 12 USC 321

CFR Citation: 12 CFR 208.6(a)

Abstract: The Board will consider issuing for comment an amendment to Regulation H designed to provide a decrease of approximately 20,000 burden hours in paperwork, as requested by the Office of Management and Budget. The regulation would be amended to raise the exemption from various record-keeping requirements in Regulation H for securities transactions, conducted by banks, from 200 to 1,000 transactions per year for customers over the prior three-calendar-year period, exclusive of transactions in U.S. government and federal agency obligations. This action would diminish burdens on smaller state member banks; therefore, the amendment would have no adverse effect on small banks.

This issue will be presented to the Board upon promulgation by the Department of the Treasury of final regulations concerning government securities transactions.

Timetable:

Action	Date	FR Cite
Board will consider amending Regulation H within the next six months	04/00/88	

Small Entity: No

Agency Contact: Robert S. Plotkin, Assistant Director, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2782

RIN: 7100-AA68

3771. REGULATION: K - INTERNATIONAL BANKING OPERATIONS

Legal Authority: 12 USC 601 et seq

CFR Citation: 12 CFR 211

Abstract: The Board will consider an amendment to its regulation governing the establishment of foreign operating subsidiaries by member banks. The amendment would eliminate the requirement in section 211.3(b)(9) of Regulation K that a member bank's operating subsidiary be established only where required by local law or regulation. The revision is intended to promote the efficiency of member banks' foreign operations. Because the revision would remove a restriction, it is not anticipated that comment will be requested.

The proposal would not have a significant economic impact on a substantial number of small businesses because it affects only U.S. banks operating abroad.

Timetable:

Action	Date	FR Cite
Final Action by	04/00/88	

Small Entity: No

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3786

RIN: 7100-AA67

3772. REGULATION: P - MINIMUM SECURITY DEVICES AND PROCEDURES FOR FEDERAL RESERVE BANKS AND STATE MEMBER BANKS

Legal Authority: 12 USC 1881 to 1884

CFR Citation: 12 CFR 216

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Abstract: During the next six months, the Board will conduct a zero-based review of Regulation P, which implements the Bank Protection Act of 1968, and establishes minimum security standards for Federal Reserve banks and for state member banks. The review will consider whether any provisions of the regulation are outdated and whether any substantive changes are necessary because of new technological developments. The regulation will also be reorganized and revised for simplicity and clarity. Public comment will be requested following the zero-based review. It is not anticipated that the revised regulation will have a significant impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board will consider revisions to Regulation P during the next months	04/00/88	

Small Entity: No

Agency Contact: Barbara Lowrey, Associate Secretary, Federal Reserve System, Office of the Secretary, 202 452-3762

RIN: 7100-AA69

3773. REGULATION: T - CREDIT BY BROKERS AND DEALERS

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220

Abstract: During the next six months the Board may consider proposing amendments to Regulation T to accommodate settlement and clearance of foreign securities in accounts covered by Regulation T. A request has been made that amendments be proposed because of the growing internationalization of the securities markets. It is not anticipated that any proposals in this area would affect a significant portion of the overall lending activities of a substantial number of small firms.

Timetable:

Action	Date	FR Cite
Board may review proposal to amend Regulation T	11/00/87	

Small Entity: No

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA80

3774. ● REGULATION: T - CREDIT BY BROKERS AND DEALERS

Legal Authority: 15 USC 78g Securities Exchange of 1934, as amended; 15 USC 78w Securities Exchange of 1934, as amended

CFR Citation: 12 CFR 220

Abstract: During 1987 the Board may review a proposal made by a broker-dealer to amend the definition of "OTC margin bond" in Regulation T. The purpose would be to permit marginability of foreign sovereign debt securities.

It is not anticipated that this proposal will affect a significant portion of the overall lending activities of a substantial number of small firms.

Timetable:

Action	Date	FR Cite
Board may review proposal to amend Regulation T	04/00/88	

Small Entity: No

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA72

3775. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Legal Authority: 12 USC 1843 Bank Holding Company Act; 12 USC 1844(b) Bank Holding Company Act

CFR Citation: 12 CFR 225

Abstract: A provision of Regulation Y permits a state bank subsidiary of a bank holding company to engage through a nonbank subsidiary in any activity that is permissible under state law for the bank subsidiary itself, subject to the same limits as if the bank engages in the activity directly. (A similar rule applies to national bank subsidiaries regarding activities permissible for such banks under federal law.) The Board received comments on this provision in connection with its general request for comments in May 1983 regarding the proposed revision of Regulation Y. Some of the commenters challenged the Board's authority to issue this provision, although it has been part of Regulation Y since 1971. In taking final action on the revision of Regulation Y, the Board deferred consideration of the comments on this provision and allowed the existing rule to remain in effect in the interim (49 FR 794, January 5, 1984).

The Board plans to review this provision of the regulation in the near future. A determination to reverse the rule could have an adverse impact on many small banks that are subsidiaries of holding companies because they might be required to (cont)

Timetable:

Action	Date	FR Cite
Board requested comments	05/25/83	48 FR 23520
Board allows existing rule to remain in effect	01/05/84	49 FR 794
Board will review further by	04/00/88	

Small Entity: Yes

Additional Information: ABSTRACT CONT: restructure their nonbanking activities or to take other action.

Agency Contact: J. Virgil Mattingly, Deputy General Counsel, Legal Division, Federal Reserve System, 202 452-3430

RIN: 7100-AA41

3776. ● REGULATION: Z - TRUTH IN LENDING

Legal Authority: PL 100-86 Competitive Banking Equality Act of 1987

CFR Citation: 12 CFR 226

Abstract: During the next month the Board will consider a proposed amendment to Regulation Z to implement Title XII, section 1204 of the Competitive Equality Banking Act of 1987. The law was enacted August 10, 1987 and will become effective December 8, 1987.

The proposed regulatory amendment implements the recently enacted law which requires creditors to include a maximum interest rate limitation on adjustable rate mortgage loans. It is not anticipated that the proposal would have a significant impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board will consider an amendment to Regulation Z by	10/00/87	

Small Entity: No

Agency Contact: Adrienne Hurt, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-3867

RIN: 7100-AA81

FEDERAL RESERVE SYSTEM (FRS) — Final Rule Stage

3777. REGULATION: D - RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0571)

Legal Authority: 12 USC 248(k); 12 USC 461(a)

CFR Citation: 12 CFR 204

Abstract: In May 1986, the Board issued for comment rules to clarify the definition of "deposit" in Regulation D to include the interest or liability associated with a borrowing in the form of certain sales of assets and related transactions by a depository institution (51 FR 16855, May 7, 1986). These transactions include a sale of assets that involves a full guarantee by the institution that, in effect, substitutes the institution's credit standing for that of the ultimate borrower and in which the institution retains the risk of borrower default after the asset is sold.

Further, the regulation currently treats obligations of an affiliate as deposits of the depository institution to the extent the proceeds are provided to the depository institution. The Board proposes to exclude proceeds received from a sale of assets without recourse to the affiliate. The proposal also would clarify the application of Regulation D to certain of these transactions involving organizations effectively controlled by the depository institution even though not formally affiliated. Finally, the proposal would (CONT)

Timetable:

Action	Date	FR Cite
Board proposed revisions to Regulation D	05/07/86	51 FR 16855
Comment period extended	07/10/86	51 FR 25069
Further Board action by	04/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: clarify how the Board measures the "maturity" of an obligation for the purposes of Regulation D. The proposal requests comment on any alternatives that the public believes may be preferable to the Board's proposed amendments. Suggested alternatives will be considered when comments are analyzed.

The proposed rule would apply to all depository institutions. It is not anticipated that the proposal will have a negative impact on the ability of small depository institutions to attract deposits.

The Board will review the comments and take further action within the next six months.

Agency Contact: John Harry Jorgenson, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3778

RIN: 7100-AA62

3778. ● REGULATION: F - SECURITIES OF STATE MEMBER BANKS (DOCKET NUMBER: R-0609)

Legal Authority: 15 USC 78g Securities Exchange of 1934

CFR Citation: 12 CFR 206

Abstract: In August 1987, the Board issued for comment a proposal to amend Regulation F to require publicly held state member banks to file information with the Board on the forms nonbanking entities use to file with the Securities and Exchange Commission ("SEC") (52 FR 30690, August 17, 1987). Pursuant to section 12(i) of the Securities Exchange Act of 1934, the Board is mandated to issue disclosure regulations that are substantially identical to the SEC's disclosure regulations under that Act, or to publish reasons why the Board's rules are not substantially identical to those of the SEC.

Adoption of the proposal is not expected to have a significant economic impact, since only 36 banks are presently subject to Regulation F. The proposal would impose an audit requirement upon state member banks subject to Regulation F, but this burden is minimal because 33 of the banks currently subject to Regulation F presently receive annual audits.

Timetable:

Action	Date	FR Cite
Board requested comment	08/17/87	52 FR 30690
Further Board consideration by	04/00/88	

Small Entity: No

Agency Contact: Walter McEwen, Attorney, Federal Reserve System, Legal Division, 202 452-3321

RIN: 7100-AA82

3779. REGULATION: K - INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0550)

Legal Authority: 12 USC 611 et seq

CFR Citation: 12 CFR 211

Abstract: In August 1985, the Board published for comment proposed regulations that would restrict lending by an Edge Corporation to its affiliates where the Edge Corporation is not subject to the restrictions of section 23A of the Federal Reserve Act (12 USC 371c) because it is not owned by a U.S. insured bank (50 FR 35238, August 30, 1985). In taking this action, the Board noted the increasing number of owners

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of Edge Corporations that are not subject to federal banking supervision and the potential adverse effects that might result from such affiliations, such as the impairment of the Edge's ability to act as an impartial arbiter of credit. The Board requested comment on the effect of the proposal on existing Edge Corporations, especially those owned by foreign banks and whether any exemptions from the restrictions are appropriate.

It is not expected that the proposal would have a significant economic impact on a substantial number of small businesses, because it applies only to organizations involved in international banking. (CONT)

Timetable:

Action	Date	FR Cite
Board proposed revisions to Regulation K	08/30/85	50 FR 35238
Further Board action by	04/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: The Board will review the comments and take further action within the next six months.

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3786

RIN: 7100-AA58

3780. REGULATION: Q - INTEREST ON DEPOSITS (DOCKET NUMBER R-0514)

Legal Authority: 12 USC 371b

CFR Citation: 12 CFR 217

Abstract: In January 1986, the Board issued for comment proposals to clarify, update, and simplify the advertising provisions of Regulation Q (51 FR 1379, January 13, 1986). The revisions incorporate and supersede the proposals of March 1984 concerning advertising of split-rate deposits and IRA/Keogh (HR 10) Plan accounts. The proposal is not expected to have a significant adverse effect on small banks.

The Board will review the comments and is expected to take further action within the next four months.

It is also anticipated that the Board will consider at that time various options with regard to providing written disclosures to consumers about their accounts.

Timetable:

Action	Date	FR Cite
Board proposed revisions	01/13/86	51 FR 1379
Further Board action by	02/00/88	

Small Entity: No

Agency Contact: Patrick J. McDivitt, Attorney, Federal Reserve System, Legal Division, 202 452-3818

RIN: 7100-AA56

3781. REGULATION: T - CREDIT BY BROKERS AND DEALERS (DOCKET NUMBER R-0611)

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220

Abstract: On August 20, 1987, the Board requested comment on a proposed amendment to Regulation T that would permit broker-dealers to facilitate the exercise of valuable employee stock options by employees. In lieu of the securities to be received upon exercise of the option, the proposed amendment would allow the broker-dealer to accept a fully-endorsed employee stock option and instructions to the employer to deliver the securities to the broker-dealer. The Board will review the comments and consider the matter further within the next three months. It is not anticipated that this proposal will affect a significant portion of the overall lending activities of a substantial number of small firms.

Timetable:

Action	Date	FR Cite
Board proposed an amendment to Regulation T	08/20/87	
Further Board action by	11/00/87	

Small Entity: No

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA71

3782. ● REGULATION: U - CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS (DOCKET NUMBER: R-0608)

Legal Authority: 15 USC 78g Securities Exchange of 1934, as amended; 15 USC 78w Securities Exchange of 1934, as amended

CFR Citation: 12 CFR 221

Abstract: In August 1987, the Board requested comment on a proposed amendment to Regulation U that would exempt banks making loans of $100,000 or under from the requirement that Form FR U-1 must be executed, and amend the form to reflect this change (52 FR 29701, August 11, 1987). The purpose is to reduce the paperwork burden associated with the preparation of Form FR U-1 which is currently required whenever a bank makes a loan secured by "margin stock."

It is anticipated that this proposal will reduce paperwork burden on small banks and, therefore, will have no adverse economic impact on a substantial number of small entities. The Board will review the public comments and is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board proposed an amendment to Regulation U	08/14/87	52 FR 29701
Further Board action by	11/00/87	

Small Entity: Yes

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA83

3783. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0536)

Legal Authority: 12 USC 1841 et seq Bank Holding Company Act

CFR Citation: 12 CFR 225

Abstract: In January 1985, the Board requested comment as to whether it should permit bank holding companies that own nonbank banks to provide them with internal administrative services and to establish management interlocks with them (50 FR 2057, January 15, 1985). ("Nonbank banks" are institutions that are chartered as banks but either do not accept demand deposits or do not make commercial loans.) The Board took this action to resolve a number of questions that had been raised regarding the appropriate scope of relationships between nonbank banks and their affiliates. It is likely that any action the Board might take would primarily affect larger bank holding systems and would relax a requirement or prohibition. Therefore, it is expected that any Board action would not have a significant economic impact on a substantial number of small entities.

The Board suspended further consideration of nonbank bank applications by bank holding companies, pending a definitive resolution, through pending litigation, of the status of nonbank banks.

Timetable:

Action	Date	FR Cite
Board requested comment	01/15/85	50 FR 2057
Awaiting Court Action	00/00/00	

Small Entity: No

Agency Contact: J. Virgil Mattingly, Deputy General Counsel, Federal Reserve System, Legal Division, 202 452-3430

RIN: 7100-AA51

3784. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0537)

Legal Authority: 12 USC 1841 Bank Holding Company Act; 12 USC 221 Federal Reserve Act; 12 USC 3901 International Lending Supervision Act of 1983

CFR Citation: 12 CFR 225

Abstract: In December 1986, the Board requested public comment on a proposal to permit bank holding companies to engage in real estate investment activities within certain limits (52 FR 843, January 7, 1987). The proposed limits are designed to ensure that conduct of the activity does not result in unsafe or unsound practices, unfair competition, conflicts of interest or other adverse effects.

The Board requested public comment on a number of specific items, including whether real estate investment activities may be deemed to be closely related to banking and a proper incident thereto for purposes of section 4(c)(8) of the Bank Holding Company Act; whether the proposed limits on the size, scope and manner in which the activity would be conducted are appropriate; whether nonbank companies owned by holding company banks should be permitted or prohibited from conducting these activities; and whether the Board should establish special capital requirements for bank holding companies that control banks directly engaged in these activities.

The proposal, if adopted, would permit bank holding (CONT)

Timetable:

Action	Date	FR Cite
ANPRM	01/31/85	50 FR 4519
Board issues proposal for public comment	01/07/87	52 FR 543
Further Board action during the next six months	04/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: companies to engage in limited real estate investment activities that bank holding companies are not now permitted to conduct and would not impose more burdensome requirements on bank holding companies than are currently applicable. Moreover, the proposal includes provisions designed to permit small bank holding companies to participate meaningfully in the proposed activities. The proposal does not impose any limitations on the direct real estate investment activities of holding company banks.

The Board will review the comments and is expected to take further action within the next six months.

Agency Contact: J. Virgil Mattingly, Deputy General Counsel, Federal Reserve System, Legal Division, 202 452-3430

RIN: 7100-AA52

3785. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0567)

Legal Authority: 12 USC 3907; 12 USC 3901 International Lending Supervision Act of 1983

CFR Citation: 12 CFR 225, Appendix A

Abstract: In January 1986, the Board proposed for comment and amendment to its Capital Guidelines that would provide for a supplemental adjusted capital measure designed to be more systematically and explicitly sensitive to the risk exposure of individual banking organizations. This measure would be based on a ratio of primary capital to total assets adjusted to account for certain types of risks, including many kinds of off-balance-sheet risk. On January 8, 1987, the Board voted to seek public comment on a revised risk-based capital proposal (52 FR 5119, February 19, 1987). This revised proposal represents an effort to coordinate the risk-based capital proposals of the three federal banking agencies with similar capital proposals of the Bank of England, and the proposal is based on a proposed United States/United Kingdom Capital Agreement. The revised proposal contemplates certain adjustments to the definition of capital as well as the placement of assets in certain broad risk categories. In March 1987, the Board sought public comment on an amendment to the risk-based capital proposal to incorporate credit risks on off-balance sheet interest rate and exchange rate (CONT)

Timetable:

Action	Date	FR Cite
Board requested comment	01/31/86	51 FR 3976
Comment period extended	04/11/86	51 FR 12865
Board requests comment on revised proposal	02/19/87	52 FR 5119
Board requests comment on	03/24/87	52 FR 9304
Further Board action by	04/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: contracts (including interest rate swaps) into its proposed risk-based capital measures (52 FR 9304, March 24, 1987). The Board has not proposed a specific minimum risk-based ratio at this time, but this proposal is designed to avoid requiring small bank holding companies that operate above the current minimum capital ratio to raise additional capital. Consequently the proposal is not likely to have a

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significant impact on smaller banking organizations.

The Board will review the comments on its revised proposal and coordinate with other federal banking agencies and the Bank of England. Further action is expected during the next six months.

Agency Contact: Michael J. O'Rourke, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3288

RIN: 7100-AA66

3786. REGULATION: Z - TRUTH IN LENDING (DOCKET NUMBER R-0545)

Legal Authority: 15 USC 1604, as amended Truth in Lending Act

CFR Citation: 12 CFR 226

Abstract: Regulation Z currently requires that creditors provide information to consumers regarding variable rate features in credit transactions. Concern has been expressed in Congress and elsewhere about whether Truth in Lending disclosures adequately convey to consumers the terms and potential costs of adjustable rate mortgages (ARMs).

In November 1986, the Board proposed that creditors make more extensive disclosure of the variable rate feature in transactions secured by the consumer's home (51 FR 42241, November 24, 1986). The proposal would amend the regulation to require that creditors provide consumers general descriptive material about adjustable rate mortgages as well as provide a more detailed description of their variable rate feature along with an example showing the effect of historical changes in a creditor's index over a 15 year period on the payments and balance on a $10,000 loan. The maximum interest rate and payment under the creditor's program for a $10,000 loan would also be stated. Finally, the proposal would require annual notices of interest rate adjustments and prior notice of payment (CONT)

Timetable:

Action	Date	FR Cite
Board proposed amendment	05/15/86	50 FR 20221
Revised proposal issued for comment	11/24/86	51 FR 42241
Further Board action by	10/00/87	

Small Entity: Yes

Additional Information: ABSTRACT CONT: adjustments.

The Board is concerned about creditor burdens of compliance with the overlapping and duplicative disclosures in this area. This proposal was recommended to the Board and to the Federal Home Loan Bank Board (FHLBB) and the Comptroller of the Currency (OCC) in response to the concern for uniform federal ARMs disclosure regulations. The Board believes that adoption of the proposal by the Board (and by the FHLBB and OCC) will eliminate the present problem with inconsistent federal ARMs disclosure regulations.

If the Board adopts this proposal, mortgage creditors, including small businesses engaged in mortgage lending, could incur some costs in revising and reprinting forms, and changing certain procedures to comply with the requirement. Before any final action, the Board would consider appropriate actions to minimize the burdens and costs of compliance. Further Board action is expected within the next two months.

Agency Contact: Michael Bylsma, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-3667

RIN: 7100-AA50

3787. ● PROPOSED GUIDELINES REGARDING THE BANK BRIBERY ACT (DOCKET NUMBER: R-0603)

Legal Authority: 18 USC 215(d) Bank Bribery Amendments Act of 1985

CFR Citation: 00 CFR None

Abstract: As required by the Bank Bribery Amendments Act of 1985, the Board has proposed guidelines that encourage all state member banks and bank holding companies to adopt internal codes of conduct or written policies or amend their present codes of conduct or policies to describe the prohibitions contained in the Bank Bribery Act. The Bank Bribery Act prohibits anyone, including a financial institution's employees, officers, directors, agents or attorneys, from corruptly soliciting or accepting anything of value in connection with the business of the financial institution. The Board's proposed guidelines also identify situations that, in the opinion of the Board, may not constitute violations of the Bank Bribery Act. The Board seeks public comment on whether the establishment by the Board of specific dollar ranges of certain acceptable business entertainment and expenses would be appropriate. The proposed guidelines are not expected to have a significant impact on small banking entities. The Board will review the comments and is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	05/22/87	52 FR 19396
Further Board action	10/00/87	

Small Entity: No

Agency Contact: Herbert A. Biern, Assistant Director, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-3620

RIN: 7100-AA84

3788. FURTHER PROPOSALS TO REDUCE RISKS ON LARGE-DOLLAR WIRE TRANSFER SYSTEMS (DOCKET NUMBERS: R-0587 THROUGH R-0592)

Legal Authority: 12 USC 221 et seq

CFR Citation: 00 CFR None

Abstract: In December 1986, the Board requested comment on several proposals that would refine its policy statement on payment system risk (51 FR 45042, December 10, 1986). The proposals include a policy to reduce the risks associated with daylight overdrafts resulting from clearing trades in book-entry securities (R-0587), a proposal to reduce the levels of the sender net debit cap (R-0588), a proposal to reduce the burden on smaller institutions by adopting a "de minimis" cap category (R-0589), proposals regarding consolidation of affiliated institutions for purposes of monitoring compliance with the Board's program (R-0590), modifying automated clearing house transactions to reduce risk (R-0591), and various proposals to charge a fee for daylight overdrafts as a way of reducing risks associated with them (R-0592).

In July 1987, the Board after reviewing public comments, adopted an Interim Policy Statement on Payment System Risk that incorporated the proposals issued under Docket Nos. R-0587 through R-0590, as modified by the Board (52 FR 29255), August 6, 1987;

Docket No. R-0607). The Board will consider Docket (CONT)

Timetable:

Action	Date	FR Cite
Board requested comment	12/16/86	51 FR 45042
Interim Board action	08/06/87	52 FR 29255
Further Board action by	04/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: No. R-0591 in the Fall of 1987 and Docket No. R-0592 in the Spring of 1988. Further, the Board will be conducting a zero-based review of its risk reduction policy during 1988.

It is not expected that these proposals would have a significant economic impact on a substantial number of small entities, because small entities do not usually participate in large-dollar wire transfer systems. While small entities do participate in automated clearing houses, the Board's proposal in this area is primarily procedural, and not likely to have a significant economic impact on ACH participants.

Agency Contact: Edward C. Ettin, Deputy Director, Federal Reserve System, Division of Research and Statistics, 202 452-3368

RIN: 7100-AA76

3789. RULES REGARDING AVAILABILITY OF INFORMATION (DOCKET NUMBER: R-0601)

Legal Authority: 5 USC 552; 12 USC 248(i); 12 USC 248(o)

CFR Citation: 12 CFR 261

Abstract: The Board's Rules Regarding Availability of Information are intended in part to fulfill the requirement of section 552 of Title 5 of the United States Code that every Federal agency shall publish in the Federal Register how the public may obtain information, make submittals or requests, and obtain decisions; how the agency's functions are channeled and determined; its rules of procedure and descriptions of forms available and the places where they may be obtained. The Board is reviewing public comments that have been received and will determine whether to issue as a final rule a proposed revision that simplifies and improves these rules. The revision, issued for public comment in April 1987, reorganizes the rules into appropriate subparts, and clarifies the procedures for requesting access to documents and information, the processing and disposition of such requests, and the procedures regarding the discretionary release of confidential information (52 FR 13458, April 23, 1987).

It is not expected that the proposal, if adopted, will have a significant economic impact on a substantial number of (CONT)

Timetable:

Action	Date	FR Cite
Board requested comment	04/23/87	52 FR 13458
Board will consider adoption of final rules by	10/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: small entities that would be subject to the regulation.

Agency Contact: Stephen L. Siciliano, Special Assistant to the General Counsel, Federal Reserve System, Legal Division, 202 452-3920

RIN: 7100-AA73

FEDERAL RESERVE SYSTEM (FRS) — Completed Actions

3790. REGULATION: E - ELECTRONIC FUND TRANSFERS (DOCKET NUMBER: R-0578)

Legal Authority: 15 USC 1693 et seq Electronic Fund Transfer Act

CFR Citation: 12 CFR 205

Abstract: In August 1986, the Board proposed for comment amendments to Regulation E. The proposal addressed the rules that apply when (1) a person that does not hold a consumer's account issues an access device to the consumer for initiating -- at point of sale, for example -- electronic fund transfers (EFTs) that are cleared through the automated clearing house system, and (2) there is no agreement between the service provider and the financial institution holding the consumer's account. Following the review of public comments and further analysis, the Board adopted a final rule on August 5, 1987. The amendments eliminate the requirement that a service provider issue a periodic statement to consumers, summarizing the POS/ACH transfers made, if the service provider: (1) issues a debit card for initiating POS/ACH transfers that bears its name plus an address or telephone number that the consumer can use to report errors and lost or stolen cards, (2) provides information to the account-holding institution so that the latter can describe the transactions in accordance with Regulation E, and (3) gives certain disclosures and extends the time available to (CONT)

Timetable:

Action	Date	FR Cite
Board issued for comment a proposal to amend Regulation E	06/06/86	51 FR 28586
Board adopted the proposal	08/18/87	52 FR 30904

Small Entity: Yes

Additional Information: ABSTRACT CONT: the consumer for reporting errors and lost or stolen debit cards. The amendments also require an account-holding institution to describe these POS/ACH transfers on consumers' periodic statements in accordance with Regulation E.

The amendments take effect on November 15, 1987. To facilitate compliance for account-holding institutions, however, disclosure of the terminal location on periodic statements will not be required until July 1, 1990. Also, institutions with assets of $25 million or less will not have to comply with any periodic statement requirement applicable to these POS/ACH transfers until July 1, 1990.

The changes are expected to facilitate the development of point-of-sale EFT services without imposing substantial compliance costs on financial

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institutions and without significantly reducing consumer protections.

Agency Contact: Gerald P. Hurst, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-3667

RIN: 7100-AA60

3791. REGULATION: T - CREDIT BY BROKERS AND DEALERS (DOCKET NUMBER R-0600)

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220

Abstract: In April 1987, the Board requested comment on a proposed amendment to Regulation T that would permit brokers and dealers to extend credit on a good faith basis on any "mortgage related security" -- a term defined in the Secondary Mortgage Market Enhancement Act of 1984 (52 FR 13458, April 23, 1987). The amendment would add a "mortgage related security" to the existing definition of "OTC margin bond." Following review of public comments, the Board approved the amendment on August 20, 1987.

It is not anticipated that this proposal will affect a significant portion of the overall lending activities of a substantial number of small firms.

Timetable:

Action	Date	FR Cite
Board proposed amendment to Regulation T	04/23/87	52 FR 13458
Board adopted an amendment to Regulation T	08/20/87	

Small Entity: No

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA70

3792. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0572)

Legal Authority: 12 USC 1841 Bank Holding Company Act

CFR Citation: 12 CFR 225

Abstract: In May 1986, the Board requested comment on whether it should modify, eliminate, or retain the current restrictions it imposes on the operation by a bank holding company of a thrift institution in tandem with the holding company's other subsidiaries (51 FR 18797, May 22, 1986). These conditions were initially imposed after public comment and are designed to maintain the distinction and separation between thrifts and banks. The Board has received requests for relief from these conditions to permit thrifts acquired by bank holding companies to jointly market and sell products and services with other holding company affiliates, cross-advertise the services and products of affiliates, and conduct certain transactions with affiliates.

Few small banks and holding companies are subject to the conditions on tandem operations, and action in this area will not directly affect the operation of a significant number of small entities. However, the Board has requested comment on whether relief from the conditions will affect competition between (CONT)

Timetable:

Action	Date	FR Cite
Board requested comment	05/22/86	51 FR 18797
Board made a determination	07/24/87	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: thrifts owned by bank holding companies and banks and bank holding companies, including small entities, located in the same market.

The Board at its meeting on July 24, 1987, considered this request and, with the exception of approval to join an affiliated ATM switch, determined not to grant the requested relief unless the thrift institution is located in a state in which the parent bank holding company may own a bank.

Agency Contact: J. Virgil Mattingly, Deputy General Counsel, Federal Reserve System, Legal Division, 202 452-3430

RIN: 7100-AA74

3793. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0595)

Legal Authority: 12 USC 1817(j)(13) Bank Holding Company Act

CFR Citation: 12 CFR 225.43

Abstract: In January 1987, the Board proposed amending Regulation Y to implement certain amendments to the Change in Bank Control Act ("CBCA") made by the Anti-Drug Abuse Act of 1986. Under this proposal, notificants under the CBCA would be required to publish an announcement of a proposed acquisition of shares of a bank or bank holding company in a newspaper of general circulation in communities where the bank or bank holding company to be acquired is located (52 FR 3447, February 4, 1987). The proposed regulation provides an exception to the publication requirement where disclosure would threaten the safety or soundness of the bank to be acquired.

As required by the Anti-Drug Abuse Act, the proposed regulation states that the Board shall conduct a background investigation of each notificant under the CBCA and shall make an independent determination of the accuracy and completeness of the information submitted. The Board may also extend processing of the notice under certain circumstances. The proposal is not expected to have a significant economic impact on a substantial number of small entities, and would have the benefit of (CONT)

Timetable:

Action	Date	FR Cite
Board requested comment	02/04/87	52 FR 3447
Board adopted amendment	06/17/87	52 FR 23021

Small Entity: No

Additional Information: ABSTRACT CONT: permitting such entities, as well as other members of the public, an opportunity to comment on proposed changes in the control of banks and bank holding companies. In June 1987, following review of the public comments, the Board adopted the proposed regulation without any significant change (52 FR 23021, June 17, 1987).

Agency Contact: Scott G. Alvarez, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3583

RIN: 7100-AA78

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Part LII

Federal Trade Commission

Semiannual Regulatory Agenda

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FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and section 610(c) of the Regulatory Flexibility Act, 5 U.S.C. 610(c). Each projected event reflects the FTC staff's assessment of events that it expects will occur in the listed proceedings during the coming year. No Commission determination on the need for or the substance of a trade regulation rule or any other procedural option should be inferred from the projected events included in this agenda.

Several agenda items concern proceedings that may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Whether any such proceeding will result in a rule which is likely to have a significant economic impact on such entities depends upon final Commission determinations on the need for and the substance of a trade regulation rule.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself. The Commission will address the issues presented on the rulemaking record in the final consideration of each proceeding.

Agenda items include the projected timing of certain future actions. In most instances the dates of future events are listed by month, not a specific day. Further details may be obtained from the agency contact responsible for a particular proceeding. Discovery of new information, change of circumstances, or changes in the law may alter the information set forth in this agenda.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the agency contact responsible for a particular proceeding.

By direction of the Commission.

Emily H. Rock,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3794	Review of the Funeral Industry Practices Rule	3084-AA05
3795	Mail Order Merchandise	3084-AA19
3796	Review of Content Disclosure Requirements for Textile, Wool, and Fur Products	3084-AA29
3797	Informal Dispute Settlement Procedures	3084-AA30

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3798	Ophthalmic Practice Rules	3084-AA03
3799	Amendment to Trade Regulation Rule Concerning Preservation of Consumers Claims and Defenses ("Holder-in-Due Course Rule")	3084-AA08
3800	Proprietary Vocational and Home Study Schools	3084-AA11
3801	Cooling-Off Period for Door-to-Door Sales	3084-AA18
3802	Review of the Premerger Notification Rules and Report Form	3084-AA23
3803	Games of Chance in the Food Retailing and Gasoline Industries Rule	3084-AA24

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3804	Retail Food Store Advertising and Marketing Practices	3084-AA17
3805	Appliance Labeling Rule -- Energy Policy and Conservation Act	3084-AA26

FTC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3806	Franchising and Business Opportunities	3084-AA25

FEDERAL TRADE COMMISSION (FTC)

Prerule Stage

3794. REVIEW OF THE FUNERAL INDUSTRY PRACTICES RULE

Legal Authority: 15 USC 45; 15 USC 46(g); 15 USC 57(a)

CFR Citation: 16 CFR 453

Abstract: The funeral industry practices rule, which became effective on April 30, 1984, seeks to increase consumer access to accurate information about prices and legal requirements prior to and at the time of purchase of funeral goods and services. The Rule: (1) requires funeral directors to provide consumers with itemized pre-sale disclosures; (2) prohibits misrepresentation of legal and cemetery requirements and the preservative or protective value of embalming, caskets, and vaults; (3) prohibits funeral directors from requiring a casket for cremations, or any other tie-in arrangements; (4) prohibits funeral directors from charging for goods and services not specifically ordered, such as embalming, unless required by law; and (5) requires funeral directors to give, on request, price information over the telephone. The Rule provides that no later than four years after its effective date, the Commission will begin a rulemaking to determine whether the Rule should be amended or terminated. The staff has begun investigating the current state of the industry to assess the impact of the Rule and to prepare for that proceeding.

Timetable:

Action	Date	FR Cite
Rule Promulgated	09/24/82	47 FR 42250
Begin Review	01/00/87	
ANPRM	10/00/87	
NPRM	04/00/88	
Commission Consideration of Staff Recommendations	10/00/89	

Small Entity: Yes

Agency Contact: Raouf M. Abdullah, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, D.C. 20580, 202 326-3024

RIN: 3084-AA05

3795. MAIL ORDER MERCHANDISE

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 435

Abstract: The Commission's rule concerning mail order merchandise was promulgated on October 22, 1975. The rule requires mail order sellers to possess a reasonable basis for any claims made concerning shipping date or, in the absence of any specifically stated date, to ship the ordered merchandise within thirty (30) days of receipt of an order. In the event of delays in shipment, the rule establishes notification procedures whereby buyers have the option either to agree to the delay or to cancel the order and receive a prompt refund. The Commission's rule is designed to address a number of significant consumer problems described on the record of the rulemaking proceeding, including failure to deliver ordered merchandise, unexplained delays in delivery, failure to make prompt (or any) refunds upon cancellation of an order, and inability to obtain responses to inquiries about pending orders. The rule enables consumers to obtain ordered merchandise within a reasonable time period or, if delays occur, to cancel the order and obtain a prompt refund, so that losses due to undelivered merchandise, delays, and inadequate or nonexistent refunds can be avoided. By subjecting sellers (cont)

Timetable:

Action	Date	FR Cite
Rule Promulgated	10/22/75	40 FR 49492
Begin Reg Flex Act Review	10/20/83	
End Reg Flex Review	05/10/86	51 FR 20991
Commission Consideration of Staff Recommendations (if appropriate)	04/00/88	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: who solicit orders they cannot fill within a reasonable time to the risk of cancellation, the rule may provide competitive benefits, since buyers may shift their business to more efficient merchants. Costs relating to the rule may include the cost of establishing a system for monitoring and recording orders, deliveries, delays, cancellations, consents to delays, and refunds; the costs of complying with the rule's notification requirements regarding delays (printing, postage, etc.); the cost of processing refunds; and additional inventory costs. Pursuant to Sec. 610 of the Regulatory Flexibility Act, the Commission has reviewed this rule and determined that it has not had a significant economic impact on a substantial number of small entities. In addition, the staff is considering whether the rule should be amended to cover orders placed by telephone or other electronic means. Whether changes to the rule will be proposed will not be determined until the staff's review has been completed.

Agency Contact: Raymond L. Rhine, Federal Trade Commission, Division of Enforcement, Bureau of Consumer

Protection, Washington, DC 20580, 202 326-2973

RIN: 3084-AA19

3796. REVIEW OF CONTENT DISCLOSURE REQUIREMENTS FOR TEXTILE, WOOL, AND FUR PRODUCTS

Legal Authority: 15 USC 68b(d); 15 USC 70j; 15 USC 69f(b)

CFR Citation: 16 CFR 300, (Wool); 16 CFR 301, (Fur); 16 CFR 303, (Textile)

Abstract: The Wool Products Labeling Act of 1939 Requires all wool products to bear a label showing the percentage of wool, recycled wool, and non-wool fibers contained in the product and the name of the manufacturer or other distributor. The Textile Fiber Products Identification Act requires each household textile product to bear a label showing the percentage of each fiber contained in the product, using the appropriate generic name for the fiber, and the name of the manufacturer or distributor. Advertisements for textile products must also show the required information if any mention of fiber content is made. Both acts require disclosure of country of origin. The Fur Products Labeling Act requires that all furs and fur products be labeled, invoiced, and advertised to show the true name of the animal that produced the fur, whether the fur is used, dyed, or imported, and the name of the manufacturer or distributor. The three acts, as well as the Commission's rules implementing them, apply to manufacturers, distributors, and retailers of textile, wool, and fur products. (cont)

Timetable:

Action	Date	FR Cite
Begin Review	10/30/86	
Commission Consideration of Staff Recommendations	10/00/87	
NPRM – Recordkeeping	01/00/88	

Small Entity: Undetermined

Additional Information: The Commission's staff is currently reviewing the information collection requirements contained in the several regulations under the three acts to determine whether enforcement of the statutory requirements can be accomplished with a reduced public burden. As a result of this review, amendments may be proposed.

Agency Contact: James Mills, Federal Trade Commission, 202 326-3035

RIN: 3084-AA29

3797. INFORMAL DISPUTE SETTLEMENT PROCEDURES

Legal Authority: 15 USC 2309; 15 USC 2310(a)(2) Magnuson-Moss Warranty--FTC Improvements Act

CFR Citation: 16 CFR 703

Abstract: The Magnuson-Moss Warranty Act, enacted on January 4, 1975, requires that the Federal Trade Commission promulgate a rule prescribing the minimum requirements for any informal dispute settlement procedure which is incorporated into the terms of a written warranty subject to the Act. Because warrantors are not required to incorporate such procedures into warranties, the rule applies only to warrantors who choose to do so. The present rule sets forth detailed procedural, recordkeeping, and reporting requirements for dispute settlement mechanisms designed to insure their fairness. In accordance with Section 610 of the Regulatory Flexibility Act, The Commission began a review of the rule to examine whether the rule has had a significant economic impact on a substantial number of small entities and to assess whether any changes are needed. For that review, the Commission conducted a regulatory negotiation process in which an advisory committee was charged to recommend to the Commission revisions to the rule that would facilitate the Congressional (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	12/31/75	
Initial Notice of Intent to Form Advisory Committee	02/12/86	51 FR 5205
Convene Advisory Committee	09/23/86	
Facilitator Report to Commission	10/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: objective of encouraging warrantors to establish and participate in informal dispute settlement mechanisms. The committee met for the last time on June 17, 1987, and failed to reach a consensus on rule revisions. The Commission and its staff will continue to monitor the impact of the current informal dispute settlement procedures rule.

Agency Contact: Gary Laden, Federal Trade Commission, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, 202 326-3118

RIN: 3084-AA30

FEDERAL TRADE COMMISSION (FTC) — Proposed Rule Stage

3798. OPHTHALMIC PRACTICE RULES

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 456, (Revision)

Abstract: The staff of the FTC's Bureau of Consumer Protection has identified several state and private restrictions on the delivery of eye care goods and services which may decrease consumer access to vision care services, increase the cost of those services, and impede the growth of alternative methods of organizing eye-care practices. The principal question the Commission is exploring is the impact of such restrictions on the price, quality and availability of vision care. The Commission's investigation has sought, through the development of empirical market research, to determine whether higher prices result from these restrictions and, if so, whether offsetting consumer benefits also result. The primary impact of a rule on small businesses could stem from the

increased competition in the vision care industry which can be anticipated as a result of deregulatory effect of the rule. Rule provisions removing certain restraints on commercial ophthalmic practice could enhance competition by permitting small entities (i.e., optometrists and opticians) to engage in alternate modes of practice; or to expand, should they desire to do so. The affirmative requirements of a rule could impose additional (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/01/80	45 FR 79823
ANPRM Comment Period End	02/02/81	
NPRM	01/04/85	50 FR 598
NPRM Comment Period End	04/05/85	
Rebuttal Period Ends	09/18/85	
Staff Report	11/17/86	51 FR 43217
Presiding Officer Report	11/26/86	51 FR 43217
Comment Period End	03/13/87	
Commission Consideration of Staff Recommendations	07/00/87	
Oral Presentations to the Commission	10/00/87	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: record-keeping, postage, and photocopying costs. The alternatives to an FTC trade regulation rule include: a formal complaint against a professional association or an ophthalmic board alleged to have engaged in illegal acts or practices; a voluntary guide defining unfair acts or practices; legislative recommendations to Congress or to the States; or the release of a public report setting forth the findings of the staff. In January, 1985 the Commission published an NPRM seeking public comment on a proposed trade regulation rule that would have the effect of superseding certain state-imposed restrictions on the forms of practice and other business aspects of the delivery of eye care to consumers. The public hearings have been completed. The Staff Report, summarizing the evidence and recommending that the Commission promulgate a rule, was completed in October 1986. The Presiding Officer's Report was published in November, 1986. Public comments have been received on these reports, after which the Commission may schedule an oral presentation by selected participants. The Staff has forwarded its recommendations to the Commission.

Government Levels Affected: Local, State

Agency Contact: Renate Kinsheck, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3287

RIN: 3084-AA03

3799. AMENDMENT TO TRADE REGULATION RULE CONCERNING PRESERVATION OF CONSUMERS CLAIMS AND DEFENSES ("HOLDER-IN-DUE COURSE RULE")

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 433

Abstract: The objective of the proposed amendment is to ensure that a purchaser's duty to pay is not separated from sellers' duty to perform when consumer sales are financed by third party creditors or purchase money lenders. The original rule requires sellers to ensure that credit contracts used in consumer installment sales and purchase money loans contain a provision that makes any holder of the contract subject to all legal claims and defenses related to the sale transaction which the buyer may have against the seller. The proposed amendment would extend to creditors the obligation to ensure that credit contracts contain the required provision. Benefits from the proposed amendments may include improvement in the retail market due to increased scrutiny by creditors of the sellers with whom they do business and availability to consumers of additional claims and defenses against creditors. Some creditors may have increased costs associated with screening contracts and monitoring the reputations of retailers with whom they deal. Alternatives considered by the Commission include: rejection of the amendment; postponement of decision pending additional information on (cont)

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendment	11/18/75	40 FR 53530
Rule & Statement of Basis & Purpose	11/18/75	40 FR 53506
Final Notice of Proposed Amendment	02/05/76	41 FR 5305
Guidelines on TRR	05/14/76	41 FR 20022
Statement of Enforcement Policy	08/16/76	41 FR 34594
Open End Consumer Credit Contracts	09/16/77	42 FR 46509
Presiding Officer's Report	02/16/78	43 FR 6810
Staff Report	11/24/78	43 FR 54950
Tentative Cmsn Approval and Request for Comment	11/15/79	44 FR 65771
Commission Consideration of Staff Recommendations	10/00/87	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: compliance with the original rule; adoption of the amendment extending the rule to creditors and also making additional technical amendments. The amendment would shift some compliance costs from small businesses to creditors that control the contract form. Otherwise, because the existing rule already applies to retail sellers, the amendment should have no appreciable effect on other small businesses.

Agency Contact: Jonathan D. Jerison, Federal Trade Commission, Division of Credit Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3223

RIN: 3084-AA08

3800. PROPRIETARY VOCATIONAL AND HOME STUDY SCHOOLS

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 438, (New)

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Abstract: In 1979, the Second Circuit Court of Appeals set aside the rule as originally issued by the Commission, citing problems with some of the remedies that the rule provided to purchasers of proprietary vocational training. The Staff has prepared recommendations as to how the Commission should respond to the Court's decision. Alternatives under consideration include a rule that would give schools the option of providing either a strict pro rata refund remedy or a track record disclosure, a rule requiring some refunds but not on a strict pro rata basis, and a rule with no refund requirements at all. Alternatives to rulemaking include case-by-case enforcement, and FTC intervention before other state and federal agencies having jurisdiction over vocational schools to prevent deceptive practices. The rule may benefit consumers by enabling them to avoid expenditures on inappropriate courses and increasing the effectiveness of the vocational school industry in training and placing people in productive jobs. The cooling-off, track record disclosures, and refund components of the rule variations under consideration would impose real social costs on schools covered (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/15/74	39 FR 29365
Final Action previously published	12/18/78	43 FR 60796
Rule set aside & remanded by Court	12/13/79	
New Staff Recommendation published	07/10/81	46 FR 35668
Commission Consideration of Staff Recommendations	11/00/87	

Small Entity: Yes

Additional Information: ABSTRACT CONT: including administrative costs associated with processing and collecting and disseminating information. Price increases may result from these costs as well as the possibility of paying out increased refunds. The rule should be most costly to schools that use unfair or deceptive practices to induce students to enroll in their courses. Schools that do not use these practices may not incur significant cost increases. The rule seeks to deter deceptive sales practices by requiring schools to provide material information to prospective students, and to provide students with contractual remedies which they can use to protect themselves when necessary. Most of the 6,000 schools that would be affected by the rule are small businesses.

Agency Contact: Walter Gross, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3319

RIN: 3084-AA11

3801. COOLING-OFF PERIOD FOR DOOR-TO-DOOR SALES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 429

Abstract: The rule states that sellers of consumer goods or services with a purchase price of $25.00 or more who sell away from their place of business must furnish to the buyer certain information regarding the buyer's right to cancel sales within three business days and must give the buyer a full refund of any down payment upon the buyer's cancellation. The rule requires a seller to furnish the buyer with a complete receipt or copy of a contract, along with a notice informing the buyer of the right to cancel the transaction, and to furnish the buyer with a completed Notice of Cancellation. The rule is intended to benefit consumers by permitting them to reflect on their purchase and the terms of any contract, to compare the purchase with offerings of other sellers, and to ascertain the accuracy of any representations made. The resulting costs to sellers include the costs associated with cancellation (processing cancelled orders, returning downpayments, retrieving delivered goods, and returning traded-in merchandise) and the additional cost of printing the required cancellation notices. Since the rule affects all door-to-door sellers, it may have a significant economic effect on a (cont)

Timetable:

Action	Date	FR Cite
Begin Reg Flex Act Review	03/03/83	48 FR 9032
Commission Consideration of Staff Recommendations	04/26/87	
NPRM	06/10/87	52 FR 29539
Commission Consideration of Staff Recommendations	03/00/88	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: substantial number of small entities. The Commission is continuing its review of the rule in accordance with Section 610 of the Regulatory Flexibility Act. Staff has explored non-substantive changes in the notices required by the rule. Staff also has studied possible exemptions for sales of automobiles at public auctions and sales of arts and crafts at fairs. The Commission has issued an NPRM soliciting comment on changes in the notice requirement and possible exemptions from the rule.

Agency Contact: Lewis Franke, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3009

RIN: 3084-AA18

3802. REVIEW OF THE PREMERGER NOTIFICATION RULES AND REPORT FORM

Significance: Agency Priority

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801; 16 CFR 802; 16 CFR 803; 16 CFR 803, (Apendix)

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. In February 1987, the Commission promulgated nine amendments, most of which were designed to reduce the burden of notification. In May 1987, the Commission promulgated an amendment to require that acquisitions by partnerships be reported by persons controlling the partnerships. (cont)

Timetable:

Action	Date	FR Cite
Begin Review	09/30/81	
NPRM -- Controlled Issuers	09/24/85	50 FR 38742
NPRM -- Partnership Control	03/06/87	52 FR 7095
Final Action -- Partnership Control	05/29/87	52 FR 20058
NPRM -- De Minimis Exemption	11/00/87	
Final Action -- Controlled Issuers	03/00/88	
Final Action -- De Minimis Exemption	05/00/88	
NPRM -- Sequential Transactions	09/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT: In fiscal year 1988 the Commission expects to take final action on the proposal to raise the controlled issuer threshold in Section 802.20(b) and to propose rules concerning acquisitions of small percentages of an issuer's voting securities and acquisitions involving dependent sequential transactions.

Agency Contact: John M. Sipple, Jr., Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Washington, DC 20580, 202 326-3300

RIN: 3084-AA23

3803. GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES RULE

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 419

Abstract: The Commission's trade regulation rule concerning games of chance became effective on October 17, 1969. The rule establishes requirements for food and gasoline retailers in conducting and advertising games of chance by requiring disclosure of odds-of-winning and prize information in broadcast and print advertisements, as well as in point of sale information. In January, 1983, the Commission granted a temporary partial exemption to allow supermarkets and gas stations to advertise their games on radio and television without disclosing full information on prizes and odds-of-winning. In addition, the Commission also published an advance notice of proposed rulemaking on whether to make the broadcast exemption permanent. Finally, the Commission has proposed to reduce the recordkeeping requirements of the rule from three years to one year in keeping with the goals of the Paperwork Reduction Act, and requested public comment on other possible areas where amendments to the rule may be appropriate. The rule benefits consumers by allowing contestants to enter games of chance with full knowledge of all material information to enable equal competition for (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	08/19/69	34 FR 13302
ANPRM	01/04/83	48 FR 265
Temporary Partial Exemption	01/10/83	48 FR 1046
Hearings End	01/00/87	
Commission Consideration of Staff Recommendations	05/22/87	
NPRM	10/00/87	
Hearings End	01/00/88	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: prizes. The major costs to industry are the possible burdensomeness of the electronic media disclosure and recordkeeping provisions of the rule, both of which are currently being reconsidered. Possible alternatives include different disclosures, reduced disclosures, or no disclosures. The Commission expects to issue an NPRM in the fall of 1987.

Agency Contact: John M. Mendenhall, Federal Trade Commission, Cleveland Regional Office, Suite 500- Mall Building, 118 St. Clair Ave, Cleveland, Ohio 44114, 216 522-4207

RIN: 3084-AA24

FEDERAL TRADE COMMISSION (FTC) — Final Rule Stage

3804. RETAIL FOOD STORE ADVERTISING AND MARKETING PRACTICES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 424

Abstract: The Commission's Rule on Retail Food Store Advertising and Marketing Practices states that it is a violation of Section 5 of the Federal Trade Commission Act for grocery stores to advertise products at a particular price unless such products are in stock and conspicuously and readily available for sale at the advertised price during the effective period of the advertisement. If a store runs out of advertised products, it is in violation of the rule even if the store noted the limitations on availability in its advertisement and even if the store provides rainchecks or substitute items. The rule is intended to benefit consumers by ensuring that advertised items are available, that advertising-induced purchasing trips are not fruitless, and that store prices accurately reflect the prices appearing in the ads. The rule may cause costs to be incurred in maintaining sufficient inventory to meet anticipated demand, and costs associated with the monitoring of price changes, changing marked prices, training employees to comply with the rule and keeping records to prove compliance. (cont)

BEST COPY AVAILABLE

Timetable:

Action	Date	FR Cite
Comment on Reg Flex Act Review	12/00/83	
ANPRM	12/10/84	49 FR 48059
ANPRM Comment Period End	02/08/85	
NPRM	10/24/85	50 FR 43224
NPRM Comment Period End	01/24/86	
Hearings End	04/02/86	
Rebuttal Period Ends	05/19/86	
Staff Report	12/17/86	
Presiding Officer Report	01/20/87	52 FR 2115
Comment Period on Reports	03/24/87	
Commission Consideration of Staff Recommendations	11/00/87	

Small Entity: Yes

Additional Information: ABSTRACT CONT: The rule may also discourage the advertising of certain kinds of products, such as perishables or goods that are available to the store only in limited supply. The staff concluded from a careful review of the rule's effects that the costs the rule imposes on consumers in the form of higher grocery prices significantly exceeds its benefits. Consequently, staff recommended that the rule be modified so that a store could comply with the rule by clearly and adequately disclosing in its advertisements that there are limitations on availability, or by offering rainchecks or substitute items if supplies run out. The staff concluded that modifying the rule in this way will maintain any benefits it provides to consumers while substantially reducing its costs. The Commission published an NPRM in October, 1985. The hearings have been completed, and the Staff Report published. The staff has sent its recommendations to the Commission for its consideration.

Agency Contact: Walter Gross, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3119

RIN: 3084-AA17

3805. APPLIANCE LABELING RULE -- ENERGY POLICY AND CONSERVATION ACT

Legal Authority: 42 USC 6294 National Energy Conservation Policy Act; PL 94-163 Energy Policy and Conservation Act, Sec 324, 1975

CFR Citation: 16 CFR 305

Abstract: The Energy Policy and Conservation Act (EPCA) required the Commission to consider labeling rules for the disclosure of energy information, based on standard test procedures prescribed by the Department of Energy, for at least 13 categories of major household appliances. The Commission adopted a labeling rule for seven appliance categories: (1) refrigerators and refrigerator- freezers; (2) freezers; (3) dishwashers; (4) clothes washers; (5) water heaters; (6) room air conditioners; and (7) furnaces. The Commission exempted five other categories of appliances. Following DOE's adoption of final test procedures for central air conditioners (and heat pumps), the Commission initiated a rulemaking to consider including these products. The Commission is also considering including two new types of furnaces in the rule's current coverage of furnaces.

The rule mandates that specific energy costs or efficiency information for covered products be disclosed in catalogs and on a label (fact sheets are required for furnaces). The label must include a highlighted energy cost or efficiency disclosure, a range indicating the highest and lowest energy costs or (cont)

Timetable:

Action	Date	FR Cite
NPRM (Air Conditioners)	08/11/80	45 FR 53340
NPRM (Furnaces)	07/24/81	46 FR 38105
Begin Reg Flex Act Review	04/08/85	50 FR 13920
Final Action (Air Cond. & Furn.)	10/00/87	
Commission Consideration of Staff Recommendations	11/00/87	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: efficiencies for all similar appliance models, and a chart that permits an individual to estimate how much it will cost to run the appliance each year based on local utility rates. The primary purpose of the rule is to permit consumers to compare the energy usage of competing appliances and to weigh that information along with other product features.

Since the Commission's rule implements the statutory directives in EPCA, most of the costs imposed on industry members may not be attributable to the rule. The rule applies mainly to manufacturers of household appliances, but does impose some burdens on distributors and retailers. Some of these entities may be small businesses pursuant to Section 610 of the Regulatory Flexibility Act. Therefore, the Commission has begun a review of the rule to determine whether the rule has had a significant economic impact on a substantial number of small entities and, if so, whether the rule should be amended. As a result of this review, several amendments will be proposed for Commission consideration.

Agency Contact: James Mills, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3035

RIN: 3084-AA26

FEDERAL TRADE COMMISSION (FTC) Completed Actions

3806. FRANCHISING AND BUSINESS OPPORTUNITIES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 436

Abstract: The franchise trade regulation rule was adopted in response to evidence of deceptive and unfair practices in connection with the sale of the types of businesses covered by the rule. In some instances prospective franchisees lack a ready means of obtaining essential and reliable information about their proposed business investment. This lack of

information reduces the ability of prospective franchisees either to make an informed investment decision or otherwise verify the representations of the business' salespersons. The rule attempts to deal with these problems by requiring franchisors and franchise brokers to furnish prospective franchisees with information about the franchisor, the franchise business and the terms of the franchise agreement. Franchisors and franchise brokers must furnish additional information if they have made any claim about actual or potential earnings, either to the prospective franchisee or in the media. All disclosures must be made (i) before any sale is made and (ii) by means of disclosure documents whose form and content are set forth in the rule. The rule requires disclosure of (cont)

Timetable:

Action	Date	FR Cite
Rule promulgated	12/21/78	43 FR 59614
Begin Reg Flex Act Review	03/00/84	
Request for Comment on Reg Flex Review	02/24/86	51 FR 6422
End Reg Flex Review	05/15/87	52 FR 18353

Small Entity: No

Additional Information: ABSTRACT CONT: certain information. It does not regulate the substantive terms of the franchisor-franchisee relationship. It does not require registration of the offering or the filing of any documents with the Federal Trade Commission in connection with the sale of franchises. In accordance with Section 610 of the Regulatory Flexibility Act, the Commission has reviewed this rule and determined that no modifications are necessary.

Agency Contact: John M. Tifford, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-2968

RIN: 3084-AA25

[FR Doc. 87-21794 Filed 10-23-87; 8:45 am]

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Timetable:

Action	Date	FR Cite
Comment on Reg Flex Act Review	12/00/83	
ANPRM	12/10/84	49 FR 48059
ANPRM Comment Period End	02/08/85	
NPRM	10/24/85	50 FR 43224
NPRM Comment Period End	01/24/86	
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Staff Report	12/17/86	
Presiding Officer Report	01/20/87	52 FR 2115
Comment Period on Reports	03/24/87	
Commission Consideration of Staff Recommendations	11/00/87	

Small Entity: Yes

Additional Information: ABSTRACT CONT: The rule may also discourage the advertising of certain kinds of products, such as perishables or goods that are available to the store only in limited supply. The staff concluded from a careful review of the rule's effects that the costs the rule imposes on consumers in the form of higher grocery prices significantly exceeds its benefits. Consequently, staff recommended that the rule be modified so that a store could comply with the rule by clearly and adequately disclosing in its advertisements that there are limitations on availability, or by offering rainchecks or substitute items if supplies run out. The staff concluded that modifying the rule in this way will maintain any benefits it provides to consumers while substantially reducing its costs. The Commission published an NPRM in October, 1985. The hearings have been completed, and the Staff Report published. The staff has sent its recommendations to the Commission for its consideration.

Agency Contact: Walter Gross, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3119

RIN: 3084-AA17

3805. APPLIANCE LABELING RULE — ENERGY POLICY AND CONSERVATION ACT

Legal Authority: 42 USC 6294 National Energy Conservation Policy Act; Pt. 94-163 Energy Policy and Conservation Act, Sec 324, 1975

CFR Citation: 16 CFR 305

Abstract: The Energy Policy and Conservation Act (EPCA) required the Commission to consider labeling rules for the disclosure of energy information, based on standard test procedures prescribed by the Department of Energy, for at least 13 categories of major household appliances. The Commission adopted a labeling rule for seven appliance categories: (1) refrigerators and refrigerator- freezers; (2) freezers; (3) dishwashers; (4) clothes washers; (5) water heaters; (6) room air conditioners; and (7) furnaces. The Commission exempted five other categories of appliances. Following DOE's adoption of final test procedures for central air conditioners (and heat pumps), the Commission initiated a rulemaking to consider including these products. The Commission is also considering including two new types of furnaces in the rule's current coverage of furnaces.

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Small Entity: Undetermined

Additional Information: ABSTRACT CONT: efficiencies for all similar appliance models, and a chart that permits an individual to estimate how much it will cost to run the appliance each year based on local utility rates. The primary purpose of the rule is to permit consumers to compare the energy usage of competing appliances and to weigh that information along with other product features.

Since the Commission's rule implements the statutory directives in EPCA, most of the costs imposed on industry members may not be attributable to the rule. The rule applies mainly to manufacturers of household appliances, but does impose some burdens on distributors and retailers. Some of these entities may be small businesses pursuant to Section 610 of the Regulatory Flexibility Act. Therefore, the Commission has begun a review of the rule to determine whether the rule has had a significant economic impact on a substantial number of small entities and, if so, whether the rule should be amended. As a result of this review, several amendments will be proposed for Commission consideration.

Agency Contact: James Mills, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-3035

RIN: 3084-AA26

FEDERAL TRADE COMMISSION (FTC) — Completed Actions

3606. FRANCHISING AND BUSINESS OPPORTUNITIES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 436

Abstract: The franchise trade regulation rule was adopted in response to evidence of deceptive and unfair practices in connection with the sale of the types of businesses covered by the rule. In some instances prospective franchisees lack a ready means of obtaining essential and reliable information about their proposed business investment. This lack of information reduces the ability of prospective franchisees either to make an informed investment decision or otherwise verify the representations of the business' salespersons. The rule attempts to deal with these problems by requiring franchisors and franchise brokers to furnish prospective franchisees with information about the franchisor, the franchise business and the terms of the franchise agreement. Franchisors and franchise brokers must furnish additional information if they have made any claim about actual or potential earnings, either to the prospective franchisee or in the media. All disclosures must be made (i) before any sale is made and (ii) by means of disclosure documents whose form and content are set forth in the rule. The rule requires disclosure of (cont)

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Begin Reg Flex Act Review	03/00/84	
Request for Comment on Reg Flex Review	02/24/86	51 FR 6422
End Reg Flex Review	05/15/87	52 FR 18353

Small Entity: No

Additional Information: ABSTRACT CONT: certain information. It does not regulate the substantive terms of the franchisor-franchisee relationship. It does not require registration of the offering or the filing of any documents with the Federal Trade Commission in connection with the sale of franchises. In accordance with Section 610 of the Regulatory Flexibility Act, the Commission has reviewed this rule and determined that no modifications are necessary.

Agency Contact: John M. Tifford, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 326-2958

RIN: 3084-AA25

[FR Doc. 87-21794 Filed 10-23-87; 8:45 am]

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Part LIII

Interstate Commerce Commission

Semiannual Regulatory Agenda

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INTERSTATE COMMERCE COMMISSION (ICC)

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 420 (Sub-No. 13)]

Semiannual Regulatory Agenda

AGENCY: Interstate Commerce Commission.

ACTION: Notice of semiannual regulatory agenda to be part of a Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to OMB Bulletin No. 87-16, issued under section 6(b) of E.O. 12291 to implement the provisions of section 5 of the Executive Order concerning Regulatory Agendas, the Commission is publishing an agenda of (1) current and projected rulemakings, and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: A list of proceedings appears below containing information about subject areas in which the Commission is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda also identifies regulations likely to have a significant economic impact on a substantial number of "small entities." Accordingly, this information will satisfy the requirements of section 602 of the Regulatory Flexibility Act, 5 U.S.C. 602.

Finally, this agenda will comprise part of a Unified Agenda of Federal Regulations compiled by the Office of Management and Budget which is to be published in a single issue of the **Federal Register** in October 1987. The purpose of the Unified Agenda is to provide the public with more comprehensive documentation of the Federal government's current regulatory plans, and to provide a systematic means of monitoring regulatory activity in each agency.

This notice is issued pursuant to 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: August 11, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

INTERSTATE COMMERCE COMMISSION (ICC) — Prerule Stage

3807. ● CLASS EXEMPTION FOR RAIL CONSTRUCTION, EX PARTE NO. 392 (SUB-NO. 3)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10901; 5 USC 553; 5 USC 559; 5 USC 704

CFR Citation: 49 CFR 1150.35

Legal Deadline: None.

Abstract: The Commission is considering whether to exempt from regulation all applications under 49 USC 10901 for construction and operation of new lines of railroad.

Timetable:

Action	Date	FR Cite
ANPRM	06/02/87	52 FR 20632
ANPRM Comment Period End	07/02/87	52 FR 20632
Comments under evaluation	00/00/00	

Small Entity: No

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7278

RIN: 3120-AB50

INTERSTATE COMMERCE COMMISSION (ICC) — Proposed Rule Stage

3808. REVIEW OF CAR-HIRE REGULATION, EX PARTE NO. 334 (SUB-NO. 6)

Legal Authority: 49 USC 10321; 49 USC 10706; 49 USC 10734; 49 USC 11122; 5 USC 553

CFR Citation: 49 CFR 1033; 49 CFR 1036

Legal Deadline: None.

Abstract: The Commission is considering whether regulation of railroad car-hire charges (except charges for boxcars) should be retained, modified, or eliminated.

Timetable:

Action	Date	FR Cite
ANPRM	04/29/85	50 FR 16724
ANPRM Comment Period End	06/28/85	50 FR 27031
Supplemental Comment Period	02/07/86	50 FR 52972
Comments under Internal Review	00/00/00	

Small Entity: No

Additional Information: This proceeding embraces the proposals and record developed in Zone of Reasonableness for Car-Hire Charges, Ex Parte No. 334 (Sub-No. 5), RIN 3120-AA13. In a related proceeding, Ex Parte No. 334 (Sub-No. 7), Suspension of Car-Hire Updates, all further updates of car-hire charges have been suspended pending completion of Review of Car-Hire Regulation, Ex Parte No. 334 (Sub-

No. 6). Notice of suspension appeared at 51 FR 268 on 01/03/86.

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120-AA13

3809. ADOPTION OF UNIFORM RAIL COSTING SYSTEM FOR DETERMINING VARIABLE COST FOR JURISDICTIONAL THRESHOLD AND SURCHARGE PURPOSES (URCS), EX PARTE NO. 431

Significance: Agency Priority

Legal Authority: 49 USC 10705(a); 49 USC 10709

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: Develops new cost methodology applicable to the rail industry as mandated in the 1976 4-R Act and the 1980 Staggers Rail Act.

Timetable:

Action	Date	FR Cite
NPRM	01/31/83	48 FR 4582
NPRM Comment Period End	03/25/83	48 FR 25390
Decision to hold in abeyance until further notice	11/13/84	49 FR 45080
Draft notice of study being prepared	00/00/00	

Small Entity: Yes

Additional Information: Ex Parte No. 431 held in abeyance until Rail Accounting Principles Board completes its findings. Implementation will be during calendar year 1988.

Agency Contact: William T. Bono, Chief, Section of Cost Development, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7354

RIN: 3120-AA83

3810. TRANSFERS OF OPERATING RIGHTS, EX PARTE NO. MC-111 (SUB-NO. 1)

Significance: Agency Priority

Legal Authority: 49 USC 10101; 49 USC 10926; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1045.11; 49 CFR 1132; 49 CFR 1133; 49 CFR 1141; 49 CFR 1151

Legal Deadline: None.

Abstract: When motor carriers, water carriers, brokers, and freight forwarders seek to transfer their operating rights, they must follow Commission procedures. Proposed regulations will seek to consolidate the various regulations, streamline them, and simplify the entire procedure.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Yes

Agency Contact: Warren Wood, Senior Attorney, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7977

RIN: 3120-AA91

3811. ELECTRONIC FILING OF TARIFFS, EX PARTE NO. 444

Legal Authority: 49 USC 10321; 49 USC 10762

CFR Citation: 49 CFR 1312

Legal Deadline: None.

Abstract: Commission regulations require filing of tariffs in printed form. The Commission is considering establishing rules and procedures to permit carriers to file tariffs electronically. The advance notice of proposed rulemaking seeks comments from interested parties.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/83	48 FR 18861
ANPRM Comment Period End	09/22/83	
Presently under internal evaluation	09/00/00	

Small Entity: Undetermined

Agency Contact: Charles E. Langyher, III, Chief, Section of Tariffs, Interstate Commerce Commission, Bureau of Traffic, Washington, DC 20423, 202 275-7739

RIN: 3120-AA99

3812. RAIL GENERAL EXEMPTION AUTHORITY - MISCELLANEOUS PROCESSED AND MANUFACTURED COMMODITIES

Legal Authority: 49 USC 10505

CFR Citation: 49 CFR 1039

Legal Deadline: None.

Abstract: 49 USC 10505 requires that the Commission exempt from regulation the movement by rail of traffic for which it finds continued regulation no longer necessary to serve the Nation's transportation policy objectives and to protect shippers from abuse of market power by the railroads. In examining the transportation characteristics and markets of various commodities moving by rail, there appear to be many products for which sufficient competition exists among transportation alternatives so that regulation may no longer be necessary. Exemption of such commodities should provide increased rate and service flexibility for railroads to meet shippers' needs and to compete more effectively for the subject traffic. Anticipated benefits include lower rates and improved service, at a possible "cost" of increased price instability and competition to alternative transport firms.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	

Small Entity: Undetermined

Agency Contact: Robert Lundy, Economist, Interstate Commerce Commission, Washington, DC 20423, 202 275-6853

RIN: 3120-AB08

3813. PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS (REVISION OF OPERATIONAL REGULATIONS), EX PARTE NO. MC-19 (SUB-NO. 36)

Legal Authority: 49 USC 11110

CFR Citation: 49 CFR 1056

Legal Deadline: None.

Abstract: This proceeding involves a plenary review of the household goods regulations in which the Commission invites public comment and proposals which would minimize the regulatory burden on movers to the maximum extent consistent with the protection of individual shippers.

Timetable:

Action	Date	FR Cite
ANPRM	10/26/83	48 FR 49561
ANPRM Comment Period End	01/12/84	48 FR 49561
NPRM	11/00/87	

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ICC — Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	12/00/87	

Small Entity: Yes

Agency Contact: Patricia M. Schulze, Transportation Industry Analyst, Interstate Commerce Commission, OCCA, Washington, DC 20423, 202 275-7841

RIN: 3120-AB17

3814. EXEMPTION OF DEMURRAGE FROM REGULATION, EX PARTE NO. 462

Significance: Agency Priority

Legal Authority: 49 USC 10505; 49 USC 10750; 49 USC 11121 to 11122; 5 USC 553

CFR Citation: 49 CFR 1033

Legal Deadline: None.

Abstract: The Commission is considering whether to exempt in whole or in part rail demurrage from regulation.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/85	50 FR 51565
ANPRM Comment Period End	01/17/86	50 FR 51565
Extension of Public Comment Period	01/21/86	51 FR 2740
Comment Period End	03/18/86	51 FR 2740
Internal Review of Comments	00/00/00	

Small Entity: No

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120-AB35

3815. RATE GUIDELINES-NON-COAL PROCEEDINGS, EX PARTE NO. 347 (SUB NO. 2)

Significance: Agency Priority

Legal Authority: 49 USC 10301; 49 USC 10321; 49 USC 10326; 49 USC 10701a; 49 USC 10704; 49 USC 10707; 49 USC 11701; 5 USC 553

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: Proposal to adopt maximum rate reasonableness guidelines for captive non-coal commodities. Request for comments on alternative guidelines for small shippers including small coal shippers.

Timetable:

Action	Date	FR Cite
Notice of proposed policy stmt.	05/22/86	51 FR 18811
Notice of Intent to Participate due	06/02/86	
Comments due	07/21/86	
Begin Review	07/24/87	
Comments under internal evaluation	09/30/87	
End Review	09/30/87	

Small Entity: Undetermined

Agency Contact: Ronald S. Young, Director, Bureau of Accounts, Interstate Commerce Commission, 12th & Constitution Ave., NW, Washington, DC 20423, 202 275-7565

RIN: 3120-AB41

3816. CLASS EXEMPTION FOR THE CONSTRUCTION OF CONNECTING TRACKS UNDER 49 USC 10901, EX PARTE NO. 392 (SUB-NO. 2)

Significance: Agency Priority

Legal Authority: 5 USC 553; 49 USC 10321; 49 USC 10901; 49 USC 10505

CFR Citation: 49 CFR 1150

Legal Deadline: None.

Abstract: The Commission proposes to exempt from the prior approval requirements of 49 U.S.C. 10901, the construction of rail connecting tracks, except those construction projects that would result in a major market extension as defined at 49 CFR 1180.3(c).

Timetable:

Action	Date	FR Cite
NPRM	07/24/86	51 FR 26563
NPRM Comment Period End	08/25/86	
Internal review of comments	00/00/00	

Small Entity: No

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AB43

3817. COST RATIO FOR RECYCLABLES - COMPLIANCE PROCEDURES, EX PARTE NO. 394 (SUB-NO. 3)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10731; 5 USC 553

CFR Citation: 49 CFR 1134; 49 CFR 1135; 49 CFR 1145

Legal Deadline: None.

Abstract: The Commission is proposing rules that will establish procedures by which the Commission annually will (a) announce the revenue-to-variable cost ratio required by 49 USC 10731(e) to apply for the following calendar year; (b) monitor and take necessary action to ensure continued compliance by the railroads with 49 USC 10731(e); and (c) prohibit further rate increases, including those authorized under 49 USC 10707a(a)-(d), on recyclables having revenue/variable cost ratios in excess of the statutory cap level until such rates fall to below the cap level or the statutory cap level increases by Commission order.

Timetable:

Action	Date	FR Cite
ANPRM	06/16/86	51 FR 21780
Extension of time for filing comments on ANPRM; new date: 10/15/86	08/12/86	51 FR 28847
ANPRM Comment Period End	09/15/86	51 FR 21780
NPRM	04/23/87	52 FR 13462
NPRM Comment Period End	07/22/87	52 FR 13462
Comments under evaluation	00/00/00	

Small Entity: No

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120-AB47

3818. ● EXEMPTION OF RAIL LINE ABANDONMENTS OR DISCONTINUANCES; OFFERS OF FINANCIAL ASSISTANCE, EX PARTE NO. 274 (SUB-NO. 16)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10903 et seq; 5 USC 553

ICC — Proposed Rule Stage

CFR Citation: 49 CFR 1152.27; 49 CFR 1152.50

Legal Deadline: None.

Abstract: The Commission proposes to authorize offers of financial assistance to subsidize or acquire rail lines subject to an abandonment or discontinuance of service proposed under the Commission's class exemption or individual petition for exemption process. The proposed rule would generally incorporate the financial assistance procedures of 49 USC 10905 in the Commission's exemption process.

Timetable:

Action	Date	FR Cite
NPRM	03/12/87	52 FR 7628
NPRM Comment Period End	05/26/87	52 FR 7628
Comments under evaluation	00/00/00	

Small Entity: No

Agency Contact: Joseph H. Dettmar, Deputy Director, Rail Section, Interstate Commerce Commission, Room 2144, Washington, DC 20423, 202 275-7245

RIN: 3120-AB49

INTERSTATE COMMERCE COMMISSION (ICC) — Final Rule Stage

3819. REVISION OF ACCOUNTING AND REPORTING REQUIREMENTS FOR MOTOR CARRIERS OF PROPERTY, DOCKET NO. 38904

Significance: Agency Priority

Legal Authority: 49 USC 11142

CFR Citation: 49 CFR 1207; 49 CFR 1249

Legal Deadline: None.

Abstract: This rule would eliminate all the Commission's accounting and reporting rules for Class I and II common and contract motor carriers of property.

Timetable:

Action	Date	FR Cite
NPRM	02/21/85	50 FR 7201
NPRM Comment Period End	04/08/85	
Final Action	03/31/87	52 FR 10382
Final Action Stayed	05/01/87	
Action on Petition for Reconsideration	11/00/87	

Small Entity: No

Additional Information: Petitions filed on 38904 granted by the Commission; Decision decided May 1, 1987, stayed pending administrative review.

Agency Contact: Andrew J. Lee, Assistant Chief, Interstate Commerce Commission, Section of Accounting and Reporting, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7510

RIN: 3120-AA84

3820. ● REVISION OF TARIFF REGULATIONS; COMPUTER DETERMINATION OF MILEAGES, NO. 37321 (SUB-NO. 1)

Legal Authority: 49 USC 10321; 49 USC 10762; 5 USC 553

CFR Citation: 49 CFR 1312

Legal Deadline: None.

Abstract: The I.C.C. sought comment on its proposed rule which would allow all motor common carriers to file electronic distance determination systems. Present rule requires that distance guides contain maps and/or comprehensive tables of distances between points. The proposed rule would allow for the filing of guides which refer to computer programs that provide distances to be used in connection with carriers' tariffs of mileage rates. Comments also sought on other proposals for "other than paper" filing of tariff matter.

Timetable:

Action	Date	FR Cite
NPRM	04/06/87	52 FR 10913
NPRM Comment Period End	05/06/87	
Notice of final rule	09/15/87	
Final Action	09/15/87	
Final Action Effective	10/15/87	

Small Entity: No

Agency Contact: Lawrence Herzig, Chief, Section of Rates & Informal Cases, Interstate Commerce Commission, Bureau of Traffic, Washington, DC 20423, 202 275-6887

RIN: 3120-AB51

INTERSTATE COMMERCE COMMISSION (ICC) — Completed Actions

3821. HANDLING OF C.O.D. SHIPMENTS, EX PARTE NO. MC-42

CFR Citation: 49 CFR 1052

Completed:

Reason	Date	FR Cite
Final Action	04/14/87	52 FR 11991
Final Action Effective	05/ 4/87	52 FR 11991

Small Entity: No

Agency Contact: Tom Barry 202 275-7540

RIN: 3120-AA42

3822. IMPROVEMENT OF TOFC/COFC REGULATION (RAILROAD AFFILIATED MOTOR CARRIERS AND OTHER MOTOR CARRIERS), EX PARTE NO. 230 (SUB-NO. 6)

Significance: Agency Priority

CFR Citation: 49 CFR 1039; 49 CFR 1090

Completed:

Reason	Date	FR Cite
Final Action	06/24/87	52 FR 23660
Final Action Effective	07/23/87	52 FR 23660

Small Entity: No

Agency Contact: Joseph H. Dettmar 202 275-7245

RIN: 3120-AA47

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3823. PROCEDURES FOR REQUESTING RAIL VARIABLE COST AND REVENUES DETERMINATION FOR JOINT RATES SUBJECT TO SURCHARGE OR CANCELLATION, EX PARTE NO. 389

CFR Citation: 49 CFR 1136

Completed:

Reason	Date	FR Cite
Final Action	04/27/87	52 FR 13841
Final Action Effective	05/27/87	52 FR 13841

Small Entity: No

Agency Contact: Joseph H. Dettmar 202 275-7245

RIN: 3120-AA57

3824. REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED IN CONNECTION WITH LICENSING AND RELATED SERVICES, EX PARTE NO. 246 (SUB-NO. 2)

CFR Citation: 49 CFR 1002

Completed:

Reason	Date	FR Cite
Final Action	04/21/87	52 FR 13244
Final Action Effective	06/01/87	

Small Entity: No

Agency Contact: Kathleen M. King 202 275-7428

RIN: 3120-AA90

3825. POLICY ON RELEASE OF DATA FROM THE ICC WAYBILL SAMPLE

CFR Citation: 49 CFR 1244.8

Completed:

Reason	Date	FR Cite
Final Action	04/16/87	52 FR 12415
Final Action Effective	05/16/87	

Small Entity: No

Agency Contact: James A. Nash 202 275-6864

RIN: 3120-AB20

3826. SHORT NOTICE EFFECTIVENESS FOR INDEPENDENTLY FILED SINGLE-FACTOR MOTOR-WATER RATES, EX PARTE NO. MC-170 (SUB-NO. 1)

Significance: Agency Priority

CFR Citation: 49 CFR 1312

Completed:

Reason	Date	FR Cite
Final Action	05/01/87	52 FR 15840
Final Action Effective	06/01/87	52 FR 15840

Small Entity: No

Agency Contact: Ardith Horne 202 275-1764

RIN: 3120-AB26

3827. ELIMINATION OF ACCOUNTING AND REPORTING REQUIREMENTS FOR MOTOR CARRIERS OF PASSENGERS, NO. 39059

Significance: Agency Priority

CFR Citation: 49 CFR 1206; 49 CFR 1249

Completed:

Reason	Date	FR Cite
Final Action	05/29/87	52 FR 20299
Final Action Effective	01/01/87	52 FR 20299

Small Entity: No

Agency Contact: Andrew J. Lee 202 275-7518

RIN: 3120-AB31

[FR Doc. 87-21268 Filed 10-23-87; 8:45 am]

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federal register

Monday
October 26 1987

Part LIV

National Credit Union Administration

Semiannual Regulatory Agenda

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual agenda of regulations.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemaking, reviews of existing regulations, and completed actions as of June 30, 1987. NCUA will also include this agenda in the "Unified Agenda of Federal Regulations."

DATE: This information is current as of June 30, 1987.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: On a particular regulation, contact the person(s) named in the listing for that regulation at the above address.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to track regulatory development and review at NCUA and to enable interested parties to more effectively participate in that process. The agenda is divided into three parts describing, respectively, (1) actions completed since the last agenda; (2) current rulemaking proceedings and regulatory reviews; and (3) projected rulemaking and reviews. Interpretive Rulings and Policy Statements (IRPS) and Guidelines promulgated by NCUA are also included in the agenda.

The agenda is published pursuant to NCUA's statement of policy concerning development and review of regulations (IRPS 81-4, 46 FR 2948). The Regulatory Flexibility Act (5 U.S.C. 601, et seq.) does not require independent executive agencies to publish the agenda. NCUA, as an independent executive agency, will voluntarily include this agenda in the Office of Management and Budget's next publication of its "Unified Agenda of Federal Regulations." The NCUA Board believes that participation in this joint publication will further the public interest by including NCUA in a single source of information concerning current and projected rulemaking and reviews of existing regulations.

Approved by the NCUA Board this 13th day of July, 1987.

Becky Baker,

Secretary of the Board.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3828	Reserves	3133-AA12
3829	Nondiscrimination Requirements	3133-AA17
3830	Refund of Interest	3133-AA36
3831	Rules of Board Procedure	3133-AA39
3832	Operational Procedures for Share Draft Programs; Federally Insured State Chartered Credit Unions	3133-AA42
3833	Definitions	3133-AA47
3834	Financial and Statistical and Other Reports	3133-AA48
3835	Loan Participation	3133-AA49
3836	Purchase, Sale and Pledge of Eligible Obligations	3133-AA50
3837	Compensation of Officials	3133-AA51
3838	Federal Credit Unions Acting as Depositories and Financial Agents of the Government	3133-AA53
3839	Borrowed Funds From Natural Persons	3133-AA54
3840	Records Preservation Programs	3133-AA56
3841	Employee Responsibility and Conduct	3133-AA64
3842	Liquidations	3133-AA65
3843	Corporate Credit Unions	3133-AA68
3844	Proposed IRPS 87-1 - Request for Comments on Proposed Guidelines Regarding Bank Bribery Law	3133-AA77
3845	Fidelity Bond and Insurance Coverage for Federal Credit Unions	3133-AA78

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3846	Establishment of a Cash Fund	3133-AA34
3847	Other Applications	3133-AA44
3848	Mortgage-Backed Obligations	3133-AA73
3849	Conflict of Interest Provisions	3133-AA81

NCUA

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3850	Community Development Revolving Loan Program for Credit Unions	3133-AA37

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3851	Mergers of Federally-Insured Credit Unions, Voluntary Termination or Conversion of Insured Status	3133-AA59
3852	Loans to Members and Lines of Credit to Members; Requirements for Insurance and Voluntary Termination of Insurance	3133-AA67
3853	Loan Interest Rates	3133-AA76
3854	Freedom of Information Act (FOIA) Regulation Revisions	3133-AA78
3855	Guidelines Concerning Recordkeeping and Reporting Under the Bank Secrecy Act	3133-AA80

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Prerule Stage

3828. RESERVES

Legal Authority: 12 USC 1762; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 702.1; 12 CFR 702.2

Legal Deadline: None.

Abstract: These regulations set forth the requirements for the establishment and maintenance of a regular reserve (as provided by the Federal Credit Union Act) and set forth procedures for applications for approval to decrease reserves.

Timetable:

Action	Date	FR Cite
End Review	12/31/86	
Initial staff review complete; further review will be completed by	12/31/87	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Michael Riley, Director, Office of Examination and Insurance, (202) 357-1065.

Agency Contact: Robert Fenner, General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA12

3829. NONDISCRIMINATION REQUIREMENTS

Legal Authority: 12 USC 1757; 12 USC 1759; 12 USC 1766; 12 USC 1786; 12 USC 1789; 24 USC 3601 to 3610; 24 USC 1981; 15 USC 1601 et seq

CFR Citation: 12 CFR 701.31

Legal Deadline: None.

Abstract: This regulation sets forth prohibitions against discrimination by Federal credit unions in making real estate related loans and appraisals. The regulation also sets forth guidelines for compliance with the Fair Housing Act and court decisions rendered thereunder.

Timetable:

Action	Date	FR Cite
End Review	12/31/86	
Initial staff review complete; further review to be completed by	12/00/87	

Small Entity: No

Agency Contact: Hattie M. Ulan, Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA17

3830. REFUND OF INTEREST

Legal Authority: 12 USC 1766(a); 12 USC 1761b(9)

CFR Citation: 12 CFR 701.24

Legal Deadline: None.

Abstract: This rule provides the conditions and limitations on an FCU making interest payment refunds to members who paid interest on loans during a dividend period.

Timetable:

Action	Date	FR Cite
Initial review indicated further revision may be necessary. Further action will be taken	12/00/87	

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA36

3831. RULES OF BOARD PROCEDURE

Legal Authority: 12 USC 1752a(d)

CFR Citation: 12 CFR 791

Legal Deadline: None.

NCUA

Prerule Stage

Abstract: This regulation sets forth the rules of procedure governing how the Board will conduct its business.

Timetable:

Action	Date	FR Cite
Expect to present draft proposed rule to the Board by	10/31/87	

Small Entity: No

Agency Contact: Rosemary Brady, Assistant Executive Director, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1100

RIN: 3133-AA39

3832. OPERATIONAL PROCEDURES FOR SHARE DRAFT PROGRAMS; FEDERALLY INSURED STATE CHARTERED CREDIT UNIONS

Legal Authority: 12 USC 1766(a); 12 USC 1785(f)(1)

CFR Citation: 12 CFR 761

Legal Deadline: None.

Abstract: The rule provides the regulatory authority for federally insured state chartered credit unions to offer share draft accounts.

Timetable:

Action	Date	FR Cite
Initial Staff review complete - further action will be taken by	12/00/87	

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA42

3833. DEFINITIONS

Legal Authority: 12 USC 1752(5); 12 USC 1757(6); 12 USC 1766(a)

CFR Citation: 12 CFR 700.1

Legal Deadline: None.

Abstract: This regulation sets forth basic definitions applicable in all of NCUA's regulations. The definitions will be reviewed for accuracy and simplification.

Timetable:

Action	Date	FR Cite
Initial staff review will be completed by	12/00/87	

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA47

3834. FINANCIAL AND STATISTICAL AND OTHER REPORTS

Legal Authority: 12 USC 1756; 12 USC 1766; 12 USC 1782; 12 USC 1789

CFR Citation: 12 CFR 701.13

Legal Deadline: None.

Abstract: This regulation sets forth reporting requirements for Federal credit unions. The regulation will be reviewed for accuracy and consistency with other regulations.

Timetable:

Action	Date	FR Cite
Initial staff review will be completed by	12/00/87	

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA48

3835. LOAN PARTICIPATION

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.22

Legal Deadline: None.

Abstract: This regulation sets forth definitions and requirements for Federal credit unions that wish to participate in making loans with other credit unions, credit union organizations or financial organizations. The regulation will be reviewed to determine the need to update, revise and simplify it.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/00/87	

Small Entity: No

Agency Contact: Roy DeLoach, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA49

3836. PURCHASE, SALE AND PLEDGE OF ELIGIBLE OBLIGATIONS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.23

Legal Deadline: None.

Abstract: This regulation sets forth definitions and requirements for Federal credit unions that wish to purchase, sell or pledge a loan or group of loans. The regulation will be reviewed to determine the need to update, review and simplify it.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/00/87	

Small Entity: No

Agency Contact: Roy DeLoach, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA50

3837. COMPENSATION OF OFFICIALS

Legal Authority: 12 USC 1761; 12 USC 1761a; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.33

Legal Deadline: None.

Abstract: This regulation sets out the restrictions on compensation to Federal credit union directors and credit and supervisory committee members. The regulation will be reviewed for accuracy and consistency with the Federal Credit Union Act.

NCUA

Prerule Stage

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/00/87	

Small Entity: No

Agency Contact: Roy DeLoach, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA51

3838. FEDERAL CREDIT UNIONS ACTING AS DEPOSITORIES AND FINANCIAL AGENTS OF THE GOVERNMENT

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1767; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.37-2

Legal Deadline: None.

Abstract: This regulation sets out the authority for and requirement of federally insured credit unions when they serve as depositories and financial agents of the United States Government. It also lists the functions credit unions may perform in this capacity. The regulation will be reviewed for clarification and simplification.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/00/87	

Small Entity: No

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA53

3839. BORROWED FUNDS FROM NATURAL PERSONS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.38

Legal Deadline: None.

Abstract: This regulation sets forth the requirements a Federal credit union must meet when it borrows funds from natural persons. The regulation will be reviewed to determine whether clarification or simplification is necessary.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/00/87	

Small Entity: No

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA54

3840. RECORDS PRESERVATION PROGRAMS

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 749

Legal Deadline: None.

Abstract: This regulation mandates that Federal credit unions maintain a records preservation program. It sets forth program implementation procedures and also lists what records must be stored. This regulation will be reviewed to determine the need to update, revise and simplify.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/00/87	

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA56

3841. EMPLOYEE RESPONSIBILITY AND CONDUCT

Legal Authority: EO 11222; 5 CFR 735.104; 12 USC 1766

CFR Citation: 12 CFR 792

Legal Deadline: None.

Abstract: Legal and regulatory requirements concerning employee ethics are currently found in Part 792 of the NCUA Regulations, the NCUA Examiners Guide, the Office of Personnel Management's Regulations, and various Federal statutes. Staff has circulated a draft of a proposed comprehensive rule within the Agency.

Timetable:

Action	Date	FR Cite
Staff expects to present a draft proposed rule to the Board by	10/31/87	

Small Entity: No

Additional Information: Additional Agency Contact: Rosemary Brady, Assistant Executive Director, Office of the Board (202) 357-1100.

Agency Contact: James J. Engel, Deputy General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA64

3842. LIQUIDATIONS

Legal Authority: 12 USC 1766(a); 12 USC 1786; 12 USC 1789

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: An outdated Involuntary Liquidation Manual exists. A new draft Involuntary Liquidation Manual has been written and is being circulated for comments within the Agency.

Timetable:

Action	Date	FR Cite
Task force expects to present a draft, updated liquidation manual to the Board	12/00/87	

Small Entity: No

Agency Contact: Timothy Hornbrook/Allan Meltzer, Director of Risk Management/Assistant General Counsel, National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA65

3843. CORPORATE CREDIT UNIONS

Legal Authority: 12 USC 1762; 12 USC 1766(a); 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 704

Legal Deadline: None.

NCUA — **Prerule Stage**

Abstract: A task force has completed its review of the corporate credit union system. The revised corporate examination process began in October 1986. In July 1987, staff will begin to evaluate whether a change in the regulation is necessary.

Timetable:

Action	Date	FR Cite
Review of the current regulation will begin	07/00/87	

Next Action Undetermined

Small Entity: No

Agency Contact: D. Michael Riley or Nicholas Veghts, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA68

3844. PROPOSED IRPS 87-1 - REQUEST FOR COMMENTS ON PROPOSED GUIDELINES REGARDING BANK BRIBERY LAW

Legal Authority: 18 USC 215

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: The Bank Bribery Amendments Act of 1985 requires that Federal agencies with responsibility for regulating financial institutions establish joint guidelines to assist financial institution officials in complying with the law. The proposed IRPS is a modified version of the guidelines developed by the Interagency Bank Fraud Group.

Timetable:

Action	Date	FR Cite
Final guidelines are expected by	09/30/87	52 FR 23089

Small Entity: No

Agency Contact: John K. Ianno, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA77

3845. ● FIDELITY BOND AND INSURANCE COVERAGE FOR FEDERAL CREDIT UNIONS

Legal Authority: 12 USC 1761a; 12 USC 1761b; 12 USC 1766(s); 12 USC 1766(h); 12 USC 1789(A)(11)

CFR Citation: 12 CFR 701.20

Legal Deadline: None.

Abstract: Staff will review whether changes in the notice requirements of bond forms approved for Federal credit union use are appropriate. A general review and update of the regulatory requirements will also be made.

Timetable:

Action	Date	FR Cite
Staff expects to present a draft proposed regulation to the Board by	10/31/87	

Small Entity: No

Agency Contact: Allan Meltzer, Assistant General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA79

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — **Proposed Rule Stage**

3846. ESTABLISHMENT OF A CASH FUND

Legal Authority: 12 USC 1757(12)

CFR Citation: 12 CFR 701.10

Legal Deadline: None.

Abstract: This rule provides the regulatory authority to cash checks and money orders.

Timetable:

Action	Date	FR Cite
Initial staff review complete. Further action expected by	12/00/87	

Small Entity: No

Agency Contact: Roy DeLoach, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA34

3847. OTHER APPLICATIONS

Legal Authority: 12 USC 1766(a)

CFR Citation: 12 CFR 701.5

Legal Deadline: None.

Abstract: This rule specifies the manner in which applications, requests or submittals to NCUA, not addressed in other sections shall be presented to the Agency.

Timetable:

Action	Date	FR Cite
Initial staff review complete. Staff will make recommendation to the Board by	12/00/87	

Small Entity: No

Agency Contact: Julie Tamuleviz, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA44

3848. MORTGAGE-BACKED OBLIGATIONS

Legal Authority: 12 USC 1757(15); 12 USC 1766; 12 USC 1789

CFR Citation: Not applicable

Legal Deadline: None.

Abstract: Pursuant to Section 107(15) of the FCU Act (12 U.S.C. 1757(15)), the NCUA Board issued a request for comments on the issues surrounding FCU investment in mortgage-backed obligations.

NCUA — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
Staff expects to present a recommendation or draft proposed regulation to the Board by	06/30/87	
NPRM	07/27/87	52 FR 27994
NPRM Comment Period End	09/18/87	52 FR 27994

Small Entity: No

Additional Information: Additional contact: Steven R. Bisker, Assistant General Counsel, telephone (202) 357-1030.

Agency Contact: D. Michael Riley, Director, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA73

3849. ● CONFLICT OF INTEREST PROVISIONS

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.27; 12 CFR 701.38; 12 CFR 703.4; 12 CFR 721.2

Legal Deadline: None.

Abstract: These sections contain the conflict of interest provisions of various NCUA regulations. A proposed rule to make all of the provisions consistent with a similar provision in NCUA's lending regulation has been issued by the NCUA Board.

Timetable:

Action	Date	FR Cite
NPRM	07/29/87	52 FR 28274
NPRM Comment Period End	09/21/87	
Final Action	12/31/87	

Small Entity: No

Agency Contact: James J. Engel, Deputy General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA81

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — **Final Rule Stage**

3850. COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

Legal Authority: 12 USC 1766; 42 USC 9822 (note); 12 USC 1759; 12 USC 1766(f); 42 USC 2981; 42 USC 2985(e)

CFR Citation: 12 CFR 705

Legal Deadline: None.

Abstract: The proposed regulation establishes a revised program under which loans from the Community Development Credit Union Revolving Loan Fund will be made to participating credit unions.

Timetable:

Action	Date	FR Cite
NPRM	04/09/87	52 FR 12427
NPRM Comment Period End	06/19/87	52 FR 12427
Final Action	09/30/87	

Small Entity: No

Additional Information: Anticipate final rule by October 1, 1987.

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA37

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — **Completed Actions**

3851. MERGERS OF FEDERALLY-INSURED CREDIT UNIONS, VOLUNTARY TERMINATION OR CONVERSION OF INSURED STATUS

Legal Authority: 12 USC 1766; 12 USC 1785; 12 USC 1786; 12 USC 1789

CFR Citation: 12 CFR 708

Legal Deadline: None.

Abstract: The Final Rule sets forth requirements for credit union mergers, provisions regarding termination or conversion of Federal insurance and forms to be used in obtaining membership approval of these actions.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43377
NPRM Comment Period End	01/30/87	51 FR 43377
Final Action	04/16/87	52 FR 12370
Final Action by	04/30/87	
Final Action Effective	05/18/87	52 FR 12370

Small Entity: No

Agency Contact: James J. Engel, Deputy General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA59

3852. LOANS TO MEMBERS AND LINES OF CREDIT TO MEMBERS; REQUIREMENTS FOR INSURANCE AND VOLUNTARY TERMINATION OF INSURANCE

Legal Authority: 12 USC 1757(5); 12 USC 1766(a); 12 USC 1789

CFR Citation: 12 CFR 701.21; 12 CFR 741.3

Legal Deadline: None.

Abstract: The final rule concerns business loans made by federally-insured credit unions and preferential treatment and prohibited fees for all types of credit union lending.

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Timetable:

Action	Date	FR Cite
NPRM	12/29/86	51 FR 46869
NPRM Comment Period End	01/30/87	51 FR 46869
Final Action	04/16/87	52 FR 12365
Staff expects to present a draft final rule to the Board by	04/30/87	52 FR 12365
Final Action Effective	07/01/87	52 FR 12365

Small Entity: No

Additional Information: Additional Contact: D. Michael Riley, Director, Office of Examination and Insurance, 1776 G Street, NW, Washington, DC 20456, telephone: (202) 357-1065; or Steven Bisker, Assistant General Counsel, telephone: (202) 357-1030.

Agency Contact: J. Leonard Skiles, Regional Director, National Credit Union Administration, Region V, 611 East 6th Street, Suite 407, Austin, TX 78701, 512 482-5131

RIN: 3133-AA67

3853. LOAN INTEREST RATES

Legal Authority: 12 USC 1757(5)(A)(vi); 12 USC 1766(6)

CFR Citation: 12 CFR 701.21(c)(7)

Legal Deadline: Statutory, May 14, 1987.

Abstract: The 21 percent interest rate ceiling for Federal credit unions would have expired on May 14, 1987. The NCUA Board established an 18 percent rate ceiling for the period from May 15, 1987 through September 9, 1988.

Timetable:

Action	Date	FR Cite
Final Action	03/16/87	52 FR 8052
Final Action Effective	05/14/87	52 FR 8052

Small Entity: No

Agency Contact: Dr. Charles Bradford, Chief Economist, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1100

RIN: 3133-AA76

3854. ● FREEDOM OF INFORMATION ACT (FOIA) REGULATION REVISIONS

Legal Authority: 12 USC 1789; 5 USC 552

CFR Citation: 12 CFR 790.4; 12 CFR 790.7

Legal Deadline: None.

Abstract: The final rule implements recent amendments to the Freedom of Information Act concerning exemption 7 of the FOIA (relating to law enforcement records) and the provisions of the FOIA concerning fees and fee waivers.

Timetable:

Action	Date	FR Cite
NPRM	05/21/87	52 FR 19152
Final Action	07/27/87	52 FR 27925

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA78

3855. ● GUIDELINES CONCERNING RECORDKEEPING AND REPORTING UNDER THE BANK SECRECY ACT

Legal Authority: 31 USC 5311 et seq; 31 CFR 103

CFR Citation: 00 CFR None

Legal Deadline: None.

Abstract: In January 1987, NCUA promulgated a final rule concerning a compliance program with the Bank Secrecy Act. Guidelines were issued by the Board in May 1987, to provide assistance to Federal credit unions in complying with the Treasury requirements and in establishment of a compliance program.

Timetable:

Action	Date	FR Cite
Final Guidelines	05/00/87	

Small Entity: No

Additional Information: Final guidelines issued in May 1987, but not in the form of a regulation.

Agency Contact: John K. Ianno, Staff Attorney, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA80

[FR Doc. 87-21552 Filed 10-23-87; 8:45 am]

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Nuclear Regulatory Commission

Semiannual Regulatory Agenda

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NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual publication of NRC regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual Regulatory Agenda in accordance with Pub. L. 96-354, "the Regulatory Flexibility Act," and Executive Order 12291, "Federal Regulations." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed, or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on April 27, 1987.

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be hand delivered to Room 1131, 1717 H Street, NW., Washington, DC, between 8:15 a.m. and 5:15 p.m. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection, and copying at a cost of five cents per page, at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact David L. Meyer, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-7086. Persons outside the Washington, DC metropolitan area may call toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: Although publication of the agenda is only required semiannually in April and October, the NRC has chosen to update and publish its agenda each quarter. However, the information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual agenda on April 27, 1987.

Organization of the Agenda

Rules in this agenda are divided into four groups: (1) The Prerule Stage, which includes all rules which will be published in the **Federal Register** as advance notices of proposed rulemaking, (2) the Proposed Rule Stage, which includes all unpublished rules and published advance notices of proposed rulemaking on which the NRC expects to take action, (3) Final Rule Stage, which includes all rules which have been published in the **Federal Register** as proposed rules and on which the NRC plans to take final action, and (4) Completed Actions, which include all rules which have been finally promulgated or withdrawn since publication of the last semiannual agenda.

Within each group, the rules are ordered from lowest to highest 10 CFR part, and when more than one rule appears under the same part, the rules are arranged within the part according to the date of most recent publication. If a rule contains changes to more than one 10 CFR part, the rule is listed under the lowest affected part.

The information in this agenda has been updated through August 31, 1987. The date included under the heading "timetable," for next scheduled action indicates the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. This Regulatory Agenda is intended to provide increased notice and opportunity for public participation in the NRC rulemaking process. The NRC may, however, consider or act on any rulemaking even if it is not included in the Regulatory Agenda.

The NRC agenda lists 67 rulemaking actions. Of these, no rulemaking item is considered to be priority or major as defined in section 1(b) of Executive Order 12291.

Dated at Bethesda, Maryland this 21st day of August 1987.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Rules and Records, Office of Administration and Resources Management.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3856	Radioactive Waste Below Regulatory Concern; Generic Rulemaking	3150-AC35

NRC

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3857	Revised Rules of Practice for Domestic Licensing Proceedings	3150-AB66
3858	Availability of Official Records	3150-AC07
3859	Negotiated Rulemaking on the Submission and Management of Records and Documents Related to the Licensing of a Geologic Repository for the Disposal of High Level Waste	3150-AC44
3860	Retention Periods for Records	3150-AB43
3861	Deletion of Part 11 Requirements for Renewal of "R" Clearances	3150-AC58
3862	Disposal of Low-Level Radioactively Contaminated Waste Oil from Nuclear Power Plants	3150-AC14
3863	+ Residual Radioactive Contamination Limits for Decommissioning	3150-AC21
3864	+ Proposed Revisions to the Criteria and Procedures for the Reporting of Defects and Noncompliance	3150-AA68
3865	+ Fee Schedule Change for NRC "U" and "Q" Access Authorizations	3150-AC59
3866	+ Safety Requirements for Industrial Radiographic Exposure Devices	3150-AC12
3867	Controls of Aerosols and Gases	3150-AC60
3868	+ Safety Related and Important to Safety in 10 CFR Part 50	3150-AB88
3869	Degree Requirement for Senior Operators at Nuclear Power Plants	3150-AC26
3870	Alternative Methods for Leakage Rate Testing	3150-AC54
3871	+ Custody of Uranium Mill Tailings Sites	3150-AC56
3872	+ Part 51; Conforming Amendments	3150-AC04
3873	Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Reactors	3150-AC81
3874	+ Definition of High-Level Radioactive Waste (HLW) in 10 CFR Part 60	3150-AB89
3875	+ Criteria and Procedures for Evaluating Requests for Emergency Access to Low-Level Waste Disposal Sites	3150-AC24
3876	Transportation Regulations: Compatibility With the International Atomic Energy Agency	3150-AC41
3877	Amendment to Assign NRC Sole Authority for Approving Onsite LLW Disposal	3150-AC57

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3878	Procedures Involving the Equal Access to Justice Act: Implementation	3150-AA01
3879	+ Modifications to the NRC Hearing Process (Limited Interrogatories and Factual Basis for Contentions)	3150-AA05
3880	+ Licensing Requirements for the Storage of Spent Fuel and High- Level Radioactive Waste	3150-AB70
3881	Issuance or Amendment of Power Reactor License or Permit Following Initial Decision	3150-AC15
3882	Revision to Ex Parte and Separation of Functions Rules Applicable to Formal Adjudicatory Proceedings	3150-AC18
3883	Rules of Practice for Domestic Licensing Proceedings– Procedural Changes in Hearing Process	3150-AC22
3884	Update of Freedom of Information Act Procedures and Other Minor Amendments	3150-AC50
3885	+ Standards for Protection Against Radiation	3150-AA98
3886	General Requirements for Decommissioning Nuclear Facilities	3150-AA40
3887	+ Emergency Preparedness for Fuel Cycle and Other Radioactive Materials Licensees	3150-AA41
3888	+ Informal Hearing Procedures for Materials Licenses Proceedings	3150-AB83
3889	Completeness and Accuracy of Information Provided to the Commission	3150-AC45
3890	Regional Nuclear Materials Licensing for the United States Navy	3150-AC55
3891	Misadministrations	3150-AC42
3892	+ Uranium Mill Tailings Regulations: Ground Water Protection and Other Issues	3150-AB56
3893	Acceptance Criteria for Emergency Core Cooling System (ECCS) for Light Water Nuclear Power Reactors	3150-AA44
3894	+ Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors	3150-AA86
3895	+ Station Blackout	3150-AB38
3896	+ Broad Scope Modification of General Design Criterion 4 Requirements For Protection Against Dynamic Effects of Postulated Pipe Ruptures	3150-AC05
3897	+ Codes and Standards for Nuclear Power Plants	3150-AC29
3898	Consideration of Emergency Planning Rule Changes to Deal With Lack of Governmental Cooperation in Offsite Emergency Planning	3150-AC36
3899	+ Table S-3, Addition of Radon-222 and Technetium-99 Radiation Values and Appendix B Explanatory Narrative	3150-AA31
3900	+ Elimination of Inconsistencies between NRC Regulations and EPA Standards	3150-AC03
3901	+ Criteria for an Extraordinary Nuclear Occurrence	3150-AB01

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NRC

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3902	Restrictions Against Ownership of Certain Security Interests by Commissioners, Certain Staff Members, and Other Related Personnel: Vested Pension Interests	3150-AC47
3903	Standards and Procedures for Case by Case Exemptions for De Minimis Interests from Prohibition against Employee's Participation in Matters Affecting Employees's Financial Interest	3150-AC48
3904	Statement of Organization and General Information	3150-AC49
3905	+ Adjudications – Special Procedures for Resolving Conflicts Concerning the Disclosure or Nondisclosure of Information	3150-AB78
3906	Functions of Atomic Safety and Licensing Appeal Board	3150-AC46
3907	+ Nondiscrimination on Basis of Age in Federally Assisted Commission Programs	3150-AA06
3908	Charges for the Production of Records	3150-AC52
3909	Telephone Reporting of Significant Events Involving Byproduct, Source, or Special Nuclear Material	3150-AC53
3910	+ Registration of Sources and Devices	3150-AB34
3911	+ Financial Responsibility of Materials Licensees for Cleanup After Accidental and Unexpected Releases	3150-AB58
3912	+ Bankruptcy Filing; Notification Requirements	3150-AC16
3913	+ Licenses and Radiation Safety Requirements for Well-logging Operations	3150-AB35
3914	+ Changes in Property Insurance Requirements for NRC Licensed Nuclear Power Plants	3150-AA47
3915	+ Radon 222 Estimate for Table S-3	3150-AA87
3916	+ Operators' Licenses	3150-AA86
3917	Timing Requirements for Full Participation Emergency Preparedness Exercises for Power Reactors Prior to Receipt of an Operating License	3150-AC37
3918	+ Material Control and Accounting Requirements for Licensees Authorized to Possess and Use Formula Quantities of Strategic Special Nuclear Material	3150-AA50
3919	+ Reporting of Special Nuclear Material Physical Inventory Summary Results	3150-AB26
3920	+ Changes to Safeguards Reporting Requirements	3150-AB46
3921	+ Modification of Protection Requirements for Spent Fuel Shipments	3150-AA96
3922	Requirements for Criminal History Checks	3150-AC27

NUCLEAR REGULATORY COMMISSION (NRC)

Prerule Stage

3856. RADIOACTIVE WASTE BELOW REGULATORY CONCERN; GENERIC RULEMAKING

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 2; 10 CFR 20

Abstract: The advance notice of proposed rulemaking seeks comments on a proposal to amend NRC regulations to address disposal of radioactive wastes that contain sufficiently low quantities of radionuclides that their disposal does not need to be regulated. The NRC has already published a policy statement providing guidance for filing petitions for rulemaking to exempt individual waste streams (August 29, 1986; 51 FR 30839). It is believed that generic rulemaking could provide a more efficient means of dealing with disposal of wastes below regulatory concern. This rule would supplement the policy statement which was a response to Section 10 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (Pub. L. 99-240). The public will be asked to comment on 14 questions.The ANPRM requests public comment on several alternative approaches the NRC could take. Public comment will help to determine whether and how NRC should proceed on the matter.

Timetable:

Action	Date	FR Cite
ANPRM	12/02/86	51 FR 43367
ANPRM Comment Period End	03/02/87	51 FR 43367

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Kitty S. Dragonette, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4300

RIN: 3150-AC35

NUCLEAR REGULATORY COMMISSION (NRC)

Proposed Rule Stage

3857. REVISED RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841; 5 USC 552

CFR Citation: 10 CFR 0; 10 CFR 1; 10 CFR 2; 10 CFR 9; 10 CFR 50

Abstract: The Nuclear Regulatory Commission has deferred further consideration of this proposal which would have revised the Commissions's procedural rules governing the conduct of all adjudicatory proceedings, with the exception of export licensing proceedings. The proposed rule would comprehensively restate current practice , retitle the hearing office, and revise and reorganize the Commission's procedural rules. The changes in this proposed rule would enable the Commission to render decisions in a more timely fashion and reduce the burden and expense to the parties participating in the proceedings.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: B. Paul Cotter, Jr., Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, DC 20555, 301 492-7814

RIN: 3150-AB66

3858. AVAILABILITY OF OFFICIAL RECORDS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The proposed amendment would conform the NRC's regulations pertaining to the availability of official records to existing case law and agency practice. The amendment would reaffirm that the terms of 10 CFR 2.790 (c) provide submitters of information a qualified right to have their information returned upon request. This amendment informs the public of three exceptions to the right to withdraw pursuant to 10 CFR 2.790 (c) of the NRC's regulations, i.e., information submitted in a rulemaking proceeding that subsequently forms the basis for the final rule, information which has been made available to an advisory committee or was received at an advisory committee meeting, and information that is subject to a pending Freedom of Information Act request.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Paul Bollwark, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AC07

3859. NEGOTIATED RULEMAKING ON THE SUBMISSION AND MANAGEMENT OF RECORDS AND DOCUMENTS RELATED TO THE LICENSING OF A GEOLOGIC REPOSITORY FOR THE DISPOSAL OF HIGH LEVEL WASTE

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 2

Abstract: The Nuclear Waste Policy Act (NWPA) provides three years for the NRC to reach a decision on construction authorization for a high level waste repository. In order for the NRC to be able to make its decision within the allotted time, ready access to all pertinent records must be assured to all parties in the licensing proceeding. The DOE has committed to develop an electronic information management system to be used for the licensing proceeding. The NRC staff intends to use the process of negotiated rulemaking to develop a proposed rule that would revise the Commission's discovery procedure and motion practice in 10 CFR Part 2 for the high level waste licensing proceeding.

This rule would require the DOE license application and all supporting records to be provided in a standardized electronic format. All parties to the licensing proceeding would be required to submit all relevant data to this system. In turn all parties would have access to the data base. The NRC published a Notice of Intent on December 18, 1987 which announced the agency's intent to publish this rule.

Timetable:

Action	Date	FR Cite
NPRM	07/08/88	
Final Action	10/14/88	

Small Entity: Undetermined

Agency Contact: Ken Kalman, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4071

RIN: 3150-AC44

3860. RETENTION PERIODS FOR RECORDS

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 4; 10 CFR 11; 10 CFR 21; 10 CFR 25; 10 CFR 30; 10 CFR 31; 10 CFR 32; 10 CFR 34; 10 CFR 35; 10 CFR 40; 10 CFR 50; 10 CFR 60; 10 CFR 61; 10 CFR 70; 10 CFR 71; ...

Abstract: This proposed rule would establish a specific retention period for certain NRC-required records. It would also provide a uniform standard acceptable to the NRC for the condition of a record throughout a specified retention period. Further, the rule would establish throughout NRC regulations, with some exceptions, uniform retention periods of three years, five years, ten years, and the life of a license. This rule would bring NRC regulations into compliance with the Office of Management and Budget's (OMB) regulation (5 CFR 1320.6) that requires a specified retention period for each required record. It also implements NRC's 1982 commitment to OMB to establish a record retention period of determinable length for each required record.

Amending twenty one parts of NRC regulations to specify clearly what records to retain, how long to retain them, and the condition of a record useful for NRC inspection, will be mutually beneficial to applicants and licensees and to the NRC.

Recordkeeping labor for NRC's approximately 6,700 licensees who would be affected by the rule can be divided into four functions: (1) preparing the report, (2) storing the report, (3)

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
Final Action	04/30/88	

Small Entity: No

Additional Information: ABSTRACT CONT: files, and (4) retrieving the report information.

The principal savings to the licensee, dispersed over the period licensed,

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would be in physical storage space and associated storage equipment and materials. The burden of recordkeeping would be reduced approximately 10 percent annually for these licensees by the proposed rule. An estimated 466,323 hours associated with recordkeeping or $28,000,000 annually would be saved. Preparing and publishing this rule would cost NRC approximately 3000 hours of staff time at $60 per hour for an estimated total of $180,000

Agency Contact: Brenda Jo. Shelton, Nuclear Regulatory Commission, Office of Administration and Resources, Management, Washington, DC 20555, 301 492-8132

RIN: 3150-AB43

3861. ● DELETION OF PART 11 REQUIREMENTS FOR RENEWAL OF "R" CLEARANCES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 11

Abstract: The current regulations require licensees to renew "R" clearances every 5 years. This level of clearance corresponds to the "L" clearances used by NRC and DOE which do not require renewal. Because of this equivalence, the renewal requirement for the"R" level licensee clearance is deemed unnecessary. This rulemaking would delete that requirement from Part 11.

Timetable:

Action	Date	FR Cite
NPRM	12/31/87	

Small Entity: No

Agency Contact: Sandra D. Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Reseach, Washington, DC 20555, 301 443-7746

RIN: 3150-AC58

3862. ● DISPOSAL OF LOW-LEVEL RADIOACTIVELY CONTAMINATED WASTE OIL FROM NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 2167; 42 USC 2073

CFR Citation: 10 CFR 20

Abstract: The proposed rule, which is being initiated in partial response to a petition filed by Edison Electric Institute and Utility Nuclear Waste Management Group (PRM-20-15, dated July 31, 1984), would amend NRC regulations to allow onsite incineration of waste oil at nuclear power plants subject to specified conditions. Currently, the only approved disposal method for low-level, radioactively contaminated waste oil from nuclear power plants involves absorption or solidification, transportation to, and burial at a licensed disposal site. There is a clear need to allow, for very low activity level wastes, the use of alternative disposal methods which are most cost effective from a radiological health and safety standpoint and which conserve the limited disposal capacity of low-level waste burial sites.

Increased savings to both the public and the industry could thereby be achieved without imposing additional risk to the public health and safety. There would be, in a mature reactor economy, an estimated industry-wide economic savings of approximately $5 million to $18 million per year if such a rule

Timetable:

Action	Date	FR Cite
NPRM	02/01/88	
Final Action	12/30/88	

Small Entity: No

Additional Information: ABSTRACT CONT: were promulgated.

Alternatives to this rulemaking action are to maintain the status quo or to wait until the Environmental Protection Agency develops standards on acceptable levels of radioactivity which may be releases to the environment on an unrestricted basis. It is estimated that approximately 1-2 person-years of NRC staff time will be required to process this rule

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7689

RIN: 3150-AC14

3863. + RESIDUAL RADIOACTIVE CONTAMINATION LIMITS FOR DECOMMISSIONING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20

Abstract: The proposed rule would establish residual radioactive contamination limits (including induced and other volumetric radioactivity as well as removable and fixed surface contamination) which must be met before structures and lands can be released on an unrestricted, unregulated basis. Structures and lands with residual radioactive contamination below these limits would be eligible for unrestricted release without regulatory restrictions from a radioactivity standpoint.

The proposed amendments are necessary to provide licensees with quantitative criteria to use during decommissioning relative to cleanup of structures and lands intended to ensure that structures and lands used in NRC licensed facilities and activities will be decontaminated in a manner that adequately protects public health before being released on an unrestricted, unregulated basis.

Alternatives to rulemaking would be continues reliance on the issuance of criteria as guidance. However, the criteria are currently incomplete, decisions on implementation and compliance are often required on a case-by-case basis, and criteria issued

Timetable:

Action	Date	FR Cite
NPRM	05/15/88	
Final Action	08/15/89	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: by guidance may not be enforced in the manner of legally binding regulations. The proposed rule would relieve the administrative burden on NRC and licensee while providing a consistent and enforceable basis for agency action. NRC resource requirements are approximately 2 staff-years and a $237,000 research contract. Staff is participating in an EPA organized interagency working group developing Federal guidance on this subject.

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7689

RIN: 3150-AC21

3864. + PROPOSED REVISIONS TO THE CRITERIA AND PROCEDURES FOR THE REPORTING OF DEFECTS AND NONCOMPLIANCE

Legal Authority: 42 USC 2201; 42 USC 2282; 42 USC 5841; 42 USC 5846

CFR Citation: 10 CFR 21; 10 CFR 50

Abstract: This proposed rule would amend Part 21 and sec. 50.55(e), both of which require the reporting of safety defects by licensees. In addition, Part 21 requires reporting by non-licensees. This proposed amendment was prompted by TMI Action Plan Task II, J.4, and NRC staff experience with Part 21 and section 50.55 (e) reporting. The main objectives of the rulemaking effort are: (1) elimination of duplicate evaluation and reporting of safety defects; (2) consistent threshold for safety defect reporting in Part 21 and section 50.55(e); (3) establishment of consistent and uniform content of reporting under Part 21 and section 50.55 (e) and (4) establishment of time limits within which a defect must be evaluated and reported.

Approximately 500 reports are submitted to the Commission annually under Part 21. Approximately 1500 reports are submitted to the Commission annually under section 50.55 (e). These reports identify both plant-specific and generic safety for further NRC regulatory action. Under current rules, these reports have formed the basis for NRC issuance of numerous NRC information notices and bulletins. (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/28/87	
Final Action	12/21/87	

Small Entity: No

Additional Information: ABSTRACT CONT:

Alternatives to this rulemaking approach which were considered, varied from establishment of a single rule for all reporting of safety defects and operating reactors events to maintaining status quo for defect reporting. All alternatives were rejected since they would not substantially improve the current safety defect reporting situation.

Current costs of reporting under Part 21 and section 50.55 (e) are estimated at $10.08 million annually for industry and 1.74 million annually for NRC evaluations. It is anticipated that the industry reporting burden should be reduced by $1.93 million; while NRC burden should remain the same. Additional industry burden, though minimal, is anticipated in the area of reissuing procedures for reporting and record keeping.

The Commission disapproved this proposed rule on 10/20/86 and provided direction to the staff to revise the proposed rulemaking.

Agency Contact: William R. Jones, Nuclear Regulatory Commission, Office of Analysis and Evaluation of, Operational Data, Washington, DC 20555, 301 492-7613

RIN: 3150-AA68

3865. ● + FEE SCHEDULE CHANGE FOR NRC "U" AND "Q" ACCESS AUTHORIZATIONS

Legal Authority: 42 USC 2201; 42 USC 2273; 42 USC 5841

CFR Citation: 10 CFR 11; 10 CFR 25

Abstract: The final rule would increase the fees for NRC "U" or "Q" access authorizations charged to NRC licensees and others applying for access authorizations which require full field background investigations.

The final amendment is in response to the Office of Personnel Management's notification of an increase in cost to conduct background investigations. There are no reasonable alternatives to rulemaking for implementing the increased rates. This rule will have a negligible effect on the general public. NRC resources required for processing this rule through final production are estimated to be 50 staff hours.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	

Small Entity: No

Agency Contact: Duane G. Kidd, Nuclear Regulatory Commission, Office of Administration and Resources Management, Washington, DC 20555, 301 492-4124

RIN: 3150-AC59

3866. + SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC EXPOSURE DEVICES

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233

CFR Citation: 10 CFR 34

Abstract: The proposed rule would amend the present regulations to establish performance standards for industrial radiography exposure devices. Overexposures of radiographers (and occasionally the general public) are more than double that of other radiation workers and have been a concern to the NRC for some time. Approximately 25-35% of the radiography overexposures are associated with equipment malfunction. The issue of safety requirements for these devices is a primary concern since the devices use relatively high intensity, high energy gamma-ray emitting sources with the potential for serious overexposures. Although a consensus standard for radiographic exposure devices was published in 1981, (American National Standard. N432) it is not clear that all manufacturers are adopting the standard.

The alternatives considered were to (1) take no action at this time, (2) amend the regulations to require performance standards for radiographic devices plus a requirement for radiographers to wear alarm dosimeters and simultaneously issue a regulatory guide endorsing the consensus standard, supplemented by such other (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/25/87	
Final Action	03/31/88	

Small Entity: Yes

Additional Information: ABSTRACT CONT: performance standards deemed necessary, plus a requirement for radiographers to wear alarm dosimeters.

The proposed rule would require licensees to modify radiographic devices to meet the performance standards through design changes and quality control procedures. Cost of incorporating the proposed changes are estimated to be a one-time cost $1,600 per licensee to purchase alarm dosimeters and $250.00 per year per licensee to replace existing devices with devices that meet the requirements of the consensus standard. Determination of the benefits to be derived from the proposed rule are difficult to determine on a monetary basis but the potential hazards that might be averted include radiation sickness, injury, and even death. NRC resources required for processing this rule to final publication are estimated to be 0.4 person-years.

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Agency Contact: Donald O. Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7989**

RIN: 3150-AC12

3867. ● CONTROLS OF AEROSOLS AND GASES

Legal Authority: 42 USC 5841

CFR Citation: 10 CFR 35

Abstract: During the recent complete revision of 10 CFR Part 35, "Medical Uses of Byproduct Material," the radiation safety requirements for use of radioactive gases and aerosols were combined. A petition for rulemaking (PRM-35-6) requested that use of radioactive aerosols not be confined to rooms at negative pressure. The staff has determined that confining use of TC-99m DTPA to a negative pressure room was not necessary for protecting hospital workers. Furthermore, certain patients would be deprived of a beneficial procedure if they could not be moved or a negative pressure room were not available. Therefore, rulemaking is being initiated to remove the restriction on use of radioactive aerosols only in rooms at negative pressure.

Timetable:

Action	Date	FR Cite
NPRM	01/31/88	
Final Action	07/31/88	

Small Entity: No

Agency Contact: Judith D. Foulke, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7681**

RIN: 3150-AC60

3868. + SAFETY RELATED AND IMPORTANT TO SAFETY IN 10 CFR PART 50

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The Nuclear Regulatory Commission proposes to clarify its regulations on the use of the terms "important to safety" and "safety related" by adding definitions of these two terms and of "facility licensing documents" to 10 CFR Part 50 and by discussing how these definitions will be applied in NRC licensing reviews. Significant issues concerning the meaning of these terms as they are used in this part have arisen in Commission licensing proceedings. This proposed rule would define those terms and clarify the nature and extent of their effect on quality assurance requirements, thereby resolving these issues.

Rulemaking was chosen as the method of resolving this issue as a result of the Commission's directive to resolve the issue by rulemaking contained in the Shoreham licensing decision (CLI-84-9, 19 NRC 1323, June 5, 1984).

A position paper requesting approval of the staff proposed definitions and additional guidance from the Commission was signed by the EDO on May 29, 1986. In addition to rulemaking, the position paper discusses the alternative of the Commission(cont)

Timetable:

Action	Date	FR Cite
NPRM	02/29/88	

Small Entity: No

Additional Information: ABSTRACT CONT: issuing a policy statement concerning the definitions and their usage.

Since the proposed rule is only clarifying existing requirements, their is no impact on the public or the industry as a result of this rulemaking. It is anticipated that the NRC will expend 3.2 to 4.4 staff years in developing the final rule over a two year period. The manpower and time frame will depend upon guidance from the Commission regarding the extent to which 10 CFR usage of the terms is to be consistent, i.e., 10 CFR Part 50 only or all of 10 CFR.

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-4727**

RIN: 3150-AB88

3869. DEGREE REQUIREMENT FOR SENIOR OPERATORS AT NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50; 10 CFR 55

Abstract: The Commission is considering an amendment to its regulations to require, that applicants for a senior operator license of a nuclear power plant hold a baccalaureate in engineering or a related science from an accredited institution after January 1, 1991. Other baccalaureate degrees from an accredited institution may be accepted on a case-by-case basis. This contemplated rulemaking action is due to a Commission decision to enhance the levels of engineering and accident management expertise on shift. The current requirements, for candidates with a baccalaureate degree, of two years of responsible nuclear power plant operating experience, would be amended to require one year of operating experience on a like commercial nuclear reactor operating at greater than twenty percent power. The Commission is also considering issuing a policy statement concurrently with this rule related to utility implementation of the rule.

The staff analysis of comments on the ANPRM has been completed and options for rulemaking and/or policy statements to address degree requirements and training for accident management (cont)

Timetable:

Action	Date	FR Cite
ANPRM	05/31/86	51 FR 19561
ANPRM Comment Period End	09/29/86	

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: been developed.

Agency Contact: Dan Jones Rowsome, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, **301 492-4813**

RIN: 3150-AC26

3870. ● ALTERNATIVE METHODS FOR LEAKAGE RATE TESTING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The Nuclear Regulatory Commission proposes a limited amendment to its regulations to clarify a question of interpretation in regard to leakage testing of containments of light-water cooled nuclear power plants. This proposed amendment would explicitly permit the continued use of a statistical data analysis technique that the NRC has considered to be an acceptable method of calculating containment leakage rates. Rulemaking is the only acceptable alternative for resolving this issue because the regulations specify the methods the NRC finds acceptable for calculation leakage rates. Because the proposed rule would simply make another method of calculating leakage rates available to the industry, there is no economic impact likely to result from this action.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: E. Gunter Arndt, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 492-3914**

RIN: 3150-AC54

3871. ● + CUSTODY OF URANIUM MILL TAILINGS SITES

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 40

Abstract: The proposed rule would provide procedures to license a custodian for the post-closure, long-term control of uranium mill tailings sites required by the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). This amendment would establish a general license for long-term possession and control of uranium mill tailings by the Department of Energy, other designated Federal agencies, or states at their option for active sites now under license. The general license would be formulated so that it would become effective for a particular site upon written NRC approval of a site specific surveillance and maintenance plan. No impact to the public or industry is expected as a result of this proposed action.

Timetable:

Action	Date	FR Cite
NPRM	05/30/88	
Final Action	12/30/88	

Small Entity: No

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, **301 443-7698**

RIN: 3150-AC56

3872. + PART 51; CONFORMING AMENDMENTS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 51; 10 CFR 60

Abstract: The proposed rule would provide procedures for performing an environmental review of High Level Waste geologic repositories. Part 51 contains no provisions for the environmental review of a license application for a HLW repository. The Nuclear Waste Policy Act of 1982 established requirements for environmental reviews which are at variance with the environmental review which NRC performs in licensing other types of nuclear facilities. The issue must be addressed in order to avoid delay in the U.S. HLW Program. The proposed rule would benefit the public, industry, and NRC by clarifying licensing procedures, thus avoiding case determinations and possible litigation during HLW geologic repository licensing. Minor revisions to Part 60 will be necessary to conform to the environmental requirements of the NWPA. Alternatives are to take no action, issue an ANPRM, or ask Congress for additional legislation.

Timetable:

Action	Date	FR Cite
NPRM	09/30/87	
Final Action	09/30/88	

Small Entity: No

Agency Contact: James R. Wolf, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, **301 492-8694**

RIN: 3150-AC04

3873. ● EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2282; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 52

Abstract: The Nuclear Regulatory Commission is considering adding a new part to its regulations to improve the reactor licensing process. The proposed rule would provide for the issuance of early site permits, standard design certifications, and combine construction permits and conditional operating licenses for nuclear power reactors. These procedural reforms are intended to improve the quality, effectiveness, and efficiency of nuclear power plant licensing without detracting from protection of the public health and safety or the public's ability to participate in the licensing process. They are designed to implement as much of the Commission's proposed "Nuclear Power Plant Standardization and Licensing Act of 1987" as is permissible under its existing statutory authority. The proposed legislation is based on an earlier proposal that was developed by the Commission's Regulatory Reform Task Force. If licensing reform legislation is ultimately enacted, the rules can be modified to implement that legislation fully.

Timetable:

Action	Date	FR Cite
NPRM	12/00/87	
Final Action	12/00/88	

Small Entity: No

Agency Contact: Linda Gilbert, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, **301 492-7678**

RIN: 3150-AC61

3874. + DEFINITION OF HIGH-LEVEL RADIOACTIVE WASTE (HLW) IN 10 CFR PART 60

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 60

Abstract: This advance notice of proposed rulemaking (ANPRM) seeks to revise the definition of HLW in Part 60 to reflect certain changes in the legal definition of HLW contained in the Nuclear Waste Policy Act of 1982. Because of the complex issues involved in revising the definition of HLW, which affects virtually the entire radioactive waste management system, the staff is proposing an ANPRM rather than a proposed rule. A revision of the definition of HLW would affect DOE's plans for a geologic repository, costs of waste disposal for certain waste generators, and the development of new technologies and facilities to dispose of certain types of wastes.

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A definition of HLW which clearly identifies these highly radioactive wastes needing permanent isolation would benefit the radioactive waste management system. NRC staff time for processing this rule is estimated to be 4 staff years. Alternatives to rulemaking would be to take no action or request Congress to amend the NWPA. The rulemaking would eliminate uncertainty and reduce costs for the public, industry, and NRC.

Timetable:

Action	Date	FR Cite
ANPRM	02/27/87	52 FR 5992
ANPRM Comment Period End	06/29/87	52 FR 16403
NPRM	04/30/88	
Final Action	12/30/88	

Small Entity: No

Agency Contact: Clark Prichard/Frank Costanzi, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7668

RIN: 3150-AB89

3875. + CRITERIA AND PROCEDURES FOR EVALUATING REQUESTS FOR EMERGENCY ACCESS TO LOW-LEVEL WASTE DISPOSAL SITES

Legal Authority: 42 USC 2021

CFR Citation: 10 CFR 62

Abstract: The proposed rule would establish criteria and procedures that will be used in the execution of the NRC responsibilities under Section 6 of the Low-Level Radioactive Waste Procedures Amendments Act (LLRWPAA). Section 6 of the LLRWPAA authorizes the U.S. Nuclear Regulatory Commission to grant emergency access to any non-Federal low-level waste disposal facility, if necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security which cannot be mitigated by other means. The proposed rule may have a significant impact on the generators of low-level waste, in that it will establish high standards for qualifying for emergency access, and will require them to provide convincing information to the NRC that their being denied access to low-level waste disposal facilities has resulted in an immediate and serious threat to the public health and safety or the common defense and security.

Timetable:

Action	Date	FR Cite
NPRM	10/00/87	
Final Action	08/00/88	

Small Entity: Yes

Agency Contact: Janet Lambert, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4009

RIN: 3150-AC24

3876. TRANSPORTATION REGULATIONS: COMPATIBILITY WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 71

Abstract: The proposed rule, would in conjunction with a corresponding rule change by the U.S. Department of Transportation, make the United States Federal regulations for the safe transportation of radioactive material consistent with those of the International Atomic Energy Agency (IAEA). The IAEA regulations can be found in IAEA Safety Standard No. 6 "Regulations for the Safe Transport of Radioactive Material," 1985 Edition.

Consistency in transportation regulations throughout the world facilitates the free movement of radioactive materials between countries for medical, research, industrial, and nuclear fuel cycle purposes. Consistency of transportation regulations throughout the world also contributes to safety by concentrating the efforts of the world's experts on a single set of safety standards and guidance (those of the IAEA) from which individual countries can develop their domestic regulations. Perhaps as important, the favorable and accident experience of every country that bases it domestic regulations on those of the IAEA can be applied by every other country with consistent regulations to improve its safety (cont)

Timetable:

Action	Date	FR Cite
NPRM	01/30/88	
Final Action	01/30/89	

Small Entity: No

Additional Information: ABSTRACT CONT. program. The action will be handled as a routine updating of NRC transportation regulations. There is no reasonable alternative to rulemaking action. These changes should result in a minimal increase in costs to affected licensees. Proposed changes to 10 CFR Part 71, based on current IAEA regulations, will be issued for public comments. The task will be scheduled over a 2 year interval ending June 1989 and will consume 2-3 staff years of effort depending on the number and difficulty of conflicts to be resolved.

Agency Contact: Donald P. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7690

RIN: 3150-AC41

3877. ● AMENDMENT TO ASSIGN NRC SOLE AUTHORITY FOR APPROVING ONSITE LLW DISPOSAL

Legal Authority: 42 USC 2201; 42 USC 2021; 42 USC 5841

CFR Citation: 10 CFR 150

Abstract: This rulemaking would establish NRC's sole authority for approving onsite disposal of low-level waste at all NRC licensed reactors and at Part 70 fuel cycle facilities. There is a need to amend Part 150.15 to authorize one agency (the NRC) to regulate all onsite disposal of low-level waste in order to provide a more comprehensive regulatory review procedure of all onsite waste management activities and to avoid unnecessary duplication of effort. Uniform review procedures by the NRC will provide for greater health hazard at a later date after the site is decommissioned.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	
Final Action	12/30/88	

Small Entity: No

Agency Contact: John Stewart, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7980

RIN: 3150-AC57

3878. PROCEDURES INVOLVING THE EQUAL ACCESS TO JUSTICE ACT: IMPLEMENTATION

Legal Authority: 5 USC 504

CFR Citation: 10 CFR 1; 10 CFR 2

Abstract: The proposed rule would implement the Equal Access to Justice Act (EAJA) by providing for the payment of fees and expenses to certain eligible individuals and businesses that prevail in agency adjudications when the agency's position is determined not to have been substantially justified. This proposed regulation is modelled after rules issued by the Administrative Conference of the United States (ACUS) and have been modified to conform to NRC's established rules of practice. The proposed rule would further the EAJA's intent to develop government-wide, "uniform" agency regulations and would describe NRC procedures and requirements for the filing and disposition of EAJA applications. A draft final rule was sent to the Commission in June 1982, but Commission action was suspended pending a decision by the Comptroller General on the availability of funds to pay awards to intervenor parties. This issue was also the subject of litigation in Business and Professional People for the Public Interest v. NRC, 793 F. 2d 1366 (D.C. Cir. 1986). This litigation is being evaluated to determine what if any changes may be necessary in the proposed rule. (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/28/81	46 FR 53189
NPRM Comment Period End	11/28/81	46 FR 53189

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT:

Additionally, in August 1985, the President signed into law an enactment renewing the EAJA after its expiration under a statutory sunset requirement. This legislation, Pub. L. No. 99-80 revises the EAJA and these revisions are being evaluated to determine whether further conforming changes may be necessary in the proposed rule.

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AA01

3879. + MODIFICATIONS TO THE NRC HEARING PROCESS (LIMITED INTERROGATORIES AND FACTUAL BASIS FOR CONTENTIONS)

Legal Authority: 42 USC 2239

CFR Citation: 10 CFR 2

Abstract: The proposed rule would expedite conduct of NRC adjudicatory proceedings by requiring intervenors in formal NRC hearings to set forth the facts on which contentions are based and the sources or documents used to establish those facts and limit the number of interrogatories that a party may file in an NRC proceeding. The proposed rule would expedite the hearing process by, among other things, requiring intervenors to set forth at the outset the facts upon which their contention is based and the supporting documentation to give other parties early notice of intervenor's case so as to afford opportunity for early dismissal of contentions where there is no factual dispute. Expediting the hearing process should ultimately provide cost savings to all participants in the process. The content of this rule is being considered as part of the regulatory reform rulemaking package.

Timetable:

Action	Date	FR Cite
NPRM	06/08/81	46 FR 30349

Next Action Undetermined

Small Entity: No

Agency Contact: Trip Rothschild, Nuclear Regulatory Commission, Regulatory Reform Task Force, Washington, DC 20555, 202 634-1461

RIN: 3150-AA05

3880. + LICENSING REQUIREMENTS FOR THE STORAGE OF SPENT FUEL AND HIGH- LEVEL RADIOACTIVE WASTE

Legal Authority: 42 USC 2021; 42 USC 2071; 42 USC 2073; 42 USC 2077; 42 USC 2093; 42 USC 2095; 42 USC 2099; 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2234; 42 USC 2236; 42 USC 2237; 42 USC 2282

CFR Citation: 10 CFR 2; 10 CFR 19; 10 CFR 20; 10 CFR 21; 10 CFR 51; 10 CFR 70; 10 CFR 72; 10 CFR 73; 10 CFR 75; 10 CFR 150

Abstract: The proposed rule would revise existing regulations to establish specific licensing requirements for the storage of spent nuclear fuel and high-level radioactive waste in a monitored retrievable storage installation (MRS). This revision is intended to ensure that the Commission has in place the appropriate regulations to fulfill the requirements contained in the Nuclear Waste Policy Act of 1982 concerning the licensing of facilities which could be part of the MRS program.

Paragraph (d) of Section 141 of the NWPA requires that any monitored retrievable storage installation pursuant to Section 141 be licensed by the Commission. The Commission could await further development of the MRS option before proposing its MRS rules. However, this approach could result in n unnecessary delay in reviewing a license application if Congress authorizes construction of an MRS. The current requirements in Part 72 for storage of spent fuel in an independent spent fuel storage installation (ISFSI) would be unaffected by this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	05/27/86	51 FR 19106
NPRM Comment Period End	08/25/86	51 FR 21560
Final Action	09/00/87	

Small Entity: No

Agency Contact: Keith Steyer/Charles Nilsen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7739

RIN: 3150-AB70

3881. ISSUANCE OR AMENDMENT OF POWER REACTOR LICENSE OR PERMIT FOLLOWING INITIAL DECISION

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The proposed rule would amend the Commission's "immediate effectiveness' regulation that specifies when an initial adjudicatory decision authorizing the issuance or amendment of a license or permit becomes effective. The proposed rule would (1) remove the existing provision governing the effectiveness of initial decisions regarding power reactor construction permits and (2) revise the Commission's

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existing practice regarding "effectiveness reviews" for full-power operating licenses. The proposed rule also would delete language in the existing regulation emanating from Three Mile Island-related regulatory policies, action upon which now has been completed.

The proposed rule would supersede two prior proposed rules entitled "Possible Amendments to "Immediate Effectiveness Rules," published May 22, 1980 (45 FR 43279), and "Commission Review Procedures for Power Reactor Construction Permits; Immediate Effectiveness Rule," published October 25, 1982 (47 FR 47260).

Timetable:

Action	Date	FR Cite
NPRM	02/04/87	51 FR 3442
NPRM Comment Period End	04/06/87	51 FR 3442
Final Action	09/00/87	

Small Entity: No

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AC15

3882. REVISION TO EX PARTE AND SEPARATION OF FUNCTIONS RULES APPLICABLE TO FORMAL ADJUDICATORY PROCEEDINGS

Legal Authority: 5 USC 554 (d); 5 USC 557(d)

CFR Citation: 10 CFR 0; 10 CFR 2

Abstract: The proposed rule would amend the Commission's regulations dealing with ex parte communications and separation of adjudicatory and nonadjudicatory functions in formal adjudicatory proceedings by updating the agency's rules of practice and incorporating requirements imposed by the Government in the Sunshine Act. Changes are proposed in both the form and the substance of the existing rules to clarify their meaning and to aid agency adjudicatory officials in maintaining effective communication with NRC staff personnel and persons outside the agency while at the same time ensuring that proceedings will be conducted fairly and impartially. This proposed rule supersedes a prior proposed rule entitled, "Ex Parte Communications and Separation of Adjudicatory and Non Adjudicatory Functions." (3150-AA00) published March 7, 1979 (44 FR 12428).

Timetable:

Action	Date	FR Cite
NPRM	03/26/86	51 FR 10393
NPRM Comment Period End	06/26/86	51 FR 19067
Final Action	09/00/87	

Small Entity: No

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AC18

3883. ● RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS-- PROCEDURAL CHANGES IN HEARING PROCESS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The Nuclear Regulatory Commission (NRC) is considering amendments to its rules of practice which address the following aspects of the hearing process: admission contentions, discovery against NRC staff, use of cross examination plans, timing of motions for summary disposition and limitations on matters and issues that may be included in proposed findings of fact or conclusions of law, or in an appellate brief submitted by a person who does not have the burden of proof or who has only a limited interest in the proceedings. These proposals were initially developed by the Regulatory Reform Task Force and published for public comment, together with a number of other proposals, as suggestions for procedural changes in the licensing of nuclear power plants. (49 FR 14698; April 12, 1984). The Commission has decided not to proceed with the April 1984 proposals, except to the extent that they were included in this proposed rule. Therefore, the April 1984 proposals have been deleted from the regulatory agenda.

The NRC is also considering related amendments on the process of intervention that were developed by Commissioner

Timetable:

Action	Date	FR Cite
NPRM	08/06/87	52 FR 29197
NPRM Comment Period End	08/26/87	52 FR 29197
Final Action	10/00/87	

Small Entity: No

Agency Contact: Donnie H. Grimsley, Nuclear Regulatory Commission, Office of Administration and Resources, Management, Washington, DC 20555, 301 492-7211

RIN: 3150-AC50

Timetable:

Action	Date	FR Cite
NPRM	07/03/86	51 FR 24356
NPRM Comment Period End	10/17/86	51 FR 31340
Final Action	10/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: Asselstine. The staff is analyzing public comments received on the proposals and expects to forward a recommendation for the Commission's consideration in September 1987.

Agency Contact: Linda Gilbert, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-7678

RIN: 3150-AC22

3884. ● UPDATE OF FREEDOM OF INFORMATION ACT PROCEDURES AND OTHER MINOR AMENDMENTS

Legal Authority: 42 USC 2201; 42 USC 5841; 5 USC 552; 31 USC 9701; 5 USC 552a; 5 USC 552b

CFR Citation: 10 CFR 2; 10 CFR 9

Abstract: The proposed rule would revise Part 9 to reflect changes in the Freedom of Information Act. This action is being taken to comply with Pub. L. 99-570 "Freedom of Information Reform Act of 1986," signed into law by the President on October 1986. These amendments will also reflect recent case law, current NRC organizational structure, and current agency practice and delegation. The revision will also reduce the repetition of statutory requirements.

3885. + STANDARDS FOR PROTECTION AGAINST RADIATION

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2273; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 20

Abstract: Radiation protection philosophy and technology have changed markedly since the present Part 20 was promulgated nearly thirty years ago. Since Part 20 contains the NRC standards for protection against radiation that are used by all licensees and affects exposures of workers and members of the public, it should be the most basic of the NRC regulations. However, because the present Part 20 has become outdated, most radiation protection actions occur through licensing actions independent of Part 20. A complete revision is necessary to: (1) provide better assurance of protection against radiation; (2) establish a clear health protection basis for the limits; (3) reflect current information on health risk, dosimetry, and radiation protection practices and experience; (4) provide NRC with a health protection base from which it may consider other regulatory actions taken to protect public health; (5) be consistent with recommendations of world authorities (ICRP); and (6) apply these standards to all licensees in a consistent manner.

Alternatives to the complete revision of Part 20 considered include (1) no action, (2) delay (cont)

Timetable:

Action	Date	FR Cite
ANPRM	03/20/80	45 FR 18023
ANPRM Comment Period End	06/18/80	45 FR 18023
NPRM	12/20/85	50 FR 51992
NPRM Comment Period End	09/12/86	51 FR 1092
Final Action	01/13/89	

Small Entity: Yes

Additional Information: ABSTRACT CONT: for further guidance; and (3) partial revision of the standards. These were rejected because they ignore scientific advancements, are ' ·responsive to international and national guidance, and correct only some of the recognized problems with the present Part 20. The benefits of revising Part 20 include (1) updated regulations which reflect contemporary scientific knowledge and radiation protection philosophy, (2) implementing regulations which reflect the ICRP risk-based rationale, (3) reducing life- time doses to individuals receiving highest exposures, (4) implementing provisions for summation of doses from internal and external exposures, (5) providing clearly identified dose limits for the public, (6) providing understandable health-risk base for protection, and (7) placing constraints on collective dose evaluations at levels where risks are trifles.

Agency Contact: Harold Peterson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7691

RIN: 3150-AA38

3886. GENERAL REQUIREMENTS FOR DECOMMISSIONING NUCLEAR FACILITIES

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 50; 10 CFR 51; 10 CFR 70; 10 CFR 72

Abstract: The proposed rule would provide assurance that licensees fulfill their responsibility to dispose of licensed material including any associated contamination when they cease licensed activity. The proposed rule would also provide the applicant or licensee with appropriate regulatory guidance to decommission a nuclear facility. The issue is addressed through rulemaking to assure that funds for decommissioning will be available and the decommissioning will be carried out in an orderly manner. The Commission has indicated a need for this rulemaking in other previous rulemakings.

The major cost impact of the proposed rule would involve proper planning at all stages of nuclear facility operation. Proper planning includes providing for (1) financial assurance that funding will be available for decommissioning, (2) maintenance of records that could affect decommissioning, and (3) careful(cont)

Timetable:

Action	Date	FR Cite
ANPRM	03/13/78	43 FR 10370
NPRM	02/11/85	50 FR 5600
NPRM Comment Period End	07/12/85	50 FR 23025
Final Action	10/30/87	

Small Entity: Yes

Additional Information: ABSTRACT CONT: planning of procedures at the time of decommissioning. For non-reactor facilities affected by financial assurance requirements, it is estimated that the major impact will result in an aggregate expenditure of 21 staff-years ($1.6 million) spread over 5 years (or $320,000 per year).

For the approximately 110 power reactors estimated to be affected (i.e., those with operating licenses and those under construction which are at least two-thirds complete) plus 75 research and test reactors, it is estimated that the major impact will result in an aggregate expenditure of 3.8 staff-years ($288,000) spread over 3 years. These expenditures will ensure that adequate measures have been taken to protect the health and safety of occupational workers, the public, and the environment within the confines of optimum cost benefit consideration.

Analysis: Draft Environmental Statement 02/10/81 (46 FR 11666)

Agency Contact: Keith G. Steyer/Frank Cardile, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7784

RIN: 3150-AA40

3887. + EMERGENCY PREPAREDNESS FOR FUEL CYCLE AND OTHER RADIOACTIVE MATERIALS LICENSEES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 70

Abstract: The proposed rule would require about 30 fuel cycle and other radioactive materials licensees to submit an emergency plan that would, among other actions, require the notification of local authorities in case of an accident and that the licensee recommend protective actions for the public. The proposed rule is intended to further protect the public from accidental exposure to radiation. The affected licensees are those whose possession limits indicate the potential for an accident that could deliver a radiation dose offsite exceeding one rem effective dose equivalent or 5 rems to the thyroid or could cause a soluble uranium inhalation of 2 milligrams (a chemical toxicity hazard). Currently, the proposed requirements are, for the most

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part, required by order. The Commission has decided that these requirements should be addressed by a rule. The cost of the for licensees is estimated to be between $26,000 and $73,000 per year per licensee. The cost to NRC is estimated to be $4000.00 per year per licensee. The NRC will expend about 2 man-years of efforts to promulgate the rule.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/81	46 FR 29712
ANPRM Comment Period End	08/03/81	46 FR 29712
NPRM	04/20/87	52 FR 12921
NPRM Comment Period End	07/20/87	52 FR 12921
Final Action	03/15/88	

Small Entity: No

Analysis: Regulatory Impact Analysis

Agency Contact: Stephen A. McGuire, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7900

RIN: 3150-AA41

3888. + INFORMAL HEARING PROCEDURES FOR MATERIALS LICENSES PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2111

CFR Citation: 10 CFR 30; 10 CFR 32; 10 CFR 33; 10 CFR 34; 10 CFR 35; 10 CFR 40; 10 CFR 70; 10 CFR 71; 10 CFR 50; 10 CFR 61; 10 CFR 72

Abstract: This proposed rule, being prepared at Commission direction, would provide comprehensive treatment of hearing procedures to be implemented by the Commission for materials licensing proceedings. In addition, the proposed rule would encompass the objective of the proposed rule, "Jurisdiction of Adjudicatory Boards," identified as 3150-AA53, which has been deleted from OMB's Unified Agenda. There are no reasonable alternatives to rulemaking for implementing these informal hearing procedures. The procedures are expected to reduce the economic burden imposed on a participant in a proceeding.

Timetable:

Action	Date	FR Cite
NPRM	05/29/87	52 FR 20089
NPRM Comment Period End	08/28/87	52 FR 27821

Next Action Undetermined

Small Entity: No

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AB83

3889. COMPLETENESS AND ACCURACY OF INFORMATION PROVIDED TO THE COMMISSION

Legal Authority: 42 USC 2201; 42 USC 2021a; 42 USC 5841; 42 USC 5851; 42 USC 10141; 42 USC 2273; 42 USC 2201(o)

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 50; 10 CFR 55; 10 CFR 60; 10 CFR 61; 10 CFR 70; 10 CFR 71; 10 CFR 72; 10 CFR 150

Abstract: The proposed rule would require all licensees and applicants for licenses to provide the Commission with complete and accurate information, to provide for disclosure of information identified by licensees as significant for licensed activities and to define those circumstances when inaccurate or incomplete information will be considered by the Commission as material false statements.

Timetable:

Action	Date	FR Cite
NPRM	03/11/87	52 FR 7432
NPRM Comment Period End	04/10/87	52 FR 7432

Next Action Undetermined

Small Entity: No

Agency Contact: Mary Wagner, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-8659

RIN: 3150-AC45

3890. ● REGIONAL NUCLEAR MATERIALS LICENSING FOR THE UNITED STATES NAVY

Legal Authority: 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 70

Abstract: The final rule amends provisions concerning the domestic licensing of source, byproduct, and special nuclear materials. The final rule is intended to provide information about the further implementation of NRC's decentralized licensing program. This amendment implements another phase of the process by transferring the newly consolidated U.S. Navy license to Region II. The final rule does not have any cost impact on NRC, the licensee or the public.

Timetable:

Action	Date	FR Cite
Final Action	10/01/87	

Small Entity: No

Agency Contact: George J. Deegan, Nuclear Regulatory Commission, Office of Nuclear Material, Safety and Safeguards, Washington, DC 20555, 301 427-4114

RIN: 3150-AC55

3891. MISADMINISTRATIONS

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Abstract: The Nuclear Regulatory Commission is considering amendments to its regulations governing the use of byproduct material for radiation therapy. In addition to current requirements, the contemplated amendments would require that licensees offering patient care services implement a quality assurance program. The contemplated amendment also clarify plans for responding to misadministrations.

The alternatives to rulemaking considered by the staff were to take no action or to provide quality assurance guidance and request voluntary compliance. The Commission directed the staff to take the rulemaking alternative. Although data on potential cost impacts is incomplete, initial cost estimates indicated that the potential cost to each of the 1200 affected licensees would be about $1000.00 per year.

Timetable:

Action	Date	FR Cite
Final Action	03/00/88	

Small Entity: Yes

Agency Contact: Norman L. McElroy, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4106

RIN: 3150-AC42

3892. + URANIUM MILL TAILINGS REGULATIONS: GROUND WATER PROTECTION AND OTHER ISSUES

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 7901 Note

CFR Citation: 10 CFR 40

Abstract: The proposed rulemaking is intended to incorporate groundwater standards established by the Environmental Protection Agency for uranium mill tailings into NRC regulations. This action is necessary to make NRC regulations conform to EPA standards as required by the Uranium Mill Tailings Radiation Control Act. Comments on the ANPRM helped define the nature and scope of this rule. EPA has estimated that compliance with their groundwater standards and with the stability, radon release, and other requirements recently promulgated will cost the industry from about $310 million to $540 million for all tailings generated by the year 2000. The actual cost will depend on the eventual cost of groundwater protection for future tailings. The EPA regulations are binding on NRC licensees until this proposed rule becomes effective. The comment period was extended in response to a request from the American Mining Congress.

Timetable:

Action	Date	FR Cite
ANPRM	11/26/84	49 FR 46425
ANPRM Comment Period End	03/01/85	50 FR 2293
NPRM	07/08/86	51 FR 24697
NPRM Comment Period End	09/08/86	51 FR 24697
Final Action	10/00/87	

Small Entity: No

Agency Contact: Kitty S. Dragonette, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, D.C. 20555, 301 427-4300

RIN: 3150-AB56

3893. ACCEPTANCE CRITERIA FOR EMERGENCY CORE COOLING SYSTEM (ECCS) FOR LIGHT WATER NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2132; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2282; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The proposed rule would amend regulations concerning acceptance criteria for emergency core cooling systems (ECCS) by allowing the use of realistic methods to demonstrate that an ECCS would protect the nuclear reactor core during a loss-of-coolant accident. This action is proposed because research has shown that calculations performed under current requirements greatly underestimate the ability of the ECCS to protect the core. This restricts the operation of some nuclear reactors unnecessarily and increases the costs of generating electricity. The proposed rule would allow use of the best information currently available to demonstrate that the ECCS would protect the reactor core during a loss-of-coolant accident.

Use of the proposed acceptance criteria could result in a 5 percent power upgrade for affected plants. The present value of energy replacement cost savings resulting from a potential upgrade would range from 13 to $147 million dollars depending on the location and age of a specific plant.

The proposed rule (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/06/78	43 FR 57157
ANPRM Comment Period End	02/05/79	43 FR 57157
NPRM	03/03/87	52 FR 6334
NPRM Comment Period End	07/17/87	52 FR 6334
Final Action	01/30/88	

Small Entity: No

Additional Information: ABSTRACT CONT: would apply to all applicants for and holders of construction permits for light water reactors.

Because the proposed rule represents a significant change in a regulatory requirement, the staff prepared and issued on May 15, 1987, a summary of ECCS research performed over the last 10 years which identifies the technical basis for the proposed rule. A regulatory guide was also prepared and issued on April 2, 1987. This guide provides a definition of what constitutes an acceptable best estimate model and acceptable methods of performing the uncertainty evaluation. The estimated cost to the NRC of this rulemaking is 2-3 staff years and $200,000.

The only option to rulemaking considered by the staff was the continued use of the current licensing approach. At best, this is viewed as an interim solution because two separate calculations are required to meet the requirements of the current regulation and staff conditions for use of the licensing approach and continued use of the approach risks case-by-case litigation.

Agency Contact: Joss' N. Reyes Jr., Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7900

RIN: 3150-AA44

3894. + PRIMARY REACTOR CONTAINMENT LEAKAGE TESTING FOR WATER-COOLED POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would update and revise the 1973 criteria for preoperational and periodic pressure testing for leakage of primary containment boundaries of water-cooled power reactors. Problems have developed in application and interpretation of the existing rule. These result from changes in testing technology, test criteria, and a relevant national standard that needs to be recognized.

The revision is urgently needed to resolve continuing conflicts between licensees and NRC inspectors over interpretations. Current regulatory practice is no longer being reflected accurately by incorporation in the existing regulation of an obsolete national standard that was replaced in 1981.

The benefits anticipated include elimination of inconsistencies and obsolete requirements, and the addition of greater usefulness and a higher confidence in the leak-tight integrity of

containment system boundaries under post-loss of coolant accident conditions. The majority of the effort needed by NRC to(cont)

Timetable:

Action	Date	FR Cite
NPRM	10/29/86	51 FR 39538
NPRM Comment Period End	04/24/87	52 FR 2416
Final Action	06/15/88	

Small Entity: No

Additional Information: ABSTRACT CONT: issue the rule has already been expended.

A detailed analysis of costs, benefits, and occupational exposures is available in the Public Document Room, and indicates possible savings to industry of $14 million to $300 million and an increase in occupational exposure of less than one percent per year per plant due to increased testing.

Agency Contact: Gunter Arndt, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7803

RIN: 3150-AA96

3895. + STATION BLACKOUT

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: This proposed rule would require licensees of light water nuclear power plants to ensure that these plants are capable of withstanding a total loss of alternating current [AC] electrical power (called station blackout) to the essential and nonessential switchgear buses for a specified duration. A draft regulatory guide was issued at the same time as the proposed rule to provide guidance on how to determine the duration.

The proposed requirements were developed in response to information generated by the Commission's study of Unresolved Safety Issue A-44, Station Blackout. The proposed rule is intended to provide further assurance that a loss of both off-site and emergency on-site electric AC power systems will not adversely affect the public health and safety.

A regulatory analysis has been prepared for the proposed rule. The estimated public risk reduction is 145,000 person-rem over 25 years, and the estimated total cost for industry to comply with the proposed rule is $80 million. This results in an overall cost benefit ratio of about 2,400 person-rem per million dollars.

Timetable:

Action	Date	FR Cite
NPRM	03/21/86	51 FR 9829
NPRM Comment Period End	06/19/86	51 FR 9992
Final Action	10/31/87	

Small Entity: Not Applicable

Additional Information: ABSTRACT CONT:

The alternatives to this proposed rule are to take no action or to provide only guidance for plants to be able to cope with a station blackout period. To take no action would not yield any reduction in public risk from station blackout events. To provide guidance only, since there is presently no requirement for nuclear power plants to be able to cope with a total loss of AC power, would not result in any basis for enforcement. The proposed rule is the recommended alternative based on its enforceability and, in part, on the favorable cost/benefit ratio.

Agency Contact: Alan Rubin/A.W. Serkiz, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 492-8393

RIN: 3150-AB38

3896. + BROAD SCOPE MODIFICATION OF GENERAL DESIGN CRITERION 4 REQUIREMENTS FOR PROTECTION AGAINST DYNAMIC EFFECTS OF POSTULATED PIPE RUPTURES

Legal Authority: 42 USC 2201; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The proposed broad scope modification of General Design Criterion 4 (GDC 4) would allow demonstration of piping integrity by analyses to serve as a basis for excluding consideration of dynamic effects associated with pipe ruptures. A final rule published April 11, 1986 (51 FR 12502) was limited to the primary loops of pressurized water reactors (PWRs), whereas this proposed rule would cover all high energy piping in all light water reactors (LWRs). The modification would permit the general but selective removal of pipe whip restraints and jet impingement shields from operating plants, plants under construction, and future plant designs, but will not impact other design requirements for containment design or ECCS performance. Alternative equipment qualification requirements developed by industry based on leak-before-break may be submitted to the NRC for review and approval in a limited number of applications.

The only alternatives to rulemaking would be the granting of exemptions to GDC 4 or reinterpretation of the text of the existing rule. The staff has, however indicated that extensive (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/23/86	51 FR 26393
NPRM Comment Period End	09/22/86	51 FR 26393
Final Action	11/16/87	

Small Entity: No

Additional Information: ABSTRACT CONT: use of exemptions to authorize the elimination of pipe whip restraints is inappropriate and that long precedence prohibits reinterpretation. Therefore, it appears appropriate to undertake rulemaking at this time.

Agency Contact: John A. O'Brien, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7854

RIN: 3150-AC05

3897. + CODES AND STANDARDS FOR NUCLEAR POWER PLANTS

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The Commission proposes to amend its regulations to incorporate by reference the Winter 1984 Addenda, Summer 1985 Addenda, Winter 1985 Addenda, and 1986 Edition of Section III, Division 1, of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), and the Winter 1983 Addenda, Summer 1984 Addenda, Winter 1984 Addenda, Summer 1985 Addenda, Winter 1985 Addenda, and 1986 Edition of Section XI, Division 1 of the ASME Code. A limitation is placed on the use of paragraph IWB-3640 as contained in the Winter 1983 Addenda and Winter 1984 Addenda of Section XI, Division 1. This limitation requires that for certain types of welds, IWB-3640 be used as modified by the Winter 1985 Addenda. The sections of the ASME Code being incorporated provide rules for the construction of light-water- cooled nuclear power plant components and specify requirements for inservice inspection of those components. Adoption of these amendments would permit the use of improved methods for construction and inservice inspection of nuclear power plants.

Timetable:

Action	Date	FR Cite
NPRM	06/26/87	52 FR 24015
NPRM Comment Period End	08/25/87	52 FR 24015
Final Action	12/25/87	

Small Entity: No

Agency Contact: Gilbert C. Millman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7713

RIN: 3150-AC29

3898. CONSIDERATION OF EMERGENCY PLANNING RULE CHANGES TO DEAL WITH LACK OF GOVERNMENTAL COOPERATION IN OFFSITE EMERGENCY PLANNING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would, in limited circumstances, allow a full power nuclear plant operation to begin when there is a lack of State or local government cooperation in offsite emergency planning. In earlier regulations, the Commission published revised emergency planning regulations which required that emergency plans be developed by licensees in cooperation with State and local governments. Although the Commission acknowledged the possibility that some governments might not cooperate, the Commission premised the new rules on a coordinated effort among all parties. Because this coordination has proved impossible to achieve in a few isolated cases, this proposed rulemaking is intended to cover those cases not contemplated by the 1980 amendments. The amendments will probably not impact on NRC resources. Industry may experience a positive financial effect in the earlier operation of nuclear power plants already completed but currently non-operational due to local and state government non-cooperation. The public may be affected in that there may be less coordinated offsite emergency planning as compared to sites where full coordination has been achieved.

Timetable:

Action	Date	FR Cite
NPRM	03/06/87	52 FR 6980
NPRM Comment Period End	06/04/87	52 FR 6980

Next Action Undetermined

Small Entity: No

Agency Contact: William M. Shields, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-8693

RIN: 3150-AC36

3899. + TABLE S-3, ADDITION OF RADON-222 AND TECHNETIUM-99 RADIATION VALUES AND APPENDIX B EXPLANATORY NARRATIVE

Legal Authority: 42 USC 2011; 42 USC 4321

CFR Citation: 10 CFR 51

Abstract: The proposed rule provides a narrative explanation of the numerical values established in Table S-3, "Table of Uranium Fuel Cycle Environmental Data," that appears in the Commission's environmental protection regulations. The proposed rule describes the basis for the values contained in Table S-3, the significance of the uranium fuel cycle data in the table, and the conditions governing the use of the table. The narrative explanation also addresses important fuel cycle impacts and the cumulative impacts of the nuclear fuel cycle for the whole nuclear power industry so that it may be possible to consider these impacts generically rather than repeatedly in individual licensing proceedings, thus reducing litigation time and costs for both NRC and applicants.

The proposed rule was published for public review and comment (46 FR 15154, March 4, 1981), but the final rulemaking was deferred pending the outcome of a suit (Natural Resources Defense Council, et al. v NRC, NO. 74-1486) in the U.S. Court of Appeals. The U.S. Court of Appeals (D.C. Circuit) decision of April 27, 1982, invalidated the entire Table S-3 rule. The Supreme Court reversed this decision on June 6, 1983. (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	46 FR 15154
Final Action	12/00/88	

Small Entity: No

Additional Information: ABSTRACT CONT:

The proposed rule to provide a narrative explanation for Table S-3 was revised to reflect new developments and the passage of time while the rulemaking was deferred. However, final action on the Table S-3 rule was held in abeyance until new values for radon-222 and technetium-99 can be added to the table and covered in the narrative explanation. On October 7, 1984, EPA promulgated new radon standards for inactive uranium mill sites and in October 1985 NRC published revised uranium milling regulations conforming to the new EPA standards. However, EPA received, in August 1985, a court order requiring them to establish radon standards for active uranium mills. EPA's final standards are scheduled to be issued in August 1986. The Commission has directed staff to develop a schedule for completing the narrative explanation of Table S-3 and the new values for radon-222 and technetium-99.

The Staff's estimate is that the completion of a final Table S-3 rule covering the new values for radon-222 and technetium-99, and the narrative explanation will be completed in 1989.

Agency Contact: Glenn A. Terry, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4283

RIN: 3150-AA31

3900. + ELIMINATION OF INCONSISTENCIES BETWEEN NRC REGULATIONS AND EPA STANDARDS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 60

Abstract: The Nuclear Waste Policy Act of 1982 directs NRC to promulgate criteria for the licensing of HLW geologic repositories. Section 121 (c) of this act states that these criteria must be consistent with standards to be

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developed by EPA for the disposal of HLW in deep geologic repositories. The proposed rule is needed in order to eliminate several inconsistencies with the EPA standards, thus fulfilling the statutory requirements.

Because the NWPA directs NRC to eliminate inconsistencies between Part 60 and the EPA standard, the alternatives to the proposed action are limited by statute.

The public, industry, and NRC will benefit from eliminating inconsistencies in Federal HLW regulations. NRC resources needed would be several staff years but will not include contract resources.

Timetable:

Action	Date	FR Cite
NPRM	06/19/86	51 FR 22288
NPRM Comment Period End	08/18/86	51 FR 22288
Final Action	10/30/87	

Small Entity: No

Agency Contact: Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7666

RIN: 3150-AC03

3901. + CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Legal Authority: 42 USC 2201; 42 USC 2210; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 140

Abstract: The final rule will revise the ENO criteria to eliminate the problems that were encountered in the Three Mile Island ENO determination. It is desirable to get revised criteria in place in the event they are needed.

There are no alternatives to this rulemaking, as the current ENO criteria are already embodied in Subpart E of 10 CFR Part 140. The only way to modify these criteria, as this rule seeks to do through rulemaking.

There is no impact on public health or safety. The ENO criteria provide legal waivers of defenses. Industry (insurers and utilities) claims that a reduction in the ENO criteria could cause increases in insurance premiums. The final rule would also be responsive to PRM-140-1.

It is estimated that approximately 1.0 man years of NRC staff time will be required to process the final rule. No contract funding is anticipated.

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13978
NPRM Comment Period End	09/06/85	
Final Action	11/30/87	

Small Entity: No

Agency Contact: Harold Peterson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7991

RIN: 3150-AB01

NUCLEAR REGULATORY COMMISSION (NRC) — Completed Actions

3902. ● RESTRICTIONS AGAINST OWNERSHIP OF CERTAIN SECURITY INTERESTS BY COMMISSIONERS, CERTAIN STAFF MEMBERS, AND OTHER RELATED PERSONNEL: VESTED PENSION INTERESTS

Legal Authority: 42 USC 2035; 42 USC 2201; 42 USC 5841; 18 USC 207

CFR Citation: 10 CFR 0

Abstract: The final rule amends the regulations governing the ownership by NRC employees of stocks, bonds, and other security interests in companies engaged in activities relating to the nuclear fuel cycle. The final rule also addresses the treatment of pension interests held by NRC employees. Present NRC regulations require that employees not own security interests in companies engaged in fuel cycle activities, regardless of whether the company derived significant gross revenues or a significant percentage of its revenues from those activities. Under the revised regulation, the NRC's Executive Director for Operations, after consultations with the Office of the General Counsel, will designate the major fuel cycle applicants and licensees whose security interests are subject to the agency's stock ownership restrictions and thus may not be owned by NRC employees. With regard to vested pension interests, the amendment to the regulations codifies existing agency practice to provide explicitly that no employee is to provide advice to the NRC on matters affecting a company in which he or she has a vested pension interest from prior employment. (cont)

Timetable:

Action	Date	FR Cite
Final Action	04/07/87	52 FR 11026
Final Action Effective	09/07/87	52 FR 11026

Small Entity: Not Applicable

Additional Information: ABSTRACT CONT: Because these amendments relate solely to matters of agency management or personnel, they would have no impact upon the public or the nuclear industry. Adoption of the amendments regarding the prohibited securities list would benefit NRC employees to own security interests in those companies. The adoption of the amendment on vested pensions would have no effect upon NRC employees, since it merely codifies existing agency practice.

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washiongton, DC 20555, 202 634-3224

RIN: 3150-AC47

3903. ● STANDARDS AND PROCEDURES FOR CASE BY CASE EXEMPTIONS FOR DE MINIMIS INTERESTS FROM PROHIBITION AGAINST EMPLOYEE'S PARTICIPATION IN MATTERS AFFECTING EMPLOYEE'S FINANCIAL INTEREST

Legal Authority: 42 USC 2035; 42 USC 2201; 42 USC 5841; 18 USC 207

CFR Citation: 10 CFR 0

Abstract: The final rule revises NRC regulations governing the granting of statutorily authorized case-by-case exemptions for insubstantial interests from the prohibition against an employee's personal and substantial participation in a particular matter in which the employee, or certain persons or organizations related to the employee, has a financial interest. The final rule, which pertains to all NRC employees, set out revised procedures for granting case-by-case exemptions in

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instances where the interests involved is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the employee.

Timetable:

Action	Date	FR Cite
Final Action	08/18/87	52 FR 30902
Final Action Effective	08/18/87	52 FR 30902

Small Entity: No

Agency Contact: Steven Crockett, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-1465

RIN: 3150-AC48

3904. ● STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Legal Authority: 42 USC 2033; 42 USC 2201; 42 USC 2039; 42 USC 2241; 42 USC 5841; 42 USC 5843; 42 USC 5844; 42 USC 5845; 42 USC 5849

CFR Citation: 10 CFR 1

Abstract: The final rule would revise 10 CFR Part 1 which was promulgated on July 18, 1977 (42 FR 36797). Except for a few revisions, such as address changes, the addition of a Commission-level office, and other minor revisions, most of the descriptions of the Commission's organizational structure have remained unaltered since 1977. During the interim, there have been numerous reorganizations in the structure and functions of many of the Commission's offices. The final rule will reflect the current functional descriptions of these offices.

Timetable:

Action	Date	FR Cite
Final Action Effective	08/19/87	
Final Action	08/21/87	52 FR 31601

Small Entity: No

Agency Contact: Donnie H. Grimsley, Nuclear Regulatory Commission, Office of Administration and Resources, Management, Washington, DC 20555, 301 492-7211

RIN: 3150-AC49

3905. + ADJUDICATIONS – SPECIAL PROCEDURES FOR RESOLVING CONFLICTS CONCERNING THE DISCLOSURE OR NONDISCLOSURE OF INFORMATION

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The Nuclear Regulatory Commission has withdrawn this rule published in the Federal Register on May 22, 1985 (50 FR 21072). In this rule, the Commission proposed amending it rules of practice to provide special procedures for resolving conflicts concerning the disclosure or non disclosure of information relating to an NRC investigation or inspection not yet concluded or which would reveal the identity of a confidential informant and deemed relevant and material to an adjudication. The Commission decided that in view of the few remaining licensing proceedings and the consequent limited number of occasions in which the proposed procedures might be used in those proceedings, an existing policy statement is an adequate means of resolving these conflicts and thus there is no need at this time to codify the proposed procedures.

Timetable:

Action	Date	FR Cite
Withdrawn	04/15/87	52 FR 12192

Small Entity: No

Agency Contact: Jane R. Mapes, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 492-8695

RIN: 3150-AB78

3906. FUNCTIONS OF ATOMIC SAFETY AND LICENSING APPEAL BOARD

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The final rule amends the Nuclear Regulatory Commission's regulations to provide for Atomic Safety and Licensing Appeal Board review of all decisions rendered by an Atomic Safety and Licensing Board in formal agency adjudications. This amendment changes the agency's rules of practice to allow routing referral of requests for certain hearings from a licensing board to an appeal board.

Timetable:

Action	Date	FR Cite
Final Action	01/30/87	52 FR 2993
Final Action Effective	01/30/87	52 FR 2993

Small Entity: No

Agency Contact: Trip Rothschild, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-1465

RIN: 3150-AC46

3907. + NONDISCRIMINATION ON BASIS OF AGE IN FEDERALLY ASSISTED COMMISSION PROGRAMS

Legal Authority: 42 USC 6101

CFR Citation: 10 CFR 4

Abstract: The final rule implements the provisions of the Age Discrimination Act of 1975, as amended. The final amendment makes it unlawful for any recipient of Federal financial assistance to discriminate on the basis of age in programs or activities receiving Federal financial assistance from the NRC. The Act also contains certain exceptions that permit, under limited circumstances, continued use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age. The Act applies to persons of all ages. The final rule is necessary to comply with the Age Discrimination Act of 1975, which directs that all Federal agencies empowered to provide Federal financial assistance issue rules, regulations, and directives consistent with standards and procedures established by the Secretary of Health and Human Services (HHS).

Timetable:

Action	Date	FR Cite
NPRM	09/21/81	46 FR 46582
NPRM Comment Period End	11/20/81	
Final Action	07/07/87	52 FR 25355
Final Action Effective	07/07/87	52 FR 25355

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Edward E. Tucker, Nuclear Regulatory Commission, Office of Small and Disadvantaged Business

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Utilization/Civil Rights, Washington, DC, 301 492-7697

RIN: 3150-AA06

3908. ● CHARGES FOR THE PRODUCTION OF RECORDS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 9

Abstract: The final rule will revise the charges for copying records publicly available at the NRC Public Document Room in Washington, DC. The amendment is necessary in order to inform the public of these changes resulting from the NRC's award of a new contract for the copying of records.

Timetable:

Action	Date	FR Cite
Final Action Effective	07/09/87	52 FR 29505
Final Action	08/10/87	52 FR 29505

Small Entity: No

Agency Contact: David L. Meyer, Nuclear Regulatory Commission, Office of Administration and Resources, Management, Washington, DC 20555, 301 492-7086

RIN: 3150-AC52

3909. ● TELEPHONE REPORTING OF SIGNIFICANT EVENTS INVOLVING BYPRODUCT, SOURCE, OR SPECIAL NUCLEAR MATERIAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20

Abstract: The final rule would amend NRC regulations regarding the telephone reporting of significant events involving byproduct, source, or special nuclear material. This action is being taken because current procedures often result in unnecessary delays before the event is reported to an appropriate NRC official. The amendment applies to all holders of licenses issued for the receipt, possession, use or transfer of byproduct, source, or special nuclear material who do not have an installed Emergency Notification System. There will be no increased cost to the affected licensees, as the amendment merely changes the initial point of contact for the telephone reporting.

Timetable:

Action	Date	FR Cite
Final Action	09/09/87	52 FR 33916

Small Entity: No

Agency Contact: Morton Fleishman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7975

RIN: 3150-AC53

3910. + REGISTRATION OF SOURCES AND DEVICES

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2071; 42 USC 2092

CFR Citation: 10 CFR 30; 10 CFR 32; 10 CFR 40; 10 CFR 70

Abstract: NRC regulations clearly provide for pre-marketing approval of certain sealed sources and devices, such as smoke detectors and gauges. The regulations are less clear with respect to pre- marketing approval of other products, such as industrial radiographic and in-plant gauging devices. The final rule will clearly state the procedures for manufacturers and distributors of sources and devices to obtain pre-marketing approval of products to be used under specific license. Consistent with present practice, the rule requires the applicant to submit for approval specified radiation safety information about the product.

The final rule will assure that all manufacturers and distributors (vendors) are informed of NRC's program for pre-marketing approval of sources and devices and under specific license. The rule, by improving communication with the vendors, will assure timely and efficient consideration of radiation safety features of products and thus reduce administrative costs for vendors, users and NRC.

Timetable:

Action	Date	FR Cite
Final Action	07/24/87	52 FR 27782
Final Action Effective	08/24/87	52 FR 27782

Small Entity: Yes

Agency Contact: Steven L Baggett, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-9005

RIN: 3150-AB34

3911. + FINANCIAL RESPONSIBILITY OF MATERIALS LICENSEES FOR CLEANUP AFTER ACCIDENTAL AND UNEXPECTED RELEASES

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 61; 10 CFR 70; 10 CFR 72

Abstract: The Commission issued and advance notice of proposed rulemaking (ANPRM) in June 1985, which sought comments on the advisability of having NRC require a mechanism to assure financial capability on the part of certain NRC materials licensees (e.g., fuel fabricators and users of sealed radiation sources) to undertake prompt cleanup of accidental releases or contamination, both on and off site. Estimates for cleanup costs in the recent past have ranged up to $2 million for a single event. To date, cleanup has been conducted only by the State or Federal government; however, public monies are frequently used only after lengthy delays.

This rulemaking was terminated by the EDO on May 29, 1987. This rule may be re-initiated upon completion and staff analysis of ongoing contractor studies.

Timetable:

Action	Date	FR Cite
ANPRM	06/07/85	50 FR 20906
ANPRM Comment Period End	11/07/85	50 FR 41904
Withdrawn	05/29/87	

Small Entity: Undetermined

Agency Contact: Mary Jo Seeman, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4647

RIN: 3150-AB58

3912. + BANKRUPTCY FILING; NOTIFICATION REQUIREMENTS

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 50; 10 CFR 61; 10 CFR 70; 10 CFR 72

Abstract: The final rule requires licensees to notify the appropriate regional office of the NRC in the event of a bankruptcy proceeding involving the licensee.

Notification of the NRC in cases of bankruptcy alerts the Commission so that it may deal with potential hazards to the public health and safety posed by a licensee that does not have the resources to properly handle licensed radioactive material or clean up possible contamination. This rule is necessary because instances have occurred in which materials licensees have filed for bankruptcy and NRC has not generally been aware of this.

Timetable:

Action	Date	FR Cite
NPRM	06/20/86	51 FR 22531
NPRM Comment Period End	07/21/86	
Final Action	01/12/87	52 FR 1292
Final Action Effective	02/11/87	52 FR 1292

Small Entity: No

Agency Contact: Keith Steyer/Frank Cardile, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7739

RIN: 3150-AC16

3913. + LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL-LOGGING OPERATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 39

Abstract: The final rule establishes specific radiation safety requirements applicable to licensees who perform operations such as well-logging and subsurface use of radioactive materials in tracer studies. The final rule is necessary because current NRC regulations address these operations in a general way without providing specific guidance. The rule generally codifies existing licensing practice. Thus, there would be essentially no net incremental costs to licensees. The main benefit would be to formally state NRC requirements in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/08/85	50 FR 13797
NPRM Comment Period End	07/08/85	50 FR 13797
Final Action	03/17/87	52 FR 8225
Final Action Effective	07/*4/87	52 FR 8225

Small Entity: No

Agency Contact: Stephen McGuire, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7900

RIN: 3150-AB35

3914. + CHANGES IN PROPERTY INSURANCE REQUIREMENTS FOR NRC LICENSED NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: The final rule requires nuclear power plant licensees to obtain an increased amount of onsite property damage insurance from the current minimum of $585 million to $1.06 billion. The NRC believes that this insurance should be required so that the financing and pacing of cleanup following an accident does not become a public health and safety problem. These changes will increase the amount of insurance required to $1.06 billion, impose a modified decontamination priority on any proceeds subject to the decontamination priority shall be paid to an independent trustee. All commercial reactor licensees are subject to this rule.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/82	47 FR 27371
ANPRM Comment Period End	09/22/82	47 FR 27371
NPRM	11/08/84	49 FR 44645
NPRM Comment Period End	02/07/85	49 FR 44645
Final Action	08/05/87	52 FR 28963
Final Action Effective	10/05/87	52 FR 28963

Small Entity: No

Agency Contact: Robert S. Wood, Nuclear Regulatory Commission, Office of State Programs, Washington, DC 20555, 301 492-9885

RIN: 3150-AA47

3915. + RADON 222 ESTIMATE FOR TABLE S-3

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 50; 10 CFR 51

Abstract: In a Federal Register notice published on April 14, 1978, the Commission deleted the radon-222 value from Table S-3 because it was recognized to be underestimated. Pending rulemaking action to provide a new estimate for radon-222 in Table S-3 the environmental effects of radon are subject to litigation in individual nuclear power plant licensing proceedings. The proposed rule was to deal with this question generically for all nuclear power plants; however, the NRC does not expect to receive applications for new nuclear power plant licenses within the near future, and certain regulatory issues related to radon have not yet been resolved.

This rule was terminated by the EDO on 11/29/86. The issues in this proposed rule are being combined with the proposed rule entitled, "Table S-3, Addition of Radon-222 and Technetium-99 Radiation Values and Appendix B Explanatory Narrative".

Timetable:

Action	Date	FR Cite
Withdrawn	11/29/86	
NPRM	03/00/88	

Small Entity: No

Agency Contact: William Pearson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7682

RIN: 3150-AA87

3916. + OPERATORS' LICENSES

Legal Authority: 42 USC 2137; 42 USC 2201; 42 USC 5841; 42 USC 10226

CFR Citation: 10 CFR 50; 10 CFR 55

Abstract: The Nuclear Regulatory Commission is amending its regulations to (1) require each holder of and each applicant for a license to operate a commercial nuclear power plant to establish and use a systems approach in developing training programs and establishing qualifications requirements for civilian nuclear power plant operators, supervisors, technicians, and, as appropriate, operating personnel; (2) clarify the regulations for the issuance of licenses to operators and senior operators; (3) revise the requirements and scope of written examinations and operating tests for operators and senior operators; (4) codify procedures for the administration of requalification examinations; and (5) describe the form and content for operator license applications.

The final rule is in response to Section 306 of the Nuclear Waste Policy Act of

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1982. A regulatory analysis showed a public risk reduction of 268,000 person-rem at a cost of $240.4 million dollars resulting in a value/impact ratio of 1,100 person-rem/ $million.

Timetable:

Action	Date	FR Cite
NPRM	11/26/84	49 FR 46428
NPRM Comment Period End	02/24/85	
Final Action	03/25/87	52 FR 9453
Final Action Effective	05/26/87	52 FR 9453

Small Entity: No

Agency Contact: John Hannon, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-4868

RIN: 3150-AA88

3917. TIMING REQUIREMENTS FOR FULL PARTICIPATION EMERGENCY PREPAREDNESS EXERCISES FOR POWER REACTORS PRIOR TO RECEIPT OF AN OPERATING LICENSE

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2282; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The final rule relaxes the timing requirements for a full participation emergency preparedness exercise for power reactors prior to receipt of an operating license. The Commission believes that the rule will more effectively focus available resources on the pertinent issues and problems in establishing and maintaining an upgraded and effective day-to-day status of emergency preparedness.

The rule provides consistency to the regulations governing the frequency and timing of emergency preparedness exercises between the preliminary and post licensing stages, and also provide more flexibility in the timing of the full participation exercises to accomodate the needs of State and local governments prior to the issuance of an operating license.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43369
NPRM Comment Period End	01/12/87	52 FR 543
Final Action	05/06/87	52 FR 16823
Final Action Effective	05/06/87	52 FR 16823

Small Entity: No

Agency Contact: Michael T. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7657

RIN: 3150-AC37

3918. + MATERIAL CONTROL AND ACCOUNTING REQUIREMENTS FOR LICENSEES AUTHORIZED TO POSSESS AND USE FORMULA QUANTITIES OF STRATEGIC SPECIAL NUCLEAR MATERIAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 74

Abstract: The final rule replaces existing material control and accounting (MC&A) requirements for fuel cycle facilities that are authorized to possess and use formula quantities of strategic special nuclear material (SSNM).

It establishes a performance-oriented regulation that emphasizes timely detection of formula quantity SSNM losses and provides for more conclusive resolution of discrepancies than is currently achievable. Experience with existing regulations has demonstrated weaknesses in the area of alarm resolution principally because of a lack of timely detection of anomalies and poor loss localization capabilities. This rule would alleviate these liabilities by requiring tests on a more timely basis on small plant subdivisions.

Timetable:

Action	Date	FR Cite
ANPRM	11/18/81	46 FR 45144
ANPRM Comment Period End	02/09/82	46 FR 56625
NPRM	02/02/84	49 FR 4091
NPRM Comment Period End	09/05/84	49 FR 4091
Final Action	03/30/87	52 FR 10033
Final Action Effective	04/29/87	52 FR 10033

Small Entity: No

Public Compliance Cost: Initial Cost: $2,300,000; Yearly Recurring Cost: -$800,000

Agency Contact: C. W. Emeigh, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4760

RIN: 3150-AA50

3919. + REPORTING OF SPECIAL NUCLEAR MATERIAL PHYSICAL INVENTORY SUMMARY RESULTS

Legal Authority: 42 USC 5841

CFR Citation: 10 CFR 70; 10 CFR 74

Abstract: Prior to this rule becoming final, NRC's regulations required fuel facility licensees to conduct periodic physical inventories of the special nuclear material (SNM) which they possessed. Although the affected licensees have been voluntarily reporting summary data of their physical inventories to the NRC since 1975, a requirement for this routine reporting has never been incorporated into the regulations.

This final rule corrects the former reporting deficiency by requiring the affected fuel facility licensees to provide the necessary summary data of their physical inventories on NRC Form 327. Since these licensees are already supplying this information voluntarily and the NRC is already routinely using it, there are no additional costs or other impacts associated with the rulemaking.

Timetable:

Action	Date	FR Cite
Final Action	05/22/87	52 FR 19303

Small Entity: No

Agency Contact: Darrell Huff, Nuclear Regulatory Commission, Office of Inspection and Enforcement, Washington, DC 20555, 301 427-7077

RIN: 3150-AB26

3920. + CHANGES TO SAFEGUARDS REPORTING REQUIREMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 70; 10 CFR 72; 10 CFR 73; 10 CFR 74

Abstract: The final rule amends reporting requirements of section 73.71 for reports of unaccounted for shipments, suspected thefts, unlawful diversion, and other safeguards events. (Conforming amendments are included for 10 CFR Parts 70, 72, and 74). The staff has found the present requirements confusing to licensees and, therefore, difficult for licensees to implement properly. These difficulties have contributed to reports of safeguards events that lack uniformity and contain insufficient data to permit analysis of these events.

The final amendments redefine, in clearer terms, the events to be reported and classify certain of these events into different reporting categories. The current 24 hour notification by telephone is deleted. All events will be reported by telephone within one hour or logged in licensee records to be submitted to the NRC quarterly . Concurrent with the rule revision, a revised regulatory guide is being issued which provides a format for reporting to the NRC and gives example of what types of events should be reported.

Timetable:

Action	Date	FR Cite
NPRM	08/27/85	50 FR 34708
NPRM Comment Period End	12/31/85	50 FR 48220
Final Action	06/09/87	52 FR 21651
Final Action Effective	11/06/87	52 FR 21651

Small Entity: No

Agency Contact: Priscilla A. Dwyer, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4773

RIN: 3150-AB46

3921. + MODIFICATION OF PROTECTION REQUIREMENTS FOR SPENT FUEL SHIPMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Abstract: By memorandum dated January 20, 1987, the Executive Director for Operations terminated activity on this rulemaking.

The proposed rule would have moderated the current requirements for the protection of spent fuel shipments against radiological sabotage. The proposed rule would have provided the level of safeguards deemed essential to the protection of spent fuel shipments.

Timetable:

Action	Date	FR Cite
Withdrawn	01/20/87	

Small Entity: No

Agency Contact: Carl B. Sawyer, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4269

RIN: 3150-AA96

3922. ● REQUIREMENTS FOR CRIMINAL HISTORY CHECKS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Abstract: The final rule adds a new requirement for the control and use of criminal history data received from the Federal Bureau of Investigation (FBI) as part of proposed Federally mandated criminal history checks of individuals granted unescorted access to nuclear power plants or access to Safeguards Information by power reactor licensees. 'ssuance of this proposed rule is in response to Public Law 99-399, the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986, and thus, there is no alternative to rulemaking. This legislation requires the NRC to issue regulations to establish conditions for the use and control of the criminal history data received from the FBI.

Timetable:

Action	Date	FR Cite
NPRM	11/07/86	51 FR 40438
NPRM Comment Period End	12/08/86	
Final Action	03/02/87	52 FR 6310
Final Action Effective	04/01/87	52 FR 6310

Small Entity: No

Agency Contact: Kristina Z. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555, 301 427-4754

RIN: 3150-AC27

[FR Doc. 87-21269 Filed 10-23-87; 8:45 am]

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Part LVI

Securities and Exchange Commission

Semiannual Regulatory Agenda

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SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-6732, 34-24860, 35-24450, 39-2110, IC-15950, and IA-1079; File No. S7-31-87]

Regulatory Flexibility Agenda and Rules Scheduled for Review

AGENCY: Securities and Exchange Commission.

ACTION: Publication of regulatory flexibility agenda and rules scheduled for review.

SUMMARY: The Securities and Exchange Commission is today publishing an agenda of its open and anticipated rulemaking actions, pursuant to Chapter Six of the Administrative Procedure Act and Office of Management and Budget Bulletin 87-16. The agenda is a general announcement to the public intended to provide advance notice of rulemaking actions which may have a significant economic impact on a substantial number of small entities. The Commission is also publishing a list of rule reviews expected to be completed during the next twelve months. The Commission invites questions and public comment on individual agenda entries.

DATE: Public Comments are due by December 31, 1987.

ADDRESSES: Persons wishing to submit written views should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-31-87, and will be available for public inspection at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: William J. Atkinson, Directorate of Economic and Policy Analysis, Securities and Exchange Commission, 450 5th Street, NW., Room 7169, Stop 7-6, Washington, DC 20549 (202-272-7100). Additional names of persons to contact are identified with each entry.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act ("RFA") (Pub. L. No. 96-354, 94 Stat. 1164 [September 19, 1980]) requires each federal agency during April and October of each year to publish in the **Federal Register** a regulatory flexibility agenda identifying rules which the agency expects to propose or adopt which are likely to have a significant economic impact on a substantial number of small entities (the "significant impact criterion").[1]

The RFA also requires the Commission to publish a plan for the periodic review of all rules issued by the agency which have or will have a significant economic impact on a substantial number of small entities.[2] The Commission published such a plan in 1981.[3] The plan provides for the review of all rules in effect on January 1, 1981 within ten years of that date and for the review of all rules adopted thereafter within ten years of their adoption as final rules. The RFA further requires publication each year of a list of those rules which are to be reviewed during the succeeding twelve months.[4]

The Commission's continuing review of its rules, begun before the effective date of the statute (January 1, 1981), extends beyond the requirements of the RFA. Consequently, some rules listed in this part of the agenda may not be subject to RFA review requirements. The Commission is identifying them here in order to inform the public of its intention to review them. The agenda also identifies the rulemaking actions which have been completed (or withdrawn) since the last RFA release was approved by the Commission on April 24, 1987.[5]

The statute specifically provides that the agenda does not preclude the Commission from considering or acting on any matter not included, nor is the Commission required to consider or act on any matter which is included.[6] Furthermore, the inclusion of a rule in the Commission's agenda reflects only the staff's preliminary judgment that the rule, if adopted or as it exists, may have a significant economic impact on a substantial number of small entities.[7] This preliminary judgment may be changed upon further analysis.

The Commission's entries to the October 1987 Unified Agenda of Federal Regulations are listed below. The Commission's agenda includes new entries as well as items carried over from the April 1987 publication. New entries are marked with an asterisk. Copies of this preamble and a list of the entries (which includes next action dates and identifies a staff contact) are available from the Commission's Office of Public Affairs (Room 1015). The agenda also is available for inspection and copying in the Public Reference Room (Room 1026) (File S7-31-87), as noted above.

The Commission invites public comment on the individual entries in its agenda of rulemaking actions and rules scheduled for review in the next twelve months.

Dated: August 28, 1987.

By the Commission.

Jonathan G. Katz,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3923	17 CFR 210.9-03(7)(e) Financial Statement Disclosure by Bank Holding Companies About Loans to Related Parties	3235-AB45
3924	17 CFR 210 Proposed Additions to Rules and Guide for Disclosures concerning Reserves for Unpaid Claims and Claim Adjustment Expenses of Property - Casualty Underwriters	3235-AC44

[1] 5 U.S.C. 602(a).
[2] 5 U.S.C. 610(a).
[3] Securities Act Release No. 6362 (June 24, 1981) [46 FR 33287].
[4] 5 U.S.C. 610(c).
[5] Securities Act Release No. 6646 (April 24, 1987) [52 FR 80].
[6] 5 U.S.C. 602(d).
[7] The agenda relies on the definitions of the term "small entity" for purposes of the RFA which were adopted by the Commission for the various categories of regulated entities. *See* Securities Act Release No. 6380 (January 28, 1982) [47 FR 5215].

SEC

Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3925	17 CFR 240.3a12-10 Exemption of Sales of Certain Interests and Participations Issued in Connection with H.R. 10 Plans from Section 15(a)	3235-AC16
3926	17 CFR 240.17Ad-8 Rule 17Ad-8 of the Securities Exchange Act	3235-AC29

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3927	17 CFR 210 Request for Comments on "Opinion Shopping"	3235-AC02
3928	17 CFR 240.14d-1 to 240.14d-101 Concept Release on Takeovers and Contests for Corporate Control	3235-AA50
3929	17 CFR 240.16a-1 to 240.16a-11 Reports of Directors, Officers and Principal Stockholders	3235-AB14
3930	17 CFR 239.16b Form S-8 Registration Statement under the Securities Act of 1933	3235-AB79
3931	00 CFR Not yet determined Rulemaking for Operational Edgar System	3235-AC48
3932	17 CFR 230 Rule 153 Definition of Preceded by a prospectus as used in Section 5(b)(2) in relation to Certain Transactions	3235-AC61
3933	17 CFR 210 Facilitation of Multinational Securities Offerings	3235-AC64
3934	17 CFR 230 Proposed Rule for Limited Resales of Unregistered Securities	3235-AC65
3935	17 CFR 230 Classification of Small Issuers for Reporting Purposes	3235-AC66
3936	17 CFR 229 Proposed Rule Amendments Concerning Disclosure of Inflation-adjusted Information	3235-AC78
3937	17 CFR 210 Independent Accountants - Mandatory Peer Review	3235-AC79
3938	17 CFR 230.701 Rules 701, 702, 703 and Form 701	3235-AC82
3939	17 CFR 270.3a-7 Two-Tier Real Estate Companies	3235-AC84
3940	17 CFR 270.17f-5 Rule 17f-5 under the Investment Company Act of 1940	3235-AC85
3941	17 CFR 240.3a12-8 Rule 3a12-8 of the Securities Exchange Act of 1934	3235-AC88
3942	17 CFR 229.303 Management's Discussion and Analysis of Financial Condition and Operations	3235-AD03
3943	17 CFR 240.13a-10 Reporting Requirements for Change in Fiscal Year End	3235-AD05
3944	17 CFR 240.13d-1 Regulation 13D-G	3235-AD09
3945	17 CFR 200.81 Publication of Interpretative and No-Action Letters and Other Written Communications	3235-AD10
3946	17 CFR 240.15c2-10 Rule 15c2-10	3235-AC94
3947	17 CFR 240.10b-21 Proposed Rule 10b-21 of the Securities Exchange Act of 1934 - Short Sales in Connection with a Public Offering	3235-AC95
3948	17 CFR 230.180 Amendment to Rule 180 -- Exemption from Registration of Certain Interests and Participations in Certain H.R. 10 Plans	3235-AA06
3949	17 CFR 270.11a-3 Proposed Rules 11a-3 and 11c-1 Under the Investment Company Act	3235-AA14
3950	00 CFR Not yet determined Mutual Fund Governance	3235-AA44
3951	17 CFR 239.16 Simplification of Registration Statements Filed by Unit Investment Trusts	3235-AA47
3952	17 CFR 270.17j-1 Rule 17j-1 under the Investment Company Act of 1940	3235-AA68
3953	17 CFR 240.14a-1 to 240.14a-102 Revision of Investment Company Proxy Rules	3235-AA69
3954	17 CFR 239.14 Prospectus Simplification Amendments to Form N-2	3235-AB40
3955	17 CFR 239.15A Revisions to Expense-Related Disclosure Requirements of Form N-1A	3235-AB73
3956	17 CFR 275.206(3)-3 Method for Compliance with Section 206(3) of the Investment Advisers Act of 1940 with respect to Certain Transactions	3235-AB74
3957	17 CFR 270.3a-6 Proposed Rule 3a-6 under the Investment Company Act	3235-AC03
3958	17 CFR 270 Standardized Formula for Calculating Investment Company Performance Data in Advertisements	3235-AC05
3959	17 CFR 275.206(4)-1 Advertising by Investment Advisers	3235-AC09
3960	17 CFR 270.12b-1 Proposed amendments to Rules 12b-1 and 17d-3; Proposed Rule 6c-10	3235-AC11
3961	17 CFR 270.10f-3 Exemption of Acquisition of Securities During the Existence of Underwriting Syndicate	3235-AC28
3962	17 CFR 270.12d3-2 Proposed Rule 12d3-2	3235-AC36
3963	17 CFR 270 6c-9 Exemption for the offer or sale of debt securities and non-voting preferred stock in the United States by foreign banks and subsidiaries organized to finance the operations of foreign banks	3235-AC37
3964	00 CFR NONE Advertising by Unit Investment Trusts	3235-AC70
3965	17 CFR 275.204-2(a) Revision of Certain Investment Adviser Recordkeeping Rules	3235-AC97
3966	17 CFR 270 19b-1 Rule 19b-1 under the Investment Company Act	3235-AC99

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SEC

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3967	17 CFR 210.5-02 Proposals Regarding Industry Segment and Other Interim Financial Reporting Matters, Management's Discussion and Analysis, and Off Balance Sheet Financing Disclosures	3235-AB15
3968	17 CFR 230.433 Prospectus delivery requirements in firm commitment offerings of securities made for cash (Rule 433)	3235-AC80
3969	17 CFR 240.14a-1 Facilitating Shareholder Communications	3235-AC81
3970	17 CFR 230.501 Regulation D	3235-AC83
3971	17 CFR 240.14a-1 Facilitating Shareholder Communications	3235-AD07
3972	17 CFR 240.14a-6 Elimination of Filing Requirements for Preliminary Proxy Material Under Certain Circumstances; Rule 14a-8 Shareholder Proposals	3235-AD08
3973	17 CFR 270.3a-4 Proposed Rule 3a-4 – Individualized Investment Management Services	3235-AA12
3974	17 CFR 270.17g-1 Proposed Amendment to Rule 17g-1 Under the Investment Company Act	3235-AA16
3975	17 CFR 275.206(4)-4 Disclosure of Legal and Disciplinary Proceedings	3235-AC06
3976	17 CFR 210.6-07 Accounting for Distribution Expenses	3235-AC07
3977	17 CFR 230.134 Disclosure of Security Ratings in Registration Statements of Money Market Funds	3235-AC24
3978	17 CFR 274.11A N - 1A Housekeeping Amendments	3235-AC25
3979	17 CFR 230.174 Rule 174 Amendment - Prospectus Delivery During Quiet Period	3235-AC34

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3980	17 CFR 210.9 Specific Disclosure Requirements for Savings and Loan Holding Companies	3235-AB65
3981	17 CFR 240.14a-1 to 240.14a-12 Regulation 14A – Rules Relating to Proxy Contests	3235-AA03
3982	17 CFR 230.100 to 230.180 General Rules under the Securities Act of 1933--Rules 100 through 180 (excluding Rules 137, 138 and 139)	3235-AA52
3983	17 CFR 260 Trust Indenture Act Rules	3235-AB43
3984	17 CFR 230.134 Rule 134 under the Securities Act of 1933	3235-AB80
3985	17 CFR 240. "Chinese Wall" Exemption under the Securities Exchange Act of 1934, as amended by the Insider Trading Sanctions Act of 1984	3235-AC14
3986	17 CFR 229.304 Conforming Amendments to Proxy Rules	3235-AC86
3987	17 CFR 229.501 Elimination of Certain Pricing Amendments and Revision of Prospectus Filing Procedures	3235-AC87
3988	17 CFR 240.3a12-8 Rule: 3a12-8of the Securities Exchange Act of 1934	3235-AC89
3989	17 CFR 240.15b2-2 Registration of Government Securities Dealers; Amendments to Form BD	3235-AC90
3990	17 CFR 240.11A(a)(2) Amendments to Rules 11Aa2-1 and 11Aa3-1	3235-AC91
3991	17 CFR 240.14a-1 Facilitating Shareholder Communications	3235-AD06
3992	17 CFR 240. Amendments to Rules 15c3-1, 15c3-3, 17a-3 and 17a-13 Pertaining to Repurchase Agreements	3235-AC74
3993	17 CFR 240.13e-1 Rule 13e-1 of the Securities Exchange Act of 1934 ("Exchange Act")	3235-AC96
3994	17 CFR 270.24f-2 Registration Under The Securities Act of 1933 of an Indefinite Number of Certain Investment Company Securities	3235-AC10
3995	17 CFR 250.45(b) Exemption from requirement of a declaration about certain agreements by parent companies in a registered holding company system concerning the obligations of their subsidiary companies	3235-AC98
3996	17 CFR 270.3a-2(c) Rule 30a-2(c) under the Investment Company Act of 1940	3235-AD00
3997	17 CFR 270.8c-1 Rule 8c-1 under the Investment Company Act of 1940	3235-AD01
3998	17 CFR 270.27d-3 Rule 27d-3 under the Investment Company Act of 1940	3235-AD02
3999	17 CFR 270.3c-4 Rule 3c-4 under the Investment Company Act of 1940	3235-AD11
4000	17 CFR 270.27f-1 Rule 27f-1 under the Investment Company Act of 1940	3235-AD12
4001	17 CFR 270.6e-2 Rule 6e-2 under the Investment Company Act of 1940	3235-AD13
4002	17 CFR 270.17e-1 Rule 17e-1 under the Investment Company Act of 1940	3235-AD14
4003	17 CFR 270.22e-1 Rule 22e-1 under the Investment Company Act of 1940	3235-AD15
4004	17 CFR 270.3c-3 Rule 3c-3 under the Investment Company Act of 1940	3235-AD16
4005	17 CFR 270.27e-1 Rule 27e-1 under the Investment Company Act of 1940	3235-AD17

SECURITIES AND EXCHANGE COMMISSION (SEC)

Prerule Stage

Accounting Rules

3923. FINANCIAL STATEMENT DISCLOSURE BY BANK HOLDING COMPANIES ABOUT LOANS TO RELATED PARTIES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77s(25); 15 USC 77s(26); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a)

CFR Citation: 17 CFR 210.9-03(7)(e)

Legal Deadline: None.

Abstract: The staff is considering whether to recommend that the Commission propose amendments to its rules in Article 9 of Regulations S-X requiring disclosure by bank holding companies about loans to related parties. Assertions have been made that accumulation of the required information may be unreasonably costly.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Jeffrey Jones, Professional Accounting Fellow, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AB45

3924. PROPOSED ADDITIONS TO RULES AND GUIDE FOR DISCLOSURES CONCERNING RESERVES FOR UNPAID CLAIMS AND CLAIM ADJUSTMENT EXPENSES OF PROPERTY - CASUALTY UNDERWRITERS

Legal Authority: 15 USC 77F; 15 USC 77G; 15 USC 77H; 15 USC 77J; 15 USC 77S; 15 USC 78L; 15 USC 78M; 15 USC 78N; 15 USC 78O; 15 USC 78W; 15 USC 79E; 15 USC 79N; 15 USC 79F; 15 USC 80A-6; 15 USC 80A-29

CFR Citation: 17 CFR 210

Legal Deadline: None.

Abstract: The staff is considering whether to recommend that the Commission propose additions to the rules and guides concerning the underwriting and loss reserving experience of property - casualty underwriters. The proposed disclosures would be intended to assist investors in understanding and evaluating companies' reserving practices, the effect on reported income of adjustments to reserves established in prior periods and in comparing those practices and adjustments among entities.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Jeffrey C. Jones, Professional Accounting Fellow, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235-AC44

Securities Markets and Securities Industry Rules

3925. EXEMPTION OF SALES OF CERTAIN INTERESTS AND PARTICIPATIONS ISSUED IN CONNECTION WITH H.R. 10 PLANS FROM SECTION 15(A)

Legal Authority: 15 USC 78c(a)(12); 15 USC 78o; 15 USC 78w; 15 USC 77c(a)(12); 15 USC 77s(a)

CFR Citation: 17 CFR 240.3a12-10; 17 CFR 230.180

Legal Deadline: None.

Abstract: The proposed rule would specify certain conditions under which persons engaged in the sale of interests and participation issued in connection with certain tax-qualified retirement plans ("H.R.10" or "Keogh" plans) would not be required to register as broker-dealers under Section 15(a) of the Securities Exchange Act of 1934. In 1981, the Commission adopted Rule 180 under the Securities Act of 1933 exempting from the registration requirements of that Act interests and participations issued in connection with H.R. 10 plans. The proposed rule provides a parallel exemption from broker-dealer registration for sales of such interests and participations in H.R. 10 plans. As an alternative the staff could consider granting no-action or exemptive requests on a case-by-case basis. However, such procedure would be inefficient and needlessly expensive for both the public and the Commission staff. In addition, the Commission is proposing to amend Rule 180 to clarify that, under paragraph (a)(3)(ii) of that Rule, the employer only needs to obtain investment advice prior to the investment of plan assets. This proposal codifies a previous staff position.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Susan J. Walters, Branch Chief, Legal Interpretations, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2417

RIN: 3235-AC16

3926. RULE 17AD-8 OF THE SECURITIES EXCHANGE ACT

Legal Authority: 15 USC 17b; 15 USC 78g-1; 15 USC 78w(a)

CFR Citation: 17 CFR 240.17Ad-8

Legal Deadline: None.

Abstract: Rule 17Ad-8 requires a registered clearing agency, at the request of an issuer, to provide the issuer with a "securities position listing." A securities position listing is a list of the clearing agency's participants on whose behalf the clearing agency holds the issuer's securities as well as participants' positions as of a specified date. The Rule further provides that the clearing agency may charge a reasonable fee for providing the list.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Thomas C. Etter, Jr., Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth Street, N.W., Washington, DC 20549, 202 272-2782

RIN: 3235-AC29

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SECURITIES AND EXCHANGE COMMISSION (SEC) — **Proposed Rule Stage**

Accounting Rules

3927. REQUEST FOR COMMENTS ON "OPINION SHOPPING"

Legal Authority: 15 USC 77f, 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 79e; 15 USC 79n; 15 USC 79t; 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210; 17 CFR 249

Legal Deadline: None.

Abstract: The Commission requested comments on proposed amendments to Forms 8-K and N-SAR and Regulation S-K related to a change in a registrant's certifying accountant. These amendments would clarify the circumstances in which registrants are deemed to have had disagreements with their former auditors and provide for more complete disclosure concerning potential opinion shipping situations and the circumstances surrounding the change in accountants.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/85	50 FR 26219
ANPRM Comment Period End	10/09/85	50 FR 26219
NPRM	06/18/87	52 FR 24019
NPRM Comment Period End	09/24/87	52 FR 24019

Small Entity: Undetermined

Agency Contact: Robert E. Burns, Chief Counsel, Office of Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW, Washington, D.C. 20549, 202 272-2130

RIN: 3235-AC02

Disclosure Rules

3928. CONCEPT RELEASE ON TAKEOVERS AND CONTESTS FOR CORPORATE CONTROL

Legal Authority: 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78c(b); 15 USC 78n(d); 15 USC 78n(e); 15 USC 78w(a)

CFR Citation: 17 CFR 240.14d-1 to 240.14d-101; 17 CFR 240.14e-1 to 240.14e-3

Legal Deadline: None.

Abstract: In 1986, the Commission published a release seeking public comment on three concepts relating to corporate takeovers: (1) whether substantial acquisitions of securities effected during the pendency of, or subsequent to the termination of, a tender offer for such securities present issues with respect to takeover practice and, if so, whether a regulatory response is appropriate; second, on the need to establish a shareholder approval requirement for the adoption of "poison pill" security plans; (3) whether to establish provisions in the proposed all holders rule or other tender offer rules by which issuers may "opt-out" of the requirements of such rules through the adoption of charter amendments by shareholders. The Commission has published a summary of comments made in response to this release. On September 16, 1987, the Commission approved a rulemaking proposal on the first issue discussed in the release.

Timetable:

Action	Date	FR Cite
ANPRM	07/31/86	51 FR 28096
ANPRM Comment Period End	12/01/86	
NPRM	10/01/87	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Bradley D. Belt, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-3097

RIN: 3235-AA50

3929. REPORTS OF DIRECTORS, OFFICERS AND PRINCIPAL STOCKHOLDERS

Legal Authority: 15 USC 78m(d); 15 USC 78p(a); 15 USC 78p(b); 15 USC 78p(c); 15 USC 78p(e); 15 USC 78w(a)

CFR Citation: 17 CFR 240.16a-1 to 240.16a-11; 17 CFR 240.16b-1 to 240.16b-11; 17 CFR 240.16c-1 to 240.16c-3; 17 CFR 240.16e-1; 17 CFR 240.13d-3; 17 CFR 240.14d-1; 17 CFR 229.403; 17 CFR 249.103; 17 CFR 249.104; 17 CFR 240.12h-2

Legal Deadline: None.

Abstract: The Commission will review the existing rules and reporting forms intended to implement the provisions of Section 16 of the Securities Exchange Act. Section 16 seeks to deter misuse of inside information by imposing certain periodic and transactional reporting requirements on the officers, directors and principal beneficial shareholders of companies registered under that Act as well as certain limitations on equity transactions by those persons. Over the years the Commission has adopted a number of rules to clarify the applicability of Section 16's requirements to particular circumstances. The Commission will examine their current suitability in light of the purposes of the statute.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: The Commission believes that these actions will result in savings to persons subject to these provisions with no reduction in investor protection. This initiative is a consolidation of five projects that were previously listed separately in the October 1983 agenda.

Agency Contact: Brian J. Lane, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2589

RIN: 3235-AB14

3930. FORM S-8 REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 239.16b

Legal Deadline: None.

Abstract: The Commission intends to revise the disclosure requirements under the federal securities laws relating to registration under the Securities Act of 1933 of securities to be offered to employees of an issuer pursuant to certain plans. Such registration currently is made on Form S-8 (17 CFR 239.16b). The Commission is developing proposals in this area and considering alternative approaches to the problem of reducing burdens while ensuring the availability of sufficient information to employees, particularly where they already have access to much of the required information under ERISA. In the context of this rulemaking, Form S-8 will be fully reviewed for purposes of the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Larisa Dobriansky, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AB79

SEC — **Proposed Rule Stage**

3931. RULEMAKING FOR OPERATIONAL EDGAR SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 77a to 77aa; 15 USC 78a to 78ll; 15 USC 79 to 79z-6; 15 USC 77aaa to 77bbb; 15 USC 80a-1 to 80a-52

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: This rulemaking encompasses the changes necessary to mandate and accommodate electronic filing in the operational Edgar system, as well as to update the rules to take advantage of the efficiencies of electronic filing and processing.

Timetable:

Action	Date	FR Cite
ANPRM	07/02/86	51 FR 24155
ANPRM Comment Period End	09/05/86	
NPRM	03/00/88	
NPRM Comment Period End	05/00/88	
Final Action	07/00/88	

Small Entity: Undetermined

Agency Contact: Sarah A. Miller, Special Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AC48

3932. RULE 153 DEFINITION OF PRECEDED BY A PROSPECTUS AS USED IN SECTION 5(B)(2) IN RELATION TO CERTAIN TRANSACTIONS

Legal Authority: 15 USC 77e

CFR Citation: 17 CFR 230

Legal Deadline: None.

Abstract: The Prospectus Delivery Requirement for certain Transactions Effectuated on a National Securities Exchange may be satisfied by delivery to the Exchange. The Commission will consider whether this Procedure should be available for certain Transactions on the NASDAQ Inter Dealer Quotation System.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: John Reynolds, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2644

RIN: 3235-AC61

3933. FACILITATION OF MULTINATIONAL SECURITIES OFFERINGS

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 77ddd; 15 USC 77eee; 15 USC 77fff; 15 USC 78c(b); 15 USC 78j; 15 USC 78l; 15 USC 78m; 15 USC 78w; 15 USC 78x

CFR Citation: 17 CFR 210; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249; 17 CFR 260

Legal Deadline: None.

Abstract: In order to facilitate simultaneous multinational securities offerings among, initially, the United States, Canada and the United Kingdom, appropriate criteria are being sought to reconcile differences in disclosure standards, financial statement requirements and distribution systems. The alternatives being considered include (1) a common prospectus approach under which all would agree on common disclosure standards, (2) a reciprocal approach under which the offering document used by the issuer in its domicile jurisdiction would be acceptable in the countries provided certain minimum disclosures are included and (3) a modified reciprocal approach whereby a domestic supplement containing prescribed disclosures would accompany the issuer's home jurisdiction prospectus. Also, the proposal may be limited initially to certain types of offerings or issuers. Draft forms have been discussed with the Canadian and United Kingdom authorities.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Carl T. Bodolus, Chief, Office of International Corporate Finance, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3246

RIN: 3235-AC64

3934. PROPOSED RULE FOR LIMITED RESALES OF UNREGISTERED SECURITIES

Legal Authority: 15 USC 77d(1); 15 USC 77d(3); 15 USC 77s(a)

CFR Citation: 17 CFR 230

Legal Deadline: None.

Abstract: The staff is considering whether to recommend that the Commission publish for comment two alternative versions of a new rule that would provide a safe harbor exemption from the registration requirements of the Securities Act of 1933 for resales of unregistered securities to institutional investors if certain conditions are met. The first version would require that the issuer of such securities be a reporting company or that the securities be investment grade, non-convertible debt or preferred securities, while the second version would be available for resales of any unregistered securities, debt or equity, of reporting or non-reporting companies.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Kenneth L. Wagner, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AC65

3935. CLASSIFICATION OF SMALL ISSUERS FOR REPORTING PURPOSES

Legal Authority: 15 USC 78l; 15 USC 78m

CFR Citation: 17 CFR 230; 17 CFR 240; 17 CFR 244; 17 CFR 260

Legal Deadline: None.

Abstract: Other appropriate Criteria are being sought to establish the Threshold Level for companies to enter into the Securities Exchange Act of 1934 reporting system which would complement or be substituted for the present size criteria of 500 Shareholders and Total Assets of $5 Million.

Timetable:

Action	Date	FR Cite
ANPRM	07/08/86	51 FR 25369
ANPRM Comment Period End	09/30/86	
NPRM	02/01/88	

Small Entity: Undetermined

Agency Contact: Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2644

RIN: 3235-AC86

3936. PROPOSED RULE AMENDMENTS CONCERNING DISCLOSURE OF INFLATION-ADJUSTED INFORMATION

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25) to 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 229; 17 CFR 249

Legal Deadline: None.

Abstract: The Commission proposed revisions to Regulation S-K and Form 20-F to eliminate mandated supplemental disclosure regarding inflation and changes in prices.

Timetable:

Action	Date	FR Cite
NPRM	12/18/86	51 FR 47026
NPRM Comment Period End	09/01/87	51 FR 47026

Small Entity: No

Agency Contact: James R. Bradow, Professional Accounting Fellow, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235-AC78

3937. INDEPENDENT ACCOUNTANTS - MANDATORY PEER REVIEW

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25) to 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210

Legal Deadline: None.

Abstract: The Commission has proposed amendments to its rules that would require accountants' reports included in Commission filings be signed by an independent accountant who has undergone a peer review of its accounting and audit practice within the past three years.

Timetable:

Action	Date	FR Cite
NPRM	04/01/87	52 FR 11665
NPRM Comment Period End	09/01/87	52 FR 11665

Small Entity: Undetermined

Agency Contact: John A. Heyman, Professional Accounting Fellow, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235-AC79

3938. RULES 701, 702, 703 AND FORM 701

Legal Authority: 15 USC 77c(b); 15 USC 77s(a)

CFR Citation: 17 CFR 230.701; 17 CFR 230.702; 17 CFR 230.703; 17 CFR 239.701

Legal Deadline: None.

Abstract: The Rules and Form would provide an exemption from the registration requirements of the Securities Act of 1933 for offers and sales of Securities pursuant to certain employment contracts and employee benefit plans of non-reporting companies. Since some cost is involved in registration, the rules would provide some relief to small issuers.

Timetable:

Action	Date	FR Cite
NPRM	08/05/87	
NPRM Comment Period End	09/15/87	
Final Action	10/30/87	

Small Entity: Yes

Agency Contact: John Reynolds, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2644

RIN: 3235-AC82

3939. TWO-TIER REAL ESTATE COMPANIES

Legal Authority: 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.3a-7; 17 CFR 270.6c-11

Legal Deadline: None.

Abstract: The regulation will be designed to codify numerous exemptions from the provisions of the Investment Company Act of 1940 ("Act") granted to two-tier real estate limited partnerships. Exemptions from the Act pursuant to Section 6(c) of the Act have generally been granted where: 1) the two-tier partnership invests in limited partnerships engaged in the development and building of housing for low and moderate income persons; 2) the limited partnership interests are sold only to suitable investors; and 3) requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer are included in the basic organizational documents of the partnership. The regulation will reduce the number of exemptive relief applications received by the Office of Investment Company Regulation requesting exemptions for two-tier real estate limited partnerships.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Jack W. Murphy, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2048

RIN: 3235-AC84

3940. RULE 17F-5 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-5

Legal Deadline: None.

Abstract: Rule 17f-5 permits U.S. registered Investment Companies to maintain certain Securities and other assets in the custody of an "Eligible Foreign Custodian," as that term is defined in the rule. In response to comments that the present definition of Eligible Foreign Custodian and other provisions of the rule are too restrictive, the Commission is considering whether to propose amendments to the rule.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Thomas C. Mira, Staff Attorney, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3033

RIN: 3235-AC85

3941. RULE 3A12-8 OF THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 78w; 15 USC 78a; 15 USC 78c(a); 15 USC 23(a)

CFR Citation: 17 CFR 240.3a12-8

Legal Deadline: None.

Abstract: The Rule currently designates certain United Kingdom, Canadian, and Japanese government securities as "exempted securities" under the Securities Exchange Act of 1934 for purposes of marketing futures contracts on those securities in the U.S. Proposed modifications to the Rule will allow any country's government securities to be designated as an exempted security so long as the external foreign debt of the country is rated in one of the two highest categories of a nationally recognized debt rating service. Alternatively, the proposed modification will add certain French, Australian, and New Zealand government securities to be designated "exempt securities."

Timetable:

Action	Date	FR Cite
NPRM	05/14/87	52 FR 18237
NPRM Comment Period End	10/01/87	

Small Entity: No

Agency Contact: David Underhill, Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2375

RIN: 3235-AC88

3942. ● MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND OPERATIONS

Legal Authority: 15 USC 78w(a)

CFR Citation: 17 CFR 229.303

Legal Deadline: None.

Abstract: The Commission has solicited public comment on issues relating to Management's Discussion and Analysis of financial condition and operations as required by Item 303 of Regulation S-K. This requirement is the subject of recommendations from members of the accounting profession calling for a more specific approach to requiring disclosure of business risks and uncertainties, as well as additional board of director scrutiny and independent auditor association with these disclosures. The Commission will review comments received to determine whether future rulemaking is appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	04/24/87	52 FR 13715
ANPRM Comment Period End	06/23/87	
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Brian J. Lane, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D. C. 20549, 202 272-2589

RIN: 3235-AD03

3943. ● REPORTING REQUIREMENTS FOR CHANGE IN FISCAL YEAR END

Legal Authority: 15 USC 78n; 15 USC 78w

CFR Citation: 17 CFR 240.13a-10; 17 CFR 240.13a-13; 17 CFR 240.14a-3; 17 CFR 240.15d-10; 17 CFR 240.15d-13; 17 CFR 249.308

Legal Deadline: None.

Abstract: The Commission will consider proposing revisions to Rules 13a-10 and 15d-10 that would change the reporting forms to be used and the periods for which financial statements are required to be filed where an issuer changes its fiscal year-end. Also, proposals that would revise certain rules governing quarterly reporting are being considered. The proposals would close a reporting gap for interim periods when an issuer changes its fiscal year-end. The proposals would permit issuers, under certain circumstances, to utilize the summarized reporting format of Form 10-Q for reporting on interim periods.

Timetable:

Action	Date	FR Cite
NPRM	12/01/87	

Small Entity: Undetermined

Agency Contact: Barbara J. Green, Attorney Fellow, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AD05

3944. ● REGULATION 13D-G

Legal Authority: 15 USC 78a

CFR Citation: 17 CFR 240.13d-1; 17 CFR 240.13d-2

Legal Deadline: None.

Abstract: The Commission will consider proposing revision of Regulation 13D-G to close certain disclosure gaps, to make the disclosure more meaningful and to broaden the pool of persons allowed to use the short-form beneficial ownership report on Schedule 13G so as to lessen the costs and burdens of compliance.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-3097

RIN: 3235-AD09

3945. ● PUBLICATION OF INTERPRETATIVE AND NO-ACTION LETTERS AND OTHER WRITTEN COMMUNICATIONS

Legal Authority: 15 USC 77s; 15 USC 77sss; 15 USC 78w; 15 USC 79t; 15 USC 80a-37; 15 USC 80b-11; 5 USC 552

CFR Citation: 17 CFR 200.81

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Legal Deadline: None.

Abstract: The Commission is proposing amendments to Rule 81 of the Commission's regulations on Information and Requests, which would provide for immediate publication of interpretative and no-action letters written by the Commission's staff at the time such letters are sent or given to the requesting party, unless temporary confidential treatment is granted.

Timetable:

Action	Date	FR Cite
NPRM	09/08/87	52 FR 35115
NPRM Comment Period End	10/19/87	

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Kenneth L. Wagner, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AD10

Securities Markets and Securities Industry Rules

3946. ● RULE 15C2-10

Legal Authority: 15 USC 78b; 15 USC 78k-1; 15 USC 78o(c)(1); 15 USC 78o(c)(2); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-10

Legal Deadline: None.

Abstract: The Division of Market Regulation is preparing a draft release that would solicit comment on a rule that would govern the operation of proprietary securities trading systems that are not operated as facilities of a national securities association or exchange.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	10/30/87	

Small Entity: No

Agency Contact: William M. Harter, Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth St., N.W., Washington, D.C. 20549, 202 272-3414

RIN: 3235-AC94

3947. ● PROPOSED RULE 10B-21 OF THE SECURITIES EXCHANGE ACT OF 1934 - SHORT SALES IN CONNECTION WITH A PUBLIC OFFERING

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78i(a)(6); 15 USC 78j(a); 15 USC 78j(b); 15 USC 78o(c); 15 USC 78w(a); 15 USC 78dd(a)

CFR Citation: 17 CFR 240.10b-21

Legal Deadline: None.

Abstract: Proposed Rule 10b-21 would prohibit a person who effects short sales of an equity security during the period between the filing of a registration statement relating to the same class of equity securities and the commencement of the public offering of such equity securities from covering such short sales with securities purchased from an underwriter or broker or dealer participating in the public offering of such equity securities. The proposed rule is designed to prevent manipulative short selling by market participants in anticipation of underwritten public offerings.

Timetable:

Action	Date	FR Cite
NPRM	05/20/87	52 FR 102
NPRM Comment Period End	07/27/87	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Nancy J. Burke, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth St., N.W., Washington, D.C. 20549, 202 272-2360

RIN: 3235-AC95

Investment Management Rules

3948. AMENDMENT TO RULE 180 -- EXEMPTION FROM REGISTRATION OF CERTAIN INTERESTS AND PARTICIPATIONS IN CERTAIN H.R. 10 PLANS

Legal Authority: 15 USC 77c(a)(2); 15 USC 77s(a)

CFR Citation: 17 CFR 230.180

Legal Deadline: None.

Abstract: Rule 180 provides an exemption from the registration requirements of the Securities Act for interests and participations issued in connection with certain qualified H.R. 10 plans. In order for interests in funding media issued to plans established by financially inexperienced employers to qualify for the rule's exemption, the rule, as adopted, requires those employers to obtain financial advice from an independent expert prior to adopting the H.R. 10 plan. Among other things, the Commission is considering proposing an amendment to Rule 180 that would codify a present "no-action" position regarding the situation where a financially unsophisticated employer has already established a plan for its employees without obtaining advice from an independent expert, and intends either to change the funding medium or add another funding medium to the choices already available to employees. The issuer of the funding medium in such a case would be in compliance with the rule if the issuer has reasonable grounds to believe and, after having made reasonable inquiry, does believe, that an independent financial expert reviewed the funding medium prior to the investment of the (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: plan's assets in that funding medium. The type of amendment being considered would impose no additional compliance cost, and would increase the flexibility of existing plans and the number of investment choices available to participating employees.

Agency Contact: Jack W. Murphy, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N. W. (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AA08

3949. PROPOSED RULES 11A-3 AND 11C-1 UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-11(a)

CFR Citation: 17 CFR 270.11a-3; 17 CFR 270.11c-1

Legal Deadline: None.

Abstract: The proposed rules would exempt certain persons from the requirements of Section 11(a) of the Investment Company Act. That section prohibits any registered open-end investment company and its principal underwriter from making an offer to a shareholder to exchange his security for another security on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms have been submitted to and approved by the Commission or comply with rules the Commission may prescribe. Section 11(c) states in part that the terms of any offer of exchange involving the securities of registered unit investment trusts must also be submitted to and approved by the Commission or comply with rules the Commission may prescribe. Proposed rule 11a-3 would permit a mutual fund or its principal underwriter to make certain exchange offers to its own shareholders or to shareholders of another fund in the same family of funds. Proposed rule 11c-1 would permit a unit investment trust or its sponsor to make certain exchange offers to unitholders of the same series or another series of the same trust or to unitholders of another unit investment trust

Timetable:

Action	Date	FR Cite
NPRM	12/23/86	51 FR 47260
NPRM Comment Period End	09/01/87	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: having the same sponsor. By codifying standards for a variety of exchanges, these proposed rules are intended to significantly reduce the number of exemptive applications filed with the Commission under Section 11.

Analysis: Regulatory Flexibility Analysis

Agency Contact: Brian P. Kindelan, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AA14

3950. MUTUAL FUND GOVERNANCE

Legal Authority: 15 USC 80a-16(c); 15 USC 80a-35; 15 USC 80a-6(c)

CFR Citation: Not yet determined

Legal Deadline: None.

Abstract: On December 18, 1982, the Commission issued an advance concept release (Investment Company Act Release No. 12888, [47 FR 56509)] soliciting public comment on whether the Commission should propose rules or recommend legislation which would provide for an alternative form of mutual fund governance. Specifically, this release requests comment on whether mutual funds should be exempted from shareholder voting and/or director requirements under the Investment Company Act of 1940 (the "Act") and, if so, whether conditions could be fashioned which would adequately insure against loss of investor protection. Although such changes might be effected through rulemaking, the Commission has indicated that, in its preliminary judgment, changes of this magnitude should be effected through legislative rather than administrative action. Since the costs and benefits of providing for an alternative scheme of mutual fund governance cannot be estimated at the present time, the release solicits specific comment on the costs and benefits which would result from such changes. Extension of comment period until April 18, 1983 was announced in Investment Company Act Release No. 13012 (cont).

Timetable:

Action	Date	FR Cite
ANPRM	12/10/82	47 FR 56509
Ext'n of Comment Period to 4/18/83	02/07/83	48 FR 6354
ANPRM Comment Period End	04/18/83	48 FR 6354

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: (February 7, 1983) 48 FR 6354.

Agency Contact: Jack W. Murphy, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AA44

3951. SIMPLIFICATION OF REGISTRATION STATEMENTS FILED BY UNIT INVESTMENT TRUSTS

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12

Legal Deadline: None.

Abstract: On May 14, 1985, the Commission issued a release (Investment Company Act Release NO.14513 (50 FR 21282) soliciting public comment on proposed Form N-7, a form for registration of unit Investment Trusts and their securities under the Investment Act of 1940 and the Securities Act of 1933, and certain related rules and rule amendments. The Commission also published staff guidelines for the preparation of Form N-7. The proposed form would establish a two-part format for disclosure to prospective investors consisting of a simplified prospectus that can be use to satisfy the prospectus delivery requirements of the Securities Act of 1933 and a statement of additional information that would be available to prospective investors upon request and without charge. The Commission is proposing Form N-7 in order to (I) integrate the reporting and disclosure requirements of the Securities Act of 1933 and the investment trusts in one document; (II) codify in the form and guidelines the disclosure standards that have been developed for unit investment trusts; and (III) shorten and simplify the prospectus while making available on request more extensive information not of routine(cont)

Timetable:

Action	Date	FR Cite
NPRM	05/23/85	
NPRM Comment Period End	12/31/87	50 FR 21282

Small Entity: Yes

Additional Information: ABSTRACT CONT: interest to most investor.

Agency Contact: Jay Gould, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3040

RIN: 3235-AA47

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3952. RULE 17J-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-17(j); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17j-1

Legal Deadline: None.

Abstract: Rule 17j-1 requires every access person of a registered investment company, or of an investment adviser of or principal underwriter for the investment company to report to the investment company certain of his securities transactions. The Commission is considering whether to propose an amendment to this rule which would reduce the reporting requirement for investment company directors who are interested persons with respect to the investment company by reason of their affiliation with a registered broker-dealer. Members of the industry have characterized these reporting requirements as unnecessarily burdensome in some instances. Any such rule amendment would have the effect of lessening the reporting requirements currently imposed by the rule. As a result, the staff believes that the costs, which should be insignificant, of complying with any amendment would be significantly less than the benefits it would provide. The staff is concurrently reviewing similar reporting requirements for investment advisers under Rule 204-2(a)(12) and (13) under the Investment Advisers Act, in order to (cont)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: harmonize the provisions of Rule 17j-1 and Rule 204-2 to the extent possible. The Commission is also considering whether to amend Rule 17j-1 to define specified acts as fraudulent, deceptive, or manipulative or to require certain minimum standards to be set forth in a company's code of ethics.

Agency Contact: Meryl Dewey, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-3038

RIN: 3235-AA68

3953. REVISION OF INVESTMENT COMPANY PROXY RULES

Legal Authority: 15 USC 78n; 15 USC 78w; 15 USC 80a-20; 15 USC 80a-37

CFR Citation: 17 CFR 240.14a-1 to 240.14a-102; 17 CFR 240.14b-1; 17 CFR 240.14c-1 to 240.14c-101; 17 CFR 270.20a-1; 17 CFR 270.20a-2; 17 CFR 270.20a-3

Legal Deadline: None.

Abstract: Absent an exception, every solicitation of a proxy, authorization or consent in respect of any security with respect to which a registered investment company is the issuer, is subject to rules adopted pursuant to the Securities Exchange Act of 1934 and the Investment Company Act of 1940 concerning solicitations of proxies. Solicitations to which the rules apply may not commence unless each person solicited is furnished or has previously been furnished with a proxy statement containing specified information prepared in accordance with certain rules and the material has been filed with the Commission. The existing proxy rules were adopted in piecemeal fashion and have been the subject of frequent changes. This has led to certain duplicative and, in certain cases, complex requirements. To the extent that a proxy statement contains repetitive material or is overly complicated and difficult to read, it may not effectively perform its intended function of communicating meaningful information to security holders in order that they may make informed voting decisions. In order to update the proxy regulations and, in doing so, improve the (cont)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: readability of proxy statements and eliminate unnecessary disclosure costs, the Commission has commenced a comprehensive review of the proxy regulations as they relate to investment companies. There does not currently exist a basis upon which to quantify the reduced costs and burdens of such action on those registrants affected. Since the action will apply to all registered investment companies soliciting proxies, unless the solicitation is excepted, the Action is expected to have a significant impact on a substantial number of small entities. However, the contemplated revisions are still in the developmental stage and have not yet been formally proposed by the Commission. Thus, the extent of the revision actually proposed and the attendant reductions in costs and burdens are as yet largely unknown, but are anticipated to be significant.

Agency Contact: Dorothy M. Donohue, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-7317

RIN: 3235-AA69

3954. PROSPECTUS SIMPLIFICATION AMENDMENTS TO FORM N-2

Legal Authority: 15 USC 80a-8 Investment Company; 15 USC 77g Securities Act; 15 USC 77j Securities Act

CFR Citation: 17 CFR 239.14; 17 CFR 274.11a-1

Legal Deadline: None.

Abstract: Form N-2 is the registration statement form under the Investment Company Act of 1940 and the Securities Act of 1933 for closed-end management investment companies other than small business investment companies and companies which issue periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates. Included within the registration statement are the companies' prospectuses used in offering their securities to the public. The Commission believes a simplified prospectus is necessary because current prospectuses have become too cumbersome for the average investor to understand and because current requirements result in the disclosure of much information that is not necessarily material to an investment decision. Simplification will, therefore, make disclosure easier for investors to understand and reduce the costs and burdens of of preparing and distributing prospectuses. Accordingly, the Commission is proposing a new form N-2A that most likely would be structured as a three-part form, one part of which would be a new simplified prospectus. There does not currently exist (cont)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: a basis upon which to quantify the reduced costs and burdens of such action on those registrants affected. The contemplated amendments are still in the developmental stage and have not yet been formally proposed by the Commission. Thus, the extent of the simplification of investment companies' prospectuses actually proposed and the attendant reductions in costs and burdens are as yet largely unknown, but are expected to reduce the cost of registration for both the industry and government.

Agency Contact: Debra J. Kestenman, Attorney, Securities and Exchange Commission, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2107

RIN: 3235-AB40

3955. REVISIONS TO EXPENSE-RELATED DISCLOSURE REQUIREMENTS OF FORM N-1A

Legal Authority: 15 USC 77g; 15 USC 77j; 15 USC 77s

CFR Citation: 17 CFR 239.15A; 17 CFR 274.11A

Legal Deadline: None.

Abstract: On November 9, 1984, the Commission issued a release (Investment Company Act Release (No. 14230) soliciting comments on proposed revisions to Form N-1A, the registration form for mutual funds, that would consolidate narrative expense disclosures and require a fee table. The Commission will consider whether to repropose similar amendments to Form N-1A limited to adding a fee table to the prospectus and expanding disclosure of distribution plans adopted under Rule 12B-1 under the Investment Company Act.

Timetable:

Action	Date	FR Cite
NPRM	08/31/87	49 FR 45172
NPRM Comment Period End	10/15/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: John McGuire, Attorney, Securities and Exchange Commission, Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235-AB73

3956. METHOD FOR COMPLIANCE WITH SECTION 206(3) OF THE INVESTMENT ADVISERS ACT OF 1940 WITH RESPECT TO CERTAIN TRANSACTIONS

Legal Authority: 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.206(3)-3

Legal Deadline: None.

Abstract: Section 206(3) of the Investment Advisers Act of 1940 makes it unlawful for any investment adviser, by use of the mail or any means or instrumentality of interstate commerce, directly or indirectly, knowingly to effect a securities transaction (a) with a client while acting as principal or (b) for a client while acting as broker for a person other than such client, without disclosing in writing to such client before the completion of the transaction the capacity on which he is acting and obtaining the consent of the client to the transaction. The Commission is considering whether to propose a rule that would provide a nonexclusive method for compliance with the provisions of Section 206(3) of the Investment Advisers Act of 1940 in connection with purchases of securities from an underwriting syndicate for an advisory client under specified conditions. Because the proposed rule is still in the developmental stages, its potential effect on small entities and its potential costs and benefits as a whole are unknown at this time.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: John McGuire, Attorney, Securities and Exchange Commission, Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235-AB74

3957. PROPOSED RULE 3A-6 UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-6

Legal Deadline: None.

Abstract: The Commission is considering whether to propose a rule that would provide exemptive relief from all provisions of the ICA to limited purpose finance subsidiaries that own or hold mortgage-backed securities. This would obviate the necessity of these subsidiaries filing applications for exemptive relief.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Brian P. Kindelan, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2048

RIN: 3235-AC03

3958. STANDARDIZED FORMULA FOR CALCULATING INVESTMENT COMPANY PERFORMANCE DATA IN ADVERTISEMENTS

Legal Authority: 15 USC 80a-37

CFR Citation: 17 CFR 270

Legal Deadline: None.

Abstract: On September 17, 1986, the Commission proposed for comment amendments to several rules and forms and new rules that would (1) standardize the method of calculating performance quotations used in investment company advertisements and sales literature, require additional risk disclosure in advertisements and sales literature combining performance quotations, improving prospectus disclosure of performance quotations, prohibit stale performance quotations, and eliminate the requirement that funds file sales literature and advertisements with the Commission if it is filed with the NASD. The Commission is considering whether to adopt such rules.

Timetable:

Action	Date	FR Cite
NPRM	09/17/86	51 FR 34384
NPRM Comment Period End	09/01/87	

Small Entity: Undetermined

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Additional Information: ABSTRACT CONT: Because the proposed rule amendments are in their developmental stages, the potential effect on small entities and potential costs and benefits as a whole are unknown at this time.

Agency Contact: Robert E. Plaze, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235-AC08

3959. ADVERTISING BY INVESTMENT ADVISERS

Legal Authority: 15 USC 80b-6(4)

CFR Citation: 17 CFR 275.206(4)-1

Legal Deadline: None.

Abstract: Rule 206(4)-1 contains a wide range of restrictions on advertising by investment advisers including prohibitions on the use of testimonials. The rule was adopted in 1962 and has not been revised since. The Commission is considering whether to amend the rule in a manner which would permit greater flexibility to investment advisers in their advertising and protect the investing public from potential abuse. Because the proposed amendments to the rule are still in the developmental stages, the potential effect on small entities and its potential costs and benefits as a whole are uncertain at this time.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Robert E. Plaze, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2098

RIN: 3235-AC09

3960. PROPOSED AMENDMENTS TO RULES 12B-1 AND 17D-3; PROPOSED RULE 6C-10

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37; 15 USC 80a-12(b); 15 USC 80a-17(d)

CFR Citation: 17 CFR 270.12b-1; 17 CFR 270.17d-3; 17 CFR 270.6c-10

Legal Deadline: None.

Abstract: The Commission will consider whether to propose amendments to Rule 12b-1 under the Investment Company Act to redefine the circumstances under which investment companies may finance distribution out of fund assets. The Commission will also consider whether to propose amendments to Rule 17d-3 to allow affiliated investment companies to jointly finance distribution activities under certain conditions. Finally, the Commission will consider whether Rule 6c-10 under the Act to allow investment companies to charge deferred sales loads, including contingent deferred sales loads, under certain conditions. These actions would eliminate the need for investment companies to file applications for exemptive relief.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Jack W. Murphy, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2048

RIN: 3235-AC11

3961. EXEMPTION OF ACQUISITION OF SECURITIES DURING THE EXISTENCE OF UNDERWRITING SYNDICATE

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-37(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.10f-3

Legal Deadline: None.

Abstract: The conditions in existing Rule 10f-3, which allow purchases from affiliated underwriters during the existence of an underwriting syndicate, may no longer be appropriate in today's financial markets. The Commission is investigating possible alternative provisions and soliciting comment on these alternatives.

Timetable:

Action	Date	FR Cite
ANPRM	01/29/86	51 FR 4386
ANPRM Comment Period End	04/07/86	51 FR 4386

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AC28

3962. PROPOSED RULE 12D3-2

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.12d3-2

Legal Deadline: None.

Abstract: The Commission is considering whether to propose a rule that would set forth the conditions under which registered investment companies may engage in repurchase agreement transactions with persons engaged in securities related businesses.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Brian Kindelan, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AC36

3963. EXEMPTION FOR THE OFFER OR SALE OF DEBT SECURITIES AND NON-VOTING PREFERRED STOCK IN THE UNITED STATES BY FOREIGN BANKS AND SUBSIDIARIES ORGANIZED TO FINANCE THE OPERATIONS OF FOREIGN BANKS

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.6c-9; 17 CFR 274.304

Legal Deadline: None.

Abstract: Foreign banks and their finance subsidiaries are considered investment companies under the Investment Company Act of 1940. The rule would, under certain circumstances, permit a foreign bank or the bank's finance subsidiary to offer or sell its own securities or non-voting preferred stock in the United States without registering as an Investment Company under the Investment Company Act.In connection with the rule, foreign banks and certain foreign bank finance subsidiaries would be required to file proposed Form N-6c9.

Timetable:

Action	Date	FR Cite
NPRM	09/17/86	51 FR 34221
NPRM Comment Period End	09/01/87	51 FR 34221

Small Entity: No

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AC37

3964. ADVERTISING BY UNIT INVESTMENT TRUSTS

Legal Authority: 15 USC 77j; 15 USC 77s; 15 USC 80a-37(a)

CFR Citation: 00 CFR NONE

Legal Deadline: None.

Abstract: Currently unit investment trusts advertise their performance by means of an "estimated current return" which shows estimated cash flow. However, because there is no uniform method of computing the estimated current return, they cannot be compared by prospective investors. This rulemaking project will endeavor to create such a uniform method. A uniform method of computation will permit investors to make more informed investment decisions by enabling them to compare the performance of different trusts.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Robert E. Plaze, Special Counsel, Securities and Exchange Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235-AC70

3965. ● REVISION OF CERTAIN INVESTMENT ADVISER RECORDKEEPING RULES

Legal Authority: 15 USC 80b-4(2); 15 USC 80b-6(4)

CFR Citation: 17 CFR 275.204-2(a); 17 CFR 275.204-2(e)

Legal Deadline: None.

Abstract: Under the books and records rules of the Investment Advisers Act of 1940, investment advisers are permitted to advertise but are not required to maintain their advertisements nor the worksheets used to calculate the performance information in advertisements. We are proposing a rule that would require these documents to be kept. If the rule is proposed and adopted, Commission inspectors would be able to examine these advertisements and the worksheets used to calculate performance information in advertisements which would aid the Commission's efforts to eliminate fraudulent and misleading advertisements by investment advisers. Adoption of such a rule would also increase the public's confidence in performance information in advertisements.

Timetable:

Action	Date	FR Cite
NPRM	09/01/87	

Small Entity: Undetermined

Agency Contact: Dorothy M. Donohue, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W., Washington, D.C. 20549, 202 272-7317

RIN: 3235-AC97

3966. ● RULE 19B-1 UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-19(b); 15 USC 80a-19(a); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.19b-1

Legal Deadline: None.

Abstract: Rule 19b-1 prohibits regulated investment companies, generally from distributing long-term capital gains more than once during a fiscal year. The proposed rule would address certain changes in tax code by permitting an additional distribution per year, subject to certain conditions. But for the amendment, companies would either have to pay an additional tax or file an application for exemptive relief. The amended rule would require an additional notice to investors, but the cost of such notice should be outweighed by the savings realized by not having to pay an excise tax or file an exemptive application.

Timetable:

Action	Date	FR Cite
NPRM	06/05/87	52 FR 22496
NPRM Comment Period End	09/01/87	52 FR 22496

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Meryl Dewey, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W., Washington, D.C., 202 272-3038

RIN: 3235-AC99

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SECURITIES AND EXCHANGE COMMISSION (SEC) — Final Rule Stage

Accounting Rules

3967. PROPOSALS REGARDING INDUSTRY SEGMENT AND OTHER INTERIM FINANCIAL REPORTING MATTERS, MANAGEMENT'S DISCUSSION AND ANALYSIS, AND OFF BALANCE SHEET FINANCING DISCLOSURES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25) to 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79a(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80-29

CFR Citation: 17 CFR 210.5-02; 17 CFR 210.10-01; 17 CFR 210.11-02; 17 CFR 229.303

Legal Deadline: None.

Abstract: The Commission proposed amendments to require (1) presentation of certain industry segment information for interim periods; (2) a discussion of reportable segments in management's discussion and analysis; and (3) modifications of other miscellaneous interim reporting requirements. The release also provides advance notice of possible future rulemaking regarding (1) additional segment reporting disclosures and (2) uniform disclosure of off balance sheet financing arrangements. The proposals are designed to enhance analysis of financial information. They may entail some new recordkeeping but any such costs have not been determined. The Commission's interim reporting rules will be reviewed as a part of this action.

Timetable:

Action	Date	FR Cite
NPRM	02/15/84	49 FR 6737
NPRM Comment Period End	05/15/84	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: This entry replaces the following three entries from the October 1983 agenda. RIN 3235-AA53 -- Off Balance Sheet Obligations. RIN 3235-AA54 -- Segment Information. RIN 3235-AA55 -- Quarterly Financial Reporting.

Agency Contact: John W. Albert, Assistant Chief Accountant, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AB15

Disclosure Rules

3968. PROSPECTUS DELIVERY REQUIREMENTS IN FIRM COMMITMENT OFFERINGS OF SECURITIES MADE FOR CASH (RULE 433)

Legal Authority: 15 USC 77b(10); 15 USC 77s(a); 15 USC 77j(a)(4); 15 USC 77j(d)

CFR Citation: 17 CFR 230.433

Legal Deadline: None.

Abstract: The Commission is proposing two alternative versions of a new Rule 433 that would provide a safe harbor from the requirement to deliver a final prospectus prior to or contemporaneously with a confirmation of sale in a firm commitment offering of securities for cash. Both proposals would permit, if all conditions of the Rule are satisfied, the sending of a final prospectus no later than five business days after a confirmation of sale is sent to an investor in such an offering.

Timetable:

Action	Date	FR Cite
NPRM	06/05/87	
Final Action	01/00/88	

Small Entity: Yes

Agency Contact: Sarah A. Miller, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AC80

3969. FACILITATING SHAREHOLDER COMMUNICATIONS

Legal Authority: 15 USC 78l; 15 USC 78n; 15 USC 78q; 15 USC 78w(a)

CFR Citation: 17 CFR 240.14a-1; 17 CFR 240.14a-13; 17 CFR 240.14b-1; 17 CFR 240.14b-2; 17 CFR 240.14c-1; 17 CFR 240.14c-7

Legal Deadline: None.

Abstract: In order to avoid duplicative forwarding of proxy soliciting material to employee benefit plan participants who are beneficial owners and excessive recordkeeping burdens for both brokers and banks and to save costs for registrants, the Commission is proposing amendments that would exclude, under certain circumstances, certain employee benefit plan participants from the shareholder communications rules. The alternatives proposed include: (1) an optional exclusion on the part of registrant if certain prerequisites are satisfied; (2) a mandatory exclusion without any trigger mechanism; and (3) a mandatory exclusion with a trigger mechanism.

Timetable:

Action	Date	FR Cite
NPRM	03/27/87	52 FR 11083
NPRM Comment Period End	05/07/87	
Further public comment requested	06/19/87	52 FR 23855
Extended comment period will end	08/10/87	

Next Action Undetermined

Small Entity: No

Agency Contact: Sarah A. Miller, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AC81

3970. REGULATION D

Significance: Agency Priority

Legal Authority: 15 USC 77b(15); 15 USC 77c(b); 15 USC 77d(2); 15 USC 77d(b); 15 USC 77s(a); 15 USC 77s(c)

CFR Citation: 17 CFR 230.501; 17 CFR 230.502; 17 CFR 230.503; 17 CFR 230.504; 17 CFR 230.505; 17 CFR 230.506

Legal Deadline: None.

Abstract: The proposed revisions would add to the number of persons who would qualify as accredited investors raise the dollar ceiling for certain exempt offerings and make general technical changes to the regulation which provides three different exemptions from the registration requirements of the securities act of 1933. The revisions by widening the scope of the exemptions will aid smaller businesses that will be able to raise needed capital without registering under the Securities Act.

SEC — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/12/87	
NPRM Comment Period End	03/15/87	
Final Action Effective	11/01/87	

Small Entity: Yes

Agency Contact: Karen O'Brien, Attorney Advisor, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2644

RIN: 3235-AC83

3971. ● FACILITATING SHAREHOLDER COMMUNICATIONS

Legal Authority: 15 USC 78l; 15 USC 78n; 15 USC 78q; 15 USC 78w(a)

CFR Citation: 17 CFR 240.14a-1; 17 CFR 240.14a-13; 17 CFR 240.14b-1; 17 CFR 240.14b-2; 17 CFR 240.14c-1; 17 CFR 240.14c-7

Legal Deadline: None.

Abstract: The Commission is proposing amendments to the shareholder communications rules that would require a registrant to exclude, under certain circumstances, employee benefit plan participants from the operation of the proxy processing provisions with respect to securities of a registrant held in nominee name pursuant to the plan. The proposed amendments also would exclude plan participants from a registrant's request for a list of beneficial owners under certain circumstances. The proposed amendments are intended to avoid duplicative mailing of proxy materials to plan participants, to achieve the most efficient means of communicating with such plan participants and to realize cost savings for registrants in connection with proxy processing obligation and requesting beneficial ownership lists. In addition to these proposed amendments, the Commission is considering various alternatives including an optional exclusion of plan participants from the shareholder communications rules if certain prerequisites are satisfied, making one or both of the exclusions from the proxy processing and direct communications systems mandatory and an automatic across-the-board mandatory exclusion.

Timetable:

Action	Date	FR Cite
NPRM	06/19/87	52 FR 23855
NPRM Comment Period End	08/10/87	

Next Action Undetermined

Small Entity: No

Agency Contact: Barbara J. Green, Attorney Fellow, Office of Diclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AD07

3972. ● ELIMINATION OF FILING REQUIREMENTS FOR PRELIMINARY PROXY MATERIAL UNDER CERTAIN CIRCUMSTANCES; RULE 14A-8 SHAREHOLDER PROPOSALS

Legal Authority: 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 240.14a-6; 17 CFR 240.14a-8; 17 CFR 240.14c-5; 17 CFR 240.14c-101; 17 CFR 270.20a-1

Legal Deadline: None.

Abstract: The Commission is proposing to eliminate the filing of preliminary proxy and information statements under certain circumstances. The proposed amendments are intended to decrease filing burdens on registrants and reduce administrative costs incurred by the Commission in processing such preliminary material. The Commission also is proposing amendments to Rule 14a-8, the shareholder proposal Rule including deleting the limitation on inclusion of a shareholder proposal in a registrant's proxy material where the proponent delivers written proxy materials to holders of more than 25% of a class of the registrant's securities. As alternatives, the Commission is considering modifying or clarifying the 25% limitation.

Timetable:

Action	Date	FR Cite
NPRM	06/04/87	52 FR 22334
NPRM Comment Period End	07/27/87	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Barbara J. Green, Attorney Fellow, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AD08

Investment Management Rules

3973. PROPOSED RULE 3A-4 -- INDIVIDUALIZED INVESTMENT MANAGEMENT SERVICES

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-4

Legal Deadline: None.

Abstract: In Investment Company Act Release No. 11391 (October 10, 1980) (45 FR 69479) the Commission proposed for public comment Rule 3a-4, which would deem investment management services providing their clients with individualized treatment not to be investment companies for purposes of the Act. The rule provides a "safe harbor" for any investment manager providing its clients with treatment based on the needs and goals of each client. Under such circumstances, regulation of investment management services under the Act appears unnecessary. The proposed rule was intended to clarify the Commission's position on the question of "mini-accounts" by providing a safe harbor for certain investment management services and thereby provide some certainty to the public. The Commission does not expect any final action taken on the proposal to significantly affect the cost of providing investment management services. The public comment letters on the proposal have been reviewed and alternatives for final action are being formulated.

Timetable:

Action	Date	FR Cite
NPRM	10/10/80	45 FR 69479
NPRM Comment Period End	01/31/81	45 FR 69479

Next Action Undetermined

Small Entity: Undetermined

Additional Information: NPRM is Release No. IC-11391 (10/10/80)

Agency Contact: Jack W. Murphy, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street,

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NW (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AA12

3974. PROPOSED AMENDMENT TO RULE 17G-1 UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-17(g); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17g-1

Legal Deadline: None.

Abstract: The Commission is considering whether to adopt an amendment to Rule 17g-1 under the Investment Company Act. The amendment was proposed for public comment in Investment Company Act Release No. 11193 (June 2, 1980) (45 FR 38407). Rule 17g-1 requires every registered investment company to provide and maintain a bond against larceny and embezzlement covering officers and employees of the company. In some circumstances, the officers and employees of a company's depositor, trustee, investment adviser or other manager and various affiliates of such persons, because they have access to the company's assets, function as officers and employees of the investment company. The proposed amendment to the rule would clarify the scope of the rule by explicitly requiring the bonding of such persons. The principal cost associated with this rule would be the cost of a bond. That cost would vary according to the persons required to be bonded by the rule. In this regard, before adopting any amendment to the rule, the Commission will carefully consider what persons should be bonded to protect investors adequately, weighing the benefits of the protection against the cost of a bond.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Jack W. Murphy, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AA16

3975. DISCLOSURE OF LEGAL AND DISCIPLINARY PROCEEDINGS

Legal Authority: 15 USC 80B-6(4)

CFR Citation: 17 CFR 275.206(4)-4

Legal Deadline: None.

Abstract: Section 206 of the Investment Advisers Act of 1940 prohibits a wide range of fraudulent activity by investment advisers. The Commission has interpreted this section to require that advisers disclose material financial and disciplinary information to clients. On September 19, 1986, the Commission proposed for public comment Rule 206(4)-4 to codify this disclosure obligation. The proposed rule sets forth a general standard and provides guidance on some of the disciplinary events that must be disclosed. By codifying the obligation and providing greater certainty to advisers in fulfilling it, the rule should help ensure that clients are provided with this material information. See Investment Advisers Act Release No. IA-1035, 51 FR 34229, September 26, 1986. The rule's impact on small entities cannot be qualified. However, the proposal by codifying an existing disclosure obligation, should not impose additional costs on advisers.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/86	
NPRM	09/26/86	51 FR 34229
NPRM Comment Period End	11/21/86	
Final Action	10/30/87	

Small Entity: Undetermined

Agency Contact: Debra J. Kertzman, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W.(Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235-AC06

3976. ACCOUNTING FOR DISTRIBUTION EXPENSES

Legal Authority: 15 USC 77f; 15 USC 80a-37

CFR Citation: 17 CFR 210.6-07

Legal Deadline: None.

Abstract: On July 10, 1985, the Commission proposed for public comment an amendment to Regulation S-X to require that registered investment companies account for net costs incurred as a result of 12b-1 plan as expenses. The amendment would achieve consistent accounting for 12b-1 expenditures thereby ensuring greater uniformity in the accounting practices of investment companies and allowing investors to more accurately compare investment results among investment companies. See Investment Company Act Release No. IC-14623, 50 FR 28953, July 17, 1985.

Timetable:

Action	Date	FR Cite
NPRM	07/17/85	50 FR 28953
NPRM Comment Period End	09/30/85	
Final Action	09/01/87	

Small Entity: No

Agency Contact: Debra Kertzman, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235-AC07

3977. DISCLOSURE OF SECURITY RATINGS IN REGISTRATION STATEMENTS OF MONEY MARKET FUNDS

Legal Authority: 15 USC 77(g); 15 USC 77(i); 15 USC 77(s)(a)

CFR Citation: 17 CFR 230.134; 17 CFR 230.436; 17 CFR 230.482

Legal Deadline: None.

Abstract: The Commission proposed amendments to Rules 134, 436, and 482 under the Securities Act of 1933 on March 14, 1986. The amendments would, if adopted, permit certain investment companies to use in their statutory and omitting prospectuses security ratings assigned by a nationally recognized statistical rating organization (NRSRO) without first obtaining the NRSRO'S consent to being named pursuant to Section 7 of the Securities Act. The Commission is now considering whether to adopt such amendments.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	05/16/86	51 FR 9838

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Jay Gould, Attorney, Securities and Exchange Commission,

Division of Investment Management, 450 Fifth Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235-AC24

3978. N - 1A HOUSEKEEPING AMENDMENTS

Legal Authority: 15 USC 580a-8(b)

CFR Citation: 17 CFR 274.11A

Legal Deadline: None.

Abstract: The Commission is considering several modifications to Form N1A which would reduce the number of copies that must be filed with the Commission, clarify the operation of item 15(c) of the Statement of Additional information with respect to series companies, and confirm the procedures for requesting the statement of additional information to those contained in Forms N-3 and N-4.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: John McGuire, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 Fifth street, N. W., Washington, DC 20549, 202 272-2107

RIN: 3235-AC25

3979. RULE 174 AMENDMENT - PROSPECTUS DELIVERY DURING QUIET PERIOD

Legal Authority: 15 USC 77s; 15 USC 77d

CFR Citation: 17 CFR 230.174

Legal Deadline: None.

Abstract: The Commission intends to adopt amendments to Rule 174 under the Securities Act of 1933 that would reduce or eliminate under certain circumstances the 40 or 90 day delivery period during which dealers must deliver a prospectus in aftermarket transactions in registered securities following a public offering.

Timetable:

Action	Date	FR Cite
NPRM	12/29/86	51 FR 46874
NPRM Comment Period End	03/01/87	51 FR 46874
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Larisa Dobriansky, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 Fifth Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AC34

SECURITIES AND EXCHANGE COMMISSION (SEC) — Completed Actions

3980. SPECIFIC DISCLOSURE REQUIREMENTS FOR SAVINGS AND LOAN HOLDING COMPANIES

CFR Citation: 17 CFR 210.9; 17 CFR 231; 17 CFR 241

Completed:

Reason	Date	FR Cite
Staff Accounting Bulletin Issued	05/08/87	52 FR 18200

Small Entity: Undetermined

Agency Contact: Laurel R. Bond 202 272-2130

RIN: 3235-AB65

3981. REGULATION 14A – RULES RELATING TO PROXY CONTESTS

CFR Citation: 17 CFR 240.14a-1 to 240.14a-12; 17 CFR 240.14a-101; 17 CFR 240.14a-102

Completed:

Reason	Date	FR Cite
Withdrawn	07/20/87	

Small Entity: Undetermined

Agency Contact: Division of Corporation Finance 202 272-2589

RIN: 3235-AA03

3982. GENERAL RULES UNDER THE SECURITIES ACT OF 1933–RULES 100 THROUGH 180 (EXCLUDING RULES 137, 138 AND 139)

CFR Citation: 17 CFR 230.100 to 230.180

Completed:

Reason	Date	FR Cite
Withdrawn	07/20/87	

Small Entity: Undetermined

Agency Contact: Division of Corporation Finance 202 272-2589

RIN: 3235-AA52

3983. TRUST INDENTURE ACT RULES

CFR Citation: 17 CFR 260

Completed:

Reason	Date	FR Cite
Withdrawn	07/20/87	

Small Entity: Undetermined

Agency Contact: William Morley 202 272-2573

RIN: 3235-AB43

3984. RULE 134 UNDER THE SECURITIES ACT OF 1933

CFR Citation: 17 CFR 230.134

Completed:

Reason	Date	FR Cite
Withdrawn	07/20/87	

Small Entity: Undetermined

Agency Contact: Division of Corporation Finance 202 272-2573

RIN: 3235-AB80

3985. "CHINESE WALL" EXEMPTION UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED BY THE INSIDER TRADING SANCTIONS ACT OF 1984

CFR Citation: 17 CFR 240.

Completed:

Reason	Date	FR Cite
Withdrawn	07/20/87	

Small Entity: Undetermined

Agency Contact: Larisa Dobriansky 202 272-2589

RIN: 3235-AC14

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3986. CONFORMING AMENDMENTS TO PROXY RULES

CFR Citation: 17 CFR 229.304; 17 CFR 239.25; 17 CFR 239.34; 17 CFR 240.14a-2; 17 CFR 240.14a-6; 17 CFR 240.14a-8; 17 CFR 240.14a-11; 17 CFR 240.14a-14; 17 CFR 240.14a-101

Completed:

Reason	Date	FR Cite
Final Action	06/24/87	52 FR 23646
Final Action Effective	07/10/87	

Small Entity: Yes

Agency Contact: Barbara J. Green 202 272-2589

RIN: 3235–AC86

3987. ELIMINATION OF CERTAIN PRICING AMENDMENTS AND REVISION OF PROSPECTUS FILING PROCEDURES

CFR Citation: 17 CFR 229.501; 17 CFR 229.512; 17 CFR 229.601; 17 CFR 230.423; 17 CFR 230.424; 17 CFR 230.430A, (new); 17 CFR 230.481; 17 CFR 230.482; 17 CFR 230.497; 17 CFR 230.499; 17 CFR 239.13; 17 CFR 239.25; 17 CFR 239.33; 17 CFR 239.34; 17 CFR 239.14a-101; ...

Completed:

Reason	Date	FR Cite
Final Action	05/27/87	52 FR 21252
Final Action Effective	07/05/87	

Small Entity: Yes

Agency Contact: Alexander G. Shtofman 202 272-2589

RIN: 3235–AC87

3988. RULE: 3A12-8OF THE SECURITIES EXCHANGE ACT OF 1934

CFR Citation: 17 CFR 240.3a12-8

Completed:

Reason	Date	FR Cite
Final Action	03/20/87	52 FR 8675
Final Action Effective	04/19/87	

Small Entity: No

Agency Contact: David Underhill 202 272-2375

RIN: 3235–AC89

3989. REGISTRATION OF GOVERNMENT SECURITIES DEALERS; AMENDMENTS TO FORM BD

CFR Citation: 17 CFR 240.15b2-2; 17 CFR 240.15Ca1-1; 17 CFR 240.15Ca2-1; 17 CFR 240.15Ca2-2; 17 CFR 240.15Ca2-3; 17 CFR 240.15Ca2-4; 17 CFR 240.15Ca2-5; 17 CFR 240.15Cc1-1

Completed:

Reason	Date	FR Cite
Final Action	04/21/87	50 FR 16833
Final Action Effective	07/25/87	

Small Entity: Undetermined

Agency Contact: Lynne G. Masters 202 272-2848

RIN: 3235–AC90

3990. AMENDMENTS TO RULES 11AA2-1 AND 11AA3-1

CFR Citation: 17 CFR 240.11A(a)(2); 17 CFR 240.11A(a)(3)

Completed:

Reason	Date	FR Cite
Final Action Rule adopted	06/29/87	52 FR 24144
Final Action Effective	07/29/87	

Small Entity: Yes

Agency Contact: Alden Adkins 202 272-2857

RIN: 3235–AC91

3991. ● FACILITATING SHAREHOLDER COMMUNICATIONS

Legal Authority: 15 USC 78l; 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 240.14a-1; 17 CFR 240.14a-13; 17 CFR 240.14b-1; 17 CFR 240.14b-2; 17 CFR 240.14c-1; 17 CFR 240.14c-7

Legal Deadline: None.

Abstract: The Commission adopted amendments to the shareholder communications rules that defer the application of the proxy processing provisions in Rules 14a-13(a), 14b-2(a), (c) and (d) and 14c-7(a) with respect to beneficial owners who are employee benefit plan participants with securities held in nominee name by a bank, association or other entity that exercises fiduciary powers ("bank"). The amendments provide temporarily for a mandatory exclusion of plan participants from the bank proxy processing provisions of the shareholder communications rules pending consideration by the Commission of a range of approaches to the treatment of plan participants under the shareholder communications rules on a permanent basis. The Commission also adopted amendments that (1) change from three to five business days the time in which a bank is to execute an omnibus proxy and provide notice of that execution to respondent banks; (2) add a definition of employee benefit plan; and (3) make other clarifying and technical changes.

Timetable:

Action	Date	FR Cite
NPRM	03/27/87	
NPRM Comment Period End	05/07/87	
Final Action	06/19/87	52 FR 23646

Small Entity: No

Agency Contact: Barbara J. Green, Attorney Fellow, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235–AD06

3992. AMENDMENTS TO RULES 15C3-1, 15C3-3, 17A-3 AND 17A-13 PERTAINING TO REPURCHASE AGREEMENTS

CFR Citation: 17 CFR 240.

Completed:

Reason	Date	FR Cite
Final Action Rule amendments to Rules 17a-3, 17a-13 & Rule 15c3-1 were adopted	06/11/87	52 FR 22295

Small Entity: No

Agency Contact: Michael Jamroz 202 272-2398

RIN: 3235–AC74

3993. ● RULE 13E-1 OF THE SECURITIES EXCHANGE ACT OF 1934 ("EXCHANGE ACT")

Legal Authority: 15 USC 78m(d); 15 JSC 78m(e); 15 USC 78n(d); 15 USC 78n(f)

CFR Citation: 17 CFR 240.13e-1

Legal Deadline: None.

Abstract: Rule 13e-1 prohibits an issuer subject to section 13(e) of the Exchange Act from purchasing any of its own equity securities after a tender offer is made by a third party unless the issuer has both filed a statement containing certain information with the Commission and conveyed the substance of that information to shareholders within the previous six months. The information required is 1) the title, amount, and source of the securities to be purchased; 2) the purpose of the purchases and intended disposition of the securities purchased; and 3) the source and amount of funds or other consideration to be used in making the purchases. Rule 13e-1 further provides that the initial statement be accompanied by a fee payable to the Commission as required by Rule 0-11 of the Exchange Act.

Timetable:

Action	Date	FR Cite
Final Action	07/30/68	
Final Action Effective	07/30/68	

Small Entity: Undetermined

Agency Contact: Nancy Burke, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth St., N.W., Washington, D.C. 20549, 202 272-2880

RIN: 3235–AC96

3994. REGISTRATION UNDER THE SECURITIES ACT OF 1933 OF AN INDEFINITE NUMBER OF CERTAIN INVESTMENT COMPANY SECURITIES

CFR Citation: 17 CFR 270.24f-2

Completed:

Reason	Date	FR Cite
Final Action	01/31/88	

Small Entity: Undetermined

Agency Contact: Jay B. Gould 202 272-3040

RIN: 3235–AC10

3995. ● EXEMPTION FROM REQUIREMENT OF A DECLARATION ABOUT CERTAIN AGREEMENTS BY PARENT COMPANIES IN A REGISTERED HOLDING COMPANY SYSTEM CONCERNING THE OBLIGATIONS OF THEIR SUBSIDIARY COMPANIES

Legal Authority: 15 USC 79(c); 15 USC 79(l); 15 USC 791(b)

CFR Citation: 17 CFR 250.45(b)

Legal Deadline: None.

Abstract: The proposed rule would exempt from the requirement of a declaration certain routine agreements whereby a parent company in a registered holding company system guarantees, assumes joint liability upon, or acts a surety or indemnitor for the obligations of its subsidiary company.

If adopted, the proposed rule would result in an annual savings to respondent holding companies of approximately $112,200.

Timetable:

Action	Date	FR Cite
Proposed rule amendment Rule amendment approved by the Commission for public comment	06/16/87	

Small Entity: No

Agency Contact: William C. Weeden, Assistant Director, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-7683

RIN: 3235–AC98

3996. ● RULE 30A-2(C) UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-2(c)

Legal Deadline: None.

Abstract: Rule rescinded on January 4, 1985.

Timetable:

Action	Date	FR Cite
Withdrawn	01/04/85	50 FR 1442

Small Entity: Not Applicable

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235–AD00

3997. ● RULE 8C-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.8c-1

Legal Deadline: None.

Abstract: Rule rescinded on March 30, 1954.

Timetable:

Action	Date	FR Cite
Withdrawn	03/30/54	

Small Entity: Not Applicable

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235–AD01

3998. ● RULE 27D-3 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-27(d); 15 USC 80a-27(f); 15 USC 80a-29(b); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.27d-3

Legal Deadline: None.

Abstract: Rule rescinded on July 9, 1985.

Timetable:

Action	Date	FR Cite
Withdrawn	07/09/85	50 FR 27937

Small Entity: Not Applicable

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235–AD02

3999. ● RULE 3C-4 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3c-4

Legal Deadline: None.

Abstract: Rule 3c-4 defines the term "common trust fund" to include multi-bank common trust funds, and thus has the effect of exempting multi-bank common trust funds from the provisions of the Investment Company Act of 1940.

Timetable:

Action	Date	FR Cite
End Review	08/04/87	

Small Entity: Yes

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Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235-AD11

4000. ● RULE 27F-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-27(f); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.27f-1

Legal Deadline: None.

Abstract: Rule 27f-1 prescribes specific circumstances under which a notice must be mailed to periodic payment plan certificate holders and sets forth the exact wording to be used in the notice required on Form N-27F-1.

Timetable:

Action	Date	FR Cite
End Review	08/04/87	

Small Entity: Yes

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235-AD12

4001. ● RULE 6E-2 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.6e-2

Legal Deadline: None.

Abstract: Rule 6e-2 exempts a variable life insurance separate account which qualifies under the rule from the registration provisions of the Investment Company Act of 1940, provided it complies with all other applicable provisions of that Act.

Timetable:

Action	Date	FR Cite
End Review	08/05/87	

Small Entity: No

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235-AD13

4002. ● RULE 17E-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-30(a); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17e-1

Legal Deadline: None.

Abstract: Rule 17e-1 describes the determinations an investment company must make before paying a commission, fee, or other remuneration to an affiliated person in connection with a securities transaction.

Timetable:

Action	Date	FR Cite
End Review	08/04/87	

Small Entity: Yes

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235-AD14

4003. ● RULE 22E-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6; 15 USC 80a-37

CFR Citation: 17 CFR 270.22e-1

Legal Deadline: None.

Abstract: Rule 22e-1 exempts a registered separate account from certain provisions of Section 22(e) of the Investment Company Act during the annuity payment period of variable annuity contracts participating in such account.

Timetable:

Action	Date	FR Cite
End Review	08/05/87	

Small Entity: No

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235-AD15

4004. ● RULE 3C-3 UNDER THE INVESTMENT COMPANY ACT OF 1340

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3c-3

Legal Deadline: None.

Abstract: Rule 3c-3 provides an exemption from the Investment Company Act of 1940 for a small business investment company (SBIC) issuing certain securities guaranteed by the Small Business Administration, provided such SBIC is otherwise exempt from that Act.

Timetable:

Action	Date	FR Cite
End Review	08/04/87	

Small Entity: Yes

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235-AD16

4005. ● RULE 27E-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.27e-1

Legal Deadline: None.

Abstract: Rule 27e-1 prescribes specific circumstances under which a notice must be mailed to periodic payment plan certificate holders and sets forth the exact wording to be used in the notice required on Form N-27E-1.

Timetable:

Action	Date	FR Cite
End Review	08/04/87	

Small Entity: Yes

Agency Contact: Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2762

RIN: 3235-AD17

[FR Doc. 87-21270 Filed 10-23-87; 8:45 am]

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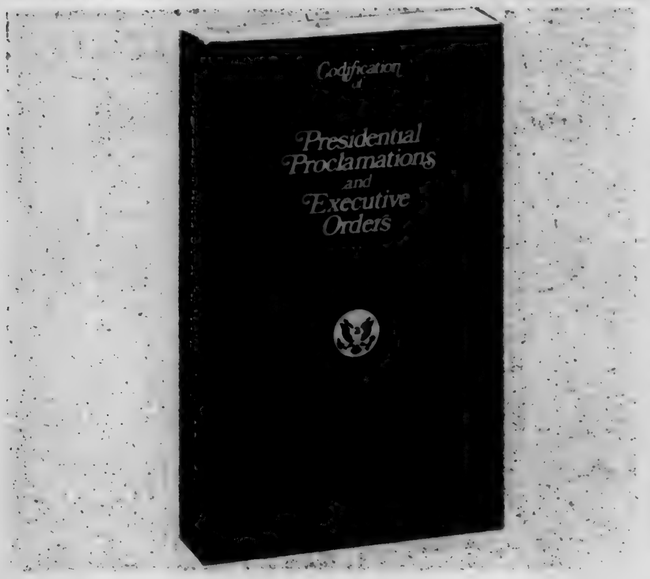

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 87-135]

Oriental Fruit Fly; Removal of San Diego County From the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Oriental fruit fly regulations by removing the listed portion of San Diego County in California from the list of areas designated as quarantined areas. This action is necessary to relieve restrictions that are no longer needed to prevent the artificial spread of the Oriental fruit fly into noninfested areas of the United States. The effect of this action is to remove restrictions imposed by Oriental fruit fly emergency regulations on the interstate movement of regulated articles from this formerly quarantined area.

DATES: Interim rule effective October 21, 1987. Consideration will be given only to comments postmarked or received on or before December 28, 1987.

ADDRESSES: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 87-135. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 661 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8365.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Dacus dorsalis* (Hendel), is an extremely destructive pest of numerous fruits (especially citrus fruits), nuts, vegetables, and berries. Heavy infestations of this pest can result in complete loss of these crops. The short life cycle of the Oriental fruit fly permits the rapid development of serious outbreaks.

A document published in the **Federal Register** on July 22, 1987, (52 FR 27529-27536, Docket Number 87-095) and effective on July 17, 1987, established the Oriental fruit fly regulations (7 CFR 301.93 *et seq.*). These regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the artificial spread of the Oriental fruit fly to noninfested areas of the United States.

These regulations, among other things, designated portions of Los Angeles County and Orange County as a quarantined area. This area remains infested with Oriental fruit fly.

A document published in the **Federal Register** on August 6, 1987 (52 FR 29173, Docket Number 87-104) and effective on July 31, 1987, added portions of San Diego County to the list of areas designated as quarantined areas. Recent trapping surveys by inspectors of Animal and Plant Health Inspection Service and state agencies indicate that these portions of San Diego County are no longer infested with Oriental fruit fly. We are therefore removing from the list of quarantined areas the portions of San Diego County quarantined by Docket Number 87-104.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. The areas in San Diego County were quarantined due to the possibility that the Oriental fruit fly could be spread artificially from these areas to noninfested areas of the United States. Since this situation no longer exists, and because the quarantined status of these portions of San Diego County imposes an unnecessary regulatory burden on the public, we are taking immediate action to remove this area from the list of quarantined areas.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 553 to make this interim rule effective upon signature. We will consider comments that are postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. As soon as possible after the comment period closes, we will publish another document in the **Federal Register** discussing the comments we received and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the part of San Diego County that is being removed from the quarantined area, there are fewer than 40 small entities that may be affected, including 25 nurseries, 5 mobile fruit and vegetable vendors, and one farmers' market. The effect of this rule on these entities should be beneficial, in that it removes restrictions on interstate movement of certain regulated articles sold by these entities.

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Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.).*

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Oriental fruit fly, Incorporation by reference.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR Part 301 is amended as follows:

1. The authority citation for Part 301 is revised to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.93-3 Quarantined areas.

2. In § 301.93–3, paragraph (c), the designation of the quarantined areas is amended by removing the paragraph that begins "That portion of San Diego County * * *".

Done at Washington, DC, this 21st day of October, 1987.

Donald Houston,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87–24782 Filed 10–26–87; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Modification of General Design Criterion 4 Requirements for Protection Against Dynamic Effects of Postulated Pipe Ruptures

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to broaden the scope of a recent modification to General Design Criterion 4 (GDC–4). The amendment would allow the removal of numerous pipe whip restraints and jet impingement barriers as well as other related changes in all reactor types. Implementation of the amendment will increase safety since inadvertent restriction of pipe growth due to thermal expansion and associated stresses leading to pipe cracking is avoided. Also, the duration of inservice inspection will be reduced, yielding substantially less occupational exposures.

EFFECTIVE DATE: November 27, 1987.

ADDRESSES: Copies of the written public comments are available for public inspection and copying for a fee at the NRC Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John A. O'Brien, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301)443–7854.

SUPPLEMENTARY INFORMATION:

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On July 23, 1986, the Commission published a proposed rule on the board scope modification to General Design Criterion 4 of Appendix A, 10 CFR Part 50 (51 FR 26393). This proposed rule contained a summary of the acceptance criteria which the Commission had developed. A 60-day public comment period was allowed. Twenty-eight written comments were received from utilities, reactor vendors, architect-engineering companies, industry groups, consulting firms and a citizen group. There was no overt opposition to the proposed rule; each commenter supported the proposed rule or its intent either in part or entirely. However, the citizens group expressed certain legal reservations which are addressed below in issues 20 and 21. A compilation of the twenty-one issues raised as a result of public comments and the accompanying Commission response is given under Issues Analysis. The text of the final rule is identical to the text of the proposed rule. The final rule should be applied consistently with the guidance in this Supplementary Information.

I. Background

Background to this rulemaking can be found in the limited scope modification to GDC–4 published as a proposed rule in the **Federal Register** on July 1, 1985 (50 FR 27006). Research performed by the NRC and industry, coupled with operating experience, has indicated that safety can be negatively impacted by the placement of protective devices such as pipe whip restraints near certain piping. The Commission adopted a two-step approach to the modification because safety improvements could be quickly realized without extensive and time consuming review and discussion if the scope were initially limited to the primary main loop piping of PWRs. The Commission decided not to defer the limited application of leak-before-break technology while the detailed provisions of the acceptance criteria were being reviewed and approved. Many near term operating license (NTOL) nulcear power plant units and operating nuclear power plant units had requested exemptions from the requirements of GDC–4 and could benefit from the limited scope rule. A broader application of leak-before-break technology requires adoption of the general criteria published in NUREG–1061, Volume 3, Chapter 5, November 1984, entitled "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee, Evaluation of Potential for Pipe Breaks".

II. Scope of Rulemaking

This rulemaking modifies General Design Criterion 4 to the extent that dynamic effects of pipe ruptures in nuclear power units may be excluded from the design basis provided it is demonstrated that the probability of pipe rupture is extremely low under conditions consistent with the design for the piping.

Dynamic effects of pipe rupture covered by this rule are missile generation, pipe whipping, pipe break reaction forces, jet impingement forces, decompression waves within the ruptured pipe and dynamic or nonstatic pressurization in cavities, subcompartments and compartments. However, cavities, subcompartments and compartments necessary to the containment function are not affected by this modification.

To retain high safety margins, the application of leak-before-break

technology to various piping systems should not decrease the capability of containments to perform their function of isolating the outside environment from potential leaks, breaks, or malfunctions within the containment. Containments will continue to be designed to accommodate loss of coolant accidents resulting from breaks in the reactor coolant pressure boundary up to and including a break equivalent in size to the double-ended rupture of the largest pipe in the reactor coolant system. Also, the functional design for emergency core cooling systems still retains nonmechanistic pipe rupture. Environmental qualification of electrical and mechanical equipment is discussed under issue 4 below.

This amendment to GDC–4 allows exclusion from the design basis of dynamic effects associated with high energy pipe rupture by application of leak-before-break technology. Only high energy piping in nuclear power units that meets rigorous acceptance criteria is covered. High energy piping is defined as those systems having pressures exceeding 275 psig or temperatures exceeding 200 °F.

Studies completed by Lawrence Livermore National Laboratory under contract to the NRC indicate that adverse safety implications can result from requiring protective devices to resist the dynamic effects associated with postulated pipe rupture. The placement of pipe whip restraints degrades plant safety when thermal growth is inadvertently restricted, reduces the accessibility for and effectiveness of inservice inspection, increases inservice inspection radiation dosages and adversely affects construction and maintenance economics.

III. Final Rule

The final rule consists of a substitute sentence at the end of GDC–4 (replacing the sentence introduced by the limited scope rule) permitting the use of analyses to exclude dynamic effects of pipe ruptures in all high energy piping in all nuclear power units. A deterministic fracture mechanics evaluation is mandatory. Evaluations of the potential for water hammer, corrosion, creep damage, fatigue, erosion, environmental conditions, indirect failure mechanisms and other degradation sources which could lead to pipe rupture are also required. In order to demonstrate that the probability of fluid system piping rupture is extremely low, applicants and licensees may follow procedures and acceptance criteria developed by the staff.

The supporting safety analysis must demonstrate from the results of a fracture mechanics analysis that a substantial range of stable pipe crack sizes can exist for an extended period which provides detectable leaks, and that the fluid systems piping will not rupture under these conditions consistent with the design basis for the piping.

The language of the rule specifies "conditions consistent with the design basis for the piping." The design basis for piping means those conditions specified in the FSAR, as amended, and may include 10 CFR Part 50 (especially the General Design Criteria in Appendix A to Part 50), applicable sections of the Standard Review Plan, Regulatory Guides and industry standards such as the ASME Boiler and Pressure Vessel Code.

The term "extremely low" is used in this amendment to GDC–4 with reference to the probability of fluid system pipe rupture. For reactor coolant loop piping, a representative value which would qualify as "extremely low" would be of the order of 1E–6 per reactor year when all rupture locations are considered in the fluid system piping or portions thereof. For other piping, representative values will be developed consistent with this definition as the need arises. Alternatively, a deterministic evaluation with verified design and fabrication, in addition to adequate inservice inspection, can meet the extremely low probability criterion. The deterministic evaluation is based on the requirement that structures and components are correctly engineered to meet the applicable regulations and NRC-endorsed industry codes.

This rulemaking will introduce an inconsistency into the design basis by excluding the dynamic effects of postulated pipe ruptures while still retaining nonmechanistic pipe rupture for emergency core cooling systems, containments, and environmental qualification (see issue 4 below for additional information on potential relaxation with respect to environmental qualification). The Commission recognizes the need to address whether and to what extent leak-before-break analysis techniques may be used to modify present requirements relating to other features of facility design. However, this is a longer term evaluation. For the present, the rule allows the removal of plant hardware which it is believed negatively affects plant performance and safety, while not affecting emergency core cooling systems, containments, and environmental qualification. The Commission's primary justification for this rulemaking rests with its statutory responsibility to ensure an adequate level of protection of the public health and safety. This action also rests upon advances in the state of knowledge and technology that allow the Commission to better focus its regulatory requirements so as to improve safety of plant personnel. The Commission decided to quantify the degree to which overall safety was improved by this action, and to set forth those economic impacts associated with these safety benefits. These are highlighted below.

For existing PWRs, considering primary coolant loops only, cost savings of $186 million and reductions of 34,000 man-rem are estimated for a population of 85 PWRs. These figures do not include savings resulting from redesign of heavy component supports. One licensee taking advantage of the limited scope modification of GDC–4 has estimated a per plant cost savings of $20 million and reduced worker exposures of about 2,000 man-rem associated with a redesign of reactor coolant pump supports.

The above-mentioned value-impacts were realized under the already published limited scope amendment to GDC–4. Additional benefits which can be achieved under this broader amendment are discussed below.

For existing BWRs, considering only recirculation loop piping, cost savings of $30 million and reductions of 8,600 man-rem are estimated for a population of 38 plants.

In existing PWRs and BWRs, offsite risk is estimated to be insignificantly impacted, or if credit is taken for improved inservice inspection and enhanced safety, to be reduced by an unquantified amount.

The Commission has not quantified situations in existing plants other than those discussed above; however, it is believed that other high energy piping will also indicate favorable value-impacts.

Value-impacts resulting from this rule are greatest for future plants, where estimated costs can be reduced approximately $100 million per unit. Of this sum, about $30 million are direct costs and the balance stems from reduced financing costs and improved scheduling. Reduction in worker radiation exposures varies from plant to plant, but is in the range of 300 to 800 man-rem. Offsite risk is believed to decrease by an unquantified amount due to improved effectiveness of inservice inspection and enhanced safety. The above quoted figures are based primarily on the elimination of pipe

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whip restraints and jet impingement barriers and do not treat other facility changes that could result from this rule.

IV. Acceptance Criteria

The Commission developed a new Standard Review Plan Section 3.6.3 which gives more details on how applicant and licensee submittals will be evaluated. This document has been issued for public comment (52 FR 32626) prior to being adopted by the Commission. The Commission may also develop at some future time a Regulatory Guide after experience is gained with the use of SRP 3.6.3.

V. Invitation to Comment

Comment was invited on the following topics in the proposed broad scope amendment to GDC–4.

1. Value-impacts associated with this expanded modification to GDC–4, with particular reference to experience with the use of pipe whip restraints and jet impingement shields near nuclear reactor piping. (The value-impact analysis prepared by Lawrence Livermore National Laboratory is available for inspection and copying for a fee in the NRC Public Document Room, 1717 H Street NW., Washington, DC.)

2. The scope of piping which could or should be affected, supported by technical justification.

3. The decision to limit impacts of this modification of GDC–4 to only dynamic effects associated with pipe rupture.

4. The acceptance criteria which the Commission proposes to use to evaluate whether leak-before-break technology is applicable to specific situations.

5. Acceptable allowables for pipe-connected component supports which would provide adequate assurance that component support failure would not be a source of the pipe rupture loads being eliminated from the design basis.

6. The imposition of a temperature limitation as a way of avoiding concerns with creep damage.

VI. Issues Analysis

Issue 1: Margins for leak detection should not be rigidly fixed but should be based on uncertainties for each particular situation.

Commission Response: In the Commission's proposed acceptance criteria, the postulated through-wall crack used in the deterministic fracture mechanics evaluation is based on a detection margin of ten with respect to the leakage from the postulated crack. The Commission agrees that the selection of the margin should be derived from the uncertainties involved. As noted in issue 7 of the final limited scope GDC–4 rule (51 FR 12502, April 11, 1986), the Commission recognizes that the measurement or determination of leakage from a system under pressure involves uncertainties for which margins are needed. Commenters suggesting relaxation in the detection margin cited only limited sources of uncertainty such as material properties and calculated flow rates through a crack. Other sources of uncertainty not mentioned include plugging of the crack with particulate material over time, stresses and number of cycles, and uncertainties associated with personnel and instruments used to detect leakage. For the present, the Commission will retain the leak detection margin of ten unless detailed evidence can be presented for other values. The Commission may require administrative controls to enforce adequate implementation of leakage detection and monitoring. Additionally, the Commission may undertake recurring inspections to verify that leakage detection and monitoring satisfy leak-before-break requirements.

Issue 2: Margins on loads and leakage crack sizes used in the deterministic fracture mechanics evaluation should be relaxed.

Commission Response: The Commission acknowledges that there are many situations where the margin is not required on loads resulting from the design basis piping analyses. However, there are situations where the uncertainty in the total procedure, including stress analyses and fracture mechanics evaluations, warrants some margin (see issue 7 below). Applicants or licensees must maintain the margin on loads at 1.4, except when the deadweight, thermal expansion, pressure, seismic inertial and seismic anchor motion loads are combined based on individual absolute values. In this case, the margin on loads may be reduced to 1.0. The evaluation of seismic anchor motion loads at SSE conditions may be omitted when these loads are shown to be small at OBE conditions.

The Commission believes that, because of uncertainties associated with flaw geometry and the different analytical procedures, the margin between the leakage crack size and critical crack size stated in the proposed rule should not be reduced below the value of two.

Issue 3: The acceptance criteria should refer to "crack detection" rather than "leakage detection".

Commission Response: The fracture mechanics evaluation outlined in the Commission's acceptance criteria examines a postulated throughwall flaw which may grow under service and earthquake loads. The size of the postulated flaw for fracture mechanics evaluation purposes depends on the ability to detect the presence of the flaw during service with an adequate margin for detection. The standard methods to detect the throughwall flaw during service depend on the magnitude of flow or leakage through the flaw. Therefore, the methodology has to be based upon leakage detection rather than crack detection.

Issue 4: Leak-before-break technology should be extended to relax pipe rupture requirements for containment design, emergency core cooling systems and environmental qualification of electrical and mechanical equipment.

Commission Response: This was addressed as issue 3 in the final limited scope GDC–4 rule (51 FR 12502). The Commission plans to consider whether environmental qualification requirements can be modified based upon leak-before-break technology. The Commission does not intend to consider near-term changes to emergency core cooling system and containment design bases as discussed in the **Final Rule** section of this **SUPPLEMENTARY INFORMATION.**

When leak-before-break technology is applied to dynamic effects design bases, these effects are reduced to zero; there are no replacement dynamic effects postulated. However, environmental qualification design bases cannot be reduced to zero when leak-before-break technology is applied to piping. The postulated pipe rupture has served as a convenient and conservative umbrella covering many sources of environmental qualification design bases, such as breaches in the fluid system pressure boundary from failed pump seals, leaking valve packings, flanged connections, bellow, manways, rupture disks and throughwall cracks. Thus, in applying leak-before-break technology to environmental qualification, the Commission faces the task of developing a replacement environmental qualification design basis.

The Commission is not prepared at this time to propose new environmental design criteria for temperature, pressure, humidity and flooding. If it can be shown that it is beneficial to apply leak-before-break technology to environmental qualification, another modification to GDC–4 would be proposed. In the interim, the Commission recognizes that situations may arise where justification can be developed by the industry for alternative equipment qualification requirements. Such justifications, if accepted by the Commission pursuant to the existing exemption process, would allow a limited number of case-by-case relaxations in environmental qualification requirements. The Commission encourages the development of generic alternative equipment qualification design bases by the industry. This could support future amendments to GDC–4 and other affected requirements addressing environmental qualification.

Issue 5: Can minor modifications of piping systems not related to the exclusion of dynamic effects be made without examining impacts on the original leak-before-break evaluation?

Commission Response: The original leak-before-break evaluation must be applicable for the life of the plant. Changes in configuration or operating conditions must be examined to determine impacts on the validity of the original leak-before-break evaluation, particularly as to how stresses are influenced. The Commission believes that many minor modifications, such as changing piping insulation, can be made without affecting the original analysis. However, modifications which are not minor in scope as for example when the number or type of pipe supports are changed extensively, require an evaluation of the applicability of the original leak-before-break analysis.

Issue 6: Leak-before-break should be mandatory for plants which have not yet received their construction permit.

Commission Response: The Commission believes that economic and operational considerations will motivate many utilities to apply leak-before-break technology. While it is estimated that an unquantified reduction in public risk results from this rule, the actual scope of piping contributing to the reduction will vary from plant to plant. The Commission encourages the use of high quality piping which does not require pipe whip restaints and jet impingement barriers. For any new application, the Commission would permit the applicant to decide whether or not to use leak-before-break technology.

Issue 7: Leak-before-break technology should be applicable to discrete locations. There should be no requirement that leak-before-break technology be applicable only to an entire piping system or analyzable portion thereof.

Commission Response: Standard Review Plan (SRP) Section 3.6.2 of NUREG–0800 has been used for more than a decade to postulate the number and location of pipe ruptures in nuclear power plants. SRP 3.6.2 ignores or treats indirectly many factors, such as material properties, potential corrosion, and the potential for water hammer, which actually determine where and whether pipe rupture will occur. Leak-before-break procedures explicitly treat these factors. The Commission will not commingle SRP 3.6.2 with more advanced leak-before-break methodology. Leak-before-break is intended to be a substitute for SRP 3.6.2 only when all breaks in a fluid system piping are eliminated. This avoids consideration of synergistic effects, that is, the effects of a pipe break at one location on another potential break location.

Additionally, the Commission, through long term and extensive piping research programs, has become aware that differences exist between analytically calculated stresses and actual stresses occurring at discrete locations in piping. The differences between calculated and actual stresses usually stem from difficulties in modeling pipe supports under dynamic and static environments. Leak-before-break will be applied only to an entire fluid system piping or analyzable portion thereof.

Issue 8: Creep should not be an issue in applying leak-before-break technology.

Commission Response: This rule gives guidance for reactors other than light water reactors. Creep can be an issue for gas and metal cooled reactors. Normally, creep damage is not an important concern in light water reactors.

Issue 9: Extensive materials testing requirements should be relaxed. The use of generic materials properties should be permitted.

Commission Response: The ductile piping fracture mechanics analysis techniques that are applied in the leak-before-break assessment are strongly dependent on the material tensile properties and material resistance to crack extension. The material testing requirements are necessary to provide reliable assessments of margins against unstable flaw extension when case-by-case leak-before-break analyses are performed.

However, if archival materials are not available or if actual plant material properties cannot be defined practically, generic plant specific or industry wide material data bases can be assembled and used to define the required material tensile and toughness properties. To provide an acceptable level of reliability, plant specific generic data bases must be reasonable lower bounds for sets of compatible material tensile and toughness properties associated with actual materials at the plant. Any industry generic data base must be a reasonable lower bound for the population of material tensile and toughness properties associated with any individual material specification (e.g., A106 Grade B), material type (e.g., austenitic steel), or welding procedure. Except as indicated in the Commission response to issue 13, industry generic data bases for the range of piping materials in light water reactors have not been assembled and proposed for leak-before-break analyses. Industry groups are encouraged to assemble and use reliable generic data bases so that analyses and evaluations can be performed efficiently and effectively.

Issue 10: The temperature limitation of 750°F should not be adopted for evaluation of creep damage.

Commission Response: The temperature limitation of 750°F is revised as follows: for ferritic steel piping, the temperature limitation will be 700°F; for austenitic steel piping the temperature limitation will be 800°F. These values more accurately reflect the creep performance of piping and are in accord with the ASME Code. Recent experience in fossil fuel plants operating at temperatures over 1000°F has indicated that creep-related ruptures in large diameter piping may not be low probability events, and suggests deficiencies in creep design standards after a service life of ten years or greater. Until creep behavior after long service intervals is better understood, the Commission will retain the temperature limitations cited above.

Issue 11: Delete the words "reviewed and approved by the Commission" from the text of the rule.

Commission Response: This comment is rejected. Leak-before-break technology is applicable only to high quality piping which is maintained in a high quality condition. Since much of the plant's piping is custom designed, the Commission would have to undertake detailed case-specific review to determine that acceptable standards of quality are achieved and maintained, and that the analyses meet the Commission's requirements. Detailed reviews are especially needed in piping other than PWR primary coolant loops to assure that failure mechanisms such as water hammer, corrosion, erosion, fatigue, and creep are not significant contributors to the potential for pipe rupture. Additionally, factors such as leakage detection, material properties and environmental conditions are more variable outside PWR primary coolant loops, and possible misuse of leak-before-break technology can occur, unless careful review and evaluation of these aspects are performed by the Commission. Consequently, the words "reviewed and approved by the Commission" were added specifically to

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ensure that a careful evaluation enforcing the Commission's rigorous acceptance criteria would be performed for each individual request from licensees and applicants.

The adopted revision of GDC–4 requires NRC review and approval of the analyses on which the elimination of dynamic effects are based. As reflected in the limited scope rule (51 FR 12502), which is replaced by the adopted broad scope rule, the NRC has previously reviewed and approved the application of leak-before-break technology for eliminating design basis dynamic effects of postulated ruptures in PWR primary loop piping. No additional review and approval by the Commission in these cases is required under the adopted broad scope rule for elimination of design basis dynamic effects of postulated ruptures in PWR primary loop piping provided the conditions set forth in the Supplementary Information accompanying the rule (51 FR 12502) are satisfied.

The proposed broad scope amendment (51 FR 26397, July 23, 1986) also stated that "Modifications of the licensed plant design of operating plants may involve an unreviewed safety question under 10 CFR 50.59 * * *. A simple removal of pipe whip restraints and jet impingement barriers would not involve an unreviewed safety question." The meaning of this last sentence is that *after* analysis reviewed and approved by the Commission demonstrate that the probability of fluid system piping rupture is extremely low, *then*, without prior approval, pipe whip restraints and jet impingement barriers may be removed. Pipe whip restraints and jet impingement barriers cannot be removed, however, without conducting an appropriate leak-before-break evaluation, submitting the evaluation for Commission review and obtaining Commission approval. Moreover, removal of a pipe whip restraint which also serves as a seismic restraint would not be a *"simple"* removal of a pipe whip restraint and, therefore, would involve an unreviewed safety question.

Issue 12. How is the demonstration of extremely low probability made for indirect sources of pipe rupture?

Commission Response: Indirect sources of pipe rupture, as discussed in the plant FSAR, are investigated by applicants and utilities. These include seismic events and system overpressurizations due to accidents resulting from human error, fires or flooding which cause electrical and mechanical control systems to malfunction. The analysis of indirect sources should also confirm that snubber failure rates are maintained at a low rate. Compliance with the snubber surveillance requirements of the technical specifications can be used to demonstrate that snubber failure rates are low. Missiles from equipment, damage from moving equipment and failures of systems or components in close proximity to the piping are investigated as well. The results of prior analyses conducted to show compliance with Commission regulations can be applicable to potential sources of indirect pipe rupture.

Issue 13. It is recommended that adequate material toughness be demonstrated when limit load analysis is applied and that the margin of three be on the applied force and moment combined rather than just on moment. The limit load analysis procedures in ASME Code, Section XI, Appendix C, Winter 1986 Addenda, should be allowed.

Commission Response: The Commission is revising its requirements on limit load analysis procedures as stated in the proposed amendment to GDC–4 (51 FR 26393). The new requirements do not contain the arbitrary margin of three on applied moment, but instead are based on an experimentally verified ASME approved procedure.

During preparation of NUREG–1061, Volume 3, there was significant uncertainty associated with reliable application of limit load analysis for austenitic steel, especially in the case of submerged arc welds (SAW) and shielded metal arc welds (SMAW). This uncertainty led to restrictions on the use of limit load analysis and application of methods originally used as the basis for IWB–3640 in Section XI of the ASME Code.

Recently, the ASME Code approved revised evaluation procedures for austenitic steel piping (see Appendix C of Section XI); these procedures incorporate methods to account for reduced toughness associated with SAW and SMAW. The Commission has concluded that the evaluation method in Appendix C of Section XI (including the tensile and toughness properties defined for base metal and welds) is acceptable when performing leak-before-break analyses for austenitic steel piping, provided the margins presented in the Commission response to issues 1 and 2 are met. The value of flow stress used with this method will be evaluated by the Commission. Because generic evaluation procedures and materials properties have not yet been approved for ferritic piping by the ASME Code or the NRC, leak-before-break analysis for ferritic piping will continue case-by-case until approved Code procedures are available.

Issue 14: Leak-before-break should not be limited to high energy piping.

Commission Response: The Commission's rules require postulated pipe ruptures only in high energy piping. There is no reason to apply leak-before-break technology in moderate energy piping because there are no postulated pipe ruptures in such fluid system piping.

Issue 15: Strict adherence to Regulatory Guide 1.45 should not be required outside the containment.

Commission Response: The Commission does not require and did not intend to suggest the need for strict adherence to Regulatory Guide 1.45 outside the containment. The proposed rule stated only that "* * * leakage detection requirements *equivalent* to Regulatory Guide 1.45 must be satisfied for all piping within the scope of this rule." Scheduled operator walkdowns can be used as a means of leak detection outside the containment.

Issue 16: Older operating plants should not be held to the requirement that heavy component supports should meet ASME Code allowables as a condition for applying leak-before-break.

Commission Response: The use of ASME Code allowables for heavy component supports of older operating plants as a condition for applying leak-before-break technology is not required. However, when heavy component supports are redesigned excluding the dynamic effects of pipe rupture, current industry codes (such as the ASME or AISC code) may be required. Additionally, current NRC criteria for calculating seismic loads (coupled with the already existing SSE) may also be required. For example, a simple replacement of high strength fasteners with more ductile fasteners of lower yield strength would not require changes in the industry codes or seismic criteria from that used in the original design. On the other hand, modification of the heavy component supports that involves redesign and removal of snubbers in early vintage plants would require use of current industry codes and NRC seismic criteria. Dynamic effects from pipe ruptures in branch connections must be considered if the branch connections do not qualify for leak-before-break. In heavy component support redesign, improved functional reliability must be demonstrated for any changes made. Structural capacity associated with the original steel and concrete, including struts, columns, pedestals, hangers, trusses and skirts

cannot be diminished in the support system of operating plants or plants under construction. Redesigns will be limited to replacing high strength fastener material and reducing the number and capacity of snubbers. Applicants and licensees undertaking heavy component support redesign, with dynamic effects of pipe rupture eliminated, should use independent design and fabrication verification procedures to minimize design and construction errors. Displacements and rotations resulting from potential failure of redesigned lateral (horizontal) supports should not lead to the rupture of piping connected to the reactor coolant loop heavy components.

Issue 17: Additional guidance is needed on the acceptability of remedial stress enhancement programs such as induction heating as it pertains to stress, corrosion, cracking, residual stress states and sensitization.

Commission Response: The rule precludes leak-before-break evaluations for systems that have materials that are susceptible to intergranular stress corrosion cracking (IGSCC). The Commission recognizes that remedial residual stress improvement treatments are effective in reducing susceptibility to IGSCC. However, remedial stress improvement treatments of nonconforming materials alone do not provide a sufficient basis to support leak-before-break evaluations in the context of this rule. The Commission would, however, review such evaluations case-by-case if hydrogen water chemistry were used as an adjunctive measure with the remedial stress improvement treatments. Practices with regard to facility water chemistry would be an additional factor considered in the review. Nonconforming piping with any planar flaws in excess of the standards in IWB 3514.3 of Section XI of the ASME Code would not be permitted to use leak-before-break analyses. However, nonconforming piping that has been treated by two mitigating methods may qualify for leak-before-break if the piping contains no flaws larger than those permitted by IWB 3514.3 of Section XI of the ASME Code. If piping has been repaired by weld overlays, leak-before-break technology cannot be applied.

Issue 18: The fracture mechanics approach should not require that the location of highest stress utilize the poorest material properties.

Commission Response: The proposed rule stated that, in conducting the deterministic fracture mechanics evaluation, investigators would "identify the location(s) at which the highest stresses coincident with poorest materials properties occur * * *". This sentence should have read "identify the location(s) which have the least favorable combinations of high stress and poor material properties * * *". The Commission did not intend to combine the highest stresses at one location with the poorest material properties of another location. The critical rupture locations depend on stress and material properties, among other things, and investigators may need to examine several locations to decide which is the controlling case.

Issue 19: The decision that leak-before-break technology is not applicable to materials subject to cleavage type fracture should be reconsidered.

Commission Response: This comment is rejected. The Commission will allow leak-before-break technology only to materials which are ductile under the full range of system operating temperatures in order to avoid sudden brittle piping failures.

Issue 20: The clause in the rule requiring Commission review and approval of analyses demonstrating piping integrity will preclude litigation over the scope of piping affected and the adequacy of the analyses. This would amount to a *de facto* illegal removal of a material issue from an operating license amendment proceeding.

Commission Response: The commenter cites in support of this proposition *Cleveland Electric Illuminating Company* (Perry Nuclear Power Plants, Units 1 and 2), ALAB–841, (July 25, 1988), reconsideration denied ALAB–844, (August 18, 1988). The Licensing Board case affirmed in ALAB–841 is *Cleveland Electric Illuminating Company* (Perry Nuclear Power Plant, Units 1 and 2), LBP–85–35, 22 NRC 514 (1985).

A careful reading of these cases shows that they do not stand for the commenter's proposition. At issue was the scope and adequacy of the applicant's preliminary hydrogen control analysis required by 10 CFR 50.44(c)(3). One of the criteria for this analysis is that it "use accident scenarios that are accepted by the NRC staff." (50.46(c)(vi)(B)(3)) The Licensing Board did not hold that the staff's approval of the applicant's analysis was binding and thus precluded a challenge to the scope and adequacy of the analysis. Rather, the Board permitted such a challenge on a number of issues. 22 NRC at 533–548. However, the Board did not allow the intervenor to raise other issues under this contention which went beyond the scope of the hydrogen control rule itself. 22 NRC at 548–549. The Board's views on these matters were upheld on appeal.

A direct application of this case to the GDC–4 context shows that the commenter's conclusion is incorrect. The staff's acceptance of a GDC–4 analysis will not preclude litigation of either the scope of piping included or the adequacy of the analysis itself. However, a challenge on either basis must be confined to the overall scope of GDC–4 and could not be used as a collateral challenge to other parts of the regulations or to argue that the rule itself is inadequate. Challenges of this type must be brought pursuant to 10 CFR 2.758.

The staff's review and approval of the piping integrity analyses is an indispensable part of the implementation of the leak-before-break concept. Without such review (for piping other than the PWR primary loop), the staff has no means to assure itself that the acceptance criteria have been properly applied. The comment is therefore rejected.

Issue 21: The reallocation of resources within the NRC to review piping integrity analyses submitted under the amendment is barred by the Atomic Energy Act, which requires that public safety take precedence over cost savings to licensees.

Commission Response: The Regulatory Analysis performed to support this rulemaking shows that there is a net safety benefit to be realized from proper application of leak-before-break technology. The Commission has undertaken the rulemaking for that purpose. The positive results in terms of simplicity of the plant, ease of inspection, avoidance of improper removal and reinstallation of unneeded supports and restraints, and the reduction of personnel exposures have been shown to vastly outweigh any additional risk associated with removing supports and restraints. Therefore, reallocation of NRC resources to ensure that NRC acceptance criteria are rigorously adhered to is fully justified in terms of public safety.

In addition to these issues, the Commission deleted the fatigue crack growth analysis specified in the proposed rule. This requirement was found to be unnecessary because it was bounded by the crack stability analysis.

Having considered all of the above, the Commission has determined that a final rule be promulgated

VII. Availability of Documents

1. Copies of NUREG–1061, Volume 3, may be purchased from the

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Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC, 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for public inspection and/or copying at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

2. Copies of the ASME Boiler and Pressure Vessel Code may be obtained from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY, 10017.

3. Copies of Regulatory Guide 1.45 entitled "Reactor Coolant Pressure Boundary Leakage Detection Systems" may be obtained by writing to the Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC, 20555.

VIII. Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. Although certain plant hardware might be removed from the plant, consistent with this rule, the removal would not alter the environmental impact of the licensed activities as set out in the Final Environmental Impact Statement for each facility. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from John A. O'Brien, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443–7854.

IX. Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing information collection requirements under 10 CFR Part 50 were approved by the Office of Management and Budget approval number 3150–0011.

X. Regulatory and Backfit Analyses

The regulatory analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW, Washington, DC. Single copies of the analysis may be obtained from John A. O'Brien, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443–7854. A backfit analysis under 10 CFR 50.109 for the purpose of completeness was published in the proposed broad scope GDC–4 modification (51 FR 26393), although it was not required because the rule will not require licensees or applicants to make any changes. The Commission's primary justification for this rulemaking rests on its statutory responsibility to ensure an adequate level of protection of the public health and safety. Economic advantages or disadvantages resulting from this action did not affect such responsibilities. The Commission remains mindful of its statutory responsibilities pursuant to Union of Concerned Scientists et al. v. NRC, DDC No. 85–1757, August 4, 1987. The Commission has prepared, however, a regulatory analysis to set forth clearly the costs and benefits of the impacts of this rule and the examined alternatives.

XI. Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act of 1980, (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definitions of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

Final Rule

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2201, 2232, 2233, 2238, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.23, 50.53, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 through 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c), and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In Appendix A, General Design Criterion 4 is revised to read as follows:

Appendix A—General Design Criteria for Nuclear Power Plants

* * * * *

Criteria

I. Overall Requirements

* * * * *

Criterion 4—Environmental and dynamic effects design bases. Structures, systems, and components important to safety shall be designed to accommodate the effects of and to be compatible with the environmental conditions associated with normal operation, maintenance, testing, and postulated accidents, including loss-of-coolant accidents. These structures, systems, and components shall be appropriately protected against dynamic effects, including the effects of missiles, pipe whipping, and discharging fluids, that may result from equipment failures and from events and conditions outside the nuclear power unit. However, dynamic effects associated with postulated pipe ruptures in nuclear power units may be excluded from the design basis when analyses reviewed and approved by the Commission demonstrate that the probability of fluid system piping rupture is extremely low under conditions consistent with the design basis for the piping.

* * * * *

Dated at Washington, DC, this 22nd day of October 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 87–24616 Filed 10–26–87; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address for Fermenta Animal Health Co., Med-Tech, Inc., and Medico Industries, Inc.

EFFECTIVE DATE: October 27, 1987.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Center for Veterinary Medicine (HFV–142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6954.

SUPPLEMENTARY INFORMATION: Fermenta Animal Health Co., informed FDA of a change of address for Fermenta Animal Health Co., from 7410 NW. Tiffany Springs Parkway, Box 260, Kansas City, MO 64153–1865; Med-Tech, Inc., from P.O. Box 338, Elwood, KS 66024; and Medico Industries, Inc., from Elkan Estates, P.O. Box 338, Elwood, KS 66024; to 7410 NW. Tiffany Springs Parkway, P.O. Box 901350, Kansas City, MO 64190–1350. The agency is amending 21 CFR 510.600(c) (1) and (2) to reflect the sponsors' address change.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) in the entries for "Fermenta Animal Health Co.," "Med-Tech, Inc.," and "Medico Industries, Inc.," and in paragraph (c)(2) in the entries for "013983," "015562," and "054273," by revising the sponsors' address to read "7410 NW. Tiffany Springs Parkway, P.O. Box 901350, Kansas City, MO 64190–1350."

Dated: October 20, 1987.

Richard A. Carnevale,

Acting Associate Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 87–24755 Filed 10–26–87; 8:45 am]

BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260 and 268

[FRL–3277–3]

Test Methods for Hazardous Waste Covered by the Land Disposal Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; incorporation by reference.

SUMMARY: On July 8, 1987, EPA promulgated a final rule (52 FR 25760) that imposed land disposal restrictions for a group of liquid hazardous wastes known as the California list. The final rule also established methods for determining compliance with the prohibitions, and modified portions of the land disposal restrictions framework promulgated November 7, 1986 (51 FR 40572).

Since the California list consists of liquid hazardous wastes (with the exception of certain halogenated organic compounds that are restricted in solid as well as liquid form), the Agency specified a test method in § 268.32(i) for determining when a waste is a liquid for purposes of the California list land disposal restrictions. The Agency is today amending the regulations set forth in the California list final rule to incorporate by reference "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846, which contains the specified test method for determining when a waste is a liquid.

Publication SW–846 was previously incorporated by reference in 40 CFR 260.11(a). The Agency is referencing this document for purposes of the California list through a citation to the previous incorporation by reference. The Agency is also making a conforming cross-reference in § 260.11 to Part 268.

EFFECTIVE DATE: This final rule is effective October 27, 1987. As a rule of Agency procedure, no prior notice or opportunity to comment is required on an incorporation by reference which imposes no new substantive obligations. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 27, 1987.

ADDRESS: SW–846 can be ordered from the U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402. The order number is 955–001–00000–1. The cost is $110.00.

FOR FURTHER INFORMATION: For general information contact the RCRA Hotline at (800) 424–9346 (toll free) or (202) 382–3000 (locally). For information on specific aspects of this final rule contact Rhonda Craig, Office of Solid Waste (WH–562B), (202) 382–4800.

List of Subjects in 40 CFR Parts 260 and 268

Administrative practice and procedure, Confidential business information, Hazardous waste, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: October 2, 1987.

Marcia E. Williams,

Director, Office of Solid Waste.

For the reasons set out in the preamble, Title 40 of Code of Federal Regulations is amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for Part 260 is revised to read as follows:

Authority: 42 U.S.C. 6905, 6935, 6937, 6938, and 6939.

2. In § 260.11, the introductory text of paragraph (a) is revised to read as follows:

§ 260.11 References.

(a) When used in Parts 260 through 270 of this chapter, the following

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publications are incorporated by reference:

* * * * *

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for Part 268 is revised to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. In § 268.32, paragraph (i) is amended by adding the following to the end of the paragraph:

§ 268.32 Waste specific prohibitions—California list wastes.

* * * * *

(i) * * *

(Incorporated by reference, see § 260.11(a) of this chapter.)

* * * * *

[FR Doc. 87-24795 Filed 10-26-87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 704 and 721

[OPTS-50559A and OPTS-82029A; FRL-3280-2]

Trichlorobutylene Oxide; Epibromohydrin; and Hexafluoropropylene Oxide; Significant New Uses of Chemical Substances; Submission of Notice of Manufacture, Import, or Processing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for trichlorobutylene oxide (TCBO) (CAS Number 3083-25-8), epibromohydrin (EBH) (CAS Number 3132-64-7), and hexafluoropropylene oxide (HFPO) (CAS Number 428-59-1). EPA believes that these substances may be hazardous to human health, and that the uses identified in this final rule may result in significant human exposure. As a result of this rule, certain persons who intend to manufacture, import, or process these substances for a significant new use are required to notify EPA at least 90 days before commencing that activity. The required notice will provide EPA with the opportunity to evaluate the intended use, and, if necessary, prohibit or limit that activity before it occurs.

EPA is also requiring under section 8(a) of TSCA that manufacturers, importers, and processors of HFPO who are not covered by the SNUR notification requirements notify EPA of manufacture, import, or processing of this chemical substance. This reporting rule will allow EPA to track the manufacture, import, processing, and end uses of this substance and to investigate the health and environmental impacts of such activities. Small businesses that manufacture, import, or process HFPO, and manufacturers and importers of HFPO who have previously reported on those activities under EPA's Preliminary Assessment Information Rule, are exempt from the section 8(a) reporting rule.

This rule was proposed in the **Federal Register** of January 2, 1987 (52 FR 107).

DATES: In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern time on November 10, 1987. This rule becomes effective on December 10, 1987.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, 401 M Street, SW., Washington, DC 20460, Telephone: (202-554-1404).

SUPPLEMENTARY INFORMATION: This rule requires persons who intend to manufacture, import, or process TCBO or EBH for any use, or HFPO for any use other than as an intermediate in the manufacture of fluorinated substances in an enclosed process, to submit a Significant New Use Notice to EPA prior to their commencement of such manufacture, import, or processing. EPA is also requiring under this rule that persons who manufacture, import, or process HFPO for use as an intermediate in the manufacture of fluorinated substances in an enclosed process, submit a section 8(a) notice to EPA, unless the person(s) meet one of the exemptions contained in the rule.

I. Authority

The Agency is promulgating this rule pursuant to sections 5(a) (2) and 8(a) of TSCA, 15 U.S.C. 2604(a)(2) and 2607(a).

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a significant new use. The Agency must make this determination by rule after consideration of all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they commence the manufacture, import, or processing of the substance for that use.

Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices (PMNs) under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5 (b) and (d)(1), the exemptions authorized by section 5(h) (1), (2), (3), and (5), and the regulations at 40 CFR Part 720. Once EPA receives a Significant New Use Notice, the Agency may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a Significant New Use Notice. If EPA does not take action, section 5(g) of TSCA requires the Agency to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707. Persons who intend to import a chemical substance are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Persons who import a substance identified in a final SNUR must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification requirements appears at 40 CFR Part 707.

Section 8(a) of TSCA authorizes the Administrator to promulgate rules which require each person (other than a small manufacturer, importer, or processor) who manufactures, imports, or processes, or who proposes to manufacture, import, or process a chemical substance, to submit such reports as the Administrator may reasonably require.

II. Applicability of General Provisions

In the **Federal Register** of September 5, 1984 (49 FR 35011), EPA promulgated general regulatory provisions applicable to SNURs (40 CFR Part 721, Subpart A). The general provisions are discussed in detail in that **Federal Register** notice, and interested persons should refer to that document for further information. These general provisions apply to this rule except as specified in §§ 721.320 and 721.324. On April 22, 1986 (51 FR 15104), EPA proposed revisions to the general provisions, some of which would apply to this SNUR.

General provisions applicable to section 8(a) rules were published in the **Federal Register** of May 25, 1983 (48 FR 23420, 40 CFR Part 704). These general provisions apply to this rule.

III. Summary of This Rule

A. Significant New Use Rule

EPA is designating any use of TCBO, any use of EBH, and any use of HFPO other than as an intermediate in the manufacture of fluorinated substances in an enclosed process as significant new uses of these chemical substances. This rule requires persons who intend to manufacture, import, or process TCBO, EBH, or HFPO for these significant new uses to notify EPA at least 90 days before beginning such manufacture, import, or processing.

EPA believes that the initiation of new manufacture, import, or processing of TCBO, EBH, or HFPO for the significant new uses described in this rule has a high potential to increase the magnitude and duration of exposure to these substances and to change the type or form of exposure from that which currently exists. These substances are members of the category of chemical substances known as halogenated alkyl epoxides. One member of this category, epichlorohydrin, has been demonstrated to cause carcinogenic effects in rats and existing data show that it may also cause mutagenic, neurotoxic, and reproductive effects, as well as certain other chronic effects (e.g., liver and kidney effects). Based upon the similarity in chemical structure between epichlorohydrin and TCBO, EBH, and HFPO, EPA believes that these substances may exhibit similar toxic effects. Given the potential toxicity of these chemical substances, the reasonably anticipated situations that could result in exposure, and the lack of sufficient existing regulatory controls, individuals could be exposed to TCBO, EBH, or HFPO at levels which could result in adverse effects.

The consideration of these factors has resulted in EPA's decision that certain uses of TCBO, EBH, or HFPO be designated significant new uses of these chemical substances. Persons intending to manufacture, import, or process TCBO, EBH, or HFPO for these significant new uses are required to notify EPA at least 90 days before they begin such manufacture, import, or processing. Advance notification will allow EPA the opportunity to evaluate the intended activities and to protect against adverse exposures to TCBO, EBH, or HFPO before they can occur.

B. Section 8(a) Rule

The SNUR for HFPO described above will ensure EPA is notified in the event that HFPO is manufactured, imported, or processed for any use other than as an intermediate in the manufacture of fluorinated substances in an enclosed process. However, under the SNUR, persons who manufacture or import HFPO are not required to report to EPA if the HFPO they manufacture or import is to be used as an intermediate in the manufacture of fluorinated substances in an enclosed process. Persons could also use HFPO as an intermediate in the manufacture of fluorinated substances in an enclosed process, but certain portions of the processing operation (such as raw material transfer) could result in potentially high human exposures.

EPA has had the opportunity to evaluate the only ongoing use of HFPO, by a single firm, as an intermediate for the manufacture of fluorinated substances in an enclosed process, and exposures resulting from that firm's manufacturing and processing of HFPO for that use. No firms currently import HFPO. The sole firm that currently manufactures HFPO is also the only processor of the substance. That company utilizes personal protective practices and engineering controls that the Agency believes are sufficient to minimize exposure to HFPO.

However, EPA is concerned that future HFPO manufacturing, importing, and processing activities associated with this use by other firms could present the opportunity for increased human exposure to this chemical substance. Because the SNUR will not provide notification of future manufacturing, importing, and processing activities associated with this use, and because the substance is a possible human health hazard, EPA believes it is necessary to require reporting under TSCA section 8(a) if HFPO activities not covered by the SNUR are initiated.

EPA is therefore requiring that persons who intend to manufacture, import, or process HFPO for use as an intermediate in the manufacture of fluorinated substances in an enclosed process notify EPA within 30 days after making the firm management decision to commit financial resources for the manufacturing, importing, or processing of HFPO.

Persons who manufactured, imported, or processed HFPO for use as an intermediate in the manufacture of fluorinated substances in an enclosed process as of the effective date of the final rule are exempt from reporting, provided those persons had already reported to EPA on such activities under section 8(a) of TSCA. On June 22, 1982 (47 FR 26998), the Agency required manufacturers and importers of HFPO to report on their activities using a "Preliminary Assessment Information Manufacturer's Report" (EPA Form 7710-35). The current manufacturer (and processor) of HFPO provided considerable information about the manufacturing, processing, and engineering practices at its facility, the special personal protective practices undertaken there, and the results of workplace monitoring to determine atmospheric concentrations of HFPO. EPA is exempting this facility from reporting because the Agency has had the opportunity to evaluate its previously reported HFPO activities, and has found that adequate steps are being taken to minimize human exposure.

Small manufacturers (including importers) as described at 40 CFR 704.3 are also exempt from reporting under the section 8(a) rule. Processors meeting the same size standards as those described for small manufacturers at 40 CFR 704.3 are exempt from reporting (see § 704.104(a)(3)). Small business exemptions do not apply to reporting under the SNUR.

EPA is requiring that persons who are subject to the section 8(a) rule submit a Premanufacture Notice Form (EPA Form 7710-25). A copy of that form can be found at 40 CFR Part 720, Appendix A. When submitting this Premanufacture Notice Form, include a cover sheet which indicates that it is in response to § 704.104.

IV. Comments on Proposed Rule

During the 60-day comment period following the publication of the proposed rule (52 FR 107) one comment was received. The commenter stated that the combined SNUR/section 8(a) rule for HFPO was a reasonable and cost effective alternative to requiring oncogenicity, mutagenicity, and reproductive effects testing previously proposed by the Agency (48 FR 57686).

V. Discussion of Chemical Substances

A. Background

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemical substances and mixtures to be considered for testing under section 4(a) of the Act.

The ITC designated the category of halogenated alkyl epoxides for priority consideration in its Second Report, published in the **Federal Register** of April 19, 1978 (43 FR 16684). The ITC defined this category as "halogenated noncyclic aliphatic hydrocarbons with one or more epoxy functional groups." Seven specific compounds in this category are discussed in the ITC report: epichlorohydrin, 1,1,1-trichloro-2,3-

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epoxy-propane (TCPO), 1,4-dichloro-2,3-epoxybutane (DCBO), tetrafluoro-ethylene oxide (TFEO), TCBO, EBH, and HFPO.

The ITC recommended that halogenated alkyl epoxides be considered for testing for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects. The ITC also recommended that epidemiology studies be considered. The ITC's recommendations for this category were based on high production levels for one member of this category (500 million pounds per year for epichlorohydrin), a National Institute for Occupational Safety and Health estimate of between 50,000 to 140,000 workers exposed to epichlorohydrin each year, expected increases in the use of other halogenated alkyl epoxides, and limited studies on the oncogenic, mutagenic, teratogenic, and other chronic effects of members of this category of substances.

In the **Federal Register** of December 30, 1983 (48 FR 57695), EPA published a "decision not to test" six of the halogenated alkyl epoxides.

B. Epichlorohydrin

EPA decided that testing of epichlorohydrin was not necessary because the oncogenic and mutagenic effects of this chemical substance are already well documented. Epichlorohydrin has been reported to produce carcinomas of the nasal cavity, squamous cell hyperplasia, papillomas, and carcinomas of the forestomach, and squamous cell carcinomas of the oral cavity in rats. There are also extensive data on the mutagenicity of epichlorohydrin, demonstrating gene mutations and chromosomal aberrations both *in vivo* and *in vitro*. In light of the available data for epichlorohydrin, EPA considers members of the halogenated alkyl epoxide category to present a potential health hazard to humans should exposures occur.

C. TCPO, DCBO, and TFEO

EPA decided that the testing of TCPO, DCBO, and TFEO was not appropriate because none of these three substances is listed on the TSCA Inventory. If a person decided to manufacture, import, or process one of these three substances, they would be subject to the PMN requirements of 40 CFR Part 720. Upon submission of the PMN, EPA would be provided the opportunity to evaluate the activities described in the PMN. The PMN requirements are essentially the same as the reporting requirements under a SNUR.

D. TCBO and EBH

TCBO and EBH are both listed on the TSCA inventory. EPA surveyed the companies reporting production for the original inventory, and found that TCBO is not currently being manufactured, imported, or processed, and EBH is being produced in quantities of 25 pounds or less solely for research and development. In the case of these two chemical substances, EPA does not believe that testing currently is warranted in light of the low production volume, low levels of exposure, and limited number of persons exposed. EPA will monitor changes in exposures to TCBO and EBH with a SNUR instead of promulgating a test rule at this time.

E. HFPO

Also in the **Federal Register** of December 30, 1983, EPA proposed to require oncogenicity, mutagenicity, and reproductive effects testing for HFPO. One commenter on the proposed rule argued that: (1) Only one company manufactures, imports, or processes HFPO, (2) extensive engineering and personal protective controls are used in HFPO manufacturing, importing, and processing operations, and (3) the cost of the proposed health effects testing was prohibitive in light of the relatively low production volume of HFPO, the low levels of exposure, and the limited number of persons exposed. For these reasons, EPA is monitoring changes in exposures to HFPO with a combined SNUR/section 8(a) rule instead of promulgating a final test rule at this time.

VI. Alternatives

In the proposed rule, EPA considered alternative regulatory actions for HFPO, TCBO, and EBH. One comment was received and supported the regulatory approach chosen for HFPO. EPA has therefore decided to proceed with the promulgation of a SNUR for EBH and TCBO, and a combined SNUR/section 8(a) rule for HFPO.

VII. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

EPA believes that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR rather than after the promulgation of a final rule. If uses begun during the proposal period of the SNUR were considered ongoing as of the date of promulgation, it would be difficult for the Agency to establish SNUR notice requirements, because any person could defeat the SNUR by initiating the proposed significant new use before the rule became final.

Thus, persons who began commercial manufacture, importation, or processing of TCBO, EBH, or HFPO for a proposed significant new use designated in this rule between proposal and promulgation of the SNUR must cease that activity before the effective date of this rule. To resume their activities, these persons must comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VIII. Test Data and Other Information

EPA recognizes that, under TSCA section 5, persons are not required to develop any particular test data before submitting a notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them.

However, in view of the potential risks to human health that may be posed by a significant new use of TCBO, EBH, or HFPO, EPA encourages potential Significant New Use Notice submitters to conduct tests that would permit a reasoned evaluation of risks posed by these substances when utilized for an intended use. The Agency believes that the results of carcinogenicity, mutagenicity, reproductive effects, and other chronic effects testing would help characterize the principal potential adverse human health effects of concern to the Agency. These studies may not be the only means of addressing potential risks. Significant New Use Notices submitted without accompanying test data may increase the likelihood that EPA would take action under section 5(e).

EPA encourages persons to consult with the Agency before selecting a protocol for testing the substances. As part of this optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substances. Test data should be developed according to TSCA Good Laboratory Practice Standards at 40 CFR Part 792. Failure to do so may lead the Agency to find such data to be insufficient to reasonably evaluate the health or environmental effects of the substances.

EPA urges Significant New Use Notice submitters to provide detailed information on human exposure and environmental release that may result from the significant new use of TCBO, EBH, or HFPO. In addition, EPA urges persons to submit information on potential benefits of the substances and information on risks posed by the substances compared to risks posed by potential substitutes.

IX. Economic Impact

The Agency has evaluated the potential costs of establishing notice requirements for potential manufacturers, importers, and processors of TCBO, EBH, or HFPO. The estimated cost of reporting for a person subject to either the section 8(a) or SNUR portion of this rule is between $1,400 and $8,000 per notice submitted. This is the same economic impact as discussed in the proposal for this rule. The Agency's complete economic analysis is available in the rulemaking record for this rule (OPTS–50559A and OPTS–82029A).

X. Rulemaking Record

EPA has established a record for this rulemaking (docket control numbers OPTS–50559A and OPTS–82029A). The record includes basic information considered by the Agency in developing this final rule. The record now includes the following:

1. The proposed rule. Trichlorobutylene Oxide; Epibromohydrin; Hexafluoropropylene Oxide; Proposed Significant New Uses of Chemical Substances; Submission of Notice of Manufacture, Import, or Processing.

2. Economic analysis of combined significant new use rule for epibromohydrin, 1,1,1-trichloro-3,4-epoxybutane, and hexafluoropropylene oxide and section 8(a) rule for hexafluoropropylene oxide.

3. Hexafluoropropylene Oxide Proposed Test Rule. **Federal Register**, December 30, 1983.

4. Halogenated Alkyl Epoxides Response to the Interagency Testing Committee. **Federal Register**, December 30, 1986. (48 FR 57695).

5. Second Report of the Interagency Testing Committee; Receipt and Request for Comments. **Federal Register**, April 19, 1978.

6. E.I. DuPont de Nemours & Company. Comments on Hexafluoropropylene Oxide Proposed Test Rule. March 28, 1984.

7. E.I. DuPont de Nemours & Company. Comments on the proposed Hexafluoropropylene Oxide SNUR. February 26, 1987.

This record is available in the OTS Public Information Office, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The OTS Public Information Office is located in Room NE–G004, 401 M Street, SW., Washington, DC.

XI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a regulatory impact analysis. EPA has determined that this rule is not a "Major Rule" because it will not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA estimates that the reporting cost for submitting a notice would be approximately $1,400 to $8,000. EPA believes that, because of the nature of the rule and the substances involved, there would be few notices submitted. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule will not have a significant impact on a substantial number of small businesses. The Agency has not determined whether persons affected by this rule are likely to be small businesses. However, EPA expects to receive few notices for the substances. Therefore, the Agency believes that the number of small businesses affected by this rule will not be substantial, even if all notice submitters were small firms.

The section 8(a) rule for HFPO exempts "small" manufacturers (as defined in 40 CFR 704.4) and "small" processors (as defined in § 704.104(a)(3)) from reporting on this chemical substance.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB Control Numbers 2070–0067 and 2070–0038.

List of Subjects in 40 CFR Parts 704 and 721

Chemicals, Environmental protection, Hazardous substances, Recordkeeping and reporting requirements, Significant new uses.

Dated: October 14, 1987.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Chapter I is amended as follows:

PART 704—[AMENDED]

1. In Part 704:

a. The authority citation for Part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. By adding a new § 704.104 to read as follows:

§ 704.104 Hexafluoropropylene oxide.

(a) *Definitions.* (1) "HFPO" means the chemical substance hexafluoropropylene oxide, CAS Number 428–59–1. [Listed in TSCA Inventory as oxirane, trifluoro(trifluoromethyl)-]

(2) "Enclosed process" means a process that is designed and operated so that there is no intentional release of any substance present in the process. A process with fugitive, inadvertent, or emergency pressure relief releases remains an enclosed process so long as measures are taken to prevent worker exposure to and environmental contamination from the releases.

(3) "Small processor" means a processor that meets either the standard in paragraph (a)(3)(i) of this section or the standard in paragraph (a)(3)(ii) of this section.

(i) *First standard.* A processor of a chemical substance is small if its total annual sales, when combined with those of its parent company, if any, are less than $40 million. However, if the annual processing volume of a particular chemical substance at any individual site owned or controlled by the processor is greater than 45,400 kilograms (100,000 pounds), the processor shall not qualify as small for purposes of reporting on the processing of that chemical substance at that site, unless the processor qualifies as small under paragraph (a)(3)(ii) of this section.

(ii) *Second standard.* A processor of a chemical substance is small if its total annual sales, when combined with those of its parent company (if any), are less than $4 million, regardless of the quantity of the particular chemical substance processed by that company.

(iii) *Inflation index.* EPA will use the Inflation Index described in the definition of "small manufacturer" that is set forth in § 704.3 for purposes of adjusting the total annual sales values of this small processor definition. EPA will provide **Federal Register**

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notification when changing the total annual sales values of this definition.

(b) *Persons who must report.* Except as provided in paragraph (c) of this section, the following persons are subject to this section:

(1) Persons who manufacture or propose to manufacture HFPO for use as an intermediate in the manufacture of fluorinated substances in an enclosed process.

(2) Persons who import or propose to import HFPO for use as an intermediate in the manufacture of fluorinated substances in an enclosed process.

(3) Persons who process or propose to process HFPO as an intermediate in the manufacture of fluorinated substances in an enclosed process.

(c) *Persons not subject to this rule.* The following persons are not subject to this rule:

(1) Small processors.

(2) Persons described in § 704.5 (a) through (d).

(3) Persons who have already submitted to EPA a completed copy of the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710–35, as described at § 712.28 of this chapter) for HFPO, as required by § 712.30(d) of this chapter are not required to report under this section with respect to activities previously reported on.

(d) *What information to report.* Persons identified in paragraph (b) of this section must submit a Premanufacture Notice form (EPA Form 7710–25) as described in Part 720, Appendix A, of this chapter.

(e) *When to report.* (1) Persons who are manufacturing, importing, or processing, or who propose to manufacture, import, or process HFPO for use as an intermediate in the manufacture of fluorinated substances in an enclosed process as of December 10, 1987, must report by February 8, 1988.

(2) Persons who propose to manufacture, import, or process HFPO for use as an intermediate in the manufacture of fluorinated substances in an enclosed process after December 10, 1987, must report within 30 days after making a firm management decision to commit financial resources for the manufacturing, importing, or processing of HFPO.

(f) *Recordkeeping.* Persons subject to the reporting requirements of this section must retain documentation of information contained in their reports for a period of 5 years from the date of submission of the reports.

(g) *Where to send reports.* Reports must be submitted by certified mail to: Document Processing Center (TS–793), Office of Toxic Substances, Environmental Protection Agency, Room L–100, 401 M Street, SW., Washington, DC 20460. ATTN: HFPO Reporting.

(Approved by the Office of Management and Budget under control number 2070–0067)

PART 721—[AMENDED]

2. In Part 721:

a. The authority citation for Part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

b. By adding a new § 721.320 to read as follows:

§ 721.320 Epibromohydrin.

(a) *Chemical substance and significant new use subject to reporting.* (1) The chemical substance epibromohydrin, CAS Number 3132-64-7, [Listed in TSCA Inventory as oxirane,(bromoethyl)-] is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) The significant new use is any use.

(b) *Special requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Persons who must report.* Section 721.5 applies to this section except for § 721.5(a)(2). A person who intends to manufacture, import, or process for commercial purposes the substance identified in paragraph (a)(1) of this section and intends to distribute the substance in commerce must submit a significant new use notice.

(2) [Reserved]

(Approved by the Office of Management and Budget under control number 2070–0038)

c. By adding a new § 721.324 to read as follows:

§ 721.324 Trichlorobutylene oxide.

(a) *Chemical substance and significant new use subject to reporting.* (1) The chemical substance trichlorobutylene oxide (TCBO), CAS Number 3083–25–8, [Listed in TSCA Inventory as oxirane, [2,2,2-trichloroethyl)-] is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) The significant new use is any use.

(b) *Special requirements.* The provisions of Subpart A of this part apply to this section except as modified by this paragraph.

(1) *Persons who must report.* Section 721.5 applies to this section except for § 721.5(a)(2). A person who intends to manufacture, import, or process for commercial purposes the substance identified in paragraph (a)(1) of this section and intends to distribute the substance in commerce must submit a significant new use notice.

(2) [Reserved]

(Approved by the Office of Management and Budget under control number 2070–0038)

d. By adding a new § 721.347 to read as follows:

§ 721.347 Hexafluoropropylene oxide.

(a) *Chemical substance and significant new use subject to reporting.* (1) The chemical substance hexafluoropropylene oxide (HFPO), CAS Number 428–59–1 [Listed in TSCA Inventory as oxirane, trifluoro(trifluoromethyl)-] is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) The significant new use is any use other than as an intermediate in the manufacture of fluorinated substances in an enclosed process.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Definitions.* In addition to the definitions in § 721.3, the following definitions apply to this section:

(i) "Enclosed process" means a process that is designed and operated so that there is no intentional release of any substance present in the process. A process with fugitive, inadvertent, or emergency relief releases remains an enclosed process so long as measures are taken to prevent worker exposure to and environmental contamination from the releases.

(ii) [Reserved]

(2) [Reserved]

(Approved by the Office of Management and Budget under control number 2070–0038)

[FR Doc. 87–24568 Filed 10–26–87; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 172

[Docket No. HM–145F; Amdt. Nos. 171–90 and 172–108]

Hazardous Substances

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Amendment to the final rule.

SUMMARY: This document amends the final rule published on November 21, 1986 (51 FR 42174, Amendment Nos. 171–90 and 172–108) and amended December 24, 1986 (51 FR 46672) and February 17, 1987 (52 FR 4824). This amendment suspends application of the requirements for certain hazardous substances which are listed in this amendment until such time as the Environmental Protection Agency (EPA) publishes a final rule under its Docket No. SW H–FRL 3122–8 for those hazardous substances. In addition, this revision provides an optional shipping name, "ORM–E, liquid *or* solid, n.o.s.", for hazardous substances which are presently required to be described by the generic shipping name, "Hazardous substance, liquid *or* solid, n.o.s." The effect of this action is to relieve shippers of some of the burden associated with complying with new requirements for hazardous substances.

EFFECTIVE DATES: Effective October 27, 1987; the effective date for Amendment No. 172–108 (51 FR 42174, 51 FR 46672, 52 FR 4824) is suspended for each hazardous substance in the Appendix to § 172.101 which EPA has proposed to increase the reportable quantity (RQ) from one pound to a higher amount under EPA Docket No. SW H—FRL 3122–8 (52 FR 8140, March 16, 1987). These substances are specified in this document. After EPA publishes final RQs for these substances under EPA Docket SW H—FRL 3122–8, RSPA will determine an appropriate effective date for these substances and this date will be published in the **Federal Register**. (2) Except as provided in (1) above, the effective dates of the requirements adopted under Amendment Nos. 171–90 and 172–108 remain as stated in 51 FR 46672; however, the effective date of the optional shipping name adopted herein is November 24, 1987. (3) Notwithstanding the effective dates set forth above, immediate compliance is authorized. (4) The provisions of 49 CFR 172.101(j) do not apply to Amendment No. 172–108.

FOR FURTHER INFORMATION CONTACT: Lee Jackson, (202) 366–4488 or George Cushmac (202) 366–4545, Office of Hazardous Materials Transportation, RSPA, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On November 21, 1986, RSPA published a final rule which amended the Hazardous Materials Regulations (HMR) by incorporating into the HMR, as hazardous materials, all substances designated as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). This action was necessary to comply with the Superfund Amendments and Reauthorization Act of 1986.

On March 16, 1987, EPA published a proposed rule which contained reportable quantity adjustments for a number of materials which presently have statutory RQs of one pound. In that document, EPA Proposed to increase the RQ for the following substances.

List of CERCLA hazardous substances for which the EPA has proposed to increase the reportable quantity (RQ) from one pound to a higher amount under EPA Docket No. SW H–FRL 3122–8 (52 FR 8140):

Hazardous substance	Statutory RQ	Proposed RQ
2-Acetylaminofluorene	(1)	10
Amitrole	(1)	10
Auramine	(1)	100
Azaserine	(1)	10
3,4-Benzacridine	(1)	10
Benz(a)anthracene	(1)	10
Benzo(k)fluoranthene	(1)	5,000
Beryllium	(1)	10
alpha—BHC	(1)	10
2,2'-Bioxirane	(1)	10
Bis(2-chloroethyl) ether	(1)	10
Bis(chloromethyl) ether	(1)	10
Bis(2-ethylhexyl) phthalate	(1)	100
Cadmium	(1)	10
Chloral	(1)	5,000
Chlorambucil	(1)	10
Chlornaphazine	(1)	100
4-Chloro-o-toluidine, hydrochloride	(1)	100
Chloromethyl methyl ether	(1)	10
Chrysene	(1)	10
Cyclophosphamide	(1)	10
Daunomycin	(1)	10
Diallate	(1)	100
Dibenz[a,i]pyrene	(1)	10
1,2-Dibromo-3-chloropropane	(1)	10
Dihydrosafrole	(1)	10
3,3'-Dimethoxybenzidine	(1)	100
Dimethyl sulfate	(1)	100
3,3'-Dimethylbenzidine	(1)	100
1,1-Dimethylhydrazine	(1)	10
Dimethylnitrosamine	(1)	10
1,4-Dioxane	(1)	100
1,2-Diphenylhydrazine	(1)	10
Di-n-propylnitrosamine	(1)	10
2-Ethoxyethanol	(1)	1,000
Ethyl carbamate (Urethane)	(1)	100
Ethyl 4,4'-dichlorobenzilate	(1)	10
Ethylene oxide	(1)	10
Ethylene thiourea	(1)	10
Glycidylaldehyde	(1)	10
Guanidine, N-nitroso-N-methyl-N'-nitro-	(1)	10
Hexachlorobenzene	(1)	10
Hexachlorocyclopentadiene	(1)	10
Hexachloroethane	(1)	100
Hydrazine, 1,2-diethyl-	(1)	10
Ideno[1,2,3-cd]pyrene	(1)	100
Isosafrole	(1)	100
Lasiocarpine	(1)	10
Lead phosphate	(1)	10
Lead subacetate	(1)	100
Methyl chloride	(1)	100
Methyl iodide	(1)	100
2-Methylaziridine	(1)	10
3-Methylcholanthrene	(1)	10
4,4'-Methylenebis(2-chloroaniline)	(1)	10
Methylthiouracil	(1)	10
Mitomycin C	(1)	10
alpha-Naphthylamine	(1)	100
beta-Naphthylamine	(1)	10
Nickel carbonyl	(1)	10
Nickel cyanide	(1)	10
N-Nitrosodi-n-butylamine	(1)	10
N-Nitroso-N-ethylurea	(1)	10
N-Nitrosomethylvinylamine	(1)	10
N-Nitrosopiperidine	(1)	10
5-Nitro-o-toluidine	(1)	100
Parathion	1	10
Pentachloroethane	(1)	10
Pentachloronitrobenzene	(1)	100
Phenacetin	(1)	100
Propane, 2-nitro	(1)	10
1,3-Propane sultone	(1)	10
Saccharin and salts	(1)	100
Safrole	(1)	100
Selenium disulfide	(1)	10
1,1,1,2-Tetrachloroethane	(1)	100
1,1,2,2-Tetrachloroethane	(1)	100
Tetrachloroethane	(1)	100
Thioacetamide	(1)	10
Thiourea	(1)	10
Toluenediamine	(1)	10
o-Toluidine	(1)	100
p-Toluidine	(1)	100
o-Toluidine hydrochloride	(1)	100
1,1,2-Trichloroethane	(1)	100
Tris(2,3-dibromopropyl) phosphate	(1)	10
Trypan blue	(1)	10
Uracil mustard	(1)	10
Vinyl chloride	(1)	10
F001	(1)	10
F002	(1)	100
K009: Distillation bottoms from the production of acetaldehyde from ethylene	(1)	10
K010: Distillation side cuts from the production of acetaldehyde from ethylene	(1)	10
K011: Bottom stream from the wastewater stripper in the production of acrylonitrile	(1)	10
K013: Bottom stream from the acetonitrile column in the production of acrylonitrile	(1)	10
K017: Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin	(1)	10
K019: Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production	(1)	10

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Hazardous substance	Statutory RQ	Proposed RQ
K020: Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. (Components of this waste are identical with those of K019, immediately preceding.)	(1)	10
K021: Aqueous spent antimony catalyst waste from fluoromethanes production	(1)	10
K025: Distillation bottoms from the production of nitrobenzene by the nitration of benzene	(1)	10
K027: Centrifuge and distillation residues from toluene diisocyanate production	(1)	10
K028: Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane	(1)	10
K029: Waste from the product steam stripper in the production of 1,1,1-trichloroethane	(1)	10
K032: Wastewater treatment sludge from the production of chlordane	(1)	10
K033: Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane	(1)	10
K034: Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane	(1)	10
K036: Wastewater from the washing and stripping of phorate production	(1)	10
K040: Wastewater treatment sludge from the production of phorate. (Components of this waste are identical with those of K038, above.)	(1)	10
K042: Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T	(1)	10
K043: 2,6-Dichlorophenol waste from the production of 2,4,-D	(1)	10
K073: Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production	(1)	10
K085: Distillation or fractionation column bottoms from the production of chlorobenzenes	(1)	10
K095: Distillation bottoms from the production of 1,1,1-trichloroethane	(1)	100
K096: Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane	(1)	10
K099: Untreated wastewater from the production of 2,4,-D	(1)	10
K104: Combined wastewater streams generated from nitrobenzene/aniline chlorobenzenes	(1)	10
K105: Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes	(1)	10
K111: Product washwaters from the production of dinitrotoluene via nitration of toluene	(1)	10
K112: Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene	(1)	10
K113: Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(1)	10
K114: Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(1)	10
K115: Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(1)	10
K116: Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine	(1)	10

[1] Indicates that the 1-pound statutory RQ is a CERCLA statutory RQ.

RSPA believes that the RQ adjustments proposed by EPA should be finalized before Amendment No. 172–108 becomes mandatory, even though the July 1, 1987 effective date has passed. Accordingly, element (1) of the effective date statement of this preamble modifies the effective date statement in the final rule published on December 24, 1986 (51 FR 46672).

By petition dated December 22, 1986, and supplemented June 5, 1987, the Calorie Control Council petitioned RSPA for relief from the provisions of the final rule which apply to saccharin and for delay of the effective date of the rule until July 1, 1987. Although the petition was denied for reasons not germane to this discussion, it identified a problem that RSPA is correcting in this revision. Specifically, the new requirements for describing hazardous substances require that previously unregulated materials, such as saccharin, other food additives and consumer commodities, be described on shipping papers and on packages under the proper shipping name "Hazardous substance, liquid *or* solid, n.o.s.". Due to the connotations associated with the term "hazardous substance", the requirement to identify hazardous substances on shipping papers and on packages using this proper shipping name has an adverse and potentially severe impact on the use and marketability of products intended for consumer consumption. To alleviate this problem, RSPA is authorizing in this revision use of an optional shipping description, "ORM–E, liquid *or* solid, n.o.s.". This shipping description does not have the negative connotations which are associated with "hazardous substance" and is adequate, when used in conjunction with other description requirements in Part 172, for identifying and reporting hazardous substance discharges, especially those hazardous substances which only fall within the ORM–E hazard class. The ORM–E (i.e., Other Regulated Materials, category E) hazard class consists of hazardous substances and hazardous wastes which do not satisfy any other DOT hazard class such as flammable liquid, corrosive material, or Poison B. The shipping name "ORM–E, liquid *or* solid, n.o.s." will provide relief for those shippers reluctant to use "Hazardous substance, liquid *or* solid. n.o.s." as a shipping description. Since the shipping description "ORM–E, liquid *or* solid, n.o.s." is optional, rather than a replacement shipping description for "Hazardous substance, liquid *or* solid, n.o.s.", no additional requirements will be imposed on shippers electing to use the latter description.

Administrative Notices

This rule provides relief from a regulatory requirement, imposes no new regulatory requirements, and does not change the classification of hazardous materials. Therefore, I find, under 5 U.S.C. 553, that notice and public procedure on the rule are unnecessary and contrary to the public interest.

The RSPA has determined that this amendment (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises, or small governmental jurisdictions; and (4) will not require an environmental impact statement under the National Environmental Policy Act (40 U.S.C. 4321 *et seq.*). A regulatory evaluation is not considered necessary because the anticipated impact is minimal. Based on limited information concerning the size and nature of entities likely affected, I certify that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 172

Hazardous materials transportation, Hazardous substances.

In consideration of the foregoing, 49 CFR Part 172 is amended as follows:

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. The authority citation for Part 172 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805 and 1808; Pub. L. 99–499; and 49 CFR Part 1, unless otherwise noted.

§ 172.101 [Amended]

2. In § 172.101, Column 2 of the Hazardous Materials Table is amended, as follows:

a. The proper shipping name entry, "Hazardous substance, liquid *or* solid, n.o.s.", is changed to "Hazardous substance, liquid *or* solid, n.o.s. *or* ORM–E, liquid *or* solid, n.o.s.".

b. The cross reference, "ORM–E, liquid *or* solid, n.o.s. *See* Hazardous substance, liquid *or* solid, n.o.s." is added in proper alphabetical sequence.

3. In the appendix to § 172.101, the effective date of the hazardous substances listed in the preamble to this document is suspended until further notice.

Issued in Washington, DC on Oct. 20, 1987 under authority delegated in 49 CFR Part 1.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 87–24859 Filed 10–26–87; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 61220–7033]

Foreign Fishing, Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Inseason action.

SUMMARY: This action reapportions DAP (domestic annual processing) amounts of pollock and Pacific cod to JVP (joint venture processing) based on NMFS' analysis of DAP needs for the remainder of 1987. This action is intended as a conservation and management measure that provides for full utilization of available groundfish resources off Alaska during 1987.

DATES: This notice is effective on October 22, 1987. Comments will be accepted through November 6, 1987.

ADDRESS: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802–1668.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (National Marine Fisheries Service, 907–586–7229).

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the Exclusive Economic Zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR Part 672. Section 672.2 of the regulations defines the Western, Central, and Eastern Regulatory areas in the Gulf of Alaska. The fishery is directed at an optimum yield range for all groundfish species of 116,000 to 800,000 metric tons (mt). Under the procedure set forth at § 672.20, 1987 Target Quotas were established for each of the groundfish species, which were then apportioned among the regulatory areas or districts.

Background

The Regional Director has conducted several analyses of DAP needs during 1987 and has determined, based on these analyses and DAP catches to date, that certain DAP amounts are excess to DAP needs. The issue of how much pollock might be taken in DAP fisheries was reevaluated by the Council at its May 20–22, 1987, meeting and its September 1, 1987, conference call. The Council voted not to reapportion any DAP pollock in the Gulf of Alaska to JVP. The Secretary of Commerce (Secretary) disagreed with the Council recommendation not to reapportion pollock to JVP in the Gulf of Alaska. The Secretary considered the NMFS surveys, the DAP pollock catches as of September 19 (11,400 mt), and the likelihood that DAP fishermen would catch and sell 83,700 mt of pollock by the end of the year and concluded that 16,500 mt of pollock was unneeded by DAP. This amount was released from the reserve to JVP (52 FR 37463, October 7, 1987).

The Regional Director has recently concluded another complete survey of all processors, both shoreside and floating, which intend to operate in the Western and/or Central Gulf for pollock during the fourth quarter of 1987. The results of this survey indicate that the maximum likely DAP catch of pollock in the Western/Central area is 58,200 mt. The current DAP is 67,200 mt.

Reapportionment

To the Gulf of Alaska JVP (Table 1)

The Secretary reapportions 9,000 mt of Western/Central area pollock from DAP to JVP.

To provide additional Pacific cod bycatch needed by joint ventures conducting a target fishery on flounders in the Central Gulf, 800 mt of Pacific cod is reapportioned from DAP to JVP. Based on the recent survey and catches to date, the Regional Director has determined that 800 mt is surplus to DAP needs for the remainder of 1987.

Classification

This action is taken under the authority of 50 CFR 611.92, 611.93, and 675.20 and complies with Executive Order 12291.

The Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to benefit U.S. fishermen who otherwise would have to forgo substantial amounts of groundfish species if those amounts remained indefinitely in categories in which these species could not be used, and who would suffer substantial financial loss if a hiatus occurred in their ongoing fisheries. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 21, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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TABLE 1.—1987 CURRENT AND REVISED TARGET QUOTA (TQ), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP) AND RESERVE IN THE GULF OF ALASKA, IN METRIC TONS

Species	Area	TQ	DAH	DAP	JVP	Reserve
Pollock	Western/ Central:					
	(current)	84,000	84,000	67,200	16,800	0
	(change)			−9,000	+9,000	
	(revised)			58,200	25,800	
Pacific cod	Central:					
	(current)	33,000	33,000	32,100	900	0
	(change)			−800	+800	
	(revised)			31,300	1,700	

[FR Doc. 87-24829 Filed 10-22-87; 4:40 pm]
BILLING CODE 3510-22-M

50 CFR Part 663

[Docket No. 70101-7001]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure and request for comments.

SUMMARY: NMFS announces closure of the fishery for sablefish caught with fixed gear off the coasts of Washington, Oregon, and California, and seeks public comment on this action. This closure is authorized under the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP) and the 1987 fishing restrictions which prohibit retention or landings of sablefish by fixed gear when the quota for that gear type is reached. The Director, Northwest Region, NMFS (Regional Director) has determined that the 1987 fixed gear quota of 5,800 metric tons (mt) for sablefish will be reached by October 21, 1987. This closure is intended to avoid overfishing of a species which is fully utilized.

DATES: Effective from 0001 hours Pacific Daylight Time (PDT), October 22, 1987 until 2400 hours Pacific Standard Time (PST), December 31, 1987, unless modified, superseded, or rescinded. Comments will be accepted until November 12, 1987.

ADDRESSES: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150; or E. Charles Fullerton, 213-514-6196.

SUPPLEMENTARY INFORMATION: Pursuant to the regulations implementing the FMP at 50 CFR 663.22(a)(3), the fishing restrictions imposed at the beginning of 1987 allocate the sablefish optimum yield (OY) quota of 12,000 mt, 52 percent (6,200 mt) to trawl gear and 48 percent (5,800 mt) to fixed (nontrawl) gear and provide for imposing fishing restrictions if needed to avoid reaching the trawl quota (52 FR 790, January 9, 1987). When the quota for either gear type is reached, retention or landings of sablefish by that gear type will be prohibited as provided for in § 663.23. If the overall OY for sablefish is reached, further landings of sablefish by all gear types will be prohibited until January 1, 1988.

Based on the best available information as of October 8, 1987, and after consultation with the Directors of the Washington Department of Fisheries, the Oregon Department of Fish and Wildlife, and the California Department of Fish and Game, and the Chairman of the Pacific Fishery Management Council (Council), the Regional Director determined that the 5,800 mt quota for sablefish caught with fixed gear will be reached by October 21, 1987. Accordingly, closure of the fixed gear fishery for sablefish is effective at 0001 hours PDT on October 22, 1987. The States of Washington, Oregon, and California will close State ocean waters at the same time.

This action is automatic and non-discretionary and modifies previous restrictions for sablefish caught with fixed gear.

Secretarial Action

For the reasons stated above, the Secretary of Commerce announces that:

(1) Sablefish caught with fixed gear may not be taken and retained, or landed.

(2) Fixed gear includes set nets, traps or pots, longlines, commercial vertical hook-and-line gear, troll gear, and trammel nets.

(3) This restriction applies to all sablefish caught with fixed gear that are taken and retained 0–200 nautical miles offshore of Washington, Oregon, and California. All sablefish caught with fixed gear that are possessed 0–200 nautical miles offshore of, or landed in Washington, Oregon, or California are presumed to have been taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California unless otherwise demonstrated by the person in possession of those fish.

Classification

The determination to prohibit further fixed gear landings of sablefish is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours until the end of the comment period.

This section is taken under the authority of 50 CFR 663.22(a)(3) and 663.23 and the notice at 52 FR 790, January 9, 1987, and is in compliance with Executive Order 12291. The action is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Because of the immediate need to prohibit further fixed gear landings of sablefish and thereby prevent inequitable and excessive harvest that could otherwise result, the Secretary finds that advance notice and public comment on this closure are impracticable and not in the public interest, and that no delay should occur in its effective date. The public was

notified at the Council's September 1987 meeting that fixed gear landings of sablefish were expected to reach the quota for that gear type before the end of the year. The public had the opportunity to comment at Groundfish Select Group, Groundfish Management Team, and Council meetings in August, September, and October 1987 respectively. Public comments also will be accepted for 15 days after publication of this notice in the Federal Register. The Secretary therefore finds good cause to waive the 30-day delayed effectiveness provision of 50 CFR 663.23(c).

List of Subjects in 50 CFR Part 663

Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: October 21, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 87-24830 Filed 10-22-87; 4:40 pm]
BILLING CODE 3510-22-M

VOL 52 ISS 207 OCT 27 1987 UMI

Proposed Rules

Federal Register
Vol. 52, No. 207
Tuesday, October 27, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Ch. III

Draft Recommendations; Social Security Initial Determinations; Role of Appeals Council

AGENCY: Administrative Conference of the United States.

ACTION: Request for comments.

SUMMARY: The Committee on Adjudication has tentatively approved the following two draft recommendations concerning the Social Security disability appeals process: (1) Initial Determinations in Social Security Cases, and (2) A New Role for the Social Security Appeals Council.

The Committee requests public comment on these two draft recommendations by November 13, 1987. The Committee is basing its recommendations on two studies: (1) By Professor Allen E. Shoenberger of the Loyola University of Chicago School of Law and (2) by Professors Charles H. Koch, Jr. of the College of William and Mary Law School and David A. Koplow of the Georgetown University Law Center. Copies of these reports are available upon request.

DATES: Written comments must be received by noon on Friday, November 13, 1987. Comments received after that date will be considered to the extent possible.

ADDRESSES: Comments should be addressed to Deborah Ross, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Deborah Ross, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: 202–254–7065.

SUPPLEMENTARY INFORMATION:

Committee on Adjudication—Draft Recommendation (87–Y): Initial Determinations in Social Security Disability Cases

In Fiscal Year 1986, nearly two and one half million individuals applied for disability benefits under two federal programs administered by the Social Security Administration: Retirement, Survivors, Disability and Health Insurance (RSDHI), and Supplemental Security Income (SSI). Payments made annually to their seven million beneficiaries totalled twenty-nine billion dollars during the same period. Certain aspects of this enormous benefit program have been subject to close scrutiny recently to determine whether greater efficiency is possible.

In order to be eligible for either program, a claimant must meet medical and other criteria. The RSDHI program operates as an insurance plan. A worker qualifies by earning a sufficient amount of wages for the required period of time. By contrast, the SSI program is a welfare program whose financial criteria are met solely by a demonstration of need.

If a claimant meets the criteria for either plan, he or she must then meet the medical criteria for disability in order to establish eligibility for benefits. The basic statutory test is identical for both RSDHI and SSI:

> Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 42 U.S.C. §§ 423(d)(1)(A); 1382c(a)(3)(A).
>
> [See also 43 U.S.C. § 423(d)(2)(A) which liberalizes the work requirement somewhat.]

Claimants begin the application process by filing an application at a Social Security Administration office. If a claimant is deemed financially eligible, the file is then forwarded to a federally-funded and SSA-regulated state Disability Determination Service (DDS) for a determination as to medical disability. A two-person team consisting of a "disability examiner" and medical consultant (a physician employed by DDS) review the medical file and reach their decision. The claimant is not present at any time during the process.

A claimant who is dissatisfied with the initial determination (about 60% are denials) has 60 days in which to seek a reconsideration. Reconsiderations are also performed at the state DDS level, and are essentially a repeat of the initial determination process, but with different personnel acting as decisionmakers. The record may be supplemented at this time, but as with the initial determination process, the claimant does not appear. In FY 1986, about 40% of denied claimants (totalling 380,000) sought reconsideration and about 17% of those received favorable re-determinations.

Further review is available at the ALJ and Appeals Council stages. See Recommendation 87–X for a description of these later review stages.

Several areas pertaining to the disability determination, hearing and review process have been subject to criticism. First, the current system, with its four tiers of successive review, often results in the replacement of one decisionmaker's determination with that of the next, but without necessarily improving the quality of any of the actual decisions. Second, because there is little cost to filing an administrative appeal (and everything to gain in doing so), there is correspondingly little incentive for a claimant to accept any unfavorable determination as final. Accordingly, there is a staggeringly wide stream of cases all the way to the end of the process. Moreover, claimants whose cases are decided without a personal appearance before the decisionmaker (as is the case in three of the four review stages) frequently feel dissatisfied with the process, that they have not received their "day in court."

In addition, courts, members of Congress, and the system's clients have all indicated that their confidence in the system has deteriorated to the point that its integrity has suffered. The public's faith in this institution is essential to its success in the long run.

In efforts to improve the administration of the initial determination process, the stage at which the caseload stream is the widest, Congress and SSA have engaged in some modifications of the system as well as some experimental procedures. By 1983, a large increase in continuing disability review (CDR) cases has begun to flood the appeal system. In such cases SSA performs reviews on existing beneficiaries to determine whether the disability still exists. If the determination is negative, a notice of

termination is sent, triggering the above-described review process. Congress reacted to this by passing Pub. L. 97–455, which required an "evidentiary hearing" at the reconsideration stage in all CDR cases. Although a moratorium in CDR cases slowed the institution of this procedure, it is now in place and specially trained hearing officers are conducting these relatively formal proceedings.

In 1984 (Pub. L. 98–460), Congress mandated demonstration projects in selected DDS offices to try out a one-step proceeding, allowing a personal interview but (eliminating the reconsideration step. In five states, the interview was to be used in initial determinations, and in five other states it was to be used in place of the evidentiary hearing in CDR cases. These demonstration projects are currently underway, and results are limited. Although preliminary, the experience with evidentiary hearings and the experiments with personal interviews give rise to the following conclusions:

—Face-to-face procedures are more satisfactory to claimants than are paper reviews, resulting in claimants feeling that they received a fair hearing;

—Face-to-face procedures are helpful to decisionmakers, in many instances providing them with evidence not ascertainable from the paper file.

If the final results of the demonstration projects are consistent with these initial findings, it is probable that by implementing some kind of a face-to-face proceeding at the state level, awards of benefits that ultimately would be made later in the system will be made at the outset. This will have the effect of decreasing the caseload at later levels, both for ALJs and the Appeal Council, and for federal courts.

At the request of the Social Security Administration, the Administrative Conference has undertaken a preliminary review of the disability determination process at the state level. The Conference makes the following Recommendations, based on that study.

Recommendation

The Conference supports Congressional and Social Security Administraton (SSA) efforts to improve the procedure by which initial and reconsidered disability determination are made by state Disability Determination Service (DDS) offices. Although existing experience with use of evidentiary hearings at reconsideration is sparse, and experiments using a single-step determination (after a personal interview, but without reconsideration) are at an early stage, some preliminary suggestions can be made to SSA:

1. Experiments and demonstration projects concerning use of face-to-face procedures at the initial determination stage should be continued and encouraged. SSA should conduct thorough and careful analyses of both the evidentiary hearing procedure now used in continuing disability review (CDR) cases and the personal interviews now being tried in selected state demonstration projects and should make prompt reports to Congress.

2. Full implementation of evidentiary hearings or personal interviews (either at the initial or reconsideration stage) should await a final report on the current experiments.

3. SSA's reports concerning the use of face-to-face procedures should include consideration of the cost of full implementation of evidentiary hearings or personal interviews at the initial or reconsideration stage. Should cost considerations militate against full implementation of such hearings or interviews, SSA should consider the feasibility of permitting some kind of a hearing or interview on a *selective* basis where either the claimant's file, type of medical condition or the opinion of the examiner indicates that such a procedure would be of significant assistance to the ultimate determination.

4. In analyzing the results of the procedures and the ongoing experiments at the DDS level, SSA should develop accurate measures of efficiency and accuracy. Specifically, measures of processing time should take into account (and should not penalize offices for) the time spent on fulfilling appropriate requests for additional case development.

5. In analyzing the procedures and ongoing experiments (and in any future analyses), SSA should be alert to variations between DDS offices in their award rates and other aspects of case handling, but should not necessarily treat such variations as abnormal, given the many state-by-state variables that can affect the disability determination process.

6. SSA should be wary of taking the position that face-to-face hearings or interviews at the DDS level would be an adequate substitute for the adjudicatory hearing before a SSA administrative law judge (ALJ). Rather, such modifications to the DDS process should be seen as a possible way of reducing the need for appeals to the later stages of the process.

7. SSA should give close scrutiny to proposals to completely eliminate the reconsideration stage and should consider the impact of that step on overall processing costs, and on the caseload at the ALJ stage (with its attendant need for attorney representation). Any such proposals to convert the initial determination stage to a single step should consider the need to allow some type of a face-to-face proceeding at that stage.

8. Before instituting evidentiary hearings or personal interviews in all DDS offices, SSA should consider (a) decentralization of DDS offices into decisional units to minimize travel cost and (b) the need to select and train a sufficient number of personnel qualified to conduct such hearings or interviews.

9. The record in disability appeals should not be closed until completion of the ALJ stage—that point in the process at which claimants are likely to be represented by attorneys. Only if the introduction of evidentiary hearings or interviews at the DDS level were to be accompanied by a high level of attorney involvement, should any consideration be given to closing the record before the ALJ stage.

10. SSA should consider conducting an empirical study of: (a) The reference sources of claimants (e.g., referrals from state welfare agencies, private insurance carriers, etc.) to determine whether such referrals are a source of excessive numbers of claims that are later determined to be unmeritorious, and (b) the nature of "dropouts," claimants who fail to pursue their appeal rights, to determine why this occurs.

Committee on Adjudication—Draft Recommendation (87–X): A New Role for the Appeals Council

The Social Security disability system is descibed generally in Recommendation 87–Y, which focuses on the initial determination process at the state-level Disability Determination Service (DDS) offices. This Recommendation address the later stages of review by the Social Security Administration.[1]

The first stage of review by Federal decisionmakers is the third step in the process for claimants. Claimants disappointed at the state-level initial and reconsideration levels may demand a hearing before an administrative law judge (ALJ) employed by the Social Security Administration. About 65% of such claimants do so. This is the first

[1] The Conference has previously addressed elements of the Social Security appeals process (focusing primarily on the ALJ hearing stage) in Recommendation 87–2, Procedures for Determining Social Security Disability Claims, 1 CFR 305.76–2.

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time in the process (except in certain determination projects or cases involving the termination of benefits) a claimant has a face-to-face encounter with the decisionmaker. The hearings are de novo, and generally follow APA guidelines. Approximately 50% of appeals taken to an ALJ hearing result in the award of benefits.

The fourth, and final, level of administrative review is to the Social Security Appeals Council. This twenty member body, created by regulation, and chaired by the Associate Commissioner for Hearings and Appeals, disposes of a staggering 50,000 cases annually. (About 40% of claimants who lose at the ALJ stage appeal.) In addition to appeals from ALJ decisions, the Appeals Council reviews, on its "own motion," selected cases where there has been a grant of benefits. The Appeals Council relies on analysts in its companion unit, the Office of Appeals Operations (OAO), to screen cases and make recommendations concerning disposition of the cases. Council members hold the same salary grade level as SSA ALJs. They perform purely a paper review on cases that are forwarded to them by OAO and assigned to them individually based on the geographical origin of the case. In most cases, review is summarily denied or dismissed. Because of the demands on each member, (up to 500 cases per member per month), a typical case is likely to receive less than 15 minutes of paper review. The Council almost never sits in panels or conducts oral arguments. Approximately 5% of the cases reviewed result in reversals, and another 7 to 15% are remanded.

After exhaustion of state and federal administrative remedies, a claimant may seek judicial review in the federal district court. In the years 1981 to 1986 the number of new SSA disability cases filed in the courts ranged from 9000 to 26,000 per year.

Historically, the Appeals Council has played a policy-relevant role. Yet, as its caseload increased, it was by necessity limited to a narrow case correction function. Accordingly, its members had little time to devote to policy matters. Recently, the Appeals Council has come under attack from many fronts, including Congress, claimants and their representatives, and academicians, who have questioned both the Appeals Council's usefulness as an additional step in the adjudicative chain and its inability to play a more policy-relevant role.

Critics have complained that the rate of reversals is so low that it fails to compensate for the additional delay caused to claimants who wish to seek judicial review. Other observers have noted that because its members are so driven by the "tyranny of the caseload," it has failed to take advantage of its unique position as the final administrative review body—one that sees a diverse number of disability cases, and accordingly, can detect emerging problems, and identify new issues to be resolved and policies to be developed. Thus, any capabilities it should have in promoting consistency of lower-level decisionmaking, and policy integrity throughout the system, are thwarted, and it is left with little more than a case-handling role.

The Social Security Administration requested the Administrative Conference's advice concerning, among other things, ways in which it might be possible for the Appeals Council to recapture its policymaking position within the Social Security bureaucracy. The Conference's study comprehensively analyzed the operation of the Appeals Council with an eye toward recommendations for a change in its role.

Serious consideration was given to outright abolition of the Appeals Council. This view was premised on the Appeals Council's present inability to do little more than add one more layer to the already-lengthy review bureaucracy. (This criticism was not intended as a denigration of Appeals Council members, whom the study found to be competent, dedicated, and cooperative.) Before recommending such a drastic, and irreversible step, however, the Conference felt that a last attempt should be made to use the unique perspective and expertise of the Appeals Council to help correct the existing problem. The Conference believes that fundamental changes are needed to reduce the Council's caseload to a more manageable volume (e.g. 5,000 to 10,000 cases annually) so that individual cases can be given more attention and the Council can be a significant contributor to agency policymaking. Accordingly, to implement a systems-reform function for the Appeals Council, the Conference makes the following Recommendations for modification of its structure, purpose and operations.

Recommendation

1. The Social Security Administration (SSA) should, as soon as feasible, restructure the Appeals Council in a fashion that redirects the institution's goals and operation from an exclusive focus on processing the stream of individual cases and toward an emphasis on policy development and improved organizational effectiveness. To that end, the Appeals Council should be provided the authority to reduce significantly its caseload and also be given, as its principal mandate, the responsibility to recommend and, where appropriate, develop and implement operational policies and decisional guidelines for the disability determination process. In particular, SSA should adopt the following structural reforms to improve the Appeals Council's ability to perform its new function.

a. Focus on Policy Development

SSA should make clear that the primary function of the Appeals Council is to focus on operational policy concerning disability law and procedures and transmit policy advice to other SSA policymakers and guidance to lower-level decisionmakers. Thus the Appeals Council should advise and assist SSA policymakers and decisionmakers by:

(1) Conducting independent studies of the agency's case and procedures, and providing appropriate advice and recommendations to SSA policymakers;

(2) Providing guidance to lower level decisionmakers (e.g., ALJs DDS hearing officers) by: (a) Providing, after coordination with other SSA policymakers, interpretive "minutes" on questions of disability law and policy, and (b) articulating the proper handling of specific issues in case review opinions to be given precedential significance. Such formal guidance papers should be distributed throughout the system, made publicly available, and indexed.

b. Control of its Caseload

The Appeal Council should retain, and continue to invoke, its authority (on behalf of the Secretary of HHS) to make final agency decisions upon review of initial decisions by departmental administrative law judges (ALJs). However, in order to permit Appeals Council members to focus on policy development and to devote more time to individual cases, the Council should be authorized to exercise its review sparingly and only on categories of cases prescribed in advance by the Council plus a small sample of random cases. In doing so the Council should:

(1) Develop, and revise periodically, a list of categories of cases from which it would select cases for review (e.g., all cases involving substance abuse, AIDS, undocumented claims of disabling pain, or specified types of cases that are shown to be "error prone");

(2) Prescribe case categories that are clear enough to permit administrative personnel at the hearing level to forward cases fitting the categories to the Appeal Council for acceptance;

(3) Publish its list of categories so that the public, ALJs and other SSA personnel may suggest modifications;

(4) Give special emphasis to categories of cases that show evidence of a pattern of erroneous denials, although unless otherwise specified, cases selected for review should include both grants and denials of benefits;

(5) Develop methods to allow the Council to identify potential or emerging problem areas and to generally keep abreast of disability law and procedure, such as, for example, accepting for review a random sample of cases falling outside the designated categories;

c. Improved Review of Individual Cases

The Appeals Council, given a reduced caseload, should upgrade its handling of individual cases. In particular the Council should:

(1) Work more collaboratively, including as appropriate, considering cases en banc or in panels;

(2) Encourage claimant's representatives to submit briefs (including *amicus* briefs) on selected issues and evaluate the benefits of encouraging oral arguments in appropriate cases (utilizing existing authority to reimburse participants as necessary);

(3) Write more elaborate opinions, providing better reasoning and legal analysis and relying less on boilerplate and verbatim recitation of records;

(4) Avoid substitution of judgment on ALJ factual determinations,[2]

(5) Significantly reduce the time needed to review cases by initiating any review within 30 days and issuing a final decision in most cases within 90 days of accepting review;

(6) Specify that once the period for accepting review has passed, ALJ decisions should be deemed final, and not subject to reopening, except for fraud, clerical error or obvious mistake.

d. Enhance the Appeals Council Role in Court Cases

The Appeals Council should maintain its roles in "supplemental review"[3] of cases pending in district court upon the request of government counsel and in reviewing cases remanded from district court. Moreover, SSA should ensure that the Appeals Council: (1) Is able to monitor subsequent developments in court regarding cases that the Council has reviewed, and (2) plays a more important role in helping the agency decide which cases should be appealed after an adverse district court decision.

e. Enhancement of Status of Appeals Council

SSA should improve the status of the Appeals Council and insure high caliber appointment by:

(1) Reducing the size of the Council from 20 to 11 members including a "Chair."

(2) Upgrading the salary-level of members so that it is one level above SSA ALJs;

(3) Providing the members, by regulation, with the same civil service protections as accorded to career service personnel and by providing ALJs who agree to serve on the Council with assurances that they will receive reappointment to their former position upon completion of service.

(4) Establishing merit selection critieria for appointment to the Appeals Council, giving preference to prior experience as an ALJ; and

(5) Relocating the Appeals Council to be a component of the Office of the Commissioner, preferably in a consolidated headquarters location.

f. Enhancement of Support Systems

SSA should improve the support system provided to its Appeals Council by reorganizing the Office of Appeals Operations, providing law clerks to assist members, and updating production and communication systems.

g. Enhance the Appeals Council's Visibility

The Appeals Council should enhance its visibility both inside and outside the agency by reinstating the "visiting ALJ" program,[4] instituting exchange programs with other SSA components, and encouraging outreach and bar-related activities.

2. If the reconstituted Appeals Council does not result in improved policy development of case-handling performance within a certain number of years (to be determined by Congress and SSA), serious consideration should be given to abolishing it.

Jeffrey S. Lubbers,
Research Director.
October 23, 1987.
[FR Doc. 87-24950 Filed 10-26-87; 8:45 am]
BILLING CODE 4110-01-M

[2] In conjunction with this reliance on the record below, the Appeals Council should not permit new evidence to be introduced without good cause, although motions to remand to the hearing stage should be permitted. See Recommendation 76-2(c)(1); 1 CFR 305.76-2(c)(1).

[3] Supplemental review is performed by the Appeals Council when the attorney representing HHS in the court action believes the agency will not prevail. A two-member panel of Appeals Council members then reviews the case, most often recommending a remand rather than proceed with the litigation.

[4] The visiting ALJ program allowed for one-month temporary duty by an ALJ on the Appeals Council. SSA should consider longer intra-agency details in the future.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 842 and 843

Surface Coal Mining and Reclamation Operations; Evaluation of State Responses to Ten-Day Notices; Extension of Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: On September 9, 1987, the Office of Surface Mining Reclamation and Enforcement (OSMRE) published a proposed rule which would establish a uniform standard for the evaluation of responses by State regulatory authorities to notifications of possible violations (ten-day notices or TDN's). 52 FR 34050. The public comment period on the proposed rule closes on November 9, 1987. OSMRE is now extending the public comment period until November 20, 1987.

DATES: The comment period on the proposed rule is extended until November 20, 1987.

ADDRESSES: Written comments may be mailed to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131-L, 1951 Constitution Avenue NW., Washington, DC 20240; or hand-carried to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: George M. Stone, Jr., Chief, Branch of Inspection and Enforcement, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: 202-343-4295 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: OSMRE published a proposed rule on September 9, 1987, which would amend its regulations in response to a petition for rulemaking. 52 FR 34050. In response to a request for extension of the public comment period, OSMRE is extending that period until November 20, 1987. The

proposed rule would establish a uniform standard for OSMRE's evaluation of responses by State regulatory authorities to TDN's. Under the proposed rule, OSMRE would accept a State regulatory authority's response to a TDN as constituting appropriate action to cause a possible violation to be corrected or showing good cause for failure to act, in accordance with the Surface Mining Control and Reclamation Act of 1977, unless OSMRE makes a written determination that such response was arbitrary, capricious, or an abuse of discretion under the State program. The proposed rule would also establish a process by which a State regulatory authority could request informal review of a written determination to inspect by OSMRE's authorized representative. For further information, consult the notice of proposed rulemaking, cited above.

Date: October 20, 1987.

James W. Workman,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 87-24771 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3233-5]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing to disapprove a site-specific revision to the Ohio State Implementation Plan (SIP) for ozone. This revision is a request for monthly averaging for volatile organic compound (VOC) emissions for an architectural aluminum extrusion coating line (K001) at J&S Aluminum Corporation (J&S). This facility is located in Mahoning County, Ohio.

USEPA is proposing to disapprove this SIP revision, because it has not been demonstrated that complying coatings are unavailable, and that the application of Reasonably Available Control Technology (RACT) on less than a monthly basis is infeasible.

DATE: Comments on this revision and on the proposed USEPA action must be received by November 27, 1987.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On February 28, 1986, the Ohio Environmental Protection Agency (OEPA) submitted a proposed revision to its ozone SIP allowing monthly averaging for an architectural aluminum extrusion coating line (K001). This operation is located at the J&S facility in Mahoning County,[1] Ohio, a nonattainment area for ozone.

On April 17, 1986, USEPA notified OEPA that the February 28, 1986, submittal requesting monthly averaging for J&S was deficient as stated in USEPA's technical support document (TSD) dated April 3, 1986. OEPA submitted supplemental information on July 2, 1986, and August 18, 1986, to support this revision.

Existing SIP Requirements

Under the existing federally approved SIP, the architectural aluminum extrusion coating line (K001) is subject to the control requirements contained in Ohio Administrative Code (OAC) Rule 3745-21-09(U)(1)(a)(iii) which limits the VOC content of extreme performance coatings to 3.5 pounds of VOC per gallon of coating, minus water. OAC Rule 3745-21-04(C)(28) required compliance with the limit by December 31, 1982. Compliance is determined on a 24-hour basis. USEPA approved these rules as meeting the reasonably available control technology (RACT) [2] requirement of the Clean Air Act on October 31, 1980 (45 FR 72122), and June 29, 1982 (47 FR 28097).

Extended Averaging Time Criteria

USEPA's January 20, 1984, policy memorandum, subject "Averaging Times for Compliance With VOC Emission Limits", contains the following criteria for evaluating VOC requests for extended averaging:

Criterion 1

Extended averaging can be permitted where the source operations are such that daily VOC emissions cannot be determined, or where the application of RACT for each emission point is not economically or technically feasible on a daily basis.

Criterion 2

The area must not lack an approved SIP, and there must not be any measured violations of the ozone standard, unless the SIP is revised demonstrating ambient standards attainment and maintenance of reasonable further progress (RFP) (reflexing the maximum daily emissions from the source with long-term averaging). Real reductions in actual emissions must be achieved, consistent with the RACT control level specific in the SIP.

Criterion 3

A demonstration must be made that the use of long-term averaging (greater than 24-hour averaging) will not jeopardize either ambient standards attainment or the RFP plan for the area. This must be accomplished by showing that the maximum daily increase in emissions associated with monthly averaging is consistent with the approved ozone SIP.

Criterion 4

Averaging times must be as short as practicable, and in no case longer than 30 days.

Analysis

For monthly averaging to be approved, it must be demonstrated that it is infeasible to meet a daily VOC RACT emission limit, e.g., through the use of add-on controls or low solvent technology. In addition, it should be demonstrated that a monthly averaging period is the shortest period that is practicable.

OPEA has determined the cost-effectiveness of add-on control, in this case to be $6,625 per ton of VOC controlled. Because this estimate does not include capital costs or any operating costs other than the natural gas requirement, it is a conservative estimate. USEPA agrees that add-on controls are not economically reasonable for this source.

However, it has not been demonstrated that J&S' major coating supplier has been unable to develop complying low solvent coatings and that coatings from other suppliers were tested and determined to be unacceptable. This documentation should be in the form of correspondence with the coating suppliers and summaries of any testing performed. If the State demonstrates conclusively that complying low-solvent coatings are unavailable, then the USEPA would consider an alternative RACT determination for the existing coatings. These facts notwithstanding it has not been demonstrated that a monthly averaging period is the shortest averaging time practicable. USEPA is proposing to disapprove this SIP revision for this reason.

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before November 27, 1987, will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office address provided at the front of this notice.

Under 5 U.S.C. 605(b), I certify that this SIP disapproval will not have a significant economic impact on a substantial number of small entities, because the effect of this disapproval is to leave in effect existing emissions limitations. Therefore, there is no change or any impact on any source or community. Additionally, it applies to only one major corporation, J&S.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Authority: 42 U.S.C. 7401—7642.

Dated: February 10, 1987.

Valdas V. Adamkus,

Regional Administrator.

Editorial note: This document was received at the Office of the Federal Register on October 16, 1987.

[FR Doc. 87-24332 Filed 10-26-87; 8:45 am]

BILLING CODE 6560-50-M

[1] OEPA submitted a request to revise the attainment status designation, at 40 CFR 81.336, for Mahoning County from nonattainment to attainment for the ozone national ambient air quality standard (NAAQS). Mahoning County, at this time, is designated a nonattainment area. However, there have been no measured violations of the ozone NAAQS from 1982 through 1986.

[2] A definition of RACT is contained in a December 9, 1976, memorandum from Roger Strelow, former Assistant Administrator for Air and Waste Management. RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

Notices

Federal Register
Vol. 52, No. 207
Tuesday, October 27, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Regulation; Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Regulation of the Administrative Conference of the United States. The committee has scheduled this meeting to develop a proposed recommendation on National Coverage Determinations Under the Medicare Program, based upon a study conducted for the Conference by Professor Eleanor D. Kinney. The proposed recommendation is published at 52 FR 38925 (October 20, 1987). Comments are requested by November 6, 1987. Copies of the consultant's report may be obtained from the contact person named in this notice.

Date: Thursday, November 19, 1987 at 10 a.m.

Location: 4th Floor Conference Room, Steptoe & Johnson, 1330 Connecticut Avenue NW., Washington, DC.

Public Participation: The committee meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

For Further Information Contact: Sara Gordon, Staff Attorney, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone (202) 254–7020.

Jeffrey S. Lubbers,
Research Director.
October 22, 1987.
[FR Doc. 87–24827 Filed 10–26–87; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Certification of Central Filing System

The Statewide central filing system of Alabama is hereby certified, pursuant to section 1324 of the Food Security Act of 1985, on the basis of information submitted by Glen Browder, Secretary of State, for farm products produced in that State as follows:

Apples	Melons, Water
Apricots	Milo & Sorghum Grain
Artichokes	Mint
Asparagus	Mushrooms
Avocados	Muscadine
Bananas	Mustards
Barley	Nectarines
Beans, Butter	Nutmeg
Beans, Dry	Oats
Beans, Lima	Olives
Beans, Snap	Onions
Beans, Waxed	Oranges
Beets	Papayas
Berries, Black	Peaches
Berries, Blue	Peanuts
Berries, Straw	Pears
Broccoli	Peas, Dry
Brussels Sprouts	Peas, Field
Cabbage	Peas, Green
Carrots	Pecans
Cauliflower	Peppers
Celery	Persimmons
Cherries	Pineapple
Coffee	Plums and Prunes
Collards	Pomegranates
Corn	Popcorn
Corn, Sweet	Pumpkins
Cotton	Rape Seed
Cucumbers	Rice
Dates	Rye
Eggplant	Sorghum Grain
Escarole	Soybeans
Figs	Spinach
Flaxseed	Sugar Beets
Garlic	Sugar Cane
Grapes and Raisins	Sunflower Seeds
Grapefruit	Sweet Potatoes
Hay	Tangelos
Hops	Tangerines
Irish Potatoes	Taro
Kiwi	Tea
Legumes, Seed	Tobacco
Lemons	Tomatoes
Lettuce	Trees
Limes	Turnips
Maple Syrup	Walnuts
Melons, Canteloupe	Cattle and Calves
Melons, Honey Dew	Catfish and Fish
Chicken	Earthworms
Ducks	Shellfish
Eggs, Hatching	Eggs
Geese	Flowers
Goats	Foliage Plants
Guineas	Grass
Hogs	Honey
Horses	Milk
Lambs and Sheep	Cotton Seed
Mules	Mohair
Quail	Shrubbery
Turkeys	Wool

This is issued pursuant to authority delegated by the Secretary of Agriculture.

Authority: Sec. 1324(c)(2), Pub. L. 99–198, 99 Stat. 1535, 7 U.S.C. 1631(c)(2); 7 CFR 2.17(e)(3), 2.56(a)(3), 51 FR 22795.

Dated: October 22, 1987.

B.H. (Bill) Jones,
Administrator, Packers and Stockyards Administration.
[FR Doc. 87–24800 Filed 10–26–87; 8:45 am]
BILLING CODE 3410–KD–M

Soil Conservation Service

Cheney Point Critical Area Treatment RC&D Measure, New York

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cheney Point Critical Area Treatment RC&D Measure, Chautauqua County, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423–5521.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul A. Dodd, State Conservationist, has determined that the preparation of an environmental impact statement is not needed for this project.

The measure concerns a plan to provide for reducing critical erosion along a streambank adjacent to a fire lane in the Town of North Harmony which occurs during high runoff events. The fire lane provides access to Chautauqua Lake for water in emergency fire situations. The integrity of the fire lane will be assured through the installation of project measures. The planned works of improvement include the installation of gabion baskets, grading and shaping of the streambank, and seeding and mulching of all disturbed areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Paul A. Dodd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and Local officials.)

Paul A. Dodd,
State Conservationist.
Date: October 14, 1987.
[FR Doc. 87–24788 Filed 10–26–87; 8:45 am]
BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Census Employment Inquiry
Form Number: Agency—BC–170, BC–170D; OMB—0607–0139
Type of Request: Revision of a currently approved collection
Burden: 220,000 respondents; 55,000 reporting hours
Needs and Uses: This collection is needed to select a temporary workforce for the 1990 Decennial Census and for several test censuses and address list preparation and improvement operations. The information will be used to determine the best qualified applicants to fill the census jobs.
Affected Public: Individuals or households
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: Address Listing Book and Quality Control Advance Listing Post Enumeration Survey
Form Number: Agency—DX–1302 and DX–1312; OMB—NA
Type of Request: New collection
Burden: 11,000 respondents; 110 reporting hours
Needs and Uses: This survey is needed to obtain addresses of housing units to be interviewed in the Post Enumeration Survey.
Affected Public: Individuals or households
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: Current Industrial Reports (CIR) Program (WAve III Voluntary)
Form Number: Agency—M37I; OMB—0607–0475
Type of Request: Revision of a current approved collection
Burden: 285 respondents; 1,200 reporting hours
Needs and Uses: The CIR program provides key measures of production, shipments, and/or inventories on a national basis for selected manufactured products. The information is used by Government agencies, business firms, trade associations, and private research and consulting organizations in their indices and tables, and for trend projections, market analysis, product planning, and other economic and business-oriented analysis.
Affected Public: Businesses or other for-profit institutions
Frequency: Monthly and annually
Respondent's Obligation: Voluntary (monthly) and mandatory (annually)
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: Shipper's Export Declaration and Continuation Sheet to the Shipper's Export Declaration
Form Number: Agency—7525-V; OMB—0607–0018
Type of Request: Extension of a currently approved collection
Burden: Unknown number of respondents; 843–017 reporting hours
Needs and Uses: These collections are used by many government agencies: (1) To develop the essential export components of the merchandise trade figures for the balance of payments accounts and to evaluate the effect of the value of the U.S. currently; (2) to appraise and analyze major movements and trends in U.S. exports; (3) to plan and evaluate such programs as the export promotion program, agricultural development and assistance programs; (4) to prepare for and assist in trade negotiations under the General Agreement on Tariffs and Trade; and (5) as a statistical base for implementing the strategic commodities controls and short supply aspects of the Export Administration Act.
Affected Public: Individuals or households, businesses or other for-profit institutions, Federal agencies or employees, non-profit institutions, and small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: Shipper's Export Declaration (SED)
Form Number: Agency—7525–M; OMB—0607–0150
Type of Request: Extension of a currently approved collection
Burden: 67 respondents; 4,690 reporting hours
Needs and Uses: This collection is used by exporters who make numerous shipments of essentially the same commodities, when such use would reduce substantially the number of individual SED's filed. The needs and uses are the same as the above collection (0607–0018).
Affected Public: Individuals or households, businesses or other for-profit institutions, Federal agencies or employees, non-profit institutions, and small businesses or organizations
Frequency: Monthly and annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: Shipper's Export Declaration and Continuation Sheet to the Shipper's Export Declaration—(Intermodal)
Form Number: Agency—7525–V–Alternate (Intermodal); OMB—0607–0152

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Type of Request: Extension of a currently approved collection
Burden: Unknown number of respondents; 334,671 reporting hours
Needs and Uses: This collection was designed primarily for waterborne shipments to simplify documentation by allowing the simultaneous preparation of commercial and governmental shipping documents (bills of lading, dock receipts, Customs drawback forms, etc.) via an aligned standard international master. This form may be used in lieu of the basis SED, Form 7525–V, without limitation. The needs and uses are the same 0607–0018 above.
Affected Public: Individuals or households, businesses or other for-profit institutions, Federal agencies or employees, non-profit institutions, and small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Francine Picoult, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: October 20, 1987.

Edward Michals,

Departmental Clearance Office, Office of Management and Organization.

[FR Doc. 87–24819 Filed 10–26–87; 8:45 am]

BILLING CODE 3510–07–M

Foreign-Trade Zones Board

[Docket No. 22–87]

Foreign-Trade Zone 56—Oakland, CA; Application for Subzone

Mazda Auto Processing Facility, Benicia, CA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Oakland, California, grantee of FTZ 56, requesting special-purpose subzone status for the automobile processing facility of Mazda Motors of America, Inc., in Benicia, California, adjacent to the San Francisco/Oakland Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a through 81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 16, 1987.

The Mazda facility is located (on a 45-acre site) at 2850 Harbor Way in the Benicia Industrial Park, Benicia, California. The facility, which employs 60 persons, is used to process, modify, and distribute imported Mazda vehicles. the modifications, performed under contract by Benicia Industries, Inc., involve installing domestic components such as air conditioners, bumpers, mirrors bed liners, rear windows, and mats.

Zone procedures will allow Mazda to defer duty payments on the vehilces while they are being processed. The application indicates that the savings will help improve the company's international competitiveness and encourage it to use domestic components.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Paul R. Andrews, District Director, U.S. Customs Service, Pacific Region, P.O. Box 2450, San Francisco, California 94126; and Colonel Salen H. Yanagihara, District Engineer, U.S. Army Engineer District San Francisco, 211 Main Street, San Francisco, California 94105.

Comments concerning the proposetl subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secetary at the address below and postmarked on or before December 8, 1987.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102.
Office of the Executive Secretary, Foreign-Trade Zone Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: October 20, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–24820 Filed 10–26–87; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[C-351-004]

Certain Stainless Steel Products From Brazil; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Terminate Suspended Countervailing Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of intention to review and preliminary results of changed circumstances administrative review and tentative determination to terminate suspended countervailing duty investigation.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review of the suspended countervailing duty investigation on certain stainless steel products from Brazil. Because an organization representing the vast majority of the petitioners in the original investigation has notified the Department it is no longer interested in the maintenance of the suspension agreement, we tentatively determine to terminate this suspended investigation. We invite interested parties to comment on these preliminary results and tentative determination to terminate.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Christopher Beach or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On July 17, 1987, the Stainless Steel Bar and Rod Task Force of the Specialty Steel Industry of the United States, which represents the vast majority of the petitioners in the original investigation, informed the Department of Commerce ("the Department") that it was no longer interested in the maintenance of the suspension agreement on certain stainless steel products from Brazil (48 FR 4703, February 2, 1983) and requested that the Department terminate the suspended investigation.

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of

Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedule of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments of Brazilian certain stainless steel products limited to hot-rolled stainless steel bars, cold-formed stainless steel bars and stainless steel wire rod. Such merchandise is currently classifiable under TSUSA item numbers 606.9005, 606.9010, and 607.2600 (if tempered, treated or partly manufactured, 607.4300). These products are currently classifiable under HS item numbers 7220.11.00—2, 7222.10.00—0, 7222.20.00—0, 7222.30.00—0, 7216.90.00—2, and 7221.00.00—2. We invite comments from all interested parties on these HS numbers. The review covers the period from January 1, 1987.

Preliminary Results of Review and Tentative Determination

As a result of our review, we preliminarily determine that the statement by the Stainless Steel Bar and Rod Task Force that it is no longer interested in the maintenance of the suspension agreement on certain stainless steel products from Brazil, provides a reasonable basis for termination of the suspended investigation.

Therefore, we tentatively determine to terminate the suspended investigation on certain stainless steel products from Brazil effective January 1, 1987. The current requirements of the agreement suspending the investigation will continue until publication of the final results of this review.

Interested parties may submit written comments on these preliminary results and tentative determination to terminate within 20 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication, or the first workday following. The Department will publish the final results of the review and its decision on termination, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to terminate, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675 (b) and (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Date: October 21, 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 87–24821 Filed 10–26–87; 8:45 am]

BILLING CODE 3510–DS–M

[C-351-006]

Certain Tool Steel Products From Brazil; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Terminate Suspended Countervailing Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of intention to review and preliminary results of changed circumstances administrative review and tentative determination to terminate suspended countervailing duty investigation.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review of the suspended countervailing duty investigation on certain tool steel products from Brazil. Because an organization representing the vast majority of the petitioners in the original investigation has notified the Department it is no longer interested in the maintenance of the suspension agreement, we tentatively determine to terminate this suspended investigation. We invite interested parties to comment on these preliminary results and tentative determination to terminate.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Christopher Beach or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230: telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On July 17, 1987, the Tool Steel Task Force of the Specialty Steel Industry of the United States, which represents the vast majority of the petitioners in the original investigation, informed the Department of Commerce ("the Department") that it was no longer interested in the maintenance of the suspension agreement on certain tool steel products from Brazil (48 FR 11731, March 21, 1983) and requested that the Department terminate the suspended investigation.

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedule of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments of Brazilian certain tool steel products, limited to hot-finished tool steel, cold-finished tool steel, high speed tool steel, chipper knife tool steel and band saw steel bars and rods. Such merchandise is currently classifiable under items 606.9300, 606.9400, 606.9505, 606.9510, 606.9520, 606.9525, 606.9535, 606.9540, 607.2000, 607.3405, 607.3420, 607.4600, 607.5405, and 607.5420. These

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products are currently classifiable under HS item numbers 7228.30.15—0, 7228.50.10—2, 7228.60.10—2, 7228.10.00—0, 7228.30.30—2, 7224.90.00—2, 7227.90.10—2, and 7227.10.00—5. We invite comments from all interested parties on these HS numbers. The review covers the period from January 1, 1987.

Preliminary Results of Review and Tentative Determination

As a result of our review, we preliminarily determine that the statement by the Tool Steel Task Force of the Specialty Steel Industry of the United States that it is no longer interested in the maintenance of the suspension agreement on certain tool steel products from Brazil provides a reasonable basis for termination of the suspended investigation.

Therefore, we tentatively determine to terminate the suspended investigation on certain tool steel products from Brazil effective January 1, 1987. The current requirements of the agreement suspending the investigation will continue until publication of the final results of this review.

Interested parties may submit written comments on these preliminary results and tentative determination to terminate within 20 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication, or the first workday following. The Department will publish the final results of the review and its decision on termination, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to terminate, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675 (b) and (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: October 21, 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 87-24822 Filed 10-26-87; 8:45 am]

BILLING CODE 3510-DS-M

President's Export Council, International Competitiveness and Productivity Subcommittee Meeting

A meeting of the President's Export Council Subcommittee on International Competitiveness and Productivity will be held Friday, November 13, 1987, 10:00 a.m.–Noon and 12:45 p.m.–3:00 p.m., in Room 4832, Department of Commerce, 14th and Constitution Avenue NW., Washington, DC. The Council's purpose is to advise the President on matters relating to United States export trade.

Agenda

Opening remarks, discussion of draft report on the role of government, labor, and private industry in improving U.S. competitiveness; discussion of prioritizing recommendations on competitiveness.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Laureen Daly (202) 377–1125, Room 3213, U.S. Department of Commerce, Washington, DC 20230.

Dated: October 23, 1987.

Wendy H. Smith,

Director, President's Export Council.

[FR Doc. 87-24958 Filed 10-26-87; 8:45 am]

BILLING CODE 3510-DR-M

National Technical Information Service

Intent to Grant Exclusive Patent License; Fairleigh Dickinson Laboratories, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Fairleigh Dickinson Laboratories, Inc. of Abilene, TX an exclusive right in the United States and certain foreign countries to practice the inventions embodied in U.S. Patent Applications S.N. 6–696,538, "Monoclonal Antibodies Against Chlamydial Genus Specific Lipopolysaccharide" and S.N. 6–707,012, "Recombinant Clones of Chlamydia Trachomatis Lipopolysaccharide Genus." The patent rights in these inventions have been assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87-24862 Filed 10-26-87; 8:45 am]

BILLING CODE 3510-04-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit; Naval Facilities Engineering Command (P8D)

On May 28, 1987, notice was published in the **Federal Register** (52 FR 19561) that an application had been filed by the Naval Facilities Engineering Command, P.O. Box 727, San Bruno, California 94066–0720 for a permit to take gray whales by intentional and unintentional harassment during scientific research to determine the effects of Landing Craft Air Cushion on those marine mammals and ways to mitigate those effects. Notice is hereby given that on October 21, 1987, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 through 1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531 through 1544) the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC 20009; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415.

Dated: October 21, 1987.

Dr. Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87-24801 Filed 10-26-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

October 21, 1987.

The Chairman of the Committe for the Implementation of Textile Agreements (CITA), under the athority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 28, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (292) 566–8791. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the import restraint limits for certain cotton, wool and man-made fiber textile products in Groups I and II, produced or manufactured in Taiwan and exported during 1987.

Background

A CITA directive dated December 23, 1986 (52 FR 447) established import restraint limits for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber, silk blend and other vegetable fiber textiles and textile products in Groups I, II and III, and individual limits and sublimits within the groups, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

The bilateral textile agreement of November 18, 1982, as amended and extended, concerning cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products from Taiwan, provides, among other things, for percentage increases in certain categories during the agreement year for special shift, provided corresponding reductions in equivalent square yards are made in other specific limits (or sublimits) during the same agreement year, and for swing, provided the group limits are not exceeded. Pursuant to the terms of the agreement, the import restraint limits established for cotton, wool and man-made fiber textile products for certain individual categories in Group I (Categories 310/318, 313, 315, 317, 320, 360, 361, 605–T, 611, 669–F, 670–H, 670–L and 670–U) and Group II (Categories 331, 333/334, 335, 336, 337, 338/339, 340, 341, 342, 345, 347/348, 350, 351, 352, 359–I, 433, 434, 435, 442, 443, 444, 445/446, 447/448, 633/634/635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 647, 648, 652 and 659–I), produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987, are being adjusted.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity (HCC) may result in some changes in the categorization of textile products covered by this Notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 21, 1987.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 23, 1986, issued to you by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on October 28, 1987, the directive of December 23, 1986 is hereby amended to include adjusted limits for the following categories, under the terms of the bilateral textile agreement of November 18, 1982, as amended and extended: [1]

Category	Adjusted 12-mo. limit [1]
Sublimits in Group I:	
310/318	6,295,345 square yards.
313	48,237,301 square yards
315	31,190,993 square yards.
317	21,196,595 square yards.
320	94,271,513 square yards.
360	887,626 numbers.
361	1,118,578 numbers.
605–T [2]	1,131,538 pounds.
611	1,322,111 square yards.
669–F [3]	1,175,644 pounds.
670–H [4]	32,957,210 pounds.
670–L [5]	77,358,383 pounds of which not more than 3,542,003 pounds shall be in sublimit 670–U (TSUSA number 706.3415)
Sublimits in Group II:	
331	506,685 dozen pairs.
333/334	78,206 dozen.
335	96,254 dozen.
336	82,692 dozen.
337	153,378 dozen.
338/339	757,610 dozen.
340	756,157 dozen.
341	399,936 dozen.
342	206,773 dozen.
345	96,849 dozen.
347/348	1,043,013 dozen of which not more than 512,258 dozen shall be in Category 347 and not more than 826,971 dozen shall be in Caterogy 348.
350	106,430 dozen.
351	344,000 dozen.
352	961,188 dozen.
359–I [6]	1,371,486 pounds.
433	13,352 dozen.
434	9,858 dozen.
435	21,423 dozen.
442	39,738 dozen.
443	4,161 dozen.
444	15,683 dozen.
445/446	135,273 dozen.
447/448	18,380 dozen.
633/634/635.	1,558,073 dozen of which not more than 1,027,574 dozen shall be in Category 633/634 and not more than 764,209 dozen shall be in Category 635.
636	348,418 dozen.
637	389,216 dozen.

[1] The agreement provides, in part, that: (1) Specific limits or sublimits within a group may be exceeded by certain designated percentages, provided that the group limit is not exceeded; (2) certain specific limits or sublimits may be increased for carryforward; (3) special shift may be applied to certain categories, provided an equal amount in square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

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Category	Adjusted 12-mo. limit [1]
638	1,624,323 dozen.
639	4,982,435 dozen.
640	3,385,587 dozen of which not more than 1,725,671 dozen shall be in sublimit 640-Y (TSUSA) numbers 381.9535, 381.3132, 381.3142, 381.3152, 381.9547, and 381.9550).
641	753,802 dozen of which not more than 263,830 dozen shall be in sublimit 641-Y (TSUSA numbers 384.9110 and 384.9120).
642	661,431 dozen.
643	50.118 dozen.
644	179,808 dozen.
647	2,623,587 dozen.
648	3,309,503 dozen.
652	1,497,956 dozen.
659-I [7]	3,882,403 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

[2] In Category 605-T, only TSUSA number 310.9500.

[3] In Category 669-F, only TSUSA numbers 355.4520 and 355.4530.

[4] In Category 670-H, only TSUSA numbers 706.4125 and 706.3405.

[5] In Catgory 670-L, only TSUSA numbers 706.3415, 706.4130 and 706.4135.

[6] In Category 359-I, only TSUSA numbers 384.0439 384.0441, 384.0442, 384.0444, 384.0805, 384.0810, 384.0815, 384.0820, 384.0825, 384.3451, 384.3452, 384.3453, 384.3454, 384.5162, 384.5163, 384.5167, 384.5169 and 384.5172.

[7] In Category 659-I, only TSUSA numbers 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359 and 384.9365.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1)

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-24806 Filed 10-26-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Information School Board of Visitors; Meeting

AGENCY: Defense Information School Board of Visitors, DOD.

ACTION: Notice of meeting.

SUMMARY: A meeting will be held to review administration and content of the Defense Information School's public affairs program of instruction. The meeting is open to the public and will be conducted in Room 270A, Building #400, the Defense Information School, Ft. Benjamin Harrison, IN 46216-6200.

DATES: November 19, 1987—8:00 a.m. to 4:00 p.m. and November 20, 1987—8:00 a.m. to 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Lee Lanning, Director, Internal Information Plans, American Forces Information Service, 601 North Fairfax Street, Room 333, Alexandria, VA 22314-2007.

Thomas J. Condon,

Acting Division Chief, Directives Division

[FR Doc. 87-24675 Filed 10-26-87; 8:45 am]

BILLING CODE 3810-01-M

Ada SQL Interface Workshop

ACTION: Notice of meeting.

SUMMARY: An Ada [1] SQL Interface Workshop will be held Wednesday, November 18, 1987 at the National Clarion Hotel, 300 Army/Navy Drive, Arlington, Virginia, from 8:30 a.m. to 5:00 p.m. Purpose: The purpose of the workshop is to determine the status of Ada SQL technology to develop a recommended standard approach for use by DoD. Any agency or company is free to offer a presentation on Ada SQL binding technology at the workshop. An abstract with approximate time for presentation, 15 to 30 minutes must be submitted to the Ada Joint Program Office point of contact listed below no later than November 11, 1987. Each presentation should address, as a minimum, the following areas:

1. Objectives of the binding, in relation to ANSI SQL 1, ANSI SQL 2, or some ultimate Ada database interface. Relative weight given to accessing existing databases created outside the Ada environment, creating databases which will also be accessed outside the Ada environment, and having a relational database capability for Ada.

2. Form of the specification of the SQL Ada binding (stand-alone vs. mapping to ANSI SQL syntax description vs. Ada package specification; requirements it was intended to address; etc).

3. Requirements placed on the Ada environment, Ada compiler, database management system, data dictionary, and host operating system.

4. Possible implementation approaches, complexity, and cost.

5. Specific implementation and use experience, if any.

6. Efficiency, capacity, and usability considerations, with independent consideration of

a. computer resources required during development (compile time, separate compilation, memory region for compilation, etc.).

b. applications performance (space and time).

c. error detection and reporting both prior to and during run-time.

7. Known restrictions/limitations/incompatibilities relative to Ada, ANSI SQL, or other SQL language bindings.

8. Is approach believed to be a long-term solution, or is it expected that it will be superseded by a more robust solution in the forseeable future.

FOR FURTHER INFORMATION CONTACT: Ms. Jackie Rota, Ada Information Clearinghouse, IIT Research Institute, 4550 Forbes Boulevard, Suite 300, Lanham, Maryland 20706 (202) 694-0209.

Thomas J. Condon,

Acting Division Chief, Directives Division, Department of Defense.

[FR Doc. 87-24773 Filed 10-26-87; 8:45 am]

BILLING CODE 3810-01-M

[1] Ada is a registered trademark of the U.S. Government (Ada Joint Program Office).

Defense Nuclear Agency

Membership of the Defense Nuclear Agency Performance Review Boards

AGENCY: Defense Nuclear Agency, DOD.

ACTION: Notice of membership of the Defense Nuclear Agency Performance Review Boards.

SUMMARY: This notice announces the appointment of the members of the Performance Review Boards (PRBs) of the Defense Nuclear Agency. The publication of PRB membership is required by the 5 U.S.C. 4314(c)(4). The Performance Review Boards provide fair and impartial review of Senior Executive Service performance appraisals and make recommendations regarding performance and performance awards to the Director, Defense Nuclear Agency.

EFFECTIVE DATE: The effective date of service for the appointees of the DNA PRBs is on or about 4 November 1987.

FOR FURTHER INFORMATION CONTACT: Allen I. Barke, Chief, Civilian Personnel Management Division (MPCV), Defense Nuclear Agency, Washington, DC 20305-1000, (703) 325-7591/2.

SUPPLEMENTARY INFORMATION: The names and titles of the members of the DNA PRBs set forth below. All are DNA officials unless otherwise identified:

Board I

Dr. Paul H. Carew, Comptroller

Mr. Robert L. Brittigan, General Counsel

Mr. Curtis L. Dierdorff, Director of Personnel, Defense Mapping Agency

Board II

Mr. John M. Bachkosky, Director for Plans, Programs and Requirements

Dr. Don A. Linger, Director for Test

Dr. Charles D. Bodson, Assistant Manager of Technology and Standards, Communications Systems, Defense Communications Agency

Thomas J. Condon,

Acting Division Chief, Directors Division, Department of Defense.

[FR Doc. 87-24772 Filed 10-26-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Chief of Naval Operations; Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Mine Warfare Capabilities Task Force will meet October 26-27, 1987 from 9 a.m. to 5 p.m. each day, at Charleston, South Carolina. All sessions will be closed to the public. Delayed notice of this meeting is caused by the unexpected availability of material to the Task Force's study.

The purpose of this meeting is to review current and projected U.S. and Allied Mine Warfare capabilities and potential U.S. vulnerabilities in the broad context of maritime operations and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the pubic interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Ann Lynn Cline Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Date: October 22, 1987.

William R. Babington, Jr.,

Judge Advocate General's Corps, U.S. Navy Federal Register Liaison Officer, Federal Register Certifying Officer.

[FR Doc. 87-24781 Filed 10-26-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.003Q]

Notice Inviting Applications for New Awards Under the Bilingual Education: State Educational Agency Program for Fiscal Year 1988

Purpose: Provides financial assistance to State educational agencies (SEAs) to collect, aggregate, analyze, and report data and information on each State's population of limited English proficient persons, and the educational services provided or available to those persons. The program further provides assistance for activities designed to improve the effectiveness of programs for limited English proficient persons in their States.

Deadline for Transmittal of Applications: December 15, 1987.

Deadline for Intergovernmental Review Comments: February 15, 1988.

Applications Available: October 30, 1987.

Available Funds: It is expected that approximately $5,000,000 will be available for this program for Fiscal Year 1988.

Project Period: 12 Months.

Applicable Regulations: (a) The Bilingual Education: State Educational Agency Program (34 CFR Part 548), and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79 (except for § 75.217(a)(3) and (c) through (e)—relating to review of applications).

For Applications or Information Contact: Luis A. Catarineau, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 421, Reporters Building), Washington, D.C. 20202. Telephone: (202) 245-2022.

Program Authority: 20 U.S.C. 3242.

Dated: October 21, 1987.

Alicia Coro,

Director, Office of Bilingual and Minority Languages Affairs.

[FR Doc. 87-24813 Filed 10-22-87; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No. 84.055]

Notice Inviting Applications for New Awards Under the Cooperative Education Program for Fiscal Year 1988

Purposes: Provides (1) administration grants to institutions of higher education to plan, establish, operate, or expand cooperative education projects, including an institution-wide project, (2) demonstration grants to institutions of higher education and public and private nonprofit organizations and agencies to demonstrate or determine the feasibility or value of innovative methods of cooperative education, and (3) training and resource center grants to institutions of higher education and public and private nonprofit organizations and agencies which provide training to individuals who participate in, or are planning to participate in, cooperative education.

Deadline for Transmittal of Applications: January 8, 1988.

Applications Available: November 20, 1987.

Available Funds: The Administration's budget for fiscal year 1988 does not include funds for this program. However, applications are being invited to allow sufficient time to evaluate applications and complete the grant process prior to the end of the fiscal year, should the Congress appropriate funds for the program. The following estimates are based on the 1987 appropriation:

Estimated Range of Awards

Administration—$15,000-$400,000
Demonstration—$53,000-$160,000
Training and Resource Centers—$57,000-$166,000

Estimated Average Size of Awards

Administration—$82,900
Demonstration—$101,000
Training and Resource Centers—$80,000

Estimated Number of Awards

Administration—102
Demonstration—4
Training and Resource Centers—3

Project Periods

Administration—12-60 months
Demonstration—12-36 months
Training and Resource Centers—12-36 months

Applicable regulations: (a) Regulations governing the Cooperative Education Program as codified in 34 CFR Parts 631 (General), 632 (Administration Projects), 633 (Demonstration Projects), and 635 (Training and Resource Center Projects) (Final regulations for this

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program were published in the **Federal Register** on August 5, 1987 (52 FR 29140)); and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

For Application or Information Contact: Stanley B. Patterson, U.S. Department of Education, 400 Maryland Avenue SW., Room 3022, ROB–3, Washington, DC 20202. Telephone: (202) 732–4393.

Program Authority: 20 U.S.C. 1133–1133(b).

Dated: October 20, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87–24614 Filed 10–26–87; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No. 84.101C]

Notice Inviting Applications for New Awards Under the Vocational Educational Program for Hawaiian Natives for Fiscal Year 1988

Purpose: To provide assistance to any organization, recognized by the Governor of Hawaii, and primarily serving and representing Hawaiian natives, to plan, conduct, and administer vocational educational projects or portions of projects benefiting Hawaiian natives.

Deadline for Transmittal of Applications: June 1, 1988.

Deadline for Intergovernmental Review Comments: August 1, 1988.

Applications Available: January 15, 1988.

Funds Available: $2,082,870.

Estimated Average Size of Award: $2,082,870.

Estimated Number of Awards: 1.

Project Period: 36 months.

Applicable Regulations: (a) The Vocational Education Indian and Hawaiian Natives Program Regulations in 34 CFR Part 410; and (b) the Education Department General Administration Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78, and 79.

Criteria for Evaluating Applications: The Secretary assigns the fifteen points, reserved in 34 CFR 410.30(b), to the Selection Criterion (b)—Plan of Operation—in 34 DFR 410.31(b) for a total of 35 points for the criterion.

For Applications or Information Contact: Kate Holmberg, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 519, Reporters Building, Washington, DC 20202–5510. Telephone: (202) 732–3263.

Program Authority: 20 U.S.C. 2313.

Dated: October 14, 1987.

Bonnie Guiton,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. 87–24615 Filed 10–26–87; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: National Advisory Council on Women's Educational Programs, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the National Advisory Council on Women's Educational Programs and its Executive; Federal Policies, Practices and Programs; WEEA Program and Civil Rights Committees. The agenda will include briefings on the Council's research project, the President's policy on drug abuse, a White House briefing on economic issues, budget review, election of officers, committee reports, the Council calendar for coming year and legislative up date from members of Congress. This notice also describes the function of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES:

November 18, 1987

8:30 a.m. to 9:45 a.m.—Executive Committee Meeting
10:00 a.m. to 12:00 noon—General Session—Full Council
1:30 p.m. to close of business—Committee Meetings

November 19, 1987

9:00 a.m. to 12:00 noon—General Session
2:30 p.m. to close of business—Committee meetings

November 20, 1987

8:30 a.m. to 9:45 a.m.—Executive Committee Meeting
10:00 a.m. to 1:00 p.m.—Full Council Meeting

ADDRESS: All meetings will be held at the J.W. Marriott Hotel, 1331 Pennsylvania Ave., Washington, DC. The Longworth Room.

FOR FURTHER INFORMATION CONTACT: Patricia A. Weber, Executive Director, 330 C Street SW., Suite 4076, Washington, DC 20202, (202) 732–3890.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 95–561. The Council is mandated to (a) advise the Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) make recommendations to the Secretary with respect to the establishment of program priorities, (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The Executive Committee will meet on Wednesday, November 18 at 8:30 a.m. until they recess at 9:45 a.m. The agenda will include the discussion of the Council's statement of principles. The Executive Committee will reconvene on Friday, November 20 at 8:30 a.m. and adjourn at 9:45 a.m. The agenda will include budget review and Council calendar.

The meetings of the Federal Policies, Practices and Programs; Civil Rights; and WEEA Program Committees will take place on Wednesday, November 18 at 1:30 p.m. until they recess at 2:15 p.m. The agenda will include the election of officers. The Committees will reconvene on Thursday, November 19 at 2:30 p.m. until close of business. The agenda will include general discussion and committee goals and objectives.

The full Council will meet in general session on Wednesday, November 18 at 10:00 a.m. until noon for an address by the Assistant Secretary of Elementary and Secondary Education and election of officers. At 3:00 p.m. on November 18, 1987, the Council will attend a briefing by Dr. Ian Macdonald on the President's policy on drug abuse. On Thursday, November 19 1987, the full Council will meet from 9:00 a.m. to 2:30 p.m. in general session that will include a White House briefing on economic issues and luncheon addresses by members of Congress. On Friday, November 20, 1987, the full Council will convene from 10:00 a.m. until 1:00 p.m. The agenda will include discussion of '87 annual report, committee reports, budget review, WEEA Program site visits and Council calendar.

The meeting of the Council is open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs, 330 C Street SW., Suite 4076, Washington, DC 20202.

Signed at Washington, DC, on October 22, 1987.

Patricia A. Weber,

Executive Director.

[FR Doc. 87–24774 Filed 10–26–87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 87–50–NG]

Salmon Resources Ltd.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on September 24, 1987, of an application filed by Salmon Resources Ltd. (Salmon) to extend for two years its existing two-year blanket authorization to import up to 100 Bcf of Canadian natural gas granted by the ERA in DOE/ERA and Order No. 94 (Order No. 94) issued December 16, 1985 (1 ERA ¶70,612). The authorization will expire on February 14, 1988. Salmon requests approval to continue importing gas for short-term or spot market sales for an additional two years to February 14, 1990. The maximum volume over the two years would be 100 Bcf of Canadian gas.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than November 27, 1987.

FOR FURTHER INFORMATION CONTACT:
Chuck Boehl, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–6050
Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–6667.

SUPPLEMENTARY INFORMATION: Salmon incorporates by reference all facts, statements, allegations, information, certifications and reasons asserted or contained in Salmon's original application dated September 18, 1985, and as described in ERA Docket No. 85–18–NG, dated October 2, 1985, except that Salmon is now a wholly owned subsidiary of Shell Canada Limited which succeeded Shell Canada Resources Limited as Salmon's parent. The incorporated information thus would include assertions that each sale will be market responsive and that imports would be accomplished using existing pipeline capacity and no new construction would be involved. Salmon also would continue to file reports with the ERA within 30 days after the end of each calendar quarter giving the details of the individual transactions. Salmon's prior quarterly reports filed with the ERA indicate that approximately 9 MMcf of natural gas was imported under Order No. 94 through June 30, 1987.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.d.t., November 27, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Salmon's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 20, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–24628 Filed 10–26–87; 8:45 am]

BILLING CODE 6450-01-M

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Federal Energy Regulatory Commission

[Docket Nos. ER80-569-004, et al.]

Yankee Atomic Electric Company, et al.; Electric Rate and Corporate Regulation Filings

October 20, 1987.

Take notice that the following filings have been made with the Commission:

1. Yankee Atomic Electric Co.

[Docket No. ER80-569-004]

Take notice that on October 14, 1987, Yankee Atomic Electric Company (Yankee) tendered for filing a Refund Report that effectuates the terms of an Offer of Settlement approved by the Commission on May 28, 1981.

Yankee states that the appropriate refunds have been reflected as credits to the August 1987 and September 1987 Power Bills to its customers.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Allegheny Power Service Corp. on Behalf of Monongahela Power Co., Potomac Edison Co., and West Penn Power Co. (APS Companies)

[Docket No. ER87-586-000]

Take notice that on September 17, 1987, Allegheny Power Service Corporation, on behalf of Monongahela Power Company, Potomac Edison Company, and West Penn Power Company, tendered for filing information in response to requests by the Staff concerning the initial filing in this docket on August 18, 1987.

Copies of the filing have been served upon Old Dominion Electric Cooperative, the Maryland Public Service Commission, the Ohio Public Utilities Commission, the Pennsylvania Public Utility Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and Virginia Electric and Power Company.

Comment date: November 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power Corp.

[Docket No. ER88-39-000]

Take notice that on October 15, 1987, Florida Power Corporation (Company) tendered for filing a prefiling Settlement Agreement made and entered into between the Company and its wholesale customers, the Seminole Electric Cooperative, Inc., the municipal electric utilities of the Cities of Alachua, Barow, Chattahoochee, Fort Meade, Gainesville, Havana, Homestead, Kissimmee, Lakeland, Mount Dora, Newberry, New Smyrna Beach, Quincy, Starke, St. Cloud, Tallahassee, Vero Beach, Wauchula and Williston, Florida, Florida Municipal Power Agency, Fort Pierce Utilities Authority, Jacksonville Electric Authority, Lake Worth Utilities Authority, Orlando Utilities Commission, Sebring Utilities Commission, Florida Power & Light Company Reedy Creek Utilities Company, Inc. and Tampa Electric Company (Customers).

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Indiana Michigan Power Company

[Docket No. ER88-34-000]

Take notice that on October 15, 1987, Indiana Michigan Power Company (I&M), formerly Indiana & Michigan Electric Company tendered for filing proposed revised tariff sheets to replace its FERC Electric Tariffs REC-1 for service to Rural Electric Cooperative (REC) class of customers. The proposed changes would increase I&M's annual revenues from the REC class of customers by approximately $2,469,035 based upon the 12-month period ending December 31, 1988. I&M proposes an effective date of December 14, 1987, 60 days after the filing date.

The principal reason given by I&M for seeking rate relief is to complete the phase-in of I&M's Rockport plant Unit No. 1, with certain modifications needed to conform the phase-in plan with Statement of Financial Accounting Standards No. 92 of the Financial Accounting Standards Board. In addition, I&M states that its filing reflects the effects of the provisions of the Tax Reform Act of 1986. I&M indicates that the proposed rate increase avoids any potential price squeeze implications concerning the rates for this service.

I&M states that a copy of its filing was served upon the affected REC customers, the Indiana Utility Regulatory Commission and the Michigan Public Service Commission.

Comment date: November 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Indiana Michigan Power Co.

[Docket No. ER88-30-000]

Take notice that on October 15, 1987, Indiana Michigan Power Company (I&M), formerly Indiana & Michigan Electric Company tendered for filing proposed amendments to its FERC Electric Tariff No. 25 for Service to Michigan Power Company, Original Volume No. 1. The proposed changes would decrease I&M's annual revenues from Michigan Power Company by approximately $818,582 based upon the 12-month period ending December 31, 1988. I&M proposed an effective date of December 14, 1987, 60 days after the filing date.

The principal reason given by I&M for seeking this rate change is to complete the phase-in of I&M's Rockport Plant Unit No. 1, with certain modifications needed to conform the phase-in plan with Statement of Financial Accounting Standards No. 92 of the Financial Accounting Standards Board. In addition, I&M states that its filing reflects the effects of the provisions of the Tax Reform Act of 1986. I&M indicates that the proposed rate decrease avoids any potential price squeeze implications concerning the rates for this service.

I&M states that a copy of its filing was served upon Michigan Power Company and the Michigan Public Service Commission.

Comment date: November 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Indiana Michigan Power Co.

[Docket No. ER88-31-000]

Take notice that on October 15, 1987, Indiana Michigan Power Company (I&M), formerly Indiana & Michigan Electric Company tendered for filing proposed amendments to I&M's Rate Schedule No. 70 with the City of Richmond, Indiana for its municipal light department known as Richmond Power and Light (Richmond) for service to Indiana Municipal Power Agency (IMPA) as agent for Richmond. The proposed changes would increase I&M's annual revenues from Richmond by approximately $60,815 based upon the 12-month period ending December 31, 1988. I&M proposes an effective date of December 14, 1987, 60 days after the filing date.

The principal reason given by I&M for seeking rate relief is to complete the phase-in of I&M's Rockport Plant Unit No. 1, with certain modifications needed to conform the phase-in plan with Statement of Financial Accounting Standards No. 92 of the Financial Accounting Standards Board. In addition, I&M states that its filing reflects the effects of the provisions of the Tax Reform Act of 1986. I&M indicates that the proposed rate increase avoids any potential price squeeze implications concerning the rates for this service.

I&M states that a copy of its filing was served upon Richmond, IMPA and the Indiana Utility Regulatory Commission.

Comment date: November 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Indiana Michigan Power Co.

[Docket No. ER88-33-000]

Take notice that on October 15, 1987, Indiana Michigan Power Company (I&M), formerly Indiana & Michigan Electric Company tendered for filing proposed revised tariff sheets to replace its FERC Electric Tariffs MRS and WS For Municipal Resale Electric Service, Original Volume No. 1. The proposed changes would increase I&M's annual revenues from its affected municipal customers by approximately $168,679 based upon the 12-month period ending December 31, 1988. I&M proposes an effective date of December 14, 1987, 60 days after the filing date.

The principal reason given by I&M for seeking rate relief is to complete the phase-in of I&M's Rockport Plant Unit No. 1, with certain modifications needed to conform the phase-in plan with Statement of Financial Accounting Standards No. 92 of the Financial Accounting Standards Board. In addition, I&M states that its filing reflects the effects of the provisions of the Tax Reform Act of 1986. I&M indicates that the proposed rate increase avoids any potential price squeeze implications concerning the rates for this service.

I&M states that a copy of its filing was served upon the affected municipal customers, the Indiana Utility Regulatory Commission and the Michigan Public Service Commission.

Comment date: November 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Indiana Michigan Power Co.

[Docket No. ER88-32-000]

Take notice that on October 15, 1987, Indiana Michigan Power Company (I&M), formerly Indiana & Michigan Electric Company tendered for filing amendments to I&M's FERC Rate Schedule No. 74 for service to the Indiana Municipal Power Agency (IMPA). The proposed changes would increase I&M's annual revenues from IMPA by approximately $1,196,542 based upon the 12-month period ending December 31, 1988. I&M proposes an effective date of December 14, 1987, 60 days after the filing date.

The principal reason given by I&M for seeking rate relief is to complete the phase-in of I&M's Rockport Plant Unit No. 1, with certain modifications needed to conform the phase-in plan with Statement of Financial Accounting Standard No. 92 of the Financial Accounting Standards Board. In addition, I&M states that its filing reflects the effects of the provisions of the Tax Reform Act of 1986. I&M indicates that the proposed rate increase avoids any potential price squeeze implications concerning the rates for this service.

I&M states that a copy of its filing was served upon the IMPA and the Indiana Utility Regulatory Commission.

Comment date: November 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Indianapolis Power & Light Co.

[Docket No. ER88-44-000]

Take notice that on October 16, 1987, Indianapolis Power & Light (IPL) Company tendered for filing an Interconnection Agreement with Wabash Valley Power Association, Inc. (Wabash Valley) dated October 7, 1987 to become effective January 1, 1988.

Said Agreement provides for the voluntary purchases and sales of wholesale power and energy between the parties under Emergency Service, Energy Transfer, Interchange Power, Short Term Power, Limited Term Power (Firm) and Diversity Power Schedules at rates comparable to those set forth in like service schedules IPL has in effect with other electric utilities. The agreement also provides for a specific Short Term Power purchase by Wabash Valley from IPL.

IPL represents that copies of the filing were mailed to Wabash Valley and to the Indiana Utility Regulatory Commission.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Kentucky Power Co.

[Docket No. ER88-35-000]

Take notice that on October 13, 1987, Kentucky Power Company (Kentucky Power) tendered for filing proposed changes in its electric resale rate schedules presently on file with the Commission which are applicable to the City of Olive Hill, Kentucky, to reflect the decrease in the federal corporate income tax rate pursuant to the Tax Reform Act of 1986. The proposed change in resale rates will decrease annual revenues from the City of Olive Hill by an estimated $24,181. This rate decrease filing is being made pursuant to the abbreviated filing requirements set forth in Section 35.27 of the Commission's Rules and Regulations.

Kentucky Power requests that this rate change be made effective as of July 1, 1987.

Copies of the filing were served upon the City of Olive Hill and the Kentucky Public Service Commission.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

11. Maine Public Service Co.

[Docket No. ER88-29-000]

Take notice that on October 15, 1987, Maine Public Service Company tendered for filing proposed changes in its FERC Wholesale Electric Tariff to become effective without suspension, November 1, 1987, on less than statutory notice. The proposed changes would increase revenues from jurisdictional sales and service by $392,343 based on the twelve month period ending December 31, 1986.

Maine Public Service Company filed these changes in its FERC electric Tariff in order to cover a portion of its unrecovered investment in Seabrook Unit No. 1 and certain cancellation costs associated with Seabrook Unit No. 2. The three Wholesale Customers have given their consent to the proposed tariff changes prior to the submission of this filing.

Copies of this filing were served upon the public utility's three jurisdictional customers, the Maine Public Utilities Commission and the Maine Public Advocate.

Comment date: November 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Co. of Indiana

[Docket No. ER87-587-000]

Take notice that on October 7, 1987, Public Service Company of Indiana (PSI) tendered for filing an amendment to its August 14, 1987 filing of an Eighth Supplemental Agreement to the Interconnection Agreement between PSI and the Indianapolis Power & Light Company pursuant to Commission staff request of additional justification and clarification of the $1000/month minimum charge included in the subject filing.

Comment date: November 3, 1987, in accordance with Standard Paragraph E at the end of this document.

13. Public Service Co. of Oklahoma

[Docket No. ER87-227-002]

Take notice that on October 6, 1987, Public Service Company of Oklahoma (PSO) tendered for filing pursuant to the Commission's order issued September 8, 1987 the following:

1. FERC Electric Tariff RE-5, PSO's general wholesale for resale tariffs;

2. FERC Electric Tariff RE-6, applicable to supplemental energy sales

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made by PSO to preference customers of the Southwestern Power Administration; and

3. Revisions to Article VII of the contract, dated November 10, 1977, between SWPA and PSO.

Comment date: November 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

14. Wisconsin Electric Power Co.

[Docket No. EC88-3-000]

Take notice that on October 15, 1987, Wisconsin Electric Power Company tendered for filing an amendment to its Application with the following exhibits:

Exhibit F (UPPC)—Statement of measure of control or ownership.

Exhibit M (UPPC)—A general map; incorporated by reference to application filed in Docket No. EC87-26-000.

Comment date: November 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

15. Wisconsin Electric Power Co.

[Docket No. EC87-26-000]

Take notice that on October 15, 1987, Wisconsin Electric Power Company tendered for filing an amendment to its Application with the following exhibits:

Exhibit D (WISC)—Copies of the supplemental indentures securing the obligations of Wisconsin Electric.

Exhibit D (UPGC)—Copy of Seventh Supplemental Indenture, dated as of July 1, 1987.

Exhibit M (UPGC)—A general map.

Comment date: November 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24826 Filed 10-26-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF86-894-001]

Small Power Production and Cogeneration Facilities, Qualifying Status, Certificate Applications; Borough of Seven Springs; Correction

October 20, 1987.

A notic of the application for recertification of a facility as a qualifying small power production facility filed by Borough of Seven Springs on August 21, 1987, was published in the **Federal Register** on September 11, 1987, (Volume 52, page 34410). This notice incorrectly listed the docket number of the application as QF86-891-001. The correct docket number of the application is QF86-894-001. All other aspects of the notice remain unchanged.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24824 Filed 10-26-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FR-3283-2]

Science Advisory Board; Environmental effects, Transport and Fate Committee; Open Meeting

Under the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that a one-day meeting of the Environmental Effects, Transoort and Fate Committee of the Science Advisory Board will be held on November 9, 1987. The meeting will begin at 9:00 a.m. on November 9, in the conference facilities of the Holiday Inn at Bay Beach, 51 Gulf Breeze Parkway, Gulf Breeze, Florida 32561, (904) 932-2214. The meeting will adjourn no later than 5:00 p.m.

Several objectives will be accomplished at this meeting. First, the Environmental Effects, Transport and Fate Committee (EET&FC) will be brought up to date on the activities of various Subcommittees it oversees including the Municipal Waste Combustion Subcommittee, and the Surface Water Monitoring Subcommittee. Formation of new Subcommittees on Water Quality Advisories and Sediment Criteria will be discussed. The Committee will also be informed of activities ongoing under the Research Strategies Committee, especially the Ecological Effects Subgroup, since these activities are related to the mission of the EET&FC.

Next, three briefings will be provided from Agency program staff. Chris Zarba of the Office of Water will give a briefing on Sediment Criteria. John Glasser of the Hazardous Waste Environmental Research Laboratory in Cincinnati, Ohio; will discuss the Agency's Biosystems Initiative. This research initiative involves the use of biotechnology, primarily non-engineered microbes, to control pollution. The third briefing will update the Committee on issues concerning municipal waste combustion ash disposal, an issue related to others currently being examined by an EET&FC Subcommittee.

The final objective for the meeting is to propose and/or select potential topics for a committee workshop to be held in the coming months. Committee members will suggest topics related to environmental sciences that the Science Advisory Board could clarify and examine for the benefit of both EPA and the scientific community.

The meeting will be open to the public. Any member of the public who wishes to attend, present information, or receive further details should contact Ms. Janis C. Kurtz, Executive Secretary or Mrs. Lutithia Barbee, Staff Secretary (A-101 F) Science Advisory Board, U.S. EPA, 401 M Street, SW., Washington, DC. Telephone: (202) 382-2552 or FTS-8-382-2552. Written comments will be accepted and can be sent to Ms. Kurtz at the address above. Persons interested in making statements before the Subcommittee must contact Ms. Kurtz no later than November 3, 1987, to be assured of space on the agenda.

Date: October 22, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87-24937 Filed 10-26-87; 8:45 am]

BILLING CODE 6560-50-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SES Performance Review Board; Members

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the SES Performance Review Board for EEOC.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Henry, Director, Personnel Management Services, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, DC 20507, (202) 634-7002.

SUPPLEMENTARY INFORMATION: Pursuant to the requirement of Section 4314(c)(1), Chapter 43 Title 5, U.S.C., membership

of the SES Performance Review Board is as follows: William Ng, Deputy General Counsel, Equal Employment Opportunity Commission (Chairperson); Allan D. Heuerman, Assistant Director for Employee, Labor and Agency Relations, Office of Personnel Management; Harriett G. Jenkins, Assistant Administrator for Equal Opportunity Programs, National Aeronautics and Space Administration; Joseph Vasquez, Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation (Alternate). Signed at Washington, DC on this 15th day of October 1987.

For the Commission.

Clarence Thomas,

Chairman.

[FR Doc. 87-24818 Filed 10-26-87; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-669; FHLBB No. 3040]

National Savings and Loan Association; Final Action Approval of Conversion Application

Dated: October 21, 1987.

Notice is hereby given that on October 13, 1987, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of National Savings and Loan Association, Wauwatosa, Wisconsin, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-24637 Filed 10-26-87; 8:45 am]

BILLING CODE 6720-01-M

Sierra Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Sierra Savings and Loan Association, Minden, Nevada on October 22, 1987.

Dated: October 22, 1987.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 87-24838 Filed 10-26-87; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies; R. Huston Babcock

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 10, 1987.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *R. Huston Babcock*, St. Petersburg, Florida; to acquire an additional 10.53 percent of the voting shares of US Bancorp, Inc., St. Petersburg, Florida, and thereby indirectly acquire US Bank, St. Petersburg, Florida.

2. *Jules B. Schwing*, New Iberia, Louisiana; to acquire an additional 4 percent of the voting shares of New Iberia National Bancorp, Inc., and thereby indirectly acquire New Iberia National Bank, New Iberia, Louisiana.

Board of Governors of the Federal Reserve System, October 21, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-24785 Filed 10-26-87; 8:45 am]

BILLING CODE 6210-01-M

Marshall & Ilsley Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 10, 1987.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin; to acquire First American Investment, Inc., Wausau, Wisconsin, and thereby engage in securities brokerage activities pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 21, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-24786 Filed 10-26-87; 8:45 am]

BILLING CODE 6210-01-M

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Suffield Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 18, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02100:

1. *Suffield Financial Corporation*, Suffield, Connecticut; to retain 6.8 percent of the voting shares of Lexington Savings Bank, Lexington, Massachusetts, which engages in Massachusetts Savings Bank Life Insurance activities.

B. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Midlantic Corporation*, Edison, New Jersey; to acquire 100 percent of the voting shares of Midlantic National Bank/Delaware, Wilmington, Delaware, a *de novo* bank.

C. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Grayson Bancorp, Inc.*, Grayson, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Grayson, Grayson, Kentucky.

D. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *County Bank Corp.*, Lapeer, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Lapeer County Bank & Trust Co., Lapeer, Michigan.

2. *First Cicero Banc Corporation*, Oak Brook, Illinois; to merge with First Harvey Banc Corporation, Oak Brook, Illinois, and thereby indirectly acquire First National Bank in Harvey, Harvey, Illinois, and La Grange Park Banc Corporation, La Grange Park, Illinois, and thereby indirectly acquire Bank of La Grange Park, La Grange Park, Illinois.

Board of Governors of the Federal Reserve System,October 21, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-24787 Filed 10-26-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of the Inspector General; Delegation of Authority

By the authority vested in me by the Social Security Act, as amended, I hereby delegate to the Inspector General the authorities to make determinations, to impose sanctions, and to propose civil monetary penalties and assessments under sections 1842(k); and 1867(d)(1)(B) and (2). This authority may be redelegated. This authority may be redelegated. This delegation is effective immediately.

Dated: October 16, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-24670 Filed 10-26-87; 8:45 am]

BILLING CODE 4160-17-M

Food and Drug Administration

[Docket No. 87D-0286]

Guidelines for Formatting Certain Petitions for Submission to FDA; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of guidelines for formatting food additive, color additive, and generally recognized as safe (GRAS) affirmation petitions prepared for submission to FDA. These guidelines are entitled, "Guidelines for the Preparation of Petition Submissions." They are not requirements of FDA but rather represent a suggested format that can be followed by a petitioner if so desired. These guidelines do not change, in any way, those legal requirements for submitting food additive, color additive, and GRAS affirmation petitions outlined in 21 CFR Parts 71, 170, and 171.

ADDRESS: Requests for a copy of the "Guidelines for the Preparation of Petition Submissions" may be sent to the Center for Food Safety and Applied Nutrition (address below). (Send two self-addressed adhesive labels to assist the Branch in processing your requests.)

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5090.

SUPPLEMENTARY INFORMATION: The Center for Food Safety and Applied Nutrition (CFSAN) requires the submission of three identical copies of food additive and color additive petitions, and four identical copies of GRAS affirmation petitions. In response to these requirements, CFSAN has received many requests from industry for guidance in the preparation of these petitions. Consequently, a contractor working with CFSAN's petitions data base, developed guidelines for organizing and arranging the data and copies of the subject petitions. Although use of these guidelines is not required, CFSAN believes that their use can contribute to the efficient evaluation of data within food additive, color additive, and GRAS affirmation petitions, master files, and related documents.

Legal requirements for submission of food additive, color additive, and GRAS affirmation petitions are identified in 21 CFR Parts 71, 170, and 171 and are not affected by these guidelines.

Dated: October 19, 1987.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-24810 Filed 10-26-87; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Cancer Institute; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, November 16-17, Building 31C, Conference Room 6, 6th Floor, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public on November 16 from 8:30 a.m. to recess, and again on November 17 from 8:30 a.m. to adjournment, for the reports on activities of the President's Cancer Panel, the Director's Report on the National Cancer Institute, and for the program review of the NCI Divisions. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Mrs. Barbara S. Bynum, Director, Division of Extramural Activities, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20892 (303/496-5147) will provide substantive program information, upon request.

Dated: October 15, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-24684 Filed 10-26-87; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Clinical Cancer Program Project Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Cancer Program Project Review Committee, National Cancer Institute, National Institutes of Health, December 4, 1987, Howard Johnson—Crystal City, 2650 S. Jefferson Davis Highway, Arlington, Virginia 22202.

This meeting will be open to the public on December 4 from 12 p.m. to 12:30 p.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 4 from 12:30 p.m. to adjournment for the review, discussion and evaluation of individual program project applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Robert D. Hammond, Executive Secretary, Clinical Cancer Program Project Review Committee, Westwood Building, Room 822, Bethesda, Maryland 20892 (301/496-7924) will furnish substantive program information.

Dated: October 15, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-24685 Filed 10-26-87; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Frederick Cancer Research Facility Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Frederick Cancer Research Facility Advisory Committee, National Cancer Institute, December 8, 1987, Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public on December 8 from 8 a.m. to 12 p.m. to discuss administrative matters, future meetings, Ten-Year Plan, Fermentation Production Plant, and to hear the Deputy Director's report on items of interest to NCI and the Committee, including management changes, AIDS subcontracts and other activities, and results of recompetition. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 8 from 12 p.m. to adjournment for discussion of previous site visits and review/evaluation of research being conducted by the Basic Research Program. These discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contractor, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Cedric W. Long, Executive Secretary, Frederick Cancer Research Facility Advisory Committee, National Cancer Institute, Frederick Cancer Research Facility, Building 427, Frederick, Maryland 21701 (301/695-1108) will furnish substantive program information upon request.

Dated: October 15, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-24688 Filed 10-26-87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting of the Basic Virology, Immunology and Pathogenesis Subcommittee; Clinical Applications, Prevention and Treatment Subcommittee Epidemiology and Technology Transfer Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Basic Virology, Immunology and Pathogenesis Subcommittee, and the Epidemiology and Technology Transfer Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on November 16-19, 1987, at the Ramada Inn Hotel, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting of the full Committee, for orientation of new members, discussion of administrative details relating to committee business, and program review, will be open to the public from 8:30 a.m. to 11 a.m. on November 16. Attendance by the public will be limited to space available.

Because of the nature of applications and proposals to be reviewed, the entire committee will meet as two, rather than three, subcommittees for this meeting. The members of the Clinical Applications, Prevention and Treatment Subcommittee will be assigned either to the Basic Virology, Immunology and Pathogenesis Subcommittee or to the Epidemiology and Technology Transfer Subcommittee.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meetings of the Basic Virology, Immunology and Pathogenesis Subcommittee, and the Epidemiology and Technology Transfer Subcommittee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals

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from 11 a.m. until recess on November 16, and from 8:30 a.m. on November 17 until adjournment on November 19. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Hortencia M. Hornbeak, Executive Secretary, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, Room 753, Bethesda, Maryland 20892, telephone (301-496-0123), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: October 15, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-24667 Filed 10-26-87; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FES 87-50]

Availability of Final Environmental Impact Statement; Koyukuk and Innoko National Wildlife Refuges, AK

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability of a final environmental impact statement for the proposed Comprehensive Conservation Plan and Wilderness Review for Koyukuk National Wildlife Refuge and the Northern Unit of Innoko National Wildlife Refuge, Alaska.

SUMMARY: The U.S. Fish and Wildlife Service has prepared a Final Comprehensive Conservation Plan, Environmental Impact Statement, and Wilderness Review (Plan) for the Koyukuk National Wildlife Refuge and the Northern Unit of Innoko National Wildlife Refuge, Alaska, pursuant to sections 304(g)(1), 1008, and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (Alaska Lands Act); section 3(d) of the Wilderness Act of 1964; and section 102(2)(C) of the National Environmental Policy Act of 1969. The Plan describes two alternatives for managing the refuge as well as the environmental consequences of implementing each alternative. In the document the suitability of all Federal lands in the refuge, not previously designated as wilderness lands, is reviewed for possible wilderness designation and inclusion in the National Wilderness Preservation System.

DATE: A Record of Decision will be issued no sooner than November 5, 1987.

FOR FURTHER INFORMATION CONTACT: William Knauer, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3399.

SUPPLEMENTARY INFORMATION: A summary of the Plan has been prepared and will be sent to all persons and organizations who participated in any part of the planning process, such as scoping meetings, workshops, or in other types of communication with the planning team. Copies of the complete Plan will be sent to Federal and State agencies, regional and village Native corporations, local governments, and other organizations and individuals who have already requested copies. A limited number of copies of both documents are available upon request from Mr. Knauer.

Copies of the complete Plan are available at the office of the Regional Director, at the above address; at the Koyukuk National Wildlife Refuge Office, P.O. Box 287, Galena, Alaska 99741; and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuge Management, U.S. Department of the Interior Bldg., 18th & C Streets NW., Washington, DC 20240

U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 NE. Multnomah Street, Suite 1692, Portland, OR 97232

U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 Gold Avenue, SW., Room 1306, Albuquerque, NM 87103

U.S. Fish and Wildlife Service, Refuges and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111

U.S. Fish and Wildlife Service, Refuges and Wildlife, Richard B. Russell Federal Building., 75 Spring Street, Atlanta, GA 30303

U.S. Fish and Wildlife Service, Refuges and Wildlife, One Gateway Center, Suite 70, Newton Corner, MA 02158

U.S. Fish and Wildlife Service, Refuges and Wildlife, 134 Union Blvd., Lakewood, CO 80225

Date: October 20, 1987.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 87-24798 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-55-M

[FES 87-53]

Availability of Final Environmental Impact Statement; Nowitna National Wildlife Refuge, AK

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability of a final environmental impact statement for the proposed Comprehensive Conservation Plan, Wilderness Review, and Wild River Plan for Nowitna National Wildlife Refuge, Alaska.

SUMMARY: The U.S. Fish and Wildlife Service has prepared a Final Comprehensive Conservation Plan, Environmental Impact Statement, Wilderness Review, and Wild River Plan (Plan) for the Nowitna National Wildlife Refuge, Alaska, pursuant to sections 304(g)(1), 605, 1008, and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (Alaska Lands Act); section 3(d) of the Wilderness Act of 1964; and section 102(2)(C) of the National Environmental Policy Act of 1969. The Plan describes for alternatives for managing the refuge as well as the environmental consequences of implementing each alternative. In the document the suitability of all Federal lands in the refuge is reviewed for possible wilderness designation and inclusion in the National Wilderness Preservation System.

DATE: A Record of Decision will be issued no sooner than December 2, 1987.

FOR FURTHER INFORMATION CONTACT: William Knauer, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3399.

SUPPLEMENTARY INFORMATION: A summary of the Plan has been prepared and will be sent to all persons and organizations who participated in any part of the planning process, such as scoping meetings, workshops, or in other types of communication with the planning team. Copies of the complete Plan will be sent to Federal and State agencies, regional and village Native corporations, local governments, and other organizations and individuals who have already requested copies. A limited number of copies of both

documents are available upon request from Mr. Knauer.

Copies of the complete Plan are available at the office of the Regional Director, at the above address; at the Nowitna National Wildlife Refuge Office, P.O Box 287, Galena, Alaska 99741; and, for review, at the following locations:

U.S. Fish and Wildlife Service, Division of Refuge Management, U.S. Department of the Interior Bldg., 18th & C Streets NW., Washington, DC 20240

U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 NE. Multnomah Street, Suite 1692, Portland, OR 97232

U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 Gold Avenue, SW., Room 1306, Albuquerque, NM 87103

U.S. Fish and Wildlife Service, Refuges and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111

U.S. Fish and Wildlife Service, Refuges and Wildlife, Richard B. Russell Federal Building, 75 Spring Street, Atlanta, GA 30303

U.S. Fish and Wildlife Service, Refuges and Wildlife, One Gateway Center, Suite 700, Newton Corner, MA 02158

U.S. Fish and Wildlife Service, Refuges and Wildlife, 134 Union Blvd., Lakewood, CO 80225

Date: October 21, 1987.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 87-24799 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C., Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau Clearance Officer and to the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone: (202) 395-7340.

Title: General Contract Requirements, 25 CFR Part 271.

Abstract: Indian tribes contracting under Pub. L. 93-638 are required to establish and maintain a recordkeeping system as well as provide financial status and program progress reports, the proper administration, monitoring and evaluation of contracts awarded by the Bureau of Indian Affairs.

Frequency: Quarterly reports.

Description of Respondents: Indian tribes contracting Bureau programs.

Annual Responses: 5,796.

Annual Burden Hours: 3,038.

Bureau Clearance Officer: Cathie Martin, (202) 343-3577.

Hazel E. Elbert,

Deputy to the Assistant Secretary—Indian Affairs (Tribal Services).

[FR Doc. 87-24756 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[ES-970-08-4910-10-2410; ES 15435 Arkansas]

Proposed Reinstatement of Federal Oil and Gas Lease; Arkansas

AGENCY: Bureau of Land Management, Interior.

ACTION: Federal Oil and Gas Lease ES 15435 terminated automatically by operation of law on August 1, 1986 (30 U.S.C. 188).

FOR FURTHER INFORMATION CONTACT: Ms. Frances Javes at (703) 274-0153.

SUPPLEMENTAL INFORMATION: 1. A petition for reinstatement of ES 15435 was filed by Callon Petroleum Company (Lessee) under Section 31D of the Mineral Leasing Act of 1920, as amended by the Federal Oil and Gas Royalty Management Act of 1982 (96 Stat. 2447).

2. The lessee has met all the following requirements of reinstatement:

(a) $500—Reimbursement of Department Administrative Cost

(b) $320—Back Rental Payments

(c) $138—Estimated Publication Cost

3. The poposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5.00 per acre per year, and royalty increased to 16⅔ percent beginning April 1, 1987.

R. Gale Wilson,

Acting State Director.

[FR Doc. 87-24661 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-GJ-M

[CO-940-87-4111-15; C-43322]

Oil and Gas Leases, Colorado; Proposed Reinstatement

Notice is hereby given that a petition for reinstatement of oil and gas lease C-43322 for lands in Rio Blanco County, Colorado, was timely filed and was accompanied by all the required rentals and royalties accruing from July 1, 1987, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 and 16-2/3 percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this Federal Register notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective July 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Joan Gilbert of the Colorado State Office at (303) 236-1772.

Richard E. Richards,

Supervisor, Oil & Gas/Geothermal Leasing Unit.

[FR Doc. 87-24767 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-JB-M

[WY-940-08-4520-12]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of plats of survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., October 9, 1987.

Sixth Principal Meridian

T. 47 N., R. 72 W.

The plat representating the dependent resurvey of the Ninth Guide Meridian West, through T. 47 N., between Rs. 72 and 73 W., the south and north boundaries and the subdivisional lines, T. 47 N., R. 72 W., Sixth Principal Meridian, Wyoming, Group No. 453, was accepted September 28, 1987.

T. 18 N., R. 80 W.

The plat representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the subdivision of certain sections, T. 18 N., R. 80

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W., Sixth Principal Meridian, Wyoming, Group No. 436, was accepted October 1, 1987.

T. 23 N., R. 83 W.

The plat representing the dependent resurvey of a portion of the north boundary, the dependent resurvey and corrective dependent resurvey of the subdivisional lines, and the corrective resurvey of the subdivision of sections 2 and 30, T. 23 N., R. 83 W., Sixth Principal Meridian, Wyoming, Group No. 387, was accepted September 28, 1987.

T. 23 N., R. 96 W.

The plat representing the dependent resurvey of a portion of the north boundary and the subdivisional lines, lines, T. 23 N., R. 96 W., Sixth Principal Meridian, Wyoming, Group No. 438, was accepted September 28, 1987.

These surveys were executed to meet certain administrative needs of this Bureau.

T. 38 N., R. 116 W.

The plat representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, and the subdivision of sections, 5 and 8, T. 38 N., R.116 W., Sixth Principal Meridian, Wyoming, Group No. 462, was accepted September 28, 1987.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: October 9, 1987.

Richard L. Oakes,

Chief, Branch of Cadastral Survey.

[FR Doc. 87-24062 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-22-M

[ID-943-08-4220-11; I-51]

Proposed Continuation of Withdrawal; Idaho.

October 16, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest service proposes that a 27.4 acre withdrawal for the Custer Historic Site continue for an additional 50 years based upon the anticipated remaining life of the site. The land will remain closed to surface entry and mining, but has been and will remain open to mineral leasing.

DATE: Comments should be received by January 25, 1988.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1735.

The U.S. Forest Service proposes that the existing land withdrawal made by Public Land Order No. 4215, for the Custer Historical Site, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

Boise Meridian

T. 12 N., R. 15 E., unsurveyed. When surveyed will probably be in:
Sec. 9, NE¼;
Sec. 10, NW¼.

Formerly described by a metes and bounds survey as follows:

Beginning at Corner No. 1, A 1" x 28" aluminum pipe with 1½" aluminum cap marked Custer T.S. Cor. 1. Said Point bears N. 37°13'40" E., 642.77' from U.S.G.S. Benchmark No. H 234, N. 36° 38'33" W., 121.25' from F.S. Control Corner and S. 87° 36' 20" W., 691.68' from U.S.F.S. Corner Tuff.

Thence S. 61°41'31" W., 1664.87' to Corner No. 2, A 1" x 28" aluminum pipe with 1½" aluminum cap marked Custer T.S. Cor. 2;

Thence S. 5° 56' 28" W., 244.32' to Corner No. 3, A. 1" x 28" aluminum pipe with 1½" aluminum cap marked Custer T.S. Cor. 3 M.C.;

Thence meandering along the southerly side of the Yankee Fork of the Salmon River as follows: S. 87°20' 56" E., 358.68'; N. 49°35' 23" E., 393.70'; N. 69°52' 04" E., 503.77'; N. 63°56' 33" E., 387.32'; N. 67°39' 09" E., 326.59'; N. 26°41' 51" E., 198.17'; N. 63°33' 13" E., 452.66'; N. 34°17' 05" E., 273.51' to Corner No. 4, a 1" x 28" Aluminum pipe with 1½" aluminum cap marked C-4 Custer T.S. M.C.; sand Corner bears N. 0°23'08" W., 137.49' from Cor. 3, M.S. 832.

Thence N. 23°27'11" W., 567.95' to Corner No. 5, A 1" x 28" aluminum pipe with 1½" aluminum cap marked Custer T.S. C-5; thence S. 47°31'20" W., 989.34' to the Point of Beginning.

The tract as described contains 27.4 acres, more or less in Custer County.

The withdrawal is essential for protection of the townsite of Custer, established in 1878, and listed on the National Register of Historic Places in Custer Historic District. The withdrawal closed the land to surface entry and mining, but not to mineral leasing. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued, and if so, for how long. The final determination of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 87-24765 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-GG-M

[ID-943-08-4220-11; I-14922]

Proposed Continuation of Withdrawal; Idaho

October 16, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service proposes that a 3.975 acre withdrawal for the Wildhorse Administrative Site continue for an additional 30 years, based upon the anticipated remaining life of the project. The land will remain closed to surface entry and mining, but has been and will remain open to mineral leasing.

DATES: Comments should be received by January 25, 1988.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1735.

The U.S. Forest Service proposes that the existing land withdrawal made by the Secretarial Order of March 14, 1908, for the Wildhorse Administrative Site, be continued for a period of 30 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

Boise Meridian

T. 7 N., R. 20 E.,
Sec. 33, metes and bounds survey.

Beginning at corner No. 1, which bears S. 30°58'12" W., 210.50' from the southwest corner of the guard station house; thence S. 55°36'00" E., 318.37' to corner No. 2; thence N. 1°23'03" E., 270.84' to corner No. 3; thence N. 21°40'51" W., 577.19' to corner No. 4; thence S. 83°06'56" W., 178.92' to corner No. 5; thence S. 11°21'12" E., 617.89' to corner No. 1, the point of beginning.

The land described above contains 3.975 acres in Custer County.

The withdrawal is essential for protection of substantial capital improvements on the administrative site. The withdrawal closed the land to surface entry and mining but not to mineral leasing. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued, and if so, for how long. The final determination of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 87-24760 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-GG-M

Minerals Management Service

Outer Continental Shelf Development Operations Coordination; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc., Unit Operator of the South Bay Marchand Federal Unit Agreement No. 14-08-001-3915, has submitted a DOCD describing the activities it proposes to conduct on the South Bay Marchand Federal unit. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Leeville, Louisiana.

DATE: The subject DOCD was deemed submitted on October 14, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Al Durr; Minerals Management Service; Gulf of Mexico OCS Region; Production and Development; Development and Unitization Section; Unitization Unit; Telephone (504) 736-2659.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: October 19, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-24763 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Development Operations Coordination; Union Exploration Partners, Ltd.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Exploration Partners, Ltd. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 2023 and 2024, Blocks 593 and 594, respectively, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 16, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: October 19, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-24764 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations; Colorado, et al.

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 17, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 12, 1987.

Carol D. Shull,

Chief of Registration, National Register.

COLORADO

Boulder County

Lafayette vicinity, *Boulder Valley Grange No. 131*, 3400 N. Ninety-fifth St.

Denver County

Denver, *First Congregational Church*, 980 Clarkson St.

FLORIDA

Marion County

Ocala, *Tuscawilla Park Historic District*, NE Fourth St., Sanchez Ave., Second St., Tuscawilla Ave., and Watula St.

IOWA

Boone County

Boone, *Riekenberg, J.H., House*, 310 N. Tama St.

Henry County

Mount Pleasant, *Harlan House Hotel*, 122 N. Jefferson St.

Lucas County

Chariton, *Stephens, A.J., House*, 123 Seventeenth St.

Washington County

Washington, *Stewart, Frank, House*, 603 W. Washington St.

LOUISIANA

Rapides Parish

Meeker, *Meeker Sugar Refinery*, US 71

Vermilion Parish

Perry, *Perry House*, Orange Dr.

MAINE

Lincoln County

Tenants Harbor vicinity, *Tenants Harbor Light Station (Light Stations of Maine MPS)*, Southern Island West Southport vicinity, *Hendricks Head Light Station (Light Stations of Maine MPS)*, Hendricks Head, Southport Island

Washington County

Milbridge vicinity, *Narraguagus Light Station (Light Stations of Maine MPS)*, E side of Pond Island

MINNESOTA

Hennepin County

Minneapolis, *Nicollet Hotel*, 235 Hennepin Ave.

NEW JERSEY

Hunterdon County

Mount Pleasant, *Mount Pleasant Historic District*, CR 519 and Rick Rd.

NORTH CAROLINA

Chatham County

Goldston, *Goldston Commercial Historic District*, Roughly S. Bellevue and S. Main Sts. between W. Goldbar and Colonial St.

Greene County

Walstonburg vicinity, *Carr, Titus W., House*, SR 1244

PENNSYLVANIA

Bucks County

Bristol, *Bristol Industrial Historic District*, Roughly bounded by Pennsylvania Canal, Jefferson Ave., Canal St., Pennsylvania RR, and Beaver St.

TENNESSEE

Montgomery County

Clarksville, *Clarksville Foundry and Machine Works (Iron Industry on the Western Highland Rim 1790s—1920s MPS)*, 96 Commerce St.

Clarksville vicinity, *Gracey—Woodward Furnace (40 MT378) (Iron Industry on the Western Highland Rim 1790s—1920s MPS)*,

Excell vicinity, *Washington Furnace and Forge (40 MT382) (Iron Industry on the Western Highland Rim 1790s—1920s MPS)*,

McAllisters Crossroad vicinity, *Tennessee Furnance (40 MT383) (Iron Industry on the Western Highland Rim 1790s—1920s MPS)*,

Needmore vicinity, *Poplar Spring Furnace (40 MT376) (Iron Industry on the Western Highland Rim 1790s—1920s MPS)*,

Needmore vicinity, *Yellow Creek Furnace and Forge (40 MT371) (Iron Industry on the Western Highland Rim 1790s—1920s MPS)*,

Shiloh vicinity, *Soilor's Rest Furnace (40 MT375) (Iron Industry on the Western Highland Rim 1790s—1920s MPS)*,

Slayden vicinity, *Louisa Furnace (40 MT370) (Iron Industry on the Western Highland Rim 1790s—1920s MPS)*,

Southside vicinity, *Lafayette Furnace (40 MT372) (Iron Industry on the Western Highland Rim 1790s—1920s MPS)*,

VIRGINIA

Frederick County

Middletown vicinity, *Monte Vista*, 8100 US 11.

[FR Doc. 87-24831 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7340.

Title: 30 CFR Part 750 Requirements for Surface Coal Mining and Reclamation Operations on Indian Lands.

Abstract: Operators proposing to conduct surface coal mining and reclamation operations on Indian lands must comply with the permitting and approval requirements of Part 750, which supplements the regulatory program by specifying additional information requirements unique to Indian lands and outside the scope of the regulatory program.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Coal Operators.

Annual Responses: 1.4.

Annual Burden Hours: 980.

Bureau clearance officer: David A. Collegeman (202) 343-5447.

Date: September 25, 1987.

Carson W. Culp,

Assistant Director, Budget and Administration.

[FR Doc. 87-24758 Filed 10-26-87; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub-No. 214X)]

CSX Transportation, Inc.; Exemption; Abandonment in Harlan County, KY

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon its line of railroad between milepost LMP-251.18 near Cato, KY, and milepost LMP-253.82 near Three Point, KY, a distance of 2.64 miles, in Harlan County, KY.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

Applicant has filed an environmental report which shows that no significant environmental or energy impacts are likely to result from this abandonment.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective November 26, 1987 (unless stayed pending reconsideration). Petitions to stay must be filed by November 6, 1987, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by November 16, 1987 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: R. Lyle Key, CSX Transportation, Inc., 500 Water St., Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 19, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24788 Filed 10-26-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 87-10]

Revocation of Registration; Danforth Drug Store, Inc.

On December 4, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Danforth Drug Store, Inc., 3610 Miller Road, Wilmington, Delaware 19802 (Respondent). The Order to Show Cause sought to deny the pharmacy's application for a DEA Certificate of Registration on the ground that such registration would be inconsistent with the public interest, in that the pharmacy was not authorized by the State of Delaware to procure, dispense, or otherwise handle controlled substances.

Respondent, through counsel, requested a hearing by letter dated January 22, 1987. The matter was docketed before Administrative Law Judge Francis L. Young. In response to an order for prehearing statements, counsel for the agency filed a motion for summary disposition on March 2, 1987. The motion was supported by copies of documents regarding the proceedings in the State of Delaware concerning the pharmacy's State license. On March 24, 1987, Respondent's counsel filed an opposition to the agency's motion. After a telephone conference on March 27, 1987, the Administrative Law Judge allowed Respondent's counsel until April 27, 1987, to provide materials to support his allegation that the State of Delaware had refused Respondent a state controlled substances registration based solely upon the representation of DEA personnel that DEA intended to deny the application. The filing date was extended at Respondent's request, and on May 27, 1987, Respondent's counsel filed the affidavit of Robert M. Mahoney. Administrative Law Judge Francis L. Young issued his opinion and recommended decision on August 27, 1987.

The Administrative Law Judge found that the agency's motion for summary disposition was supported by several documents. These documents showed that Robert M. Mahoney had filed for registration, as owner of Danforth Drug Store, Inc., to dispense controlled substances with the State of Delaware. In response to that application, the State of Delaware issued a Rule to Show Cause why the application should not be denied. The grounds for this action were that controlled substances were stored and dispensed in violation of State and Federal law. A hearing was scheduled for December 12, 1986. Delaware authorities were advised on December 9, 1986, that Mr. Mahoney would not be present at the hearing. The hearing was held on December 12, 1986. Neither Mr. Mahoney nor his counsel were present. Testimony was received from DEA representatives and others, including a Delaware State narcotics agent. The Hearing Officer denied the registration to Respondent pharmacy under the Delaware Controlled Substances Act. The record also shows that on October 2, 1986, before the Rule to Show Cause was issued, a DEA official in Pennsylvania advised the Delaware officials by letter that he would request denial by DEA of any new application submitted by Robert Mahoney for DEA registration.

The Administrative Law Judge further found that Respondent did not challenge any documents submitted by the agency. He also found that even though DEA officials advised the State of Delaware that they would request denial of a DEA application submitted by Mr. Mahoney, Respondent was provided with notice and opportunity for a hearing by the State of Delaware. Evidence was presented at the hearing, at which Mr. Mahoney chose to absent himself, and after consideration of the evidence, the application was denied by Delaware authorities.

The Administrative Law Judge concluded that the state proceedings appeared perfectly regular, and that Mr. Mahoney's affidavit of May 27, 1987, was not sufficient to overcome the regularity of the proceedings.

The record clearly shows that Respondent, Danforth Drug Store, Inc., is not authorized to handle controlled substances in the State of Delaware. The Drug Enforcement Administration does not have the statutory authority under the Controlled Substances Act to register a pharmacy or other practitioner unless the practitioner is authorized by the state in which it practices to dispense controlled substances. See 21 U.S.C. 802(21). The Administrator has consistently so held. See *Tony's Discount Drug Store*, Docket No. 85-60, 51 FR 70 (1986); *Emerson Emery, M.D.*, Docket No. 85-46, 51 FR 9543 (1986); *Avner Kauffman, M.D.*, Docket No. 85-8, 50 FR 34208 (1985).

The Administrative Law Judge further concluded that in a case such as this, a motion for summary disposition is properly entertained and must be granted. It is settled that when no fact question is involved, or when the facts are agreed, a plenary adversary administrative proceeding is not required, even though a pertinent statute prescribes a hearing. In such situations it can be concluded that Congress did not intend administrative agencies to perform meaningless tasks. *U.S. v. Consolidated Mines and Smelting Co., Ltd.*, 445 F.2d 432, 453 (9th Cir. 1971). The Administrative Law Judge recommended that the Administrator deny the application for DEA registration submitted by Danforth Drug Store, Inc.

The Administrator adopts the opinion and recommended decision of the Administrative Law Judge in its entirety. The Administrator concludes that there is a lawful basis for the denial of Respondent pharmacy's application for a DEA registration.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for a DEA Certificate of Registration executed by Respondent pharmacy be, and it hereby is, denied. The Administrator further orders that any other pending applications for Respondent pharmacy, be, and they hereby are, denied. This order is effective October 27, 1987.

John C. Lawn,

Administrator.

Dated: October 22, 1987.

[FR Doc. 87-24609 Filed 10-26-87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C.

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Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Employment Standards Administration

Notice of Recurrence of Disability and Claim for Continuation of Pay/Compensation

On Occasion

Individuals or households;

Federal agencies or employees

2,400 responses;

1,200 hours;

1 form

The CA2a will be used by current or former Federal employees to claim wage loss or medical treatment resulting from a recurrence of a work-related injury while Federally employed. The information is necessary to insure the accurate payment of benefits.

Revision

Employment Standards Administration

Uniform Health Insurance Claim Form, Health Insurance Claim Form, Resubmission Turnaround Document

OMB No. 1215-0055;

OWCP 1500 a & b;

OWCP 82 a & b; CM-1173

On occasion

Individuals or households;

State or local governments; Businesses or other for profit;

Federal agencies or employees; Non-profit institutions;

Small businesses or organizations

1,680,00 responses;

257,066 hours;

3 forms

OWCP 1500 is a standard claim form used by all providers except hospitals and pharmacies to request payment for FECA and Black Lung claimants. OWCP 82 is used by providers to bill OWCP for payment for inpatient care provided to claimants. The RTD collects missing information for the Black Lung portion of the OWCP 1500.

Extension

Employment and Training Administration

Limitations on Tax Credit Reductions and Interest on Advances to States

1205-0205; ETA RC 59

Annually

State or local governments

20 respondents;

500 hours;

no forms

The Secretary requires data and documentation from States requesting relief through (a) limitations, waivers, and avoidance of offset credit reduction and (b) deferrals and delays of interest payment. The data will provide the basis for annual certification for relief.

Extension

Occupational Safety and Health Administration

Lead

OSHA-248, 1218-p0092

Recordkeeping; On occasion

Business or Other for-Profit;

Small Businesses or Organizations;

Federal Agencies or Employees

50,037 Respondents;

1,650,908 Hours;

This standard requires employers to monitor employee exposure to lead, to provide medical surveillance, to train employees about the hazards of lead, and to establish and maintain accurate records of employee exposure to lead. These records will be used by employers, employees, physicians and the Government to ensure that employees are not being harmed by exposure to lead.

Reinstatement

Occupational Safety and Health Administration

Occupational Exposure to Noise

OSHA 238

1218-0048

Recordkeeping; On occasion

Businesses and other for-profit;

Federal agencies or employees, Small Businesses or organizations

192,879 respondents;

5,959,961 burden hours;

Q forms

This standard requires employers to establish and maintain accurate records of employee exposures to noise and audiometric testing performed in compliance with the provisions of the standard. These records are used by the physician, employer, employee and the Government to determine whether occupation-related hearing loss has occurred, to prevent further deterioration of hearing and to determine the effectiveness of the employer's hearing conservation program.

Signed at Washington, DC this 22nd day of October, 1987.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 87-24832 Filed 10-26-87; 8:45 am]

BILLING CODE 4510-26-M

BILLING CODE 4510-27-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply For Workers Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 6, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 6, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 19th day of October 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Advance Transformer (Workers)	Monona, ID	10/19/87	10/5/87	20,173	Coils.
Bardons & Oliver, Inc. (Workers)	Cleveland OH	10/19/87	10/7/87	20,174	Pipe & Tubing.
CastChem, Inc. (Company)	Muse, PA	10/19/87	10/5/87	20,175	Binders & Resins.
CastAmerica, Inc. (Company)	Pittsburgh, PA	10/19/87	10/5/87	20,176	Binders & Resins.
Clovis Rsley, Inc. (Workers)	Pearsall, TX	10/19/87	10/1/87	20,177	Salt Water.
Diamond Brand (Workers)	Duffield, MA	10/19/87	9/29/87	20,178	Cotton Textile.
Eureka Crude Purchasing, Inc. (Company)	Eureka, KS	10/19/87	10/2/87	20,179	Crude Oil.
Flying J. Refinery & Gas Plant (OCAW)	Bingham City, UT	10/19/87	10/5/87	20,180	Gasoline.
GTE Communication Systems Corp. (Workers)	Northlake, IL	10/19/87	9/21/87	20,181	Switching Equipment.
General Motors Corp. BOC Janesville (UAW)	Janesville, WI	10/19/87	10/7/87	20,182	Automobiles.
General Motors BOC Chicago (UAW)	Willow Springs, IL	10/19/87	9/23/87	20,183	Auto Metal Stampings.
General Motors CPC Hamilton (UAW)	Hamilton, OH	10/19/87	9/23/87	20,184	Auto Metal Stampings.
General Motors Fisher-Guide (UAW)	Elyria, OH	10/19/87	9/23/87	20,185	Auto Hardware.
General Motors Hyatt Tonawanda Forge (UAW)	Tonawanda, NY	10/19/87	9/23/87	20,186	Forgings.
Marathon Le Tourneau (Workers)	Brownsville, TX	10/19/87	10/15/87	20,187	Oil
Metal Litho Corp. (Amalgamated Litho.)	Elizabeth, NJ	10/19/87	10/6/87	20,188	Metal.
Monsanto Chemical Co. (USWA)	Nitro, WV	10/19/87	10/8/87	20,189	Chemicals.
National Standard Co. (Company)	Clifton, NJ	10/19/87	10/8/87	20,190	Steel.
Pervel Industries, (Teamsters)	Plainfield, CT	10/19/87	10/1/87	20,191	Fabric.
Shanhouse Outerwear, Incorp. (Workers)	Magnolia, AR	10/19/86	10/5/87	20,192	Jackets & Coats.
Stone Container Corp. (Workers)	Toledo, OH	10/19/87	10/8/87	20,193	Containers.
True Temper Corp. (IWA)	Portland, TN	10/19/87	10/5/87	20,194	Tools.
Unisys (Workers)	Bristol, TN	10/19/87	9/23/87	20,195	Computer Systems.
W. Mullin, Inc. (Workers)	Avon, MA	10/19/87	9/18/87	20,196	Shoe Patterns.
Warner & Swasey/Wiedemann Div. (UER&MWA)	King of Prussia, PA	10/19/87	10/14/87	20,197	Punch Presses.
Watson's Tee House, Inc. (Workers)	Miami, FL	10/19/87	10/5/87	20,198	Golf Equipment.
Westmoreland Coal Co. (Workers)	Clothier, WV	10/19/87	10/13/87	20,199	Coal.
White Sands Beachwear, Inc. (ILGWU)	Paterson, NJ	10/19/87	10/15/87	20,200	Swimwear.

[FR Doc. 87-24833 Filed 10-26-87; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; AT&T Network System et al

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 12, 1987—October 16, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-20,002; AT&T Network System, Oklahoma City, OK

TA-W-19,966; Toritto Sportswear, West New York, NJ

TA-W-20,042; B & G Energy Corp., Midland, TX

TA-W-19,952; Diamant Boart USA, Inc., Conroe, TX

TA-W-19,990; Armstrong Tire Co., Des Moines, IA

TA-W-20,030; Colt Industries, Inc., Holley Automotive Div., Paris, TN

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-20,101; Foremost Petroleum Co., Victoria, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-20,079; Olympic Exploration & Production Co., Denver Co

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The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-20,059; Milpark Drilling Fluids (Formerly Hughes Drilling Fluids), Wharton, TX

U.S. imports of drilling are negligible.

TA-W-20,115; Ballard Enterprises, Houston, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,032; Nicor Drilling Co., Lafayette, LA

Increased imports did not contribute importantly to workers separations at the firm

TA-W-20,019; National Standard, Niles, MI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,130; Streetman, Inc., Natchez, MS

Workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-20,036; Tru-Weld Grating, Inc., Pittsburgh, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,093; Larry P. Wyman, Inc., Conifer, CO

Workers' firm does not produce an article as required for certification under Section 222 of the Trade act of 1974.

TA-W-20,098; Chalmers Rig Service, Inc., Abiline, TX

Increased imports did hot contribute importantly to workers separations at the firm.

TA-W-20,062; Monongahela Iron & Metal Co., Inc., Monongahela, PA

U.S. imports of iron and steel scrap are negligible.

TA-W-19,981; Manitowoc Shipbuilding, Inc., Monitowoc, WI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,013; Integrated Electronic, Wharton, NJ

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-20,087; Agrico Chemical Co., Tulsa, OK

A certification was issued covering all workers of the firm separated on or after August 4, 1986.

TA-W-20,055; General Motors Corp., CPC Norwood, Norwood, OH

A certification was issued covering all workers of the firm separated on or after August 17, 1986.

TA-W-20,043; Coleman Products Co., Coleman, WI

A certification was issued covering all workers of the firm separated on or after August 20, 1986.

TA-W-20,008; General Automotive Specialty Co., Inc., North Brunswick, NJ

A certification was issued covering all workers of the firm separated on or after August 5, 1986.

TA-W-20,010; General Automotive Specialty Co., Inc., Carlstadt, NJ

A certification was issued covering all workers of the firm separated on or after August 5, 1986.

TA-W-19,996; General Housewares Corp., Terre Haute, IN

A certification was issued covering all workers of the firm separated on or after July 29, 1986.

TA-W-20,033; SIFCO Industries, Inc., Forge Group, Presforge Div., Byesville, OH

A certification was issued covering all workers of the firm separated on or after August 10, 1986.

TA-W-20,007; Erie Casting Co., Erie, PA

A certification was issued covering all workers of the firm separated on or after July 24, 1986.

TA-W-20,031; Imperial Schrade Corp., Imperial Knife Div., Providence, RI

A certification was issued covering all workers of the firm separated on or after August 12, 1986.

TA-W-20,015; J.D. Phillips Corp., Alpina, MI

A certification was issued covering all workers of the firm separated on or after August 4, 1986.

TA-W-20,014; J.B. Coggins Co., Inc., Meriden, CT

A certification was issued covering all workers of the firm separated on or after August 4, 1986 and before October 1, 1987.

TA-W-19,980; Lamson/Crocker Petroleum Corp., Lafayette, LA

A certification was issued covering all workers of the firm separated on or after July 10, 1986 and before March 31, 1987.

TA-W-19,971; American Lacquer, Miami, FL

A certification was issued covering all workers of the firm separated on or after July 17, 1986 and before January 22, 1987.

TA-W-19,997; George Seelman & Sons Co., Milwaukee, WI

A certification was issued covering all workers of the firm separated on or after July 29, 1986.

TA-W-19,992; Bryant Electric, A Div., of Westinghouse Electric Corp., Bridgeport, CT.

A certification was issued covering all workers of the firm separated on or after March 1, 1987.

I hereby certify that the forementioned determinations were issued during October 12, 1987–October 16, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: October 20, 1987.

[FR Doc. 87-24834 Filed 10-26-87; 8:45 am]

BILLING CODE 4510-30-M

Office of Federal Contract Compliance Programs

Chicago Messenger Service, Inc., Debarment

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice of debarment, Chicago Messenger Service, Inc.

SUMMARY: This notice advises of the debarment of Chicago Messenger Service, Inc., as an eligible bidder on Government contracts and subcontracts and federally-assisted construction contracts and subcontracts. The debarment is effective immediately.

FOR FURTHER INFORMATION CONTACT: Jerry D. Blakemore, Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C-3325, Washington, DC 20210 (202-523-9475).

SUPPLEMENTARY INFORMATION: On September 17, 1987, pursuant to 42 CFR 60-30.30, the Secretary of Labor issued a Final Decision and Order: (1) Finding Chicago Messenger Service, Inc., in violation of Executive Order 11246, as amended (30 FR 12319, September 28, 1965; 32 FR 14303, October 13, 1967; 43 FR 46501, October 5, 1978), and its implementing regulations; (2) cancelling all Federal contracts and subcontracts and federally-assisted constuction contracts and subcontracts of Chicago Messenger Service, Inc., and of its officers, agents, servants, employees, direct or beneficial owners, divisions or subsidiaries, and those persons in active concert or participating with them; (3) and declaring Chicago Messenger Service, Inc., and its successors, officers, agents, servants, employees, direct or beneficial owners, divisions of subsidiaries, and those persons in active concert or participation with them ineligible for the award of any contracts or subcontracts funded in whole or in part with Federal funds and ineligible for extensions or other modifications of any existing Government contracts or subcontracts. The Decision and Order is set forth below.

The debarment from future Government contracts and subcontracts and the ineligibility for extensions or other modifications is effective immediately. The contract cancellation part of the Order will not become effective until the relevant contracting agencies have been consulted in accordance with section 209(a)(5) of Executive Order 11246, as amended by Executive Order 12086.

Signed October 21st, 1987, Washington, DC.

Jerry D. Blakemore,

Director, OFCCP.

Office of Federal Contract Compliance Programs, Plaintiff, v. Chicago Messenger Service, Inc., Defendant

Date: September 17, 1987.

[Case No. 87-OFC-8]

Final Administrative Order

Before: The Secretary of Labor.

Associate Chief Administrative Law Judge (ALJ) John M. Vittone submitted a Recommended Decision and Order to me in this case on August 28, 1987. The ALJ recommended that defendant's government contracts be cancelled and that it be declared ineligible for the award of any government contracts. Defendant failed to file an answer to Plaintiff's complaint alleging that Defendant had failed to develop a written affirmative action program as required by 41 CFR 60-2.1 (1986), and the ALJ adopted the material facts in the complaint as provided in 41 CFR 60-30.6(c).

I adopt the ALJ's Recommended Decision and Order in all respects and it is specifically incorporated in and appended to this Final Order.

So ordered.

William E. Brock,

Secretary of Labor.

Washington, DC.

Office of Federal Contract Compliance Programs, United States Department of Labor, Plaintiff v. Chicago Messenger Service, Inc., Defendant

[Case No. 87-OFC-8]

Recommended Decision and Order

This proceeding arises under Executive Order No. 11246 (30 FR 12319) as amended by Executive Order No. 11375 (32 FR 14303) and the regulations issued pursuant thereto at 41 CFR Part 60.

On March 10, 1987 the Department of Labor (DOL) filed a Complaint in this matter which alleged that the Defendant was a government contractor subject to the above-cited Order and regulations and was in breach of its government contract due to its failure to develop a written affirmative action program as required by 41 CFR 60-2.1. The Complaint states that the DOL notified defendant of its findings relating to the aforesaid violation and defendant failed and refused to take corrective action. A Notice of Docketing was issued on April 3, 1987. The Defendant has not filed an Answer to date.

The DOL filed a motion for relief pursuant to 41 CFR 60-30.6. Under that Section the failure to file an Answer within 20 days of service of the complaint constitutes an admission of each allegation contained in the Complaint. That section further provides that:

> The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission, the Administrative Law Judge, without further hearing, may prepare his decision in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. . .

By operation of 41 CFR 60-30.6 the Defendant is found to have waived his opportunity for a hearing, and is deemed to have admitted the allegations contained in the Complaint.

Accordingly, I hereby adopt the material facts set out in the Complaint (attached hereto) as my findings of fact and conclude that the Defendant is currently in violation of Executive Order No. 11246 and its regulations with regard to affirmative action plans. In light of the Defendant's disregard for the Executive Order and the regulations incorporated into his contract with the Federal government, I recommend that the Secretary issue a Final Order providing the following relief:

1. Cancelling all of the federal and federally-assisted contracts and subcontracts of defendant, its successors, officers, agents, servants, employees, direct or beneficial owners, divisions or subsidiaries and those persons in active concert or participation with them;

2. Declaring defendant, its successors, officers, agents, servants, employees, direct or beneficial owners, divisions or subsidiaries and those persons in active concert or participation with them that shall be ineligible for the award of any contracts or subcontracts funded in whole or in part with federal funds; and

3. Declaring defendant, its successors, officers, agents, servants, employees, direct or beneficial owners, divisions or subsidiaries and those persons in active concert or participation with them shall be ineligible for extensions or other modifications of any existing government contract or subcontracts.

The recommended relief is to be in effect until such time as the Defendant has satisfied the Director of OFCCP that it is in compliance with the provisions of Executive Order 11246, as amended and the rules and regulations issued thereunder.

41 CFR 60-30.28 governs exceptions to this recommended decision.

Dated: August 28, 1987.

Washington, DC.

John M. Vittone,

Associate Chief Judge.

[FR Doc. 87-24835 Filed 10-26-87; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

[TA-W-20,052]

Termination of Investigation; General Motors Corp., BOC Flint, Flint, MI

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 31, 1987 in response to a worker petition received on August 31, 1987, which was filed by the United Auto Workers and General Motors Corporation on behalf of workers at the BOC Flint, Flint, Michigan assembly plant of General Motors Corporation. The workers produce standard automobiles.

A negative determination applicable to the petitioning group of workers was issued on September 18, 1987 (TA-W-19,922). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 16th day of October 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-24779 Filed 10-26-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,021]

Termination of Investigation; Placid Oil Co., Dallas, TX

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 18, 1987 in response to a worker petition received on August 17, 1987 which was filed on behalf of workers at the Dallas Headquarters Office of Placid Oil Company.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 29th day of September 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-24778 Filed 10-26-87; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The annual list of labor surplus areas is effective October 1, 1987, through September 30, 1988.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas; which includes civil jurisdictions with a population of twenty-five thousand or more as required by Pub. L. 99-272. This list does not contain the classifications for the State of Wisconsin. Those classifications will be issued as soon as possible after the Department of Labor receives revised data from the State. In the interim, the Fiscal Year 1987 classifications for Wisconsin will be extended and in effect until further notice.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, Attention: TEESS, Washington, DC 20210. Telephone: 202-535-0165.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981, (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor is publishing the annual list of labor surplus areas.

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and are effective October 1, 1987, through September 30, 1988.

The list of labor surplus areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, DC on October 21, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

BILLING CODE 4510-30-M

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
ALABAMA	
ANNISTON CITY	ANNISTON CITY IN
	CALHOUN COUNTY
BARBOUR COUNTY	BARBOUR COUNTY
BESSEMER CITY	BESSEMER CITY IN
	JEFFERSON COUNTY
BIBB COUNTY	BIBB COUNTY
BIRMINGHAM CITY	BIRMINGHAM CITY IN
	JEFFERSON COUNTY
BULLOCK COUNTY	BULLOCK COUNTY
BUTLER COUNTY	BUTLER COUNTY
CHAMBERS COUNTY	CHAMBERS COUNTY
CHEROKEE COUNTY	CHEROKEE COUNTY
CHILTON COUNTY	CHILTON COUNTY
CHOCTAW COUNTY	CHOCTAW COUNTY
CLARKE COUNTY	CLARKE COUNTY
CLAY COUNTY	CLAY COUNTY
CLEBURNE COUNTY	CLEBURNE COUNTY
COLBERT COUNTY	COLBERT COUNTY
CONECUH COUNTY	CONECUH COUNTY
COVINGTON COUNTY	COVINGTON COUNTY
CRENSHAW COUNTY	CRENSHAW COUNTY
CULLMAN COUNTY	CULLMAN COUNTY
DALE COUNTY	DALE COUNTY
DE KALB COUNTY	DE KALB COUNTY
DECATUR CITY	DECATUR CITY IN
	MORGAN COUNTY
ESCAMBIA COUNTY	ESCAMBIA COUNTY
BALANCE OF ETOWAH COUNTY	ETOWAH COUNTY LESS
	GADSDEN CITY
FAYETTE COUNTY	FAYETTE COUNTY
FLORENCE CITY	FLORENCE CITY IN
	LAUDERDALE COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
GADSDEN CITY	GADSDEN CITY IN
	ETOWAH COUNTY
GENEVA COUNTY	GENEVA COUNTY
GREENE COUNTY	GREENE COUNTY
HALE COUNTY	HALE COUNTY
HENRY COUNTY	HENRY COUNTY
JACKSON COUNTY	JACKSON COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
ALABAMA (CONT'D)	
LOWNDES COUNTY	LOWNDES COUNTY
MACON COUNTY	MACON COUNTY
MARENGO COUNTY	MARENGO COUNTY
MARION COUNTY	MARION COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
MOBILE CITY	MOBILE CITY IN
	MOBILE COUNTY
BALANCE OF MOBILE COUNTY	MOBILE COUNTY LESS
	MOBILE CITY
	PRICHARD CITY
MONROE COUNTY	MONROE COUNTY
BALANCE OF MORGAN COUNTY	MORGAN COUNTY LESS
	DECATUR CITY
PERRY COUNTY	PERRY COUNTY
PHENIX CITY	PHENIX CITY IN
	LEE COUNTY
	RUSSELL COUNTY
PICKENS COUNTY	PICKENS COUNTY
PRICHARD CITY	PRICHARD CITY IN
	MOBILE COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
SELMA CITY	SELMA CITY IN
	DALLAS COUNTY
SUMTER COUNTY	SUMTER COUNTY
TALLADEGA COUNTY	TALLADEGA COUNTY
WALKER COUNTY	WALKER COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WILCOX COUNTY	WILCOX COUNTY
WINSTON COUNTY	WINSTON COUNTY
ALASKA	
BETHEL CENSUS AREA	BETHEL CENSUS AREA
FAIRBANKS CITY	FAIRBANKS CITY IN
	FAIRBANKS NORTH STAR BOROUGH
BALANCE OF FAIRBANKS NORTH STAR BOROUGH	FAIRBANKS NORTH STAR BOROUGH LESS
	FAIRBANKS CITY
HAINES BOROUGH	HAINES BOROUGH
KENAI PENINSULA BOROUGH	KENAI PENINSULA BOROUGH
KETCHIKAN GATEWAY BOROUGH	KETCHIKAN GATEWAY BOROUGH
MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSITNA BOROUGH

(CONTINUED)

BEST COPY AVAILABLE

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
ALASKA (CONT'D)	
NOME CENSUS AREA	NOME CENSUS AREA
PRINCE OF WALES OUTER KETCHIKAN	PRINCE OF WALES OUTER KETCHIKAN
SITKA BOROUGH	SITKA BOROUGH
SKAGWAY YAKUTAT ANGOON CENS AREA	SKAGWAY YAKUTAT ANGOON CENS AREA
SOUTHEAST FAIRBANKS CENSUS AREA	SOUTHEAST FAIRBANKS CENSUS AREA
VALDEZ CORDOVA CENSUS AREA	VALDEZ CORDOVA CENSUS AREA
WADE HAMPTON CENSUS AREA	WADE HAMPTON CENSUS AREA
WRANGELL-PETERSBURG CENSUS AREA	WRANGELL-PETERSBURG CENSUS AREA
YUKON-KOYUKUK CENSUS AREA	YUKON-KOYUKUK CENSUS AREA
ARIZONA	
APACHE COUNTY	APACHE COUNTY
BALANCE OF COCONINO COUNTY	COCONINO COUNTY LESS
	FLAGSTAFF CITY
FLAGSTAFF CITY	FLAGSTAFF CITY IN
	COCONINO COUNTY
GILA COUNTY	GILA COUNTY
GRAHAM COUNTY	GRAHAM COUNTY
GREENLEE COUNTY	GREENLEE COUNTY
LA PAZ COUNTY	LA PAZ COUNTY
MOHAVE COUNTY	MOHAVE COUNTY
NAVAJO COUNTY	NAVAJO COUNTY
PINAL COUNTY	PINAL COUNTY
SANTA CRUZ COUNTY	SANTA CRUZ COUNTY
SIERRA VISTA CITY	SIERRA VISTA CITY IN
	COCHISE COUNTY
YUMA CITY	YUMA CITY IN
	YUMA COUNTY
BALANCE OF YUMA COUNTY	YUMA COUNTY LESS
	YUMA CITY
ARKANSAS	
ASHLEY COUNTY	ASHLEY COUNTY
BRADLEY COUNTY	BRADLEY COUNTY
CHICOT COUNTY	CHICOT COUNTY
CLARK COUNTY	CLARK COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
ARKANSAS (CONT'D)	
CLAY COUNTY	CLAY COUNTY
CLEBURNE COUNTY	CLEBURNE COUNTY
CLEVELAND COUNTY	CLEVELAND COUNTY
COLUMBIA COUNTY	COLUMBIA COUNTY
CONWAY COUNTY	CONWAY COUNTY
BALANCE OF CRITTENDEN COUNTY	CRITTENDEN COUNTY LESS
	WEST MEMPHIS CITY
CROSS COUNTY	CROSS COUNTY
DALLAS COUNTY	DALLAS COUNTY
DESHA COUNTY	DESHA COUNTY
DREW COUNTY	DREW COUNTY
EL DORADO CITY	EL DORADO CITY IN
	UNION COUNTY
FAULKNER COUNTY	FAULKNER COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
FULTON COUNTY	FULTON COUNTY
BALANCE OF GARLAND COUNTY	GARLAND COUNTY LESS
	HOT SPRINGS CITY
GRANT COUNTY	GRANT COUNTY
GREENE COUNTY	GREENE COUNTY
HOT SPRING COUNTY	HOT SPRING COUNTY
HOT SPRINGS CITY	HOT SPRINGS CITY IN
	GARLAND COUNTY
INDEPENDENCE COUNTY	INDEPENDENCE COUNTY
JACKSON COUNTY	JACKSON COUNTY
JACKSONVILLE CITY	JACKSONVILLE CITY IN
	PULASKI COUNTY
JOHNSON COUNTY	JOHNSON COUNTY
LAFAYETTE COUNTY	LAFAYETTE COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LEE COUNTY	LEE COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
LITTLE RIVER COUNTY	LITTLE RIVER COUNTY
LOGAN COUNTY	LOGAN COUNTY
MADISON COUNTY	MADISON COUNTY
MISSISSIPPI COUNTY	MISSISSIPPI COUNTY
MONROE COUNTY	MONROE COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
NEVADA COUNTY	NEVADA COUNTY
NEWTON COUNTY	NEWTON COUNTY
OUACHITA COUNTY	OUACHITA COUNTY
PERRY COUNTY	PERRY COUNTY
PHILLIPS COUNTY	PHILLIPS COUNTY
PIKE COUNTY	PIKE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
ARKANSAS (CONT'D)	
PINE BLUFF CITY	PINE BLUFF CITY IN JEFFERSON COUNTY
POINSETT COUNTY	POINSETT COUNTY
POLK COUNTY	POLK COUNTY
PRAIRIE COUNTY	PRAIRIE COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
SEARCY COUNTY	SEARCY COUNTY
BALANCE OF SEBASTIAN COUNTY	SEBASTIAN COUNTY LESS FORT SMITH CITY
SEVIER COUNTY	SEVIER COUNTY
SHARP COUNTY	SHARP COUNTY
ST. FRANCIS COUNTY	ST. FRANCIS COUNTY
STONE COUNTY	STONE COUNTY
TEXARKANA CITY ARK	TEXARKANA CITY ARK IN MILLER COUNTY
BALANCE OF UNION COUNTY	UNION COUNTY LESS EL DORADO CITY
VAN BUREN COUNTY	VAN BUREN COUNTY
WEST MEMPHIS CITY	WEST MEMPHIS CITY IN CRITTENDEN COUNTY
WHITE COUNTY	WHITE COUNTY
WOODRUFF COUNTY	WOODRUFF COUNTY
CALIFORNIA	
BALDWIN PARK CITY	BALDWIN PARK CITY IN LOS ANGELES COUNTY
BELL GARDENS CITY	BELL GARDENS CITY IN LOS ANGELES COUNTY
BALANCE OF BUTTE COUNTY	BUTTE COUNTY LESS CHICO CITY
CALAVERAS COUNTY	CALAVERAS COUNTY
CHICO CITY	CHICO CITY IN BUTTE COUNTY
CLOVIS CITY	CLOVIS CITY IN FRESNO COUNTY
COLUSA COUNTY	COLUSA COUNTY
COMPTON CITY	COMPTON CITY IN LOS ANGELES COUNTY
DEL NORTE COUNTY	DEL NORTE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
CALIFORNIA (CONT'D)	
EL CENTRO CITY	EL CENTRO CITY IN IMPERIAL COUNTY
EL MONTE CITY	EL MONTE CITY IN LOS ANGELES COUNTY
FAIRFIELD CITY	FAIRFIELD CITY IN SOLANO COUNTY
FONTANA CITY	FONTANA CITY IN SAN BERNARDINO COUNTY
FRESNO CITY	FRESNO CITY IN FRESNO COUNTY
BALANCE OF FRESNO COUNTY	FRESNO COUNTY LESS CLOVIS CITY FRESNO CITY
GILROY CITY	GILROY CITY IN SANTA CLARA COUNTY
GLENN COUNTY	GLENN COUNTY
HUMBOLDT COUNTY	HUMBOLDT COUNTY
HUNTINGTON PARK CITY	HUNTINGTON PARK CITY IN LOS ANGELES COUNTY
BALANCE OF IMPERIAL COUNTY	IMPERIAL COUNTY LESS EL CENTRO CITY
BALANCE OF KERN COUNTY	KERN COUNTY LESS BAKERSFIELD CITY
KINGS COUNTY	KINGS COUNTY
LAKE COUNTY	LAKE COUNTY
LASSEN COUNTY	LASSEN COUNTY
LODI CITY	LODI CITY IN SAN JOAQUIN COUNTY
LOMPOC CITY	LOMPOC CITY IN SANTA BARBARA COUNTY
LYNWOOD CITY	LYNWOOD CITY IN LOS ANGELES COUNTY
MADERA COUNTY	MADERA COUNTY
MANTECA CITY	MANTECA CITY IN SAN JOAQUIN COUNTY
MARINA CITY	MARINA CITY IN MONTEREY COUNTY
MENDOCINO COUNTY	MENDOCINO COUNTY
MERCED CITY	MERCED CITY IN MERCED COUNTY
BALANCE OF MERCED COUNTY	MERCED COUNTY LESS MERCED CITY
MODESTO CITY	MODESTO CITY IN STANISLAUS COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
CALIFORNIA (CONT'D)	
MODOC COUNTY	MODOC COUNTY
BALANCE OF MONTEREY COUNTY	MONTEREY COUNTY LESS
	MARINA CITY
	MONTEREY CITY
	SALINAS CITY
	SEASIDE CITY
OAKLAND CITY	OAKLAND CITY IN
	ALAMEDA COUNTY
OXNARD CITY	OXNARD CITY IN
	VENTURA COUNTY
PARAMOUNT CITY	PARAMOUNT CITY IN
	LOS ANGELES COUNTY
PLUMAS COUNTY	PLUMAS COUNTY
REDDING CITY	REDDING CITY IN
	SHASTA COUNTY
RICHMOND CITY	RICHMOND CITY IN
	CONTRA COSTA COUNTY
SALINAS CITY	SALINAS CITY IN
	MONTEREY COUNTY
SAN BENITO COUNTY	SAN BENITO COUNTY
BALANCE OF SAN JOAQUIN COUNTY	SAN JOAQUIN COUNTY LESS
	LODI CITY
	MANTECA CITY
	STOCKTON CITY
SANTA CRUZ CITY	SANTA CRUZ CITY IN
	SANTA CRUZ COUNTY
SANTA MARIA CITY	SANTA MARIA CITY IN
	SANTA BARBARA COUNTY
SEASIDE CITY	SEASIDE CITY IN
	MONTEREY COUNTY
BALANCE OF SHASTA COUNTY	SHASTA COUNTY LESS
	REDDING CITY
SIERRA COUNTY	SIERRA COUNTY
SISKIYOU COUNTY	SISKIYOU COUNTY
BALANCE OF STANISLAUS COUNTY	STANISLAUS COUNTY LESS
	MODESTO CITY
	TURLOCK CITY
STOCKTON CITY	STOCKTON CITY IN
	SAN JOAQUIN COUNTY
SUTTER COUNTY	SUTTER COUNTY
TEHAMA COUNTY	TEHAMA COUNTY
TRINITY COUNTY	TRINITY COUNTY
TULARE CITY	TULARE CITY IN
	TULARE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
CALIFORNIA (CONT'D)	
BALANCE OF TULARE COUNTY	TULARE COUNTY LESS
	TULARE CITY
	VISALIA CITY
TUOLUMNE COUNTY	TUOLUMNE COUNTY
TURLOCK CITY	TURLOCK CITY IN
	STANISLAUS COUNTY
VISALIA CITY	VISALIA CITY IN
	TULARE COUNTY
WATSONVILLE CITY	WATSONVILLE CITY IN
	SANTA CRUZ COUNTY
WOODLAND CITY	WOODLAND CITY IN
	YOLO COUNTY
BALANCE OF YOLO COUNTY	YOLO COUNTY LESS
	DAVIS CITY
	WOODLAND CITY
YUBA COUNTY	YUBA COUNTY
COLORADO	
ALAMOSA COUNTY	ALAMOSA COUNTY
ARCHULETA COUNTY	ARCHULETA COUNTY
CHAFFEE COUNTY	CHAFFEE COUNTY
CLEAR CREEK COUNTY	CLEAR CREEK COUNTY
CONEJOS COUNTY	CONEJOS COUNTY
COSTILLA COUNTY	COSTILLA COUNTY
CUSTER COUNTY	CUSTER COUNTY
DELTA COUNTY	DELTA COUNTY
FREMONT COUNTY	FREMONT COUNTY
GARFIELD COUNTY	GARFIELD COUNTY
GRAND JUNCTION CITY	GRAND JUNCTION CITY IN
	MESA COUNTY
GREELEY CITY	GREELEY CITY IN
	WELD COUNTY
HUERFANO COUNTY	HUERFANO COUNTY
LAKE COUNTY	LAKE COUNTY
LAS ANIMAS COUNTY	LAS ANIMAS COUNTY
BALANCE OF MESA COUNTY	MESA COUNTY LESS
	GRAND JUNCTION CITY
MINERAL COUNTY	MINERAL COUNTY
MOFFAT COUNTY	MOFFAT COUNTY
MONTEZUMA COUNTY	MONTEZUMA COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
COLORADO (CONT'D)	
MONTROSE COUNTY	MONTROSE COUNTY
MORGAN COUNTY	MORGAN COUNTY
OTERO COUNTY	OTERO COUNTY
OURAY COUNTY	OURAY COUNTY
PUEBLO CITY	PUEBLO CITY IN
	PUEBLO COUNTY
BALANCE OF PUEBLO COUNTY	PUEBLO COUNTY LESS
	PUEBLO CITY
RIO GRANDE COUNTY	RIO GRANDE COUNTY
SAGUACHE COUNTY	SAGUACHE COUNTY
SAN JUAN COUNTY	SAN JUAN COUNTY
CONNECTICUT	
VOLUNTOWN TOWN	VOLUNTOWN TOWN
FLORIDA	
BALANCE OF BAY COUNTY	BAY COUNTY LESS
	PANAMA CITY
CALHOUN COUNTY	CALHOUN COUNTY
FORT PIERCE CITY	FORT PIERCE CITY IN
	ST. LUCIE COUNTY
GULF COUNTY	GULF COUNTY
HARDEE COUNTY	HARDEE COUNTY
HENDRY COUNTY	HENDRY COUNTY
HIALEAH CITY	HIALEAH CITY IN
	DADE COUNTY
HOLMES COUNTY	HOLMES COUNTY
INDIAN RIVER COUNTY	INDIAN RIVER COUNTY
LAKE COUNTY	LAKE COUNTY
LAKELAND CITY	LAKELAND CITY IN
	POLK COUNTY
MIAMI CITY	MIAMI CITY IN
	DADE COUNTY
OKEECHOBEE COUNTY	OKEECHOBEE COUNTY
PANAMA CITY	PANAMA CITY IN
	BAY COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
FLORIDA (CONT'D)	
BALANCE OF POLK COUNTY	POLK COUNTY LESS
	LAKELAND CITY
BALANCE OF ST. LUCIE COUNTY	ST. LUCIE COUNTY LESS
	FORT PIERCE CITY
	PORT ST. LUCIE CITY
SUMTER COUNTY	SUMTER COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
GEORGIA	
ALBANY CITY	ALBANY CITY IN
	DOUGHERTY COUNTY
AUGUSTA CITY	AUGUSTA CITY IN
	RICHMOND COUNTY
BARTOW COUNTY	BARTOW COUNTY
BRANTLEY COUNTY	BRANTLEY COUNTY
BUTTS COUNTY	BUTTS COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
CHATTAHOOCHEE COUNTY	CHATTAHOOCHEE COUNTY
CHATTOOGA COUNTY	CHATTOOGA COUNTY
COFFEE COUNTY	COFFEE COUNTY
CRISP COUNTY	CRISP COUNTY
DODGE COUNTY	DODGE COUNTY
DOOLY COUNTY	DOOLY COUNTY
BALANCE OF DOUGHERTY COUNTY	DOUGHERTY COUNTY LESS
	ALBANY CITY
EARLY COUNTY	EARLY COUNTY
ELBERT COUNTY	ELBERT COUNTY
EMANUEL COUNTY	EMANUEL COUNTY
GREENE COUNTY	GREENE COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
HARALSON COUNTY	HARALSON COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JENKINS COUNTY	JENKINS COUNTY
LAURENS COUNTY	LAURENS COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
LONG COUNTY	LONG COUNTY
MACON COUNTY	MACON COUNTY
MC INTOSH COUNTY	MC INTOSH COUNTY
MERIWETHER COUNTY	MERIWETHER COUNTY
MITCHELL COUNTY	MITCHELL COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
GEORGIA (CONT'D)	
MORGAN COUNTY	MORGAN COUNTY
PIERCE COUNTY	PIERCE COUNTY
POLK COUNTY	POLK COUNTY
PULASKI COUNTY	PULASKI COUNTY
QUITMAN COUNTY	QUITMAN COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
ROME CITY	ROME CITY IN FLOYD COUNTY
STEPHENS COUNTY	STEPHENS COUNTY
STEWART COUNTY	STEWART COUNTY
TALBOT COUNTY	TALBOT COUNTY
TALIAFERRO COUNTY	TALIAFERRO COUNTY
TAYLOR COUNTY	TAYLOR COUNTY
TELFAIR COUNTY	TELFAIR COUNTY
TERRELL COUNTY	TERRELL COUNTY
TURNER COUNTY	TURNER COUNTY
UPSON COUNTY	UPSON COUNTY
WARE COUNTY	WARE COUNTY
WAYNE COUNTY	WAYNE COUNTY
WEBSTER COUNTY	WEBSTER COUNTY
WILCOX COUNTY	WILCOX COUNTY
WILKES COUNTY	WILKES COUNTY
WORTH COUNTY	WORTH COUNTY
IDAHO	
ADAMS COUNTY	ADAMS COUNTY
BALANCE OF BANNOCK COUNTY	BANNOCK COUNTY LESS POCATELLO CITY
BEAR LAKE COUNTY	BEAR LAKE COUNTY
BENEWAH COUNTY	BENEWAH COUNTY
BINGHAM COUNTY	BINGHAM COUNTY
BOISE COUNTY	BOISE COUNTY
BONNER COUNTY	BONNER COUNTY
BOUNDARY COUNTY	BOUNDARY COUNTY
CANAS COUNTY	CANAS COUNTY
BALANCE OF CANYON COUNTY	CANYON COUNTY LESS NAMPA CITY
CARIBOU COUNTY	CARIBOU COUNTY
CASSIA COUNTY	CASSIA COUNTY
CLEARWATER COUNTY	CLEARWATER COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
IDAHO (CONT'D)	
FREMONT COUNTY	FREMONT COUNTY
GEM COUNTY	GEM COUNTY
IDAHO COUNTY	IDAHO COUNTY
KOOTENAI COUNTY	KOOTENAI COUNTY
LEMHI COUNTY	LEMHI COUNTY
LEWIS COUNTY	LEWIS COUNTY
MINIDOKA COUNTY	MINIDOKA COUNTY
NAMPA CITY	NAMPA CITY IN CANYON COUNTY
BALANCE OF NEZ PERCE COUNTY	NEZ PERCE COUNTY LESS LEWISTON CITY
POCATELLO CITY	POCATELLO CITY IN BANNOCK COUNTY POWER COUNTY
POWER COUNTY	SHOSHONE COUNTY
SHOSHONE COUNTY	TWINS FALLS CITY IN
TWINS FALLS CITY	TWIN FALLS COUNTY
VALLEY COUNTY	VALLEY COUNTY
ILLINOIS	
ALEXANDER COUNTY	ALEXANDER COUNTY
ALTON CITY	ALTON CITY IN MADISON COUNTY
AURORA CITY	AURORA CITY IN DU PAGE COUNTY KANE COUNTY
BELLEVILLE CITY	BELLEVILLE CITY IN ST. CLAIR COUNTY
BOND COUNTY	BOND COUNTY
BOONE COUNTY	BOONE COUNTY
BROWN COUNTY	BROWN COUNTY
BURBANK CITY	BURBANK CITY IN COOK COUNTY
BUREAU COUNTY	BUREAU COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
CARROLL COUNTY	CARROLL COUNTY
CASS COUNTY	CASS COUNTY
CHICAGO CITY	CHICAGO CITY IN COOK COUNTY
CHRISTIAN COUNTY	CHRISTIAN COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
ILLINOIS (CONT'D)	
CICERO CITY	CICERO CITY IN COOK COUNTY
CLARK COUNTY	CLARK COUNTY
CLAY COUNTY	CLAY COUNTY
CLINTON COUNTY	CLINTON COUNTY
COLES COUNTY	COLES COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
CUMBERLAND COUNTY	CUMBERLAND COUNTY
DANVILLE CITY	DANVILLE CITY IN VERMILION COUNTY
DE WITT COUNTY	DE WITT COUNTY
DECATUR CITY	DECATUR CITY IN MACON COUNTY
EAST ST. LOUIS CITY	EAST ST. LOUIS CITY IN ST. CLAIR COUNTY
EDGAR COUNTY	EDGAR COUNTY
EDWARDS COUNTY	EDWARDS COUNTY
EFFINGHAM COUNTY	EFFINGHAM COUNTY
FAYETTE COUNTY	FAYETTE COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
FREEPORT CITY	FREEPORT CITY IN STEPHENSON COUNTY
FULTON COUNTY	FULTON COUNTY
GALESBURG CITY	GALESBURG CITY IN KNOX COUNTY
GALLATIN COUNTY	GALLATIN COUNTY
GRANITE CITY	GRANITE CITY IN MADISON COUNTY
GREENE COUNTY	GREENE COUNTY
GRUNDY COUNTY	GRUNDY COUNTY
HAMILTON COUNTY	HAMILTON COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
HARDIN COUNTY	HARDIN COUNTY
HARVEY CITY	HARVEY CITY IN COOK COUNTY
HENDERSON COUNTY	HENDERSON COUNTY
HENRY COUNTY	HENRY COUNTY
BALANCE OF JACKSON COUNTY	JACKSON COUNTY LESS CARBONDALE CITY
JASPER COUNTY	JASPER COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JERSEY COUNTY	JERSEY COUNTY
JO DAVIESS COUNTY	JO DAVIESS COUNTY
JOHNSON COUNTY	JOHNSON COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
ILLINOIS (CONT'D)	
JOLIET CITY	JOLIET CITY IN WILL COUNTY
KANKAKEE CITY	KANKAKEE CITY IN KANKAKEE COUNTY
BALANCE OF KANKAKEE COUNTY	KANKAKEE COUNTY LESS KANKAKEE CITY
BALANCE OF KNOX COUNTY	KNOX COUNTY LESS GALESBURG CITY
LA SALLE COUNTY	LA SALLE COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LEE COUNTY	LEE COUNTY
MACOUPIN COUNTY	MACOUPIN COUNTY
BALANCE OF MADISON COUNTY	MADISON COUNTY LESS ALTON CITY GRANITE CITY
MARION COUNTY	MARION COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
MASON COUNTY	MASON COUNTY
MASSAC COUNTY	MASSAC COUNTY
MAYWOOD VILLAGE	MAYWOOD VILLAGE IN COOK COUNTY
MC DONOUGH COUNTY	MC DONOUGH COUNTY
MERCER COUNTY	MERCER COUNTY
MOLINE CITY	MOLINE CITY IN ROCK ISLAND COUNTY
MONROE COUNTY	MONROE COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
NORTH CHICAGO CITY	NORTH CHICAGO CITY IN LAKE COUNTY
OGLE COUNTY	OGLE COUNTY
PEKIN CITY	PEKIN CITY IN TAZEWELL COUNTY
PEORIA CITY	PEORIA CITY IN PEORIA COUNTY
PERRY COUNTY	PERRY COUNTY
PIATT COUNTY	PIATT COUNTY
PIKE COUNTY	PIKE COUNTY
POPE COUNTY	POPE COUNTY
PULASKI COUNTY	PULASKI COUNTY
PUTNAM COUNTY	PUTNAM COUNTY
QUINCY CITY	QUINCY CITY IN ADAMS COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
RICHLAND COUNTY	RICHLAND COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
ILLINOIS (CONT'D)	
ROCK ISLAND CITY	ROCK ISLAND CITY IN
BALANCE OF ROCK ISLAND COUNTY	ROCK ISLAND COUNTY ROCK ISLAND COUNTY LESS MOLINE CITY ROCK ISLAND CITY
ROCKFORD CITY	ROCKFORD CITY IN WINNEBAGO COUNTY
SALINE COUNTY	SALINE COUNTY
SCHUYLER COUNTY	SCHUYLER COUNTY
SCOTT COUNTY	SCOTT COUNTY
SHELBY COUNTY	SHELBY COUNTY
BALANCE OF ST. CLAIR COUNTY	ST. CLAIR COUNTY LESS BELLEVILLE CITY EAST ST. LOUIS CITY
STARK COUNTY	STARK COUNTY
BALANCE OF TAZEWELL COUNTY	TAZEWELL COUNTY LESS PEKIN CITY
UNION COUNTY	UNION COUNTY
BALANCE OF VERMILION COUNTY	VERMILION COUNTY LESS DANVILLE CITY
WABASH COUNTY	WABASH COUNTY
WARREN COUNTY	WARREN COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WAYNE COUNTY	WAYNE COUNTY
WHITE COUNTY	WHITE COUNTY
WHITESIDE COUNTY	WHITESIDE COUNTY
WILLIAMSON COUNTY	WILLIAMSON COUNTY
INDIANA	
BLACKFORD COUNTY	BLACKFORD COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
DAVIESS COUNTY	DAVIESS COUNTY
DEARBORN COUNTY	DEARBORN COUNTY
EAST CHICAGO CITY	EAST CHICAGO CITY IN LAKE COUNTY
FAYETTE COUNTY	FAYETTE COUNTY
FOUNTAIN COUNTY	FOUNTAIN COUNTY
GARY CITY	GARY CITY IN LAKE COUNTY
GREENE COUNTY	GREENE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
INDIANA (CONT'D)	
HAMMOND CITY	HAMMOND CITY IN LAKE COUNTY
HENRY COUNTY	HENRY COUNTY
JACKSON COUNTY	JACKSON COUNTY
JASPER COUNTY	JASPER COUNTY
JAY COUNTY	JAY COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
KOKOMO CITY	KOKOMO CITY IN HOWARD COUNTY
BALANCE OF LAKE COUNTY	LAKE COUNTY LESS EAST CHICAGO CITY GARY CITY HAMMOND CITY MERRILLVILLE TOWN
LAWRENCE COUNTY	LAWRENCE COUNTY
MARION CITY	MARION CITY IN GRANT COUNTY
MARTIN COUNTY	MARTIN COUNTY
MICHIGAN CITY	MICHIGAN CITY IN LA PORTE COUNTY
MUNCIE CITY	MUNCIE CITY IN DELAWARE COUNTY
OHIO COUNTY	OHIO COUNTY
ORANGE COUNTY	ORANGE COUNTY
PERRY COUNTY	PERRY COUNTY
PIKE COUNTY	PIKE COUNTY
PORTAGE CITY	PORTAGE CITY IN PORTER COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
RICHMOND CITY	RICHMOND CITY IN WAYNE COUNTY
SCOTT COUNTY	SCOTT COUNTY
SPENCER COUNTY	SPENCER COUNTY
STARKE COUNTY	STARKE COUNTY
SULLIVAN COUNTY	SULLIVAN COUNTY
SWITZERLAND COUNTY	SWITZERLAND COUNTY
TERRE HAUTE CITY	TERRE HAUTE CITY IN VIGO COUNTY
VERMILLION COUNTY	VERMILLION COUNTY
BALANCE OF WAYNE COUNTY	WAYNE COUNTY LESS RICHMOND CITY
WHITE COUNTY	WHITE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
IOWA	
ALLAMAKEE COUNTY	ALLAMAKEE COUNTY
APPANOOSE COUNTY	APPANOOSE COUNTY
BALANCE OF BLACK HAWK COUNTY	BLACK HAWK COUNTY LESS CEDAR FALLS CITY WATERLOO CITY
BREMER COUNTY	BREMER COUNTY
BUCHANAN COUNTY	BUCHANAN COUNTY
BURLINGTON CITY	BURLINGTON CITY IN DES MOINES COUNTY
BUTLER COUNTY	BUTLER COUNTY
CEDAR FALLS CITY	CEDAR FALLS CITY IN BLACK HAWK COUNTY
CHICKASAW COUNTY	CHICKASAW COUNTY
CLARKE COUNTY	CLARKE COUNTY
CLAYTON COUNTY	CLAYTON COUNTY
CLINTON CITY	CLINTON CITY IN CLINTON COUNTY
DAVIS COUNTY	DAVIS COUNTY
DELAWARE COUNTY	DELAWARE COUNTY
BALANCE OF DES MOINES COUNTY	DES MOINES COUNTY LESS BURLINGTON CITY
DICKINSON COUNTY	DICKINSON COUNTY
DUBUQUE CITY	DUBUQUE CITY IN DUBUQUE COUNTY
EMMET COUNTY	EMMET COUNTY
FAYETTE COUNTY	FAYETTE COUNTY
FLOYD COUNTY	FLOYD COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
HOWARD COUNTY	HOWARD COUNTY
JACKSON COUNTY	JACKSON COUNTY
LEE COUNTY	LEE COUNTY
LOUISA COUNTY	LOUISA COUNTY
MONONA COUNTY	MONONA COUNTY
MONROE COUNTY	MONROE COUNTY
OTTUMWA CITY	OTTUMWA CITY IN NAPELLO COUNTY
SAC COUNTY	SAC COUNTY
VAN BUREN COUNTY	VAN BUREN COUNTY
BALANCE OF NAPELLO COUNTY	NAPELLO COUNTY LESS OTTUMWA CITY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
IOWA (CONT'D)	
WATERLOO CITY	WATERLOO CITY IN BLACK HAWK COUNTY
BALANCE OF WEBSTER COUNTY	WEBSTER COUNTY LESS FORT DODGE CITY
BALANCE OF WOODBURY COUNTY	WOODBURY COUNTY LESS SIOUX CITY
KANSAS	
ALLEN COUNTY	ALLEN COUNTY
CHEROKEE COUNTY	CHEROKEE COUNTY
COFFEY COUNTY	COFFEY COUNTY
LINN COUNTY	LINN COUNTY
NEOSHO COUNTY	NEOSHO COUNTY
KENTUCKY	
ADAIR COUNTY	ADAIR COUNTY
ALLEN COUNTY	ALLEN COUNTY
ANDERSON COUNTY	ANDERSON COUNTY
ASHLAND CITY	ASHLAND CITY IN BOYD COUNTY
BALLARD COUNTY	BALLARD COUNTY
BARREN COUNTY	BARREN COUNTY
BATH COUNTY	BATH COUNTY
BELL COUNTY	BELL COUNTY
BALANCE OF BOYD COUNTY	BOYD COUNTY LESS ASHLAND CITY
BOYLE COUNTY	BOYLE COUNTY
BRACKEN COUNTY	BRACKEN COUNTY
BREATHITT COUNTY	BREATHITT COUNTY
BRECKINRIDGE COUNTY	BRECKINRIDGE COUNTY
BUTLER COUNTY	BUTLER COUNTY
CALDWELL COUNTY	CALDWELL COUNTY
CARLISLE COUNTY	CARLISLE COUNTY
CARTER COUNTY	CARTER COUNTY
CASEY COUNTY	CASEY COUNTY
CLARK COUNTY	CLARK COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
KENTUCKY (CONT'D)	
CLAY COUNTY	CLAY COUNTY
CLINTON COUNTY	CLINTON COUNTY
CRITTENDEN COUNTY	CRITTENDEN COUNTY
CUMBERLAND COUNTY	CUMBERLAND COUNTY
BALANCE OF DAVIESS COUNTY	DAVIESS COUNTY LESS OWENSBORO CITY
EDMONSON COUNTY	EDMONSON COUNTY
ELLIOTT COUNTY	ELLIOTT COUNTY
ESTILL COUNTY	ESTILL COUNTY
FLEMING COUNTY	FLEMING COUNTY
FLOYD COUNTY	FLOYD COUNTY
FULTON COUNTY	FULTON COUNTY
GALLATIN COUNTY	GALLATIN COUNTY
GARRARD COUNTY	GARRARD COUNTY
GRAVES COUNTY	GRAVES COUNTY
GRAYSON COUNTY	GRAYSON COUNTY
GREEN COUNTY	GREEN COUNTY
GREENUP COUNTY	GREENUP COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
HARLAN COUNTY	HARLAN COUNTY
HART COUNTY	HART COUNTY
HENDERSON CITY	HENDERSON CITY IN HENDERSON COUNTY
BALANCE OF HENDERSON COUNTY	HENDERSON COUNTY LESS HENDERSON CITY
HENRY COUNTY	HENRY COUNTY
HICKMAN COUNTY	HICKMAN COUNTY
HOPKINS COUNTY	HOPKINS COUNTY
HOPKINSVILLE CITY	HOPKINSVILLE CITY IN CHRISTIAN COUNTY
JACKSON COUNTY	JACKSON COUNTY
JOHNSON COUNTY	JOHNSON COUNTY
KNOTT COUNTY	KNOTT COUNTY
KNOX COUNTY	KNOX COUNTY
LARUE COUNTY	LARUE COUNTY
LAUREL COUNTY	LAUREL COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LEE COUNTY	LEE COUNTY
LESLIE COUNTY	LESLIE COUNTY
LETCHER COUNTY	LETCHER COUNTY
LEWIS COUNTY	LEWIS COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
LIVINGSTON COUNTY	LIVINGSTON COUNTY
LOGAN COUNTY	LOGAN COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
KENTUCKY (CONT'D)	
LYON COUNTY	LYON COUNTY
MAGOFFIN COUNTY	MAGOFFIN COUNTY
MARION COUNTY	MARION COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
MARTIN COUNTY	MARTIN COUNTY
MASON COUNTY	MASON COUNTY
BALANCE OF MC CRACKEN COUNTY	MC CRACKEN COUNTY LESS PADUCAH CITY
MC CREARY COUNTY	MC CREARY COUNTY
MC LEAN COUNTY	MC LEAN COUNTY
MEADE COUNTY	MEADE COUNTY
MENIFEE COUNTY	MENIFEE COUNTY
METCALFE COUNTY	METCALFE COUNTY
MONROE COUNTY	MONROE COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
MORGAN COUNTY	MORGAN COUNTY
MUHLENBERG COUNTY	MUHLENBERG COUNTY
NELSON COUNTY	NELSON COUNTY
OHIO COUNTY	OHIO COUNTY
OWENSBORO CITY	OWENSBORO CITY IN DAVIESS COUNTY
OWSLEY COUNTY	OWSLEY COUNTY
PENDLETON COUNTY	PENDLETON COUNTY
PERRY COUNTY	PERRY COUNTY
PIKE COUNTY	PIKE COUNTY
POWELL COUNTY	POWELL COUNTY
PULASKI COUNTY	PULASKI COUNTY
ROBERTSON COUNTY	ROBERTSON COUNTY
ROCKCASTLE COUNTY	ROCKCASTLE COUNTY
ROWAN COUNTY	ROWAN COUNTY
RUSSELL COUNTY	RUSSELL COUNTY
SPENCER COUNTY	SPENCER COUNTY
TODD COUNTY	TODD COUNTY
TRIGG COUNTY	TRIGG COUNTY
UNION COUNTY	UNION COUNTY
BALANCE OF WARREN COUNTY	WARREN COUNTY LESS BOWLING GREEN CITY
WASHINGTON COUNTY	WASHINGTON COUNTY
WAYNE COUNTY	WAYNE COUNTY
WEBSTER COUNTY	WEBSTER COUNTY
WHITLEY COUNTY	WHITLEY COUNTY
WOLFE COUNTY	WOLFE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
LOUISIANA	
ACADIA PARISH	ACADIA PARISH
ALEXANDRIA CITY	ALEXANDRIA CITY IN
	RAPIDES PARISH
ALLEN PARISH	ALLEN PARISH
ASCENSION PARISH	ASCENSION PARISH
ASSUMPTION PARISH	ASSUMPTION PARISH
AVOYELLES PARISH	AVOYELLES PARISH
BATON ROUGE CITY	BATON ROUGE CITY IN
	EAST BATON ROUGE PARISH
BEAUREGARD PARISH	BEAUREGARD PARISH
BIENVILLE PARISH	BIENVILLE PARISH
BOSSIER CITY	BOSSIER CITY IN
	BOSSIER PARISH
BALANCE OF BOSSIER PARISH	BOSSIER PARISH LESS
	BOSSIER CITY
	SHREVEPORT CITY
BALANCE OF CADDO PARISH	CADDO PARISH LESS
	SHREVEPORT CITY
BALANCE OF CALCASIEU PARISH	CALCASIEU PARISH LESS
	LAKE CHARLES CITY
CALDWELL PARISH	CALDWELL PARISH
CAMERON PARISH	CAMERON PARISH
CATAHOULA PARISH	CATAHOULA PARISH
CLAIBORNE PARISH	CLAIBORNE PARISH
CONCORDIA PARISH	CONCORDIA PARISH
DE SOTO PARISH	DE SOTO PARISH
EAST CARROLL PARISH	EAST CARROLL PARISH
EAST FELICIANA PARISH	EAST FELICIANA PARISH
EVANGELINE PARISH	EVANGELINE PARISH
FRANKLIN PARISH	FRANKLIN PARISH
GRANT PARISH	GRANT PARISH
BALANCE OF IBERIA PARISH	IBERIA PARISH LESS
	NEW IBERIA CITY
IBERVILLE PARISH	IBERVILLE PARISH
JACKSON PARISH	JACKSON PARISH
JEFFERSON DAVIS PARISH	JEFFERSON DAVIS PARISH
BALANCE OF JEFFERSON PARISH	JEFFERSON PARISH LESS
	KENNER CITY
KENNER CITY	KENNER CITY IN
	JEFFERSON PARISH
LA SALLE PARISH	LA SALLE PARISH

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
LOUISIANA (CONT'D)	
LAFAYETTE CITY	LAFAYETTE CITY IN
	LAFAYETTE PARISH
BALANCE OF LAFAYETTE PARISH	LAFAYETTE PARISH LESS
	LAFAYETTE CITY
LAFOURCHE PARISH	LAFOURCHE PARISH
LAKE CHARLES CITY	LAKE CHARLES CITY IN
	CALCASIEU PARISH
LIVINGSTON PARISH	LIVINGSTON PARISH
MADISON PARISH	MADISON PARISH
MONROE CITY	MONROE CITY IN
	OUACHITA PARISH
MOREHOUSE PARISH	MOREHOUSE PARISH
NATCHITOCHES PARISH	NATCHITOCHES PARISH
NEW IBERIA CITY	NEW IBERIA CITY IN
	IBERIA PARISH
NEW ORLEANS CITY	NEW ORLEANS CITY IN
	ORLEANS PARISH
BALANCE OF OUACHITA PARISH	OUACHITA PARISH LESS
	MONROE CITY
PLAQUEMINES PARISH	PLAQUEMINES PARISH
POINTE COUPEE PARISH	POINTE COUPEE PARISH
BALANCE OF RAPIDES PARISH	RAPIDES PARISH LESS
	ALEXANDRIA CITY
RED RIVER PARISH	RED RIVER PARISH
RICHLAND PARISH	RICHLAND PARISH
SABINE PARISH	SABINE PARISH
SHREVEPORT CITY	SHREVEPORT CITY IN
	BOSSIER PARISH
	CADDO PARISH
SLIDELL CITY	SLIDELL CITY IN
	ST. TAMMANY PARISH
ST. BERNARD PARISH	ST. BERNARD PARISH
ST. CHARLES PARISH	ST. CHARLES PARISH
ST. HELENA PARISH	ST. HELENA PARISH
ST. JAMES PARISH	ST. JAMES PARISH
ST. JOHN BAPTIST PARISH	ST. JOHN BAPTIST PARISH
ST. LANDRY PARISH	ST. LANDRY PARISH
ST. MARTIN PARISH	ST. MARTIN PARISH
ST. MARY PARISH	ST. MARY PARISH
BALANCE OF ST. TAMMANY PARISH	ST. TAMMANY PARISH LESS
	SLIDELL CITY
TANGIPAHOA PARISH	TANGIPAHOA PARISH
TENSAS PARISH	TENSAS PARISH
TERREBONNE PARISH	TERREBONNE PARISH

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
LOUISIANA (CONT'D)	
UNION PARISH	UNION PARISH
VERMILION PARISH	VERMILION PARISH
VERNON PARISH	VERNON PARISH
WASHINGTON PARISH	WASHINGTON PARISH
WEBSTER PARISH	WEBSTER PARISH
WEST BATON ROUGE PARISH	WEST BATON ROUGE PARISH
WEST CARROLL PARISH	WEST CARROLL PARISH
WEST FELICIANA PARISH	WEST FELICIANA PARISH
WINN PARISH	WINN PARISH
MAINE	
WALDO COUNTY	WALDO COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
MARYLAND	
ALLEGANY COUNTY	ALLEGANY COUNTY
DORCHESTER COUNTY	DORCHESTER COUNTY
GARRETT COUNTY	GARRETT COUNTY
HAGERSTOWN CITY	HAGERSTOWN CITY IN WASHINGTON COUNTY
SOMERSET COUNTY	SOMERSET COUNTY
MASSACHUSETTS	
PROVINCETOWN TOWN	PROVINCETOWN TOWN IN BARNSTABLE COUNTY
SAVOY TOWN	SAVOY TOWN IN BERKSHIRE COUNTY
TRURO TOWN	TRURO TOWN IN BARNSTABLE COUNTY
WENDELL TOWN	WENDELL TOWN IN FRANKLIN COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
MICHIGAN	
ALCONA COUNTY	ALCONA COUNTY
ALGER COUNTY	ALGER COUNTY
ALPENA COUNTY	ALPENA COUNTY
ANTRIM COUNTY	ANTRIM COUNTY
ARENAC COUNTY	ARENAC COUNTY
BARAGA COUNTY	BARAGA COUNTY
BARRY COUNTY	BARRY COUNTY
BATTLE CREEK CITY	BATTLE CREEK CITY IN CALHOUN COUNTY
BAY CITY	BAY CITY IN BAY COUNTY
BALANCE OF BAY COUNTY	BAY COUNTY LESS BAY CITY MIDLAND CITY
BENZIE COUNTY	BENZIE COUNTY
BERRIEN COUNTY	BERRIEN COUNTY
BRANCH COUNTY	BRANCH COUNTY
BURTON CITY	BURTON CITY IN GENESEE COUNTY
BALANCE OF CALHOUN COUNTY	CALHOUN COUNTY LESS BATTLE CREEK CITY
CASS COUNTY	CASS COUNTY
CHARLEVOIX COUNTY	CHARLEVOIX COUNTY
CHEBOYGAN COUNTY	CHEBOYGAN COUNTY
CHIPPEWA COUNTY	CHIPPEWA COUNTY
CLARE COUNTY	CLARE COUNTY
CLINTON TOWNSHIP	CLINTON TOWNSHIP IN MACOMB COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
DELTA COUNTY	DELTA COUNTY
DETROIT CITY	DETROIT CITY IN WAYNE COUNTY
DICKINSON COUNTY	DICKINSON COUNTY
EAST DETROIT CITY	EAST DETROIT CITY IN MACOMB COUNTY
EMMET COUNTY	EMMET COUNTY
FERNDALE CITY	FERNDALE CITY IN OAKLAND COUNTY
FLINT CITY	FLINT CITY IN GENESEE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
MICHIGAN (CONT'D)	
FLINT TOWNSHIP	FLINT TOWNSHIP IN
BALANCE OF GENESEE COUNTY	GENESEE COUNTY
	GENESEE COUNTY LESS
	BURTON CITY
	FLINT CITY
	FLINT TOWNSHIP
	MOUNT MORRIS TOWNSHIP
GLADWIN COUNTY	GLADWIN COUNTY
GOGEBIC COUNTY	GOGEBIC COUNTY
GRAND RAPIDS CITY	GRAND RAPIDS CITY IN
	KENT COUNTY
GRAND TRAVERSE COUNTY	GRAND TRAVERSE COUNTY
GRATIOT COUNTY	GRATIOT COUNTY
HIGHLAND PARK CITY	HIGHLAND PARK CITY IN
	WAYNE COUNTY
HILLSDALE COUNTY	HILLSDALE COUNTY
HOUGHTON COUNTY	HOUGHTON COUNTY
HURON COUNTY	HURON COUNTY
INKSTER CITY	INKSTER CITY IN
	WAYNE COUNTY
IONIA COUNTY	IONIA COUNTY
IOSCO COUNTY	IOSCO COUNTY
IRON COUNTY	IRON COUNTY
JACKSON CITY	JACKSON CITY IN
	JACKSON COUNTY
BALANCE OF JACKSON COUNTY	JACKSON COUNTY LESS
	JACKSON CITY
KALKASKA COUNTY	KALKASKA COUNTY
KEWEENAW COUNTY	KEWEENAW COUNTY
LAKE COUNTY	LAKE COUNTY
LANSING CITY	LANSING CITY IN
	EATON COUNTY
	INGHAM COUNTY
LAPEER COUNTY	LAPEER COUNTY
LEELANAU COUNTY	LEELANAU COUNTY
LENAWEE COUNTY	LENAWEE COUNTY
LINCOLN PARK CITY	LINCOLN PARK CITY IN
	WAYNE COUNTY
LUCE COUNTY	LUCE COUNTY
MACKINAC COUNTY	MACKINAC COUNTY
BALANCE OF MACOMB COUNTY	MACOMB COUNTY LESS
	CLINTON TOWNSHIP
	EAST DETROIT CITY
	ROSEVILLE CITY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
MICHIGAN (CONT'D)	
	SHELBY TOWNSHIP
	ST CLAIR SHORES CITY
	STERLING HEIGHTS C Y
	WARREN CITY
MANISTEE COUNTY	MANISTEE COUNTY
MARQUETTE COUNTY	MARQUETTE COUNTY
MASON COUNTY	MASON COUNTY
MECOSTA COUNTY	MECOSTA COUNTY
MENOMINEE COUNTY	MENOMINEE COUNTY
BALANCE OF MIDLAND COUNTY	MIDLAND COUNTY LESS
	MIDLAND CITY
MISSAUKEE COUNTY	MISSAUKEE COUNTY
MONROE COUNTY	MONROE COUNTY
MONTCALM COUNTY	MONTCALM COUNTY
MONTMORENCY COUNTY	MONTMORENCY COUNTY
MOUNT MORRIS TOWNSHIP	MOUNT MORRIS TOWNSHIP IN
	GENESEE COUNTY
MUSKEGON CITY	MUSKEGON CITY IN
	MUSKEGON COUNTY
BALANCE OF MUSKEGON COUNTY	MUSKEGON COUNTY LESS
	MUSKEGON CITY
NEWAYGO COUNTY	NEWAYGO COUNTY
OCEANA COUNTY	OCEANA COUNTY
OGEMAW COUNTY	OGEMAW COUNTY
ONTONAGON COUNTY	ONTONAGON COUNTY
OSCEOLA COUNTY	OSCEOLA COUNTY
OSCODA COUNTY	OSCODA COUNTY
OTSEGO COUNTY	OTSEGO COUNTY
PONTIAC CITY	PONTIAC CITY IN
	OAKLAND COUNTY
PORT HURON CITY	PORT HURON CITY IN
	ST. CLAIR COUNTY
PRESQUE ISLE COUNTY	PRESQUE ISLE COUNTY
ROSCOMMON COUNTY	ROSCOMMON COUNTY
ROSEVILLE CITY	ROSEVILLE CITY IN
	MACOMB COUNTY
SAGINAW CITY	SAGINAW CITY IN
	SAGINAW COUNTY
BALANCE OF SAGINAW COUNTY	SAGINAW COUNTY LESS
	SAGINAW CITY
	SAGINAW TOWNSHIP
SANILAC COUNTY	SANILAC COUNTY
SCHOOLCRAFT COUNTY	SCHOOLCRAFT COUNTY
SHIAWASSEE COUNTY	SHIAWASSEE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
MICHIGAN (CONT'D)	
BALANCE OF ST. CLAIR COUNTY	ST. CLAIR COUNTY LESS PORT HURON CITY
ST. JOSEPH COUNTY	ST. JOSEPH COUNTY
TAYLOR CITY	TAYLOR CITY IN WAYNE COUNTY
TUSCOLA COUNTY	TUSCOLA COUNTY
VAN BUREN COUNTY	VAN BUREN COUNTY
WARREN CITY	WARREN CITY IN MACOMB COUNTY
WEXFORD COUNTY	WEXFORD COUNTY
YPSILANTI TOWNSHIP	YPSILANTI TOWNSHIP IN WASHTENAW COUNTY
MINNESOTA	
AITKIN COUNTY	AITKIN COUNTY
BECKER COUNTY	BECKER COUNTY
CARLTON COUNTY	CARLTON COUNTY
CASS COUNTY	CASS COUNTY
CLEARWATER COUNTY	CLEARWATER COUNTY
HUBBARD COUNTY	HUBBARD COUNTY
ITASCA COUNTY	ITASCA COUNTY
KANABEC COUNTY	KANABEC COUNTY
KITTSON COUNTY	KITTSON COUNTY
KOOCHICHING COUNTY	KOOCHICHING COUNTY
LAKE COUNTY	LAKE COUNTY
MAHNOMEN COUNTY	MAHNOMEN COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
MEEKER COUNTY	MEEKER COUNTY
MILLE LACS COUNTY	MILLE LACS COUNTY
MORRISON COUNTY	MORRISON COUNTY
PINE COUNTY	PINE COUNTY
POLK COUNTY	POLK COUNTY
RED LAKE COUNTY	RED LAKE COUNTY
RENVILLE COUNTY	RENVILLE COUNTY
BALANCE OF ST. LOUIS COUNTY	ST. LOUIS COUNTY LESS DULUTH CITY
SWIFT COUNTY	SWIFT COUNTY
WADENA COUNTY	WADENA COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
MISSISSIPPI	
ADAMS COUNTY	ADAMS COUNTY
ALCORN COUNTY	ALCORN COUNTY
AMITE COUNTY	AMITE COUNTY
ATTALA COUNTY	ATTALA COUNTY
BENTON COUNTY	BENTON COUNTY
BILOXI CITY	BILOXI CITY IN HARRISON COUNTY
BOLIVAR COUNTY	BOLIVAR COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
CARROLL COUNTY	CARROLL COUNTY
CHICKASAW COUNTY	CHICKASAW COUNTY
CHOCTAW COUNTY	CHOCTAW COUNTY
CLAIBORNE COUNTY	CLAIBORNE COUNTY
CLARKE COUNTY	CLARKE COUNTY
CLAY COUNTY	CLAY COUNTY
COAHOMA COUNTY	COAHOMA COUNTY
COLUMBUS CITY	COLUMBUS CITY IN LOWNDES COUNTY
COPIAH COUNTY	COPIAH COUNTY
COVINGTON COUNTY	COVINGTON COUNTY
BALANCE OF FORREST COUNTY	FORREST COUNTY LESS HATTIESBURG CITY
FRANKLIN COUNTY	FRANKLIN COUNTY
GEORGE COUNTY	GEORGE COUNTY
GREENE COUNTY	GREENE COUNTY
GREENVILLE CITY	GREENVILLE CITY IN WASHINGTON COUNTY
GRENADA COUNTY	GRENADA COUNTY
GULFPORT CITY	GULFPORT CITY IN HARRISON COUNTY
HATTIESBURG CITY	HATTIESBURG CITY IN FORREST COUNTY
	LAMAR COUNTY
BALANCE OF HINDS COUNTY	HINDS COUNTY LESS JACKSON CITY
HOLMES COUNTY	HOLMES COUNTY
HUMPHREYS COUNTY	HUMPHREYS COUNTY
ISSAQUENA COUNTY	ISSAQUENA COUNTY
ITAWAMBA COUNTY	ITAWAMBA COUNTY
BALANCE OF JACKSON COUNTY	JACKSON COUNTY LESS PASCAGOULA CITY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
MISSISSIPPI (CONT'D)	
JASPER COUNTY	JASPER COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JEFFERSON DAVIS COUNTY	JEFFERSON DAVIS COUNTY
JONES COUNTY	JONES COUNTY
KEMPER COUNTY	KEMPER COUNTY
BALANCE OF LAUDERDALE COUNTY	LAUDERDALE COUNTY LESS MERIDIAN CITY
LAWRENCE COUNTY	LAWRENCE COUNTY
LEAKE COUNTY	LEAKE COUNTY
BALANCE OF LEE COUNTY	LEE COUNTY LESS TUPELO CITY
LEFLORE COUNTY	LEFLORE COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
BALANCE OF LOWNDES COUNTY	LOWNDES COUNTY LESS COLUMBUS CITY
MADISON COUNTY	MADISON COUNTY
MARION COUNTY	MARION COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
MONROE COUNTY	MONROE COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
NESHOBA COUNTY	NESHOBA COUNTY
NEWTON COUNTY	NEWTON COUNTY
NOXUBEE COUNTY	NOXUBEE COUNTY
PANOLA COUNTY	PANOLA COUNTY
PASCAGOULA CITY	PASCAGOULA CITY IN JACKSON COUNTY
PEARL RIVER COUNTY	PEARL RIVER COUNTY
PERRY COUNTY	PERRY COUNTY
PIKE COUNTY	PIKE COUNTY
PRENTISS COUNTY	PRENTISS COUNTY
QUITMAN COUNTY	QUITMAN COUNTY
SCOTT COUNTY	SCOTT COUNTY
SHARKEY COUNTY	SHARKEY COUNTY
SIMPSON COUNTY	SIMPSON COUNTY
SMITH COUNTY	SMITH COUNTY
STONE COUNTY	STONE COUNTY
SUNFLOWER COUNTY	SUNFLOWER COUNTY
TALLAHATCHIE COUNTY	TALLAHATCHIE COUNTY
TATE COUNTY	TATE COUNTY
TIPPAH COUNTY	TIPPAH COUNTY
TISHOMINGO COUNTY	TISHOMINGO COUNTY
TUNICA COUNTY	TUNICA COUNTY
TUPELO CITY	TUPELO CITY IN LEE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
MISSISSIPPI (CONT'D)	
VICKSBURG CITY	VICKSBURG CITY IN WARREN COUNTY
WALTHALL COUNTY	WALTHALL COUNTY
BALANCE OF WARREN COUNTY	WARREN COUNTY LESS VICKSBURG CITY
BALANCE OF WASHINGTON COUNTY	WASHINGTON COUNTY LESS GREENVILLE CITY
WAYNE COUNTY	WAYNE COUNTY
WEBSTER COUNTY	WEBSTER COUNTY
WILKINSON COUNTY	WILKINSON COUNTY
WINSTON COUNTY	WINSTON COUNTY
YALOBUSHA COUNTY	YALOBUSHA COUNTY
YAZOO COUNTY	YAZOO COUNTY
MISSOURI	
BOLLINGER COUNTY	BOLLINGER COUNTY
BUTLER COUNTY	BUTLER COUNTY
CARTER COUNTY	CARTER COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
DALLAS COUNTY	DALLAS COUNTY
DENT COUNTY	DENT COUNTY
DOUGLAS COUNTY	DOUGLAS COUNTY
DUNKLIN COUNTY	DUNKLIN COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
HOWELL COUNTY	HOWELL COUNTY
IRON COUNTY	IRON COUNTY
LEWIS COUNTY	LEWIS COUNTY
MADISON COUNTY	MADISON COUNTY
MILLER COUNTY	MILLER COUNTY
MISSISSIPPI COUNTY	MISSISSIPPI COUNTY
NEW MADRID COUNTY	NEW MADRID COUNTY
OREGON COUNTY	OREGON COUNTY
PEMISCOT COUNTY	PEMISCOT COUNTY
REYNOLDS COUNTY	REYNOLDS COUNTY
RIPLEY COUNTY	RIPLEY COUNTY
SHANNON COUNTY	SHANNON COUNTY
ST LOUIS CITY	ST LOUIS CITY
ST. FRANCOIS COUNTY	ST. FRANCOIS COUNTY
STODDARD COUNTY	STODDARD COUNTY
STONE COUNTY	STONE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
MISSOURI (CONT'D)	
TANEY COUNTY	TANEY COUNTY
TEXAS COUNTY	TEXAS COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WAYNE COUNTY	WAYNE COUNTY
WEBSTER COUNTY	WEBSTER COUNTY
WRIGHT COUNTY	WRIGHT COUNTY
MONTANA	
BIG HORN COUNTY	BIG HORN COUNTY
BLAINE COUNTY	BLAINE COUNTY
BROADWATER COUNTY	BROADWATER COUNTY
BUTTE - SILVER BOW CITY	BUTTE - SILVER BOW CITY IN SILVER BOW COUNTY
BALANCE OF CASCADE COUNTY	CASCADE COUNTY LESS GREAT FALLS CITY
DEER LODGE COUNTY	DEER LODGE COUNTY
FLATHEAD COUNTY	FLATHEAD COUNTY
GLACIER COUNTY	GLACIER COUNTY
GRANITE COUNTY	GRANITE COUNTY
LAKE COUNTY	LAKE COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
MEAGHER COUNTY	MEAGHER COUNTY
MINERAL COUNTY	MINERAL COUNTY
MUSSELSHELL COUNTY	MUSSELSHELL COUNTY
RAVALLI COUNTY	RAVALLI COUNTY
RICHLAND COUNTY	RICHLAND COUNTY
ROSEBUD COUNTY	ROSEBUD COUNTY
SANDERS COUNTY	SANDERS COUNTY
BALANCE OF SILVER BOW COUNTY	SILVER BOW COUNTY LESS BUTTE - SILVER BOW CITY
NEBRASKA	
LOUP COUNTY	LOUP COUNTY
THURSTON COUNTY	THURSTON COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
NEVADA	
HENDERSON CITY	HENDERSON CITY IN CLARK COUNTY
LANDER COUNTY	LANDER COUNTY
NORTH LAS VEGAS CITY	NORTH LAS VEGAS CITY IN CLARK COUNTY
STOREY COUNTY	STOREY COUNTY
WHITE PINE COUNTY	WHITE PINE COUNTY
NEW JERSEY	
ATLANTIC CITY	ATLANTIC CITY IN ATLANTIC COUNTY
CAMDEN CITY	CAMDEN CITY IN CAMDEN COUNTY
CAPE MAY COUNTY	CAPE MAY COUNTY
BALANCE OF CUMBERLAND COUNTY	CUMBERLAND COUNTY LESS MILLVILLE CITY VINELAND CITY
HOBOKEN CITY	HOBOKEN CITY IN HUDSON COUNTY
JERSEY CITY	JERSEY CITY IN HUDSON COUNTY
MILLVILLE CITY	MILLVILLE CITY IN CUMBERLAND COUNTY
NEWARK CITY	NEWARK CITY IN ESSEX COUNTY
PASSAIC CITY	PASSAIC CITY IN PASSAIC COUNTY
PATERSON CITY	PATERSON CITY IN PASSAIC COUNTY
PERTH AMBOY CITY	PERTH AMBOY CITY IN MIDDLESEX COUNTY
UNION CITY	UNION CITY IN HUDSON COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
NEW MEXICO	
ALAMOGORDO CITY	ALAMOGORDO CITY IN OTERO COUNTY
CARLSBAD CITY	CARLSBAD CITY IN EDDY COUNTY
CATRON COUNTY	CATRON COUNTY
CIBOLA COUNTY	CIBOLA COUNTY
COLFAX COUNTY	COLFAX COUNTY
DE BACA COUNTY	DE BACA COUNTY
BALANCE OF EDDY COUNTY	EDDY COUNTY LESS CARLSBAD CITY
FARMINGTON CITY	FARMINGTON CITY IN SAN JUAN COUNTY
GRANT COUNTY	GRANT COUNTY
GUADALUPE COUNTY	GUADALUPE COUNTY
HARDING COUNTY	HARDING COUNTY
HOBBS CITY	HOBBS CITY IN LEA COUNTY
LUNA COUNTY	LUNA COUNTY
MC KINLEY COUNTY	MC KINLEY COUNTY
MORA COUNTY	MORA COUNTY
QUAY COUNTY	QUAY COUNTY
RIO ARRIBA COUNTY	RIO ARRIBA COUNTY
ROSWELL CITY	ROSWELL CITY IN CHAVES COUNTY
BALANCE OF SAN JUAN COUNTY	SAN JUAN COUNTY LESS FARMINGTON CITY
SAN MIGUEL COUNTY	SAN MIGUEL COUNTY
SANDOVAL COUNTY	SANDOVAL COUNTY
SOCORRO COUNTY	SOCORRO COUNTY
TAOS COUNTY	TAOS COUNTY
TORRANCE COUNTY	TORRANCE COUNTY
VALENCIA COUNTY	VALENCIA COUNTY
NEW YORK	
AUBURN CITY	AUBURN CITY IN CAYUGA COUNTY
BRONX COUNTY	BRONX COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
NEW YORK (CONT'D)	
BUFFALO CITY	BUFFALO CITY IN ERIE COUNTY
CATTARAUGUS COUNTY	CATTARAUGUS COUNTY
ELMIRA CITY	ELMIRA CITY IN CHEMUNG COUNTY
ESSEX COUNTY	ESSEX COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
FULTON COUNTY	FULTON COUNTY
HAMILTON COUNTY	HAMILTON COUNTY
HERKIMER COUNTY	HERKIMER COUNTY
BALANCE OF JEFFERSON COUNTY	JEFFERSON COUNTY LESS WATERTOWN CITY
KINGS COUNTY	KINGS COUNTY
LEWIS COUNTY	LEWIS COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
BALANCE OF NIAGARA COUNTY	NIAGARA COUNTY LESS NIAGARA FALLS CITY NORTH TONAWANDA CITY
NIAGARA FALLS CITY	NIAGARA FALLS CITY IN NIAGARA COUNTY
ORLEANS COUNTY	ORLEANS COUNTY
OSWEGO COUNTY	OSWEGO COUNTY
WATERTOWN CITY	WATERTOWN CITY IN JEFFERSON COUNTY
NORTH CAROLINA	
BLADEN COUNTY	BLADEN COUNTY
BRUNSWICK COUNTY	BRUNSWICK COUNTY
CHEROKEE COUNTY	CHEROKEE COUNTY
COLUMBUS COUNTY	COLUMBUS COUNTY
GRAHAM COUNTY	GRAHAM COUNTY
HYDE COUNTY	HYDE COUNTY
MC DOWELL COUNTY	MC DOWELL COUNTY
ROBESON COUNTY	ROBESON COUNTY
SAMPSON COUNTY	SAMPSON COUNTY
SWAIN COUNTY	SWAIN COUNTY
TYRRELL COUNTY	TYRRELL COUNTY
WILSON CITY	WILSON CITY IN WILSON COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
NORTH DAKOTA	
DUNN COUNTY	DUNN COUNTY
EDDY COUNTY	EDDY COUNTY
KIDDER COUNTY	KIDDER COUNTY
MC HENRY COUNTY	MC HENRY COUNTY
MC LEAN COUNTY	MC LEAN COUNTY
MERCER COUNTY	MERCER COUNTY
MOUNTRAIL COUNTY	MOUNTRAIL COUNTY
ROLETTE COUNTY	ROLETTE COUNTY
SIOUX COUNTY	SIOUX COUNTY
SLOPE COUNTY	SLOPE COUNTY
STARK COUNTY	STARK COUNTY
WILLIAMS COUNTY	WILLIAMS COUNTY
OHIO	
ADAMS COUNTY	ADAMS COUNTY
AKRON CITY	AKRON CITY IN SUMMIT COUNTY
ASHLAND COUNTY	ASHLAND COUNTY
ASHTABULA COUNTY	ASHTABULA COUNTY
ATHENS COUNTY	ATHENS COUNTY
BARBERTON CITY	BARBERTON CITY IN SUMMIT COUNTY
BELMONT COUNTY	BELMONT COUNTY
BROWN COUNTY	BROWN COUNTY
CANTON CITY	CANTON CITY IN STARK COUNTY
CARROLL COUNTY	CARROLL COUNTY
CINCINNATI CITY	CINCINNATI CITY IN HAMILTON COUNTY
CLEVELAND CITY	CLEVELAND CITY IN CUYAHOGA COUNTY
COLUMBIANA COUNTY	COLUMBIANA COUNTY
COSHOCTON COUNTY	COSHOCTON COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
DARKE COUNTY	DARKE COUNTY
DAYTON CITY	DAYTON CITY IN MONTGOMERY COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
OHIO (CONT'D)	
DEFIANCE COUNTY	DEFIANCE COUNTY
EAST CLEVELAND CITY	EAST CLEVELAND CITY IN CUYAHOGA COUNTY
ELYRIA CITY	ELYRIA CITY IN LORAIN COUNTY
BALANCE OF FAIRFIELD COUNTY	FAIRFIELD COUNTY LESS COLUMBUS CITY LANCASTER CITY
FAYETTE COUNTY	FAYETTE COUNTY
FULTON COUNTY	FULTON COUNTY
GALLIA COUNTY	GALLIA COUNTY
GUERNSEY COUNTY	GUERNSEY COUNTY
HAMILTON CITY	HAMILTON CITY IN BUTLER COUNTY
HARDIN COUNTY	HARDIN COUNTY
HARRISON COUNTY	HARRISON COUNTY
HENRY COUNTY	HENRY COUNTY
HIGHLAND COUNTY	HIGHLAND COUNTY
HOCKING COUNTY	HOCKING COUNTY
HURON COUNTY	HURON COUNTY
JACKSON COUNTY	JACKSON COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
KNOX COUNTY	KNOX COUNTY
BALANCE OF LAKE COUNTY	LAKE COUNTY LESS MENTOR CITY
LANCASTER CITY	LANCASTER CITY IN FAIRFIELD COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LIMA CITY	LIMA CITY IN ALLEN COUNTY
LOGAN COUNTY	LOGAN COUNTY
LORAIN CITY	LORAIN CITY IN LORAIN COUNTY
BALANCE OF LORAIN COUNTY	LORAIN COUNTY LESS ELYRIA CITY LORAIN CITY
MANSFIELD CITY	MANSFIELD CITY IN RICHLAND COUNTY
MARION CITY	MARION CITY IN MARION COUNTY
BALANCE OF MARION COUNTY	MARION COUNTY LESS MARION CITY
MASSILLON CITY	MASSILLON CITY IN STARK COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
OHIO (CONT'D)	
MEIGS COUNTY	MEIGS COUNTY
MENTOR CITY	MENTOR CITY IN LAKE COUNTY
MERCER COUNTY	MERCER COUNTY
MIDDLETOWN CITY	MIDDLETOWN CITY IN BUTLER COUNTY
MONROE COUNTY	MONROE COUNTY
MORGAN COUNTY	MORGAN COUNTY
MORROW COUNTY	MORROW COUNTY
BALANCE OF MUSKINGUM COUNTY	MUSKINGUM COUNTY LESS ZANESVILLE CITY
NEWARK CITY	NEWARK CITY IN LICKING COUNTY
NOBLE COUNTY	NOBLE COUNTY
OTTAWA COUNTY	OTTAWA COUNTY
PERRY COUNTY	PERRY COUNTY
PIKE COUNTY	PIKE COUNTY
BALANCE OF PORTAGE COUNTY	PORTAGE COUNTY LESS KENT CITY
PUTNAM COUNTY	PUTNAM COUNTY
BALANCE OF RICHLAND COUNTY	RICHLAND COUNTY LESS MANSFIELD CITY
ROSS COUNTY	ROSS COUNTY
SANDUSKY COUNTY	SANDUSKY COUNTY
SCIOTO COUNTY	SCIOTO COUNTY
SENECA COUNTY	SENECA COUNTY
SHELBY COUNTY	SHELBY COUNTY
SPRINGFIELD CITY	SPRINGFIELD CITY IN CLARK COUNTY
BALANCE OF STARK COUNTY	STARK COUNTY LESS CANTON CITY MASSILLON CITY
TOLEDO CITY	TOLEDO CITY IN LUCAS COUNTY
BALANCE OF TRUMBULL COUNTY	TRUMBULL COUNTY LESS WARREN CITY
TUSCARAWAS COUNTY	TUSCARAWAS COUNTY
VINTON COUNTY	VINTON COUNTY
WARREN CITY	WARREN CITY IN TRUMBULL COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WILLIAMS COUNTY	WILLIAMS COUNTY
WYANDOT COUNTY	WYANDOT COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
OHIO (CONT'D)	
YOUNGSTOWN CITY	YOUNGSTOWN CITY IN MAHONING COUNTY
ZANESVILLE CITY	ZANESVILLE CITY IN MUSKINGUM COUNTY
OKLAHOMA	
ADAIR COUNTY	ADAIR COUNTY
BECKHAM COUNTY	BECKHAM COUNTY
CADDO COUNTY	CADDO COUNTY
CHEROKEE COUNTY	CHEROKEE COUNTY
CHOCTAW COUNTY	CHOCTAW COUNTY
COAL COUNTY	COAL COUNTY
CRAIG COUNTY	CRAIG COUNTY
CREEK COUNTY	CREEK COUNTY
DELAWARE COUNTY	DELAWARE COUNTY
GARVIN COUNTY	GARVIN COUNTY
GRADY COUNTY	GRADY COUNTY
HASKELL COUNTY	HASKELL COUNTY
HUGHES COUNTY	HUGHES COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
LATIMER COUNTY	LATIMER COUNTY
LE FLORE COUNTY	LE FLORE COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
MAYES COUNTY	MAYES COUNTY
MC CURTAIN COUNTY	MC CURTAIN COUNTY
MC INTOSH COUNTY	MC INTOSH COUNTY
MURRAY COUNTY	MURRAY COUNTY
MUSKOGEE CITY	MUSKOGEE CITY IN MUSKOGEE COUNTY
BALANCE OF MUSKOGEE COUNTY	MUSKOGEE COUNTY LESS MUSKOGEE CITY
NOWATA COUNTY	NOWATA COUNTY
OKFUSKEE COUNTY	OKFUSKEE COUNTY
OKMULGEE COUNTY	OKMULGEE COUNTY
OTTAWA COUNTY	OTTAWA COUNTY
PAWNEE COUNTY	PAWNEE COUNTY
PITTSBURG COUNTY	PITTSBURG COUNTY
PUSHMATAHA COUNTY	PUSHMATAHA COUNTY
ROGER MILLS COUNTY	ROGER MILLS COUNTY
ROGERS COUNTY	ROGERS COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
OKLAHOMA (CONT'D)	
SEMINOLE COUNTY	SEMINOLE COUNTY
SEQUOYAH COUNTY	SEQUOYAH COUNTY
SHAWNEE CITY	SHAWNEE CITY IN POTTAWATOMIE COUNTY
STEPHENS COUNTY	STEPHENS COUNTY
WOODWARD COUNTY	WOODWARD COUNTY
OREGON	
ALBANY CITY	ALBANY CITY IN LINN COUNTY
BAKER COUNTY	BAKER COUNTY
COLUMBIA COUNTY	COLUMBIA COUNTY
COOS COUNTY	COOS COUNTY
CROOK COUNTY	CROOK COUNTY
CURRY COUNTY	CURRY COUNTY
DESCHUTES COUNTY	DESCHUTES COUNTY
DOUGLAS COUNTY	DOUGLAS COUNTY
GRANT COUNTY	GRANT COUNTY
HARNEY COUNTY	HARNEY COUNTY
HOOD RIVER COUNTY	HOOD RIVER COUNTY
BALANCE OF JACKSON COUNTY	JACKSON COUNTY LESS MEDFORD CITY
JEFFERSON COUNTY	JEFFERSON COUNTY
JOSEPHINE COUNTY	JOSEPHINE COUNTY
KLAMATH COUNTY	KLAMATH COUNTY
LAKE COUNTY	LAKE COUNTY
BALANCE OF LANE COUNTY	LANE COUNTY LESS EUGENE CITY SPRINGFIELD CITY
LINCOLN COUNTY	LINCOLN COUNTY
BALANCE OF LINN COUNTY	LINN COUNTY LESS ALBANY CITY
MALHEUR COUNTY	MALHEUR COUNTY
BALANCE OF MARION COUNTY	MARION COUNTY LESS SALEM CITY
MEDFORD CITY	MEDFORD CITY IN JACKSON COUNTY
MORROW COUNTY	MORROW COUNTY
PORTLAND CITY	PORTLAND CITY IN CLACKAMAS COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
OREGON (CONT'D)	
	MULTNOMAH COUNTY WASHINGTON COUNTY
SHERMAN COUNTY	SHERMAN COUNTY
SPRINGFIELD CITY	SPRINGFIELD CITY IN LANE COUNTY
TILLAMOOK COUNTY	TILLAMOOK COUNTY
UMATILLA COUNTY	UMATILLA COUNTY
UNION COUNTY	UNION COUNTY
WALLOWA COUNTY	WALLOWA COUNTY
WASCO COUNTY	WASCO COUNTY
WHEELER COUNTY	WHEELER COUNTY
YAMHILL COUNTY	YAMHILL COUNTY
PENNSYLVANIA	
ALLENTOWN CITY	ALLENTOWN CITY IN LEHIGH COUNTY
ALTOONA CITY	ALTOONA CITY IN BLAIR COUNTY
ARMSTRONG COUNTY	ARMSTRONG COUNTY
BEAVER COUNTY	BEAVER COUNTY
BEDFORD COUNTY	BEDFORD COUNTY
BALANCE OF BLAIR COUNTY	BLAIR COUNTY LESS ALTOONA CITY
BALANCE OF CAMBRIA COUNTY	CAMBRIA COUNTY LESS JOHNSTOWN CITY
CAMERON COUNTY	CAMERON COUNTY
CARBON COUNTY	CARBON COUNTY
CHESTER CITY	CHESTER CITY IN DELAWARE COUNTY
CLARION COUNTY	CLARION COUNTY
CLEARFIELD COUNTY	CLEARFIELD COUNTY
CLINTON COUNTY	CLINTON COUNTY
COLUMBIA COUNTY	COLUMBIA COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
ELK COUNTY	ELK COUNTY
ERIE CITY	ERIE CITY IN ERIE COUNTY
BALANCE OF ERIE COUNTY	ERIE COUNTY LESS ERIE CITY MILLCREEK TOWNSHIP

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
PENNSYLVANIA (CONT'D)	
FAYETTE COUNTY	FAYETTE COUNTY
FOREST COUNTY	FOREST COUNTY
FULTON COUNTY	FULTON COUNTY
GREENE COUNTY	GREENE COUNTY
HAZLETON CITY	HAZLETON CITY IN
	LUZERNE COUNTY
HUNTINGDON COUNTY	HUNTINGDON COUNTY
INDIANA COUNTY	INDIANA COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JOHNSTOWN CITY	JOHNSTOWN CITY IN
	CAMBRIA COUNTY
JUNIATA COUNTY	JUNIATA COUNTY
BALANCE OF LAWRENCE COUNTY	LAWRENCE COUNTY LESS
	NEW CASTLE CITY
BALANCE OF LUZERNE COUNTY	LUZERNE COUNTY LESS
	HAZLETON CITY
	WILKES-BARRE CITY
MC KEAN COUNTY	MC KEAN COUNTY
MCKEESPORT CITY	MCKEESPORT CITY IN
	ALLEGHENY COUNTY
MERCER COUNTY	MERCER COUNTY
MIFFLIN COUNTY	MIFFLIN COUNTY
NORTH HUNTINGTON TOWNSHIP	NORTH HUNTINGTON TOWNSHIP IN
	WESTMORELAND COUNTY
NORTHUMBERLAND COUNTY	NORTHUMBERLAND COUNTY
POTTER COUNTY	POTTER COUNTY
READING CITY	READING CITY IN
	BERKS COUNTY
SCHUYLKILL COUNTY	SCHUYLKILL COUNTY
SOMERSET COUNTY	SOMERSET COUNTY
SUSQUEHANNA COUNTY	SUSQUEHANNA COUNTY
TIOGA COUNTY	TIOGA COUNTY
VENANGO COUNTY	VENANGO COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WEST MIFFLIN BOROUGH	WEST MIFFLIN BOROUGH IN
	ALLEGHENY COUNTY
BALANCE OF WESTMORELAND COUNTY	WESTMORELAND COUNTY LESS
	HEMPFIELD TOWNSHIP
	NORTH HUNTINGTON TOWNSHIP
WILKES-BARRE CITY	WILKES-BARRE CITY IN
	LUZERNE COUNTY

(CONTINUED)

BEST COPY AVAILABLE

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
PUERTO RICO	
ADJUNTAS MUNICIPIO	ADJUNTAS MUNICIPIO
AGUADA MUNICIPIO	AGUADA MUNICIPIO
AGUADILLA MUNICIPIO	AGUADILLA MUNICIPIO
AGUAS BUENAS MUNICIPIO	AGUAS BUENAS MUNICIPIO
AIBONITO MUNICIPIO	AIBONITO MUNICIPIO
ANASCO MUNICIPIO	ANASCO MUNICIPIO
ARECIBO MUNICIPIO	ARECIBO MUNICIPIO
ARROYO MUNICIPIO	ARROYO MUNICIPIO
BARCELONETA MUNICIPIO	BARCELONETA MUNICIPIO
BARRANQUITAS MUNICIPIO	BARRANQUITAS MUNICIPIO
BAYAMON MUNICIPIO	BAYAMON MUNICIPIO
CABO ROJO MUNICIPIO	CABO ROJO MUNICIPIO
CAGUAS MUNICIPIO	CAGUAS MUNICIPIO
CAMUY MUNICIPIO	CAMUY MUNICIPIO
CANOVANAS MUNICIPIO	CANOVANAS MUNICIPIO
CAROLINA MUNICIPIO	CAROLINA MUNICIPIO
CATANO MUNICIPIO	CATANO MUNICIPIO
CAYEY MUNICIPIO	CAYEY MUNICIPIO
CEIBA MUNICIPIO	CEIBA MUNICIPIO
CIALES MUNICIPIO	CIALES MUNICIPIO
CIDRA MUNICIPIO	CIDRA MUNICIPIO
COAMO MUNICIPIO	COAMO MUNICIPIO
COMERIO MUNICIPIO	COMERIO MUNICIPIO
COROZAL MUNICIPIO	COROZAL MUNICIPIO
CULEBRA MUNICIPIO	CULEBRA MUNICIPIO
DORADO MUNICIPIO	DORADO MUNICIPIO
FAJARDO MUNICIPIO	FAJARDO MUNICIPIO
FLORIDA MUNICIPIO	FLORIDA MUNICIPIO
GUANICA MUNICIPIO	GUANICA MUNICIPIO
GUAYAMA MUNICIPIO	GUAYAMA MUNICIPIO
GUAYANILLA MUNICIPIO	GUAYANILLA MUNICIPIO
GURABO MUNICIPIO	GURABO MUNICIPIO
HATILLO MUNICIPIO	HATILLO MUNICIPIO
HORMIGUEROS MUNICIPIO	HORMIGUEROS MUNICIPIO
HUMACAO MUNICIPIO	HUMACAO MUNICIPIO
ISABELA MUNICIPIO	ISABELA MUNICIPIO
JAYUYA MUNICIPIO	JAYUYA MUNICIPIO
JUANA DIAZ MUNICIPIO	JUANA DIAZ MUNICIPIO
JUNCOS MUNICIPIO	JUNCOS MUNICIPIO
LAJAS MUNICIPIO	LAJAS MUNICIPIO
LARES MUNICIPIO	LARES MUNICIPIO

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
PUERTO RICO (CONT'D)	
LAS MARIAS MUNICIPIO	LAS MARIAS MUNICIPIO
LAS PIEDRAS MUNICIPIO	LAS PIEDRAS MUNICIPIO
LOIZA MUNICIPIO	LOIZA MUNICIPIO
LUQUILLO MUNICIPIO	LUQUILLO MUNICIPIO
MANATI MUNICIPIO	MANATI MUNICIPIO
MARICAO MUNICIPIO	MARICAO MUNICIPIO
MAUNABO MUNICIPIO	MAUNABO MUNICIPIO
MAYAGUEZ MUNICIPIO	MAYAGUEZ MUNICIPIO
MOCA MUNICIPIO	MOCA MUNICIPIO
MOROVIS MUNICIPIO	MOROVIS MUNICIPIO
NAGUABO MUNICIPIO	NAGUABO MUNICIPIO
NARANJITO MUNICIPIO	NARANJITO MUNICIPIO
OROCOVIS MUNICIPIO	OROCOVIS MUNICIPIO
PATILLAS MUNICIPIO	PATILLAS MUNICIPIO
PENUELAS MUNICIPIO	PENUELAS MUNICIPIO
PONCE MUNICIPIO	PONCE MUNICIPIO
QUEBRADILLAS MUNICIPIO	QUEBRADILLAS MUNICIPIO
RINCON MUNICIPIO	RINCON MUNICIPIO
RIO GRANDE MUNICIPIO	RIO GRANDE MUNICIPIO
SABANA GRANDE MUNICIPIO	SABANA GRANDE MUNICIPIO
SALINAS MUNICIPIO	SALINAS MUNICIPIO
SAN GERMAN MUNICIPIO	SAN GERMAN MUNICIPIO
SAN JUAN MUNICIPIO	SAN JUAN MUNICIPIO
SAN LORENZO MUNICIPIO	SAN LORENZO MUNICIPIO
SAN SEBASTIAN MUNICIPIO	SAN SEBASTIAN MUNICIPIO
SANTA ISABEL MUNICIPIO	SANTA ISABEL MUNICIPIO
TOA ALTA MUNICIPIO	TOA ALTA MUNICIPIO
TOA BAJA MUNICIPIO	TOA BAJA MUNICIPIO
TRUJILLO ALTO MUNICIPIO	TRUJILLO ALTO MUNICIPIO
UTUADO MUNICIPIO	UTUADO MUNICIPIO
VEGA ALTA MUNICIPIO	VEGA ALTA MUNICIPIO
VEGA BAJA MUNICIPIO	VEGA BAJA MUNICIPIO
VIEQUES MUNICIPIO	VIEQUES MUNICIPIO
VILLALBA MUNICIPIO	VILLALBA MUNICIPIO
YABUCOA MUNICIPIO	YABUCOA MUNICIPIO
YAUCO MUNICIPIO	YAUCO MUNICIPIO
RHODE ISLAND	
NEW SHOREHAM TOWN	NEW SHOREHAM TOWN

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
SOUTH CAROLINA	
ABBEVILLE COUNTY	ABBEVILLE COUNTY
ALLENDALE COUNTY	ALLENDALE COUNTY
ANDERSON CITY	ANDERSON CITY IN ANDERSON COUNTY
BAMBERG COUNTY	BAMBERG COUNTY
CHESTER COUNTY	CHESTER COUNTY
CLARENDON COUNTY	CLARENDON COUNTY
DARLINGTON COUNTY	DARLINGTON COUNTY
DILLON COUNTY	DILLON COUNTY
GEORGETOWN COUNTY	GEORGETOWN COUNTY
GREENWOOD COUNTY	GREENWOOD COUNTY
HAMPTON COUNTY	HAMPTON COUNTY
BALANCE OF HORRY COUNTY	HORRY COUNTY LESS MYRTLE BEACH CITY
LANCASTER COUNTY	LANCASTER COUNTY
MARION COUNTY	MARION COUNTY
MARLBORO COUNTY	MARLBORO COUNTY
MC CORMICK COUNTY	MC CORMICK COUNTY
ORANGEBURG COUNTY	ORANGEBURG COUNTY
UNION COUNTY	UNION COUNTY
WILLIAMSBURG COUNTY	WILLIAMSBURG COUNTY
SOUTH DAKOTA	
BUFFALO COUNTY	BUFFALO COUNTY
SHANNON COUNTY	SHANNON COUNTY
TENNESSEE	
BEDFORD COUNTY	BEDFORD COUNTY
BENTON COUNTY	BENTON COUNTY
CAMPBELL COUNTY	CAMPBELL COUNTY
CANNON COUNTY	CANNON COUNTY
CARROLL COUNTY	CARROLL COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
TENNESSEE (CONT'D)	
BALANCE OF CARTER COUNTY	CARTER COUNTY LESS JOHNSON CITY
CHESTER COUNTY	CHESTER COUNTY
CLAIBORNE COUNTY	CLAIBORNE COUNTY
CLARKSVILLE CITY	CLARKSVILLE CITY IN MONTGOMERY COUNTY
COCKE COUNTY	COCKE COUNTY
COFFEE COUNTY	COFFEE COUNTY
COLUMBIA CITY	COLUMBIA CITY IN MAURY COUNTY
CROCKETT COUNTY	CROCKETT COUNTY
CUMBERLAND COUNTY	CUMBERLAND COUNTY
DE KALB COUNTY	DE KALB COUNTY
DECATUR COUNTY	DECATUR COUNTY
DYER COUNTY	DYER COUNTY
FAYETTE COUNTY	FAYETTE COUNTY
FENTRESS COUNTY	FENTRESS COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
GIBSON COUNTY	GIBSON COUNTY
GILES COUNTY	GILES COUNTY
GRAINGER COUNTY	GRAINGER COUNTY
GREENE COUNTY	GREENE COUNTY
GRUNDY COUNTY	GRUNDY COUNTY
HAMBLEN COUNTY	HAMBLEN COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
HARDEMAN COUNTY	HARDEMAN COUNTY
HARDIN COUNTY	HARDIN COUNTY
BALANCE OF HAWKINS COUNTY	HAWKINS COUNTY LESS KINGSPORT CITY
HAYWOOD COUNTY	HAYWOOD COUNTY
HENDERSON COUNTY	HENDERSON COUNTY
HENRY COUNTY	HENRY COUNTY
HICKMAN COUNTY	HICKMAN COUNTY
HOUSTON COUNTY	HOUSTON COUNTY
HUMPHREYS COUNTY	HUMPHREYS COUNTY
JACKSON CITY	JACKSON CITY IN MADISON COUNTY
JACKSON COUNTY	JACKSON COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JOHNSON COUNTY	JOHNSON COUNTY
LAKE COUNTY	LAKE COUNTY
LAUDERDALE COUNTY	LAUDERDALE COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LEWIS COUNTY	LEWIS COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
TENNESSEE (CONT'D)	
LINCOLN COUNTY	LINCOLN COUNTY
LOUDON COUNTY	LOUDON COUNTY
MACON COUNTY	MACON COUNTY
MARION COUNTY	MARION COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
BALANCE OF MAURY COUNTY	MAURY COUNTY LESS COLUMBIA CITY
MC MINN COUNTY	MC MINN COUNTY
MC NAIRY COUNTY	MC NAIRY COUNTY
MEIGS COUNTY	MEIGS COUNTY
MONROE COUNTY	MONROE COUNTY
MORGAN COUNTY	MORGAN COUNTY
OVERTON COUNTY	OVERTON COUNTY
PERRY COUNTY	PERRY COUNTY
PICKETT COUNTY	PICKETT COUNTY
POLK COUNTY	POLK COUNTY
PUTNAM COUNTY	PUTNAM COUNTY
RHEA COUNTY	RHEA COUNTY
SCOTT COUNTY	SCOTT COUNTY
SEQUATCHIE COUNTY	SEQUATCHIE COUNTY
SEVIER COUNTY	SEVIER COUNTY
STEWART COUNTY	STEWART COUNTY
TIPTON COUNTY	TIPTON COUNTY
UNICOI COUNTY	UNICOI COUNTY
UNION COUNTY	UNION COUNTY
VAN BUREN COUNTY	VAN BUREN COUNTY
WARREN COUNTY	WARREN COUNTY
WAYNE COUNTY	WAYNE COUNTY
WHITE COUNTY	WHITE COUNTY
TEXAS	
ANDERSON COUNTY	ANDERSON COUNTY
BALANCE OF ANGELINA COUNTY	ANGELINA COUNTY LESS LUFKIN CITY
ARANSAS COUNTY	ARANSAS COUNTY
BAYTOWN CITY	BAYTOWN CITY IN HARRIS COUNTY
BEAUMONT CITY	BEAUMONT CITY IN JEFFERSON COUNTY
BEE COUNTY	BEE COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
TEXAS (CONT'D)	
BIG SPRING CITY	BIG SPRING CITY IN HOWARD COUNTY
BRAZORIA COUNTY	BRAZORIA COUNTY
BROOKS COUNTY	BROOKS COUNTY
BROWNSVILLE CITY	BROWNSVILLE CITY IN CAMERON COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
BALANCE OF CAMERON COUNTY	CAMERON COUNTY LESS BROWNSVILLE CITY HARLINGEN CITY
CAMP COUNTY	CAMP COUNTY
CASS COUNTY	CASS COUNTY
CHILDRESS COUNTY	CHILDRESS COUNTY
CORPUS CHRISTI CITY	CORPUS CHRISTI CITY IN NUECES COUNTY
CROCKETT COUNTY	CROCKETT COUNTY
CROSBY COUNTY	CROSBY COUNTY
CULBERSON COUNTY	CULBERSON COUNTY
DAWSON COUNTY	DAWSON COUNTY
DEAF SMITH COUNTY	DEAF SMITH COUNTY
DEL RIO CITY	DEL RIO CITY IN VAL VERDE COUNTY
DICKENS COUNTY	DICKENS COUNTY
DIMMIT COUNTY	DIMMIT COUNTY
DUVAL COUNTY	DUVAL COUNTY
BALANCE OF ECTOR COUNTY	ECTOR COUNTY LESS ODESSA CITY
EDINBURG CITY	EDINBURG CITY IN HIDALGO COUNTY
EL PASO CITY	EL PASO CITY IN EL PASO COUNTY
BALANCE OF EL PASO COUNTY	EL PASO COUNTY LESS EL PASO CITY
FRIO COUNTY	FRIO COUNTY
GAINES COUNTY	GAINES COUNTY
GALVESTON CITY	GALVESTON CITY IN GALVESTON COUNTY
BALANCE OF GALVESTON COUNTY	GALVESTON COUNTY LESS GALVESTON CITY TEXAS CITY
GARZA COUNTY	GARZA COUNTY
BALANCE OF GREGG COUNTY	GREGG COUNTY LESS LONGVIEW CITY
HARDIN COUNTY	HARDIN COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
TEXAS (CONT'D)	
HARLINGEN CITY	HARLINGEN CITY IN CAMERON COUNTY
BALANCE OF HARRISON COUNTY	HARRISON COUNTY LESS LONGVIEW CITY
BALANCE OF HIDALGO COUNTY	HIDALGO COUNTY LESS EDINBURG CITY MC ALLEN CITY MISSION CITY
HOUSTON CITY	HOUSTON CITY IN FORT BEND COUNTY HARRIS COUNTY
JASPER COUNTY	JASPER COUNTY
BALANCE OF JEFFERSON COUNTY	JEFFERSON COUNTY LESS BEAUMONT CITY PORT ARTHUR CITY
JIM HOGG COUNTY	JIM HOGG COUNTY
JIM WELLS COUNTY	JIM WELLS COUNTY
KARNES COUNTY	KARNES COUNTY
KILLEEN CITY	KILLEEN CITY IN BELL COUNTY
KINGSVILLE CITY	KINGSVILLE CITY IN KLEBERG COUNTY
LA SALLE COUNTY	LA SALLE COUNTY
LAREDO CITY	LAREDO CITY IN WEBB COUNTY
LEON COUNTY	LEON COUNTY
LIBERTY COUNTY	LIBERTY COUNTY
LIVE OAK COUNTY	LIVE OAK COUNTY
LONGVIEW CITY	LONGVIEW CITY IN GREGG COUNTY HARRISON COUNTY
LOVING COUNTY	LOVING COUNTY
MARION COUNTY	MARION COUNTY
MATAGORDA COUNTY	MATAGORDA COUNTY
MAVERICK COUNTY	MAVERICK COUNTY
MC ALLEN CITY	MC ALLEN CITY IN HIDALGO COUNTY
MC CULLOCH COUNTY	MC CULLOCH COUNTY
MISSION CITY	MISSION CITY IN HIDALGO COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
MORRIS COUNTY	MORRIS COUNTY
NACOGDOCHES CITY	NACOGDOCHES CITY IN NACOGDOCHES COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
TEXAS (CONT'D)	
NAVARRO COUNTY	NAVARRO COUNTY
NEWTON COUNTY	NEWTON COUNTY
NOLAN COUNTY	NOLAN COUNTY
BALANCE OF NUECES COUNTY	NUECES COUNTY LESS CORPUS CHRISTI CITY
ODESSA CITY	ODESSA CITY IN ECTOR COUNTY
ORANGE CITY	ORANGE CITY IN ORANGE COUNTY
BALANCE OF ORANGE COUNTY	ORANGE COUNTY LESS ORANGE CITY
PARIS CITY	PARIS CITY IN LAMAR COUNTY
PASADENA CITY	PASADENA CITY IN HARRIS COUNTY
PECOS COUNTY	PECOS COUNTY
POLK COUNTY	POLK COUNTY
PORT ARTHUR CITY	PORT ARTHUR CITY IN JEFFERSON COUNTY
PRESIDIO COUNTY	PRESIDIO COUNTY
RED RIVER COUNTY	RED RIVER COUNTY
REEVES COUNTY	REEVES COUNTY
ROBERTSON COUNTY	ROBERTSON COUNTY
RUSK COUNTY	RUSK COUNTY
SABINE COUNTY	SABINE COUNTY
SAN JACINTO COUNTY	SAN JACINTO COUNTY
SAN PATRICIO COUNTY	SAN PATRICIO COUNTY
SHELBY COUNTY	SHELBY COUNTY
STARR COUNTY	STARR COUNTY
SUTTON COUNTY	SUTTON COUNTY
TERRY COUNTY	TERRY COUNTY
TEXARKANA CITY TEX	TEXARKANA CITY TEX IN BOWIE COUNTY
TEXAS CITY	TEXAS CITY IN GALVESTON COUNTY
TITUS COUNTY	TITUS COUNTY
TYLER COUNTY	TYLER COUNTY
UPSHUR COUNTY	UPSHUR COUNTY
UVALDE COUNTY	UVALDE COUNTY
VICTORIA CITY	VICTORIA CITY IN VICTORIA COUNTY
WHARTON COUNTY	WHARTON COUNTY
WILLACY COUNTY	WILLACY COUNTY
WINKLER COUNTY	WINKLER COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
TEXAS (CONT'D)	
ZAPATA COUNTY	ZAPATA COUNTY
ZAVALA COUNTY	ZAVALA COUNTY
UTAH	
CARBON COUNTY	CARBON COUNTY
DUCHESNE COUNTY	DUCHESNE COUNTY
EMERY COUNTY	EMERY COUNTY
GARFIELD COUNTY	GARFIELD COUNTY
GRAND COUNTY	GRAND COUNTY
JUAB COUNTY	JUAB COUNTY
PIUTE COUNTY	PIUTE COUNTY
SAN JUAN COUNTY	SAN JUAN COUNTY
SANPETE COUNTY	SANPETE COUNTY
UINTAH COUNTY	UINTAH COUNTY
WASATCH COUNTY	WASATCH COUNTY
WAYNE COUNTY	WAYNE COUNTY
VIRGINIA	
ALLEGHANY COUNTY	ALLEGHANY COUNTY
BATH COUNTY	BATH COUNTY
BRUNSWICK COUNTY	BRUNSWICK COUNTY
BUCHANAN COUNTY	BUCHANAN COUNTY
BUENA VISTA CITY	BUENA VISTA CITY
CARROLL COUNTY	CARROLL COUNTY
CHARLOTTE COUNTY	CHARLOTTE COUNTY
COVINGTON CITY	COVINGTON CITY
CUMBERLAND COUNTY	CUMBERLAND COUNTY
DANVILLE CITY	DANVILLE CITY
DICKENSON COUNTY	DICKENSON COUNTY
DINWIDDIE COUNTY	DINWIDDIE COUNTY
FRANKLIN CITY	FRANKLIN CITY
GILES COUNTY	GILES COUNTY
GRAYSON COUNTY	GRAYSON COUNTY
GREENSVILLE COUNTY	GREENSVILLE COUNTY
HALIFAX COUNTY	HALIFAX COUNTY
HIGHLAND COUNTY	HIGHLAND COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
VIRGINIA (CONT'D)	
HOPEWELL CITY	HOPEWELL CITY
LANCASTER COUNTY	LANCASTER COUNTY
LEE COUNTY	LEE COUNTY
LUNENBURG COUNTY	LUNENBURG COUNTY
MECKLENBURG COUNTY	MECKLENBURG COUNTY
NORTHUMBERLAND COUNTY	NORTHUMBERLAND COUNTY
NORTON CITY	NORTON CITY
NOTTOWAY COUNTY	NOTTOWAY COUNTY
PAGE COUNTY	PAGE COUNTY
PATRICK COUNTY	PATRICK COUNTY
PETERSBURG CITY	PETERSBURG CITY
PITTSYLVANIA COUNTY	PITTSYLVANIA COUNTY
PRINCE EDWARD COUNTY	PRINCE EDWARD COUNTY
PULASKI COUNTY	PULASKI COUNTY
RUSSELL COUNTY	RUSSELL COUNTY
SMYTH COUNTY	SMYTH COUNTY
SUSSEX COUNTY	SUSSEX COUNTY
TAZEWELL COUNTY	TAZEWELL COUNTY
WAYNESBORO CITY	WAYNESBORO CITY
WESTMORELAND COUNTY	WESTMORELAND COUNTY
WISE COUNTY	WISE COUNTY
WYTHE COUNTY	WYTHE COUNTY
WASHINGTON	
ADAMS COUNTY	ADAMS COUNTY
ASOTIN COUNTY	ASOTIN COUNTY
BELLINGHAM CITY	BELLINGHAM CITY IN WHATCOM COUNTY
BALANCE OF BENTON COUNTY	BENTON COUNTY LESS KENNEWICK CITY RICHLAND CITY
CHELAN COUNTY	CHELAN COUNTY
CLALLAM COUNTY	CLALLAM COUNTY
COLUMBIA COUNTY	COLUMBIA COUNTY
BALANCE OF COWLITZ COUNTY	COWLITZ COUNTY LESS LONGVIEW CITY
DOUGLAS COUNTY	DOUGLAS COUNTY
EVERETT CITY	EVERETT CITY IN SNOHOMISH COUNTY
FERRY COUNTY	FERRY COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
WASHINGTON (CONT'D)	
FRANKLIN COUNTY	FRANKLIN COUNTY
GARFIELD COUNTY	GARFIELD COUNTY
GRANT COUNTY	GRANT COUNTY
GRAYS HARBOR COUNTY	GRAYS HARBOR COUNTY
KENNEWICK CITY	KENNEWICK CITY IN BENTON COUNTY
KITTITAS COUNTY	KITTITAS COUNTY
KLICKITAT COUNTY	KLICKITAT COUNTY
LEWIS COUNTY	LEWIS COUNTY
LONGVIEW CITY	LONGVIEW CITY IN COWLITZ COUNTY
MASON COUNTY	MASON COUNTY
OKANOGAN COUNTY	OKANOGAN COUNTY
PACIFIC COUNTY	PACIFIC COUNTY
PEND OREILLE COUNTY	PEND OREILLE COUNTY
SKAGIT COUNTY	SKAGIT COUNTY
SKAMANIA COUNTY	SKAMANIA COUNTY
STEVENS COUNTY	STEVENS COUNTY
TACOMA CITY	TACOMA CITY IN PIERCE COUNTY
VANCOUVER CITY	VANCOUVER CITY IN CLARK COUNTY
WAHKIAKUM COUNTY	WAHKIAKUM COUNTY
WALLA WALLA CITY	WALLA WALLA CITY IN WALLA WALLA COUNTY
BALANCE OF WHATCOM COUNTY	WHATCOM COUNTY LESS BELLINGHAM CITY
YAKIMA CITY	YAKIMA CITY IN YAKIMA COUNTY
BALANCE OF YAKIMA COUNTY	YAKIMA COUNTY LESS YAKIMA CITY
WEST VIRGINIA	
BARBOUR COUNTY	BARBOUR COUNTY
BOONE COUNTY	BOONE COUNTY
BRAXTON COUNTY	BRAXTON COUNTY
BROOKE COUNTY	BROOKE COUNTY
BALANCE OF CABELL COUNTY	CABELL COUNTY LESS HUNTINGTON CITY
CALHOUN COUNTY	CALHOUN COUNTY

(CONTINUED)

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
WEST VIRGINIA (CONT'D)	
CLAY COUNTY	CLAY COUNTY
DODDRIDGE COUNTY	DODDRIDGE COUNTY
FAYETTE COUNTY	FAYETTE COUNTY
GILMER COUNTY	GILMER COUNTY
GRANT COUNTY	GRANT COUNTY
GREENBRIER COUNTY	GREENBRIER COUNTY
HAMPSHIRE COUNTY	HAMPSHIRE COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
HARDY COUNTY	HARDY COUNTY
HARRISON COUNTY	HARRISON COUNTY
JACKSON COUNTY	JACKSON COUNTY
BALANCE OF KANAWHA COUNTY	KANAWHA COUNTY LESS CHARLESTON CITY
LEWIS COUNTY	LEWIS COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
LOGAN COUNTY	LOGAN COUNTY
MARION COUNTY	MARION COUNTY
BALANCE OF MARSHALL COUNTY	MARSHALL COUNTY LESS WHEELING CITY
MASON COUNTY	MASON COUNTY
MC DOWELL COUNTY	MC DOWELL COUNTY
MERCER COUNTY	MERCER COUNTY
MINERAL COUNTY	MINERAL COUNTY
MINGO COUNTY	MINGO COUNTY
MONROE COUNTY	MONROE COUNTY
MORGAN COUNTY	MORGAN COUNTY
NICHOLAS COUNTY	NICHOLAS COUNTY
BALANCE OF OHIO COUNTY	OHIO COUNTY LESS WHEELING CITY
PARKERSBURG CITY	PARKERSBURG CITY IN WOOD COUNTY
PENDLETON COUNTY	PENDLETON COUNTY
PLEASANTS COUNTY	PLEASANTS COUNTY
POCAHONTAS COUNTY	POCAHONTAS COUNTY
PRESTON COUNTY	PRESTON COUNTY
PUTNAM COUNTY	PUTNAM COUNTY
RALEIGH COUNTY	RALEIGH COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
RITCHIE COUNTY	RITCHIE COUNTY
ROANE COUNTY	ROANE COUNTY
SUMMERS COUNTY	SUMMERS COUNTY
TAYLOR COUNTY	TAYLOR COUNTY
TUCKER COUNTY	TUCKER COUNTY
TYLER COUNTY	TYLER COUNTY

(CONTINUED)

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BILLING CODE 4510-30-C

LABOR SURPLUS AREAS
ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE
OCTOBER 1, 1987 THROUGH SEPTEMBER 30, 1988

ELIGIBLE LABOR SURPLUS AREAS	CIVIL JURISDICTIONS INCLUDED
WEST VIRGINIA (CONT'D)	
UPSHUR COUNTY	UPSHUR COUNTY
BALANCE OF WAYNE COUNTY	WAYNE COUNTY LESS HUNTINGTON CITY
WEBSTER COUNTY	WEBSTER COUNTY
WETZEL COUNTY	WETZEL COUNTY
WHEELING CITY	WHEELING CITY IN MARSHALL COUNTY
	OHIO COUNTY
WIRT COUNTY	WIRT COUNTY
BALANCE OF WOOD COUNTY	WOOD COUNTY LESS PARKERSBURG CITY
WYOMING COUNTY	WYOMING COUNTY
WISCONSIN	

THE FISCAL YEAR 1988 CLASSIFICATIONS FOR THE STATE OF WISCONSIN WILL BE ISSUED AS SOON AS POSSIBLE AFTER THE U. S. DEPARTMENT OF LABOR RECEIVES REVISED LABOR FORCE DATA FROM THE WISCONSIN DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS. IN THE INTERIM, THE FISCAL YEAR 1987 CLASSIFICATIONS FOR WISCONSIN WILL BE EXTENDED AND IN EFFECT UNTIL FURTHER NOTICE.

WYOMING	
BIG HORN COUNTY	BIG HORN COUNTY
CARBON COUNTY	CARBON COUNTY
CASPER CITY	CASPER CITY IN NATRONA COUNTY
CONVERSE COUNTY	CONVERSE COUNTY
FREMONT COUNTY	FREMONT COUNTY
NIOBRARA COUNTY	NIOBRARA COUNTY
PLATTE COUNTY	PLATTE COUNTY
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Research, Evaluation, Pilot and Demonstration Procurement Plan for Program Year 1987

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor announces its research, evaluation, pilot and demonstration (R,E,P&D) procurement plan for Program Year 1987. The current plans are to implement 31 new projects. These projects will address specific issues related to enhancing the productivity of the American work force.

This notice is for information only. The purpose is to alert interested parties to the plan. The notice does not solicit applications or proposals. Solicitations for grant awards (SGAs) and requests for proposals (RFPs) will be published at a later date.

A pre-bidders' conference will be held for the following purposes:

(1) To summarize ETA's Program Year 1987 procurement plan;

(2) To describe in general terms the agency's procurement processes;

(3) To present the expected timetable for issuance of SGAs and RFPs;

(4) To place potential bidders on mailing lists for SGAs and RFPs; and

(5) To introduce ETA's R,E,P&D program to individuals and organizations that have not recently participated in the agency's activities.

No additional substantive detail on the subject areas will be provided at the conference. Further, it will not be necessary to attend the conference in order to participate in any of the procurement actions. The conference should be most valuable for those who have not recently participated in ETA's R,E,P&D program.

DATE: The pre-bidders' conference will be held on Tuesday, November 10, 1987, at 9 a.m.

ADDRESS: The pre-bidders' conference will be held at the Department of Labor, Department Auditorium, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Persons planning to attend the pre-bidders' conference should call the telephone answering service established to accept responses: (202) 535–0684.

SUPPLEMENTARY INFORMATION:

Introduction

The Employment and Training Administration (ETA) announces its research, evaluation, pilot and demonstration (R,E,P&D) procurement plan for Program Year 1987. The current plans are to implement 31 new projects. These projects will address specific issues related to enhancing the productivity of the American work force in response to the dramatic changes that are coming as the Nation approaches the year 2000.

This notice serves to alert interested parties to ETA's plan. It does not solicit applications or proposals. Solicitations for grant awards (SGAs) or requests for proposals (RFPs) will be announced in the **Federal Register** and the Commerce Business Daily in the months ahead. Some competitions will be limited (for example, among States, Service Delivery Areas, or Private Industry Councils under the Job Training Partnership Act [JTPA] program) and therefore will be announced only through ETA's administrative communications system.

There are seven subject areas for these projects. These are:

(1) State and Local Coordination,
(2) Labor Market Research,
(3) Workplace Literacy,
(4) JTPA,
(5) Employment Service,
(6) Partnership, and
(7) Job Training for the Homeless.

This announcement consists of three parts. Part I provides general background information concerning the R,E,P&D program. Part II describes the seven subject areas and provides brief project information. Part III discusses the prebidders' conference.

Part I—Background

A. Mission of the Employment and Training Administration and Its Research, Evaluation, Pilot and Demonstration Program

ETA is the Federal agency with the lead responsibility for the Federal Government's training and employment programs. Both U.S. workers and employers, and ultimately the economy, benefit from the comprehensive system of training and employment programs ETA administers. Its major programs include:

—JTPA which consists of a wide range of activities targeted to individual groups who need job-related assistance, with emphasis on economically disadvantaged youth and adults, dislocated workers, and others who face severe problems in the job market, and

—The Employment Service, which operates as a labor exchange, matching workers with available jobs, as well as carrying out other functions.

ETA's R,E,P&D program is operated to measure the impact and effectiveness of the agency's various activities, and to assist the Nation in expanding current and future work opportunities and assuring access to those opportunities for all who desire them. ETA carries out its R,E,P&D program through State and local public agencies, private-for-profit and nonprofit organizations, colleges and universities, community-based and labor groups, and other Federal agencies.

B. Workforce 2000

A 17-month study sponsored by the Department of Labor culminated in the report "Workforce 2000: Work and Workers for the Twenty-first Century," which was prepared by the Hudson Institute. (Single copies of the report can be purchased for $4.50 from the U.S. Government Printing Office, Documents Department, Washington, DC 20402–9325. Stock Number: 029–014–00240–2. Telephone: (202) 783–3238.) This report crystalizes key issues and questions the Nation must deal with if it is to prosper in the intensely competitive and technologically sophisticated global market of the 21st century. For example, the U.S. must:

—Fully integrate women, blacks, Hispanics, and other minority workers into the economy. The labor force will grow more slowly over the next 17 years than at any time in U.S. history, except during the decade of the Great Depression. The net growth in workers will be predominantly women, blacks, and immigrants, nontraditional sources of labor that have long been underutilized. Because there will be fewer young people beginning their careers overall, the year 2000 could provide opportunities to bring groups historically underused into full participation in the economy.

—Provide the work force with the education and skills new jobs in the expanding service-oriented economy will demand. Most new jobs in fast-growing service industries will require higher levels of reading, math, and reasoning skills than traditional jobs in manufacturing industries. Individuals with less than a high school education will face increasing difficulty in finding work and fewer opportunities for good pay and advancement. Yet 700,000 students drop out of school each year, and literacy has become a major issue among young adults.

—Ensure that the increasingly middle-aged work force is adaptable and retains its willingness to learn. The rapidly changing economy will demand workers who are flexible and willing to respond to new opportunities and conditions. Workers with years of experience often lack the flexibility and specialized skills they need to move into expanding industries.

—Reconcile the conflicting demands of work and family responsibilities, especially for women. The increase in the labor force participation of mothers, including women with young children, has been striking. Fifty-two percent of mothers with children under 2 years were in the labor force last March. Welfare mothers and displaced homemakers are among groups needing special consideration.

A basic step in meeting these challenges is strengthening ETA's information base. The R,E,P&D procurement plan announced in this notice is designed to provide more complete information to enable the agency to better understand and deal with specific issues.

Part II—Subject Areas

A. State and Local Coordination

The U.S. economy is expected to continue to grow at least at its current rate through the year 2000. At the same time, the pool of "traditional" labor force entrants will shrink. In the anticipated tight labor market of the year 2000, employers will be forced either to seek out and invest in workers heretofore underutilized *or* to bid up wages or export jobs overseas.

ETA has identified several groups who are obvious targets if the labor pool is to be expanded. Their workplace skills will require intensive attention and development if they are to meet employers' demands.

The complex employment-related and social needs of disadvantaged populations require assistance from multiple programs. But effective coordination and collaboration among various human service programs designed for these groups at State and local levels are often inadequate. The problems exist largely because the programs are administered under separate delivery systems, funding sources, cycles, and regulations. Lack of coordination frequently results in duplication and in real gaps in what is available.

In this area, ETA will seek the development of community-based partnerships between those responsible for providing job-related training (i.e., JTPA administering agencies) and those responsible for other economic development, educational, or social support services. We will be interested in establishing projects that stress cost-effectiveness, and that effectively link State and local employment and other related services in order to prepare specific groups (e.g., displaced homemakers, welfare mothers, public housing residents, and offenders) to compete successfully in the labor market of the 1990s and beyond. ETA will be looking primarily for demonstrations that promise to produce models that can be widely replicated. In addition, ETA plans a research project to assess the policy and program implications of experience already gained in linking JTPA to other human service and economic programs.

B. Labor Market Research

Under this category, ETA will implement projects to conduct research in various qualitative aspects of labor market development. To study developments and options for improving job opportunities for hard-to-employ groups, ETA will consider research studies relating to the working poor, with the goal of moving individuals off welfare and increasing their incentives for employment, and the employment situation of black and Hispanic males, with the objective of determining how employment and training programs can best assist these groups. Another project will study the temporary help industry and ways in which this burgeoning field might serve as a vehicle for moving welfare recipients into the world of work.

Women workers will be the subject of research projects ETA plans to implement in the area of trends in women's pay. ETA also has plans for a project to identify best business practices for child care and to examine new employment and benefit options which have been developed in response to the influx of women into the labor force.

ETA has plans for a project to identify examples of successful efforts to attract new business, particularly in rural and economically depressed areas; to study industries and occupations that are most vulnerable to economic downturn and foreign competition; and to examine various international trade issues and their impact on U.S. workers.

C. Workplace Literacy

There is a fundamental, qualitative difference between the kinds of jobs that are decreasing and those that are growing fastest. New jobs—in the computer or health fields, for example—will require higher levels of analytic skills and literacy. Workers who have literacy problems or who lack adequate language skills to communicate in English will experience problems adjusting to a market where hand labor is less valued than mental labor.

In addition, the pace of technological change will require workers to learn new skills throughout their careers as new needs develop. Employers will increasingly be demanding workers who are able to think and learn and will be looking for entry-level workers who can read and write and who are flexible and adaptable to new equipment, new methods, and new situations.

Evidence suggests that many of the young workers—particularly minorities—who will be coming into the work force lack the skills that will be basic to employment, and job training programs will be forced more and more to incorporate basic education components into their instructional packages.

The primary purpose of the projects proposed in this subject area is to develop new techniques and arrangements for relating literacy training to occupational skills instruction, and new ways of making literacy training available to special groups. For example, ETA expects to establish procurements that demonstrate innovative projects for dropouts and that will develop and evaluate alternative school demonstration projects.

ETA also plans a procurement for a thorough review of U.S. experience with computerized learning packages and for the identification of the best practices and techniques for overcoming barriers to workplace learning.

Other projects are proposed to increase literacy levels of workers by linking JTPA with other community resources and to develop literacy projects designed for special groups, such as black and Hispanic youth and the handicapped. Another planned project will examine the literacy requirements of at least two occupations that employ large numbers of workers and develop ways to measure occupational attainment.

D. Job Training Partnership Act

The Job Training Partnership Act (JTPA), the largest federally funded training and employment program, is one of ETA's principal tools for directly addressing "Workforce 2000" issues. JTPA's overall delivery network has proven effective during the program's first years, but refinement is needed to strengthen the system and to ensure that clients are equipped to compete successfully in the anticipated tight labor market of the future. To this end, ETA will seek projects that assess how well specific aspects of the program are working and provide information useful in improving performance.

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JTPA is funded through a system of block grants to the States. States, and some 625 Service Delivery Areas (local jurisdictions and combinations of jurisdictions), plan and operate programs under broad Federal guidelines, in conjunction with Private Industry Councils (PICs). This close involvement of employers, and features such as emphasis on direct job preparation (70 percent of training costs must go for training) and on performance management, distinguish JTPA from predecessor programs.

Under this broad category, ETA will implement projects to strengthen the effectiveness of local PICs and projects that will lead to more effective services to dislocated workers and economically disadvantaged persons. ETA is particularly interested in ways of providing these groups with training for high-level occupations that are projected to suffer skill shortages in the years ahead.

ETA has plans for a project which will review the performance management system under section 106 of JTPA, in such areas as literacy, youth competency, and the system's impact on individuals who are particularly difficult to serve. Contingent on enactment of the Worker Readjustment Program (WRAP), ETA anticipates funding a project that will study the implementation of this new program for dislocated workers. WRAP is contained in trade legislation currently in House/Senate conference.

Some of these projects would provide practical guidance, identify best practices, and develop "what works best" documents. Others would assess steps to be taken to improve performance and recommend systems that can enhance the effectiveness of training and increase the level and quality of job placements.

E. Employment Service

Economic expansion throughout this century will be accompanied by rapid changes in the nature of jobs. New enterprises will emerge in response to new technology and the continuing shift from a manufacturing economy to a service-producing one. Some industries may shrink dramatically.

The American work force will be profoundly affected, with workers changing jobs five or six times during a normal work life. The Nation's public Employment Service (ES) will need increased flexibility to deal with the changing needs of both workers and employers.

Authorized by the Wagner-Peyser Act, the ES is jointly administered by the Department of Labor and the 54 State Employment Security Agencies. It functions primarily as a nationwide labor exchange and is supported through grants to the States. The planning and delivery of ES services are coordinated with Governors and local JTPA program officials.

Based on a major 1986 review of the ES, which included public hearings and comments in response to a notice in the **Federal Register**, and research on future labor market requirements, ETA has proposed that the ES refocus its activities to place greater emphasis on services such as assessing and testing workers to help them identify their own strengths and weaknesses, counseling, the provision of labor market information, and job-search assistance programs.

In line with this emphasis, ETA will seek proposals from States for demonstrations aimed at strengthening these public employment services in order to meet the challenges of a changing labor market. ETA also has plans for a separate project that will evaluate the interstate job bank program and examine alternative approaches to existing automated interstate job-finding programs.

F. Partnership

ETA has had long-term working relationships with several national organizations representing business, labor, or community-based groups. These partnerships, carried out under sections 451 and 453 of JTPA, are designed to develop and provide technical assistance and to conduct job training programs that address skill shortage areas and enhance the provision of services to special client groups.

The purpose of this category is to enhance the partnership concept. ETA will be soliciting proposals from these organizations to conduct additional pilot and demonstration programs within the partnership context. The competition will focus on worker adjustment, women and welfare, and youth.

G. Job Training for the Homeless

Congress, in the Stewart B. McKinney Homeless Assistance Act, Pub. L. 100-77 (July 22, 1987), directs the Secretary of Labor to award grants for job training demonstration projects for the homeless.

As part of ETA's overall R,E,P&D plan and contingent on the appropriation of funds for this purpose, ETA will implement projects authorized by the legislation that are designed to provide homeless persons with an array of services. These may include basic skills instruction, counseling, job development, basic literacy, and other activities described in section 204 of JTPA.

Part III—Pre-Bidders' Conference

A pre-bidders' conference will be held on Tuesday, November 10, 1987, at 9 a.m. at the Department of Labor, 200 Constitution Avenue, NW., Department Auditorium, Washington, DC 20210.

The conference will be held for the following purposes:

(1) To summarize ETA's Program Year 1987 procurement plan;

(2) To describe in general terms the agency's procurement processes;

(3) To present the expected timetable for issuance of SGAs and RFPs;

(4) To place potential bidders on mailing lists for SGAs and RFPs; and

(5) To introduce ETA's R,E,P&D program to individuals and organizations that have not recently participated in the agency's activities.

No additional substantive detail on the subject areas will be provided at the conference. Further, it will not be necessary to attend the conference in order to participate in any of the procurement actions. The conference should be most valuable to those who have not recently participated in ETA's R,E,P&D program.

Signed at Washington, DC, this 16th day of October, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 87-24770 Filed 10-26-87; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Challenge III Section) to the National Council on the Arts will be held on November 10, 1987 from 9:00 a.m.-5:30 p.m. in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 10, 1987 from 4:30 p.m.-5:30 p.m. The topics for discussion are policy and guidelines.

The remaining sessions of this meeting on November 10, 1987 from 9:00 a.m.-4:30 p.m. are for the purpose of review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

October 19, 1987.

[FR Doc. 87-24760 Filed 10-26-87; 8:45 am]

BILLING CODE 7537-01-M

National Endowment for the Arts; Inter-Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Interdisciplinary Arts Projects Prescreening) to the National Council on the Arts will be held on November 12-13, 1987, from 9:00 a.m.-5:30 p.m. and November 14, 1987, from 9:00 a.m.-1:00 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

October 20, 1987.

[FR Doc. 87-24761 Filed 10-26-87; 8:45 am]

BILLING CODE 7537-01-M

including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

October 19, 1987.

[FR Doc. 87-24760 Filed 10-26-87; 8:45 am]

BILLING CODE 7537-01-M

National Endowment for the Arts; Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Chorus Section) to the National Council on the Arts will be held on November 12-14, 1987 from 9:00 a.m.-6:00 p.m. in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 14, 1987, from 1:00 p.m.-3:30 p.m. The topics for discussion are policy and guidelines.

The remaining sessions of this meeting on November 12-13, 1987 from 9:00 a.m.-6:00 p.m. and on November 14, 1987, from 9:00 a.m.-1:00 p.m. and 3:30 p.m.-6:00 p.m. are for the purpose of review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

October 20, 1987.

[FR Doc. 87-24762 Filed 10-26-87; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Physical Anthropology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Physical Anthropology.

Date and Time: November 12-13, 1987; 9:00 a.m. to 5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Room 1242, Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. John Yellen, Program Director, Anthropology Program, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357-7804.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in physical anthropology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-24805 Filed 10-26-87; 8:45 am]

BILLING CODE 7555-01-M

Interagency Program Announcement; Plant Science Centers Program

ACTION: Notice of Interagency Program Announcement.

Title: Plant Science Centers Program.

EFFECTIVE DATE: This announcement should be used in preparing all proposals for the Plant Science Centers Program. The submission deadline is March 1, 1988.

Introduction

The Department of Agriculture (USDA), the Department of Energy (DOE) and the National Science Foundation (NSF) announce their intent to jointly establish a new competitive awards program in Fiscal Year 1988 (beginning October 1, 1987) for research and training in plant science. In its first year, the Plant Science Centers (PSC) Program is intended to be implemented

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with a total budget not to exceed $10 million, *subject to the availability of funds.*

The goal of the Program is to encourage the best in basic research in plant science. Growth in imaginative basic research is believed necessary to insure the future competitive position of U.S. agriculture and production of renewable resources. The program is founded on the needs to improve the quality of food and fiber, to increase the efficiency of their production, to develop and use new products, and to sustain a renewable resource base. The attainment of these objectives depends on: The broad application of modern techniques in biochemistry, biophysics, genetics, and cellular, molecular and environmental biology to better understand the structure and function of plants and the control of their growth and development; the responsible application of new knowledge in genetic engineering to avoid undesirable environmental effects; clarification of ecological processes in agroecosystems essential to intelligent land management and the wise use of our natural resources. Some problems in plant science are sufficiently complex to suggest that a critical mass of resources and of researchers from several disciplines (or from within a single discipline) would be more effective in addressing these problems than the usual smaller award to a single investigator. A few examples of relevant research areas are plant biotechnology, rhizosphere dynamics and microbial ecology, complex carbohydrates, and ecological processes. This list is not exhaustive and does not preclude from consideration any proposal which addresses a problem in an area of relative neglect or a timely research opportunity utilizing the center approach.

The PSC Program was designed to mobilize the talent and other resources in academia with meaningful and significant participation from industry, Federal laboratories, and State and local agencies, and to derive the benefits from concerted administration and financing in a research and training environment. PSC awards are intended to stimulate and provide research, and for training at the undergraduate, graduate and postdoctorate levels. The Program will not provide funds for major construction, but limited minor renovation or fabrication of special facilities related to the research proposed will be considered.

The PSC Program will complement programs already announced or previously established by the agencies. DOE's Division of Biological Energy Research, Office of Basic Sciences, in a **Federal Register** notice (Vol. 52, No. 16, January 26, 1987), invited grant applications for a multidisciplinary research, training and service program in complex carbohydrates; an award will be made in Fiscal Year 1987. However, beginning in Fiscal Year 1988, this award and any new awards that may be made for research and training in complex carbohydrates will become an integral part of the interagency PSC Program.

Applicant institutions are expected to show in their proposals appropriate collaborations with external organizations and scientists. Industrial participation is strongly encouraged and not limited to but may include any or all of the following: Commitment of funds, equipment and people; support of scholars and fellows; exchange of scientists; provision of industrial research experience for students. Appropriate state and local government support includes direct funding and provision of equipment, instrumentation and facilities. Federal laboratories (e.g. DOE's National Laboratories and those of the USDA's Agricultural Research Service) are encouraged to ally with the applicant institution in the proposed research, in exchange of scientists, in specialized training, and in the provision of, or sharing of, facilities and instrumentation. However, Federal laboratories may not respond directly to this announcement.

Who May Submit

To meet the requirements for training, the invitation to submit proposals is extended only to U.S. doctorate granting institutions with graduate programs related to the plant sciences. Proposals involving multi-institutional arrangements also are eligible, but the grantee institution must assume responsibility for administering the Center.

Principal Investigator

The individual designated as principal investigator will be responsible for overseeing all aspects of the Center award, including management and staffing, procurement, use and maintenance of equipment, and the distribution of research funds for the Center.

Awards

The awards are expected to range from several hundred thousand dollars to $2 million per year for five years. Additional new awards will be made beyond Fiscal Year 1988 if sufficient funds are appropriated. Institutions awarded an initial grant may be eligible for renewal for an additional period of up to five years. Although agencies will make award decisions jointly, each awardee will be funded by a single agency and will have a single point of contact during the term of the award.

Evaluation of Proposals

The USDA, DOE and NSF use similar criteria in the review of competitive grant proposals. For PSC program proposals, the agencies will use the general evaluation criteria described in the NSF document Grants for Research and Education in Science and Engineering (NSF 83-57, revised 1/87). Proposals will be reviewed through a merit review process conducted jointly by the USDA, DOE and NSF. Final selection of awardees by the three agencies will be based on evaluations by review panels and by site visit teams.

Key factors in the selection of awardees, and in deciding the size and duration of an award, will be:

1. Importance and uniqueness of the proposed research;
2. Training opportunities offered (e.g. new courses or curricula, participation of students and postdoctoral associates in the research), and the integration of the research and training activities;
3. Commitments and support from (a) the applicant institution, (b) industry, (c) Federal and non-Federal government components;
4. Adequacy of the management plan to effectively support the proposed activities;
5. Integration of the different disciplines, in the case of multidisciplinary research, in meeting the Center's objectives.
6. The research and training relationships with allied institutions, when appropriate.

Proposal Format and Content

As with the evaluation crtiteria, the sponsoring agencies will use the format and content guidelines also described in the NSF document Grants for Research and Education in Science and Engineering (NSF 83-57, revised 1/87).

In addition, each proposal must contain:

1. A Table of Contents with page numbers keyed to the major sections of the proposal;
2. A succinct Executive Summary of the Center and its features;
3. The Rationale for the Center and Description of Research to be undertaken;
4. A description of Educational and Training Opportunities;

5. A summary of Facilities Available, including prior or planned commitments for additions and renovations (with cost and schedule estimates, if still incomplete);
6. A Management Plan describing center organization and administration, responsible officials and their activities, relationship of departments and their faculty members to collaborative and multidisciplinary research within the center's structure and operation, and plans for interim evaluations by internal reviews, visiting committees, external advisors, etc.;
7. An Other Support section describing institutional, industrial, Federal laboratory, state and local government support committed. Support committed should be summarized and tabulated for each years.

Each proposal must include appendices, identified by page numbers in the table of contents, of Participants and of Current and Pending Support. Participants should be listed by title, specific affiliation (within or outside the applicant institution) and relationship to one or more of the center's organizational units or research/training activities. Biographical information, limited to two pages, should be included for each key individual (principal investigator, participating faculty researchers, collaborators in affiliated institutions). Only the most recent and relevant publications should be included.

Current and pending support from all sources should be included for each key individual affiliated with the applicant institution. Such support should be described: Current year's amount and future commitments (including time), source of funding, project title, name of agency program, and award or pending proposal identification number.

The budget should detail the funds requested over the duration of the award, including those for personnel. Justification of budget line items should be clear and succinct. Significant cost sharing by institutional, industrial or other governmental commitment should be noted and cross-referenced to the descriptions in section 7, above.

The cover page of each copy of the proposal should be clearly marked: *For Consideration by the Plant Science Centers Program.*

Proposal Submission

Twenty copies of the proposal are required including the copy bearing the signed cover page. Mail to: Data Support Services Section, Attention: Plant Science Centers Program, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Contacts

Potential applicants are strongly advised to contact USDA, DOE or NSF with questions or to discuss this announcement before submitting formal proposals.

At USDA:

Dr. Machi F. Dilworth, U.S. Department of Agriculture/CRGO, Room 112, JSM Building, Washington, DC 20251, Tel.202/475-5042.

At DOE:

Dr. Robert Rabson, Division of Biological Energy Research, ER-17, GTN, U.S. Department of Energy, Washington, DC 20545, Tel. 301/353-2873.

At NSF:

Dr. Robert Rabin, BBS Directorate, Room 312, National Science Foundation, Washington, DC 205550, Tel. 202/357-9894.

In accordance with Federal statutes and regulations, and the policies of USDA, DOE and NSF, no person on grounds of race, color, age, sex, national origin, or disability shall be excluded from participation in, denied the benefits of, or be subject to discrimination under any program or activity receiving financial assistance from these agencies.

NSF has TDD (Telephonic Device for the Deaf) capability which enables individuals with impaired hearing to communicate with the Division of Personnel and Management for information relating to NSF programs, employment or general information. This number is 202/357-7492.

For USDA:

"Catalog of Federal Domestic Assistance Number 10.206, Competitive Research Grants Office."

For DOE:

"Catalog of Federal Domestic Assistance Number 81.049, Basic Energy Sciences, High Energy and Nuclear Physics, Magnetic Fusion Energy, Health and Environmental Research, Program Analysis, Field Operations Management."

For NSF:

"Catalog of Federal Domestic Assistance Number 47.051, Biological, Behavioral and Social Sciences."

Robert Rabin,

Senior Advisor for Biotechnology, Directorate for Biological, Behavioral, and Social Sciences.

October 22, 1987.

[FR Doc. 87-24803 Filed 10-26-87; 8:45 am]

BILLING CODE 7555-01-M

Division of Mathematical Sciences; Undergraduate Curriculum Development in Mathematics; Calculus

October 22, 1987.

ACTION: Notice of program announcement, National Science Foundation.

EFFECTIVE DATE: This announcement should be used in preparing all calculus proposals for: Conferences and Workshops; Planning Projects; and Curriculum Development Projects. The deadline dates for submission are:

Conferences and Workshops—No submission deadline.
Planning Projects—March 15, 1988
Curriculum Development Projects:
Preliminary Proposal (Optional)—February 1, 1988
Formal Proposal—March 15, 1988

Introduction

Mathematics is critical for participation in scientific and technical activities. Calculus—"the language of change"—has been a long standing prerequisite for advanced work in the physical and engineering sciences; and is now fast becoming a requirement for students in the biological and social sciences as well.

Calculus instruction is generally provided in a sequence of courses that contains a mixture of theory, practice, and application. Awareness of the need for revision and renewal in calculus curriculum is evident throughout science and engineering. A number of forces have combined to convince the undergraduate teaching community that the time is ripe for a concerted effort to address the issues of curriculum development in a coherent fashion.

Included in the educational concerns are:

- Survival rates in calculus courses are unacceptably low.
- Those students who survive calculus courses are frequently unprepared to use the material they have mastered in solving problems from other disciplines.
- While calculus is frequently a requirement for advanced work in other disciplines, the intent of that requirement in terms of prerequisite knowledge or skills is frequently unclear.
- As new applications emerge, the role of applications in calculus courses needs to be rethought.
- New computational capabilities reduce the demands on students for traditional manipulation of equations while increasing their need to

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understand what those manipulations accomplish.

• New technologies afford the possibility of new instructional strategies.

The mathematical sciences community is poised to meet the challenge of revitalizing this key aspect of undergraduate instruction. Extensive discussions in the community have culminated in recent publication of Undergraduate programs in the mathematical and computer sciences: the 1985–1986 survey, undertaken by the Conference Board of the Mathematical Sciences, and Toward a Lean and Lively Calculus, the proceedings of the Tulane conference on calculus sponsored by the Sloan Foundation and published by the Mathematical Association of America. A major symposium on calculus is scheduled for October, 1987, under the auspices of the Sloan Foundation and the National Academy of Sciences. Recent meetings of appropriate professional societies have featured sessions designed to focus attention on the issues involved in curriculum revision in calculus.

The stage has been set for a national effort to reorganize and reinvigorate instruction in calculus. The focus will be on raising students' conceptual understanding, problem-solving skills, analytical and transference skills, while implementating new methods to reduce tedious calculations.

In that spirit, the Division of Mathematical Sciences, in cooperation with the Office of Undergraduate Science, Engineering and Mathematics Education, announces a program of support for projects concerned with curriculum and instruction in calculus. The program will emphasize coordination with other disciplines in science and engineering and interactions between different sectors of the mathematical sciences community in the development of model curricula and prototypical instructional materials. It will provide seed money for projects that show particular promise to contribute to a national effort to reinvigorate calculus instruction.

Solicitation

The Division of Mathematical Sciences invites proposals for projects that will explore opportunities for revitalizing instruction in calculus. This solicitation is for the initial NSF participation in support of an activity that is expected to cover several years and involve a full complement of local and national effort.

During the first year, emphasis will be on the generation of ideas and formulation of a national context within which significant changes can be accomplished. Projects to be supported in the first year include planning projects, conferences and workshops, and a very few curriculum development projects. In future years the program will focus on support of a few projects that show the greatest potential for contributing to long-term progress.

Through its supported projects the program expects to:

• Encourage use of recent advances in subject matter content, research in teaching and learning, and instructional technology (including computational techniques as appropriate);

• Stimulate faster constructive communication between the mathematical sciences and the wide variety of other fields that use calculus;

• Better equip students to use the knowledge and skills developed in the classroom in dealing with problems coming from other disciplines;

• Encourage and enhance the participation of groups currently underrepresented in the sciences and engineering through recognition of the barriers to such participation and efforts to overcome them;

• Develop a better understanding of the appropriate interactions between calculus and other introductory undergraduate mathematics courses as well as related courses in the other sciences and engineering.

Categories for Support

Three major categories of proposals will be considered for support during this first year.

• *Conferences and workshops.* Proposals submitted in this category will request funds for conferences, workshops, and other activities aimed at generating ideas, fostering interactions, and providing a context within which curriculum development can take place with enhanced probability of success. Characteristics of this category include:

• No submission deadlines.

• Ad hoc merit review.

• Project duration: 6 to 12 months.

As the program matures, this type of activity will continue to receive support, but it is anticipated that the nature of the projects will shift to emphasize dissemination and evaluation of results.

• *Planning projects.* Proposals submitted in this category will provide the time frame to allow fully-formed, well-designed curriculum projects to materialize. Characteristics of this category include:

• Submission deadline: March 15, 1988.

• Projects to begin after August 1, 1988.

• Proposals to be reviewed by panel.

• Project duration: One year.

The result of an award in this category would be development of a well-formulated plan for a project of the scope described in the category below. Proposals must describe clearly an underlying philosophy for change and a well-defined structure for the planning activities. While it is expected that most awardees will submit proposals to NSF for major projects in the future, planning proposers should also consider other potential sources of funding that might complement or replace NSF support. Promising ideas for identifying such support will strengthen a proposal.

• *Curriculum development projects.* Proposals will describe projects with a well-formulated underlying philosophy and a well-defined plan for development. Proposals submitted to this category should contain complete information on which to base a multi-year award. The project description should cover planning, development, testing, implementation, evaluation and dissemination stages. Methodology, teacher training and related issues should be addressed as appropriate.

By their nature, proposals appropriate to this category are likely to be complex and require a laborious and costly effort in construction. In addition, these proposals will receive a particularly intensive and demanding review. For both of these reasons, it is requested that all applicants should consider submitting a preliminary proposal prior to submission of a full proposal. This preliminary proposal may be in the form of a comparatively brief and informal letter of inquiry, outlining the concept and general structure of the contemplated project, as well as the organization(s) and personnel contemplated, and the order of magnitude of support required. This preliminary proposal should not exceed six pages in length. Program staff will respond with comments on the concept and a staff opinion of the general appropriateness of such a proposal. This opinion will not be binding, nor will it in any way preclude or affect the review of a formal proposal, but it can be of great help to proposers in deciding whether to undertake the cost and effort of a formal submission.

Characteristics of this category include:

• Submission deadline for preliminary proposals: February 1, 1988.

• Submission deadline for formal proposals: March 15, 1988.

• Projects to begin after August 15, 1988.

• Proposals to be reviewed by panel.

• Continuing awards of duration up to five years.

Awards made in this category must show clear potential to contribute to renewal of calculus instruction on a national basis. Without addressing the issue of national impact, no proposal, however sound, can expect to compete effectively for a multi-year award.

Important Considerations

The Curriculum Development Program in calculus is intended to provide viable options for instruction in calculus that will allow users to meet the expectations of the mathematical sciences and related science and engineering communities for course content and student performance. In combination with complementary activities supported by states, academic institutions, industry, professional societies, private foundations, and other sources, it is expected that revitalization and reorganization can be accomplished that will have long-lasting impact on undergraduate instruction in the United States.

Generally, proposals will be evaluated in accordance with the criteria outlined in Grants for Research and Education in Science and Engineering. These criteria deal with:

• Intrinsic merit of the proposed project;

• Capability of investigator(s) to carry out the proposed work;

• Expected impact of the proposed project;

• Relevant context of the proposed project.

In addition, proposals should address the project's potential for contributing to a national effort, including the following as appropriate to the category listed above in which they fall.

• Evidence of a thorough understanding of the undergraduate mathematics curriculum and a clear vision of the place of calculus within it.

• Evidence of cooperation with other academic disciplines in designing the project.

• A clear description of the form of the planned products (e.g., textbooks, pamphlets, videotapes, software, etc.).

• A development plan that states clearly the sequence of steps in the development process, including planning, writing, field testing and revision, and that specifies the role of each member of the senior project staff in that process.

• An analysis of issues related to student testing and a plan for the development of prototypical instruments or strategies for evaluating students' learning.

• A discussion of the needs of instructors and of any plans to develop supplementary materials for instructors or to design workshops to prepare instructors to use the developed materials effectively.

• A strategy for informing all interested constituencies of the project's vision for a reformed curriculum and a plan for making the developed materials available to those who wish to study them or to use them in their classes.

Individuals with strong subject mastery are expected to play a key role in each project. Project personnel—either individually or jointly—are expected to provide robust expertise in the discipline of mathematics, an extensive knowledge of the needs of undergraduate instructors and students, and familiarity with the breadth of fields served by calculus and with difficulties of educational change at the undergraduate level.

The Foundation is especially concerned about the large numbers of young women, minorities, and disabled students who choose not to continue their study of mathematics through calculus and beyond, thereby closing career options in engineering, mathematics, and the sciences. All projects should make a special effort to make calculus relevant and interesting for these students. Proposals targeted specifically at one or more of these populations are also eligible and are encouraged.

Contributions from participating institutions, beneficiaries or other sources are strongly encouraged. These might be in the form of in-kind services, facilities, direct contributions, release time for participating instructors, etc. Such participation provides a particularly eloquent assurance of the importance assigned to the project and its continuation after NSF funding has ended.

Preparation and Submission of Proposals

For guidance on the specifics of proposal preparation, proposers should consult Grants for Research and Education in Science and Engineering (NSF 83–57 rev 1/87). This includes required forms that should accompany each proposal and detailed information on proposal preparation and processing and on grant administration. This publication can be obtained from the Forms and Publications Unit, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Twelve (12) copies of the proposal should be prepared and sent to Proposal Processing Unit, National Science Foundation, Room 223, Washington, DC 20550.

On the cover page, in the upper left hand block, it is important to identify the NSF Organizational Unit: DMS/Special Projects/Calculus.

Four (4) copies of preliminary proposals for curriculum development projects should be sent directly to: Program Director for Special Projects/Calculus, Mathematical Sciences Division, Room 339, National Science Foundation, Washington, DC 20550.

Since this activity is in its initial year, all proposers are encouraged to contact the DMS Program Director for Special Projects/Calculus before submitting a proposal. The telephone number for the Special Projects Program is (202/357–3453).

Who May Submit

Organizations with a scientific or educational mission are eligible to submit proposals. Among these are: Two year/four year colleges and universities; state and local education agencies; professional societies; private foundations; private industries; and other public and private organizations, whether for profit or nonprofit. Formal and *ad hoc* consortia of institutions are encouraged to submit to this particular solicitation because of the need to develop curricula useful in a broad range of academic institutions.

The Foundation provides awards for research and education in the sciences and engineering. The awardee is wholly responsible for the conduct of such research and preparation of the results for publication. The Foundation, therefore, does not assume responsibility for such findings or their interpretation.

The Foundation welcomes proposals from all qualified scientists and science educators, and strongly encourages women and minorities to compete in the development programs described in this document. In accordance with Federal statutes and regulations and NSF policies, no person shall be excluded on grounds of race, color, age, gender, national origin, or physical handicap from participation under any program or activities receiving financial assistance from the National Science Foundation.

NSF has TDD (Telephonic Device for the Deaf) capability which enables individuals with hearing impairment to communicate with the Division of Personnel and Management for information relating to NSF programs, employment, or general information. This number is (202/357–7492).

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Related Programs

The Undergraduate Engineering Curriculum Development Program is designed to revise and improve undergraduate engineering education. There is a pressing need to revise the curricula of undergraduate engineering education with a view toward more emphasis on the laboratory experience and on technology-driven fields such as design, manufacturing, and computer-integrated engineering. There is also a need to explore the use of new technologies to improve the quality and productivity of the undergraduate engineering education system. It is expected that projects will lead to a thorough restructuring of the undergraduate curricula of engineering and to the introduction of new teaching methods and technologies.

Large grants (up to five years) will be awarded to individual universities or to consortia of universities, for comprehensive activities having a broad scope and far reaching effects. These proposals will be required to include a commitment from the appropriate academic institutions, to assure their involvement in the activities being funded. Smaller grants may be made for topic specific studies, conferences and workshops. Efforts to implement the results of the projects and to transfer to others the benefits of the activities supported will be an important part of each project.

Additional information about this program may be obtained by contacting the Undergraduate Engineering Curriculum Development Program, Office for Engineering Infrastructures Development, Room 1238–A, National Science Foundation, Washington, DC 20550; or calling: (202/357–9834).

The goal of the Instrumentation and Laboratory Improvement Program (ILI) is to improve the quality of the undergraduate curriculum by supporting projects to develop new or improved instrument-based undergraduate laboratory and/or field courses in science, mathematics or engineering. For additional information request the program announcement and guidelines, NSF 87–74 or contact the Office of Undergraduate Science, Engineering and Mathematics Education, Room 639, NSF, Washington, DC 20580 (202/357–7051).

The Undergraduate Faculty Enhancement Program (UFE) offers grants for Undergraduate Faculty Seminars and Conferences to provide opportunities for groups of faculty to learn about new techniques and new developments in their fields. Awards are made to conduct seminars, short courses, workshops or similar activities for regional or national groups of faculty members. For further information about the Undergraduate Faculty Enhancement Program, contact the Office of Undergraduate Science, Engineering, and Mathematics Education, Room 639, NSF, Washington, DC 20550 (202/357–7051).

For Further Information: Please address requests for further information on the Undergraduate Curriculum Development in Mathematics: Calculus program to the National Science Foundation, Division of Mathematical Sciences, Room 339, Washington, DC 20550, Attention: Dr. Louise Raphael, Special Projects/Calculus, (202/357–3453).

Judith S. Sunley,

Division Director, Division of Mathematical Sciences.

[FR Doc. 87–24804 Filed 10–26–87; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413, and 50–414]

Duke Power Co. et al.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–35 and NPF–52 issued to the Duke Power Company, et al., (the licensee) for operation of the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

The amendments would revise Technical Specification (TS) 3/4.4.5, "Steam Generators" and its associated bases, and involve changes to the steam generator tube plugging criteria. The changes are applicable to Catawba Unit 1 only; however, Unit 2 is included because the Technical Specifications for both Units are combined in one document. This revision proposes adoption of the F* distance for steam generator tube plugging which is similar to that which was granted for the McGuire Nuclear Station through the issuance of Amendments 59 and 40 for Units 1 and 2, respectively, on August 19, 1988. The F* distance represents a length of continuous tube expansion in the tubesheet such that tube pullout would not occur during either normal operation or postulated accident condition loadings. The F* distance is measured from the bottom of the roll expansion transition or the top of the tubesheet if the bottom of the roll expansion is above the top of the tubesheet. For Catawba Unit 1, and F* distance is equal to 1.31 inches.

On the basis of Westinghouse's evaluation, it is determined that tubes with any degradation within the tubesheet region below the F* distance can be left in service. Tubes with degradation located a distance less than F* should be removed from service by plugging in accordance with TS requirements. The criteria in Westinghouse's evaluation have been demonstrated to result in tube integrity considerations commensurate with the criteria of Regulatory Guide 1.121, "Bases for Plugging Degraded PWR Steam Generator Tubes."

These revisions to the technical specifications would be made in response to the licensee's application for amendments dated October 8, 1987. Additional submittals may be requested by the Commission during the course of its review of this matter.

Existing plant Technical Specifications for tube plugging criteria apply throughout the tube length and do not take into account the reinforcing effect of the tubesheet on the external surface of the tube. In reality, the presence of the tubesheet will constrain the tube and will complement its integrity in the region by precluding tube deformation beyond its expanded outside diameter. The resistance to both tube rupture and tube collapse is significantly strengthened by the tubesheet. In addition, the proximity of the tubesheet significantly affects the leak behavior of throughwall tube cracks in this region, i.e., no significant leakage relative to that allowed by plant Technical Specifications its to be expected. Based on these factors, consideration of a revised criterion as proposed by the licensee, or an alternative criterion which may be requested by the licensee for tube plugging, may be justified for tube defects located below a predetermined depth within the tubesheet region.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended, (the Act) and the Commission's regulations.

By November 27, 1987, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 342–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to D.S. Hood: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i) through (v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated October 8, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Dated at Bethesda, Maryland, this 21st day of October 1987.

For The Nuclear Regulatory Commission.

Kahtan N. Jabbour,

Project Manager, Project Directorate II–3, Division of Reactor Projects–I/II.

[FR Doc. 87–24840 Filed 10–26–87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–445–OL2, and 50–446–OL2; ASLBP No. 79–430–06–OL

Texas Utilities Electric Co. et al., Comanche Peak Steam Electric Station, Units 1 and 2

October 20, 1987.

Before Administrative Judges: Peter B. Bloch, Chair, Dr. Walter H. Jordan, Dr. Kenneth A. McCollom.

We have rescheduled the prehearing conference originally set for October 20, 1987, for the purpose of discussing the schedule for filings and hearings for the remainder of this case. The schedule for the conference will, at most, be:

Nov. 2, 1987—1 pm to 6:30 pm and 8 pm to 11 pm.

Nov. 3, 1987—8:30 am to 12 noon.

The location is the Gallery Ballroom, Sheraton Dallas Hotel and Towers, 400 North Olive, Dallas, Texas 75201. Every effort will be made to expedite the conference and reduce the hours below those that are scheduled.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Chair, Administrative Judge.

Bethesda, Maryland.

[FR Doc. 87–24817 Filed 10–26–87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Leesa Martin, (202) 653–9404.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on September 25, 1987 (52 FR 36119). Individual authorities established or revoked under Schedule A, B, or C between September 1, 1987, and September 31, 1987, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

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Schedule A

No Schedule A exceptions were established or revoked during September.

Schedule B

No Schedule B exceptions were established or revoked during September.

Schedule C

Department of Agriculture

One Private Secretary to the Deputy Assistant Secretary for Food and Consumer Services. Effective September 21, 1987.

Department of the Army

One Secretary (Typing) to the Assistant Secretary for Research, Development and Acquisition. Effective September 18, 1987.

Department of Commerce

One Confidential Assistant to the Deputy Assistant Secretary for Basic Industries. Effective September 15, 1987.

One Confidential Assistant to the Assistant Secretary for Communications and Information. Effective September 23, 1987.

One Congressional Affairs Specialist to the Director, Bureau of the Census. Effective September 25, 1987.

Department of Defense

One Special Assistant to the Assistant Secretary of Defense for Legislative Affairs. Effective September 14, 1987.

Department of Education

Two Confidential Assistants to the Chief of Staff/Counselor to the Secretary. Effective September 9, 1987.

One Special Assistant to the Deputy Under Secretary for Management. Effective September 11, 1987.

One Confidential Assistant to the Assistant Secretary for Vocational and Adult Education. Effective September 14, 1987.

One Special Assistant to the Assistant Secretary for Vocational and Adult Education. Effective September 15, 1987.

One Executive Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective September 15, 1987.

One Executive Assistant to the Assistant Secretary for Civil Rights. Effective September 21, 1987.

One Special Assistant to the Chief of Staff/Counselor to the Secretary. Effective September 30, 1987.

Department of Energy

One Senior Policy Assistant (Nuclear Energy), to the Principal Deputy Assistant Secretary for Congressional, Intergovernmental and Public Affairs. Effective September 9, 1987.

Department of Health and Human Services

One Special Assistant to the Surgeon General. Effective September 1, 1987.

One Special Assistant to the Executive Assistant to the Under Secretary. Effective September 3, 1987.

One Special Assistant to the Under Secretary. Effective September 3, 1987.

One Special Assistant to the Director, Office of Policy, Planning and Legislation. Effective September 9, 1987.

One Associate Administrator, to Administrator for Office of Communications, Family Support Administration. Effective September 11, 1987.

One Confidential Staff Assistant to the Associate Administrator, Office of Communications. Effective September 11, 1987.

Department of Housing and Urban Development

One Associate Deputy Assistant Secretary for Demonstration Projects, to the Deputy Assistant Secretray for Policy Development. Effective September 3, 1987.

One Staff Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs. Effective September 30, 1987.

Department of Justice

One Special Assistant to the Assistant Attorney General for Civil Division. Effective September 29, 1987.

Department of the Navy

One Staff Assistant to the Deputy Under Secretary of the Navy. Effective September 29, 1987.

Department of State

Two Special Assistants to the Under Secretary for Security Assistance, Science and Technology. Effective September 18, 1987.

Department of Transportation

One Special Assistant to the Assistant Secretary for Public Affairs. Effective September 1, 1987.

Department of Treasury

One Staff Assistant to the Deputy Assistant Secretary for Departmental Finance and Administration. Effective September 11, 1987.

One Legislative Assistant to the Assistant Secretary for Legislative Affairs. Effective September 1, 1987.

One Senior Assistant to the Deputy Assistant Secretary for Law Enforcement. Effective September 23, 1987.

One Deputy Assistant Secretary to the Assistant Secretary (Management) for Administration. Effective September 25, 1987.

Commission of Civil Rights

One Public Affairs Officer to the Staff Director. Effective September 11, 1987.

One Special Assistant to the Commissioner. Effective September 22, 1987.

Farm Credit Administration

One Secretary to the Chairman for FCA Board. Effective September 25, 1987.

Federal Mediation and Conciliation Service

One Staff Assistant to the Director. Effective September 30, 1987.

Federal Trade Commission

One Special Assistant to the Chairman for the Bureau of Competition. Effective September 14, 1987.

One Deputy Director, to the Director, Office of Congressional Relations. Effective September 21, 1987.

National Labor Relations Board

One Confidential Assistant to the Board Member. Effective September 21, 1987.

Office of Personnel Management

One Special Assistant to the Deputy General Counsel. Effective September 8, 1987.

President's Commission on White House Fellowships

One Confidential Assistant to the Director. Effective September 28, 1987.

One Staff Assistant (Typing) to the Director. Effective September 28, 1987.

Small Business Administration

One Confidential Assistant to the General Counsel. Effective September 21, 1987.

One Special Assistant to the Deputy Administrator. Effective September 21, 1987.

United States Information Agency

One Staff Assistant to the Director, Private Sector Committees. Effective September 21, 1987.

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

James E. Colvard,

Deputy Director.

U.S. Office of Personnel Management.

[FR Doc. 87–24861 Filed 10–26–87; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council; Meeting

The White House Science Council (WHSC), the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on November 20, 1987 in Room 5104, New Executive Office Building, Washington, DC. The meeting will begin at 8:00 a.m. on November 20, 1987. Following is the proposed agenda for the meeting:

(1) Briefing of the council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The November 20 session will be closed to the public.

The briefing on the current activities of OSTP necessarily will involve discussion of material that is formally and properly classified in accordance with the provisions of Executive Order 12356 in the interest of national defense or for foreign policy reasons. This is also true for the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature the disclosure of which would constitute a clearly, unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public pursuant to 5 U.S.C. 552b(c)(6)

Jonathan F. Thompson,

Executive Assistant, Office of Science and Technology Policy.

October 22, 1987.

[FR Doc. 87–24932 Filed 10–26–87; 8:45 am]

BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–16066; 812–6881]

The Thai Fund, Inc.; Application

October 21, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicant: The Thai Fund, Inc. (referred to as the "Fund").

Relevant 1940 Act Sections: Exemption requested under section 6(c) of the 1940 Act for exemption from the provisions of section 12(d)(1)(A) of the 1940 Act.

Summary of Applications: Applicant seeks an order exemption it from the provisions of section 12(d)(1)(A) of the 1940 Act to permit it to purchase all of the units of an investment entity in Thailand which will invest in the equity securities of Thai companies.

Filing date: The application was filed on September 30, 1987, and amended on October 16, 1987.

Hearing or notification of hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 16, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 1633 Broadway, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Richard Pfordte, Special Counsel (202) 272–2811 or Karen L. Skidmore, Special Counsel (202) 272–3023 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. The Fund, a Maryland corporation, intends to register as a closed-end investment company under the 1940 Act. The Fund's investment objective is long-term capital appreciation through investing in equity securities of Thai companies. In order to invest in Thai securities, the Fund has established a vechile (the "Project") that under Thai law will permit the Fund to have the benefits of ownership in Thai securities. The Fund will enter into an Investment Contract ("Investment Contract") between the Fund, a Thai bank (The Thai Farmers Bank) as Custodian, and The Mutual Fund Company Limited ("MFC"), which will act as an investment adviser to the Fund. MFC, a Thai company, will register as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and is permitted under Thai law to manage investments in Thai securities.

2. Under the Investment Contract, MFC will invest, reinvest and trade in Thai securities. In the opinion of Thai counsel to the Fund, investment in Thai securities by the Project will be considered an investment by a Thai national and will not be subject to investment limitations that might otherwise be applicable to non-Thai nationals. Each installment contribution by the Fund to the Project will be evidenced by certificates representing Units ("Units") of equal undivided interest in the Project. The Units will be the only investment securities held by the Fund.

3. Under the terms of the Project and Investment Contract, the Units will be non-redeemable, non-transferable, and both the Project and the Investment Contract will terminate upon any transfer of the Units. Only the Fund can own and hold any interest in the Units and thus will be the sole beneficiary of the Project. Morgan Stanley Asset Management, Inc. ("MSAM"), a Delaware corporation registered as an investment adviser under the Advisers Act, will, under the Technical Assistance and Secondary Agreement ("Secondary Agreement"), provide advice to MFC relating to Thai and other securities held through the Project. MSAM is also the investment adviser with respect to any Fund assets not held through the Project. MFC, in turn, will provide investment research services to MSAM. The Fund's management therefore will be bi-national and the said agreements will comply with the provisions of section 15 of the 1940 Act. Termination of one of such agreements by the Fund or by an investment adviser will terminate such other agreement if no successor investment adviser is appointed.

4. The Project will also terminate if, among other things: (i) There is any transfer, assignment or other disposition of the Fund's interest in the Project; (ii) there is a change in Thai law which makes further operation of the Project

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illegal or, from the point of view of the Fund, unfeasible; (iii) the Fund's Board of Directors determines that, in the light of certain events such as war, it is in the best interest of the Fund to do so; or (iv) in the case of bankruptcy or filing for bankruptcy relief by the Fund.

5. Under the Investment Contract, all Thai and other securities of the Project will be held by the Custodian in a segregated account that, in the opinion of Thai counsel, will not be subject to the claims of creditors of the Custodian in the event of the Custodian's bankruptcy. Legal title to the securitites of the Project, and the registration of the securities, will be in the name of "Thai Farmers Bank for MFC for the Project." MFC will record the assets of the Project on its books and hold the title to such assets on a segregated basis from those of MFC. The assets in the Project will be held by the Custodian pursuant to a custody agreement which will comply with section 17(f) of the 1940 Act and the rules thereunder.

6. MFC is the only institution in Thailand to date which has been licensed by The Thai Ministry of Finance for management of securities investment funds such as the Project. The shareholders of MFC and their pecentage of total authorized and issued share capital are as follows: Industrial Finance Corporation of Thailand (38.5%), Ministry of Finance (25.0%), Government Savings Bank (20.0%), International Finance Corporation (15.0%), Krung Thai Bank Ltd. (0.5%) and individuals (1.0%). The Thai Government controls the Government Savings Bank and Krung Thai Bank and through the Ministry of Finance approves the election of all directors of the Industrial Finance Corporation of Thailand.

7. The advisory structure of the Fund in effect is substantially similar to the management of most U.S. investment companies except that MFC, and not the Fund, will have legal title to the assets held through the Project, as well as privileges of ownership, such as the right to vote and receive dividends with respect to all Thai and other securities held through the Project. Notwithstanding that the legal right to exercise privileges of ownership of Thai Securities must under Thai law reside with MFC and not the Fund, the Investment Contract will provide that MFC in carrying out its obligations under the Investment Contract as an investment adviser, shall do so in accordance with the Fund's investment objectives and policies as set forth in the Investment Contract (the same as those in the Fund's prospectus) and in accordance with guidelines and directions from the Fund's board of Directors.

8. The Fund has filed a registration statement for its shares ("Shares") under the Securities Act of 1933 (File no. 33-17558). The Fund's underwriting syndicate currently includes Solomon Brothers Inc (lead manager), International Finance Corporation ("IFC"), Deutsche Bank Capital Corporation and Morgan Stanley & Co. Incorporated, all of which, other than IFC, are broker-dealers registered under the Securities Exchange Act of 1934 (the "1934 Act"). Any additional members invited to join the underwriting syndicate will be registered under the 1934 Act as broker-dealers. In connection with any foreign distribution of the Fund's Shares, the underwriting syndicate may enter into subunderwriting agreements with other unregistered foreign broker-dealers and may offer and sell Shares to a selling group, which may include unregistered foreign broker-dealers. None of such subunderwriters will be in privity of contract with the Fund and therefore, the Fund represents, will not be deemed a "principal underwriter" as defined under section 2(a)(29) of the 1940 Act. All such unregistered foreign broker-dealers, however, will be required to limit their participation in the distribution to making offers and sales of Shares outside the United States to foreign nationals.

9. IFC is an international organization affiliated through largely common ownership with the International Bank for Reconstruction and Development (The World Bank). IFC is owned exclusively by its 132 member goverments, including the United States and the Kingdom of Thailand. IFC's purpose is to promote the growth of productive, private investment and to assist enterprises that will contribute to the economic development of its developing member countries. As compensation for its underwriting services, IFC will receive from the Fund an underwriting fee payable to all underwriters as well as additional compensation payable to it as one of the managers of the underwriting syndicate. IFC's participation in the distribution of the Fund's Shares, however, will be limited to offers and sales thereof made outside the United States (including its territories and possessions) to foreign nationals. IFC will participate in activities of the underwriting syndicate in the United States solely through its membership in such syndicate, and such activities will be carried out for the underwriting syndicate by Solomon Brothers Inc, a registered broker-dealer. It is contemplated that the predominant selling efforts and sales of the Shares will take place in the United States.

Applicant's Legal Conclusions

1. Section 12(d)(1)(A) of the 1940 Act prohibits, in part, any registered investment company from purchasing or otherwise acquiring any security issued by any other investment company, if, as a result of such transaction, the investment limitations in that subparagraph would be exceeded. Section 12(d)(1)(E) provides an exemption from the provisions of section 12(d)(1)(A) of the 1940 Act provided that the company acquiring the securities of another investment company has, among other things, a registered broker-dealer as its principal underwriter. The Fund asserts that but for the use of a registered broker-dealer as principal underwriter requirement of section 12(d)(1)(E), the Fund would not require an exemption from section 12(d)(1)(A) because it could rely on section 12(d)(1)(E). The fund undertakes to comply with all the provisions of section 12(d)(1)(E) other than the condition set forth in section 12(d)(1)(E)(i) pertaining to the registration of the principal underwriter as a broker-dealer.

2. The Fund asserts that the Federal securities laws, including the 1934 Act broker-dealer registration requirements, are primarily intended to protect American investors, and therefore, as a general matter, foreign broker-dealers that limit their activities to making offers and sales of U.S. securiites outside the United States to foreign nationals would not be required to register as broker-dealers under the 1934 Act. The Fund also asserts that the legislative history of section 12(d)(1)(E) supports its request for an exemption from section 12(d)(1)(A) because those key facts which Congress deemed necessary for an exemption from the provisions of section 12(d)(1)(A) as set forth in section 12(d)(1)(E) of the 1940 Act, i.e., where the principal underwriter for sales of shares in the United States is a broker-dealer registered under the 1934 Act, are present in this situation. The Fund asserts that this should particularly be the case where the substantial part of the selling efforts and sales of Fund Shares in the initial

distribution are contemplated to be in the United States.

3. Further, The Fund submits that the dangers of fund holding companies, which Congress sought to eliminate when enacting the 1970 Act amendments to section 12(d)(1) of the 1940 Act, are not present in this situation and that the exemptive relief sought would be consistent with the protection of investors and the purposes of section 12(d)(1).

Applicant's Condition

The fund agrees that if the requested order is granted such order will be expressly conditioned on its compliance with the undertakings set forth above.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-24823 Filed 10-26-87; 8:45 am]

BILLING CODE 8010-01-M

SELECTIVE SERVICE SYSTEM

Form Submitted to the Office of Management and Budget for Extension of Clearance

The following form has been submitted to the Office of Management and Budget (OMB) for extension of clearance in compliance with the Paperwork Reduction Act (44 U.S. Chapter 35):

SSS-404

Title: Potential Board Member Information Sheet

Need and/or use: Is used to identify individuals willing to serve as members of local, appeal or review boards in the Selective Service System

Respondents: Potential board members

Burden: A burden of 15 minutes or less on the individual respondent

Copies of the above identified form can be obtained upon written request to Selective Service System, Reports Clearance Officer, Washington, DC 20435.

Written comments and recommendations for the proposed extension of clearance of the form should be sent within 30 days of publication of this notice to Selective Service System, Reports Clearance Officer, Washington, DC 20435.

A copy of the comments should be sent to Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20503.

Dated: October 15, 1987.

Jerry D. Jennings,

Acting Director.

[FR Doc. 87-24757 Filed 10-26-87; 8:45 am]

BILLING CODE 8015-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 06/06-0295]

Application for License To Operate As a Small Business Investment Company; MCap Corp.

An application for a license to operate a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by MCap Corp. (Applicant), 1717 Main Street, 6th Floor, Momentum Place, Dallas, Texas 75201, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1987).

The proposed officers, directors, manager, and shareholder of the Applicant are as follows:

Name and address	Position	Percent of ownership
J. Wayne Gaylord, 115 Old Military Trail, Forney, TX 75126	Manager, Exec. V.P., Secretary, Asst. Sec., and Director.	0
L. Quincy McPherson, 4419 Creekmeadow Drive, Dallas, TX 75252	President & Director	0
Bobby Hashaway, 2802 Centennial Dr., Garland, TX 75042	Treasurer & Assistant Sec.	0
Charles W. Dees, 12519 Renior Lane, Dallas, TX 75230	Director	0
Michael N. Maberry, 5569 Weonah, Dallas, TX 75209	Director	0
J. Thomas Hudgins, 10115 Green Tree, Houston, TX 77042	Director	0
Steven V. Boswell, 5454 Amesburg, Dallas, TX 75206	Director	0
John G. Farmer, Jr., 7738 Lemmonwood, Dallas, TX 75231	Director	0
James B. Gardner, 9137 Locarno, Dallas, TX 75231	Director	0
Richard C. Amacher, 7340 Williamswood, Dallas, TX 75252	Tax Officer	0
Tom Bartlett, 5590 Spring Valley Rd., #F206, Dallas, TX 75240	Investment Officer	0
Joe Samford, 6059 Ellsworth, Dallas, TX 75214	Investment Officer	0
MBank Dallas, N.A., 1717 Main Street, Dallas, TX 75201 [1]	Shareholder	100

[1] 100% owned by MCorp, the largest bank holding company in the State of Texas. MCorp stock is traded on the New York Exchange. MBank Dallas, N.A. owns 73 percent of MVenture Corp, a licensed Small Business Investment Company located at 1717 Main Street, 7th Floor, Momentum Place, Dallas, Texas 75201.

The Applicant will begin operations with a capitalization of $3,500,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

The Applicant will conduct its operations in the States of Texas, Oklahoma, Louisiana and New Mexico.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulation in the Dallas, Texas, area.

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(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: October 16, 1987.

[FR Doc. 87-24863 Filed 10-26-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. MC 87-13, Notice No. 2]

Driver's Record of Duty Status; Granting of Exemptions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of the granting of exemptions.

SUMMARY: Notice is hereby given that the FHWA has granted an exemption to each of the following motor carriers operating in interstate or foreign commerce, from certain requirements of § 395.8, Driver's record of duty status, of the Federal Motor Carrier Safety Regulations (FMCSR's), conditioned upon the use of an automatic recording system. The motor carriers are Calzona Tankways, Inc., Phoenix/Tucson, Arizona, Central Distribution System, Inc., St. Paul, Minnesota, and Wetterau Transportation Incorporated, Greenville Division, Greenville, Kentucky.

EFFECTIVE DATE: October 27, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366-2999, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366-1355, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The applicants requested an exemption from certain DOT regulations found at 49 CFR 395.8 to permit the use of an on-board computer system that electronically records and monitors driver and equipment performance in lieu of recording the required hours-of-service information in the driver's own handwriting. Notice of these requests for exemption was published in the **Federal Register** on July 31, 1987, FHWA Docket No. MC 87-13 (52 FR 28633). There was one comment received. The International Brotherhood of Teamsters (IBT) continues to oppose the granting of exemptions from the handwritten log requirement. The IBT's major issue of concern is the enforcement of the hours-of-service requirements at roadside inspections.

The FHWA believes that the on-board computer, which will be used in lieu of handwritten records of duty status, will provide an equally accurate record of a driver's hours of service. Moreover, the FHWA's granting of these exemptions is part of its review of the existing recordkeeping requirements associated with the hours of service regulations. The motor carriers are required to retain the driver's record of duty status, for the 6-month period immediately preceding the implementation of the on-board computer program, for one year. The FHWA has requested comments on the use of on-board recording devices by an advance notice of proposed rulemaking, FHWA Docket No. MC-130, Driver's Record of Duty Status; On-Board Recording Devices; Request for Comments, published in the **Federal Register** on July 13 (52 FR 26289). After receipt of comments to the advance notice of proposed rulemaking, due October 13, 1987, and review of the experience of the motor carriers granted waivers, the FHWA will determine if further rulemaking is warranted and these exemptions will continue.

Exemptions have been issued at Central Distribution System, Inc., St. Paul, Minnesota, Calzona Tankways, Inc., Phoenix/Tucson, Arizona, and Wetterau Transportation Inc., Greenville Division, Greenville, Kentucky, to use the Cadec Systems, Inc., on-board computer. This system displays the information pertaining to hours of service and the driver's record of duty status required by the FMCSR's on demand.

Deviation from the following provisions of 49 CFR 395.8 has been authorized:

(1) That portion of paragraph (a) which requires the driver to prepare a record of duty status while on duty or driving;

(2) That portion of paragraph (a) which requires the driver's record of duty status to be prepared in duplicate;

(3) That portion of paragraph (f)(2) which requires all entries relating to the driver's duty status to be made in the driver's own handwriting; and

(4) The precise grid form found in paragraph (g) is waived to permit the use of an electronically produced grid.

In addition, they are authorized to deviate from those parts of paragraphs (c) and (h)(5) requiring a highway mile post or intersection designation where change of duty status does not occur at a city, town or village only during the current trip. This information must be shown by the use of a code and a code description of the electronically produced grid.

These exemptions apply only to drivers operating company controlled truck-tractors in interstate or foreign commerce that are equipped with an on-board computer system capable of creating hours of service documentation.

These exemptions are being granted in a continuing effort to test alternative methods of reducing the paperwork burden of drivers and motor carriers. Through the collection of test data, the FHWA is attempting to establish feasible alternative methods of controlling a driver's hours of service. These exemptions are in addition to the exemption granted to seven other motor carriers, to test the on-board computer system to record a driver's record of duty status.

A copy of each exemption identified herein, a description of each on-board computer system, and each request for a waiver of certain portions of 49 CFR Part 395 are available for inspection in Room 4205, Office of the Chief Counsel, 400 Seventh Street, SW., Washington, DC 20590.

(49 U.S.C. App. 2505; 49 U.S.C. 3102; 49 CFR 1.48.)

Issued on: October 20, 1987.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 87-27812 Filed 10-26-87; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[Docket S-817]

Application for Written Consent To Operate in the Domestic Trade; Sea-Land Service, Inc.

Notice is hereby given that on October 19, 1987, Sea-Land Service, Inc. (Sea-Land) requested that the Maritime Administration (MARAD) permit a 90 day extension of time for the temporary transfer and use of three Lance class vessels and one C8 class vessel (*American Lark, American Legion, American Liberty, and American Marketer*) in a purely domestic Sea-Land West Coast-Hawaii-Guam service pursuant to the authority of section 506 of the Merchant Marine Act, 1936, as amended (Act). These four vessels are owned or chartered by United States Lines, Inc. (USL) and are currently being operated in the proposed domestic service by Sea-Land pursuant to bareboat charters which were approved by the United States Bankruptcy Court, Southern District of New York.

On August 5, 1987, MARAD granted Sea-Land permission pursuant to section 506 to operate the four vessels in the domestic trade for 90 days upon cessation of USL's service. The first weekly sailing which USL failed to make was the August 14, 1987, sailing so the current 90-day written consent will expire on November 12, 1987.

Section 506 of the Act permits the temporary transfer to such domestic service for up to six months in any year of vessels built with construction-differential subsidy (CDS) whenever the Secretary determines that such transfer is necessary or appropriate to carry out the purposes of the Act. Consent by MARAD is conditional upon payment to MARAD, upon such terms as MARAD may prescribe of "an amount which bears the same portion to the CDS paid by the Secretary as such temporary period bears to the economic life of the vessels."

This request is necessitated by virtue of the fact, as disclosed in the July 9 application, Sea-Land's permanent service in the trade is to be conducted with five vessels intended to be acquired in admiralty auctions. Those vessels will be auctioned pursuant to court orders entered in proceedings which have been commenced by the Maritime Administration in the United States District Court for the Northern District of California.

Although the five vessels have been arrested, for reasons entirely outside the control of Sea-Land, the auction and confirmation of sale of the vessels cannot be completed prior to expiration of the present 90-day permission period.

The auction sale of the five vessels is scheduled to take place on November 17. It is anticipated that the confirmation of sale under interlocutory order will take place on November 20, 1987.

The memorandum of law filed by the Department of Justice in support of MARAD's request for entry of the orders of interlocutory sale notes that "these vessels are to be immediately put into service after being sold, subject to certain repair work and modifications."

Sea-Land anticipates that each of the vessels being acquired will require a period of drydocking, for accomplishment of repairs and modifications essential for their operation in the trade, prior to their replacing the chartered vessels.

In requesting this extension, Sea-Land is prepared to accept the same conditions set forth in MARAD's letter of August 5, 1987.

Although publication of a Notice with respect to Sea-Land's request for permission under section 506 is not required, the Maritime Administration believes that it is appropriate to provide an opportunity for interested parties to comment on Sea-Land's application.

Any person, firm, or corporation having any interest in the application for section 506 written consent and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590, by the close of business on November 5, 1987. The Maritime Administration, as a matter of discretion, will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.800 Construction-Differential Subsidies (CDS))

By Order of the Maritime Administrator.

Date: October 22, 1987.

James E. Saari,

Secretary.

[FR Doc. 87-24811 Filed 10-26-87; 8:45 am]

BILLING CODE 4910-81-M

Research and Special Programs Administration

[Notice No. 87-4]

Availability of Proposed Changes to the International Atomic Energy Agency Regulations and Request for Public Comment

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of availability and request for comment.

SUMMARY: The International Atomic Energy Agency's (IAEA) proposed Changes of Detail to IAEA Safety Series No. 6, entitled "Regulations for the Safe Transport of Radioactive Materials," are available for public review and comment.

DATE: Comments should be received by November 27, 1987.

ADDRESS: The IAEA's proposed changes are available for review in the Dockets Unit, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, Room 8426, 10:00-4:00, Monday through Friday. Additionally, comments on the proposed changes should be addressed to the Dockets Unit at the same address.

FOR FURTHER INFORMATION CONTACT: Michael E. Wangler, Chief, Radioactive Materials Branch, Technical Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4545.

SUPPLEMENTARY INFORMATION: Many countries and international transport organizations throughout the world have adopted the standards of the IAEA's "Regulations for the Safe Transport of Radioactive Materials" (IAEA Regulations). These regulations are currently found in IAEA publication Safety Series No. 6, 1985 Edition (SS6-85). The DOT Hazardous Materials Regulations (Subchapter C of 49 CFR; HMR) at § 171.12(e) permit the import and export of radioactive materials, under certain conditions, if packages are prepared for shipment in accordance with the IAEA Regulations. Currently, § 171.12(e) references Safety Series No. 6, 1973 Revised Edition (as amended). However, the HMR are periodically amended to allow conformance with most of the IAEA Regulations for domestic transportation. It is anticipated that the HMR will be amended to allow conformance with SS6-85 prior to January 1, 1990. Thus any changes to the SS6-85 may effect the HMR.

The IAEA has instituted a new process for the continuing review and revision of its regulations. This process will lead to supplements to the IAEA Regulations and its supportive documents being issued every 2 years, thereby allowing the IAEA Regulations to remain current with technology and needs.

As part of this process the IAEA convened a Technical Committee meeting from June 22-26, 1987 to consider proposals for amendments and identified problems submitted by IAEA Member States and international organizations in connection with the IAEA Regulations. Additionally, the Technical Committee considered advice and reports developed by consultant groups examining specific aspects of the regulatory standards for transport. The Technical Committee was charged with the tasks of examining the justification for the proposed amendments and of recommending changes suitable for early adoption in the IAEA Regulations. To ensure that Member States were represented, the Technical Committee consisted of designated representatives of the Member States.

As a result of the meeting, the Technical Committee recommended 2 types of changes: (1) Those that were designated as "minor changes" that do not alter the substance of the IAEA Regulations; (2) those that were designated as "changes of detail." Minor changes comprise matters such as editorial corrections, drafting errors and internal consistencies. The consequent

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amendment to the Regulations for this type of change will be promulgated in due course without prior approval by Member States. Changes of Detail are considered to be essential by the IAEA to keep the Regulations current. These changes can only be promulgated by the Director General of the IAEA after giving Member States not less than 90 days notice to comment on the changes.

The Director General has invoked the 90 day notice procedure and has transmitted the changes to the U.S. and other Member States. Since amendments of the IAEA Regulations may have an effect on the HMR, the public is invited to review the changes and to submit comments on the proposed changes. To facilitate this process, a copy of the changes has been placed in DOT's Docket Unit for use by the public. Copies of the proposed changes may be obtained upon request to the Dockets Unit. Comments submitted by the public will be considered and incorporated into the U.S. response to the changes.

Issued in Washington, DC on October 22, 1987 under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 87-24839 Filed 10-26-87; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: October 21, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Office listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0004
Form Number: SS-8
Type of Review: Revision
Title: Information for Use in Determining Whether a Worker is an Employee for Federal Employment Taxes and Income Tax withholding
Description: This form is used by employers and workers to furnish information to IRS in order to obtain a determination as to whether a worker is an employee for purposes of Federal employment taxes and income tax withholding. IRS uses the information on Forms SS-8 to make the determination.
Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations
Estimated Burden: 30,063 hours

OMB Numbers: 1545-0609
Form Number: 1285C, 1285(SC), 1285(DO)
Type of Review: Extension
Title: Problem Resolution Program; Followup Letter
Description: After taxpayer problem is resolved follow-up letter comments are needed to evaluate individual case processing, monitor taxpayer satisfaction, and provide a form for taxpayer to comment or suggest improvements on the program. The F1285 series letters are used for these purposes.
Respondents: Individuals or households, Farms, Businesses or other for-profit
Estimated Burden: 3,000 hours
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office, Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-24783 Filed 10-26-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: October 21, 1987.

The Department of Treasury has made revision and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0935
Form Number: 1120-FSC and Schedule P (Form 1120-FSC)
Type of Review: Resubmission
Title: U.S.S Income Tax Return of a Foreign Sales Corporation and Related Schedules. Schedule P-Computation of Transfer Price or Commission
Description: Form 1120-FSC is filed by foreign corporations that have elected to be Foreign Sales Corporations (FSCs) of small FSCs. The FSC uses Form 1120-FSC to report income and expenses and to figure its tax liability. IRS uses Form 1120-FSC, and Schedule P (Form 1120-FSC) to determine whether the FSC has correctly reported its income and expenses and figured its tax liability correctly.
Respondents: Businesses or other for-profit
Estimated Burden: 52,669 hours
Clearance Officer: Garrick Shear (202) 535-4297, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Department Reports Management Officer.

[FR Doc. 87-24784 Filed 10-26-87; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 207
Tuesday, October 27, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 38997, Tuesday, October 20, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, October 27, 1987.

CHANGE IN THE MEETING: The Meeting Scheduled for Tuesday, October 27, 1987, has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer (Acting), Executive Secretariat, (202) 634-6748.

Dated: October 22, 1987.

Cynthia C. Matthews,

Executive Officer (Acting), Executive Secretariat.

[FR Doc. 87-24852 Filed 10-23-87; 11:46 am]

BILLING CODE 6750-06-M

FEDERAL COMMUNICATIONS COMMISSION

October 19, 1987.

The following item has been deleted from the list of agenda items scheduled for consideration at the October 20, 1987, Open Meeting and previously listed in the Commission's Notice of October 13, 1987. The Commission intends to consider this item at the next scheduled Open Meeting on November 24, 1987.

Agenda, Item No. and *Subject*

Mass Media—3—Title: Petitions for Reconsideration and Clarification of Commission's Indecency Enforcement Standards, filed by Action for Children's Television, *et al*, and the National Association of Broadcasters. Summary: The Commission will consider the above referenced Petitions with respect to its decisions, adopted on April 10, 1987, involving: *Infinity Broadcasting Corporation of Pennsylvania*, licensee of Station WYSP (FM), Philadelphia, Pennsylvania; *Pacifica Foundation, Inc.*, licensee of Station KPFK (FM), Los Angeles, California; and *The Regents of The University of California*, licensee of Station KCSB-FM, Santa Barbara, California.

Additional information concerning this item may be obtained from Sarah Lawrence, Office of Congressional and Public Affairs, telephone number (202) 632-5050.

Federal Communications Commission.

Issued: October 19, 1987.

William J. Tricarico,

Secretary.

[FR Doc. 87-24873 Filed 10-23-87; 11:46 am]

BILLING CODE 6712-01-M

FEDERAL ENERGY REGULATORY COMMISSION

October 21, 1987.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552B:

TIME AND DATE: 10:00 a.m., October 28, 1987.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 885th Meeting—October 28, 1987, Regular Meeting (10:00 a.m.)

CAP-1.
Project No. 10371-001, CPS Products, Inc.
CAP-2.
Project No. 4238-003, Racehorse Company
CAP-3.
Project No. 8488-003, Cosumer River Water and Power Authority
CAP-4.
Project No. 5376-002 and 003, Boise Cascade Corporation
CAP-5.
Project No. 3189-015, Rock Creek Limited Partnership
CAP-6.
Project No. 5931-003, Roseburg Resources Company and Mega Renewables
CAP-7.
Project No. 9930-003, Northern Hydro Consultants, Inc.
CAP-8.
Project Nos. 4940-002 and 7612-002, Eastern States Energy and Resources, Inc.
CAP-9.
Project No. 5926-003, City of Bellevue, Washington
CAP-10.
Project No. 8620-001, Bath County, Kentucky, and Eastern State Energy & Resources, Inc.
Project No. 8635-000, Independence Electric Corporation
CAP-11.
Docket No. UL87-5-001, Pardeeville Electric Company
CAP-12.
Project No. 3986-003, Swift River Company
CAP-13.
Project No. 8936-001, BES Hydro Company
CAP-14.
Docket No. ER87-612-000, Niagara Mohawk Power Corporation
CAP-15.
Docket No. ER87-606-000, Kanawha Valley Power Company
CAP-16.
Docket No. ER87-416-000, Niagara Mohawk Power Corporation
CAP-17.
Docket No. EL87-51-000, Cajun Electric Power Cooperative, Inc. v. Gulf States Utilities Company
Docket No. ER87-639-000, Gulf States Utilities Company
CAP-18.
Docket No. ER82-769-008, Minnesota Power & Light Company
CAP-19.
Docket No. ER87-506-001, Sierra Pacific Power Company
CAP-20.
Docket Nos. ER87-107-002 and 003, Idaho Power Company and Utah Power & Light Company
Docket No. EL87-8-001, Pacific Power & Light Company
Docket No. ER86-570-003, Idaho Power Company
CAP-21.
Docket Nos. EL87-19-001 and 002, Florida Power & Light Company
CAP-22.
Docket Nos. ER87-105-001, 002, 004, ER87-106-001, 002, 004 and 005, Appalachian Power Company
CAP-23.
Docket No. ER84-579-012 and ER84-707-003, AEP Generating Company
CAP-24.
Docket No. QF87-421-000, Prodek/Hydro Resources Joint Venture
CAP-25.
Docket No. QF86-594-001, Weyerhaeuser Company

Consent Miscellaneous Agenda

CAM-1.
Docket No. FA85-49-001, Public Service Company of New Mexico
CAM-2.
Docket Nos. FA84-61-001 and FA87-67-000, Central Maine Power Company
CAM-3.

Docket No. RM87-26-000, Filing Fees Under the Independent Offices Appropriations Act of 1952

CAM-4.
Docket No. GP87-32-000, Oklahoma Corporation Commission, Section 102(c) NGPA Determination, Fox No. 1 Well, FERC JD No. 8630785

CAM-5.
Docket No. GP-34-000, State of New Mexico, NGPA Section 108, Mobil Producing Texas & New Mexico, Inc., State A No. 6 Well, FERC JD No. 86-31855

CAM-6.
Docket No. GP83-50-000, B&W Oil Company
Docket No. GP83-51-000, Catoosa Exploration Corporation
Docket No. GP83-52-000, Miller Contract Drilling, Inc.

CAM-7.
Docket No. GP87-1-000, Arkla Energy Resources, a Division of Arkla, Inc., Complainant v. Alice-Sidney Oil Company and Anthony Oil & Gas Company, Respondents

CAM-8.
Docket No. GP87-30-000, John J. Christmann v. Northwest Pipleine Corporation
Docket No. GP87-36-000, Walter S. Fees, Jr. v. Northwest Pipeline Corporation
Docket No. GP87-38-000, Fuel Resources Development Co. v. Northwest Pipeline Corporation
Docket No. GP87-44-000, J.C. Thompson v. Northwest Pipeline Corporation

CAM-9.
Docket No. RO87-17-000, Sherer Oil Company, Inc. and Ringer Tri-State Oil Company, Inc.

CAM-10.
Docket No. GP87-39-000, North Dakota Industrial Commission, Section 102 NGPA Determination, Hunt Energy Corporation, Pederson #1 Sec. 20, T158N, R95W, Williams County, N.D., FERC JD82-4052

CAM-11.
Docket No. RM85-6-000, Waiver of the Water Quality Certification Requirements of Section 401(a)(1) of the Clean Water Act

Consent Gas Agenda

CAG-1.
Omitted

CAG-2.
Docket No. RP88-1-000, Bayou Interstate Pipeline System

CAG-3.
Docket No. RP88-5-000, Transcontinental Gas Pipe Line Corporation

CAG-4.
Docket No. RP88-6-000, United Gas Pipeline Company

CAG-5.
Docket No. TA88-1-5-000, Midwestern Gas Transmission Company

CAG-6.
Docket Nos. TA88-1-29-000 and 001, Transcontinental Gas Pipe Line Corporation

CAG-7.
Docket Nos. TA88-1-46-000 and 001, ANR Pipeline Company

CAG-8.
Docket No. TA88-1-49-000, Williston Basin Interstate Pipeline Company

CAG-9.
Docket No. TA88-1-51-000, Great Lakes Gas Transmission Company

CAG-10.
Docket Nos. RP88-4-000 and 001, Northwest Alaskan Pipeline Company

CAG-11.
Docket No. RP88-7-000, KN Energy, Inc.

CAG-12.
Docket Nos. TA87-3-22-001 and TA87-2-22-000, Consolidated Gas Transmission Corporation

CAG-13.
Docket Nos. TA87-5-21-001 and TA82-1-21-024, Columbia Gas Transmission Corporation

CAG-14.
Docket Nos. TA88-1-38-000 and 001, Ringwood Gathering Company

CAG-15.
Docket No. TA87-3-55-000, Mountain Fuel Resources, Inc.

CAG-16.
Omitted

CAG-17.
Docket No. RP87-86-002, KN Energy, Inc.

CAG-18.
Docket No. RP85-13-016, Northwest Pipeline Corporation

CAG-19.
Docket Nos. RP87-84-001 and 002, El Paso Natural Gas Company

CAG-20.
Docket Nos. RP87-13-005 and RP87-69-003, South Georgia Natural Gas Company

CAG-21.
Docket No. TA87-2-30-002, Trunkline Gas Company

CAG-22.
Docket No. TA87-3-22-002, Consolidated Gas Transmission Corporation

CAG-23.
Docket Nos. TA87-5-21-002, 003 and 004, Columbia Gas Transmission Corporation

CAG-24.
Docket No. RP86-102-003, Equitable Gas Company, a Division of Equitable Resources, Inc.

CAG-25.
Docket Nos. RP86-106-007 and 008, Arkla Energy Resources, a Division of Arkla, Inc.

CAG-26.
Docket Nos. RP86-52-009, 010, RP86-106-005 and 006, Kentucky West Virginia Gas Company

CAG-27.
Omitted

CAG-28.
Docket Nos. RP87-26-004, 005 and 006, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

CAG-29.
Docket Nos. RP82-58-018 through 021, Panhandle Eastern Pipe Line Company
Docket Nos. RP82-105-006 through 007, Central Illinois Light Company

CAG-30.
Docket No. TA87-3-48-007, ANR Pipeline Company

CAG-31.
Docket No. TA87-3-48-008, ANR Pipeline Company

CAG-32.
Docket Nos. CP86-582-002, 004 through 013, 015, RP86-162-003 through 012, 014, RP85-150-009 through 013 and RP86-97-010 through 017, Natural Gas Pipeline Company of America

CAG-33.
Docket No. RP87-72-000, Interstate Power Company v. Natural Gas Pipeline Company of America

CAG-34.
Docket Nos. RP87-52-000 and RP85-209-000, United Gas Pipeline Company

CAG-35.
Docket Nos. RP87-36-000, 001, 002 and CP87-153-000, Louisiana-Nevada Transit Company

CAG-36.
Omitted

CAG-37.
Docket Nos. CI83-1045-001 and 002, Samson Resources Company

CAG-38.
Docket No. CI87-702-001, KOGAS, Inc.

CAG-39.
Docket No. CI87-261-001, American Royalty Producing Company (successor-in-interest to Partnership Properties Company)

CAG-40.
Omitted

CAG-41.
Docket No. CI87-806-000, Shell Gas Trading Company
Docket No. CI87-809-000, Amalgamated Pipeline Company
Docket No. CI87-811-000, CNG Trading Company
Docket No. CI87-816-000, LL&E Gas Marketing, Inc.
Docket No. CI87-825-000, V.H.C. Gas Systems, L.P.
Docket No. CI87-826-000, Standard Gas Marketing Company
Docket No. CI87-847-000, Texas Eastern Gas Services Company
Docket No. CI87-854-000, ARCO Oil and Gas Company, Division of Atlantic Richfield Company
Docket No. CI87-873-000, Sunshine Energy Company
Docket No. CI87-883-000, Meridian Oil Trading Inc.
Docket No. CI87-889-000, Associated Natural Gas, Inc.

CAG-42.
Docket Nos. CP87-457-001 and 002, Trunkline Gas Company

CAG-43.
Docket No. CP86-86-001, Northern States Power Company

CAG-44.
Docket Nos. RP85-115-005, 006, 007, RP87-15-012, 013, 014, CP86-586-001, 002 and 003, Trunkline Gas Company

CAG-45.
Docket No. RP74-50-025, Florida Gas Transmission Company
Docket No. RP74-50-024, Florida Gas Transmission Company (Basic Incorporated (formerly Basic Magnesia, Inc.)]
Docket No. RP74-50-025, Florida Gas Transmission Company (Gardinier, Inc. and Coopers & Lybrand, Trustee)

CAG-46.
Docket No. CP87-156-000, Panhandle Eastern Pipe Line Company

CAG-47.
Docket No. CP84-643-000, United Texas Transmission Company, Complainant v. Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Entex, Inc. and Channel Industries Gas Company, Respondents

CAG-48.
Docket No. TC87-8-000, Natural Gas Pipeline Company of America

CAG-49.
Docket No. CP86-360-000, Northern Natural Gas Company, Divisions of Enron Corporation

CAG-50.
Docket No. RP86-14-033, Columbia Gulf Transmission Company
Docket No. RP85-15-033, Columbia Gas Transmissin Corporation

CAG-51.
Docket Nos. CP86-232-013, 015 through 020, CP84-488-000, CP86-504-000, CP86-551-000, CP86-573-000, CP86-598-000, CP86-645-000, CP88-655-000, CP86-660-000, CP86-668-000, CP86-670-000 and CP86-671-000, Panhandle Eastern Pipe Line Company
Docket No. CP86-584-000, Independent Petroleum Association of Mountain States v. Panhandle Eastern Pipe Line Company
Docket No. CP86-663-000, Independent Petroleum Association of Mountain States v. Colorado Interstate Gas Company

I. Licensed Project Matters

P-1.
Omitted

P-2.
Omitted

P-3.
Omitted

II. Electric Rate Matters

ER-1.
Reserved

Miscellaneous Agenda

M-1.
Reserved

M-2.
Reserved

M-3.
Docket No. RM87-25-000, Regulations Delegating Authority. Final Rule.

M-4.
Docket No. RM85-14-000, Revisions to the Purchased Gas Adjustment Regulations. Final Rule.

M-5.
Docket No. GP84-20-002, City of Farmington v. Amoco Gas Company and Amoco Production Company. Order on remand.

M-6.
Docket No. SA87-2-001, Pogo Producing Company
Docket No. SA87-3-001, Mobil Exploration and Producing North America Inc. and Mobil Producing Texas & New Mexico Inc.
Docket No. SA87-4-001, Mobil Exploration and Producing North American Inc. and Mobil Oil Exploration & Producing Southeast Inc.
Docket No. SA87-6-001, Shell Offshore Inc. and Shell Oil Company
Docket No. SA87-11-001, Phillips Petroleum Company
Docket No. SA87-16-001, Columbia Gas Development Corporation
Docket No. SA87-27-001, Conoco Inc.
Docket No. SA87-28-001, Samedan Oil Corporation
Docket No. SA87-30-001, Sun Exploration and Production Company
Docket No. SA87-26-001, Edwin L. Cox. Order on appeal from Office Director, regarding Btu refunds.

M-7.
Docket No. GP86-2-002, Southern Union Company. Declaratory order on maximum lawful prices.

I. Pipeline Rate Matters

RP-1.
Docket Nos. RP87-141-000 and 001, Natural Gas Pipeline Company of America. Whether to accept tariff sheets, *inter alia*, including an inventory holding charge.

RP-2.
Docket Nos. ST83-429-001, ST81-105-002, ST81-106-001, ST82-193-001, 002, ST82-194-001, ST82-195-001, 002, ST83-50-001, ST83-327-000, 001, ST84-101-000, 001, ST84-524-000, ST86-81-000, ST86-650-000, ST86-651-000, ST86-661-000, ST86-663-000, ST83-141-001, ST83-441-000, 001, ST83-429-000, ST83-481-000, ST83-634-000, 001, ST84-2-000, ST84-218-000, ST84-219-000, ST84-728-000, ST84-1138-000, ST85-70-000, ST85-71-000, ST85-385-000, ST85-529-000, ST85-530-000, ST85-701-000, ST85-815-000, ST85-912-000, ST85-914-000, ST85-1116-000, ST85-1221-000, ST85-1224-000, ST85-1607-000, ST85-1608-000, ST85-1707-000, ST86-94-000, ST86-156-000, ST86-208-000, ST86-223-000, ST86-750-000 and ST86-751-000, Lear Petroleum Corporation (formerly Producer's Gas Company). Whether to approve an initial decision involving issues concernig Section 311 intrastate rates.

II. Producer Matters

CI-1.
Reserved

III. Pipeline Certificate Matters

CP-1.
Docket Nos. CP87-467-000, CP87-474-001, 002, CP86-422-001 and CP86-456-001, Great Lakes Gas Transmission Company
Docket Nos. CP79-467-002, ANR Pipeline Company. Requests for Section 7(c) authorizations to transport gas imported from Canada.

CP-2.
Omitted

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-24825 Filed 10-22-87; 4:33 pm]
BILLING CODE 6717-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 39328, October 21, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, October 26, 1987.

CHANGES IN THE MEETINGS: Addition of the following closed item(s) to the meeting:

Proposed amendments to the Federal financial institutions supervisory agencies' enforcement statutes.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: October 23, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87-24848 Filed 10-23-87; 12:37 pm]
BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 Friday, October 30, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meetings.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meetings, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 22, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87-24836 Filed 10-22-87; 4:50 pm]
BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 12:00 noon, Monday, November 2, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

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STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of office automation equipment within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meetings, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 23, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–24954 Filed 10–23–87; 3:42 pm]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, October 21, 1987.

PLACE: Room 532, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Commission authorization of staff testimony before the Chicago City Council concerning Taxicab Regulation.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326–2179, Recorded Message: (202) 326–2711.

Emily H. Rock,

Secretary.

[FR Doc. 87–24847 Filed 10–23–87; 12:37 pm]

BILLING CODE 6750–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 22, 1987.

TIME AND DATE: 10:00 a.m., Thursday, October 29, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Part Open, Part Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Freeman United Coal Mining Co.*, Docket No. LAKE 86–67. (Issues include consideration of Freeman's petition for discretionary review.) *Open.*

Martha Perando v. Mettiki Coal Corporation, Docket No. YORK 85–12–D. (Issues include whether the judge erred in finding that the operator discriminated against the complainant miner in violation of section 105(c)(1) of the Mine Act. 30 U.S.C. 815(c)(1).) *Open.*

3. *Austin Power, Inc.*, Docket No. CENT 86–40, etc. (Issues include whether Austin Power violated 30 CFR 77.1607(g) and 30 CFR 77.1710(g), and, if so, whether the violations were significant and substantial, and the civil penalty assessments were proper.) *Closed.*

Any person intending to attend the open portion of the meeting who requires special accessibility features, and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87–24918 Filed 10–23–87; 1:14 pm]

BILLING CODE 6735–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 26, November 2, 9, and 16, 1987.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 26

Wednesday, October 28

2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Palo Verde-3 (*Public Meeting*)

Thursday, October 29

1:30 p.m.
Affirmation/Discussion and Vote (*Public Meeting*) a. Emergency Planning Rule (Tentative)

Week of November 2

Tentative

Tuesday, November 3

10:00 a.m.
Briefing on the Status of High Level Waste Issues (*Public Meeting*)

Wednesday, November 4

2:30 p.m.
Briefing on Integrated Safety Assessment Program (ISAP) (*Public Meeting*)

Thursday, November 5

11:00 a.m.
Affirmation/Discussion and Vote (*Public Meeting*) (if needed)

1:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (*Closed*—Ex. 2 & 6)

Week of November 9

Tentative

Monday, November 9

9:30 a.m.
Briefing on North Anna Steam Generator Tube Rupture Event (*Public Meeting*)

Thursday, November 12

3:30 p.m.
Affirmation/Discussion and Vote (*Public Meeting*) (if needed)

Week of November 16

Tentative

Thursday, November 19

2:00 p.m.
Briefing on EEO Program (*Public Meeting*)

3:30 p.m.
Affirmation/Discussion and Vote (*Public Meeting*) (if needed)

ADDITIONAL INFORMATION:

Affirmation of "In the Matter of Pacific Gas & Electric Company" (*Public Meeting*) scheduled for October 23.

Affirmation of "Commission Review of ALAB–832 (Shoreham)" (*Public Meeting*) scheduled for October 22, *postponed.*

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING) (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Andrew Bates, (202) 634–1410.

Andrew L. Bates,

Office of the Secretary.

October 22, 1987.

[FR Doc. 87–24953 Filed 10–23–87; 3:36 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 38833 October 19, 1987].

STATUS: Open/closed meetings.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, October 14, 1987.

CHANGE IN THE MEETING: Rescheduling/additional items and meeting.

The open meeting scheduled for Tuesday, October 20, 1987, at 10:00 a.m., to consider the following items has been cancelled and rescheduled for Thursday, October 29, 1987, at 9:30 a.m.:

1. Consideration of whether to propose for public comment amendments to Rule 204–2, the recordkeeping rule under the Investment Advisers Act of 1940. The proposed amendments would require advisers to retain, for Commission inspection, all advertisements and supporting records for performance information in advertisements. These advertisements and supporting records would be required to be kept for five years from the end of the fiscal year in which the advertisement was last published. For further information, please contact Dorothy M. Donohue at (202) 272–7317.

2. Consideration of whether to adopt an amendment to Rule 19b–1 under the Investment Company Act of 1940. The amendment would allow certain registered investment companies to make one additional distribution of long-term capital gains with respect to a taxable year for the purpose of not incurring any excise tax. The Commission will also consider adopting technical changes to the rule to correct certain references to prior distributions and the Internal Revenue Code. For further information, please contact Brian Kaplowitz at (202) 272–2048.

3. Consideration of whether to issue a release adopting an amendment to Rule 3a12–8 under the Securities Exchange Act of 1934 that would designate as exempted securities, solely for purposes of the trading and marketing in the U.S. of futures contracts on those securities, debt securities issued by the governments of Australia, France and New Zealand. For further information, please contact David Underhill at (202) 272–2375.

The following additional item will be considered at the open meeting on Thursday, October 29, 1987, at 9:30 a.m.

Consideration of whether to issue a Memorandum Opinion and Order with respect to an application-declaration filed by System Energy Resources, Inc. ("SERI"), its parent, Middle South Utilities, Inc. ("Middle South"), a registered holding company under the Public Utility Holding Company Act of 1935 ("Act"), and Middle South's four operating utility companies, Mississippi Power & Light, Louisiana Power & Light, Arkansas Power & Light and New Orleans Power Service, Inc., authorizing SERI to issue and sell first mortgage bonds in an aggregate principal amount of up to $300 million by means of a negotiated public sale, pursuant to an exception from the competitive bidding requirements of the Act, and related transactions. For further information, please contact Yvonne M. Hunold at (202) 272–2676.

The following item previously scheduled for the open meeting on Tuesday, October 20, 1987, at 10:00 a.m. has been rescheduled for consideration on Thursday, November 5, 1987, at 10:00 a.m.

Consideration of whether to adopt Rule 6c–9 and Form N–6C9 under the Investment Company Act of 1940. Rule 6c–9 would provide an exemption from the provisions of the Act, under certain conditions, to permit foreign banks to offer their own debt securiteis or non-voting preferred stock in the United States without registering as investment companies or obtaining exemptive orders. The exemption would also be available where a foreign bank offers its securities in the United States indirectly through a finance subsidiary. The form would be filed by a foreign bank or foreign finance subsidiary to appoint a United States agent for service of process. For further information, please contact Ann M. Glickman at (202) 272–3042.

The closed meeting scheduled for Tuesday, October 20, 1987, following the 10:00 a.m. open meeting, to consider the following items has been rescheduled for Tuesday, October 27, 1987, at 10:00 a.m.:

Institution of injunctive actions.
Formal orders of investigation.

The following additional items will also be considered at that meeting.

Settlement of injunctive actions.
Proposed order in administrative proceeding of an enforcement nature.

A closed meeting has been scheduled for Thursday, October 22, 1987, at 9:30 a.m., to consider the following item:

Institution of injunctive action.

Commissiner Grundfest, as duty officer, determined that Commission business required the above changes.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and the ascertain what, if any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272–2149.

October 22, 1987.

Shirley E. Hollis,

Assistant Secretary.

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Corrections

Federal Register
Vol. 52, No. 207
Tuesday, October 27, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Refuge-Specific Hunting Regulations

Correction

In rule document 87-23278 beginning on page 37789 in the issue of Friday, October 9, 1987, make the following corrections:

PART 32—[CORRECTED]

1. On page 37791, in the second column, in amendatory instruction 2. in the second line from the bottom, "(dd)(i)" should read "(dd)(1)".

2. On the same page, in the same column, in the fourth line from the bottom, "(bb)(3)(ii)" should read "(bb)(3)(iii)".

3. On the same page, in the third column, in the sixth line, "(ii)(1)(iv);" should read "(ll)(1)(iv);".

§ 32.12 [Corrected]

4. On page 37792, in the third column, in § 32.12(h)(1), the paragraph designated "(vii)" should read "(viii)".

5. On page 37793, in the second column, in § 32.12(t) introductory text, "Michigan" was misspelled.

6. On the same page, in the third column, in § 32.12(v)(5)(iii), the first line should read "Hunters shall".

§ 32.22 [Corrected]

7. On page 37795, in the second column, in § 32.22(d)(2)(iii), in the third line, "surprise" should read "sunrise".

8. On page 37796, in the second column, in § 32.22(aa)(1)(ii), in the first line, "Hunts hall" should read "Hunters shall".

9. On the same page, in the same column, in § 32.22(gg)(3), in the second line, "just" should read "must".

10. On page 37796, in the third column, in amendatory instruction 4., in the 13th line from the bottom, "(5)(1);" should read "(t)(1);".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 31, 301, and 602

[T.D. 8155]

Penalty for Failure to Include Correct Information on Information Returns and Payee Statements

Correction

In rule document 87-20675 beginning on page 34354 in the issue of Thursday, September 10, 1987, make the following corrections:

1. On page 34354, in the second column, in the first line, "to" should read "or".

PART 301—[CORRECTED]

§ 301.6723-1T [Corrected]

2. On page 34356, in the second column, in § 301.6723-1T(d)(2), in the third line from the bottom, "to" should read "of".

PART 31—[CORRECTED]

3. On page 34357, in the second column, the line after the Authority should read:

§ 31.6051-1 [Amended]

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federal register

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Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 14, 15, 52, and 53
Federal Acquisition Regulations (FAR); Contract Simplification; Proposed Rule

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 14, 15, 52, and 53

Federal Acquisition Regulation (FAR); Contract Simplification

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering revisions to Federal Acquisition Regulation Subparts 14.2 and 15.4 and related clauses to improve contracting efficiency, expand industry participation in Government acquisitions, and reduce costs.

COMMENT DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before December 28, 1987, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 87–37 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council are considering revisions to the Federal Acquisition Regulation at 14.201–1, 14.201–2, 14.201–6, 14.201–9, 14.213, 15.406–1, 15.406–2, 15.407, 15.414, 15.416, 52.102–2, 52.214–30, 52.215–35, 53.214, 53.215–1, and 53.301 providing for a: (1) New SF 14XX, (2) simplified contract format for acquisition of supplies and services proposed to be acquired under firm-fixed-price or fixed-price with economic price adjustment contracts, and (3) for offeror submission of annual representations and certifications.

The proposed FAR coverage would modify procedures tested by the Department of Defense activities since 1982.

One portion of the test used a new solicitation/contract cover page which combined the Standard Form (SF) 33, SF 26, and Department of Defense Form 1707 into one form.

Another portion of the test used a simplified contract format, versus use of the uniform contract format at FAR 14.201–1, for acquisitions of supplies and services. The use of the new form and the simplified contract format resulted in administrative cost savings and received favorable reaction from both Government and industry personnel.

The third portion of the test was executing annual versus individual representations and certifications in each solicitation. Under the test, certifications required for a particular solicitation were required by the solicitation. A test provision permitted execution of a certification that the required representations and certifications were on file with the contracting office. Contracting officers that issued numerous solicitations for like supplies and services on a repeated basis reported that the use of annual representations and certifications received a very positive response from industry and resulted in administrative cost savings.

B. Regulatory Flexibility Act

The proposed rule would apply to all small businesses that respond to solicitations for supplies or services using the simplified contract format or to all small businesses that choose to use the annual representations and certifications. There is no data base available to collect this type of information. Therefore, it is not feasible to estimate the number of small entities expected to have a significant economic impact within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et. seq.* An Initial Regulatory Flexibility Analysis has been prepared and submitted to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

A copy of the Initial Regulatory Flexibility Analysis may be obtained from the FAR Secretariat, Attn: Margaret A. Willis, Room 4041, GS Bldg., 18th & F Streets NW., Washington, DC 20405. Comments are invited.

Comments from small entities concerning the affected FAR subparts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite FAR Case 87–610 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed rule does not impose any additional recordkeeping or information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 14, 15, 52, and 53

Government procurement.

Dated: October 16, 1987.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Parts 14, 15, 52, and 53 be amended as set forth below:

1. The authority citation for Parts 14, 15, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Ch. 137; and 42 U.S.C. 2473(c).

PART 14—SEALED BIDDING

2. Section 14.201–1 is amended by adding paragraph (a)(5) and by revising in paragraph (c) the fourth sentence to read as follows:

14.201–1 Uniform contract format.

(a) * * *

(5) Firm-fixed-price or fixed-price with economic price adjustment acquisitions that use the simplified contract format (see 14.201–9).

* * * * *

(c) * * * Award by acceptance of a bid on the award portion of Standard Form 33, Solicitation Offer and Award (SF 33), Standard Form 26, Award/Contract (SF 26), or Standard Form 14XX, Solicitation/Contract (SF 14XX), incorporates Section K, Representations, certifications, and other statements of bidders, in the resultant contract even though not physically attached.

* * * * *

14.201–2 [Amended]

3. Section 14.201–2 is amended by adding the words "or SF 14XX" following the words "SF 33" wherever they appear.

4. Section 14.201–6 is amended in paragraph (i) by adding the words "or SF 14XX" following the words "SF 33", and by adding paragraph (u) to read as follows:

14.201–6 Solicitation provisions.

* * * * *

(u) The contracting officer shall insert the provision at 52.214–30, Annual Representations and Certifications—Sealed Bidding, in invitations for bids if annual representations and certifications are used (see 14.213).

5. Section 14.201–9 is added to read as follows:

14.201–9 Simplified contract format.

Policy. For firm-fixed-price or fixed-price with economic price adjustment acquisitions of supplies and services, the contracting officer may use the simplified contract format in lieu of the uniform contract format (see 14.201–1). The contracting officer has flexibility in preparation and organization of the simplified contract format. However, the following format should be used to the maximum practical extent:

(a) *Solicitation/contract form.* SF 14XX, Solicitation/Contract, shall be used as the first page of the solicitation.

(b) *Contract schedule.* Include the following for each contract line item:

(1) Contract line item number.

(2) Description of supplies or services, or data sufficient to identify the requirement.

(3) Quantity and unit of issue.

(4) Unit price and amount.

(5) Packaging and marking requirements.

(6) Inspection and acceptance, quality assurance, and reliability requirements.

(7) Place of delivery, performance and delivery dates, period of performance and F.O.B. point.

(8) Other item-peculiar information as necessary (e.g., individual fund citations).

(c) *Clauses.* Include the clauses required by law or by this regulation. Additional clauses shall be incorporated only when considered absolutely necessary to the particular acquisition.

(d) *List of documents and attachments.* Include if necessary.

(e) *Representations and instructions*—(1) *Representations and certifications.* Insert those solicitation provisions that require representations, certifications, or the submission of other information by offerors.

(2) *Instructions, conditions, and notices.* Include the solicitation provisions required by 14.201–6. Include any other information/instructions necessary to guide offerors.

(3) *Evaluation factors for award.* Insert all necessary evaluation factors for award.

(4) Upon award, the contracting officer need not physically include the provisions in (e) (1), (2), and (3) above in the resulting contract, but shall retain them in the contract file. Award by acceptance of a bid on the award portion of SF 14XX incorporates the representations and certifications in the resultant contract even though not physically attached.

6. Section 14.213 is added to read as follows:

14.213 Annual submission of representations and certifications.

(a) Submission of offeror representations and certifications on an annual basis, as an alternative to submission in each solicitation, may be authorized by agencies subject to the requirements of this section. The decision to use annual representations and certifications shall be made in accordance with agency procedures.

(b) In accordance with agency procedures, each contracting office utilizing annual representations and certifications shall establish procedures and assign responsibilities for centrally requesting, receiving, storing, verifying and updating offeror's annual submissions. Generally, the representations and certifications shall be effective for a period of one year from date of signature.

(c) The contracting officer shall not include in individual solicitations the full text of provisions that are contained in the annual representations and certifications.

(d) Offerors shall make changes that affect only one solicitation by completing the appropriate section of the provision at 52.214–30, Annual Representations and Certifications—Sealed Bidding.

PART 15—CONTRACTING BY NEGOTIATION

7. Section 15.406–1 is amended by redesignating the existing paragraph (a)(6) as (a)(7), by adding a new paragraph (a)(6), and by revising in paragraph (b) the third sentence to read as follows:

15.406–1 Uniform contract format.

(a) * * *

(6) Contracts utilizing the simplified contract format (see 15.416).

(b) * * * Award by acceptance of a proposal on the award portion of SF 33, SF 26, or SF 14XX, incorporates Section K by reference in the resultant contract. Contracts requiring a bilateral document shall incorporate Section K by reference in the signed contract.

* * * * *

8. Section 15.406–2 is amended by revising paragraphs (a)(1) and (a)(3) to read as follows:

15.406–2 Part I—The Schedule.

(a) * * *

(1) Prepare RFP's on Standard Form 33, Solicitation, Offer and Award (53.301–33) or Standard Form 14XX, Solicitation/Contract (53.301–14XX), unless otherwise permitted by Part 53. The first page of the SF 33 or SF 14XX is the first page of the solicitation and includes section A of the uniform contract format.

* * * * *

(3) When none of the SF 33, SF 16, or SF 14XX is used, include the following on the first page of the solicitation:

* * * * *

9. Section 15.407 is amended in paragraph (f) by adding the words "or SF 14XX" following the words "SF 33" and by adding paragraph (i) to read as follows:

15.407 Solicitation provisions.

* * * * *

(i) The contracting officer shall insert the provision at 52.215–35, Annual Representations and Certifications—Negotiation, in requests for proposals if annual representations and certifications are utilized (see 14.213).

10. Section 15.414 is amended by adding paragraph (c) to read as follows:

15.414 Forms.

* * * * *

(c) Standard Form 14XX, Solicitation/Contract, shall be used in connection with negotiated acquisitions that use the simplified contract format and may be used in connection with other acquisitions when appropriate.

11. Section 15.416 is added to read as follows:

15.416 Simplified contract format.

For firm-fixed-price or fixed-price with economic price adjustment acquisitions of supplies and services, the contracting officer may use the simplified contract format in lieu of the uniform contract format (see 14.201–1).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

12. Section 52.102–2 is amended by adding paragraph (c) to read as follows:

52.102–2 Incorporation in full text.

* * * * *

(c) Provisions completed as annual representations and certifications are not required to be incorporated in solicitations in full text.

13. Section 52.214–30 is added to read as follows:

52.214–30 Annual representations and certifications—sealed bidding.

As prescribed in 14.201–5(a), insert the following provision:

Annual Representations and Certifications—Sealed Bidding (Oct 1987)

(a) The bidder certifies that annual representations and certifications (check the appropriate block):

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☐ (1) Dated ——— (insert date of signature on submission), which are incorporated herein by reference, have been submitted to the contracting office issuing this solicitation and that the submittal is current, accurate, and complete as of the date of this bid, except as follows (insert changes that affect only this solicitation; if "none," so state):

☐ (2) Are enclosed.

(End of provision)

14. Section 52.215-35 is added to read as follows:

52.215-35 Annual Representations and Certifications—Negotiation.

As prescribed in 15.406-5(a), insert the following provision:

Annual Representations and Certifications—Negotiation (Oct 1987)

(a) The offeror certifies that annual representations and certifications (check the appropriate block):

☐ (1) Dated ——— (insert date of signature on submission) which are incorporated herein by reference, have been submitted to the contracting office issuing this solicitation and that the submittal is current, accurate, and complete as of the date of this bid, except as follows (insert changes that affect only this solicitation; if "none," so state):

☐ (2) Are enclosed.

(End of provision)

* * * * *

PART 53—FORMS

15. Section 53.214 is amended by revising the title and adding paragraph (d) to read as follows:

53.214 Sealed bidding (SF's 26, 30, 33, 129, 1409, 14XX, OF's 17, 336).

* * * * *

(d) *SF 14XX, Solicitation/Contract.* SF 14XX is prescribed for use in soliciting bids for supplies or services and for awarding contracts that result from the bids when the simplified contract format is used (see 14.201-9) and may be used with other solicitations and awards as appropriate.

16. Section 53.215-1 is amended by revising the title and by adding paragraph (g) to read as follows:

53.215-1 Solicitation and receipt of proposals and quotations (SF's 18, 26, 30, 33, 129, 14XX, OF 336).

* * * * *

(g) *SF 14XX, Solicitation/Contract.* SF 14XX, prescribed in 53.214(d), shall be used in connection with solicitations and contracts which use the simplified contract format (see 15.416) and may be used with other solicitations as specified in 15.414(a).

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Tuesday
October 27, 1987

Part III

Department of Labor

Mine Safety and Health Administration

30 CFR Part 57

Safety Standards for Methane in Metal and Nonmetal Mines; Interim Final Rule, Corrections, and Stay

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

Safety Standards for Methane in Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Interim final rule, corrections, and stay.

SUMMARY: MSHA is issuing amendments to the Safety Standards for Methane in Metal and Nonmetal Mines, which were published as a final rule on July 1, 1987 (52 FR 24924, as corrected at 52 FR 27903), to eliminate internal inconsistencies in the rule. MSHA is also making editorial and technical corrections, is providing additional explanation to clarify the intent of other standards, and is including information collection approvals issued by the Office of Management and Budget. Finally, MSHA is staying the effective date of the standard that requires blasting from the surface in Subcategory I–A mines to permit additional public comment and Agency analysis of technical issues.

DATES: Interim rule and stay effective October 29, 1987; comments on the amendments to §§ 57.22228 and 57.22234 and the stay of § 57.22601 must be received on or before November 27, 1987; Section 57.22601 is stayed until further notice.

ADDRESSES: Send comments to the Office of Standards, Regulations and Variances, MSHA; Room 631, Ballston Towers #3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Associate Assistant Secretary for Mine Safety and Health, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION:

I. Introduction and Rulemaking Background

The final rule of Safety Standards for Methane in Metal and Nonmetal Mines was published as a new Subpart T of Part 57 on July 1, 1987 (52 FR 24924). Editorial corrections were published on July 24, 1987 (52 FR 27903). The final rule, which is to become effective on October 29, 1987, represents a complete revision of the prior classification system and safety standards applicable to underground metal and nonmetal mines with a history of, or a potential for, methane liberation. The rule reflects input from all segments of the mining community.

In reviewing the rule in preparation for implementation, MSHA technical and field enforcement personnel have identified the need for some technical corrections and clarification. In addition, industry representatives have requested clarification or reconsideration of certain provisions applicable to Subcategory I–A, Category III, and Subcategory V–A mines. In an effort to make the standards as clear and technically sound as possible, MSHA is making clarifying amendments to §§ 57.22228 and 57.22234 and is making technical or editorial corrections to §§ 57.22202, 57.22229, and 57.22606. MSHA is providing additional explanation of a number of other standards that are not being amended to clarify their intent. MSHA is also issuing a stay of § 57.22601, blasting from the surface, applicable to Subcategory I–A mines, to provide an opportunity for additional public comment and Agency technical review.

The amendments to §§ 57.22228 and 57.22234 are being issued as an interim final rule to take effect with the new standards on October 29, 1987 and ensure orderly implementation. These amendments are minor revisions that will better conform the standards to mining systems currently in use, will eliminate internal inconsistencies in the new standards and will clarify their intent. No significant impact on the operation of affected mines is expected and the health and safety of miners will not be adversely affected. While full rulemaking procedures on these amendments are unnecessary, the Agency is soliciting public comment on the amendments to §§ 57.22228 and 57.22234 and will consider further adjustments if warranted. This is consistent with MSHA's policy of providing for the maximum degree of public participation in the rulemaking process.

II. Discussion of Amendments, Corrections and Clarifications

A. Amendments and Corrections

Section 57.22202 Main Fans

This standard, which applies to Subcategory I–A, I–B, I–C, II–A, Category III, Subcategory V–A, and V–B mines, requires, in paragraph (a)(2), that main fans be provided with an automatic signal device to give an alarm when the fan stops. The signal device is required to be located so that it can be seen or heard by a person designated by the mine operator. In Subcategory I–C mines, however, the configuration of the fan and the position of operating personnel make this requirement unnecessary. In these mines, a person is stationed in a position to hear the fan running at all times and can therefore take appropriate action if the fan stops. The requirement for an alarm that can be seen or heard by a designated person is therefore redundant. Accordingly, the standard is corrected to exempt Subcategory I–C mines from the requirements of paragraph (a)(2).

Section 57.22228 Preshift Examination

This standard, which applies to Subcategory I–A, I–C, II–A, Category III and Subcategory V–A mines, requires, in paragraph (e), that vehicles used for transportation when examining the mine must be approved by MSHA under the applicable requirements of 30 CFR Parts 18 through 36. This provision was included in the July 1, 1987 final rule in recognition that vehicles used to conduct preshift examinations are a potential ignition source if they enter areas of recent methane liberation. This requirement for approved vehicles is a logical outgrowth of and consistent with provisions in §§ 57.22601(d), 57.22603(e) and 57.22605(d) which are applicable, respectively, to Subcategory I–A, II–A and V–A mines, and require that vehicles be approved when they are used for transportation in post-blast examinations. The requirement for approved vehicles either for preshift or post-blast examinations does not have the same applicability, however, to Subcategory I–C and Category III mines. Vehicles are not used for preshift examinations in Subcategory I–C mines and methane emissions in Category III mines do not pose the same risk of ignition as in Subcategory I–A, II–A and V–A mines. In Category III mines, large volumes of methane are not released as a result of blasting and the ventilation system is normally capable of removing any methane from areas subject to preshift examinations. MSHA is not aware of any situation where the volume of methane has overwhelmed the ventilation system. There is therefore no significant risk that a vehicle would serve as an ignition source. Accordingly, the standard is amended to exempt Subcategory I–C and Category III mines from the requirement of paragraph (e).

Section 57.22229 Weekly Testing

This standard in paragraphs (b) (3) and (4) requires the volume of air, or velocity of air in Subcategory I–A mines, to be measured weekly at designated locations in the mine. The purpose of monitoring the air flow is to determine if the mine is experiencing a loss of quantity or velocity of air due to defects in the ventilation system. Loss of air flow could lead to accumulation of dangerous levels of methane. Measurements are to be taken where air enters main intakes, leaves main returns and enters and leaves each main split. In paragraph (b)(3), "Entering from each main split" is corrected to read "Entering each main split" to clarify its intent and eliminate any confusion concerning its relationship to paragraph (b)(4) of this section.

Section 57.22234 Actions at 1.0 Percent Methane

This standard, which applies to Subcategory I–A, I–B, V–A, V–B and Category III mines specifies the actions to be taken when methane reaches 1.0 percent in the mine atmosphere. When that level is reached, the standard requires the methane to be reduced to less than 0.5 percent. This requirement, while consistent with the action levels of 0.5 percent applicable to Subcategory I–B and V–B mines (see § 57.22232), is inconsistent with the 1.0 percent action levels for Subcategories I–A and V–A, and Category III mines. Since other applicable standards permit operation of equipment and other work in Subcategories I–A and V–A, and Category III mines in concentrations of methane up to 1.0 percent, a provision to require shutdown of equipment until methane is reduced to 0.5 percent is not appropriate or necessary. Protection from methane hazards at levels up to 1.0 percent is provided by comprehensive methane control requirements and other safety measures such as those requiring approved equipment, atmospheric monitoring systems, methane monitors and approved electrical cables. Accordingly, the standard is amended to require only that methane levels be reduced below 1.0 percent.

Section 57.22606 Explosive Materials and Blasting Units

This standard, in paragraph (g), provides that blasting on shift in Category III mines must be done with a blasting unit approved by MSHA under 30 CFR Part 25 or as an alternative, when firing more than 20 shots, with a blasting unit that meets specified performance requirements. The performance requirements in the final rule do not accurately reflect the characteristics of blasting units which MSHA has determined will perform safely under conditions encountered in these mines. Accordingly, the standard is amended to make technical corrections in the blasting unit specifications.

B. Clarifications and Additional Explanation

Section 57.22202 Main Fans

This standard, in paragraph (c)(1), requires all main fan-related electrical equipment and cables located within or exposed to the forward airstream to be approved by MSHA. This standard would not prevent the use of or require changes in a multiple blowing fan system where a single fan is deenergized and the air doors leading to that fan are closed when it is necessary to reverse the air flow. In this case, the potentially methane-laden air is prevented from crossing the electrical equipment and cables and they are therefore not located in or exposed to the airstream.

Section 57.22206 Main Ventilation Failure

This standard, in paragraph (a), requires that tests for methane be conducted in affected active workings when there is a main ventilation failure, such as stoppage of main fans or failure of other components of the main ventilation system. The components of the system addressed are those whose failure either singly or in series would cause a diminution of air flow or air quality to the extent that minimum requirements would not be met.

Section 57.22212 Air Flow

This standard requires air flow across each working face sufficient to carry away any accumulation of methane, smoke, fumes and dust. No specific quantity is required, but air flow must be sufficient to keep methane accumulation below applicable action levels and prevent violations of other applicable air quality standards.

Section 57.22215 Separation of Intake and Return Air

This standard requires that separation of fresh intake and methane-laden return air be maintained throughout the mine. This separation is necessary to provide ventilation adequate to protect against the hazards of fires and explosions. The standard does not require a dual entry mining system throughout the mine.

Section 57.22218 Seals and Stoppings, and § 57.22221 Overcast and Undercast Construction

These standards address the construction requirements for seals, stoppings, undercasts and overcasts. Paragraphs (b) and (c) of § 57.22218 and paragraph (b)(2) of § 57.22221 specifically recognize the potential for destruction of a combustible seal, stopping, overcast or undercast by fire, and require either specific coatings or equivalents. Where construction is of noncombustible materials, no coating is necessary. The masonry-type coatings specified in the standard may exhibit spalling and failure resulting from the ground pressures which exist in some underground mines. In addition, phenolic foam sprays will not adhere to some mineral deposits, such as trona, when it is applied for sealing purposes around the perimeter of the construction. During the rulemaking proceeding, mine operators have contended that polyurethane foams with a flame spread rating of 25 or less are appropriate for coating and sealing since they withstand deterioration due to ground pressures and exhibit better adherence. The purpose of this clarification is to explain the "equivalent fire resistance" phrase in the standard, particularly where polyurethane foam sprays are concerned.

The masonry-type coatings specified in the standard have been tested and shown to provide a fire resistance rating of approximately 30 minutes. The polyurethane foam sprays with flame spreading ratings of 25 or less are not, of themselves, equivalent to 30 minutes fire resistance. The equivalent fire protection may be achieved in some instances however, when the polyurethane foams are used as coatings on combustible seals or stoppings which have some inherent fire resistance. For example, seals and stoppings constructed of certain sizes and types of wood provide a fire resistance which meets or nearly meets the fire resistance requirements. When these structures are coated and sealed with flame spread resistant polyurethane foams, equivalency is achieved. When stoppings are constructed of polyurethane foam blocks however, the construction offers virtually no resistance to fire and a coating of polyurethane foam spray does not achieve compliance. For information regarding the fire resistance of various types and sizes of wood, publications such as The National Fire Protection Association's *Fire Protection Handbook*, (see either 14th (1976) or 15th (1981) Edition), can be consulted.

Although § 57.22218 does not specify acceptable products for the sealing of stoppings and seals, the perimeter of the construction is considered to be part of the stopping or seal since air separation could not be accomplished without sealing. Polyurethane foam sprays with a flame spread rating of 25 or less are acceptable in Category III mines as a

sealant around the perimeters and joints of construction for several reasons. First, to achieve an effective seal, these sealants are applied to the stopping or seal in conjunction with the noncombustible ore and "equivalency" is achieved. Second, they have been shown to adhere well and an air seal is provided. Third, the surface area of sealing spray is minimal when compared to the larger, exposed areas of a coated seal or stopping.

In summary, the standard permits the use of alternatives for the construction, sealing and coating of seals, stoppings, overcasts and undercasts. Only combustible materials need to be coated. When coatings are used, the inherent fire resistance of the material to which the coatings are applied may be considered. Sealing may be accomplished with products which will provide a resistance to flame spread while ensuring a seal along irregular surfaces.

Section 57.22228 Preshift Examination

This standard requires that preshift examinations be conducted within three hours prior to the start of a shift. When one shift immediately follows another, methane tests are required at each active working face before work is started on the second shift. The tests and examinations required for the second shift may be performed during the prior shift if they are performed within three hours of the start of the second shift.

Prior to the beginning of a shift following an idle shift, a competent person is required to test for methane at all work places before anyone other than the examiner may enter the mine. Maintenance crews and all persons other than examiners are covered by this prohibition, and therefore, may not accompany the examiner.

Section 57.22234 Actions at 1.0 Percent Methane

This standard, in paragraph (b), establishes an action level of 1.0 percent for methane at a main exhaust fan. The standard does not contain a testing requirement, but the mine operator will be responsible for taking the specified actions when methane is detected at or above the action level. MSHA inspectors can be expected to take samples at main exhaust fans as a routine part of any inspection. It should be noted that § 57.22202(e) requires continuous monitoring of methane at the main exhaust fans in Subcategory I–A mines.

Section 57.22301 Atmospheric Monitoring Systems

This standard, in paragraph (b)(1), requires an atmospheric monitoring system to give warnings on the surface and underground when methane at any sensor reaches 0.5 percent. This warning level is intended to enable the operator to take appropriate action before the action level of 1.0 percent methane, as specified in paragraph (b)(2)(i) of this section and elsewhere in the final rule, is reached requiring deenergization of power in affected areas. Specifying a warning level at 1.0 percent methane would not serve the purpose of an advance warning.

The standard requires that a warning be given both on the surface and underground. This provision is not intended to require two central monitoring stations. While a warning is required both on the surface and underground to ensure that all affected persons are aware of the methane levels, the system need be designed only so that a single person designated by the operator can monitor the system and take appropriate action.

With respect to the possibility of false alarms and nuisance tripping with a warning level set at 0.5 percent, there are monitoring systems currently in use which have proved to be reliable at this level.

Sections 57.22306 and 57.22309 Methane Monitors

These standards, in paragraph (c) of each section, require sensing units of methane monitors on equipment to be positioned at a location which provides for the most effective measurement of methane. On most equipment currently anticipated to be used in Subcategory I–A and V–A mines, the most effective location would be as close to the face as practical. For some equipment, methane measurements would be more effectively made at the tailgate of the machine. In either case, the most effective location is one which provides accurate measurements while allowing the sensor to operate properly without interference from environmental and operational factors, such as water sprays.

Section 57.22315 Self-Contained Breathing Apparatus

This standard requires the presence of self-contained breathing apparatus of sufficient duration to allow for escape from the mine. An operator must evaluate the specific conditions at the mine to determine the appropriate number and operating duration of units required to accomplish an escape. A particular apparatus or number of units is not specified to allow for variations based on the conditions at the mine.

III. Stay of § 57.22601 Blasting From the Surface

This standard applicable to Subcategory I–A mines is a new provision that requires all persons to be removed from the mine prior to initiation of development, production and bench rounds and prohibits persons from entering the mine until ventilating air has passed over the blast area and through at least one atmospheric monitoring sensor. During the rulemaking process, operators of Subcategory I–A mines objected to this standard and recommended that blasting be allowed with persons underground at fresh air locations and that reentry of persons to affected areas be permitted when methane is determined to be less than 1.0 percent. Operator representatives recently submitted data and analysis that address the technical basis of this standard and have suggested that blasting could be safely conducted with persons underground, provided they were in a fresh air base at least 3500 feet from the blast. MSHA's initial review of this information indicates that additional study is warranted. Accordingly, MSHA is staying the effective date of § 57.22601 until the Agency can resolve the technical issues raised. It is important to note that there are no mines classified in Subcategory I–A presently operating; therefore, this stay will have no impact on miner safety and health. Interested persons are invited to review the industry submissions, which have been made part of the rulemaking record, and provide additional comments, data and analysis.

IV. Executive Order 12291 and the Regulatory Flexibility Act

This rule makes minor modifications to a previously issued rule, including refining several regulatory requirements. MSHA has determined that the rule would not result in major cost increases nor have an incremental effect of $100 million or more on the economy. The Agency also determined that the final rule will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

V. Paperwork Reduction Act

Information collection requirements contained in the final rule for safety standards for methane in metal and nonmetal mines have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control numbers 1219–0030, 1219–0096, and 1219–0103.

List of Subjects in 30 CFR Part 57

Mine safety and health, Metal and nonmetal mining, Safety standards for methane.

Dated: October 21, 1987.

David C. O'Neal,

Deputy Assistant Secretary for Mine Safety and Health.

Accordingly, Subpart T, Part 57, Subchapter N, Chapter 1, Title 30 of the Code of Federal Regulations is amended as follows:

PART 57—[AMENDED]

1. The authority citation for Subpart T continues to read as follows:

Authority: 30 U.S.C. 811.

§ 57.22202 [Amended]

1a. Section 57.22202(a)(2) is revised to read as follows:

* * * * *

(2) Except in Subcategory I–A mines, provided with an automatic signal device to give an alarm when the fan stops. The signal device shall be located so that it can be seen or heard by a person designated by the mine operator.

§ 57.22228 [Amended]

2. Section 57.22228(e) is revised to read as follows:

* * * * *

(e) Except in Subcategory I–C or Category III mines, vehicles used for transportation when examining the mine shall be approved by MSHA under the applicable requirements of 30 CFR Parts 18 through 36.

§ 57.22229 [Amended]

3. Section 57.22229(b)(3) is amended by removing the word "from".

§ 57.22234 [Amended]

4. The first sentence of § 57.22234(a) is revised to read as follows:

* * * * *

(a) If methane reaches 1.0 percent in the mine atmosphere, ventilation changes shall be made to reduce the methane. * * *

§ 57.22606 [Amended]

5. Section 57.22606(g)(2) is revised to read as follows:

* * * * *

(g)(2) Blasting units used to fire more than 20 detonators shall provide at least 2 amperes through each detonator but not more than an average of 100 amperes through one ohm for 10 milliseconds, and provide the necessary current for at least the first 5 milliseconds with a cutoff not to exceed 10 milliseconds.

§ 57.22004 [Amended]

6. Section 57.22004 is amended by adding the OMB number to the end of the section:

* * * * *

(Approved by the Office of Management and Budget under control number 1219–0103)

§ 57.22204 [Amended]

7. Section 57.22204 is amended by adding the OMB number to the end of the section:

* * * * *

(Approved by the Office of Management and Budget under control number 1219–0030)

§ 57.22230 [Amended]

8. Section 57.22230 is amended by adding the OMB number to the end of the section:

* * * * *

(Approved by the Office of Management and Budget under control number 1219–0103)

§ 57.22239 [Amended]

9. Section 57.22239 is amended by adding the OMB number to the end of the section:

* * * * *

(Approved by the Office of Management and Budget under control number 1219–0103)

§ 57.22401 [Amended]

10. Section 57.22401 is amended by adding the OMB number to the end of the section:

* * * * *

(Approved by the Office of Management and Budget under control number 1219–0096)

§ 57.22601 [Stayed]

11. Section 57.22601 is stayed until further notice.

[FR Doc. 87–24791 Filed 10–26–87; 8:45 am]

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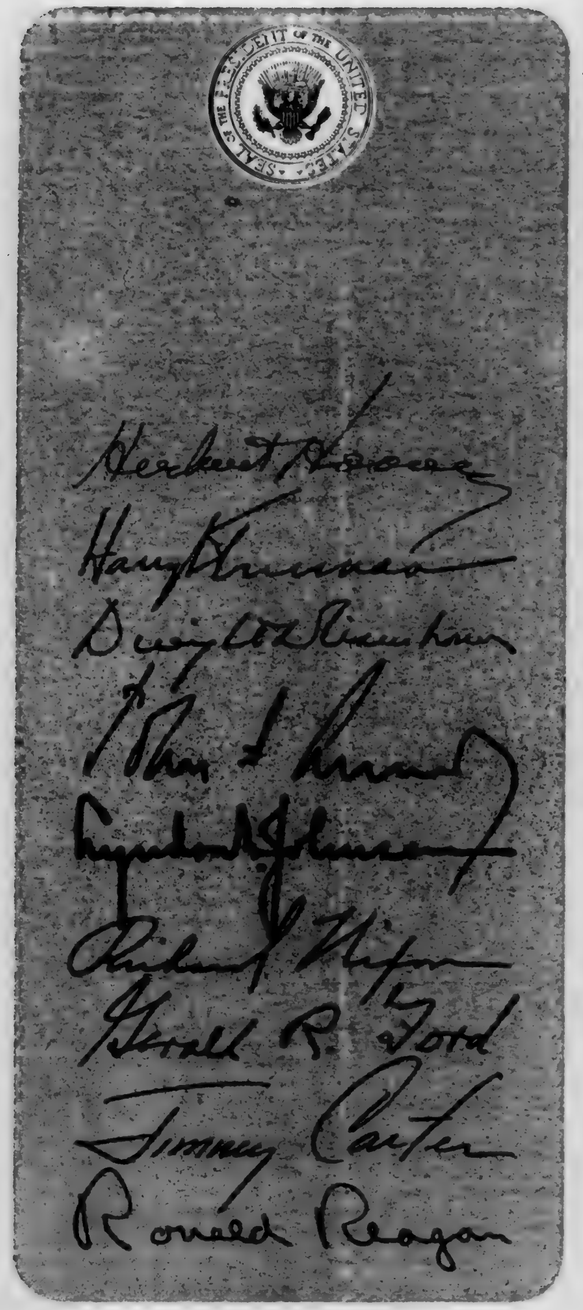

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WASHINGTON, DC

WHEN: November 20, at 9 a.m.
WHERE: National Archives and Records Administration, Room 410, 8th and Pennsylvania Avenue NW., Washington, DC.
RESERVATIONS: Robert D. Fox, 202-523-5239.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruits, Tangerines, and Tangelos Grown in Florida; Relaxation of Minimum Size Requirements for Florida Grapefruit and Tangerines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule relaxes the minimum size requirements for shipments of domestic and imported pink seedless grapefruit from size 46 (3 1/16 inches in diameter) to size 56 (3 1/16 inches in diameter). In addition, the minimum size requirement for domestic shipments of Dancy tangerines is relaxed from size 176 (2 1/16 inches in diameter) to size 210 (2 1/16 inches in diameter). These fruits can be shipped from the production areas to any point in the continental United States, Canada, or Mexico. The maturity level of, size composition of, and market demand conditions for these fruits warrant these relaxations.

DATES: The pink seedless grapefruit relaxation is effective for the period October 22, 1987, through August 21, 1988; and the Dancy tangerine relaxation is effective for the period November 30, 1987, through August 21, 1988. Comments which are received by November 27, 1987, will be considered prior to issuance of the final rule.

ADDRESS: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Comments should reference the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act".

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers of Florida oranges, grapefruits, tangerines, and tangelos subject to regulation under the Florida citrus marketing order, approximately 15,000 orange, grapefruit, tangerine, and tangelo producers in Florida, and approximately 26 importers who import grapefruit into the United States. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers, producers, and importers may be classified as small entities.

The handling regulation for Florida citrus fruit covered under this marketing order is specified in § 905.306 *Florida Orange, Grapefruit, Tangerine, and Tangelo Regulation 6.* This regulation was issued on a continuing basis subject to modification, suspension, or termination by the Secretary. Section 905.306(a) provides that no handler shall ship between the production area and any point outside thereof, in the continental United States, Canada, or Mexico, specified varieties of oranges, grapefruit, tangerines and tangelos unless such varieties meet the minimum grade and size requirements prescribed in Table I. Section 905.305(b) provides that no handler shall ship fruit to any destination outside the continental United States, other than Canada or Mexico, unless the specified varieties meet the requirements prescribed in Table II.

The Citrus Administrative Committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Committee meetings are open to the public and interested persons may express their veiws at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

The minimum size requirements, specified herein, reflect the committee's and the Department's appraisal of the need to relax the minimum size requirements applicable to domestic and import shipments of pink seedless grapefruit and the minimum size requirement applicable to the domestic shipments of Dancy tangerines. This rule recognizes current and prospective supply and demand for such fruit and is necessary to permit handlers to ship smaller sized fruit to meet market needs. No problems with fruit quality, maturity, and size are expected in the marketplace because of the relaxations.

Some Florida tangerine and grapefruit shipments are exempt from the minimum grade and size requirements effective under the marketing order.

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Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day under a minimum quantity exemption provisions. Also, handlers may ship up to 2 standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale, under the current exemption provisions. Fruit shipped for animal feed is also exempt under specific conditions. In addition, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

The rule temporarily relaxes the minimum size requirements for domestic and import shipments of pink seedless grapefruit from size 48 (3⁹⁄₁₆ inches in diameter) to size 56 (3⁴⁄₁₆ inches in diameter). Also, the minimum size requirement for domestic shipments of Dancy tangerines is temporarily relaxed from sizes 176 (2¹³⁄₁₆ inches in diameter) to size 210 (2⁵⁄₁₆ inches in diameter) effective November 30, 1987. The relaxations for grapefruit and tangerines will remain in effect through August 21, 1988 by which time shipments for the 1987–88 season will be finished.

The committee recommended relaxation of the size requirements for grapefruit and tangerines at its September 22, 1987 meeting. It recommended the relaxation for grapefruit be made effective as soon as possible, and that for tangerines be made effective on November 9, 1987. On October 16, 1987, the committee modified its September 22, 1987, recommendation to provide that the relaxation for tangerines be made effective November 30, 1987. The committee indicated that the tangerine crop is not maturing as rapidly as anticipated. The committee believes that grapefruit shipments to Canada could be significantly increased if the size requirement is relaxed early in the season rather than waiting until later in the season as has been the practice in prior years. The committee's recommendation to relax the size requirement for Dancy tangerines follows the practice of prior years of lowering the size requirement when the crop has reached an acceptable level of maturity, flavor and size.

Section 8e of the Act (7 U.S.C. 608e–1) provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Since this action relaxes the minimum size requirement for domestically produced pink seedless grapefruit, the relaxation would also be applicable to imported pink seedless grapefruit.

Grapefruit import requirements are specified in § 944.106 (7 CFR Part 944), which requires that the various varieties of grapefruit imported into the United States meet the same grade and size requirements as those specified for Florida grapefruit in Table I of paragraph (a) in § 905.306. Section 944.106 was issued under Section 8e of the Act (7 U.S.C. 608e–1). An exemption provision in the grapefruit import regulation permits persons to import up to 10 standard packed 4/5 bushel cartons exempt from the import requirements.

The relaxation of the minimum size requirement for pink seedless grapefruit and Dancy tangerines is only for the remainder of the 1987–88 shipping seasons for these fruits. The resumption of tighter requirements for 1988–89 season shipments is based upon the maturity, size, quality, and flavor characteristics of these fruits early in the shipping season.

Therefore, the Department's view is that the impact of this action upon producers, handlers, and importers would be beneficial, because it will enable handlers to provide tangerines and grapefruit consistent with buyer requirements. The application of minimum size requirements to Florida grapefruit and tangerines, and to imported grapefruit over the past several years, has resulted in fruit of acceptable size being shipped to fresh markets.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that the rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting his rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes handling requirements currently in effect for Florida grapefruit and Dancy tangerines; (2) handlers of these fruits are aware of this action which was recommended by the committee at a public meeting and they will need no additional time to comply with the requirements; (3) shipment of the 1987–88 season Florida grapefruit crop has begun, and shipment of the Dancy tangerine crop will be well underway by November 30, 1987; (4) the grapefruit import requirements are mandatory under section 8e of the Act; and (5) the rule provides a 30-day comment period, and any comments received will be considered prior to issuance of a final rule.

List of Subjects in 7 CFR Part 905

Marketing agreements and Orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR Part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR Part 905 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. The provisions of § 905.306 are amended by revising the following entries in Table I of paragraph (a), applicable to domestic shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amendment 45.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	* * *
Grapefruit Seedless, pink	10/22/87–9/21/88	Improved No. 2 (External) U.S. No. 1 (Internal)	3⁴⁄₁₆

TABLE I—Continued

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	* * *
	On and after 9/22/88	Improved No. 2 (External) U.S. No. 1 (Internal)	3⁴⁄₁₆
Tangerines, Dancy	11/30/87–8/21/88	U.S. No. 1	2⁵⁄₁₆
	On and after 9/22/88	U.S. No. 1	2⁴⁄₁₆
* * *	* * *	* * *	* * *

Dated: October 22, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–24927 Filed 10–27–87; 8:45 am]

BILLING CODE 3410–02–M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Organization; Director Compensation; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration published final regulations under Part 611 on September 25, 1987 (52 FR 36012). These regulations relate to compensation of members of Farm Credit System district boards. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is October 28, 1987.

EFFECTIVE DATE: October 28, 1987.

FOR FURTHER INFORMATION CONTACT:

Nancy E. Lynch, Senior Attorney

or

Joanne Ongman, Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, (703) 883–4020

(Secs. 5.17 (9) and (10), Pub. L. 92–181, as amended by Pub. L. 99–205, 12 U.S.C. 2252(a)(9)(10))

Dated: October 23, 1987.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 87–24899 Filed 10–27–87; 8:45 am]

BILLING CODE 6705–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM–23; Special Conditions No. 25–ANM–15]

Special Conditions; McDonnell Douglas DC–9–80 and MD–80 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.101 of the Federal Aviation Regulations (FAR) to McDonnell Douglas for the Model DC–9–80 and MD–80 series airplanes. These series airplanes will have novel or unusual design features associated with the installation of new electronic systems for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards for protection from the indirect effects of lightning. These special conditions contain the safety standards which the Administrator finds necessary, because of these added design features, to ensure that the functions of these systems, which are critical and essential, are addressed.

EFFECTIVE DATE: November 27, 1987.

FOR FURTHER INFORMATION CONTACT:

Gene Vandermolen, Transport Standards Staff, ANM–110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington, 98168, telephone (206) 431–2114.

SUPPLEMENTARY INFORMATION:

Background

On March 10, 1986, the Douglas Aircraft Company, 3855 Lakewood Boulevard, Long Beach, California 90846, made an application to the Federal Aviation Administration (FAA), for an amended type certificate for the MD–88 airplane.

The MD–88 is a 172 passenger (maximum), fuel efficient, low noise (Stage 3) MD–80 series derivative with JT8D–217C or JT8D–219 engines. The MD–88F would be the freighter version incorporating the main cabin cargo door and cargo flooring of previously certificated freighters. The MD–88 weights will be the same as those approved for the MD–82, i.e., 150,500 pounds maximum ramp weight (MRW), 149,500 pounds maximum takeoff weight (MTOW), 130,000 pounds maximum landing weight (MLW) and 122,000 pounds maximum zero fuel weight (MZFW).

The overall exterior configuration and the basic airplane structure will be the same as the DC–9–80 and MD–80 series currently being delivered. New electronic systems which will be incorporated in the MD–88 include, for example, a flat panel display for showing engine parameters and another flat panel for displaying failure annunciations. These systems are also expected to become available as options for other DC–9–80 and MD–80 series airplanes. They will also be available for retrofit on in-service airplanes.

Because the current regulations address only structural and fuel tank/fuel vapor ignition lightning protection (direct effects), but do not address lightning indirect effects, protection for electronic control or display systems, special conditions are necessary to provide an equivalent level of safety when compared to traditional designs. These special conditions specify the level of protection required based on the criticality of the function performed by the system. For this reason, these special conditions will be applicable to all of the DC–9–80 and MD–80 series airplanes which incorporate these (or other future) electronic systems, whose functions have been determined to be critical or essential.

Discussion of Comments

Notice of proposed special conditions No. SC–87–3–NM for McDonnell Douglas DC–9–80 and MD–80 series airplanes was published in the **Federal Register** on May 26, 1987 (52 FR 19520). Comments were received from Air

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Transport Association of America (ATA) and the applicant.

Both commenters note that the proposed special conditions are intended for new or digital electronic systems, and that this should be clearly indicated. The FAA concurs that the special conditions were intended for "new electronic systems." These words are being added to the text of the special conditions to clarify this intent.

The applicant notes that the background statement in the notice of proposed special conditions recognizes that the level of protection required depends on how critical the function performed is to airworthiness, but the special conditions refer to the failure of systems rather than functions. He points out that a system may perform nonessential functions as well as critical and essential functions; however, the proposed special conditions require that all the system functions must be protected. The applicant proposes special conditions referring to the failure of functions rather than systems, and suggests using definitions for critical functions, essential functions and failure of a system function in the special conditions for clarity.

The FAA agrees with this comment. Special conditions for essential functions proposed by the applicant are adopted, and definitions for "essential function" and "critical functions" are being added for clarification. The special condition for critical functions is being rewritten to clarify the intent. We agree that some systems may perform multiple functions and that failure of some of these functions may not affect the critical functions. The proposed special conditions would require only those parts of the system associated with the critical function to be protected to that level. However, it may be difficult to provide adequate "isolation" and resultant lightning protection to "parts" of an integrated system.

A comment was made that the proposed special conditions are of a general nature and should be more specific as to which systems they apply to and the extent of testing that should be accomplished.

The FAA does not concur that the special conditions should be more specific. These special conditions involve advanced systems, for which there are no adequate lightning protection standards in the regulations. The FAA has intentionally written these special conditions to state an overall safety objective, and not to specify system design. This will allow the applicant latitude in design and testing of these systems. Further guidance on acceptable means of compliance with these special conditions is being developed, and an advisory circular, based on SAE report AE4L–87–3, is being prepared by the FAA that also defines the lightning environment and discusses testing. The extent of the testing that should be accomplished for a particular airplane is determined by the local Aircraft Certification Office after a lightning certification plan has been submitted to the FAA by the applicant.

Type Certification Basis

The type certification basis for the McDonnell Douglas DC–9–80 and MD–80 series airplanes is Part 25 of the FAR effective February 1, 1965, as amended by Amendments 25–1 through 25–40, with certain exceptions which are identified in the Model DC–9 series Airplane Type Certificate No. A6WE. These exceptions are not pertinent to the subject of lightning protection for electronic devices.

Conclusion

This action affects only certain unusual or novel design features on McDonnell Douglas DC–9–80 and MD–80 series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety.

The Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes, in addition to §§ 25.581 and 25.954 for the structure and fuel system, the following special conditions for the McDonnell Douglas DC–9–80 and MD–80 series airplanes incorporating these types of electronic systems.

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(q) (Revised Pub L. 97–449, January 12, 1983).

2. Each new electronic system which performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not affected when the airplane is exposed to lightning.

3. Each essential function of new electronic systems must be protected to ensure that the essential function can be recovered after the airplane has been exposed to lightning. For the purpose of these special conditions the following definitions apply:

Critical Functions. Functions whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition which would significantly impact the safety of the airplane or the ability of the flight crew to cope with adverse operating conditions.

Issued in Seattle, Washington, on October 19, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–24903 Filed 10–27–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 21 and 25

[Docket No. NM–22; Special Conditions No. 25–ANM–14]

Special Conditions; Fokker B.V. Model F28 MK0100 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.101 of the Federal Aviation Regulations (FAR) to Fokker B.V., Schiphol, The Netherlands, for an amended type certificate for the Fokker F28 MK0100 airplane. The airplane will have novel or unusual design features associated with digital avionic systems for which the applicable airworthiness regulations do not contain adequate or appropriate lightning protection safety standards. These special conditions contain the safety standards which the Administrator finds necessary, because of these design features, to establish a level of safety equivalent to that established in the regulations.

EFFECTIVE DATE: November 27, 1987.

FOR FURTHER INFORMATION CONTACT: Gene Vandermolen, Transport Standards Staff, ANM–110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168; telephone (206) 431–2114.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1985, Fokker B.V., 1117 ZJ Schiphol, The Netherlands, made an application to the Federal Aviation Administration (FAA) for an amended type certificate for the Fokker F28 MK0100 airplane. This airplane will have two Rolls-Royce Tay 620–15 high by-pass ratio engines with thrust reversers. Extensive use will be made of composite materials in its construction. The fuselage length will be increased 18.83 feet with plugs forward and aft of the wing. The wing span will be increased 9.8 feet. It will have an increased wing chord and improved aerodynamics with extended leading and trailing edges. The horizontal stabilizer span will be increased 4.6 feet. It will have strengthened landing gear with new wheels and brakes. The passenger count will be increased from 85 to 107. The maximum takeoff weight will be increased from 73,000 pounds to 91,500 pounds, maximum landing weight from 69,500 pounds to 84,500 pounds, and maximum zero fuel weight from 62,000 pounds to 76,500 pounds. The fuel capacity, cruise speed and maximum operating altitude will remain the same.

Included as part of the F28 MK0100 type design will be the following digital electronic systems:

Multi-Function Display (MFDS)
Electronic Flight Instruments (EFIS)
Automatic Flight Control and Augumentation (AFCAS)
Fault Warning Computer (FWC)
Flight Management System (FMS)
Attitude Heading Reference System (AHRS)

These systems, which by their nature operate at low voltage levels, may be particularly vulnerable to transients such as the indirect effects of a lightning strike to the airplane. Because the current regulations address structural and fuel tank/fuel vapor ignition lightning protection but do not address lightning protection for electronic systems, special conditions are necessary to provide installation and safety requirements to ensure adequate protection of these systems from lightning. These special conditions specify the level of protection required based on the criticality of the function performed by the system.

Discussion of Comments

Notice of proposed special conditions No. SC–87–2–NM for the Fokker B.V. Model F28 MK0100 airplane was published in the **Federal Register** on May 8, 1987 (52 FR 17410). The only public comments received were from Air Transport Association of America (ATA).

A comment was made that the special conditions are of a general nature and should be more specific as to which systems they apply to and the extent of testing that should be accomplished.

The FAA does not concur that the special conditions should be more specific. These special conditions involve advanced systems, for which there are no adequate lightning protection standards in the regulations. The FAA has intentionally written these special conditions to state an overall safety objective, and not to specify system design. This will allow the applicant latitude in design and testing of these systems. Further guidance on acceptable means of compliance with these special conditions is being developed, and an advisory circular, based on SAE report AE4L–87–3, is being prepared by the FAA that also defines the lightning environment and discusses testing. The extent of the testing that should be accomplished for a particular airplane is determined by the local Aircraft Certification Office after a lightning certification plan has been submitted to the FAA by the applicant.

The commenter also thinks that paragraph 3 is extremely vague and could be construed to mean a multitude of systems.

The FAA agrees with this comment and is rewriting both paragraphs 2 and 3 to clarify that the lightning protection requirements apply to new electronic systems which perform critical and essential functions. Definitions for critical and essential functions are also being added to clarify the intent of the special conditions.

Type Certification Basis

The proposed type certification basis for the Fokker F28 MK0100 airplane is:

1. Part 25 of the Federal Aviation Regulations (FAR) dated February 1, 1965, as amended by Amendments 25–1 through 25–56, 25–58 and 25–59, except for the following sections which will be certified to earlier amendments as noted: § 25.109, Amendment 25–41; § 25.631 (§ 25.631 did not exist prior to Amendment 25–23); § 25.783, Amendment 25–53; and § 25.1309, Amendment 25–22 (for unmodified systems).

2. Part 36 of the FAR in effect at the time the amended type certificate is issued.

3. Special Federal Aviation Regulations (SFAR) 27 with amendments in effect at the time the amended type certificate is issued.

4. Equivalent safety findings for § 25.777(e) (Flap handle location), § 25.781 (Flap handle shape), § 25.1103(e) (APU installation—fire proof inlet duct), and § 25.901(d) (APU installation—instruments).

5. Any special conditions issued.

6. Any exemptions issued.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued for the Fokker F28 MK0100 airplane:

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. Each new electronic system which performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not affected when the airplane is exposed to lightning.

3. Each essential function of new electronic systems must be protected to ensure that the essential function can be recovered after the airplane has been exposed to lightning.

For the purpose of these special conditions the following definitions apply:

Critical Functions. Functions whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition which would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Issued in Seattle, Washington, on October 19, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–24904 Filed 10–27–87; 8:45 am]

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14 CFR Parts 21 and 25

[Docket No. NM-21; Special Conditions No. 25-ANM-13]

Special Conditions; Fokker B.V. Model F27 MK050 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.101 of the Federal Aviation Regulations (FAR) to Fokker B.V., Schiphol, The Netherlands, for an amended type certificate for the Fokker F27 MK050 airplane. The airplane will have novel or unusual design features associated with engine and propeller electronic controllers for which the applicable airworthiness regulations do not contain adequate or appropriate lightning protection safety standards. These special conditions contain the safety standards which the Administrator finds necessary, because of these design features, to establish a level of safety equivalent to that established in the regulations.

EFFECTIVE DATE: November 27, 1987.

FOR FURTHER INFORMATION CONTACT: Gene Vandermolen, Transport Standards Staff, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2114.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1985, Fokker B.V., 1117 ZJ Schiphol, The Netherlands, made an application to the Federal Aviation Administration (FAA), for an amended type certificate for the Fokker F27 MK050 airplane. The MK050 is a high wing, pressurized transport category airplane with a certificated takeoff gross weight of 41,865 pounds (optional 45,900 pounds). The airplane has a maximum permissible altitude of 25,000 feet and a total occupancy of 50 persons. It will be equipped with two Pratt and Whitney of Canada Model PW-124 engines each rated at 2,400 shaft horsepower for maximum takeoff power at sea level standard day, and Dowty-Rotol 6-bladed constant speed propellers. The engines and propeller systems utilize digital electronic controllers. In addition, a digital Integrated Alerting System will be installed as part of the basic configuration. Because the current regulations address structural and fuel tank/fuel vapor ignition lightning protection but do not address lightning protection for electronic control systems, special conditions are necessary to provide an equivalent level of safety when compared to traditional designs. These special conditions specify the level of protection required based on the criticality of the function performed by the system.

Discussion of Comments

Notice of proposed special conditions No. SC-87-1-NM for the Fokker B.V. Model F27 MK050 airplane was published in the **Federal Register** on May 8, 1987 (52 FR 17409). The only public comments received were from Air Transport Association of America (ATA).

A comment was made that the special conditions are of a general nature and should be more specific as to which systems they apply to and the extent of testing that should be accomplished.

The FAA does not concur that the special conditions should be more specific. These special conditions involve advanced systems, for which there are no adequate lightning protection standards in the regulations. The FAA has intentionally written these special conditions to state an overall safety objective, and not to specify system design. This will allow the applicant latitude in design and testing of these systems. Further guidance on acceptable means of compliance with these special conditions is being developed, and an advisory circular, based on SAE report AE4L-87-3, is being prepared by the FAA that also defines the lightning environment and discusses testing. The extent of the testing that should be accomplished for a particular airplane is determined by the local Aircraft Certification Office after a lightning certification plan has been submitted to the FAA by the applicant.

The commenter also thinks that paragraph 3 is extremely vague and could be construed to mean a multitude of systems.

The FAA agrees with this comment and is rewriting both paragraphs 2 and 3 to clarify that the lightning protection requirements apply to new electronic systems which perform critical and essential functions. Definitions for critical and essential functions are also being added to clarify the intent of the special conditions.

Type Certification Basis

The proposed type certification basis for the Fokker F27 MK050 airplane is:

1. Part 25 of the Federal Aviation Regulations (FAR) dated February 1, 1965, as amended by Amendments 25-1 through 25-50, 25-58 and 25-59, except for the following sections which will be certified to earlier amendments as noted: § 25.109, Amendment 25-41; § 25.631 (§ 25.631 did not exist prior to Amendment 25-23); § 25.671(c)(3), Amendment 25-22; § 25.701, Amendment 25-22; and § 25.1309, Amendment 25-22.

2. The automatic flight control system will comply with § 25.1309 as amended by Amendment 25-56.

3. Part 36 of the FAR with amendments in effect at the time the amended type certificate is issued.

4. Special Federal Aviation Regulations (SFAR) 27 with amendments in effect at the time the amended type certificate is issued.

5. Equivalent safety findings for § 25.777(e) (Flap handle location), § 25.781 (Flap handle shape), and § 25.729(e)(4) (Landing gear position indicator and warning device).

6. Any special conditions issued.

7. Any exemptions issued.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued for the Fokker F27 MK050 airplane:

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub L. 97-449, January 12, 1983).

2. Each new electronic system which performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not affected when the airplane is exposed to lightning.

3. Each essential function of new electronic systems must be protected to ensure that the essential function can be recovered after the airplane has been exposed to lightning.

For the purpose of these special conditions the following definitions apply:

Critical Functions. Functions whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition which would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Issued in Seattle, Washington, on October 19, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-24905 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-82-AD; Amdt. 39-5757]

Airworthiness Directives; British Aerospace Viscount Model 700, 800, and 810 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Viscount Model 700, 800, and 810 series airplanes, which requires eddy current and visual inspections of the rib and wing upper surface at wing station 257. This amendment is prompted by three reports of cracks. This problem has been attributed to fatigue cracking. This condition, if not corrected, could result in failure of the wing.

EFFECTIVE DATES: December 9, 1987.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, Seattle Aircraft Certification Office, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires eddy current and visual inspections of the rib and wing upper surface at wing station 257 on all Viscount Model 700, 800, and 810 series airplanes, was published in the **Federal Register** on July 29, 1987 (52 FR 28272).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the NPRM.

After review of the available data, the FAA has determined that air safety and the public interest require the adoption of the following rule.

It is estimated that 12 airplanes of U.S. registry will be affected by this AD, that it will take approximately 60 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $28,800.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because of the minimal cost of compliance per airplane ($2,400). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to all Model Viscount 700/800/810 series airplanes which have accumulated more than 10,000 landings, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the wing due to cracking, accomplish the following:

A. Before further flight:

1. Visually inspect the wing upper surface and end rib in accordance with applicable British Aerospace Preliminary Technical Leaflet No. 185 or No. 316, both dated October 23, 1986. Repeat this inspection at intervals not to exceed 25 landings.

2. Perform eddy current inspection of the wing in accordance with applicable British Aerospace Preliminary Technical Leaflet No. 185 or No. 316, both dated October 23, 1986. Repeat this inspection at intervals not to exceed 1,500 landings.

B. Any cracks found as a result of the inspections required by paragraph A., above, must be repaired prior to further flight in a manner approved by the FAA.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

D. Eddy current inspections may be deferred for 15,000 landings after incorporation of Modification D3292 or Modification FG2172 as applicable.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This Amendment becomes effective December 9, 1987.

Issued in Seattle, Washington, on October 20, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-24902 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 87-ACE-3]

Alteration of Jet Routes, Iowa; Delay of Effective Date

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action postpones the effective date of amendments to two jet routes located in the vicinity of Iowa City, IA. The date of implementation for Jet Routes J-10 and J-192 has been postponed from November 19, 1987, to January 14, 1988. This action is taken for the purposes of internal administration and for coordination of these amendments with other related airspace actions on the east coast.

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EFFECTIVE DATE: 0901 U.t.c., January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

A final rule Docket 87-ACE-3 published in the **Federal Register** on September 18, 1987 (52 FR 35236) with an effective date of November 19, 1987, implemented modifications to Jet Routes J-10 and J-192. However, due to internal administrative considerations, and in order to permit sufficient time for coordination of these amendments with other related airspace actions, the effective date has been changed to January 14, 1988.

Issued in Washington, DC, on October 20, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-24901 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1206

Availability of Agency Records to Members of the Public

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This action revises Part 1206, "Availability of Agency Records to Members of the Public," to implement the provisions regarding fees and fee waivers of the Freedom of Information Reform Act (FOIRA) of 1986 (Pub. L 99-570). The Freedom of Information Reform Act permits agencies to charge for the direct costs of providing FOIA services such as search, duplication, and, in certain cases, review. NASA interprets this "direct cost" provision to mean the actual costs incurred in operating its FOIA program. This rule also changes some of the titles and duties of officials in Subpart 5, Responsibilities, to conform to a reorganization of NASA Headquarters.

EFFECTIVE DATE: November 27, 1987.

ADDRESS: Freedom of Information Act Officer, Code LN, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Patricia M. Riep, 202/453-8346 or Elizabeth N. Siegel, 202/453-2465.

SUPPLEMENTARY INFORMATION: An interim rule with comments invited was published on May 20, 1987. This final rule takes effect and supersedes the interim rule.

Record search fees are established on a three-tier schedule based upon the hourly salary of the person ordinarily expected to do the work, plus 16 percent for benefits. The clerical schedule is based, generally, on the hourly salary of a person at GS-6 step 1, which is approximately the same as GS-5 step 4 and GS-4 step 9. The professional schedule is based, generally, on the hourly salary of a person at GS-12 step 1, which is approximately the same as GS-11 step 7 and GS-10 step 10. The legal review schedule is based generally on the hourly salary of a person at GS-13 step 5.

NASA received three comments, one from an association of journalist and two from other public interest groups.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

Section-by-Section Analysis

Section 1206.101 Definitions.

(1) Several commentators urged NASA to narrow the definition of "commercial use request." NASA has left the definition the same as that in the Office of Management and Budget (OMB) guidance (52 FR 10012-10020), but has added a sentence at the end which makes a presumption that a request from a corporation is for commercial use unless otherwise domonstrated.

Section 1206.102 General policy.

(b) Paragraph (b) has been revised by adding Pub. L. 99-570 to the list of laws that have amended the Freedom of Information Act.

Section 1206.500 Responsibilities.

As a result of a NASA Headquarters reorganization, the position responsible for overall FOIA policy and procedures and the making of final determinations is now called the Associate Deputy Administrator (Policy). The former position, Associate Deputy Administrator, was abolished. In this reorganization, the Headquarters FOIA Officer position and function was transferred from the Director, Management Support Division, Office of External Relations, to the Associate Administrator for Communications. Thus all the activities associated with initial determinations, Headquarters FOIA procedures, and preparing the annual report have been transferred to the Associate Administrator for Communications.

Section 1206.601 Mail requests.

(c) Concerning the sending of fees, NASA has changed the sentence, "cash or stamps should not be sent by mail" to "NASA cannot be responsible for cash sent by mail; stamps will not be accepted." This makes our policy on cash and stamps more precise.

Section 1206.603 Procedures and time limits for initial determinations.

(c) NASA has changed paragraph (c) to go along with OMB's definition of advance payments. When the fee is over $250, the requester will always be sent the initial determination and bill for the fee. When the fee is under $250, the requester will usually be sent the initial determination and a bill for the fee. Upon receipt of the fee, NASA will mail the documents. When a fee is under $250 and in the case of a requester with a history of prompt payment, NASA may mail the records with the initial determination and the bill. When this occurs, the letter will state that interest will be charged from the 31st day after the date of the response.

Subpart 7

The title "Search and Duplication Fees" was changed to "Search, Review and Duplication Fees" to be more descriptive.

Section 1206.700 Schedule of fees.

(a) The word "blueprints" was transferred from a list of oversize documents that cost $0.15 a copy, to the group of items for which full direct costs will be charged. This is because blueprints must usually be provided by the architectural contractor who charges NASA more than $0.15 a copy. The list of items in this latter group was expanded to include "engineering drawings, hard copies of aperture cards," and other items which normally cost more than $0.15 a copy and which are provided by contractors.

(d) This is a new paragraph (d), formerly paragraph (h) in the interim regulation. It deals with review of records and is more logically placed in subpart 7 as paragraph (d). We have changed the quarter-hour rate for review by an attorney from $5.50 to $6.25. The hourly rate of $25 stands for an hourly salary of $21 plus 16 percent benefits. This correlates approximately with the hourly salary of GS-13 step 5 and is under by almost one dollar per hour the hourly salary of a GS-14 step 1. Since the majority of NASA attorneys are GS-13's, 14's and 15's, we felt this rate better reflected the salary of the person likely to be reviewing FOIA records.

The paragraph letters of former paragraphs (d) through (g) change to (e) through (h).

In paragraph (g), formerly paragraph (f), "Charges for Special Services," NASA has decided to charge the full cost for "packaging and mailing bulky records that will not fit into the largest envelope carried in the supply inventory." This language will be added as paragraph (g)(3).

Section 1206.701 Categories of requesters.

In paragraph (c) NASA has changed the phrase "a request must meet the criteria in § 1206.101(o)" to "a request must demonstrate that he/she meets the criteria in § 1206.701(o)." This clarifies that the requester has the burden of showing that he/she is a representative of the news media.

Section 1206.702 Waiver or reduction of fees.

This section is based on the Department of Justice's "New Fee Waiver Guidance" dated April 2, 1987. NASA has added an introductory sentence that states that the requester always has the burden of producing evidence that would qualify him/her for a fee waiver or reduction.

Section 1206.704 Advance payments.

NASA has rewritten the Advance Payments section to follow OMB's definition; that is, that advance payment is payment before work is begun or continued on a request.

List of Subjects in 14 CFR Part 1206

Freedom of Information, Information.

For reasons set out in the Preamble, 14 CFR Part 1206 is revised to read as follows:

PART 1206—AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

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Sec.

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Subpart 7—Search, Review, and Duplication Fees

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Subpart 8—Failure to Release Records to the Public

1206.800 Failure to release records to the public.

Subpart 9—Annual Report

1206.900 Requirement for annual report.

Authority: Sec. 203, National Aeronautics and Space Act of 1958, as amended, 72 Stat. 429, 42 U.S.C. 2473 and 5 U.S.C. 552 as amended by Pub. L. 93-504, 88 Stat. 1561, Pub. L. 99-570, unless otherwise noted; the Privacy Act of 1974, 5 U.S.C. 552a.

Subpart 1—Basic Policy

§ 1206.100 Scope of part.

This Part 1206 establishes the policies, responsibilities, and procedures for the release to members of the public of agency records which are under the jurisdiction of the National Aeronautics and Space Administration. This part applies to information and agency records located at NASA Headquarters, at NASA Field Installations, and at NASA component installations, as defined in Part 1201 of this chapter.

§ 1206.101 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) The term "agency records" or "records" includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by NASA in pursuance of Federal law or in connection with the transaction of public business and preserved by NASA as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities or because of the informational value of data contained therein. It does not include tangible objects or articles, such as structures, furniture, paintings, sculptures, exhibits, models, vehicles or equipment; library or museum material made or acquired and preserved solely for reference or exhibition purposes; or records of another agency, a copy of which may be in NASA's possession.

(b) The term "initial determination" means a decision by a NASA official, in response to a request by a member of the public for an agency record, on whether the record described in the request can be identified and located after a reasonable search and, if so, whether the record (or portions thereof) will be made available under this part or will be withheld from disclosure under Subpart 3 of this part.

(c) The term "appeal" means a request by a member of the public to the Administrator or designee, or, in the case of records as specified in § 1206.504, to the Inspector General or designee for reversal of any adverse initial determination the requestor has received in response to a request for an agency record.

(d) The term "final determination" means a decision by the Administrator or designee, or, in the case of records as specified in § 1206.504, by the Inspector General or designee on an appeal.

(e) The term "working days" means all days except Saturdays, Sundays and legal public holidays.

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(f) As used in § 1206.606, the term "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of a particular request for agency records—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the NASA Information Center processing the request (see Subpart 6 of this part for procedures for processing a request for agency records);

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of NASA having substantial subject-matter interest therein.

(g) A "statute specifically providing for setting the level of fees for particular types of records" (5 U.S.C. 552(a)(4)(A)(vi)) means any statute that specifically requires a government agency to set the level of fees for particular types of records in order to:

(1) Serve both the general public and private sector organizations by conveniently making available government information;

(2) Ensure that groups and individuals pay the cost of publications and other services which are for their special use so that these costs are not borne by the general taxpaying public;

(3) Operate an information dissemination activity on a self-sustaining basis to the maximum extent possible; or

(4) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating government information.

(h) The term "direct costs" means those expenditures which NASA actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to an FOIA request. Direct costs include, for example, the salary of the employee who would ordinarily perform the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space and heating or lighting the facility in which the records are stored.

(i) The term "search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. NASA will ensure that searching for material is done in the most efficient, least expensive manner so as to minimize costs for both the agency and the requester and will only utilize line-by-line, page-by-page search when consistent with this policy. "Search" should be distinguished, however, from "review" of material in order to determine whether the material is exempt from disclosure (see paragraph (k) of this section). Searches may be done manually or by computer using existing programming.

(j) The term "duplication" refers to the process of making a copy of a document in order to respond to an FOIA request. Such copies can take the form of paper copy, microfilm, audio-visual materials, or machine-readable documentation (e.g., magnetic tape or disk), among others.

(k) The term "review" refers to the process of examining documents located in response to a commercial use request (see paragraph (l) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(l) The term "commercial use request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade or profit interests of the request or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, NASA will look first to the use to which a requester will put the documents requested. Where NASA has reasonable cause to doubt the use to which a requester will put the records sought or where that use is not clear from the request itself, NASA will seek additional clarification before assigning the request to a specific category. A request from a corporation (not a "news media" corporation) may be presumed to be for commercial use unless the requester demonstrates that it qualifies for a different fee category.

(m) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(n) The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (1) of this section, and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(o) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but agencies may also look to the past publication record of a requester in making this determination.

§ 1206.102 General policy.

(a) In accordance with section 203(a)(3) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(a)(3)), it has been and continues to be NASA policy to provide for the "widest practicable and appropriate dissemination of information concerning its activities and the results thereof."

(b) In compliance with the "Freedom of Information" amendments to the Administrative Procedure Act (5 U.S.C. 552, as amended by Public Laws 90–23, 93–502 and 99–570), a positive and continuing obligation exists for NASA to make available upon request by members of the public to the fullest extent practicable, all agency records under its jurisdiction, as described in Subpart 2 of this part, except to the extent that they may be exempt from disclosure under Subpart 3 of this part.

Subpart 2—Records Available

§ 1206.200 Types of records to be made available.

(a) Records required to be published in the Federal Register. The following records are required to be published in the Federal Register, for codification in Title 14, Chapter V, of the CFR.

(1) Description of NASA Headquarters and field organization and the established places at which, the employees from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(2) Statements of the general course and method by which NASA's functions are channeled and determined, including the nature, and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by NASA;

(5) Each amendment, revision, or repeal of the foregoing.

(b) *Agency opinions, orders, statements, and manuals.* (1) Unless they are exempt from disclosure under Subpart 3 of this part, or unless they are promptly published and copies offered for sale, NASA shall make available the following records for public inspection and copying or purchase:

(i) All final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, such as opinions of the NASA Board of Contract Appeals;

(ii) Those statements of NASA policy and interpretations which have been adopted by NASA and are not published in the Federal Register;

(iii) Administrative staff manuals (or similar issuances) and instructions to staff that affect a member of the public.

(2) In connection with all records required to be made available or published under this paragraph (b), identifying details shall be deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. However, in each case the justification for the deletion shall be explained fully in writing. A copy of such justification shall be attached to the front of the portion of the record made available to the requester.

(3) In connection with all records required to be made available or published under this paragraph (b) which are issued, adopted, or promulgated after July 4, 1967, except to the extent they are exempt from disclosure under Subpart 3 of this part, current indexes providing identifying information will be maintained and made available for public inspection and copying or purchase (see § 1206.402).

(c) *Other agency records.* In addition to the records made available or published under paragraphs (a) and (b) of this section, NASA shall, upon request for other records made in accordance with this part, make such records promptly available to any person, unless they are exempt from disclosure under Subpart 3 of this part, or unless they may be purchased from other readily available sources, as provided in § 1206.201.

§ 1206.201 Records which have been published.

Publication in the Federal Register is a means of making certain agency records available to the public. Also, the Commerce Business Daily, Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards (Department of Commerce) is a source of information concerning agency records or actions. Various other NASA publications and documents, and indexes thereto, are available from other sources, such as the U.S. Superintendent of Documents, the National Technical Information Service (Department of Commerce), and the Earth Resources Observation Systems (EROS) Data Center (Department of the Interior). Such publications and documents are not required to be made available or reproduced in response to a request therefor unless they cannot be purchased readily from available sources. If a publication or document is readily available from a source other than NASA, the requester shall be informed of the procedures to follow to obtain the publication or document.

§ 1206.202 Deletion of segregable portions of a record.

If a record requested by a member of the public contains both information required to be made available and that which is exempt from disclosure under Subpart 3 of this part, and the portion of the records that is required to be made available is reasonably segregable from the portion that is exempt, the portion that is exempt from disclosure shall be deleted and the balance of the record shall be made available to the requester. If the non-exempt portion of the record appears to be unintelligible or uninformative, the requester shall be informed of that fact, and such non-exempt portion shall not be sent to the requester unless he thereafter specifically requests it.

§ 1206.203 Creation of records.

Records will not be created by compiling selected items from the files at the request of a member of the public, nor will records be created to provide the requester with such data as ratios, proportions, percentages, frequency distributions, trends, correlations, or comparisons

§ 1206.204 Records of interest to other agencies.

If a NASA record is requested and another agency has a substantial interest in the record, such an agency shall be consulted on whether the record shall be made available under this part (see § 1206.101(f)(3)). If a record is requested that is a record of another agency, the request shall be returned to the requester, as provided in § 1206.604(c).

§ 1206.205 Incorporation by reference.

Matter which is reasonably available to the members of the public affected thereby shall be deemed published in the Federal Register when incorporated by reference in material published in the Federal Register (pursuant to the Federal Register regulation on incorporation by reference, 1 CFR Part 51).

§ 1206.206 Availability for copying.

Except as provided in § 1206.201, the availability of a record for inspection shall include the opportunity to extract information therefrom or to purchase copies.

§ 1206.207 Copies.

The furnishing of a single copy of the requested record will constitute compliance with this part.

§ 1206.208 Release of exempt records.

If a record which has been requested is exempt from disclosure under Subpart 3 of this part, the record may nevertheless be made available under the procedures of Subpart 6 of this part if it is determined by an official authorized to make either an initial determination or a final determination that such action would not be inconsistent with a purpose of the exemptions set forth in Subpart 3 of this part.

Subpart 3—Exemptions

§ 1206.300 Exemptions.

(a) Under 5 U.S.C. 552(b) agency records falling within the exemptions of paragraph (b) of this section are not

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required to be made available under this part. Such records may nevertheless be made available if it is determined that such actions would not be inconsistent with a purpose of the exemption (see § 1206.208).

(b) The requirements of this part to make agency records available do not apply to matters that are—

(1)(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of NASA;

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with NASA;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(A) Could reasonably be expected to interfere with enforcement proceedings,

(B) Would deprive a person of a right to a fair trial or an impartial adjudication,

(C) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(D) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(E) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(F) Could reasonably be expected to endanger the life or physical safety of any individual.

Whenever a request is made which involves access to records described in subsection (b)(7)(A) and—

(A) The investigation or proceeding involves a possible violation of criminal law; and

(B) There is reason to believe that (i) The subject of the investigation or proceeding is not aware of its pendency, and

(ii) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

§ 1206.301 Limitation of exemptions.

(a) This Part 1206 does not authorize the withholding of information or the availability of records to the public, except as specifically stated in this part.

(b) Nothing in this part shall be construed as authority to withhold information from Congress.

Subpart 4—Location for Inspection and Request of Agency Records

§ 1206.400 Information centers.

NASA will maintain Information Centers as set forth in this subpart.

§ 1206.401 Location of NASA information centers.

NASA will maintain the following Information Centers, at which agency records may be inspected, from which copies of agency records may be requested and at which copies of agency forms may be obtained:

(a) NASA Headquarters Information Center, National Aeronautics and Space Administration, Washington, DC 20546.

(b) NASA Information Center, Ames Research Center, Moffett Field, CA 94035.

(c) NASA Information Center, Hugh L. Dryden Flight Research Center, Post Office Box 273, Edwards, CA 93523.

(d) NASA Information Center, Goddard Space Flight Center, Greenbelt, MD 20771.

(e) NASA Information Center, John F. Kennedy Space Center, Kennedy Space Center, FL 32899.

(f) NASA Information Center, Langley Research Center, Langley Station, Hampton, VA 23365.

(g) NASA Information Center, Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135.

(h) NASA Information Center, Lyndon B. Johnson Space Center, Houston, TX 77058.

(i) NASA Information Center, George C. Marshall Space Flight Center, Huntsville, AL 35812.

(j) NASA Information Center, National Space Technology Laboratories, Bay St. Louis, MS 39520.

(k) NASA Information Center, NASA Resident Procurement Office (JPL), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) NASA Information Center, Wallops Flight Center, Wallops Island VA 23337.

§ 1206.402 Documents available for inspection at NASA information centers.

(a) Each NASA Information Center will have available for inspection, as a minimum, a current version of the following documents:

(1) The Freedom of Information Act (5 U.S.C. 552, as amended by Pub. L 90–23 and Pub L. 93–502);

(2) Title 14, Chapter V, and Title 41, Chapter 18, Code of Federal Regulations, and material published in the **Federal Register** for codification but not yet included in the Code of Federal Regulations;

(3) A master list and index of NASA Issuances, and a copy of all such issuances;

(4) A list and index of the management issuances of the NASA installation at which the Information Center is located, and a copy of such issuances;

(5) NASA's Scientific and Technical Aerospace Reports (STAR) and current indexes thereto;

(6) Cumulative Index to Selected Speeches and News Releases issued by NASA Headquarters;

(7) Index/Digest of Decisions, NASA Board of Contract Appeals;

(8) Decisions of the NASA Contract Adjustment Board and a current index thereto;

(9) NASA Handbook NHB 5500.1A containing an index to decisions of the NASA Inventions and Contributions Board on Petitions for Patent Waivers;

(10) Copies of Environmental Impact Statements filed by NASA under the National Environmental Policy Act of 1969;

(11) Collection of all issues of "NASA Activities"; and

(12) List of licenses granted under NASA-owned patents.

(b) Because the indexes listed in paragraph (a) of this section are voluminous and because current versions thereof will be available for inspection at NASA Information Centers, from which copies of the indexes may be requested under § 1206.603, it is determined and so ordered that publication of the indexes quarterly in the **Federal Register** would be unnecessary and impractical.

§ 1206.403 Duty hours.

The NASA Information Centers listed in § 1206.401 shall be open to the public during all regular workdays, from 9 a.m. to 4 p.m.

Subpart 5—Responsibilities

§ 1206.500 Associate Deputy Administrator (Policy).

Except as otherwise provided in § 1206.504, the Associate Deputy Administrator (Policy) is responsible for the following:

(a) Providing overall supervision and coordination of the implementation of the policies and procedures set forth in this Part 1206;

(b) After consultation with the General Counsel, making final determinations under § 1206.607, within the time limits specified in Subpart 6 of this part;

(c) Determining whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for a final determination.

§ 1206.501 General Counsel.

The General Counsel is responsible for the interpretation of 5 U.S.C. 552 and of this part, and for the handling of litigation in connection with a request for an agency record under this part.

§ 1206.502 Field and component installations.

(a) Except as otherwise provided in § 1206.504, the Director of each NASA Installation or the Official-in-Charge of each Component Installation is responsible for the following:

(1) After consultation with the Chief Counsel or the Counsel charged with providing legal advice to a Field or a Component Installation, making initial determinations under § 1206.603 and § 1206.604;

(2) Determining whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for an initial determination; and

(3) In coordination with the Associate Deputy Administrator (Policy), ensuring that requests for agency records under the cognizance of his/her respective installation are processed and initial determinations made within the time limits specified in Subpart 6 of this part.

(b) If so designated by the Director or Official-in-Charge of the respective installation, the principal Public Affairs Officer at the installation may perform the functions set forth in paragraphs (a)(1) and (2) of this section.

§ 1206.503 NASA Headquarters.

(a) Except as otherwise provided in § 1206.504, the Associate Administrator for Communications, is responsible for the following:

(1) Preparing the annual reports required by § 1206.900, including establishing reporting procedures throughout NASA to facilitate the preparation of such reports;

(2) After consultation with the Office of General Counsels, making initial determinations under § 1206.603 and § 1206.604;

(3) Determining whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for an initial determination; and

(4) In coordination with the Associate Deputy Administrator (Policy), ensuring that requests for agency records under the cognizance of Headquarters are processed and initial determinations made within the time limits specified in Supart 6 of this part.

(b) The functions set forth in paragraphs (a)(1), (2) and (3) of this section may be delegated by the Associate Administrator for Communications to a Public Affairs Officer or Specialist and to the Manager of his/her designee, NASA Resident Procurement Office—JPL.

§ 1206.504 Inspector General.

(a) The Inspector General or designee is responsible for making final determinations under § 1206.607 within the time limits specified in Subpart 6 of this part, with respect to audit and investigative documents originating in the Office of the Inspector General, documents from outside the Government related to an audit or investigation, documents prepared in response to a request from or addressed to the Office of the Inspector General, or other documents originating within the Office of the Inspector General, after consultation with the General Counsel or designee on an appeal of an initial determination to the Inspector General.

(b) The Assistant Inspectors General or their designees are responsible for making initial determinations under § 1206.603 and § 1206.604 with respect to audit and investigative documents originating in the Office of the Inspector General, documents from outside the Government related to an audit or investigation, documents prepared in response to a request from or addressed to the Office of the Inspector General, or other documents originating with the Office of the Inspector General, after consultation with the Attorney-Advisor to the Inspector General or designee.

(c) The Inspector General or designee is responsible for ensuring that requests for agency records as specified in paragraphs (a) and (b) of this section are processed and initial determinations are made within the time limits specified in Subpart 6 of this part.

(d) The Inspector General or designee is responsible for determining whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for an initial or final determination, for records as specified in paragraphs (a) and (b) of this section.

(e) Records as specified in paragraphs (a) and (b) of this section include any records located at Regional Inspector General Offices as well as records located at the Headquarters Office of the Inspector General.

§ 1206.505 Delegation of authority.

Authority necessary to carry out the responsibilities specified in this subpart is delegated from the Administrator to the officials named in this subpart.

Subpart 6—Procedures

§ 1206.600 Requests for records.

A member of the public may request an agency record by mail or in person from the Information Center having cognizance over the record requested or from the NASA Headquarters Information Center.

§ 1206.601 Mail requests.

In view of the time limits under 5 U.S.C. 552(a)(6) for an initial determination on a request for an agency record (see § 1206.603), a request by mail must meet the following requirements:

(a) The request must be addressed to an appropriate NASA Information Center (see § 1206.401) or otherwise be clearly identified on the envelope and in the letter as a request for an agency record under the "Freedom of Information Act".

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(b) The request must identify the record requested or reasonably describe it in such a manner as to enable a professional NASA employee who is familiar with the subject area of the request to identify and locate the record with a reasonable amount of effort. NASA need not comply with a blanket or categorical request (such as "all matters relating to" a general subject) where it is not feasible reasonably to determine what is sought. NASA will in good faith endeavor to identify and locate the record sought and will consult with the requester when necessary and appropriate for that purpose. However, as provided in § 1206.203, NASA will undertake no obligation to compile or create information or records not already in existence at the time of the request.

(c) If a fee is chargeable under Subpart 7 of this part for search or duplication costs incurred in connection with a request for an agency record, and the requester knows the amount of the fee at the time of the request, the request should be accompanied by a check or money order payable in that amount to the "National Aeronautics and Space Administration." NASA cannot be responsible for cash sent by mail; stamps will not be accepted. If the amount of the fee chargeable is not known at the time of the request, the requester will be notified in the initial determination (or in a final determination in the case of an appeal) of the amount of the fee chargeable (see § 1206.608(c)). For circumstances in which advance payment of fees is required, see § 1206.704.

§ 1206.602 Requests in person.

(a) A member of the public may request an agency record in person at a NASA Information Center (see § 1206.401) during the duty hours of the center.

(b) A request at an Information Center must identify the record requested or reasonably describe it as provided in § 1206.601(b).

(c) If the record requested is located at the Information Center or otherwise readily obtainable, it shall be made available to the requester upon the payment of any fees that are chargeable (see Subpart 7 of this part), which fees may be paid in cash or by a check or money order payable to the "National Aeronautics and Space Administration." If the record requested is not located at the Information Center or otherwise readily obtainable, the request will be docketed at the Information Center and processed in accordance with the procedures in §§ 1206.603 and 1206.604, with any fee chargeable being handled in accordance with § 1206.601(c).

§ 1206.603 Procedures and time limits for initial determinations.

(a) Except as provided in § 1206.606, an initial determination on a request for an agency record, addressed in accordance with § 1206.601(a) or made in person at a NASA Information Center, shall be made, and the requester shall be sent notification thereof, within ten working days after receipt of the request, as required by 5 U.S.C. 552(a)(6).

(b) An initial determination on a request for an agency record by mail not addressed in accordance with § 1206.601(a) shall be made, and the requester shall be sent notification thereof, within ten working days after the correspondence is recognized as a request for an agency record under the "Freedom of Information Act" and received by the appropriate NASA Information Center. With respect to such a request, unless an initial determination can reasonably be made within ten working days of the original receipt, the request will be promptly acknowledged and the requester notified of the date the request was received at that Information Center and that an initial determination on the request will be made within ten working days of that date.

(c) If it is determined that the requested record (or portion thereof) will be made available, and if the charges are under $250, NASA will either send a copy of the releasable record and a bill for the fee or send the initial determination and a bill for the fee to the requester. In the latter case the documents will be released when the fee is received. If the fee chargeable is over $250, a request for payment of the fee will always be sent with the initial determination, and the records will be mailed only upon receipt of payment. When records are sent before payment is received, the fact that interest will be charged from the 31st day after the day of the response shall be stated in the response. The date of the mailing of an initial determination, with or without the record(s), shall be deemed to satisfy the time limit for initial determinations.

(d) Any notification of an initial determination that does not comply fully with the request for an agency record shall include a statement of the reasons for the adverse determination, include the name and title of the person making the initial determination, and notify the requestor of the right to appeal to the Administrator, or the Inspector General, as appropriate, under § 1206.605.

§ 1206.604 Request for records which exist elsewhere.

(a) If a request for an agency record is received by an Information Center not having cognizance of the record (for example, where a request is submitted to one NASA installation or Headquarters and the requested record exists only at another NASA installation), the Information Center receiving the request shall promptly forward it to the NASA Information Center having cognizance of the record requested. That center shall acknowledge the request and inform the requester that an initial determination on the request will be sent within ten working days from the date of receipt by such center.

(b) If a request is received for agency records which exist at two or more centers, the center receiving the request shall undertake to comply with the request, if feasible, or to forward the request (or portions thereof) promptly to a more appropriate center for processing. The requester shall be kept informed of the actions taken to respond to the request.

(c) If a request is received by a NASA Information Center for a record of another agency, the requester shall promptly be informed of that fact, and the request shall be returned to the requester, with advice as to where the request should be directed.

§ 1206.605 Appeals.

(a) A member of the public who has requested an agency record in accordance with § 1206.601 or § 1206.602, and who has received an initial determination which does not comply fully with the request, may appeal such an adverse initial determination to the Administrator, or, for records as specified in § 1206.504, to the Inspector General under the procedures of this section.

(b) The Appeal must:

(1) Be addressed to the Administrator, NASA Headquarters, Washington, DC 20546, or, for records as specified in § 1206.504, to the Inspector General, NASA Headquarters, Washington, DC 20546.

(2) Be identified clearly on the envelope and in the letter as an "Appeal under the Freedom of Information Act";

(3) Include a copy of the request for the agency record and a copy of the adverse initial determination;

(4) To the extent possible, state the reasons why the requester believes the adverse initial determination should be reversed; and

(5) Be sent to the Administrator or the Inspector General, as appropriate,

within 30 calendar days of the date of receipt of the initial determination.

(c) An official authorized to make a final determination may waive any of the requirements of paragraph (b) of this section, in which case the time limit for the final determination (see § 1206.607(a)) shall run from the date of such waiver.

§ 1206.606 Requests for additional records.

If, upon receipt of a record (or portions thereof) following an initial determination to comply with a request, the requestor believes that the materials received do not comply with the request, the requestor may elect either to request additional records under the procedures of § 1206.601 or § 1206.602, or to file on appeal under the procedures of § 1206.605, in which case the appeal must be sent to the Administrator, or to the Inspector General, in the case of records as specified in § 1206.504, within 30 days of receipt of the record (or portions thereof), unless good cause is shown for any additional delay.

§ 1206.607 Actions on appeals.

(a) Except as provided in § 1206.606, the Administrator or designee, or in the case of records as specified in § 1206.504, the Inspector General or designee, shall make a final determination on an appeal and notify the requestor thereof, within 20 working days after the receipt of the appeal.

(b) If the final determination reverses in whole or in part the initial determination, the record requested (or portions thereof) shall be made available promptly to the requester, as provided in the final determination.

(c) If the final determination sustains in whole or in part an adverse initial determination, the notification of the final determination shall:

(1) Explain the basis on which the record (or portions thereof) will not be made available;

(2) Include the name and title of the person making the final determination;

(3) Include a statement that the final determination is subject to judicial review under 5 U.S.C. 552(a)(4); and

(4) Enclose a copy of 5 U.S.C. 552(a)(4).

§ 1206.608 Time extensions in unusual circumstances.

(a) In "unusual circumstances" as that term is defined in § 1206.101(f), the time limits for an initial determination (see §§1206.603 and 1206.604) and for a final determination (see § 1206.607) may be extended, but not to exceed a total of ten working days in the aggregate in the processing of any specific request for an agency record.

(b) If an extension of time under this section would be required, the requester shall be promptly notified of the reasons therefor and the date when a determination will be sent.

(c) If a record described in a request cannot be located within the ten-working-day time limit for an initial determination, after consultation with a professional NASA employee who is familiar with the subject area of the request, that fact normally will justify an initial determination that the record requested cannot be identified or located, rather than a decision that an extension of time under this section would be appropriate.

(d) In exceptional circumstances, if it would be impossible to complete a search for or review of agency records within the ten-working-day period for an initial determination, an official authorized to make an initial determination or his designee may seek an extension of time from the requester. If such an extension of time can be agreed upon, that fact should be clearly documented and the initial determination made within the extended time period; if not, an initial determination that the record cannot be identified or located, or reviewed, within the ten-working-day time limit shall be made under § 1206.603.

§ 1206.609 Litigation.

In any instance in which NASA is sued in connection with a request for an agency record under this part, the matter shall promptly be referred to the General Counsel together with a report on the details and status of the request. In such a case, if a final determination with respect to the request has not been made, such a determination shall be made as soon as possible, under procedures prescribed by the General Counsel in each case.

Subpart 7—Search, Review, and Duplication Fees

§ 1206.700 Schedule of fees.

The fees specified in this section shall be charged for searching for, reviewing, and/or duplicating agency records made available in response to a request under this part.

(a) *Copies.* For copies of documents such as letters, memoranda, statements, reports, contracts, etc., $0.10 per copy of each page. For copies of oversize documents, such as maps, charts, etc., $0.15 for each reproduced copy per square foot. These charges for copies include the time spent in duplicating the documents. For copies of still photographs, blueprints, videotapes, engineering drawings, hard copies of aperture cards, etc., the fee charged will reflect the full direct cost to NASA of reproducing or copying the record.

(b) *Clerical searches.* For each one quarter hour spent by clerical personnel in searching for an agency record in response to a request under this part, $2.25.

(c) *Nonroutine, nonclerical searches.* Where a search cannot be performed by clerical personnel, for example, where the task of determining which records fall within a request and collecting them requires the time of professional or managerial personnel, and where the amount of time that must be expended in the search and collection of the requested records by such higher level personnel is substantial, charges for the search may be made at a rate in excess of the clerical rate, namely for each one quarter hour spent by such higher level personnel in searching for a requested record, $4.50.

(d) *Review of records.* For commercial use requests only, where time is spent reviewing to determine whether they are exempt from mandatory disclosure, a charge may be made at the rate for each one quarter hour spent by an attorney, $6.25. No charge shall be made for the time spent in resolving general legal or policy issues regarding the application of exemptions. This charge will only be assessed the first time NASA reviews a record and not at the administrative appeal level.

(e) *Computerized records.* Because of the diversity in the types and configurations of computers which may be required in responding to requests for agency records maintained in whole or in part in computerized form, it is not feasible to establish a uniform schedule of fees for search and printout of such records. In most instances, records maintained in computer data banks are available also in printed form and the standard fees specified in paragraph (a) of this section shall apply. If the request for an agency record required to be made available under this part requires a computerized search or printout, the charge for the time of personnel involved shall be at the rates specified in paragraphs (b) and (c) of this section. The charge for the computer time involved and for any special supplies or materials used, shall not exceed the direct cost to NASA. This charge may be as high as $125.00 per quarter hour. Before any computer search or printout is undertaken in response to a request for an agency record, the requester shall be notified of the applicable unit costs

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involved and the total estimated cost of the search and/or printout.

(f) *Other search and duplication costs.* Reasonable standard fees, other than as specified in paragraphs (a) through (e) of this section, may be charged for additional direct costs incurred in searching for or duplicating an agency record in response to a request under this part. Charges which may be made under this paragraph include, but are not limited to, the transportation of NASA personnel to places of record storage for search purposes or freight charges for transporting records to the personnel searching for or duplicating a requested record.

(g) *Charges for special services.* Complying with requests for special services such as those listed in (g) (1), (2), and (3) of this section is entirely at the discretion of NASA. Neither the FOIA nor its fee structure cover these kinds of services. To the extent that NASA elects to provide the following services, it will levy a charge equivalent to the full cost of the service provided:

(1) Certifying that records are true copies;

(2) Sending records by special methods such as express mail.

(3) Packaging and mailing bulky records that will not fit into the largest envelope carried in the supply inventory.

(h) *Unsuccessful or unproductive searches.* Search charges, as set forth in paragraphs (b) and (c) of this section, may be made even when an agency record which has been requested cannot be identified or located after a diligent search and consultation with a professional NASA employee familiar with the subject area of the request, or if located, cannot be made available under Subpart 3 of this part. Ordinarily, however, fees will not be charged in such instances unless they are substantial (over $50.00) and the requester has consented to the search after having been advised that it cannot be determined in advance whether any records exist which can be made available (see § 1206.704) and that search fees will be charged even if no record can be located and made available.

(i) *Fees not chargeable.*

(1) NASA will not charge for the first 100 pages of duplication and the first 2 hours of search time (meaning manual search) except to requesters seeking documents for commercial use.

(2) If the cost to be billed to the requester is equal to or less than $5.00, no charges will be billed.

§ 1206.701 Categories of requesters.

There are four categories of FOIA requesters: Commercial use requesters; educational and noncommercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each of these categories:

(a) *Commercial use requesters.* When NASA receives a request for documents appearing to be for commercial use, it will assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Requesters must reasonably describe the records sought. Moreover, in the case of such a request, NASA will not consider a request for waiver or reduction of fees based upon an assertion that disclosure would be in the public interest. Commercial use requesters are not entitled to 2 hours of free search time nor to 100 free pages of reproduction of documents.

(b) *Educational and noncommercial scientific institition requesters.* NASA shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request being made is authorized by and under the auspices of a qualifying institution and that the records are not being sought for a commercial use, but are being sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a noncommercial scientific institution) research. Requesters must reasonably describe the records sought.

(c) *Requesters who are representatives of the news media.* NASA shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must demonstrate that he/she meets the criteria in § 1206.101(o) of this part, and his/her request must not be made for a commercial use. Requesters must reasonably describe the records sought.

(d) *All other requesters.* NASA shall charge requesters who do not fit into any of the categories mentioned in this section, fees which recover the full direct reasonable cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first 2 hours of search time shall be furnished without charge. Moreover, requests from individuals for records about themselves located in NASA's systems of records will continue to be processed under the fee provisions of the Privacy Act of 1974, which permits fees only for reproduction. Requesters must reasonably describe the records sought.

§ 1206.702 Waiver or reduction of fees.

The burden is always on the requester to provide the evidence to qualify him/her for a fee waiver or reduction.

(a) NASA shall furnish documents without charge or at reduced charges in accordance with 5 U.S.C. 552(a)(4)(A)(iii), provided that: (1) Disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and (2) it is not primarily in the commercial interest of the requester.

(b) Where these two statutory requirements are satisfied, based upon information supplied by the requester or otherwise made known to NASA, the FOIA fee shall be waived or reduced. Where one or both of these requirements is not satisfied, a fee waiver or reduction is not warranted under the statute.

(c) In determining whether disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, the following considerations shall be applied:

(1) Whether the subject of the requested records concerns "the operations or activities of the government";

(2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(3) Whether disclosure of the requested information will contribute to "public understanding"; and

(4) Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

(d) In determining whether disclosure of the information "is not primarily in the commercial interest of the requester," the following consideration shall be applied:

(1) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and if so,

(2) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

§ 1206.703 Aggregation of requests.

A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When NASA has reason to believe that a requester or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, NASA will aggregate any such requests and charge accordingly. NASA will consider that multiple requests made within a 30-day period were so intended, unless there is evidence to the contrary. Where the relevant time period exceeds 30 days, NASA will not assume such a motive, unless there is evidence to the contrary. In no case will NASA aggregate multiple requests on unrelated subjects from one requester.

§ 1206.704 Advance payments.

(a) NASA will not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) NASA estimates or determines that the allowable charges are likely to exceed $250. NASA will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee in a timely fashion (within 30 days of billing), then NASA may require the requester to pay the full amount owed plus any applicable interest as provided below (see § 1206.706(a)), or demonstrate that he/she has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester.

(b) When NASA acts under paragraphs (a) (1) and (2) of this section, the administrative time limits will begin only after NASA has received the fee payments described in paragraph (a) of this section.

§ 1206.705 Form of payment.

Payment by mail shall be made by check or money order payable to the "National Aeronautics and Space Administration" and sent to the NASA office which processed the request.

§ 1206.706 Nonpayment of fees.

(a) *Interest to be charged.* Requesters are advised that should they fail to pay the fees assessed, they may be charged interest on the amount billed starting on the 31st day following the day on which the billing was sent. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C.

(b) *Applicability of Debt Collection Act of 1982 (Pub. L. 97-365).* Requesters are advised that if full payment is not received within 60 days after the billing was sent, the procedures of the Debt Collection Act may be invoked 14 CFR 1261.407–1261.409). These procedures include three written demand letters at not more than 30-day intervals, disclosure to a consumer reporting agency, and the use of a collection agency, where appropriate.

Subpart 8—Failure to Release Records to the Public

§ 1206.800 Failure to release records to the public.

(a) Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the **Federal Register** under § 1206.200(a) and not so published.

(b) A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied upon, used, or cited as precedent by NASA against any member of the public only if it has been indexed and either made available or published as provided by § 1206.200(b) or if the member of the public has actual and timely notice of the terms thereof.

(c) Failure to make available an agency record required to be made available under this part could provide the jurisdictional basis for a suit against NASA under 5 U.S.C. 552(a)(4) (B) through (G), which provides as follows:

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Civil Service Commission shall promptly initiate a preceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer of employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

Subpart 9—Annual Report

§ 1206.900 Requirements for annual report.

On or before March 1 of each calendar year, NASA shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include the following information:

(a) The number of determinations made by NASA not to comply with requests for records made to the Agency under Subpart 6 of this part and the reasons for each such determination;

(b) The number of appeals made by persons under Subpart 6 of this part, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(c) The names and titles or positions of each person responsible for the denial of records requested under this part, and the number of instances of participation for each;

(d) The results of each proceeding conducted pursuant to 5 U.S.C. 552(a)(4)

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(B) through (G) (see § 1206.800(c)), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(e) A copy of the current version of this Part 1206 and any other rules or regulations made by NASA regarding 5 U.S.C. 552;

(f) A copy of the current fee schedule and the total amount of fees collected by NASA for making records available under this part; and

(g) Such other information as indicates efforts by NASA to administer fully this part.

James C. Fletcher,

Administrator.

October 21, 1987.

[FR Doc. 87-24906 Filed 10-27-87; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80-53]

Natural Gas Policy Act; Revision of Maximum Lawful Prices

AGENCY: Federal Energy Regulatory Commission, DOE.

§ 271.101 [Amended]

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(k), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of November, December 1987, and January 1988. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: November 1, 1987.

FOR FURTHER INFORMATION CONTACT: Richard P. O'Neill, Director, OPPR, (202) 357-8500.

SUPPLEMENTARY INFORMATION:

Order of The Director, OPPR

Issued October 23, 1987.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(k) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of November, December, 1987, and January, 1988, are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103, 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to August, 1987 are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Paul D. Hubbard,

Assistant to the Director.

PART 271—[AMENDED]

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-2432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.101(a) is amended by inserting the maximum lawful prices for August, September, and October, 1987 in Tables I and II as follows:

TABLE I.—NATURAL GAS CEILING PRICES

[Other than NGPA sections 104 and 106(a)]

Subpart of Part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in—		
			Nov. 1987	Dec. 1987	Jan. 1988
B	102	New natural gas, certain OCS gas [4]	$4.715	$4.740	$4.765
C	103	New onshore production wells [5]	3.238	3.245	3.252
E	105(b)(3)	Intrastate existing contracts	4.593	4.614	4.635
F	106(b)(1)(B)	Alternative maximum lawful price for certain intrastate rollover gas [1]	1.853	1.857	1.861
G	107(c)(5)	Gas produced from tight formations [2]	6.476	6.490	6.504
H	108	Stripper gas [3]	5.049	5.076	5.103
I	109	Not otherwise covered	2.683	2.689	2.695

[1] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas is deregulated. (See Part 272 of the Commission's regulations.)

[2] The maximum lawful price for tight formation is the lesser of the negotiated contract price or 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formation gas applies on or after July 16, 1979. (See § 271.703 and § 271.704.)

[4] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) is deregulated. (See Part 272 of the Commission's regulations.)

[5] Commencing January 1, 1985, and July 1, 1987, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 is deregulated. (See Part 272 of the Commission's regulations.) Thus, for all months succeeding June 1987 publication of a maximum lawful price per MMBtu under NGPA section 103(b)(2) is discontinued.

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(A)

[Subpart D, Part 271]

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries made in—		
	Nov. 1987	Dec. 1987	Jan. 1988
Post—1078 gas: [2] All producers	$2.683	$2.689	$2.695
1973-1974 Beinnium gas:			
Small producer	2.266	2.271	2.276
Large producer	1.733	1.737	1.741
Interstate Rollover gas: All producers	.996	.998	1.000
Replacement contract gas or recompletion gas:			
Small producer	1.271	1.274	1.277
Large producer	.977	.979	.981
Flowing gas:			
Small producer	.845	.846	.847
Large producer	.545	.546	.547
Certain Permian Basin gas:			
Small producer	.756	.758	.760
Large producer	.671	.672	.673
Certain Rocky Mountain gas:			
Small producer	.756	.758	.760
Large producer	.645	.646	.647
Certain Appalachian Basin gas:			
North subarea contracts dated after 10-7-69	.614	.615	.616
Other contracts	.569	.570	.571
Minimum rate gas: [1] All producers	.335	.336	337

[1] Price for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.
[2] This price may also be applicable to other categories of gas. (See § 271.402, 271.602)

3. Section 271.102(c) is amended by inserting the inflation adjustment for the months of August, September, and October, 1987

§ 271.102 [Amended]

* * * * *

(c) * * *

TABLE III.—INFLATION ADJUSTMENT

Month of delivery 1987 and 1988	Factor by which price in preceding month is multiplied
November	1.00214
December	1.00214
January	1.00214

[FR Doc. 87-24970 Filed 10-27-87; 8:45 am]

BILLING CODE 6717-01M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Parts 193 and 561

[PP 7H5532/R91; FRL-3282-9]

Pesticide Tolerances for Metalaxyl; Certain Food and Feed Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These rules establish tolerances for residues of the fungicide metalaxyl and its metabolites in or on certain food and feed items. These regulations to establish maximum permissible levels for residues of metalaxyl were requested in a petition submitted by Ciba-Geigy Corp.

EFFECTIVE DATE: Effective on October 28, 1987.

ADDRESS: Written objections, identified by the document control number [PP 7H5532/R921], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Product Manager (PM) 21, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1900.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of August 28, 1987 (52 FR 32138), which announced that Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, had submitted petition 7H5532 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the fungicide metalaxyl [*N*-2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methenyl)-*N*-(methoxyacetyl)alanine methyl ester, each expressed as metalaxyl, in or on the commodity dry hops at 10 parts per million (ppm). The petitioner amended the petition to include a food additive tolerance at 50 ppm on dry hops and a feed additive tolerance on spent hops at 50 ppm.

These regulations expire 1 year after the date of publication of the final rule in the **Federal Register**. If the following are submitted and are acceptable to the Agency, it will consider extending the tolerance beyond the 1-year time period: Revised label with corrected calculations for total metalaxyl (ai) applied per year; residue data on samples with analysis by the Pesticide Analytical Manual (PAM-II) procedure or another proven procedure that determines parent and metabolites included in the U.S. tolerance expression (storage intervals between sampling and analysis and storage conditions should be reported for all residue data).

There were no comments or requests for referral to an advisory committee

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received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 21 CFR Parts 193 and 561

Food additives, Animal feeds, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 20, 1987.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

Therefore, Chapter I of 21 CFR is amended as follows:

PART 193—[AMENDED]

In Part 193:

a. The authority citation for Part 193 continues to read as follows:

Authority: 21 U.S.C. 346a.

b. Section 193.277 is amended by adding new paragraph (d), to read as follows:

§ 193.277 Metalaxyl.

* * * * *

(d) A food additive regulation is established until October 28, 1988, for residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)-alanine methyl ester, each expressed as metalaxyl, in or on the following processed foods when present therein as a result of application to growing hops:

Foods	Parts per million
Hops, dried	50

PART 561—[AMENDED]

2. In Part 561:

a. The authority citation for Part 561 continues to read as follows:

Authority: 21 U.S.C. 346.

b. Section 561.273 is amended by adding new paragraph (d), to read as follows:

§ 561.273 Metalaxyl.

* * * * *

(d) A feed additive regulation is established until October 28, 1988, for residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester, each expressed as metalaxyl, in or on the following processed feeds when present therein as a result of application to growing hops:

Feeds	Parts per million
Hops, spent	50

[FR Doc. 87–24941 Filed 10–27–87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1316

[A.G. Order No. 1230–87]

Administrative Functions, Practices, and Procedures; Technical Amendment

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This order revises 21 CFR 1316.74 by deleting the requirement to use retail prices for appraisement of property seized for forfeiture in cases involving the criminal drug laws of the United States. This is being done to enable appraisements in such cases to be consistent with appraisements in forfeiture cases not involving the drug laws.

EFFECTIVE DATE: October 8, 1987.

FOR FURTHER INFORMATION CONTACT: Director, Asset Forfeiture Office, Criminal Division, United States Department of Justice, Washington, DC 20530; (202) 786–4050.

SUPPLEMENTARY INFORMATION: The regulations governing appraisement of property seized for forfeiture in cases involving the customs laws (19 CFR 162.43), the immigration laws (8 CFR 274.7), and the nondrug-related laws enforced by the Federal Bureau of Investigation (28 CFR 8.5), do not require seized property to be appraised at its retail price. The forfeiture regulations of 21 CFR 1316.74, which govern appraisement of property seized for drug-related forfeitures, should be amended for consistency with appraisement regulations in nondrug-related forfeitures.

It has been determined that this is an integral management matter not requiring consultation with the Office of Management and Budget under E.O. 12291. Moreover, this order will have no impact upon small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

List of Subjects in 21 CFR Part 1316

Seizures and forfeitures.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Part 1316 of Title 21 of the Code of Federal Regulations is amended as follows:

PART 1316—[AMENDED]

1. The authority citation for Subpart E of Part 1316 continues to read as follows:

Authority: 21 U.S.C 871(b), 881, 965. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 1316.74 [Amended]

2. Section 1316.74 is amended by removing the word "retail".

Date: October 8, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87–24878 Filed 10–27–87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. N–87–1730; FR 2399]

Determination to Recognize the Fair Housing Laws; Missouri; Broward County, FL, and Des Moines, IA

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of determination.

SUMMARY: This notice announces the Department's decision to recognize the fair housing laws of the State of Missouri, Broward County, Florida and Des Moines, Iowa, in accordance with 24 CFR 115.6(c).

EFFECTIVE DATE: October 28, 1987.

FOR FURTHER INFORMATION CONTACT: Wagner Jackson, Acting Director, Fair Housing Enforcement and Section 3 Compliance, Room 5208, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755–0455. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On April 28, 1987, the Department published in the **Federal Register** a notice (52 FR 15304) soliciting public comment on the fair housing laws of the State of Missouri, Broward County, Florida and Des Moines, Iowa. The notice invited comments on the Department's determination that the fair housing law of each jurisdiction "on its face" provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided under Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601–19. Comment was also invited on the present and past performance of the agencies administering the law. No public comments were received with respect to any of these jurisdictions laws.

This publication gives notice of the recognition of the State of Missouri, Broward County, Florida and Des Moines, Iowa in accordance with 24 CFR 115.6(c).

Date: October 20, 1987.

Judith Y. Brachman,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 87–24946 Filed 10–27–87; 8:45 am]

BILLING CODE 4210-28-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5 and 19

[T.D. ATF–259; Ref: Notice Nos. 523 and 536]

Change in Standard of Identity for Straight Whiskies of the Same Type

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule by the Bureau of Alcohol, Tobacco and Firearms (ATF) changes the standard of identity for straight whiskies of the same type. This change is the result of a petition from Hiram Walker & Sons, Inc. The effect of this change will be to ease existing restrictions on allowing straight whiskies of the same type to be mingled and designated "straight."

EFFECTIVE DATE: November 27, 1987.

FOR FURTHER INFORMATION CONTACT: Robert L. White, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202) 566–7531.

SUPPLEMENTARY INFORMATION:

Background

A petition was received from Hiram Walker & Sons, Inc., in January of 1983, requesting that the standard of identity for straight whiskies of the same type be changed to eliminate the requirement in 27 CFR 5.22(b)(1)(iii) that such spirits must be produced in the same distillery by the same proprietor if such whiskies are to be mingled and designated as "straight." The petitioner stated that he wanted the standard of identity for "straight whisky" changed in order to enable straight bourbon whiskies produced within the same State to be mingled and designated "straight bourbon whisky."

In addition, over the past few years, ATF has received several inquiries from proprietors of distilled spirits plants asking whether they could mingle straight whiskies of the same type which had been produced at two or more distilleries located within the same State and still label the end product as "straight." Furthermore, several distilled spirits plant proprietors have inquired whether they could mingle straight whiskies of the same type which are four years old or more with straight whiskies of the same type that are less than four years but at least two years old and still label such mingled whisky as "straight."

Current regulations at 27 CFR 5.22(b)(1)(iii) state that "straight whisky" includes mixtures of straight whiskies of the same type produced by the same proprietor at the same distillery all of which are not less than four years old. Also, regulations at 27 CFR 19.346 state that spirits distilled at less than 190 degrees of proof may be mingled for withdrawal or further storage if, in the case of domestic spirits, such spirits are of the same kind and were produced by the same proprietor (under his own or any trade name) at the same distillery. In the case of imported spirits distilled at less than 190 degrees of proof, such spirits may be mingled for withdrawal or further storage if the spirits are of the same kind and were produced by the same proprietor at the same foreign distillery. In addition, such imported spirits must have been treated, blended, or compounded at the same foreign plant by the same person, and the duty must have been paid at the same rate.

Hiram Walker stated in their petition that the current regulations, mentioned in the preceding paragraph, should be changed since the standard of identity for "bourbon" is very broad and, as a result, substantial variation, at the option of the distiller, is possible among products meeting this standard of identity. These variations are largely independent of where the whisky is made, and consequently, bourbons of different character can be made in a single distillery and bourbons of substantially the same character can be made in different distilleries by appropriate control of processing. Hiram Walker stated that their request merely recognized the fact that two distilleries under the same proprietorship in the same State are no more likely to produce homogeneous straight bourbon whiskies than two distilleries in the same State operated by different proprietors. Consequently, Hiram Walker requested that the regulations be changed so that straight bourbon whiskies produced within the same State may be mingled and designated as "straight bourbon whisky."

Notice No. 523 and 536

In response to Hiram Walker's petition, ATF published a notice of proposed rulemaking, Notice No. 523, in the **Federal Register** on May 7, 1984 (49 FR 19333), proposing several changes which would ease some of the existing restrictions on allowing straight whiskies of the same type to be mingled and designated "straight." Seven comments were received in response to Notice No. 523 including one from

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Heublein which requested a 90-day extension of the comment period. In response to Heublein's request, we published Notice No. 536 on July 31, 1984 (49 FR 30538) which reopened the comment period on Notice No. 523 until October 29, 1984. Four comments were received in response to the reopening notice.

Comments

Two industry members and one State liquor control board—Glenmore Distilleries Company, Heublein, and the State of Washington respectively—concurred with AFT's proposals in Notice No. 523.

Four industry members—Barton Brands Ltd., Brown-Forman Corporation, National Association of Beverage Importers, Inc. (NABI), and Hiram Walker and Sons, Inc.,—commented in favor of the proposals in Notice No. 523 except for the proposal to allow the mingling of straight whiskies of the same type between States and still allowing such mingled spirits to be labeled as "straight."

Two industry members—Schenley Industries, Inc., and James B. Beam Distilling Co.,—stated they were opposed to the proposals in Notice No. 523. Schenley stated that the present regulations should not be changed because such regulations continue to assure the integrity of straight whisky products. James B. Beam stated that they do not object to mingling of straight bourbon whiskies if it is limited to bourbon whisky produced by the same proprietor in the same State under the same distilling process and formulation. Otherwise, they are opposed. They also stated there is a need to differentiate between straight products and blended products. Beam stated that the proposed new regulations would not differentiate between homogeneous spirits that were mingled and similar spirits that were blended into mixtures at prescribed ratios established by the proprietor. Beam also raised questions concerning how these products would be labeled. Furthermore, Beam stated that they are against the relaxation of the four year old requirement for the mingling of straight whiskies since it would allow for the mixing of older whiskies with very young whiskies that have not matured to the extent the consumer normally expects. In regard to imported spirits, Beam stated that the proposed rule, if adopted, would allow spirits to be blended in a foreign country and labeled as a straight product when the product would really be a blend.

The final commenter—National Distillers and Chemical Corporation—stated they had some strong reservations about some of the proposals in Notice No. 523. These reservations include the following:

(1) The removal of the "same proprietor" requirement in regard to straight whisky raises some interesting questions concerning the labeling of such spirits. National feels that labeling requirements as to "distiller" or "distillers" need to be clarified as to all possible combinations of minglings in "storage accounts" and "processing accounts" when two or more proprietor's whiskies are mingled. National asks whether allowing more than one distiller's name on a straight whisky label would be confusing to the consumer.

(2) Regulations at 27 CFR 19.597(b) provide for the change of the original designation of spirits, before withdrawal from bonded premises, to a new designation properly describing the spirits. Since Tennessee whisky may satisfy the regulatory requirements for bourbon whisky, National asks whether such whisky could be redesignated, blended with Kentucky straight bourbon, and later bottled and labeled as "straight bourbon whisky." National states that specific States and types of whiskies have, over the years, gained consumer understanding with resultant proprietor, promotional and goodwill value. Consequently, absent a showing of good cause and need, National states that they do not support mingling of straight whiskies of more than one State when the end product is to be labeled as "straight whisky."

(3) National states that the proposed definition of "a blend of straight whiskies" should be changed to ensure that a distiller who only adds harmless coloring, flavoring, or blending materials (as set forth in 27 CFR 5.23(a)) to his own straight whisky can still call the product "a blend of straight whiskies." In addition, National feels that the proposed regulations should be changed so that straight whiskies of different types which contain not less than 51 percent of one of the types of straight whisky can be further designated by that specific type.

(4) National states that they do not agree with the proposal to change the age requirement from four years to two years for whiskies of the same type that are to be mingled and designated as "straight." National states that, traditionally, "straight bourbons" have been aged four or more years. National feels that any changes in age requirements that might reduce quality, both actually and in the public image (such as showing a two or three year age statement on a "straight bourbon" label) would not be in the best interests of the bourbon industry. National feels that the mingling of less than four year old whiskies should continue to be labeled as a blend.

(5) With regard to imported products, National states that they concur with Notice No. 536 that mingling of different producers' distinctive products should continue only in the country of origin. National states that such a provision should apply not only to distinctive whiskies but also to any class or type of product recognized as being distinctive of one country. In addition, National states that they support the proposed deletion of the present provisions requiring "the same foreign distillery" and "the same foreign plant." National states that imported spirits which are to be mingled domestically should continue to be from the same proprietor so that the proprietor may retain control over the quality and character of his product. National feels, however, that there should not be any requirement that imported products, which are to be mingled domestically, have to be from the same foreign distillery or that such products have to be treated, blended, or compounded by the same person at the same foreign distillery or plant.

ATF Response to Comments

After careful evaluation of the comments received in response to Notice No. 523 and Notice No. 536, ATF has decided to accept some of the suggestions presented in those comments and to modify its proposals in Notice No. 523 accordingly. Seven of the commenters were strongly opposed to the proposal to allow the mingling of straight whiskies of the same type between States if such mingled spirits are to be labeled as "straight." ATF made this proposal in Notice No. 523 since it was felt that such mingling should not be restricted to proprietors within the same State if the only objection to such mingling between different States was that it would create a labeling problem. However, several industry members have pointed out that specific States and types of whiskies have, over the years, gained unquestionable consumer understanding with resultant proprietor, promotional and goodwill value. For this reason, these industry members do not support the mingling of straight whiskies of two or more States when the end product is to be labeled as "straight whisky." Upon reconsideration of this matter, ATF feels that due to the labeling and consumer misunderstanding problems that might result, as well as the proprietor, promotional, and goodwill problems that would be created by such consumer misunderstanding, it is necessary to modify our proposal in Notice No. 523 to require that all whiskies of the same type be from the same State if such whiskies are to be mingled and designated as "straight whisky." ATF feels that whisky of substantially the same character can be produced at different distilleries within the same State by appropriate control of processing. We also feel that it is not necessary for the different distilleries to be operated by the same proprietor in order to achieve the necessary control of processing which would result in the production of spirits of substantially the same character. For these reasons, ATF feels that the mixing of straight whiskies of the same type, which have been produced within the same State, whether or not from the same distilled spirits proprietor, is a mingling operation of homogeneous spirits rather than a blending operation.

Three industry members were strongly opposed to the proposal in Notice No. 523 to allow mixtures of straight whiskies, which are to be designated as "straight," to be made up of straight whiskies all of which are at least two years old. This proposal was a relaxation of the current requirement that all whiskies in such mixtures be at least four years old or more. Since the definition of "straight whisky" states that it must have been stored in the prescribed type of oak containers for a period of two years or more, ATF feels that there is insufficient justification to require that mixtures of such whiskies be made of whiskies all of which are at least four years old if the mixtures are to be designated as "straight." ATF feels that a minimum two year age requirement for all whiskies in the mixture is sufficient to designate the mixture as "straight." ATF feels that the labeling requirement in 27 CFR 5.40 which requires the age of the youngest spirits be shown on the label if any of the spirits are less than four years old is sufficient protection for the consumer and will alert such consumer to the fact that the "straight whisky" in the bottle is less than four years old. It will then be up to the consumer to decide whether such "straight whisky," which is less than four years old, is good enough to compete successfully with other "straight whiskies."

One industry member asked whether allowing more than one distiller's name on a "straight whisky" label would be confusing to the consumer. ATF feels that allowing more than more distiller's name on such a label would not be confusing to the consumer as long as certain information is shown on the label. This information shall include the names of the different distillers who actually distilled a portion of the "straight whisky," the addresses of the distilleries where the "straight whisky" was distilled, and the percentage of "straight whisky" distilled by each distiller (with a tolerance of plus or minus 2 percent). Labeling the whisky in this manner will ensure that the consumer is not deceived.

If "straight whiskey," which is made up of a mixture of "straight whiskies" of the same type from two or more distillers located within the same State, is not labeled in the manner described in the immediately preceding paragraph, then such "straight whisky" must be labeled with the phrase "bottled by," "packed by" or "filled by," immediately followed by the name (or trade name) of the bottler and the place where such distilled spirits are bottled as provided for in 27 CFR 5.36(a) and the first paragraph of 27 CFR 19.645.

In the case where "straight whisky" is made up of a mixture of "straight whiskies" of the same type from two or more different distilleries of the same proprietor located within the same State, such "straight whisky" may be labeled with the phrase "distilled by" followed by the name (or trade name) of the proprietor and the addresses of the different distilleries which distilled a portion of the "straight whisky." If such "straight whisky" is not labeled in this manner, then it must be labeled in accordance with the provisions of 27 CFR 5.36(a) and the first paragraph of 27 CFR 19.645.

Several industry members stated that ATF's proposal in Notice No. 523 to change the standard of identity for "a blend of straight whiskies" should be modified in several different ways. These suggestions were based on the premise that ATF's proposed change in the standard of identity for "straight whisky" would be incorporated into the regulations as proposed. Due to the comments received on Notice No. 523, however, ATF has decided to change the standard of identity for "straight whisky" in such a way as to require that all mixtures of such whiskies, which are to be designated as straight, be made of straight whiskies of the same type from distillers all of whom must be located within the same State. Consequently, the industry members' suggestions concerning the standard of identity for "a blend of straight whiskies" are no longer appropriate. The new standard of identity for "a blend of straight whiskies" states that such a blend is a mixture of straight whiskies which does not conform to the standard of identity for "straight whisky" and which may or may not contain harmless coloring, flavoring, or blending materials as set forth in 27 CFR 5.23(a). In addition, the definition of "a blend of straight whiskies" consisting entirely of one of the types of straight whisky has been changed to include straight whisky of the same type which was produced in the same State or by the same proprietor within the same State if such whisky contains harmless coloring, flavoring, or blending materials as stated in 27 CFR 5.23(a). This change was needed to enable a distilled spirits plant proprietor to continue to use "a blend of straight whiskies" designation on his label without such proprietor having to purchase straight whisky from a proprietor in a different State to mix with his own straight whisky. For a more complete definition of "a blend of straight whiskies," see § 5.22(b)(5) in the regulations portion of this document.

And finally, two industry members stated that they did not fully agree with ATF's proposed changes concerning the mingling of imported spirits in this country. One stated that the ramification and impact on imported spirits is unclear and could allow for changes to products as we know them today, without making the corresponding label changes that would alert the consumer about these changes. The other industry member stated that imported distinctive spirits, which are to be mingled domestically, should continue to be from the same proprietor on that the proprietor may retain control over the quality of his product.

After careful consideration of these industry members' comments ATF has decided to change regulations in 27 CFR 19.346 to make a distinction between the mingling or blending of imported spirits and the mingling or blending of imported spirits which are recognized as distinctive products in 27 CFR Part 5. Distinctive products are manufactured in strict compliance with the laws of the country of origin. The country of origin may have laws restricting the mingling of distinctive spirits from more than one proprietor if the product is to retain its distinctive designation. ATF feels, therefore, that a distinction should be made between imported spirits and distinctive imported spirits. Consequently, imported spirits that have been distilled at less than 190 degrees of proof may be mingled in the storage account of a U.S. warehouseman for withdrawal or further storage if (1) such spirits are of the same kind; (2) such spirits were produced in the same foreign country; and (3) such spirits were treated, blended, or compounded

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in the same foreign country and the duty was paid at the same rate. However, in the case where such imported spirits are recognized as distinctive products as specified in 27 CFR Part 5, the imported spirits may only be mingled for withdrawal or further storage if (1) such spirits are of the same kind; (2) such spirits were produced by the same proprietor in the same foreign country; and (3) such spirits were treated, blended, or compounded by the same proprietor in the same foreign country and the duty was paid at the same rate. This change to ATF's proposal in Notice No. 523 concerning imported spirits will ensure that distinctive imported products, which are to be mingled domestically, will continue to be from the same foreign proprietor so that such proprietor may retain control over the quality and character of his product.

ATF Rul. 82-10 and Rev. Rul. 54-350

The regulations portion of this document at 27 CFR 5.22(b)(4) has been changed to incorporate ATF Rul. 82-10, C.B. 1982-3, 27, which holds that the "straight whisky" component of a blended whisky may be satisfied by employing "a blend of straight whiskies." However, if "a blend of straight whiskies" is used as the "straight whisky" component of a blended whisky, the blended whisky must contain at least 20 percent of straight whiskies on a proof gallon basis.

In addition, regulations at 27 CFR 5.22(b)(5) have been changed to incorporate some of the language contained in Rev. Rul. 54-350 and to change the standard of identity for "a blend of straight whiskies." As revised, § 5.22(b)(5) states, in part, that "a blend of straight whiskies" is a mixture of straight whiskies which does not conform to the standard of identity for "straight whisky" and which may or may not contain harmless coloring, flavoring, or blending materials as set forth in 27 CFR 5.23(a).

Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

Copies of the petition and the comments received on the notice or proposed rulemaking, Notice No. 523, and the notice reopening the comment period, Notice No. 536, pertaining to this final rule, are available for inspection during normal business hours at the following location: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, DC.

Drafting Information

The principal author of this document is Robert L. White, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers.

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine. 27 CFR Part 5—*Labeling and Advertising of Distilled Spirits*—is amended to read as follows:

PART 5—[AMENDED]

Paragraph 1. The authority citation for Part 5 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 5.22 is amended by revising the last sentence of paragraph (b)(1)(iii) and by revising paragraphs (b)(4) and (b)(5) to read as follows:

§ 5.22 The standards of identify.

* * * * *

(b) * * *

(1) * * *

(iii) * * * "Straight whisky" includes mixtures of straight whiskies of the same type produced in the same State.

* * * * *

(4) "Blended whisky" (whisky—a blend) is a mixture which contains straight whisky or a blend of straight whiskies at not less than 20 percent on a proof gallon basis, excluding alcohol derived from added harmless coloring, flavoring or blending materials, and, separately, or in combination, whisky or neutral spirits. A blended whisky containing not less than 51 percent on a proof gallon basis of one of the types of straight whisky shall be further designated by that specific type of straight whisky; for example, "blended rye whisky" (rye whisky—a blend).

(5) (i) "A blend of straight whiskies" (blended straight whiskies) is a mixture of straight whiskies which does not conform to the standard of identify for "straight whisky." Products so designated may contain harmless coloring, flavoring, or blending materials as set forth in 27 CFR 5.23(a).

(ii) "A blend of straight whiskies" (blended straight whiskies) consisting entirely of one of the types of straight whisky, and not conforming to the standard for straight whisky, shall be further designated by that specific type of straight whisky; for example, "a blend of straight rye whiskies" (blended straight rye whiskies). "A blend of straight whiskies" consisting entirely of one of the types of straight whisky shall include straight whisky of the same type which was produced in the same State or by the same proprietor within the same State, provided that such whisky contains harmless coloring, flavoring, or blending materials as stated in 27 CFR 5.23(a).

(iii) The harmless coloring, flavoring, or blending materials allowed under this section shall not include neutral spirits or alcohol in their original state. Neutral spirits or alcohol may only appear in a "blend of straight whiskies" or in a "blend of straight whiskies consisting entirely of one of the types of straight whisky" as a vehicle for recognized flavoring of blending material.

* * * * *

Par. 3. Section 5.27 is amended by revising paragraph (d) to read as follows:

§ 5.27 Formulas.

* * * * *

(d) The mingling of spirits (including merchandise returned to bond) which differ in class or type of materials from which produced;

* * * * *

Par. 4. Section 5.36 is amended by renumbering paragraphs (a)(3) and (a)(4) as paragraphs (a)(4) and (a)(5) respectively and by adding a new paragraph (a)(3) to read as follows:

§ 5.36 Name and address.

(a) * * *

(2) * * *

(3) Where "straight whiskies" of the same type which have been produced in the same State by two or more different distillers are combined (either at time of bottling or at a warehouseman's bonded premises for further storage) and subsequently bottled and labeled as "straight whisky," such "straight whisky" shall be labeled in accordance with the requirements of paragraph (a)(1) of this section. Where such "straight whisky" is bottled by or for the distillers thereof, there may be stated on the label, in lieu of the requirements of paragraph (a)(1) of this section, the phraise "distilled by," followed by the names (or trade names) of the different distillers who distilled a portion of the "straight whisky," the addresses of the distilleries where the "straight whisky" was distilled, and the percentage of "straight whisky" distilled by each distiller (with a tolerance of plus or minus 2 percent). In the case where "straight whisky" is made up of a mixture of "straight whiskies" of the same type from two or more different distilleries of the same proprietor located within the same State, and where the "straight whisky" is bottled by or for the proprietor thereof, such "straight whisky" may be labeled, in lieu of the requirements of paragraph (a)(1) of the this section, with the phrase "distilled by" followed by the name (or trade name) of the proprietor and the addresses of the different distilleries which distilled a portion of the "straight whisky."

* * * * *

27 CFR Part 19—*Distilled Spirits Plants*—is amended to read as follows:

Paragraph 1. The authority citation for Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004-5006, 5008, 5041, 5061, 5062, 5066, 5101, 5111-5113, 5171-5173, 5175, 5176, 5178-5181, 5201-5207, 5211-5215, 5221-5223, 5231, 5232, 5235, 5236, 5241-5243, 5271, 5273, 5301, 5311-5313, 5382, 5370, 5373, 5501-5505, 5551-5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. Section 19.346 is amended by revising paragraphs (b)(1) and (b)(2) and adding (b)(3) to read as follows:

§ 19.346 Mingling or blending of spirits for further storage.

* * * * *

(b) * * *

(1) In the case of domestic spirits:

(i) Such spirits are of the same kind; and

(ii) Such spirits were produced in the same State.

(2) In the case of imported spirits:

(i) Such spirits are of the same kind;

(ii) Such spirits were produced in the same foreign country; and

(iii) Such spirits were treated, blended, or compounded in the same foreign country and the duty was paid at the same rate.

(3) In the case of imported spirits which are recognized as distinctive products in 27 CFR Part 5:

(i) Such spirits are of the same kind;

(ii) Such spirits were produced by the same proprietor in the same foreign country; and

(iii) Such spirits were treated, blended, or compounded by the same proprietor in the same foreign country and the duty was paid at the same rate.

* * * * *

Par. 3. Section 19.645 is amended by renumbering paragraphs (b) and (c) as (c) and (d) and by adding a new paragraph (b) to read as follows:

§ 19.645 Name and address of bottler.

* * * * *

(b) Where "straight whiskies" of the same type which have been produced in the same State by two or more different distillers are combined (either at time of bottling or at a warehouseman's bonded premises for further storage) and subsequently bottled and labeled as "straight whisky," such "straight whisky" shall be labeled in accordance with the requirements of the first paragraph of this section. Where such "straight whisky" is bottled by or for the distillers thereof, there may be stated on the label, in lieu of the requirements of the first paragraph of this section, the phrase "distilled by," followed by the names (or trade names) of the different distillers who distilled a portion of the "straight whisky," the addresses of the distilleries where the "straight whisky" was distilled, and the percentage of "straight whisky" distilled by each distiller (with a tolerance of plus or minus 2 percent). In the case where "straight whisky" is made up of a mixture of "straight whiskies" of the same type from two or more different distilleries of the same proprietor located within the same State, and where the "straight whisky" is bottled by or for the proprietor thereof, such "straight whisky" may be labeled, in lieu of the requirements of the first paragraph of this section, with the phrase "distilled by" followed by the name (or trade name) of the proprietor and the addresses of the different distilleries which distilled a portion of the "straight whisky."

* * * * *

Signed: September 16, 1987.

Stephen E. Higgins,

Director.

Approved: October 2, 1987.

Gerald L. Hilsher,

Acting Assistant Secretary (Enforcement).

[FR Doc. 87-24964 Filed 10-27-87; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3257-8]

Standards of Performance for New Stationary Sources; Addition of Alternative Procedure for Measuring Volume and Flow Rate to Method 6, Appendix A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revisions and Additions to Method 6 to add an alternative procedure were proposed in the **Federal Register** on December 12, 1986. This action promulgates these revisions and additions. The alternative is a procedure using critical orifices for volume and flow rate measurements. The intended effect of these revisions is to reduce the cost of sampling without sacrificing accuracy. This alternative would apply to all sources where regulations specify

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the use of Method 6 equipment to extract a gas sample.

EFFECTIVE DATE: October 28, 1987.

Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* A docket, number A–86–13, containing materials relevant to this rulemaking, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE–131), South Conference Center, Room 4, 401 M Street, SW., Washington DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Sorrell or Roger Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2237.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

An alternative procedure for measuring the volume and flow rate in gas sampling trains using critical orifices is being added to Method 6.

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations nor does it change any emission standard. Rather, the rulemaking would simply add test procedures associated with emission measurement requirements that would apply irrespective of this rulemaking.

II. Public Participation

A public hearing was scheduled for January 26, 1987, at 10:00 a.m., but was not held because no one requested to speak. The public comment period was from December 12, 1986, to February 25, 1987. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made to the proposed rulemaking.

III. Significant Comments and Changes to the Proposed Rulemaking

One comment letter from industry was received. The major comments and the Agency's responses are summarized below.

The first comment concerned the possibility that the sample gas volume would be incorrect if the proposed sampling train is used in a stack with a pressure different from atmospheric preasure at which the critical orifice is calibrated.

The commenter suggested modifying the sampling train by installing (1) a vacuum gauge upstream from the critical orifice and downstream from the last impinger and (2) a needle valve between the last impinger and the new vacuum gauge. The commenter also suggested the following procedure using the modified sampling train. "The critical orifice should be calibrated at a known reading of the vacuum gauge while keeping the new needle valve almost completely open. During source testing the reading of the new vacuum upstream from the critical orifice should be maintained at the same level at which calibration was performed. The reading of the new vacuum gauge can be adjusted by manipulating the new needle valve." The Administrator agrees that the calculated sample gas volume would be incorrect if the stack pressure is different from atmospheric pressure. The proposed sampling train was modified to include the addition of a vacuum gauge upstream from the critical orifice and downstream from the last impinger. Equation 6–7 was amended to correct the sample volume for the difference between the stack pressure and atmospheric pressure.

The second comment pointed out an error in Equation 6–6. The units of $\hat{Q}_{std}$ should have been scm/min (scf/min) instead of sm^3 (scf). The proposal was revised for the correct units of $\hat{Q}_{std}$.

The final comment stated that M_a and M_s of Equation 6–7 had been incorrectly defined and recommended the following definition:

M_a = Molecular weight of the ambient air saturated at impinger temperature, g/g-mole (lb/lb-mole).

M_s = Molecular weight of the sample gas saturated at impinger temperature, g/g-mole (lb/lb-mole).

The Administrator agrees with the commenter, and the definitions for M_a and M_s were corrected using the definitions suggested above.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated rulemaking and EPA responses to significant comments, the contents of the docket, except for interagency review material, will serve as the record in case of judicial review (Section 307(d)(7)(A)).

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in section 1 of the Order as grounds for finding a regulation to be "major rule." This rulemaking does not impose any additional emission measurement requirements on facilities affected by this rulemaking. Rather, this rulemaking revised the test method to which the affected facilities are already subject. The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a regulatory flexibility analysis (RFA) in those instances where small business impacts are possible. Because these standards impose no adverse economic impacts, an RFA has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will have no economic impact on small entities because no additional testing costs will be incurred.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Fossile fuel-fired steam generators, Petroleum refineries.

Date: October 20, 1987.

Lee M. Thomas,

Administrator.

Method 6 of Appendix A of 40 CFR Part 60 is amended as follows:

PART 60—[AMENDED]

1. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

Appendix A—[Amended]

2. By adding Section 7.2 to Method 6 to read as follows:

7. *Alternative Procedures.*

* * * * *

7.2 Critical Orifices for Volume and Rate Measurements. A critical orifice may be used in place of the dry gas meter specified in Section 2.1.10, provided that it is selected, calibrated, and used as follows:

7.2.1 Preparation of Collection Train. Prepare the sampling train as shown in Figure 6–2. The rotameter and surge tank are optional but are recommended in order to detect changes in the flow rate.

Note.—The critical orifices can be adapted to a Method 6 type sampling train as follows: Insert sleeve type, serum bottle stoppers into two reducing unions. Insert the needle into the stoppers as shown in Figure 6–3.

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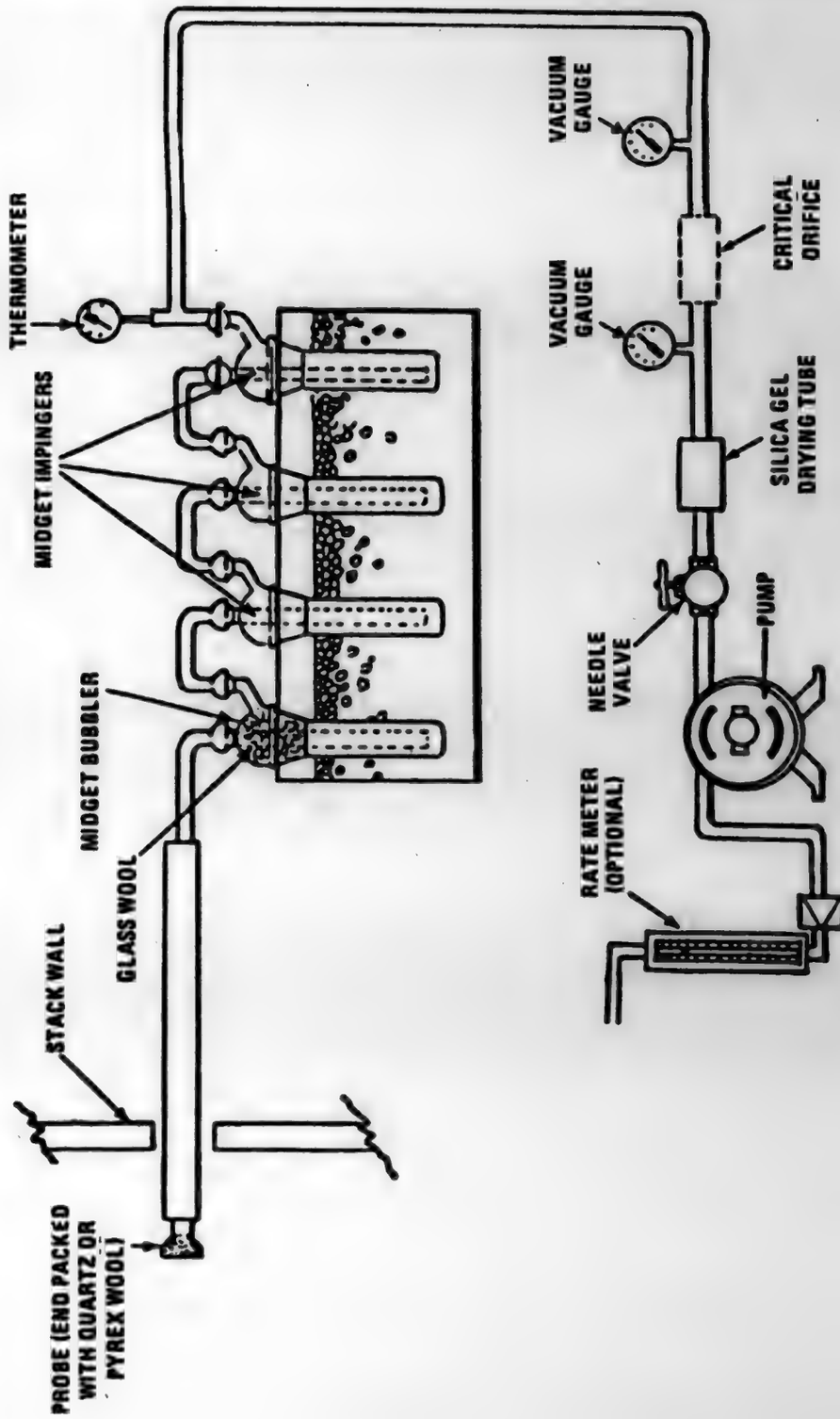

Figure 6-2. SO_2 sampling train using a critical orifice.

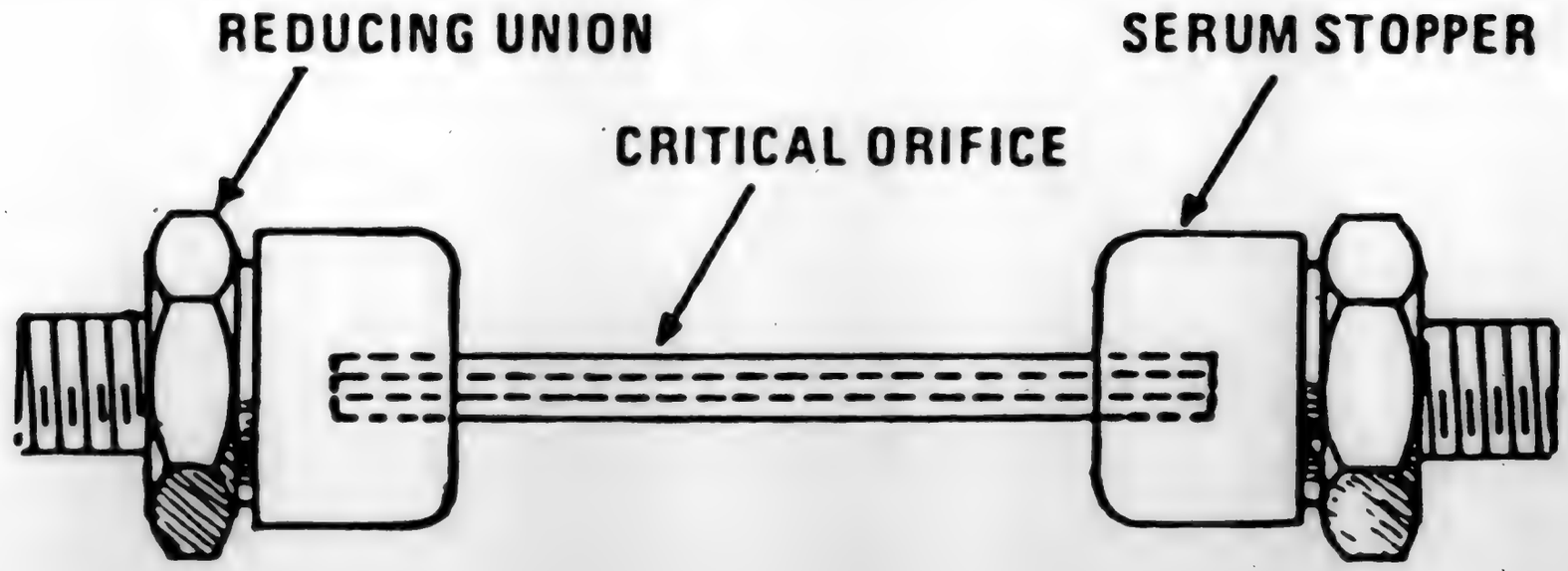

Figure 6-3. Critical orifice adaptation for Method 6 sampling train.

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7.2.2 Selection of Critical Orifices. The procedure that follows describes the use of hypodermic needles and stainless steel needle tubings, which have been found suitable for use as critical orifices. Other materials and critical orifice designs may be used provided the orifices act as true critical orifices, i.e., a critical vacuum can be obtained, as described in this section. Select a critical orifice that is sized to operate at the desired flow rate. The needle sizes and tubing lengths shown below give the following approximate flow rates.

Guage/cm	Flow rate, cc/min	Gauge/cm	Flow rate, cc/min
21/7.6	1100	23/3.8	500
22/2.9	1000	23/5.1	450
22/3.8	900	24/3.2	400

Determine the suitability and the appropriate operating vaccum of the critical orifice as follows: If applicable, temporarily attach a rotameter and surge tank to the outlet of the sampling train. Turn on the pump, and adjust the valve to give a outlet vacuum reading corresponding to about half of the atmospheric pressure. Observe the rotameter reading. Slowly increase the vacuum until a stable reading is obtained on the rotameter. Record the critical vacuum, which is the outlet vacuum when the rotameter first reaches a stable value. Orifices that do not reach a critical value shall not be used.

7.2.3 Field Procedure.

7.2.3.1 Leak-Check Procedure. A leak-check before the sampling run is recommended, but is optional. The leak-check procedure is as follows:

Temporarily attach a suitable (e.g., 0-40 cc/min) rotameter and surge tank, or a soap bubble meter and surge tank to the outlet of the pump. Plug the probe inlet, pull an outlet vacuum of at least 254 mm Hg (10 in. Hg), and note the flow rate as indicated by the rotameter or bubble meter. A leakage rate not in excess of 2 percent of the average sampling rate ($\overline{Q}_{std}$) is acceptable. Carefully release the probe inlet plug before turning off the pump.

7.2.3.2 Moisture Determination. At the sampling location, prior to testing, determine the percent moisture of the ambient air using the wet and dry bulb temperatures or, if appropriate, a relative-humidity meter.

7.2.3.3 Critical Orifice Calibration. Prior to testing, at the sampling location, calibrate the entire sampling train using a 500-cc soap bubble meter which is attached to the inlet of the probe and an outlet vacuum of 25 to 50 mm Hg (1 to 2 in. Hg) above the critical vacuum. Record the information listed in Figure 6-4.

Calculate the standard volume of air measured by the soap bubble meter and the volumetric flow rate, using the equations below:

$$V_{sb(std)} = V_{sb}\left(\frac{T_{std}}{T_{amb}}\right)\left(\frac{P_{bar}}{P_{std}}\right) \qquad \text{Eq. 6-4}$$

$$Q_{std} = \frac{V_{sb(std)}}{\theta} \qquad \text{Eq. 6-5}$$

where:

P_{bar} = Barometric pressure, mm Hg (in. Hg).

P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).

Q_{std} = Volumetric flow rate through critical orifice, scm/min (scf/min).

T_{amb} = Ambient absolute temperature of air, °K (°R).

T_{std} = Standard absolute temperature, 273°K (528°R).

V_{sb} = Volume of gas as measured by the soap bubble meter, m^3 (ft^3).

$V_{sb(std)}$ = Volume of gas as measured by the soap bubble meter, corrected to standard conditions, scm (scf).

θ = Time, min.

Date _____ Train ID _____

Critical orifice size _____ Critical vacuum _____

		Pretest	Post-test
Soap bubble meter volume, V_{sb}	cc		
	m^3 (ft^3)		
Time, θ	sec		
	min		
Barometric pressure, P_{bar}	mm Hg (in. Hg)		
Ambient temperature, t_{amb}	°C (°F)		
Inlet vacuum, P_c	mm Hg (in. Hg)		
Outlet vacuum	mm Hg (in. Hg)		
$V_{sb(std)}$	m^3 (ft^3)		
Flow rate, Q_{std}	$\frac{m^3}{min}\left(\frac{ft^3}{min}\right)$		

Figure 6-4. Critical orifice calibration data.

7.2.3.4 Sampling. Operate the sampling train for sample collection at the same vacuum used during the calibration run. Start the watch and pump simultaneously. Take readings (temperature, rate meter, inlet vacuum, and outlet vacuum) at least every 5 minutes. At the end of the sampling run, stop the watch and pump simultaneously.

Conduct a post-test calibration run using the calibration procedure outlined in Section 7.2.3.3. If the Q_{std} obtained before and after the test differ by more than 5 pecent, void the test run; if not, calculate the volume of the gas measured with the critical orifice, $V_{m(std)}$, using Equation 6-6 and the average of Q_{std} of both runs, as follows:

$$V_{m(std)} = \overline{Q}_{std}\,\theta_s\,(1-B_{wa})\left(\frac{P_{bar} + P_{sr}}{P_{bar} + P_c}\right) \qquad \text{Eq. 6-6}$$

where:

$V_{m(std)}$ = Dry gas volume measured with the critical orifice, corrected to standard conditions, dscm (dscf).

$\overline{Q}_{std}$ = Average flow rate of pretest and post-test calibration runs, scm/min (scf/min).

B_{wa} = Water vapor in ambient air, proportion by volume.

θ_s = Sampling time, min.

P_c = Inlet vacuum reading obtained during the calibration run, mm Hg (in. Hg).

P_{sr} = Inlet vacuum reading obtained during the sampling run, mm Hg (in. Hg).

If the percent difference between the molecular weight of the ambient air at staturated conditions and the sample gas is more than ±3 percent, then the molecular weight of the gas sample must be considered in the calculations using the following equation:

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$$V_{m(std)} = \bar{Q}_{std}\,\theta_s\,(1-B_{wa})\sqrt{\frac{M_a}{M_s}}\left(\frac{P_{bar}+P_{sr}}{P_{bar}+P_c}\right) \qquad \text{Eq. 6-7}$$

where:

M_a = Molecular weight of the ambient air saturated at impinger temperature, g/g-mole (lb/lb-mole).

M_s = Molecular weight of the sample gas saturated at impinger temperature, g/g-mole (lb/lb-mole).

Note.—A post-test leak-check is not necessary because the post-test calibration run results will indicate whether there is any leakage.

Drain the ice bath, and purge the sampling train using the procedure described in Section 4.1.3.

3. By adding two Citations to the Bibliography as follows:

8. *Bibliography.*

* * * * *

11. Lodge, J.P., Jr., J.B. Pate, B.E. Ammons, and G.A. Swanson. The Use of Hypodermic Needles as Critical Orifices in Air Sampling. J. Air Pollution Control Association. *16*:197–200. 1966.

12. Shigehara, R.T., and Candace B. Sorrell. Using Critical Orifices as Method 5 Calibration Standards. Source Evaluation Society Newsletter. *10*(3):4–15. August 1985.

[FR Doc. 87–24940 Filed 10–27–87; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–25

[FPMR Temp. Reg. E–89]

Promotional Materials

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation contains rules concerning acceptance by Government employees of promotional materials such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value. The regulation is necessary to reflect the provisions of 5 CFR 735.202(b)(4), issued by the Office of Personnel Management (OPM), which allow Government employees to keep unsolicited advertising or gifts of nominal intrinsic value. The regulation will bring the FPMR into conformity with OPM regulations as they relate to acceptance of these types of items by Government employees.

DATES:

Effective date: October 28, 1987.

Expiration date: September 30, 1988.

Comments due on or before: December 31, 1987.

ADDRESS: Comments should be addressed to: General Services Administration (FFY), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. John M. Boughton, Regulations and Policy Division (703–557–7525).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–25

Government property management.

(Sec. 205(c) 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

[FPMR Temp. Reg. E–89]

October 6, 1987.

Promotional Materials

1. *Purpose.* This regulation provides policy on promotional materials of nominal intrinsic value such as pens, pencils, note pads, and calendars.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires September 30, 1988, unless sooner superseded or incorporated into the permanent regulations of GSA.

4. *Applicability.* This regulation applies to all executive agencies.

5. *Background.* Prior to this regulation, the policy in § 101–25.103–1 and § 101–25.103–2 on promotional materials did not reflect the policy of the Office of Personnel Management (OPM) which allows Government employees to retain unsolicited advertising or gifts of nominal intrinsic value such as pens, pencils, note pads, calendars, etc., (see 5 CFR 735.202(b)(4)). This regulation has been prepared to incorporate the OPM policy into § 101–25.103–1 and § 101–25.103–2.

6. *Explanation of changes.*

a. Section 101–25.103–1 is revised to read as follows:

§ 101–25.103–1 General.

Promotional materials, trading stamps, or bonus goods received in connection with official Government business become the property of the Government except for unsolicited advertising or gifts of nominal intrinsic value (e.g., pens, pencils, note pads, calendars, etc.) which can be accepted by Government employees (see 5 CFR 735.202(b)(4)). Federal agencies in a position to receive promotional materials, trading stamps, or bonus goods, due the Government shall establish internal procedures for the receipt and disposition of these gratuities in accordance with § 101–25.103. The procedures shall provide for a minimum of administrative and accounting controls.

b. Section 101–25.103–2 is amended by revising paragraph (a) to read as follows:

§ 101–25.103–2 Promotional materials received in conjunction with official travel from transportation companies, rental car companies, or other commercial activities.

(a) Except for unsolicited advertising or gifts which are of nominal intrinsic value (e.g., pens, pencils, note pads, calendars, etc.), promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, etc.) received by employees in conjunction with official travel and based on the purchase of a ticket or other services (e.g., car rental) are properly considered to be due the Government and may not be retained by the employee. When an employee receives this type of promotional material, the employee shall accept the material on behalf of the United States and relinquish it to an appropriate agency official.

* * * * *

7. *Agency comments and assistance.* Comments or inquiries concerning the effect or impact of this regulation should be submitted to the General Services Administration (FFY), Washington, DC 20406, not later than December 31, 1987, for consideration and possible incorporation into a permanent regulation.

8. *Effect on other directives.* This regulation supersedes the provisions of § 101–25.103–1 and § 101–25.103–2(a).

T.C. Golden,

Administrator of General Services.

[FR Doc. 87–24923 Filed 10–27–87; 8:45 am]

BILLING CODE 6820-24-M

41 CFR Part 101–40

[FPMR Temp. Reg. A–23, Supp. 4]

Use of Carrier Contractors for Express Small Package Transportation

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement amends FPMR Temp. Reg. A–23 by extending the contract period for the express small package carrier, effective October 1, 1987.

DATES: Effective date: October 1, 1987. Expiration date: September 30, 1988, unless otherwise canceled or extended.

FOR FURTHER INFORMATION CONTACT: Charles T. Angelo, Director, Travel and Transportation Management Division (FBT), Washington, DC 20406, telephone FTS 557–1261 or commercial 703–557–1261.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–40

Freight, Government property, Moving of household goods, Office relocations, Transportation.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

[FPMR Temp. Reg. A–23; Supplement 4]

October 14, 1987.

Use of Carrier Contractors for Express Small Package Transportation

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A–23 and supplement 3 thereto.

2. *Effective date.* This regulation is effective October 1, 1987.

3. *Expiration date.* This regulation expires September 30, 1988, unless otherwise canceled or extended.

4. *Explanation of change.* The expiration date in paragraph 3 of FPMR Temporary Regulation A–23 and supplement 3 thereto is revised to September 30, 1988.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87–24920 Filed 10–27–87; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 97

Consolidation of Grants to the Insular Areas

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is hereby providing notice that the final rule with comment period published March 25, 1987 (52 FR 9494) is now a final rule. The rule published March 25, 1987, amended the list of Department formula and block grant programs which may be consolidated by the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).

EFFECTIVE DATE: March 25, 1987.

FOR FURTHER INFORMATION CONTACT: Howard A. Foard, Jr., Office of the Deputy Under Secretary, Department of Health and Human Services, Room 632F, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, (202) 245–6036.

SUPPLEMENTARY INFORMATION: On March 25, 1987, the Department published a final rule with a 60 day comment period amending 45 CFR Part 97 (52 FR 9494). This final rule added four new formula grant programs to the list of programs which may be consolidated by the insular areas:

(1) Dependent Care Planning and Development State Grants;

(2) The Family Violence Prevention and Services Act;

(3) The Children's Justice Act; and

(4) The Child Development Associate Scholarship Assistance Act.

The rule also deleted the Primary Care Block Grant as it had been repealed by Congress and the State Agency (Aging) Administration Grants as this is no longer a separate grant program.

In the final rule the Department gave interested persons until May 26, 1987, to submit comments. No comments were received; therefore, the Department affirms as a final rule the final rule published in the **Federal Register** of March 25, 1987.

Approved: October 22, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87–24807 Filed 10–27–87; 8:45 am]

BILLING CODE 4130-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–516; RM–5515]

Radio Broadcasting Services; Marshall, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 259C1 for Channel 261A at Marshfield, Minnesota, as that community's first wide coverage area broadcast service, in response to a petition filed by KMHL Broadcasting Company. We have also authorized the modification of Station KKCK(FM)'s license to specify Channel 259C1 in lieu of Channel 261A. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–516, adopted September 28, 1987, and released October 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Minnesota is amended

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by deleting Channel 261A and adding Channel 259C1 at Marshall.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24863 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-19; RM-5624]

Radio Broadcasting Services; Tremonton, UT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 286C2 for Channel 285A at Tremonton, Utah, and modifies the license of Station KKVU-FM to specify operation on the new frequency, at the request of McAlester Broadcasting Systems of Utah, Ltd., as that community's first wide coverage area FM station. A site restriction of 16.5 kilometers (10.2 miles) south of the city is required. With this action, this proceeding is terminated.

EFFECTIVE DATES: December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-19, adopted September 30, 1987, and released October 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Tremonton, Utah, by deleting Channel 285A and adding Channel 286C2.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-24864 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-92; RM-5422, RM-5618, RM-5670]

Radio Broadcasting Services; Cedar Bluff and Richlands, VA and Welch, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 299A to Cedar Bluff, Virginia, Channel 264A to Richlands, Virginia and Channel 275A to Welch, West Virginia at the request of Cedar Bluff Broadcasting, Inc., licensee of Station WYRV-AM, Cedar Bluff, Clinch Valley Broadcasting Corporation, licensee of AM Station WRIC, Richlands, Virginia and Jama Burnett, respectively. Channel 299A at Cedar Bluff requires a site restriction of 2.3 kilometers (1.4 miles) north of Cedar Bluff. Channel 264A at Richlands requires a site restriction of 9.6 kilometers (6 miles) west of the community. A site restriction of 1.6 kilometers (1 mile) south of Welch is required for Channel 275A. With this action, this proceeding is terminated.

DATES: Effective December 4, 1987. The window period for filing applications will open on December 7, 1987, and close on January 6, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-92, adopted September 30, 1987, and released October 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Virginia by adding Channel 299A at Cedar Bluff and Channel 264A at Richlands; and by adding Channel 275A at Welch, West Virginia.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-24861 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-89; RM-5652]

Television Broadcasting Service; Provo, UT

AGENCY: Federal Communications Commission.

ACTON: Final rule.

SUMMARY: This document allots UHF Television Channel 32 to Provo, Utah, as that community's second commercial televison service, at the request of Provo Television, Inc. The allotment can be made consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules. Although the Commission has imposed a freeze on TV allotments, or applications therefore in specified metropolitan areas pending the outcome of an inquiry into the uses of advanced television systems (ATV) in broadcasting, this proposal is not affected thereby. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-89, adopted September 25, 1987, and released October 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commision's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Allotments, is amended by adding Channel 32 at Provo, Utah.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Docket 87-24865 Filed 10-26-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-390; FCC 87-287]

Television Broadcasting Services; Ventura, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this document, the Commission on its own motion substitutes UHF Channel 51 for UHF Channel 16 in Ventura, California.

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-390, adopted September 10, 1987, and released September 30, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors. International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

In this proceeding, the Commission had proposed allotting Channel 25 because it met the specific sites proposed by the two applicants for Channel 16; but due to technical problems associated with the proposal and lack of interest by the applicants, it decided not to allot Channel 25. The Commission also decided not to allot Channel 38, an alternate channel proposed by the applicants.

The Commission allotted Channel 51, because the allotment could be made in compliance with the minimum distance separation requirements and would provide a second UHF broadcast facility to Ventura. The Channel 51 allotment is not affected by the current freeze on new allotments of television channels, since this allotment is viewed as a substitute for Channel 16. Interested parties can only apply for Channel 51 after the freeze is lifted if both applicants for Channel 16 are deemed ineligible and have exhausted their administrative or judicial remedies or they are declared eligible and have failed to amend their applications within a 90-day period from the date of eligibility.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

1 The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. In § 73.606(b) the Table of Television Allotments is amended for Ventura, California, by deleting UHF Channel 16 and adding UHF Channel 51.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-24862 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-428; RM-5335]

Television Broadcasting Services; Peoria, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document removes the educational reservation on UHF television Channel 59 at Peoria, Illinois, making it available for commercial use, and reserves Channel *47 for noncommercial educational use at Peoria. Channel 47 is presently in use by Station WTVP[TV], Peoria, Illinois. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 7, 1987.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-428, adopted September 30, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments is amended in the entry for Peoria, Illinois by deleting Channel 47—, and adding *47—, deleting Channel *59+ and adding 59+.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24857 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-359; RM-5369; RM-5587; RM-5664; RM-5665]

Radio Broadcasting Services; Churubusco, Huntington, Roanoke, and South Whitley, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 242A to Churubusco, Indiana as that community's first FM channel at the request of Consumers Aid, Inc. In response to counterproposals filed by Huntington Broadcasting Corporation; Judith Selby and Gary Salach it also allocates Channel 275A to Huntington, Indiana and modifies the license of Station WIOE, Channel 276A, Huntington to specify Channel 275A; Channel 286A to Roanoke, Indiana as that community's first FM channel; and Channel 266A to South Whitley as that community's first FM channel. With this action this proceeding is terminated.

DATES: Effective December 7, 1987. The window period for filing applications will open on December 8, 1987, and close on January 7, 1988.

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FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–359, adopted September 30, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended by adding the entries of Channel 242A to Churubusco; Channel 275A to Huntington; Channel 286A to Roanoke; and Channel 286A to South Whitley all in the state of Indiana; and deleting the entry of Channel 276A to Huntington, Indiana.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–24858 Filed 10–27–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 80

[PR Docket No. 87–10; FCC 87–322; RM–5576]

Maritime Service; Amendment To Permit Installation of Radar Equipment on Voluntarily Equipped Ships by Non-licensed Persons

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This new rule permits installation of radar on any voluntarily equipped ship by the station licensee or by someone who is under the supervision of the station licensee. In either case the person installing the radar equipment is not required to have an FCC operator license. This action was initiated by a petition for rulemaking filed by SI–TEX Marine Electronics Inc. (SI–TEX). The adopted rule eliminates the need for persons who install radar equipment on voluntarily equipped ships to have an FCC operator license.

EFFECTIVE DATE: December 7, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William P. Berges, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632–7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted October 9, 1987, and released October 21, 1987. The full text of this Commission decision including the adopted rule is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The full text of this decision including the proposed rule change may also be purchased from the Commission's contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. On February 12, 1987, the Commission released a *Notice of Proposed Rule Making*, PR Docket No. 87–10, FCC 87–31, which proposed to permit installation of radar on any voluntarily equipped ship by the station licensee or by someone who is under the supervision of the station licensee. In either case the person installing the radar equipment would not be required to have an FCC operator license. This action was taken in response to a petition for rulemaking (RM–5576) filed by SI–TEX Marine Electronics Inc. The *Report and Order* discusses the comments filed by the public regarding this proposal and amends the rules to allow such installations by persons without an FCC operator license.

2. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the adopted rule will not have a significant economic impact on a substantial number of small entities. This action permits persons without FCC operator licenses to install radar equipment on ships not required to carry radar.

3. The Report and Order contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

4. This Report and Order is issued under the authority of 47 U.S.C. 154(i) and 303(g).

5. A copy of this Report and Order will be served on the Chief Counsel for Advocacy of the Small Business Administration.

6. It is ordered, that Part 80 of the Commission's rules is amended as shown below. It is further ordered, That this proceeding is terminated.

List of Subjects in 47 CFR Part 80

Radio.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Amended Rules

Part 80 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303 unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. In § 80.177 a new paragraph (d) is added to read as follows:

§ 80.177 When operator license is not required.

* * * * *

(d) No radio operator license is required to install a radar station on a voluntarily equipped ship when a manual is included with the equipment that provides step-by-step instructions for the installation, calibration, and operation of the radar. The installation must be made by, or under the supervision of, the licensee of that ship station and no modifications or adjustments other than to the front panel controls are to be made to the equipment.

3. In § 80.203 a sentence is added at the end of paragraph (b) to read as follows:

§ 80.203 Authorization of transmitters for licensing.

* * * * *

(b) * * * Manufacturers of radar equipment intended for installation on voluntarily equipped ships by persons without FCC operators license must include with their equipment authorization application a manual that provides step-by-step procedures for the installation, calibration, and operation of the radar stations.

* * * * *

[FR Doc. 87–24869 Filed 10–27–87; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule Determining *Asclepias welshii* (Welsh's Milkweed) To Be a Threatened Species With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Asclepias welshii* (Welsh's milkweed) to be a threatened species and designates its critical habitat. This species is known to occur only in the Coral Pink Sand Dunes and in the Sand Hills 8 miles to the northeast of the Coral Pink Sand Dunes, both in Kane County, Utah. In the Coral Pink Sand Dunes, about 6,000 plants occur on lands administered by the Bureau of Land Management. An estimated 4,000 plants are thought to occur on State of Utah land in the Coral Pink Sand Dunes State Park, while about 500 plants are estimated to grow in the Sand Hills northeast of the Coral Pink Sand Dunes. Altogether, the total population of this species is thought to be no more than 11,000 plants. The population in the Coral Pink Sand Dunes is disturbed by off-road-vehicle activity. Portions of the areas in which both populations occur are leased for oil and gas. This final rule implements for this species the protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is November 27, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Service's Regional Fish and Wildlife Enhancement Office at 134 Union Boulevard, Fourth Floor, Lakewood, Colorado, and the Fish and Wildlife Enhancement Field Office at Room 2078 Administration Building, 1745 W. 1700 S., Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: John L. England, Botanist, at the above Salt Lake City address (801/524–4430 or FTS 588–4430).

SUPPLEMENTARY INFORMATION:

Background

Asclepias welshii (Welsh's milkweed) is a member of the family Asclepiadaceae (milkweed family). It was described by Holmgren and Holmgren (1979) from plants collected on the Coral Pink Sand Dunes (Dunes) in Kane County, Utah. Five earlier collections were made in this area between 1954 and 1978 by W. Cottam, A.H. Barnum, N. Holmgren, and S.L. Welsh (Holmgren and Holmgren 1979). This plant is a rhizomatous, herbaceous perennial, 10 to 40 inches tall, with large oval leaves and cream-colored flowers that are rose-tinged in the center. It grows on open, sparsely vegetated semi-stabilized sand dunes and on the lee slopes of actively drifting sand dunes.

The population consists of approximately 11,000 individuals in several concentrations distributed more or less randomly over the Coral Pink Sand Dunes, with scattered individuals between concentrations and in an area of the Sand Hills to the northeast. In the Coral Pink Sand Dunes area administered by the Bureau of Land Management (Bureau), a careful survey disclosed about 6,000 plants in 12 concentrations (Bureau 1980). On State of Utah land (Coral Pink Sand Dunes State Park), there are an estimated 4,000 plants, while in the small Bureau-administered area of the Sand Hills to the northeast, there are an estimated additional 500 plants. A Bureau survey in September 1984, showed a population of about 4,000 plants (Bureau 1984, Service 1986c); the State Park estimated a population of about the same size occurring within the State Park. The plants grow on both the tops and sides of the dunes.

In the summer of 1980, field work was carried out at the Coral Pink Sand Dunes site by a Bureau botanist (Bureau 1980). This investigation involved mapping groups of plants and counting the plants on the dunes by age class. The investigation showed that off-road vehicles were modifying the habitat and destroying Welsh's milkweed plants and that domestic livestock were utilizing this species as a forage plant.

On December 15, 1980, the Service published a notice of review for plants in the **Federal Register** (45 FR 82480), which included *Asclepias welshii* as a Category 1 species. Category 1 comprises taxa for which the Service presently has substantial information on biological vulnerability and threats to support the appropriateness of proposing to list as endangered or threatened species. For administrative purposes, all plants included in that review are treated as being under petition. A finding was made on October 13, 1983, that listing *Asclepias welshii* was warranted but precluded by pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Endangered Species Act (Act). Such petitions are recycled under section 4(b)(3)(C)(i). The Service published a proposed rule to list *Asclepias welshii* as an endangered species on June 6, 1984 (49 FR 23399), constituting the next 1-year finding, which was required on or before October 13, 1984.

Summary of Comments and Recommendations

In the June 6, 1984, proposed rule (49 FR 23399) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in the Southern Utah News on June 27, 1984. Seventeen written comments were received. A public hearing was requested by the State of Utah, and was held in Kanab, Utah, on September 18, 1984 (see September 4, 1984, **Federal Register** (49 FR 34879)). Six formal oral comments were presented, two of which had been previously received as written comments, for a total of 21 comments.

Eleven comments, four from the State of Utah, five from the Bureau, one from the City of Kanab, and one from Kane County, maintained that recreational off-road-vehicle use (i.e., by dune buggies and three-wheel all-terrain vehicles) is not a threat sufficient to cause the extinction of *Asclepias welshii*. Those comments that provide detail cite the following reasons: (1) *Asclepias welshii* is apparently adapted to the naturally unstable drifting sands of the Coral Pink Sand Dunes; (2) the plant is increasing in numbers with the current level of off-road-vehicle use; (3) off-road-vehicle use is concentrated on unvegetated active dunes and trails through the semi-stabilized vegetated dunes which have few if any *Asclepias welshii* plants; (4) the deep-seated rhizome of *Asclepias welshii* is not subject to disturbance; and (5) no long-term studies exist of the population trend of *Asclepias welshii*, and short-term studies and inventories indicate a population increase.

The Service agrees that *Asclepias welshii* is adapted to the naturally unstable drifting sands of the Coral Pink Sand Dunes and is a significant

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component of the flora of the Dunes. It is a colonizer of the unvegetated dunes in the sequence of plant succession on the Dunes. Many plant species adapted to sand dunes establish themselves either by seed or vegetatively in interdune areas in the lee of the approaching sand dune. These individual plants are then able to grow at rates great enough to stay ahead of the rate of wind deposited sand accumulation in the lee of the sand dune proper. As the crest of the sand dune reaches the position of the plant, sand accumulation ceases and wind erosion on the windward side of the plant begins. Sand dune-adapted plants often have fibrous roots or rhizomatous rootstocks (*Asclepias welshii* has a rhizomatous rootstock) that are able to hold sand in place and thus initiate the stabilization of dunes. Mechanical disturbance can break the vegetative cover that has stabilized or partially stabilized sand dunes, thus making them more active. Plants damaged by off-road-vehicle use often are unable to respond to drifting sand and sometimes are buried and die. Observations of the habitat of *Asclepias welshii* show that the southern portion of the Coral Pink Sand Dunes are more actively drifting and less vegetated, on the whole, than the northern portion. The southern portion of the Dunes is also the area that receives the greatest concentration of off-road-vehicle use, due to the proximity of developed recreational facilities (i.e., campgrounds with sanitary facilities and water) and to its open, less-vegetated condition. Highly active dunes will sometimes overwhelm the ability of even well-adapted dune plants to keep pace with the drifting sand. Contrary to statements that off-road-vehicle use is not directly affecting *Asclepias welshii* are observations by other commenters and Service personnel that actual direct disturbance of individual *Asclepias welshii* plants by off-road vehicles is occurring (Service 1986 a and b). An additional significant effect would be damage to rhizomes and roots and interference with seedling establishment. Such cryptic effects are likely to cause loss of vigor and reduction of reproductive success in the population. Information for other plant species indicates that population declines will occur even without evidence of widespread damage to individual plants. The Service concludes that off-road-vehicle use is destroying individual *Asclepias welshii* plants and adversely modifying the species habitat.

Studies of the effects of off-road-vehicle use on dune-adapted plants (e.g., Luckenbach and Bury 1983) have shown significant reductions in density and diversity of vegetative cover in dunes subject to off-road-vehicle traffic. The relatively new three-wheel and four-wheel off-road vehicles, unlike the traditional dune buggies, have tires that are less expensive and not as susceptible to damage from vegetation. Thus there is an increase in use of the new type vehicles on the more vegetated portion of the dunes, which are modifying the habitat and destroying individuals of *Asclepias welshii* (Service 1986a and 1986b).

Many factors affect the rate of sand dune drifting and plant growth. Periods of high wind and low precipitation, especially in the arid area of the Coral Pink Sand Dunes, would increase the rate of sand drifting and decrease the ability of plants to vegetatively and reproductively keep pace with the drifting dunes. Destabilization of vegetated dunes by off-road-vehicle use during such periods would accelerate sand movement to a point that exceeds the tolerance of *Asclepias welshii* plants. Thus, the Service maintains that off-road-vehicle use is a threat, which in certain circumstances would be severe, to *Asclepias welshii*.

There are no long-term studies of the population trend of *Asclepias welshii*. The 1980 Bureau census of the *Asclepias welshii* populations on Federal lands showed a population of 5,340 individuals. Four years later in 1984, a followup survey by the Bureau, in response to the Service proposal to list *Asclepias welshii* as an endangered species, showed a population of fewer than 4,000, demonstrating a significant decline in the mid-term (Bureau 1980 and 1984, Service 1986c). Short-term studies have been inconclusive. A Bureau study of a single 25-square-foot plot established in 1983 found a 15-percent increase in aboveground stems in 1984. This finding may represent the increase in vigor of a single individual, and cannot be taken as a statistically significant indicator of the population as a whole. In addition, the area of the Coral Pink Sand Dunes has gone through a period of about 6 or 7 years of above-normal precipitation that, as described above, may have tended to slow sand dune activity and enhance the growth and reproduction of *Asclepias welshii*. The short drought during the winter of 1983–84, given the ability of sand to store water and readily yield it to plants, probably was not long enough to have had a significant impact on sand dune vegetation, including *Asclepias welshii*. The Service maintains that, because it is totally endemic to the Coral Pink Sand Dunes and nearby Sand Hills, and because off-road-vehicles are modifying its habitat in some areas and threaten to disturb its habitat throughout the majority of its range, *Asclepias welshii* is threatened by off-road-vehicle activity.

Eight comments, two from the State of Utah, two from the Bureau, two from private citizens, and one each from the City of Kanab and Kane County, maintained that grazing is not a threat to *Asclepias welshii*. Those comments that provide detail cite the following reasons: (1) The genus *Asclepias* as a group is toxic and *Asclepias welshii* is probably at least moderately toxic to livestock; (2) livestock do not effectively use dune areas for grazing; (3) current grazing use and allowed maximum use under current grazing plans is much less than historical grazing use prior to Federal management of grazing by the Bureau.

The Service agrees that members of the genus *Asclepias* contain poisonous compounds; however, the degree of toxicity varies greatly among individual species. There is no documented evidence that *Asclepias welshii* has been responsible for livestock or wildlife poisoning. On the contrary, it has been documented that *Asclepias welshii* is at least palatable to range livestock and is not a threat to them (Bureau 1980). The Service recognizes that it is difficult for hoofed animals to traverse sand dunes, so that most of the population of *Asclepias welshii* is out of the range of probable impact from grazing livestock. Current grazing use is less than the species endured historically and is at levels that appear to pose no significant threat to *Asclepias welshii*. The Service, therefore, agrees that *Asclepias welshii* appears not to be threatened by livestock grazing, despite the occasional grazing of *Asclepias welshii* plants at the perimeter of its habitat.

Three comments, one each from the Mayor of Kanab, the State of Utah, and the Bureau, maintain that the Bureau has adequate management authority to provide for the conservation of *Asclepias welshii*. While the Bureau does provide for the management of lands and species under its control, Welsh's milkweed populations have declined. The listing of *Asclepias welshii* as threatened will reinforce existing Bureau authority to take measures necessary to prevent the decline of this species. The fact that the Bureau considers the species in need of special protective management tends to support the Service's assessment and recognition of its status under the Act.

One comment from the State of Utah argued that the listing of *Asclepias welshii* as endangered and the designation of its critical habitat in the Coral Pink Sand Dunes is contrary to the purpose of the State Park and the intent of the Utah State Legislature in establishing and funding the Coral Pink Sand Dunes State Park. The Service recognizes legitimate uses for the Coral Pink Sand Dunes other than as habitat for the conservation of *Asclepias welshii*. The listing of *Asclepias welshii* as threatened reflects the Service's assessment of the threats posed to the species; potential effects of economic or other activities may not be considered in making such a listing determination. The designation of the Coral Pink Sand Dunes as critical habitat will not have a direct effect on the State of Utah and the Coral Pink Sand Dunes State Park. However, half of the Coral Pink Sand Dunes are on Federal land managed by the Bureau and used by recreational vehicles based at the State Park. The Service encourages the State of Utah to participate in the conservation of *Asclepias welshii* and to participate with the Service, the Bureau, and other interested and affected groups in developing a management plan that will provide for the conservation of *Asclepias welshii* as well as recreational use of the Dunes.

One comment from the State of Utah stated that the listing of *Asclepias welshii* and designating critical habitat would draw adverse attention to the plant from possible vandals. The Service is also concerned that this may happen; however, it is the Service's position that the benefits to the species as a consequence of its listing as threatened will offset the possible negative effects of undue notoriety. The conservation and recovery of the species may include a program of public education to develop sensitivity toward the species and its part in the biological heritage of the region and the nation. The same comment from the State of Utah stated that since there are two populations of the species, one at the Coral Pink Sand Dunes and the other in the nearby Sand Hills, there is no need to designate critical habitat. The Service maintains that both populations are essential for the survival and recovery of *Asclepias welshii* and that designation of critical habitat for both populations is desirable and appropriate.

One comment from the Bureau pointed out that the proposed rule described *Asclepias welshii* as "10 cm" tall. This was a typographical error in the proposed rule; *Asclepias welshii* is about 100 centimeters (40 inches) tall at maturity.

Four comments from professional botanists stated that *Asclepias welshii* is a narrow endemic restricted entirely to the Coral Pink Sand Dunes and the nearby Sand Hills and is vulnerable to habitat destruction.

Four comments, three from professional botanists and one from a private citizen, stated that a designation of critical habitat is appropriate for this species. The three botanists based their statements on the fact that they expected no commercialization through collecting and trade of *Asclepias welshii* and thus the publication in the Federal Register of its occupied habitat through a critical habitat designation would not adversely affect the species' populations. The private citizen based his support of the critical habitat designation on the existence of the Coral Pink Sand Dunes tiger beetle (*Cicindela limbata albissima*), which is endemic to the Coral Pink Sand Dunes and may face the same threats as *Asclepias welshii*. The listing of *Asclepias welshii* and designation of its critical habitat may incidentally provide some degree of habitat protection for this tiger beetle. The Service is also evaluating the status of the tiger beetle as time and funds permit to determine the appropriateness of designating it as endangered or threatened under the Act (see notice of review, 49 FR 21663, May 22, 1984).

Six comments, five from professional botanists and one from a private individual, state that off-road-vehicle use damages dune vegetation. Two of these botanists have observed direct destruction of *Asclepias welshii* plants by off-road-vehicle use.

Four comments, three from professional botanists and one from a conservation group, agreed with the Service's proposed rule to list *Asclepias welshii* as an endangered species and designate its critical habitat. One comment from a professional botanist suggested that the available biological evidence and the nature and degree of threats to *Asclepias welshii* suggest that threatened status is most appropriate for this species. After reappraising the population data, reconsidering the degree and nature of threats, determining that the current level of grazing is not a threat to the species, and learning that the State has drafted a general management plan that would control the effects of off-road-vehicle traffic on dune vegetation, the Service finds that *Asclepias welshii* is not endangered as defined by the Act. However, given its vulnerability, the modification of its habitat, and the existence of threats to its population, it does fully meet the definition of threatened, as defined by the Act.

One comment from an off-road-vehicle user group urged the Service not to Close the Dunes to recreational off-road-vehicle use, and suggested that responsible off-road-vehicle recreationists would cooperate with the land-managing agencies, including the State of Utah and the Bureau, in educating and policing their ranks to ensure that stands of endangered plant species would be conserved. They hoped that their use of the Dunes could continue under necessary regulations to protect dune vegetation and *Asclepias welshii*. The Service is encouraged by the attitude shown by this group and will work with the land-managing agencies at the Coral Pink Sand Dunes to develop the vegetation and recreation management plans necessary to conserve *Asclepias welshii*.

While a final rule was being developed, a draft of the rule and accompanying economic analysis of the designation of critical habitat was provided to the Governor of Utah. In a letter to the Secretary of the Interior dated November 1, 1985, the Governor expressed disagreement with several aspects of the rule and analysis. These comments and the Service's responses are provided below:

The Governor questioned the adequacy of scientific knowledge of the species to support its listing and suggested that the Service, the Bureau, and the State initiate further studies to evaluate its status before a final status determination is made. The Service agrees that the species, which was only formally described in 1979, is not especially well understood biologically, but as noted above, the Service believes that available information is sufficient to support a determination that it is threatened.

The Governor also maintained that designation of critical habitat for this species could cause a direct negative impact on Coral Pink Sand Dunes State Park and its operations. As noted above, the Service expects no direct effect on Park operations as a result of the designation, which would only affect activities authorized, funded, or carried out by Federal agencies by requiring that such activities avoid destroying or adversely modifying critical habitat. Inasmuch as there is no known Federal involvement in the management of the Park, the Service continues to maintain that designation would not directly affect Park operations. The Service is pleased to note that the State has developed a draft management plan for the Park that would control the effects of off-road-vehicle traffic on dune vegetation. The draft plan provides

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conservation zones that will provide some protection to Welsh's milkweed and its critical habitat through the regulation of off-road-vehicle use in the Park.

Addressing the draft economic analysis, the Governor objected that a statement to the effect that up to 2,000 vehicles might be on the dunes at a given time was misleading. The Service believes the Governor's objection was based on a misunderstanding of the draft analysis. The figure of 2,000 vehicles was given as an upper limit for visitor use of the dunes in estimating the number of persons that might be affected if the designation led to restrictions on activities at the Park. In fact no such impact is expected, and the figure of 2,000 visitors does not appear in the final, approved analysis.

Finally, the Governor contended that existing State regulatory mechanisms are adequate to protect *Asclepias welshii*. The Service maintains that adverse habitat modification has occurred under existing regulations. The Service believes the listing will not replace, but rather reinforce and complement protection afforded under State authority. There should be no inconsistency or conflict between Federal and State protection of the species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all scientific and commercial information available, the Service has determined that *Asclepias welshii* (Welsh's milkweed) should be classified as a threatened species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Asclepias welshii* Holmgren and Holmgren (Welsh's milkweed) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Asclepias welshii*, with the exception of a very small population in the Sand Hills, is totally endemic to the Coral Pink Sand Dunes. The Dunes are utilized primarily for recreational off-road-vehicle use. Off-road-vehicle use is adversely modifying the habitat and destroying individual plants of *Asclepias welshii*. Variations in the use of various areas in the Dunes and the variations in abundance of *Asclepias welshii* in those same areas indicate that off-road-vehicle use has had a negative impact on *Asclepias welshii*. In the absence of protection for this plant under the Act, unrestricted off-road-vehicle use will degrade the Coral Pink Sand Dune population further. Continued habitat destruction from off-road-vehicle use will conceivably cause its extirpation from a considerable portion of its current range within the Dunes. In addition, a significant portion of the critical habitat is under lease for oil and gas development. The development of these leases, without consideration for *Asclepias welshii*, might affect the species. However, oil and gas development is not considered a threat to the species at this time due to "no surface occupancy" stipulations on oil and gas leases within the Coral Pink Sand Dunes, and the low potential for oil and gas development within and in the vicinity of the species' critical habitat. Additional details concerning oil and gas leasing and the lease stipulations are provided under the "Critical Habitat" section of this rule.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* Although livestock grazing on *Asclepias welshii* does occur on a limited basis, it is not believed that current grazing levels on this plant constitute any threat to its continued existence.

D. *The inadequacy of existing regulatory mechanisms.* There are no Federal, State, or local laws or regulations that specifically apply to this species or provide for its protection. Section 13 of the Utah Recreation Vehicle Act (Utah Code Annotated 41–22–13 [1981], enacted by Chapter 107, Laws of Utah 1971) states: "No person shall operate a recreation vehicle in connection with acts of vandalism, harassment of wildlife or domestic animals, burglaries or other crimes, or damage to the environment which includes pollution of air, water or land, abuse of the watershed, impairment of plant or animal life or excessive mechanical noise." The State of Utah's Department of Parks and Recreation is of the opinion that it would be able to provide effective conservation of *Asclepias welshii* and its critical habitat, given the above State statute, financial assistance, and a workable interagency agreement with the Bureau to manage recreational use of the entire Coral Pink Sand Dunes. However, existing regulatory measures have not prevented this species from becoming threatened. Without positive steps prompted by the Federal designation of *Asclepias welshii* as a threatened species, the current status of *Asclepias welshii* will likely decline to endangered in the foreseeable future.

E. *Other natural or manmade factors affecting its continued existence.* The arid climate and unstable habitat of *Asclepias welshii* make its ecosystem a fragile one, vulnerable to degradation by surface disturbances.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Asclepias welshii* as threatened. This is based on the fact that the species exists in low numbers and occurs in a limited fragile ecosystem that is presently disturbed by off-road-vehicle use. A designation of critical habitat was considered prudent in this case because most of the plants are known to occur on Federal lands and would benefit from such a designation. A decision to take no action on *Asclepias welshii* would exclude this species from needed protection available under the Act. *Asclepias welshii* occupies much of the habitat available to the species and is probably capable of maintaining its populations providing the threat of extreme habitat disturbance is controlled. If control of off-road-vehicle use is not adequate, however, the species would be likely to undergo decline to the point at which extinction is probable. *Asclepias welshii* is not at present in danger of extinction, however, and therefore listing as an endangered species would not be warranted.

Although the Service proposed to list the milkweed as an endangered species, a careful reappraisal of status information upon which the proposed rule was based, together with an analysis of scientific information received during the public comment period, persuaded the Service that this species is not now endangered. The current level of grazing does not appear to pose a threat to the milkweed, and current habitat management efforts are such that the milkweed is not in immediate danger of extinction.

Critical Habitat

Critical habitat, as defined by Section 3 of the Act, means: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that

may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximun extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is designated for *Asclepias welshii* to include about 4,000 acres of sand dune habitat in the Coral Pink Sand Dunes and the Sand Hills area in Kane County, Utah. The Coral Pink Sand Dunes are a clearly definable and recognizable geographic entity, readily located on published U.S. Geological Survey maps. The critical habitat of *Asclepias welshii* within the Sand Hills is defined by a legal land description. The known primary constituent element is considered to be the sand dunes themselves.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) which may adversely modify such habitat or may be affected by such designation. Livestock grazing is no longer considered a threat to the critical habitat. Additional information has indicated that cattle graze only at the perimeter of the sand dunes included as critical habitat. Cattle also have difficulty traversing sand dunes and are seldom, if ever, put to graze within the critical habitat. Continued surface disturbance by recreational off-road vehicles, however, is adversely affecting the critical habitat. This activity will need to be regulated or modified to take into account the effects on critical habitat. In addition, the entire critical habitat area is leased or is available for oil and gas leasing. The potential exists for habitat damage if the recovery of mineral resources is not done in a manner that avoids destruction of the critical habitat of *Asclepias welshii*. However, the Bureau has informed the Service that the potential for oil and gas development within and in the vicinity of critical habitat is low. The Bureau has also imposed "no surface occupancy" stipulations on oil and gas leases to exclude onsight drilling within the Coral Pink Sand Dunes. These stipulations were imposed to preserve the recreational value of the Coral Pink Sand Dunes, and are compatible with the critical habitat designation. Therefore, oil and gas leasing is not expected to affect or be affected by the designation of critical habitat.

Regulation or modification of adverse activities might include restricting off-road-vehicle use to existing roads and trails or excluding use from certain areas or during particular times when the critical habitat may be most vulnerable to disturbance.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service has considered the critical habitat designation in light of relevant additional information obtained. No significant economic or other impacts are expected to result from the critical habitat designation. This conclusion is based on no known involvement of Federal funds or permits for off-road-vehicle activities within the Coral Pink Sand Dunes State Park, voluntary efforts between the State of Utah and the Bureau to develop a joint management plan for the Coral Pink Sand Dunes, the absence of any active mineral claims or oil and gas development within or in the vicinity of critical habitat, "no surface occupancy" stipulations on oil and gas leases to preserve the recreational value of the Coral Pink Sand Dunes, additional information that livestock grazing is not expected to affect the critical habitat, and the unquantifiable benefits that may result from the critical habitat designation.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies, prohibitions against collecting, and possible recovery actions are discussed, in part, below.

Section 7 (a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Possible effects of critical habitat designation on the Bureau have already been discussed. Known Federal activities that may affect Welsh's milkweed are sanctioned use of off-road vehicles within the species habitat and permitting actions in response to oil and gas development. The Bureau is already consulting with the Service, and additional impacts due to this listing are expected to be minimal.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Asclepias welshii*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. No such trade in *Asclepias welshii* is known. It is anticipated that few trade permits will ever be sought or issued for *Asclepias welshii* since it is neither a desirable species for collectors nor common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. Section 4(d) allows for the provision of such protection to threatened species through regulations. This protection will apply to *Asclepias welshii* under regulations codified at 50 CFR Part 17. These regulations also provide permits for exceptions to this prohibition. *Asclepias welshii* is found on both Federal and State of Utah lands. It is likely that few collecting permits for *Asclepias welshii* will ever be requested. Requests for copies of the regulations on plants and

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inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Recovery actions that should enhance the status of *Asclepias welshii* would include the development and implementation of a comprehensive recreation and habitat management plan for the Coral Pink Sand Dunes and the species. Such a plan could provide conservation areas within the Dunes dedicated to maintaining the *Asclepias welshii* population and the natural biotic and abiotic components of the dune ecosystem.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major rule under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The critical habitat of *Asclepias welshii* is located on State and Federal lands. About 1,900 acres of critical habitat are on Federal lands administered by the Bureau, and about 2,100 acres of critical habitat are on State of Utah lands administered by the Utah Division of Parks and Recreation. Based on the economic and other impact information already discussed, no significant economic or other impacts are expected to result from the critical habitat designation. In addition, no direct costs, enforcement costs, or information collection or recordkeeping requirements are imposed on small entities by this designation. These determinations are based on a Determination of Effects of Rules that is available at the Service's Salt Lake City Field Office, Room 2078 Administration Building, 1745 W. 1700 S., and Denver Regional Office, 134 Union Boulevard, fourth floor, Lakewood, Colorado.

References Cited

Bureau of Land Management. 1980. Study on *Asclepias welshii* on the Coral Pink Sand Dunes and the Sand Hills. Unpbl. report prepared by the Cedar City District; Utah, on file at the U.S. Fish and Wildlife Service's Regional Office, Denver, Colorado. 5pp.

Bureau of Land Management. 1984. Letter to Dr. James L. Miller, U.S. Fish and Wildlife Service, Denver, Colorado.

Fish and Wildlife Service. 1986a. Off-road-vehicle impacts on *Asclepias welshii* at the Sand Spring vicinity of the Coral Pink Sand Dunes during the Memorial Day Weekend of 1986. Unpubl. report on file at the U.S. Fish and Wildlife Service's Salt Lake City Field Office, Salt Lake City, Utah. 2pp.

Fish and Wildlife Service. 1986b. Field Report, *Asclepias welshii* Unpubl. report on file at the U.S. Fish and Wildlife Service's Salt Lake City Field Office, Salt Lake City, Utah. 1p.

Fish and Wildlife Service. 1986c. Relationship between the 1980 Bureau of Land Management study on *Asclepias welshii*. (Anderson Report) and the 1984 Bureau survey of *Asclepias welshii* (Kanab Resource Area Report). Memorandum to the files on file at the U.S. Fish and Wildlife Service's Regional Office, Denver, Colorado.

Holmgren, N.H. and P.K. Holmgren. 1979. A new species of *Asclepias* (Asclepiadaceae) from Utah. Brittonia 31(1):110–114.

Luckenback, R.A. and R.B. Bury. 1983. Effects of off-road vehicles on the biota of the Algodones Dunes, Imperial County, California. Journal of Applied Ecology 20:265–286.

Author

The primary author of this rule is John L. England, Botanist, U.S. Fish and Wildlife Service, Salt Lake City Field Office, Salt Lake City, Utah. Dr. James L. Miller, Botanist, U.S. Fish and Wildlife Service, Denver, Colorado, served as editor. Jane O. Yager, Economist, Office of Endangered Species, Washington, DC, edited the portions of the rule dealing with the effects of designating critical habitat.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 07 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order, under Asclepiadaceae to the list of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
* * * * *						
Asclepiadaceae—Milkweed family:						
Asclepias welshii	Welsh's milkweed	U.S.A. (UT)	T	295	17.96(a)	NA
* * * * *						

3. Amend § 17.96(a) by adding critical habitat of *Asclepias welshii* preceding that of *Stephanomeria malheurensis* as follows:

§ 17.96 Critical habitat—plants.

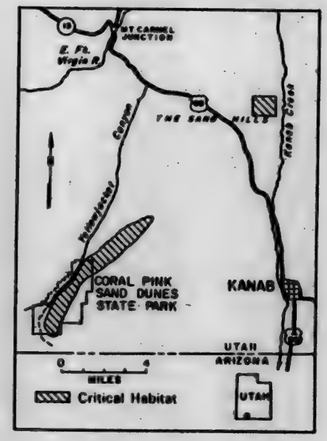
(a) * * *

* * * * *

Family *Asclepiadaceae—Asclepias welshii* (Welsh's milkweed)

Utah, Kane County: entire Coral Pink Sand Dunes, within T43S, R7W and R8W, and T44S, R8W about 10 miles west of Kanab; also, the area of the Sand Hills, about 10 miles north of Kanab, within T42S, R6W, Section 8 (S½ of the N½ and N½ of the S½). The constituent elements of this critical habitat are the sand dunes themselves.

Note.—Map follows.



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Dated: September 21, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–24844 Filed 10–27–87; 8:45 am]

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Proposed Rules

Federal Register
Vol. 52, No. 208
Wednesday, October 28, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 4, 11, 25, 30, 31, 32, 34, 35, 40, 50, 60, 61, 70, 71, 73, 74, 75, 95, and 110

Retention Periods for Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) proposes to amend its regulations as a result of a review of its recordkeeping requirements to establish a definite retention period for each record that an NRC applicant or licensee for a materials or facility license is required to maintain. The NRC did not review the requirements for need, as need is addressed in the existing regulations. The rule would also provide a uniform standard acceptable to the NRC for the condition of a record throughout each specified retention period. This proposed rule is expected to reduce the overall recordkeeping burden for NRC applicants and licensees by use of uniform and specific retention periods for each recordkeeping requirement.

DATES: Submit comments by December 28, 1987. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for those comments received before this date.

ADDRESSES: Send comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brenda J. Shelton, Chief, Records Management Branch, Division of Information Support Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–8132.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission's (NRC) regulations require that applicants and licensees retain a variety of records for various periods of time. Licensees must also retain certain plans and procedures for routine operation and emergency situations and file reports of certain occurrences and events. The NRC has reviewed its recordkeeping requirements to determine how long the required records should be retained. This proposed rule reflects the results of this review. It amends text in portions of Title 10, Chapter I, of the Code of Federal Regulations as codified on September 30, 1986. Part 20 was excepted; its many record retention requirements are proposed in a revision to Part 20 that was published for public comment in the **Federal Register** on December 20, 1985 (50 FR 51992) and republished on January 9, 1986 (51 FR 1092). Codification of these amendments and amendments in certain published proposed rules will establish uniform retention periods for all NRC recordkeeping requirements. NRC also intends to conform record retention requirements in future rules to the four uniform periods proposed in this rule.

The regulations sometimes specify that a record be retained for a specific period of time. These periods vary widely from one or two years to the 40-year life of a reactor license to the completion of decommissioning for some licenses. In other instances, they specify that a record be kept until the Commission authorizes its disposition, and in others, that it be retained indefinitely. Some parts of NRC regulations specify the condition of a record acceptable to the NRC throughout its required retention period; others do not.

This proposed rule would amend regulations in nineteen parts of Title 10 to require that certain records in these parts be retained for specific periods. The rule would also provide for all parts of Title 10, Chapter I, the condition of a record acceptable to the NRC throughout the retention period.

Regarding specific retention periods, with the exception of one six month retention period, at 10 CFR 70.58(h), uniform retention periods of three years, five years, ten years, or the life of the component, activity, area, or facility are proposed to simplify the system for retaining NRC records. These particular four periods, although not ideal for every record retention requirement, seem to be the best choices for NRC record needs. Uniform periods were recommended to the NRC by the Nuclear Information and Records Management Association (NIRMA) based on the nuclear industry's input to NIRMA. Three of the uniform periods coincide with the retention periods for quality assurance (QA) records in Parts 50 and 71; the fourth coincides with the retention periods for records such as those covered by technical specifications.

With regard to technical specifications, the NRC recognizes that technical specifications for each nuclear power plant include record retention requirements that may, in some cases, differ from those proposed in this rule. The requirements in this rule take precedence over and supersede any conflicting requirements presently in the technical specifications. Therefore, the Office of Nuclear Reactor Regulation (NRR) intends to issue a generic letter that would provide guidance to licensees for revising their technical specifications to conform with the rule and would include model technical specifications to follow for achieving this conformance.

During the course of reviewing 10 CFR 50.36, "Technical Specifications," the staff found that this section does not clearly reflect the difference in recordkeeping and reporting requirements for reactors licensed under different sections of the regulations. Specifically, commercial and industrial facilities are licensed under § 50.21(b) or § 50.22 and have detailed notification and reporting requirements delineated in § 50.72 and § 50.73, respectively. Therefore, specific cross references to § 50.72 and § 50.73 have been added to § 50.36 where appropriate. Facilities licensed under § 50.21(a) for medical therapy uses and facilities licensed under § 50.21(c) for research and development activities do not have separate sections dealing with notification and reporting. The reporting requirements on the automatic safety system and for these types of reactors are contained within 50.36. Accordingly, language is being added to § 50.36(c)(1)(ii)(A) to make it conform with § 50.72(b)(2)(iii) and § 50.73(a)(2)(v).

An effort has been made to use consistent terminology with regard to paperwork throughout this multi-part rule. For example, the term "retain" conveys the idea of keeping secure or intact and the term "maintain" continuing to preserve and update, in this case, a record. Consistency of terminology and specificity of recordkeeping requirements and retention periods should assist an NRC applicant or a licensee in complying with these requirements.

The proposed changes in this rule result in an overall reduction in the recordkeeping burden imposed on the NRC applicant or licensee. The major reduction in burden results from proposing 139 specific retention periods, primarily three years or the life of a license, for records that now must be retained indefinitely. This major reduction, plus four other reductions of retention periods by two years, offsets the proposed increase in retention periods for 53 records; 41 cases by one year, 10 cases by two years, 1 case by two and one half years, and 1 case by three years. Based on staff's understanding of current industry practices, the increases in retention would not impose any additional burden or could be readily accommodated within current equipment configurations and, therefore, would represent no appreciable increase in burden. A paragraph describing the form and condition of a record acceptable to the NRC for review is proposed for ten parts. These paragraphs are comparable to similar provisions currently in other parts of the NRC regulations.

Specifying clearly in NRC regulations what records to retain, how long to retain them, and the condition of a record required for NRC inspection is mutually beneficial to the applicant or licensee and to the NRC. The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) added impetus to the NRC's interest in the regulatory burden imposed on an applicant or a licensee by the preparation and retention of records. Furthermore, OMB's regulations implementing the Paperwork Reduction Act require that record retention requirements imposed by Federal regulation contain specific retention periods. The NRC complies with the Act's requirement for Office of Management and Budget (OMB) review of the information collection requirements in each rulemaking. In addition, two documents on paperwork are being prepared for publication in the NUREG-series: one document will be based on Regulatory Guide 10.1, which is a compilation of reporting requirements for persons subject to NRC regulations, and the other document will summarize the record retention periods for the recordkeeping requirements contained in NRC regulations. These companion documents should be useful to an NRC applicant or a licensee.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in categorical exclusions 10 CFR 51.22(c) (1) and (3). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Requirements in eighteen parts included in this rule were assigned approval numbers by the Office of Management and Budget as follows:

Part 4—3150–0053; Part 11—3150–0062; Part 25—3150–0046; Part 30—3150–0017; Part 31—3150–0016; Part 32—3150–0001; Part 34—3150–0007; Part 35—3150–0010; Part 40—3150–0020; Part 50—3150–0011; Part 60—3150–0127; Part 61—3150–0135; Part 70—3150–0009; Part 71—3150–0008; Part 73—3150–0002; Part 74—3150–0123; Part 75—3150–0055; Part 95—3150–0047; Part 110—3150–0036.

This proposed rule has been submitted to the Office of Management and Budget for review and approval.

Regulatory Flexibility Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), and NRC Size Standards (50 FR 50241), the Commission hereby certifies that, if promulgated, this rule will not have a significant economic impact upon a substantial number of small entities. The proposed rule would amend parts of the NRC regulations by specifying a period to retain each required record. The rule is expected to affect most facility and materials licensees by reducing the regulatory burden of retaining records for an unnecessarily long or indefinite period. Therefore, it is not expected to have a significant economic impact on any licensee. However, comments on the expected economic impact of this proposed rule on any small entity are welcome.

Application of Backfit Rule

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to the proposed rule. The proposed rule is purely administrative in nature, and therefore does not result in the "modification of or addition to systems, structures, components, or design of a facility . . . or the procedures or organization required to design, construct, or operate a facility . . .". See 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Parts 4, 11, 25, 30, 31, 32, 34, 35, 40, 50, 60, 61, 70, 71, 73, 74, 75, 95, and 110

Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Parts 4, 11, 25, 30, 31, 32, 34, 35, 40, 50, 60, 61, 70, 71, 73, 74, 75, 95, and 110.

PART 4—NONDISCRIMINATION IN FEDERALLY ASSISTED COMMISSION PROGRAMS

1. The authority citation for Part 4 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. A new § 4.6 is added to read as follows:

§ 4.6 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

3. Section 4.32 is revised to read as follows:

§ 4.32 Compliance reports.

(a) Each recipient shall keep records and submit to the responsible NRC official timely, complete, and accurate compliance reports at the times and in the form and containing the information that the responsible NRC official may determine to be necessary to enable the official to ascertain whether the recipient has complied or is complying with this subpart.

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(b) In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, the other recipient shall also submit necessary compliance reports to the primary recipient to enable the primary recipient to carry out its obligations under this subpart.

(c) The primary recipient shall retain each record of information needed to complete a compliance report pursuant to paragraph (a) of this section for three years or as long as the primary recipient retains the status of primary recipient as defined in § 4.3, whichever is shorter.

4. In § 4.125, the introductory text of paragraph (d) is revised to read as follows:

§ 4.125 Preemployment inquiries.

* * * * *

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected on separate forms. The recipient shall retain each form as a record for three years from the date the applicant's employment ends, or, if not hired, from the date of application. Each form must be accorded confidentiality as a medical record, except that:

* * * * *

5. In § 4.127, the introductory text of paragraph (d) is revised to read as follows:

§ 4.127 Existing facilities.

* * * * *

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop a transition plan setting forth the steps necessary to complete the changes. The plan is to be developed with the assistance of interested persons, including handicapped persons, or organizations representing handicapped persons, and the plan is to meet with the approval of the NRC. The recipient shall retain a copy of the transition plan as a record until any structural change to a facility is complete. A copy of the transition plan is to be made available for public inspection. At a minimum, the plan is to:

* * * * *

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

6. The authority citation for Part 11 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 11.9 [Amended]

7. Section 11.9 is amended by changing "two years" to "three years" in the last sentence.

8. A new § 11.10 is added to read as follows:

§ 11.10 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

9. In § 11.13, paragraph (b) is revised to read as follows:

§ 11.13 Special requirements for transportation.

* * * * *

(b) Each licensee who, 365 days after Commission approval of the amended security plan submitted in accordance with § 11.11(a), transports or delivers to a carrier for transport special nuclear material subject to the physical protection requirements of § 73.20, 73.25, 73.26, or 73.27 of this chapter shall confirm and record prior to shipment the name and special nuclear material access authorization number of all individuals identified in paragraph (a) of this section assigned to the shipment. The licensee shall retain this record for three years after the last shipment is made. However, the licensee need not confirm and record the special nuclear material access authorization number in the case of any individual for whom an application has been submitted and is pending before the NRC in accordance with paragraph (a) of this section.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

10. The authority citation for Part 25 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 25.11 [Amended]

11. Section § 25.11 is amended by changing "two years" to "three years" in the last sentence.

12. In 25.13, the existing text is designated paragraph (a) and a new paragraph (b) is added to read as follows:

§ 25.13 Records maintenance.

* * * * *

(b) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

§ 25.23 [Amended]

13. In § 25.23, the introductory text is amended by changing "one year" to "three years" in the fourth sentence.

§ 25.35 [Amended]

14. In § 25.35, the last sentence of the existing text is amended by changing "two years" to "three years."

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

15. The authority citation for Part 30 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

16. In § 30.34, paragraph (g) is revised to read as follows:

§ 30.34 Terms and conditions of licenses.

* * * * *

(g) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators shall test the generator eluates for molybdenum-99 breakthrough in accordance with § 35.14(b)(4) (i) through (iv) of this chapter. The licensee shall record the results of each test and retain each record for three years after the record is made.

* * * * *

17. In § 30.51, paragraph (c) is removed, paragraph (d) is redesignated (c), and paragraphs (a) and (b) are revised to read as follows:

§ 30.51 Records.

(a) Each person who receives byproduct material pursuant to a license issued pursuant to the regulations in this part and Parts 31 through 35 of this chapter shall keep records showing the receipt, transfer, and disposal of such byproduct material as follows:

(1) The licensee shall retain each record of receipt of byproduct material as long as the material is possessed and for three years following transfer or disposal of the material.

(2) The licensee who transferred the material shall retain each record of transfer for three years after each transfer unless a specific requirement in another part of the regulations in this chapter dictates otherwise.

(3) The licensee who disposed of the material shall retain each record of disposal of byproduct material until the Commission terminates each license that authorizes disposal of the material.

(b) The licensee shall retain each record that is required by the regulations in this part and Parts 31 through 35 of this chapter or by license condition for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, the record must be retained until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

* * * * *

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

18. The authority citation for Part 31 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

19. In § 31.5, paragraph (c)(4) is revised to read as follows:

31.5 Certain measuring, gauging, or controlling devices.[2]

* * * * *

(c) * * *

(4) Shall maintain records showing compliance with the requirements of paragraphs (c)(2) and (c)(3) of this section. The records must show the results of tests. The records also must show the dates of performance of, and the names of persons performing, testing, installing, servicing, and removing from the installation radioactive material and its shielding or containment. The licensee shall retain these records as follows:

(i) Each record of a test for leakage of radioactive material required by paragraph (c)(2) of this section must be retained for three years after the next required leak test is performed or until the sealed source is transferred or disposed of.

(ii) Each record of a test of the on-off mechanism and indicator required by paragraph (c)(2) of this section must be retained for three years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of.

(iii) Each record that is required by paragraph (c)(3) of this section must be retained for three years from the date of the recorded event or until the device is transferred or disposed of.

* * * * *

20. A new § 31.12 is added to read as follows:

§ 31.12 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

21. The authority citation for Part 32 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201 88 Stat. 1242, as amended (42 U.S.C. 5841).

22. A new § 32.3 is added to read as follows:

§ 32.3 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

23. The authority citation for Part 34 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

24. A new § 34.4 is added to read as follows:

§ 34.4 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

§ 34.24 [Amended]

25. Section 34.24 is amended by changing "two years" to "three years" in the next to last sentence.

26. In § 34.25, paragraph (c) is revised to read as follows:

§ 34.25 Leak testing, repair, tagging, opening, modification, and replacement of sealed sources.

* * * * *

(c) The leak test must be capable of detecting the presence of 0.005 microcurie of removable contamination on the sealed source. An acceptable leak test for sealed sources in the possession of a radiography licensee would be to test at the nearest accessible point to the sealed-source storage position, or other appropriate measuring point, by a procedure to be approved pursuant to 34.11(f). Each record of leak test results must be kept in units of microcuries or disintegrations per minute (dpm) and retained for inspection by the Commission for three years after it is made.

* * * * *

§ 34.26 [Amended]

27. Section 34.26 is amended by changing "two years" to "three years" in the last sentence.

28. In § 34.27, the introductory text is revised to read as follows:

§ 34.27 Utilization logs.

Each licensee shall maintain current logs, which shall be kept available for three years from the date of the recorded event, for inspection by the Commission, at the address specified in the license, showing for each sealed source the following information:

* * * * *

29. In § 34.28, paragraph (b) is revised to read as follows:

§ 34.28 Inspection and maintenance of radiographic exposure devices, storage containers, and source changers.

* * * * *

(b) The licensee shall conduct a program for inspection and maintenance of radiographic exposure devices, storage containers, and source changers at intervals not to exceed three months or prior to the first use thereafter to ensure proper functioning of components important to safety. The

[2] Persons possessing byproduct material in devices under the general license in § 31.5 before January 15, 1975, may continue to possess, use, or transfer that material in accordance with the requirements of § 31.5 in effect on January 14, 1975.

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licensee shall retain records of these inspections and maintenance for three years.

30. In § 34.29, paragraph (c) is revised to read as follows:

§ 34.29 Permanent radiographic installations.

* * * * *

(c) The alarm system shall be tested at intervals not to exceed three months or prior to the first use thereafter of the source in the installation. The licensee shall retain records of these tests for three years.

31. In § 34.32, the introductory text is revised to read as follows:

§ 34.32 Operating and emergency procedures.

The licensee shall retain a copy of current operating and emergency procedures as a record until the Commission terminates the license that authorizes the activity for which the procedures were developed and, if superseded, retain the superseded material for three years after each change. These procedures shall include instructions in at least the following:

* * * * *

32. In § 34.33, paragraphs (b) and (e) are revised to read as follows:

§ 34.33 Personnel monitoring.

* * * * *

(b) Pocket dosimeters must be read and exposures recorded daily. The licensee shall retain each record of these exposures for three years after the record is made.

* * * * *

(e) Reports received from the film badge or TLD processor must be retained for inspection until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

* * * * *

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

33. The authority citation for Part 35 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

34. A new § 35.5 is added to read as follows:

§ 35.5 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

§ 35.27 [Amended]

35. Section 35.27, paragraph (c) is amended by changing "two years" to "three years."

§ 35.29 [Amended]

36. Section 35.29, paragraph (b) is amended by changing "two years" to "three years."

§ 35.33 [Amended]

37. Section 35.33, paragraph (c) is amended to insert the number for the footnoted NRC form in the second sentence to read "Form NRC 473."

§ 35.50 [Amended]

38. Section 35.50, paragraph (e) is amended by changing "two years" to "three years."

§ 35.51 [Amended]

39. Section 35.51, paragraph (d) introductory text is amended by changing "two years" to "three years."

§ 35.53 [Amended]

40. Section 35.53, paragraph (c) introductory text is amended by changing "two years" to "three years."

§ 35.59 [Amended]

41. Section 35.59, paragraph (i) is amended by changing "two years" to "three years."

§ 35.70 [Amended]

42. Section 35.70, paragraph (h) is amended by changing "two years" to "three years."

§ 35.80 [Amended]

43. Section 35.80, paragraph (f) is amended by changing "two years" to "three years."

§ 35.92 [Amended]

44. Section 35.92, paragraph (b) is amended by changing "two years" to "three years."

§ 35.204 [Amended]

45. Section 35.204, paragraph (c) is amended by changing "two years" to "three years."

§ 35.310 [Amended]

46. Section 35.310, paragraph (b) is amended by changing "two years" to "three years."

§ 35.315 [Amended]

47. Section 35.315, paragraph (a)(4) is amended by changing "two years" to "three years."

§ 35.404 [Amended]

48. Section 35.404, paragraph (b) is amended by changing "two years" to "three years."

§ 35.406 [Amended]

49. Section 35.406, paragraph (d) is amended by changing "two years" to "three years."

§ 35.410 [Amended]

50. Section 35.410, paragraph (b) is amended by changing "two years" to "three years."

§ 35.415 [Amended]

51. Section 35.415, paragraph (a)(4) is amended by changing "two years" to "three years."

§ 35.610 [Amended]

52. Section 35.610, paragraph (c) is amended by changing "two years" to "three years."

§ 35.615 [Amended]

53. Section 35.615, paragraph (d)(4) is amended by changing "two years" to "three years."

§ 35.634 [Amended]

54. Section 35.634, paragraph (c) is amended by changing "two years" to "three years."

55. Section 35.634, paragraph (f) is amended by changing "two years" to "three years."

§ 35.636 [Amended]

56. Section 35.636, paragraph (c) is amended by changing "two years" to "three years."

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

57. The authority citation for Part 40 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

58. In § 40.26, paragraph (c)(2) is revised to read as follows:

§ 40.26 General license for possession and storage of byproduct material as defined in this part.

* * * * *

(c) * * *

(2) The documentation of daily inspections of tailings or waste retention systems and the immediate notification of the appropriate NRC regional office as indicated in Appendix D to 10 CFR Part 20 of this chapter, or the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of any failure in a tailings or waste retention system that results in a release of tailings or waste into unrestricted areas, or of any unusual conditions (conditions not contemplated in the design of the retention system) that if not corrected could lead to failure of the system and result in a release of tailings or waste into unrestricted areas; and any additional requirements the Commission may by order deem necessary. The licensee shall retain this documentation of each daily inspection as a record for three years after each inspection is documented.

* * * * *

59. In 40.35, paragraph (e)(3) is revised to read as follows:

§ 40.35 Conditions of specific licenses issued pursuant to § 40.34.

* * * * *

(e) * * *

(3) Keep records showing the name, address, and a point of contact for each general licensee to whom he transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in 40.25 or equivalent regulations of an Agreement State. The records shall be retained for three years from the date of transfer and shall show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the report requirements of this section.

60. In § 40.61, paragraph (c) is removed, paragraph (d) is redesignated (c), and paragraphs (a) and (b) are revised to read as follows:

Records, Reports, and Inspections

§ 40.61 Records.

(a) Each person who receives source or byproduct material pursuant to a license issued pursuant to the regulations in this part shall keep records showing the receipt, transfer, and disposal of this source or byproduct material as follows:

(1) The licensee shall retain each record of receipt of source or byproduct material as long as the material is possessed and for three years following transfer or disposition of the source or byproduct material.

(2) The licensee who transferred the material shall retain each record of transfer or source or byproduct material until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(3) The licensee shall retain each record of disposal of source or byproduct material until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(4) If source or byproduct material is combined or mixed with other licensed material and subsequently treated in a manner that makes direct correlation of a receipt record with a transfer, export, or disposition record impossible, the licensee may use evaluative techniques (such as first-in-first-out), to make the records that are required by this Part account for 100 percent of the material received.

(b) The licensee shall retain each record that is required by the regulations in this part or by license condition for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, each record must be maintained until the Commission terminates the license that authorizes the activity that is subject to the recordkeeping requirement.

* * * * *

61. In Appendix A to Part 40, I. Technical Criteria, the second paragraph of Criterion 8 and Criterion 8A are revised to read as follows:

Appendix A to Part 40

* * * * *

I. Technical Criteria

* * * * *

Criterion 8 * * *

Checks must be made and logged hourly of all parameters (e.g., differential pressures and scrubber water flow rates) that determine the efficiency of yellowcake stack emission control equipment operation. The licensee shall retain each log as a record for three years after the last entry in the log is made. It must be determined whether or not conditions are within a range prescribed to ensure that the equipment is operating consistently near peak efficiency; corrective action must be taken when performance is outside of prescribed ranges. Effluent control devices must be operative at all times during drying and packaging operations and whenever air is exhausting from the yellowcake stack. Drying and packaging operations must terminate when controls are inoperative. When checks indicate the equipment is not operating within the range prescribed for peak efficiency, actions must be taken to restore parameters to the prescribed range. When this cannot be done without shutdown and repairs, drying and packaging operations must cease as soon as practicable. Operations may not be restarted after cessation due to off-normal performance until needed corrective actions have been identified and implemented. All these cessations, corrective actions, and restarts must be reported to the appropriate NRC regional office as indicated in Criterion 8A, in writing, within ten days of the subsequent restart.

* * * * *

Criterion 8A—Daily inspections of tailings or waste retention systems must be conducted by a qualified engineer or scientist and documented. The licensee shall retain the documentation for each daily inspection as a record for three years after the documentation is made. The appropriate NRC regional office as indicated in Appendix D to 10 CFR Part 20 of this chapter, or the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, must be immediately notified of any failure in a tailings or waste retention system that results in a release of tailings or waste into unrestricted areas, or of any unusual conditions (conditions not contemplated in the design of the retention system) that if not corrected could indicate the potential or lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

62. The authority citation for Part 50 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42.U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

63. In § 50.36, paragraphs (c)(1)(i) (A) and (B) and (ii) (A) and (B) and (c) (2) and (7) are revised to read as follows:

§ 50.36 Technical specifications.

* * * * *

(c) Technical specifications will include items in the following categories:

(1) Safety limits, limiting safety system settings, and limiting control settings. (i)(A) Safety limits for nuclear reactors are limits upon important process variables that are found to be necessary to reasonably protect the integrity of certain of the physical barriers that guard against the uncontrolled release of radioactivity. If any safety limit is exceeded, the reactor must be shut down. The licensee shall notify the Commission, review the matter, and record the results of the review, including the cause of the condition and the basis for corrective action taken to preclude recurrence. Operation must not be resumed until authorized by the Commission. The licensee shall retain the record of the results of each review until the Commission terminates the license for the reactor, except for nuclear power reactors licensed under § 50.21(b) or § 50.22 of this part. For these reactors,

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the licensee shall notify the Commission as required by § 50.72 and submit a Licensee Event Report to the Commission as required by § 50.73.

(B) Safety limits for fuel reprocessing plants are those bounds within which the process variables must be maintained for adequate control of the operation and that must not be exceeded in order to protect the integrity of the physical system that is designed to guard against the uncontrolled release of radio-activity. If any safety limit for a fuel reprocessing plant is exceeded, corrective action must be taken as stated in the technical specification or the affected part of the process, or the entire process if required, must be shut down, unless this action would further reduce the margin of safety. The licensee shall notify the Commission, review the matter, and record the results of the review, including the cause of the condition and the basis for corrective action taken to preclude recurrence. If a portion of the process or the entire process has been shutdown, operation must not be resumed until authorized by the Commission. The licensee shall retain the record of the results of each review until the Commission terminates the license for the plant.

(ii)(A) Limiting safety system settings for nuclear reactors are settings for automatic protective devices related to those variables having significant safety functions. Where a limiting safety system setting is specified for a variable on which a safety limit has been placed, the setting must be so chosen that automatic protective action will correct the abnormal situation before a safety limit is exceeded. If, during operation, it is determined that the automatic safety system does not function as required, the licensee shall take appropriate action, which may include shutting down the reactor. The licensee shall notify the Commission, review the matter, and record the results of the review, including the cause of the condition and the basis for corrective action taken to preclude recurrence. The licensee shall retain the record of the results of each review until the Commission terminates the license for the reactor except for nuclear power reactors licensed under § 50.21(b) or § 50.22 of this part. For these reactors, the licensee shall notify the Commission as required by § 50.72 and submit a Licensee Event Report to the Commission as required by § 50.73. Licensees in these cases shall retain the records of the review for a period of three years following issuance of a Licensee Event Report.

(B) Limiting control settings for fuel reprocessing plants are settings for automatic alarm or protective devices related to those variables having significant safety functions. Where a limiting control setting is specified for a variable on which a safety limit has been placed, the setting must be so chosen that protective action, either automatic or manual, will correct the abnormal situation before a safety limit is exceeded. If, during operation, the automatic alarm or protective devices do not function as required, the licensee shall take appropriate action to maintain the variables within the limiting control-setting values and to repair promptly the automatic devices or to shut down the affected part of the process and, if required, to shut down the entire process for repair of automatic devices. The licensee shall notify the Commission, review the matter, and record the results of the review, including the cause of the condition and the basis for corrective action taken to preclude recurrence. The licensee shall retain the record of the results of each review until the Commission terminates the license for the plant.

(2) *Limiting conditions for operation.* Limiting conditions for operation are the lowest functional capability or performance levels of equipment required for safe operation of the facility. When a limiting condition for operation of a nuclear reactor is not met, the licensee shall shut down the reactor or follow any remedial action permitted by the technical specifications until the condition can be met. When a limiting condition for operation of any process step in the system of a fuel reprocessing plant is not met, the licensee shall shut down that part of the operation or follow any remedial action permitted by the technical specifications until the condition can be met. In the case of a nuclear reactor not licensed under § 50.21(b) or § 50.22 of this part or fuel reprocessing plant, the licensee shall notify the Commission, review the matter, and record the results of the review, including the cause of the condition and the basis for corrective action taken to preclude recurrence. The licensee shall retain the record of the results of each review until the Commission terminates the license for the nuclear reactor or the fuel reprocessing plant. In the case of nuclear power reactors licensed under § 50.21(b) or § 50.22, the licensee shall notify the Commission if required by § 50.72 and shall submit a Licensee Event Report to the Commission as required by § 50.73. In this case, licensees shall retain records associated with preparation of a Licensee Event Report for a period of three years following issuance of the report. For events which do not require a Licensee Event Report, the licensee shall retain each record as required by the technical specifications.

* * * * *

(7) *Written Reports.* Licensees for nuclear power reactors licensed under § 50.21(b) and § 50.22 of this part shall submit written reports to the Commission in accordance with § 50.73 of this part for events described in paragraphs (c)(1) and (c)(2) of this section. For all licensees, the Commission may require Special Reports as appropriate.

* * * * *

64. In § 50.36a, paragraph (a)(1) is revised to read as follows:

§ 50.36a Technical specifications on effluents from nuclear power reactors.

(a) * * *

(1) That operating procedures developed pursuant to § 50.34a(c) for the control of effluents be established and followed and that equipment installed in the radioactive waste system, pursuant to § 50.34(a), be maintained and used. The licensee shall retain the operating procedures in effect as a record until the Commission terminates the reactor license and shall retain each superseded revision of the procedures for three years from the date it was superseded.

* * * * *

65. In § 50.48, paragraph (a) is revised to read as follows:

§ 50.48 Fire protection.

(a) Each operating nuclear power plant must have a fire protection plan that satisfies Criterion 3 of Appendix A to this part. This fire protection plan must describe the overall fire protection program for the facility, identify the various positions within the licensee's organization that are responsible for the program, state the authorities that are delegated to each of these positions to implement those responsibilities, and outline the plans for fire protection, fire detection and suppression capability, and limitation of fire damage. The plan must also describe specific features necessary to implement the program described above, such as administrative controls and personnel requirements for fire prevention and manual fire suppression activities, automatic and manually operated fire detection and suppression systems, and the means to limit fire damage to structures, systems, or components important to safety so that the capability to safely shut down the plant is ensured.[3] The licensee shall retain the fire protection plan and each change to the plan as a record until the Commission terminates the reactor license and shall retain each superseded revision of the procedures for three years from the date it was superseded.

* * * * *

66. In § 50.49, the introductory text of paragraph (d) is revised to read as follows:

§ 50.49 Environmental qualification of electric equipment important to safety for nuclear power plants.

* * * * *

(d) The applicant or licensee shall prepare a list of electric equipment important to safety covered by this section. In addition, the applicant or licensee shall include the information in paragraphs (d) (1), (2), and (3) of this section for this electric equipment important to safety in a qualification file. The applicant or licensee shall keep the list and information in the file current and retain the file in auditable form for the entire period during which the covered item is installed in the nuclear power plant or is stored for future use to permit verification that each item of electric equipment important to safety meets the requirements of paragraph (j) of this section.

* * * * *

67. In § 50.54, paragraph (q) is revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(q) A licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in § 50.47(b) and the requirements in Appendix E to this part. A licensee authorized to possess and/or operate a research reactor or a fuel facility shall follow and maintain in effect emergency plans which meet the requirements in Appendix E to this part. The licensee shall retain the emergency plan and each change that decreases the effectiveness of the plan as a record until the Commission terminates the license for the nuclear power reactor. The nuclear power reactor licensee may make changes to these plans without Commission approval only if the changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standards of § 50.47(b) and the requirements of Appendix E to this part. The research reactor and/or the fuel facility licensee may make changes to these plans without Commission approval only if these changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E to this part. The nuclear power reactor, research reactor, or fuel facility licensee shall retain a record of each change to the emergency plan made without prior Commission approval for a period of three years from the date of the change. Proposed changes that decrease the effectiveness of the approved emergency plans must not be implemented without application to and approval by the Commission. The licensee shall submit, as specified in § 50.4, a report of each proposed change for approval. If a change is made without approval, the licensee shall submit, as specified in § 50.4, a report of each change within 30 days after the change is made.

* * * * *

68. In § 50.71, paragraph (c) is revised to read as follows:

§ 50.71 Maintenance of records, making of reports.

* * * * *

(c) Records that are required by the regulations in this part, by license condition, or by technical specification, must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license.

* * * * *

69. In Appendix R to Part 50, Section III, Specific Requirements, paragraph I.3.d is revised to read as follows:

Appendix R—Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979

* * * * *

III. * * *

I. * * *

3. * * *

d. At 3-year intervals, a randomly selected unannounced drill must be critiqued by qualified individuals independent of the licensee's staff. A copy of the written report from these individuals must be available for NRC review and shall be retained as a record as specified in § III. I.4 of this appendix.

* * * * *

[3] Basic fire protection guidance for nuclear power plants is contained in two NRC documents:

Branch Technical Position Auxiliary Power Conversion System Branch BTP APCSB 9.5–1, "Guidelines for Fire Protection for Nuclear Power Plants," for new plants docketed after July 1, 1976, dated May 1976.

Appendix A to BTP APCSB 9.5–1, "Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976," for plants that were operating or under various stages of design or construction before July 1, 1976, dated August 23, 1976.

Also see Note 4.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

70. The authority citation for Part 60 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201) Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

71. Section 60.4 is revised to read as follows:

§ 60.4 Communications and records.

(a) Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be addressed to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Communications, reports, and applications may be delivered in person at the Commission's offices at 1717 H Street NW., Washington DC, or 7915 Eastern Avenue, Silver Spring, Maryland.

(b) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

72. In § 60.71, the section heading and paragraph (b) are revised to read as follows:

§ 60.71 Records and reports.

* * * * *

(b) Records of the receipt, handling, and disposition of radioactive waste at a geologic repository operations area shall contain sufficient information to provide a complete history of the movement of the waste from the shipper through all phases of storage and disposal. DOE shall retain these records in a manner that ensures their useability for future generations in accordance with § 60.51(a)(2).

* * * * *

73. In § 60.72, paragraph (a) is revised to read as follows:

§ 60.7 Construction records.

(a) DOE shall maintain records of construction of the geologic repository operations area in a manner that ensures their useability for future generations in accordance with § 60.51(a)(2).

* * * * *

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PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

74. The authority citation for Part 61 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

75. In § 61.80 of Subpart G, paragraphs (e) and (f) are revised to read as follows:

Subpart G—Records, Reports, Tests, and Inspections

§ 61.80 Maintenance of records, reports, and transfers.

* * * * *

(e) Notwithstanding paragraphs (a) through (d) of this section, the licensee shall record the location and the quantity of radioactive wastes contained in the disposal site and transfer these records upon license termination to the chief executive of the nearest municipality, the chief executive of the county in which the facility is located, the county zoning board or land development and planning agency, the State governor and other State, local, and Federal governmental agencies as designated by the Commission at the time of license termination.

(f) Following receipt and acceptance of a shipment of radioactive waste, the licensee shall record the date of disposal of the waste, the location in the disposal site, the condition of the waste packages as received, any discrepancies between materials listed on the manifest and those received, and any evidence of leaking or damaged packages or radiation or contamination levels in excess of limits specified in Department of Transportation and Commission regulations. The licensee shall briefly describe any repackaging operations of any of the waste packages included in the shipment, plus any other information required by the Commission as a license condition. The licensee shall retain these records until the Commission terminates the license that authorizes the activities described in this section or until the licensee transfers these records as required by paragraph (e) of this section.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

76. The authority citation for Part 70 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

77. In 70.22, paragraphs (g), (h), (i), (j), and (k) are revised to read as follows:

§ 70.22 Contents of applications.

* * * * *

(g)(1) Each application for a license that would authorize the transport or delivery to a carrier for transport of special nuclear material in an amount specified in § 73.1(b)(2) of this chapter must include (i) a description of the plan for physical protection of special nuclear material in transit in accordance with §§ 73.20, 73.25, 73.26, 73.27, and 73.67 (a), (e), and (g) for 10 kg or more of special nuclear material of low strategic significance, and § 73.70(g) of this chapter including, as appropriate, a plan for the selection, qualification, and training of armed escorts, or the specification and design of a specially designed truck or trailer, and (ii) a licensee safeguards contingency plan or response procedures, as appropriate, for dealing with threats, thefts, and industrial sabotage relating to the special nuclear material in transit.

(2) Each application for such a license involving formula quantities of strategic special nuclear material must include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to Part 73 of this chapter, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.)

(3) The licensee shall retain this description of the plan for physical protection of special nuclear material in transit and the safeguards contingency plan or safeguards response procedures and each change to the plan or procedures as a record for a period of three years following the date on which the licensee last possessed the appropriate type and quantity of special nuclear material requiring this record under each license.

(h)(1) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), uranium-233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium), other than a license for possession or use of this material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, must include a physical security plan that demonstrates how the applicant plans to meet the requirements of § 73.20, 73.40, 73.45, 73.46, 73.50, 73.60, 73.70, and 73.71 of this chapter in the conduct of the activity to be licensed, including the identification and description of jobs as required by 11.11(a) of this chapter. Part II must list tests, inspections, and other means to demonstrate compliance with such requirements.

(2) The licensee shall retain a copy of this physical security plan and each change to the plan as a record for a period of three years following the date on which the licensee last possessed the appropriate type and quantity of special nuclear material requiring this record under each license.

(i) Each application for a license to possess and use special nuclear material for processing and fuel fabrication, scrap recovery, or conversion of uranium hexafluoride must contain, in addition to the other information required by this section, plans for coping with emergencies.[3] The licensee shall retain a copy of these plans for coping with emergencies as records until the Commission terminates each license obtained by this application or any application for renewal of a license, and each change to the plan for three years after the date of the change.

(j)(1) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), uranium-233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium) other than a license for possession or use of this material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, must include a licensee safeguards contingency plan for dealing with threats, thefts, and industrial sabotage, as defined in Part 73 of this chapter, relating to nuclear facilities licensed under Part 50 of this chapter or to the possession of special nuclear material licensed under this part.

(2) Each application for such a license must include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to Part 73 of this chapter, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth

[3] Emergency plans shall contain the elements that are listed in Section IV, "Content of Emergency Plans," of Appendix E to Part 50 of this chapter.

category of information, Procedures, does not have to be submitted for approval.

(3) The licensee shall retain a copy of this safeguards contingency plan as a record until the Commission terminates each license obtained by this application or any application for renewal of a license and retain each change to the plan as a record for three years after the date of the change.

(k) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee special nuclear material of moderate strategic significance or 10 kg or more of special nuclear material of low strategic significance as defined under § 73.2 (x) and (y) of this chapter, other than a license for possession or use of this material in the operation of a nuclear power reactor licensed pursuant to Part 50 of this chapter, must include a physical security plan that demonstrates how the applicant plans to meet the requirements of § 73.67 (d), (e), (f), and (g), as appropriate, of this chapter. The licensee shall retain a copy of this physical security plan as a record for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license and each change to the plan for three years after the change.

* * * * *

78. In § 70.24, paragraph (a)(3) is revised to read as follows:

§ 70.24 Criticality accident requirements.

(a) * * *

(3) The licensee shall maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm. These procedures must include the conduct of drills to familiarize personnel with the evacuation plan, plans and designation of responsible individuals for determining the cause of the alarm, and placement of radiation survey instruments in accessible locations for use in such an emergency. The licensee shall retain a copy of current procedures for each area as a record for as long as licensed special nuclear material is handled, used, or stored in the area. The licensee shall retain any superseded portion of the procedures for three years after the portion is superseded.

* * * * *

79. In 70.32, paragraphs (c)(2), (d), (e), and (g) are revised to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(c) * * *

(2) The licensee shall maintain records of changes to the material control and accounting program made without prior Commission approval, for three years, after they are superseded and shall furnish to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the appropriate NRC Regional Office shown in Appendix A to Part 73 of this chapter, a report containing a description of each change within:

* * * * *

(d) The licensee shall make no change which would decrease the effectiveness of the plan for physical protection of special nuclear material in transit prepared pursuant to § 70.22(g) or § 73.20(c) of this chapter without the prior approval of the Commission. A licensee desiring to make such changes shall submit an application for a change in the technical specifications incorporated in his or her license, if any, or for an amendment to the license pursuant to § 50.90 or § 70.34 of this chapter, as appropriate. The licensee may make changes to the plan for physical protection or special nuclear material without prior Commission approval if these changes do not decrease the effectiveness of the plan. The licensee shall retain a copy of the plan a record for the period during which the licensee possesses a formula quantity of special nuclear material requiring this record under each license and each change to the plan for three years from the effective date of the change. A report containing a description of each change shall be furnished the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the appropriate NRC Regional Office shown in Appendix A to Part 73 of this chapter within two months after the change.

(e) The licensee shall make no change which would decrease the effectiveness of a security plan prepared pursuant to §§ 70.22(h), 70.22(k), or 73.20(c) without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to its license pursuant to § 70.34. The licensee shall maintain records of changes to the plan made without prior Commission approval, for three years from the effective date of the change, and shall furnish to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the appropriate NRC Regional Office shown in Appendix A to Part 73 of this chapter, a report containing a description of each change within two months after the change is made.

* * * * *

(g) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C to Part 73 of this chapter for effecting the actions and decisions contained in the Responsibility Matrix of its safeguards contingency plan. The licensee shall retain a copy of the safeguards contingency plan procedures as a record for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license for which the procedures were developed and each change to the plan for three years from the effective date of the change. The licensee shall make no change that would decrease the safeguards effectiveness of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix) contained in any licensee safeguards contingency plan prepared pursuant to §§ 70.22(g), 70.22(j), 73.30(g), or 73.40 of this chapter without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to its license pursuant to § 70.34. The licensee may make changes to the licensee safeguards contingency plan without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain each change to the plan made without prior approval as a record during the period for which possession of a formula quantity of special nuclear material is authorized under a license and retain the superseded material for three years from the effective date of the change and shall furnish a report containing a description of each change within 60 days after the change is made to the Regional Administrator of the appropriate NRC Regional Office specified in Appendix A to Part 73 of this chapter, with a copy to the Director of Nuclear Material Safety and Safeguards.

* * * * *

80. In § 70.42, paragraphs (d) (1), (2), (3), (4), and (5) are revised to read as follows:

§ 70.42 Transfer of special nuclear material.

* * * * *

(d) * * *

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(1) The transferor may have in his or her possession, and read, a current copy of the transferee's specific license or registration certificate. The transferor shall retain a copy of each license or certificate for three years from the date that it was obtained.

(2) The transferor may have in its possession a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of special nuclear material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date. The transferor shall retain the written certification as a record for three years from the date of receipt of the certification;

(3) For emergency shipments the transferor may accept oral certification by the transferee that he or she is authorized by license or registration certificate to receive the type, form, and quantity of special nuclear material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date, provided that the oral certification is confirmed in writing within ten days. The transferor shall retain the written confirmation of the oral certification for three years from the date of receipt of the confirmation;

(4) The transferor may obtain other sources of information compiled by a reporting service from official records of the Commission or the licensing agency of an Agreement State as to the identity of licensees and the scope and expiration dates of licenses and registrations. The transferor shall retain the compilation of information as a record for three years from the date that it was obtained; or

(5) When none of the methods of verification described in paragraphs (d)(1) to (4) of this section are readily available or when a transferor desires to verify that information received by one of these methods is correct or up-to-date, the transferor may obtain and record confirmation from the Commission or the licensing agency of an Agreement State that the transferee is licensed to receive the special nuclear material. The transferor shall retain the record of confirmation for three years from the date the record is made.

81. In § 70.51, paragraphs (b) (2), (3), (5), and (6), (c), the introductory text of (e)(1), and (f)(2)(v) are revised to read as follows:

§ 70.51 Material balance, inventory, and records requirements.

* * * * *

(b) * * *

(2) Each record that is required by the regulations in this part or by license condition must be maintained and retained for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, the licensee shall retain the record until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(3) Each record of receipt, acquisition, or physical inventory of special nuclear material that must be maintained pursuant to paragraph (b)(1) of this section must be retained as long as the licensee retains possession of the material and for three years following transfer of such material.

* * * * *

(5) Each record of transfer of special nuclear material to other persons must be retained by the licensee who transferred the material until the Commission terminates the license authorizing the licensee's possession of the material. Each record required by paragraph (e)(1)(v) of this section shall be retained for three years after it is made.

(6) Each record of disposal of special nuclear material must be retained until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(c) Each licensee who is authorized to possess at any one time special nuclear material in a quantity exceeding one effective kilogram of special nuclear material shall establish, maintain, and follow written material control and accounting procedures that are sufficient to enable the licensee to account for the special nuclear material in the licensee's possession under license. The licensee shall retain these procedures until the Commission terminates the license that authorizes possession of the material and retain any superseded portion of the procedures for three years after the portion is superseded.

* * * * *

(e) * * *

(1) Maintain procedures that include items listed in paragraphs (e)(1) (i), (ii), (iii), (iv), (v), (vi), and (vii) of this section and retain each record required in these paragraphs for three years after the record is made.

* * * * *

(f) * * *

(2) * * *

(v) Documentation in compliance with the requirements of paragraphs (f)(2) (i), (ii), (iii), and (iv) of this section. Each record documenting compliance with these requirements must be retained for three years after it is made.

* * * * *

82. In § 70.57, the introductory text of paragraph (b) and paragraphs (b) (2), (3), (4), (6), (7), (8), (11), and (12) are revised to read as follows:

§ 70.57 Measurement control program for special nuclear materials control and accounting.

* * * * *

(b) In accordance with § 70.58(f), each licensee who is authorized to possess at any one time and location strategic special nuclear material, or special nuclear material of moderate strategic significance, in a quantity exceeding one effective kilogram and to use such special nuclear material for activities other than those involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, those involved in a waste disposal operation, or as sealed sources, shall establish and maintain a measurement control program for special nuclear materials control and accounting measurements. Each program function must be identified and assigned in the licensee organization in accordance with § 70.58(b)(2), and functional organizational relationships must be set forth in writing in accordance with § 70.58(b)(3). The program must be described in a manual which contains the procedures, instructions, and forms prepared to meet the requirements of this paragraph, including procedures for the preparation, review, approval, and prompt dissemination of any program modifications or changes. The licensee shall retain the current program as a record until the Commission terminates the license authorizing possession of the nuclear materials. The licensee's program shall include the following:

* * * * *

(2) Provisions must be made for management reviews to determine the adequacy of the program and to assess the applicability of current procedures and for planned audits to verify conformance with all aspects of the program. These reviews and audits must be performed at intervals not to exceed 12 months. Audits and reviews must be performed by trained individuals independent of direct responsibility for the receipt, custody, utilization, measurement, measurement quality, and shipment of special nuclear material. The results of reviews and audits must be recorded and reported to licensee management. The licensee shall retain each record of a review or an audit for three years after the record is made.

(3) The licensee shall ensure that any person who contracts to perform materials control and accounting measurement services conforms with applicable requirements of paragraphs (b) (4) through (8) and (10) through (12) of this section. Conformance must include reporting by the contractor of sufficient error data to allow the licensee to calculate bias corrections and measurement limits of error. All statistical studies must be reported or references in the measurement report submitted to the licensee, who shall have access to the contractor's supporting control data. The licensee shall perform reviews to determine the adequacy of the contractor's program and audits to verify conformance with all aspects of the program. Reviews and audits must be performed at intervals not to exceed 12 months. The results of reviews and audits must be documented and reported to licensee management. The licensee shall retain the record of the results of the licensee review and audit of the contractor's program for three years after the record is made.

(4) In order to ensure that potential sources of sampling error are identified and that samples are representative, process and engineering tests must be performed using well characterized materials to establish or to verify the applicability of existing procedures for sampling special nuclear materials and for maintaining sample integrity during transport and storage. The Licensee shall record the results of the above process and engineering tests and shall maintain those results as a record for as long as that sampling systems is in use and for three years following the last such use. The program must ensure that such procedures are maintained and followed, and that sampling is included in the procedures for estimating biases, limits for systematic errors, and random error variances.

* * * * *

(6) To ensure the adequacy of each measurement system with respect to process flows, sampling and measurement points, and nominal material compositions, engineering analyses and evaluations must be made of the design, installation, preoperational tests, calibration, and the operation of each system. These analyses and evaluations must be repeated whenever a significant change is made in any component of a system. The licensee shall record the results of these analyses and evaluations and retain these records for three years after the life of the process or equipment.

(7) Procedures and performance criteria must be established for the training, qualifying, and periodic requalifying of all personnel who perform sampling and measurements for materials control and accounting purposes. The licensee shall retain as a record the results of personnel qualification or requalification for three years after the record is made.

(8) The program must generate current data on the performance of measuring processes, including, as appropriate, values for bias corrections and their uncertainties, random error variances, limits for systematic errors, and other parameters needed to establish the uncertainty of measurements pertaining to materials control and accounting. The program data must reflect the current process and measurement conditions existing at the time the control measurements are made. The licensee shall record this data and retain this record for three years after the record is made. Measurements which are not controlled by the program may not be used for materials control or for accounting proposes. The program shall include:

* * * * *

(11)(i) The licensee shall establish and maintain a statistical control system, including control charts and formal statistical procedures, designed to monitor the quality of each type of program measurement. The licensee shall retain a copy of the current statistical control system as a record until the Commission terminates each license that authorizes possession of the material that the system affects and shall retain copies of such system documents for previous inventory periods as a record for three years after they are replaced.

(ii) Control chart limits must be established to be equivalent to levels of significance of 0.05 and 0.001. Whenever control data exceed the 0.05 control limits, the licensee shall investigate the condition and take corrective action in a timely manner. The licensee shall record the results of these investigations and actions and retain each record for three years after the record is made. Whenever the control data exceed the 0.001 control limits, the measurement system that generated the data must not be used for material control and accounting purposes until the deficiency has been corrected and the system has been brought into control at the 0.05 control level.

(12) The licensee shall provide a records system in which all data, information, reports, and documents generated by the measurement control program must be retained for three years. Records must include a summary of the error data utilized in the limit of error calulations performed for each material balance period. The records system must be organized for efficient retrieval of program information. Each reported result must be readily relatable to the original measurement data and to all relevant measurement control information, including pertinent calibration data. Records must be available for NRC inspection.

* * * * *

83. In § 70.58, paragraphs (b)(3), (e), (f), (h), and (j) and the introductory text of paragraphs (i) and (k) are revised to read as follows:

§ 70.58 Fundamental nuclear material controls.

* * * * *

(b) * * *

(3) Material control and accounting functional and organizational relationships must be set forth in writing in job descriptions, organizational directives, instructions, procedure manuals, etc. This documentation must include position qualification requirements and definitions of authorities, responsibilities, and duties. Delegations of material control and accounting responsibilities and authority must be in writing. The licensee shall retain this documentation as a record until the Commission terminates each license that authorizes the activity that is subject to retention of the documentation, and if any portion of the documentation is superseded, retain the superseded material for three years after each change.

* * * * *

(e) A system must be established, maintained, and followed for the measurement of all special nuclear material received, produced, or transferred between MBAs, transferred from MBAs to ICAs, on inventory, or shipped, discarded, or otherwise removed from inventory and for the determination of the limit of error associated with each such measured quantity except for plutonium-beryllium sources; samples that have been determined by other means to contain less than 10 grams U-235, U-233, or plutonium each; and reactor-irradiated fuels involved in research, development, and evaluation programs in facilities other than irradiated-fuel reprocessing plants. The system must be described in writing and provide for sufficient measurements to substantiate the quantities of element and isotope measured and the associated limits of error. The licensee shall record the required measurements and associated limits of error and shall retain any

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record associated with this system for three years after the record is made.

(f) A program must be established, maintained, and followed pursuant to § 70.57(b) for the continuing determination and control of the systematic and random errors of measurement processes at a level commensurate with the requirements of § 70.51(e)(5). The licensee shall retain each completed record required by the program for three years after the record is made.

* * * * *

(h) A system of storage and internal handling controls must be established, maintained, and followed to provide current knowledge of the identity, quantity, and location of all special nuclear material contained within a plant in discrete items and containers. The licensee shall include procedures as specified in § 70.51(e)(1) and retain any record associated with the procedures for six months after the record is made;

(i) Procedures for special nuclear material scrap control must be established, maintained, and followed to limit the accumulation and the uncertainty of measurement of these materials on inventory. The licensee shall retain a copy of the current procedures as a record until the Commission terminates each license that authorizes the activity that is subject to the retention of procedures and, if any portion of the procedures is superseded, retain the superseded portion for three years after each change. Such procedures must include:

* * * * *

(j) Physical inventory procedures must be established, maintained, and followed so that special nuclear material balance and their measurement uncertainties can be determined on the basis of measurements in compliance with the material balance and inventory requirements and criteria specified in § 70.51. The licensee shall retain a copy of the current procedures as a record until the Commission terminates each license that authorizes the activity that is subject to the retention of procedures and, if any portion of the procedures is superseded, retain the superseded portion for three years after each change.

(k) A system of records and reports must be established, maintained, and followed that will provide information sufficient to locate special nuclear material and to close a measured material balance around each material balance area and the total plant, as specified in § 70.51. As required by § 70.51, the licensee shall retain the records associated with this system for three years after the records are made. This system shall include:

* * * * *

84. In § 70.60, paragraph (a) is revised to read as follows:

§ 70.60 Well-logging operations using sealed sources.

(a) A licensee may perform well-logging operations with a sealed source only after the licensee executes a written agreement with the well owner or operator that, within thirty (30) days after a well-logging source has been classified as irretrievable, the following requirements will be implemented. The licensee shall retain this written agreement as a record for three years after completion of the well-logging operations that are the subject of the agreement.

* * * * *

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

85. The authority citation for Part 71 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

86. In § 71.1, the existing paragraph is designated (a) and the section heading is revised and a new paragraph (b) is added to read as follows:

§ 71.1 Communications and records.

* * * * *

(b) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

87. Section 71.91 is revised to read as follows:

§ 71.91 Records.

(a) Each licensee shall maintain for a period of three years after shipment a record of each shipment of licensed material not exempt under § 71.10, showing, where applicable:

(1) Identification of the packaging by model number;

(2) Verification that there are no significant defects in the packaging, as shipped;

(3) Volume and identification of coolant;

(4) Type and quantity of licensed material in each package, and the total quantity of each shipment;

(5) For each item of irradiated fissile material:

(i) Identification by model number and/or serial number;

(ii) Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and

(iii) Any abnormal or unusual condition relevant to radiation safety.

(6) Date of the shipment;

(7) For Fissile Class III and for Type B packages, any special controls exercised;

(8) Name and address of the transferee;

(9) Address to which the shipment was made; and

(10) Results of the determinations required by § 71.87 and by the conditions of the package approval.

(b) The licensee shall make available to the Commission for inspection, upon reasonable notice, all records required by this part. Records shall be considered valid only if stamped, initialed, or signed and dated by authorized personnel or otherwise authenticated.

(c) Each licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by 71.85: design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring of work performance and materials analyses; and results of maintenance, modification, and repair. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability and the action taken in connection with any deficiencies noted. The records must be retained for the life of the packaging to which they apply and three years thereafter.

88. In § 71.97, paragraphs (c)(4), (e), and (f)(2) are revised to read as follows:

§ 71.97 Advance notification of shipment of nuclear waste.

* * * * *

(c) * * *

(4) The licensee shall retain a copy of the notification as a record for three years.

* * * * *

(e) *Revision notice.* A licensee who finds that schedule information previously furnished to a governor or governor's designee in accordance with this section will not be met, shall telephone a responsible individual in the office of the governor of the State or of the governor's designee and inform that individual of the extent of the delay beyond the schedule originally reported. The licensee shall maintain a record of the name of the individual contacted for three years.

(f) * * *

(2) The licensee shall state in the notice that it is a cancellation and shall identify the advance notification which is being cancelled. The licensee shall retain a copy of the notice as a record for three years.

89. In § 71.101, paragraph (b) is revised to read as follows:

Subpart H—Quality Assurance

§ 71.101 Quality assurance requirements.

* * * * *

(b) Each licensee shall establish, maintain, and execute a quality assurance program satisfying each of the applicable criteria of §§ 71.101 through 71.137 of this subpart and satisfying any specific provisions that are applicable to the licensee's activities, including procurement of packaging. The licensee shall apply each of the applicable criteria in a graded approach, i.e., to an extent that is consistent with its importance to safety.

* * * * *

90. In § 71.105, paragraph (a) is revised to read as follows:

§ 71.105 Quality assurance program.

(a) The licensee shall establish, at the earliest practicable time, consistent with the schedule for accomplishing the activities, a quality assurance program that complies with the requirements of §§ 71.101 through 71.137 of this subpart. The licensee shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which packaging is used. The licensee shall identify the material and components to be covered by the quality assurance program, the major organizations participating in the program, and the designated functions of these organizations.

* * * * *

91. In § 71.135 paragraph (a) is revised to read as follows:

§ 71.135 Quality assurance records.

(a) The licensee shall maintain sufficient written records to describe the activities affecting quality. The records must include the instructions, procedures, and drawings required by § 71.111 to prescribe quality assurance activities and must include closely related specifications such as required qualifications of personnel, procedures, and equipment. The records must include the instructions or procedures which establish a records retention program that is consistent with applicable regulations and designates factors such as duration, location, and assigned responsibility The licensee shall retain these records for three years beyond the date when the licensee last engages in the activity for which the quality assurance program was developed. If any portion of the written procedures or instructions is superseded, the licensee shall retain the superseded material for three years after it is superseded.

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

92. The authority citation for Part 73 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

93. In § 73.24, paragraph (b)(1) is revised to read as follows:

§ 73.24 Prohibitions.

* * * * *

(b) * * *

(1) The licensee shall confirm and log the arrival at the final destination of each individual shipment and retain the log for three years from the date of the last entry in the log. The licensee shall also schedule shipments to ensure that the total quantity for two or more shipments in transit at the same time does not equal or exceed the formula quantity, or

* * * * *

94. In § 73.25, the introductory text to paragraphs (b)(3) and (c)(1) are revised to read as follows:

§ 73.25 Performance capabilities for physical protection of strategic special nuclear material in transit.

* * * * *

(b) * * *

(3) Detect attempts to gain unauthorized access or introduce unauthorized materials into the vicinity of transports by deceit using the following subsystems and subfunctions. The licensee shall retain a copy of the current procedures required in paragraphs (b)(3) (i) and (ii) of this section as a record for three years after close of period licensee possesses special nuclear material under each license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change.

* * * * *

(c) * * *

(1) * * *

(i) Detect attempts to gain unauthorized entry or introduce unauthorized materials into transports by deceit using the following subsystems and subfunctions. The licensee shall retain a copy of the current procedures required in paragraphs (c)(1) (i) and (ii) of this section as a record for three years after close of period licensee possesses special nuclear material under each license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change.

* * * * *

95. In § 73.26, paragraphs (c) (1)(ii) and (2), the introductory text of paragraph (d)(3), and paragraphs (d)(4) and (e)(1) are revised to read as follows:

§ 73.26 Transportation physical protection systems, subsystems, components, and procedures.

* * * * *

(c) * * *

(1) * * *

(ii) The shipment shall be protected at all times within the geographical limits of the United States as provided in this section and §§ 73.25 and 73.27. The licensee shall retain each record required by these sections for three years after close of period licensee possesses special nuclear material under each license authorizing the licensee to ship this material, and superseded material for three years after each change.

(2) A licensee who exports a formula quantity of strategic special nuclear material shall comply with the requirements of this section and §§ 73.25 and 73.27, as applicable, up to the first point where the shipment is taken off the transport outside the United States. The licensee shall retain each record required by these sections for three years after close of period licensee possesses special nuclear material under each license authorizing the licensee to export this material, and superseded material for three years after each change.

(d) * * *

(3) The licensee or the licensee's agent shall establish, maintain, and follow a written management system to provide for the development, revision, implementation, and enforcement of transportation physical protection procedures.

The licensee or the agent shall retain as a record the current management system for three years after close of period licensee possesses special nuclear material under the license for

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which the system was developed and, if any portion of the system is superseded, retain the superseded material for three years after each change. The system shall include:

* * * * *

(4) Neither the licensee nor the licensee's agent shall permit an individual to act as an escort or other security organization member unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with Appendix B, of this part, "General Criteria for Security Personnel." Upon the request of an authorized representative of the Commission, the licensee or the agent shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities. Armed escorts shall requalify in accordance with Appendix B to this part at least every 12 months. Each requalification must be documented. The licensee or the agent shall retain documentation of the initial qualification for the term of employment and of each requalification as a record for three years from the date of the requalification.

* * * * *

(e) *Contingency and Response Plans and Procedures.* (1) The licensee or the licensee's agent shall establish, maintain, and follow a written safeguards contingency plan for dealing with threats, thefts, and radiological sabotage related to strategic special nuclear material in transit subject to the provisions of this section. This safeguards contingency plan must be in accordance with the criteria in Appendix C to this part, "Licensee Safeguards Contingency Plan." The licensee or the agent shall retain the contingency plan as a record for three years after close of period licensee possesses special nuclear material under each license for which the plan is used and superseded material for three years after each change.

* * * * *

96. In § 73.37, paragraphs (b)(2), (b)(5), and the introductory text of paragraph (b)(3) are revised to read as follows:

§ 73.37 Requirements for physical protection of irradiated reactor fuel in transit.

* * * * *

(b) * * *

(2) Include and retain a copy of current procedures for coping with circumstances that threaten deliberate damage to a spent fuel shipment and with other safeguards emergencies as a record for three years after close of period licensee possesses special nuclear material under each license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change.

(3) Include instructions for each escort and retain a copy of the current instructions as a record for three years after close of period licensee possesses special nuclear material under each license that authorizes the activity that requires the instruction and retain any superseded material for three years after each change. The instructions must direct that, upon detection of the abnormal presence of unauthorized persons, vehicles, or vessels in the vicinity of a spent fuel shipment or upon detection of a deliberately induced situation that has the potential for damaging a spent fuel shipment, the escort will:

* * * * *

(5) Provide for maintenance of a written log by the escorts and communications center personnel for each spent fuel shipment, which will include information describing the shipment and significant events that occur during the shipment, and will be available for review by authorized NRC personnel for a period of at least three years following completion of the shipment.

* * * * *

97. In § 73.40, paragraphs (b), (c)(2), and (d) are revised to read as follows:

§ 73.40 Physical protection: General requirements at fixed sites.

* * * * *

(b) Each licensee subject to the requirements of §§ 73.20, 73.45, 73.46, 73.50, 73.55, or § 73.60 shall prepare a safeguards contingency plan in accordance with the criteria set forth in Appendix C to this part. The licensee shall retain the current plan as a record until the Commission terminates the license for which the plan was developed and, if any portion of the plan is superseded, retain the superseded material for three years after each change. The safeguards contingency plan shall include plans for dealing with threats, thefts, and industrial sabotage relating to nuclear facilities licensed under Part 50 or to the possession of special nuclear material licensed under Part 70 of this chapter. Each licensee subject to the requirements of this paragraph shall submit to the Commission for approval the first four categories of information contained in the safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to this part, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.) [1] The plan shall become effective and be followed by the licensee 30 days after approval by the Commission.

(c) * * *

(2) Detailed procedures developed according to Appendix C to this part available at the licensee's site. The licensee shall retain a copy of the current procedures as a record until the Commission terminates the license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change, and

* * * * *

(d) The licensee shall provide for the implementation, revision, and maintnance of this safeguards contingency plan. To this end, the licensee shall provide for a review at least every twelve months of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review shall include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards system along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements shall be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of three years from the date of the review or audit.

98. In § 73.46, paragraphs (b)(3)(i), (b)(4), (d)(3), (d)(10), (d)(13), (h)(1), and (h)(2) are revised to read as follows:

§ 73.46 Fixed site physical protection systems, subsystems, components, and procedures.

* * * * *

(b) * * *

(3) * * *

(i) Written security procedures that document the structure of the security organization and detail the duties of guards, watchmen, and other individuals responsible for security. The licensee shall retain a copy of the current procedures as a record until the Commission terminates the license for which they were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change; and

* * * * *

(4) The licensee shall not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with Appendix B to this part "General Criteria for Security Personnel." Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel, whether licensee or contractor employees, to carry out their assigned duties and responsibilities. Each guard, watchman, armed response person, or other member of the security organization, whether a licensee or contractor employee, shall requalify in accordance with Appendix B to this part at least every 12 months. This requalification shall be documented. The licensee shall retain the documentation of each requalification as a record for three years after the requalification.

* * * * *

(d) * * *

(3) The licensee shall establish and follow written procedures that will permit access control personnel to identify those vehicles that are authorized and those materials that are not authorized entry to protected, material access, and vital areas. The licensee shall retain a copy of the current procedures as a record until the Commission terminates each license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change.

* * * * *

(10) Before exiting from a material access area, containers of contaminated wastes shall be drum scanned and tamper sealed by at least two individuals, working and recording their findings as a team, who do not have access to material processing and storage areas. The licensee shall retain the records of these findings for three years after the record is made.

* * * * *

(13) Individuals not permitted by the licensee to enter protected areas without escort shall be escorted by a watchman or other individual designated by the licensee while in a protected area and shall be badged to indicate that an escort is required. In addition, the individual shall be required to register his or her name, date, time, purpose of visit and employment affiliation, citizenship, and name of the individual to be visited in a log. The licensee shall retain each log as a record for three years after the last entry is made in the log.

* * * * *

(h) * * *

(1) The licensee shall have a safeguards contingency plan for dealing with threats, thefts, and radiological sabotage related to the strategic special nuclear material and nuclear facilities subject to the provisions of this section. Safeguards contingency plans must be in accordance with the criteria in Appendix C to this part, "Licensee Safeguards Contingency Plans." Contingency plans must include, but need not be limited to, the response requirements in paragraphs (h)(2) through (h)(5) of this section. The licensee shall retain a copy of the current safeguards contingency plan as a record until the Commission terminates the license and, if any portion of the plan is superseded, retain the superseded material for three years after each change.

(2) The licensee shall establish and document response arrangements that have been made with local law enforcement authorities. The licensee shall retain documentation of the current arrangements as a record until the Commission terminates each license requiring the arrangements and, if any arrangement is superseded, retain the superseded material for three years after each change.

* * * * *

99. In § 73.50, paragraphs (a) (3) and (4), (c)(5), and (g) (1) and (2) are revised to read as follows:

§ 73.50 Requirements for physical protection of licensed activities.

* * * * *

(a) * * *

(3) The licensee shall establish, maintain, and follow written security procedures that document the structure of the security organization and detail the duties of guards, watchmen, and other individuals responsible for security. The licensee shall retain a copy of the current procedures as a record until the Commission terminates each license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change.

(4) The licensee shall not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with Appendix B, "General Criteria for Security Personnel," to this part. Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities. Each guard, watchman, armed response person, and other member of the security organization shall requalify in accordance with Appendix B to this part at least every 12 months. This requalification must be documented. The licensee shall retain the documentation of each requalification as a record for three years after the requalification.

* * * * *

(c) * * *

(5) Individuals not employed by the licensee must be escorted by a watchman, or other individual designated by the licensee, while in a protected area and must be badged to indicate that an escort is required. In addition, the licensee shall require that each individual not employed by the licensee register his or her name, date, time, purpose of visit, employment affiliation, citizenship, name and badge number of the escort, and name of the individual to be visited. The licensee shall retain the register of information for three years after the last entry is made in the register. Except for a driver of a delivery or service vehicle, an individual not employed by the licensee who requires frequent and extended access to a protected area or a vital area need not be escorted if the individual is provided with a picture badge, which the individual must receive upon entrance into the protected area and return each time he or she leaves the protected area, that indicates:

(i) Nonemployee-no escort required,

(ii) Areas to which access is authorized, and

(iii) The period for which access has been authorized.

* * * * *

(g) *Response requirement.* (1) The licensee shall have a safeguards contingency plan for dealing with threats, thefts, and industrial sabotage related to the special nuclear material and nuclear facilities subject to the provisions of this section. Safeguards

[1] Licensees subject to § 73.55 may modify their physical security plans to incorporate contingency plan information specified in Appendix C to this part. A physical security plan that contains all the information required in both § 73.55 and Appendix C to Part 73 satisfies the requirement for a contingency plan.

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contingency plans must be in accordance with the criteria in Appendix C to this part, "Licensee Safeguards Contingency Plans." The licensee shall retain a copy of the plan and each change to the plan as a record until the Commission terminates each license for which the plan was developed and retain the superseded materials for three years after each change.

(2) The licensee shall establish and document liaison with law enforcement authorities. The licensee shall retain the documentation of the current liaison as a record until the Commission terminates each license for which the liaison was developed and, if any portion of the liaison documentation is superseded, retain the superseded material for three years after each change.

* * * * *

100. In § 73.55, paragraphs (b)(1) and (3) (i) and (ii) and (4), (d)(6), and (h)(2) are revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

* * * * *

(b) *Physical Security Organization.* (1) The licensee shall establish a security organization, including guards, to protect his facility against radiological sabotage. If a contract guard force is utilized for site security, the licensee's written agreement with the contractor that must be retained by the licensee as a record for the duration of the contract will clearly show that:

(i) The licensee is responsible to the Commission for maintaining safeguards in accordance with Commission regulations and the licensee's security plan,

(ii) The NRC may inspect, copy, and take away copies of all reports and documents required to be kept by Commission regulations, orders, or applicable license conditions whether such reports and documents are kept by the licensee or the contractor,

(iii) The requirement in paragraph (b)(4) of this section that the licensee demonstrate the ability of physical security personnel to perform their assigned duties and responsibilities, includes demonstration of the ability of the contractor's physical security personnel to perform their assigned duties and responsibilities in carrying out the provisions of the Security Plan and these regulations, and

(iv) The contractor will not assign any personnel to the site who have not first been made aware of these responsibilities.

* * * * *

(3) * * *

(i) Written security procedures that document the structure of the security organization and detail the duties of guards, watchmen, and other individuals responsible for security. The licensee shall maintain a copy of the current procedures as a record until the Commission terminates each license for which the procedures were developed and, if any portion of the procedure is superseded, retain the superseded material for three years after each change.

(ii) Provision for written approval of these procedures and any revisions thereto by the individual with overall responsibility for the security functions. The licensee shall retain each written approval as a record for three years from the date of the approval.

(4)(i) The licensee shall not permit an individual to act as a guard, watchman armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with Appendix B, "General Criteria for Security Personnel," to this part. Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities. Each guard, watchman, armed response person, and other member of the security organization shall requalify in accordance with Appendix B to this part at least every 12 months. This requalification shall be documented. The licensee shall retain the documentation of each requalification as a record for three years after the requalification.

(ii) Each licensee shall submit a training and qualifications plan outlining the processes by which guards, watchmen, armed response persons, and other members of the security organization will be selected, trained, equipped, tested, and qualified to ensure that these individuals meet the requirements of this paragraph. The licensee shall maintain a current copy of the training and qualifications plan as a record until the Commission terminates each license for which the plan was developed and, if any portion of the plan is superseded, retain the material that is superseded for three years after each change. The training and qualifications plan must include a schedule to show how all security personnel will be qualified two years after the submitted plan is approved. The training and qualifications plan must be followed by the licensee 60 days after the submitted plan is approved by the NRC.

* * * * *

(d) * * *

(6) Individuals not authorized by the licensee to enter protected areas without escort shall be escorted by a watchman or other individual designated by the licensee while in a protected area and shall be badged to indicate that an escort is required. In addition, the licensee shall require that each individual register his or her name, date, time, purpose of visit, employment affiliation, citizenship, and name of the individual to be visited. The licensee shall retain the register of information for three years after the last entry in the register.

* * * * *

(h) * * *

(2) The licensee shall establish and document liaison with local law enforcement authorities. The licensee shall retain documentation of the current liaison as a record until the Commission terminates each license for which the liaison was developed and, if any portion of the liaison documentation is superseded, retain the superseded material for three years after each change.

* * * * *

101. In § 73.67, paragraphs (c)(1); (d)(5) and (11); (e)(3)(iv), (e)(5), and (e)(6) introductory text and (e)(6)(i), and the introductory text to (e)(4); (f)(4); and (g)(3)(i), (g)(4), and (g)(5)(i) are revised to read as follows:

§ 73.67 Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance.

* * * * *

(c) * * *

(1) Submit a security plan or an amended security plan describing how the licensee will comply with all the requirements of paragraphs (d), (e), (f), and (g) of this section, as appropriate, including schedules of implementation. The licensee shall retain a copy of the effective security plan as a record for three years after close of period licensee possesses special nuclear material under each license for which the original plan was submitted. Copies of superseded material shall be retained for three years after each change.

* * * * *

(d) * * *

(5) Develop and maintain a written controlled badging and lock system to identify and limit access to the controlled access areas to authorized individuals. The licensee shall retain a record of the effective system for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license for which the original system was developed, and for three years thereafter. Copies of superseded material shall be retained for three years after each change.

* * * * *

(11) Establish and maintain written response procedures for dealing with threats of thefts or thefts of these materials. The licensee shall retain a copy of the response procedures as a record for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license for which the original procedures were developed and, for three years thereafter. Copies of superseded material shall be retained for three years after each change.

(e) * * *

(3) * * *

(iv) Establish and maintain written response procedures for dealing with threats of thefts or thefts of such material. The licensee shall retain a copy of the current response procedures as a record for three years after close of period licensee possesses special nuclear material under each license for which the procedures were developed and copies of superseded material shall be retained for three years after each change.

* * * * *

(4) Each licensee who arranges the physical protection of strategic special nuclear material in quantities of moderate strategic significance while in transit or who takes delivery of this material free on board (f.o.b.) the point at which it is delivered to a carrier for transport shall comply with the requirements of paragraphs (e) (1), (2), and (3) of this section. The licensee shall retain each record required by paragraphs (e) (1), (2), (3), and (4) (i) and (ii) of this section for three years after close of period licensee possesses special nuclear material under each license that authorizes these licensee activities. Copies of superseded material shall be retained for three years after each change. In addition, the licensee shall—

* * * * *

(5) Each licensee who exports special nuclear material of moderate strategic significance shall comply with the requirements specified in paragraphs (c) and (e) (1), (3), and (4) of this section. The licensee shall retain each record required by these sections for three years after close of period licensee possesses special nuclear material under each license that authorizes the licensee to export this material. Copies of superseded material shall be retained for three years after each change.

(6) Each licensee who imports special nuclear material of moderate strategic significance shall—

(i) Comply with the requirements specified in paragraphs (c) and (e) (2), (3), and (4) of this section. The licensee shall retain each record required by these sections for three years after close of period licensee possesses special nuclear material under each license that authorizes the licensee to import this material. Copies of superseded material shall be retained for three years after each change.

* * * * *

(f) * * *

(4) Establish and maintain response procedures for dealing with threats of thefts or thefts of this material. The licensee shall retain a copy of the current response procedures as a record for three years after close of period licensee possesses special nuclear material under each license for which the procedures were established. Copies of superseded material shall be retained for three years after each change.

(g) * * *

(3) * * *

(i) Establish and maintain response procedures for dealing with threats or thefts of this material. The licensee shall retain a copy of the current response procedures as a record for three years after close of period licensee possesses special nuclear material under each license for which the procedures were established. Copies of superseded material shall be retained for three years after each change.

(5) * * *

(i) Comply with the requirements specified in paragraphs (c) and (g) (2) and (3) of this section and retain each record required by these paragraphs for three years after close of period licensee possesses special nuclear material under each license that authorizes the licensee to import this material. Copies of superseded material shall be retained for three years after each change.

* * * * *

102. Section 73.70 is revised to read as follows:

§ 73.70 Records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. Each licensee subject to the provisions of §§ 73.20, 73.25, 73.26, 73.27, 73.45, 73.46, 73.55, or 73.60 shall keep the following records:

(a) Names and addresses of all individuals who have been designated as authorized individuals. The licensee shall retain this record of currently designated authorized individuals for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license that authorizes the activity that is subject to the recordkeeping requirement and, for three years thereafter. Copies of superseded material shall be retained for three years after each change.

(b) Names, addresses, and badge numbers of all individuals authorized to have access to vital equipment or special nuclear material, and the vital areas and material access areas to which authorization is granted. The licensee shall retain the record of individuals currently authorized this access for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license that authorizes the activity that is subject to the recordkeeping requirement and, for three years thereafter. Copies of superseded material shall be retained for three years after each change.

(c) A register of visitors, vendors, and other individuals not employed by the licensee pursuant to § 73.46(d)(1), § 73.55(d)(6), or § 73.60. The licensee shall retain this register as a record for three years after the last entry is made in the register.

(d) A log indicating name, badge number, time of entry, reason for entry, and time of exit of all individuals granted access to a normally unoccupied

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vital area. The licensee shall retain this log as a record for three years after the last entry is made in the log.

(e) Documentation of all routine security tours and inspections, and of all tests, inspections, and maintenance performed on physical barriers, intrusion alarms, communications equipment, and other security related equipment used pursuant to the requirements of this part. The licensee shall retain the documentation for these events for three years from the date of documenting each event.

(f) A record at each onsite alarm annunciation location of each alarm, false alarm, alarm check, and tamper indication that identifies the type of alarm, location, alarm circuit, date, and time. In addition, details of response by facility guards and watchmen to each alarm, intrusion, or other security incident shall be recorded. The license shall retain each record for three years after the record is made.

(g) Shipments of special nuclear material subject to the requirements of this part, including names of carriers, major roads to be used, flight numbers in the case of air shipments, dates and expected times of departure and arrival of shipments, verification of communication equipment on board the transfer vehicle, names of individuals who are to communicate with the transport vehicle, container seal descriptions and identification, and any other information to confirm the means utilized to comply with §§ 73.25, 73.26, and 73.27. This information must be recorded prior to shipment. Information obtained during the course of the shipment such as reports of all communications, change of shipping plan, including monitor changes, trace investigations, and others must also be recorded. The licensee shall retain each record about a shipment required by this paragraph (g) for three years after the record is made.

(h) Procedures for controlling access to protected areas and for controlling access to keys for locks used to protect special nuclear material. The licensee shall retain a copy of the current procedures as a record until the Commission terminates each license for which the procedures were developed and, if any portion of the procedure is superseded, retain the superseded material for three years after each change.

103. In Appendix B to Part 73, Section I. C, E, and F and II. A, B, C, and E, and the introductory text to Section IV are revised to read as follows:

Appendix B—General Criteria for Security Personnel

* * * * *

Criteria

I. * * *

C. Physical fitness qualifications—Subject to a medical examination conducted within the preceding 30 days and to a determination and written certification by a licensed physician that there are no medical contraindications to participation by the individual as disclosed by the medical examination, guards, armed response personnel, and armed escorts shall demonstrate physical fitness for assigned security job duties by performing a practical physical exercise program within a specific time period. The exercise program performance objectives must be described in the licensee training and qualifications plan and must consider such job-related functions as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations. The physical fitness qualification of each guard, armed response person, and armed escort must be documented and attested by a licensee security supervisor. The licensee shall retain this documentation as a record for three years from the date of each qualification.

* * * * *

E. Physical requalification—At least every 12 months, central alarm station operators shall be required to meet the physical requirements of B.1.b of this section, and guards, armed response personnel, and armed escorts shall be required to meet the physical requirements of paragraphs B.1.b (1) and (2), and C of this section. The licensee shall document each individual's physical requalification and shall retain this documentation of requalification as a record for three years from the date of each requalification.

F. Documentation—The results of suitability, physical, and mental qualifications data and test results must be documented by the licensee or the licensee's agent. The licensee or the agent shall retain this documentation as a record for three years from the date of obtaining and recording these results.

* * * * *

II. Training and Qualifications

A. Training requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or the licensee's agent's documented training and qualifications plan. The licensee or the agent shall maintain documentation of the current plan and retain this documentation of the plan as a record for three years after close of period licensee possesses special nuclear material under each license for which the plan was developed and, if any portion of the plan is superseded, retain the material that is superseded for three years after each change.

B. Qualification requirements—Each person who performs security-related job tasks or job duties required to implement the licensee physical security or contingency plan shall, prior to being assigned to these tasks or duties, be qualified in accordance with the licensee's NRC-approved training and qualifications plan. The qualifications of each individual must be documented and attested by a licensee security supervisor. The licensee shall retain this documentation of each individual's qualifications as a record for three years after the employee ends employment in the security-related capacity and for three years after close of period licensee possesses special nuclear material under each license, and superseded material for three years after each change.

C. Contract personnel—Contract personnel shall be trained, equipped, and qualified as appropriate to their assigned security-related job tasks or job duties, in accordance with sections II, III, IV, and V of this appendix. The qualifications of each individual must be documented and attested by a licensee security supervisor. The licensee shall retain this documentation of each individual's qualifications as a record for three years after the employee ends employment in the security-related capacity and for three years after close of period licensee possesses special nuclear material under each license, and superseded material for three years after each change.

* * * * *

E. Requalification—Security personnel shall be requalified at least every 12 months to perform assigned security-related job tasks and duties for both normal and contingency operations. Requalification shall be in accordance with the NRC-approved licensee training and qualifications plan. The results of requalification must be documented and attested by a licensee security supervisor. The licensee shall retain this documentation of each individual's requalification as a record for three years from the date of each requalification.

* * * * *

IV. Weapons Qualification and Requalification Program

Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s). The results of weapons qualification and requalification must be documented by the licensee or the licensee's agent. Each individual shall be requalified at least every 12 months. The licensee shall retain this documentation of each qualification and requalification as a record for three years from the date of the qualification or requalification, as appropriate.

* * * * *

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

104. The authority citation for Part 74 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

105. In § 74.31, the introductory text of paragraph (a) and paragraphs (c) (1), (2), (5), (6), (7), and (8) and paragraph (d) are revised to read as follows:

§ 74.31 Nuclear material control and accounting for special nuclear material of low strategic significance.

(a) *General performance objectives.* Each licensee who is authorized to possess and use more than one effective kilogram of special nuclear material of low strategic significance, excluding sealed sources, at any site or contiguous sites subject to control by the licensee, other than a production or utilization facility licensed pursuant to Part 50 of this chapter, or operations involved in waste disposal, shall implement and maintain a Commission-approved material control and accounting system that will achieve the following objectives. The licensee shall retain the current Commission-approved system until the Commission terminates each license to possess this material.

* * * * *

(c) * * *

(1) Establish, document, and maintain a management structure which ensures clear overall responsibility for material control and accounting functions, independence from production responsibilities, separation of key responsibilities, and adequate review and use of critical material control and accounting procedures. The licensee shall retain this documentation of the current management structure until the Commission terminates each license to possess this material;

(2) Establish and maintain a measurement system which ensures that all quantities in the material accounting records are based on measured values. The licensee shall retain a copy of a description of the current measurement system until the Commission terminates each license to possess this material;

* * * * *

(5) Unless otherwise required to satisfy Part 75 of this chapter, perform a physical inventory at least every 12 months and, within 60 days after the start of the inventory, reconcile and adjust the book inventory to the results of the physical inventory, and resolve or report an inability to resolve any inventory difference which is rejected by a statistical test that has a 90 percent power of detecting a discrepancy of a quantity of uranium-235 established by NRC on a site-specific basis. The licensee shall record the results of each physical inventory and retain this record for three years after the record is made. The licensee shall also record the source data for resolving any inventory difference and retain this record for three years after the required 60-day reporting date;

(6) Maintain current knowledge of items when the sum of the time of existence of an item, the time to make a record of the item, and the time necessary to locate the item exceeds 14 days. Store and handle, or subsequently measure, items in a manner so that unauthorized removals of substantial quantities of material from items will be detected. Exempted are items individually containing less than 500 grams of U^{235} up to a total of 50 kilograms of U^{235}, solutions with a concentration of less than 5 grams of U^{235} per liter, and items of waste destined for burial or incineration. The licensee shall record evidence of its current knowledge of these items and retain this record for three years after the record is made;

(7) Resolve, on a shipment basis, and when required to satisfy Part 75 of this chapter, on a batch basis, shipper/receiver differences that exceed both twice the combined measurement standard error for that shipment and 500 grams of U^{235}. The licensee shall record these excessive shipper-receiver differences and retain this record for three years after the record is made; and

(8) Independently assess the effectiveness of the material control and accounting system at least every 24 months, and document management's action on prior assessment recommendations. The licensee shall retain this documentation of management's action as a record for three years after the record is made.

(d) Each licensee shall maintain and retain records as required by paragraph (c) of this section unless a longer retention time is required by Part 75 of this chapter.

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

106. The authority citation for Part 75 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

107. The heading for § 75.6 is revised and a new paragraph (e) is added to read as follows:

§ 75.6 Maintenance of records and delivery of information, reports, and other communications.

* * * * *

(e) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

108. In § 75.12, paragraphs (b) (1) and (4) are revised to read as follows:

§ 75.12 Communication of information to IAEA.

* * * * *

(b)(1) A licensee may request that information of particular sensitivity, which it customarily holds in confidence, not be transmitted physically to the IAEA. A licensee who makes such a request should, at the time the information is submitted, identify the pertinent document or part thereof and make a full statement of the reasons supporting the request. The licensee shall retain a copy of the request and all documents related to the request as a record until the Commission terminates the license for each installation involved with the request or until the Commission notifies the licensee that the licensee is no longer under the agreement, and superseded material shall be retained for three years after each change is made.

* * * * *

(4) If a request is granted, the Commission will determine a location where the information will remain readily available for examination by the IAEA and will so inform the licensee. The licensee shall retain this information as a record until the Commission terminates the license for the installation involved with the request or until the Commission notifies the licensee that the licensee is no longer under the agreement, and superseded material shall be retained for three years after each change is made.

* * * * *

109. In § 75.21, paragraph (a) is revised to read as follows:

§ 75.21 General requirements.

(a) Each licensee who has been given notice by the Commission in writing that its installation has been identified under the Agreement shall establish, maintain, and follow written material accounting and control procedures. The licensee

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shall retain as a record current material accounting and control procedures until the Commission terminates the license for the installation involved with the request or until the Commission notifies the licensee that the licensee is no longer under the agreement, and superseded material shall be retained for three years after each change is made.

* * * * *

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

110. The authority citation for Part 95 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

111. Section 95.11 is revised to read as follows:

§ 95.11 Specific exemptions.

The Commission may, upon application of any interested party, grant an exemption from the requirements of Part 95. Exemptions will be granted only if they are authorized by law and will not constitute an undue risk to the common defense and security. The licensee shall retain the documentation related to the request, notification, and processing of an exemption for three years beyond the period covered by the exemption.

112. Section 95.13 is revised to read as follows:

§ 95.13 Records maintenance.

(a) Each licensee or organization granted security facility approval under this part shall maintain such records as prescribed within the part. These records shall be subject to review and inspection by NRC representatives during security surveys.

(b) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

113. In § 95.25, paragraphs (a)(3) and (h) are revised to read as follows:

§ 95.25 Protection of national security information and restricted data in storage.

(a) * * *

(3) When protective personnel are used, physical checks of security containers must be made as soon as possible after the close of each normal workday and at least once every eight hours thereafter during non-working hours. The licensee shall record the results of these checks and retain each record for three years after it is made.

* * * * *

(h) *Unattended security container found opened.* In the event that an unattended security container housing classified matter is found unlocked, the custodian or an alternate shall be notified immediately. The container shall be secured by protective personnel and the contents shall be inventoried as soon as possible but not later than the next workday. A report reflecting all actions taken shall be submitted to the responsible Regional Office (see Appendix A, 10 CFR Part 73 for addresses) with an information copy to the NRC Division of Security. The licensee shall retain records pertaining to these matters for three years after completion of final corrective action.

§ 95.33 [Amended]

114. Section 95.33 is amended by changing "one year" to "three years" in the last sentence.

115. In § 95.37, paragraph (i) is revised to read as follows:

§ 95.37 Classification and preparation of documents.

* * * * *

(i) Document which custodian believes is improperly classified or lacking appropriate classification markings. If a person receives a document which, in his or her opinion, is not properly classified, or does not have appropriate classification markings, he or she shall immediately notify the sender and suggest to the originator the classification which he believes to be appropriate. Whenever requested, this challenge of classification marking shall be handled in a manner which will ensure the anonymity of the challenger. Pending final determination of proper classification, such document shall be safeguarded in accordance with the procedures required for the highest classification in question. Where unauthorized disclosure may have occurred, a report in accordance with § 95.57 of this part is required. These reports shall be retained for three years after final corrective action has been taken.

* * * * *

§ 95.41 [Amended]

116. Section 95.41 is amended by changing "two years" to "three years" in the last sentence.

117. Section 95.47 is revised to read as follows:

§ 95.47 Destruction of matter containing national security information and/or restricted data.

Documents containing National Security Information and/or Restricted Data may be destroyed by burning, pulping, or another method that ensures complete destruction of the information which they contain. The method of destruction must preclude recognition or reconstruction of the classified information. Any doubts on methods should be referred to the NRC Division of Security. If the document contains Secret National Security Information and/or Restricted Data a record of the subject or title, document number, if any, originator, its date of origination, its series designation and copy number, and the date of destruction shall be signed by the person destroying the document and shall be maintained in the office of the custodian at the time of destruction. These destruction records shall be retained for three years after destruction.

PART 110—EXPORT AND IMPORT OF NUCLEAR FACILITIES AND MATERIALS

118. The authority citation for Part 110 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

119. In § 110.53, paragraph (b) is revised to read as follows:

§ 110.53 United States address, records, and inspections.

* * * * *

(b) Each licensee shall maintain records concerning his exports or imports. The licensee shall retain these records for five years after each export or import except that byproduct material records shall be retained for three years after each export or import.

* * * * *

Dated at Bethesda, Maryland, this 14th day of October 1987.

For the Nuclear Regulatory Commission.

Victor Stello,

Executive Director for Operations.

[FR Doc. 87-24732 Filed 10-27-87; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 606

Federal-State Unemployment Compensation Program; Tax Credits Under the Federal Unemployment Tax Act; Advances Under Title XII of the Social Security Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: With this notice the agency issues an invitation to comment on its proposal to adopt a new rule interpreting statutes under which the agency has delegated responsibilities concerning cap, avoidance, and waiver of tax credit reduction under the Federal Unemployment Tax Act and deferral and delay of payment of interest on advances made to States under Title XII of the Social Security Act. The agency proposes this informal rulemaking to place in the Code of Federal Regulations its previously announced and disseminated interpretations because the statutes in selected places require regulations and because some of the interpretations might be viewed as substantive in nature. This notice represents the first of a two-phase effort to issue comprehensive regulations concerning advances (loans), repayment of loans, interest payment, and relief from loan repayment and interest payment. The first phase includes regulations for relief provisions; the second phase will include the remaining issues.

DATE: Written comments must be received by the close of business on November 27, 1987.

ADDRESS: Submit comments to Carolyn M. Golding, Director, Unemployment Insurance Service, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James H. Manning, Chief, Division of Actuarial Services, Unemployment Insurance Service, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-4519, Washington, DC 20210, Telephone: (202) 535-0640 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under section 3301 of the Federal Unemployment Tax Act (FUTA), employers in all States are assessed an excise tax at a rate of 6.2 percent on a taxable wage base of $7,000. However, employers generally receive a maximum FUTA tax credit of 5.4 percent, resulting in a net Federal tax rate of 0.8 percent.

States with insufficient reserves in their unemployment funds to meet State benefit obligations may borrow from the Federal Unemployment Account (FUA). If a State does not repay the advances (loans) it may have within a specified period of time, employers in the State begin to lose the FUTA tax credit in increments of at least 0.3 percent per year. Specifically, if a balance of advances is outstanding on two consecutive January firsts and is not fully repaid prior to the following November 10, the FUTA tax credit applicable for that year for the State's employers is reduced by 0.3 percent. For each succeeding year in which a balance of loans remains outstanding, the reduction increases by at least 0.3 percent (i.e., 0.6, 0.9, 1.2 percent, etc.).

Additional tax credit reduction may apply to a State beginning with the third and fifth taxable years if a balance is still outstanding and certain criteria are not met. Essentially, the additional tax credit reduction above the 0.6 percent minimum beginning with the third year is the difference between the national percentage of all wages subject to the FUTA (that 2.7 percent of taxable wages represents) and the State's average contribution rate on total wages. The additional tax credit reduction above the 1.2 percent minimum beginning with the fifth year is equal to the difference between the State's benefit cost rate on taxable wages (or 2.7 percent, whichever is higher) and the State's average employer contribution rate on taxable wages.

Public Laws 97-35, 97-248, and 98-21 made major changes in the loan and repayment provisions: Interest of up to 10 percent is charged on loans made on or after April 1, 1982 (except for cash flow loans); and States are permitted relief from automatic loan repayment (tax credit reduction) and payment of interest if certain requirements are met. Briefly, the provisions for relief include:

—Limitation or cap on tax credit reduction
—Avoidance of tax credit reduction
—Waiver of and substitution for fifth-year additional tax credit reduction
—May/September delay of interest payment
—High unemployment deferral of interest payment
—High unemployment delay of interest payment

Phases

The issuance of comprehensive regulations concerning loans, repayment of loans, interest payment, and relief from loan repayment and interest payment will be undertaken in two phases. This notice of proposed rulemaking, the first phase, primarily includes the issues concerning relief noted above; the second phase will include the remaining issues.

Amendments to the Federal Unemployment Tax Act

Subsection (f)(1)–(7) added to section 3302 of the Federal Unemployment Tax Act (FUTA) by section 2406 of Pub. L. 97-35 provides certain conditions under which there may be a limitation of tax credit reduction that applies to employers' FUTA tax liability in States with outstanding loans from the Federal Unemployment Account (FUA).

Subsection (g) added to section 3302 of the FUTA by section 272 of Pub. L. 97-248 provides certain conditions for avoiding tax credit reduction.

A provision added to subparagraph (C) of section 3302(c)(2) of the FUTA by section 273 of Pub. L. 97-248 provides certain conditions under which certain additional tax credit reduction may be waived and another substituted.

Amendments to the Social Security Act

Subsection (b) added to section 1202 of the Social Security Act (SSA) by section 2407 of Pub. L. 97-35 and amended by section 511(B) of Pub. L. 98-21 imposes interest on advances, under most conditions, made to States beginning April 1, 1982. Interest is not assessed on loans obtained January through September and repaid prior to October 1, provided no other loan is obtained from October 1 through December 31 of the same calendar year.

Subsection (b)(3)(B) added to section 1202 of the SSA by section 2407(a) of Pub. L. 97-35 allows for delaying payment of interest accrued on advances made from May through September and due prior to October 1.

Subparagraph (C) added to section 1202(b)(3) of the SSA by section 274 of Pub. L. 97-248 permits, under certain high unemployment conditions, a State to defer payment of a portion of interest otherwise due for a year.

Paragraph (9) added to section 1202(b) of the SSA by section 511(a) of Pub. L. 97-21 provides, under certain high unemployment conditions, for delaying payment of interest otherwise due for a year.

Legislative-action interest deferrals obtained under subsection (b)(8) (A)–(C), added to section 1202 of the SSA by section 511(a) of Pub. L. 98-21, are no longer available. Nevertheless, States must maintain their solvency effort with

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respect to the deferrals previously approved under this subsection.

Section by Section Explanation

Subpart A—General

Section 606–1 Purpose and scope.

Public Laws 97–35, 97–248, and 98–21 made major changes in the Federal Unemployment Tax Act and the Social Security Act with respect to advances under Title XII of the Social Security Act and the repayment of such advances. The changes with accompanying Federal law citations are set forth in § 606.1.

Section 606.2 Total credits allowable.

Section 606.2 specifies that total credits allowed to an employer subject to the tax imposed by section 3301 of the Federal Unemployment Tax Act shall not exceed 5.4 percent with respect to taxable years beginning after December 31, 1984.

Section 606.3 Definitions.

Definitions of tems used in connection with advances (loans) to States, repayment of loans, interest on loans, and relief from loan repayment and interest payment are set forth in § 606.3.

Section 606.4 Redelegation of authority.

The redelegation of authority to the Director of the Unemployment Insurance Service for the purposes of making determinations required under sections (c), (d), (f), and (g) of the FUTA and under 1202 of the SSA is set forth in § 606.4. Further, the section specifies that the Governor of a State may delegate authority with respect to action required under sections (c), (d), (f), and (g) of the FUTA and under section 1202 of the SSA.

Section 606.5 Verification of estimates and review of determinations.

Section 606.5 specifies that all data and information provided by States with respect to loans, repayment of loans, interest, and relief from loan repayment and interest payment will be verified by the Department. Further, the section prescribes that States may seek review of determinations made by the Director of the Unemployment Insurance Service.

Section 606.6 Information, reports, and studies.

Section 606.6 indicates that States must submit all information that the Director of the Unemployment Insurance Service may require for making determinations.

Subpart B—Tax Credit Reduction [Reserved]

Subpart C—Relief from Tax Credit Reduction

Section 606.20 Cap on tax credit reduction.

Section 606.20 describes the requirements a State must meet in order to limit or cap the tax credit reduction, as provided under subsection (f) of section 3302 of the FUTA; the tax credit reduction is capped at the higher of 0.6 percent or the rate of reduction that was in effect for the State for the preceding calendar year. The cap provisions are designed to give States additional time to make legislative and administrative changes necessary to restore the State unemployment fund to solvency. These provisions lengthen the repayment period, but do not reduce a State's total liability. To qualify for the cap on the automatic tax credit reduction, a State must demonstrate that:

(a) The State has taken no action decreasing the State's unemployment compensation (UC) system tax effort;

(b) The State has taken no action by which the net solvency of its UC system has diminished

(c) The State's average tax rate (on total wages) for the calendar year equals or exceeds its average benefit cost create (on total wages) for the prior five calendar years; and

(d) The outstanding loan balance as of September 30 of the tax year in consideration is not greater than on September 30 of the third preceding taxable year.

Section 606.21 Criteria for cap.

Section 606.21 explains what action is considered in determining if there has been a reduction in unemployment tax effort and a net decrease in solvency. The section also prescribes the rounding procedure with respect to the State unemployment tax rate and the five-year average benefit cost rate.

Section 606.22 Application for cap.

Section 606.22 prescribes the application procedures to be used by States in applying for caps. The section further indicates the data and documentation the States must submit in support of requests for caps.

Section 606.23 Avoidance of tax credit reduction.

Section 606.23 describes the requirements which allow States the option of repaying on or before November 9 a portion of its outstanding loans each year through transfer of a specified amount from its unemployment fund to the FUA, as provided under subsection (g) of section 3302 of the FUTA. The transfer to FUA would be in lieu of the increase, attributable to the application of section 3302(c)(2) of FUTA, in the net Federal tax of 0.6 percent paid by employers in that State. The State must meet the following criteria in order to avoid the tax credit reduction:

(a) Repay all loans for the one-year period ending on November 9, plus the additional tax that otherwise would be due by reason of the reduced credit provisions;

(b) Have sufficient funds remaining in the State unemployment fund after the transfer to pay benefits for at least three months from November 1 of the same year without receiving another Title XII advance; and

(c) Have taken action to increase the net solvency of its UC system and such net increase equals or exceeds the potential additional taxes for such taxable year.

Section 606.24 Application for avoidance.

Section 606.24 prescribes the application procedures to be used by States in applying for avoidance of tax credit reduction. The section further indicates the data and documentation the States must submit in support of requests for avoidance.

Section 606.25 Waiver of and substitution for additional tax credit reduction.

Section 606.25 describes the requirements which a State must meet in order for the additional tax credit reduction applicable under subparagraph (C) of section 3302(c)(2) of the FUTA to be waived and the additional credit applicable under subparagraph (B) to be substituted. The waiver may be granted if a State has taken no action to reduce the net solvency of its UC system during the 12-month period ending on September 30 of the year for which the waiver would be applicable, i.e., meets section 3302(f)(2)(B) of FUTA (see paragraph (b) under § 606.20 above). However, the tax credit reduction imposed by section 3302(c)(2)(B) of FUTA, additional tax credit reduction for the third and fourth years, is substituted.

Section 606.26 Application for waiver and substitution.

Section 606.26 prescribes the application procedures to be used by States in applying for waiver and substitution of additional tax credit reduction.

Subpart D—Interest on Advances.

Section 606.30 Interest rates on advances.

Section 606.30 prescribes the interest rate which is imposed, under most conditions, on advances to States under Title XII of the Social Security Act; the maximum rate which can be imposed is 10 percent

Section 606.31 Due dates for payment of interest. [Reserved]

Section 606.32 Types of advances subject to interest.

Section 606.32 describes which advances are subject to the imposition of interest. Subsections (b)(2) and (b)(3)(A) of section 1202 of the SSA provide that all advances received by a State between January 1 and September 30 and repaid in full prior to October 1 of the same calendar year (referred to as cash flow loans) are not subject to interest charges unless additional loans are obtained by the State after September 30, but before the end of the same calendar year. If an additional loan is obtained after September 30 and within the same calendar year, interest on loans prior to October 1 of the calendar year is due and payable the day after that day on which first additional borrowing occurs.

Section 606.33 No payment of interest from unemployment fund. [Reserved]

Section 606.34 Reports of interest payable. [Reserved]

Section 606.35 Order of application of repayments. [Reserved]

Subpart E—Relief from Interest Payment

Section 606.40 May/September delay.

Section 606.40 explains the conditions under which a State may delay payment of interest on advances made during specific months. Subsection (b)((3)(B) of section 1202 of the Social Security Act (SSA) allows a State to delay payment of interest on advances made during the months May through September until no later than the last day of the next calendar year. A State may, at its option, pay the interest on such advances earlier than the due date. Interest will accrue on the delayed interest payment as through it were, and in the same manner as, an advance made on the day when payment of the interest otherwise would have been due (prior to October 1).

Section 606.41 High unemployment deferral.

Section 606.41 describes the unemployment conditions under which a State may defer a portion of interest otherwise due. Subsection (b)(3)(C) of section 1202 of the SSA allows a State with high unemployment to defer payment of, and extend the payment for, 75 percent of interest charges due prior to October 1. The State must pay one-third of the deferred amount in each of the three years following the fiscal year for which it is due. To qualify for this deferral and extension of the payment period, the State insured unemployment rate (IUR), as determined for purposes of the Federal-State Extended Unemployment Compensation Act of 1970, must have equaled or exceeded 7.5 percent during the first six months of the preceding calendar year. Interest will not be charged on the interest for which payment is deferred.

Section 606.42 High unemployment delay.

Section 606.42 describes the unemployment conditions under which a State may delay payment of interest otherwise due. Subsection (b)(9) of section 1202 of the SSA allows a State to delay not in excess of nine months the payment of interest due prior to October 1 of any calendar year during which the average total unemployment rate (TUR) in the State was 13.5 percent or higher. The average total unemployment rate for a State is computed using the 12-month period for which the most recent information is available prior to the month in which the interest is due. Interest will not be charged against interest for which payment is delayed. Any interest delayed is not subject to either further delays or deferrals: the interest is due and payable prior to July 1 of the following year.

Section 606.43 Maintenance of solvency efforts.

While legislative-action interest deferrals are no longer available, States must maintain their solvency effort with respect to interest deferrals granted in 1983, 1984, and 1985. Failure to do so will result in the State being reguired to make immediate payment (prior to October 1 of the year under consideration) of all deferred interest. Accordingly, in order to receive continued relief for such deferrals, States must certify by July 1 of each subsequent year in the deferral period (through the third year after the deferral was initially approved) that no action has been taken to reduce solvency effort. Section 606.43 prescribes the method for determining if solvency effort has been maintained and the process for applying for maintenance.

Section 606.41 Notification of determinations.

Section 606.41 explains the procedures for notifying States of determinations with respect to relief from interest payment.

Drafting Information

This document was prepared under the direction and control of the Director of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: (202) 535–0600 (this is not a toll-free number).

Classification—Executive Order 12291

The proposed rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is requried.

Paperwork Reduction Act

A request to revise the approval of the information collection requirements contained in these regulations has been submitted to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The data collection is currently approved under OMB No. 1205–0205, expiring September 30, 1990.

Regulatory Flexibility Act

The Department believes that this proposed rule will have no "significant economic impact on a substantial number of small entities" within the meaning of 5 U.S.C. 605(b), because this rule directly affects only States and States are not "small entities" as that term is defined in 5 U.S.C. 601. The Secretary of Labor has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

List of Subjects in 20 CFR Part 606

Labor, Unemployment compensation.

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Catalogue of Federal Domestic Assistance Number

This program is listed in the Catalogue of Federal Domestic Assistance as No. 17.225, Unemployment Insurance.

Words of Issuance

For the reasons set out in the preamble, new Part 606 of Title 20 of the Code of Federal Regulations is proposed as set forth below.

Signed at Washington, DC, on October 21 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

PART 606—ADVANCES TO STATES AND REPAYMENT OF ADVANCES IN THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM

Subpart A—General

Sec.

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606.34 Reports of interest payable. [Reserved]
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Subpart E—Relief From Interest Payment

606.40 May/September delay.
606.41 High unemployment deferral.
606.42 High unemployment delay.
606.43 Maintenance of solvency effort.
606.44 Notification of determinations.

Authority: 42 U.S.C. 1102; 26 U.S.C. 7805; Secretary's Order No. 4–75 (40 FR 18515).

Subpart A—General

§ 606.1 Purpose and scope.

(a) *Cap on tax credit reduction.* The regulations in this Part are issued to implement the amendment to section 3302 of the Federal Unemployment Tax Act contained in subsection (f) thereof enacted in section 2406 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35; 95 Stat. 876) with respect to a limitation (cap) on tax credit reduction otherwise applicable under section 3302(c).

(b) *Avoidance and waiver of tax credit reduction.* These regulations also are issued to implement the amendments to section 3302 contained in subsections (g) and (c)(2)(C) thereof enacted under sections 272 and 273 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248; 96 Stat. 556–557) with respect to avoidance and waiver of tax credit reduction otherwise applicable under section 3302(c).

(c) *Imposition of interest on loans.* These regulations also are issued to implement the amendment to section 1202 of the Social Security Act contained in subsection (b) thereof enacted in section 2407 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35; 95 Stat. 879–880) with respect to the imposition of interest on loans and loans not subject to interest charges.

(d) *May/September delay of interest payment.* These regulations also are issued to implement the amendment to section 1202 of the Social Security Act contained in subsection (b) thereof enacted in section 2407(a) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35; 95 Stat. 879) with respect to delay of interest payment on advances made in May through September.

(e) *High unemployment deferral of interest payment.* These regulations also are issued to implement the amendment to section 1202 of the Social Security Act contained in subsection (b) thereof enacted in section 274 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248; 96 Stat. 557–558) with respect to deferral of the interest payment otherwise due when the State meets certain high unemployment conditions.

(f) *High unemployment deferral of interest payment.* These regulations also are issued to implement the amendment to section 1202 of the Social Security Act contained in subsection (b) thereof enacted in section 511(a) of the Social Security Amendments of 1983 (Pub. L. 98–21; 97 Stat. 144–146) with respect to delay of the interest payment otherwise due when the State meets certain high unemployment conditions.

(g) *Maintenance of solvency.* These regulations also are issued to implement the amendment to section 1202 of the Social Security Act contained in subsection (b) thereof enacted in section 511(a) of the Social Security Amendments of 1983 (Pub. L. 98–21; 97 Stat. 144–145) with respect to maintenance of solvency for legislative-action deferrals previously approved.

§ 606.2 Total credits allowable.

The total credits allowed to an employer subject to the tax imposed by section 3301 of the Federal Unemployment Tax Act shall not exceed 5.4 percent with respect to taxable years beginning after December 31, 1984.

§ 606.3 Definitions.

For the purposes of the Acts cited and this Part—(a)(1) "1981 Act" means the Omnibus Budget Reconciliation Act of 1981, and sections 2406 and 2407 thereof (Pub. L. 97–35; Stat. 876–880), approved August 13, 1981.

(2) "1982 Act" means the Tax Equity and Fiscal Responsibility Act of 1982 and sections 272, 273, and 274 thereof (Pub. L. 97–248; 96 Stat. 556–558), approved September 3, 1982.

(3) "1983 Act" means the Social Security Amendments of 1983, and section 511 thereof (Pub. L. 98–21; 97 Stat. 144–146), approved April 20, 1983.

(b) "Advance" means a transfer of funds to a State unemployment fund, for the purpose of paying unemployment compensation, from the Federal unemployment account in the Unemployment Trust Fund.

(c) "Benefit-cost ratio" for cap purposes for a calendar year is the percentage obtained by dividing—

(1) The total sum of compensation paid (100 percent of regular and additional compensation paid, and 50 percent of compensation paid which is sharable compensation under section 204 of the Federal-State Extended Compensation Act of 1970, but excluding any such compensation which is attributable to services performed for a reimbursing employer) under the State law during such calendar year, and

(2) Any interest paid during such calendar year on any advance, by

(3) The total amount of remuneration subject to contributions under the State law with respect to such calendar year (determined without regard to any limitation on the amount of remuneration subject to contribution under the State law).

If any percentage determined by this computation is not a multiple of 0.1 percent, such percentage shall be reduced to the nearest multiple of 0.1 percent.

(d) "Contributions" means payments required by a State law to be made into an umemployment fund by any person on account of having individuals in his employ, to the extent that such payments are made by him without being deducted or deductible from the remuneration of individuals in his employ.

(e) "Federal unemployment tax" means the excise tax imposed under section 3301 of the Federal Unemployment Tax Act on employers with respect to having individuals in their employ.

(f) "Fiscal year" means the Federal fiscal year which begins on October 1 of a year and ends on September 30 of the next succeeding year.

(g) "FUTA" refers to the Federal Unemployment Tax Act, 26 U.S.C. 3301–3311.

(h) "State unemployment fund" or "unemployment fund" means a special fund established under a State law for the payment of unemployment compensation to unemployed individuals, and which is an "unemployment fund" as defined in section 3306(f) of the Federal Unemployment Tax Act.

(i) "Taxable year" means the calendar year.

(j) "Unemployment tax rate" means, for any taxable year and with respect to any State, the percentage obtained by dividing the total amount of contributions paid into the State unemployment fund with repsect to such taxable year by the total amount of remuneration subject to contributions under the State law with respect to such taxable year (determined without regard to any limitation on the amount or remuneration subject to contribution under the State law).

(k) "Wages, taxable" means wages subject to contributions under a State law.

(l) "Wages, total" means total remuneration subject to contributions under the State law with respect to such taxable year (determined without regard to any limitation on the amount of remuneration subject to contribution under the State law).

§ 606.4 Redelegation of authority.

(a) *Redelegation to UIS Director.* The Director, Unemployment Insurance Service (hereinafter "UIS Director"), is redelegated authority to make the determinations required under this part. This redelegation is contained in Employment and Training Order No. 1–84, published in the **Federal Register** on November 14, 1983 (48 FR 51870).

(b) *Delegation by Governor.* The Governor of a State, as used in this part, refers to the highest executive official of a State. Wherever in this part an action is required by or of the Governor of a State, such action may be taken by the Governor or may be taken by a delegation of the Governor if the Department is furnished appropriate proof of an authoritative delegation of authority.

§ 606.5 Verification of estimates and review of determinations.

The Department of Labor (hereinafter "Department") shall verify all information and data provided by a State under this part, and the State shall comply with such provisions as the Department considers necessary to assure the correctness and verification of such information and data. The State agency of a State affected by a determination made by the UIS Director under this part may seek review of such determination by a higher level official of the Employment and Training Administration.

§ 606.6 Information, reports, and studies.

A State agency shall furnish to the Secretary of Labor such information and reports and conduct such studies as the Secretary determines are necessary or appropriate for carrying out the purposes of this part, including any additional information or data the UIS Director may require for the purposes of making determinations under Subparts C and E of this part.

Subpart B—Tax Credit Reduction [Reserved]

Subpart C—Relief from Tax Credit Reduction

§ 606.20 Cap on tax credit reduction.

(a) *Applicability.* Subsection (f) of section 3302 of FUTA, added by section 2406 of the 1981 Act, provides a limitation (cap) on the incremental reduction of tax credits by reason of an outstanding balance of advances if the UIS Director determines on or before November 10 of a taxable year that—

(1) No action was taken by the State during the 12-month period ending on September 30 of such taxable year which has reaulted, or will result, in a reduction in the State's unemployment tax effort, as defined in § 606.21(a) of this subpart.

(2) No action was taken by the State during the 12-month period ending on September 30 of such taxable year which has resulted, or will result, in a net decrease in solvency of the State unemployment compensation system, as defined in § 606.21(b) of this subpart.

(3) The State unemployment tax rate, as defined in § 606.3(j) of this part, for the taxable year equals or exceeds the average benefit-cost ratio, as defined in § 606.3(c) of this part, for the calendar years in the five-calendar year period ending with the calendar year immediately preceding the taxable year for which the cap is requested, under the rules specified in § 606.21(c) and (d) of this subpart, and

(4) The outstanding balance of advances to the State on September 30 of the taxable year was not greater than the outstanding balance of advances to the State on September 30 of the third preceding taxable year.

(b) *Maximum tax credit reduction.* If a State qualifies for a cap, the maximum tax credit reduction for the taxable year shall not exceed 0.6 percent or, if higher, the tax credit reduciton that was in effect for the taxable year preceding the taxable year for which the cap is requested.

(c) *Year not taken into account.* If a State qualifies for a cap for any year, the year and January 1 of the year to which the cap applies will not be taken into account for purposes of determining reduction of tax credits for subsequent taxable years.

(d) *Partial caps.* Partial caps obtained under subsection (f)(8), added to section 3302 of FUTA by section 512 of the 1983 Act, are no longer available. Nevertheless, partial cap credits earned will be taken into account for purposes of determining reduction of tax credits for subsequent taxable years within the same borrowing cycle. The year to which the partial cap applied will be taken into account for purposes of determining reduction of tax credits for subsequent taxable years.

§ 606.21 Criteria for cap.

(a) *Reduction in unemployment tax effort.* For purposes of paragraph (a)(1) of § 606.20, there will be deemed to be a reduction in a State's unemployment tax effort with respect to a taxable year if any action is or was taken (legislative, judicial, or administrative) that is effective during the 12-month period ending on September 30 of such taxable year which has resulted in or will result in a reduction of the amount of contributions paid or payable or the amounts that were or would have been paid but for such action. Actions that will be deemed a reduction in tax effort include, but are not limited to, a reduction in the taxable wage base, the tax rate schedule, tax rates, or taxes payable (including surtaxes) that would not have gone into effect but for the legislative, judicial, or administative action taken. Notwithstanding the foregoing criterion, a reduction in unemployment tax effort resulting from any provision of the State law enacted prior to August 13, 1981, will not be

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deemed disqualifying for a cap on reduction of tax credits.

(b) *Net decrease in solvency.* For purposes of paragraph (a)(2) of § 606.20, there will be deemed to be a net decrease in the solvency of the State's unemployment compensation system if any action is or was taken (legislative, judicial, or administrative) that is effective during the 12-month period ending on September 30 of such taxable year which has resulted in or will result in a net decrease in solvency; i.e., an increase in benefits without at least an equal increase in taxes, or a decrease in taxes without at least an equal decrease in benefits. Notwithstanding the foregoing criterion, a decrease in solvency resulting from any provision of the State law enacted prior to August 13, 1981, will not be deemed disqualifying for a cap on reduction of tax credits.

(c) *State unemployment tax rate.* For purposes of paragraph (a)(3) of § 606.20, the State unemployment tax rate is defined in § 606.3(j) of this Part. If such percentage is not a multiple of 0.1 percent, the percentage shall remain unrounded.

(d) *State five-year average benefit cost ratio.* For purposes of paragraph (a)(3) of § 606.20, the average benefit cost ratio for the five preceding calendar years is the percentage determined by dividing the sum of the benefit cost ratios for the five years by five. If such percentage is not a multiple of 0.1 percent, the percentage shall remain unrounded.

§ 606.22 Application for cap.

(a) *Application.* The Governor of the State shall make application, addressed to the Secretary of Labor, no later than July 1 of a taxable year with respect to which a State requests a cap on tax credit reduction. The Governor is required to notify the Department on or before October 15 of such taxable year of any action occurring after the date of the initial application and effective prior to October 1 of such year that would impact upon the State's application. The UIS Director will make a determination on the request on or before November 10 of such taxable year, will notify the Secretary of the Treasury of such determination, and will cause notice of such determination to be published in the **Federal Register.**

(b) *Anticipated impact statement.* In support of the application by the governor, there shall be submitted for the purposes of the criteria described in § 606.20(a) of this Subpart a description of all statutory provisions enacted or amended, regulations adopted or revised, administrative policies and procedures adopted or revised, and judicial decisions effecting changes in contributions or benefits paid, effective during the 12-month period ending on September 30 of the taxable year for which a cap on tax credit reduction is requested, and an anticipated impact statement (AIS) for each program action in the following respects—

(1) The estimated dollar effect of each program action upon expenditures for compensation from the State unemployment fund and for the amounts of contributions paid or payable, including the effect of interaction among program actions.

(2) If a program action has no such dollar effect, an explanation of why there is or will be no such effect,

(3) A description of assumptions and methodology used and the basis for the financial estimate of the impact of each program action described in paragraphs (b) (1) and (2) of this section, and

(4) A comparison of the program actions described in paragraphs (b) (1) and (2) of the section with the program actions prior to the Federal fiscal year, as defined in § 606.3(f).

(c) *State contact person.* The Department may request additional information or clarification of information submitted bearing upon an application for a cap on tax credit reduction. To expedite requests for such information, the name and telephone number of an appropriate State official shall be included in the application by the Governor.

(d) *Unemployment tax rate.* With respect to the unemployment tax rate criterion described in § 606.20(a)(3), the application shall include an estimate for the taxable year with respect to which a cap on tax credit reduction is requested and actual data for the prior two years as follows:

(1) The amount of taxable wages as defined in § 603.3(k) of this part,

(2) The amount of total wages as defined in § 603.3(l) of this part, and,

(3) The estimated distribution of taxable wages, as defined in § 603.3(k) of this part, by tax rate under the State law.

(e) *Benefit cost ratio.* With respect to the benefit cost ratio criterion described in § 606.20(a)(3) the application shall include for the five taxable years prior to the taxable year for which a cap on tax credit reduction is requested as follows:

(1) For each year the amount of regular and additional benefits paid which are attributable to contributing employers,

(2) For each year 50 percent of the total amount of sharable compensation paid which is attributable to contributing employers,

(3) For each year the amount of interest actually paid on advances made to the State under Title XII of the Social Security Act, and

(4) For each year the amount of total wages as defined in § 606.3(l) of this part.

(f) *Documentation required.* Copies of the sources of or authority for each program action described in paragraph (b) of this section shall be submitted with each application for a cap on tax credit reduction. In addition, a notation shall be made on each AIS of where all figures referred to are contained in reports required by the Department.

§ 606.23 Avoidance of tax credit reduction.

(a) *Applicability.* Subsection (g) of section 3302 of FUTA, added by section 272 of the 1982 Act, allows a State to avoid a tax credit reduction for a year by meeting the three requirements of subsection (g). These requirements are met if the UIS Director determines that—

(1) Advances were repaid by the State during the one-year period ending on November 9 of the taxable year in an amount not less than the sum of—

(i) The potential additional taxes (as estimated by the UIS Director) that would be payable by the State's employers if paragraph (2) of section 3302(c) of the FUTA were applied for such taxable year (as determined with regard to the cap on tax credit reduction for which the State qualifies under section 3302(f) of the FUTA and Subpart C of this part with respect to such taxable year), and

(ii) Any advances made to such State during such one-year period under Title XII of the Social Security Act.

(2) There will be adequate funds in the State unemployment fund (as estimated by the UIS Director) sufficient to pay all benefits when due and payable under the State law during the three-month period beginning on November 1 of such taxable year without receiving any advance under Title XII of the Social Security Act, and

(3) There is a net increase (as determined by the UIS Director) in the solvency of the State unemployment compensation system for the taxable year and such net increase equals or exceeds the potential additional taxes for each taxable year as determined under paragraph (a)(1)(i) of this section.

(b) *Net increase in solvency.* (1) The net increase in solvency as determined under paragraph (a)(3) of this section must be attributable to changes

(legislative, judicial, or administrative) made in the State law after the later of—

(i) September 3, 1982, or

(ii) The date on which the first advance in the current borrowing cycle (consecutive January firsts on which the State has an outstanding balance of loans) is taken into account in determining the amount of the potential additional taxes.

(2) The UIS Director shall determine the net increase in solvency by first estimating the difference between revenue receipts and benefit outlays under the law in effect for the year for which avoidance is requested, as if the relevant changes in State law referred to in paragraph (b)(1) of this section were not in effect for such year. The UIS Director shall then estimate the difference between revenue receipts and benefit outlays under the law in effect for the year for which the avoidance is requested, taking into account the relevant changes in State law referred to in paragraph (b)(1) of this section. The amount (if any) by which the second estimated difference exceeds the first estimated difference shall constitute the net increase in solvency for the purposes of this section.

(c) *Year taken into account.* If a State qualifies for avoidance for any year, that year and January 1 of that year to which the avoidance applies will be taken into account for purposes of determining reduction of tax credits for subsequent taxable years.

§ 606.24 Application for avoidance.

(a) *Application.* (1) The Governor of the State shall make application, addressed to the Secetary of Labor, no later than July 1 of a taxable year with respect to which a State requests avoidance of tax credit reduction. The Governor is required to notify the Department on or before October 15 of such taxable year of any action impacting upon the State's application occurring subsequent to the date of the initial application and on or before November 10.

(2) The UIS Director will make a determination on the request as of November 10 of such taxable year, will notify the Secretary of the Treasury of such determination, and will cause notice of such determination to be published in the Federal Register.

(b) *Information.* (1) The application shall include a statement of the amount of advances repaid and to be repaid during the one-year period ending on November 9 of the taxable year for which avoidance is requested. If the amount repaid as of the date of the application is less than the amount required to satisfy the provisions of § 606.23(a)(1), the Governor should provide a report later of any additional such repayments made in the remainder of the one-year period ending on November 9 of the taxable year.

(2) The application also shall include estimates of revenue receipts, benefit outlays, and end-of-month fund balance for each month in the period beginning with September of the taxable year for which avoidance is requested through the subsequent January. Actual data for the comparable period of the preceding year also shall be included in the application.

(3) The application also shall include a description of State law changes, effective for the taxable year for which the avoidance is requested, which resulted in a net increase in the solvency of the State unemployment compensation system, and documentation which supports the State's estimate of the net increase in solvency for such taxable year.

§ 606.25 Waiver of and substitution for additional tax credit reduction.

A provision of subsection (c)(2) of section 3302 of FUTA, added by section 273 of the 1982 Act, allows the additional tax credit reduction applicable under subparagraph (C), beginning with the fifth consecutive year of a balance of outstanding advances, to be waived and the additional tax credit reduction applicable under subparagraph (B) to be substituted. The waiver and substitution are granted if the UIS Director determines that the State has taken no action, effective during the 12-month period ending on September 30 of the year for which the waiver and substitution are requested, which has resulted or will result in a net decrease in the solvency of the State unemployment compensation system as determined for the purposes of § 606.21(b) of this Subpart.

§ 606.26 Application for waiver and substitution.

A State need not apply for the waiver and substitution provided in § 606.25 if it is applying for, with respect to the same taxable year, a cap on tax credit reduction under § 606.22 or for avoidance of tax credit reduction under § 606.24. Otherwise, the Governor of the State should address to the Secretary of Labor a request for waiver and substitution containing information in support thereof as provided in § 606.21(b) of this Part no later than July 1 of the taxable year for which the waiver and substitution are requested. The Governor is required to notify the Department on or before October 15 of such taxable year of action occurring after the date of the initial application and effective prior to October 1 of such year that would impact upon the State's application. The UIS Director will make a determination thereon on or before November 10 of the taxable year, will notify the Secretary of the Treasury of the resulting tax credit reduction to be applied, and will cause notice of the result of such determination to be published in the **Federal Register.**

Subpart D—Interest on Advances

§ 606.30 Interest rates on advances.

Advances made to States pursuant to Title XII of the Social Security Act on or after April 1, 1982, shall be subject to interest under conditions specified in § 606.31. The interest rate for a calendar year, when applicable, will be the lesser of 10 percent or the rate paid by the Secretary of the Treasury on State balances in their unemployment funds for the last quarter of the calendar year immediately preceding the calendar year in which interest is assessed.

§ 606.31 Due dates for payment of interest. [Reserved]

§ 606.32 Types of advances subject to interest.

(a) *Payment of interest.* Except as otherwise provided in paragraph (b) of this section each state shall pay interest on any advance made to such State under Title XII of the Social Security Act.

(b) *Cash flow loans.* Advances repaid in full prior to October 1 of the calendar year in which made are deemed cash flow loans and shall be free of interest; provided, that the State does not receive an additional advance after September 30 of the same calendar year. If such additional advance is received by the State, interest on the completely repaid earlier advance(s) shall be due and payable not later than the day following the date of the first such additional advance. The administrator of the State agency shall notify the Secretary of Labor no later than September 10 of those loans deemed to be cash flow loans and not subject to interest. This notification shall include the date and amount of each loan made January through September and a copy of documentation sent to the Secretary of the Treasury requesting loan repayment transfer(s) from the State's account in the Unemployment Trust Fund to the Federal unemployment account in such Fund.

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§ 606.33 No payment of interest from unemployment fund. [Reserved]

§ 606.34 Reports of interest payable. [Reserved]

§ 606.35 Order of application for repayments. [Reserved]

Subpart E—Relief from Interest Payment

§ 606.40 May/September delay.

Subsection (b)(3)(B), added to section 1202 of the Social Security Act by section 2407(a) of the 1981 Act permits a State to delay payment of interest accrued on advances made during the last five months of the Federal fiscal year (May, June, July, August, and September) to no later than December 31 of the next succeeding calendar year. If the payment is delayed, interest on the delayed payment will accrue from the normal due date (prior to October 1) and in the same manner as if the interest due on the advance(s) was an advance made on such due date. The Governor of a State which has decided to delay such interest payment shall notify the Secretary of Labor no later than September 1 of the year with respect to which the delay is applicable.

§ 606.41 High unemployment deferral.

(a) *Applicability.* Subsection (b)(3)(C), added to section 1202 of the Social Security Act by section 274 of the 1982 Act, permits a State to defer payment of, and extend the payment for, 75 percent of interest charges otherwise due prior to October 1 of a year if the UIS Director determines that high unemployment conditions existed in the State.

(b) *High unemployment defined.* For purposes of this section, high unemployment conditions existed in the State if the State's rate of insured unemployment (as determined for purposes of 20 CFR 615.12) under the State law with respect to the period consisting of the first six months of the preceding calendar year equalled or exceeded 7.5 percent; this means that in weeks 1 through 26 of such preceding calendar year, the rate of insured unemployment reported by the State and accepted by the Department under 20 CFR Part 615 may not have been less than 7.5 percent.

(c) *Schedule of deferred payments.* The State must pay prior to October 1 one-fourth of the interest due, and must pay a minimum of one-third of the deferred amount prior to October 1 in each of the three years following the year in which deferral was granted; at the State's option payment of deferred interest may be accelerated.

(d) *Related criteria.* Timely payment of one-fourth of the interest due prior to October 1 is a precondition to obtaining deferral of payment of 75 percent of the interest due. No interest shall accrue on such deferred interest.

(e) *Application for deferral and determination.* The Governor of a State which has decided to request deferral of such interest shall apply to the Secretary of labor no later than July 1 of the taxable year for which the deferral is requested. The UIS Director will determine whether deferral is or is not granted on the basis of the Department's records of reports of the rates of insured unemployment and information obtained from the Department of the Treasury as to the timely and full payment of one-fourth of the interest due.

§ 606.42 High unemployment delay.

(a) *Applicability.* Paragraph (9), added to section 1202(b) of the Social Security Act, by section 511(a) of the 1983 Act, permits a State to delay for a period not exceeding nine months the interest payment due prior to October 1, if, for the most recent 12-month period prior to such October 1 for which data are available, the State had an average total unemployment rate of 13.5 percent of greater.

(b) *Delayed due date.* An interest payment delayed under paragraph (9) must be paid in full not later than the last official Federal business day prior to the following July 1: at the State's option payment of delayed interest may be accelerated. No interest shall accrue on such delayed payment.

(c) *Application for delay in payment and determination.* The Governor of a State which has decided to request delay in payment of interest under paragraph (9) shall apply to the Secretary of labor no later than July 1 of the taxable year for which the delay is requested. The UIS Director will determine whether delay is or is not granted on the basis of total unemployment rate data published by the Department's Bureau of labor Statistics.

§ 606.43 Maintenance of solvency effort.

(a) *Applicability.* Legislative-action interest deferrals obtained under subsection (b)(8)(A)–(C), added to section 1202 of the Social Security Act by section 511(a) of the 1983 Act, are no longer available. Nevertheless, States must maintain their solvency effort with respect to any such deferrals approved in 1983, 1984, and 1985 in order for the deferral to continue to apply in each subsequent year of deferral.

(b) *Determination regarding maintenance of solvency effort.* The UIS Director shall determine if there is a net reduction in solvency effort by first estimating the difference between revenue receipts and benefit outlays under the law in effect for the 12-month period ending on September 30 of the year prior to the year for which the continuation of deferral is requested as if the law were in effect in the year for which the continuation of deferral is requested. The UIS Director shall then estimate the difference between revenue receipts and benefit outlays under the law in effect in the 12-month period ending on September 30 of the year for which the continuation of deferral is requested. If the amount of the second estimated difference is equal to or greater than the first estimated difference, the State will be deemed to have maintained its solvency effort, but if less, then a reduction in solvency effort will be deemed to have occurred.

(c) *Effect of determination.* (1) If the UIS Director determines that a State has maintained its solvency effort, continuation of deferral will be granted, and the State will be required to timely pay the deferred interest payable prior to October 1 of the year with respect to which such determination is made.

(2) If the UIS Director determines that a State failed to maintain its solvency effort, all deferred interest shall be due and payable prior to October 1 of the year with respect to which such determination is made.

(d) *Application and information.* (1) The Governor of a State which has decided to request continuation of a previously approved deferral of interest payments shall apply to the Secretary of labor no later than July 1 of the year for which continuation is requested. The governor is required to notify the Department on or before September 1 of such taxable year of any action impacting upon the State's application occurring subsequent to the date of the initial application and on or before September 30.

(2) In support of the application by the Governor, there shall be submitted for the purposes of the estimates required in paragraph (b) of this section documentation as specified in § 606.22(b)(1)–(4), (c) and (f) of this part and bearing upon the application for continuation of deferral.

§ 606.44 Notification of determinations.

The UIS Director will make determinations under §§ 606.41, 606.42, and 606.43 on or before September 10 of the taxable year, will promptly notify the appropriate Governors and the Secretary of the Treasury of such determinations, and will cause notice of such determinations to be published in the **Federal Register**. The UIS Director also will inform the Secretary of the Treasury and cause notice to be published in the **Federal Register** of determinations with respect to delayed payment of interest as provided in § 606.40.

[FR Doc. 87-24777 Filed 10-27-87; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 840 and 842

Extension of Public Comment Period; Surface Coal Mining and Reclamation Operations; Initial and Permanent Regulatory Programs; Abandoned Sites

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; Extension of public comment period.

SUMMARY: On August 28, 1987, the Office of Surface Mining Reclamation and Enforcement (OSMRE) published a proposed rule which would amend its regulations to define "abandoned site" and to change the inspection frequency for such sites. The comment period closes on November 6, 1987. OSMRE is now extending the comment period for the proposed rule until November 30, 1987.

DATE: The comment period on the proposed rule is extended until November 30, 1987.

ADDRESSES: Written comments may be mailed to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131–L, 1951 Constitution Avenue, NW., Washington, DC 20240; or hand-delivered to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L St., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: George Stone, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240: Telephone: 202–343–4295 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: OSMRE previously published the proposed rule on August 28, 1987. 52 FR 32758. The comment period is open until November 6, 1987. OSMRE received a request to extend the comment period and is hereby granting the request by extending the comment period until November 30 1987.

The proposed rule would amend OSMRE's regulations to define an "abandoned site" and to change the inspection frequency for such sites. These revisions would enable the regulatory authorities to eliminate numerous ineffective inspections, and thus transfer inspectors to operations where enforcement would achieve the intended results.

The proposed rule would also change the inspection frequency for abandoned sites to "as necessary to monitor for changes of environmental conditions or operational status" at the site. For further information, consult the preamble to the proposed rule, cited above.

Date: October 22, 1987.

Jed D. Christensen,

Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 87-24900 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 913

Permanent State Regulatory Program for Illinois

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for a public hearing on the substantive adequacy of amendments, submitted by Illinois as a modification to the State's permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The proposed amendments are in response to a letter dated June 9, 1987 from OSMRE notifying Illinois or required program changes resulting from Federal regulation changes pertaining to historic properties.

This notice sets forth the times and locations that the proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments and the procedures that will be followed for the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on November 27, 1987 if requested, a public hearing on the proposed amendment is scheduled for 1:00 p.m. November 23, 1987 and requests to present oral testimony at the hearing must be received on or before 4:00 p.m. November 12, 1987.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to the Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, Room 20, 600 East Monroe Street, Springfield, IL 62701; Telephone (217) 492–4495. If a hearing is requested it will be held in Room 17 at the same address.

Copies of the Illinois program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the following locations during normal business hours Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Room 5131, 1100 L Street, NW., Washington, DC 20240.

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, Ten Parkway Center, Pittsburgh, PA 15220

Office of Surface Mining Reclamation and Enforcement, Springfield Field Office, Room 20, 600 E. Monroe Street, Springfield, IL 62701

Illinois Department of Mines and Minerals, 227 South 7th Street, Room 201, Springfield, IL 62706

Each requester may receive, free of charge, one single copy of the proposed amendments by contacting the OSMRE Springfield Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. James Fulton, Director, Springfield Field Office, Office of Surface Mining and Reclamation and Enforcement, 600 E. Monroe Street, Room 20, Springfield, Illinois 62701; Telephone (217) 492–4495.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982. Information pertinent to the general background, revisions, modifications, and amendments to the Illinois program submissions, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Illinois program can be found in the June 1, 1982 **Federal Register** (47 FR 23883). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 913.11 and 913.15.

II. Discussion of the Proposed Amendments

By letter dated September 16, 1987 (Administrative Record No. IL–1058), the

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Illinois Department of Mines and Minerals (IDMM) submitted proposed amendments concerning historic properties in response to changes in the Federal regulations. The proposed changes are briefly summarized below:

IDMM section 1761.11 sets forth an overview of areas where mining is prohibited or limited. The proposed amendments to Section 1761.11 intend to make IDMM's requirements consistent with the OSMRE counterpart regulation 30 CFR 761.11, by extending the Section 1761.11 prohibitions/limitations to privately owned places listed in the National Register of Historic Places.

Section 1761.12 describes the IDMM's procedures for determining if mining in an area should be prohibited or limited. The proposed amendments to section 1761.12 intend to make the IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 761.12 by extending the section 1761.12 prohibitions/limitations to privately owned places listed in the National Register of Historic Places.

Section 1772.12 set forth the permit requirements for exploration removing more than 250 tons of coal. The proposed amendments to section 1772.12 intend to make the IDMM's requirements consistent with the OSME counterpart regulation, 30 CFR 772.12 by requiring the applicant to provide, at the IDMM's request, other information regarding known or unknown historic or archeological resources. The proposed amendment makes it imperative that historic preservation/archeological surveys be conducted prior to application submission in order to avoid delays.

Section 1773.15 contains the requirements for the review of permit applications. The proposed amendments for section 1773.15 intend to make the IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 773.15 by requiring IDMM to make a finding that it has taken into account the effect of the proposed permitting action on properties listed or eligible for listing in the National Register of Historic Places.

Section 1779.12 sets forth the IDMM's requirements for general environmental resources information for surface mining permit applications. The proposed amendments to section 1779.12 intend to make IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 779.12 by permitting the IDMM to require the applicant to identify and evaluate important historic and archeological resources that may be eligible for listing on the National Register of Historic Places through collection of additional information conduct of field investigations or other appropriate analyses consistent with the National Historic Preservation Act (NHPA). The proposed amendment make conducting historic preservation/archeological surveys prior to submission of a permit application imperative in order to avoid delays in permit issuance.

Section 1780.31 describes the IDMM's requirements for the protection of public parks and historic places applicable to surface mines. The proposed amendments to section 1780.31 intend to make the IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 780.31 by requiring the applicant to prevent or minimize the impacts of proposed operations on privately owned places listed on the National Register of Historic Places and by allowing the IDMM to specify appropriate mitigation and treatment measures for places listed and eligible for Register listing.

Section 1783.12 sets forth the IDMM's requirements for general environmental resources information for underground mining permit applications. The proposed amendments to Section 1783.12 intend to make the IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 783.12 by permitting IDMM to require the applicant to identify and evaluate important historic and archeological resources that may be eligible for listing on the National Register of Historic Places through collection of additional information, conduct of field investigations or other appropriate analyses consistent with the NHPA. The proposed amendments make conducting historic preservation/archeological surveys prior to submission of a permit application imperative in order to avoid delays in permit issuance.

Section 1784.17 contains the IDMM's requirements for the protection of public parks and historic places applicable to underground mines. The proposed amendments to section 1784.17 intend to make the IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 784.17 by requiring the applicant to prevent or minimize the impacts of proposed operations on privately owned places listed on the National Register of Historic Places and by allowing the IDMM to specify appropriate mitigation and treatment measures for places listed and eligible for Register listing.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comments on whether the amendment proposed by IDMM satisfies the requirements of 30 CFR 732.15 for approval of State program amendments. Comments should specifically address whether the proposed amendments are in accordance with SMCRA and consistent with the Federal regulations. If the amendment are deemed adequate, they will become part of the Illinois program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than Springfield Illinois Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comments at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by the close of business November 12, 1987. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled.

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. A summary of the meeting will be included in the Administrative Record.

IV. Procedural Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirements to prepare a Regulatory Impact Analysis, and regulatory review by OMB is not required.

The Department of the Interior has determined that this rule would not have a signficant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Rex L. Wilson,

Acting, Assistant Director Eastern Field Operations.

Date: October 14, 1987.

[FR Doc. 87-24969 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 80, 86 and 600

[AMS-FRL-3282-7]

Control of Gasoline and Alcohol Blends Volatility and Evaporative Emissions, and Refueling Emissions From New Motor Vehicles and Engines

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: This notice announces an extension of the public comment period on EPA's proposed regulation to control refueling emissions and the proposed regulation to control the volatility of gasoline and alcohol blends sold in the summertime. These proposals were both published in the **Federal Register** on August 19, 1987 (52 FR 31162 and 52 FR 31274).

DATE: The public comment period is being extended and will remain open until January 11, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Carlson, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313)-668-4270.

SUPPLEMENTARY INFORMATION: The notice of public hearing concerning these proposed rules was published in the **Federal Register** on September 3, 1987 (52 FR 33438). That notice specified that the public comment period would remain open until November 30, 1987. Subsequent to publication of the notice of public hearing EPA received requests from both the Motor Vehicle Manufacturers Association (MVMA) and the Automobile Importers of America (AIA) to extend the length of the public comment period. EPA has reviewed these requests in the light of the Agency's desire to assure the fullest possible opportunity for public participation. Given the scope of the proposed rules and the fact that the public hearing and comment period for both will run simultaneously, EPA has decided that it is appropriate to extend the comment period until January 11, 1988.

Date: October 21, 1987.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 87-24942 Filed 10-27-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-460, RM-5782]

Radio Broadcasting Services; Northport, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Northport Communications, which seeks the allotment of FM Channel 264A to Northport, Alabama, as that community's first local broadcast service.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESS: Federal Communication Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Patricia A. Mahoney, Esq. and Frank R. Jazzo, Esq., Fletcher, Heald and Hildreth, 1225 Conn. Ave., Nw., Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-460, adopted September 25, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments. See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24655 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-459, RM-5738]

Radio Broadcasting Services; Garapan, Saipan

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Serafin M. Dela Cruz which proposes to allot Class C Channel 258 to Garapan, Saipan, as a second FM Service.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Serafin M. Dela Cruz, P.O. Box 2632, Saipan, CM 96950.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-459, adopted September 30, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.145 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24856 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-410; RM-5469, RM-5428, RM-5688 and RM-5792]

Radio Broadcasting Services; Columbia, Eldon, Centralia, Mountain Grove and Cabool, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; orders to show cause.

SUMMARY: This document is issued in response to a counterproposal filed by Southwest Communications, Inc., in MM Docket 86-410, requesting the substitution of Channel 224C2 for Channel 224A at Eldon, Missouri. Petitioner also requests the modification of Station KLDN(FM) to reflect the higher class channel. The channel can be allocated to Eldon provided channel substitutions are made at Mountain Grove, Station KLRS (Channel 293A for Channel 224A) and Cabool, Station KVVC (Channel 251A for Channel 292A). The Orders to Show Cause are directed at those two stations to show cause why their channels should not be changed to accommodate Station KLDN(FM)'s proposed upgrade. Comments will only be accepted from the Mountain Grove and Cabool stations as an opportunity for comments was previously given in response to the Public Notice of March 18, 1987 (Report No. 1649).

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESS: Tom L. Mason, President and General Manager, Radio Station KVVC(FM), KVVC Broadcasting, Inc., Box 514, Junction M and Business Route 60, Cabool, Missouri 65689; Larry D. Spence, President, Radio Station KLRS(FM), Communications Works, Inc., Route 4, Box 1360, Mountain Grove, Missouri 65711; and Martin R. Leader, Ann K. Ford, John J. McVeigh, Fisher, Wayland, Cooper and Leader, 1255—23rd Street, NW., Suite 800, Washington, DC 20037, Counsel for Southwest Communications, Inc.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Orders to Show Cause, MM Docket No. 86-410, adopted September 28, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Authority: 47 U.S.C. 154, 303.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24854 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 30 and 31

Federal Acquisition Regulation (FAR); Mergers and Other Business Combinations

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of intent to develop a proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council invite public comment concerning the development of changes to FAR Parts 30 and 31 on the allowability of costs incident to mergers and other business combinations.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before December 28, 1987, to be considered in the formulation of a proposed rule. Please cite FAR Case 87-43 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Street NW., Room 4041, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulatory and Civilian Agency Acquisition Councils have been reviewing the subject of business combinations, and particularly the allowability of costs resulting from such combinations. This review has been occasioned by the Councils' concern that existing regulations on certain aspects of this subject may not be adequate, as evidenced by recent litigation. Specifically, the Councils are considering whether, in circumstances where a Government contractor is acquired, the Government should recognize depreciation or cost of money flowing from asset write-ups that result if the "purchase method" is used to account for the business combination. Government representatives have expressed concern whether, in the circumstances when a contract price will be negotiated based upon the contractor's cost, the Government should be at risk of paying higher prices simply because of a change in ownership of the supplier. Accordingly, the Councils will consider comments from interested parties regarding approaches the Councils might employ in dealing with this issue.

List of Subjects in 48 CFR Parts 30, and 31

Government procurement.

Dated: October 22, 1987.

Frank Van Lierde,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 87-24845 Filed 10-27-87; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 87-15; Notice 1]

Federal Motor Vehicle Safety Standards; Vehicle Classification

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice follows the NHTSA's granting of a petition from the Insurance Institute for Highway Safety, requesting the agency to redefine its classes of motor vehicles so that vehicles used primarily to transport passengers are not classified together with vehicles used primarily to transport cargo. The agency is publishing this document to request public comment on possible new approaches to motor vehicle classification for purposes of the Federal motor vehicle safety standards. The comments and other available information will be considered by the agency in determining whether to propose any changes in its vehicle type definitions.

DATES: Comment due date: Comments must be submitted by December 28, 1987. See Part IV of this Preamble for additional information on submitting comments.

ADDRESS: Comments should refer to the above docket number and notice number and be submitted to: Docket section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms Deborah Parker, NRM-011, National Highway Traffic Safety Administration, Room 5320, 400 Seventh Street, SW., Washington, DC 20590 (202 366-4931).

SUPPLEMENTARY INFORMATION:

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I. Statutory and Regulatory Framework

The National Traffic and Motor Vehicle Safety Act of 1966 (Safety Act, 15 U.S.C. 1381-1431) authorizes the National Highway Traffic Safety Administration (NHTSA or agency) to issue safety standards for new motor vehicles and new motor vehicle equipment. As promulgated by NHTSA, these safety standards establish minimum performance requirements for motor vehicles and items of motor vehicle equipment. Section 103(a) of the Safety Act requires each standard to be "practicable", to meet "the need for motor vehicle safety", and to be "stated in objective terms."

In addition, section 103(f) of the Safety Act requires the agency to consider whether the standard is "reasonable, practicable and appropriate for the *particular type* of motor vehicle or item of motor vehicle equipment for which it is prescribed" (emphasis added) and contributes to "carrying out the purposes of the Act." To aid it in developing safety standards, as well as in determining the applicability and appropriateness of a specific safety standard, the agency has established definitions for basic motor vehicle types. These definitions are contained in § 571.3 of the agency's regulations and are reprinted in Part IV.C. of this Preamble for easy reference. (All references in this notice to NHTSA's regulations are to sections or parts contained in Chapter V of Title 49 of the Code of Federal Regulations.)

The applicability section of each safety standard indicates the vehicle classifications to which the standard applies. It is the responsibility of each manufacturer to make the initial determination of a motor vehicle's type, consistent with the agency's definitions in § 571.3. In addition, NHTSA's certification requirements in Part 567 require the manufacturer to specify each vehicle's type and to certify that the vehicle complies with all of the motor vehicle safety standards applicable to that type. The agency subsequently may reexamine a manufacturer's classification of its vehicles if it appears that they have not been classified properly. Such reexaminations usually are done in the context of a compliance or enforcement proceeding.

The criteria in sections 103 (a) and (f) of the Safety Act also govern the agency in its making any determination to amend a standard, including revoking its applicability to a particular vehicle type. To amend or revoke a standard ordinarily would require a showing that the standard or a particular provision of the standard no longer meets the need for motor vehicle safety (or, perhaps, that it never did meet that need) or that it fails to meet one of the other criteria of section 103 (a) or (f)

II. Petition of the Insurance Institute for Highway Safety

The Insurance Institute for Highway Safety (IIHS or petitioner) petitioned NHTSA to begin rulemaking under the vehicle safety program to establish new safety definitions of motor vehicle types that are consistent with current manufacturing and marketing strategies and that are based on vehicle use.

Focusing on motor vehicles used for personal transportation, the petitioner states that the current vehicle classification system is outmoded, which results in safety standards being applied differently to vehicles that have substantially the same use. Specifically, IIHS notes that "light trucks and hybrids such as the so called 'minivans' " compete for the same market as passenger cars, but do not have to meet several important passenger car safety standards including the requirements for automatic occupant crash protection and those for head restraints, side door strength, roof crush resistance, and center mounted brake lights."

In explaining what it believes to be the genesis of this situation, IIHS summarizes the agency's initial safety standard rulemaking proceeding. The agency proposed (December 3, 1966; 31 FR 15212) two distinct vehicle types whose rationales were based on use and

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encompassed the vast majority of vehicles on the road (passenger cars for transporting 10 persons or less and trucks for transporting property). In the final rule (February 3, 1967; 32 FR 2408), the agency adopted three vehicle types: two were based on use (cargo carrying trucks and person carrying passenger cars) and the third combined the passenger carrying use with the cargo carrying physical construction or special features for occasional off-road operation (multipurpose passenger vehicle or MPV).

IIHS argues that the current system is no longer appropriate for several reasons. First, the petitioner notes substantial increases in the production of light trucks and MPV's. Second, it also notes a shift in market share from passenger station wagons to minivans, which typically are classified as MPV's. Third, IIHS states that the distinctions between some types are being blurred by changes in design and use. IIHS points to an increasing similarity in some aspects of design between formerly very different vehicles. For example, many pickup trucks and MPV's are now much lighter. These lighter pickup trucks and MPV's are different in terms of structure and use from the pickup trucks and MPV's for which the classifications were originally created two decades ago. The petitioner says that many light pickup trucks and most passenger minivans are being marketed and used for personal transportation.

The petitioner describes several alleged "misclassifications" of vehicles—vehicles which the definition of MPV allows to be classified as MPV's which, in the petitioner's view, should be classified as passenger cars. One problem in classification occurs when it is difficult to determine whether a particular chassis is more in the nature of a car chassis or a truck chassis. Another classification problem may arise when the determination of a basic vehicle type is based on separate decisions. For example, the fact that a vehicle is a cargo van can be the basis for determining that the vehicle has a truck chassis; a passenger van built on this same chassis can be classified as an MPV, on the basis of the vehicle being built on a truck chassis. The result of these misclassifications, argues IIHS, is that the safety standards are not being applied to all vehicles to which they should be.

Finally, IIHS contends that the appropriate way to determine vehicle classification is by use. The petitioner proposes that the agency establish new definitions of vehicle types that are consistent with current manufacturing and marketing practices and that reflect the *use* of the vehicle, instead of design characteristics (e.g., body styles like van or pickup truck) which may or may not have any relevance to the actual purpose of the vehicle. A necessary corollary to this, according to the petitioner, is that the agency establish a timetable to extend the passenger car safety standards or appropriate equivalents to all vehicles sold primarily for personal transportation.

The agency granted IIHS, petition in a letter dated May 7, 1987.

III. History of the Vehicle Types and Definitions

Currently, there are six basic motor vehicle types for purposes of applying the safety standards: Bus, motorcycle, multipurpose passenger vehicle, passenger car, trailer and truck. (See Part IV.C. of this Preamble for definitions of all vehicle types.) The petition addresses possible problems affecting three of these types: Passenger car, multipurpose passenger vehicle, and truck. Accordingly, the agency is limiting the scope of this advance notice of proposed rulemaking to an examination of these three vehicle types.

When the National Traffic Safety Agency (NHTSA's predecessor) proposed the initial safety standards on December 3, 1966, it was operating under a statutory time deadline as well as a statutory directive to use existing safety standards. Many of the initial motor vehicle safety standards were taken from the General Services Administration, with the agency proposing five basic vehicle types—bus, motorcycle, passenger car, trailer and truck. A passenger car was defined as a motor vehicle designed to carry ten persons or less and a truck was defined as a vehicle designed, used, or maintained primarily for the transportation of property.

The February 3, 1967 final rule retained substantially the same definition for passenger car, but revised the definition of truck to a motor vehicle designed primarily for the transportation of property or special purpose equipment. In addition, the final rule added a new vehicle class, multipurpose passenger vehicle (MPV), defined as a motor vehicle designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

The MPV definition combined the design elements of the passenger car vehicle type (designed to carry ten persons or less) with the structural characteristics of a truck (truck chassis or off road capabilities). The agency's intent was to avoid having to delay the implementation of passenger car standards, because of the need to allow a longer leadtime for vehicles that were ultimately termed MPV's. Such delay would have occurred had these vehicles been included in the passenger car category. Thus, by establishing the MPV category, the agency accommodated the needs of manufacturers to redesign vehicles that shared characteristics of more than one basic vehicle type and facilitated giving those manufacturers longer leadtime to bring those vehicles into compliance with standards initially applicable only to passenger cars. Examples of vehicles intended to be classified as MPV's include utility vehicles and recreational vehicles such as motorhomes and campers.

When the initial safety standards were adopted, there were clearer differences between the uses of vehicle types and between the physical characteristics of vehicle types. A manufacturer's design choices for a particular body style typically were governed by a single use, e.g., sedans for carrying passengers and vans and pickup trucks for carrying cargo. Most of the vehicles originally classified as MPV's were built on truck chassis, with the vast majority also possessing some feature of off-road capability. (A motor vehicle chassis means the basic operating core of the motor vehicle, including engine, frame, and other essential structural and mechanical parts. It does not include equipment provided for the accommodation of the driver, property or passengers, appliances or equipment. See the Society of Automotive Engineers Standard on motor vehicle nomenclature, SAE J687c.)

The fact that MPV's were built on a truck chassis was used as a surrogate for identifying vehicles that typically not only had such a chassis, but also possessed other characteristics distinct from a passenger car, e.g., greater mass, higher passenger compartment, and greater strength. There was little early experience with special features for occasional off-road operation qualifying a vehicle as an MPV, although one early agency interpretation linked the feature to four-wheel amphibious activity. MPV's were used principally for recreational purposes, and were much less numerous than passenger cars in the late 1960's.

These differences between MPV's and passenger cars indicated to the agency that the MPV's were not presenting the same safety problem as cars, which was borne out by a much lower MPV

accident rate. The agency concluded that there was less need to apply all of the safety standards to MPV's.

The MPV/passenger car distinctions began to diminish in the early 1970's. Personal use of MPV's began to increase while the design and basic construction of the MPV's began changing. Today, many motor vehicles are not constructed using separate body-frame construction as most of the trucks and MPV's in the 1960's did. Instead, they have unitized construction, which means that the vehicle body and the vehicle frame are a single piece instead of separate. The use of unitized construction confuses the application of a vehicle class definition based on chassis construction. In addition, the sizes of the MPV's are changing, with many models now smaller or lighter than many of the passenger car models. As late as 1977, only 10.2 percent of trucks and MPV's under 10,000 lbs. GVWR were compact; by 1985, 52.6 percent of the nearly 4.5 million such vehicles produced in that year were compact (1985 is the most recent year for which annual production figures were set forth in the "Light Truck and Van Safety Report" to the House Appropriations Committee.) Minivans, nonexistent in the 60's, have become a significant market force and compete directly with the family station wagon. To provide the public with a further understanding of the nature of the vehicle population potentially affected by changing the vehicle definitions, the agency has broken the 1985 production total for light trucks and MPV's down among the various body styles:

Conventional pickups	1,317,000
Compact pickups	1,322,000
Cars with truck bed	31,000
Conventional utility vehicles	138,000
Compact utility vehicles	538,000
Truck station wagons	93,000
Conventional cargo vans	436,000
Compact cargo vans	129,000
Conventional passenger vans	93,000
Compact passenger vans	352,000
Total	4,449,000

The agency's "Light Truck and Van Safety Report" indicates that fatalities per registered vehicle are essentially the same for cars and for trucks and MPV's whose GVWR is 10,000 lbs or less The highest fatality rates among the trucks and MPV's are for utility vehicles and for small pickup trucks.

IV. This Notice

This advance notice of proposed rulemaking provides the public with an opportunity to examine and comment on the efficacy of NHTSA's current definitions of basic vehicle types There are two distinct issues to address. The first consists of determining the manner in which particular vehicles should be grouped together for purposes of applying the safety standards. The second consists of developing definitions of the vehicle classes which are objective and which ensure the inclusion of all vehicles in the class which should be in the class and exclusion of all other vehicles. Depending on the way in which the first issue is resolved, that resolution also may be the resolution of the second issue. If, for example, the decision were to group all vehicles by ranges of GVWR, then the cutoff points between the GVWR ranges would provide the objective basis for definitions that would ensure that vehicles fall within the desired groups. However, if the grouping is based on something that cannot always be determined by objective examination of the vehicles, such as the actual use of the vehicles, then resolving the second issue would require selecting physical characteristics common to the vehicles to be grouped together and making those characteristics the objective basis for the vehicle type definitions.

A. Effect of This Proceeding on Application of Standards

In its May 1987 Report on Light Truck and Van Safety to the U.S. House and Senate Committees on Appropriations, the agency stated that an across-the-board application of passenger car standards to light trucks is not an appropriate or effective method of upgrading safety for these vehicles. Rather, as the agency has been doing since its inception, each new standard or new application of a current standard must be analyzed to determine the appropriateness of applying it to a specific vehicle type. Differences in physical characteristics, such as the weight of the vehicle, height of the passenger compartment, configuration of the rear windows, lack of side doors, or fold-down windshields all may have an effect on the appropriateness of applying specific standards to specific vehicle types.

Consistent with this approach, this proceeding would not result in the agency simply extending existing standards to other vehicle classes. In the event this proceeding results in the expansion of any standard's coverage, an integral part of the rulemaking proceeding would be the preparation of a regulatory impact analysis covering each such expansion. For a further discussion of the possible effect of this proceeding on the application of the standards, see the discussion under the heading, "Executive Order 12291 and DOT Regulatory Policies and Procedures" near the end of this notice.

B. Scope

This notice presents eight different options for comment in Part IV.D. of the Preamble and requests responses to specific questions in Part IV.E. of the Preamble. In addition, in Part IV.G. of the Preamble, the agency publishes for the commenters convenience a list of motor vehicle terms currently in the safety standards. If this rulemaking proceeds to a proposal, the agency will attempt to simplify this list of motor vehicle terms. This would be done by reducing the number of terms used in the standards by consolidating the current terms, and by defining each term that is used in the safety standards.

The current safety standard definitions of vehicle types are contained in § 571.3 of NHTSA's regulations and are reprinted in Part IV.C. of this Preamble. Each of the options which follow in Part IV.D. of this Preamble presents a different combination of motor vehicles currently categorized as a passenger car, MPV or truck. The motorcycle, bus and trailer vehicle types are omitted, so that commenters can focus on the primary thrust of possible future changes. (However, please note that if the agency issues a proposed or final rule on vehicle class definitions, changes may need to be made to the definitions of motorcycle and bus as a result of changes made to the three primary motor vehicle types. For example, it is possible that some new definition of the passenger car or passenger vehicle class would require the review of the definition of motorcycle for continuing appropriateness or for its possible inclusion within a passenger vehicle class.)

The term "light truck" is used in the options section to refer to MPV's and trucks with a Gross Vehicle Weight Rating of 10,000 pounds or less (GVWR—defined in Part IV.C. of this Preamble.) Although this term is not defined currently in the safety standard regulations, it is defined for purposes of NHTSA's fuel economy regulations in § 523.5.

This Notice does not attempt to promote identical vehicle type definitions for purposes of the safety, fuel economy, bumper, theft and emissions programs, nor is it contemplated that the agency will do so in this proceeding. At present, given the differing purposes of the individual statutes generating these definitions and

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the differing statutory limitations on amending these definitions, as well as given the adequate workability of the current terms, the development of uniform definitions is not an agency priority. However, the agency does not foreclose the possibility of harmonizing the definitions at some future time, should the need arise. Comments may be submitted on this issue, but the agency requests that commenters not dismiss an option's viability solely on the grounds that the changed safety definitions would be inconsistent with or different from the definitions for some other vehicle regulatory program such as the fuel economy definitions in Part 523 of the agency's regulations.

C. Definitions of Current Motor Vehicle Safety Terms (49 CFR 571.3)

Bus means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.

Curb weight means the weight of a motor vehicle with standard equipment; maximum capacity of engine fuel, oil, and coolant; and, if so equipped, air conditioning and additional weight optional engine.

Gross vehicle weight ratinq or GVWR means the value specified by the manufacturer as the loaded weight of a single vehicle.

Motorcycle means a motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than three wheeels in contact with the ground.

Multipurpose passenger vehicle means a motor vehicle with motive power, except a trailer, designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

Passenger car means a motor vehicle with motive power, except a multipurpose passenger vehicle, motorcycle, or trailer, designed for carrying 10 persons or less.

Trailer means a motor vehicle with or without motive power, designed for carrying persons or property and for being drawn by another motor vehicle.

Truck means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

Unloaded vehicle weight means the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle, but without cargo, occupants, or accessories that are ordinarily removed from the vehicle when they are not in use.

D. Options

The following eight options present a range of possible approaches to vehicle classification .(Please remember, however, that this discussion limits possible changes to vehicles in the current passenger car, MPV, and truck categories. It does not focus on any vehicle classified as a motorcycle or bus). As stated earlier in this Preamble, the purpose of defining vehicle types is to assist the agency in applying or not applying objectively a safety standard to a particular vehicle type. Accordingly, the following options provide a variety of groupings of different vehicle types. For example, under Option 3, a light utility vehicle (under 6,000 pounds GVWR) would be classified as a passenger vehicle, but under Option 4 would be classified as a light truck. Conversely, *any* vehicle under 5,500 pounds GVWR (including utility vehicles, cargo vans, and pick-up trucks) would be categorized as a passenger vehicle under Option 6.

The Options begin with maintaining the status quo (Option 1). The options progress from the status quo, to a gradual expansion of the three vehicle types to five vehicle types, to a rather radical proposal to put all vehicles into only two categories (Class I and Class II). Option 8 is less a single option than it is a cornucopia of characteristics which the agency presents for commenters to create their own options. Each vehicle characteristic described in Option 8 has potential as a possible determinant of basic vehicle type. NHTSA invites commenters to consider a variety of different combinations of these characteristics and to inform the agency of the results of that effort.

Each option consists of four elements: Basic vehicle types, a general description, examples of how vehicles would be grouped as a result of adopting that option, and questions related to the specific option.

One final note: these options are limited by the use of current motor vehicle classification terminology. For example, all of the "passenger" type vehicles are placed in categories called "passenger cars", "passenger vehicles", or "MPV's". Part of a possible future rulemaking would include the consideration of developing new names or designations for each category of basic vehicle type.

The agency urges commenters not to be limited in making their suggestions by the terminology used or the current applicability of standards to vehicle classes. The goal of this publication is to seek reaction to the different *groupings* of vehicles, to see if one method is considered to be more appropriate than another for the purposes of applying the Federal motor vehicle safety standards.

Option 1

Basic Vehicle Types. Option 1 would have three basic categories of vehicles: passenger car, multipurpose passenger vehicle, and truck.

General Description. This option retains the current system of vehicle type classification, so there would be no change in the current definitions of passenger car, MPV and truck. (See section IV. C. of this Preamble for NHTSA's currently applicable definitions of basic vehicle types.) No reclassifications would result from retaining the current system, and classification distinctions would continue to be based on design characteristics for cars and trucks (designed to carry ten persons or less in the case of a passenger car and designed to carry property in the case of a truck), and a mix of the passenger car design features with other physical characteristics more common to trucks for the MPV.

Classification Examples. Under the current system, all sedans, fastbacks, station wagons, etc., including those that may have a single off-road feature such as 4-wheel drive, are classified as passenger cars. The MPV category includes such vehicles as passenger vans, utility vehicles and those vehicle having one of the body styles listed under the car category and having two or more features for off-road capability.

Question.

Is the current system adequate to ensure appropriate and objective application of safety standards to vehicle types? Why?

Option 2

Basic Vehicle Types. Option 2 would have three basic categories of vehicles: Passenger car, multipurpose passenger vehicle, and truck.

General Description. Option 2 would use the current truck definition, but develop new definitions for passenger car and MPV. The underlying goal of this option is to retain these three basic vehicle types (which includes the MPV as a vehicle which possesses characteristics of both the car and the truck), but to make them easier to apply. This option would update the definitions to reflect events such as the addition of new vehicles in the marketplace and the replacement of the chassis with unitized construction. This updating would facilitate proper classification of individual vehicles in accordance with the basic vehicle types. One possible

effect of this approach would be the reclassification of some vehicles currently classified as MPV's as passenger cars or trucks.

Specifically, this option would amend the definitions of passenger car and MPV to provide that the *primary design purpose* is the principal classification criterion. (The feasibility of this option is dependent upon the development of an objective method of defining and applying the concept of primary design purpose.) Thus, the passenger car type might be replaced with a broader type called passenger vehicle, with the intended inclusion in this class of all vehicles which are primarily designed as *passenger-carrying vehicles*

In addition, Option 2 would rework the elements of the definition of an MPV to ensure that vehicles in this class actually possess characteristics used by vehicles typically larger and heavier than passenger vehicles. Option 2 would focus on revising these elements of the MPV definition in the following ways

First, the option would delete the reference to "built on a truck chassis". Unitized construction has replaced the body-frame as a basic construction technique for vehicles. Because the purpose of "built on a truck chassis" was to include in this category vehicles of heavier, stiffer construction than passenger vehicles, this element would be replaced by some other characteristic that indicates this type of construction. For example, the definition could specify that the power train and load supporting structures be of certain specifications that are characteristic of heavier construction.

Second, the general reference to "special features for occasional off-road operation" (emphasis added) would be replaced by a specification of two particular features, 4-wheel drive and high ground clearance, and supplemented by an objective definition of such clearance. High ground clearance would be demonstrated by the vehicle possessing four out of five of the following characteristics:

(1) Approach angle of not less than 28 degrees;

(2) Departure angle of not less than 20 degrees;

(3) Breakover angle of not less than 14 degrees;

(4) Running clearance of not less than 8 inches;

(5) Front and rear axle clearances of not less than 7 inches.

The approach and departure angles represent the steepest ramp that a vehicle starting on a horizontal surface is capable of entering and traveling up without the portion of the vehicle forward of the front tires, or rearward of the rear tires, respectively, contacting the ramp or the surface.

The breakover angle describes the steepest down ramp which a vehicle starting on a horizontal surface can travel down without its undercarriage between the front and rear wheels contacting the edge on the ground where the ramp and surface meet.

The axle clearance describes the vertical distance between the ground and the axle differentials. Running clearance describes the vertical distance between the ground and lowest point on the vehicle, excluding unsprung weight. The running and axle clearances dictate the height of ground obstacles over which a vehicle is capable of passing.

Thus, under this option, a passenger car would be a vehicle whose primary purpose is to carry passengers. An MPV would meet criteria for heavier, stiffer construction than a passenger car or having off-road capabilities demonstrated by 4 wheel drive and high ground clearance.

Classification Examples. Under this option, the passenger vehicle class would include what traditionally are called passenger cars as well as passenger vans not built with off-road capabilities or with truck power train and load supporting structures (or another characteristic chosen to replace this). The MPV category would include the passenger vans built *with* off-road capabilities or the truck power train and load supporting structures (or other characteristic chosen to replace this), as well as utility vehicles (i.e., vehicles like the Jeep) The truck category would include cargo vans, pickup trucks and all other cargo carrying vehicles.

Questions. 1. What objective vehicle characteristics would be indicative of a vehicle's primary design use? Are there other objective criteria that would be appropriate for determining primary design use?

2. Are load supporting structure and/or power train appropriate indicators of heavier structures typical of cargo-carrying vehicles and recreational vehicles? How can the agency objectively differentiate between those heavier structures and lighter structures? Are there other or more appropriate indicators?

3. Other regulations use the concept of truck or passenger car "derivative". Does this concept have currency anymore, such that it should be an element of these definitions? In other words, assuming that it can be determined whether, for example, a passenger van is a derivative of a cargo van or vice versa, what significance, if any, should such derivative status have? Can it be objectively expressed? How?

4. Are cars and trucks still built on separate assembly lines, so that this could be a distinguishing characteristic? If yes, what significance should this have, if any, in determining vehicle type? Is this an appropriate, objective element that could be useful in defining the basic vehicle types in this definition?

Option 3

Basic Vehicle Types. Option 3 would have three basic vehicle types: passenger vehicle, light truck, and truck.

General Description. Option 3 would eliminate the MPV category and would add a new category, light truck. The definition of passenger car would remain the same, except its name would be changed to eliminate the term car. A possible name for this category would be passenger vehicle. The definition of truck would be amended to provide a minimum GVWR of 10,000 pounds. The definition of the new light truck vehicle type would be adapted from the current fuel economy (Part 523) definition and would resemble the following:

A light truck is a vehicle which satisfies the elements of either paragraph (a) or paragraph (b):

(a) A motor vehicle with a GVWR of 10,000 pounds or less, which is designed to perform at least one of the following functions:

(i) Provide temporary living quarters;

(ii) Transport property on an open bed; or

(iii) Provide greater cargo-carrying than passenger-carrying volume (determined with all designated seating positions in place and adjusted to provide seating).

(b) A motor vehicle that has high ground clearance (as specified in paragraph (c) of this section) and—

(1) Is rated at 6000 pounds GVWR or less and has four wheel drive; or

(2) Is rated at more than 6000 pounds GVWR, but not more than 10,000 pounds GVWR.

(c) A vehicle is considered to have high ground clearance when it has at least four of the following characteristics calculated when the automobile is at curb weight, on a level surface, with the front wheels parallel to the automobile's longitudinal centerline, and the tires inflated to the manufacturer's recommended pressure—

(1) Approach angle of not less than 28 degree.

(2) Breakover angle of not less than 14 degrees.

(3) Departure angle of not less than 20 degrees.

(4) Running clearance of not less than 8 inches.

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(5) Front and rear axle clearances of not less than 7 inches.

The intended effect of eliminating the MPV vehicle type and adding a light truck vehicle type is the reclassification of vehicle lines such as the passenger minivan and small utility vehicles as passenger vehicles, emphasizing the *use* for which the vehicle is designed

Classification Examples. Under this option, cars, passenger vans and small utility vehicles would be classified as passenger vehicles, while the cargo van and large utility vehicles would be classified as light trucks. Any vehicle that is designed to transport property or special purpose equipment and has a GVWR greater than 10,000 pounds would be classified as a truck.

Questions. 1. Under this classification scheme, it would be possible to have the cargo carrying version and the passenger carrying version of the same vehicle classified as different vehicle types (passenger car and light truck). Are there any problems with this? Would it be appropriate to apply standards differently to passenger vans and cargo vans?

2. Would it also be possible to classify a passenger van under both the passenger vehicle and light truck vehicle classes? In other words, do any of the passenger vans with 4 wheel drive also have high ground clearance? How could the possibility of such dual classification be prevented?

3. What method could be used to determine objectively that a vehicle has greater cargo carrying volume than passenger-carrying volume and vice versa? Is the method in SAE J1100 adequate?

4. Are there other purposes that should be included under paragraph (a) of the definition of light truck? Why?

Option 4

Basic Vehicle Types. Option 4 would have four basic vehicle types: passenger vehicle I, passenger vehicle II, light truck and truck.

General Description. This would entail eliminating the MPV type, amending the current truck definition to provide for a minimum GVWR of 10,000 pounds, revising the current passenger car definition, adding an entirely new passenger vehicle category, and adding a light truck category. The scheme would resemble the following.

Passenger Vehicle I: Means a vehicle designed primarily to carry ten persons or less, with occasional cargo-carrying purposes, with a GVWR of 4000 pounds or less. The interior design, with all designated seating positions in place and adjusted to use for seating, manifests intended use as a passenger vehicle and the limited interior volume restricts cargo carrying capacity

The vehicle may have some characteristics of a vehicle with off-road capabilities, but these are incidental to the primary intended purpose of the vehicle as a passenger carrying vehicle and are not sufficient to enable the vehicle to meet the definition of light truck. Indications of off-road capability are:

(1) Approach angle of not less than 28 degrees.

(2) Departure angle of not less than 20 degrees.

(3) Breakover angle of not less than 14 degrees.

(4) Running clearance of not less than 8 inches.

(5) Front and rear axle clearances of not less than 7 inches.

Passenger Vehicle II: Means a vehicle designed primarily to carry ten persons or less, with occasional cargo-carrying purposes, with a minimum GVWR of 4000 pounds and a maximum GVWR of 6000 pounds. As in the case of Passenger Vehicle I, the interior design of this category manifests intended use as a passenger vehicle

The vehicle may have some characteristics of a vehicle with off-road capabilities, but these are incidental to the primary intended purpose of the vehicle as a passenger carrying vehicle and are not sufficient to enable the vehicle to meet the definition of light truck. Indications of off-road capability are:

(1) Approach angle of not less than 28 degrees.

(2) Departure angle of not less than 20 degrees.

(3) Breakover angle of not less than 14 degrees.

(4) Running clearance of not less than 8 inches

(5) Front and rear axle clearances of not less than 7 inches.

Light truck: Means a motor vehicle designed primarily as a cargo-carrying or utility vehicle, with a GVWR of 10,000 pounds or less. The vehicle possesses the principal features of either a vehicle capable of off road operations, as specified in paragraph (a), or a vehicle used for one of the purposes listed in paragraph (b).

(a) Off-road capabilities exist when the vehicle has 4-wheel drive and four of the five following characteristics:

(i) Approach angle of not less than 28 degree.

(ii) Breakover angle of not less than 14 degrees.

(iii) Departure angle of not less than 20 degrees.

(iv) Running clearance of not less than 8 inches

(v) Front and rear axle clearances of not less than 7 inches

(b) Utility functions:

(i) Provide temporary living quarters;

(ii) Transport property on an open bed; or

(iii) Provide greater cargo-carrying than passenger carrying volume (determined by how the vehicle is configured as it comes from the manufacturer).

The purpose of this option is to recognize both primary design use and weight in a vehicle's classification, since both may effect safety performance. The option would have two passenger classes, reflecting the substantive differences among vehicles designed primarily for passenger use. For example, both minivans and compact sedans are marketed for family use today, but their features clearly differ, differences which may affect the vehicle's safety performance The purpose of using 4000 pounds GVWR is to aid in distinguishing different safety performance for cars designed for the same purpose. Further, a vehicle with a GVWR greater than 6000 pounds would be classified as a light truck. These kinds of distinctions could be recognized and used to group vehicles. Acknowledging these distinctions would enhance the agency's ability to assess effectively the application of each standard to each vehicle type

Classification Examples. Under this option, cars and passenger vans with GVWR under 4000 pounds would be categorized as passenger vehicle I, but the same vehicles with a GVWR of at least 4000 pounds and less than 6000 pounds would be grouped together as passenger vehicle II. Light trucks would include all vehicles designed for utility or cargo-carrying purposes that have a GVWR less than 10,000 pounds.

Questions

1. What objective vehicle characteristics exist that would be indicative of a vehicle's primary design use? Are there other objective criteria that would be appropriate for determining primary design use?

2. Is there another way to draw the line between passenger car types?

3. As an alternative to having two passenger car classes, should there be two light truck classes?

4. What method could be used to determine objectively that a vehicle has greater cargo-carrying volume than passenger-carrying volume and vice versa? Is SAE J1100 an adequate method?

Option 5

Basic Vehicle Types. Option 5 has four basic vehicle types: passenger vehicle, light truck I, light truck II, and truck.

General Description. This option would revise the current definition of passenger car and amend the definition of truck to provide for a minimum GVWR of 10,000 pounds, would eliminate the MPV category and add two new light truck vehicle classes. The system would resemble the following:

Passenger vehicle: Means a vehicle designed primarily to carry ten persons or less, with occasional cargo-carrying purposes and a GVWR of less than 5500 pounds. The interior design manifests intended use as a passenger vehicle and the limited interior volume restricts cargo carrying capacity. The vehicle may or may not have some features indicating off-road capability.

Light truck I: Means a motor vehicle designed primarily as a cargo-carrying or utility vehicle, with a GVWR of 5500 pounds or less. The vehicle possesses the principal features of either a vehicle capable of off-road operations, as specified in paragraph (a), or a vehicle used for one of the purposes listed in paragraph (b).

(a) Off-road capabilities exist when the vehicle has 4-wheel drive and four of the five following characteristics:

(i) Approach angle of not less than 28 degree.

(ii) Breakover angle of not less than 14 degrees

(iii) Departure angle of not less than 20 degrees.

(iv) Running clearance of not less than 8 inches

(v) Front and rear axle clearances of not less than 7 inches.

(b) Utility functions:

(i) Provide temporary living quarters;

(ii) Transport property on an open bed; or

(iii) Provide greater cargo-carrying than passenger-carrying volume (determined by how the vehicle is configured as it comes from the manufacturer).

Light truck II: Means a motor vehicle designed primarily as a cargo-carrying or utility vehicle, with a GVWR of at least 5500 pounds but less than 10,000 pounds. The vehicle possesses the principal features of either a vehicle capable of off-road operations, as specified in paragraph (a), or a vehicle used for one of the purposes listed in paragraph (b).

(a) Off-road capabilities exist when the vehicle has 4-wheel drive and four of the five following characteristics:

(i) Approach angle of not less than 28 degree.

(ii) Breakover angle of not less than 14 degrees.

(iii) Departure angle of not less than 20 degrees.

(iv) Running clearance of not less than 8 inches.

(v) Front and rear axle clearances of not less than 7 inches.

(b) Utility functions:

(i) Provide temporary living quarters;

(ii) Transport property on an open bed; or

(iii) Provide greater cargo-carrying than passenger-carrying volume (determined by how the vehicle is configured as it comes from the manufacturer).

The purpose of this option is to recognize the differences which weight and structure may create in safety performance. Two light truck categories reflect these differences, which may be important in determining the application of safety standards. While a larger truck typically has a greater mass, a higher passenger compartment, a higher center of gravity, and roof pillars that are closer together than a passenger car, a smaller light truck does not necessarily differ as much from a car in these respects.

Classification Examples. Under this option, cars and passenger vans would be classified as passenger vehicles, all compact light trucks would be classified as light truck I (such as compact pickup trucks, compact cargo vans), and all conventionally sized trucks would be classified as light truck II. Any vehicle over 10,000 pounds GVWR would be classified as a truck.

Questions. 1. What objective vehicle characteristics exist that would be indicative of a vehicle's primary design use? Are there other objective criteria that would be appropriate for determining primary design use?

2. Are there other purposes that should be included under paragraph (a) of both definitions of light trucks? Why?

3. Is there another vehicle characteristic that should be used in distinguishing between the two light truck types? Why?

4. Is 5500 pounds GVWR the best cut-off between light truck classes? If not, what would be a better cut-off? Why?

Option 6

Basic vehicle types. Option 6 would have five basic vehicle types: passenger car, pickup truck, van, special purpose vehicle and truck

General description. This option would revise the definition of passenger car, eliminate the MPV category and amend the current definition of truck to provide for a minimum GVWR of 10,000 pounds. In addition, it would segment the under 10,000 pound GVWR fleet into four categories: passenger car, pickup truck, van, and special purpose vehicle. This option is designed to be consistent with current industry classification and, thus, should facilitate tracking the on-road safety record of these vehicles. These proposed categories should not result in any significant change in the applicability of safety standards. Reclassification under this scheme would be used only as a tool to more accurately group vehicle types for purposes of monitoring and regulating safety performance. The scheme for vehicles with a GVWR of less than 10,000 pounds would resemble the following:

Passenger car: Means a vehicle with motive power, except for a motorcycle or a van, that is designed and manufactured primarily for transporting 10 passengers or less.

Pickup truck: Means a vehicle other than a passenger car that has a passenger compartment and an open cargo bed that provides greater cargo-carrying than passenger-carrying volume

Van: Means a vehicle other than a passenger car that has an integral enclosure fully enclosing the driver compartment, passenger compartment, and cargo area, with no body section protruding more than 30 inches ahead of the leading edge of the windshield.

Special purpose vehicle: Means a vehicle that is capable of off-highway operation and that has at least four of the following characteristics calculated when the vehicle is at curb weight, on a level surface, with the front wheels parallel to the vehicle's longitudinal centerline, and the tires inflated to the manufacturer's recommended pressure:

(1) Approach angle of not less than 28 degrees.

(2) Breakover angle of not less than 14 degrees.

(3) Departure angle of not less than 20 degrees.

(4) Running clearance of not less than 8 inches.

(5) Front and rear axle clearances of not less than 7 inches each.

Classification examples. Under this option, any vehicle under 10,000 pounds GVWR would be classified as one of the four vehicle types described (passenger car, pickup truck, van and special purpose vehicle). These categories are intended to comprise the current market vehicle styles. Any vehicle over 10,000 pounds GVWR would be classified as a truck.

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Questions. 1. What method could be used to determine objectively that a vehicle has greater cargo-carrying volume than passenger carrying volume and vice versa? Is the method in SAE J1100 adequate?

2. Under this option, it is possible that the van and passenger car definitions could overlap, if vans begin to be constructed with body sections protruding more than 30 inches ahead of the leading edge of the windshield. Are there other, better criteria on which to distinguish objectively the difference between passenger cars and vans?

3. Under this classification scheme, there would be no separate category for buses (except school buses) under 10,000 pounds GVWR. Many, if not most, "buses" of this type typically look like and would be considered to be vans. Are there any problems associated with this approach?

Option 7

Basic Vehicle Types. Option 7 would have two basic vehicle types: passenger vehicle and truck.

General description. This option goes the furthest in simplifying vehicle classification by eliminating all but two basic vehicle types—passenger vehicle (or Class I) and truck (or Class II). The current MPV category would be eliminated and all vehicles would be categorized according to primary design use—as passenger carrying or cargo carrying. In addition, in recognition of the role of weight in crash performance, a cargo carrying vehicle would have to meet a minimum GVWR weight requirement to be classified as a truck (Class II).

The passenger vehicle type would be defined as any vehicle designed primarily to carry ten persons or less, or any vehicle, with a GVWR less than 5500 lbs., designed primarily to carry cargo. A truck would be defined as any vehicle designed primarily to carry cargo, with a minimum GVWR of 5500 pounds. The minimum truck weight of 5500 pounds GVWR represents the typical cut-off weight between standard and compact light trucks. Any cargo-carrying vehicle which does not meet this weight requirement would automatically be classified as a passenger vehicle, regardless of its use design.

This option combines the role of the design use of the vehicle as well as weight. As noted previously, the agency stated in its May 1987 Report to the Appropriations Committees that small pickups and MPV's have higher fatality rates than average light duty vehicles and all passenger cars. This performance may be ascribed in part to their weight. Also, this option avoids some inconsistencies of a driver of a cargo-carrying vehicle being afforded less protection by a standard than the driver of a nominally identical, passenger-carrying version of the vehicle.

Classification Examples. Passenger cars and passenger vans would be in the passenger vehicle type (Class I), regardless of their weight. Pickup trucks, utility vehicles, campers, etc. *over* 5500 lb. GVWR would be in Trucks (Class II). Any pickup or other truck under 5500 GVWR would be in Class I.

Questions. (1) What objective vehicle characteristics exist that would be indicative of a vehicle's primary design use? Are there other objective criteria that would be appropriate for determining primary design use?

(2) Is curb weight a more appropriate criterion than GVWR to use? (See the definition in Part IV.C. of this Preamble.) Why?

(3) Is there a more appropriate cut-off than 5500 pounds GVWR? Why?

Option 8

Option 8 is less a specific option than it is a description of vehicle characteristics, one or more of which could be used in the development of vehicle type definitions. Some of these characteristics have been used in the previous options. We invite commenters to group two or more characteristics together in any way they believe appropriate. Since the purpose of these vehicle type definitions is to promote the effective application of motor vehicle safety standards by the agency, a rationale should be included with each suggested grouping of characteristics.

1. *Vehicle volume:* Means the proportion of passenger-carrying volume versus cargo-carrying volume. This characteristic aids in the determination of the intended use of the vehicle. For example, a light vehicle that has a greater passenger-carrying volume than cargo-carrying volume would be considered a passenger vehicle; conversely, a light vehicle with greater cargo carrying volume than passenger carrying volume would be considered a light truck.

Other regulatory programs (including the fuel economy program conducted by this agency and the Environmental Protection Agency) use vehicle volume as a factor in determining the vehicle type. In one case, if a vehicle has passenger seats which can be removed easily, the space is considered to be cargo space. Another option is to define the space with all designated seating positions in place and adjusted for use as seats—thus, if the vehicle is equipped with passenger seats the space would be considered passenger space, whether or not the seats could be removed.

Using cargo-carrying and passenger-carrying volumes to classify vehicles is consistent with the desire to have categories that reflect vehicle use. However, classification by volume alone ignores the role that the vehicle structure plays in safety. Thus, a compact pickup truck classified as primarily cargo-carrying may be structurally more prone to allow occupant injury than a standard size van classified as primarily passenger-carrying. In addition, compact pickups—which have greater cargo volume than passenger volume—are often used as passenger-carrying vehicles with one to three passengers. Therefore, while volume may serve as one indicator for vehicle classification, it may not be appropriate as the only indicator.

And, finally, in determining capacity, the agency must answer questions relating to such matters as the treatment of seating positions that may be either removed or moved such as by folding and the treatment of space that might qualify for both cargo-carrying and passenger-carrying (simultaneously or alternatively).

Questions. a. How is cargo-carrying and passenger-carrying capacity measured? Is there a method besides SAE 1100 that works? Is there a preferred method?

b. Can capacity change?

c. If space can be both, how is its primary use objectively determined?

d. Should vehicle volume be used in combination with other characteristics? If yes, which characteristics? Why?

2. *Height of passenger compartment:* It appears that one of the reasons light trucks have lower occupant fatality rates than passenger cars in side impact crashes is their higher passenger compartment. Accident data show an occupant fatality rate for light trucks in side impact crashes that is about half that of passenger car occupants. If a light truck is struck in the side by a passenger car whose bumper is the same height as the rocker panel of the truck, the occupants of the truck are not likely to suffer serious injury. The higher position of the occupant may offer more general protection as well. This advantage may decrease as the number of light trucks continues to grow, since there is no advantage when vehicles of the same height are involved in an accident.

A major disadvantage of this approach is that it does not consider the intended use of the vehicle. Both cargo-carrying and passenger-carrying vehicles may have passenger compartment heights that vary widely. However, it may be possible to use the height of the passenger compartment as a distinguishing characteristic, especially in conjunction with another vehicle characteristic.

Questions. a. Measured from the ground to the vehicle's seating reference point, what is the range of passenger compartment heights for passenger cars, light trucks, MPV's, trucks, etc.? Is there a more appropriate method for measuring passenger compartment height?

b. Should passenger compartment height be used in combination with other characteristics? If yes, which characteristics? Why?

3. *Wheelbase:* Current statistics indicate that the range of wheelbase lengths for pickup trucks is 103 to 155.5 inches; for vans it is 88 to 138 inches; for MPV's it is 92.5 to 129.5 inches; and for passenger cars it is 85 inches to 134 inches.

Classifying light trucks by wheelbase has the same disadvantage as classifying by height of passenger compartment, that is, this approach does not consider the intended use of the vehicle. Both cargo-carrying and passenger-carrying vehicles may fall into longer or shorter wheebase classes. However, since in most cases there is a relationship between structural configuration of a vehicle and safety performance, and wheelbase length is one structural parameter, wheelbase length may be an appropriate characteristic to use in defining basic vehicle types.

Questions. a. What differentiations in vehicle crash performance, if any, can be made based upon a vehicle's wheelbase length?

b. Should wheelbase length be used in combination with other characteristics? If yes, which characteristics? Why?

4. *Weight:* Weight is a common differentiating characteristic, although both GVWR and curb weight are used As a general rule, heavier vehicles offer more occupant protection than lighter vehicles. Heavier vehicles are usually stronger and have a higher passenger compartment. Currently, NHTSA uses the following weight cut-offs for different purposes of applying its safety standards:

GVWR of 10,000 pounds
GVWR of 8500 pounds
Unloaded weight of 4,000 pounds
Unloaded weight of 5,500 pounds.

The agency uses weight cut-offs for safety related reasons, for classifying fuel economy vehicles, and for purposes of applying the safety standards for other reasons. For example, a GVWR of up to 8,500 pounds and an unloaded weight of 5,500 pounds have been used or considered in applying the safety standards to avoid placing an undue burden on second stage manufacturers. (When such weight cut-offs are applied, they exclude second stage manufacturers from a standard's coverage This relieves testing and certification problems and additional costs for final stage manufacturers, many of which are small businesses.)

A weight oriented classification acknowledges that a heavier vehicle generally offers more protection than a lighter vehicle. A heavier vehicle usually is stronger and has a higher passenger compartment than a lighter vehicle. This was the rationale used in the 1960's for separate light vehicle safety standards, when all light trucks were heavier and larger than passenger cars. Now, the lighter pickup trucks, vans and utility vehicles possess these characteristics to a lesser extent. Accordingly, classification by weight would allow the smaller vehicles to be examined for more safety protection without imposing undue safety protections on the larger light trucks. However, using weight alone would have the disadvantage of not considering use of a vehicle in its classification.

Questions. a. Should weight be used alone as a differentiating characteristic?

b. If not, with what other characteristics would it best be linked? Why?

c. Are there other appropriate weights that could be used for this purpose? What are they?

E. General Questions

In addition to the questions asked in relation to specific options and vehicle characteristics, the agency requests responses to the following questions:

1. Should the multipurpose passenger vehicle category be eliminated? Does it continue to serve a safety-related purpose in distinguishing one vehicle type from another?

2. To what extent is redefining vehicle types necessary to ensure that each safety standard is applied to appropriate vehicles? If redefinition is not considered necessary, would such new definitions at least aid the effort to ensure that each safety standard is applied appropriately to vehicles?

3. How would each manufacturer's vehicles be categorized under the alternative approaches?

4. What impact would each of the alternative approaches have on domestic and foreign manufacturers of affected classes of vehicles?

5. Are there any particular lead time problems if certain standards are applied to new categories of vehicles at the final rule stage? Assuming applicability of new standards, how much lead time would be required under each of the options?

F. Request for Comments

Interested persons are invited to submit comments on these options. Please observe the following in submitting comments.

1. *Number of Copies.* It is requested but not required that 10 copies be submitted.

2. *Length of Comment.* No comment may exceed 15 pages in length, but necessary attachments may be appended to a submission without regard to the 15-page limit. (49 CFR 553.21). The page limitation is intended to encourage concise presentation of a commenter's primary arguments.

3. *Request for Confidential Treatment.* If a commenter wishes to submit certain information under a claim of confidentiality, submit three copies of the complete submission, including purportedly confidential business information, to the Chief Counsel, NHTSA, at the street address given above, and submit seven copies from which the purportedly confidential information has been deleted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. (49 CFR Part 512)

4. *Comment Due Date and Inspection Policy.* All comments received before the close of business on the comment due date indicated in the **DATES** section of this Preamble will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date also will be considered. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, so the agency recommends that interested persons continue to examine the docket for new material.

5. *Notice of Agency Receipt of Comment.* If you wish notification of the docket's receipt of your comments please enclose a self-addressed, stamped postcard in the envelope with your comments. The docket supervisor will return the postcard by mail upon receipt of the comments.

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G. List of Motor Vehicle Terms

The agency has begun to develop a list of specific motor vehicle terms which are used but not defined in § 571.3 of the current safety standard regulations. Many of them are defined, however, within the individual standards which use those terms. Should the agency continue with this rulemaking proceeding, one element of any future rulemaking would be to simplify terminology by reducing the number of specific vehicle type terms used in the regulations and to replace them with fewer and more general terms.

For example, one result may be that the terms "camper" and "motorhome" are combined for use in the agency's safety standards. If the terms are combined, a new term, such as "residential vehicle", would be defined in § 571.3 and would be used in place of "camper" and "motorhome" wherever the terms appear in the safety regulations. The following table is the first step in this project. Column I indicates the standard number and Column II indicates the referenced term in the Standard indicated in Column I. Column III is blank, but would indicate the new term when the project is completed. The goal of this project is to use fewer terms, and to include definitions in § 571.3, so that each standard's scope is clear. The agency encourages comments on this list—both by suggesting additional terms in the safety standards which are undefined, by grouping some of the following terms, naming the new groupings, as well as providing a definition for any grouping.

Column I—Standard No.	Column II—Motor vehicle term	Column III—New m.v. term
208	Convertible. (S4.1.1.3.1; S4.2.2)	
	Open-body vehicle (S4.1.1.3.1; S4.2.2)	
	Walk-in van-type truck (S4.2.2)	
	Motor home (S4.2.2)	
	Vehicle designed to be exclusively sold to the US Postal Service (S4.2.2)	
	Vehicle carrying chassis-mount camper (S4.2.2)	
212	Forward control vehicle (S3)	
	Walk-in van-type vehicle (S3)	
	Open-body type vehicle with fold-down or removable windshields (S3)	
216	Convertible (S3)	
219	Forward control vehicle (S3)	
	Walk-in van-type vehicle (S3)	
	Open-body type vehicle with fold-down or removable windshields (S3)	

Column I—Standard No.	Column II—Motor vehicle term	Column III—New m.v. term
100	Slide-in camper (S4.5.6)	
114	Walk-in van-type vehicle (S2)	
	Open-body type vehicles manufactured for operation without doors (S4.1)	
115	Trailer kit (S2)	
	Incomplete vehicle (S2)	
119	Lightweight truck (S4)	
121	Load divider dolly (S3)	
	Agricultural commodity trailer (S5.6, 5.8)	
	Auto transporter (S5.3, 5.8)	
	Heavy hauler trailer (S5.3, 5. 8)	
	Pulpwood trailer (S5.6, 5.8)	
	Straddle trailer (S5.6)	
	Flatbed semi-trailer (S6. 1.10)	
126	Slide-in camper (S4)	
	Camper (S4)	
203	Walk-in van (S2)	
204	Walk-in van (S2)	
205	Slide-in camper (S3)	
	Pickup cover (S3)	
	Camper (S4)	
	Motor home (S5.4.1)	

V. Other Matters

A. Executive Order 12291 and DOT Regulatory Policies and Procedures

The impacts of any proposal that might be issued in this proceeding are presently too speculative for the agency to make a determination whether the proposed rule would be a "major regulation" under Executive Order 12291. Should the agency decide to proceed with a notice of proposed rulemaking, that notice would be accompanied by a determination of this issue.

Based on the likely public interest in this proceeding, this agency has determined that any proposed rule that might be issued would be a significant regulation under the Department's Regulatory Policies and Procedures. Pursuant to that determination, this agency has considered and, to the extent feasible at this early stage of this proceeding, evaluated the impacts and issues regarding reclassification.

In this advance notice, the agency's interest is focused strictly on the issue of whether and how the existing vehicle type definitions might be modified. However, if a proposal were ultimately issued, the agency would, in developing that proposal, address the additional issue of whether to allow the modification of the definitions to affect the application of any standard. This additional issue would arise because whether the proposal were to replace existing vehicle types with new types or were to result in some vehicles being moved from one existing vehicle type to another, the proposal could, if not accompanied by offsetting changes to the application sections of the standards, have the effect of altering the coverage of some standards.

The issue of narrowing the application of a standard so that a vehicle becomes subject to less stringent requirements would not arise because the agency intends to ensure that if any rule is issued in this proceeding, it does not result in reducing the level of safety of any motor vehicle. For example, if the passenger *car* type were replaced by a passenger motor *vehicle* type, the agency would amend the standards' application sections to ensure that any standard which previously applied to passenger cars would apply to those passenger motor vehicles that were formerly classified as passenger cars.

The agency has not decided whether to allow the modification of the vehicle type definitions to result in the expanded application of any standard. Such expansion could occur if, for example, certain vehicles were moved from the multipurpose passenger vehicle type to the passenger car type without any offsetting change to the application section of standards applicable to passenger cars. In that case, those former multipurpose passenger vehicles would become regulated in the same fashion and to the same extent as the vehicles currently in the passenger car type. Therefore, the issuance of a proposal would make it necessary for the agency to confront the issue of whether to allow the modification of the type definitions to have that effect or whether to adopt offsetting changes to the application sections to maintain the status quo regarding the application of the standards.

Any decision to propose allowing the definition modification to change the status quo and expand the application of any standard would be based on a preliminary regulatory impact analysis. Three possible outcomes of such an analysis are anticipated. First, if a regulatory analysis resulted in a tentative determination that it would be appropriate under the Vehicle Safety Act's statutory criteria to allow the reclassification of vehicles to bring additional vehicles within the scope of any of the standards without modifications to the performance requirements or test procedures, extension of the standard would be a part of the proposal. Second, if a regulatory analysis indicated that a standard, if newly applied to particular vehicle models, would meet a safety need, but would be impracticable, the agency would propose adopting similar offsetting changes in the application section, at least temporarily, so that after this rulemaking proceeding, the agency could determine if the standard could be applied, possibly with modifications, in a reasonable and practicable manner. Third, if a regulatory analysis results in the conclusion that it would not be reasonable, practicable or meet a safety need to allow the reclassification to have that effect with respect to particular vehicles, the proposal would not include an extension of the standards to those vehicles. In this third case, the results of the reclassification would be offset by corresponding changes to the application section of the standards to ensure that they will not be applied to those vehicles. If the proposal did not alter the current application of the standards to particular vehicles, the impacts of this rulemaking would be minimal.

The agency is unable to estimate at this time the costs or benefits of any extension of any standard to light trucks or MPV's. The agency has conducted extensive analyses and evaluations of the benefits and costs of the standards as they apply to passenger cars. (For further information on these materials, contact Donald Bischoff, Director of the Office of Regulatory Analysis, regarding rulemaking analyses, and Frank Ephraim, Director of the Office of Standards Evaluation, regarding evaluations of existing standards.) However, the results of those analyses and evaluations cannot simply be applied to light trucks and MPV's. When and if the agency decides to issue a proposal, it will gather information on how the light trucks and MPV's are built today, the extent to which they already comply with potential requirements, the safety benefits of improved performance, and the costs to the vehicle manufacturers and other affected parties for any necessary vehicle modifications. This information would then be used to prepare a preliminary regulatory analysis.

B. National Environmental Policy Act

The agency will review any future rulemaking notice under the Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) to determine whether any provisions would have a significant impact on the quality of the human environment.

C. Regulatory Flexibility Act

Review of this notice under the Regulatory Flexibility Act is not required because the Regulatory Flexibility Act does not apply to an advance notice of proposed rulemaking. Should the agency decide to proceed with a notice of proposed rulemaking, review of that notice under the Regulatory Flexibility Act would be made at that time.

D. Semiannual Agenda

This document appears as item number 1905 in the Department's Semiannual Regulatory Agenda, published in the **Federal Register** on April 27, 1987 (52 FR 14548, 14645; RIN #2127–AA57).

Authority: Sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on October 23, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87–24903 Filed 10–27–87; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

Pacific Halibut of the Bering Sea

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of a draft environmental assessment and regulatory impact review (EA/RIR) and request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has prepared a draft EA/RIR that assesses potential effects of regulatory changes affecting the Pacific halibut fishery in the Bering Sea. The purpose of this notice is to solicit public comments on the draft EA/RIR, especially relating to environmental quality issues concerning the regulatory changes considered. Copies of the draft EA/RIR may be obtained from the Council at the address below.

DATE: Comments on the draft EA/RIR are invited until November 27, 1987.

ADDRESSES: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Maine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668.

Copies of the draft EA/RIR may be requested from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99501.

FOR FURTHER INFORMATION CONTACT: Jay J. C. Ginter (Fishery Management Biologist, NMFS), 907–586–7229; or the Council, 907–274–4563.

SUPPLEMENTARY INFORMATION: The Pacific halibut fishery is regulated under authority of the International Pacific Halibut Commission (IPHC) established by a Convention between the United States and Canada. The Northern Pacific Halibut Act of 1982 (Halibut Act) gives effect to Convention amendments made in 1979 and provides the Council with authority to develop regulations governing halibut fishing off Alaska which are in addition to, and not in conflict with, regulations adopted by the IPHC. Such regulations may only be implemented with approval of the Secretary of Commerce (Secretary).

In July 1987, the Council solicited regulatory amendment proposals for the 1988 halibut fishing season. The Council received and reviewed 73 proposals, but decided at its September 1987 meeting to consider only certain allocative measures recently adopted by the IPHC for the Pribilof and Nelson Island areas (Regulatory Areas 4C and 4E respectively). These measures for these areas likely will be repealed from IPHC regulations for 1988 because of their allocative nature. Under the Halibut Act, however, the Council has authority to develop these or other allocative measures.

Specifically, the allocative measures being considered by the Council for Regulatory Areas 4C and 4E include designating fishing periods, limiting amounts of fish landed per trip, requiring vessel clearance and hold inspection, and exemption from the 72-hour pre-period fishing restriction. The Council is considering two other alternatives which include (1) doing nothing, which would likely result in the allocative measures listed above being repealed, and (2) instituting a vessel maximum size limit of 30 feet for Regulatory Areas 4C and 4E only.

The Council's Halibut Management Team has prepared a draft EA/RIR that assesses the potential environmental and economic effects of all of the regulatory alternatives under consideration. Copies of this draft EA/RIR may be requested from the Council (see **ADDRESSES**).

Comments on how any of the alternatives may affect the human environment are especially requested.

The Council intends to make a final decision on these alternatives at its next scheduled meeting, December 9–11, 1987. If necessary, a proposed rule implementing the Council's decision would be published as soon as practicable after that date with an additional opportunity for public comment. Any resulting final rule, if approved by the Secretary, would be in effect before the beginning of the 1988 halibut fishing season.

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773–773k.

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Dated: October 23, 1987.

Morris M. Pallozzi,

Director, Office of Enforcement, National Marine Fisheries Service.

[FR Doc. 87-24956 Filed 10-27-87; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 657

Atlantic Salmon Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a fishery management plan for Atlantic salmon and request for comments.

SUMMARY: NOAA issues this notice that the New England Fishery Management Council (Council) has submitted a Fishery Management Plan for Atlantic Salmon (FMP) for Secretarial review and is requesting comments from the public. Copies of the FMP may be obtained from the address below.

DATE: Comments on the FMP are invited until Saturday, December 19, 1987.

ADDRESSES: Send comments to Richard Roe, Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on the Atlantic Salmon FMP."

Copies of the FMP are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Peter Colosi (Chief, Plan Review Branch), 617-281-3600, ext. 232.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act requires that each regional fishery management council submit any fishery management plan or amendment it prepares to the Secretary of Commerce for review and approval or disapproval. The Magnuson Act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary considers any public comments in determining whether to approve the plan or amendment.

This FMP proposes to establish a management program for the U.S. Atlantic salmon resource to complement existing management programs of the New England States and to complement Federal management authority over salmon of domestic origin on the high seas (beyond 12 miles) conferred to the United States as a signatory nation to the North Atlantic Salmon Conservation Organization (NASCO).

The FMP proposes to prohibit the possession of Atlantic salmon (*Salmo salar*) taken from Federal waters, thereby preventing a non-traditional recreational fishery or a new commercial fishery from developing in the exclusive economic zone. This action is fully consistent with the management goals of NASCO and reinforces the ongoing Atlantic salmon restoration programs being conducted by the States in cooperation with Federal agencies.

Regulations proposed by the Council to implement this FMP are scheduled to be published within 15 days.

(16 U.S.C. 1801 *et.seq.*)

Dated: October 23, 1987.

Morris M. Pallozzi,

Director of Office of Enforcement, National Marine Fisheries Service.

[FR Doc. 87-24957 Filed 10-27-87; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 208
Wednesday, October 28, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

National Advisory Council on Rural Development; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Office of the Secretary schedules the second meeting of the National Advisory Council on Rural Development:

Name: National Advisory Council on Rural Development.

Date: December 3-4, 1987.

Time and Place: December 3-4, 1987; Holiday Inn Airport South, 3317 Fern Valley Road, Louisville, Kentucky. December 3, 1:00 p.m.-5:00 p.m.; December 4, 8:30 a.m.-3:00 p.m.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To advise the Secretary on the rural development needs, goals, objectives, plans, and recommendations of multistate, State, substate and local organizations and jurisdictions. The Council will provide the Secretary with assistance in identifying rural problems and supporting efforts and initiatives in rural development.

Contact Person: Jeanne Kling, Acting Assistant, Office of the Under Secretary for Small Community and Rural Development, U.S. Department of Agriculture, Room 219-A, Administration Building, Washington, DC 20250, telephone (202) 447-5371.

Done at Washington, DC, this 22nd day of October, 1987.

La Verne Ausman,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 87-24826 Filed 10-27-87; 8:45 am]

BILLING CODE 3410-01-M

Forms Under Review by Office of Management and Budget

October 23, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg. Washington, DC 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Farmers Home Administration

Form FmHA 410-A, Application for Rural Housing Assistance (Non Farm Tract)
On occasion
Individuals or households; 250,000 responses; 312,500 hours; not applicable under 3504(h)
Jack Holston, (202) 382-9736

- Farmers Home Administration

7 CFR Part 1955-B, Management of Property On occasion
Individuals or households; State or local governments; Business or other for-profit; Federal agencies or employees; Small businesses or organizations; 2,900 responses; 910 hours; not applicable under 3504(h) Jack Holston, (202) 382-9736

- Food and Nutrition Service

Child Care Food Program Regulations (Part 226) and related forms FNS 82, 341, 342, 343, 344, 345, 345-1, 430, 431, 433, and 581
Recordkeeping; On occasions; Monthly; Annually; 406, 956 responses; 1,42,609 hours; not applicable under 3504(h)
Albert V. Perna, (703) 756-3600

New

- Agricultural Cooperative Service

Agricultural Cooperative Service Questionnaire: Market Potential for New Cooperatives (Buyer Survey for New Cooperative Activity)
On occasion
Businesses or other for-profit; Small businesses or organizations; 105 responses; 53 hours; not applicable under 3504(h)
John T. Haas, (202) 653-6954

Revision

- Agricultural Marketing Service

Dairy Promotion and Research Order DA-14, -16, -17, -18, -19, -20, and -28
Recordkeeping; Monthly; Annually
Farms; Businesses or other for-profit; Small businesses or organization; 15,660 responses; 8,913 hours; not applicable under 3504(h)
Vern Burkholder, (202) 447-6032.

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 87-24959 Filed 10-27-87; 8:45 am]

BILLING CODE 3410-01-M

Soil Conservation Service

Rhodes Creek West Critical Area Treatment RC&D Measure, KY

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact/environmental assessment.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil

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Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Rhodes Creek West Critical Area Treatment RC&D Measure, Daviess County, Kentucky.

FOR FURTHER INFORMATION CONTACT: T. Allan Heard, Assistant State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, KY 40504, telephone: 606–233–2747.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Randall W. Giessler, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing gully erosion and sedimentation and water disposal problems on ten acres of land along one mile of Rhodes Creek West located at the west city limits of Owensboro, Kentucky. The planned works of improvement include: shaping of existing gullies, reconstruction of channel berm, grade control structures, and permanent vegetative cover on stream banks and berms.

The Finding of No Significant Impact/Environmental Assessment (FONSI/EA) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI/EA are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Randall W. Giessler,

State Conservationist.

Date: October 9, 1987.

[FR Doc. 87–24693 Filed 10–27–87; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

National Bureau of Standards

[Docket No. 70609–7109]

Proposed Federal Information Processing Standard (FIPS) for GOSIP

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of proposed Federal Information Processing Standard for Government Open Systems Interconnection Profile (GOSIP).

SUMMARY: A Federal Information Processing Standard (FIPS) adopting the Government Open Systems Interconnection Profile (GOSIP) is proposed for Federal agency use. Developed by an interagency group, GOSIP defines a common set of data communication protocols which enable computer systems developed by different vendors to interoperate and enable the users of different applications on these systems to exchange information. These Open Systems Interconnection (OSI) protocols were adopted by the International Organization for Standardization (ISO) and the Consultative Committee on International Telephone and Telegraph (CCITT). GOSIP is based on agreements reached by vendors and users of computer networks participating in the National Bureau of Standards (NBS) Workshop for Implementors of Open Systems Interconnection.

Prior to submission of this proposed standard to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section, GOSIP, which references protocols for the open systems environment. Only the announcement section of the standard is provided in this notice. Interested parties may obtain a copy of GOSIP from the Standards Processing Coordinator (ADP), Institute for Computer Sciences and Technology, Technology Building, Room B–64, National Bureau of Standards, Gaithersburg, MD 20899, telephone (301) 975–2816.

DATE: Comments on this proposed FIPS must be received on or before January 26, 1988.

ADDRESS: Written comments concerning the adoption of GOSIP as a FIPS should be sent to: Director, Institute for Computer Sciences and Technology, ATTN: GOSIP, Technology Building, Room B–154, National Bureau of Standards, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Gerard F. Mulvenna, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, telephone (301) 975–3631.

Ernest Ambler,

Director.

Date: October 21, 1987.

Federal Information Processing Standards Publication ____

(date)

Announcing the Standard for Government Open Systems Interconnection Profile (GOSIP)

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), and as implemented by Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard

Government Open Systems Interconnection Profile (GOSIP).

Category of Standard

Hardware and Software Standards, Computer Network Protocols.

Explanation

This Federal Information Processing Standard adopts the Government Open Systems Interconnection Profile (GOSIP). GOSIP defines a common set of data communication protocols which enable systems developed by different vendors to interoperate and enable the users of different applications on these systems to exchange information. These Open Systems Interconnection (OSI) protocols were developed by international standards organizations, primarily the International Organization for Standardization (ISO) and the Consultative Committee on International Telephone and Telegraph (CCITT). GOSIP is based on agreements reached by vendors and users of computer networks participating in the National Bureau of Standards (NBS) Workshop for Implementors of Open Systems Interconnection.

Approving Authority

Secretary of Commerce.

Maintenance Agency

U.S. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index

a. Stable Implementation Agreements for Open Systems Interconnection Protocols, NBS Workshop for Implementors of Open Systems Interconnection, to be published.

Related Documents

Related documents are listed in the Reference Section of the GOSIP document.

Objectives

The primary objectives of this standard are:

—to achieve interconnection and interoperability of computers and systems that are acquired from different manufacturers in an open systems environment
—to reduce the costs of computer network systems by increasing alternative sources of supply
—to facilitate the use of advanced technology by the Federal government
—to stimulate the development of commercial products compatible with Open Systems Interconnection (OSI) standards

Specifications

GOSIP (affixed).

Applicability

GOSIP is to be used by Federal government agencies when acquiring computer network products and services and communications systems or services that provide equivalent functionality to the protocols defined in the GOSIP documents. Currently, GOSIP supports the Message Handling Systems and File Transfer, Access and Management applications. GOSIP also supports interconnection of the following network technologies: CCITT Recommendation X.25; Carrier Sense Multiple Access with Collision Detection (IEEE 802.3); Token Bus (IEEE 802.4); and Token Ring (IEEE 803.5). Additional applications and network technologies will be added to later versions of the GOSIP document.

Implementation

This standard is effective (six months after date of publication of final document in the **Federal Register**). For a period of eighteen (18) months after the effective date, agencies are permitted to acquire alternative protocols which provide equivalent functionality to the GOSIP protocols. Agencies are encouraged to use this standard for solicitation proposals for new network products and services to be acquired after the effective date. This standard is mandatory for use in all solicitation proposals for new network products and services to be acquired eighteen (18) months after the effective date. OSI protocols providing additional functionality will be added to GOSIP as implementation specifications for these protocols are developed by the NBS Workshop for Implementors of OSI. For a period of eighteen months after these new protocols are included in GOSIP, agencies are permitted to acquire alternative protocols which provide equivalent functionality. After the eighteen month period, the new protocols should be cited in solicitation proposals when systems to be acquired provide equivalent functionality to the protocols defined in the GOSIP document.

For the indefinite future, agencies will be permitted to buy network products in addition to those specified in GOSIP and its successor documents. Such products may include other non-proprietary protocols, proprietary protocols, and features and options of OSI protocols which are not included in GOSIP.

The National Bureau of Standards is developing a program to accredit testing organizations for specific tests or types of tests for computer products and services. Information on these tests and test procedures will be made available in the future. Until the tests and test procedures are available, government agencies acquiring networks and services in accordance with this standard may wish to require testing for conformance, interoperation, and performance. The tests to be administered and the testing organization are at the discretion of the agency Acquisition Authority. Guidance on testing for GOSIP specifications is contained in Section 2 of the GOSIP document.

Waivers

Heads of agencies may waive the requirements of this standard in instances where it can be clearly demonstrated that there are significant performance or cost advantages to be gained and when the overall interests of the Federal government are best served by granting the waiver. Waivers may be requested for special purpose networks which are not intended to interoperate with other networks. Waivers may also be requested for products supporting network research.

A request for waiver generated within an agency shall include:

a. A description of the existing or planned ADP system for which the waiver is being requested,

b. A description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and

c. A justification for the waiver, including a description and discussion of the significant performance or cost disadvantages that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

Agency heads may act only upon written waiver requests. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). Within thirty (30) days of approving a waiver, a copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899. Also, a notice of the waiver determination shall be published in the *Commerce Business Daily.*

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

Special Information

The appendices to the GOSIP specification describe advanced requirements for which adequate profiles have not yet been developed. Federal government priorities for meeting these requirements and the expected dates that work on these priorities will be completed are also provided. As these work items are addressed and completed by the NBS Workshop for Implements of OSI, addenda will be inserted into the GOSIP document.

BEST COPY AVAILABLE

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Where to Obtain Copies

Copies of this publication are for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication _____ (FIPSPUB _____), and title. Specify microfiche if desired. Payment may be made by check, money order, or NTIS deposit account.

[FR Doc. 87-24931 Filed 10-27-87; 8:45 am]
BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

[P2T]

Marine Mammals; Issuance of Permit; Sea World, Inc.

On August 14, 1987, notice was published in the **Federal Register** (52 FR 30422) that an application has been filed by Sea World, Inc. 1720 South Shores Road, San Diego, California 92109, for a permit to import one (1) killer whale (*Orcinus orca*) from Zeedierepark Harderwijk, Holland for public display.

Notice is hereby given that on October 21, 1987, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) the National Marine Fisheries Service issued a permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC 20009;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415.

Date: October 21, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87-24955 Filed 10-27-87; 8:45 am]
BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 7-042,066
Subtiller
SN 7-058,054
Synthetic Gene For Acyl Carrier Protein
SN 7-059,988
Method to Obtain Intact, Viable Protoplasts from Pollen Grains
SN 7-062,841
Method and Apparatus for Stimulating Plant Growth
SN 7-063,357
Stable Crystalline Cellulose III Polymorpha
SN 7-068,498
Oxidation Process to Decrease Free Formaldehyde in Durable Press Finishing with Carbamate Agents
SN 7-072,201
Encapsulation by Entrapment Within Matrix of Unmodified Starches Having Various Proportions of Linear and Branched Chain Components
SN 7-075,169
Process For Dyeing Flame Retardant Fabrics
SN 7-092,100
Control of Jimsonweed

Department of Commerce

SN 6-836,748 (4,694,230)
Micromanipulator System
SN 6-936,305 (4,692,280)
Purification of Fish Oils

Department of Health and Human Services

SN E-313-87
Enhancing Drug Delivery To the Brain
SN E-66-87
Multistage Mixer-Settler Centrifuge
SN E-97-87
Administration of Steroid Hormones
SN 6-763,657 (4,690,915)
Adoptive Immunotherapy As A Treatment Modality In Humans
SN 6-802,680 (4,692,463)
Antiinflammatory 2,3-Didemethylcolchicine and Additional Derivatives
SN 6-862,111 (4,690,131)
Medical Apparatus
SN 7-076,734
New Synthetic Bioactive Compounds

Department of Interior

SN 6-620,665
Acid Leaching Of Ores With An Agglomeration Pretreatment
SN 6-623,753 (4,692,875)
Metal Alloy Identifier
SN 6-718,975
A Solid State Apparatus For Imaging With Improved Resolution
SN 6-825,421
Low Temperature Chlorination Of Perovskite and Its Derivatives To Produce Titanium Tetrachloride
SN 6-832,628
Use of Soluble Additives To Improve High-Temperature Properties Of MgO Refractories
SN 6-838,491
Electrode Assembly For Molten Metal Production From Molten Electrolytes
SN 6-848,055
Method For Producing Ammonium Sulfide, Ammonium Bisulfide or Mixtures Thereof, Ammonium Polysulfides, Ammonium Thiosulfate and Elemental Sulfur
SN 6-876,502
Method For Recovery Of Metal Values From Secondary Copper Smelter Flue Dusts Using An Ammonium Carbonate-Ammonium Hydroxide System
SN 6-883,427
Bubble Generator
SN 6-901,359
Supplemental Parameters For Automation Of Spark Testing
SN 6-904,066
Releasable Lock Mechanism
SN 6-907,341
Induction Slag Reduction Process For Making Titanium
SN 6-939,390
Use of Multivalent Surface Conditioners To Improve The Coal Wetting Performance Of Anionic Surfactants
SN 6-946,470
Recycling Superalloy Scrap By Vapor Phase Embrittlement

SN 7-002,595
Stereoscopic Camera Slide Bar
SN 7-005,041
Isoelectric Drilling Method
SN 7-021,271
Mobile Lifting Jack
SN 7-025,252
Supercritical Fluid Metal Halide Separation Process
SN 7-055,222
Enhancement of Titanium-Aluminum Alloying By Ultrasonic Treatment
SN 7-059,892
Method and Apparatus For Measuring Surface Density Of Explosive and Inert Dust In Stratified Layers
SN 7-068,083
Method of Recovering Sulfur From Solid Catalysts

Department of the Air Force

SN 6-576,081 (4,668,579)
Interstitially Protected Oxidation Resistant Carbon-Carbon Composite
SN 6-607,089 (4,668,909)
Piezoelectric Material Testing Method and Apparatus
SN 6-705,816 (4,662,860)
Telescoping Low Vibration Pulling Mechanism For Czochralski Crystal Growth
SN 6-708,910 (4,668,898)
Linear Geometry Thyratron
SN 6-743,338 (4,667,090)
Synthetic Aperture Milti-Telescope Tracker Apparatus
SN 6-744,593 (4,668,916)
Liquid Crystal Non-Destructive Inspection of Non-Ferrous Metals
SN 6-753,504 (4,669,042)
Stepless Pulse Count Switching
SN 6-762,888 (4,665,792)
Missile Longitudinal Support Assembly
SN 6-763,578 (4,667,103)
Universal Wavefront Sensor Apparatus
SN 6-788,188 (4,668,869)
Modulated Optical Energy Source
SN 6-788,268 (4,674,710)
Automatic Formation Turns
SN 6-804,191 (4,668,317)
Damaged Radar Radome Repair Method
SN 6-807,426 (4,663,425)
Ethynyl-Containing Aromatic Polyamide Resin
SN 6-817,714 (4,662,216)
Rocket Exhaust Probe
SN 6-819,322 (4,667,002)
Phenylquinoxaline Resin Compositions
SN 6-833,640 (4,667,600)
Safe/Arm Explosive Transfer Mechanism
SN 6-844,636 (4,668,165)
Super Gripper Variable Vane Arm
SN 6-870,045 (4,667,144)
High Frequency, High Voltage Mosfet Isolation Amplifier
SN 6-914,410 (4,667,504)
Flow Through Device For Determination Of the Penetration Rate Of Chemicals Across Biological Membranes In Vitro
SN 7-024,447
Thermionic Reactor Module With Thermal Storage Reservoir
SN 7-056,864
Melt-Castable Explosive Composition
SN 7-066,292
Pseudo Uniphase Charge Coupled Device and Method

Department of the Army

SN 6-902,712
Helicopter Soft Snow Landing Aid
SN 7-072,383
Method of Making A Low Aging Piezoelectric Resonator
SN 7-082,776
Amorphous Cathode Material For Use In Lithium Electrochemical Cell And Lithium Electrochemical Cell Including The Amorphous Cathode Material
SN 7-082,880
Two Part Buckle
SN 7-082,881
Vehicle Transport Device
SN 7-091,697
Method of Comminuting Rare Earth Magnet Alloys Into Fine Particles

Tennessee Valley Authority

SN 6-889,011 (4,676,822)
Fluid Fertilizers Containing Thiophosphoryl Triamide

[FR Doc. 87-24879 Filed 10-27-87; 8:45 am]
BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License; Calcol, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Calcol, Inc. having a place of business in Beachwood, OH and exclusive right in the United States to manufacture, use, and sell products embodied in the inventions entitled "5-Deoxy-5-(Isobutylthio)-3-Deazaadenosine" U.S. patent 4,210,639 and "3-Deazaadenosine." U.S. patent 4,148,888. The patent rights in these inventions are assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing an will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

This notice supersedes the notice published on July 28, 1987 (52 FR 28183).

Inquiries, comments and other materials relating to the intended license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87-24880 Filed 10-27-87; 8:45 am]
BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in India

October 22, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 29, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343-6494. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the restraint limits for Categories 313 and 315, for the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. As a result, the limits for Categories 313 and 315, which are currently filled will, re-open.

Background

A CITA directive dated April 7, 1987 (52 FR 11723) established limits for certain specified categories cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the agreement

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year which began on January 1, 1987 and extends through December 31, 1987. Pursuant to a request from the Government of India and under the terms of the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of February 6, 1987, between the Governments of the United States and India, Categories 313 and 315 are being increased by application of swing and carryforward. The reduction in other categories' limits to compensate for the swing applied to Categories 313 and 315 are reflected in a separate directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 22, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on April 7, 1987 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on October 29, 1987, the directive of April 7, 1987 is amended to include adjusted restraint limits for the following categories, under the terms of the bilateral textile agreement of February 6, 1987 [1]

Category	Adjusted 12-mo limit [1]
313	22,035,000 square yards.
315	9,040,000 square yards.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-24929 Filed 10-27-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mexico

October 22, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 29, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 535-9481. For information on embargoes and quota re-openings please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the limit for cotton and man-made fiber textile products in Category 341/641, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. As a result, the limit for Category 341/641, which is currently filled, will re-open.

Background

On December 5, 1986, a notice was published in the **Federal Register** (51 FR 43960), which announced import restraint limits for certain cotton, wool and man-made fiber textile products, including Category 341/641, produced or manufactured in Mexico and exported during the current agreement year which began on January 1, 1987 and extends through December 31, 1987. The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, between the Governments of the United States and the United Mexican States, under the terms of which these limits were established, also includes provisions for swing and the carryover of shortfalls from the previous agreement year in certain categories (carryover). Under the foregoing provisions of the bilateral agreement and at the request of the Government of the United Mexican States, the limit established for Category 341/641 is being increased by application of swing and carryover for goods exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 22, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on November 28, 1986, by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on Oct. 29, 1987, the directive of November 28, 1986, is hereby further amended to adjust the previously established limit for cotton and man-made fiber textile products in Category 341/641, as provided under the terms of the bilateral agreement of February 26, 1979, as amended and extended[1].

Category	Adjusted 1987 limit.[1]
341/641	695,713 dozen of which not more than 250,425 dozen shall be in Category 341pt./641.[2]

[1] The limit has not been adjusted to account for any imports exported after December 31, 1986.

[2] In Category 341pt./641., only TSUSA numbers 384.4606, 384.4610, 384.4612, 384.9110 and 384.9120.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-24930 Filed 10-27-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in the Socialist Federal Republic of Yugoslavia

October 22, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 23, 1987. For further information contact Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

On December 30, 1986 a notice was published in the **Federal Register** (51 FR 47052), which announced import restraint limits for certain cotton, wool and man-made fiber textile products, including Category 443, which is a sublevel of Category 443/643, produced or manufactured in the Socialist Federal Republic of Yugoslavia and exported during the current agreement year which began on January 1, 1987 and extends through December 31, 1987. The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 26 and 27, 1978, as amended as extended, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia, under the terms of which this limit was established, also includes provisions for the carryover of shortfalls from the previous year in certain categories (carryover).

Under the foregoing provisions of the bilateral agreement, the limit established for sublevel Category 443 is being increased for carryover for goods exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 22, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 23, 1986 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Socialist Federal Republic of Yugoslavia and exported during the period which began on January 1, 1987 and extends through December 31, 1987.

Effective on October 23, 1987, the directive of December 23, 1986 is hereby amended to adjust the previously established sublevel for wool textile products in Category 443, which is a sublevel of Category 443/643, to a level of 9,435 dozen [1], as provided under the terms of the bilateral agreement of October 26 and 27, 1978, as amended and extended. [2]

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-24853 Filed 10-27-87; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

New York Mercantile Exchange Proposed Option Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity option contract.

SUMMARY: The New York Mercantile Exchange, Inc. ("NYMEX") has applied for designation as a contract market in options on its New York Harbor unleaded regular gasoline futures contract. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

[1] The agreement provides, in part, that: (1) Specific limits and sublimits may be exceeded by not more than seven percent for swing in any agreement period; (2) these same limits may be adjusted for carryforward and carryover up to 11 percent of the applicable category limit or sublimit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1986.

[2] The agreement provides, in part, that: (1) Carryover and carryforward may not exceed 11 percent and swing may not exceed 6 percent of cotton and man-made fiber and 5 percent of wool; (2) special shift up to 10 percent may be available in Categories 340/640 and 341/641.

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DATE: Comments must be received on or before November 27, 1987.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the NYMEX New York Harbor unleaded regular gasoline futures option contract.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed futures option contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K, Street NW., Washington, DC 20581. Copies of the terms and condition can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the NYMEX in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and condition of the proposed futures option contract, or with respect to other materials submitted by the NYMEX in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on October 22, 1987.

Paula Tosini,

Director, Division of Economic Analysis.

[FR Doc. 87–24912 Filed 10–27–87; 8:45 am]

BILLING CODE 6351–01–M

Financial Products Advisory Committee; Meeting

This is to give notice pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, 10(a) and 41 CFR 101–6.101(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting on Wednesday, November 18, 1987, at the Commodity Futures Trading Commission in Washington, DC. The meeting will be held between 10:00 a.m. and 3:30 p.m. in the Commission's Public Meeting Room, which is located on the fifth floor of the building. The agenda will consist of:

1. Discussion of arbitrage between equity index futures contracts and the stock market, and the relationship of index arbitrage to equity market prices.

2. Discussion of portfolio insurance (dynamic hedging) and the relationship to equity market prices.

3. Discussion of proposals to distinguish control from ownership when aggregating positions for speculative limit purposes.

4. Other Committee business:

a. Discussion of agenda items and scheduling for future Committee meetings; and

b. Any other business that may properly come before the Committee.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on financial products issues. The purposes and objectives of the Advisory Committee are more fully set forth at 52 FR 17313 (May 7, 1987).

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Robert R. Davis, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Commodity Futures Trading Commission Financial Products Advisory Committee, c/o Maureen Donley-Hoopes, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, to be received prior to the date of the meeting. Members of the public who wish to make oral statements should also inform Ms. Donley-Hoopes in writing at the above address at least three days prior to the meeting. Provision will be made, if time permits, for an oral presentation of reasonable duration.

Issued in Washington, DC, the 22nd day of October, 1987, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 87–24911 Filed 10–27–87; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Systems Management College, Board of Visitors; Meeting

AGENCY: Defense Systems Management College, DOD.

ACTION: Board of Visitors meeting.

SUMMARY: A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 226, Fort Belvoir, Virginia, on Tuesday, November 24, 1987, from 0830 until 1530. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitations on the space available, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Mrs. Joyce Reniere on (703) 664–5469.

Thomas J. Condon,

Acting Division Chief, Directives Division, Department of Defense.

[FR Doc. 87–24906 Filed 10–27–87; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Advisory Panel on ROTC Affairs; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following panel meeting:

Name of Panel: Army Advisory Panel on ROTC Affairs.

Place: Norfolk State University, Norfolk, VA.

Date of Meeting: February 10–11, 1988.

Time:

8 a.m.–5 p.m., Febuary 10, 1988

9 a.m.–11:45 a.m., February 11, 1988

Proposed Agenda: The meeting will consist of briefings and discussions. The meeting is open to the public. Any interested person may appear before or file a statement with the Panel at the time, and in the manner, permitted by the Panel. It is projected that the following events will take place during the meeting. After opening remarks by Major General Robert E. Wagner and the chairman of the Panel, Dr. Harrison Wilson, any administrative matters requiring attention will be resolved. The meeting will then proceed with a variety of recent ROTC Cadet Command initiatives. Major General Wagner will provide an overview of the significant changes since the July 1987 meeting, at Fort Knox, Kentucky. Briefings on February 10 and 11 will include: Expansion of the ROTC Mission Management System Deployment Plan, Nursing Program Update, Advertising Strategy, Precommissioning Literacy Standards, Marketing Operation Citizen Soldier, Spring Gold, Green to Gold Update, Camps Update, and Cadet Accident/Liability Coverage. On February 10, 1988, the Army Advisory Panel on ROTC Affairs will meet in general session to formulate recommendations, consider progress made on previous Panel recommendations and to select a date for the summer panel meeting.

For the Commander.

Robert S. Cox,

Colonel, General Staff, Chief, Cadet Training Division.

[FR Doc. 87–24881 Filed 10–27–87; 8:45 am]

BILLING CODE 3710–08–M

Board of Visitors, United States Military Academy; Open Meeting

In accordance with section 10(a)(20) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Dates of Meeting: December 1–4, 1987.

Place of Meeting: West Point, New York.

Start Time of Meeting: 9:00 A.M., December 2, 1987.

Proposed Agenda: Discussion of the following items: Women and Minorities at West Point, Impact of Federal Reassessment on the Highland Falls School District and Child Care Center Suit; 2002 Long Range Planning; Cost, Price, and Worth of West Point; Cadet Honor Code and System; Cadet Pay; and Cadet Appreciation of the Constitution.

All proceedings are open. For further information, contact Colonel Larry Donnithorne, United States Military Academy, West Point, New York 10996–5000, (914) 938–4723.

For the Board of Visitors

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 87–24874 Filed 10–27–87; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Technology Services, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before November 27, 1987.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: October 23, 1987.

Carlos U. Rice,

Director for Information Technology Services.

Office of Postsecondary Education

Type of Review: Extension

Title: Performance Report for the Minority Science Improvement Program

Agency Form Number: ED 0007A

Frequency: Annually

Affected Public: Non-profit institutions

Reporting Burden: Responses: 40;
Burden Hours: 200

Recordkeeping: Recordkeepers: 40;
Burden Hours: 200

Abstract: This performance report is used by institutions of higher education that have participated in the Minority Science Improvement Program. The Department uses the information collected to assess the accomplishments of project goals and objectives, and to aid in effective program management.

Office of Educational Research and Improvement

Type of Review: Extension

Title: The 1987–88 National Survey of Postsecondary Faculty

Agency Form Number: G50–33P

Frequency: Triennially

Affected Public: Individuals or households; no-profit institutions

Reporting Burden: Responses: 960;
Burden Hours: 1200

Recordkeeping: Recordkeepers: 0;
Burden Hours: 0

Abstract: This questionnaire will collect lists of faculty and departmental chairs for the 1987–88 National Survey of Postsecondary Faculty. The Department will use these lists to draw the sample of faculty.

[FR Doc. 87–24951 Filed 10–27–87; 8:45 am]

BILLING CODE 4000–01–M

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DEPARTMENT OF EDUCATION

National Science Foundation

DEPARTMENT OF JUSTICE

Agreement Between the National Science Foundation and the U.S. Department of Education To Delegate Certain Civil Rights Compliance Responsibilities for Elementary and Secondary Schools and Institutions of Higher Education

A. Purpose

Section 1–207 of Executive Order 12250 authorizes the Attorney General to initiate cooperative programs among Federal agencies responsible for enforcing Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, as amended, and similar provisions of Federal law prohibiting discrimination on the basis of race, color, national origin, sex, handicap, or religion in programs or activities receiving Federal financial assistance.

This agreement will promote consistent and coordinated enforcement of covered non-discrimination provisions as required in the Coordination of Enforcement of Non-discrimination in Federally Assisted Programs (28 CFR 42.401–42.415), increase the efficiency of compliance activity, and reduce burdens on recipients, beneficiaries and Federal agencies by consolidating compliance responsibilities, by eliminating duplication in civil rights reviews and data requirements, and by promoting consistent application of enforcement standards.

B. Delegation

By this agreement the National Science Foundation designates the Department of Education as the agency responsible for specific civil rights compliance duties, as enumerated below, with respect to elementary and secondard schools and institutions of higher education. Responsibility for the following covered non-discrimination provisions are delegated:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d–4); and
2. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

This agreement specifies the duties to be performed by each agency. It does not alter the requirements of the joint Department of Justice/Equal Employment Opportunity Commission regulation concerning procedures for handling complaints of employment discrimination filed against recipients of Federal financial assistance. 28 CFR 42.601–42613, 29 CFR 1691.1–1697.13, 48 FR 3570 (January 25, 1983). Complaints covered by that regulation filed with the National Science Foundation against a recipient of Federal financial assistance solely alleging employment discrimination against an individual are to be referred directly to the EEOC by the National Science Foundation.

C. Duties of the Department of Education

The National Science Foundation assigns the following compliance activities and duties to the Department of Education with respect to primary and secondary schools and institutions of higher education. Specifically, the Department of Education shall:

1. Maintain current files on all activities undertaken pursuant to this agreement and on the compliance status of applicants and recipients with respect to their programs or activities receiving Federal financial assistance resulting from preapproval and postapproval reviews, complaint investigations, and actions to resolve noncompliance. A summary of these activities and the compliance status of applicants and recipients shall be reported at least at the end of every fiscal year to the National Science Foundation.

2. Develop and use information for the routine, periodic monitoring of compliance by primary and secondary schools and institutions of higher education with respect to their programs or activities receiving Federal financial assistance subject to this agreement.

3. Perform, upon request by the National Science Foundation, preapproval reviews for which supplemental information or field reviews are necessary to determine compliance.

4. Conduct an effective program of postapproval reviews of recipients with respect to their programs or activities receiving Federal financial assistance subject to this agreement.

5. Receive complaints alleging that recipients subject to this agreement have discriminated in violation of covered nondiscrimination provisions in their programs or activities receiving Federal financial assistance, attempt to obtain information necessary to make complaints complete, and investigate complete complaints.

6. Issue a written letter of findings of compliance or a letter of findings of noncompliance that (a) advises the recipients and, where appropriate, the complainant of the results of the postapproval review or complaint investigation, (b) provides recommendations, where appropriate, for achieving voluntary compliance, and (c) offers the opportunity to engage in negotiations for achieving voluntary compliance. The governor of the state in which the applicant or recipient is located will be notified if the letter of findings of compliance is made pursuant to a statute requiring that the governor be given an opportunity to secure compliance by voluntary means. The Department of Education promptly shall provide a copy of its letter of findings to the National Science Foundation and to the Assistant Attorney General for Civil Rights.

7. Conduct, after a letter of findings of noncompliance, negotiations seeking voluntary compliance with the requirements of covered non-discrimination provisions.

8. (a) If compliance cannot be voluntarily achieved, and the Department of Education does not fund the applicant or recipient, refer the matter to the National Science Foundation for its own independent action and notify the Assistant Attorney General for Civil Rights of the referral. (b) If compliance cannot be achieved and both the Department of Education and the National Science Foundation fund the applicant or recipient, initiate formal enforcement action. When the Department of Education initiates formal enforcement action by providing the applicant or recipient with an opportunity for an administrative hearing, provide the National Science Foundation with an opportunity to participate as a party in a joint administrative hearing. When the Department of Education initiates formal enforcement action by referring the matter to the Department of Justice for appropriate judicial action, notify the National Science Foundation of the referral.

9. Notify the National Science Foundation and the Assistant Attorney General for Civil Rights of the outcome of the hearing, including the reasons for finding the applicant or recipient in noncompliance, and any action taken against the applicant or recipient.

D. Duties of the National Science Foundation

The National Science Foundation shall: 1. Issue and provide to the Department of Education all regulations, guidelines, reports, orders, policies, and other documents that are needed for recipients to comply with covered non-discrimination provisions and for the Department of Education to administer its responsibilities under this agreement.

2. Provide the Department of Education with information, technical assistance, and training necessary for the Department of Education to perform the duties delegated under this agreement. This information shall include, but is not limited to, a list of recipients receiving Federal financial assistance from the National Science Foundation, the types of assistance provided, compliance information solely in the National Science Foundation's possession or control, and data on program eligibility and/or actual participants in assisted programs or activities.

3. Perform preapproval reviews of applicants for assistance, as required by 28 CFR 42.407(b), that do not require supplemental information or field reviews. The reviews may require information to be supplied by the Department of Education. If the National Science Foundation requests the Department of Education to undertake an onsite review because it has shown it has reason to believe discrimination is occurring in a program or activity that is either receiving Federal financial assistance or that is the subject of an application, the National Science Foundation shall supply information necessary for the Department of Education to undertake such a review.

4. Refer all complaints alleging discrimination under covered non-discrimination provisions filed with the National Science Foundation against a recipient subject to this delegation and determine, if possible, whether the program involved receives Federal financial assistance from the delegating agency.

5. Where the Department of Education has notified the applicant or recipient in writing that compliance cannot be achieved by voluntary means and the Department of Education has referred the matter to the National Science Foundation, make the final compliance determination and:

(a) If the National Science Foundation wishes to initiate formal enforcement action by providing the applicant or recipient with an opportunity for an administrative hearing, notify the Department of Education if the National Science Foundation will either join as a party in the Department of Education's hearing or will conduct its own administrative hearing.

(b) When the National Science Foundation initiates formal enforcement action by referring the matter to the Department of Justice for appropriate judicial action, notify the Department of Education of the referral.

(c) If the National Science Foundation conducts its own hearing, notify the Department of Education and the Assistant Attorney General for Civil Rights of the outcome of the hearing, including the reasons for finding the applicant or recipient in noncompliance, and any action taken against the applicant or recipient. The National Science Foundation may request the Department of Education to act as counsel in its administrative hearing.

(d) If the National Science Foundation neither initiates steps to deny or terminate Federal financial assistance nor refers the matter to the Department of Justice, notify the Department of Education and the Assistant Attorney General for Civil Rights, in writing, within 15 days after notification from the Department of Education that voluntary compliance cannot be achieved.

E. Effect on Prior Delegations

This agreement supersedes and replaces the delegation agreements regarding elementary and secondary schools and institutions of higher education between the National Science Foundation and the Department of Health, Education, and Welfare published in the **Federal Register** at 32 FR 4094 (March 15, 1967).

F. Redelegation

Duties delegated herein to the Department of Education may be redelegated to the Department of Health and Human Services or the Veterans Administration. The Department of Education shall notify the National Science Foundation of any such redelegation prior to its effective date.

G. Approval

This agreement shall be signed by the Assistant Attorney General for Civil Rights. It shall be signed by both parties and become effective 30 days from publication in the **Federal Register.**

H. Termination

This agreement may be terminated by either agency 60 days after notice to the other agency and to the Assistant Attorney General for Civil Rights.

Dated: June 10, 1986.

Erich Bloch,

Director of the National Science Foundation.

Dated: May 22, 1987.

William J. Bennett,

Secretary of the Department of Education.

Dated: July 13, 1987.

William Bradford Reynolds,

Assistant Attorney General, Civil Rights Division, Department of Justice.

[FR Doc. 87–24952 Filed 10–27–87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. OFU-048]

Energy Supply and Environmental Coordination Act; Acceptance of Application for Rescission of a Prohibition Order Submitted by the Wisconsin Public Service Corp. for a Certain Prohibition Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE)[1] hereby gives notice that acting under the authority granted to it in section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended by (15 U.S.C. 792(f) and implemented by 10 CFR 303.130(b)), it has accepted and is considering a request by the Wisconsin Public Service Corporation (WPSC or the Company) to rescind the Prohibition Order issued on June 30, 1975, to the following powerplant:

Owner: Wisconsin Public Service Corp.
Docket No.: OFU-048
Generating Station: Weston
Unit No.: 2
Location: Rothschild, Wisconsin

ERA is taking this action in accordance with the provisions of 10 CFR Part 303, Subpart J ("Modification on Rescission of Prohibition Orders and Construction Orders") of the ESECA regulations. Detailed information for the proceeding is provided in the **SUPPLEMENTARY INFORMATION** section below.

The public file containing a copy of this Notice of Acceptance and Availability of Certification and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 10585, Monday through Friday, 9:00 a.m. to 4:00 p.m.

DATES: Comments on DOE's intention to consider the requested rescission of the above listed Prohibition Order is invited. Written comments are due on or before December 14, 1987. A request for public hearing must also be made within this 45-day public comment period. In

[1] Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration (FEA) to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

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making its decision regarding the requested rescission action, DOE will consider all relevant information submitted or otherwise available to it.

Any information considered to be confidential by the person furnishing it must be so identified at the time of submission in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information and to treat it in accordance with that determination.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing should be submitted to the Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, Room GA-093, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. OFU 048 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Office of Fuels Programs, Economic Regulatory Administration 1000 Independence Avenue, SW., Room GA-093, Washington, DC 20585, Telephone (202) 586-4523

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy 1000 Independence Avenue, SW., Room GA-113, Washington, DC 20585, Telephone (202) 586-6947

SUPPLEMENTARY INFORMATION:

On June 30, 1975, the Federal Energy Administration (FEA) issued a Prohibition Order prohibiting Weston Unit 2 from burning natural gas or petroleum products as its primary energy source. The Prohibition Order became effective on June 13, 1977, pursuant to a Notice of Effectiveness (NOI) issued by FEA on that date. ERA issued an Amended NOI on December 21, 1978, deleting the termination date of December 31, 1978 for the Prohibition Order set forth in the original NOI. The amendment served to extend the effectiveness of the Prohibition Order indefinitely.

On July 7, 1987, WPSC submitted an Application for Rescission of Prohibition Orders to ERA regarding the above enumerated generating station unit. The Petitioner maintains that the rescission of the Prohibition Order for Weston No. 2 is warranted by significantly changed circumstances, a substantial change in the facts or circumstances upon which the Prohibition Order was based. Placed in service in 1960, Weston No. 2 located near Rothschild, Wisconsin has the capability to burn both coal and natural gas, either separately or together to generate power. At maximum generation the unit can burn 863 Mcf of natural gas or 70,700 pounds of coal per hour. Using natural gas as the primary energy source its maximum generation capability is approximately 90 megawatts.

The Company believes it would be in the best interest of its ratepayers and of the general public to be able to use natural gas as a primary fuel in the Weston No. 2 generating unit. Natural gas would allow the Company to address the environmental emission limitations facing it in the most cost effective manner. It would also allow the Company to operate the unit in a manner that will maximize its useful life. It is anticipated that gas will not be used as the primary fuel in the Weston No. 2 boiler unless it is needed to meet emission limitations during transitional operating conditions, such as start-up or during load changes, or if the cost of producing electric power would be less if burning gas than if burning coal.

The use of natural gas would have a favorable impact on the useful life expectancy of the plant by reducing wear on coal handling and other relevant equipment, in addition to reducing corrosive effects in the boiler. Natural gas would also be used for flame stabilization reducing the Company's use of petroleum.

WPSC believes that the use of natural gas is both practical and feasible. The Company maintains that its supplier generally has quantities of natural gas available for use by the Company as boiler fuel.

Issued in Washington, DC on October 20, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-24842 Filed 10-27-87; 8:45 am]

BILLING CODE 6450-01-D

[ERA Docket No. 87-39-NG]

Natural Gas Clearinghouse Inc.; Order Extending Blanket Authorization To Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order extending blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued to Natural Gas Clearinghouse Inc. (NGC) an order extending for two years its existing blanket authorization to import Canadian natural gas for sale in the domestic spot market. The order issued in ERA Docket No. 87-39-NG authorizes NGC to import up to 730 Bcf of gas during the period November 1, 1987, through October 31, 1989.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 21, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-24843 Filed 10-27-87; 8:45 am]

BILLING CODE 6450-01-D

Federal Energy Regulatory Commission

[Docket No. EC87-16-000 et al.]

Alamito Co. et al.; Electric Rate and Corporate Regulation Filings

October 21, 1987.

Take notice that the following filings have been made with the Commission:

1. Alamito Company

[Docket No. EC87-16-000]

Take notice that on October 8, 1987, Alamito Company (Alamito) tendered for filing an amendment to its Application filed on June 30, 1987.

Alamito states that it is amending its application in two respects.

(1) To modify the foregoing 1 percent limitation to provide that at no time may Alamito and its subsidiaries hold, own or possess any preferred stock or debt securities of any public utility in an amount greater that 1 percent of the capital stock or funded debt outstanding of the public utility.

(2) To eliminate any concern that Catalyst may somehow be able to use Alamito's ownership of the preferred stock of any utility, together with common or preferred stock which Catalyst may own, for the purpose of exercising control.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Southwestern Public Service Company

[Docket No. ER88-47-000]

Take notice that on October 19, 1987, Southwestern Public Service Company (Southwestern) tendered for filing an Application for Approval of a Western Systems Power Pool Experimental Sales Benefits Credit Rider proposed to supplement its full requirements, partial requirements and interruptible customers' FERC Electric Service Schedules as follows:

Name of customer	Rate schedule FERC No.
I. Full Requirements Customers	
Bailey County Electric Cooperative	86
Central Valley Electric Cooperative	87
Deaf Smith Electric Cooperative	88
Farmers Electric Cooperative	89
Greenbelt Electric Cooperative	90
Lamb County Electric Cooperative	91
Lea County Electric Cooperative	103
Lighthouse Electric Cooperative	92
Lyntegar Electric Cooperative	93
Midwest Electric Cooperative	105
North Plains Electric Cooperative	99
Rita Blanca Electric Cooperative	96
Roosevelt County Electric Cooperative	95
South Plains Electric Cooperative	96
Swisher Electric Cooperative	97
Texas-New Mexico Electric Cooperative	75
Tri-County Electric Cooperative	100
II. Partial Requirements Customers	
City of Brownfield, Texas	81
City of Floydada, Texas	83
Lubbock Power & Light Company	85
City of Tulia, Texas	101
Texas-New Mexico Power Company	107
III. Interruptible Power Service	
El Paso Electric Company	104

On July 17, 1987 in Docket No. ER87-414-000, the FERC accepted Southwestern's filed amendment to the Western Systems Power Pool (WSPP) experimental tariff to include Southwestern as a member of the WSPP, effective May 1, 1987.

In an Order dated March 12, 1987 in Docket No. ER87-97-001, the FERC accepted experimental rates for filing in the WSPP. The FERC accepted either of two proposed methods of treating revenues as long as a jurisdictional utility proposes a mechanism to insure that at least seventy-five percent of the benefits attributable to an increase in the level of coordination sales under the WSPP, not already reflected in the utility's current requirements rates, are flowed through to the utility's requirements ratepayers.

Southwestern has elected to directly flow through to its requirements customers, on a current basis, seventy-five percent of the benefits derived from coordination sales under the WSPP. The benefits are proposed to be flowed through by use of the rider so that Southwestern's requirements customers will realize immediate benefits from any WSPP transaction in which Southwestern participates and realizes a net benefit.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this document.

3. Carolina Power & Light Company

[Docket No. ER88-45-000]

Take notice that on October 16, 1987, Carolina Power & Light Company (CP&L) tendered for filing a letter agreement with the Public works Commission of the City of Fayetteville, North Carolina pursuant to which the manner of determining the Billing Demand in the Service Agreement between CP&L and Fayetteville will be disregarded as long as the settlement rates to which the parties have agreed in Docket No. ER87-240-000 remain in effect. CP&L has requested that the letter agreement become effective as of September 1, 1987, concurrent with its Rate Schedule RS87-3B which was established by the Settlement Agreement in that proceeding.

Comment date: November 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Carolina Power & Light Company

[Docket No. ER88-43-000]

Take notice that on October 16, 1987, Carolina Power & Light Company (Company) tendered for filing the "Agreement Regarding New Resources and Interim Capacity" (NRIC Agreement) dated October 13, 1987, which supplements the Power Coordination Agreement dated July 30, 1981 (1981 PCA), between the Company and the North Carolina Eastern Municipal Power Agency (Power Agency) designated Rate Schedule FERC No. 121.

The NRIC Agreement sets forth certain provisions related to the addition of New Resources, as defined in section 6.1(C)(1) of the 1981 PCA, for the time period 1987 to 1993. The NRIC Agreement provides that the parties shall not exercise or assert certain rights under the 1981 PCA: (1) Each party may have pertaining to the notice, timing, and amount of New Resources Power Agency may add during the term of the NRIC Agreement; and (2) Power Agency may have pertaining to Interim Capacity associated with the jointly owned Harris Unit No. 1. Pursuant to the NRIC Agreement, the Company and Power Agency have entered into the "Power Coordination Agreement—1987A Between North Carolina Eastern Municipal Power Agency and Carolina Power & Light Company for Contract Power from New Resources—Period 1987–1993" (1987A PCA), which is attached to the NRIC Agreement as Appendix A. Under the 1987A PCA, Power Agency and the Company have provided for the terms and conditions applicable to a New Resource that consists of a firm power purchase, contracted for by Power Agency (Contract Power), from South Carolina Public Service Authority (Authority), an agency of the State of South Carolina. Under the 1987A PCA, Power Agency has sole responsibility for arranging for the delivery of power from the New Resource to the Company at the Company's interconnections with the Authority. Power Agency has arranged for this delivery through an agreement with the Authority entitled "Agreement for Contract Power Between South Carolina Public Service Authority and North Carolina Eastern Municipal Power Agency" (Agreement for Contract Power) attached as Exhibit 1987A PCA-II to the 1987A PCA. The planned Commencement Date of the availability for delivery of Contract Power to the Company is December 8, 1987.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Cincinnati Gas & Electric Company

[Docket No. ER87-321-000 and ER87-580-000]

Take notice that on October 19, 1987, Cincinnati Gas & Electric Company (CG&E) tendered for filing an amendment to its filing made with the Commission August 7, 1987. Included with this amendment CG&E tendered for filing proposed changes in its FERC Electric Tariff, First Revised Volume No. 1 which cancel and supersede the rate schedules in said tariff. The proposed changes as amended would decrease revenues from jurisdictional sales and service by $3.5 million. This change in rate schedules is proposed to become effective July 1, 1987.

The reason stated by CG&E for the amendment is:

To supplement its August 1, 1987 filing with the Commission.

Copies of the filing were served upon the Villages of Bethel, Blanchester, Georgetown, Hamersville and Ripley, and the City of Lebanon, municipalities in the State of Ohio; and the Union Light, Heat and Power Company, a wholly owned subsidiary of CG&E, which ultimately serves retail consumers and one wholesale customer within the Commonwealth of Kentucky; and the West Harrison Gas and Electric Company, a wholly owned subsidiary of CG&E, which ultimately serves retail consumers within the State of Indiana, the Public Utilities Commission of Ohio, the Kentucky Public Service Commission and the Indiana Utility Regulatory Commission.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

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6. Delmarva Power & Light Company

[Docket No. EL86-11-004]

Take notice that on October 19, 1987, Delmarva Power & Light Company (Delmarva) tendered for filing pursuant to Commission Order dated September 15, 1987, its Report of Compliance.

Delmarva states that it has refunded the excess revenues collected with interest through October 12, 1987. Interest was refunded in accordance with § 35.19a of the Commission's Regulations.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Ogden Martin Systems of Fairfax, Inc.

[Docket No. ER88-48-000]

Take notice that on October 16, 1987, Ogden Martin Systems of Fairfax, Inc. (Ogden Fairfax) tendered for filing with the Federal Energy Regulatory Commission its initial rate schedule and supporting documentation. The rate schedule consists of a unit power agreement between Ogden Fairfax and Virginia Electric and Power Company (Virginia Power). The unit power agreement provides for the sale of the capacity and corresponding energy of a new resource recovery and electric generating facility to be constructed in Lorton, Virginia and owned by Ogden Fairfax.

Ogden Fairfax has requested a waiver of notice requirement to permit filing of the rate schedule more than 120 days prior to its proposed effective date and a petition for waiver of the Commission's regulations inappropriate to qualifying small power producers including cost of service data. Copies of the filing were served upon Virginia Power and the Virginia State Corporation Commission.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Pennsylvania Power & Light Company

[Docket No. ER88-49-000]

Take notice that on October 19, 1987, Pennsylvania Power & Light Company (PP&L) tendered for filing proposed changes to the Power Supply Agreement, dated as of the 12th day of June 1972, between PP&L and the Borough of Perkasie, presently on file with the Commission as PP&L Rate Schedule FPC No. 54. In a September 3, 1987 Supplemental Agreement to the Power Supply Agreement, PP&L has agreed to the installation and parallel operation of a second 12.47 KV supply line from PP&L's system to Perkasie. The second 12.47 KV line is necessary to meet Perkasie's increasing electric needs.

Copies of PP&L's filing have been served upon the Borough of Perkasie and the Pennsylvania Public Utility Commission.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Southwestern Public Service Company

[Docket No. ER88-46-000]

Take notice that on October 19, 1987, Southwestern Public Service Company (Southwestern) tendered for filing a notice of cancellation of Rate Schedule FERC No. 94. Southwestern states that since Northfork Electric Cooperative, Inc. (Northfork) is no longer purchasing wholesale electric service from Southwestern under Rate Schedule FERC No. 94 that the rate schedule should be cancelled to reflect the current service relationship with Northfork.

Copies of the filing were served upon Northfork and the Oklahoma Corporation Commission.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this document.

10. UtiliCorp United Inc.

[Docket No. ES88-2-000]

Take notice that on October 9, 1987, UtiliCorp United Inc. ("Applicant") filed an application seeking an order under section 204(a) of the Federal Power Act authorizing the Applicant to guarantee obligations of its wholly owned subsidiary, UtilCo Group, in an amount not to exceed $2,500,000, and for exemption from competitive bidding and negotiated placement requirements.

Comment date: November 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24910 Filed 10-27-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3283-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382-2740 (FTS 382-2740).

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Superfund Amendment and Reauthorization Act of 1986 (SARA), Title III, section 305 (b)—Emergency Systems Review. (EPA ICR #1430). New Collection.

Abstract: EPA is required to report to Congress the current status of emergency systems designed to monitor, detect, and prevent accidental releases at facilities producing, using, or storing an extremely hazardous substance. Also, the status of systems used by local governments for providing timely public alert to releases from these facilities is being surveyed. A questionnaire is being used to collect this information.

Respondents: Voluntary Manufacturers, Producers, Users of Certain Chemicals Selected from EXTREMELY HAZARDOUS SUBSTANCE list.

Estimated Annual Burden: 42,285.

Frequency of Collection: One time only.

* * * * *

Comments on the abstract on this notice may be sent to:

Carla Levesque, U.S. Environmental Protection Agency, Office of Standard and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street SW., Washington, DC 20460

and

Marcus Peacock, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3019), 726 Jackson Place NW., Washington, DC 20503.

Date: October 21, 1987.

Daniel J. Fiorino,

Director, Information Regulatory Systems Division.

[FR Doc. 87-24943 Filed 10-27-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50672; FRL-3281-5]

Issuance of Experimental Use Permits; Dow Chemical Co. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits.

464-EUP-78. Extension. Dow Chemical Company, Agricultural Products Department, P.O. Box 1706, Midland, MI 48640-1706. This experimental use permit allows the use of 5 pounds of the herbicide methyl 2-(4-([3-chloro-5-trifluoromethyl)-2-pyridinyl] oxy)phenoxy)propanoate on soybeans to evaluate the control of annual and perennial grasses. A total of 20 acres are involved; the program is authorized only in the States of Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Mississippi, Nebraska, and Tennessee. The experimental use permit is effective from April 17, 1987 to April 17, 1989. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Richard Mountfort, PM 23, Rm. 253, CM#2, (703-557-1830))

279-EUP-109. Extension. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 4,000 pounds of the herbicide 2-[2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone on fallow cropland to be planted to wheat to evaluate the control of broadleaf and grassy weeds. A total of 4,000 acres are involved; the program is authorized only in the States of Colorado, Idaho, Kansas, Montana, Nebraska, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The experimental use permit is effective from August 14, 1987 to August 14, 1988. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800)

279-EUP-110. Issuance. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 340 pounds of the insecticide/miticide cyclopropanecarboxylic acid 3-[2-chloro-3,3-trifluoro-1-propenyl)-2,2-dimethyl-2-methyl [1,1'-biphenyl]-3-yl methyl ester on strawberries to evaluate the control of various insects and mites. A total of 425 acres are involved; the program is authorized only in the States of California, Florida, Indiana, Michigan, New Hampshire, New Jersey, North Carolina, Oregon, Pennsylvania, and Washington. The experimental use permit is effective from July 10, 1987 to July 10, 1988. A temporary tolerance for residues of the active ingredient in or on strawberries has been established. (George LaRocca, PM 17, Rm. 204, CM#2, (703-557-2400))

279-EUP-112. Issuance. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 731.25 pounds of the insecticide/miticide cyclopropanecarboxylic acid 3-(2-chloro-3,3-trifluoro-1-propenyl)-2,2-dimethyl-2-methyl[1,1'-biphenyl]-3-yl methyl ester on pears to evaluate the control of various insect pests. A total of 975 acres are involved; the program is authorized only in the States of California, Colorado, Connecticut, Michigan, New York, Ohio, Oregon, Pennsylvania, Texas, Utah, and Washington. The experimental use permit is effective from July 10, 1987 to July 10, 1988. A temporary tolerance for residues of the active ingredient in or on strawberries has been established. (George LaRocca, PM 17, Rm. 204, CM#2, (703-557-2400))

707-EUP-17. Issuance. Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 2,000 pounds of the herbicide oxyfluorfen on almonds, pistachios, and walnuts to evaluate the control of weeds. A total of 3,000 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from September 15, 1987 to September 30, 1988. A permanent tolerance for residues of the active ingredient in or on almonds, pistachios, and walnuts has been established (40 CFR 180.381). (Richard Mountfort, PM 23, Rm. 253, CM#2, (703-557-1830))

201-EUP-76. Extension. Shell Oil Company, One Shell Plaza, P.O. Box 4320, Houston, TX 77210. This experimental use permit allows the use of 1,200 pounds (500 pounds in 1988 and 700 pounds in 1989) of the hybridizing agent azetidine-3-carboxylic acid on barley and wheat to evaluate hybridizing qualities. A total of 1,440 acres are involved; the program is authorized in the States of Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, and Texas. The experimental use permit is effective from August 1, 1987 to August 1, 1989. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-24573 Filed 10-27-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180744; FRL-3280-6]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 11 States listed below and various States have initiated three crisis exemptions. Also listed is one denial from EPA of a request for a specific exemption from the Mississippi

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Department of Agriculture and Commerce. These exemptions, issued during the months of July and August, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific or crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Room 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of mevinphos on pumpkins to control aphids; August 4, 1987, to October 31, 1987. California had initiated a crisis exemption for this use. (Jim Tompkins)

2. California Department of Food and Agriculture for the use of sethoxydim on dry edible beans to control Johnsongrass; August 28, 1987, to September 30, 1987. (Jim Tompkins)

3. California Department of Food and Agriculture for the use hexakis on watermelons to control spider mites; July 16, 1987, to December 15, 1987. California had initiated a crisis exemption for this use. (Libby Pemberton)

4. California Department of Food and Agriculture for the use of hexakis on marigolds to control spider mites; July 10, 1987, to October 1, 1987. (Libby Pemberton)

5. California Department of Food and Agriculture for the use of chlorothalonil on mushrooms to control verticillium dry bubble or brown spot disease; July 29, 1987, to July 28, 1988. (Libby Pemberton)

6. Colorado Department of Agriculture for the use of methidathion on field corn to control Bank grass mites; July 30, 1987, to August 31, 1987. (Gene Asbury)

7. Florida Department of Agriculture and Consumer Services for the use of triflumizole on Spathiphyllum to control Cylindrocladium; August 5, 1987, to July 1, 1988. Solicitation of public comment was published in the **Federal Register** of August 20, 1986 (51 FR 29694), no comments were received. The exemption was granted based on the finding that registered alternatives are not adequately dealing with the cylindrocladium problem on spathiphyllum. Benomyl provided the best control of the registered fungicides tested. However, benomyl applied at rates necessary to achieve control is phytotoxic to plants and is not effective at rates low enough to avoid phytotoxicity. Economic losses in excess of $1 million are likely to occur without this proposed use. These losses are expected to increase each year if adequate control is unavailable. This use of triflumizole can be toxicologically supported. The proposed use is not expected to pose a hazard to nontarget organisms. (Jim Tompkins)

8. Illinois Department of Agriculture for the use of thiabendazole on corn stored in temporary storage facilities to control *Aspergillus* spp. and *Penicillium* spp.; July 17, 1987, to January 1, 1988. (Jim Tompkins)

9. Kansas State Board of Agriculture for the use of methidathion on field and seed corn to control Bank grass mites and two-spotted spider mites; July 24, 1987, to September 30, 1987. (Gene Asbury)

10. Massachusetts Department of Food and Agriculture for the use of sodium fluoaluminate on potatoes to control Colorado potato beetles; August 4, 1987, to September 30, 1987. Massachusetts had initiated a crisis exemption for this use. (Gene Asbury)

11. Michigan Department of Agriculture for the use of sodium chlorate on edible dry beans as a harvest aid (desiccant); August 14, 1987, to October 31, 1987. (Gene Asbury)

12. Minnesota Department of Agriculture for the use of sodium chlorate on dry edible beans as a desiccant; August 28, 1987, to October 31, 1987. Minnesota had initiated a crisis exemption for this use. (Gene Asbury)

13. North Carolina Department of Agriculture for the use of metalaxyl on strawberries to control Phytophthora fragariae; August 4, 1987, to May 30, 1988. (Jim Tompkins)

14. Oregon Department of Agriculture for the use of carbofuran on peppermint to control strawberry root weevil; August 14, 1987, to October 31, 1987. EPA is in the process of completing a rebuttable presumption against registration (RPAR) for this chemical; final preliminary determination is nearing completion on granular formulations; this use is for flowable formulation. (Libby Pemberton)

15. South Dakota Department of Agriculture for the use of sodium chlorate on edible dry beans as a harvest aid (desiccant); August 14, 1987, to October 31, 1987. (Gene Asbury)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on July 21, 1987, for the use of mevinphos on pumpkins to control aphids. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. This program will end on October 31, 1987. (Jim Tompkins)

2. Minnesota Department of Agriculture on August 21, 1987, for the use of sodium chlorate on dry edible beans as a desiccant. Since it was anticipated that this program would be needed for more than 15 days, Minnesota has requested a specific exemption to continue it. The need for this program is expected to last until October 31, 1987. (Gene Asbury)

3. Washington Department of Agriculture on July 15, 1987, for the use of fenvalerate on cranberries to control weevils. Since it was anticipated that this program would be needed for more than 15 days, Washington has requested a specific exemption to continue it. The need for this program is expected to last until December 31, 1987. (Libby Pemberton)

EPA has denied a request from the Mississippi Department of Agriculture and Commerce for the use of bifenthrin on pecans to control pecan aphids. Notice of receipt of this specific exemption was published in the **Federal Register** of July 22, 1987 (52 FR 27580). The Agency has denied this request because information submitted did not support the existence of an emergency situation and provided no evidence that significant economic losses were likely to result. (Gene Asbury)

Authority: 7 U.S.C. 136.

Dated: October 14, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 87-24572 Filed 10-27-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

October 16, 1987.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of these submissions may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street NW., Suite 140, Washington, DC 20037, or telephone (202) 857-3815. Persons wishing to comment on an information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395-4814. Copies of these comments should also be sent to the Commission. For further information contact Terry Johnson, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0093
Title: Application for Renewal of Radio Station License in Specified Services (FCC Rule Parts 5, 21, 22, 23 and 25)
Form No.: FCC 405
Action: Extension
Respondents: Business
Frequency of Response: Every 10 years, or annually for developmental authority
Estimated Annual Burden: 2,100 Responses; 682 Hours
Needs and Uses: Filing is required for renewal of common carrier station license between 60 and 90 days prior to expiration. The data is used to verify that there has been no change in the organization.

OMB No.: 3060-0048
Title: Application for Consent to Transfer of Control of Corporation Holding Common Carrier or Non-Common Carrier Radio Station Construction Permit of License
Form No.: FCC 704
Action: Extension
Respondents: Business
Frequency of Responses: On occasion
Estimated Annual Burden: 600 Responses; 6,400 Hours
Needs and Uses: Filing is required of common carrier or non-common carrier radio station licensee to request authority to transfer control of construction permit or license resulting from sale of entity's controlling interest or merger with another entity. The data is used to determine the legal and financial qualifications of the licensee for this authorization.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 87-24866 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Main Committee Meeting

October 20, 1987.

The Space WARC Advisory Committee will convene its next meeting on November 10, 1987. The Committee will be reviewing the work of the working groups and will be considering recommendations and advice to the Commission concerning U.S. participation within the intersessional work program of the International Telecommunication Union in preparations for the second session in 1988. Details regarding the date, place and agenda of the meeting are provided below.

Chairman: Ronald F. Stowe (202) 383-5433.

Vice Chairman: Stephen E. Doyle (916) 355-6941.

Date: Tuesday, November 10, 1987.

Time: 9:30 a.m.-1:00 p.m.

Location: Bell Communications Research, 2101 L Street NW., Sixth Floor, Conference Rooms B1 and B2, Washington, DC.

Designated Federal Employee: Thomas S. Tycz (202) 634-1860.

Agenda:

(1) Adoption of Agenda
(2) Approval of Minutes*
(3) Status of ITU Preparatory Activities
(4) Review of Other Administration Proposals
(5) Working Group Reports
(6) Future Work of Committee
(7) Date of Next Meeting
(8) Other Business
(9) Adjournment

For additional information, please contact Thomas S. Tycz, (202) 634-1860.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 87-24867 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

* Copy to be circulated under separate cover.

[Report No. W-26]

Window Notice for the Filing of FM Broadcast Applications

Release: October 21, 1987.

Notice is hereby given that applications for vacant FM broadcast allotment listed below may be submitted for filing during the period beginning October 21, 1987 and ending November 24, 1987 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

CHANNEL—223 A	
Atwater	CA
Alachua	FL
Lyons	GA
Montezuma	GA
Topeka	KS
Arcadia	LA
Richmond	MO
Heavener	OK
Hollis	OK
Barnesboro	PA
Mexico	PA
Susquehanna	PA
Elgin	TX
Nevasota	TX
Dayton	WA
Danville	WV

CHANNEL—223 C2	
Abilene	TX

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 87-24670 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1632]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

October 2, 1987.

Petitions for reconsideration have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying from the Commission's copy contractor, International Transcription Service (202-857-3800). Oppositions to these petitions must be filed November 13, 1987.

See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Cottonwood, Arizona) (RM-5819) Number of petitions received: 1.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Sheffield, Alabama) (RM-5887) Number of petitions received: 1.

Subject: Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles. (CC Docket No. 86-212) Number of petitions received: 1.

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Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Cherryvale, Kansas) (MM Docket No. 86-373) Number of petitions received: 1.

Subject: Amendment of Part 69 of the Commission's Rules and Regulations, Access Charges, to Conform it with Part 36, Jurisdictional Separations Procedures. (CC Docket No. 87-113) Number of petitions received: 1.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-24868 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; John Michael Bosquez et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city and state	File No.	MM Docket No.
A. John Michael Bosquez, Twentynine Palms, CA.	BPCT-870331LX	87-445
B. Carter Broadcasting Corporation, Twentynine Palms, CA.	BPCT-870529KQ	
C. Desert 31 Television, Inc., Twentynine Palms, CA.	BPCT-870529KH	
D. Twentynine Palms Broadcasting Corp., Twentynine Palms, CA.	BPCT-870529KG	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, A,B,C,D
Comparative, A,B,C,D
Ultimate, A,B,C,D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87-24871 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; RMS Broadcasting et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city and State	File No.	MM Docket No.
A. Rana Maley Steed d/b/a RMS Broadcasting, Rocky Mount, NC.	BPCT-861216IW	87-446
B. Family Broadcasting Enterprises, Rocky Mount, NC.	BPCT-870317KJ	
C. Donald Wayne Newsam d/b/a/ East Carolina Communications, Rocky Mount, NC.	BPCT-870317KK	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, A,B,C
Comparative, A,B,C
Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc. 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87-24872 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

PNC Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 19, 1987.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp,* Pittsburgh, Pennsylvania; to acquire 100 percent of the voting shares of The First Bank and Trust Company of Mechanicsburg, Mechanicsburg, Pennsylvania.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Princeton National Bancorp, Inc.,* Princeton, Illinois; to acquire 100 percent of the voting shares of USA Firstrust, Oglesby, Illinois, and thereby indirectly acquire First National Bank of Oglesby, Oglesby, Illinois.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bosworth Bancshares, Inc.,* Chillicothe, Missouri; to merge with Chillicothe Bancshares, Inc., Chillicothe, Missouri, and thereby indirectly acquire Community Bank, Chillicothe, Missouri.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First American Bancorp, Inc.,* New York, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Texas American Bank/Levelland, Levelland, Texas.

Board of Governors of the Federal Reserve System, October 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-24849 Filed 10-27-87; 8:45 am]

BILLING CODE 6210-01-M

Valley Bank Shares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under section § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 13, 1987.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Valley Bank Shares, Inc.,* Schuyler, Nebraska; to merge with Arcadia Agency Company, Schuyler, Nebraska; Brainard Agency Company, Schuyler, Nebraska; Platte Valley National Company, Inc., Schuyler, Nebraska; Decatur Agency Company, Schuyler, Nebraska; Emerson First National Company, Schuyler, Nebraska; and First National Stanton Corporation, Schuyler, Nebraska. In addition, Applicant also proposes to indirectly acquire First Nebraska Bank, Arcadia, Nebraska; First Nebraska Bank, Brainard, Nebraska; First Nebraska Bank, N.A., Columbus, Nebraska; First Nebraska Bank, Decatur, Nebraska; First Nebraska, N.A., Emerson, Nebraska; and First Nebraska Bank, N.A., Stanton, Nebraska. Applicant's subsidiary bank, First Nebraska Bank, Valley, Nebraska, also proposes to merge with First Nebraska Bank, Brainard, Nebraska; First Nebraska Bank, N.A., Columbus, Nebraska; First Nebraska Bank, Decatur, Nebraska; First Nebraska, N.A., Emerson, Nebraska; and First Nebraska Bank, N.A., Stanton, Nebraska.

In connection with this application, Applicant also proposes to engage in insurance activities through Arcadia Agency Company, Brainard Agency Company, Decatur Agency Company, and First National Stanton Corporation pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities will be conducted in Arcadia, Nebraska; Brainard, Nebraska; Decatur, Nebraska; and Stanton, Nebraska.

Board of Governors of the Federal Reserve System, October 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-24850 Filed 10-27-87; 8:45 am]

BILLING CODE 6210-01-M

Virginia Community Bank Employee Stock Ownership Plan et al.; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 12, 1987.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Virginia Community Bank Employee Stock Ownership Plan,* Louisa, Virginia; to acquire an additional 3.3 percent of the voting shares of Virginia Community Bankshares, Inc., Louisa, Virginia, and thereby indirectly acquire Virginia Community Bank, Louisa, Virginia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Western Bancshares, Inc., Employee Stock Ownership Trust,* Booneville, Arkansas; to acquire an additional 5.72 percent of the voting shares of First Western Bancshares, Inc., Booneville, Arkansas, and thereby indirectly acquire Citizens Bank of Booneville, Booneville, Arkansas.

Board of Governors of the Federal Reserve System, October 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-24851 Filed 10-27-87; 8:45 am]

BILLING CODE 6210-01-M

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Aid to Families With Dependent Children, Medicaid, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 1988 Through September 30, 1989

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: The Federal Percentages and Federal Medical Assistance Percentages for Fiscal Year 1989 have been calculated pursuant to the Social Security Act (the Act). These percentages will be effective from October 1, 1988 through September 30, 1989. This notice announces the calculated "Federal percentages" and "Federal medical assistance percentages" that we will use in determining the amount of Federal matching in State welfare and medical expenditures. The table gives figures for each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Title XIX of the Act exists in each jurisdiction, title IV–A in all jurisdictions except American Samoa and the Northern Mariana Islands, titles I, X, and XIV operate only in Guam and the Virgin Islands, while title XVI (AABD) operates only in Puerto Rico. The percentages in this notice apply to State expenditures for assistance payments and medical services (except family planning which is subject to a higher matching rate). The statute provides separately for Federal matching of administrative costs.

Sections (1101(a)(8) and 1905(b) of the Act, as revised by section 9528 of Pub. L. 99–272, require the Secretary of Health and Human Services to publish these percentages each year. The Secretary is to figure the percentages, by formulas in sections 1101(a)(8,) and 1905(b) of the Act, from the Department of Commerce's statistics of average income per person in each State and in the Nation as a whole. The percentages are within upper and lower limits given in those two sections of the Act. The statute specifies the percentages to be applied to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

The "Federal percentages" are for Aid to Families with Dependent Children (AFDC) and aid to needy aged, blind, or disabled persons, and the "Federal medical assistance percentages" are for Medicaid. However, under section 1118 of the Act, States with approved Medicaid plans may claim Federal matching funds for expenditures under approved State plans for these other programs using either the Federal percentage or the Federal medical assistance percentage. These States may claim at the Federal medical assistance percentage without regard to any maximum on the dollar amounts per recipient which may be counted under paragraphs (1) and (2) of sections 3(a), 403(a), 1003(a), 1403(a), and 1603(a) of the Act.

DATES: The percentages listed will be effective for each of the 4 quarter-year periods in the period beginning October 1, 1988 and ending September 30, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Emmett Dye, Office of Family Assistance, Family Support Administration, Room B–111 Transpoint Building, 2100 2nd Street, SW., Washington, DC 20201, Telephone (202) 245–2743.

(Catalog of Federal Domestic Assistance Program Nos. 13.808—Assistance Payments—Maintenance Assistance (State Aid); 13.714—Medical Assistance Program)

Dated: October 22, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

FEDERAL PERCENTAGES AND FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCT. 1, 1988–SEPT. 30, 1989

(Fiscal year 1989)

State	Federal percentages	Federal medical assistance percentages
Alabama	65.00	73.10
Alaska	50.00	50.00
American Samoa	50.00	50.00
Arizona	57.83	62.04
Arkansas	65.00	74.14
California	50.00	50.00
Colorado	50.00	50.00
Connecticut	50.00	50.00
Delaware	50.00	52.60
District of Columbia	50.00	50.00
Florida	50.20	55.18
Georgia	58.64	62.78
Guam	50.00	[1] 50.00
Hawaii	50.00	53.99
Idaho	65.00	72.71
Illinois	50.00	50.00
Indiana	59.68	63.71
Iowa	58.84	62.95
Kansas	50.00	54.93
Kentucky	65.00	72.89
Louisiana	65.00	71.07
Maine	62.96	66.65
Maryland	50.00	50.00
Massachusetts	50.00	50.00
Michigan	50.00	54.75
Minnesota	50.00	53.07
Mississippi	65.00	79.80
Missouri	55.51	59.96
Montana	65.00	70.62
Nebraska	55.97	60.37
Nevada	50.00	50.00
New Hampshire	50.00	50.00
New Jersey	50.00	50.00
New Mexico	65.00	71.54
New York	50.00	50.00
North Carolina	64.46	68.01
North Dakota	62.81	66.53
Northern Mariana Islands	50.00	[1] 50.00
Ohio	54.42	58.98
Oklahoma	62.29	66.06
Oregon	58.26	62.44
Pennsylvania	52.68	57.42
Puerto Rico	50.00	[1] 50.00
Rhode Island	50.97	55.88
South Carolina	65.00	73.08
South Dakota	65.00	71.02
Tennessee	65.00	70.17
Texas	54.49	59.04
Utah	65.00	73.86
Vermont	59.92	63.92
Virgin Islands	50.00	[1] 50.00
Virginia	50.00	51.20
Washington	50.00	53.06
West Virginia	65.00	76.14
Wisconsin	54.78	59.31
Wyoming	58.46	62.61

[1] For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI and Part A of title IV will be 75 per centum.

[FR Doc. 87–24806 Filed 10–27–87; 8:45 am]

BILLING CODE 4150–04–M

Health Care Financing Administration

Medicaid Program; Reconsideration of Disapproval of Portions of Two Minnesota State Plan Amendments; Hearing

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on December 2, 1987 in Chicago, Illinois to reconsider our decision to disapprove portions of Minnesota State Plan Amendments IM–86–109 and IM–86–110.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk by November 12, 1987.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8261.

SUPPLEMENTARY INFORMATION:

This notice announces an administrative hearing to reconsider our decision to disapprove portions of two Minnesota State Plan Amendments.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that information in a notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Minnesota's proposed amendments which cover personal care services furnished to a recipient while on a non-medical trip outside the home are consistent with Federal regulations at 42 CFR 440.170(f).

The State of Minnesota submitted SPAs IM–86–109 and IM–110 which would revise the State's definition of covered personal care services.

The amendments provide that personal care services can be covered in any setting (i.e., church, school, medical treatment) to persons who reside in their own home. However, regulations at 42 CFR 440.170(f) describe this benefit in terms of "personal care services *in* a recipient's home" (emphasis added). In order for personal care services to be covered, not only must the recipient reside in his or her own home, but the services must actually be furnished in the home as well. Implementing guidelines at section 5–140–00(D)(1) Of the Medical Assistance Manual provide for only one exception to the requirement that personal care services be furnished in the home: the services of a personal care attendant can be covered when ". . . accompanying the patient to clinics, physician office visits, or other trips which are made for the purpose of medical diagnosis or treatment." There is no provision for covering personal care services furnished to a recipient on a trip outside the home when the purpose of the trip is nonmedical in nature (e.g., attending school or church). Therefore, HCFA has determined that part of Minnesota's amendments which proposes to cover personal care services furnished when the recipient travels to church or school is not consistent with the personal care services definition at 42 CFR 440.170(f) and was disapproved.

The notice to Minnesota announcing an administrative hearing to reconsider the disapproval of its State plan amendments reads as follows:

Ms. Sandra Gardebring
Commissioner, Minnesota Department of Human Services, Centennial Office Building, St. Paul, Minnesota 55155

Dear Ms. Gardebring: This is to advise you that your request for reconsideration of the decision to disapprove portions of Minnesota SPAs IM–86–109 and IM–86–110 was received on September 24, 1987. Minnesota SPAs IM–86–109 and IM–86–110 revise the definition of covered personal care services.

The issue in this matter is whether that part of Minnesota's amendments which propose to cover personal care services furnished when the recipient travels to church or school are consistent with the personal care services definition found at 42 CFR 440.170(f).

I am scheduling a hearing on your request to be held on December 2, 1987 at 10:00 a.m. in the 8th Floor Conference Room, 175 W. Jackson Boulevard, Chicago, Illinois. If this date if not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594–8261.

Sincerely,

William L. Roper, M.D.,
Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: October 21, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 87–24895 Filed 10–27–87; 8:45 am]

BILLING CODE 4120–03–M

[BDM–042–N]

Medicare and Medicaid Programs; ICD–9–CM Coordination and Maintenance Committee; Meeting

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the next meeting of the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM) Coordination and Maintenance Committee. The Public is invited to participate in the discussion of the topic areas.

DATE: The meeting will be held on Friday, December 4, 1987, beginning at 9:30 a.m. to 4:00 p.m. Eastern Standard time.

ADDRESS: The meeting will be held in Room 503A Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jan Niessing, (301) 594–8945.

SUPPLEMENTARY INFORMATION:

The ICD–9 CM is the clinical modification of the World Health Organization's International Classification of Diseases, Ninth Revision. It is the coding system required for use by hospitals and other health care facilities in reporting both diagnoses and surgical procedures for Medicare, Medicaid, and all other health-related DHHS programs. The work of the ICD–9 CM Coordination and Maintenance Committee will allow this coding system to continue to be an appropriate reporting tool for use in Federal programs.

The Committee is composed entirely of representatives from various Federal agencies interested in the International Classification of Diseases (ICD) and its modification, updating, and use for Federal programs. It is co-chaired by the National Center for Health Statistics and the Health Care Financing Administration.

At this meeting, the Committee will discuss: the eight-week rule for myocardial infarctions, photo pheresis, diagnostic endoscopic retrograde cholangiopancreatograph (ERCP), and other topics.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare—Hospital Insurance Program; No. 13.774, Medicare Supplementary Medical Insurance)

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Dated: October 22, 1987.

William L. Roper,

Administrator, Health Care, Financing Administration.

[FR Doc. 87-24894 Filed 10-27-87; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-87-1750; FR-2413]

Office of Lender Activities and Land Sales Registration—Interstate Land Sales Registration Division: Delegated Developers; Order of Suspension

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Office of Lender Activities and Land Sales Registration, Interstate Land Sales Registration Division, HUD.

ACTION: Order of suspension.

SUMMARY: The Department is issuing an Order of Suspension to each developer listed on the attached Appendix. Each listed developer has failed to file amendments to its registration or to file documents establishing that no amendment is necessary.

The Order of Suspension is issued under the Interstate Land Sales Full Disclosure Act.

EFFECTIVE DATE: October 28, 1987.

FOR FURTHER INFORMATION CONTACT: Roger G. Henderson, Branch Chief, Land Sales Enforcement Branch, Interstate Land Sales Registration Division, Department of Housing and Urban Development, Room 6278, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-0502. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The HUD Interstate Land Sales Registration Division gives pubic notice of its attempt to serve upon the listed Developers at their last known address a notice requiring that each Developer make revisions to its Statement of Record. Although service of notice by certified mail was attempted in accordance with 24 CFR 1720.170, the notice was undeliverable. Consequently, on August 18, 1987 the Department of Housing and Urban Development, in accordance with 44 U.S.C. 1506, published in the **Federal Register** a Notice of Proceedings and Opportunity for Hearing (52 FR 30959) effecting constructive notice on the listed Developer respondents. The Notice informed these Developers of omissions, in their Statement of Record and Property Reports, of material provisions required by law, and advised each Developer of its right to request a hearing within 15 days of publication of the Notice. More than 15 days have now elapsed since the publication of the Notice, and the entities listed in the attached Appendix and referred to in the Order of Suspension as "Developer" have not requested a hearing; therefore, the Department is issuing this Order of Suspension.

Order of Suspension

1. Each Developer listed in the Appendix is subject to the Interstate Land Sales Full disclosure Act (15 U.S.C. 1701–1720) and to HUD regulations promulgated under 15 U.S.C. 1718. Each Developer has filed for its subdivision a Statement of Record and Property Report which became effective in accordance with 24 CFR 1710.21. The Statement remains in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been vested in the Secretary or the Secretary's designee.

3. Under 15 U.S.C. 1706(d and 24 CFR 1710.45(b)(1), if it appears to the Secretary or the Secretary's designee at the time that a Statement of Record includes any untrue statement of a material fact, or omits to state any material fact required to be stated or necessary to prevent the Statement of Record from being misleading, the Secretary or designee, after notice and opportunity for a hearing requested within 15 days of receipt of the notice, may issue an order suspending the Statement of Record.

4. A Notice of Proceedings and Opportunity for Hearing was published in the **Federal Register** on August 18, 1987, informing each listed Developer of information obtained by the Interstate Land Sales Registration Division indicating that the Developer's Statement of Record contained an untrue statement of a material fact or an omission of a material fact required to be stated or necessary to prevent the Statement of Record from being misleading. The Notice stated that failure to request a hearing would be treated as a default and that the allegations contained in the Notice would be taken to be true. Each listed Developer has failed to answer or to request a hearing under 24 CFR 1720.220 within 15 days of publication of HUD's Notice of Proceedings and Opportunity for Hearing.

Therefore, in accordance with 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), the Statement of Record filed by the Developer covering its subdivision is suspended, effective October 28, 1987. This Order of Suspension shall remain in effect until the Statement of Record has been properly amended as required by the Interstate Land Sales Full Disclosure Act and HUD's implementing Regulations.

Publication of the Order in the **Federal Register** constitutes constructive notice to each respondent developer. Unless otherwise exempt, any sales or offers to sell made by a listed Developer or by its agents, successors, or assigns while this Order of Suspension is in effect will be in violation of the provisions of the Interstate Land Sales Full Disclosure Act.

Date: October 20, 1987.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

Appendix

The captioned matters in this Appendix are listed alphabetically by subdivision in each State. The list contains the name of the subdivision, developer, representative and title, OILSR number and land Sales Enforcement Division Docket number.

Arizona

Rancho Del Sol Lindo, Charles W. Rubinstein, Managing Co-owner Respondent; 0-05790-02-0992; M-86-051

Golden Shores, The Dutch Golden Shores, Ltd., Robert J. Dorn, General Partner, 0-05638-02-998; M-87-026

California

Victoria Estates, Victoria Estates Limited Partnership, Bruce, L. Johnsey, Partner, C-0-06292-04-1046; M-86-046

Meadow Oaks Ranch Tract 13403, J.R. Brown, General Partner, C-0-06381-04-1060; M-86-045

Kentucky

Driftwood Estates, Keneth T. Turner, President, 0-03286-20-0051; M-86-021

Teanessee

Starpoint Village, A Limited Partnership, Paul Scott, General Partner, 0-05747-48-15; M-86-049.

[FR Doc. 87-24845 Filed 10-27-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, DC 20503, telephone 202-395-7313.

Title: Certification of Hunting and Fishing License Holders

Abstract: Part I (Form 3-154a) is used to collect numbers of paid hunting and fishing license holders from State fish and wildlife agencies. The information is used by the Service to apportion grant funds to each State under the Federal Aid in sport fish and wildlife restoration acts, as amended. Part II (Form 3-154b) is used to collect information on hunting and fishing license sales and is made available to the public.

Form Number(s): 3-154A and 3-154B

Frequency: Annually

Description of Respondents: States and local governments Annual

Responses: 50

Annual Burden Hours: 50

Service Clearance Officer: James E. Pinkerton, 202-653-7499, Room 859, Riddell Building, U.S. Fish and Wildlife Service, Washington, DC 20240.

Date: September 30, 1987.

Ronald E. Lamberston,

Assistant Director—Fish and Wildlife Enhancement.

[FR Doc. 87-24919 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7340.

Title: Annual Notification of Rights, 25 CFR 43.4

Abstract: Elementary, secondary, and post-secondary schools funded by the Bureau of Indian Affairs, whether operated under contract or otherwise, are required to give parents and eligible students notice of the types of student records maintained and rights to access.

Bureau Form Number: Not applicable.

Frequency: Annually.

Description of Respondents: Elementary, secondary and post-secondary schools funded by the Bureau of Indian Affairs.

Annual Responses: 84

Annual Burden Hours: 91

Bureau Clearance Officer: Cathie Martin (202) 343-3577.

Ronald D. Eden,

Deputy to the Assistant Secretary/Director—Indian Affairs (Indian Education Programs).

[FR Doc. 87-24892 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-02-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7340.

Title: 25 CFR Part 244, Wind River Reservation Game Code—Hunting Permit

Abstract: The hunting permit has allowed for effective administration of a controlled hunting program. The permit allows the Tribal Agency Superintendent to determine who is eligible to hunt, enabling him/her to establish appropriate game harvest levels and hunting seasons. The affected public consists only of eligible tribal hunters of the Wind River Indian Reservation, Wyoming

Bureau Form Number: BIA 5602

Frequency: Annually

Description of Respondents: Members of the Arapahoe and Shoshone Indian Tribes seeking a hunting permit

Annual Responses: 1,930

Annual Burden Hours: 901

Bureau Clearance Officer: Cathie Martin, (202) 343-3577.

Frank Anthony Ryan,

Deputy to the Assistant Secretary—Indian Affairs (Trust and Economic Development).

[FR Doc. 87-24892 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[CO-010-08-4333-11]

Intent To Hold a Public Meeting and To Prepare Two Environmental Assessments for Two Proposed Races in the Little Snake Resource Area, Craig District, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Public meeting and notice to prepare two environmental assessments.

SUMMARY: This notice advises the public that the Bureau of Land Management intends to hold a public meeting to gather information and seek assistance in defining the range of issues and concerns for preparation of two environmental assessments (EA's), one for motorcycle racing and one for off highway four wheel vehicle racing in the Sand Wash Basin of the Little Snake Resource Area. This notice is made in accordance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) to obtain suggestions and information from other agencies and the public on issues and concerns to be addressed in these EA's.

The public meeting will be held in Craig, Colorado. Meeting dates and locations are listed below.

DATES: The public meeting will be held on Novemeber 24, 1987. Written comments should be submitted by December 15, 1987. The draft EAs will be available in January 1988.

BEST COPY AVAILABLE

ADDRESS: The public meeting will be held at the Bureau of Land Management Little Snake Resource Area Office, 1280 Industrial Avenue, Craig, Colorado. Written comments should be addressed to Duane Johnson, Project Manager, at the above address. Phone (303) 824–4441.

SUPPLEMENTARY INFORMATION: The Sand Wash Basin is located in western Moffat County, Colorado. The EAs will analyze the effects of allowing motorcycle and off highway four wheel vehicle racing on designated routes. A Special Recreation Permit would be issued for each event allowed in the area. One motorcycle and one off road highway four wheel vehicle event have been applied for to take place in September of 1988.

Date: October 21, 1987.

David Nylander,

Acting District Manager.

[FR Doc. 87–24925 Filed 10–27–87; 8:45 am]

BILLING CODE 4310–JB–M

[ID–040–4322–02]

Salmon District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the Salmon District Grazing Advisory Board.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held on Wednesday, December 16, 1987, at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467. The meeting will begin at 10:00 a.m.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Land 92–463. The meeting is open to the public; public comments on agenda items will be accepted from 1;00 to 1:30 p.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467 by December 10, 1987.

The agenda items are: Election of Officers, Range Monitoring, Range Improvement Projects, and Advisory Board Checking Account.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) within 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Jerry W. Goodman, District Manager, Bureau of Land Management, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, Telephone (208) 756–5400.

Dated: October 19, 1987.

Jerry W. Goodman,

District Manager.

[FR Doc. 87–24921 Filed 10–27–87; 8:45 am]

BILLING CODE 4310–GG–M

[ID–030–07–4410–08]

Pocatello Resource Area Proposed Resource Management Plan and Final Environmental Impact Statement; Idaho Falls District, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a proposed resource management plan (RMP) and final environmental impact statement (EIS) for management of public lands in the Pocatello Resource Area. The proposed plan and EIS describes and analyzes five alternatives for managing 264,481 acres of BLM administered public land over the next 15 or more years.

The proposed plan and Final EIS uses an abbreviated format. The BLM considered all of the comments received by letter and at two hearings. After a thorough review of the Draft EIS released January 1987 and an analysis of all of the comments, BLM has chosen to adopt Alternative B, with some minor additions and corrections, as the proposed plan for the area. Alternative B was identified in the Draft RMP/EIS as BLM's preferred alternative.

The proposed plan identifies three Areas of Critical Environmental Concern (ACEC) for designation and seven Research Natural Areas/Areas of Critical Environmental Concern (RNA/ACEC) for dual designation. The names, reason for designation, and acres covered are as follows: (1) Stump Creek Ridge ACEC, important elk winter range, 2463 acres; (2) Travertine Park ACEC, unique geologic features, 223 acres; (3) Downey watershed ACEC, municipal water supply, 1800 acres; (4) Cheatbeck Canyon RNA/ACEC, unique vegetation, 100 acres; (5) Dairy Hollow RNA/ACEC, rare plant, 45 acres; (6) Formation Cave RNA/ACEC, unique geologic formations, 70 acres; (7) Oneida Narrows RNA/ACEC, unique vegetative community, 617 acres; (8) Pine Gap RNA/ACEC, rare plant and unique vegetative community, 232 acres; (9) Robbers Roost Creek RNA/ACEC, unique vegetative community, 400 acres; (10) Travetine Park RNA/ACEC, unique vegetative community, 30 acres. The general management practices and uses allowed, including mitigating measures for these proposed areas are covered in the Draft RMP/EIS.

Copies of the Poposed plan and Final EIS are available for review at the following locations: Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, telephone (208) 529–1020. Pocatello Resource Area, Federal Building, 250 South Fourth Avenue, Suite 172, Pocatello, Idaho 83201, Telephone (208) 236–6860.

DATES: Protests to the proposed plan must be filed with the Director on or before November 9, 1987.

Any person who participated in the planning process and has an interest which is or may be adversely affected by the resource management plan may protest. The procedures for filing a protest are listed in the proposed plan and in 43 CFR 1610.5–2.

ADDRESS: Director (760), Bureau of Land Management, U.S. Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Lloyd H. Ferguson, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, Telephone (208) 529–1020.

Delmar D. Vail,

State Director.

[FR Doc. 87–25008 Filed 10–27–87; 8:45 am]

BILLING CODE 4310–GG–M

[WY–920–08–4111–15; W–92013]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease W–92013 for lands in Goshen County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 18⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–92013 effective October 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Patricia J. Wattles,

Acting Chief, Leasing Section.

[FR Doc. 87–24882 Filed 10–27–87; 8:45 am]

BILLING CODE 4310–22–M

[CA–940–07–4520–12; Group 877]

Filing of Plat of Survey; California

October 20, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Yuba County

T. 17 N., R. 8 E., and T. 18 N., R. 7 E.

2. This plat representing the dependent resurvey of a portion of the north boundary of Township 17 North, Range 8 East, and a portion of the south boundary and subdivision lines of Township 18 North, Range 7 East, and the survey of the subdivision of section 34, Township 18 North, Range 7 East, Mount Diablo Meridian, California, under Group No. 877, was accepted September 24, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Plumas National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief, Public Information Section.

[FR Doc. 87–24885 Filed 10–27–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; Group 881]

Filing of Plat of Survey; California

October 20, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, Trinity County

T. 5 N., R. 6 E.

2. This plat (2 sheets) representing the dependent resurvey of a portion of the south boundary of the certain subdivisional lines, and the metes-and-bounds surveys of Tract 37 through 41 and 43 through 45, Township 5 North, Range 6 East, Humboldt Meridian, California, under Group No. 881, was accepted September 10, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Trinity and Six Rivers National Forests.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief, Public Information Section.

[FR Doc. 87–24886 Filed 10–27–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; Group 903]

Filing of Plat of Survey; California

October 20, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Calaveras County

T. 3 N., R. 12 E.

2. This plat representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, certain mining claims, a portion of mineral segregation survey, and the survey of section 3, Township 3 North, Range 12 East, Mount Diablo Meridian, California, under Group No. 903, was accepted September 11, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief, Public Information Section.

[FR Doc. 87–24887 Filed 10–27–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; C–16–87]

Filing of Plat of Survey; California

October 20, 1987.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, San Bernardino County

T. 2 N., R. 3 W.

2. This supplemental plat of the NW ¼ of Section 30, Township 2 North, Range 3 West, San Bernardino Meridian, California, was accepted September 28, 1987.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the San Bernardino National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief, Public Information Section.

[FR Doc. 87–24888 Filed 10–27–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; Group 853]

Filing of Plat of Survey; California

October 20, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Trinity County

T. 32 N., R. 10 W.

2. This plat (2 sheets) representing the dependent resurvey of the south boundary, a portion of the west boundary, and a portion of the subdivisional lines, and the survey of the subdivision of sections 10, 14, and 26, Township 32 North, Range 10 West, Mount Diablo Meridian, California,

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under Group No. 853, was accepted September 10, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief, Public Information Section.

[FR Doc. 87-24883 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-4520-12; Group 865]

Filing of Plat of Survey; California

October 20, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Nevada County

T. 15 N., R. 10 E., and T. 16 N., R. 9 and 10 E.

2. This plat (3 plats) representing the following descriptions:

a. This plat (2 sheets) represents the dependent resurvey of portions of the west boundary, subdivisional lines, and certain boundaries of mineral surveys, and the survey of the subdivision of section 6, Township 15 North, Range 10 East, Mount Diablo Meridian, California;

b. This plat represents the dependent resurvey of the Third Standard Parallel North, along a portion of the south boundaries of Township 16 North, Ranges 9 and 10 East, a portion of the west boundary and a portion of the subdivisional lines, and certain boundaries of mineral surveys, and the survey of the subdivision of section 31, Township 16 North, Range 10 East, Mount Diablo Meridian, California, under Group No. 865, was accepted September 2, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executerd to meet certain administrative needs of the Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief Public Information Section.

[FR Doc. 87-24884 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Outer Continental Shelf Development Operations Coordination; Union Exploration Partners, Ltd.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Exploration Partners, Ltd., Unit Operator of the Vermilion Block 14 Federal Unit Agreement No. 14-08-0001-12339, has submitted a DOCD describing the activities it proposes to conduct on the Vermilion Block 14 Federal unit. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 15, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Steve Dessauer; Minerals Management Service; Gulf of Mexico OCS Region; Production and Development; Development and Unitization Section; Unitization Unit; Telephone (504) 736-2660.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 19, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-24889 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Proposed 1988 United States World Heritage Nomination

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: The Department of the Interior, though the National Park Service, announces the identification of the property listed herein as a proposed 1988 U.S. nomination to the World Heritage List. The property was selected as a potential 1988 nomination and published in the **Federal Register** on July 10, 1987 (52 FR 26101), with a request for public comment. A draft nomination document will be prepared for the property listed herein, and will serve as the basis for determining later this calendar year whether to formally nominate the property for World Heritage status.

DATES: The Federal Interagency Panel for World Heritage will meet in November 1987 to review the accuracy and completeness of the draft nomination document, and to make recommendations to the Department of the Interior. Subject to this review and necessary approvals, the Assistant Secretary for Fish and Wildlife and Parks will transmit a nomination to the World Heritage Committee, through the Department of State, so that it is received no later than December 31, 1987, for evaluation during 1988. If approved and formally submitted, notice of the U.S. World Heritage nomination will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Milne, Chief, Office of International Affairs, National Park Service, U.S. Department of the Interior, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, now ratified by the United States and 95 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world.

Participating nations identify and nominate their sites for inclusion on the World Heritage List, which currently includes 247 cultural and natural properites. The World Heritage Committee judges all nominations against established criteria. Under the Convention, each participating nation assumes responsibility for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, and rehabilitation of World Heritage properties situated within its borders.

In the United States, the Department of the Interior is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convention in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515; 16 U.S.C. 470a-1, a-2). On May 27, 1982, the Interior Department published in the **Federal Register** the policies and procedures that will be used to carry out this legislative mandate (47 FR 23392). These rules contain additional information on the Convention and its implementation in the United States, and identify the specific requirements that U.S. properties must satisfy before they can be nominated for World Heritage status, i.e., the property must have previously been determined to be of national significance, its owner must concur in writing to its nomination, and its nomination must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment.

The Federal Interagency Panel for World Heritage assists the Department in implementing the Convention by making recommendations on U.S. World Heritage policy, procedures, and nominations. The Panel is chaired by the Assistant Secretary for Fish and Wildlife and Parks, and includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service, the U.S. Fish and Wildlife Service and the Bureau of Land Management within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; National Oceanic and Atmospheric Administration, Department of Commerce; Forest Service, Department of Agriculture; U.S. Information Agency and the Department of State.

Proposed 1988 United States World Heritage Nomination

The property listed below has been identified as a proposed 1988 U.S. nomination to the World Heritage List. The identification of this property as a proposed nomination indicates that a draft nomination document will be prepared. This document will subsequently be evaluated by the Federal Interagency Panel for World Heritage when it convenes in November 1987, at which time a decision on whether to formally nominate the property to the World Heritage List will be made.

The following culutural property, indicated by major theme, has been identified as a proposed 1988 U.S. World Heritage nomination. Also listed are the World Heritage criteria that the property appears most nearly to satisfy:

I. Cultural Property

Post-Contact Aboriginal

TAOS PUEBLO, New Mexico [36 25'N 105 40'W]. A center of Indian culture since the 17th century, the Pueblo of Taos, still active today, symbolizes Indian resistance to external rule. The mission of San Geronimo, one of the earliest in New Mexico, was built near Taos Pueblo in the early 17th century. Criteria: (v) An outstanding example of a traditional human settlement which is representative of a culture and which has become vulnerable under the impact of irreversible change.

Dated: October 16, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-24861 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-10-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7340.

Title: Rights of Entry 30 CFR Part 877

Abstract: This Part requires that non-consentual (police power) entry can be obtained where land or water resources have been adversely affected by past coal mining practices, and that the adverse effects are at a stage where public interest, action to restore, reclaim, abate, control or prevent should be taken

Bureau Form Number: None

Frequency: On occasion

Description of Respondents: Regulatory authorities

Annual Responses: 120

Annual Burden Hours: 60

Bureau clearance officer: David Collegeman, (202) 33-5447.

Date: September 25, 1987.

Carson W. Culp,

Assistant Director for Budget and Administration.

[FR Doc. 87-24875 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-265]

Certain Dental Prophylaxis Methods, Equipment and Components Thereof; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Peerless International, Inc.; Kavo American Corp.; Henry Schein, Inc.; University Dental Supply Co.; and Benco Dental Supply Co.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial

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determination in this matter was served upon the parties on October 20, 1987.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.
Issued: October 20, 1987.

Kenneth R. Mason,
Secretary.

[FR Doc. 87–24934 Filed 10–27–87; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–264]

Certain Mail Extraction Desks and Components Thereof; Review and Reversal of Initial Determination

AGENCY: International Trade Commission.

ACTION: Review and reversal of initial determination.

SUMMARY: Notice is hereby given that the Commission has determined to review and reverse the presiding administrative law judge's (ALJ's) September 18, 1987, initial determination (ID) (Order No. 6) granting respondents' motion for summary determination.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 15, 1987, in response to a complaint filed by Opex Corporation of Cherry Hill, New Jersey. The complaint alleged that the importation and sale by the named respondents of certain mail extraction equipment infringes, contributorily infringes, and/or induces the infringement of U.S. Letters Patent Re. 32,328 owned by complaint, thereby constituting unfair methods of competition and unfair acts in vilation of section 337 of the Tariff Act of 1930. (19 U.S.C. 1337).

On September 18, 1987, in response to a motion by respondents for summary determination, the presiding administrative law judge (ALJ) issued an initial determination (ID), Order No. 6, terminating the investigation. The ALJ determined that no unfair acts or methods of competition can be found under section 337 in connection with the importation and sale by respondents of the products at issue because the unfair act alleged is infringement of complainant's '328 patent, and that patent is unenforceable due to inequitable conduct on the part of complainant's patent counsel during prosecution of the reissue application for the '328 patent before the U.S. Patent and Trademark Office. Specifically, the ALJ determined that complainant's patent counsel was grossly negligent in failing to advise the U.S. Patent and Trademark Office of prior art material to the consideration of complainant's reissue application.

Following issuance of the ID, both complainant and the Commission investigative attorney filed petitions seeking Commission review of the ID. On October 20, 1987, following its review of the ID as well as the petitions for review, the Commission issued an Action and Order reversing the ID and remanding the investigation to the ALJ for further proceedings.

Authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.56 of the Commission's rules (19 CFR 210.56).

Copies of the ID, The Commission's Action and Order, and all other nonconfidential documents filed in connection with this investigation are or will be available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–1471. Hearing impaired individuals are advised that information concerning this investigation can be obtained by contacting the Commission TDD terminal on 202–724–0002.

By order of the Commission.

Kenneth R. Mason,
Secretary.

Issued: October 20, 1987.

[FR Doc. 87–24935 Filed 10–27–87; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 731–TA–364 (Preliminary)]

Nitrile Rubber From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of nitrile rubber,[2] provided for in item 446.15 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 1, 1987, a petition was filed with the Commission and the Department of Commerce by Uniroyal Chemical Co., Inc., Middlebury, CT, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of nitrile rubber from Japan at LTFV. Accordingly, effective September 1, 1987, the Commission instituted preliminary antidumping investigation No. 731–TA–364 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 10, 1987 (52 FR 34325). The conference was held in Washington, DC, on September 23, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on October 16, 1987. The views of the Commission are contained in USITC Publication 2027 (October 1987), entitled "Nitrile Rubber from Japan: Determination of the Commission in Investigation No. 731–TA–364 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Before the Commission.

Kenneth R. Mason,
Secretary.

Issued: October 19, 1987.

[FR Doc. 87–24936 Filed 10–27–87; 8:45 am]
BILLING CODE 7020–02–M

[332–251]

Analysis of Recent Japanese Measures To Promote Structural Adjustment

AGENCY: International Trade Commission.

ACTION: Institution of investigation.

EFFECTIVE DATE: October 13, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Mendez, Research Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436, telephone (202) 523–0267.

Background and Scope of Investigation: The Commission instituted investigation No. 332–251 following receipt on October 1, 1987, of a letter from the United States Trade Representative (USTR), requesting, at the direction of the President that the Commission conduct an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to analyze certain Japanese measures to promote structural adjustment.

Japan has recently enacted its third program since the fall of 1985 to promote structural adjustment. Each program benefits a different set of industries or firms. While these programs are intended to facilitate the transfer of resources from less competitive industries and firms to those that are more robust, it is possible that the programs will keep alive otherwise uncompetitive firms to the detriment of competing U.S. industries. The three programs are the Yen-loan program, the Regional Loan (Castletown) program, and the Smooth Adjustment program.

The Commission's report will consist of two phases. The first phase will include background information on Japanese Government measures to promote structural adjustment and an estimate of the overall effects of these programs. The second phase will include a more in-depth analysis of the programs' effects on major beneficiaries in Japan and their U.S. competitors.

Ambassador Yeutter has requested that the Commission report its first phase findings by April 1, 1988, and its second phase findings by September 20, 1988.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

By Order of the Commission.

Kenneth R. Mason,
Secretary.

Issued: October 21, 1987.

[FR Doc. 87–24933 Filed 10–27–87; 8:45 am]
BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31127]

CSX Transportation, Inc., and Central of Georgia Railroad Co., Exemption; Joint Project for Relocation of a Line of Railroad

On October 1, 1987, CSX Transportation, Inc. (CSX) and Central of Georgia Railroad Company (Central) filed a notice of exemption under 49 CFR 1180.2(d)(5) for a joint project to relocate a line of railroad.

CSX and Central both own lines of railroad in Valdosta, GA. The joint project will provide for relocation of a small segment of CSX's main line in Valdosta to a right-of-way previously used by Central that passes under the Patterson Street overhead bridge. The relocation will eliminate a grade crossing at the intersection of Patterson Street and CSX's main line, and will eliminate conflicts between rail and motor vehicle traffic there.

The joint project involves: (1) CSX's relocation of approximately 1.4 miles of its main line in Valdosta between CSX's mileposts AN–648.65 and AN–647.25 to a mostly parallel right-of-way previously used by Central of approximately 1 mile between mileposts GF–27.75 and GF–28.75; (2) the abandonment of CSX's main line track between its mileposts AN–648.65 and AN–647.25; (3) the acquisition of the Central right-of-way by the City of Valdosta, and the conveyance of the Central right-of-way and other needed property from the City of Valdosta to CSX; (4) the construction of the relocated track by CSX along the previous Central right-of-way and on other property to connect with CSX's existing main line; (5) the abandonment of the former Central main line track between mileposts GF–27.75 and GF–28.75; and (6) to permit continued service by Central to two existing Central customers after the CSX main line is relocated, (a) the realignment or construction of two segments of connector trackage (510 feet and 574 feet) and (b) the construction of two industrial tracks (1,237 feet and 380 feet).[1]

The exemption covering the joint relocation took effect on October 8, 1987. However the various steps in the relocation project will take approximately one year to complete.

The joint project involves the relocation of a line of railroad that does not disrupt service to shippers. Accordingly, insofar as the joint project involves such a relocation, it falls within the class of transactions identified at 49 CFR 1180.2(d)(5). The Commission categorically exempted these transactions under 49 U.S.C. 10505 in *Railroad Consolidation Procedures*, 366 I.C.C. 75 (1982).

In Finance Docket No. 30639, *Louisiana & Ark. Ry. Co.—Trackage Rights Exemption—Illinois C.G. R.R. Co. and New Orleans Term. Co.* (not printed), served April 17, 1985, the abandonment of approximately 6 miles of track was exempted under the provisions of § 1180.2(d)(5) as an incident to a line relocation proposal. Similarly, the facts of this case show that the proposed abandonment of CSX's main line track between CSX's mileposts AN–648.65 and AN–647.25 is incidental to a line relocation and should be exempted under § 1180.2(d)(5).

However, insofar as the notice of exemption governs the abandonment of those portions of the former Central main line track between mileposts GF–27.75 and GF–28.75, that are necessary to serve Prinsho Products and Griffin Lumber Company, and the realignment or construction of two segments of connector trackage (510 feet and 574 feet), the notice has been rejected by a decision of the Commission, Director Mackall, served October 28, 1987. The

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] The product covered by this investigation is nitrile rubber, not containing fillers, pigments, or rubber processing chemicals. For purposes of this investigation, nitrile rubber refers to the synthetic rubber that is made from the polymerization of butadiene and acrylonitrile and that does not contain any type of additive or compounding ingredient having a function in processing, vulcanization, or end use of the product.

[1] The length of the longer of the two proposed industrial tracks is variously set at either 1,237 feet or 1,145 feet. The discrepancy is of no concern. The construction of these industrial tracks is exempt from Commission jurisdiction. *See* 49 U.S.C. 10907.

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decision has been issued in Finance Docket No. 31127.

Use of this exemption will be conditioned on appropriate labor protection. Any employees affected by the partial abandonment incidental to the relocation project will be protected by the conditions in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Decided: October 16, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24789 Filed 10-27-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Delhi Welding Co., Inc., and Emery Realty, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 2, 1987 a proposed consent decree in *United States v. Delhi Welding Co., Inc., and Emery Realty Inc.*, Civil Action Number C-1-87-804, was lodged with the United States District Court for the Southern District of Ohio, Western Division. The complaint filed by the United States alleged violations of the Clean Air Act and the National Emissions Standards for Hazardous Air Pollutants for asbestos. Defendants were the owners and operators of a renovation operation which involved the removal of asbestos-containing insulation from steam piping. Defendants violated the Clean Air Act and the regulations passed thereunder by failing to notify the State of Ohio prior to the commencement of the renovation operation at 29 West Fourth Street, Cincinnati, Ohio, and by failing to follow proper procedures during the removal and storage of the asbestos-containing material.

The consent decree provides that defendants shall pay a civil penalty of $27,500.00 and be subject to an injunction requiring compliance with the asbestos regulations.

The Department of Justice will receive for a period of thirty (30) days from the date of publication of this notice comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Delhi Welding Co., Inc., and Emery Realty Inc.*, D.J. No. 90-5-2-1-1105.

The proposed consent decree may be examined at the Office of the United States Attorney, Room 220, United States Post Office and Courthouse Building, Cincinnati, Ohio, at the Region V office of the Environmental Protection Agency, Third Floor, 111 West Jackson Street, Chicago, Illinois, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to *United States v. Delhi Welding Co., Inc. and Emery Realty Inc.*, D.J. No. 90-5-2-1-1105, and include a check for $1.40 (10 cents per page reproduction charge) payable to the United States Treasury.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-24876 Filed 10-27-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Judgment; Monitor Sugar Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 6, 1987 a proposed Consent Judgment in *United States and the State of Michigan v. Monitor Sugar Company*, Civil Action No. 85-CV-10309, was lodged with the United States District Court for the Eastern District of Michigan. The proposed Consent Judgment concerns the control of air pollution from the boilers and pulp dryers at Monitor Sugar's sugar beet refinery in Bay City, Michigan. The proposed Consent Judgment requires the City: to achieve, demonstrate, and maintain compliance with the Clean Air Act and applicable regulations in the federally approved Michigan State Implementation Plan at boilers 1, 2 and 3 as of the date of entry of this Consent Judgment; to achieve, demonstrate, and maintain compliance with the Clean Air Act and applicable regulations in the federally approved Michigan State Implementation Plan at pulp dryers 1, 2 and 3 following the installation of specified air pollution control equipment; to pay stipulated penalties for specific failures to meet the terms of the Consent Judgment; and to pay a total civil penalty of $250,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States of America and the State of Michigan v. Monitor Sugar Company*, D.J. Ref. 90-5-2-1-823 and 90-5-2-1-823A.

The proposed Consent Decree may be examined at the office of the United States Attorney, 204 Federal Building, 1000 Washington Street, Bay City, Michigan, and at the Region 5 Office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $3.50 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-24898 Filed 10-27-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree; Proteccion Tecnica Ecologica, Inc., et al.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on October 15, 1987, a proposed consent decree in *United States v. Proteccion Tecnica Ecologica, Inc., et al.*, Civil Action No. 86-1696 (HL), was lodged with the United States District Court for the District of Puerto Rico. This consent decree settles a lawsuit filed on October 30, 1986, pursuant to section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6928, for injunctive relief and the recovery of civil penalties against the owner and the operators of a hazardous waste treatment, storage, and disposal facility in Puerto Rico. The complaint named as defendants Proteccion Tecnica Ecologica, Inc. ("PROTECO"), Resource Management, Inc. ("Resource Management"), Compania Ganadera Del Sur, Inc. ("Ganadera"), and Dr. Jorge Fernandez ("Fernandez"). The complaint alleged that PROTECO operated the facility, that Resource Management owned the stock of PROTECO, and that Fernandez was the principal owner of Resource Management. The complaint also alleged that Ganadera owned the land on which the facility is located. The complaint alleged that the defendants violated RCRA, the Commonwealth of Puerto Rico Public Policy Environmental Act of 1970, P.R. Laws Ann. tit. 12 (1978 and Cum. Supp. 1984) ("Puerto Rico Environmental Act"), and the interim status regulations promulgated pursuant to RCRA and the Puerto Rico Environmental Act.

Under the terms of the settlement between the United States and the defendants, the United States and PROTECO, Resource Management, and Ganadera (referred to in the consent decree as "the Settling Defendants") will enter into the proposed consent decree, and the United States will file a notice of dismissal, with prejudice, of the United States' claims against Fernandez. The proposed consent decree calls for the Settling Defendants to undertake an extensive program at the facility to bring the facility into compliance with the interim status regulations. The compliance program includes upgrades to the facility's closure plan, post-closure plan, groundwater monitoring program, waste analysis program, and waste treatment, disposal, and handling practices.

The proposed consent decree calls for the Settling Defendants to pay a civil penalty of $850,000 for past violations of the federal and Commonwealth statutes, the RCRA regulations, an EPA administrative consent agreement, and an EPA administrative order as alleged in the complaint up to the date of lodging. The penalty will by paid over a period of approximately five years in accordance with a payment schedule contained in the decree. The consent decree also contains stipulated penalties for failure to comply with the terms of the consent decree.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States v. Proteccion Tecnica Ecologica, Inc., et al.*, D.J. Ref. 90-7-1-345.

The proposed partial consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region II

Contact: Andrew Praschak, Assistant Regional Counsel, U.S. Environmental Protection Agency—Region II, 1413 Fernandez Juncos Avenue, Santurce, Puerto Rico 00909 (809) 725-7825

United States Attorney's Office

Contact: Eduardo E. Toro-Font, Assistant United States Attorney, Room 101, Federal Office Building, Carlos E. Chardon Street, Hato Rey, Puerto Rico 00918 (809) 753-4656

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed partial consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the decree, please enclose a check for copying costs in the amount of $3.60 payable to Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-24877 Filed 10-27-87; 8:45 am]

BILLING CODE 4410-01-M

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board will meet on November 16, 1987, starting at 8 a.m. at the Kahler Hotel, 20 Second Avenue Southwest, Rochester, Minnesota, 55902. At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Raymond C. Brown,

Director.

[FR Doc. 87-24846 Filed 10-27-87; 8:45 am]

BILLING CODE 4410-36-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87-87]

Government-Owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: October 28, 1987.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, Harry Lupuloff, Director of Patent Licensing, Code GP, Washington, DC 20546, telephone (202) 453-2430.

Patent Application 929,869: Rapid Quantification of an Internal Property; filed November 13, 1986.

Patent Application 008,895: Helicopter Anti-Torque System Using Fuselage Strakes; filed January 30, 1987.

Patent Application 008,242: Ceramic Honeycomb Structures and the Method Thereof; filed January 29, 1987.

Patent Application 008,199: Apparatus and Procedure to Detect a Liquid Solid Interference During Crystal Growth in a Bridgman Furnace; filed January 29, 1987.

Patent Application 003,676: Crossflow Vorticity Sensor; filed January 15, 1987.

Patent Application 010,950: Device for Measuring Hole Elongation in a Bolted Joint; filed February 5, 1987.

Patent Application 010,949: Real Time Simulation Clock; filed February 5, 1987.

Patent Application 013,769: Dorsal Fin for Earth-to-Orbit Transports; filed February 12, 1987.

Patent Application 010,942: A Welding Monitoring System; filed February 5, 1987.

Patent Application 013,801: A Multi-Body Aircraft With an All-Moveable Center Fuselage Actively Controlling Fuselage Pressure Drag; filed February 12, 1987.

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Patent Application 013,802: Bearing-Bypass Material System; filed February 12, 1987.

Patent Application 010,943: Porous Plug for Reducing Orifice Induced Pressure Error in Airfoils; filed February 5, 1987.

Patent Application 021,100: An Ion Generator and Ion Application System; filed March 3, 1987.

Patent Application 027,981: Liquid Encapulated Crystal Growth; filed March 19, 1987.

Patent Application 028,831: Polyphenylquinoxalines containing Alkylenedioxy Groups; filed March 23, 1987.

Patent Application 022,305: Lightweight Tensile Specimen Grips; filed March 5, 1987.

Patent Application 022,298: Truss-Core Corrugation; filed March 5, 1987.

Patent Application 028,832: Improved Control Surface Actuator; filed March 23, 1987.

Patent Application 044,181: Welding Torch Gas Cup Extension; filed April 30, 1987.

Patent Application 035,430: Process for Developing Crystallinity in Linear Aromatic Polyimides; filed April 7, 1987.

Patent Application 041,387: Helicopter Having a Disengageable Tail Rotor; filed April 23, 1987.

Patent Application 041,388: Optical Data Transfer System for Crossing Botary Joint; filed April 23, 1987.

Patent Application 044,180: Miniature Remote Dead Weight Calibrator; filed April 30, 1987.

Patent Application 038,560: Fiber Reinforced Ceramic Material; filed April 15, 1987.

Patent Application 032,818: Collect Lock Joint for Space Station Truss; filed April 1, 1987.

Patent Application 035,401: Improved Method and Apparatus for Waste Collection; filed April 7, 1987.

Patent Application 032,685: Four Terminal Electrical Testing Device; filed April 1, 1987.

Patent Application 044,183: Method of Controlling a Resin Curing Process; filed April 30, 1987.

Patent Application 032,819: Systolic - VLST Array for Implementing the Kalman Algorithm; filed April 1, 1987.

Patent Application 045,984: Range and Range Rate System; filed May 4, 1987.

Patent Application 052,941: Vapor Fragrancer; filed May 22, 1987.

Patent Application 051,426: Integrally Stiffened Crash Energy-absoring Subfloor Beam Structure; filed May 19, 1987.

Patent Application 054,983: Carbide/Flouride/Silver Self-Lubricating Composite; filed May 28, 1987.

Patent Application 052,940: Quick Disconnect Inflatable Seal Assembly; filed May 22, 1987.

Patent Application 056,930: Bi-Stem Gripping Apparatus; filed June 3, 1987.

Patent Application 060,201: Hybrid Analoge Digital Associative Neural Network; filed June 10, 1987.

Patent Application 060,450: Sample Levitation and Melt in Microgravity; filed June 26, 1987.

Patent Application 061,162: Cryogenic Insulation System; filed June 10, 1987.

Patent Application 063,354: Depolarization Measurement Method and Device; filed June 18, 1987.

Patent Application 063,557: Auxiliary Data Input Device; filed June 16, 1987.

Patent Application 060,200: Arcjet Power Supply and Start Circuit; filed June 10, 1987.

Patent Application 067,844: Capillary Heat Transport and Fluid Management Device; filed June 30, 1987.

Patent Application 067,846: Pressure Big for Repetitive Casting; filed June 30, 1987.

Patent Application 060,198: Switched Steerable Multiple Beam Antenna System; filed June 10, 1987.

Patent Application 071,678: Combination Photovoltaic-Heat Engine Energy Converter; filed July 9, 1987.

Patent Application 076,950: Thermocouple for Heating and Cooling of Memory Metal Actuators; filed July 23, 1987.

Patent Application 079,320: Tapered Tubular Polyester Fabric; filed July 30, 1987.

Patent Application 073,541: A Digitally Controlled System for Effecting and Presenting a Selected Electrical Resistance; filed July 15, 1987.

Patent Application 073,539: Space Vehicle Thermal Rejection System; filed July 15, 1987.

Patent Application 076,955: Earth-to-Orbit Vehicle Providing a Reusable Orbital Stage and Method of Utilizing Same; filed July 23, 1987.

Patent Application 079,316: Elevated Temperature Aluminum Alloys; filed July 30, 1987.

Patent Application 894,541: Multi-adjustable Headband; filed August 8, 1987.

Dated: October 20, 1987.

John E. O'Brien,

General Counsel.

[FR Doc. 87-24907 Filed 10-27-87; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-335-OLA; ASLBP No. 86-560-01-LA]

Establishment of Atomic Safety and Licensing Board; Florida Power and Light Co.

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Florida Power and Light Company

St. Lucie Plant, Unit No. 1, Facility Operating License No. DPR-67

This Board is being established pursuant to a notice published by the Commission on August 31, 1987, in the **Federal Register** (52 FR 32852-56) entitled, "Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing." The proposed amendment would authorize the licensee to increase the storage capacity of the spent fuel pool from the present capacity of 728 fuel assemblies to 1706 fuel assemblies.

The Board is comprised of the following Administrative Judges:

B. Paul Cotter, Jr., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Glenn O. Bright, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 22nd day of October 1987.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 87-24908 Filed 10-27-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-2061-ML; ASLBP No. 84-495-01-ML]

Reconstitution of Board; Kerr-McGee Chemical Corp., West Chicago Rare Earths Facility

Pursuant to the authority contained in 10 CFR 2.721 and 2.721(b), the Atomic Safety and Licensing Board for Kerr-McGee Chemical Corporation (West Chicago Rare Earths Facility), Docket No. 40-2061-ML, is hereby reconstituted by appointing Administrative Judge Jerry R. Kline in place of Administrative Judge Peter A. Morris, who retired.

As reconstituted, the Board is comprised of the following Administrative Judges:

John H Frye, III, Chairman
Dr. James H. Carpenter
Dr. Jerry R. Kline

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701(1980). The address of the new Board member is: Administrative Judge Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 22nd day of October 1987.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 87-24967 Filed 10-27-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 and 50-323]

Issuance of Amendments to Facility Operating Licenses; Pacific Gas and Electric Co., Diablo Canyon Nuclear Power Plant

The U.S. Nuclear Regulatory Commission (the Commission) has, pursuant to the Initial Decision of its Atomic Safety and Licensing Board dated September 11, 1987, issued Amendment No. 22 to Facility Operating License No. DPR-80 and Amendment No. 21 to Facility Operating License No. DPR-82 issued to Pacific Gas and Electric Company, which revised the licenses and appended Technical Specifications for operation of the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, respectively, located in San Luis Opisbo County, California. The amendments are effective as of the date of issuance.

The amendments authorize the licensee to modify the spent fuel pools to increase the storage capacity of each from 270 fuel assemblies to 1324 fuel assemblies.

The Initial Decision is subject to review by the Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by the Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration and Opportunity for a Hearing was published in the **Federal Register** on January 13, 1986 (51 FR 1451). Comments and petitions for leave to intervene were filed by San Luis Obispo Mothers for Peace, the Santa Lucia Chapter of the Sierra Club, and Consumers Organized for Defense of Environmental Safety.

On May 30, 1986, after the petitions to intervene had been filed, the NRC staff made a finding of "no significant hazards consideration". Based on that finding, NRC approved the license amendments and made them immediately effective. San Luis Obispo Mothers of Peace and the Sierra Club appealed the finding. The U.S. Court of Appeals for the Ninth Circuit found that the NRC finding of "no significant hazards consideration" violated the "Sholly" amendment to the Atomic Energy Act and implementing regulations. The Court stayed any further work on the spent fuel pools and barred the licensee from depositing any spent fuel therein except in accordance with the pools' original configuration, until the conclusion of the hearing.

The hearing was held at Avila Beach, California on June 15-18, 1987 with respect to the admitted contentions of the Sierra Club, other petitioners having withdrawn from the proceeding. Subsequently, the above-referenced Initial Decision was issued on September 11, 1987.

The hearing having been held and decided, and all other safety and environmental reviews having been completed, these amendments reauthorize the original amendments issued on May 30, 1986.

For further details with respect to this action, see (1) the application for amendments dated October 30, 1985, (2) amendments No. 8 and 6 to Licensee Nos. DPR-80 and DPR-82, respectively (issued on May 30, 1986), (3) amendments No. 22 and 21 to License Nos. DPR-80 and DPR-82 respectively (issued on October 20, 1987), (4) the Commission's related Safety Evaluation dated May 30, 1986, (5) the Commission's Environmental Assessment and Finding of No Significant Impact dated May 21, 1986, (6) NRC's Supplement to the Safety Evaluation and the Environmental Assessment, dated October 15, 1987, and (7) the Initial Decision of the Atomic Safety and Licensing Board dated September 11, 1987.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the California Polytechnic State University Library, Government Document and Maps Department, San Luis Obispo, California 93407. A single copy of items (2) through (7) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Bethesda, Maryland, this 20th day of October, 1987.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87-24968 Filed 10-27-87; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENTIAL COMMISSION ON THE HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIC

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the Presidential Commission on the Human Immunodeficiency Virus Epidemic will hold a public meeting on Thursday, November 12, 1987, 8:30 a.m. to 5:00 p.m. at the University of Miami, Mailman Center for Child Development, 8th floor auditorium, 1601 NW., 12th Avenue, Miami, Florida.

The purpose of the meeting is to allow appropriate local, state and Federal officials, including the public and private sector and other individuals to address the Presidential Commission on the HIV Epidemic in this area. Invited speakers will discuss activities relevant to their agency mission or individual activities.

Records shall be kept of all commission proceedings and shall be available for public inspection at 655

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15th Street, NW., Suite 901, Washington, DC 20005.

Polly L. Gault,

Executive Director, Presidential Commission of the HIV Epidemic.

[FR Doc. 87-25121 Filed 10-27-87; 10:27 am]

BILLING CODE 4160-15-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25055; File No. SR-NYSE-87-37]

Self-Regulatory Organization; New York Stock Exchange, Inc.; Deletion of Restrictions on Specified Underwriting Activities of Approved Persons of Specialist Member Organizations Entitled to Exemptive Relief Under Exchange Rule 98

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 22, 1987 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange Rule 460.20 to delete, until May 1, 1988, restrictions that prohibit an approved person of a specialist member organization that is entitled to the exemption from Rule 460(a) and Rule 460.10 provided by the Rule 98 from acting as a managing underwriter for a distribution of (i) any security in which an associated specialist is registered; (ii) any security which is immediately exchangeable for or convertible into a security in which an associated specialist is registered; and (iii) any security which entitles the holder thereof immediately to acquire a security in which an associated specialist is registered.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed rule change is to delete, until May 1, 1988, restrictions in Exchange Rule 460.20 which prohibit an approved person of a specialist member organization entitled to the exemptions from Rule 460(e) and Rule 460.10 provided by Rule 98 from acting as a managing underwriter for a distribution of (i) any security in which an associated specialist is registered; (ii) any security which is immediately exchangeable for or convertible into a security in which an associated specialist is registered and (iii) any security which entitles the holder thereof immediately to acquire a security in which an associated specialist is registered.

It is the Exchange's present intention to consider seeking, prior to May 1, 1988, permanent approval of this proposed rule change.

In SR-NYSE-85-25, the Exchange submited for Commission approval new Rule 98 and implementing Guidelines which provided, essentially, that an approved person of a specialist member organization which established a formal organizational separation between itself and the associated specialist member organization and adopted internal controls and otherwise conducted its operations in conformity with the Guidelines would be entitled to an exemption from the restrictions in Rules 104, 104.13, and 105, and would be entitled to an exeption from Rules 113.20 and 460 to the extent indicated in those Rules.

As submitted by the Exchange, and as approved by the Commission, Rule 460.20 permits an approved person, who is entitled to the exemptions provided by Rule 98, to act as a member of an underwriting syndicate or selling group, but not as a managing underwriter, for a distribution of equity or convertible securities of an issuer in whose securities an associated specialist is registered. (This restriction is hereinafter referred to as the "managing underwriter restriction".) When the approved person is acting as a syndicate or selling group member as permitted, the associated specialist member organization must "give up the book" to another specialist member organization, which is to act as a full-time relief specialist for the period during which SEC Rule 10b-6 is applicable to the regular specialist member organization. The full-time relief specialist member organization trades for its own account, not for the account of the regular specialist member organization, in meeting marketmaking responsibilities under Exchange rules during the applicable Rule 10b-6 period. The approved person may act as an underwriter, in any capacity, for a distribution of nonconvertible debt securities for an issuer in whose securities an associated specialist is registered, and the specialist member organization is not required to "give up the book" in such instances.

In SR-NYSE-85-25 (at page 11), the Exchange expressed its view at that time that any possible public perception of a potential conflict of interest between an approved person, acting as underwriter, and its associated specialist member organization, acting as marketmaker, was likely to focus most particularly on instances where the approved person was acting as a managing underwriter, and thus had a greater financial stake in the successful outcome of the distribution than other syndicate or selling group members. Thus, to minimize any possible concerns that might arise in this area, the Exchange proposed at that time the managing underwriter restriction.

In its Release (34-23768, November 3, 1986) approving the Exchange's Rule 98 exemptive program, the Commission noted that it was required "to balance the potential reduced risks of abuse resulting from the managing underwriter prohibition against the argument by integrated broker-dealers that the prohibition imposes an unnecessary competitive burden on their ability to enter the specialist business". The Commission concluded that the managing underwriter restriction was not "strictly necessary" under the Securities Exchange Act, but stated that "(T)he Act allows an SRO sufficient flexibility to proceed cautiously in implementing potentially significant structural changes in the marketplace". In the same Release, the Commission approved a proposal by the American Stock Exchange to provide exemptive relief comparable to the NYSE's Rule 98 proposal, but which did not contain any managing underwriter restriction.

In light of the highly volatile nature of the markets in October 1987, the Exchange questions whether it is appropriate to maintain the managing underwriter restriction. To date, little interest has been shown in the rule as it is currently written. It would appear that the managing underwriter restriction may have acted as a significant barrier to the entry of diversified broker-dealers to the specialist business on this Exchange, with the result that the Exchange markets may have been denied the benefits which the Exchange sought to achieve by virtue of the Rule 98 proposal. In SR-NYSE-85-25, the Exchange noted that the Rule 98 proposal was intended to help strengthen the capital base of the auction market system. The Exchange pointed out that large diversified organizations have the capital to expand their business, and that if such organizations were to enter the specialist business, they could reasonably be expected to provide additional capital for marketmaking on the Exchange.

The Exchange also noted (from the perspective of the marketplace of 1985), that the increasing "institutionalization" of the market and the increasing volatility of trading, would require specialists to commit greater capital, and be willing to assume some additional market risk in accommodating large-size orders and minimizing short-term price fluctuations, in the future. The Exchange observed that the specialist system would benefit singificantly from the additional capital contributions of large diversified organizations which have the financial resources to devote to specalizing and, because of their diversified nature, may have a greater ability to assume risk than an organization whose business consists exclusively of specializing.

(2) Basis Under the Act for Proposed Rule Change

Since, as noted above, the entry into the specialist business of diversified organizations is expected to have beneficial effects on the overall Exchange market, the proposed rule change can be said to promote the purposes of section 6(b)(5) of the Act in that it "remove[s] impediments to and perfect[s] the mechanism of a free and open market * * * and, in general, protect[s] investors and the public interest."

By permitting diversified member organizations to enter a business as to which they may currently be effectively excluded by regulation, the proposed rule change promotes the purposes of section 6(b)(5) in that it is "not designed to permit unfair discrimination between * * * brokers or dealers * * *" In this regard as well, the proposed rule change promotes the purposes of section 6(b)(8) in that it removes a "burden on competition" as to specializing on the Exchange not necessary to further the purposes of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, as discussed above, by facilitating the entry into the specialist business of diversified organizations, the proposed rule change can be said to enhance competition in marketmaking on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited not received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested accelerated effectiveness of the proposed rule change pursuant to section 19(b)(2) of the Act. The Exchange believes there is good cause to accelerate the approval of the proposed rule change because it will facilitate the entry of diversified, well-capitalized organizations into the specialist business, thereby strengthening the capital base of the auction market system during a period of extreme market volatility.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR-NYSE-87-37 and should be submitted by November 18, 1987.

V. Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6(b)(5) and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of the proposal in that easing the underwriting restriction during the current period of extreme market volatility, will allow well-capitalized organizations to enter the specialist business, thereby infusing additional capital into the market system and onto the Exchange floor.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved until May 1, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

Dated: October 22, 1987.

[FR Doc. 87-24913 Filed 10-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25052; File No. SR-PSE-87-24]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

On August 20, 1987, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposal to eliminate all references in the PSE rules to options on the PSE Technology Index.

The proposed rule change was published for comment in Securities Exchange Act Release No. 24876 (September 3, 1987), 52 FR 34333. The Commission did not receive any comments relating to the proposal.

The proposed rule amendment would delete from Exchange rules all references to PSE Technology Index options because the trading of such

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1987).

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options was terminated as of the September 1987 expiration. The deletions are designed to avoid investor confusion that could arise from continuing to refer in PSE rules to a product that no longer is traded on the Exchange.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [3] and the rules and regulations thereunder. Deletion of all references to the PSE Technology Index will eliminate unnecessary language from the Exchange's rules and help avoid possible investor confusion, thereby protecting investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: October 21, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-24914 Filed 10-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25052; File No. SR-PSE-87-24]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

On August 20, 1987, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposal to eliminate all references in the PSE rules to options on the PSE Technology Index.

The proposed rule change was published for comment in Securities Exchange Act Release No. 24876 (September 3, 1987), 52 FR 34333. The Commission did not receive any comments relating to the proposal.

The proposed rule amendment would delete from Exchange rules all references to PSE Technology Index options because the trading of such options was terminated as of the September 1987 expiration. The deletions are designed to avoid investor confusion that could arise from continuing to refer in PSE rules to a product that no longer is traded on the Exchange.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [3] and the rules and regulations thereunder. Deletion of all references to the PSE Technology Index will eliminate unnecessary language from the Exchange's rules and help avoid possible investor confusion, thereby protecting investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: October 21, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-24916 Filed 10-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24481]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 22, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 16, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New England Energy Incorporated (70-7055)

New England Energy Incorporated ("NEEI"), 25 Research Drive, Westborough, Massachusetts 01582, the fuel supply subsidiary of New England Electric System ("NEES"), a registered holding company, has filed a post-effective amendment to its application pursuant to sections 9(a) and 10 of the Act.

Since October 1974, NEEI has engaged in various activities relating to fuel supply for NEES system companies, including participation in ventures for exploration, development and production of oil and gas, the conversion of such production and the sale of fuel oil to its affiliate, New England Power Company.

NEEI seeks authorization to invest up to $30 million in its partnership ("Partnership") with Samedan Oil Corporation, a subsidiary of Noble Affiliates, Inc., during 1988 to meet its share of Partnership expenses for further exploration and development of oil and gas properties acquired through December 31, 1986. NEEI has not participated in new oil and gas prospects initiated by Samedan after December 31, 1986.

Dominion Resources, Inc. (70-7406)

Dominion Resources, Inc. ("DRI"), 701 East Byrd Street, Richmond, Virginia 23219, an exempt holding company, has filed an application pursuant to sections 9(a)(2) and 10 of the Act.

DRI is a holding company that owns all of the voting stock of two public-utility subsidiary companies, Virginia Electric and Power Company ("Virginia Power") and Virginia Natural Gas, Inc. ("VNG"). DRI also has five nonutility subsidiary companies. It is exempted from the provisions of the Act pursuant to Rule 2 thereunder. Virginia Power is engaged in the generation, transmission, and distribution of electric power and energy to retail residential, commercial, and industrial customers in Virginia and North Carolina, including the City of Suffolk, Virginia. As of June 30, 1987, Virginia Power had total assets of $9.1 billion, and its revenues for the 12 months then ended were $3.0 billion. VNG provides retail natural gas service in the Tidewater area of Virginia. As of June 30, 1987, VNG had total assets of $112.1 million, and its revenues for the 12 months then ended were $107.9 million.

DRI is seeking Commission authorization of the proposed acquisition of all of the outstanding shares of common stock of Suffolk Gas Corporation ("Suffolk"), a natural-gas distribution company. ERI will acquire Suffolk through a statutory share exchange in which each outstanding share of Suffolk common stock, being valued at $26.10 per share, will be transferred to DRI in exchange for an equivalent value in shares of DRI common stock. Upon the completion of the acquisition of Suffolk, DRI intends to contribute the acquired shares of Suffolk to the capital of VNG whereupon Suffolk will be a wholly owned subsidiary of VNG.

Suffolk is a natural-gas distribution utility located in Suffolk, Virginia. Suffolk serves approximately 2,260 natural gas customers, all of whom are located in Suffolk, Virginia. During 1986, Suffolk obtained 90% of its natural gas supplies from Commonwealth Gas Pipeline Corporation and obtained the remaining 10% of its supplies from spot-market purchases. It is stated that Suffolk has competition from fuel oil and propane companies for industrial customers, and from fuel oil, coal, electric, and bottled gas (LP gas) companies for residential and commercial customers. Suffolk's property consists of its utility plant, including a total of 56 miles of gas mains and a total of 47 miles of services. As of June 30, 1987, Suffolk had total assets of $2.49 million, and its revenues for the 12 months then ended were $2.44 million.

It is stated that the acquisition of the common stock of Suffolk by DRI and the subsequent capital contribution of the Suffolk shares to VNG will benefit all three companies. VNG and Suffolk both provide retail natural gas service in the Tidewater area of Virginia, and the operation of Suffolk as a subsidiary of VNG will permit VNG to expand its operations. DRI will be able to expand its investment in the retail gas business. Suffolk, as a part of the DRI holding company structure, will benefit from the services such a structure can provide. In addition, the current Suffolk stockholders will receive shares of DRI common stock in exchange for their Suffolk shares and will benefit from owning shares of stock that are listed on the New York Stock Exchange and have a public market.

The application asserts that although Suffolk will be a wholly owned subsidiary of VNG upon the consummation of the transaction, the companies will be operated as an integrated public-utility system as defined in section 2(a)(29)(B) of the Act. Suffolk is located approximately 25 miles from VNG's headquarters in Norfolk, Virginia. Presently Suffolk and VNG each obtain the major portion of its gas supplies from a common source, Commonwealth Gas Pipeline Corporation. After the completion of the transaction, VNG will make gas-supply purchases for both companies. In addition, other aspects of the Suffolk system will be managed and operated by VNG pursuant to a service agreement approved by the State Corporation Commission of Virginia. VNG will assist Suffolk in regulatory matters, including the design of rates and rate-relating filings, and will provide support to Suffolk in the construction and maintenance of distribution facilities. Suffolk will have access to VNG's marketing, customer relations, and public employee information services. VNG will provide accounting services and assist Suffolk in the preparation of tax returns, interpretation of tax laws, and other related tax matters. VNG will also assist Suffolk in the formulation of safety guidelines and practices.

The proposed transaction will also provide Suffolk access to the corporate and financial experience of VNG and DRI, thereby providing Suffolk with a level of specialization and expertise atypical of a smaller utility. Also, the capital resources of VNG and DRI will facilitate expansion of the Suffolk service territory in which further growth and development is expected. DRI believes that given these arrangements, substantial economics will be effected by the proposed transaction.

The acquisition by DRI of the shares of common stock of Suffolk and the subsequent operation of Suffolk as a wholly owned subsidiary of VNG require the approval of the Virginia State Corporation Commission.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-24915 Filed 10-27-87; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of Modifications in Specialty Steel Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice establishes country allocations of the quotas presently applicable to imports of certain specialty steel and makes modifications in the Tariff Schedules of the United States to implement changes in the import relief.

EFFECTIVE DATE: October 20, 1987.

FOR FURTHER INFORMATION CONTACT: Robert Cassidy or Elena Bryan, Office of the United States Trade Representative, (202) 395-4510.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5679 of July 16, 1987 (58 FR 27308) provided for the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel imported into the United States, pursuant to section 203 of the Trade Act of 1974. Specified steels not produced in the United States or produced in small quantities were exempted for the import relief.

Proclamation 5679 authorizes the U.S. Trade Representative to take such actions and perform such functions for the United States as may be necessary to administer and implement the relief, inlcuding negotiating orderly marketing agreements and allocating quota quantites on a country-by-country basis. The U.S. Trade Representative is also authorized to make modifications in the Tariff Schedules of the United States (TSUS) headnote or items proclaimed by the President in order to implement such actions.

Accordingly, the U.S Trade Representative has determined that the quota quantities should be allocated on a country-by-country basis. These changes are being made as a result of negotiations with Canada, Japan, Korea, Mexico, Poland, Spain, Sweden and Taiwan.

In conformity with the above, paragraphs (c) and (d) of headnote 10, subpart A, part 2 of the Appendix to the TSUS are modified to read as follows:

(c) *Carryover*—Whenever the quota quantity specified for any of the individually named countries for an item has not been entered during any semi-annual restraint period, entry may be made during the subsequent semi-annual restraint period of an amount up to 20 percent (10 percent in the case the case of shortfalls occuring in the second semi-annual restraint period in any quota year) of the base limit for the restraint period in which the shortfall occurs, but not to exceed the difference between the quota quantity specified for such restraint period and the amount entered during that period: and such amount not be counted against the quota quantity therefor.

(d) *Exceeding restraint levels*—The restraint level for any quota quantity allocated to any of the individually named countries may be exceeded by not more than 10 percent during the first semi-annual

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[3] 15 U.S.C. 78f (1982).
[4] 15 U.S.C. 78s(b)(2) (1982).
[1] 15 U.S.C. 78s(b)(1) (1982).
[2] 17 CFR 240.19b-4 (1987).

[3] 15 U.S.C. 78f (1982).
[4] 15 U.S.C. 78s(b)(2) (1982).

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restraint period in any quota year, by not more than 3 percent in the second semi-annual restraint period in an quota year and shall not be exceeded in the period from July 20, 1989 through September 30, 1989. If a quota quantity is exceeded during a restraint period, a downward adjustment of the corresponding quota quantity for the next semi-annual restraint period in the absolute amount the preceding restraint level was exceeded shall be made.

TSUS items 926.10 through 926.23 and the superior headings pertaining thereto are modified to read as follows:

Item	Articles	Quota quantity (in short tons) if entered during the restraint period: July 20 through January 19	Quota quantity (in short tons) if entered during the restraint period: January 20 through July 19
	"Whenever the respective aggregate quantity of articles the product of a foreign country specified below for items 926.10 through 926.23, inclusive, has been entered in any restraint period (whether, for tariff purposes, in schedule 6 or in item 832.00 of schedule 8), no article in such item the product of such country may be entered during the remainder of such restraint period, except as provided in headnote 10:		
	Bars of stainless steel (except stainless steel of the type described in headnote 10(a)(v)), provided for in item 606.90 part 2B, schedule 6:		
926.11	If entered during the period from October 20, 1987, through July 19, 1988, inclusive:		
	Canada	[1] 276	553
	Japan	[1] 3,542	7,085
	Korea	[1] 485	971
	Mexico	[1] 28	57
	Spain	[1] 1,100	2,200
	Sweden	[1] 340	680
	Taiwan	[1] 25	50
	Other, except as provided in headnote 10(g)(ii) to this subpart	[1] 110	215
926.12	If entered during the period from July 20, 1988, through July 19, 1989, inclusive:		
	Canada	565	565
	Japan	7,245	7,245
	Korea	983	984
	Mexico	64	65
	Spain	2,250	2,250
	Sweden	695	696
	Taiwan	51	52
	Other, except as provided in headnote 10(g)(ii) to this subpart	225	223
926.13	If entered during the period from July 20, 1989, through September 30, 1989, inclusive:		
	Canada	233	[2]
	Japan	2,985	[2]
	Korea	405	[2]
	Mexico	27	[2]
	Spain	927	[2]
	Sweden	286	[2]
	Taiwan	21	[2]
	Other, except as provided in headnote 10(g)(ii) to this subpart	92	[2]
	Wire rod of stainless steel (except stainless steel of the type described in headnote 10(a)(v)), provided for in items 607.26, and 607.43, part 2B, schedule 6:		
926.15	If entered during the period from October 20, 1987, through July 19, 1988, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Japan	1,587	3,174
	Korea	263	525
	Spain	465	931
	Sweden	992	1,984
	Other, except as provided in headnote 10(g)(ii) to this subpart	97	195
926.16	If entered during the period from July 20, 1988, through July 19, 1989, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Japan	3,246	3,246
	Korea	540	541
	Spain	951	952
	Sweden	2,029	2,029
	Other, except as provided in headnote 10(g)(ii) to this subpart	197	195
926.17	If entered during the period from July 20, 1989, through September 30, 1989, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Japan	1,337	[2]
	Korea	223	[2]
	Spain	392	[2]
	Sweden	836	[2]
	Other, except as provided in headnote 10(g)(ii) to this subpart	81	[2]

Item	Articles	Quota quantity (in short tons) if entered during the restraint period: July 20 through January 19	Quota quantity (in short tons) if entered during the restraint period: January 20 through July 19
	Bars, wire rods, plates, sheets, strip, all the foregoing of alloy tool steel (except chipper knife steel, band saw steel, rotor steel for hysteresis motors and tool steel of the type described in headnote 10(a)(viii)), provided for in items 606.95, 607.28, 607.34, 607.46, 607.54, 607.72, 607.88, 608.34, 608.49, and 608.64 and round wire of high speed tool steel, provided for in item 609.45 part 2B, schedule 6:		
926.19	If entered during the period from October 20, 1987, through July 19, 1988, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Canada	397	793
	Japan	1,156	2,313
	Korea	381	762
	Mexico	64	130
	Poland	85	171
	Spain	45	92
	Sweden	2,182	[1] 4,364
	Other, except as provided in headnote 10(g)(ii) to this subpart	84	163
926.20	If entered during the period from July 20, 1988, through July 19, 1989, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Canada	811	812
	Japan	2,364	2,365
	Korea	786	785
	Mexico	139	139
	Poland	167	168
	Spain	94	94
	Sweden	4,463	4,463
	Other, except as provided in headnote 10(g)(ii) to this subpart	164	163
926.21	If entered during the period from July 20, 1989, through September 30, 1989, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Canada	334	[2]
	Japan	974	[2]
	Korea	324	[2]
	Mexico	57	[2]
	Poland	69	[2]
	Spain	39	[2]
	Sweden	1,838	[2]
	Other, except as provided in headnote 10(g)(ii) to this subpart	68	[2]

[1] October 20, 1987 through January 19, 1988.
[2] The relief expires on September 30, 1989.

I have determined that the above allocations and other changes in the import relief are appropriate to carry out the authority granted by the President to the U.S. Trade Representative and the obligations by the United States, with due consideration to the interests of the domestic producers of such specialty steel. This action is subject to further modification.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 87-24985 Filed 10-27-87; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Minority Business Resource Center Advisory Committee; Rescheduling of Meeting Site

This notice is given to advise of the rescheduling of the meeting site of the Minority Business Resource Center Advisory Committee meeting originally scheduled to be held at the Hyatt Regency Miami, 400 SE 2nd Avenue, Miami, Florida. Notice of meeting was published in the **Federal Register** issue of October 14, 1987 (FR 87-23746).

Notice is hereby given of the rescheduling of said meeting for Wednesday, November 18, 1987, at 5:30 p.m. at the Holiday Inn Brickell Point, 495 Brickell Avenue, Room: Ottawa, Miami, FL 33131.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Josie Graziadio, Office of Small and Disadvantaged Business Utilization, 400 7th Street, SW., Washington, DC, 20590, telephone (202) 366-1930. Any member of the public may present a written statement to the Committee at any time.

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Issued in Washington, DC on October 23, 1987.

Amparo B. Beechey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 87-24971 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-62-M

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB on October 23, 1987

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on October 23, 1987, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, DC 20590, telephone (202) 366-4735, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on October 23, 1987.

DOT No.: 2979
OMB No.: 2127-0036
Administration: National Highway Traffic Safety
Title: Assigning DOT Code Numbers to Glazing Manufacturers
Need for Information: This requirement is needed to ensure traceability to the proper manufacturer for enforcement purposes
Proposed Use of Information: Standard 205 requires that all automotive glazing be certified by affixing a DOT Code Number, assigned by the National Highway Traffic Safety Administration, on glazing materials. This system deals with the assignment of DOT Code Number.
Frequency: On occasion
Burden Estimate: 9 hours
Respondents: 18
Form(s): None

DOT No.: 2980
OMB No.: 2127-0512
Administration: National Highway Traffic Safety
Title: Consolidated Labeling Requirements for Motor Vehicles (Except the VIN Numbers) 49 CFR 571.105, 205, 209 and Part 567.
Need for Information: To show performance requirements for the protection of vehicle occupants in crashes.
Proposed Use of Information: Motor vehicles and motor vehicle equipment must be properly labeled to provide for safe operation by users and to unsure prompt identification of such equipment in the event of safety related defects.
Frequency: On occasion
Burden Estimate: 73,312 hours
Respondents: 1,214
Form(s): None

DOT No.: 2981
OMB No.: 2130-0517
Administration: Federal Railorad Administration
Title: Supplemental Qualifications Statement for Railroad Safety Inspector Applicants
Need for Information: To determine specialized skills of inspector applicants.
Proposed Use of Information: To rate and rank the qualifications of applicants for Railroad Safety Inspector positions.
Frequency: On occasion
Burden Estimate: 4,650 Hours
Respondents: Individuals
Form(s): FRA-F-120

DOT No.: 2982
OMB No.: 2137-0510
Administration: Research and Special Programs
Title: RAM Transportation Requirements
Need for Information: To establish a central repository for designated state routes that may be used in the transporting of radioactive materials. This will enable carriers to go to one source rather than several in determining routes to be followed when transporting radioactive materials in interstate commerce
Proposed Use of Information: To maintian a centralized source for information as to which routes have been designated by various states for use in transporting radioactive materials
Frequency: On occasion
Burden Estimate: 15,034 hours
Respondents: State Governments; carriers and shippers of radioactive materials
Form(s): None

DOT No: 2983
OMB No: 2137-0034
Administration: Research & Special Programs
Title: Hazardous Materials Shipping Papers
Need for Information: Shipping papers serve as the basic source of information relative to the presence of hazardous materials, their quantity and identification. They serve as the principal source of information for compliance with other requirements, such as the placement of railcars containing different materials in trains, preclusion of loading poisons with foodstuffs, separation of incompatible explosives, etc
Proposed Use of Information: Shipping papers are the basic hazard communication tool relative to transportation of hazardous materials—shippers, carriers, etc., use them to inform others of the presence of hazardous materials.
Frequency: Each shipment of hazardous materials
Burden Estimate: 5,590,000 hours
Respondents: Shippers of hazardous materials
Form(s): None

DOT No: 2984

OMB No: 2132-500 (Section 16(b)(2))
Administration: Urban Mass Transportation Administration
Title: Section 18 and 16(b)(2) Program Requirements
Need for Information: The information collected is used by UMTA's Regional Offices to determine eligibility for grant benefits and ensures compliance with Federal requirements. The information is also used by UMTA Headquarters for program management and evaluation
Proposed Use of Information: The information is used by UMTA Headquarters for program management and evaluation
Frequency: Annual, On occasion, Semi-annually
Burden Estimate: 12,569 hours
Respondents: State or Local Government
Form(s): SF-269 and SF-424

DOT No: 2986
OMB No: 2137-0572
Administration: Research and Special Programs
Title: Standards for Polyethylene Packagings
Need for Information: To establish safety standards in the hazardous materials regulations for polyethylene packagings to be used in the shipment of hazardous materials
Proposed Use of Information: To make a determination that polyethylene packagings meet the safety standards set forth in the hazardous materials regulations for use in the transportation of hazardous materials
Frequency: Other—Nonrecurring
Burden Estimate: 60 hours
Respondents: 30
Form(s): None

DOT No: 2987
OMB No: 2115-0071
Administration: U.S. Coast Guard
Title: Official Logbook
Need for Information: This information is needed to keep official records of all voyages as well as load line and testing records
Proposed Use of Information: Coast Guard uses this information to determine compliance with the commercial vessel safety program, and to examine casualty investigations/federal and civil courts use this information in cases of injury or litigation between seaman and shipping companies
Frequency: On occasion
Burden Estimate: 1,750 hours
Respondents: U.S. Merchant Mariners and shipping companies
Form(s): CG-706B

DOT No: 2988
OMB No: 2115-0546
Administration: U.S. Coast Guard
Title: Sailing School Vessel
Need for Information: The Coast Guard needs this information collection requirement to: (1) Determine if a vessel meets the conditions to be designated as a sailing school vessel; (2) ensure that the respondents have adequate financial resources to protect persons on board the vessel; (3) ensure that the respondents meet the tax-exempt law; (4) ensure that individuals understand that they are in a training atmosphere and are expected to assist in the operation of the vessel; and (5) ensure the safety of the vessel and all persons on board
Proposed Use of Information: This information is used to properly administer and enforce the sailing school inspection program and to determine if a vessel meets the conditions to be classified as a sailing school vessel
Frequency: On occasion
Burden Estimate: 105 hours
Respondents: Owners/operators of sailing school vessels
Form(s): N/A

DOT No: 2989
OMB No: 2133-0032
Administration: Maritime Administration
Title: Application for Construction Reserve Fund and Monthly Bank Statements
Need for Information: An application to obtain benefits of the CRF Program must be submitted by interested parties. Bank statement is needed to verify account activity
Proposed Use of Information: Application used to verify applicant eligibility. Bank statement used to administer CRF account
Frequency: On occasion, monthly
Burden Estimate: 144 hours
Respondents: Ship owners, ship operators
Form(s): N/A.

Issued in Washington, DC on October 23, 1987.

Richard B. Chapman,

Acting Director of Information Resource Management.

[FR Doc. 87-24947 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-87-28]

Petition for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Noticeof petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comment on petitions received must identify the petition docket number involved and must be received on or before November 18, 1987.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 19A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on October 22, 1987.

Denise D. Hall,

Acting Manager, Program Management Staff.

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PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
20853	United Airlines, Inc.	14 CFR 121.99 and 121.351(a)	To allow petitioner to operate its airplanes in extended overwater operations over any airway or other approved route over the Western Atlantic, Caribbean Sea, and the Gulf of Mexico with one High Frequency (HF) Communication-Radio System and one Long Range Navigation System (LRNS). This exemption would extend Exemption No. 3122B, as amended.
24113	Flight Training International, Inc.	14 CFR 61.63(d) (2) and (3) and 61.157(d)(1)	To allow trainees of petitioner, who are applicants for an airline transport pilot certificate or a type rating to be added to any grade of pilot certificate, to substitute the practical test requirements of § 61.157(a) for those of § 61.63(d) (2) and (3) and to complete a portion of that practical test in a simulator as authorized by § 61.157(d).
25350	Austin Jet Corporation	14 CFR 135.169(a), 121.312(b), and 25.853(c)	To allow petitioner to operate certain aircraft without complying with seat cushion flammability standard of § 25.853 for a period of 1 year beyond the implementation date of November 26, 1987.
25357	Venture Airways	14 CFR 135.169(a) and 25.853(c)	To allow petitioner to operate certain aircraft without complying with seat cushion flammability standards of § 25.853 for a period of 4 years beyond the implementation date of November 26, 1987.
25359	Aviation Group, Inc.	14 CFR 135.169, 121.312, and 25.853(c)	To allow petitioner to operate certain aircraft without complying with the seat cushion flammability standards of § 25.853 for an unspecified period of time beyond the implementation date of November 26, 1987.
25361	Jet Fleet Corporation	14 CFR 135.169 and 25.853	To allow petitioner to operate certain aircraft without compliance with the seat cushion flammability standards of § 25.853 for an unspecified period of time beyond the implementation date of November 26, 1987.
25362	Mesaba Aviation, Inc.	14 CFR 121.371(a) and 121.378	To allow petitioner to contract with Hens and Sussex Aviation Limited and/or Hong Kong Aircraft Engineering Company Limited for inspection, repair, and overhaul of its Rolls Royce Dart engines and Dowty Rotol propellers and their respective accessories and parts in support of its F-27 aircraft.
25363	Panorama Flight Service, Inc.	14 CFR 135.169 and 25.853	To allow petitioner to permanently operate certain aircraft without complying with seat cushion flammability standards of § 25.853 after the implemenisation date of November 26, 1987.
25364	Aviation Methods, Inc.	14 CFR 135.169(a) and 25.853(c)	To allow petitioner to operate certain aircraft without complying with the seat cushion flammability standards of § 25.853 for a period of 4 years beyond the implementation date of November 26, 1987, or until each aircraft is re-outfitted, whichever may occur first.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
22473	Pan Am Express	14 CFR 93.123	Petitioner requests an extension of current Exemption No 3752C which permits two additional commuter operations per hour at Washington National Airport. The additional slots may be used only by STOL aircraft. Continuation of the exemption would permit further evaluation of RNAV approaches to the cross runways at National Airport.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
22192	Richmor Aviation, Inc.	14 CFR 141.91(a)	To allow petitioner to conduct flight training and instruction in its approved courses of training at its satellite bases located at Ballston Spa, New York; Scotia, New York; and Poughkeepsie, New York. *Granted, October 8, 1987.*
25195	Loral Systems Group	14 CFR 45.27(b)	To allow petitioner to place the registration markings on the outboard surface of each propulsion duct on its G2-22 airship. *Granted, October 14, 1987*
25298	Simmons Airlines, Inc.	14 CFR 121.37(a) and 121.378	To allow petitioner to have foreign original equipment manufacturers (OEM) inspect, repair, and overhaul selected aircraft parts necessary to support its Aerospatiale twin-engine turboprop ATR-42 and Short Brothers twin-engine turboprop SD3-60 aircraft program. *Granted, October 13, 1987.*

[FR Doc. 87-24900 Filed 10-27-87; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement, Northampton County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Northampton County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Philibert A. Ouellet, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108, Telephone: (717)782-4422.

or

Matthew F. Mazza, District Engineer, Pennsylvania Department of Transportation, Engineering District 5-0, 1713 Lehigh Street, Allentown, Pennsylvania 18103.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation and the County of Northampton, will prepare an Environmental Impact Statement (EIS) on a proposal to complete the construction of State Route (SR) 33 in Northampton County. The proposal would involve the construction of SR 33, a new limited access highway, from the existing SR 33 terminus at US 22 for approximately 3 miles south to a new terminus and interchange at Interstate 78. Interchanges are being proposed at SR 2020 (William Penn Highway), SR 2018 (Freemansburg Road), and I-78. Full and partial diamond configurations will be evaluated at SR 2020 and SR 2018 and a high speed flyover type interchange with I-78. Completion of the remainder of this highway section will provide the missing link in the inter regional traffic network by connecting I-78 and the Lehigh Valley with the Stroudsburg-Pocono Region and the Interstate 80 corridor which will provide energy and travel time savings and increase the opportunity for economic development in the region and in the area immediately adjacent to the proposed extension.

The relative short length of the proposed project limits the number of alternatives available for consideration. Two design alternatives, each with different alignment, profile and interchange configuration will be evaluated, as will a no build alternative.

This EIS is being initiated as a result of on-going public involvement processes which have resulted in a consensus of local government bodies expressing a desire to complete this project. The EIS process will include detailed studies of Air Quality, Noise, Social and Economic Considerations, Land Use, Ecology, Water Quality, Cultural Resources, Farmlands, Traffic and Transportation, and Wetlands, as well as a section 4(f) Evaluation.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have expressed interest in the proposal. Scoping meetings are planned with the agencies between October 1987 and January 1988. A series of public meetings will be held in Northampton County in the fall of 1987, and winter and spring of 1988. In addition, a public hearing will be held. Public notice will be given of the time and place of these meetings and the hearing. The draft EIS will be available for public and agency review and comment. To ensure that the full range of issues to the proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, regarding State and local review of Federal and Federally assisted programs and projects apply to this program.)

Phil Ouellet,

District Engineer, Harrisburg, Pennsylvania.

[FR Doc. 87-24922 Filed 10-27-87; 8:45 am]
BILLING CODE 4910-22-M

Maritime Administration

[P-001]

Exception to Charter Policy; Hawaiian Submarines, Inc.

ACTION: Extension of public comment period.

SUMMARY: Today's notice announces an extension of the public comment period until November 9, 1987, for a proposed Agency decision (52 FR 36486, September 29, 1987) to approve the bareboat charter of eight groups of vessels (each group being comprised of a submarine, a tender and a passenger launch), by Hawaiian Submarines, Inc., Honolulu, Hawaii, to Atlantis Submarines, Inc. (Atlantis), a Hawaiian corporation, that does not meet the requirements for United States citizenship in 46 App. U.S.C. 802. The vessels would be chartered for a period of 17 years, commencing late 1987, for the carriage of tourists on short underwater trips to view coral reefs, sunken vessels, and the like in Hawaii. The comment period for the proposed decision was originally scheduled to end on October 29, 1987. Today's notice responds to requests for an extension of time from Graham & James, and Crowley Maritime Corporation.

Send original and one copy of comments to the Secretary, Maritime Administration, Department of Transportation, Rm. 7300, 400 Seventh Street SW., Washington, DC 20590. Anyone submitting comments who wishes acknowledgment of their receipt by MARAD should include a stamped, self-addressed postcard or envelope.

Dated: October 23, 1987.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 87-24948 Filed 10-27-87; 8:45 am]
BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: October 22, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0922
Form Number: 8329/8330
Type of Review: Resubmission
Title: Lender's Information Return for Mortgage Credit Certificates (MCCs)—Form 8329; Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs)—Form 8330
Description: These forms will be used by lending institutions who issued qualified indebtedness amounts based on mortgage credit certificates. The information on this form will be matched with the information supplied by the issuers of MCCs.
Respondents: State or local governments, Businesses or other for-profit
Estimated Burden: 27,511 hours
Clearance Officer: Garrick Shear, (202) 535-4297, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-24890 Filed 10-27-87; 8:45 am]
BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C., Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping

BEST COPY AVAILABLE

requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. USIA is requesting approval of an information collection which requires prospective grantees to sign a statement that they, if awarded a grant, comply with provisions of the Civil Rights Act of 1964, the Rehabilitation Act of 1973 and the Education Amendments of 1972 regarding discrimination. Respondents will be required to respond only one time.

DATE: Comments must be received by November 30, 1987.

Copies: Copies of the Request for Clearance (SF–83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Retta Graham-Hall, United States Information Agency, M/ASP, 301 4th St., SW., Washington, DC 20547. Telephone (202) 485–7501, and OMB review: Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. Telephone (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Title: "Assurance of Compliance with USIA Regulations."

Abstract: Signing the "Assurance of Compliance with USIA Regulations" form indicates a commitment on the part of the grantee to comply with the three statutes referred to in the Summary above, as required by law. This assurance is given in connection with any and all financial assistance from the U.S. Information Agency after the date the form is signed, including payments after that for financial assistance approved previously. The applicant recognizes and agrees that any such financial assistance will be extended in reliance on the representations and agreements made in this assurance, and the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the applicant, its successors, and on the transferees, and assignees, and on the authorized official whose signature appears on the form.

Proposed Frequency of Responses: No. of Respondents—200; Recordkeeping Hours—0; Total Annual Burden—2.

Dated: October 22, 1987.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 87–24924 Filed 10–27–87; 8:45 am]

BILLING CODE 8230–01–M

VETERANS ADMINISTRATION

Commission To Assess Veterans' Education Policy; Meeting

The Veterans Administration gives notice that a meeting of the Commission to Assess Veterans' Education Policy, authorized by section 320 of Pub. L. 99–576, will be held in Room 1015 of the Veterans' Administration Central Office, 810 Vermont Avenue, NW., Washington, DC, 20420, on November 16, 1987, at 9 a.m. The purpose of this meeting will be to review various aspects of the administration of veterans' education programs for the purpose of making recommendations to the Administrator and the Congress as the Commission determines appropriate. In addition, the Commission will review preliminary results of requests for feedback from various individuals involved in the administration of GI Bill benefits.

The meeting will be open to the public. Due to limited seating capacity, it will be necessary for those wishing to attend to contact Ms. Babette V. Polzer, Executive Director, Commission to Assess Veterans' Education Policy (phone: (202) 233–2886) prior to November 11, 1987.

Interested persons may attend or submit prepared statements for the Commission. Statements may be filed with the Executive Director for the Commission, c/o the Veterans' Administration (226D), 810 Vermont Avenue, NW., Room 427–D, Washington DC, 20420.

Dated: October 23, 1987.

By direction of the Administrator.

Rose Maria Fontanez,

Committee Management Officer.

[FR Doc. 87–24940 Filed 10–27–87; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 208
Wednesday, October 28, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the following matter will be added to the "discussion agenda" for consideration at the open meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 2:00 p.m. on Tuesday, October 27, 1987, in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC:

Memorandum re: Extending the time period in which the Corporation may take final action on proposed amendments to Part 332 of its rules and regulations concerning real estate development and insurance underwriting activities by insured banks:

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: October 26, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–25053 Filed 10–26–87; 3:12 pm]

BILLING CODE 6714–01–M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 4:30 p.m., Tuesday, November 3, 1987.

PLACE: Ramada Renaissance Hotel, 4736 Best Road, College Park, Georgia 30337, (404) 762–7676.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Request for Exemption from § 701.21(h)(2)(ii), NCUA Rules and Regulations. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
3. Special Assistance under section 208 of the Federal Credit Union Act. CLosed pursuant to exemptions (8) and (9)(A)(ii).
4. Agency Adjudication. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).

TIME AND DATE: 1:30 p.m., Wednesday, November 4, 1987.

PLACE: Ramada Renaissance Hotel, 4736 Best Road,College Park, Georgia 30337, (404) 762–7676.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Board Meeting.
2. Economic Commentary.,
3. Central Liquidity Facility Report and Review of CLF Lending Rate.
4. Insurance Fund Report.
5. National Credit Union Share Insurance Fund Dividend and Insurance Premium.
6. Fiscal Year 1988 Operating Fee Assessment.
7. Charter Aplication: Common Ground Community Federal Credit Union.
8. Final Amendments to Parts 701, 703, and 721, NCUA Rules and Regulations.
9. Proposed Rule: Repeal of § 701.10 regarding Establishment of a Cash Fund, and Amend § 748.0 Security Program.
10. Final Rule: Repeal of § 701.13, NCUA Rules and Regulations, Financial and Statistical and Other Reports.
11. Proposed Rule: Revision to § 701.20, NCUA Rules and Regulations, Surety Bonds.
12. Regulatory Review: § 701.38, NCUA Rules and Regulations Borrowed Funds from Natural Persons.
13. Report on Request for Comments regarding Secondary Mortgage Market Enhancement Act of 1984.
14. Legislative Update.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 357–1100.

Becky Baker,

Secretary of the Board.

[FR Doc. 87–25048 Filed 10–26–87; 3:00 pm]

BILLING CODE 7535–01–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 38833 October 19, 1987].

STATUS: Open meeting.

PLACE: 450 5th Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, October 14, 1987.

CHANGES IN THE MEETING: Rescheduling.

The following item previously scheduled for Tuesday, October 20, 1987 has been rescheduled for Thursday, October 29, 1987, at 9:30 a.m.:

Consideration of whether to adopt Rule 6c–9 and Form N–6C9 under the Investment Company Act of 1940. Rule 6c–9 would provide an exemption from the provisions of the Act, under certain conditions, to permit foreign banks to offer their own debt securities or non-voting preferred stock in the United States without registering as investment companies or obtaining exemptive orders. The exemption would also be available where a foreign bank offers its securities in the United States indirectly through a finance subsidiary. The form would be filed by a foreign bank or foreign finance subsidiary to appoint a United States agent for service of process. For further information, please contact Ann M. Glickman at (202) 272–3042.

Commissioner Peters, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, in any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272–2149.

Jonathan G. Katz,

Secretary.

October 26, 1987.

[FR Doc. 87–25058 Filed 10–26–87; 3:26 pm]

BILLING CODE 8010–01–M

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208
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Corrections

Federal Register
Vol. 52, No. 208
Wednesday, October 28, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-434-F]

Medicare Program; Standards for the Reuse of Hemodialyzer Filters and Other Dialysis Supplies

Correction

In rule document 87-22938 beginning on page 36926 in the issue of Friday, October 2, 1987, make the following correction:

On page 36934, in the second column, in the authority citation for Subpart U, insert "1861" after "1102."

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWP-11]

Revision to the Sacramento Metropolitan Airport, CA; Control Zone

Correction

In rule document 87-22226 appearing on page 36230 in the issue of Monday, September 28, 1987, make the following correction:

§ 71.171 [Corrected]

In the third column, in § 71.171, in the 16th line, "38°44'43"" should read "38°41'43"".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-87-27]

Petitions for Exemption; Summary of Petitions Received

Correction

In notice document 87-24183 appearing on page 36991 in the issue of Tuesday, October 20, 1987, make the following correction:

In the second column of the page, under DATE, the date in the fourth line should read "November 9, 1987."

BILLING CODE 1505-01-D

federal register

Wednesday
October 28, 1987

Part II

Environmental Protection Agency

40 Parts 141, 142, and 143
Drinking Water Regulations; Public Notification; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141, 142, and 143

[WH-FRL-3254-6]

Drinking Water Regulations; Public Notification

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This action under section 1414(c) of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300f *et seq.*, amends the general public notification regulations found at 40 CFR 141.32, and amends the public notification requirements for exceedances of the National Secondary Drinking Water Regulations for fluoride found at 40 CFR 143.5, to make them consistent with the new general public notification requirements. These changes apply to owners and operators of public water systems which fail to comply with certain requirements of the National Primary Drinking Water Regulations (NPDWRs), or certain monitoring requirements, and owners or operators of public water systems which have a variance or exemption. EPA is establishing requirements regarding the manner, form, content and frequency of the public notice.

In addition, EPA is promulgating new public notification requirements regarding lead contamination of drinking water to implement section 1417(a)(2) of the SDWA. The new public notification requirements for lead require public water systems to identify and provide notice to persons who may be affected by lead contamination in their drinking water, where such contamination results from the use of lead in the construction materials of the distribution system. These notification requirements, which apply to owners and operators of community and non-transient non-community water systems, apply in addition to the general public notification requirements for lead. EPA is today establishing requirements regarding the content, form, manner, and frequency of the lead notice.

Finally, EPA is amending the State implementation regulations found at 40 CFR Part 142, Subpart B to require States to adopt, at a minimum, the general public notification requirements found in revised § 141.32, and procedures for implementing § 141.32(b)(3)(iii), which allows States to extend the public notification time frames for certain Tier 2 monitoring violations from three months to one year.

EFFECTIVE DATE: The amended general public notice requirements under new 40 CFR 141.32, will take effect April 28, 1989. The public notice requirements for lead found at 40 CFR 141.34, the amended public notification requirements for violations of the Secondary Maximum Contaminant Level (SMCL) for fluoride found at 40 CFR 143.5, and the amended State implementation requirements found at 40 CFR Part 142, Subpart B will take effect November 27, 1987. The redesignation of 40 CFR 141.32 as 40 CFR 141.36 and the new introductory text are effective November 27, 1987. Section 141.36 expires April 28, 1989. In accordance with 40 CFR 23.7, this regulation shall be considered final Agency action for the purposes of judicial review at 1:00 p.m. eastern time on November 12, 1987.

ADDRESSES: Public comments and supporting documents for this rulemaking are available for review during normal business hours at EPA, Room 1101 East Tower, USEPA, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ralph Langemeier, Chief, Drinking Water Branch, Water Management Division, Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone (913) 236–2815; or Carl Reeverts, Deputy Director, State Programs Division, Office of Drinking Water, 401 M Street, SW., Washington, DC 20460, telephone (202) 382–5522.

SUPPLEMENTARY INFORMATION:

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I. Statutory and Regulatory Background

A. Statutory Authority

On June 19, 1986, the Safe Drinking Water Act, 42 U.S.C. 300f, *et seq.*, ("SDWA" or "the Act") was amended. Section 1414(c), as amended, requires owners or operators of public water systems to notify the persons they serve when certain violations of the National Primary Drinking Water Regulations (NPDWRs) or certain monitoring requirements occur, when variances or exemptions are in effect, and when a system fails to comply with any schedule prescribed pursuant to a variance of exemption. The amendments require that EPA amend the existing public notification rule "to provide for different types and frequencies of notice based on the differences between violations * * * tak[ing] into account the seriousness of any potential adverse health effects which may be involved." Under the amendments, EPA must prescribe the form, manner, and frequency for giving notice under section 1414(c).

The SDWA amendments also added a new section 1417 prohibiting the use of certain lead pipe, solder, and flux in (1) the installation or repair of any public water system; or (2) any plumbing in a residential or nonresidential facility connected to a public water system and providing water for human consumption. Section 1417(a)(2) requires each public water system to identify and provide notice to persons who may be affected by lead contamination in their drinking water, where such contamination results from either the lead content in the construction materials of the system and/or corrosivity of the water sufficient to cause leaching of lead from plumbing systems. The Act requires notification even if the system is in compliance with the maximum contaminant level (MCL) for lead.

Section 1417(b) provides that the lead public notification requirements in section 1417(a)(2) shall be enforced in all States as of June 19, 1988. EPA is authorized to withhold up to five percent of a State's section 1443(a) public water system supervision program grant if the Agency determines that the State is not

enforcing the prohibition and public notice requirements for lead.

B. Regulatory Background

On April 6, 1987, EPA proposed at 52 FR 10972 to amend the general public notification regulations (40 CFR 141.32), the public notification regulations for violations of the Secondary Maximum Contaminant Level (SMCL) for fluoride (40 CFR 143.5), and the State implementation regulations regarding public notification (40 CFR Part 142, Subpart B). In addition, EPA proposed new notification requirements regarding lead contamination of drinking water to implement section 1417(a)(2) of the Act.

The general public notification requirements found at 40 CFR 141.32 were promulgated on December 24, 1975 (40 FR 59570), and were subsequently amended on August 27, 1980 (45 FR 57345) and April 2, 1986 (51 FR 11412). EPA promulgated public notification regulations for violations of the fluoride SMCL, found at 40 CFR 143.5(b) of the National Secondary Drinking Water Regulations, on April 2, 1986 (51 FR 11412). EPA promulgated the State implementation regulations found at 40 CFR Part 142, Subpart B on January 30, 1976 (41 FR 2918). There are no existing requirements for public notification for lead (except that systems which violate the lead NPDWR are subject to the general public notification requirements in 40 CFR 141.32).

C. Public Comments on the Proposal

EPA requested comments on all aspects of the April 6, 1987 proposal. A summary of the major comments, and the Agency's response to the issues raised, are presented in the following section. A detailed recitation of the comments received and the Agency's responses are presented in the document "Response to Comments Received on the Proposed Public Notification Requirements of April 6, 1987," which is available in the public docket for this rulemaking.

EPA received 68 written comments on the proposed rule. Of the comments received, one was from an individual, 24 were from companies, 16 were from public or professional organizations, and 27 were from Federal agencies, States, and local governments.

EPA held a public hearing on May 1, 1987. Two representatives of professional organizations made oral statements at that time.

II. Summary and Explanation of Today's Actions

A. General Public Notification Requirements

1. Two-tiered Hierarchy for Violations

To better reflect the SDWA requirements for public notification, EPA proposed a two-tiered classification of violations based on violation type, in contrast to the original classification system which organized the public notification requirements according to type of public water system. Tier 1 violations included the more serious violations and were subject to more stringent public notification requirements; Tier 2 violations included less serious violations and were subject to less stringent public notification requirements. Tier 1 violations included failure to comply with the maximum contaminant level (MCL) established by EPA in a national primary drinking water regulation (NPDWR) and failure to comply with a prescribed treatment technique established in lieu of an MCL. Tier 2 violations included failure to comply with monitoring requirements, failure to comply with a testing procedure prescribed by an NPDWR, operating under a variance or exemption, and failure to meet a variance or exemption schedule. In the proposed rule, EPA requested comment on the classification system in general and the option of classifying certain monitoring and testing procedure violations as Tier 1, rather than Tier 2, as proposed.

The majority of commenters expressed general support for a two-tiered system for classification of violations. However, some commenters suggested a different classification of violations within the system. Several commenters stated that failure to comply with a variance or exemption schedule should be classified as a Tier 1, rather than Tier 2, violation. They reasoned that since a system operating under a variance or exemption does not have to comply with the NPDWR (including either an MCL or treatment technique), that failure to comply with any condition established for the operation of the system for the duration of the variance or exemption may put the public at increased risk. EPA agrees, and has modified the proposed tier structure to include a violation of a variance or exemption schedule in Tier 1.

Another commenter stated that treatment technique violations should be moved from Tier 1 to Tier 2 since prescribing a treatment technique replaces monitoring that is impractical or excessively expensive; thus treatment technique violations are equivalent to monitoring violations which are Tier 2. EPA disagrees. Sections 1401(1)(C)(ii) and 1412(b)(7)(A) of the SDWA provide that, where it is not economically or technologically feasible to ascertain the level of a contaminant in drinking water, EPA may specify treatment techniques for that contaminant in lieu of a numerical standard, i.e., MCL. A treatment technique is a comprehensive set of requirements to control a contaminant, not simply a substitute for monitoring. (In fact, an NPDWR specifying a treatment technique may well include certain monitoring requirements.) The Act thus equates MCLs and treatment techniques specified in lieu of MCLs as equivalent. Therefore, EPA believes that it is appropriate to classify treatment technique violations, as well as MCL violations, as Tier 1 violations and has made no change in the final rule.

Other commenters indicated that the regulations should not treat all MCL violations as Tier 1 violations, but that some distinction should be made between MCLs for contaminants that pose an acute risk and MCLs for contaminants that pose a chronic risk. For example, some commenters recommended that MCL violations for microbiological contaminants and nitrate be classified as Tier 1, and that chemical/radiological violations be classified as Tier 2. These commenters stated that little benefit may result from public notification for violations of NPDWRs for contaminants with chronic health effects unless the concentrations are extraordinarily high. One commenter suggested that an intermediate tier be created for MCL violations for non-microbiological contaminants. EPA has considered these comments and remains convinced that all MCL violations should be classified as Tier 1. Section 1412 of the SDWA requires EPA to specify those contaminants which may have an adverse effect on the health of persons, and to promulgate NPDWRs for them. While certain adverse health effects may generally be observed to occur within a population as a result of long-term exposure, individual variation within that population may mean that short-term exposure will affect the more sensitive individuals within the group. In addition, certain chemical/radiological contaminants—lead, for example—may produce subtle adverse effects early on in the exposure period which do not become grossly apparent until substantial damage has occurred. EPA

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therefore believes that treating all MCL violations as Tier 1 is the most prudent means for safeguarding as far as possible the health of consumers. Also, one of the main differences in the notification requirements between Tier 1 and Tier 2 violations is when the first notice must be given, i.e., within 14 days for tier 1 and within three months for tier 2 (with potential extension to one year for certain Tier 2 violations at the discretion of the State). Since the statute requires the notice of an MCL violation be given within 14 days, there is no option under EPA's classification for reclassifying a subset of MCL violations from Tier 1 to Tier 2.

One commenter proposed that EPA require public notification when the State believes that the raw water source may be contaminated. EPA believes that routine public notification in situations where the raw water source may be contaminated is beyond the scope of section 1414(c) of the SDWA, which specifically lists the situations where public notification is required. Under section 1431(a) of the SDWA, however, "* * * upon receipt of information that a contaminant which is present in or is likely to enter a public water system or an underground source of drinking water may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, [EPA] may take such actions as * * * necessary to protect the health of such persons * * *" EPA believes this provision gives EPA the authority to require public notification when contamination of source water threatens public water supplies. Likewise, section 1431 of the Act requires a State, as a condition for obtaining primary enforcement responsibility for public water systems, i.e., "primacy," to demonstrate that it has "adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances." In developing an adequate plan, it may well be necessary to provide for notification of consumers concerning the condition of their raw water source. It should also be noted that, while States will be required to adopt the two-tiered system made final today, nothing precludes a State from requiring public notification in additional situations. In light of the above, EPA has not added the requirement proposed by the commenter.

A number of commenters suggested that (1) monitoring violations be broken down into Tier 1 and Tier 2 monitoring violations, and (2) EPA specifically address the question of public notice for "trivial" monitoring violations. With regard to the classification of some monitoring violations as Tier 1 and others as Tier 2, some commenters suggested that a "persistent" violation of the monitoring requirements for microbiological contaminants be classified as a Tier 1 violation. Other commenters suggested that EPA classify "repeated" monitoring and testing procedure violations as Tier 1 violations. Still other commenters suggested that EPA classify all monitoring violations as Tier 1 violations since failure to comply with the monitoring requirements may result in failure to disclose an MCL violation (which would be a Tier 1 violation). In fact, a system that suspects it is in violation of an MCL might choose to forego monitoring if monitoring violations are classified as Tier 2 violations, since it would only have to report a failure to monitor under the less stringent notification requirements for Tier 2 violations, rather than report an MCL violation under the more stringent Tier 1 notification requirements. EPA agrees with the commenters that failure to monitor may in some circumstances disguise an MCL violation; however, it is difficult to establish by general rule at what point a number of monitoring failures is significant enough to justify classification as a Tier 1 violation requiring more prompt public notification. Also, a monitoring violation may be of short duration (e.g., taking a chemical/radiological sample several days past the sampling date, rather than not taking the sample at all). EPA has decided not to reclassify any monitoring violations to Tier 1, principally because a more detailed tier structure would be too complex to implement and it would preclude State flexibility to tailor notification requirements to the severity of the local problem. EPA is concerned that classifying too many violations as Tier 1 could result in so many notices that the consumer might begin to ignore them.

With regard to the question of public notice for "trivial" violations, EPA does recognize that occasional missed samples, sampling errors, use of an incorrect sampling frequency, and other similar Tier 2 monitoring violations should not require the same level of notice as other Tier 2 violations. Several commenters suggested that EPA provide for waivers from public notification requirements for these minor violations; however, EPA does not interpret section 1414(c) of the SDWA to allow for waiver of notice for any violation. Rather, the Act specifically states that notice of continuous violations be given "no less frequently than every three months" and that notice for less serious and infrequent monitoring violations be given, at a minimum, "no less frequently than annually." In view of the difficulty of defining and listing "persistent," "significant," and "trivial" violations in a general rule, EPA has decided to classify all monitoring violations as Tier 2 violations. However, under the final rule, States have the option of reducing the frequency of notice for "minor" Tier 2 monitoring violations from quarterly to annually, as long as the violations are not continuous in nature. Specifically, the final rule contains a new section, § 141.32(b)(4), which allows, at the discretion of the State, less frequent notice for minor monitoring violations if EPA has approved a State program that includes regulatory definitions of "minor monitoring violations" and specifies the frequency of public notification, *or* regulations specifying procedures for State approval of less frequent public notice on a case-by-case basis. In either case, notification may be no less frequent than annual. This notice promulgates special primacy requirements to implement this provision under § 142.16.

The revised tier structure for public notification, described above, appears in Table 1.

TABLE 1.—CLASSIFICATION OF VIOLATIONS FOR PUBLIC NOTIFICATION

Tier 1 violations	Tier 2 violations
1. Failure to comply with a MCL. 2. Failure to comply with a prescribed treatment technique. 3. Failure to comply with a variance or exemption schedule.	1. Failure to comply with monitoring requirements. 2. Failure to comply with a testing procedure prescribed by a NPDWR. 3. Operating under a variance or exemption.

2. Manner of Notice

In the April 6, 1987 notice, EPA proposed, for Tier 1 violations, notice by newspaper (with posting in the absence of a newspaper of general circulation), mail delivery, and electronic media (for certain violations) for community water systems; non-community water systems could follow the same requirements or substitute continuous posting. For Tier 2 violations, EPA proposed notice by newspaper (with posting in the absence of a newspaper of general circulation) for community and non-community public water systems, with the option of posting in lieu of newspaper notice by non-community water systems. EPA invited comment additionally on (1) what public notification requirements should apply to non-transient non-

community water systems; (2) whether a requirement to inform new customers of potential health hazards was appropriate; (3) whether to require individual notice to all consumers by hand delivery; and (4) whether to require public water systems to provide an annual violations summary to their customers.

a. *Newspaper Notice.* As noted in the April 6, 1987 notice, the SDWA, as amended, states that "notification of violations shall include notice by general circulation newspaper serving the area. * * *" Therefore, EPA proposed that newspaper notice be required for all violations. Some commenters stated that newspaper notice would be impractical for very small public water systems such as mobile home parks, small subdivisions, and water co-operatives. Some commenters requested that EPA waive newspaper notice under certain circumstances (such as for Tier 2 violations), or for small systems. In view of the statutory requirements regarding newspaper notice for all violations, EPA does not believe it has the option of entirely waiving the notification requirement for some subset of violations. However, as explained below, in the final rule the proposal was modified to allow posting and hand delivery in lieu of newpaper notice.

The proposed rule also required that the newspaper notice be published in a daily or weekly newspaper of general circulation in the area served by the system. EPA considered the "area served by a weekly or daily newspaper" to be the area where a paper is routinely available. In the case of a public water system in violation, the newspaper selected should be one that virtually all customers would be expected to subscribe to or otherwise receive. If no single newspaper could reasonably be expected to be available to the system's customers, then EPA would expect the notice to be published in several newspapers, the intent being to reach virtually all customers. One commenter requested that EPA provide guidance on the definition of "newspaper notice." This requirement could be satisfied in several ways. The most common means of issuing public notice in a newspaper is to take out a notice in the legal notice section. It is also possible to purchase more prominent advertising space. In some cases, a newspaper may be willing to write an article on the subject as a news story, or make prominent space for the notice available as a public service and at no cost to the public water system.

b. *Mail Notice.* EPA proposed mail notice for all Tier 1 violations as part of the initial notice, and as a subsequent notice for any continuing Tier 1 and Tier 2 violations. Notice could be mailed separately or mailed with the water bill. Proposed § 141.33(a)(1)(B) provided that "mail delivery may be waived by the primacy agent in writing where the primacy agent determines that the violation has been corrected within 30 days."

EPA received several comments concerning the appropriateness of notice by mail delivery for certain violations. Some commenters suggested that mail notice be used "sparingly," e.g., for "serious" Tier 1 violations, or replaced by newspaper notice for Tier 2 violations. One commenter indicated that the requirement for written waiver of notice was burdensome, and should be deleted. Still another commenter stated that more time should be allowed for correction of the violation before notice is required, explaining that a violation of a microbiological MCL can be corrected within 30 days, but that correction of other MCL violations can take longer. Another commenter suggested that mail notice be eliminated entirely, as "the delay inherent in notication by mail (or by hand) substantially undermines the usefulness of such notification."

Several commenters, however, objected to any waiver of notice by mail delivery. One commenter expressed the concern that consumers may not be reached by other forms of notice. Another commenter indicated that notice by mail delivery allows users to take such steps as they deem necessary to reduce the likelihood of repeated intermittent violations, and may also be needed to allow especially sensitive members of the public to act to protect their health from intermittent violations—especially those posing acute risks or aggravating existing health problems.

EPA proposed a waiver of mail notice to avoid causing undue alarm upon receiving a notice after the violation has been promptly corrected. EPA believes that when a violation has been corrected, newspaper notice is sufficient without subsequent mail notice after correction of the violation. In response to comments, EPA has extended the deadline for mail delivery from 30 to 45 days in the final rule. This not only gives the system extra time to correct the violation but also allows time to pick up on a billing cycle and therefore reduce the cost of notification. Mail notices will generally address violations with chronic or long-term health effects (EPA expects that violations of NPDWRs for microbiological contaminants will be corrected more quickly); therefore the extra time is not likely to create a problem.

EPA is requiring that any waivers be approved by the State in writing. In developing this waiver provision, the Agency was concerned that it could be used to avoid giving public notice where notice is clearly required. By requiring the State to approve the waiver, the State will have the opportunity to determine that the violation has actually been corrected. Also, the waiver must be in writing so that there is no danger that public water system representatives could erroneously conclude that public notification was waived during a telephone conversation with a State official.

One commenter suggested that EPA require that mail notice be sent not only to the billed address but also to the service address when the two are distinct. EPA endorses this suggestion and encourages its use. However, since this requirement would be difficult to specify in a rule of general applicability that takes into account all the different circumstances involved, EPA has decided to leave this requirement to the discretion of the States.

A number of commenters expressed support for hand delivery of the public notice as an alternative to mail notice for small public water systems such as mobile home parks and subdivisions. EPA has considered this suggestion and believes it to be a viable, effective alternative to mail notice for small public water systems, saving the cost of mailing. Therefore, the final rule allows for the option of hand delivery in place of mail notice.

c. *Posting.*

(1) *General.* In the April 6, 1987 notice, EPA proposed to require posting for community water systems not served by a daily or weekly newspaper of general circulation, and as an option for non-community water systems. The majority of commenters supported this proposal. Two commenters requested that EPA specify the minimum number of postings according to type of public water system (e.g., amusement park, rest stop) and indicate at what point or points the notice should be posted. EPA has considered these suggestions and believes, due to the variety of public water systems in terms of the number of persons and size of the area they serve (particularly non-community water systems), that it is not practical to specify in a general rule the minimum number of posting and posting locations. The Agency believes that these

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decisions are best handled on a case-by-case basis and therefore should be left to State discretion.

One commenter stated that EPA's argument for allowing posting by non-community water systems, in lieu of newspaper notice is flawed. As explained in the April 6, 1987 proposal, the rationale for this provision was that: (1) The paramount concern of the transient users of a non-community public water system is the current quality of the drinking water; (2) transient users are generally less interested in the past problems of the non-community water system; (3) transient users may not have wide access to local media such as newspapers; and (4) identification of transient users and their addresses would make subsequent mail notice impractical. The commenter stated that EPA's argument is invalid because it rests on the assumption that transient users do not listen to radios, watch television, or read newspapers. The commenter stated that newspaper notice should be required, "as envisioned by the statute," and electronic media notice should be required for Tier 1 violations in addition to posting.

The decision to allow posting as an option was made based on EPA's conclusion that continuous posting is more stringent than the one-time newspaper notice it would replace since posting a notice for the duration of the violation would most likely reach more consumers that a one-time newspaper notice. EPA did not mean to imply that transient users of a public water system do not use the local media; their exposure to such media in many cases tends, however, to be limited (for example at rest stops long distances from home). Also, posting for non-community water systems is not required; it is merely an option. If newspaper notice will be more effective, the system can use it instead or the State can require it. Posting for community water systems is allowed only where there is no daily or weekly newspaper of general circulation serving the area served by the system, since the newspaper is not available.

Two commenters stated that posting may not be adequate for schools, nursing homes, etc. Another commenter suggested that EPA require that additional notice be sent to parent-teacher associations, school health officials, the appropriate local health agency, and existing community health organizations. Another commenter indicated that some effort should be made to inform the parents or guardians of the persons affected. EPA recognizes this concern and encourages public water systems and/or States to provide additional notice where appropriate to effectively inform these consumers. EPA believes, however, that specific notices tailored to individual subcategories of public water systems—other than the regulatory division between community, transient non-community, and non-transient non-community water systems—should not be prescribed in federal regulations. Determining the specific notice appropriate to each local situation is the responsibility of the public water system. Additional categories of notice tailored to specific circumstances would remove the flexibility of the system and States to respond appropriately to situations of this type.

(2) *Non-transient non-community water systems.* On November 13, 1985, EPA proposed to amend the definition of "community water system" to include non-community water systems serving non-transient users (e.g., schools, factories, daycare centers) and proposed a revised definition for comment (50 FR 46918). In the April 6, 1987, public notification proposal, EPA proposed that these non-transient non-community water systems comply with the public notification regulations for non-community public water systems, rather than the public notification requirements for community water systems. Also, EPA proposed that the requirement for notice to new billing units not apply to non-transient non-community public water systems.

On July 8, 1987 (52 FR 25690), EPA published final NPDWRs for eight volatile synthetic organic chemicals (VOCs). Rather than redefining "community water system," the rule created a subset of non-community public water systems called "non-transient non-community public water systems." (The remaining subset is composed of transient, non-community public water systems.) The rule defines "non-transient non-community public water system" as "a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year." The NPDWRs for VOCs apply to non-transient non-community water systems as well as community water systems. A number of commenters on the proposed public notification rule stated their views concerning the then undecided proposal to amend the definition of community water system to include non-transient non-community water systems (i.e., to subject the latter to NPDWRs). Since these comments were more appropriate to the November 13, 1985 proposal and did not address the manner of notice for these systems (which was the subject of the April 6, 1987 notice), EPA is not responding here to those comments. (EPA responded to them in the final VOC rulemaking.)

One commenter stated that non-transient non-community water systems should be required to notify the public in the same manner as community public water systems. The remaining commenters on this issue were in favor of non-transient non-community water systems giving notice in the same manner as for transient non-community water systems. One commenter noted that a non-transient non-community water system, such as a factory, generally has finite boundaries and a relatively "stable" consumer base coming daily to the same location. The commenter stated that, by posting at the facility, individuals to whom the notice is directed are assured of seeing it, as opposed to taking the chance that they will miss or ignore notice provided by newspaper, media, or mail. Another commenter indicated that to transmit information affecting a relatively small and identifiable target population to thousands of unaffected people by newspaper, radio, and television would be unwarranted and excessive.

EPA has concluded that it is appropriate for non-transient non-community public water systems to give notice in the same manner as transient non-community water systems for the reasons stated in the proposal and by the commenters who agreed with the proposal.

d. *Electronic media notice.* The SDWA amendments provide that notice "whenever appropriate, shall also include a press release to electronic media * * * *." In the April 6, 1987 notice, EPA proposed that electronic media notice be required for any MCL or treatment technique violation which poses an acute risk to human health (such as high coliform, turbidity, or nitrate levels), as the Agency believes that acute risks require immediate notification and may require consumers to take special precautions (e.g., to boil water or seek alternative water supplies). Under the proposal, States would have broad discretion to define acute risk.

Several commenters criticized the lack of a definition of "acute risk" in the proposal. Although it is forseeable that there may be a variety of circumstances where violation of a NPDWR may pose an acute risk, it is difficult to define them by regulation. Most MCLs are based upon long-term, low-level exposure. Normally a slight violation above an MCL would not be considered acute, while a very high concentration may well be acute. "High" concentration levels are difficult to define; it depends on the contaminant, the concentration, the population at risk, the duration of the contamination incident, and many other factors. Based on the above considerations, in the final rule, EPA has defined only one acute violation: violation of the MCL for nitrate. Generally, any violation of this MCL is considered to be cause for concern. Although violations of the turbidity and coliform MCLs are generally recognized as acute situations, EPA is in the process of revising the turbidity and coliform requirements in the course of developing filtration requirements for public water systems using surface water. As part of that rulemaking, EPA will consider whether violations of any of the filtration treatment technique requirements should be classified as acute. This final public notification rule allows States, at their discretion, to require electronic media notice for other violations that they believe pose an acute risk to human health.

Several commenters suggested that EPA expand the use of electronic media notice to a broadened category of Tier 1 violations. One commenter stated that a press release to electronic media should be required in conjunction with every newspaper notice. It was noted that "most people" in the United States get their news primarily from the electronic media. This commenter also noted that renters and other occupants may never receive notice by mail since they are not billed directly for their water. One commenter expressed the opinion that chronic illnesses and diseases with a long latency period are just as important in terms of cost to individual and society as are acute health effects; therefore, electronic media notice should be required for all Tier 1 violations. EPA has considered these comments and decided not to expand the electronic media notice requirement to include violations posing chronic risks. EPA believes the general public associates electronic media notice with urgency and the need to take immediate action, and the Agency is concerned with causing undue alarm and requiring so many notices that the public may ignore situations where immediate action is required. The Agency also believes that the rule adequately addresses MCL and treatment technique violations by requiring repeat notice for continuing violations; repeat notice keeps the information concerning a chronic situation before the consumer. In addition, States may adopt public notification requirements that are more stringent than the Federal requirements, including those for chronic violations, and therefore can require electronic media notice for chronic violations if they believe it is appropriate.

Another commenter requested that EPA require that electronic media notice not just be "furnished" to, but actually broadcast, by the media. EPA believes that the suggestion that actual broadcast of the notice be required would be too costly for many small public water systems to implement, and therefore the Agency has not adopted this requirement.

e. Other means of notice. (1) Individual notice by hand delivery. In the April 6, 1987 notice, EPA requested comment on whether it should require public water systems to supplement individual delivery by direct mail or mailing with the water bill with hand delivery, or posting at multiple family dwellings, apartment complexes, and other locations where individual consumers may not receive a water bill. The Agency expressed concern that hand delivery of public notice would be difficult and impractical to carry out.

The majority of commenters on this proposal opposed the requirement for public notice by hand delivery. They were concerned that such a requirement would be difficult for the State to enforce, that the public water system would be unable to clearly identify which individuals should get this type of notice, and that public water systems would encounter problems gaining legal entry. In response to these concerns, EPA is not requiring public notice by hand delivery.

Several commenters noted, however, that hand delivery as an additional optional method of notice would be desirable, particularly for small public water systems such as small subdivisions and mobile home parks. EPA agrees. EPA also believes that notice by hand delivery is more effective because it appears by itself, involves direct contact with the consumer, and is less likely to be ignored (as a mail filler might). Therefore, EPA has amended paragraphs 141.32 (a)(3)(i), (a)(3)(ii), (b)(3)(i), and (b)(3)(ii) to allow public notice by hand delivery as an alternative to mail notice or posting.

(2) Annual Summary of Violations. EPA also requested comment on whether it should require owners and operators of public water systems to provide their customers with an annual summary of the overall compliance status of the system. Such notices would inform consumers that often ignore or fail to realize the significance of public notices received sporadically with water bills or separately over the past year and would have significant impact on the consumers of public water systems which have repeated violations. The Agency was concerned, however, that this additional requirement could be administratively burdensome to small public water systems and redundant with the general notice requirements.

The majority of commenters on this proposal did not support it. Several commenters stated that this type of notice, by requiring public water systems to republish information on violations which generally will have already been corrected, would be redundant, burdensome, and difficult to administer.

Other commenters indicated that reissuance of notice would only anger and confuse consumers, particularly if notice would be required regardless of whether violations had been corrected; i.e., when the system is in compliance. The minority of commenters who supported an annual summary of violations stated that such notice would provide documentation of the compliance history of the utility, and was consistent with Congress' intent that the consumers be more fully aware of the compliance history of their utility. One commenter suggested that the annual summary simply should be made available to the public, with copies sent to EPA and the State, rather than requiring distribution to all consumers. The same commenter also suggested that an annual summary should not be required if there were no violations.

EPA has considered these comments and has decided not to require an annual summary of violations. Documentation concerning the compliance history of public water systems is maintained by both EPA and primacy States, and already is available to the public upon request. Also, States may choose to require an annual summary as part of their public notification requirements. For instance, California is currently developing public notification regulations requiring annual notice of violations to consumers. In addition, public water systems have the option, as part of their public information program, to provide annual notice on their own. In view of these considerations, EPA is not requiring public water systems to provide a summary of violations in this final rule.

(3) Notice to new billing units. In the April 6, 1987 **Federal Register** notice, EPA also proposed to add a new requirement that owners and operators of community water systems notify each new billing unit of any existing Tier 1

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violation, i.e., MCL or treatment technique violation, at the time service begins. The purpose of this requirement would be to inform new customers of potential health hazards. In order to avoid the additional time and expense which would be involved in the preparation of a new notice each time service to a new customer begins, EPA proposed that the system provide a copy of the most recent notice issued for each violation.

In general, the majority of comments on this proposal were favorable. Several commenters indicated that, while the idea of notice to new billing units is reasonable and compatible with the consumer's right to know the compliance status of its public water system, the requirement may be difficult for the State to enforce because systems routinely add service connections without State supervision. Other commenters had difficulty with the specific wording of the proposed requirement. Under the proposed rule, owners or operators of community public water systems were required to give notice to new billing units or hookups "prior to or at the time service begins." One commenter suggested that the language "or at the time" should be stricken to enable the private citizen to make an educated and informed decision as to the quality of water he or she will be drinking. A second commenter observed that sometimes customers move in before transferring responsibility for service and that the utility has no means of knowing this. EPA agrees that there may be cases where occupancy and use have taken place without the knowledge of the public water system; therefore, EPA has decided to retain the proposed language. The Agency encourages public water systems to give notice to new billing units "prior to" the time service begins, whenever possible.

EPA believes that new customers should be informed of potential health hazards which may be associated with their water systems. Therefore, the Agency is retaining its proposal to require community water systems to give notice to all new billing units of any outstanding Tier 1 violations. It should be noted that a violation of a variance and exemption schedule has been changed to Tier 1 violation and therefore would also be covered by the requirement.

(4) Notice by the State. EPA proposed in the April 9, 1987 Federal Register that the State could give notice on behalf of the owner or operator of a public water system. The preamble to the proposed rule specified that when the State gives notice under the provision, "the public water system remains legally responsible for meeting the public notification regulation requirements."

One commenter requested that EPA clarify how a public water system can remain legally responsible for meeting the public notification requirements if the State is the party that issues the notice. Another commenter stated that public water systems themselves, not the State, should retain control of the public notification process. The same commenter stated that the only time a State should be allowed to issue the public notice is when the State actually takes over a public water system due to failure of the system.

The preamble statement in the proposal was intended to emphasize the fact that, under the SDWA, the owner or operator of the public water system is responsible for issuing public notice. The provision allowing notice by the State was not intended to allow the State to take over the public notification functions of a public water system on a routine basis, but to allow for public notification by the State where the public water system fails or is otherwise unable to issue public notice (e.g., in the case of a recalcitrant system).

3. *Form and Content of Notice*

A number of commenters discussed the need for flexibility in the requirement that systems provide a telephone number in the public notice. For instance, some commenters suggested that large utilities provide extensions to allow the public to contact the designated person directly. This is certainly permissible under the final rule. Other commenters asked that small systems be allowed to indicate that the responsible party can only be reached at home during certain hours. This is permissible as long as the public can reach the appropriate person for further information during the designated hours. Some commenters thought that the notice should include State and EPA telephone numbers for callers interested in further information on the mandatory health effects language. There is nothing in the rule to prevent this. If a utility were to coordinate with the appropriate State and EPA officials, this could be beneficial. The details would have to be agreed upon by the involved parties.

One commenter stated that the SDWA does not require the general notification requirements of proposed § 141.32(c) to specifically indicate the "population at risk." The SDWA amendments of 1986, however, stipulate that notices shall take into account the likelihood of reaching all affected persons. The "population at risk" can be interpreted at least two ways: (1) those persons connected to the specific portion of public water system that is contaminated (with the remainder of public water system meeting the standards); or (2) certain easily identified individuals which are most likely to be affected by a certain contaminant (e.g., infants, but not older persons, in the case of nitrate). EPA believes that, in circumstances where the "population at risk" can easily be identified it should be indicated in the notice because it is useful to the consumer in understanding the risks involved.

Most of the comment pertaining to the form and content of public notices concerned the requirement that systems use mandatory language to describe health effects. EPA believes that mandatory language is the most appropriate (if not the only) way to inform the affected public of the health implications of violating a particular EPA standard. It is appropriate for EPA to specify the language because the Agency is familiar with the specific health implications of violating each standard, which were documented in the course of developing the NPDWRs. EPA is aware that the health implications of these violations do vary in their magnitude. Public water systems are free to make that point in their public notices as long as the mandatory language is included as well. For instance, the system may want to note that its violation is only slightly above the standard. In fact, the public water system or State may supplement the notice as long as the notice informs the public of the health risks which EPA has associated with violation of the standards and the mandatory health effects language remains intact.

A number of commenters thought that the proposed mandatory health effects language was too complex. Accordingly, EPA has revised the language to simplify it. The goal was to draft language understandable to that portion of the public reading at the eighth grade level, while at the same time trying not to minimize the seriousness of the problems.

The mandatory language relating to cancer received the most comments. One commenter stated that the proposed language implicitly disparaged the relevance of animal data to human risk. This was not EPA's intent; the Agency has made language changes to clarify the human health risks of drinking water in violation of the drinking water standards for VOCs. In the mandatory language promulgated in the final rule, EPA has attempted to convey an

understanding of the basis for the standard, taking into account the sources of data (e.g., human and/or animal studies) and some of the uncertainties involved in the extrapolation of the data to human consumption of drinking water. The final mandatory language for carcinogens takes these concerns into account.

Some commenters recommended that the mandatory language requirements be extended to the contaminants currently covered by National Interim Primary Drinking Water Regulations (NIPDWRs). EPA has decided not to do so at that time because the NIPDWRs will be revised shortly, as required by the 1986 SDWA amendments, and mandatory language for public notice will be included at that time. EPA believes that to require mandatory language for violation of the NIPDWRs and then change it in a matter of months would cause unnecessary confusion for regulations, public water systems, and the affected public. Therefore, this rule only requires mandatory language for the revised NPDWRs.

4. *Frequency of Notice*

In the April 6, 1987 Federal Register notice, the following frequencies for public notice were proposed:

For Tier 1 violations, community water systems would give newspaper notice within 14 days with no repeat notice required, mail notice within 30 days with quarterly repeat notice until the violation was corrected, and electronic media notice within 7 days with no repeat notice. Posting would begin within 14 days and would be continued until the violation had been corrected.

For Tier 2 violations, community water systems would give newspaper notice within three months, to be followed by quarterly repeat mail notice until the violation was corrected. Posting would begin within three months and would continue until the violation had been corrected.

Several commenters stated that the requirement to give public notice within a specified period of time "after the violation" was too vague. Their concern was that public water system operators are not aware that they are in violation until sufficient information is made available to them. This generally does not occur until the lab analysis is complete and the data are evaluated (by the public water system or the State) to determine if a violation under the State or EPA regulations has occurred. This may take place days, weeks, or even a month after the first sample is taken, depending on the monitoring protocols for each primary drinking water regulation.

EPA recognizes the practical concerns raised by the commenters. In developing the final rule, EPA considered the 1986 amendments, which amended section 1414(c) to delete specific reference to giving the notice " * * * as soon as practicable after the discovery of the violation with respect to which the notice is required." This was replaced by " * * * as soon as possible, but in no case later than 14 days after the violation." There is no indication in the legislative history that Congress intended to change the "triggering event" for public notification. The proposed rule language explicitly tracked the amended section 1414(c) language; the final rule retains the same language. EPA interprets the phrase "after the violation" in the final rule to be consistent with the definitions, monitoring procedures, and protocols in each NPDWR for making a compliance determination. The public notification time period will not begin until after sufficient information is available to the system indicating that a violation under Federal or State regulations has occurred. This does not imply that a system should wait for the State primacy agency to analyze the laboratory data and notify the system that a violation has occurred. EPA expects the public notification period to start at the time the system has sufficient data (from the State laboratory or other sources) to make a compliance determination.

A number of commenters raised concerns regarding the time periods allowed for the various notices to be issued. Specific comments were received on the requirement that mail notice for Tier 1 violations be sent within 30 days. Several commenters thought that 45 or 60 days was more appropriate, with some commenters suggesting 90 days to allow the public water system to link the violation notice to quarterly billing cycles. Other commenters objected to the seven-day notice for acute violations, suggesting that 48–72 hours was more appropriate.

Based on an evaluation of these comments, EPA has reconsidered its position and made several changes to the timing for Tier 1 violations. The final rule requires notice for acute violations to be issued as soon as possible, but no later than 72 hours after the violation. EPA reduced this requirement from seven days to ensure that there is immediate notice for these serious violations. Additionally, the timing for direct mail notification of Tier 1 violations was changed in the final rule from 30 days to 45 days to accommodate the monthly and bi-monthly billing cycles of public water systems. This change will allow over 50 percent of the large and medium community water systems to include violation notices in the same mailing as the bill.

Several commenters expressed concern that EPA had reduced the frequency of newspaper notice from three times in the current rule to a one-time publication. The commenter thought this change was not in keeping with Congress' intent to improve the notification rule to maximize the likelihood of reaching all affected persons. In determining the appropriate frequency of newspaper notice, EPA carefully considered not only the likelihood of reaching all affected parties, but also the costs involved. EPA considered the type of notice which is best suited to different systems, and different situations. For example, hand delivery of a notice to the residents of a small trailer park may be the most effective means of notifying them. In addition to newspaper notice, the public notification rule provides for a variety of additional forms of notice which EPA believes increase the likelihood of reaching all affected parties (except where the violation is promptly corrected). Also, for continuing violations, repeat notice of some type is required. In addition, States have the option of adopting public notification regulations more stringent than the federal rules. EPA believes that this combination of types and frequency of notice, combined with State discretion to require additional notice when necessary, will be effective in increasing the likelihood of reaching all affected parties (except where the violation is promptly corrected) and, therefore, fulfills Congressional intent.

A summary of the final regulation is given in Table 2 below.

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TABLE 2 -- SUMMARY OF THE FINAL PUBLIC NOTIFICATION REQUIREMENTS

Violation Category Type	Mandatory Health Effects Info. Required (All PWS)	Notice to New Billing Units (CWS Only)	Type of PWS	Time Frame Within Which Notice Must be Given (1st Box - Initial Notice, 2nd Box - Repeat Notice) Violation	72 hours	7 days	14 days	45 days	3 months	Annual
TIER 1			Community	Newspaper[4]					No Repeat	
1. MCL	Yes	Yes		Mail or Hand Delivery[2]						Quarterly Repeat
2. Treatment Technique	Yes	Yes		Elec. Media[3]					No Repeat	
3. V or E Sch.Viol.	Yes	Yes								
			Non-Community[5]	Option 1: Notice as for Community Water Systems or Option 2: Posting or Hand Delivery						Continuous/Quarterly Repeat
TIER 2			Community	Newspaper[4]						Quarterly Repeat by Mail or Hand Delivery
1. Monitoring[1]	No	No								
2. Testing Procedure	No	No								
3. V or E Issued	Yes	No	Non-Community[5]	Option 1: Notice as for Community Water Systems or Option 2: Posting or Hand Delivery						Continuous/Quarterly Repeat

Footnotes:
1. Less frequent notice (but no less than annual) to be required as in §142.16(a).
2. May be waived in accordance with §141.32(a)(1)(ii).
3. Required only for acute violations as identified in §141.32(a)(1)(iii).
4. If no newspaper of general circulation is available, posting or hand delivery is allowed as specified in §141.32(a)(3)(i) and §141.32(b)(3)(i)).
5. Includes both transient non-community public water systems and non-transient non-community public water systems.

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B. Public Notification Requirements for the Fluoride SMCL

In the April 6, 1987 **Federal Register** notice, to establish mandatory health effects information in public notices for violations of the MCL for fluoride, EPA proposed to incorporate by reference the existing mandatory public notification language for violations of the SMCL for fluoride contained in § 143.5(b) of the National Secondary Drinking Water Regulations into § 141.32(f) of the proposed public notification rule. Since systems which are in violation of the MCL (4.0 mg/1) necessarily exceed the SMCL (2.0 mg/1), the mandatory language in § 143.5(b), as it currently exists, applies to MCL violations as well. Indeed, the § 143.5(b) language includes health effects information concerning both secondary maximum contaminant level exceedances and maximum contaminant level exceedances and maximum contaminant level violations. In addition, several changes to the current fluoride SMCL notification rule (§ 143.5(b)) were necessary to reconcile its provisions with the public notification requirements in the SDWA amendments, which were enacted after EPA promulgated the notification requirements for fluoride SMCL violations. Specifically, EPA proposed to: (1) remove the current restriction in the SMCL rule which prohibits the addition of supplemental information to the prescribed notice for violation of the SMCL; and (2) limit the distribution requirements for the notice of an SMCL violation in § 143.5(b) to exceedances of the SMCL for fluoride which do not exceed the MCL for fluoride. The April 6, 1987 proposal noted that EPA was proposing changes to the fluoride provisions only to make them consistent with the SDWA amendments; the proposed changes for fluoride were the minimum necessary to make them consistent with the SDWA amendments. Therefore, the notice did not repropose or request comment on any other aspect of the fluoride regulations other than the changes required for consistency. Accordingly, EPA is not responding to comments on the other previously promulgated fluoride requirements in this rulemaking; they were addressed in the April 2, 1986 rulemaking.

Based on an evaluation of the comments received, no changes to the proposed revisions to the secondary regulations for fluoride have been made in this final rule.

C. Public Notification Requirements for Lead

EPA proposed in the April 6, 1987 **Federal Register** notice to establish a new section in Subpart D, § 141.34 Public Notice Requirements Pertaining to Lead, in response to section 1417(a)(2) of the SDWA which requires public notification of lead contamination. Comments on this proposal were numerous and several significant changes have been made as a result. This notice promulgates final regulations under § 141.34 specifying the manner and form of the public notification for lead.

1. Applicability of the Notification Requirement

Section 1417(a)(2) of the Act requires that all public water systems identify and provide notice to persons that may be affected by lead contamination of their drinking water where such contamination results from (1) the lead content in the construction materials of the system, and/or (2) corrosivity of the water supply sufficient to cause leaching of lead. Section 1417 requires public notice for lead even if there is no violation of the drinking water standard (i.e., MCL) for lead. Separate notice for any violation of the lead MCL is also required; the general public notification requirements found at 40 CFR 141.32 would apply to this latter notice.

In the April 6, 1987 notice, EPA proposed that only community water systems be required to give public notice for lead. EPA also asked for comment on an option that would require non-transient non-community water systems (e.g., schools factories, daycare centers) to give the lead notice as well. These systems serve the same users over long periods of time, so the chronic health risks to users would be similar to the risks to residential populations. Under this option, non-transient non-community water systems would be subject to the same requirements as community water systems, except that these systems would substitute posting for newspaper and direct mail notice, and the notice to new billing units wold not be required. More than half of the comments received on this option supported the inclusion of non-transient non-community water systems, citing the statutory language and the potential health risks from these systems for support. Other commenters expressed concern about the availability of data to prepare the notice and various administrative problems in implementation.

As described earlier, subsequent to the April 6, 1987 proposal, EPA promulgated a definition of non-transient non-community water systems as part of the final NPDWRs for eight VOCs. The NPDWRs for the eight VOCs apply to these systems. EPA intends to apply future NPDWRs to these systems as well. Therefore, the proposal to subject non-transient non-community water systems to the lead notice requirement is consistent with this policy. Based on this policy, the reasons set out in the proposal, and comments received on the proposal, EPA has decided to broaden the applicability of the lead public notice rule to include non-transient non-community water systems in the final rule.

In the April 6, 1987 notice, EPA proposed that the lead notice would not be required if a community water system demonstrated to the State that either the construction materials in the water system (defined to include the residential and non-residential facilities connected to the water system) were lead free, or, if by taking water samples for lead, the water system could show that its water was noncorrosive to lead-containing materials in the water system and all construction materials containing lead in the water system are at least five years old. EPA stated in the proposal that it believed few community water systems would qualify for this exemption.

Comments on this portion of the proposal were numerous; several major concerns were identified. First, a large number of commenters objected to the inclusion of household plumbing in the definition of water system, arguing that household plumbing is beyond the control of the water system and that the lead content of household plumbing is unknown. EPA has retained this definition in the final rule for purposes of determining who must give public notice because the public notice is intended to inform and educate all consumers about the dangers of lead in drinking water from all sources, including lead solder in household plumbing. In addition, this definition is consistent with the applicability of the lead ban (see section 1417(a)(1) of the Act). The public notice is a requirement to inform the public and does not otherwise alter the liabilities or responsibilities of the public water system.

Second, a number of commenters requested that the Agency specifically define when "corrosivity of the water supply [is] sufficient to cause leaching of lead." The proposed rule specified that public water systems were to determine

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corrosivity to lead based on actual water samples. However, all waters are capable of leaching lead to some degree. The rate of leaching depends on many factors, including the type of plumbing materials, amount of lead surface in contact with water, the age of the material, the chemistry and temperature of the water, and the amount of flushing of the plumbing. EPA is currently studying these parameters in the course of developing a revised NPDWR for lead. However, available studies have been unable to correlate any easily measured water quality parameters with lead concentrations at the consumer's tap. These studies also demonstrate that even with optimal treatment there is still a high probability of leaching lead. Therefore, based on current information, EPA has concluded that all community and non-transient non-community water systems should provide the lead public notice unless they can demonstrate to the State that there is no lead-containing material in the water system, including the residential and nonresidential portions of the system. This requirement is reflected on the final rule.

Additional information may become available in the course of developing the monitoring requirements for lead—the revised NPDWR for lead is scheduled for promulgation in mid-1988—that allows a public water system to determine that its water is "non/corrosive" to lead. If so, EPA would consider amending this public notification rule.

Third, a large number of public water system, States, and other commenters suggested that the Agency should allow States to give the lead notice on behalf of public water systems, at least in some cases. EPA agrees that notification by the State may be sometimes appropriate, as long as the State notice on behalf of the water systems contains all the elements listed under § 141.34(c) and (d) (including system-specific information about what each system is doing to mitigate the lead content in drinking water and whether there is any need to serve alternative supplies) and meets the requirements under 141.34(b). See discussion under II.c.3 below.) In order to make State notification a more viable option, the final rule revised the manner of notice from requiring mail and newspaper notice to allowing water systems to give notice either by mail, newspaper, or hand delivery (also, posting is an additional option for non-transient non-community water systems). If a State chooses to give statewide notice of the behalf of the public water systems covered by this rule, the State could, for example, use newspaper advertisements, in newspapers serving the area, that are of sufficient size and location in the newspaper that they would likely attract widespread attention. In addition, the State should use public service announcements, on radios and television serving the area, that are aired at such times and frequency as are necessary to reach the consumers for which the notice is intended.

EPA disagrees with the commenters who stated that the rule should transfer some of the legal responsibility for the lead notice to the States. The statute and legislative history clearly place the responsibility for fulfilling this requirement on the public water system. Thus, while EPA is allowing States to provide the lead notice on behalf of the water system, under the conditions of § 141.34(f), described below, the water system remains legally liable for ensuring the notice takes place.

Fourth, several States and public water systems thought that public notice should be required only where there was a clear indication that the drinking water would potentially have lead concentrations above the maximum contaminant level set by EPA. The commenters suggested that EPA and the State use data collected under the 1980 corrosivity monitoring requirement to determine which systems should be required to give public notice. EPA disagrees with this interpretation of the statutory requirement; it believes that the statute and legislative history require public water systems to give notice to persons that may be affected by lead contamination; the Act clearly requires lead notice even if there is no MCL violation.

Lastly, one commenter asked about the applicability of the lead notice requirements to consecutive systems. EPA expects the owner or operator of a public water system which is subject to the public notification requirements for lead, and which provides water to another community or non-transient non-community water system, to provide one-time notice by letter to the receiving system. The receiving system, in turn, must provide its customers public notice concerning lead in compliance with the lead public notification requirements.

2. Frequency of Notice

Section 1417(b)(2) of the Act states that the public notice requirements for lead "shall apply in all states effective 24 months after the enactment of this section." In the April 6, 1987, notice EPA proposed to codify this provision by requiring the owner or operator of each community water systems to issue the initial notice for lead no later than June 19, 1988. EPA also proposed that each system give notice annually for five years from the initial notice or the effective date of the lead ban, whichever was later. (The lead ban is mandated by sections 1417 (a)(1) and (b)(1)) of the Safe Drinking Water Act.) EPA proposed a five-year span because experience indicates that lead levels are substantially decreased five years after the last application of new lead solder in water supply systems.

Several commenters objected to the proposed requirement for a repeat notice each year for five consecutive years; most thought a single notice was sufficient and that repeat notices would be costly and difficult for the State to enforce. Several commenters thought that repeat notices were unnecessary because of the lead ban and other outreach activities. Two commenters, on the other hand, thought that the notice should be repeated each year until the lead ban was in effect in the community served by the water system. EPA agrees that the five-year repeat notice requirement is probably not generally necessary and that a mandatory five-year notice would be costly to implement. Certainly the statute does not require ongoing notice. In addition, EPA expects to promulgate a revised NPDWR for lead by June, 1988, and to be in effect by December, 1989 (18 months after promulgation). The revised NPDWR will more directly control lead in drinking water. Therefore, EPA has changed the final rule to require a single year notice, to begin on or before June 19, 1988. If the owner or operator chooses to give newspaper notice, such notice is to be given once a month for three consecutive months. The mail and hand delivery options require one-time notice. If a non-transient non-community water system chooses posting, it is to be continuous for three months.

3. Manner of Notice

Section 1417 of the SDWA requires the Administrator to prescribe the manner and form of the public notice for lead. In the April 6, 1987 notice, EPA proposed that notice to the consumer be given by mail delivery (direct mail or with individual water bills) and by newspaper notice.

In the April 6, 1987 proposal, EPA also requested comment on an option to require that public water systems supplement mail notice with hand delivery of notices to individual units or posting at multiple family dwellings, apartment complexes, and other locations where individual consumer may not receive a water bill.

EPA received numerous comments on the manner of notice proposed in the April 6, 1987 notice. Most of the commenters on this aspect of the proposal objected to the requirement for a mail notice, believing that the mail notice was both costly and less effective than other forms of communication (i.e., newspaper, electronic media). Many of these commenters also thought that a mail notice should be tailored to the severity of the problem in the individual water system, with more notices required where a lead problem is known.

EPA agrees that the form of the notice should be tailored to the problems in the individual water system and has decided to make the requirement more flexible. Therefore, the final rule requires that water systems give one notice, using an option of mail notice, newspaper notice, or hand delivery. Posting is an additional option for non-transient non-community water systems. If the water system chooses the newspaper notice, it must give notice once per month for three consecutive months. If posting is chosen by the non-transient non-community water system, it must be continuous for three months. The mail or hand delivery options require single-time notices.

4. Form and Content of Notice

Section 1417(a)(2)(B) of the Act specifically requires that public notices for lead be written in a clear and readily understandable manner. The Act states that notices must include information concerning potential sources of lead in drinking water, potential adverse health effects, reasonably available methods of mitigating known or potential lead content in drinking water, any steps the system is taking to mitigate lead content in drinking water, and the necessity for seeking alternative water supplies, if any.

EPA proposed in the April 6, 1987 notice a list of general requirements for the content of lead public notices. In addition to the statutory requirements outlined above, EPA proposed to require that community water systems include specific advice in the notice on how to minimize exposure to water likely to contain high levels of lead. The April 6, 1987 proposal also set out language on the health effects of lead that would be mandatory for all lead notices. The Agency believes that requiring specific language will ensure accurate and consistent toxicological information in every public notice and simplify the preparation of the individual notices. The proposal gave the community water systems the flexibility to draft the remainder of the notice to best reflect the specific circumstances of the individual systems.

EPA received numerous comments on this portion of the proposal. Many commenters asked for more complete guidelines on what specific advice EPA thought they should provide consumers. Several asked for "boilerplate language" or a publication that would meet the requirements to be inserted with the water bill. Three commenters recommended boilerplate language to be included in EPA guidelines. EPA agrees and is developing a sample public notice to be distributed as part of a public notification handbook. The Agency has recently published *Lead and Your Drinking Water*, which also is available for this purpose. Also, many commenters objected to the specific health effects language included in the April 6, 1987 proposal, viewing the proposed language as too technical, confusing, and (in some parts) unnecessarily alarming. EPA agrees with this comment and has revised the mandatory language to be more educational, simple, and objective.

D. Revised State Implementation Requirements

Part 142 contains regulations for implementation and enforcement of the public water programs by States ("primacy requirements"). In the April 6, 1987 notice, EPA proposed to revise § 142.16 State Public Notification Requirements, to require States to adopt regulations at least as stringent as the amended general public notification regulations under 40 CFR 141.32 as a condition of obtaining or retaining primacy. This provision would replace the current State public notice program requirements in § 142.16, which lists the minimum provisions necessary for State assumption of primacy. The regulations currently in § 142.16 are not as stringent as the public notification requirements in § 141.32.

In the April 6, 1987 proposal, EPA also solicited comment on whether State public notification requirements less stringent than the requirements of the proposed § 141.32 would meet the statutory requirements for primacy under section 1413(a)(2), which requires States to have "adequate procedures for the enforcement of State regulations." In the proposal EPA interpreted this requirement to mean that States must adopt provisions "no less stringent" than § 141.32. This proposed change from the current requirements was influenced by two factors: (1) section 1414(c) requires notice for all violations (including monitoring violations) and sets fixed time periods for notice that are much more explicit than the previous provision (the revised provisions of § 141.32 are essentially the minimum necessary to comply with section 1414(c)); and, (2) if States adopted rules less stringent then the revised EPA regulations, § 141.32 would continue in effect (and be the authority EPA would cite in all enforcement actions). This second factor would mean that, in both legal and practical terms, public water systems would have to comply with two sets of regulations.

Comments received on this section were mixed, with three commenters strongly supporting the requirement that States adopt rules that are "no less stringent" than the federal rules and several other commenters requesting greater State flexibility. The latter commenters requested that no change be made in the current primacy requirement under § 142.16 which, as noted earlier, allows a State to adopt public notification requirements that are less stringent than the federal rules. EPA agrees with these commenters that requiring public notification rules at least as stringent as the federal regulation would require changes in many State programs. In particular, States would have to adopt rules to require public notice for monitoring violations, which currently is not required under § 142.16.

After considering all the comments, EPA has decided to promulgate the basic primacy requirement as proposed. States will be required to adopt regulations no less stringent than the revised § 141.32. To respond to State concerns that adoption of § 141.32 would remove the flexibility the States now have to tailor the notice to the most serious problems (and, in turn, avoid notice for trivial or minor problems), EPA has revised the proposal to build greater flexibility in the public notification rule itself (§ 141.32). Subject to EPA review and approval, the final rule gives States broader discretion to specify the frequency of notice for minor Tier 2 monitoring violations (see Section II.A.1, above).

III. Effective Dates

EPA proposed that the general public notice requirements under 40 CFR 141.32 and the public notice requirements pertaining to lead under 40 CFR 141.34 become effective 30 days after promulgation. Commenters on this proposal stated that the effective date of 30 days after promulgation for the general public notice requirement did not consider the time required for States to revise their current primacy programs to adopt the new public notification requirements. Virtually all States have

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been delegated primary enforcement authority, or "primacy," under section 1413 of SDWA. EPA agrees with the commenters that the addition of a new requirement effective on the public water systems, without concurrent State adoption of the new provision, would split direct program responsibility between EPA and the State. Further, where States have public notification requirements currently in effect, the addition of the new federal rules would mean that public water systems would follow two sets of rules.

Some commenters suggested that a deadline of 18 months after promulgation would provide adequate time for States to make the necessary regulatory revisions. One commenter indicated that "clustering" of deadlines for adoption of various drinking water rules would be desirable in order to facilitate the interaction of State drinking water programs and their legislatures. In response to the concerns raised above, EPA has revised the effective date for the new requirements under 40 CFR 141.32 to 18 months after promulgation. (The other new sections retain the 30-day effective date as proposed.) The shift to an 18-month effective date for the new § 141.32 is consistent with the effective date required by statute for NPDWRs (section 1412(b)(10)) and will give States ample opportunity to adopt a program revision before the Federal provisions become effective on the public water systems. The current public notification requirements (which are presently in § 141.32) have been moved to § 141.36, and will remain in effect during the next 18 months.

The effective date for the public notice requirements pertaining to lead under 40 CFR 141.34 remains as proposed as 30 days after promulgation. The Agency believes prompt implementation is necessary in order to meet the June 19, 1988, statutory date for enforcement of the public notification requirements for lead.

IV. Executive Order 12291

Executive Order 12291 requires each Federal agency to determine if a regulation is a "major" rule as defined by the Order and, "to the extent permitted by law," to prepare and consider a Regulatory Impact Analysis (RIA) in connection with every major rule. This action is not a "major" regulatory action as defined by the executive order. Therefore, EPA has not prepared an RIA. This regulation has been reviewed by the Office of Management and Budget (OMB) as required by Executive Order 12291.

V. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2040–0090.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires EPA to explicitly consider the effect of regulations on small entities. If there is a substantial effect on a substantial number of small systems, the Agency must seek means to minimize the effects. Such action is not required, however, when the head of an Agency certifies that a proposed rule will not have a significant economic impact on a substantial number of small entities.

In the April 6, 1987 proposed rule, EPA explained its assessment that the economic impact on the small public water systems resulting from implementation of the regulation is expected to be negligible. Based on this assessment, I certified that the proposed rule, if promulgated, would not have a significant impact on a substantial number of small entities. EPA sought comment on this certification and the submission of other additional information related to the potential impact of these proposed rules on small entities.

Based on the comments received and consideration of the changes made in the proposed rule, I certify that this final rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Parts 141, 142, and 143

Administrative practice and procedure, Chemicals, Radiation protection, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

Dated: October 13, 1987.

Lee M. Thomas,

Administrator.

For the reasons set forth in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 141—[AMENDED]

1. The authority for Part 141 is revised to read as follows:

Authority: 42 U.S.C. 300g–1, 300g–3, 300g–6, 300j–4, and 300j–9.

2. Part 141 is amended by redesignating § 141.32 as § 141.36 and adding an introductory paragraph to read as follows:

§ 141.36 Public notification.

The requirements in this section apply until April 28, 1989. After April 28, 1989 the requirements of § 141.32 will apply.

* * * * *

3. Part 141 is amended by adding a new § 141.32 to read as follows:

§ 141.32 Public notification.

The requirements in this section are effective April 28, 1989. The requirements of § 141.36 apply until April 28, 1989.

(a) *Maximum contaminant level (MCL), treatment technique, and variance and exemption schedule violations.* The owner or operator of a public water system which fails to comply with an applicable MCL or treatment technique established by this part or which fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, shall notify persons served by the system as follows:

(1) Except as provided in paragraph (a)(3) of this section, the owner or operator of a public water system must give notice:

(i) By publication in a daily newspaper of general circulation in the area served by the system as soon as possible, but in no case later than 14 days after the violation or failure. If the area served by a public water system is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area; and

(ii) By mail delivery (by direct mail or with the water bill), or by hand delivery, not later than 45 days after the violation or failure. The State may waive mail or hand delivery if it determines that the owner or operator of the public water system in violation has corrected the violation or failure within the 45-day period. The State must make the waiver in writing and within the 45-day period; and

(iii) For violations of the MCLs of contaminants that may pose an acute risk to human health, by furnishing a copy of the notice to the radio and television stations serving the area served by the public water system as soon as possible but in no case later than 72 hours after the violation. The following violations are acute violations:

(A) Any violations specified by the State as posing an acute risk to human health.

(B) Violation of the MCL for nitrate as defined in § 141.11(b) and determined according to § 141.23(d).

(C) [Reserved].

(2) Except as provided in paragraph (a)(3) of this section, following the initial notice given under paragraph (a)(1) of this section, the owner or operator of the public water system must give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation or failure exists.

(3) (i) In lieu of the requirements of paragraph (a)(1)(i) of this section, the owner or operator of a community water system in an area that is not served by a daily or weekly newspaper of general circulation must give notice within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

(ii) In lieu of the requirements of paragraphs (a) (1) and (2) of this section, the owner or operator of a non-community water system may give notice within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

(b) *Other violations, variances, exemptions.* The owner or operator of a public water system which fails to perform monitoring required by section 1445(a) of the Act (including monitoring required by the National Primary Drinking Water Regulations (NPDWRs) of this part), fails to comply with a testing procedure established by this part, is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) of the Act, or is subject to an exemption under section 1416 of the Act, shall notify persons served by the system as follows:

(1) Except as provided in paragraph (b)(3) or (b)(4) of this section, the owner or operator of a public water system must give notice within three months of the violation or granting of a variance or exemption by publication in a daily newspaper of general circulation in the area served by the system. If the area served by a public water system is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area.

(2) Except as provided in paragraph (b)(3) or (b)(4) of this section, following the initial notice given under paragraph (b)(1) of this section, the owner or operator of the public water system must give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation exists. Repeat notice of the existence of a variance or exemption must be given every three months for as long as the variance or exemption remains in effect.

(3) (i) In lieu of the requirements of paragraphs (b)(1) and (b)(2) of this section, the owner or operator of a community water system in an area that is not served by a daily or weekly newspaper of general circulation must give notice, within three months of the violation or granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places with the area served by the system. Posting must continue for as long as the violation exists or a variance or exemption remains in effects. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.

(ii) In lieu of the requirements of paragraphs (b)(1) and (b)(2) of this section, the owner or operator of a non-community water system may give notice, within three months of the violation or the granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation exists, or a variance or exemption remains in effect. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.

(4) In lieu of the requirements of paragraphs (b)(1), (b)(2), and (b)(3) of this section, the owner or operator of a public water system, at the discretion of the State, may provide less frequent notice for minor monitoring violations as defined by the State, if EPA has approved the State's application for a program revision under § 142.16. Notice of such violations must be given no less frequently than annually.

(c) *Notice to new billing units.* The owner or operator of a community water system must give a copy of the most recent public notice for any outstanding violation of any maximum contaminant level, or any treatment technique requirement, or any variance or exemption schedule to all new billing units or new hookups prior to or at the time service begins.

(d) *General content of public notice.* Each notice required by this section must provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the public water system is taking to correct such violation, the necessity for seeking alternative water supplies, if any, and any preventive measures the consumer should take until the violation is corrected. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall include the telephone number of the owner, operator, or designee of the public water system as a source of additional information concerning the notice. Where appropriate, the notice shall be multi-lingual.

(e) *Mandatory health effects language.* When providing the information on potential adverse health effects required by paragraph (d) of this section in notices of violations of maximum contaminant levels or treatment technique requirements, or notices of the granting or the continued existence of exemptions or variances, or notices of failure to comply with a variance or exemption schedule, the owner or operator of a public water system shall include the language specified below for each contaminant. (If language for a particular contaminant is not specified below at the time notice is required, this paragraph does not apply.)

(1) *Trichloroethylene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that trichloroethylene is a health concern at certain levels of exposure. This chemical is a common metal cleaning and dry cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth the enforceable drinking water standard for trichloroethylene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

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(2) *Carbon tetrachloride.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that carbon tetrachloride is a health concern at certain levels of exposure. This chemical was once a popular household cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of of time. EPA has set the enforceable drinking water standard for carbon tetrachloride at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(3) *1,2–Dichloroethane.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2–dichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaning fluid for fats, oils, waxes, and resins. It generally gets into drinking water from improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,2–dichloroethane at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(4) *Vinyl chloride.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that vinyl chloride is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been associated with significantly increased risks of cancer among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for vinyl chloride at 0.002 part per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(5) *Benzene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that benzene is a health concern at certain levels of exposure. This chemical is used as a solvent and degreaser of metals. It is also a major component of gasoline. Drinking water contamination generally results from leaking undergound gasoline and petroleum tanks or improper waste disposal. This chemical has been associated with significantly increased risks of leukemia among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for benzene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(6) *1,1–Dichloroethylene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1–dichloroethylene is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,1–dichloroethylene at 0.007 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(7) *Para–dichlorobenzene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that para–dichlorobenzene is a health concern at certain levels of exposure. This chemical is a component of deodorizers, moth balls, and pesticides. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed to high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for para–dichlorobenzene at 0.075 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(8) *1,1,1–Trichloroethane.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that the 1,1,1–trichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaner and degreaser of metals. It generally gets into drinking water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and circulatory system of laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during their working careers also suffered damage to the liver, nervous system, and circulatory system. Chemicals which cause adverse effects among exposed industrial workers and in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,1,1–trichloroethane at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(9) *Fluoride.*

[Note.—EPA is not specifying language that must be included in a public notice for a violation of the fluoride maximum contaminant level in this section because § 143.5 of this part includes the necessary information. See paragraph (f) of this section.]

(f) *Public notices for fluoride.* Notice of violations of the maximum contaminant level for fluoride, notices of variances and exemptions from the maximum contaminant level for fluoride, and notices of failure to comply with variance and exemption schedules for the maximum contaminant level for fluoride shall consist of the public notice prescribed in § 143.5(b), plus a description of any steps which the system is taking to come into compliance.

(g) *Public notification by the State.* The State may give notice to the public required by this section on behalf of the owner or operator of the public water system if the State complies with the requirements of this section. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this section are met.

4. Subpart D is amended by adding a new § 141.34 to read as follows:

§ 141.34 Public notice requirements pertaining to lead.

(a) *Applicability of public notice requirement.* (1) Except as provided in paragraph (a)(2) of this section, by June 19, 1988, the owner or operator of each community water system and each non-transient, non-community water system shall issue notice to persons served by the system that may be affected by lead contamination of their drinking water. The State may require subsequent notices. The owner or operator shall provide notice under this section even if there is no violation of the national primary drinking water regulation for lead.

(2) Notice under paragraph (a)(1) of this section is not required if the system demonstrates to the State that the water system, including the residential and non-residential portions connected to the water system, are lead free. For the purposes of this paragraph, the term "lead free" when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead, and when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead.

(b) *Manner of notice.* Notice shall be given to persons served by the system either by (1) three newspaper notices (one for each of three consecutive months and the first no later than June 19, 1988); or (2) once by mail notice with the water bill or in a separate mailing by June 19, 1988; or (3) once by hand delivery by June 19, 1988. For non-transient non-community water systems, notice may be given by continuous posting. If posting is used, the notice shall be posted in a conspicuous place in the area served by the system and start no later than June 19, 1988, and continue for three months.

(c) *General content of notice.* (1) Notices issued under this section shall provide a clear and readily understandable explanation of the potential sources of lead in drinking water, potential adverse health effects, reasonably available methods of mitigating known or potential lead content in drinking water, any steps the water system is taking to mitigate lead content in drinking water, and the necessity for seeking alternative water supplies, if any. Use of the mandatory language in paragraph (d) of this section in the notice will be sufficient to explain potential adverse health effects.

(2) Each notice shall also include specific advice on how to determine if materials containing lead have been used in homes or the water distribution system and how to minimize exposure to water likely to contain high levels of lead. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall contain the telephone number of the owner, operator, or designee of the public water system as a source of additional information regarding the notice. Where appropriate, the notice shall be multilingual.

[Note (Optional Information): Each notice should advise persons served by the system to use only the cold water faucet for drinking and for use in cooking or preparing baby formula, and to run the water until it gets as cold as it is going to get before each use. If there has recenlty been major water use in the household, such as showering or bathing, flushing toilets, or doing laundry with cold water, flushing the pipes should take 5 to 30 seconds; if not, flushing the pipes could take as long as several minutes. Each notice should also advise persons served by the system to check to see if lead pipes, solder, or flux have been used in plumbing that provides tap water and to ensure that new plumbing and plumbing repairs use lead-free materials.

The only way to be sure of the amount of lead in the household water is to have the water tested by a competent laboratory. Testing is especially important to apartment dwellers because flushing may not be effective in high-rise buildings that have lead-soldered central piping. As appropriate, the notice should provide information on testing.]

(d) *Mandatory health effects information.* When providing the information in public notices required under paragraph (c) of this section on the potential adverse health effects of lead in drinking water, the owner or operator of the water system shall include the following specific language in the notice:

"The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lead is a health concern at certain levels of exposure. There is currently a standard of 0.050 parts per million (ppm). Based on new health information, EPA is likely to lower this standard significantly.

"Part of the purpose of this notice is to inform you of the potential adverse health effects of lead. This is being done even though your water may not be in violation of the current standard.

"EPA and others are concerned about lead in drinking water. Too much lead in the human body can cause serious damage to the brain, kidneys, nervous system, and red blood cells. The greatest risk, even with short-term exposure, is to young children and pregnant women.

"Lead levels in your drinking water are likely to be highest:

- if your home or water system has lead pipes, or
- if your home has copper pipes with lead solder, and

—if the home is less than five years old, or
—if you have soft or acidic water, or
—if water sits in the pipes for several hours."

(e) *Notice by the State.* The State may give notice to the public required by this section on behalf of the owner or operator of the water system if the State meets the requirements of paragraph (b) and the notice contains all the information specified in paragraphs (c) and (d) of this section. However, the owner or operator of the water system remains legally responsible for ensuring that the requirements of this section are met.

(f) *Enforcement by the State.* All States shall enforce the requirements of

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this section by June 19, 1988, as required by section 1417(b)(2) of the Act. If the Administrator determines that a State is not enforcing these requirements, the Administrator may withhold up to five percent of the State program grant fund under section 1443(a) of the Act.

PART 142—[AMENDED]

1. The authority citation for Part 142 is revised to read as follows:

Authority: 42 U.S.C. §§ 330g–2, 300g–3, 300g–4., 300g–5, 300g–6, 300j–4, and 300j–9.

2. Section 142.10 is amended by revising paragraph (b)(6)(v) to read as follows:

§ 142.10 Requirements for a determination of primary enforcement responsibility.

* * * * *

(b) * * *

(6) * * *

(v) Authority to require public water systems to give public notice that are no less stringent than the EPA requirements in §§ 142.32 and 142.16(a).

* * * * *

3. Section 142.16 is revised to read as follows:

§ 142.16 Special primacy requirements.

(a) *State public notification requirements.* If a State exercises the option specified in § 142.32(b)(4) to authorize less frequent notice for minor monitoring violations, it must adopt a program revision enforceable under State authorities which promulgates rules specifying either: (1) which monitoring violations are minor and the frequency of public notification for such violations; or (2) by establishing criteria for determining which monitoring violations are minor and the frequency of public notification.

PART 143—[AMENDED]

1. The authority citation for Part 143 continues to read as follows:

Authority: 42 U.S.C. 330g–1(c), 300j–4, and 300j–9.

2. In § 143.5, paragraph (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 143.5 Compliance with secondary maximum contaminant level and public notification for fluoride.

(a) Community water systems, as defined in 40 CFR 141.2(e)(i) of this title, that exceed the secondary maximum contaminant level for fluoride as determined by the last single sample taken in accordance with the requirements of § 141.23 of this title or any equivalent State law, but do not exceed the maximum contaminant level for fluoride as specified by § 141.62 of this title or any equivalent State law, shall provide the notice prescribed in paragraph (b) of all billing units annually, all new billing units at the time service begins, and the State public health officer.

(b) The notice required by paragraph (a) shall contain the following language including the language necessary to replace the superscripts:

* * * * *

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H.R. 3226 / Pub. L. 100-138

To amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug Free America to be allowed travel expenses, and for other purposes. (Oct. 23, 1987; 101 Stat. 820; 2 pages) Price: $1.00

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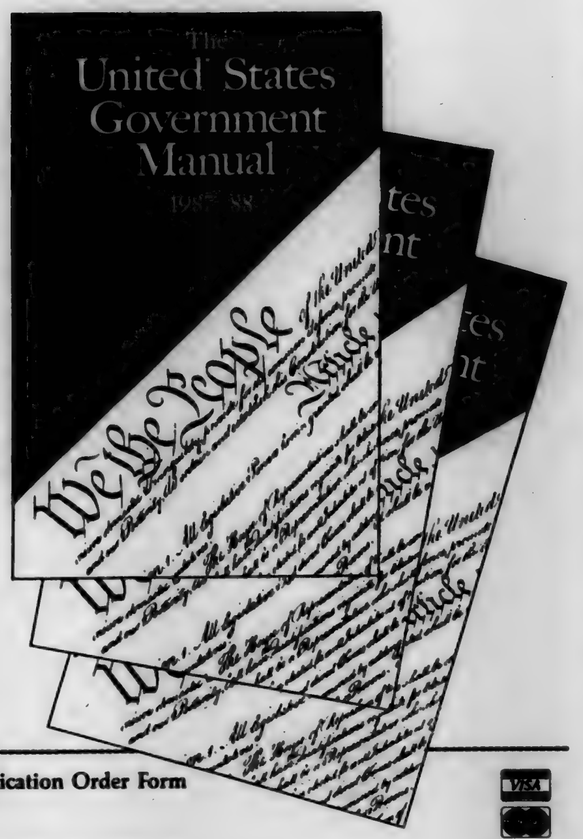

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-62-AD; Amdt. 39-5758]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires inspection for damage and cracking, and repair or replacement, as necessary, of the aft pressure bulkhead. This amendment is prompted by inspection reports and the results of recent testing by the manufacturer. It has been determined that to maintain an adequate level of safety, the aft pressure bulkhead must be inspected. Failure to detect and repair damage and cracks could result in possible rapid depressurization of the airplane.

DATES: Effective December 10, 1987.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Branch, ANM-120S; telephone (206) 431-1925. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection of certain Boeing Model 747 for damage and cracking, and repair or replacement, as necessary, of the aft pressure bulkhead, was published in the **Federal Register** on June 11, 1987 (52 FR 22330).

Since the date of publication of the NPRM, the manufacturer has revised Service Bulletin 747-53-2275 to include two additional non-U.S. registered airplanes. The final rule has been written to include these airplanes in the list of those affected. The remainder of the AD references the original issue of the service bulletin, or later FAA-approved revisions. Since these airplanes are not subject to this rule, this change does not impose an additional burden on any operator. It does, however, serve to notify the relevant foreign airworthiness authorities of the unsafe condition affecting these airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The Air Transport Association (ATA) of America commented on behalf of two operators, requesting that the initial compliance time for the inspections of paragraph A. of the NPRM be revised from 500 landings to 1,000 landings. The ATA stated that one operator would have to inspect 40% of its fleet outside of a scheduled "C" check if the 500 landing initial compliance time were adopted. It further stated that the extensive fatigue testing conducted by The Boeing Company confirms that the 1,000 landing compliance time is satisfactory. The FAA agrees that initial compliance with the AD can be extended somewhat. The FAA's objective in establishing the initial compliance time for the inspections of paragraph A. is to have them conducted in a reasonably short time span in order to establish that there is no unknown accidental damage in the fleet. The duration of the time period proposed in the NPRM was based largely on engineering judgment. The FAA has determined that the initial compliance time can be extended to 750 landings without compromising safety, and has revised the final rule accordingly.

Several commenters stated that paragraph A. of the proposed rule would penalize operators who are already conducting the repeat inspection in accordance with the Boeing Service Bulletin 747-53-2275, dated March 26, 1987, at a 2,000 landing interval. These operators would be required to perform an extra inspection in order to comply with the AD, even though they are already meeting the intent of the proposed rule. This situation arises because the proposed rule states that the first inspection must be performed "within 500 landings * * *" The FAA concurs that this aspect of the proposed rule would impose an unnecessary burden on operators. Therefore, the final rule has been revised to require that airplanes subject to the 2,000 landing interval repeat inspection, be initially inspected within 750 landings after the effective date, unless the inspection was previously accomplished within the last 1,250 landings. Operators who are already conducting the 2,000 landing interval repeat inspection, therefore, will not be subject to any disruption to their current maintenance schedule.

One commenter requested that the repeat inspection interval of 2,000 landings specified in paragraph B. of the NPRM be extended to 3,000 landings for its Boeing Model 747SR airplanes. The justification given for this change is that the operator's airplane operates at an average cabin pressure differential of 8 psi, which is less than the 8.9 psi differential pressure assumed by the manufacturer in computing the crack growth rates used to establish the inspection threshold and intervals. The commenter cited the manufacturer's data, which indicated that the inspection intervals can be multiplied by a factor of 1.5 for the 8 psi operation, resulting in the 3,000 landings inspection interval it has requested. The FAA does not agree that the repeat inspection interval should be extended. The repeat inspection intervals specified in the NPRM are set for the purpose of detecting a crack, whether associated with accidental damage (large crack) or fatigue, before it grows to a critical length. Although average crack growth rates become lower as an airplane's true equivalent average operating pressure differential becomes lower, implying

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that inspections are required less frequently, an operator's determination of an aircraft's eligibility for the increased inspection interval will necessarily be based on projections of an equivalent average pressure differential. Since those projections are inherently uncertain, the FAA has determined that it is imprudent to allow the use of a factor on inspection times greater than 1.2 based on an airplane's projected equivalent average pressure differential.

However, if an airplane is limited in such a manner that the maximum operational pressure will not exceed 8.0 psi, then a 1.5 factor would be appropriate. This could conceivably be accomplished by modifying the pilot's cabin altitude selector and limiting the maximum operational altitude, with a flight manual restriction, to 38,600 feet, the altitude at which an 8.0 psi differential pressure is reached. The FAA will give consideration to alternate methods of compliance of this nature which are submitted in accordance with paragraph H. of the final rule.

Further, our evaluation of this request has demonstrated the need for clarification on the application of the 1.2 factor to the inspection times of the Model 747SR airplanes. Paragraph H. of the NPRM (paragraph G. in the final rule) has been rewritten to specify that the factor applies only to those airplanes projected to have an equivalent average pressure differential of 8.6 psi or less. The paragraph has also been revised to give some guidance on how compliance is to be found.

The National Transportation Safety Board commented that it fully supports this rulemaking action and noted that the proposed AD is consistent with safety recommendations that the Board has made to the FAA with regard to the structural integrity of the Model 747 aft pressure bulkhead.

One commenter requested that the proposed rule be revised to allow operators having Group 3 airplanes (as identified in the referenced service bulletin) with protective shields on the forward side of their bulkhead, the option of inspecting the aft pressure bulkhead from the aft side only, at 1,000 landing intervals, as is allowed for Group 3 airplanes without the protective shields. The FAA agrees that this request is justified. The FAA had not intended to eliminate the option of inspecting from the aft side only when protective shields are installed, but, rather, had intended to add another inspection option for this airplane configuration. Therefore, the AD has been rewritten to clarify that Group 2 and 3 airplanes equipped with protective shields on the forward side of the aft pressure bulkhead have two inspection options. This has resulted in the combining of paragraphs B. and C. of the NPRM into paragraph B. of the final rule.

One commenter noted that the nondestructive test (NDT) inspections of paragraph D. of the NPRM (paragraph C. of the final rule) are conducted at 4,000 landing repeat inspection intervals while the close visual inspections of paragraph E. of the NPRM (paragraph D. of the final rule) are conducted at 7,000 landing repeat inspection intervals. This commenter stated that nondestructive test methods are more accurate and reliable than close visual inspections. Thus, if close visual inspections per paragraph E. of the NPRM are sufficient enough to warrant a 7,000 landing repeat inspection interval, the NDT inspections per paragraph D. of the NPRM should be sufficient to warrant the same or greater repeat inspection intervals. The FAA does not agree with this comment. The repeat inspection interval in paragraph D. of the NPRM is set in order to detect cracks that are expected to grow at a relatively high rate. Nondestructive test inspection methods are used to detect these. The repeat inspection interval in paragraph E. of the NPRM is set to detect cracks that are expected to grow at a relatively low rate. Detailed visual inspections are used to detect these. The repeat inspection intervals for both inspections are established so cracks will be detected before they grow to a critical length. The different inspection intervals result in approximate equivalent probabilities of finding a crack before it becomes critical, considering the inspection technique employed, the crack growth rate expected, and the critical crack length appropriate for the individual design details.

One commenter stated that inspections already conducted in accordance with another AD (86-16-05) should suffice as the initial inspection required by paragraphs D. and E. of the NPRM and compliance with these paragraphs should be phased in with the next required inspection per AD 86-16-05. The FAA does not concur. Some overlap may exist between the requirements of AD 86-16-05 and this AD, but the two rules are not identical. This AD already contains statements to the effect that initial compliance inspections are required unless already accomplished within a specified time period. These statements are intended to allow operators to take credit for such earlier conducted inspections and, therefore, no change to the proposed rule is considered necessary.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule with the changes previously noted.

It is estimated that 210 airplanes of U.S. registry will be affected by this AD, that it will take approximately 356 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,990,400 for the initial inspection cycle.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any Model 747 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes listed under Groups 1, 2, 3, and 4 in Boeing Service Bulletin 747-53-2275, Revision 1, dated August 13, 1987, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect cracking or accidental damage to the aft pressure bulkhead, accomplish the following:

A. Within 750 landings after the effective date of this AD, unless accomplished within the last 1,250 landings for airplanes subject to a 2,000 landing repeat inspection interval in accordance with paragraph B., below, or unless accomplished within the last 250 landings for airplanes subject to a 1,000 landing repeat inspection interval in accordance with paragraph B., below, perform a detailed visual inspection, in accordance with Boeing Service Bulletin 747-53-2275, dated March 26, 1987, or later FAA-approved revisions, of the aft side of the entire Body Station (BS) 2360 aft pressure bulkhead for damage such as dents, tears, nicks, gouges, or scratches; cracks at splices, doublers, and around the Auxiliary Power Unit (APU) pressure pan cutout; and, for Group 4 airplanes only, inspect from the forward side, the area adjacent to the window cutout for damage or cracks.

B. After initial compliance with paragraph A. continue to inspect as follows:

1. For Group 1 airplanes, repeat the inspections required by paragraph A., above, at intervals not to exceed 2,000 landings.

2. For Groups 2 and 3 airplanes, repeat the inspections required by paragraph A., above, at intervals not to exceed 1,000 landings or optionally, if applicable:

a. For Group 2 airplanes that operate the entire interval with aft lavatory complexes or galleys adjacent to bulkheads, repeat the inspections required by paragraph A., above, at intervals not to exceed 2,000 landings.

b. For Groups 2 and 3 airplanes that operate the entire interval with an intact protective shield on the lower half of the forward side of the bulkhead, repeat the inspections required by paragraph A., above, at intervals not to exceed 2,000 landings and perform a detailed visual inspection of the protective shield for damage in accordance with procedures described in the Boeing Service Bulletin 747-53-2275, dated March 26, 1987, or later FAA-approved revisions, at intervals not to exceed 1,000 landings. If damage is found to the protective shield that exceeds the limits indicated in Boeing Service Bulletin 747-53-2275, dated March 26, 1987, or later FAA-approved revision, perform the inspection required by paragraph A., above, prior to further flight.

3. For Group 4 airplanes, repeat the inspections required by paragraph A., above, at intervals not to exceed 1,000 landings.

C. Within 750 landings after the effective date of this AD or prior to the accumulation of 20,000 landings, whichever occurs later, unless accomplished within the last 3,250 landings, and at intervals thereafter not to exceed 4,000 landings, perform an eddy current, ultrasonic, and X-ray inspection of the aft side of the BS 2360 aft pressure bulkhead for cracks in accordance with Boeing Service Bulletin 747-53-2275, dated March 26, 1987, or later FAA-approved revision.

D. Within 750 landings after the effective date of this AD or prior to the accumulation of 20,000 landings, whichever occurs later, unless accomplished within the last 6,250 landings, and at intervals thereafter not to exceed 7,000 landings perform a detailed visual inspection of the BS 2360 aft pressure bulkhead web to Y-ring lap joint area between radial stiffeners from the forward side of the bulkhead for cracks in accordance with Boeing Service Bulletin 747-53-2275, dated March 26, 1987, or later FAA-approved revision.

E. If any cracking or damage is found as a result of inspections required by this AD, repair prior to further flight in accordance with Boeing Service Bulletin 747-53-2275, dated March 26, 1987, or later FAA-approved revisions.

F. For the purpose of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin pressure differential was greater than 2.0 pounds-per-square-inch (psi).

G. For Model 747SR airplanes only:

1. The initial inspection thresholds specified in this AD may be multiplied by a 1.2 adjustment factor provided that the past and future mixed operations at full and reduced cabin pressure differentials, until the time of the initial inspection, result in an equivalent average pressure differential of 8.6 psi or less.

2. The reinspection intervals specified in this AD may be multiplied by a 1.2 adjustment factor provided that the projected equivalent average pressure differential for mixed operations at full and reduced cabin pressure differentials, until the time of the next scheduled reinspection, is 8.6 psi or less. Compliance with this subparagraph must be repeated at the time of each reinspection if the 1.2 adjustment factor is applied to the next reinspection interval.

H. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

I. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

J. Installation of new and improved tear straps, center plate, and APU doubler structure in accordance with Boeing Production Revision Record (PRR) 80490, or an FAA-approved equivalent, constitutes terminating action for the inspections required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 10, 1987.

Issued in Seattle, Washington, on October 21, 1987.

Mal Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-24879 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-73-AD; Amdt. 39-5761]

Airworthiness Directives; Aerospatiale Model ATR-42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR-42 series airplanes, which requires reinforcement of the seat pan structure of cabin attendant's seats manufactured by SOCEA, in order to prevent structural failure of the seat pan. This amendment is prompted by reports of an incident of breakage of a cabin attendant's seat. Failure of the seat may cause injury to a member of the flightcrew.

EFFECTIVE DATE: December 16, 1987.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy M. Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires a modification to reinforce the cabin attendant's seat pan, was published in the Federal Register on July 14, 1987 (52 FR 26348).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the NPRM.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 3 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $360.

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For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($120). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR-42-300 series airplanes fitted with SOCEA flight attendants' seats, Part Numbers 2510132 and 2510137, certificated in any category. Compliance is required within 30 days after the effective date of this AD, unless already accomplished.

To prevent collapse of the seat pan of the flight attendant's seats, accomplish the following:

A. Modify seats in accordance with Aerospatiale Service Bulletin No. ATR42-25-0003, Revision 2, dated November 5, 1986, or SOCEA Service Bulletin No. 25-73, dated June 1, 1986.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 16, 1987.

Issued in Seattle, Washington, on October 22, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-24975 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-46-AD; Amdt. 39-5759]

Airworthiness Directives; Boeing Model 747 Series Airplanes Modified With Heath Tecna "Superbins" in Accordance With STC SA2365NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes equipped with Heath Tecna "Superbins", which requires chafe protection for wire bundles located between ceiling panels and Heath Tecna "Superbin" overhead bins. This amendment is prompted by reports of chafing and/or burning of these wire bundles, caused by contact between the outboard edges of the ceiling panels and the bin back panels. This condition, if not corrected, could result in fires.

EFFECTIVE DATE: December 10, 1987.

ADDRESSES: The applicable service information may be obtained from Heath Tecna Aerospace Company, 19819 84th Avenue South, Kent, Washington 98032. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Rees, Aerospace Engineer, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1941. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires wire bundle chafe protection on Boeing Model 747 series airplanes modified with Heath Tecna "Superbins" in accordance with STC SA2365NM, was published in the **Federal Register** on May 21, 1987 (52 FR 19168).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The Air Transport Association (ATA) of America indicated that one operator has already inspected its fleet, and is implementing an alternate solution, coordinated with Heath Tecna, which involves some wire rerouting. The ATA believes that this is the only operator affected, and that this alternate solution is superior to that specified in the service bulletin. Therefore, the ATA requests that the proposed rule be withdrawn.

The FAA does not concur for the following reasons:

(a) The operator referenced by the commenter is actually only one of several affected U.S. operators, none of whom responded to the NPRM.

(b) The FAA has determined that a wire rerouting solution, as proposed by the commenter, may not be a complete solution, since there may be insufficient available slack at all affected locations to enable complete rerouting. However, if the operator wishes to demonstrate an acceptable level of safety with an alternate means of compliance, provision is made for this type of request in paragraph B of the AD.

(c) The commenter has evidently misunderstood the NPRM to require trimming the ceiling panels as the only required action. In fact, the NPRM specified either trimming the panels or installing spacers on the overhead bins. Heath Tecna has advised that the commenter's concern regarding possible recurrence of the problem upon subsequent replacement of trimmed panels with untrimmed panels has merit only if the new ceiling panels are improperly installed.

(d) In accordance with existing provisions of the bilateral airworthiness agreements, the FAA must issue the AD to advise the foreign regulatory agencies that an unsafe condition may exist or develop on airplanes registered in their countries.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule, as proposed.

It is estimated that 57 airplanes of U.S registry will be affected by this AD, that it will take approximately 7 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The average cost of materials per airplane is estimated to be $84. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $20,748.

For the reasons discussed above, the FAA has determined that regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 20, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Heath Tecna: Applies to Boeing Model 747 airplanes, certificated in any category, that have been modified in accordance with Supplemental Type Certificate SA2365NM, listed in Heath Tecna Service Bulletin 74000-25-007, dated March 6, 1987. Compliance required as indicated, unless previously accomplished.

To minimize fire hazard caused by chafing of ceiling light wire bundles, accomplish the following:

A. Within 60 days after the effective date of this AD, inspect lighting wire bundles which rest atop the Heath Tecna "Superbins" for evidence of damage and chafing, and repair, if necessary, before further flight; and accomplish either 1. or 2., below:

1. Install spacers to protect lighting wire bundles from chafing in accordance with Heath Tecna Service Bulletin 74000-25-007, dated March 6, 1987, or later FAA-approved revision; or

2. Trim the outboard edges of the ceiling panels in accordance with paragraph 2C of Heath Tecna Service Bulletin 74000-25-007, dated March 6, 1987, or later FAA-approved revision.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modification required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Heath Tecna Aerospace Company, 19819 84th Avenue South, Kent, Washington 98032. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective December 10, 1987.

Issued in Seattle, Washington, on October 21, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-24978 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-ASW-43; Amdt. 39-5730]

Airworthiness Directives; Schweizer Aircraft Corp. Model 269 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which imposes a daily visual check of the tail rotor blade abrasion strip for any bond separation on the tail rotor blade on Schweizer Aircraft Corporation, Model 269 series helicopters. The AD also requires a one-time dye penetrant inspection and a tap test of the abrasion strip. Separation of the abrasion strip from the tail rotor blade could lead to an unbalance condition with loss of the tail rotor assembly and subsequent loss of the helicopter.

DATE: Effective date; November 9, 1987.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 9, 1987.

Compliance: Compliance required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

ADDRESS: The applicable service information may be obtained from Schweizer Aircraft Corp., P.O. Box 147, Elmira-Corning Regional Airport, Elmira, New York 14902.

FOR FURTHER INFORMATION CONTACT: Joseph E. Chrastil, ANE-172, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone number (516) 791-6221.

SUPPLEMENTARY INFORMATION: The FAA has determined after reviewing reports of inspections of the tail rotor blades that the abrasion strip may become partly debonded from the blade. Between 10 to 15 tail rotor blades have been found in this condition with the worse case reported to have approximately 70 percent bond separation. If an abrasion strip separates from a tail rotor blade, it will cause an unbalance which could lead to loss of the tail rotor assembly and loss of the helicopter. Since the condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires initial and recurring inspections of the total rotor assembly leading edge abrasion strips on Schweizer Aircraft Corporation Model 269 series helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

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List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the FAA amends § 39.13 of Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Schweizer Aircraft Corporation (Hughes Helicopters, Inc.): Applies to all Model 269 series helicopters certificated in any category, equipped with Hughes Helicopters, Inc., tail rotor blades Part Numbers (P/N) 269A6035-21 and -23.

Compliance is required as indicated, unless already accomplished.

To prevent possible loss of tail rotor control, accomplish the following:

(a) Within the next 25 hours' time in service after the effective date of this AD, perform a one-time dye penetrant and tap test inspection on the affected tail rotor blades with the following serial numbers (S/N's) in accordance with procedures detailed in paragraphs (a) through (h) of the "PROCEDURES" section of Part II of Schweizer Service Information Notice N-183.1 dated February 24, 1987.

Blade P/N's	Blade S/N's affected
269A6035-21	0548 through 0978
269A6035-23	0001 through 3394

(b) Before the first flight of each day after the effective date of this AD, visually check each tail rotor blade abrasion strip for any evidence of bond failure along the entire abrasion strip/airfoil bond line and at the blade tip using the procedure specified in Part I of Schweizer Service Information Notice N-183.1 dated February 24, 1987, or an FAA-approved equivalent.

(c) If during the check in Part I debonding along the abrasion strip/bond line or blade tip is suspected, inspect the tail rotor blade prior to further flight in accordance with Part II, paragraphs (a) through (h), of Schweizer Service Information Notice N-183.1 dated February 24, 1987, or an FAA-approved equivalent.

(d) Where void indication or bond separation is noted, remove the tail rotor blade from service prior to further flight.

(e) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

(f) The visual check specified in Part 1, a. of the Service Bulletin and required by paragraph (b) of this AD may be performed by the pilot and must be recorded in accordance with FAR § 43.9.

(g) Aircraft may be ferried in accordance with the provisions of FAR §§ 21.197 and 21.199 to a base where the requirements of the AD can be accomplished.

The inspection procedure shall be done in accordance with Schweizer Service Information Notice N-183.1 dated February 24, 1987. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a)(1) and 1 CFR Part 51. Copies may be obtained from Schweizer Aircraft Corp., P.O. Box 147, Elmira-Corning Regional Airport, Elmira, New York 14902. Copies may be inspected at the Office of Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment becomes effective on November 9, 1987.

Issued in Fort Worth, Texas, on September 9, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-24962 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-CE-31-AD; Amdt. 39-5756]

Airworthiness Directives; SOCATA-Groupe Aerospatiale Model TB-10, 20, and 21 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to SOCATA-Groupe Aerospatiale Model TB-10, 20, and 21 airplanes, which requires inspection of fuselage frame number 9 for cracks, and replacement thereof if cracks are found. Cracks 2" long have been found in the frames of two airplanes. If this condition is not corrected, it can result in structural failure and loss of pitch control. This action will detect cracks and replace fuselage frame Number 9 before failure occurs.

DATE: Effective date: November 2, 1987.

Compliance: As prescribed within the body of the AD.

ADDRESSES: SOCATA-Groupe Aerospatiale Alert Service Message AV/TB No. 2669/87 dated September 16, 1987, and Direction Generale de l'Aviation Civile (DGAC) Airworthiness Directive (AD) T-87-141(A) dated September 16, 1987 applicable to this AD may be obtained from Mr. Bernard Veyssiere, U.S. Product Support Manager, SOCATA-Groupe Aerospatiale, U.S. Marketing and Product Support, 2701 Forum Drive, Grand Prairie, Texas 75053; Telephone (214) 641-3614; or SOCATA-Groupe Aerospatiale, B.P. 38, 65001 Tarbes, France; Telephone 62 51 7300 (Telex 520828F); or Mr. John P. Dow Sr., FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932. This information may be examined at the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow Sr., FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: Routine visual inspection of SOCATA Model TB-9, 10, 20, and 21 airplanes revealed 2" cracks on fuselage frame number 9 on two airplanes used for training in France. These cracks were found in the area of the frame where the elevator/horizontal stabilizer attachment brackets are installed. If these cracks remain unrepaired, failure of the frame and subsequent loss of pitch control is likely, resulting in loss of the airplane. The cracking can be detected by visual inspection and repaired by replacement of fuselage frame number 9. At this time the FAA has not been able to obtain from SOCATA critical crack length, crack propagation rate, or a fix other than replacement of the fuselage frame. SOCATA-Groupe Aerospatiale has issued Alert Service Message AV/TB No. 2669/87 dated September 16, 1987 which describes initial and recurring visual or dye penetrant inspection for cracks, and replacement of fuselage frame Number 9 if a crack is found. The Direction Generale de l'Aviation Civile (DGAC), who has responsibility and authority to maintain the continuing airworthiness of these airplanes in France, has classified this Alert Service Message AV/TB No. 2669/87 dated September 16, 1987, and DGAC AD No. T-87-141(A) dated September 16, 1987, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under French registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of DGAC combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Alert Service Message AV/TB No. 2669/87 dated September 16, 1987, and the mandatory classification of this Alert Service Message by the DGAC in their AD CN-T-87-141(a). Based on the foregoing, the FAA has determined that the condition described herein is an unsafe condition that may exist or develop on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring initial and recurrent visual and dye penetrant inspection of fuselage frame Number 9, and replacement of fuselage frame Number 9 if a crack is found on SOCATA-Groupe Aerospatiale Model TB-10, 20, and 21 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued Immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **"ADDRESSES"** at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

SOCATA-Groupe Aerospatiale: Applies to Model TB 10, TB 20, and TB 21 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated in the body of the AD unless already accomplished.

To prevent structural failure of the horizontal stabilizer/elevator attachment, and loss of pitch control, accomplish the following:

(a) Upon the accumulation of 700 hours total time-in-service (TIS) or within the next 25 hours TIS, whichever comes later, visually inspect for cracks on the forward and aft surface of fuselage frame Number 9 (SOCATA P/N TB 10.21.010.102) in the area of the hinge and attachment fittings of the horizontal stabilizer/elevator. If the existence of a crack is uncertain, remove the horizontal stabilizer and attachment fittings and perform a dye penetrant inspection of the area.

(i) If no cracks are found as a result of the inspection in paragraph (a) above, repeat the inspection at intervals not to exceed 100 hours TIS thereafter.

(ii) If cracks are found as a result of any of the above inspections, prior to further flight replace the cracked fuselage frame Number 9 with a new serviceable part.

(b) The repetitive inspections specified in paragraph (a)(i) of this AD may be suspended for a period not to exceed 700 hours TIS after the repairs specified in paragraph (a)(ii) have been accomplished.

(c) Airplanes may be flown in accordance with Section 21.197 of the FAR to a location where these inspections may be performed. Once any crack is detected on fuselage frame Number 9, no further flight is authorized until repairs are completed.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Brussels Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.36.30, extension 2710/2711.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Mr. Bernard Veyssiere, U.S. Product Support Manager, SOCATA-Groupe Aerospatiale, U.S. Marketing and Product Support, 2701 Forum Drive, Grand Prairie, Texas 75053; Telephone (214) 641-3614; or SOCATA-Groupe Aerospatiale, B.P. 38, 65001 Tarbes, France; Telephone 62 51 7300 (Telex 520828F); or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on November 2, 1987.

Issued in Kansas City, Missouri, on October 16, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-24974 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 67

Falsification of Airman Medical Certificate Applications; Record of Traffic Convictions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of enforcement policy.

SUMMARY: Applicants for an airman medical certificate who have provided incorrect information with respect to a record of traffic convictions, e.g., driving while intoxicated, may have violated § 67.20 of the Federal Aviation Regulations (14 CFR § 67.20) by making intentionally false or fraudulent statements on their applications. This notice announces an opportunity for any such applicant to avoid possible enforcement action based on that falsification against his or her airman, ground instructor, or medical certificates by providing the FAA with corrected information. The notice also makes clear that as of January 1, 1988, the FAA intends to take enforcement action, as appropriate, against persons who falsify or have falsified their applications in this regard.

FOR FURTHER INFORMATION CONTACT: Peter J. Lynch, Manager, Enforcement Proceedings Branch, AGC-250, Office of the Chief Counsel, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3491.

SUPPLEMENTARY INFORMATION: Section 67.20 of the Federal Aviation Regulations prohibits any person from making fraudulent or intentionally false statements on applications for an airman medical certificate. Section 67.20 also provides that the making of such a statement may be the basis for suspension or revocation of any airman, ground instructor, or medical certificate held by the person making the statement. The FAA regards falsification as an extremely serious matter and expects every airman to complete the application truthfully.

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The Inspector General of the United States Department of Transportation (IG) has conducted an audit of the FAA's Airman Medical Certification Program. Based on the findings of the audit, it appears that a significant number of those airmen who have a record of alcohol- or drug-related traffic convictions (e.g., convictions for driving while intoxicated (DWI)) have failed to report those convictions on their applications for airman medical certification. A failure to report these convictions may be a violation of § 67.20 of the Federal Aviation Regulations, since the application calls for airmen to report their record of traffic convictions.

The Inspector General has identified some airmen who appear to have falsified their applications with regard to their record of traffic convictions. That information is being provided to the FAA for appropriate action. As of January 1, 1988, the FAA intends to take appropriate enforcement action based on falsification of the application with respect to those cases provided to the FAA by the IG, as well as any other cases of which the FAA has become or becomes aware, which appear to warrant such action. However, from the date of this notice and until further notice, where the airman has voluntarily supplied to the FAA's Aeromedical Certification Branch information correcting statements regarding a record of traffic convictions in his or her medical application prior to the FAA's being aware of any incorrect statement in the application, the FAA will not take action against the airman's certificates on the basis of falsification for any falsification disclosed by such voluntarily supplied information. The FAA's policy on these cases with respect to forgoing enforcement action for violation of § 67.20 due to failure to report traffic convictions does not preclude the FAA from suspending or revoking a medical certificate, as appropriate, based on the FAA's need to determine an airman's qualifications or its finding that an airman is medically unqualified.

Additionally, even where, before January 1, 1988, the FAA has become aware of an apparent falsification regarding a record of traffic convictions (e.g., when informed by the IG or through other sources), enforcement action will not be taken if, before January 1, 1988, the airman has voluntarily supplied the correct information to the FAA.

A report of corrected information may be made on an application for a medical certificate or by writing to the FAA. If any airman chooses to report correct information by writing to the FAA, he or she should address the letter to: Aeromedical Certification Branch, AAM-130, Civil Aeromedical Institute, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, Oklahoma 73125.

It should be noted that the FAA will continue to take enforcement action against an airman in appropriate cases in which a conviction for violating a statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of drugs is disclosed.

The FAA plans to propose to amend the Federal Aviation Regulations to deal, in part, with alcohol- and drug-related driving convictions. Airmen are urged to follow the progress of, and participate in, this rulemaking.

Availability of this Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484.

Issued in Washington, DC, on October 22, 1987.

T. Allan McArtor,
Administrator.

[FR Doc. 87-24398 Filed 10-28-87; 8:45 am]
BILLING CODE 4910-13-M

RAILROAD RETIREMENT BOARD

20 CFR Part 200

Assessment or Waiver of Interest, Penalties, and Administrative Costs With Respect to the Collection of Certain Debts

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby revises § 200.7 of its regulations to provide for the assessment of interest, penalties, and administrative costs with respect to the collection of certain debts, as authorized by the Debt Collection Act of 1982, in connection with the collection of certain debts arising from erroneous benefit payments under the several Acts administered by the Board. The Debt Collection Act of 1982 requires the Board to charge interest on claims for money owed the Board, to assess penalties on delinquent debts, and to assess charges to cover the costs of processing claims for delinquent debts. This revision sets forth the circumstances under which the Board may assess interest, penalties, and charges which arise from benefit or annuity overpayments made under any of the Acts which the Board administers.

EFFECTIVE DATE: October 29, 1987.

ADDRESS: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Stanley Jay Shuman, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4568 (FTS 386-4568).

SUPPLEMENTARY INFORMATION: Section 11 of the Debt Collection Act of 1982 (Pub. L. 97-365) amended section 3(e) of the Federal Claims Collection Act of 1966, which was revised and recodified at 31 U.S.C. 3717 (Pub. L. 97-452, section 1(16)(A), Jan. 12, 1983, 96 Stat. 2472), to provide that the head of an agency shall charge interest on claims owed the agency, assess penalties on delinquent debts, and assess charges to cover the costs of processing claims for delinquent debts. The revised § 200.7 implements the provisions of 31 U.S.C. 3717 relating to assessment of interest, penalties, and administrative costs by establishing criteria therefor in conformity with the standards adopted by the Attorney General and the Comptroller General as set forth in 4 CFR 102.13.

Section 200.7 was published in the **Federal Register** on July 27, 1987 (52 FR 27907), as a proposed rule with a 60-day comment period. The Board has not received any comments concerning new § 200.7.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. In addition, this rule does not impose any information collections within the meaning of the Paperwork Reduction Act.

List of Subjects in 20 CFR Part 200

Claims, Debt collection, Employee benefit plans, Railroad employees, Railroad retirement, Railroad unemployment insurance.

Title 20 CFR, Chapter II, Part 200, is amended as follows:

PART 200—[AMENDED]

1. The table of contents for Title 20, Chapter II, Subchapter A, Part 200, is amended by removing "200.7 Waiver of interest, penalties, and collection costs with respect to certain debts." and inserting in lieu thereof "200.7 Assessment or waiver of interest, penalties, and administrative costs with respect to collection of certain debts."

2. The authority citation for 20 CFR Part 200 is revised to read as follows, and the authority citations following the sections are removed:

Authority: 45 U.S.C. 231f(b)(5) and 45 U.S.C. 362.

Section 200.4 also issued under 5 U.S.C. 552.

Section 200.5 also issued under 5 U.S.C. 552a.

Section 200.6 also issued under 5 U.S.C. 552b.

Section 200.7 also issued under 31 U.S.C. 3717.

3. Title 20 CFR 200.7 is revised to read as follows:

§ 200.7 Assessment or waiver of interest, penalties, and administrative costs with respect to collection of certain debts.

(a) *Purpose.* The Debt Collection Act of 1982 requires the Board to charge interest on claims for money owed the Board, to assess penalties on delinquent debts, and to assess charges to cover the costs of processing claims for delinquent debts. The Act permits, and in certain cases requires, an agency to waive the collection of interest, penalties and charges under circumstances which comply with standards enunciated jointly by the Comptroller General and the Attorney General. Those standards are contained in 4 CFR 102.13. This section contains the circumstances under which the Board may either assess or waive interest, penalties, and administrative costs which arise from benefit or annuity overpayments made under any of the Acts which the Board administers.

(b)(1) Simple interest shall be assessed once a month on the unpaid principal of a debt.

(2) Interest shall accrue from the date on which notice of the debt and demand for repayment with interest is first mailed or hand-delivered to the debtor, or in the case of a debt which is subject to section 10(c) of the Railroad Retirement Act or section 2(d) of the Railroad Unemployment Insurance Act, interest shall accrue from the date that a denial of waiver of recovery is mailed or hand-delivered to the debtor or, if waiver has not been requested, upon the expiration of the time within which to request waiver, except as otherwise specified in this section.

(3) The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published in the **Federal Register** and the Treasury Financial Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. 3717.

(4) The rate of interest as initially assessed shall remain fixed for the duration of the indebtedness, except that where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement, a new interest rate may be assessed.

(c)(1) A penalty charge of 6 percent per year shall be assessed on any debt that is delinquent for more than 90 days.

(2) The penalty charge shall accrue from the date on which the debt became delinquent.

(3) A debt is delinquent if it has not been paid in full by the 30th day after the date on which the initial demand letter was first mailed or hand-delivered, or, if the debt is being repaid under an installment payment agreement, at any time after the debtor fails to satisfy his or her obligation for payment thereunder.

(d)(1) Charges shall be assessed against the debtor for administrative costs incurred as a result of processing and handling the debt because it became delinquent.

(2) Administrative costs include costs incurred in obtaining a credit report and in using a private debt collector.

(e) When a debt is paid in partial or installment payments, amounts received shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal. Where a debtor is in default under an installment repayment agreement, uncollected interest, penalties and administrative cost charges which have accrued under the agreement shall be added to the principal to be paid under any new installment repayment agreement entered into between the Board and the debtor.

(f) *Exemptions.* The assessment of interest, penalties, and administrative costs under this section does not apply to debts under sections 2(f) and 8(g) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(f) and 358(g)).

(g)(1) The Board shall waive the collection of interest under the following circumstances:

(i) When the debt is paid within thirty days after the date on which notice of the debt was mailed or personally delivered to the debtor,

(ii) When, in any case where a decision with respect to waiver of recovery of an overpayment must be made:

(A) The debt is paid within thirty days after the end of the period within which the debtor may request waiver of recovery, if no request for waiver is received within the prescribed time period; or

(B) The debt is paid within thirty days after the date on which notice was mailed to the debtor that his or her request for waiver of recovery has been wholly or partially denied if the debtor requested waiver of recovery within the prescribed time limit; however, regardless of when the debt is paid, no interest may be charged for any period prior to the end of the period within which the debtor may request waiver of recovery or, if such request is made, for any period prior to the date on which notice was mailed to the debtor that his or her request for waiver of recovery has been wholly or partially denied;

(iii) When, in the situations described in paragraphs (g)(1)(i) and (g)(1)(ii) of this section, the debt is paid within any extension of the thirty-day period granted by the Board;

(iv) With respect to any portion of the debt which is paid within the time limits described in paragraphs (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this section; or

(v) In regard to any debt the recovery of which is waived.

(2) The Board may waive the collection of interest, penalties and administrative costs in whole or in part in the following circumstances:

(i) Where, in the judgment of the Board, collecting interest, penalty and administrative costs would be against equity and good conscience; or

(ii) Where, in the judgment of the Board, collecting interest, penalty and administrative costs would not be in the best interest of the United States.

(h)(1) In making determinations as to when the collection of interest, penalty and administrative costs is against equity and good conscience the Board will consider evidence on the following factors:

(i) The fault of the overpaid individual in causing the underlying overpayment; and

(ii) Whether the overpaid individual in reliance on the incorrect payment relinquished a valuable right or changed his or her position for the worse.

(2) In rendering a determination as to when the collection of interest, penalties and administrative costs is not in the best interest of the United States the Board will consider the following factors:

(i) Whether the collection of interest, penalties and administrative costs would result in the debt never being repaid; and

(ii) Whether the collection of interest, penalties and administrative costs would cause undue hardship.

Dated: October 22, 1987.

By Authority of the Board.

For the Board.
Beatrice Ezerski,
Secretary to the Board.
[FR Doc. 87-25002 Filed 10-28-87; 8:45 am]
BILLING CODE 7905-01-M

DEPARTMENT OF STATE

22 CFR Part 7

[106.864]

Board of Appellate Review

AGENCY: Board of Appellate Review, State.

ACTION: Final rule.

SUMMARY: This document corrects omissions and typographical errors in 22 CFR Part 7.

EFFECTIVE DATE: October 29, 1987.

ADDRESS: Board of Appellate Review, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Alan G. James, Chairman, Board of Appellate Review, Telephone (202) 653-5090.

SUPPLEMENTARY INFORMATION:

List of Subjects in 22 CFR Part 7

Administrative practice and procedure, Citizenship and naturalization, Organization and functions (Government).

Accordingly, 22 CFR Part 7 is amended as follows:

PART 7—BOARD OF APPELLATE REVIEW

1. The authority citation for Part 7 continues to read as follows:

Authority: Sec. 1, 44 Stat. 887, sec. 4, 63 Stat. 111, as amended, 22 U.S.C. 211a, 2658; secs. 104, 360, 66 Stat. 174, 273, 8 U.S.C. 1104, 1503; E.O. 11295, 36 FR 10603; 3 CFR 1966-1970 Comp., page 507; 22 CFR 60-65; E.O. 12532, 50 FR 36861 7.4 also issued under 22 U.S.C. 3926.

§ 7.5 [Amended]

2. In § 7.5(b)(3), remove "§ 61.1(a)" and insert "§ 64.1(a)".

In § 7.5(g) *Admissibility of evidence*, after "§ 7.7" insert "and § 7.8,".

In § 7.5(j) *Scope of review*, after "§ 7.7," remove the comma and insert "and 7.8,".

In § 7.5(k) *Appearance before the Board*, remove "§ 7.11," and insert "§ 7.12,".

§ 7.8 [Amended]

3. In § 7.8(b) *Admissibility of evidence*, remove "exerciser" and insert "exercise".

§ 7.9 Decisions.

4. In § 7.9 *Decisions*, remove "§ 7.9" and insert "§ 7.10".

Alan G. James,
Chairman, Board of Appellate Review, Department of State.
October 9, 1987.
[FR Doc. 87-25015 Filed 10-28-87; 8:45 am]
BILLING CODE 4710-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[No. 37321 (Sub-No. 1)]

Revision of Tariff Regulations; Computer Determination of Mileages; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; corrrection.

SUMMARY: The Commission is amending 49 CFR Part 1312 to allow all motor common carriers to file electronic distance determination systems in lieu of printed distance guides. The Commission's final rule was published in the **Federal Register** on October 22, 1987 at 52 FR 39536. This notice corrects the regulatory text of the final rule to show that this rule applies to motor common carriers.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Herzig, (202) 275-6887 (TTD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION:

List of Subjects in 49 CFR Part 1312

Motor carriers, Railroads.

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS

1. The authority citation for 49 CFR Part 1312 continues to read as follows:

Authority: 49 U.S.C. 10321 and 10762; 5 U.S.C. 553.

§ 1312.30 [Amended]

2. Section 1312.30(c)(5) is corrected as follows:

The last sentence of § 1312.30(c)(5) beginning with the words "Carriers may" is corrected to read "Motor common carriers may".

Noreta R. McGee,
Secretary,
[FR Doc 87-25033 Filed 10-28-87; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 61113-7235]

Foreign Fishing; Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final notice of 1987 initial specifications for groundfish; reapportionments of reserves; prohibited species catch limits and request for comments.

SUMMARY: NOAA announces 1987 Gulf of Alaska groundfish initial specifications as modified by recent apportionments and current apportionments of (1) target quotas (TQs) for each category of groundfish; (2) current reapportionments of reserves; (3) prohibited species catch (PSC) limits for certain groundfish species; and (4) PSC limits for Pacific halibut. This action is based on recommendations of the North Pacific Fishery Management Council (Council) following its May 20-22, 1987, meeting and its September 1, 1987, teleconference. The groundfish fishery in the exclusive economic zone is directed at an optimum yield for all groundfish species equal to 116,000 to 800,000 metric tons (mt). The interim notice of initial specifications (52 FR 785, January 9, 1987) had a total target quota for all species of 216,552 mt. This final notice of initial specifications has a total target quota for all species of 221,277 mt. It is necessary to provide harvest amounts to fishermen delivering groundfish for either domestic annual processing (DAP) or for joint venture processing (JVP). It is also necessary to control incidental catches of certain groundfish species and Pacific halibut that are fully utilized by U.S. fishermen. This action is intended as a conservation and management measure that provides for full utilization of available groundfish resources off Alaska during 1987.

DATES: This notice is effective on October 28, 1987. Comments on the groundfish reapportionments and amounts of prohibited species catch (PSC) limits are invited until November 12, 1987.

ADDRESSES: Comments should be sent to Robert W. McVey, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 021668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (National Marine Fisheries Service, 907-586-7230).

SUPPLEMENTARY INFORMATION:

Background

At its December 1986, meeting, the North Pacific Fishery Management Council recommended that all TQs of Gulf of Alaska groundfish, including reserves, be apportioned to DAP with the exception of a 1,500-metric ton (mt) apportionment of flounder in the Central Regulatory Area to JVP. The Council had made the recommendation after reviewing results of a NMFS presurvey of the DAP industry and after considering NMFS reservations about the likelihood that DAP could actually be harvested. Small bycatch amounts of other groundfish species categories, including pollock, were also apportioned to JVP from the reserves to support the flounder JVP. Zero amounts were apportioned to total allowable level of foreign fishing (TALFF).

After the Council's December meeting, the Secretary of Commerce (Secretary) reviewed the Council's recommendation and the NMFS survey. The Secretary noted that actual DAP production has historically fallen short of the amounts that DAP processors have indicated they would process when responding to the NMFS preseason survey. In 1986, for example, actual DAP production by the end of the year was about 15 per cent of the NMFS preseason survey results. DAP processors, although expected to process more pollock in 1987 than in any previous year, are also expected to experience product supply problems related to transportation costs, market prices, and competition for catcher vessels with joint venture operations.

Rather than accept without further consideration the Council's December 1986 recommendation, the Secretary published the Council's recommendation as an interim rule (see Table 1 at 52 FR 787, January 9, 1987). This allowed sufficient time for DAP processors to finalize their operations for 1987. The interim notice also established prohibited species catch (PSC) limits for Pacific halibut, sablefish, Pacific ocean perch (POP), and "other rockfish", which are groundfish species fully utilized by DAP fishermen. Comments on the interim apportionments of TQ among DAP, JVP, and TALFF including the amounts apportioned from reserves were requested until January 18, 1987. Comments on Pacific halibut PSCs were requested also. Two letters of comments were received on the interim notice. Comments pertained to the TQ and its apportionments for pollock in the Western/Central Regulatory Area of the Gulf of Alaska. Comments are summarized and responded to in the section "Public Comments Received".

This final notice establishes 1987 TQs for each groundfish species and apportions them between DAP and JVP. It also establishes final PSC limits for Pacific halibut in the DAP and JVP fisheries and PSC limits for sablefish, POP, and "other rockfish" in the JVP fisheries. This notice contains significant differences from the interim notice with respect to TQs for flounder and "other species" and PSCs limits for several species. This notice also has significant differences from the interim notice with respect to DAP and JVP for pollock. These differences are discussed as follows:

Pollock

The interim notice apportioned 300 mt of pollock to JVP. Most of the 84,000-mt pollock TQ (83,700 mt) was apportioned to DAP in the Western and Central areas. That amount was considered by the Regional Director to be in excess of DAP needs.

JVP fishermen subsequently requested the Regional Director to review the pollock apportionments. The Regional Director conducted the review with the Council at the January and May 1987 meetings. At both meetings, the Council received information from U.S. processors that indicated they had the capacity and intention to process the entire DAP. The extent that fishermen would be able to catch and deliver DAP to those processors was not clear. At its May 1987 meeting, the Council decided that insufficient fishing time had passed to determine whether market conditions and fishing success would come together to realize the processors' expectations. The Council decided that 16,800 mt of pollock should be placed in reserve under authority of the FMP. The amount in the reserve represented the uncertainty about the amount that U.S. processors might utilize.

The Council scheduled a teleconference for September 1, 1987, to review the status of the DAP pollock fishery, as well as other DAP fisheries in the Gulf of Alaska. It requested the Regional Director to survey the DAP processors as to their expectations to process pollock during the remainder of the year. At the teleconference, the Council considered the results of the new survey findings, the results of the pollock fishery to date, and testimony from the DAP processors as to what they intended to process during the remaining months. Part of the testimony stated that pollock should be left unharvested, because they were too small for optimal markets. On the basis of the new information, the Council voted to recommend that the Secretary not reapportion the pollock reserve to JVP, but to leave it available for DAP.

The Secretary disagreed with the Council recommendation. The Secretary considered the NMFS surveys, the DAP pollock catch as of September 1, and the likelihood that DAP fishermen would catch and sell 16,800 mt of pollock, in addition to the 67,200 mt in the TQ (minus small amounts for JVP bycatches), by the end of the fishing year. The Secretary initially determined that DAP fishermen will need a total of 67,200 mt for 1987. Therefore, the Secretary declared that 16,800 mt was not needed for DAP and reapportioned that from reserve amount to JVP. This action, in large part, was accomplished by a notice of an inseason adjustment which reapportioned 16,500 mt of DAP pollock to JVP, effective October 2 (52 FR 37483, October 7, 1987). Furthermore, the Secretary determined that an additional 9,000 mt of pollock should be reapportioned from DAP to JVP for the Western/Central Area of the Gulf of Alaska, effective October 22. Therefore, the current apportionment of pollock within the Western/Central Area is 58,200 mt for DAP and 25,800 mt for JVP (Table 1).

Atka Mackerel

On October 13, Atka mackerel was reapportioned form DAP to JVP in the Western and Central areas in the amounts of 70 and 65 mt, respectively (52 FR 38428). The net result is 10 mt of DAP and 90 mt of JVP for this species in both the Western and Central Areas (Table 1).

Flounder

Shortly after the Council's May 1987 meeting, the Regional Director was requested by certain joint venture interests to increase the JVP specification for flounder in the Central and Western Regulatory Areas. The Regional Director advised the Council to consider the JVP request at its September 1987 teleconference. The Council complied, and recommended that the TQ for flounder in the Central Regulatory Area be increased by 4,500 mt, from 5,500 mt to 10,000 mt. It recommended that the entire increase be apportioned to JVP, thus increasing JVP from 1,500 mt to 6,000 mt. The Council also recommended to the Regional Director that PSC limits be increased to accommodate the increased flounder JVP as shown below. At the September 1, teleconference call, the Council also recommended a reapportionment of 675

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mt of Pacific cod from DAP to JVP for the Central area to provide for increased bycatch of this species in the JVP fishery for flounder. The Secretary agrees with the Council recommendation and implements the change in this action. He also notes that, since the best available information still shows the acceptable biological catch for flounder to be 537,000 mt, the small 4,500 mt-increase in the flounder TQ poses no significant biological impact on this resource.

"Other rockfish"

The interim notice at 52 FR 787 (January 9, 1987) addresses the 1,250-mt TQ for certain species of "other rockfish" in the Southeast Outside District. These species are called demersal shelf rockfish. The preamble to the interim notice had described these species as being in the Southeast Outside District in waters shallower than 100 fathoms. These are rockfish species that have been managed by the State of Alaska under authority of the FMP that recognizes the State's regulatory role over demersal shelf rockfish. This final notice clarifies this category of "other rockfish" by listing them by (species) and common scientific name as follows: *Sebastes paucispinis* (bocaccio), *S. pinniger* (canary rockfish), *S. nebulosus* (China rockfish), *S. caurinus* (Copper rockfish), *S. maliger* (quillback rockfish), *S. proriger* (redstripe rockfish), *S. helvomaculatus* (rosethorn rockfish), *S. brevispinis* (silvergray rockfish), *S. nigrocinctus* (tiger rockfish), and *S. ruberrimus* (yelloweye rockfish).

"Other species"

The "other species" category (Table 1) has its TQ calculated as 5% of the total of TQ's for all target species. This final notice of initial specifications for Gulf of Alaska groundfish has only one change in a TQ for a target species compared to the interim notice (52 FR 785, January 9, 1987). The TQ for flounder has been increased by 4,500 mt. Therefore, the TQ for "other species" is increased by 225 mt (5% × 4,500) in this final notice of initial Gulf of Alaska specifications compared to the interim notice.

Prohibited Species Catch Limits for Pacific Halibut and Fully Utilized Groundfish

The PSC limits for Pacific halibut applied to DAP and JVP vessels, established under 50 CFR 672.20(f), are changed from those shown in the interim notice as a result of changes to the initial apportionments of TQs. The changes are necessary, because the TQ for flounder in the Central Regulatory Area is changed, and because apportionments between DAP and JVP for each of the groundfish species are changed.

An estimated 2,849 mt of Pacific halibut are expected to be caught in DAP fisheries in 1987. An estimated 183 mt could be caught in JVP fisheries. Actual mortality, given the difference between DAP and JVP fishing operations, is estimated to be 1,231 mt and 183 mt, respectively. Therefore, because the apportionments of groundfish between DAP and JVP are changed from those established in the interim notice, the Secretary has modified the Pacific halibut PSC limits established in the interim notice by setting new PSCs of 2,849 mt and 183 mt, respectively, for the 1987 DAP and JVP fisheries. If the Regional Director determines that a PSC limit has been reached by a DAP or JVP fishery, he must prohibit further bottom trawling by that fishery in the Gulf of Alaska for the remainder of the fishing year. He may, however, allow some or all of those vessels to continue to fish for groundfish using bottom trawl gear under specified conditions as described at § 672.20(e).

The Council determined at its December 1986 meeting, that sablefish, Pacific ocean perch, and "other rockfish" will be fully utilized by DAP fishermen in 1987. To provide adequate bycatch for full harvest of TQs for pollock, the Secretary modified the final PSCs, effective October 2 and allocated them in the joint venture fisheries in the Western Regulatory Area as follows: 20 mt of Pacific ocean perch and 30 mt of sablefish. Other modifications to PSC's (mt) that will be effective in the Gulf of Alaska upon filing of this notice include the following:

	Central area	Gulf-wide area
Sablefish	169	
POP	369	
"Other rockfish"		98

If the Regional Director determines that a groundfish PSC limit has been reached by the joint venture fisheries, he will publish a notice closing that directed fishery in all, or part, of the area or district concerned.

No changes were made in the apportionments of sablefish among the legal gear types (hook-and-line, trawl, and pot) from those provided by § 672.24, and as shown in the interim notice. Nonetheless, the apportionments are reprinted again without changes (see table of apportionments of sablefish gear quotas) in this final notice.

APPORTIONMENTS OF SABLEFISH GEAR QUOTAS (METRIC TONS)

Area	TQ	Gear	Percent	Share (mt)
Western	3,200	H&L	51	1,650
		TRAWL	20	600
		POT	29	750
Central	8,800	H&L	80	7,040
		TRAWL	20	1,760
West Yakutat	4,000	H&L	96	3,800
		TRAWL	5	200
East Yakutat/Southeast Outside	4,200	H&L	95	3,990
		TRAWL	5	210

The initial TQs in the Gulf of Alaska, as modified through the date of filing of this notice with the **Federal Register**, and their apportionment between DAP and JVP, are shown for each species by regulatory area in Table 1. Reserves have been reapportioned to DAP and/or to JVP. In each case, the Secretary has determined that the amounts specified as DAP are needed by U.S. fishermen for harvest and delivery to U.S. processors. Only the amounts considered surplus to DAP are reapportioned to JVP. Comments are invited on the amounts specified.

TABLE 1.—INITIAL (AS OF JANUARY 1, EACH YEAR TARGET QUOTA (TQ), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), AS MODIFIED BY REAPPORTIONMENTS, ALL IN METRIC TONS. TQ=DAH+RESERVE+TALFF; DAH=DAP+JVP. (INCLUDES REAPPORTIONMENTS THROUGH DATE OF FILING THIS NOTICE WITH THE FEDERAL REGISTER)

Species	Area [1]	Species code	TQ	DAH	DAP	JVP	Reserve	TALFF
Pollock	W/C	701	84,000	84,000	58,200	25,800	0	0
Outside Shelikof			20,000	20,000	0	20,000	0	0

TABLE 1.—INITIAL (AS OF JANUARY 1, EACH YEAR TARGET QUOTA (TQ), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), AS MODIFIED BY REAPPORTIONMENTS, ALL IN METRIC TONS. TQ=DAH+RESERVE+TALFF; DAH=DAP+JVP. (INCLUDES REAPPORTIONMENTS THROUGH DATE OF FILING THIS NOTICE WITH THE FEDERAL REGISTER)—Continued

Species	Area [1]	Species code	TQ	DAH	DAP	JVP	Reserve	TALFF
Pacific cod	E	702	4,000	4,000	4,000	0	0	0
	(Total)		108,000	108,000	62,200	45,800	0	0
	W		15,000	15,000	14,700	300	0	0
	C		33,000	33,000	31,300	1,700	0	0
	E		2,000	2,000	2,000	0	0	0
Flounders	(Total)	129	50,000	50,000	48,600	1,400	0	0
	W		3,000	3,000	2,550	450	0	0
	C		10,000	10,000	4,000	6,000	0	0
	E		500	500	500	0	0	0
Pacific [2] ocean perch	(Total)	780	13,500	13,500	7,050	6,450	0	0
	W		1,500	1,500	1,500	20 *	0	0
	C		1,500	1,500	1,500	388 *	0	0
	E		2,000	2,000	2,000	0 *	0	0
Sablefish	(Total)	703	5,000	5,000	5,000	408 *	0	0
	W		3,000	3,000	3,000	30 *	0	0
	C		8,800	8,800	8,800	169 *	0	0
	W.YK		4,000	4,000	4,000	0 *	0	0
	E.YK/SE		4,200	4,200	4,200	0 *	0	0
Atka mackerel	(Total)	207	20,000	20,000	20,000	199 *	0	0
	W		100	100	10	90	0	0
	C		100	100	10	90	0	0
	E		40	40	40	0	0	0
Other Rockfish [3]	(Total)	849	240	240	60	180	0	0
Demersal Shelf rockfish [4]	G-W		4,000	4,000	4,000	68 *	0	0
	SEO		1,250	1,250	1,250	0 *	0	0
Thornyheads	(Total)	749	5,250	5,250	5,250	68 *	0	0
Squid	G-W		3,750	3,750	3,700	50	0	0
Other species [5]	G-W		5,000	5,000	4,950	50	0	0
	G-W		9,537	9,537	8,437	1,100	0	0

* Footnote: PSC limits, which are not a part of DAH totals.

[1] See figure 1 of § 672.20 for description of regulatory areas/districts.

[2] The category "Pacific ocean perch" includes *Sebastes alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rock fish), and *S. zacentrus* sharpchin rockfish.

[3] The category "other rockfish" includes all fish of the genus *Sebastes* except Pacific ocean perch and shelf demersal rockfish.

[4] Shelf demersal rockfish includes *Sebastes paucispinis* (bocaccio), *S. pinniger* (canary rockfish), *S. nebulosus* (china rockfish), *S. caurinus* (copper rockfish), *S. malliger* (quillback) rockfish, *S. proriger* (redstripe rockfish), *S. helvomaculatus* (rosethorn rockfish), *S. brevispinis* (silvergray rockfish), *S. nigrocinctus* (tiger rockfish), and *S. ruberrimus* (Yelloweye rockfish).

[5] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, and octopus. The TQ is equal to 5% of the TQs of the target species.

Public Comments Received

Comments received pertained to both the proposed notice and the interim notice. They have been summarized and responded to as follows:

Comment: The initial TQ and DAP specifications for pollock in the Western/Central Regulatory Area of the Gulf of Alaska should be revised to reflect the biologically available yield for pollock and to reflect the probable DAP production, thereby permitting a joint venture fishery on at least 40,000 mt during the Shelikof Strait roe season that began on February 15.

Response: The North Pacific Fishery Management Council accepted the Plan Team's ABC estimate for pollock of 95,000 mt. However, it adopted the Advisory Panel's recommendation that the TQ should be 84,000 mt in recognition of the large contribution that three year-old pollock made to the ABC and the poor condition of the pollock stock. Few pollock spawn at age three, but about 95 percent spawn at age four. Therefore, allowing one more year of maturation would result in more pollock spawning at age four, which would promote growth in the stocks. Also, more harvestable biomass would be available in subsequent years as the pollock grow in size, providing for greater returns to the fishery. The Secretary concurs with this recommendation and has approved the Council's recommendation that the TQ should be 84,000 mt.

The Secretary has reviewed the Council's recommendation made at its May and September 1987, meetings concerning the recommendation for DAP. The Secretary has determined that the DAP harvest will be no more than 67,200 mt for the reasons described previously. Therefore, he has revised the pollock DAP from the 83,700 mt in the interim notice to 67,200 mt on October 2 (52 FR 37463, October 7, 1987), establishing a total of 16,800 mt reserve, and apportioning that reserve to JVP. Should the Secretary's assessment prove to be an overestimate of the 1987 DAP fishery, he is authorized to reapportion any amounts of pollock he finds will not be harvested in the DAP fishery to JVP later in the year.

The Secretary invites public comments for a period of 15 days after the effective date of the apportionment. The Secretary will consider all timely comments in deciding whether to modify an apportionment that has been made,

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and will publish responses to those comments in the **Federal Register** as soon as is practicable.

Other Matters

This action is taken under the authority of §§ 611.92(c) and 672.20 and complies with Executive Order 12291.

Immediate implementation of these specifications, PSC's, and apportionments is necessary to prevent premature closures in fisheries for which a harvestable amount of groundfish remains. Therefore, the Secretary finds for good cause that is impracticable and contrary to the public interest to provide prior notice and opportunity for comment, or to delay for 30 days, the effective date of this rule. Comments are invited on reapportionments and amounts of PSC limits for 15 days following the effective date of this notice.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Part 672

Fisheries.

Dated: October 26, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-25088 Filed 10-28-87; 8:45 am]

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Proposed Rules

Federal Register
Vol. 52, No. 209
Thursday, October 29, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

Tomatoes Grown in Florida; Proposed Change in Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish a minimum size requirement of 2-$^{5}/_{32}$ inches in diameter for fresh market shipments of Florida tomatoes within the regulated area, the same as in effect for fresh market tomato shipments outside the regulated area. The effect of this action would eliminate the handling of tomatoes smaller than 2-$^{5}/_{32}$ inches in diameter and provide local fresh markets with better quality and slightly larger size tomatoes. This proposed action is consistent with current handling regulations which prohibit shipment of tomatoes smaller than 2-$^{5}/_{32}$ inches in diameter outside the regulated area. This action is not expected to short the market, as ample supplies of good quality tomatoes are expected from domestic and foreign sources to meet market needs.

DATES: Comments due November 9, 1987.

ADDRESS: Comments should be sent to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Three copies of all written material should be submitted, and they will be made available for public inspection in the Office of the Docket Clerk during regular business hours. Comments should reference the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 966 (7 CFR Part 966), as amended, regulating the handling of tomatoes grown in Florida. This order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 103 handlers of tomatoes subject to regulation under the Florida Tomato Marketing Order, and approximately 180 tomato producers in Florida.

Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of Florida tomatoes may be classified as small entities.

The 1986–87 annual report of the Florida Tomato Committee ("committee") indicated that total shipments for the 1986–87 season were 56,368,486 25-lb. equivalents, compared to 52,421,792 for the 1985–86 season and 52,471,073 for 1984–85. The average yield was approximately 1,107 25-lb. equivalents per acre compared to 1,150 the previous season and 1,173 in 1984–85. The total acres harvested was 5,387 more than the 45,530 acres harvested last season, and shipments were up 3,944,694 packages. Available forecasts predict that adequate tomato supplies will be available in the fall, winter and spring of the 1987–88 season. Tomato production in the Florida marketing order area is expected to be at least equal to the 56.4 million 25-lb. equivalents shipped in 1986–87. Sales of mature green and vine ripe 7x7 size tomato shipments (2-5/32 to 2-7/32 inches in diameter) for all grades totaled 360,472 containers of 25-lb. equivalents or approximately 0.6 percent of the total shipments of 52,366,486 25-lb. equivalents for all sizes. Mature green and vine ripe 7x7 size tomatoes were valued at $1,751,850 or approximately 0.4 percent of the total sales dollars of $410,124,645 for all tomato grades and sizes. Therefore, prohibiting the sales of such tomatoes would not produce a significant economic impact on tomato handlers or producers.

This proposed rule would change the handling regulation at 7 CFR § 966.323 to require that all tomatoes handled by handlers be at least 2-8/32 inches in diameter. Changes would be made to § 966.323 in the introductory text and paragraph (a)(2)(i) to establish the proposed minimum size requirement. A change in paragraph (a)(2)(i) of that section is proposed for clarity. This proposal is being issued pursuant to § 966.52 of the order.

Currently, fresh market tomatoes shipped within the regulated area are not subject to the tomato handling regulation requirements. The "regulated area" is defined in § 966.4 as that portion of the State of Florida which is bounded by the Suwannee River, the Georgia border, the Atlantic Ocean, and the Gulf of Mexico. This area includes all of the State, except the panhandle.

Last year, a final rule was published November 13, 1986 (51 FR 41074) that established a minimum size of 2-8/32 inches in diameter for fresh market tomato shipments outside the regulated area and tomato imports. This was intended to improve the overall maturity and quality of tomatoes shipped to fresh market channels. Prior to that action, the minimum size for fresh market tomato shipments was 2-5/32 inches in diameter. Smaller size tomatoes generally take longer to ripen than larger tomatoes. Because of this, small tomatoes normally do not develop full

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flavor and are less desirable in the marketplace than larger tomatoes.

Because size is generally the most important consideration in pricing at shipping point and wholesale, small tomatoes can have an adverse impact on the market for all tomatoes in general. Members of the committee believe that regulating the minimum size of fresh market tomato shipments within the regulated area is necessary in order to maintain the integrity of the marketing order and the applicable handling regulations, and to consistently provide fresh markets with slightly larger good quality tomatoes. In addition, the committee reports that several shipments of Florida tomatoes smaller than 2-8/32 inches, originally destined for markets within the regulated area, have been found outside the regulated area.

Quality assurance is very important to the Florida tomato industry both within and outside of the state. Providing the public with acceptable quality produce which is appealing to the consumer on a consistent basis is necessary to maintain buyer confidence in the marketplace. To the extent that this action increases the quality of tomatoes in the marketplace, it would also be of benefit to both Florida tomato growers and handlers.

Based on the above, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 10-day comment period is deemed appropriate because the harvest and shipment of 1987–88 season Florida tomatoes has begun. If adopted, it is anticipated that this change would become effective on November 25, 1987.

If any change is adopted as a result of this rulemaking, a final rule would become effective as soon as practicable after the beginning of the 1987–88 season. Until such a time, the existing handling requirements that appear in § 966.323 will remain in effect.

List of Subjects in 7 CFR Part 966

Marketing agreements and orders, Tomatoes, Florida.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 966 be amended as follows:

PART 966—[AMENDED]

1. The authority citation for 7 CFR Part 966, Tomatoes Grown in Florida continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 966.323 is amended by revising the introductory text and paragraph (a)(2)(i) to read as follows:

§ 966.323 Handling regulation.

During the period November 25, 1987, through June 15, 1988, and October 10 through June 15 each season thereafter, except as provided in paragraphs (b) and (d), no person shall handle any lot of tomatoes for shipment outside the regulated area unless it meets the requirements of paragraph (a) and no person shall handle any lot of tomatoes for shipment within the regulated area unless it meets the requirements of paragraph (a)(2)(i) and (a)(4).

(a) * * *

(2)(i) All tomatoes packed by a handler shall be at least 2-8/32 inches in diameter. Tomatoes shipped outside the regulated area shall also be sized with proper equipment in one or more of the following ranges of diameters. Measurements of diameters shall be in accordance with the methods prescribed in paragraph 51.859 of the U.S. Standards for Grades of Fresh Tomatoes.

* * * * *

Dated: October 27, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–25233 Filed 10–28–87; 8:45 am]

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7 CFR Parts 1124 and 1125

[Docket Nos. AO–368–A16 and AO–226–A32]

Milk in the Oregon-Washington and Puget Sound-Inland Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a merger of the Oregon-Washington and Puget Sound-Inland Federal milk orders. Six cooperative associations requested that the hearing be held to consider merging the two orders. These cooperative organizations contend that the territory covered by the two orders is now essentially one market. The proposed merged order would combine the marketing areas of the two existing orders and add three Oregon counties and five Washington counties to the existing order areas. It is expected that no additional handlers would be regulated.

Under the proposal, the Class I differentials at the base cities in the proposed merged marketing area would be $1.90, representing a 5-cent increase at Seattle, Washington, and 5-cent decreases at Portland, Oregon, and Spokane, Washington. The plant location adjustments proposed for the merged order would result in changes in Class I and blend prices at outlying locations in the marketing area by amounts ranging from a decrease of 3 cents to an increase of 11 cents.

Producers pooled under the proposed merged order would be paid a uniform price determined by the marketwide utilization of producer milk. The proposed order would discontinue the base-excess payment plan now contained in the Oregon-Washington order and the provisions of the present Oregon-Washington order that accommodate the payments of producers under the State of Oregon's supply management plan.

Two other cooperative associations, Northwest Independent Milk Producers Association and Portland Independent Milk Producers Association, submitted additional proposals that would allow reserve supply units to maintain pool status without meeting delivery requirements. Such units would be obligated to ship milk to distributing plants if a "call" for milk were issued by the market administrator.

DATES: The hearing will convene at 9:00 a.m. on November 17, 1987.

ADDRESSES: The hearing will be held at the Holiday Inn/Portland Airport, 8439 N. Columbia Blvd., Portland, Oregon 97220.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn/Portland Airport, 8439 N.E. Columbia Blvd., Portland, Oregon 97220 beginning at 9:00 a.m. on November 17, 1987, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Oregon-Washington and Puget Sound-Inland marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96–354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Proposal No. 1, a proposal to combine the Oregon-Washington and Puget Sound-Inland marketing areas under one order, raises the issue of whether the provisions set forth in that proposal would tend to effectuate the declared policy of the Act if they are applied to the proposed merged and expanded marketing area and, if not, what modifications of the proposal would be appropriate.

Issues raised by the proposals set forth herein also include whether the declared policy of the Act would tend to be effectuated by:

(a) Merging under one order the Oregon-Washington and Puget Sound-Inland marketing areas.

(b) Adopting any of the proposed provisions, or appropriate modification thereof, for separate orders or a combined order, including a review of the appropriate pricing and pooling provisions of the order whether separate or combined. The issue of consolidation of the Oregon-Washington and Puget Sound-Inland marketing areas also raises the issue of the appropriate disposition of the producer-settlement funds, marketing service funds and administrative funds accumulated under the respective orders.

List of Subjects in 7 CFR Parts 1124 and 1125

Milk marketing orders, Milk, Dairy products

The authority citation for Parts 1124 and 1125 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Farmers Cooperative Creamery, Jersey-Dari, Inc., Northwest Dairymen's Association, Oregon Jersey Cooperative, Tillamook County Creamery Association and Washington Independent Milk Producer's Association:

Proposal No. 1

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

§ 1124.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1124.2 Pacific Northwest marketing area.

"Pacific Northwest Marketing Area" (hereinafter called the "Marketing Area") means all territory geographically within the places listed below, including all territory fully or partly therein occupied by government (municipal, state or federal) reservations, facilities, installations, or institutions:

Idaho Counties

Benewah, Bonner, Boundary, Kootenai, Latah, and Shoshone.

Washington Counties

Adams, Asotin, Benton, Chelan, Clark, Columbia, Cowlitz, Douglas, Ferry, Franklin, Garfield, Grant, Grays Harbor, Island, King, Kitsap, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, Pierce, San Juan, Skagit, Skamania, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Walla Walla, Whatcom, Whitman and Yakima.

Oregon Counties:

Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Deschutes, Douglas, Gilliam, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, Wheeler, and Yamhill.

§ 1124.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a plant to a retail or wholesale outlet (including any delivery through a distribution point as provided by this section, by a vendor, from a plant store or through a vending machine). The term "route disposition" does not include:

(a) A delivery to a plant. However, packaged fluid milk products that are transferred to a pool distributing plant from another pool distributing plant, and classified as Class I under § 1124.42(a), shall be considered route disposition from the transferor-plant for the sole purpose of qualifying it as a pool distributing plant under § 1124.7(a), and the transferor-plant shall be assigned in-area dispositions but not in excess of the in-area dispositions of the transferee plant;

(b) A delivery in bulk to a commercial food processing establishment pursuant to § 1124.40(b)(3); or

(c) A delivery to a military or other ocean transport vessel leaving the marketing area, of fluid milk products which originated at a plant located outside the marketing area and were not received or processed at any pool plant.

§ 1124.4 Plant.

"Plant" means the buildings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment, which is maintained and operated primarily for the receiving, handling and/or processing of milk or milk products (including filled milk). Separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition or separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a "plant" under this definition.

§ 1124.5 Distributing plant.

"Distributing plant" means a plant in which a fluid milk product approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is processed or packaged and that has route disposition in the marketing area during the month.

§ 1124.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

§ 1124.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing plant from which there is route disposition (except filled milk) in the marketing area during the

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month equal to not less than 10 percent of receipts of Grade A milk at such plant (exclusive of transfers of packaged fluid milk products from plants qualifying as pool plants pursuant to this paragraph) or diverted therefrom pursuant to § 1124.13: Provided, That all distributing plants operated by a handler may be considered as one plant for the purpose of meeting the percentage requirements of this paragraph if the handler submits a written request to the Market Administrator prior to the delivery period for which consideration is requested.

(b) A supply plant from which not less than 40 percent in any month of September through November and not less than 30 percent in any other month, of the total quantity of milk that is physically received at such plant from dairy farmers eligible to be producers pursuant to § 1124.12 (excluding milk received at such plant as diverted milk from another plant, which milk is classified in Class III under this order and is subject to the pricing and pooling provisions of this or another order issued pursuant to the Act) or diverted as producer milk to another plant pursuant to § 1124.13, is shipped in the form of a fluid milk product (except as filled milk) to a pool distributing plant or is a route disposition in the marketing area of fluid milk products (except filled milk) processed and packaged at such plant; *Provided,* That:

(1) With respect to a supply plant operated by a cooperative association, the producer milk of its members which it caused to be delivered directly from their farms to pool distributing plants, shall for the purpose of this paragraph, be considered as a receipt at the cooperative's supply plant and a shipment from the supply plant to pool distributing plants to the extent that the total quantity of the producer milk received at pool distributing plants directly from such producers' farms does not exceed the total quantity of milk shipped during the same month from the cooperative's supply plant to pool distributing plants;

(2) A plant which qualified as a pool plant pursuant to this paragraph in each month of September through February shall be a pool plant in each of the following months of March through August unless a written application is filed with the Market Administrator prior to the first day of any such month requesting that the plant be designated a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant; and

(3) For the purpose of this paragraph, the operations of two or more supply plants may be combined and considered as the operation of one plant if so requested in writing to the Market Administrator by the handler(s) operating such plants prior to the first day of the month for which such consideration is requested.

(c) Any plant located in the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested by the cooperative association and 30 percent or more of the producer milk of members of the cooperative association is physically received during the month in the form of bulk fluid milk products at plants specified in paragraph (a) of this section either directly from farms or by transfer from supply plants operated by the cooperative association and from plants of the cooperative association for which such pool status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under comparable provisions of another Federal Order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(d) The Director of the Dairy Division may reduce or increase up to 10 percentage points from the levels set forth therein the pool plant performance standards in paragraphs (a), (b) or (c) of this section, if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either at the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that the revision is being considered and invite data, views, and arguments.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal Order and from which, the Secretary determines, there is a greater quantity of route disposition during the month in such other Federal Order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month it shall continue to be subject to all the provisions of this part until the fourth consecutive month in which a greater proportion of its route disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition in this marketing area than in such other marketing area but which plant maintains pooling status for the month under such other Federal order;

(4) A plant qualified pursuant to paragraph (b) of this section which also meets the pool plant requirements of another Federal order and from which greater shipments are made during the month to plants regulated under such other order than are made to plants regulated under this order;

(5) A distributing plant from which total route disposition (except filled milk) in the marketing area during the month averages 300 pounds or less per day; or

(6) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk products for Grade A disposition.

§ 1124.8 Nonpool plant.

"Nonpool plant" means any plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which during the month an average of more than 300 pounds daily of fluid milk products is disposed of as route disposition in the marketing area.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are moved to a pool plant during the month.

(e) "Exempt distributing plant" means a plant, other than a pool supply plant or a regulated plant under another Federal order that meets all the requirements for

status as a pool distributing plant except that its route disposition (exclusive of filled milk) in the marketing area in the month does not exceed an average of 300 pounds daily. For purposes of this paragraph, route disposition shall not include receipts from a transferor-plant pursuant to the proviso of § 1124.3(a).

§ 1124.9 Handler.

"Handler" means:

(a) The operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it caused to be diverted for the account of such cooperative association from a pool plant to a nonpool plant, or pursuant to § 1124.40(b)(3);

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) The operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) The operator of an other order plant from which route disposition is made in the marketing area during the month;

(g) The operator of an unregulated supply plant; and

(h) The operator of an exempt distributing plant.

§ 1124.10 Producer-handler.

"Producer-handler" means a person who is engaged in the production of milk and also operates a plant from which during the month an average of more than 300 pounds daily of fluid milk products, except filled milk, is disposed of as route disposition within the marketing area and who has been so designated by the market administrator upon his determination that all of the requirements of this section have been met, and that none of the conditions therein for cancellation of such designation exists. All designations shall remain in effect until canceled pursuant to paragraph (c) of this section. Any state institution shall be a producer-handler exempt from the provisions of this section and §§ 1124.30 and 1124.32 with respect to milk of its own production and receipts from pool plants processed or received for consumption in State institutions and with respect to movements of milk to or from a pool plant.

(a) *Requirements for designation.* (1) The producer-handler has and exercises (in his capacity as a handler) complete and exclusive control over the operation and management of a plant at which he handles and processes milk received from his milk production resources and facilities (designated as such pursuant to paragraph (b)(1) of this section), the operation and management of which are under the complete and exclusive control of the producer-handler (in his capacity as a dairy farmer).

(2) The producer-handler neither receives at his designated milk production resources and facilities nor receives, handles, processes or distributes at or through any of his milk handling, processing or distributing resources and facilities (designated as such pursuant to paragraph (b)(2) of this section) milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than (i) his designated milk production resources and facilities, (ii) pool plants within the limitation specified in paragraph (c)(2) of this section, or (iii) nonfat milk solids which are used to fortify fluid milk products.

(3) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(4) Designation of any person as a producer-handler following a cancellation of his prior designation shall be preceded by performance in accordance with paragraph (a) (1), (2), and (3) of this section for a period of 1 month.

(b) *Resources and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing and distributing resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities: All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including any contractual arrangement; and

(iii) Which are directly, indirectly or partially owned, operated or controlled by any partner or stockholder of the producer-handler. However, for purposes of this paragraph any such milk production resources and facilities which the producer-handler proves to the satisfaction of the market administrator do not constitute an actual or potential source of milk supply for the producer-handler's operation as such shall not be considered a part of his milk production resources and facilities; and

(2) As milk handling, processing and distributing resources and facilities: All resources and facilities (including store outlets) used for handling, processing and distributing any fluid milk product:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler; or

(ii) In which the producer-handler in any way has an interest, including any contractual arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(c) *Cancellation.* The designation as a producer-handler shall be canceled under any of the conditions set forth in paragraph (c) (1) and (2) of this section or upon determination by the market administrator that any of the requirements of paragraph (a) (1), (2), and (3) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met, or the conditions for cancellation occurred.

(1) Milk from the designated milk production resources and facilities of the producer-handler is delivered in the name of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products derived from sources other than the designated milk production facilities and resources, with the exception of purchases from pool plants in the form of fluid milk products which do not exceed in the aggregate a daily average during the month of 100 pounds.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant location and farm location(s) of persons designated as producer-handlers, of those whose designations have been canceled and the effective dates of producer-handler

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status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1000.5 of this chapter that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

§ 1124.11 [Reserved]

§ 1124.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for disposition as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1124.9(c); or

(3) Diverted from a pool plant in accordance with § 1124.13;

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1124.44(a)(9)(iii) and the corresponding step of § 1124.44(b);

(3) Any person with respect to milk produced by him that is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such order;

(4) Any person who during the month has disposed of as route disposition or to consumers at the farm an average of more than 110 pounds daily of fluid milk or fluid cream products; and

(5) Any person (known as a dairy farmer for other markets) whose milk was received at a nonpool plant or a commercial food processing establishment during the month as other than producer milk under this or any other Federal milk order.

§ 1124.13 Producer milk.

"Producer milk" or "milk received from producers" means skim milk and butterfat in milk produced by producers which is received for the account of a handler as follows:

(a) With respect to receipts at a pool plant, producer milk shall include:

(1) Milk received at such plant directly from producers;

(2) Milk diverted from such pool plant to a nonpool plant or pursuant to § 1124.40(b)(3) for the account of the operator of the pool plant, subject to the conditions set forth in paragraph (c) of this section; and

(3) Milk received at such pool plant from a cooperative association in its capacity as a handler pursuant to § 1124.9(c) for all purposes other than those specified in paragraph (b)(2)(i) of this section;

(b) With respect to milk for which a cooperative association is a handler in a capacity other than as the operator of a pool plant, producer milk shall include:

(1) Milk diverted from a pool plant to a nonpool plant or pursuant to § 1124.40(b)(3) for the account of the cooperative association, subject to the conditions set forth in paragraph (c) of this section; and

(2) Milk for which the cooperative association is a handler pursuant to § 1124.9(c) to the following extent:

(i) For purposes of reporting pursuant to §§ 1124.30(c) and 1124.31(a) and making payments to producers pursuant to § 1124.73(a); and

(ii) For all purposes, with respect to any such milk which is not delivered to the pool plant of another handler;

(c) With respect to diversions to nonpool plants or pursuant to § 1124.40(b)(3):

(1) Milk of any producer may be diverted by a cooperative association or its agent for its account pursuant to § 1124.9(b) from pool distributing plants to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk diverted may not exceed 80 percent during the months of September through April of the producer milk which the association or its agent causes to be delivered to pool distributing plants, or diverted therefrom. No percentage limit shall apply during the months of May through August;

(2) Milk of any producer may be diverted by a cooperative association or its agent for its account pursuant to § 1124.9(b) from pool supply plants to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the producer milk which the association or its agent causes to be delivered to all such pool supply plants or diverted therefrom during the month;

(3) A handler, other than a cooperative association, operating a pool distributing plant may divert therefrom for his account to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk diverted may not exceed 80 percent during the months of September through April of the milk received at or diverted from such handler's pool distributing plant from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1) or (c)(2) of this section and for which the operator of such plant is the handler during the month. No percentage limit shall apply during the months of May through August;

(4) A handler, other than a cooperative association, operating a pool supply plant may divert therefrom for his account to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the total milk received at or diverted from such pool plant during the month from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1) or (c)(2) of this section and for which the operator of such plant is the handler during the month;

(5) Milk diverted in excess of the limits specified shall not be considered producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler during the month;

(6) Two or more cooperative associations may have their allowable diversions computed on the basis of their combined deliveries of producer milk which the associations cause to be delivered to pool plants or diverted from pool plants during the month if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is to be effective. This request shall specify the basis for assigning overdiverted milk to the producer deliveries of each cooperative according to a method approved by the market administrator;

(7) For purposes of location adjustments pursuant to §§ 1124.52 and 1124.75, milk diverted to a nonpool plant or pursuant to § 1124.40(b)(3) shall be priced at the location of the plant or commercial food processing establishment to which diverted; and

(d) In the case of any bulk tank load of milk originating at farms and subsequently divided among plants, the proportion of the load received at each plant shall be prorated among the individual producers involved on the basis of their respective percentage of the total load.

§ 1124.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1124.40(b)(1) from any source other than producers, handlers described in § 1124.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1124.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1124.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1124.40(b)(1)) for which the handler fails to establish a disposition.

§ 1124.15 Fluid milk products.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: milk, skim milk, lowfat milk, milk drinks, buttermilk, mixtures of cream and milk or skim milk containing less than 15 percent butterfat (including those which are sterilized or aseptically packaged), filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use and milk or milk products (including filled milk) that are sterilized and packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1124.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 15 percent or more butterfat, with or without the addition of other ingredients.

§ 1124.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product; and contains less than 6 percent nonmilk fat (or oil).

§ 1124.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers, which the Secretary determines, after application by the cooperative association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act".

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk for its members; and

(c) To have its entire activities under the control of its members.

§ 1124.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1124.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday, except national holidays.

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Handler Reports

§ 1124.30 Reports of receipts and utilization.

On or before the 9th day of each month each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, the following information for the preceding month:

(a) Each handler operating a pool plant(s) shall report separately for each pool plant:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk received directly from producers, showing separately any milk of own-farm production;

(ii) Milk received from a cooperative association pursuant to § 1124.9(c);

(iii) Fluid milk products and bulk fluid cream products received from other pool plants showing filled milk separately;

(iv) Other source milk showing filled milk separately; and

(v) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1124.40(b)(1).

(2) The utilization of all skim milk and butterfat required to be reported, including separate statements of quantities in route disposition inside and outside the marketing area.

(b) Each producer-handler shall report:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk of own-farm production;

(ii) Receipts of fluid milk products and fluid cream products from pool plants, showing separately receipts in packaged form and in bulk; and

(iii) Other source milk, showing separately any receipts from another dairy farmer.

(2) As specified in paragraph (a)(2) of this section.

(c) Each cooperative association shall report with respect to milk for which it is the handler pursuant to either § 1124.9(b) or (c):

(1) The quantities of skim milk and butterfat received from producers;

(2) The utilization of skim milk and butterfat for which it is the handler pursuant to § 1124.9(b); and

(3) The quantities of skim milk and butterfat delivered to each pool plant pursuant to § 1124.9(c).

(d) Each handler who operates a partially regulated distributing plant shall report as specified in paragraphs (a) (1) and (2) of this section except that receipts from dairy farmers in Grade A milk shall be reported in lieu of those in producer milk. Such report shall include separate statements, respectively, showing the respective amounts of skim milk and butterfat disposed of as route disposition in the marketing area as Class I milk and the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area.

(e) Each handler who operates an other order plant with route disposition of fluid milk products in the marketing area shall report the quantities of skim milk and butterfat in such disposition.

(f) Each handler who operates an exempt plant or an unregulated supply plant shall report as specified in paragraphs (a) (1) and (2) of this section except that receipts from dairy farmers in Grade A milk shall be reported in lieu of those in producer milk.

§ 1124.31 Payroll reports.

On or before the 22nd day of each month handlers shall report to the market administrator as follows:

(a) Each handler with respect to each of his pool plants and each cooperative association which is a handler pursuant to § 1124.9(b) or (c) shall submit his producer payroll for deliveries (other than his own-farm production) in the preceding month which shall show:

(1) The total pounds of milk received from each producer, the pounds of butterfat contained in such milk, and the number of days on which milk was delivered by such producer in such month;

(2) The amount of payment to each producer and cooperative association; and

(3) The nature and amount of any deductions or charges involved in such payments; and

(b) Each handler operating a partially regulated distributing plant who wishes computations pursuant to § 1124.76(a) to be considered in the computation of his obligation pursuant to § 1124.76 shall submit his payroll for deliveries of Grade A milk by dairy farmers which shall show:

(1) The total pounds of milk and the butterfat content thereof received from each dairy farmer;

(2) The amount of payment to each dairy farmer (or to a cooperative association on behalf of such dairy farmer); and

(3) The nature and amount of any deductions or charges involved in such payments.

§ 1124.32 Other reports.

At such time and in such manner as the market administrator may prescribe, each handler shall report to the market administrator such information in addition to that required under §§ 1124.30 and 1124.31 as may be requested by the market administrator with respect to milk and milk products (including filled milk) handled by him.

Classification of Milk

§ 1124.40 Classes of utilization.

Except as provided in § 1124.42 all skim milk and butterfat required to be reported by a handler pursuant to § 1124.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged inventory of fluid milk products at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more non-milk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In all bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment, or in producer milk diverted to a commercial food processing establishment in Pacific County, Washington, subject to the conditions of § 1124.42(e), at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk fluid form other than that specified in paragraph (c)(1)(iv) of this section.

(iv) Plastic cream, frozen cream and anhydrous milkfat.

(v) Custards, puddings, and pancake mixes;

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers; and

(vii) Any milk or milk products sterilized and packaged in hermetically sealed metal or glass containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1125.15; and

(6) In shrinkage assigned pursuant to § 1125.41(a) to the receipts specified in § 1125.41(a)(2) and in shrinkage specified in § 1125.41(b) and (c).

§ 1125.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1125.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product.

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to a nonpool plant or to a commercial food processing establishment pursuant to § 1125.40(b)(3) and milk received from a handler described in § 1125.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1125.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to a nonpool plant or to a commercial food processing establishment pursuant to § 1125.40(b)(3), except that if the operator of the plant or establishment to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operator of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section.

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1124.9 (b) or (c) but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of a plant or a commercial food processing establishment pursuant to § 1124.40(b)(3) to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1124.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computation pursuant to § 1124.44(a)(13) and the corresponding step of § 1124.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1124.44(a)(8) or the corresponding step of § 1124.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1124.44(a) (12) or (13) or the corresponding steps of § 1124.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

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(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustments when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1124.40.

(c) *Transfers and diversions to producer-handlers.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk if transferred or diverted in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to the transferee's receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1124.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers and diversions to a commercial food processing establishment.* Skim milk and butterfat transferred or diverted to a commercial food processing establishment shall be classified:

(1) Subject to the provisions of § 1124.13(c) and, except as provided in paragraph (e)(2) of this section, as Class II milk if diverted pursuant to § 1124.40(b)(3); or

(2) Transfers or diversions shall be classified as Class I milk unless the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification.

§ 1124.43 General classification rules.

In determining the classification of producer milk pursuant to § 1124.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1124.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1124.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1124.40, 1124.41, and 1124.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1124.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association; and

(d) For classification purposes, pursuant to §§ 1124.40 through 1124.45, butterfat in skim milk, either disposed of to others or used in the manufacture of milk products shall be accounted for at a butterfat content of 0.080 percent unless the handler has adequate records of the actual butterfat content of such skim milk.

§ 1124.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1124.9(a) for each of his pool plants separately and of each handler described in § 1124.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1124.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to paragraph (a)(8)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(5) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1124.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1124.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(7) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1124.40(b) but not in excess of the pounds of skim milk remaining in Class II;

(8) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(6) of this section applies, packaged inventory at the beginning of the month of products specified in § 1124.40(b)(1) that was not subtracted pursuant to paragraph (a) (5), (6), and (7) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products received or acquired for distribution from a producer-handler as defined under this or any other Federal Order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from a person described in § 1124.12(b)(5);

(9) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (8)(v) of this section for which the handler requests a classification other than Class I, but not in excess of pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (8)(v), and (9)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(9)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I

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at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(8)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentages that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant are of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(8)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(10) Subtract from the pounds of skim milk remaining in each class, in series, beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1124.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(4), (6), and (8)(i) of this section;

(11) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(12) Subject to the provisions of paragraphs (a)(12) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity pro rated, to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (8)(v), (9) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this paragraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this paragraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a) (8)(vi) and (9)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(13) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1124.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(13)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(13)(ii) of this section, should the computations pursuant to paragraphs (a)(13) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plant(s) shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(13)(ii) of this section, should the computations pursuant to paragraphs (a)(13) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plant(s) shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(14) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1124.42(a); and

(15) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(15) of this section and the corresponding step of paragraph (b) of this section.

§ 1124.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1124.44(a)(13) and the corresponding step of § 1124.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1124.44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1124.50 Class prices.

Subject to the provisions of § 1124.52, the class prices for the month, per hundredweight of milk, shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.90.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraphs (c) (1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1124.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1124.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month but not to exceed the price computed as follows:

(1) Multiply the Chicago butter price pursuant to § 1124.51 by 4.2;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under paragraphs (c) (1) and (2) of this section subtract the make allowance for butter-powder currently used by the Commodity Credit Corporation, United States Department of Agriculture, in computing purchase prices of butter and powder for the dairy price support program.

§ 1124.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1124.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1124.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1124.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

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(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1124.52 Plant location adjustment for handlers.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) Zone 1 shall include:

(i) The Oregon counties of Benton, Clackamas, Clatsop, Columbia, Douglas, Hood River, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill;

(ii) The Washington counties of Clark, Cowlitz, Grays Harbor, Island, King, Kitsap, Lewis, Mason, Pacific, Pierce, Skagit, Snohomish, Skamania, Thurston, and Wahkiakum.

(2) Zone 2 shall include:

(i) The Idaho counties of Benewah, Bonner, Boundary, Kootenai, Latah, and Shoshone;

(ii) The Washington counties of Ferry, Lincoln, Pend Orielle, Spokane, Stevens and Whitman.

(3) Zone 3 shall include: The Washington county of Whatcom;

(4) Zone 4 shall include: The Oregon counties of Coos, Jackson, and Josephine;

(5) Zone 5 shall include:

(i) The Idaho counties of Lewis and Nez Perce;

(ii) The Oregon counties of Crook, Deschutes, Gilliam, Jefferson, Klamath, Lake, Morrow, Sherman, Umatilla, Wallowa, Wasco and Wheeler;

(iii) The Washington counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Franklin, Garfield, Grant, Kittitas, Klickitat, Okanogan, Walla Walla and Yakima.

(6) Zone 6 shall include: The Washington counties of Clallam, Jefferson and San Juan.

(b) For milk received at a plant from producers and which is classified as Class I milk, the price specified in § 1124.50(a) shall be adjusted by the amount stated in paragraphs (b) (1) and (2) of this section for the location of such plant:

(1) For a plant located within one of the zones described in paragraphs (a) (1) through (6) of this section, the adjustment shall be as follows:

	Adjustment per hundredweight
Zone 1	No adjustment.
Zone 2	No adjustment.
Zone 3	Minus 3 cents.
Zone 4	Minus 8 cents.
Zone 5	Minus 15 cents.
Zone 6	Minus 15 cents.

(2) For a plant located outside of one of the zones described in paragraphs (a) (1) through (6) of this section, the adjustment shall be minus 1.5 cents per hundredweight for each 10 miles or fraction thereof by shortest hard-surfaced highway distance that the plant is located from the nearer of the county courthouse in Spokane, Washington, the Multnomah County Courthouse in Portland, Oregon, or the city hall in Eugene, Oregon;

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (b) of this section, except that the price when adjusted for location shall not be less than the Class III price.

(d) For fluid milk products transferred in bulk from a pool plant to another pool plant at which a higher Class I price applies and which is classified as Class I, the price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant determined by the market administrator as follows:

(1) Subtract from the pounds of Class I remaining at the transferee-plant after the computations pursuant to § 1124.44 (a)(13) and (b) the pounds of packaged fluid milk products from other pool plants;

(2) Subtract the pounds of bulk fluid milk products received at the transferee-plant from the following sources:

(i) Producers;

(ii) Handlers described in § 1124.9(c); and

(iii) Pool plants at which the same or a higher Class I price applies.

(3) Assign any pounds remaining to transferor-plants in sequence beginning with the plant at which the least adjustment would apply; and

(4) Multiply the pounds so computed for each transferor-plant by the difference in the Class I prices applicable at the transferee-plant and transferor-plant.

§ 1124.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1124.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the pricing constituent that is required.

Uniform Price

§ 1124.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1124.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1124.44(c), by the applicable class prices (adjusted pursuant to § 1124.52) and add together the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage deducted from each class pursuant to § 1124.44(a)(15) and the corresponding step of § 1124.44(b) by the class prices applicable at the location of the pool plant, as adjusted by the butterfat differential specified in § 1124.74. In case overage occurs in a nonpool plant located on the same premises as a pool plant, such overage shall be prorated between the quantity transferred from the pool plant and other source milk in such nonpool plant, add an amount equal to the value of overage allocated to the transferred quantity at the class price applicable at the pool plant;

(c) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1124.44(a)(8) (i) through (iv) and (vii) and the corresponding step of § 1124.44(b) excluding receipts of bulk fluid cream products from an other order plant;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1124.44(a)(8) (v) and (vi) and the corresponding step of § 1124.44(b);

(e) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price adjusted pursuant to § 1124.52, or the Class II price as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1124.44(a)(10) and the corresponding step of § 1124.44(b);

(f) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1124.44(a)(12) and the corresponding step of § 1124.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by a handler fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order; and

(g) Add or subtract as the case may be, the amount necessary to correct errors as disclosed by the verification of reports of such handler of his receipts and utilization of skim milk and butterfat in previous months for which payment has not been made.

§ 1124.61 Computation of uniform price.

For each month the market administrator shall compute the "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1124.60 for all handlers who filed the reports prescribed by § 1124.30 for the month and who made the payments pursuant to § 1124.71 for the preceding month;

(b) Add the aggregate of all minus location adjustments computed pursuant to § 1124.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1124.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1124.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 14th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1124.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1124.71 and 1124.76 and out of which he shall make all payments to handlers pursuant to § 1124.72. However, the market administrator shall offset the payment due to a handler from such fund against payments due from such handler.

§ 1124.71 Payments to the producer-settlement fund.

(a) On or before the 16th day after the end of the month during which the skim milk and butterfat were received each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the total amount specified in paragraph (a)(2) of this section:

(1) The sum of:

(i) The total value of milk of the handler for such month as determined pursuant to § 1124.60; and

(ii) For a cooperative association handler, the amount due from other handlers pursuant to § 1124.73(d) but without adjustment for butterfat;

(2) The sum of:

(i) The value of milk received by such handler from producers at the applicable uniform price pursuant to § 1124.73(a)(2) but without adjustments for butterfat;

(ii) The amount to be paid to cooperative associations pursuant to § 1124.73(d) but without adjustment for butterfat; and

(iii) The value at the uniform price for all skim milk and butterfat applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1124.60(f); and

(b) On or before the 25th day after the end of the month, each handler operating a plant specified in § 1124.7(e) (2) and (3), if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in the marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area.

(2) Compute the value of the quantity assigned in paragraph (b)(1) of this section to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant (but not to be less than the Class III price) and subtract its value at the Class III price.

§ 1124.72 Payments from the producer-settlement fund.

On or before the 18th day after the end of the month during which the skim milk and butterfat were received, the market administrator shall pay to each

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handler the amount, if any, by which the amount computed pursuant to § 1124.71(a)(2) exceeds the amount computed pursuant to § 1124.71(a)(1), and less any unpaid obligations of such handler to the market administrator pursuant to §§ 1124.71(a), 1124.77, 1124.85, and 1124.86. However, if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1124.73 Payments to producers and to cooperative associations.

(a) Each handler shall make payments to each producer for milk received from such producer during the month:

(1) On or before the last day of the month to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, at not less than the Class III price for the preceding month per hundredweight of milk received during the first 15 days of the month, less proper deductions authorized in writing by such producer; and

(2) On or before the 19th day after the end of each month for milk received from such producers during such month:

(i) At not less than the uniform price for the quantity of milk received, adjusted by the butterfat differential pursuant to § 1124.74 and by any location adjustments applicable under § 1124.75;

(ii) Minus payments made pursuant to paragraph (a)(1) of this section. However, if by such date such handler has not received full payment for such month pursuant to § 1124.72, he shall not be deemed to be in violation of this paragraph if he reduced uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the Market Administrator, however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator.

(b) The payments required in paragraph (a) of this section shall be made, upon request, to a cooperative association qualified under § 1124.18, or its duly authorized agent, with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this paragraph shall be made on or before 2 days prior to the dates specified in paragraph (a) of this section.

(c) Each handler shall pay to each cooperative association or its duly authorized agent which operates a pool plant for skim milk and butterfat received from such plant:

(1) On or before the 2nd day prior to the date specified in paragraph (a)(1) of this section for skim milk and butterfat received during the first 15 days of that month at not less than the Class III price for the preceding month; and

(2) On or before the 17th day after the end of such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class pursuant to § 1124.42(a) by the class price adjusted by the butterfat differential and taking into account any location adjustments as provided by § 1124.52 applicable at the pool plant of the cooperative association or its agent, minus payment made pursuant to paragraph (c)(1) of this section.

(d) Each handler who received milk for which a cooperative association is the handler pursuant to § 1124.9(c) shall pay such cooperative association for such milk received:

(1) On or before the 2nd day prior to the date specified in paragraph (a)(1) of this section for such milk received during the first 15 days of that month at not less than the Class III price for the preceding month; and

(2) On or before the 18th day after the end of each month, for the milk received at not less than the uniform price for all milk adjusted pursuant to §§ 1124.74 and 1124.75(b), minus payments made pursuant to paragraph (d)(1) of this section.

(e) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provision of the Act.

(f) In making payments to producers pursuant to this section, each handler, on or before the 19th day of each month shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show for the preceding month:

(1) The identity of the handler and the producer;

(2) The total pounds of milk delivered by the producer and the average butterfat test thereof and the pounds per shipment if such information is not furnished to the producer each day of delivery;

(3) The minimum rate at which payment to the producer is required under the provisions of this section;

(4) The rate per hundredweight and amount of any premiums or payments above the minimum price provided by the order;

(5) The amount or rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(g) In making payments to a cooperative association in aggregate pursuant to this section, each handler upon request shall furnish to the cooperative association, with respect to each producer for whom such payment is made, any or all of the above information specified in paragraph (f) of this section.

§ 1124.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago as reported by the Department for the month.

§ 1124.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payment to producers pursuant to § 1124.73(a) subject to the application of § 1124.13(c)(7) appropriate adjustments shall be made per hundredweight of milk received from producers at respective plant locations at the same rate as specified for Class I milk set forth in § 1124.52.

(b) In making payments to a cooperative association pursuant to § 1124.73(d) appropriate adjustments shall be made at the rates specified for Class I milk in § 1124.52 for the location of the plant at which the milk was received from the cooperative association.

(c) For purposes of computations pursuant to §§ 1124.71(a) and 1124.72 the uniform price for all milk shall be adjusted at the rates set forth in § 1124.52 for Class I milk applicable at the location of the nonpool plant from which the milk or filled milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1124.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1124.30(d) and 1124.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1124.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class III price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which an equivalent amount of milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1124.60(f) and a credit in the amount specified in § 1124.71(a)(2)(iii) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class III price, unless an obligation with respect to such plant is computed as specified in paragraph (a)(1)(ii) of this section; and

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1124.30(d) and 1124.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1124.7(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant adjusted to a 3.5 percent butterfat basis by the butterfat differential pursuant to § 1124.74, and like payments made by the operator of a supply plant(s) included in the computations pursuant to paragraph (a)(1) of this section and (ii) any payments to the producer-settlement fund of an other order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as route disposition of Class I milk within the marketing area;

(2) Deduct the respective amount of skim milk and butterfat received at the plant:

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(4) [Reserved]

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class III price), and add for the quantity of reconstituted skim milk specified in paragraph (b)(3) of this section its value computed at the Class I price applicable at the location of the nonpool plant (but not to be less than the Class III price) less the value of such skim milk at the Class III price.

§ 1124.77 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred following the 5th day after such notice.

§ 1124.78 Charges on overdue accounts.

(a) Any unpaid obligation of a handler pursuant to §§ 1124.71, 1124.73, 1124.76, 1124.77, 1124.85 or 1124.86 shall be increased 1 percent beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(1) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid overdue charges previously computed pursuant to this section; and

(2) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

(b) All charges on overdue accounts shall be paid to the fund or to the person to whom the account was due immediately after the charge has been collected.

Administrative Assessment and Marketing Service Deduction

§ 1124.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1124.44(a) (8) and (12) and the corresponding steps of § 1124.44(b), except such other source milk on which no handler obligation applies pursuant to § 1124.60(f); and

(c) Route disposition in the marketing area from a partially regulated

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distributing plant that exceeds the Class I milk:

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(2) Specified in § 1124.76(b)(2)(ii).

§ 1124.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 1124.73(a)(2), shall make a deduction of 5 cents per hundredweight of milk or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association.

(2) [Reserved]

(3) All milk received at a plant operated by a cooperative association from producers for whom the marketing services set forth below in this paragraph are not being performed by the cooperative association as determined by the market administrator. Such deduction shall be paid by the handler to the market administrator on or before the 16th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling and testing of milk received from producers, and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer;

(1) Who is a member of, or who has given written authorization for the rendering of marketing services and the taking of deductions therefore to, a cooperative association;

(2) Whose milk is received at a plant not operated by such association; and

(3) For whom the market administrator determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 1124.73 (a)(2) the amount per hundredweight on milk authorized by such producer and shall pay, on or before the 18th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

Proposed by Northwest Independent Milk Producers Association and Portland Independent Milk Producers Association:

Proposal No. 2

Modify Proposal No. 1 as follows:

a. In proposed § 1124.9, insert a new paragraph (d), and redesignate the succeeding paragraphs, as follows:

§ 1124.9 Handler.

* * * * *

(d) "A cooperative reserve supply unit" operated by a cooperative association or its agent that does not own or operate a plant, with respect to milk that it receives for its account from the farm of a producer for delivery to a plant or pursuant to § 1124.40(b)(3), if such cooperative has been qualified to receive payments pursuant to § 1124.73 and has been a handler under this or its predecessor order(s) during each of the twelve previous months; *Provided,* That:

(1) The cooperative has filed a request with the market administrator for cooperative reserve supply unit status at least 15 days prior to the first day of the month in which such status is desired to be effective. Once qualified as a cooperative reserve supply unit pursuant to this paragraph, such status shall continue to be effective, unless the cooperative requests termination prior to the first day of the month that change of status is requested, or the cooperative fails to meet all conditions pursuant to this paragraph.

(2) The cooperative reserve supply unit supplies fluid milk products to pool distributing plants located within an area designated by the market administrator as the "call area" in compliance with any announcement by the market administrator requesting a minimum level of shipments as further provided below:

(i) The market administrator may require such supplies of bulk fluid milk from cooperatives with cooperative reserve supply unit status within the "call area" whenever the market administrator finds that milk supplies for Class I use at pool distributing plants within the "call area" are needed for plants qualifying pursuant to § 1124.7(a). Before making such a finding, the market administrator shall investigate the need for such shipments either on the market administrator's own initiative or at the request of interested persons. If the market administrator's investigation shows that such shipments might be appropriate, the market administrator shall issue a notice stating that a shipping announcement is being considered and inviting data, views, and arguments with respect to the proposed shipping announcement.

(ii) Failure of a cooperative reserve supply unit handler to comply with any announced shipping requirements, including making any significant change in the cooperative's marketing operation that the market administrator determines has the impact of evading or forcing such an announcement, shall result in immediate loss of cooperative reserve supply unit status for the cooperative pursuant to this paragraph. A cooperative losing cooperative reserve supply unit status in this manner or a cooperative that requests termination of such status may not again qualify for such status pursuant to this paragraph for a period of one year from the date on which cooperative reserve supply unit status was last held.

(e) The operator of a partially regulated distributing plant.

(f) A producer-handler;

(g) The operator of an other order plant from which route disposition is made in the marketing area during the month;

(h) The operator of an unregulated supply plant; and

(i) The operator of an exempt distributing plant.

b. Modify proposed § 1124.12(a)(2) as follows:

§ 1124.12 Producer.

(a) * * *

(2) Received by a handler described in § 1124.9(c); or

* * * * *

c. In proposed § 1124.13, modify paragraph (b)(2), insert a new paragraph (c)(3), modify and redesignate proposed paragraphs (c)(3) and (4), and redesignate the succeeding paragraphs, as follows:

§ 1124.13 Producer milk.

* * * * *

(b) * * *

(2) Milk for which the cooperative association is a handler pursuant to § 1124.9(c) or (d) to the following extent:

* * * * *

(c) * * *

(3) The milk of any producer may be diverted by a cooperative reserve supply unit or its agent for its account pursuant to § 1124.9(d) to nonpool plants or pursuant to § 1124.40(b)(3). No percentage limits shall apply in any month;

(4) A handler, other than a cooperative association, operating a pool distributing plant may divert therefrom for his account to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk diverted may not exceed 80 percent during the months of September through April of the milk received at or diverted from such handler's pool distributing plant from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1), (c)(2) or (c)(3) of this section and for which the operator of such plant is the handler during the month. No percentage limit shall apply during the months or May through August.

(5) A handler, other than a cooperative association, operating a pool supply plant may divert therefrom for his account to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the total milk received at or diverted from such pool plant during the month from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1), (c)(2) or (c)(3) of this section and for which the operator of such plant is the handler during the month;

(6) Milk diverted in excess of the limits specified shall not be considered producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler during the month;

(7) Two or more cooperative associations may have their allowable diversions computed on the basis of their combined deliveries of producer milk which the associations cause to be delivered to pool plants or diverted from pool plants during the month if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is to be effective. This request shall specify the basis for assigning overdiverted milk to the producer deliveries of each cooperative according to a method approved by the market administrator;

(8) For purposes of location adjustments pursuant to §§ 1124.52 and 1124.75, milk diverted to a nonpool plant or pursuant to § 1124.40(b)(3) shall be priced at the location of the plant or commercial food processing establishment to which diverted; and

(d) In the case of any bulk tank load of milk originating at farms and subsequently divided among plants, the proportion of the load received at each plant shall be prorated among the individual producers involved on the basis of their respective percentage of the total load.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 3

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Jerry L. Colburn, 16 West Harrison Street, Seattle, Washington 98119, or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrator, Oregon-Washington and Puget Sound-Inland Marketing Areas

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on October 26, 1987.

J. Patrick Boyle,

Administrator.

[FR Doc. 87-25080 Filed 10-28-87; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-138-AD]

Airworthiness Directives; SAAB Fairchild SF-340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD), applicable to certain SAAB Fairchild Model SF-340A series airplanes, which currently requires special initialization techniques for the Attitude Heading Reference System (AHRS) to prevent incorrect attitude indications. This action would provide an optional modification which would allow use of a simplified initialization technique for the AHRS.

DATES: Comments must be received no later than December 20, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-138-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from SAAB Aircraft, Product Support, S-58188, Linkoping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

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Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-138-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On May 31, 1985, FAA issued AD 85-11-51, Amendment 39-5145 (50 FR 40189; October 2, 1985), to require special initialization techniques for AHRS to prevent erroneous attitude indications. This technique requires that both engines are running before the initialization is made.

Since issuance of that AD, the manufacturer has developed a modification, which involves changing the backup power from the battery bus to the hot battery bus, which permits the initialization to be made before the engines are started or after the first engine has been started. The modification is described in SAAB Service Bulletin SF-340-34-036, dated October 24, 1986. The revised initialization procedure is described in SAAB Aircraft Operations Manual (AOM) Bulletin Number 24.

The FAA has determined that the modification as described in SAAB Service Bulletin SF-340-34-036, dated October 24, 1986, is acceptable as an optional initialization technique in complying with AD 85-11-51.

This airplane model is manufactured in Sweden and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would amend the existing AD to permit the optional installation of Modification 1438 in accordance with the service bulletin previously amendment mentioned, and use of the optional initialization techniques in accordance with SAAB AOM Bulletin Number 24.

It is estimated that 50 airplanes of U.S. registry would be affected by this revision, that it would take approximately 2 manhours per airplane to accomplish the optional modification, and that the average labor cost would be $40 per manhour. Based on these figures, the cost for an operator to incorporate the optional modification is estimated to be $80/airplane.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because the proposed modification is optional. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By amending AD 85-11-51, Amendment 39-5145 (50 FR 40189; October 2, 1985), as follows:

(1) Reidentify paragraph B. as paragraph C

(2) Add a new paragraph B. as follows:

B. Accomplishment of Modification 1438 in accordance with SAAB Service Bulletin SF 340-34-036, dated October 24, 1986, or an equivalent production change constitutes terminating action for requirements of paragraph A. of this AD. Thereafter, the AHRS initialization shall be accomplished in accordance with SAAB Aircraft Operations Manual (AOM) Bulletin Number 24. A copy of AOM Bulletin Number 24 must be readily available to the crew during operations.

Issued in Seattle, Washington, on October 21, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-24960 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-139-AD]

Airworthiness Directives; British Aerospace Model DH/BH/HS 125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to certain British Aerospace Model DH/BH/HS 125 series airplanes, that would require a one-time structural inspection of the fuselage skin beneath the canopy blister and the wing skin at the outboard flap hinge fitting for fatigue cracks. These inspections for cracks would be required as a result of an HS 125 structural audit by the manufacturer. Failure to detect and repair fatigue cracking could result in inability of the structure to meet required loads.

DATE: Comments must be received no later than December 20, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-139-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Service Bulletin Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy M. Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-139-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom (UK) Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on certain British Aerospace (BAe) Model BAe-125 series airplanes. As a result of an HS 125 structural audit by the manufacturer, additional inspections for cracks have been identified. Fatigue cracking of the wing bottom skin at the flap outboard hinge fitting and the fuselage skin beneath the canopy blister could result in the inability of the structure to meet required loads. British Aerospace has issued Service Bulletins 53-63 and 57-67, both dated February 27, 1987, which describe structural inspections for cracks in these areas. The United Kingdom CAA has issued Airworthiness Directive Notice No. 89, which requires inspection for cracks in accordance with the BAe service bulletins.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspections for structural cracks in accordance with the previously mentioned service bulletins.

It is estimated that 30 airplanes of U.S. registry would be affected by this AD, that 4 airplanes would take approximately 2½ manhours per airplane and 20 airplanes would take approximately ½ hour to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $920.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($100). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace (BAe) PLC: Applies to Model DH/BH/HS 125 series airplanes listed in BAe 125 Service Bulletins 57-67 and 53-63, both dated February 27, 1987, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent undetected fatigue cracking in the structure, which could result in the inability of the structure to meet required loads, accomplish the following:

A. For airplane serial numbers as listed in BAe-125 Service Bulletin 57-67, dated February 27, 1987: Prior to the accumulation of 12,000 flights, or within 8 months after the effective date of this AD, whichever occurs later, visually inspect the wing bottom skin for cracks at the flap outboard hinge fitting in accordance with that service bulletin. Repair detected cracks prior to further flight in accordance with an FAA approved method.

B. For airplane serial numbers as listed in BAe-125 Service Bulletin 53-63, dated February 27, 1987: Prior to the accumulation of 7,500 flights, or within 8 months after the effective date of this AD, whichever occurs later, visually inspect the fuselage skin beneath the canopy blister for cracks in accordance with that service bulletin. Repair detected cracks prior to further flight in accordance with an FAA approved method.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., Service Bulletin Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 21, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-24961 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-ASW-16]

Airworthiness Directives; Fairchild (Swearingen) Models SA226-TC and SA226-AT Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to revise Airworthiness Directive (AD) 86-09-08R1 (Amendment 39-3883) for Fairchild (Swearingen) Models SA226-TC and SA226-AT airplanes, which requires a repetitive 250-hour inspection and adjustment as required, of the cargo door latches. This proposal would provide for installation of an improved bottom latch as an alternate means of compliance that when installed will relax the inspection interval from 250 hours to 1,200 hours. It is estimated that over 70 percent of the fleet already have installed the improved bottom latch receptacle. The proposal also would

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clarify the serial number effectivity for this AD.

DATES: Comments must be received on or before November 30, 1987.

ADDRESSES: Fairchild Aircraft Corporation Service Bulletins (SB's) 228–52–009 (revised June 12, 1987) and 228–52–008 (revised April 6, 1984) applicable to this AD may be obtained from Fairchild Aircraft Corporation, P.O. Box 790490, San Antonio, Texas 78279–0490, Telephone (512) 824–9421 or the Rules Docket at the address below. Send comments on the proposal in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 80–ASW–16, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FUTHER INFORMATION CONTACT: Mike Mathias, Airplane Certification Branch, ASW–150, Aircraft Certification Division, FAA, Fort Worth, Texas 76193–0150, Telephone (817) 624–5160.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 80–ASW–16, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Since issuance of AD 80–09–06 Amendment 39–3758 (45 FR 29004; May 1, 1980) on March 20, 1980, applicable to Fairchild (Swearingen) SA226–AT and SA226–TC airplanes, no significant latching mechanism hardware or adjustment problems have been uncovered by AD inspection. A statistical analysis of this service experience indicates that the AD repetitive inspection interval can safely be relaxed from 250 hours to 1,200 hours, providing an improved bottom latch for the cargo door has been installed. The FAA has determined that AD 80–09–06 should be amended to include this provision.

The FAA has determined there are approximately 293 airplanes affected by this proposal. The cost of each repetitive inspection is $34. The total estimated inspections performed annually are 1,500 at a total cost of $51,000. Adoption of this proposal will reduce these annual values to 300 total inspections at a total cost of $10,200. Requiring the estimated, remaining 30 percent of the fleet (approximately 90 aircraft) to comply with SB 228–52–008 (improved bottom latch assembly) will have a nonrecurring cost of $36,720 which is offset by the recurring annual inspection savings of $40,800.

Because the cost reduction applies directly to the operational cost of the airplane owners and operators, there is an economic benefit (instead of impact) as a result of this proposal. No economic impact to small entities is foreseen as a result of this amendment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By amending AD 80–09–06, Amendment 39–3758, as follows:

Change the applicability statement to read as follows:

Fairchild Aircraft Corp. (Swearingen): Applies to Models SA226–TC (S/N TC201 thru TC419) and SA226–AT (S/N AT001 thru AT074) certificated in any category. Compliance required before pressurized flight or prior to obtaining 250 unpressurized flight hours after compliance with emergency telegraphic AD T80SW14 dated March 15, 1980, amended.

Change paragraph (h) to read as follows:

(h) Repeat the inspections and adjustments required by paragraphs (a) through (g) of this AD as follows:

(1) Each 1200 flight hours for airplanes which have been modified per Fairchild SB 226–52–008, revised April 6, 1984, or

(2) Each 250 flight hours for airplanes that have not been modified per the above SB.

Change the NOTE to read as follows:

Note.—Fairchild (Swearingen) SB 226–52–009 revised June 12, 1987, refers to this same subject.

Add a new paragraph to read as follows:

(j) An equivalent means of compliance with this AD may be used if approved by the Manager, Airplane Certification Branch, Southwest Regional Office, FAA, Fort Worth, Texas 76193–0150; Telephone (817) 624–5150.

All persons affected by this AD may obtain copies of the document(s) referred to herein upon request to Fairchild Aircraft Corporation, P.O. Box 790490, San Antonio, Texas 78279–0490; or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Delete the sentence which reads:

Alternate methods of complying with this AD must be approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, FAA, Fort Worth, Texas.

This amendment revises AD 80–09–06R1, Amendment 39–3683 (45 FR 56333; August 25, 1980).

Issued in Kansas City, Missouri on October 15, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–24973 Filed 10–28–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 71 and 75

[Airspace Docket No. 87–ASW–44]

Proposed Alteration of a VOR Federal Airway and Jet Routes; New Mexico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of Federal Airway V–68, Jet Routes J–19, J–102, J–142 and establish new Jet Route J–231 located in the vicinity of Albuquerque, NM. The FAA is redesigning the airspace in the Albuquerque area to improve the flow of traffic in the terminal areas of several airports. This would reduce controller workload.

DATES: Comments must be received on or before December 14, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 87–ASW–44, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–ASW–44." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposals

The FAA is considering amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to alter the description of VOR Federal Airway V–68 and Jet Routes J–19, J–102, J–142, and add new Jet Route J–231 located in the vicinity of Albuquerque, NM. The FAA is redesigning the airspace in that area to improve the traffic flow and reduce delays in several terminal areas. This action would significantly reduce controller workload. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal Airways, Jet routes.

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–68 [Amended]

By removing the words "Hobbs, NM, via INT Hobbs 120° and Midland, TX, 312° radials; Midland;" and by substituting the words "Hobbs, NM; Midland, TX;"

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

3. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

4. Section 75.100 is amended as follows:

J–19 [Amended]

By removing the words "Zuni; Las Vegas, NM;" and substituting the words "Zuni; INT Zuni 059°T(045°M) and Las Vegas, NM, 268°T(255°M) radials; Las Vegas;"

J–102 [Revised]

From Zuni, NM; Gallup, NM, Alamosa, CO; Lamar, CO; to Salina, KS.

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J-142 [Amended]

By removing the words "to Socorro." and by substituting the words "Socorro; Anton Chico, NM; to Borger, TX."

J-231 [New]

From St. Johns, AZ; Anton Chico, NM; to Liberal, KS.

Issued in Washington, DC, on October 21, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-24977 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 87-AWA-33]

Proposed Alteration of Jet Routes; Minnesota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of Jet Routes J-25/HL-482 and J-107/HL-484 located in the vicinity of Gopher, MN. The FAA has proposed to extend these jet routes into Canadian territory. The extension of J-25/HL-482 and J-107/HL-484 has been coordinated and approved by Transport Canada. This action would improve traffic flows in the Minneapolis, MN, area, and reduce controller workload.

DATES: Comments must be received on or before December 14, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 87-AWA-33, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AWA-33." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to extend Jet Route J-25/HL-482 from Gopher, MN, to Winnipeg, Canada, and extend J-107/HL-484 from Pembina, ND, to Sioux Narrows, Canada. This action would aid flight planning, improve traffic flow and reduce controller workload. In addition, Transport Canada supports this action because of its positive impact on the Winnipeg Area Control Center Flow Management Program for the Winnipeg terminal area. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-25 [Amended]

By removing the words "to Gopher, MN." and substituting the words "Gopher, MN; Brainerd, MN; to Winnipeg MB, Canada. The airspace within Canada is excluded."

J-107 [Amended]

By removing the words "to Kenora, ON, Canada." and substituting the words "to Sioux Narrows, ON, Canada."

Issued in Washington, DC, on October 21, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-24976 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL-3281-1]

Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the attainment status designation for part of Clark County in Ohio relative to the total suspended particulate (TSP) National Ambient Air Quality Standard (NAAQS). The present TSP air quality status for part of Clark County is nonattainment of the secondary NAAQS. In this notice, USEPA is proposing to redesignate the present secondary nonattainment area to attainment, thus, making the entire county full attainment.

The purpose of this notice is to discuss the results of USEPA's review of the State's request and supporting data and to solicit comments on these data and USEPA's proposed action.

DATE: Comments must be received by November 30, 1987.

ADDRESSES: Copies of the redesignation request and supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 1800 WaterMark Drive, P.O. Box 1049, Columbus, Ohio 43266-0149.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, U.S. Environmental Protection Agency, Region V, Regulatory Analysis Section, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added section 107(d) to the Clean Air Act (the Act). This section directed each State to submit, to the Administrator of USEPA, a list of the attainment status for all areas within the State. The Administrator was required to promulgate the State lists, with any necessary modifications. The Administrator published these lists in the **Federal Register** on March 3, 1978 (43 FR 8962), and made necessary amendments in the **Federal Register** on October 5, 1978 (43 FR 45993). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation.

The primary TSP NAAQS is violated when, in a year, either: (1) The geometric mean value of TSP concentrations exceeds 75 micrograms per cubic meter of air (75 $\mu g/m^3$) (the annual primary standard); or (2) the 24-hour concentration of TSP exceeds 260 $\mu g/m^3$ more than once (the 24-hour standard). The secondary TSP NAAQS is violated when, in a year, the 24-hour concentration exceeds 150 $\mu g/m^3$ more than once.

USEPA revised the particulate matter standard on July 1, 1987, (52 FR 24634) and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with nominal diameter of 10 micrometers or less (PM_{10}). However, EPA will continue to process redesignations of areas from nonattainment to attainment or unclassifiable for TSP in keeping with past policy because various regulatory provisions such as new source review and prevention of significant deterioration are keyed to the attainment status of areas. The July 1, 1987, notice (p. 24682, column 1) describes USEPA's transition policy regarding TSP redesignations.

USEPA's criteria for supportable redesignation requests, as they pertain to TSP, are discussed most recently in the following memorandum:

- September 30, 1985, from Gerald Emison, Director, Office of Air Quality Planning and Standards (OAQPS), to the Regional Air Division Directors entitled "Total Suspended Particulate (TSP) Redesignations."

USEPA's policy relevant to TSP redesignations is summarized as follows:

- Eight consecutive quarters of the most recent, quality assured ambient air quality data must indicate no violation of the TSP NAAQS. The monitors must be placed at points of expected maximum TSP impact, and the monitoring network must be extensive enough to produce fully representative data. If monitoring data are not representative, dispersion modeling must be used to determine the impact of a source.
- Improvements in air quality must be attributable to federally enforceable or permanent emission reductions. An exception to the requirement for a fully approved and implemented SIP control strategy can be made if the physical circumstances and long-term economic factors are such that the approved and implemented measures have the same weight as a fully approved SIP control strategy for the purpose of demonstrating attainment. For example, the permanent closing of the major emitting sources, road paving to eliminate fugitive emissions, or other irreversible actions can be such measures.
- Emission reductions and the resultant impact on air quality cannot be temporary or the result of economic downturn. It must be highly unlikely that emission rates will increase at units operating below their allowable emission rates or that any increase will result in a violation of the NAAQS.
- Dispersion techniques cannot be responsible for the improvement in air quality. Sources in the nonattainment area must be reviewed for consistency with the requirements of USEPA's July 8, 1985 (50 FR 27892), revised stack height regulations.

On July 8, 1985, USEPA promulgated a newly revised stack height regulation under section 123 of the Clean Air Act. This regulation is intended to ensure that air pollution emission limitations required under applicable SIPs are not affected hy dispersion techniques. The Stack Height Regulations can affect a redesignation because improvements in air quality which are due tn "non-creditable" dispersion cannot form the basis for a redesignation. According to the regulation, dispersion technique means any method which attempts to affect the concentration of a pollutant in the ambient air by—

(1) Using that portion of a stack which exceeds good engineering practice (GEP) stack height:

(2) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(3) Increasing final exhaust gas plume rise by manipulating source process parameters and other methods. Included is the merging of exhaust gas streams.

On October 5, 1978 (43 FR 46011) Clark County was designated as follows:

Secondary Nonattainment—The area south and east of the line determined by: Route 41 east from the Clark-Miami County Line east to Route 235,

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north to the Clark-Champaign County Line; and bounded by the north-south line determined by: State Route 72 south to Interstate 70, Interstate 70 west to Old Mill Road, south to Fairfield Pike, north-east to Cross Road, east to Route 68, south to Jackson Road, east to Mosier Road, south to Clark-Greene County Line.

Attainment—Remainder of County

On January 5, 1987, the State of Ohio requested that USEPA redesignate Clark County to attainment for the entire county.

To support its request that the secondary nonattainment area be redesignated to attainment, the State submitted: (1) Data collected at the three monitoring sites in the county for the period October 1984–September 1986, (2) a list of emission reductions due to facility shutdowns, (3) filter analyses (optical microscopy), and (4) a discussion of stack height dispersion techniques which cannot be credited for evaluating this redesignation. USEPA supplemented these data with, among other things, monitoring data from Storage and Retrieval of Aerometric Data (SAROAD) from 1976 to 1986.

USEPA's Evaluation of Technical Support Data

The basis of the present secondary nonattainment classification for a portion of Clark County was violations at two (New Carlisle Site 364760001G01 and Springfield Site 366380001G01) of the three monitoring sites in the county (remaining site—Urbana Road 361260001G01). For the most recent eight consecutive quarters of air quality monitoring data, no violations of the primary or secondary TSP NAAQS were recorded at these three monitoring sites. The State attributed improvement in TSP levels near the New Carlisle monitoring site to the permanent paving of a gravel alley near the monitor. No major industrial facilities are located in New Carlisle and analyses of the TSP on the filters (prior to paving) indicated fugitive dust from the alley. In the Springfield area the State attributed improvement to the permanent shutdowns of the Ohio Edison Rockaway Plant in 1981, the Ohio Edison Mad River Plant in 1982, the Wickham Piano Plate Company in 1984, and the J&J Foundry in 1982. For all of these permanent shutdowns, except for the paved alley, Ohio must submit evidence showing that these shutdowns are permanent and federally enforceable during the public comment on today's rulemaking notice. This evidence must be in the form of documentation showing that if these sources were to start up, why they must be treated as new sources under Ohio's new source review permitting requirements.

The monitoring network was considered adequate for this redesignation request because: (1) No major TSP emitting sources operate in the county, and (2) the Springfield monitor represents general TSP levels in the only urban area (that being the City of Springfield). No facility in Clark County has allowable emissions greater than 100 tons per year (TPY) and less than 50 TPY are actually emitted from all the traditional (point) sources in the area being redesignated. USEPA considers it highly unlikely that any increase in emissions at units currently operating below their allowable emission rates, will result in a violation of the NAAQS. The impact of the stack height regulations was assessed, and USEPA has determined that the improvements in air quality were not inconsistent with the stack height regulations.

Based on monitoring data, permanent source shutdowns and an adequate monitoring network, USEPA believes an adequate explanation for air quality improvements in the county have been provided to support the State's redesignation request.

Proposed Action

Attainment—Entire County

If the State provides during the public comment period evidence that all the source shutdowns are permanent and irreversible, then USEPA propose to approve the redesignation. If Ohio does not supply such evidence, USEPA will disapprove Ohio's request to redesignate part of Clark County from secondary nonattainment to attainment.

Note, the source shutdowns (both total and partial facility) identified in this notice were relied on by the State to explain the improvement in these areas and, thus, are an integral part of the State's redesignation request. Since these shutdowns are a necessary condition for the redesignations, these emission reduction credits are hereby used and cannot be applied again. As a result, if these particular sources wish to resume operation, then they must first satisfy the applicable new source review requirements.

All interested parties are invited to submit comments on this proposed action notice. USEPA will consider all comments received within 30 days of publication of this notice.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Authority: 42 U.S.C. 7401–7642.

Dated: June 29, 1987.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87–24569 Filed 10–28–87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 86

[FRL–3283–8]

Amendments to Regulations Governing Test Procedures for Light-Duty Vehicles and Light-Duty Trucks and Selective Enforcement Auditing of New Light-Duty Vehicles, Light-Duty Trucks and Heavy-Duty Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period for Notice of Proposed Rulemaking (NPRM).

SUMMARY: The November 2, 1987 date for submission of all written comments concerning the NPRM published on September 3, 1987 (52 FR 33560), and entitled "Amendments to Regulations Governing Test Procedures for Light-Duty Vehicles (LDVs) and Light-Duty Trucks (LDTs) and Selective Enforcement Auditing (SEA) of New LDVs, LDTs and Heavy-Duty Engines (HDEs)," has been extended to December 2, 1987. EPA has extended the comment period an additional month as a result of requests by the Motor Vehicle Manufacturers Association and several manufacturers to allow for more time to fully evaluate the NPRM.

EPA is proposing several technical and procedural amendments to the regulations at 40 CFR Part 86, Subparts B, G and K. These regulations govern the Federal Test Procedure (FTP) for new gasoline-fueled and diesel-fueled LDVs and LDTs, and the SEA of new LDVs, LDTs and HDEs. The main purpose of these amendments is to delete from the SEA requirements of Subpart K the mandatory reporting of manufacturers' LDT and HDE internal quality assurance emission test data. It is expected that the data will still be submitted voluntarily to EPA. Another purpose is to ensure a common basis for diesel hydrocarbon measurements during the FTP for LDVs and LDTs as specified in Subpart B. In addition, these amendments are intended to clarify

specific aspects of the existing regulations and to improve the efficiency of the LDV, LDT and HDE SEA program.

DATES: All written comments should be submitted on or before December 2, 1987, to the address indicated below. EPA proposes to make these amendments effective 30 days after the date of promulgation of the final rule in the **Federal Register.**

ADDRESSES: Send written comments to: Public Docket EN–86–17, Central Docket Section, Environmental Protection Agency, Room 4, South Conference Center (LE–131), Waterside Mall, 401 M Street SW., Washington, DC 20460. If possible, a copy of the written comments also should be submitted to the EPA contact listed below.

Copies of materials relevant to this rulemaking proceeding are contained in Public Docket EN–86–17 at the Central Docket Section of the U.S. Environmental Protection Agency, Room 4, South Conference Center (LE–131), Waterside Mall, 401 M Street SW., Washington, DC 20460, and are available for public inspection between 8:00 a.m. to 3:00 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Sinkez or Mr. Sean Conley, Manufacturers Operations Division (EN–340–F), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Phone: (202) 382–4104.

Date: October 22, 1987.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 87–25037 Filed 10–28–87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 146

[FRL–3283–6]

Underground Injection Control Program; Dual-Completion Monitoring Mechanical Integrity Test for Dual-Completion Wells; Interim Approval

AGENCY: Environmental Protection Agency.

ACTION: Interim Approval and request for comments.

SUMMARY: The Director of the Office of Drinking Water of the U.S. Environmental Protection Agency (EPA) intends to grant Interim approval ending two years from October 29, 1987, for use of fluid level monitoring in conjunction with oil/water cut monitoring as an alternative to the tests specified in § 146.8(b) to test the mechnical integrity of a well's tubular goods. The Agency intends this approval to apply only to dual-completion Class II injection wells in Montana, Wyoming, Kansas, Nebraska, Michigan, and the Osage Mineral Reserve, Osage County, Oklahoma. This test in referred to as the dual-completion monitoring test. A dual-completion well is used to simultaneously produce oil and dispose of brines.

At this time, EPA believes this alternative test to be appropriate for dual-completion wells. To better define its use, EPA requests comments and further data on the viability of this alternative. During the two-year interim approval, the Agency intends to study the test to determine whether it provides comparable results to the test currently specified in § 146.8l Based on this analysis, the Agency will then issue a final determination on its use.

DATES: The interim approval period for this alternate mechanical integrity test becomes effective November 31, 1987. Written comments and referenced data may be submitted, and will be considered by EPA in making its decision on whether to grant final approval. EPA requests that such written comments and any referenced data be submitted by April 29, 1989.

ADDRESSES: Comments should be addressed to Eric J. Callisto, Office of Drinking Water (WH–550A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. A copy of the comments and technical data relevant to this test will be available for review during normal business hours at the EPA, Room 1013 East Tower, 401 M Street, S.W., Washington, D.C.; EPA Region VIII, 999 18th Street, Room 4P–111, Denver, Colorado; EPA Region VII, 726 Minnesota Avenue, Room 201, Kansas City, Kansas; and EPA Region VI, 1445 Ross Avenue, Dallas Texas.

FOR FURTHER INFORMATION CONTACT: Bruce J. Kobelski, Office of Drinking Water (WH–550A), U.S. EPA, Washington, D.C. 20460, at: (202) 382–7275 or Paul S. Osborne, Drinking Water Branch, U.S. EPA Region VIII, 999 18th Street, Suite 500 (8WM–DW) Denver, Colorado 80202 at: (303) 293–1418.

SUPPLEMENTARY INFORMATION:

I. Background

The Safe Drinking Water Act (SDWA) (42 U.S.C. 300h, *et seq.*) protects underground sources of drinking water (USDW) from contamination by underground injection. One of the cornerstones of the underground Injection Control (UIC) program is the mechnical integrity of the wells. Mechanical integrity is defined as the absence of significant leaks in the casing, tubing or packer, and the absence of significant fluid movement into an undergound source of drinking water through vertical channels adjacent to the injection well bore as measured by particular tests. Acceptable methods of evaluating mechnical integrity are specified in § 146.8 for State programs, administered by EPA (direct implementation), and in the program applications of the States with primary enforcement responsibility for Class II Wells. Section 146.8(d) states that the Regional Administrator may allow alternative mechnical integrity tests indirect implementation programs if the Administrator approves the alternative. Typically, Class II primacy States agreed to obtain EPA approval of any alternative mechnical integrity test they wished to use as a condition of primacy.

The Environmental Protection Agency intends to grant interim approval for period of two years from November 30, 1987, for the use of an alternative mechnical integrity test know as the dual-completion monitoring test. Several oil and gas operators in various states requested that EPA approve this test as a alternate mechnical integrity test. This test may be applied to dual-completion Class II wells used for both production and injection in Montana, Wyoming, Kansas, Nebraska, Michigan, and the Osage Mineral Reserve, Osage County, Oklahoma. The information gathered during the two-year interim period will be used to verify the effectiveness of the alternative. Dual-completion wells require regular workovers and a pressure test of the casing is usually performed at that time. Under the procedured approved in this notice, a pressure test must be performed after each workover. Any necessary changes in the test precedures will be indentified during the interim period.

II. Description of the Test

Some operators in Montana, Wyoming, Kansas, Nebraska, Michigan, and the Osage Mineral Reserve, Osage County, Oklahoma, use Class II wells in which water is injected through an injection tubing into perforations below a packer while oil is produced into the annual space above the packer. This type of construction does not lend itself to the normal methods for proving mechanical integrity or to annulus pressure monitoring under the provisions of 40 CFR 146.8(b). Surface pressure cannot be applied to the annular space because fluids would be

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forced out into the producing reservoir via the open perforations. Consequently, EPA reviewed dual-completion operations in several States and found that operators check the level of the fluid in the well annulus regularly to determine if any water is leaking into the well bore from a leaky packer, injection tubing or casing. This monitoring is also used to ensure that fluid levels are below any overlying USDW's. A leak from the tubing, casing or packer would cause an increase in the annulus fluid level. In addition, the Agency noted that operators will also monitor the volume of oil and water produced from the producing zone to detect any change in oil production rates. Production records normally provide sufficient data by measuring the fluid level in the annulus and indicating the proportion of oil and water produced. Based on these field practices, EPA has established a monitoring test that indicates whether the well has mechnical integrity and whether it is protective of underground sources of drinking water.

The test utilizes monthly monitoring of the oil/water cut ratio and producing fluid levels. The fluid levels in the annulus are taken: (1) Prior to shut-in of injection; (2) one hour after shut-in of injection; and (3) 15 minutes after injection is restarted. The production from these wells is not shut-in during the measurements. The fluid level measurements with and without injection allow a determination concerning leaks by clearly establishing a pressure differential between the production zone and the injection zone. The test works because a leak in either the tubing, casing, or packer will cause the annulus fluid level to rise, and ratio of oil and water produced to change. Thus, observation of these parameters will fall into one of three categories:

(1) If there is no significant change in the produced oil/water ratio, and no significant change in the annulus fluid level, mechanical integrity of the well is indicated;

(2) If a significant change in the produced oil/water ratio occurs with no significant change in the annulus fluid level, or a significant change in the annulus fluid level occurs with no significant change in the produced oil/water ratio, the test result is inconclusive and another approved mechanical integrity test is necessary unless the changes can be traced to downhole pump problems; and

(3) If fluid levels in the annulus change 100 feet or more between the static condition (injection shut-in) and the dynamic condition (injection occurring), then a failure of mechanical integrity is indicated and the operator must immediately notify the Director and initiate corrective action.

During the two-year interim approval period, a protocol will be developed to compare the results of this test with approved mechanical integrity tests. The Agency intends this protocol to verify the testing procedure, to determine if the criteria for failure should be changed, and to compare the relationship between fluid level and oil/water ratio changes to the magnitude of leaks found in approved mechanical integrity tests. The end result of this will be either to approve the test with specific parameters for changes in these relationships, revise it, or discontinue its use.

III. Basis for Determination

All technical documentation supporting the dual-completion monitoring test will be available for public review at EPA Offices previously mentioned. EPA developed the monitoring test for demonstrating mechanical integrity of dual-completion injection wells after considering the following construction and operational practices and geologic constraints of the geographic areas in question:

(1) The dual-completion wells affected by this notice produce oil and gas through either the annular space or a second tubing string and inject brines through tubing which is completed into a formation underlying the oil and gas producing zone. The production string is separated from the injection string by a packer. Above this packer, the outer casing is perforated to allow oil and gas production; below the packer, there is a second perforation in the outermost casing and a second packer is set below it. Brine is injected into the formation opposite the second perforation;

(2) These dual-completion wells cannot be tested by pressuring up the casing/tubing annulus because of the presence of open perforations above the packer. Pressure testing of the casing above the perforations cannot be done without removal of the entire injection and production tubing, packer, and pump assembly. Such a pressure test will provide mechanical integrity data only on the portion of the casing above the top perforations. Also, a pressure test of the casing does not address the integrity of the packer when reinstalled;

(3) The fields commonly have more than one producing horizon;

(4) The injection zone is either below all USDWs or into zones which have been exempted pursuant to § 146.04;

(5) Oil is produced on a regular basis. Many wells are equipped with an electronic sensor which turns the pump on when the annulus fluid levels reach a preset point and turns off when the level falls to a given position; and

(6) A leak in the injection tubing or packer normally will cause the produced fluids to show a dramatic increase in water production. In some cases, the increase in water can be such that the oil zone will stop flowing into the well.

IV. Special Conditions

A. Procedures for Conducting the Dual-Completion Monitoring Mechanical Integrity Test

The procedure for the Dual-Completion Monitoring Test consists of the following:

(1) Measure the dynamic fluid level (injection and production are occurring) of the casing/tubing annulus at least monthly, or more frequently as specified by the Director, to ensure that the fluid level in the production zone is at least 100 feet below the base of the USDW overlying the uppermost packer;

(2) Shut-in injection for one hour and bleed off excess surface pressure;

(3) Measure annulus fluid level;

(4) Restart injection and measure the fluid level after 15 minutes;

(5) Accurately take a representative sample to determine the proportion of oil and water in the produced fluid at least monthly or more frequently if specified by the Director;

(6) Notify the Director of any change in the production annulus fluid level between the static and dynamic measurements of more than 100 feet and begin to correct the problem; and

(7) Notify the Director of any significant changes in either the oil/water cut or the dynamic fluid level and then run an approved alternate mechanical integrity test unless it can be determined that the changes are a result of downhole pump problems.

B. Limitations and Conditions of the Test

During the interim approval period, EPA is requesting affected State UIC Directors to make certain determinations and supply necessary information for effective evaluation of this test. The following limitations and conditions would be placed on the approval and use of the dual-completion monitoring test:

(1) The operator shall initiate corrective action and run a pressure test and/or radioactive tracer survey, as specified by the Director, on dual-completion wells if:

(a) The fluid level in the production zone remains less than 100 feet from the base of the USDW or as specified by the Director;

(b) The change in annulus fluid level between static (injection shut-in while production is occurring) and dynamic (injection and production occurring) condition is more than 100 feet during the indicated test period;

(c) The oil/water cut ratio varies such that it deviates from the normal trend of oil and water production curves in the field, or the Director determines that the history of the oil/water cut ratio warrants further tests of the well; or

(d) During the interim period, the Director determines that the results of the test remain inconclusive.

(2) All new injection wells (newly drilled or converted) must have a casing pressure test prior to commencing injection before the perforation of the injection and production zones;

(3) All wells undergoing workovers to stimulate production or correct mechanical problems must have a pressure test run on the casing after completion of the workover;

(4) Surface casing and production casing must have cement protecting USDWs;

(5) This alternative is approved only for Class II injection wells where the production fluids in the annulus are above the injection zone, and only while the well is in production, and only in the States of Montana, Wyoming, Kansas, Nebraska, Michigan, and the Osage Mineral Reserve, Osage County, Oklahoma; and

(6) The Director will submit a report to the Office of Drinking Water or to the Region detailing the results obtained during the interim period for the dual-completion monitoring test. This report will be due 21 months from the interim approval date and will cover the initial 18 months of the interim approval period and must include at least the following data on a statistically valid sample of the dual-completion wells included in this alternative:

(a) Fluid level data;

(b) Oil and water-cut ratio and variations in the ratio;

(c) Well construction data;

(d) Information on the local USDWs (depth, TDS, etc.);

(e) Details on the nature of failures;

(f) Monitoring data on injection pressures and volumes;

(g) Results of tests run during workovers;

(h) Details on the timing and methods used to collect data on fluid levels, oil/water cut, injection pressures, etc.;

(i) Results of dual-completion monitoring tests; and

(j) Recommendations for establishing criteria for failure.

C. Determination

The dual-completion monitoring test, subject to the conditions and procedures discussed in this notice, provides the necessary information that indicate if a well does not have any significant leaks in its tubular goods. This test causes minimal loss of oil production and is consistent with standard production and injection practices for these areas.

EPA is approving this test for those States in which dual-completion wells are located. After the two-year interim approval period, EPA will make a final determination on whether this test is an effective alternative mechanical integrity test for Class II dual-completion wells in Montana, Wyoming, Kansas, Nebraska, Michigan, and the Osage Mineral Reserve, Osage County, Oklahoma.

Date: October 19, 1987.

Michael B. Cook,

Director, Office of Drinking Water.

[FR Doc. 87-25038 Filed 10-28-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-42070A; FRL-3284-5]

Benzyl Butyl Phthalate; Withdrawal of Proposed Environmental Fate and Effects Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Withdrawal.

SUMMARY: EPA is withdrawing its proposal to require certain environmental fate and effects testing for benzyl butyl phthalate (BBP; CAS No. 85-68-7). EPA proposed acute and chronic toxicity tests in freshwater and saltwater organisms, an oyster bioconcentration test, and a test to determine the fate of BBP in undisturbed sediment. Because these tests have been satisfactorily completed by industry, they do not need to be obtained through a test rule.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC 20460, (202) 554-1404.

SUPPLEMENTARY INFORMATION: EPA is withdrawing its proposed rule requiring environmental fate and effects testing of benzyl butyl phthalate.

I. Background

The Interagency Testing Committee (ITC), in its Seventh Report, designated benzyl butyl phthalate for priority consideration of environmental and health effects testing under section 4 of the Toxic Substances Control Act (TSCA). In response to that designation, EPA and the Chemical Manufacturers Association (CMA) developed a negotiated testing program for BBP for certain environmental fate and effects testing. Health effects testing of BBP, as noted in the Agency's previous response to the ITC and published in the **Federal Register** of October 30, 1981 (46 FR 53775), is being addressed adequately by testing conducted by the National Toxicology Program. In August 1984, a suit brought against EPA resulted in the ruling that such negotiated testing programs were not a legal substitute for a test rule under section 4. As a result, EPA issued a proposed rule to obtain all environmental fate and effects testing necessary for the full characterization of BBP.

Based upon its review of the available data, including those developed under the negotiated testing program, EPA concluded that additional environmental fate and effects testing of BBP was warranted under section 4(a)(1)(A). In the **Federal Register** of September 6, 1985 (50 FR 36446), EPA issued a proposed rule to obtain additional environmental fate and effects testing of BBP. (For a summary of environmental effects tests performed prior to this withdrawal notice, see the preamble to the proposed rule.)

In the proposed rule, EPA found that environmental fate and effects testing was warranted under section 4 of TSCA. This testing was intended to enable the Agency to make a determination whether BBP presents an unreasonable risk of injury to the environment and to establish water quality criteria for protecting aquatic life under section 304(a)(1) of the Clean Water Act. The proposed tests were acute and chronic toxicity tests with marine and freshwater organisms, an oyster bioconcentration test, and a test to determine the fate of BBP in undisturbed sediment. All of this proposed testing has been completed and submitted to EPA by Monsanto Company. The following table summarizes the results of these studies.

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Summary of Environmental Fate and Effects Data for BBP

Organism	Endpoint	Effect level (mg/L)	Ref. No.
Rainbow trout (*Salmo gairdneri*)	Early life stage MATC	0.095–0.20	1
Hydra (*Hydra littoralis*)	96-hr EC50	1.1	2
Mayfly (*Hexagenia sp.*)	96-hr LC50	1.1	3
Crayfish (*Procambarus sp.*)	96-hr LC50	[1] >2.4	4
Polychaete (*Nereis/Neanthes virens*)	96-hr LC50	[1] >3.0	5
Grass shrimp (*Paleomonetes vulgaris*)	96-hr LC50	[1] >2.7	6
Pink shrimp (*Panaeus duorarum*)	96-hr LC50	[1] >3.4	4 7
Mysid shrimp (*Mysidopsis bahia*)	96-hr LC50	[2] >0.74	8
Mysid shrimp (*Mysidopsis bahia*)	Chronic MATC	0.075–0.17	9
Oyster (*Crassostrea virginica*)	96-hr EC50	1.3	10
Oyster (*Crassostrea virginica*)	Bioconcentration factor	135	11
Fate in water/(sediment)	Degradation half life	>1.0 <2.0d/(<10 d)	12, 13

[1] No mortalities at this limit of solubility.
[2] 35 percent mortality at this test concentration.

EPA has evaluated the completed studies and has also audited selected studies for adherence to TSCA Good Laboratory Practice Standards in 40 CFR Part 792. EPA considers these studies sufficient to meet the Agency's environmental fate and effects testing needs for BBP at this time. Therefore, the Agency is issuing this notice to withdraw the rule for BBP proposed in the **Federal Register** of September 6, 1985 (50 FR 35446) because sufficient data are now available to characterize the environmental effects of BBP.

II. Rulemaking Record

A public record, containing the basic information considered by the Agency in developing its decisions on BBP, is available for inspection in the OPTS Reading Room NE–G004, 401 M St., SW., Washington, DC, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays (docket number OPTS–42070A). Confidential Business Information (CBI), while part of the rulemaking record, is not available for public review.

The rulemaking record includes the following information

A. Supporting Documentation

(1) The **Federal Register** notice containing the ITC designation of BBP to the Priority List (45 FR 78432; November 25, 1980).

(2) The **Federal Register** notice proposing that EPA require certain environmental fate and effects for BBP (50 FR 36446; September 6, 1985).

(3) Communications consisting of letters, contact reports of telephone conversations, and meeting summaries.

B. References

(1) Analytical Bio-Chemistry Laboratories, Inc. "Early life stage toxicity of ^{14}C-butylbenzyl phthalate to rainbow trout (*Salmo gairdneri*) in a flow-through system." Report No. 33906 submitted to Monsanto Co., St. Louis, MO. (September 25, 1986).

(2) Analytical Bio-Chemistry Laboratories, Inc. "96-hour flow-through toxicity study of butylbenzyl phthalate to *Hydra littoralis*." Report No. 34168 submitted to Monsanto Co., St. Louis, MO. (April 29, 1986).

(3) Analytical Bio-Chemistry Laboratories, Inc. "96-hour flow-through toxicity study of butylbenzyl phthalate to the mayfly, *Hexagenia sp.*" Report No. 34167 submitted to Monsanto Co., St. Louis, MO. (September 24, 1986).

(4) Analytical Bio-Chemistry Laboratories, Inc. "96-hour flow-through toxicity study of butylbenzyl phthalate to the freshwater crayfish, *Procambarus sp.*" Report No. 34166 submitted to Monsanto Co., St. Louis, MO. (July 14, 1986).

(5) Springborn Bionomics, Inc. "Acute toxicity of butylbenzyl phthalate to polychaetes (*Nereis/Neanthes virens*) under flow-through conditions." Report No. BW–86–7–2094 submitted to Monsanto Co., St. Louis, MO. (July, 1986).

(6) Springborn Bionomics, Inc. "Acute toxicity of butylbenzyl phthalate to grass shrimp (*Paleomonetes vulgaris*) under flow-through conditions." Report No. BW–86–7–2087 submitted to Monsanto Co., St. Louis, MO. (July, 1986).

(7) Springborn Bionomics, Inc. "Acute toxicity of butylbenzyl phthalate to pink shrimp (*Penaeus duorarum*) under flow-through conditions." Report No. BW–86–7–2093 submitted to Monsanto Co., St. Louis, MO. (July, 1986).

(8) Monsanto Co. Letter from William J. Adams to John Schaeffer. (October 8, 1987).

(9) Springborn Bionomics, Inc. "Chronic toxicity of butylbenzyl phthalate to mysid shrimp (*Mysidopsis bahia*)." Report No. BW–86–7–2074 submitted to Monsanto Co., St. Louis, MO. (July, 1986).

(10) Springborn Bionomics, Inc. "Acute toxicity of ^{14}C-butylbenzyl phthalate to eastern oysters (*Crassostrea virginica*)." Report No. BW–86–7–2063 submitted to Monsanto Co., St. Louis, MO. (August, 1986).

(11) Springborn Bionomics, Inc. "Uptake and elimination of ^{14}C-residue by eastern oysters (*Crassostrea virginica*) exposed to butylbenzyl phthalate (BBP)." Report No. BW–86–2114 submitted to Monsanto Co., St. Louis, MO. (August, 1986).

(12) Adams, W.J., W.J. Renaudette, J.D. Doi, M.G. Strepo and M.W. Tucker. "Experimental freshwater microcosm biodegradability study of butyl benzyl phthalate." Report No. MSL–6045, ESC–EAC–86–01. (September 17, 1986).

(13) Monsanto Co. Letter from William J. Adams to John Schaeffer. (April 28, 1987).

Therefore, 40 CFR 799.850 *Benzyl butyl phthalate*, proposed at page 36446 in the **Federal Register** of September 6, 1985 (50 FR 36446), is hereby withdrawn.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: October 22, 1987.

Victor J. Kimm,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 87–25034 Filed 10–28–87; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 5

Criteria for Designation of Health Manpower Shortage Areas

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to the existing regulations governing the criteria for Designation of Health Manpower Shortage Areas required by section 332 of the Public Health Service Act (the Act). This amendment would revise the definition for the term "internees" used in the criteria for designating those Federal and State institutions which have a shortage of primary medical care, dental care, or psychiatric manpower.

DATE: Comments must be received no later than December 28, 1987.

ADDRESS: Written comments may be addressed to Mr. Thomas D. Hatch, Director, Bureau of Health Professions, Health Resources and Services Administration, Room 8–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Richard C. Lee, Chief, Distribution and Shortage Analysis Branch, Office of Data Analysis and Management, Bureau of Health Professions, Parklawn Building, Room 8–57, 5600 Fishers Lane, Rockville, Maryland 20857; telephone 301 443–6932.

SUPPLEMENTARY INFORMATION: Section 332 of the Public Health Service Act, as amended by Pub. L. 94–484, the Health Professions Educational Assistance Act of 1976, required the Secretary to establish, by regulation, criteria for the designation of health manpower shortage areas (HMSAs). The final regulations setting forth these criteria are codified at 42 CFR Part 5.

The HMSA criteria for designating facilities include criteria for designating medium to maximum security Federal and State correctional institutions and youth detention facilities that have a shortage of primary medical care, dental, and/or psychiatric manpower. These criteria use population-to-practitioner ratios as a major variable in determining whether a health manpower shortage exists, and specifically use the number of internees per year as the controlling population figure in computing the ratios for these institutions.

In the relevant sections of the HMSA facility criteria, internees were defined as the number of inmates present at the beginning of the year plus the number of new inmates entering the facility during the year. The inclusion in this formula of the number of new entrants was to account for the "intake effect", which involves several assumptions—that intake health examinations are required at the typical correctional facility, that these examinations are likely to result in significant follow-up treatment, and that intake examinations and follow-up care would result in health care personnel requirements over and above those for maintenance care of inmates already there. This approach works well for facilities with a long length-of-stay and a small number of new inmates entering each year. However, for those correctional facilities with a high turnover, i.e. a small number of inmates but a large number of new inmates per year and a short length of stay, this approach appears to yield a requirement for a larger number of health practitioners than are really needed, particularly in the case of primary care.

Furthermore, studies indicate that many correctional facilities use health professionals who are *not* primary care physicians, dentists or psychiatrists to perform a large number or large portion of the intake examinations. Thus, the computed requirement for physicians and dentists is further distorted to the extent that portions of the intake examinations are actually being performed by health professionals other than physicians and dentists.

Correctional facilities that meet or exceed the established minimum population-to-practitioner ratios may receive HMSA designation; these same facilities are "dedesignated" once the ratio falls below the minimum. The "dedesignation threshold" is defined as the number of physicians or dentists needed to remove the facility from designation, and is computed as the internee population divided by the designation threshold criterion minus the number of non-Federal physicians or dentists at the institution. Because of the way internees have been counted, those facilities with a very high number of new inmates per year in proportion to the average number of inmates have excessively high "dedesignation thresholds".

In order to provide a more realistic and accurate way of calculating the effective population for purposes of correctional facility HMSA designation and the number of practitioners needed to serve designated facilities, the Department proposes to adopt the following revised method for defining "internees" in the correctional facility HMSA criteria (Parts IIIA of Appendices A, B, and C of 42 CFR Part 5):

1. If the number of new inmates per year and the average length-of-stay are not specified, or if the information provided does not indicate that intake examinations are routinely performed upon entry, then—

Number of internees = k × [a × (average number of inmates)]

Here 'a' represents the average number of visits per inmate per year; the factor 'k' is a normalization factor relating the number of visits that can be provided by a single practitioner to the internee-to-practitioner ratio previously established in the correctional facility criteria.

2. If the average length-of-stay is specified as one year or more, and intake examinations are routinely performed upon entry, then—

Number of internees = k × [a × (average number of inmates) + (b + c) × (number of new inmates per year)]

Here 'b' represents the fraction of new inmates that receive intake exams times the number of inmate visits that one intake exam would be equivalent to; 'c' represents the number of follow-up visits per new inmate per year generated by the intake exams.

3. If the average length-of-stay is specified as less than one year, and intake examinations are routinely performed upon entry, then—

Number of internees = k × [(a × ALOS) × (average number of inmates) + (b + c × ALOS) × (number of new inmates per year)]

Here ALOS = average length-of-stay (in fraction of year), and is included as a factor because the rest of the formula is constructed based on an inmate's needs over one complete year.

For primary care physicians, the factors a = 5, b = 1, c = ⅓ and k = ⅕ have been chosen. These assume that the average inmate sees the physician approximately five times per year for consultation on physical illness (although the inmate may visit the dispensary more often than that, the assumption is that only five of these visits require consultation with the physician); that each new inmate receives an intake medical exam, and that the physician's portion of the intake exam entails approximately the same amount of time as a typical inmate visit; that one follow-up visit occurs for every two new inmates; and that a physician can handle 100 inmate visits or intake exams per week.

For dentists, the factors a = 1, b = 1, c = 2, and k = ½ have been chosen. These assume that the average inmate would visit the dentist once a year; that each new inmate receives an intake dental exam, and that the intake dental exam entails approximately the same amount of dentist time as a typical dental visit; that two follow-up visits occur for each new inmate; and that a dentist can handle 30 inmate visits or intake exams per week.

For psychiatrists, the factors a = 1, b = 1, c = 2, and k = 2 have been chosen. These assume that the average inmate would visit the psychiatrist once per year; that each new inmate receives an intake psychiatric exam, and that the intake psychiatric exam entails

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approximately the same amount of time as a typical psychiatric visit; that 20 percent of the new inmates require followup visits amounting to 10 visits over their first year; and that a psychiatrist can handle 20 inmate visits or intake exams per week.

Regulatory Flexibility Act and Executive Order 12291

The Secretary certifies that this amendment to the regulations does not have a significant economic impact on a substantial number of small entities because it primarily affects the way Federal and State correctional institution populations are counted in order to more accurately calculate the need for health care practitioners under the existing HMSA designation process. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required. Further, this rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291. For these reasons, the Secretary has determined that the rule is not a major rule under Executive Order 12291 and a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

There are no information collection requirements in this regulation.

List of Subjects in 42 CFR Part 5

Dental health, Health, Health professions, Mental health, Physicians, Public health, Rural areas.

Accordingly, 42 CFR Part 5 is proposed to be amended as set forth below:

Dated: May 8, 1987.

Lowell T. Harmison,

Assistant Secretary for Health.

Approved: June 11, 1987.

Otis R. Bowen,

Secretary.

PART 5—DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

1. The authority citation for Part 5 continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); sec. 332 of the Public Health Service Act, 90 Stat. 2270–2272 (42 U.S.C. 254e).

Appendix A—[Amended]

2. Appendix A, Part III—Facilities paragraph A.1.(b) is amended by removing the parenthetical statement and inserting the following:

* * * * *

(b) * * * Here the number of internees is defined as follows:

(1) If the number of new inmates per year and the average length-of-stay are not specified, or if the information provided does not indicate that intake medical examinations are routinely performed upon entry, then—

Number of internees = average number of inmates

(2) If the average length-of-stay is specified as one year or more, and intake medical examinations are routinely performed upon entry, then—

Number of internees = average number of inmates + (0.3) × (number of new inmates per year)

(3) If the average length-of-stay is specified as less than one year, and intake examinations are routinely performed upon entry, then—

Number of internees = ALOS × (average number of inmates) + (0.2) × (1 + ALOS/2) × (number of new inmates per year) where ALOS = average length-of-stay (in fraction of year)

(The number of FTE primary care physicians is computed as in Part I, Section B, paragraph 3 above.)

* * * * *

Appendix B—[Amended]

3. Appendix B, Part III—Facilities paragraph A.1.(b) is amended by removing the parenthetical statement and inserting the following:

* * * * *

(b) * * * Here the number of internees is defined as follows:

(1) If the number of new inmates per year and the average length-of-stay are not specified, or if the information provided does not indicate that intake dental examinations are routinely performed by dentists upon entry, then—

Number of internees = ½ × (average number of inmates)

(2) If the average length-of-stay is specified as one year or more, and intake dental examinations are routinely performed upon entry, then—

Number of internees = ½ × (average number of inmates) + ⅜ × (number of new inmates per year)

(3) If the average length-of-stay is specified as less than one year, and intake dental examinations are routinely performed upon entry, then—

Number of internees = ½ × ALOS × (average number of inmates) + ½ × [1 + (2 × ALOS)] × (number of new inmates per year) where ALOS = average length-of-stay (in fraction of year)

(The number of FTE dentists is computed as in Part I, Section B, paragraph 3 above.)

* * * * *

Appendix C—[Amended]

4. Appendix C, Part III—Facilities paragraph A.1.(b) is amended by removing the parenthetical statement and inserting the following:

* * * * *

(b) * * * Here the number of internees is defined as follows:

(1) If the number of new inmates per year and the average length-of-stay are not specified, or if the information provided does not indicate that intake psychiatric examinations are routinely performed upon entry, then—

Number of internees = 2 × (average number of inmates)

(2) If the average length-of-stay is specified as one year or more, and intake psychiatric examinations are routinely performed upon entry, then—

Number of internees = 2 × (average number of inmates) + 6 × (number of new inmates per year)

(3) If the average length-of-stay is specified as less than one year, and intake psychiatric examinations are routinely performed upon entry, then—

Number of internees = 2 × ALOS × (average number of inmates) + 2 × [1 + (2 × ALOS)] × (number of new inmates per year) where ALOS = average length-of-stay (in fraction of year)

(The number of FTE psychiatrists is computed as in Part I, Section B, paragraph 3 above.)

* * * * *

[FR Doc. 87–25005 Filed 10–28–87; 8:45 am]

BILLING CODE 4160-15-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85–111; RM–4857 and RM–5118]

Television Broadcasting Services; Pearl City, Wailuku, and Kaunakakai, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of petition.

SUMMARY: This document denies a petition for rule making filed by Larry G. Fuss, Sr. proposing the allotment of VHF television Channel 7 to Pearl City, Hawaii. This allotment would have necessitated the substitution of VHF Channel 8 in lieu of Channel 7 at Wailuku, Hawaii and the resulting modification of license of Station KAII-TV. This document also dismisses two counterproposals by Mauna Kea Broadcasting for the allotment of either Channel *7 or *8 to Kailua-Kona, Hawaii and Channel 7 to Kaunakakai, Molokai. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85–111, adopted September 28, 1987, and released October 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

(Authority: 47 U.S.C. 154, 303)

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–24860 Filed 10–28–87; 8:45 am]

BILLING CODE 6712-01-M

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Notices

Federal Register
Vol. 52, No. 209
Thursday, October 29, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed Rock Creek/Muddy Creek Reservoir Site, Routt National Forest, Routt and Grand Counties, CO; Extension of Public Comment Period; Draft Environmental Impact Statement

The public comment period for the Rock Creek/Muddy Creek Reservoir Draft Environmental Impact Statement has been extended until November 9, 1987. The Notice of Availability appeared in the **Federal Register**, Volume 52, Number 175, on Friday September 4, 1987 on page 33636.

Written comments should be sent to Jerry E. Schmidt, Forest Supervisor, Routt National Forest, 29587 West U.S. 40, Suite 20, Steamboat Springs, Colorado.

Jerry E. Schmidt,

Forest Supervisor, Routt N.F.

Date: October 23, 1987.

[FR Doc. 87-25100 Filed 10-28-87; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

French Creek Critical Area Treatment, South Dakota

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

Notice: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CRF Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the French Creek Critical Area Treatment, Custer County, South Dakota.

FOR FURTHER INFORMATION CONTACT: C. Budd Fountain, State Conservationist, Soil Conservation Service, Federal Building, 200 Fourth Street SW., Huron, South Dakota 57350, telephone (605) 353-1783.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, C. Budd Fountain, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed on this project.

The planned works of improvement include stabilizing eroding streambanks on French Creek by shaping, riprapping, seeding, mulching, fertilizing, and fencing.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting C. Budd Fountain. A combined environmental assessment and FONSI has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: October 4, 1987.

C. Budd Fountain,

State Conservationist.

[FR Doc. 87-25013 Filed 10-28-87; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Technical Information Service
Title: Japanese Technical Literature Activities in the United States
Form Number: Agency—NA; OMB—NA
Type of Request: New collection
Burden: 1,000 respondents; 500 reporting hours
Needs and uses: This collection will permit NTIS to provide an accurate report to Congress on Japanese technical literature activities in the United States. It will also be used to promote public use of Japanese information and to enhance U.S. competitiveness.
Affected Public: State or local governments, businesses or other for-profit institutions, Federal agencies or employees, non-profit institutions, and small businesses or organizations
Frequency: Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Sheri Fox 395-3785

Copies of the above information collection proposal can be obtianed by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235 New Executive Office Building, Washington, DC 20503.

Dated: October 23, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-25044 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1988 Dress Rehearsal Census—Update/Leave
Form Number: Agency—DX-105A, DX-105B, DX-105C; OMB—NA
Type of Request: New collection

Burden: 59,000 respondents; 1,475 reporting hours
Needs and Uses: The update/leave approach uses a combination of self-enumeration mail-back census taking, and a dependent canvass for coverage improvement using a precensus address list. This approach is being tested for use in rural areas where U.S. Postal Service address lists are shown to be unreliable.
Affected Public: Individual or households
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: October 26, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-25066 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Order No. 365]

Approval for Expansion of Foreign-Trade Zone No. 49, Newark/Elizabeth, New Jersey Area, Within the New York Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Port Authority of New York and New Jersey, Grantee of Foreign-Trade Zone No. 49 has applied to the Board for authority to expand its general-purpose zone to include a new site at the Global Terminal and Container Services, Inc., facility on upper New York Bay in Jersey City/Bayonne, New Jersey, within the New York Customs port of entry;

Whereas, the application was accepted for filing on September 23, 1985, and notice inviting public comment was given in the **Federal Register** on October 7, 1985 (Docket 33-85, 50 FR 40884);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the New Jersey sector of the Upper New York Bay area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now Therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the applications filed September 23, 1985. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the Commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 23rd day of October 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary of Commerce for Import Administration Chairman, Committee of Alternates Foreign-Trade Zones Board.

Attest:

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc 87-25070 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 23-87]

Foreign-Trade Zone 141, Monroe County, NY: Rochester Customs Port of Entry; Application for Subzone; Kodak Manufacturing Facilities

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Monroe, State of New York, grantee of FTZ 141, requesting special-purpose subzone status for the manufacturing and distribution facilities (10 sites) of the Eastman Kodak Company (Kodak) in the Rochester area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 19, 1987.

Kodak is a major multi-national manufacturer of film, imaging and information management equipment, chemicals and life science products. Its sales in 1986 amounted to $12 billion, 35 percent of which were overseas. The company has manufacturing facilities in eight states and in eight countries, and it sells its products in 150 countries. Its headquarters and largest manufacturing facilities are in the Rochester area.

Kodak's Rochester facilities involved in this application cover 10 sites (3,200 acres) in the Counties of Monroe, Ontario, and Wayne, where some 43,000 persons are employed. Site 1, Kodak Park (2,134 acres), is the company's main manufacturing and distribution center. It is located along I-390 and Ridgeway Avenue, in the communities of Rochester, Greece, and Gates, New York. The other sites are: Site 2, Kodak Park Irondequoit (17 acres), 2200 North Goodman Street, Irondequoit; Site 3, Kodak Park G (20 acres), 460 Buffalo Road, Rochester; Site 4, Elmgrove Plant (750 acres), Elmgrove Road, Gates; Site 5, Hawk-eye Plant (14 acres), Paul Street/Avenue E, Rochester; Site 6, C Building (9 acres), Carlson Road, Rochester; Site 7, Sayette Technology Division (12,000 square feet), 1133 Mount Read Boulevard, Rochester; Site 8, Beta Physics Division (12 acres), Routes 5 and 20, East Bloomfield; Site 9, Videk Division (13 acres), Route 332 and Collett Road, Farmington; and, Site 10, Ultra Technologies Division (217 acres), Highway 88/Silverhill Road, Newark.

The facilities produce and distribute over 30,000 products in the five product categories listed below. Within each category, the company sources numerous components abroad, some from its own plants. List under each category are examples of the items that are or could be sourced abroad.

1. *Photographic Film, Paper and Chemicals* (duty rates 0-8.5 percent). Materials include gelatin, silver bullion, pulp, paper, acenaphthene, alkylbenzenes, 4-chlororesoranol, thio salicylic acid, hydrobromic acid, lithium compounds, and selium (duty rates 0-17.3 percent).

2. *Photographic/Video Cameras, Equipment and Supplies* (duty rates 2.0-9.0 percent). Components include parts, lenses, fans, electrical equipment, and photographic/video equipment parts (duty rates 3.7-7.0 percent).

3. *Copiers, Office Machines, and Computer Equipment* (duty rates 3.7-3.9 percent). Components include wiring harnesses, transformers, switches, regulators, displays, keyboards, disk drives, printers, lenses, circuit boards, motors, and other electrical parts (duty rates 2.4-7.0 percent).

4. *Medical Instruments and Equipment* (duty rates 2.1-10.0 percent).

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Components include lenses, circuit boards, electrical components, and medical equipment parts (duty rates 2.1–10.0 percent).

5. *Life Science Chemicals* (duty rates 0–16 percent). Materials include enzymes, vitamins, amino acids, flavors and components thereof (duty rates 0–16 percent).

Zone procedures would allow Kodak to avoid Customs duty payments on foreign materials used in its exports. On its domestic sales, the company would be able to defer duty payments and, in some cases, to take advantage of the same duty rate available to importers of finished merchandise. The application indicates that the savings will help improve the company's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, Massachusetts 02110; and Colonel Daniel R. Clark, District Engineer, U.S. Army Engineer District Buffalo, 1776 Niagra Street, Buffalo, New York 14207.

Comments concerning the proposed foreign-trade subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 11, 1987.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Rochester Branch, 121 East Avenue, Rochester, New York 14604

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: October 22, 1987.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 87-25069 Filed 10-28-87; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administration

[A-588-401]

Calcium Hypochlorite From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 14, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on calcium hypochlorite from Japan. The review covers three manufacturers and/or exporters of this merchandise to the United States and the period October 9, 1984 through March 31, 1986.

We gave interested parties an opportunity to comment on the preliminary results, and we received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Edward Haley or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5289/5255.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 30415) the preliminary results of its administrative review of the antidumping duty order on calcium hypochlorite from Japan (50 FR 15470, April 18, 1985). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of calcium hypochlorite, currently classifiable under item 418.2200 of the Tariff Schedules of the United States Annotated. This product is currently classifiable under HS item number 2828.10.00.00.

The review covers three manufacturers and/or exporters of Japanese calcium hypochlorite to the United States and the period October 9, 1984 through March 31, 1986.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results, and we received no comments. Based on our analysis, the final results of review are the same as those presented in the preliminary results of review, and we determine that the following weighted-average margins exist during the period October 9, 1984 through March 31, 1986:

Manufacturer/Exporter	Margin (percent)
Nissin Denka Co., Ltd	0.27
Nippon Soda Co., Ltd	0
Nankai Chemical Industry Co., Ltd	0

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. We will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, since the only margin is less than 0.50 percent and therefore *de minimis* for cash deposit purposes, no cash deposit shall be required for the firms. For any future shipments from the remaining manufacturers and/or exporters not covered in this review, a cash deposit shall be required at the rate published in the antidumping duty order for all other firms. For any future entries of this merchandise from a new exporter, whose first shipments occurred after March 31, 1986 and who is unrelated to any reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Japanese calcium hypochlorite entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,
Acting Assistant Secretary, Import Administration.

Date: October 24, 1987.

[FR Doc. 87-25077 Filed 10-28-87; 8:45 am]
BILLING CODE 3510-DS-M

[A-122-047]

Elemental Sulphur From Canada; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 9, 1987, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on elemental sulphur from Canada. The review covers ten producers and/or exporters of this merchandise to the United States and the periods January 1, 1979 through November 30, 1981 and December 1, 1983 through November 30, 1984.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke in part. Based on our analysis of the comment received, the final results are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 23325) the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on elemental sulphur from Canada (38 FR 35655, December 17, 1973). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of elemental sulphur currently classifiable under item number 415.4500 of the Tariff Schedules of the United States Annotated and Harmonized System numbers 2503.10.00, 2503.90.00, and 2802.00.00.

The review covers ten producers and/or exporters of Canadian elemental sulphur to the United States and the periods January 1, 1979 through November 30, 1981 and December 1, 1983 through November 30, 1984.

Analysis of Comment Received

We invited interested parties to comment on the preliminary results and tentative determination to revoke in part. We received a comment from one respondent.

Comment: Texaco Canada Inc. ("Texaco") contends that, before the final determination to revoke in part is published, the Department should complete its review of Texaco's home market and U.S. sales for the "gap period" (December 1, 1986 through July 9, 1987). The Department is currently reviewing Texaco's questionnaire response for the period December 1, 1985 through November 30, 1986. If the Department immediately commenced a review of the gap period, the results of that review could be published simultaneously with the results of the 1985–1986 review.

Department's Position: If, in the anniversary month of the finding (December 1987), we receive a timely request from Texaco for a section 751 review of the gap period, we will initiate that review in January 1988.

Final Results of the Review

Based on our analysis of the comment received, the final results have not changed from those presented in the preliminary results of review, and we determine that the following margins exist:

Manufacturer/ Exporter	Period of review	Margin (percent)
BP Resources Canada	12/01/83-11/30/84	[1] 5.56
Cities Service Oil and Gas	12/01/83-11/30/84	[1] 0
Drummond Oil & Gas	12/01/83-11/30/84	0
Imperial Oil	12/01/83-11/30/84	0
Koch Industries	12/01/83-11/30/84	[1] 26.95
Mobil Oil Canada	01/01/79-11/30/81	0
Real International	12/01/83-11/30/84	0
Suncor	12/01/83-11/30/84	[1] 26.95
Union Texas (Allied)	12/01/83-11/30/84	[1] 28.90
Texaco Canada Inc. (formerly Texaco Canada Ltd.)	12/01/83-11/30/84	0

[1] No shipments during the period.

As provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based upon the above margins shall be required for these firms.

For any shipments from the remaining known manufacturers and/or exporters not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative reviews for each of those firms (50 FR 37889, September 18, 1985, 51 FR 43954, December 5, 1986, and 51 FR 45153, December 17, 1986). For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments of Canadian elemental sulphur occurred after November 30, 1984 and who is unrelated to any reviewed firm or any previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Canadian elemental sulphur entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,
Acting Assistant Secretary for Import Administration.

Date: October 24, 1987.

[FR Doc. 87-25075 Filed 10-28-87; 8:45 am]
BILLING CODE 3510-DS-M

[A-588-066]

Impression Fabric of Man-Made Fiber From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

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ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On January 9, 1987, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on impression fabric of man-made fiber from Japan. The review covers three exporters of this merchandise to the United States and the period May 1, 1982 through April 30, 1986.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke in part. At the request of the petitioners, a hearing was held on March 5, 1987. Based on our analysis of the comments received, the final results of review are unchanged from those presented in the preliminary results. However, we have determined not to revoke the antidumping finding in part, because we are not satisfied that there is no likelihood of resumption of sales at less than fair value.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 826) the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on impression fabric of man-made fiber from Japan (43 FR 22344, May 28, 1978). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of impression fabric of man-made fiber, currently classifiable under items 338.5001, 338.5002, and 347.6030 of the Tariff Schedules of the United States Annotated and Harmonized System numbers 5407.41.00 and 5806.32.10.

The review covers three exporters of Japanese impression fabric of man-made fiber to the United States and the period May 1, 1982, through April 30, 1986.

Analysis of Comments Received

We gave interested parties the opportunity to comment on the preliminary results. At the request of the petitioners, Bomont Industries and Burlington Industries, Inc., we held a public hearing on March 5, 1987.

Comment 1: The petitioners contend that any resumption of shipments by Nissei Co., Ltd. ("Nissei") and Mitsui & Co., Ltd. ("Mitsui") of impression fabric of man-made fiber to the United States would almost certainly require dumping. The existing home market prices and the price structure of the U.S. market compel the conclusion that Nissei and Mitsui could obtain orders in the United States only by selling at less than fair value. Because of this it is impermissible under the statute and under agency precedent for the ITA to revoke the outstanding finding. Nissei and Mitsui contend that, since they have made no shipments of impression fabric for four years and have provided written assurances that they will make no future shipments at less than fair value, they have met the Department's criteria for revocation. Thus, they conclude that the petitioners' projected margins are irrelevant. Even assuming, *arguendo*, that the calculation of a projected margin were relevant, the correction of certain calculation errors and assumptions made by the petitioners would result in the substantial reduction or elimination of any such margin.

Department's Position: We disagree with respondents that an analysis of whether or not future shipments may be made at not less than fair value is irrelevant to our decision regarding revocation of the antidumping finding with respect to Nissei and Mitsui. Written assurances that respondents will make no future sales at less than fair value are necessary, but not sufficient, for revocation. Under § 353.54(a) of the Commerce Regulations the Department may not exercise its discretionary authority to revoke an antidumping finding unless it is satisfied that there is no likelihood of resumption of sale at less than fair value. We have analyzed home market and U.S. prices projected by both respondents and the petitioners. Based on that analysis, we cannot conclude that there is no likelihood of resumption of sales at less than fair value. Therefore, revocation of the antidumping finding with respect to Nissei and Mitsui is not appropriate at this time.

Comment 2: The petitioners contend that the Department has not investigated the issue of transshipments of this Japanese merchandise via Canada. Thus, it has not been established on the record that, in fact, the Japanese producers had no shipments to the United States during the period of review. On the basis of this omission alone, the Department has no justification for revoking the finding.

Department's Position: We investigated the possibility of transshipments of this merchandise through Canada. Specifically, we reviewed the Customs quarterly report of unliquidated entries and found no evidence that these two firms shipped this merchandise to the United States directly or through a third country. We also asked the Customs Service if it knew of any shipments by these two firms of this impression fabric to the United States during the period; its response was negative.

Import statistics for inked and uninked ribbons are combined. Since inked ribbons were excluded from the original finding, the import statistics were not useful in determining whether or not there were possible transshipments of the subject merchandise through Canada. We conducted verifications of Nissei and Mitsui and found no sales or transshipments through a third country of impression fabric to the United States. Thus, after a thorough investigation, we found no evidence of shipments to the U.S. by these firms, or of transshipments of this merchandise through a third country.

Comment 3: The petitioners contend that the Department's refusal to investigate sales of impression fabric by Shirasaki Tape Co. ("Shirasaki") during this review has no basis in the law or under § 353.53(e) of the Commerce Regulations, which was in effect when the review was initiated.

Department's Position: This administrative review covers three exporters, Marubeni Corp., Mitsui & Co., Ltd., and Nissei Co., Ltd. We reject the petitioners' request to conduct a review of Shirasaki for the following reasons:

1. The original fair value investigation of sales by Shirasaki, conducted by the Treasury Department pursuant to the Antidumping Act of 1921, was discontinued (42 FR 65344, December 30, 1977). Thus, there was no final finding of sales at less than fair value by Shirasaki, and Shirasaki was not included in the finding (43 FR 22481, May 25, 1978).

Section 751 of the Trade Act of 1979 requires that the administering authority conduct an annual review of determinations made pursuant to an antidumping duty order, or a finding under the Antidumping Act of 1921. Since there was no final determination of sales at less than fair value by Shirasaki or a finding including Shirasaki, there is no basis for including Shirasaki in a section 751 review of this finding.

2. Also, the petitioners filed a second petition on June 10, 1985, alleging sales at less than fair value by Shirasaki and another firm. After investigating these new allegations the Department again found that Shirasaki was not selling this merchandise to the U.S. at less than fair value (51 FR 15815, April 28, 1986). Accordingly, we cannot include Shirasaki in a finding without the benefit of either a fair value investigation or an injury determination.

Final Results of the Review

Based on our analysis of the comments received, the final results of our review are the same as those presented in our preliminary results of review, and we determine that the following margins exist for the period May 1, 1982 through April 30, 1986:

Exporter	Margin (percent)
Marubeni Corp.	7.5 [1]
Mitsui & Co., Ltd.	7.5 [1]
Nissei Co., Ltd.	10.12 [1]

[1] No shipments during the period.

As provided in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For any shipments from the remaining known manufacturers and/ or exporters not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (49 FR 19560, May 8, 1984).

For any future entries of this merchandise from a new exporter not covered by this or prior administrative reviews, whose first shipments occurred after April 30, 1986 and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 10.12 percent shall be required. These deposit requirements are effective for all shipments of Japanese impression fabric of man-made fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and §353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

Date: October 24, 1987.

[FR Doc. 87–25078 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-DS-M

[A–580–505]

Offshore Platform Jackets and Piles From the Republic of Korea; Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Final results of changed circumstances administrative review and revocation of antidumping duty order.

SUMMARY: On September 3, 1987, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke the antidumping duty order on offshore platform jackets and piles from the Republic of Korea. The review covers the period from November 25, 1985.

We gave interested parties an opportunity to comment on our preliminary results and tentative determination to revoke. We received no comments. We therefore, determine that domestic interested parties are no longer interested in continuation of the order and we revoke the order. In accordance with the petitioner's notification, the revocation will apply to all offshore platform jackets and piles exported on or after November 25, 1985.

EFFECTIVE DATE: November 25, 1985.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 33462) the preliminary results of its changed circumstances administrative review of the antidumping duty order on offshore platform jackets and piles from the Republic of Korea (51 FR 16642, May 21, 1986). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of steel jackets (templates) and/or piles for offshore platforms, subassemblies thereof that do not require removal from a transportation vessel and further U.S. onshore assembly, and appurtenances attached to the jackets and piles. These products constitute the supporting structures which permanently affix drilling and/or production platforms to the ocean floor. Appurtenances include grouting systems, boating landings, pre-installed conductor pipes, and similar attachments. Offshore platform jackets and piles are currently classifiable under TSUS number 652.97 and HS item numbers 8430.49.40 and 8431.43.00. The review covers the period from November 25, 1985.

Final Results of the Review and Revocation

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the antidumping duty order on offshore platform jackets and piles from the Republic of Korea and that the order should be revoked on this basis.

Therefore, we are revoking the order on offshore platform jackets and piles from the Republic of Korea effective November 25, 1985. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after November 25, 1985, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries.

This administrative review, revocation and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

Dated: October 23, 1987.

[FR Doc. 87–25072 Filed 10–28–87; 8:45 am]

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[A-588-501]

Offshore Platform Jackets and Piles From Japan; Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Final results of changed circumstances adminstrative review and revocation of antidumping duty order.

SUMMARY: On September 3, 1987, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke the antidumping duty order on offshore platform jackets and piles Japan. The review covers the period from November 25, 1985.

We gave interested parties an opportunity to comment on our preliminary results and tentative determination to revoke. We received no comments. We therefore, determine that domestic interested parties are no longer interested in continuation of the order and we revoke the order. In accordance with the petitioner's notification, the revocation will apply to all offshore platform jackets and piles exported on or after November 25, 1985.

EFFECTIVE DATE: November 25, 1985.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 33461) the preliminary results of its changed circumstances administrative review of the antidumping duty order on offshore platform jackets and piles from Japan (51 FR 18641, May 21, 1986). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of steel jackets (templates) and/or piles for offshore platforms, subassemblies thereof that do not require removal from a transportation vessel and further U.S. onshore assembly, and appurtenances attached to the jackets and piles. These products constitute the supporting structures which permanently affix drilling and/or production platforms to the ocean floor. Appurtenances include grouting systems, boat landings, pre-installed conductor pipes, and similar attachments. Offshore platform jackets and piles are currently classifiable under TSUS number 652.97 and HS item numbers 8430.49.40 and 8431.43.00. The review covers the period from November 25, 1985.

Final Results of the Review and Revocation

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the antidumping duty order on offshore platform jackets and piles from Japan and that the order should be revoked on this basis.

Therefore, we are revoking the order on offshore platform jackets and piles from Japan effective November 25, 1985. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after November 25, 1985, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries.

This administrative review, revocation and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

Date: October 23, 1987

[FR Doc. 87–25071 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-006]

Certain Steel Pipes and Tubes From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On June 19, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order that was in effect prior to October 1, 1984 on certain steel pipes and tubes, from Japan. The review covers three exporters of this merchandise and the consecutive periods from March 1, 1982 through September 30, 1984. The Department has excluded Ontario Hydro (Canada) a fourth firm, from this administrative review because the only merchandise subject to the antidumping duty order which this firm exported during the review period was purchased from a Japanese exporter that had been excluded from the order.

We gave interested parties an opportunity to comment on the preliminary results. We received no timely comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–3601/5255.

SUPPLEMENTARY INFORMATION:

Background

On October 29, 1985, the Department of Commerce ("the Department") revoked the antidumping duty order on certain steel pipes and tubes from Japan, effective October 1, 1984 (50 FR 43758). On June 19, 1987, the Department published in the **Federal Register** (52 FR 23329) the preliminary results of its administrative review of the antidumping duty order that was in effect prior to October 1, 1984. We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of seamless heat-resisting pipes and tubes currently classifiable under items 610.5206, 610.5229 and 610.5234 of the Tariff Schedules of the United States Annotated, and seamless stainless pipes and tubes currently classifiable under items 610.5202, 610.5229 and 610.5230 of the Tariff Schedules of the United States Annotated.

The review covers three manufacturers/exporters of Japanese steel pipes and tubes, Kuze Bellows, Sanko Seisakusho and Tokyo Seimitsukan, and consecutive periods from March 1, 1982 through September 30, 1984. A fourth firm, Ontario Hydro (Canada), was excluded from this administrative review because the only merchandise subject to the antidumping duty order which this firm exported during the review period was purchased from a Japanese manufacturer that had been excluded from the order.

Final Results of the Review

We invited interested parties to comment on the preliminary results. We received no timely comments or requests for a hearing. Based on our analysis, the final results of review are unchanged from those we presented in the preliminary results. We determine that the following margins exist for the consecutive periods from March 1, 1982 through September 30, 1984:

Manufacturer/Exporter	Margin (percent)	
	Stainless	Heat-resisting
Kuze Bellows	22.95	2.83
Sanko Seisakusho	22.95	2.83
Tokyo Seimitsukan	22.95	2.83

The Department will instruct the Customer Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

This administrative review, covering consecutive periods from March 1, 1982 through September 30, 1984, does not affect the revocation of the antidumping duty order. Therefore, we will instruct the Customs Service to continue to liquidate entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984 without regard to antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.53a.

Gilbert B. Kaplan,

Acting Assistnat Secretary for Import Administration.

Date: October 24, 1987.

[FR Doc. 87–25076 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-DS-M

[C-507-701]

Preliminary Affirmative Countervailing Duty Determination; Certain Circular Welded Carbon Steel Pipes and Tubes From Iran

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers or exporters in Iran of certain circular welded carbon steel pipes and tubes (hereinafter referred to as "standard pipe"), as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 336.14 percent *ad valorem*.

We are directing the U.S. Customs Service to suspend liquidation of all entries of standard pipe from Iran that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond for each such entry equal to 336.14 percent *ad valorem*.

If this investigation proceeds normally, we will make our final determination on or before January 5, 1988.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Mary Martin or Jessica Wasserman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–2438, 377–2830 or 377–1442.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Iran of standard pipe. For purposes of this investigation, the following program is found to confer a bounty or grant:

- Foreign Exchange Benefits for Exporters (Wariznameh) Program.

We preliminarily determine the estimated net bounty or grant for standard pipe to be 336.14 percent *ad valorem*.

Case History

Since the last **Federal Register** publication pertaining to this investigation [the Notice of Initiation (52 FR 31798, August 24, 1987)], the following events have occurred. On August 28, 1987, we presented a questionnaire to the Government of Algeria in Washington, DC and requested that it forward the questionnaire to the Iranian authorities in its capacity as the protecting power for Iran in the United States. We requested a response to our questionnaire by September 28, 1987. We did not receive a response from either the Government of Iran or the manufacturers, producers, or exporters of the subject merchandise in Iran.

We based our initiation of this investigation on standard pipe, as defined in the "Scope of Investigation" section, on information supplied by the petitioners that an importer ("Benson") had made an offer of sale of standard pipe from Iran for delivery to an unrelated purchaser in the United States in the fall of 1987. Subsequent to our initiation Benson advised us that it had withdrawn its offer to sell Iranian standard pipe to an unrelated purchaser. In addition, Benson's counsel asserted that Benson is not responsible for any imports of such products from Iran, has not authorized any shipments, and will refuse to accept any such shipments, even if they are sent.

Although Benson subsequently revoked its offer to an unrelated U.S. purchaser, it is unclear as to whether there are any current contractual obligations between an Iranian exporter and Benson to ship standard pipe to the United States. Based on these facts we preliminarily determine that there is a "likelihood of sale" within the meaning of section 701(a) of the Act. We will further consider the issue of "likelihood of sale" for our final determination.

Scope of Investigation

The products covered by this investigation are certain circular welded carbon steel pipes and tubes, 0.375 inch or more, but not over 16 inches in outside diameter, as currently classifiable in the *Tariff Schedules of the United States Annotated (TSUSA)* under item numbers 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925. These products, commonly referred to in the industry as standard pipe or structural tubing, are produced to various ASTM specifications, most notably A–120, A–53, and A–135. These products are currently classifiable under the Harmonized System (HS) item numbers 7306.30.1000, 7306.30.5025, 7306.30.5030, 7306.30.5040, 7306.30.5045, 7306.30.5050, 7306.30.5060, 7306.30.5065, 7306.30.5070, and 7306.30.5075.

Analysis of Program

Because we did not receive a response to our questionnaire, we are using the best information available as required under § 355.39 of our regulations (19 CFR 355.39), adversely inferring countervailability and receipt of benefits based on the absence of a response. We will continue to seek information from our own sources to determine the countervailability and level of benefits of the program under investigation.

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I. Program Preliminarily Determined to Confer a Bounty or Grant

We preliminarily determine that a bounty or grant is being provided to manufacturers, producers, or exporters of standard pipe under the following program:

Foreign Exchange Benefits for Exporters (Wariznameh) Program

Petitioners allege that Iranian exporters may receive Wariznamehs, or foreign exchange certificates, issued by the Iranian Central Bank. These certificates, which are given in addition to the rial value of the foreign currency surrendered, have a face value equal to the amount of foreign currency converted. Holders of these certificates may use them to import goods or may sell them to third parties.

In the *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Roasted In-Shell Pistachios from Iran (Pistachios)* (51 FR 35679, October 7, 1986), as best information available, we determined that the Wariznameh program was countervailable. We have received no further information on the Wariznameh program in this investigation. As best information available, we preliminarily determine that exporters of standard pipe from Iran benefit from the Wariznameh program. In addition, we preliminarily determine that the best information available for estimating the net bounty or grant received by exporters of standard pipe from Iran is the rate calculated in *Pistachios* for goods exported directly from Iran. This rate equals 336.14 percent *ad valorem*.

Verification

In accordance with section 776(a) of the Act, if we receive complete responses in a timely manner, we will verify the data used in making our final determination. We will not accept any statement in a response that cannot be verified for our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Custom Service to suspend liquidation of all entries of standard pipe from Iran are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each entry in the amount of 336.14 percent *ad valorem*. This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of the Commerce Regulations (19 CFR 355.35), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on November 19, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice in the **Federal Register**.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of the business proprietary version and seven copies of the nonproprietary version of the pre-hearing briefs must be submitted to the Assistant Secretary by November 12, 1987. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.33(d) and 19 CFR 355.34, all written views will be considered if received not less than 30 days before the final determination is due, or if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

October 22, 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 87-25073 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DS-M

[C 580-504]

Offshore Platform Jackets and Piles From the Republic of Korea; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of changed circumstances administrative review and revocation of countervailing duty order.

SUMMARY: On September 3, 1987, the Department of Commerce published the preliminary results of its changed circumstances administrative review of the countervailing duty order on offshore platform jackets and piles from the Republic of Korea and announced its tentative determination to revoke the order. We determine that the interested parties are no longer interested in maintaining the countervailing duty order, and we are revoking the order. The review covers the period from July 19, 1985.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 33465) the preliminary results of its changed circumstances administrative review and its tentative determination to revoke the countervailing duty order on offshore platform jackets and piles from the Republic of Korea (51 FR 18643, May 21, 1986). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are steel jackets (template) and/or piles for offshore platforms, subassemblies thereof that do not require removal from a transportation vessel and further U.S. onshore assembly, and appurtenances attached to the jackets and piles. These products constitute the supporting structures which permanently affix offshore drilling and/or production platforms to the ocean floor. These products are used for conventional steel template platforms. Jackets and/or piles for "tower-type" platforms are not included in the order. Appurtenances include grouting systems, boat landings, pre-installed conductor pipes and similar attachments. Such merchandise is currently classifiable under item 652.97 of the Tariff Schedules of the United States. These products are currently classifiable under item numbers 8430.49.40 and 8431.43.00 of the Harmonized System. The review covers the period from July 19, 1985.

Final Results of Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received comments from interested parties in favor of revocation of the countervailing duty order. As a result of our review, we determine that the interested parties are no longer interested in maintaining the countervailing duty order on offshore platfrom jackets and piles from the Republic of Korea and that the order should be revoked on this basis.

Therefore, we are revoking the order on offshore platform jackets and piles from the Republic of Korea effective July 19, 1985. We will instruct the Customs Service to liquidate, without regard to countervailing duties, all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after July 19, 1985, and to refund any estimated countervailing duties collected with respect to those entries.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b) and (c)) and 19 CFR 355.41 and 355.42.

Gilbert B. Kaplan,

Acting Assistant Secretary, Import Administration.

Date: October 23, 1987.

[FR Doc. 87-25074 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DS-M

Semiconductor Technical Advisory Committee; Closed Meeting

A meeting of the Semiconductor Technical Advisory Committee will be held November 18, 1987 at 9:30 a.m., Herbert C. Hoover Building, Room 6802, 14th Street and Consititution Avenue, NW., Washington, DC. The Committee advised the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to Semiconductor equipment or technology.

Agenda: The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 30, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce. For further information call Ruth D. Fitts at 202-377-2583.

Dated: October 26, 1987.

Betty A. Ferrell,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 87-2506 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be issued.

FOR FURTHER INFORMATION CONTACT: John E. Stiner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 87-00015." A summary of the application follows.

Applicant: Aluminum Recycling Export Association, 1000 16th Street, NW., Suite 603, Washington, DC 20036, (202)785-0951

Application #: 87-00015

Date Deemed Submitted: October 16, 1987.

Members (in addition to applicant): Aluminum Smelting and Refining Co., Inc.; Batchelder-Blasius, Inc.; Roth Brothers Smelting Corp.; and Gettysburg Foundry Specialties Co.

Controlling Entity: None

Summary of the Application

Export Trade: Products

Unwrought alloys of aluminum (aluminum alloys), in the form of pig, ingot, rod, shot, drops, waffle or sows, made from aluminum base scrap or primary aluminum to conform to any or all specifications for the aluminum casting and steel making industries.

Export Trade Facilitation Services (as They Relate to the Export of Products)

Consulting, management, international market research, advertising, marketing, sales of goods and services, insurance, product research and design, legal assistance, packing and crating, transportation, warfing and handling, trade documentation and freight forwarding, communication and processing of foreign orders, warehousing, foreign exchange, financing, taking title to goods, and customs clearance.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) and Mexico.

Export Trade Activities and Methods of Operation

Aluminum Recycling Export Association (AREA) seeks certification to:

(1) Enter into exclusive agreements with its Members to act as their Export

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Intermediary. These agreements may include any of the following provisions:

(a) Each Member independently will provide AREA with an estimate of what quantities and specifications of aluminum alloys it will make available for export through AREA, provided, however that each Member agrees to commit a minimum of 40,000 pounds per year for export through AREA.

(b) AREA can agree to purchase aluminum alloys from its Members.

(c) AREA will market and sell the aluminum alloys, either directly or through Export Intermediaries other than AREA to such purchasers in the Export Markets, at such prices, and on such terms as AREA shall determine.

(2) Purchase aluminum alloys from, and determine the prices of aluminum alloys which AREA will pay to, Member (and other) suppliers.

(3) Enter into exclusive or nonexclusive agreements with other Export Intermediaries for the sale of aluminum alloys in the Export Markets.

(4) Participate in meetings with one or more Member suppliers to deliver and discuss, or otherwise exchange, information with Member suppliers regarding:

a. The prices that AREA has charged or will charge in the Export Markets for each Member supplier's aluminum alloy;

b. The type, quality, and quantity of aluminum alloys available from Member suppliers for export;

c. Delivery dates, terms of sale, and other information necessary to arrange and complete export sales of the aluminum alloys;

d. General economic or business conditions in the Export Markets, including supply and demand conditions, prices and terms of sale in the Export Markets, and transportation and other costs incurred in exporting to the Export Markets;

e. AREA's sales results in the Export Markets, including orders shipped, costs of doing business, and other information relating to AREA's business in the Export Markets;

f. Quantities and prices of aluminum alloys purchased from each Member supplier for export, and the terms and conditions under which such purchases were made;

g. Matters concerning AREA's organization, governance, financial condition and membership;

h. Market strategies for the Export Markets, and other issues relating to sales and Export Trade Facilitation Services in the Export Markets and AREA's export business;

i. Information about U.S. and foreign legislation and regulations, including Federal programs affecting sales and Export Markets.

(5) Participate with all Member suppliers for the exclusive use of Member suppliers in statistical programs covering AREA's shipments, future orders, inventories and prices, provided, however, information disseminated to Members suppliers will be in an aggregated form.

(6) Enter into agreements with customers in the Export Markets wherein AREA may agree in each case to sell aluminum alloys in the Export Markets only to such customers, and/or such customers may agree not to purchase the alloys from any competitor of AREA.

(7) To act as a shippers association to negotiate favorable transportation rates and other terms with individual ocean common carriers and individual conferences.

(8) Prescribe the following conditions of membership to and termination from AREA:

a. AREA shall have the right to exclude firms or companies from membership in its organization.

b. AREA shall have the right to admit additional producers of aluminum alloys from time to time who:

(1) Receive a majority vote of AREA's Board of Directors;

(2) Make such capital contribution in the purchase of common shares of stock as is determined in good faith by AREA's Board of Directors. A fee shall be charged to cover initial start-up costs, including attorneys' fees incurred by AREA's Members; and

(3) Agree not to compete with AREA, during the period of membership in AREA and for two years thereafter, in the export of aluminum alloys to particular Export Markets, except as shall be specifically agreed upon in writing between the new Member and AREA.

c. Each Member shall have the right to withdraw its membership from AREA by giving 180 days' prior written notice to the remaining Members. The remaining Members shall then have the option to terminate AREA or pay the withdrawing Member the value of its stock, as adjusted, on the date of its withdrawal.

d. Any Member of AREA may be removed by a two-thirds vote of the Board of Directors with prior notice of the vote given to the Member. Removal shall be for due cause, including, but not limited to, violation of AREA's Bylaws or agreements entered into by and between Members, and loss of credit-worthiness.

e. The withdrawing or removed Member shall remain responsible for commitments made by such Member and by AREA on behalf of such Member prior to the effective date of such Member's withdrawal or removal. The withdrawing or removed Member shall reimburse AREA for all costs, including attorneys' fees, incurred as a result of withdrawal or removal.

Dated: October 22, 1987.

John E. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 87-25043 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

Solicitation of Applications; Minority Business Development Program; Brooklyn, NY

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a three (3) year period, subject to available funds. The cost of performance for the first *twelve* months is estimated at $306,000 for the project performance of *April 1, 1988 to March 31, 1989.* The MBDC will operate in *Williamsburg, Brooklyn, NY.* Standard Metropolitan Statistical Area (SMSA). This project should focus on assisting the minority business community in general and specifically the Hasidic community of Williamsburg. The first year cost for the MBDC will consist of *$306,000* in Federal funds and a minimum of *$54,000* in Non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

CLOSING DATE: The closing date for applications is November 30, 1987. Applications must be postmarked on or before November 90, 1987.

ADDRESS: New York Regional Office, Minority Business Development Agency, Jacob K. Javits Federal Building, Room 3720, New York, NY 10278, (212) 264-3262.

FOR FURTHER INFORMATION CONTACT: Gina A. Sanchez, Regional Director, New York Regional Office at (212) 264-3262.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information copies of application kits and applicable regulations can be obtained at the above address.

William R. Fuller,

Regional Director (Deputy), New York Regional Office.

Date: October 23, 1987.

[FR Doc. 87-24984 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

[Docket No. 70655-7166]

Proposed Federal Information Processing Standard (FIPS) for Standard Generalized Markup Language (SGML)

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of proposed Federal information processing standard for standard generalized markup language (SGML).

SUMMARY: A Federal Information Processing Standard (FIPS) adopting the Standard Generalized Markup Language (SGML) is proposed for Federal agency use. This proposed FIPS adopts the International Standard for SGML (ISO 8879-1986), which was developed by Technical Committee 97—Information Processing Systems, of the International Organization for Standardization. This standard specifies a language for describing documents to be used in office document processing, electronic document interchange, and publishing.

Prior to submission of this proposed standard to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) an announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section, ISO 8879-1986, which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice. Interested parties may obtain a copy of the technical specifications from the American National Standards Institute, 1430 Broadway, New York, New York 10018, (212) 642-4900.

DATE: Comments on this proposed FIPS must be received on or before January 27, 1988.

ADDRESS: Written comments concerning the adoption of SGML as a FIPS should be sent to: Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS SGML, Technology Building, Room B-154, National Bureau of Standards, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Welsch, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, telephone (301) 975-3345.

Date: October 23, 1987.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication (date) Announcing the Standard for Standard Generalized Markup Language (SGML)

Federal InformationProcessing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to Section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (36 FR 12315, dated May 11, 1973), Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Standard Generalized Markup Language (SGML) (FIPS PUB ____).

Category of Standard. Software Standard, Markup Language; Electronic Document Interchange.

Explanation. This publication announces the adoption of the International Standards Organization Standard Generalized Markup Language, (SGML), ISO 8879-1986, as a Federal Information Processing Standard (FIPS). ISO 8879-1986 specifies a language for describing documents to be used in office document processing, electronic document interchange, and publishing. The language provides a coherent and unambiguous syntax for describing the elements within a document. The language includes:

a. An abstract syntax for descriptive markup of the elements within a document.

b. A reference concrete syntax which binds the abstract syntax to particular delimiter characters and quantities.

c. Markup declarations that allow the definition of a specific vocabulary of generic identifiers and attributes for different document types.

d. Provision for arbitrary data content. This can include specialized data content notations that require interpretations different from general text, i.e., formulas, images, non-Latin alphabets, previously formatted text or graphics.

e. Eatity references for referring to content located outside the mainstream of the document, such as separately written chapters, photographs, etc.

f. Special delimiters for processing instructions to distinguish them from descriptive markup. Processing instructions are systems and applications dependent.

Approving Authority. Secretary of Commerce.

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Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. International Standards Organization ISO 8879–1986, Information Processing—Text and Office Systems—Standard Generalized Markup Language (SGML).

Related Documents.

a. ISO 9069, Information processing—SGML support facilities—SGML Document Interchange Format (SDIF). (Draft stage)

b. ISO 9070, Information processing—SGML support facilities—Registration procedures for public text. (Draft stage)

c. Federal Information Processing Standards (FIPS) Publication 29–2, Interpretation Procedures for Federal Information Processing Standards for Software.

Objectives. The primary objectives of this standard are:

—To provide a common markup language for a variety of document types and uses;

—To allow the portability of unformatted textual data among different installations and processing systems;

—To promote interchange of documents between systems of different manufacturers.

Applicability. This standard is intended to be used for documents that are processed by any text processing or word processing system. It is particularly applicable to: (a) documents that are intended for electronic printed output or exchange; (b) documents that are interchanged among systems with differing text processing languages; and (c) documents that are processed in more than one way, even when the procedures use the same text processing language. Documents that exist solely in final formatted form are not within the scope of applicability of this standard.

This standard applies to the development and acquisition of SGML systems. An SGML system includes an SGML parser, which must be able to recognize markup in conforming SGML documents; an entity manager, such as a file system or symbol table that can maintain and provide access to multiple entities or units of information; and both or either of:

a. an implementation of one or more SGML applications; and/or

b. facilities for a user to implement SGML applications, with access to the SGML parser and entity manager.

If the SGML parser is a validating parser, it must find and report a reportable markup error if one exists, and must recognize and report ambiguous content models.

An implementation of SGML involves consideration of an entire SGML system.

Specifications. The ISO 8879–1986 Standard Generalized Markup Language defines the scope of the specification, the field of application, the syntax and semantics of SGML constructs, and requirements for conforming SGML applications and documents. All of the specifications of ISO 8879–1986, using the core concrete syntax, apply to FIPS SGML with the exception of the following optional features: SHORTREF; CONCUR; DATATAG; RANK; SHORTTAG; SUBDOC; SIMPLE; IMPLICIT; and EXPLICIT. The two optional features that are part of the FIPS SGML are OMITTAG (omitted tag minimization) and FORML (formal public identifiers). The core concrete syntax is a variant of the reference concrete syntax that has no short reference delimiters.

Implementation. The implementation of this standard involves two areas of consideration: acquisition of SGML systems and interpretation of the syntax and semantics of SGML constructs.

Acquisition of SGML Systems. This standard is effective [6 months after date of publication of final document in the **Federal Register**]. SGML systems developed or acquired for Federal use after this date should implement this standard. Conformance to this standard should be considered whether SGML systems are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce SGML systems conforming to the standard. The transition period begins on the effective date and continues for one year thereafter. The provisions of this publication apply to orders placed after the effective date.

Interpretation of FIPS SGML. Resolution of questions regarding this standard will be provided by NBS. Questions concerning the content and specifications of this FIPS PUB should be addressed to: Director, Institute for Computer Sciences and Technology, Attn: SGML Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

Waivers. Under certain exceptional circumstances the head of the agency is authorized to waive the application of the provisions of this FIPS PUB. Exceptional circumstances which would warrant a waiver are:

a. significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard, and

b. the interchange of information between the system for which the waiver is sought and other systems is not anticipated.

Agency heads may act only upon written waiver requests containing the information detailed above. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, Maryland 20899.

When the determination on a waiver request applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

Special Information. Another approach, to the interchange of documents, currently under development, is the Office Document Architecture and Office Document Interchange Format (ODA/ODIF), draft international standard (DIS 8613). NBS is currently working on the development of this draft standard which, when completed, will become a Federal Information Processing Standard.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication ____(FIPSPUBS ____), and title. Payment may be made by check, money order, or NTIS deposit account.

[FR Doc. 87–25086 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Proposed Revision of Exploration License

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of application from Kennecott Consortium to revise exploration plan incorporated into exploration license issued October 29, 1984, and request for comments.

SUMMARY: On September 4, 1987, the Kennecott Consortium (KCON), 1515 Mineral Square, Salt Lake City, Utah 84112, submitted to the National Oceanic and Atmospheric Administration (NOAA) a proposal to change the exploration plan incorporated into the deep seabed mining exploration license, USA–4, issued to KCON by NOAA on October 29, 1984, pursuant to the Deep Seabed Hard Mineral Resources Act and 15 CFR Part 970. NOAA has determined that this proposal constitutes an application for revision of the license under 15 CFR 970.513, and is commencing public review procedures prescribed in 15 CFR 970.514(b).

KCON's current ten-year exploration plan, approved by NOAA in 1984, consists of a two-phase data collection effort: (i) The collection of coarse and fine scale bathymetric data based on sonar soundings which would provide maps of the sea floor topography in the entire license area, and (ii) the sampling of selected subareas by means of underwater photography to detect obstacles not detectable by sonar methods. In year ten of the plan, KCON will use this data to assess "mineability" and to select a suitable mining area for commercial recovery.

As a result of conflict resolution with U.S. and other international miners, and the subsequent exchange of data, KCON acquired a large amount of new exploration data, which was evaluated and incorporated into its existing data base during 1985 and 1986. KCON has advised NOAA that the composite of this supplemental data, together with previous exploration and development work performed by KCON, has eliminated the need for the extensive bathymetric/topographic data that KCON had originally proposed to collect in its ten-year plan.

In accordance with § 970.602 KCON is requesting a modification in the exploration plan to reflect the effects of the above data acquisition, and to change the schedule of expenditures. No change has been proposed in the objective of being prepared to file for a deep seabed mining commercial recovery permit by the end of the ten-year license period. KCON is requesting an equivalent credit value of expenditures for data acquisition for 1984 through 1986 of $5,786,000 toward its total ten-year expenditure plan of $6,000,000. KCON also proposes a consequent reduction in expenditures to less than $40,000 in 1987, $20,000 annually in 1988 through 1992; and $200,000 in 1993.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the application for revision and to provide comments by December 28, 1987.

These documents may be examined at 1825 Connecticut Avenue, NW., Suite 710, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John W. Padan, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 710, Washington, DC 20235, (202) 673–5117.

Dated: October 26, 1987.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 87–25047 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-12-M

Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to commercial fishing operations within the U.S. exclusive economic zone (EEZ) during 1987 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

Scan Ocean Inc. 42 Rogers Street, Gloucester, Massachusetts 01930 on behalf of 7 Dutch fishing companies has applied for a Category 1 "Towed or Dragged Gear" general permit to take up to 20 cetaceans and 5 harbor seals in the North Atlantic Ocean.

From January through April 21, 1987, Netherland's fishing vessels have taken 7 common dolphins and 11 pilot whales in the U.S. EEZ. No fishing operations were conducted in 1986.

The application is available for review in the Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, Washington, DC 20235.

Dated: October 21, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87–25031 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to commercial fishing operations within the U.S. exclusive economic zone (EEZ) during 1988 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

VEB Fischfang Rostock, 2501 Rostock 5, German Democratic Republic has applied for a Category 1 "Towed or Dragged Gear" general permit to take up to 20 cetaceans and 10 harbor seals in the North Atlantic Ocean.

In 1986, VEB Fischfang Rostock reported taking 3 common dolphins and 14 pilot whales during directed commercial fishing operations.

The application is available for review in the Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, Washington, DC 20235.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87–25032 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-22-M

Marine Fisheries Advisory Committee; Partially Closed Meeting

AGENCY: National Marine Fisheries Service (NMFS), NOAA.

Time and Date: The meeting will convene at 8:30 a.m., November 10, 1987,

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and adjourn at approximately 3:30 p.m., November 11, 1987.

Place: Holiday Inn Providence-Downtown, 21 Atwells Avenue, Providence, Rhode Island.

Status: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). Parts of this meeting will be open to the public. The remainder of the meeting will be closed to the public. MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on all living marine resource matters which are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of this Nation are adequate to meet the needs of commercial and recreational fishermen, environmental, state, consumer, academia, and other national interests.

Matters To Be Considered

Portions Open to the Public

November 10, 1987, 8:30 a.m.—5:00 p.m., model seafood surveillance program, interjurisdictional fisheries management, recreational fisheries, fisheries trade issues, and limited entry.

November 11, 1987, 8:30—12:00 a.m., domestic observers and fishery highlights.

Portion Closed to the Public

November 11, 1987, 1:30—3:30 p.m. (Executive Session), budget and program planning priorities.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration of the Department of Commerce, with concurrence of the General Counsel, formally determined on October 23, 1987, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item to be covered during the Executive Session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because the item will be concerned with matters that are within the purview of 5 U.S.C. section 552b(c)(9)(B) as information the premature disclosure of which will be likely to significantly frustrate the implementation of proposed agency action. (A copy of the determination is available for public inspection and duplication in the Central Reference and Records Inspection Facility, Room 6628, Department of Commerce.) All other portions of the meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, Constituent Affairs Staff, Office of Legislative Affairs, NOAA, Washington, DC 20235, Telephone: (202) 673–5429.

Dated: October 20, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87–25029 Filed 10–28–87; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Application for Permit; Miami Seaquarium (P35F)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. *Applicant:*
   a. Name: Miami Seaquarium
   b. Address: 4400 Rickenbacker Causeway, Miami, Florida 33149
2. *Type of Permit:* Public Display
3. *Name and Number of Marine Mammals:*
   False killer whales (*Pseudorca crassidens*)—4
   Pacific bottlenose dolphins (*Tursiops truncatus*)—4
   Pacific white-sided dolphins (*Lagenorhynchus obliguidens*)—4
   Risso's dolphins (*Grampus griseus*)—4
4. *Type of Take:* Permanent removal from the wild.
5. *Location of Activity:* Taigi; Japan
6. *Period of Activity:* 2 Years

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm 805, Washington, DC;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: October 23, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87–25030 Filed 10–28–87; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Intent To Grant Exclusive Patent License; Bristol-Myers

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Bristol-Myers, having a place of business in New York, NY 10154, an exclusive right in the United States and foreign countries to practice the invention embodied in U.S. Patent Applications S.N. 6–769,016, S.N. 6–937,925 and S.N. 7–084,055, "Antiviral Compositions and Methods." The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Robert P. Auber, Director, Officer of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc 87–25000 Filed 10–28–87; 8:45 am]

BILLING CODE 3510–04–M

Intent To Grant Exclusive Patent License; Springs Industries

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Springs Industries, Inc. having a place of business in Fort Mill, SC 29715 an exclusive right in the United States to practice the invention embodied in U.S. Patent 4,629,470, "Process for Dyeing Smooth-dry Cellulosic Fabric." The patent rights in these inventions have been assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Dr. David T. Mowry, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87–25001 Filed 10–28–87; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

October 23, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 30, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4112. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566–6828. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the previously established restraint limits for cotton and wool textile products in Categories 359–V, 445/446 and 448, produced or manufactured in the People's Republic of China and exported during 1987. As a result, the limits for Categories 359–V, 445/446 and 448, which are currently filled, will re-open.

Background

A CITA directive dated December 23, 1986, (51 FR 47041) established import restraint limits for certain cotton, wool and man-made fiber textile products, including Categories 359–V (vests), 445/446, 448 and 669–P (man-made fiber bags), produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. A subsequent directive dated April 17, 1987 (52 FR 13115) established restraint limits for man-made fiber textile products in Category 637, among others, for the same twelve-month period.

Under the terms of the bilateral textile agreement of August 19, 1983, as amended, and at the request of the Government of the People's Republic of China, the limits for Categories 359–V, 445/446 and 448 are being increased by application of swing. To account for the swing applied to Category 359–V, the limit for Category 669–P is being reduced. The limit for Category 637 is being reduced to account for th swing applied to Categories 445/446 and 448.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1985 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 23, 1987.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives of December 23, 1986 and April 17, 1987 concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on October 30, 1987, the directives of December 23, 1986 and April 17, 1987 are amended to include adjustments to the previously established restraint limits for the following categories, as provided under the terms of the bilateral agreement of August 19, 1983, as amended [1]:

Category	Adjusted 12-mo. limit [1]
359–V [2]	524,074 pounds.
445/446	278,649 dozen.
448	20,214 dozen.
637	259,917 dozen.
669–P [3]	2,680,939 pounds.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.
[2] In Category 359–V, only TSUSA numbers 381.0258, 381.0554, 381.3949, 381.5800, 381.5920, 384.0451, 384.0648, 384.0650, 384.0651, 384.3449, 384.3450, 384.4300, 384.4421 and 384.4422.
[3] In Category 669–P, only TSUSA number 385.5300.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

[1] The agreement provides, in part, that (1) with the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yard equivalent total, provided that the amount of increase is compensated by an equivalent square yard decrease in one or more other specific limits in that agreement year; (2) the specific limits for categories may be increased for carryover or carryforward; and (3) administrative arrangement or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25046 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

October 23, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 30, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343-6494. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the limits for certain individual categories and the Group II limit for the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. As a result, the limit for Group II catgories, which are currently closed, will re-open.

Background

A CITA directive dated April 7, 1987 (52 FR 11723) established limits for certain specified categories of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, including a limit for Group II categories and limits for Categories 310/318, 313, 315, 335, 336/636, 337, 338/339/340, 341, 342, 347/348 and 363, produced or manufactured in India and exported during the agreement year which began on January 1, 1987 and extends through December 31, 1987. Pursuant to a request from the Government of India and under the terms of the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Textile Agreement of February 6, 1987, between the Governments of the United States and India, the restraint limits for Categories 336/636, 338/339/340, 341, 342, 347/348 and Group II are being increased, variously, by application of swing and carryforward. The limits for Categories 310/318, 335, 337 and 363 are being reduced to account for the swing applied to the foregoing categories. The reduction in Categories 310/318, 335, 337 and 363 also account for swing applied to Categories 313 and 315 which are being increased in a separate directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709) as amended on April 7, 1983 (48 FR 15175) May 3, 1983 (49 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 28622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (15 FR 25386), July 29, 1986 (51 FR 27068) and Statistical Headnote 5, Schedule 3 of the Tarrif Schedule of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HHC will be published in the **Federal Register.**

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Arthur Garel,

Acting Chairman, Committee for the Implementtion of Textile Agreements.

October 23, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on April 7, 1987 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on October 30, 1987, the directive of April 7, 1987 is amended to include the following adjusted restraint limits, under the terms of the bilateral textile agreement of February 6, 1987 [1]:

Category	Adjusted 12-mo. limit [2]
310/318	4,690,890 square yards.
335	130,252 dozen.
336/636	462,800 dozen.
337	89,548 dozen.
338/339/340	1,356,533 dozen.
341	2,783,387 dozen.
342	448,400 dozen.
347/348	309,349 dozen.
363	14,174,528 numbers.
Group II: 300, 301, 311, 312, 314, 316, 317, 319, 320, 330-334, 345, 349-359, 360-362, 369-O [3], 600-605, 630-635, 637-659, 665pt.[3], 666-670, and 831-859, as a group.	152,250,000 square yards equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

[2] In Category 369-O, all TSUSA numbers except 366.2840, 360.7600 and 361.5420.

[3] In Category 665pt., all TSUSA numbers except 360.7600 and 361.5420.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25101 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Consultations with the Government of Turkey

October 26, 1987.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on categories on which consultations have been requested call (202) 377-3740.

On September 29, 1987, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles and in accordance with section 304 of the Agricultural Act of 1956, requested the Government of Turkey to enter into consultations concerning exports to the United States of certain cotton textile products in Category 338, produced or manufactured in Turkey.

[1] The provisions of the bilateral agreement, provide, in part, that: (1) group and specific limits may be exceeded by designated percentages for swing, carryover and carryforward, and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Turkey, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of cotton knit shirts in Category 338, produced or manufactured in Turkey and exported to the United States during the twelve-month period which began on September 29, 1987 and extends through September 28, 1988, at a level of 445,720 dozen.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 338 or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. James H. Babb, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Turkey, further notice will be published in the **Federal Register.**

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Turkey—Market Statement

Category 338—Men's and Boys' Cotton Knit Shirts and Blouses

September 1987.

Summary and Conclusions

U.S. imports of Category 338 from Turkey were 445,720 dozen during the year ending June 1987, nearly seven times the 65,565 dozen imported a year earlier. During the first six months of 1987, imports of Category 338 from Turkey reached 328,433 dozen, seven times the 45,726 dozen imported during the same period of 1986 and twice the total imported in calendar year 1986.

The market for Category 338 has been disrupted by imports. The sharp and substantial increase in imports from Turkey has conjributed to this disruption.

U.S. Production and Market Share

U.S. production of men's and boys' cotton knit shirts and blouses has been on the decline, dropping from 16.2 million dozen in 1982 to a depressed 13.5 million dozen in 1985, a decline of 17 percent. Production in 1986 partially recovered from 1985, reaching 15 million dozen, but remained three percent below the 1984 level and five percent below the 1983 level. The domestic manufacturers' share of the market fell from 71 percent in 1982 to 57 percent in 1986.

U.S. Imports and Import Penetration

U.S. imports of Category 338 grew from 6.8 million dozen in 1982 to 11.4 million dozen in 1986, a 67 percent increase. During the first six months of 1987, imports of Category 338 reached 7.6 million dozen, 34 percent above the level imported during the same period in 1986. The ratio of imports to domestic production increased from 42 percent in 1982 to 76 percent in 1986.

Duty-Paid Value and U.S. Producers' Price

Approximately 80 percent of Category 338 imports from Turkey during the first six months of 1987 entered under TSUSA numbers 381.4010—men's and boys' cotton knit T-shirts, excluding all white T-shirts, not ornamented; and 381.4130—men's and boys' cotton knit shirts, excluding T-shirts, sweatshirts and tanktops, not ornamented. These garments entered the U.S. at duty-paid landed values below U.S. producer's prices for comparable garments.

[FR Doc. 87-25045 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CI86-696-001 et al.]

Amoco Production Co. et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]

October 26, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 10, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20428, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C186-698-001 (G-7518), B, Sept. 28, 1987.	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150.	Arkla Energy Resources, a division of Arkla, Inc., Greenwood-Waskom Field, Caddo Parish, Louisiana and Harrison County, Texas.	(1)	
C186-698-001 (G-10923), B, Sept. 28, 1987.	....do	Simsboro Field, Lincoln Parish, Louisiana.	(1)	
C186-698-001 (C163-749), B, Sept. 28, 1987.	....do	Cheniere Field, Ouachita Parish, Louisiana.	(1)	
C186-699-001, A, Oct. 7, 1987 [2].	....do	....do	(3)	
C188-6-000, B, Oct. 5, 1987.	Fowler & McDaniel, c/o Robert K. Anderson, P.O. Box 3856, Midland, Texas 79702.	El Paso Natural Gas Company, Rosa H. Barnett "D" #1 and Marathon Gordon #1 Wells, Benedum Field, Upton County, Texas.	(4)	
C187-940-000, B, Sept. 29, 1987 [5].	R.C. Bennett Company, Box 264, Midland, Texas 79702.	Exxon State #1 and #2 Wells, Winchester-Upper Penn Field, Eddy County, New Mexico.	(6,24)	
C187-941-000, B, Sept. 29, 1987 [5].	....do	Lone Tree #1 Well, Penasco Draw Field, Eddy County, New Mexico.	(6,7)	
C188-26-000, B, Oct. 13, 1987.	Bettis, Boyle & Stovall, P.O. Box 1240, Graham, Texas 76046.	SW, SW, Sec. 14-T26S-R37E, Lea County, New Mexico.	(8)	
C188-27-000, B, Oct. 13, 1987.	....do	T25S, R37E & T26S, R37E, Lea County, New Mexico.	(8)	
C188-34-000 (C175-137), B, Oct. 15, 1987.	Enron Oil & Gas Company, P.O. Box 1188, Houston, Texas 77251.	Texas Eastern Transmission Corporation, Tatton Ranch Area, Refugio County, Texas.	(9)	
C188-33-000, B, Oct. 15, 1987.	....do	Texas Gas Transmission Corporation, North Maurice Field, LaFayette Parish, Louisiana.	(10)	
C188-28-000 (C163-1206), B, Oct. 13, 1987.	Texaco Inc., P.O. Box 52332, Houston, Texas 77052.	K N Energy, Inc., Alkali Butte Field, Fremont County, Wyoming.	(11)	
C188-29-000 (C166-794), B, Oct. 13, 1987.	Texaco Inc	Transwestern Pipeline Company, Mendota-Cree Flowers Field, Roberts County, Texas.	(12)	
C188-35-000, F, Oct. 16, 1987.	Mesa Operating Limited Partnership (Succ. in Interest to Tenneco Oil Company), P.O. Box 2009, Amarillo, Texas 79189-2009.	Colorado Interstate Gas Company, Keyes Field, Cimarron County, Oklahoma.	(13)	
C188-38-000 (C166-902), B, Oct. 19, 1987.	Mesa Operating Limited Partnership	Mountain Fuel Resources, Inc., Canyon Creek Field, Sweetwater County, Wyoming.	(14)	
C188-25-000 (C179-396), B, Oct. 13, 1987.	Multistate Oil Properties, N.V., P.O. Box 2511, Houston, Texas 77001.	Northern Natural Gas Company, Division of Enron Corp., Mocane-Laverne Field, Beaver County, Oklahoma.	(15)	
C188-21-000 (C179-372), B, Oct. 13, 1987.	....do	Logan Field, Beaver County, Oklahoma.	(15)	
C179-390-001, B, Oct. 13, 1987.	....do	ANR Pipeline Company, Mocane-Laverne Field, Ellis County, Oklahoma.	(16)	
C188-20-000 (C167-714), B, Oct. 13, 1987.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Williams Natural Gas Company, Waynoka, N.E. Field, Woods County, Oklahoma.	(17)	
C188-23-000 (C164-644), B, Oct. 13, 1987.	....do	Natural Gas Pipeline Company of America, Various Fields, Woodward County, Oklahoma.	(17)	
C188-24-000 (C168-623), B, Oct. 13, 1987.	....do	Panhandle Eastern Pipe Line Company, Putnam Field, Dewey County, Oklahoma.	(18)	
C173-12-002, D, Oct. 19, 1987.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	ANR Pipeline Company, Eugene Island Area, Offshore Louisiana.	(19)	
C173-856-002, D, Oct. 14, 1987.	....do	United Gas Pipe Line Company, S.W. Red Fish Bay Field, Nueces County, Texas.	(20)	
C161-1401-000, D, Oct. 13, 1987.	....do	Transwestern Pipeline Company, R.W. Hord Lease, Worsham Field, Reeves County, Texas.	(21)	
C188-37-000 (C177-617), B, Oct. 15, 1987.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	Northern Natural Gas Company, Division of Enron Corp., Perryton Field, Ochiltree County, Texas.	(22)	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-2979-000, D, Oct. 13, 1987.	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Phillips Petroleum Company, Hugoton Field, Texas County, Oklahoma.	(23)	
G-5181-001, D, Oct. 13, 1987.	....do	Northern Natural Gas Company, Division of Enron Corp., Guymon-Hugoton Field, Texas County, Oklahoma.	(24)	
C163-1142-000, D, Oct. 13, 1987.	....do	Hansford, *et al.* Field, Lipscomb County, Texas.	(25)	
C163-1427-001, D, Oct. 13, 1987.	....do	Arkansas Louisiana Gas Company, N. Casper Field, Blaine County, Oklahoma.	(26)	
C178-1214-001, D, Oct. 13, 1987.	....do	Cities Service Gas Company, Alpar-Tonkawa Field, Hemphill County, Texas.	(27)	
C188-40-000 (G-15267), B, Oct. 19, 1987.	....do	Columbia Gas Transmission Corporation, Midland Field, Acadia Parish, Louisiana.	(28)	
C188-31-000, B, Oct. 13, 1987.	Edwards & Leach Oil Company, 600 Triad Center, 501 Northwest Expressway, Oklahoma City, Okla. 73118.	Lone Star Gas Company, Eola-Robberson Field, Garvin County, Oklahoma.	(29)	
G-6591-002, D, Oct. 15, 1987.	Conoco Inc., P.O. Box 2197, Dallas Texas 77252.	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Rincon Field, Starr County, Texas.	(30)	
G-17451-000, D, Oct. 19, 1987.	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	Northern Natural Gas Company, Division of Enron Corp., S/2 and NE/4 Sec. 28-33S-21W and SW/4 Sec. 27-33S-21W, Clark County, Kansas.	(31)	
C169-110-002, F, Oct. 19, 1987.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	Williston Basin Interstate Pipeline Co., Gillette Gas Plant, Campbell County, Wyoming.	(32)	
C172-762-002, D, Oct. 19, 1987.	Texaco Producing Inc., P.O. Box 52332, Houston, Texas 77052.	Northern Natural Gas Company, Division of Enron Corp., Eunice Gas Plant, Lea County, New Mexico.	(33)	
C161-601-001, D, Oct. 19, 1987.	....do	....do	(33)	
C172-271-002, D, Oct. 19, 1987.	....do	El Paso Natural Gas Company, Eunice Gas Plant, Lea County, New Mexico.	(33)	
G-5296-000, D, Oct. 19, 1987.	....do	....do	(33)	

[1] Applicant requests to extend the term of the limited-term abandonment authority through December 31, 1989, that was granted in Docket No. C186-698-000 by order issued November 28, 1986.

[2] Application received September 28, 1987, with partial payment of filing fee. Filing date is date of receipt in full of filing fee.

[3] Applicant requests to extend the term of the blanket limited-term certificate, with pregranted abandonment, through December 31, 1989, that was granted in Docket No. C186-699-000 by order issued November 28, 1986, and subject to the request for extension of limited-term abandonment authority in Docket No. C186-686-001.

[4] Applicant requests permanent abandonment of its sale to El Paso from two wells subject to gas purchase contracts dated March 1, 1969, and May 21, 1973. Applicant also requests pregranted abandonment for a period of three years for sales of the subject gas to an alternate purchaser under Applicant's small producer certificate in Docket No. CS68-42.

In support of its application Applicant states that the primary terms of both contracts expired on January 1, 1985, and El Paso verbally notified Applicant that it desires to cease takes under the subject gas contracts due to excessive hydrogen sulfide in the gas stream. Applicant states it has located an alternative casinghead gas purchaser which has existing treating facilities. Deliverability is approximately 170 Mcf/day. The gas is NGPA section 104 flowing gas.

[5] Additional material received October 13, 1987.

[6] Applicant requests authorization to abandon the sale of gas to El Paso from the subject well(s) for a period of one year. Applicant also requests one-year pregranted abandonment for spot market sales of the subject gas under Applicant's small producer certificate in Docket No. CS74-300.

In support of its application Applicant states that gas production from the affected well(s) has been curtailed since February 1, 1986, and is expected to remain curtailed for an indefinite period of time.

[7] In addition, Applicant states, notice was received from El Paso to shut-in the affected wells on February 23, 1987, and to this date, the wells continue to be shut-in. Deliverability is approximately 514 Mcf/day. The gas is NGPA section 104 post-1974 gas.

[8] Gas purchase agreement expired 10-1-87; El Paso Natural Gas Company has informed Bettis, Boyle & Stovall of their unwillingness to continue purchasing under the contract terms or to extend the agreement. Seller desires to have the gas transported through El Paso's pipeline to a third party purchaser.

[9] By Assignment dated 2-3-82, Belco Petroleum Corporation conveyed all its interest in the lands subject to the contract dated 8-9-84, to Charles M. Green, effective 12-1-80.

[10] Savy Duhon No. 1 well has been plugged and abandoned.

[11] The subject contract between Texaco Inc. and Kansas-Nebraska Natural Gas Company, Inc., expired by its own terms on 6-13-84; all wells, attributable to the dedicated acreage, are non-productive and have been plugged and abandoned. All applicable gas reserves have been depleted.

[12] Contract expired 9-6-86. All gas well gas reserves are depleted. The only remaining lease was surrendered in 1974.

[13] Effective 6-1-86, Tenneco Oil Company conveyed and assigned unto Mesa Operating Limited Partnership certain acreage.

[14] Due to abandonment, Gas Purchase Contract dated 2-1-66, was cancelled effective 5-1-87.

[15] Multistate sold certain acreage effective November 1, 1986, to Spess Oil Company.

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[16] Multistate assigned certain acreage to Bell & Kinley Company.
[17] Tenneco sold certain acreage effective December 1, 1986, to Vanguard Oil & Gas, Inc.
[18] Tenneco sold certain acreage to Unit Corporation.
[19] Effective 2-n-83, ARCO assigned its interest in certain acreage to Samedan Oil Corporation.
[20] By assignment dated 12-1-84; ARCO assigned its interest in certain acreage to Kelly Oil Company.
[21] By assignment effective 1-1-87, ARCO assigned its interest in certain acreage to Hondo Oil and Gas Company.
[22] Effective 1-1-87, ARCO assigned its interest in certain acreage to Hondo Oil and Gas Company.
[23] Sun assigned its interest in Property No. 808629, Berry E. Unit, to Pan Eastern Exploration Co. and Cabot Petroleum Corporation.
[24] Sun assigned its interest in Property No. 843020, Interstate E GU, to Cities Service Oil and Gas Corporation.
[25] Sun assigned its interest in Property No. 595175, Larkey Gas Unit "A", to Kaiser-Francis Oil Company.
[26] Sun assigned its interest in Property No. 693879, Smith "F" Unit, to Kaiser-Francis Oil Company.
[27] Sun assigned its interest in Property No. 662674, Ora Ramsey to Wellog Petroleum Corporation.
[28] No active leases remaining under Rate Schedule No. 98.
[29] Lone Star Gas Company's Katy Plant was permanently shut down on 11-21-86. Therefore, it is impossible for Lone Star to purchase the gas from the Gene Wood #1 Well under Contract dated 4-18-78. Edwards & Leach Oil Company proposes to sell this gas in intrastate commerce to Sohio Petroleum Company.
[30] By Assignment executed 3-2-87, retroactively effective 2-26-86, Conoco Inc. assigned unto Southern Resource Company, depths down to but not below 6,500 feet underlying an 80-acre tract out of the M. M. Garcia Survey 970, Abstract 1144 (a portion of Conoco Land Lease No. 23784).
[31] By Assignment of Oil and Gas Leases and Bill of Sale effective 4-1-87, Cities assigned its interest in the Dome "A" unit to G. L. Stafford, Jr.
[32] Effective 3-31-87, ARCO purchased all of British Borneo Petroleum Syndicate's interest in the Gillette Plant.
[33] Assignment of a part of Texaco Producing Inc.'s interest in certain acreage to Sirgo Brothers, Inc., and Timothy D. Collier.
[34] In addition, Applicant states, notice was received from El Paso to shut-in the affected well on January 17, 1987, and to this date, the well continues to be shut-in. Deliverability is approximately 46 Mcf/day. The gas is NGPA section 104 post-1974 gas.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 87-25090 Filed 10-28-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP87-559-000 et al.]

Natural Gas Certificate Filings; El Paso Natural Gas Co. et al.

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Co.

[Docket No. CP87-559-000]

October 20, 1987

Take notice that on September 30, 1987, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP87-559-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate certain replacement field compression at El Paso's existing Blanco Field Plant located in San Juan County, New Mexico, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

El Paso states that by orders issued June 19, 1952, June 29, 1953, November 25, 1955, December 19, 1956, March 26, 1958, April 15, 1963, June 10, 1969, and June 30, 1971, all as amended, at Docket Nos. G-1630, G-2106, G-8940, G-10499, G-11797, CP63-207, CP69-203, and CP71-214, respectively, El Paso received Commission authorization to construct and operate, *inter alia*, the Blanco Field Plant located in San Juan County, New Mexico. It is stated that the Blanco Field Plant consists of, *inter alia*, twenty-seven field compression units totaling 78,510 horsepower, and said horsepower was initially utilized by El Paso to compress a daily quantity of up to approximately 700 MMcf of natural gas received from various field sources situated behind the plant.

It is stated that the twenty-seven compressor units located at the Blanco Field Plant are segregated into the "A," "B," and "C" Plants. It is further stated that the "A" and "B" Plants can operate in parallel service, while the "C" Plant is located upstream and operates in series with the "A" and "B" Plants. El Paso advises that these plants are necessary to receive and compress quantities of natural gas from: (i) The Blanco Field: (ii) Ignacio dry gas to volumes; and (iii) volumes of gas from Gas Company of New Mexico ("GCNM"). It is stated that the two units at the "C" Plant, which total 44,560 horsepower, currently receive approximately 500 MMcf per day from the Blanco Field, and after compression at the "C" Plant, the gas stream splits, with approximately 320 MMcf per day discharged to the inlet of El Paso's "B" Plant and approximately 180 MMcf per day discharged directly to the inlet of the Conoco/Tenneco Deep Extraction Plant ("Conoco Plant").[1] It is further stated that the eleven units located at the "B" Plant, totalling 18,330 horsepower, currently compress up to 320 MMcf per day from the "C" Plant which volumes are also discharged directly to the Conoco Plant, and the fourteen units at the "A" Plant, which total 15,400 horsepower, currently receive, compress, and deliver to El Paso's mainline up to 141.5 MMcf per day received from the Ignacio dry gas source and GCNM.

El Paso states that periodic operational problems have occurred at the "B" Plant. It is explained that the primary cause of such problems has been directly attributed to the fact that the "B" Plant's foundation was constructed on an alluvial fill in an ancient river bed which river bed has proven over time to be an unstable and collapsing soil, and which when heavily loaded and unstabled by surface run-off or ground water, tends to shrink. El Paso advises that in the "B" Plant, as a consequence of the foundation's settling, a number of compressor crankshafts have failed, engine blocks have cracked, and plant piping has become stressed. It is stated that these facility problems, all of which are traceable to the foundation settling, [2] present continuing repair expenses and compressor unit down-time while repairs are made, in excess of the normal maintenance and repair experience for similar facilities of like age situated on El Paso's system. El Paso advises, for example, that in the last two and one-half years, three units at the "B" Plant have broken their crankshafts and each cost approximately $250,000 to repair. It is stated that the resultant down-time for two of the damaged compressor units at the "B" plant was a total of 242 days and Unit 8B, since its crankshaft failure in 1986, is still not back in service.

[1] The Conoco Plant was installed as a joint undertaking by Conoco Inc. and Tenneco Oil Company as a part of a special overriding royalty settlement. See FERC order issue June 26, 1985 at Docket No. CP74-314-014.

[2] A geotechnical review of past studies indicates that the soil in this river bed can collapse as much as ten percent of the total volume. There is presently up to ninety feet of this kind of soil beneath the "B" Plant, which in some areas has settled up to one foot.

El Paso states that it has concluded an alternative course of action for solution of the problem is preferrable. Such action would require El Paso to construct and operate another plant using a new gas turbine-driven centrifugal compressor located at another site within the Blanco Field Plant to replace and provide the compression service now offered by the "B" Plant. Specifically, El Paso proposes to construct and operate one new GE Frame 5 Model B gas turbine-driven centrifugal compressor, consisting of 31,050 ISO horsepower, within the existing Blanco Field Plant yard but at a more stable site. El Paso states that the proposed new compressor unit, hereinafter referred to as the "D" Plant, would provide a similar gas supply compression service to the service now provided by the existing "B" Plant compression and additionally would provide El Paso with the pressure-decline capability to move volumes from the Blanco Field during the next few years when the existing pressures are anticipated to drop below the operating range of the existing "C" Plant.

Comment date: December 4, 1987, in accordance with Standard Paragraph G at the end of this notice.

2. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP87-547-000]

October 22, 1987.

Take notice that on September 21, 1987, Arkla Energy Resources, a division of Arkla, Inc. (AER), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP87-547-000 an application pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessary authorizing the firm transportation of up to 150,000 MMBtu equivalent of natural gas per day, and the interruptible transportation of up to 150,000 MMBtu equivalent of natural gas per day on behalf of Vesta Energy Company and ESCO Exploration, Inc. (Shipper), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

AER proposes to provide transportation in accordance with an agreement, as amended, between AER and Shipper (Agreement), which contemplates firm transportation by AER of up to 100,000 MMBtu per day in 1987 and up to 150,000 MMBtu per day thereafter. AER states that it would provide interruptible transportation of up to 150,000 MMBtu per day throughout the term of the Agreement. In this regard, AER states that it has agreed to receive natural gas from Shipper at specified points througout AER's transmission and gathering systems and would transport and deliver, for the account of Shipper, thermally equivalent volumes to various specified points of delivery on AER's transmission system. The Agreement is for a primary term ending July 1, 1995, and continues from year to year thereafter. For this service, AER proposes to charge Shipper rates that are the same as those approved by the Commission for partial requirements transportation service in Docket No. RP86-106-000.

AER states that the proposed service would serve the public convenience and necessity because it would provide AER an opportunity to increase its system load factor and thereby lower AER's unit costs and because it would stimulate the exploration for and development of reserves along AER's gathering and transmission system.

Comment date: November 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

3. ANR Pipeline Co.

[Docket No. CP88-14-000]

October 22, 1987.

Take notice that on October 8, 1987,[3] ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP88-14-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing ANR to provide natural gas sales service to Battle Creek Gas Company (BCGC) and to increase its natural gas sales service to Michigan Gas Utilities Company (MGU), and incident thereto to construct and operate certain facilities necessary to provide such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR proposes to provide firm sales service to BCGC, a new customer, of 4,700 dth of contract demand with an annual contract quantity of 1.7 million dth. ANR proposes to provide MGU, a current firm sales customer of ANR, an additional 12,500 dth of contract demand and an additional 3.2 million dth of annual contact quantity. It is stated that BCGC and MGU sales services will be rendered by ANR under its Rate Schedule CD-1.

ANR's application states that in order to accomplish the delivery of firm sales gas to both BCGC and MGU, ANR is requesting authorization to construct and operate 65.3 miles of natural gas pipeline and certain natural gas measurement facilities. These facilities estimated to cost 14.0 million extend north from ANR's existing mainline facilities in DeKalb County, Indiana to its terminus just south of the City of Battle Creek in Calhoun County, Michigan.

Comment date: November 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

[3] October 16, 1987, ANR filed a substitute application to change the estimated cost of its facilities and the mileage of pipeline to be constructed.

4. Columbia Gas Transmission Corp.

[Docket No. CP88-12-000]

October 22, 1987.

Take notice that on October 7, 1987, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP88-12-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain firm sales service to an existing wholesale customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia states that two of its wholesale customers, T.W. Phillips Gas and Oil Company (Phillips) and Acme Natural Gas Company (Acme), have agreed to merge Acme into Phillips. Columbia states that in conjunction with the merger, Phillips and Acme have requested that Acme's currently effective contract demand level under Columbia's Rate Schedule CDS of 19,860 dt per day (exclusive of the first year Order 436 [4] contract demand reductions of 3,182 dt per day and the exercise of the second year Order 436 reductions which may further reduce Acme's contract demand level to 13,496 dt per day effective November 1, 1987) be reduced to 4,750 dt per day on November 1, 1987, or the first day of the month following the effective date of the merger, whichever is later. The reduced contract demand for Acme of 4,750 dt per day plus the present contract demand of Phillips of 250 dt per day would result in a contract demand for Phillips of 5,000 dt per day under

[4] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436 [Reg. Preambles 1982-1985] FERC Stats. & Regs. Paragraph 30,665 (1985), *modified*, Order No. 436-A, [Reg. Preambles 1982-1985] FERC Stats. & Regs. Paragraph 30, 675 (1985), *modified further*, Order No. 436-B, III FERC Stats. & Regs. Paragraph 30,686 *reh'g denied*, Order No. 436-C, 34 FERC Paragraph 61,404, *reh'g denied*, Order No. 436-D, 34 FERC Paragraph 61,405, *reconsideration denied*, Order No. 436-E, 34 FERC Paragraph 61,403 (1986), *vacated and remanded, sub nom.*, Associated Gas Distributors v. FERC, No. 85-1611 (D.C. Cir June 23, 1987).

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Columbia's Rate Schedule CDS, it is indicated. Acme's current maximum daily quantity of 3,175 dt per day and its winter contract quantity of 177,800 dt are under Columbia's WS Rate Schedule and would not be affected by the proposed abandonment, it is stated. Columbia states that Phillips would execute new service agreements for the combined contract demand service and Acme's present winter service.

Columbia indicates that it would initiate a 2,000 dt per day of firm transportation service under Rate Schedule FTS to Phillips pursuant to Part 284 of the Commission's Regulations and Columbia's existing authorization under its blanket certificate at Docket No. CP86-240-000.

Columbia requests authorization for the abandonment of 15,110 dt per day of contract demanded sales service to Acme in Columbia's Zone 6, effective November 1, 1987, or the first day of the month following the effective date of the merger, whichever is later, resulting in a reduction in the firm sales service entitlement to Acme under Rate Schedule CDS from 19,860 to 4,750 dt per day.

Columbia indicates that in connection with the resultant service to Phillips, Columbia is concurrently filing a request under Part 157.212 of the Commission's regulations to establish a new point of delivery to Phillips in Fairview Township, Butler County, Pennsylvania to establish additional service for these proposed new contract levels within their existing franchise area.

Comment date: November 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

5. Great Lakes Gas. Transmission Co.

[Docket No. CP88-8-000]

October 22, 1987.

Take notice that on October 5, 1987, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP88-8-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing abandonment of sales service to Michigan Gas Company (Michigan Gas) and transportation service for Michigan Gas for natural gas that would be purchased from TransCanada Pipelines Limited (TransCanada), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Great Lakes states that it currently sells to Michigan Gas up to 7,300 Mcf per day of natural gas purchased from TransCanada under a contract dated October 9, 1970. Great Lakes states that Michigan Gas can obtain a better gas purchase arrangement directly from TransCanada. Michigan Gas, TransCanada, and Great Lakes have entered into an agreement dated September 2, 1987, that contains a transportation service agreement and a direct sale contract, it is stated. It is further stated that the rates in the transportation service agreement would be the transportation component of Applicant's resale rates for its central zone under its existing Rate Schedule S-1. Great Lakes indicates that the rates in the sales contract would be similar to those currently in effect for Michigan Gas.

Comment date: November 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

6. Southern Natural Gas Co.

[Docket No. CP88-21-000]

October 22, 1987.

Take notice that on October 13, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP88-21-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing Southern to transport gas on behalf of The Water Works, Sewer and Gas Board of the City of Childersburg, Alabama (Childersburg), and the Gas Board of the City of Columbiana, Alabama (Columbiana), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to transport natural gas for Childersburg and Columbiana in accordance with the terms and conditions of transportation agreements between Childersburg and Southern dated September 15, 1987, (Childersburg agreement) and between Columbiana and Southern dated September 15, 1987, (Columbiana agreement). Southern states it has agreed to transport on an interruptible basis up to 7,700 MMBtu equivalent of gas per day for Childersburg and up to 2,500 MMBtu of gas per day for Columbiana. It is stated that Childersburg and Columbiana have arranged to purchase the gas from SNG Trading Inc. Southern requests that the Commission issue a limited-term certificate for a term expiring on October 31, 1988.

Southern states that the transportation agreements provide for Childersburg and Columbiana to cause natural gas to be delivered to Southern for transportation at various existing points on Southern's contiguous pipeline system in the Main Pass, Mississippi Canyon, and West Delta Areas, offshore Louisiana; Ascension, Lincoln, Orleans, Plaquemines, St. Martin and St Mary Parishes, Louisiana; Lawrence County, Mississippi; and Panola County, Texas. Southern states that it would redeliver to Childersburg at the Childersburg Meter Stations Nos. 1 and 2 located in Talladega County, Alabama, and to Columbiana at the Columbiana Meter Station in Shelby County, Alabama, an equivalent quantity of gas less 3.25 percent of such amount which shall be deemed to be used as compressor fuel and company-use gas (including system unaccounted-for gas losses), less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas, and less Childersburg's or Columbiana's prorata share of any gas delivered for Childersburg's or Columbiana's account which is lost or vented for any reason.

Southern states that Childersburg and Columbiana have agreed to pay Southern each month the transportation rate of 64.9 cents per MMBtu of gas redelivered by Southern. Also, Southern would collect from Childersburg and Columbiana the applicable GRI surcharge of 1.52 centsa per Mcf, it is indicated.

Southern states that the transportation arrangements would enable Childersburg and Columbiana to diversity their natural gas supply sources and to obtain gas at competitive prices. Additionally, Southern advises that it would obtain take-or-pay relief on the gas Childersburg and Columbiana may obtain from their suppliers.

Comment date: November 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

7. Tennessee Gas Pipeline Co., a Division of Tenneco Inc.

[Docket No. CP88-26-000]

October 22, 1987.

Take notice that on October 16, 1987, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-26-000 a request, pursuant to section 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Cities Service Oil and Gas Corporation (Cities), under the certificate issued in Docket No. CP87-118-000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission open to public inspection.

Applicant proposes to transport natural gas on behalf of Cities from South Pass Block 77, offshore Louisiana, to an interconnection with Southern Natural Gas Company in Pugh, Lowndes County, Mississippi, pursuant to a transportation agreement dated July 30, 1987. Applicant also states that it would transport plant thermal reduction on behalf of Cities from South Pass Block 77 to the Yscloskey natural gas processing plant in Saint Bernard Parish, Louisiana.

The Applicant further states that the maximum daily and annual transportation quantities would be 12,000 dekatherms and 845,705 dekatherms, respectively. Applicant indicates that service under §284.223(a) of the Commission's Regulations commenced August 6, 1987, as reported in Docket No. ST87-4386.

Comment date: December 7, 1987, in accordance with Standard Paragraph G at the end of this notice.

8. Williams Natural Gas Co.

[Docket No. CP88-16-000]

October 22, 1987.

Take notice that on October 8, 1987, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP88-16-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon by reclaim regulating, measuring and appurtenant facilities serving TAE Corporation (TAE) in Kay County, Oklahoma, and Frank Black (Black) in Sumner County, Kansas, and to abandon by reclaim regulating, measuring and appurtenant facilities and to abandon in place 2.7 miles of 3-inch pipeline and appurtenant facilities serving Western Alfalfa Corporation (Western Alfalfa) in Sumner County, Kansas, and the transportation of gas through said facilities, under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that TAE, Black and Western Alfalfa have requested that the facilities be reclaimed and that no other customers will be affected by abandoning the 3-inch pipeline serving Western Alfalfa. The total cost of the abandonments is $1,020 with an estimated salvage of $7,238, it is stated.

WNG submits that a copy of this request is being sent to the Kansas Corporation Commission and the Oklahoma Corporation Commission.

Comment date: December 7, 1987, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time requried herein, if the Commission on its own review of the matter finds that a grant of the certificate is requried by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24996 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA87-15-20-000 and RP87-109-000]

Algonquin Gas Transmission Co.; Proposed Change in FERC Gas Tariff

October 23, 1987.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 9, 1987, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, six (6) copies of the following tariff sheets:

Second Substitute Fourteenth Revised Sheet No. 204.

Second Substitute Fifteenth Revised Sheet No. 204.

Algonquin states that such tariff sheets are being filed to reflect in its Rate Schedule F-3 a $1.32/dekatherm reduction in the demand charge for firm transportation service by Transcontinental Gas Pipe Line Corporation ("Transco"), as set forth in Transco's filing in Docket No. RP87-94-000.

Algonquin proposes the effective dates of Second Substitute Fourteenth Revised Sheet No. 204 and Second Substitute Fifteenth Revised Sheet No. 204 to be September 1, 1987 and October 1, 1987, respectively.

Algonquin further proposes to flow through to its F-3 customers any refund it receives from Transco for the reduced demand charge related to the period preceding Algonquin's September 1, 1987 proposed effective date.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protect with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 30, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

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with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25091 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-113-001]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

October 23, 1987.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf) on October 13, 1987 tendered for filing the following proposed changes to its FERC Gas Tariff, to be effective October 1, 1987:

Third Revised Sheet No. 5A
Fourth Revised Sheet No. 31

Columbia Gulf states that the listed tariff sheets set forth the transportation rates and applicable tariff provisions required to place the rates into effect, applicable to the Annual Charge Adjustment, pursuant to the Commission's Regulations as set forth in Order No. 472, 472-A and 472-B issued May 29, 1987, June 17, 1987 and September 16, 1987, respectively.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 30, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25093 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-36-000]

Green Mountain Power Corp.; Notice of Filing

October 20, 1987.

Take notice that on October 15, 1987, Green Mountain Power Corporation (Company) tendered for filing a revision to its FERC Electric Tariff, First Revised Volume No. 1. This revision provides for a decrease in the Company's demand charge under the wholesale (Rate W) rate from $10.71 per kilowatt-month to $10.13 per kilowatt-month, to be made effective as of July 1, 1987.

The Company states that the rate reduction, which reflects a change in the federal corporate tax rate from 46% to 34%, was calculated using the formula mandated by the Commission in its Order in Docket No. RM87-4-000 and embodied in 18 CFR 35.27(c).

The Company states that copies of the filing have been served on the Village of Jacksonville, the Village of Readsboro, the New Hampshire Electric Cooperative, Inc., the Washington Electric Cooperative, Inc., the Vermont Electric Cooperative, Inc., the Vermont Public Service Board, the Vermont Public Service Department, and the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 5, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25094 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA88-1-7-001 and RP87-108-001]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 23, 1987.

Take notice that Southern Natural Gas Company (Southern) on October 14, 1987, tendered for filing Seventy-Fifth Revised Sheet No. 4A and Fifth Revised Sheet No. 4B to its FERC Gas Tariff, Sixth Revised Volume No. 1, with a proposed effective date of October 1, 1987, and November 1, 1987, respectively. Southern states that the tariff changes are being made in compliance with Ordering Paragraph (C) of the Commission's September 30, 1987 order in these proceedings and reflect the rates of United Gas Pipe Line Company, one of Southern's pipeline suppliers, in effect on October 1, 1987.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before October 30, 1987.

Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25092 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC88-3-000]

Southern Natural Gas Co.; Notice of Tariff Sheet Filings

October 23, 1987.

Take notice that on October 16, 1987, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama, 35202-2563, filed Revised Tariff Sheets to become effective November 15, 1987, to implement a new section 22 to the General Terms and Conditions of its FERC Gas Tariff for gas storage protection. Section 22 is proposed to be effective for the 1987-1988 storage withdrawal season only. The storage protection plan allows Applicant to limit or curtail its interruptible transportation services during the winter storage withdrawal season from November 15, 1987, through March 15, 1988 down to 650,000 Mcf per day to ensure that Applicant will be able to withdraw approximately 55 billion cubic feet of top storage gas from its underground storage fields by the end of the winter withdrawal period on March 15, 1988. Applicant states that it must withdraw 55 billion cubic feet of gas in order to provide sufficient underground storage capacity for the injection of certain volumes of gas, which must be purchase by Applicant and cannot be curtailed, during the summer injection period. Applicant's filing consists of: Original Sheet No. 45 N and Original Sheet No. 45 O.

Any person desiring to be heard or to make any protest with reference to said

tariff sheet filing should on or before November 3,1987, file with the Federal Energy Regulatory Commission, Washington, D. C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25056 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

Docket No. CI88-17-000]

Tejas Hydrocarbons Co., Notice of Application

October 20, 1987.

Take notice that on October 9, 1987, Tejas Hydrocarbons Company (Tejas), of 333 Clay Street Suite 4545, Houston, Texas 77002, filed an application pursuant to section 7 of the Natural Gas Act (NGA),[1] and the Federal Energy Regulatory Commission's regulations promulgated thereunder for a one-year blanket certificate of public convenience and necessity with pregranted abandonment authority to permit the sale, and pregranted abandonment of the sale, of all NGPA categories of natural gas which remains subject to the Commission's NGA jurisdiction, including contractually uncommited natural gas reserves, for which producers have already received separate sales and abandonment authorizations under sections 7(b) and 7(c) of the NGA.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25095 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

[1] 15 U.S.C. 717f (1982).

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59250A; FRL-3284-2]

Toxic and Hazardous Substances; Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of several applications for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA). EPA has designated these applications as TME-87-31, TME-87-32, TME-87-33, and TME-87-34. The test marketing conditions are described below.

EFFECTIVE DATE: October 21, 1987.

FOR FURTHER IONFORMATION CONTACT: Robert Wright, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202-382-7800).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke test marketing exemptions upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-87-31, TME-87-32, TME-87-33, and TME-87-34. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time period and restrictions specified below, will not present any unreasonable risks of injury to health or the environment. Production volumes, use, and the number of customers must not exceed that specified in the applications. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-87-31, TME-87-32, TME-87-33, and TME-87-34. A bill of lading accompanying each shipment must state that the use of the substances is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantities of the TME substances produced and the date of manufacture.

2. The applicant must maintain records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substances.

T87-31

Dated of Receipt: September 14, 1987.

Notice of Receipt: September 29, 1987 (52 FR 36461).

Applicant: Dai Nippon Printing Company.

Chemical: (G) Indophenol derivative

Use: Dye for heat transfer recording material.

Production Volume: 100 kg.

Maxium Exposure: 1,000 sheets containing the encapsulated TME substance may be distributed to 5,000 persons.

Test Marketing Period: November 1987.

Risk Assessment: EPA identified a health concern for oncogenicity and lung toxicity based on an analogy to a similar substance. However, due to enclosure of the substance, EPA expects that the substance will have no significant human exposure. Therefore, the test market substance will not present any unreasonable risk of injury to health.

EPA identified an environmental concern for bioconcentration of the test marketing substance. However, because EPA expects no significant release of the substance to the environment, the test market substance will not present any unreasonable risk of injury to the environment.

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T87-32

Dated of Receipt: September 14, 1987.
Notice of Receipt: September 29, 1987 (52 FR 36461).
Applicant: Dai Nippon Printing Company.
Chemical: (G) Azomethine dye derivative
Use: Dye for heat transfer recording material.
Production Volume: 100 kg.
Maxium Exposure: 1,000 sheets containing the encapsulated TME substance may be distributed to 5,000 persons.
Test Marketing Period: November 1987.
Risk Assessment: EPA identified a health concern for oncogenicity and lung toxicity based on an analogy to a similar substance. However, due to enclosure of the substance, EPA expects that the substance will have no significant human exposure. Therefore, the test market substance will not present any unreasonable risk of injury to health.

EPA identified an environmental concern for bioconcentration of the test marketing substance. However, because EPA expects no significant release of the substance to the environment, the test market substance will not present any unreasonable risk of injury to the environment.

T87-33

Date of Receipt: September 14, 1987.
Notice of Receipt: September 29, 1987 (52 FR 36461).
Applicant: Dai Nippon Printing Company.
Chemical: (G) Indophenol derivative.
Use: Dye for heat transfer recording material.
Production Volume: 100 kg.
Maximum Exposure: 1,000 sheets containing the encapsulated TME substance may be distributed to 5,000 persons.
Test Marketing Period: November 1987.
Risk Assessment: EPA indentified a health concern for oncogenicity and lung toxicity based on an analogy to a similiar substance. However, due to enclosure of the substance, EPA expects that the substance will have no significant human exposure. Therefore, the test market substance will not present any unreasonable risk of injury to health.

EPA identified an environmental concern for bioconcentration of the test marketing substance. However, because EPA expects no significant release of the substance to the environment, the test market substance will not present any unreasonable risk of injury to the environment.

T87-34

Date of Receipt: September 14, 1987.
Notice of Receipt: September 29, 1987 (52 FR 36461).
Applicant: Dai Nippon Printing Company.
Chemical: (G) Azomethine dye derivative.
Use: Dye for heat transfer recording material.
Production Volume: 100 kg.
Maximum Exposure: 1,000 sheets containing the encapsulated TME substance may be distributed to 5,000 persons.
Test Marketing Period: November 1987.
Risk Assessment: EPA indentified no health concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health.

EPA identified an environmental concern for bioconcentration of the test marketing substance. However, because EPA expects no significant release of the substance to the environment, the test market substance will not present any unreasonable risk of injury to the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: October 21, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87-25041 Filed 10-28-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-400006; FRL-3284-4]

Toxic Chemicals; Emergency Planning and Community Right-to-Know Program; Denial of Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is denying a petition to delist ortho-phenylphenol from the list of toxic chemicals under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). Section 313(e) allows any persons to petition the Agency to modify the list of toxic chemicals for which toxic release reporting is required.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M Street, SW., Washington, DC 20460, (202) 554-1411.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

The response to the petition is issued under section 313(e)(1) of Title III of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499, "SARA" or "the Act"). Title III of SARA is also referred to as the Emergency Planning and Community Right-to-Know Act of 1986.

B. Background

Title III of SARA is intended to encourage and support emergency planning efforts at the State and local level and provide the public and local governments with information concerning potential chemical hazards present in their communities.

Section 313 of Title III requires owners and operators of certain facilities that manufacture, process, or otherwise use a listed toxic chemical to report annually their releases of such chemicals to the environment. Such reports are to be sent to both EPA and the State in which the facility is located. The basic purpose of this provision is to make available to the public information about total annual releases of toxic chemicals from industrial facilities in their community. In particular, EPA is required to develop a computer data base containing this toxic chemical release information and to make it accessible by telecommunications on a cost reimbursable basis.

For reporting purposes, section 313 establishes an initial list of "toxic chemicals" that is composed of 329 entries, including 20 categories of chemicals. This list is a combination of lists of chemicals used by the States of Maryland and New Jersey for emissions reporting under their individual right-to-know laws. Section 313(d) authorizes EPA to modify by rulemaking the list of chemicals covered either as a result of EPA's self-initiated reivew or in response to petitions under section 313(e).

Section 313(e)(1) provides that any person may petition the Agency to add chemicals to or delete chemicals from the list of "toxic chemicals." EPA issued a statement of policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479). This statement provided guidance to potential petitioners regarding the recommended contents and format for submitting petitions. The Agency must respond to petitions within 180 days either by initiating a rulemaking or publishing an explanation of why the petition is denied. If EPA fails to respond within 180 days, it is subject to citizen suits. In the event of a petition from a State governor to add a chemical, under section 313(e)(2), if EPA fails to act within 180 days, EPA must issue a final rule adding the chemical to the list. Therefore, EPA is under specific constraints to evaluate petitions and to issue a timely response.

State governors may petition the Agency to add chemicals on the basis of any one of the three toxicity criteria: Acute human health effects, chronic human health effects, or environmental toxicity. Other persons may petition only on the basis of acute or chronic human health effects.

Chemicals are evaluated for inclusion on the list based on the criteria in section 313(d) and using generally accepted scientific principles or laboratory tests, or appropriately designed and conducted epidemiological or other population studies, available to EPA.

II. Description of Petition

The Dow Chemical Company (Dow) submitted a petition to EPA to remove ortho-phenylphenol (OPP), Chemical Abstracts Service number 90-43-7, from the list of toxic chemicals. The Agency received the petition on April 27, 1987, and, under the statutory deadline, must respond by October 24, 1987. Dow submitted several citations of studies to support its petition.

The petitioner based its petition on the contention that OPP does not meet the health or environmental toxicity criteria in section 313(d)(2).

III. EPA'S Review of Ortho-Phenylphenol

A. Chemistry Profile

The Agency has gathered and verified the chemical and physical properties of OPP as available in the literature as well as actual and potential synthetic schemes for its production [Ref. 3].

B. Toxicity Evaluation

The health and environmental review included an assessment of metabolism/absorption, acute toxicity, carcinogenicity, mutagenicity, neurotoxicity, chronic toxicity, reproductive effects, developmental toxicity, and environmental toxicity. Readily available data on the health and environmental effects of OPP, including Dow's submitted data, Agency documents, and studies obtained from literature searches were reviewed. The Agency views OPP and its sodium salt (SOPP) as equivalent in its assessment of the health and environmental effects since they are expected to behave the same [Ref. 4].

1. *Absorption/Metabolism.* Studies have shown that OPP is readily absorbed from the gastrointestinal tract. Dermal absorption in humans has also been demonstrated. The primary route of metabolism of OPP is through conjugation with sulfate and glucuronic acid.

2. *Acute toxicity (human health).* OPP is only slightly acutely toxic as shown by rat and mouse oral acute toxicity values [Ref. 4].

3. *Carcinogenicity.* The primary health concern identified for OPP is carcinogenicity. There is enough animal evidence to suggest that OPP is a potential human carcinogen based on positive responses in two animal species, rats and mice.

OPP has been found to be a carcinogen in male rats, in both long-term (91 weeks) and short-term (13 weeks) studies. Long-term studies showed a variety of tumor development, primarily urinary bladder tumors, while the 13-week study showed the development of urinary bladder tumors only. It is significant that tumors were observed in such a short time. Although data for oncogenic potential in female rats are inconclusive, the presence of tumors in 2 of 10 female rats fed 4 percent SOPP also suggests a positive response.

One mouse study of the oncogenic activity of OPP was considered unacceptable due to its low dosage and short duration. However, in a 96-week feeding study of mice fed up to 2 percent OPP, statistically significant increases of liver hepatocellular carcinomas was observed and appeared to exhibit a dose-related response. The petitioner has postulated a threshold effect for carcinogenicity where positive response is only seen at high doses. However, current EPA policy is not to accept threshold arguments for carcinogens.

4. *Developmental/reproductive toxicity.* After reviewing the available literature, the EPA has concern that OPP and SOPP may exhibit developmental toxicity effects. Maternal and fetal toxicity (death) was observed in three separate studies. Since effects were seen at maternal toxicity levels, it is not clear whether maternal toxicity is the cause for the developmental effects. A reproductive effects study is currently under way as a result of data call in under FIFRA. Results are not yet available.

5. *Mutagenicity.* Evaluation of the available mutagencicity data using the weight of evidence approach suggest that the data are insufficient to establish that OPP can cause heritable gene or chromosome mutations in humans. Test results are predominantly negative, and EPA does not consider the few indications of a positive response to be sufficient evidence.

6. *Immunotoxicity.* Indications of effects on the immune system have been seen in some animal studies using OPP; however, no conclusions can be reached. No immunoassays have been conducted.

7. *Neurotoxicity.* There are no readily available data on neurotoxic effects of OPP. There were no indications of neurotoxic effects in chronic studies.

8. *Other chronic health effects.* Sub-chronic and chronic administration of OPP and SOPP has resulted in significant renal effects as well as decreased survival rates in test animals; however, renal toxicity is only seen at high dose levels.

9. *Ecotoxicity.* EPA's evaluation concluded that OPP is of moderate ecotoxicity concern based on it aquatic acute toxicity and its persistance. OPP has been found to have aquatic toxicity at concentrations ranging from 25 parts per million (ppm) for green algae to 2.7 ppm for daphnids. Laboratory test data using river water have shown that the primary biodegradation of OPP is 50 to 65 percent complete in 16 days. Complete (ultimate) biodegradation is estimated at 2 to 4 weeks in river water.

C. Use, Release, and Exposure Analysis

1. *Production.* The Agency has confirmed that Dow is currently the sole producer of OPP in the U.S., marketing OPP under the tradename of Dowicide 1. Production takes place exclusively at a plant in Midland, Michigan. The reported demand for OPP in 1983 was listed at 2.2. million pounds and the estimated demand for OPP in 1988 is 2.4 million pounds. Some OPP is imported into the U.S. by Mobay Corporation from Bayer AG. It is estimated that approximately 100,000 pounds (or about 5 percent of the total U.S. demand) of OPP was imported in 1983.

The economic analysis shows that OPP is primarily used as an antimicrobial agent in industrial, institutional, and household disinfectants and sanitizers (69 percent of the production volume) and as an intermediate for the preparation of SOPP (10 to 15 percent of the production volume). Other important uses of OPP include as a biocide in metalworking fluids, as a preservative in starch-based

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adhesives, and as a post-harvest preservative in fruits and vegetables [Ref. 5]

2. *Exposure and release.* Dow provided EPA with detailed confidential information on its OPP manufacturing operations. Evaluation of this information, as well as EPA's best estimates, indicates that ambient exposure due to releases from manufacture of OPP is low [Refs. 1, 2].

While little data exist on processing operations, worst-case human exposures are anticipated to result mostly from releases to drinking water, where exposures have been estimated to be up to 2 mg/yr. Using worst-case estimates, releases, releases from clean-up operations at the processing facility could result in surface water concentrations of up to 60 parts per billion (ppb). These levels would be of moderate concern for ecotoxicity.

Information regarding the handling and disposal of OPP by users was not available. The Agency estimated exposures and releases for the major uses (institutional disinfectants, metalworking fluids, and starch-based adhesives) of OPP using worst-case scenarios. Moderate aquatic exposures to OPP could result from use as an institutional disinfectant. Surface water concentrations resulting from this use have been estimated to be as high as 30 ppb. There is greater concern for release of OPP from its use in metalworking fluids. Drinking water exposures to OPP as high as 20 mg/yr have been estimated, and a worst-case surface water concentration of 20 ppm has been estimated [Refs. 1, 2].

D. Summary of Technical Review

The Agency's review of toxicity centers on three concerns. EPA has concern for the potential carcinogenicity of OPP based on positive results in multiple species and tumor development in a short time. DOW postulates that the carcinogenic effect is threshold related and indicates that the effects which are observed only occur at high doses. EPA does not consider that the present information is sufficient to support the conclusion that the carcinogenic effect is threshold related.

The EPA has concern for development toxicity. OPP is developmentally toxic at maternally toxic levels, but it cannot be determined whether maternal toxicity is the cause of the developmental toxicity.

The EPA has moderate concern for aquatic toxicity resulting from acute toxicity and the level of persistence of OPP.

Due to a lack of monitoring data, exposures were estimated for processors and users of OPP. Levels acutely toxic to aquatic life could be reached from release of OPP to water from the metalworking fluid industry.

Human exposure from releases of OPP to drinking water are estimated possibly to be as high as 20 mg/yr from its use in the metalworking fluid industry, and as high as 2 mg/yr in processing operations.

IV. Explanation of Denial

A. General Policy

EPA has broad discretion in determining whether to grant or deny petitions under section 313. When granting a petition, the Agency has an obligation to show how the granting of the petition fulfills the statutory criteria the Agency is to use in section 313(d) when modifying the list of toxic chemicals. When denying a petition, the Agency must publish an explanation of why the petition is denied. In the Joint Conference Committee Report, the conferees made clear that EPA may conduct risk assessments or site-specific analyses in making listing determinations under section 313(d). EPA has concluded that potential exposure must be a consideration in making decisions to revise the chemicals to the list. In all evaluations, EPA has discretion to consider a variety of factors to determine whether it is appropriate to add chemicals to the list, albeit limited in the case of petitions under section 313(e) by the 180-day period.

B. Reasons for Denial

The EPA is denying the petition submitted by Dow to remove OPP from the list of chemicals subject to toxic release inventory reporting. Given the available data on Opp, EPA believes that there is enough evidence on potential carcinogenicity, developmental toxicity, and environmental toxicity/persistence to warrant keeping OPP on the list of chemicals. In addition, there is little data on release and exposure resulting from the processing, and use of OPP. Finally, the chemical is subject to a data call-in (as an active pesticide ingredient), under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The studies asked for include: (1) Chronic feeding; (2) teratology; and, (3) reproductive.

In sum, EPA's major concerns are for oncogenicity and environmental toxicity/persistence. Coupled with the concern for developmental toxicity and the lack of exposure data, the Agency has concluded that OPP should not be removed from the list of chemicals subject to reporting under section 313 of Title III of SARA.

V. Public Record

The record supporting this decision is contained in docket number OPTS-400006. All documents, including the index of the docket, but excluding documents containing confidential business information, are available to the public in the OTS Reading Room from 8 a.m. to 4 p.m., Monday thru Friday, excluding legal holidays. The OTS Reading Room is located at EPA Headquarters, Room NE-GO04, 401 M St., SW., Washington, DC 20460.

(1) Delpire, L. SARA Title III Section 313: Petition to Delist ortho-phenylphenol (OPP)—Exposure Assessment. USEPA.

(2) Heath, G. Engineering Report. Petition Review SARA Title III Section 313 Release Analysis: Ortho-phenylphenol. USEPA. 1987.

(3) Houk, J. Title III Section 313: Chemistry Report on ortho-phenylphenol (OPP). USEPA. 1987.

(4) Jones, R. Title III Section 313: Hazard Assessment of ortho-phenylphenol. USEPA. 1987.

(5) Long, J. Economic Report on Production Uses, Substitutes and Cost Analysis ortho-phenylphenol (OPP). USEPA. 1987.

(6) Environmental Criteria and Assessment Office. Reportable Quantity Document for 2-Phenylphenol. USEPA. March 1985.

(7) Environmental Criteria and Assessment Office. Health and Environmental Effects Profile for 2-Phenylphenol. USEPA. September 1984.

Therefore, EPA is denying the petition to delist ortho-phenylphenol under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986

Dated: October 22, 1987.

Victor J. Kimm,

Assistant Administrator, Office of Pesticides and Toxic Substances.

[FR Doc. 87-25040 Filed 10-28-87; 8:45 am]

BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order No. 879]

Authority Delegations; Authority of Officers and Employees of the Farm Credit Administration to Act as Chairman in the Event of a National Emergency and Other Related Matters (Revocation of FCA Order No. 802)

AGENCY: Farm Credit Administration.

ACTION: Notice.

1. (a) Pursuant to Executive Order 11490 and implementing authorities, in the event of a national emergency, if the Chairman of the Farm Credit Administration (FCA) is not able to perform the duties of the office for any reason, the officer of the FCA who is highest on the following list and who is available to act, is hereby authorized to exercise and perform all the functions, power, authority and duties of the Office of Chairman:

(1) Member of the Board of the Chairman's Party;

(2) Member of the Board of the Minority Party;

(3) Executive Assistant to the Chairman;

(4) Secretary to the Board; or

(5) Director, Office of Congressional and Public Affairs.

(b) In the event of an enemy attack on the continental United States, all Field Office Chiefs, including any Acting Chiefs, are authorized in their respective regions to perform any function of the Chairman, whether or not otherwise delegated, which is essential to carry out responsibilities otherwise assigned to them. The respective officer will be notified when they are to cease exercising the authority delegated in this paragraph.

2. The temporary headquarters for operations of the FCA shall be at the Bloomington, Minnesota Field Office or, if that city is attacked and rendered unavailable, at such other relocation point as may be designated by an Acting Chairman.

3. An Acting Chairman may establish such branch office or offices of the FCA as are necessary to coordinate the operations of the FCA with those of other Government agencies.

4. This Order shall be effective immediately and supersedes prior delegations and authorizations of the Governor of the FCA dated March 1, 1977. This Order shall remain in effect until amended, superseded, or revoked.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration Board.

[FR Doc. 87-25097 Filed 10-28-87; 8:45 am]

BILLING CODE 6705-01-M

[Farm Credit Administration Order No. 881]

Designation of Contracting Officer (Revocation of FCA Order No. 868)

AGENCY: Farm Credit Administration.

ACTION: Notice.

SUMMARY: The Chairman of the Farm Credit Administration issued Order No. 881 designating certain employees to act as contracting officers. The text of the Order is as follows:

1. The Director, Office of Administration, is hereby designated to act: (a) As Contracting Officer of the Farm Credit Administration with unlimited authority to execute all contracts, agreements, and memoranda of understanding of the Farm Credit Administration, to exercise related power of the Farm Credit Administration under the Farm Credit Act of 1971, as amended, and under 31 U.S.C. 1535, including the making of related determinations and decisions, and to administer all contracts, agreements, and memoranda of understanding of the Farm Credit Administration; and (b) as the senior procurement executive pursuant to the requirements of the Office of Federal Procurement Policy Act of 1974, as amended.

2. The Chief, Administrative Services Division, and the Chief, Contracting and Procurement Branch, Office of Administration, are hereby authorized to act as Contracting Officers of the Farm Credit Administration with authority to execute all contracts, agreements, and memoranda of understanding of the Farm Credit Administration not in excess of $50,000 except those involving other Federal Government agencies, including the making of related determinations and decisions and to administer all contracts, agreements, and memoranda of understanding of the Farm Credit Administration, except as the Director, Office of Administration may otherwise provide.

3. The Chief, Administrative Services Division may delegate to Ordering Officers authority to negotiate and sign orders for small purchases not in excess of $25,000.

4. The Chief, Budget and Accounting Division, Office of Administration, is hereby authorized to act as signatory authority for the Farm Credit Administration with authority to execute all agreements and memoranda of understanding between the Farm Credit Administration and other Federal Government agencies, including the making of related determinations and decisions and to administer all such agreements and memoranda of understanding of the Farm Credit Administration, except as the Director, Office of Administration, may otherwise provide.

5. All actions taken pursuant to this Order shall be in conformity with guidelines approved by the Chairman and with all applicable requirements of law, executive orders, and regulations.

6. Farm Credit Administration Order No. 868, dated September 29, 1986, is hereby revoked.

7. The provisions of this Order shall be effective immediately and shall remain in full force and effect until amended or revoked by subsequent order.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration Board.

[FR Doc. 87-25098 Filed 10-28-87; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Advisory Council Meeting

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the Federal Savings and Loan Advisory Council. Notice of the meeting is required under the Federal Advisory Committee Act.

DATES: November 18, 1987, 9:00 a.m.–4:30 p.m.; November 19, 1987, 9:00 a.m.–11:30 a.m.

ADDRESS: Federal Home Loan Bank Board, Board Room, 6th Floor, 1700 G Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: John M. Buckley, Jr. (202/377-6577) Debra J. Ahearn (202/377-6924)

SUPPLEMENTARY INFORMATION:

Proposed agenda:

1. FSLAC Operating Procedures
2. Enhancing the Thrift Charter
3. Federal Reserve Board's Proposal to allow commercial banks to acquire healthy S&Ls

No. 14, October 26, 1987.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-25099 Filed 10-28-87; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F-0320]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the increased use of di-*tert*-butylphenyl phosphonite condensation product with

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biphenyl as an antioxidant for low density polyethylene and olefin copolymers intended to contact food.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B4018) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.2010 *antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the increased use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl as an antioxidant for low density polyethylene and olefin copolymers intended to contact food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 20, 1987.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–24991 Filed 10–28–87; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 87F–0327]

The Dow Chemical Co.; Filing of Food Additive Petion

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Dow Chemical Co. has filed a petition proposing that the food additives regulations be amended to provide for the safe use of ethylene-acrylic acid-carbon monoxide copolymer as an adhesive in multilayer structures intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B4037) has been filed by The Dow Chemical Co., 1803 Building, Door 7, Midland, MI 48674, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of ethylene-acrylic acid-carbon monoxide copolymer as an adhesive in multilayer structures intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 20, 1987.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–24992 Filed 10–28–87; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Ophthalmic Devices Panel

Date, time, and place. November 17, 1987, 1:30 p.m., Conference Rm. A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. This meeting will be held by a telephone conference call. A speaker telephone will be provided in the conference room to allow public participation in the meeting. Open public hearing, 1:30 p.m. to 1:45 p.m.; open committee discussion, 1:45 p.m. to 4:30 p.m. Daniel W.C. Brown, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7320.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 10, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of the proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss general issues relating to approvals of premarket applications for contact lenses. The committee may also discuss general issues relating to other ophthalmic devices.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last the long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: October 22, 1987.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–24990 Filed 10–28–87; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Medicaid Program, Hearing to Reconsider Disapproval of a Pennsylvania State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on December 17, 1987 in Philadelphia, Pennsylvania to reconsider our decision to partially disapprove Pennsylvania State Plan Amendment 86–14.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk November 13, 1987.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to partially disapprove Pennsylvania State Plan Amendment 86–14.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideratin of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether portions of Pennsylvania SPA 86–14 violate section 1902(a)(10) (A) and (C) of the Social Security Act and regulations at 42 CFR 435.711 and 435.721.

Pennsylvania submitted SPA 86–14 which updates the Pennsylvania Medicaid State plan with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 and the Deficit Reduction Act of 1984.

HCFA disapproved Attachment to Attachment 2.6–A, page 13 of SPA 86–14 because it determined that the page contains financial eligibility rules that are in some respects more liberal and in other respects more restrictive than permitted by law and regulations. On August 18, 1987 Pub. L. 100–93 amended the moratorium established by section 2373(c) of the Deficit Reduction Act of 1984. Among other things, the amendment makes clear that the moratorium affords protection to State plan amendments (whether or not approved) as well as to existing approved State plans. The moratorium is limited to the medically needy and the optional categorically needy groups described in sections 1902(a)(10)(A)(ii)(IV), (V), and (VI). It also applies only to provisions which do not make *any individual* ineligible who would be eligible except for that provision. Thus, provisions which are more restrictive in any respect than the cash assistance rules are not protected. However, the moratorium does not preclude HHS from disapproving State plan submittals which do not satisfy the requirements of the Medicaid statute, but prevents HHS from penalizing States for adhering to the terms of the material protected by the moratorium. Thus, although certain portions of Pennsylvania's amendment may be covered under the amended moratorium, the disapproval of these provisions remains proper. The State may, however, implement those provisions covered by the moratorium during the period in which the moratorium remains in effect. The moratorium does not relieve the State of its obligations to adhere to the income caps established by section 1903(f) of the Social Security Act.

The following describes each provision of Attachment to Attachment 2.6–A, page 13.

A. Provisions proposed for AFDC-related individuals

1. The State indicates it does not apply the AFDC treatment of lump-sum income policy in determining eligibility for medical assistance. Under AFDC when the family's income exceeds the need standard because of receipt of nonrecurring lump-sum income the family will be ineligible for aid for the full number of months derived by dividing the sum of the lump-sum income and any other income by the applicable monthly need standard. (See 45 CFR 233.20(a)(3)(ii)(F).) HCFA has determined that Pennsylvania's proposal to not apply AFDC lump-sum rules is more liberal than AFDC policy because the lump sum payment is counted as income only in the month received which results in potentially no more than 1 month of ineligibility rather than up to several months as may be the case under the AFDC rule. Additionally,

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HCFA believes the Pennsylvania proposal to not apply the AFDC lump-sum income policy can have the result of treating families in a more restrictive manner, depending on the individual family circumstances. For example, application of the AFDC lump-sum policy may still permit families with low recurring monthly income to establish medically needy eligibility through spenddown. However, as Pennsylvania proposes to count the entire lump-sum amount in 1 month (or budget period), the entire lump-sum amount could raise the family's income (and thus the family's spenddown liability) so far above the monthly need standard that the family would be unable to spenddown enough to attain medically needy eligibility. Therefore, HCFA has determined it is in violation of section 1902(a)(10)(A) and regulations at 42 CFR 435.711 with regard to categorically needy and section 1902(a)(10)(C) with regard to the medically needy. Because the proposed treatment of lump-sum income could result in some individuals being made ineligible, who would otherwise be eligible for Medicaid, we do not believe it is protected under the amended moratorium provision.

2. The State indicates medically needy individuals are permitted a deduction (disregard) for actual amounts for work and personal expenses. Under AFDC a $75 work expense disregard is applied. (See 45 CFR 233.90(a)(11)(i)(B).) HCFA has determined the Pennsylvania proposal is more liberal than AFDC policy because it permits disregard of actual amounts for work and personal expenses rather than limit the disregard to $75 as required under AFDC. HCFA believes the Pennsylvania proposal is also more restrictive than AFDC policy. In cases where the individual's actual work expenses are less than $75, Pennsylvania would disregard the actual amount rather than apply the required $75 disregard. HCFA has determined the State's proposal violates section 1902(a)(10)(C)(i)(III) because the work expense disregard applies to the medically needy is not the same as the disregard applied under the AFDC program. Because the use of the lesser of actual work expenses or $75 as a disregard from income could result in some individuals being made ineligible who would otherwise be eligible for Medicaid, we do not believe it is protected under the amended moratorium provision.

3. The State indicates the AFDC gross income test is not applied for categorically needy. Under AFDC no assistance unit is eligible for aid in any month in which the unit's (family's) income exceeds 185 percent of the State's need standard. (See 45 CFR 233.20(a)(3)(xiii).) Certain categorically needy groups under Medicaid are defined as individuals who would be eligible for payments under AFDC. (See 1902(a)(10)(A).) Since the 185 percent test is a necessary component of determining eligibility for an AFDC payment, it mut also apply to categorically needy individuals who are eligible for Medicaid by virtue of being individuals "who would be eligible for an AFDC payment." HCFA has determined Pennsylvania's proposal to not apply the 185 percent gross income test to categorically needy individuals is more liberal than AFDC policy because under Pennsylvania's proposal eligibility could be established even though the family's income exceeds the 185 percent amount. Therefore, HCFA has determined it violates section 1902(a)(10)(A)(ii) of the Act and regulations at 42 CFR 435.711. Because the failure to use the 185 percent gross income rule applies only to categorically needy groups not covered under the revised moratorium, we do not believe it is protected under the amended moratorium provision.

4. The State indicates the medically needy will be allowed a deduction from self-employment income for depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payment on principal of loans for capital assets or durable goods. Under AFDC, earned income from self-employment means the total profit resulting from the comparison of gross receipts with the "business expenses" i.e., expenses directly related to producing the goods or services and without which the goods or services could not be produced. However, such items as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payment on the principal of loans for capital assets or durable goods are not business expenses (45 CFR 233.20(a)(6)(v)(B)). HCFA has determined the Pennsylvania proposal which disregards amounts defined as business expenses is more liberal than AFDC which does not include such expenses as business expenses that may be deducted in determining AFDC eligibility. HCFA has determined this more liberal proposal violates section 1902(a)(10)(C)(i)(III) of the Act which requires States in determining medically needy eligibility of AFDC-related individuals to apply the financial methods of the AFDC program. This provision may be protected by the revised moratorium for those groups covered under the moratorium, to the extent that the State establishes a mechanism to ensure that it does not submit claims for Federal financial participation for Medicaid services provided to individuals whose family income exceed the cap established by section 1903(f) of the Act.

B. Provisions proposed for aged, blind, or disabled individuals

1. The State's proposed plan provides that SSI support and maintenance in-kind rules are not being applied to categorically and medically needy individuals. Under SSI one type of unearned income which is counted in determining eligibility for an SSI payment is in-kind support and maintenance (food, clothing, and shelter). The way SSI values (i.e., the amount it counts) in-kind support depends on the individual's living arrangement. (See 20 CFR 416.1120 through 416.1124.) HCFA has determined the Pennsylvania proposal which does not count support and maintenance in-kind as income is more liberal, therefore, than SSI criteria which require that in-kind support and maintenance count as income in determining eligibility. HCFA has determined the proposed provision violates section 1902(a)(10) (A) and (C) of the Act and regulations at 42 CFR 435.721 because it is more liberal than SSI rules. This provision may be protected by the revised moratorium for those groups covered under the moratorium, to the extent that the State establishes a mechanism to ensure that it does not submit claims for Federal financial participation for Medicaid services provided to individuals whose family incomes exceed the cap established by section 1902(f) of the Act.

2. The State's proposed plan indicates that the SSI life insurance provisions are not being applied to categorically and medically needy individuals. Rather, Pennsylvania disregards the cash value of life insurance if the face value of all policies on the individual does not exceed $1,500. Additionally, where the face value of all policies on the individual exceeds $1,500, Pennsylvania counts the cash value over $1,000. (Effectively, where the face value exceeds $1,500 Pennsylvania disregards the first $1,000 of cash value of the policies.) HCFA believes this policy is more liberal than SSI policy which requires that if the face value of all life insurance policies on the individual exceeds $1,500, all cash value of the policies will be counted in determining eligibility. (See 20 CFR 416.1230.) HCFA has determined the Pennsylvania proposal violates section 1902(a)(10) (A) and (C) of the Act and regulations at 42 CFR 435.721. This provision may be protected under the revised moratorium for those groups covered under the moratorium.

In addition, Pennsylvania believes that the proposed State plan amendment is protected by the Deficit Reduction Act of 1984 and by the recently enacted Medicare and Medicaid Patient and Program Protection Act of 1987.

The notice to Pennsylvania announcing an administrative hearing to reconsider our partial disapproval of its State plan amendment reads as follows:

Mr. John F. White, Jr.,
Secretary of Public Welfare,
Harrisburg, PA 17105.

Dear Mr. White: This is to advise you that your request for reconsideration of the decision to disapprove Pennsylvania State Plan Amendment 86-14 was received on September 25, 1987.

Pennsylvania SPA 86-14 updates your Medicaid State plan with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 and the Deficit Reduction Act of 1984. You have requested a reconsideration of whether this plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations.

There are two issues in this matter. The first issue concerns the need to determine whether section 1902(a)(10) (A) and (C) of the Social Security Act and Federal regulations at 42 CFR 435.711 and 435.721 permit the use of financial eligibility rules like those proposed by Pennsylvania which are more liberal and more restrictive than the rules applied under the appropriate cash assistance programs. The second issue is whether Pennsylvania's proposed rules are protected by the moratorium provisions of the Deficit Reduction Act of 1984 and as amended by the recently enacted Medicare and Medicaid Patient and Program Protection Act of 1987.

In view of the amendment to the moratorium, several of the disapproved provisions of the State plan amendment may now qualify for protection under the moratorium. However, the moratorium does not make these provisions approvable parts of the State plan, although Pennsylvania would be protected from HHS sanction for complying with provisions covered by the moratorium during the moratorium period. Moreover, the moratorium does not relieve the State of its obligation to comply with the caps established under section 1903(f) of the Social Security Act. The **Federal Register** notice announcing this hearing identifies those provisions which may be subject to protection under the moratorium. Please contact the regional office for additional information.

I am scheduling a hearing on your request to be held on December 17, 1987 at 10:00 a.m. in the 4th Floor Conference Room, 3535 Market Street, Philadelphia, Pennsylvania. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594-8261.

Sincerely,
William L. Roper,
Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: October 22, 1987.

William L. Roper,
Administrator, Health Care Financing Administration.

[FR Doc. 87-25064 Filed 10-28-87; 8:45 am]
BILLING CODE 4120-03-M

National Institutes of Health

Division of Research Resources; Biomedical Research Technology Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Research Technology Review Committee (BRTRC), Division of Research Resources (DRR), November 9, 1987, Building 31, Conference Room 9, C Wing, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on November 9, from 9:00 a.m. to 11:30 a.m., during which time there will be comments by the Director, DRR; report of the Director, BRTP; and a discussion of "Opportunities and Challenges in Distributed Computing." Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 11:30 a.m. on November 9 until 5:00 p.m. for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B-10, National Institutes of Health, Bethesda, MD 20892, (301) 496-5545, will provide a summary of the meeting and a roster of committee members upon request. Dr. Caroline Holloway, Executive Secretary, Biomedical Research Technology Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B-41, National Institutes of Health, Bethesda, MD 20892, (301) 496-5411, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.371, Biotechnology Research, National Institutes of Health.)

Dated: October 16, 1987.

Betty J. Beveridge,
Committee Management Officer, NIH.

[FR Doc. 87-25019 Filed 10-28-87; 8:45 am]
BILLING CODE 4140-01-M

National Cancer Institute; Cancer Clinical Investigation Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, December 3-4, 1987, at the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

This meeting will be open to the public on December 3 from 8:30 a.m. to 9 a.m. for reports by the Executive Secretary and Chairman of the Cancer Clinical Investigation Review Committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 3 from approximately 9 a.m. until recess and on December 4 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications and cooperative agreements. These grant applications and cooperative agreements and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members upon request.

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Dr. Mary Ann Sestili, Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 636, National Institutes of Health, Bethesda, Maryland 20892, (301/496–7481) will provide substantive program information upon request.

Dated: October 16, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25021 Filed 10–28–87; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Cancer Preclinical Program Project Review Committee; Meeting

Purusant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Preclinical Program Project Review Committee, National Cancer Institute, National Institutes of Health, December 3, 1987, Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

This meeting will be open to the public on December 3 from 8:30 a.m. to 8:45 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 3 from 8:45 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Edwin M. Bartos, Executive Secretary, Cancer Preclinical Program Project Review Committee, National Cancer Institute, Westwood Building, Room 826, National Institutes of Health, Bethesda, Maryland 20892 (301/496–7565) will furnish substantive program information, upon request.

Dated: October 16, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25022 Filed 10–28–87; 8:45 am]

BILLING CODE 4140–01–M

National Eye Institute; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, November 19–20, 1987, Building 31, NEI Conference Room 6A35, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on November 19 from 8:30 a.m. until approximately 4 p.m. for general remarks by the Institute's Scientific Director on matters concerning the intramural programs of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 19 from approximately 4 p.m. until recess and on November 20 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual projects conducted by the Laboratory of Mechanisms of Ocular Diseases. These evaluations and discussions could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Ms. Lois DeNinno, Acting Committee Management Officer, National Eye Institute, Building 31, Room 6A51, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–5983, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: October 16, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25020 Filed 10–28–87; 8:45 am]

BILLING CODE 4140–01–M

National Eye Institute; Vision Research Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Vision Research Review Committee, National Eye Institute, November 19–20, 1987, Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on November 19 from 8:30 a.m. to 9:30 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:30 a.m. on November 19 until recess and on November 20 from 8:30 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Lois DeNinno, Acting Committee Management Officer, National Eye Institute, Building 31, Room 6A–03, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–5983, will provide summaries of the meeting, rosters of committee members, and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

Dated: October 16, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25025 Filed 10–28–87; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinicial Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute, National Institutes of Health, on December 7–8, 1987, in Building 31, Conference Room 4, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on December 7 from 9:00 a.m. to recess and from 8:30 a.m. to adjournment on December 8 to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request.

Dr. Lawrence Friedman, Acting Director, Division of Epidemiology and Clinical Applications, Federal Building, Room 212, Bethesda, Maryland 20892, (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: October 20, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25024 Filed 10–28–87; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, December 4, 1987, in Building 31, Room 2A52.

This meeting will be open to the public from 9:00 a.m. to 12 noon on December 4 for the review of the Intramural Research Program and scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provision set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 4 from 1:00 p.m. to adjourment for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Board members, and substantive program information upon request.

Dated: October 16, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25023 Filed 10–28–87; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–060–08–4322–02]

Lewistown, MT, District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management—Lewistown District, Interior.

ACTION: Notice of Grazing Advisory Board meeting.

SUMMARY: The Lewistown District Grazing Advisory Board will meet November 19, 1987. The agenda will be:

10:00 a.m.—Introduction and Welcome
10:15 a.m.—Election of Officers
10:30 a.m.—Range Improvement Status
11:15 a.m.—Unauthorized Use
1:00 p.m.—Prairie Dogs
1:15 p.m.—Resource Management Plan/ Missouri River Management Plan
1:45 p.m.—Monitoring Program and Riparian Management
2:15 p.m.—Exchange Program
2:30 p.m.—CRP Program Relating to Weeds, Grasshoppers, and Fencing
3:00 p.m.—Date, Time, Place for next meeting. Adjourn.

Public comment will be sought at the end of each agenda item.

Date: November 19, 1987, 10 a.m. to 3 p.m.

Location: Yugo Inn, 211 East Main, Lewistown, Montana.

FOR FURTHER INFORMATION CONTACT: Wayne Zinne, District Manager, Bureau of Land Management, 80 Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The Lewistown District Grazing Advisory Board is authorized under the *Federal Advisory Committee Act, 5 U.S.C. Appendix 1.* The board advises the Lewistown District Manager concerning the development of allotment management plans and the utilization of range betterment funds.

Wayne Zinne,

District Manager.

Date October 21, 1987.

[FR Doc. 87–25003 Filed 10–28–87; 8:45 am]

BILLING CODE 4310–DN–M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease AA–48786–AG has been received covering the following lands:

Fairbanks Meridian, Alaska

T. 19 S., R. 10 E.,
Sec. 20 NE¼NW¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accuring from September 1, 1986, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA–48786–AG as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective September 1, 1986, subject to the terms and conditions cited above.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

Dated: October 21, 1987.

[FR Doc. 87–25016 Filed 10–28–87; 8:45 am]

BILLING CODE 4310–JA–M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease AA–48573–CE has been received covering the following lands:

Copper River Meridian, Alaska

T. 11 N., R. 4 W.,
Sec. 15 SW¼NW¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from May 1, 1987, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA–48573–CE as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C.

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188), the Bureau of Land Management is proposing to reinstate the lease, effective May 1, 1987, subject to the terms and conditions cited above.

Dated: October 23, 1987.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

[FR Doc. 87-25011 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-JA-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48686-H has been received covering the following lands:

Fairbanks Meridian, Alaska

T. 22 S., R. 6 E.,
Sec. 4 W½SE¼.
(80 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from July 1, 1986, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48686-H as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective July 1, 1986, subject to the terms and conditions cited above.

Dated: October 23, 1987.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

[FR Doc. 87-25012 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-JA-M

[NM-943-08-4111-13; OK NM 64981]

Proposed Reinstatement of Termination Oil and Gas Lease; New Mexico

UNITED STATES DEPARTMENT OF THE INTERIOR, Bureau of Land Management, Santa Fe, New Mexico 87504. Under the provisions of 43 CFR 3108.2-3, Cities Service Oil and Gas Corporation, petitioned for reinstatement of oil and gas lease OK NM 64981 covering the following described lands located in Cimarron County, Oklahoma:

T. 5 N., R. 2 E., I.M., Oklahoma,
Sec. 34, NE¼SE¼.
Containing 40.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, May 1, 1987.

Dated: October 19, 1987.

Tessie R. Anchondo,

Chief, Adjudication Section.

[FR Doc. 87-25102 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-FB-M

[NV-930-07-4212-11; N-46544]

Realty Action; Battle Mountain District, Tonopah Resource Area; Nye County, NV

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Realty action; classification of Federal lands for lease or sale for public purposes in Nye County, Nevada.

SUMMARY: In response to an application from the State of Nevada for a prison conservation camp site, the following described lands have been examined and found to be suitable for lease or sale under the authority of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, et. seq.):

Mount Diablo Meridian

T. 4 N., R. 43 E.,
Section 25, NE¼SW¼.

A parcel of land containing 40 acres.

These lands are not required for any Federal purpose. Disposal is consistent with the Bureau's planning for this area and would be in the public interest.

The lands described in this notice meet the criteria for classification set forth in 43 CFR 2410.1-2 and 2430.4. They will not be offered for lease or sale until the classification becomes effective.

A patent, if issued, would contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 94).

2. All mineral deposits in the lands so patented, and to the United States, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law.

And would be subject to:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official land records at the time of patent issuance.

3. Any other reservations the Authorized Officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this Notice in the **Federal Register** the above described public lands will be segregated from all forms of appropriation under the public land laws, including locations under the mining laws, except as to applications under the mineral leasing laws and application under the Recreation and Public Purpose Act. The segregative effect will end upon issuance and of the lease or patent or 18 months from the date of publication of this Notice in the **Federal Register** whichever occurs first.

For a period of 45 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, P.O. Box 1420, Battle Mountain, NV 89820. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**.

October 15, 1987.

Terry L. Plummer,

District Manager, Battle Mountain, Nevada.

[FR Doc. 87-25017 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-HC-M

[NV-930-07-4212-14; N-46236]

Realty Action; Battle Mountain District, Tonopah Resource Area; Nye County; NV

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Realty action; noncompetitive sale of Federal lands in Nye County, Nevada.

SUMMARY: The following described Federal lands have been examined and found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 at not less than the appraised fair market value.

Mount Diablo Meridian, Nevada

T. 11 N., R. 44 E.,

Section 15, SW¼NW¼SE¼SW¼, SW¼SE¼SW¼, W½SW¼SE¼SW¼, SE¼SE¼SE¼SW¼.

A parcel of land containing 20 acres.

The lands will be offered for sale without completion to Charles H. Coleman, the adjacent landowner, who plans to continue their present use as wildlife habitat and livestock grazing land. The Barker Creek Ranch house is located on these lands. Failure to submit purchase money within the timeframe specified by the Authorized Officer shall result in cancellation of the sale.

The sale is consistent with the Bureau's planning system. The lands are not needed for any resource program. No conflicts with state or local plans are present. The grazing lessee has been given the two-year notification prescribed in section 402(g) of the Federal Land Policy and Management Act of 1976.

These lands may be in a flood prone area.

Minimum price for this parcel will be fair market value which will be determined by an appraisal and which will be made available prior to the sale. Under no circumstances will this parcel be sold sooner than 60 days after publication of this Notice.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals.

A more detailed description of the mineral reservation which will be incorporated in the patent document is available for review at the Battle Mountain District Office. The sale will be subject to prior existing rights.

Segregation

Upon publication of this Notice in the **Federal Register** the above-described Federal lands will be segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above-cited statute or from applications under the mineral leasing laws. The segregative effect will end upon issuance of the patent or 270 days from the date of publication of this Notice in the **Federal Register**, whichever occurs first.

Comments

For a period of 45 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1420, Battle Mountain, NV 89820. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Date signed: October 15, 1987.

Terry L. Plummer,

District Manager, Battle Mountain, Nevada.

[FR Doc. 87-25018 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Endangered Species Permit Issued for the Months of July, August, September, 1987

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received according to section 10 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539. Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Additional information on these permit actions may be requested by contacting the Federal Wildlife Permit Office, 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, telephone (703/235-1903) between the hours of 7:45 a.m. to 4:15 p.m. weekdays.

July

Cincinnati Zoo
717905 7-01-87
Fort Worth Zoological Park
714617 7-01-87
U.S. Fish & Wildlife Region 3
697830 7-07-87
San Diego Zoological Society
720148 7-15-87
National Zoological Park
719357 7-29-87
Johnson, Gary
717614 7-27-87
Int'l Succulent Institute
719046 7-29-87

August

San Diego Zoological Society
719590 8-10-87
San Diego Zoological Society
719372 8-11-87
Snowdon, Charles T.
719234 8-11-87
Fish & Wildlife Service
717318 8-12-87
Audubon Zoo Garden
718810 8-13-87
Lebolt, John M.
719810 8-14-87
Kranik, Andrew D.
709317 8-14-87
Johnson, Gary
719814 8-14-87
Honolulu Zoo
719813 8-14-87
International Animal Exchange
719434 8-17-87
Searle, William L.
719803 8-17-87
Alwarad, Arnold E.
715117 8-18-87

September

San Diego Zoological Society
720167 9-01-87
Headings, Jr., Donald M.
720056 9-03-87
Asper, Paul W.
719589 9-08-87
International Animal Exchange
720002 9-08-87
International Animal Exchange
719815 9-08-87
Cincinnati Zoo
720022 9-09-87
Karesh, William B.
721552 9-09-87
Marcus, Steven
720006 9-15-87
Fresno Zoo
720917 9-23-87
Ferguson, Cecil A.
720929 9-23-87
San Diego Zoological Society
720841 9-23-87
Oxton Kennels & Exotics
718405 9-25-87

Dated: October 23, 1987.

R.K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 87-24988 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-722067

Applicant: Cincinnati Zoo, Cincinnati, OH

The applicant requests a permit to import two pairs of captive-born black-footed cats (Felis nigripes) from Hartebeespoortdam Snake and Animal Park, Hartebeespoortdam, South Africa, for the purpose of exhibit, education, propagation, and research.

PRT-722302

Applicant: Richard Morgan, Lake Charles, LA

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The applicant requests a permit to import the trophy of a bontebok (Damaliscus dorcas dorcas) he culled from the captive herd of H. van Zyl Kock, Verbogenfontein Farm, Merriman, Republic of South Africa, for the purpose of enhancement of the progagation and survival of the herd.

PRT–722332

Applicant: International Animal Exchange, Ferndale, MI

The applicant requests a permit to purchase in interstate commerce two male and one female dwarf African crocodiles (Osteolaemus tetraspis) from the Jackson Zoo, Jackson, Mississippi, for education and display. The crocodiles were imported from Togo in 1976.

PRT–722277

Applicant: International Animal Exchange Ferndale, MI

The applicant requests a permit to purchase in foreign commerce one captive-born male cheetah (Acinonyx jubatus) from the Marwell Zoological Park, Hampshire, England, to sell and ship in foreign commerce to the Seoul Grand Park Zoo, Korea, for educaion and public display.

PRT–719813

Applicant: Honolulu Zoo, Honolulu, HI

The applicant requests an amendment to their current import permit to add authorization for the import of an additional captive born female Asian elephant (Elephas maximus) from Timber Corporation, Rangoon, Burma, for the purpose of captive propagation. If approved, the permit would authorize the import of a total of two femal Asian elephants.

PRT–722365

Applicant: San Diego Zoological Society, San Diego, CA

The applicant requests a permit to import one male and one female captive-born lowland anoa (Bubalus depressicornis (=B. anoa depressicornis) from the Nogeyama Zoological Gardens, Yokohama, Japan, for the purpose of establishing a breeding group, education and exhibition.

PRT–722364

Applicant: San Diego Zoological Society, San Diego, CA

The applicant requests a permit to import one captive-born female black-footed cat (Felis nigripes) from the Zoologischer Garten Wuppertal, Wuppertal, West Germany, for the purpose of captive breeding.

PRT–722430

Applicant: Cincinnati Zoo, Cincinnati, Ohio

The applicant requests a permit to import one male and one female Temminck's cat (Felis temmincki) from the Shang hai Zoo, Shang hai, China, for captive breeding, education and exhibition.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: October 23, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87–24986 Filed 10–28–87; 8:45 am]

BILLING CODE 4310–55–M

Issuance of Permit for Marine Mammals

On April 27, 1987, a notice was published in the **Federal Register** (Vol. 52, No. 80, FR 13880) that an application had been filed with the Fish and Wildlife Service by Natural History Museum of Los Angeles County (PRT 717015) for a permit to import salvaged specimens of Cetacea, Pinnipedia, Sirenia and marine otters for scientific research.

Notice is herby given that on September 28, 1987, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), the Fish and Wildlife Service issued the requested permit suject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 611, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: October 23, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87–24987 Filed 10–28–87; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Outer Continental Shelf Advisory Board; Alaska Regional Technical Working Group; Meeting

AGENCY: Minerals Management Service, Alaska OCS Region, Interior.

ACTION: Outer Continental Shelf Advisory Board, Alaska Regional Technical Working Group Committee; Notice for Meeting.

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463.

The Alaska Regional Technical Working Group (RTWG) committee of the Outer Continental Shelf (OCS) Advisory Board is scheduled to meet from 9:00 a.m. to 3:00 p.m., November 20, 1987, in the Dillingham Room of the Anchorage Hilton Hotel, 500 West Third Avenue, Anchorage, Alaska. The Alaska RTWG is one of six such committees of the OCS Advisory Board that provide advice to the Director, Minerals Management Service, on technical matters of regional concern regarding OCS prelease and post-lease-sale activities.

Topics which may be addressed at the meeting are:

(a) Scoping for Saint George Basin Sale 101.

(b) United States Arctic Research Plan.

(c) Alaska OCS Region issues and activities.

(d) Surface transportation networks of Alaska's North Slope.

(e) Oil spills.

The Alaska RTWG meeting will be open to the public. Public seating may be limited. Interested persons may make oral or written presentations to the committee. A request to make a presentation should be made no later than November 13, 1987, to Alan D. Powers, Regional Director, Alaska OCS Region, 949 East 36th Avenue, Room 110, Anchorage, Alaska 99508–4302, (907) 261–4010. A request to make an oral statement should be accompanied by a written summary of the oral statement. Written statements should be received by November 13, 1987.

Minutes of the meeting will be available 70 days after the meeting for public inspection and copying at the Minerals Management Service, Alaska OCS Region, 949 East 36th Avenue, Room 110, Anchorage, Alaska 99508–4302, and at the Office of Advisory Board Support, Minerals Management Service, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240.

Dated: October 23, 1987.

Alan D. Powers,

Regional Director, Alaska OCS Region.

[FR Doc. 87–24983 Filed 10–28–87; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf Advisory Board, Gulf of Mexico Regional Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

Name: Gulf of Mexico Regional Technical Working Group

Date: November 30—December 3, 1987

Place: Doubletree Hotel, 300 Canal Street, New Orleans, Louisiana

Time:

November 30, 1987—1:00 p.m. to 5:00 p.m.

December 1, 1987—8:00 a.m. to 4:30 p.m.

December 2, 1987—8:30 a.m. to 4:30 p.m.

December 3, 1987—8:30 a.m. to 4:30 p.m.

The Regional Technical Working Group (RTWG) membership consists of representatives from Federal Agencies, the coastal States of Alabama, Florida, Louisiana, Mississippi, and Texas, the petroleum industry, and other private interests. The Gulf of Mexico RTWG is one of six such Committees that advises the Director of the Minerals Management Service on technical matters of regional concern regarding offshore prelease and postlease sale activities.

The RTWG business meeting will be held in conjunction with the Eighth Annual Information Transfer Meeting (ITM). The ITM consists of technical presentations covering various aspects of offshore oil and gas activities. The tentative agenda of the business meeting is as follows:

Monday, November 30, 1987

1:00 p.m.
Welcome/Introductions
Gulf of Mexico Activities (Roundtable Discussion)
1:50
MMS Approval Process: Plans of Exploration and Development
2:35
BREAK
2:45
Ocean Disposal for Dredging
3:15
Oil Spill Risk Analysis: Models—Capabilities and Limitations (Panel Discussion)
4:15
Gulf Initiative Status Report
4:30
Public Comment
5:00 p.m.
Adjourn

Tuesday, December 1, 1987

8:00 a.m.
Information Transfer Meeting
4:30 p.m.
Adjourn

Wednesday, December 2, 1987

8:30 a.m.
Information Transfer Meeting
4:30 p.m.
Adjourn

Thursday, December 3, 1987

8:30 a.m.
Information Transfer Meeting
4:30 p.m.
Adjourn

This meeting is open to the public. Individuals wishing to make oral presentations to the Committee concerning agenda items should contact Eileen P. Angelico of the Gulf of Mexico OCS Regional Office at (504) 736–2959 by November 20, 1987. Written statements should be submitted by the same date to the Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123. A taped cassette transcript and complete summary minutes of the Business Meeting will be available for public inspection in the Office of the Regional Director at the above address not later than 60 days after the meeting.

Dated: October 23, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region, Minerals Management Service.

[FR Doc. 87–25006 Filed 10–28–87; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF JUSTICE

Consent Decree in Action To Enjoin Discharge of Water Pollutants; Express Electro-Plating Co.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States v. Express Electro-Plating Co.*, Civil Action No. 86–1952, was lodged with the United States District Court for the Southern District of New York on October 2, 1987. The Decree requires payment of a civil penalty of $2,500. As Express has ceased its electroplating operations, the Decree requires Express to notify EPA within 30 days of any recommencement.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States v. Express Electro-Plating Co.*, D.J. Ref. No. 90–5–1–1–2537.

The consent decree may be examined at the office of the United States Attorney, Southern District of New York, One St. Andrews Plaza New York, New York 10007; at the Region II office of the Environmental Protection Agency, 27 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–25005 Filed 10–28–87; 8:45 am]

BILLING CODE 4410–01–M

National Institute of Justice

Research Program Plan for Fiscal Year 1988

AGENCY: National Institute of Justice, Department of Justice.

ACTION: Notice of availability.

SUMMARY: The National Institute of Justice announces the publication of its "Research Program Plan, Fiscal Year 1988." It outlines the Institute's criminal justice research agenda for which funds will be awarded, and provides application instructions and forms.

[Justice Assistance of 1984 (Pub. L. 98–473)]

For a copy of "Research Program Plan, Fiscal Year 1988" write: National Institute of Justice /NCJRS, Box 6000, Rockville, Maryland 20850, ATTN: Program Plan.

FOR FURTHER INFORMATION CONTACT: (800) 851–3420, in Maryland or Metropolitan DC (202) 251–5500.

James K. Stewart,

Director, National Institute of Justice.

[FR Doc. 87–25014 Filed 10–28–87; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Archaeology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Archaeology

Date and Time: November 17–18, 1987: 9:00 a.m. to 5:00 p.m. each day
Place: The Hilton and Towers Hotel, 720 South Michigan Avenue, Chicago, Illinois 60605
Type of Meeting: Closed
Contact Person: Dr. John Yellen, Program Director, Anthropology Program, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7804.
Minutes: May be obtained from contact person listed above.
Purpose of Meeting: To provide advice and recommendations concerning support for research in archaeology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
October 26, 1987.

[FR Doc. 87–25049 Filed 10–28–87; 8:45 am]
BILLING CODE 7555–01–M

Advisory Panel for Biological Instrumentation Program; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Biological Instrumentation Program
Date and Time:
Thursday, November 19, 1987 from 8:30 a.m. to 5:00 p.m.
Friday, November 20, 1987 from 8:00 a.m. to 5:00 p.m.
Place: The St. James Hotel, 950 24th Street, Washington, DC 20037
Type of Meeting: Closed
Contact Person: John C. Wooley, Program Director, Biological Instrumentation, Room 325E, National Science Foundation, Washington, DC 20550, telephone: 202/357–7652
Summary Minutes: May be obtained from the Contact Person at the above address.
Purpose of Advisory Panel: To provide advice and recommendations concerning support for research instrumentation.
Agenda: Closed—To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
October 26, 1987.

[FR Doc. 87–25050 Filed 10–28–87; 8:45 am]
BILLING CODE 7555–01–M

Advisory Panel for Geography and Regional Science; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Geography and Regional Science
Date/Time:
November 19, 1987: 8:30 a.m. to 6:00 p.m.
November 20, 1987: 8:30 a.m. to 6:00 p.m.
Place: Room 642, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.
Type of Meeting: Closed
Contact Person: Dr. Ronald F. Abler, Program Director, Geography and Regional Science, National Science Foundation, Washington, DC 20550, Room 336, Telephone (202) 357–7326.
Purpose of Panel: To provide advice and recommendations concerning research in Geography and Regional Science.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
October 26, 1987.

[FR Doc. 87–25051 Filed 10–28–87; 8:45 am]
BILLING CODE 7555–01–M

Advisory Committee for International Programs; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for International Programs
Date:
November 16, 1987, 8:00 a.m. to 5:00 p.m.
November 17, 1987, 8:00 a.m. to 1:00 p.m.
Place: National Science Foundation, 1800 G Street, NW., Room 1143, Washington, DC 20550
Type of Meeting: Open
Contact Person: Dr. John Boright, Director, Division of International Programs, National Science Foundation, Washington, DC 20550, Telephone (202) 357–9552
Summary of Minutes: May be obtained from Contact Person
Purpose of Meeting: To provide advice, recommendations, and oversight related to support for international cooperation in science and engineering.
Agenda:
November 16:
• Update of recent international activities and concerns of NSF.
• Briefing on NAE report on International Engineering.
• Briefing and discussion of international aspects of the NSF Engineering Research and Science Centers
November 17:
• Briefing on White House International S&T policy.
• Discussion of current INT initiatives and committee agenda.
• Implications for INT of the information revolution.

M. Rebecca Winkler,
Committee Management Officer.
October 26, 1987.

[FR Doc. 87–25052 Filed 10–28–87; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Intent To Establish a Local Public Document Room for the Potential High-Level Waste Geologic Repository Site in Deaf Smith, TX

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to establish a local public document room for records pertaining to the potential High-Level Waste Geologic Repository Site, Deaf Smith, Texas.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is intending to establish a Local Public Document Room (LPDR) for records pertaining to the potential High-Level Waste Geologic Repository Site, located near Deaf Smith, Texas. The collection currently measures approximately 60 linear feet of material. The purpose of this notice is to invite public comment on possible LPDR sites.

DATE: Comment period expires December 28, 1987. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before this date.

ADDRESS: Written comments may be submitted to Mr. David L. Meyer, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Jona L. Souder, Chief, Local Public Document Room Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone 301–492–7536 or Toll-Free 800–638–8081.

Among the factors the NRC will consider in selecting a location for the LPDR collection are:

(1) Whether the institution is an established document repository with a history of impartially serving the public located in the vicinity (normally 50 miles) of the proposed facility;

(2) The physical facilities available, including shelf space, patron workspace, and copying equipment;

(3) The willingness and ability of the library staff to maintain the LPDR collection and assist the public locate records;

(4) The nature and extent of related research resources, such as government documents;

(5) The public accessibility of the library, including parking, ground transportation, and hours of operation, particularly evening and weekend hours; and

(6) The proximity of the library to the potential High-Level Waste Geologic Repository Site located near Deaf Smith, Texas.

Public comments are requested on libraries in the vicinity of the Deaf Smith site that might be considered for selection as the location for this NRC local public document room collection.

Dated at Bethesda, Maryland, this 26th day of October, 1987.

For the U.S. Nuclear Regulatory Commission.

Donnie H. Grimsley,
Director, Division of Rules and Records, Office of Administration and Resource Management.

[FR Doc. 87–25063 Filed 10–28–87; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co.; Haddam Neck Plant; Exemption

I

The Connecticut Yankee Atomic Power Company (CYAPCO, the Licensee) is the holder of Operating License No. DPR–61 which authorizes operation of the Haddam Neck Plant (the facility) at the steady-state power levels not in excess of 1825 megawatts thermal. The license provides, among other things, that the Haddam Neck Plant is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The plant is a single-unit pressurized water reactor at the licensee's site located in Middlesex County, Connecticut.

II

The Code of Federal Regulations, 10 CFR 50.54(o), specifies that primary reactor containments for water-cooled power reactors shall comply with Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors." Paragraph III.A.3 of Appendix J incorporates by reference the American National Standard (ANSI) N45.4–1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." This standard requires that containment leakage calculations for Containment Integrated Leakage Rate Tests (CILRTs) be performed using either the Point-to-Point method or the Total Time method.

A more recent standard, ANSI/ANS 56.8–1981, "Containment System Leakage Testing," which was intended to replace ANSI N45.4–1972, specifies the use of the Mass Point method to the exclusion of the two older methods. A proposed revision to Appendix J, which has been published or public comment (51 FR 39538, dated October 29, 1986), refers to a proposed Regulatory Guide (MS 021–5, October 1986), which endorses, with certain exceptions, the ANSI/ANS 56.8–1981 standard. Pending approval of the revision to Appendix J, which would permit the Mass Point analysis, licensees who wish to use the Mass Point technique must submit an application for exemption from the requirement that Appendix J test calculations for CILRTs will conform with ANSI N45.4–1972.

III

By letter dated July 10, 1987, the licensee requested an exemption from 10 CFR Part 50, Appendix J, Paragraph III.A.3, which requires that all CILRTs be performed in accordance with ANSI N45.4–1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." ANSI N45.4–1972 requires that leakage calculations be performed using either the Total Time method or the Point-to-Point method. The licensee has stated in support of the application for exemption from Appendix J that the Mass Point method is a more accurate method of calculating containment leakage.

It has been recognized by the professional community that the Mass Point method is superior to the two other methods, Point-to-Point and Total Time, which are reference in ANSI N45.4–1972 and endorsed by the present regulations. The Mass Point method calculates the air mass at each point in time, and plots it against time. A linear regression line is plotted through the mass-time points using a least square fit. The slope of this line is the leakage rate.

Draft Regulatory Guide MS 021–5, which was published for comment in October 1986, endorses, with exceptions, the ANSI/ANS 56.8–1981 standard and the Mass Point Method.

In addition to the method of calculation, consideration of the length of the test should also be included in the overall program. In accordance with Section 7.6 of ANSI N45.4–1972, a test duration less than 24 hours is only allowed if approved by the NRC staff, and the only currently approved methodology for such a test is contained in Bechtel Topical Report BN–TOP–1, Revision 1, "Testing Criteria for Integrated Leakage Rate Testing of Primary Containment Structures for Nuclear Power Plants," dated November 1, 1972. This approach only allows use of the Total Time method. Therefore, the staff will condition the exemption to require a minimum test duration of 24 hours when the Mass Point method is used.

The licensee's letter also submitted information to identify the special circumstances for granting this exemption for the Haddam Neck Plant pursuant to 10 CFR 50.12. The purpose of Appendix J to 10 CFR Part 50 is to assure that containment leak-tight integrity can be verified periodically throughout the service lifetime so as to maintain containment leakage within

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the limit specified in the plant technical specifications. The underlying purpose of the rule specifying particular methods for calculating leakage rates is to assure that accurate and conservative methods are used to assess the results of containment leak rate tests. As set forth above, the Mass Point method has been a widely used method providing accurate results and the staff has determined that this method of calculating leakage satisfies the purpose of the rule.

Based on the above discussion, the licensee's proposed exemption from paragraph III.A.3 of Appendix J, to allow use of the Mass Point method as requested in the submittal dated July 10, 1987, is acceptable with the condition of 24 hours minimum test duration, until such provision of Appendix J is modified. Thereafter, the licensee shall comply with the provisions of such rule (or may renew its request for exemption). The exemption applies only to the method of calculating leakage by use of the Mass Point method and not to any other aspects of the tests.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(1)(2)(ii), are present justifying the exemption, namely that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Accordingly, the Commission hereby grants an exemption as described in Section III above from paragraph III.A.3 of Appendix J to the extent that the Mass Point method may be used for containment leakage rate calculations, provided it is used with a minimum test duration of 24 hours. The exemption is granted until such provision of Appendix J is modified. Thereafter, the licensee shall comply with the provisions of such rule. The exemption applies only to the method of calculating leakage by use of the Mass Point method and not any other aspects of the tests.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (52 FR 38026, October 13, 1987.

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Reactor Projects III, IV, V and Special Projects.

Dated at Bethesda, Maryland this 15th day of October, 1987.

[FR Doc. 87-25060 Filed 6-28-87; 8:45 am]

BILLING CODE 3590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co., (Millstone Nuclear Power Station, Unit No. 1); Exemption

I

The Northeast Nuclear Energy Company (the Licensee) is the holder of Facility Operating License No. DPR-21 which authorizes the operation of the Millstone Nuclear Power Station, Unit No. 1 (the facility) at steady state reactor core power levels not in excess of 2011 megawatts thermal. The license provides, among other things, that Millstone Unit No. 1 is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The plant is a boiling water reactor (BWR) located at the licensee's site located in the town of Waterford, Connecticut.

II

The Code of Federal Regulations, 10 CFR 50.54(o), specifies that primary reactor containments for water-cooled power reactors shall comply with Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors." Paragraph III.A.3 of Appendix J incorporates by reference the American National Standard Institute (ANSI) Standard N45.4-1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." This standard requires that containment leakage calculations for Containment Integrated Leakage Rate Tests (CILRTs) be performed using either the point-to-point method or total time method.

A more recent standard, ANSI/ANS 56.8-1981, "Containment System Leakage Testing," which was intended to replace ANSI N45. 4-1972, specifies the use of the mass point method to the exclusion of the two older methods. A proposed revision to Appendix J, which has been published for public comment (51 FR 39528, dated October 29, 1986), refers to a proposed Regulatory Guide (MS 021-5, October 1986), which endorses, with certain exceptions, the ANSI/ANS 56.8-1981 standard. Pending approval of the revision to Appendix J, which would permit the mass point analysis, licensees who wish to use the mass point technique must submit an application for exemption from the requirement that Appendix J test calculations for CILRTs will conform with ANSI N45.4-1972.

III

By letter dated July 10, 1987, the licensee requested an exemption from 10 CFR Part 50, Appendix J, Paragraph III.A.3, which requires that all CILRTs be performed in accordance with ANSI N45.4-1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." ANSI N45.4-1972 requires that leakage calculations be performed using either the total time method or the point-to-point method. The licensee has stated in support of the application for exemption from Appendix J that the mass point method is a more accurate method of calculating containment leakage.

It has been recognized by the professional community that that mass point method is superior to the two other methods, point-to-point and total time, which are referenced in ANSI N45.4-1972 and endorsed by the present regulations. The mass point method calculates the air mass at each point in time, and plots it against time. A linear regression line is plotted through the mass-time points using a least square fit. The slope of this line is the leakage rate.

Draft Regulatory Guide MS 021-5, which was published for comment in October 1986, endorses, with exceptions, the ANSI/ANS 56.8-1981 standard and the mass point method.

In addition to the method of calculation, consideration of the length of the test should also be included in the overall program. In accordance with Section 7.6 of ANSI N45.4-1972, a test duration less than 24 hours is only allowed if approved by the NRC, and the only currently approved methodology for such a test is contained in Bechtel Topical Report BN-TOP-1, Revision 1, "Testing Criteria for Integrated Leakage Rate Testing of Primary Containment Structures for Nuclear Power Plants," dated November 1, 1972. This approach only allows use of the total time method. Therefore, the staff will condition the exemption to require a minimum test duration of 24 hours when the mass point method is used.

The licensee's letter also submitted information to identify the special circumstances for granting this exemption for Millstone Unit No. 1 pursuant to 10 CFR 50.12. The purpose of Appendix J to 10 CFR Part 50 is to assure that containment leak-tight integrity can be verified periodically throughout the service lifetime so as to maintain containment leakage within the limit specified in the plant technical specificatons. The underlying purpose of the rule specifying particular methods for calculating leakage rates is to assure that accurate and conservative methods are used to assess the results of containment leak rate tests. As set forth above, the mass point method has been a widely used method providing accurate results and the staff has determined that this method of calculating leakage satisfies the purpose of the rule.

Based on the above discussion, the licensee's proposed exemption from paragraph III.A.3 of Appendix J, to allow use of the mass point method as requested in the submittal dated July 10, 1987, is acceptable with the condition of 24 hours minimum test duration, until such provision of Appendix J is modified. Thereafter, the licensee shall comply with the provisions of such rule (or may renew its request for exemption). The exemption applies only to the method of calculating leakage by use of the mass point method and not to any other aspects of the tests.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR Part 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(1)(2)(ii), are present justifying the exemption, namely that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Accordingly, the Commission hereby grants an exemption as described in in Section III above from Paragraph III.A.3 of Appendix J to the extent that the mass point method may be used for containment leakage rate calculations, provided it is used with a minimum test duration of 24 hours. The exemption is granted until such provision of Appendix J is modified. Thereafter, the licensee shall comply with the provisions of such rule. The exemption applies only to the method of calculating leakage by use of the mass point method and not any other aspects of the tests.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (52 FR 38027, October 13, 1987).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Reactor Projects III, IV, V, and Special Projects.

Dated at Bethesda, Maryland this 15th day of October, 1987.

[FR Doc. 87-25061 Filed 10-28-87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Advisory Committee for Trade Negotiations; Meeting and Determination of Closing of Meeting

The meeting of the Advisory Committee for Trade Negotiations to be held Wednesday, November 4, 1987, from 1:30 p.m. to 4:30 p.m. in Washington, DC, will include the development, review and discussion; of current issues which influence the trade policy of the United States. Pursuant to section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with meeting the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

Inquiries may be directed to Barbara W. North, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, DC 20506.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 87-25004 Filed 10-28-87; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25060; File No. SR-MBS-87-9]

Self-Regulatory Organizations; Proposed Rule Change by MBS Clearing Corp.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 25, 1987 the MBS Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the MBS Clearing Corporation's (MBSCC) procedures regarding the physical withdrawal of securities eligible ("Eligible Securities") for deposit in MBSCC's Depository Division. The procedures will be in effect for a period of 60 days from September 25, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change clarifies and sets forth MBSCC's policy regarding the physical withdrawal of Eligible Securities. The policy covers Eligible Securities subject to the Public Securities Association's ("PSA") Good Delivery Guideline for securities issued by the Government National Mortgage Association ("GNMA"), as adopted on December 29, 1986, as well as those not subject to PSA's guideline. The PSA guideline was announced together with a schedule by GNMA and PSA for the conversion of GNMA securities into book-entry form.

The policy substantially limits, but does not altogether prohibit, the withdrawal of securities subject to PSA's Good Delivery Guideline. Securities not subject to the guideline may be withdrawn by MBSCC Participants and registered in the name of the Participant or the name of a customer of the Participant. Securities subject to the guideline may be withdrawn and registered in a Participant's name only if the Participant is legally required to maintain physical possession of the securities. Participants may otherwise request physical withdrawal of securities on behalf of a customer only if the customer is legally required to maintain physical possession of the securities or the customer, to the best of the Participant's knowledge, does not

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intend to trade or deliver the withdrawn securities.

At the present time, GNMA securities with the following coupon rates have been converted to book-entry form and are subject to the PAS guideline: 5.50%–7.49%, 16.00%–17.50%, 14.00%–15.99%, and 13.00%–13.99%. On April 27, 1987, PSA and MBSCC modified the conversion schedule of GNMA securities. For additional coupons notice will be given of coupons to be designated as specified for book-entry settlement 45 days in advance of the issuance date of new pools of coupons.

In response to concerns raised by various commentators, MBSCC has further revised the withdrawal policy to make it clear that a Participant may make a request to withdraw securities subject to the PSA good Delivery Guideline if it is legally required to maintain, as well as obtain, physical possession of securities. The phrase "legally required to obtain or maintain physical possession" is expanded to include these legal requirements imposed by any rule or regulation of any govenmental agency, self-regulatory organization or designated contract market as defined in the Commodity Exchange Act. In addition, the policy has been revised to enable the Participant, or its customer, to obtain securities in time to comply with such legal requirements.

Consistent with PSA's Good Delivery Guideline, the policy essentially ensures that securities subject thereto will be cleared and settled in book-entry form through a registered clearing agency. The policy is designed to reduce physical withdrawal requests for book-entry eligible securities subject to the guidline and encourage the centralized processing of mortgage-backed securities transactions. By placing reasonable restrictions on the physical withdrawal of mortgage-back securities subject to the PSA guideline, the proposed rule change will both foster PSA's mandate for book-entry settlement of certain transactions and significantly reduce delays, unmatched transaction orders and other human errors often associated with the physical delivery and transfer of certificates.

The proposed rule change is consistent with section 17A of the Securities Exchange Act of 1934 in that it encourages the processing and facilitation of securities clearance and settlement of mortgage-backed securities, thereby reducing current inefficient procedures and costs to issuers and investors of mortgage-backed securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that any burden will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

While written comments have not been generally solicited, MBSCC has submitted responses to comments submitted to the Commission. In response to certain concerns raised by the Chicago Board of Trade regarding the obtaining of GNMA certificates for collateral purposes relating to Collateralized Depository Receipts, MBSCC has made revisions to the proposed rule change discussed in Item 3(a) above.

In a separate rule filing to MBSCC's Depository Division rules (SR–MBS–87–7, submitted July 24, 1987), MBSCC has responded to concerns reised by some commentators regarding the submission of claims under a GNMA or other similar guarantee on behalf of Participants. The Depository Division rules have been amended to make clear that MBSCC, in filing claims for payment under any guarantee, will be acting solely as agent for its Participants, except in certain circumstances, where MBSCC or a third-party lender have made principal and interest advances.

Representatives of PSA and GNMA have had the opportunity to review the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of MBSCC. All submissions should refer to File No. SR–MBS–87–9 and should be submitted by November 19, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 23, 1987.

Shirley E. Hollis,

Assistant Secretary.

MBSCC Procedure for Physical Withdrawal of Depository Eligible Securities

The following is MBSCC's Procedure for physical withdrawal of securities from the MBSCC Depository. The Procedure covers securities that are *not* yet subject to PSA's Good Delivery Guideline, as adopted by PSA on December 29, 1986, *as well as those* subject to the Guideline. This Procedure limits almost in its entirety the withdrawal of securities that are subject to PSA's Good Delivery Guideline. This is consistent with PSA's and GNMA's intent to move vigorously to a book-entry settlement environment for GNMA securities.

Securities Not Yet Subject to Good Delivery Guideline

In the case of securities not yet subject to the Good Delivery Guideline, a Participant will be permitted to withdraw Securities held by the Depository upon the Participant's submission of a request on the form prescribed by MBSCC. The Participant must specify whether the securities should be registered in the name of the Participant or the name of a customer of the Participant. Assuming that the request is made within the appropriate cut-off times prescribed by MBSCC, securities will be processed within four-to-twelve hours of such request.

Securities Subject to Good Delivery Guideline

MBSCC will honor requests to withdraw securities subject to the PSA Good Delivery Guideline in a Participant's name only in the unlikely event that the Participant is legally required to obtain or maintain physical possession of securities. Other Participants may submit requests for withdrawal of securities only if they request that the securities be registered in the name of a customer who is legally required to obtain or maintain physical possession of the securities or who, to the best of the Participant's knowledge, does not intend to trade, or deliver for financing purposes, the securities withdrawn. For purposes hereof, a Participant or its customer will be deemed legally required to obtian or maintain physical possession of securities if obligated to do so under any applicable law or any rule or regulation of any governmental agency, any self-regulatory organization as defined in the Securities Exchange Act of 1934, or any designated contract market as defined in the Commodity Exchange Act (including, in the case of a self-regulatory organization or designated contract market which is a Participant in the Depository, the rules or regulations of such self-regulatory organization or designated contract market).

Assuming a request for withdrawal satisfies the foregoing guidelines and is made within the appropriate cut-off times and on forms prescribed by MBSCC, MBSCC will make the securities available (a) seven calendar days from the date of withdrawal request, or (b) on such earlier date as the Participant requesting the withdrawal certifies to MBSCC is necessary to enable the Participant or its customer to comply with any applicable legal requirement. Participants should advise their customers that payment will be required on settlement date, even though the physical security may be received sometime thereafter.

By making a request for the withdrawal of securities, a MBSCC Depository Participant represents to the Depository that the withdrawal will satisfy the foregoing guidelines. Abuse of this policy will subject the offending Participant's continued participation in the Depository to review by the MBS Clearing Corporation Board of Directors.

[FR Doc. 87–25086 Filed 10–28–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–24885; File No. SR–NYSE–86–21]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. Relating to a Revision of the List of Exchange Rule Violations and Applicable Fines; Republication

[Editorial Note: The following document was originally published at page 38296 in the issue of Thursday, October 15, 1987. In that publication, several paragraphs were omitted. The corrected document is reprinted below in its entirety.]

The New York Stock Exchange, Inc. ("NYSE") submitted, on July 10, 1986, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4[2] thereunder, to revise the list of NYSE rules eligible to be considered pursuant to the NYSE's minor rule violation plan.[3] In particular, the purpose of the NYSE proposal is to include, within the minor rule violation plan, certain rules which are administered by the NYSE's Member Firm Regulation and Enforcment and Regulatory Standards Divisions.

In 1984, the Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow self-regulatory organizations ("SROs") to submit, for Commission approval, plans for the abbreviated reporting of minor rule violations.[4] The Commission previously approved such a plan filed by the NYSE.[5] The approved plan relieves the NYSE of the current reporting requirement imposed under section 19(d)(1) for violations listed in NYSE Rule 476A. The NYSE plan, as embodied by Rule 476A, provides that the Exchange may designate violations of certain rules as minor rule violations. The Exchange may impose a fine, not to exceed $5,000, on any member, member organization, allied member, or member approved person, or registered or non-registered employee of a member organization for a violation of the delineated rules by issuing a citation with the specified penalty. The respondent can either accept the penalty, or force a full disciplinary hearing on the matter. Fines assessed pursuant to Rule 476A in excess of $2,500 are not considered pursuant to the plan and must be reported in a manner consistent with the current reporting requirements of section 19(d)(1). Further, the Exchange also retains the option of bringing violations of rules included under Rule 476A to full disciplinary proceedings.

The NYSE has proposed to add the following rules to its Rule 476A list: Rules 312(a-c), 313, 345.13, 346(c), 351, 421, 440F, 440G, 440H and 706 (reporting rules); Rules 312(h-i), 342(c), 342.10, 382(a) and 791(c) (Exchange approval requirements); Rules 345.18, 410, 432(a) and 440 (record retention rules); Rule 343 (member organization office sharing requirements);Rule 387 (customer collect on delivery/payment on delivery transaction requirements); Rule 407 (requirements for transactions of employees of the Exchange, member organizations and certain non-member organizations); Rule 408(a) (requirements of written authorization for descretionary authority over customer accounts); Rules 451 and 452 (requirements related to proxy authorizations and proxy materials); Rule 726 (option disclosure document and prospectus delivery requirements); and Rule 781 (allocation of exercise assignment notice violations).

Notice of the proposed rule change was given by the issuance of a Commission release [Securities Exchange Act Release No. 24474, May 19, 1987] and by publication in the **Federal Register** [52 FR 20181, May 29, 1987]. No comments were received regarding the proposal.

The Commission has considered carefully the NYSE's proposal in light of the requirements of the Act and the Commission's intent in promulgating Rule 19d-1. As part of that review, the Commission examined the surveillance and compliance purposes served by quarterly as opposed to immediate

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[1] 15 U.S.C. 78s(b).

[2] 17 CFR 240.19b–4 (1986)

[3] *See* NYSE Rule 476A ("Imposition of Fines for Minor Violations of Rules"). Included within Rule 476A is the list of Exchange rules whose violations may be reported pursuant to the NYSE's minor rule violation plan. The Commission notes that it simultaneously is approving amendments to the NYSE minor rule violation plan. *See* Securities Exchange Act Release No. 24986.

[4] *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 409 FR 23838. Pursuant to paragraph (c)(1) of Rule 19d–1, an SRO is required to file promptly with the Commission notice of any "final" disciplinary action taken by the SRO. Pursuant to paragraph (c)(2), of Rule 19d–1, any disciplinary acton taken by the SRO for violation of an SRO rule that has been designated a minor rule pursuant to the plan shall not considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. By deeming unadjudicated, minor violations as not final, the Commission permits the SRO to report violations on a periodic, as opposed to immediate, basis. *See* note 7 *infra* (detailing content of quarterly reports filed pursuant to the NYSE plan).

[5] Securities Exchange Act Release No. 22415 (September 14, 1985), 50 FR 38600.

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reporting of violations. The Commission notes that a majority of the rules proposed by the NYSE to be included in its minor rule violation plan are basically of a record retention and reporting nature. The Commission believes, generally, that violations of such rules can be determined accurately and objectively, and, therefore, the summary procedures of the NYSE plan are appropriate for these rules. In particular, the Commission believes that Exchange quarterly reporting of violations of such rules satisfactorily should serve the regulatory and surveillance needs of the NYSE and the Commission in effectively enforcing compliance with these rules. Therefore, consistent with the purposes of the Act, and specifically sections 6 and 19 thereunder,the Commission has decided to approve the addition of these rules to the NYSE's minor rule violation plan. [6] As such, violations of these rules may be treated by the NYSE and reported to the Commission in a manner identical to all other violations subject to the NYSE's minor rule violations plan. [7]

The five remaining proposed NYSE rules [8] are different in nature from the list of rules already included under Rule 476A and the above-mentioned rules in that these rules generally relate to the member's relationship with its customers and directly relate to important investor safeguards. In particular, Rules 451 and 452 require NYSE members to transmit proxy materials to beneficial owners of stock and establish procedures for delivery proxies by a member organization for stock registered in its name. Strict compliance with these two rules is necessary to ensure that the member organization is in compliance with Section 14 of the Act and the rules and regulations promulgated thereunder.[9] Likewise, failure to adhere to the requirements contained in Rule 726, mandating delivery to a customer of the current Options Disclosure Document at or prior to approval of the customer's account, also effects compliance with Rule 9b–1 under the Act.[10] Further, the requirements contained in Rule 408(a) represent essential customer protection safeguards against unauthorized trading, and the requirements of Rule 432(a) serve as part of an overall scheme of margin regulation designed to protect the markets, and specifically the margin purchaser, by preventing the purchase of securities with insufficient margin.[11]

In adopting Rule 19d-1, the Commission noted that the rule was an attempt to balance the informational needs of the Commission against the reporting burdens of the SROs.[12] In promulgating paragraph (c) of the rule,[13] the Commission was attempting further to reduce those reporting burdens by permitting, where immediate reporting was unnecessary, quarterly reporting of minor rule violations. The various SROs have since realized that the inclusion of rules under a minor rule violation plan not only can reduce reporting burdens but also can make their disciplinary systems more efficient. The Commission however, expressed concern, when promulgating the rule, that the SROs would use that provision for the disposition of increasingly more significant violations. Indeed, the Commission specifically rejected a recommendation, made by the Chicago Board Options Exchange ("CBOE"), to raise the fine ceiling to $10,000, in an attempt to limit the use of these plans to "matters of minimal regulatory concern."[14] To ensure further that plans pursuant to Rule 19d–1(c) would be used for intended purposes only, the Commission retained the authority to restrict the categories of violations and impose any terms or conditions that it saw necessary.[15] Specifically, the Commission remains unconvinced that the inclusion of rules that are not basically technical or objective in nature are appropriate for a minor rule violation plan.

The Commission, therefore, is concerned that violations of the above cited five rules may present more than "minimal regulatory concern." At the same time, however, the Commission recognizes that the inclusion of such rules under the NYSE's 19d–1 plan could have positive results, especially in the area of compliance. According to the NYSE, inclusion of these rules will provide an effective alternative response to a rule violation when the initiative of full disciplinary proceedings is unsuitable because such a proceeding would be more costly and time-consuming in view of the minor nature of the particular violation if not the category of violation. The NYSE claims that, presently, members are aware that lesser violations of the five rules probably will result only in a verbal warning or letter of caution and not full disciplinary proceedings. Accordingly, the NYSE believes that its ability to enforce compliance with these rules will increase with the ability to issue summary fines for these violations.[16]

In effect, the NYSE argues that, even though the categories of requirements covered by the five rules provide important investor safeguards, any particular violation of such a rule may or may not rise to the level which would justify a full disciplinary proceeding. Thus, in the NYSE's view, because it retains the discretion to bring such a full disciplinary proceeding, adding these rules to its minor disciplinary plan only will enhance, rather than reduce, its enforcement capabilities regarding such rules.

While the Commission is not persuaded the residual availability of full disciplinary proceeding always will justify placing a rule within the minor disciplinary plan, it recognizes that the issue of whether the inclusion of these rules within the minor disciplinary plan will provide a net benefit to the NYSE's enforcement efforts is ultimately a question of how the program is implemented. If the minor disciplinary characterization is used in a manner which is sensitive to the underlying goal of Rule 19d–1, including these rules within the plan may enhance the NYSE's compliance effects. The Commission therefore has determined that, in order to balance the regulatory needs and requirements of the Commission as set forth in section 19(d), and the compliance goals and reporting burdens of the NYSE, inclusion of these rules under the NYSE's minor rule violation plan should be approved for a pilot period of two years. During that time, the Commission will examine whether summary disposition and quarterly reporting of such vilations allows

[6] Specifically, the Commission has determined that Rules 312(a), 312(b), 312(c), 312(h), 312(i), 313, 342(c), 342.10, 343, 345.13, 345.16, 346(c), 351, 382(a), 387, 407, 410, 421, 440, 440F, 440G, 440H, 700, 781, and 791(c) should be eligible to be included under NYSE's Rule 476A.

[7] Reports to the Commission pursuant to NYSE Rule 476A must include a quarterly report listing: (1) The NYSE internal file number for the case; (2) the SEC file number; (3) the name of the individual or member organization; (4) the nature of the violation; (5) the specific rule provision violated; (6) the date of the violation; (7) the fine imposed; (8) an indication of whether the fine is joint and several; (9) the number of times the violation has occurred; and (10) the date of disposition.

[8] *See* NYSE Rules 408(a), 432(a), 451, 452 and 726.

[9] 15 U.S.C. 78m (1976).

[10] 17 CFR 240.9b–1 (1986).

[11] *See, e.g.*, Report of Senate Committee of Banking and Currency, Stock Exchange Practices, S. Rep. No. 1455, 73d Cong., 2d Sess. 11 (1934).

[12] *See* Securities Exchange Act Release No. 13728 (July 8, 1977), 42 FR 36411.

[13] *See* note 4, *supra*.

[14] *See* Securities Exchange Act Release No. 21013, 43 FR 23630. Specifically, the Commission noted:

> In our view, sanctions of that level [$10,000] rarely would involve matters of minimal regulatory concern. Instead, they either involve isolated infractions of significant rules or repeated violations of less significant rules which warrant a stringent sanction. The [Commission] believes that it is important that the Commission be informed on a timely basis of infractions in either situation.

[15] *Id.*

[16] *See* File No. SR-NYSE-86-21.

respondents sufficient due process protections and the Commission sufficient information by which to carry out its oversight responsibilities concerning the enforcement and disciplinary activities of the SROs.[17] To aid in that examination, the NYSE has agreed to submit two reports to the Commission on compliance activities concerning these five rules: one report submitted at the midpoint of the pilot and the other prior to the pilot's expiration.[18]

The two reports submitted by the NYSE concerning these five rules will include considerably more detail than the quarterly reports presently submitted by the NYSE. First, these reports should include statistics on the number of violations of the five rules handled pursuant to the NYSE's minor rule plan. Second, the following information in connection with each violation must be reported, although it should be noted that the Commission may, from time to time, request additional information: (1) The name of each violator; (2) a description of the circumstances under which the violation occurred; (3) the resulting sanction; (4) whether this is a first or repeat offense in this category by the respondent; (5) whether the violation led to any further investigation or violations; and (6) an analysis by the NYSE of how these cases might have been treated if not for the pilot program (*i.e.*, verbal or written caution or full disciplinary proceeing). Third, these reports must include statistics and descriptions of those cases that the NYSE attempted to bring under its minor rule plan, but the respondent requested a hearing. Fourth, these reports must contain an analysis of the overall compliance process for these five rules. Moreover, as the Commission plans to monitor this pilot program through its inspections program and the Rule 19d–1 reporting requirement, the NYSE should retain, consistent with section 17(a) of the Act,[19] in connection with any violation of these five rules, all back-up documentation and analysis leading to either a Rule 19d–1 filing or a more detailed exchange investigation in any compliance capacity.[20]

Based on the above, the Commission finds that the proposed amendments, with the inclusion of the pilot program, are consistent with the requirements of the Act, and specifically Sections 6 and 19 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) under the Act, that the proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 5, 1987.

[FR Doc. 87–23820 Filed 10–4–87; 8:45 am]

BILLING CODE 8025-01-D

[17] Reporting of violations by SROs to the Commission is an essential means of SRO oversight by supplementing the information obtained through inspections.

[18] *See* telephone conversation between Rudy Schriber, NYSE, and Stephen Luparello, Staff Attorney, Division of Market Regulation, dated August 31, 1987.

[19] 15 U.S.C. 78q(a).

[20] The Commission also notes that it retains the right to revoke any part or the entire pilot program prior to its expiration if it determines that such an action is necessary in order to further or protect the public interest (*i.e.*, if the absence of quarterly reporting leads to deficiencies in NYSE surveillance or disciplinary procedures).

[Release No. 34–25059; File No. SR–OCC–87–18]

Self-Regulatory Organizations; Filing and Order Temporarily Approving a Proposed Rule Change by Options Clearing Corp. on an Accelerated Basis

Pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 22, 1987, Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission a proposed rule change that enables OCC to waive clearing member margin requirements in certain circumstances.[1] The Commission is publishing this Order to solicit comments on the proposal from interested persons. This Order also temporarily approves the proposal on an accelerated basis until February 28, 1988.

I. Description of the Proposal

The proposed rule change adds a new Rule 609A to Chapter VI of OCC rules dealing with clearing member margin requirements. The proposal authorizes the Chairman or the President of OCC to waive, in whole or in part, conditionally or unconditionally, any deposit of margin that would otherwise be required to be made by any clearing member in any account at any time during any business day. Such a waiver must be based upon a determination that it (1) is advisable in the interest of maintaining fair and orderly markets or is otherwise advisable in the public interest or for the protection of investors, and (2) is consistent with maintaining the financial integrity of OCC.

Additionally, the proposal subjects OCC to certain obligations. The proposed rule requires OCC to consult with the Commission before exercising its authority to waive margin requirements. The proposal also requires that a record of any such waiver be prepared and maintained with the records of OCC. Finally, unless OCC seeks permanent approval before that time, new Rule 609A and the authority granted thereunder will expire at the close of business on February 28, 1988.

II. OCC's Rationale for the Proposal

OCC believes that the proposed rule change is consistent with the purposes and requirements of section 17A of the Act. OCC states in its filing that the proposed rule change serves the public interest and the protection of investors by giving OCC needed flexibility in dealing with unusual market conditions.

OCC also believes there is good cause for temporarily approving the proposed rule change on an accelerated basis. OCC states that the proposed rule change is necessary to enable OCC to respond to current market conditions.

III. Discussion

The Commission believes the proposal is consistent with section 17A of the Act and is approving it on an accelerated, temporary basis. As discussed below, the Commission believes the proposal gives OCC management the flexibility to deal with unusual market conditions. The Commission also believes that the proposal is consistent with OCC's obligations to safeguard funds and securities and to maintain appropriate financial responsibility standards.

The Commission believes it appropriate for OCC to be able to adjust margin requirements, either with respect to particular options members or generally, to help assure necessary liquidity in extraordinary market circumstances. OCC's margin formulas reduce the market value of unsegregated long options positions for margin credit purposes. Those reductions could be unnecessarily large when applied to deep-in-the-money options with substantial intrinsic value, resulting in more margin than is necessary for the protection of OCC while adversely affecting the liquidity of OCC clearing members in unusual market conditions. The Commission notes that the authority under new Rule 609A is restricted to the Chairman and President of OCC and is established on a temporary basis to

[1] The term "waive" is intended to include adjustments or modifications to OCC's formulas for calculating margin requirements.

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respond to current market conditions. Moreover, the Commission believes that prior consultation and maintenance of a record of any such waiver (including a concise contemporaneous statement of the reasons for the waiver) should help to assure consideration of all appropriate factors, including clearing member liquidity, equitable treatment of clearing members, and OCC's obligation to safeguard securities and funds.

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act and, in particular, with section 17A. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication in the Federal Register, because the proposal should enable OCC to make appropriate responses to unusual market conditions. Nevertheless, the Commission is approving the proposed rule change temporarily until February 29, 1988. Temporary approval will enable OCC to respond to current market conditions and will enable the Commission to provide a comment period for persons interested in the proposal.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR-OCC-87-16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of OCC.

It is therefore ordered, pursuant to section 19(b) of the Act, that the proposed rule change (SR-OCC-87-16) be, and hereby is, approved on a temporary basis until February 29, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 23, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25009 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

October 23, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Charter House Enterprises Inc.
Common Stock, $1.00 Par Value (File No. 7-0672)
Varity Corporation
$1.20 Cumulative Convertible Preferred A (File No. 7-0673)
Wolverine Technologies Inc.
Common Stock, $1.00 Par Value (File No. 7-0674)
American General Corp.
Warrants, Expiring 1/4/89 (File No. 7-0675)
Federal National Mortgage
Warrants, Expiring 2/15/87 (File No. 7-0676)
McDermott International Inc.
Warrants, Expiring 4/1/90 (File No. 7-0677)
USX Corporation
Warrants, Expiring 9/14/87 (File No. 7-0678)
Heritage Entertainment
Common Stock, $.01 Par Value (File No. 7-0679)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 16, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25081 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

October 23, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Clark Equipment Company
Common Stock, $7.50 Par Value (File No. 7-0652)
Kentucky Utilities Company
Common Stock, No Par Value (File No. 7-0653)
Franklin Resources, Inc.
Common Stock, $0.10 Par Value (File No. 7-0654)
Gabelli Equity Trust Inc.
Common Stock, $0.001 Par Value (File No. 7-0655)
John H. Harland Company
Common Stock, $1.00 Par Value (File No. 7-0656)
Hartmarx Corp.
Common Stock, $2.50 Par Value (File No. 7-0657)
Freeport-McMoRan Gold Company
Common Stock, $0.10 Par Value (File No. 7-0658)
Gibralter Financial Corp.
Capital Stock, $1.00 Par Value (File No. 7-0659)
Harnischfeger Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7-0660)
QMS, Inc.
Common Stock, $0.01 Par Value (File No. 7-0661)
Aon Corporation
Common Stock, $1.00 Par Value (File No. 7-0662)
Centel Corporation
Common Stock, $0.25 Par Value (File No. 7-0663)
National Service Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7-0664)
Centex Corporation
Common Stock, $0.25 Par Value (File No. 7-0665)
Nalco Chemical Company
Common Stock, $0.75 Par Value (File No. 7-0666)
Pall Corporation
Common Stock, $0.25 Par Value (File No. 7-0667)
Apache Petroleum Company
Depositary Units (File No. 7-0668)
AVX Corp.
Common Stock, $1.00 Par Value (File No. 7-0669)
Computer Factory Inc.
Common Stock, $0.01 Par Value (File No. 7-0670)
Houghton Mifflin Company
Common Stock, $1.00 Par Value (File No. 7-0671)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 16, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25082 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16072; 811-2858 and 811-2134]

First Midwest Corp. and First Midwest Capital Corp.; Applications

October 23, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of applications for deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicants: First Midwest Corporation ("Parent") and First Midwest Capital Corporation ("Subsidiary").

Relevant 1940 Act Section: Section 8(f) and Rule 8f-1 thereunder.

Summary of Applications: Applicants seek an order declaring that they have ceased to be investment companies.

Filing Date: The separate applications on Form N-8F were filed on July 2, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the applications will be granted. Any interested person may request a hearing on these applications, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 16, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 914 Plymouth Building, 12 South Sixth Street, Minneapolis, Minnesota 55422.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney, Financial Analyst (202) 272-2847 or Brion R. Thompson, Special Counsel (202) 272-3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the applications; the complete applications on Form N-8F are available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. The Parent filed Form N-8A on August 2, 1976, to register as a closed-end, non-diversified management investment company. The Subsidiary filed Form N-8A on October 21, 1970, to register as a closed-end, non-diversified management investment company, and Form N-5A on November 1, 1976, to register as a Small Business Investment Company. Applicants are corporations organized under the laws of the State of Minnesota and they have filed plans of liquidation with the State of Minnesota which they expect to become effective late in 1987.

2. On June 18, 1985, the Board of Directors of each Applicant recommended that shareholders approve a Plan of Liquidation (the "Plan") for Applicants in which all of the assets and liabilities of the wholly-owned Subsidiary would be transferred to the Parent in anticipation of the complete liquidation of the Parent. On August 27, 1985, shareholders of each Applicant approved the Plan.

3. On April 17, 1986, the assets and liabilities of the Subsidiary were transferred to the Parent who then distributed cash and common stock from Applicants' investment portfolios valued at approximately $1.5 million to the Parent's shareholders in accordance with the provisions of the Plan. On April 30, 1986, the balance of the net assets of the Parent, which totaled $1,973,655, were distributed into a Liquidating Trust ("Trust") for the benefit of the Parent's 385 shareholders. Unless earlier terminated by the beneficiaries, the Trust will continue until the first to occur of (i) the complete distribution of the Trust's assets or (ii) the expiration of three years from the date of its creation. However, the Trust may continue beyond three years for the limited purposes of holding funds for missing shareholders, dealing with pending litigation, and collecting payments on certain installment obligations.

4. Applicants are not a party to any litigation or administrative proceedings. Applicants are not now engaged nor do they propose to engage in any business activities other than those necessary for the winding up of their affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25054 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16075; 811-3958]

LBY Holding Corp.; Application

October 23, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: LBY Holding Corporation ("Applicant").

Relevant 1940 Act Section: Section 8(f) and Rule 8f-1 thereunder.

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application on Form N-8F was orginally filed on September 23, 1985. A revised application was filed on October 20, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 17, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the

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Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 23rd Floor, 405 Lexington Avenue, New York, NY 10174.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney, Financial Analyst, (202) 272-2847 or H.R. Hallock, Special Counsel, (202) 272-3030 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application on Form N-8F is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant filed a registration statement pursuant to section 8(b) of the Act on May 2, 1984. Applicant is in the process of liquidation and upon completion of its final tax return, will dissolve pursuant to the Business Corporation Law of the State of New York.

2. Applicant's Board of Directors approved its plan of complete liquidation and dissolution on January 16, 1985 and Applicant's shareholders approved the plan on February 25, 1985. On March 12, 1985, Applicant had net assets valued at $3,594,556 or $22.55 per share and on that date it made an initial liquidating distribution to its 221 shareholders equal to $4.00 per share. On August 27, 1985, Applicant made a second liquidating distribution equal to $18.00 per share. A pro-rata final distribution from the approximately $175,000 in remaining assets of the Applicant will be made after the payment of all expenses incurred in the liquidation and any unknown liabilities which may be asserted.

3. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged nor does it propose to engage in any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25065 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16076/File No. 812-6832]

Application for Exemption; Lutheran Brotherhood Variable Insurance Products Co., et al.

October 23, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Lutheran Brotherhood Variable Insurance Products Company ("LBVIP"); LBVIP Variable Annuity Account I (the "Variable Account"); and Lutheran Brotherhood Securities Corp.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2).

Summary of Application: Applicants seek an order to permit them to issue flexible premium deferred variable annuity contracts (the "Contracts") that permit a deduction of mortality and expense risk charges.

Filing Date: The application was filed on August 14, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 17, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant(s) with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants' addresses: c/o Otis F. Hilbert, Lutheran Brotherhood Variable Insurance Products Company, 625 Fourth Avenue South, Minneapolis, MN 55415.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Ulness, Attorney (202) 272-2026 or Lewis B. Reich, Special Counsel (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations

1. LBVIP is a stock life insurance company organized under the laws of the State of Minnesota in 1982. LBVIP is currently licensed to transact life insurance business in 36 states and the District of Columbia. LBVIP is an indirect subsidiary of Lutheran Brotherhood, which is a fraternal benefit society owned by and operated for its members. Lutheran Brotherhood was organized in 1917 under the laws of the State of Minnesota.

2. The Variable Account is a separate account of LBVIP, established by the Board of Directors of LBVIP on May 1, 1987, pursuant to the laws of the State of Minnesota for the purpose of funding certain flexible premium deferred variable annuity insurance contracts issued by LBVIP.

3. Premiums paid under any Contract may be allocated, according to a Contractowner,s instructions, to one or more of the Subaccounts of the Variable Account. The Variable Account initially will have three Subaccounts: the Growth Subaccount; the Income Subaccount; and the Money Market Subaccount. Each of these Subaccounts of the Variable Account will invest solely in a corresponding portfolio of LBVIP Series Fund, Inc. (the "Fund"), which is registered as an open-end diversified management company of the series type. LBVIP reserves the right to establish additional Subaccounts of the Variable Account, each of which would invest in shares of a new corresponding portfolio of the Fund or in shares of another investment company having a specified investment objective.

4. The Contracts are individual flexible premium deferred variable annuity contracts, and will be offered only to persons who are eligible for membership in Lutheran Brotherhood, unless otherwise required by state law. Contracts may be sold to or in connection with retirement plans which may or may not qualify for special Federal tax treatment under the Internal Revenue Code. The minimum amount LBVIP will accept as an initial premium is $600 on an annualized basis. Subsequent premiums may be paid under a Contract, but LBVIP may choose not to accept any subsequent premium if it is less than $50.

5. Under the Contract LBVIP deducts from the Variable Account a daily mortality and expense risk charge, guaranteed not to increase above an annual rate of 1.25%, from the Accumulated Value prior to the Maturity Date and from annuity unit values during the annuity period. LBVIP will, however, initially impose a daily mortality and expense risk charge in an amount that is equal to an annual rate of 1.10% (approximately .80% for mortality risk and approximately .30% for expense risk) of the daily Accumulated Value or annuity unit values, as the case may be. This deduction is made to compensate LBVIP for the mortality and expense risks it assumes. LBVIP assumes the mortality risk that beneficiaries of Contractowners or annuitants dying before the Maturity Date may receive amounts in excess of the then current Accumulated Value. In addition, LBVIP Will not increase charges for administrative expenses regardless of its actual expenses.

6. Applicants represent that the mortality and expense risk charge is designed only to cover the cost of bona fide mortality and administrative expense risks, and that the maximum possible level of such charge (an annual rate of 1.25%) is reasonable in relation to the mortality and administrative expense risks assumed under a Contract. Applicants also represent that such maximum possible level of such charge is within the range of industry practice for comparable annuity contracts. These representations are based upon an analysis of the mortality and expense risks involved, and an analysis of publicly available information about comparable contracts, taking into account the particular annuity features of such contracts (including such factors as current charge levels, charge level guarantees or annuity rate guarantees, the manner in which charges are imposed and the markets in which such contracts are offered). Applicants will maintain and make available to the Commission upon request a memorandum explaining the basis for these representations and the documents used to support these representations.

7. If a Contract is surrendered, in whole or in part, while the Contract is in force and on or before the Maturity Date, a surrender charge is imposed on the Excess Amount of such surrender if such surrender occurs before the Contract has been in force for six full Contract Years as follows:

Contract year in which total or partial surrender occurs	Charge as percentage of excess amount surrendered
1	6
2	5
3	4
4	3
5	2
6	1
7 and after	0

The charge is applied as a percentage of the Excess Amount surrendered, but in no event will the total surrender charge on any one Contract exceed a maximum limit of 6½% of total gross premiums paid under the Contract.

Up to 10% of the Accumulated Value of a Contract may be surrendered each Contract Year without a surrender charge

Surrender charges otherwise payable will be waived with respect to surrenders made by the Contractowner when the annuitant is totally disabled (as defined in the Contract).

Although no surrender charge is deducted with respect to surrenders during the annuity period, if a settlement option that does not involve a life contingency is chosen, a surrender charge will be deducted from the Accumulated Value of the Contract if the Maturity Date occurs at any time during the surrender charge period of six full Contract Years.

8. If the amount of all charges assessed in connection with the Contracts is not enough to cover all expenses incurred in connection therewith, the loss will be borne by LBVIP. Any such expenses borne by LBVIP will be paid out of its general account which may include, among other things, proceeds derived from mortality and expense risk charges deducted from the Variable Account. Conversely, if the amount of such charges proves more than enough, the excess will be retained by LBVIP. Applicants state that they do not believe that the surrender charge imposed in connection with certain partial or total withdrawals under the Contracts or at annuitization will cover the expected costs of distributing the Contracts. LBVIP states that it has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the Contracts will benefit the Variable Account and the Contractowners. Applicants undertake to keep and make available to the Commission upon request a memorandum setting forth the basis for this representation. Applicants further represent that the Variable Account will only invest in underlying fund(s) which have undertaken to have a board of directors, a majority of whom are not interested persons of the Fund, formulate and approve any plan under Rule 12b-1 under the Act to finance distribution expenses.

9. On each Contract anniversary prior to and including the Maturity Date, LBVIP deducts from the Accumulated Value, proportionately from the Subaccounts that make up such Accumulated Value, an annual administrative charge of $30 to reimburse LBVIP for administrative expenses relating to the Contract, the Variable Account and the Subaccounts. No such charge is deducted if on that Contract anniversary the total amount of premiums paid under the Contract, less the amount of all prior partial surrenders (which includes the amount of related surrender charges), is equal to or greater than $5,000. LBVIP does not expect to make a profit on this charge. No administrative charge is payable during the annuity period.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25083 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16077; (812-6727)]

Application M.D.C. Asset Investors Funding Corp.

October 23, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: M.D.C. Asset Investors Funding Corporation (formerly M.D.C. Mortgage Funding Corporation III).

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks an exemptive order to permit it to issue and sell mortgage related securities ("Bonds") and residual equity interests in real estate mortgage investment conduits formed for the purpose of issuing such Bonds.

Filing Dates: The application was filed on May 18, 1987, and amended on October 9 and 19, 1987. Another amendment will be filed during the notice period the substance of which is contained herein.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing

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on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 17, 1987. Request a hearing in writing, giving the nature of your interest, the reasons for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secrerary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicant: c/o Mark T. Shehan, Esq., Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 272-3033, or Brion R. Thompson, Special Counsel (202) 272-3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant, which was incorporated under Delaware law on July 23, 1986, was organized solely for the purpose of facilitating the financing of long-term mortgage loans through the issuance of Bonds secured primarily by Mortgage Collateral (as defined below). Applicant will not engage in any business or investment activities other than that which is related to the issue and sale of the Bonds. M.D.C. Asset Investors, Inc. ("MDC Asset Investors"), a publicly held company, owns all the issued and outstanding common stock of Applicant.

2. Applicant will issue one or more series ("Series") of Bonds secured principally by Mortgage Collateral which will consist of (1) mortgage backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), (2) Mortgage Participation Certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"), (3) Guaranteed Mortgage Pass-Through Certificates issued by the Federal National Mortgage Association ("FNMA Certificates"), (4) certain other mortgage pass through certificates issued by non-governmental or non-government sponsored entities ("Private Mortgage Certificates") ("GNMA Certificates, FHLMC Certificates, FNMA Certificates and Private Mortgage Certificates, collectively "Mortgage Certificates"), (5) conventional mortgage loans, (6) mortgage loans insured by the Federal Housing Administration ("FHA") and (7) mortgage loans partially guaranteed by the Veterans Administration ("VA") (conventional mortgage loans, mortgage loans insured by the FHA and the mortgage loans partially guaranteed by the VA, collectively, "Mortgage Loans"). In addition, the Bonds may be secured by funding agreements ("Funding Agreements"), entered into with various limited purpose entities and secured by Mortgage Collateral, pursuant to the terms of an Indenture between Applicant and an independent trustee ("Trustee"), which Indenture will be qualified under the Trust Indenture Act of 1939 unless an appropriate exemption is available. The Bonds may also be secured by certain debt service funds, certain reserve funds, insurance policies, servicing agreements and other accounts and instruments described in the prospectus supplement for the relevant Series of Bonds.

3. Applicant will hold no substantial assets other than the Mortgage Collateral, Funding Agreements and cash, may not purchase or otherwise deal in any property other than the Mortgage Collateral and Funding Agreements, and may not issue any debt securities other than the Bonds. The Mortgage Collateral (including the Mortgage Collateral pledged pursuant to Funding Agreements) will have a collateral value at the time of issuance and following each payment date on the Bonds, equal to or greater than the outstanding principal balance of the Bonds. Distributions of principal and interest received on the Mortgage Collateral (including the Mortgage Collateral pledged pursuant to Funding Agreements) securing the Bonds and any applicable reserve funds, plus reinvestment income thereon, will be sufficient to pay all interest on the Bonds and to retire each class of Bonds by its stated maturity. The Mortgage Collateral and Applicant's entire right, title and interest in the Funding Agreements will be assigned by the Applicant to the Trustee and will be subject to the lien of the related Indenture.

4. The Funding Agreements will be entered into by the Applicant with a limited purpose entity affiliated with a concern engaged in the homebuilding or mortgage lending business or otherwise providing services to builders or lenders ("Participants"). The Participants may be in corporate, trust or limited partnership form and may include affiliates of the Applicant. Each of the Funding Agreements securing a Series of Bonds will provide that (i) Applicant make a loan to each Participant out of the net proceeds of the sale of such Series, such loan to be evidenced by one or more promissory notes ("Notes"); (ii) each such Participant pledge Mortgage Collateral to the Applicant as security for its loan; and (iii) each such Participant be obligated to repay its loan by causing payments on the Mortgage Collateral securing its Notes to be made directly to the Trustee for the Bondholders in amounts sufficient to pay such Participant's share of principal and interest on the Bonds, together with certain of Applicant's administrative expenses. Applicant will in turn assign its entire right, title and interest in such Funding Agreements (other than Applicant's rights to receive fees, to indemnification and to reimbursement as provided for in the Indenture) and in the related Notes and Mortgage Collateral to the Trustee as security for such Series of Bonds.

5. The Indenture provides that no amounts will be released from the lien of the Trustee and paid to the Applicant until the Trustee has made payments of principal and interest then due on the Bonds, satisfied all current administrative expenses, and made any necessary deposits to reserve funds. The scheduled available principal and interest payments on the Mortgage Collateral (including Mortgage Collateral pledged pursuant to a Funding Agreement) with respect to a Series (together with payments from the debt service and reserve funds for such Series, if any), plus income thereon, will be sufficient to make interest payments on the Bonds when due and to amortize the principal of the Bonds by their stated maturities. With certain limited exceptions specified in the application, collateral for a Series of Bonds will not secure any other Series of Bonds, or any other obligations of Applicant.

6. Each Series of Bonds will be secured by a separate collection account for receipt of monthly principal and interest distributions on the Mortgage Collateral ("Collateral Proceeds Account") and may be secured by one or more accounts and funds established in the name of the Trustee. The Trustee is authorized under the Indenture to invest the funds of the Collateral Proceeds Account, and the other funds or accounts relating to a Series of Bonds only in certain eligible investments which are specified in the application. Payments received with respect to the Mortgage Collateral will be reinvested only until the next payment date on the Bonds and all such investments will mature prior to such date.

7. Applicant may elect to treat the arrangement by which any Series of Bonds is issued as a real estate mortgage investment conduit ("REMIC") pursuant to the Internal Revenue Code of 1986. Such election will have no effect on the level of expenses that would be incurred by Applicant. All administrative fees and expenses in connection with the administration of a REMIC will be paid or provided for in a manner satisfactory to the agency or agencies rating the Bonds pursuant to one or more of the methods set forth in the application.

8. In addition to the issue and sale of the Bonds, Applicant may sell the residual interests ("Equity Interest") in a REMIC to a limited number, in no event more than 35, of sophisticated institutional and non-institutional investors in transactions exempt from the registration requirements of the Securities Act of 1933 ("1933 Act") under section 4(2) thereof. The offer and sale of such Equity Interests will be subject to Condition D (1-7) below.

Applicant's Legal Conclusion: The requested order is appropriate in the public interest because:

(1) Applicant's activities will promote the public interest by expanding the market for mortgage securities thereby increasing the pool of funds available for mortgage loans and increasing the capacity of mortgage lenders to meet the housing finance needs of the nation; (2) Applicant may be unable to proceed with its proposed activities if the uncertainties concerning the applicability of the 1940 Act are not removed; (3) Applicant should not be deemed to be an entity to which the provisions of the 1940 Act were intended to apply (and Applicant does not concede that it is such an entity); and (4) Applicant's issuance of the Bonds and Equity Interests and its acquisition of the Mortgage Collateral are not the types of activities intended to be regulated by the 1940 Act.

Applicant's Conditions: Applicant expressly consents to the following conditions with respect to the requested order:

A. Conditions Relating to the Mortgage Collateral for the Bonds: (1) Each Series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration pursuant to section 4(2) of the 1933 Act.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. The Mortgage Collateral directly securing the Bonds will be limited to GNMA Certificates, FNMA Certificates, FHLMC Certificates, Private Mortgage Certificates, Funding Agreements and Mortgage Loans. The collateral securing a Series in which Equity Interests will be sold will be limited to GNMA Certificates, FNMA Certificates and FHLMC Certificates and Funding Agreements secured by such certificates.

(3) If new Mortgage Collateral is substituted for existing collateral securing a series of Bonds, the substitute Mortgage Collateral will: (i) Be of equal or better quality than the collateral replaced; (ii) have similar payment terms and cash flows as the collateral for which it was substituted; (iii) be insured or guaranteed to the same extent as the collateral replaced; (iv) not affect the rating of the Bonds issued by any rating organization and (v) meet the conditions of paragraphs (2) above and (4) and (6) below. New Mortgage Loans may be substituted for Mortgage Loans initially pledged as collateral only in the event of default, late payments or a defect in the collateral being replaced. New Private Mortgage Certificates may be substituted for Private Mortgage Certificates initially pledged only in the event of default, late payment or defect in the collateral being replaced. New Funding Agreements may be substituted for the initial Funding Agreements only if the substitution of the Mortgage Collateral securing such Funding Agreements would be permitted under this condition. In addition, new collateral may not be substituted for more than 20 percent of the aggregate face amount of the Mortgage Loans initially pledged as Mortgage Collateral or for more than 40 percent of the aggregate face amount of the Mortgage Certificates initially pledged as collateral. In no event would any new Mortgage Collateral be substituted for any substitute Mortgage Collateral.

(4) All Mortgage Collateral, Notes, funds, accounts or other collateral securing a Series of Bonds will be held by a Trustee, or on behalf of a Trustee by an independent custodian. Neither the Trustee nor the custodian may be an affiliate (as the term "affiliate" is defined in the 1933 Act, Rule 405, 17 CFR 230.405) of Applicant. The Trustee will be provided with a first priority perfected security or lien interest in and to all collateral securing a Series of Bonds.

(5) Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant. The Bonds will not be considered redeemable securities within the meaning of section 2(a)(32) of the 1940 Act.

(6) The master servicer of Mortgage Loans (including, for purposes of this paragraph, those underlying Private Mortgage Certificates) securing a Series of Bonds may not be an affiliate of the Trustee. If there is no master servicer for the Mortgage Loans securing a Series of Bonds, no servicer of those Mortgage Loans may be an affiliate of the Trustee. In addition, any master servicer and any servicer of a Mortgage Loan will be approved by FNMA or FHLMC as an "eligible seller/servicer" of conventional, residential mortgage loans. The agreement governing the servicing of Mortgage Loans shall obligate the servicer to provide substantially the same services with respect to the Mortgage Loans as it is then currently required to provide in connection with the servicing of mortgage loans insured by FHA, guaranteed by VA or eligible for purchase by FNMA or FHLMC.

(7) No less often than annually, an independent public accountant will audit the books and records of the Applicant and, in addition, will report on whether the anticipated payments of principal and interest on the collateral securing each Series of Bonds continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion of the auditor's report(s), copies will be provided to the Trustee.

B. Conditions Relating to Floating Rate Bonds: (1) Each Class of Floating Rate Bonds will have set maximum interest rates (interest rate caps) which may vary from period to period as specified in the related prospectus.

(2) The Mortgage Collateral initially pledged to secure a Series of Bonds, including a Series of Bonds containing a class or classes of adjustable or Floating Rate Bonds, will be sufficient to pay the maximum amount of interest and principal due on such Bonds for the life of such Bonds.[1]

[1] In the case of a series of Bonds containing a class or classes of adjustable or Floating Rate Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to the adjustable or Floating Rate Bonds. Procedures that have been identified to date for achieving this result include the use of (i) interest rate caps for the adjustable or Floating Rate Bonds; (ii) "inverse" Floating Rate Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" Floating Rate Bonds); (iii) floating rate collateral (such as FNMA adjustable rate certificates) to secure the Bonds; (iv) interest rate swap agreements (under which the issuer of the Bonds would make periodic payments to a counterparty at a fixed rate of interest based on a

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C. Conditions Relating to REMIC Election: (1) The election by Applicant to treat the arrangement by which any Series of Bonds is issued as a REMIC will have no effect on the level of the expenses that would be incurred by the Applicant. If such an election is made, the Applicant will provide that all administrative fees and expenses in connection with the administration of the REMIC will be paid or provided for in a manner satisfactory to the agency or agencies rating the Bonds. The Applicant will provide for the payment of administrative fees and expenses in connection with the issuance of the Bonds and the administration of the REMIC by one or more of the methods set forth in the application.

(2) Applicant will ensure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which or all of the methods (which methods may be used in combination) are selected by the Applicant to provide for the payment of such fees and expenses.

D. Conditions Relating to the Sale of Equity Interests: (1) Applicant will sell Equity Interests only in a Series of Bonds collateralized by GNMA, FNMA and FHLMC certificates or Funding Agreements secured by such certificates. Equity Interest will be offered and sold only to no more than 35 (i) institutional investors or (ii) non-institutional investors which are "accredited investors" as defined in Rule 501(a) of the 1933 Act. Institutional investors will have such knowledge and experience in financial and business matters as to be able to evaluate the risks of purchasing Equity Interests and understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage related securities and residual interests therein. Non-institutional accredited investors will be limited to not more than 15, be required to purchase at least $200,000 of such Equity Interests and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage related securities, as to be able to evaluate the risk of purchasing an Equity Interest and will have direct, personal and significant experience in making investments in mortgage related securities and residual interests therein. Owners of Equity Interests will be limited to mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, real estate investment trusts or other institutional or non-institutional investors as described above which customarily engage in the purchase of mortgages and "mortgage related securities.

(2) Each sale of an Equity Interest will qualify as a transaction not involving any public offering within the meaning of section 4(2) of the 1933 Act.

(3) Each sale of an Equity Interest will prohibit the transfer of such Equity Interest if there would be more than 35 beneficial owners of Equity Interests of any REMIC at any time.

(4) Each sale of an Equity Interest will require each purchaser thereof to represent that it is purchasing for investment and not for distribution and that it will hold such Equity Interest in its own name and not as nominee for undisclosed investors.

(5) Each sale of an Equity Interest will provide that (i) no owner of such Equity Interest may be affiliated with the Trustee and (ii) no holder of an Equity Interest may be affiliated with either the custodian of the Mortgage Collateral or the agency rating the Bonds of the relevant Series.

(6) No holder of a controlling interest in the Applicant (as the term "control" is defined in Rule 405 under the 1933 Act), will be affiliated with either (a) any custodian which may hold the Mortgage Collateral on behalf of the Trustee or (b) any statistical rating agency rating the Bonds.

(7) If any shares of the common stock of Applicant were to be sold and such sale results in the transfer of control (as the term "control" is defined in Rule 405 under the 1933 Act) of Applicant, the relief afforded by any SEC order granted on the application would not apply to subsequent Bond offerings by Applicant.

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stated principal amount, such as the principal amount of the Bonds in the floating rate class, in exchange for receiving corresponding periodic payments from the counterparty at a floating rate of interest based on the same principal amount; and (v) hedge agreements (including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the floating rate class of Bonds). It is expected that other mechanisms may be identified in the future. Applicant will give the Staff of the SEC notice by letter of any such additional mechanisms before they are utilized, in order to give the Staff an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representation and will be adequate to meet the standards required for a rating of the Bonds in one of the two highest bond rating categories, and no Bonds will be issued for which this is not the case.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25084 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16071; 812-6841]

Mitsubishi Bank of Canada; Application

October 23, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Mitsubishi Bank of Canada ("Mitsubishi Canada" or "Applicant").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks an order exempting it from all provisions of the 1940 Act in connection with the issuance and sale of its U.S. dollar denominated certificates of deposit and other debt securities in the United States ("Securities"). Payment of principal and interest on the Securities will be unconditionally guaranteed by The Mitsubishi Bank, Limited, New York Branch ("Mitsubishi New York"), or The Mitsubishi Bank, Limited ("Mitsubishi").

Filing Date: The application was filed on August 20, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 16, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Mitsubishi Bank of Canada, c/o Peter Figdor, Esq., Marks Murase & White, 400 Park Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Staff Attorney, (202) 272-3046, or Curtis R. Hilliard, Special Counsel, (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Mitsubishi Bank of Canada is a Canadian chartered bank constituted and licensed under the Bank Act, S.C. 1980, chap. 40 (the "Canadian Bank Act"), that commenced operation as a foreign bank subsidiary under the Canadian Bank Act on May 27, 1982. All of Mitsubishi Canada's outstanding capital stock, currently consisting of 300,000 shares of common stock, is owned by Mitsubishi.

2. Mitsubishi Canada offers commercial banking services through its registered offices in Vancouver and Toronto, including short and medium term commercial lending; deposit-taking; investing in commercial paper, bank instruments and government obligations; discounting trade bills; issuing letters of credit; and foreign exchange trading. As of October 31, 1986, its total assets were equivalent to approximately U.S. $399,509,000, with authorized capital stock consisting of 400,000 shares of Can. $100 par value common stock and paid-up capital of Can. $30,000,000.

3. As a Canadian bank chartered under the Canadian Bank Act, various aspects of Mitsubishi Canada's business, including, deposit reserves and insurance, permissible powers, asset size and dividend policy, are subject to regulation under the Canadian Bank Act and the Canada Deposit Insurance Corporation Act, as amended. The Canadian Inspector General of Banks (the "Inspector General") is responsible generally for the administration of the Canadian Bank Act and more particularly for the day-to-day regulation of Canadian banks to ensure compliance with Canadian banking law. Canadian banks are required to file with the Inspector General, and publish annual statements in prescribed form comprised of statements of assets and liabilities, income, appropriations for contingencies and changes in shareholders' equity of the bank together with a report of the bank's auditors thereon. The Inspector General is permitted to examine the Applicant as often as it is deemed necessary or expedient, and in no event less than once a year, and the Inspector General has power to issue subpoenas and similar processes compelling attendance of any person to give testimony in respect of any matter under investigation and to produce documents, books and papers under such person's control. The Canadian Bank Act also governs matters such as liquidity requirements.

4. Mitsubishi ranked as the 4th largest bank in the free world in terms of deposits as of December 31, 1985. As of March 31, 1986, Mitsubishi had worldwide assets equivalent to approximately U.S. $169.8 billion, worldwide deposits equivalent to approximately U.S. $121.0 billion, worldwide customer loans and bills discounted equivalent to approximately U.S. $88.5 billion, and total stockholders' equity equivalent to approximately U.S. $3.5 billion.

5. Mitsubishi is presently engaged in the conduct of a commercial banking business in Japan, which includes receiving deposits, making loans, discounts and security investments, conducting domestic and foreign exchange transactions, and performing such other related services as safekeeping, money exchange collections and issuing guarantees, acceptances and letters of credit. Mitsubishi engages in banking activities through 227 domestic branches which are located throughout Japan. In addition, Mitsubishi maintains branches, agencies and representative offices in 21 other countries as well as banking and finance subsidiaries in 11 other countries.

6. Mitsubishi is extensively regulated under Japanese banking laws and the regulations promulgated thereunder. The Japanese Ministry of Finance audits Mitsubishi once every two or three years and the Bank of Japan conducts field checks once every two or three years. The Japanese Ministry of Finance supervises the lending ratios and lending limits of Japanese banks. In addition, the Japanese Ministry of Finance exercises supervisory control over Japanese banks by reason of the necessity of obtaining the approval of the Japanese Ministry of Finance with respect to such matters as the establishment of additional offices, reductions in capital, mergers, liquidations or discontinuations of business. The Japanese Ministry of Finance also has the authority to instruct Japanese banks to remove directors to direct a Japanese bank to submit certain property to be held for the protection of depositors or to issue such other orders as may be deemed necessary.

7. Mitsubishi has been licensed by the New York State Superintendent of Banks to maintain a branch office in New York State since May 1977 and, under its present branch license, Mitsubishi New York is authorized to engage in "the business of buying, selling, paying or collecting bills of exchange, or of issuing letters of credit or of receiving money for transmission or transmitting the same by draft, check, cable or otherwise, or of making loans, or of receiving deposits."

8. Mitsubishi New York, as a New York branch of a foreign bank, is subject to extensive Federal and New York State regulation. It must maintain daily records of assets and liabilities that are payable at or through Mitsubishi New York. Its loans, purchases and discounts of notes, bills of exchange, bonds, debentures and other obligations and extensions of credit and acceptances are subject to the same limitations as to amount in relation to the capital stock, surplus fund and undivided profits of Mitsubishi as are applicable to New York State banks and trust companies. In addition, Mitsubishi must maintain on deposit with a bank, trust company, private banker or national bank which it has selected, assets the aggregate value of which is equal to 5% of the total liabilities of its New York branch (excluding liabilities owed to other offices and subsidiaries of Mitsubishi). Mitsubishi New York is also subject to regulation under the International Banking Act of 1978.

9. Securities to be publicly offered by Mitsubishi Canada in the United States will be sold in minimum denominations of U.S. $100,000 through major dealers and will be sold only to institutional and other sophisticated investors. The Securities will not include any provision for extension, renewal or automatic rollover.

10. Payment of principal of, and interest on, the Securities will be unconditionally guaranteed by Mitsubishi New York or, provided that Mitsubishi shall have obtained an order of the Commission pursuant to section 6(c) of the 1940 Act exempting it from all the provisions of the 1940 Act in connection with the issuance of such guarantees, by Mitsubishi. Consequently, holders of the Securities will look to Mitsubishi New York or Mitsubishi, as the case may be, as the ultimate obligor. The Securities will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and Mitsubishi Canada undertakes that, prior to the issuance of any Securities, its United

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States counsel shall have certified that such rating has been received and is in effect as of such time. The Securities will rank *pari passu* among themselves, and the guarantees in respect thereof will rank *pari passu* among themselves; the Securities will rank equally with all other unsecured and unsubordinated indebtedness of Mitsubishi Canada (except to the extent such indebtedness is preferred by operation of law) including deposit liabilities, and superior to rights of shareholders; and the guarantees of the Securities will rank equally with all other unsecured indebtedness of Mitsubishi New York or Mitsubishi, as the case may be (except to the extent such indebtedness is preferred by operation of law), including deposit liabilities, and superior to rights of shareholders.

11. Any offering in the United States of Securities will be made only pursuant to a registration statement under the Securities Act of 1933 ("1933 Act"), or pursuant to an applicable exemption from the registration requirements of the 1933 Act. Any such offering will be done on the basis of disclosure documents that are appropriate and customary for such registration or exemption, and in any event at least as comprehensive as those used in offerings of similar securities in the United States by United States issuers, and which include a memorandum describing the business of Mitsubishi and Mitsubishi Canada and containing the most recent publicly available annual financial statements of Mitsubishi and Mitsubishi Canada (including a balance sheet and income statement), audited in accordance with Japanese and Canadian accounting principles, respectively. Such memorandum will include brief paragraphs highlighting the material differences between generally accepted accounting principles applicable to United States banks and (i) Japanese accounting principles applicable to Japanese banks and used by Mitsubishi and (ii) Canadian accounting principles applicable to Canadian banks and used by Mitsubishi Canada. Such memorandum will be updated promptly to reflect material changes in the business and financial condition of Mitsubishi or Mitsubishi Canada. Such disclosure documents will be provided to each offeree who has indicated an interest in purchasing Securities prior to any sale of such Securities to such offeree; except that, in the case of an offering being made pursuant to a registration under the 1933 Act, such disclosure documents will be provided to such persons and in such manner as may be required by the 1933 Act.

12. In connection with any offering of Securities in the United States, Mitsubishi Canada will expressly accept the jurisdiction of any State or Federal court in the city and State of New York in respect of any action based on such Securities. Further, it will appoint an agent located in the city and State of New York (which may be Mitsubishi New York) to accept any process which may be served in any such action. Such consent to jurisdiction and appointment of an agent for service of process will be irrevocable so long as such Securities remain outstanding and until all amounts due and to become due in respect of such Securities have been paid.

13. Mitsubishi Canada will not offer any Security unless: (1) It shall have registered such Security pursuant to the 1933 Act, or (ii) if it offers such Security without registration pursuant to an applicable exemption from registration under the 1933 Act, either (x) it shall have received an opinion of its United States legal counsel to the effect that, under the circumstances of the proposed offering, such security will be entitled to an exemption provided under the 1933 Act, or (y) the Staff of the Commission shall have stated in writing that it will not recommend enforcement action to the Commission under the circumstances of the proposed offering or the Commission shall have issued a policy statement indicating that an offering of securities under circumstances substantially similar to that of the proposed offering will not be the subject of an enforcement action.

14. Mitsubishi Canada will not offer any security: (i) In the case of any security to be guaranteed by Mitsubishi New York, unless it shall receive an opinion of Japanese legal counsel to Mitsubishi to the effect that the obligation of Mitsubishi New York pursuant to such guarantee also constitutes the legal, valid and binding obligation of Mitsubishi enforceable against Mitsubishi in accordance with its terms, and (ii) in the case of any Security to be guaranteed by Mitsubishi unless Mitsubishi shall have obtained an order of the Commission pursuant to section 6(c) of the 1940 Act exempting it from all the provisions of the 1940 Act in connection with the issuance of such guarantee.

Applicant's Conditions

Mitsubishi Canada consents to any order issued pursuant to section 6(c) of the 1940 Act granting the relief requested being expressly conditioned upon its compliance with the representations and undertakings set forth in the application.

For the SEC, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25056 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16076; (812-6753)]

Application for Exemption; Skandia International Holding AB

Dated: October 23, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Skandia International Holding AB.

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks an order granting exemption from all provisions of the 1940 Act in connection with the offer and sale of its equity and debt securities in the United States.

Filing Dates: The application was filed on June 8, 1987, and amended on September 15 and October 21, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on November 16, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Courtland W. Troutman, Esq., Cadwalader, Wickersham & Taft, 100 Maiden Lane, New York, New York 10038.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 272-3033, or Brion R. Thompson, Special Counsel (202) 272-3016.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a holding company engaged through its operating subsidiaries (collectively, the "SIHAB Group") in providing insurance services, both direct and reinsurance, in the international market. Applicant is incorporated in Sweden and companies of the SIHAB Group are incorporated in Sweden, the United States, the United Kingdom, Colombia and other nations.

2. The SIHAB Group's operations are divided into four categories: Non-life Insurance in the United States, Non-life Insurance Outside the United States, International Life Insurance and Capital Management. Companies of the SIHAB Group are subject to extensive regulation by American, Swedish, British and other insurance regulatory authorities. American and British regulated operations accounted for approximately 46.5% of gross premium income of the SIHAB Group in 1986. Since Skandia International Insurance Corporation ("SIIC"), a Swedish insurance company, is the parent company of all operating insurance companies of the SIHAB Group, the insurance activities of the entire SIHAB Group are subject, directly or indirectly, to the supervision of the Swedish insurance authorities.

3. Swedish insurance companies are subject to extensive regulation which includes licensing, financial and reporting requirements and direct supervision by regulatory authorities. The insurance regulatory system in Sweden is supervised by the Private Insurance Supervisory Service, an official agency of the Swedish Government, under the Swedish Insurance Business Act of 1982.

4. Skandia America Reinsurance Corporation ("SARC") is the principal operating company of the Skandia America Group, which conducts Applicant's U.S. reinsurance operations. SARC is licensed by the Delaware Insurance Department and is licensed or authorized to reinsure in thirty-six states and by the U.S. Treasury Department. SARC also files holding company registration statements in accordance with the Delaware Insurance Holding Company Act.

5. Applicant intends to offer and sell its debt and equity securities in the United States. Applicant presently contemplates issuing, through a firm commitment underwritten public offering, American Depositary Shares ("ADSs") in the form of American Depositary Receipts, representing Series A shares of the Applicant. This offering of ADSs will be registered pursuant to the Securities Act of 1933 ("1933 Act"). Future offers and sales of any other equity or debt securities of Applicant will either be: (a) Pursuant to a firm commitment or best efforts underwritten public offering registered under the 1933 Act, (b) pursuant to an exemption from the registration requirements of the 1933 Act which, in the opinion of U.S. counsel to Applicant, is available to Applicant with respect to such offers and sales or (c) pursuant to the advice of the staff of the SEC that it would not recommend that the SEC take any action if such offers and sales are made without registering such securities under the 1933 Act.

6. Applicant undertakes that any future offering oif its equity or debt securities in the United States will be made on the basis of disclosure documents which are appropriate and customary for such offering, whether made pursuant to a registration statement under the 1933 Act or an exemption therefrom. In any offering of its securities made pursuant to a registration statement filed under the 1933 Act, Applicant will not sell such securities until such registration statement is declared effective by the SEC and the related indenture, if any, is qualified under the Trust Indenture Act of 1939. Applicant will furnish a prospectus to such persons and in such manner as may be required by the 1933 Act.

7. Any offering in the United States by Applicant of securities not registered under the 1933 Act will be made on the basis of disclosure documents which are at least as comprehensive as is customary in the United States for such an offering and will include Applicant's most recently available audited fiscal year-end balance sheet and profit and loss statement together with a description of any material differences between the accounting principles applied in the preparation of such financial statements and generally accepted accounting principles utilized in the United States, and such disclosure documents will be updated promptly to reflect material changes in the financial condition of Applicant. Any debt securities offered by Applicant in the United States and not registered under the 1933 Act will be sold only to "accredited investors" (as defined in Regulation D under the 1933 Act) who are able to understand and evaluate the risks of their investment and other institutional investors. Further, any offering by Applicant in the United States of debt securities shall have received, prior to issuance, one of the three highest investment grade ratings from at least one nationally-recognized statistical rating organization and Applicant's special legal counsel in the United States shall have received evidence of the receipt of such rating; however, no such rating need be obtained with respect to any such offering if, in the opinion of such special legal counsel, an exemption from registration is available under section 4(2) of the 1933 Act. Moreover, any debt securities issued by Applicant will rank equally among themselves and equally with all other unsecured, unsubordinated indebtedness of Applicant and prior to any subordinated indebtedness of Applicant and Applicant's capital stock.

8. Applicant also undertakes, in connection with any offering in the United States of its securities, to appoint a United States person as agent to accept any process which may be served in any action based on the offer and sale of such securities and instituted in any state or federal court by the holder of such securities. Applicant further undertakes that it will expressly accept the jurisdiction of any state or Federal court in the City and State of New York in respect of any such action. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable so long as such securities remain outstanding. Applicant will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of such securities or otherwise.

9. With regard to public offerings of securities (not either registered under the 1933 Act or exempt from registration by virtue of section 3(a)(3) or section 4(2) thereof) that are not issued in the United States or sold to U.S. persons (but where there is a reasonable likelihood of offers or sales of such securities being made in the United States or to U.S. persons), Applicant will adopt agreements and procedures reasonably designed to prevent such securities from being offered or sold in the United States or to U.S. persons (except as U.S. counsel may then advise is permissible).

10. Applicant, through its subsidiaries, has a significant presence in the United States. Applicant undertakes that it will only issue equity securities in the United States as long as it has significant U.S. insurance subsidiaries which are regulated as insurance companies in the United States. Applicant intends to maintain its insurance operations in the United States, however, if such operations in the future are curtailed with the result that Applicant's

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insurance subsidiaries are no longer regulated as insurance companies in the United States, Applicant agrees that it will continue to comply with its undertakings concerning appointment of an agent and submission to jurisdiction, as set forth above, until such time as there shall be no holders in the United States of securities of the Applicant issued in reliance upon any SEC order issued pursuant to the application. Applicant also represents that it intends to maintain significant insurance subsidiaries in Sweden and the United Kingdom which are regulated as insurance companies in those countries.

Applicant's Legal Conclusions

Applicant states that the requested exemption is necessary or appropriate in the public interest because, absent such exemption, Applicant will be effectively precluded from selling its securities in the United States, thus denying a valuable investment opportunity to United States investors. Applicant also states that such exemption is consistent with the protection of investors because such investors will have the protections afforded by the extensive regulation to which Applicant's operations are subjected by United States, Swedish, United Kingdom and other insurance authorities. Finally, Applicant asserts that the exemption is consistent with the purposes of the 1940 Act because insurance companies, such as Applicant, are not within the intended purview of the 1940 Act.

Condition to Order

Applicant consents to any SEC order being expressly conditioned on its compliance with the undertakings and representations contained in the application.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25057 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16079; 812-6812]

Application; The Tokai Bank, Ltd.

October 23, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: The Tokai Bank, Limited.

Relevant 1940 Act Section: Exemption requested under section 6(c) from all provisions.

Summary of Application: Applicant seeks an order permitting it to issue and sell its Debt Obligations (as herein defined) in the United States either directly or through one or more of its overseas branches.

Filing Date: The application was filed on August 5, 1987, and amended on October 23, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on November 17, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. The Tokai Bank, Limited, c/o Harold S. Nathan, Esq., Winthrop, Stimson, Putnam & Roberts, 40 Wall Street, New York, N.Y. 10005.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272-2190 or Brion R. Thompson, Special Counsel (202) 272-3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier which can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations: 1. Applicant was established as a bank under the laws of Japan in 1941. As of March 31, 1987, it had assets in excess of $167 billion (based on an exchange rate on March 31, 1987 of U.S. $1.00 to (Japanese yen) Y145.85).

2. Applicant conducts a commercial banking business throughout Japan. It also engages in banking activities through branches,[1] agencies and representative offices in several other countries, including branches in New York and Chicago, an agency in Los Angeles and representative offices in Dallas, Lexington and Atlanta, and through banking subsidiaries in several countries, including Tokai Bank of California (a California banking organization).

3. Applicant is extensively regulated under Japanese banking laws which provide for examinations every two or three years, impose reserve requirements, and require the submission of reports concerning the Applicant's business or financial condition. Applicant is also subject to audits and participates in the deposit insurance system. Further, the Applicant is subject to the Bank Holding Company Act of 1956 and the International Banking Act of 1978. Applicant's New York branch ("Tokai New York") is subject to extensive regulation under the Federal Reserve System and the New York State Banking Department. Such regulation includes reserve and reporting requirements and pledges of assets to cover a fixed percentage of liabilities.

4. Applicant proposes to offer in the United States dollar-denominated certificates of deposit and debt securities (the "Debt Obligations") issued directly or through one or more of its overseas branches located outside the United States. The Debt Obligations will be offered and sold through one or more certificate of deposit dealers to institutions and other sophisticated investors which usually purchase similar instruments. Proceeds of the offerings will be used for current transactions by the Applicant and its branches.[2]

5. The Debt Obligations will be sold in minimum denominations of $100,000. Payment of principal of, and interest on, certain Debt Obligations will be unconditionally guaranteed by Tokai New York. The Debt Obligations guaranteed by Tokai New York will rank *pari passu* among themselves, will rank equally with all other unsubordinated and unsecured indebtedness of Tokai New York (except to the extent such indebtedness is preferred by operation of law), and will constitute the legal, valid and binding obligation of Tokai New York and Applicant. The Debt Obligations will rank *pari passu* among themselves and will rank equally with all other unsubordinated and unsecured indebtedness of the Applicant (except to the extent such indebtedness is preferred by operation of law).

Applicant's Legal Conclusions: The requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. The types of abusive practices which led to adoption of the 1940 Act are not applicable to the Applicant because they are either precluded by the banking regulations to which it is subject or not possible in the context of its business. Further, the Applicant, as a bank, is not the type of entity intended to be regulated by the 1940 Act.

Applicant's Conditions: If the requested order is granted, Applicant agrees to the following conditions:

1. Applicant undertakes not to (a) offer any Debt Obligations unless they shall be registered pursuant to the Securities Act of 1933 ("1933 Act"); or (b) offer such Debt Obligations without registration pursuant to an applicable 1933 Act exemption unless (i) the Applicant shall have received an opinion of its United States legal counsel that the Debt Obligations will be entitled to an exemption under the 1933 Act, or (ii) the staff of the SEC shall have stated in writing that it will not recommend enforcement action to the SEC under the circumstances of the proposed offering.

2. Applicant undertakes that it will not offer any Debt Obligations through any of its overseas branches unless it shall have received an opinion of its Japanese legal counsel to the effect that the obligation of such branch also constitutes the legal, valid and binding obligation of the Applicant under the laws of Japan.

3. Applicant undertakes that, prior to issuance, the Debt Obligations will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization, and its United States legal counsel shall have certified that such a rating is in effect; provided, however, that no such rating will be obtained if such counsel, having considered the doctrine of integration under Rule 502 of the 1933 Act, is of the opinion that an exemption from registration is available under section 4(2) of the 1933 Act or Regulation D thereunder.

4. Applicant undertakes to ensure that each offeree of the Debt Obligations receives, prior to purchase of any of the Debt Obligations, a memorandum which (i) describes the business of Applicant and Tokai New York, and (ii) includes the Applicant's most recent publicly available annual financial statements, audited in accordance with Japanese accounting principles, and its most recent publicly available unaudited interim financial statements. The memorandum will describe any material differences between accounting principles applied in the preparation of such audited financial statements and "generally accepted accounting principles" applicable to United States banks, and will be at least as comprehensive as those customarily used in similar offerings in the United States. The memorandum will be promptly updated as necessary to reflect material changes in the Applicant's business or financial condition. Applicant understands that an inadvertent failure by a dealer to provide an offeree of the Debt Obligations with the type of memorandum described herein would not be viewed as a violation of its undertaking to furnish such a memorandum.

5. Applicant also undertakes that it will appoint an agent for service of process in New York City for any action arising out of the sale of the Debt Obligations and will consent to the jurisdiction of any state or federal court located in New York City in respect of any such action. Such appointment of an agent and consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Debt Obligations have been paid. Further, the Applicant and Tokai New York will be subject to suit in any other court in the United States which would have jurisdiction because of the offering of the Debt Obligations.

6. Any future offerings of Debt Obligations by the Applicant pursuant to the order sought herein will be conducted in accordance with the representations, and in compliance with the undertakings, set forth herein and more fully in the application.

For the SEC, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25085 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

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[1] Applicant's branches are located in the Cayman Islands, Federal Republic of Germany, Hong Kong, the Republic of Korea, Singapore, the United Kingdom and the United States.

[2] The selection by the Applicant of any overseas branch to issue and sell the Debt Obligations will be based on a number of factors including, but not limited to, the funding needs and the cost of issuing through the branch, and the reserve requirements applicable to such offering under the laws of the jurisdiction of the branch's domicile. The proceeds of an offering by Applicant through an overseas branch will not necessarily be used by such branch but may be used by the Applicant or any of its other overseas branches for the above-described banking purposes.

[File No. 22-16404]

Application and Opportunity for Hearing: Union Carbide Corp.

October 23, 1987.

Notice is hereby given that Union Carbide Corporation, a New York Corporation (the "Company") has filed an application pursuant to clause (ii) of section 310(b)(i) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Manufacturers Hanover Trust Company ("Manufacturers") under the indentures set forth below, which have been qualified under the Act, and the trusteeship of Manufacturers under an indenture dated as of April 15, 1987 is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as trustee under the aforementioned indentures.

Section 310(b) of the Act provides, *inter alia*, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor.

In support of its application, the Company states as follows:

1. The Company has entered into an indenture with Manufacturers as trustee, dated as of January 1, 1986 as supplemented by a First Supplemental Indenture dated as of June 9, 1986, and a Second Supplemental Indenture dated as of December 10, 1986, which was qualified under the Act pursuant to an application on Form T-3 filed with the Commission (File No. 22-14590), pursuant to which were issued thereunder: (a) 13¼% Senior Notes due January 31, 1996; and (c) 15% Debentures Due 2005, some of which are presently outstanding.

2. The Company has entered into an indenture with Manufacturers as trustee, dated as of August 15, 1979, which was qualified under the Act, and filed with the Commission as an Exhibit to the Registration Statement (Registration No. 2-651114) pursuant to which 9.35% Debentures Due 2009, some of which are presently outstanding, were issued.

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3. The Company entered into an indenture, with Morgan Guaranty Trust Company, under which Manufacturers is successor trustee, dated as of January 15, 1975, which was qualified under the Act, and filed with the Commission as an Exhibit to the Registration Statement (Registration No. 2–5246), pursuant to which 8⅛% Debentures Due 2005, some of which are presently outstanding, were issued.

4. The Company has entered into an indenture, dated as of December 1, 1986, with Manufacturers as trustee, which was offered through a private placement and was not qualified under the Act pursuant to which $200,000,000 principal amount of the Company's 8.60% Senior Notes due December 15, 1989, and 9.10% Senior Notes due December 15, 1990 were issued. Pursuant to the terms of the certain Notes Purchase Agreements between the Company and the purchasers of said Notes, the Company will file with the Commission a registration statement on Form S–3 under the Securities Act of 1933, and if such registration is effected, the Company is required to qualify simultaneously said indenture under the Act.

5. The Company has entered into an indenture, dated as of April 15, 1987 with Manufacturers as trustee, which will initially not be qualified under the Act, pursuant to which $150,000,000 principal amount of the Company's 9.35% Senior Notes due April 15, 1992, were issued. Pursuant to the terms of certain Note Purchase Agreements between the Company and the purchasers of said Notes, the Company has covenanted to prepare and file with the Commission within 90 days of issuance a registration statement for said Notes, and if such registration is effected, the Company is required to qualify simultaneously said indenture under the Act.

6. The Company is not in default under any of the aforementioned indentures. The Company's obligations under all such indentures are wholly unsecured and unsubordinated.

7. The provisions of all the aforementioned indentures are not so likely to involve a material conflict of interest as to make necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as Trustee under any of said indentures.

8. The Company has waived notice of hearing and any and all rights to specify procedures under the Rules of Practices of the Commission in connection with the matters, referred to herein.

9. The Securities are unsecured obligations of the Company and are pari passu. For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document (File No. 22–17289) on file in the offices of the Commission at the Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than November 16, 1987, request in writing that a hearing be held on the matter, stating the nature of his interest, the reasons for such request, and the issues of law and fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–25087 Filed 10–28–87; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Region VI Advisory Council Meeting; Little Rock, AR

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical are of Little Rock, will hold a public meeting at 10:30 a.m. on Tuesday, November 17, 1987, at the Radisson Legacy Hotel, 625 West Capitol Avenue, Little Rock, Arkansas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For Further information, write or call Donald L. Libbey, District Director, U.S. Small Business Administration, 320 West Capitol Avenue, Little Rock, Arkansas 72201, (501) 378–5871.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 20, 1987.

[FR Doc. 87–24993 Filed 10–28–87; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council Meeting; San Diego, CA

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of San Diego, will hold a public meeting at 10:00 a.m. on Tuesday, November 10, 1987, in the Federal Building, 880 Front Street, San Diego, California, 92188, Room 2–S–14, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For Further information, write or call George P. Chandler, Jr., District Director, U.S. Small Business Administration, 880 Front Street, Room 4–S–29, San Diego, California, 92188, (619) 557–7252.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 20, 1987.

[FR Doc. 87–24994 Filed 10–28–87; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council Meeting; Augusta, ME

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Augusta, Maine, will hold a public meeting at 9:30 a.m. on Tuesday, November 10, 1987, at Hazel Green's Restaurant, 349 Water Street, Augusta, Maine, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For Further information, write or call Leroy Perry, District Director, U.S. Small Business Administration, 40 Western Avenue, Augusta, Maine, (207) 622–8275.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 20, 1987.

[FR Doc. 87–24995 Filed 10–28–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[CM–8/1130]

Shipping Coordinating Committee; National Committee for the Prevention of Marine Pollution; Meeting

The National Committee for the Prevention of Marine Pollution (NCPMP), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting on November 24, 1987, at 9:30 am in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of this meeting will be to review the agenda items to be considered at the twenty-fifth session of the International Maritime Organization's (IMO) Marine Environment Protection Committee (MEPC) scheduled for November 30–December 4, 1987. Proposed U.S. positions on MEPC agenda item issues will be discussed.

The major items for discussion will be the following:

1. Consideration to ratification and implementation of Optional Annexes III, IV and V of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). There are two principal issues. First, the U.S. initiative to implement Annex III (Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form) provisions through the International Maritime Dangerous Goods Code (IMDG Code). Specifically, the U.S. compromise proposal on selection criteria for identification of marine pollutants under Annex III. Second, the U.S. prepared draft Guidelines for the implementation of Annex V (Regulations for the Prevention of Pollution by Garbage from Ships) of MARPOL 73/78. Progress towards U.S. ratification of Annex V will also be discussed.

2. Implementation of Annex II (Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk) of MARPOL 73/78. Specifically, the termination of the interim enforcement measures, and implementation of new requirements for chemicals which have been assigned to different pollution categories.

3. Uniform interpretations of Annex I (Regulations for the Prevention of Pollution by Oil) of MARPOL 73/78. Specifically, the desirability of the specifications for oily-water separating and monitoring equipment, and the discharge of clean ballast from tankers operating under an oil discharge monitoring and control system waiver.

4. Criteria for particularly sensitive areas including the development of guidelines for designating Special Areas under Annexes I, II and V of MARPOL 73/78.

5. Enforcement of pollution conventions.

6. Environmental considerations regarding the removal of offshore platforms/structures.

7. Inter-related work of other Committees and Subcommittees.

Members of the public may attend this meeting up to the seating capacity of the room.

For further information or documentation pertaining to the NCPMP meeting, contact either Commander D.B. Pascoe or Lieutenant C.T. Jones, U.S. Coast Guard Headquarters (G–MER–3), 2100 Second Street, SW., Washington, DC 20593–0001, Telephone: (202) 267–0419.

Dated: October 22, 1987.

Richard C. Sciaroni,

Chairman, Shipping Coordinating Committee.

[FR Doc. 87–25090 Filed 10–28–87; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/1129]

Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee will conduct an open meeting on 29 November 1987 at 0930 in Room 4315 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The purpose of the meeting is to consider the U.S. position for the 3rd Session of the International Maritime Organization (IMO)/United Nations Conference on Trade and Development (UNCTAD) Joint Intergovernmental Group of Experts (JIGE) on Maritime Liens and Mortgages and Related Subjects.

The JIGE was established by IMO and UNCTAD pursuant to the recommendation contained in Resolution 6 of the 11th Session of the UNCTAD Working Group on International Shipping Legislation. As endorsed by the Council of IMO and the UNCTAD Trade and Development Board, the proposal called for meeting alternately in Geneva and London during scheduled meeting times of the IMO Legal Committee and the UNCTAD Working Group on International Shipping Legislation.

The JIGE is tasked with conducting a broad examination of the subject of maritime liens and mortgages, with consideration to be given to:

1. The revision of the various maritime liens and mortgages Conventions;

2. The preparation of model laws or guidelines on maritime liens, mortgages and related enforcement procedures, such as arrest; and

3. The feasibility of an international registry of maritime liens and mortgages.

IMO and UNCTAD have identified the following major objectives as deserving of priority consideration in any investigations regarding possible international action on maritime liens and mortgages:

1. To encourage ship financing by affording appropriate protection to persons providing finance;

2. To afford protection in respect of settled claims;

3. To encourage the provision of services to ships;

4. To protect the ship against multiple actions; and

5. To minimize the potential encumbrances to ship operation.

The JIGE held its 1st Session in Geneva on 1–12 December 1986. The principal outcome of the meeting was the adoption of joint procedural rules; the substantive work undertaken was an exploratory discussion of the major issues and objectives noted above. This discussion reveled strong interest in studying the present international framework and considering substantial revisions that would both promote uniformity and favor the mortgagee. As a preliminary matter, a number of participants questioned the nature and extent of the perceived need to improve the availability of vessel financing.

The 2nd Session of the JIGE was held in London from 11–15 May 1987. The JIGE participants adopted the 1967 Brussels Convention on Maritime Liens and Mortgages as the preliminary discussion text and prepared a new convention draft. The provisions of the tentative draft reflect the consensus view that the number and scope of the maritime liens preferred to the mortgage should be curtailed in order to enhance the ship mortgagee's security.

The 3rd Session of the JIGE is scheduled to be held in Geneva from 30 November–11 December 1987. It is expected that the principal focus of work will be a detailed review of the convention draft prepared at the 2nd Session.

Members of the public are invited to attend the meeting, up to the seating capacity of the room.

For further information pertaining to the issues to be discussed at the Shipping Coordinating Committee meeting, contact either Captain Frederick F. Burgess, Jr. or Lieutenant Commander Frederick M. Rosa, Jr., U.S. Coast Guard (G–LMI), Washington, DC 20593, telephone (202) 267–1527.

Dated: October 19, 1987.

Richard C. Sciaroni,

Chairman, Shipping Coordinating Committee.

[FR Doc. 87–25010 Filed 10–28–87; 8:45 am]

BILLING CODE 4710–07–M

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program; Medford-Jackson County Airport, Medford, OR

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announced its findings on the noise compatibility program submitted by Jackson County under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and non-Federal responsibilities in Senate Report No. 96–52 (1980). On March 20, 1987, the FAA determined that the noise exposure maps submitted by the Airport Board under Part 150 were in compliance with applicable requirements. On September 3, 1987, the Administrator approved the Medford-Jackson County Airport noise compatibility program. Most of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Medford-Jackson County Airport noise compatibility program is September 3, 1987.

FOR FURTHER INFORMATION CONTACT: Dennis G. Ossenkop; Federal Aviation Administration; Northwest Mountain Region; Airports Division, ANM–611; 17900 Pacific Highway South; C–68966; Seattle, Washington 98168. Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Medford-Jackson County Airport, effective September 3, 1987.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act") an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such a program to be developed in consultation with interested and affected parties including the state, local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgement for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

(a) The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

(b) Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

(c) Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

(d) Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, § 150.5. Approval is not a determination concerning the acceptability or unacceptability of that land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Seattle, Washington.

The county submitted to the FAA noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted at Medford-Jackson County Airport. The Medford-Jackson County Airport noise exposure maps were determined by the FAA to be in compliance with applicable requirements on March 20, 1987. Notice of this determination was published in the **Federal Register** on March 31, 1987.

The Medford-Jackson County Airport noise compatibility study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on March 20, 1987, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 13 proposed actions for noise mitigation on and off the airport and for review and monitoring of the program. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective September 3, 1987.

Outright approval was granted on 12 elements. Element A.4 was disapproved pending submission of more detailed information regarding anticipated noise reduction benefits. Part b of element B.5 was disapproved because parcel (VI) lays outside of the Ldn 65 noise contour and is already considered compatible with noise levels under Federal guidelines.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on September 3, 1987. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Medford-Jackson County Airport.

Issued in Seattle, Washington on September 25, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–24072 Filed 10–28–87; 8:45 am]

BILLING CODE 4910–13–M

Petition for Exemption, Summary of Petitions Received Dispositions of Petitions Issued; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Correction of comment close date; year.

SUMMARY: This notice corrects the (year) in the Date section previously published in the **Federal Register** October 8, 1987, (52 FR 37699) for a Petition for Exemption, Docket No. PE–87–25. Please correct the year 1988 as published to read 1987.

Debbie King,

Acting Manager, Program Management Staff.

[FR Doc. 87–24980 Filed 10–28–87; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: October 23, 1987.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0619
Form Number: IRS Form 6765
Type of Review: Resubmission
Title: Credit for Increasing Research Activities (or for Claiming the Orphan Drug Credit)
Description: Internal Revenue Code section 38 allows a credit against income tax for an increase in research activities of a trade or business. Section 28 allows a credit for clinical testing expenses in connection with drugs for certain rare diseases. Form 6765 is used by businesses and individuals engaged in a trade or business to figure and report the credit. The data is used to verify that the credit claimed is correct.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 19,619 hours
OMB Number: 1545–0901
Form Number: IRS Form 1098
Type of Revision: Resubmission
Title: Mortgage Interest Statement
Description: Form 1098 is used by mortgagors who in a trade or business receive $600 or more of mortgage interest payments to report the amount of interest paid by an individual.
Respondents: Individuals or households, Businesses or other for-profit.
Estimated Burden: 5,295,045 hours
OMB Number: 1545–0984
Form Number: IRS Form 8586
Type of Review: Resubmission
Title: Low Income Housing Credit
Description: The Tax Reform Act of 1986 (Pub. L. 99–514) permits owners of residential rental projects providing low-income housing to claim a credit against income tax for part of the cost of constructing or rehabilitating such low-income housing. Form 8586 is used by taxpayers to compute the credit and by IRS to verify that the correct credit has been claimed.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 26,123 hours
OMB Number: 1545–0992
Form Number: IRS Form 964–A
Type of Review: Resubmission
Title: Computation of Gain or Loss Recognized on Section 333 Liquidation
Description: Form 964–A is used by corporation who wish to liquidate under section 333. In order to qualify, the corporation must have an applicable value of $10,000,000 or less. If the corporation qualifies, Form 964–A is used to determine the amount of gain or loss the corporation must include as income on its final tax return. The IRS uses the information to determine if the corporation qualifies and if so the amount of income that must be included.
Respondents: Businesses
Estimated Burden: 5,737 hours
Clearance Officer: Garrick Shear, (202) 535–4297, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 87–24999 Filed 10–28–87; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Dated. October 26, 1987.

The Department of the Treasury has submitted the following public information collection requirement(s) OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0136
Form Number: None
Type of Review: Reinstatement
Title: Establishment of Manufacturing Warehouse
Description: The proprietor of a bonded manufacturing warehouse must furnish the district director of Customs a list of all articles intended to be manufactured therein. The list must contain the trade name and ingredients which entered into the manufacture of the articles showing quantity of ingredients or materials that may be dutiable or taxable.
Respondents: Businesses or other for-profit
Estimated Burden: 1 hour
Clearance Officer: B.J. Simpson (202) 566–7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue, NW., Washington, DC 20229
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Department Reports Management Officer.

[FR Doc. 87–25079 Filed 10–28–87; 8:45 am]

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Office of the Secretary

[Supplement to Department Circular; Public Debt Series No. 29–87]

Treasury Notes; Series AE–1989

October 22, 1987.

The Secretary announced on October 21, 1987, that the interest rate on the notes designated Series AE–1989, described in Department Circular—Public Debt Series—No. 29–87 dated October 15, 1987, will be 7⅞ percent. Interest on the notes will be payable at the rate of 7⅞ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87–24997 Filed 10–28–87; 8:45 am]

BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 209
Thursday, October 29, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NO.: 87–24589.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, October 29, 1987, 10:00 a.m.

THE FOLLOWING ITEM WAS ADDED TO THE AGENDA:

Proposed Letters Regarding Title 26 Certifications to be Sent Prior to December 1987 to: (1) United States Treasury, (2) Candidates Whose Eligibility Has Been Established, (3) Candidates Upon Establishment of Eligibility.

* * * * *

DATE AND TIME: Tuesday, November 3, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

The open meeting of Thursday, November 5, 1987, has been cancelled.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202–376–31255.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 87–25197 Filed 10–27–87; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL TRADE COMMISSION

TIME AND DATE: 9:00 a.m., Thursday, November 5, 1987.

PLACE: Room 532, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Oral presentation to the Commission in the Rulemaking Proceedings on ophthalmology practices.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor; Office of Public Affiars: (202) 326–2179; Recorded Message: (202) 326–2711.

Emily H. Rock,

Secretary.

[FR Doc. 87–25168 Filed 10–27–87; 1:58 pm]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Friday, November 6, 1987.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to be public.

MATTERS TO BE CONSIDERED: Portions Open to Public

(1) Oral Argument in Ticor Title Insurance Co., Docket No. 9190.

Portions Closed to the Public

(2) Executive Session to follow Oral Argument in Ticor Title Insurance Co., Docket No. 9190.

CONTRACT PERSON FOR MORE INFORMATION: Susan B. Tichnor; Office of Public Affairs: (202) 326–2179; Recorded Message: (202) 326–2711.

Emily H. Rock,

Secretary.

[FR Doc. 87–25169 Filed 10–27–87; 1:58 am]

BILLING CODE 6750–01–M

PAROLE COMMISSION

Record of Vote of Meeting Closure Pursuant to the Government in the Sunshine Act (Pub. L. 94–409) (5 U.S.C. Sec. 552b)

I, Benjamin F. Baer, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at Two o'clock p.m. on Monday, October 19, 1987 at the Commission's Northeast Regional Office, 2d and Chestnut Streets, Custom House, Philadelphia, Pennsylvania 19106. The meeting ended at or about 5:30 p.m. The purpose of the meeting was to decide approximately 13 appeals from National Commissioners' decisions pursuant to 28 CFR Sec. 2.27. Nine Commissioners were present, constituting a quorum, when the vote to close the meeting was submitted.

Public announcements further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Benjamin F. Baer, Saundra Brown Armstrong, Cameron M. Batjer, Jasper Clay, Jr., Vincent J. Fechtel, Carol Pavilack Getty, Daniel R. Lopez, G. MacKenzie Rast, and Victor M.F. Reyes. The Commissions and a Parole Analyst attended.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Date: October 26, 1987.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 87–25195 Filed 10–27–87; 2:48 pm]

BILLING CODE 4410–01–M

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Corrections

Federal Register
Vol. 52, No. 209
Thursday, October 29, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87M-0305]

IOLAB Corp.; Premarket Approval of LASAG Microruptor 2 and Topaz ND: YAG Ophthalmic Lasers for Iridotomy

Correction

In notice document 87-24070 beginning on page 38816 in the issue of Monday, October 19, 1987, make the following corrections:

1. On page 38816, in the third column, in the second complete paragraph, in the fifth line, "the" should read "that".

2. On the same page, in the third column, in the fourth complete paragraph, in the 22nd line, "substantive" should read "substantial".

3. On page 38817, in the first column, in the first complete paragraph, in the fourth line, "360e)(d)" should read "360e(d)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meetings

Correction

In notice document 87-24071 appearing on page 38817 in the issue of Monday, October 19, 1987, make the following correction:

On page 38817, in the second column, in the third line, "First Street" should read "280 First Street".

BILLING CODE 1505-01-D

federal register

Thursday
October 29, 1987

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 845 and 846

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program Inspection and Enforcement Procedures; Civil Penalties and Individual Civil Penalties; Proposed Rule

BEST COPY AVAILABLE

VOL 52 ISS 209 OCT 29 1987 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 845 and 846

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program Inspection and Enforcement Procedures; Civil Penalties and Individual Civil Penalties

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is proposing to amend its regulations applicable to the assessment of civil penalties and individual civil penalties with respect to the lack of total highwall elimination. This action is being taken in response to a court-approved settlement agreement which addresses potential highwall policy. The proposed amendment would provide a method of calculating civil penalties for inactive sites when compliance with 30 CFR 816.102(a) cannot be accomplished using standard engineering practices or where compliance would result in significant harm to the environment and the operation does not qualify for an exception to total highwall elimination in accordance with 30 CFR 816.102(k).

DATES:

Written Comments

OSMRE will accept written comments on the proposed rule until 5:00 p.m., eastern time on January 5, 1988.

Public Hearings

Upon request, OMSRE will hold public hearings on the proposed rule in Washington, DC, Denver, Colorado, and Knoxville, Tennessee, at times and on dates to be announced prior to the hearings. Upon request, OSMRE also will hold public hearings in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington at times and on dates to be announced prior to the hearings. OSMRE will accept requests for public hearings until 5:00 p.m., eastern time on December 10, 1987.

ADDRESSES:

Written Comments

Hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L Street NW., Washington, DC, or mail to the Office of Surface Mining, Administrative Record, Room 5131L, 1951 Constitution Avenue NW., Washington, DC 20240.

Public Hearings

Department of the Interior Auditorium, 18th and C Streets NW., Washington, DC; Brooks Towers, 2nd Floor Conference Room, 1020 15th Street, Denver, Colorado; and the Hyatt House, 500 Hill Avenue, SE., Knoxville, Tennessee. The addresses for any hearings scheduled in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington will be announced prior to the hearings.

Requests for Public Hearings

Submit orally or in writing to the person and address specified under **"FOR FURTHER INFORMATION CONTACT."**

FOR FURTHER INFORMATION CONTACT: Raymond Aufmuth, Division of Technical Services, OSMRE, Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: (202) 343-5843.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures
II. Background
III. Discussion of Proposed Rules
IV. Procedural Matters

I. Public Commenting Procedures

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit five copies of their comments (see **"ADDRESSES"**). Comments received after the close of the comment period (see **"DATES"**) may not be considered or included in the Administrative Record for the final rule.

Public Hearings

OSMRE will hold public hearings on the proposed rule only on request. The times, dates and addresses scheduled for the hearings will be announced in the **Federal Register** at least 7 days prior to any hearings which are held.

Any person interested in participating in a hearing at a particular location should inform Raymond Aufmuth (see **"FOR FURTHER INFORMATION CONTACT"**) either orally or in writing of the desired hearing location by 5:00 p.m. eastern time on December 10, 1987. If no one has contacted Mr. Aufmuth to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a written copy of their testimony. To assist OSMRE in preparing appropriate questions, OSMRE also requests that persons who plan to testify submit to OSMRE at the address previously specified for the submission of written comments (see **"ADDRESSES"**) an advance copy of their testimony.

II. Background

The Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) (SMCRA sets forth the general regulatory requirements governing surface coal mining operations and the surface impacts of underground coal mining. In 30 CFR Part 845, OSMRE has implemented and clarified the requirements of section 518 of SMCRA and set forth the basis and procedures for assessment of civil penalties with respect to cessation orders and notices of violation. In 30 CFR Part 846, OSMRE has identified the process that would govern the assessment of individual civil penalties against directors, officers, and agents of corporate permittees in accordance with section 518(f) of SMCRA.

Both OSMRE and environmental groups recognized the possible harmful environmental effects of redisturbing reclaimed areas of established vegetation and stable backfills, as well as the economic costs of rehandling established topsoil material and stable spoil materials and requiring regrading and revegetation of the entire site. In this context, it has been advocated that OSMRE develop and publish a policy which would be applicable to those surface coal mining sites which have been reclaimed without complete highwall elimination but where vegetation on the reclaimed areas has succeeded. This policy was to be in lieu of requiring redisturbance of the entire site to facilitate reclamation of the remaining highwall.

Such a policy statement was initially proposed as part of the proposed settlement of the St. Charles litigation proceedings, *St. Charles Mining Co. Inc.* v. *Office of Surface Mining Reclamation and Enforcement*, 94 IBLA 183 (Oct. 30, 1986). The proposed settlement was to provide a vehicle for this policy, acceptable to all parties concerned, and was to address highwall elimination as required by the Act. However, no settlement was finalized in that case.

The settlement agreement in *Save Our Cumberland Mountains* v. *Hodel*, No. 81-2238 (D.D.C. June 7, 1985), (hereinafter, "SOCM agreement") includes a commitment by OSMRE to propose a regulation which would govern the reclamation of exposed highwalls on inactive mine sites pursuant to the general principles in Exhibit A attached to the agreement. Exhibit A provides background information on when OSMRE may encounter a situation where the suggested policy may be implemented and suggested language for developing a policy statement assessing a penalty.

OSMRE is proposing this amendment to its regulations at 30 CFR 845.15 and 846.12, to implement Exhibit A of the SOCM agreement. The final rule would also include amendments to 30 CFR Parts 723 and 724 which will parallel the provisions in Parts 845 and 846. Such language would implement the policy stated herein for initial program sites.

III. Discussion of Proposed Rules

Section 515(b)(3) of SMCRA requires all surface coal mining operations to backfill, compact and grade the mine site in order to restore the approximate original contour (AOC) of the land and to eliminate highwalls. This section provides that general performance standards shall require a surface coal mining operation at a minimum to:

> Compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this Act) * * *

Limited exceptions to this requirement are given in section 515(b)(3) and implementing regulations at 30 CFR 816.106/817.106 and 819.19.

Under this proposal, when OSMRE in performance of its oversight functions or in enforcing unabated cessation orders determines that an operator has left a highwall or has failed to return the land to AOC in violation of the Act, implementing Federal regulations or an approved State program, OSMRE would take appropriate enforcement action as discussed below. OSMRE may encounter this situation in two instances.

First, proposed 30 CFR 845.15(a)(2) provides that as part of its oversight review of State permitting, OSMRE may determine that a permit appears to improperly allow an operator to leave all or a portion of a highwall or fail to return the land to AOC. If this situation arises, OSMRE would notify the State and provide a 30 day period of time for the State to establish a schedule to require a permit revision for reclamation to AOC. If the State does not act within the 30 day time period to initiate proceedings to revise the permit, OSMRE would notify the State and take appropriate action.

Second, proposed 30 CFR 845.15(a)(3) provides that if OSMRE inspectors find that a highwall has been improperly left or that the AOC requirement has not been met, OSMRE would promptly issue a 10-day notice to the State (except where issuance of an imminent harm cessation order under 30 CFR 843.11(a) and SMCRA section 521(a)(2) is warranted). Pursuant to the provisions of section 521 of the Act, if the State does not take appropriate action within 10 days, the inspector would issue a Federal Notice of Violation (NOV) to the operator requiring the elimination of the highwall and return of the land to AOC.

Under other rules of 30 CFR 843.11(b), if the operator does not abate the NOV within the time given, the Federal inspector shall issue a cessation order.

Proposed 30 CFR 845.15(a)(4) specifies two circumstances which may not require total elimination of the highwall and return to AOC as a remedial measure for an inactive mine site: first, in the case where the highwall cannot be eliminated and the area returned to AOC using standard engineering practices; and second, where, given site specific conditions, return to AOC would cause imminent harm to the environment of a nature and duration that would result in irreparable damage.

Proposed 30 CFR 845.15(a)(5) provides that, where either of the above circumstances exist, the operator would be required to backfill the highwall to the extent technically practicable using all the spoil that is reasonably available and to take all other actions necessary to eliminate any adverse environmental, health, or safety consequences that relate to the existence of the highwall.

Proposed 30 CFR 845.15(a)(6) states that in all situations in which OSMRE would issue a NOV to the operator, but determines that the area cannot be returned to AOC or that highwalls cannot be eliminated using standard engineering practices or that it would cause significant harm to the environment of a nature and duration that would result in irreparable damage, a civil penalty would be imposed upon the operator. In assessing the penalty, OSMRE would ensure that the operator has gained no economic advantage as a result of failure to backfill the highwall and return the land to AOC. To achieve this objective, OSMRE would assess penalties in the following manner:

Proposed 30 CFR 845.15(a)(6)(i) provides that a penalty assessed for a notice of violation issued in accordance with 30 CFR 816.102(a) and this policy would be determined in accordance with 30 CFR 845.13 and 845.14. The penalty would then be assessed daily until the total penalty equals but in no case exceeds the approximate economic gain realized by the operator from failure to comply with 30 CFR 816.102(a), as calculated below.

New 30 CFR 845.15(a)(6)(ii) proposes that by using standard engineering practices, OSMRE would determine the total cubic yards of fill that would be required to return the site to AOC and/or completely eliminate the highwall as required by law. The total cubic yards of fill required will then be utilized to determine the costs the operator would have incurred if he had complied with the law. In making this determination, OSMRE would utilize the representative costs for backfilling and grading, topsoiling and revegetating the area, unless the operator can demonstrate in writing, and OSMRE finds, that his costs are lower. OSMRE would use the lower of (1) representative costs in the area, or (2) the operator's demonstrated costs per cubic yard or other relevant cost factor in determining the operator's approximate economic gain.

Proposed 30 CFR 845.15(a)(6)(ii)(C) states that OSMRE would calculate the operator's approximate economic gain by multiplying the cubic yards of fill necessary to return to AOC and/or eliminate the highwall by the cost per cubic yard of backfilling and grading plus the costs of topsoiling and revegetation.

In all situations in which OSMRE issues an NOV and assesses a penalty appropriate action would be taken to ensure that the operator does not receive a permanent program permit until such time as the operator's obligations under the NOV have been satisfied.

Section 518(f) of SMCRA addresses the assessment of individual civil penalties against officers, directors and agents of corporate permittees. Part 846 is the regulation counterpart to this provision of the Act. Part 846 was proposed at 51 FR 46838 (December 24, 1986), and is anticipated to be adopted prior to the adoption of this rule. Additional amendments to 30 CFR 846.12 are proposed in this rulemaking action to address the assessment of individual civil penalties concerning failure to return to AOC. The proposed language in this rulemaking addresses

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willful and knowing actions which would result in a violation of the type described above.

In Federal program states the proposed amendment would be automatically incorporated by reference in Federal programs. OSMRE would follow the proposed policy in Federal program states (except that no notice to the State would be provided, since no State action would be required).

Part of the rulemaking process utilized by OSMRE consists of a Regulatory Outreach Program, one category of which is the "Draft Regulatory Language Review." In this phase, OSMRE sends draft language of proposed regulations through its outreach mailing list to obtain comments as early in the regulatory process as possible.

Comments received during this phase for this rulemaking activity have been reviewed but have not been incorporated into the proposed rule because the rule is being proposed in accordance with the suggested language of the SOCM agreement and some of the suggestions provided in outreach would represent significant changes from the language of the SOCM agreement.

However, OSMRE wishes to solicit comments on the specific suggestions resulting from the outreach program and wants to ensure that any such suggested changes are formally submitted as part of the rulemaking process and are incorporated in the administrative record for this rulemaking. Thus, the issues resulting from outreach suggestions upon which OSMRE solicits comments are: (1) The effect of the proposed policy on States' primacy in regulating coal mining activities; (2) the 30 day time limit placed on the States to establish a schedule to require permit amendment; (3) the relationship of the proposed rule to procedures for variances to the requirements of section 515(b)(3) of the Act to return mined lands to Approximate Original Contour (AOC) presently authorized in the Federal and State regulatory programs; (4) the appropriateness of using the term "standard engineering practices" as used in exhibit A of the agreement or the term "best technology currently available" as used in other Federal regulations; (5) the extent of damage from further redisturbance of revegetated and stabilized areas, and the environmental benefit of preventing such redisturbance; (6) the impact of the proposed level of paperwork on the State government; and (7) whether there is other "appropriate action" in addition to the States' requirement to establish a schedule for permit revisions, which should be accepted by OSMRE, and what that "appropriate action" would be.

IV. Procedural Matters

Federal Paperwork Reduction Act

There are no information collection requirements in this proposed rule which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

Executive Order 12291

The Department of the Interior (DOI) has examined the proposed rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not a major rule and does not require a regulatory impact analysis.

Regulatory Flexibility Act

The DOI has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rule would not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

OSMRE has prepared an Environmental Assessment (EA) and has made a Finding of No Significant Impact (FONSI) in accordance with procedures of section 102(2) of the National Environmental Policy Act of 1969, (NEPA) 42 U.S.C. 4332(2)(c).

Author

The principal author of this rule is Raymond E. Aufmuth, Division of Technical Services, Branch of Research and Technical Standards, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240. (202) 343-5843.

List of Subjects

30 CFR Part 845

Administrative practice and procedure, Law enforcement, Penalties, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 846

Administrative practice procedures, Law enforcement, Penalties, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 845 and 846 are proposed to be amended as follows:

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

Date: August 28, 1987.

PART 845—CIVIL PENALTIES

1. The authority citation for Part 845 continues to read as follows:

Authority: Pub. L. 95-87, 91 STAT 445 (30 U.S.C. 1201 *et seq.*) unless otherwise noted.

2. Section 845.15 is amended by redesignating paragraph (a) as paragraph (a)(1) and adding new paragraphs (a)(2), (a)(3), (a)(4), (a)(5) and (a)(6) as follows:

§ 845.15 Assessment of separate violations for each day.

* * * * *

(a) * * *

(2) As part of its oversight review of State permitting, the Office may determine that a permit for an inactive mine appears to improperly allow an operator to leave all or a portion of a highwall or fail to return the land to approximate original contour (AOC). If this situation arises, the Office will notify the State and provide a 30 day period of time for the State to establish a schedule to require the permit to be amended to require reclamation to AOC. If the State does not act within the 30 day time period to initiate proceedings to amend the permit, the Office will notify the State and take appropriate action.

(a)(3) If the Office inspectors find that a highwall has been improperly left or that the AOC requirement has not been met for an inactive mine site, the Office will promptly issue a 10-day notice to the State pursuant to the provisions of section 521 of SMCRA and 30 CFR 843.12 (except where issuance of an imminent harm cessation order under 30 CFR 843.11(a) and SMCRA section 521(a)(2) is warranted). If the State does not take appropriate action within 10 days, the inspector shall issue a Federal Notice of Violation (NOV) to the operator requiring the elimination of the highwall and return of the land to AOC.

(a)(4) The following two circumstances may not require total elimination of the highwall and return to AOC as a remedial measure for an inactive mine site: first, in the case where the highwall cannot be eliminated and the area returned to AOC using standard engineering practices; and second, where, given site specific conditions, return to AOC would cause imminent harm to the environment of a nature and duration that would result in irreparable damage.

(a)(5) Where either of the above circumstances exist, the operator shall be required to backfill the highwall to the extent technically practicable using all the spoil that is reasonably available, and to take all other actions necessary to eliminate any adverse environmental or health or safety consequences that relate to the existence of the highwall.

(a)(6) Where compliance with 30 CFR 816.102(a) cannot be accomplished using standard engineering practices, or where such compliance would cause significant harm to the environment of a nature and duration that would result in irreparable damage, and the operation is an inactive mine site which does not qualify for a variance under 30 CFR 816.102(k), a notice of violation will be issued and a penalty will be assessed as follows:

(i) The penalty assessed for a notice of violation issued in accordance with 30 CFR 816.103(a) will be determined in accordance with 30 CFR 845.13 and 845.14. The penalty will then be assessed daily until the total penalty equals but does not exceed the approximate economic gain realized by the operator from failure to comply with 30 CFR 816.102(a), as calculated under paragraph (a)(6)(ii) of this section.

(ii) (A) Using standard engineering practices, the Office will determine the total cubic yards of fill that will be required to return the site to AOC and/or completely eliminate the highwall as required by the approved permit.

(B) The total cubic yards of fill required will then be utilized to determine the costs the operator would have incurred if he had complied with the law. In making this determination, the Office will utilize the representative costs for backfilling and grading, topsoiling and revegetating the area, unless the operator can demonstrate in writing, and the Office finds, that his costs are lower. The Office shall use the lower of (*1*) representative costs in the area, or (*2*) the operator's demonstrated costs per cubic yard or other relevant cost factor (e.g., ton, acre, etc.) in determining the operator's approximate economic gain.

(C) The Office shall calculate the operator's approximate economic gain by multiplying the cubic yards of fill necessary to return to AOC and/or eliminate the highwall (paragraph (a)(6)(ii)(A) of this section) by the cost per cubic yard of backfilling and grading plus the costs of topsoiling and revegetation (paragraph B).

* * * * *

PART 846—INDIVIDUAL CIVIL PENALTIES

Part 846 as proposed December 24, 1986, (51 FR 46638) is further amended as follows:

3. The authority citation for Part 846 is revised to read as follows:

Authority: Pub. L. 95-87, 91 Stat. 445; Pub. L. 100-34, 101 Stat. 300 (30 U.S.C. 1201 *et seq*).

4. Section 846.12 is amended by adding a new paragraph (c) as follows:

§ 846.12 When an individual civil penalty may be assessed.

* * * * *

(c) Notwithstanding the provisions of paragraph (b) of this section, if a corporate permittee has been assessed a civil penalty for failure to return an inactive mine site to AOC under 30 CFR 845.15, an individual civil penalty shall be assessed against any corporate director, officer or agent of the permittee who knowingly and willfully authorized, ordered, or carried out the violation.

[FR Doc. 87-24962 Filed 10-28-87; 8:45 am]

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federal register

Thursday
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Part III

Department of Health and Human Services

Office of the Secretary

1988 Cost-of-Living Increase and Other Determinations; Notice

VOL 52 ISS 209 OC 29 1987 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

1988 Cost-of-Living Increase and Other Determinations

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: The Secretary has determined—

(1) A 4.2 percent cost-of-living increase in benefits under title II (section 215(i)) of the Social Security Act (the Act);

(2) An increase in the Federal SSI (title XVI) benefit amounts for 1988 to $354 for an eligible individual, $532 for an eligible individual with an eligible spouse, and $177 for an essential person (section 1617 of the Act);

(3) The average of the total wages for 1986 to be $17,321.82;

(4) The Social Security contribution and benefit base to be $45,000 for remuneration paid in 1988 and self-employment income earned in taxable years beginning in 1988;

(5) The amount of earnings a person must have to be credited with a quarter of coverage in 1988 to be $470;

(6) The monthly exempt amounts under the Social Security retirement earnings test for taxable years ending in calendar year 1988 to be $700 for beneficiaries age 65 through 69 and $510 for beneficiaries under age 65;

(7) The "old-law" contribution and benefit base to be $33,600 for 1988.

We also describe the computation of benefits for a worker and the worker's family who first become eligible for benefits in 1988, and the computation of the OASDI fund ratio used to determine whether the automatic increase in benefits under title II of the Act is affected by the "stabilizer" provision.

Finally, we are publishing a table of OASDI "special minimum" benefit amounts. This table provides the range of primary insurance amounts and the corresponding maximum family benefits under the "special minimum" benefit provision, as revised to reflect the automatic benefit increase. These benefits are payable to certain individuals with long periods of relatively low earnings.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, telephone (301) 965–3013.

SUPPLEMENTARY INFORMATION: The Secretary is required by the Act to publish within 45 days after the close of the third calendar quarter of 1987 the benefit increase percentage and the revised table of "special minimum" benefits (section 215(i)(2)(D)). Also, the Secretary is required to publish before November 1 the average of the total wages for 1986 (section 215(i)(2)(C)(iii)) and the OASDI fund ratio for 1987 (section 215(i)(2)(C)(iii)). Finally, the Secretary is required to publish on or before November 1 the contribution and benefit base for 1988 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 1988 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 1988 (section 203(f)(8)(A)), the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 1988 (section 215(a)(1)(D)), and the formula for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 1988 (section 203(a)(2)(C)).

Cost-of-Living Increases

General. The cost-of-living increase is 4.2 percent for benefits under titles II and XVI of the Social Security Act.

Under title II, old-age, survivors, and disability insurance benefits will increase by 4.2 percent beginning with the December 1987 benefits, which are payable on December 31, 1987. The kinds of benefits payable to individuals entitled under this program are old-age, disability, wife's, husband's, child's, widow's, widower's, mother's, father's, and parent's insurance benefits. This increase is based on the authority contained in section 215(i) of the Act (42 U.S.C. 415(i)).

Under title XVI, Federal SSI payment levels will also increase by 4.2 percent effective for payments made for the month of January 1988 but paid on December 31, 1987. This is based on the authority contained in section 1617 of the Act (42 U.S.C. 1382f). The percentage increase effective January 1988 is the same as the title II benefit increase and the annual payment amount is rounded, when not a multiple of $12, to the next lower multiple of $12.

Automatic Benefit Increase Computation. Under section 215(i) of the Act, the third calendar quarter of 1987 is a cost-of-living computation quarter for all the purposes of the Act. The Secretary is therefore required to increase benefits, effective with December 1987, for individuals entitled under section 227 or 228 of the Act, to increase primary insurance amounts of all other individuals entitled under title II of the Act, and to increase maximum benefits payable to a family. For December 1987, the benefit increase is the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the third quarter of 1986 through the third quarter of 1987. Automatic benefit increases may be modified by a "stabilizer" provision under certain adverse financial conditions that are described in the section on the OASDI fund ratio. The December 1987 benefit increase is not affected by this provision.

Section 215(i)(1) of the Act provides that the Consumer Price Index for a cost-of-living computation quarter shall be the arithmetical mean of this index for the 3 months in that quarter. The Department of Labor's revised Consumer Price Index for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 1986, was: for July 1986, 322.9; for August 1986, 323.4; and for September 1986, 324.9. The arithmetical mean for this calendar quarter is 323.7 (after rounding to the nearest 0.1). The corresponding Consumer Price Index for each month in the quarter ending September 30, 1987 was: For July 1987, 335.6; for August 1987, 337.4; and for September 1987, 339.1. The arithmetical mean for this calendar quarter is 337.4. Thus, because the Consumer Price Index for the calendar quarter ending September 30, 1987 exceeds that for the calendar quarter ending September 30, 1986 by 4.2 percent, a cost-of-living benefit increase of 4.2 percent is effective for benefits under title II of the Act beginning December 1987.

Title II Benefit Amounts. In accordance with section 215(i) of the Act, in the case of insured workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 1988, benefits will increase by 4.2 percent beginning with benefits for December 1987 which will be received December 31, 1987. In the case of first eligibility after 1987, the 4.2 percent increase will not apply.

For eligibility after 1978, benefits are generally determined by a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, benefits are determined by means of a benefit table. In accordance with section 215(i)(4) of the Act, the primary insurance amounts and the maximum family benefits shown in this table are revised by (1) increasing by 4.2 percent the corresponding amounts established by the last cost-of-living increase and the last extension of the benefit table made under section 215(i)(4) (to reflect the increase in the contribution and benefit base for 1987); and (2) by extending the table to reflect the higher monthly wage and related benefit amounts now possible under the increased contribution and benefit base for 1988, as described later in this notice. A copy of this table may be obtained by writing to: Social Security Administration, Office of Governmental Affairs, Office of Public Inquiries, 4100 Annex, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act also requires that, when the Secretary determines an automatic increase in Social Security benefits, the Secretary shall publish in the Federal Register a revision of the range of the primary insurance amounts and corresponding maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). These benefits are referred to as "special minimum" benefits and are payable to certain individuals with long periods of relatively low earnings. In accordance with section 215(a)(1)(C)(i), the attached table shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 4.2 percent benefit increase.

Section 227 of the Act provides flat-rate benefits to a worker who became age 72 before 1969 and was not insured under the usual requirements, and to his or her spouse or surviving spouse. Section 228 of the Act provides similar benefits at age 72 for certain uninsured persons. The current monthly benefit amount of $140.30 for an individual under sections 227 and 228 of the Act is increased by 4.2 percent to obtain the new amount of $146.10. The present monthly benefit amount of $70.30 for a spouse under section 227 is increased by 4.2 percent to $73.20.

Title XVI Benefit Amounts. In accordance with section 1617 of the Act, Federal SSI benefit amounts for the aged, blind, and disabled are increased by 4.2 percent effective January 1988. Therefore, the yearly Federal SSI benefit amount of $4,080 for an eligible individual, $6,120 for an eligible individual with an eligible spouse and $2,040 for an essential person, which became effective January 1987, are increased, effective with January 1988, to $4,248, $6,384, and $2,124 respectively after rounding. The monthly payment amount is determined by dividing the yearly amount by 12, and subtracting monthly countable income. In the case of an eligible individual with an eligible spouse, the amount payable is further divided equally between the two spouses.

Average of the Total Wages for 1986

The determination of the average wage figure for 1986 is based on the 1985 average wage figure of $16,822.51 announced in the Federal Register on November 5, 1986 (51 FR 40256), along with the percentage increase in average wages from 1985 to 1986 measured by annual wage data tabulated by the Social Security Administration (SSA). The average amounts of wages calculated directly from this data were $15,900.51 and $16,372.45 for 1985 and 1986, respectively. To determine an average wage figure for 1986 at a level that is consistent with the series of average wages for 1951 to 1977 (published December 29, 1978, at 43 FR 61016), we multiplied the 1985 average wage figure of $16,822.51 by the percentage increase in average wages from 1985 to 1986 (based on SSA-tabulated wage data) as follows (with the result rounded to the nearest cent): Average wage for 1986 = $16,822.51 × $16,372.45 ÷ $15,900.51 = $17,321.82. Therefore, the average wage for 1986 is determined to be $17,321.82.

Contribution and Benefit Base

General. The contribution and benefit base is $45,000 for remuneration paid in 1988 and self-employment income earned in taxable years beginning in 1988.

The contribution and benefit base serves two purposes:

(1) It is the maximum annual amount of earnings on which Social Security taxes are paid.

(2) It is the maximum annual amount used in determining a person's Social Security benefits.

Computation. Section 230(c) of the Act provides a table with the contribution and benefit base for each year 1978, 1979, 1980, and 1981. For years after 1981, section 230(b) of the Act contains a formula for determining the contribution and benefit base. Under the prescribed formula, the contribution and benefit base for 1988 shall be equal to the 1987 base of $43,800 multiplied by the ratio of (1) the average amount, per employee, of total wages for the calendar year 1986 to (2) the average amount of those wages for the calendar year 1985. Section 230(b) further provides that if the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Average Wages. The average wage for calendar year 1985 was previously determined to be $16,822.51. The average wage for calendar year 1986 has been determined to be $17,321.82 as stated herein.

Amount. The ratio of the average wage for 1986, $17,321.82, compared to that for 1985, $16,822.51, is 1.029681. Multiplying the 1987 contribution and benefit base of $43,800 by the ratio 1.029681 produces the amount of $45,100.03 which must then be rounded to $45,000. Accordingly, the contribution and benefit base is determined to be $45,000 for 1988.

Quarter of Coverage Amount

General. The 1988 amount of earnings required for a quarter of coverage is $470. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of $50 or more were paid, or an individual was credited with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, wages generally are no longer reported on a quarterly basis; instead, annual reports are made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 (Pub. L. 95–216) amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 (up to a maximum of 4 quarters of coverage for the year). Individuals generally must have self-employment income of at least $400 in a taxable year in order to be credited with any quarters of coverage.

Computation. Under the prescribed formula, the quarter of coverage amount for 1988 shall be equal to the 1978 amount of $250 multiplied by the ratio of: (1) The average amount, per employee, of total wages for calendar year 1986 to (2) the average amount of those wages reported for calendar year 1976. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. The average wage for calendar year 1976 was previously determined to be $9,226.48. This was published in the Federal Register on December 29, 1978, at 43 FR 61016. The average wage for calendar year 1986 has been determined to be $17,321.82 as stated herein.

Quarter of Coverage Amount. The ratio of the average wage for 1986, $17,321.82, compared to that for 1976, $9,226.48, is 1.8774. Multiplying the 1978 quarter of coverage amount of $250 by the ratio of 1.8774 produces the amount

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of $469.35 which must then be rounded to $470. Accordingly, the quarter of coverage amount is determined to be $470 for 1988.

Retirement Earnings Test Exempt Amounts

(a) *Beneficiaries Aged 70 or Over.* Beginning with months after December 1982, there is no limit on the amount an individual aged 70 or over may earn and still receive Social Security benefits.

(b) *Beneficiaries Aged 65 through 69.* The retirement earnings test monthly exempt amount for beneficiaries aged 65 through 69 is stated in the Act at section 203(f)(8)(D) for years 1978 through 1982. A formula is provided in section 203(f)(8)(B) for computing the exempt amount applicable for years after 1982. The monthly exempt amount for 1987 was determined by this formula to be $680. Under the formula, the exempt amount for 1988 shall be the 1987 exempt amount multiplied by the ratio of: (1) The average amount, per employee, of the total wages for calendar year 1986 to (2) the average amount of those wages for calendar year 1985. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. Average wages for this purpose are determined in the same way as for the contribution and benefit base. Therefore, the ratio of the average wages for 1986, $17,321.82, compared to that for 1985, $16,822.51, is 1.029681.

Exempt Amount for Beneficiaries Aged 65 through 69. Multiplying the 1987 retirement earnings test monthly exempt amount of $680 by the ratio of 1.029681 produces the amount of $700.18. This must then be rounded to $700. The retirement earnings test monthly exempt amount for beneficiaries aged 65 through 69 is determined to be $700 for 1988. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $8,400.

(c) *Beneficiaries Under Age 65.* Section 203 of the Act provides that beneficiaries under age 65 have a lower retirement earnings test monthly exempt amount than those beneficiaries aged 65 through 69. The exempt amount for beneficiaries under age 65 is determined by a formula provided in section 203(f)(8)(B) of the Act. Under the formula, the monthly exempt amount for beneficiaries under age 65 is $500 for 1987. The formula provides that the exempt amount for 1988 shall be the 1987 exempt amount for beneficiaries under age 65 multiplied by the ratio of: (1) The average amount, per employee, of the total wages for calendar year 1986 to (2) the average amount of those wages for calendar year 1985. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. Average wages for this purpose are determined in the same way as for the contribution and benefit base. Therefore, the ratio of the average wages for 1986, $17,321.82, compared to that for 1985, $16,822.51, is 1.029681.

Exempt Amount for Beneficiaries Under Age 65. Multiplying the 1987 retirement earnings test monthly exempt amount of $500 by the ratio 1.029681 produces the amount of $514.84. This must then be rounded to $510. The retirement earnings test monthly exempt amount for beneficiaries under age 65 is thus determined to be $510 for 1988. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $6,120.

Computing Benefits After 1978

The Social Security Amendments of 1977 changed the formula for determining an individual's primary insurance amount after 1978. This basic new formula is based on "wage indexing" and was fully explained with interim regulations and final regulations published in the **Federal Register** on December 29, 1978 (43 FR 60877) and July 15, 1982 (47 FR 30731) respectively. It generally applies when a worker after 1978 attains age 62, becomes disabled, or dies before age 62. This formula uses the worker's earnings after they have been adjusted, or "indexed," in proportion to the increase in average wages of all workers. Using this method, we determine the worker's "average indexed monthly earnings." We then compute the primary insurance amount, using the worker's average indexed monthly earnings. The computation formula is adjusted automatically each year to reflect changes in general wage levels.

Average Indexed Monthly Earnings. To assure that a worker's future benefits reflect the general rise in the standard of living that occurs during his or her working lifetime, we adjust or "index" the worker's past earnings to take into account the change in general wage levels that has occurred during the worker's years of employment. These adjusted earnings are then used to compute the worker's primary insurance amount.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled, or dying before attaining age 62, in 1988, we divide the average of the total wages for 1986, $17,321.82, by the average of the total wages for each year prior to 1986 in which the worker had earnings. We then multiply the actual wages and self-employment income as defined in section 211(b) of the Act credited for each year by the corresponding ratio to obtain the worker's adjusted earnings for each year. After determining the number of years we must use to compute the primary insurance amount, we pick those years with highest indexed earnings, total those indexed earnings and divide by the total number of months in those years. This figure is rounded down to the next lower dollar amount, and becomes the average indexed monthly earnings figure to be used in computing the worker's primary insurance amount for 1988.

Computing the Primary Insurance Amount. The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. The amounts for 1988 are obtained by multiplying the 1979 amounts by the ratio between the average of the total wages for 1986, $17,321.82, and for 1977, $9,779.44. These results are then rounded to the nearest dollar. For 1988, the ratio is 1.7712487. Multiplying the 1979 amounts of $180 and $1,085 by 1.7712487 produces the amounts of $318.82 and $1,921.80. These must then be rounded to $319 and $1,922. Accordingly, the portions of the average indexed monthly earnings to be used in 1988 are determined to be the first $319, the amount between $319 and $1,922, and the amount over $1,922.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 1988, or who die in 1988 before becoming eligible for benefits, we will compute their primary insurance amount by adding the following:

(a) 90 percent of the first $319 of their average indexed monthly earnings, plus

(b) 32 percent of the average indexed monthly earnings over $319 and through $1,922, plus

(c) 15 percent of the average indexed monthly earnings over $1,922.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 215(a) of the Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

The 1977 Amendments continued the long established policy of limiting the total monthly benefits which a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits which may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96-265) established a new formula for computing the maximum benefits payable to the family of a disabled worker. This new formula is applied to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. The new formula was explained in a Final Rule published in the **Federal Register** on May 8, 1981, at 46 FR 25601. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, the family maximum payable is computed the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum. The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. The amounts for 1988 are obtained by multiplying the 1979 amounts by the ratio between the average of the total wages for 1986, $17,321.82, and the average for 1977, $9,779.44. This amount is then rounded to the nearest dollar. For 1988, the ratio is 1.7712487. Multiplying the amounts of $230, $332, and $433 by 1.7712487 produces the amounts of $407.39, $588.05, and $766.95. These amounts are then rounded to $407, $588, and $767. Accordingly, the portions of the primary insurance amounts to be used in 1988 are determined to be the first $407, the amount between $407 and $588, the amount between $588 and $767, and the amount over $767.

Consequently, for the family of a worker who becomes age 62 or dies in 1988, the total amount of benefits payable to them will be computed so that it does not exceed:

(a) 150 percent of the first $407 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $407 through $588, plus

(c) 134 percent of the worker's primary insurance amount over $588 through $767, plus

(d) 175 percent of the worker's primary insurance amount over $767.

This amount is then rounded to the next lower multiple of 10 cents if it is not already a multiple of 10 cents. This formula and the adjustments we have described are contained in section 203(a) of the Act (42 U.S.C. 403(a)).

"Old-Law" Contribution and Benefit Base

General. The 1988 "old-law" contribution and benefit base is $33,600. This is the base that would have been effective under the Social Security Act without the enactment of the 1977 amendments. The base is computed under section 230(b) of the Social Security Act as it read prior to the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(1) The Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(2) The Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Social Security Act), and

(3) Social Security to determine a "year of coverage" in computing the "special minimum" benefit and in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Social Security Act.

Computation. The base is computed using the automatic adjustment formula in section 230(b) of the Act as it read prior to the enactment of the 1977 amendments. Under the formula, the "old-law" contribution and benefit base shall be the "old-law" 1987 base multiplied by the ratio of (1) the average amount, per employee, of total wages for the calendar year of 1986 to (2) the average amount of those wages for the calendar year of 1985. If the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Average Wages. The average wage for calendar year 1985 was previously determined to be $16,822.51. The average wage for calendar year 1986 has been determined to be $17,321.82, as stated herein.

Amount. The ratio of the average wage for 1986, $17,321.82, compared to that for 1985, $16,822.51, is 1.029681. Multiplying the 1987 "old-law" contribution and benefit base amount of $32,700 by the ratio of 1.029681 produces the amount of $33,670.57 which must then be rounded to $33,600. Accordingly, the "old-law" contribution and benefit base is determined to be $33,600 for 1988.

OASDI Fund Ratio

General. Section 215(i) of the Act was amended by section 112 of Pub. L. 98-21, the Social Security Amendments of 1983, to include a "stabilizer" provision that can limit the automatic OASDI benefit increase under certain circumstances. If the combined assets of the OASI and DI Trust Funds, as a percentage of annual expenditures, are below a specified level, the automatic benefit increase is equal to the lesser of: (1) The increase in average wages or (2) the increase in prices. The threshold level specified for the OASDI fund ratio is 15.0 percent for benefit increases for December of 1984 through December 1988, and 20.0 percent thereafter. The amendments also provide for subsequent "catch-up" benefit increases for beneficiaries whose previous benefit increases were affected by this provision. "Catch-up" benefit increases occur only when trust fund assets exceed 32.0 percent of annual expenditures.

Computation. Section 215(i) specifies the computation and application of the OASDI fund ratio. The OASDI fund ratio for 1987 is the ratio of (1) the combined assets of the OASI and DI Trust Funds at the beginning of 1987, including advance tax transfers for January 1987, to (2) the estimated expenditures of the OASI and DI Trust Funds during 1987, excluding transfer payments between the OASI and DI Trust Funds, and reducing any transfers to the Railroad Retirement Account by any transfers from that account into either trust fund.

Ratio. The combined assets of the OASI and DI Trust Funds at the beginning of 1987 (including advance tax transfers for January 1987) equaled $65,227 million, and the expenditures are estimated to be $209,580 million. Thus, the OASDI fund ratio for 1987 is 31.1 percent, which exceeds the applicable threshold of 15.0 percent. As a result, the "stabilizer" provision does not affect the benefit increase for December 1987.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802-13.805, and 13.807 Social Security Programs.)

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Dated: October 19, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS

Special minimum primary insurance amount payable for Dec. 1986	Number of years required at minimum earnings level	Special minimum primary insurance amount payable for Dec. 1987	Special minimum maximum family benefit payable for Dec. 1987
$19.40	11	$20.20	$30.40
38.50	12	40.10	60.40
57.90	13	60.30	90.70
77.10	14	80.30	120.70
96.40	15	100.40	150.70
115.80	16	120.60	181.20

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS—Continued

Special minimum primary insurance amount payable for Dec. 1986	Number of years required at minimum earnings level	Special minimum primary insurance amount payable for Dec. 1987	Special minimum maximum family benefit payable for Dec. 1987
135.10	17	140.70	211.20
154.40	18	160.80	241.40
173.70	19	180.90	271.50
192.80	20	200.80	301.50
212.30	21	221.20	331.90
231.50	22	241.20	362.00
251.00	23	261.50	392.50
270.20	24	281.50	422.50
289.40	25	301.50	452.40
308.90	26	321.80	483.00

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS—Continued

Special minimum primary insurance amount payable for Dec. 1986	Number of years required at minimum earnings level	Special minimum primary insurance amount payable for Dec. 1987	Special minimum maximum family benefit payable for Dec. 1987
328.20	27	341.90	513.10
347.40	28	361.90	543.00
366.60	29	381.90	573.30
385.80	30	402.00	603.30

[FR Doc. 87-25007 Filed 10-28-87; 8:45 am]

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Thursday
October 29, 1987

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Vouchers; Notice of Funding Availability

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-87-1745; FR-2420]

Section 8 Housing Vouchers

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding availability.

SUMMARY: This Notice announces the availability of fiscal year 1988 funding authority provided in the Continuing Resolution for HUD's Housing Voucher Program authorized by section 8(o) of the United States Housing Act of 1937, subject to the program requirements set out in Part III of the Notice of Funding Availability published on February 19, 1987, at 52 FR 5250.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Housing Voucher Division, Room 6122, Department of Housing and Urban Deveopment, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-6477. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: The Housing Voucher Program is authorized under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1347f(o)), which was added by section 207 of the Housing and Urban-Rural Recovery Act of 1983. The Department has implemented the Housing Voucher Program, which the authorizing legislation characterizes as a demonstration program, by publishing Notices of Funding Availability (NOFAs). (See the **Federal Register** issues of July 12, 1984, 49 FR 28458; February 28, 1985, 50 FR 8198; March 31, 1986, 51 FR 10932; December 30, 1986, 51 FR 47064; and February 19, 1987, 52 FR 5250.)

In the February 19, 1987, NOFA (February 1987 NOFA), the Department indicated that it was developing regulations for the Housing Voucher Program and that it would publish a proposed rule seeking public comment on the Housing Voucher Program. The proposed rule was published on August 14, 1987, at 52 FR 30388. The Department has received 269 public comments, and is currently developing the final rule. Pending completion of the Housing Voucher Program final rule, the Department intends to continue the policies in effect in fiscal year 1987.

The Continuing Resolution, Pub. L. 100-120, approved September 30, 1987, authorizes the Department to continue funding in fiscal year 1988 at the same rate as in fiscal year 1987, until November 10, 1987. The Continuing Resolution was enacted with the expectation that its terms would be succeeded by the respective appropriation laws (including the Department of Housing and Urban Development and Independent Agencies Appropriations Act for fiscal year 1988) or by another continuing resolution.

This notice of funding availability announces the availability of the contract and budget authority for housing vouchers appropriated by the Continuing Resolution. The funding shall be used for the purposes provided in, and under the requirements of, the February 1987 NOFA (Section II.*A.* and Part III, respectively). This NOFA does not implement any of the policies described in Section II.*B.* 2., Anticipated Changes in the Housing Voucher Program, of the February 1987 NOFA. Action on those proposed changes, including modifications set out in the proposed rule, will be dealt with in the Housing Voucher Program final rule.

1. *Headquarters Reserve.* The Secretary is retaining a number of housing vouchers in a Headquarters reserve, and, subject to the availability of sufficient contract and budget authority, these housing vouchers will be used for emergencies and for the specific uses detailed in section II.*A.*1. of the February 1987 NOFA. The Department will use housing vouchers under the "opt-out" set-aside described in section II.*A.* 1.(d) for the purposes described in that section, as well as mortgage prepayments.

2. *Housing Vouchers Distributed by Formula Allocation.* The Department will allocate a portion of the fiscal year 1988 housing voucher funding authority made available under the Continuing Resolution to its Regional Offices, using an allocation procedure patterned on the procedures in 24 CFR Part 791.

3. *Program Requirements.* As previously noted, the Housing Voucher Program requirements contained in Part III of the February 19, 1987 NOFA apply to the Housing Voucher Program, including contract and budget authority made available in fiscal year 1988 under this NOFA. References to fiscal year 1987 in the February NOFA should be read to mean fiscal year 1988 for purposes of this NOFA.

In determining how many housing vouchers or certificates a PHA may target to families on waiting lists who agree to move initially into a rental rehabilitation project (see sections III. *H.* (b)(4)(iii) and III. *I.* (f)(2)(iii) of the February 1987 NOFA), a PHA must deduct the number of housing vouchers allocated to it in connection with rental rehabilitation in *both* fiscal year 1987 and fiscal year 1988 from the total number of housing vouchers and certificates allocated to it in connection with rental rehabilitation.

For housing voucher authority made available under this NOFA, the deadline under section III. *D.*(b) of the February 1987 NOFA for State rental rehabilitation grantees to transfer housing voucher authority to specific local PHAs is September 30, 1989.

Other Matters

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321-4347) is unnecessary since the Certificate Program and the Housing Voucher Program are part of the Section 8 Existing Housing Program, which is categorically excluded under HUD regulations at 24 CFR 50.20(d).

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520. Currently approved requirements have been assigned the following OMB Control Numbers: 2502-0123; 2502-0154; 2502-0161; 2502-0185; 2502-0348; 2502-0350; 2502-0362; 2577-0067; and 2577-0083.

Authority: Section 8(o) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(o)); section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 22, 1987

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

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Part V

Veterans Administration

Cost-of-Living Adjustments and Headstone or Marker Allowance Rate; Notice

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VETERANS ADMINISTRATION

Cost-of-Living Adjustments and Headstone or Marker Allowance Rate

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: As required by law the Veterans Administration (VA) is hereby giving notice of cost-of-living adjustments (COLAs) in certain benefit rates and income limitations. These COLAs affect the pension and parents' dependency and indemnity compensation (DIC) programs. These adjustments are based on the rise in the Consumer Price Index (CPI) during the one year period ending September 30, 1987. The VA is also giving notice of the maximum amount of reimbursement that may be paid for headstones or markers purchased in lieu of Government-furnished headstones or markers in fiscal year 1988 which began on October 1, 1987.

DATE: These COLAs are effective December 1, 1987. The headstone or marker allowance rate is effective October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Chief, Regulations Staff, Compensation and Pension Service, Department of Veterans Benefits, (202) 233-3005.

SUPPLEMENTARY INFORMATION: Under the provisions of 38 U.S.C. 3112 and section 306 of Pub. L. 95-588 the VA is required to increase the benefit rates and income limitations in the pension and parents' DIC programs by the same percentage, and effective the same date, as increases in the benefit amounts payable under title II of the Social Security Act. The increased rates and income limitations are also required to be published in the **Federal Register.**

The Social Security Administration has announced that there will be a 4.2 percent cost-of-living increase in social security benefits effective December 1, 1987. Therefore, applying the same percentage, the following increased rates and income limitations for the VA's pension and parents' DIC programs will be effective December 1, 1987.

Improved Pension

Table 1

Maximum Annual Rates

(1) *Veterans permanently and totally disabled (38 U.S.C. 521).*

Veteran with no dependents, $6,214.

Veteran with one dependent, $8,140.

For each additional dependent, $1,055.

(2) *Veterans in need of aid and attendance (38 U.S.C. 521).*

Veteran with no dependent, $9,940.

Veteran with one dependent, $11,866.

For each additional dependent, $1,055.

(3) *Veterans who are housebound (38 U.S.C. 521).*

Veteran with no dependents, $7,595.

Veteran with one dependent, $9,521.

For each additional dependent, $1,055.

(4) *Two veterans married to one another; combined rates (38 U.S.C. 521).*

Neither veteran in need of aid and attendance or housebound, $8,140.

Either veteran in need of aid and attendance, $11,866.

Both veterans in need of aid and attendance, $15,590.

Either veteran housebound, $9,521.

Both veterans housebound; $10,903.

One veteran housebound and one veteran in need of aid and attendance, $13,246

For each dependent child, $1,055.

(5) *Surviving spouse alone and with a child or children of the deceased veteran in custody of the surviving spouse (38 U.S.C. 541).*

Surviving spouse alone, $4,164.

Surviving spouse and one child in his or her custody, $5,455.

For each additional child in his or her custody, $1,055.

(6) *Surviving spouses in need of aid and attendance (38 U.S.C. 541).*

Surviving spouse alone, $6,061.

Surviving spouse with one child in his or her custody, $7,949.

For each additional child in his or her custody, $1,055.

(7) *Surviving spouse who are housebound (38 U.S.C. 541).*

Surviving spouse alone, $5,091.

Surviving spouse and one child in his or her custody, $6,379.

For each additional child in his or her custody $1,055.

(8) Surviving child alone (38 U.S.C. 542), $1,055.

Reduction for income. The rate payable is the applicable maximum rate minus the countable annual income of the eligible person. (38 U.S.C. 521, 541, and 542).

Mexican border period and World War I veterans. The applicable maximum annual rate payable to a Mexican border period or world War I veteran under this table shall be increased by $1,404. (38 U.S.C. 521(g)).

Parents' DIC

DIC (dependency and indemnity compensation) shall be paid monthly to parents of a deceased veteran in the following amounts. (38 U.S.C. 415).

Table 2

(*One parent.* If there is only one parent the monthly rate of DIC paid to such parent shall be $291 reduced on the basis of the parent's annual income according to the following formula)

For each $1 of annual income		
The $291 monthly rate shall be reduced by	Which is more than	But not more than
$0.00	0	$800
.08	$800	$7,068

Note.—No DIC is payable under this table if annual income exceeds $7,068.

One parent who has remarried. If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under table 2 or under table 4, whichever shall result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

Two parents not living together. The rates in table 3 apply to: (1) Two parents who are not living together, or (2) an unmarried parent when both parents are living and the other parent has remarried. The montly rate of DIC paid to each such parent shall be $208 reduced on the basis of each parent's annual income, according to the following formula:

Table 3

For each $1 of annual income		
The $208 monthly rate shall be reduced by	Which is more than	But not more than
$0.00	0	$800
.05	$800	$900
.06	$900	$1,000
.07	$1,000	$1,200
.08	$1,200	$7,068

Note.—No DIC is payable under this table if annual income exceeds $7,068.

Two parents living together or remarried parents living with spouses. The rates in table 4 apply to each parent living with another parent; and each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $196 reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse

or spouses, as computed under the following formula:

Table 4

For each $1 of annual income		
The $196 monthly rate shall be reduced by	Which is more than	But not more than
0.00	0	$1,000
.03	$1,000	$1,600
.04	$1,600	$2,100
.05	$2,100	$2,600
.06	$2,600	$3,100
.07	$3,100	$3,500
.08	$3,500	$9,504

Note.—No DIC is payable under this table if combined annual income exceeds $9,504.

The rates in this table are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in table 2 for one parent.

Aid and attendance. The monthly rate of DIC payable to a parent under tables 2 through 4 shall be increased by $154 if such parent is: (1) A patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

Minimum rate. The monthly rate of DIC payable to any parent under tables 2 through 4 shall not be less than $5.

Section 306 Pension Income Limitations

Table 5

(1) Veteran or surviving spouse with no dependents, $7,068 (Pub. L. 95-588, section 306(a)).

(2) Veteran with no dependents in need of aid and attendance, $7,568 (38 U.S.C. 521(d) as in effect on December 31, 1978).

(3) Veteran or surviving spouse with one or more dependents, $9,504 (Pub. L. 95-588, section 306(a)).

(4) Veteran with one or more dependents in need of aid and attendance, $10,004 (38 U.S.C. 521(d) as in effect on December 31, 1978).

(5) Child (no entitled veteran or surviving spouse), $5,776 (Pub. L. 95-588, section 306(a)).

(6) Spouse income exclusion (38 CFR 3.262), $2,252 (Pub. L. 95-588, section 306(a)(2)(B)).

Old-Law Pension Income Limitations

Table 6

(1) Veteran or surviving spouse without dependents or an entitled child, $6,187 (Pub. L. 95-588, section 306(b)).

(2) Veteran or surviving spouse with one or more dependents, $8,922 (Pub. L. 95-588, section 306(b)).

Headstone or Marker Allowance

Under 38 U.S.C. 906(d) the VA may provide reimbursement for the cost of non-Government headstones or markers at a rate equal to the actual cost or the average actual cost of Government-furnished headstones or markers during the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased, whichever is less.

The average actual cost of Government-furnished headstones and markers during any fiscal year is determined by dividing the sum of the VA's costs during that fiscal year for procurement, transportation, Monument Service and miscellaneous administration, inspection and support staff by the total number of headstones and markers procured by the VA during that fiscal year and rounding to the nearest whole dollar amount.

The average actual cost of Government-furnished headstones or markers for fiscal year 1987 under the above computation method was $76. Therefore, effective October 1, 1987, the maximum rate of reimbursement for non-Government headstones or markers purchased during fiscal year 1988 is $76.

Dated: October 27, 1987.

Thomas K. Turnage,

Administrator.

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H.R. 1567/Pub. L. 100-139

Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987. (Oct. 26, 1987; 101 Stat. 822; 8 pages) Price: $1.00

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Presidential Documents

Title 3—

The President

Executive Order 12612 of October 26, 1987

Federalism

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to restore the division of governmental responsibilities between the national government and the States that was intended by the Framers of the Constitution and to ensure that the principles of federalism established by the Framers guide the Executive departments and agencies in the formulation and implementation of policies, it is hereby ordered as follows:

Section 1. *Definitions.* For purposes of this Order:

(a) "Policies that have federalism implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

(b) "State" or "States" refer to the States of the United States of America, individually or collectively, and, where relevant, to State governments, including units of local government and other political subdivisions established by the States.

Sec. 2. *Fundamental Federalism Principles.* In formulating and implementing policies that have federalism implications, Executive departments and agencies shall be guided by the following fundamental federalism principles:

(a) Federalism is rooted in the knowledge that our political liberties are best assured by limiting the size and scope of the national government.

(b) The people of the States created the national government when they delegated to it those enumerated governmental powers relating to matters beyond the competence of the individual States. All other sovereign powers, save those expressly prohibited the States by the Constitution, are reserved to the States or to the people.

(c) The constitutional relationship among sovereign governments, State and national, is formalized in and protected by the Tenth Amendment to the Constitution.

(d) The people of the States are free, subject only to restrictions in the Constitution itself or in constitutionally authorized Acts of Congress, to define the moral, political, and legal character of their lives.

(e) In most areas of governmental concern, the States uniquely possess the constitutional authority, the resources, and the competence to discern the sentiments of the people and to govern accordingly. In Thomas Jefferson's words, the States are "the most competent administrations for our domestic concerns and the surest bulwarks against antirepublican tendencies."

(f) The nature of our constitutional system encourages a healthy diversity in the public policies adopted by the people of the several States according to their own conditions, needs, and desires. In the search for enlightened public policy, individual States and communities are free to experiment with a variety of approaches to public issues.

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(g) Acts of the national government—whether legislative, executive, or judicial in nature—that exceed the enumerated powers of that government under the Constitution violate the principle of federalism established by the Framers.

(h) Policies of the national government should recognize the responsibility of—and should encourage opportunities for—individuals, families, neighborhoods, local governments, and private associations to achieve their personal, social, and economic objectives through cooperative effort.

(i) In the absence of clear constitutional or statutory authority, the presumption of sovereignty should rest with the individual States. Uncertainties regarding the legitimate authority of the national government should be resolved against regulation at the national level.

Sec. 3. *Federalism Policymaking Criteria.* In addition to the fundamental federalism principles set forth in section 2, Executive departments and agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have federalism implications:

(a) There should be strict adherence to constitutional principles. Executive departments and agencies should closely examine the constitutional and statutory authority supporting any Federal action that would limit the policymaking discretion of the States, and should carefully assess the necessity for such action. To the extent practicable, the States should be consulted before any such action is implemented. Executive Order No. 12372 ("Intergovernmental Review of Federal Programs") remains in effect for the programs and activities to which it is applicable.

(b) Federal action limiting the policymaking discretion of the States should be taken only where constitutional authority for the action is clear and certain and the national activity is necessitated by the presence of a problem of national scope. For the purposes of this Order:

(1) It is important to recognize the distinction between problems of national scope (which may justify Federal action) and problems that are merely common to the States (which will not justify Federal action because individual States, acting individually or together, can effectively deal with them).

(2) Constitutional authority for Federal action is clear and certain only when authority for the action may be found in a specific provision of the Constitution, there is no provision in the Constitution prohibiting Federal action, and the action does not encroach upon authority reserved to the States.

(c) With respect to national policies administered by the States, the national government should grant the States the maximum administrative discretion possible. Intrusive, Federal oversight of State administration is neither necessary nor desirable.

(d) When undertaking to formulate and implement policies that have federalism implications, Executive departments and agencies shall:

(1) Encourage States to develop their own policies to achieve program objectives and to work with appropriate officials in other States.

(2) Refrain, to the maximum extent possible, from establishing uniform, national standards for programs and, when possible, defer to the States to establish standards.

(3) When national standards are required, consult with appropriate officials and organizations representing the States in developing those standards.

Sec. 4. *Special Requirements for Preemption.* (a) To the extent permitted by law, Executive departments and agencies shall construe, in regulations and otherwise, a Federal statute to preempt State law only when the statute contains an express preemption provision or there is some other firm and palpable evidence compelling the conclusion that the Congress intended preemption of State law, or when the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute.

(b) Where a Federal statute does not preempt State law (as addressed in subsection (a) of this section), Executive departments and agencies shall construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rule-making only when the statute expressly authorizes issuance of preemptive regulations or there is some other firm and palpable evidence compelling the conclusion that the Congress intended to delegate to the department or agency the authority to issue regulations preempting State law.

(c) Any regulatory preemption of State law shall be restricted to the minimum level necessary to achieve the objectives of the statute pursuant to which the regulations are promulgated.

(d) As soon as an Executive department or agency foresees the possibility of a conflict between State law and Federally protected interests within its area of regulatory responsibility, the department or agency shall consult, to the extent practicable, with appropriate officials and organizations representing the States in an effort to avoid such a conflict.

(e) When an Executive department or agency proposes to act through adjudication or rule-making to preempt State law, the department or agency shall provide all affected States notice and an opportunity for appropriate participation in the proceedings.

Sec. 5. *Special Requirements for Legislative Proposals.* Executive departments and agencies shall not submit to the Congress legislation that would:

(a) Directly regulate the States in ways that would interfere with functions essential to the States' separate and independent existence or operate to directly displace the States' freedom to structure integral operations in areas of traditional governmental functions;

(b) Attach to Federal grants conditions that are not directly related to the purpose of the grant; or

(c) Preempt State law, unless preemption is consistent with the fundamental federalism principles set forth in section 2, and unless a clearly legitimate national purpose, consistent with the federalism policymaking criteria set forth in section 3, cannot otherwise be met.

Sec. 6. *Agency Implementation.* (a) The head of each Executive department and agency shall designate an official to be responsible for ensuring the implementation of this Order.

(b) In addition to whatever other actions the designated official may take to ensure implementation of this Order, the designated official shall determine which proposed policies have sufficient federalism implications to warrant the preparation of a Federalism Assessment. With respect to each such policy for which an affirmative determination is made, a Federalism Assessment, as described in subsection (c) of this section, shall be prepared. The department or agency head shall consider any such Assessment in all decisions involved in promulgating and implementing the policy.

(c) Each Federalism Assessment shall accompany any submission concerning the policy that is made to the Office of Management and Budget pursuant to Executive Order No. 12291 or OMB Circular No. A–19, and shall:

(1) Contain the designated official's certification that the policy has been assessed in light of the principles, criteria, and requirements stated in sections 2 through 5 of this Order;

(2) Identify any provision or element of the policy that is inconsistent with the principles, criteria, and requirements stated in sections 2 through 5 of this Order;

(3) Identify the extent to which the policy imposes additional costs or burdens on the States, including the likely source of funding for the States and the ability of the States to fulfill the purposes of the policy; and

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(4) Identify the extent to which the policy would affect the States' ability to discharge traditional State governmental functions, or other aspects of State sovereignty.

Sec. 7. *Government-wide Federalism Coordination and Review.* (a) In implementing Executive Order Nos. 12291 and 12498 and OMB Circular No. A-19, the Office of Management and Budget, to the extent permitted by law and consistent with the provisions of those authorities, shall take action to ensure that the policies of the Executive departments and agencies are consistent with the principles, criteria, and requirements stated in sections 2 through 5 of this Order.

(b) In submissions to the Office of Management and Budget pursuant to Executive Order No. 12291 and OMB Circular No. A-19, Executive departments and agencies shall identify proposed regulatory and statutory provisions that have significant federalism implications and shall address any substantial federalism concerns. Where the departments or agencies deem it appropriate, substantial federalism concerns should also be addressed in notices of proposed rule-making and messages transmitting legislative proposals to the Congress.

Sec. 8. *Judicial Review.* This Order is intended only to improve the internal management of the Executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Ronald Reagan

THE WHITE HOUSE,
October 26, 1987.

[FR Doc. 87-25331
Filed 10-26-87; 4:33 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5733 of October 28, 1987

National Adult Immunization Awareness Week, 1987

By the President of the United States of America

A Proclamation

We have good reason to set aside a week to remind ourselves of the benefits of adult immunization: The lives of many adults could be saved each year by inoculation with vaccines readily available and approved by the United States Food and Drug Administration. Vaccination against infectious diseases saves lives and lowers health care costs as well, as the Surgeon General has repeatedly reminded our Nation.

Many adults needlessly become victims of diseases that vaccination prevents. Influenza and pneumonia kill more than 70,000 adult Americans each year, in part because approximately 80 percent of people at high risk for influenza-related complications have not been vaccinated. Estimates are that more than 200,000 cases of hepatitis B occur in the United States every year, yet 70 percent of those who should be protected remain unimmunized. Between 10 and 15 percent of women of childbearing age—more than 11 million women—are unprotected against rubella. As many as seven million adults born after 1956 remain susceptible to measles, and the majority of Americans over 60 are not protected from tetanus and diphtheria.

In recognition of the importance of adult immunization and the benefits of public awareness, the Congress, by Senate Joint Resolution 168, has designated the week beginning October 25, 1987, as "National Adult Immunization Awareness Week" and authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 25, 1987, as National Adult Immunization Awareness Week. I call upon all government agencies and the people of the United States to observe this week with appropriate activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of October, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-25356
Filed 10-29-87; 10:44 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 52, No. 210
Friday, October 30, 1987

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 451

[Doc. No. 4806S]

Canning and Processing Peach Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Canning and Processing Peach Crop Insurance Regulations (7 CFR Part 451), effective for the 1988 crop year only, by extending the date for filing contract changes specified in the policy for insuring canning and processing peaches. The intended effect of this rule is to provide additional time in which to complete the actuarial transition for existing canning and processing peaches (Clingstone Peaches) in California to type IV under the proposed Stonefruit Endorsement, published in a separate document. The provisions currently contained in 7 Part 451 will be issued as an endorsement to the newly issued 7 CFR Part 401, General Crop Insurance Regulations (401.122, Stonefruit Endorsement), effective for the 1988 and succeeding crop years. 7 CFR Part 401 is a standard set of regulations and a master policy for insuring most crops authorized under the provisions of the Federal Crop Insurance Act, as amended, and substantially reduces: (1) The time involved in amendment or revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: *Effective Date:* October 30, 1987.

Comment Date: Written comments, data, and opinions on this interim rule must be submitted not later than December 29, 1987, to be sure of consideration.

ADDRESS: Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is May 15, 1989.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Section 16 of the Canning and Processing Peach Crop Insurance policy provides that any changes in the contract must be placed on file in the service office by October 31. The contract consists of the application, the policy, and the actuarial table. In order to provide sufficient time for completion of the workload involved in the actuarial transition for existing canning and processing peaches (Clingstone Peaches) in California to type IV under the proposed Stonefruit Endorsement, to be issued as an endorsement to the newly issued 7 CFR Part 401, General Crop Insurance Regulations (401.122, Stonefruit Endorsement), the contract change filing date must be extended from October 31 to November 31, effective for the 1988 crop year only.

FCIC is currently reviewing the actuarial tables for the regulations referred to herein to determine whether the adequacy of current actuarial structures and rate levels offered under the canning and processing peach crop insurance policy are consistent with sound actuarial principles and if not to make adjustments where necessary. The amount of work involved is such that these reviews will not be completed prior to the date for filing such actuarial data in the service offices for the counties involved unless the filing date is extended.

E. Ray Fosse, Manager, FCIC, has determined and certifies that an emergency situation exists which warrants publication of this rule without providing for a period for public comment before such publication. Without this review, the statutory mandate that the program be actuarially sound could not be met. The workload involved in these actuarial changes will not be completed in time to permit filing of these actuarial tables by the present contract change date of October 31.

There is not sufficient time to provide for public comment and implement these changes prior to October 31. It has been determined that the date by which such changes are required to be placed on file in the service office will be extended from October 31, 1987, until November 31, 1987, and made effective for the 1988 crop year only.

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The changes in the actuarial tables affected by this rule may be beneficial in some instances and detrimental in others. All policyholders should be aware of the changes in the actuarial table affecting their individual crop insurance contract and of the additional time provided for FCIC to file such changes.

FCIC is soliciting public comment on this rule for 60 days after publication in the **Federal Register**. This rule will be scheduled for review in order that any amendment made necessary by public comment may be published in the **Federal Register** as quickly as possible.

Any comments received pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 451

Crop Insurance; Canning and processing peaches.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Canning and Processing Peach Crop Insurance Regulations, effective for the 1988 crop year only (7 CFR Part 451) in the following instances:

PART 451—[AMENDED]

1. The Authority citation for 7 CFR Part 451 continues to read as follows:

Authority: Secs. 508, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1508, 1516).

2. 7 CFR § 51.7(d)16 is revised to read as follows:

§ 451.7 Application and policy.

* * * * *

(d) * * *

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by October 31 preceding the cancellation data (November 31 for the 1988 crop year only). Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

* * * * *

Done in Washington, DC., on October 15, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–25126 Filed 10–29–87; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 657]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule with request for comments.

SUMMARY: Regulation 657 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period October 30, 1987 through November 5, 1987. Such action is needed to balance the supply of fresh navel oranges with the demand for such oranges during the period specified due to the marketing situation confronting the orange industry.

DATES: Regulation 657 (§ 907.957) is effective for the period October 30, 1987, through November 5, 1987. Comments are due November 30, 1987.

ADDRESS: Interested persons are invited to submit written comments concerning the possible impact of volume regulations on small entities. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, Room 2065–S, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the office of the Docket Clerk during regular working hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR Part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

At the beginning of each marketing year, the Navel Orange Administrative Committee (NOAC) submits a marketing policy to the U.S. Department Of Agriculture (USDA) which discusses, among other things, the potential use of volume and/or size regulations for the ensuing season. The NOAC, in its 1987–88 season marketing policy, considered the use of volume regulation for the season. The USDA reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order, and approximately 4,065 producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

Although handlers and/or marketers are affected by issuance of weekly volume regulations, the intent of the Act is to benefit agricultural producers. The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The highest proportion of the production is located in District 1, Central California, which represented 84 percent of the total production in 1986–87. District 2 is located in the southern coastal area of California and represented 13 percent of the 1986–87 production; District 3 is the desert area of California and Arizona, which represented 2 percent. The estimated production for the 1987–88 crop season is 49,000 cars (1 cars equals 1,000 cartons; 1 carton equals 37 ½ pounds).

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is the preferred market for California-Arizona navel oranges. It is estimated that 75 percent of the 1987–88 crop of 49,000 cars will be utilized in fresh domestic channels (36,600 cars), with the remainder being reported fresh (10 percent) or processed (15 percent). This compares to 47,621 cars shipped to fresh domestic markets in 1986–87, about 66 percent of the 1986–87 crop, totalling 71,874 cars.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to both producers and consumers. Producers benefit in areas such as increased grower returns and improved market conditions. Reduced fluctuations in supplies and price result from pre-planned shipping levels, resulting in a more stable market. Consumers are assured of a steady supply of oranges in the market throughout the marketing season.

Benefits and costs of issuing regulations are difficult to quantify, as indicated in various studies regarding effects of marketing orders and criteria for measuring the effects. Although the information currently available to AMS is limited, the known costs to growers of implementing the regulations appear to be significantly offset when compared to the potential benefits or regulation.

The reporting and recordkeeping requirements under M.O. 907 are incurred by handlers of navel oranges. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

If volume regulations were not to be used for the 1987–88 season, it is likely that most of these reporting and recordkeeping functions would still be carried out. The method of calculating the quantities of navel oranges for fresh shipments by handlers for any given week is based on information gathered over several previous weeks. Therefore, there is an incentive to keep and maintain records in anticipation of future implementation of regulation.

The foundation for the use of volume regulations under this marketing order is to foster market stability and enhance grower revenue. Prices for navel oranges, as well as other perishable agricultural commodities, tend to be relatively inelastic at the grower level. Thus, even a small variation in shipments can have a great impact on grower revenue. Under these circumstances, strong arguments can be advanced as to the benefits incurred by growers, particularly for smaller growers. Consequently, when weighing costs and benefits derived from the use of volume regulations, it seems highly probable that if actual data were available, the monetary benefit would far outweigh the costs. Therefore, it is the USDA's view that if a "significant economic impact on a substantial number of small entities" would be present, this impact would be positive rather than adverse.

The Fruit and Vegetable Division of the AMS, however, encourages the submission of comments on the potential economic impact upon small entities from all interested parties. The USDA's position on this certification of the regulatory action will be further evaluated in view of the applicable comments received.

This action is consistent with the marketing policy for 1987–88 adopted by the NOAC. The NOAC met publicly on October 27, 1987, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended by a vote of 8 to 2, a quantity of navel oranges deemed advisable to be handled during the specified week. The NOAC reports that the market for fresh navel oranges is good.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of prorate regulations, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared purposes of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR Part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.957 is added to read as follows:

§ 907.957 Navel Orange Regulation 657.

The quantity of navel oranges grown in California and Arizona which may be handled during the period October 30, 1987, through November 5, 1987, are established as follows:

(a) District 1: 958,007 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: 88,001 cartons;
(d) District 4: Unlimited cartons.

Dated: October 28, 1987.

Robert C. Keeney,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–25325 Filed 10–29–87; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Regulation 585]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 585 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 285,855 cartons during the period November 1 through November 7, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 585 (§ 910.885) is effective for the period November 1 through November 7, 1987.

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FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987-88. The committee met publicly on October 27, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by an 11 to 1 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is good for large sized lemons, fair but improving for smaller sizes.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 910.885 is added to read as follows:

§ 910.885 Lemon Regulation 585.

The quantity of lemons grown in California and Arizona which may be handled during the period November 1 through November 7, 1987, is established at 265,855 cartons.

Dated: October 28, 1987.

Robert C. Keeney,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-25327 Filed 10-29-87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 945

[Amdt. No. 2]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Change in Handling Regulations To Limit Inspection Certificate Validity

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes a limit on the length of time for which inspection certificates required by the Federal marketing order for Idaho-Eastern Oregon potatoes shall be valid. Currently, there is no limit on the length of time for which inspection certificates remain valid for purposes of the handling regulation issued pursuant to the marketing order. Under certain circumstances, the condition of potatoes can deteriorate rapidly. The action will require handlers to obtain another inspection on potatoes not shipped from the production area within four days of the issuance of an inspection certificate. The purpose of this requirement is to help assure the condition of potatoes in the marketplace. This action is based on a unanimous recommendation of the Idaho-Eastern Oregon Potato Committee. The committee works with the Department in administering the marketing order.

EFFECTIVE DATE: October 30, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V Division, AMS, USDA, P.O. Box 96456, Room 2523-S, Washington, DC 20090-6456; telephone 202-447-5697.

SUPPLEMENTARY INFORMATION: This action is being issued under Marketing Order No. 945, as amended, regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon (the order). This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "Act." The authority for the action is contained in § 945.65(c) of the order, which provides that for purposes of the inspection and certification requirements of the order, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such action in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 71 handlers of Idaho-Eastern Oregon potatoes will be subject to regulation under this marketing order during the current season. In addition, there are about 3,400 producers in the production aren. The majority of these handlers and producers may be classified as small entities as defined by the Small Business Administration (SBA). The SBA defines small agricultural service firms, which would include handlers, as those whose gross annual receipts are less than $3.5 million and small agricultural producers as those having average annual gross revenues for the last three years of less than $100,000 (13 CFR 121.2)

A proposal inviting comments on this action was published in the **Federal Register** on September 8, 1987 (52 FR 33834). Interested persons were invited to submit comments until September 28, 1987. No comments were received.

This action will provide that inspection certificates for potatoes shipped outside the production area will not be valid for meeting the requirements of the handling regulation unless the inspection certificate is issued within four days of shipment of such potatoes. The industry has experienced some problems with poor condition potatoes arriving in the marketplace. This action is intended to improve the condition of potatoes in the marketplace.

Shipments of consistently good quality and condition potatoes improve industry returns by increasing buyer confidence. Experience has shown that less desirable potatoes drive the price down for all shipments regardless of quality and condition.

The condition of potatoes can deteriorate rapidly after they are removed from a controlled temperature and moisture environment and exposed to extreme cold or hot temperatures. Condition defects are defects which are subject to change during shipment and storage, such as discoloration, bruising, and firmness. According to the committee, potatoes sometimes sit on shippers' loading docks outside of controlled storage waiting for transportation for up to 10 days after they are inspected and certified as meeting order quality and condition requirements. Currently, such potatoes do not have to be inspected and certified again as meeting the condition requirements established under the order even though the condition of the potatoes may deteriorate.

A time limitation on the validity of inspection certificates for potatoes being shipped from the production area would help prevent the shipment of potatoes which have deteriorated in condition after inspection, and thereby help assure the condition of potatoes in the marketplace. This should help provide potatoes that are more appealing and desirable to the consumer. The end result will provide greater economic returns to growers and handlers of Idaho-Eastern Oregon potatoes.

Exemptions to the inspection and certification requirements of the order would continue to be available to handlers. Shipments of potatoes for canning, freezing, and other processing are exempt from such requirements. Also, each handler may ship up to five hundredweight of potatoes, except yellow fleshed Finnish-type potatoes, any day without regard to the quality, maturity, pack, inspection and assessment requirements of the program. Handlers of yellow fleshed Finnish-type potatoes may ship up to 200 hundredweight per day of such potatoes free from the inspection, quality, maturity and pack requirements of the order. Exemptions to the maturity requirements also are authorized under certain circumstances.

On the basis of the foregoing, the impact of this change on growers and handlers is expected to be positive and benefit the Idaho-Eastern Oregon potato industry as a whole. Additional costs will be incurred for new inspections when potatoes are not shipped within four days from the date of the original inspection. However, the anticipated benefits of assuring good quality and condition potatoes and thus increasing consumer confidence in the product should outweigh the potential additional costs of this final rule.

After consideration of the information and recommendation submitted by the committee, the information in the proposal, and other information, it is hereby found and determined that this action, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** in that: (1) The 1987 harvest and shipment of Idaho-Eastern Oregon potatoes has already begun, and this action should be effective for as much of the current season as possible to assure the condition of potatoes in the marketplace; and (2) the provisions in this final rule are the same as those in the proposal, and handlers are prepared to operate in accordance therewith.

List of Subjects in 7 CFR Part 945

Marketing agreements and orders, Potatoes, Idaho, Oregon.

For the reasons set forth in the preamble, 7 CFR Part 945 is amended as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR Part 945 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 945.341 is amended by adding paragraph (d)(3)to read as follows:

§ 945.341 Handling regulation (Amendment No. 2).

* * * * *

(d) * * *

(3) Inspection certificates for potatoes to be shipped outside the area of production which are required by this section must be issued within four days of such shipment. Otherwise, such potatoes can only be shipped outside the area of production if another inspection is performed and the potatoes are certified as meeting the minimum grade, size, maturity, and pack requirements specified in paragraphs (a), (b), and (c) of this section and if the potatoes are then shipped within the four day period specified above.

* * * * *

Dated: October 29, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-25156 Filed 10-29-87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 906, 910, 919, 920, 922, 926, 927, 928, 929, 958, and 966

Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes assessment rates under Marketing Orders 906, 910, 919, 920, 922, 926, 927, 928, 929, 958, and 966 for the respective 1987-88 fiscal year for each order. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATES: April 1, 1987-March 31, 1988 (§§ 922.227, and 926.227); July 1, 1987-June 30, 1988 (§§ 919.226, 927.227, 928.217, and 958.231); August 1, 1987-July 31, 1988 (§§ 906.227, 910.225, 920.203, 966.225); and September 1, 1987-August 31, 1988 (§ 919.228).

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and

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Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone 202–447–5697.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order Nos. 906, 910, 919, 920, 922, 926, 927, 928, 929, 958, and 966 (7 CFR Parts 906, 910, 919, 920, 922, 926, 927, 928, 929, 958, and 966), as amended, regulating the handling of citrus grown in Texas; lemons grown in California and Arizona; peaches grown in Colorado; kiwifruit grown in California; apricots grown in Washington; Tokay grapes grown in California; winter pears grown in Washington, Oregon, and California; papayas grown in Hawaii; cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in New York; onions grown in Idaho and Oregon; and tomatoes grown in Florida. These orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 22 handlers of Texas citrus, 85 handlers of California-Arizona lemons, 32 handlers of Colorado peaches, 65 handlers of California kiwifruit, 56 handlers of Washington apricots, 14 handlers of California Tokay grapes, 96 handlers of Oregon, Washington, California winter pears, 100 handlers of Hawaiian papayas, 31 handlers of cranberries, 23 handlers of Idaho-Eastern Oregon onions, and 103 handlers of Florida tomatoes. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of handlers of these commodities may be classified as small entities.

Each marketing order requires that the assessment rate for a particular fiscal period shall apply to all assessable commodities handled from the beginning of such year. An annual budget of expenses is prepared by each administrative committee and submitted to the Department of Agriculture for approval. The members of administrative committees are handlers and producers of the regulated commodities. This is appropriate because they are familiar with the committees' needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings; thus all directly affected persons have an opportunity to participate and provide input.

While this action may impose some additional costs on handlers, including small entities, the costs are in the form of uniform assessments on all handlers which do not impose a significant economic impact on the small entities involved.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

The assessment rate recommended by each committee is derived by dividing anticipated expenses by expected shipments of the commodity (e.g., pounds, tons, boxes, cartons, etc.). That rate is applied to actual shipments to produce income sufficient to pay the committees' expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committees shortly before a season starts and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited in order that the committees will have funds to pay their expenses.

Based on the foregoing, the Secretary finds that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and to engage in public rulemaking procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is found that the specified expenses and assessment rates will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Parts 906, 910, 919, 920, 922, 926, 927, 928, 929, 958, and 966

Marketing agreements and orders, Oranges, Grapefruit (Texas) Lemons (California-Arizona), Peaches (Colorado), Kiwifruit (California), Apricots (Washington), Grapes (California), Winter Pears (Oregon-Washington-California), Papayas (Hawaii), Cranberries (Massachusetts-Rhode Island-Connecticut-New Jersey-Wisconsin-Michigan-Minnesota-Oregon-Washington-New York), Onions (Idaho-Oregon), Tomatoes (Florida).

For the reasons set forth in the preamble, §§ 906.227, 910.225, 919.226, 920.203, 922.227, 926.227, 927.227, 928.217, 929.226, 958.231, and 966.225 are added as follows:

1. The authority citation for 7 CFR Parts 906, 910, 919, 920, 922, 926, 927, 928, 929, 958, and 966 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New §§ 906.227, 910.225, 919.226, 920.203, 922.227, 926.227, 927.227, 928.217, 929.226, 958.231, and 966.225 are added (the following sections prescribe annual expenses and assessment rates and will not be published in the Code of Federal Regulations):

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

§ 906.227 Expenses and assessment rate.

Expenses of $857,400 by the Texas Valley Citrus Committee are authorized, and an assessment rate of $0.10 per 7/10 bushel carton of assessable oranges or grapefruit is established for the fiscal period ending July 31, 1988. Unexpended funds may be carried over as a reserve.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

§ 910.225 Expenses and assessment rate.

Expenses of $695,000 by the Lemon Administrative Committee are authorized and an assessment rate of $0.045 per carton of assessable lemons is established for the fiscal year ending July 31, 1988. Unexpended funds may be carried over as a reserve.

PART 919—PEACHES GROWN IN MESA COUNTY, COLORADO

§ 919.226 Expenses.

Expenses of $683 by the Administrative Committee are authorized for the fiscal year ending June 30, 1988. Unexpended funds may be carried over as a reserve.

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

§ 920.203 Expenses and assessment rate.

Expenses of $112,618 by the Kiwifruit Administrative Committee are authorized and an assessment rate of $0.0125 per tray or equivalent is established for the fiscal year ending July 31, 1988. Unexpended funds may be carried over as a reserve.

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

§ 922.227 Expenses and assessment rate.

Expenses of $5,802 by the Washington Apricot Marketing Committee are authorized, and an assessment rate of $1.25 per ton of assessable apricots is established for the fiscal year ending March 31, 1988. Unexpended funds may be carried over as a reserve.

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

§ 926.227 Expenses and assessment rate.

Expenses of $55,050 by the Tokay Industry Committee are authorized, and an assessment rate of $0.16 per 23 pound lug of grapes is established for the fiscal year ending March 31, 1988. Unexpended funds may be carried over as a reserve.

PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

§ 927.227 Expenses and assessment rate.

Expenses of $3,396,563 by the Winter Pear Control Committee are authorized, and an assessment rate of $0.30 per standard box, or equivalent, of pears is established for the fiscal period ending June 30, 1988. In addition, a supplemental assessment rate of $0.16 per standard box, or equivalent, of Comice variety pears is established for the same fiscal period for promotion. Unexpended funds may be carried over as a reserve.

PART 928—PAPAYAS GROWN IN HAWAII

§ 928.217 Expenses and assessment rate.

Expenses of $628,140 by the Papaya Administrative Committee are authorized, and an assessment rate of $0.007 per pound of assessable papayas is established for the fiscal year ending June 30, 1988. Unexpended funds may be carried over as a reserve.

PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

§ 929.226 Expenses and assessment rate.

Expenses of $154,400 by the Cranberry Marketing Committee are authorized, and an assessment rate of $0.043 per 100-pound barrel of cranberries is established for the fiscal year ending August 31, 1988. Unexpended funds may be carried over as a reserve.

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

§ 958.231 Expenses and assessment rate.

Expenses of $802,000 by the Idaho-Eastern Oregon Onion Committee are authorized, and an assessment rate of $0.09 per hundredweight of assessable onions is established for the fiscal period ending June 30, 1988. Unexpended funds may be carried over as a reserve.

PART 966—TOMATOES GROWN IN FLORIDA

§ 966.225 Expenses and assessment rate.

Expenses of $763,500 by the Florida Tomato Committee are authorized and an assessment rate of $0.015 per 25-pound container of tomatoes is established for the fiscal period ending July 31, 1988. Unexpended funds may be carried over as a reserve.

Dated: October 26, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–25155 Filed 10–29–87; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Parts 982, 984, and 989

Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes assessment rates under Marketing Order Nos. 982, 984, and 989 for the 1987–88 fiscal year for each order. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATES: July 1, 1987—June 30, 1988 (§ 982.332); August 1, 1987—July 31, 1988 (§ 984.339); August 1, 1987—July 31, 1988 (§ 989.338).

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Room 2523, South Building, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order Nos. 982, 984, and 989 (7 CFR Parts 982, 984, and 989), as amended, regulating the handling of filberts/hazelnuts grown in Oregon and Washington, walnuts grown in California and raisins produced from grapes grown in California. These orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered and economic impact on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are an estimated 22 handlers of Oregon-Washington filberts/hazelnuts, 59 handlers of California walnuts, and 23 handlers of California raisins subject to regulation under these marketing orders, and approximately 1,100 producers of Oregon-Washington filberts/hazelnuts, 8,000 producers of California walnuts and 5,000 producers of California raisins. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annnual receipts are less than $3,500,000. The great majority of handlers and producers of filberts/hazelnuts, walnuts, and raisins may be classified as small entities.

Each marketing order requires that the assessment rate for a particular marketing year shall apply to all assessable commodities handled from

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the beginning of such year. An annual budget of expenses is prepared by each administrative committee and submitted to the Department of Agriculture for approval. The members of committees are handlers and producers of the regulated commodities. This is appropriate because they are familiar with the committees' needs and with the costs for goods, services and personnel in their local areas, and are thus in a position of formulate appropriate budgets. The budgets are formulated and discussed in public meetings, thus all directly affected persons have an opportunity to participate and provide input.

While this action may impose some additional costs on handlers, including small entities, the costs are in the form of uniform assessments on all handlers which do not impose a significant economic impact on the small entities involved.

The assessment rate recommended by each committee is derived by dividing anticipated expenses by expected shipments of the commodity (e.g. pounds, tons, cartons, etc.). That rate is applied to actual shipments to produce income sufficient to pay the committees' expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committees shortly before a season starts and expenses are incurred on a continuous basis, therefore, budget and assessment rate approvals must be expedited in order that the committees will have funds to pay their expenses.

Based on available information, the Administrator of the Agricultural Marketing Service has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, the Secretary finds that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and to engage in public rulemaking procedures with respect to this action, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is found that the specified expenses and assessment rates will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Parts 982, 984, and 989

Marketing agreements and orders, Oregon, Washington, Filberts/Hazelnuts, California, Walnuts, Raisins.

For the reasons set forth in the preamble, §§ 982.332, 984.339, and 989.338 are added as follows:

1. The authority citation for 7 CFR Parts 982, 984, and 989 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Sections 982.332, 984.339, and 989.338 are added to read as follows (the following sections prescribe the annual expenses and assessment rates and will not be published in the Code of Federal Regulations):

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

§ 982.332 Expenses and assessment rate.

Expenses of $386,590 by the Filbert/Hazelnut Marketing Board are authorized, and an assessment rate of $14.00 per ton of filberts/hazelnuts is established for the marketing year ending June 30, 1988. Unexpended funds may be carried over as a reserve.

PART 984—WALNUTS GROWN IN CALIFORNIA

§ 982.339 Expenses and assessment rate.

Expenses of $1,280,936 by the Walnut Marketing Board are authorized, and an assessment rate of $0.007 per kernelweight pound of merchantable walnuts is established for the marketing year ending July 31, 1988. Unexpended funds may be used temporarily during the first five months of the subsequent marketing year, but must be made available to the handlers from whom collected within that period.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

§ 989.338 Expenses and assessment rate.

Expenses of $325,000 by the Raisin Administrative Committee are authorized, and an assessment rate payable by each handler in accordance with § 989.80 of $1.25 per ton of assessable raisins is established for the crop year ending July 31, 1988. Any unexpended funds from that crop year shall be credited or refunded to the handler from whom collected.

Dated: October 26, 1987.

Robert G. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–25154 Filed 10–29–87; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1910

Credit Reports (Individual)

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding credit reports on individuals. The circumstance requiring this action is a change in the method of ordering credit reports for individual applicants and applicants and their spouse. The effect of this action is to reduce the cost of ordering credit reports on applicants.

EFFECTIVE DATE: October 30, 1987.

FOR FURTHER INFORMATION CONTACT: Reginal D. Rountree, Loan Officer, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5346, South Agricultural Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone: (202) 475–4209.

SUPPLEMENTARY INFORMATION: This proposed action had been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because to the extent, it involves more than only internal Agency management it results in a lower pass-through cost to applicants for loans with no adverse impact on the Government. At the present time, FmHA County Office employees are not authorized to order joint credit reports on an applicant and spouse from the credit report contractor. Instead, two more costly individual credit reports are being ordered. This action will permit the FmHA County Office to order credit reports on individual applicants and joint credit reports on an applicant and spouse for rural housing loans thus reducing the cost associated with credit reports.

It is the policy of this department to publish for comment rules relating to public property, loans, grants, benefits, or contracts not withstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal Agency management a reduction in costs to applicants with no increase to the Government and is a matter involving contracts. Therefore, publication for comment is unnecessary.

This activity impacts two programs listed in the Catalog of Federal Domestic Assistance (under numbers 10.405, Farm Labor Housing Loans and Grants and 10.420, Rural Self-Help Housing Technical Assistance, which are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR 3015, Subpart V, 48 FR 29112, June 24, 1983.

The other programs this activity impacts, Low Income Housing Loans (10.410), Very Low Income Housing Repair Loans and Grants (10.417), and (10.421) Indian Tribes and Tribes and Tribal Corporation Loans, are excluded from the scope of Executive Order 12372.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FMHA that this action does not constitute a major Federal action signficantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L 91–190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1910

Administrative practice and procedure, Credit, Government contracts, Reporting and recordkeeping requirements.

Accordingly, Chapter XVIII, Title 7 of Code of Federal Regulations is amended as follows:

PART 1910—GENERAL

1. The authority citation for Part 1910 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70

2. Section 1910.52 is amended by revising paragraph (a) to read as follows:

§ 1910.52 General.

(a) FmHA obtains credit reports from credit reporting companies (contractors) listed in Exhibit A of this subpart (available in any FmHA office) authorized by the contracting Officer, FmHA. County Supervisors are cautioned to order only from those firms. Furthermore, special reports, supplemental employment reports, commercial credit reports, and special services are not authorized.

* * * * *

3. Section 1910.53 is amended by revising paragraph (d) to read as follows:

§ 1910.53 Policy.

* * * * *

(d) The County Supervisor will determine when credit reports will be ordered for both the applicant and co-applicant except as indicated in paragraph (g) of this section. credit reports will always be ordered when the income of both applicant and co-applicant are needed to show repayment ability. If the applicant and co-applicant are not married, then two individual credit reports will be ordered. If the applicant and co-applicant are married, then a joint report will be ordered.

* * * * *

4. Section 1910.54 is amended by redesignating current paragraph (f) through (j) as paragraphs (g) through (k) and by adding a new paragraph (f) to read as follows:

§ 1910.54 Definitions.

* * * * *

(f) "Joint Report" is a report providing information on applicant and spouse. It may be supplemented by "antecedent" and/or "supplemental credit reference" reports to provide all the information required by the 2-year report period.

* * * * *

5. Section 1910.55 is amended by revising paragraph (a) to read as follows:

§ 1910.55 Credit reporting company requirements.

(a) The contractor must provide all credit and public record information available for the report period as defined in 1910.54(h) of this subpart.

* * * * *

6. Section 1910.59 is revised to read as follows:

§ 1910.59 Type of credit report to be ordered.

Pursuant to the Equal Credit Opportunity Act (ECOA), credit reporting companies will maintain credit information in three different forms on a married couple: individual accounts of each spouse; joint accounts covering both spouses; and, undesignated accounts (those accounts not designated by the credit grantor as either individual of joint accounts). "Joint" report will be ordered on applicant and spouse. If credit report information is needed on other persons to complete the credit investigation, a separate "individual" report request, which will be paid by the applicant, is prepared for each person as opposed to the more costly "special services" reports. See § 1910.53 (d) of this subpart for requirements concerning when two "individual" credit reports must be ordered.

7. Section 1910.60 is amended by revising paragraph (c) to read as follows:

§ 1910.60 Processing order tickets.

* * * * *

(c) For both "individual" and "joint" reports the applicant as defined in 1910.54(b) of this subpart must complete in the "Subject" blocks the "Former Name," "Previous Residence Address" and "Length of residence." If an applicant has resided less than 2 years at the present address, the "Subject Previous Residence Address" block must be completed so that the contractor will know where to obtain an antecedent report.

* * * * *

Date: September 28, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–25239 Filed 10–29–87; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 150

Minor Nomenclature Amendment; Statement of Organization and General Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to Agreement States and Offshore Waters to correct an oversight that was made when a final rule regarding the NRC's organizational structure was recently published in the **Federal Register.** This amendment corrects references to a now defunct unit of the agency. The amendment is necessary to inform the public and affected licensees of the nomenclature changes.

EFFECTIVE DATE: October 30, 1987.

FOR FURTHER INFORMATION CONTACT: David L. Meyer (301) 492–7086.

SUPPLEMENTARY INFORMATION: On August 21, 1987, the NRC published a final rule that completely revised 10 CFR Part 1, "Statement of Organization and General Information," and made numerous conforming amendments to other parts of the 10 CFR to reflect chiefly nomenclature changes (52 FR 31601). Overlooked in that revision was a section in 10 CFR Part 150 that contained multiple references to a now defunct unit of the agency. This amendment corrects that oversight.

Because this amendment deals solely with agency organization and

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procedures, the notice and comment provisions of the Administrative Procedure Act do not apply under 5 U.S.C. 553(b)(A). The amendment is effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date, because the amendment is of a minor and administrative nature dealing with the agency's organization.

Environmental Impact; Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

Regulatory Analysis

This final rule pertains solely to the organization of the NRC; therefore, no backfit analysis has been prepared.

List of Subjects in 10 CFR Part 150

Hazardous materials—transportation, Intergovernmental relations, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendment to 10 CFR Part 150.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

1. The authority citation for Part 150 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. In § 150.20, paragraph (b)(1) is revised to read as follows:

§ 150.20 Recognition of Agreement State licenses.

* * * * *

(b) * * *

(1) Except as specified in paragraph (c) of this section, shall, at least 3 days before engaging in each such activity, file 4 copies of Form-241 (revised), "Report of Proposed Activities in Non-Agreement States," and 4 copies of its Agreement State specific license with the Regional Administrator of the U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D of Part 20 of this chapter for the Region in which the Agreement State that issued the license is located. That Regional Administrator may authorize the licensee to begin the activity upon notification by telephone of the licensee's intent to conduct the proposed activity under the general license: *Provided, however,* That 4 copies of Form-241 (revised) and 4 copies of the Agreement State license shall be filed within 3 days after the telephone notification. The Regional Administrator of the U.S. Nuclear Regulatory Commission Regional Office may waive the requirement for filing additional Forms-241 (revised) during the remainder of the calendar year following the receipt of the initial Form-241 (revised) from a person engaging in activities under the general license provided in this section;

* * * * *

Dated at Bethesda, Maryland, this 23rd day of October 1987.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 87-25062 Filed 10-29-87; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 514

[No. 87-1068]

Federal Savings and Loan Insurance Corporation Industry Advisory Committee

Date: October 22, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; request for comments.

SUMMARY: On August 10, 1987, the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987 (the "Recapitalization Act") was enacted into law as part of the Competitive Equality Banking Act of 1987. The Recapitalization Act creates a new advisory committee, to be called the Federal Savings and Loan Insurance Corporation Industry Advisory Committee ("Advisory Committee") by which means the savings and loan industry will become involved in the efforts to strengthen the Federal Savings and Loan Insurance Corporation.

The Federal Home Loan Bank Board ("Board") is adopting regulations that will establish the minimum procedures defining the responsibilities of its members. These regulations will also establish the method of operation and administration of the Advisory Committee. Although these regulations are effective immediately, the Board is soliciting postpromulgation comment on these regulations for possible subsequent amendment.

DATES: These regulations are effective October 30, 1987. Comments on the regulations must be received on or before November 30, 1987.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Richard J. Hotaling, Assistant Director, Office of District Banks, (202) 377-6715; Charles J. Szlenker, Attorney, Office of General Counsel, (202) 377-6664, Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: Congress established the Advisory Committee by the enactment of the Recapitalization Act (Pub. L. No. 100-86, 101 Stat. 595, *to be codified at* 12 U.S.C. 1441 *et seq.*). The Recapitalization Act, at section 302(i), includes some minimal procedures and requirements for the operation of the Advisory Committee. However, any other rules or procedures governing the Advisory Committee's operations must be promulgated under Board authority because Congress excluded the Advisory Committee from the auspices of the Federal Advisory Committee Act. This Part supplements those minimum procedures and requirements and establishes a basic framework of procedures that will enable the Advisory Committee to begin functioning as soon as possible. The purpose of this regulation is to implement the intent of Congress through the timely commencement of Advisory Committee activities.

The Board finds that the interests of the public and the Federal Savings and Loan Insurance Corporation are served if the Advisory Committee begins functioning as soon as possible. Consequently, these rules will be effective immediately and without prior notice and opportunity for public comment. The Board is taking this action pursuant to 12 CFR 508.11 and 508.14. Nevertheless, the Board is offering a period of time for the public to express its comments on these regulations. Pubic comment, even after the fact, affords the opportunity for members of the public to bring matters to the Board's attention that it may wish to address.

List of Subjects in 12 CFR Part 514

Federal Savings and Loan Insurance Corporation, Federal Savings and Loan Insurance Corporation Industry Advisory Committee.

Accordingly, the Board hereby amends Subchapter A by adding a new Part 514, Subchapter A, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER A—GENERAL

1. Subchapter A is amended by adding a new Part 514 to read as follows:

PART 514—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION INDUSTRY ADVISORY COMMITTEE

Sec.

514.1 Scope.
514.2 Definitions.
514.3 Duties and responsibilities of the Advisory Committee.
514.4 Membership.
514.5 Vacancies.
514.6 Chairperson responsibilities and duties.
514.7 Meeting procedures.
514.8 Travel expense reimbursement.
514.9 Conflicts of interest and disclosure of sensitive information.
514.10 Advisory Committee responsibility for safeguarding information.
514.11 Execution of agreement with Corporation.

Authority: Sec. 302, 101 Stat. 595, (12 U.S.C. 1441).

§ 514.1 Scope.

The following sections establish the minimum requirements and provide guidelines for the operation and administration of the Federal Savings and Loan Insurance Corporation Industry Advisory Committee established pursuant to the Recapitalization Act, Pub. L. No. 100-86, section 302(i), 101 Stat. 595.

§ 514.2 Definitions.

As used in this Part 514—

(a) *Advisory Committee.* The Federal Savings and Loan Insurance Corporation Industry Advisory Committee.

(b) *Bank.* A Federal Home Loan Bank.

(c) *Board.* A Federal Home Loan Bank Board.

(d) *Corporation.* The Federal Savings and Loan Insurance Corporation.

(e) *FADA.* The Federal Asset Disposition Association.

(f) *Insured savings institution.* A Federal savings and loan association, Federal savings bank, interim Federal association, a savings and loan association, a building and loan association, homestead association, a cooperative bank, or an interim state institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation.

(g) *Officer.* The president, any vice-president, (including executive, senior, assistant, second vice-presidents or similarly titled officers), the secretary, the treasurer, the comptroller, or other employee performing similar duties for any insured savings institution. The term also includes the chairman of the board of directors of an insured savings institution if the chairman is authorized by the institution's charter or by-laws to participate in its operating management.

(h) *Sensitive information.* Any information or data whether contained in reports, records, schedules, forms, or other format, and belonging to an/or related to the Board, Corporation, or FADA, which has not become part of the body of public information. The term "sensitive information" includes any part of such information or data and any reproduction or informative synopsis of such information or data.

§ 514.3 Duties and responsibilities of the Advisory Committee.

The Advisory Committee shall perform the following functions:

(a) Review the reports and budgets of the Corporation prepared pursuant to section 402(k) of the National Housing Act (Pub. L. No. 100-86, sec. 306(i), 101 Stat. 603 (12 U.S.C. 1725(k)); and any other matter that the Board may present for its consideration.

(b) Confer with the Board on the reports, budgets, and other matters reviewed under paragraph (a).

(c) Prepare written comments and recommendations for the Board and the Coporation with respect to the reports, budgets, and matters reviewed under paragraph (a) of this section, which shall be submitted to the Board no later than 45 days following the close of each Advisory Committee meeting.

(d) Submit, not later than January 15th of each calendar year, a report to the Committee on Banking, Finance, and Urban Affairs of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate, which report shall describe the Advisory Committee's activities during the preceding calendar year as well as any reports and recommendations made by the Advisory Committee to the Board or the Corporation.

§ 514.4 Membership.

(a) *Elected members.* The elected directors of the board of directors of each Bank shall, on an annual basis under such procedures as they may adopt, elect an individual to the membership of the Advisory Committee for a term of one year commencing February 1st of each calendar year and running through January 31st of the subsequent calendar year, provided that:

(1) Only current officers of insured institutions that are members of the electing Bank shall be eligible for election to the Advisory Committee membership; and

(2) The elected directors of each Bank, responsible for the election of Advisory Committee members pursuant to this Part, may provide for the recall of any elected Advisory Committe member elected in accordance with § 514.4, under such procedures as they may deem to be appropriate.

(b) *Chairperson.* The Chairman of the Board shall, on an annual basis, appoint an individual, who is currently an officer of an insured savings institution, to the Advisory Committee membership to hold the position of Chairperson for a term of one year commencing February 1st of each calendar year and running through January 31st of the subsequent calendar year, provided that:

(1) The Chairperson shall, during each term of office, be subject to removal by the Chairperson of the Board; and

(2) only individuals who are not Board members or employees, Corporation employees, or Bank directors are eligible for appointment as the Advisory Committee Chairperson.

(c) *Continuing eligibility.* Any member of the Advisory Committee, whether elected or appointed, who ceases to be an officer of an insured institution within a term of office shall cease to be a member of the Advisory Committee.

(d) *Other committee membership.* Current members of the Federal Savings and Loan Advisory Council shall be ineligible for election or appointment to the Advisory Committee unless they resign their membership on the Advisory Council.

(e) *Notification.* (1) *Elected members.* The president of each Bank completing an election pursuant to § 514.4 shall forward the name and address of the elected Advisory Committee member, along with a written certification of the election date and results, to the Director, Office of District Banks, of the Board by January 15th of the year the elected member's term begins.

(2) *Chairperson.* The Chairman of the Board shall inform the Board, in writing,

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of the name, address, and date of appointment of the Advisory Committee Chairperson, by January 15th of the year the term commences.

(f) *Initial term.* The term of office of any member of the Advisory Committee, whether elected or appointed on or before January 31, 1988, shall run through January 31, 1989.

§ 514.5 Vacancies.

(a) *Procedures.* Vacancies occurring on the Advisory Committee during the year shall be filled in the following manner as soon as practicable after the vacancy occurs:

(1) Any vacancy in the elected membership through resignation, recall, ineligibility, death, or incapacity of an elected member will be filled through an interim election by the appropriate Bank's elected board of directors for the remainder of the term; and

(2) A vacancy in the Chairperson position through resignation, removal, ineligibility, death, or incapacity will be filled by an interim appointment by the Chairman of the Board for the remainder of the term.

(b) *Notification*—(1) *Elected membership.* In the event a vacancy occurs in the Advisory Committee's elected membership, the President of the appropriate Bank shall promptly give written notification of the vacancy to the Director, Office of District Banks, of the Board.

(2) *Chairperson.* In the event a vacancy occurs in the Advisory Committee's Chairperson position, the Chairman of the Board shall promptly give written notification of the vacancy to the Board.

§ 514.6 Chairperson responsibilities and duties.

In addition to any other powers contained in this Part, or contained in any rules or procedures promulgated by the Advisory Committee, the Chairperson shall have the following duties and responsibilities:

(a) The Chairperson shall be the chief administrative officer of the Advisory Committee and shall call and preside over its meetings;

(b) The Chairperson shall be the Advisory Committee's liaison to the Board, the Corporation, and FADA;

(c) The Chairperson shall notify the Advisory Committee members and Board of the date, time, and place of any Advisory Committee meeting, but such notice shall be given not less than two weeks before such meeting is to be held;

(d) The Chairperson shall be the Advisory Committee's liaison with the Federal Savings and Loan Advisory Council in order to coordinate efforts and avoid, to the extent possible, unnecessary duplication of tasks, projects, and responsibilities by the Advisory Committee and the Advisory Council; and

(e) The Chairperson shall be responsible for the implementation of any security procedures and rules promulgated pursuant to § 514.10 of this part.

§ 514.7 Meeting procedures.

The meetings of the Advisory Committee shall be held in accordance with such procedures and guidelines as may be promulgated by the Advisory Committee, except that:

(a) No Advisory Committee meeting may be convened unless a quorum of at least seven members is present;

(b) All motions passed by the Advisory Committee shall be by a majority of the members present at a meeting;

(c) The Federal Advisory Committee Act shall be inapplicable to the conduct of meetings of the Advisory Committee, as provided in Pub. L. No. 100–86, section 302(i)(6), 101 Stat. 596; and

(d) Meetings may be called at any time at the discretion of the Chairperson, except that the Chairperson shall call a meeting when requested to do so by a majority of Advisory Committee members.

§ 514.8 Travel expense reimbursement.

Advisory Committee members shall serve without pay, but while engaged in the performance of their duties away from their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence, in the following manner:

(a) The Advisory Committee's Chairperson shall be reimbursed by the Board in accordance withthe Federal Travel Regulations, as amended, as authorized by section 5703 of Title 5, United States Code, for persons serving intermittently in the Government service, and in the manner prescribed by Board regulations and policies; and

(b) Each of the Advisory Committee's elected members shall be reimbursed by the Bank that elected such member in accordance with the procedures and policies of that Bank and in the manner prescribed by such Bank.

§ 514.9 Conflicts of interest and disclosure of sensitive information.

(a) Advisory Committee members shall not use their positions for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for themselves or another person.

(b) Advisory Committee members shall not use any sensitive information, as defined in this Part and obtained as a result of membership on the Advisory Committee, for private gain for themselves or another person, either directly or indirectly, or by counsel, recommendation, or suggestion to another person.

(c) Advisory Committee members shall not use their official positions to obtain from any person, group, or business or corporate entity any benefit and shall not solicit or accept from anyone anything of value as gift, gratuity, loan, entertainment, or favor or any other thing of monetary value for themselves or any other person where such solicitation or acceptance may result in, or create the appearance of, a conflict of interest.

(d) Advisory Committee members shall not, directly or indirectly, disclose, or permit the disclosure of, sensitive information to any person, group, or business or corporate entity unless authorized by the Board or the Corporation; and each Advisory Committee member shall take all reasonable measures to avoid unintentional or inadvertent disclosure of sensitive information.

§ 514.10 Advisory Committee responsibility for safeguarding sensitive information.

The Advisory Committee shall establish security procedures and rules to insure the safeguarding and protection of any sensitive information which the Advisory Committee may receive periodically from the Board, the Corporation, or FADA.

§ 514.11 Execution of agreement with Corporation.

In addition to any other provisions of this Part, the Corporation may require all Advisory Committee members, including the Chairperson, to execute an agreement, in a form prescribed by the Corporation, for the purpose of safeguarding sensitive information.

By the Federal Home Loan Bank Board.

John F. Chizzoni,

Assistant Secretary.

[FR Doc. 87–25249 Filed 10–29–87; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–NM–85–AD; Amdt. 39–5783]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which currently requires structural inspections and repair, as necessary, of the aft lower cargo doorway frames. This amendment permits repairs to be made in accordance with Boeing Service Bulletin 737–53–1096, Revision 1, dated April 2, 1987, or later FAA-approved revision, and provides an optional terminating action for the inspections required by the AD.

EFFECTIVE DATE: December 17, 1987.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Baillie, Airframe Branch, ANM–120S; telephone (206) 431–1927. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to revise AD 87–06–06, Amendment 39–5584; 52 FR 7566; March 12, 1987), which requires visual inspections and repair, as necessary, of cracks of the aft lower cargo doorway frames was published in the Federal Register on July 31, 1987 (52 FR 28564).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One comment was received from the Air Transport Association (ATA) of America on behalf of two ATA members. The member airlines requested that operators be allowed to repair cracks in accordance with the Boeing 737 Structural Repair Manual (SRM) in addition to the repair procedure outlined in Boeing Service Bulletin 737–53–1096 because of a 30-week lead time in getting the repair kits required by the service bulletin. The FAA has determined that the SRM repair is adequate on a temporary basis and has revised the AD accordingly. Terminating action, however, remains that outlined by Boeing Service Bulletin 737–53–1096, Revision 1. Repairs made in accordance with the SRM require continued repetitive inspections as outlined in the AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change noted above.

It is estimated that 475 airplanes of U.S. registry will be affected by this AD. Since this is an optional or relieving action there is no additional cost impact.

For these reasons, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 and significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Boeing Model 737 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By revising AD 87–06–06, Amendment 39–5584 (52 FR 7566; March 12, 1987), by revising paragraph B. and adding a new paragraph E., to read as follows:

Boeing: Applies to all Model 737 series airplanes, listed in Boeing Service Bulletin 737–53–1096, dated July 24, 1986, certificated in any category.

To prevent rapid loss of cabin pressure resulting from undetected frame cracking, accomplish the following prior to the accumulation of 20,000 landings or within the next 1,000 landing after the effective date of this AD, whichever occurs later, unless previously accomplished within the last 3,000 landings.

A. Conduct a close visual inspection of the forward and aft body frames adjacent to the aft lower cargo door for cracks, in the areas identified in Boeing Service Bulletin 737–53–1096, dated July 24, 1986, or later FAA-approved revisions. Thereafter, repeat the close visual inspections at intervals not to exceed 4,000 landings.

B. If cracks are found, repair prior to further flight in accordance with Boeing Service Bulletin 737–53–1096, Revision 1, dated April 2, 1987, or later FAA-approved revisions, or the Boeing 737 Structural Repair Manual.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Repair or modification of the forward and aft frames in accordance with Boeing Service Bulletin 737–53–1096, Revision 1, dated April 2, 1987, or later FAA-approved revision, constitutes terminating action for the repetitive inspections required by paragraph A. of this AD.

All persons affected by this directive who have not already received the appropriate service bulletin from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 17, 1987.

Issued in Seattle, Washington, on October 23, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–25114 Filed 10–29–87; 8:45 am]

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14 CFR Part 39

[Docket No. 87-NM-113-AD; Amdt. 39-5737]

Airworthiness Directives; McDonnell Douglas Model DC-10 and KC-10A Series Airplanes (Correction)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 87-21-04, applicable to McDonnell Douglas Model DC-10 and KC-10A series airplanes, which requires inspections and replacement, if necessary, of the inboard slat drive arm. The effective date for this AD was specified as October 14, 1987, but the final rule was not published in the **Federal Register** until October 19, 1987. This correction is necessary to establish an effective date which provides the affected operators with a sufficient period of time in which to comply with the rule.

EFFECTIVE DATE: October 30, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Kyle L. Olsen, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6321.

SUPPLEMENTARY INFORMATION: The FAA issued a final rule on September 17, 1987, applicable to McDonnell Douglas Model DC-10 and KC-10A series airplanes, which requires inspections and replacement, if necessary, of the inboard slat drive arm. When the AD was issued the FAA assigned an effective date of October 14, 1987, with the assumption that the final rule would be published in the **Federal Register** within 10 days after issuance. However, the AD was not published in the **Federal Register** until October 19, 1987, thereby depriving affected operators of a sufficient time in which to comply with the rule. Therefore, this correction establishes an effective date which provides the affected operators with an adequate period of time in which to comply with the rule.

Since this action only corrects an error in a final rule, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Correction

Pursuant to the Authority delegated to me by the Administer, the Federal Aviation Administration corrects § 39.19 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to reads as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 40 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By correcting the effective date of AD 87-21-04, Amendment 39-5737 (52 FR 38747) September 17, 1987, to read as follows: "(upon publication in the **Federal Register**)".

This amendment becomes effective October 30, 1987.

Issued in Seattle, Washington on October 23, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-25110 Filed 10-29-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket Number 86-ANE-34; Amdt. 39-5755]

Airworthiness Directives; Pratt & Whitney (PW) JT9D-7R4D, D1, E, E1, E4, G2, and H1 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires installation of containment shields in the fan case assembly and stronger material B-flange bolts on certain PW JT9D-7R4 turbofan engines prior to December 31, 1990. The AD is needed to prevent fragments of a failed fan blade from penetrating the fan case assembly which could result in damage to the aircraft.

DATES: *Effective*—December 17, 1987.

Compliance Schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register as of December 17, 1987.

ADDRESSES: The applicable service bulletins (SB's) may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457.

A copy of the SB's is contained in Rules Docket Number 86-ANE-34, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Diane Kirk, Engine Certification Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7082.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include a new AD requiring the installation of containment shields in the fan case assembly and stronger material B-flange bolts on certain PW JT9D-7R4 turbofan engines, was published in the **Federal Register** on March 11, 1987, (52 FR 7443).

The proposal was prompted by four fan blade failure events on the JT9D-7R4G2 engines in which the blade fragments penetrated the fan case assembly forward of B-flange, three of which were uncontained. Field experience and analysis indicated that the energy of a failed fan blade may have the required force to penetrate the fan case assembly. Since fan blade failures result in uncontained events, the improvement of the containment capability of the fan case assembly in the B-flange area is necessary.

Since this condition is likely to exist in other engines of the same type design, the AD requires modification of the fan case assembly by incorporating containment shields forward and rearward of B-flange, and replacement of B-flange bolts with stronger material bolts to improve fan containment capability on PW JT9D-7R4 series engines prior to December 31, 1990.

Interested persons have been afforded the opportunity to participate in the making of this amendment, and due consideration has been given to all relevant data and comments received. Six comments were received concerning the proposed rule.

Discussion of Comments

Three commenters requested that the proposed compliance period be extended one year to December 31, 1990, because the parts required to incorporate PW SB 72-311 or SB 72-312 on the JT9D-7R4 engines, in accordance with the proposed AD, are not presently available. Parts delivery will commence during the fourth quarter of 1987. The FAA has determined that a one year extension of the compliance period does not substantially affect the risk analysis for an uncontained failure event and therefore results in an acceptable level of safety. Further reduction in the probability of an uncontained failure is provided by voluntary compliance with daily fan blade inspections. Therefore, the FAA concurs with extending the compliance period to December 31, 1990.

The fourth commenter requested a correction to the paragraph under the caption "**SUPPLEMENTARY INFORMATION**" starting with "The FAA has determined . . .". The commenter stated that Pratt & Whitney has no record of a fan case penetration on a JT9D-7R4E powered B767 aircraft. The commenter is correct. All four events have occurred on JT9D-7R4G2 powered B747 aircraft in which the fan blade fractured and punctured the fan case forward of the B-flange. Three were uncontained events resulting in engine and aircraft damage.

The fifth commenter opposed the inclusion of the JT9D-7R4D engine in this proposed AD because a fan blade fracture event had not occurred on JT9D-7R4D powered aircraft. This commenter also stated that the risk of a fan blade failure event occurring in his fleet decreased with the incorporation of daily visual blade inspections in accordance with PW SB 72-255 and the implementation of the fan blade modifications in accordance with PW SB 72-273. Although the risk of an uncontained fan blade failure event has decreased with the incorporation of PW SB's 72-255 and 72-273, analysis indicates that the basic fan case design of all JT9D-7R4 engine models is similar to the JT9D-7R4G2 engine. This design deficiency in all JT9D-7R4 series engine fan cases does not meet the minimum fan blade containment requirement. Therefore, the FAA does not concur with excluding JT9D-7R4D engines from the proposed AD.

The sixth commenter questioned whether the bonding agent specified in the modification instructions (PW SB 72-311 or SB 72-312) is appropriate. This commenter stated that this agent has caused corrosion in this particular application and requested that the manufacturer revise work instructions before the proposed modifications begin. The FAA has no data to support the statement that the bonding agent, PWA 36003 adhesive, used in accordance with PW SB 72-311 or SB 72-312, causes corrosion. This silicone adhesive has been widely used on other applications with good results.

In light of the comments received, the FAA has determined that the compliance period can be extended to December 31, 1990. Except for this change and minor changes for clarity, the AD is adopted as proposed.

Conclusion

The FAA has determined that this proposed regulation involves 619 total engines at an approximate cost of $520,000. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since this proposed regulation affects only operators using B767, B747, A310, or A300 aircraft in which the JT9D-7R4 series engines are installed, none of which are believed to be small entities. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

List of Subjects in 14 CFR Part 39

Engines, Air Transportation, Aircraft, Aviation safety, Incorporation by Reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding to § 39.13 the following new airworthiness directive (AD):

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT9D-7R4D, D1, E, E1, E4, G2, and H1 turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent fan blade fragment penetration of the fan case assembly, accomplish the following prior to December 31, 1990.

(a) For JT9D-7R4G2 series turbofan engines:

(1) Modify fan case assembly by installing shield, Part Number (P/N) 802094, using bolts, P/N 1A7544, at B-flange, in accordance with PW Service Bulletin (SB) 72-311, Revision 2, dated August 19, 1987.

(2) Modify outer front fan exit case assembly (fan exit case and vane assembly), by installing ring segments, P/N's 803264-01, 803265-01, and 802448, in accordance with PW SB 72-311, Revision 2, dated August 19, 1987.

(3) Reidentify the modified fan case assembly, outer front fan exit case assembly, and the fan exit case and vane assembly, in accordance with PW SB 72-311, Revision 2, dated August 19, 1987.

(b) For JT9D-7R4D, D1, E, E1, E4, and H1 series turbofan engines:

(1) Modify fan case assembly by installing shield, P/N 802095, for JT9D-7R4D, D1, E, E1, and H1 series engines, and shield, P/N 802096, for JT9D-7R4E series, using bolts, P/N MS9209-16, at B-flange, in accordance with PW SB 72-312, Revision 2, dated June 26, 1987.

(2) Modify outer front fan exit case assembly, or detail of fan exit case and vane assembly, and install ring segments, P/N's 803261-01, 803262-01, and 802447, in accordance with PW SB 72-312, Revision 2, dated June 26, 1987.

(3) Reidentify the modified fan case assembly, the outer front fan exit case assembly, and the fan exit case and vane assembly, in accordance with PW SB 72-312, Revision 2, dated June 26, 1987.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

PW SB 72-311, Revision 2, dated August 19, 1987, and SB 72-312, Revision 2, dated June 26, 1987, identified and described in this document, are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. These documents also may be examined in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Rules Docket Number 86-ANE-34, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

This amendment becomes effective on December 17, 1987.

Issued in Burlington, Massachusetts, on October 9, 1987.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 87-25113 Filed 10-29-87; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. C-3191]

Occidental Petroleum Corp., et al; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, allows Occidental Petroleum Corp. to proceed with its tender offer for MidCon Corp. and their subsequent merger. Respondent is required to divest MidCon's subsidiary, Mississippi River Transmission Corp. (MRT), within one year after the order becomes final. Additionally, respondent and its subsidiary, Cities Service Oil and Gas Corp., is prohibited from entering into any new agreements to sell natural gas to MRT until the divestiture is completed.

DATE: Complaint and Order issued June 25, 1986 [1].

FOR FURTHER INFORMATION CONTACT: FTC/S-3302, Marc G. Schildkraut, Washington, DC 20580. (202) 326-2622.

SUPPLEMENTARY INFORMATION: On Monday, March 17, 1986, there was published in the **Federal Register**, a proposed consent agreement with analysis In the Matter of Occidental Petroleum Corporation and MidCon Corp., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order, approving the divestiture, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock Or Assets: Section 13.5 Acquiring corporate stock or assets; § 13.5-20 Federal Trade Commission Act. Subpart—Combining Or Conspiring: Section 13.470 To restrain and monopolize trade.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

Subpart—Corrective Actions And/Or Requirements: Section 13.533 Corrective actions and/or requirements; § 13.533-45 Maintain records; §13.533-50 Maintain means of communication.

List of Subjects in 16 CFR Part 13

Mergers, Natural gas, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Emily H. Rock,

Secretary.

[FR Doc. 87-25109 Filed 10-29-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 45

[DoD Instruction 1336.1]

Certificate of Release or Discharge From Active Duty (DD Form 214/5 Series)

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule amendment.

SUMMARY: Reserve component members servicing in a new category—active duty for special work (ADSW) may serve tours of only one or two days. Preparing Forms 214 in such cases imposes significant administrative difficulties. This amendment would require preparation of Forms 214 only for ADSW tours of 90 days or more, as is already the case for active duty for training (ADT) tours and Army's temporary tours of active duty (TTAD) program.

EFFECTIVE DATE: June 12, 1987.

FOR FURTHER INFORMATION CONTACT: Lt Colonel S. Strobridge, Office of the Assistant Secretary of Defense (Force Management and Personnel), Pentagon, Washington, DC 20301, telephone (202) 695-5312.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 45

Armed forces reserves, Military personnel.

PART 45—CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214/5 SERIES)

Accordingly, Title 32 CFR Part 45 is amended to read as follows:

1. The authority citation for Part 45 continues to read as follows:

Authority: 10 U.S.C. 1168 and 972.

2. In § 45.3 paragraphs (b)(2), (c)(2), and (e)(1)(v) are revised to read as follows:

§ 45.3 Policy and procedures.

* * * * *

(b) * * *

(2) *Release from Active Duty, or Active Duty for Special Work.* Personnel being separated from a period of active duty for training, full-time training duty, or active duty for special work will be furnished a DD Form 214 when they have served 90 days or more, or when required by the Secretary concerned for shorter periods. Personnel shall be furnished a DD Form 214 upon separation for cause or for physical disability regardless of the length of time served on active duty.

* * * * *

(c) * * *

(2) Personnel whose active duty, active duty for training, full-time training duty or active duty for special work is terminated by death.

* * * * *

(e) * * *

(1) * * *

(v) *Copy No. 5.* To the Louisiana UCX/UCFE, Claims Control Center, Louisiana Department of Labor, P.O. Box 94246, Capital Station, Baton Rouge, Louisiana 70804-9246.

* * * * *

3. In § 45.3(d)(5), change "1978" to read "the current".

4. In § 45.3(g), change "(Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L))" to "(Force Management and Personnel) (ASD(FM&P))".

§ 45.4 [AMENDED]

5. In § 45.4(d)(1), change "Bureau of Naval Personnel, (PERS 3)" to "Naval Military Personnel Command".

6. In § 45.5, the entry for "Delaware" is revised to read as follows:

§ 45.5 State Directors of Veterans Affairs.

* * * * *

Delaware
Chairman, Commission of Veterans Affairs, P.O. Box 1401, Dover DE 19901"

* * * * *

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 28, 1987.

[FR Doc. 87-25150 Filed 10-29-87; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Part 72

Acquisition of Educational Program in Overseas Areas

AGENCY: Office of the Secretary, DoD.

ACTION: Interim rule.

SUMMARY: The Office of the Secretary of Defense issued a directive-type memorandum pending issuance of a Department of Defense Instruction to implement Pub. L. 99-145, section 1212(b), codified at 10 U.S.C., section 113 note. The memorandum establishes criteria for acquisition of civilian post-secondary education programs in overseas areas. Specifically, the memorandum sets controls to avoid unnecessary duplication of educational programs on an installation.

DATE: Effective October 30, 1987.

Written comments from the public are solicited and must be received by November 30, 1987. Comments will be considered in the preparation of the Instruction that will supersede the interim rules set forth below. The Instruction will be published for public notice and comment prior to issuance.

ADDRESS: Office of the Assistant Secretary of Defense (Force Management and Personnel), The Pentagon, Room 3E764, Washington, DC 20301-4000.

FOR FURTHER INFORMATION CONTACT: Lenore E. Saltman, 202-695-1760.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 72

Education.

Accordingly, Title 32 is amended to add Part 72 as follows:

PART 72—ACQUISITION OF EDUCATIONAL PROGRAMS IN OVERSEAS AREAS

Sec.
72.1 Purpose.
72.2 Applicability and scope.
72.3 Responsibilities.
72.4 Criteria for the control of unnecessary duplication.

Authority: Pub. L. 99-145, sec. 1212(b).

§ 72.1 Purpose.

(a) Pending the signing of a DoD issuance implementing Pub. L. 99-145, section 1212(b), this part establishes uniform procedures for the Services to avoid the unnecessary duplication of post-secondary educational offerings. It constitutes an interim regulation under Pub. L. 99-145, section 1212(b), and is issued pursuant to DoD Directives 5124.2 [1] and 5025.1 [2]. The procedures set forth below will be reissued in accordance with subsection D.3. of DoD Directives 5025.1.

(b) Pursuant to Pub. L. 99-145, this part:

(1) Reflects the statutory requirement, subject to the exceptions in paragraph (b)(2) of this section that no solicitation, contract or agreement for the provision of off-duty post-secondary education services for military members, civilian employees of the Department of Defense, or the dependents of such military members or employees, other than for services at the graduate or postgraduate level, may limit the offering of such services or any group, category or level of courses to a single academic institution;

(2) Prescribes criteria for avoiding the unnecessary duplication of educational services by exercising the authority in Pub. L. 99-145, section 1212(b), to grant exceptions, when required, to paragraph (b)(1) of this section;

(3) Assigns responsibility for the implementation of this part.

§ 72.2 Applicability and scope.

This part applies to the Office of the Secretary of Defense and the Military Departments, and its requirements shall be extended to all persons seeking or receiving off-duty post-secondary education services, as described in § 72.1(b)(1).

§ 72.3 Responsibilities.

(a) Each overseas Theater Commander shall implement this part.

(b) Theater Commanders, may, when necessary to avoid unnecessary duplication of offerings of post-secondary educational services, authorize the issuance of solicitations and the execution of contracts and agreements that define the requirement so as to limit the provision of such offerings on an installation to one institution or a prescribed number of institutions.

(c) Theater Commanders may delegate the authority in paragraph (b) of this section but not below the level of a general or flag officer, or a civilian equivalent.

§ 72.4 Criteria for the control of unnecessary duplication.

(a) For the purpose of this part, "unnecessary duplication" means any duplication that is detrimental to the educational services program within the theater.

(b) The following criteria must be satisfied in order to limit the number of providers of post-secondary education services:

(1) The demographic distribution of the potential student population precludes the effective delivery of post-secondary educational services by multiple offerers.

(2) Adequate classroom space to meet educational program needs is not available to multiple providers.

(3) Adequate administrative space needed to support educational programs is not available for multiple providers.

(4) DoD educational staff at installation level that is needed to manage educational programs is not available.

(5) The Theater Commander cannot reasonably provide logistic support to installations and those employees employed in providing educational programs if there are multiple providers. Logistic support includes military supplies, services, facilities, transportation, privileges and other benefits provided to nongovernmental entities or individuals.

(6) Status of Forces Agreements (SOFAs) preclude multiple providers.

(c) Where necessary, the enrollment generated at large installations must be used to balance the enrollments at small/remote locations in the interest of providing for economies of scale and to ensure availability of the widest range of educational services possible at a reasonable tuition rate.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 26, 1987.

[FR Doc. 87-25145 Filed 10-29-87; 8:45 am]

BILLING CODE 3810-01-M

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 301, 5801 Tabor Avenue, Philadelphia, PA 19120.

[2] See footnote 1 to § 72.1(a).

32 CFR Part 249

[DoD Instruction 5230.27]

Presentation of DoD-Related Scientific and Technical Papers at Meetings

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This part provides policy and procedural guidance for considering national security in the dissemination of DoD-sponsored scientific and technical information at meetings, whether such meetings are conducted by the U.S. Government or private organizations.

EFFECTIVE DATE: October 6, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. F. Sobieszczyk, Office of the Under Secretary of Defense (Acquisition), the

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Pentagon, Washington, DC 20301, telephone (202) 694–0205.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 249

Meetings, Conferences, Classified information, Information release and dissemination.

Accordingly, Title 32 is amended to add Part 249 as follows:

PART 249—PRESENTATION OF DoD-RELATED SCIENTIFIC AND TECHNICAL PAPERS AT MEETINGS

Sec.

249.1 Purpose.
249.2 Applicability and scope.
249.3 Definitions.
249.4 Policy.
249.5 Procedures.
249.6 Responsibilities.

Authority: 10 U.S.C. 130.

§ 249.1 Purpose.

This part amplifies policy set forth in DoD Directive 3200.12,[1] assigns responsibilities, prescribes procedures, and provides guidance for consideration of national security concerns in the dissemination of scientific and technical information in the possession or under the control of the Department of Defense at conferences and meetings. It supports current policies regarding classified meetings and requirements for review of scientific and technical papers; provides guidance for reviewing and presenting papers containing export-controlled DoD technical data; establishes procedures for containing DoD advice on independently-produced scientific and technical papers; and provides criteria for identifying fundamental research activities performed under contract or grant that are excluded from review requirements.

§ 249.2 Applicability and scope.

This part applies to the Office of the Secretary of Defense (OSD) DoD Field Activities, the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Defense Agencies, and the Unified and Specified Commands (hereafter referred to collectively as "DoD Components").

§ 249.3 Definitions.

Contracted Fundamental Research

Includes grants and contracts that are (a) funded by budget Category 6.1 ("Research"), whether performed by universities or industry or (b) funded by budget Category 6.2 ("Exploratory Development") and performed on-campus at a university. The research shall not be considered fundamental in those rare and exceptional circumstances where the 6.2-funded effort presents a high likelihood of disclosing performance characterics of military systems or manufacturing technologies that are unique and critical to defense, and where agreement on restrictions have been recorded in the contract or grant.

DoD Personnel. All civilian officers and employees, including special Government employees, of all DoD Components, and all active duty officers (commissioned and warrant) and enlisted members of the Army, Navy, Air Force, and Marine Corps.

§ 249.4 Policy.

It is DoD policy to:

(a) Encourage the presentation of scientific and technical information generated by or for the Department of Defense at technical meetings consistent with United States laws and the requirements of national security.

(b) Permit DoD Components to conduct scientific and technical conferences, and to permit DoD Component personnel to attend and participate in scientific and technical conferences that are of demonstrable value to the Department of Defense, and consult with professional societies and associations in organizing meetings of the societies and associations that are mutually beneficial.

(c) Allow the publication and public presentation of unclassified contracted fundamental research results. The mechanism for control of information generated by DoD-funded contracted fundamental research in science, technology, and engineering performed under contract or grant at colleges, universities, and non-government laboratories is security classification. No other type of control is authorized unless required by law.

(d) Release information at meetings in a manner consistent with statutory and regulatory requirements for protecting the information. Such requirements include, but are not limited to, protection of classified, unclassified export-controlled, proprietary, privacy, and foreign government provided information.

(e) Provide timely review of DoD employee and contractor papers intended for presentation at scientific and technical conferences and meetings, and if warranted and authorized by contract in the case of contractor employees, prescribe limitations on these presentations. Dissemination restrictions shall be used only when appropriate authority exists.

(f) Assist DoD contractors and, when practical, others in determining the sensitivity of or the applicability of export controls to technical data proposed for public disclosure.

(g) Approve release of classified or controlled unclassified DoD information to foreign representatives when such release promotes mutual security or advances the interests of an international military agreement or understanding in accordance with foreign disclosure policies of the Department of Defense. Presentation of such information at technical meetings attended by foreign representatives is appropriate when the release is made under the terms of existing security arrangements and when the Department of Defense and receiving government have established an understanding or agreement in that specific scientific or technical area.

(h) Refrain from interfering with the planning and organizing of meetings sponsored and conducted by non-government organizations. The type and level of DoD participation in such meetings will be determined taking account of such factors as benefit to the Department of Defense and how the meetings are being conducted.

§ 249.5 Procedures.

(a) *General* Conferences organized by DoD Components, DoD contractors, scientific and engineering societies, and/or professional associations, among others, can enhance the value of research and development sponsored by the Federal Government, and in such cases require full cooperation of all involved parties to obtain maximum benefits. Every effort should be made to develop presentations that are appropriate for delivery to the widest appropriate audience consistent with the interests of national security. In general, national security concerns related to the disclosure of DoD scientific and technical information at meetings are influenced by two mutually dependent factors; i.e. the sensitivity of the material to be presented, and the identity of proposed recipients of the material. These considerations and their impact on proposed meetings can be evaluated only through consultation among authors, conference organizers, and officials responsible for authorizing release of DoD information. The purpose of this consultation is to ascertain which combination of factors will support the most productive exchange of information consistent with U.S. laws and the requirements of national security. Interaction among concerned parties should commence at least six months before the meeting date.

(b) *Information to be Presented.* Possibilities range from completely unclassified/unlimited through classified information. Other considerations having an impact on meeting organization include, but are not limited to, proprietary data, export-controlled data, Privacy Act information, and foreign government-provided data.

(1) Classified information may be presented only at meetings organized in accordance with DoD Directive 5200.12.[2]

(2) Unclassified export-controlled DoD technical data may be presented only in sessions where recipients are eligible to receive such data as established by 32 CFR Part 250.

(3) Presentation of proprietary information, privacy data, and foreign government-provided data requires approval of the party controlling that information.

(c) *Location of Meetings and Access Controls.* To a large degree location of and access to meetings are dependent on the type of material to be presented.

(1) Papers which have been cleared for public release may be presented at any location and before any audience.

(2) Criteria established by 32 CFR Part 250 for releasing unclassified documents containing unclassified export-controlled DoD technical data also are applicable to presentations containing such data. Unclassified export-controlled DoD technical data may be released to:

(i) United States and Canadian government officials, with the understanding that the information is to be used for official government purposes only. Technical data that falls outside the exemptions for export to Canada in United States export regulations may not be transferred under this and the following provision.

(ii) United States and Canadian citizens and resident aliens when disclosure is subject to the terms of a current (DD Form 2345) "Militarily Critical Technical Data Agreement."

(iii) Foreign nationals and United States citizens acting as representatives of foreign interests where disclosure is made in accordance with a license, approval, or exemption under the International Traffic in Arms Regulations or the Export Administration Regulations.

(3) Non-government organizations who organize meetings in the United States at which unclassified export-controlled DoD technical data is to be presented will be required to ensure that physical access to the presentations is limited to those eligible to receive such data (as described in paragraph (c)(2) of this section) before being permitted to present such data.

(4) Meetings sponsored by a United States Government agency at which unclassified export-controlled DoD technical data is to be presented may be held in any location in the United States when control of physical access to the sessions is provided by a United States Government employee or a contractor specifically tasked by Department of Defense for that duty.

(5) Presentation of unclassified export-controlled DoD technical data in meetings held outside the United States may be permitted on a case-by-case basis after review of the situation by officials authorized to do so by the Director of Defense Research and Engineering, Office of the Under Secretary of Defense (Acquisition) or heads of DoD Components.

(6) When it is necessary to limit access to presentations of DoD-related scientific and technical papers, and private or professional organizations are unwilling or unable to provide required controls, DoD Components may, at their discretion, conduct meetings which correlate in place and topic with open meetings of such societies to take advantage of the fact that interested parties are already gathered.

(7) Classified information may be presented only at meetings held in a secure government or cleared contractor facility, unless a waiver has been granted in accordance with DoD Directive 5200.12. Personnel access controls for classified meetings also are specified in DoD Directive 5200.12.

(d) *Foreign Representative Access to Meetings.* (1) For classified meetings sponsored by the Department of Defense and conducted at a contractor facility, guidelines for foreign participation are established in DoD Directive 5230.11 [3] and DoD Instruction 5230.20.[4] Guidelines for the reporting of foreign participation in classified meetings are contained in DoD Directive 5200.12.

(2) For unclassified meetings sponsored and conducted by organizations other than the Department of Defense, the sole responsibility of determining whether foreign access is appropriate rests with the sponsor. The level and type of DoD participation in the meeting shall take into account the presence of foreign representatives, if any.

(3) In order to advance the interests of an international military agreement or understanding, the Department of Defense may wish to release to certain foreign nationals unclassified export-controlled DoD technical data being presented at unclassified, restricted access meetings sponsored and conducted by non-government societies and associations. Release in such cases by Department of Defense shall be pursuant to appropriate exemptions to the International Traffic in Arms Regulations (22 CFR Part 126), which relieves the society or association from responsibility to obtain export approvals for these presentations. DoD sponsorship is for the sole purpose of granting access to DoD-sponsored technical information. When societies or associations agree to DoD sponsorship of foreign attendance under these circumstances, the visit request procedures established in DoD Instruction 5230.20 shall be used to obtain and process requests from foreign representatives for sponsorship, and to inform the requestor and the meeting sponsor of the decision to release the information and conditions pertaining to such release.

(e) *Clearance for Public Release.* A review is required by DoD Directive 5230.9 [5] for all public releases by DoD personnel, including all presentations from DoD laboratories. DoD contractors are required to submit proposed presentations for review if that is a specific contractual requirement. Papers resulting from unclassified contracted fundamental research are exempt from prepublication controls and this review requirement.

(1) Proposed presentations shall be reviewed to:

(i) Determine what information, if any, in the submitted paper and/or abstract is subject to security classification, is subject to withholding from public disclosure under 32 CFR Part 250 or is otherwise restricted by statute, regulation or DoD policy.

(ii) Recommend specific changes, if any, to allow the paper to be presented as requested.

(iii) Indicate on the document its releasibility in original and amended versions.

(iv) Provide information on appeal procedures to be followed if requested clearance is denied.

(2) Reviews shall be completed as speedily as possible after receipt of the document by an appropriate public clearance authority. If a review cannot be completed in a timely manner, an explanation shall be provided. Every

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Attn: Code 301, Philadelphia PA 19120.

[2] See footnote 1 to § 249.1.

[3] See footnote 1 to § 249.1.

[4] See footnote 1 to § 249.1.

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effort shall be made to complete the review in:

(i) Ten working days for all abstracts.

(ii) Twenty working days for papers submitted for presentation at sessions that will have unlimited access.

(iii) Thirty working days for papers submitted for presentation at unclassified sessions that will have limited access.

(iv) Thirty working days for papers submitted for presentation at sessions that will be classified.

(f) *Voluntary Submissions.* Authors or organizations not subject to mandatory reviews may submit their papers to DoD activities to obtain advice on national security concerns. Resources permitting, DoD public release activities shall arrange review of the papers and

(1) Inform the author that the Department of Defense has no objection to public presentation or

(2) Inform the author that the Department of Defense advises that presentation in a public forum would not be in the interest of national security, and provide appropriate reasons for the determination. The clearance for public presentation, paragraph (f)(1) of this section, satisfies an exemption from requirements for government review under the International Traffic in Arms Regulations. The latter determination, paragraph (f)(2) of this section, does not legally bar presentation. It is an advisory statement that, for the presentation concerned, Department of Defense is not providing the authority for public release. Such DoD action does not preclude recourse by the author through normal State Department export license procedures.

(g) *Submission Procedures.* (1) Authors shall submit full text and/or abstract of paper for review before submitting it to conference organizers. Clearance of abstract does not satisfy any requirement for clearance of the full paper. Requests for review shall identify the conference sponsor(s), site, and access restrictions specified by the session organizers, and shall state whether the paper is for presentation at a session that is to be unclassified with unlimited access, unclassified with limited access, or classified. Level of classification and access restrictions shall be specified, where appropriate.

(2) Papers shall be submitted for public and/or foreign disclosure clearance in sufficient time to allow adequate review and possible revision. Authors should allow adequate time for their presentation to reach the appropriate review authority in addition to the review targets set in paragraph (e)(2) of this section.

(3) At time of submission of the full text of the presentation to the Conference Program Committee, authors should state that their papers have been approved for presentation at the meeting and specify the security level of degree of access control required. When submitting abstracts that have been cleared for release, authors should indicate when and what kind of approval is expected on the presentation in its final form.

(h) In accordance with DoD Directive 3200.12, copies of proceedings and/or reprints of papers sponsored by the Department of Defense for all scientific and technical meetings will be provided to the Defense Technical Information Center, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304 for secondary distribution.

§ 249.6 Responsibilities.

(a) The *Under Secretary of Defense for Acquisition* (USD(A)) shall be responsible for implementing this part.

(b) The *Deputy Under Secretary of Defense for Research and Advanced Technology* shall:

(1) Administer and monitor compliance with this part.

(2) Provide, when necessary, technical assistance to DoD Components in determining sufficiency of protection of unclassified technical information that is to be presented at meetings.

(3) Provide, upon request, information and advice regarding controls on unclassified DoD information to scientific and engineering societies and professional associations.

(c) The *Under Secretary of Defense for Policy* (USD(P)) shall develop and promulgate, as required, policy guidance to DoD Components for implementing this instruction.

(d) The *Deputy Under Secretary for Defense (Policy)* (DUSD(P)) shall establish and monitor compliance with policies and procedures for disclosure of classified information at meetings.

(e) The *Heads of DoD Components* shall:

(1) Promulgate this part within 180 days.

(2) Designate an individual who will be responsible for reviewing and approving requests for export-controlled meetings outside the United States, and for ensuring compliance with this part.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 27, 1987.

[FR Doc. 87-25240 Filed 10-29-87; 8:45 am]

BILLING CODE 3810-01-M

National Security Agency

32 CFR Part 299a

[NSA/CSS Reg. 10-35]

Privacy Act Systems of Records; Disclosure and Amendment Procedures; Specific Exemptions, National Security Agency

AGENCY: National Security Agency (NSA), DoD.

ACTION: Amendment of a final exemption rule.

SUMMARY: An existing specific exemption rule is amended for NSA record system: GNSA10, entitled: NSA/CSS Personnel Security File. This system of records is subject to the Privacy Act of 1974 (5 U.S.C. 552a) and an expanded exemption is required to protect testing and examination materials maintained therein. Exemption from certain provisions of the Privacy Act of 1974 is required to protect the objectivity and fairness of the testing or examination procedures.

DATE: This amendment is a final rule and effective November 30, 1987.

ADDRESS: Send any comments to Patricia Schuyler, Office of Policy, National Security Agency, Fort George G. Meade, MD, 20755-6000. Telephone: 301-688-6527.

FOR FURTHER INFORMATION CONTACT: Vito T. Potenza, Assistant General Counsel (Litigation), Office of General Counsel, National Security Agency, Fort George G. Meade, MD 20755-6000. Telephone: 301-688-6054.

SUPPLEMENTARY INFORMATION: This amendment of a specific exemption rule for an existing NSA record system, GNSA 10, NSA/CSS Personnel Security Files, is being made pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a(k) so as to exempt record system GNSA 10 from certain subsections of the Privacy Act by invoking and adding the (k)(6) exemption. The publication requirements of this amended exemption rule is made in accordance with the requirements of 5 U.S.C. 553. This amendment to 32 CFR Part 299a consists of changing § 299a.10(b)(10) by adding to the "Authority" citation—(k)(6) and giving the rationale for claiming this exemption by adding a new paragraph at the end of the "Reasons" citation.

List of Subjects in 32 CFR Part 299a

Privacy, Exemptions.

For the reasons set out in the preamble, § 299a.10(b)(10) of 32 CFR Part 299a is amended as set forth below by amending the "Authority" caption and adding a new paragraph to the "Reasons" caption.

1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 552a, the Privacy Act of 1974; 5 U.S.C. 552, the Freedom of Information Act as amended by Pub. L. 93-502; Pub. L. 86-36, Pub. L. 88-290 and 18 U.S.C. 798.

2. Amend § 299a.10(b)(10) by revising the authority paragraph as follows:

§ 299a.10 Specific exemptions.

* * * * *

(10) * * *

Authority: 5 U.S.C. 552a (k)(1), (k)(2), (k)(5), and (k)(6)

Reasons * * *

3. Add a new paragraph to the *Reasons* paragraph as follows:

* * * * *

This system of records is exempted from all subsections cited pursuant to exemption (k)(6) to protect testing or examination materials and procedures, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

* * * * *

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 26, 1987.

[FR Doc. 87-25147 Filed 10-29-87; 8:45 am]

BILLING CODE 3810-01-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 307

Cost of Living Adjustment of the Mechanical Royalty Rate

AGENCY: Copyright Royalty Tribunal.

SUMMARY: The Copyright Royalty Tribunal announces an adjustment of the mechanical royalty rate based upon the change in the Consumer Price Index from December, 1985 to September, 1987. The rate is increased to either 5.25 cents, or 1 cent per minute of playing time or fraction thereof, whichever amount is larger. The adjustment is being made in accordance with § 307.3(d) of the Tribunal's rules.

EFFECTIVE: January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC. 20036 (202) 653-5175.

SUPPLEMENTARY INFORMATION: Earlier this year, the Copyright Royalty Tribunal conducted a proceeding to determine the method by which the mechanical royalty rate would be adjusted for the ten-year period beginning January 1, 1988 and ending December 31, 1997. The Tribunal adopted a joint proposal submitted by the National Music Publishers' Association, The Songwriters Guild of America and the Recording Industry Association of America, Inc. to make periodic adjustments to the mechanical royalty rate based upon changes in the Consumer Price Index (CPI), except when the CPI declined, in which case the mechanical rate could go no lower than the rates in effect in 1986-1987, and except when the CPI increased by more than 25%, in which case the rates would be no greater than 25%. *1987 Adjustment of the Mechanical Royalty Rate,* 52 FR 22637 (June 15, 1987), as corrected, 52 FR 23546 (June 23, 1987).

The first of the rate adjustments is to be made for the period January 1, 1988 to December 31, 1989 based upon the change in the CPI from December, 1985 to September, 1987, rounded off to the nearest 1/20th of a cent.

Accordingly, it is announced that the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) is 5.19% (December, 1985's Index was 327.4 and September, 1987's Index was 344.4). The current mechanical rate is 5 cents, or .95 cent per minute of playing time or fraction thereof, whichever amount is larger. Adjusting that rate upward by 5.19% and rounding off the results to the nearest 1/20th of a cent, the new rate, to become effective January 1, 1988, shall be 5.25 cents, or 1 cent per minute of playing time or fraction thereof, whichever amount is larger. Section 307.3 is revised as shown below.

List of Subjects in 37 CFR Part 307

Copyright, Music, Recordings.

For the reasons set forth in the preamble, the Tribunal amends 37 CFR Part 307 as follows:

PART 307—[AMENDED]

1. The authority citation for Part 307 continues to read as follows:

Authority: 17 U.S.C. 801(b)(1) and 804.

§ 307.3 [Amended]

2. Section 307.3(d) is revised to read as follows:

* * * * *

(d) For every phonorecord made and distributed on or after January 1, 1988, the royalty payable with respect to each work embodied in the phonorecord shall be either 5.25 cents, or 1 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraph (e) of this section.

* * * * *

3. Section 307.3(e)(1) is revised to read as follows:

* * * * *

(e)(1) On November 1, 1989, and each November 1 biennially thereafter until November 1, 1995 (that is, November 1, 1991, 1993, and 1995), the Copyright Royalty Tribunal (CRT) shall publish in the **Federal Register** a notice of the percent change in the Consumer Price Index (all urban consumers, all items) (CPI) from the Index published for the September two years earlier to the Index published for the September of the year in which such notice is published, and the underlying calculations.

* * * * *

J.C. Argetsinger,

Chairman.

Dated: October 26, 1987.

[FR Doc. 87-25192 Filed 10-29-87; 8:45 am]

BILLING CODE 1410-09-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL-3279-5]

Delayed Compliance Order for Rexworks, Milwaukee, WI

AGENCY: U.S. Environmental Protection Agency (U.S. EPA).

ACTION: Final rulemaking.

SUMMARY: The Administrator of the U.S. EPA hereby issues a Delayed Compliance Order (DCO) to Rexworks. The Order requires the company to bring volatile organic compound (VOC) emisions from its paint spray booths into compliance with Wisconsin Rule Natural Resources (NR) 154.13(4)(m), contained in the federally approved Wisconsin State Implementation Plan (SIP). Compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulation covered by the Order during the period the Order is in effect.

EFFECTIVE DATE: This final rulemaking becomes effective October 30, 1987.

FOR FURTHER INFORMATION CONTACT: Susan Perdomo, Office of Regional Counsel, U.S. Environmental Protection Agency, Chicago, Illinois 60604, (312) 886-0557.

ADDRESS: The Delayed Compliance Order and supporting material are

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available for public inspection and copying during normal business hours at: Office of Regional Counsel, U.S. EPA, Region V, 111 West Jackson Street, Trans Union Building—Third Floor, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: On May 28, 1987, the Regional Administrator of U.S. EPA's Region V office published in the **Federal Register**, 52 FR 19893, a notice setting out the provisions of a proposed delayed compliance order for Rexworks located in Milwaukee, Wisconsin. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No comments were received; therefore, a delayed compliance order effective this date is issued to Rexworks by the Administrator of U.S. EPA, pursuant to the authority of section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Rexworks on a schedule to bring its paint spray booths into compliance as expeditiously as practicable with NR 154.13(m)(3)(c), a part of the Wisconsin SIP. The company is unable to comply immediately with the regulation. If the conditions of the Order are met, the Order will permit Rexworks to delay demonstration of compliance with the SIP regulations covered by the Order until December 31, 1987.

Compliance with the Order by Rexworks will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulation covered by the Order during the period that the Order is in effect. Similarly, citizen suits, under section 304, are precluded. If the Administrator determines that Rexworks is in violation of a requirement contained in the Order, one or more of the actions required by section 113(d)(9) of the Clean Air Act will be initiated. Publication of this notice for final rulemaking constitutes final Agency action for the purpose of judicial review under section 307(b) of the Clean Air Act.

Air Pollution Control

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Rexworks on a schedule for compliance with the applicable requirements of the Wisconsin SIP. Rexworks has consented to the terms of the Order. The notice of proposed rulemaking asked that public comments be received by June 29, 1987. No public comments were received. Therefore, a Delayed Compliance Order, effective (today's date), is issued to Rexworks for its facility located in Milwaukee, Wisconsin. Source compliance with the Order preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act.

Under section 307(b) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 29, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 65

Intergovernmental relations, Air pollution control.

Dated: October 23, 1987.

Lee M. Thomas,

Administrator.

[FR Doc. 87-25200 Filed 10-29-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6767]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Pennsylvania: Manorville, Borough of, Armstrong County	420096	Apr. 7, 1975, Emerg.; July 2, 1987, Reg.; July 2, 1987, Susp.; Aug. 3, 1987, Rein.	July 2, 1987.
Wisconsin:			
*Hammond, Village of, St. Croix County	550382	Oct 23, 1975, Emerg.; July 16, 1987, Reg.; July 16, 1987, Susp.; Aug. 4, 1987, Rein.	July 16, 1987.
*Mineral Point, City of, Iowa County	550160	July 25, 1975, Emerg.; July 16, 1987, Reg.; July 16, 1987, Susp.; Aug. 4, 1987, Rein.	Do.
Michigan: *Ironwood, Township of, Gogebic County	260403	Mar. 6, 1978, Emerg.; July 1, 1987, Reg.; July 1, 1987, Susp.; Aug. 5, 1987, Rein.	July 1, 1987.
Iowa: *Quasqueton, Town of, Buchanan County	190332	May 6, 1977, Emerg.; July 2, 1987, Reg.; July 2, 1987, Susp.; Aug. 6, 1987, Rein.	July 2, 1987.
Georgia: *Thunderbolt, Town of, Chatham County	130460	Apr. 22, 1980, Emerg.; July 2, 1987, Reg.; July 2, 1987, Susp.; Aug. 6, 1987, Rein.	Do.
Michigan: Hudson, Township of, Mackinac County	260807	Aug. 6, 1987, Emerg.	Do.
Georgia: Coffee County, unincorporated areas	130465	Aug. 11, 1987, Emerg.	Apr. 21, 1987.
New Mexico: Red River, Town of, Taos County	350079	Apr. 18, 1975, Emerg.; July 1, 1987, Reg.; July 1, 1987, Susp.; Aug. 7, 1987, Rein.	July 1, 1987.
Pennsylvania: *Oswayo, Township of, Porter County	421982	Apr. 29, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Aug. 5, 1987, Rein.	Aug. 1, 1987.
Oklahoma: *Marshall, Town of, Logan County	400306	Aug. 13, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Aug. 5, 1987, Rein.	Do.
West Virginia:			
*Terra Alta, Town of, Preston County	540257	Sept. 3, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Aug. 5, 1987, Rein.	Do.
*Wardensville, Town of, Hardy County	540245	Apr. 17, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Aug. 5, 1987, Rein.	Do.
*Tucker County, unincorporated areas	540191	Dec. 24, 1975, Emerg.; July 1, 1987, Reg.; July 1, 1987, Susp.; Aug. 11, 1987, Rein.	July 1, 1987.
Pennsylvania: *South Buffalo, Township of, Armstrong County.	421210	Apr. 17, 1987, Emerg.; June 18, 1987, Reg.; June 18, 1987, Susp.; Aug. 11, 1987, Rein.	June 18, 1987.
Illinois: Alexis, Village of, Mercer and Warren Counties	170674	May 9, 1975, Emerg.; July 2, 1987, Reg.; July 2, 1987, Susp.; Aug. 12, 1987, Rein.	July 2, 1987.
New Hampshire: South Hampton, Town of, Rockingham County.	330193	Sept. 2, 1987, Emerg.	Jan. 28, 1975.
Ohio: Crawford County, unincorporated areas	390811	Sept. 2, 1987, Emerg.	Aug 25, 1987.
Alabama: *Castleberry, Town of, Conecuh County	010050	June 7, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Aug. 14, 1987, Rein.	Aug. 1, 1987.
Virginia: *Culpeper County, unincorporated areas	510041	Nov. 26, 1974, Emerg.; July 1, 1987, Reg.; July 1, 1987, Susp.; Sept. 2, 1987, Rein.	July 1, 1987.
Kentucky: *Shepherdsville, City of, Bullitt County	210028	June 7, 1976, Emerg.; Jan 2, 1987, Reg.; Jan. 2, 1987, Susp.; Sept. 3, 1987, Rein.	Jan. 2, 1987.
West Virginia:			
Grafton, City of, Taylor County	540190	June 12, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Sept. 2, 1987, Rein.	Aug. 1, 1987.
Putnam County, unincorporated areas	540164	May 11, 1976, Emerg.; June 18, 1987, Reg.; June 18, 1987, Susp.; Sept. 4, 1987, Rein.	June 18, 1987.
*Bruceton Mill, Town of, Preston County	540162	May 22, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug 1, 1987, Susp.; Sept. 4, 1987, Rein.	Aug. 1, 1987.
*Grant County, unincorporated areas	540038	Oct. 22, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Sept. 4, 1987, Rein.	Do.
Kentucky: Warsaw, City of, Gallatin County	210060	Jan. 19, 1976, Emerg.; Aug. 19, 1987, Reg.; Aug. 19, 1987, Susp.; Sept. 8, 1987, Rein.	Aug. 19, 1987.
Arkansas: La Mar, City of, Johnson County	050113	Apr. 3, 1975, Emerg.; July 1, 1987, Reg.; July 1, 1987, Susp.; Sept. 9, 1987, Rein.	July 1, 1987.
New Mexico: Mora County, unincorporated areas	350043	Oct. 22, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Sept. 9, 1987, Rein.	Aug. 1, 1987.
Texas:			
Roaring Springs, City of, Motley County	480496	Feb. 12, 1978, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Sept. 9, 1987, Rein.	Do.
Rotan, City of, Fisher County	480234	Aug. 7, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Sept. 9, 1987, Rein.	Do.
Somervell County, unincorporated areas	481186	Sept. 11, 1979, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp.; Sept. 9, 1987, Rein.	Aug. 4, 1987.
Virginia: Amelia County, unincorporated areas	510314	Mar. 22, 1976, Emerg.; Sept. 1, 1987, Reg.; Sept. 1, 1987, Susp.; Sept. 10, 1987, Rein.	Sept. 1, 1987.
West Virginia: Franklin, Town of, Pendleton County	540154	July 2, 1975, Emerg.; Sept. 1, 1987, Reg.; Sept. 1, 1987, Susp.; Sept. 10, 1987, Rein.	Do.
Iowa: Clear Lake, City of, Cerro Gordo County	190059	Aug. 7, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp.; Sept. 11, 1987, Rein.	Aug. 4, 1987.
Pennsylvania:			
Penn, Borough of, Westmoreland County	420695	Mar. 19, 1975, Emerg.; Feb. 4, 1981, Reg., Feb. 4, 1981, Susp.; Aug. 18, 1987, Rein.	Feb. 4, 1987.
*Decatur, Township of, Mifflin County	421860	Dec. 2, 1975, Emerg.; June 1, 1987, Reg.; June 1, 1987, Susp.; Aug. 18, 1987, Rein.	June 1, 1987.
Iowa: *Elgin, City of, Fayette County	190125	June 18, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp.; Aug. 19, 1987, Rein.	Aug. 4, 1987.
Florida: Orchid, Town of, Indian River County	120122	July 24, 1975, Emerg.; Apr. 15, 1980, Reg.; Apr. 15, 1980, Susp.; Sept. 14, 1980, Rein.	Apr. 15, 1987.
Minnesota: West St. Paul, City of, Dakota County	270729	Sept. 8, 1987, Emerg.	

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
North Carolina: Lowell, City of, Gaston County	370323	Sept. 15, 1987, Emerg	Oct. 13, 1987.
Michigan: Marion, Township of, Charlevoix County	260806	do	May 31, 1974
Texas: Floydada, City of, Floyd County	480226	do	
Minnesota: North Branch, City of, Chisago County	270072	do	Aug. 4, 1987.
Oklahoma: *Stillwell, City of, Adair County	400001	Nov. 14, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp.; Sept. 15, 1987, Rein.	
North Carolina: Mars Hill, Town of, Madison County	370385	Oct. 4, 1979, Emerg.; Aug. 19, 1987, Reg.; Aug. 19, 1987, Susp.; Sept. 17, 1987, Rein.	Aug. 19, 1987
Arkansas: Newark, City of, Independence County	050092	Aug. 8, 1975, Emerg.; Sept. 1, 1987, Reg.; Sept. 1, 1987, Susp.; Sept. 30, 1987, Rein.	Sept. 1, 1987.
Ohio: Lucas, Village of, Richland County	390661	Sept. 24, 1987, Emerg	Apr. 5, 1974.
Texas: LaWard, City of, Jackson County	481074	Mar. 23, 1977, Emerg.; Sept. 28, 1979, Reg.; Dec. 4, 1979, Susp.; Sept. 25, 1987, Rein.	Dec. 4, 1979.
Sterling, City of, Sterling County	480579	July 29, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Sept. 18, 1987, Rein.	July 29, 1975.
Region III—Minimal Conversions			
West Virginia: Franklin, Town of, Pendleton County	540154	Sept. 1, 1987, suspension withdrawn	Sept. 1, 1987.
Region IV			
North Carolina: Trenton, Town of, Jones County	370141	do	Do.
Tennessee: White Pine, City of, Jefferson County	470332	do	Do.
Mississippi: Monigomery County, unincorporated areas	280212	do	Do.
Perry County, unincorporated areas	280233	do	Do.
North Carolina: Fairmont, Town of, Robeson County	370205	do	Do.
South Carolina: Hartsville, City of, Darlington County	450062	do	Do.
Kingstree, Town of, Williamsburg County	450190	do	Do.
Oconee County, unincorporated areas	450157	do	Do.
Region V			
Illinois: Sublette, Village of, Lee County	170421	do	Do.
Indiana: Ripley County, unincorporated areas	180221	do	Do.
Minnesota: Fisher, City of, Polk County	270366	do	Do.
Ohio: Corning, Village of, Perry County	390440	do	Do.
Fredericksburg, Village of, Wayne County	390578	do	Do.
Hanoverton, Village of, Columbiana County	390082	do	Do.
Orrville, City of, Wayne County	390577	do	Do.
Malta, Village of, Morgan County	390421	do	Do.
Sunbury, Village of, Delaware County	390152	do	Do.
Warsaw, Village of, Coshocton County	390733	do	Do.
Steward, Village of, Lee County	170420	do	Do.
Lakeview, Village of, Logan County	390341	do	Do.
Van Wert County, unincorporated areas	390784	do	Do.
Region VI			
Louisiana: Roseland, Town of, Tangipahoa Parish	220212	do	Do.
Oklahoma: Canadian County, unincorporated areas	400485	do	Do.
Chelsea, City of, Rogers County	400187	do	Do.
Jefferson, Town of, Grant County	400065	do	Do.
Texas: Bartonville, Town of, Denton County	481501	do	Do.
Boyd, City of, Wise County	480676	do	Do.
Giddings, City of, Lee County	480435	do	Do.
Premont, City of, Jim Wells County	480396	do	Do.
San Jacinto County, unincorporated areas	480553	do	Do.
Terrell County, unincorporated areas	480619	do	Do.
Yoakum, City of, Lavaca County	480434	do	Do.
Region VII			
Iowa: Ainsworth, City of, Washington County	190525	do	Do.
Calumet, City of, O'Brien County	190712	do	Do.
Lake Park, City of, Dickinson County	190367	do	Do.
Nora Springs, City of, Floyd County	190384	do	Do.
Rockford, City of, Floyd County	190129	do	Do.
Titonka, City of, Kossuth County	190840	do	Do.
Region V—Minimal Conversions			
Illinois: Deland, Village of, Piatt County	170547	Sept. 4, 1987, suspension withdrawn	Sept. 4, 1987.
Towanda, Village of, McLean County	170504	do	Do.
Indiana: Ohio County, unincorporated areas	180406	do	Do.
Minnesota: Dumont, City of, Traverse County	270481	do	Do.
Hinckley, City of, Pine County	270347	do	Do.
Keewatin, City of, Itasca County	270205	do	Do.
Lester Prairie, City of, McLeod County	270265	do	Do.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
White Bear Lake, City of, Ramsey County	270386	do	Do.
Ohio: Zoar, Village of, Tuscarawas County	390752	do	Do.
Caldwell, Village of, Noble County	390430	do	Do.
East Palestine, City of, Columbiana County	390079	do	Do.
Galena, Village of, Delaware County	390149	do	Do.
Ravenna, City of, Portage County	390458	do	Do.
Region VII			
Nebraska: Meadow Grove, Village of, Madison County	310146	do	Do.
Tilden, City of, Antelope and Madison Counties	310401	do	Do.
Lindsay, Village of, Platte County	310177	do	Do.
Region I—Regular Conversions			
Maine: Greenbush, Town of, Penobscot County	230107	do	Do.
Hampden, Town of, Penobscot County	230168	do	Do.
Region III			
Pennsylvania: Carroll, Township of, Perry County	421949	do	Do.
East Earl, Township of, Lancaster County	421770	do	Do.
Glade, Township of, Warren County	422122	do	Do.
West Virginia: Hamlin, Town of, Lincoln County	540089	do	Do.
West Hamlin, Town of, Lincoln County	540090	do	Do.
Region IV			
Mississippi: Moss Point, City of, Jackson County	285258	do	Do.
Region V			
Indiana: Bedford, City of, Lawrence County	180148	do	Do.
Region IX			
Arizona: Greenlee County, unincorporated areas	040110	do	Do.
Marana, Town of, Pima County	040118	do	Do.
California: Antioch, City of, Contra Costa County	060026	do	Do.
Lassen County, unincorporated areas	060092	do	Do.
Region X			
Oregon: Bend, City of, Deschutes County	410056	do	Do.
Vale, City of, Malheur County	410153	do	Do.
Region VI			
Arkansas: Van Buren, City of, Crawford County	050053	Aug. 4, 1987	Do.
Region I—Regular Conversions			
Maine: Lincoln, Town of, Penobscot County	230109	Sept. 18, 1987, suspension withdrawn	Sept. 18, 1987.
Region III			
Pennsylvania: St. Clair, Township of, Westmoreland County.	422191	do	Do.
West Virginia: Lincoln County, unincorporated areas	540088	do	Do.
Westmoreland County, unincorporated areas	510250	do	Do.
Region IV			
Mississippi: Hancock County, unincorporated areas	285254	do	Do.
Region V			
Illinois: Wood Dale, City of, DuPage County	170224	do	Do.
Ohio: Brecksville, City of, Cuyahoga County	390098	do	Do.
Region VI			
Louisiana: Clarence, Village of, Natchitoches Parish	220130	do	Do.
Natchitoches Parish, unincorporated areas	220129	do	Do.
Region VII			
Iowa: Des Moines, City of, Polk County	190227	do	Do.
Region VIII			
North Dakota: Alexander, City of, McKenzie County	380055	do	Do.
Region IX			
California: Clearlake, City of, Lake County	060714	do	Do.
Region X			
Alaska: Anchorage, Municipality of, Anchorage Division	020005	do	Do.
Oregon: Canyon City, City of, Grant County	410075	do	Do.
Mt. Vernon, City of, Grant County	410080	do	Do.

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State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Minimals Conversions			
Region IV			
Mississippi:			
Baldwyn, City of, Prentiss and Lee Counties	280134	do	Do.
Saltillo, Town of, Lee County	280251	do	Do.
Region V			
Minnesota:			
Fillmore County, unincorporated areas	270124	do	Do.
Raymond, City of, Kandiyohi County	270222	do	Do.
Ohio:			
Portage County, unincorporated areas	390453	do	Do.
Wyandot County, unincorporated areas	390787	do	Do.
Hemlock, Village of, Tioga County	390708	do	Do.
Region VII			
Nebraska: Stanton, City of, Stanton County	310217	do	Do.
Region I—Regular Conversions			
Maine:			
Medway, Town of, Penobscot County	230175	Sept. 30, 1987, suspension withdrawn	Sept. 30, 1987.
Winslow, Town of, Kennebec County	230071	do	Do.
Region III			
Pennsylvania:			
Lewis, Township of, Union County	422104	do	Do.
Lynn, Township of, Lehigh County	421812	do	Do.
Mayberry, Township of, Montour County	421923	do	Do.
Polk, Township of, Monroe County	421893	do	Do.
Springboro, Borough of, Crawford County	420353	do	Do.
West Virginia:			
Milton, Town of, Cabell County	540019	do	Do.
Cabell County, unincorporated areas	540016	do	Do.
Wayne, Town of, Wayne County	540231	do	Do.
Region IV			
Tennessee: Lauderdale County, unincorporated areas	470333	do	Do.
Region V			
Ohio: Tuscarawas County, unincorporated areas	390782	do	Do.
Region VIII			
Colorado:			
Douglas County, unincorporated areas	080049	do	Do.
Parker, Town of, Douglas County	080310	do	Do.
North Dakota:			
Bowman County, unincorporated areas	380355	do	Do.
Gascoyne, City of, Bowman County	380577	do	Do.
Mandan, City of, Morton County	380072	do	Do.
Morton County, unincorporated areas	380146	do	Do.
Reiles Acres, City of, Cass County	380324	do	Do.
Scranton, City of, Bowman County	380014	do	Do.
Region IX			
California:			
Imperial Beach, City of, San Diego County	060291	do	Do.
Loomis, Town of, Placer County	060721	do	Do.
Minimal Conversions			
Region VI			
New Mexico: Colfax County, unincorporated areas	350126	do	Do.
Region VIII			
Nebraska: Ogallala, City of, Keith County	310129	do	Do.

[1] New.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

Issued: October 26, 1987.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 87-25143 Filed 10-29-87; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-450; RM-5382]

Radio Broadcasting Services; Monticello and Logansport, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 299A to Monticello, Indiana as that community's second FM channel at the request of Edward A. Holderly. It also reallocates Channel 237A currently allotted at Logansport, Indiana to Monticello to reflect its actual usage in that community. With this action, this proceeding is terminated.

DATES: Effective December 7, 1987. The window period for filing applications will open on December 8, 1987, and close on January 7, 1988.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-450, adopted September 25, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended by adding the entry of Channel 237A and Channel 299A to Monticello, Indiana and deleting the entry of Channel 237A at Logansport, Indiana.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

William J. Tricarico,

Secretary.

[FR Doc. 87-25173 Filed 10-29-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 86-191; FCC 87-321]

Amateur Radio Service Rules; Privileges Available to Novice Operators; Action on Petitions for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By *Memorandum Opinion and Order*, the FCC (a) denies requests for expansion of Novice operator privileges in the 1.25 meter band; (b) denies the request for Advanced operators to administer the written examination for the General operator license; (c) denies the request to change the percentage of questions on each topic for examination element 2; and (d) makes minor editorial changes in § 97.61 of the amateur service rules. This action affirms existing rules with respect to Novice operation, Novice examinations and the administration of the General class operator written examination.

EFFECTIVE DATE: October 30, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, adopted October 9, 1987 and released October 21, 1987.

1. The full text of this Commission decision and the rule amendment is available for inspection and copying during normal hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision and the rule amendment may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

2. David Bly, Karl Pagel and Richard S. Moseson in petitions for reconsideration of Novice enhancement rule amendments adopted January 28, 1987, requested further privileges in the 1.25 meter band so that Novice operators in their areas could access local repeaters. The FCC denied those requests stating that subband 222.10-223.91 MHz was chosen because it represents the generally accepted national voluntary band plan. The FCC also said that there are numerous repeater stations in all parts of the country using 222.10-223.91 MHz to accommodate Novice operators who want to access them. The FCC also pointed out that by upgrading to Technician operator, Novice operators could obtain privileges in the entire 1.25 meter band.

3. Harley Gabrielson requested reconsideration of § 97.28 to allow Advanced operators as well as Amateur Extra operators to administer the written examination, element 3(B), for a General operator license. In denying the request, the FCC said that Amateur Extra operators had demonstrated the greatest degree of expertise in amateur radio and therefore are the most qualified to be volunteer examiners. In addition, the FCC said that there did not appear to be any shortage of volunteer examiners.

4. David Popkin requested that the percentage of questions on each topic for examination element 2 in § 97.21(d) be changed and that editorial changes be made in § 97.61. Existing rule § 97.21(d) was affirmed since the matter of the percentage of questions was disposed of in a recent FCC proceeding concerning transfer of the question pools to the Volunteer Examiner Coordinators (VECs). (See PR Docket No. 85-196.) However, the minor editorial changes requested by Popkin have been made in the interest of clarity.

5. It is ordered that Part 97 is amended as set forth at the end of this document. It is further ordered that these rule amendments shall become effective upon publication in the **Federal Register**. It is further ordered that the petitions for reconsideration of David C. Bly, Harley Gabrielson, Karl Pagel and Richard S. Moseson are denied; the petition for reconsideration of David Popkin is granted in part. It is further ordered that this proceeding is terminated.

6. The authority for this action is contained in 47 U.S.C. 154(i) and 303(r).

List of Subjects in 47 CFR Part 97

Amateur radio, Emissions, Examinations, Frequencies.

William J. Tricarico,

Secretary.

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read, as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

2. The line entry in the table in § 97.61(a) which shows frequency band 28000-29700 kHz and A1A emission is removed.

3. Section 97.61(d)(3) is revised to read, as follows:

§ 97.61 Authorized emissions.

* * * * *

(d) * * *

(3) A station with a Novice or Technician control operator is authorized to transmit only emissions A1A and J3E in frequency subband 28300-28500 kHz.

[FR Doc. 87-24859 Filed 10-29-87; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 395

[OMCS Docket No. MC-119]

Hours of Service of Drivers

AGENCY: Federal Highway Administration, (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending Part 395, Hours of Service of Drivers, of the Federal Motor Carrier Safety Regulations (FMCSR) to (1) eliminate four items currently required on the driver's record of duty status; (2) clarify the present exemption pertaining to the preparation of a driver's record of duty status within 100-mile radius of the driver's work reporting location; (3) redefine the retail store delivery exemption (December 10 to December 25); (4) incorporate the current interpretation of both the 60-hour and 70-hour on-duty weekly limitation into the hours of service regulations; (5) revise the definition of on-duty time; and (6) revise the applicability section of this part. These amendments will reduce the paperwork burden, provide more judicious accounting of time worked thereby reducing the possibility of accrued driver fatigue, and make the regulations more easily understood. This action is in accord with the provisions of Section 206 of the Motor Carrier Safety Act of 1984 (Act).

EFFECTIVE DATE: November 30, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366-2999; or Mrs. Kathleen S. Markman, Office of the Chief Counsel (202) 366-0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The FHWA published a notice of proposed rulemaking (NPRM) in the **Federal Register** on May 9, 1986 (51 FR 17214), proposing to revise certain sections of 49 CFR Part 395, Hours of Service of Drivers. The NPRM specifically pointed out that the proposed revisions, as well as those sections not being revised, would be applicable to operators of commercial motor vehicles that (1) have a gross vehicle weight rating of 10,001 or more pounds; (2) are designed to transport more than 15 passengers, including the driver; or (3) are used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act and are transported in a quantity requiring placarding under regulations issued by the Secretary.

Violations of the hours of service requirements, including the recordkeeping requirements, may subject the motor carrier and/or the driver to civil or criminal penalties. Violations may be discovered during audits of the motor carrier's records and during driver/vehicle roadside inspections.

Background

As the first step in implementing section 206 of the Act, 49 U.S.C. App. 2505 (Supp. III 1985), the FHWA published an advanced notice of proposed rulemaking (ANPRM), BMCS Docket No. 114, Notice No. 85-1, in the **Federal Register** on January 23, 1985 (50 FR 2998). This ANPRM sought public comment on the amendments being considered. Due to the complexity of reissuing the FMCSR, a separate rulemaking action was established for each Part. Proposed amendments to Part 395, Hours of Service to Drivers, were set forth in an NPRM and published in the **Federal Register** on May 9, 1986 (51 FR 17214), BMCS Docket No. MC-119, Notice No. 86-2. Included in that NPRM was a discussion of the comments to the final rule issued in BMCS Docket No. MC 99-1 (49 FR 46145) pertaining to the court order, *International Brotherhood of Teamsters v. U.S.*, 735 F. 2d 1525, (D.C. Cir. June 12, 1984), which required the FHWA to amend the FMCSR relative to to the 100-mile radius exemption and the driver's record of duty status.

Comments

The FHWA received a total of 20 comments to this docket, MC-119.

These responses included:

12 from truck and bus industry trade organizations;
8 from individual motor carriers;
2 from labor organizations;
2 from State enforcement agencies;
1 from a State governmental agency; and
1 from a truck driver.

Driver's Record of Duty Status

Section 395.8(d) of the FMCSR currently requires that 15 items of information be included on the driver's record of duty status. The purpose of this requirement is to promote highway safety. The FHWA proposed to eliminate 4 of the 15 items currently required on the driver's record of duty status: (1) "Total mileage today", (2) "home terminal address", (3) "origin" and (4) "destination or turnaround point". These items were proposed for deletion because they were considered duplicative of other motor carrier records and/or information sources, and safety would not be compromised as a result of these deletions. The following discussion addresses each item separately. Included in this discussion is a summary of the comments received along with the rationale for the FHWA's decision to delete each item.

Total Mileage Today

Only four of the 26 commenters (Commercial Vehicle Safety Alliance, International Brotherhood of Teamsters (IBT), Transcontinental Refrigerated Lines, and United Bus Owners of America) objected to the elimination of the "total mileage today" item. Only the IBT submitted a reason for their opposition to the proposal. The IBT argued that it would require an examination of both driver's logs, when a two-man operation is being used, during a roadside inspection to make sure the logs have not be falsified.

We do not believe this to be a valid concern. The "total mileage today" figure would not be available until the end of the day, and therefore, that information would not be entered at the time of a roadside check. The total mileage to the time of the roadside check can be determined by information available from the "remarks section" of the graph grid. The location of each change of duty status is recorded in the "remarks section" of the driver's record of duty status. This information can be used to determine the total mileage the driver has driven. Even though the method of computing the mileage will be only an estimate and would be based on the assumption that the driver drove the most direct route, the FHWA believes it to be adequate for its intended purpose.

The "total mileage today" item is used as a secondary source of information to check the item of primary concern to FHWA and motor carrier safety, the hours the driver has spent on duty and on duty driving. The "total mileage today" is used in coordination with the recorded time driving to obtain the driver's average speed. Motor carrier safety investigations normally do not result in citing drivers for speeding based on information obtained from the driver's record of duty status.

Since the information is obtainable from other documents and does not affect safety in any way, elimination of the requirement is consistent with the FHWA's intention to reduce the paperwork burden whenever possible without compromising safety.

Home Terminal Address

These same four commenters and the California Highway Patrol oppose elimination of the "home terminal address" item. They contend that the proposal will compound an already difficult enforcement task and require additional time and effort by enforcement personnel. The FHWA does not envision the problem becoming a reality. It believes that the "home terminal address" information is duplicative of the "main office address" information and can easily be obtained from information in the driver's possession. The vast majority of motor carriers operate fleets of 10 or less vehicles. [Office of Motor Carriers Information Management and Analysis' figures indicate that approximately 90 pecent of the motor carriers of record have 10 or less vehicles]. It is the FHWA's opinion that, for these fleets, the "main office address" and the "home terminal address" would be the same. In those cases where they differ, the "main office address" information is most critical for enforcement purposes, since it is the location where all driver's records are to be maintained, unless otherwise permitted.

Origin and Destination

The same commenters objected to the elimination of the "origin" and "destination" entries. They contend that the information provides an immediate indication of the driver's travel or travel plan for a particular tour of duty and is especially important when a trip involves more than one calendar day. They contend that the entries provide immediate information and are useful to enforcement officers. However, there has been considerable confusion as to what the proper "origin" and "destination" should be for trips involving more than one calendar day. Take for example, a tour of duty from point "A" today to point "B" tomorrow and return. The origin is "A" and destination or turnaround point is "B" for the first day. The "origin" and "destination" for the next day should be the same. However, some will show the origin as being the location the driver spent 8 consecutive hours off duty enroute to destination "B". The return movement, if the same tour of duty, should show the same "origin" and "destination." In most cases, the "origin" will be shown as the "destination" and the "destination" as the "origin."

Since this information is recorded in the "remarks section" of the driver's record of duty status in a less confusing manner, the FHWA is eliminating this duplication. The FHWA believes that the elimination of these items will not affect safety and may, in fact, reduce confusion during enforcement actions.

The FHWA's primary concern in maintaining the driver's record of duty status is to enable FHWA field staff and State and local enforcement personnel to monitor an individual's compliance with the hours of service regulations, which are directed at promoting safety. The FHWA believes that eliminating these four items does not in any way reduce safety. Furthermore, the opponents to FHWA's proposal did not submit any substantive safety impact data to support retention of the four items. The change is consistent with the FHWA's intention to reduce the paperwork burden on motor carriers and drivers where feasible, without compromising safety. The FHWA estimates that the elimination of these four items will reduce the motor carrier industry record preparation burden by approximately 4 million person-hours annually.

As noted in the NPRM, the FHWA has authorized a motor carrier to utilize an on-board computer system to automatically record data for their driver's records of duty status to further reduce the paperwork burden. Subsequently, six other motor carriers have been granted permission to use on-board computers to record the driver's record of duty status. In addition, an ANPRM was issued on July 13 requesting comments about the use of on-board recording devices in commercial motor vehicles (52 FR 26289). This notice was issued in reponse to a petition filed by the Insurance Institute for Highway Safety requesting the FHWA to require motor carriers to use on-board recording devices for recording the driver's hours of service.

An in-depth examination of the on-board computer systems that motor carriers are authorized to use in controlling a driver's hours of service will be conducted shortly after the first of the year. At that time a determination will be made as to what further rulemaking action will be taken.

100-Air Mile Radius Exemption

Section 395.8(1)(1) currently provides that a driver (except a driver salesperson) may be exempted from the preparation of the driver's record of duty status, while operating within a 100-air-mile radius of the driver's work-reporting location, provided the driver returns to that location and is released from work within 12 hours. As explained in the NPRM, the FHWA always intended this to mean 12 "consecutive" hours. However, the agency's intent in this regard has been questioned from time to time. The NPRM, therefore, proposed to clarify this exemption by adding the word "consecutive" to the term "12 hours."

Commenters opposed the addition of "consecutive" and/or wanted the 12-hour period extended 3 hours. Concerning the addition of "consecutive", comments specifically claimed that their drivers, in certain instances are unable to return within a 12 consecutive hour period every day and would therefore be required to prepare a driver's record of duty status for those days. However, the FHWA believes that drivers who do not return within a 12-consecutive-hour period must prepare a driver's record-of-duty status for any day that they do not return within that time period. It is our belief that any extension beyond 13 hours would encourage abuse by increasing the likelihood that drivers would be able to exceed the 10-hour driving limitation without detection. The interpretation adopted here does not change the FHWA's understanding of the current rule and is merely intended to clarify the regulation.

With respect to those respondents who wanted to add 3 extra hours to the exemption, they did not supply information which showed that the records of motor carriers were such that an enforcement officer would be able to determine that a driver had not driven more than 10 hours within a 15-hour period. As stated above, it is our belief that an extension beyond 12 consecutive hours would increase the likelihood that drivers would be able to exceed the 10-hour driving limitation without detection. The NPRM addressed this same point inresponse to comments to MC 99-1, and commenters have raised no new arguments. Further, opponents have failed to supply adequate data to support their contention that safety would not be adversely affected. Therefore, the FHWA has determined that there is justification both in retaining the 12-hour limitation and in adding the word "consecutive" to dispel any doubt as to the intent of the rule.

Retail Store Delivery

Section 395.3(c) currently provides that the maximum driving and on-duty time limitations shall not apply with respect to drivers of motor vehicles engaged solely in making deliveries from retail stores to consumers, during the period from December 10 to December 25, both inclusive, each year. The FHWA proposed to include in this exemption the local deliveries of

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merchandise from catalog-type retailers and to limit this exemption to a 100 air-mile radius of the local driver's work-reporting location. As noted in the NPRM, the original purpose of this exemption was to allow the delivery of large volumes of holiday merchandise from retail stores to the ultimate consumer without imposing unnecessary regulatory burdens. However, since the granting of the exemption, the nature of holiday purchasing has changed and many consumer purchases are now made from catalog-type retailers.

Because of this change in marketing, the United Parcel Service, in its comments dated March 8, 1985, to Docket No. MC–114, Hours of service of drivers, requested a change to expand the exemption to include catalog-type retail deliveries. In addition, commenters in favor of the proposal argued that mail order contribution to package volume during the Christmas season has been increasing substantially over the last several decades. The volume that must be handled in December places a burden on the company's delivery drivers that could not be met without an exemption from duty time limitation. Those in opposition argued for the complete repeal of the exemption because a large number of companies now employ catalog sales for marketing, sales and economic reasons, thus increasing the number of vehicles and drivers which potentially could fall under the exemption. For this reason and due to the potential for inclement weather and traffic conditions during the exemption period, these commenters argued that the requested expansion of the exemption could result in increased commercial vehicle accidents.

The FHWA sees no logical distinction between the two types of "local" (as defined in 89 M.C.C. 19, at 30–31 (1962)) delivery and therefore will expand the exemption accordingly. The purpose of the exemption is to allow the delivery of large volumes of Christmas merchandise to the ultimate consumer by regular delivery drivers who are familiar with the consumer locations. In addition, opponents did not furnish any data to support their position. Therefore, the FHWA is including the local deliveries of merchandise from catalog-type retailers to the consumer in this exemption.

This change is not intended to apply to the line haul transport of small shipments to a local distribution warehouse or to a motor carrier's local terminal. Further, the exemption does not apply to the delivery of merchandise from a warehouse to a local retail outlet. In addition, as noted above, the exemption is limited to a 100-air mile radius of the local driver's work-reporting location.

60-Hour and 70-Hour On-Duty Limitation

Currently Section 395.3(b) states that no driver shall be on duty in excess of 60 hours in any period of 7 consecutive days or 70 hours in any period of 8 consecutive days (except driver salespersons). The FHWA proposed to clarify the regulation to recognize the interpretation, issued March 16, 1981, that stated that a driver could perform nondriving duties after reaching the current limits and not be in violation of the hours of service regulations. The responses to this proposal were: six in favor of the proposal; four opposed; and the other respondents made no comment one way or the other. The four that were opposed to the to the interpretation were two labor organizations, one driver, and a public transportation agency. Opponents claimed that if drivers are overly exhausted from having to perform nondriving duties after reaching the 60- or 70-hour driving limit, then the minimal sleeping time allotted will no longer be adequate. The FHWA disagrees with the opponents claims because drivers are not permitted to drive again until such time as the total on-duty time falls within the 60- or 70-hour limitation following a minimum of 8 consecutive hours off-duty. In addition, despite the fact that the NPRM stated that this proposal was "recognized as a possible safety sensitive issue," none of the commenters provided substantive evidence to support their viewpoints, nor did those who opposed it provide any known cases of accidents whose causal factors might be directly linked to a driver having worked (not driven) after reaching the 60- or 70-hour limit. In the late 1970's, the FHWA and the National Highway Traffic Safety Administration (NHTSA) conducted several studies to determine the relationship between accumulated fatigue and accident causation. For commercial motor vehicle drivers, these studies showed that accidents tend to occur more often during the first 4 hours of a driver's on-duty time and between the hours of 3:00 a.m. to 6:00 a.m. However, none of these studies concluded that there is an unsafe effect on commercial motor vehicle operation by permitting a driver to work beyond the current hours of service limits in a nondriving status. Drivers on duty not driving after 60 or 70 hours would, of course, have to be off duty thereafter, for the total number of consecutive hours necessary to accrue time available for driving during a given 7- or 8-day period. Therefore, the FHWA has determined that incorporation of the present interpretation into the FMCSR will not compromise highway safety.

On-Duty Time

Section 395.2(a)(8) currently states that the term "on-duty time" shall include "performing any other work in the capacity of, or in the employ or service of a common, contract, or private motor carrier." The FHWA proposed to amend § 395.2(a)(8) of the FMCSR to include, as "on-duty time," all time a driver spends "performing any compensated work for any person." The National Transportation Safety Board (NTSB) also recommended that the term "on-duty time" be revised to include all time worked by a commercial vehicle driver for all full-time or part-time employers. The NTSB correctly stated that the "on-duty time," as defined in § 395.2 of the FMCSR and recorded on the driver's record of duty status, does not include the time that a commercial motor vehicle driver is employed on a job other than with another motor carrier. This recommendation reflects the NTSB's concern that drivers employed in full-time or part-time jobs, other than with a motor carrier, also may become fatigued and their ability to safely operate a commercial motor vehicle may be seriously impaired.

Responses to this proposal were: 11 in favor of the proposal; and 5 opposed. Those opposed claimed that the proposal would create insurmountable complexities for carriers monitoring driver compliance and would impose a legal responsibility for monitoring activities of drivers over which they have no control, thereby placing motor carriers in an untenable position. The FHWA disagrees. If the carrier makes reasonable efforts to monitor compliance and the driver nevertheless fails to advise the motor carrier that he/she is employed in another capacity, then it would be the driver, not the carrier, that would be in violation and subject to prosecution. In addition, two of the respondents, both of whom were in favor of the proposal, raised questions as to the clarity and/or intent of the proposed new wording of the rule. The first question concerned the fact that some drivers, in some private motor carrier operations, are paid for some of their off-duty time. Thus, the respondent argued that "if these drivers had to log such time as 'on-duty', simply because they had been compensated for it, it would cause a needless interruption to their operations." This could arguably be extended to the situation wherein drivers are paid a weekly salary, regardless of whether their employer assigns them any work. Would such drivers have to log the whole week as "on-duty time" simply because they had been compensated for the week? The answer is obviously not, as the FHWA's intention is simply to have drivers account for all time worked for someone other than a motor carrier. Although no changes have been made in the final rule, our intention is to include in the definition of on-duty time only the hours during which work is performed.

Applicability of Part 395

Consistent with the Act, § 395.1 is amended to make the rules in Part 395 applicable only to commercial motor vehicles that have a gross vehicle weight rating (GVWR) of 10,001 pounds or more, or are used to transport more than 15 passengers, or transport hazardous materials.

The lightweight mail truck exemption, § 395.1(b), is being eliminated since those vehicles, by definition, have a GVWR of 10,000 pounds or less and thus will no longer be subject to the requirements of Part 395. In addition, § 395.3(c) is being amended for the same reason by eliminating the exemption provided to drivers who only operate motor vehicles having not more than two axles and a GVWR of not more than 10,000 pounds.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291. Pursuant to Executive Order 12498, this rulemaking has been included on the Regulatory Program for significant actions. The principal impact anticipated as a result of this rulemaking action will be a reduction in the paperwork burden placed on the motor carrier industry. It is further anticipated that any impact will be a cost savings to the motor carrier industry. Accordingly, a full regulatory evaluation is not required. For this reason, and under the criteria of the Regulatory Flexibility Act, it is hereby certified that this action does not have a significant economic impact on a substantial number of small entities.

The information collection requirement contained in this regulation has been approved by the Office of Management and Budget and assigned control number 2125–0016.

List of Subjects in 49 CFR Part 395

Highways and roads, Highway safety, Motor carriers, Driver's hours of service, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: October 23, 1987.

R.A. Barnhart,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending Title 49, Code of Federal Regulations, Subtitle B, Chapter III, Part 395 as follows:

PART 395—HOURS OF SERVICE OF DRIVERS

1. The authority citation for Part 395 is revised to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 3102; 49 CFR 1.48 and 301.60.

2. Section 395.1 is revised to read as follows:

§ 395.1 Scope, compliance and knowledge of the rules in this part.

(a) The rules in this part to drivers of commercial motor vehicles that—

(1) Have a gross vehicle weight rating of 10,001 pounds or more;

(2) Are used to transport more than 15 passengers; or

(3) Transport hazardous materials of such type and in such quantity as to require the vehicle to be specifically placarded under § 177.823 of this title, or when operated without cargo under conditions which require the vehicle to be placarded under the cited regulations.

(b) Every employer and its employees shall comply with the rules in this part, and every employee shall require that its officers, employees, and representatives know and comply with the rules in this part.

3. Section 395.2 is amended by adding a new subparagraph (a)(9) to read as follows:

§ 395.2 Definitions.

* * * * *

(a) *On-duty time.* * * *

(9) Performing any compensated work for any nonmotor carrier entity.

* * * * *

4. Section 395.3(b), (c) and (e) are revised to read as follows:

§ 395.3 Maximum driving and on-duty time.

* * * * *

(b) No motor carrier shall permit or require a driver of a commercial motor vehicle, regardless of the number of motor carriers using the driver's services, to drive for any period after—

(1) Having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate every day in the week; or

(2) Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates motor vehicles every day of the week.

(3) Exception: This paragraph shall not apply to any driver driving a motor vehicle in the State of Alaska, as provided in paragraph (e) of this section, or to any driver-salesperson whose total driving time does not exceed 40 hours in any period of 7 consecutive days.

(c) The provisions of paragraph (a) of this section shall not apply with respect to drivers of motor vehicles engaged solely in making local deliveries from retail stores and/or retail catalog businesses to the ultimate consumer, when driving solely within a 100-air mile radius of the driver's work-reporting location, during the period from December 10 to December 25, both inclusive, of each year.

* * * * *

(e) A driver who is driving a motor vehicle in the State of Alaska must not drive or be permitted to drive—

(1) More than 15 hours following 8 consecutive hours off duty;

(2) After being on duty for 20 hours or more following 8 consecutive hours off duty;

(3) After being on duty for 70 hours in any period of 7 consecutive days, if the employing motor carrier does not operate every day of the week; or

(4) After being on duty for 80 hours in any period of 8 consecutive days, if the employing motor carrier operates motor vehicles every day in the week.

* * * * *

5. Section 395.8(d) and (l)(1)(ii) are revised to read as follows:

§ 395.8 Driver's record of duty status.

* * * * *

(d) The following information must be included on the form in addition to the grid:

(1) Date;

(2) Total miles driving today;

(3) Truck or tractor and trailer number;

(4) Name of carrier;

(5) Driver's signature/certification;

(6) 24-hour period starting time (e.g. midnight, 9:00 a.m., noon, 3:00 p.m.);

(7) Main office address;

(8) Remarks;

(9) Name of co-driver;

(10) Total hours (far right edge of grid); and

(11) Shipping document number(s), or name of shipper and commodity.

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(l) Exceptions—*(1) 100 air-mile radius driver.* A driver is exempt from the requirements of this section if:

* * * * *

(ii) The driver, except a driver salesperson, returns to the work reporting location, and is released from work within 12 consecutive hours;

* * * * *

[FR Doc. 87-25194 Filed 10-29-87; 8:45 am]
BILLING CODE 4910-13-M

Proposed Rules

Federal Register
Vol. 52, No. 210
Friday, October 30, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

[Doc. No. 4843S]

General Administrative Regulations; Standards for Approval; Agency Sales and Service Contract

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of intent not to renew present contract, and advance notice of proposed rulemaking.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice of its intention not to renew the present Agency Sales and Service contract for the 1989 contract year, and of its intention to offer instead a new contract to incorporate requirements for electronically transmitting and receiving information with respect to the original executed crop insurance documents.

Present eligible contractors, under an Agency Sales and Service Contract with FCIC, and any other eligible interested private entities, will be offered a new contract on July 1, 1988.

In addition, FCIC herewith gives advance notice of its intent to publish a Notice of Proposed Rulemaking (NPRM) to amend the Standards for Approval; Agency Sales and Service Contract, to provide standards of performance relative to the new system of transmitting and receiving electronic data which will become applicable to the new contract.

The current contract provides for continuation from year to year with a renewal date of July 1, unless FCIC or the Contractor gives at least 90 days advance notice in writing to the other party that the contract is not to be renewed. This notice does not constitute such written notice but serves as an additional means of informing all interested parties of FCIC's intent not to renew the current contract for the 1989 contract year.

FCIC intends to serve all present contractors with appropriate written notice of non-renewal in accordance with the 90-day notification requirement.

The new contract, to be effective on July 1, 1988, will be offered to all eligible present contractors and any other eligible interested private entities meeting the requirements set forth in the Standards for Approval. The contract will incorporate requirements with respect to transmitting and receiving information on the original executed crop insurance document.

FOR FURTHER INFORMATION CONTACT: For further information on this notice contact Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325. For information on the Agency Sales and Service Contract, or application for such contract, contact David W. Gabriel, Assistant Manager for Program Administration, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-4407.

(Authority: 7 U.S.C. 1501 et seq.)

Done in Washington, DC, on October 15, 1987.

E. Ray Fosse,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-25129 Filed 10-28-87; 8:45 am]
BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. No. 16; Doc. No. 4769S]

General Crop Insurance Regulations; Peanut Crop Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new subpart, 7 CFR 401.125, to be known as the Peanut Crop Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on peanuts in an endorsement to the general crop insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than November 30, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations in August 1, 1992.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR

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Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.125, the Peanut Crop Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring peanuts.

Upon publication as a final rule, the provisions for insuring peanuts contained in 7 CFR 401.125 will supersede those provisions for insuring peanuts contained in 7 CFR Part 425 the Peanut Crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 425 will be terminated at the end of the 1987 crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 425 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Peanut Endorsement to 7 CFR Part 401 as outlined below, FCIC proposes changes in the provisions for insuring peanuts. FCIC itemizes such changes as follows:

1. *Section 1.* Add as provision indicating that peanuts destroyed to comply with other U.S. Department of Agriculture programs will not be insured. This provision was added to prevent insurance from attaching to a crop that is destroyed to comply with other programs.

2. *Section 5.* Add unit division guidelines and add a clause to specify that division of units may result in the insured paying additional premium for guideline unit division in accordance with actuarial studies which show an increased risk when units are divided. Add language to provide that nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your unit for the purpose of determining the guarantee for the unit.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register**. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Peanut crop endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub.L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.125 Peanut Crop Endorsement, effective for the 1988 and Succeeding Crop Years, to read as follows:

§ 401.125 Peanut crop endorsement.

The provisions of the Peanut Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Peanut Crop Endorsement

1. Insured crop.

a. The crop insured will be peanuts planted for the purpose of digging, maturing, and marketing as farmers stock peanuts, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. In addition to the peanuts not insurable in section 2 of the general crop insurance policy, we do not insure any peanuts, which were destroyed or where the acreage was put to another use for the purpose of conforming with any other program administered by the United States Department of Agriculture; or

2. Causes of loss.

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

a. Adverse weather conditions;
b. Fire;
c. Insects;
d. Plant disease;
e. Wildlife;
f. Earthquake;
g. Volcanic eruption; or
h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual premium.

a. The annual premium amount is computed by multiplying the production guarantee for the unit (insured acreage time the applicable production guarantee) which may consist of quota and non-quota (additional) peanuts, times the applicable price election, times the premium rate, times your share at the time of planting.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insurance experience through the 1983 crop year under the terms of the experience table contained in the peanut policy in effect for the 1984 crop year, you will continue to receive the benefit of the reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction amount will not increase because of favorable experience;

(3) The premium reduction amount will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1984 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

4. Insurance period.

The calendar date for the end of the insurance period is as follows:

a. Duval and La Salle Counties, Texas, and all other States except New Mexico and Oklahoma, November 30.

b. New Mexico, Oklahoma, and all other Texas Counties, December 31.

5. Units.

Acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay additional premium as required by the actuarial table and if for each proposed unit you maintain written, verifiable records of planted acreage and harvested produciton for at least the previous crop year; and either

a. Acreage planted to the insured peanuts is located in separate, legally identifiable sections (except in Florida) or, in the absence of section descriptions (and in Florida) the land is identified by separate Agricultural Stabilization and Conservation Service (ASCS) Farm Serial Numbers, provided:

(1) The boundaries of the sections or Farm Serial Numbers are clearly identified, and the insured acreage can be easily determined; and

(2) The peanuts are planted in such a manner that the planting pattern does not continue into an adjacent section or Farm Serial Number; or

b. The acreage planted to the insured crop is located in a single section or Farm Serial Number and consists of acreage on which both irrigated and nonirrigated practices are carried out, provided:

(1) The irrigated acreage does not continue into nonirrigated acreage in the same rows or planting pattern (nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. Production for the total unit both irrigated and non-irrigated will be combined to determine the yield for the purpose of determining the guarantee for the unit.); and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good irrigated and nonirrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between units will cause the production from those units to be combined for the purpose of calculating an indemnity.

6. Notice of damage or loss.

For purposes of section 8 of the general crop insurance policy; the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for indemnity.

a. An indemnity will be determined for each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of peanuts to be counted (see subsection 7.c.);

(3) Multiplying the remainder applicable to quota or non-quota (additional) production by the applicable price election; and

(4) Multiplying this product by your share.

b. The total production to count will be identified as quota and/or non-quota (additional) production by:

(1) Counting all threshed and appraised production less than or equal to the unit's effective poundage quota as quota production; and

(2) Counting any threshed and appraised production in excess of the unit's effective poundage quota as non-quota (additional) production.

c. The total production to be counted for a unit will include all threshed and appraised production.

(1) Threshed production will be the net weight in pounds shown on the United States Department of Agriculture "Inspection Certificate and Sales Memorandum."

(2) Mature peanut production which is damaged, due to insurable causes, will be adjusted by:

(a) Dividing the value per pound for the insured type of peanuts by the applicable average price per pound; and

(b) Multiplying the result by the number of pounds of such production.

(3) To enable us to determine the net weight and quality of production of any peanuts for which a United States Department of Agriculture "Inspection Certificate and Sales Memorandum" has not been issued, we must be allowed to have such peanuts inspected and graded before you dispose of them. If you dispose of any production without giving us the opportunity to have the peanuts inspected and graded the gross weight of such production will be used in determining total production to count unless you submit a marketing record satisfactory to us which clearly shows the net weight and quality of such peanuts.

(4) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good peanut farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use (other than harvest) without our prior written consent or damaged solely by an uninsured cause;

(c) Only the appraised production in excess of the lesser of 250 pounds or 20% of the production guarantee per acre for all other unharvested acreage will be counted.

(d) Our appraised production on unharvested acreage (as limited by subsection (c));

(e) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(i) Not put to another use before harvest of peanuts becomes general in the country;

(ii) Harvested; or

(iii) Further damaged by an insured cause and reappraised by us.

d. A replanting payment is available under this endorsement if we determine it is practical to replant. The replanting payment per acre will not exceed 250 pounds or 20 percent of the production guarantee multiplied by the price election, (the quota price up to an including the units effective quota and non-quota price of any additional peanuts) multiplied by your share. If the crop is replanted under a practice that was uninsurable as an original planting, the guarantee will be reduced by the amount of the replant payment.

In accordance with paragraph 9.h. of the general crop insurance policy, no replanting payment will be made on acreage on which our appraisal exceeds 90 percent of the guarantee.

8. Cancellation and termination dates.

State and county	Cancellation and termination dates
Duval and La Salle counties, Texas.	February 15.
New Mexico; Oklahoma; Baylor, Brown, Callahan, Collingsworth, Comanche, Dallam, Eastland, Erath, Gaines, Garza, Hood, Jones, Montague, Motley, Palo Pinto, Parker, Somervell, and Stonewall counties, Texas; and Virginia.	April 15.
All other Texas counties and all other states.	March 31.

9. Contract changes.

Contract changes will be available at your service office by December 31 prior to the cancellation date for counties with an April 15 cancellation date and by November 30 prior to the cancellation date for all other counties.

10. Meaning of terms.

a. "County" means the land defined in the general crop insurance policy and any land identified by an ASCS Farm Serial Number for the county but physically located in another county.

b. "Effective poundage marketing quota" means the farm marketing quota as established and recorded by ASCS.

c. "Harvest" means the completion on a per acre basis of digging of peanuts on any acreage for the purpose of combining or threshing, from which acreage, at least the lesser of 250 pounds or 20 percent of the production guarantee per acre (as contained in the actuarial table) is dug.

d. "Replanting" means performing the cultural practices necessary to replant insured acreage to the same crop.

e. "Unit", in lieu of paragraph 17.q. of the general crop insurance policy, means all insurable acreage of peanuts in the county in which you have an insured share on the date of planting for the crop year and which is identified by a single ASCS farm serial number at the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported.

We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconstitution was in whole or in part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy. Errors in reporting units may be corrected by us when adjusting a loss.

f. "Value per pound" means the "value per pound including loose shell kernels" as shown on the United States Department of Agriculture "Inspection Certificate and Sales Memorandum," except for Segregation II, III, and non-quota (additional) peanuts for which the value per pound will be determined by us after reference to local market conditions and the support rate.

Done in Washington, DC, on October 15, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-25131 Filed 10-29-87; 8:45 am]

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7 CFR Part 401

[Amdt. No. 17; Doc. No. 4834S]

General Crop Insurance Regulations; Hybrid Corn Seed Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new subpart, 7 CFR 401.126, to be known as the Hybrid Corn Seed Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on hybrid corn seed in an endorsement to the general crop insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this

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rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than November 30, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington. DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date stablished for these regulations is established as September 1, 1992.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.126, the Hybrid Corn Seed Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring hybrid corn seed.

Upon publication as a final rule, the provisions for insuring hybrid corn seed contained in 7 CFR 401.126 will supersede those provisions contained in 7 CFR Part 443, the Hybrid Seed Crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 443 will be terminated at the end of the 1987 crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 443 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not effect meaning or intent of the provisions. In adding the new Hybrid Corn Seed Endorsement to 7 CFR Part 401, FCIC proposes to make other changes in the provisions for insuring hybrid corn seed as follows:

1. Section 1—Add a provision indicating that hybrid corn seed destroyed to comply with other U.S. Department of Agriculture programs will not be insured.

2. Section 4—Provide that insurance will begin on each unit or portion of a unit. This change is made to avoid instances when delayed planting of part of a unit until after the final planting date would prevent insurance from attaching on timely planted acreage.

3. Section 5—Add unit division guidelines and add a clause to provide that division of units may result in the insured paying additional premium for guideline unit division in accordance with actuarial studies which show an increased risk when units are divided.

Add language to provide that nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your yield for the purpose of determining the guarantee for the unit.

6. Section 10—Change definitions of "female plant", "harvest", "inadequate germination", "male plant", "non-seed production", "sample", "seed company", "seed production," and "variety" for clarification purposes to provide compatibility with the general crop insurance policy.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register**. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations; Hybrid corn seed endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75.430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.126, Hybrid Corn Seed Endorsement, effective for the 1988 and Succeeding Crop Years, to read as follows:

§ 401.126 Hybrid corn seed endorsement.

The provisions of the Hybrid Corn Seed Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation Hybrid Corn Seed Endorsement

1. Insured crop.

a. The crop insured will be the female corn seed which is:

((1) Planted for harvest and the production is intended for use as commercial seed to produce corn for grain or silage, and

(2) Grown under a written contract with a seed company executed before the acreage reporting date.

b. An instrument in the form of a "lease" under which you retain control of the acreage on which the insured crop is grown and which provides for delivery of the crop under certain conditions and at a stipulated price will be treated as a contract under which you have the share in the crop.

c. In addition to the hybrid corn seed acreage not insurable under section 2.e. of the general crop insurance policy, we do not insure any hybrid corn seed acreage:

(1) When a mixture of female and male seed is planted in the same row;

(2) Planted and occupied by the male plants;

(3) Planted for experimental purposes;

(4) Planted for any purpose other than for commercial seed;

(5) Grown under a contract with any seed company and that seed company refuses to provide us with the records we require to determine the dollar value per bushel of production for each type and variety; or

(6) Destroyed or put to another use in order to comply with other U.S. Department of Agriculture programs.

2. Causes of loss.

a. The insurance provided is against unavoidable loss of hybrid corn seed production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

b. In addition to the causes of loss not insured against in section 1.b. of the general crop insurance policy, we will not insure against any loss of production due to:

(1) The use of unadapted, incompatible or genetically deficient male or female seed;

(2) The failure to follow the grower provisions of the seed contract;

(3) Frost or freeze after the date set by the actuarial table;

(4) Inadequate germination of the hybrid corn seed even though such inadequate germination is the direct result of an insured cause of loss unless inspected and accepted by us before harvest is completed; or

(5) The failure to plant the male corn seed at a time sufficient to assure adequate pollination of the female plant.

3. Annual premium.

a. The annual premium amount is computed by multiplying the amount of insurance per acre times the premium rate, times the insured acreage, times your share at the time of planting.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the experience table contained in the hybrid corn seed policy for the 1984 crop year, you will continue to receive the benefit of the reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1988 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1984 crop year;

(4) Once the loss ratio exceeds .60, no further premium reduction will apply; and

(5) Participation must be continuous.

4. Insurance period.

In addition to the provisions of section 7 of the general crop insurance policy, the following will apply:

a. Insurance attaches on each unit or part of a unit for each type and variety when both the male plant seed and the female plant seed are completely planted in accordance with the production management practices of the seed company. However, insurance will not attach to any part of a unit where the female plant seed for the type and variety is not planted by the final planting date shown in the actuarial documents.

b. The calendar date for the end of the insurance period is October 31 of the crop year.

5. Unit division.

Hybrid corn seed acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay additional premium if required by the actuarial table and if for each proposed unit you maintain written, verifiable records of planted acreage and harvested production for at least the previous crop year, and either:

a. The acreage planted to insured hybrid corn seed is located in separate, legally identifiable sections or, in the absence of section descriptions the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the sections or Farm Serial Numbers are clearly identified and the insured acreage is easily determined; and

(2) The hybrid corn seed is planted in such a manner that the planting pattern does not continue into the adjacent section or ASCS Farm Serial Number; or

b. The acreage planted to the insured hybrid corn seed is located in a single section or ASCS Farm Serial Number and consists of acreage on which both an irrigated and a nonirrigated practice are carried out, provided:

(1) Hybrid corn seed planted on irrigated acreage does not continue into nonirrigated acreage in the same rows or planting pattern (nonirrigated corners of a center pivot irrigation system are part of the irrigated unit); and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good dryland and irrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined.

6. Notice of damage or loss.

In addition to the notices required in section 8 of the general crop insurance policy, in case of damage or probable loss you must give us written notice of probable loss at least 15 days before the beginning of harvest if you anticipate a germination rate of less than 80 percent on any unit. For purposes of section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for indemnity.

a. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance per acre;

(2) Subtracting from this product the sum of:

(a) The dollar amount obtained by multiplying seed production to count for each type and variety by the respective dollar value per bushel of production plus;

(b) The dollar amount obtained by multiplying non-seed production to count (see section 7.b.) by the local market price of such production on the earlier of the date the loss is adjusted or the date such production is sold; and

(c) Multiplying this result by your share.

b. The total production to be counted for a unit will include all harvested and appraised seed and non-seed production.

(1) Total seed production to count will include:

(a) All corn delivered to and accepted by the seed company;

(b) All corn which would pass over 16/64 screen unless the germination rate is less than 80 percent warm test as determined by a certified seed test conducted from a cleaned sample taken at the time of delivery or if the mature corn is appraised, at the time of appraisal; and

(c) All harvested and appraised production which does not qualify under (a) and (b) above because the damage was due to uninsured causes.

(2) For the purpose of determining the quantity of mature production:

(a) Shelled corn will be adjusted .12 percent for each .1 percentage point of moisture to 15.5; and

(b) Ear corn will be measured at 70 pounds of ear corn equaling 56 pounds (one bushel) of shelled corn. The weight of ear corn required to equal one bushel of shelled corn will be increased 2 pounds for each percentage point of moisture in excess of 14 percent.

(3) When records of seed production, provided by the seed company, have been adjusted to a shelled corn basis of 15.5 percent moisture, and 56-pound test weight (2) above will not apply for harvested production and the records of the seed company will be used to determine the amount of indemnity; provided that such production records are based on the same moisture and test weights criteria as the criteria used to determine the dollar value per bushel.

(4) Appraised production to count as seed production will include:

(a) Unharvested production on harvested acreage and the percent of the approved yield lost due to uninsured causes;

(b) Not less than the dollar amount of insurance for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraisal of non-mature production; and

(d) Any appraised production on unharvested acreage.

(5) Any appraisal we have made on insured acreage and given written consent to be put to another use will be considered as seed production unless such acreage is:

(a) Not put to another use before harvest of the crop becomes general in the county and reappraised by us; or

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

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In addition to the provisions of section 9.n. in the general crop insurance policy, the fair market value of production on the unit before the loss is limited to 1⅓ times the highest price election available.

8. Cancellation and termination dates.

The cancellation and termination dates are April 15.

9. Contract changes.

The contract change date is December 31 preceding the cancellation date.

10. Meaning of terms.

a. "Approved yield" means the result obtained by dividing the amount of insurance per acre by the dollar value per bushel of production.

b. "Commercial seed" means the offspring of two individual seeds of different genetic character which is produced as a result of crossing. A portion of this resultant offspring is the product intended for the purpose or use on a commercial basis by an agricultural producer to produce a field crop type for grain or silage.

c. "Female plant" means those plants pollinated by male plants and grown from foundation seed stock for the purpose of being harvested as hybrid seed corn.

d. "Harvest" means the combining, threshing, or picking of the female seed parent for use as hybrid seed corn.

e. "Inadequate germination" means the hybrid seed corn produced from the female plants having a warm test germination rate of less than 80% as determined by a certified seed test conducted from a field run sample which has passed over a 16/64 screen.

f. "Male plant" means the plants grown from foundation seed stock for the purpose of pollinating the female plants and are not insurable under this endorsement.

g. "Non-seed production" means all hybrid seed corn with inadequate germination (Designation as non-seed production under this definition may be appraised production to count under section 9 if inadequate germination was due to an uninsurable cause (see section 7.b.(4)(a)).

h. "Sample" means at least 3 pounds of shelled hybrid seed corn representative (field run) for each variety of seed corn grown on the unit.

i. "Seed company" means a company which issues a grower a written contract to produce or grow hybrid seed corn.

j. "Seed production" means all hybrid seed corn with a warm test germination rate of at least 80 percent using clean seed as determined by a certified seed test conducted from a field run sample which has passed over a 16/64 screen.

k. "Shelled corn" means grain (corn) after its removal from the cob.

l. "Variety" means a specific cross between genetically identifiable foundation seed parents.

Done in Washington, DC, on October 15, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-25130 Filed 10-29-87; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 426

[Amdt. No. 2; Doc. No. 4819S]

Combined Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Combined Crop Insurance Regulations (7 CFR Part 426), effective for the 1988 crop year. The intended effect of this proposed rule is to maintain the effectiveness of the present Combined Crop Insurance Regulations only through the 1987 crop year. It is proposed to terminate the Combined Crop Insurance Regulations effective with the end of the 1987 crop year. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than November 30, 1987, to be sure of consideration.

ADDRESS: Written comments, data, and opinions on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250. Written comments will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1988.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

The combined crop insurance program, begun in the 1948 crop year, was, at one time, offered in a majority of counties throughout the country as a means of insuring a variety of crops at a reduced premium rate. The concept of a combined crop insurance program was designed to reflect the crop insurance needs of farmers which leaned strongly toward less risk management through crop diversification and covered Barley, Flax, Oats, Rye, Soybeans, and Wheat.

Over the years, participation in the combined crop insurance program dwindled to only five counties in North Dakota. Several of these counties had extremely low participation with the majority of producers preferring crop insurance coverage on an individual basis.

On Thursday, November 29, 1979, FCIC published a final rule in the **Federal Register** at 44 FR 68431, which determined that, while the combined crop insurance program would be maintained for those producers who wished to continue to insure their crops under a continuous combined crop insurance policy, no new applications would be accepted.

The determination to discontinue accepting new applications for combined crop insurance, while affecting only new policyholders, afforded them a greater flexibility in insurance coverage by allowing them to select varying levels of coverage on individual crops to reduce premium costs. The same benefit accrued to existing combined crop insurance policyholders who determined that individual crop coverage would be more beneficial. These policyholders were permitted to transfer any good insuring experience discount to an individual crop program.

On October 9, 1986, the Board of Directors requested that the Corporation determine the feasibility of terminating combined crop insurance with the end of the 1987 crop year.

Approximately 602 policyholders currently remaining under the combined crop insurance program will be offered individual crop insurance coverage under any of the above endorsements for the 1988 crop year.

Any of these policyholders with a continuing benefit from good insuring experience discount will be permitted to continue receiving this benefit through the 1989 crop year.

Beginning with the 1988 crop year, the crops formerly insured under the combined crop insurance program will be incorporated as separate endorsements under the General Crop Insurance Policy (7 CFR Part 401, published on July 30, 1987, at 52 FR 28443), as follows:

Barley—Section 401.103
Flax—Section 401.116
Oats—Section 401.105
Rye—Section 401.106
Soybeans—Section 401.117
Wheat—Section 401.101

FCIC herein proposes to amend the subpart heading of these regulations to provide that 7 CFR Part 426 be effective for the 1986 and 1987 crop years only.

List of Subjects in 7 CFR Part 426

Crop insurance, Combined crops.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Subpart heading to the Combined Crop Insurance Regulations (7 CFR Part 426), as follows:

PART 426—[AMENDED]

1. The authority citation for 7 CFR Part 426 continues to read as follows:

Authority: Secs. 506, 516, Pub.L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. The subpart heading in 7 CFR Part 426 is revised to read as follows:

Subpart—Regulations for the 1986 and 1987 Crop Years

Done in Washington, DC, on October 14, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-25132 Filed 10-29-87; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 947

Potatoes Grown in Designated Areas in California and Oregon; Handling Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would make permanent the relaxed minimum size requirements currently in effect for high quality potatoes shipped for market expansion purposes. The current requirements were made effective on a temporary basis until March 7, 1988. The relaxed requirements are designed to develop and expand the market for potatoes.

DATE: Comments must be received by November 30, 1987.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments should be sent to: Docket Clerk, Fruit and Vegetable Division, AMS: USDA, P.O. Box 96456, Room 2085-S Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the date and page number of this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 447-5697.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 947, as amended (7 CFR Part 947), regulating the handling of Irish potatoes grown in Modoc and Siskiyou Counties, California, and in all Counties in Oregon, except Malheur County. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

The information collection requirements contained in this proposed rule have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and have been assigned OMB No. 0581-0112.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 42 handlers of Oregon-Northern California potatoes subject to regulation under the marketing order, and approximately 469 potato producers in Oregon and Northern California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual revenues are less than $3,500,000. The majority of handlers and producers of Oregon-Northern California potatoes may be classified as small entities.

The handling requirements for fresh Oregon-California potatoes are specified in § 947.340 (46 FR 47757, September 30, 1981; 48 FR 38203, August 23, 1983; 52 FR 7120, March 9, 1987). The most recent amendment relaxed the minimum size requirements for potatoes shipped under specific conditions for market expansion purposes for the period February 25, 1987, through March 7, 1988, and permanently exempted all non-white fleshed varieties of potatoes from handling regulations.

Potatoes shipped under the temporarily relaxed minimum size requirements specified in the March 9, 1987, final rule must grade at least U.S. No. 1, and be packed in quantities of 50 pounds or more per container. In addition, all such potatoes of the red-skinned varieties must be at least "Size_

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B," while all other regulated varieties must be smaller than 1⅛ inches in diameter.

Prior to shipping any such potatoes under the relaxed size requirements, handlers must apply for and obtain from the committee each marketing season a special purpose certificate authorizing shipment of the potatoes. In addition, handlers who ship potatoes under the relaxed minimum size provisions are required to promptly report information requested by the committee relating to such shipments, including the grade and usage of the potatoes, once the shipments are concluded. The reporting requirements are designed to provide adequate safeguards to assure that the potatoes shipped under these provisions are shipped to the intended market for the stated purpose, and to provide the committee with information necessary to monitor and evaluate the effects of such shipments on the market.

This proposal to make the current rule permanent is designed to further the development of new markets and further expand marketing opportunities for potato growers in Oregon and Northern California. This action was recommended by the Oregon-California Potato Committee.

The committee reports that about 600 pounds of potatoes have been test marketed as samples to prospective customers e.g., restaurants, under the relaxed minimum size requirements. These shipments have been well received and, with the onset of the 1987 crop harvest, shipments of potatoes under the relaxed requirements are expected to increase considerably. The committee is of the opinion that the procedures set up on a temporary basis for keeping track of those shipments to make sure that the potatoes do not end up in the markets for larger-sized Oregon-California potatoes will work on a permanent basis. Further, the committee believes that such shipments will not adversely impact the market for larger-sized potatoes and, hence, these requirements should be established on a permanent basis. For potatoes shipped to markets desiring larger-sized potatoes, the minimum size requirements are 2 inches in diameter or 4 ounces in weight for potatoes shipped within the continental United States, and 1½ inches in diameter for potatoes shipped outside such area, while the minimum grade requirement is U.S. No. 1 for potatoes packed in 50-pound cartons and U.S. No. 2 for potatoes packed in other size containers.

Based on the above, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 947

Marketing agreements and orders, Potatoes, Oregon, California.

For reasons set forth in the preamble, it is proposed that 7 CFR Part 947 be amended as follows:

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CALIFORNIA AND IN ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY

1. The authority citation for 7 CFR Part 947 continues to read as follows:

Authority: Secs. 1–19. 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 947.340 (46 FR 47757, September 30, 1981; 48 FR 38203, August 23, 1983; 52 FR 7120, March 9, 1987) is amended by revising paragraph (b) to read as follows:

§ 947.340 Handling regulation.

* * * * *

(b) *Size Requirements.* Such potatoes shipped to points within the continental United States shall be at least 2 inches in diameter or weigh at least 4 ounces, and such potatoes shipped to export destinations shall be at least 1⅛ inches in diameter: *Provided,* That any person may handle all varieties of such potatoes, except red-skinned varieties of potatoes, that measure less than 1⅛ inches in diameter, and all red-skinned varieties of potatoes which are Size B, if such potatoes otherwise grade at least U.S. No. 1, and they are packed in quantities of 50 pounds or more per container: *Provided further,* That any person who desires to so handle potatoes shall each season prior to shipment apply for and obtain a special purpose certificate from the committee authorizing shipment of the potatoes for market expansion purposes: *Provided further,* That any person who so handles potatoes for market expansion purposes shall promptly report the shipment, grading, and usage of the potatoes to the committee.

* * * * *

Dated: October 26, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–25153 Filed 10–29–87; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

High-Level Waste Licensing Support System Advisory Committee (Negotiated Rulemaking); Third Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of third meeting.

SUMMARY: The Nuclear Regulatory Commission will hold the third meeting of the High-Level Waste Licensing Support System Advisory Committee on November 19–20, 1987. The committee, established under authority of the Federal Advisory Committee Act (FACA), is tasked with developing recommendations for revision of the Commission's Rules of Practice in 10 CFR Part 2 related to the adjudicatory proceeding for the issuance of a license for a geolgic repository for the disposal of high-level waste (HLW). The Committee is attempting to negotiate a consensus on proposed revisions related to the submission and management of records and documents for the HLW licensing proceeding.

DATES: The third meeting of the HLW Licensing Support System Advisory Committee will be held November 19–20, 1987, beginning at 10:00 a.m. on November 19 and 8:30 a.m. on November 20.

ADDRESS: The location of the November 19–20, 1987 meeting of the HLW Licensing Support System Advisory Committee is the Regency Hotel and Conference Center, 3900 Elati Street, Denver, Colorado, 80216.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301–492–7211.

SUPPLEMENTARY INFORMATION: The third meeting of the HLW Licensing Support System Advisory Committee ("negotiating committee") is scheduled to include negotiation on several preliminary issues related to a high-level waste licensing support system and procedural issues regarding the negotiation process, such as use of working groups, and use by the negotiating committee of a single negotiating text.

Dated at Bethesda, Maryland, this 26th day of October, 1987.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Rules and Records, Office of Administration and Resources Management.

[FR Doc. 87–25208 Filed 10–29–87; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–NM–131–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9 and C–9 (Military) Series Airplanes, Fuselage Numbers 1 through 1371

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD, applicable to certain McDonnell Douglas Model DC–9 series airplanes, which currently requries inspection and repair, if necessary, of the upper anticollision light doubler. This action would expand the applicability of the AD to include Model DC–9–80 (MD–80) series airplanes, fuselage numbers 1249 through 1371, since the incorporation of production equivalent changes was not accomplished on these airplanes prior to delivery.

DATE: Comments must be received no later than December 29, 1987.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–131–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1–L00 (54–60).

This information may be examined at the Northwest Mountain Region, 17900 Pafific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM–122L, FAA Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6319.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: Attention: Airworthiness Rules Docket No. 87–NM–131–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

DISCUSSION: On December 17, 1985, FAA issued AD 85–19–03–R1, Amendment 39–5200 (50 FR 52766; December 26, 1985), to require inspection and repair, as necessary, of the upper anticollision light doubler at one or both ends of the cutout in the longitudinal axis of the doubler, originating at a nut plate clearance hole. That action was prompted by reports of cracks in the upper anticollision light doubler, the failure of which could result in damage to the adjacent structure and subsequent loss of cabin structural integrity.

Since issuance of that AD, the FAA has become aware that a number of Model DC–9–80 (MD–80) series airplanes, beginning with fuselage number 1249, were assembled and certificated without Engineering Drawing Number 5911415, change letter BP, dated December 18, 1984, incorporated. The engineering change was intended to be the production equivalent of AD 85–19–03.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would expand the applicability of AD 85–19–03 to include Model DC–9–80 (MD–80) series airplanes, fuselage numbers 1249 through 1371, to require inspection of the upper anticollision light doubler of those airplanes, and repair, if necessary.

It is estimated that 122 airplanes of U.S. registry would be affected by this AD, that it would take approximately 10 manhours per airplane to accomplish the required repair and 4 manhours per airplane to accomplish the required inspection, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $68,320.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC–9 and C–9 (Military) series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By revising the applicability statement of AD 85–19–03 R1, Amendment 39–5200 (50 FR 52766; December 26, 1985), to read as follows:

". . . Applies to McDonnell Douglas ModelDC–9 and C–9 (Military) series airplanes, fuselage numbers 1 through 1371, certificated . . ."

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard,

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Long Beach, California 90846, Attention: Director of Publications, C1–L00 (54–60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on October 23, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–25111 Filed 10–29–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–ANM–25]

Proposed Alteration of Transition Area; Eagle, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to amend the Eagle, Colorado, transition area to provide controlled airspace for aircraft executing a new approach procedure and associated holding pattern at the Eagle County Airport.

DATE: Comments must be received on or before November 30, 1987.

ADDRESS: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 87–ANM–25, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

The official docket may be examined in the Office of Regional Counsel at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM–530, Federal Aviation Administration, Docket No. 87–ANM–25, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, Telephone: (206) 431–2536.

SUPPLEMENTARY INFORMATION:

Comments Invited

Considerable effort has been expended over the past year to certify the TVOR as an integral component for the procedure. The ski season is again approaching and the new procedure is needed now to provide lower minimums. It is, therefore, considered in the public interest to establish a 30-day period for public comment in this case.

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–ANM–25". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide controlled airspace for aircraft executing a new instrument approach procedure at the Eagle County Airport, Colorado.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Eagle, Colorado, Transition Area [Amended]

After lat. 40°21'00" N., long. 106°42'00" W.; add the following: "to lat. 40°00'00" N., long. 106°42'00" W., to lat. 40°00'00" N., long. 106°00'00" W.; to lat. 39°19'00" N., long. 106°42'00" W.; to the point of beginning excluding all controlled airspace which overlaps this airspace."

Issued in Seattle, Washington, on October 19, 1987.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division Northwest Mountain Region.

[FR Doc. 87–25112 Filed 10–29–87; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 456

Ophthalmic Practices Trade Regulation Rule; Oral Presentations and Availability of Staff Documents

AGENCY: Federal Trade Commission.

ACTION: Notice of date for oral presentations before the Commission; placement of documents on the rulemaking record.

SUMMARY: The Federal Trade Commission has decided to afford interested parties the opportunity to make oral presentations before the Commission, pursuant to Commission Rules of Practice § 1.13(i), in the Ophthalmic Practices Rulemaking proceeding ("Eyeglasses II"). Six prior participants in the proceeding have been invited to appear before the Commission.

The Federal Trade Commission has also placed on the rulemaking record for the proposed Eyeglasses II Trade Regulation Rule the final recommendations of the rulemaking staff and of the Directors of the Bureaus of Consumer Protection and Economics. A staff summary of the comments filed by the public on the reports of the staff and the Presiding Officer is also on the rulemaking record.

DATE: Oral presentations before the Commission will be heard at the Commission's open meeting on November 5, 1987 at 9:00 a.m.

ADDRESS: The meeting will be held in Room 432, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ruth Fitzpatrick, Federal Trade Commission, Washington, DC 20580, at (202) 326–3277.

SUPPLEMENTARY INFORMATION: Pursuant to § 1.13(h) of the Commission's Rules of Practice, comments were invited from the public on the final reports of the staff and the Presiding Officer in the Eyeglasses II rulemaking proceeding, and interested parties who had previously participated in the proceeding were invited to submit requests to participate in oral presentations, pursuant to § 1.13(i) of the Commission's Rules of Practice. 51 FR 43217. The comment period, extended in response to Motions of the American Optometric Association and the California Optometric Association, closed on March 13, 1987. 52 FR 2723.

All comments received were placed on the rulemaking record and the rulemaking staff prepared a summary of those comments. That summary is available for public inspection on the rulemaking record in this proceeding.

The Federal Trade Commission has directed that the final recommendations of the rulemaking staff and the Directors of the Bureaus of Consumer Protection and Economics, submitted to the Commission after the conclusion of the post-record comment period specified in § 1.13(h) of the Commission's Rules of Practice, be placed on the rulemaking record in this proceeding for public inspection.

The Federal Trade Commission has offered six interested parties the opportunity to make oral presentations. The prior participants in the proceeding who have been invited to appear include: The American Optometric Association, the California Optometric Association, the National Association of Optometrists and Opticians, the Opticians Association of America, Dr. Joseph Seriani of U.S.A. Lens, Inc., and Mr. Roy Ferguson of 20/20 Optical.

Each participant will be permitted either fifteen or thirty minutes, as stipulated by the Commission, to address comments to the Commission. No additional written comments may be submitted to the Commission. Oral presentations at the meeting must be restricted to the evidence already in the rulemaking record in this proceeding.

The meeting before the Commission will commence at 9:00 a.m. on November 5, 1987, in Room 432, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

List of Subjects in 16 CFR Part 456

Trade practices, Ophthalmic practice rules.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87–25107 Filed 10–29–87; 8:45 am]

BILLING CODE 6750–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 12

Reparation Proceedings; Date of Reparation Order; Filing of Double Bond in Court of Appeals

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: Under section 14(e) of the Commodity Exchange Act, 7 U.S.C. 18(e), litigants who wish to file a petition for Court of Appeals review of a reparation order issued by the Commodity Futures Trading Commission ("Commission") must file a double bond within 30 days of "the date of the reparation order." The Commission is proposing an interpretative rule to clarify that the 30-day period for filing the bond runs from the date that the Commission's order is received by the Commission's Proceedings Clerk, a date that is routinely stamped on the first page of the order.

DATE: Comments must be received on or before November 30, 1987.

ADDRESS: Comments may be submitted to Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, Attention: Office of the Secretariat. Telephone: (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: Curt Bohling, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone (202) 254–9880.

SUPPLEMENTARY INFORMATION: Section 14(e) of the Commodity Exchange Act, 7 U.S.C. 18(e), specifies the procedure for obtaining review in the United States Court of Appeals of a reparation order issued by the Commission. That section provides, *inter alia*, that a reparation appeal:

> Shall not be effective unless within 30 days from and after the date of the reparation order the appellant also files with the clerk of the court a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail.

The United States Court of Appeals for the District of Columbia Circuit has held that the time for filing the Section 14(e) bond "must be construed as both jurisdictional and unalterable." *Kessenich* v. *CFTC*, 684 F.2d 88, 93 (DC Cir. 1982). Likewise, the United States Court of Appeals for the Ninth Circuit has recently stated that "the timely filing of [the Section 14(e)] bond is a prerequisite for appellate jurisdiction." *Chicago Commodities, Inc.* v. *CFTC*, 811 F.2d 1262, 1263 (9th Cir. 1987). Should a reparations litigant in the Court of Appeals miscompute the 30-day period for filing the jurisdictional section 14(e) bond, his petition for review is subject to dismissal by the Court of Appeals. *See, e.g., Clayton Brokerage Co.* v. *Bunzel*, 820 F.2d 1459 (9th Cir. 1987) ("*Bunzel*").

As the *Bunzel* decision illustrates, the phrase "the date of the reparation order" as used in section 14(e) may be subject to more than one interpretation. The *Bunzel* court held that, pursuant to the terms of the Commission's order in that particular case, "the date of the reparation order" was "the date that the order . . . was served." 820 F.2d at 1462. Since the date of service of the order was not obvious on the face of the order, the Court required the Commission to supplement the record with evidence concerning the date of service. Upon reviewing this evidence, the Court determined that the order had been served 31 days before the petitioners filed their section 14(e) bond. The Court therefore dismissed the petition for review.

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To avoid these procedural questions for litigants and to provide certainty as to the measuring date for the filing of the jurisdictional bond, the Commission is hereby proposing a rule to define "the date of the reparation order" in section 14(e) as the date on which the order is filed with the Commission's Proceedings Clerk. This date is routinely stamped on the first page of the Commission's opinion and order or order of summary affirmance. Thus, parties receiving a Commission reparation order will know with certainty the date upon which the 30-day period begins to run.

Litigants should rarely be prejudiced by delays in service of Commission reparation orders because the Commission routinely serves its reparation orders either on the date that they are filed or on the next business day. For example, in *Bunzel*, the date of filing of the Commission's order, as indicated by the date stamp, was the same as the date of service of the order, as determined by the Court. A party may file with the Commission a motion to vacate and refile a reparation order only upon a showing that the party was prejudiced by a delay in service of the order.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to consider the economic impact of proposed rule changes on small business entities. The rule proposed herein would not affect the amount of the bond required to be filed in order to obtain judicial review of a Commission reparation order and thus would not have any economic impact on small business entities. Accordingly, the Acting Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rule proposed herein, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 12

Administrative practice and procedure, Commodity futures, Reparations.

For the reasons set forth in the preamble, the Commission proposes to amend Title 17, Part 12 of the Code of Federal Regulations as follows:

PART 12—[AMENDED]

1. The authority citation for Part 12 is revised to read as follows:

Authority: 7 U.S.C. 4a(j), 12a(5), 18(b) (1982).

2. Section 12.406 is amended by adding a new paragraph (d) as follows:

§ 12.406 Final decision of the Commission.

* * * * *

(d) *Date of the reparation order.* For purposes of computing the 30-day period for filing the appeal bond required by section 14(e) of the Act, 7 U.S.C. 18(e), "the date of the reparation order" shall be the date that the Commission's opinion and order (or order of summary affirmance, as the case may be) is filed with the Proceedings Clerk. This date shall be reflected by the date stamp on the first page of the Commission's order.

Issued in Washington, DC, on October 23, 1987 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-25123 Filed 10-29-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 19, 112, and 146

Proposed Customs Regulations Amendments Concerning Suspension or Revocation of License of Warehouse Proprietor, Container Station Operator, Cartman, Lighterman, or Foreign Trade Zone Operator

AGENCY: U.S. Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations concerning the suspension or revocation of the license of a warehouse proprietor, container station operator, cartman, lighterman, or foreign trade zone operator. Currently, one of the enumerated circumstances under which a district director may suspend or revoke such a license is when the holder of that license, or the officers of a corporation holding that license, is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime.

It has come to Customs attention that a literal interpretation of these regulations allows corporation officers to commit acts constituting the specified offenses, resign from the corporation before conviction, and therefore, allow the corporation before conviction, and therefore, allow the corporation to retain its particular license. This may occur even if the officer resigns in name only but continues to exercise control over the corporation. Therefore, Customs proposes to amend its regulations to permit suspension or revocation of these licenses if the officer of a corporation holding one of the licenses is convicted of a felony or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime, if the criminal act was committed while the person was still an officer of that corporation. These amendments, if adopted, would end the ploy of resigning to avoid suspension or revocation of the license and would more accurately reflect Customs attitude that those demonstrating criminal behavior are not entitled to the position of trust involved in these professions.

It is also proposed to amend the regulations concerning container station operators and cartmen and lightermen to include commission of acts constituting the offenses specified, as opposed to convictions resulting from those acts, as grounds for suspension or revocation of the ability to operate those businesses. Such language already appears in the regulations concerning warehouse proprietors and foreign trade zone operators.

DATES: Comments must be received on or before December 29, 1987.

ADDRESSES: Comments (preferably in triplicate) should be submitted to and may be inspected at the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Kathleen McGuigan, Office of the Chief Counsel, (202-566-6245).

SUPPLEMENTARY INFORMATION:

Background

On August 26, 1986, Customs published a notice in the **Federal Register** (51 FR 30376), proposing to amend § 112.30, Customs Regulations (19 CFR 112.30), concerning the suspension or revocation of a cartman's or lighterman's license. One of the enumerated circumstances under which a district director may suspend or revoke such a license is when the holder of that license, or the officer of a corporation holding that license, is convicted of a felony, or is convicted of a misdemeanor involving theft, sumggling, or a theft-connected crime.

The proposal was prompted because it had come to Customs attention that a literal interpretation of § 112.30 was allowing corporation officers to commit acts constituting the specified offenses, resign from the corporation before conviction, and therefore allow the corporation to retain its cartman or lighterman license. This could occur even if the officer resigned in name only but continued to exercise control over the corporation.

Customs sought to make it clear that application of this regulation is dependent upon a conviction arising from an act or acts committed while a person was a corporate officer. The person's employment status with the corporation at the time of conviction is unimportant. Therefore, resignation, discharge, demotion, or promotion, or any change in the employment status of the corporate officer prior to conviction will not preclude the district director from suspending or revoking the corporation's cartman or lighterman license.

Therefore, Customs proposed to amend § 112.30(a)(5) to permit suspension or revocation of a cartman or lighterman license if the officer of a corporation holding such a license is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime, if the criminal act was committed while the person was still an officer of that corporation. If adopted, the amendment would end the ploy of the corporate officer resigning to avoid the corporation losing its cartman or lighterman license even if the resignation was in name only. The amendment would also more accurately reflect Customs attitude that those demonstrating criminal behavior are not entitled to the position of trust involved in the professions of cartman and lighterman.

No comments were received on the proposal. However, in reviewing the matter, it was determined that a similar interpretation problem exists in the regulations relating to warehouse proprietors, container station operators, and foreign trade zone operators. In § 19.3(e)(3), Customs Regulations (19 CFR 19.3(e)(3)), concerning the right of a proprietor to continue the bonded status of a warehouse; in § 19.48(a)(3), Customs Regulations (19 CFR 19.48(a)(3)), concerning the privilege of operating a container station; and in § 146.82(a)(3), Customs Regulations (19 CFR 146.82(a)(3)), concerning the activated status of a foreign trade zone, one of the circumstances that can trigger suspension or revocation of the ability to conduct one of the particular businesses is the conviction of an officer of a corporation engaged in the business for a felony, or a misdemeanor involving theft, smuggling, or a theft-connected crime.

Due to the similar wording of these regulations and the regulations concerning cartmen and lightermen, it was determined that these regulations should also be amended to clarify that suspension or revocation of a license is dependent upon a conviction arising from an act or acts committed while the person was still an officer of a corporation engaged in one of these businesses. The person's employment status with the corporation at the time of conviction is unimportant. To address the problem for all of the professions, it was deemed advisable to revise the proposal.

Also, in an effort to establish a uniform regulatory approach to the various professions, it is proposed to amend the regulations concerning container station operators and cartmen and lightermen to include commission of acts constituting the specified offenses, as opposed to conviction resulting from the specified offenses, as grounds for suspension or revocation of those licenses. Such language already exists in the regulations concerning warehouse proprietors and foreign trade zone operators.

Comments

Before adopting these proposals, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was John Doyle, Regulations Control Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 19

Customs duties and inspection, Imports, Warehouses.

19 CFR Part 112

Administrative practice and procedures, Customs duties and inspection, imports.

19 CFR Part 146

Administrative practice and procedures, Foreign Trade Zones, Imports.

Proposed Amendments

It is proposed to amend Parts 19, 112, and 146, Customs Regulations (19 CFR Parts 19, 112, 146), as set forth below.

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. The authority citation for Part 19 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624.

Section 19.48 also issued under 19 U.S.C. 1499, 1623.

§ 19.3 [Amended]

2. It is proposed to amend § 19.3(e)(3) by removing the semicolon, replacing it with a period, and adding the following, "Any change in the employment status of the corporate officer (*e.g.*, discharge, resignation, demotion, or promotion) prior to conviction for a felony or prior to conviction of a misdemeanor involving theft, smuggling, or a theft-connected crime, resulting from acts committed while a corporate officer, will not preclude application of this provision."

3. It is proposed to amend § 19.48(a)(3) to read as follows:

§ 19.48 Suspension or revocation of the privilege of operating a container station; hearings.

(a) * * *

(3) The container station operator or an officer of a corporation which has been granted the privilege of operating a container station is convicted of or has committed acts which would constitute a felony, or a misdemeanor involving theft, summggling, or a theft-connected crime. Any theft, smuggling, or a theft-connected crime. Any change in the employment status of the corporate officer (*e.g.*, discharge, resignation, demotion, or promotion) prior to conviction for a felony or prior to

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conviction for a misdemeanor involving theft, smuggling, or a theft-connected crime, resulting from acts committed while a corporate officer, will not preclude application of this provision.

* * * * *

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

1. The authority citation for Part 112 continues to read as follows:

Authority: 19 U.S.C. 66, 1551, 1565, 1623, 1624.

2. It is proposed to amend § 112.30(a)(5) to read as follows:

§ 112.30 Suspension or revocation of license.

(a) * * *

(5) The holder of such a license or an officer of a corporation holding such a license is convicted of or has committed acts which would constitute a felony, or a misdemeanor involving theft, smuggling, or a theft-connected crime. Any change in the employment status of the corporate officer (*e.g.*, discharge, resignation, demotion, or promotion) prior to conviction for a felony or prior to conviction for a misdemeanor involving theft, smuggling, or a theft-connected crime, resulting from acts committed while a corporate officer, will not preclude application of this provisions.

* * * * *

PART 146—FOREIGN TRADE ZONES

1. The authority citation for Part 146 continues to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (Gen. Hdnote 11), 1623, 1624.

2. It is proposed to amend § 146.82(a)(3) to read as follows:

§ 146.82 Suspension.

(a) * * *

(3) The Operator, or any officer of a corporation which has been granted the right to operate a zone, is convicted of or has committed acts which would constitute a felony, or a misdemeanor involving theft, smuggling, or a theft-connected crime. Any change in the employment status of the corporate officer (*e.g.*, discharge, resignation, demotion, or promotion) prior to conviction for a felony or prior to conviction for a misdemeanor involving theft, smuggling, or a theft-connected crime, resulting from acts committed while a corporate officer, will not preclude application of this provision.

* * * * *

Michael H. Lane,

Acting Commissioner of Customs.

Approved: April 7, 1987.

John P. Simpson,

Actg. Assistant Secretary of the Treasury.

Editorial note: This document was received at the Office of the Federal Register on October 27, 1987.

[FR Doc. 87–25170 Filed 10–29–87; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Cathinone and 2,5-Dimethoxy-4-ethylamphetamine (DOET) in Schedule I and Cathine, Fencamfamin, Fenproporex and Mefenorex in Schedule IV

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice is a proposed rule to place cathinone and 2,5-dimethoxy-4-ethylamphetamine (DOET) in Schedule I and cathine, fencamfamin, fenproporex and mefenorex in Schedule IV of the Controlled Substances Act (21 U.S.C. *et seq.*). This action is being taken to enable the United States to meet its obligations under the 1971 Psychotropic Convention. This notice of proposed rulemaking is issued by the Administrator of the Drug Enforcement Administration (DEA) pursuant to 21 U.S.C. 811(d)(3)(B).

DATE: Comments must be submitted on or before December 29, 1987.

ADDRESS: Comments and objections should be submitted to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: During its February 1986 session, the United Nations Commission on Narcotic Drugs (CND) included 17 phenethylamines in the schedules of the Convention on Psychotropic Substances (NAR/CL.2/1986, dated February 28, 1986).

Nine of the 17 substances are already controlled under the Controlled Substances Act (CSA) and do not require any additional action by the United States. The nine substances already controlled in the United States are: Dimethoxyamphetamine (DMA), N-ethylamphetamine, fenethylline, levamphetamine, levomethamphetamine, para-methoxyamphetamine (PMA), trimethoxyamphetamine, 5-methoxy-3,4-methylenedioxyamphetamine (MMDA) and 3,4-methylenedixoyam-phetamine (MDMA). Two of the eight substances which are controlled by the CND (propylhexedrine and pyrovalerone) are the subject of a separate **Federal Register** Notice. The remaining six psychotropic substances added to the schedules by the CND decision are not currently controlled in the United States and do not have currently accepted medical use in treatment in the United States. These substances are cathine, cathinone, 2,5-dimethoxy-4-ethylamphetmine (DOET), fencamfamin, fenproporex and mefenorex.

The CND, accepting the World Health Organization (WHO) recommendations, determined that, in accordance with Article 2, paragraph 5 of the 1971 Convention of Psychotropic Substances, cathinone and DOET should be included in Schedule I of that Convention. (Decisions 1 S–IX and 5 S–IX, respectively.) The CND decided to place cathine (Decision 11 S–IX) in Schedule III of the 1971 Convention, even though the WHO had recommended listing it in Schedule II. The remaining three psychotropic substances recommended for control by the WHO (fencamfamin, fenproporex and mefenorex) were placed in Schedule IV of the 1971 Convention by the CND. (Decisions 13 S–IX through 15 S–IX, respectively.) The Secretary of Health and Human Services accepted the CND decisions regarding cathinone, DOET, cathine, fencamfamin, fenproporex and mefenorex and determined that existing controls in the United States were not sufficient to meet international drug control treaty obligations.

The CSA requires the Secretary of Health and Human Services, should he concur with the CND scheduling decision and should he feel that control measures under the CSA are not adequate to meet the requirements of the schedules specified in the notification, to recommend to the Attorney General that he initiate proceedings for scheduling the substance (see 21 U.S.C. 811(d)(3)(B)). By letter dated July 2, 1987, the Assistant Secretary of Health recommended to the Administrator of DEA that he initiate scheduling actions under the CSA to assure compliance with international requirements.

The Administrator finds that cathine, cathinone, 2,5-dimethoxy-4-ethylamphetamine (DOET), fencamfamin, fenproporex and mefenorex must be controlled under the CSA in order to meet the requirements imposed by the Convention on Psychotropic Substances. He further finds that the most appropriate schedules into which these substances should be placed, based on the CND action, are Schedule I for cathinone and 2,5-dimethoxy-4-ethylamphetamine (DOET) and Schedule IV for the remaining four substances.

All interested persons are invited to submit their comments in writing regarding this proposal. Comments should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the placement of cathinone and 2, 5-dimethoxy-4-ethylamphetamine into Schedule I and cathine, fencamfamin, fenproporex and mefenorex into Schedule IV of the CSA will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). None of the substances listed above are marketed in the United States. This action must be carried out in order to fulfill United States international treaty obligations.

In accordance with the provisions of 21 U.S.C. 811(d), this scheduling action is a formal rulemaking that is required by the United States obligations under international convention, that is, the Convention on Psychotropic Substances, 1971. Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Based upon the notification of the Secretary-General of the United Nations and in accordance with the recommendations of the Assistant Secretary for Health of the Department of Health and Human Services and under the authority vested in the Attorney General by 21 U.S.C. 811(d)(3)(B) and delegated to the Administrator by the regulations of the Department of Justice (28 CFR Part 0.100), the Administrator hereby proposes that 21 CFR be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. New paragraph (d)(3) is added to § 1308.11 and existing paragraphs (d)(3) through (d)(25) are redesignated as (d)(4) through (d)(26) as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(3) 2,5-dimethoxy-4-ethylamphetamine (DOET)..... 7399

* * * * *

3. Section 1308.11 is further amended by redesignating existing paragraphs (f)(1) and (2) as (f)(2) and (3) and add a new paragraph (f)(1) to read as follows:

* * * * *

(f) * * *

(1) Cathinone..... 1235

4. Section 1308.14 is amended by redesignating existing paragraph (e)(1) as (2), existing paragraph (e)(2) as (5) and existing paragraph (e)(3) through (6) as (e)(7) through (10) and adding new paragraph (e)(1), (3) (4) and (6) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(e) * * *

(1) Cathine..... 1230

* * * * *

(3) Fencamfamin..... 1760

(4) Fenproporex..... 1575

* * * * *

(6) Mefenorex..... 1580

* * * * *

John C. Lawn,

Administrator, Drug Enforcement Administration.

Dated: October 21, 1987.

[FR Doc. 87–24807 Filed 10–29–87; 8:45 am]

BILLING CODE 4410–09–M

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21 CFR Part 1308

Schedules of Controlled Substances; Placement of Propylhexedrine and Pyrovalerone in Schedule V

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice is a proposed rule to place propylhexedrine and pyrovalerone in Schedule V of the Controlled Substances Act (21 U.S.C. *et seq.*) This action is being taken to enable to the United States to meet its obligations under the 1971 Psychotropic Convention. This notice of proposed rulemaking is issued by the Administrator of the Drug Enforcement Administration (DEA) pursuant to 21 U.S.C. 811(d)(4)(B).

ADDRESS: Comments and objections should be submitted to the Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION CONTACT: During its February 1986 session, the United Nations Commission on Narcotic Drugs (CND) decided to include 17 phenethylamines in the schedules of the Convention on Psychotropic Substances (NAR/CL.2/1986, dated February 28, 1986).

Nine of the 17 substances are already controlled under the Controlled Substances Act (CSA) and do not require any additional action by the United States. Eight of the 17 phenethylamines added to the schedules of the 1971 Convention by the CND decisions are not currently controlled within the United States. Six of them are the subject of a separate **Federal Register** Notice. The remaining two, propylhexedrine and pyrovalerone, are among the psychotropic substances newly added to Schedule IV of the 1971 Convention by Decisions 16 (S–IX) and 17 (S–IX), respectively, of the CND. While pyrovalerone is not marketed in the United States, propylhexedrine is the active ingredient in over-the-counter nasal inhalers.

The CSA allows the Secretary, Department of Health and Human Services (DHHS), should he not concur with a CND scheduling decision, to request the Secretary of State to transmit a notice of qualified acceptance to the Secretary-General of the United Nations (see 21 U.S.C. 811(d)(3)(C)(ii)). The Secretary (DHHS) may also request the Secretary of State to take appropriate action under the Convention to initiate proceedings to remove a substance from the schedules under the Convention (see 21 U.S.C. 811(d)(3)(C)(iv)).

Because the Secretary did not concur with the CND decisions to control propylhexedrine and pyrovalerone

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internationally, the United States Government transmitted to the Secretary-General of the United Nation as, pursuant to 21 U.S.C. 811(d)(3)(C)(ii) and paragraph 7 of Article 2 of the Psychotropic Convention, a notice of qualified acceptance for each of these two drugs.

Even though the U.S. Government has notified the Secretary-General of a qualified acceptance of the decisions to control propylhexedrine and pyrovalerone in Schedule IV of the 1971 Convention, it must apply, as a minimum, certain control measures pending resolution of the matter. Among the minimum control measures which must be applied is the requirement for licensing (registration) of manufacturers and distributors (including importers and exporters) of both substances. Currently, pyrovalerone is neither manufactured nor distributed commercially within the United States. Propylhexedrine is marketed in the United States as the active ingredient in over-the-counter nasal decongestant inhalers. To retain the over-the-counter status of the preparations containing propylhexedrine in the United States, a notification has been sent by DEA informing the Secretary-General of the United Nations that the U.S. Government, under the provisions of Article 3 of the 1971 Convention, had decided to exempt certain preparations of propylhexedrine from specified measures of international control. The control measures from which propylhexedrine preparations will be exempted will include but not be limited to prescription requirements. This will permit the continuation of the present over-the-counter status of nasal inhalers containing propylhexedrine.

The Administrator, Drug Enforcement Administration, in accordance with the recommendations of the Assistant Secretary for Health, Department of Health and Human Services hereby proposes, pursuant to 21 U.S.C. 811(d)(4)(B) and 21 U.S.C. 811(d)(4)(C), to control propylhexedrine and pyrovalerone under Schedule V of the Controlled Substances Act. This action is proposed in order to carry out the minimum United States obligations under paragraph 7 of Article 2 of the 1971 Convention in the case of a drug or substance for which a notice of qualified acceptance has been transmitted.

All interested persons are invited to submit their comments in writing regarding this proposal. Comments should be submitted to the Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

Pursuant to 5 U.S.C. 805(b), the Administrator certifies that the placement of propylhexedrine and pyrovalerone into Schedule V of the CSA will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96-354). This action must be carried out in order to fulfill United State International treaty obligations.

In accordance with the provisions of 21 U.S.C. 811(d), this scheduling action is a formal rulemaking that is required by the United States obligations under international convention, that is, the Convention of Psychotropic Substances, 1971. Such formal proceeding are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, have been exempted from the consultation requirements of Executive Order 12991 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Accordingly, based upon the notification of the Secretary-General of the United Nations, the requests by the Government of the United States relative to a qualified acceptance of the scheduling decisions regarding propylhexedrine and pyrovalerone and in accordance with the recommendations of the Assistant Secretary for Health, DHHS, under the authority vested in the Attorney General by 21 U.S.C. 811(d)(4)(B) and (C) and delegated to the Administrator by regulations of the Department of Justice (28 CFR 0.100), the Administrator hereby proposes that 21 CFR 1308.15 be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. A new paragraph (d) is added to § 1308.15 to read as follows:

§ 1308.15 Schedule V.

* * * * *

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Propylhexedrine.....6161

(2) Pyrovalerone.....1485

John C. Lawn,

Administrator, Drug Enforcement Administration.

Dated: October 21, 1987.

[FR Doc. 87-24808 Filed 10-29-87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Permanent Regulatory Program; Utah

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Reopening and extension of public comment period.

SUMMARY: OSMRE is reopening the period for review and public comment on the substantive adequacy of program amendments submitted by the State of Utah to modify the Utah Permanent Regulatory Program (hereinafter referred to as the Utah program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments pertain to civil penalty assessments. OSMRE is reopening the comment period because the State has made revisions to the proposed amendments and submitted clarifying statements regarding the amendments since OSMRE announced receipt of the original proposed amendments in the March 27, 1987, **Federal Register**.

DATE: Written comments not received on or before 4:00 p.m. November 16, 1987 will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand-delivered to: Mr. Robert H. Hagen, Field Office Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue SW., Suite 310, Albuquerque, NM 87102.

Copies of the Utah program, the proposed amendments to the program, and all written comments received in response to this notice will be available for review at the OSMRE offices and the office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting the OSMRE Albuquerque Field Office listed under **ADDRESSES**. The aforementioned documents are available for review at the following locations:

Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue SW., Suite 310, Albuquerque, NM 87102, Telephone: (505) 766-1486;

Office of Surface Mining Reclamation and Enforcement, Room 5131, 1100 L Street NW., Washington, DC 20240, Telephone: (202) 343-5492; and

Utah Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, UT 84180-1203, Telephone: (801) 538-5340.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Hagan, Field Office Director, Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 625 Silver Avenue SW., Suite 310, Albuquerque, NM 87102, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background for the Utah State Program, including the Secretary's findings, the disposition of comments and detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899-5915).

Subsequent actions concerning the conditions of approval and program amendments are included in 30 CFR 944.10, 944.12, 944.15, and 944.16.

II. Proposed Amendments

On February 17, 1987, Utah submitted proposed amendments to the Utah program for OSMRE's review and approval. The proposed amendments at SMC/UMC 845.15 pertain to civil penalty assessments.

On March 27, 1987, OSMRE published a notice in the **Federal Register** announcing receipt of the proposed amendments to the Utah program and inviting public comment on the adequacy of the proposed amendments (52 FR 9891). After reviewing the proposed amendments and all comments received, OSMRE notified Utah on June 10, 1987, of a provision in its proposal that appeared to be inconsistent with the Federal regulations (Administrative Record No. UT-453). By letter dated July 7, 1987, Utah provided clarification of the amendment contents (Administrative Record No. UT-455). OSMRE requested additional clarification of the amendment contents by letter to Utah dated August 7, 1987 (Administrative Record No. UT-456). Utah responded to this request by letter dated August 31, 1987 by proposing additional language to the proposed amendments and providing further clarification (Administrative Record No. UT-457). Therefore, OSMRE is reopening and extending the comment period to allow the public an opportunity to comment on the additional material.

The full text of the proposed program amendments and subsequent clarification submitted by Utah is available for public inspection at the locations listed under **"ADDRESSES"**, or a copy of the proposed amendments and subsequent clarification can be obtained from the OSMRE Albuquerque Field Office as explained under **ADDRESSES"**.

The Director is seeking public comment on the adequacy of these proposed amendments. If OSMRE finds the amendments to be no less stringent than SMCRA and no less effective than the Federal regulations, OSMRE will approve them and they will become part of the Utah program.

III. Written Comments

Written comments on the issues proposed in this rulemaking should be specific, pertain only to the issues proposed, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the OSMRE Albuquerque New Mexico Field Office will not necessarily be considered and included in the Administrative Record for this proposed rulemaking.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Undergound mining.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

Date: October 21, 1987.

[FR Doc. 87-25204 Filed 10-29-87; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 946

Virginia; Proposed Regulatory Program Amendment; Remining

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Reopening and extension of public comment period.

SUMMARY: On January 16, 1987, the Virginia Department of Mines, Minerals, and Energy submitted to OSMRE proposed amendments to the Virginia Permanent Regulatory Program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments propose alternate effluent limitations for surface coal remining operations which will affect existing pollutional discharges, a limit to the amount of information required of applicants for self-bonding of underground mine permits, and revisions to the time period needed for partial bond release under Virginia's alternative bonding program.

OSMRE published a notice in the **Federal Register** March 27, 1987 (52 FR 9892-9894) announcing receipt of the amendments and inviting public comment on their adequacy. The public comment period ended on April 27, 1987. OSMRE received no public comments.

Comments were also solicited from various Federal agencies with an actual or potential interest in Virginia's program as required by section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i). The Supervisor of the Jefferson National Forest, United States Forest Service and the Environmental Protection Agency (EPA) submitted comments on the proposed rules concerning bonding. Disposition of these comments may be found in the **Federal Register** dated August 17, 1987 (52 FR 30669).

Part of the proposed amendment would alter effluent limitations established under the national Pollutant Discharge Elimination System (NPDES) program pursuant to the Clean Water Act as amended (33 U.S.C. 1251 *et seq.*), the Clean Air Act as amended (42 U.S.C. 7401 *et seq.*) and their implementing regulations. Section 503(b)(2) of SMCRA and 30 CFR 732.17(h)(10)(ii) require that the Administrator of EPA concur with all State program provisions relating to air or water quality standards promulgated under the authority of the Clean Water Act or the Clean Air Act. By letter dated March 31, 1987, EPA conditioned its concurrence on the revision of several of the proposed regulatory changes pertaining to alternative effluent limitations.

On August 17, 1987, the Director published notification in the **Federal Register** (52 FR 30668-30670) of approval of those parts of the amendment dealing with bonding and deferring approval of that part establishing alternate effluent limitations. Also on that date, OSMRE advised Virginia of revisions required to address EPA's concerns.

On September 10, 1987, Virginia submitted revisions intended to address the issues presented to it on August 17, 1987. Accordingly, OSMRE is reopening and extending the public comment period for Virginia's proposed amendment concerning alternate effluent limitations. This action is being taken to provide the public an opportunity to reconsider the adequacy

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of the proposed amendment in light of the revisions.

DATES: Written comments relating to Virginia's proposed modifications of its program not received on or before 4:00 p.m. on November 16, 1987, will not necessarily be considered in the Director's decision to approve or disapprove the amendments.

ADDRESSES: Written comments should be mailed or hand-delivered to Mr. William R. Thomas, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Room 200, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219; Telephone (703) 523–4303.

Copies of the Virginia program, the proposed amendment, and all written comments received concerning this action will be available for review at the following locations during normal business hours Monday through Friday, excluding holidays.

Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSMRE Field Office.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5315, 1100 L Street NW., Washington, DC 20240; Telephone (202) 343–5492

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, Building 10, Parkway Center, Pittsburgh, PA 15220; Telephone (412) 937–2910

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, P.O. Box 626, Room 220, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219; Telephone (703) 523–4303

Virginia Division of Mined Land Reclamation, P.O. Drawer U, 622 Powell Avenue, Big Stone Gap, Virginia 24219; Telephone (703) 523 2925

FOR FURTHER INFORMATION CONTACT: Mr. William R. Thomas, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Room 220 Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219; Telephone (703) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program

The Secretary of the Interior granted conditional approval of the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the proposed permanent program submission as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the December 15, 1981 **Federal Register** (46 FR 61085–61115). Subsequent actions concerning the conditions of approval and proposed amendments are identified at 30 CFR 946.12, 946.13, 946.15, and 946.16.

II. Discussion of the Proposed Amendment

By letter dated September 10, 1987, (Administrative Record Number VA 647) Virginia submitted revisions to its proposed program amendment submitted January 16, 1987 (Administrative Record Number VA 591).

These revisions are intended to address issues presented to Virginia by letter dated August 17, 1987 (Administrative Record Number VA 596). The proposed revisions are summarized briefly below.

Proposed section 480–03–19.785.19(b) is changed to clarify that the authorization to approve alternate effluent limitations for the remining of "previously mined areas" applies only to areas mined prior to the effective date of SMCRA.

Proposed section 480–03–19.785.19(d) is changed to add a demonstration that the remining operations will result in the potential for improved water quality from the remining operations.

Proposed section 480–03–19.825.12(b) has been reworded to clarify that approved alternate effluent limitations will not allow discharge of pollutants in excess of the baseline pollution load and to add the requirement that any discharge from or affected by remining operations shall be in accordance with applicable State effluent limitations.

Proposed section 480–03–19.825.14(c)(4) has been changed to clarify bond release procedures to insure compliance with all applicable bond release provisions of Virginia's program.

The preamble to the proposed amendment has been changed to clarify that the proposal will allow approval of alternate effluent limitations and not modified stream water quality standards.

The full text of the proposed amendment and the additional material are available for review at the locations listed above under "**ADDRESSES.**"

Accordingly, the Director, OSMRE, now seeks public comments on whether the proposed amendments are no less effective than the Federal Regulations. If approved, the amendments will become part of the Virginia program.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comment on whether the amendment proposed by Virginia satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Virginia program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Big Stone Gap Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. *Procedural Determinations*

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with Executive Order No. 12291:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

3. *Compliance with the Regulatory Flexibility Act:* The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

4. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Rex L. Wilson,

Acting Assistant Director, Eastern Field Operations, Office of Surface Mining Reclamation and Enforcement.

Date: October 20, 1987.

[FR Doc. 87–25203 Filed 10–29–87; 8:45 am]
BILLING CODE 4310–05–M

30 CFR Part 948

Public Comment Period and Opportunity for Public Hearing on Proposed Modifications to the West Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for a public hearing on the substantive adequacy of certain program amendments submitted by the State of West Virginia as modifications to its permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments concern the regulation of blasts using less than five pounds of explosives and the State's blaster certification program.

This notice sets forth the times and locations that the West Virginia program and the proposed modifications are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on November 30, 1987, to be considered. If requested, a public hearing on the proposed amendments will be held from 7:00 p.m. to 9.00 p.m. on November 24, 1987, at the OSMRE Charleston Field Office listed below under "**ADDRESSES.**" Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. November 16, 1987.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301; Telephone: (304) 347–7158.

Copies of the West Virginia program, proposed modifications to the program, and the administrative record on the West Virginia program are available for public review and copying at the OSMRE offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement; Charleston Field Office; 603 Morris Street; Charleston, West Virginia 25301; Telephone: (304) 347–7158

Office of Surface Mining Reclamation and Enforcement; Administrative Record; 1100 L Street NW., Room 5131; Washington, DC 20240; Telephone: (202) 343–5447

West Virginia Department of Energy; 1615 Washington Street, East; Charleston, West Virginia 25311; Telephone: (304) 348–3500

In addition, copies of the proposed amendments are available for inspection and copying during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement; Morgantown Area Office; 75 High Street, Room 229; Morgantown, West Virginia 26505; Telephone: (304) 291–4004

Office of Surface Mining Reclamation and Enforcement; Beckley Area Office; 101 Harper Park Drive; Beckley, West Virginia 25801; Telephone: (304) 255–5265

Each requester may receive, free of charge, one single copy of the proposed program amendment by contacting the OSMRE Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Blankenship, Jr., Director; Charleston Field Office; Office of Surface Mining Reclamation and Enforcement; 603 Morris Street; Charleston, West Virginia 25301; Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

On March 3, 1980, the Secretary of the Interior received a proposed regulatory program from the State of West Virginia. On October 22, 1980, following a review of the proposed program in accordance with 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 69249–69271).

West Virginia resubmitted its proposed program on December 19, 1980, which was conditionally approved on January 21, 1981. Information concerning the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the initial conditions of approval of the West Virginia program can be found in the January 21, 1981, **Federal Register** (46 FR 5915–5956). Subsequent actions concerning the West Virginia program are identified at 30 CFR Part 948.

II. Discussion of the Proposed Amendments

On September 20, 1984, the Director of OSMRE approved West Virginia's blaster training, examination and certification program with the exception of three minor deficiencies (49 FR 36837–36840). On November 20, 1984, West Virginia submitted a proposed regulation and a policy statement to resolve the deficiencies. On April 23, 1985, the Director approved the revisions, but required the State to submit an Attorney General's opinion confirming that the policy statement involved could legally override a conflicting regulation, or to otherwise amend its program to achieve the same effect (50 FR 15889–15891). On September 24, 1985, the Director extended the deadline to amend sections 4C.01 and 4C.02 of the State's blasting regulations, because the State decided to resolve the conflict by formal rulemaking through the legislative process rather than seeking an Attorney General's opinion. The State was required to provide that all surface blasting operations, including those using less than five pounds of explosives and those involving surface activities at underground operations, must be conducted under the direction of a certified blaster (51 FR 38651–38653).

On June 8, 1987, West Virginia submitted revisions to its blasting regulations at section 4C. These revisions were filed with the Secretary of State as emergency regulations on April 9, 1987, and are intended to satisfy the requirements at 30 CFR 948.16(a) regarding blasting operations using less than five pounds of explosives (Administrative Record No. WV 724).

As stated at 30 CFR 948.15(e) and (f), West Virginia's blaster certification regulations were submitted to OSMRE as proposed regulations. OSMRE's approval of those regulations was contingent upon the State's promulgation of final regulations in the identical form as those initially submitted for OSMRE's review and approval. On June 8, 1987, West Virginia

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submitted its "Rules and Regulations Governing the Standards for Certification of Blasters for Surface Coal Mines" and Surface Areas of Underground Coal Mines (Administrative Record No. WV 725). The regulations were filed as emergency regulations with the Secretary of State on May 12, 1987, and as proposed legislative rules with the West Virginia Rule Making Review Committee on the same date. The State did not indicate that there were any significant differences between the recently submitted regulations and those blaster certification regulations that were approved by the Director on September 20, 1984, and April 23, 1985.

As explained in the April 23, 1985, **Federal Register** notice, blaster certifications training could be accomplished through three methods. These include classroom training sponsored by the State, blaster training sessions conducted by manufacturers, or self study by the individual using a study guide. At the time, the Director found that only State sponsored training could satisfy the training requirements of 30 CFR 850.13(b).

The Director advised West Virginia that self study could not be utilized until self study training materials providing instruction in all areas required by 30 CFR 850.13(b) and a procedure to verify that the self study had actually been conducted were developed. On June 8, 1987, the State submitted its revised "Study Guide for West Virginia Surface Mine Blasters" (Administrative Record No. WV 728). According to the State, the Study Guide is intended to assist blasters in preparing for the blaster certification examination. The State intends to use the Study Guide in two ways. The State has acknowledged that the Study Guide is the required text for all formal training sessions. Individuals can also participate in the State's self study program by using the study guide without having to attend formal classroom training. Individuals are required to verify that they have completed self study by submitting completed work sheets from the Study guide with their applications for the blasters examination. The State's "Surface Mine Blasters Examination Application" was submitted along with the Study Guide on June 8, 1987. The application requests, in part, information relating to the applicant's training, whether through self study or other formal training and the applicant's certification of completion of such training.

In the April 23, 1985, **Federal Register** notice, the Director also found that training by explosives manufacturers could not be accepted until procedures were developed by the State to verify that the training meets the requirements of 30 CFR 850.13(b) and the process for verifying completion of the course was developed. In its June 8th submission, the State provided OSMRE "Guidelines For Approval and Conduct of Extragovernmental Training for Blasters Certification." The guidelines are intended to ensure that all extragovernmental training sessions, whether they be conducted by mining companies, or explosives manufacturers, meet the requirements of 30 CFR 850.13(b) and are approved by the State prior to being offered. Upon the completion of the formal training, the instructor is to submit a "Surface Blaster Training Record" to the Department of Energy for each participant. The Record, an example of which was also submitted to OSMRE on June 8, 1987, indicates the dates and subjects in which each individual received formal training. This Record, together with the application for blaster certification discussed above, was developed by the State to enable verification of the completion of industry sponsored blaster training by participants (Administrative Record No. WV 725).

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comments from the public on the proposed amendments submitted by the State of West Virginia to its permanent regulatory program. Comments should specifically address whether the proposed amendments are in accordance with SMCRA and no less effective than its implementing regulations. If approved, the amendments will become part of the West Virginia program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under "DATES" or at locations other than the OSMRE Charleston Field Office will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by the close of business on November 16, 1987. If no one has requested an opportunity to participate in the hearing by that date, the hearing will not be held.

If only one person requests to comment at a hearing, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will also allow OSMRE officials to prepare appropriate questions. The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendments may request a meeting at the OSMRE Charleston Field Office listed under "Addresses" by contacting the person listed under "FOR FURTHER INFORMATION CONTACT."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with Executive Order No. 12291:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

3. *Compliance with the Regulatory Flexibility Act:* The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

4. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Carl C. Close,

Assistant Director, Eastern Field Operations.

Date: October 22, 1987.

[FR Doc. 87-25205 Filed 10-29-87; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[FRL-3263-7]

Aftermarket Catalytic Converter Policy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Enforcement Policy; Notice of public meeting.

SUMMARY: This notice announces a public meeting to answer questions, exchange information, receive ideas and comments on the implementation of the Agency's interim and proposed enforcement policy on the Sale and Use of Aftermarket Catalytic Converters published in the **Federal Register** on August 5, 1986 (51 FR 28114 and 51 FR 28132). Suggestions for the agenda items or issues to be discussed should be submitted to the Agency contact listed below at least two weeks before the meeting. EPA requests that all persons planning to attend the meeting pre-register with the Agency contact at the address below; at least two weeks before the meeting.

DATE: The meeting will be held December 10, 1987 beginning at 9.30 a.m.

ADDRESSES: The meeting will be held in the Main Conference Room (B-118), Dept. of Public Social Services, 3401 Rio Hondo Ave., El Monte, California 91731.

Any written comments and information may be submitted to Public Docket No. A-84-31, located at the Environmental Protection Agency, Central Docket Section, Room 4, South Conference Center (LE-131), Waterside Mall, 401 M Street SW., Washington, DC 20460 within 30 days following the meeting. The docket may be inspected weekdays between 8 a.m. and 3:00 p.m. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Steve Albrink, (202) 382-2640, Field Operations and Support Division (EN-397F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The EPA's interim and proposed enforcement policy on the sale and use of aftermarket catalytic converters for motor vehicles has been in place on an interim basis for over a year and a number of manufacturers and remanufacturers have indicated they are producing catalytic converters which meet EPA's policy requirements. In addition to test procedures and converter standards, the policy includes reporting and record keeping requirements for both manufacturers and installers, and installation requirements for the installers. EPA may consider finalizing the policy or possibly promulgating proposed regulations and is interested in getting suggestions and comments on problems or areas which need to be revised or clarified in subsequent actions by the Agency. Some persons may also wish to discuss or ask questions about how the Agency is presently dealing with various issues regarding its implementation and enforcement of the policy.

The following issues are possible agenda items which may be discussed. The meeting will not necessarily be limited to these issues, but they are offered to serve as examples of possible items to be discussed. Additional agenda suggestions are requested.

1. New converter test procedures
   a. Adequacy
   b. Additional requirements or revisions
   c. More stringent requirements to make them identical to California's proposed requirements or otherwise
   d. Alternative mileage accumulation
   e. Accelerated aging cycle
   f. Manufacturer reporting requirements
   g. Quality control requirements
   h. Labeling on the bottom of converters and format
   i. Warranty coverage and reimbursement of labor costs
2. Used converters test procedure
   a. Type of equipment
   b. Quality control
   c. More specific requirements
   d. NOx requirement
   e. Test result records
   f. Revision of standards or procedures
   g. Adequacy of standards
   h. Small converter procedures
3. Installer issues
   a. Record keeping and converter retention
   b. Vehicle application catalog adequacy
   c. Converters from salvage yards
   d. Old type aftermarket converters
   e. Converter prices

Dated: October 22, 1987.

J. Craig Potter,

Assistant Administrator for Air & Radiation.

[FR Doc. 87-25039 Filed 10-29-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-451, RM-5631, RM-5639, RM-5647, RM-5655, RM-5695, RM-5763]

Radio Broadcasting Services; Cordova, Demopolis, Evergreen, Hartselle, Linden, Marion, Trinity, and Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on six mutually-exclusive petitions for rule making in the state of Alabama. One of the petitions proposes a new allotment at Hartselle on Channel 291A. Five of the petitions propose modification of facilities as follows: (1) *Tuscaloosa*—seeks to substitute Channel 225C2 for Channel 224A. This proposal also seeks to substitute Channel 223A for Channel 225A at Cordova, as well as the substitution of Channel 291A for Channel 223A at Trinity, AL, for which seven applications are pending, to accommodate petitioner's modification plans. (2) *Linden*—seeks to substitute Channel 226C2 for 296A; (3) *Marion*—seeks to substitute Channel 226C1 for Channel 280A; (4) *Evergreen*—seeks to substitute Channel 227C2 for Channel 228A; (5) *Hartselle*—seeks the allotment of Channel 291A as that community's first local FM service; and (6) *Demopolis*—seeks to substitute Channel 293C2 for Channel 292A.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the

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petitioners, or their counsel or consultant, as follows:

Clifton G. Moor, 1331 Ocean Blvd., Suite 201, St. Simons Island, GA 31522, (Consultant to Radio Hartselle (RM-5631)

L. Lynn Henley, 1602 Merle Circle, Opelika, AL 36801 (Petitioner for Linden, AL (RM-5639))

Erwin G. Krasnow, Esq., Laurie B. Horvitz, Esq., Verner, Liipfert, Bernhard, McPherson and Hand, 1660 L St. NW., Suite 1000, Washington, DC 20036 (Counsel for Radio South, Inc. (RM-5647))

James K. Edmundson, Esq., Kenkel, Barnard & Edmundson, 1220 19th Street NW., Suite 202, Washington, DC 20036, (Counsel for Southstar Communications, Inc. (RM-5655))

Israel Teitelbaum, Esq., 1000 Connecticut Avenue, NW., Suite 1112, Washington, DC 20036 (Counsel for Marion Radio, Inc. (RM-5695))

Dennis J. Kelly, Esq., Cordon and Kelly, 1920 N Street NW., 2d Flr., Washington, DC 20036 (Counsel for Wolff Broadcasting Corporation (RM-5763)).

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, MM Docket No. 87-451, adopted September 29, 1987, and released October 23, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

The six mutually-exclusive petitions were filed by: (1) Radio South, Inc., licensee of Station WTUG(FM) (Channel 224A), Tuscaloosa, requesting the substitution of Channel 225C2 for Channel 224A and modification of its license to specify operation on Channel 225C2, as that community's second wide coverage area FM service (RM-5647). Although the modification could be implemented at petitioner's present site, its proposal also requires the substitution of Channel 223A for Channel 225A at Cordova, as well as the substitution of Channel 291A for Channel 223A at Trinity, for which seven applications are pending. (2) L. Lynn Henley, permittee of Station WDAL(FM) (Channel 296A), Linden, seeks to substitute Channel 226C2 for Channel 296A and modification of its permit to specify operation on Channel 226C2, as that community's first wide coverage area FM service (RM-5639). Also, Channel 253C2 is suggested as a second equivalent channel in the event other interests are expressed. Channel 226C2 at Linden requires a site restriction 7.8 kilometers east, while Channel 253C2 can be accommodated at a site restriction approximately 32.0 kilometers southeast. (3) Marion Radio, Inc., licensee of Station WJAM(FM) (Channel 280A), Marion, seeks to substitutes Channel 226C1 for Channel 280A, and modification of its license to specify operation on Chanel 226C1 as that community's first wide coverage area station (RM-5695). Propoosed Channel 226C1 requires a site restriction 14.0 kilometers east. (4) Wolff Broadcasting Corporation, licensee of Station WEGN-FM (Channel 228A), Evergreen, seeks to substitute Channel 227C2 for Channel 228A and modification of its license to specify operation on Channel 227C2, as that community's first expanded coverage area FM station (RM-5763). Proposed Channel 227C2 can be accommodated at the present site of Station WEGN-FM. (5) Radio Hartselle requests the allotment of Channel 291A to Hartselle, as that community's first local FM service. Proposed Channel 291A can be allotted in compliance with the minimum distance separation requirements contained in § 73.207(b) of the Commission's Rules. (6) Southstar Communications, Inc., licensee of Station WZNJ(FM) (Channel 292A), Demopolis, seeks to substitute Channel 293C2 for channel 292A and modification of its license to specify operation on Channel 293C2, as that community's first expanded coverage FM service. Channel 293C2 at Demopolis requires a site restriction 26 kilometers southeast, and would require the substitution of Channel 253A for Channel 296A at Linden, should the latter's modification proposal fail.

This Notice solicits comments and showings to aid the Commission in the comparative evaluation of the conflicting proposals to determine which communities will receive allotments. The basic issue to be resolved concerns the preference to be accorded a new primary service, represented by a new allotment vs. an increase in existing service, represented by a modification proposal. Based on existing policies and procedures, we are initially proposing the allotment which favors a new primary service at Hartselle, AL (Channel 291A). Modification requests which do not conflict with the new service allotment proposal at Hartselle (Channel 291A) are those proposed at Evergreen (Channel 227C2 for Channel 228A); or Linden (Channel 226C2) and Demopolis (Channel 293C2); or Marion (Channel 226C1). The only modification proposal which would be precluded by the allotment of a new primary service is Tuscaloosa (Channel 225C2), which requires related changes at Cordova and Trinity. However, since this Notice invites comments from all proponents and requests further showings to demonstrate a preference under our allocation priorities, we are provisionally proposing allotments at all communities pending evaluation of the comments and showings received.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25179 Filed 10-29-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-456, RM-5917]

Radio Broadcasting Services; Port Charlotte, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Charlotte Broadcasting Company, licensee of Station WEEJ(FM), Port Charlotte, Florida, which proposes to substitute Channel 261C1 for Channel 261A at Port Charlotte, and to modify its Class A license to specify the channel.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Howard W. Simcox, Jr., Borsari and Paxson, 2100 M Street NW., Suite 610, Washington, DC 20037 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-456, adopted October 1, 1987, and released October 23, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25176 Filed 10-29-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-455, RM-5899]

Radio Broadcasting Services; Perry, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Rahu Braodcasting, Inc., which proposes the allotment of Channel 295A to Perry, Florida, as a second FM service.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jerrold Miller, Miller and Fields, P.C., P.O. Box 33003, Washington, DC 20033, (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-455, adopted September 30, 1987, and released October 23, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25175 Filed 10-29-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-453, RM-5739]

Radio Broadcasting Services; Bremen, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Margaret Karwatka proposing the allotment of FM Channel 245A to Bremen, Indiana, as that community's first FM broadcast service.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Stanley G. Emert, Jr., Watson & Emert, 2108 Plaza Tower, Knoxville, Tennessee 37929 (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-453, adopted September 25, 1987, and released October 23, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-25177 Filed 10-29-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-457, RM-5874]

Radio Broadcasting Services; Whitehall, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Pyramid Broadcasting, Inc., requesting the allocation of FM Channel 273A to Whitehall, Michigan, as that community's second FM service. Concurrence of the Canadian government is required for the allocation of Channel 273A at Whitehall.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Allan G. Moskowitz, Kaye, Scholer, Fierman, Hays and Handler, 1575 Eye Street NW., Washington, DC 20005, (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-457, adopted September 30, 1987, and released October 23, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longe subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25178 Filed 10-29-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-410; RM-5489, RM-5628, RM-5688 and RM-5792]

Radio Broadcasting Services; Columbia, Eldon, Centralia, Cabool and Mountain Grove, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document is issued in response to the *Notice of Proposed Rule Making*, 1 FCC Rcd 465 (1986), proposing the allotment of Channels 230A and 223A to Columbia, Missouri. The *Notice* was issued in response to petitions filed by George Thomas and Gail C. Mooney. A counterproposal was filed by The Clair Group requesting the substitution of Channel 230A for Channel 221A at Centralia, Missouri. A second counterproposal was filed by Southwest Communications, Inc., requesting the substitution of Channel 224C2 for Channel 224A at Eldon, Missouri and modification of its license for Station KLDN(FM), Eldon, to reflect the new channel. George Thomas and Gail C. Mooney failed to file comments. However Thomas filed reply comments expressing a willingness to participate in bringing a new station to Columbia. The purpose of this Request for Supplemental Information is to clarify Mr. Thomas' pleading as to its intentions to apply for, construct and operate a station at Columbia.

The Clair Group indicated interference on its current channel exists from an unnamed high power noncommercial educational station. The counterproposal filed by Southwest Communications, Inc. proposed the substitute of Channel 224C2 for Channel 224A at Eldon, Missouri, and modification of its license for Station KLDN(FM). Channel 224C2 can be allocated to Eldon provided channel changes are made at Mountain Grove and Cabool, Missouri. Therefore, in response to the counterproposal filed by Southwest Communications, Inc., we have issued a separate *Order to Show Cause* to the licensees of Station KLRS, Channel 224A, Mountain Grove, Missouri, and KVVC, Channel 292A, Cabool, Missouri, why their licenses should not be modified to specify Channels 293A and 251A, respectively.

DATES: Comments are due on or before December 14, 1987, and replies on or before December 29, 1987.

ADDRESSES: Tom L. Mason, President and General Manager, Radio Station KVVC(FM), KVVC Broadcasting, Inc., Box 514, Junction M and Business Route 60, Cabool, Missouri 65689; Larry D. Spence, President, Radio Station KLRS(FM), Communications Works, Inc., Route 4, Box 1360, Mountain Grove, Missouri 65711; and, Martin R. Leader, Ann K. Ford, John J. McVeigh, Fisher, Wayland, Cooper & Leader, 1255 23rd Street NW., Suite 800, Washington, DC 20037, (Counsel for Southwest Communications, Inc.)

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-410, adopted September 28, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25179 Filed 10-29-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-458, RM-5901]

Radio Broadcasting Services; West Plains, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by C M Broadcasting Company, proposing the substitution of FM Channel 273C2 for Channel 272A at West Plains, Missouri, and modification of the license for Station KKDY-FM to specify operation on Channel 273C2.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert S. Stone, McCampbell & Young, Suite 2021, Plaza Tower, Knoxville, Tennessee 37901-0550, (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-458, adopted September 30, 1987, and released October 23, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25180 Filed 10-29-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-454, RM-6026]

Radio Broadcasting Services; Gleneden Beach, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Hal D. Fowler proposing the allocation of Channel 264C2 to Gleneden Beach, Oregon, as the community's first local FM service. Petitioner and other interested parties are requested to furnish additional information concerning the status of Gleneden Beach as a community for allotment purposes. Channel 264C2 can be allocated to Gleneden Beach in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, if it is determined to be a community.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William M. Barnard, Mark Van Bergh, Kenkel, Barnard & Edmundson, 1220 19th Street NW., Suite 202, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-454, adopted September 30, 1987, and released October 23, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25181 Filed 10-29-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-452, RM-5970]

Radio Broadcasting Services; Ellensburg, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Lord Broadcasting Company, licensee of Station KQBE(FM), proposing the substitution of Class C2 Channel 276 for Channel 276A at Ellensburg and modification of its station's license to specify operation on the higher class channel. The proposal could provide that community with a first wide coverage area FM station. Concurrence by the Canadian government must be obtained.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Margaret L. Tobey, Esquire, Sidley & Austin, 1722 Eye Street NE., Washington, DC 20006 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-452, adopted September 25, 1987, and released October 23, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International

Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–25182 Filed 10–29–87; 8:45 am]

BILLING CODE 6712–10–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1090

[Ex Parte No. 230 (Sub-7)]

Improvement of TOFC/COFC Regulations (Pickup and Delivery)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: After reviewing the exemption established in Ex Parte No. 230 (Sub-No. 6), *Improvement of TOFC/COFC Regulations (Railroad-Affiliated Motor Carriers and Other Motor Carriers),* ___ I.C.C.2d ___, 52 FR 23660 (June 24, 1987), the Commission has concluded that its prior exemption does not apply to motor carrier trailer-on-flatcar and container-on-flatcar (TOFC/COFC) services arranged independently with the shipper or receiver and performed immediately before or after a TOFC/COFC movement by rail. The Commission seeks comment on whether its prior exemption should be expanded to cover this additional class of service. The exemption, if adopted, would be effected by amending 49 CFR 1090.2 as described below.

DATES: Interested parties must notify the Commission, in writing, of their intent to participate by November 16, 1987, so that the Commission can issue a service list 15 days thereafter. Comments from interested parties are due December 14, 1987, and reply comments are due December 29, 1987. All comments and reply comments must be served on all parties on the service list.

ADDRESS: An original and 15 copies of comments should be sent to: Case Control Branch, Office of the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Craig M. Keats, (202) 275–7602 (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: The proposed rule is set forth below. Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423, or call (202) 275–7428 (assistance for the hearing impaired is available through TDD Services (202) 275–1721).

Initial Regulatory Flexibility Analysis

Because we are not aware of any potential for market abuse, we preliminarily conclude that the proposed rule revisions will not, if adopted, have a significant adverse economic impact on a substantial number of small entities, but that to the extent it has any effect it should enhance small independent motor carriers' ability to compete and the quality of the service they provide. Eliminating tariff filings under the proposed action will not entail any additional recordkeeping or other administrative burdens.

Environment and Energy Considerations

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1090

Intermodal transportation, Motor carriers, Railroads.

Decided: October 23, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Simmons concurred with a separate expression.

Noreta R. McGee,

Secretary.

Title 49, Chapter X of the Code of Federal Regulations is proposed to be amended as follows:

PART 1090—[AMENDED]

1. The authority citation for 49 CFR Part 1090 continues to read:

Authority: 49 U.S.C. 10321, 10505, and 5 U.S.C. 553.

2. Part 1090 is proposed to be amended by revising § 1090.2 to read as follows:

§ 1090.2 Exemption of rail and highway TOFC/COFC service.

Except as provided in 49 U.S.C. 10505 (e) and (g), 10922(1), and 10530, rail TOFC/COFC service and highway TOFC/COFC service provided by a rail carrier either itself or jointly with a motor carrier as part of a continuous intermodal freight movement is exempt from the requirements of 49 U.S.C. Subtitle IV, regardless of the type, affiliation, or ownership of the carrier performing the highway portion of the service. Motor carrier TOFC/COFC pickup and delivery services arranged independently with the shipper or receiver (or its representative/agent) and performed immediately before or after a TOFC/COFC movement provided by a rail carrier are similarly exempt. Tariffs heretofore applicable to any transportation service exempted by this section shall no longer apply to such service. The exemption does not apply to a motor carrier service in which a rail carrier participates only as the motor carrier's agent (Plan I TOFC/COFC).

[FR Doc. 87–25162 Filed 10–29–87; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 52, No. 210
Friday, October 30, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Business Development Center Program Applications, Alabama

October 26, 1987.

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* monhts is estimated at *$194,118* for the project performance of *04/01/88 to 03/31/89*. The MBDC will operate in the *Birmingham, Alabama* Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04–10–88006–01* for the *Birmingham, Alabama* SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance, the firm's proposed approach to performing the work requirements included the application; and the firm's estimated cost for providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is *December 4, 1987.* Applications must be postmarked on or before *December 4, 1987.*

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia 30309, (404) 347–3438.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia, Monday, November 23, 1987, at 9:00 a.m.

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

October 26, 1987.

[FR Doc. 87–25139 Filed 10–29–87; 8:45 am]

BILLING CODE 3510–21–M

Business Development Center Program Applications, Alabama

October 26, 1987.

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$194,118* for the project performance of *04/01/88 to 03/31/89*. The MBDC will operate in the *Mobile, Alabama* Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04–10–88008–01* for the Mobile, Alabama SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance, the firm's proposed approach to performing the work requirements included the application; and the firm's estimated cost for

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providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is *December 4, 1987.* Applications must be postmarked on or before *December 4, 1987.*

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309, (404) 347–3438

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia, Monday, November 23, 1987, at 9:00 a.m.

Carlton L. Eccles,

Regional Director, Regional Office.

October 26, 1987.

[FR Doc. 87–25140 Filed 10–29–87; 8:45 am]

BILLING CODE 3510-21-M

Business Development Center Applications; Alabama

October 26, 1987.

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$194,118* for the project performance of *04/01/88 to 03/31/89.* The MBDC will operate in the *Montgomery, Alabama* Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04–10–88009–01* for the *Montgomery, Alabama* SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and eduational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance, the firm's proposed approach to performing the work requirements included the application; and the firm's estimated cost for providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satifactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is *December 4, 1987.* Applications must be postmarked on or before *December 4, 1987.*

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, NE., suite 505, Atlanta, Georgia 30309, (404) 347–3438.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regualtions can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia, Monday, November 23, 1987, at 9:00 a.m.

October 26, 1987.

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

[FR Doc. 87–25141 Filed 10–29–87; 8:45 am]

BILLING CODE 3510-21-M

Business Development Center Program Applications; Florida

October 26, 1987.

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$194,118* for the project performance of *04/01/88 to 03/31/89.* The MBDC will operate in the *West Palm Beach, Florida* Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04–10–88007–01* for the *West Palm Beach, Florida* SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance, the firm's proposed approach to performing the work requirements included the application; and the firm's estimated cost for providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDA will oeprate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is *December 4, 1987.* Applications must be postmarked on or before *December 4, 1987.*

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309, (404) 347–3436.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATON: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia, Monday, November 23, 1987, at 9:00 a.m.

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

October 26, 1987.

[FR Doc. 87–25142 Filed 10–29–87; 8:45 am]

BILLING CODE 3510-21-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of Bangladesh

October 26, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 2, 1987. For further information contact Kimbang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to establish import restraint limits for cotton and man-made fiber textile products in Categories 338/339, 342.642 and 638/639, produced or manufactured in the People's Republic of Bangladesh and exported to the United States. As a result, the limit for Category 338/339, which is currently filled, will re-open.

Background

A CITA directive dated June 10, 1987 (52 FR 22835) established an import restraint limit for cotton textile products in Category 338/339, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 28, 1987 and extends through February 27, 1988.

On July 17, 1987 and October 13, 1987 notices were published in the **Federal Register** (52 FR 27042 and 52 FR 37999) which announced that the United States Government, under Article 3 of the Agreement Regarding International Trade in Textiles and Section 204 of the Agricultural Act of 1956, as amended, had requested the Government of the People's Republic of Bangladesh to enter into consultations concerning exports of cotton and man-made fiber textile products in Categories 342/642 and 638/639, respectively.

The Governments of the United States and Bangladesh have agreed in consultations held September 14–17, 1987 to further amend their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated February 19 and 24, 1986, to establish specific limits for cotton and man-made fiber textile products in Categories 338/339, 342/642 and 638/639, produced or manufactured in Bangladesh and exported during the periods which began, in the case of Category 338/339, on June 1, 1987; in the case of Category 342/642, on July 1, 1987; and, in the case of Category 638/639, on September 1, 1987; and extend through Januaryl 31, 1988.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 28, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

October 26, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directive of June 10, 1987 from the Chairman of the Committee for the Implementation of Textile Agreements, which established a restraint limit for certain cotton textile products in Category 338/339, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 28, 1987 and extends through February 27, 1988.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated February 19 and 24, 1986, between the Governments of the United States and Bangladesh; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 2, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories

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338/339, 342/642 and 638/639, produced or manufactured in Bangladesh and exported during the periods which began, in the case of Category 338/339, on June 1, 1987; in the case of Category 342/642, on July 1, 1987; and, in the case of Category 638/639, on September 1, 1987, and extend through January 31, 1988, in excess of the following levels of restraint: [1]

Category	Import restraint limit
338/339	400,000 dozen.
342/642	115,500 dozen.
638/639	322,917 dozen.

Textile products which have been exported to the United States prior to June 1, 1987, in the case of Category 338/339; July 1, 1987, in the case of Category 342/642; and September 1, 1987, in the case of Category 638/639; shall not be subject to this directive.

Textile products in Categories 342/642 and 638/639 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484 (a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The foregoing limits are subject to adjustment in the future according to the terms of the agreement, effected by exchange of notes dated February 19 and 24, 1986, as amended, which provide, in part, that specific limits may be adjusted by designated percentages for swing, carryforward, carryover and special shift.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25187 Filed 10-29-87; 8:45 am]

BILLING CODE 3510-DR-M

Import Limit for Certain Wool Textile Products Produced or Manufactured in the People's Republic of China

October 26, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 2, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota re-openings, please call (202) 377-3715.

[1] The limits have not been adjusted to account for any imports exported after May 30, 1987 for Category 338/339; June 30, 1987 for Category 342/642; and August 31, 1987 for Category 638/639.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to establish a new restraint limit for wool textile products in Category 433, produced or manufactured in the People's Republic of China and exported during 1987. As a result, the limit for Category 433, which is currently filled, will re-open.

Background

A CITA directive dated December 23, 1986 (51 FR 47041) established import restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which begin on January 1, 1987 and extends through December 31, 1987.

A subsequent CITA directive dated February 24, 1987 was published in the **Federal Register** (52 FR 6057) which established an import restraint limit for wool textile products in Category 433, among others, for the same twelve-month period.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, agreement was reached, effected by exchange of letters dated September 10, 1987 and October 15, 1987, to convert to a specific limit of 21,287 dozen the current designated consultation level for wool suit-type coats in Category 433, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. In addition, the limit for Category 433 is being increased by application of swing, as requested by the Government of the People's Republic of China. The reduction to account for the swing applied to Category 433 is being made in a separate directive. The United States Government has decided to control imports of this category at the new level.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

October 26, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive, amends but does not cancel, the directive issued to you on December 23, 1986, as amended on February 24, 1987, by the Chairman, Committee for the Implementation of Textile Agreements, concerning certain cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on November 2, 1987, the directive of December 23, 1986, as amended, is hereby further amended to include a new restraint limit of 22,351 dozen for wool textile products in Category 433.[1]

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25188 Filed 10-29-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Pakistan

October 26, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 2, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343-6498. For information on embargoes and quota re-openings, please call (202) 377-3715.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1986.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the restraint limits for Categories 338, 339, 341, 342, 347/348, 351 and 352 for the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Background

A CITA directive dated July 24, 1987 (52 FR 28325) established import limits for certain specified categories of cotton and man-made fiber textile products, including Categories 338, 339, 341, 342, 347/348, 351 and 352, produced or manufactured in Pakistan and exported during the agreement year which began on January 1, 1987 and extends through December 31, 1987. Under the terms of the Bilateral Cotton and Man-Made Fiber Textile Agreement, effected by exchnage of notes dated May 20, 1987 and June 11, 1987 between the Governments of the United States and Pakistan and at the request of the Government of Pakistan, the limits for Categories 338, 339, 341, 342, 347/348, 351 and 352 are being increased for carryforward.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

The letter published below and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

October 26, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of July 24, 1987, issued to you by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports of cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on November 2, 1987, the directive of July 24, 1987 is amended to include adjustments to the following previously established restraint limits, under the terms of the Bilateral Cotton and Man-Made Fiber Textile Agreement, effected by exchange of notes dated May 20, 1987 and July 11, 1987: [1]

Category	Adjusted 12-mo. limit [1]
338	3,051,000 dozen.
339	734,500 dozen.
341	274,040 dozen.
342	90,400 dozen.
347/348	356,598 dozen.
351	45,200 dozen.
352	226,000 dozen.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25189 Filed 10-29-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of an Import Restraint Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Romania

October 26, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 2, 1987. For further information contact Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4712. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343-6497. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to reduce the limit for man-made fiber textile products in Category 604, produced or manufactured in Romania and exported in 1987.

Background

On December 31, 1986 a notice was published in the **Federal Register** (51 FR 47280), which announced import limits for certain specified categories of wool and man-made fiber textile products, including man-made fiber textile products in Category 604, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Under the terms of the Bilateral Wool and Man-Made Fiber Textile Agreement of November 7 and 16, 1984, between the Government of the United States and the Socialist Republic of Romania, the 1987 limit for Category 604 is being adjusted for carryforward used in 1986.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983, (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983

[1] The agreement provides, in part, that: (1) With the exception of Category 363, specific limits may be increased by designated percentages for swing; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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(48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

James H. Babb

Chairman, Committee for the Implementation of Textile Agreements.

October 26, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 23, 1986, which directed you to prohibit entry of certain wool and man-made fiber textile products, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on November 2, 1987, the directive of December 23, 1986 is hereby further amended to include an adjusted import restraint limit of 3,128,809 pounds [1] for Category 604, under the terms of the bilateral agreement of November 7 and 16, 1984.[2]

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemanking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25190 Filed 10-29-87; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after December 31, 1986.

[2] The bilateral agreement provides, in part, that: (1) specific limits may be increased for carryover and carryforward; (2) consultations may be held to adjust levels for categories not subject to specific limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Adjustment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Thailand

October 26, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 27, 1987. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards on each Customs port or call (202 343-6581. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the previously established import restraint limit for Category 605-T, produced or manufactured in Thailand and exported during 1987.

Background

A CITA directive dated December 23, 1986 (51 FR 47046) established import restraint limits for cotton, wool and man-made fiber textile products, including Category 605-T, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983, as amended and extended, and at the request of the Government of Thailand, the limit for Category 605-T is being increased by application of carryforward.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedles of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

The letter to the Commissioner of Customs and the actions taken pursuant to it are designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

October 26, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 23, 1986, concerning imports into the United States of certain cotton, wool and man-made fiber, textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on Octoer 27, 1987, the directive of December 23, 1986 is further amended to include an adjustment to the previously established restraint limit for man-made fiber textile products in Category 605-T [1] to a level of 616,610 pounds,[2] under the terms of the bilateral agreement of November 21 and December 4, 1986, as amended.[3]

The Committee for the Implementation of Textile Agreements had determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James R. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25191 Filed 10-29-87; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Category 605-T, only TSUSA number 310.9500.

[2] The limit has not been adjusted to account for any imports exported after December 31, 1986.

[3] The provisions of the agreement provide, in part, that: (1) under certain specific conditions any non-apparel specific limit or Sublimit may be exceeded by not more than 7 percent, provided that the amount of the increase is compensated for by an equal square yard equivalent decrease in another specific limit in the same group; (2) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Option Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Availability of the Terms and Conditions of Proposed Commodity Option Contracts.

SUMMARY: The Chicago Board of Trade ("CBT" or "Exchange") has applied for designation as a contract market in options on 5,000-ounce silver futures and options on 100-ounce gold futures. The applications also contain petitions for an exemption from the volume requirement for the underlying futures contracts specified in the Commission's rules. The Commission has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before November 30, 1987.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Richard A. Shilts, Deputy Director, Market Analysis Section, Division of Economic Analysis, 2033 K Street NW., Washington, DC. 20581.

SUPPLEMENTARY INFORMATION: In addition to requesting comment on the terms and conditions of the proposed silver and gold option contracts, the Commission also is requesting comment on the merits of a petition filed by the CBT pursuant to § 33.11 of the Commission's rules[1] That petition requests exemptive relief for these proposed contracts from the trading volume tests set forth in the Commission's rules. In that regard, § 33.4(a)(5)(iii) of the Commission's rules requires, as a condition of designation for proposed options on futures contracts, that the exchange demonstrate that:

. . . the volume of trading in all contract months for futures delivery of the commodity for which the option designation is sought has averaged at least 3,000 contracts per week on such board of tade for the 12 months preceding the date of application for option contract market designation, or alternatively, that such futures contract market, based on its trading history, substantially meets this total volume requirement in less than the 12 month preceding the date of application; . . .

As the Commission has previously noted, the numerical volume criterion is meant to ensure that the underlying futures market would not be affected adversely by option trading and to ensure that a trader would be able to exercise an option into a sufficiently liquid market so that the resulting position could be offset without suffering a substantial loss of the option's true economic value. (51 FR. 17467) (May 13, 1986).)

The Commission has noted that, in certain cases, it may be appropriate for the Commission to consider the alternative test in § 33.4(a)(5)(iii) with respect to volume in the underlying futures contract. With request to that alternative test, the Commission stated that

. . . this provision will be most useful in instances where a newly introduced futures contract or an existing one which beings to exhibit higher volume than in the past, trades above the 3,000 contract a week level, substantially meeting the required volume level in less than a year. Under this test, the higher the trading volume the less time would be needed to demonstrate a liquid market, but in no event could the test be met until there has been some history concerning deliveries on the contract. (51 FR. 17468)

Under the alternative test, the Commission has designated options on futures contracts for which there has been less than a full year's trading experience. These cases involved a sufficiently high and sustained level of trading volume in the underlying futures contract to support a reasonable expectation that sufficient liquidity would continue to exist in the underlying futures contract; among other things, in each case of an option the Commission designated under the alternative criterion the underlying futures contract had a trading history of at least six months with several successful expirations, and trading volume was in the range of at least 5,000 contracts per week.

The CBT began futures trading for its 5,000-ounce silver and 100-ounce gold futures contracts on September 13, 1987. During the first three weeks of trading in the contracts, average weekly trading volume was about 1,900 contracts for 5,000-ounce silver futures and about 2,700 contracts for 100-ounce gold futures. Therefore, for both proposed option contracts, the numerical volume requirement has not been met as required by § 33.4(a)(5)(iii). Further, the underlying futures contracts have not had any expirations. (The first delivery month listed for both contracts is October 1987.) Thus, the proposed option contracts currently are not eligible for designation under either the one-year or the alternative standard of § 33.4(a)(5)(iii).

The CBT noted in its applications that gold and silver market participants "have expressed a strong desire to see competitive opportunities provided among futures and futures options exchange for trading precious metals contracts." The CBT further noted that participants in a CBT 5,000-ounce silver futures options or a CBT 100-ounce gold futures option market will be able to retain the full value of these options because of the inter-relationship between the proposed futures option markets and the underlying cash markets.

The Commission continues to believe that option trading should be permitted only when it is unlikely to cause adverse effects on the underlying futures market and when exercise of the option affords a reasonable opportunity to realize the option's true economic value. The Commission, therefore, intends to move cautiously in granting any exemption from the requirements set forth in § 33.4(a)(5)(iii). In this context, the Commission will consider several factors, as discussed below, in determining whether to grant an exemption from the requirements of that regulation as it pertains to options on futures which involve delivery of the physical commodity.[2]

The Commission believes that, at the minimum, the underlying cash market for the commodity must exhibit a high level of liquidity. Cash market liquidity would be evidenced by extensive and frequent trading activity, a large number of participants in the market, and tight bid/ask spreads. Further, the terms of the futures contract should ensure the opportunity for arbitrage and close alignment between the cash and futures markets. In combination, the liquidity of the underlying cash market and the opportunities for arbitrage are major factors in determining the extent to which a less liquid futures contract could be disrupted by the exercise of options and the alternatives available to those exercising the options. In addition,

[1] Commission Rule 33.11, adopted on August 10, 1987, provides that:

The Commission may, by order, by written request or upon its own motion, exempt any person, either unconditionally or on a temporary or other conditional basis, from any provision of this part, other tahn § 33.9 and § 33.10, if it finds, in its discretion, that it would not be contrary to the public interest to grant such exemption.

[2] With respect to further possible exemptions of option contracts on futures in which the underlying futures contract has not met the volume requirement test, such petitions for an exemption from § 33.4(a)(5)(iii) will be considered on a case-by-case basis.

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to enable position holders to evaluate accurately the value of their option positions in the absence of active trading in the underlying futures contract, the Commission believes that there should exist an accurate and widely available price series which would be representative of values of the commodity underlying the future.

In requesting comment on the CBT's options on 5,000-ounce silver and 100-ounce gold futures, the Commission is seeking specific comment on whether it should grant the CBT's requests for exemptions from the requirements of § 33.4(a)(5)(iii) for these two proposed contracts. Commenters are requested to consider the issues noted above. Also, the Commission requests commenters to address whether, if the petitions were granted, additional surveillance activities and expiration reviews, particularly at the outset of trading, should be implemented by the CBT for these proposed contracts.[3]

Copies of the terms and conditions of the proposed contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the petition and the terms and conditions of the proposed contracts, or with respect to other materials submitted by the CBT in support of the applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on October 23, 1987, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–25124 Filed 10–29–87; 8:45 am]

BILLING CODE 6351–01–M

[3] The Commission notes that in those cases where the underlying futures contract fails to develop a sufficient level of trading volume, the option on the futures contract would become subject to the delisting criteria set forth in § 5.4 of the Commission's rules. Specifically, if the volume in the underlying futures contract market falls below an average weekly volume of 1,000 contracts for all months listed for the six-month period following designation of the option contract, no new option contract month may be listed until the volume in the underlying futures contract rises above an average of 2,000 contracts per week for all trading months listed for a period of three consecutive months.

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: The DOD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Thursday, 22 October and 0900, Friday, 23 October 1987.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: David Slater, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the areas of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. II section 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 26, 1987.

[FR Doc. 87–25151 Filed 10–29–87; 8:45 am]

BILLING CODE 3810–01–M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Wednesday, 21 October 1987.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Harold Summer, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S. C. App. II section 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 26, 1987.

[FR Doc. 87–25152 Filed 10–29–87; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Intent To Prepare an Environmental Impact Statement; Williams Air Force Base, AZ

The United States Air Force will prepare an Environmental Impact Statement (EIS) for the proposed acquisition and construction of a permanent auxiliary airfield for Williams Air Force Base, Arizona pilot training. All of the proposed sites are located within Pinal County, Arizona. The permanent airfield will replace the Coolidge Florence Auxiliary Airfield currently leased from the City of Coolidge. Do nothing is the alternative to construction of a new airfield. The proposed action will eliminate safety hazards from joint use by sky divers and general aviation at Coolidge Florence, improve operations, and reduce costs.

The Air Force is planning to conduct scoping meetings to determine the nature, extent, and scope of the issues and concerns that should be addressed in the EIS. Notice of the time and place of the planned scoping meetings will be made available to public officials and announced in the news media.

For further information concerning the preparation of the Environmental Impact Statement contact: Air Training Command/DEEV, Lt Col Saenz, Randolph Air Force Base, Texas 78150–5000, Telephone: (512) 652–3240.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87–25158 Filed 10–29–87; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information; Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact for whom a copy of the information proposal may be obtained.

Extension

Health-Related Survey—Individual Facility Report; DA Form 4723–2–R (OMB NO. 0704–0175).

Information is collected to assign soldiers to areas where they can receive services for their exceptional family members.

State or local governments, businesses or other for profit, and non-profit institutions.

Responses: 1,245

Burden Hours: 1,215

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington DC 20503 and Ms. Pearl Rascoe-Harrison, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Ms. Angela R. Petrarca, SAIS–ADR, Room 1C638, The Pentagon, Washington, DC 20310–0107, telephone (202) 694–0754.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 26, 1987.

[FR Doc. 87–25149 Filed 10–29–87; 8:45 am]

BILLING CODE 3810–01–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 16 and 17 November 1987.

Time of Meeting: 0830—1600 hours, both days, Pentagon, Washington, DC.

Agenda: The Army Science Board Ad-Hoc Panel on Army Competition in Contracting will meet to geather facts for its study. On the first day, the panel will hear briefings from the Army's Competition Advocate General and Major Command Personnel. On the second day, the panel will hear briefings presented by representatives from the Army's Office of General Counsel and Legislative Liaison. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–25125 Filed 10–29–87; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 17 and 18 November 1987.

Time of Meeting:

0900—1700 hours, 17 November 1987

0830—1500 hours, 18 November 1987.

Place: HQ, AMSAA, Aberdeen Proving Ground, Maryland.

Agenda: The Army Science Board Ad Hoc Subgroup for Army Analysis will meet for briefings by analytic agencies. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–25126 Filed 10–29–87; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: 18 November 1987.

Times of Meeting: 0830–1630 hours.

Place: The Pentagon, Washington, DC.

Agenda: An Army Science Board's Subgroup concerning a unique Army Space Program will meet to review in detail and receive classified briefings on programs in support of the Army's space program. This meeting will be closed to the public in accordance with Section 552 (c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be

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contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–25127 Filed 10–29–87; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Request for Information; Report on Timesaving Methods for Obtaining Permits Construction of Harbor and Inland Harbor Navigation Projects

AGENCY: Corps of Engineers, Department of the Army DoD.

ACTION: Notice.

SUMMARY: The Army Corps of Engineers seeks information and comments on recent experiences of non-Federal interests in obtaining Federal, State and local permits for the construction of harbor and inland harbor navigation projects.

EFFECTIVE DATE: October 30, 1987.

ADDRESS: Send comments to: HQUSACE, Directorate of Civil Works, Attn: CECW–RP Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Dr. Robert N. Stearns, (202) 272–0120.

SUPPLEMENTARY INFORMATION: Section 205(i) of Public Law 99–662 requires the Secretary of the Army to prepare a report estimating the time required for the issuance of all Federal, State, and local permits related to the construction of navigation projects for harbors or inland harbors and associated activities. The report shall include recommendations for further reducing the amount of time required for the issuance of those permits, including any proposed changes in existing law.

The Corps is soliciting comments from non-Federal interests which would be helpful in preparing this report. It is especially interested in problems that non-Federal interests have had in obtaining permits in a timely fashion, and in any suggestions that may be advanced for improving the existing procedures. Comments must be received no later than November 30, 1987, in order to be addressed in the Secretary's report.

Dated: 23 October 1987.

Richard V Gorski,

Colonel, Corps of Engineers, Acting Executive Officer, OASA(CW).

[FR Doc. 87–25137 Filed 10–29–87; 8:45 am]

BILLING CODE 3710–92–M

Department of the Army

Procedures for Establishment of Port or Harbor Dues by Non-Federal Interests, Department of Army Responsibilities

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Section 208 of Public Law 99–662 permits local sponsors of Federal harbor navigation projects cost-shared under the terms of section 101 of the Act and of harbor projects constructed under the terms of section 204 or 205 to charge port or harbor dues to recover the local share of construction, operation and maintenance, and provisions of emergency response services. The sponsor is required to hold a public hearing prior to imposition of the fees. Section 208 also gives the Secretary of the Army certain responsibilities in order to facilitate the process of implementation. This notice delineates these responsibilities and provides guidance to non-Federal interests on how to proceed.

ADDRESS: HQUSACE, Director of Civil Works, Attn: CECW-RP, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Dr. Robert N. Stearns, (202) 272–0120.

SUPPLEMENTARY INFORMATION: Under section 208 of Pub. L. 99–662, the decision to establish port or harbor user fees to recover the non-Federal share of costs of construction, and operation and maintenance of harbor improvement, or to provide emergency response services, is made exclusively by the non-Federal interest. The fees must be structured to meet the conditions specified in subsections 208(a)(3) and 208(a)(4). Subsection 208(a)(5) requires that certain information be sent to the Secretary of the Army, so that a public notice regarding the intended fees can be submitted to the **Federal Register**. In addition, subsection 208(a)(6)(A) states that a copy of the fee schedule, once adopted by the non-Federal interest, must be filed with the Secretary of the Army and with the Federal Maritime Commission.

Non-Federal interests desiring to initiate the public hearing process shall send a notice of intent concurrently to the District Engineer in the District in which the work was done and to the Assistant Secretary of the Army for Civil Works. The District Engineer will transmit the submittal to the **Federal Register** for publication.

As required by subsection 208(a)(5), the non-Federal interest's notice will include the following information:

(1) The text of the proposed law, regulation, or ordinance that would establish the port or harbor dues, including provisions for their administration, collection, and enforcement;

(2) The name, address, and telephone number of an official to whom comments on and requests for further information on the proposal are to be directed;

(3) The date by which comments on the proposal are due and a date for a public hearing on the proposal at which any interested party may present a statement;

(4) A written statement signed by an appropriate official that the non-Federal interest agrees to be governed by the provisions 208 of Pub. L. 99–662.

The District Engineer will submit items (1), (2), and (3) above for inclusion in the **Federal Register** Notice. If the non-Federal interest's submittal does not appear to contain all the necessary information, the District Engineer will communicate this finding to the non-Federal interest. The notice when published, must allow at least 45 days between the time of publication and the date of the public hearing and at least 60 days between the time of publication and the date that comments are due.

After a non-Federal interest has established its fees, a copy of the schedule must be transmitted concurrently to the District Engineer, to the Assistant Secretary of the Army for Civil Works, and to the Federal Maritime Commission. The non-Federal interest must also meet all record keeping requirements as outlined in subsection 208(a)(6).

Any modifications made to an existing fee structure must be made following the same procedures as outlined above.

Dated: October 23, 1987.

Richard V. Gorski,

Colonel, Corps of Engineers, Acting Executive Officer, OASA(CW).

[FR Doc. 87–25130 Filed 10–29–87; 8:45 am]

BILLING CODE 3710–92–M

National Security Agency

Privacy Act of 1974; Altered Record System

AGENCY: National Security Agency (NSA), DoD.

ACTION: Notice of an altered record system subject to the Privacy Act for public comment.

SUMMARY: The National Security Agency (NSA) proposes to alter an existing system of records identified as GNSA10 and subject to the Privacy Act of 1974 (5 U.S.C. 552a).

DATE: This proposed action will be effective without further notice November 30, 1987, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Patricia Schuyler, Office of Policy, National Security Agency, Fort George G. Meade, MD, 20755–6000. Telephone: 301–688–6527.

FOR FURTHER INFORMATION CONTACT: Vito T. Potenza, Assistant General Counsel (Litigation), Office of General Counsel, National Security Agency, Fort George G. Meade, MD 20755–6000. Telephone: 301–688–6054.

SUPPLEMENTARY INFORMATION: The National Security Agency systems of records notices, subject to the Privacy Act of 1974, have been published in the **Federal Register** as follows:

FR Doc. 85–10237 (50 FR 22584) May 29, 1985 (Compilation)

FR Doc. 87–22694 (52 FR 36818) October 1, 1987

The specific changes to the exemption caption of the record system notice being amended is set forth below followed by the caption, as amended, published in its entirety.

An altered system report as required by 5 U.S.C. 552a(o) of the Privacy Act was submitted on October 15, 1987, pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985. This alteration consists of adding the (k)(6) exemption to the existing exemption rule in order to protect testing and examination materials in the record system.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 26, 1987.

Altered Record System

GNSA10

SYSTEM NAME:

NSA/CSS Personnel Security File (50 FR 22593) May 29, 1985.

CHANGES:

EXEMPTIONS CLAIMED FOR THE SYSTEM:

In line 3 after the reference to: "* * * (k)(2) * * *", delete the word "and" insert a comma in its place and add the words "* * * (k)(5) and (k)(6)."

GNSA10

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Individual records in this file may be exempt pursuant to 5 U.S.C., section 552 (k)(1), (k)(2), (k)(5), and (k)(6). For additional information see agency rules contained in 32 CFR Part 299a.

[FR Doc. 87–25148 Filed 10–29–87; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

National Advisory Committee on Accreditation and Institutional Eligibility; Meeting

AGENCY: Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming public meeting of the National Advisory Committee on Accreditation and Institutional Eligibility. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10 (a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: November 15, 1987, 7:00 p.m. until 10:00 p.m.; November 16, 8:30 a.m. until 10:00 p.m.; and November 17, 8:30 a.m. until 4:00 p.m. local time. Requests for oral presentations should be received on or before November 9, 1987. Written comments may be submitted at any time prior to the meeting and will be considered by the Advisory Committee.

ADDRESS: Georgetown Marbury Hotel, 3000 M Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: H. Reed Saunders, Director, Higher Education Management Services, Office of Postsecondary Education 400 Maryland Avenue SW., (Room 3012, ROB–3) U.S. Department of Education, Washington, DC 20202 (202) 732–4922.

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Accreditation and Institutional Eligibility is authorized under section 1205 of the Higher Education Act as amended by Pub. L. 98–374 (20 U.S.C. 1145). The Committee advises the Secretary of Education regarding his responsibility to publish a list of nationally recognized accrediting agencies and associations, State agencies recognized for the approval of public postsecondary vocational education, and State agencies recognized for the approval of nurse education.

The Committee also advises the Secretary of Education regarding policy affecting recognition of accrediting and State approval bodies and institutional eligibility for participation in Federal funding programs.

On November 15, 1987 from 7:00 p.m. until 10:00 p.m. and on November 16, from 7:00 p.m. until 10:00 p.m., the Committee will review proposed regulations concerning the criteria and procedures for the Secretary's publishing a list of nationally recognized accrediting bodies and other Committee business.

On November 16, from 8:30 a.m. until 5:30 p.m. and no November 17 from 8:30 a.m. until 4:00 the Advisory Commitee will review petitions and interim reports submited by the following accrediting bodies relative to initial or renewal of recognition by the Secretary of Education. The Committee will also hear presentations by representatives of these petitioning agencies and interested third parties. Agencies having petitions and interim reports pending before the Commitee are:

Petitions for Recognition as Nationally Recognized Accrediting Agencies and Associations

A. *Petition for Initial Recognition*
- American Council for Construction Education

B. *Petitions for Renewal of Recognition*
- American Academy of Microbiology
- American Assembly of Collegiate Schools of Business
- American Bar Association
- American Optometric Association
- American Psychological Association
- American Veterinary Medical Association, Committee on Animal Technician Activities and Training
- American Veterinary Medical Association, Council on Education
- Association of Theological Schools in the United States and Canada
- Commission on Opticianry Accreditation
- Middle States Association of Colleges and Schools, Commission on Secondary Schools
- North Central Association of Colleges and Schools, Commission on Institutions of Higher Education
- North Central Association of Colleges and Schools, Commission on Schools
- Wesatern Assocation of Schools and Colleges, Accrediting Commission for Community and Junior Colleges

C. *Interim Reports*
- American Association for Marriage and Family Therapy
- American College of Nurse-Midwives
- American Speech-Language-Hearing Association
- Liaison Commitee on Medical Education

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National Association of Schools of Theatre
National Association of Trade and Technical Schools
National Home Study Council
National League for Nursing

D. *Request for Expansion of Scope of Recognition*
American Council on Pharmaceutical Education

Petitions for Recognition as State Agencies for the Approval of Public Postsecondary Vocational Education

A. *Petitions for Renewal of Recognition*
Kansas State Board of Education
Puerto Rico State Agency for the Approval of Public Postsecondary Vocational Technical Education

Petition for Recognition as a State Agency for the Approval of Nurse Education

A. *Petition for Renewal of Recognition*
Montana State Board of Nursing

Requests for oral presentations before the Committee should be submitted in writing to H. Reed Saunders (address above). Requests should include the names of all persons seeking an appearance, the organization they represent and the purpose for which the presentation is requested.

Requests should be received on or before November 9, 1987. Time constraints may limit oral presentations. However, all written materials will be considered by the Advisory Committee.

A record will be made of the proceeedings of the meeting and will be available for public inspection at the Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., (Room 3036, ROB–3) Washington, DC., from the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

Signed at Washington, DC, on October 27, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

Date: October 27, 1987.

[FR Doc. 87–25167 Filed 10–29–87; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Coal Policy Committee of The National Coal Council Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Coal Policy Committee of the National Coal Council.

Date and Time: Thursday, November 12, 1987, from 8:00 a.m. to 11:30 a.m.

Place: Westin-Canal Place, 100 Rue Iberville, New Orleans, Louisiana 70130.

Contact: Georgia A. Benjamin, U.S. Department of Energy, Office of Fossil Energy (FE–23), Washington, DC 20545, Telephone: 301–353–4718.

Purpose of The Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Purpose of The Meeting: For the Committee to discuss reports prepared by the National Coal Council with respect to requests from the Secretary of Energy for advice, information, and recommendations.

Tentative Agenda

—Call to Order by Irving Leibson, Chairman.
—Approval of draft reports to be presented to full Council for consideration.
—Discussion of topics for possible study by the Council.
—Discussion of any other business properly brought before the Committee.
—Public Comment—10 Minute Rule.
—Adjournment.

Public Participation

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Georgia A. Benjamin at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts

Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 27, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87–25242 Filed 10–29–87; 8:45 am]

BILLING CODE 6450–01–M

National Coal Council; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Coal Council.

Date and Time: Thursday, November 12, 1987, from 1:30 p.m. to 5:00 p.m.

Place: Westin-Canal Place, 100 Rue Iberville, New Orleans, Louisiana 70130.

Contact: Georgia A. Benjamin, U.S. Department of Energy, Office of Fossil Energy (FE–23), Washington, DC 20545, Telephone: 301–353–4718.

Purpose of the Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda

—Call to Order by James G. Randolph, Chairman.
—Remarks by Chairman Randolph.
—Remarks by Department of Energy official.
—Report of the Coal Policy Committee.
—Approval of the Report, "Imported Energy Study."
—Approval of New National Coal Council Study Topics.
—Report of the Finance Committee.
—Presentation and Discussion—Historical Coal Trends in the U.S. and Some Projections.
—Presentation and Discussion—Power Plant Emissions and Controls.
—Discussion of any other business properly brought before the Council.
—Public Comment—10 Minute Rule.
—Adjournment.

Public Participation

The meeting is open to the public. The Chairman of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Georgia A. Benjamin at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts

Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and

4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 27, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87–25243 Filed 10–29–87; 8:45 am]

BILLING CODE 6450–01–M

Committee on Establishing a Petroleum Research Institute; National Petroleum Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Committee on Establishing a Petroleum Research Institute of the National Petroleum Council.

Date and Time: Sunday, November 8, 1987, 1:30 p.m.

Place: Chicago Hilton Hotel, Joliet Room, 720 South Michigan Avenue, Chicago, Illinois.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–1), Washington, DC 20585, Telephone: 202/586–4695.

Purpose of the Parent Council: To provide advice, information and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Purpose of the Meeting: To discuss the study's scope, organization, and timetable.

Tentative Agenda

—Discuss the study's scope, organization, and timetable in response to the July 2, 1987 request from the Secretary of Energy.
—Discuss future meetings of the Committee.
—Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

Public Participation

The meeting is open to the public. The Chairman of the Committee on Establishing a Petroleum Research Institute is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcript

Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 27, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87–25246 Filed 10–29–87; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 87–54–NG]

St. Lawrence Gas Co. Inc.; Application To Amend Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application to amend authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on October 7, 1987, of an application filed by St. Lawrence Gas Company, Inc. (St. Lawrence), to amend its existing import authorization in order to extend the term during which it can import natural gas from Canada at the current maximum daily volum of 50,000 Mcf through the contract year ending October 31, 1989. St. Lawrence is not seeking an increase in its authorized annual volumes and states that no new facilities would be required to perform the service contemplated by the application.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than November 30, 1987.

FOR FURTHER INFORMATION CONTACT:

Lot Cooke, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8116

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667

SUPPLEMENTARY INFORMATION: St. Lawrence is an intrastate gas distribution system serving residential, commercial, and industrial customers in St. Lawrence County, New York, near the Canadian border. It currently purchases and imports all of its natural gas from Niagara Gas Transmission Limited (Niagara), an affiliated Canadian corporation. Niagara purchases its gas from TransCanada PipeLines Limited. DOE/ERA Opinion and Order No. 33, issued June 22, 1981 (1 ERA ¶70,532), amended St. Lawrence's then existing import authority, granted by the Federal Power Commission on August 8, 1961 (26 FPC 265), increasing the daily volumes from 30,000 Mcf to 43,000 Mcf and increasing the total annual volume from 6.5 Bcf to 9.7 Bcf. On December 3, 1984, DOE/ERA Opinion and Order No. 64 (1 ERA ¶70,576) granted St. Lawrence authority to import an additional 7,000 Mcf per day, for a total of no more than 50,000 Mcf per day, during the contract year November 1, 1984 to October 31, 1985. On December 23, 1985, DOE/ERA Opinion and Order No. 97 (1 ERA ¶70,615) extended the 50,000 Mcf per day limit until October 31, 1987. In the current application, St. Lawrence is seeking to further extend its maximum 50,000 Mcf per day authorization until October 31, 1989. Under the provisions of St. Lawrence's agreement with Niagara the price of the additional volumes of gas will be $1.72 (U.S.) per MMBtu. St. Lawrence states that the 50,000 Mcf per day maximum is necessary in order for it to meet the peak service requirements of its customers.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person

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wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.s.t., November 30, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of St. Lawrence's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 23, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–25146 Filed 10–29–87; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 87-44-NG]

Northridge Petroleum Marketing U.S., Inc.; Order Granting Blanket Authorization To Export Natural Gas To Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to export natural gas to Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Northridge Petroleum Marketing U.S., Inc. (Northridge), authorization to export natural gas to Canada. The Order issued in ERA Docket No. 87-44-NG authorizes Northridge to export up to 300 Bcf over a two-year period for sales on a short-term or spot market basis.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 21, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25026 Filed 10-29-87; 8:45 am]

BILLING CODE 6450-01-D

[ERA Docket No. 87-35-NG]

Valero Industrial Gas, L.P.; Order Granting Blanket Authorization To Export Natural Gas To Mexico

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to export natural gas to Mexico.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Valero Industrial Gas, L.P. (Vigas) blanket authorization to export natural gas to Mexico. The order issued in ERA Docket No. 87-35-NG authorizes Vigas to export up to 4.38 Bcf over two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 21, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25027 Filed 10-29-87; 8:45 am]

BILLING CODE 6450-01-D

[Docket No. ERA C&E 87-61; Certification Notice - 5]

Filing of Certification of Compliance; Coal Capability of New Electric Powerplants Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act; Consumer Power Co. et al.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a)). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d) to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. Four owners or operators of proposed new electric base load powerplants have filed self certifications in accordance with section (d). Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION:

The following companies filed self certifications:

Name	Date Received	Type Facility	Megawatt Capacity	Location
Consumer Power Co., Jackson, MI	9-25-87	Combined Cycle	915.6	Midland, MI
Cogen Technologies, Houston, TX	9-23-87	Combined Cycle	58	Bayonne, NJ (Phase II)
Cogen Technologies, Houston, TX	9-23-87	Combined Cycle	105	Bayonne, NJ (Phase III)
Consolidated Power Co., Norwalk, CT	9-22-87	Combined Cycle	27	Milton, VT

Amendments to FUA on May 22, 1987 (Pub. L. 100-42) altered the general prohibitions to include only new electric baseload powerplants and to provide for the self certification procedure.

Issued in Washington, DC on October 21, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25028 Filed 10-29-87; 8:45 am]

BILLING CODE 6450-01-D

[Docket Nos. CP87-544-000 et al.]

Arkla Energy Resources et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP87-544-000]

October 23, 1987.

Take notice that on September 17, 1987, Arkla Energy Resources, a division of Arkla, Inc. (AER), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP87-544-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of sales taps and related facilities for the delivery of natural gas to 14 right-of-way grantors and the continued operation in interstate commerce of facilities constructed pursuant to section 311 of the Natural Gas PolicyAct of 1978 (NGPA), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

AER states that in accordance with right-of-way agreements with certain landowners in Logan County, Arkansas, it seeks authority to construct and operate facilities and to deliver gas to Arkansas Louisiana Gas Company, a division of Arkla, Inc. (ALG), for the resale by ALG of natural gas to such landowners. AER states that the estimated cost of the proposed facilities is $22,000. AER further states that the proposed taps would be constructed at various points on AER's Line JM–39, a facility constructed under NGPA section 311 in order to provide transportation on behalf of ALG as agent for Tyson Foods, Inc. AER states that in order to provide the sales service to the various landowners, it must receive a certificate under NGA section 7(c) authorizing the continued operation of Line JM–39 in interstate commerce. AER asserts that approval of its application is warranted in light of the initiation of natural gas service to consumers that would otherwise use propane and the beneficial impact of the facilities and services involved on AER's ratepayers.

Comment Date: November 17, 1987, in accordance with Standard Paragraph F at the end of this notice.

2. K N Energy Inc.

[Docket No. CP88-25-000]

October 26, 1987.

Take notice that on October 15, 1987, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado, 80215, filed in Docket No. CP88-25-000 an application pursuant to section 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations thereunder for a certificate of public convenience and necessity authorizing K N to discount sales under its existing Interruptible Overrun Rate Schedules IOR–1 and IOR–2 to customers served under those rate schedules, all as more fully set forth in the Application on file with the Commission and open to public inspection.

K N states that no new facilities will be required to be constructed in order to implement the proposed discount sales rate authority.

Comment Date: November 18, 1987, in accordance with Standard Paragraph F at the end of this notice.

3. Florida Gas Transmission Company

[Docket No. CP88-16-000]

October 26, 1987.

Take notice that on October 9, 1987, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP88–16–000 an application pursuant to section 7(c) of the Natural Gas Act for authorization to transport gas for Lognhorn Pipeline Company, (Longhorn), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

FGT states that Longhorn and FGT have entered into an Interruptible transportation agreement dated September 28, 1987, which provides for the redelivery of equivalent volumes for Longhorn's account, less Longhorn's pro rata share of any gas vented or lost for any reason from that portion of FGT's facilities being utilized for Longhorn at the time of such loss, utilized by FGT in rendering all transportation services. The gas, it is said, would be received at existing points of interconnection between FGT and ANR in St. Landry Parish, Louisiana.

FGT proposes to deliver the gas to or for the account of Longhorn, less Longhorn's pro rata share of compressor fuel and vented and lost gas, at the existing point of interconnection between FGT and Longhorn in Jefferson County, Texas.

FGT proposes to charge Longhorn the maximum rate applicable to this service. FGT states that the maximum rate consists of a facility charge of 7.3 cents per MMBtu delivered and a service charge of 3.9 cents per MMBtu per 100 miles of forward haul. These charges, it is said, are in addition to the currently effective Gas Research Institute surcharge of 1.48 cents per MMBtu and FGT's ACA surcharge of 0.21 cents per MMBtu which became effective on October 1, 1987.

FGT states that the term of the transportation agreement is for a primary term of fifteen years from the date of initial deliveries under the contract, and from year to year thereafter.

Additionally, FGT states that any upstream transportation by ANR will be provided pursuant to Section 311 of the Natural Gas Policy Act. FGT further states that Longhorn would receive the gas from FGT for delivery and sale to Brandywine Industrial Gas Inc. in Beaumont, Texas.

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FGT states that since the transportation service is fully interruptible and is contingent upon the availability of capacity sufficient to provide the service without detriment or disadvantage to FGT's existing customers, the transportation service proposed herein would not have an adverse impact on FGT's existing customers.

Comment Date: November 18, 1987, in accordance with Standard Paragraph F at the end of this notice.

4. Transcontinental Gas Pipe Line Corporation

[Docket No. CP88-24-000]

October 26, 1987.

Take notice that on October 14, 1987, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP88-24-000 an application pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving the abandonment of certain purchases of natural gas from Huffco Petroleum Corporation and Jerry Chambers Exploration Company (jointly referred to as Huffco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that Huffco (as successor in interest to Texaco, Inc.) is authorized to sell gas produced in High Island Area block 206 to Transco pursuant to a certificate issued January 25, 1977, in Docket No. CI76-460. Transco further states that the underlying gas purchase agreement expired by its own terms on October 15, 1987. It is explained that efforts to renegotiate the contract were unsuccessful and that Huffco has a substantial take-or-pay claim outstanding against Transco.

Since the gas purchase agreement has expired Transco requests authority to abandon its purchase of gas from Huffco. Transco further requests that the Commission condition any abandonment to require that (1) all gas taken by Transco from October 15, 1987, forward shall be deemed make-up volumes and shall be taken solely as credit for take-or-pay and minimum take amounts owing to Huffco until all amounts have been made up; (2) if all take-or-pay and minimum take amounts have not been fully offset or made up upon depletion of the reserves, any of such amounts owed by Transco shall be considered satisfied and extinguished or, to the extent such amounts have been paid to Huffco, they shall be refunded; and (3) if prior to depletion of the reserves Huffco desires to sell gas produced from this field to any other purchaser, any take-or-pay and minimum take amounts then owed by Transco shall be considered satisfied and extinguished or, to the extent such amounts have been paid to Huffco, they shall be refunded.

Transco indicates that if its proposed conditions are not implemented, it still requests that the Commission approve abandonment effective October 15, 1987. Transco asserts that it is unwilling to purchase gas from Huffco beyond October 15, 1987, at prices above market-clearing levels or with any continuing obligation to take or pay for a minimum quantity of gas. Transco notes that it has sufficient current gas supply to replace its purchases from Huffco, and believes that approval of the proposed abandonment would not result in the termination of service to any of Transco's customers.

Comment Date: November 18, 1987, in accordance with Standard Paragraph F at the end of this notice.

5. United Gas Pipe Line Company

[Docket Nos. CP79-22-004 and CP88-9-000]

October 26, 1987.

Take notice that on October 6, 1987, United Gas Pipe Line Company (United), 600 Travis Street, Houston, Texas 77002 filed in Docket No. CP79-22-004 a petition to amend the order issued July 23, 1979, in Docket No. CP79-22 pursuant to section 7(c) of the Natural Gas Act so as to authorize the elimination of destination or end-use restrictions, as well as seasonal restrictions under Midwestern Gas Transmission Company's (Midwestern) Rate Schedule T-5. United also filed in Docket No. CP88-9-000 an application pursuant to section 7(c) of the Natural Gas Act for authorization to provide interruptible transportation service under an "open access" program consistent with the objectives and pursuant to the regulations of Order Nos. 436, 436-A and 500, all as more fully set forth in the application and petition to amend on file with the Commission and open to public inspection.

United requests that the certificate issued in Docket No. CP79-22 on July 23, 1979, 8 FERC ¶ 61,059 (1979), be amended to eliminate any implied destination of end-use restriction which may be deemed to attach to the transportation service certificated therein, and to permit Midwestern's T-5 capacity to be made available for the full calendar year. United also requests to make certain transportation capacity rights that have been committed by Midwestern on behalf of United under Midwestern's Rate Schedule T-5, available to others on a first-come, first-served basis. Finally, United requests authorization to establish a new rate schedule designated Rate Schedule IT-MW to implement "open access" to the third-party capacity dedicated to United by Midwestern under its Rate Schedule T-5.

Comment Date: November 18, 1987, in accordance with Standard Paragraph F at the end of this notice.

6. Williams Natural Gas Company

[Docket No. CP87-540-000]

October 27, 1987.

Take notice that on September 16, 1987, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP87-540-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon in place approximately 0.62 miles of 2-inch and 3-inch lateral pipeline and appurtenant facilities serving the Kansas State Prison located in Leavenworth County, Kansas under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that the fence surrounding the prison is to be moved and proposes to abandon the pipeline within the compound in place. It is stated that new pipeline would be constructed pursuant to the automatic provisions of § 157.208. It is asserted that the total cost to reclaim the facilities is estimated to be $5,000 with a salvage value of $856.

Comment Date: December 11, 1987, in accordance with Standard Paragraph G at the end of this notice.

7. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP88-29-000]

October 27, 1987.

Take notice that on October 19, 1987, Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-29-000 a request pursuant to § 284.223 of the Regulations under the Natural Gas Act for authorization to provide a transportation service for AlaTenn Energy Marketing Company (AlaTenn), marketer, under the certificate issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request with the Commission and open to public inspection.

Tennessee states that it proposes to transport natural gas for AlaTenn from various receipt points located in Mississippi, to a delivery point located at Barton, Alabama, pursuant to a transportation agreement with AlaTenn dated August 18, 1987, as amended, effective September 28, 1987. Tennessee further states that the maximum daily and annual quantities that it would transport for AlaTenn pursuant to the referenced agreement would be 9,000 dekatherms and 3,285,000 dekatherms, respectively.

Tennessee indicates that in a filing made with the Commission on October 16, 1987, it reported that transportation service for AlaTenn commenced on September 1, 1987 under the 120-day automatic authorization provisions of § 284.233(a).

Comment Date: December 11, 1987, in accordance with Standard Paragraph G at the end of this notice.

8. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP88-30-000]

October 27, 1987.

Take notice that on October 19, 1987, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-30-000 a request pursuant to § 284.233 of the Commission's Regulations for authorization to provide transportation for Texas-Ohio Gas, Inc. (Texas-Ohio), under Tennessee's blanket certificate issued in Docket No. CP87-115-000 on June 16, 1987, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement (Agreement) dated August 25, 1987, it would transport natural gas for Texas-Ohio, a producer-marketer, from various receipt points located in Louisiana, Alabama, and Pennsylvania to delivery points at Uniondale and Auburn, Pennsylvania, which points are interconnections with Pennsylvania Gas and Water Company. Tennessee states that the maximum daily and annual quantities transported would be 1,020 dekatherms and 36,500 dekatherms, respectively.

Tennessee further states that the term of the transportation service would be from the date of initial transportation and would remain in full force and effect for a term of one year and month-to-month thereafter until terminated by either party upon 30 days prior written notice. In addition, Tennessee states that any portions of the Agreement necessary to balance receipts and deliveries under the Agreement within 60 days of termination as required by the General Terms and Conditions of Tennessee's FERC Gas Tariff Volume No. 1, would survive the other parts of the Agreement until such time as such balancing has been accomplished.

Comment Date: December 11, 1987, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25221 Filed 10-29-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-76-006]

Alabama-Tennessee Natural Gas Co.; Tariff Filing

October 27, 1987.

Take notice that on October 15, 1987, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama 35631, tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1.

Third Substitute First Revised Sheet No. 4, to reflect base tariff rates at October 31, 1984 and to remove the minimum bill charges.

Third Substitute First Revised No. 7, to reflect base tariff rates at October 31, 1984.

Substitute Original Sheet No. 8, to eliminate the 94% load factor billing determinant and define the limits of customer demand obligation.

Third Substitute First Revised Sheet No. 9, to reflect the previously existing notice requirements pertaining to a discontinuance or reduction in gas purchases and to eliminate the minimum bill.

Third Substitute First Revised Sheet No. 13, to reflect base tariff rates at October 31, 1984.

Third Substitute First Revised Sheet No. 17, to reflect transportation rates at October 31, 1984.

Third Substitute First Revised Sheet No. 21, to reflect base tariff rates at October 31, 1984.

Substitute Original Sheet No. 36, to eliminate the notice provisions.

Substitute Original Sheet No. 58 and No. 59, and Original Sheet No. 59-A, to eliminate the sole source provision and modify the notice provisions.

Alabama-Tennessee states that the purpose of the filing is to revise its sales and transportation rates to reflect the Commission's Orders in Opinion No. 288, issued March 13, 1987 and Opinion No. 288-A, issued September 16, 1987. Alabama-Tennessee further states that

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the tariff changes also reflect the non-rate changes to its tariff required by Opinion Nos. 268 and 268–A.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its customers and affected State regulatory commissions

Any persons desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 3, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–25222 Filed 10–29–87; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket No. TA87–14–20–002]

Algonquin Gas Transmission Company; Proposed Change in FERC Gas Tariff

October 27, 1987.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 16, 1987, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, six (6) copies each of the following tariff sheets:

Second Substitute Alternate Twentieth Revised Sheet No. 203
Second Substitute Twenty-first Revised Sheet No. 203
Second Substitute Twenty-second Revised Sheet No. 203

Algonquin states that such tariff sheets are being filed to reflect in its Rate Schedule F–2 changes in the underlying rates of Consolidated Gas Transmission Corporation ("Consolidated"), as set forth in Consolidated's filing of September 29, 1987.

Algonquin proposes the effective date of Second Substitute Alternate Twentieth Revised Sheet No. 203 to be September 1, 1987, and the effective date of Second Substitute Twenty-first Revised Sheet No. 203 and Second Substitute Twenty-second Revised Sheet No. 203 to be October 1, 1987.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 3, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–25223 Filed 10–29–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI88–13–000]

Cities Service Oil and Gas Corp.; Application for Permanent Abandonment

October 26, 1987.

Take notice that on October 8, 1987, Cities Service Oil and Gas Corporation (Applicant), 110 West 7th Street, Tulsa, Oklahoma 74119, filed an application requesting authorization to permanently abandon sales for resale in interstate commerce of NGA gas dedicated to Sea Robin Pipeline Company (Sea Robin) under two rate schedules that were terminated effective July 1, 1987, pursuant to a settlement agreement entered into by Applicant and Sea Robin. Applicant states that sales to Sea Robin ceased July 1, 1987, and the gas has been sold since that date under existing LTA authority. Applicant states that the parties have agreed to terminate the contracts effective July 1, 1987, in exchange for settlement of all matters, claims and causes of action between Applicant and Sea Robin.

Applicant states that it proposes to abandon sales to Sea Robin from OCSG–2436, W. Cameron Block 586, Offshore Louisiana, which was certificated in Docket No. CI77–421 and covered under Applicant's FERC Gas Rate Schedule No. 444, and from OCSG–1525, Ship Shoal Block 222, Offshore Louisiana, which was certificated in Docket No. CI66–359–000 and covered under Applicant's FERC Gas Rate Schedule No. 524.

Applicant states that over the past several years Sea Robin substantially decreased its takes of natural gas from such sources due to a lack of demand for its system supply, ultimately taking only a small percentage of Applicant's share of deliverability from such sources under the applicable long-term sales contracts. Applicant states that in 1986 Sea Robin purchased 199,562 Mcf of gas or only 21% of total available deliverability of 947,347 Mcf. For the year 1987 through June, Applicant states that Sea Robin purchased 44,944 Mcf of gas or only 11% of total available deliverability of 403,405 Mcf prior to contract terminations on July 1, 1987. Applicant states that on July 1, 1987, Sea Robin ceased taking delivery of gas under these contracts and such gas has been sold at market-responsive prices pursuant to various LTA authorities. Applicant states that the approximate deliverability in 1986 was 2,595 Mcf/d. The gas is NGPA section 104 flowing (7%), Post-1974 (22%) and 102(d) (71%) gas.

Applicant requests a waiver of any and all otherwise applicable orders, rules, regulations and reporting requirements, now effective or hereafter promulgated or issued by the Commission, to the extent that such orders, rules, regulations and reporting requirements are or may be inconsistent with the authorizations requested by the application.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 12, 1987, file with the Federal Energy Regulation Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in a proceeding must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–25224 Filed 10–29–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA88–1–23–000]

Eastern Shore Natural Gas Co.; Tariff Filing

October 27, 1987.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on October 16, 1987 tendered for filing the following proposed tariff sheets to be effective November 1, 1987, and tariff sheets to be cancelled effective November 1, 1987:

Proposed Tariff Sheets To Be Effective November 1, 1987

Thirty-Fifth Revised Sheet No. 5
Thirty-Fifth Revised Sheet No. 6
Thirty-Fifth Revised Sheet No. 10
Thirty-Fifth Revised Sheet No. 11
Thirty-Sixth Revised Sheet No. 12
Twelfth Revised Sheet No. 13
Sixth Revised Sheet No. 14
Third Revised Sheet No. 37
Second Revised Sheet No. 210
Original Sheet No. 259
Original Sheet No. 260
Original Sheet No. 261
Second Revised Sheet No. 291

Tariff Sheets To Be Cancelled Effective November 1, 1987

Sheet Nos. 143 through 146
Sheet Nos. 341 through 342

Eastern Shore states that the tariff sheets proposed to be effective November 1, 1987 reflect an increase of $.8492 in its CD–1, CD–E and G–1 demand rates and an increase of $.1595 per dt in the corresponding commodity rates to reflect changes in the projected cost of gas. These sheets also reflect a negative ($.8418) commodity surcharge and a $.1366 demand surcharge to amortize deferred amounts in the Unrecovered Purchased Gas Cost Account.

Eastern Shore states that Original Sheet No. 261 establishes, pursuant to Order No. 472, a new section 25 in the General Terms and Conditions of its FERC Gas Tariff, which section will provide for an Annual Charge Adjustment (ACA) Provision to permit Eastern Shore to recover under certain rate schedules a portion of the annual charges assessed against Eastern Shore by the Commission. The instant filing also establishes an initial ACA charge of $0.0020 per dt in the commodity portion of the applicable jurisdictional rates.

Eastern Shore states that also included is a Notice of Cancellation of its T–2 Rate Schedule (Sheet Nos. 143 through 146; 341–42). Eastern Shore states that the reason for the proposed cancellation is that effective November 1, 1987, it will no longer be authorized to provide interruptible service because the grandfathered agreement under which it was providing interruptible transportation service will be terminated effective October 31,1987. In order to render interruptible transportation service in the future, Eastern Shore would first have to request blanket certificate authority or specific authorization under section 7(c) of the Natural Gas Act.

Eastern Shore states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20408, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 3, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–25225 Filed 10–29–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RI83–8–000, et al.]

Mobil Oil Corp.; Effectiveness of Withdrawal

October 26, 1987.

On September 25, 1987, Mobil Oil Corporation filed a notice of withdrawal, amended September 28, 1987, of petitions and appeals filed by Mobil in Docket Nos. RI83–8–000 through RI83–8–011.

In accordance with Rule 216 of the Commission's Rules of Practice and Procedure (18 CFR 385.216), withdrawal of Mobil's petitions and appeals became effective on the dates indicated below, and these dockets are now closed.

Docket No.	Withdrawal effective
RI83–8–000	Oct. 10, 1987.
RI83–8–001	Oct. 10, 1987.
RI83–8–002	Oct. 10, 1987.
RI83–8–003	Oct. 10, 1987.
RI83–8–004	Oct. 10, 1987.
RI83–8–005	Oct. 10, 1987.
RI83–8–006	Oct. 10, 1987.
RI83–8–007	Oct. 10, 1987.
RI83–8–008	Oct. 13, 1987.
RI83–8–009	Oct. 13, 1987.
RI83–8–010	Oct. 13, 1987.
RI83–8–011	Oct. 13, 1987.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–25226 Filed 10–29–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP87–99–001]

Northern Natural Gas Co., Division of Enron Corp.; Change in Rates and Tariff Revisions

October 27, 1987.

Take notice that on October 13, 1987, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing with the Commission to be effective October 1, 1987 the following tariff sheets to be included in Northern's F.E.R.C. Gas Tariff:

Third Revised Volume No. 1

Substitute Second Revised Sheet No. 4g
Substitute Third Revised Sheet No. 4g.1
Substitute Second Revised Sheet No. 4g.2
Substitute Fourth Revised Sheet No. 72

Original Volume No. 2

Substitute Second Revised Sheet No. 1k

Northern states that the purpose of the revised tariff sheets is to comply with Order Nos. 472 and 472–B to reflect the annual charge adjustment (ACA) unit charge, as accepted, subject to conditions, by the Commission for the fiscal year beginning October 1, 1987. An ACA unit charge of $.0021 per Mcf will be added to each of Northern's rate schedules applicable to sales or transportation deliveries.

Copies of the filing were served on all of Northern's jurisdictional customers and state commissions.

Any person desiring to be heard or to protest said filing should filed a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC., 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 3, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

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the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25227 Filed 10-29-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-110-001]

Northwest Pipeline Corp.; Change in ACA Clause

October 27, 1987

Take notice that on October 15, 1987, Northwest Pipeline Corporation ("Northwest") submitted for filing, to be a part of its FERC Gas Tariff, First Revised Volume No. 1, and Original Volume No. 1-A, the following tariff sheets:

First Revised Volume No. 1	Original Volume No. 1-A
First Revised Sheet No. 133-A	Twelfth Revised Sheet No. 201 Second Revised Sheet No. 419

Northwest states that the tendered tariff sheets are filed to comply with the provisions of a Commission letter order dated September 30, 1987 in the above referenced docket.

Northwest requests waiver of the Commission's regulations to permit an effective date of October 1, 1987.

A copy of this filing has been served onNorthwest's jurisdictional customers and affected state regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 3, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25228 Filed 10-29-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-114-001]

Ozark Gas Transmission System; Application

October 27, 1987.

Take notice that on October 13, 1987, Ozark Gas Transmission System filed in Docket No. RP87-114-001 a Substitute Third Revised Sheet No. 5 to its FERC Gas Tariff, Original Volume No. 1. Ozark states that such filing is made in compliance with Order No. 472-B and institutes an Annual Charge Adjustments to recover the Commission's annual assessments to Ozark, all as more fully set forth in the filing, which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before November 3, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25229 Filed 10-29-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI86-595-001 and CI86-597-001]

Sea Robin Pipeline Co.; Applications To Amend Existing Blanket Limited-Term Abandonment and Blanket Limited-Term Certificate With Pregranted Abandonment on Behalf of Producer-Suppliers

October 26, 1987.

Take notice that on September 11, 1987, Sea Robin Pipeline Company (Sea Robin), 600 Travis, P.O. Box 1478, Houston, Texas 77251-1478, filed applications pursuant to sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations seeking an extension of three years until December 31, 1990, of its limited-term abandonment program (LTA) approved by the Commission on June 17, 1987, which is currently due to expire on December 31, 1987.

Sea Robin states that the reasons justifying its original applications have not changed, and that the benefits resulting from the first months of operation of its program will continue during the term of the extension requested.

According to Sea Robin, it has two sales customers, United Gas Pipe Line Company and Southern Natural Gas Company. It is stated that Sea Robin's sales to these customers have declined drastically over the past several years, from 258 Bcf in 1981 to 58 Bcf in 1986. Sea Robin states that sales are expected to reach only 40 Bcf in 1987.

Sea Robin states that the loss of sales on its system has caused substantial cuts in its takes from its producers and has led to the accumulation of significant take-or-pay exposure. Sea Robin further states that these conditions have not changed since the time of the original applications in this proceeding and are not expected to change in the near future. Sea Robin asserts that its LTA program has helped alleviate its take-or-pay problems by increasing the volumes transported for its producers and credited against take-or-pay exposure. Sea Robin thus submits that its LTA program continues to be required by the public convenience and necessity and should be extended as requested.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 12, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure heein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25230 Filed 10-29-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-178-022, RP81-54-035, and RP87-26-020]

Tennessee Gas Pipeline Co.; Filing of Revised Tariff Sheets

October 26, 1987.

Take notice that on October 14, 1987, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing the following revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 to be effective August 1, 1987:

Second Revised Volume No. 1

Substitute First Revised Sheet No. 1
Substitute Third Revised Sheet No. 20
Substitute Original Sheet No. 20A
Substitute Fourth Revised Sheet No. 21
Substitute Second Revised Sheet No. 22
Substitute Second Revised Sheet No. 23
Substitute Second Revised Sheet No. 24
Substitute Original Sheet No. 39
Substitute Original Sheet Nos. 40 through 45
Substitute First Revised Sheet No. 47
Substitute First Revised Sheet No. 48
Substitute First Revised Sheet No. 53
Substitute First Revised Sheet No. 57
Substitute First Revised Sheet No. 58
Substitute First Revised Sheet No. 59
Substitute First Revised Sheet No. 77
Substitute First Revised Sheet No. 78
Substitute First Revised Sheet No. 79
Substitute First Revised Sheet No. 80
Substitute First Revised Sheet No. 81
Second Substitute First Revised Sheet No. 110
Substitute Original Sheet No. 110A
Second Substitute First Revised Sheet No. 115
Second Substitute First Revised Sheet No. 116
Substitute First Revised Sheet No. 219
Substitute First Revised Sheet No. 220
Substitute First Revised Sheet No. 221
Substitute First Revised Sheet No. 222
Substitute First Revised Sheet No. 223
Substitute First Revised Sheet No. 224
Substitute First Revised Sheet No. 230
Substitute First Revised Sheet No. 242
Substitute First Revised Sheet No. 350
Substitute First Revised Sheet No. 351
Substitute First Revised Sheet No. 352
Substitute First Revised Sheet No. 353
Substitute First Revised Sheet No. 354
Substitute First Revised Sheet No. 355
Substitute First Revised Sheet No. 356
Substitute First Revised Sheet No. 357
Substitute First Revised Sheet No. 358
Substitute First Revised Sheet No. 359
Substitute Original Sheet No. 360
Substitute Original Sheet No. 361
Substitute Original Sheet No. 362
Substitute Original Sheet No. 363
Substitute Original Sheet No. 364
Substitute Original Sheet No. 365
Substitute Original Sheet No. 366
Substitute Original Sheet No. 367

Original Volume No. 2 [1]

Substitute First Revised Sheet No. 1
Second Substitute Fourth Revised Sheet No. 5
Second Substitute Third Revised Sheet No. 6
Second Substitute Second Revised Sheet No. 7
Second Substitute Third Revised Sheet No. 8
Second Substitute Third Revised Sheet No. 9
Second Substitute Original Sheet No. 10
Substitute First Revised Sheet No. 15
Substitute First Revised Sheet No. 16
Substitute First Revised Sheet No. 17
Substitute First Revised Sheet No. 50
Substitute First Revised Sheet No. 51
Substitute First Revised Sheet No. 60
Substitute First Revised Sheet No. 61
Substitute First Revised Sheet No. 78
Substitute First Revised Sheet No. 104
Substitute First Revised Sheet No. 105 through 116
Substitute First Revised Sheet No. 119
Substitute First Revised Sheet No. 120 through 133
Substitute First Revised Sheet No. 134
Substitute First Revised Sheet No. 135 through 148
Substitute First Revised Sheet No. 158
Substitute First Revised Sheet No. 181
Substitute First Revised Sheet No. 182
Substitute First Revised Sheet No. 198
Substitute First Revised Sheet No. 208
Substitute First Revised Sheet No. 244
Substitute First Revised Sheet No. 245
Substitute First Revised Sheet No. 261
Substitute First Revised Sheet No. 263
Substitute First Revised Sheet No. 264
Substitute First Revised Sheet No. 265
Substitute First Revised Sheet No. 316
Substitute First Revised Sheet No. 328
Substitute First Revised Sheet No. 341
Substitute First Revised Sheet No. 356
Substitute First Revised Sheet No. 357
Substitute First Revised Sheet No. 369
Substitute First Revised Sheet No. 424
Substitute First Revised Sheet No. 436
Substitute First Revised Sheet No. 453
Substitute First Revised Sheet No. 484
Substitute First Revised Sheet No. 503
Substitute First Revised Sheet No. 521
Substitute First Revised Sheet No. 537
Substitute First Revised Sheet No. 554
Substitute First Revised Sheet No. 570
Substitute First Revised Sheet No. 571
Substitute First Revised Sheet No. 572
Substitute First Revised Sheet No. 600
Substitute First Revised Sheet No. 633
Substitute First Revised Sheet No. 634
Substitute First Revised Sheet No. 635
Substitute First Revised Sheet No. 636
Substitute First Revised Sheet No. 653
Substitute First Revised Sheet No. 654
Substitute First Revised Sheet No. 672
Substitute First Revised Sheet No. 673
Substitute First Revised Sheet No. 674
Substitute First Revised Sheet No. 685
Substitute First Revised Sheet No. 686
Substitute First Revised Sheet No. 703
Substitute First Revised Sheet No. 704
Substitute First Revised Sheet No. 705
Substitute First Revised Sheet No. 706
Substitute First Revised Sheet No. 723
Substitute First Revised Sheet No. 724
Substitute First Revised Sheet No. 764
Substitute First Revised Sheet No. 765
Substitute First Revised Sheet No. 783
Substitute First Revised Sheet No. 800
Substitute First Revised Sheet No. 818
Substitute First Revised Sheet No. 819
Substitute First Revised Sheet No. 854
Substitute First Revised Sheet No. 855
Substitute First Revised Sheet No. 873
Substitute First Revised Sheet No. 874
Substitute First Revised Sheet No. 890
Substitute First Revised Sheet No. 909
Substitute First Revised Sheet No. 948
Substitute First Revised Sheet No. 967
Substitute First Revised Sheet No. 985
Substitute First Revised Sheet No. 998
Substitute First Revised Sheet No. 1017
Substitute First Revised Sheet No. 1038
Substitute First Revised Sheet No. 1039
Substitute First Revised Sheet No. 1051
Substitute First Revised Sheet No. 1063
Substitute First Revised Sheet No. 1092
Substitute First Revised Sheet No. 1106
Substitute First Revised Sheet No. 1117
Substitute First Revised Sheet No. 1130
Substitute First Revised Sheet No. 1141
Substitute First Revised Sheet No. 1151
Substitute First Revised Sheet No. 1175
Substitute First Revised Sheet No. 1191
Substitute First Revised Sheet No. 1206
Substitute First Revised Sheet No. 1222
Substitute First Revised Sheet No. 1237
Substitute First Revised Sheet No. 1251
Substitute First Revised Sheet No. 1267
Substitute First Revised Sheet No. 1278
Substitute First Revised Sheet No. 1287
Substitute First Revised Sheet No. 1288
Substitute First Revised Sheet No. 1302
Substitute First Revised Sheet No. 1317
Substitute First Revised Sheet No. 1318
Substitute First Revised Sheet No. 1332
Substitute First Revised Sheet No. 1345
Substitute First Revised Sheet No. 1359
Substitute First Revised Sheet No. 1373
Substitute First Revised Sheet No. 1389
Substitute First Revised Sheet No. 1405
Substitute First Revised Sheet No. 1418
Substitute First Revised Sheet No. 1435
Substitute First Revised Sheet No. 1450
Substitute First Revised Sheet No. 1467
Substitute First Revised Sheet No. 1481
Substitute First Revised Sheet No. 1497

[1] In addition to the tariff sheets listed below, this filing contains a notice to all customers that the effective dates on certain tariff sheets in Original Volume No. 2, not at issue here, were incorrect. This notice was required to be filed pursuant to a letter order issued December 8, 1986 in Docket No. RP86-97-056.

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Substitute First Revised Sheet No. 1512
Substitute First Revised Sheet No. 1513
Substitute First Revised Sheet No. 1527
Substitute First Revised Sheet No. 1541
Substitute First Revised Sheet No. 1542
Substitute First Revised Sheet No. 1560
Substitute First Revised Sheet No. 1577
Substitute First Revised Sheet No. 1593
Substitute First Revised Sheet No. 1611
Substitute First Revised Sheet No. 1626
Substitute First Revised Sheet No. 1656
Substitute First Revised Sheet No. 1673
Substitute First Revised Sheet No. 1689
Substitute First Revised Sheet No. 1706

Tennessee states that on August 17, 1987, it filed revised tariff sheets pursuant to Opinion 249–A and the Order Approving Uncontested Offers of Settlement in Docket Nos. RP85–178, *et al.*, both issued July 31, 1987, to establish new base tariff rates to be effective August 1, 1987, and eliminating the minimum bill provision from its sales and transportation rate schedules. By letter order dated September 29, 1987, the Commission rejected these revised tariff sheets "without prejudice to Tennessee's filing revised tariff sheets which comply with the Commission's Opinions and Orders." The letter order identified several aspects of Tennessee's August 17th filing which required modification or clarification.

Tennessee states that it is filing the listed revised tariff sheets to be effective August 1, 1987, to reflect the modifications required by the September 29th letter order and address the other concerns expressed by the Commission in that order. Specifically, Tennessee states that the modifications and clarifications are as follows:

1. The demand portion of Account No. 858 has been allocated on the basis of three day peak deliveries.

2. Bear Creek storage costs are classified to the commodity component of Tennessee's sales rates.

3. Tennessee has designed its rates for services under Rate Schedule FT–A to incorporate a two part Reservation Rate (Reservation$_1$ and Reservation$_2$ Rates).

4. The provision of Rate Schedule T–46 establishing a minimum bill for services rendered by Tennessee has been deleted. This Rate Schedule provides for billing by Tennessee of Midwestern Gas Transmission Company's rates and charges for services rendered in the transaction by Midwestern. Rate Schedule T–46, therefore, includes the minimum bill charge which is still effective for the Midwestern services.

The continued effectiveness of Midwestern's rates and charges as reflected in Tennessee's Rate Schedules T–46 and T–90 is specifically provided for in Article I section 4(d) of the April 11th Stipulation and Agreement in Docket No. RP85–178.

5. Workpapers have been provided to the Commission Staff showing: (1) That the volumes used to design Tennessee's transportation rates are the same as those agreed upon in the RP85–178 settlement, and (2) that the annual quantity limitations used to develop D_a factors for Tennessee's sales services are the same as those authorized by the Commission.

Tennessee states that in all other respects this filing remains unchanged from Tennessee's original filing made on August 17, 1987 in this proceeding. Tennessee further states that workpapers supporting the base tariff rates to be implemented by this filing, including workpapers respecting the changes required by the September 29th Order, are attached.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 2, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–25231 Filed 10–29–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP87–91–001]

Williams Natural Gas Co., Proposed Changes in FERC Gas Tariff

October 27, 1987.

Take notice that Williams Natural Gas Company (WNG) on October 8, 1987, tendered for filing Substitute Second Revised Sheet No. 6 and Revised Original Sheet No. 97 to its FERC Gas Tariff, Original Volume No. 1 and Substitute First Revised Sheet Nos. 5 and 17 and First Revised Sheet Nos. 57, 91, 133, 144, 150, 153, 192, 281 and 309 to its FERC Gas Tariff, Original Volume No. 2. These tariff sheets are being filed in compliance with the Commission's letter order in Docket No. RP87–91–000, dated September 22, 1987.

WNG states that it was required to file tariff sheets to include the ACA adjustments to all sales and transportation rate schedules that are affected by Order 472 and to file revised tariff sheets in compliance with Order 472–B.

WNG also states that it was required to file tariff sheets containing ACA amendments effective October 1, 1987 in the event the Commission allows WNG to change the effective date for filing PGA adjustments. WNG was allowed this change by Commission letter order dated September 28, 1987 in Docket No. RP87–116.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 3, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–25232 Filed 10–29–87; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

Resource Coordination Program—Proposed Extension of Power Rate Schedule RCP–1 on an Interim Basis

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed extension of Rate Schedule RCP–1, Schedule of Rates for Sales from the Resource Coordination Program.

SUMMARY: Notice is given of the proposed extension on an interim basis of Rate Schedule RCP–1 for firm capacity marketed by the Western Area Power Administration (Western) and energy being supplied under contracts with various utilities, known as the Resource Coordination Program (RCP).

FOR FURTHER INFORMATION CONTACT: Mr. Mark N. Silverman, Area Manager, Western Area Power Administration, Loveland Area Office, P.O. Box 3700, Loveland, CO 80539, (303) 490–7201.

SUPPLEMENTARY INFORMATION: Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7101, *et seq.*, the power marketing functions of the Secretary of the Interior under the Reclamation Act of 1902, 43 U.S.C. 372, *et seq.*, as amended and supplemented by subsequent enactments, particularly by section 9(c), of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), for the Bureau of Reclamation were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108 effective December 14, 1983 (48 FR 55664, December 14, 1983), and Amendment No. 1, effective May 30, 1986 (51 FR 19744, May 30, 1986), the Secretary of Energy delegated to Western's Administrator the authority to develop power and transmission rates; to the Under Secretary of the DOE (Under Secretary) the authority to confirm, approve, and place in effect such rates on an interim basis; and to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place in effect on a final basis, to remand, or disapprove rates developed by the Administrator under the delegation. In accordance with the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions (Procedures) at 10 CFR Part 903.23(a), the Under Secretary has authority to extend existing rates on an interim basis. This notice is issued pursuant to the Procedures.

Background

Pursuant to Delegation Order No. 0204–33, the FERC, in an order issued November 23, 1983, docket No. EF83–5131–000, confirmed and approved Rate Schedule RCP–1 for firm capacity marketed by Western and energy being supplied under contracts with various utilities, known as the Resource Coordination Program. The rate was approved for the period from November 30, 1982, and ending November 29, 1987. Western is now proposing to extend the rate. A copy of the rate schedule RCP–1 currently in effect is attached.

The RCP is an arrangement to combine Western's excess capacity with surplus nonfirm energy to produce firm capacity with energy.

The firm capacity with energy sold through RCP is sold at prices initially based on split-savings rates set halfway between each purchaser's avoided costs and the RCP's costs. In subsequent months, when the RCP costs of firm capacity with energy increase or decrease, the purchaser's base price will increase or decrease by an identical amount. Seasonal or monthly firm capacity with energy sold through the RCP is sold at prices based on split-savings rates developed pursuant to this rate schedule. The purchaser's avoided costs are the costs of the same category of firm capacity with energy or nonfirm energy that the purchaser would otherwise generate itself or purchase from another source. RCP costs associated with nonfirm energy are the thermal energy generation costs. The RCP costs associated with the firm capacity with energy include the Pick-Sloan Missouri Basin Program-Western Division capacity charge in Rate Schedule P–SWD–F2, or any superseding rate schedule as of its effective date.

Discussion

The purpose of the extension of the wholesale power rate is to retain the current rate in effect.

The power service for which the rate will be applicable is seasonal or monthly firm capacity with energy from the RCP.

Issued at Golden, Colorado, October 23, 1987.

William H. Clagett,

Administrator.

Rate Schedule RCP–1

Schedule or Rates for Sales From the Resouce Coordination Program—Loveland Area Office

Effective: November 30, 1982.

Available: Within and adjacent to the areas served by the Western Division of the Pick-Sloan Missouri Basin Program and the Fryingpan-Arkansas Project.

Applicable: To wholesale power customers purchasing such service.

Character and Conditions of Service: Electric service supplied hereunder will be three-phase, alternating current, at a nominal frequency of 60 hertz (cycles per second).

Monthly Rate:

Firm Capacity With Energy: Initially, a base price will be calculated at one-half the sum of the purchaser's avoided costs and the Resource Coordination Program (RCP) costs. The purchaser's costs are the costs for firm capacity with energy that the purchaser would, but for purchases from the RCP, generate itself or purchase from another source. The RCP costs are the sum of the Federal capacity costs set forth in applicable rate schedules and energy generation costs.

In subsequent months, when the RCP costs of firm capacity with energy increase or decrease, the purchaser's base price will increase or decrease by an identical amount.

[FR Doc. 87–21244 Filed 10–29–87; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–3294–7]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements Filed October 19, 1987 Through October 23, 1987 Pursuant to 40 CFR 1506.9

EIS No. 870366, Draft, FHW, NC, East Charlotte Outer Loop Construction, US 74/Independence Boulevard near NC–3180 to I–85 near the US 29 Connector, Funding, Mecklenburg County, NC, Due: December 15, 1987, Contact: Kenneth Bellamy (919) 856–4346.

EIS No. 870369, Final, FHW, TX, Beltway 8 Section VI Circumferential Freeway Construction, US 59 South to I–45 South, Funding, City of Houston, Harris County, TX, Due: November 30, 1987, Contact: John E. Inabinet (512) 465–8161.

EIS No. 870370, Draft, EPA, REG, Polymer Manufacturing Industry, VOC Emission Standards, Implementation, Due: December 14, 1987, Contact: James Berry (919) 541–5605.

EIS No. 870371, Final, CDB, CA, Adoption—Telegraph Canyon Creek Flood Control Project, Community Development Block Grant Funds, City of Chula Vista, San Diego County, CA, Due: November 30, 1987, Contact: James Lobue (619) 691–5047.

EIS No. 870372, Final, COE, OH, Ashtabula Harbor, Dredging and Confinement of Polluted Sediments, Implementation, Ashtabula County, OH, Due: November 30, 1987, Contact: William McDonald (716) 876–5454.

EIS No. 870373, FSuppl, COE, GA, Lake Alma Project, Reservoir Construction and Development, Outdoor Recreation Opportunities, 404 Permit, Bacon County, GA, Due: November 30, 1987, Contact: Charles Belin, Jr (912) 944–5838.

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EIS No. 870374, Draft, FHW, CA, CA–238 Construction, near Industrial Parkway to CA–238/I–580 Interchange, Funding, and 404 Permit, City of Hayward, Alameda County, CA, Due: December 18, 1987, Contact: David Eyres (916) 551–1314.

EIS No. 870375, Final, SCS, OK, Waterfall-Gilford Creek Watershed Flood Control and Agricultural Drainage, Construction, 404 Permit and Funding, McCurtain County, OK, Due: November 30, 1987, Contact: Roland Willis (405) 624–4360.

EIS No. 870376, Draft, NPS, ID, MT, WY, Fishing Bridge Developed Area, Development Concept Plan, Implementation, Yellowstone National Park, Fremont County, ID, Park and Gallatin Counties, MT and Park and Teton Counties, WY, Due: December 16, 1987, Contact: O. Howie Thompson (303) 969–2310.

EIS No. 870377, Draft, GSA, CA, Oakland Federal Building Construction, Approval, Alameda County, CA, Due: December 14, 1987, Contact: Mary Brant (415) 974–7626.

EIS No. 870378, Final, FHW, AK, Eagle River Loop Road Connection to Hiland Drive/ Glenn Highway Interchange, Funding, 404 Permit, Anchorage, AK, Due: November 30, 1987, Contact: Tom Neunaber (907) 586–7428.

EIS No. 870379, Final, SFW, AK, Nowitna National Wildlife Refuge Comprehensive Conservation Plan, Wilderness Review and Wild River Plan, Implementation, Yukon River Valley, AK, Due: November 30, 1987, Contact: Wiliam Knauer (907) 786–3399.

EIS No. 870380, Final, SFW, AK, Koyukuk and the Northern Unit of Innoko National Wildlife Refuges, Comprehensive Conservation Plan, Wilderness Review and Wild River Plan, Implementation, Galena, McGrath, AK, Due: November 30, 1987, Contact: William Knauer (907) 786–3399.

EIS No. 870381, Final, SFW, MN, WI, IA, IL, Upper Mississippi River National Wildlife and Fish Refuge Master Plan, Implementation, MN, WI, IA, and IL, Due: November 30, 1987, Contact: Jim Lennartson (507) 452–4232.

Amended Notice

EIS No. 870349, Draft, FHW, KY, OH, US 27/ Central Bridge and Approach Roads Replacement, Newport, KY to Cincinnati, OH, Ohio River, Funding and 404 Permit, Campbell Co., KY and Hamilton Co. OH, Due: December 4, 1987, Review period extended, Contact: Robert Johnson (502) 227–7321.

Dated: October 28, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87–25207 Filed 10–29–87; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3284–6]

Science Advisory Board; Indoor Air Quality and Total Human Exposure Subcommittee; Open Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of a public meeting of the Indoor Air Quality and Total Human Exposure Subcommittee of the Environmental Protection Agency's (EPA) Science Advisory Board. The meeting will be held November 19–20, 1987, from 9:30 a.m. to 4:00 p.m. on November 19th, and from 9:00 a.m. to 12:00 noon on November 20th. The meeting will be held in Conference Room 1112 (11th Floor), U.S. EPA, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia.

Background

Indoor Air Quality and Total Human Exposure Subcommittee was formed under the requirements of Title IV of the Superfund Amendments and Reauthorization Act of 1986. The charge to this Subcommittee includes the review of the EPA's Indoor Air Quality Implementation Plan, as submitted to the Congress, as well as a continuation of the review of the Agency's Total Human Exposure Research Plan. The Subcommittee is mandated by Title IV to report its findings regarding the Implementation Plan to the Congress. The Total Human Exposure Research Plan will be reviewed by the Subcommittee at a later date, with findings reported to the Administrator of EPA.

The purpose of this initial meeting of the Subcommittee is to provide a public forum for the Committee to obtain information and to discuss the ongoing and planned indoor air qauality research effort ot the EPA with Agency staff and members of the interested public. It is expected that the Subcommittee will meet again in early 1988 to continue the discussions and to prepare their report to the Congress.

FOR FURTHER INFORMATION CONTACT: Copies of the EPA Indoor Air Quality Implementation Plan and Appendices A–E may be obtained from the U.S. EPA, Office of Environmental Research Information (CERI), 21 West St. Clair Street, Cincinnati, Ohio, 45268 (413) 684–7562. Please ask for EPA documents 600/8–87/031, 600/8–87032, 600/8–87/033, 600/8–87/014, and 600/8–87/016, all dated June 1987. Copies are not available from the Science Advisory Board.

Any member of the public wishing further information concerning the meeting should contact Mr. Robert Flaak, Executive Secretary, Science Advisory Board (A–101–F), U.S. Environmental Protection Agency, Washington, DC 20460. Telephone (202) 382–2552; (FTS 383–2552). Persons wishing to make brief oral presentations at the meeting must contact Mr. Flaak no later than the close of business on November 16, 1987 in order to reserve space on the agenda. A draft agenda will be available a week prior to the meeting.

Dated: October 23, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87–25202 Filed 10–29–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59837; FRL–3282–4]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066)(40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of three such PMNs and provides the summary.

DATES: Close of Review Period:
Y 88–14 and 88–15—November 2, 1987.
Y 88–16—November 3, 1987.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 88–14

Manufacturer. Confidential.
Chemical. (G) Polymer of alkanediols and aromatic carboxylic acids.
Use/Production. (G) Intermediate for textile resin size. Prod. range: Confidential.

Y 88–15

Manufacturer. Confidential.
Chemical. (G) Polymer of aliphatic diols and aromatic carboxylic acids and an aromatic epoxy.
Use/Production. (G) Textile resin. Prod. range: Confidential.

Y 88–16

Importer. Confidential.
Chemical. (G) Substituted aryl dicarboxylic acid/diol copolymer.
Use/Import. (S) Industrial protective agent for textile sizing.
Import range: Confidential.
Toxicity Data. Acute oral: >2,000 mg/kg; Irritation: Skin—Non-irritant.

Date: October 21, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87–24796 Filed 10–29–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51688; FRL–3283–5]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-four such PMNs and provides a summary of each.

DATES: Close of Review Period:
P 88–62, 88–63, 88–64, and 88–65—January 6, 1988
P 88–66, 88–67, 88–68, 88–69, 88–70, 88–71, 88–72, and 88–73—January 10, 1988
P 88–74, 88–75, 88–76, 88–77, 88–78, 88–79, 88–80, 88–81, 88–82, 88–83, 88–84, and 88–85—January 11, 1988
P 88–86, 88–87, 88–88, 88–89, 88–90, 88–91, 88–92, 88–93, 88–94, and 88–95—January 12, 1988.
Written comments by:
P 88–62, 88–63, 88–64, and 88–65—December 7, 1987
P 88–66, 88–67, 88–68, 88–69, 88–70, 88–71, 88–72, and 88–73—December 11, 1987
P 88–74, 88–75, 88–76, 88–77, 88–78, 88–79, 88–80, 88–81, 88–82, 88–83, 88–84, and 88–85—December 12, 1987
P 88–86, 88–87, 88–88, 88–89, 88–90, 88–91, 88–92, 88–93, 88–94, and 88–95—December 13, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS–51688]" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Room L–100, 401 M Street SW., Washington, DC 20460, (202) 554–1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the PMNs received by EPA. The complete non-confidential PMNs are available in the Public Reading room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 88–62

Manufacturer. Hercules Incorporated.
Chemical. (G) Dimer diisocyanate reaction polybutadiene.
Use/Production. (G) Isolated intermediate in a polymer formulation. Prod. range: Confidential.

P 88–63

Manufacturer. Confidential.
Chemical. (G) Substituted thioazino salt.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: 1,600 to 12,000 kg/yr.

P 88–64

Manufacturer. General Electric Company.
Chemical. (G) Ester of substituted hydroxyphenyl benzotriazole carboxylic acid.
Use/Production. (S) UV light stabilizer composition. Prod. range: Confidential.

P 88–65

Manufacturer. Confidential.
Chemical. (G) Alkylbenzene sulfonic acid, magnesium salt, over based.
Use/Production. (G) Lube oil additive. Prod. range: Confidential.

P 88–66

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (G) Non-drying alkyd. Prod. range: 2,951 to 8,853 kg/yr.

P 88–67

Importer. Confidential.
Chemical. (G) Substituted, substituted, substituted benzenesulfonic acid.
Use/Import. (S) Industrial dye intermediate. Import range: Confidential.

P 88–68

Importer. Confidential.
Chemical. (G) Substituted heteromonocyclic azo carbopolycyclic acid.
Use/Import. (S) Industrial paper dye. Import range: Confidential.
Toxicity Data. Acute oral: < 5,000 mg/kg; Ames test: Non-mutagenic.

P 88–69

Importer. Confidential.
Chemical. (G) Substituted, substituted naphthalene sulfonate.
Use/Import. (G) Industrial dye intermediate. Import range: Confidential.
Toxicity Data. Acute oral: 5.0 g/kg, Irritation: Skin—Non-irritant, Eye—Non-irritant.

P 88–70

Importer. Mitsubishi.
Chemical. (S) Methylmethacrylate, laurylmethacrylate and tridecylmethacrylate.
Use/Import. (S) Industrial and commercial resin for conductive coatings. Import range: 50,000 to 100,000 kg/yr.

P 88–71

Importer. Confidential.
Chemical. (G) Polymer of functional acrylates and methacrylates.
Use/Import. (G) Commercial resin for paint product. Import range: 40,000 to 80,000 kg/yr.

P 88–72

Importer. Confidential.

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Chemical. (G) 1,1'-Methylene bis[4-phenylene azo—[substituted heterocycle]] acid salt.
Use/Import. (S) Industrial and commercial paper dye for use in fine and tissue paper. Import range: Confidential.

P 86-73

Manufacturer. Polymer Industries Incorporated.
Chemical. (S) Polyethylene terephthalate, diethylene glycol and tetrabutyl titanate.
Use/Production. (S) Commercial reactive polyol in urethane blends. Prod. range: 909,091 to 1,363,636 kg/yr.

P 86-74

Manufacturer. The Dow Chemical Company.
Chemical. (G) Styrene/butadiene/polymer with alkanedioic acid and alkane ester.
Use/Production. (G) Industrial adhesive. Prod range: Confidential.

P 86-75

Manufacturer. The Dow Chemical Company.
Chemical. (G) Styrene/butadiene/polymer with alkanoic acid and alkane ester.
Use/Production. (G) Industrial adhesive. Prod. range: Confidential.

P 86-76

Manufacturer. Confidential.
Chemical. (G) Isocyanate terminated urethane prepolymer.
Use/Production. (G) Hot melt (solvent-free) adhesive. Prod. range: Confidential.

P 86-77

Manufacturer. Confidential.
Chemical. (G) Alicyclic acid anhydride.
Use/Production. (G) Industrial chemical intermediate. Prod. range: Confidential.

P 86-78

Manufacturer. The Dow Chemical Company.
Chemical. (G) Styrene, butadiene, polymer with alkanedioic acid and alkane ester.
Use/Production. (G) Adhesive. Prod. range: Confidential.

P 86-79

Importer. Confidential.
Chemical. (G) Chromate (3-), bis 2-[[substituted-3-[(5-sulfo-1-naphthalenyl]azo]phenyl]azo]s ubstituted monocycle (3-)]-, trisodium.ge dp2:a30oc3.057
Use/Import. (S) Industrial leather dye for shoe upper leather, upholstery leather and garment leather. Import range: Confidential.

P 86-80

Importer. General Electric Company.
Chemical. (G) Substituted hydroxyphenyl benzotriazole carboxylic ester.
Use/Import. (S) Site-limited and industrial starting material for manufacture of UV light stabilizer composition. Import range: 200 to 300 kg/yr.

P 86-81

Manufacturer. Confidential.
Chemical. (G) Dialkylester of cycoalkyl spiropetal.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 86-82

Manufacturer. Confidential.
Chemical. (S) Substituted malonate.
Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.

P 86-83

Manufacturer. Confidential.
Chemical. (G) Bis(2,2,6,6-tetramethyl piperidnal ester of cycloalkyl spiro ketal.
Use/Production. (G) Light stabilizer. Prod. range: Confidential.

P 86-84

Manufacturer. The Dow Chemical Company.
Chemical. (G) Polyurethane thermoplastic resin.
Use/Production. (S) Industrial extrusion and injection molding of plastic articles for use in chemical processing and automotive industries. Prod. range: Confidential.

P 86-85

Manufacturer. The Dow Chemical Company.
Chemical. (G) Polyurethane thermoplastic resin.
Use/Production. (S) Industrial extrusion and injection molding of plastic articles for use in chemical processing and automotive industries. Prod. range: Confidential.

P 86-86

Importer. CIBA-GEIGY Corporation.
Chemical. (G) Alkylamine derivative.
Use/Import. (S) Industrial stabilizer for polymers. Import range: Confidential.

P 86-87

Manufacturer. Stepan Company.
Chemical. (G) Polyester polyol.
Use/Production. (G) Industrial and commercial to be used in production of polyurethane and urethane modified polyisocyanurate forms. Prod. range: Confidential.

P 86-88

Importer. Hoechst Celanese Corporation.
Chemical. (G) Aromatic substituted ethylene diamine.
Use/Import. (S) Site-limited intermediate. Import range: 6,000 to 18,000 kg/yr.

P 86-89

Manufacturer. Confidential.
Chemical. (G) Aliphatic aromatic sulfonium acetate.
Use/Production. (G) Industrially used coating with an open use. Prod. range: 200,000 to 3,000,000 kg/yr.

P 86-90

Importer. Confidential.
Chemical. (G) Dinaphthylmethane derivative.
Use/Import/ (G) Toning agent. Import range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Acute dermal: 5 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Non-mutagenic; Skin sensitization: Non-sensitizer.

P 86-91

Manufacturer. Confidential.
Chemical. (G) Heteromonocyclic methylene derivative of a heteropolycyclicindenone.
Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.

P 86-92

Manufacturer. Confidential.
Chemical. (G) Polyampholyte.
Use/Production. (G) Coagulant and scale/corrosion inhibitor. Prod. range: Confidential.
Toxicity Data. Acute oral: 15.7 mg/kg; Acute dermal: 2 ml/kg; Irritation: Skin—Mild irritant, Eye—Mild irritant.

P 86-93

Manufacturer. Confidential.
Chemical. (G) Substituted cyclohexane.
Use/Production. (G) Polymer additive. Prod. range: Confidential.

P 86-94

Importer. Confidential.
Chemical. (G) Dialkylaminocarbomonocyclic substituted alkenoyl alkylheteromonocyclic chloride.
Use/Import. (S) Industrial dye. Import range: Confidential.

P 86-95

Importer. Confidential.

Chemical. (G) Dibasic acid/glycolester.
Use/Import. (S) Industrial plasticizer for PVC. Import range: Confidential.

Date: October 21, 1987.

Denise Devon,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87-24797 Filed 10-29-87; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing, Lafayette FM Group Ltd et. al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and state	File No.	MM docket No.
A. Lafayette FM Group Limited Partnership, d/b/a Lafayette Communications, Inc.; Lafayette, LA.	BPH-860407MP	87-449
B. 80-90 Limited; Lafayette, LA.	BPH-860502MD	
C. George Van Hook, Jr.; Lafayette, LA.	BPH-860506MP	
D. AC Broadcasting, Inc.; Lafayette, LA.	BPH-860506MQ	
E. Leam Broadcasting, Inc.; Lafayette, LA.	BPH-860507OB	
F. Phyllis Coleman Mouton/dba Phyla Broadcasting; Lafayette, LA.	BPH-860507OE	
G. FM Lafayette Limited Partnership; Lafayette, LA.	BPH-860507OF	
H. Julie N. Frew; Lafayette, LA.	BPH-860507OG	
I. KLUE Radio, Inc.; Lafayette, LA.	BPH-860507OH	
J. James M. Linzer & Margo A. Linzer d/b/a Linzer Enterprises; Lafayette, LA.	BPH-860507OI	
K. RVM, Inc.; Lafayette, LA.	BPH-860507OJ	
L. Royal Broadcasting Partnership; Lafayette, LA.	BPH-860507OK	
M. Kenneth E. Harris; Lafayette, LA.	BPH-860507OL	
N. Lafayette Broadcasting Foundation; Lafayette, LA.	BPH-860507OM	
O. Lafayette Communication, Inc.; Lafayette, LA.	BPH-860507ON	
P. Crater Communications; Lafayette, LA.	BPH-860507OO	
Q. Rebecca Radio of Lafayette; Lafayette, LA.	BPH-860507OP	

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19,347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Air Hazard, A,C,K,L,M,N,Q
2. Comparative, A–Q
3. Ultimate, A–Q

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-25183 Filed 10-29-87; 8:45 am]
BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Williamsport Television et al. and MMM & K, Inc.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city and State	File No.	MM Docket No.
A. Russell Kimble, et al, d/b/a Williamsport Television; Williamsport, PA.	BPCT-870327KL	87-450
B. MMM & K, Inc.; Williamsport, PA.	BPCT-870529KJ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Short-Spacing, B
Air Hazard, B
Comparative, A, B
Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC 20037. (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87-25184 Filed 10-29-87; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed; Shippers Stevedoring Co.

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.7 and/or § 572.603 of Title 46 of the Code of Federal Regualtions. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any persons filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200048.
Title: Port of Houston Authority Terminal Agreement.
Parties:

Port of Houston Authority
Shippers Stevedoring Co.

Synopsis: The proposed agreement, which is captioned Jacintoport Freight Handling Agreement, designates and assigns Shippers Stevedoring Co. as contractor on the Port's wharf located contiguous to the Jacintoport Slip in Jacintoport through February 28, 1988.

Filing Party: Brien E. Kehoe, Esq., Hill, Betts & Nash, 1818 N Street NW., Suite 700, Washington, DC 20036.

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Agreement No.: 224–200050.
Title: Port of Houston Authority
Parties:
Port of Houston Authority
Shippers Stevedoring Co.
Synopsis: The proposed agreement, which is captioned Turning Basin Freight Handling Agreement, designates and assigns Shippers Stevedoring Co. as contractor on the Port's wharf located contiguous to the Jacintoport Slip in Jacintoport through December 31, 1989.
Filing Party: Brien E. Kehoe, Esq., Hill, Betts & Nash, 1818 N Street NW., Suite 700, Washington, DC 20036.
Agreement No.: 224–200049
Title: Port of Houston Occupancy Agreement
Parties:
Port of Houston Authority
Shippers Stevedoring Company (Tenant)
Synopsis: The proposed agreement provides for Tenant occupation and vacation of the premises depicted in Exhibit B of the agreement on or before 1–8–88. Tenant shall have the exclusive right to occupy only such portion of the premises specified in this agreement solely for the purpose of terminating Tenants' business operations at the premises.
Filing Party: Brien E. Kehoe, Esq., Hill, Betts & Nash, 1818 N Street, NW., Suite 700, Washington, DC 20036.
Agreement No.: 224.200051
Title: Philadelphia Port Corporation Terminal Agreement
Parties:
Philadelphia Port Corporation (PPC)
Tioga Fruit Terminal, Inc. (TFT)
Synopsis: The proposed agreement provides for the sublease by PPC of certain port facilities within the Port of Philadelphia to TFT together with a nonexclusive right-of-way over the interior roadway connecting the two major sections of the terminal that are leased to TFT.

By Order of the Federal Maritime Commission.

Joseph C. Polking,
Secretary.

Dated: October 27, 1987.

[FR Doc. 87–25180 Filed 10–29–87; 8:45 am]
BILLING CODE 7630–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies; A.D. Dunckiee

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 23, 1987.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Mr. A.D. Dunckiee,* Drayton, North Dakota; to acquire an additional 1.1 percent of the voting shares of Drayton Bancor, Inc.; and thereby indirectly acquire Drayton State Bank, Drayton, North Dakota.

2. *Mr. John W. Brown,* Drayton, North Dakota; to acquire an additional 1.1 percent of the voting shares of Drayton Bancor, Inc.; and thereby indirectly acquire Drayton State Bank, Drayton, North Dakota.

3. *Mr. Ardell Fortier,* Drayton, North Dakota; to acquire an additional 1.1 percent of the voting shares of Drayton Bancor, Inc.; and thereby indirectly acquire Drayton State Bank, Drayton, North Dakota.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Irwin Blitt,* Leawood, Kansas; to acquire 35.0 percent of the voting shares of Hillcrest Bancshares, Inc., Kansas City, Missouri; and thereby indirectly acquire Hillcrest Bank, Kansas City, Missouri.

Board of Governors of the Federal Reserve System, October 26, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87–25118 Filed 10–29–87; 8:45 am]
BILLING CODE 6210–01–M

Agreement Filed; Philadelphia Port Corp. et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interest parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Merchants Bancorporation, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 20, 1987.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Merchants Bancorporation,* Hanceville, Alabama; to engage *de novo* in mortgage loan servicing activities pursuant to § 225.25(b)(1) of the Board's Regulation Y; and in trust company activities pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *R&J Financial Corporation,* Elma, Iowa; to engage *de novo* in general insurance activities in a town of less than 5,000 in population pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation,* Los Angeles, California; to engage *de novo* through its subsidiary SP Services Corporation ("SPSC"), San Diego, California, in collecting, for affiliates and others, overdue accounts receivable, either retail or commercial, provided, however, that SPSC will not: (i) Obtain the names of customers of competing collection agencies from an affiliated depository institution that maintains trust accounts for those agencies; or (ii) provide preferential treatment to an affiliate or customer of such affiliate seeking collection of an outstanding debt. The activities will be conducted from an office of SPSC in San Diego, California, throughout the United States.

Board of Governors of the Federal Reserve System, October 26, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87–25119 Filed 10–29–87; 8:45 am]
BILLING CODE 6210–01–M

Formation of, Acquisition by, or Merger of Bank Holding Companies and Acquisition of Nonbanking Company; National Westminster Bank, PLC; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 87–23276) published at page 37658 of the issue for Thursday, October 8, 1987.

Under the Federal Reserve Bank of New York, the entry for National Westminster Bank PLC is revised to read as follows:

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *National Westminster Bank PLC,* London, England, Natwest Holdings, Inc., New York, New York, and National Westminster Bancorp, Inc., Wilmington, Delaware; to acquire 100 percent of the voting shares of National Westminster Bank USA, New York, New York; First Jersey National Corporation, Jersey City, New Jersey, and thereby indirectly acquire The First Jersey and National Bank, Jersey City, New Jersey; The First Jersey National Bank/Central, Trenton, New Jersey; The First Jersey National Bank/South, Atlantic City, New Jersey; The First Jersey National Bank/West, Denville, New Jersey; and The First Jersey National Bank/Fort Lee, Fort Lee, New Jersey; and First Jersey Fort Lee Corporation, Jersey City, New Jersey. In connection with this application, National Westminster Bancorp, Inc., Wilmington, Delaware, has applied to become a bank holding company.

National Westminster Bank PLC, London, England, Natwest Holdings Inc., New York, New York, and National Westminster Bancorp, Inc., Wilmington, Delaware; also propose to acquire FJN Corporation, Jersey City, New Jersey, and thereby engage in leasing real property, and to acquire Tilden of Florida, Inc., Fort Lauderdale, Florida, and thereby engage in leasing personal property and in commercial lending activities pursuant to §§ 225.25(b)(5) and (b)(1) of the Board's Regulation Y.

Comments on this application must be received by November 13, 1987.

Board of Governors of the Federal Reserve System, October 26, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87–25116 Filed 10–29–87; 8:45 am]
BILLING CODE 6210–01–M

Peoples Bancorporation et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 23, 1987.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Peoples Bancorporation,* Rocky Mount, North Carolina; to acquire 100 percent of the voting shares of Citizens National Bank, Winston-Salem, North Carolina.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Associated Acquisition Corporation,* Green Bay, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Valders Bancorporation, Valders, Wisconsin; and thereby indirectly acquire Valders State Bank, Valders, Wisconsin.

2. *F&M Financial Services Corporation,* Menomonee Falls, Wisconsin; to acquire 100 percent of the voting shares of Owen-Curtiss Financial Corporation, Owen, Wisconsin; and thereby indirectly acquire Owen-Curtiss State Bank, Owen, Wisconsin, Voyageur Development Corporation, Park Falls, Wisconsin, and Park Falls State Bank, Park Falls, Wisconsin.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Business Bancshares of Kansas City, Inc.,* Kansas City, Missouri; to become a bank holding company by acquiring 80 percent of the voting shares of First Business Bank of Kansas City, N.A., Kansas City, Missouri.

2. *First National Financial Corporation,* Albuquerque, New Mexico; to acquire through a nonoperating subsidiary FNFC Acquisition Corporation, Albuquerque, New Mexico, 100 percent of the voting shares of Las

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Vegas Bancorporation, Las Vegas, New Mexico; and thereby indirectly acquire The Bank of Las Vegas, Las Vegas, New Mexico. In connection with this application, FNFC Acquisition Corporation has applied to become a bank holding company.

3. *Sheridan National Agency,* Sheridan, Wyoming; to become a bank holding company by acquiring 100 percent of the voting shares of Sheridan National Bank, Sheridan, Wyoming.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First McAllen International Bancshares, Inc.,* McAllen, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of International Bank of McAllen, McAllen, Texas.

Board of Governors of the Federal Reserve System, October 26, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25120 Filed 10-29-87; 8:45 am]

BILLING CODE 6210-01-M

United Jersey Bank; Change in Bank Control Notices; Acquisitions of Shares of Banks; Bank Holding Companies; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 87-23787) published at page 38274 of the issue for Thursday, October 15, 1987.

Under the Federal Reserve Bank of New York, the entry for United Jersey Banks is revised to read as follows:

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *United Jersey Bank,* Princeton, New Jersey; to acquire through its subsidiary FV Inc., Bethlehem, Pennsylvania, 100 percent of the voting shares of First Valley Corporation, Bethlehem, Pennsylvania, and thereby indirectly acquire First Valley Bank, Bethlehem, Pennsylvania; and Hazleton National Bank, Hazleton, Pennsylvania; Hanover Bank of Pennsylvania, Wilkes-Barre, Pennsylvania; and West Side Bank, West Pittston, Pennsylvania. In addition, FV Inc. has applied to become a bank holding company.

Comments on this application must be received by November 5, 1987.

Board of Governors of the Federal Reserve System, October 28, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25117 Filed 10-29-87; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of Waiting Period Under Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 10/06/87 AND 10/21/87

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
(1) Goldome, Norman Davison, Jr., Davidson P.W.P	87-2308	10/06/87
(2) Castle & Cooke, Inc., Apache Corporation, S&J Ranch, Inc. and Earlsbest Orange Assoc., Inc	87-2372	10/06/87
(3) McCown De Leeuw & Co., Van Doren Rubber Company, Inc., Van Doren Rubber Company, Inc	87-2441	10/06/87
(4) W.R. Grace & Co., The 1964 Simmons Trust, The 1964 Simmons Trust	87-2443	10/06/87
(5) Mr. George S. Mann, InterTAN, Inc., InterTAN, Inc	87-2450	10/06/87
(6) H Group Holding, Inc., Daniel K. Ludwig, Westlake Plaza Hotel	87-2407	10/07/87
(7) Roxboro Investments (1976) Ltd., Lomas & Nettleton Financial Corporation, Lomas & Nettleton Financial Corporation	87-2432	10/08/87
(8) Varlen Corporation, Nyloncraft, Inc., Nyloncraft, Inc	87-2454	10/08/87
(9) Robert Wood Johnson, IV, American Cablesystems Corporation, American Cablesystems Corporation	87-2513	10/08/87
(10) RREEF USA Fund-III, Wesley Bailey, Alamo Partnership	87-2305	10/09/87
(11) Allied-Lyons PLC, Exeter International Corp. Exeter Foods Inc	87-2323	10/09/87
(12) Leonard K. Mardian, Estate of James Campbell, Concord Hotel Associates	87-2349	10/09/87
(13) Randolph J. Agley, Merrill Lynch & Co., Inc., Supermarkets General Corporation	87-2457	10/09/87
(14) Mr. Mark Goodson, Morristown Daily Record, Inc., Morristown Daily Record, Inc	87-2474	10/09/87
(15) Trammell Crow Equity Partners, The Williams Companies, Inc., The Williams Companies, Inc	87-2480	10/09/87

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 10/06/87 AND 10/21/87—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
(16) Southmark Corporation, Thousand Trails, Inc., Thousand Trails, Inc	87-2502	10/09/87
(17) Petrofina S.A., The Exploration Company of Louisiana, Inc., The Exploration Company of Louisiana, Inc	87-2504	10/09/87
(18) San Diego Gas & Electric Company, Robert R. Wahler, Wahlco, Inc	87-2515	10/09/87
(19) Robert R. Wahler, c/o Wahlco, Inc., San Diego & Electric Company, San Diego Gas & Electric Company	87-2516	10/09/87
(20) Republic Gypsum Company, Tenneco Inc., Tenneco Inc	87-2527	10/09/87
(21) Koninklijke Nederlandsche Hoogovens en Staalfabrieken, Kaiser-Tech Limited, Kaiser Aluminum Europe Incorporated	87-2528	10/09/87
(22) RREEF USA Fund-III, E.J. McGah, Alamo Partnership	87-2534	10/09/87
(23) Cooper Industries, Inc., Joy Technologies, Inc., Joy Technologies, Inc	87-2473	10/13/87
(24) Dowty Group PLC, Datatel Inc., Datatel Inc	87-2512	10/13/87
(25) Citation Investment Trust, Tenneco Inc., Tenneco Oil Company	87-2237	10/14/87
(26) Lone Star Industries, Inc., Lehman-Roberts Company, Inc., Lehman-Roberts Company, Inc	87-2472	10/14/87
(27) Avon Products, Inc., New Hampton, Inc., New Hampton, Inc	87-2521	10/14/87
(28) David H. Murdock, Flexi-Van Corporation, Flexi-Van Corporation	87-2531	10/14/87
(29) Tele-Communications, Inc., Grace Broadcasting Limited Partnership, WOOD and WOOD-FM	87-2424	10/15/87
(30) Dover Corporation, Richard H. Ellingsworth, General Elevator Company, Incorporated	87-2434	10/15/87
(31) J Sainsbury plc, ISM Holdings, Inc. Iandoli's Super Markets, Inc	87-2454	10/15/87
(32) James Neill Holdings plc, Henry G. Libby, The Diston Company	87-2476	10/15/87
(33) R.E. Turner, Entertainment Acquisition Company, Inc., RKO Pictures, Inc	87-2499	10/15/87
(34) Dennis R. Washington, c/o Washington Corporations, Burlington Northern Inc., Burlington Northern Railroad Company	87-2505	10/15/87
(35) Catholic Healthcare West, St. Luke's Health System, St. Luke's Health System	87-2530	10/15/87
(36) A. Gary Klesch, British & Commonwealth Holdings PLC, W.M. Marshall & Co. Ltd. & Wm. Street Brokers, Inc	87-2349	10/16/87
(37) Bennett S. LeBow, Borden, Inc., Deran Confectionery Company	87-2264	10/16/87
(38) Silvercrest Industries, Inc., Silvercrest Industries, Inc., Silvercrest Industries, Inc	87-2324	10/16/87
(39) Kaufman and Broad, Inc., Silvercrest Industries, Inc., Silvercrest Industries, Inc	87-2325	10/16/87
(40) M.A. Hanna Company, William B. Bradbury, Jr., PMS Consolidated	87-2290	10/16/87
(41) M.A. Hanna Company, William R. Belton and Nancy B. Belton, PMS Consolidated	87-2425	10/16/87
(42) Paul F. Cornelsen, Redland PLC, Gang-Nail Systems, Inc	87-2435	10/16/87
(43) Bowater Industries, plc, Paul F. Cornelsen, Mitek Industries, Inc	87-2436	10/16/87
(44) American Financial Corporation, John R.E. Lee, John R.E. Lee	87-2503	10/16/87
(45) Ratners Group plc, The Westhall Co., The Westhall Co	87-2508	10/16/87
(46) Chicago Holdings, Inc., George A. Steiner Testamentary Trust, Steiner Financial Corporation	87-2510	10/16/87
(47) Ronald O. Perelman, Salomon Inc., Salomon Inc	87-2517	10/16/87

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 10/06/87 AND 10/21/87—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
(48) Insilco Corporation, DAC Software, Inc., DAC Software, Inc	87-2519	10/16/87
(49) Apache Corporation, Apache Petroleum Company, L.P., Apache Petroleum Company, L.P	87-2520	10/16/87
(50) Waste Management, Inc., Waste Systems, Inc., Waste Systems, Inc	87-2446	10/19/87
(51) Cablevision Systems Corporation, Time Incorporated, GWC 42, Inc	87-2462	10/19/87
(52) Cablevision Systems Corporation, Houston Industries Incorporated, GWC 42, Inc	87-2463	10/19/87
(53) Donald J. Trump, Alexander's Inc., Alexander's Inc	87-2532	10/19/87

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87-25108 Filed 10-29-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 16 1987.

Social Security Administration

(Call Reports Clearance Officer on 301-594-5706 for copies of package)

1. Referral and Treatment Status of SSI Drug Addicts or Alcoholics—0960-0331—The information provided by this form is used by SSA to refer SSI recipients who are drug addicts or alcoholics to the appropriate State agency for treatment. The form is then completed by the State agency and returned to SSA. The affected public consists of cooperating State agencies. Respondents: State or local governments. Number of Respondents: 9,000; Frequency of Response: Occasionally; Estimated Annual Burden: 1,500 hours.

Desk Officer: Elana Norden

Health Care Financing Administration

(Call Reports Clearance Officer on 301-594-1238 for copies of package)

1. Blood Bank Inspection Checklist—0938-0170—Hospitals and clinical laboratories participating in Medicare must be in compliance with health and safety standards, these forms are used by State agency surveyors to comply with the standards. Respondents: State or local governments. Number of Respondents: 50; Frequency of Response: Annually; Estimated Annual Burden: 750 hours.

2. Chronic Renal Disease Medical Evidence Report—0938-0046—This data collection captures the specific medical information required to determine the Medicare eligibility of an end stage renal disease claimant. Respondents: Individuals or households, Businesses or other for-profit; Small businesses or organizations. Number of Respondents: 45,000; Frequency of Response: Annually; Estimated Annual Burden: 11,250 hours.

3. Preclearance: 1988 Physicians Practice Costs and Incomes Survey—NEW—This information collection will consist of a survey of randomly selected non-Federal physicians and will collect information on physicians practice costs, income and practice patterns. Respondents: Individuals or households. Number of Respondents: need number; Frequency of Response: need number; Estimated Annual Burden: 1 hour.

4. Statement of Deficiencies and Plan of Correction—0938-0391—This form provides information regarding deficiencies noted during periodic facility certification surveys. Respondents: State or local governments, Businesses or other for-profit. Number of Respondents: 50; Frequency of Response: Occasionally; Estimated Annual Burden: 30,000 hours.

5. Comprehensive Outpatient Rehabilitation Facities (CORF) Survey Forms and Information Collection Requirements—0938-0267—In order to participate in the Medicare, Medicaid Program as a CORF providers must meet Federal conditions of participation. These forms are used to record compliance with the conditions and report it to HCFA. Respondents: State or local governments. Number of Respondents: 54; Frequency of Response: Annually; Estimated Annual Burden: 77,540 hours.

OMB Desk Officer: Allison Herron

Family Support Administration

(Call Reports Clearance Officer on 202-245-0652 for copies of package)

1. Report of Claims of Good Cause for Refusing to Cooperate in Establishing Paternity and Security Child Support—0970-0073—This form is used to monitor the administration of good cause clause and evaluate extensiveness and reasons for usage. Utilized by Congressional committees, State welfare departments, Administration and public and private research groups and media. Respondents: State and local governments. Number of Respondents: 54; Frequency of Response: Monthly; Estimated Annual Burden: 2,527 hours.

OMB Desk Officer: Elana Nordan

Public Health Services

(Call Reports Clearance Officer on 202-245-2100 for copies of package)

National Institutes of Health

1. Follow-up Study of Human Growth Hormone Recipients—NEW—This study will locate past pituitary-derived growth hormone recipients for an epidemiological investigation to determine the overall incidence of Creutzfeldt-Jacob Disease and other potentially infectious, long-incubation, neurological diseases. The study will also enable assessment of the possibility of other medical complications and long-term outcome of treatment. Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Non-profit institutions. Number of Respondents: 2,737; Frequency of Response: Single-time; Estimated Annual Burden: 2,643 hours.

Centers for Disease Control

1. Comparison of Hearing Thresholds From Impulse and Continuous Noise Exposed Populations—NEW—this research study will examine whether workers exposed to a particular level of continuous noise experience more or less hearing loss than a group of workers exposed to the equivalent level of impulsive noise. Respondent male workers will complete a noise and medical history questionnaire, air-conduction audiometric test and otoscopic examination. Respondents: Individuals or households, Businesses or other for-profit. Number of Respondents: 68; Frequency of Response: One-time; Estimated Annual Burden: 143 hours.

2. Human Health Consequences of polybrominated Biphenyls (PBB) Contamination in Farms in Michigan—0920-0030—This is a study of the health effects of PBB-exposed persons in

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Michigan with particular emphasis on cancer. Objectives include assessment of long-term and intermediate health effects; studies of PBB metabolism, excretion and storage; and establishment of a data base for further studies of interaction of PBB with the human body. Respondents: Individuals or households. Number of Respondents: 4,315; Frequency of Response: Annually; Estimated Annual Burden: 348 hours.

OMB Desk Officer: Shanna Koss

As mentioned above, copies of the information collection clearance packages can be obtained by calling the Reports Clearance Officer, on one of the following numbers:

SSA: 301–594–5706
HCFA: 301–594–1238
PHS: 202–245–2100
FSA: 202–245–0652

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503. Attn: (name of OMB Desk Officer).

Dated: October 27, 1987.

Raffle Shabrigian,

Acting Deputy Assistant Secretary, Administrative and Management Services.

[FR Doc. 87–25208 Filed 10–29–87; 8:45 am]

BILLING CODE 4160–01–M

Food and Drug Administration

[Docket No. 87D–0329]

Parametric Release of Terminally Heat Sterilized Drug Products Based on Current Good Manufacturing Practice Regulations in the Manufacture of Drug Products; Availability of Compliance Policy Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of Compliance Policy Guide 7132a.13 entitled "Parametric Release-Terminally Heat Sterilized Drug Products." The Guide provides that certain parenteral drug products that are terminally heat sterilized may be released for distribution without end product testing when all of the requirements stated in the Guide are met and documented. The Guide provides procedures that manufacturers may use in complying with the current good manufacturing practice regulations for finished pharmaceuticals (21 CFR Part 211). The Guide does not preempt the requirements of Section 505 of the Federal Food, Drug, and Cosmetic Act. Approved supplements providing for parametric release are required for holders of new drug applications (21 CFR 314.70(b)).

ADDRESS: Requests for single copies of FDA Compliance Policy Guide 7132a.13 may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Send two self-addressed adhesive labels to assist the Branch in processing your requests.)

FOR FURTHER INFORMATION CONTACT: Terry Munson, Center for Drug Evaluation and Research (HFN–323), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8096.

SUPPLEMENTARY INFORMATION: FDA has prepared Compliance Policy Guide 7132a.13 "Parametric Release-Terminally Heat Sterilized Drug Products," to provide for the release for distribution of certain parenteral drug products without end product testing when all of the parameters stated in the Guide are met and documented.

Compliance Policy Guide 7132a.13 is available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. Requests for single copies of Compliance Policy Guide 7132a.13 should refer to the docket number found in brackets in the heading of this document and should be submitted to the Dockets Management Branch.

This notice is issued under 21 CFR 10.85.

Dated: October 21, 1987.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–25193 Filed 10–29–87; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 52 FR 31088–89, August 19, 1987) is amended to reflect the following changes within the International Health Program Office: (1) Revision of the mission statement to reflect the transfer of global EIS activities from the Office of the Director, CDC, to the International Health Program Office, (2) revision of the functional statement for the Office of the Director to reflect changes in responsibilities, and (3) reorganization at the division-level.

Section HC–B, Organization and Functions, is hereby amended as follows:

1. Under the heading *International Health Program Office (HCG),* insert the following as item (5): "(5) promotes the development of national field epidemiologic training programs;" and renumber items (5) through (8) as (6) through (9).

2. Under the heading *Office of the Director (HCG1),* delete the statement in its entirety and substitute the following: (1) Manages, directs, and coordinates the activities of the International Health Program Office (IHPO); (2) provides leadership in development of IHPO policy, program planning, implementation, and evaluation; (3) coordinates CDC support for child survival activities funded by the Agency for International Development, the World Health Organization, and the United Nations International Children's Emergency Fund; (4) implements technical cooperation agreements authorized by the Agency for Intenational Development; (5) identifies need and resources for new initiatives and assigns responsibilities for their development; (6) ensures scientific and technical quality of IHPO programs; (7) provides administrative, editorial, information, and computer support services to IHPO.

3. After the title and functional statements for the *Office of the Director (HCG1),* delete in their entirety the titles and functional statements for the *Division of Evaluation and Research (HCG3)* and the *Division of Program Services (HCG5),* and add the following:

Division of International Liaison (HCG2) (1) Provides staff support to the Director, IHPO, and through the Director, IHPO, to the Assistant Director for International Health in carrying out overall direction and coordination of international activities throughout the CDC; (2) maintains regular liaison with the PHS Office of International Health and with other organizations concerned with international health; (3) provides liaison and coordination of CDC involvement with national and international agencies in response to natural or manmade crisis situations outside the United States, e.g., earthquakes, outbreaks of disease, famine/drought, and social disruptions; (4) provides liaison and coordination of CDC involvement with national and international agencies in response to non-emergency requests for assistance outside the United States, e.g., training and evaluation, participation in workshops, development of guidelines, etc.; (5) coordinates inter-Centers' activities carried out under selected working agreements between CDC, the Office of International Health, and the Agency for International Development; (6) coordinates the inter-agency agreement between the U.S. Peace Corps and CDC to develop and implement a Peace Corps Volunteer disease and health condition surveillance system; (7) provides for the reception, orientation, and scheduling of international visitors to the CDC, and coordinates their short- and long-term training as appropriate; (8) coordinates the special foreign currency program (Public Law 480) activities overseas; (9) provides staff support for CDC involvement in bilateral health agreements.

Division of Global EIS (HCG4) (1) Oversees continuation of ongoing Field Epidemiology Training Programs; (2) fosters development of similar programs in other countries; (3) coordinates CDC epidemiological training abroad, including development and provision of training materials from CDC for international training in epidemiology; (4) serves as a WHO Collaborating Center for Epidemiology Training, and oversees provisions of consultation to international agencies and other countries regarding epidemiological services and training, as appropriate, and upon request.

Division of Field Services (HCG6) (1) Provides consultation to, and participates with, other nations in disease prevention and control; (2) implements Agency for International Development funded child survival technical assistance including immunization, diarrheal disease control, and malaria control to developing countries; (3) provides administrative direction and support to IHPO staff assigned overseas.

Division of Technical Support (HCG7) (1) Develops and tests surveillance methodologies to identify and quantitate health status and disease problems in developing countries; (2) provides technical guidance to child survival activities in anthropology, epidemiology, health education, health economics and training; (3) identifies technical problems in management, strategy, implementation, monitoring, and/or evaluation for which operational research is needed; (4) plans, implements, analyzes, and disseminates operational research to solve identified problems in disease epidemiology, disease prevention, and disease control; (5) conducts research in health education and training to develop more effective implementation strategies; (6) serves as a technical resource on disasters to Division of International Liaison; (7) coordinates technical inputs of other Centers/Institute/Officers, e.g., Immunization Division, Center for Prevention Services, and Malaria Branch, Division of Parasitic Diseases, Center for Infectious Diseases, in IHPO-managed Agency for International Development programs.

October 15, 1987.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 87–25207 Filed 10–29–87; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–87–1752]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission; (8) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Supplemental Assistance for Facilities to Assist the Homeless.

Office: Policy Development and Research.

Description of the Need for the Information and its Proposed Use: This program, created by the Stewart B. McKinney Homeless Assistance Act, provides grants and interest-free advances to stimulate community-wide innovative efforts to assist homeless families and individuals. Proposals by state or local governments, urban counties, and nonprofit organizations for participation in the Supplemental Assistance for Facilities to Assist the Homeless will be solicited.

Form Number: None.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of Response: Single-Time.

Estimated Burden Hours: 25,200.

Status: New.

Contact: Sarajane R. Karadbil, HUD, (202) 755–5537; John Allison, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

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Dated: October 20, 1987.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Supportive Housing Demonstration Program: Notice of Proposed Rule FR–2385.

Office: Housing.

Description of the Need for the Information and its Proposed Use: This program is necessary to allow HUD to determine the eligibility of private nonprofit organizations or governmental entities to receive funding under the demonstration program. It is needed to assess the relative capability of these organizations to operate housing and supportive services for the homeless population to be served.

Form Number: None.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of Response: On Occasion.

Estimated Burden Hours: 12,375.

Status: Revision.

Contact: Lawrence Goldberger, HUD, (202) 755–5720; John Allison, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 20, 1987.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Mortgagee's Application for Partial Settlement (Multifamily Mortgage).

Office: Administration.

Description of the Need for the Information and its Proposed Use: The information is needed to supply information so that a partial cash settlement can be processed immediately. The purpose of the partial settlement is to place most of the cash settlement proceeds in the hands of the mortgagee immediately upon conveyance of title or assignment of the mortgage.

Form Number: HUD–2537.

Respondents: Businesses or Other For-Profit.

Frequency of Response: On Occasion.

Estimated Burden Hours: 50.

Status: Extension.

Contact: Terry L. Bowie, HUD, (202) 755–6448 John Allison, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 27, 1987.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Request for Payment for Labels, Mobile Home Monthly Production Report, Refunds Due Manufacturer, and Adjustment Report.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: The National Manufactured Home Construction and Safety Standards Act, 42 U.S.C. 5400 et. seq., authorizes HUD to promulgate and enforce reporting standards for the production of manufactured housing. HUD uses these forms to calculate and collect monitoring inspection fees for manufacturing housing units.

Form Number: Specification Forms 301 and 302.

Respondents: Businesses or Other For-Profit.

Frequency of Respondents: On Occasion.

Estimated Burden Hours: 8,899.

Status: Extension.

Contact: Stuart I. Margulies, HUD, (202) 755–6584 John Allison, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Dated: October 27, 1987.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Request for Pre-Application Analysis Land Development Title X.

Office: Housing.

Description of the Need for the Information and its Proposed Use: The form requests a pre-application conference to discuss future application for mortgage insurance under Title X of the National Housing Act. It assists HUD in determining whether the proposed land development meets with HUD requirements.

Form Number: HUD–3550.

Respondents: Businesses or Other For-Profit.

Frequency of Response: On Occasion.

Estimated Burden Hours: 550.

Status: Extension.

Contact: Edwin W. Baker, HUD, (202) 755–6720 John Allison, OMB (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 27, 1987.

John T. Murphy,

Director, Information Policy and Management Division.

[FR Doc. 87–25271 Filed 10–29–87; 8:45 am]

BILLING CODE 4210–01–M

Office of the Secretary

[Docket No. D–87–854; FR–2373]

Delegation of Authority

AGENCY: Office of the Secretary, HUD.

ACTION: Delegation of authority to approve production or disclosure of HUD materials or information in 24 CFR Part 15, Subpart H.

SUMMARY: This delegation of authority designates the officials who may exercise the Secretary's authority to approve production of HUD materials in response to subpoenas and other demands under 24 CFR Part 15, Subpart H, which became effective on May 20, 1987, 52 FR 12159.

EFFECTIVE DATE: October 23, 1987.

FOR FURTHER INFORMATION CONTACT: Carolyn B. Lieberman, Deputy General Counsel (Operations), Room 10216, (202) 755–7250, Department of Housing and Urban Development, 451 7th Street, SW. Washington, DC 20410. (This is not a toll-free number.)

The Delegation of Authority published on July 24, 1987 at 52 FR 27859 is amended by inserting "1." before the last paragraph contained therein and adding the following:

2. In response to subpoenas or demands of courts or other authorities, pursuant to the regulation set forth in 24 CFR Part 15, Subpart H:

a. Each Associate General Counsel is authorized to approve the release of documents by HUD Headquarters employees for those programs for which the Associate provides legal advice.

b. Each Regional Counsel is authorized to approve the release of documents by HUD employees within the territorial jurisdiction of his region.

Authority: Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: October 23, 1987.

Samuel R. Pierce, Jr.

Secretary.

[FR Doc. 87–25247 Filed 10–29–87; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Proposed Transfer of Operation and Maintenance of Colorado-Big Thompson Project Facilities to the Northern Colorado Water Conservancy District

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to negotiate agreement for transfer of operation and maintenance of East Slope project facilities.

SUMMARY: In accordance with the procedures established by the Department of the Interior concerning public participation for contract negotiations, the Bureau of Reclamation (Bureau) announces its intent to initiate negotiations with the Northern Colorado Water Conservancy District (District) for transferring the operation and maintenance of Adams Tunnel and all East Slope facilities of the Colorado-Big Thompson (C–BT) Project from the Bureau to the District.

The C–BT Project, located in northern Colorado, diverts and stores water from the Colorado River and its tributaries in western Colorado and transfers this water by transmountain diversion to the Eastern Slope and the South Platte River basin in northeastern Colorado for irrigation and municipal and industrial use. Hydroelectic power production is also a feature of that project. The project was authorized by the Secretary of the Interior and approved by the President on December 23, 1937. The District is now operating and maintaining certain project facilities that were transferred to them under supplementary contracts dated September 10, 1956, and May 26, 1966.

Under the proposed transfer, the District would operate and maintain all facilities including the power facilities in a manner mutually acceptable to the Bureau of Reclamation and the District. The District and the Bureau will share equally in the operation, maintenance, and replacement (OM&R) costs for the transferred joint-use facilities. The United States will retain all power revenues and provide funds for all OM&R costs for the power facilities.

DATES: Meetings scheduled to discuss terms and conditions of the proposed agreement will be announced in advance and will be open to the public as observers.

FOR FURTHER INFORMATION CONTACT: Requests for information should be addressed to Mr. Raymond Willms, Project Manager, Bureau of Reclamation, Eastern Colorado Projects Office, P.O. Box 449, Loveland, Colorado 80539, telephone (303) 667–4410.

Date: October 26, 1987.

C. Dale Duvall,

Commissioner.

[FR Doc. 87–25115 Filed 10–29–87; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

Acadia National Park, Bar Harbor, ME; Acadia National Park Advisory Commission; Meeting; Correction

On Friday, October 23, 1987, in Vol. 52, No. 205, on page 39713, first paragraph, lines six and seven that reads: "Commission will be held Friday, November 13, 1987.". Change line six and seven to read as follows: "Commission will be held Monday, November, 16, 1987.".

The second paragraph, first line which reads ". . . was reestablished" should be changed to read ". . . was established", second and third lines which reads ". . . Pub. L. 98–349, Amendment 24" should be changed to read ". . . Pub. L. 99–420 § 103".

Russell K. Olson,

Federal Register Liaison Officer.

[FR Doc. 87–25122 Filed 10–29–87; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized the guaranty of a loan for the Government of Portugal as part of A.I.D.'s development assistance program. The proceeds of this loan will be used to finance shelter projects for low income families in Portugal. The Government of Portugal has authorized A.I.D. to request proposals from eligible investors. The name and address of representative of the Borrower to be contacted by interested U.S. lenders or investment bankers, the amount of the loan and project number are indicated below:

Government of Portugal

Project: 150–HG–004A–$12,500,000

Attention: Dr. J. Coutinho Pais, President, Instituto Nacional de Habitacao, Av. Columbano Bordalo Pinheiro, 5, 1093 Lisboa Codex, Portugal, *Telephone:* 726–2608 or 726–4944, *Telex:* 64641 INH P

Interested investors should telegram their bids to the Borrower's repesentative on November 12, 1987 but no later than 10:00 a.m. New York Time. Bids should remain open until 5:00 p.m. New York time on November 13, 1987. Copies of all bids should be simultaneously sent to the following addresses:

Mr. David Leibson, Housing Officer, Embaixada dos Estados Unidos, Av. das Forcas Armadas, 1507 Lisbon Codex, Telex: 12528 AMEMB P, Telephone: 726–6600 or 726–6680

Agency for International Development, Michael G. Kitay, Herbert T. McDevitt, GC/PRE, Room 3208 N.S., Washington, D.C. 20523, Telex No.: 892703 AID WSA, Telefax No. 202/647–1805 (preferred communication)

Each proposal should consider the following terms:

(a) *Amount:* U.S. $12.5 million.

(b) *Term:* Up to 30 years.

(c) *Grace Period on Principal:* 10 years with repayment amortizing gradually over the remaining life of the loan.

(d) *Interest Rate:* Proposals will be made on the basis of fixed or variable rate or variable rate with Borrowers option to convert to fixed rate.

(e) *Draw Down:* Net proceeds from borrowing should be disbursed to Borrower upon signing.

(f) *Prepayment:* Proposals should include the possibility of partial or total prepayment of the loan by Borrower, if pricing is not materially affected.

(g) *Fees:* Payable at closing from proceeds of loan.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lender and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in agreement between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose

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share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate establishment from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Peter M. Kimm, Director, Office of Housing and Urban Programs, Agency for International Development, Room 6212 N.S., Washington, DC. 20523, Telephone: (202) 647–9082.

Mario Pita,

Deputy Director, Office of Housing and Urban Programs.

Date: October 27, 1987.

[FR Doc. 87–25245 Filed 10–29–87; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[No. MC–F–18728]

Motor Carriers; Chromalloy American Corp.; Control; SCNO Barge Lines, Inc.

ACTION: Notice of water, motor property, and motor passenger carrier control application under 49 U.S.C. 11343.

SUMMARY: By application under 49 U.S.C. 11343, Chromalloy American Corporation (Chromalloy), a wholly owned non-carrier subsidiary of Sequa Corporation (Sequa), itself a publicly held non-carriers, seeks approval to acquire control of SCNO Barge Lines, Inc. (SCNO) (W–431 and MC–168908), a water and motor property carrier, through stock ownership of SCNO's non-carrier parent, S.C.N.O., Inc.

DATE: Comments are due November 19, 1987.

ADDRESSES: Send comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

2. Applicant's representatives: Richard H. Streeter, Barnes & Thornburg, 1815 H. Street NW., Suite 800, Washington, DC 20006

and

Keith G. O'Brien, Wheeler & Wheeler, 1729 H Street NW., Washington, DC 20006

Comments should refer to Docket No. MC–F–18728.

FOR FURTHER INFORMATION CONTACT: Ardith M. Horne (202) 275–1764, TDD Services for hearing impaired: (202) 275–1721.

SUPPLEMENTAL INFORMATION: Chromalloy, a subsidiary of Sequa [1], seeks approval to acquire control of SCNO. Chromalloy already controls through stock ownership water and motor property carrier Valley Transportation, Inc. (Valley) [2] (W–78, W–1371, and MC–172551), and motor passenger carriers Orange Coast Sightseeing Company (Orange Coast) (MC–167173) and American Transit Corp. dba Huskie Line (Huskie) (MC–168387).[3]

These common control relationships were previously approved by the Commission in No. MC–F–18012. Valley is a water common and contract carrier authorized to operate throughout the inland waterway system, and a motor contract carrier authorized to transport general commodities nationwide under contract with specific shippers. Orange Coast is a motor common carrier of passengers, in charter and special operations, beginning and ending at points in Los Angeles and Orange Counties, CA, and extending to points in the United States (except Hawaii). Huskie is a motor common carrier of passengers, in charter and special operations, beginning and ending at points in Illinois and extending to points in the Untied States (except Hawaii). SCNO is a water contract carrier authorized to operate throughout the inland waterway system. It also holds motor contract carrier authority to transport general commodities having a prior or subsequent movement by water, between points in the 48 continuous States.

Note: By decision of October 23, 1987, applicants have been granted a waiver from compliance with certain filing requirements at 49 CFR 1182.1(c)(2), 1181.12(i) through (m), 1181.12(p), 1181.13(a), and of Form OP–F–45, Items A–1 through A–8 of Appendix A. The requirement at 49 CFR 1181.15(b) was modified at applicant's request. In addition, for good cause shown, the comment period in this proceeding was reduced form 45 to 20 days. However, if any interested person informs the Commission that it needs more time to protest the application, we will consider at that time extending the comment period.

Noreta R. McGee,

Secretary.

[FR Doc. 87–25250 Filed 10–29–87; 8:45 am]

BILLING CODE 7035–01–M

[1] Formerly known as Sun Chemical Corporation. Sequa has other non-carrier subsidiaries, including Casco Investors Corporation, Casco Products Corporation, Materiels Equipements Graphiques, Sun France, Inc., and Sun Drucksarden A.G.

[2] Formerly known as Cro-Marine Transport, Inc.

[3] Chromalloy also controls several unnamed carriers engaged in exempt and unregulated transportation on the inland waterway system: Sabine Towing & Transportation Co., Inc., an operator of U.S. flag tankers and oil barges between U.S. ports, in U.S. intracoastal waters and the Caribbean basin; American Transit Corp., a company that provides transit management services under contract with municipal and other local governmental bodies; and Hausman Bus Sales and Parts Company, which sells new and used buses to local governmental and other users.

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Sealed Air Corporation, Park 80 Plaza East, Saddle Brook, New Jersey 07662.

2. Wholly-owned subsidiaries which will participate in the operations, and states or provinces of incorporation:

Sealed Air of Canada Limited, Ontario
Sealed Air Trucking, Inc., Delaware
Static Inc., Delaware
Jiffy Packaging Corp., Delaware.

Noreta R. McGee,

Secretary.

[FR Doc. 87–25103 Filed 10–29–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31125]

Railroad Operation; Delaware and Hudson Railway Co.; Lease Exemption; Springfield Terminal Railway Co.; Exemption

Delaware and Hudson Railway Company (D&H) and Springfield Terminal Railway Company (ST) filed a notice of exemption for D&H to lease to ST the following lines in New York and Pennsylvania:

(a) The Freight Main Line between milepost M10.35 (CPF10) and milepost A142.43 (CPBD) (including all tracks in Bevier Street Yard and Liberty Square Yard and including the shop facilities at Oneonta and Mechanicville), a distance of approximately 137.43 miles;

(b) The Washington Main Line between milepost A142.43 (CPBD) and milepost S0.00 (Kase) (including all tracks in East Binghamton Yard and including the shop facilities at East Binghamton), a distance of approximately 141.2 miles;

(c) The Canadian Connector between milepost M10.98 (CPF11) and milepost S7.34 (CPC7), a distance of approximately 2.6 miles;

(d) The Canadian Main Line between milepost M13.26 (CPF13) and milepost A192.08 (Rouse Point Junction) (including all tracks in Fort Edward Yard and Saratoga Yard), a distance of approximately 169.1 miles;

(e) The Ausable Branch between a connection with the Canadian Main Line at milepost A162.92 (South Junction) and Ausable Forks, a distance of approximately 1.6 miles;

(f) The Freydenburg Falls Branch between Otis Junction and End of Track, a distance of approximately 2.23 miles;

(g) The former Rutland Branch between a connection with the Canadian Main Line at milepost A77.4 (Whitehall) and End of Track, a distance of approximately 0.24 miles;

(h) The Second Subdivision between CPF–26 (milepost A–28.3) and Albany (milepost 0.00);

(i) The Third Subdivision between Albany (milepost 0.00) and Mechanicville (milepost A–19.13), including the Waterford Branch, the Breaker Island Branch, and the Water Street Branch and including the shop facilities at Colonie;

(j) All main tracks owned by D&H in the territory between milepost A–19.13 and milepost 19.35 (CPF10);

(k) The Green Island Branch between COP–6 (milepost A–6) and End of Track, a distance of approximately 3.06 miles;

(l) The Adirondack Branch between a connection with the Canadian Main Line at milepost A–38.2 (CPC 38) and the end of D&H ownership at milepost A–94.96, a distance of approximately 56.76 miles;

(m) The Lake George Branch between a connection with the Canadian Main Line at milepost 55.87 (Fort Edward) and milepost A–62.91 (end of track), a distance of approximately 7.04; and

(n) The Coolidge Branch between a connection with the Lake George Branch at milepost 59.57 and milepost 61.86 (end of track), a distance of approximately 2.29 miles.

D&H and ST are wholly-owned subsidiaries of Guilford Transportation Industries, Inc. (GTI), which also owns the Boston and Maine Corporation (B&M) and the Maine Central Railroad Company (MEC). As a result of the proposed transaction, it is intended that ST will provide service as good as, or better than, service now provided.

Since D&H and ST are members of the same corporate family, the lease falls within the class of transactions that are exempt from the prior review requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(3). The carriers anticipate that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in competitive balance with carriers operating outside the corporate family.

Any employee affected by the lease transaction would normally be protected by the labor conditions set forth in *Mendocino Coast Ry., Inc.—Lease and Operate*, 354 I.C.C. 732 (1978), and 360 I.C.C. 653 (1980) (*Mendocino*). Any employees affected by the trackage rights transactions would normally be protected by the labor conditions set forth in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978) (*Norfolk and Western*), as modified in *Mendocino, supra*, 360 I.C.C. 653 (1980). These conditions satisfy the statutory requirements of 49 U.S.C. 10505(g)(2) for the respective transactions. However, in a decision in Finance Docket No. 30985, *Delaware and Hudson Railway Company—Lease and Trackage Rights Exemption—Springfield Terminal Railway Company* (not printed), served May 18, 1987, the Commission set for modified procedure a series of notices filed by the GTI carriers because labor interests raised issues related to the level of employee protection for the transactions. The Commission asked the parties to that proceeding to address several issues and present additional evidence, including similar existing and future notices and transactions, such as this one, involving the GTI carriers. Oral argument in that proceeding was set for October 21, 1987.

Since the May 18, 1987 decision, the Commission has published in the **Federal Register** several related notices of exemption (Finance Docket Nos. 31015, 31023, 31086, 31103 and 31115) by various GTI carriers and indicated that the underlying transactions will be considered in the Finance Docket No. 30985 proceeding. The Commission will issue a separate decision regarding the status of this notice in that proceeding.

If, prior to the Commission's determination of the appropriate level of labor protection for these GTI transactions, D&H consummates this transaction and provides employees with *Mendocino* protection, it does so at its own risk. Should the Commission subsequently determine that a higher level of protection is required, D&H will be required to provide employees with that greater protection.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of petitions to revoke will not stay the transaction.

Decided: October 14, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–24790 Filed 10–29–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30918]

Railroad Operations; KNRECO, Inc., d/b/a Keokuk Junction Railway, Acquisition of Incidental Trackage Rights Over The Atchison, Topeka & Santa Fe Railway Co.

In Finance Docket No. 30918, *KNRECO, Inc., d/b/a Keokuk Junction Railway Acquisition and Operation Exemption—The Atchison, Topeka and Santa Fe Railway Company* (not printed), served January 9, 1987 (*KNRECO Acquisition*), KNRECO, Inc., d/b/a Keokuk Junction Railway (KJ) filed a notice of exemption to acquire and operate The Atchison, Topeka and Santa Fe Railway Company (ATSF) line between La Harpe, IL (milepost 195.5) and Keokuk, IA (milepost 223.3). The notice of exemption was published in the **Federal Register** on January 9, 1987.[1] Subsequently, KJ and ATSF entered into a car haulage agreement allowing KJ to move traffic over a connecting ATSF line. In *KNRECO Acquisition, supra*, we considered the car haulage agreement to be a trackage rights agreement. However, we found that the trackage rights are incidental to KJ's acquisition of the ATSF line, and that the acquisition, by KJ, of incidental trackage rights falls under the class exemption of 49 CFR 1150.31(a)(4). This supplemental notice acknowledges the applicability of the § 1150.31(a)(4) class exemption.

Any comments must be filed with the Commission and served on John D. Heffner or Susan M. Milligan, Gerst & Heffner, 1133 15th Street NW., Suite 1100, Washington, DC 20005.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 22, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Vice Chairman

[1] The publication, at 52 FR 871, erroneously showed Keokuk at milepost 233.3 rather than milepost 223.3.

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Lamboley dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 87-25164 Filed 10-29-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Final Judgment; Simplex Time Recorder Co.

Notice is hereby given that Simplex Time Recorder Co. (Simplex) has filed with the United States District Court for the District of Massachusetts a motion to terminate the Final Judgment in *United States* v. *Simplex Time Recorder Co.*, Civil No. 63-878-F; and the Department of Justice (Department), in a stipulation also filed with the Court, has consented to termination of the judgment, but has reserved the right to withdraw its consent pending receipt of public comments. The complaint in this case (filed on October 28, 1963) alleged that Simplex has attempted to monopolize the manufacture and sale of time equipment in the United States. The judgment (entered on November 29, 1963) enjoined Simplex from: (1) Acquiring any part of the stock or assets of or any financial interest in any person engaged in the time equipment business in the United States; (2) offering to sell time equipment at unreasonably low prices in an effort to eliminate competition; (3) approaching key personnel employed by any person engaged in the time equipment business for the purpose of hiring without first receiving a letter requesting employment; (4) issuing any statement that any person engaged in the sale of time equipment was going out of business unless such fact was known to the public; and (5) refusing to sell certain time equipment parts to others engaged in the time equipment business.

The Department has filed with the Court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the complaint and final judgment, Simplex's motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the Court in connection with this motion will be available for inspection at Room 3233, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue NW., Washington, DC 20530 (Telephone: (202) 633-2481), and at the Office of the Clerk of the United States District Court for the District of Massachusetts, 1525 Post Office & Counthouse Building, Boston, Massachusetts 02109. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within the sixty (60) day period established by Court order, and will be filed with the Court.

Comments should be addressed to John J. Hughes, Chief, Middle Atlantic Office, Antitrust Division, Department of Justice, 11400 United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106 (Telephone: (215) 597-7405).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87-25160 Filed 10-29-87; 8:45 am]

BILLING CODE 4410-01-M

Pursuant to National Cooperative Research Act; Feasibility Study and Development of Reliability Based Wood Design Manual; American Institute of Timber Construction et al.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.*, written notice has been filed by the National Forest Products Association simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the indentities of the parties to the joint venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general area of planned activities, are given below.

The parties to the venture are the American Institute of Timber Construction, American Plywood Association, Canadian Wood Council, Gang-Nail Systems, Inc., National Forest Products Association, Northeastern Lumber Manufacturers Association, Southern Forest Products Association, Timber Products Inspection, Inc., Truss Joist Corporation, Truss Plate Institute, Western Wood Products Association, and Weyerhaeuser Building Systems, Inc.

The purpose of the joint venture is to develop a plan to produce a reliability based design manual for wood incorporating load resistance factor design. It is anticipated that this plan, once established and approved by the participants, will be used in a future joint venture to actually prepare the new design manual. The objective of the overall effort is to provide engineers and architects with an alternative to the currently used allowable stress design method and to present the new design methodology in an easy to use published format.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87-25161 Filed 10-29-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-18, 721]

Bender Bros. Sportswear, Inc., Bayonne, NJ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 27, 1987 applicable to all workers of Bender Bros. Sportswear, Incorporated, Bayonne, New Jersey. The Certification was published in the **Federal Register** on March 24, 1987 (52 FR 9364).

On the basis of additional information, the Office of Trade Adjustment Assistance reviewed the Certification. The additional information revealed that a few workers were laid off after the termination date of November 15, 1986 set in the Department's Certification. These workers were involved in selling the remaining inventory.

The intent of the certification is to cover all workers of Bender Bros. Sportswear, Incorporated who were affected by the closing of their Bayonne, New Jersey plant. The notice, therefore, is amended by providing a new termination date of December 15, 1986.

The amended notice applicable to TA-W-18, 721 is hereby issued as follows:

All workers of Bender Bros. Sportswear, Incorporated, Bayonne, New Jersey who became totally or partially separated from employment on or after November 20, 1985 and before December 15, 1986 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 19th day of October 1987.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 25220 Filed 10-29-87; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Kentucky:
KY87-25 (January 2, 1987)—p. 350
KY87-26 (January 2, 1987)—pp. 356-359
KY87-27 (January 2, 1987)—p. 362
KY87-28 (January 2, 1987)—p. 368
Massachusetts:
MA87-1 (January 2, 1987)—pp. 372-373, p. 377
New York:
NY87-10 (January 2, 1987)—pp. 772-773, pp. 777-779
NY87-15 (January 2, 1987)—pp. 813-816
NY87-17 (January 2, 1987)—pp. 826-832b
Pennsylvania:
PA87-5 (January 2, 1987)—pp. 884-886
PA87-6 (January 2, 1987)—p. 899
PA87-21 (January 2, 1987)—pp. 990-992
Virginia:
VA87-14 (January 2, 1987)—p. 1156

Volume II

Indiana:
IN87-1 (January 2, 1987)—p. 236, pp. 238-248b
IN87-2 (January 2, 1987)—pp. 250-251
IN87-3 (January 2, 1987)—p. 268
IN87-4 (January 2, 1987)—pp. 280-290b
IN87-5 (January 2, 1987)—pp. 292-293
IN87-6 (January 2, 1987)—pp. 303-306
Minnesota:
MN87-7 (January 2, 1987)—p. 545
MN87-8 (January 2, 1987)—p. 566
Missouri:
MO87-1 (January 2, 1987)—pp. 580-582
MO87-3 (January 2, 1987)—p. 610
MO87-5 (January 2, 1987)—pp. 622-624b
MO87-7 (January 2, 1987)—p. 634
OHIO:
OH87-12 (January 2, 1987)—p. 780
OH87-20 (January 2, 1987)—p. 796
OH87-23 (January 2, 1987)—p. 802
OH87-29 (January 2, 1987)—p. 841

Volume III

Oregon:
OR87-1 (January 2, 1987)—p. 283
South Dakota:
SD87-1 (January 2, 1987)—pp. 298-299
SD87-4 (January 2, 1987)—pp. 304c-304f

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about

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January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 23rd day of October 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-24928 Filed 10-29-87; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

Summary of Decisions Granting In Whole or In Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: That an alternate method exists at the petitioner's mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard to the petitioner's mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register.** Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons and a field investigation of the conditions at the petitioner's mine. The Secretary has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon the petitioner's compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: October 23, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION

Docket No.	FR Notice	Petitioner	Reg affected	Summary of findings
M-84-253-C	51 FR 5452	Empire Energy Corporation	30 CFR 75.1002	Petitioner's proposal to use 4160 V.A.C. high-voltage cables to interconnect the transformer/controller with the shearer and each face conveyor motor with specific conditions in or inby the last open crosscut or within 150 feet of pillar workings considered acceptable alternate method. Granted with conditions.
M-85-119-C	51 FR 36491	R.S. and W. Coal Co	30 CFR 75.1714	Petitioner's proposal to use filtertype self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.
M-85-202-C	51 FR 10697	River Processing, Inc	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted.
M-85-207-C	51 FR 10697	Peabody Coal Company	30 CFR 75.305	Petitioner's proposal to establish air measurement stations where air quality and quantity will be measured by a certified person considered acceptable alternate method. Granted with conditions.
M-86-9-C	51 FR 8377	International Anthracite Corporation	30 CFR 75.326	Petitioner's proposal to use the belt air to ventilate the working faces and to install a low-level carbon monoxide detection system with specific conditions, in all belt entries used as intake aircourses considered acceptable alternate method. Granted with conditions.
M-86-10-C	51 FR 8378	International Anthracite Corporation	30 CFR 75.1103-4(a)	Petitioner's proposal to install a continuous carbon monoxide (CO) detection system in all belt haulage entries used to ventilate the working places with specific conditions considered acceptable alternate method. Granted with conditions.
M-86-11-C	51 FR 8378	International Anthracite Corporation	30 CFR 75.1105	Petitioner's proposal to ventilate the working faces and section power center with belt haulage air and to install a continuous monitoring system for carbon monoxide and methane considered acceptable alternate method. Granted with conditions.
M-86-18-C	51 FR 12944	Drummond Company, Inc	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part.
M-86-26-C	51 FR 13115	U.S. Steel Mining Company Inc	30 CFR 75.326	Petitioner's proposal to use the air from the belt entries to ventilate the active working places and to install a low-level carbon monoxide (CO) detection system using a CO monitor with specific safeguards and conditions considered acceptable alternate method. Granted with conditions.
M-86-44-C	51 FR 18870	Pontiki Coal Corporation	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part.
M-86-50-C	51 FR 12944	Consolidated Coal Company	30 CFR 75.1105	Petitioner's proposal to enclose the electrical installation in a fireproof structure and to install an automatic dry chemical fire suppression device activated by heat sensors considered acceptable alternate method. Granted with conditions.
M-86-57-C	51 FR 24592	White County Coal Corporation	30 CFR 75.1700	Petitioner's proposal to plug and mine through abandoned wells penetrating the coal beds considered acceptable alternate method. Granted with conditions.
M-86-70-C	51 FR 21982	Old Ben Coal Company	30 CFR 75.1002	Petitioner's proposal to install a longwall mining unit with cables and equipment designed to conduct 2400 volts A.C. to be located and used inby the last open crosscut and within 150 feet of pillar workings, with specific equipment and conditions, considered acceptable alternate method. Granted with conditions.
M-86-74-C	51 FR 21982	U.S. Steel Mining Company, Inc	30 CFR 75.506	Use of a metal retainer in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-75-C	51 FR 26956	H. & B. Coal Company Inc	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part.
M-86-83-C	51 FR 2300	Neumeister Coal Company	30 CFR 75.1405	Petitioner's proposal to couple the mine cars with a pin in the center of a male and female hitch which can be evenly reached from the side of the car considered acceptable alternate method. Granted.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FR Notice	Petitioner	Reg affected	Summary of findings
M-86-96-C	51 FR 33310	Clinchfield Coal Company	30 CFR 75.326	Petitioner's proposal to use the belt entry as an intake airway and to install a low-level carbon monoxide (CO) detection system in all belt entries used to ventilate the working places with specific conditions, considered acceptable alternate method. Granted with conditions.
M-86-101-C	51 FR 26774	Gateway Coal Company	30 CFR 75.305	Petitioner's proposal to establish an air measuring station where a certified person would make weekly examinations of the ventilation and methane considered acceptable alternate method. Granted with conditions.
M-86-104-C	51 FR 36811	Hegins Mining Company	30 CFR 75.1714	Petitioner's proposal to use filtertype self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.
M-86-106-C	51 FR 26957	12 Vein Coal Company	30 CFR 75.1400	Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device considered acceptable alternate method. Granted with conditions.
M-86-108-C	51 FR 33310	Adkins Brothers Corporation	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-111-C	51 FR 26906	Amherst Coal Company	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted.
M-86-117-C	51 FR 31988	Consolidation Coal Company	30 CFR 75.1105	Petitioner's proposal to house the rectifier in sealed fireproof enclosures with steel doors with a dry powder chemical fire extinguisher mounted through the top covers of the rectifier considered acceptable alternate method. Granted with conditions.
M-86-118-C	51 FR 33620	Nevasota Mining Company Inc.	30 CFR 77.216.3(a)	The Gibbons Creek Lignite Mine ponds serve as diversion and sediment ponds for undisturbed, disturbed and reclaimed areas. Petitioner's proposal to inspect the ponds on a monthly basis in lieu of every seven days considered acceptable alternate method. Granted with conditions.
M-86-119-C	51 FR 30142	The NACCO Mining Comany	30 CFR 75.305	Petitioner's proposal to establish input and output air measurement stations where methane, air quality, and air quantity readings would be taken by a certified person considered acceptable alternate method. Granted with conditions.
M-86-120-C	51 FR 33621	Quarto Mining Company	30 CFR 75.1002	Petitioner's proposal to use high-voltage (4,160 volt) cables to supply power to permissible longwall face equipment in or inby the last open crosscut with specific equipment and conditions considered acceptable alternate method. Granted.
M-86-121-C	51 FR 40531	Olaf Coal Company	30 CFR 75.301	Proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.
M-86-122-C	51 FR 33618	A. & J. Coal Company	30 CFR 75.1405	The installation of automatic couplers on the track haulage cars would result in a diminution of safety to the miners affected due to the sharp radius curves in the track, the undulating pitch of the slopes, the different types of small lightweight cars, and the systems of haulage. Granted with conditions.
M-86-123-C	51 FR 40531	Canada Coal Company, Inc	30 CFR 75.900	Petitioner's proposal to use a vacuum contactor of no less interrupting capacity than that provided by the circuit breaker to obtain undervoltage protection in lieu of circuit breaker considered acceptable alternate method. Granted with conditions.
M-86-124-C	51 FR 26896	Cimarron Minerals, Inc	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted with part.
M-86-125-C	51 FR 26907	Mine Hill Coal Company No. 50	30 CFR 75.301	Proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.
M-86-127-C	51 FR 33311	Jim Dandy Coals, Inc	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-129-C	51 FR 33310	Black Thunder Coal Company	30 CFR 75.1400	Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device considered acceptable alternate method. Granted with conditions.
M-86-131-C	51 FR 40532	Southern Ohio Coal Company	30 CFR 75.1002	Petitioner's proposal to locate trolley wires, trolley feeder wires, and high-voltage cables between 100 and 150 feet from longwall panels and to construct a row of permanent stoppings between longwall panels and any trolley wires, trolley feeder wires, and high-voltage cables located between 100 and 150 feet from longwall panels, with specific equipment and conditions, considered acceptable alternate method. Granted with conditions.
M-86-132-C	51 FR 40533	Southern Ohio Coal Company	30 CFR 75.1002-(1)(a)	Petitioner's proposal to locate nonpermissible electric equipment between 100 and 150 feet from longwall panels and to construct a row of permanent stoppings between longwall panels, and trolley wires, trolley feeder wires, and high-voltage cables located between 100 and 150 feet from longwall panels, with specific equipment and conditions, considered acceptable alternate method. Granted with conditions.
M-86-134-C	51 FR 35708	U.S. Steel Mining Co. Inc	30 CFR 75.1103-4 (a)	Petitioner's proposal to use a low-level carbon monoxide (CO) detection system installed and operated with specific safeguards and conditions considered acceptable alternate method. Granted with conditions.
M-86-135-C	51 FR 41683	Kerr-McGee Coal Corporation	30 CFR 75.901	Petitioner's proposal to use a grounded wye system in lieu of a single phase system with specific equipment and conditions considered acceptable alternate method. Granted with conditions.
M-86-139-C	51 FR 45405	Little Buck Coal Company	30 CFR 75.1400	Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device considered acceptable alternate method. Granted with conditions.
M-86-141-C	51 FR 41443	Snyder Coal Company	30 CFR 75.1400	Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device considered acceptable alternate method. Granted with conditions.
M-86-142-C	51 FR 41442	New Lincoln Coal Company, Inc	30 CFR 75.1400	Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device considered acceptable alternate method. Granted with conditions.

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AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FR Notice	Petitioner	Reg affected	Summary of findings
M-86-144-C	51 FR 43104	Clinchfield Coal Company	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted.
M-86-145-C	51 FR 43102	Renegade Coal Company, Inc	30 CFR 75.1400	Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device considered acceptable alternate method. Granted with conditions.
M-86-147-C	51 FR 43105	Craft Coal Company	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-149-C	51 FR 43104	Buck Mountain Coal Company	30 CFR 75.1400	Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device considered acceptable alternate method. Granted with conditions.
M-86-150-C	51 FR 43103	B. and B. Coal Company	30 CFR 75.1400	Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device considered acceptable alternate method. Granted with conditions.
M-86-151-C	51 FR 43103	T. & T. Fuels, Inc	30 CFR 75.503	Use of a spring-loaded device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-152-C	51 FR 43103	B. and B. Coal Company	30 CFR 75.301	Proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.
M-86-155-C	51 FR 43105	Dunkard Mining Company	30 CFR 75.1103-4	Petitioner's proposal to use an early warning fire detection system using a low-level carbon monoxide detection system installed and operated with specific conditions in all belt entries used as intake aircourses, considered acceptable alternate method. Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION

Docket No.	FR Notice	Petitioner	Reg affected	Summary of findings
M-86-156-C	51 FR 43105	Dunkard Mining Company	30 CFR 75.326	Petitioner's proposal to use the belt air to ventilate the working faces and to install a low-level carbon monoxide detection system with specific conditions in all belt entries use as intake aircourses considered acceptable alternate method. Granted with conditions.
M-86-157-C	51 FR 43101	Golden Oak Mining Company	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted.
M-86-158-C	51 FR 36877	Webster County Coal Corporation	30 CFR 75.507-1(a)	Petitioner's proposal to use a 5 h.p., 460 V Franklin motor on a nonpermissible Jabsco submergible pump, model 777-001, to drain water from the sump beneath the air shaft with specific conditions, considered acceptable alternate method. Granted with conditions.
M-86-159-C	51 FR 36877	Presco Energy, Inc	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part.
M-86-160-C	51 FR 45404	Baisden Coal Company, Inc	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part.
M-86-162-C	51 FR 44390	Southern Ohio Coal Company	30 CFR 75.1103-4	Petitioner's proposal to use an early warning fire detection system using a low-level carbon monoxide detection system in lieu of a heat detection system considered acceptable alternate method. Granted with conditions.
M-86-179-C	51 FR 45961	T. and T. Energy, Inc	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-185-C	51 FR 45405	Mon River Mining Company, Inc	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-199-C	51 FR 1309	Eastern Associated Coal Corporation	30 CFR 75.1701	Petitioner's proposal to drill one long rib hole, which will allow the completion of the entry development with no intermediate equipment moves as the entry is roof bolted off the mining machine, and to drill an additional hole in the rib to maintain the hole minimum of 14.2 feet inside the rib at all times considered acceptable alternate method. Granted.
M-86-208-C	51 FR 47321	Clinchfield Coal Company	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted.

[FR Doc. 87-25219 Filed 10-29-87; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-87-187-C]

Arch of Kentucky, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Arch of Kentucky, Inc., P.O. Box 787, Lynch, Kentucky 40855 has filed a petition to modify the application of 30 CFR 77.803 (fail safe ground check circuits on high-voltage resistance grounded systems) to its Owl No. 1 Mine (I.D. No. 15-16011), and its High Splint No. 2 Mine (I.D. No. 15-16084) both located in Harlan County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all high-voltage, resistance grounded systems include a fail safe ground check circuit or other no less effective device approved by the Secretary to monitor continuously the grounding circuit to assure continuity. The fail safe ground check circuit shall cause the circuit breaker to open when either the ground or ground check wire is broken.

2. As an alternate method, petitioner proposes that each transformer will be connected to the ground conductor by two separate grounds; the failure of either will have no effect on the continuity of the circuit. Each skid-mounted power center or circuit breaker will be connected to two visible grounds and one cabled ground; the failure of any two of which will have no effect on the continuity of the circuit.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 30, 1987. Copies of the petition are available for inspection at that address.

Dated: October 20, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-25213 Filed 10-29-87; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-87-213-C]

B & S Enterprises; Petition for Modification of Application of Mandatory Safety Standard

B & S Enterprises, Box 536, Elkhorn City, Kentucky 41522 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 3 Mine (I.D. No. 15-16086) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the fireclay seam with ascending and descending grades, ranging from 44 to 50 inches in height.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because the cabs or canopies could strike and dislodge roof supports, would decrease the equipment operator's visibility and cause operator fatigue resulting from cramped sitting or operating positions.

4. For these reasons petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 30, 1987. Copies of the petition are available for inspection at that address.

Dated: October 19, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-25214 Filed 10-29-87; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-87-192-C]

Eagle Rock Mining, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Eagle Rock Mining, Inc., P.O. Box 87, Iaeger, West Virginia 24844 has filed a petition to modify the application of 30 CFR 75.316 (ventilation system and methane and dust control plan) to its No. 2 Mine (I.D. No. 46-05629) located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a ventilation system and methane and dust control plan and revisions thereof suitable to the conditions and the mining system of the coal mine be provided.

2. Petitioner seeks a modification of the application of that portion of the standard which requires a ventilation plan with bleeder entries in areas where pillars have been wholly or partially extracted.

3. As an alternate method, petitioner proposes to establish a mining system so that as each working section of the mine is abandoned, it can be isolated from the active workings of the mine with explosion proof seals or bulkheads. In support of this request, petitioner states that—

(a) Adequate face and escapeway ventilation will be maintained at all times to meet or exceed the minimum requirements;

(b) A minimum volume of 12,000 cubic feet per minute of air will be delivered to the intake end of the pillar line;

(c) Safe examination of the entire length of a bleeder system would expose the examiner to prolonged periods of duress while crawling;

(d) Maintaining the bleeder entries free of water, roof falls or other obstructions would subject miners to unwarranted hazards; and

(e) The establishment of a bleeder system would create an unnecessary loss of coal reserves at the mine.

4. Petitioner states the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 30, 1987. Copies of the petition are available for inspection at that address.

Dated: October 22, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-25215 Filed 10-29-87; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-87-215-C]

Quarto Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Quarto Mining Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Powhatan No. 4 Mine (I.D. No. 33-01157) located in Monroe County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns that portion of the standard which requires that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that due to the ventilation scheme employed for the longwall panels at the mine, compliance with the standard is extremely difficult.

3. As an alternate method, petitioner states that—

(a) The electrical equipment will be housed in a fireproof structure, equipped with automatically closing fire doors activated by thermal devices with an activation temperature not greater than 165 degrees Fahrenheit. The fire doors will be designed to enclose all associated electrical components in a reasonably airtight enclosure in case of a fire or excessive temperature;

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(b) A signal, activated by heat sensors, will be located so that it can be seen or heard by a responsible person;

(c) The electric equipment will be protected with thermal devices, or equivalent, designed and installed to interrupt all power circuits supplying electric equipment within the fireproof structure;

(d) An automatic fire suppression system will be installed and maintained in the structure;

(e) Flammable or combustible material will not be stored or allowed to accumulate in the structure;

(f) Firefighting equipment will be provided on the outside of the structure on the intake side;

(g) The electric equipment will be examined, tested, and maintained by a qualified person, and will not contain any flammable or combustible liquid, except that capacitors in electric equipment may contain up to a total of 3 gallons of combustible liquid;

(h) The area enclosing the structure will be examined daily for hazardous conditions. A record of the examinations will be kept in a book on the surface;

(i) Grounded-phase devices protecting three-phase circuits will be adjusted to remove incoming power at not more than 40 percent of the available ground fault current;

(j) All hydraulic oil will be approved as fire-resistant;

(k) Specific protective procedures, as outlined in the petition, will be provided for a rectifier used to supply a trolley system with parallel-connected rectifiers;

(l) An automatically reclosing circuit breaker installed in a rectifier that supplies a radial, stub-feed trolley system will be equipped with a load measuring device that prevents the circuit breaker from reclosing whenever the prospective load current exceeds 300 amperes;

(m) A battery charger supplied from a direct-current circuit will be provided with reverse-current protection; and

(n) A battery charger supplied from an alternating-current circuit will be provided with a device that will automatically disconnect the battery charger from the battery if the alternating-current supply is interrupted or if the charging current is terminated, unless the reverse direct-current is 0.2 percent or less of the starting rate of the battery charger.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 30, 1987. Copies of the petition are available for inspection at that address.

Dated: October 22, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-25216 Filed 10-29-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-196-C]

Southmountain Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Southmountain Coal Company, Inc., P.O. Box 950, Coeburn, Virginia 24230 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 2 (I.D. No. 44-06335) located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine ranges from 36 to 72 inches in height with extremely steep grades, rolling floor and roof. The floor and roof of the mine are sandstone, which will not allow cutting for more clearance.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because the equipment operator would have to lean out from under the cab or canopy, increasing the chances of an accident. The cabs or canopies would also obstruct the equipment operator's vision.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Person interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 30, 1987. Copies of the petition are available for inspection at that address.

Dated: October 19, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-25217 Filed 10-29-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-212-C]

Jim Walter Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jim Walter Resources, Inc., P.O. Box C-79, Birmingham, Alabama 35283 has filed a petition to modify the application of 30 CFR 75.303 (preshift examination) to its Bessie Mine (I.D. No. 01-00328) located in Jefferson County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that within 3 hours immediately preceding the beginning of any shift, and before any miner in such shift enters the active workings of a coal mine, certified persons shall examine such workings and any other underground area of the mine. Each such examiner shall examine every working section in such workings and shall make tests in each such working section for accumulations of methane, and shall examine seals and doors to determine whether they are functining properly.

2. As an alternate method, petitioner proposes to install a monitoring station in a split of the ventilating air current to continuously monitor intake seals in lieu of examining them during preshift examination.

3. In support of this request, petitioner states that—

(a) A station capable of monitoring the methane and carbon monoxide level of the atmosphere will be located immediately down wind of the line of seals which are not to be examined;

(b) Readings of the ambient level of methane and carbon monoxide will be automtically transmitted to an attended surface location where there is two-way communication;

(c) An alarm will sound if either the methans level exceeds 0.25% or the carbon monoxide level exceeds 15 parts per million above the established ambient level for the mine. In the event the alarm signal is activated, a certified

person will inspect the affected area and appropriate action will be taken; and

(d) Seals will be examined for hazardous conditions on a weekly basis.

4. Seals are used to isolate areas that have been abandoned and/or pillared at various locations. Petitioner believes that constant monitoring of seals will insure that they remain intact.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 30, 1987. Copies of the petition are available for inspection at that address.

Date: October 22, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-25218 Filed 10-29-87; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Iowa State Standards, Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 20, 1973, notice was published in the **Federal Register** (38 FR 19368) of the approval of the Iowa plan and the adoption of subpart J of Part 1952 containing the decision. Iowa was granted final approval under section 18(e) of the Occupational Safety and Health Act of 1970 on July 2, 1985.

The Iowa plan provides for the adoption of Federal standards (by reference after comments and public hearing). By letter dated August 13, 1987 from Walter H. Johnson, Deputy Labor Commissioner to Alonzo L. Griffin, Area Director, and incorporated as part of the plan, the State submitted State standards comparable to: Occupational Exposure to Ethylene Oxide; Labeling Requirements, 29 CFR 1910.1047 as published in the **Federal Register** (50 FR 41494 dated October 11, 1985) and Occupational Exposure to Cotton Dust; Final Rule, 29 CFR 1910.19, 1910.1000 and 1910.1043 as published in the **Federal Register** (50 FR 51173 dated December 13, 1985). These standards which are contained in Chapter 88 of the Code of Iowa (1983) were promulgated after public comment requested on March 26, 1986, hearing held on April 28, 1986 and resolution adopted by the Division of Labor Services on June 27, 1986 pursuant to Chapter 17a, Iowa Code. The standards were effective on August 20, 1986 and notice of their adoption was published by the State on July 16, 1986. The State also submitted State standards comparable to: Electrical Standards for Construction; Amendments, 29 CFR 1926.151, 1926.152, 1926.351, 1926.803, 1926.400, 1926.401, 1926.402, 1926.403, 1926.404, 1926.405, 1926.406, 1926.407, 1926.408, 1926.409–1926.415, 1926.416, 1926.417, 1926.431, 1926.432, 1926.433–1926.440, 1926.441, 1926.442–1926.448 and 1926.449 as published in the **Federal Register** (51 FR 25318 dated July 11, 1986). These standards which are contained in Chapter 88 of the Code of Iowa (1983) were promulgated after public comment requested on October 22, 1986, hearing held on November 13, 1986 and resolution adopted by the Division of Labor Services on April 17, 1987 pursuant to Chapter 17a, Iowa Code. The standards were effective on July 10, 1987 and notice of their adoption was published by the State on May 6, 1987. The State also submitted State standards comparable to: Occupational Exposure to Cotton Dust, Corrections and Information Collection Requirements Approval, 29 CFR 1910.1043 as published in the **Federal Register** (51 FR 24325 dated July 3, 1986); Occupational Exposure to Ethylene Oxide, Amendments, 29 CFR 1910.1047 as published in the **Federal Register** (51 FR 25053 dated July 10, 1986) and Commercial Diving Standard, Amendments, 29 CFR 1910.430 as published in the **Federal Register** (51 FR 33033 dated September 18, 1986). These standards which are contained in Chapter 88 of the Code of Iowa (1983) were promulgated after public comment requested on October 22, 1986, hearing held on November 12, 1986 and resolution adopted by the Division of Labor Services on May 12, 1987 pursuant to Chapter 17a, Iowa Code. The standards were effective on July 8, 1987 and notice of their adoption was published by the State June 3, 1987.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the comparable Federal standards and should therefore be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Directorate of Federal/State Operations, Office of State Programs, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210; Office of the Regional Administrator, OSHA Room 406 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106; and Division of Labor Services, 1000 E. Grand, Des Moines, Iowa 50319.

4. *Public participation.* Under 29 CFR 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Iowa State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the comparable Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with the procedural requirements of State law and further public participation and notice would be unnecessary.

This decision is effective this 30th day of October, 1987.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Kansas City, Missouri this 14th day of August 1987.

Roger A. Clark,

Regional Administrator.

[FR Doc. 87-25212 Filed 10-29-87; 8:45 am]

BILLING CODE 4510-26-M

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87-89]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Review Team on High Speed Transport.

DATE AND TIME: November 19, 1987, 9 a.m. to 5 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 647, Federal Office Building 10B, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Louis J. Williams, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2798.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee (AAC) was established to provide overall guidance to the Office of Aeronautics and Space Technology (OAST) on aeronautics research and technology activities. Special ad hoc review teams were formed to address specific topics. The Ad Hoc Review Team on High Speed Transport, chaired by Mr. Mark E. Kirchner, is comprised of 12 members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including the team members and other participants).

Type of Meeting: Open.

Agenda:

November 19, 1987

9 a.m.—Opening Remarks.
9:30 a.m.—Research Requirements.
10:30 a.m.—In-House Studies.
11:45 a.m.—Atmospheric Effects.
1:45 p.m.—Fuels.
3 p.m.—Review Team Executive Session.
5 p.m.—Adjourn.

Frank P. Sutherland, Jr.,

Director, Personnel Policy and Work Force Effectiveness Division.

October 26, 1987.

[FR Doc. 87-25104 Filed 10-29-87; 8:45 am]

BILLING CODE 7510-01-M

[Docket No. 87-88]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee.

DATE AND TIME: November 18, 1987, 9:30 a.m.-5:30 p.m., November 19, 1987, 8:30 a.m.-5:30 p.m., November 20, 1987, 8:30 a.m.-12 Noon.

ADDRESS: NASA Headquarters, Room 226A, 600 Independence Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Alexander, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1656).

SUPPLEMENTARY INFORMATION: The NAC Space and Earth Science Advisory Committee will meet to review the Office of Space Science and Applications (OSSA) strategic planning: Objectives, guidelines, budgetary constraints, and Division Directors' goals and strategies. The group is chaired by Dr. Louis Lanzerotti and is composed of 32 members. The meeting will be open to the public up to the seating capacity of the room (approximately 60).

Type of Meeting: Open.

Agenda:

November 18, 1987

9:30 a.m.—Introductory Remarks.
9:45 a.m.—Status of OSSA Programs.
10:45 a.m.—OSSA Strategic Planning—Objectives, Guidelines, and the Role of SESAC.
1 p.m.—OSSA Strategic Planning—The Assumptions and the Process.
2 p.m.—OSSA Strategic Planning—Budgetary Constraints.
2:30 p.m.—OSSA Strategic Planning—Division Directors' Goals and Strategies: Earth Observations.
4 p.m.—OSSA Strategic Planning—Division Directors' Goals and Strategies: Space Physics.
5:30 p.m.—Adjourn.

November 19, 1987

8:30 a.m.—OSSA Strategic Planning—Division Directors' Goals and Strategies: Solar System Exploration.
9:45 a.m.—OSSA Strategic Planning—Division Directors' Goals and Strategies: Astrophysics.
11 a.m.—Space Station Update.
1:30 p.m.—NASA Advisory Council International Relations Study.
2:30 p.m.—Office of Aeronautics and Space Technology Program Update (Civil Space Technology Initiative and University Space Engineering Centers).
3:30 p.m.—Antarctic Ozone Program.
5:30 p.m.—Adjourn.

November 20, 1987

8:30 a.m.—Discussion of SESAC Statements and Recommendations.
10 a.m.—US/USSR Space Cooperation.
11 a.m.—1988 Planning and Wrap-up.
12 Noon—Adjourn.

October 22, 1987.

Frank P. Sutherland, Jr.,

Director, Personnel Policy and Work Force Effectiveness Division.

[FR Doc. 87-25105 Filed 10-29-87; 8:45 am]

BILLING CODE 7510-01-M

[Notice 87-90]

NASA Advisory Council (NAC), Space Applications Advisory Committee (SAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Applications Advisory Committee, Informal Advisory Subcommittee on Information Systems.

DATE AND TIME: November 5, 1987, 8:30 a.m.-4:30 p.m.

ADDRESS: Capitol Gallery, Room 770, 600 Maryland Avenue SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Alexander, Code E, National Aeronautics and Space Administration, Washington, DC 20546, (202) 453-1410).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Information Systems will meet to formulate the Subcommittee's plans and meeting schedule for 1988. The Subcommittee is chaired by Dr. George Ludwig and is composed of 3 members. The meeting will be closed from 3 p.m. to adjournment, to discuss and evaluate the qualifications of candidates being considered for membership on the subcommittee. Such discussions would invade the privacy of the individuals involved. Since this session will be concerned wtih matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 8 people). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open—except for a closed session as noted in the agenda below.

Agenda:

November 5, 1987

8:30 a.m.—Plans and Expectations of the new Director of the Communications and Information Systems Division.
9:30 a.m.—Preparation of Information Systems Plan.
1:30 p.m.—Completion of the Information Systems Plan.
3 p.m.—Closed Session.
4:30 p.m.—Adjourn.

Frank P. Sutherland, Jr.,

Director, Personnel Policy and Work Force Effectiveness Division

October 26, 1987.

[FR Doc. 87-25106 Filed 10-29-87; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Individuals Section) to the National Council on the Arts will be held on November 17-18, 1987, from 9:00 a.m.-5:30 p.m. and on November 19, 1987, from 9:00 a.m.-3:30 p.m. in room M-14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 19, 1987 from 2:00 p.m.-3:30 p.m. The topics for discussion will be policy issues.

The remaining sessions of this meeting on November 17-18, 1987, from 9:00 a.m.-5:30 p.m. and on November 19, 1987, from 9:00 a.m.-2:00 p.m. are for the purpose of review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6), and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Council and Panel Operations, National Endowment for the Arts.

October 26, 1987.

[FR Doc. 87-25133 Filed 10-29-87; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Radio Projects Section) to the National Council on the Arts will be held on November 17-18, 1987, from 9:00 a.m.-7:00 p.m. and November 19, 1987, from 9:00 a.m.-5:00 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6), and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

October 26, 1987.

[FR Doc. 87-25134 Filed 10-29-87; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Chamber/New Music Ensembles Section) to the National Council on the Arts will be held on November 16-20, 1987 from 9:00 a.m.-6:00 p.m. in room 316-2 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 19, 1987 from 1:30 p.m.-3:30 p.m. The topics for discussion are policy and guidelines.

The remaining sessions of this meeting on November 16-18, 1987 from 9:00 a.m. 6:00 p.m., on November 19, 1987, from 9:00 a.m.-1:30 p.m. and 3:30 p.m.-6:00 p.m. and on November 20, 1987, from 9:00 a.m.-6:00 p.m. are for the purpose of review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6), and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

October 26, 1987.

[FR Doc. 87-25135 Filed 10-29-87; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Visual Artists Organizations Section) to the

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National Council on the Arts will be held on November 16–19, 1987, from 9:00 a.m.–9:00 p.m. and November 20, 1987, from 9:00 a.m.–5:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6), and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

October 26, 1987.

[FR Doc. 87–25136 Filed 10–29–87; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–529, License No. NPF–51]

Arizona Public Service Co. et al.; Confirmatory Order Modifying License (Effective Immediately)

I

Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, El Paso Electrict Company, Southern California Edison Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power, and Southern California Public Power Authority (collectively, the licensees) are the holders of Facility Operating License No. NPF–51 issued by the Nuclear Regulatory Commission (NRC/Commission) on April 24, 1986. The license authorizes the operation of the Palo Verde Nuclear Generating Station, Unit 2 in accordance with conditions specified therein. The facility is located on the Licensee' site in Maricopa County, Arizona.

II

By letter dated October 8, 1987, the licensees informed the Commission that European reactor coolant pumps similar to the Palo Verde pumps in design and manufacture had exhibited shaft cracking. These data show that 19 out of 24 pumps shafts inspected had cracks of 1.0 mm to 8.0 mm in depth and two shafts has failed. The actual failures occured after 47,000 and 37,000 hours of pump operation.

As a result, the licensees informed the Commission that they planned to inspect the shafts of the pumps at Palo Verde Unit 1 during the current refueling outage, October-December 1987. In the licensees' letter of October 21, 1987, they reported that the inspection began on October 14, 1987. Upon completion of an ultrasonic inspection of the shaft of the first two pumps, cracks of varying depths and lengths had been identified. Subsequently, cracks were detected in a third pump. No shaft failures have been experienced at Palo Verde.

The licensee met with the Commission staff on October 24, 1987 to review the history of pumps shaft cracking in Europe as well as the finding at Palo Verde Unit 1, and to discuss the available information to determine actions to be taken with respect to operation of Palo Verde, Units 1, 2 and 3. Although the pump shaft cracking phenomenon is also of concern with respect to Palo Verde, Units 2 and 3, the staff's immediate concerns are with the continued operation of Unit 2 which is currently operating at 100% power.

In Europe, the cracking and subsequent failure of the pump shafts were determined to be due to the shaft material exceeding fatigue limits. A number of possible causal factors have been identified (i.e. corrosion assisted fatigue, high thermal stressed associated with seal injection, and reduction in fatigue strength caused by chrome plating). The depth of the cracks indicated by the Palo Verde Unit 1 shaft Ultrasonic inspections exceeded those reported for the European plants for the shafts which have not failed. In addition, the operating hours for the European pumps exhibiting the maximum reported crack depth.

The Palo Verde plant design has been analyzed to address the possible failure of one ractor coolant pump shaft. However, since the root cause of the current cracking phenomenon has not yet been identified and corrected, the staff is concerned that the European data, as well as the information obtained from Palo Verde Unit 1, indicate an increased probability of a reactor coolant pump shaft failure, as well as a potential failure mode which could involve the failure of more than one reactor coolant pump. The failure of more than one pump is an unanalyzed condition and thus beyond the current license design basis. Although the existing reactor protection system would shut the reactor down upon a pump shaft failure, the significantly increased probability of a shaft failure at this time and the potential for a unanalyzed event involving multiple shaft failures, raise immediate concerns relative to the public health and safety.

III

In response to the staff's concerns on this matter, the licensees submitted a letter dated October 24, 1987 in which the committee to take the following actions with respect to Palo Verde Unit 2.[1] The licensees will implement an augmented vibration monitoring program for each of the four reactor coolant pumps that includes the following elements:

1. Every four hours, monitor and record the vibration data on each of the four reactor coolant pumps,

2. On a daily basis, perform an evaluation of the pump vibration data obtained in 1 above, by using an appropriately qualified engineering individual,

3. When any one vibration monitor on the reactor coolant pumps indicates a vibration level of 8 mils or greater, the Nuclear Regulatory Commission shall be notified within four hours via the Emergency Notification System, and

4. When any one vibration monitor on the reactor coolant pumps indicates a vibration level of 10 mils or greater, within one hour, initiate action to place the unit in at least HOT STANDBY within the next six hours, and at least COLD SHUTDOWN within the following 30 hours.

This program, which is based upon documented European experience, should provide evidence of impending pump shaft failure approximately two days prior to failure, which is sufficient time to place the unit in safe shutdown condition in an orderly manner. Thus, the program will provide protection of public health and safety consistent with the current licensing bases.

I find the licensees' commitments acceptable and conclude that the plant's safety is reasonably assured. In view of the foregoing, I have determined that

[1] Inasmuch as Palo Verde Unit 1 is presently shutdown until December 1987 and Palo Verde Unit 3 is a recently licensed facility which is limited to operation not to exceed 5% of full power, no action is necessary at this time for either Palo Verde Unit 1 or Palo Verde Unit 3.

public health and safety require that the licensees' commitments in the October 24, 1987 letter be confirmed by this Order. I have also determined that the public health and safety require that this Order be effective immediately.

IV

Accordingly, pursuant to sections 103, 161b and 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulation in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered, effective immediately, that Facility Operating License No. NPF–51 is hereby modified as follows:

The licensees shall implement an augmented vibration monitoring program for each of the four reactor coolant pumps that includes the following elements;

1. Every four hours, monitor and record the vibration data on each of the four reactor coolant pumps,

2. On a daily basis, perform an evaluation of the pump vibration data obtained in 1 above, by using an appropriately qualified engineering individual,

3. When any one vibration monitor on the reactor coolant pumps indicates a vibration level of 8 mils or greater, the Nuclear Regulatory Commission shall be notified within four hours via the Emergency Notification System, and

4. When any one vibration monitor on the reactor coolant pumps indicates a vibration level of 10 mils or greater, within one hour, initiate action to place the unit in at least HOT STANDBY within the next six hours, and at least COLD SHUTDOWN within the following 30 hours.

The Regional Administrator, Region V may relax or rescind any of the above conditions upon a showing by the licensees of good cause.

V

The licensees or any person who has an interest adversely affected by this Order may request a hearing within 20 days of the date of this Order. A request for hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with copies to the Assistant General Counsel for Enforcement, at the same address, Regional Administrator, Region V at 1450 Maria Lane, Suite 210, Walnut Creek, CA 94956–5368, and the NRC Resident Inspector, Palo Verde Nuclear Generating Station. If a person other than the licensees requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is to be held the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Bethesda Maryland this 25th day of October 1987.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 87–25210 Filed 10–29–87; 8:45 am]

BILLING CODE 7590–01–M

Reactor Risk Reference Document (NUREG–1150); Peer Review Committee; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The draft Reactor Risk Reference Document (NUREG–1150) which characterizes the Commission's assessment of severe accident risk and potential improvements for a set of commerical nuclear power plants, is currently undergoing a detailed peer review by the fourteen member committee chaired by Dr. William E. Kastenberg of the University of California, Los Angeles. Administrative and technical support is being provided by the Lawrence Livermore National Laboratory (LLNL), funded by the Nuclear Regulatory Commission (NRC). The peer review committee met during June 24–25, 1987 at the LLNL, July 15–17, 1987 in Albuquerque, NM, and September 15–17, 1987 in Los Angeles, CA. The fourth and the fifth meetings are scheduled in this notice.

DATES AND TIMES: The fourth meeting will be held during November 9–11, 1987, from 8:30 am to 5:00 pm on November 9 and 10, and from 8:30 am to 12 noon on November 11.

The fifth meeting will be held during December 10–11, 1987 from 8:30 am to 5:00 pm.

ADDRESSES: The November meeting will be at the Faculty Center, University of California Los Angeles, 405 Hilgard Avenue, Los Angeles, CA 90024.

The December meeting will be at the Hyatt Regency in Bethesda, 7400 Wisconsin Avenue, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Dr. Pradyot K. Niyogi, Division of Reactor Accident Analysis, Office of Nuclear Regulatory Research, Washington, DC 20555, (301) 443–7611.

SUPPLEMENTARY INFORMATION: Active participation in the meeting will be limited to the members of the committee, but the meeting will be open to the public to attend as observers. Members of the public may submit written comments on topics related to the meeting discussion. Limited verbal comment by the public will be permitted during the meeting at specified times. Prospective attendees should notify Dr. Sergio Guarro (LLNL) at (415) 422–7503 of their intention to attend at least a week before the meeting dates to facilitate planning.

Minutes of the meeting will be prepared and placed in the NRC Public Document Room. At the end of the peer review process, individual members of the committee will submit their comments to the committee chairman.

The chairman will prepare his personal comments in the form of a report to the NRC, and will enclose all comments from the individual members. The review will be done in two phases. In the first phase, the review will be limited to the draft NUREG–1150, and will be completed in December 1987. The changes and improvements to the draft NUREG–1150 that are being performed currently will be reviewed in the second phase and are scheduled to be completed in July 1988.

Dated at Rockville, Maryland, this 23rd day of October, 1987.

For the Nuclear Regulatory Commission.

Lewis Hulman,

Acting Director, Division of Reactor Accident Analysis, Office of Nuclear Regulatory Research.

[FR Doc. 87–25209 Filed 10–29–87; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF STATE

[Docket No. 1034]

Public Information Collection Requirements Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

SUMMARY: The Retail Price Schedule is the source of information used in establishing and justifying temporary lodging, travel per diem, and post (cost of living) allowances for all Federal civilian employees, statutory salaried employees, and Uniformed Services

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personnel assigned to foreign and non-foreign areas. The following summarizes the information collection proposal submitted to OMB:

Title of information collection—Retail Price Schedule.
Originating office—Bureau of Administration.
Form number—DSP-23.
Type of request—Extension.
Frequency—Quarterly and Annually.
Respondents—Merchants.
Estimated number of responses—650
Estimated number of hours needed to respond—4,981.

Section 3504(h) of Pub. L. 96-511 does not apply.

Additional Information or Comments: Copies of the proposed form and supporting documents may be obtained from Gail J. Cook, (202) 647-3538. Comments and questions should be directed to (OMB) Francine Picoult, (202) 395-7340.

Dated: October 15, 1987.
Richard C. Faulk,
Acting Assistant Secretary for Administration.
[FR Doc. 87-25159 Filed 10-29-87; 8:45 am]
BILLING CODE 4710-34-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 87-135]

Commercial Gauger Approval and Commercial Laboratory Accreditation

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of Approval and Accreditation.

SUMMARY: Pursuant to § 151.13, Customs Regulations (19 CFR 151.13), King Laboratories, Inc., d/b/a King Inspection & Testing, Inc., 4814 West Ave., Suite 111, San Antonio, Texas 90731, applied to Customs for approval and accreditation to gauge and analyze imported petroleum and petroleum products. Customs has determined that King Laboratories meets all requirements for approval and accreditation.

Accordingly, King Laboratories, Inc., d/b/a King Inspection & Testing, Inc., is hereby approved and accredited to gauge and analyze imported petroleum and petroleum products in all Customs districts.

EFFECTIVE DATE: October 22, 1987.

FOR FURTHER INFORMATION CONTACT: Roger J. Crain, Office of Technical Services, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-2446).

Dated: October 23, 1987.
Roger J. Crain,
Chief, Technical Branch, Office of Technical Services.
[FR Doc. 87-25171 Filed 10-29-87; 8:45 am]
BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 210
Friday, October 30, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on October 29, 1987, from 10:00 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, Mclean, Virginia 22102-5090 (703-883-4003).

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be closed to the public. The matter to be considered at the meeting is:

[1] 1. Examination and Enforcement Matters.
Dated: October 28, 1987.
David A. Hill,
Secretary, Farm Credit Administration Board.
[FR Doc. 87-25297 Filed 10-28-87; 2:00 pm]
BILLING CODE 6705-01-M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on November 3, 1987, from 10:00 a.m until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 (703-883-4003).

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

[1] Session closed to the public; exempt pursuant to 5 U.S.C.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of the meeting will be closed to the public. The matters to be considered at the meeting are:

1. Final Regulations Covering Regulatory Accounting Practices, 12 CFR Part 624;
2. Nonequity Capitalization Policies for Banks for Cooperatives;
3. Certification Under § 4.28(J) of the Farm Credit Act of 1971, as amended; and
4. Examination and Enforcement Matters.[1]

Dated: October 28, 1987.
David A. Hill,
Secretary, Farm Credit Administration Board.
[FR Doc. 87-25298 Filed 10-28-87; 2:00 pm]
BILLING CODE 6705-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, October 27, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appiontive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the Corporation's assistance agreement with an insured bank.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,116-SR
Central National Bank of New York, New York (Manhattan), New York

Application of the First National Bank of Maryland, Baltimore, Maryland, for consent to purchase certain assets of and assume the liability to pay certain deposits made in Arrow Savings and Loan Association, Baltimore, Maryland, a non-FDIC-insured institution.

Memorandum regarding the Corporation's corporate activities.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by the authority of subsections (c)(2), (c)(4), and (c)(8), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(8), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 28, 1987.
Federal Deposit Insurance Corporation.
Margaret M. Olsen,
Deputy Executive Secretary.
[FR Doc. 87-25296 Filed 10-28-87; 1:59 pm]
BILLING CODE 6714-01-M

[1] Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c) (4), (8) and (9).

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., November 4, 1987.

PLACE: Room 12126, 1100 L Street, NW., Washington, DC 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Service Contracts filed by the Asia North America Eastbound Rate Agreement.
2. Investigation of Shipping Practices—Jorge Villena; Sea-Trade Shipping, Inc.; Star Bright Container Line, Inc.; and Caribbean Sun International, Inc.
3. Docket No. 86-28—Agreement No. 003-010965—Island Ocean Terminal Agreement—Consideration of the Record.
4. Docket No. 86-12—Distribution Services, Ltd. v. Trans-Pacific Freight Conference of Japan and Its Member Lines—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523-5725.

Joseph C. Polking,
Secretary.

[FR Doc. 87-25304 Filed 10-28-87; 3:27 pm]
BILLING CODE 6730-01-M

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Corrections

Federal Register
Vol. 52, No. 210
Friday, October 30, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

Correction

In notice document 87-24716 appearing on page 40019 in the issue of Monday, October 26, 1987, make the following correction:

In the third column, footnote 1 was omitted and should read as follows:

[1]Session closed to the public-exempt pursuant to 5 U.S.C. 552b(c)(4), (8) and (9).

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-183-82]

Basis Adjustment for Investment Tax Credits

Correction

In proposed rule document 87-21629 beginning on page 35438 in the issue of Monday, September 21, 1987, make the following corrections:

1. On page 35438, in the first column, in the heading, "[L-183-82]" should read "[LR-183-82]".

2. On the same page, in the second column, under **Background**, in the sixth line, "of 1983" should read "of 1984".

3. On the same page, in the same column, under **Explanation of Provisions**, in the fifth line, "10 percent" should read "100 percent".

§ 1.48-4 [Corrected]

4. On page 35439, in the third column, in § 1.48-4(n)(1), in the fifth line, "48(d)" should read "48(q)" and in the same paragraph, in the seventh line, the citation should read "paragraphs (b) and (m) thereof".

§ 1.48-7 [Corrected]

5. On page 35441, in the third column, in § 1.48-7(a)(3), Example (5), paragraph (ii), in the last line, insert a closing parenthesis before the period.

6. On page 35442, in the second column, in the same section, Example (7), paragraph (ii), in the first table, in the fourth column, "5,900" should read "5,910".

7. On the same page, in the third column, under Example (9), paragraph (i), in the table, the word "Proprietorship" should appear on a separate line above the words "No. 6".

8. On the same page, in the same column, in the same example, in paragraph (iii), in the second line, remove the parenthesis after "$63,500".

9. On page 35443, in the third column, under paragraph (f)(1), in the 10th line, "of the basis" should read "and the basis".

10. On page 35445, in paragraph (k)(4), Example (1), in the third column, in the 16th line, "48(g)(6)[7]" should read "48(q)(6)[7]".

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Part II

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Joint Advisory Notice; Department of Labor/Department of Health and Human Services; HBV/HIV; Notice

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DEPARTMENT OF LABOR

Office of the Secretary

Joint Advisory Notice; Department of Labor/Department of Health and Human Services; HBV/HIV

The Department of Labor hereby gives notice of a joint cover letter and Joint Advisory Notice, entitled "Protection Against Occupational Exposure to Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV)," which will be mailed on or about October 30, 1987 to health-care employers throughout the United States.

The letter and Notice are attached hereto and is being mailed to approximately 500,000 employers.

Signed at Washington, DC, this 21st day of October 1987.

Michael E. Baroody,

Assistant Secretary for Policy, U.S. Department of Labor.

U.S. Department of Labor

Secretary of Labor

Washington, DC

October 30, 1987.

Dear Health-Care Employer: We are writing to you about a serious health-care problem that faces all Americans but is particularly acute for health-care workers. That problem is potential exposure to hepatitis B virus (HBV), human immune deficiency virus (HIV) which causes acquired immunodificiency syndrome (AIDS), and other blood-borne diseases.

The Centers for Disease Control (CDC) which is part of the U.S. Department of Health and Human Services (HHS) believes that as many as 18,000 health-care workers per year may be infected by the HBV. Nearly ten percent of those who become infected become long-term carriers of the virus and may have to give up their profession. Several hundred health-care workers will become acutely ill or jaundiced from hepatitis B, and as many as 300 health-care workers may die annually as a result of hepatitis B infections or complications.

Infection with the HIV in the workplace represents a small but real hazard to health-care workers. Fewer than ten cases have been reported to date, but it is not clear that these include all such infections. The CDC expects that with 1.5 million persons now believed to be infected by HIV, the number of AIDS cases in the general population may grow to as many as 270,000 by 1991 from the 40,000 which had been reported by August, 1987. The increases in AIDS cases and in the number of individuals who are infected with the virus will mean an increased potential for exposure to health-care workers.

Fortunately there are reasonable precautions which can be taken by health-care workers to prevent exposure to HBV, HIV, and other blood-borne infectious diseases. Precautions for HBV and HIV have been published by the CDC on several occasions, most recently on June 19, 1987, and on August 21, 1987. The enclosed advisory notice, entitled "Protection Against Occupational Exposure to Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV)," reflects many of the precautions addressed in the CDC guidelines and includes other precautions which should be considered.

It is the legal responsibility of employers to provide appropriate safeguards for health-care workers who may be exposed to these dangerous viruses. For that reason, the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor (DOL) is beginning a program of enforcement to insure that health-care employers are meeting those needs. OSHA will respond to employee complaints and conduct other inspections to assure that appropriate measures are being followed. OSHA is currently enforcing its existing regulations and statutory provisions relating to the duty of an employer to provide "safe and healthful working conditions." OSHA is also seeking input about what additional regulatory action may be needed in an Advance Notice of Proposed Rulemaking which will be published in the **Federal Register.**

States with approved plans to operate their own occupational safety and health program enforce standards comparable to the Federal standards and are encouraged to enforce State counterparts to the General Duty Clause. State plan standards, unlike Federal standards, apply to State, county, and municipal workers as well as to private employers.

DOL joins HHS in urging the widest possible adherence to the appropriate precautions as examplified by the CDC guidelines and the joint advisory notice. All health-care workers who may be exposed to HBV or HIV should receive training and should utilize appropriate precautions.

If you have further questions, please contact your State public health department or OSHA office, or call the Public Health Service National AIDS Hotline, 1-800-342-AIDS. Every effort will be made to respond to your questions in a timely and informative manner. Your unions, and professional and trade associations are also available to answer your questions. We are making every effort to keep all interested parties informed.

The dangers of HBV and HIV are very real, but you can prevent or minimize those dangers for health-care workers through the utilization of the appropriate precautions recommended by the CDC.

Thank you for your time and consideration.

Very truly yours,

William E. Brock,

Secretary of Labor.

Otis R. Bowen, M.D.,

Secretary of Health and Human Services.

Enclosure.

Department of Labor/Department of Health and Human Services—Joint Advisory Notice: Protection Against Occupational Exposure to Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV)

October 19, 1987.

I. Background

Hepatitis B (previously called serum hepatitis) is the major infectious occupational health hazard in the health-care industry, and a model for the transmission of blood-borne pathogens. In 1985 the Centers for Disease Control (CDC) estimated [1] that there were over 200,000 cases of hepatitis B virus (HBV) infection in the U.S. each year, leading to 10,000 hospitalizations, 250 deaths due to fulminant hepatitis, 4,000 deaths due to hepatitis-related cirrhosis, and 800 deaths due to hepatitis-related primary liver cancer. More recently [2] the CDC estimated the total number of HBV infections to be 300,000 per year with corresponding increases in numbers of hepatitis-related hospitalizations and deaths. The incidence of reported clinical hepatitis B has been increasing in the United States, from 6.9/100,000 in 1978 to 9.2/100,000 in 1981 and 11.5/100,000 in 1985 [2]. The Hepatitis Branch, CDC, has estimated [unpublished] that 500–600 health-care workers whose job entails exposure to blood are hospitalized annually, with over 200 deaths (12–15 due to fulminant hepatitis, 170–200 from cirrhosis, and 40–50 from liver cancer). Studies indicate that 10% to 40% of health-care or dental workers may show serologic evidence of past or present HBV infection [3]. Health-care costs for hepatitis B and non-A, Non-B hepatitis in health-care workers were estimated to be $10–$12 million annually [4]. A safe, immunogenic, and effective vaccine to prevent hepatitis B has been available since 1982 and is recommended by the CDC for health-care workers exposed to blood and body fluids [1, 2, 5–7]. According to unpublished CDC estimates, approximately 30–40% of health-care workers in high-risk settings have been vaccinated to date.

According to the most recent data available from the CDC [8], acquired immunodeficiency syndrome (AIDS) was the 13th leading cause of years of potential life lost (82,882 years) in 1984, increasing to 11th place in 1985 (152,595 years). As of August 10, 1987, a cumulative total of 40,051 AIDS cases (of which 558 were pediatric) had been reported to the CDC, with 23,165 (57.8%) of these known to have died [9]. Although occupational HIV infection has been documented [10], no AIDS case or AIDS-related death is believed to be occupationally related. Spending within the Public Health Service related to AIDS has also accelerated rapidly, from $5.6 million in 1982 to $494 million in 1987, with $791 million requested for 1988. Estimates of average lifetime costs for the care of an AIDS patient have varied considerably, but recent evidence suggests the amount is probably in the range of $50,000 to $75,000.

Infection with either HBV [1,2] or human immunodefiency virus (HIV, previously called human T-lymphotrophic virus type III/lymphadenopathy-associated virus (HTLV III/LAV) or AIDS-associated retrovirus (ARV)) [11, 12] can lead to a number of life-threatening conditions, including cancer. Therefore, exposure to HBV and HIV should be reduced to the maximum extent feasible by engineering controls, work practices, and protective equipment. (Engineering controls are those methods that prevent or limit the potential for exposure at or near as possible to the point of origin, for example by eliminating a hazard by substitution or by isolating the hazard from the work environment.)

II. Modes of Transmission

In the U.S, the major mode of HBV transmission is sexual, both homosexual and heterosexual. Also important is parenteral (entry into the body by a route other than the gastrointestinal tract) transmission by shared needles among intravenous drug abusers and to a lesser extent in needlestick injuries or other exposures of health-care workers to blood. HBV is not transmitted by casual contact, fecal-oral or airborne routes, or by contaminated food or drinking water [1, 2, 13]. Workers are at risk of HBV infection to the extent they are exposed to blood and other body fluids; employment without that exposure, even in a hospital, carries no greater risk than that for the general population [1]. Thus, the high incidence of HBV infection in some clinical settings is particularly unfortunate beause the modes of transmission are well known and readily interrupted by attention to work practices and protective equipment, and because transmission can be prevented by vaccination of those without serologic evidence of previous infection.

Identified risk factors for HIV transmission are essentially identical to those for HBV. Homosexual/bisexual males and male intravenous drug abusers account for 85.4% of all AIDS cases, female intravenous drug abusers for 3.4%, and heterosexual contact for 3.8% [9]. Blood transfusion and treatment of hemophilia-coagulation disorders account for 3.0% of cases, and 1.4% are pediatric cases. In only 3.0% of all AIDS cases has a risk factor not been identified [9]. Like HBV, there is no evidence that HIV is transmitted by casual contract, fecal-oral or airborne routes, or by contaminated food or drinking watert [12–14], and barriers to HBV are effective against HIV. Workers are at risk of HIV infection to the extent they are directly exposed to blood and body fluids. Even in groups that presumably have high potential exposure to HIV-contaminated fluids and tissues, e.g., health-care workers specializing in treatment of AIDS patients and the parents, spouse, children, or other persons living with AIDS patients, transmission is recognized as occurring only between sexual partners or as a consequence of mucous membrane or parenteral (including open wound) exposure to blood or other body fluids [10, 11, 13–16].

Despite the similarities in the modes of transmission, the risk of HBV infection in health-care settings far exceeds that for HIV infection [13, 14]. For example, it has been estimated [14, 17, 18] that the risk of acquiring HBV infection following puncture with a needle contaminated by an HBV carrier ranges from 6% to 30%—far in excess of the risk of HIV infection under similar circumstances, which the CDC and others estimated to be a less than 1% [10, 13, 16].

Health-care workers with documented percutaneous or mucous-membrane exposures to blood or body fluids of HIV-infected patients have been prospectively evaluated to determine the risk of infection after such exposures. As of June 30, 1987, 883 health-care workers have been tested for antibody to HIV in an ongoing surveillance project conducted by CDC [19]. Of these, 708 (80%) had percutaneous exposures to blood, and 175 (20%) had a mucous membrane or an open wound contaminated by blood or body fluid. Of 396 health-care workers, each of whom had only a convalescent-phase serum sample obtained and tested 90 days or more post-exposure, one—for whom heterosexual transmission could not be ruled out—was seropositive for HIV antibody. For 425 additional health-care workers, both acute- and convalescent-phase serum samples were obtained and tested; none of 74 health-care workers with nonpercutaneous exposures seroconverted, and three (0.9%) of 351 with percutaneous exposures seroconverted. None of these three health-care workers had other documented risk factors for infection.

Two other prospective studies to assess the risk of nosocomial acquisition of HIV infection for health-care workers are ongoing in the United States. As of April 30, 1987, 332 health-care workers with a total of 453 needlestick or mucous-membrane exposures to the blood or other body fluids of HIV-infected patients were tested for HIV antibody at the National Institutes of Health [20]. These exposed workers included 103 with needlestick injuries and 229 with mucous-membrane exposures; none had seroconverted. A similar study at the University of California of 129 health-care workers with documented needlestick injuries or mucous-membrane exposures to blood or other body fluids from patients with HIV infection has not identified any seroconversions [21]. Results of a prospective study in the United Kingdom identified no evidence of transmission among 150 health-care workers with parenteral or mucous-membrane exposure to blood or other body fluids, secretions, or excretions from patients with HIV Infection [22].

Following needlestick injuries, one health-care worker contracted HBV but not HIV, and in another instance a health-care worker contracted cryptococcus but not HIV from patients infected with both [14]. This risk of infection by HIV and other blood-borne pathogens for which immunization is not available extends to all health-care workers exposed to blood, even those who have been immunized against HBV infection. Effective protection against blood-borne disease requires universal observation of common barrier precautions by all workers with potential exposure to blood, body fluids, and tissues [10,13].

HIV has been isolated from blood, semen, saliva, tears, urine, vaginal secretions, cerebrospinal fluid, breast milk, and amniotic fluid [10,23], but only blood and blood products, semen, vaginal secretions, and possibly breast milk (this needs to be confirmed) have been directly linked to transmission of HIV [10,13]. Contact with fluids such as saliva and tears has not been shown to result in infection [13–15]. Although other fluids have not been shown to transmit infection, all body fluids and tissues should be regarded as potentially contaminated by HBV or HIV, and treated as if they were infectious. Both HBV and HIV appear to be incapable of penetrating intact skin, but infection may result from infectious fluids coming into contact with mucous membranes or open wounds (including inapparent lesions) on the skin [14,16]. If a procedure involves the potential for

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skin contact with blood or mucous membranes, then appropriate barriers to skin contact should be worn, e.g., gloves. Investigations of HBV risks associated with dental and other procedures that might produce particulates in air, e.g., centrifuging and dialysis, indicated that the particulates generated were relatively large droplets (spatter), and not true aerosols of suspended particulates that would represent a risk of inhalation exposure (24–26). Thus, if there is the potential for splashes or spatter of blood or fluids, face shields or protective eyewear and surgical masks should be worn. Detailed protective measures for health-care workers have been addressed by the CDC [10,13,23,27–33]. These can serve as general guides for the specific groups covered, and for the development of comparable procedures in other working environments.

HIV infection is known to have been transmitted by organ transplants [34] and blood transfusions [35] received from persons who were HIV seronegative at the time of donation. Falsely negative serology can be due to improperly performed tests or other laboratory error, or testing in that "window" of time during which a recently infected person is infective but has not yet converted from seronegative to seropositive. (Detectable levels of antibodies usually develop within 6 to 12 weeks of infection [36]. A recent report [37] suggesting that this "window" may extend to 14 months is not consistent with other data, and therefore requires confirmation.) If all body fluids and tissues are treated as infectious, no additional level of worker protection will be gained by identifying seropositive patients or workers. Conversely, if worker protection and work practices were upgraded only following the return of positive HBV or HIV serology, then workers would be inadequately protected during the time required for testing. By producing a false sense of safety with "silent" HBV- or HIV-positive patients, a seronegative test may significantly reduce the level of routine vigilance and result in virus exposure. Furthermore, developing, implementing, and administering a program of routine testing would shift resources and energy away from efforts to assure compliance with infection control procedures. Therefore, routine screening of workers or patients for HIV antibodies will not substantially increase the level of protection for workers above that achieved by adherence to strict infection control procedures.

On the other hand, workers who have had parenteral exposure to fluids or tissues may wish to know whether their own antibody status converts from negative to positive. Such a monitoring program can lead to prophylactic interventions in the case of HBV infection, and CDC has published guidelines on pre- and post-exposure prophylaxis of viral hepatitis [1,2]. Future developments may also allow effective intervention in the case of HIV infection. For the present, post-exposure monitoring for HIV at least can release the affected worker from unnecessary emotional stress if infection did not occur, or allow the affected worker to protect sexual partners in the event infection is detected [10,36].

III. Summary

The cumulative epidemiologic data indicate that transmission of HBV and HIV requires direct, intimate contact with or parenteral inoculation of blood and blood products, semen, or tissues [10,11,13,14,16,23]. The mere presence of, or casual contact with, an infected person cannot be construed as "exposure" to HBV or HIV. Although the theoretical possibility of rare or low-risk alternative modes of transmission cannot be totally excluded, the only documented occupational risks of HBV and HIV infection are associated with parenteral (including open wound) and mucous membrane exposure to blood and tissues [2,10,13,14,16]. Workers occupationally exposed to blood, body fluids, or tissues can be protected from the recognized risks of HBV and HIV infection by imposing barriers in the form of engineering controls, work practices, and protective equipment that are readily available, commonly used, and minimally intrusive.

IV. Recommendations

General

"Exposure" (or "potential exposure") to HBV and HIV should be defined in terms of actual (or potential) skin, mucous membrane, or parenteral contact with blood, body fluids, and tissues. "Tissues" and "fluids" or "body fluids" should be understood to designate not only those materials from humans, but also potentially infectious fluids and tissues associated with laboratory investigations of HBV or HIV, e.g., organs and excreta from experimental animals, embryonated eggs, tissue or cell cultures and culture media, etc.

As the first step in determining what actions are required to protect worker health, every employer should evaluate all working conditions and the specific tasks that workers are expected to encounter as a consequence of employment. That evaluation should lead to the classification of work-related tasks to one of three categories of potential exposure (Table 1). These categories represent those tasks that require protective equipment to be worn during the task (Category I); tasks that do not require any protective equipment (Category III); and an intermediate grouping of tasks (Category II) that also do not require protective equipment, but that inherently include the predictable job-related requirement to perform Category I tasks unexpectedly or on short notice, so that these persons should have immediate access to some minimal set of protective devices. For example, law enforcement personnel or firefighters may be called upon to perform or assist in first aid or to be potentially exposed in some other way. This exposure classification applies to tasks rather than to individuals, who in the course of their daily activities may move from one exposure category to another as they perform various tasks.

For individual Category I and II tasks, engineering controls, work practices, and protective equipment should be selected after careful consideration, for each specific situation, of the overall risk associated with the task. Factors that should be included in that evaluation of risk include:

1. Type of body fluid with which there will or may be contact (e.g., blood is of greater concern than urine),
2. Volume of blood or body fluid likely to be encountered (e.g., hip replacement surgery can be very bloody while corneal transplantation is almost bloodless),
3. Probability of an exposure taking place (e.g., drawing blood will more likely lead to exposure to blood than will performing a physicial examination),
4. Probable route of exposure (e.g., needlestick injuries are of greater concern than contract with soiled linens), and
5. Virus concentration in the fluid or tissue. The number of viruses per milliliter of fluid in research laboratory cultures may be orders of magnitude higher than in blood. Similarly, viruses have been less frequently found in fluids such as sweat, tears, urine, and saliva.

Engineering controls, work practices, and protective equipment appropriate to the task being performed are critical to minimize HBV and HIV exposure and to prevent infection. Adequate protection can be assured only if the appropriate controls and equipment are provided and all workers know the applicable

work practices and how to properly use the required controls or protective equipment. Therefore, employers should establish a detailed work practices program that includes standard operating procedures (SOPs) for all tasks or work areas having the potential for exposure to fluids or tissues, and a worker education program to assure familiarity with work practices and the ability to use properly the controls and equipment provided.

It is essential for both the patient and the health-care worker to be fully aware of the reasons for the preventive measures used. The health-care worker may incorrectly interpret the work practices and protective equipment as signifying that a task is unsafe. The patient may incorrectly interpret the work practices or protective garb as evidence that the health-care provider knows or believes the patient is infected with HBV or HIV. Therefore, worker education programs should strive to allow worker (and to the extent feasible, the clients or patients) to recognize the routine use of appropriate work practices and protective equipment as prudent steps that protect the health of all.

If the employer determines that Category I and II tasks do not exist in the workplace, then no specific personal hygiene or protective measures are required. However, these employers should ensure that workers are aware of the risk factors associated with transmission of HBV and HIV so that they can recognize situations which pose increased potential for exposure to HBV or HIV (Category I tasks) and know how to avoid or minimize personal risk. A comparable level of education is necessary for all citizens. Educational materials such as the Surgeon General's Report can provide much of the needed information [12,38].

If the employer determines that work-related Category I or II tasks exist, then the following procedures should be implemented.

Administrative

The employer should establish formal procedures to ensure that Category I and II tasks are properly identified, SOPs are developed, and employees who must preform these tasks are adequately trained and protected. If responsibility for implementation of these responsibilities is delegated to a committee, it should include both management and worker representatives. Administrative activities to enhance worker protection include:

1. Evaluating the workplace to:
   a. Establish category of risk classifications for all routine and reasonably anticipated job-related tasks.
   b. Identify all workers whose employment requires performance of Category I or II tasks.
   c. Determine for identified Category I or II tasks those body fluids to which workers most probably will be exposed and the potential extent and route of exposure.
2. Developing, or supervising the development of, Standard Operating Procedures (SOPs) for each Category I and II task. These SOPs should include mandatory work practices and protective equipment for each Category I and II task.
3. Monitoring the effectivenes of work practices and protective equipment. This includes:
   a. Surveillance of the workplace to ensure that required work practices are observed and that protective clothing and equipment are provided and properly used.
   b. Investigation of known or suspected parenteral exposures to body fluids or tissues to establish the conditions surrounding the exposure and to improve training, work practices, or protective equipment to prevent a recurrence.

TABLE 1. EXPOSURE CATEGORIES

CATEGORY I. Tasks That Involve Exposure To Blood, Body Fluids, Or Tissues.

All procedures or other job-related tasks that involve an inherent potential for mucous membrane or skin contact with blood, body fluids, or tissues, or a potential for spills or splashes of them, are Category I tasks. Use of appropriate protective measures should be required for every employee engaged in Category I tasks.

CATEGORY II. Tasks That Involve No Exposure To Blood, Body Fluids, Or Tissues, But Employment May Require Performing Unplanned Category I Tasks.

The normal work routine involves no exposure to blood, body fluids, or tissues, but exposure or potential exposure may be required as a condition of employment. Appropriate protective measures should be readily available to every employee engaged in Category II tasks.

CATEGORY III. Tasks That Involve No Exposure To Blood, Body Fluids, Or Tissues, And Category I Tasks Are Not A Condition Of Employment.

The normal work routine involves no exposure to blood, body fluids, or tissues (although situations can be imagined or hypothesized under which anyone, anywhere, might encounter potential exposure to body fluids). Person who perform these duties are not called upon as part of their employment to perform or assist in emergency medical care or first aid or to be potentially exposed in some other way. Tasks that involve handling of implements or untensils, use of public or shared bathroom facilities or telephones, and personal contacts such as handshaking are Category III tasks.

Training and Education

The employer should establish an initial and periodic training program for all employees who perform Category I and II tasks. No worker should engage in any Category I or II task before receiving training pertaining to the SOPs, work practices, and protective equipment required for that task. The training program should ensure that all workers:

1. Understand the modes of transmission of HBV and HIV.
2. Can recognize and differentiate Category I and II tasks.
3. Know the types of protective clothing and equipment generally appropriate for Category I and II tasks, and understand the basis for selection of clothing and equipment.
4. Are familiar with appropriate actions to take and persons to contact if unplanned Category I tasks are encountered.
5. Are familiar with and understand all the requirements for work practices and protective equipment specified in SOPs covering the tasks they perform.
6. Know where protective clothing and equipment is kept, how to use it properly, and how to remove, handle, decontaminate, and dispose of contaminated clothing or equipment.
7. Know and understand the limitations of protective clothing and equipment. For example, ordinary gloves offer no protection against needlestick injuries. Employers and workers should be on guard against a sense of security not warranted by the protective equipment being used.
8. Know the corrective actions to take in the event of spills or personal exposure to fluids or tissues, the appropriate reporting procedures, and the medical monitoring recommended in cases of suspected parenteral exposure.

Engineering Controls

Whenever possible, engineering controls should be used as the primary method to reduce worker exposure to

harmful substances. The preferred approach in engineering controls is to use, to the fullest extent feasible, intrinsically safe substances, procedures, or devices. Substitution of a hazardous procedure or device with one that is less risky or harmful is an example of this approach, e.g., a laser scalpel reduces the risk of cuts and scrapes by eliminating the necessity to handle the conventional scalpel blade.

Isolation or containment of the hazard is an alternative engineering control technique. Disposable, puncture-resistant containers for used needles, blades, etc., isolate cut and needlestick injury hazards from the worker. Glove boxes, ventiliated cabinets, or other enclosures for tissue homogenizers, sonicators, vortex mixers, etc. serve not only to isolate the hazard, but also to contain spills or splashes and prevent spatter and mist from reaching the worker.

After the potential for exposure has been minimized by engineering controls, further reductions can be achieved by work practices and, finally, personal protective equipment.

Work Practices

For all identified Category I and II tasks, the employer should have written, detailed Standard Operating Procedures (SOPs). All employees who perform Category I or II tasks should have ready access to the SOPs pertaining to those tasks.

1. Work practices should be developed on the assumption that all body fluids and tissues are infectious. General procedures to protect healthcare workers against HBV or HIV transmission have been published elsewhere [1, 2, 23, 28–33]. Each employer with Category I and II tasks in the workplace should incorporate those general recommendations, as appropriate, or equivalent procedures into work practices and SOPs. The importance of handwashing should be emphasized.

2. Work practices should include provision for safe collection of fluids and tissues and for disposal in accordance with applicable local, state, and federal regulations. Provision must be made for safe removal, handling, and disposal or decontamination of protective clothing and equipment, soiled linens, etc.

3. Work practices and SOPs should provide guidance on procedures to follow in the event of spills or personal exposure to fluids or tissues. These procedures should include instructions for personal and area decontamination as well as appropriate management or supervisory personnel to whom the incident should be reported.

4. Work practices should provide specific and detailed procedures to be observed with sharp objects, e.g., needles, scalpel blades. Puncture-resistant receptacles must be readily accessible for depositing these materials after use. These receptacles must be clearly marked and specific work practices provided to protect personnel responsible for disposing of them or processing their contents for reuse.

Personal Protective Equipment

Based upon the fluid or tissue to which there is potential exposure, the likelihood of exposure occurring, the potential volume of material, the probable route of exposure, and overall working conditions and job requirements, the employer should provide and maintain personal protective equipment appropriate to the specific requirements of each task.

For workers performing Category I tasks, a required minimum array of protective clothing or equipment should be specified by pertinent SOPs. All Category I tasks do not involve the same type or degree of risk, and therefore all do not require the same kind or extent of protection. Specific combinations of clothing and equipment must be tailored to specific tasks. Minimum levels of protection or Category I tasks in most cases would include use of appropriate gloves. If there is the potential for splashes, protective eyewear or face shields should be worn. Paramedics responding to an auto accident might protect against cuts on metal and glass by wearing gloves or gauntlets that are both puncture-resistant and impervious to blood. If the conditions of exposure include the potential for clothing becoming soaked with blood, protective outer garments such as impervious coveralls should be worn.

For workers performing Category II tasks, there should be ready access to appropriate protective equipment, e.g., gloves, protective eyewear, or surgical masks, specified in pertinent SOPs. Workers performing Category II tasks need not be wearing protective equipment, but they should be prepared to put on appropriate protective garb on short notice.

Medical

In addition to any health-care or surveillance required by other rules, regulations, or labor-management agreement, the employer should make available at no cost to the worker:

1. Voluntary HBV immunization for all workers whose employment requires them to perform Category I tasks and who test negative for HBV antibodies. Detailed recommendations for protecting health-care workers from viral hepatitis have been published by the CDC [1]. These recommendations include procedures for both pre- and post-exposure prophylaxis, and should be the basis for the routine approach by management to the prevention of occupational hepatitis B.

2. Monitoring, at the request of the worker, for HBV and HIV antibodies following known or suspected parenteral exposure to blood, body fluids, or tissues. This monitoring program must include appropriate provisions to protect the confidentiality of test results for all workers who may elect to participate.

3. Medical counseling for all workers found, as a result of the monitoring described above, to be seropositive for HBV or HIV. Counseling guidelines have been published by the Public Health Service [1, 2, 36].

Recordkeeping

If any employee is required to perform Category I or II tasks, the employer should maintain records documenting:

1. The administrative procedures used to classify job tasks. Records should describe the factors considered and outline the rationale for classification.

2. Copies of all SOPs for Category I and II tasks, and documentation of the administrative review and approval process through which each SOP passed.

3. Training records, indicating the dates of training sessions, the content of those training sessions along with the names of all persons conducting the training, and the names of all those receiving training.

4. The conditions observed in routine surveillance of the workplace for compliance with work practices and use of protective clothing or equipment. If noncompliance is noted, the conditions should be documented along with corrective actions taken.

5. The conditions associated with each incident of mucous membrane or parenteral exposure to body fluids or tissue, an evaluation of those conditions, and a description of any corrective measures taken to prevent a recurrence or other similar exposure.

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Part III

Environmental Protection Agency

40 CFR Part 763

Asbestos-Containing Materials in Schools; Final Rule and Notice

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPTS-62046E; FRL -3]

Asbestos-Containing Materials in Schools

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing a final rule under section 203 of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2643, to require all local education agencies (LEAs) to identify asbestos-containing materials (ACM) in their school buildings and take appropriate actions to control release of asbestos fibers. The LEAs are required to describe their activities in management plans, which must be made available to all concerned persons and submitted to State Governors. This final rule requires LEAs to use specially-trained persons to conduct inspections for asbestos, develop the management plans, and design or conduct major actions to control asbestos. Exclusions are provided for LEAs which have previously conducted inspections and for LEAs subject to any state requirement at least as stringent as the comparable requirement in this final rule.

DATES: In accordance with 40 CFR 23.5, this rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Standard Time on November 13, 1987. This rule shall be effective on December 14, 1987. The incorporation by reference in the rule is approved by the Director of the Federal Register as of December 14, 1987.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Telephone: (202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

A. Description of the Enabling Legislation

On October 22, 1986, President Reagan signed into law the Asbestos Hazard Emergency Response Act (AHERA) which enacted, among other provisions, Title II of the Toxic Substances Control Act (TSCA) 15 U.S.C. sections 2641 through 2654. Section 203 of Title II, 15 U.S.C. 2643, requires EPA to propose rules by April 20, 1987 (180 days after enactment), and to promulgate final rules by October 17, 1987 (360 days after enactment), regarding: (1) The inspection of all public and private school buildings for ACM; (2) the identification of circumstances requiring response actions; (3) description of the appropriate response actions; (4) the implementation of response actions; (5) the establishment of a reinspection and periodic surveillance program for ACM; (6) the establishment of an operations and maintenance program for friable ACM; (7) the preparation and implementation of asbestos management plans by LEAs and the submission of the management plans to State Governors, who may review the plans and approve or disapprove them; and (8) the transportation and disposal of waste ACM from schools. This final rule implements the Title II requirements to issue the section 203 rules (except for transportation and disposal, as discussed further below).

Section 206 of TSCA Title II, 15 U.S.C. 2646, also requires EPA to issue by April 20, 1987, a final model accreditation plan for persons who inspect for asbestos, develop management plans, and design or conduct response actions. States are required to adopt an accreditation program at least as stringent as the EPA model within 180 days after the beginning of their next legislative session. Accreditation of laboratories which analyze asbestos bulk samples and asbestos air samples is also required by TSCA Title II. The National Bureau of Standards (NBS), U.S. Department of Commerce, is required to establish the bulk sampling accreditation program by October 17, 1987, and the air sampling accreditation program by October 12, 1988.

States were required to notify LEAs by October 17, 1987, regarding where to submit management plans. LEAs must submit those plans to their State no later than October 12, 1988. The plans must include the results of school building inspections and a description of all response actions planned, completed, or in progress. After receiving a management plan, States are allowed 90 days to disapprove the plan. If the plan is disapproved, the State must provide a written explanation of the disapproval and the LEA must revise the plan within 30 days to conform with the State's suggested changes. The 30-day period can be extended to 90 days by the State. LEAs are required to begin implementation of their management plans by July 9, 1989, and to complete implementation in a timely fashion.

Transport and disposal rules under TSCA section 203(h) have not yet been proposed. In accordance with TSCA section 204(f), therefore, LEAs shall provide for transportation and disposal of asbestos in accordance with the most recent version of EPA's "Asbestos Waste Management Guidance." Applicable provisions of that document are included as Appendix D of this rule. Regulations governing transport of asbestos-containing waste, including school waste already regulated by the National Emission Standard for Hazardous Air Pollutants (NESHAP) (40 CFR Part 61, Subpart M) under the Clean Air Act (42 U.S.C. section 7401, et seq.), were promulgated by the Department of Transportation (DOT) (49 CFR Part, 173 Subpart J). The NESHAP and DOT rules must be followed, according to the "Asbestos Waste Management Guidance." These rules will be sufficient to ensure the proper loading and unloading of vehicles and to ensure the physical integrity of containers.

Section 203(1) requires Department of Defense schools to carry out asbestos identification, inspection and management activities in a manner comparable to the manner in which an LEA is required to carry out such activities. EPA interprets the language of this section which states that such activities shall be carried out "to the extent feasible and consistent with the national security" as recognition that existing agreements with foreign governments may make it difficult to carry out certain provisions of this regulation.

Since this rule has been signed by the EPA Administrator by October 17, 1987, the rule has been promulgated within the statutory time frame required by section 203 of TSCA Title II. In accordance with 40 CFR 23.5, however, solely for purposes of judicial review deadlines under section 19 of TSCA Title I, the rule is considered to be promulgated at 1 p.m. eastern time, 14 days after publication in the **Federal Register**. Thus, the period in which petitions for review of this rule may be filed under section 19 commences 14 days after publication.

B. Previous EPA Asbestos Activities

EPA has undertaken a variety of technical assistance and regulatory activities designed to control ACMs in buildings and minimize inhalation of asbestos fibers.

1. *Technical Assistance Program.* Since 1979, EPA staff have assisted schools and other building owners in identifying and controlling ACM in their buildings. Through a cooperative agreement with the American Association of Retired Persons (AARP), EPA has hired architects, engineers, and other professionals to provide on-site assistance to school officials and other building owners. With AARP assistance, many school officials and building owners have effectively and safely dealt with ACM in ways that are appropriate for the particular situation in their building.

In addition, EPA has published state-of-the-art guidance to help identify and control asbestos in buildings. EPA's principal asbestos guidance document, "Guidance for Controlling Asbestos-Containing Materials in Buildings," (EPA 560/5-85-024, also known as the "Purple Book") was expanded and updated in June 1985, based on recommendations from recognized national experts. The document provides criteria for building owners to use in deciding which abatement method is most appropriate for each particular situation.

An important EPA goal has been to provide training for people involved in all aspects of the identification and control of asbestos. EPA has established five Asbestos Information and Training Centers to provide information concerning the identification and abatement of asbestos hazards and to train people in proper asbestos abatement techniques. The five centers are located at the Georgia Institute of Technology in Atlanta, the University of Kansas in Kansas City, Tufts University in Medford, Massachusetts, the University of Illinois in Chicago, and the University of California at Berkeley. Courses attended by more than 8,000 building owners and managers, maintenance personnel, school officials, architects, consultants, and abatement contractors have been taught at the centers since December 1984.

Finally, because of the large number of asbestos abatement projects and the short-term nature of many of them, EPA believes that contractors should be State-certified and that States should oversee projects to ensure that they are properly performed. EPA has provided models for State certification legislation and start-up funding for the initiation of 38 State oversight programs.

2. *EPA's regulatory program.* In the **Federal Register** of May 27, 1982 (47 FR 23360), EPA issued a school identification and notification rule (hereinafter called the 1982 Asbestos-in-Schools Rule). This rule required school officials by June 28, 1983, to inspect all school buildings for friable materials, take a minimum of three samples of each type of friable material found, analyze samples using polarized light microscopy (PLM) to determine if asbestos is present, and keep records of the findings. (40 CFR Part 763, Subpart F)

School district officials who found friable ACM were required to notify employees of the location of the materials, post a notification form in the primary administrative and custodial offices and faculty common rooms, provide maintenance and custodial employees with a guide for reducing asbestos exposure, and notify parent-teacher associations or parents directly of the inspection results.

EPA also issued a rule to protect public employees who perform asbestos abatement work in those States not covered by the current asbestos standard issued by the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor. This rule (40 CFR Part 763, Subpart G) complements the OSHA asbestos regulations that protect private sector workers, and public employees in States with OSHA-approved State plans, from exposure to asbestos in occupational settings. The rule requires specific work practices, personal protective equipment, environmental monitoring, medical exams, and other provisions. The EPA rule also includes a provision not in the OSHA rule, i.e., notification to EPA generally 10 days before an asbestos abatement project is begun when public employees are doing the work. OSHA issued revised regulations regarding occupational asbestos exposure published in the **Federal Register** of June 20, 1986 (51 FR 22612). EPA issued in the **Federal Register** of February 25, 1987 (52 FR 5618), a revision of its worker protection rule to make it consistent with the new OSHA regulations.

3. *Recent developments.* EPA issued an Advance Notice of Proposed Rulemaking (ANPR) on August 12, 1986 (51 FR 28914), entitled "Asbestos-Containing Materials in Schools: Inspection, Notification, Management Plans and Technical Assistance." The purpose of this ANPR was to solicit comments on the future direction of EPA's program to reduce risks from asbestos in schools and to solicit information about a variety of technical and policy issues.

Prior to enactment of TSCA Title II, EPA had also initiated development of two new guidance documents on asbestos control. One document was being developed to provide more detailed guidance about assessing ACM in buildings and selecting abatement actions. A second document was being developed to provide more detailed guidance about practices and procedures which should be included in an operations and maintenance program. Both documents had been developed with the assistance of panels of national experts who convened in Washington, DC to discuss technical and operational issues associated with these subjects. The work done in these two guidance documents has been valuable in developing provisions of this rule.

Also, in 1986, EPA, in cooperation with the National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health and Human Services, published "A Guide to Respiratory Protection for the Asbestos Abatement Industry" to provide practical guidance in the selection and use of respiratory protection to persons who work in asbestos abatement. The "Guide" also provides information relevant to other work activities, such as maintenance or repair, where the exposure to asbestos or the potential for exposure exists. The "Guide" was updated in September 1986 to include the text of the OSHA June 1986 revision of its asbestos standard.

C. Development of the Rule

The April 1987 proposed rule was developed through the process of regulatory negotiation, an alternative process for developing regulations in which individuals and groups with negotiable interests directly affected by the rulemaking work together with EPA in a cooperative venture to develop a proposed rule by committee agreement. The negotiation group was established as a Federal Advisory Committee and consisted of representatives of national educational organizations, labor unions, asbestos product manufacturers, the environmental community, asbestos abatement contractors, professional associations of architects, consulting engineers, industrial hygienists, States, and EPA.

After an organizational meeting in Washington, DC on January 23, 1987 (announced in the **Federal Register** of January 13, 1987, 52 FR 1377), the committee was established with 23 interests represented. Meetings were scheduled on February 5 and 6, February 17 and 18, March 9 and 10, March 26 and 27, and April 1 thru 3. During the March 10, 1987, meeting, the plenary session of the Committee accepted two more parties on the committee, one taking a seat representing State attorneys general, the other (representing big city schools) sharing a seat with a previously seated member representing big city schools.

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Members of Negotiating Committee

The members of the negotiating committee and their interest represented are as follows:

1. Allen Abend, Council of Chief State School Officers.
2. Bill Borwegen, Service Employees International Union/Jordan Barab, American Federation ot State, County, and Municipal Employees (school service employees).
3. Dr. William Brown, Baltimore City Schools/Michael Young, New York City Law Department (big city schools).
4. Brian Christopher, Committee on Occupational Safety and Health.
5. Donald Elisburg, Laborers' International Union and Laborers-AGC Education and Training Fund.
6. Kellen Flannery, Council for American Private Education.
7. Steve Hays, asbestos abatement engineer.
8. Jesse Hill, manufacturers of asbestos pipe and block insulation products.
9. Edward Kealy, National School Boards Association.
10. Lloyd A. Kelley, Jr., Superintendent of Schools Rutland S.W. Vermont, Supervisory Union (rural schools).
11. William Lewis, Manufacturers of asbestos surfacing products.
12. Lynn MacDonald, Sheet Metal Workers International Association.
13. Claudia Mansfield, American Association of School Administrators.
14. Roger Morse, American Institute of Architects.
15. David Ouimette, Colorado Department of Health (States with developing asbestos programs).
16. Joel Packer, National Education Association.
17. Robert Percival, Environmental Defense Fund.
18. Miriam Rosenberg, National PTA.
19. Paul Schur, Connecticut Department of Health/Dr. Donald Anderson, Illinois Department of Public Health (States with implemented asbestos programs).
20. Robert Sheriff, American Industrial Hygienists Association.
21. David Spinazzolo, Association of Wall and Ceiling Industries (asbestos abatement contractors).
22. Susan Vogt, U.S. E.P.A.
23. John Welch, Safe Buildings Alliance (former manufacturers of asbestos products).
24. Margaret Zaleski, National Association of State Attorneys General.

Facilitation Team and Executive Secretary

Owen Olpin, Consultant to EPA
Eileen B. Hoffman, Federal Mediation & Conciliation Services
Kathy Tyson, U.S. E.P.A. (Executive Secretary)
Leah Haygood, The Conservation Foundation
Dan Dozier, Federal Mediation & Conciliation Services
John Wagner, Federal Mediation & Conciliation Services

The committee met in plenary sessions as well as in four work groups. Each work group focused on a cluster of related issues and reported to the plenary on options and recommendations. The plenary retained all decision-making power of the committee and often gave guidance to work groups. Generally, for each day of a plenary session, work groups convened the day before to prepare reports for the plenary. Neutral facilitators were present at all work group and plenary meetings to assist the negotiations in moving forward.

At the end of the 2-month negotiating process on April 3, 1987, and after extensive efforts, the committee was in general agreement on the vast majority of issues before it for the purposes of the proposal. Agreement to solicit further comment about alternatives was often important in developing provisions to be included as proposals. At the close of the negotiations, some items remained at issue and were not subject to universal agreement. These consisted of the following: definitions and response actions for damaged and significantly damaged thermal system insulation ACM (relates to being deemed nonfriable in the inspection section) and damaged and significantly damaged friable surfacing and miscellaneous ACM. Also, the definition of asbestos debris and the nature of cleaning practices (initial and routine) for friable ACBM or damaged or significantly damaged thermal insulation under the operations and maintenance section were still at issue. While extending negotiations beyond April 3, 1987, may well have enabled the committee to resolve these issues, the Congressional April 20, 1987, deadline for issuing a proposed rule precluded this possibility. Although **Federal Register** practices precluded the Agency from highlighting these issues in the text of the proposed rule, the public docket contains a copy of the proposed rule which clearly identifies the sections which contain these unresolved issues.

On April 3, 1987, the facilitators prepared, for members' signatures, statements supporting the use of the agreed-on portions of the regulatory language as a basis for a Notice of Proposed Rulemaking. Members representing 20 of the 24 interests seated on the committee signed these statements. Members representing 4 of the interests seated on the committee did not sign the statements, due to the status of the unresolved issues described above. Mr. Paul Schur, a corepresentative of states with an implemented asbestos program (an interest that did not sign), signed in an individual capacity. All committee members, signatories and non-signatories alike, retained for themselves and for their constituencies all rights which bear on the rulemaking, including the right to comment fully during the public comment period.

Notably, signatories supporting the agreed-on regulatory language as a basis for a Notice of Proposed Rulemaking did so in considering that language as a whole. The proposed rule's agreed-on language was not necessarily ideal from any one party's perspective.

On April 17, 1987, the EPA Administrator signed the proposed rule developed through the negotiated rulemaking process. The proposed rule and the final Model Accreditation Plan were published in the **Federal Register** of April 30, 1987. EPA's decision to use the results of the negotiated rulemaking process as a basis for a proposed rule was explained in the April 30 document (52 FR 15833).

The 60-day public comment period ended on June 29. During this time period, EPA staff conducted 10 Regional briefings on the proposed rule for State officials and a number of additional briefings for interested parties. These parties included school administrators, school board officials and building owners. At the conclusion of the public comment period, the Agency had received over 170 comments on the proposed rule.

Several comments received by EPA requested the Agency to hold a public hearing on the proposed rule. As a result of these comments, EPA conducted public hearings on August 25 and 26. Over 25 individuals representing a variety of groups testified before EPA. The testimony and transcript from the public hearing were included in the rulemaking's docket.

D. Basis for EPA's Decision

After consideration of the proposed rule and all the evidence in the rulemaking record, including public comments on the proposed rule, EPA has decided to promulgate a final rule which is like the proposal in most respects. A relatively small number of changes have been made from the proposal to reflect public comments. In a number of cases EPA decided not to make changes suggested by public comments. The Agency discusses its response either in this preamble or elsewhere in the rulemaking docket.

EPA has determined that the regulations being announced in this edition of the **Federal Register** use the least burdensome methods which protect human health and the environment. This determination is supported by the discussion in this preamble and the entire rulemaking record. EPA adopts as the reasoning supporting its final rule the same basic reasoning in the preamble to the proposed rule (52 FR 15833). The provisions of this rule represent a reasonable way to carry out the statutory responsibilities of TSCA Title II.

EPA's analysis of risk placed in the rulemaking record when the proposed rule was issued shows that asbestos in schools could present a risk of concern and that the measures required by this rule are necessary to protect public health and the environment. EPA, as discussed later in this preamble, continues to rely on that risk analysis for support of the final rule. While there may be a wide divergence of opinion as to the actual health effects from asbestos exposure in schools, EPA believes there is little doubt that the decisionmaking process established by this rule needs to be implemented. This process is based on the responsibility of local officials, with input from the local community and with assistance from specially-trained experts, to develop management plans to implement appropriate measures that will abate the risk of asbestos in particular schools depending upon local circumstances.

This decisionmaking process ensures that the costs associated with this rule will be reasonable while protecting health and the environment. EPA has revised its costs somewhat from the analysis in its proposal, but has not changed its decision that these costs are reasonable. The detailed revisions to the Agency's costs analysis are discussed later in this preamble and in the rulemaking record. All public and private schools will experience the cost of a building walkthrough and visual inspecting, which EPA has determined will not exceed a few hundred dollars per school. Many schools, finding no asbestos, will experience no further costs. Most of the remaining schools that find ACM are expected to implement operations and maintenance programs along with training, periodic surveillance and reinspection. EPA has in fact revised downward the cost of the typical school asbestos program. It is expected that this cost will be about $5,530 per school year, a cost that is clearly minimal if there is a possibility that adverse health effects may be avoided. EPA also notes that some portion of the cost of the typical school program will not involve expenditures by the schools but are so-called "opportunity costs." These are costs assigned to the time spent by school employees in carrying out the activities required by the regulation. While these are real costs of the program, EPA expects that many schools will be able to conduct the typical school program through use of existing employees. Thus, the costs of the program will appear to the individual school officials and local communities to be somewhat less than EPA's economic analysis shows.

The decisionmaking process, summarized above and discussed in detail elsewhere in the preamble and rulemaking record, will ensure the reasonableness of other more extensive response actions for particular schools.

II. Provisions of the Final Rule

A. Introduction

This unit describes the various provisions of the final rule. The changes to the proposed rule made by the Agency based on comments received during the comment period are noted. Following a discussion of applicable regulatory definitions in Unit B and general responsibilities in Unit C., inspections and reinspections, sampling and analysis, and assessment of materials are discussed in Units D., E., and F., respectively. In Unit G., the major elements of the management plan, availability of the plan, and review of the plan by Governors are discussed.

Unit H. describes requirements for response actions to be taken by LEAs under circumstances described in that section. Unit I. explains requirements for training and periodic surveillance, and Unit J. explains air sampling requirements for determining when a response action has been completed.

Unit K. discusses requirements to use accredited persons to inspect buildings for asbestos, develop management plans, and design or conduct response actions. Requirements to protect abatement workers, custodial and maintenance staff, and building occupants are explained in Unit L.

Waivers for all or part of a State asbestos program are described in Unit M., including information required in the waiver request and the process for granting or denying such waivers. Requirements for recordkeeping and enforcement provisions are described in Units N. and O., respectively.

B. Definitions

Several important definitions (§ 763.83) are discussed below.

"Asbestos-containing building material (ACBM)" encompasses surfacing ACM, thermal system insulation ACM, and miscellaneous ACM in or on interior parts of the school building. These include specified exterior portions of school buildings that, for the purposes of this rule, may fairly be considered interior parts. EPA focused upon interior building materials because, in the Agency's experience, such materials represent a very large percentage of ACM in schools and appear to pose the greatest hazards to occupants.

The definition of "school building," in the rule however, makes it clear that exterior hallways connecting buildings, porticos, and mechanical system insulation are considered to be in a building and are subject to jurisdiction under TSCA Title II. The Agency believes that these exterior areas, by virtue of the accessibility of the ACM found there, warrant inclusion under the rule. Often, these exterior areas are connected to interior areas and could be considered to be a single homogeneous area in terms of a removal project design.

"Asbestos debris" is defined as pieces of ACBM that can be identified by color, texture, or composition. The definition also includes dust, if the dust is determined by the accredited inspector to be asbestos-containing. The Agency included dust in the definition based on public comments.

"Damaged or significantly damaged thermal system insulation ACM" is defined as ACM on pipes, boilers, and other similar components and equipment where the insulation has lost its structural integrity or its covering in whole or in part, is crushed, water-stained, gouged, punctured, missing or not intact such that it is not able to contain fibers. Damage may further be illustrated by occasional punctures, gouges, or other signs of physical injury to ACM; occasional water damage on the protective coverings/jackets; or exposed ACM ends or joints. Asbestos debris originating from adjacent ACBM may also indicate damage. This definition allows that, even though the insulation is marred, scratched or otherwise marked, it may not be, in the judgment of the accredited expert, damaged so as to release fibers. This definition varies from the proposed rule's language by providing more specific guidance on the physical characteristics that may constitute

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damage. An accredited inspector shall classify this material based upon a determination of damage or significant damage (§§ 763.85 and 763.88) and an accredited management planner shall recommend in writing appropriate response actions (§ 763.93).

"Damaged friable surfacing ACM" is defined as ACM which has deteriorated or sustained physical injury such that the cohesion of the material or its adhesion to the substrate is inadequate, or which, for any other reason, lacks fiber cohesion or adhesion qualities. Such damage or deterioration may be illustrated by the separation of ACM into layers; separating of ACM from the substrate; flaking, blistering, or crumbling of the ACM surface; water damage; or significant or repeated water stains, scrapes, gouges, mars, or other signs of physical injury on the ACM. Asbestos debris originating from adjacent ACBM may also indicate damage. The definition allows that such surfacing material may show signs of water damage or physical injury without, in the judgment of the accredited expert, always demonstrating a lack of fiber cohesion or adhesion. This definition varies from the proposed rule's language by providing more specific guidance on the physical characteristics that may constitute damage. Accredited experts will classify material based upon a determination of damage and recommend appropriate response actions (§§ 763.85, 763.88, and 763.93).

"Miscellaneous ACM" includes a wide variety of materials in buildings, such as vinyl flooring, fire-resistant gaskets and seals, and asbestos cement. Damage to these materials is defined by the same cohesion and adhesion (if appropriate) properties as surfacing materials. The Agency believes this definition is sufficiently general to provide a reasonable approach to assessing damage to so wide a range of materials.

"Significantly damaged friable surfacing ACM" is defined as material in a functional space where the damage is extensive and severe. (The definition of significantly damaged friable miscellaneous ACM closely parallels the definition for significantly damaged surfacing ACM.) Again, this determination of significant damage will be made by accredited experts (§§ 763.85, 763.88, and 763.93).

This definition is a function of two major factors. The first factor deals with extent, or scope, of damage across a functional space. The Agency, in draft guidance, suggested that damage evenly distributed across one-tenth of a functional space or localized over one-quarter represented significant damage (See Seventh Draft Report, "Guidance for Assessing and Managing Exposure to Asbestos in Buildings," November 7, 1986, p. 9). This represents a level of damage which a panel of experts, convened by the Agency, believed was generally, although perhaps not always, unreasonable to repair or restore.

The second factor involves the degree or severity of the damage itself. A major delamination of asbestos material, for instance, constitutes damage which is more severe than slight marks or mars. ACM, in the accredited expert's judgment, may be so severely damaged that there is no feasible means of restoring it to an undamaged condition.

Material has potential for significant damage as opposed to only potential for damage if it is subject to major or continuing disturbance, due to factors such as accessibility (i.e., subject to disturbance by school building occupants or workers in the course of the normal activities), or, under certain circumstances, vibration or air erosion. For example, material within reach of students above an entrance is clearly accessible. Thermal system insulation running along the base of a wall in a boiler room is also accessible. Material on the ceiling of a school auditorium, beyond the reach of students, is not. ACM on a high school gymnasium ceiling, which might be reached with basketballs or other objects, is subject to either classification, although an LEA might be well advised in this instance to implement a preventive measure to avoid disturbance.

EPA believes a wide range of "preventive measures" exist. One example is the installation of a stop to prevent a door from striking (and damaging) thermal system insulation ACM behind it. Another might involve restricting access of a corridor with surfacing ACM on a low ceiling, where students continually marred and vandalized the material. The problem of high school students hitting the gym ceiling with basketballs may be eliminated by a policy prohibiting such activities, if it can be effectively implemented. LEAs, in consultation with maintenance staff and, if desired, accredited experts, will identify a variety of creative and effective means of eliminating potential damage or significant damage to ACM.

If, however, such preventive measures cannot be effectively implemented, other response actions, including removal, will be required. The Act is clear that EPA, as part of its rulemaking, direct LEAs to mitigate those circumstances which involve potential for significant damage.

Based on public comments, the Agency added the terms "air erosion" and "vibration" to increase the specificity of the "potential significant damage" definition in the rule.

The "enclosure" definition requiring an airtight, impermeable, permanent barrier around ACBM to prevent the release of asbestos fibers into the air does not contemplate a vacuum-sealed area which is impossible to access. Instead, this definition, based on the National Institute of Building Sciences' (NIBS') "Model Guide Specifications, Asbestos Abatement in Buildings," July 18, 1986, is associated with precise engineering specifications, found in section 09251 and elsewhere in the NIBS' Model Guide, to construct enclosures sufficient to prevent fiber release. Also, this term, from the standpoint of permanence, is not intended to apply to mini-enclosures described in the EPA worker protection rule or Appendix B of the regulation, as these enclosures are used temporarily for repair or abatement activities.

"Functional space" is a term of art used by the accredited expert to appropriately characterize an area as containing "significantly damaged friable surfacing ACM" or "significantly damaged friable miscellaneous ACM." The "functional space" may be a room, group of rooms, or a homogeneous area, as determined appropriate by the accredited expert. Note that the functional space includes the area above a dropped ceiling as well as crawl spaces.

C. LEA General Responsibilities

The final rule requires LEAs to designate a person to carry out certain duties and ensure that such person receives training adequate to perform the duties.

Section 763.84 requires LEAs to ensure that: (1) Inspections, reinspections, periodic surveillance and response action activities are carried out in accordance with the final rule; (2) custodial and maintenance employees are properly trained as required by this final rule; (3) workers and building occupants are informed annually about inspections, response actions, and post-response action activities including reinspections and periodic surveillance; (4) short-term workers (e.g., telephone repair workers) who may come in contact with asbestos in a school are provided information about locations of asbestos-containing building material (ACBM); (5) warning labels are posted as required by this final rule; and (6) management plans are available for review and that parent, teacher, and

employee organizations are notified of the availability of the plan.

Lastly, LEAs shall consider whether any conflict of interest may arise from the interrelationship among accredited personnel (e.g., the management planner and abatement contractor) used by the LEAs and whether that should influence the LEA's selection of accredited personnel. EPA added this provision after reviewing public comments.

D. Inspections and Reinspections

1. *Inspections.* Section 763.85 requires LEAs to have an accredited inspector visually inspect all areas of each school building to identify locations of all friable and nonfriable suspected ACBM, determine friability by touching, and either sample the suspected ACBM or assume that suspected materials contain asbestos. The inspector must then develop an inventory of areas where samples are taken or material is assumed to contain asbestos. Finally, the accredited inspector is required to assess the physical condition of friable known or assumed ACBM as required under § 763.88.

2. *Exclusions.* Section 763.99 defines conditions that would exclude an LEA from all or part of the initial inspection. The accredited inspector is a key element in the exclusion process. For all inspection exclusions, areas previously identified as having friable ACM or nonfriable ACM that has become friable have to be assessed as required under § 763.88. All information regarding inspection exclusions shall be placed in the management plan.

Five types of exclusions for LEAs are provided in the final rule. First, LEAs do not need to have an initial inspection conducted in specific areas of a school where ACBM has already been identified. Second, if previous sampling of a specific area of the school indicated that no ACM was present, and the sampling was done in substantial compliance with the final rule, the LEA does not have to perform an initial inspection of that area. Third, LEAs do not have to inspect specific areas of schools where records indicate that all ACM was removed. Fourth, LEAs can receive an inspection exclusion for schools built after October 12, 1988 (the date when management plans are to be submitted to Governors), if no ACBM was specified for use in the school. Fifth, States that receive a waiver from the inspection requirements of the rule can grant exclusions to schools that had performed inspections in substantial compliance with the rule.

3. *Reinspections.* Section 763.85(b) requires LEAs to have accredited inspectors conduct reinspections at least once every 3 years. The inspector must reinspect all known or assumed ACBM and shall determine by touching whether nonfriable material has become friable since the last inspection. The inspector may sample any newly friable materials or continue to assume the material to be ACM. The inspector shall record changes in the material's conditions, sample locations, and the inspection date for inclusion in the management plan. In addition, the inspector must assess newly friable known or assumed ACBM, reassess the condition of friable known or assumed ACBM, and include assessment and reassessment information in the management plan.

Section 763.85(c) states that thermal system insulation that has retained its structural integrity and that has an undamaged protective jacket or wrap is treated as nonfriable. Based on public comments, EPA changed the wording in this section from "deemed" nonfriable to "treated as" nonfriable.

E. Sampling and Analysis

1. *Sampling.* Section 763.86 permits the LEA to assume that suspected ACBM is ACM. If the LEA does not assume suspected ACBM to be ACM, the LEA shall use an accredited inspector to collect bulk samples for analysis.

EPA expects that a school is likely to sample only friable suspected ACBM. For nonfriable suspected ACBM, EPA anticipates most schools will assume this material contains asbestos. However, the final rule does not preclude a school from sampling all of its suspected ACBM, both friable and nonfriable. Sampling of friable surfacing materials should follow the guidance provided in the EPA publication "Simplified Sampling Scheme for Friable Surfacing Materials" (EPA 560/5–85–030a). To determine whether an area of surfacing material contains asbestos, sufficient samples shall be taken in a statistically random manner to provide data representative of each homogeneous area being sampled.

In most cases, sampling of thermal system insulation requires an accredited inspector to take at least three randomly distributed samples per homogeneous area. The final rule includes three exceptions to this requirement for sampling of thermal system insulation. First, an accredited inspector can determine through visual inspection that the material is non-ACM (e.g., fiberglass). Second, only one sample is required for patched homogeneous areas of thermal system insulation. Third, an accredited inspector needs to collect an appropriate number of samples to determine whether cement or plaster tees are ACM.

For friable miscellaneous material or nonfriable suspected ACBM, an accredited inspector must collect bulk samples in an appropriate manner.

2. *Analysis.* Section 763.87 requires analysis of bulk samples by laboratories accredited by NBS. In the period before NBS has developed its accreditation program, laboratories which have received interim accreditation from EPA may be used to analyze samples. The interim program is explained in a notice in the Federal Register (52 FR 33470, September 3, 1987). After receiving the sample results, the LEA must consider an area to contain asbestos if asbestos is present in any sample in a concentration greater than 1 percent. Compositing of samples (mixing several samples together) is prohibited.

The 1982 EPA rule "Asbestos in Schools: Identification and Notification", 40 CFR 763, Subpart F, required analysis of bulk asbestos samples by PLM and provides a protocol for analysis in its Appendix A to Subpart F. EPA requires use of the same PLM method for this final rule. As it develops the accreditation process for laboratories performing analysis of bulk samples, NBS will consider whether to change the PLM protocol. If NBS recommends changes, EPA will amend this rule accordingly.

F. Assessment

Section 763.88 outlines a general assessment procedure to be conducted by an accredited inspector during each inspection or reinspection. The accredited inspector is required to classify ACBM and suspected ACBM assumed to be ACM in the school building into broad categories appropriate for response actions. In addition, after reviewing public comments, the Agency decided to require the inspector to give reasons in the written assessment supporting his classification decisions. Assessment may include a variety of considerations, including the location and amount of material, its condition, accessibility, potential for disturbance, known or suspected causes of damage, or preventive measures which might eliminate the reasonable likelihood of damage. The LEA is directed to select an accredited management plan developer who, after a review of the results of the inspection and the assessment, shall recommend in writing appropriate response actions.

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G. Management Plans

Section 763.93 requires LEAs to develop an asbestos management plan for each school under its administrative control or direction. The plan must be developed by an accredited asbestos management planner. Some of the major components required in the plan include: A description of inspections and response actions; an assurance that accredited persons were used to conduct inspections, develop management plans, and design or conduct response actions; and a plan for reinspection, periodic surveillance, and operations and maintenance.

Each LEA is required to maintain a copy of the management plan in its administrative office, and each school is required to maintain a copy of the school's management plan in the school's administrative office. These plans are to be made available for inspection by the public without cost or restriction. LEAs must notify in writing, parent, teacher, and employee organizations of the availability of management plans upon submission of the plan to the State and at least once each school year. The requirement for written notification was added after the Agency reviewed comments from the public. In addition, based on public comments received on the proposed rule, the Agency has included in the final rule a requirement that in the absence of any such organizations, the LEA shall provide written notice to that group (e.g., parents) of the availability of the management plan.

Section 763.93 requires LEAs to submit their management plans to their States on or before October 12, 1988. Each LEA must begin implementation of its management plan on or before July 9, 1989, and complete implementation of the plan in a timely fashion.

H. Response Actions

The final rule identifies five major response actions—in § 763.91 operations and maintenance (O&M) and in § 763.90, repair, encapsulation, enclosure and removal—and describes appropriate conditions under which they may be selected by the LEA. The final rule also identifies the steps which shall be taken to properly conduct and complete the response actions.

The LEA is required to select and implement in a timely manner the appropriate response action. The response action selected shall be sufficient to protect human health and the environment. From among the response actions that protect human health and the environment the LEA may select the response action that is least burdensome.

LEAs are required to use accredited persons to design or conduct response actions. Section 763.90 specifically provides that nothing in the rule shall be construed to prohibit the removal of ACBM from a school building at any time, should removal be the preferred response action of the LEA.

Different response actions are required for each of the five major categories of damaged or potentially damaged ACBM. These categories are:

1. Damaged or significantly damaged thermal system insulation ACM.
2. Damaged friable surfacing or miscellaneous ACM.
3. Significantly damaged friable surfacing or miscellaneous ACM.
4. Friable surfacing or miscellaneous ACM, and thermal system insulation ACM which has potential for significant damage; and
5. Friable surfacing or miscellaneous ACM, thermal system insulation ACM which has potential for damage.

In each of the categories above, procedures for appropriately controlling or abating the hazards posed by the ACBM are set forth. For damaged or significantly damaged thermal system insulation, the LEA must at least repair the damaged area. If it is not feasible, due to technological factors, to repair the damaged material, it must be removed. Further, the LEA must maintain all thermal system insulation in an intact state and undamaged condition. If damaged friable surfacing or miscellaneous ACM is present, the LEA shall encapsulate, enclose, remove, or repair the damaged area. After selecting the appropriate response actions that protect human health and the environment, the LEA may consider local circumstances, including occupancy and use patterns within the school building, and economic concerns, such as short- and long-term costs. When friable surfacing or miscellaneous ACBM is significantly damaged, the LEA must immediately isolate the functional space and then must remove the material in the functional space, unless enclosure or encapsulation would be sufficient to contain fibers.

Response actions for ACBM with potential for damage and potential for significant damage emphasize O&M and preventive measures to eliminate the reasonable likelihood that damage will occur. When potential damage is possible, the LEA must at least implement an O&M program. If there is potential for significant damage and preventive measures cannot be effectively implemented, response actions other than O&M or area isolation may be required.

Section 763.91 requires the LEA to implement an operations, maintenance and repair (O&M) program for any school building in which friable ACBM is present or assumed to be present in the building. Any material identified as nonfriable ACBM or nonfriable assumed ACBM which is rendered or is about to be rendered friable as a result of activities performed in the school building shall be treated as friable. For example, if nonfriable ACBM wallboard was about to be sanded, operations and maintenance procedures would be required. The O&M program, which must be documented in the LEA management plan, consists of worker protection (summarized in Unit II.K.), cleaning, operations and maintenance activities (also in Unit II.K.), and fiber release episodes.

An initial cleaning is required, which employs wet methods and is conducted at least once after completion of the inspection and before the initiation of a response action other than an O&M activity. In addition, the rule also requires that an accredited management planner make a written recommendation to the LEA regarding whether additional cleaning is needed. The recommendation on additional cleaning was added to the rule based on public comments.

The final rule requires that O&M activities (other than small-scale, short-duration activities) which disturb asbestos shall be designed and conducted by persons accredited to do such work. (A discussion of what constitutes small-scale, short-duration projects is given in Appendix B to Subpart E.) Finally, procedures are provided for responding to fiber release episodes—the uncontrolled or unintentional disturbance of ACBM. For minor episodes (i.e., those involving 3 square or linear feet or less of ACBM), basic cleaning and containment practices for O&M staff are listed. For larger amounts, accredited personnel are required to respond.

I. Training and Periodic Surveillance

The LEA shall ensure that all members of its maintenance and custodial staff receive at least 2 hours of awareness training. The LEA must also ensure that staff who conduct any activities which will disturb ACBM receive an additional 14 hours of training. Specific topics to be covered in the 2-hour and 14-hour training courses are listed in § 763.92(a).

Section 763.92(b) requires periodic surveillance to be performed at least once every 6 months. The LEA may use unaccredited personnel such as custodians or maintenance workers to conduct surveillance activities. Periodic surveillance requires checking known or assumed ACBM to determine if the ACBM's physical condition has changed since the last inspection or surveillance. The date of the surveillance and any changes in the condition of the ACBM must be added to the management plan.

J. Completion of Response Actions

After performing a thorough visual inspection, air testing is used to determine if a response action has been completed (§ 763.90(i)). Clearance air monitoring will not be required for small-scale, short-duration projects. Phase Contrast Microscopy (PCM) is allowed for response actions involving 260 linear or 160 square feet or less, the amounts used to trigger removal requirements under EPA's NESHAP (40 CFR Part 61, Subpart M).

Section 763.90 requires the use of transmission electron microscopy (TEM) for most removal, enclosure, and encapsulation response actions. Laboratories are to be accredited by the National Bureau of Standards (NBS). Until NBS develops its program, LEAs shall use laboratories that use the interim protocol described in Appendix A to this Subpart E. EPA continues to believe that TEM is the method of choice for air sample analysis because, unlike PCM, TEM analysis can distinguish asbestos from other fibers and detect the small thin fibers found at abatement sites. Therefore the use of TEM will significantly improve the adequacy of cleanup and is recommended over PCM when available. However, due to limited availability of microscopes for air sample analysis and the cost and time associated with TEM analysis, the final rule allows a phase-in period for the TEM requirement. For 2 years after the rule becomes effective, LEAs may choose to use PCM for response actions comprising 3,000 square or 1,000 linear feet or less. For 1 year after this, LEAs may use PCM for clearance of projects of 1,500 square or 500 linear feet or less. LEAs retain full discretion to require use of TEM at any time for any project.

The criterion for determining whether a response action is complete when using PCM will require multiple samples (minimum of five) with clearance allowed only if all of the individual samples are below the limit of reliable quantitation of the PCM method (0.01 fibers/cm³). The rule requires persons to use the NIOSH 7400 method for PCM clearance.

The rule has a three-step process for using TEM to determine successful completion of a removal response action. The first step is a careful visual inspection, as mentioned above. The two steps that follow involve a sequential evaluation of the five samples taken inside the worksite and five samples taken outside the worksite. Both sets of samples must be taken at the same time to ensure that atmospheric conditions are the same and that the comparisons are valid. The inside samples are analyzed first. If the average concentration of the inside samples does not exceed the filter background contamination level (discussed in detail in Appendix A to Subpart E), then the removal is considered complete.

Step three is taken if the average concentration of the samples taken inside the worksite are greater than the filter background contamination level. In this case, an encapsulation, enclosure, or removal response action is considered complete when the average of five samples taken inside the worksite is not significantly larger than the average of five samples taken outside the worksite. A statistical comparison using the Z-Test must be used to determine whether the two averages are significantly different. (A discussion on how to compare measured levels of airborne asbestos with the Z-Test is given in Appendix A to Subpart E.) If the concentrations are not significantly different, then the response action is considered complete. If the inside average concentration is significantly higher, recleaning is required and new air samples must be collected and evaluated after the worksite has been cleaned and reinspected.

K. Use of Accredited Persons

Section 206 of Title II of TSCA requires accreditation of persons who:

1. Inspect for ACM in school buildings.
2. Prepare management plans for such schools.
3. Design or conduct response actions with respect to friable ACM in such schools (other than O&M activities).

Section 206 of Title II of TSCA required EPA to develop a Model Contractor Accreditation Plan by April 20, 1987. The Agency met this deadline and the model plan was published in the Federal Register of April 30, 1987 (52 FR 15875). The plan appears as Appendix C to Subpart E. A notice listing EPA approved courses appears elsewhere in this issue of the Federal Register.

Persons can receive accreditation from a State that has instituted an accreditation program at least as stringent as the requirements of the Model Plan. In addition, persons in States that have not yet developed programs at least as stringent as the Model Plan can receive accreditation by passing an EPA-approved training course and exam that are consistent with the Model Plan. The Model Plan requires persons seeking accreditation to take an initial course, pass an examination, and participate in continuing education.

L. Worker and Occupant Protection

Worker protection requirements for removal, encapsulation and/or enclosure response actions are already in effect under the EPA worker protection rule (40 CFR Part 763, Subpart G); and the OSHA construction standard (29 CFR 1926.58). EPA's NESHAP standard, although designed to protect outdoor air, also provides incidental protection to workers.

Essentially, under § 763.91, the regulation extends coverage of EPA's worker protection rule at 40 CFR 763.121 to maintenance and custodial personnel in schools who perform O&M activities but are not covered by OSHA's construction standard or an asbestos regulation under an OSHA approved State plan. The EPA worker protection rule itself extended the same protections as the OSHA construction standard to asbestos abatement workers who are employees of State and local governments and who are not otherwise covered by OSHA regulation or OSHA approved State plans. This final rule further extends these standards to O&M workers who are LEA employees. These regulations basically establish a Permissible Exposure Limit (PEL) of 0.2 fibers per cubic centimeter (f/cm³) over an 8-hour period for abatement project workers exposed to airborne asbestos and an action level of 0.1 f/cm³ which triggers a variety of worker protection practices. These practices include air monitoring, regulated work areas, engineering and work practice controls, respiratory protection and protective clothing, hygiene facilities and practices, worker training, medical surveillance, and recordkeeping requirements.

As an alternative, however, OSHA's standard allows employers to institute the provisions of its Appendix G in the case of small-scale, short-duration projects rather than comply with the full worker protection standard. Appendix B to Subpart E is an adaptation of OSHA's Appendix G and, thus, allows more flexibility in dealing with minor (small-scale, short-duration) projects.

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None of the requirements of the OSHA standard or the EPA worker protection rule would apply if asbestos concentrations are below the action level (0.1 f/cm³). There are, however, fairly stringent requirements established by OSHA and adopted by EPA for purposes of this rule to show that levels are below this action level for any activity, including small-scale, short-duration projects. These requirements are discussed in the following paragraphs.

Employers who have a workplace or work operation covered by the EPA worker protection rule must perform initial monitoring to determine the airborne concentrations of asbestos to which employees may be exposed. If employers can demonstrate that employee exposures are below the action level (0.1 f/cm³) by means of objective data, then initial monitoring is not required. If initial monitoring indicates that employee exposures are below the PEL, then periodic monitoring is not required.

The exemption from monitoring in § 763.121(f)(2)(iii) of the worker protection rule for employers who have historical monitoring data is included in recognition of the fact that many employers have conducted or are currently conducting exposure monitoring. This exemption would prevent these employers from having to repeat monitoring activity for O&M activities that are substantially similar to previous jobs for which monitoring was conducted.

However, for purposes of this rule, EPA requires that such monitoring data must have been obtained from projects conducted by the employer that meet the following conditions:

1. The data upon which judgments are based are scientifically sound and collected using methods that are sufficiently accurate and precise.
2. The processes and work practices in use when the historical data were obtained are essentially the same as those to be used during the job for which initial monitoring will not be performed.
3. The characteristics of the ACM being handled when the historical data were obtained are the same as those on the job for which initial monitoring will not be performed.
4. Environmental conditions prevailing when the historical data were obtained are the same as for the job for which initial monitoring will not be performed.

When OSHA issued the final asbestos standard on June 20, 1986 (51 FR 22664), it published data from routine facility maintenance which "demonstrates a potential for exposure of maintenance personnel to concentrations exceeding 0.5 f/cm³ (fibers per cubic centimeter)." OSHA further stated:

> With the exception of wet handling, which is feasible in only very limited situations due to problems such as electrical wiring, and the use of HEPA vacuums for the clean-up of any debris generated during maintenance activities, OSHA believes that there do not appear to be any feasible engineering controls or work practices available to reduce these potential exposure to levels below the 0.2 f/cm³ PEL and that respirators will be required to comply with the 0.2 f/cm³ PEL.

LEAs are required, under the provisions of § 763.91 of this rule, to ascertain, through monitoring procedures or historic monitoring data, and to document that these levels have not been reached.

Under § 763.91, basic occupant protection requirements are established (regardless of air level) for any O&M activity in a school building which disturbs ACBM. Primarily, access must be restricted, signs posted, and air movement outside the area modified. Necessary work practices shall be implemented to contain fibers, the area shall be properly cleaned after the activity is completed, and asbestos debris must be disposed of in a proper manner.

Section 763.95 requires the LEA to attach warning labels immediately adjacent to any friable and nonfriable ACBM or suspected ACBM in routine maintenance areas, such as boiler rooms, until the material is removed. They shall read, in large size or bright colors, as follows: CAUTION: ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT.

M. Waiver for State Programs

Section 763.98 provides a procedure to implement the statutory provision that a State can receive a waiver from some or all of the requirements of the final rule if the State has established and is implementing or intends to implement a program of asbestos inspection and management at least as stringent as the requirements of the final rule. The rule requests specific information to be included in the waiver request submitted to EPA, establishes a process for reviewing waiver requests, and sets forth procedures for oversight and rescission of waivers granted to States.

The final rule requires States seeking waivers to submit requests to the Regional Administrator for the EPA Region in which the State is located. Within 30 days of receiving a waiver request, EPA must determine whether the request is complete. Within 30 days after determining that a request is complete, EPA will issue in the **Federal Register** a notice that announces receipt of the request and solicit written comments from the public. Comments must be submitted within 60 days. If, during the comment period, EPA receives a written objection to the State's request or a written request for a public hearing, EPA will schedule a public hearing (as is required by TSCA Title II) to be held in the affected State after the close of the comment period. EPA will issue a notice in the **Federal Register** announcing its decision to grant or deny, in whole or in part, a request for waiver within 30 days after the close of the comment period or within 30 days following a public hearing.

N. Recordkeeping

Section 763.94 requires that LEAs collect and retain various records which are not part of the information submitted to the Governor in the management plan. Records required by the rule include those pertaining to certain events which occur after the submission of the management plan, including: Response actions and preventive measures; fiber release episodes; periodic surveillance; and various operations and maintenance activities. Records required must be maintained in a centralized location in the administrative office of the school and the local education agency:

For each homogeneous area where all ACBM has been removed, the LEA shall retain such records for 3 years after the next reinspection.

O. Enforcement

TSCA Title II, section 207(a) provides civil penalties of up to $5,000 per day for violations of Title II of TSCA when an LEA fails to conduct inspections in a manner consistent with the final rule, knowingly submits false information to the Governor, or fails to develop a management plan in a manner consistent with the final rule, knowingly submits false information to the Governor, or fails to develop a management plan in a manner consistent with this rule. TSCA Title II, section 16 provides civil penalties of up to $25,000 per day for violations of Title I of TSCA when a person other than an LEA violates the final rule. Criminal penalties may be assessed if any violation committed by any person (including a LEA) is knowing or willful.

The rule provides a process for filing complaints by citizens and requires that such complaints be investigated and responded to within a reasonable period of time consistent with the nature of the violation alleged.

P. Transport and Disposal

Section 203(h) of TSCA Title II requires EPA to promulgate regulations which prescribe standards for transportation and disposal of asbestos-containing waste material. The final rule on transport and disposal was to be issued by October 17, 1987, as part of the final regulations under TSCA Title II. EPA had planned to use revised NESHAP regulations on disposal of asbestos waste to satisfy the requirements of section 203(h) of Title II. However, completion of the NESHAP revision has been delayed.

Accordingly, under section 204(a) of Title II, LEAs shall carry out the requirements described in section 204(f). Section 204(f) states that "the local education agency shall provide for the transportation and disposal of asbestos in accordance with the most recent version of the Environmental Protection Agency's "Asbestos Waste Management Guidance" (or any successor to such document)." Under TSCA Title I, section 15(1)(D), as amended by AHERA section 3, EPA may enforce the provisions of section 204(f). The chapters of the waste management guidance document which pertain to transport and disposal have been printed in this **Federal Register** notice as Appendix D to Subpart E.

EPA intends to issue the revised asbestos NESHAP as a proposed rule under section 203(h) of TSCA Title II to govern transport and disposal of asbestos waste from schools. Section 204(f) will be in effect until a final rule under section 203(h) is promulgated. Further, EPA also intends that the NESHAP waste disposal rules will ultimately regulate asbestos emissions from waste disposal when they are promulgated.

III. Response to Public Comments

This unit discusses EPA's responses to the most significant issues raised in the comments received from the public. A more comprehensive version of EPA's response to comments received has been placed in the public record.

Comments and responses are organized in this unit according to the relevant section of the regulation.

A. Scope and Purpose

Comments were received regarding three aspects of the Scope and Purpose section (§ 763.80). Comments from a group of technical practitioners, which included architects, engineers, and consultants involved in asbestos control, suggested that preschool nurseries, colleges, and universities should be included in the schools covered by the regulation. A second issue raised in the comments recommended that nonfriable materials not be subject to the inspection and management plan requirements of the regulation. Third, many commenters expressed concerns that the October 12, 1988, deadline for submitting management plans to States could not be met.

On all three of these issues, the statutory language of Title II is clear and the regulation reflects the statute. Title II only gives EPA authority to regulate "local education agencies." The definition of "local education agency" in section 202(7) refers only to public and private elementary and secondary schools. Section 203 of Title II requires inspection for "asbestos-containing materials" which includes both friable and nonfriable asbestos (see section 202). Management plan provisions of Title II also refer to "asbestos-containing material." Finally, section 205(a) of Title II specifies that "720 days after enactment" of this title (i.e., October 12, 1988) local education agencies must submit management plans to the Governors of their States. Based on the comments received, EPA is concerned about the ability of LEAs to complete and submit management plans by October 12, 1988. The deadline, however, is prescribed in the statute.

B. Definitions

1. *Asbestos containing building material.* In general, union groups and education groups urged the incorporation into the rule of all exterior ACM and other asbestos material such as asbestos gloves. Conversely, several school administration groups argued to limit the rule to interior areas only and not to include asbestos gloves and other such materials within the scope of the rule.

TSCA Title II was designed to provide school children and school employees with a safe environment while attending classes or working inside school buildings. The statute in several places specifically authorizes EPA to regulate asbestos "in" school buildings. Furthermore, an extension to all exterior areas would result in only small health benefits since most exterior ACM is enclosed in solid matrices such as cement, is nonfriable, and is not generally disturbed. Dealing with exterior materials would constitute an expensive undertaking for schools in terms of inspection and management plan development for such small health benefits. The Agency believes the proposed rule's coverage of all interior areas and a few specified exterior areas that function similar to interior areas protects the health of building occupants.

EPA also interprets TSCA Title II as not including nonbuilding asbestos products within the scope of the rule. The definition of friable ACM in the statute (section 202(6)) refers to ACM applied on ceilings, walls, structural members, piping, duct work, or any other part of a building. At no point does the statute cite as examples nonbuilding materials such as asbestos gloves. If certain schools such as vocational schools have other types of asbestos products in their buildings (e.g. automobile brake linings) they may want to voluntarily address these issues in a fashion similar to the AHERA requirements.

2. *Asbestos debris.* A number of commenters have sought to have dust included in the definition of asbestos debris. Some other commenters favor expanding the definition of asbestos debris to include dust in the immediate vicinity of friable ACM. Other commenters representing former asbestos manufacturers and schools argued that dust should not be included as part of the definitions of asbestos debris or as evidence of damage.

The Agency believes that an accredited expert be allowed to exercise judgment in determining whether asbestos fibers or dust constitute damage. EPA believes that accredited experts can determine whether dust has originated from adjacent ACBM. The Agency maintains, however, that not all dust in schools is ACM. An accredited person on-the-scene in a school building can make the determination of damage due to the presence of dust based on training and experience. As a result, EPA has included in the final rule's definitions of asbestos debris the flexibility for the accredited inspectors to determine dust to be asbestos containing.

3. *Significantly damaged friable surfacing and miscellaneous ACM.* Many commenters thought that significantly damaged asbestos should be defined to be damage that is either extensive "or" severe, rather than extensive "and" severe as in the proposal. These commenters included education groups and unions. They believe that either condition can pose a significant health threat.

The Agency disagrees with the comments. Significantly damaged friable surfacing and miscellaneous ACM must refer to the most severely damaged areas where the damage is also widespread. Damage that is widespread or only severe is of concern, but should not necessarily require a response

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action of the same magnitude as those situations where both are present.

4. *Operations and maintenance.* Many commenters recommended that O&M apply to all ACBM, not just friable ACBM. Some of these commenters were primarily concerned with the need for periodic surveillance of all ACBM, not just friable ACBM as suggested by the proposed rule's definition.

The Agency disagrees with the recommendation to extend O&M to nonfriable ACBM. Section 203(f) states that O&M is for friable ACBM. Periodic surveillance (see section 203(g) and training requirements (see generally section 206), however, apply to all ACM. The final rule makes clear these statutory distinctions. Section 763.91 dealing with O&M refers to friable asbestos and § 763.92 dealing with periodic surveillance and training apply to all ACM (including friable and nonfriable materials).

5. *Potential damage and potential significant damage.* Many groups commented on these definitions. A group representing former asbestos manufacturers argue that the best indicator of potential damage is evidence of past damage. Some union groups and State attorneys general commented that in addition to accessibility, potential significant damage ought to include air erosion and vibration as disturbance factors.

The Agency believes adding the terms air erosion and vibration increases the specificity of the rule and clarifies the original intent of the proposed regulation. As a result, the Agency accepts the comments regarding air erosion and vibration and has added definitions for each of these terms. EPA believes that whether past damage is the best indicator of potential damage is irrelevant to defining potential damage. As asbestos material ages, it may become more susceptible to damage. The Agency, accordingly, believes that all circumstances must be considered in assessing potential damage.

6. *Repair and enclosure.* A sizable number of commenters suggested that EPA change the wording of both of these definitions to require the preventing of fiber release. In the proposed rule, repair "contained" fiber release and enclosure "controlled" fiber release. In addition, another commenter suggested adding the requirements of inaccessibility and permanence for enclosed ACM. One commenter wanted to expand the enclosure definition to account for spray applied enclosures.

EPA agrees with the recommendation regarding fiber release. Preventing fiber release clarifies the intent of the repair definition. An enclosure is an airtight, impermeable, permanent barrier and as such must by definition prevent the release of fibers.

7. *Vibration and air erosion.* Several commenters suggested these terms be defined in the rule.

EPA agrees with the commenters and has added definitions for both terms.

C. LEA Responsibilities

Several issues in this section were commented upon by LEAs, education associations, school administrators and school board groups and state government officials.

Comments were received on the requirement in the proposed rule for the LEA to designate a person to ensure that the requirements of this section are properly implemented. Some commenters felt that this requirement was unnecessary while other commenters felt that the requirement of the proposed rule was sufficiently flexible to allow for differences in size and capabilities of LEAs. Some commenters favored appointment of an asbestos program manager with more stringent training or qualification requirements for that person. EPA has retained for the final rule the requirement for a designee to ensure proper implementation of LEA responsibilities. This approach provides the benefits of having a single overseer for the asbestos program without the added burden of more stringent training or qualification requirements.

Many parties commented on the requirement that LEAs ensure that short-term workers (telephone repair workers, administrators, etc.) who may come in contact with asbestos are "instructed in safe work practices" regarding ACM. Commenters felt that this placed an undue burden on LEAs and that the responsibility for this kind of instruction for short-term workers rests with their employer. EPA agrees with these comments and has eliminated this requirement while retaining the provision that LEAs ensure that short-term workers are provided information about the locations of ACBM.

The potential for conflicts of interest between accredited inspectors, management planners, and persons who design or conduct abatement actions also was discussed by a variety of commenters. Some commenters suggested that EPA should require the accredited persons to sign a conflict of interest statement certifying no party has a financial relationship with other parties involved in the inspection, development of the management plan, or performance of the response action. The Agency recommends that LEAs consider requesting a full financial disclosure from all potential accredited professions. It may be more efficient for LEAs to use the same firm to conduct the inspections and develop the management plans to promote continuity in the process. However, LEAs should be wary of employing one firm to develop both the management plan and conduct response actions, since the management planner's recommendations about response actions could be influenced by the potential profitability of the recommendation. A similar conflict of interest problem could exist when an abatement firm and an air monitoring firm are directly or indirectly connected. The air monitoring firm could conceivably provide false results that indicate a building is safe for reoccupancy and the abatement contractor has successfully completed the job. EPA has modified the LEA responsibilities section of the rule to specifically state that LEAs must consider conflict of interest issues. However, any resolution of such issues is solely at the discretion of the LEA.

D. Inspections and Reinspections

Comments received on this section dealt with three subjects: the scope of the inspection; the standardization of the inspection; and the inspection process itself.

Regarding the scope of the inspection, comments were received on whether dormitories should be included in the inspection requirement. EPA concurs with the comments supporting the proposed rule's language including dormitories in the inspection. The Agency believes this is a reasonable extension of the definition of school building since the intent of AHERA is to protect children while attending school. Comments were also received regarding incorporation into the rule of all exterior ACM and other asbestos-containing products. As described in the "Definitions" part of this Unit, EPA believes these additions are unwarranted.

Comments were received regarding the use of a standardized inspection form, and commenters also urged EPA to issue a guidance document for inspectors and management planners. EPA disagrees with comments supporting a mandatory inspection form. The Agency believes LEAs, accredited inspectors, and States should be allowed the flexibility to develop inspection forms to suit their needs. However, EPA is developing a guidance document for LEAs which explains the requirements of this rule, and that document will contain, among other things, a suggested format for inspection and management plans. In addition, EPA has developed a model course for accreditation of inspectors and management planners which will provide uniform guidance to inspectors and management planners regarding their responsibilities. Further, before any course is offered to accredit inspectors and management planners, it must be reviewed and approved by EPA in accordance with the provisions of the Model Accreditation Plan. This review process will help ensure that inspectors and management planners receive uniform guidance.

The Agency received comments about the requirement for reinspection every 3 years by an accredited inspector. Some commenters supported this requirement, others thought the reinspection should be more frequent, still others felt that the reinspection should be less frequent and that use of an accredited inspector was unnecessary. EPA believes a 3-year reinspection requirement to be conducted by an accredited inspector is necessary. The Agency is concerned that an annual reinspection as suggested by some commenters would prove unduly burdensome to LEAs while providing limited information. The rule provides for periodic surveillance activities at least twice a year to keep track of changes in the ACBM's condition. On the other hand, the Agency believes a reinspection every 5 years is too long a period of time for a school's ACBM not to be checked by an accredited inspector. ACBM could deteriorate substantially over a 5-year period of time. The Agency disagrees with comments suggesting that unaccredited persons should be permitted to perform reinspections. Accredited inspectors will have special training to determine changes in the physical condition of ACBM. The purpose of periodic surveillance, which may be conducted by unaccredited personnel, is to note observable changes in the condition of ACBM. For example, a periodic surveillance check would notice a water leak through an ACBM ceiling. The Agency believes the combination of the semiannual periodic surveillance check and the 3-year reinspection by an accredited inspector provides for adequate scrutiny of ACBM present in schools.

Industry commenters commended the proposed rule for allowing thermal system insulation "that has retained its structural integrity and that has an undamaged protective jacket or wrap that prevents fiber release" to be "deemed" nonfriable for the purposes of this regulation. Others commenters believed this is a misrepresentation of the true nature of the material, which is still friable under its covering.

The Agency agreed with comments that state friable thermal system insulation cannot properly be "deemed" nonfriable. This constitutes an inaccurate depiction of the true nature of this material. An undamaged jacket on thermal system insulation may be properly seen as an enclosure, which prevents fiber release and reduces hazard, but does not change the characteristics of material friability behind or under the enclosure.

However, while the Agency considers it inappropriate to "deem" or characterize friable thermal system insulation as nonfriable, it is appropriate to "treat" this material as nonfriable. EPA, in its guidance and technical assistance activities, has traditionally treated undamaged friable thermal system insulation as nonfriable, for the purposes of cleaning and other O&M activities.

Accordingly, the regulation at § 763.85(c) has been modified to state that thermal system insulation that has retained its structural integrity and that has an undamaged protective jacket or wrap that prevents fiber release shall be treated as nonfriable.

Ultimately, however, the change in wording does not change the intent of the regulation that thermal insulation that has both an intact protective jacket and has retained structural integrity should be subject to periodic surveillance and preventive measures, and that custodial and maintenance workers must be trained to deal with such material. Furthermore, if the thermal insulation is disturbed or is about to be disturbed such that it would be rendered friable, all applicable O&M and response action provisions will apply. EPA believes that this is consistent with NESHAP, which considers such material to be friable when disturbed or removed.

E. Bulk Asbestos Sample Measurement

Comments suggested that EPA allow use of electron microscopy and X-ray diffraction (XRD) for the analysis of bulk samples.

For purposes of this rule, PLM will be used for analyzing bulk samples for asbestos. The analytical method to be employed is the EPA "Interim Method for the Determination of Asbestos in Bulk Insulation Samples" (40 CFR 763, Appendix A to Subpart F). EPA feels that the existing EPA PLM protocol is technically sufficient for determining asbestos fiber identity and quantity. Currently, allowance is made in the EPA PLM protocol for additional determination of a fiber's quantity by XRD. Additionally, validated methods for the use of electron microscopy in bulk asbestos analysis do not exist at this time. New developments in electron microscopy or XRD technology may lead EPA to reconsider the use of these tools for primary analysis at a future time.

A number of comments sought clarification on the laboratory accreditation program. Two laboratory accreditation programs are currently being developed by the NBS for laboratories which analyze bulk and air samples for asbestos. The bulk accreditation program is expected to be operational in early FY89. The air accreditation program is expected to be complete in late FY89.

Until the NBS bulk accreditation program is complete, EPA will establish an interim accreditation program for laboratories which analyze bulk samples by PLM. EPA will provide interim accreditation to laboratories which correctly identify four samples as either asbestos-containing or nonasbestos-containing. EPA announced the availability of this program in the Federal Register of September 3, 1987 (52 FR 33470). The deadline for laboratory participation in the first round was September 30, 1987. A formal listing of the first round of accredited labs will be available in January 1988. Individual laboratories will be informed of their performance by letter in December 1987. Laboratories which did not participate in the first round of accreditation will be considered in the second round of accreditation, which is scheduled for April 1988.

F. Assessment

One comment regarding assessment of the physical condition of the material by accredited inspectors was that EPA should require accredited inspectors to give reasons for their assessment conclusions. EPA agrees with the comment. This requirement would provide reviewers of management plans at the State level with additional, useful information in judging whether the management plan accurately reflects the condition of the school building. The Agency believes the increase in the recordkeeping burden is small. As a result, § 763.88(b) has been changed to require the accredited inspector to give written reasons for the decision to classify ACBM.

Some commenters suggested that management planners should be required to use one assessment method in developing recommendations for LEAs about response actions. These commenters suggested a variety of

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algorithms and "decision tree" methods for consideration. Other commenters supported the proposed rule's language to allow various assessment methods. The Agency believes it is not possible to point to one assessment method as most capable of producing an appropriate response action recommendation: there are a number of suitable assessment methods available for use by accredited management planners. EPA's management planner accreditation course will provide instruction about a variety of such methods.

G. Response Actions

1. *Protection of human health and the environment in response action selection.* Several commenters, particularly several State attorneys general and unions, expressed concern that the structure of the response action subsection allowed costs and other considerations to be granted equal consideration with protecting human health and the environment.

EPA has clarified language in the response action subsection (§ 763.90) to underscore its original intent in the proposed rule that protecting human health and the environment is the prime consideration in selecting an appropriate response action. Comments from the Service Employees International Union were particularly useful in this regard.

The Agency believes its response action approach is consistent with congressional direction to apply the prior and inviolable standard of protecting human health and the environment, and allows the consideration and selection of the least burdensome method only after the overriding health determination is made.

2. *Air monitoring for determining response actions.* Several commenters, primarily from industry, encouraged the establishment of air monitoring standards as the primary basis for hazard assessment. Most commenters, however, supported EPA's position in the proposed rule.

Traditionally, EPA has recommended assessment of asbestos in schools by visual evaluation of qualitative factors such as the material's condition, physical characteristics, and location. A careful examination of physical characteristics of the material, conducted by a trained expert, provides a direct method for determining both the relative degree of hazard and the likelihood of future fiber release.

EPA continues to discourage the use of air monitoring as the primary technique for assessing asbestos hazards, since that method only measures current conditions and provides no information about potential and future levels of fiber release. Further, when the costs and technical requirements necessary for acquiring truly meaningful air monitoring data are considered, the Agency maintains that assessment of qualitative factors continues to be the appropriate method for assessment of hazards and selection of response actions which protect human health and the environment. However, air monitoring may provide useful supplemental information, when conducted in conjunction with a comprehensive visual inspection.

Several industry commenters proposed that EPA adopt air monitoring standards for damaged and significantly damaged ACM. The levels most often proposed were 0.01 fibers per cubic centimeter (f/cm ^{3}) for damaged friable ACM; 0.1 f/cm ^{3} for significantly damaged friable ACM, with fibers longer than 5 um as measured by transmission electron microscopy (TEM) in each case. No commenters, however, provided any substantive rationale for choosing such levels. The Agency believes that such standards used for purposes of assessing asbestos hazards could not ensure protection of human health and the environment as intended by TSCA Title II. As factors to be used in determining whether response actions are necessary, these numerical values provide a false sense of precision regarding the presence and severity of asbestos hazards and the appropriateness of a given response action. For the same reasons cited in the above discussion of the use of air monitoring, the Agency disagrees with the suggestion that a numerical standard is appropriate as the primary criterion for selection of response actions.

3. *Specificity in definitions related to response actions.* Many commenters felt that more objective and definite response action descriptions should be provided by EPA with regard to damage-related definitions and response actions. Some believed that too much discretion was vested in accredited experts, who would be making technical judgments to advise LEA decisions. One comment cited EPA's economic impact analysis of the rule as an illustration of the lack of objectivity of the response action descriptions. In this analysis, EPA's own regional asbestos coordinators varied greatly in their estimates of what percentages of materials in schools in their regions fell into the various damage conditions described in TSCA Title II.

In response to comments, the Agency has added much more illustrative detail to three important definitions—damaged and significantly damaged friable thermal system insulation ACM; damaged friable miscellaneous ACM; and damaged friable surfacing ACM—which will help accredited experts better identify asbestos hazards in schools. EPA agrees that this language, taken from the preamble of the proposed rule, adds necessary clarification to conditions which may constitute ACM damage and warrant appropriate response actions. These descriptions were not available to Agency regional asbestos coordinators when they gave their estimates of damage in schools. In addition, the extensive training program developed in the rule should achieve much greater consistency in evaluating and assessing asbestos in schools, although perfect consistency will never be achieved.

However, a rigid response action decision structure is not appropriate for this rule, primarily because many asbestos hazard situations are too circumstantial and appropriate response actions are too "hazard specific" to fit neatly into a discrete set of prescriptive categories.

There appears, then, no substitute for the judgment of the accredited management planner, who must recommend appropriate response actions within the general requirements established in § 763.90. That section provides a process by which a range of available choices may be considered by the accredited expert and selected by the LEA to best protect human health and the environment from each particular asbestos hazard in the school.

Under the provisions of the regulation, LEAs may take into account a variety of particular considerations, such as local circumstances, technological feasibility of appropriate response actions, economic considerations, and other relevant factors in selecting the least burdensome method. Such factors, however, may be considered only after the response action has been determined to protect human health and the environment.

Finally, accreditation alone does not imply "expertness." It only assures a suitable and common level of competence and awareness which is necessary for inspection, assessment and response action recommendation. School officials are well-advised to consider a variety of factors, including quality of training, experience, and prior performance of accredited personnel in selecting inspectors, management plan developers, abatement project designers, and contractors for school asbestos projects.

4. *Removal as the "only" appropriate response action for significantly damaged ACM.* Several State attorneys general, among several other commenters, contended that "[I]n cases of significant damage, the only appropriate response is to remove the material, as this is the only action which adequately protects human health and the environment."

EPA disagrees that removal is the only appropriate response in all cases of significantly damaged ACM, particularly thermal system insulation. There may indeed be particular circumstances of significant damage in which removal is both inappropriate and undesirable.

EPA agrees that, particularly with regard to significantly damaged friable miscellaneous and surfacing ACM, isolation of the functional space and removal is often the most appropriate (and possibly, only acceptable) response. Encapsulation, for example, would be an acceptable response action for friable surfacing ACM only under very limited circumstances, given current technology. However, the Agency will not categorically preclude response actions of repair, encapsulation, or enclosure which, under certain circumstances, may also protect human health and the environment.

5. *Implementation of response actions in a timely fashion.* Several commenters asked the Agency to clarify the requirement that appropriate response actions be selected and implemented by LEAs "in a timely fashion," perhaps by establishing time limits for particular actions.

Many of the response action provisions themselves imply timeliness in response. Damaged or significantly damaged thermal system insulation ACM or its covering, for example, must be constantly maintained in an intact state and undamaged condition. In addition, the rule specifies, in the case of significantly damaged friable surfacing or miscellaneous ACM, that LEAs must *immediately* isolate the functional space and restrict access, unless isolation is not necessary to protect human health and the environment.

The Agency does not believe it is able to define "timely fashion" or specify time limits or deadlines in applying such requirements in all cases any better than it is able to prescribe a single response action for every particular damage category. LEAs, in the context of particular asbestos hazards, in consultation with accredited experts and in full view of school-community groups, are responsible for determining appropriate schedules for their asbestos response actions.

However, LEAs should be advised that in providing "a schedule for beginning and completing each preventive measure and response action" as required in § 763.93(e)(6), the LEA is specifying what constitutes implementation of preventive measures and response actions in a timely fashion for that LEA. EPA and State enforcement officials will be monitoring LEA adherence to these schedules to determine whether enforcement actions are warranted against those schools which fail to meet their own deadlines for completing preventive measures and response actions.

6. *Repair for significantly damaged friable thermal system insulation ACM.* Several commenters, State attorneys general and the unions in particular, questioned the efficacy of repair for significantly damaged friable thermal system insulation ACM.

Repair is often successful in preventing fiber release from damaged thermal system insulation and, after assurance that it will protect human health and the environment, an LEA may find repair the least burdensome method of response. Techniques for thermal system insulation ACM repair are well-developed and easily accomplished. Furthermore, the nature of the material makes it especially susceptible to quick remediation with simple techniques.

EPA recognizes that severely damaged friable thermal system ACM may warrant removal to protect human health and the environment, but this is not always the case. If feasible, as determined by the accredited expert, and protective of human health and the environment, repair may be an appropriate response action for this level of damage under particular circumstances. Further, new and emerging repair technologies may offer LEAs new ways to prevent fiber release, protect human health and the environment, and postpone the major disruption often associated with asbestos removal projects until a more appropriate time.

Finally, "feasibility" does *not* imply, as one commenter feared, "repair first, and only if repair is impossible, then remove." There is no predisposition toward repair, but rather a prior consideration of repair feasibility as a check to avoid a major disruption to the material, through removal, if it is not necessary or desirable.

7. *Airborne asbestos fiber measurement for clearance of abatement sites.* EPA has received comments on the use of transmission electron microscopy (TEM), scanning electron microscopy, and phase contrast microscopy for the analysis of air samples taken for clearance air monitoring. Comments dealt with issues that included the possible uses of each of these analytical methods for clearance air monitoring, as well as issues specific to the use of TEM.

The final rule sets forth TEM as the analytical method to be used for analysis of samples taken for clearance air monitoring although the TEM requirement will be phased-in gradually. EPA convened a committee of leading microscopists from private and Federal laboratories to produce an analytical protocol specific for post-abatement clearance monitoring. Each microscopist had extensive experience in TEM, scanning electron microscopy (SEM), and airborne asbestos analysis. The unanimous conclusion of the microscopists was that, for purposes of clearance air monitoring, TEM was the technique of choice. Consequently, an interim TEM protocol has been formulated for clearance air monitoring of asbestos abatement sites in schools.

EPA chose to require analysis by TEM for four reasons: (1) TEM is capable of measuring the smallest diameter fibers; (2) based on existing, validated methods, a formal protocol has been developed; (3) TEM has been validated by intra- and inter-laboratory comparisons conducted by NBS; and (4) a formal laboratory accreditation program for TEM laboratories is currently under development by the NBS.

Phase Contrast Microscopy (PCM) will be allowed for clearance of small projects (removal of less than 160 ft^2 or 260 linear feet of asbestos) and during a phase-in of the TEM requirement, for clearance of some larger projects. This phase-in period will give laboratories a period of time to acquire and install TEM instruments, and will permit economical clearance of small projects where clearance analysis costs are a significant portion of total abatement costs.

PCM analysis must be made using the latest version of the NIOSH 7400 method. Two other methods of PCM analysis were considered: the OSHA/EPA Reference Method (ORM) and P&CAM 239. The ORM cannot be used for area clearance because it is intended for personal sampling of abatement workers during abatement work clearance following an abatement action. P&CAM 239 will not be allowed since both NIOSH and OSHA have determined that the NIOSH 7400 method is more accurate and reliable.

The PCM method is nonspecific for asbestos and it cannot detect the small

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thin fibers found at abatement sites. EPA research data has shown that PCM is often inadequate for post-abatement monitoring of airborne asbestos. These data indicate that sites which were shown to be clean with PCM data were found by TEM data to be still contaminated. Therefore, reoccupancy of sites initially cleared by PCM, and thus, assumed to have been adequately cleaned, may in fact result in exposures to asbestos.

SEM, for purposes of this rulemaking, was determined to be inadequate for building clearance for the following reasons: (1) Currently available methodologies are not validated for the analysis of asbestos fibers; (2) SEM is limited in its ability to identify the crystalline structure of a particular fiber. (SEM analysis is therefore confined to identification of structures by elemental composition and morphology); (3) recent studies conducted by NBS have evaluated several types of scanning electron microscopes and the variability between these instruments. (NBS has found the image contrast of the microscopes is difficult to standardize between individual scanning electron microscopes); and (4) currently no laboratory accreditation program exists for accrediting SEM laboratories. EPA is aware of two methodologies for SEM: a draft method currently in its initial review by the American Society for Testing and Materials (ASTM) and an Asbestos International Association (AIA) protocol. Neither method has been validated. Additionally, NBS has determined that the AIA method has inherent difficulty when examining certain types of asbestos.

Currently, a laboratory accreditation program is in development for TEM by NBS. Additionally, the AIHA PAT Program evaluates laboratories conducting PCM analyses. The NBS has unconditionally stated that it will not formulate a laboratory accreditation program for SEM based on existing methodologies. Until suitable methodologies are developed, EPA will continue to monitor and investigate the progress of SEM methodologies and research for asbestos analysis. New developments in SEM technology may allow SEM to be considered as an acceptable asbestos measurement tool in the future.

Regarding the use of TEM, several commenters suggested that the aspect ratio (length to width) should be extended to 10:1. For the purpose of TEM measurement by the methods in Appendix A, any elongated particle having a minimum length of 0.5 μm, parallel sides, and an aspect ratio (length to width) of 5:1 or larger is defined as a fiber. This represents a change in the previous EPA proposed TEM methodologies which examine fibers with aspect ratios of 3:1 and above; it follows the direction set by NIOSH in proposing modified counting rules in the 7400 method. It is consistent with the panel of microscopists' observations that asbestos structures have aspect ratios equal to and greater than 5:1 whereas the majority of nonasbestos structures, minerals and particles, for example, gypsum, have aspect ratios of less than 5:1. Analysis of these nonasbestos structures tends to comprise a large portion of the time required for sample analysis. EPA believes that further research is needed to justify the extension of aspect ratio to 10:1. Consequently, for the purpose of TEM building clearance, fibers must have an aspect ratio of at least 5:1.

8. *Phase-in period for TEM.* Several commenters asked that the phase-in period for requiring TEM analysis be lengthened, abbreviated, or eliminated altogether. EPA believes the 3-year phase-in period for requiring TEM for all but the smallest abatement jobs allows commercial laboratories the necessary time to purchase and set up additional TEM instruments. In December 1987, estimates developed by EPA's Office of Research and Development (ORD) indicated that there were approximately 62 commercial laboratories in the country which advertised the ability to perform TEM analysis on airborne asbestos samples. Testimony received during the August 25 and 26 public hearings for this rulemaking as well as information gathered by EPA staff, indicate that many laboratories intended to purchase additional TEM equipment. In addition, several laboratories own more than one transmission electron microscope.

EPA believes that an increased demand for TEM instruments will drive the supply of instruments, and has stipulated the 3-year phase-in to allow commercial laboratories time to react to the increased demand. The Agency believes a shorter phase-in period, or requiring the immediate use of TEM for all jobs would create a substantial burden on schools and laboratories. The delay to clear abatement jobs and the high cost associated with TEM analysis for relatively small jobs would be burdensome. EPA has consequently decided to retain the length and type of phase-in described in the proposed rule.

H. Operations and Maintenance and Worker Protection

1. *Worker protection and "small-scale-short-duration" activities.* Several commenters, particularly union groups, advised the Agency to increase worker protection standards and alter the definition and requirements for small-scale, short-duration projects (as defined by Appendix B to Subpart E) prescribed by the Occupational Safety and Health Administration's (OSHA's) and EPA's relevant worker protection regulations. In particular, comments focused on permissible exposure limits (PEL), the allowance of historical air monitoring data, respiratory protection, and the practice of glove bag removal. Other commenters recommended no change, citing OSHA's primacy in this area.

This final regulation, through the provisions of the EPA worker protection rule, extends coverage already in place for O&M workers in private schools under the OSHA construction standard to public sector O&M workers now unprotected in schools. This OSHA standard also includes Appendix B of this rule. LEAs may implement the provisions of Appendix B of the rule instead of the full scope of the EPA/OSHA worker protection regulation when they conduct small-scale, short-duration activities (all of which are presumed to exceed the action level of 0.1 f/cm ^{3}).

The Agency maintains that OSHA is the most appropriate Federal agency for determining worker protection policy. As noted in the preamble to the proposed rule, EPA believes that OSHA's recently completed worker protection rulemaking, a lengthy and detailed process focused specifically on such issues, is as appropriate to school O&M workers via the EPA worker protection rule as it is to other private sector O&M workers. EPA continues in this belief and no commenters have indicated substantive reasons why the OSHA protections should not be followed.

Therefore, the Agency does not intend to reassess the OSHA determination with respect to issues such as PEL, the use of historical air monitoring data, respiratory protection, and the allowance of glove bag removal. EPA will, however, change the provisions of its worker protection rule (and hence, this regulation) to conform with any modifications subsequently adopted by OSHA.

Finally, with regard to the definition of "small-scale, short-duration" activities, the Agency provides further clarification of the OSHA definition in Appendix B to Subpart E by adding five additional points which may be used to define such projects. EPA believes these additional considerations are instructive and useful, but will not require their consideration in defining "small-scale, short-duration" activities.

2. *Respiratory protection.* Many organizations, in their comments, advocated the mandatory use of respiratory protection for all operations and maintenance O&M work which might affect asbestos-containing materials ACM.

Once again, the Agency maintains that OSHA is the most appropriate Federal agency for determining worker protection regulations policy, including appropriate respiratory protection, and EPA finds that OSHA's respiratory protection regulations which govern O&M workers in the private sector are equally relevant in schools. EPA does not intend to reassess the OSHA determination in this regard.

However, the regulation does require specific respiratory protection training for all O&M workers who conduct any activities which will result in the disturbance of ACM. Such training must include: (1) Notification of information on the use of respiratory protection as contained in the EPA/National Institute for Occupational Safety and Health (NIOSH) "Guide to Respiratory Protection for the Asbestos Abatement Industry," September 1986 (EPA–560/OPTS–86–001); and (2) hands-on training in the use of respiratory protection.

EPA believes the effect of these training requirements will be to ensure that LEAs determine the appropriate level of protection for its O&M workers and that workers are adequately informed of protection levels and properly trained in respiratory protection practices.

Comments expressed concern that O&M workers could be at risk in situations where peak exposures occur and, thus, may need additional respiratory protection. The comments claim these exposures may exceed OSHA standards and are unpredictable. EPA, however, believes its regulations cover these situations since the regulations provide that respirators shall be supplied in areas where airborne concentrations "can reasonably be expected to exceed permissible limits" 40 CFR 763.121(e) (1) and (4). Since this regulation requires warning labels for asbestos materials (§ 763.95), workers and LEAs should be aware of situations in which asbestos materials will be disturbed to such an extent that respirators may be appropriate.

3. *Right to refuse work.* Several unions provided comments which advanced a proposal to include a right to refuse unsafe or illegal work in the regulation.

EPA believes that the issue of right to refuse work, which is protected under other labor legislation and worker protection regulations, is more properly addressed by the Department of Labor. This is a general worker protection issue, outside the scope of EPA's expertise. Comments noted that OSHA has promulgated a general regulation affecting an employee's right to refuse work (29 CFR 1977.12(b)(2)) and argue that EPA should extend this safeguard to school workers in the same way the Agency extended other OSHA safeguards to school workers. This point, however, is misplaced. EPA does not believe it should extend general OSHA safeguards to school workers. EPA is not charged with general worker protection, although it is appropriate to extend specific asbestos related standards to school workers.

AHERA section 211(a) does prohibit State or LEA discrimination in any way against someone because that person has provided information relating to a potention violation of the Act or regulation, including a school directive that workers perform unsafe or illegal activities. The Act allows for any employee or representative of employees who believes they have been fired or otherwise discriminated against to apply for review at the Department of Labor under section 11(c) of the Occupational Safety and Health Act.

4. *Routine cleaning.* Several commenters, particularly the State attorneys general and the unions, recommended that the Agency require routine or periodic cleaning in areas with friable ACM, as outlined in the EPA Purple Book.

The Agency has traditionally recommended, as a prudent measure, routine cleaning by wet methods in school areas with asbestos-containing materials, particularly when they are friable. Monthly wet cleaning has been recommended in previous EPA guidance for areas where friable surfacing ACM is present and semiannual wet cleaning is suggested in areas with damaged thermal system insulation ACM.

Other commenters stated the belief that improper cleaning on a regular basis might disturb the material and could actually increase fiber levels in the air. Further, periodic cleaning in limited-access areas, such as pipe tunnels, would not appreciably reduce exposure to school occupants and might actually increase hazard to custodial workers who conduct the cleaning.

EPA is persuaded by the comments that a decision on routine cleaning by the accredited management planner in the context of the particular asbestos hazard is appropriate. The final rule now requires that the accredited management planner shall make a written recommendation to the LEA regarding the appropriateness and frequency of additional cleaning, which must be included in the management plan.

I. Management Plans

The contents of the management plan were the subject of numerous comments from various parties. In general, commenters urged that the contents of the plan not exceed the items required in the statutory language of Title II. EPA believes that the language of Title II regarding management plans was made very prescriptive to enhance accountability, aid review by States, and improve enforcement of the regulation. The Agency has determined that the additional requirements in the regulation are consistent with the intent of the Act and that the additional information will be useful to parents, employees, accredited persons, State reviewers, and EPA enforcement officials.

The manner in which parents and employees should receive notification about the availability of asbestos management plans was the subject of many comments. In general, LEAs and school administrative groups favored the flexibility provided under the proposed rule, which allowed LEAs to notify parent and employee organizations without specifying the exact form of notification. Other commenters such as educational associations and environmental groups preferred written notification to individual parents and employees as a way of ensuring full awareness of the availability of the plan. EPA has modified this provision of the final rule to require written notification to parent and employee organizations, or, in the absence of such organizations, written public notice regarding plan availability. (Notification in the absence of the organizations could be in the form of a newspaper ad, an article in an LEA newsletter or various other forms.) The change provides a means of notification that should increase awareness of the plan, retain flexibility of LEAs regarding the exact form of the notification, and aid efforts to enforce the notification provisions.

Some commenters suggested that there is no need to notify parents of the availability of the plan. Title II, section 203(i)(5), states that the LEA "shall notify parent, teacher, and employee organizations of the availability of such plan."

Comments were also received regarding the need for an annual notification requirement even though the

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plan has not changed since the previous notification. The purpose for the annual notification is to ensure that parents and employees new to the LEA each year have an opportunity to be informed about the availability of the plan. Other commenters suggested that annual notification about the plan should include any asbestos abatement planned for that year, and that the notification requirement be expanded to inform parents whenever actions are taken under the management plans. EPA believes that these ends are achieved in a less burdensome fashion through § 763.84(c), which requires that the LEA inform workers and building occupants, or their legal guardians, at least once each school year about inspections, response actions, and post-response action activities, including periodic surveillance activities that are planned or in progress.

Regarding access to the plan, commenters suggested the plan required to be maintained at the individual school should not be the plan for the entire LEA, but only the plan for that school. The final rule has been clarified to specify that a school needs to have available only that part of the LEA's plan which pertains to that school. Another comment regarding access to the plan came from private school groups interested in limiting access to parents, students, and employees, thereby excluding the general public. EPA believes that this is contrary to Title II, section 203(i)(5), which states that the plan shall be available "for inspection by the public, including teachers, or other school personnel, and parents." Since persons involved with the school are only among those "included" in the public, EPA interprets the statute to preclude limiting access to all other members of the public.

J. State Waivers

Commenters suggested that the opportunity for a public hearing regarding a State's request for waiver should be granted upon request, rather than in response to a written request which details specific objections, as required in the proposal. EPA believes that by requiring a written statement, it is ensuring that hearings have been requested for a valid reason, thereby discouraging individuals from arbitrarily or capriciously requesting a hearing.

Comments were also received which suggested that documents submitted by States seeking waivers should be made public. State waiver requests will be made available as part of the public record required when EPA issues a notice in the Federal Register announcing receipt of the request and opportunity for public comment.

Commenters suggested that waiver requests from local governments should be permitted. Section 203(m) of Title II is clear in limiting waiver requests to States which have established and are implementing a program of asbestos inspection and management.

Commenters suggested that waivers should be granted to programs which are "substantially equivalent" to the regulation, rather than "at least as stringent." Section 203(m) of Title II clearly states that waivers are to be granted to programs "at least as stringent."

Commenters suggested that States with programs requiring only inspection of friable materials be allowed to seek waivers. The Agency believes that section 203(m) of Title II, which states that EPA "may waive some or all" of the regulatory requirements of Title II allows States which require inspection of friable materials in a manner at least as stringent as section 203 of Title II to be granted a waiver. The LEAs of that State would still be required to comply with the Title II requirements for inspection of nonfriable materials as well as all other Title II requirements for which the State did not have a program at least as stringent.

Other comments on the State waiver provisions will be considered as they are raised in proceedings affecting individual States.

K. Exclusions

Comments on the proposed exclusion criteria ranged from general support to opposing any exclusions. Some commenters indicated EPA's 1982 rule was frequently not complied with, dealt only with friable ACM, and the inspectors were not required to have accreditation. As a result, these commenters believe few if any exclusions could be granted based on the 1982 rule. Several commenters believe the term "substantial compliance" is vague and unenforceable. In addition, other commenters agreed that the requirement in the proposed rule to assess friable ACM would require inspectors to visually inspect all areas anyway. Lastly, some commenters suggested that requiring an accredited inspector to determine whether the LEA qualifies for an exclusion is too stringent and thus, unreasonable.

TCSA Title II directs the Agency to promulgate regulations which will provide for the exclusion of any area of a school building from the inspection requirements. If LEAs were required to repeat actions conducted properly in the past, the Agency would place an unnecessary burden on those LEAs and penalize LEAs which made a good faith effort to address asbestos hazards in their building. EPA believes a number of States and localities have developed inspection programs in recent years that are similar to Title II. In addition, LEAs that complied with EPA's 1982 rule could receive an exclusion from part of the final rule's requirements. For example, friable material sampled and found to contain asbestos on the ceiling of the cafeteria would not have to be re-sampled. Although friable ACBM must be assessed even if previously identified, the above example illustrates a savings to the LEA.

"Substantial compliance" allows previous sampling that was done in a random manner with sufficient samples to be adequate to determine no ACBM is present. EPA believes previous adequate inspection and sampling efforts conducted by LEAs should not prove worthless. For example, if a LEA had records that it took three random samples in a 1,500 square foot classroom to comply with EPA's 1982 rule or a State law, and all samples were analyzed negative for asbestos, an accredited inspector may determine that this is sufficient to indicate no asbestos is present even though the current rule would require five samples for the same classroom.

EPA believes only an accredited inspector has the training necessary to determine whether previous inspections and sampling were adequate. EPA has evidence to suggest that many inspections performed under the 1982 rule were conducted by persons with little or no inspection training. If these same individuals were responsible for determining the validity of previous inspections, large areas of schools may not be examined by accredited inspectors. In many respects, this would defeat the purpose of TSCA Title II.

L. Enforcement

Some commenters stated that the "Compliance and Enforcement" section of the proposed rule (§ 763.97) incorrectly describes the provisions of TSCA Title II and that the final rule should explicitly state the following points. First, LEAs that violate the regulations under Title II are not liable under any enforcement provision of Title I. Second, Title II does not allow EPA to assess penalties against individuals. Third, criminal penalties are not permitted for violation of Title II.

EPA disagrees. The provisions of the "Compliance and Enforcement" section

are in accordance with applicable law, as discussed below.

Section 3 of AHERA, "Technical and Conforming Amendments," amends section 15(1) of TSCA Title I to provide that it is unlawful for any person to fail or refuse to comply with any requirement of TSCA Title II or any rule promulgated or order issued under Title II. Therefore, violations of Title II regulations, published in this document are generally subject to the civil and criminal penalties under section 16 of Title I and to civil injunctive actions under section 17 of Title I. This liability is qualified, however, by section 207 of Title II which describes LEA civil liabilities for violation of regulations and provides that LEAs are not liable for any civil penalty under Title I. Section 207, however, does not alter the criminal liabilities of Title I or the injunctive provisions of section 17 of Title I. Nor does section 207 provide any exemption from Title I provisions for inspectors, management planners or any other person other than an LEA that has responsibilities under TSCA Title II. Finally, regardless of the provisions of TSCA, applicable case law provides that liability for actions of organizations may extend to responsible officials.

Thus the three points noted in the comments are wrong. First, LEAs that violate Title II rules are liable for criminal penalties under section 16 of Title I and are subject to injunctive relief in Federal District Courts under section 17 of Title I. Second, individuals may be liable for violating TSCA Title II regulations. Individuals other than LEAs that violate Title II regulations are subject to any of the penalties under Title I, and responsible LEA officials may be liable for any LEA violation of Title II. Third, the effect of the conforming amendments to TSCA Title I is that criminal penalties may be assessed for violation or Title II.

M. Other Issues

1. *Cost estimates for inspection.* Several commenters, ranging from school districts to independent consultants, expressed concern that the economic impact analysis of the proposed rule underestimated the cost of inspecting for ACM. Comments claimed that labor rates and time required to conduct inspections were too low.

EPA agreed with these comments. As a result the Agency's estimates for the final rule increased due to an update of unit labor costs and a small increase in the time estimated to perform several inspection activities. As a result the estimated total cost for all inspection activities increased from the proposal to the final rule from approximately $58.2 million to approximately $78.5 million. The cost for the building walkthrough and visual inspection, assessment, and mapping and reporting activities increased, while the cost estimates for bulk sampling and analysis remained the same. The total inspection costs are now estimated to be $1,144 for public primary schools, $1,627 for public secondary schools and $1,587 for private schools.

2. *Cost estimates for management plans.* A number of commenters expressed concern that the proposed rule underestimated the cost of developing management plans due to low assumptions for labor rates and time needed to prepare the plan. EPA also received comments that training and recordkeeping costs were too low. These costs are considered by EPA as part of the cost of the management plan implementation. Several commenters also expressed concern that EPA underestimated the burden associated with the state review of management plans.

EPA agrees that labor costs and time needed to prepare plans were too low in the proposal and has increased these estimates. EPA has also increased the cost for training by raising labor rate estimates and including travel expenses in the cost of training. As a result, the average costs for first year development and implementation of a management plan for a typical school is estimated to be $3,270 for a public primary school, $4,521 for a public secondary school and $4,460 for a private school. The total cost for development and implementation of management plans increased from $970.8 million in the proposed rule to $1,272 million in the final rule.

With respect to the cost to States of reviewing management plans, EPA has not substantially changed its estimates. While the proposed rule stated a range of $63 to $95 for a State to review a plan, the final rule estimates this cost at approximately $77. The plan review burden will vary with the different number of schools found in each State. For example, California, with an estimated 10,932 schools, would incur a review cost of roughly $842,000. Delaware, with an estimated 288 schools, would incur a cost of about $23,000. States will incur this burden within the 90-day review period specified in the law. The burden for each State, if it must review many plans, may be substantial. However, this burden is imposed by statute.

3. *Costs for operations and maintenance (O&M) programs.* EPA received a comment that it should not have included a cost for levels of overhead and contingency costs for school O&M programs because schools are not run like a business and would not charge themselves overhead. In addition, the comment argued that EPA's assumed rate of three minor fiber release episodes per school per year was too high. It was also argued that EPA should not have included an opportunity cost associated with O&M work, since schools would not actually spend money on many O&M activities but would redirect their employees' activities. Finally, the commenter identified a mistake in the calculations of the cost of consumable supplies used in O&M programs.

EPA agrees that schools would not incur overhead and contingency costs for O&M work. EPA used these indirect costs to calculate the expenses associated with the incremental utility, payroll, and other expenses attributable to an O&M program. EPA believes that these estimates of indirect rates are reasonable.

EPA slightly modified its assumptions with respect to fiber release episodes. However, this change did not have a significant impact on the total cost of O&M programs.

With respect to using an opportunity cost approach in the calculation of O&M costs, EPA believes that these costs are, indeed, a real cost of conducting O&M. However, the Agency acknowledges that some portion of the O&M cost may not result in actual expenditures by a school if the school chooses to give up some other activity to absorb the additional O&M activity. Regardless of how the school chooses to react, these are costs imposed by the rule. Accordingly, the Agency has included the opportunity costs analysis in the final rule estimates.

EPA acknowledges its mistake in the cost of consumables and has adjusted the O&M costs accordingly. This yields a fairly substantial drop in per school annual expenses for O&M programs. The reason for the decrease in O&M costs noted below is almost entirely due to this decrease in cost of consumables.

The final rule's costs of O&M programs per school on a yearly basis (excluding the cost of special equipment acquisition) are now estimated to be $3,800 for a public primary school, $5,100 for a public secondary school and $3,800 for a private school. The total O&M costs have decreased from $525.4 million in the proposal to $292.7 million for the final rule.

4. *Costs for removal, enclosure and encapsulation projects.* Commenters argued that cost estimates in the

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proposal for removal projects were incorrect because they assumed replacement costs and post-abatement air monitoring for asbestos materials removed during building demolition. These errors have been corrected in the final cost estimates.

In addition, EPA assumed in the proposal that all post-response action air samples would be analyzed using TEM. Since the rule allows limited PCM, the costs of response actions have decreased accordingly. This cost decrease is approximately $4,000 in direct expenses per project for those projects using PCM.

Total costs for removal, enclosure and encapsulation projects have decreased from $1,587.8 million in the proposal to $1,431 million in the final rule.

5. *Risk related to asbestos in buildings.* Comments argued that EPA did not adequately assess the evidence relating to the harm caused by asbestos in schools. Specifically, they claim that EPA's assessment of risk for this rule (1) did not consider estimates of the toxicological potency of asbestos developed by a number of scientists who disagree with the potency estimates accepted by the Agency; (2) ignored studies showing that prevailing exposure to asbestos in schools has often been measured at levels far below those assumed by the Agency in its assessment (70 to 500 ng/m ^{3}); and (3) did not consider documentation that asbestos exposures after major abatement, especially removal, may not be reduced at all and may even by elevated. Had such evidence been considered, according to one of these comments (Safe Buildings Alliance), EPA would have come to the conclusion that operations and maintenance programs are, in almost all schools, the appropriate response action to protect health and the environment. This evidence is cited to support the position that protection of health and the environment requires specification of an airborne exposure level of protection.

EPA disagrees that the evidence cited in these comments supports the need for an airborne asbestos standard in buildings. Rather, EPA believes that the data cited by these comments, even if assumed to be correctly interpreted by the commenters, supports the rule as promulgated.

The Agency has noted elsewhere in this preamble the problems with air monitoring as the primary assessment tool for asbestos in schools. Furthermore, no comments have provided any substantive health based justification for choosing any airborne level as an appropriate level to protect public health from asbestos in schools.

Nevertheless, EPA believes that the rule accomplishes the goals of these commenters to ensure that unnecessary removal activities do not occur. Indeed, one of these commenters (Safe Buildings Alliance) specifically stated that it believes removals could typically be the response action if the rules were *incorrectly* applied. The rules, however, are not designated to prefer one response action over another, but to allow schools the flexibility to deal with their particular situations. Certainly, asbestos in many schools may not present significant risks in its current condition, but could cause considerable harm if not dealt with properly. Also, there are plainly schools in which serious measures would be needed immediately. In this context the evidence cited by the comments is supportive of EPA's rule, as discussed below.

With respect to the potency of asbestos, EPA has decided that for purposes of this rule there is no need to resolve the divergence of opinion. See preamble to Proposed Rule, 52 FR 15833. In any event, EPA has considered differing views on asbestos health effects in other proceedings (see, e.g., 51 FR 3728 *et seq.*, January 29, 1986) and commenters have not presented new evidence. The important point for purposes of this rule, is that varying local circumstances will drive the decision on the appropriate response action.

With respect to asbestos exposure, EPA acknowledges that many building air measurements show low prevailing levels. However, peak levels during serious disturbances can be extremely high and may cause very serious risks to individuals involved. Regardless of the actual average measurements in all schools, regardless of whether one accepts the levels used by EPA in its assessment or the levels presented by the commenters, the basic structure of the rule should not be changed. Assessment of all the evidence leads to the conclusion that local educational agencies should at least adopt operations and maintenance programs and institute more serious response actions if local conditions warrant. The levels EPA used in its risk assessment are actual measurements (*see, e.g.* "Measuring Airborne Asbestos Levels in Buildings," EPA 560/13–80–028; "Airborne Asbestos Levels in Schools," EPA 560/5–83–003) and are reasonable for purposes of decisionmaking in the context of this rule. In any event, the lower airborne asbestos levels cited by the commenters do not make the case for an airborne regulatory level.

Finally, EPA interprets data on airborne levels of asbestos before and after removal actions differently from the commenters. The information available on airborne concentrations before and after asbestos removal is actually limited, dealing with a very small number of abatement actions. Nevertheless, EPA believes that this information indicates that, in the past, some abatement actions were not done properly and led to increased airborne levels. The rule, therefore, was designed to prevent shoddy abatement work. A draft report prepared by Batelle (March 1987) shows significant reduction in airborne asbestos concentrations in the enclosed abatement area in schools immediately after removal operations. Airborne levels measured in the Batelle study did increase back to approximately the same as pre-removal levels after school resumed (based on a statistical analysis of pre- and post-removal levels). However, these levels could only have been the result of reentrainment of asbestos from outside the immediate removal area. Removals, thus, were successful at the removal site but could not guarantee no fiber release from asbestos-containing materials remaining in the building. The Batelle draft, therefore, does not show an increase in exposure from the removal activities as suggested by the comments. At the very least, removal reduced some danger of peak exposures. The data in the Batelle draft may indicate a need for continuing O&M programs following abatement, particularly where all asbestos is not removed.

6. *Model accreditation plan.* EPA received comments about the provisions of the Model Accreditation Plan required under section 206 of TSCA Title II. Under Title II, the Agency was required to submit a final Model Accreditation Plan by April 20, 1987. The final plan was issued by EPA in accordance with that deadline. The final plan appeared in the **Federal Register** of April 30, 1987, entitled "Asbestos-Containing Material in Schools; Model Accreditation Plan."

IV. Economic Impact

The economic impact analysis estimates the incremental costs attributable to the proposed regulation, including costs of inspection, sampling, development, and implementation of management plans, training of school employees, periodic surveillance, and the implementation of abatement actions. Estimates of the number of schools affected and square footage of asbestos were developed based on the 1984 EPA survey of asbestos in schools and data compiled from the Asbestos School Hazard Abatement Act (ASHAA) loan and grant program. Estimates of the percentage of asbestos which falls into each of the hazard categories were based on the results of a survey of the EPA's Regional Asbestos Coordinators (RACs).

Using a model school/model project approach, costs of inspection, sampling, and appropriate response actions were developed for schools with ACM in each of the different hazard categories. For schools with only nonfriable ACM, the only costs estimated were for management plan implementation, nominal plan implementation activities, training of the asbestos program manager, custodial training for proper repair and maintenance of ACM, and the periodic surveillance and reinspection of ACM. For purposes of the economic analysis, EPA assumed that all schools with only nonfriable ACM would choose to forego sampling and instead just treat suspect material as asbestos-containing.

Asbestos abatement-related costs expected to be incurred regardless of the existence of these regulations were subtracted from the total costs to calculate only the incremental cost of the final regulations. For example, data from the ASHAA loan and grant application data base were used to project an average annual rate of removal of asbestos that is assumed would have occurred even if TSCA Title II legislation and these regulations were not promulgated. That average annual rate was estimated to be approximately 3.4 percent for primary schools, 3.3 percent for secondary schools, and 1.8 percent for private schools. The costs associated with this underlying rate of removal were subtracted from the total costs. Also, the costs of removal of friable ACM prior to demolition that is required by the NESHAPs regulations were also netted out of the total costs.

The estimated present value of the costs of these final regulations is approximately $3,145 million (using a 10 percent discount rate) over 30 years. This includes the cost of initial inspection and sampling—$78.5 million; development and implementation of management plans—$1,272 million; periodic surveillance—$47.7 million; reinspection—$23.2 million; special operations and maintenance programs—$292.7 million; and abatement response actions—$1,431 million.

The total number of primary and secondary schools potentially affected by these regulations is estimated to be 108,983. Approximately 44,600 are estimated to have about 213 million square feet of surfacing or thermal systems insulation ACM. Of these, an estimated 10,700 have surfacing ACM only. It is likely that every school contains some amount of nonfriable ACM such as floor tile, transite board, and fire doors.

The cost of an asbestos inspection is estimated to range from $1,144 to $1,627 per school for schools with both surfacing and thermal systems insulation ACM. This cost varies depending upon the size of the school, the amount and type of ACM contained in the school, and the type of professional doing the work. The costs of sampling and analysis if friable materials are found will depend upon the number of samples taken and analyzed. Costs of analysis are estimated to range from $25 to $47 per sample. Assuming the average school has to analyze 20 samples, the cost of analysis will be $500 to $940 per school. The cost of mapping ACM is estimated to range from $110 to over $270 per school.

The cost of developing a management plan if asbestos-containing surfacing ACM or thermal systems insulation ACM is present is estimated to range from $1,025 for an average-size public primary school to $1,420 for an average-size public secondary school. These estimates are weighted averages of the costs of plans developed by trained school personnel and by outside consultants. A less extensive management plan would be required for schools containing only nonfriable materials. The average development cost for a management plan where only nonfriable materials are present is estimated to be about $500 for both public primary and private schools, and about $715 for public secondary schools.

The cost of training for school employees involves a variety of factors ranging from course and accreditation exam fees to the possible expenses for any out of town travel required for the training. The estimated course fee for a 2-hour awareness session required of all school maintenance employees in schools with ACM is approximately $50 per person. The additional 14 hours of training for school maintenance workers who may come in contact with asbestos in doing minor repair and maintenance work that disturbs asbestos is estimated to cost $250. A fee of $420 is estimated for the 24 hours of training required for the certification of asbestos abatement workers doing more than just minor repair and small glove-bag removal jobs. The fee for the 40-hour training course and certification required for asbestos abatement contractors is estimated to be $640.

Response action costs depend primarily on the condition of the asbestos in a school and to a lesser extent on many other factors. In general, for surfacing ACM in all but the significantly damaged category, it is likely that the primary response action undertaken by a school will be special O&M activities. Use of O&M activities would likely continue until or unless the ACBM deteriorates to a "significantly damaged" condition. The annual cost of a special O&M program (excluding acquisition of special equipment) is estimated to range from $3,800 for a typical public primary school to $5,100 for a typical public secondary school. Initial cleaning costs are expected to range from $950 to $1,400.

The cost of removal depends upon many factors including size of the project. The estimated cost of removal for a 4,000 ft^2 project in which surfacing material is removed would be approximately $51,300. The cost of removal for a 900 ft^2 boiler wrap project is estimated to be approximately $30,900. The total discounted costs of response actions were estimated assuming schools undertake a combination of response actions that depend on the condition of the ACM.

V. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–62048E). The record is available in the Office of Toxic Substances Public Information Office, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm. NE–G004, 401 M St., SW., Washington, DC.

The record includes information considered by EPA in developing the proposed and final rules. The record now includes the following categories of information:

1. **Federal Register** notices.
2. Support documents.
3. Reports.
4. Memoranda and letters.
5. Records of the negotiating committee.
6. Public comments received on the proposed rule.
7. Response to comments document.
8. Transcript of the August 25 and 26 Public Meeting.

EPA requests that any person who commented on this rule submit to the Agency in writing any information which such person believes shows there are errors or omissions in the record. EPA will evaluate such submissions and supplement the record as appropriate.

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VI. References

1. USEPA. "Guidance for Controlling Asbestos-Containing Materials in Buildings," EPA 560/5–85–024, June 1985.

2. USEPA. "A Guide to Respiratory Protection for the Asbestos Abatement Industry." EPA 560/OPTS–86–001, September 1986.

3. USEPA. "Asbestos in Buildings: Simplified Sampling Scheme for Friable Surfacing Materials," EPA 560/5–85–030a. October 1985.

4. USEPA. Friable Asbestos-Containing Materials in Schools, 40 CFR Part 763, Subpart F.

5. USEPA. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subpart M.

6. USDOL. OSHA. Occupational Exposure to Asbestos, 29 CFR 1926.58.

7. USEPA. Toxic Substances; Asbestos Abatement Projects, 40 CFR Part 763, Subpart G.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA has determined that this rule is a "major" rule and has developed a Regulatory Impact Analysis. EPA has prepared an economic impact analysis of the TSCA Title II regulations.

B. Regulatory Flexibility Act

EPA has analyzed the economic impact of this rule on small businesses. EPA's analysis of the economic consequences of this rule appears in Unit IV.

C. Paperwork Reduction Act

The reporting and recordkeeping provisions in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, and has been assigned OMB control number 2070–0091.

List of Subjects in 40 CFR Part 763

Asbestos, Environmental protection, Hazardous substances, Incorporation by reference, Occupational health and safety, Recordkeeping, Schools.

Dated: October 17, 1987.

Lee M. Thomas,

Administrator.

Therefore, 40 CFR Part 763 is amended as follows:

PART 763—[AMENDED]

1. The authority citation for Part 763 continues to read as follows:

Authority: 15 U.S.C. 2605 and 2607(c). Subpart E also issued under 15 U.S.C. 2641, 2643, 2646, and 2647.

2. By adding §§ 763.80 through 763.99 and Appendices A, B, and D to Subpart E to read as follows:

Subpart E—Asbestos-Containing Materials in Schools

Sec.

763.80 Scope and purpose.
763.83 Definitions.
763.84 General local education agency responsibilities.
763.85 Inspection and reinspections.
763.86 Sampling.
763.87 Analysis.
763.88 Assessment.
763.90 Response actions.
763.91 Operations and maintenance.
763.92 Training and periodic surveillance.
763.93 Management plans.
763.94 Recordkeeping.
763.95 Warning labels.
763.97 Compliance and enforcement.
763.98 Waiver; delegation to State.
763.99 Exclusions.
Appendix A to Subpart E—Interim Transmission Electron Microscopy Analytical Methods—Mandatory and Nonmandatory—and Mandatory Section to Determine Completion of Response Actions
Appendix B to Subpart E—Work Practices and Engineering Controls for Small-Scale, Short-Duration Operations Maintenance and Repair (O&M) Activities Involving ACM
* * * * *
Appendix D to Subpart E—Transport and Disposal of Asbestos Waste

§ 763.80 Scope and purpose.

(a) This rule requires local education agencies to identify friable and nonfriable asbestos-containing material (ACM) in public and private elementary and secondary schools by visually inspecting school buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques referred to in this rule. The rule requires local education agencies to submit management plans to the Governor of their State by October 12, 1988, begin to implement the plans by July 9, 1989, and complete implementation of the plans in a timely fashion. In addition, local education agencies are required to use persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The rule also includes recordkeeping requirements. Local education agencies may contractually delegate their duties under this rule, but they remain responsible for the proper performance of those duties. Local education agencies are encouraged to consult with EPA Regional Asbestos Coordinators, or if applicable, a State's lead agency designated by the State Governor, for assistance in complying with this rule.

(b) Local education agencies must provide for the transportation and disposal of asbestos in accordance with EPA's "Asbestos Waste Management Guidance." For convenience, applicable sections of this guidance are reprinted as Appendix D of this subpart. There are regulations in place, however, that affect transportation and disposal of asbestos waste generated by this rule. The transportation of asbestos waste is covered by the Department of Transportation (49 CFR Part 173, Subpart J) and disposal is covered by the National Emissions Standards for Hazardous Air Pollutants (NESHAP) (40 CFR Part 61, Subpart M).

§ 763.83 Definitions.

For purposes of this subpart:

"Act" means the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601, *et seq.*

"Accessible" when referring to ACM means that the material is subject to disturbance by school building occupants or custodial or maintenance personnel in the course of their normal activities.

"Accredited" or "accreditation" when referring to a person or laboratory means that such person or laboratory is accredited in accordance with section 206 of Title II of the Act.

"Air erosion" means the passage of air over friable ACBM which may result in the release of asbestos fibers.

"Asbestos" means the asbestiform varieties of: Chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonitegrunerite); anthophyllite; tremolite; and actinolite.

"Asbestos-containing material" (ACM) when referring to school buildings means any material or product which contains more than 1 percent asbestos.

"Asbestos-containing building material" (ACBM) means surfacing ACM, thermal system insulation ACM, or miscellaneous ACM that is found in or on interior structural members or other parts of a school building.

"Asbestos debris" means pieces of ACBM that can be identified by color, texture, or composition, or means dust, if the dust is determined by an accredited inspector to be ACM.

"Damaged friable miscellaneous ACM" means friable miscellaneous ACM which has deteriorated or sustained physical injury such that the internal structure (cohesion) of the material is inadequate or, if applicable, which has delaminated such that its bond to the substrate (adhesion) is inadequate or which for any other reason lacks fiber cohesion or adhesion qualities. Such damage or deterioration may be illustrated by the separation of ACM into layers; separation of ACM from the substrate; flaking, blistering, or crumbling of the ACM surface; water damage; significant or repeated water stains, scrapes, gouges, mars or other signs of physical injury on the ACM. Asbestos debris originating from the ACBM in question may also indicate damage.

"Damaged friable surfacing ACM" means friable surfacing ACM which has deteriorated or sustained physical injury such that the internal structure (cohesion) of the material is inadequate or which has delaminated such that its bond to the substrate (adhesion) is inadequate, or which, for any other reason, lacks fiber cohesion or adhesion qualities. Such damage or deterioration may be illustrated by the separation of ACM into layers; separation of ACM from the substrate; flaking, blistering, or crumbling of the ACM surface; water damage; significant or repeated water stains, scrapes, gouges, mars or other signs of physical injury on the ACM. Asbestos debris originating from the ACBM in question may also indicate damage.

"Damaged or significantly damaged thermal system insulation ACM" means thermal system insulation ACM on pipes, boilers, tanks, ducts, and other thermal system insulation equipment where the insulation has lost its structural integrity, or its covering, in whole or in part, is crushed, water-stained, gouged, punctured, missing, or not intact such that it is not able to contain fibers. Damage may be further illustrated by occasional punctures, gouges or other signs of physical injury to ACM; occasional water damage on the protective coverings/jackets; or exposed ACM ends or joints. Asbestos debris originating from the ACBM in question may also indicate damage.

"Encapsulation" means the treatment of ACBM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Enclosure" means an airtight, impermeable, permanent barrier around ACBM to prevent the release of asbestos fibers into the air.

"Fiber release episode" means any uncontrolled or unintentional disturbance of ACBM resulting in visible emission.

"Friable" when referring to material in a school building means that the material, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure, and includes previously nonfriable material after such previously nonfriable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

"Functional space" means a room, group of rooms, or homogeneous area (including crawl spaces or the space between a dropped ceiling and the floor or roof deck above), such as classroom(s), a cafeteria, gymnasium, hallway(s), designated by a person accredited to prepare management plans, design abatement projects, or conduct response actions.

"High-efficiency particulate air" (HEPA) refers to a filtering system capable of trapping and retaining at least 99.97 percent of all monodispersed particles 0.3 μm in diameter or larger.

"Homogeneous area" means an area of surfacing material, thermal system insulation material, or miscellaneous material that is uniform in color and texture.

"Local education agency" means:

(1) Any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381).

(2) The owner of any nonpublic, nonprofit elementary, or secondary school building.

(3) The governing authority of any school operated under the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921, et seq.).

"Miscellaneous ACM" means miscellaneous material that is ACM in a school building.

"Miscellaneous material" means interior building material on structural components, structural members or fixtures, such as floor and ceiling tiles, and does not include surfacing material or thermal system insulation.

"Nonfriable" means material in a school building which when dry may not be crumbled, pulverized, or reduced to powder by hand pressure.

"Operations and maintenance program" means a program of work practices to maintain friable ACBM in good condition, ensure clean up of asbestos fibers previously released, and prevent further release by minimizing and controlling friable ACBM disturbance or damage.

"Potential damage" means circumstances in which:

(1) Friable ACBM is in an area regularly used by building occupants, including maintenance personnel, in the course of their normal activities.

(2) There are indications that there is a reasonable likelihood that the material or its covering will become damaged, deteriorated, or delaminated due to factors such as changes in building use, changes in operations and maintenance practices, changes in occupancy, or recurrent damage.

"Potential significant damage" means circumstances in which:

(1) Friable ACBM is in an area regularly used by building occupants, including maintenance personnel, in the course of their normal activities.

(2) There are indications that there is a reasonable likelihood that the material or its covering will become significantly damaged, deteriorated, or delaminated due to factors such as changes in building use, changes in operations and maintenance practices, changes in occupancy, or recurrent damage.

(3) The material is subject to major or continuing disturbance, due to factors including, but not limited to, accessibility or, under certain circumstances, vibration or air erosion.

"Preventive measures" means actions taken to reduce disturbance of ACBM or otherwise eliminate the reasonable likelihood of the material's becoming damaged or significantly damaged.

"Removal" means the taking out or the stripping of substantially all ACBM from a damaged area, a functional space, or a homogeneous area in a school building.

"Repair" means returning damaged ACBM to an undamaged condition or to an intact state so as to prevent fiber release.

"Response action" means a method, including removal, encapsulation, enclosure, repair, operations and maintenance, that protects human health and the environment from friable ACBM.

"Routine maintenance area" means an area, such as a boiler room or mechanical room, that is not normally frequented by students and in which maintenance employees or contract workers regularly conduct maintenance activities.

"School" means any elementary or secondary school as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854).

"School building" means:

(1) Any structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facility, or facility used for the preparation of food.

(2) Any gymnasium or other facility which is specially designed for athletic

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or recreational activities for an academic course in physical education.

(3) Any other facility used for the instruction or housing of students or for the administration of educational or research programs.

(4) Any maintenance, storage, or utility facility, including any hallway, essential to the operation of any facility described in this definition of "school building" under paragraphs (1), (2), or (3).

(5) Any portico or covered exterior hallway or walkway.

(6) Any exterior portion of a mechanical system used to condition interior space.

"Significantly damaged friable miscellaneous ACM" means damaged friable miscellaneous ACM where the damage is extensive and severe.

"Significantly damaged friable surfacing ACM" means damaged friable surfacing ACM in a functional space where the damage is extensive and severe.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianas, the Trust Territory of the Pacific Islands, and the Virgin Islands.

"Surfacing ACM" means surfacing material that is ACM.

"Surfacing material" means material in a school building that is sprayed-on, troweled-on, or otherwise applied to surfaces, such as acoustical plaster on ceilings and fireproofing materials on structural members, or other materials on surfaces for acoustical, fireproofing, or other purposes.

"Thermal system insulation" means material in a school building applied to pipes, fittings, boilers, breeching, tanks, ducts, or other interior structural components to prevent heat loss or gain, or water condensation, or for other purposes.

"Thermal system insulation ACM" means thermal system insulation that is ACM.

"Vibration" means the periodic motion of friable ACBM which may result in the release of asbestos fibers.

§ 763.84 General local education agency responsibilities.

Each local education agency shall:

(a) Ensure that the activities of any persons who perform inspections, reinspections, and periodic surveillance, develop and update management plans, and develop and implement response actions, including operations and maintenance, are carried out in accordance with Subpart E of this part.

(b) Ensure that all custodial and maintenance employees are properly trained as required by this Subpart E and other applicable Federal and/or State regulations (e.g., the Occupational Safety and Health Administration asbestos standard for construction, the EPA worker protection rule, or applicable State regulations).

(c) Ensure that workers and building occupants, or their legal guardians, are informed at least once each school year about inspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress.

(d) Ensure that short-term workers (e.g., telephone repair workers, utility workers, or exterminators) who may come in contact with asbestos in a school are provided information regarding the locations of ACBM and suspected ACBM assumed to be ACM.

(e) Ensure that warning labels are posted in accordance with § 763.95.

(f) Ensure that management plans are available for inspection and notification of such availability has been provided as specified in the management plan under § 763.93(g).

(g)(1) Designate a person to ensure that requirements under this section are properly implemented.

(2) Ensure that the designated person receives adequate training to perform duties assigned under this section. Such training shall provide, as necessary, basic knowledge of:

(i) Health effects of asbestos.

(ii) Detection, identification, and assessment of ACM.

(iii) Options for controlling ACBM.

(iv) Asbestos management programs.

(v) Relevant Federal and State regulations concerning asbestos, including those in this Subpart E and those of the Occupational Safety and Health Administration, U.S. Department of Labor, the U.S. Department of Transportation and the U.S. Environmental Protection Agency.

(h) Consider whether any conflict of interest may arise from the interrelationship among accredited personnel and whether that should influence the selection of accredited personnel to perform activities under this subpart.

§ 763.85 Inspection and reinspections.

(a) *Inspection.* (1) Except as provided in paragraph (a)(2) of this section, before October 12, 1988, local education agencies shall inspect each school building that they lease, own, or otherwise use as a school building to identify all locations of friable and nonfriable ACBM.

(2) Any building leased or acquired on or after October 12, 1988, that is to be used as a school building shall be inspected as described under paragraphs (a) (3) and (4) of this section prior to use as a school building. In the event that emergency use of an uninspected building as a school building is necessitated, such buildings shall be inspected within 30 days after commencement of such use.

(3) Each inspection shall be made by an accredited inspector.

(4) For each area of a school building, except as excluded under § 763.99, each person performing an inspection shall:

(i) Visually inspect the area to identify the locations of all suspected ACBM.

(ii) Touch all suspected ACBM to determine whether they are friable.

(iii) Identify all homogeneous areas of friable suspected ACBM and all homogeneous areas of nonfriable suspected ACBM.

(iv) Assume that some or all of the homogeneous areas are ACM, and, for each homogeneous area that is not assumed to be ACM, collect and submit for analysis bulk samples under §§ 763.86 and 763.87.

(v) Assess, under § 763.88, friable material in areas where samples are collected, friable material in areas that are assumed to be ACBM, and friable ACBM identified during a previous inspection.

(vi) Record the following and submit to the person designated under § 763.84 a copy of such record for inclusion in the management plan within 30 days of the inspection:

(A) An inspection report with the date of the inspection signed by each accredited person making the inspection, State of accreditation, and if applicable, his or her accreditation number.

(B) An inventory of the locations of the homogeneous areas where samples are collected, exact location where each bulk sample is collected, dates that samples are collected, homogeneous areas where friable suspected ACBM is assumed to be ACM, and homogeneous areas where nonfriable suspected ACBM is assumed to be ACM.

(C) A description of the manner used to determine sampling locations, the name and signature of each accredited inspector who collected the samples, State of accreditation, and, if applicable, his or her accreditation number.

(D) A list of whether the homogeneous areas identified under paragraph (a)(4)(vi)(B) of this section are surfacing material, thermal system insulation, or miscellaneous material.

(E) Assessments made of friable material, the name and signature of each accredited inspector making the assessment, State of accreditation, and if applicable, his or her accreditation number.

(b) *Reinspection.* (1) At least once every 3 years after a management plan is in effect, each local education agency shall conduct a reinspection of all friable and nonfriable known or assumed ACBM in each school building that they lease, own, or otherwise use as a school building.

(2) Each inspection shall be made by an accredited inspector.

(3) For each area of a school building, each person performing a reinspection shall:

(i) Visually reinspect, and reassess, under § 763.88, the condition of all friable known or assumed ACBM.

(ii) Visually inspect material that was previously considered nonfriable ACBM and touch the material to determine whether it has become friable since the last inspection or reinspection.

(iii) Identify any homogeneous areas with material that has become friable since the last inspection or reinspection.

(iv) For each homogeneous area of newly friable material that is already assumed to be ACBM, bulk samples may be collected and submitted for analysis in accordance with §§ 763.86 and 763.87.

(v) Assess, under § 763.88, the condition of the newly friable material in areas where samples are collected, and newly friable materials in areas that are assumed to be ACBM.

(vi) Reassess, under § 763.88, the condition of friable known or assumed ACBM previously identified.

(vii) Record the following and submit to the person designated under § 763.84 a copy of such record for inclusion in the management plan within 30 days of the reinspection:

(A) The date of the reinspection, the name and signature of the person making the reinspection, State of accreditation, and if applicable, his or her accreditation number, and any changes in the condition of known or assumed ACBM.

(B) The exact locations where samples are collected during the reinspection, a description of the manner used to determine sampling locations, the name and signature of each accredited inspector who collected the samples, State of accreditation, and, if applicable, his or her accreditation number.

(C) Any assessments or reassessments made of friable material, the name and signature of the accredited inspector making the assessments, State of accreditation, and if applicable, his or her accreditation number.

(c) *General.* Thermal system insulation that has retained its structural integrity and that has an undamaged protective jacket or wrap that prevents fiber release shall be treated as nonfriable and therefore is subject only to periodic surveillance and preventive measures as necessary.

§ 763.86 Sampling.

(a) *Surfacing material.* An accredited inspector shall collect, in a statistically random manner that is representative of the homogeneous area, bulk samples from each homogeneous area of friable surfacing material that is not assumed to be ACM, and shall collect the samples as follows:

(1) At least three bulk samples shall be collected from each homogeneous area that is 1,000 ft^2 or less, except as provided in § 763.87(c)(2).

(2) At least five bulk samples shall be collected from each homogeneous area that is greater than 1,000 ft^2 but less than or equal to 5,000 ft^2, except as provided in § 763.87(c)(2).

(3) At least seven bulk samples shall be collected from each homogeneous area that is greater than 5,000 ft^2, except as provided in § 763.87(c)(2).

(b) *Thermal system insulation.* (1) Except as provided in paragraphs (b) (2) through (4) of this section and § 763.87(c), an accredited inspector shall collect, in a randomly distributed manner, at least three bulk samples from each homogeneous area of thermal system insulation that is not assumed to be ACM.

(2) Collect at least one bulk sample from each homogeneous area of patched thermal system insulation that is not assumed to be ACM if the patched section is less than 6 linear or square feet.

(3) In a manner sufficient to determine whether the material is ACM or not ACM, collect bulk samples from each insulated mechanical system that is not assumed to be ACM where cement or plaster is used on fittings such as tees, elbows, or valves, except as provided under § 763.87(c)(2).

(4) Bulk samples are not required to be collected from any homogeneous area where the accredited inspector has determined that the thermal system insulation is fiberglass, foam glass, rubber, or other non-ACBM.

(c) *Miscellaneous material.* In a manner sufficient to determine whether material is ACM or not ACM, an accredited inspector shall collect bulk samples from each homogeneous area of friable miscellaneous material that is not assumed to be ACM.

(d) *Nonfriable suspected ACBM.* If any homogeneous area of nonfriable suspected ACBM is not assumed to be ACM, then an accredited inspector shall collect, in a manner sufficient to determine whether the material is ACM or not ACM, bulk samples from the homogeneous area of nonfriable suspected ACBM that is not assumed to be ACM.

§ 763.87 Analysis.

(a) Local education agencies shall have bulk samples, collected under § 763.86 and submitted for analysis, analyzed for asbestos using laboratories accredited by the National Bureau of Standards (NBS). Local education agencies shall use laboratories which have received interim accreditation for polarized light microscopy (PLM) analysis under the EPA Interim Asbestos Bulk Sample Analysis Quality Assurance Program until the NBS PLM laboratory accreditation program for PLM is operational.

(b) Bulk samples shall not be composited for analysis and shall be analyzed for asbestos content by PLM, using the "Interim Method for the Determination of Asbestos in Bulk Insulation Samples" found at Appendix A to Subpart F in 40 CFR Part 763.

(c)(1) A homogeneous area is considered not to contain ACM only if the results of all samples required to be collected from the area show asbestos in amounts of 1 percent or less.

(2) A homogeneous area shall be determined to contain ACM based on a finding that the results of at least one sample collected from that area shows that asbestos is present in an amount greater than 1 percent.

(d) The name and address of each laboratory performing an analysis, the date of analysis, and the name and signature of the person performing the analysis shall be submitted to the person designated under § 763.84 for inclusion into the management plan within 30 days of the analysis.

§ 763.88 Assessment.

(a)(1) For each inspection and reinspection conducted under § 763.85 (a) and (c) and previous inspections specified under § 763.99, the local education agency shall have an accredited inspector provide a written assessment of all friable known or assumed ACBM in the school building.

(2) Each accredited inspector providing a written assessment shall sign and date the assessment, provide his or her State of accreditation, and if applicable, accreditation number, and submit a copy of the assessment to the person designated under § 763.84 for inclusion in the management plan within 30 days of the assessment.

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(b) The inspector shall classify and give reasons in the written assessment for classifying the ACBM and suspected ACBM assumed to be ACM in the school building into one of the following categories:

(1) Damaged or significantly damaged thermal system insulation ACM.

(2) Damaged friable surfacing ACM.

(3) Significantly damaged friable surfacing ACM.

(4) Damaged or significantly damaged friable miscellaneous ACM.

(5) ACBM with potential for damage.

(6) ACBM with potential for significant damage.

(7) Any remaining friable ACBM or friable suspected ACBM.

(c) Assessment may include the following considerations:

(1) Location and the amount of the material, both in total quantity and as a percentage of the functional space.

(2) Condition of the material, specifying:

(i) Type of damage or significant damage (e.g., flaking, blistering, water damage, or other signs of physical damage).

(ii) Severity of damage (e.g., major flaking, severely torn jackets, as opposed to occasional flaking, minor tears to jackets).

(iii) Extent or spread of damage over large areas or large percentages of the homogeneous area.

(3) Whether the material is accessible.

(4) The material's potential for disturbance.

(5) Known or suspected causes of damage or significant damage (e.g., air erosion, vandalism, vibration, water).

(6) Preventive measures which might eliminate the reasonable likelihood of undamaged ACM from becoming significantly damaged.

(d) The local education agency shall select a person accredited to develop management plans to review the results of each inspection, reinspection, and assessment for the school building and to conduct any other necessary activities in order to recommend in writing to the local education agency appropriate response actions. The accredited person shall sign and date the recommendation, provide his or her State of accreditation, and, if applicable, provide his or her accreditation number, and submit a copy of the recommendation to the person designated under § 763.84 for inclusion in the management plan.

§ 763.90 Response actions.

(a) The local education agency shall select and implement in a timely manner the appropriate response actions in this section consistent with the assessment conducted in § 763.88. The response actions selected shall be sufficient to protect human health and the environment. The local education agency may then select, from the response actions which protect human health and the environment, that action which is the least burdensome method. Nothing in this section shall be construed to prohibit removal of ACBM from a school building at any time, should removal be the preferred response action of the local education agency.

(b) If damaged or significantly damaged thermal system insulation ACM is present in a building, the local education agency shall:

(1) At least repair the damaged area.

(2) Remove the damaged material if it is not feasible, due to technological factors, to repair the damage.

(3) Maintain all thermal system insulation ACM and its covering in an intact state and undamaged condition.

(c)(1) If damaged friable surfacing ACM or damaged friable miscellaneous ACM is present in a building, the local education agency shall select from among the following response actions: encapsulation, enclosure, removal, or repair of the damaged material.

(2) In selecting the response action from among those which meet the definitional standards in § 763.83, the local education agency shall determine which of these response actions protects human health and the environment. For purposes of determining which of these response actions are the least burdensome, the local education agency may then consider local circumstances, including occupancy and use patterns within the school building, and its economic concerns, including short- and long-term costs.

(d) If significantly damaged friable surfacing ACM or significantly damaged friable miscellaneous ACM is present in a building the local education agency shall:

(1) Immediately isolate the functional space and restrict access, unless isolation is not necessary to protect human health and the environment.

(2) Remove the material in the functional space or, depending upon whether enclosure or encapsulation would be sufficient to protect human health and the environment, enclose or encapsulate.

(e) If any friable surfacing ACM, thermal system insulation ACM, or friable miscellaneous ACM that has potential for damage is present in a building, the local education agency shall at least implement an operations and maintenance (O&M) program, as described under § 763.91.

(f) If any friable surfacing ACM, thermal system insulation ACM, or friable miscellaneous ACM that has potential for significant damage is present in a building, the local education agency shall:

(1) Implement an O&M program, as described under § 763.91.

(2) Institute preventive measures appropriate to eliminate the reasonable likelihood that the ACM or its covering will become significantly damaged, deteriorated, or delaminated.

(3) Remove the material as soon as possible if appropriate preventive measures cannot be effectively implemented, or unless other response actions are determined to protect human health and the environment. Immediately isolate the area and restrict access if necessary to avoid an imminent and substantial endangerment to human health or the environment.

(g) Response actions including removal, encapsulation, enclosure, or repair, other than small-scale, short-duration repairs, shall be designed and conducted by persons accredited to design and conduct response actions.

(h) The requirements of this Subpart E in no way supersede the worker protection and work practice requirements under 29 CFR 1926.58 (Occupational Safety and Health Administration (OSHA) asbestos worker protection standards for construction), 40 CFR Part 763, Subpart G (EPA asbestos worker protection standards for public employees), and 40 CFR Part 61, Subpart M (National Emission Standards for Hazardous Air Pollutants—Asbestos).

(i) Completion of response actions. (1) At the conclusion of any action to remove, encapsulate, or enclose ACBM or material assumed to be ACBM, a person designated by the local education agency shall visually inspect each functional space where such action was conducted to determine whether the action has been properly completed.

(2)(i) A person designated by the local education agency shall collect air samples using aggressive sampling as described in Appendix A to this Subpart E to monitor air for clearance after each removal, encapsulation, and enclosure project involving ACBM, except for projects that are of small-scale, short-duration.

(ii) Local education agencies shall have air samples collected under this section analyzed for asbestos using laboratories accredited by the National Bureau of Standards to conduct such analysis using transmission electron microscopy (TEM) or, under circumstances pe mitted in this section, laboratories enrolled in the American Industrial Hygiene Association Proficiency Analytical Testing Program for phase contrast microscopy (PCM).

(iii) Until the National Bureau of Standards TEM laboratory accreditation program is operational, local educational agencies shall use laboratories that use the protocol described in Appendix A to Subpart E of this part.

(3) Except as provided in paragraphs (i) (4), (5), (6), or (7) of this section, an action to remove, encapsulate, or enclose ACBM shall be considered complete when the average concentration of asbestos of five air samples cbllected within the affected functional space and analyzed by the TEM method in Appendix A of this Subpart E, is not statistically significantly different, as determined by the Z-test calculation found in Appendix A of this Subpart E, from the average asbestos concentration of five air samples collected at the same time outside the affected functional space and analyzed in the same manner, and the average asbestos concentration of the three field blanks described in Appendix A of this Subpart E is below the filter background level, as defined in Appendix A of this Subpart E, of 70 structures per square millimeter (70 s/mm ^{2}).

(4) An action may also be considered complete if the volume of air drawn for each of the five samples collected within the affected functional space is equal to or greater than 1,199 L of air for a 25 mm filter or equal to or greater than 2,799 L of air for a 37 mm filter, and the average concentration of asbestos as analyzed by the TEM method in Appendix A of this Subpart E, for the five air samples does not exceed the filter background level, as defined in Appendix A, of 70 structures per square millimeter (70 s/mm ^{2}). If the average concentration of asbestos of the five air samples within the affected functional space exceeds 70 s/mm ^{2}, or if the volume of air in each of the samples is less than 1,199 L of air for a 25 mm filter or less than 2,799 L of air for a 37 mm filter, the action shall be considered complete only when the requirements of paragraph (i) (3), (5), (6), or (7) of this section are met.

(5) At any time, a local education agency may analyze air monitoring samples collected for clearance purposes by phase contrast microscopy (PCM) to confirm completion of removal, encapsulation, or enclosure of ACBM that is greater than small-scale, short-duration and less than or equal to 160 square feet or 260 linear feet. The action shall be considered complete when the results of samples collected in the affected functional space and analyzed by phase contrast microscopy using the National Institute for Occupational Safety and Health (NIOSH) Method 7400 entitled "Fibers" published in the NIOSH Manual of Analytical Methods, 3rd Edition, Second Supplement, August 1987, show that the concentration of fibers for each of the five samples is less than or equal to a limit of quantitation for PCM (0.01 fibers per cubic centimeter (0.01 f/cm ^{3}) of air). The method is available at the Office of the Federal Register Information Center, 11th and L St., NW., Room 8401, Washington, DC, 20408, and the EPA OPTS Reading Room, Rm. G004 Northeast Mall, 401 M St., SW., Washington, DC 20460. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The method is incorporated as it exists on the effective date of this rule, and a notice of any change to the method will be published in the **Federal Register**.

(6) Until October 7, 1989, a local education agency may analyze air monitoring samples collected for clearance purposes by PCM to confirm completion of removal, encapsulation, or enclosure of ACBM that is less than or equal to 3,000 square feet or 1,000 linear feet. The action shall be considered complete when the results of samples collected in the affected functional space and analyzed by PCM using the NIOSH Method 7400 entitled "Fibers" published in the NIOSH Manual of Analytical Methods, 3rd Edition, Second Supplement, August 1987, show that the concentration of fibers for each of the five samples is less than or equal to a limit quantitation for PCM (0.01 fibers per cubic centimeter, 0.01 f/cm ^{3}). The method is available at the Office of the Federal Register, 11th and L St., NW., Room 8301, Washington, DC, 20408, and in the EPA OPTS Reading Room, Rm. G004 Northeast Mall, 401 M St., SW., Washington, DC 20460. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The method is incorporated as it exists on the effective date of this rule and a notice of any change to the method will be published in the **Federal Register**.

(7) From October 8, 1989, to October 7, 1990, a local education agency may analyze air monitoring samples collected for clearance purposes by PCM to confirm completion of removal, encapsulation, or enclosure of ACBM that is less than or equal to 1,500 square feet or 500 linear feet. The action shall be considered complete when the results of samples collected in the affected functional space and analyzed by PCM using the NIOSH Method 7400 entitled "Fibers" published in the NIOSH Manual of Analytical Methods, 3rd Edition, Second Supplement, August 1987, show that the concentration of fibers for each of the five samples is less than or equal to a limit of quantitation for PCM (0.01 fibers per cubic centimeter, 0.01 f/cm ^{3}). The method is available at the Office of the Federal Register, 11th and L St., NW., Room 8301, Washington, DC, 20408, and in the EPA OPTS Reading Room, Rm. G004 Northeast Mall, 401 M St., SW., Washington, DC 20460. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The method is incorporated as it exists on the effective date of this rule and a notice of any change to the method will be published in the **Federal Register**.

(8) To determine the amount of ACBM affected under paragraphs (i) (5), (6), and (7) of this section, the local education agency shall add the total square or linear footage of ACBM within the containment barriers used to isolate the functional space for the action to remove, encapsulate, or enclose the ACBM. Contiguous portions of material subject to such action conducted concurrently or at approximately the same time within the same school building shall not be separated to qualify under paragraphs (i) (5), (6), or (7) of this section.

§ 763.91 Operations and maintenance.

(a) *Applicability.* The local education agency shall implement an operations, maintenance, and repair (O&M) program under this section whenever any friable ACBM is present or assumed to be present in a building that it leases, owns, or otherwise uses as a school building. Any material identified as nonfriable ACBM or nonfriable assumed ACBM must be treated as friable ACBM for purposes of this section when the material is about to become friable as a result of activities performed in the school building.

(b) *Worker protection.* The protection provided by EPA at 40 CFR 763.121 for worker protection during asbestos abatement projects is extended to employees of local education agencies who perform operations, maintenance, and repair (O&M) activities involving ACM and who are not covered by the OSHA asbestos construction standard at 29 CFR 1926.58 or an asbestos worker approved by OSHA under section 19 of the Occupational Safety and Health Act. Local education agencies may consult

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Appendix B of this Subpart if their employees are performing operations, maintenance, and repair activities that are of small-scale, short-duration.

(c) *Cleaning*—(1) *Initial cleaning.* Unless the building has been cleaned using equivalent methods within the previous 6 months, all areas of a school building where friable ACBM, damaged or significantly damaged thermal system insulation ACM, or friable suspected ACBM assumed to be ACM are present shall be cleaned at least once after the completion of the inspection required by § 763.85(a) and before the initiation of any response action, other than O&M activities or repair, according to the following procedures:

(i) HEPA-vacuum or steam-clean all carpets.

(ii) HEPA-vacuum or wet-clean all other floors and all other horizontal surfaces.

(iii) Dispose of all debris, filters, mopheads, and cloths in sealed, leak-tight containers.

(2) *Additional cleaning.* The accredited management planner shall make a written recommendation to the local education agency whether additional cleaning is needed, and if so, the methods and frequency of such cleaning.

(d) *Operations and maintenance activities.* The local education agency shall ensure that the procedures described below to protect building occupants shall be followed for any operations and maintenance activities disturbing friable ACBM:

(1) Restrict entry into the area by persons other than those necessary to perform the maintenance project, either by physically isolating the area or by scheduling.

(2) Post signs to prevent entry by unauthorized persons.

(3) Shut off or temporarily modify the air-handling system and restrict other sources of air movement.

(4) Use work practices or other controls, such as, wet methods, protective clothing, HEPA-vacuums, mini-enclosures, glove bags, as necessary to inhibit the spread of any released fibers.

(5) Clean all fixtures or other components in the immediate work area.

(6) Place the asbestos debris and other cleaning materials in a sealed, leak-tight container.

(e) *Maintenance activities other than small-scale, short-duration.* The response action for any maintenance activities disturbing friable ACBM, other than small-scale, short-duration maintenance activities, shall be designed by persons accredited to design response actions and conducted by persons accredited to conduct response actions.

(f) *Fiber release episodes*—(1) *Minor fiber release episode.* The local education agency shall ensure that the procedures described below are followed in the event of a minor fiber release episode (i.e., the falling or dislodging of 3 square or linear feet or less of friable ACBM):

(i) Thoroughly saturate the debris using wet methods.

(ii) Clean the area, as described in paragraph (e) of this section.

(iii) Place the asbestos debris in a sealed, leak-tight container.

(iv) Repair the area of damaged ACM with materials such as asbestos-free spackling, plaster, cement, or insulation, or seal with latex paint or an encapsulant, or immediately have the appropriate response action implemented as required by § 763.90.

(2) *Major fiber release episode.* The local education agency shall ensure that the procedures described below are followed in the event of a major fiber release episode (i.e., the falling or dislodging of more than 3 square or linear feet of friable ACBM):

(i) Restrict entry into the area and post signs to prevent entry into the area by persons other than those necessary to perform the response action.

(ii) Shut off or temporarily modify the air-handling system to prevent the distribution of fibers to other areas in the building.

(iii) The response action for any major fiber release episode must be designed by persons accredited to design response actions and conducted by persons accredited to conduct response actions.

§ 763.92 Training and periodic surveillance.

(a) *Training.* (1) The local education agency shall ensure, prior to the implementation of the O&M provisions of the management plan, that all members of its maintenance and custodial staff (custodians, electricians, heating/air conditioning engineers, plumbers, etc.) who may work in a building that contains ACBM receive awareness training of at least 2 hours, whether or not they are required to work with ACBM. New custodial and maintenance employees shall be trained within 60 days after commencement of employment. Training shall include, but not be limited to:

(i) Information regarding asbestos and its various uses and forms.

(ii) Information on the health effects associated with asbestos exposure.

(iii) Locations of ACBM identified throughout each school building in which they work.

(iv) Recognition of damage, deterioration, and delamination of ACBM.

(v) Name and telephone number of the person designated to carry out general local education agency responsibilities under § 763.84 and the availability and location of the management plan.

(2) The local education agency shall ensure that all members of its maintenance and custodial staff who conduct any activities that will result in the disturbance of ACBM shall receive training described in paragraph (a)(1) of this section and 14 hours of additional training. Additional training shall include, but not be limited to:

(i) Descriptions of the proper methods of handling ACBM.

(ii) Information on the use of respiratory protection as contained in the EPA/NIOSH *Guide to Respiratory Protection for the Asbestos Abatement Industry*, September 1986 (EPA 560/OPTS–86–001), available from TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St. SW., Washington, DC 20460, and other personal protection measures.

(iii) The provisions of this section and § 763.91, Appendices A, B, C, D of this Subpart E of this part, EPA regulations contained in 40 CFR Part 763, Subpart G, and in 40 CFR Part 61, Subpart M, and OSHA regulations contained in 29 CFR 1926.58.

(iv) Hands-on training in the use of respiratory protection, other personal protection measures, and good work practices.

(3) Local education agency maintenance and custodial staff who have attended EPA-approved asbestos training or received equivalent training for O&M and periodic surveillance activities involving asbestos shall be considered trained for the purposes of this section.

(b) *Periodic surveillance.* (1) At least once every 6 months after a management plan is in effect, each local education agency shall conduct periodic surveillance in each building that it leases, owns, or otherwise uses as a school building that contains ACBM or is assumed to contain ACBM.

(2) Each person performing periodic surveillance shall:

(i) Visually inspect all areas that are identified in the management plan as ACBM or assumed ACBM.

(ii) Record the date of the surveillance, his or her name, and any changes in the condition of the materials.

(iii) Submit to the person designated to carry out general local education agency responsibilities under § 763.84 a copy of such record for inclusion in the management plan.

§ 763.93 Management plans.

(a)(1) On or before October 12, 1988, each local education agency shall develop an asbestos management plan for each school, including all buildings that they lease, own, or otherwise use as school buildings, and submit the plan to an Agency designated by the Governor of the State in which the local education agency is located. The plan may be submitted in stages that cover a portion of the school buildings under the authority of the local education agency.

(2) If a building to be used as part of a school is leased or otherwise acquired after October 12, 1988, the local education agency shall include the new building in the management plan for the school prior to its use as a school building. The revised portions of the management plan shall be submitted to the Agency designated by the Governor.

(3) If a local education agency begins to use a building as a school after October 12, 1988, the local education agency shall submit a management plan for the school to the Agency designated by the Governor prior to its use as a school.

(b) On or before October 17, 1987, the Governor of each State shall notify local education agencies in the State regarding where to submit their management plans. States may establish administrative procedures for reviewing management plans. If the Governor does not disapprove a management plan within 90 days after receipt of the plan, the local education agency shall implement the plan.

(c) Each local education agency must begin implementation of its management plan on or before July 9, 1988, and complete implementation in a timely fashion.

(d) Each local education agency shall maintain and update its management plan to keep it current with ongoing operations and maintenance, periodic surveillance, inspection, reinspection, and response action activities. All provisions required to be included in the management plan under this section shall be retained as part of the management plan, as well as any information that has been revised to bring the plan up-to-date.

(e) The management plan shall be developed by an accredited management planner and shall include:

(1) A list of the name and address of each school building and whether the school building contains friable ACBM, nonfriable ACBM, and friable and nonfriable suspected ACBM assumed to be ACM.

(2) For each inspection conducted before the December 14, 1987:

(i) The date of the inspection.

(ii) A blueprint, diagram, or written description of each school building that identifies clearly each location and approximate square or linear footage of any homogeneous or sampling area where material was sampled for ACM, and, if possible, the exact locations where bulk samples were collected, and the dates of collection.

(iii) A copy of the analyses of any bulk samples, dates of analyses, and a copy of any other laboratory reports pertaining to the analyses.

(iv) A description of any response actions or preventive measures taken to reduce asbestos exposure, including if possible, the names and addresses of all contractors involved, start and completion dates of the work, and results of any air samples analyzed during and upon completion of the work.

(v) A description of assessments, required to be made under § 763.88, of material that was identified before December 14, 1987, as friable ACBM or friable suspected ACBM assumed to be ACM, and the name and signature, State of accreditation, and if applicable, accreditation number of each accredited person making the assessments.

(3) For each inspection and reinspection conducted under § 763.85:

(i) The date of the inspection or reinspection and the name and signature, State of accreditation and, if applicable, the accreditation number of each accredited inspector performing the inspection or reinspection.

(ii) A blueprint, diagram, or written description of each school building that identifies clearly each location and approximate square or linear footage of homogeneous areas where material was sampled for ACM, the exact location where each bulk sample was collected, date of collection, homogeneous areas where friable suspected ACBM is assumed to be ACM, and where nonfriable suspected ACBM is assumed to be ACM.

(iii) A description of the manner used to determine sampling locations, and the name and signature of each accredited inspector collecting samples, the State of accreditation, and if applicable, his or her accreditation number.

(iv) A copy of the analyses of any bulk samples collected and analyzed, the name and address of any laboratory that analyzed bulk samples, a statement that the laboratory meets the applicable requirements of § 763.87(a) the date of analysis, and the name and signature of the person performing the analysis.

(v) A description of assessments, required to be made under § 763.88, of all ACBM and suspected ACBM assumed to be ACM, and the name, signature, State of accreditation, and if applicable, accreditation number of each accredited person making the assessments.

(4) The name, address, and telephone number of the person designated under § 763.84 to ensure that the duties of the local education agency are carried out, and the course name, and dates and hours of training taken by that person to carry out the duties.

(5) The recommendations made to the local education agency regarding response actions, under § 763.88(d), the name, signature, State of accreditation of each person making the recommendations, and if applicable, his or her accreditation number.

(6) A detailed description of preventive measures and response actions to be taken, including methods to be used, for any friable ACBM, the locations where such measures and action will be taken, reasons for selecting the response action or preventive measure, and a schedule for beginning and completing each preventive measure and response action.

(7) With respect to the person or persons who inspected for ACBM and who will design or carry out response actions, except for operations and maintenance, with respect to the ACBM, one of the following statements:

(i) If the State has adopted a contractor accreditation program under section 206(b) of Title II of the Act, a statement that the person(s) is accredited under such plan.

(ii) A statement that the local education agency used (or will use) persons who have been accredited by another State which has adopted a contractor accreditation plan under section 206(b) of Title II of the Act or is accredited by an EPA-approved course under section 206(c) of Title II of the Act.

(8) A detailed description in the form of a blueprint, diagram, or in writing of any ACBM or suspected ACBM assumed to be ACM which remains in the school once response actions are undertaken pursuant to § 763.90. This description shall be updated as response actions are completed.

(9) A plan for reinspection under § 763.85, a plan for operations and maintenance activities under § 763.91,

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and a plan for periodic surveillance under § 763.92, a description of the recommendation made by the management planner regarding additional cleaning under § 763.91(c)(2) as part of an operations and maintenance program, and the response of the local education agency to that recommendation.

(10) A description of steps taken to inform workers and building occupants, or their legal guardians, about inspections, reinspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress.

(11) An evaluation of the resources needed to complete response actions successfully and carry out reinspection, operations and maintenance activities, periodic surveillance and training.

(12) With respect to each consultant who contributed to the management plan, the name of the consultant and one of the following statements:

(i) If the State has adopted a contractor accreditation plan under section 206(b) of Title II of the Act, a statement that the consultant is accredited under such plan.

(ii) A statement that the contractor is accredited by another State which has adopted a contractor accreditation plan under section 206(b) of Title II of the Act, or is accredited by an EPA-approved course developed under section 206(c) of Title II of the Act.

(f) A local education agency may require each management plan to contain a statement signed by an accredited management plan developer that such person has prepared or assisted in the preparation of such plan or has reviewed such plan, and that such plan is in compliance with this Subpart E. Such statement may not be signed by a person who, in addition to preparing or assisting in preparing the management plan, also implements (or will implement) the management plan.

(g)(1) Upon submission of a management plan to the Governor for review, a local education agency shall keep a copy of the plan in its administrative office. The management plans shall be available, without cost or restriction, for inspection by representatives of EPA and the State, the public, including teachers, other school personnel and their representatives, and parents. The local education agency may charge a reasonable cost to make copies of management plans.

(2) Each local education agency shall maintain in its administrative office a complete, updated copy of a management plan for each school under its administrative control or direction. The management plans shall be available, during normal business hours, without cost or restriction, for inspection by representatives of EPA and the State, the public, including teachers, other school personnel and their representatives, and parents. The local education agency may charge a reasonable cost to make copies of management plans.

(3) Each school shall maintain in its administrative office a complete, updated copy of the management plan for that school. Management plans shall be available for inspection, without cost or restriction, to workers before work begins in any area of a school building. The school shall make management plans available for inspection to representatives of EPA and the State, the public, including parents, teachers, and other school personnel and their representatives within 5 working days after receiving a request for inspection. The school may charge a reasonable cost to make copies of the management plan.

(4) Upon submission of its management plan to the Governor and at least once each school year, the local education agency shall notify in writing parent, teacher, and employee organizations of the availability of management plans and shall include in the management plan a description of the steps taken to notify such organizations, and a dated copy of the notification. In the absence of any such organizations for parents, teachers, or employees, the local education agency shall provide written notice to that relevant group of the availability of management plans and shall include in the management plan a description of the steps taken to notify such groups, and a dated copy of the notification.

(h) Records required under § 763.94 shall be made by local education agencies and maintained as part of the management plan.

(i) Each management plan must contain a true and correct statement, signed by the individual designated by the local education agency under § 763.84, which certifies that the general, local education agency responsibilities, as stipulated by § 763.84, have been met or will be met.

§ 763.94 Recordkeeping.

(a) Records required under this section shall be maintained in a centralized location in the administrative office of both the school and the local education agency as part of the management plan. For each homogeneous area where all ACBM has been removed, the local education agency shall ensure that such records are retained for 3 years after the next reinspection required under § 763.85(b)(1), or for an equivalent period.

(b) For each preventive measure and response action taken for friable and nonfriable ACBM and friable and nonfriable suspected ACBM assumed to be ACM, the local education agency shall provide:

(1) A detailed written description of the measure or action, including methods used, the location where the measure or action was taken, reasons for selecting the measure or action, start and completion dates of the work, names and addresses of all contractors involved, and if applicable, their State of accreditation, and accreditation numbers, and if ACBM is removed, the name and location of storage or disposal site of the ACM.

(2) The name and signature of any person collecting any air sample required to be collected at the completion of certain response actions specified by § 763.90(i), the locations where samples were collected, date of collection, the name and address of the laboratory analyzing the samples, the date of analysis, the results of the analysis, the method of analysis, the name and signature of the person performing the analysis, and a statement that the laboratory meets the applicable requirements of § 763.90(i)(2)(ii).

(c) For each person required to be trained under § 763.92(a) (1) and (2), the local education agency shall provide the person's name and job title, the date that training was completed by that person, the location of the training, and the number of hours completed in such training.

(d) For each time that periodic surveillance under § 763.92(b) is performed, the local education agency shall record the name of each person performing the surveillance, the date of the surveillance, and any changes in the conditions of the materials.

(e) For each time that cleaning under § 763.91(c) is performed, the local education agency shall record the name of each person performing the cleaning, the date of such cleaning, the locations cleaned, and the methods used to perform such cleaning.

(f) For each time that operations and maintenance activities under § 763.91(d) are performed, the local education agency shall record the name of each person performing the activity, the start and completion dates of the activity, the locations where such activity occurred, a description of the activity including preventive measures used, and if ACBM is removed, the name and location of storage or disposal site of the ACM.

(g) For each time that major asbestos activity under § 763.91(e) is performed, the local education agency shall provide the name and signature, State of accreditation, and if applicable, the accreditation number of each person performing the activity, the start and completion dates of the activity, the locations where such activity occurred, a description of the activity including preventive measures used, and if ACBM is removed, the name and location of storage or disposal site of the ACM.

(h) For each fiber release episode under § 763.91(f), the local education agency shall provide the date and location of the episode, the method of repair, preventive measures or response action taken, the name of each person performing the work, and if ACBM is removed, the name and location of storage or disposal site of the ACM.

(Approved by the Office of Management and Budget under control number 2070-0091)

§ 763.95 Warning labels.

(a) The local education agency shall attach a warning label immediately adjacent to any friable and nonfriable ACBM and suspected ACBM assumed to be ACM located in routine maintenance areas (such as boiler rooms) at each school building. This shall include:

(1) Friable ACBM that was responded to by a means other than removal.

(2) ACBM for which no response action was carried out.

(b) All labels shall be prominently displayed in readily visible locations and shall remain posted until the ACBM that is labeled is removed.

(c) The warning label shall read, in print which is readily visible because of large size or bright color, as follows: CAUTION: ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT.

§ 763.97 Compliance and enforcement.

(a) *Compliance with Title II of the Act.* (1) Section 207(a) of Title II of the Act (15 U.S.C. 2647) makes it unlawful for any local education agency to:

(i) Fail to conduct inspections pursuant to section 203(b) of Title II of the Act, including failure to follow procedures and failure to use accredited personnel and laboratories.

(ii) Knowingly submit false information to the Governor regarding any inspection pursuant to regulations under section 203(i) of Title II of the Act.

(iii) Fail to develop a management plan pursuant to regulations under section 203(i) of Title II of the Act.

(2) Section 207(a) of Title II of the Act (15 U.S.C. 2647) also provides that any local education agency which violates any provision of section 207 shall be liable for a civil penalty of not more than $5,000 for each day during which the violation continues. For the purposes of this subpart, a "violation" means a failure to comply with respect to a single school building.

(b) *Compliance with Title I of the Act.* (1) Section 15(1)(D) of Title I of the Act (15 U.S.C. 2614) makes it unlawful for any person to fail or refuse to comply with any requirement of Title II or any rule promulgated or order issued under Title II. Therefore, any person who violates any requirement of this Subpart is in violation of section 15 of Title I of the Act.

(2) Section 15(3) of Title I of the Act (15 U.S.C. 2614) makes it unlawful for any person to fail or refuse to establish or maintain records, submit reports, notices or other information, or permit access to or copying of records, as required by this Act or a rule thereunder.

(3) Section 15(4) (15 U.S.C. 2614) of Title I of the Act makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11 of Title I of the Act.

(4) Section 16(a) of Title I of the Act (15 U.S.C. 2615) provides that any person who violates any provision of section 15 of Title I of the Act shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day such a violation continues shall, for purposes of this paragraph, constitute a separate violation of section 15. A local education agency is not liable for any civil penalty under Title I of the Act for failing or refusing to comply with any rule promulgated or order issued under Title II of the Act.

(c) *Criminal penalties.* If any violation committed by any person (including a local education agency) is knowing or willful, criminal penalties may be assessed under section 16(b) of Title I of the Act.

(d) *Injunctive relief.* The Agency may obtain injunctive relief under section 208(b) of Title II of the Act to respond to a hazard which poses an imminent and substantial endangerment to human health or the environment or section 17 (15 U.S.C. 2616) of Title I of the Act to restrain any violation of section 15 of Title I of the Act or to compel the taking of any action required by or under Title I of the Act.

(e) *Citizen complaints.* Any citizen who wishes to file a complaint pursuant to section 207(d) of Title II of the Act should direct the complaint to the Governor of the State or the EPA Asbestos Ombudsman, 401 M Street, SW., Washington, DC 20460. The citizen complaint should be in writing and identified as a citizen complaint pursuant to section 207(d) of Title II of TSCA. The EPA Asbestos Ombudsman or the Governor shall investigate and respond to the complaint within a reasonable period of time if the allegations provide a reasonable basis to believe that a violation of the Act has occurred.

(f) *Inspections.* EPA may conduct inspections and review management plans under section 11 of Title I of the Act (15 U.S.C. 2610) to ensure compliance.

§ 763.98 Waiver; delegation to State.

(a) *General.* (1) Upon request from a State Governor and after notice and comment and an opportunity for a public hearing in accordance with paragraphs (b) and (c) of this section, EPA may waive some or all of the requirements of this Subpart E if the State has established and is implementing or intends to implement a program of asbestos inspection and management that contains requirements that are at least as stringent as the requirements of this Subpart E.

(2) A waiver from any requirement of this Subpart E shall apply only to the specific provision for which a waiver has been granted under this section. All requirements of this Subpart E shall apply until a waiver is granted under this section.

(b) *Request.* Each request by a Governor to waive any requirement of this Subpart E shall be sent with three complete copies of the request to the Regional Administrator for the EPA Region in which the State is located and shall include:

(1) A copy of the State provisions or proposed provisions relating to its program of asbestos inspection and management in schools for which the request is made.

(2)(i) The name of the State agency that is or will be responsible for administering and enforcing the requirements for which a waiver is requested, the names and job titles of responsible officials in that agency, and phone numbers where the officials can be contacted.

(ii) In the event that more than one agency is or will be responsible for administering and enforcing the requirements for which a waiver is requested, a description of the functions to be performed by each agency, how the program will be coordinated by the lead agency to ensure consistency and

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effective administration in the asbestos inspection and management program within the State, the names and job titles of responsible officials in the agencies, and phone numbers where the officials can be contacted. The lead agency will serve as the central contact point for the EPA.

(3) Detailed reasons, supporting papers, and the rationale for concluding that the State's asbestos inspection and management program provisions for which the request is made are at least as stringent as the requirements of this Subpart E.

(4) A discussion of any special situations, problems, and needs pertaining to the waiver request accompanied by an explanation of how the State intends to handle them.

(5) A statement of the resources that the State intends to devote to the administration and enforcement of the provisions relating to the waiver request.

(6) Copies of any specific or enabling State laws (enacted and pending enactment) and regulations (promulgated and pending promulgation) relating to the request, including provisions for assessing criminal and/or civil penalties.

(7) Assurance from the Governor, the Attorney General, or the legal counsel of the lead agency that the lead agency or other cooperating agencies have the legal authority necessary to carry out the requirements relating to the request.

(c) *General notice—hearing.* (1) Within 30 days after receipt of a request for a waiver, EPA will determine the completeness of the request. If EPA does not request further information within the 30-day period, the request will be deemed complete.

(2) Within 30 days after EPA determines that a request is complete, EPA will issue for publication in the **Federal Register** a notice that announces receipt of the request, describes the information submitted under paragraph (b) of this section, and solicits written comment from interested members of the public. Comments must be submitted within 60 days.

(3) If, during the comment period, EPA receives a written objection to a Governor's request and a request for a public hearing detailing specific objections to the granting of a waiver, EPA will schedule a public hearing to be held in the affected State after the close of the comment period and will announce the public hearing date in the **Federal Register** before the date of the hearing. Each comment shall include the name and address of the person submitting the comment.

(d) *Criteria.* EPA may waive some or all of the requirements of Subpart E of this part if:

(1) The State's lead agency and other cooperating agencies have the legal authority necessary to carry out the provisions of asbestos inspection and management in schools relating to the waiver request.

(2) The State's program of asbestos inspection and management in schools relating to the waiver request and implementation of the program are or will be at least as stringent as the requirements of this Subpart E.

(3) The State has an enforcement mechanism to allow it to implement the program described in the waiver request.

(4) The lead agency and any cooperating agencies have or will have qualified personnel to carry out the provisions relating to the waiver request.

(5) The State will devote adequate resources to the administration and enforcement of the asbestos inspection and management provisions relating to the waiver request.

(6) When specified by EPA, the State gives satisfactory assurances that necessary steps, including specific actions it proposes to take and a time schedule for their accomplishment, will be taken within a reasonable time to conform with applicable criteria under paragraph (d) (2) through (4) of this section.

(e) *Decision.* EPA will issue for publication in the **Federal Register** a notice announcing its decision to grant or deny, in whole or in part, a Governor's request for a waiver from some or all of the requirements of this Subpart E within 30 days after the close of the comment period or within 30 days following a public hearing, whichever is applicable. The notice will include the Agency's reasons and rationale for granting or denying the Governor's request. The 30-day period may be extended if mutually agreed upon by EPA and the State.

(f) *Modifications.* When any substantial change is made in the administration or enforcement of a State program for which a waiver was granted under this section, a responsible official in the lead agency shall submit such changes to EPA.

(g) *Reports.* The lead agency in each State that has been granted a waiver by EPA from any requirement of Subpart E of this part shall submit a report to the Regional Administrator for the Region in which the State is located at least once every 12 months to include the following information:

(1) A summary of the State's implementation and enforcement activities during the last reporting period relating to provisions waived under this section, including enforcement actions taken.

(2) Any changes in the administration or enforcement of the State program implemented during the last reporting period.

(3) Other reports as may be required by EPA to carry out effective oversight of any requirement of this Subpart E that was waived under this section.

(h) *Oversight.* EPA may periodically evaluate the adequacy of a State's implementation and enforcement of and resources devoted to carrying out requirements relating to the waiver. This evaluation may include, but is not limited to, site visits to local education agencies without prior notice to the State.

(i) *Informal conference.* (1) EPA may request that an informal conference be held between appropriate State and EPA officials when EPA has reason to believe that a State has failed to:

(i) Substantially comply with the terms of any provision that was waived under this section.

(ii) Meet the criteria under paragraph (d) of this section, including the failure to carry out enforcement activities or act on violations of the State program.

(2) EPA will:

(i) Specify to the State those aspects of the State's program believed to be inadequate.

(ii) Specify to the State the facts that underlie the belief of inadequacy.

(3) If EPA finds, on the basis of information submitted by the State at the conference, that deficiencies did not exist or were corrected by the State, no further action is required.

(4) Where EPA finds that deficiencies in the State program exist, a plan to correct the deficiencies shall be negotiated between the State and EPA. The plan shall detail the deficiencies found in the State program, specify the steps the State has taken or will take to remedy the deficiencies, and establish a schedule for each remedial action to be initiated.

(j) *Rescission.* (1) If the State fails to meet with EPA or fails to correct deficiencies raised at the informal conference, EPA will deliver to the Governor of the State and a responsible official in the lead agency a written notice of its intent to rescind, in whole or part, the waiver.

(2) EPA will issue for publication in the **Federal Register** a notice that announces the rescission of the waiver, describes those aspects of the State's program determined to be inadequate, and specifies the facts that underlie the findings of inadequacy.

§ 763.99 Exclusions.

(a) A local education agency shall not be required to perform an inspection under § 763.85(a) in any sampling area as defined in 40 CFR 763.103 or homogeneous area of a school building where:

(1) An accredited inspector has determined that, based on sampling records, friable ACBM was identified in that homogeneous or sampling area during an inspection conducted before December 14, 1987. The inspector shall sign and date a statement to that effect with his or her State of accreditation and if applicable, accreditation number and, within 30 days after such determination, submit a copy of the statement to the person designated under § 763.84 for inclusion in the management plan. However, an accredited inspector shall assess the friable ACBM under § 763.88.

(2) An accredited inspector has determined that, based on sampling records, nonfriable ACBM was identified in that homogeneous or sampling area during an inspection conducted before December 14, 1987. The inspector shall sign and date a statement to that effect with his or her State of accreditation and if applicable, accreditation number and, within 30 days after such determination, submit a copy of the statement to the person designated under § 763.84 for inclusion in the management plan. However, an accredited inspector shall identify whether material that was nonfriable has become friable since that previous inspection and shall assess the newly-friable ACBM under § 763.88.

(3) Based on sampling records and inspection records, an accredited inspector has determined that no ACBM is present in the homogeneous or sampling area and the records show that the area was sampled, before December 14, 1987 in substantial compliance with § 763.85(a), which for purposes of this section means in a random manner and with a sufficient number of samples to reasonably ensure that the area is not ACBM.

(i) The accredited inspector shall sign and date a statement, with his or her State of accreditation and if applicable, accreditation number that the homogeneous or sampling area determined not to be ACBM was sampled in substantial compliance with § 763.85(a).

(ii) Within 30 days after the inspector's determination, the local education agency shall submit a copy of the inspector's statement to the EPA Regional Office and shall include the statement in the management plan for that school.

(4) The lead agency responsible for asbestos inspection in a State that has been granted a waiver from § 763.85(a) has determined that, based on sampling records and inspection records, no ACBM is present in the homogeneous or sampling area and the records show that the area was sampled before December 14, 1987, in substantial compliance with § 763.85(a). Such determination shall be included in the management plan for that school.

(5) An accredited inspector has determined that, based on records of an inspection conducted before December 14, 1987, suspected ACBM identified in that homogeneous or sampling area is assumed to be ACM. The inspector shall sign and date a statement to that effect, with his or her State of accreditation and if applicable, accreditation number and, within 30 days of such determination, submit a copy of the statement to the person designated under § 763.84 for inclusion in the management plan. However, an accredited inspector shall identify whether material that was nonfriable suspected ACBM assumed to be ACM has become friable since the previous inspection and shall assess the newly friable material and previously identified friable suspected ACBM assumed to be ACM under § 763.88.

(6) Based on inspection records and contractor and clearance records, an accredited inspector has determined that no ACBM is present in the homogeneous or sampling area where asbestos removal operations have been conducted before December 14, 1987, and shall sign and date a statement to that effect and include his or her State of accreditation and, if applicable, accreditation number. The local education agency shall submit a copy of the statement to the EPA Regional Office and shall include the statement in the management plan for that school.

(7) An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector signs a statement that no ACBM was specified as a building material in any construction document for the building, or, to the best of his or her knowledge, no ACBM was used as a building material in the building. The local education agency shall submit a copy of the signed statement of the architect, project engineer, or accredited inspector to the EPA Regional Office and shall include the statement in the management plan for that school.

(b) The exclusion, under paragraph (a) (1) through (4) of this section, from conducting the inspection under § 763.85(a) shall apply only to homogeneous or sampling areas of a school building that were inspected and sampled before October 17, 1987. The local education agency shall conduct an inspection under § 763.85(a) of all areas inspected before October 17, 1987, that were not sampled or were not assumed to be ACM.

(c) If ACBM is subsequently found in a homogeneous or sampling area of a local education agency that had been identified as receiving an exclusion by an accredited inspector under paragraphs (a) (3), (4), (5) of this section, or an architect, project engineer or accredited inspector under paragraph (a)(7) of this section, the local education agency shall have 180 days following the date of identification of ACBM to comply with this Subpart E.

Appendix A to Subpart E—Interim Transmission Electron Microscopy Analytical Methods—Mandatory and Nonmandatory—and Mandatory Section to Determine Completion of Response Actions

I. Introduction

The following appendix contains three units. The first unit is the mandatory transmission electron microscopy (TEM) method which all laboratories must follow; it is the minimum requirement for analysis of air samples for asbestos by TEM. The mandatory method contains the essential elements of the TEM method. The second unit contains the complete non-mandatory method. The non-mandatory method supplements the mandatory method by including additional steps to improve the analysis. EPA recommends that the non-mandatory method be employed for analyzing air filters; however, the laboratory may choose to employ the mandatory method. The non-mandatory method contains the same minimum requirements as are outlined in the mandatory method. Hence, laboratories may choose either of the two methods for analyzing air samples by TEM.

The final unit of this Appendix A to Subpart E defines the steps which must be taken to determine completion of response actions. This unit is mandatory.

II. Mandatory Transmission Electron Microscopy Method

A. Definitions of Terms

1. "Analytical sensitivity"—Airborne asbestos concentration represented by each fiber counted under the electron

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microscope. It is determined by the air volume collected and the proportion of the filter examined. This method requires that the analytical sensitivity be no greater than 0.005 structures/cm².

2. "Asbestiform"—A specific type of mineral fibrosity in which the fibers and fibrils possess high tensile strength and flexibility.

3. "Aspect ratio"—A ratio of the length to the width of a particle. Minimum aspect ratio as defined by this method is equal to or greater than 5:1.

4. "Bundle"—A structure composed of three or more fibers in a parallel arrangement with each fiber closer than one fiber diameter.

5. "Clean area"—A controlled environment which is maintained and monitored to assure a low probability of asbestos contamination to materials in that space. Clean areas used in this method have HEPA filtered air under positive pressure and are capable of sustained operation with an open laboratory blank which on subsequent analysis has an average of less than 18 structures/mm² in an area of 0.057 mm² (nominally 10 200-mesh grid openings) and a maximum of 53 structures/mm² for any single preparation for that same area.

6. "Cluster"—A structure with fibers in a random arrangement such that all fibers are intermixed and no single fiber is isolated from the group. Groupings must have more than two intersections.

7. "ED"—Electron diffraction.

8. "EDXA"—Energy dispersive X-ray analysis.

9. "Fiber"—A structure greater than or equal to 0.5 μm in length with an aspect ratio (length to width) of 5:1 or greater and having substantially parallel sides.

10. "Grid"—An open structure for mounting on the sample to aid in its examination in the TEM. The term is used here to denote a 200-mesh copper lattice approximately 3 mm in diameter.

11. "Intersection"—Nonparallel touching or crossing of fibers, with the projection having an aspect ratio of 5:1 or greater.

12. "Laboratory sample coordinator"—That person responsible for the conduct of sample handling and the certification of the testing procedures.

13. "Filter background level"—The concentration of structures per square millimeter of filter that is considered indistinguishable from the concentration measured on a blank (filters through which no air has been drawn). For this method the filter background level is defined as 70 structures/mm².

14. "Matrix"—Fiber or fibers with one end free and the other end embedded in or hidden by a particulate. The exposed fiber must meet the fiber definition.

15. "NSD"—No structure detected.

16. "Operator"—A person responsible for the TEM instrumental analysis of the sample.

17. "PCM"—Phase contrast microscopy.

18. "SAED"—Selected area electron diffraction.

19. "SEM"—Scanning electron microscope.

20. "STEM"—Scanning transmission electron microscope.

21. "Structure"—a microscopic bundle, cluster, fiber, or matrix which may contain asbestos.

22. "S/cm²"—Structures per cubic centimeter.

23. "S/mm²"—Structures per square millimeter.

24. "TEM"—Transmission electron microscope.

B. Sampling

1. The sampling agency must have written quality control procedures and documents which verify compliance.

2. Sampling operations must be performed by qualified individuals completely independent of the abatement contractor to avoid possible conflict of interest (References 1, 2, 3, and 5 of Unit II.J.).

3. Sampling for airborne asbestos following an abatement action must use commercially available cassettes.

4. Prescreen the loaded cassette collection filters to assure that they do not contain concentrations of asbestos which may interfere with the analysis of the sample. A filter blank average of less than 18 s/mm² in an area of 0.057 mm² (nominally 10 200-mesh grid openings) and a single preparation with a maximum of 53 s/mm² for that same area is acceptable for this method.

5. Use sample collection filters which are either polycarbonate having a pore size less than or equal to 0.4 μm or mixed cellulose ester having a pore size less than or equal to 0.45 μm.

6. Place these filters in series with a 5.0 μm backup filter (to serve as a diffuser) and a support pad. See the following Figure 1:

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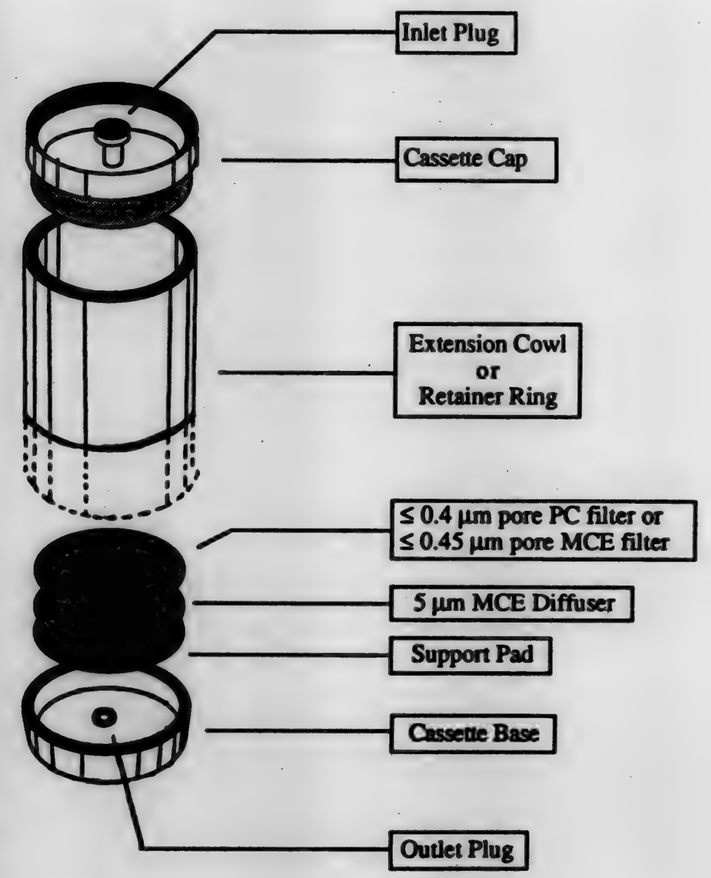
FIGURE I--SAMPLING CASSETTE CONFIGURATION



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7. Reloading of used cassettes is not permitted.

8. Orient the cassette downward at approximately 45 degrees from the horizontal.

9. Maintain a log of all pertinent sampling information.

10. Calibrate sampling pumps and their flow indicators over the range of their intended use with a recognized standard. Assemble the sampling system with a representative filter (not the filter which will be used in sampling) before and after the sampling operation.

11. Record all calibration information.

12. Ensure that the mechanical vibrations from the pump will be minimized to prevent transferral of vibration to the cassette.

13. Ensure that a continuous smooth flow of negative pressure is delivered by the pump by damping out any pump action fluctuations if necessary.

14. The final plastic barrier around the abatement area remains in place for the sampling period.

15. After the area has passed a thorough visual inspection, use aggressive sampling conditions to dislodge any remaining dust. (See suggested protocol in Unit III.B.7.d.)

16. Select an appropriate flow rate equal to or greater than 1 liter per minute (L/min) or less than 10 L/min for 25 mm cassettes. Larger filters may be operated at proportionally higher flow rates.

17. A minimum of 13 samples are to be collected for each testing site consisting of the following:

a. A minimum of five samples per abatement area.

b. A minimum of five samples per ambient area positioned at locations representative of the air entering the abatement site.

c. Two field blanks are to be taken by removing the cap for not more than 30 seconds and replacing it at the time of sampling before sampling is initiated at the following places:

i. Near the entrance to each abatement area.

ii. At one of the ambient sites. (DO NOT leave the field blanks open during the sampling period.)

d. A sealed blank is to be carried with each sample set. This representative cassette is not to be opened in the field.

18. Perform a leak check of the sampling system at each indoor and outdoor sampling site by activating the pump with the closed sampling cassette in line. Any flow indicates a leak which must be eliminated before initiating the sampling operation.

19. The following Table I specifies volume ranges to be used:

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TABLE 1--NUMBER OF 200 MESH EM GRID OPENINGS (0.0057 MM^2) THAT NEED TO BE ANALYZED TO MAINTAIN SENSITIVITY OF 0.005 STRUCTURES/CC BASED ON VOLUME AND EFFECTIVE FILTER AREA

Effective Filter Area 385 sq mm		Effective Filter Area 855 sq mm	
Volume (liters)	# of grid openings	Volume (liters)	# of grid openings
560	*24*	*1,250*	*24*
600	23	1,300	23
700	19	1,400	21
800	17	1,600	19
900	15	1,800	17
1,000	14	2,000	15
1,100	12	2,200	14
1,200	11	2,400	13
1,300	10	2,600	12
1,400	10	2,800	11
1,500	9	3,000	10
1,600	8	3,200	9
1,700	8	3,400	9
1,800	8	3,600	8
1,900	7	3,800	8
2,000	7	4,000	8
2,100	6	4,200	7
2,200	6	4,400	7
2,300	6	4,600	7
2,400	6	4,800	6
2,500	5	5,000	6
2,600	5	5,200	6
2,700	5	5,400	6
2,800	5	5,600	5
2,900	5	5,800	5
3,000	5	6,000	5
3,100	4	6,200	5
3,200	4	6,400	5
3,300	4	6,600	5
3,400	4	6,800	4
3,500	4	7,000	4
3,600	4	7,200	4
3,700	4	7,400	4
3,800	4	7,600	4

Recommended Volume Range

Recommended Volume Range

Note minimum volumes required:
25 mm : 560 liters
37 mm : 1250 liters

Filter diameter of 25 mm = effective area of 385 sq mm
Filter diameter of 37 mm = effective area of 855 sq mm

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20. Ensure that the sampler is turned upright before interrupting the pump flow.

21. Check that all samples are clearly labeled and that all pertinent information has been enclosed before transfer of the samples to the laboratory.

22. Ensure that the samples are stored in a secure and representative location.

23. Do not change containers if portions of these filters are taken for other purposes.

24. A summary of Sample Data Quality Objectives is shown in the following Table II:

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TABLE II--SUMMARY OF SAMPLING AGENCY DATA QUALITY OBJECTIVES

This table summarizes the data quality objectives from the performance of this method in terms of precision, accuracy, completeness, representativeness, and comparability. These objectives are assured by the periodic control checks and reference checks listed here and described in the text of the method.

Unit Operation	QC Check	Frequency	Conformance Expectation
Sampling materials	Sealed blank	1 per I/O site	95%
Sample procedures	Field blanks	2 per I/O site	95%
	Pump calibration	Before and after each field series	90%
Sample custody	Review of chain-of-custody record	Each sample	95% complete
Sample shipment	Review of sending report	Each sample	95% complete

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C. Sample Shipment

Ship bulk samples to the analytical laboratory in a separate container from air samples.

D. Sample Receiving

1. Designate one individual as sample coordinator at the laboratory. While that individual will normally be available to receive samples, the coordinator may train and supervise others in receiving procedures for those times when he/she is not available.

2. Bulk samples and air samples delivered to the analytical laboratory in the same container shall be rejected.

E. Sample Preparation

1. All sample preparation and analysis shall be performed by a laboratory independent of the abatement contractor.

2. Wet-wipe the exterior of the cassettes to minimize contamination possibilities before taking them into the clean room facility.

3. Perform sample preparation in a well-equipped clean facility.

Note: The clean area is required to have the following minimum characteristics. The area or hood must be capable of maintaining a positive pressure with make-up air being HEPA-filtered. The cumulative analytical blank concentration must average less than 18 s/mm² in an area of 0.057 mm² (nominally 10 200-mesh grid openings) and a single preparation with a maximum of 53 s/mm² for that same area.

4. Preparation areas for air samples must not only be separated from preparation areas for bulk samples, but they must be prepared in separate rooms.

5. Direct preparation techniques are required. The object is to produce an intact film containing the particulates of the filter surface which is sufficiently clear for TEM analysis.

a. TEM Grid Opening Area measurement must be done as follows:

i. The filter portion being used for sample preparation must have the surface collapsed using an acetone vapor technique.

ii. Measure 20 grid openings on each of 20 random 200-mesh copper grids by placing a grid on a glass and examining it under the PCM. Use a calibrated graticule to measure the average field diameters. From the data, calculate the field area for an average grid opening.

iii. Measurements can also be made on the TEM at a properly calibrated low magnification or on an optical microscope at a magnification of approximately 400X by using an eyepiece fitted with a scale that has been calibrated against a stage micrometer. Optical microscopy utilizing manual or automated procedures may be used providing instrument calibration can be verified.

b. TEM specimen preparation from polycarbonate (PC) filters. Procedures as described in Unit III.G. or other equivalent methods may be used.

c. TEM specimen preparation from mixed cellulose ester (MCE) filters.

i. Filter portion being used for sample preparation must have the surface collapsed using an acetone vapor technique or the Burdette procedure (Ref. 7 of Unit II.J.)

ii. Plasma etching of the collapsed filter is required. The microscope slide to which the collapsed filter pieces are attached is placed in a plasma asher. Because plasma ashers vary greatly in their performance, both from unit to unit and between different positions in the asher chamber, it is difficult to specify the conditions that should be used. Insufficient etching will result in a failure to expose embedded filters, and too much etching may result in loss of particulate from the surface. As an interim measure, it is recommended that the time for ashing of a known weight of a collapsed filter be established and that the etching rate be calculated in terms of micrometers per second. The actual etching time used for the particulate asher and operating conditions will then be set such that a 1–2 μm (10 percent) layer of collapsed surface will be removed.

iii. Procedures as described in Unit III. or other equivalent methods may be used to prepare samples.

F. TEM Method

1. An 80–120 kV TEM capable of performing electron diffraction with a fluorescent screen inscribed with calibrated gradations is required. If the TEM is equipped with EDXA it must either have a STEM attachment or be capable of producing a spot less than 250 nm in diameter at crossover. The microscope shall be calibrated routinely for magnification and camera constant.

2. Determination of Camera Constant and ED Pattern Analysis. The camera length of the TEM in ED operating mode must be calibrated before ED patterns on unknown samples are observed. This can be achieved by using a carbon-coated grid on which a thin film of gold has been sputtered or evaporated. A thin film of gold is evaporated on the specimen TEM grid to obtain zone-axis ED patterns superimposed with a ring pattern from the polycrystalline gold film. In practice, it is desirable to optimize the thickness of the gold film so that only one or two sharp rings are obtained on the superimposed ED pattern. Thicker gold film would normally give multiple gold rings, but it will tend to mask weaker diffraction spots from the unknown fibrous particulate. Since the unknown d-spacings of most interest in asbestos analysis are those which lie closest to the transmitted beam, multiple gold rings are unnecessary on zone-axis ED patterns. An average camera constant using multiple gold rings can be determined. The camera constant is one-half the diameter of the rings times the interplanar spacing of the ring being measured.

3. Magnification Calibration. The magnification calibration must be done at the fluorescent screen. The TEM must be calibrated at the grid opening magnification (if used) and also at the magnification used for fiber counting. This is performed with a cross grating replica (e.g., one containing 2,160 lines/mm). Define a field of view on the fluorescent screen either by markings or physical boundaries. The field of view must be measurable or previously inscribed with a scale or concentric circles (all scales should be metric). A logbook must be maintained, and the dates of calibration and the values obtained must be recorded. The frequency of calibration depends on the past history of the particular microscope. After any maintenance of the microscope that involved adjustment of the power supplied to the lenses or the high-voltage system or the mechanical disassembly of the electron optical column apart from filament exchange, the magnification must be recalibrated. Before the TEM calibration is performed, the analyst must ensure that the cross grating replica is placed at the same distance from the objective lens as the specimens are. For instruments that incorporate an eucentric tilting specimen stage, all specimens and the cross grating replica must be placed at the eucentric position.

4. While not required on every microscope in the laboratory, the laboratory must have either one microscope equipped with energy dispersive X-ray analysis or access to an equivalent system on a TEM in another laboratory.

5. Microscope settings: 80–120 kV, grid assessment 250–1,000X, then 15,000–20,000X screen magnification for analysis.

6. Approximately one-half (0.5) of the predetermined sample area to be analyzed shall be performed on one sample grid preparation and the remaining half on a second sample grid preparation.

7. Individual grid openings with greater than 5 percent openings (holes) or covered with greater than 25 percent particulate matter or obviously having nonuniform loading must not be analyzed.

8. Reject the grid if:

a. Less than 50 percent of the grid openings covered by the replica are intact.

b. The replica is doubled or folded.

c. The replica is too dark because of incomplete dissolution of the filter.

9. Recording Rules.

a. Any continuous grouping of particles in which an asbestos fiber with an aspect ratio greater than or equal to 5:1 and a length greater than or equal to 0.5 μm is detected shall be recorded on the count sheet. These will be designated asbestos structures and will be classified as fibers, bundles, clusters, or matrices. Record as individual fibers any contiguous grouping having 0, 1, or 2 definable intersections. Groupings having more than 2 intersections are to be described as cluster or matrix. An intersection is a nonparallel touching or crossing of fibers, with the projection having an aspect ratio of 5:1 or greater. See the following Figure 2:

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FIGURE 2--COUNTING GUIDELINES USED IN DETERMINING ASBESTOS STRUCTURES

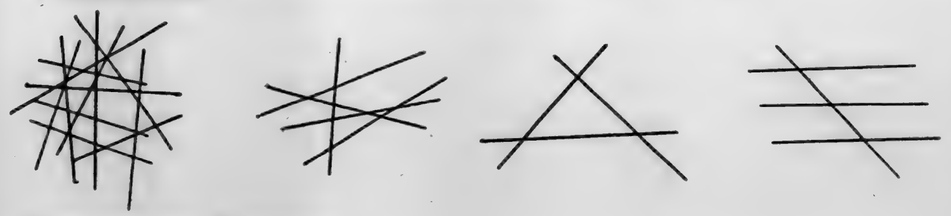
Count as 1 fiber; 1 Structure; no intersections.

Count as 2 fibers if space between fibers is greater than width of 1 fiber diameter or number of intersections is equal to or less than 1.

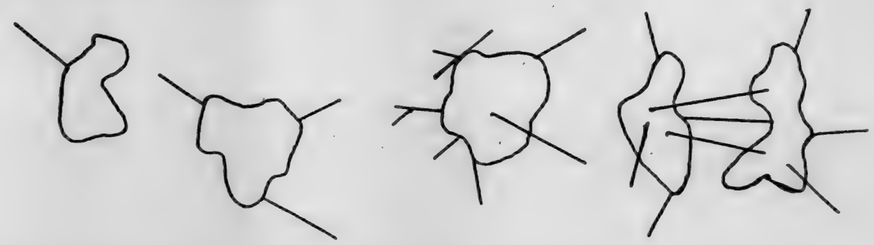
Count as 3 structures if space between fibers is greater than width of 1 fiber diameter or if the number of intersections is equal to or less than 2.

Count bundles as 1 structure; 3 or more parallel fibrils less than 1 fiber diameter separation.

Count clusters as 1 structure; fibers having greater than or equal to 3 intersections.



Count matrix as 1 structure.



DO NOT COUNT AS STRUCTURES:

—— <0.5 micrometer in length
▬ <5:1 Aspect Ratio

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i. *Fiber.* A structure having a minimum length greater than or equal to 0.5 μm and an aspect ratio (length to width) of 5:1 or greater and substantially parallel sides. Note the appearance of the end of the fiber, i.e., whether it is flat, rounded or dovetailed.

ii. *Bundle.* A structure composed of three or more fibers in a parallel arrangement with each fiber closer than one fiber diameter.

iii. *Cluster.* A structure with fibers in a random arrangement such that all fibers are intermixed and no single fiber is isolated from the group. Groupings must have more than two intersections.

iv. *Matrix.* Fiber or fibers with one end free and the other end embedded in or hidden by a particulate. The exposed fiber must meet the fiber definition.

b. Separate categories will be maintained for fibers less than 5 μm and for fibers equal to or greater than 5 μm in length.

c. Record NSD when no structures are detected in the field.

d. Visual identification of electron diffraction (ED) patterns is required for each asbestos structure counted which would cause the analysis to exceed the 70 s/mm² concentration. (Generally this means the first four fibers identified as asbestos must exhibit an identifiable diffraction pattern for chrysotile or amphibole.)

e. The micrograph number of the recorded diffraction patterns must be reported to the client and maintained in the laboratory's quality assurance records. In the event that examination of the pattern by a qualified individual indicates that the pattern has been misidentified visually, the client shall be contacted.

f. Energy Dispersive X-ray Analysis (EDXA) is required of all amphiboles which would cause the analysis results to exceed the 70 s/mm² concentration. (Generally speaking, the first 4 amphiboles would require EDXA.)

g. If the number of fibers in the nonasbestos class would cause the analysis to exceed the 70 s/mm² concentration, the fact that they are not asbestos must be confirmed by EDXA or measurement of a zone axis diffraction pattern.

h. Fibers classified as chrysotile must be identified by diffraction or X-ray analysis and recorded on a count sheet. X-ray analysis alone can be used only after 70 s/mm² have been exceeded for a particular sample.

i. Fibers classified as amphiboles must be identified by X-ray analysis and electron diffraction and recorded on the count sheet. (X-ray analysis alone can be used only after 70 s/mm² have been exceeded for a particular sample.)

j. If a diffraction pattern was recorded on film, record the micrograph number on the count sheet.

k. If an electron diffraction was attempted but no pattern was observed, record N on the count sheet.

l. If an EDXA spectrum was attempted but not observed, record N on the count sheet.

m. If an X-ray analysis spectrum is stored, record the file and disk number on the count sheet.

10. Classification Rules.

a. *Fiber.* A structure having a minimum length greater than or equal to 0.5 μm and an aspect ratio (length to width) of 5:1 or greater and substantially parallel sides. Note the appearance of the end of the fiber, i.e., whether it is flat, rounded or dovetailed.

b. *Bundle.* A structure composed of three or more fibers in a parallel arrangement with each fiber closer than one fiber diameter.

c. *Cluster.* A structure with fibers in a random arrangement such that all fibers are intermixed and no single fiber is isolated from the group. Groupings must have more than two intersections.

d. *Matrix.* Fiber or fibers with one end free and the other end embedded in or hidden by a particulate. The exposed fiber must meet the fiber definition.

11. After finishing with a grid, remove it from the microscope, and replace it in the appropriate grid holder. Sample grids must be stored for a minimum of 1 year from the date of the analysis; the sample cassette must be retained for a minimum of 30 days by the laboratory or returned at the client's request.

G. Sample Analytical Sequence

1. Under the present sampling requirements a minimum of 13 samples is to be collected for the clearance testing of an abatement site. These include five abatement area samples, five ambient samples, two field blanks, and one sealed blank.

2. Carry out visual inspection of work site prior to air monitoring.

3. Collect a minimum of 5 air samples inside the work site and 5 samples outside the work site. The indoor and outdoor samples shall be taken during the same time period.

4. Remaining steps in the analytical sequence are contained in Unit IV of this Appendix.

H. Reporting

1. The following information must be reported to the client for each sample analyzed:

a. Concentration in structures per square millimeter and structures per cubic centimeter.

b. Analytical sensitivity used for the analysis.

c. Number of asbestos structures.

d. Area analyzed.

e. Volume of air sampled (which must be initially supplied to lab by client).

f. Copy of the count sheet must be included with the report.

g. Signature of laboratory official to indicate that the laboratory met specifications of the method.

h. Report form must contain official laboratory identification (e.g., letterhead).

i. Type of asbestos.

I. Quality Control/Quality Assurance Procedures (Data Quality Indicators)

Monitoring the environment for airborne asbestos requires the use of sensitive sampling and analysis procedures. Because the test is sensitive, it may be influenced by a variety of factors. These include the supplies used in the sampling operation, the performance of the sampling, the preparation of the grid from the filter and the actual examination of this grid in the microscope. Each of these unit operations must produce a product of defined quality if the analytical result is to be a reliable and meaningful test result. Accordingly, a series of control checks and reference standards are to be performed along with the sample analysis as indicators that the materials used are adequate and the operations are within acceptable limits. In this way, the quality of the data is defined and the results are of known value. These checks and tests also provide timely and specific warning of any problems which might develop within the sampling and analysis operations. A description of these quality control/quality assurance procedures is summarized in the following Table III:

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TABLE III--SUMMARY OF LABORATORY DATA QUALITY OBJECTIVES

Unit Operation	QC Check	Frequency	Conformance Expectation
Sample receiving	Review of receiving report	Each sample	95% complete
Sample custody	Review of chain-of-custody record	Each sample	95% complete
Sample preparation	Supplies and reagents	On receipt	Meet specs. or reject
	Grid opening size	20 openings/20 grids/lot of 1000 or 1 opening/sample	100%
	Special clean area monitoring	After cleaning or service	Meet specs or reclean
	Laboratory blank	1 per prep series or 10%	Meet specs. or reanalyze series
	Plasma etch blank	1 per 20 samples	75%
	Multiple preps (3 per sample)	Each sample	One with cover of 15 complete grid sqs.
Sample analysis	System check	Each day	Each day
	Alignment check	Each day	Each day
	Magnification calibration with low and high standards	Each month or after service	95%
	ED calibration by gold standard	Weekly	95%
	EDS calibration by copper line	Daily	95%
Performance check	Laboratory blank (measure of cleanliness)	Prep 1 per series or 10% read 1 per 25 samples	Meet specs or reanalyze series
	Replicate counting (measure of precision)	1 per 100 samples	1.5 x Poisson Std. Dev.
	Duplicate analysis (measure of reproducibility)	1 per 100 samples	2 x Poisson Std. Dev.
	Known samples of typical materials (working standards)	Training and for comparison with unknowns	100%
	Analysis of NBS SRM 1876 and/or RM 8410 (measure of accuracy and comparability)	1 per analyst per year	1.5 x Poisson Std. Dev.
	Data entry review (data validation and measure of completeness)	Each sample	95%
	Record and verify ID electron diffraction pattern of structure	1 per 5 samples	80% accuracy
Calculations and data reduction	Hand calculation of automated data reduction procedure or independent recalculation of hand-calculated data	1 per 100 samples	85%

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1. When the samples arrive at the laboratory, check the samples and documentation for completeness and requirements before initiating the analysis.

2. Check all laboratory reagents and supplies for acceptable asbestos background levels.

3. Conduct all sample preparation in a clean room environment monitored by laboratory blanks. Testing with blanks must also be done after cleaning or servicing the room.

4. Prepare multiple grids of each sample.

5. Provide laboratory blanks with each sample batch. Maintain a cumulative average of these results. If there are more than 53 fibers/mm ^{2} per 10 200-mesh grid openings, the system must be checked for possible sources of contamination.

6. Perform a system check on the transmission electron microscope daily.

7. Make periodic performance checks of magnification, electron diffraction and energy dispersive X-ray systems as set forth in Table III under Unit II.I.

8. Ensure qualified operator performance by evaluation of replicate analysis and standard sample comparisons as set forth in Table III under Unit II.I.

9. Validate all data entries.

10. Recalculate a percentage of all computations and automatic data reduction steps as specified in Table III under Unit II.I.

11. Record an electron diffraction pattern of one asbestos structure from every five samples that contain asbestos. Verify the identification of the pattern by measurement or comparison of the pattern with patterns collected from standards under the same conditions. The records must also demonstrate that the identification of the pattern has been verified by a qualified individual and that the operator who made the identification is maintaining at least an 80 percent correct visual identification based on his measured patterns.

12. Appropriate logs or records must be maintained by the analytical laboratory verifying that it is in compliance with the mandatory quality assurance procedures.

J. References

For additional background information on this method, the following references should be consulted.

1. "Guidance for Controlling Asbestos-Containing Materials in Buildings," EPA 560/5–85–024, June 1985.

2. "Measuring Airborne Asbestos Following an Abatement Action," USEPA, Office of Toxic Substances, EPA 600/4–85–049, 1985.

3. Small, John and E. Steel. Asbestos Standards: Materials and Analytical Methods. N.B.S. Special Publication 619, 1982.

4. Campbell, W.J., R.L. Blake, L.L. Brown, E.E. Cather, and J.J. Sjoberg. Selected Silicate Minerals and Their Asbestiform Varieties. Information Circular 8751, U.S. Bureau of Mines, 1977.

5. Quality Assurance Handbook for Air Pollution Measurement System. Ambient Air Methods, EPA 600/4–77–027a, USEPA, Office of Research and Development, 1977.

6. Method 2A: Direct Measurement of Gas Volume through Pipes and Small Ducts. 40 CFR Part 60 Appendix A.

7. Burdette, G.J., Health & Safety Exec. Research & Lab. Services Div., London, "Proposed Analytical Method for Determination of Asbestos in Air."

8. Chatfield, E.J., Chatfield Tech. Cons., Ltd., Clark, T., PEI Assoc., "Standard Operating Procedure for Determination of Airborne Asbestos Fibers by Transmission Electron Microscopy Using Polycarbonate Membrane Filters," WERL SOP 87–1, March 5, 1987.

9. NIOSH Method 7402 for Asbestos Fibers, 12–11–86 Draft.

10. Yamate, G., Agarwall, S.C., Gibbons, R.D., IIT Research Institute, "Methodology for the Measurement of Airborne Asbestos by Electron Microscopy," Draft report, USEPA Contract 68–02–3266, July 1984.

11. "Guidance to the Preparation of Quality Assurance Project Plans," USEPA, Office of Toxic Substances, 1984.

III. Nonmandatory Transmission Electron Microscopy Method

A. Definitions of Terms

1. "Analytical sensitivity"—Airborne asbestos concentration represented by each fiber counted under the electron microscope. It is determined by the air volume collected and the proportion of the filter examined. This method requires that the analytical sensitivity be no greater than 0.005 s/cm^3.

2. "Asbestiform"—A specific type of mineral fibrosity in which the fibers and fibrils possess high tensile strength and flexibility.

3. "Aspect ratio"—A ratio of the length to the width of a particle. Minimum aspect ratio as defined by this method is equal to or greater than 5:1.

4. "Bundle"—A structure composed of three or more fibers in a parallel arrangement with each fiber closer than one fiber diameter.

5. "Clean area"—A controlled environment which is maintained and monitored to assure a low probability of asbestos contamination to materials in that space. Clean areas used in this method have HEPA filtered air under positive pressure and are capable of sustained operation with an open laboratory blank which on subsequent analysis has an average of less than 18 structures/mm^2 in an area of 0.057 mm^2 (nominally 10 200 mesh grid openings) and a maximum of 53 structures/mm^2 for no more than one single preparation for that same area.

6. "Cluster"—A structure with fibers in a random arrangement such that all fibers are intermixed and no single fiber is isolated from the group. Groupings must have more than two intersections.

7. "ED"—Electron diffraction.

8. "EDXA"—Energy dispersive X-ray analysis.

9. "Fiber"—A structure greater than or equal to 0.5 μm in length with an aspect ratio (length to width) of 5:1 or greater and having substantially parallel sides.

10. "Grid"—An open structure for mounting on the sample to aid in its examination in the TEM. The term is used here to denote a 200-mesh copper lattice approximately 3 mm in diameter.

11. "Intersection"—Nonparallel touching or crossing of fibers, with the projection having an aspect ratio of 5:1 or greater.

12. "Laboratory sample coordinator"—That person responsible for the conduct of sample handling and the certification of the testing procedures.

13. "Filter background level"—The concentration of structures per square millimeter of filter that is considered indistinguishable from the concentration measured on blanks (filters through which no air has been drawn). For this method the filter background level is defined as 70 structures/mm^2.

14. "Matrix"—Fiber or fibers with one end free and the other end embedded in or hidden by a particulate. The exposed fiber must meet the fiber definition.

15. "NSD"—No structure detected.

16. "Operator"—A person responsible for the TEM instrumental analysis of the sample.

17. "PCM"—Phase contrast microscopy.

18. "SAED"—Selected area electron diffraction.

19. "SEM"—Scanning electron microscope.

20. "STEM"—Scanning transmission electron microscope.

21. "Structure"—a microscopic bundle, cluster, fiber, or matrix which may contain asbestos.

22. "S/cm^2"—Structures per cubic centimeter.

23. "S/mm^2"—Structures per square millimeter.

24. "TEM"—Transmission electron microscope.

B. Sampling

1. Sampling operations must be performed by qualified individuals completely independent of the abatement contractor to avoid possible conflict of interest (See References 1, 2, and 5 of Unit III.L.) Special precautions should be taken to avoid contamination of the sample. For example, materials that have not been prescreened for their asbestos background content should not be used; also, sample handling procedures which do not take cross contamination possibilities into account should not be used.

2. Material and supply checks for asbestos contamination should be made on all critical supplies, reagents, and procedures before their use in a monitoring study.

3. Quality control and quality assurance steps are needed to identify problem areas and isolate the cause of the contamination (see Reference 5 of Unit III.L.). Control checks shall be permanently recorded to document the quality of the information produced. The sampling firm must have written quality control procedures and documents which verify compliance. Independent audits by a qualified consultant or firm should be performed once a year. All documentation of compliance should be retained indefinitely to provide a guarantee of quality. A summary of Sample Data Quality Objectives is shown in Table II of Unit II.B.

4. Sampling materials.

a. Sample for airborne asbestos following an abatement action using commercially available cassettes.

b. Use either a cowling or a filter-retaining middle piece. Conductive material may reduce the potential for particulates to adhere to the walls of the cowl.

c. Cassettes must be verified as "clean" prior to use in the field. If packaged filters are used for loading or preloaded cassettes are purchased from the manufacturer or a distributor, the manufacturer's name and lot number should be entered on all field data sheets provided to the laboratory, and are required to be listed on all reports from the laboratory.

d. Assemble the cassettes in a clean facility (See definition of clean area under Unit III.A.).

e. Reloading of used cassettes is not permitted.

f. Use sample collection filters which are either polycarbonate having a pore size of less than or equal to 0.4 μm or mixed cellulose ester having a pore size of less than or equal to 0.45 μm.

g. Place these filters in series with a backup filter with a pore size of 5.0 μm (to serve as a diffuser) and a support pad. See the following Figure 1:

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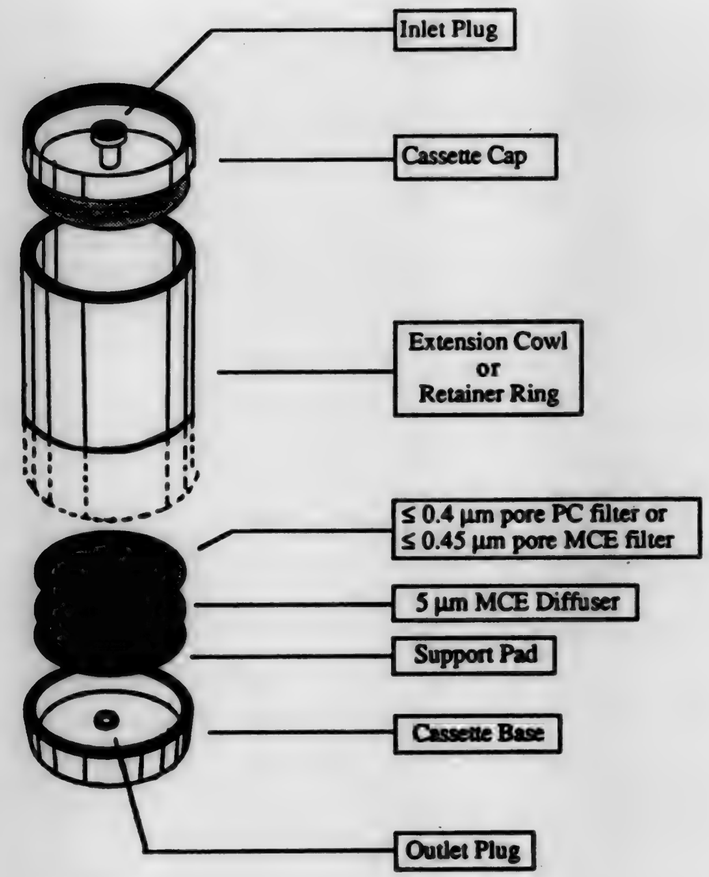
FIGURE I--SAMPLING CASSETTE CONFIGURATION



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h. When polycarbonate filters are used, position the highly reflective face such that the incoming particulate is received on this surface.

i. Seal the cassettes to prevent leakage around the filter edges or between cassette part joints. A mechanical press may be useful to achieve a reproducible leak-free seal. Shrink fit gel-bands may be used for this purpose and are available from filter manufacturers and their authorized distributors.

j. Use wrinkle-free loaded cassettes in the sampling operation.

5. Pump setup.

a. Calibrate the sampling pump over the range of flow rates and loads anticipated for the monitoring period with this flow measuring device in series. Perform this calibration using guidance from EPA Method 2A each time the unit is sent to the field (See Reference 6 of Unit III.L.).

b. Configure the sampling system to preclude pump vibrations from being transmitted to the cassette by using a sampling stand separate from the pump station and making connections with flexible tubing.

c. Maintain continuous smooth flow conditions by damping out any pump action fluctuations if necessary.

d. Check the sampling system for leaks with the end cap still in place and the pump operating before initiating sample collection. Trace and stop the source of any flow indicated by the flowmeter under these conditions.

e. Select an appropriate flow rate equal to or greater than 1 L/min or less than 10 L/min for 25 mm cassettes. Larger filters may be operated at proportionally higher flow rates.

f. Orient the cassette downward at approximately 45 degrees from the horizontal.

g. Maintain a log of all pertinent sampling information, such as pump identification number, calibration data, sample location, date, sample identification number, flow rates at the beginning, middle, and end, start and stop times, and other useful information or comments. Use of a sampling log form is recommended. See the following Figure 2:

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FIGURE 2--SAMPLING LOG FORM

Sample Number	Location of Sample	Pump I.D.	Start Time	Middle Time	End Time	Flow Rate

Inspector: _____ Date: _____

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h. Initiate a chain of custody procedure at the start of each sampling, if this is requested by the client.

i. Maintain a close check of all aspects of the sampling operation on a regular basis.

j. Continue sampling until at least the minimum volume is collected, as specified in the following Table I:

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TABLE 1--NUMBER OF 200 MESH EM GRID OPENINGS (0.0057 MM^2) THAT NEED TO BE ANALYZED TO MAINTAIN SENSITIVITY OF 0.005 STRUCTURES/CC BASED ON VOLUME AND EFFECTIVE FILTER AREA

Effective Filter Area 385 sq mm		Effective Filter Area 855 sq mm	
Volume (liters)	# of grid openings	Volume (liters)	# of grid openings
560	*24*	*1,250*	*24*
600	23	1,300	23
700	19	1,400	21
800	17	1,600	19
900	15	1,800	17
1,000	14	2,000	15
1,100	12	2,200	14
1,200	11	2,400	13
1,300	10	2,600	12
1,400	10	2,800	11
1,500	9	3,000	10
1,600	8	3,200	9
1,700	8	3,400	9
1,800	8	3,600	8
1,900	7	3,800	8
2,000	7	4,000	8
2,100	6	4,200	7
2,200	6	4,400	7
2,300	6	4,600	7
2,400	6	4,800	6
2,500	5	5,000	6
2,600	5	5,200	6
2,700	5	5,400	6
2,800	5	5,600	5
2,900	5	5,800	5
3,000	5	6,000	5
3,100	4	6,200	5
3,200	4	6,400	5
3,300	4	6,600	5
3,400	4	6,800	4
3,500	4	7,000	4
3,600	4	7,200	4
3,700	4	7,400	4
3,800	4	7,600	4

Recommended Volume Range

Recommended Volume Range

Note minimum volumes required:
25 mm : 560 liters
37 mm : 1250 liters

Filter diameter of 25 mm = effective area of 385 sq mm
Filter diameter of 37 mm = effective area of 855 sq mm

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k. At the conclusion of sampling, turn the cassette upward before stopping the flow to minimize possible particle loss. If the sampling is resumed, restart the flow before reorienting the cassette downward. Note the condition of the filter at the conclusion of sampling.

l. Double check to see that all information has been recorded on the data collection forms and that the cassette is securely closed and appropriately identified using a waterproof label. Protect cassettes in individual clean resealed polyethylene bags. Bags are to be used for storing cassette caps when they are removed for sampling purposes. Caps and plugs should only be removed or replaced using clean hands or clean disposable plastic gloves.

m. Do not change containers if portions of these filters are taken for other purposes.

6. Minimum sample number per site. A minimum of 13 samples are to be collected for each testing consisting of the following:

a. A minimum of five samples per abatement area.

b. A minimum of five samples per ambient area positioned at locations representative of the air entering the abatement site.

c. Two field blanks are to be taken by removing the cap for not more than 30 sec and replacing it at the time of sampling before sampling is initiated at the following places:

i. Near the entrance to each ambient area.

ii. At one of the ambient sites.

(Note: Do not leave the blank open during the sampling period.)

d. A sealed blank is to be carried with each sample set. This representative cassette is not to be opened in the field.

7. Abatement area sampling.

a. Conduct final clearance sampling only after the primary containment barriers have been removed; the abatement area has been thoroughly dried; and, it has passed visual inspection tests by qualified personnel. (See Reference 1 of Unit III.L.)

b. Containment barriers over windows, doors, and air passageways must remain in place until the TEM clearance sampling and analysis is completed and results meet clearance test criteria. The final plastic barrier remains in place for the sampling period.

c. Select sampling sites in the abatement area on a random basis to provide unbiased and representative samples.

d. After the area has passed a thorough visual inspection, use aggressive sampling conditions to dislodge any remaining dust.

i. Equipment used in aggressive sampling such as a leaf blower and/or fan should be properly cleaned and decontaminated before use.

ii. Air filtration units shall remain on during the air monitoring period.

iii. Prior to air monitoring, floors, ceiling and walls shall be swept with the exhaust of a minimum one (1) horsepower leaf blower.

iv. Stationary fans are placed in locations which will not interfere with air monitoring equipment. Fan air is directed toward the ceiling. One fan shall be used for each 10,000 ft^3 of worksite.

v. Monitoring of an abatement work area with high-volume pumps and the use of circulating fans will require electrical power. Electrical outlets in the abatement area may be used if available. If no such outlets are available, the equipment must be supplied with electricity by the use of extension cords and strip plug units. All electrical power supply equipment of this type must be approved Underwriter Laboratory equipment that has not been modified. All wiring must be grounded. Ground fault interrupters should be used. Extreme care must be taken to clean up any residual water and ensure that electrical equipment does not become wet while operational.

vi. Low volume pumps may be carefully wrapped in 6-mil polyethylene to insulate the pump from the air. High volume pumps cannot be sealed in this manner since the heat of the motor may melt the plastic. The pump exhausts should be kept free.

vii. If recleaning is necessary, removal of this equipment from the work area must be handled with care. It is not possible to completely decontaminate the pump motor and parts since these areas cannot be wetted. To minimize any problems in this area, all equipment such as fans and pumps should be carefully wet wiped prior to removal from the abatement area. Wrapping and sealing low volume pumps in 6-mil polyethylene will provide easier decontamination of this equipment. Use of clean water and disposable wipes should be available for this purpose.

e. Pump flow rate equal to or greater than 1 L/min or less than 10 L/min may be used for 25 mm cassettes. The larger cassette diameters may have comparably increased flow.

f. Sample a volume of air sufficient to ensure the minimum quantitation limits. (See Table I of Unit III.B.5.j.)

8. Ambient sampling.

a. Position ambient samplers at locations representative of the air entering the abatement site. If makeup air entering the abatement site is drawn from another area of the building which is outside of the abatement area, place the pumps in the building, pumps should be placed out of doors located near the building and away from any obstructions that may influence wind patterns. If construction is in progress immediately outside the enclosure, it may be necessary to select another ambient site. Samples should be representative of any air entering the work site.

b. Locate the ambient samplers at least 3 ft apart and protect them from adverse weather conditions.

c. Sample same volume of air as samples taken inside the abatement site.

C. Sample Shipment

1. Ship bulk samples in a separate container from air samples. Bulk samples and air samples delivered to the analytical laboratory in the same container shall be rejected.

2. Select a rigid shipping container and pack the cassettes upright in a noncontaminating nonfibrous medium such as a bubble pack. The use of resealable polyethylene bags may help to prevent jostling of individual cassettes.

3. Avoid using expanded polystyrene because of its static charge potential. Also avoid using particle-based packaging materials because of possible contamination.

4. Include a shipping bill and a detailed listing of samples shipped, their descriptions and all identifying numbers or marks, sampling data, shipper's name, and contact information. For each sample set, designate which are the ambient samples, which are the abatement area samples, which are the field blanks, and which is the sealed blank if sequential analysis is to be performed.

5. Hand-carry samples to the laboratory in an upright position if possible; otherwise choose that mode of transportation least likely to jar the samples in transit.

6. Address the package to the laboratory sample coordinator by name when known and alert him or her of the package description, shipment mode, and anticipated arrival as part of the chain of custody and sample tracking procedures. This will also help the laboratory schedule timely analysis for the samples when they are received.

D. Quality Control/Quality Assurance Procedures (Data Quality Indicators)

Monitoring the environment for airborne asbestos requires the use of

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sensitive sampling and analysis procedures. Because the test is sensitive, it may be influenced by a variety of factors. These include the supplies used in the sampling operation, the performance of the sampling, the preparation of the grid from the filter and the actual examination of this grid in the microscope. Each of these unit operations must produce a product of defined quality if the analytical result is to be a reliable and meaningful test result. Accordingly, a series of control checks and reference standards is performed along with the sample analysis as indicators that the materials used are adequate and the operations are within acceptable limits. In this way, the quality of the data is defined, and the results are of known value. These checks and tests also provide timely and specific warning of any problems which might develop within the sampling and analysis operations. A description of these quality control/quality assurance procedures is summarized in the text below.

1. Prescreen the loaded cassette collection filters to assure that they do not contain concentrations of asbestos which may interfere with the analysis of the sample. A filter blank average of less than 18 s/mm^2 in an area of 0.057 mm^2 (nominally 10 200-mesh grid openings) and a maximum of 53 s/mm^2 for that same area for any single preparation is acceptable for this method.

2. Calibrate sampling pumps and their flow indicators over the range of their intended use with a recognized standard. Assemble the sampling system with a representative filter—not the filter which will be used in sampling—before and after the sampling operation.

3. Record all calibration information with the data to be used on a standard sampling form.

4. Ensure that the samples are stored in a secure and representative location.

5. Ensure that mechanical calibrations from the pump will be minimized to prevent transferral of vibration to the cassette.

6. Ensure that a continuous smooth flow of negative pressure is delivered by the pump by installing a damping chamber if necessary.

7. Open a loaded cassette momentarily at one of the indoor sampling sites when sampling is initiated. This sample will serve as an indoor field blank.

8. Open a loaded cassette momentarily at one of the outdoor sampling sites when sampling is initiated. This sample will serve as an outdoor field blank.

9. Carry a sealed blank into the field with each sample series. Do not open this cassette in the field.

10. Perform a leak check of the sampling system at each indoor and outdoor sampling site by activating the pump with the closed sampling cassette in line. Any flow indicates a leak which must be eliminated before initiating the sampling operation.

11. Ensure that the sampler is turned upright before interrupting the pump flow.

12. Check that all samples are clearly labeled and that all pertinent information has been enclosed before transfer of the samples to the laboratory.

E. Sample Receiving

1. Designate one individual as sample coordinator at the laboratory. While that individual will normally be available to receive samples, the coordinator may train and supervise others in receiving procedures for those times when he/she is not available.

2. Adhere to the following procedures to ensure both the continued chain-of-custody and the accountability of all samples passing through the laboratory:

a. Note the condition of the shipping package and data written on it upon receipt.

b. Retain all bills of lading or shipping slips to document the shipper and delivery time.

c. Examine the chain-of-custody seal, if any, and the package for its integrity.

d. If there has been a break in the seal or substantive damage to the package, the sample coordinator shall immediately notify the shipper and a responsible laboratory manager before any action is taken to unpack the shipment.

e. Packages with significant damage shall be accepted only by the responsible laboratory manager after discussions with the client.

3. Unwrap the shipment in a clean, uncluttered facility. The sample coordinator or his or her designee will record the contents, including a description of each item and all identifying numbers or marks. A Sample Receiving Form to document this information is attached for use when necessary. (See the following Figure 3.)

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FIGURE 3--SAMPLE RECEIVING FORM

Date of package delivery _____ Package shipped from _____

Carrier _____ Shipping bill retained _____

*Condition of package on receipt _____

*Condition of custody seal _____

Number of samples received _____ Shipping manifest attached _____

Purchase Order No. _____ Project I.D. _____

Comments _____

No.	Description	Sampling Medium PC	Sampling Medium MCE	Sampled Volume Liters	Receiving ID #	Assigned #
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						

(Use as many additional sheets as needed.)

Comments _____

Date of acceptance into sample bank _____

Signature of chain-of-custody recipient _____

Disposition of samples _____

*Note: If the package has sustained substantial damage or the custody seal is broken, stop and contact the project manager and the shipper.

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Note.—The person breaking the chain-of-custody seal and itemizing the contents assumes responsibility for the shipment and signs documents accordingly.

4. Assign a laboratory number and schedule an analysis sequence.

5. Manage all chain-of-custody samples within the laboratory such that their integrity can be ensured and documented.

F. Sample Preparation

1. Personnel not affiliated with the Abatement Contractor shall be used to prepare samples and conduct TEM analysis. Wet-wipe the exterior of the cassettes to minimize contamination possibilities before taking them to the clean sample preparation facility.

2. Perform sample preparation in a well-equipped clean facility.

Note.—The clean area is required to have the following minimum characteristics. The area or hood must be capable of maintaining a positive pressure with make-up air being HEPA filtered. The cumulative analytical blank concentration must average less than 16 s/mm² in an area of 0.057 s/mm² (nominally 10 200-mesh grid openings) with no more than one single preparation to exceed 53 s/mm² for that same area.

3. Preparation areas for air samples must be separated from preparation areas for bulk samples. Personnel must not prepare air samples if they have previously been preparing bulk samples without performing appropriate personal hygiene procedures, i.e., clothing change, showering, etc.

4. Preparation. Direct preparation techniques are required. The objective is to produce an intact carbon film containing the particulates from the filter surface which is sufficiently clear for TEM analysis. Currently recommended direct preparation procedures for polycarbonate (PC) and mixed cellulose ester (MCE) filters are described in Unit III.F.7. and 8. Sample preparation is a subject requiring additional research. Variation on those steps which do not substantively change the procedure, which improve filter clearing or which reduce contamination problems in a laboratory are permitted.

a. Use only TEM grids that have had grid opening areas measured according to directions in Unit III.J.

b. Remove the inlet and outlet plugs prior to opening the cassette to minimize any pressure differential that may be present.

c. Examples of techniques used to prepare polycarbonate filters are described in Unit III.F.7.

d. Examples of techniques used to prepare mixed cellulose ester filters are described in Unit III.F.8.

e. Prepare multiple grids for each sample.

f. Store the three grids to be measured in appropriately labeled grid holders or polyethylene capsules.

5. Equipment.

a. Clean area.

b. Tweezers. Fine-point tweezers for handling of filters and TEM grids.

c. Scalpel Holder and Curved No. 10 Surgical Blades.

d. Microscope slides.

e. Double-coated adhesive tape.

f. Gummed page reinforcements.

g. Micro-pipet with disposal tips 10 to 100 µL variable volume.

h. Vacuum coating unit with facilities for evaporation of carbon. Use of a liquid nitrogen cold trap above the diffusion pump will minimize the possibility of contamination of the filter surface by oil from the pumping system. The vacuum-coating unit can also be used for deposition of a thin film of gold.

i. Carbon rod electrodes. Spectrochemically pure carbon rods are required for use in the vacuum evaporator for carbon coating of filters.

j. Carbon rod sharpener. This is used to sharpen carbon rods to a neck. The use of necked carbon rods (or equivalent) allows the carbon to be applied to the filters with a minimum of heating.

k. Low-temperature plasma asher. This is used to etch the surface of collapsed mixed cellulose ester (MCE) filters. The asher should be supplied with oxygen, and should be modified as necessary to provide a throttle or bleed valve to control the speed of the vacuum to minimize disturbance of the filter. Some early models of ashers admit air too rapidly, which may disturb particulates on the surface of the filter during the etching step.

l. Glass petri dishes, 10 cm in diameter, 1 cm high. For prevention of excessive evaporation of solvent when these are in use, a good seal must be provided between the base and the lid. The seal can be improved by grinding the base and lid together with an abrasive grinding material.

m. Stainless steel mesh.

n. Lens tissue.

o. Copper 200-mesh TEM grids, 3 mm in diameter, or equivalent.

p. Gold 200-mesh TEM grids, 3 mm in diameter, or equivalent.

q. Condensation washer.

r. Carbon-coated, 200-mesh TEM grids, or equivalent.

s. Analytical balance, 0.1 mg sensitivity.

t. Filter paper, 9 cm in diameter.

u. Oven or slide warmer. Must be capable of maintaining a temperature of 65–70 °C.

v. Polyurethane foam, 6 mm thickness.

w. Gold wire for evaporation.

6. Reagents.

a. General. A supply of ultra-clean, fiber-free water must be available for washing of all components used in the analysis. Water that has been distilled in glass or filtered or deionized water is satisfactory for this purpose. Reagents must be fiber-free.

b. Polycarbonate preparation method—chloroform.

c. Mixed Cellulose Ester (MCE) preparation method—acetone or the Burdette procedure (Ref. 7 of Unit III.L.).

7. TEM specimen preparation from polycarbonate filters.

a. Specimen preparation laboratory. It is most important to ensure that contamination of TEM specimens by extraneous asbestos fibers is minimized during preparation.

b. Cleaning of sample cassettes. Upon receipt at the analytical laboratory and before they are taken into the clean facility or laminar flow hood, the sample cassettes must be cleaned of any contamination adhering to the outside surfaces.

c. Preparation of the carbon evaporator. If the polycarbonate filter has already been carbon-coated prior to receipt, the carbon coating step will be omitted, unless the analyst believes the carbon film is too thin. If there is a need to apply more carbon, the filter will be treated in the same way as an uncoated filter. Carbon coating must be performed with a high-vacuum coating unit. Units that are based on evaporation of carbon filaments in a vacuum generated only by an oil rotary pump have not been evaluated for this application, and must not be used. The carbon rods should be sharpened by a carbon rod sharpener to necks of about 4 mm long and 1 mm in diameter. The rods are installed in the evaporator in such a manner that the points are approximately 10 to 12 cm from the surface of a microscope slide held in the rotating and tilting device.

d. Selection of filter area for carbon coating. Before preparation of the filters, a 75 mm x 50 mm microscope slide is washed and dried. This slide is used to support strips of filter during the carbon evaporation. Two parallel strips of double-sided adhesive tape are applied along the length of the slide. Polycarbonate filters are easily stretched during handling, and cutting of areas for further preparation must be performed with great care. The filter and the MCE backing filter are removed together from the cassette and placed on a cleaned glass microscope slide. The filter can be cut with a curved scalpel blade by rocking the blade from the point placed in contact with the filter. The process can be repeated to cut a strip approximately 3 mm wide across the diameter of the filter. The strip of polycarbonate filter is separated from the corresponding strip of backing filter and carefully placed so that it bridges the gap between the adhesive tape strips on the microscope slide. The filter strip can be held with fine-point tweezers and supported underneath by the scalpel blade during placement on the microscope slide. The analyst can place several such strips on the same microscope slide, taking care to rinse and wet-wipe the scalpel blade and tweezers before handling a new sample. The filter strips should be identified by etching the glass slide or marking the slide using a marker insoluble in water and solvents. After the filter strip has been cut from each filter, the residual parts of the filter must be returned to the cassette and held in position by reassembly of the cassette. The cassette will then be archived for a period of 30 days or returned to the client upon request.

e. Carbon coating of filter strips. The glass slide holding the filter strips is placed on the rotation-tilting device, and the evaporator chamber is evacuated. The evaporation must be performed in very short bursts, separated by some seconds to allow the electrodes to cool. If evaporation is too rapid, the strips of polycarbonate filter will begin to curl, which will lead to cross-linking of the surface material and make it relatively insoluble in chloroform. An experienced analyst can judge the thickness of carbon film to be applied, and some test should be made first on unused filters. If the film is too thin, large particles will be lost from the TEM specimen, and there will be few complete and undamaged grid openings on the specimen. If the coating is too thick, the filter will tend to curl when exposed to chloroform vapor and the carbon film may not adhere to the support mesh. Too thick a carbon film will also lead to a TEM image that is lacking in contrast, and the ability to obtain ED patterns will be compromised. The carbon film should be as thin as possible and remain intact on most of the grid openings of the TEM specimen intact.

f. Preparation of the Jaffe washer. The precise design of the Jaffe washer is not considered important, so any one of the published designs may be used. A washer consisting of a simple stainless steel bridge is recommended. Several pieces of lens tissue approximately 1.0 cm x 0.5 cm are placed on the stainless steel bridge, and the washer is filled with chloroform to a level where the meniscus contacts the underside of the mesh, which results in saturation of the lens tissue. See References 8 and 10 of Unit III.L.

g. Placing of specimens into the Jaffe washer. The TEM grids are first placed on a piece of lens tissue so that individual grids can be picked up with tweezers. Using a curved scalpel blade, the analyst excises three 3 mm square pieces of the carbon-coated polycarbonate filter from the filter strip. The three squares are selected from the center of the strip and from two points between the outer periphery of the active surface and the center. The piece of filter is placed on a TEM specimen grid with the shiny side of the TEM grid facing upwards, and the whole assembly is placed boldly onto the saturated lens tissue in the Jaffe washer. If carbon-coated grids are used, the filter should be placed carbon-coated side down. The three excised squares of filters are placed on the same piece of lens tissue. Any number of separate pieces of lens tissue may be placed in the same Jaffe washer. The lid is then placed on the Jaffe washer, and the system is allowed to stand for several hours, preferably overnight.

h. Condensation washing. It has been found that many polycarbonate filters will not dissolve completely in the Jaffe washer, even after being exposed to chloroform for as long as 3 days. This problem becomes more serious if the surface of the filter was overheated during the carbon evaporation. The presence of undissolved filter medium on the TEM preparation leads to partial or complete obscuration of areas of the sample, and fibers that may be present in these areas of the specimen will be overlooked; this will lead to a low result. Undissolved filter medium also compromises the ability to obtain ED patterns. Before they are counted, TEM grids must be examined critically to determine whether they are adequately cleared of residual filter medium. It has been found that condensation washing of the grids after the initial Jaffe washer treatment, with chloroform as the solvent, clears all residual filter medium in a period of approximately 1 hour. In practice, the piece of lens tissue supporting the specimen grids is transferred to the cold finger of the condensation washer, and the washer is operated for about 1 hour. If the specimens are cleared satisfactorily by the Jaffe washer alone, the condensation washer step may be unnecessary.

8. TEM specimen preparation from MCE filters.

a. This method of preparing TEM specimens from MCE filters is similar to that specified in NIOSH Method 7402. See References 7, 8, and 9 of Unit III.L.

b. Upon receipt at the analytical laboratory, the sample cassettes must be cleaned of any contamination adhering to the outside surfaces before entering the clean sample preparation area.

c. Remove a section from any quadrant of the sample and blank filters.

d. Place the section on a clean microscope slide. Affix the filter section to the slide with a gummed paged reinforcement or other suitable means. Label the slide with a water and solvent-proof marking pen.

e. Place the slide in a petri dish which contains several paper filters soaked with 2 to 3 mL acetone. Cover the dish. Wait 2 to 4 minutes for the sample filter to fuse and clear.

f. Plasma etching of the collapsed filter is required.

i. The microscope slide to which the collapsed filter pieces are attached is placed in a plasma asher. Because plasma ashers vary greatly in their performance, both from unit to unit and between different positions in the asher chamber, it is difficult to specify the conditions that should be used. This is one area of the method that requires further evaluation. Insufficient etching will result in a failure to expose embedded filters, and too much etching may result in loss of particulate from the surface. As an interim measure, it is recommended that the time for ashing of a known weight of a collapsed filter be established and that the etching rate be calculated in terms of micrometers per second. The actual etching time used for a particular asher and operating conditions will then be set such that a 1–2 µm (10 percent) layer of collapsed surface will be removed.

ii. Place the slide containing the collapsed filters into a low-temperature plasma asher, and etch the filter.

g. Transfer the slide to a rotating stage inside the bell jar of a vacuum evaporator. Evaporate a 1 mm x 5 mm section of graphite rod onto the cleared filter. Remove the slide to a clean, dry, covered petri dish.

h. Prepare a second petri dish as a Jaffe washer with the wicking substrate prepared from filter or lens paper placed on top of a 6 mm thick disk of clean spongy polyurethane foam. Cut a V-notch on the edge of the foam and filter paper. Use the V-notch as a reservoir for adding solvent. The wicking substrate should be thin enough to fit into the petri dish without touching the lid.

i. Place carbon-coated TEM grids face up on the filter or lens paper. Label the grids by marking with a pencil on the filter paper or by putting registration

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marks on the petri dish lid and marking with a waterproof marker on the dish lid. In a fume hood, fill the dish with acetone until the wicking substrate is saturated. The level of acetone should be just high enough to saturate the filter paper without creating puddles.

j. Remove about a quarter section of the carbon-coated filter samples from the glass slides using a surgical knife and tweezers. Carefully place the section of the filter, carbon side down, on the appropriately labeled grid in the acetone-saturated petri dish. When all filter sections have been transferred, slowly add more solvent to the wedge-shaped trough to bring the acetone level up to the highest possible level without disturbing the sample preparations. Cover the petri dish. Elevate one side of the petri dish by placing a slide under it. This allows drops of condensed solvent vapors to form near the edge rather than in the center where they would drip onto the grid preparation.

G. TEM Method

1. Instrumentation.

a. Use an 80–120 kV TEM capable of performing electron diffraction with a fluorescent screen inscribed with calibrated gradations. If the TEM is equipped with EDXA it must either have a STEM attachment or be capable of producing a spot less than 250 nm in diameter at crossover. The microscope shall be calibrated routinely (see Unit III.J.) for magnification and camera constant.

b. While not required on every microscope in the laboratory, the laboratory must have either one microscope equipped with energy dispersive X-ray analysis or access to an equivalent system on a TEM in another laboratory. This must be an Energy Dispersive X-ray Detector mounted on TEM column and associated hardware/software to collect, save, and read out spectral information. Calibration of Multi-Channel Analyzer shall be checked regularly for A1 at 1.48 KeV and Cu at 8.04 KeV, as well as the manufacturer's procedures.

i. Standard replica grating may be used to determine magnification (e.g., 2160 lines/mm).

ii. Gold standard may be used to determine camera constant.

c. Use a specimen holder with single tilt and/or double tilt capabilities.

2. Procedure.

a. Start a new Count Sheet for each sample to be analyzed. Record on count sheet: analyst's initials and date; lab sample number; client sample number microscope identification; magnification for analysis; number of predetermined grid openings to be analyzed; and grid identification. See the following Figure 4:

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FIGURE 4--COUNT SHEET

Lab Sample No. _____ Filter Type _____ Operator _____
Client Sample No. _____ Filter Area _____ Date _____
Instrument I.D. _____ Grid I.D. _____ Comments _____
Magnification _____ Grid Opening (GO) Area _____
Acc. Voltage _____ No. GO to be Analyzed _____

GO	Structure No.	Structure Type*	Length		ED Observation				EDAX
			< 5μm	≥ 5 μm	Chrys.	Amph.	Nonasb.	Neg. ID	

GO	Structure No.	Structure Type*	Length		ED Observation				EDAX
			< 5μm	≥ 5 μm	Chrys.	Amph.	Nonasb.	Neg. ID	

*B = Bundle
C = Cluster
F = Fiber
M = Matrix

NFD = No fibers detected
N = No diffraction obtained

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b. Check that the microscope is properly aligned and calibrated according to the manufacturer'b specifications and instructions.

c. Microscope settings: 80–120 kV, grid assessment 250–1000X, then 15,000–20,000X screen magnification for analysis.

d. Approximately one-half (0.5) of the predetermined sample area to be analyzed shall be performed on one sample grid preparation and the remaining half on a second sample grid preparation.

e. Determine the suitability of the grid.

i. Individual grid openings with greater than 5 percent openings (holes) or covered with greater than 25 percent particulate matter or obviously having nonuniform loading shall not be analyzed.

ii. Examine the grid at low magnification (<1000X) to determine its suitability for detailed study at higher magnifications.

iii. Reject the grid if:

(1) Less than 50 percent of the grid openings covered by the replica are intact.

(2) It is doubled or folded.

(3) It is too dark because of incomplete dissolution of the filter.

iv. If the grid is rejected, load the next sample grid.

v. If the grid is acceptable, continue on to Step 6 if mapping is to be used; otherwise proceed to Step 7.

f. Grid Map (Optional).

i. Set the TEM to the low magnification mode.

ii. Use flat edge or finder grids for mapping.

iii. Index the grid openings (fields) to be counted by marking the acceptable fields for one-half (0.5) of the area needed for analysis on each of the two grids to be analyzed. These may be marked just before examining each grid opening (field), if desired.

iv. Draw in any details which will allow the grid to be properly oriented if it is reloaded into the microscope and a particular field is to be reliably identified.

g. Scan the grid.

i. Select a field to start the examination.

ii. Choose the appropriate magnification (15,000 to 20,000X screen magnification).

iii. Scan the grid as follows.

(1) At the selected magnification, make a series of parallel traverses across the field. On reaching the end of one traverse, move the image one window and reverse the traverse.

Note.—A slight overlap should be used so as not to miss any part of the grid opening (field).

(2) Make parallel traverses until the entire grid opening (field) has been scanned.

h. Identify each structure for appearance and size.

i. Appearance and size: Any continuous grouping of particles in which an asbestos fiber within aspect ratio greater than or equal to 5:1 and a length greater than or equal to 0.5 μm is detected shall be recorded on the count sheet. These will be designated asbestos structures and will be classified as fibers, bundles, clusters, or matrices. Record as individual fibers any contiguous grouping having 0, 1, or 2 definable intersections. Groupings having more than 2 intersections are to be described as cluster or matrix. See the following Figure 5:

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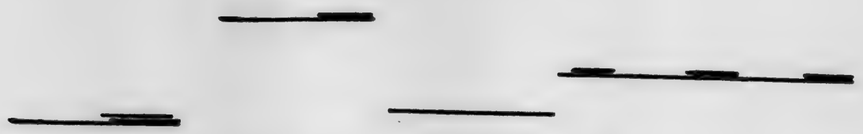
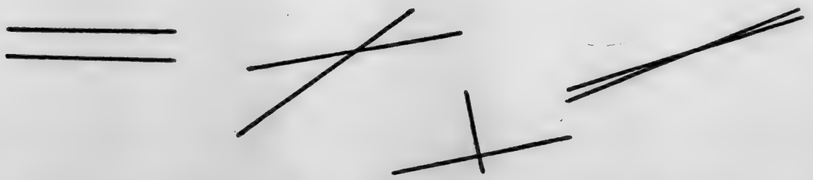
FIGURE 5--COUNTING GUIDELINES USED IN DETERMINING ASBESTOS STRUCTURES

Count as 1 fiber; 1 Structure; no intersections.



Count as 2 fibers if space between fibers is greater than width of 1 fiber diameter or number of intersections is equal to or less than 1.



Count as 3 structures if space between fibers is greater than width of 1 fiber diameter or if the number of intersections is equal to or less than 2.

Count bundles as 1 structure; 3 or more parallel fibrils less than 1 fiber diameter separation.

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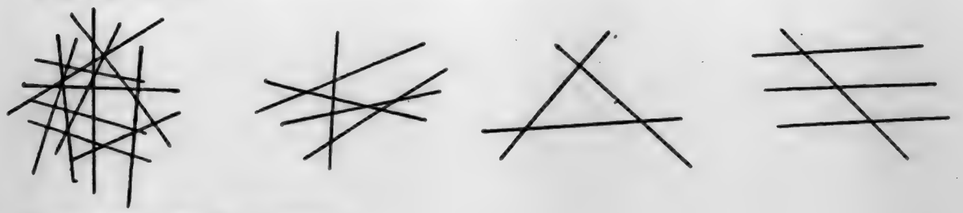
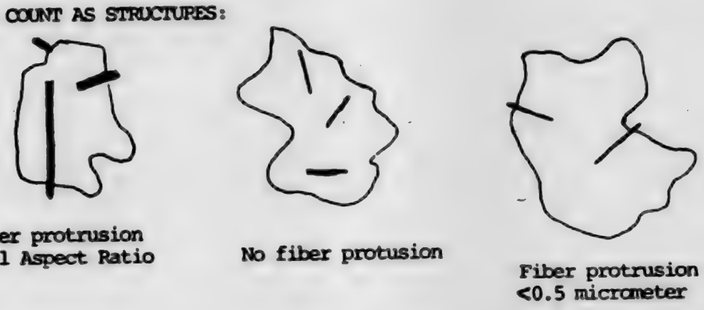
Count clusters as 1 structure; fibers having greater than or equal to 3 intersections.



Count matrix as 1 structure.

DO NOT COUNT AS STRUCTURES:



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An intersection is a non-parallel touching or crossing of fibers, with the projection having an aspect ratio of 5:1 or greater. Combinations such as a matrix and cluster, matrix and bundle, or bundle and cluster are categorized by the dominant fiber quality—cluster, bundle, and matrix, respectively. Separate categories will be maintained for fibers less than 5 μm and for fibers greater than or equal to 5 μm in length. Not required, but useful, may be to record the fiber length in 1 μm intervals. (Identify each structure morphologically and analyze it as it enters the "window".)

(1) *Fiber.* A structure having a minimum length greater than 0.5 μm and an aspect ratio (length to width) of 5:1 or greater and substantially parallel sides. Note the appearance of the end of the fiber, i.e., whether it is flat, rounded or dovetailed, no intersections.

(2) *Bundle.* A structure composed of 3 or more fibers in a parallel arrangement with each fiber closer than one fiber diameter.

(3) *Cluster.* A structure with fibers in a random arrangement such that all fibers are intermixed and no single fiber is isolated from the group; groupings must have more than 2 intersections.

(4) *Matrix.* Fiber or fibers with one end free and the other end embedded in or hidden by a particulate. The exposed fiber must meet the fiber definition.

(5) *NSD.* Record NSD when no structures are detected in the field.

(6) *Intersection.* Non-parallel touching or crossing of fibers, with the projection having an aspect ratio 5:1 or greater.

ii. Structure Measurement.

(1) Recognize the structure that is to be sized.

(2) Memorize its location in the "window" relative to the sides, inscribed square and to other particulates in the field so this exact location can be found again when scanning is resumed.

(3) Measure the structure using the scale on the screen.

(4) Record the length category and structure type classification on the count sheet after the field number and fiber number.

(5) Return the fiber to its original location in the window and scan the rest of the field for other fibers; if the direction of travel is not remembered, return to the right side of the field and begin the traverse again.

i. Visual identification of Electron Diffraction (ED) patterns is required for each asbestos structure counted which would cause the analysis to exceed the 70 s/mm² concentration. (Generally this means the first four fibers identified as asbestos must exhibit an identifiable diffraction pattern for chrysotile or amphibole.)

i. Center the structure, focus, and obtain an ED pattern. (See Microscope Instruction Manual for more detailed instructions.)

ii. From a visual examination of the ED pattern, obtained with a short camera length, classify the observed structure as belonging to one of the following classifications: chrysotile, amphibole, or nonasbestos.

(1) Chrysotile: The chrysotile asbestos pattern has characteristic streaks on the layer lines other than the central line and some streaking also on the central line. There will be spots of normal sharpness on the central layer line and on alternate lines (2nd, 4th, etc.). The repeat distance between layer lines is 0.53 nm and the center doublet is at 0.73 nm. The pattern should display (002), (110), (130) diffraction maxima; distances and geometry should match a chrysotile pattern and be measured semiquantitatively.

(2) Amphibole Group [includes grunerite (amosite), crocidolite, anthophyllite, tremolite, and actinolite]: Amphibole asbestos fiber patterns show layer lines formed by very closely spaced dots, and the repeat distance between layer lines is also about 0.53 nm. Streaking in layer lines is occasionally present due to crystal structure defects.

(3) Nonasbestos: Incomplete or unobtainable ED patterns, a nonasbestos EDXA, or a nonasbestos morphology.

iii. The micrograph number of the recorded diffraction patterns must be reported to the client and maintained in the laboratory's quality assurance records. The records must also demonstrate that the identification of the pattern has been verified by a qualified individual and that the operator who made the identification is maintaining at least an 80 percent correct visual identification based on his measured patterns. In the event that examination of the pattern by the qualified individual indicates that the pattern had been misidentified visually, the client shall be contacted. If the pattern is a suspected chrysotile, take a photograph of the diffraction pattern at 0 degrees tilt. If the structure is suspected to be amphibole, the sample may have to be tilted to obtain a simple geometric array of spots.

j. Energy Dispersive X-Ray Analysis (EDXA).

i. Required of all amphiboles which would cause the analysis results to exceed the 70 s/mm² concentration. (Generally speaking, the first 4 amphiboles would require EDXA.)

ii. Can be used alone to confirm chrysotile after the 70 s/mm² concentration has been exceeded.

iii. Can be used alone to confirm all nonasbestos.

iv. Compare spectrum profiles with profiles obtained from asbestos standards. The closest match identifies and categorizes the structure.

v. If the EDXA is used for confirmation, record the properly labeled spectrum on a computer disk, or if a hard copy, file with analysis data.

vi. If the number of fibers in the nonasbestos class would cause the analysis to exceed the 70 s/mm² concentration, their identities must be confirmed by EDXA or measurement of a zone axis diffraction pattern to establish that the particles are nonasbestos.

k. Stopping Rules.

i. If more than 50 asbestiform structures are counted in a particular grid opening, the analysis may be terminated.

ii. After having counted 50 asbestiform structures in a minimum of 4 grid openings, the analysis may be terminated. The grid opening in which the 50th fiber was counted must be completed.

iii. For blank samples, the analysis is always continued until 10 grid openings have been analyzed.

iv. In all other samples the analysis shall be continued until an analytical sensitivity of 0.005 s/cm² is reached.

l. Recording Rules. The count sheet should contain the following information:

i. Field (grid opening): List field number.

ii. Record "NSD" if no structures are detected.

iii. Structure information.

(1) If fibers, bundles, clusters, and/or matrices are found, list them in consecutive numerical order, starting over with each field.

(2) Length. Record length category of asbestos fibers examined. Indicate if less than 5 μm or greater than or equal to 5 μm.

(3) Structure Type. Positive identification of asbestos fibers is required by the method. At least one diffraction pattern of each fiber type from every five samples must be recorded and compared with a standard diffraction pattern. For each asbestos fiber reported, both a morphological descriptor and an identification descriptor shall be specified on the count sheet.

(4) Fibers classified as chrysotile must be identified by diffraction and/or X-ray analysis and recorded on the count

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sheet. X-ray analysis alone can be used as sole identification only after 70s/mm² have been exceeded for a particular sample.

(5) Fibers classified as amphiboles must be identified by X-ray analysis and electron diffraction and recorded on the count sheet. (X-ray analysis alone can be used as sole identification only after 70s/mm² have been exceeded for a particular sample.)

(6) If a diffraction pattern was recorded on film, the micrograph number must be indicated on the count sheet.

(7) If an electron diffraction was attempted and an appropriate spectra is not observed, N should be recorded on the count sheet.

(8) If an X-ray analysis is attempted but not observed, N should be recorded on the count sheet.

(9) If an X-ray analysis spectrum is stored, the file and disk number must be recorded on the count sheet.

m. Classification Rules.

i. *Fiber.* A structure having a minimum length greater than or equal to 0.5 μm and an aspect ratio (length to width) of 5:1 or greater and substantially parallel sides. Note the appearance of the end of the fiber, i.e., whether it is flat, rounded or dovetailed.

ii. *Bundle.* A structure composed of three or more fibers in a parallel arrangement with each fiber closer than one fiber diameter.

iii. *Cluster.* A structure with fibers in a random arrangement such that all fibers are intermixed and no single fiber is isolated from the group. Groupings must have more than two intersections.

iv. *Matrix.* Fiber or fibers with one end free and the other end embedded in or hidden by a particulate. The exposed fiber must meet the fiber definition.

v. *NSD.* Record NSD when no structures are detected in the field.

n. After all necessary analyses of a particle structure have been completed, return the goniometer stage to 0 degrees, and return the structure to its original location by recall of the original location.

o. Continue scanning until all the structures are identified, classified and sized in the field.

p. Select additional fields (grid openings) at low magnification; scan at a chosen magnification (15,000 to 20,000X screen magnification); and analyze until the stopping rule becomes applicable.

q. Carefully record all data as they are being collected, and check for accuracy.

r. After finishing with a grid, remove it from the microscope, and replace it in the appropriate grid hold. Sample grids must be stored for a minimum of 1 year from the date of the analysis; the sample cassette must be retained for a minimum of 30 days by the laboratory or returned at the client's request.

H. Sample Analytical Sequence

1. Carry out visual inspection of work site prior to air monitoring.

2. Collect a minimum of five air samples inside the work site and five samples outside the work site. The indoor and outdoor samples shall be taken during the same time period.

3. Analyze the abatement area samples according to this protocol. The analysis must meet the 0.005 s/cm³ analytical sensitivity.

4. Remaining steps in the analytical sequence are contained in Unit IV. of this Appendix.

I. Reporting

The following information must be reported to the client. See the following Table II:

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TABLE II--EXAMPLE LABORATORY LETTERHEAD

Laboratory I.D.	Client I.D.	FILTER MEDIA DATA				Analyzed Area, mm^2	Sample Volume, cc
		Type	Diameter, mm	Effective Area, mm^2	Pore Size, μm		

INDIVIDUAL ANALYTICAL RESULTS

Laboratory I.D.	Client I.D.	# Asbestos Structures	Analytical Sensitivity, s/cc	CONCENTRATION	
				Structures/mm^2	Structures/cc

The analysis was carried out to the approved TEM method. This laboratory is in compliance with the quality specified by the method.

_____
Authorized Signature

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1. Concentration in structures per square millimeter and structures per cubic centimeter.
2. Analytical sensitivity used for the analysis.
3. Number of asbestos structures.
4. Area analyzed.
5. Volume of air samples (which was initially provided by client).
6. Average grid size opening.
7. Number of grids analyzed.
8. Copy of the count sheet must be included with the report.
9. Signature of laboratory official to indicate that the laboratory met specifications of the AHERA method.
10. Report form must contain official laboratory identification (e.g., letterhead).
11. Type of asbestos.

J. Calibration Methodology

Note: Appropriate implementation of the method requires a person knowledgeable in electron diffraction and mineral identification by ED and EDXA. Those inexperienced laboratories wishing to develop capabilities may acquire necessary knowledge through analysis of appropriate standards and by following detailed methods as described in References 8 and 10 of Unit III.L.

1. Equipment Calibration. In this method, calibration is required for the air-sampling equipment and the transmission electron microscope (TEM).

a. TEM Magnification. The magnification at the fluorescent screen of the TEM must be calibrated at the grid opening magnification (if used) and also at the magnification used for fiber counting. This is performed with a cross grating replica. A logbook must be maintained, and the dates of calibration depend on the past history of the particular microscope; no frequency is specified. After any maintenance of the microscope that involved adjustment of the power supplied to the lenses or the high-voltage system or the mechanical disassembly of the electron optical column apart from filament exchange, the magnification must be recalibrated. Before the TEM calibration is performed, the analyst must ensure that the cross grating replica is placed at the same distance from the objective lens as the specimens are. For instruments that incorporate an eucentric tilting specimen stage, all specimens and the cross grating replica must be placed at the eucentric position.

b. Determination of the TEM magnification on the fluorescent screen.

i. Define a field of view on the fluorescent screen either by markings or physical boundaries. The field of view must be measurable or previously inscribed with a scale or concentric circles (all scales should be metric).

ii. Insert a diffraction grating replica (for example a grating containing 2,160 lines/mm) into the specimen holder and place into the microscope. Orient the replica so that the grating lines fall perpendicular to the scale on the TEM fluorescent screen. Ensure that the goniometer stage tilt is 0 degrees.

iii. Adjust microscope magnification to 10,000X or 20,000X. Measure the distance (mm) between two widely separated lines on the grating replica. Note the number of spaces between the lines. Take care to measure between the same relative positions on the lines (e.g., between left edges of lines).

Note.—The more spaces included in the measurement, the more accurate the final calculation. On most microscopes, however, the magnification is substantially constant only within the central 8–10 cm diameter region of the fluorescent screen.

iv. Calculate the true magnification (M) on the fluorescent screen:

$$M = XG/Y$$

where:
X = total distance (mm) between the designated grating lines;
G = calibration constant of the grating replica (lines/mm);
Y = number of grating replica spaces counted along X.

c. Calibration of the EDXA System. Initially, the EDXA system must be calibrated by using two reference elements to calibrate the energy scale of the instrument. When this has been completed in accordance with the manufacturer's instructions, calibration in terms of the different types of asbestos can proceed. The EDXA detectors vary in both solid angle of detection and in window thickness. Therefore, at a particular accelerating voltage in use on the TEM, the count rate obtained from specific dimensions of fiber will vary both in absolute X-ray count rate and in the relative X-ray peak heights for different elements. Only a few minerals are relevant for asbestos abatement work, and in this procedure the calibration is specified in terms of a "fingerprint" technique. The EDXA spectra must be recorded from individual fibers of the relevant minerals, and identifications are made on the basis of semiquantitative comparisons with these reference spectra.

d. Calibration of Grid Openings.

i. Measure 20 grid openings on each of 20 random 200-mesh copper grids by placing a grid on a glass slide and examining it under the PCM. Use a calibrated graticule to measure the average field diameter and use this number to calculate the field area for an average grid opening. Grids are to be randomly selected from batches up to 1,000.

Note.—A grid opening is considered as one field.

ii. The mean grid opening area must be measured for the type of specimen grids in use. This can be accomplished on the TEM at a properly calibrated low magnification or on an optical microscope at a magnification of approximately 400X by using an eyepiece fitted with a scale that has been calibrated against a stage micrometer. Optical microscopy utilizing manual or automated procedures may be used providing instrument calibration can be verified.

e. Determination of Camera Constant and ED Pattern Analysis.

i. The camera length of the TEM in ED operating mode must be calibrated before ED patterns on unknown samples are observed. This can be achieved by using a carbon-coated grid on which a thin film of gold has been sputtered or evaporated. A thin film of gold is evaporated on the specimen TEM grid to obtain zone-axis ED patterns superimposed with a ring pattern from the polycrystalline gold film.

ii. In practice, it is desirable to optimize the thickness of the gold film so that only one or two sharp rings are obtained on the superimposed ED pattern. Thicker gold film would normally give multiple gold rings, but it will tend to mask weaker diffraction spots from the unknown fibrous particulates. Since the unknown d-spacings of most interest in asbestos analysis are those which lie closest to the transmitted beam, multiple gold rings are unnecessary on zone-axis ED patterns. An average camera constant using multiple gold rings can be determined. The camera constant is one-half the diameter, D, of the rings times the interplanar spacing, d, of the ring being measured.

K. Quality Control/Quality Assurance Procedures (Data Quality Indicators)

Monitoring the environment for airborne asbestos requires the use of sensitive sampling and analysis procedures. Because the test is sensitive, it may be influenced by a variety of factors. These include the supplies used in the sampling operation, the performance of the sampling, the preparation of the grid from the filter and the actual examination of this grid in the microscope. Each of these unit operations must produce a product of

defined quality if the analytical result is to be a reliable and meaningful test result. Accordingly, a series of control checks and reference standards is performed along with the sample analysis as indicators that the materials used are adequate and the operations are within acceptable limits. In this way, the quality of the data is defined and the results are of known value. These checks and tests also provide timely and specific warning of any problems which might develop within the sampling and analysis operations. A description of these quality control/quality assurance procedures is summarized in the following Table III:

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TABLE III--SUMMARY OF LABORATORY DATA QUALITY OBJECTIVES

Unit Operation	QC Check	Frequency	Conformance Expectation
Sample receiving	Review of receiving report	Each sample	95% complete
Sample custody	Review of chain-of-custody record	Each sample	95% complete
Sample preparation	Supplies and reagents	On receipt	Meet specs. or reject
	Grid opening size	20 openings/20 grids/lot of 1000 or 1 opening/sample	100%
	Special clean area monitoring	After cleaning or service	Meet specs or reclean
	Laboratory blank	1 per prep series or 10%	Meet specs. or reanalyze series
	Plasma etch blank	1 per 20 samples	75%
	Multiple preps (3 per sample)	Each sample	One with cover of 15 complete grid sqs.
Sample analysis	System check	Each day	Each day
	Alignment check	Each day	Each day
	Magnification calibration with low and high standards	Each month or after service	95%
	ED calibration by gold standard	Weekly	95%
	EDS calibration by copper line	Daily	95%
Performance check	Laboratory blank (measure of cleanliness)	Prep 1 per series or 10% read 1 per 25 samples	Meet specs or reanalyze series
	Replicate counting (measure of precision)	1 per 100 samples	1.5 x Poisson Std. Dev.
	Duplicate analysis (measure of reproducibility)	1 per 100 samples	2 x Poisson Std. Dev.
	Known samples of typical materials (working standards)	Training and for comparison with unknowns	100%
	Analysis of NBS SRM 1876 and/or RM 8410 (measure of accuracy and comparability)	1 per analyst per year	1.5 x Poisson Std. Dev.
	Data entry review (data validation and measure of completeness)	Each sample	95%
	Record and verify ID electron diffraction pattern of structure	1 per 5 samples	80% accuracy
Calculations and data reduction	Hand calculation of automated data reduction procedure or independent recalculation of hand-calculated data	1 per 100 samples	85%

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1. When the samples arrive at the laboratory, check the samples and documentation for completeness and requirements before initiating the analysis.
2. Check all laboratory reagents and supplies for acceptable asbestos background levels.
3. Conduct all sample preparation in a clean room environment monitored by laboratory blanks and special testing after cleaning or servicing the room.
4. Prepare multiple grids of each sample.
5. Provide laboratory blanks with each sample batch. Maintain a cumulative average of these results. If this average is greater than 53 f/mm ^{2} per 10 200-mesh grid openings, check the system for possible sources of contamination.
6. Check for recovery of asbestos from cellulose ester filters submitted to plasma asher.
7. Check for asbestos carryover in the plasma asher by including a blank alongside the positive control sample.
8. Perform a systems check on the transmission electron microscope daily.
9. Make periodic performance checks of magnification, electron diffraction and energy dispersive X-ray systems as set forth in Table III of Unit III.K.
10. Ensure qualified operator performance by evaluation of replicate counting, duplicate analysis, and standard sample comparisons as set forth in Table III of Unit III.K.
11. Validate all data entries.
12. Recalculate a percentage of all computations and automatic data reduction steps as specified in Table III.
13. Record an electron diffraction pattern of one asbestos structure from every five samples that contain asbestos. Verify the identification of the pattern by measurement or comparison of the pattern with patterns collected from standards under the same conditions.

The outline of quality control procedures presented above is viewed as the minimum required to assure that quality data is produced for clearance testing of an asbestos abated area. Additional information may be gained by other control tests. Specifics on those control procedures and options available for environmental testing can be obtained by consulting References 6, 7, and 11 of Unit III.L.

L. References

For additional background information on this method the following references should be consulted.

1. "Guidelines for Controlling Asbestos-Containing Materials in Buildings," EPA 560/5–85–024, June 1985.
2. "Measuring Airborne Asbestos Following an Abatement Action," USEPA/ Office of Toxic Substances, EPA 600/4–85–049, 1985.
3. Small, John and E. Steel. Asbestos Standards: Materials and Analytical Methods. N.B.S. Special Publication 619, 1982.
4. Campbell, W.J., R.L. Blake, L.L. Brown, E.E. Cather, and J.J. Sjoberg. Selected Silicate Minerals and Their Asbestiform Varieties. Information Circular 8751, U.S. Bureau of Mines, 1977.
5. Quality Assurance Handbook for Air Pollution Measurement System. Ambient Air Methods, EPA 600/4–77–027a, USEPA, Office of Research and Development, 1977.
6. Method 2A: Direct Measurement of Gas Volume Through Pipes and Small Ducts. 40 CFR Part 60 Appendix A.
7. Burdette, G.J. Health & Safety Exec., Research & Lab. Services Div., London, "Proposed Analytical Method for Determination of Asbestos in Air."
8. Chatfield, E.J., Chatfield Tech. Cons., Ltd., Clark, T., PEI Assoc. "Standard Operating Procedure for Determination of Airborne Asbestos Fibers by Transmission Electron Microscopy Using Polycarbonate Membrane Filters." WERL SOP 87–1, March 5, 1987.
9. NIOSH. Method 7402 for Asbestos Fibers, December 11, 1986 Draft.
10. Yamate, G., S.C. Agarwall, R.D. Gibbons, IIT Research Institute, "Methodology for the Measurement of Airborne Asbestos by Electron Microscopy." Draft report, USEPA Contract 68–02–3266, July 1984.
11. Guidance to the Preparation of Quality Assurance Project Plans. USEPA, Office of Toxic Substances, 1984.

IV. Mandatory Interpretation of Transmission Electron Microscopy Results to Determine Completion of Response Actions

A. Introduction

A response action is determined to be completed by TEM when the abatement area has been cleaned and the airborne asbestos concentration inside the abatement area is no higher than concentrations at locations outside the abatement area. "Outside" means outside the abatement area, but not necessarily outside the building. EPA reasons that an asbestos removal contractor cannot be expected to clean an abatement area to an airborne asbestos concentration that is lower than the concentration of air entering the abatement area from outdoors or from other parts of the building. After the abatement area has passed a thorough visual inspection, and before the outer containment barrier is removed, a minimum of five air samples inside the abatement area and a minimum of five air samples outside the abatement area must be collected. Hence, the response action is determined to be completed when the average airborne asbestos concentration measured inside the abatement area is not statistically different from the average airborne asbestos concentration measured outside the abatement area.

The inside and outside concentrations are compared by the Z-test, a statistical test that takes into account the variability in the measurement process. A minimum of five samples inside the abatement area and five samples outside the abatement area are required to control the false negative error rate, i.e., the probability of declaring the removal complete when, in fact, the air concentration inside the abatement area is significantly higher than outside the abatement area. Additional quality control is provided by requiring three blanks (filters through which no air has been drawn) to be analyzed to check for unusually high filter contamination that would distort the test results.

When volumes greater than or equal to 1,199 L for a 25 mm filter and 2,799 L for a 37 mm filter have been collected and the average number of asbestos structures on samples inside the abatement area is no greater than 70 s/mm ^{2} of filter, the response action may be considered complete without comparing the inside samples to the outside samples. EPA is permitting this initial screening test to save analysis costs in situations where the airborne asbestos concentration is sufficiently low so that it cannot be distinguished from the filter contamination/ background level (fibers deposited on the filter that are unrelated to the air being sampled). The screening test cannot be used when volumes of less than 1,199 L for 25 mm filter or 2,799 L for a 37 mm filter are collected because the ability to distinguish levels significantly different from filter background is reduced at low volumes.

The initial screening test is expressed in structures per square millimeter of filter because filter background levels come from sources other than the air being sampled and cannot be meaningfully expressed as a concentration per cubic centimeter of air. The value of 70 s/mm^2 is based on the experience of the panel of microscopists who consider one structure in 10 grid openings (each grid opening with an area of 0.0057 mm^2) to

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be comparable with contamination/background levels of blank filters. The decision is based, in part, on Poisson statistics which indicate that four structures must be counted on a filter before the fiber count is statistically distinguishable from the count for one structure. As more information on the performance of the method is collected, this criterion may be modified. Since different combinations of the number and size of grid openings are permitted under the TEM protocol, the criterion is expressed in structures per square millimeter of filter to be consistent across all combinations. Four structures per 10 grid openings corresponds to approximately 70 s/mm².

B. Sample Collection and Analysis

1. A minimum of 13 samples is required: five samples collected inside the abatement area, five samples collected outside the abatement area, two field blanks, and one sealed blank.

2. Sampling and TEM analysis must be done according to either the mandatory or nonmandatory protocols in Appendix A. At least 0.057 mm² of filter must be examined on blank filters.

C. Interpretation of Results

1. The response action shall be considered complete if either:

a. Each sample collected inside the abatement area consists of at least 1,199 L of air for a 25 mm filter, or 2,799 L of air for a 37 mm filter, and the arithmetic mean of their asbestos structure concentrations per square millimeter of filter is less than or equal to 70 s/mm²; or

b. The three blank samples have an arithmetic mean of the asbestos structure concentration on the blank filters that is less than or equal to 70 s/mm² and the average airborne asbestos concentration measured inside the abatement area is not statistically higher than the average airborne asbestos concentration measured outside the abatement area as determined by the Z-test. The Z-test is carried out by calculating

$$Z = \frac{\bar{Y}_I - \bar{Y}_O}{0.8(1/n_I + 1/n_O)^{1/2}}$$

where $\bar{Y}_I$ is the average of the natural logarithms of the inside samples and $\bar{Y}_O$ is the average of the natural logarithms of the outside samples, n_I is the number of inside samples and n_O is the number of outside samples. The response action is considered complete if Z is less than or equal to 1.65.

(Note.—When no fibers are counted, the calculated detection limit for that analysis is inserted for the concentration.)

2. If the abatement site does not satisfy either (1) or (2) above, the site must be recleaned and a new set of samples collected.

D. Sequence for Analyzing Samples

It is possible to determine completion of the response action without analyzing all samples. Also, at any point in the process, a decision may be made to terminate the analysis of existing samples, reclean the abatement site, and collect a new set of samples. The following sequence is outlined to minimize the number of analyses needed to reach a decision.

1. Analyze the inside samples.

2. If at least 1,199 L of air for a 25 mm filter or 2,799 L of air for a 37 mm filter is collected for each inside sample and the arithmetic mean concentration of structures per square millimeter of filter is less than or equal to 70 s/mm², the response action is complete and no further analysis is needed.

3. If less than 1,199 L of air for a 25 mm filter or 2,799 L of air for a 37 mm filter is collected for any of the inside samples, or the arithmetic mean concentration of structures per square millimeter of filter is greater than 70 s/mm², analyze the three blanks.

4. If the arithmetic mean concentration of structures per square millimeter on the blank filters is greater than 70 s/mm², terminate the analysis, identify and correct the source of blank contamination, and collect a new set of samples.

5. If the arithmetic mean concentration of structures per square millimeter on the blank filters is less than or equal to 70 s/mm², analyze the outside samples and perform the Z-test.

6. If the Z-statistic is less than or equal to 1.65, the response action is complete. If the Z-statistic is greater than 1.65, reclean the abatement site and collect a new set of samples.

Appendix B to Subpart E—Work Practices and Engineering Controls for Small-Scale, Short-Duration Operations Maintenance and Repair (O&M) Activities Involving ACM

This appendix is not mandatory, in that LEAs may choose to comply with all the requirements of 40 CFR 763.121. Section 763.91(b) extends the protection provided by EPA in its 40 CFR 763.121 for worker protection during asbestos abatement projects to employees of local education agencies who perform small-scale, short-duration operations, maintenance and repair (O&M) activities involving asbestos-containing materials and are not covered by the OSHA asbestos construction standard at 29 CFR 1926.58 or an asbestos worker protection standard adopted by a State as part of a State plan approved by OSHA under section 18 of the Occupational Safety and Health Act. Employers wishing to be exempt from the requirements of § 763.121 (e)(6) and (f)(2)(i) may instead comply with the provisions of this appendix when performing small-scale, short-duration O&M activities.

Definition of Small-Scale, Short-Duration Activities

For the purposes of this appendix, small-scale, short-duration maintenance activities are tasks such as, but not limited to:

1. Removal of asbestos-containing insulation on pipes.

2. Removal of small quantities of asbestos-containing insulation on beams or above ceilings.

3. Replacement of an asbestos-containing gasket on a valve.

4. Installation or removal of a small section of drywall.

5. Installation of electrical conduits through or proximate to asbestos-containing materials.

Small-scale, short-duration maintenance activities can be further defined, for the purposes of this subpart, by the following considerations:

1. Removal of small quantities of asbestos-containing materials (ACM) only if required in the performance of another maintenance activity not intended as asbestos abatement.

2. Removal of asbestos-containing thermal system insulation not to exceed amounts greater than those which can be contained in a single glove bag.

3. Minor repairs to damaged thermal system insulation which do not require removal.

4. Repairs to a piece of asbestos-containing wallboard.

5. Repairs, involving encapsulation, enclosure or removal, to small amounts of friable asbestos-containing material only if required in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement. Such work may not exceed amounts greater than those which can be contained in a single prefabricated minienclosure. Such an enclosure shall conform spatially and geometrically to the localized work area, in order to perform its intended containment function.

OSHA concluded that the use of certain engineering and work practice controls is capable of reducing employee exposures to asbestos to levels below the final standard's action level (0.1 f/cm³). (See 51 FR 22714, June 20, 1986.) Several controls and work practices, used either singly or in combination, can be employed effectively to reduce asbestos exposures during small maintenance and renovation operations. These include:

1. Wet methods.
2. Removal methods.
i. Use of glove bags.
ii. Removal of entire asbestos insulated pipes or structures.
iii. Use of minienclosures.
3. Enclosure of asbestos materials.
4. Maintenance programs.

This appendix describes these controls and work practices in detail.

Preparation of the Area Before Renovation or Maintenance Activities

The first step in preparing to perform a small-scale, short-duration asbestos renovation or maintenance task, regardless of the abatement method that will be used, is the removal from the work area of all objects that are movable to protect them from asbestos contamination. Objects that cannot be removed must be covered completely with 6-mil-thick polyethylene plastic sheeting before the task begins. If objects have already been contaminated, they should be thoroughly cleaned with a High Efficiency Particulate Air (HEPA) filtered vacuum or be wet-wiped before they are removed from the work area or completely encased in the plastic.

Wet methods. Whenever feasible, and regardless of the abatement method to be used (e.g., removal, enclosure, use of glove bags), wet methods must be used during small-scale, short-duration maintenance and renovation activities that involve disturbing asbestos-containing materials. Handling asbestos materials wet is one of the most reliable methods of ensuring that asbestos fibers do not become airborne, and this practice should therefore be used whenever feasible. Wet methods can be used in the great majority of workplace situations. Only in cases where asbestos work must be performed on live electrical equipment, on live steam lines, or in other areas where water will seriously damage materials or equipment may dry removal be performed. Amended water or another wetting agent should be applied by means of an airless sprayer to minimize the extent to which the asbestos-containing material is disturbed.

Asbestos-containing material should be wetted from the initiation of the maintenance or renovation operation and wetting agents should be used continually throughout the work period to ensure that any dry asbestos-containing material exposed in the course of the work is wet and remains wet until final disposal.

Removal of small amount of asbestos-containing materials. Several methods can be used to remove small amounts of asbestos-containing materials during small-scale, short-duration renovation or maintenance tasks. These include the use of glove bags, the removal of an entire asbestos-covered pipe or structure, and the construction of minienclosures. The procedures that employers must use for each of these operations if they wish to avail themselves of the rule's exemptions are described in the following sections.

Glove bags. OSHA found that the use of glove bags to enclose the work area during small-scale, short-duration maintenance or renovation activities will result in employee exposure to asbestos that are below the rule's action level of 0.1 f/cm³. This appendix provides requirements for glove-bag procedures to be followed by employers wishing to avail themselves of the rule's exemption for each activity. OSHA has determined that the use of these procedures will reduce the 8-hour time weighted average (TWA) exposure of employees involved in these work operations to levels below the action level and will thus provide a degree of employee protection equivalent to that provided by compliance with all provisions of the rule.

Glove bag installation. Glove bags are approximately 40-inch-wide times 64-inch-long bags fitted with arms through which the work can be performed. When properly installed and used, they permit workers to remain completely isolated from the asbestos material removed or replaced inside the bag. Glove bags can thus provide a flexible, easily installed, and quickly dismantled temporary small work area enclosure that is ideal for small-scale asbestos renovation or maintenance jobs. These bags are single-use control devices that are disposed of at the end of each job. The bags are made of transparent 6-mil-thick polyethylene plastic with areas of Tyvek [1] material (the same material used to make the disposal protective suits used in major asbestos removal, renovation, and demolition operations and in protective gloves). Glove bags are readily available from safety supply stores or specialty asbestos removal supply houses. Glove bags come pre-labelled with the asbestos warning label prescribed by OSHA and EPA for bags used to dispose of asbestos waste.

Glove bag equipment and supplies. Supplies and materials that are necessary to use glove bags effectively include:

1. Tape to seal glove bag to the area from which asbestos is to be removed.
2. Amended water or other wetting agents.
3. An airless sprayer for the application of the wetting agent.
4. Bridging encapsulant (a paste-like substance for coating asbestos) to seal the rough edges of any asbestos-containing materials that remain within the glove bag at the points of attachment after the rest of the asbestos has been removed.
5. Tools such as razor knives, nips, and wire brushes (or other tools suitable for cutting wires, etc.).
6. A HEPA filter-equipped vacuum for evacuating the glove bag (to minimize the release of asbestos fibers) during removal of the bag from the work area and for cleaning any material that may have escaped during the installation of the glove bag.
7. HEPA-equipped dual-cartridge or more protective respirators for use by the employees involved in the removal of asbestos with the glove bag.

Glove bag work practices. The proper use of glove bags requires the following steps:

1. Glove bags must be installed so that they completely cover the pipe or other structure where asbestos work is to be done. Glove bags are installed by cutting the sides of the glove bag to fit the size of the pipe from which asbestos is to be removed. The glove bag is attached to the pipe by folding the open edges together and securely sealing them with tape. All openings in the glove bag must be sealed with duct tape or equivalent material. The bottom seam of the glove bag must also be sealed with duct tape or equivalent to prevent any leakage from the bag that may result from a defect in the bottom seam.
2. The employee who is performing the asbestos removal with the glove bag must don at least a half mask dual-cartridge HEPA-equipped respirator; respirators should be worn by employees who are in close contact with the glove bag and who may thus be exposed as a result of small gaps in the

[1] Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

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seams of the bag or holes punched through the bag by a razor knife or a piece of wire mesh.

3. The removed asbestos material from the pipe or other surface that has fallen into the enclosed bag must be thoroughly wetted with a wetting agent (applied with an airless sprayer through the precut port provided in most gloves bags or applied through a small hole in the bag).

4. Once the asbestos material has been thoroughly wetted, it can be removed from the pipe, beam, or other surface. The choice of tool to use to remove the asbestos-containing material depends on the type of material to be removed. Asbestos-containing materials are generally covered with painted canvas and/or wire mesh. Painted canvas can be cut with a razor knife and peeled away from the asbestos-containing material underneath. Once the canvas has been peeled away, the asbestos-containing material underneath may be dry, in which case it should be resprayed with a wetting agent to ensure that it generates as little dust as possible when removed. If the asbestos-containing material is covered with wire mesh, the mesh should be cut with nips, tin snips, or other appropriate tool and removed.

A wetting agent must then be used to spray any layer of dry material that is exposed beneath the mesh, the surface of the stripped underlying structure, and the inside of the glove bag.

5. After removal of the layer of asbestos-containing material, the pipe or surface from which asbestos has been removed must be thoroughly cleaned with a wire brush and wet-wiped with a wetting agent until no traces of the asbestos-containing material can be seen.

6. Any asbestos-containing insulation edges that have been exposed as a result of the removal or maintenance activity must be encapsulated with bridging encapsulant to ensure that the edges do not release asbestos fibers to the atmosphere after the glove bag has been removed.

7. When the asbestos removal and encapsulation have been completed, a vacuum hose from a HEPA filtered vacuum must be inserted into the glove bag through the port to remove any air in the bag that may contain asbestos fibers. When the air has been removed from the bag, the bag should be squeezed tightly (as close to the top as possible), twisted, and sealed with tape, to keep the asbestos materials safely in the bottom of the bag. The HEPA vacuum can then be removed from the bag and the glove bag itself can be removed from the work area to be disposed of properly.

Minienclosures. In some instances, such as removal of asbestos from a small ventilation system or from a short length of duct, a glove bag may not be either large enough or of the proper shape to enclose the work area. In such cases, a minienclosure can be built around the area where small-scale, short-duration asbestos maintenance or renovation work is to be performed. Such enclosures should be constructed of 6-mil-thick polyethylene plastic sheeting and can be small enough to restrict entry to the asbestos work area to one worker.

For example, a minienclosure can be built in a small utility closet when asbestos-containing duct covering is to be removed. The enclosure is constructed by:

1. Affixing plastic sheeting to the walls with spray adhesive and tape.

2. Covering the floor with plastic and sealing the plastic covering the floor to the plastic on the walls.

3. Sealing any penetrations such as pipes or electrical conducts with tape.

4. Constructing a small change room (approximately 3 feet square) made of 6-mil-thick polyethylene plastic supported by 2-inch by 4-inch lumber (the plastic should be attached to the lumber supports with staples or spray adhesive and tape).

The change room should be contiguous to the minienclosure, and is necessary to allow the worker to vacuum off his protective coveralls and remove them before leaving the work area. While inside minienclosure, the worker should wear Tyvek [1] disposable coveralls and use the appropriate HEPA-filtered dual-cartridge or more protective respiratory protection.

The advantages of minienclosures are that they limit the spread of asbestos contamination, reduce the potential exposure of bystanders and other workers who may be working in adjacent areas, and are quick and easy to install. The disadvantage of minienclosures is that they may be too small to contain the equipment necessary to create a negative pressure within the enclosure; however the double layer of plastic sheeting will serve to restrict the release of asbestos fibers to the area outside the enclosure.

Removal of entire structures. When pipes are insulated with asbestos-containing materials, removal of the entire pipe may be more protective, easier, and more cost-effective than stripping the asbestos insulation from the pipe. Before such a pipe is cut, the asbestos-containing insulation must be wrapped with 6-mil polyethylene plastic and securely sealed with duct tape or equivalent. This plastic covering will prevent asbestos fibers from becoming airborne as a result of the vibration created by the power saws used to cut the pipe. If possible, the pipes should be cut at locations that are not insulated to avoid disturbing the asbestos. If a pipe is completely insulated with asbestos-containing materials, small sections should be stripped using the glove-bag method described above before the pipe is cut at the stripped sections.

Enclosure. The decision to enclose rather than remove asbestos-containing material from an area depends on the building owner's preference, i.e., for removal or containment. Owners consider such factors as cost effectiveness, the physical configuration of the work area, and the amount of traffic in the area when determining which abatement method to use.

If the owner chooses to enclose the structure rather than to remove the asbestos-containing material insulating it, a solid structure (airtight walls and ceilings) must be built around the asbestos covered pipe or structure to prevent the release of asbestos-containing materials into the area beyond the enclosure and to prevent disturbing these materials by casual contact during future maintenance operations.

Such a permanent (i.e., for the life of the building) enclosure should be built of new construction materials and should be impact resistant and airtight. Enclosure walls should be made of tongue-and-groove boards, boards with spine joints, or gypsum boards having taped seams. The underlying structure must be able to support the weight of the enclosure. (Suspended ceilings with laid-in panels do not provide airtight enclosures and should not be used to enclose structures covered with asbestos-containing materials.) All joints between the walls and ceiling of the enclosure should be caulked to prevent the escape of asbestos fibers. During the installation of enclosures, tools that are used (such as drills or rivet tools) should be equipped with HEPA-filtered vacuums. Before constructing the enclosure, all electrical conduits, telephone lines, recessed lights, and pipes in the area to be enclosed should be moved to ensure that the enclosure will not have to be re-opened later for routine or emergency maintenance. If such lights or other equipment cannot be moved to a new location for logistic reasons, or if moving them will disturb the asbestos-containing materials, removal rather than enclosure of the asbestos-containing materials is the appropriate control method to use.

Maintenance program. An asbestos maintenance program must be initiated in all facilities that have friable asbestos-containing materials. Such a program should include:

1. Development of an inventory of all asbestos-containing materials in the facility.

2. Periodic examination of all asbestos-containing materials to detect deterioration.

3. Written procedures for handling asbestos materials during the performance of small-scale, short-duration maintenance and renovation activities.

4. Written procedures for asbestos disposal.

5. Written procedures for dealing with asbestos-related emergencies.

Members of the building's maintenance engineering staff (electricians, heating/air conditioning engineers, plumbers, etc.) who may be required to handle asbestos-containing materials should be trained in safe procedures. Such training should include at a minimum:

1. Information regarding types of ACM and its various uses and forms.

2. Information on the health effects associated with asbestos exposure.

3. Descriptions of the proper methods of handling asbestos-containing materials.

4. Information on the use of HEPA-equipped dual-cartridge respirators and other personal protection during maintenance activities.

Prohibited activities. The training program for the maintenance engineering staff should describe methods of handling asbestos-containing materials as well as routine maintenance activities that are prohibited when asbestos-containing materials are involved. For example, maintenance staff employees should be instructed:

1. *Not* to drill holes in asbestos-containing materials.

2. *Not* to hang plants or pictures on structures covered with asbestos-containing materials.

3. *Not* to sand asbestos-containing floor tile.

4. *Not* to damage asbestos-containing materials while moving furniture or other objects.

5. *Not* to install curtains, drapes, or dividers in such a way that they damage asbestos-containing materials.

6. *Not* to dust floors, ceilings, moldings or other surfaces in asbestos-contaminated environments with a dry brush or sweep with a dry broom.

7. *Not* to use an ordinary vacuum to clean up asbestos-containing debris.

8. *Not* to remove ceiling tiles below asbestos-containing materials without wearing the proper respiratory protection, clearing the area of other people, and observing asbestos removal waste disposal procedures.

9. *Not* to remove ventilation system filters dry.

10. *Not* to shake ventilation system filters.

Appendix D to Subpart E—Transport and Disposal of Asbestos Waste

For the purposes of this appendix, transport is defined as all activities from receipt of the containerized asbestos waste at the generation site until it has been unloaded at the disposal site. Current EPA regulations state that there must be no visible emissions to the outside air during waste transport. However, recognizing the potential hazards and subsequent liabilities associated with exposure, the following additional precautions are recommended.

Recordkeeping. Before accepting wastes, a transporter should determine if the waste is properly wetted and containerized. The transporter should then require a chain-of-custody form signed by the generator. A chain-of-custody form may include the name and address of the generator, the name and address of the pickup site, the estimated quantity of asbestos waste, types of containers used, and the destination of the waste. The chain-of-custody form should then be signed over to a disposal site operator to transfer responsibility for the asbestos waste. A copy of the form signed by the disposal site operator should be maintained by the transporter as evidence of receipt at the disposal site.

Waste handling. A transporter should ensure that the asbestos waste is properly contained in leak-tight containers with appropriate labels, and that the outside surfaces of the containers are not contaminated with asbestos debris adhering to the containers. If there is reason to believe that the condition of the asbestos waste may allow significant fiber release, the transporter should not accept the waste. Improper containerization of wastes is a violation of the NESHAPs regulation and should be reported to the appropriate EPA Regional Asbestos NESHAPs contact below:

Region I

Asbestos NESHAPs Contact, Air Management Division, USEPA, Region I, JFK Federal Building, Boston, MA 02203, (617) 223–3286.

Region II

Asbestos NESHAPs Contact, Air & Waste Management Division, USEPA, Region II, 26 Federal Plaza, New York, NY 10007, (212) 264–6770.

Region III

Asbestos NESHAPs Contact, Air Management Division, USEPA, Region III, 841 Chestnut Street, Philadelphia, PA 19107, (215) 597–9325.

Region IV

Asbestos NESHAPs Contact, Air, Pesticide & Toxic Management, USEPA, Region IV, 345 Courtland Street, NE., Atlanta, GA 30365, (404) 347–4298.

Region V

Asbestos NESHAPs Contact, Air Management Division, USEPA, Region V, 230 S. Dearborn Street, Chicago, IL 60604, (312) 353–6793.

Region VI

Asbestos NESHAPs Contact, Air & Waste Management Division, USEPA, Region VI, 1445 Ross Avenue, Dallas, TX 75202, (214) 655–7229.

Region VII

Asbestos NESHAPs Contact, Air & Waste Management Division, USEPA, Region VII, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 236–2896.

Region VIII

Asbestos NESHAPs Contact, Air & Waste Management Division, USEPA, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202, (303) 293–1614.

Region IX

Asbestos NESHAPs Contact, Air Management Division, USEPA, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 974–7633.

Region X

Asbestos NESHAPs Contact, Air & Toxics Management Division, USEPA, Region X, 1200 Sixth Avenue, Seattle, WA 98101, (206) 442–2724.

Once the transporter is satisfied with the condition of the asbestos waste and agrees to handle it, the containers should be loaded into the transport vehicle in a careful manner to prevent breaking of the containers. Similarly, at the disposal site, the asbestos waste containers should be transferred carefully to avoid fiber release.

Waste transport. Although there are no regulatory specifications regarding the transport vehicle, it is recommended that vehicles used for transport of containerized asbestos waste have an enclosed carrying compartment or

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utilize a canvas covering sufficient to contain the transported waste, prevent damage to containers, and prevent fiber release. Transport of large quantities of asbestos waste is commonly conducted in a 20-cubic-yard "roll off" box, which should also be covered. Vehicles that use compactors to reduce waste volume should not be used because these will cause the waste containers to rupture. Vacuum trucks used to transport waste slurry must be inspected to ensure that water is not leaking from the truck.

Disposal involves the isolation of asbestos waste material in order to prevent fiber release to air or water. Landfilling is recommended as an environmentally sound isolation method because asbestos fibers are virtually immobile in soil. Other disposal techniques such as incineration or chemical treatment are not feasible due to the unique properties of asbestos. EPA has established asbestos disposal requirements for active and inactive disposal sites under NESHAPs (40 CFR Part 61, Subpart M) and specifies general requirements for solid waste disposal under RCRA (40 CFR Part 257). Advance EPA notification of the intended disposal site is required by NESHAPs.

Selecting a disposal facility. An acceptable disposal facility for asbestos wastes must adhere to EPA's requirements of no visible emissions to the air during disposal, or minimizing emissions by covering the waste within 24 hours. The minimum required cover is 6 inches of nonasbestos material, normally soil, or a dust-suppressing chemical. In addition to these federal requirements, many state or local government agencies require more stringent handling procedures. These agencies usually supply a list of "approved" or licensed asbestos disposal sites upon request. Solid waste control agencies are listed in local telephone directories under state, county, or city headings. A list of state solid waste agencies may be obtained by calling the RCRA hotline: 1–800–424–9346 (382–3000 in Washington, DC). Some landfill owners or operators place special requirements on asbestos waste, such as placing all bagged waste into 55-gallon metal drums. Therefore, asbestos removal contractors should contact the intended landfill before arriving with the waste.

Receiving asbestos waste. A landfill approved for receipt of asbestos waste should require notification by the waste hauler that the load contains asbestos. The landfill operator should inspect the loads to verify that asbestos waste is properly contained in leak-tight containers and labeled appropriately. The appropriate EPA Regional Asbestos NESHAPs Contact should be notified if the landfill operator believes that the asbestos waste is in a condition that may cause significant fiber release during disposal. In situations when the wastes are not properly containerized, the landfill operator should thoroughly soak the asbestos with a water spray prior to unloading, rinse out the truck, and immediately cover the wastes with nonasbestos material prior to compacting the waste in the landfill.

Waste deposition and covering. Recognizing the health dangers associated with asbestos exposure, the following procedures are recommended to augment current federal requirements:

- Designate a separate area for asbestos waste disposal. Provide a record for future landowners that asbestos waste has been buried there and that it would be hazardous to attempt to excavate that area. (Future regulations may require property deeds to identify the location of any asbestos wastes and warn against excavation.)
- Prepare a separate trench to receive asbestos wastes. The size of the trench will depend upon the quantity and frequency of asbestos waste delivered to the disposal site. The trenching technique allows application of soil cover without disturbing the asbestos waste containers. The trench should be ramped to allow the transport vehicle to back into it, and the trench should be as narrow as possible to reduce the amount of cover required. If possible, the trench should be aligned perpendicular to prevailing winds.
- Place the asbestos waste containers into the trench carefully to avoid breaking them. Be particularly careful with plastic bags because when they break under pressure asbestos particles can be emitted.
- Completely cover the containerized waste within 24 hours with a minimum of 6 inches of nonasbestos material. Improperly containerized waste is a violation of the NESHAPs and EPA should be notified.

However, if improperly containerized waste is received at the disposal site, it should be covered immediately after unloading. Only after the wastes, including properly containerized wastes, are completely covered, can the wastes be compacted or other heavy equipment run over it. During compacting, avoid exposing wastes to the air or tracking asbestos material away from the trench.

- For final closure of an area containing asbestos waste, cover with at least an additional 30 inches of compacted nonasbestos material to provide a 36-inch final cover. To control erosion of the final cover, it should be properly graded and vegetated. In areas of the United States where excessive soil erosion may occur or the frost line exceeds 3 feet, additional final cover is recommended. In desert areas where vegetation would be difficult to maintain, 3–6 inches of well graded crushed rock is recommended for placement on top of the final cover.

Controlling public access. Under the current NESHAPs regulation, EPA does not require that a landfill used for asbestos disposal use warning signs or fencing if it meets the requirement to cover asbestos wastes. However, under RCRA, EPA requires that access be controlled to prevent exposure of the public to potential health and safety hazards at the disposal site. Therefore, for liability protection of operators of landfills that handle asbestos, fencing and warning signs are recommended to control public access when natural barriers do not exist. Access to a landfill should be limited to one or two entrances with gates that can be locked when left unattended. Fencing should be installed around the perimeter of the disposal site in a manner adequate to deter access by the general public. Chain-link fencing, 6-ft high and topped with a barbed wire guard, should be used. More specific fencing requirements may be specified by local regulations. Warning signs should be displayed at all entrances and at intervals of 330 feet or less along the property line of the landfill or perimeter of the sections where asbestos waste is deposited. The sign should read as follows:

ASBESTOS WASTE DISPOSAL SITE

BREATHING ASBESTOS DUST MAY CAUSE LUNG DISEASE AND CANCER

Recordkeeping. For protection from liability, and considering possible future requirements for notification on disposal site deeds, a landfill owner should maintain documentation of the specific location and quantity of the buried asbestos wastes. In addition, the estimated depth of the waste below the surface should be recorded whenever a landfill section is closed. As mentioned previously, such information should be recorded in the land deed or other record along with a notice warning against excavation of the area.

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ENVIRONMENTAL PROTECTION AGENCY

[OPTS–62055; FRL–3269–8]

Asbestos-Containing Materials in Schools; EPA Approved Courses Under the Asbestos Hazard Emergency Response Act (AHERA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In section 206(c)(3) of Title II, the Administrator, in consultation with affected organizations, was directed to publish (and revise as necessary) a list of asbestos courses and tests in effect before the date of enactment of this title which qualify for equivalency treatment for interim accreditation purposes and a list of asbestos courses and tests which the Administrator determines are consistent with the Model Plan and which will qualify a contractor for accreditation. This **Federal Register** notice includes the initial list of course approvals. In addition, the list includes State accreditation programs that EPA has approved as meeting the requirements of the Model Plan.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404.

SUPPLEMENTARY INFORMATION: Section 206 of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2646, required EPA to develop by April 20, 1987 a Model Contractor Accreditation Plan. The Plan was issued on April 20, and was published in the **Federal Register** of April 30, 1987, as Appendix C to Subpart E, 40 CFR Part 763.

To conduct asbestos-related work in schools, persons must receive accreditation in order to inspect school buildings for asbestos, develop management plans, and design or conduct response actions. Such persons can be accredited by States, which are required to adopt contractor accreditation plans at least as stringent as the EPA Model Plan, or by completing an EPA-approved training course and passing an examination for such course. The EPA Model Contractor Accreditation Plan establishes those areas of knowledge of asbestos inspection, management plan development, and response action technology that persons seeking accreditation must demonstrate and States must include in their accreditation programs.

Elsewhere in this issue of the **Federal Register** EPA is promulgating a final "Asbestos-Containing Materials In Schools" rule (40 CFR Part 763, Subpart E) which requires all local education agencies (LEAs) to identify asbestos-containing materials (ACM) in their school buildings and take appropriate actions to control the release of asbestos fibers. The LEAs are also required to describe their activities in management plans, which must be made available to the public and submitted to State governors. Under Title II, LEAs are required to use specially-trained persons to conduct inspections for asbestos, develop the management plans, and design or conduct major actions to control asbestos.

The length of initial training courses for accreditation under the Model Plan varies by discipline. Briefly, inspectors must take a 3-day training course; management planners must take the inspection course plus an additional 2 days devoted to management planning; and abatement project designers are required to have at least 3 days of training. In addition, asbestos abatement contractors and supervisors must take a 4-day training course and asbestos abatement workers are required to take a 3-day training course. For all disciplines, persons seeking accreditation must also pass an examination and participate in annual re-training courses. A complete description of accreditation requirements can be found in the Model Accreditation Plan at 40 CFR Part 763, Subpart E, Appendix C.I.1.A. through E.

In section 206(c)(3) of Title II, the Administrator, in consultation with affected organizations, was directed to publish (and revise as necessary) a list of asbestos courses and tests in effect before the date of enactment of this title which qualify for equivalency treatment for interim accreditation purposes and a list of asbestos courses and tests which the Administrator determines are consistent with the Model Plan and which will qualify a contractor for accreditation. This **Federal Register** notice includes the initial list of course approvals. In addition, the list includes State accreditation programs that EPA has approved as meeting the requirements of the Model Plan.

Three types of EPA approvals are included in this **Federal Register** notice. Unit I discusses EPA approval of State accreditation programs. Unit II covers EPA approval of training courses. Unit III discusses EPA aporoval of training courses for interim accreditation. Lastly, Unit IV provides the list of State accreditation programs and training courses approved by EPA as of October 1987. Subsequent **Federal Register** notices will add other State programs and training courses to this initial list.

I. EPA Approval of State Accreditation Programs

As discussed in the Model Plan, EPA will approve State accreditation programs that the Agency determines are at least as stringent as the Model Plan. In addition, the Agency is able to approve individual disciplines within a State's accreditation program. For example, a State that currently only has an accreditation requirement for inspectors can receive EPA approval for that discipline immediately rather than waiting to develop accreditation requirements for all disciplines in the Model Plan before seeking EPA approval.

As listed in Unit IV, New Jersey has received EPA approval for two accreditation disciplines. Any training courses in these two disciplines approved by New Jersey are EPA-approved courses for purposes of accreditation. These training courses are EPA-approved courses for purposes of TSCA Title II in New Jersey and in all States without an EPA-approved accreditation program for that discipline. For a current list of courses approved by New Jersey, interested parties should contact the State agency listed under Unit IV. EPA plans to include the training courses approved by New Jersey in the next **Federal Register** notice listing EPA-approved courses.

The State of Kansas currently has a training program for asbestos abatement contractors and supervisors that does not meet all of the Model Plan's requirements for this discipline. However, the Kansas program's training course requirements do meet the requirements for EPA approval of training courses for interim accreditation (see Unit III). As a result, persons who have met the training and exam requirements of the Kansas abatement contractor and supervisor program are accredited as listed under Unit IV on an interim basis. The Kansas contractor and supervisor accreditation program still must be upgraded within the time period specified in TSCA Title II to be at least as stringent as the Model Plan.

II. EPA Approval of Training Courses

Training courses approved by EPA are listed under Unit IV. The examinations for these approved courses under Unit IV have also been approved by EPA. EPA has three categories of course approval: full, contingent, and approved for interim accreditation. Courses

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approved for interim accreditation will be discussed in Unit III.

Full approval means EPA has reviewed and found acceptable the course's written submission seeking EPA approval and has conducted an on-site audit and determined that the training course meets or exceeds the Model Plan's training requirements for the relevant discipine.

Contingent approval means the Agency has reviewed the course's written submission seeking EPA approval and found the materials to be acceptable (i.e. the written course materials meet the Model Plan's training course requirements). However, EPA has not yet conducted an on-site audit.

Successful completion of either a fully approved course or a contingently approved course provides full accreditation for course attendees. If EPA subsequently audits a contingently approved course and withdraws approval due to deficiencies discovered during the audit, future course offerings would no longer have EPA approval. However, withdrawal of EPA approval would not effect the accreditation of persons who took previously offered training courses including the course audited by EPA.

EPA-approved training courses listed under Unit IV are approved on a national basis. EPA has organized Unit IV by EPA Region to assist the public in locating those training courses that are offered nearby.

EPA-approved State accreditation programs have the authority to have more stringent accreditation requirements than the Model Plan. As a result, some EPA-approved training courses listed under Unit IV may not meet the requirements of a particular State's accreditation program. Sponsors of training courses and persons who have received accreditation or are seeking accreditation should contact individual States to check on accreditation requirements.

A number of training courses offered by several universities before EPA issued the Model Plan equaled or exceeded the subsequently issued Model Plan's training course requirements. These courses are listed under Unit IV as being fully approved. It should be noted that persons who successfully completed these courses are fully accredited; they are not limited only to being interimly accredited.

III. EPA Approval of Training Courses for Interim Accreditation

TSCA Title II enables EPA to permit persons to be accredited on an interim basis if they have attended previous EPA-approved asbestos training and have passed (or pass) an asbestos exam. As a result, the Agency is approving training courses offered previously for purposes of accrediting persons on an interim basis. Only those persons who have taken training courses since January 1, 1985 will be considered under these interim accreditation provisions. In addition, EPA will not grant interim accreditation to any person who takes an equivalent training course after the date the asbestos-in-schools rule takes effect. This accreditation is interim since the person shall be considered accredited for only 1 year after the date on which the State where the person is employed establishes an accreditation program at least as stringent as the EPA Model Plan. If the State does not adopt an accreditation program within the time period required by Title II, persons with interim accreditation must become fully accredited within 1 year after the date the State was required to have established a program.

For purposes of the Model Plan, an equivalent training course is one that is essentially similar in length and content to the curriculum found in the Model Plan. In addition, an equivalent examination must be essentially similar to the examination requirements found in the Model Plan.

Persons who have taken equivalent courses in their discipline for purposes of interim accreditation, and can produce evidence that they have successfully completed the course by passing an examination, are accredited on an interim basis under TSCA Title II. Evidence of successful completion of a course would include a certificate or photo identification card that showed the person completed the training course on a certain date and passed the examination.

For persons who took one of the EPA-approved courses for interim accreditation listed under Unit IV, but did not take the course's examination, these persons may become interimly accredited by passing an examination at an EPA-funded training center. These EPA funded training centers are listed under Unit IV. Before taking the exam, persons must provide evidence to the EPA-funded center that they previously had taken one of the training courses listed under Unit IV that is approved by EPA for interim accreditation.

Courses approved by EPA as of October 17 for interim accreditation are listed under Unit IV. Examinations offered by these courses also are approved for purposes of interim accreditation. EPA expects to approve additional courses for interim accreditation purposes, and will list these courses in subsequent **Federal Register** notices. Training course vendors that believe their courses offered since January 1, 1985 are suitable sources for interim accreditation should contact their EPA Regional asbestos coordinator (See addresses in Unit IV).

IV. List of EPA-Approved State Accreditation Programs and Training Courses

Below is the first listing of EPA-approved State accreditation programs and training courses. As discussed above, periodic notifications of EPA approval of State accreditations programs and EPA approval of training courses will be published in subsequent **Federal Register** notices. The closing date for the acceptance of submissions to EPA for inclusion in this first notice was early October. Omission from this list does not imply disapproval by EPA, nor does the order of the courses reflect priority or quality. The format of the notification lists first the State accreditation programs approved by EPA, followed by EPA-approved training courses listed by Region. The name, address, phone number, and contact person is provided for each training provider followed by the courses and type of course approval (i.e. full, contingent, or for interim purposes). Unless otherwise specified by an alternative date, interim approvals are issued from January 1, 1985.

All five of the EPA-funded asbestos information centers and the three EPA-funded satellite training centers will use the EPA model inspector and management planner course recently developed with EPA funds. As a result, EPA anticipates that all of the EPA-funded training facilities will receive approvals for inspection and management planning courses offered beginning in October. Currently, the EPA-funded centers at the Georgia Institute of Technology and the University of Illinois at Chicago have inspection and management planning courses that EPA has fully approved. The five centers are: The Georgia Institute of Technology in Atlanta, Georgia; the University of Kansas in Overland Park, Kansas; Tufts University in Medford, Massachusetts; the University of Illinois at Chicago, and the University of California, Berkeley. The three satellite centers are: The University of Texas at Arlington; the Robert Wood Johnson Medical School in Piscataway, New Jersey, and Temple University in Philadelphia, Pennsylvania. The University of Texas at Arlington has received contingent approval of its inspector and management planner course.

The recently developed EPA-funded model course for inspectors and management planners, and an earlier course developed with EPA funding for asbestos abatement contractors and supervisors are available for interested parties that plan to offer training courses. Interested parties should contact the following firm to receive copies of the training courses: Sterling Federal Systems, Incorporated, Suite 600, 6011 Executive Blvd., Rockville, MD 20852.

A fee for each course will be charged to cover the reproduction costs for the written and visual aid materials.

The following is the initial list of EPA-approved State accreditation programs and training courses:

Approved State Accreditation Programs

(1)(a) *State: Kansas*— State Agency: Kansas Department of Health and Environment, Forbes Field, Topeka, KS 66620. Attn: John C. Irwin (913) 296–1500.

(b) *Approved Accreditation Program Discipline*—Contractor/Supervisor (training and exam requirements (approved for interim accreditation).

Abatement worker [1] approved for interim accreditation).

Effective date of regulation: 1/6/1986.

(2)(a) *State: New Jersey*—State Agency: New Jersey Department of Health, CN 360, Trenton, New Jersey 08625–0360. Attn: James Brownlee (609) 984–2193.

(b) *Approved Accreditation Program Discipline*—Contractor/Supervisor. Abatement worker. Effective date of regulation: June 18, 1985.

EPA-Approved Training Courses

Region I—Boston, MA

Regional asbestos coordinator. Alison Roberts, EPA, Region I, Air and Management Division (APT–231), JFK Federal Building, Boston, MA 02203. (617) 565–3273 (FTS) 835–3275.

List of approved courses. The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Courses are listed in alphabetical order and do not reflect a prioritization. Approvals for Region I training courses and contact points for each, are as follows:

(1)(a) *Training provider.* Abatement Technology Corp., One Boston Place, Suite 1025, Boston, MA 02108. Attn: Scott Keyes (617) 723–3100.

(b) *Approved courses.* Contractor/Supervisor (contingent).

(2)(a) *Training provider.* Con-Test, P.O. Box 591, East Longmeadow, MA 01028. Attn: Brenda Bolduc (413) 525–1195.

(b) *Approved courses.* Contractor/Supervisor (contingent). Abatement Worker (contingent). Inspector/Management Planner (contingent). Refresher course (for each of the above disciplines) (contingent).

(3)(a) *Training provider.* Hygientics, Inc., 150 Causeway St., Boston, MA 02114. Attn: John W. Cowdery (617) 723–4004.

(b) *Approved courses.* Inspector (contingent).

(4)(a) *Training provider.* Institute for Environmental Education, 208 West Cummings Park, Woburn, MA 01801. Attn: Janet Oppenheim-McMullen (617) 935–7370.

(b) *Approved courses.* Contractor/Supervisor (full from 9/18/87). Inspector/Management planner (contingent).

(5)(a) *Training provider.* Maine Labor Group on Health Inc., P.O. Box 5, Augusta, Maine 04330. Attn: Dianna White (207) 289–2770.

(b) *Approved courses.* Contractor/Supervisor (contingent). Abatement Worker (contingent).

(6)(a) *Training provider.* New England Laborers' Training Trust Fund, 37 East Street, Hopkinton, MA 01748. Attn: Jim Merloni, Jr. (617) 435–6316.

(b) *Approved courses.* Abatement Workers (contingent).

(7)(a) *Training provider.* Tufts University, 474 Boston Ave., Medford, MA 02155. Attn: Brenda Cole (617) 381–3531.

(b) *Approved courses.* Contractor/Supervisor Course (Interim from 9/85–5/31/87). Contractor/Supervisor Course (Full from 6/22/87).

Region II—Edison, NJ

Regional asbestos coordinator. Arnold Freiberger, EPA, Region II, Woodbridge Ave., Raritan Depot, Bldg. 10, Edison, NJ 08837. (201) 321–6668, (FTS) 340–6671.

List of approved courses. The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Courses are listed in alphabetical order and do not reflect a prioritization. Approvals for Region II training courses and contact points for each, are as follows:

(1)(a) *Training provider.* UMDNJ Robert Wood Johnson Medical School, 675 Hoes Lane, Piscataway, NJ 08854–5635. Attn: Lee Laustsen (201) 463–4500.

(b) *Approved courses.* Abatement Worker (full from beginning). Contractor/Supervisor (full from beginning).

Region III—Philadelphia, PA

Regional asbestos coordinator. Pauline Levin, EPA, Region III (3HW–40), 841 Chestnut Bldg., Philadelphia, PA 19107. (215) 597–9859, (FTS) 597–9859.

List of approved courses. The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Courses are listed in alphabetical order and do not reflect a prioritization. Approvals for Region III training courses and contact points for each, are as follows:

(1)(a) *Training provider.* Alice Hamilton Center for Occupational Health, 410 7th Street SE., Second Floor, Washington, DC 20003. Attn: Brian Christopher (202) 543–0005.

(b) *Approved courses.* Abatement Workers (contingent).

(2)(a) *Training provider.* The Association of Wall and Ceiling Industries, 24 K Street, NE., Suite 300, Washington, DC 20002. Attn: Chris Hullinger (202) 783–2924.

(b) *Approved courses.* Abatement Worker (full 5/19/87). Contractor/Supervisor (full 5/19/87).

(3)(a) *Training provider.* Biospherics, Inc., 12051 Indian Creek Court, Beltsville, MD 20705. Attn: Marian F. Meiselman (301) 369–3900.

(b) *Approved courses.* Contractor/Supervisor (full from 10/1/87). Abatement worker (full from 10/1/87).

(4)(a) *Training provider.* Drexel University, Environmental Studies Institute, Building 29, 32nd and Chestnut Streets, #216, Philadelphia, PA 19104. Attn: Robert Ross (215) 895–2269.

(b) *Approved courses.* Contractor/Supervisor (full from beginning). Abatement Worker (full from beginning).

(5)(a) *Training provider.* South East Michigan Committee on Occupational Safety and Health (SEMCOSH), 1550 Howard Street, Detroit, MI 48216. Attn: Barbara Boylan (313) 961–3345.

(b) *Approved courses.* Abatement Worker (contingent).

(6)(a) *Training provider.* The National Training Fund for the Sheet Metal and Air Conditioning Industry (in conjunction with the Workers' Institute for Safety and Health), 1126 Sixteenth Street NW., Washington, DC 20036. Attn: Scott Schneider (202) 887–1980.

(b) *Approved courses.* Abatement Worker (contingent).

[1] Applies only to workers who have taken the Kansas' Contractor/ Supervisor course and passed the State's worker exam.

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(7)(a) *Training provider.* Temple University, College of Engineering, 12th and Norris Streets, Philadelphia, PA 19122. Attn: Lester Levin (215) 787–6479.

(b) *Approved courses.* Contractor/Supervisor (full from beginning). Workers (full from beginning).

(8)(a) *Training provider.* Medical College of Virginia, Virginia Commonwealth University, Department of Preventive Medicine, P.O. Box 212, Richmond, VA 23298. Attn: Leonard Vance (804) 786–9785.

(b) *Approved courses.* Contractor/Supervisor (contingent).

(9)(a) *Training provider.* WACO, Inc., P.O. Box 836, 5450 Lewis Road, Sandston, VA 23150. Attn: William Belanich (804) 222–8440.

(b) *Approved courses.* Contractor/Supervisor (contingent). Abatement Workers (contingent).

Region IV—Atlanta, GA

Regional asbestos coordinator. Jim Littell, EPA Region IV, 345 Courtland St. NE., Atlanta, GA 30365. (404) 347–3864, (FTS) 257–3864.

List of approved courses. The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Courses are listed in alphabetical order and do not reflect a prioritization. Approvals for Region IV training courses and contact points for each, are as follows:

(1)(a) *Training provider.* University of Florida, TREEO Center, 3900 SW 63rd Blvd., Gainesville, FL 32608. Attn: Sandra Scaggs (904) 392–9570.

(b) *Approved courses.* Contractor/Supervisor (full from 5/87).

(2)(a) *Training provider.* Georgia Tech Research Institute, Environmental Health and Safety Division, Room 029, O'Keefe Building, Atlanta, GA 30332. Attn: William Ewing (404) 894–3806.

(b) *Approved courses.* Contractor/Supervisor (full from 5/11/87). Contractor/Supervisor (interim from 6/85—5/10/87). Refresher Course for Contractor/Supervisor (contingent). Inspector/Management Planner (full from 10/87).

(3)(a) *Training provider.* National Asbestos Council, Training Department, 2786 North Decatur Road, Decatur, GA 30033. Attn: Eva Clay (404) 292–0629.

(b) *Approved courses.* Abatement Workers (2 day) (interim from beginning). Abatement Workers (3 day) (full from 7/87).

Region V—Chicago, IL

Regional asbestos coordinator. Anthony Restaino, EPA Region V, 536 S. Clark St., Chicago, IL 60604. (312) 886–6879, (FTS) 886–6879.

List of approved courses. The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Courses are listed in alphabetical order and do not reflect a prioritization. Approvals for Region V training courses and contact points for each, are as follows:

(1)(a) *Training provider.* AHP Research, Inc., 1501 Johnsons Ferry Rd., Suite 230, P.O. Box 71926, Marietta, GA 30007. Attn: Dwight Brown (404) 565–0051.

(b) *Approved courses.* Inspector/Management Planner (interim from beginning).

(2)(a) *Training provider.* BDN Industrial Hygiene Consultants, 8105 Valleywood Lane, Portage, MI 49002. Attn: Keith Nichols (616) 329–1237.

(b) *Approved courses.* Contractor/Supervisor (contingent).

(3)(a) *Training provider.* DeLisle Consulting and Laboratories, Inc., 2401 East Milham Ave., Kalamazoo, MI 49002. Attn: Mark DeLisle (616) 343–9698.

(b) *Approved courses.* Contractor/Supervisor (contingent).

(4)(a) *Training provider.* Heat & Frost Insulators Local 17, Apprentice Training Center, 3850 South Racine Ave., Chicago, IL 60609. Attn: John P. Shine (312) 247–1007

(b) *Approved courses.* Abatement Workers (contingent).

(5)(a) *Training provider.* I.P.C. Chicago, 4309 West Henderson, Chicago, IL 60641. Attn: Robert G. Cooley (312) 975–3495.

(b) *Approved courses.* Abatement Workers (contingent).

(6)(a) *Training provider.* University of Illinois at Chicago, Midwest Asbestos Information Center, 2035 Taylor, School of Public Health, Chicago, IL 60612. Attn: Tony Billotti (312) 996–5762.

(b) *Approved courses.* Contractor/Supervisor (full from beginning). Inspector/Management Planner (full). Abatement Worker (2 day) (interim from beginning to 10/1/87). Abatement Worker (3 day) (contingent).

Region VI—Dallas, TX

Regional asbestos coordinator. John West, 6t-Pt, EPA, Region VI, 1445 Ross Avenue, Dallas, TX 75202–2733. (214) 655–7244, (FTS) 255–7235.

List of approved courses. The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Courses are listed in alphabetical order and do not reflect a prioritization. Approvals for Region VI training courses and contact points for each, are as follows:

(1)(a) *Training provider.* GEBCO Associates, Inc., 805–A, Elizabeth Drive, Bedford, TX 76022. Attn: Ed Kirch (817) 268–4006.

(b) *Approved courses.* Asbestos Workers (full from 8/20/87). Asbestos Workers (interim prior to 8/19/87).

(2)(a) *Training provider.* The International Association of Heat and Frost Insulators and Asbestos Workers Union, Local 22, 3219 Pasadena Blvd., Pasadena, TX 77503. Attn: Owen Tilley (713) 473–0888.

(b) *Approved courses.* Asbestos Worker (3 day course) (contingent). Asbestos Worker (2 day course) (interim prior to 10/87). Worker refresher course (contingent).

(3)(a) *Training provider.* Louisiana State University and Agricultural and Mechanical College, Baton Rouge, LA 70803–1520. Attn: George Smith (504) 388–6621.

(b) *Approved courses.* Contractor/Supervisor (contingent).

(4)(a) *Training provider.* The Texas A&M University System, The Texas Engineering Extension Service, Building Codes Inspection Training Division, College Station, TX 77843–8000. Attn: Charles Flanders (409) 845–6682.

(b) *Approved courses.* Contractor/Supervisor (full from 9/14/87). Contractor/Supervisor (interim prior to 9/14/87). Abatement Worker (contingent). Inspector/Management Planner (contingent).

(5)(a) *Training provider.* The University of Texas at Arlington Satellite Center, Bureau of Engineering Research, P.O. Box 19020, Arlington, TX 76019. Attn: Ernest Crosby (817) 273–2557.

(b) *Approved courses.* Contractor/Supervisor (full from beginning). Inspector/Management Planner (contingent).

(6)(a) *Training provider.* Tulane University, School of Public Health and Tropical Medicine, Department of Environmental Health Sciences, 1430 Tulane Avenue, New Orleans, LA 70112. Attn: Shau-Wong Chang (504) 588–5374.

(b) *Approved courses.* Contractor/Supervisor (full from 9/15/87). Contractor/Supervisor (interim prior 9/14/87).

Region VII—Kansas City, KS

Regional asbestos coordinator. Wolfgang Brandner, EPA Region VII, 726 Minnesota Ave., Kansas City, KS 66101. (913) 236–2834, (FTS) 757–2834.

List of approved courses. The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Courses are listed in alphabetical order and do not reflect a prioritization. Approvals for Region VII training courses and contact points for each, are as follows:

(1)(a) *Training provider.* Hall-Kimbrell Environmental Services, 4840 West 15th St., Lawrence, KS 66046. Attn: Alice Hart (913) 749–2381.

(b) *Approved courses.* Contractor/Supervisor (full from 8/17/87). Abatement Worker (full from 8/17/87). Project Designer (full from 8/17/87). Inspector/Management Planner (full from 8/17/87).

(2)(a) *Training provider.* Mahew Environmental Training Assoc., Inc. (META), P.O. Box 1961, Lawrence, KS 66044. Attn: Brad Mayhew (913) 842–6382.

(b) *Approved courses.* Contractor/Supervisor (contingent). Abatement Worker (contingent).

(3)(a) *Training provider.* The University of Kansas National Asbestos Training Center, 6600 College Blvd., Suite 315, Overland Park, KS 66211. Attn: Lani Himegarner (913) 491–0181.

(b) *Approved courses.* Contractor/Supervisor (contingent). Contractor/Supervisor (interim from 6/85–9/9/87). Abatement Worker (contingent).

Region VIII—Denver, CO

Regional asbestos coordinator. David Combs, [8AT–TS], EPA, Region VIII, 1 Denver Place, 999–18th St., Suite 1300, Denver, CO 80202–2413. (303) 564–1730, (FTS) 564–1742.

List of approved courses. The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Courses are listed in alphabetical order and do not reflect a prioritization. Approvals for Region VIII training courses and contact points for each, are as follows:

(1)(a) *Training provider.* Northern Engineering and Testing, Inc. 600 South 25th Street, P.O. Box 30615, Billings, MT 59107. Attn: Kathleen Smit (406) 248–9161.

(b) *Approved courses.* Asbestos worker (contingent).

(2)(a) *Training provider.* Rocky Mountain Center for Occupational and Environmental Health, Building 512, University of Utah, Salt Lake City, UT 84112. Attn: Jeffery Lee (801) 581–5710.

(b) *Approved courses.* Contractor/Supervisor (contingent).

Region IX—San Francisco, CA

Regional asbestos coordinator. Joanne Semones, [T–52], EPA, Region IX, 215 Fremont St., San Francisco, CA 94105. (415) 974–7290, (FTS) 454–7290.

List of approved courses. The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Courses are listed in alphabetical order and do not reflect a prioritization. Approvals for Region IX training courses and contact points for each, are as follows:

(1)(a) *Training provider.* Environmental Sciences, 375 S. Meyer, Tucson, AZ 85701. Attn: Dale Keyes (602) 577–1764.

(b) *Approved courses.* Inspector/Management Planner (full).

(2)(a) *Training provider.* University of California at Berkeley Pacific Asbestos Information Center, U.C. Extension, 2223 Fulton St., Berkeley, CA 94720. Attn: Debra Dobin (415) 643–7143.

(b) *Approved courses.* Contractor/Supervisor (full from beginning).

Region X—Seattle, WA

Regional asbestos coordinator. Walter Jasper, EPA, Region X, 1200 Sixth Ave., Seattle, WA 98101. (206) 442–2870, (FTS) 399–2870.

List of approved courses. The following training courses have been approved by EPA. The courses are listed under (b). This approval is subject to the level of certification indicated after the course name. Courses are listed in alphabetical order and do not reflect a prioritization. Approvals for Region X training courses and contact points for each, are as follows:

No approvals for Region X.

Dated: October 17, 1987.

Lee M. Thomas,

Administrator.

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Part IV

Department of the Interior

Minerals Management Service

30 CFR Parts 208 and 209
Sale of Federal Royalty Oil; Final Rule

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 208 and 209

Sale of Federal Royalty Oil

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: The Minerals Management Service (MMS) is issuing this final rulemaking to consolidate and revise regulations governing the sale of onshore and offshore Federal royalty oil. This final rule will establish uniformity within the regulatory text, provide industry with a more efficient and responsive Royalty-in-Kind (RIK) Program, and improve the Federal Government's administration of the RIK Program. The prior regulations, which are being replaced by this rulemaking, were developed from different statutory bases and consequently contained conflicting and overlapping requirements. This final rule, in combination with selective administrative changes, will ease the burden on all participants and improve the Federal Government's administration of the RIK Program.

EFFECTIVE DATE: December 1, 1987.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch at (303) 231-3432, or James A. McNamee, Chief, Royalty-in-Kind Section at (303) 231-3605 in Lakewood, Colorado.

SUPPLEMENTARY INFORMATION: The principal authors of this final rule are James H. Mikelson, John W. Vidrik, and James A. McNamee of the Minerals Management Service, Lakewood, Colorado.

I. Background

Section 36 of the Mineral Lands Leasing Act of 1920 (common reference for the Act of February 25, 1920), as amended (30 U.S.C. 192), and sections 5 and 27 of the Outer Continental Shelf Lands Act (OCSLA) of August 7, 1953, as amended (43 U.S.C. 1334, 1353), authorize the Secretary of the Interior (Secretary) to sell royalty oil accruing to the United States from oil and gas leases issued pursuant to those Acts.

The MMS was established by Secretarial Order No. 3071 on January 19, 1982. Under that order and its subsequent amendments on May 10 and May 26, 1982, MMS was assigned responsibility for the RIK Program.

The MMS has completed a detailed review of the RIK Program. The review highlighted areas where changes should be considered and improvements could be made. One area identified as in need of revision was the regulations governing the sale of royalty oil in 30 CFR Parts 225, 225a, and 282 (subsequently recodified as 30 CFR Parts 208 and 209; see below).

In developing new RIK regulations, the principal objective was to establish one set of regulations for all royalty oil offered for sale under the RIK Program. The prior RIK regulations consisted of one set of regulations governing the sale of onshore royalty oil at 30 CFR Part 208 (formerly 30 CFR Part 225, which was recodified on August 5, 1983 (48 FR 35639)), issued pursuant to the authority in the Act of February 25, 1920, and a second set of regulations governing the sale of offshore royalty oil. The offshore regulations originally were issued by the Department of the Interior (DOI) at 30 CFR Part 225a, pursuant to the authority of the OCSLA. However, section 302(b) of the Department of Energy Organization Act, 42 U.S.C. 7152(b), transferred certain regulatory authorities over the sale of royalty oil to the Department of Energy (DOE), which issued regulations at 10 CFR Part 391.

Congressional repeal of section 302(b) of the DOE Organization Act in Pub. L. 97-100 and in Pub. L. 97-257 transferred the regulatory authority back to DOI from DOE. The DOE's 10 CFR Part 391 regulations were redesignated as DOI's 30 CFR Part 282 (48 FR 1181, January 11, 1983) and then redesignated as 30 CFR Part 209 (48 FR 35639, August 5, 1983).

The evolution of the prior regulations from different statutory bases, and from the different RIK Program objectives of two Federal agencies, adversely affected the wording of the text and the application of the regulations. Those inconsistencies, if left to continue, would have eventually led to further confusion and disruption in MMS's management of, and industry's participation in, the RIK Program.

In addition to the regulatory revisions, there were a number of administrative procedures reviewed by MMS. Improvements have been made to these procedures in order to streamline and simplify administrative functions within the RIK Program and make them more manageable for the Federal Government and less burdensome for industry. Regulatory and administrative changes are discussed below.

Notice of MMS's intent to revise the RIK regulations and make administrative improvements was first published in the **Federal Register** on November 10, 1982 (47 FR 50824), and comments were invited for a 60-day period ending January 10, 1983. Thirty-three responses were received by MMS from producers, refiners, and others interested in the RIK Program. The responses covered many topics, but the majority of the comments dealt with either (1) refiner eligibility requirements, (2) transportation or delivery issues, or (3) administrative fees.

On January 14, 1983, MMS also announced in the **Federal Register** (48 FR 1833) its intent to change the time periods for the sales of royalty oil. Some comments were also received from industry on this topic, although MMS had not solicited any at the time.

II. Summary of Rule Adopted

This final rule being adopted is substantially the same as the proposed rule. Therefore, discussion in the preamble to the proposed rule applies to the final rule. Based on comments received from the public to the proposed rule, certain changes were made. These changes are discussed below in sections III and IV, Comments Received on Proposed Rule—General and Specific by Section.

The final rule removes regulations at 30 CFR Parts 208 and 209 and consolidates and revises those regulations with a unified set of rules in 30 CFR Part 208 governing the sale of Federal royalty oil. This one set of regulations applies to sales of both onshore royalty oil and Outer Continental Shelf (OCS) royalty oil. The new regulations include regulatory changes to clarify definitions and administrative changes to improve the operational efficiency of the RIK Program.

III. Comments Received on Proposed Rule—General

The proposed rulemaking published January 20, 1987 (52 FR 2202), provided for a 30-day public comment period which ended February 19, 1987. General comments received during that time period are addressed in this section. Specific comments by section of the proposed rule are discussed below in section IV. The text of the adopted regulation has been changed to reflect comments, as appropriate.

Two commenters stated that the RIK Program is unnecessary because most areas have adequate supplies of crude oil at equitable prices available to small/independent refiners. One of these commenters stated that the Secretary must make a determination that small refiners lack access to equitably priced crude oil as a condition precedent to the implementation of the RIK Program. The commenters also stated that the methodology for, and subsequent findings of, the determination should be published for comment.

This rule is a codification of the statutes and policies pertaining to the taking of oil royalties in kind for sale to eligible refiners. It is neither an election nor notice of intent to take Federal royalties in kind. Such elections to take royalties in kind will be made on a regional basis following individual determinations by the Secretary that eligible refiners in that region do not have access to adequate supplies of crude oil at equitable prices. The determinations will be published in the **Federal Register** concurrent with, or included in, the "Notice of Availability of Royalty Oil", as provided in § 208.4(a). There is no requirement that MMS undergo a formal process for such determinations, and MMS does not plan to institute one.

One commenter was concerned that the rule will have a significant negative economic impact on the Nation's small refiners and that MMS would, therefore, be required to perform a regulatory analysis with published conclusions under the Regulatory Flexibility Act. Specific reasons for this comment were not given, although the commenter expressed concern about surety and administrative fee requirements in its other comments.

The MMS disagrees. The MMS believes, and several commenters concur, that the rule is an improvement over the current rules, especially as it concerns surety requirements. These and administrative fee requirements are discussed in more detail in section IV.

There were several administrative comments, one of which stated, in essence, that not all interested parties were familiar with the Auditing and Financial System (AFS) and that they would appreciate a description of its operation.

The AFS and its requirements are discussed in detail in MMS's "AFS Oil and Gas Payor Handbook." In addition, MMS conducts payor training classes at various times and locations. Payors interested in further information should contact their MMS Lessee Contact Branch representative. Refiners interested in further information should contact the MMS RIK Section Chief at (303) 231-3605.

One commenter stated that offshore royalty oil not purchased in a sale by offshore eligible refiners should be made available to onshore eligible refiners.

Generally, most of the offshore oil offered in a sale is taken. If it were not, the OCSLA at 43 U.S.C. 1353(b) would allow MMS to sell any excess by competitive bid. However, at this time, MMS has elected not to use the competitive bid procedures. Therefore, unless a refiner meets the OCSLA eligibility criteria, it will not be eligible to purchase offshore royalty oil.

One commenter called for 3-year contracts and suggested sanctions for early terminations.

The MMS plans to have 3-year terms for most contracts in the future, but does not support the idea of sanctions for early terminations because the conditions under which refiners operate are too variable. It should be noted that the administrative fees are nonrefundable and, therefore, the refiners have an investment in the form of the initial contract fee, which should serve as an incentive to maintain their contracts.

One commenter was concerned that the States' shares of the initial estimated billings for a month's supply of royalty oil would not be distributed to the States in accordance with 30 U.S.C. 191. The same commenter was concerned that there is no "date certain" for payments in the rule and that there is a 45-day delay in billings.

The MMS distributes the revenue from the estimated billings to the States in the same manner and within the same amount of time as it distributes revenue from the actual billings. One of the reasons for the initial estimated billing is to negate the effect of the 45-day delay in billing by effectively making revenues available at the same time whether royalties are paid in value or in kind. The 45-day delay cannot be shortened because of current AFS reporting and report processing requirements. The "date certain" for payments fluctuates depending on the nature of the bill and, therefore, cannot be specified in the rule. Normally, payments from the purchasers for the monthly billings are due at MMS on the last day of the month billed.

Finally, one commenter suggested that MMS add a provision to specifically provide for collections from a lessee for undervaluation of royalty oil taken in kind when such undervaluation is a result of a reporting error and the correct amount cannot be recouped from the purchaser. Alternatively, the commenter stated that MMS should be liable for the States' shares of undervalued royalty oil.

The MMS does not believe that such provisions are necessary because there are sufficient protections already in place in existing rules and regulations.

IV. Comments Received on Proposed Rule—Specific by Section

Section 208.2 Definitions

Five commenters responded to the specific request for comments as to whether or not onshore eligibility requirements should be modified to limit the class of eligible refiners to "small refiners" as that term was defined in section 3(4) of the Emergency Petroleum Allocation Act (EPAA) of 1973. All five stated that size criteria should be added to the independence criteria for onshore eligibility. There were no negative responses to this proposal, although one refiner commented that both onshore and offshore eligibility should be tied to the Small Business Administration (SBA) definition.

The MMS agrees that revising the onshore eligibility criteria to include the size determination contained in the EPAA would be beneficial in that it would limit the eligible class to those refiners that have the most need for the RIK Program. The necessary revisions have been made to subparagraph 208.2. The MMS was precluded from limiting the size for onshore eligibility to the SBA criteria by the *Plateu* decision (*Plateau, Inc.* v. *DOI*, 603 F.2d 161 (10th Cir. 1979)), but the EPAA limitation is considerably less restrictive than the SBA limitation. The SBA limit currently refers to refiners with no more than 45,000 barrels per day capacity, whereas the EPAA limit is 175,000 barrels per day. Therefore, more refiners would be eligible for royalty oil.

In the *Plateau* decision, the Court of Appeals held that, for sales of onshore royalty oil pursuant to the Act of February 25, 1920, DOI could not limit eligible refiners to those that meet the SBA criteria. The Court of Appeals, in reviewing the legislative history of 30 U.S.C. 192, indicated what the proper scope of the limitation should be:

> In explaining the purpose of the bill, the Senator (O'Mahoney) identified "small refiners" as those "who do not own and operate their own producing leases." (91 Cong. Rec. 1760 (1945)) . . . . The Secretary of the Interior, in expressing his views on the bill to the committee, had objected to the word "smaller" as being too indefinite . . . . The basic distinction drawn by the Secretary echoed the one recognized by Senator O'Mahoney: The Secretary differentiated between "integrated companies" and refiners "not having their own source of supply for oil . . . ." The version of the bill ultimately enacted defined the targeted refineries as those "not having their own source of supply for crude oil." (603 F.2d at 163.)

The MMS believes that the revised definition at § 208.2 for onshore

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eligiblity is consistent with the intent of the statute and the *Plateau* decision.

One commenter recommended the addition of a definition for "preference eligible" refiner and another proposed that the definition of "independent refiner" be clarified. The latter commenter also recommended that "refinery capacity" be more clearly defined.

The MMS agrees with the first two comments, and has incorporated these suggestions within § 208.2. The MMS will, however, defer the question of refinery capacity. Because there are currently no capacity certification procedures in place, there is no certain method for determining capacity. The MMS does not wish to establish an arbitrary method, and will, therefore, continue to accept the capacity data submitted by refiners, subject to review, until further notice.

One commenter requested clarification of the definition of "oil" as it pertains to condensate; specifically, whether or not liquids derived from a processing facility would be exempt from the RIK Program.

The MMS does not intend to include in the RIK Program liquids that are recovered by means of a manufacturing process. The liquids intended to be excluded from the RIK Program are those that would meet the definition of natural gas liquids (those liquefiable hydrorcarbons that are recovered through the processing of natural gas). Any liquid hydrocarbons which meet the definition of oil, and thus are to be treated as oil under the applicable statutes, may be included regardless of whether they are recovered at the lease or at a point remote from the lease (such as reseparation facility at the inlet of a gas plant).

One commenter stated without elaboration that the definition of lessee could result in undue burdens on an operator, particularly in OCS operations. The same commenter stated that it must be made clear in the definition that "royalty oil" does not include "working interest" oil (commenter's term) as described under section 8(b)(7) of the OCSLA. This commenter also stated that oil taken in kind should be prorated among the various working interests if only a portion of the available royalty oil is taken in kind from a large jointly owned property.

The definition of lessee contained in this rule is consistent with that in the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 1701, and is used for that reason. The definition of royalty oil is not meant to encompass oil set aside for small refiners under section 8(b)(7) of the OCSLA. Section 8(b)(7) oil, commonly referred to as "20 percent set-aside" oil, is not royalty oil and has no bearing on this rule. If the Federal Government's royalty oil is taken in kind, that does not relieve the lessee of its obligation also to make oil available in accordance with section 8(b)(7). Likewise, if a lessee is selling production in accordance with section 8(b)(7), that does not limit the Secretary's discretion also to take royalty oil in kind. Finally, any requirement that all working interest owners have a pro rata share of royalty oil provided under this rule is an administrative matter among the owners and should be a function of the applicable agreement(s) among them.

Section 208.4 Royalty Oil Sales to Eligible Refiners

One of the commenters stated that the proposal is premature and should be withdrawn pending completion of the 30 CFR Part 206 rulemaking, and another stated that it was inappropriate to refer to 30 CFR Part 206 when it is being revised and is open for public comment. In related comments, several commenters proposed various methods of valuation for royalty oil taken in kind, ranging from using the same methods currently in 30 CFR Part 208 and 30 CFR Part 209 to using competitive bidding. The options included using the highest posted price, using an average of posted prices, and using averages of values reported by the operators. One commenter specifically recommended that MMS retain the definitions of "market value" and "fair market value" because of statutory restraints. This commenter states that the value of royalty oil taken in kind could not be tied directly to the value of royalties paid in value.

The MMS agrees that the method for determining the value of offshore royalty oil taken in kind is limited by the provisions of the OCSLA. Therefore, MMS has added the definition of fair market value at § 208.2 and provided for its use in the valuation of offshore royalties taken in kind in § 208.4(b)(2). The only restriction in the statutes for onshore RIK valuation, however, is that the royalties be sold at not less than "market value," a term which is not defined in the statutes. The MMS is of the opinion that it will be operating within the intent of the pertinent legislation if onshore royalties taken in kind are valued the same as royalties paid in value and, therefore, MMS will value it in accordance with the provisions of 30 CFR Part 206. This practice should not affect, or be affected by, the rulemaking procedure for 30 CFR Part 206. It is important to note that the value for onshore royalty oil will be the same whether royalties are taken in kind or paid in value and, therefore, the refiners will not be able to negotiate their own prices with the lessees for the royalty oil, which was a concern of some of the commenters.

One commenter stated that lessees have no obligation or right to value royalties taken in kind and that it is the responsibility of MMS to determine value.

The MMS agees that it has the responsibility to make final determinations of value, but this is also true when royalties are paid in value. The lessees or payors will have no more value-reporting responsibilities placed on them as a result of this rule than they would have if they reported in value. The lessees or payors will report the same values for royalty oil taken in kind that they would report if they were paying the royalties in value.

The MMS specifically requested comments on whether the use of an auction technique for the disposal of royalty oil would be desirable. One commenter supported auctions with established floor prices and another stated that it would be an effective means of determining true market value. Eight commenters opposed auctions, however, with most voicing strong opposition. The consensus was that auctions would be counter to the underlying purpose of the RIK Program because the resultant prices received for the royalty oil would not be equitable.

The MMS agrees with the opposition comments at this time. Therefore, MMS does not anticipate conducting auctions in the foreseeable future.

Several commenters addressed the issue of administrative fees, but none voiced outright opposition. Two stated that the fees should be determined on the basis of volume rather than number of leases, one stated that they should be the same for all refiners, and one stated that the initial contract fees should be enough to cover 50 percent of the costs of the RIK Program. In a related comment, one commenter pointed out that the administrative fee will result in an increase in the price charged for the RIK oil. This comment was made as a statement of fact and not a protest.

The proposed methodology for the recoupment of RIK Program administration costs is intended to reflect MMS's actual administrative efforts. Although certain costs are incurred in fairly equal amounts for all contracts, contracts that involve a greater number of leases entail greater administrative effort. The costs are not related to volume, nor are the efforts for all contracts the same. The initial contract fee is the same for all contracts because of the similarity of certain administrative costs, but the variable fees cannot be equal because of the reasons mentioned above. Finally, the fees are not additional royalties or bonuses and are not accounted for as such. They are necessary to recover the administrative costs of the RIK Program. Such fees are not shareable with the States pursuant to 30 U.S.C. 191.

One commenter stated that interim sale decisions should be made on a case-by-case basis and that the documentation required by interested refiners should not be more extensive than that required for normal secretarial determinations of need.

The MMS is not precluding interim sales altogether and will consider each case separately. However, such sales would only be held in the event substantial amounts of royalty oil become available between sales. This would not include oil previously offered and not taken in a sale or taken and then turned back after a sale. The documentation requirements would not be excessive, but the refiners would have to convince MMS that there is an immediate need.

Section 208.5 Notice of Royalty Oil Sale

One commenter stated that participation in reallocations of oil should be voluntary. The MMS concurs and has clarified this requirement in the adopted rule.

The MMS asked for comments as to whether or not geographic preferences should be granted in sales of offshore royalty oil as well as sales of onshore royalty oil. Six commenters specifically favored the proposal, and one did not. One other commenter stated that any refiner that qualified under the SBA size-determination criteria should be allowed to participate in sales involving Gulf of Mexico OCS leases regardless of location.

The MMS believes that geographic preference for both onshore and offshore sales is desirable and has changed the rule where applicable. The determination as to which applicants for a given sale will be considered for preference eligibility will be made prior to, and published in, the applicable "Notice of Availability of Royalty Oil." The specific criteria for preference eligibility may not be the same for each sale, but MMS anticipates that eligible applicants directly and substantially involved in the crude oil market for the given area will generally be included in the class.

Section 208.7 Determination of Eligibility

One commenter recommended a change in the lottery procedures used during royalty oil sales and proposed a new section giving such procedures for inclusion in the rule. Other commenters also mentioned that the current lottery procedure results in inequitable allocations, the effects of which are compounded by the procedure used for determining administrative fee distribution.

The MMS is exploring ways to improve the sale procedures. However, MMS believes that it should maintain flexibility in this regard and, therefore, not address specifics in the rule. The MMS will publish specific procedures for each sale in the applicable "Notice of Availability of Royalty Oil." The MMS will also attempt to provide more information concerning leases offered in sales, as requested by one commenter.

Three commenters mentioned that MMS should retain flexibility concerning contract suspensions and exclusions of nonoperating refineries from sales because of the possibility of "force majeure" occurrences.

Contract suspensions and exceptions to the policy of excluding nonoperating refineries pursuant to the provisions of paragraph 208.7(g) are administratively burdensome to MMS, operators, and payors. Contract suspensions will not be allowed except as provided in § 208.17.

One commenter recommended that MMS add a section specifically excluding refiners that owe under previous contracts.

The MMS concurs and has added § 208.7(h) to the final rule. The restriction has been expanded to encompass all delinquent balances by affiliated entities. However, if a purchaser or affiliated entity has appealed a billing and posted a surety in accordance with the contract terms and applicable MMS regulations and orders, the balance will not be considered delinquent.

One commenter stated that the total capacities of all affiliated refineries should be used in determining eligibility. This is MMS policy.

Section 208.8 Transportation and Delivery

Six commenters voiced serious concern over the provisions of proposed § 208.8(e). Most were concerned that MMS could establish inaccessible delivery points and then require the operators to designate alternate delivery points at operator or lessee expense. One of the commenters stated that MMS should bear the cost of transportation if the delivery point is not on or adjacent to the lease and another stated that operators are not legally obligated to incur any delivery costs for RIK oil.

The concern created by the proposed rule is apparently the result of unclear provisions, and MMS has rewritten § 208.8 in an attempt to clarify this and other matters discussed below. Onshore leases typically contain the provision that royalty oil taken in kind must be delivered by the lessee on or adjacent to the lease at no cost to the lessor in tanks provided by the lessee. If this can be accomplished, there should be no problem providing the royalty oil to the purchaser. However, in instances where onshore oil flows directly from the wellhead into a closed pipeline system or is otherwise inaccessible on or adjacent to the lease, the operator must designate an alternate delivery point and deliver the royalty oil to that point at the operator's or lessee's own expense. This provision merely implements onshore lease provisions.

The offshore leases which allow MMS to designate onshore delivery points also provide for payment of certain transportation costs to such points, and this is provided for in § 208.8(b). The MMS designated onshore delivery point will generally be the first onshore point at which the price of the royalty oil, including transportation costs, may be established and at which the purchaser will be able to exchange or take delivery of the oil. An onshore delivery point for offshore royalty oil will not necessarily be a location where there is physical access to the oil. This has been clarified in the definition at § 208.2. The costs of transportation occurring prior to the designated delivery point will be included in the price of the royalty oil billed to the purchaser. The MMS will reimburse the lessee for the reasonable costs of transportation to the designated delivery point in an amount not to exceed the transportation allowance determined pursuant to 30 CFR Part 206. Beyond the designated delivery point, transportation costs or exchanges of oil and related transportation costs will be the sole responsibility of the purchaser.

In related comments, five commenters stated that the provisions of 30 CFR Part 206 do not require MMS approval of transportation costs and that operators should be reimbursed for 100 percent of the costs associated with transporting the royalty oil to the designated delivery point. One commenter objected to referring to 30 CFR Part 206 while it is in the rulemaking process. Three commenters stated that the method and timing of transportation reimbursements should be addressed in this rule.

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The use of the phrase "approved by MMS" in the proposed § 208.8(c) was inappropriate and it has been changed to "determined pursuant to 30 CFR Part 206" in the final rule at § 208.8(b). The question of whether or not 100 percent of the costs should be reimbursed is outside of the context of this rule and should be addressed in the rulemaking process for 30 CFR Part 206. Likewise, discussions of the method and timing of transportation reimbursements are beyond the scope of this rulemaking. These procedures are addressed in proposed 30 CFR Part 206 and the "AFS Oil and Gas Payor Handbook." The MMS does not consider it inappropriate to refer to 30 CFR Part 206 in this rule because references pertain to whatever version of that rule is in effect. In addition, nothing contained in this rule should prejudice the rulemaking process for 30 CFR Part 206.

One commenter stated that refunds of transportation costs for OCS RIK are outside the purview of sections 10(a) and 10(b) of the OCSLA. The same commenter stated that refunds stemming from adjustments for OCS RIK should not trigger OCSLA restraints.

The MMS is planning to propose regulations in the near future relating to a variety of section 10 issues, including those identified by the commenter.

Section 208.9 Agreements

Two commenters stated that purchasers should not have to pay bonuses other than quality differentials for oil exchanged for royalty oil in closed delivery systems. Another commenter suggested that it is unfair for MMS to pass the risk and responsibility for quality differentials to the lessee and that MMS should bill on the basis of quality delivered and then settle with the lessee on any difference. Another stated that MMS should require that quality differential agreements be in place prior to deliveries.

If a determination is made by the Secretary to take royalties in kind, with delivery of royalty oil to participating RIK refiners, affected lessees are required to provide the same quality of royalty oil to the purchasers that was produced from the leases. If a lessee is unable to provide the royalty portion of actual production from the lease, the lessee must provide crude oil to the purchaser which is equivalent in volume or value to the royalty oil to which the purchaser is entitled. This situation may arise, for example, on offshore royalties when the lease is the royalty measurement point but MMS has designated an onshore delivery point. In instances where a quality differential exists between the royalty oil to which a purchaser is entitled (and for which it is billed) and the oil which actually is delivered, the difference must be resolved between the purchaser and the operator. Historically, lessees and RIK purchasers have been able to resolve any quality differential issues between themselves. The MMS policy is to not be involved in third-party agreements unless requested or in cases where they conflict with terms of royalty oil contracts or regulations governing the RIK Program. Section 208.9(a) provides for the submittal of agreements to MMS relating to the method and costs of delivery of royalty oil, or oil exchanged for it, to the refinery. This requirement pertains to quality differential agreements as well, and the paragraph has been changed accordingly.

Two commenters offered definitions of what constitutes "processing" of crude oil. One was a variation of the "Mandatory Oil Import" definition previously codified at 10 CFR 213.27. The other recommended that MMS state in § 208.9(c) that oil must be processed "into refined petroleum products" and that MMS use the definition of that term which is at section 3(5) of the Emergency Petroleum Allocation Act. The MMS has adopted this latter suggestion and has made the revision in § 208.9(c) and added a modified definition in 208.2.

Section 208.10 Notices

One commenter stated that the notification of termination in § 208.10(c) should be required in all cases. Two others requested 60-day and 45-day notices of termination, respectively.

The MMS policy is to give notices of termination as far in advance as possible, preferably at least 30 days. To require a 30-day notice in all cases would unduly restrict MMS's flexibility in those rare instances where immediate termination is required for unforeseen reasons. Future contracts will contain provisions requiring the refiner to provide 45-day notices of termination in most cases. The MMS will notify operators as soon as possible upon such notice, thereby giving notice more than 30 days prior to the effective termination date.

One commenter stated that the notice required at § 208.10(a) should be in writing and should specify delivery points. Another stated that there should be a prohibition in regard to changing delivery points.

It is MMS's policy to give all notices concerning the election to take or terminate royalty oil in kind both by telephone and in writing. It is also MMS's policy to specify delivery points for offshore oil in the letters notifying operators of elections to take royalty oil in kind. The rule has been clarified to reflect this policy. The MMS does not generally change delivery points without the concurrence of the operator, but it must maintain the ability to do so in cases where the lease provisions allow MMS to designate a delivery point.

One commenter recommended that the word "lessee" in the first sentence of § 208.10(d) be changed to "operator."

The MMS concurs and has changed "lessee" to "operator" wherever it appeared in § 208.10.

Section 208.11 Surety Requirements

Three commenters stated that the surety costs are excessive and that the letter of credit term should be reduced. Three others stated that the requirements are a real improvement but hoped that the requirements could be reduced even further by streamlining the reporting and billing process.

The MMS has studied the surety requirements extensively and believes that the proposed requirements are as low as they can be and still provide the necessary protection. There was some confusion as to how long a letter of credit must be in effect following contract termination. The MMS has therefore added a sentence to § 208.11(b) allowing a clause in each letter of credit specifically limiting such time period to 6 months. The requirements cannot be reduced further unless the reporting and billing period is reduced, which is not possible within the framework of AFS unless MMS increases the amount of the initial estimated payment. This would be counter-productive.

Section 208.13 Reporting requirements

One commenter requested a provision that would require purchasers to provide sureties to operators because the operators are responsible for overdeliveries. In related comments, four commenters stated that the liabilities, including interest, that may be incurred by the payors for underbillings as a result of reporting errors are unfair and punitive. Generally, these commenters feel that the operator's only obligation is to transfer royalty oil taken in kind to the purchaser and that the operator has no duty to be a guarantor of the value or receipt of such royalty oil.

The MMS cannot agree that purchasers should be made to provide sureties to cover the possibilities of overdeliveries. It also does not consider holding the payors responsible for their reporting errors to be unfair or punitive. The payors are responsible for correct reporting of royalties whether taken in kind or paid in value. It follows that they should also be responsible to ensure that deliveries of RIK oil are correct. It is interesting that most of these same commenters oppose the requirement in § 208.13(a) for reporting royalty oil entitlements and deliveries on Form MMS–4071. This requirement was added to protect the operators and payors as well as the purchasers and MMS. The MMS's experience in reconciliations of royalty oil contracts over the past 3 years has shown that payor reporting on Form MMS–2014 often has not matched entitlements and/or deliveries. The requirement is an attempt to provide a means to catch these errors, as much as is possible without a full audit, before the payors become liable for the resultant losses of revenue. In summary, MMS believes that the provisions for reporting and for liability in cases of reporting or delivery errors are necessary to protect all parties whenever possible, and they will be retained in the final rule.

Three commenters stated that purchasers should be paid interest by MMS when overbilled. Another comment on interest was that working interest owners should be paid interest on "underpayments from eligible refiners for late payments on any excess oil delivered."

The MMS currently does not have legal authority to pay interest on overbillings. However, this issue is being reviewed outside of the context of this rule. If there is a change in MMS's interest payment authority, it will be implemented in the RIK Program to the extent it is applicable. Regarding the latter comment, it is the working interest owner's responsibility to ensure that the correct volumes of royalty oil are made available to the purchaser, and any problems related to overdeliveries are matters to be handled between the owner and the purchaser.

Operators and other interested parties should note that § 208.8(c) of the final rule provides for deliveries to be made not later than the last day of the calendar month immediately following the month in which the oil was produced. This provision should provide time to review production and other records sufficiently to allow for the determination of proper deliveries in a timely manner.

One commenter stated that the provisions of §§ 208.12(b) and 208.13(b) appear to allow MMS to charge double interest.

These paragraphs address separate issues. Section 208.12(b)(i) of the final rule provides for interest payments by RIK purchasers for late payments of invoices. Subparagraph (ii) of this paragraph provides for interest payments by RIK payors for underreported royalty oil. These latter charges may be assessed as a result of late or underreporting, or after an adjustment to a previously reported line is reported by the payor and billed or is billed by MMS as a result of reconciliation, audit, or other procedures. For example, if an operator underreports RIK delivered volumes to MMS, and as a result MMS does not bill the RIK purchaser for the underreported volume, then MMS will bill the RIK purchaser for the value of the underreported volumes, but will bill the operator for interest. The interest will be calculated on the net adjustment from the time the original amount would normally have been due to the time the adjusted amount was paid. Section 208.13(b) interest assessments are related to the amounts which are unrecoverable from a purchaser or surety due to payor error and are, therefore, the responsibility of the payor. Interest will be assessed from the time payment originally would have been due from the purchaser to the time the debt is satisfied by the payor.

Section 208.14 Civil Criminal Penalties

One commenter stated in regard to § 208.14 that civil penalties must be in respect to the source of the oil involved and to the proper statute. The MMS agrees.

Section 208.17 Suspensions for National Emergencies

One commenter stated that operators should receive 60-day notices in suspensions.

Any suspension under this section would be made in the event of a national emergency and would probably be made without any prior notice.

V. Procedural Matters

Executive Order 12291 and Regulatory Flexibility Act

The impact of the final rule is primarily limited to a small portion of the oil industry. In addition, the final rule primarily consolidates and clarifies existing regulations. Although some changes were adopted, they have a minor economic effect. Therefore, the Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Paperwork Reduction Act of 1980

The information collection requirements contained in 30 CFR 208.3 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and have been assigned clearance number 1010–0042.

National Environmental Policy Act of 1969

The Department of the Interior has determined that this final rule is categorically excluded from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The exclusion is found in the Department's Manual at 516 DM6, Appendix 2, Part 2.4B(1) (a), (b), and (k).

List of Subjects

30 CFR Part 208

Government contracts, Mineral royalties, Petroleum, Public lands-mineral resources, Small businesses.

30 CFR Part 209

Continental shelf, Government contracts, Mineral royalties, Petroleum allocation, Public lands—mineral resources, Small businesses.

Date: October 2, 1987.

J. Steven Griles,

Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, Title 30, Subchapter A of the Code of Federal Regulations is amended as set forth below.

Subchapter A—Royalty Management

30 CFR Part 208 is revised to read as follows:

PART 208—SALE OF FEDERAL ROYALTY OIL

Subpart A—General Provisons

Sec.

208.1 General.
208.2 Definitions.
208.3 Information collection.
208.4 Royalty oil sales to eligible refiners.
208.5 Notice of royalty oil sale.
208.6 General application procedures.
208.7 Determination of eligibility.
208.8 Transportation and delivery.
208.9 Agreements.
208.10 Notices.
208.11 Surety requirements.
208.12 Payment requirements.
208.13 Reporting requirements.
208.14 Civil and criminal penalties.
208.15 Audits.
208.16 Appeals.
208.17 Suspensions for national emergencies.

Authority: 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C.

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1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; 43 U.S.C. 1801 *et seq.*; and 31 U.S.C. 9701.

§ 208.1 General

The regulations in this part govern the sale of royalty oil by the United States to eligible refiners. The regulations apply to royalty oil from leases on Federal lands onshore and on the Outer Continental Shelf (OCS).

§ 208.2 Definitions.

"Allotment" means the quantity of royalty oil that DOI determines is available to each eligible refiner that has applied for a portion of the total volume of royalty oil offered in a given royalty oil sale.

"Application" means the formal written request to DOI on Form MMS–4070 by an eligible refiner interested in purchasing a quantity of royalty oil from the approximate volume announced by DOI in a given "Notice of Availability of Royalty Oil."

"Area" or "Region" means the geographic territory having Federal oil and gas leases over which MMS has jurisdiction, unless the context in which those words are used indicates that a different meaning is intended.

"Delivery point" means the point where the lessor, in accordance with lease terms, directs the lessee to deliver royalty oil to a purchaser. Title to the royalty oil, or to the quantity thereof in a commingled stream, passes from the Federal Government to the purchaser at this designated point, which is specified in the royalty oil contract. For onshore leases, the delivery point will be on or adjacent to the lease, except as provided in § 208.8(a) of this part. In instances where an onshore delivery point is designated for offshore royalty oil, such point generally will be the first onshore point where the price of the oil, including transportation costs, can be determined and where the purchaser can either exchange or take delivery of the oil. The Government does not guarantee physical access to the oil at such point.

"Director" means the Director of MMS, who is responsible for its overall direction, or his or her delegate(s).

"DOI" means the Department of the Interior, including the Secretary or his or her delegate(s).

"Eligible refiner" means a refiner of crude oil that meets the following criteria for eligibility to purchase royalty oil:

(1) For the purchase of royalty oil from onshore leases, it means a refiner that qualifies as a small and independent refiner as those terms are defined in sections 3(3) and 3(4) of the Emergency Petroleum Allocation Act, 15 U.S.C. 751 et seq., except that the time period for determination contained in section 3(3)(A) would be the calendar quarter immediately preceding the date of the applicable "Notice of Availability of Royalty Oil." A refiner that, together with all persons controlled by, in control of, under common control with, or otherwise affiliated with the refiner, inputs a volume of domestic crude oil from its own production exceeding 30 percent of its total refinery input of crude oil is eligible to participate in royalty oil sales under this Part. Crude oil received in exchange for such refiner's own production is considered to be that refiner's own production for purposes of this section.

(2) For the purchase of royalty oil from leases on the OCS, it means a refiner that qualifies as a small business enterprise under the rules of the Small Business Administration (13 CFR 121.3–9(a)(1)).

"Entitlement" means the volume of royalty oil from the Federal Government's share of production from a Federal lease which a purchaser is entitled to receive under a royalty oil contract.

"Exchange agreement" means a written agreement between the purchaser and another person for the exchange of royalty oil purchased under this Part for other oil on a volume or equivalent value basis.

"Fair market value" means the value of oil—(1) Computed at a unit price equivalent to the average unit price at which oil was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or

(2) If there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which oil was sold pursuant to other leases in the same region of the OCS during such period, or

(3) If there were no sales of oil from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary.

"Federal lease" means a contractual agreement with the Federal Government which authorizes the exploration, development, and production of oil and gas on Federal lands onshore or on the OCS.

"Interim sale" means a sale conducted as a result of substantial additional royalty oil becoming available in a specific area prior to the scheduled expiration date of royalty oil contracts in effect for that area.

"Lessee" means any person to whom the United States issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease.

"MMS" means the Minerals Management Service of the Department of the Interior.

"Notice of Availability of Royalty Oil" means a notice published by DOI in the **Federal Register** (and in other printed media when appropriate, such as a newspaper or magazine of general or specialized circulation) to advise interested parties of the availability of royalty oil for purchase by eligible refiners and the approximate volume of royalty oil available to the applicants.

"OCS" means the Outer Continental Shelf, as defined in 43 U.S.C. 1331(a).

"OCSLA" means the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq., as amended by 43 U.S.C. 1801 et seq.).

"Oil" means a mixture of hydrocarbons that existed in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and is marketed or used as such. Condensate recovered in lease separators or field facilities is considered to be oil.

"Operator" means any person, including a lessee, who has control of or who manages operations on an oil and gas lease site on Federal onshore lands or on the OCS.

"Payor" means any person responsible for reporting royalties from a Federal lease or leases on Form MMS–2014.

"Person" means any individual, firm, corporation, association, partnership, consortium, or joint venture.

"Preference eligible refiner" means an eligible refiner with at least one operating refinery which is located within the area designated as the preference eligible area in the "Notice of Availability of Royalty Oil." A refiner may be deemed to be a preference eligible refiner if it owns a refinery located in the preference eligible area which is not operational if the refiner meets the requirements of § 208.7(g) of this part.

"Purchaser" means anyone who acquires royalty oil sold by DOI under the Federal Government's Royalty-in-Kind (RIK) Program and who has a contractual obligation under an agreement to purchase royalty oil.

"Reallocation" means an offering of royalty oil previously allocated in a specific sale but subsequently turned back to MMS. A reallocation would only be made if substantial amounts of royalty oil are turned back.

"Refined petroleum product" means gasoline, kerosene, distillates (including Number 2 fuel oil), refined lubricating oils, or diesel fuel.

"Royalty oil" means that amount of oil that DOI takes in kind in partial or full satisfaction of a lessee's royalty or net profit share obligations as determined by whatever lease interest the lessee holds under an applicable mineral leasing law.

"Secretary" means the Secretary of the Department of the Interior or his/her delegate(s).

"Section 6 lease" means an oil and gas lease originally issued by any State and currently maintained in effect pursuant to section 6 of the OCSLA.

"Section 8 lease" means an oil and gas lease originally issued by the United States pursuant to section 8 of the OCSLA.

§ 208.3 Information collection.

The information collection requirements contained in this Part have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3504(h). The forms and approved OMB clearance numbers are as follows:

Form No.	Name and filing date	OMB No.
MMS–4070	Application for the Purchase of Royalty Oil (due prior to the date of sale in accordance with the instructions in the "Notice of Availability of Royalty Oil").	1010–0042
MMS–4071	Semiannual Report of Royalty-in-Kind Oil Entitlements and Deliveries (due from the lease operator 7 months after the first month of sale and semiannually thereafter).	1010–0042

The information is being collected by MMS to meet congressionally mandated accounting and auditing responsibilities relating to Federal mineral royalty management. The information will be used to determine a refiner's eligibility to purchase royalty oil and to timely and accurately account for such purchases. Form MMS–4070 is required to obtain a benefit and Form MMS–4071 is mandatory.

§ 208.4 Royalty oil sales to eligible refiners.

(a) *Determination to take royalty oil in kind.* The Secretary may evaluate crude oil market conditions from time to time. The evaluation will include, among other things, the availability of crude oil and the crude oil requirements of the Federal Government, primarily those requirements concerning matters of national interest and defense. The Secretary will review these items and will determine whether eligible refiners have access to adequate supplies of crude oil and whether such oil is available to eligible refiners at equitable prices. Such determinations may be made on a regional basis. The determination by the Secretary shall be published in the **Federal Register** concurrent with or included in the "Notice of Availability of Royalty Oil" required by 30 CFR 208.5.

(b) *Sale to eligible refiners.* (1) Upon a determination by the Secretary under paragraph (a) of this section that eligible refiners do not have access to adequate supplies of crude oil at equitable prices, the Secretary, at his or her discretion, may elect to take in kind some or all of the royalty oil accruing to the United States from oil and gas leases on Federal lands onshore and on the OCS. The Secretary may authorize MMS to offer royalty oil for sale to eligible refiners only for use in their refineries and not for resale (other than under an exchange agreement).

(2) All sales of royalty oil from onshore leases will be priced at the royalty value that would have been determined for that oil pursuant to 30 CFR Part 206 had the royalties been paid in value rather than taken in kind. All sales of royalty oil from OCS leases will be priced at the fair market value of the oil including associated transportation costs to the designated delivery point, if applicable.

(3) An eligible refiner must have a representative at a sale in order to participate. The Secretary may, at his or her discretion, establish purchase limitations and withhold any royalty oil from any offering.

(4) The MMS will recover the administrative costs of the RIK Program through the collection of administrative fees. The fees will consist of an initial nonrefundable contract fee for each executed contract and a monthly variable charge applied to each lease under contract. The amount of the initial contract fee shall be determined prior to a sale and published in the "Notice of Availability of Royalty Oil." The initial contract fee will be payable in equal installments due at the end of the first and second months of the contract. These contract fees will be applied against the RIK Program's administrative costs, and the remainder of the administrative costs will be recovered through the monthly variable charges per lease, which will be billed and payable concurrently with the monthly actual billings for royalty oil. The rate per lease will be determined by dividing the remaining recoverable administrative costs by the total number of leases under contract. The rate may change depending upon whether total administrative costs change and/or whether the number of leases taken in kind changes from one month to another. In instances where production from a lease is sold on a percentage basis to two or more purchasers, each percentage portion of the lease will be considered a separate lease for purposes of administrative fee determination.

(c) Upon a determination by the Secretary under paragraph (a) of this section that eligible refiners do have access to adequate supplies of crude oil at equitable prices, MMS will not take royalties in kind from oil and gas leases for exclusive sale to such refiners. Such determinations may be made on a regional basis.

(d) *Interim sales.* The MMS generally will not conduct interim sales. However, interim sales may be held at the discretion of the Secretary if substantial addition royalty oil becomes available. The potentially eligible refiners, individually or collectively, must submit documentation demonstrating that adequate supplies of crude oil at equitable prices are not available for purchase. Although sufficient documentation must be submitted, it is not mandatory for each potentially eligible refiner to participate in a submission of such documentation to be determined eligible. The documentation must be submitted to MMS for a determination as to whether an interim sale is needed.

§ 208.5 Notice of royalty oil sale.

If the Secretary decides to take royalty oil in kind for sale to eligible refiners, MMS will issue a "Notice of Availability of Royalty Oil" specifying the manner in which the sale is to be effected, the approximate quantity of royalty oil to be offered, information required in applications, the closing date for the receipt of applications for royalty oil, and other general administrative details concerning the application, allocation, and contract award process for the royalty oil. The Notice will describe generally the terms under which the royalty oil contracts will be awarded and will specify which applicants will be deemed preference eligible refiners in the sale proceedings. The Notice will also contain guidelines for reallocation procedures in the event substantial quantities of royalty oil sold in that specific sale are subsequently turned back to MMS. Only those purchasers that hold ongoing contracts from that specific sale will be allowed to participate in any reallocation, which

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would be voluntary, and then only if they continue to meet eligibility requirements as set forth in 30 CFR 208.2 and 208.7. If a reallocation is held prior to the effective date of the contracts as specified in the "Notice of Availability of Royalty Oil", all eligible refiners that selected a lease or leases in that specific sale would be allowed to participate, pursuant to the procedures in the Notice.

§ 208.6 General application procedures.

(a) To apply for the purchase of royalty oil, an applicant must file a Form MMS–4070 with MMS in accordance with the instructions in the "Notice of Availability of Royalty Oil" and in accordance with any instructions issued by MMS for the completion of Form MMS–4070. The applicant will be required to submit a letter of intent from a qualified financial institution stating that it would be granted surety coverage for the royalty oil for which it is applying. The letter of intent must be submitted with Form MMS–4070.

(b) In addition to any other application requirements specified in the Notice, the following information is required on Form MMS–4070 at the time of application:

(1) Name and address of the applicant, the location of the applicant's refinery or refineries, and disclosure of the applicant's affiliation with any other persons.

(2) The capacity of the applicant's refineries in barrels of crude oil throughput per calendar day and a tabulation for the past 12 months of oil processed for each refinery, identified as to source (from own production or from other sources).

(3) Identification of any Government royalty oil contracts under which the applicant is currently receiving royalty oil.

(4) Identification of the locations (area/region and State) where the applicant proposes to purchase royalty oil, the volume of oil requested, and the specific refineries in which the oil will be refined.

(5) A certification from the applicant that it is an eligible refiner for the purchase of Government royalty oil, as defined in § 208.2 of this Part.

§ 208.7 Determination of eligibility.

(a) The MMS will examine each application and may request additional information if the information in the application is inadequate. An application received after the close of the application period will be rejected. If additional information is requested by MMS, it must be received by the time specified or the application will be rejected.

(b) After the close of the application period and the receipt of any additional requested information, MMS will determine which applicants may participate in the royalty oil sale and the quantity of royalty oil which each applicant is authorized to purchase.

(c) When applications are filed by two or more eligible refiners for the same royalty oil, the oil will be allocated among such applicants on an equitable basis as determined by MMS. Preference eligible refiners will be given priority in the allocation procedures in sales and subsequent reallocations of royalty oil.

(d) No eligible refiner shall be awarded contracts for volumes of royalty oil that, when added to volumes of other Federal royalty oil being received, are in excess of 60 percent of the combined refinery capacity of that refiner.

(e) The MMS may exclude any section 6 lease from a royalty oil sale.

(f) If two or more eligible refiners are related through common ownership or control or otherwise affiliated, only one of them shall be entitled to an allotment of royalty oil from a specific sale.

(g) Any applicant whose refinery is not in operation during the 60-day period prior to the date of the royalty oil sale shall not be entitled to participate in the sale unless such applicant self-certifies and demonstrates to the satisfaction of MMS that it will begin operations by the first month in which oil becomes available under a royalty oil contract. If operations do not begin by that month, MMS will terminate the contract.

(h) Applicants or purchasers that have delinquent balances with MMS as of the date of a royalty oil sale or subsequent reallocation will not be allowed to participate in that sale or reallocation. If a person which is controlled by, in control of, under common control with, or otherwise affiliated with an applicant or purchaser has such delinquent balances, the applicant or purchaser will not be allowed to participate in a royalty oil sale or reallocation. To the extent a purchaser or affiliated person has appealed a billing and posted a surety in accordance with the contract terms and applicable MMS regulations or other law, the balance shall not be considered delinquent.

(i) A purchaser must meet the eligibility criteria on the date of contract issuance. However, a change in a purchaser's eligibility status during the term of the contract will not affect the purchaser's right to continue that contract until its term expires, including any extensions thereof.

§ 208.8 Transportation and delivery.

(a) The lessee shall deliver royalty oil from onshore leases to the purchaser at a point on or adjacent to the lease pursuant to the terms of the lease. If the purchaser does not have access to its onshore royalty oil entitlement at facilities on or adjacent to the lease, the operator of the lease must designate an alternate delivery point at no additional cost to the purchaser or the Government. The purchaser must have physical access to the oil at the alternate delivery point and such point must be approved by MMS.

(b) The lessee shall deliver royalty oil from section 8 offshore leases issued after September 1969 at a delivery point to be designated by MMS. The lessee shall deliver royalty oil from section 8 offshore leases issued before October 1969 or from section 6 leases at a delivery point to be designated by the lessee. If the delivery point is on or immediately adjacent to the lease, the royalty oil will be delivered without cost to the Federal Government as an undivided portion of production in marketable condition at pipeline connections or other facilities provided by the lessee, unless other arrangements are approved by MMS. If the delivery point is not on or immediately adjacent to the lease, MMS will reimburse the lessee for the reasonable cost of transportation to such point in an amount not to exceed the transportation allowance determined pursuant to 30 CFR Part 206. The MMS will include such transportation costs in the price charged for the oil taken in kind to reflect the value of the oil at the delivery point. Arrangements for delivery of the royalty oil from, or exchange of the oil at, the delivery point, and related transportation costs, are the responsibility of the purchaser of the royalty oil. In addition, quality differentials between the royalty oil to which a purchaser is entitled and the oil which is made available at the delivery point are matters to be resolved between the purchaser and the operator.

(c) When the purchaser has physical access to the royalty oil at the delivery point, the lessee shall deliver such oil in marketable condition at pipeline connections or other facilities designated by MMS. If the lessee is unable to provide the royalty portion of actual production from the lease, the lessee must provide crude oil to the purchaser which is equivalent in volume or value to the royalty oil to which the purchaser is entitled. The lessee will deliver the royalty oil to the purchaser during normal operating hours and in reasonable quantities and intervals. The lessee will make available and the purchaser will accept delivery of the royalty oil entitlement no later than the last day of the calendar month immediately following the calendar month in which the oil was produced. Failure to accept deliveries shall constitute grounds for the termination of the contract.

(d) Upon termination of deliveries under a royalty oil contract, the transportation allowance and delivery point designation authorized by this section no longer will remain in effect.

§ 208.9 Agreements.

(a) A purchaser must submit to MMS two copies of any written third-party agreements, or two copies of a full written explanation of any oral third-party agreements, relating to the method and costs of delivery of royalty oil, or crude oil exchanged for the royalty oil, from the point of delivery under the contract to the purchaser's refinery. In addition, the purchaser must submit copies of agreements pertaining to quality differentials which may occur between leases and delivery points.

(b) A purchaser may not sell royalty oil which it purchases pursuant to this Part except for purposes of an exchange for other crude oil on a volume or equivalent value basis.

(c) Royalty oil purchased under this part, or crude oil received in exchange for such royalty oil, must be processed into refined petroleum products in the purchaser's refinery.

§ 208.10 Notices.

(a) The MMS shall notify each operator, by certified mail, of the Secretary's decision to take royalty oil in kind. This notice shall be mailed at least 45 days in advance of the effective date of delivery and will specify delivery points for offshore oil for OCS leases issued after September 1969.

(b) Deliveries of royalty oil may be partially terminated only with the written approval of the Director, MMS.

(c) Before terminating the delivery of royalty oil taken in kind, MMS, if possible, will notify each operator by certified mail of the change in requirements at least 30 days in advance of the effective date.

(d) After MMS notification that royalty oil will be taken in kind, the operator shall be responsible for notifying each working interest on the Federal lease. As soon as practicable after the date of each royalty oil sale, MMS will publish in the **Federal Register** a notice of the leases from which royalty oil will be taken, the purchasers of the royalty oil, and the leases from which royalty oil deliveries will be discontinued on terminated contracts.

(e) A purchaser cannot transfer, assign, or sell its rights or interest in a royalty oil contract without written approval of the Director, MMS. If the purchaser changes ownership or its assets are sold or liquidated for any reason, it cannot transfer, assign, or sell its rights or interest in the royalty oil contract without written approval of the Director, MMS. Without express written consent from MMS for a change in ownership, the royalty oil contract shall be terminated. The successor company must meet the definition of an eligible refiner in § 208.2 of this part for MMS to consider assignment of the royalty oil contract.

§ 208.11 Surety requirements.

(a) The eligible purchaser, prior to execution of the contract, shall furnish MMS a surety, acceptable to MMS, in an amount equal to the estimated value of royalty oil which could be taken by the purchaser in a 90-day period, plus related administrative charges. The MMS may increase the amount of the surety when necessary to protect the Government's interest or may decrease the amount of the surety where necessary or appropriate to further the purposes of the RIK Program.

(b) If a letter of credit is furnished as surety, it must be effective for a 9-month period beginning the first day the royalty oil contract is effective, with a clause providing for automatic renewal monthly for a new 9-month period. The purchaser or its surety company may elect not to renew the letter of credit at any monthly anniversary date, but must notify MMS of its intent not to renew at least 30 days prior to the anniversary date. The MMS may grant the purchaser 45 days to obtain a new surety. If no replacement surety is provided, MMS will terminate the contract effective at least 6 months prior to the expiration date of the letter of credit. Notwithstanding the above provisions, the letter of credit also may contain a clause providing for automatic termination 6 months after the royalty oil contract terminates.

(c) All sureties must be in a form acceptable to MMS and must include such other specific requirements as MMS may require to adequately protect the Government's interests.

(d) Sureties under this section must be either surety bonds or irrevocable letters of credit from financial institutions acceptable to MMS.

§ 208.12 Payment requirements.

(a) All payments to MMS by a purchaser of royalty oil will be due on the date and at the location specified in the contract, or, if there is no contractual provision, as specified by MMS. The purchaser shall tender all payments to MMS in accordance with 30 CFR 218.51. Payments made by a payor pursuant to the requirements of paragraph (b) of this section and § 208.13(b) also shall be tendered in accordance with 30 CFR 218.51.

(b)(1) Payments from a purchaser of royalty oil not received by MMS when due, or that portion of the payment less than the full amount due, will be subject to a late payment charge equivalent to an interest assessment on the amount past due for the number of days that the payment is late at the underpayment rate applicable under section 6621 of the Internal Revenue Code of 1954.

(2) The MMS may assess interest to a payor for any underpayments which are the result of the payor's late or underreporting, or for adjustments reported by the payor, or made as a result of audit, reconciliation, or other procedures. The interest for late payment and underpayment will be assessed pursuant to 30 CFR 218.54.

(c) If payment for royalty oil is not received by the due date specified in the contract, a notice of nonreceipt will be sent to the purchaser by certified mail. If payment is not received by MMS within 15 days from the date of such notice, MMS may cancel the contract and collect under the surety.

(d) If the purchaser disagrees with the amount of payment due, it must pay the amount due as computed by MMS, unless the purchaser appeals the amount and posts acceptable surety pursuant to the provisions of 30 CFR Part 243. The MMS may, at its discretion, waive the appeal surety requirements if it determines that the contract surety is sufficient protection for an amount under appeal.

§ 208.13 Reporting requirements.

(a) In addition to any other applicable royalty reporting requirements, the lessee/operator shall provide to MMS a semiannual report, by lease, of the monthly entitlements and actual deliveries of royalty oil to purchasers on Form MMS–4071, "Semiannual Report of RIK Oil Entitlements and Deliveries."

(b) If MMS underbills a purchaser under a royalty oil contract because of a payor's underreporting or failure to report on Forms MMS–2014 pursuant to 30 CFR 210.52, the payor will be liable for payment of such underbilled amounts, plus interest, if they are unrecoverable from the purchaser or the surety related to the contract.

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§ 208.14 Civil and criminal penalties.

Failure to abide by the regulations in this part may result in civil and criminal penalties being levied on that person as specified in sections 109 and 110 of the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 1719–20, and regulations at 30 CFR Part 241. Civil penalties applicable under the OCSLA and the Mineral Leasing Act of 1920 may also be imposed.

§ 208.15 Audits.

Audits of the accounts and books of lessees, operators, payors, and/or purchasers of royalty oil taken in kind may be made annually or at such other times as may be directed by MMS. Such audits will be for the purpose of determining compliance with applicable statutes, regulations, and royalty oil contracts.

§ 208.16 Appeals.

Except as provided in § 208.12(d) of this part, orders or decisions issued under the regulations in this part may be appealed as provided in 30 CFR Parts 243 and 290.

§ 208.17 Suspensions for national emergencies.

The Secretary of the Department of the Interior, upon a recommendation by the Secretary of Defense or the Secretary of Energy and with the approval of the President, may suspend operations under these regulations and suspend royalty oil contracts during a national emergency declared by the Congress or the President.

PART 209—[REMOVED]

30 CFR Part 209 is removed.

[FR Doc. 87–25103 Filed 10–29–87; 8:45 am]
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Friday
October 30, 1987

Part V

Equal Employment Opportunity Commission

29 CFR Part 1613
Equal Employment Opportunity in the Federal Government; Complaints of Discrimination; Final Rule

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Equal Employment Opportunity in the Federal Government; Complaints of Discrimination

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission proposed to revise its regulations on equal employment opportunity in the federal government. 51 FR 29482 (August 18, 1986). The amendments included numerous changes in the investigative, hearing and agency decisionmaking process, and changes in the appellate process. This rule adopts in regulatory form the Commission's Policy Statement on Remedies and Relief for Individual Cases of Unlawful Discrimination. In addition, this rule adopts comprehensive changes to the existing federal sector discrimination complaint process as set out below.

EFFECTIVE DATE: November 30, 1987. The provisions of §§ 1613.215(a)(3), 1613.283, 1613.513, 1613.604(i) and 1613.643 shall apply where the civil action was filed after the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Assistant Legal Counsel, at 634-6592.

SUPPLEMENTARY INFORMATION: The Equal Employment Opportunity Commission issued a Notice of Proposed Rulemaking, 51 FR 29482 (August 18, 1986), proposing, *inter alia*, comprehensive changes in the investigation of discrimination complaints in the federal sector and in the appellate and enforcement procedures used by the Commission. In addition, the Commission proposed to incorporate the Policy Statement on Remedies and Relief for Individual Cases of Discrimination into its regulations on equal employment opportunity in the federal sector. The proposal to incorporate the Policy Statement generated a good deal of comment. After a careful review of the comments, the Commission has decided to incorporate the Policy Statement into its regulations. At this time the Commission is issuing comprehensive final regulations and is adopting the Policy Statement as Appendix A to the regulations. A summary of the comments received and changes made to the regulations is set out below.

The proposed amendment to § 1613.212 would permit employees and applicants to bring a complaint against any agency they believe engaged in discriminatory conduct. There were no comments criticizing this approach, but a number of commenters suggested clarification of the regulation to make it clear that the complaint must be filed with the agency alleged to have committed the discrimination. The words "by that agency" have been added to make this clarification.

A new § 1613.213(b) is added to require notice to aggrieved persons of the election of remedies required by 5 U.S.C. 7121(d) so that they can make informed choices.

A number of issues were addressed by the commenters in relation to § 1613.214. There was general agreement about the provisions concerning time limits for filing complaints. A number of commenters sought more detail in the provision concerning official time. The Commission has supplied more detail on this issue in a management directive. The standard for official time, reasonableness, remains the same. In response to comments, the regulation now provides for official time to "prepare" complaints, rather than the prior language of "present" complaints.

The provision dealing with disqualification if there is conflict of interest has been revised in response to comments. Commenters sought more guidance on the meaning of conflict of interest and wanted to include "conflict of position" in the regulation. The regulation now permits disqualification when representation would conflict with the representative's duties. As an example, a counselor could not serve as a representative for either party.

One commenter raised the question of rights of the alleged discriminating officials in relation to this section. Comments were raised elsewhere suggesting that the alleged discriminating official be given more rights in this process. The Commission does not agree with those comments. The central purpose of the complaint processing system is to determine when discriminatory conduct has occurred, not to provide rights to those who took the actions. The discrimination complaint process does not determine the rights of those who have taken the actions, and therefore, the Commission believes it is unnecessary and wasteful to build in regulatory rights in that process for those individuals. All references to the concept of an "alleged discriminating official" have been eliminated from the regulations.

Section 1613.215 was proposed to state new grounds for rejection or cancellation of complaints including cancellation for failure to accept full relief. A number of commenters suggested expanding and clarifying the reason for rejection of complaints. The Commission agrees and has redrafted subsection (a) to require rejection or cancellation in seven instances. Claims currently pending before an agency or that have been decided by the agency or the court are added as bases for rejection. A non-mixed case complaint that alleges that an agency is proposing to take action that may be discriminatory is to be rejected under § 1613.215(a)(2). Section 1613.215 does not apply to mixed cases, however; mixed case complaints on proposals are governed by § 1613.400. The Commission rejects the comment that "frivolous" complaints be rejected. The term is too vague to permit wholesale cancellation of complaints. Cancellation of a complaint where a civil action is filed was supported by the comments, but some commenters wanted the complaint processing resumed if the court rejected the complaint or if the court allegations did not contain all the allegations of the administrative complaint. The Commission is not adopting those comments because they are contrary to the purpose of the regulatory provision, i.e., they would permit administrative and judicial processing to occur together. The provision adopted by the Commission is closely analogous to its private sector complaint processing regulation. See 29 CFR 1601.28(a)(3). Subsection 1613.215(a)(4) has been amended to refer specifically to 29 CFR 1613.214. Subsection 1613.215(a)(6) permits agencies to issue final agency decisions along with a dismissal for failure to prosecute. If, on appeal, the reasons for failure to prosecute are not upheld and the complainant had requested a hearing, then the complaint will be remanded to the agency for a hearing.

A number of comments were raised about the dismissal for failure to accept complete relief. The final regulation adopts a comment from a number of agencies, i.e., that the certification of full relief be made by the Director of EEO rather than by the General Counsel. No requirement is placed on the agency to admit discrimination in its settlement offer. The provision is intended to apply to the full panoply of employment decisions, not just nonselection. The provision on complete relief has been modified to make explicit reference to § 1613.271 where the regulations include the Commission's Policy Statement. The new provision also adopts language similar to that in § 1613.221(c) that the agency decision whether to discipline need not be included in a settlement offer of full relief. The approach of § 1613.221(c) has worked well in the federal sector and the Commission has decided to retain that approach.

One agency questioned whether § 1613.216 should require that comparative information be maintained in the complaint file by name. The Commission believes that comparative evidence, whether it be of an individual or a group, is of such importance that a complete identification should be made in the complaint file. A complete identification will ensure that the information is accurate.

The settlement provisions of § 1613.217 raised a number of comments. Some commenters wanted the regulations to permit the complainant to accept an offer of settlement and unilaterally sever the issue of attorney's fees, or require agencies to always offer backpay and attorney's fees in a settlement. The Commission believes that the settlement process is a voluntary one. The decision of whether an agency will settle, and on what terms, is left to the discretion of the agency.

A number of commenters suggested that the regulation identify an individual to receive allegations of noncompliance with a settlement and time limits for filing allegations and appeals. The Commission agrees and has added those provisions to subsection (b). Some commenters questioned why reinstatement of a complaint can be a resolution for an alleged breach of a settlement. If the facts demonstrate that the parties reasonably did not have the same understanding of the agreement, then reinstatement of the complaint could be the most appropriate result.

In response to the comments on § 1613.218, the Commission made a number of clarifying revisions. Three significant changes were made. First, the authority of Administrative Judges, in response to a party's request, to order production of evidence or witnesses was clarified. Second, the regulation provides parties an opportunity to explain nonproduction before an unfavorable order is issued. If a party's explanation demonstrates that it has not acted in bad faith, an adverse inference would not be drawn. Third, the regulation provides the parties an opportunity to present arguments why a hearing should be conducted on a complaint. Most commenters agreed that hearings should be closed since it is part of the investigation of the complaint.

Section 1613.219 is added to address the election between the negotiated grievance process and this process, and § 1613.231 continues to indicate that a person may appeal to EEOC from a decision of an agency head or designee on a negotiated grievance.

In response to comments from agencies about the time limit in § 1613.220(d) to issue decisions, the Commission is extending the time to 60 days. Additional requirements are placed on the agency in § 1613.221. This time starts upon "receipt" of the file, rather than upon "submission" as the proposed regulation provided.

The proposed changes to § 1613.221 received very little comment. Clarifying changes were made to subsections (b)(2) and (b)(3). The preponderance of evidence standard is the one used by the courts and is appropriate for the administrative process. Requiring agencies to explain why a recommended decision has been rejected or modified will permit the Commission's Office of Review and Appeals (ORA) to more expeditiously review agency decisions.

Some commenters questioned the Commission's authority in § 1613.235 to reopen an appellate decision at any time. Such authority would be exercised only in an extreme situation to avoid injustice. Some commenters suggested that the grounds for reopening be clarified. The Commission retains these standards because experience has shown that the grounds have not been too broadly or too narrowly interpreted.

Upon coordination of proposed § 1613.239, the Commission has made two changes. The wording of subsection (b) was changed. The Commission intends to work closely with the Office of Special Counsel to obtain enforcement of Commission orders. Subsection (c) was eliminated at the suggestion of the General Accounting Office. A suggestion to move § 1613.240 to follow § 1613.233 was not adopted to avoid the perception that § 1613.240 only applied to § 1613.233.

A number of questions, comments and objections concerning the remedial provisions of the Commission's Policy Statement were raised in the context of § 1613.271 and Appendix A. We address the concerns raised about each remedial provision. It should be noted that the Policy Statement applies to private sector and federal sector charges, but contains the admonition that the remedies are to be applied "in appropriate circumstances." Where caselaw dictates that certain remedies not be available, then the Policy Statement should not be read to require those remedies. Prejudgment interest is not available, unless a statute has waived sovereign immunity. *Nagy* v. *Postal Service*, 773 F.2d 1190 (11th Cir. 1985).

The posting requirement is not redundant of notices already required in the federal workplace. It is a general notice of law enforcement activity, like that required by the National Labor Relations Board or the Federal Labor Relations Authority, that dispels the chilling effect that discrimination has on the exercise of employee's rights, assures employees that the status quo has changed, reminds employees of their right to seek relief under the statutes enforced and bolsters the entitlement of complainants to the relief obtained. Notices of a general nature need not name complainants or otherwise impinge on their privacy interests. With the consent of the complainant, the notice can include the name of the complainant.

The requirement of corrective, curative or preventive action will permit the Commission to recommend that discipline be considered by the agency. The Commission will not discipline, or order discipline of, employees directly, but will work closely with the Office of Special Counsel of the Merit Systems Protection Board, which is the established mechanism for taking disciplinary action against employees who engage in a prohibited personnel practice. When an agency does not adequately explain its reason for not taking discipline the Commission will refer the matter to the Special Counsel.

Many commenters objected to the requirement of nondiscriminatory placement. For all the reasons explained below, the Commission believes that nondiscriminatory placement, as a presumptive remedy, unless extraordinary circumstances exist, is the appropriate standard. The remedial provisions of the National Labor Relations Act, after which the remedial provisions of section 717 of Title VII and section 15 of the ADEA are patterned, have long been interpreted to require nondiscriminatory placement, even in those instances where it causes the displacement of an incumbent employee. The nondiscriminatory placement remedy, as enunciated in the Commission's Policy Statement, applies only to individual cases of discrimination and is available only to victims of discrimination.

A presumptive entitlement to nondiscriminatory placement is consistent with the Supreme Court's decisions that backpay and retroactive seniority are presumptive remedies that can be denied only for reasons that would not frustrate the goals of eradicating discrimination and providing make-whole relief. It would not be consistent with the goals of eradicating

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discrimination to routinely deny nondiscriminatory placement merely because the employer had filled the position. In the Commission's view, the balance of equities is with the victim of discrimination who would have had the position but for the discrimination, rather than the employee who obtained the position as a result of the employer's discrimination, although the primary burden of the remedy must be borne in all instances by the employing agency, rather than innocent third parties.

The presumption of nondiscriminatory placement is supported by the current regulations, by caselaw and by the practice of other federal sector enforcement agencies. Section 1613.271(a)(1) has, without qualification, required reinstatement of victims of discrimination. In *Parks* v. *Dunlop*, 517 F.2d 785 (5th Cir. 1975), the Department of Justice, representing the government in defense of an employment discrimination suit, conceded that nondiscriminatory placement was an appropriate remedy. The court in *Griffiths* v. *Hampton*, 12 Empl. Prac. Dec. (CCH) ¶ 11,038 (D.D.C. 1976), found that denial of the presumptive nondiscriminatory placement remedy would be inconsistent with the purposes of the statute. The practice of the Merit Systems Protection Board and the Federal Labor Relations Authority has also been to use a presumptive placement remedy. As Appendix A demonstrates, the agency's obligation to provide nondiscriminatory placement is satisfied by an offer of the position denied or by the offer of a substantially equivalent position.

It is assumed that agencies will, when possible, prefer to offer a substantially equivalent position rather than displacing an incumbent to make way for a victim of discrimination, since such displacement would require a new placement of two persons, the victim and the person displaced. Such a preference is consistent with the Remedies Policy, which seeks to ensure that the victim is made whole, but does not forbid agencies from accomplishing that objective in the least disruptive manner possible.

Clarifying changes have been made to § 1613.271 and Appendix A. Remedies available to an applicant for employment are clarified in subsection (b), and subsection (a) has been amended to make clear that Appendix A is designed to provide a fuller explanation of the remedial provisions. The attorney's fee provision is changed to clearly permit calculation of fees by first arriving at a lodestar figure and to explicitly apply to Rehabilitation Act claims. The parenthetical in subsection (1)(b) of the appendix was changed to reflect the absence of an upper age limit.

In response to comments, the Commission has changed §§ 1613.283 and 1613.513 to require termination of a complaint if a civil action is filed involving that complaint. The provision continues to be mandatory to assure that dual administrative and judicial processing not occur.

A number of changes were made to the subpart on class complaints to conform their requirement to the individual complaint regulations. Section 1613.609(d), providing for a fairness hearing for settlement of class complaints, received only a few comments. Clarifying changes were made to subsection (d) to specify who receives a petition and to specify that the Administrative Judge will make a recommendation on the petition.

There are a number of matters of uncertainty concerning the relationships among federal agencies, the Equal Employment Opportunity Commission, the Merit Systems Protection Board, and the Special Counsel, as they relate to the section 1613 regulations. These matters will be addressed separately in the near future.

List of Subjects in 29 CFR Part 1613

Equal employment opportunity, Government employees.

For the Commission.

Clarence Thomas,

Chairman.

Accordingly, 29 CFR Part 1613 is amended as follows:

PART 1613—[AMENDED]

1. The authority citation for Part 1613 is revised to read as follows:

Authority: 42 U.S.C. 2000e–16; 29 U.S.C. 633a; 29 U.S.C. 791 and 794a; 29 U.S.C. 206(d); E.O. 10577, 3 CFR 218 (1954–1958 Comp.); E.O. 11222, 3 CFR 306 (1964–1965 Comp.); E.O. 11478, 3 CFR 133 (1969 Comp.); E.O. 12106, 44 FR 1053 (1978); Reorg. Plan No. 1 of 1978, 43 FR 19807 (1978) unless otherwise noted. The authority citations for all subparts of Part 1613 are deleted and the textual authority citations, except in subpart D, are deleted.

2. Section 1613.211 is revised to read as follows:

§ 1613.211 General.

An agency shall insure that its regulations governing the processing of complaints of discrimination on grounds of race, color, religion, sex, national origin, age or handicapping condition comply with the principles and requirements in §§ 1613.212 through 1613.222, except where excluded in § 1613.514.

3. Section 1613.212(a) is revised to read as follows:

§ 1613.212 [Amended]

(a) The agency shall provide in its regulations for the acceptance of a complaint from any aggrieved employee or applicant for employment who believes that he or she has been discriminated against by that agency because of race, color, religion, sex, national origin, age or handicapping condition. A complaint may also be filed by an organization for the aggrieved person with that person's consent.

* * * * *

4. Section 1613.213 is amended by revising the first sentence of paragraph (a), by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), and by adding new paragraph (b) as follows:

§ 1613.213 [Amended]

(a) The agency shall require that an aggrieved person who believes that he or she was discriminated against because of race, color, religion, sex, national origin, age or handicapping condition consult with an Equal Employment Opportunity Counselor to try to resolve the matter. * * *

(b) Upon initial contact or as soon thereafter as possible, the Equal Employment Opportunity Counselor shall inform each aggrieved person of the possible applicability of 5 U.S.C. 7121(d) to the alleged discriminatory action. The Equal Employment Opportunity Counselor shall communicate the substance of § 1613.219 concerning the election of remedies to each aggrieved person.

* * * * *

5. Section 1613.214 is revised to read as follows:

§ 1613.214 Filing and processing of complaint.

(a) *Time limits.* (1) An agency shall require that a complaint be submitted in writing by the complainant or representative and be signed by the complainant. The complaint may be delivered in person or submitted by mail. The agency may accept the complaint for processing in accordance with this subpart only if:

(i) The complainant brought to the attention of the Equal Employment Opportunity Counselor the matter causing him/her to believe he/she had been discriminated against within 30 calendar days of the date of the alleged discriminatory event, the effective date of an alleged discriminatory personnel action, or the date that the aggrieved person knew or reasonably should have known of the discriminatory event or personnel action; and

(ii) The complainant or representative submitted the written complaint to an appropriate official within 15 calendar days after the date of receipt of the notice of the right to file a complaint.

(2) The appropriate officials to receive complaints are the head of the agency, the agency's Director of Equal Employment Opportunity, the head of a field installation, and such other officials as the agency may designate for that purpose. Upon receipt of the complaint, the agency official shall transmit it to the Director of Equal Employment Opportunity or appropriate Equal Employment Opportunity Officer who shall acknowledge its receipt in accordance with paragraph (a)(3) of this section.

(3) A complaint shall be deemed filed on the date it is received, if delivered to an appropriate official, or on the date postmarked if addressed to an appropriate official designated to receive complaints. The agency shall acknowledge, in writing, to the complainant or representative receipt of the complaint and advise the complainant in writing of all administrative rights and of the right to file a civil action as set forth in § 1613.281, including the time limits imposed on the exercise of these rights.

(4) The agency shall extend the time limits in this section when the complainant shows that he/she was not notified of the time limits and was not otherwise aware of them, was prevented by circumstances beyond the complainant's control from submitting the matter within the time limits; or for other reasons considered sufficient by the agency.

(b) *Representation and official time.* (1) At the stage in the processing of a complaint, including the counseling stage under § 1613.213, the complainant shall have the right to be accompanied, represented, and advised by a representative of complainant's choice.

(2) If the complainant is an employee of the agency, he/she shall have a reasonable amount of official time to prepare the complaint if otherwise on duty. If the complainant is an employee of the agency and he designates another employee of the agency as his/her representative, the representative shall have a reasonable amount of official time, if otherwise on duty, to prepare the complaint. The agency is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow the complainant and representative to confer. However, the complainant and representative, if employed by the agency and otherwise in a pay status, shall be on official time, regardless of their tour of duty, when their presence is authorized or required by the agency or the Commission during the investigation, informal adjustment, or hearing on the complaint.

(3) In cases where the representation of a complainant or agency would conflict with the official or collateral duties of the representative, the Commission (or the agency prior to a hearing on the complaint) may, after giving the representative an opportunity to respond, disqualify the representative.

4. Section 1613.215 is revised to read as follows:

§ 1613.215 Rejection or cancellation of complaint.

(a) The agency head or designee shall reject or cancel a complaint:

(1) That fails to state a claim under § 1613.212 or that states the same claim that is pending before or has been decided previously by the agency;

(2) That alleges that an agency is proposing to take action that may be discriminatory;

(3) That is the basis of a pending civil action in a United States District Court in which the complainant is a party;

(4) That is filed untimely, unless the agency extended the time limits in accordance with § 1613.214(a)(4);

(5) That the complainant elected to pursue under a negotiated grievance procedure as identified in § 1613.219;

(6) That the complainant has failed to prosecute. The agency may cancel an allegation or a complaint for failure to prosecute only after it has provided the complainant with a written request, that includes a notice of the proposed cancellation, to provide certain information or otherwise proceed with the complaint, and the complainant has failed to satisfy the request within 15 calendar days of its receipt. However, instead of canceling for failure to prosecute, the complaint may be adjudicated if sufficient information for that purpose is available; or

(7) If the complainant refuses within 15 calendar days of receipt of an offer of settlement to accept an agency offer of full relief in adjustment of the complaint, provided that the agency's Director of Equal Employment Opportunity, or a designee reporting directly to the Director, has certified in writing that the agency's written offer of relief constitutes full relief. An offer of full relief under this subsection is the appropriate relief in § 1613.271. The offer need not contain the decision whether disciplinary action is necessary, but the basis for the decision shall be recorded separately from the complaint file.

(b) The agency head or designee shall transmit the decision to reject or cancel a complaint by letter to the complainant and the complainant's representative. The decision letter shall inform the complainant of the right to appeal the decision to the Commission, the time limit for filing an appeal with the Commission, and the complainant's right to file a civil action as described in § 1613.281.

5. Section 1613.216 is revised to read as follows:

§ 1613.216 Investigation.

(a) The Equal Employment Opportunity Officer shall advise the Director of Equal Employment Opportunity of the acceptance of a complaint. The Director of Equal Employment Opportunity shall provide for the prompt investigation of the complaint. The person assigned to investigate the complaint shall not occupy a position in the agency that is directly or indirectly under the jurisdiction of the head of that part of the agency in which the complaint arose. The agency shall authorize the investigator to administer oaths and require that statements of witnesses shall be under oath or affirmation, without a pledge of confidence. The investigation shall include a thorough review of the circumstances under which the alleged discrimination occurred, the treatment of members of the complainant's group identified by his complaint as compared with the treatment of other employees in the organizational segment in which the alleged discrimination occurred, and any policies and practices related to the work situation which may constitute, or appear to constitute, discrimination even though they have not been expressly cited by the complainant. Information needed for an appraisal of the utilization of members of the complainant's group as compared to the utilization of persons outside the complainant's group shall be recorded in statistical form in the investigative file, but specific information as to a person's membership or nonmembership in the complainant's group needed to facilitate an adjustment of the complaint or to make an informed decision on the complaint shall, if available, be recorded by name in the investigative file. (As used in this subpart, the term "investigative file" shall mean the various documents and information acquired during the investigation under this section—including affidavits of the

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complainant and witnesses, and copies of, or extracts from records, policy statements, or regulations of the agency—organized to show their relevance to the complaint or the general environment out of which the complaint arose.) If necessary, the investigator may obtain information regarding the membership or nonmembership of a person in the complainant's group by asking each person concerned to provide the information voluntarily; he shall not require or coerce an employee to provide this information.

(b) The Director of Equal Employment Opportunity shall arrange to furnish to the person conducting the investigation a written authorization:

(1) To investigate all aspects of complaints of discrimination,

(2) To require all employees of the agency to cooperate with him in the conduct of the investigation, and

(3) To require employees of the agency having any knowledge of the matter complained of to furnish testimony under oath or affirmation without a pledge of confidence.

(c) The Commission may assume responsibility for the investigation of any portion or all of an agency's complaints upon the execution of a memorandum of understanding to this effect with the agency. The agency shall reimburse the Commission for all expenses incurred in connection with the investigation. The Commission shall forward to the agency upon completion of the investigation the investigative file and the recommended proposed disposition. The agency shall adopt as its proposed disposition of the complaint the Commission's recommended disposition unless within 30 days after the agency receives the investigative file and recommended disposition the complaint has been informally adjusted in accordance with § 1613.217(a), or the agency has notified the complainant of its own proposed disposition in accordance with § 1613.217(c).

6. Section 1613.217 is revised to read as follows:

§ 1613.217 Adjustment of complaint and offer of hearing.

(a) The agency shall provide an opportunity for adjustment of the complaint on an informal basis after the complainant has reviewed the investigative file. For this purpose, the agency shall furnish the complainant, or the complainant's representative if there is one, a copy of the investigative file promptly after receiving if from the investigator, and provide opportunity for the complainant to discuss the investigative file with appropriate officials. If an adjustment of the complaint is arrived at, the terms of the adjustment shall be reduced to writing and made part of the complaint file, with a copy of the terms of the adjustment provided the complainant. An informal adjustment of a complaint may include an award of back pay, attorney's fees or other appropriate relief. Where the parties agree on an adjustment of the complaint, but cannot agree on whether attorney's fees or costs should be awarded or on the amount of attorney's fees or costs, the issue of the award of attorney's fees or costs or the amount which should be awarded may be severed and shall be the subject of a final decision under § 1613.221(d). The decision of whether to award attorney's fees or costs or of the amount to be awarded may be the subject of an appeal to the Commission under the provisions of §§ 1613.231 through 1813.240.

(b) Any settlement agreement knowingly and voluntarily agreed to by the parties, reached at any stage of the complaint process, shall be binding on both parties. If the complainant believes that the agency has failed to comply with the terms of a settlement agreement, the complainant shall notify the Director of Equal Employment Opportunity, in writing, of the alleged noncompliance with the settlement agreement, within 30 days of when the complainant knew or should have known of the alleged noncompliance. The complainant may request that the terms of the settlement agreement be specifically implemented or, alternatively, that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement. Upon receipt of the complainant's written allegation of noncompliance with the settlement agreement, the agency shall have thirty (30) calendar days in which to resolve the matter and to respond to the complainant, in writing, concerning the matter. If, after thirty (30) calendar days from the date of the agency's receipt of the complainant's written allegations of noncompliance with the settlement agreement, the agency has not responded to the complainant, in writing, or if the complainant is not satisfied with the agency's attempt to resolve the matter, the complainant may appeal to the Commission for a determination as to whether the agency has complied with the terms of the settlement agreement. The complainant may file such an appeal 35 days after service of the allegations of noncompliance, but must file an appeal within 20 days of receipt of an agency's determination. Prior to rendering its determination, the Commission may request that the parties submit whatever additional information or documentation it may deem necessary or it may direct that an investigation or hearing on the matter be conducted, as may be appropriate. If the Commission determines that agreement has not been complied with and the noncompliance is not attributable to acts or conduct of the complainant, it may order such compliance or it may order that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement. Complaints that alleged reprisal or further discrimination violate a settlement agreement shall be processed as individual complaints under § 1613.214 rather than under this section.

(c) If an adjustment of the complaint is not arrived at, the complainant shall be notified in writing:

(1) Of the proposed disposition of the complaint,

(2) Of the right to a hearing, unless a recommended decision is issued under § 1613.218(g), and decision by the agency head or designee if he/she notifies the agency in writing within 15 calendar days of the receipt of the notice that he/she desires a hearing, and

(3) Of the right to a decision by the head of the agency or designee without a hearing.

(d) If the complainant fails to notify the agency of his/her wishes within the 15-day period prescribed in paragraph (c) of this section, the appropriate Equal Employment Opportunity Officer may adopt the disposition of the complaint proposed in the notice sent to the complainant under paragraph (c) of this section as the decision of the agency on the complaint when delegated the authority to make a decision for the head of the agency under those circumstances. When this is done, the Equal Employment Opportunity Officer shall transmit the decision by letter to the complainant and the representative which shall inform the complainant of the right of appeal to the Commission and the time limit applicable to such an appeal and of the right to file a civil action as described in § 1613.281. If the Equal Employment Opportunity Officer does not issue a decision under this paragraph, the complaint, together with the complaint file, shall be forwarded to the head of the agency or designee for decision under § 1613.221.

7. Section 1613.218 is revised to read as follows:

§ 1613.218 Hearing.

(a) Administrative Judge. The hearing shall be conducted by a Commission Administrative Judge with an appropriate security clearance, except in instances where the Commission finds it is practical to delegate this responsibility to a complaints examiner or Administrative Judge from another agency who shall not be an employee of the agency in which the complaint arose. (For purposes of this paragraph, the Department of Defense is considered to be a single agency.) When the Commission does not provide the Administrative Judge, it will supply the agency with the name of an Administrative Judge from another agency with an appropriate security clearance who has been certified by the Commission as qualified to conduct a hearing under this section.

(b) Arrangement for hearing. The agency in which the complaint arose shall transmit the complaint file containing all the documents described in § 1613.222 which have been acquired up to that point in the processing of the complaint, including the original copy of the investigative file (which shall be considered by the Administrative Judge in making a recommended decision on the complaint), to the Administrative Judge who shall review the complaint file to determine whether further investigation is needed before scheduling the hearing. When the Administrative Judge determines that further investigation is needed, the Administrative Judge shall remand the complaint to the Director of Equal Employment Opportunity for further investigation or arrange for the appearance of witnesses necessary to supply the needed information at the hearing. The requirements of § 1613.216 apply to any further investigation by the agency on the complaint. The Administrative Judge shall schedule the hearing for a convenient time and place.

(c) Conduct of hearing. (1) Attendance at the hearing is limited to persons determined by the Administrative Judge to have a direct connection with the complaint. Hearings are part of the investigative process and are thus closed to the public.

(2) The Administrative Judge shall conduct the hearing so as to bring out pertinent facts, including the production of pertinent documents. Rules of evidence shall not be applied strictly, but the Administrative Judge shall exclude irrelevant or unduly repetitious evidence. Information having a bearing on the complaint or employment policies or practices relevant to the complaint shall be received in evidence. The complainant and the agency, or the representative of either shall be given the opportunity at the hearing to cross-examine witnesses who appear and testify. Testimony shall be under oath or affirmation.

(d) Powers of Administrative Judge. In addition to the other powers vested in the Administrative Judge in accordance with this subpart, the Administrative Judge is authorized to:

(1) Administer oaths or affirmations;

(2) Regulate the course of the hearing;

(3) Rule on offers of proof and receive relevant evidence;

(4) Order the production of documents, records, comparative data, statistics, affidavits or the attendance of witnesses;

(5) Limit the number of witnesses whose testimony would be unduly repetitious; and

(6) Exclude any person from the hearing for contumacious conduct or misbehavior that obstructs the hearing. In cases of repeated or flagrant contumacious conduct or misbehavior by a representative, the Administrative Judge may refer the matter to the Commission, and the Commission may, after giving the representative an opportunity to respond to the allegations of misconduct, suspend or disqualify the representative from further representational activity and report the misconduct to other appropriate authorities.

(e) If the complainant or agency in bad faith refuses or fails without adequate explanation to respond fully and in timely fashion to requests made or approved by the Administrative Judge for documents, records, comparative data, statistics, affidavits, or the attendance of witnesses, and the information is solely in the control of one party, such failure may, in appropriate circumstances, cause the Administrative Judge:

(1) To draw an adverse inference that the requested information would have reflected unfavorably on the party refusing to provide the requested information;

(2) To consider the matters to which the requested information pertains to be established in favor of the opposing party;

(3) To exclude other evidence offered by the party failing to produce the requested information;

(4) To take such other actions as deemed appropriate.

(f) Witnesses at hearing. The Administrative Judge shall request any agency subject to this subpart to make available as a witness at the hearing an employee requested by the complainant when the Administrative Judge determines that the appearance of an employee is necessary. The Administrative Judge may also request the appearance of an employee of any federal agency whose testimony he determines is necessary to furnish information pertinent to the complaint under consideration. The Administrative Judge shall give the complainant his reasons for the denial of a request for the appearance of employees as witnesses and shall insert those reasons in the record of the hearing. An agency to whom a request is made shall make its employees available as witnesses at a hearing on a complaint when requested to do so by the Administrative Judge and it is not administratively impracticable to comply with the request. When it is administratively impracticable to comply with the request for a witness, the agency to whom request is made shall provide an explanation to the Administrative Judge. If the explanation is inadequate, the Administrative Judge shall so advise the agency and it shall make the employee available as a witness at the hearing. If the explanation is adequate, the Administrative Judge shall insert it in the record of the hearing, provide a copy to the complainant, and make arrangements to secure testimony from the employee at another time or through written interrogatory. An employee of an agency shall be in a duty status during the time he/she is made available as a witness.

(g) If the Administrative Judge determines that there are no issues of material fact, the Administrative Judge may, after giving notice to the parties and providing them an opportunity to respond in writing within 15 calendar days, issue a recommended decision without holding a hearing. The recommended decision will conform to § 1613.218(i) in all other aspects.

(h) Record of hearing. The hearing shall be recorded and transcribed verbatim. All documents submitted to, and accepted by, the Administrative Judge at the hearing shall be made part of the record of the hearing. If the agency submits a document that is accepted, it shall furnish a copy of the document to the complainant. If the complainant submits a document that is accepted, the Administrative Judge shall make the document available to the agency representative for reproduction.

(i) Findings, analysis, and recommendations. The Administrative Judge shall transmit to the head of the agency or designee:

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(1) The complaint file (including the record of the hearing),

(2) The findings and analysis of the Administrative Judge with regard to the matter which gave rise to the complaint and the general environment out of which the complaint arose, and

(3) The recommended decision of the Administrative Judge on the merits of the complaint, including recommended remedial action, where appropriate, with regard to the matter which gave rise to the complaint and the general environment out of which the complaint arose.

The Administrative Judge shall notify the complainant of the date on which this was done. In addition, the Administrative Judge shall transmit, by separate letter to the Director of Equal Employment Opportunity, whatever findings and recommendations he considers appropriate with respect to conditions in the agency which do not bear directly on the matter which gave rise to the complaint or which bear on the general environment out of which the complaint arose.

8. Section 1613.219 is revised to read as follows:

§ 1613.219 Relationship to grievance procedures.

(a) Allegations of discrimination on grounds of race, color, religion, sex, national origin, age or handicapping condition may be raised under a grievance procedure by employees in agencies that are subject to the provisions of 5 U.S.C. 7121(d) and who are covered by a collective bargaining agreement that provides for allegations of discrimination to be raised in the negotiated grievance procedure. Allegations of discrimination by employees not covered by such a negotiated grievance procedure or by employees of agencies not subject to 5 U.S.C. 7121(d) shall be processed as complaints under § 1613.214 *et seq.*

(b) In cases where a person is covered by a negotiated grievance procedure permitting allegations of discrimination, a person wishing to file a complaint or a grievance on a matter of alleged employment discrimination must elect the forum in which to pursue the matter: either the process described in this part or a negotiated grievance procedure. An aggrieved employee who files a grievance in writing with an agency whose negotiated agreement with an employee organization permits the acceptance of grievance which allege discrimination prohibited by this subpart, may not thereafter file a complaint on the same matter under the provisions of this subpart irrespective of whether the grievance has raised an allegation of discrimination within the negotiated grievance procedure. Any such complaints filed after a grievance has been filed on the same matter shall be rejected without prejudice to the complainant's rights to proceed through the negotiated grievance process, including the complainant's right to request the Commission to review a final decision as provided in 5 U.S.C. 7121(d) and at § 1613.231(b). The agency decision letter rejecting such a complaint shall advise the complainant of the right to appeal the agency decision to the Commission. An election, pursuant to this paragraph, to proceed under this Part is indicated only by the filing of a formal complaint, in writing. Use of the pre-complaint process as described in § 1613.213 does not constitute an election for the purposes of this section.

9. Section 1613.220 is amended by removing the word "monthly" in the first sentence of paragraph (c) and by revising paragraphs (b) and (d) to read as follows:

§ 1613.220 Avoidance of delay.

* * * * *

(b) The head of the agency or designee shall cancel a complaint if the complainant fails to prosecute the complaint without undue delay by following the procedures for cancelling a complaint under § 1613.215.

* * * * *

(d) When the Administrative Judge has submitted a recommended decision it shall become a final decision binding on the agency 60 calendar days after the receipt of the complete complaint file and the recommended decision by the agency unless the agency has already issued a final decision. In such event, the agency shall so notify the complainant of the decision and furnish to him a copy of the findings, analysis, and recommended decision of the Administrative Judge under § 1613.218(i) and a copy of the hearing record and also shall notify him in writing of the right to appeal to the Commission and the time limits applicable to such an appeal and of the right to file a civil action as described in § 1613.281. The agency shall provide the Administrative Judge with a copy of its final decision on each complaint on which a recommended decision has been issued.

10. Section 1613.221 is revised to read as follows:

§ 1613.221 Decision by head of agency or designee.

(a) The head of the agency or designee shall make the decision of the agency on a complaint based on the preponderance of evidence in the complaint file. A person designated to make the decision for the head of the agency shall be one who is fair, impartial, and objective.

(b)(1) The decision of the agency shall be in writing, shall reflect the date of its issuance, and shall be transmitted to the complainant and his or her representative either by certified mail, return receipt requested, or by any other method which enables the agency to show the date of receipt.

(2) When the Administrative Judge has issued a recommended decision on the complaint under § 1613.218(g) or (i)(3), the decision letter shall transmit a copy of such recommended decision and a copy of the hearing record if a hearing was held. The decision of the agency shall adopt, reject, or modify the decision recommended by the Administrative Judge. If the decision is to reject or modify the recommended decision, the decision letter shall set forth the specific reasons in detail for rejecting or modifying the findings of fact or conclusions of law made by the Administrative Judge.

(3) When there has been no hearing and no recommended decision under § 1613.218(g), the decision letter shall set forth the findings, analysis, and decision of the head of the agency or his designee.

(c) The decision of the agency shall require any remedial action authorized by law determined to be necessary or desirable to resolve the issue of discrimination and to promote the policy of equal opportunity, whether or not there is a finding of discrimination. When discrimination is found, the agency shall:

(1) Advise the complainant and his or her representative that any request for attorney's fees or costs must be documented and submitted within 20 calendar days of receipt,

(2) Require remedial action to be taken in accordance with § 1613.271,

(3) Review the matter giving rise to the complaint to determine whether disciplinary action is appropriate and

(4) Record the basis for its decision to take, or not to take, disciplinary action but this decision shall not be recorded in the complaint file.

(d) When the final agency decision provides for an award of attorney's fees or costs, the amount of these awards shall be determined under § 1613.271(c). In the unusual situation in which the agency determines not to award attorney's fees or costs to a prevailing complainant, the agency shall set forth in its decision the specific reasons for denying the award.

(e) The decision letter shall inform the complainant of his or her right to appeal the decision of the agency to the Commission, and shall include the text of § 1613.233 (a) or (b), as appropriate. The decision letter shall also inform the complainant of his or her right to file a civil action in accordance with § 1613.281, and of the time limits applicable to such an appeal.

11. Section 1613.222 is revised to read as follows:

§ 1613.222 Complaint file.

The agency shall establish a complaint file. Except as provided in § 1613.221(c), this file shall contain all documents pertinent to the complaint.

(a) The complaint file shall include copies of:

(1) The notice of the Equal Employment Opportunity Counselor to the aggrieved person under § 1613.213(a);

(2) The written report of the Equal Employment Opportunity Counselor on whatever precomplaint counseling efforts were made with regard to the complainant's case;

(3) The complaint;

(4) The investigative file,

(5) If the complaint is withdrawn by the complainant, a written statement of the complainant or representative to that effect;

(6) If adjustment of the complaint is arrived at under § 1613.217, the written record of the terms of adjustment;

(7) If no adjustment of the complaint is arrived at under § 1613.217, a copy of the letter notifying the complainant of the proposed disposition of the complaint and of the right to a hearing and documentation of the attempt to adjust the complaint;

(8) If decision is made under § 1613.217(d), a copy of the letter to the complainant transmitting that decision,

(9) If a hearing was held, the record of the hearing, together with the Administrative Judge's findings, analysis and recommendations, if any, made to the head of the agency or designee,

(10) If the Director of Equal Employment Opportunity is not the designee, the recommendations, if any, made by the Director to the head of the agency or designee,

(11) If decision is made under § 1613.221, a copy of the letter transmitting the decision of the head of the agency or designee, and

(12) Proof of the date of receipt of final agency decision, as required under § 1613.221(b)(1).

(b) The complaint file shall not contain any document that has not been made available to the complainant or the complainant's designated physician under 5 CFR 294.401.

12. Section 1613.231 is revised to read as follows:

§ 1613.231 Right to appeal to the Commission.

(a) A complainant may appeal to the Commission the decision of the head of the agency or designee:

(1) To reject or cancel the complaint or any portion for reasons covered by § 1613.215; or

(2) Under the circumstances set forth in § 1613.217(b); or

(3) On the merits of the complaint, under §§ 1613.217(d), 1613.220(d) or 1613.221, or on the award of attorney's fees or costs.

(b) A complainant may appeal to the Commission on issues of employment discrimination raised in a negotiated grievance procedure covered by § 1613.219(a), where the agency's negotiated labor-management agreement permits such issues to be raised. A complainant may appeal the decision:

(1) Of the agency head or designee on the grievance;

(2) Of the arbitrator on the grievance; or

(3) Of the Federal Labor Relations Authority (FLRA) on exceptions to the arbitrator's award.

A complainant may not appeal under this subsection, however, when the matter initially raised in the negotiated grievance procedure is still ongoing in that process, is in arbitration or is before the FLRA. Any appeal prematurely filed in such circumstances shall be dismissed without prejudice.

13. Section 1613.234 is revised to read as follows:

§ 1613.234 Appellate procedures and finality.

(a) *Procedures.* On behalf of the Commission, the Office of Review and Appeals shall review the complaint file and all relevant written representations submitted by either party. The Office may remand a complaint to the agency for further investigation or a rehearing if it considers that action necessary or have additional investigation conducted by Commission personnel. There is no right to a hearing before the Office or the Commission upon appeal. The Office or the Commission shall issue a written decision setting forth its reasons for the decision and shall send copies to the complainant, the complainant's designated representative, and the agency. When corrective action is ordered, the agency shall report within the time specified to the Office that the corrective action has been taken.

(b) *Finality.* A decision issued under this section is final within the meaning of §§ 1613.281 and 1613.641 unless:

(1) Within 30 days of receipt a decision issued under paragraph (a) of this section, either party files a timely request to reopen pursuant to § 1613.235, or

(2) The Commission on its own motion reopens the case.

14. Section 1613.235 is revised to read as follows:

§ 1613.235 Reopening and reconsideration.

(a) The Commission may, in its discretion, reopen and reconsider any decision of the Commission notwithstanding any other provisions of this part.

(b) Parties may request reopening or reconsideration provided that such request is made within 30 days of receipt of a decision issued pursuant to § 1613.234 or within 20 days of receipt of another party's timely request to reopen. Such requests shall be submitted to the Office of Review and Appeals. The request shall contain arguments or evidence which tend to establish that:

(1) New and material evidence is available that was not readily available when the previous decision was issued; or

(2) The previous decision involved an erroneous interpretation of law or regulation or misapplication of established policy; or

(3) The decision is of such exceptional nature as to have effects beyond the actual case at hand.

(c)(1) The party requesting reopening or reconsideration shall submit copies of the request and supporting documents to all other parties and their representatives at the time of the request along with proof of such submission.

(2) Any argument in opposition to the request to reopen or cross request to reopen shall be submitted to the Office of Review and Appeals and to the requesting party within 20 days of receipt of the request to reopen along with proof of such submission.

(d) A decision on a request to reopen by either party is final and there is no further right by either party to request reopening.

§ 1613.236 [Removed].

15. Section 1613.236 is removed.

16. A new § 1613.237 is added to Part 1613 to read as follows:

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§ 1613.237 Corrective action.

(a) Corrective action ordered by the Office of Review and Appeals or the Commission is mandatory and binding on the agency except as provided in § 1613.234(b). Failure to implement ordered relief shall be subject to judicial enforcement as specified in § 1613.239(c).

(b) When the agency requests reopening and when the case involves removal, separation, or suspension continuing beyond the date of the request to reopen, and when the decision recommends retroactive restoration, the agency shall comply with the decision only to the extent of the temporary or conditional restoration of the employee to duty status in the position recommended by the Commission, pending the outcome of the agency request for reopening.

(1) Service under the temporary or conditional restoration provisions of this paragraph shall be credited toward the completion of a probationary or trial period, eligibility for a within-grade increase, or the completion of the service requirement for career tenure, provided the Commission—

(i) Upholds its decision after reopening the case, or

(ii) Refuses to reopen.

(2) The agency shall notify the Commission and the employee in writing, at the same time it requests reopening, that the remedial action it takes is temporary or conditional.

(c) When no request for reopening is filed within 30 days of receipt of the decision, or when a request to reopen is denied, the agency shall execute the action ordered and there is no further right to delay implementation of the ordered relief. The corrective action shall be completed not later than sixty (60) days after the decision becomes final.

17. A new § 1613.238 is added to Part 1613 to read as follows:

§ 1613.238 Enforcement of final decisions.

(a) *Petition for enforcement.* A complainant may petition the Commission for enforcement of a decision issued under the Commission's appellate jurisdiction. The petition shall be submitted to the Office of Review and Appeals. The petition shall specifically set forth the reasons that lead the complainant to believe that the agency is not complying with the decision.

(b) *Compliance.* On behalf of the Commission, the Office of Review and Appeals shall take all necessary action to ascertain whether the agency is implementing the decision of the Commission. If the agency is found not to be in compliance with the decision, efforts shall be undertaken to obtain compliance.

(c) *Clarification.* On behalf of the Commission, the Office of Review and Appeals may, on its own motion or in response to a petition for enforcement or in connection with a timely request to reopen, issue a clarification of a prior decision. A clarification cannot change the result of a prior decision or enlarge or diminish the relief ordered but may further explain the meaning or intent of the prior decision.

(d) *Referral to the Commission.* Where the Director, Office of Review and Appeals, is unable to obtain satisfactory compliance with the final decision, the Director shall submit appropriate findings and recommendations for enforcement to the Commission, or, as directed by the Commission, refer the matter to another appropriate agency.

18. A new § 1613.239 is added to Part 1613 to read as follows:

§ 1613.239 Enforcement action by the Commission.

(a) *Notice to show cause.* The Commission may issue a notice to the Head of any federal agency that has failed to comply with a decision to show cause why there is noncompliance. Such notice may request the Head of the agency or representative to appear before the Commission or to respond to the notice in writing with adequate evidence of compliance or with compelling reasons why compliance has not been effectuated.

(b) *Certification to the Office of Special Counsel.* Where appropriate and pursuant to the terms of a memorandum of agreement, the Commission may refer the matter to the Office of Special Counsel for enforcement action.

(c) *Notification to complainant of completion of administrative efforts.* Where the Commission has determined that an agency is not complying with a prior decision, or where an agency has failed or refused to submit its report of corrective action, the Commission shall notify the complainant of the right to file a civil action for enforcement of the decision pursuant to section 717 of Title VII, section 15 of the Age Discrimination in Employment Act, or section 505 of the Rehabilitation Act, and to seek judicial review of the agency's refusal to implement corrective action pursuant to the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*, and the Mandamus Statute, 28 U.S.C. 1361, or commence de novo proceedings pursuant to the appropriate statutes.

19. A new § 1613.240 is added to Part 1613 to read as follows:

§ 1613.240 Computation of time.

With respect to time periods specified in this subpart:

(a) The first day counted shall be the day after the event from which the time period begins to run and the last day of the period shall be included, unless it falls on a Saturday, Sunday, or Federal holiday, in which case the period shall be extended to include the next business day; and

(b) A document shall be deemed timely if it is delivered in person or postmarked before the expiration of the applicable filing period, or if, in the absence of a legible postmark, it is received by mail within five days from the expiration of the applicable filing period.

20. Section 1613.261 is revised to read as follows:

§ 1613.261 Freedom from restraint, interference, coercion and reprisal.

It is unlawful to restrain, interfere, coerce or discriminate against complainants, their representatives, witnesses, Directors of Equal Employment Opportunity, Equal Employment Opportunity Officers, Investigators, Counselors and other agency officials with responsibility for processing discrimination complaints because of involvement with a discrimination charge during any stage in the presentation and processing of a complaint, including the counseling stage under § 1613.213, or because an individual filed a charge of discrimination, testified, assisted or participated in any manner with an investigation, proceeding or hearing or because of any opposition to an unlawful employment practice under this part.

21. Section 1613.262 is revised to read as follows:

§ 1613.262 Review of allegations of reprisal.

(a) An individual who alleges a violation of § 1613.261 may have the allegation reviewed as an individual complaint of discrimination under §§ 1613.211 through 1613.283.

(b) When a complainant alleges a violation of § 1613.261 in connection with the filing of a prior discrimination complaint and the prior complaint is in process at the agency when the allegation is made, the complainant may request the agency to consolidate the reprisal allegation with the prior complaint. If the prior complaint is at the hearing stage of the complaint process under § 1613.218, the complainant may request the Administrative Judge to consolidate the allegation with the complaint at the hearing. The agency or Administrative Judge may grant the request. *Provided*, that the request is made within 30 calendar days of:

(1) The act that forms the basis of the allegation,

(2) The effective date of the alleged discriminatory personnel action, or

(3) The date the complainant knew or should reasonably have known that § 1613.261 has been violated.

The agency or the Administrative Judge may exercise discretion and deny the request and require the allegation to be processed under § 1613.262(a).

22. Section 1613.271 is revised to read as follows:

§ 1613.271 Remedial actions.

(a) When an agency, or the Commission, finds that an applicant or an employee has been discriminated against, the agency shall provide full relief, as explained in Appendix A of this part, which shall include the following elements in appropriate circumstances:

(1) Notification to all employees of the agency in the affected facility of their right to be free of unlawful discrimination and be assured that the particular types of discrimination found will not recur;

(2) Commitment that corrective, curative or preventive action will be taken, or measures adopted, to ensure that similar found violations of the law will not recur;

(3) An unconditional offer to each identified victim of discrimination of placement in the position the person would have occupied but for the discrimination suffered by that person, or a substantially equivalent position;

(4) Payment to each identified victim of discrimination on a make whole basis for any loss of earnings the person may have suffered as a result of the discrimination; and

(5) Commitment that the agency shall cease from engaging in the specific unlawful employment practice found in the case.

(b) Remedial action involving an applicant. (1) When an agency, or the Commission, finds that an applicant for employment has been discriminated against, the agency shall offer the applicant the position the applicant would have occupied absent discrimination or, if justified by the circumstances, a substantially equivalent position. The offer shall be made in writing. The individual shall have 15 calendar days from receipt of the offer within which to accept or decline the offer. Failure to notify the agency of his decision within the 15-day period will be considered a declination of the offer, unless the individual can show that circumstances beyond his control prevented him from responding within the time limit. If the offer is accepted, appointment shall be retroactive to the date the applicant would have been hired. Backpay, computed in the same manner prescribed by 5 CFR 550.805, shall be awarded from the date the individual would have entered on duty until the date the individual actually enters on duty. The individual shall be deemed to have performed service for the agency during this period of retroactivity for all purposes except for meeting service requirements for completion of a probationary or trial period that is required. If the offer of employment is declined, the agency shall award the individual a sum equal to the backpay he would have received, computed in the same manner prescribed by 5 CFR 550.805, from the date he would have been appointed until the date the offer was made, subject to the limitation of paragraph (b)(4) of this section. The agency shall inform the applicant, in its offer of employment, of his right to this award in the event the offer is declined.

(2) When an agency, or the Commission, finds that discrimination existed at the time the applicant was considered for employment but also finds clear and convincing evidence that the applicant would not have been hired even absent discrimination, the agency nevertheless shall take all steps necessary to eliminate the discriminatory practice and ensure it does not recur.

(3) This paragraph shall be cited as the authority under which the above-described appointments or awards of backpay shall be made.

(4) Backpay under this paragraph for complaints under Title VII or the Rehabilitation Act may not extend from a date earlier than 2 years prior to the date on which the complaint was initially filed by the applicant.

(c) Remedial action involving an employee. When an agency, or the Commission, finds that an employee of the agency was discriminated against, the agency shall take remedial actions which shall include one or more of the following, but need not be limited to these actions:

(1) Retroactive promotion, with backpay computed in the same manner prescribed by 5 CFR 550.805, unless the record contains clear and convincing evidence that the employee would not have been promoted or employed at a higher grade, even absent discrimination. The backpay liability under Title VII or the Rehabilitation Act may not accrue from a date earlier than 2 years prior to the date the discrimination complaint was filed, but, in any event, not to exceed the date the employee would have been promoted.

(2) If the record contains clear and convincing evidence that, although discrimination existed at the time selection for promotion was made, the employee would not have been promoted even absent discrimination, the agency shall eliminate any discriminatory practice and ensure it does not recur.

(3) Cancellation of an unwarranted personnel action and restoration of the employee.

(4) Expunction from the agency's records of any reference to or any record of an unwarranted disciplinary action that is not a personnel action.

(5) Full opportunity to participate in the employee benefit denied (e.g., training, preferential work assignments, overtime scheduling).

(d) Attorney's fees or costs—(1) Awards of attorney's fees or costs. The provisions of this subpart relating to the award of attorney's fees or costs shall apply to allegations of discrimination or retaliation prohibited by section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–16, and sections 501 and 505 of the Rehabilitation Act, 29 U.S.C. 791 and 794a. In a decision by an agency, under §§ 1613.217, 1613.220(d), 1613.221 or 1613.612 or by the Commission, under §§ 1613.234, 1613.235, 1613.262, 1613.631 or 1613.632, the agency or Commission may award the applicant or employee reasonable attorney's fees or costs incurred in the processing of the complaint or charge.

(i) A finding of discrimination raises a presumption of entitlement to an award of attorney's fees.

(ii) Any award of attorney's fees or costs shall be paid by the agency.

(iii) Attorney's fees are allowable only for the services of members of the Bar and law clerks, paralegals or law students under the supervision of members of the Bar, except that no award is allowable for the services of any employee of the Federal Government.

(iv) Attorney's fees shall be paid only for services performed after the filing of the complaint required in § 1613.214 and after the complainant has notified the agency that he/she is represented by an attorney, except that fees are allowable for a reasonable period of time prior to

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the notification of representation for any services performed in reaching a determination to represent the complainant. Written submissions to the agency which are signed by the representative shall be deemed to constitute notice of representation.

(2) Amount of awards. When a decision of the agency, under §§ 1613.217(c), 1613.220(d), 1613.221 or 1613.612 or of the Commission, under §§ 1613.234, 1613.235, 1613.262, 1613.631 or 1613.632 provides for an award of attorney's fees or costs, the complainant's attorney shall submit a verified statement of costs and attorney's fees, as appropriate, to the agency within 20 days of receipt of the decision. A statement of attorney's fees shall be accompanied by an affidavit executed by the attorney of record itemizing the attorney's charges for legal services and both the verified statement and the accompanying affidavit shall be made a part of the complaint file. The amount of attorney's fees or costs to be awarded the complainant shall be determined by agreement between the complainant, the complainant's representative and the agency. Such agreement shall immediately be reduced to writing. If the complainant, the representative and the agency cannot reach an agreement on the amount of attorney's fees or costs within 20 calendar days of receipt of the verified statement and accompanying affidavit, the agency shall issue a decision determining the amount of attorney's fees or costs within 30 calendar days of receipt of the statement and affidavit. Such decision shall include the specific reasons for determining the amount of the award.

(i) The amount of attorney's fees shall be calculated in accordance with the existing caselaw using following standards:

(A) The starting point shall be the number of hours reasonably expended multiplied by a reasonable hourly rate.

(B) This amount may be reduced or increased in considering the following factors, although ordinarily many of these factors are subsumed within the calculation set forth above: The time and labor required, the novelty and difficulty of the questions, the skill requisite to perform the legal service properly, the preclusion of other employment by the attorney due to acceptance of the case, the customary fee, whether the fee is fixed or contingent, time limitations imposed by the client or the circumstances, the amount involved and the results obtained, the experience, reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases. Only in some cases of exceptional success shall any of these factors be used to enhance an award computed by the formula set forth in paragraph (d)(2)(i)(A).

(ii) The costs which may be awarded are those authorized by 28 U.S.C. 1920 to include—

(A) Fees of the reporter for all or any of the stenographic transcript necessarily obtained for use in the case;

(B) Fees and disbursements for printing and witnesses; and

(C) Fees for exemplification and copies of papers necessarily obtained for use in the case.

Witness fees shall be awarded in accordance with the provisions of 28 U.S.C. 1821, except that no award shall be made for a federal employee who is in a duty status when made available as a witness.

23. Section 1613.283 is revised to read as follows:

§ 1613.283 Effect on administrative processing.

The filing of a civil action by an employee or applicant involving a complaint filed under this subpart terminates processing of that complaint.

24. Section 1613.513 is revised to read as follows:

§ 1613.513 Effects on administrative processing.

The filing of a civil action by an employee or applicant involving a complaint filed under this subpart terminates processing of that complaint.

25. Section 1613.521 is revised to read as follows:

§ 1613.521 Appeal to the Commission.

Except for the requirements in § 1613.234 that the decision of the Office of Review and Appeals contain a notice of the right to file a civil action in accordance with § 1613.282, §§ 1613.231 through 1613.240 of this part shall apply to this subpart.

26. Section 1613.601(a) is revised to read as follows:

§ 1613.601 Definitions.

(a) A "class" is a group of employees, former employees, or applicants for employment who, it is alleged, have been, are being, or may be, adversely affected by an agency personnel management policy or practice which discriminates against the group on the basis of their common race, color, religion, sex, national origin, age or handicapping condition.

* * * * *

27. Section 1613.602(a) is revised to read as follows:

§ 1613.602 [Revised]

* * * * *

(a) An employee or applicant who wishes to be an agent and who believes he/she has been discriminated against shall consult with an Equal Employment Opportunity Counselor within 30 calendar days of the matter giving rise to the allegation of individual discrimination, the effective date of a personnel action, or the date the aggrieved person knew or reasonably should have known of the discriminatory event or personnel action.

* * * * *

28. Section 1613.603(b)(1) is amended by deleting the word "agency" and by revising § 1613.603 (c) and (g) to read as follows:

§ 1613.603 Filing and processing of a class complaint.

* * * * *

(c) The complaint must be filed not later than 15 calendar days after the agent's receipt of the notice of the right to file a complaint.

* * * * *

(g) If the agent is an employee in pay status, the agent shall have a reasonable amount of official time to prepare the complaint. If the agent is an employee of the agency and designates another employee of the agency as the agent's representative, the representative shall have a reasonable amount of official time, if otherwise on duty, to prepare the complaint. The agency is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow the agent and representative to confer. However, the complainant and representative, if employed by the agency and otherwise in a pay status, shall be on official time, regardless of their tour of duty, when their presence is authorized or required by the agency or the Commission during the investigation, informal adjustment, or hearing on the complaint.

29. Section 1613.604 is revised to read as follows:

§ 1613.604 Acceptance, rejection or cancellation.

(a) Within 10 calendar days of an agency's receipt of a complaint, the agency shall forward the complaint, along with a copy of the Counselor's report and any other information pertaining to timeliness or other relevant circumstances related to the complaint, to th_ Commission. The Commission shall assign the complaint to a Commission Administrative Judge except in instances where the Commission finds it more practical to delegate this responsibility to an Administrative Judge from another agency who is not an employee of the agency in which the complaint arose.

(b) The Administrative Judge may recommend that the agency reject the complaint, or a portion thereof, for any of the following reasons:

(1) It was not timely filed;

(2) It consists of an allegation identical to an allegation contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency;

(3) Failure to state a claim under this subpart;

(4) The agent failed to consult a Counselor in a timely manner;

(5) It lacks specificity and detail;

(6) It was not submitted in writing or was not signed by the agent;

(7) It does not meet the prerequisites of a class complaint under § 1613.601(b).

(c) If an allegation is not included in the Counselor's report, the Administrative Judge shall afford the agent 15 calendar days to explain whether the matter was discussed and if not, why he/she did not discuss the allegation with the Counselor. If the explanation is not satisfactory, the Administrative Judge may recommend that the agency reject the allegation. If the explanation is satisfactory, the Administrative Judge may refer the allegation to the agency for further counseling of the agent.

(d) If an allegation lacks specificity and detail, the Administrative Judge shall afford the agent 15 calendar days to provide specific and detailed information. The Administrative Judge may recommend that the agency reject the complaint if the agent fails to provide such information within the specified time period. If the information provided contains new allegations outside the scope of the complaint, the Administrative Judge must advise the agent how to proceed on an individual or class basis concerning these allegations.

(e) The Administrative Judge may recommend that the agency extend the time limits for filing a complaint and for consulting with a Counselor when the agent, or his/her representative, shows that he/she was not notified of the prescribed time limits and was not otherwise aware of them or that he/she was prevented by circumstances beyond his/her control from acting within the time limit.

(f) When appropriate the Administrative Judge may recommend that a class be divided into subclasses and that each subclass be treated as a class, and the provisions of this section then shall be construed and applied accordingly.

(g) The Administrative Judge may recommend that the agency cancel a complaint after it has been accepted because of failure of the agent to prosecute the complaint. This action may be taken only after the Administrative Judge has provided the agent a written request, including notice of proposed cancellation, that he/she provide certain information or otherwise proceed with the complaint, and the agent has failed to satisfy this request within 15 calendar days of receipt of the request.

(h) An agent must be informed by the Administrative Judge in a request under paragraph (c) or (d) of this section that his/her complaint may be rejected if the information is not provided.

(i) The head of the agency or designee shall terminate processing a class complaint of discrimination when the agent files a civil action in U.S. district court based on the same allegation of discrimination.

(j) The Administrative Judge's recommendation to the agency on whether to accept, reject, or cancel a complaint shall be transmitted in writing to the agency, the agent, and the agent's representative. The Administrative Judge's recommendation to accept, reject or cancel shall become the agency decision unless the agency rejects or modifies the decision within 30 calendar days of the receipt of the decision and complete complaint file. The agency shall notify the agent, the agent's representative, and the Administrative Judge of its decision to accept, reject, modify or cancel a complaint. Notice of a decision to reject or cancel shall inform the agent of the right to proceed with an individual complaint of discrimination, and to appeal the final agency decision on the matter to the Office of Review and Appeals and of his/her right to file a civil action.

30. Section 1613.606 is revised to read as follows:

§ 1613.606 Avoidance of delay.

The complaint shall be processed promptly after it has been accepted. To this end, the parties shall proceed with the complaint so that the complaint is processed without undue delay.

31. Section 1613.607(a) is revised to read as follows:

§ 1613.607 Freedom from restraint, interference, coercion and reprisal.

(a) It is unlawful to restrain, interfere, coerce or discriminate against agents, complainants, their representatives, witnesses, Directors of Equal Employment Opportunity, Equal Employment Opportunity Officers, Investigators, Counselors and other agency officials with responsibility for processing discrimination complaints because of involvement with a discrimination charge during any stage in the presentation and processing of a complaint, including the counseling stage under § 1613.602, or because an individual testifed, assisted or participated in any manner with an investigation, proceeding or hearing or because the individual opposed an unlawful employment practice under this Part.

* * * * *

32. Section 1613.608 is amended by deleting "an alleged discriminating official or" in paragraph (a) and by revising paragraph (b)(2) to read as follows:

§ 1613.608 [Amended]

* * * * *

(b) * * *

(2) If mutual cooperation fails, either party may request the Administrative Judge to rule on a request to develop evidence. If the agent or agency in bad faith refuses or fails without adequate explanation to respond fully and in timely fashion to a request made or approved by the Administrative Judge for documents, records, comparative data, statistics, affidavits, or the attendance of witnesses, and the information is solely in the control of one party, such failure may, in appropriate circumstances, cause the Administrative Judge:

(i) To draw an adverse inference that the requested information would have reflected unfavorably on the party refusing to provide the requested information;

(ii) To consider the matters to which the requested information pertains to be established in favor of the opposing party;

(iii) To exclude other evidence offered by the party failing to produce the requested information;

(iv) To take such other actions as the Administrative Judge deems appropriate.

* * * * *

33. Section 1613.609 is revised to read as follows:

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§ 1613.609 Opportunities for resolution of the complaint.

(a) The Administrative Judge shall furnish the agent or his/her representative and the representative of the agency a copy of all materials obtained concerning the complaint and provide opportunity for the agent to discuss materials with the agency representative and attempt resolution of the complaint.

(b) At any time after acceptance of a complaint, the complaint may be resolved by agreement of the agency and the agent as long as the agreement is fair and reasonable.

(c) If resolution of the complaint is arrived at, the terms of the resolution shall be reduced to writing, and signed by the agent and the agency head or designee. A resolution may include a finding on the issue of discrimination, an award of attorney's fees or costs, and must include any corrective action agreed upon. Corrective action in the resolution must be consistent with law, Executive order, and Civil Service regulations, rules, and instructions. A copy of the resolution shall be provided to the agent.

(d) Notice of the resolution shall be given to all class members in the same manner as notification of the acceptance of the class complaint and shall state the terms of corrective action, if any, to be granted by the agency. A resolution shall bind all members of the class except in cases where the resolution benefits only the class agent or is otherwise alleged to be unfair or unreasonable, in which case any member of the class may petition the Director of Equal Employment Opportunity within 30 calendar days of the date of the notice of resolution to replace the class agent. Such a petition will be processed according to § 1613.604, and if it is found that the resolution did not comply with § 1613.609(b) and that the petitioner satisfied the requirements of § 1613.601(b), the Administrative Judge will recommend that the petitioner will replace the original class agent and act for the class during processing of the class complaint. Acceptance of a petition under this subsection vacates any agreement between the former class agent and the agency. An agency decision on such a petition shall inform the agent and the petitioner of the right to appeal the decision to the Office of Review and Appeals.

(e) Any settlement agreement reached at any stage of the complaint process shall be binding on both parties. If the agent believes that the agency has failed to comply with the terms of a settlement agreement for reasons not attributable to acts or conduct of the agent, his/her representative or class members, the agent shall notify the Director of Equal Employment Opportunity, in writing, within 30 days of when the agent knew or should have known of the alleged noncompliance, or the alleged noncompliance with the settlement agreement. The agent may request that the terms of the settlement agreement be specifically implemented or, alternatively, that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement. Upon receipt of the agent's written allegation of noncompliance with the settlement agreement, the agency shall have thirty (30) calendar days in which to resolve the matter and to respond to the agent, in writing, concerning the matter. If, after thirty (30) calendar days from the date of the agency's receipt of the agent's written allegations of noncompliance with the settlement agreement, the agency has not responded to the agent, in writing, or if the agent is not satisfied with the agency's attempt to resolve the matter, the agent may petition the Commission's Office of Review and Appeals for a determination as to whether the agency has complied with the terms of the settlement agreement. The agent may file such an appeal 35 days after service of the allegations of noncompliance, but must file an appeal within 20 days of receipt of an agency's determination. Prior to rendering its determination, the Commission may request that the parties submit whatever additional information or documentation it may deem necessary and may direct that an investigation or hearing on the matter be conducted, as may be appropriate.

If the Commission determines that the agreement has not been complied with, it may order such compliance or it may order that the complaint be reinstated for further processing from the point processing ceased under the terms of the settlement agreement.

34. Section 1613.610 is revised to read as follows:

§ 1613.610 Hearing.

On the expiration of the period allowed for preparation of the case, the Administrative Judge shall set a date for a hearing. The hearing shall be conducted in accordance with § 1613.218.

35. Section 1613.612(a)(1) is amended by removing the phrase "30 calendar days" and inserting "60 calendar days" in its place.

§ 1613.614 [Amended]

36. Section 1613.614(e) is amended by removing the phrase "5 CFR 772.307(c)" and inserting "§ 1613.218" in its place.

37. Section 1613.631 is revised to read as follows:

§ 1613.631 Appeal to the Office of Review and Appeals.

(a) An agent may appeal to the Office of Review and Appeals the decision of the head of the agency or designee:

(1) To reject or cancel a complaint, or a portion thereof, for reasons covered by § 1613.604;

(2) Under the circumstances set forth in § 1613.609 (d) or (e);

(3) On the merits of the complaint;

(4) On the issue of attorney's fees and costs and corrective action; or

(5) The failure of an agency to implement its final agency decision.

(b) A claimant may appeal to the Office of Review and Appeals from a decision of the head of the agency or designee:

(1) To cancel or reject a claim for individual relief in accordance with § 1613.614 (f) and (g); and

(2) On the merits of the claim for individual relief including attorney's fees or costs.

(c) An appeal may be filed at any time after receipt of the agency's final decision, but not later than 20 calendar days after receipt of that decision except when the appellant shows that neither the appellant nor the appellant's representative was notified of the prescribed time limit and was not otherwise aware of it, or that the appellant or the appellant's representative was prevented by circumstances beyond the appellant's or representative's control from appealing within the prescribed time limit.

(d) An appeal shall be deemed timely if it is delivered in person or post-marked before the expiration of the filing period, or if, in the absence of a legible postmark, it is received by the Commission by mail within five days of the expiration of the filing period. The Office of Review and Appeal's review will be made upon the existing record to determine if the agency decision is in accord with applicable law, Executive order, or Civil Service regulations, rules, and instructions and is supported by substantial evidence.

38. Section 1613.632 is revised to read as follows:

§ 1613.632 Reopening and reconsideration by the Commissioners.

The Commissioners may reopen and reconsider any previous decision of a Commission office on their own motion

or at the request of either party in accordance with provisions of § 1613.235.

39. Section 1613.643 is revised to read as follows:

§ 1613.643 Effect on administrative processing.

The filing of a civil action by an agent involving a complaint filed under this subpart terminates processing of that complaint. The filing of a civil action by a claimant involving a claim filed under this subpart, terminates processing of that claim.

Appendix A to Part 1613 is added to read as follows:

Appendix A to Part 1613—Policy Statement on Remedies and Relief for Individual Cases of Unlawful Discrimination

On September 11, 1984, the Equal Employment Opportunity Commission announced its intent to achieve certainty and predictability of enforcement in those situations where the agency has reason to believe that a law it enforces has been violated. In keeping with this goal, the Commission recognizes that the basic effectiveness of the agency's law enforcement program is dependent upon securing prompt, comprehensive and complete relief for all individuals directly affected by violations of the statutes which the agency enforces. The Commission also recognizes that, in appropriate circumstances, remedial measures need to be designed to prevent the recurrence of similar unlawful employment practices. Predictable enforcement and full, corrective, remedial and preventive relief are the principal components of the method with which the Commission intends to pursue this agency's mission of eradicating discrimination in the workplace. Henceforth, in negotiating settlements, in drafting prayers for relief in litigation, pleadings or in issuing Commission Decisions or Orders, obtaining full remedial, corrective and preventive relief is the standard by which the agency is to be guided.

The Commission believes that a full remedy must be sought in each case where a District Director concludes the case has merit and has, or is prepared to, issue a letter of violation or a letter finding reasonable cause to believe that one of the statutes the agency enforces has been violated. The remedy must be fashioned from the wide range of remedial measures available to this law enforcement agency which has broad authority under the statutes it enforces to seek appropriate forms of legal and equitable relief. The remedy must also be tailored, where possible, to cure the specific situation which gave rise to the violation of the statute involved.

Accordingly, all remedies and relief sought in court, agreed upon in conciliation, or ordered in Federal sector decisions should contain the following elements in appropriate circumstances:

(1) A requirement that all employees of respondent in the affected facility be notified of their right to be free of unlawful discrimination and be assured that the particular type of discrimination found or conciliated will not recur;

(2) A requirement that corrective, curative or preventive action be taken, or measures adopted, to ensure that similar found or conciliated violations of the law will not recur;

(3) A requirement that each identified victim of discrimination be unconditionally offered placement in the position the person would have occupied but for the discrimination suffered by that person;

(4) A requirement that each identified victim of discrimination be made whole for any loss of earnings the person may have suffered as a result of the discrimination; and

(5) A requirement that the respondent cease from engaging in the specific unlawful employment practice found or conciliated in the case.

The components of these remedial elements are as follows:

(1) *Notice Requirement.*

All respondents should be required to sign and conspicuously post, for a period of time, a notice to all employees in the affected facility (or to union members if respondent is a labor organization), prepared by the agency on E.E.O.C. forms, specifically advising respondent's employees or members of the following:

(a) That the notice is being posted as part of the remedy agreed to pursuant to a conciliation agreement with the agency or pursuant to an order of a particular Federal court or pursuant to a decision and order in a Federal sector case.

(b) That Federal law requires that there be no discrimination against any employee or applicant for employment because of the employee's race, color, religion, sex, national origin or age (between 40 and 70) with respect to hiring, firing, compensation, or other terms, conditions or privileges of employment (Federal sector notices will include handicap as an unlawful basis of discrimination).

(c) That respondent supports and will comply with such Federal law in all respects and will not take any action against employees because they have exercised their rights under the law.

(d) That respondent will not engage in the specific unlawful conduct which the District Director believes has occurred or is conciliating, or which the Commission or a court has found to have occurred.[1]

(e) That respondent will, or has, taken the remedial action required by the conciliation agreement or the order of the Commission or Court.[2]

[1] For example, the following types of assurances could be required of a respondent which committed several types of unlawful employment practices in a particular case:

"XYZ, Inc. will not refuse to hire employees on the basis of their sex;

"XYZ, Inc. will not refuse to promote employees on the basis of their sex or their race; and

"XYZ, Inc. will not threaten to fire employees because they have filed charges with the Equal Employment opportunity Commission."

[2] For example, employees could be notified of the relief obtained in the following way:

XYZ, Inc. will promote and make whole the employees affected by our conduct for any losses they suffered as a result of the discrimination against them. Specifically, Mary Jones and Susan Smith will be promoted to the position of shift supervisor and will be made whole for any loss in pay or benefits they may have suffered since the time that we failed to promote them to that position.

"XYZ, Inc. has adopted an equal employment opporunity policy and will ensure that all supervisors in making selections for promotions abide by the requirements of that policy that employees not be discriminated against on the basis of their sex or race."

(2) *Corrective, Curative or Preventive Provisions.*

In appropriate circumstances, a remedy must provide that the respondent take corrective, curative or preventive action designed to ensure that similar violations of the law will not recur. Similarly, corrective, curative or preventive measures may also be adopted in those situations where those measures are likely to prevent future similar violations.

Thus, where a policy or practice is discriminatory, the policy or practice must be changed. Similarly, if a particular supervisor or other agent of the respondent is identified as knowingly or intentionally being responsible for the discrimination that occurred, the respondent must be required to take corrective action so that the discriminatee or similarly situated employees not be subjected to similar discriminatory conduct. This corrective action may be accomplished, for example, by insulating employees from that individual for a period of time, or by requiring the respondent to discipline or remove the offending individual from personnel authority, or by requiring the respondent to educate the offender and other supervisors so that they may overcome their unlawful prejudices.

These and any other appropriate measures, or any combination thereof, designed to meet this goal should be considered when negotiating settlements or drafting prayers for relief. This type of relief is not to be designed for punitive purposes. Rather, this relief is to be tailored to cure or correct the particular source of the identified discrimination and to minimize the chance of its recurrence.

In addition, the respondent must be required to take all other appropriate steps to eradicate the discrimination and its effects, such as the expunging of adverse materials relating to the unlawful employment practice from the discriminatee's personnel files.

(3) *Nondiscrimatory Placement.*

Each identified victim of discrimination is entitled to an immediate and unconditional offer of placement in the respondent's workforce, to the position the discriminatee would have occupied absent discrimination, or to a substantially equivalent position, even if the placement of the discriminatee results in the displacement of another of respondent's employees ("Nondiscriminatory Placement"). The Nondiscriminatory Placement may take place by initial employment, reinstatement, promotion, transfer or reassignment and must occur without any prejudice to, or loss of, any employment—related rights or privileges the discriminatee would have otherwise acquired had the discrimination not occurred.

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If a Nondiscriminatory Placement position that the discriminatee should occupy no longer exists, then employment for which the discriminatee is qualified must be offered to the discriminatee in other areas of the respondent's operation. Finally, if none of the foregoing positions exist in which the discriminatee may be placed, then the respondent must make whole the discriminatee until a Nondiscriminatory Placement can be accomplished.

It is essential that victims of discrimination not suffer further and that respondents not gain by their misconduct. Accordingly, the contention by a respondent that a discriminatee is no longer suitable for Nondiscriminatory Placement due to a loss of skills, a change in job content or some other reason is not an acceptable excuse for a respondent's failure to accomplish a Nondiscriminatory Placement of a discriminatee. The burden is upon the respondent to demonstrate that the inability of the discriminatee to accept Nondiscriminatory Placement is unrelated to the respondent's discrimination such that the victim, rather than the respondent, should bear the loss. Similiary, the burden is also on the respondent to demonstrate a contention that postdiscrimination conduct by a discriminatee renders the discriminatee unworthy of Nondiscriminatory Placement.

In certain circumstances, the Nondiscriminatory Placement of a victim of discrimination may require the job placement of another of the respondent's employees. If displacement of an incumbent employee in order to accomplish Nondiscriminatory Placement on behalf of a discriminatee is clearly inappropriate in a particular setting or is unavailable as a remedy in a particular jurisdiction, then the respondent must make whole the discriminatee until a Nondiscriminatory Placement can be accomplished.

(4) *Backpay.*

Each identified victim of discrimination is entitled to be made whole for any loss of earnings the discriminatee may have suffered by reason of the discrimination. Each individual discriminatee must receive a sum of money equal to what would have been earned by the discriminatee in the employment lost through discrimination ("Gross Backpay") less what was actually earned from other employment during the period, after normal expenses incurred in seeking and holding the interim employment have been deducted ("Net Interim Earnings"). The difference between Gross Backpay and Net Interim Earnings is Net Backpay Due. Interest should be computed on all Net Backpay Due. Net Backpay accrues from the date of discrimination, except where the statutes limit the recovery, until the discrimination against the individual has been remedied.

Gross Backpay includes all forms of compensation such as wages, bonuses, vacation pay, and all other elements of reimbursement and fringe benefits such as pension and health insurance. Gross Backpay must also reflect fluctuations in working time, overtime rates, changing rates of pay, transfers, promotions, and other perquisites of employment that the discriminatee would have enjoyed but for the discrimination. In appropriate circumstances under the Equal Pay Act and the Age Discrimination in Employment Act liquidated damages based on backpay will also be available.

(5) *Cessation Provisions.*

All respondents must agree or be ordered to cease from engaging in the specific unlawful employment practices involved in the case. For example, a respondent should agree to cease discriminating on the unlawful basis and in the specific manner alleged or a respondent might be required to cease giving effect to certain specific discriminatory policies, practices or rules. In circumstances where a particular respondent has committed or has conciliated several unlawful employment practices, consideration must be given to including broad cessation language in an agreement or order which is designed to order the cessation of any further unlawful employment practices.

The Commission does not believe that the statutory requirement of conciliation requires the agency to abdicate its principal law enforcement responsibility. Thus, conciliation should not result in inadequate remedies. The possibility of pre-litigation conciliation does not constitute cause for unwarranted or undeserved concessions by a law enforcement agency when one of the laws it enforces has been violated. Rather, the concept of settlement constitutes recognition of the fact that there may be reasonable differences as to a suitable remedy between the maximum which may be reasonably demanded by the agency and the minimum which in good faith may be fairly argued for the respondent. Within this scope, conciliation must be actively pursued by the agency. In this regard, in all cases in which the District Director believes that one of the statutes the agency enforces has been violated or in which litigation has been authorized, full remedies containing the appropriate elements as set forth in this memorandum should be sought. In conciliation efforts, reasonable compromises or counterproposals to the full range of remedies described in this policy may be considered if those compromises or counterproposals address fully the remedial concepts described in this policy. Conciliation should be pursued with the goal of obtaining substantially complete relief through the conciliation process. Any divergence from this goal must be justified by the relevant facts and the law.

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Friday
October 30, 1987

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 39
Airworthiness Directives; Teledyne Continental Motors (TCM) IO-520 and TSIO-520 Series Engines; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-ANE-7; Amendment 39-5735]

Airworthiness Directives; Teledyne Continental Motors (TCM) IO-520 and TSIO-520 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires ultrasonic inspection of airmelt and vacuum arc remelt steel alloy crankshafts and marking of the propeller mounting flange to indicate the heat codes and type of steel whenever the crankshaft is removed from the engine case or replaced on certain TCM IO-520 and TSIO-520 series engines. This AD is needed to prevent the installation of crankshafts with subsurface fatigue cracks which could result in crankshaft failure with resultant loss of engine power.

DATES: Effective Date: November 30, 1987.

Incorporation by reference of certain publications listed in this regulation is approved by the Director of the **Federal Register** November 30, 1987.

Compliance Schedule: As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601, or may be examined at the Regional Rules Docket, Room 311, Federal Aviation Administration, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Jerry C. Robinette, Aerospace engineer, Propulsion Branch, ACE-140A, Atlanta Aircraft Certification Office, Central Region, Federal Aviation Administration, 1669 Phoenix Parkway, Suite 210, Atlanta Georgia 30349; telephone (404) 991-3810.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring ultrasonic inspection of crankshafts and marking of the propeller mounting flange whenever the crankshaft is removed from the engine case or replaced on certain TCM IO-520 and TSIO-520 series engines was published in the **Federal Register** on April 17, 1987, (51 FR 12544).

The FAA has determined that subsurface fatigue cracks may be present in crankshafts used in TCM IO-520 and TSIO-520 series engines. There have been approximately 108 service difficulty reports between 1980 and 1986, concerning crankshaft failures. It has not been possible to assign a specific failure mode to these reports. They occur randomly and are not directly linked to specific forgings, heat codes, material processing, or design.

Ultrasonic inspection techniques have been developed by the manufacturer to test for subsurface defects on both new and used crankshafts. The ultrasonic inspection, if performed correctly, could preclude the installation of crankshafts with subsurface defects. Since these defects could exist or develop on other engines of the same type design, the proposed AD would require ultrasonic inspection of the airmelt and vacuum arc remelt steel alloy crankshafts whenever the crankshafts are removed from the engine case or replaced on TCM IO-520 and TSIO-520 series engines.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Only one comment was received and it supported adoption as written; accordingly, the proposal is adopted without change.

The FAA has determined that this regulation involves 35,000 engines, and the approximate cost per engine, per inspection would be $150. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Engines, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive (AD):

Teledyne Continental Motors (TCM): Applies to TCM IO-520 and TSIO-520 series engines.

Compliance is required as indicated, unless already accomplished.

To prevent the installation of crankshafts with existing subsurface fatigue cracks, which could result in crankshaft failure with resultant loss of engine power; at the next and every subsequent crankshaft removal from the engine case or installation of a replacement crankshaft, accomplish the following:

(a) Prior to installation in the engine, conduct an ultrasonic inspection in accordance with TCM Service Bulletin, M87-5, Revision 1, dated May 25, 1987, and Crankshaft Ultrasonic Inspection Procedure, Form X30554, dated February 1981.

(b) If any cracks are found, replace crankshaft with serviceable crankshaft in accordance with TCM Service Bulletin M87-5, Revision 1, dated May 25, 1987.

(c) If no cracks are found, mark the propeller mounting flange in accordance with TCM Service Bulletin M87-5, Revision 1, dated May 25, 1987.

Note.—Accomplishment of the ultrasonic inspection does not set aside any requirements for magnaflux or other inspections specified in TCM overhaul manuals.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Atlanta Aircraft Certification Office, Federal Aviation Administration, Central Region, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349.

TCM Service Bulletin, M87-5, Revision 1, dated May 25, 1987, including crankshaft ultrasonic inspection procedure form X30554 dtd 2/81, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). Copies may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601. Copies may be examined in the Regional Rules Docket, Office of the Regional Counsel, Room 311, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803 or at the Office of the **Federal Register**, 1100 L Street NW., Room 8401, Washington, DC.

This amendment becomes effective November 30, 1987.

Issued in Burlington, Massachusetts, on September 16, 1987.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 87-25260 Filed 10-28-87; 11:00 am]

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Friday
October 30, 1987

Part VII

The President

Executive Order 12613—Prohibiting Imports From Iran

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Presidential Documents

Executive Order 12613 of October 29, 1987

Prohibiting Imports From Iran

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 505 of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2349aa-9), and section 301 of Title 3 of the United States Code,

I, RONALD REAGAN, President of the United States of America, find that the Government of Iran is actively supporting terrorism as an instrument of state policy. In addition, Iran has conducted aggressive and unlawful military action against U.S.-flag vessels and merchant vessels of other non-belligerent nations engaged in lawful and peaceful commerce in international waters of the Persian Gulf and territorial waters of non-belligerent nations of that region. To ensure that United States imports of Iranian goods and services will not contribute financial support to terrorism or to further aggressive actions against non-belligerent shipping, I hereby order that:

Section 1. Except as otherwise provided in regulations issued pursuant to this Order, no goods or services of Iranian origin may be imported into the United States, including its territories and possessions, after the effective date of this Order.

Sec. 2. The prohibition contained in Section 1 shall not apply to:

(a) Iranian-origin publications and materials imported for news publications or news broadcast dissemination;

(b) petroleum products refined from Iranian crude oil in a third country;

(c) articles imported directly from Iran into the United States that were exported from Iran prior to the effective date of this Order.

Sec. 3. This Order shall take effect at 12:01 p.m. Eastern Standard Time on October 29, 1987, except as otherwise provided in regulations issued pursuant to this Order.

Sec. 4. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the Federal Government. All agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of this Order, including the suspension or termination of licenses or other authorizations in effect as of the date of this Order.

Sec. 5. The measures taken pursuant to this Order are in response to the actions of the Government of Iran referred to above, occurring after the conclusion of the 1981 Algiers Accords, and are intended solely as a response to those actions.

This Order shall be transmitted to the Congress and published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
October 29, 1987.

[FR Doc. 87-25360
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H.R. 1665/Pub. L. 100–140

To amend title 5, United States Code, to provide for the extension of physicians comparability allowances and to amend title 37, United States Code, to provide for special pay for psychologists in the commissioned corps of the Public Health Service. (Oct. 26, 1987; 101 Stat. 830; 2 pages) Price: $1.00

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Monday
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WHERE: National Archives and Records Administration, Room 410, 8th and Pennsylvania Avenue NW., Washington, DC.
RESERVATIONS: Robert D. Fox, 202-523-5239.

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Presidential Documents

Title 3—

The President

Proclamation 5734 of October 29, 1987

National Hospice Month, 1987

By the President of the United States of America

A Proclamation

The hospice movement in America is an organized voluntary effort to enhance health care for dying people and their families. Hospices, expanding rapidly as a vital component of health care, provide a compassionate way for terminally ill patients to approach death naturally in a supportive environment and surrounded by family members. Hospices foster personal care, comfort, and full living, with attention to physical, emotional, and spiritual needs, especially those relating to pain and grief. The enactment in recent years of a permanent Medicare hospice benefit and an optional Medicaid benefit makes this care a possibility for more Americans.

The most important focus of hospice care is concern for patients and their families. This emphasis on the sanctity of human life and the dignity and worth of every individual is exactly why we set aside a time to salute the professional staffs of our Nation's approximately 1,700 hospices and the thousands of volunteers who give freely of themselves in this endeavor.

The Congress, by House Joint Resolution 234, has designated November 1987 as "National Hospice Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim November 1987 as National Hospice Month. I urge all government agencies, the health care community, appropriate private organizations, and the people of the United States to observe the month of November with appropriate programs and activities to recognize and support hospice care.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-25407
Filed 10-30-87; 10:36 am]
Billing code 3195-01-M

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 87-075]

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine (PPQ) by adding or removing commuted traveltime allowances between various locations in Louisiana, North Carolina, Oregon, Texas, and Washington. Commuted traveltime is the time necessary for a PPQ employee to travel from his or her headquarters to his or her place of duty and return. The Government charges a fee for certain overtime services provided by PPQ employees and, under certain circumstances, the fee may include the cost of commuted traveltime.

EFFECTIVE DATE: November 2, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Eggert, Director, National Administrative Planning Staff, PPQ, APHIS, USDA, Room 614, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7250.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, Chapter III, and 9 CFR, Chapter I, Subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals, animal products, or other commodities intended for importation into or exportation from the United States. When these services must be provided by an employee of Plant Protection and Quarantine (PPQ) on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services, in accordance with 7 CFR Part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as is practicable, the time required for a PPQ employee to travel to and from his or her headquarters and the place where he or she performs the overtime duty.

We are amending § 354.2 by adding or removing commuted traveltime allowances between various locations in Louisiana, North Carolina, Oregon, Texas, and Washington. (The amendments are set forth in the rule portion of this document.) This action is necessary to inform the public of the commuted traveltime allowances between various ports and PPQ headquarters in these states.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The number of requests for requiring overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions of 5 U.S.C. 553, we find upon good cause that prior notice and other public procedures with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the Federal Register.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR Part 354 is amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for Part 354 continues to read as follows:

Authority: 7 U.S.C. 2260, 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by removing or adding, in alphabetical order, the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

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COMMUTED TRAVELTIME ALLOWANCES

(In hours)

Location covered	Served from—	Metropolitan area	
		Within	Outside
Remove:			
North Carolina:			
Pope AFB	Fayetteville		1
Texas:			
Aransas Pass	Corpus Christi		2
Corpus Christi	Corpus Christi	1	
Corpus Christi, NAS.	Corpus Christi		1
Gregory	Corpus Christi		1
Harbor Island	Corpus Christi		2
Point Comfort	Corpus Christi		5
Rockport	Corpus Christi		2
Add:			
Louisiana:			
Port of Tallulah	Baton Rouge		6
Port of Tallulah	West Monroe		3
North Carolina:			
Fort Bragg	Fayetteville	2	
Pope AFB	Fayetteville	2	
Oregon:			
Astoria	Longview, WA		3
Portland	Longview, WA		3
Texas:			
Aransas Pass	Corpus Christi		2½
Corpus Christi	Corpus Christi	2	
Corpus Christi, NAS.	Corpus Christi		2
Gregory	Corpus Christi		2
Ingleside and Harbor Island (Port Aransas).	Corpus Christi		3
Point Comfort	Corpus Christi		6
Rockport	Corpus Christi		3
Washington:			
Kalama	Longview		2
Longview	Longview	2	
Vancouver	Longview		3

Done in Washington, DC, this 28th day of October, 1987.

Donald Houston,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87-25328 Filed 10-30-87; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 946

Irish Potatoes Grown in Washington; Relaxation of Inspection Requirements for Shipments of Potatoes to District 5 and Spokane County in District 1 in Washington

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule relaxes inspection requirements for certain shipments of potatoes grown in Washington. Currently uninspected potatoes can be shipped for grading or storing purposes to Morrow or Umatilla Counties in Oregon throughout the year, and during the period July 15 to August 31 to District 5 in Washington. This rule will extend the period for such shipments to District 5 for the entire year and will also allow such shipments to Spokane County in District 1. The purpose of this action is to facilitate the movement of potatoes from growers to packing facilities and reduce inspection costs. This rule is based on a recommendation of the State of Washington Potato Committee. The committee works with the Department in administering the marketing order.

DATES: Interim final rule effective November 2, 1987. Comments which are received by December 2, 1987, will be considered prior to issuance of the final rule.

ADDRESS: Written comments concerning this rule should be submitted in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085-S, Washington, DC 20090-6456. All comments submitted will be made available for public inspection in the above office during regular business hours. Comments should reference the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit & Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone 202-447-5697.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 946 (7 CFR Part 946), as amended, regulating the handling of Irish potatoes grown in Washington. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 through 674), hereinafter referred to as the "Act".

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 60 handlers of Washington potatoes subject to regulation under the Washington potato marketing order and approximately 361 producers in Washington. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of the handlers and producers of Washington potatoes may be classified as small entities.

Section 946.54 of the order provides authority to modify, suspend, or terminate regulations in order to facilitate shipments of potatoes for grading or storing between the districts within the production area or to and within specified locations in the adjoining States of Idaho and Oregon. Section 946.55 authorizes regulations to prevent the transportation of such potatoes to points outside the production area. Currently, potatoes which are shipped for grading and storing purposes to District 5 for the period July 15 through August 31 each year and to Morrow and Umatilla Counties in Oregon throughout the year are exempted from inspection (§ 946.336 of the regulations). If they are subsequently reshipped for other than exempted purposes, the potatoes must be inspected and must meet the requirements of the regulations. This rule expands the inspection exemption by allowing uninspected potatoes to be shipped for grading or storing purposes to District 5 the entire year and by also allowing such shipments to Spokane County in District 1 the entire year.

Many growers outside of District 5 and Spokane County in District 1 prefer to deliver their potatoes to packing facilities in these areas because the facilities are closer to their farming operations. However, the current handling requirements in § 946.336 require such potatoes to be inspected and certified as meeting minimum grade, size, maturity, and pack requirements before they are moved within the production area. From the 1978-79 through the 1981-82 seasons (July 1-June 30), potatoes were allowed to be moved into District 5 and Spokane County in District 1 throughout the year for grading and storing without first having the potatoes inspected. Several years ago, when potatoes started to appear on the fresh market without the required inspection, this procedure was discontinued in order to improve compliance and prevent the marketing problems associated with such uninspected shipments.

However, the need to facilitate the movement of potatoes from growers to packing facilities without added cost still persists. In addition, handlers in District 5 and Spokane County in District 1 are near urban areas with sizable wholesale/retail markets, and many handlers repack bulk potatoes into consumer size containers. The regulation requires potatoes which are regraded, resorted, or repacked, or in any other way further prepared for market to be reinspected. As a result, with the exception of those shipments which are currently exempted, potatoes shipped from other districts within the area of production have had to be inspected twice, first within the district grown, and second after repacking.

To make it more convenient for producers to deliver their potatoes, and reduce inspection costs, the committee recommended that shipments of uninspected potatoes into District 5 throughout the year, and into Spokane County in District 1 for grading and storing purposes should again be allowed. The committee plans to monitor these shipments more closely than it did previously to prevent shipments of uninspected potatoes into the fresh market.

The impact of this action is expected to be positive and to benefit the Washington potato industry as a whole. By not having to obtain inspection twice on potatoes shipped to certain areas for grading, storing, or repacking, handlers' inspection costs will be lessened.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of the information and recommendation submitted by the committee, and other available information, it is hereby found that this amendment will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes the inspection requirements on certain shipments of Washington potatoes and relieves restrictions on handlers; (2) handlers of Washington potatoes are aware of this action which was recommended by the committee at a public meeting, and they need no additional time to take advantage of the relaxed requirements; (3) the shipment of 1987-88 crop potatoes has already started, and it is desirable that handlers be able to take advantage of the relaxed requirements on as many shipments as possible; and (4) this interim final rule provides a 30-day comment period, and any comments received will be considered prior to the issuance of a final rule.

List of Subjects in 7 CFR Part 946

Marketing agreements and orders, Potatoes, Washington.

For the reasons set forth in the preamble, 7 CFR Part 946 is amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

1. The authority citation for 7 CFR Part 946 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Sections 946.336(d)(6) and 946.336(e)(2) are amended to read as follows:

§ 946.336 Handling regulation.

* * * * *

(d) *Special purpose shipments.*

* * * * *

(6) Grading or storing at any specific location in Morrow or Umatilla Counties in the State of Oregon, in District No. 5, or in Spokane County in District 1;

(e) *Safeguards.*

* * * * *

(2) Handlers desiring to ship potatoes for grading or storing to any specified location in Morrow or Umatilla Counties in the State of Oregon, to District No. 5, or to Spokane County in District No. 1 shall:

* * * * *

Dated: October 27, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-25279 Filed 10-30-87; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1901 and 1942

Community Facility Loans and Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding loans and grants for Community Facility projects. This action is being taken by FmHA to comply with Public Law (Pub. L.) 99-198. Title XIII of Pub. L. 99-198 changes certain criteria for determining the amount of grant and interest rate a community can receive under FmHA's water and waste disposal program and establishes a new purpose for which grant funds may be used. Also, this action removes the limitation on the use of grant funds to pay a portion of project cost when the annual reserve exceeds one-tenth of the average debt service. Also, this action is being taken to comply with the Office of Management and Budget (OMB) Circulars A-128 and A-110. Other editorial changes are proposed to remove ambiguity in the existing regulations. The intended effect of this action is to bring existing regulations into compliance with Pub. L. 99-198, develop a new regulation for the technical assistance and/or training grants authorized by the law, and to more effectively serve the needs of rural communities.

EFFECTIVE DATE: November 2, 1987.

FOR FURTHER INFORMATION CONTACT: Jerry W. Cooper, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, USDA, South Agriculture Building, Room 6328, Washington, DC 20250, telephone: (202) 382-8589.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no significant increase in cost or prices for consumers; individual industries; Federal, State, or local Government agencies; or geographic regions. Futhermore, there will be no adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This action is not expected to substantially affect budget outlay, to affect more than one agency or to be controversial. Additional efforts to administer the changes are expected to be minimal. Increased program costs are, therefore, not anticipated. The net result is expected to provide better service to rural communities.

This program/activity is listed in the Catalog of Federal Domestic Assistance

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under No. 10.416, Water and Waste Disposal Systems for Rural Communities, and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983, and 7 CFR Part 1940, Subpart J, "Intergovernmental Review of Farmers Home Administration Programs and Activities").

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354), Mr. Vance L. Clark, Administrator of the Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities because, in terms of the total number of rural communities, less than 100 will be affected annually.

This action amends FmHA's policies for making development grants and loans. These loans and grants assist in financing the development costs of domestic water and waste disposal systems to rural communities and other associations of farmers, ranchers, rural residents, and other rural users.

These loans and grants will assist rural communities and other associations of farmers, ranchers, rural residents, and other rural users in developing projects and improving the management or operations of existing systems. This action also includes a new regulation and policies for making technical assistance and/or training grants to private nonprofit organizations.

Public Law 99-198 requires FmHA to: (1) Develop a graduated scale of grant rates that establishes a higher rate for projects in communities having lower population and income levels, (2) for water and waste disposal projects serving more than one separate community, use median population and income levels of all the separate communities in calculating grants and establishing interest rates, and (3) provide grants to private nonprofit organizations for the purpose of providing technical assistance and/or training to associations eligible for FmHA water and waste disposal grant funding.

This action removes a limitation on the use of grant funds when the annual reserve exceeds one-tenth of the annual debt service requirements. This reserve limitation affects projects involving other lenders.

The audit requirements of OMB Circulars A-128 and A-110 are being incorporated into FmHA's grant regulations by adding a new section.

FmHA amends Subparts A and H and adds a new Subpart J of Part 1942 to bring FmHA Community Facility regulations into compliance with Pub. L. 99-198.

On February 4, 1987, a proposed rule was published in the **Federal Register** (52 FR 3433) for a 30-day review and comment period. Six comments were received from the public review process.

1. *Sections 1942.17(f)(6) and 1942.363(d)*—Three comments were received regarding the income of a service area where more than one geographic area is being served by a water or waste project. The commenters stated that the use of a weighted median household income would be a disadvantage to some lower income areas served. After further review of the comments on this proposed change FmHA has determined that it should not be implemented. FmHA's current regulations provide enough flexibility to accomplish the intent of Pub. L. 99-198. The regulations now authorize the consideration of separate rural communities' median household income in determining interest rates and grant amounts for water and/or waste disposal projects when such communities are part of a larger project.

2. *Sections 1942.360(b) and 1942.363(c)(2)*—Two comments were received concerning the use of a percentage of median household income as one method of determining the amount of a grant. The commenters stated that this method should be removed from the regulations. FmHA has not adopted this suggested change. The regulations give priority for loan and/or grant funding to communities with low population and income. The grant regulations, as proposed, will allow communities with income below the poverty line or below 80 percent of the Statewide median household income to receive a larger grant.

3. *Section 1942.454(a)*—One commenter stated that small towns be specifically identified as an association. FmHA has made this change.

4. *Section 1942.458(c)*—Two comments were received regarding the use of Technical Assistance and/or Training Grants to assist associations that have filed a preapplication with FmHA in the preparation of water and/or waste disposal grant applications. The intent of this provision is not to recruit new applicants for the water and waste disposal program, but rather to assist those communities that have already decided to make an application for the FmHA water and waste disposal program. The filing of a preapplication is an indication that a community has decided to make an application for the FmHA water and waste disposal program. We have included loan applications in this section. One commenter suggested not including this as an eligible grant purpose; however, this purpose was included in the law. Therefore, FmHA has not adopted this suggestion.

5. *Section 1942.463(a)*—Two commenters suggested that a provision be included for accepting preapplications in fiscal year 1987. FmHA has not included a provision for accepting preapplications in fiscal year 1987. Due to the date the regulations will be effective there will be no need for this provision.

6. *Section 1942.464*—Three comments were received regarding the priorities to be used in selecting applicants for available funds. Two commenters stated that points should be assigned to each priority criterion. FmHA has not incorporated this change. Each preapplication may be based on providing different type services and, therefore, it would not be practical to include numerical points to establish priority for funding.

One commenter stated that the cost effective priority implied that it favors service to utility systems serving a large number of users. FmHA has deleted the reference to cost per person and inserted the cost per association served.

Another commenter stated that § 1942.464(c) be expanded to include direct staffing of activities that are delivered to the associations. FmHA has included this suggestion.

One commenter stated that the word "project" in § 1942.464(g) be defined. FmHA has defined the project as the technical assistance and/or training grant project not a construction project.

List of Subjects

7 CFR Part 1901

Civil rights, Compliance reviews, Fair housing, Minority groups.

7 CFR Part 1942

Community development, Community facilities, Loan programs—housing and community development, Loan security, Rural areas, Waste treatment and disposal—domestic, Water supply—domestic.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1901—PROGRAM-RELATED INSTRUCTIONS

1. The authority citation for Part 1901 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 5 U.S.C. 301; 42 U.S.C. 2942; 7 CFR 2.23; 7 CFR 2.70.

Subpart E—Civil Rights Compliance Requirements °C°

2. In § 1901.204, paragraphs (a)(19), (a)(20) and (a)(21) are added; paragraphs (b)(2) and (d)(1) are revised; paragraph (d)(3)(iv) is added; and paragraphs (d)(5), (e)(2)(ii) and (f) are revised to read as follows:

§ 1901.204 Compliance reviews.

(a) * * *

(19) Technical Assistance and Training grants in accordance with Title XIII of Pub. L. 99-198.

(20) Industrial Development grants.

(21) Section 601 Energy Impacted Area Development Assistance grants.

(b) * * *

(2) Until the last advance of funds is made in the case of grants for Technical Assistance and Training (Pub. L. 99-198), or Technical Assistance for rural housing, or planning grants if no FmHA loan funds are involved; or

* * * * *

(d) * * *

(1) *Designation of Compliance Review Officer.* The State Director, except for Technical Assistance and Training grants (Pub. L. 99-198), will designate the Compliance Review Officer for recipient organization. County Supervisors may be designated only if they have received approved compliance review training. Otherwise, the Compliance Review Officer must be a member of the State staff. For Technical Assistance and Training grants the Assistant Administrator for Community and Business Programs will designate the Compliance Review Officer for recipient organizations.

* * * * *

(3) * * *

(iv) Technical Assistance and Training grants (Pub. L. 99-198). The Compliance Review Officer will record in the running record information obtained during the compliance review and the determination of recipient's compliance or noncompliance. A report will be prepared and sent to the Assistant Administrator, Community and Business Programs, for each recipient.

* * * * *

(5) *Forwarding noncompliance report.* The State Director will see that the reports are complete. If the recipient was found in noncompliance, the State Director will immediately send a copy of the report to the Administrator, Attention: Equal Opportunity Officer, with action proposed to bring the recipient into compliance. For Technical Assistance and Training grants, the Assistant Administrator, Community and Business Programs, will send a copy of the report to the Equal Opportunity Officer.

(e) * * *

(2) * * *

(ii) Technical assistance grant and Technical Assistance and Training grants (Pub. L. 99-198). The initial compliance review will be conducted before the grant is closed.

* * * * *

(f) *State Office summary reports.* The State Director will keep a list of all compliance reviews conducted during the reporting year so as to schedule each year's reviews. The State Director will submit a copy of this list to the Administrator, Attention: Equal Opportunity Officer, no later than July 31 of each year. Recipients found in noncompliance will also be listed on the summary report. Exhibit B is a sample report. For Technical Assistance and Training grants the Assistant Administrator, Community and Business Programs, will submit a summary report, using Exhibit B of this subpart as a guide, to the Equal Opportunity Officer by July 31 of each year.

PART 1942—ASSOCIATIONS

3. The authority citation for Part 1942 continues to read as follows:

Authority: 7 U.S.C. 1989; 7 CFR 2.23; 16 U.S.C. 1005; 7 CFR 2.70.

Subpart A—Community Facility Loans

4. In § 1942.17, paragraph (f)(6) is revised to read as follows:

§ 1942.17 Community Facilities.

* * * * *

(f) * * *

(6) *Income determination.* The income data used to determine median household income should be that which most accurately reflects the income of the service area. The service area is that area reasonably expected to be served by the facility being financed by FmHA. The median household income of the service area and the nonmetropolitan median household income of the State will be determined from income data from the most recent decennial census of the U.S. If there is reason to believe that the census data is not an accurate representation of the median household income within the area to be served, the reasons will be documented and the applicant may furnish, or FmHA may obtain, additional information regarding such median household income. Information will consist of reliable data from local, regional, State or Federal sources or from a survey conducted by a reliable impartial source. The nonmetropolitan median household income of the State may only be updated on a national basis by the FmHA National Office. This will be done only when median household income data for the same year for all Bureau of the Census areas is available from the Bureau of the Census or other reliable sources. Bureau of the Census areas would include areas such as: Counties, County Subdivisions, Cities, Towns, Townships, Boroughs, and other places.

* * * * *

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

5. Section 1942.358 is amended by revising paragraph (e) to read as follows:

§ 1942.358 Use of grant funds.

* * * * *

(e) To use FmHA grant funds on projects where other types of financial assistance are available on all or part of the projects, provided the other assistance is on reasonable rates and terms. In such cases the maximum percentages allowed under other agencies' authorities will apply to their participation in the project. However, the FmHA grant may not exceed applicable percentages in § 1942.360(b) of this subpart of the eligible project development cost. The need for FmHA grant funds must meet the requirements of § 1942.363 of this subpart after considering all project financing.

* * * * *

6. Section 1942.360 is amended by removing paragraph (a)(11); redesignating paragraphs (a)(12), (a)(13), and (a)(14) as (a)(11), (a)(12), and (a)(13) respectively; and by revising newly redesignated paragraph (a)(13) and paragraph (b) to read as follows:

§ 1942.360 Grant limitations.

(a) * * *

(13) Pay any costs of a project when the median household income of the

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service area is above the poverty line and more than 100 percent of the nonmetropolitan median household income of the State. The poverty line will be that income for a family of four as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(b) An FmHA development grant may not be made in excess of the following percentages (*whichever is higher*) of the eligible project development costs. Facilities previously installed will not be considered in determining the development costs.

(1) Seventy-five percent (75%) when the median household income of the service area is below the poverty line or below 80 percent (whichever is higher) of the Statewide nonmetropolitan median household income.

(2) Fifty-five percent (55%) when the median household income of the service area exceeds the seventy-five percent requirements described in paragraph (b)(1) of this section but is not more than 100 percent of the Statewide nonmetropolitan median household income.

7. In § 1942.383, paragraph (b)(3) is added, and paragraphs (c)(1), (c)(2) and (d) are revised to read as follows:

§ 1942.383 Determining the need for development grants.

* * * * *

(b) * * *

(3) *User rate.* The initial user rate after the grant is made should produce enough revenue to provide for all costs of the facility. The planned revenue should be sufficient to provide for all debt service, reserve, operation and maintenance and if appropriate, additional revenue for facility replacement of short lived assets without building a substantial surplus. Ordinarily, the total reserve will be equal to one average annual loan installment which will accumulate at the rate of one-tenth of the total each year.

(c) * * *

(1) Grants may not exceed the percentages in § 1942.380(b) of this subpart of the eligible project development costs listed in § 1942.358 of this subpart.

(2) Applicants will be considered for grant assistance when the debt service portion of the average annual user cost, for users in the applicant's service area, exceeds the following percentages of median household income:

(i) *.5 percent* when the median household income of the service area is below the poverty line or below 80 percent (whichever is higher) of the Statewide nonmetropolitan median household income.

(ii) *1.0 percent* when the median household income of the service area exceeds the .5 percent requirement but is not more than 100 percent of the Statewide nonmetropolitan median household income.

* * * * *

(d) The income data used to determine median household income should be that which most accurately reflects the income of the service area. The service area is that area reasonably expected to be served by the facility being financed by FmHA. The median household income of the service area, communities described in paragraph (b)(2) of this section, communities used in Part II C of Form FmHA 1942–51, and the nonmetropolitan median household income for the State will be determined from income data from the most recent decennial census of the U.S. If there is reason to believe that the census data is not an accurate representation of the median household income within the area to be served, the reasons will be documented on Form FmHA 1942–51 and the applicant may furnish, or FmHA may obtain, additional information regarding such median household income. Information will consist of reliable data from local, regional, State or Federal sources or from a survey conducted by a reliable impartial source. The nonmetropolitan median household income of the State may only be updated on a national basis by the FmHA National Office. This will be done only when median household income data for the same year for all Bureau of the Census areas is available from the Bureau of the Census or other reliable sources. Bureau of the Census areas would include areas such as: Counties, County Subdivisions, Cities, Towns, Townships, Boroughs, and other places.

* * * * *

8. Section 1942.381 is added to read as follows:

§ 1942.381 Audits.

Audits will be handled in accordance with § 1942.17(q)(4) of Subpart A of Part 1942 of this chapter.

9. New Subpart J is added to Part 1942 to read as follows:

PART 1942—ASSOCIATIONS

Subpart J—Technical Assistance and Training Grants

Sec.

1942.451 General.
1942.452 [Reserved].
1942.453 Objectives.
1942.454 Definitions.
1942.455 Source of funds.
1942.456 [Reserved].
1942.457 Eligibility.
1942.458 Purpose.
1942.459 [Reserved].
1942.460 Limitations.
1942.461 Equal opportunity requirements.
1942.462 Environmental requirements.
1942.463 Preapplications.
1942.464 Priority.
1942.465 [Reserved].
1942.466 Application processing.
1942.467 [Reserved].
1942.468 Grant approval and obligation of funds.
1942.469 Fidelity bond.
1942.470–1942.471 [Reserved].
1942.472 Fund disbursement.
1942.473 Grant cancellation or major changes.
1942.474 Reporting.
1942.475 Audit.
1942.476 Grant Agreement.
1942.477 Grant servicing.
1942.478 Delegation of authority.
1942.479—1942.499 [Reserved].
1942.500 OMB control number.
Exhibit A—Grant Agreement—Technical Assistance and Training

Subpart J—Technical Assistance and Training Grants

§ 1942.451 General.

This subpart sets forth the policies and procedures for making technical assistance and training grants authorized under section 306 (a)(16)(A) of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1926(a)), as amended.

§ 1942.452 [Reserved]

§ 1942.453 Objectives.

The objectives of the Technical Assistance and Training Grant Program are to:

(a) Identify and evaluate solutions to water and waste disposal problems in rural areas.

(b) Assist applicants in preparing applications for water and waste disposal grants made in accordance with Subpart H of Part 1942 of this chapter.

(c) Improve operation and maintenance of existing water and waste disposal facilities in rural areas.

§ 1942.454 Definitions.

(a) Association. An entity, including a small city or town, that is eligible for Farmers Home Administration (FmHA) water and waste disposal financial assistance in accordance with § 1942.17(b) of Subpart A and § 1942.355(a) of Subpart H of Part 1942 of this chapter.

(b) Grantee. An entity with whom FmHA has entered into a grant agreement under this program.

(c) Low Income. Median household income below the poverty line for a family of four as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), or below 80 percent of the Statewide nonmetropolitan median household income.

(d) Rural area. For water and waste disposal facilities the terms "rural" or "rural area" will not include any area in a city or town with a population in excess of 10,000 inhabitants according to the latest decennial census of the United States.

(e) State. Any of the fifty States, the Commonwealth of Puerto Rico, the Western Pacific Territories, Marshall Islands, Federated States of Micronesia, Republic of Palau, and the U.S. Virgin Islands.

§ 1942.455 Source of funds.

All grants awarded will be made from not less than one (1) percent or, at the discretion of the FmHA Administrator, not more than two (2) percent of any appropriations for grants under section 306(a)(2) of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1926(a)). Funds not obligated by September 1 of each fiscal year under this subpart will be used for water and waste disposal grants made in accordance with Subpart H of Part 1942 of this chapter.

§ 1942.456 [Reserved]

§ 1942.457 Eligibility.

Organizations eligible for grants are private nonprofit organizations that have been granted tax exempt status by the Internal Revenue Service of the United States. Applicants must have the proven ability, background, experience, legal authority and actual capacity to provide technical assistance and/or training to associations as provided in § 1942.453 of this subpart.

§ 1942.458 Purpose.

Technical Assistance and/or Training Grants may be used to:

(a) Identify and evaluate solutions to water problems of associations in rural areas relating to:

(1) Source.

(2) Storage.

(3) Treatment.

(4) Distribution.

(b) Identify and evaluate solutions to waste problems of associations in rural areas relating to:

(1) Collection.

(2) Treatment.

(3) Disposal.

(c) Assist associations that have filed a preapplication with FmHA in the preparation of water and/or waste disposal loan and/or grant applications.

(d) Provide training to association personnel that will improve the management, operation and maintenance of water and waste disposal facilities.

(e) To pay the expenses associated with providing the technical assistance and/or training authorized in paragraphs (a), (b), (c), and (d) of this section.

§ 1942.459 [Reserved]

§ 1942.460 Limitations.

Grant funds may not be used to:

(a) Recruit applications for FmHA's water and waste disposal loan and/or grant program or any loan and/or grant program.

(b) Duplicate current services, replacement or substitution of support previously provided such as those performed by an association's consultant in developing a project.

(c) Fund political activities.

(d) Pay for capital assets, the purchase of real estate or vehicles, improve and renovate office space, or repair and maintain privately-owned property.

(e) Pay for construction or operation and maintenance costs.

(f) Pay costs incurred prior to the effective date of grants made under this subpart.

§ 1942.461 Equal opportunity requirements.

The policies and regulations contained in Subpart E of Part 1901 of this chapter apply to grants made under this subpart.

§ 1942.462 Environmental requirements.

The policies and regulations contained in Subpart G of Part 1940 of this chapter apply to grants made for the purposes in § 1942.458 of this subpart.

§ 1942.463 Preapplications.

(a) Applicants will file an original and one copy of Form AD–621, "Preapplication for Federal Assistance," with the appropriate FmHA office between October 1 and December 31 each fiscal year. This form is available in all FmHA offices. Applicants proposing to provide technical assistance and/or training in only one State will apply through the appropriate FmHA State Office. The FmHA State Office will forward preapplications, with any written comments, within seven working days to the National Office, Attention: Water and Waste Disposal Division. Applicants providing technical assistance and/or training in more than one State will forward the preapplication to the Administrator, Farmers Home Administration, Washington, DC 20250.

(b) All preapplications shall be accompanied by:

(1) Evidence of applicant's legal existence and authority.

(2) Evidence tax exempt status from the Internal Revenue Service.

(3) Brief written narrative which includes items such as:

(i) The proposed service(s) to be provided, including the benefits of the technical assistance and/or training.

(ii) Area to be served.

(iii) Name of association(s) or type of association(s) that will be served.

(iv) Median household income of the population to be served by each association(s).

(v) Grantee's experience, including experience of key staff members and person(s) providing the technical assistance and/or training.

(vi) The number of months duration of the project or service and the estimated time it will take from grant approval to beginning of service.

(vii) Method used to select the association(s) that will receive the service.

(viii) Brief description of how the service will be provided. Such as through currently employed personnel or some other method.

(ix) Method to be used for delivery of the service, including personnel to be utilized and tasks to be contracted, if any.

(4) Latest financial information to show the organization's financial capacity to carry out the proposed work. As a minimum, the information should include a balance sheet and

(5) Estimated breakdown of costs including that to be funded by grantee as well as other sources.

(6) Budget and accounting system in place or proposed.

(7) Evaluation method to determine if objective(s) of the proposed activity is being accomplished.

(c) Upon receipt of a preapplication, the FmHA National Office will:

(1) Review and evaluate the preapplication and accompanying documents; and

(2) Request from the Office of General Counsel (OGC), a legal determination of applicant's legal existence and authority to provide technical assistance and/or training. The legal opinion will be obtained from the Regional Attorney serving the area where the applicant's headquarters is located; and

(3) Normally, respond to the applicant within 45 days after December 31 of each year using Form AD–622, "Notice

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of Preapplication Review Action" indicating the action taken on the preapplication.

(d) Applicants whose preapplications are found to be ineligible will be given notice by use of Form AD–622 and advised of their appeal rights under Subpart B of Part 1900 of this chapter.

(e) Applicants who are eligible, but do not have the priority necessary for further consideration will be notified with Form FmHA AD–622 which includes the following statements:

"Your proposal cannot be funded within the available funds."

"You are advised against incurring obligations which cannot be fulfilled without FmHA funds."

(f) Applicants that are eligible for funding within the available funds will be provided forms and instructions for filing a complete application. Applicants should be advised against incurring obligations which cannot be fulfilled without FmHA funds.

§ 1942.464 Priority.

The preapplication and supporting information will be used to determine the applicant's priority for available funds. The following specific criteria will be considered in the competitive selection of grant recipients:

(a) Applicant's demonstrated capability and past performance in providing technical assistance and/or training to rural associations.

(b) The extent to which the population of the associations served have low income.

(c) Applicant's financial and if applicable, in-kind resources that will maximize use of technical assistance and/or training funds for direct staffing of activities that are delivered to the associations.

(d) The extent to which the project will be cost effective, including but not limited to; the ratio of proposed personnel to the cost of the project, the cost per associations served by the project, and the expected benefits from the project.

(e) How well the proposal coincides with the objectives of FmHA's Water and Waste Disposal program authorized in Subparts A and H of Part 1942 of this chapter.

(f) Applicants proposing to serve multi-state, regional, or nationwide areas.

(g) Applicants whose time frame for completion of the technical assistance and/or training grant project is twelve months or less.

§ 1942.465 [Reserved]

§ 1942.466 Application processing.

(a) Upon notification on Form AD–622 that the applicant is eligible for funding, the following will be submitted to the FmHA National Office by the applicant.

(1) Form AD–623, "Application for Federal Assistance (Nonconstruction Programs)."

(2) Proposed scope of work detailing the training and/or technical assistance to be accomplished and time frames for completion of each task.

(3) Proposed budget.

(4) Other requested information needed by FmHA to make a grant award determination.

(b) The following forms and documents will be part of the grant docket:

(1) Form FmHA 400–1, "Equal Opportunity Agreement."

(2) Form FmHA 400–4, "Assurance Agreement."

(3) Grant Agreement signed by the applicant.

(4) Scope of work prepared by the applicant.

(5) Form FmHA 1940–1, "Request for Obligation of Funds."

(c) If the applicant fails to submit the application and related material by the date shown on Form AD–622 (normally 30 days from the date of Form AD–622), FmHA may discontinue consideration of the application.

§ 1942.467 [Reserved]

§ 1942.468 Grant approval and obligation of funds.

(a) FmHA National Office will review the application and other documents to determine whether the proposal complies with these regulations.

(b) All grants made under these regulations will be approved and obligated by the FmHA Administrator, or designee.

(c) The obligation of funds will be handled in accordance with § 1942.5(d) of Subpart A of Part 1942 of this chapter.

(d) An executed copy of the Grant Agreement and scope of work will be sent to the applicant on the obligation date, along with a copy of Form FmHA 1940–1. FmHA will retain the executed original of the Grant Agreement. The grant will be considered closed on the obligation date.

(e) If the grant is not approved, the applicant will be notified in writing of the reason(s) for rejection. The notification to the applicant will state that a review of this decision by FmHA may be requested by the applicant under Subpart B of Part 1900 of this chapter.

§ 1942.469 Fidelity bond.

Prior to the advancing of funds, the grantee will provide fidelity bond coverage for the positions of persons entrusted with the receipt and disbursement of its funds and the custody of valuable property. The amount of the bond will be at least equal to the maximum amount of monies that the grantee will have on hand at any one time for technical assistance and/or training provided in accordance with the Grant Agreement. Unless prohibited by State law, the United States, acting through the Farmers Home Administration, will be named as co-obligee in the bond. The bond must be obtained from a company listed in Department of Treasury Circular 570, as amended. Form FmHA 440–24, "Position Fidelity Schedule Bond," may be used. A certified power-of-attorney with effective date will be attached to the bond.

§§ 1942.470—1942.471 [Reserved]

§ 1942.472 Fund disbursement.

Grantees will be reimbursed as follows:

(a) Standard Form (SF) 270, "Request for Advance or Reimbursement?" will be completed by the applicant and submitted to FmHA National Office not more frequently than monthly.

(b) Upon receipt of a properly completed SF–270, the funds will be requested through the field office terminal system. Ordinarily, payment will be made within 30 days after receipt of a proper request for reimbursement.

(c) Grantees are encouraged to use minority banks (a bank which is owned by at least 50 percent minority group members) for the deposit and disbursement of funds. A list of minority owned banks can be obtained from the Office of Minority Business Enterprise, Department of Commerce, Washington, DC 20230.

§ 1942.473 Grant cancellation or major changes.

If it is determined that a project will not be funded or if major changes in the scope of the project are made after release of the approval announcement, the Administrator will notify the Director of Legislative Affairs and Public Information Staff (LAPIS) giving the reasons for such action. In the case of a grant cancellation, Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation," will not be submitted to the Finance Office until five working days after notifying the Director of LAPIS and grant obligation cancellations will not be submitted to the National Office until 5 work days after notifying the Director of LAPIS.

§ 1942.474 Reporting.

Standard Form (SF) 269, "Financial Status Report," SF 272, "Federal Cash Transactions Report," and a project performance activity report will be required of all Grantees on a quarterly basis. A final project performance report will be required with the last SF–269. The final report may serve as the last quarterly report. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. All multi-state, regional, and nationwide Grantees are to submit an original of each report to the FmHA National Office. Grantees serving only one State are to submit an original of each report to the FmHA State Director. The FmHA State Director will review and forward to the FmHA National Office the report with comments. The project performance reports shall include, but not be limited to, the following:

(a) A comparison of actual accomplishments to the objectives established for that period;

(b) Reasons why established objectives were not met;

(c) Problems, delays, or adverse conditions which will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(d) Objectives and timetable established for the next reporting period.

§ 1942.475 Audit.

The Grantee will provide an audit report prepared in accordance with OMB Circular A–110, Attachment F (available at any FmHA state or district office), within 90 days after project completion.

§ 1942.476 Grant agreement.

Exhibit A of this subpart is a Grant Agreement which sets forth the procedures for making and servicing grants made under this subpart.

§ 1942.477 Grant servicing.

Grants will be serviced in accordance with the grant agreement and Subpart E of Part 1951 of this chapter. Subpart B of Part 1900 of this chapter will be followed when grants are terminated for cause.

§ 1942.478 Delegation of authority.

The authority under this subpart is redelegated to the Assistant Administrator, Community and Business Programs, except for the discretionary authority contained in § 1942.455 of this subpart. The Assistant Administrator Community and Business Programs may redelegate the authority in this section.

§§ 1942.479—1942.499 [Reserved]

§ 1942.500 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575–0123.

Exhibit A—Grant Agreement Technical Assistance and Training

This agreement is between _____

(name),

(address), (Grantee) and the United States of America acting through the Farmers Home Administration (Grantor or FmHA). Grantee has determined to undertake certain Technical Assistance and/or Training at an estimated cost of $_____ and has duly authorized such activity. Grantee shall finance $_____ of the costs through cash and in-kind contributions. The Grantor agrees to grant to Grantee a sum not to exceed $_____ subject to the terms and conditions established by the Grantor; provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant. In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 306(a)(16)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) for the purpose of defraying technical assistance and/or training costs as permitted by applicable Farmers Home Administration regulations:

Part A

Grantor and Grantee agree

1. This agreement shall be effective when executed by both parties.

2. The scope of work described by the applicant in Exhibit 1 shall be completed within _____ days from the date of this agreement.

3. Use of grant funds for travel which is determined as being necessary to the program for which the grant is established may be subject to the travel policies of the Grantee institution if they are uniformly applied regardless of the source of funds in determining the amounts and types of reimbursable travel expenses of Grantee staff and consultants. Where the Grantee institution does not have such specific policies uniformly applied, the Federal Travel Regulations shall apply in determining the amount charged to the grant.

The information collected through the grant agreement is required to obtain a Technical Assistance and/or Training grant and is used to determine that the grant funds are used for authorized program purposes.

Grantee may purchase furniture and office equipment only if specifically approved in the scope of work. Approval will be given only when Grantee demonstrates that purchase is necessary. Commercial purchase under these circumstances will be approved only after consideration of Federal supply sources.

(a) Expenses and Purchases Excluded:

(i) In no event shall the Grantee expend or request reimbursement from Federal-share funds for obligations entered into or for costs incurred or accrued prior to the effective date of this grant.

(ii) Funds budgeted under this grant may not be used for entertainment expenses or to fund political activities.

(iii) Funds budgeted under this grant may not be used to pay for capital assets, the purchase of real estate or vehicles, improve or renovate office space, or repair and maintain privately-owned property.

(iv) Recruit applications for FmHA's water and waste disposal loan and/or grant program.

(v) Duplicate current services, replacement, or substitution of support previously provided.

(b) Grant funds shall not be used to replace any financial support previously provided for or assured from any other source. The Grantee agrees that the general level of expenditure by the Grantee for the benefit of program area and/or program covered by this agreement shall be maintained and not reduced as a result of the Federal share funds received under this grant.

4. Grant funds will be disbursed by FmHA on a reimbursement basis not to exceed one advance every 30 days. The financial management system of the recipient organization shall provide for effective control over and accountability for all funds, property and other assets.

(a) As needed, but not more frequently than once every 30 days, an original and one copy of Standard Form (SF) 270, "Request for Advance or Reimbursement" may be submitted to FmHA.

(b) Grantee shall provide satisfactory evidence to FmHA that all officers of Grantee organization authorized to receive and/or disburse Federal funds are covered by such bonding and/or insurance requirements as are normally required by the Grantee.

(c) Where the Grantee shall have claimed credit for contributions-in-kind to the total cost of allowable expenses, the evaluation of such contributions-in-kind shall be subject to reevaluation by the Grantor at any time, and any deficiency so determined by the Grantor shall be compensated by supplemental contributions by the Grantee as a condition for further disbursements by the Grantor. Specific procedures for establishing the value of in-kind contributions from third parties established in OMB Circular A–110 will govern such an evaluation. Principles for determining cost are set forth in OMB Circular A–122 and will be used in cost evaluation.

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(d) If for any reason grant funds are invested, income earned on such investments shall be identified as interest income on grant funds and forwarded to the Finance Office, FmHA, St. Louis, Missouri.

5. The Grantee will submit Performance and Financial reports as indicated below:

(a) Quarterly, an original and one copy of SF 269, "Financial Status Report," SF 272, "Federal Cash Transactions Report," (due 15 working days after end of quarter) and a Project Performance report according to the schedule below:

Period and Date Due

(b) Final, an original and 1 copy of SF 269, and a Project Performance report according to the schedule below:

Due Date

Note: Final reports may serve as the last quarterly reports.

(c) The original and 1 copy of reports and forms are to be submitted to the Administrator, Farmers Home Administration, Washington, DC 20250.

6. The budget covered by this agreement is:

(a) Federal Contribution

$ _____

Grantee Contribution

—Cash _____

—In-kind _____

Total $ _____

(b) Budget.

Budget categories	Federal funds	Non-Federal share		Total
		Cash	In-kind	
Direct Charges:				
1. Personnel	$	$		$
2. Fringe benefits				
3. Travel				
4. Equipment				
5. Supplies				
6. Contractual				
7. Other				
Total direct charges	$			
Totals	$	$		$

(c) In accordance with OMB Circular A-122, compensation for employees will be considered reasonable to the extent that such compensation is consistent with that paid for similar work in order activities of the State or local government.

(d) In accordance with OMB Circular A-110, Attachment J, transfers among direct cost budget categories of more than 5 percent of the total budget must have prior written approval by the Administrator, Farmers Home Administration.

7. Grantee responsibility.

(a) The scope of work is described in the attached Exhibit 1. The Grantee accepts responsibility for providing technical assistance and/or establishing and implementing a training program as set forth in scope of work. The Grantee shall:

(i) Identify and evaluate solutions to water and waste disposal problems in rural areas.

(ii) Provide technical assistance and/or training to improve operation and maintenance of water and waste disposal facilities in rural areas.

(iii) Assist rural communities that have decided to submit an application for the FmHA Water and Waste Disposal grant program in preparing such application.

(iv) Provide continuing information to FmHA on the status of Grantee programs, projects, related activities, and problems.

(b) The Grantee shall inform the Grantor as soon as the following types of conditions become known:

(i) Problems, delays, or adverse conditions which materially affect the ability to attain program objectives, prevent the meeting of time schedules or goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated, and any Grantor assistance needed to resolve the situation.

(ii) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

Part B

Grantee Agrees

1. To comply with property management standards established by Attachment N of OMB Circular A-110 for expendable and nonexpendable personal property. "Personal property" means property of any kind except real property. It may be tangible—having physical existence—or intangible—having no physical existence, such as patents, inventions, and copyrights. "Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above. "Expendable personal property" refers to all tangible personal property other than nonexpendable property. When nonexpendable tangible property is acquired by a Grantee with project funds, title shall not be taken by the Federal Government but shall be vested in the Grantee subject to the following conditions:

(a) Right to transfer title. For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, FmHA may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(i) The property shall be appropriately identified in the grant or otherwise made known to the Grantee in writing.

(ii) FmHA shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If FmHA fails to issue disposition instructions within the 120 calendar day period, the Grantee shall apply the standards of Part B 1. (b) and (c) of this exhibit.

(iii) When FmHA exercises its right to take title, the personal property shall be subject to the provisions for federally owned nonexpendable property discussed in Part B 1. (b) and (c) of this exhibit.

(iv) When title is transferred either to the Federal Government or to a third party and the Grantee is instructed to ship the property elsewhere, the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(b) Use of other tangible nonexpendable property for which the Grantee has title.

(i) The Grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When it is no longer needed for the original project or program, the Grantee shall use the property in connection with its other Federally sponsored activities, in the following order of priority:

(*1*) Activities sponsored by FmHA.

(*2*) Activities sponsored by other Federal agencies.

(ii) Shared use. During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, the Grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to projects or programs sponsored by FmHA; second, preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by FmHA. User charges should be considered if appropriate.

(c) Disposition of other nonexpendable property. When the Grantee no longer needs the property as provided in Part B 1. (b) of this exhibit, the property may be used for other activities in accordance with the following standards:

(i) Nonexpendable property with a unit acquisition cost of less than $1,000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(ii) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The Grantee may retain the property for other use provided that compensation is made to FmHA or its successor. The amounts of compensation shall be computed by applying

the percentage of Federal participation in the cost of the original project or program to current fair market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

(iii) FmHA shall determine whether the property can be used to meet the agency's requirements. If no need exists within FmHA, the General Services Administration's Federal Property Management Regulations (FPMR) will be used by FmHA to determine whether a need for the property exists in other Federal agencies. FmHA shall issue instructions to the Grantee no later than 120 days after the Grantee request and the following procedures shall govern:

(*1*) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the property and reimburse FmHA an amount computed by applying to the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

(*2*) If the Grantee is instructed to dispose of the property other than as described in Part B 1. (b) and (c) of this exhibit, the Grantee shall be reimbursed by FmHA for such costs incurred in its disposition.

(*3*) Property management standards for nonexpendable property. The Grantee's property management standards for nonexpendable personal property shall include the following procedural requirements:

(*a*) Property records shall be maintained accurately and shall include:

(*i*) A description of the property.

(*ii*) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(*iii*) Sources of the property including grant or other agreement number.

(*iv*) Whether title vests in the Grantee or the Federal Government.

(*v*) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(*vi*) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(*vii*) Location, use and condition of the property and the date the information was reported.

(*viii*) Unit acquisition cost.

(*ix*) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a Grantee compensates the Federal agency for its share.

(*b*) Property owned by the Federal Government must be marked to indicate Federal ownership.

(*c*) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The Grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(*d*) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss; damage, or the theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the Grantee shall promptly notify FmHA.

(*e*) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(*f*) Where the Grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

(*g*) Expendable personal property shall vest in the Grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant and if the property is not needed for any other federally sponsored project or program, the Grantee shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

2. To provide Financial Management Systems which will include:

(a) Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

(b) Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used soley for authorized purposes.

(d) Accounting records supported by source documentation.

3. To retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee which are pertinent to the specific grant program for the purpose of making audit, examination, excerpts, and transcripts.

4. Provide an audit report prepared in accordance with OMB Circular A-110, Attachment F, within 90 days after project completion.

5. To account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes. See Part A4. (d) of this exhibit.

6. Not to encumber, transfer, or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in Part B1 of this exhibit.

7. To provide Grantor with such periodic reports as it may require of Grantee operations by designated representative of the Grantor.

8. To execute Form FmHA 400-1, "Equal Opportunity Agreement," Form FmHA 400-4, "Assurance Agreement," and to execute any other agreements required by Grantor to implement the civil rights requirements.

9. That, upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will to the extent legally permissible, repay to the Grantor forthwith the original principal amount of the grant stated herein above, with interest accruing thereon from the date of default at the market rate for water and waste disposal loan assistance in effect on the date hereof or at the time the default occurred. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by the Grantor, at its option and without regard to: (a) prior waivers by it of previous defaults of Grantee, (b) by judicial proceedings to require specific performance of the terms of this Grant Agreement, (c) by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and, (d) the laws and regulations under which this grant is made.

10. That no member of Congress shall be permitted any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar as a contractor under the Grant a private nonprofit organization whose membership might include a member of Congress.

11. That all nonconfidential information resulting from its activities shall be made available to the general public on an equal basis.

12. That the purpose and scope of work for which this grant is made shall not duplicate programs for which monies have been received, are committed, or are applied for from other sources, public and private.

13. That the Grantee shall relinquish any and all copyrights and/or privileges to the materials developed under this grant, such material being the sole property of the Federal Government. In the event anything developed under this grant is published in whole or in part, the material shall contain notice and be identified by language to the following effect: "The material is the result of tax-supported research and as such is not copyrightable. It may be freely reprinted with the customary crediting of the source."

14. That the Grantee shall abide by the policies promulgated in OMB Circular A-110, Attachment O, which provides standards for use by Grantees in establishing procedures

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for the procurement of supplies, equipment, and other services with Federal grant funds.

15. To the following termination provisions:

(a) Termination for cause. The Grantor agency may terminate any grant in whole, or in part, at any time before the date of completion, wherever it is determined that the Grantee has failed to comply with the conditions of the grant. The Grantor agency shall promptly notify the Grantee in writing of the determination and the reasons for the termination, together with the effective date. Grants can be terminated for cause such as: failure to use funds for authorized purposes, poor progress, untimely reports, no progress, and failure to properly account for expenditures or property.

(b) Termination for convenience. The Grantor agency or Grantee may terminate grants in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Grantor agency shall allow full credit to the Grantee for the Federal share of the noncancelable obligations, properly incurred by the Grantee prior to termination. Disposition of expendable and nonexpendable personal property will be in accordance with the standards of Part B 1. of this exhibit.

16. As a condition of this grant or Cooperative Agreement, the recipient assures and certifies that it is in compliance with and will comply in the course of the Agreement with all applicable laws, regulations, Executive Orders and other generally applicable requirements, including those set out in 7 CFR 3015.205 b, which hereby are incorporated in this Agreement by reference, and such statutory provisions as are specifically set forth herein.

Part C

Grantor Agrees

1. That it will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project.

2. That at its sole discretion, Grantor may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (a) advisable to further the purposes of the grant or to protect Grantor's financial interest therein, and (b) consistent with both the statutory purposes of the grant and the limitations of the statutory authority which it is made.

This agreement is subject to current Grantor regulations and any future regulations not inconsistent with the express terms hereof.

Grantee on _____ 19____, has caused this agreement to be executed by its duly authorized _____ and attested and its corporate seal affixed by its duly authorized _____.

Attest:
Grantee

By _____
(Title)

Grantor
United States of America
Farmers Home Administration
By _____

(Title)

Date: July 29, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87-25234 Filed 10-30-87; 8:45 am]

BILLING CODE 3410-07-M

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7 CFR Part 1955

Property Management; Processing of Internal Agency Management Forms

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its property management regulations. This action is taken to prescribe a new internal agency management form regarding the disposition of acquired property. The intended effect of this action is to incorporate the new form into existing agency regulations so that our field offices will know when to process necessary paperwork.

EFFECTIVE DATE: November 2, 1987.

FOR FURTHER INFORMATION CONTACT: Mike Hill, Senior Realty Specialist, Property Management Branch, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5309 South Agriculture Building, Washington, DC 20250, telephone (202) 382-1452.

SUPPLEMENTARY INFORMATION:

Classification

This final action has been reviewed under USDA procedures in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only matters relating to internal agency management making publication for comment unnecessary and impractical.

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Nos:

10.404—Emergency Loans
10.405—Farm Labor Housing Loans and Grants
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.410—Low Income Housing Loans
10.411—Rural Housing Site Loans
10.414—Resource Conservation and Development Loans
10.416—Soil and Water Loans
10.417—Very Low Income Housing Repair Loans and Grants
10.418—Water and Waste Disposal Systems for Rural Communities
10.419—Watershed Protection and Flood Prevention Loans
10.421—Indian Tribes and Tribal Corporation Loans
10.422—Business and Industrial Loans
10.423—Community Facility Loans

Intergovernmental Consultation

Catalog Nos. 10.405, 10.411, 10.414, 10.418, 10.419, 10.421, 10.422 and 10.423 are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. Catalog Nos. 10.404, 10.406, 10.407, 10.410, 10.416, 10.417 are excluded from Executive Order 12372.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Policy Act of 1949, Pub. L. 91-90, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1955

Government acquired property, Sale of government property, Surplus government property.

Therefore, Chapter XVII of Title 7, Code of Federal Regulations, is amended as follows:

PART 1955—PROPERTY MANAGEMENT

1. The authority citation for Part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

2. Section 1955.18(a) and the first sentence of paragraph (d) are revised to read as follows:

§ 1955.18 Actions required after acquisition of property.

(a) *Reporting acquisition.* When real or chattel property is acquired by the Government, the servicing official will prepare and distribute Form FmHA 1955-3, "Advice of Property Acquired," and Form FmHA 1955-3A, "Acquired Property-Maintenance," or Form FmHA 1965-19, "Multiple Family Housing Advice of Mortgaged Real Estate Acquired," according to the respective FMI immediately after a voluntary conveyance is closed, a foreclosure sale is completed, or property is acquired by any other means. The date of acquisition will be the date the deed to the Government is recorded for voluntary conveyance; the date of the foreclosure sale; or for chattels, the date the bill of sale (and title, if applicable) is executed transferring ownership to FmHA. Form FmHA 1955-3 and Form FmHA 1955-3A or Form 1965-19 will be submitted promptly without waiting for the final report on sale from OGC where required. A property identification number will be assigned in accordance with the respective FMI. For MFH loans, the State Director will forward a copy of Form FmHA 1965-19 to the National Office for monitoring purposes. For MFH projects with rental assistance, Form FmHA 1944-55, "Multiple Family Housing Transfer of Rental Assistance," must be attached to Form 1965-19 indicating the status of the rental assistance while the property is in inventory. The County Supervisor will report the acquisition of farm property to the local Agricultural Stabilization and Conservation Service (ASCS) by memorandum so that any allotments, marketing quotas or acreage bases established for the property will not lapse, terminate, be reduced or otherwise be adversely affected while the property is in inventory. The State Director will report any adverse affects on allotments, marketing quotas or acreage bases on any farm inventory property to the Administrator.

* * * * *

(d) * * * The Finance Office will establish an inventory account under the Property Identification Number assigned. * * *

* * * * *

Subpart B—Management of Property

3. In § 1955.63(a), the following sentence is added after the second sentence:

§ 1955.63 Suitability determination.

* * * * *

(a) * * * Form FmHA 1955-3A must be processed to update a change in the property suitability classification. * * *

* * * * *

4. In § 1955.63(c), the following sentence is added after the sixth sentence:

§ 1955.63 Suitability determination.

* * * * *

(c) * * * Form FmHA 1955-3A must be processed to update a change in the property suitability classification. * * *

* * * * *

Subpart C—Disposal of Inventory Property

5. In § 1955.114, the first two sentences of the introductory paragraph are revised to read as follows:

§ 1955.114 Sales steps for suitable property (housing).

After repairs, if any, are completed, suitable property will be offered for sale as outlined in this section and Form FmHA 1955-3A processed to incorporate the date the property is listed for sale. The appraisal should be updated and Form FmHA 1955-3A must be processed to update the appraisal date and market value to reflect repairs and improvements, if any, and Form FmHA 1955-40, for SFH property, or other appropriate notice for MFH property, will be prepared. * * *

* * * * *

6. In § 1955.115, the following sentence is added to the end of the introductory text:

§ 1955.115 Sales steps for unsuitable property (housing).

* * * Process Form FmHA 1955-3A to incorporate the date the property is listed for sale and/or update the appraisal date and market value.

* * * * *

Dated: October 20, 1987.

Eric P. Thor,

Acting Administrator, Farmers Home Administration.

[FR Doc. 87-25277 Filed 10-30-87; 8:45 am]

BILLING CODE 3410-07-M

Food Safety and Inspection Service

9 CFR Parts 312 and 381

[Docket Number 85-024F]

Official Marks for Sealing Samples

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal meat and poultry products inspection regulations to incorporate an official mark for use in sealing containers of samples of meat or poultry products or production-related articles collected by Agency officials for examination and/or testing at establishments or laboratories. Any seal approved by the Administrator for applying such mark shall be an official device. The seal helps assure that the identity and integrity of such samples will be maintained until completion of testing. The device shall be supplied by the United States Department of Agriculture.

EFFECTIVE DATE: December 2, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. W.S. Horne, Associate Deputy Administrator, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-5190.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291, and has been determined not to be a "major rule." The rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises or export markets. The final rule will not impact upon any segment of the industry.

Effect on Small Entities

The Administrator has determined that this action will not have a significant economic impact upon a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). This rule imposes no requirements on industry, and incorporates an official mark for sealing samples collected by FSIS inspectors,

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compliance officers, or other designated Agency officials for examination and/or testing at establishments or laboratories.

Background

To assure compliance with Agency regulations promulgated under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), FSIS inspectors, compliance officers, or other designated Agency officials are required to periodically collect samples of meat or poultry products (e.g., specimens or frankfurter samples) for inplant examination and testing and/or submission for laboratory testing. Samples of production-related articles, such as water, spices, and chemicals, are also collected.

Samples of products, water, dyes, chemicals, preservatives, spices, or other articles in an official establishment are taken as often as necessary for the efficient conduct of inspection (9 CFR 318.9 and 381.146). Furthermore, samples may be collected from any person, firm, or corporation that engages, for commerce, in the business of: (1) Slaughtering cattle, sheep, goats, horses, mules, or other equines or preparing, freezing, packaging, or labeling any carcasses or parts or products thereof; (2) buying, selling, or transporting in commerce, or storing in or for commerce, or importing such carcasses or parts or products thereof; and (3) buying, selling, or transporting, or importing any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules or other equines, or poultry or parts or products of the carcasses of any such animals that died otherwise than by slaughter (9 CFR 320.4). A similar provision exists in the poultry products inspection regulations (9 CFR 381.178). Normally, FSIS inspectors collect samples at official establishments and FSIS compliance officers collect samples at locations other than official establishments.

Examination and testing of meat and poultry samples are conducted to determine, for example, the protein, moisture, fat, and salt content, or levels of drug or chemical residues and added substances. If a non-compliant meat or poultry product is found at an establishment or other location, FSIS takes appropriate action against the product and/or person, firm, or corporation involved. This action may range from requiring that the product be detained and seized or retained, condemned or reprocessed to filing a criminal charge or a civil complaint in Federal court. Likewise, if any production-related article does not comply with existing standards and/or regulations, FSIS action is necessary to resolve the problem. In light of this, samples must be handled with great care to maintain their identity and integrity.

Proposed Rule

The use of sample seals helps to prevent tampering pending completion of examination and testing, and on December 19, 1986, the Administrator proposed to require that sample seals be used by FSIS inspectors and compliance officers (51 FR 45477). It was proposed that the official mark on sample seals would consist of the words "Sample Seal" accompanied by the official USDA logo. Any seal approved by the Administrator for applying such mark would be considered an official device, the unauthorized handling of which is prohibited under section 11 of the FMIA (21 U.S.C. 611) and section 9 of the Poultry Products Inspection Act (21 U.S.C. 458). Such a device would be supplied by the United States Department of Agriculture.

FSIS did not receive any comments in response to the proposed rule. Therefore, FSIS is adopting the proposed rule as published.

List of Subjects

9 CFR Part 312

Meat inspection, Official inspection marks, Devices.

9 CFR Part 381

Official inspection marks, Devices, Poultry products inspection.

Final Rule

For reasons set forth in the preamble, 9 CFR Parts 312 and 381 are amended as set forth below.

PART 312—OFFICIAL MARKS, DEVICES AND CERTIFICATES

1. The authority citation for Part 312 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Part 312 is amended by adding a new § 312.10 to read as follows:

§ 312.10 Official mark for maintaining the identity and integrity of samples.

The official mark for use in sealing containers of samples submitted under any requirements in this subchapter and section 202 of the Federal Meat Inspection Act shall bear the designation "Sample Seal" accompanied by the official USDA logo as shown below. Any seal approved by the Administrator for applying such mark shall be deemed an official device for purposes of the Act. Such device shall be supplied to inspectors, compliance officers, and other designated Agency officials by the United States Department of Agriculture.

SAMPLE SEAL

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for Part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended, 21 U.S.C. 451 *et seq.*; 76 Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

4. Part 381 is amended by adding a new § 381.112 to Subpart M to read as follows:

§ 381.112 Official mark for maintaining the identity and integrity of samples.

The official mark for use in sealing containers of samples submitted under any requirements in this Part and section 11(b) of the Poultry Products Inspection Act shall bear the designation "Sample Seal" accompanied by the official USDA logo as shown below. Any seal approved by the Administrator for applying such mark shall be deemed an official device for purposes of the Act. Such device shall be supplied to inspectors, compliance officers, and other designated Agency officials by the United States Department of Agriculture.

SAMPLE SEAL

Done at Washington, DC, on October 2, 1987.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 87-24900 Filed 10-30-87; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 35

[Docket No. 87-11]

Agricultural Loan Loss Amortization

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Temporary rule with request for comments.

SUMMARY: The Office of the Comptroller of the Currency ("Office") is issuing this temporary rule to implement Title VIII of the Competitive Equality Banking Act of 1987 which permits agricultural banks to amortize losses on qualified agricultural loans. The regulation describes the procedures and standards applicable to banks desiring to amortize losses under that statute. It also describes the manner in which such amortizations are to be done. Although the temporary rule is effective November 9, 1987, the Office is requesting comments from the public prior to adopting a final regulation.

DATES: The temporary regulation is effective November 9, 1987. Comments must be received on or before January 4, 1988.

ADDRESSES: Comments should be sent to Docket No. 87-11, Communications Division, 5th Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, DC 20219. Attention: Lynnette Carter. Comments will be available for inspection and photocopying at the same address.

Pursuant to the Paperwork Reduction Act of 1980, the collection of information requirements in the regulation has been submitted to the Office of Management and Budget ("OMB"). Comments specifically addressing those requirements should be directed to the Comptroller's Office at the above address and should also be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for Comptroller of the Currency.

FOR FURTHER INFORMATION CONTACT: James F.E. Gillespie, Jr., Senior Attorney, Legal Advisory Services Division, (202) 447-1880; Jon A. Nagy, National Bank Examiner, Commercial Activities Division, (202) 447-1164; or Lance Cantor, Analyst, Special Supervision (202) 447-1719.

SUPPLEMENTARY INFORMATION: Title VIII of the Competitive Equality Banking Act of 1987 (the "Statute") permits agricultural banks to amortize (1) losses on qualified agricultural loans and (2) losses suffered as the result of an appraisal of other related assets, incurred between December 31, 1983, and January 1, 1992. The Statute also requires that the federal banking agencies issue implementing regulations no later than 90 days after its enactment, *i.e.*, by November 9, 1987. The regulation is intended to comply with this Statute. The other federal banking agencies (the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation) are adopting substantially identical regulations, containing only technical variations necessary to accommodate their slightly different situations.

Definitions

The regulation adopts a definition of "agricultural bank" that is essentially the same as the language of the Statute. Included in the Statute's definition of an agricultural bank is a bank which does not meet the agricultural loan volume test (agricultural loans are 25% or more of total loans) but has been recommended to the Federal Deposit Insurance Corporation for eligibility by the bank's federal or state regulator. Losses to be deferred may be included in determining whether a bank meets the agricultural loan volume test. Because of the regulation's flexibility in defining agricultural loans (see discussion below), it is anticipated that such recommendations rarely will be necessary.

The definition of "qualified agricultural loans" incorporates the definitions of "loans to finance agricultural production and other loans to farmers" and "loans secured by farm land" contained in Schedule RC-C of the Federal Financial Institutions Examination Council ("FFIEC") Consolidated Reports of Condition and Income ("call reports"). The call reports definitions are virtually identical to those contained in the Statute, but provide the additional benefits of being more comprehensive and of permitting the agencies to use the call report as the predominant monitoring device for the amortization program. Additionally, as suggested by the Statute, the Office has retained discretion to deem other types of loans and leases to be "qualified" if the requesting bank demonstrates those loans or leases to be sufficiently related to agriculture.

While the Statute uses the phrase "area * * * dependent on agriculture," the Office has not attempted to describe an agricultural area. Adopting a list of acceptable counties or geographic regions might leave the erroneous impression that a bank located outside such an arbitrary area could not qualify even though it might otherwise qualify as an "agricultural bank." Further, the definition of "agricultural bank" itself limits eligible banks to a size ($100,000,000 in assets) that would normally exclude banks not dealing substantially in agricultural credit. Thus, each application should include a description of the bank's location, dominant lines of commerce in its service area, and any other information the bank believes will support the contention that it is located in an agricultural area.

Loss Amortization

The purpose of the Statute is best accomplished by permitting eligible banks to amortize losses on qualified agricultural loans and other related assets by reporting the amount of such deferred losses in new items in the asset and equity capital sections of the balance sheet of their Reports of Condition. This approach will provide for the disclosure of deferred losses, will not distort reported income and will facilitate monitoring of the bank's compliance with the loss deferral program through regular, quarterly call reports. Moreover, the full unamortized balance of the deferred losses will be included in primary capital for all regulatory and supervisory purposes by the three Federal banking agencies.

The section on loss amortization and reappraisal addresses two issues: (1) Which losses are subject to amortization, and (2) how they may be amortized. On the first issue, the regulation reflects Congress' clear intent that losses resulting from fraud or

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criminal abuse on the part of the bank, its officers, directors, or principal shareholders not be eligible for amortization. Accordingly, where a bank has been found eligible to participate in the loss amortization program, even though an insignificant amount of its losses on agricultural loans arose from insider fraud or criminal abuse, those fraudulent losses will not be eligible for amortization. Additionally, it should be noted that the Statute requires there be "no evidence of" fraud or criminal abuse. Accordingly, under the temporary rule, it is not necessary that the existence or absence of such fraud or criminal abuse be conclusively established to disqualify a loan or, as discussed below, a bank.

To be eligible for amortization under the regulation, a loss on a qualified agricultural loan must have been reflected in the bank's financial statements for the years 1984 through 1991. Similarly, charge-offs that result from an appraisal or sale of real or personal property acquired in connection with a qualified agricultural loan may be amortized if the property is owned by the bank on the effective date of the regulation or is acquired before January 1, 1992.

With respect to the manner of amortization, the Statute provides that the loss shall be amortized over a period not to exceed seven years as provided in regulations issued by the federal banking agencies. The regulation provides that amortization shall occur on a quarterly straight-line basis.

The regulation permits qualified losses to be amortized over a period not to exceed seven years beginning in the quarter following the date of loss. Losses sustained in years prior to the effective date of the regulation will be treated as if amortized over seven years beginning in the quarter following the date of loss. Thus, a bank could take only the amortizations that remain for such a loss after it enters the program. For example, if a bank began to participate in the program in the last quarter of 1987 and had a loss sustained in the fourth quarter of 1985, that loss would be amortized over a seven-year period beginning in 1986. Therefore, ⅘ths of the 1985 loss would remain to be amortized as of December 31, 1987.

Accounting for Amortization

The regulation directs that in accounting for loss amortization, a bank should restate its capital and other relevant accounts in accordance with the FFIEC instructions for the call reports. Those instructions will continue to require the reporting of actual loan losses and recoveries through the Allowance for Loan and Lease Losses, but will then permit losses eligible for deferral to be reinstated in new items in the asset and equity sections of the balance sheet on the Report of Condition. Additionally, the regulation provides that any resulting increase in the capital account shall be treated as primary capital for purposes of determining the bank's solvency and its compliance with various federal statutes and regulations such as 12 U.S.C. 84, 371c, 375b and 12 CFR Parts 3 and 32, among others.

Eligibility

Under the regulation, any bank desiring to participate in the program will be required to submit to the Office a proposal establishing both its eligibility and the eligibility of the losses it proposes to amortize. In order to be eligible, the proposing bank must be an "agricultural bank" as defined in the regulation.

Further, the proposing bank's current capital must be in need of restoration, but the bank must also be an economically viable, fundamentally sound institution. Therefore, a bank with capital below levels established by 12 CFR Part 3 or that is subject to an enforcement action related to capital levels can be eligible. The Office's acceptance of a bank for loss amortization with an adequate capital plan will normally relieve the bank of any inconsistent provisions dealing with capital in any extant agency order, agreement, or directive.

The legislative history of the Statute indicates that Congress intended only banks with capital in need of restoration to be permitted to amortize losses. Banks that have experienced capital declines, but that retain an acceptable amount of capital have no need to amortize or defer their recognition of losses. Congress clearly was aware of this fact in that it required as an essential condition of eligibility the submission of a plan to restore capital to a level acceptable to the Office.

In order to be approved, the capital plan must be based upon realistic projections as to earnings and other material factors that accurately reflect conditions in the bank's market area. Further, it should address dividend levels, compensation to directors, executive officers and individuals who have a controlling interest and their related interests, and payments for services or products furnished by affiliated companies.

Viability is not defined in the regulation. It is a judgment based on many variables. One measure of viability would be whether a bank has traditional funding and earnings sources of acceptable quality within its market area sufficient to permit the bank to earn a reasonable profit in a normal market environment while achieving and maintaining a capital level that provides the capacity to operate throughout the normal downturns in economic cycles without suffering severe financial problems. Usually, a bank will be considered viable if it has a reasonable prospect of remaining a going concern throughout the program and at the end of the amortization period.

Congress intended that only banks with reasonable prospects for survival should be permitted to amortize losses; the legislative history indicates that the Statute was intended to permit "fundamentally sound banks to weather this storm." Cong. Rec. (Daily ed.) S3941 (March 26, 1987). To permit non-viable institutions to amortize losses would merely increase the loss exposure of the Federal Deposit Insurance Corporation with no countervailing public benefit.

The regulation does not prescribe any absolute level of capital to be achieved. 12 CFR Part 3 already establishes minimum capital standards for well run banks in satisfactory financial condition. Each bank's individual circumstances will be evaluated during the review of the requisite capital plan. This approach parallels the current practices under the agencies' existing capital forbearance programs.

An additional criterion for eligibility is that there be no evidence that fraud or criminal abuse by the bank or its officers, directors or principal shareholders led to significant losses on qualified agricultural loans. Literally read, the Statute would seem to disqualify any bank in which there was evidence that losses resulted from fraud or criminal abuse, no matter how small in amount the losses were. Certainly, where insider fraud results in significant agricultural loan losses, the bank should be disqualified. Congress intended the Statute to "provide assistance for agricultural banks, who through no fault of their own, are being squeezed by the ongoing agricultural crisis * * *" *Id.* However, a reasonable interpretation of the Statute, adopted in the regulation, would disqualify only banks where significant fraud losses occurred.

Conditions on Acceptances

The regulation specifies that any acceptance of a proposal will be subject to certain conditions. These conditions are designed to ensure that a bank continues to meet the eligibility requirements and is properly amortizing

losses under the program. First, the bank must fully adhere to the approved capital plan or obtain the prior approval of any modifications to the plan. Second, the bank must maintain accounting records adequate to document the amount and timing of deferrals, recoveries and amortizations for each loss subject to deferral under the program. Third, the bank must remain a viable, fundamentally sound institution. Fourth, the bank must agree to make a reasonable effort, consistent with safe and sound banking practices, to maintain in its loan portfolio a percentage of agricultural loans not lower than the percentage of such loans in its loan portfolio on January 1, 1986. Fifth, a participating bank must provide the Office, upon request, any information necessary to monitor the bank's amortization or its compliance with conditions, or its continued eligibility under the program. The failure of a bank to comply with any condition is grounds for revocation of an acceptance and termination of eligibility to participate in the loss deferral program. Finally, a violation of a condition may result in an administrative action against the bank under 12 U.S.C. 1818(b) because such conditions are imposed in connection with the granting of a request.

Submission of Proposals

Finally, the regulation lists the content of proposals to be submitted by banks desiring to participate in loss amortization. In addition to the items previously discussed, the proposal shall include a copy of a resolution by the bank's Board of Directors authorizing submission of the Proposal.

This is to ensure that the Board of Directors has been fully informed.

Reason for Adoption Without Prior Notice and Comment

Immediate adoption of this rule is required to comply with the statutory mandate that the Federal banking agencies issue regulations implementing the Statute within 90 days of its enactment. Additionally, the loss amortization program confers benefits upon eligible banks. For these reasons, the Office finds that application of the notice and comment procedure of 5 U.S.C. 553 to this action would be contrary to the Public interest and that good cause exists for making this action effective immediately. Nevertheless, the Office believes that comment on alternative proposals may be beneficial and could result in a better final regulation. Therefore, the Office also requests post-promulgation comment on preferable alternatives for implementing the Statute.

Regulatory Impact Analysis

Pursuant to section 3(g)(1) of Executive Order 12291 of February 17, 1981, it has been determined that the regulation does not constitute a "major rule" within the meaning of the executive order. Consequently, no regulatory impact analysis is necessary.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that the regulation, if adopted, would not have significant impact on a substantial number of small entities.

Paperwork Reduction Act

The collection of information requirements contained in this temporary rule have been submitted to the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act. (OMB Control No.1557–0186.)

List of Subjects in 12 CFR Part 35

National banks, Banking, Loans, Agriculture, Loss, Amortization.

For the reasons set forth in the preamble, Part 35 of Chapter I, Title 12 of the Code of Federal Regulations is added as follows:

PART 35—AGRICULTURAL LOAN LOSS AMORTIZATIONS

Sec.

35.1 Authority and OMB control number.
35.2 Definitions.
35.3 Loss amortization and reappraisal.
35.4 Accounting for amortization.
35.5 Eligibility.
35.6 Conditions on acceptance.
35.7 Submission of proposals.
35.8 Revocation of eligibility.

Authority: 12 U.S.C. 1823(j) and 12 U.S.C. 93a.

§ 35.1 Authority and OMB control number.

(a) *Authority.* This part is issued by the Office of the Comptroller of the Currency ("Office") pursuant to 12 U.S.C. 1823(j) and 12 U.S.C. 93a.

(b) *OMB control number.* The collection of information requirements contained in this regulation were approved by the Office of Management and Budget under control number 1557–0180.

§ 35.2 Definitions.

For purposes of this part:

(a) "Agricultural Bank" means a bank—

(1) The deposits of which are insured by the Federal Deposit Insurance Corporation;

(2) Which is located in an area of the country the economy of which is dependent on agriculture;

(3) Which has total assets of $100,000,000 or less as of the most recent Report of Condition; and

(4) Which has—

(i) At least 25 percent of its total loans in qualified agricultural loans; or

(ii) Less than 25 percent of its total loans in qualified agricultural loans, but which bank the Office has recommended to the Federal Deposit Insurance Corporation for eligibility under this part.

(b) "Qualified Agricultural Loans" means—

(1) Loans qualifying as "loans to finance agricultural production and other loans to farmers" or as "loans secured by farm land" for purposes of Schedule RC–C of the FFIEC Consolidated Reports of Condition and Income or such other comparable schedule that may be in effect;

(2) Other loans or leases that a bank proves to be sufficiently related to agriculture for classification as an agricultural loan by the Office; and

(3) The remaining unpaid balance of any loans, as described in paragraphs (b) (1) and (2) of this section, that have been charged off since January 1, 1984, and that qualify for deferral under this regulation.

(c) "Accepting Official" means the head of the appropriate supervisory office designated by the Office for the applicant bank.

§ 35.3 Loss amortization and reappraisal.

(a) Provided that there is no evidence that the loss resulted from fraud or criminal abuse on the part of the bank, its officers, directors, or principal shareholders, a bank that has been accepted under this part may, in the manner described below, amortize on its Reports of Condition and Income:

(1) Any loss on any qualified agricultural loan reflected in a bank's annual financial statements for any year between and including 1984 and 1991; and

(2) Any loss reflected in a bank's financial statements resulting from a reappraisal or sale of currently owned property, real or personal, that it acquired in connection with a qualified agricultural loan and any such additional property that it acquires prior to January 1, 1992.

(b) Amortization under this section shall be computed over a period not to exceed seven years on a quarterly

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straight-line basis commencing in the first quarter after the loss was or is charged-off so as to be fully amortized not later than December 31, 1998.

§ 35.4 Accounting for amortization.

Any bank which is permitted to amortize losses in accordance with § 35.3, above, may restate its capital and other relevant accounts and account for future authorized deferrals and amortizations in accordance with the instructions to the FFIEC Consolidated Reports of Condition and Income. Any resulting increase in the capital account shall be included in primary capital under § 3.100 of this chapter.

§ 35.5 Eligibility.

A proposal submitted in accord with § 35.7 of this part shall be accepted, subject to the conditions described in § 35.6 of this part, if the Accepting Official finds that:

(a) The proposing bank is an agricultural bank;

(b) The proposing bank's current capital is in need of restoration, but the bank remains an economically viable, fundamentally sound institution;

(c) There is no evidence that fraud or criminal abuse by the bank or its officers, directors or principal shareholders led to significant losses on qualified agricultural loans and related assets; and

(d) The proposing bank has submitted a capital plan approved by the Office or the Accepting Official that will restore its capital to an acceptable level.

§ 35.6 Conditions on acceptance.

All acceptances of proposals shall be subject to the following conditions:

(a) The bank shall fully adhere to the approved capital plan and shall obtain the prior approval of the Accepting Official for any modifications to the plan;

(b) With respect to each asset subject to loss deferral under the program, the bank shall maintain accounting records adequate to document the amount and timing of the deferrals, repayments and amortizations;

(c) The financial condition of the bank shall not deteriorate to the point where it is no longer a viable, fundamentally sound institution;

(d) The bank agrees to make a reasonable effort, consistent with safe and sound banking practices, to maintain in its loan portfolio a percentage of agricultural loans not lower than the percentage of such loans in its loan portfolio on January 1, 1986; and

(e) The bank agrees to provide the Accepting Official, upon request, with such information as the Accepting Official deems necessary to monitor the bank's amortization, its compliance with conditions, and its continued eligibility.

§ 35.7 Submission of proposals.

(a) A bank wishing to amortize losses on qualified agricultural loans or other related assets shall submit a proposal to the appropriate Accepting Official.

(b) The proposal shall contain the following information:

(1) Name and address of the bank;

(2) Information establishing that the bank is located in an area the economy of which is dependent on agriculture; such as a description of the bank's location, dominant lines of commerce in its service area, and any other information the bank believes will support the contention that it is located in such area;

(3) A copy of the bank's most recent Reports of Condition and Income;

(4) If the Reports of Condition and Income fail to show that at least 25 percent of the bank's total loans are qualified agricultural loans, the basis upon which the bank believes that it should be declared eligible to amortize losses;

(5) A capital plan demonstrating that the bank will achieve an acceptable capital level not later than the end of the bank's amortization period. The plan should provide for a realistic improvement in the bank's capital, over the course of the bank's amortization period, from earnings retention, capital injections, or other sources. It should also include specific information regarding dividend levels, compensation to directors, executive officers and individuals who have a controlling interest and their related interests, and payments for services or products furnished by affiliated companies;

(6) A list of the loans and reappraised property upon which the bank proposes to defer loss including for each such loan or property, the following information:

(i) The name of the borrower, the amount of the loan that resulted in the loss, and the amount of the loss;

(ii) The date on which the loss was declared;

(iii) The basis upon which the loss resulted from a qualified agricultural loan;

(7) A certification by the bank's chief executive officer that there is no evidence that the losses resulted from fraud or criminal abuse by the bank, its officers, directors, or principal shareholders;

(8) A copy of a resolution by the bank's Board of Directors authorizing submission of the proposal; and

(9) Such other information as the Accepting Official may require.

§ 35.8 Revocation of eligibility.

The failure to comply with any condition in an acceptance or the capital restoration plan is grounds for revocation of acceptance for loss amortization and for an administrative action against the bank under 12 U.S.C. 1818(b). Additionally, acceptance of a bank for loss amortization will not foreclose any administrative action against the bank that the Office may deem appropriate.

Date: October 15, 1987.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 87-25211 Filed 10-30-87; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Regulations G, T, U and X; Securities Credit Transactions; List of Marginable OTC Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published four times a year by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List effective August 11, 1987 and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: November 10, 1987.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Research Assistant, Division of Banking Supervision and Regulation, (202) 452-2781. For the hearing impaired *only*, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD), (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. A copy of the complete List incorporating these additions and deletions is available

from the Federal Reserve Banks. This List supersedes the last complete List which was effective August 11, 1987. (Additions and deletions for that List were published at 52 FR 28538, July 31, 1987). The current List includes those stocks that meet the criteria specified by the Board of Governors in Regulations G, T, U and X (12 CFR Parts 207, 220, 221 and 224, respectively). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The List also includes any stock designated under an SEC rule as qualified for trading in the national market system (NMS Security). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable at broker-dealers upon the effective date of their NMS designation. The names of these stocks are available at the Board and the Securities and Exchange Commission and will be incorporated into the Board's next quarterly List.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6 (a) and (b), 220.17 (a) and (b), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6(c) (Regulation G), 12 CFR 220.2(s) and 220.17(c) (Regulation T), and 12 CFR 221.2(j) and 221.7(c) (Regulation U), there is set forth below a listing of deletions from and additions to the Board's List:

Deletions From List

Stocks Removed for Failing Continued Listing Requirements

American Community Development Group, Inc.
$.01 par common
American Trustee
$1.00 par common
Atcor, Inc.
$.10 par common
Banctexas Group, Inc.
$1.00 par convertible preferred
Battle Mountain Gold Company
Class A, $.10 par common
Cochrane Furniture Company, Inc.
No par common
Commercial Programming Unlimited Inc.
Class A, $.025 par common
Digital Products Corporation
$.01 par common
Electronics, Missiles & Communications, Inc.
$.01—⅔ par common
Flexible Computer Corporation
$.001 par common
Gencorp Inc.
Warrants (expire 03-15-88)
Great American Resources, Inc.
No par common
Hetra Computer and Communications Industries, Inc.
$.01 par common
Hills Stores Company
Series B, $.01 par cumulative exchangeable preferred
Information Solution, Inc.
$.001 par common
Itel Corporation
Class B, Series B, $1.00 par convertible preferred
Karcher, Carl Enterprises, Inc.
9½% convertible subordinated debentures
Kyle Technology Corporation
No par common
Lane Telecommunications, Inc.
$.10 par common
Life Care Communities Corporation
$.01 par common
Masco Industries, Inc.
Depository convertible exchangeable preferred shares
NCA Corporation
No par common
New York City Shoes, Inc.
$.01 par common
Northwest Natural Gas Company
Series $2.375 no par convertible preferred
Oil Securities, Inc.
$.05 par common
Perle Systems Limited
No par common
Polymeric Resources Corporation
No par common
Pratt Hotel Corporation
$.01 par common
Southbrook International Television Company PLC
American Depository Receipts
Stereo Village, Inc.
$.01 par common
Sterling, Inc.
No par common
Thermo Analytical, Inc.
$.10 par common
Tipton Centers, Inc.
$.10 par common
Tops Markets, Inc.
$.01 par common
ZZZZ Best Co., Inc.
$.01 par common, Warrants (expire 12-15-89)

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

All American Gourmet Company
$.10 par common
Amre, Inc.
$.01 par common
Argosystems, Inc.
$.01 par common
Barrister Information Systems Corporation
$.24 par common
Bayou Resources, Inc.
$.01 par common
Best Buy Co., Inc.
$.10 par common
BPI Systems, Inc.
$.01 par common
Bridge Communications, Inc.
No par common
Calmar, Inc.
$.10 par common
Caremark, Inc.
$.01 par common
Carriage Industries, Inc.
$.02 par common
Clear Channel Communications, Inc.
$.10 par common
Clevite Industries, Inc.
$.01 par common, Warrants (expire 06-30-91)
CML Group, Inc.
$.10 par common
Comptek Research Inc.
$.02 par common
Devry, Inc.
$.10 par common
Elder-Beerman Stores Corp., The
No par common
Eldorado Bancorp (California)
No par common

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Environmental Treatment & Technologies Corp.
$.10 par common
First Federal Savings & Loan Association of Brooksville
$.01 par common
First Federal Savings Bank of California
$1.00 par common
First Savings Bank of Florida F.S.B.
$.01 par common
First United Financial Services, Inc.
$2.00 par common
General Automation, Inc.
$.10 par common
Home Federal Bank of Florida, F.S.B.
$.01 par common
Jones & Vining, Inc.
$.10 par common
La-Z-Boy Chair Company
$1.00 par common
Leiner, P. Nutritional Products Corporation
No par common
Merchants Group, Inc.
$.01 par common
Metrobanc, Federal Savings Bank (Michigan)
$1.00 par common
Metromail Corporation
$.40 par common
Modulaire Industries
No par common
Monolithic Memories, Inc.
$.02 par common
Nathan's Famous, Inc.
$.10 par common
Network Security Corporation
No par common
Northeast Savings, F.A.
$.01 par common, Series A, $2.25 cumulative convertible preferred
Pan American Mortgage Corp.
$1.00 par common
Porex Technologies Corp.
$.01 par common
Pre-Paid Legal Services, Inc.
$.01 par common
Rainer Bancorporation
$2.50 par common
Real Estate Investment Trust of California
No par shares of beneficial interest
Rent-A-Center, Inc.
$1.00 par common
San/Ban Corporation
No par common
Scholastic Inc.
$.25 par common
Seattle Trust & Savings Bank
$14.00 par common
Shaw's Supermarkets, Inc.
$1.00 par common
Southern Home Savings Bank (Florida)
$1.00 par common
Spectradyne, Inc.
No par common
Triangle Microwave, Inc.
No par common
Trust America Service Corporation
$.01 par common
Two Pesos, Inc.
$.01 par common
Union Warren Savings Bank
$1.00 par common
Vitramon, Inc.
$.10 par common
Zenith National Insurance Company
$1.00 par common

Additions to List

ACMAT Corporation
Class A, no par common
Advanced Polymer Systems, Inc.
$.01 par common
Agouron Pharmaceuticals, Inc.
No par common
Albany International Corp.
Class A, $.001 par common
Allegheny Beverage Corporation
9½% convertible subordinated debentures
American City Business Journals, Inc.
$.01 par convertible exchangeable preferred
American Colloid Company
$1.00 par common
American Mobile Systems Incorporated
$.01 par common
American Passage Marketing Corporation
$.01 par common
Amvestors Financial Corp.
Series A, $1.00 par convertible exchangeable preferred
Anchor Savings & Loan Association (New Jersey)
$1.00 par common
Aneco Reinsurance Company Limited
$.40 par capital
Applied Power, Inc.
Class A, $.20 par common
Art's-Way Manufacturing Company Incorporated
No par common
Astec Industries, Inc.
Warrants (expire 12-30-91)
Atek Metals Center, Inc.
No par common
Autoinfo, Inc.
$.01 par common
Barrett Resources Corporation
$.001 par common
Beauty Labs, Inc.
$.01 par common
Beecham Group, PLC.
American Depository Receipts
Bethel Bancorp (Maine)
$1.00 par common
Brooklyn Savings Bank, the (Connecticut)
$1.00 par common
Businessland, Inc.
5½% convertible subordinated debentures
C.I.S. Technologies, Inc.
No par common
Cade Industries, Inc.
$.001 par common
Warrants (expire 9-24-88)
Calstar, Inc.
$.10 par common,
Warrants (expire 1990)
Cambrex Corporation
$.10 par common
Cambridge Instrument Company, PLC., the
American Depository Receipts
Castle Energy Corporation
$.05 par common
Catalyst Thermal Energy Corporation
$.10 par common
Celgene Corporation
$.01 par common
Centel Cable Television Company
Class A, $.01 par common
Centex Telemanagement, Inc.
$.01 par common
Chase Medical Group, Inc.
$.01 par common
Chemfix Technologies, Inc.
Warrants (expire 12-15-88)
Cherne Enterprises Inc.
No par common
City Holding Company
$2.50 par common
City Resources (Canada) Ltd.
No par common
Cognos Incorporated
No par common
Colorocs Corporation
$.05 par common
Comcast Corporation
5½% convertible subordinated debentures
Communications & Cable, Inc.
$.05 par common
Communications Transmission, Inc.
$.01 par common
Conmed Corporation
$.01 par common
Convex Computer Corporation
6% convertible subordinated debentures
Corporate Software Incorporated
$.01 par common
CPB, Inc.
$5.00 par common
Craft World International, Inc.
$.01 par common
Criticare Systems, Inc.
$.04 par common
Crossland Savings, FSB (New York)
Series B, $12.75 cumulative preferred
Crystal Oil Company
$.01 par common
$.01 par convertible preferred
Dallas Semiconductor Corporation
$.02 par common
Dataline, Inc.
$.001 par common
Dataphaz, Inc.
$.001 par common
Diagnostek, Inc.
$.01 par common,
Class B, warrants (expire 3-31-88)
Digitext, Inc.
$.01 par common
Domain Technology, Incorporated
$.01 par common
Dyansen Corporation
$.01 par common,
Class A, warrants (expire 1988)
Earth Technology Corporation (USA), the
$.10 par common
Eastex Energy, Inc.
$.01 par common
Eliot Savings Bank (Massachusetts)
$.10 par common
Encor Energy Corporation
No par common
English China Clays, PLC
American Depository Receipts
Entree Corporation
$.01 par common
Entronics Corporation
$.01 par common
Environmental Power Corporation
$.01 par common
Equipment Company of America
$.10 par common
Everex Systems, Inc.
$.001 par common
Fastenal Company
$.01 par common
Filenet Corporation
$.01 par common
First American Savings Bank, F.S.B. (Ohio)
$1.00 par common
First Commercial Bancshares, Inc. (Alabama)
$10.00 par common
First Essex Bancorp, Inc.
$.10 par common
First Federal Savings Bank of Charlotte County (Florida)
$1.00 par common
First Federal Savings Bank of Elizabethtown (Kentucky)
$1.00 par common
First of America Bank Corporation (Michigan)
9% convertible preferred, $11.00 par value
Flextronics, Inc.
$.01 par common
Frances Denney Companies, Inc., the
$.01 par common
Gen-Probe Incorporated
$.01 par common
Gendex Corporation
$1.00 par common
Goldtex, Inc.
$.10 par common
Greencastle Federal Savings Bank (Indiana)
$.01 par common
Harding Associates, Inc.
$.01 par common
Harleysville Savings Association (Pennsylvania)
$1.00 par common
Harold's Stores, Inc.
$.01 par common
HHB Systems, Inc.
$.01 par common
Hi-Port Industries, Inc.
$.05 par common
Hilb, Royal and Hamilton Company
No par common
Home Federal Savings Bank (Xenia, Ohio)
$.01 par common
Home Office Reference Laboratory, Inc.
$.01 par common
Hospital Newspapers Group, Inc.
$.001 par common
Hunter-Melnor, Inc.
$.01 par common
II-VI Incorporated
No par common
Impact Systems, Inc.
$.001 par common
Ingles Markets, Incorporated
Class A, $.05 par common
Intel Corporation
Warrants (expire 06-15-88)
Interfederal Savings Bank (Tennessee)
$1.00 par common
International Telecharge, Inc.
$.01 par common
Isoetec Communications, Inc.
$.01 par common
Jason, Incorporated
$.10 par common
Jepson Corporation, the
$.01 par common
Jetborne International, Inc.
$.01 par common
Johnson Worldwide Associates, Inc.
Class A, $.05 par common
Lake Shore Bancorp, Inc. (Illinois)
$10.00 par common
Lexington Group, Inc., the
$.01 par common
McCaw Cellular Communications, Inc.
Class A, $.01 par common
Medical Action Industries, Inc.
$.001 par common
Melamine Chemicals, Inc.
$.01 par common
Middleby Corporation, the
$.01 par common
Miners National Bancorp, Inc.
$5.00 par common
Morsemere Financial Group, Inc.
$.10 par common
Moto Photo, Inc.
$.01 par common
Multi-Color Corporation
No par common
New Jersey Savings Bank
$2.00 par common
Newmark Illinois Corporation
$.01 par common
Normandy Oil & Gas Company, Inc.
$.10 par common
Norton Enterprises, Inc.
$.01 par common
Oncor, Inc.
$.01 par common
Onondaga Savings Bank (New York)
$1.00 par common
Pacific Silver Corporation
$.25 par common
Paperboard Industries Corporation
No par common
Parkvale Savings Association (Pennsylvania)
$1.00 par common
Penn Treaty American Corporation
$.10 par common
Pennview Savings Association (Pennsylvania)
$1.00 par common
Peters, J.M. Company, Inc.
$.10 par common
Petroleum Development Corporation
$.01 par common
Photon Technology International
No par common
Precision Target Marketing, Inc.
$.01 par common, Warrants (expire 2-23-88)
Premier Bankshares Corporation (Virginia)
$2.00 par common
Price Pfister, Inc.
$.01 par common
Pronet, Inc.
$.01 par common
Qmax Technology Group, Inc.
$.01 par common
Quartz Mountain Gold Corporation
No par common
Railroad Savings & Loan Association (Kansas)
$1.00 par common
Rise Technology, Inc.
$.01 par common
Rockingham Bancorp (New Hampshire)
$1.00 par common
Royal Business Group, Inc.
$1.00 par common
Royalpar Industries, Inc.
Warrants (expire 1-20-92)
S.N.L. Financial Corporation
Class A, $2.00 par common
Sag Harbor Savings Bank (New York)
$1.00 par common
Sage Analytics International, Inc.
$.001 par common
Scanforms, Inc.
$.01 par common
SDNB Financial Corp.
No par common
Seagate Technology
6¾% convertible subordinated debentures
Security Financial Group, Inc.
$.10 par common
Skyline Chili, Inc.
No par common
Software Services of America, Inc.
$.01 par common
Spectramed, Inc.
$.01 par common
Spiegel, Inc.
Class A, non-voting, $1.00 par common
St. Ives Laboratories Corporation
$.01 par common
Steel of West Virginia, Inc.
$.01 par common
Structural Dynamics Research Corporation
Class A, $.0278 par common
Summagraphics Corporation
$.01 par common
Sun Microsystems, Inc.
5¼% convertible subordinated debentures
Telemundo Group, Inc.
$.01 par common
Teradata Corporation
$.01 par common
Texas American Energy Corporation
$2.575 cumulative convertible exchangeable preferred
Texcel International Inc.
Warrants (expire 7-3-89)
TM Communications, Inc.
$.01 par common, Warrants (expire 12-1-87)
Total Assets Protection
$.002 par common
Tucker Holding Company, Inc.
$.10 par common
United Building Services Corporation of Delaware
$.01 par common
United Newspapers, PLC
American Depository Receipts
United Savings and Loan Association (South Carolina)
$1.00 par common
Valcom, Inc.
$.10 par common
Vikonics, Inc.
$.02 par common
Vipont Pharmaceutical, Inc.
Warrants (expire 6-25-89)
Virgin Group, PLC
American Depository Receipts
Vista Organization, Ltd., The
$.001 par common
Walshire Assurance Company
$.01 par common
Ward White Group, PLC.
American Depository Receipts
Wheelabrator Technologies, Inc.
$.01 par common
Wolf Financial Group, Inc.
$.01 par common
Workingmens Co-Operative Bank (Massachusetts)
$.10 par common
Xscribe Corporation
No par common

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and

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Regulation pursuant to delegated authority (12 CFR 265.2(c)(10)), October 20, 1987.
William W. Wiles,
Secretary of the Board.
[FR Doc. 87-25253 Filed 10-30-87; 8:45 am]
BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 324

Agricultural Loan Loss Amortization

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Interim rule with request for comments.

SUMMARY: These interim regulations implement Title VIII of the Competitive Equality Banking Act of 1987 which permits agricultural banks to amortize losses on qualified agricultural loans. The regulation describes the procedures and standards applicable to banks desiring to amortize losses under that statute. It also describes the manner in which such amortizations are to be done. Although the interim rule is effective November 9, 1987, the Corporation is requesting comments from the public prior to adopting a final regulation.

DATES: Interim rule is effective November 9, 1987 and will terminate on June 30, 1988 unless otherwise superseded. Comments must be received on or before January 8, 1988.

ADDRESS: Comments should be sent to the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments will be available for inspection and photocopying at the same address.

FOR FURTHER INFORMATION CONTACT: William C. Crothers, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-6906.

SUPPLEMENTARY INFORMATION: Title VIII of the Competitive Equality Banking Act of 1987 (the "Statute") permits agricultural banks to amortize (1) losses on qualified agricultural loans and (2) losses suffered as the result of an appraisal of other related assets, incurred between December 31, 1983, and January 1, 1992. The Statute also requires that the Federal banking agencies issue implementing regulations no later than 90 days after its enactment. The interim regulation is intended to comply with this statute. The other Federal banking agencies (the Board of Governors of the Federal Reserve System and the Comptroller of the Currency) are adopting substantially identical regulations, containing only technical variations necessary to accommodate their slightly different situations.

Definitions

The interim regulation adopts a definition of "agricultural bank" that is essentially the same as the language of the Statute. Included in the Statute's definition of an agricultural bank is a bank that does not meet the agricultural loan volume test (agricultural loans, including deferred losses, are 25% or more of total loans) but has been recommended to the FDIC for eligibility by the bank's state regulator. Because of the regulation's flexibility in defining agricultural loans (see discussion below), it is anticipated that such recommendation rarely will be necessary.

The definition of "qualified agricultural loan" incorporates the definitions of "loans to finance agricultural production and other loans to farmers" and "loans secured by farm land" contained in the Schedule RC-C of the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income ("call report"). The call report definitions are virtually identical to those contained in the Statute, but provide the additional benefits of being more comprehensive and of permitting the agencies to use the call reports as the predominate monitoring device for the amortization program. Additionally, as suggested by the Statute, the FDIC has retained discretion to deem other types of loans and leases to be "qualified" if the requesting bank demonstrates those loans and leases to be sufficiently related to agriculture.

While the Statute uses the phrase "located in an area the economy of which is dependent on agriculture," the agencies have not attempted to describe an agricultural area. Adopting a list of acceptable counties or geographic regions might leave the erroneous impression that a bank located outside such an arbitrary area could not qualify even though it might otherwise qualify as an "agricultural bank." Further, the definition of "agricultural bank" itself limits eligible banks to a size ($100,000,000 in assets) that would normally exclude banks not dealing substantially in agricultural credit. Thus, each application should include a description of the bank's location, dominant lines of commerce in its service area, and any other information the bank believes will support the contention that it is located in an agricultural area.

Loss Amortization

The purpose of the Statute is best accomplished by permitting eligible banks to amortize losses on qualified agricultural loans and other related assets by reporting the amount of such deferred losses in new items in the asset and equity capital sections of the balance sheet of their Report of Condition. This approach will provide for the disclosure of deferred losses, will not distort reported income and will facilitate the monitoring of the bank's participation in the loss deferral program through regular, quarterly call reports. Moreover, the full unamortized balance of deferred losses will be included in primary capital for all regulatory and supervisory purposes by the three federal banking agencies. (The applicability of these deferrals on state lending limits or other State statutes must be addressed by the individual state).

The section on loss amortization and reappraisal addresses two issues: (1) What losses are subject to amortization and (2) how they may be amortized. On the first issue, the interim rule reflects Congress' clear intent that losses resulting from fraud or criminal abuse on the part of the bank, its officers, directors, or principal shareholders not be eligible for amortization. Accordingly, where a bank has been found eligible to participate in the loss amortization program even though an insignificant amount of its losses on agricultural loans arose from insider fraud or criminal abuse, those fraudulent losses will not be eligible for amortization.

Additionally, it should be noted that the Statute requires there be "no evidence of" fraud or criminal abuse. Accordingly, under the interim rule, it is not necessary that the existence or absence of such fraud or criminal abuse be conclusively established to disqualify a loan or, as discussed below, a bank.

To be eligible for amortization under the regulation, a loss on a qualified agricultural loan must have been required to be reflected in the bank's financial statements for the years 1984 through 1991. Similarly, charge-offs that result from a reappraisal or sale of real or personal property, acquired in connection with a qualified agricultural loan, may be amortized if the property is owned on the effective date of the Regulation or is acquired before January 1, 1992.

With respect to the manner of amortization the Statute provides that

the loss shall be amortized over a period not to exceed seven years as provided in regulations issued by the Federal banking agencies. The interim regulation provides that amortization shall occur on a quarterly straight-line basis.

The interim regulation permits qualified losses to be amortized over a period not to exceed seven years beginning in the quarter following the date of loss. Losses sustained in years prior to the effective date of the regulation would be treated as if amortized over seven years beginning in the quarter following date of the loss. Thus, a bank could take only the amortizations that remain for such a loss after it enters the program. For example, if a bank began to participate in the program in the last quarter of 1987 and had a loss sustained in the fourth quarter of 1985, that loss would be amortized over a seven year period beginning in 1986. Therefore, five sevenths of the 1985 loss would remain to be amortized as of year-end 1987.

Accounting for Amortization

The interim regulation directs that in accounting for loss amortization, a bank should restate its capital and other relevant accounts in accordance with the FFIEC instructions for the call reports. Those instructions will continue to require the reporting of actual loan charge-offs and recoveries through the Allowance for Loan and Lease Losses, but will then permit losses eligible for deferral to be reinstated in new items in the asset and equity capital sections of the balance sheet of the Report of Condition. Additionally, the interim regulation provides that any resulting increase in the capital account shall be treated as primary capital for purposes of determining the bank's compliance with various Federal regulations such as 12 CFR Part 325 and others.

Eligibility

Under the interim regulation, any bank desiring to participate in the program will be required to submit to the appropriate Federal banking agency a proposal establishing both its eligibility and the eligibility of the losses it proposes to amortize. In order to be eligible, the proposing bank must be an "agricultural bank" as defined in the regulation.

Further, the proposing bank's current capital must be in need of restoration, but, the bank must also be an economically viable, fundamentally sound institution. Therefore, a bank with capital below levels established by 12 CFR Part 325 or that is subject to an enforcement action related to capital, can be eligible. Acceptance of a bank's capital plan for loss amortization will normally relieve the bank of any inconsistent provisions dealing with capital in any extant agency order, agreement, or directive. Requests for such relief should be included as part of the bank's proposal to utilize loss amortization.

The legislative history of the Statute indicates that Congress intended only banks with capital in need of restoration be permitted to amortize losses. Banks that have experienced capital declines, but that retain an acceptable amount of capital have no need to amortize or defer their recognition of losses. Congress clearly was aware of this fact in that it required as an essential condition of eligibility the submission of a plan to restore capital to a level acceptable to the banking agency.

In order to be approved, the capital plan must be based upon realistic projections as to earnings and other material factors that accurately reflect conditions in the bank's market area. Further, it should address dividend levels, compensation to directors, executive officers and individuals who have a controlling interest and their related interests; and payments for services or products furnished by affiliated companies.

Viability is not defined in the regulation. It is a judgment based on many variables. One measure of viability would be whether a bank has traditional funding and earnings sources of acceptable quality within its market area sufficient to permit the bank to earn a reasonable profit in a normal economic environment while achieving and maintaining a capital level that provides the capacity to operate throughout the normal downturns in economic cycles without suffering severe financial problems. Usually, a bank will be considered viable if it has a reasonable prospect of remaining a going concern throughout the program and at the end of the amortization period.

Congress intended that only banks with reasonable prospects for survival should be permitted to amortize losses; the legislative history indicates that the Statute was intended to permit "fundamentally sound banks to weather this storm." Cong. Rec. S3941 (March 26, 1987). To permit non-viable institutions to amortize losses would merely increase the loss exposure of the Federal Deposit Insurance Corporation with no countervailing public benefit.

The regulation does not prescribe any absolute level of capital to be achieved. Part 325 of the FDIC's rules and regulations (12 CFR Part 325) already establishes minimum capital standards for well-run banks in satisfactory financial condition. Each bank's individual circumstances will be evaluated during review of the requisite capital plan. This approach parallels the current practices under the agency's existing capital forbearance program.

An additional criterion for eligibility is that there be no evidence that fraud or criminal abuse by the bank or its officers, directors or principal shareholders led to significant losses on qualified agricultural loans. Literally read, the Statute would seem to disqualify any bank in which there was evidence that losses resulted from fraud or criminal abuse, no matter how small in amount the losses were. Certainly, where insider fraud results in significant agricultural loan losses, the bank should be disqualified. Congress intended the Statute to "provide assistance for agricultural banks, who through no fault of their own, are being squeezed by the ongoing agricultural crisis * * *" *Id.* However, a reasonable interpretation of the Statute, adopted in the interim regulation, would disqualify only banks where significant fraud losses occurred.

Conditions on Acceptances

The interim regulation specifies that any acceptance of a proposal will be subject to certain conditions. These conditions are designed to ensure that a bank continues to meet the eligibility requirements and is properly amortizing losses under the program. First, the bank must fully adhere to the approved capital plan or to obtain the prior approval of any modifications to the plan. Second, the bank must maintain accounting records adequate to document the amount and timing of deferrals, recoveries, and amortizations for each loss subject to deferral under the program. Third, the bank must remain a viable. fundamentally sound institution. Fourth, the bank must agree to make a reasonable effort, consistent with safe and sound banking practices, to maintain in its loan portfolio a percentage of agricultural loans not lower than the percentage of such loans in its loan portfolio on January 1, 1986. The definition of qualified agricultural loans (see § 324.2 (b)(3)) includes the uncollected balance of charged-off loans the losses on which have been deferred under this regulation. Therefore these balances also may be used in calculating the maintenance ratio. Fifth, participating banks must provide the agency, upon request, any information necessary to monitor the bank's amortization or its compliance with conditions, or its continued eligibility under the program. The failure of a bank

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to comply with any condition is grounds for revocation of an acceptance and termination of eligibility to participate in the loss deferral program. Finally, a violation of a condition may result in an administrative action against the bank under 12 U.S.C. 1818(b) because such conditions are imposed in connection with the granting of a request.

Submission of Proposals

The regulation lists the content of proposals to be submitted by banks desiring to participate in loss amortization. In addition to the items previously discussed, the proposal shall include a copy of a resolution by the bank's board of directors authorizing submission of the proposal. This is to ensure that the board of directors has been fully informed. FDIC approval of an amortization proposal will include instructions covering the possible amortization of future losses.

Special Studies

Regulation Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is certified that the amendments, if adopted, would not have significant impact on a substantial number of small entities.

Paperwork Reduction Act

The information collection requirements contained in the interim rule were reviewed and approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 12 CFR Part 324

Banks, banking, State nonmember banks.

12 CFR Part 324 is added to Subchapter B as follows:

PART 324—AGRICULTURAL LOAN LOSS AMORTIZATION

Sec.

324.1 Authority.
324.2 Definitions.
324.3 Loss amortization and reappraisal.
324.4 Accounting for amortization.
324.5 Eligibility.
324.6 Conditions on acceptance.
324.7 Submission of proposals.
324.8 Revocations of eligibility.
324.9 Other administrative actions.

Authority: 12 U.S.C. 1823(j), 1819, and 12 U.S.C. 1811-1831d.

§ 324.1 Authority.

This part is issued by the Federal Deposit Insurance Corporation ("Corporation") pursuant to 12 U.S.C. 1823(j), 1819 and other provisions of the Federal Deposit Insurance Act (12 U.S.C. 1811-31d).

§ 324.2 Definitions.

For purposes of this part:

(a) "Agricultural Bank" means a state nonmember bank, except a district bank,

(1) The deposits of which are insured by the Corporation;

(2) Which is located in an area of the country the economy of which is dependent on agriculture;

(3) Which has total assets of $100,000,000 or less as of the most recent Report of Condition; and

(4) Which has—

(i) At least 25 percent of its total loans in qualified agricultural loans; or

(ii) Less than 25 percent of its total loans in qualified agricultural loans, but which bank the appropriate state banking authority has recommended to the Corporation and which the Corporation accepts for eligibility under this part or which the Corporation on its own motion deems eligible hereunder.

(b) "Qualified Agricultural Loan" means—

(1) Loans qualifying as "loans to finance agricultural production and other loans to farmers" or as "loans secured by farm land" for purpose of Schedule RC-C of the FFIEC Consolidated Report of Condition and Income or such other comparable schedule as may be in effect;

(2) Other loans and leases that a bank proves to be sufficiently related to agriculture for classification as an agricultural loan by the Corporation; and

(3) The remaining unpaid balance of any loans as described in paragraphs (b)(1) and (2) of this section that have been charged off since January 1, 1984, and that qualify for deferral under this regulation.

(c) "Accepting Official" means the Director, Division of Bank Supervision or his designees.

§ 324.3 Loss amortization and reappraisal.

(a) Provided that there is no evidence that the loss resulted from fraud or criminal abuse on the part of the bank, its officers, directors or principal shareholders, a bank that has been accepted under this part may, in the manner described below, amortize on its Reports of Condition and Income:

(1) Any loss on any qualified agricultural loan that the bank would be required to reflect in its annual financial statements for any year between and including 1984 to 1991; and

(2) Any loss that the bank would be required to reflect in its financial statements resulting from a reappraisal or sale of currently owned property, real or personal, that it acquired in connection with a qualified agricultural loan and any such additional property that it acquires prior to January 1, 1992.

(b) Amortization under this section shall be computed over a period not to exceed seven years on a quarterly straight-line basis commencing in the first quarter after the loss was or is charged off so as to be fully amortized not later than December 31, 1998.

§ 324.4 Accounting for amortization.

Any bank which is permitted to amortize losses in accordance with § 324.3 may restate its capital and other relevant accounts and account for future authorized deferrals and amortizations in accordance with the instructions to the FFIEC Consolidated Reports of Condition and Income. Any resulting increase in the capital account shall be included in primary capital under 12 CFR Part 325.

§ 324.5 Eligibility.

A proposal submitted in accord with § 324.7 shall be accepted, subject to the conditions described in § 324.6, if the Accepting Official finds:

(a) The proposing bank is an agricultural bank;

(b) The proposing bank's current capital is in need of restoration, but the bank remains an economically viable, fundamentally sound institution;

(c) There is no evidence that fraud or criminal abuse by the bank or its officers, directors or principal shareholders led to significant losses on qualified agricultural loans and related assets; and

(d) The proposing bank has submitted a capital plan approved by the Corporation or the Accepting Official that will restore its capital to an acceptable level.

§ 324.6 Conditions on acceptance.

All acceptances of proposals shall be subject to the following conditions:

(a) The bank shall fully adhere to the approved capital plan and shall obtain the prior approval of the Accepting Official for any modifications to the plan;

(b) With respect to each asset subject to loss deferral under the program, the bank shall maintain accounting records adequate to document the amount and timing of the deferrals, repayments and amortizations;

(c) The financial condition of the bank shall not deteriorate to the point where it is no longer a viable, fundamentally sound institution;

(d) The bank shall agree to make a reasonable effort, consistent with safe and sound banking practices, to maintain in its loan portfolio a percentage of agricultural loans which is not lower than the percentage of such loans in its loan portfolio on January 1, 1986; and

(e) The bank shall agree to provide the Accepting Official, upon request, with such information as the Accepting Official deems necessary to monitor the bank's amortization, its compliance with conditions, and its continued eligibility.

§ 324.7 Submission of proposals.

(a) A bank wishing to amortize losses on qualified agricultural loans or other related assets shall submit a proposal to the Division of Bank Supervision Regional Director of the region in which the bank is located.

(b) The proposal shall contain the following information:

(1) Name and address of the bank;

(2) Information establishing that the bank is located in an area, the economy of which is dependent on agriculture such as a description of the bank's location, dominant lines of commerce in its service area, and any other information the bank believes will support the contention that the bank is located in an area dependent on agriculture;

(3) A copy of the bank's most recent Reports of Condition and Income;

(4) If the Report of Condition fails to show that at least 25 percent of the bank's total loans are qualified agricultural loans, the basis upon which the bank believes that it should be declared eligible to amortize losses;

(5) A capital plan demonstrating that the bank will achieve an acceptable capital level not later than the end of the bank's amortization period (the plan should provide for a realistic improvement in the bank's capital, over the course of the bank's amortization period, from earnings retention, capital injections, or other sources and include specific information regarding dividend levels, compensation to directors, executive officers and individuals who have a controlling interest, and payments for services or products furnished by affiliated companies or companies which are related interests of insiders);

(6) A list of the loans and reappraised property upon which the bank proposes to defer loss including, for each such loan or property, the following information:

(i) The name of the borrower, the amount of the loan that resulted in the loss, and the amount of the loss;

(ii) The date on which the loss was declared;

(iii) The basis upon which the loss resulted from a qualified agricultural loan;

(7) A certification by the bank's chief executive officer that there is no evidence that the losses resulted from fraud or criminal abuse by the bank, its officers, directors, or principal shareholders;

(8) A copy of a resolution by the bank's Board of Directors authorizing submission of the proposal; and

(9) Such other information as the Accepting Official may require.

(Approved by the Office of Management and Budget under control number 3064-009)

§ 324.8 Revocation of eligibility.

If the bank fails to continue to meet eligibility requirements or to comply with the capital plan or any condition of an acceptance, the Accepting Official may notify the bank of the intent to revoke authorization for deferral of losses. The bank will have 60 days from receipt of the notice in which it may submit written objections and reasons why authorization should continue. If no written objections are received within 60 days, the revocation shall be final. If the bank submits objections, they will be considered and a final decision, or a request for additional information, shall be made within the next 30 days.

§ 324.9 Other Administrative actions.

Acceptance of a bank for loss amortization does not foreclose any administrative action against the bank that the Corporation may deem appropriate.

By order of the Board of Directors. Dated at Washington, DC this 27th day of October 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-25329 Filed 10-30-87; 8:45 am]

BILLING CODE 6714-01-M

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12 CFR Part 325

Capital Maintenance

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is amending its capital regulation based on its experience in implementing this regulation since it became effective in April 1985. The amendments (1) clarify and revise certain definitions, (2) reserve the authority of the FDIC with respect to the definitions of "primary capital" and "secondary capital," (3) specify that the terms and conditions to which capital instruments are subject must be consistent with safe and sound banking practices, and (4) limit on the basis of insurance status the circumstances in which the FDIC will not approve a proposed merger transaction when the resulting entity will not meet the FDIC's minimum capital requirement. These amendments will benefit both the FDIC and insured banks by providing the FDIC with greater flexibility in administering its capital regulation.

EFFECTIVE DATE: December 2, 1987.

FOR FURTHER INFORMATION CONTACT: Robert F. Storch, Planning and Program Development Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, telephone (202) 898-6903.

SUPPLEMENTARY INFORMATION: On February 11, 1985, the Board of Directors of the FDIC adopted a final rule on capital maintenance (12 CFR Part 325) which became effective on April 18, 1985. 50 FR 11128 (1985). The Office of the Comptroller of the Currency ("OCC") and the Board of Governors of the Federal Reserve System ("FRB") took similar action during the first half of 1985, resulting in the establishment of uniform minimum capital standards for all federally supervised banking organizations. In light of the FDIC's two years of experience in implementing its capital regulation, the Board of Directors determined, on March 31, 1987, that certain definitions and other provisions of the regulation should be modified. Accordingly, the FDIC issued for a 60-day comment period proposed amendments to Part 325. 52 FR 11660 (1987).

The comment period ended on June 9, 1987, and the FDIC received one comment letter. That letter dealt solely with the proposed revision of the definition of the term "subordinated note or debenture." Therefore, with the addition of the clarification to this definition recommended by the one commenter and certain other refinements, the FDIC is adopting the amendments to its capital regulation in essentially the same form as they were originally proposed. Each of the amendments to Part 325 is discussed below.

Revisions to Definitions

Assets classified loss. The FDIC calculates primary capital as of the dates that examinations are conducted

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and at dates between examinations. While the longstanding practice of the FDIC has been to calculate examination date capital ratios by deducting from capital the amount of assets classified loss as of that date, the existing definition of "assets classified loss" is ambiguous in this respect. In addition, the definition incorporates the term "bank," which refers only to insured state nonmember banks, instead of the broader term "insured bank." Because the FDIC measures the primary capital of insured banks in certain circumstances, the definition of "assets classified loss" should extend to insured banks in general. Therefore, the FDIC has revised this definition accordingly.

Insured banks are expected to adopt policies and procedures for the timely identification and recognition of losses. However, bank managements on occasion will determine that a loan or other asset (or a portion thereof) is uncollectable, but will delay the charge-off of this loss until a later date. In such situations, the failure to record the loss that has been incurred results in an overstatement of the bank's capital. Therefore, in conjunction with the revision to the definition of "assets classified loss" described above, the FDIC believes it is appropriate to further amend this definition to include those assets that an insured bank identifies as losses between examinations but has not charged off from its books.

Subordinated note or debenture. In order for an obligation to satisfy the definition of "subordinated note or debenture," a form of secondary capital, the instrument must meet certain requirements. Those pertaining to subordination and minimum maturity have led to implementation questions since the regulation became effective in April 1985. Two other requirements that have been part of the FDIC's policies for subordinated debt for at least five years have not previously been included in the definition.

The capital regulation's definition of a subordinated note or debenture incorporated relevant portions of the definition of this term that appeared in the FDIC's deposit interest rate regulations (12 CFR Part 329) that were in effect when Part 325 was adopted in 1985. Part 329 was subsequently amended by the FDIC effective April 1, 1986, as a result of the completion of the elimination of rate ceilings on interest-bearing deposits. The amended interest rate regulation deleted the previous version's provision on subordinated notes and debentures. Because it was simply carried over from the FDIC's interest rate regulations, the subordinated debt definition in Part 325 indicates (as it did in Part 329 prior to its amendment) that such debt obligations must be subordinated to the claims of depositors, but it makes no mention of subordination to the claims of other creditors. Nonetheless, because subordinated notes are treated as secondary capital, the FDIC believes that and, when asked, has indicated that subordinated notes, by their very nature from a capital adequacy perspective, must be subordinate to all but equity capital accounts. To clarify the issue of subordination, the FDIC has amended its subordinated debt definition. In doing so, the FDIC has also replaced the term "liabilities" which appeared in the proposed amendment of this definition with the more general term "obligations" to avoid possible improper inferences that subordination applies only to those obligations specifically identified as liabilities on the issuing bank's balance sheet.

In this regard, the FDIC notes that the OCC's capital regulation (12 CFR Part 3) indirectly provides for the general subordination of a subordinated note or debenture issued by a national bank by mandating that such debt must be approved as capital by the OCC in order to qualify as secondary capital. The separate OCC rule governing subordinated debt as capital (12 CFR 5.47) requires that to obtain approval for an issue, it must comply with certain requirements, one of which deals with the priority of subordinated noteholders over other creditors of the bank. The *Comptroller's Manual for Corporate Activities* contains a model general subordination clause (which uses the term "obligations" rather than "liabilities") and states that substantially this same clause must appear in every subordinated note or debenture.

In order for an obligation to qualify as a subordinated note or debenture under Part 325, it must satisfy a seven-year minimum maturity requirement although an obligation with a shorter original maturity is permissible in "exigent circumstances." The FDIC has amended the regulation to delegate to the Director of the Division of Bank Supervision the authority to determine whether such circumstances exist when a bank proposes to issue subordinated debt with an original maturity that is less than the seven years that would otherwise be required.

In addition, banks periodically seek to issue subordinated debt instruments which contain a provision permitting the bank at its option to redeem the debt on or after a specified date prior to its contractual maturity date. Since the definition of subordinated debt prescribes a "maturity" of at least seven years, the FDIC has been questioned as to the meaning of this term when a debt instrument has an optional redemption ("call") provision. The FDIC has taken the view that an optional redemption feature that allows the issuing bank to call all or part of a subordinated debt issue in less than seven years should not prevent an issue with a contractual maturity of seven years or more from satisfying the minimum maturity requirement provided the FDIC does not grant advance consent to the redemption of the debt at its call date when the debt is being issued. Accordingly, the FDIC has added an interpretive rule to Part 325 that will set forth this position.

Section 18(i)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(i)(1)) provides that an insured state nonmember bank must obtain the consent of the FDIC prior to the retirement of any part of its capital notes or debentures. To ensure that all parties involved, including future holders of the notes or debentures, are aware of the requirements of section 18(i)(1), the FDIC has for many years required issues of subordinated debt to include a statement concerning the prior consent rule in the debt instrument and related agreements. The FDIC has amended the subordinated debt definition to incorporate this disclosure policy. Moreover, this amendment clarifies that the FDIC's prior consent must be in writing since the original proposal did not specifically indicate the form in which the FDIC gives its consent.

Consistent with the provisions of the subordinated debt definition concerning the subordination of the obligation and its unsecured status and with the statutory prior consent for retirement rule, the FDIC has, for at least five years, required new issues of bank-to-bank subordinated debt to include a specific waiver of the right of offset by the lending institution. In order to assure that bankers are aware of this policy when they are planning new issues of subordinated debt, the FDIC has made this waiver policy an explicit part of the definition.

The one letter that the FDIC received in response to its request for comments on the proposed amendments to Part 325 addressed the revisions to the subordinated debt definition. The banker submitting this letter correctly observed that the proposal failed to make reference to whether the revised definition would apply only to debt

instruments issued after the regulation had been amended or whether existing debt instruments would need to satisfy the amended definition in order to qualify as a component of secondary capital.

When the FDIC issued its proposed amendments, it had intended that the revised definition of subordinated debt would apply prospectively and not to instruments already in existence that had satisfied the subordinated debt definition in effect at the time the instruments were issued. As the one comment letter pointed out, banks would find it difficult and costly to obtain creditor modifications of contractual provisions in existing debt instruments if it were necessary to do so in order for such debt to continue to be counted in secondary capital. The FDIC therefore agrees with the commenter's recommendation that the status of existing subordinated debt instruments should be clarified. The revised subordinated debt definition now includes a footnote to indicate that it applies only to instruments issued on or after the effective date of the amended regulation.

Total Assets. For purposes of Part 325, "total assets" uses an average dollar amount for total assets taken from a bank's most recent quarterly Call Report. The current definition also discloses the locations in the commercial bank and the savings bank Call Reports where this average is reported. Because the savings bank Call Reports were extensively revised as of the March 31, 1986 report date, the disclosure of where the average of total assets may be found has been updated accordingly.

Reservation of Authority

Section 325.5(c) currently permits the FDIC to deduct from primary capital any capital instrument or balance sheet entry that would otherwise increase an insured bank's primary capital but which fails to provide capital support in the form of a cushion to absorb losses. However, this provision of the regulation does not address similar situations that might relate to secondary capital.

While Part 325 authorizes the FDIC to make deductions from capital when appropriate, the regulation does not allow for the possibility that new types of capital instruments or particular balance sheet accounts not specifically identified as components of primary or secondary capital in the definitions of those terms (§§ 325.2 (h) and (i)) may be functionally equivalent to certain capital components. The absence of authority for the FDIC to accommodate such instruments or accounts within its capital adequacy framework restricts the FDIC's flexibility when these developments occur. For example, the Federal Reserve Board decided last year to treat perpetual debt issues that satisfy certain conditions as a primary capital component for bank holding companies based on a determination that such debt is the functional equivalent of perpetual preferred stock, a primary capital component. 51 FR 40963 (1986). The FDIC also recognizes that some banks establish valuation allowances (general reserves) for debt securities or for other real estate owned that are created in the same manner as, i.e., through charges to expense, and serve the same purpose as the allowance (reserve) for loan and lease losses. However, only this latter allowance (reserve) can qualify as primary capital at present. Nonetheless, in no case would a specific reserve that has been established for and allocated to a known loss (or losses) be eligible to count as primary capital.

To remedy this situation, the FDIC has amended its existing § 325.5(c) along the lines of the reservation of authority provision contained in the OCC's capital regulation (12 CFR 3.4). The authority so reserved would be exercisable by the Director of the Division of Bank Supervision on behalf of the Board of Directors of the FDIC. Such a change is also consistent with the Federal Reserve Board's capital adequacy guidelines which "give the Board flexibility to adjust capital requirements and definitions to changes in the economy, in financial markets, and in banking practices." 50 FR 16060 (1985).

Covenants Inconsistent with Safe and Sound Banking Practices

The mission of the FDIC and its Division of Bank Supervision includes a responsibility for promoting safe and sound banking practices. Section 325.1 of the FDIC's capital regulation states that the FDIC "must evaluate capital, as an essential component, in determining the safety and soundness of banks it insures and supervises." Therefore, as an integral part of its evaluation of capital, the FDIC must consider whether any of the instruments that a bank would count as part of its capital structure includes conditions, covenants, terms, restrictions, or provisions which raise safety and soundness concerns. The FDIC has been encountering debt instruments that were intended by their issuers to qualify as primary or secondary capital which contained or were subject to such conditions, covenants, terms, restrictions, or provisions.

The FDIC's Statement of Policy on Capital, which was adopted at the same time as its capital regulation, provides that "issues of perpetual preferred stock [must] be consistent with safe and sound banking practices." 50 FR 11141 (1985). While the FDIC believes that such a condition applies implicitly to all capital instruments, it is now making this policy position explicit by adding a new § 325.5(f) to its capital regulation and by providing in an interpretive ruling examples of conditions, covenants, terms, restrictions, and provisions that are considered inconsistent with safe and sound banking practices. Moreover, to ensure that the language of the new section and ruling is more fully comprehensive, the terms "conditions" and "provisions" were added to the three terms that appeared in the proposed amendment. Further, it should be noted that the examples in the interpretive ruling are not intended to be an exhaustive listing since other provisions in capital instruments may be found that would be of similar concern to the FDIC. In this regard, the FDIC is considering the effect that certain conditions and covenants in capital instruments have had and may have on its ability to resolve failing bank situations and may develop a proposal to address this issue at a later date.

The language of § 325.5(f) is drawn from the FRB's capital guidelines (12 CFR Part 225, Appendix A) as are certain of the examples in the interpretive ruling. Other examples are taken from criteria first adopted by the FRB and the OCC in 1976 for evaluating debt issues as additions to a bank's capital structure. 41 FR 26200 (1976) and 41 FR 47969 (1976), respectively.

Merger Transactions Subject to FDIC Approval

The current language of § 325.3(c)(4) of the FDIC's capital regulation bars the FDIC from approving merger transactions when the resulting entity does not meet the FDIC's minimum capital requirements, regardless of the insurance status of the resulting entity. This section of the regulation is derived from the provision contained in section 18(c)(5) of the Federal Deposit Insurance Act ("FDI Act") which mandates that, for every merger transaction that requires the agency's prior written approval, the FDIC "shall take into consideration the financial and managerial resources and future prospects of the existing and proposed institutions." While the FDIC is required to consider these factors, an insured bank merger transaction may produce a

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resulting institution whose deposits will be insured by another federal insurance agency, e.g., the Federal Savings and Loan Insurance Corporation ("FSLIC"), and for which the FDIC will provide no residual insurance coverage. Recognizing that the FDIC has no further exposure in this situation after the merger has been completed, the FDIC had proposed to amend § 325.3(c)(4) to specifically eliminate such mergers from its coverage.

In the meantime, the Competitive Equality Banking Act of 1987 (Pub. L. 100-86) ("CEBA") has been enacted into law. Section 504(b) of CEBA amended section 18(c) of the FDI Act to exempt from the prior FDIC written approval requirement any merger transaction where the resulting institution will be insured by the FSLIC. Nonetheless, when the Federal Home Loan Bank Board or the FSLIC must approve such a transaction, this amendment also provides that the approving agency must notify and consult with the FDIC about the merger. Thus, the FDIC has revised § 325.3(c)(4) as originally proposed, an action which coincidentally will remove what is now an apparent inconsistency between this section of the capital regulation as it is currently written and section 18(c) of the FDI Act, as amended.

Regulatory Flexibility Analysis—Paperwork Reduction Act

The amendments to Part 325 are not expected to have any significant impact on banks, including small banks.

To the extent that the provision on reservation of authority increases the flexibility of the FDIC in dealing with individual bank situations, all banks, including small banks, will benefit. In this regard, the FDIC is currently required by statute to consider bank capital in a number of situations. These include applications for deposit insurance, branching, mergers, and relocations of offices. In addition, under sections 8(a) and (b) of the Federal Deposit Insurance Act (12 U.S.C. 1818 (a), (b)) the FDIC is charged with the responsibility of requiring corrective action when an insured bank is in an unsafe or unsound condition or when a state nonmember bank is operating in an unsafe or unsound manner. In addition, the International Lending Supervision Act (12 U.S.C. 3907(a)(1)) requires the FDIC to "cause banking institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such banking institutions and by using such other methods as the appropriate federal banking agency deems appropriate."

In carrying out its responsibilities the FDIC has always considered the capital adequacy of banks. However, it was not until late 1981 that the FDIC promulgated a written policy to inform banks and the public of its beliefs concerning capital and capital adequacy. 46 FR 62694 (1981). The capital maintenance regulation which the FDIC is amending became effective April 18, 1985. The FDIC's actual experience in implementing Part 325 since that time has revealed particular aspects of the regulation that are in need of clarification or further resolution. The amendments will better inform the banking industry and the public about the standards the FDIC uses in assessing capital adequacy and how the FDIC exercises its statutory duties with regard to the safety and soundness of banks in its consideration of capital adequacy.

The amendments do not duplicate, overlap, or conflict with any existing federal laws and regulations governing insured banks or with the FDIC's responsibilities pursuant to sections 6, 5, and 18 of the Federal Deposit Insurance Act (12 U.S.C. 1816, 1818, 1828).

The amendments neither alter any existing nor create any new recordkeeping or reporting requirements. Therefore, the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) is not applicable.

List of Subjects in 12 CFR Part 325

Bank deposit insurance, Banks, Banking, Federal Deposit Insurance Corporation, Capital adequacy, State nonmember banks.

The FDIC hereby amends Part 325 of Title 12 of the Code of Federal Regulations as follows:

PART 325—CAPITAL MAINTENANCE

1. The authority citation for Part 325 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1819 (Tenth), 1828(c), 1828(d), 1828(i), 3907, 3909.

2. Paragraphs (a), (j), and (k) of § 325.2 are revised as follows:

§ 325.2 Definitions.

(a) *Assets classified loss.* The term "assets classified loss" means:

(1) When measured as of the date of examination of an insured bank, those assets that have been determined by an evaluation made by a state or federal bank examiner as of that date to be a loss; and

(2) When measured as of any other date, those assets (i) that have been determined (A) by an evaluation made by a state or federal bank examiner at the most recent examination of an insured bank to be a loss, or (B) by evaluations made by the insured bank since its most recent examination to be a loss, and (ii) that have not been charged off from the insured bank's books or collected.

* * * * *

(j) *Subordinated note or debenture.*[1] The term "subordinated note or debenture" means an obligation other than a deposit obligation that:

(1) Bears on its face, in boldface type, the following: This obligation is not a deposit and is not insured by the Federal Deposit Insurance Corporation;

(2) (i) Has a maturity of at least seven years, or (ii) in the case of an obligation or issue that provides for scheduled repayments of principal, has an average maturity of at least seven years; provided that the Director of the Division of Bank Supervision may permit the issuance of an obligation or issue with a shorter maturity or average maturity if he has determined that exigent circumstances require the issuance of such obligation or issue; provided further that the provisions of this paragraph (2) shall not apply to mandatory convertible debt obligations or issues;

(3) States expressly that the obligation (i) is subordinated and junior in right of payment to the issuing bank's obligations to its depositors and to the bank's other obligations to its general and secured creditors, and (ii) is ineligible as collateral for a loan by the issuing bank;

(4) Is unsecured;

(5) States expressly that the issuing bank may not retire any part of its obligation without the prior written consent of the FDIC; and

(6) Includes, if the obligation is issued to a depository institution, a specific waiver of the right of offset by the lending depository institution.

(k) *Total assets.* The term "total assets" means the average of total assets required to be included in a banking institution's "Reports of Condition and Income" (Call Reports), as these reports may from time to time be revised, as of the most recent report date, plus the allowance for loan and lease losses, minus assets classified loss, and minus intangible assets other than mortgage servicing rights. The average of total assets is found in the Call Report schedule of quarterly averages.

* * * * *

3. Paragraph (c)(4) of § 325.3 is revised as follows:

§ 325.3 Minimum capital requirement.

* * * * *

(c) * * *

(4) In any merger, acquisition or other type of business combination where the FDIC must give its approval, where it is required to consider the adequacy of the financial resources of the existing and proposed institutions, and where the resulting entity is either insured by the FDIC or not otherwise federally insured, approval will not be granted when the resulting entity does not meet the minimum capital requirement.

* * * * *

4. Paragraph (c) of § 325.5 is revised as follows:

§ 325.5 Miscellaneous.

* * * * *

(c) *Reservation of authority.* Notwithstanding the definitions of "primary capital" and "secondary capital" in §§ 325.2(h) and 325.2(i), the Director of the Division of Bank Supervision may, if he finds a newly developed or modified capital instrument or a particular balance sheet entry or account to be the functional equivalent of a component of primary or secondary capital, permit one or more insured banks to include all or a portion of such instrument, entry, or account as primary or secondary capital, permanently or on a temporary basis, for purposes of this part. Similarly, the Director of the Division of Bank Supervision may, if he finds that a particular primary or secondary capital component or balance sheet entry or account has characteristics or terms that diminish its contribution to an insured bank's ability to absorb losses, require the deduction of all or a portion of such component, entry, or account from primary or secondary capital.

* * * * *

5. A new § 325.5(f) is added as follows:

§ 325.5 Miscellaneous.

* * * * *

(f) *Restrictions relating to capital components.* To qualify as primary or secondary capital, a capital instrument must not contain or be subject to any conditions, covenants, terms, restrictions, or provisions that are inconsistent with safe and sound banking practices.

6. New §§ 325.101 and 325.102 are added as follows:

§ 325.101 Optional redemption provision in a subordinated note or debenture.

This interpretive rule describes the effect of the presence of an optional redemption provision on the minimum maturity provision of a "subordinated note or debenture" as defined in § 325.2(j). An optional redemption ("call") provision exercisable by the issuing bank in less than seven years will not be deemed to constitute a maturity of less than seven years for the purposes of this part, provided:

(a) The obligation otherwise has a stated contractual maturity of at least seven years;

(b) The call is exercisable solely at the discretion or option of the issuing bank, and not at the discretion or option of the holder of the obligation; and

(c) The call is exercisable only with the express prior written consent of the FDIC under 12 U.S.C. 1828(i)(1) at the time early redemption or retirement is sought, and such consent has not been given in advance at the time of issuance of the obligation.

§ 325.102 Conditions and covenants inconsistent with safe and sound banking practices.

This interpretive rule provides examples of conditions, covenants, terms, restrictions, and provisions that a capital instrument must not contain or be subject to in order for the instrument to qualify as primary or secondary capital. These examples are not intended to be an exhaustive listing of such conditions and covenants; other conditions and covenants that are not expressly listed in this interpretive rule may be inconsistent with safe and sound banking practices. A condition, covenant, term, restriction, or provision is inconsistent with safe and sound banking practices if it:

(a) Unduly interferes with the ability of the issuer to conduct normal banking operations;

(b) Results in significantly higher dividends or interest payments in the event of a deterioration in the financial condition of the issuer;

(c) Impairs the ability of the issuer to comply with statutory or regulatory requirements regarding the disposition of assets or incurrence of additional debt; and

(d) Limits the ability of the FDIC or a similar regulatory authority to take any necessary action to resolve a problem bank or failing bank situation.

By order of the Board of Directors. Dated at Washington, DC, this 27th day of October 1987.

Federal Deposit Insurance Corporation
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 87-25330 Filed 10-30-87; 8:45 am]
BILLING CODE 6714-01-M

[1] This definition applies only to an obligation issued on or after December 2, 1987. An obligation issued before that date that satisfied the definition of the term "subordinated note and debenture" that was in effect prior to December 2, 1987 will continue to be included in secondary capital, subject to the limit set forth in § 325.2(i).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket Number 86-ANE-33; Amdt. 39-5753]

Airworthiness Directive; Rolls-Royce (R-R) plc (formerly Rolls-Royce Limited) RB211-22B, -524, -524B, -524B2, -524B3, and -524C2 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires modification of the low pressure turbine (LPT) stage 2 nozzle vane assemblies installed in certain R-R RB211 engines in accordance with the manufacturer's published instructions. The AD is needed to prevent an uncontained LPT stage 1 disk failure that can be caused by damage to the vane assembly.

DATES: *Effective*—December 11, 1987. *Compliance Schedule*—As prescribed in the body of this AD. *Incorporation by Reference*—Approved by the Director of the Federal Register as of December 11, 1987.

ADDRESSES: The applicable service bulletin (SB) may be obtained from Rolls-Royce plc, Technical Publication Department, P.O. Box 31, Derby DE2 8BJ, England.

A copy of the SB is contained in Rules Docket Number 86-ANE-33, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch, ANE-141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7084.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal

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Aviation Regulations (FAR) to include a new AD requiring modification of the LPT stage 2 nozzle vane assembly in accordance with the Accomplishment Instructions of R–R SB RB.211–72–8301, dated June 20, 1986, was published in the **Federal Register** on September 19, 1986 (51 FR 33277). The proposal was prompted by an uncontained LPT stage 1 disk failure in service. The failure of the LPT stage 1 disk was precipitated by a high pressure turbine (HPT) stage 1 blade failure that damaged the LPT stage 2 nozzle vanes sufficiently for the inner seal to pivot relative to the engine centerline. This condition resulted in severe rub and separation of the LPT stage 1 to 2 disk arm, allowing the LPT stage 1 disk to overspeed and fail.

Since this condition is likely to exist or develop in other engines of the same type design, the AD requires modification of the LPT stage 2 nozzle vane assembly in accordance with R–R SB RB.211–72–8301, Revision 2, dated March 27, 1987.

Interested persons have been afforded the opportunity to participate in the making of this amendment and due consideration has been given to all relevant data and comments received. Three responses were received concerning the proposed rule.

One commenter requested that the AD be changed to include only the engines listed in R–R SB RB.211–72–8301 since the RB211–524B4 and –524D4 engine models use a different type of LPT stage 2 vane assembly. The AD, by incorporating the Accomplishment Instructions of the SB, is limited to Part Numbers (P/N) LK63392, LK63331, and LK63333 LPT stage 2 vane assemblies. However, it was not readily apparent to the commenter, and the wording of the AD has been changed to clarify this.

The same commenter requested that the compliance requirement to modify assemblies at the next shop visit be deleted. The commenter made this request under the assumption that this requirement was based upon a uniform rate of modification throughout the compliance period. The FAA disagrees because deletion of this requirement, which is based on historical removal rate trends, would result in an unacceptable increase in the risk of failure.

The FAA has determined that the proposed wording which defines an LPT module shop visit was more restrictive than necessary. The wording in the AD has been changed to establish an LPT module shop visit which is constituted when the module visits the shop for rework due to its condition, or by a requirement for scheduled maintenance. Since this results in a more relaxed compliance schedule, no further notice is necessary.

A second commenter requested that (1) the compliance category of R–R SB RB.211–72–8301 should remain on a mandatory level, and (2) the compliance deadline be changed to December 31, 1989, if the SB is incorporated in an AD. In regard to the first request, the FAA can not respond because it has no jurisdiction over the compliance category established by the United Kingdom, Civil Aviation Authority (CAA). The commenter's second request is denied because it would cause an unacceptable increase in the risk of failure.

A third commenter requested that the compliance deadline be extended from June 30, 1989, to December 31, 1990. The commenter requested the extension based on the following information received from an operator:

(1) The operator uses directionally solidified (DS) HPT blades in his operation and has experienced no failures to date. The failed blade in service that caused the LPT disk rupture was not the DS type blade.

(2) Intermediate pressure turbine (IPT) blade failures in his operation have not caused a need for this modification.

(3) IPT vane and LPT blade and vane failures have not occurred in his operation.

The FAA disagrees. The potential for an uncontained failure of the LPT stage 1 disk is a function of the current design of the LPT stage 2 vane assembly. The probability of such a failure is associated with upstream failure of any engine component in the gas stream. Service experience to date indicates that many HPT blades, including DS type blades, have failed from many causes although only one such blade failure caused a disk failure. Service experience also indicates that there is a higher propensity to have a disk failure as a result of an IPT blade failure, even though none of the failures in service to date have resulted in damage to the LPT disk of that severity. Therefore, since it is possible to have an LPT stage 1 disk rupture as a result of any significant upstream blade or vane failure, and due to the hazardous nature of such a disk failure, the current compliance schedule is considered adequate.

After the FAA issued the notice of proposed rulemaking (NPRM), (51 FR 33277), which preceded this rule, R–R revised the SB with the approval of the CAA. R–R SB RB.211–72–8301, Revision 2, dated March 27, 1987, adds descriptive information to identify the various standards of existing stage 2 nozzle vane assemblies. Since more P/N's are now identified, the FAA will issue an NPRM that will propose to amend this AD to include all P/N's affected since that change is beyond the scope of this action.

Conclusion

The FAA has determined that this regulation involves approximately 428 RB211–22B and –524, –524B2, 524B3, 524C2 engines (domestic fleet) at an approximate total cost of 1.9 million dollars. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since this regulation affects only operators using Lockheed L–1011 series aircraft in which the RB211 series engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT"**.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Rolls-Royce plc (formerly Rolls-Royce Limited): Applies to Rolls-Royce (R–R) RB211–22B, –524, –524B, –524B2, –524B3, and –524C2 turbofan engines

Compliance is required as indicated, unless already accomplished.

To prevent low pressure turbine (LPT) stage 1 disk uncontained failure, accomplish the following:

Modify LPT stage 2 nozzle vane assemblies Part Numbers LK63392, LK63331, and LK63333, in accordance with the Accomplishment Instructions of R–R Service Bulletin (SB) RB.211–72–8301, Revision 2, dated March 27, 1987, at the next shop visit of the LPT module, but not later than June 30, 1989. **Note.**—For the purpose of this AD, an LPT module shop visit is defined as separation of the LPT rotor assembly from the LPT case/vane assembly as necessitated by (1) its condition or (2) a requirement for scheduled maintenance.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

R–R SB RB.211–72–8301, Revision 2, dated March 27, 1987, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Rolls-Royce plc, Technical Publication Department, P.O. Box 31, Derby DE2 8BJ, England. This document also may be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Rules Docket Number 86–ANE–33, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

This amendment becomes effective on December 11, 1987.

Issued in Burlington, Massachusetts, on October 7, 1987.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 87–25280 Filed 10–30–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87–NM–43–AD; Amdt. 39–5760]

Airworthiness Directives; SAAB Fairchild Model SF–340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive, applicable to all SAAB Fairchild Model SF–340A series airplanes, which currently applies limitations to the operation of the cabin lighting system, to eliminate an unsafe condition created by the potential for electrical arcing. This action limits the applicability to specific airplanes and also provides for terminating action.

EFFECTIVE DATE: December 16, 1987.

ADDRESSES: The applicable service information may be obtained from SAAB Aircraft, Product Support, S–58188, Linkoping, Sweden. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy M. Golder, Standardization Branch, ANM–113; telephone (206) 431–1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to amend AD 85–25–54, Amendment 39–5359 (51 FR 25682; July 16, 1986), to limit the applicability to specific airplanes and provide for terminating action, was published in the **Federal Register** on July 2, 1987 (52 FR 25028).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 15 airplanes of U.S. registry will be affected by this AD. Since this amendment will only limit the number of affected airplanes, and provide an optional terminating action, it does not impose any additional monetary or regulatory burden on any operator.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because it imposes no additional burden. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By amending AD 85–25–54, Amendment 39–5359 (51 FR 25682; July 16, 1986), as follows:

A. Change the applicability statement to read:

SAAB-Fairchild: Applies to Model SF–340 airplanes, airliner version, listed in SAAB–SCANIA Service Bulletin SF340–33–016, Revision 1, dated April 3, 1987, certificated in any category.

B. Add a new paragraph D. that reads:

D. Installation of Modification 1422, as described in SAAB–SCANIA Service Bulletin SF340–33–016, Revision 1, dated April 3, 1987, constitutes terminating action for the requirements of paragraph A. of this AD.

This amendment becomes effective December 16, 1987.

Issued in Seattle, Washington, on October 22, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–25261 Filed 10–30–87; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3, 4 and 140

Relief From Regulation as a Commodity Trading Advisor for Certain Persons; Relief From Compliance With Subpart B of Part 4 for Certain Commodity Pool Operators; Disclosure Documents and Annual Reports

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (the "Commission") has adopted § 4.6, which excludes certain otherwise regulated persons, such as State-regulated

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insurance companies, from the definition of the term "commodity trading advisor" ("CTA") and § 4.14(a)(8), which exempts certain other persons, such as registered investment advisers ("IAs"), from registration as a CTA. To implement this relief, the Commission has adopted certain other amendments to its regulations. The Commission also has adopted § 4.12(b), which provides relief from specific compliance with certain disclosure, reporting and recordkeeping requirements of Part 4 for registered commodity pool operators ("CPOs") who operate pools which, among other things, trade generally and routinely in securities instruments and who intend to commit no more than 10 percent of the fair market value of their pools' assets as initial margin or as option premiums for commodity interest trading. Finally, the Commission has adopted certain technical amendments to Part 4 regarding the Disclosure Document required of registered CPOs and CTAs and the Annual Report required of registered CPOs.

EFFECTIVE DATES: Sections 3.16(a)(3), 4.6, 4.12, 4.14(a)(8), 4.21(a)(17)(i), 4.21(g), that portion of § 4.22(c) which pertains to the number of Annual Report copies that must be filed, §§ 4.31(f) and 140.93(a)(1) and (a)(6) are effective November 2, 1987. That portion of § 4.22(c) which pertains to when the Annual Report must be distributed and filed will become effective December 2, 1987.

FOR FURTHER INFORMATION CONTACT: With respect to §§ 3.16, 4.6, 4.12, 4.14 and 140.93, Barbara S. Gold, Assistant Chief Counsel, and with respect to §§ 4.21, 4.22 and 4.31, Patricia N. Gillman, Senior Special Counsel, Division of Trading and Markets, 2033 K Street NW., Washington, DC 20581. Telephone (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

The term "commodity trading advisor" is defined in section 2(a)(1)(A) of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. 2 (1982), to mean:

[A]ny person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 4c, or any leverage transaction authorized under section 19, or who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the foregoing; but such term does not include (i) any bank or trust company or any person acting as an employee thereof, (ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees, (v) the fiduciary of any defined benefit plan which is subject to the provisions of the Employee Retirement Income Security Act of 1974, (vi) any contract market, and (vii) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: *Provided*, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession * * *.

Section 4m(1) of the Act, 7 U.S.C. 6m(1) (1982), generally makes it unlawful for any person to engage in business as a CTA without being registered as such. Part 4 of the Commission's regulations, 17 CFR Part 4 (1987), governs the operations and activities of CTAs.[1]

In connection with the adoption of the Futures Trading Act of 1986, Pub. L. No. 99–641, 100 Stat. 3556 *et seq.* (1987), the House of Representatives Committee on Agriculture (the "Committee") considered a proposal to exclude certain persons from the CTA definition.[2] The Committee Report then noted the Commission's objections to the breadth of the proposal. It further noted the Commission's questioning of the need for a statutory amendment to the CTA definition in light of existing authority in section 2(a)(1)(A) of the Act,[3] and the Commission's prior responsiveness and stated preparedness to the requests of insurance companies regarding some of the problems that would have been addressed by the proposed amendment.

In light of the foregoing, the Committee declined to adopt the proposed amendment. Instead, the Committee urged the Commission to issue regulations in this regard. As the Committee Report states:

> The Committee believes that any insurance company subject to regulation by State insurance departments (including any wholly owned subsidiary or employee thereof), provided its commodity advisory activities are solely incidental to the conduct of the business of the insurance company as such, generally is not within the intent of the definition of the term "commodity trading [advisor]." The Committee similarly believes that any person who is excluded from the definition of the term "commodity pool operator" by Commission Rule 4.5 should be excluded from the commodity trading advisor definition, provided its commodity advisory activities are solely incidental to its operation of those trading vehicles for which Rule 4.5 provides relief. Relatedly, where the advisor advises an entity that is excluded from registration as a commodity pool under Rule 4.5 or is a Rule 4.5 qualifying entity and such advisor is subject to appropriate regulation under the Investment Advisers Act, that advisor should ordinarily be exempted from commodity trading advisor registration if its commodity advice is solely incidental to its business of providing securities advice to such entity and the advisor is not otherwise holding itself out as a commodity trading advisor. Therefore, the Committee urges the Commission to exercise its authority to adopt regulations in regard to these matters.
>
> Should the Commission determine that registration as a commodity trading advisor is required, the Committee expects that the Commission will use its existing authority to consider other appropriate relief. In this regard, the Committee is aware that the Commission has exercised its authority to limit, by exemption, those employees of otherwise regulated entities who must register as an associated person of a commodity trading advisor. The Committee further understands that the Commission has coordinated its activities with the Securities and Exchange Commission to eliminate duplicative requirements, for example, by deeming in appropriate cases compliance with SEC disclosure, recordkeeping, and reporting requirements as sufficient compliance with the Commission's corresponding commodity pool operator requirements. The Committee intends that the Commission will continue to provide this and such other relief as may be appropriate to applicants for registration as a commodity trading advisor or in any other registration category.
>
> On the other hand, the Committee does not expect the Commission to grant exempted commodity trading advisors any relief from the antifraud provisions of section 4*o* of the Act.

[1] Part 4 also governs the operations and activities of commodity pool operators ("CPOs"). For the purpose of this **Federal Register** release, references to a particular Part 4 regulation may be found at 17 CFR Part 4 (1987).

[2] H.R. Rep. No. 624, 99th Cong., 2d Sess. 46–48 (1986).

As interested persons will recall, in connection with the adoption of the Futures Trading Act of 1982, the Senate Committee on Agriculture, Nutrition and Forestry similarly considered a proposal to provide relief from CPO regulation for certain otherwise regulated persons. *See* S. Rep. No. 384, 97th Cong. 2d Sess. 79–80 (1982). Pursuant to the language in the Report of that Committee, the Commission adopted § 4.5, which makes an exclusion from the definition of the term "commodity pool operator" available to the "eligible persons" specified in the rule with respect to their operation of certain "qualifying entities." To claim that relief, generally a notice of eligibility, containing specified representations on how the qualifying entity will be operated, must be filed with the Commission. Section 4.5(c)(2). *See generally* 50 FR 15868 (April 23, 1985).

[3] As is stated above, section 2(a)(1)(A) provides the Commission with authority to exclude or exempt from the CTA definition "such [other] persons not within the intent of this definition as the Commission may specify by rule, regulation, or order."

The Committee understands that rulemaking addressing these concerns may take some time for the Commission to develop and promulgate. Individual requests for exclusions or exemptions, consistent with the above guidelines, however, should be processed by the Commission as expeditiously as practicable. The Commission's experience with individual cases should facilitate the formulation of more general rulemaking. H.R. Rep. No. 624, 99th Cong., 2d Sess. 47–48 (1986).

In response to this language, on May 26, 1987 the Commission published for comment in the **Federal Register** proposed § 4.6, which would have excluded certain otherwise regulated persons, such as State-regulated insurance companies, from the CTA definition and proposed § 4.14(a)(8), which would have exempted certain other persons, such as registered investment advisers, from CTA registration.[4] By that **Federal Register** release the Commission further proposed certain revisions to its rules for CPOs and CTAs which also generally would have had the effect of reducing regulatory burdens. Specifically, the Commission proposed to adopt in § 4.12(b) relief from specific compliance with certain disclosure, reporting and recordkeeping requirements of Part 4 for registered CPOs of certain pools and to reduce to two from three the number of certain documents that CPOs and CTAs are required to file under Part 4.

The Commission received 11 comment letters on these proposals: 1 from a person registered as both a CTA and as an investment adviser; 3 from persons registered as an investment adviser; 1 from a national bank; 2 from persons registered as a futures commission merchant; 1 from a commodity exchange; 2 from trade associations; and 1 from a law firm.

The Commission's careful review of those comment letters indicates that they uniformly supported the Commission's proposals.[5] Accordingly, with the exception of § 4.12(b), these proposals have been adopted essentially as they had been proposed.[6]

[4] 52 FR 19522.

[5] Certain commenters urged the Commission to provide even broader relief. The specific remarks of those commenters and the Commission's responses thereto are set forth in the discussion of the particular rule to which they apply.

[6] As is discussed more fully below, proposed § 4.12(b) would have required a CPO to request the relief available thereunder *and* the Commission to act upon that request. As adopted, § 4.12(b) does not require any such action upon the part of the Commission. Rather, the relief available thereunder is effective upon the filing of a claim of exemption with the Commission.

Further, because these proposals have been adopted essentially as they had been proposed, the Commission is repeating in this **Federal Register** release much of the discussion contained in the proposing **Federal Register** release.

II. Relief from CTA Regulation

A. Section 4.6: Exclusion for Certain Otherwise Regulated Persons from the Definition of the Term "Commodity Trading Advisor"

Paragraph (a) of the rule specifies the persons who are eligible for exclusion from the CTA definition and the activities for which such relief is available. As it stated in the preamble to the proposed rule, the Commission has strictly followed the Committee Report language in specifying these persons and activities. Thus, the rule provides relief for: (1) A State-regulated insurance company, or any wholly-owned subsidiary or employee thereof, and (2) a person who is excluded from the definition of the term "commodity pool operator" by § 4.5 under certain circumstances.[7] In particular, the commodity interest advisory activities of these persons are subject to a "solely incidental" test—*i.e.*, in the case of an insurance company (or wholly-owned subsidiary or employee thereof) those activities must be "solely incidental to the conduct of the insurance business of the insurance company as such" and in the case of a person excluded from the CPO definition by § 4.5 those activities must be "solely incidental to its operation of those trading vehicles for which § 4.5 provides relief." [8]

[7] Section 4.5(a) specifies the persons eligible for that relief as follows:

(1) An investment company registered as such under the Investment Company Act of 1940;

(2) An insurance company subject to regulation by any State;

(3) A bank, trust company or any other such financial depository institution subject to regulation by any State or the United States; and

(4) A trustee or named fiduciary of a pension plan that is subject to Title I of the Employee Retirement Income Security Act of 1974; *Provided, however*, That for purposes of this § 4.5 the following pension plans shall not be construed to be pools:

(i) A noncontributory plan, whether defined benefit or defined contribution, covered under Title I of the Employee Retirement Income Security Act of 1974;

(ii) A contributory defined benefit plan covered under Title IV of the Employee Retirement Income Security Act of 1974; *Provided, however*, That with respect to any such plan to which an employee may voluntarily contribute, no portion of an employee's contribution is committed as margin or premiums for futures or options contracts; and

(iii) A plan defined as a governmental plan in section 3(32) of Title I of the Employee Retirement Income Security Act of 1974.

[8] Section 4.5(b) lists the following trading vehicles as qualifying entities:

(1) With respect to any person specified in paragraph (a)(1) of this section, an investment company registered as such under the Investment Company Act of 1940;

(2) With respect to any person specified in paragraph (a)(2) of this section, a separate account established and maintained or offered by an insurance company pursuant to the laws of any State or territory of the United States, under which income gains and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account, without regard to other income, gains, or losses of the insurance company;

(3) With respect to any person specified in paragraph (a)(3) of this section, the assets of any trust, custodial account or other separate unit of investment for which it is acting as a fiduciary and for which it is vested with investment authority; and

(4) With respect to any person specified in paragraph (a)(4) of this section, and subject to the proviso thereof, a pension plan that is subject to Title I of the Employee Retirement Income Security Act of 1974 * * *.

Moreover, where necessary, before it provides such advice to any such qualifying entity, the person must file a notice of eligibility. (As is stated in n. 7, *supra*, certain trading vehicles are deemed under § 4.5(a)(4)(i)–(iii) to be "non-pools" and, thus, no notice is required to be filed with respect to their operation.)

[9] In the absence of any negative comments, the Commission also has adopted as proposed § 140.93(a)(6), which delegates to the Director of the Division of Trading and Markets, or the Director's designee, the authority to make such special calls. The Division of Trading and Markets is responsible for, among other things, administering and interpreting the Part 4 regulations.

[10] Thus, interested persons should note that the Commission intends to interpret the special call provision in § 4.6(b) and in § 4.5(c)(2)(v) in an identical manner. With respect to the latter provision the Commission has stated:

> [I]t does not intend to administer the special call representation in any * * * burdensome or onerous manner. Rather, the Commission intends that the information it would require pursuant to a special call basically would be information that the qualifying entity's other Federal or State regulator would already be requiring it to keep—*e.g.*, data concerning the execution dates, execution prices and current values of its cash market and commodity interest positions. Moreover, as is now expressly stated in the rule, a special call would be strictly limited to documenting compliance with the information and representations on operating criteria that the notice of eligibility must contain. Therefore, the Commission believes that compliance with a special call should pose little, if any, inconvenience or disruption to the conduct of the entity's operations. 50 FR 15868 at 15880.

Paragraph (b) of the rule requires each person claiming an exclusion from the CTA definition to submit to special calls to demonstrate its compliance with the terms of paragraph (a).[9] This provision is intended to permit the Commission to monitor whether persons claiming the exclusion are properly entitled to do so. Paragraph (c) provides that an exclusion under the rule will cease to be effective "upon any change which would render the person claiming the exclusion ineligible under paragraph (a)."

Section 4.6 follows the format of § 4.5 with one significant exception.[10] The

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CTA exclusionary rule, unlike the CPO exclusionary rule, does not require that a notice be filed with the Commission to claim the exclusion.[11] The Commission did not propose a notice requirement because

(1) With respect to insurance companies, pursuant to the Committee Report the proposal follows the exclusionary language in section 2(a)(1)(A) for such persons as banks (who do not have to file any notice), and (2) with respect to those persons who are excluded under § 4.5 from the CPO definition, the Commission will, in fact, be receiving an identifying notice under that rule. 52 FR 19522 at 19524.

The Commission nonetheless sought comment on whether a notice should be required to be filed to claim relief under § 4.6 and, if so, what information the notice should contain.[12] The several persons responding to this request agreed with the Commission, stating that a notice requirement would be unnecessary or redundant. Accordingly, the Commission has not adopted a notice requirement in the final rule. The exclusion provided by § 4.6 is available without any action on the part of a person claiming that relief—subject, of course, to the person meeting the requirements of paragraph (a).

As is noted above, the one criterion to which persons claiming relief under § 4.6 are subject is that their commodity interest advisory activities must be "solely incidental" to their insurance business or § 4.5 activities. As the Commission noted in proposing this criterion, pursuant to the Committee Report language, Commission staff had received and responded to several requests for interpretation on the meaning of the "solely incidental" criterion in the context of the activities of State-regulated insurance companies and their wholly-owned subsidiaries.[13] Specifically, it noted that staff had found that this condition of the exclusion would be met where commodity interest trading advice would be provided—

to persons to whom [the insurance company] (or a subsidiary insurance company) has issued a[n] * * * insurance contract and, thus, with whom [the insurance company] (or a subsidiary insurance company) has established a relationship through the issuance of that contract.[14]

Conversely, staff had found that this condition would not be met where—

certain State-regulated insurance companies (or a wholly-owned subsidiary thereof) have established and serve as the registered investment adviser to a mutual fund complex into which persons who are not policyholders of the insurance company and who have no other relationship with the company may invest.[15]

As for the other persons excluded from the CTA definition by § 4.6, the Commission expressed its belief that the requirement that the excluded person's advisory activities be "solely incidental" to certain other activities could only be met where such a person served as the operator of the § 4.5 trading vehicle *and* provided securities investment advise to it and commodity interst advice consistent with strategies permitted under § 4.5.[16]

No specific comments were received concerning how to further articulate this standard. Accordingly, as it stated in its proposal, the Commission expects to interpret the "solely incidental" condition flexibly following prior interpretations and to further delineate the words "solely incidental" based on specific fact situations.

The Commission did, however, receive various comments on proposed § 4.6 concerning the evolving nature of the definition of the term "bona fide hedging transactions and positions" in § 1.3(z)(1), 17 CFR 1.3(z)(1) (1987).[17] As one commenter urged, because § 4.6 would be available to persons excluded from the CPO definition by §4.5, in adopting § 4.6 the Commission should verify that the scope of activities under § 4.5 may be refined. In that way, the commenter stated, § 4.5 would flexibly accommodate evolving regulatory enhancements without having to be amended and revised. The Commission agrees with the recommendation and by this **Federal Register** release acknowledges its intention to apply any such evolving definitions of the term "bona fide hedging" to §§ 4.5 and 4.6.[18]

B. Section 4.14(a)(8): Exemption for Certain Persons from Registration as a CTA

Section 4.14(a) is that section of the Commission's regulations which contains the provisions pursuant to which a person who comes within the statutory definition of the term" commodity trading advisor" my nonethless claim exemption from registration as a CTA. In furtherance of the Committee Report, the Commission proposed and has adopted certain other CTA registration exemptions in § 4.14(a)(8).[19]

Preliminarily, the Commission notes that section 4m(1) of the Act provides a statutory exemption from CTA registration for any CTA "who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifteen persons and who does not hold himself out generally to the public as a commodity trading advisor." In response to comments received, the Commission wishes to make clear that the relief provided by §4.14(a)(8) is mutually exclusive from that provided by section 4m(1)—that is, depending on the nature of its activities a CTA may be exempt from registration as such under either or both provisions. Thus, the fact that a CTA who is claiming exemption under § 4.14(a)(8) has more than 15 clients for the purpose of that rule will not affect the CTA's ability to claim exemption under section 4m(1) for a different set of clients—*i.e.* clients who are other than § 4.5 trading vehicles.

Like § 4.6, § 4.14(a)(8) similarly closely follows the language of the Committee Report in specifying the persons who are eligible for relief thereunder—*e.g.*, persons who are registered as in IA under the Investment Advisers Act of 1940 (the "IAA"), 15 U.S.C. 80b *et seq.* (1982). In addition, the Commission also has made § 4.14(a)(8) available to persons who are excluded from the definition of the term "investment adviser" by sections 202(a)(2) and 202(a)(11) of the IAA [20]—essentially certain banks of the nature described in those sections. As the Commission noted in its proposal, without such a

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[11] *See* paragraphs (c) through (f) of § 4.5.

[12] *Cf.* § 4.14(a)(8), which requires the persons eligible under that section to file a notice of exemption to claim relief from registration as a CTA. As is explained below, such a notice would be needed to identify those persons—who otherwise would not be known to the Commission.

[13] *See, e.g.*, Division of Trading and Markets Interpretative Letter No. 86–24, Comm. Fut. L. Rep. (CCH) ¶23,292 (Oct. 1, 1986).

[14] *Id.* at p. 32,798.

[15] Division of Trading and Markets Interpretative Letter No. 86–18, Comm. Fut. L. Rep. (CCH) ¶23,201 (July 23, 1986) at p. 32,531, n. 6. As is discussed below, however, the Commission has adopted in § 4.14(a)(8) an exemption from registration as a CTA for persons who are registered as an IA and who provide commodity interest trading advice to § 4.5 trading vehicles. *See also* Interpretative Letter No. 86–24, n. 13, *supra*, at p. 32,800.

[16] *Cf.* Division of Trading and Markets Interpretative Letter No. 87–1, Comm. Fut. L. Rep. (CCH) ¶23,623 (May 19, 1987), wherein staff found that certain of an insurance company/IA's commodity interest advisory activities would not be "solely incidental," and thus would not come within the scope of the Committee Report language, because those activities would not be given in the context either of an insurance product or a primary securities relationship.

[17] *See, e.g., Clarification of Certain Aspects of the Hedging Definition*, 52 FR 27195 (July 20, 1987); *but cf. Risk Management Exemptions from Speculative Position Limits Approved under Commission Regulation 1.61*, 52 FR 34633 (Sept. 14, 1987) at 34634, n. 3.

[18] Similar comments were received with respect to proposed § 4.14(a)(8) which, as is discussed more fully below, provides an exemption from CTA registration for certain persons who, among other things, provide commodity interest trading advice to § 4.5(b) trading vehicles. The Commission similarly intends to apply any such evolving definitions to § 4.14(a)(8).

[19] The Commission similarly proposed and has adopted an amendment § 3.10(a)(3) of its regulations, to provide exemption from registration for the associated persons ("APs") of these exempt CTAs.

[20] 15 U.S.C. 80b-2(a)(2) and 2(a)(11) (1982).

provision, those banks— because of the very fact that they statutorily are excluded from the IA definition—would be ineligible for the relief that persons who must register as an IA could claim.[21]

Further similar to § 4.6, the criteria for relief under § 4.14(a)(8) closely follows the Committee Report language. Specifically, the criteria that a person who seeks to claim exemption from CTA registration under § 4.14(a)(8) must meet were proposed and have been adopted as follows:

(i) The persons's commodity trading advice:

(A) Is directed solely to, and for the sole use of, entities which are excluded from the definition of the term "pool" under § 4.5 or are qualifying entities under § 4.5 for which a notice of eligibility has been filed;

(B) Is solely incidental to its business of providing securities advice to each such entity; and

(C) Employs only such strategies as are consistent with eligiblity status under § 4.5.

(ii) The person is not otherwise holding itself out as a commodity trading advisor * * *.

As the Commission similarly noted in proposing § 4.14(a)(8), pursuant to the Committee Report staff also had occasion to interpret the exemption criteria of the Report.[22] As staff stated:

As for the * * * condition * * * that [no registered IA] will otherwise hold itself out as a CTA with respect to those activities for which a "no-action" position from CTA registration has been issued herein * * * we believe that further discussion is necessary and appropriate to ensure compliance with that condition. In this regard, you asserted that [a registered IA] "should, however, be allowed to describe to existing and potential clients the limited commodities advice it may provide in accordance with the terms of this letter and how it believes that such advice may be used to benefit its clients"—which, you noted, would parallel the disclosures the Commission has said would be appropriate for the purpose of the "marketing" representation under Rule 4.5. *See* 50 Fed. Reg. 15868 at 15879, [April 23, 1985]. We further note that in discussing this representation the Commission stated that it—

intends the term "marketing" to include oral, written and electronic promotional materials and that an entity would be "marketing participations" in a manner inconsistent with the required representation if [a trading vehicle] was actively promoted as "a hybrid—*e.g.*, a securities *and* a commodities—trading vehicle or as an investment vehicle in which commodity futures and options trading was particularly significant and critical to the growth of its assets, as opposed to being incidental to protecting those assets against a decline in value." *Id.*

Thus, the marketing materials to be used should state, with respect to transactions in commodity interests, only that strategies consistent with eligibility status under Rule 4.5 may be used. These strategies may, of course, be described in the marketing materials. Further in this regard, we believe that [the IA]: (1) should market its ability to manage an actual or prospective client's securities portfolio, not a comodity interest trading vehicle; and (2) should not represent that it has any unique expertise or ability in providing commodity interest trading advice.[23]

As it stated in its proposal, absent comment that would indicate otherwise, the Commission intended to interpret this criteria of § 4.14(a)(8) in accord with the foregoing staff position. The Commission further noted that the foregoing position was not intended to be an all inclusive discussion but, rather, an attempt to identify activities which would be consistent—or inconsistent—with the Committee Report.

The Commission received several comments on the proposed criteria. One commenter recommended deletion of the "solely incidental" criterion—*i.e.*, that the exemption in § 4.14(a)(8) should be available where an IA only provides commodity interest trading advice to § 4.5 trading vehicles and only employs trading strategies consistent with eligibility status under § 4.5.

The Commission disagrees with this recommendation. Because it would provide relief for persons who are acting *solely* as CTAs (of § 4.5 clients), we do not believe that such activity would be consistent with the Committee Report.[24]

Certain other commenters urged the Commission to broaden the scope of permissible advisees under § 4.14(a) (8). One person suggested expanding the scope to include certain so-called "institutional investors"—*e.g.*, endowments, foundations, corporations and partnerships with certain minimum assets. In response, the Commission notes that while the IAA may afford certain rights and remedies to these investors, there has been no showing that these investors *themselves* are in fact "otherwise regulated" on the State or Federal level. Accordingly, the Commission is declining at this time to specifically broaden the scope of permissible advisees under the rule but, instead, intends to continue to provide relief as appropriate in individual cases.[25] The Commission thus intends to continue to intepret the criteria of § 4.14(a)(8) in accord with the foregoing staff position and, as it gains more experience in this area, to identify such other activities as are consistent with the Committee Report.

The Commission also proposed to require that a notice of exemption, containing certain specified information, be filed with the Commission to claim the relief available under the rule and that a supplemental notice be filed in the event of changed circumstances—*i.e.*, registration as a CTA. Sections 4.14(a) (8) (iii) and (iv).[26] In addition, to ensure the proper administration of § 4.14(a)(8), the Commission also proposed that any such notice would be required to be filed with the National Futures Association, which has responsibility for registering CTAs. Section 4.14(a) (8) (v).[27] Several persons specifically addressed the Commission's request for comment on these proposals. They generally questioned whether such requirements would be necessary. In response, the Commission repeats the explanation in its proposal that such a requirement is in fact necessary because

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[21] *See* Division of Trading and Markets Interpretative Letter No. 86–31, Comm. Fut. L. Rep. (CCH) ¶23,416 (Dec. 11, 1986), wherein staff stated that, based upon the facts at issue, it would not recommend that the Commission take any enforcement action for failure to register as a CTA against a bank that provided "outside" advisory services to a § 4.5 registered investment company. *Cf.* § 4.6, which provides an exclusion from the CTA definition for the bank if the bank is an eligible person under § 4.5(a)(3) and the trading vehicle is a qualifying entity under § 4.5(b)(3).

[22] *See* Interpretative Letter No. 86–24, n. 13, *supra*. In that letter staff also stated that, based upon the facts at issue, it would not recommend that the Commission take any enforcement action for failure to register as a CTA against certain registered IAs—*i.e.*, the insurance company and certain of its wholly-owned subsidiaries.

[23] *Id.* at pp. 32,800–01.

Upon request the Division subsequently clarified its position as follows:

[W]e wish to emphasize that for a registered investment adviser to be exempt from CTA registration under the House Committee Report language it must, among other things, provide commodity interest trading advice to a trading vehicle specified in Rule 4.5 in a manner solely incidental to its business of providing securities advice to the trading vehicle—regardless of whether that vehicle is a "non-pool" under Rule 4.5(a)(4)(i), (ii) or (iii) or a "qualifying entity" under Rule 4.5(b). Division of Trading and Markets letter dated Nov. 19, 1986.

[24] The Commission previously has provided in this **Federal Register** release its reasons for not adopting such a notice requirement in § 4.6.

[25] Pursuant to section 17 of the Act, 7 U.S.C. 21 (1982), the Commission has designated the NFA as a registered futures association with responsibility for the regulation of persons who are required to be registered with the Commission—*e.g.*, CTAs and CPOs. *See* NFA Bylaw 1101. *See also*, NFA Compliance Rule 2–13, which provides in pertinent part that "[a]ny Member who violates any of CFTC Regulations 4.1 and 4.16 through 4.41 shall be deemed to have violated an NFA requirement." Thus, a requirement that any notice filed under § 4.14(a) (8) must be filed with the NFA is necessary to ensure that this designated self-regulatory organization is timely apprised of the activities or persons who are acting as a CTA—and persons who have qualified under § 4.14(a)(8) for exemption from CTA registration.

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the securities investment advisory profesionals who could claim relief under the rule are not otherwise known to the Commission. Thus, the purpose of this notice requirement, which is patterned after that contained in § 4.5, is to enable the Commission to know the identities of those persons claiming relief under § 4.14(a)(8) and to monitor their compliance with the criteria of the rule.[28]

One commenter stated that the burden of filing a notice would be wholly inconsistent with the underlying concept of providing exemption in the first place. The Commission believes, however, that the benefits both to it and to affected persons far outweigh any burden that the preparation of a mere notice of exemption would impose upon them. This is particularly true in light of the fact that while the notice must be filed before a person first intends to engage in business as a CTA, it is effective upon filing. Section 4.14(a)(8)(iii). Accordingly, the Commission has adopted the notice provision as proposed.

As is noted above, § 4.14(a)(8) is effective today upon its publication in the **Federal Register**. In this regard, the Commission recognizes that pending the completion of its rulemaking proceeding, there may have been uncertainty on the part of affected CTAs as to whether, and under what criteria, they would be eligible to claim the relief from registration as a CTA under the final rule. In fact, to alleviate that uncertainty the Commission stated in the **Federal Register** release accompanying proposed § 4.14(a)(8) that it would not take enforcement action solely for failure to register as a CTA against any person who met the criteria of the proposed rule.[29] Thus, because of their uncertainty and the Commission's "no-action" position, these CTAs may be engaging in activities for which they now would be eligible for regulatory relief under § 4.14(a)(8) as adopted without having filed a notice of exemption with the Commission. In light of the foregoing, and subject to compliance with all of the other provisions of § 4.14(a)(8), the Commission has determined that it will not take enforcement action solely for failure to register as a CTA against any such person who files a claim of exemption as is specified in § 4.14(a)(8) within 60 days from the date hereof.[30]

C. The Effects of the Rules

In General. Section 4.6 provides an *exclusion* for certain persons from the definition of the term "commodity trading advisor." The Commission wishes to emphasize, however, that while these persons may be outside the CTA definition, they still are "persons" for the purposes of the Act and the Commission's regulations thereunder. Thus, they remain subject to, among other things, Section 4b of the Act, 7 U.S.C. 6b (1982), which generally prohibits fraudulent transactions, and Part 18 of the regulations, 17 CFR Part 18 (1987), which requires certain reports to be furnished by traders in the commodity interest markets.

Section 4.14(a)(8) provides an *exemption* for certain other persons from CTA registration. Thus, these other persons continue to be both "persons" and CTAs for the purposes of the Act and the regulations. In addition to section 4b and Part 18 they remain subject to all other provisions which concern CTAs regardless of their registration status—*e.g.*, section 4*o* of the Act, 7 U.S.C. 6*o* (1982), which specifically prohibits fraudulent transactions by any CTA (or CPO, or any AP thereof) § 4.30, which prohibits any CTA from accepting in its own name funds intended to secure commodity interest positions, and § 4.41, which prescribes certain advertising standards for all CTAs.

On Disclosure Document Past Performance. A person who qualifies for relief under § 4.6 or § 4.14(a)(8) may at a late date decide to engage in activities which require registration as a CTA and, accordingly, for which it in fact registers as such.[31] As a registered CTA that person will be required under § 4.31 to distribute to prospective managed account clients a Disclosure Document containing the past performance record of the commodity interest accounts traded by the CTA (and each of its principals) for the three years preceding the date of the Document. In light of the comments received and its own deliberations, the Commission believes that the information required under § 4.31(a)(3) does not need to include the record of the accounts traded by a person (or principal thereof) pursuant to an exclusion from the CTA definition under § 4.6. This is because the person was not within the CTA definition with respect to those accounts. It further believes that whether that information needs to include the record of the accounts traded by a person (or principal thereof) pursuant to an exemption from CTA registration under § 4.14(a)(8) remains to be determined on a case-by-case basis in the context of a particular fact situation.

III. Section 4.12(b): Relief from Subpart B of Part 4 for Certain Registered CPOs

The Commission proposed that its general authority to exempt "any person or any class or classes of persons" from Part 4 would be retained in § 4.12(a) and that specific authority to exempt certain CPOs from certain provisions of Subpart B of Part 4—that is, from certain of the disclosure, reporting and recordkeeping requirements of §§ 4.21, 4.22 and 4.23, respectively—would be contained in § 4.12(b).[32] In light of very favorable comments, the Commission has adopted these proposals, with certain modifications to the mechanics of § 4.12(b) as are discussed more fully below.

Preliminary and as it stated in the preamble accompanying its proposal, the Commission wishes to emphasize that in adopting § 4.12(b) it has not intended to set forth the sole basis for granting relief from Subpart B of Part 4. Rather, the Commission's intention is to codify in a rule those situations for which it has routinely granted relief and with which it has become most familiar and, thus, for which it is best equipped to adopt a specific rule.[33] All other requests for exemption from Subpart B—and from any other provision of Part 4—will continue to be eligible for consideration under § 4.12(a) on a case-by-case basis.[34]

[28] Section 4.14(a) also contains various provisions which exempt certain other commodity professionals from registration as a CTA. It should be noted that by their very terms those provisions refer to persons who have been identified to the Commission—either through registration (as other than a CTA) (§§ 4.14(a) (3), (4), (6) and (7)) or through the filing of a notice of exemption from CPO registration (§ 4.14(a) (5)).

[29] 52 FR 10522 at 10528. By that release the Commission adopted a similar "no-action" position with respect to persons who met the criteria of proposed § 4.6.

[30] Similarly, the Commission will not take enforcement action solely for failure to register as an AP of a CTA against any person who is associated with a CTA who files a claim of exemption as is specified in § 4.14(a)(8) within 60 days from the date hereof.

[31] *See* § 4.14(a)(8)(iv), which requires that a person who has filed a notice of exemption from CTA registration must supplement the notice in the event the person subsequently registers as a CTA.

[32] This action also was in furtherance of the Committee Report, which, as is stated above, acknowledged the actions that had been taken in this area and expressed the intention "that the Commission will continue to provide this and such other relief."

[33] In this regard, the Commission wishes to clarify that the adoption of § 4.12(b) will not affect any similar exemptions it has previously issued. Conversely, any CPO who has received such an exemption with respect to a commodity pool it operates is now required to comply with § 4.12(b) with respect to any other pools for which it desires to receive similar relief.

[34] *See* § 140.93(a)(1), 17 CFR 140.93(a)(1) (1987), whereby the Commission delegated its authority

Continued

As proposed and as adopted, § 4.12(b) also follows the format of § 4.5. Thus, paragraph (1) of the rule sets forth the pesons who are eligible for relief—*i.e.*, any person who is registered as a CPO or who has applied for such registration—and the criteria pursuant to which their commodity pools must be operated. Briefly stated, any such pool for which a registered CPO seeks to claim relief under § 4.12(b) is required: (1) To be offered and sold in compliance with the Securities Act of 1933 (the "33 Act"), 15 U.S.C. 77a *et seq.* (Supp. III 1985), or an exemption from that Act; (2) to be generally and routinely engaged in securities transactions; (3) to restrict to 10 percent of the fair market value of its assets the amount it may commit to initiate its commodity interest transactions; and (4) to trade commodity interests in a manner soley incidental to its securities trading activities—*i.e.*, that commodity interest trading is not an integral part of the pool's trading strategy and that the pool's trading strategy can, in fact, be accomplished without the use of commodity interests. Section 4.12(b)(1)(i)(A)-(D).[35] Moreover, the CPO must provide written notice to its existing and prospective participants of the restrictions on the pool's commodity interest trading prior to the date the pool commences trading commodity interests. Section 4.12(b)(1)(ii).[36]

One person commented on the criteria proposed for § 4.12(b)(1). It expressed the view that the term "in a manner solely incidental to its securities activities" was a subjective criterion and therefore an inappropriate criterion for an exemptive rule. It further thought the criterion unnecessary in light of the other criteria of the rule. In response, the Commission wishes to make clear that the intent of the "solely incidental" criterion is not to preclude an operator who desires that its fund is exposed to the commodity interest markets through the commitment of a relatively small amount of assets—*i.e.*, 10%—from claiming relief under § 4.12(b). Rather, the criterion is intended to ensure that § 4.12(b) is not available where commodity interest trading is a critical component of the fund's trading—*e.g.*, where by its very terms the fund's trading program requires that a specified percentage of the fund's assets must at all times be committed to commodity interest trading or where, because the fund's other assets are held in debt securities solely for the purpose of generating interest income, commodity interest trading is, in fact, the only trading in which the fund engages.[37]

The relief that is available under § 4.12(b) is set forth in paragraph (2).[38] First, in the case of § 4.21(a), that the Commission accept in lieu and in satisfaction of the Disclosure Document specified by that section an offering memorandum as described in the proposal § 4.12(b)(2)(i). Specifically, such an offering memorandum is not required to include the past performance records of the pool's CPO and CTA nor the Risk Disclosure and Cautionary Statements.[39] The Memorandum is, however, required to be prepared in compliance with the '33 Act (or with an exemption therefrom) and to include the other information required by § 4.21(a). As the Commission explained in its proposal, the term "responds" as used in the rule is intended to clarify that the specific negative disclosures which otherwise would be required by § 4.21(a) do not need to be made.[40] Moreover, the term "responds" is intended to acknowledge the disclosure requirements of the '33 Act (or exemption therefrom) and to further clarify that for the purpose of § 4.12(b) the Commission intends that those requirements will control the specific content of the disclosures made in the Memorandum.[41] Second, in the case of § 4.22 (a) through (e), that the Commission accept in lieu and in satisfaction of the Account Statement and Annual Report required by those sections the financial reports specified in the rule. Sections 4.12(b)(2) (ii) and (iii), respectively. With respect to the Account Statement, these financial reports are a statement which indicates the net asset value of the pool as of the end of the reporting period and the change in net asset value from the end of the previous reporting period—which must be prepared and distributed at least quarterly. As the Commission explained in its proposal, the term "net asset value" refers to the total operations of the pool and the term "indicates" means that this information may be presented in either narrative or tabular format. With respect to the Annual Report, these financial reports must include, at a minimum, a Statement of Financial Condition as of the close of the pool's fiscal year and a Statement of Income (Loss) for that year. These statements are required to be prepared according to generally accepted accounting principles and to be certified by an independent public accountant. Moreover, these substitute financial reports continue to be subject to all of the other requirements of the rules to which they pertain.[42] Third, and last, in the case of § 4.23 (a)(10) and (a)(11), to exempt the CPO from the requirements of those sections to respectively make and keep Statements of Financial Condition and of Income (Loss) for the pool § 4.12(b)(iv).[43] The Commission proposed and has adopted this relief because these Statements would otherwise provide specific supporting data for the Account Statement—from which, as is discussed above, an exemption has been adopted. As it stated in its proposal, the Commission believes that the data necessary to verify the financial reports which may substitute for the Account Statement

under (former) § 4.12 to the Director of the Division of Trading and Markets, or the Director's designee.

Similarly, the Commission previously has stated in connection with its adoption of revisions to the Part 4 rules that:

> The Commission recognizes that in the past its staff has issued interpretations of the Part 4 rules. Consistent with that practice, the Commission invites interested persons to seek such staff interpretations of § 4.10(d) [, which defines the term "pool",] and of all the other Part 4 rules. 46 FR 28004 at 28006 (May 6, 1981).

[35] *Cf.* § 4.5(c)(2)(i), which requires a qualifying entity to trade commodity interests for hedging purposes within § 1.3(z)(1) or, with respect to certain long strategies, for incidental purposes where the underlying commodity value of its long contracts at all times will not exceed the sum of certain specified items.

[36] This notice is subject to the recordkeeping requirements of § 4.23.

[37] While acknowledging that its proposal was outside the scope of the Commission's proposed rulemaking, another commenter suggested that the Commission adopt a complete exemption from Subpart B for "accredited investors only-hedge funds" which met the criteria of § 4.12(b)(1). ("Hedge funds" were defined by the commenter to mean investment funds exempt from registration under the Investment Company Act of 1940 due to being privately sold to not more than 100 investors.) In response, the Commission repeats its prior statement that the relief it has adopted is for those situations for which it has become most familiar and, thus, for which it is best equipped to adopt a specific rule. The situations of which the commenter spoke will continue to be eligible for consideration under § 4.12(a) on a case-by-case basis.

[38] It should be noted that a CPO may request any or all of the relief available under the rule.

[39] This information would otherwise be required by §§ 4.21 (a)(4), (a)(5), (a)(17) and (a)(18), respectively.

[40] *See* §§ 4.21 (a)(3), (a)(6), (a)(8), (a)(10), (a)(13) and (a)(15). For example, under the rule an offering memorandum would respond to the requirements of § 4.21(a)(13) if it disclosed information on certain litigation concerning certain persons associated with the pool. Unlike the Disclosure Document specified by § 4.21(a), then, the memorandum is not also subject to the requirement that "if there has been no such action against any of the foregoing persons the pool operator must make a statement to that effect with respect to each such person."

[41] The applicable provisions of § 4.21(a) will, however, continue to control the subject matter of the disclosures that are required to be made.

[42] For example, they continue to be subject to the oath or affirmation requirement of § 4.22(h).

[43] Unlike the other documents subject to the rule, the books and records required under these sections are not required to be filed with the Commission. Thus, the Commission does not "accept" them.

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generally should be available from the other books and records the CPO is required to keep.[44]

As proposed, the rule contemplated that the CPO would request exemption under § 4.12(b) and that the Commission specifically would grant (or deny) such relief. The one commenter on these proposed mechanics of the rule urged the Commission to make the relief available under § 4.12(b) effective upon the filing of a notice with the Commission—which would parallel the mechanism for effectiveness of relief under §§ 4.5 and 4.14(a)(8). The Commission agrees with this suggestion, and has incorporated it into the rule. Accordingly, any registered CPO who desires to claim the relief available under § 4.12(b) must file a claim of exemption with the Commission containing certain specified information, along with a copy to the NFA. Section 4.21(b)(3).[45] The claim of exemption, which must be filed before the date the commodity pool first enters into a commodity interest transaction, is effective upon filing. Section 4.21(b)(4).[46]

The Commission's proposal also would have required certain continuing obligations on the part of a CPO to whom relief had been granted under § 4.12(b)—namely, that the CPO would have had to attach a copy of the order granting such relief to each Disclosure Document and Annual Report that it filed with the Commission. In light of the revised mechanics of the rule, as are discussed above, the Commission instead has adopted a requirement that the CPO must make a statement on the cover page of the Disclosure Document or Annual Report that it is required to file with the Commission to the effect that a claim of exemption under § 4.12(b) has been made with respect to that document. Section 4.12(b)(5).[47] The Commission wishes to clarify that any Disclosure Document filed pursuant to § 4.12(b) is subject to the 21-day "pre-filing" requirement of § 4.21(g). Consistent with the purpose and the very terms of the exemption, however, and with its previous interpretation above of the term "responds," the Commission emphasizes its intent that any staff review of any such Document will be limited to ensuring general compliance with § 4.21 (a)(1) through (a)(3) and (a)(6) through (a)(16). *See* § 4.12(b)(2)(i)(B).

As proposed and as adopted, the final provision of the rule makes clear the extent of an exemption claimed under § 4.12(b)—*i.e.*, that it is effective only with respect to the pool for which relief has been claimed and, further, that it does not affect the applicability of any other provisions of Part 4, the Act or the Commission's regulations with respect to that pool and any other pool the pool operator operates or intends to operate. Section 4.12(b)(6).

IV. Technical Amendments to §§ 4.21, 4.22 and 4.31

A. Section 4.21(a)(17): The Risk Disclosure Statement

Section 4.21 requires each registered CPO to distribute and to file with the Commission a Disclosure Document containing specified information. (Rule 4.31 places a similar requirement on certain registered CTAs.[48]

Section 4.21(a)(17)(i) also requires the Risk Disclosure Statement to appear by itself on the first page of the Disclosure Document. As it explained in its proposal, however, the Commission recognized that certain CPOs also must comply with requirements imposed by such other regulatory authorities as the NFA[49] and the Securities and Exchange Commission ("SEC")[50]. Accordingly, the Commission proposed to amend § 4.21(a)(17)(i) to clarify existing Commission policy that the Statement must appear by itself on the page immediately following any disclosures which otherwise are mandated by the Commission or NFA to appear on the cover of the Document, or immediately following any disclosures explicitly required in the forepart of a securities prospectus pursuant to applicable securities laws. As the Commission further explained, this proposal was supported by the history of the Part 4 regulations, which encouraged accommodation between Commission and SEC regulations in this area. For example, in adopting Part 4 in 1979, the Commission noted that "[i]n those cases where a CPO chooses to provide [an SEC] prospectus to prospective pool participants, the Commission will permit that prospectus to be supplemented to comply with the specific requirements of 4.21."[51]

Consistent with this language, in reviewing CPO Disclosure Documents since the adoption of Part 4, Commission staff had not objected to placing the Risk Disclosure Statement behind cover page material required by other regulators. Recently, however, staff had received a number of inquiries seeking a formal statement of the Commission's position. Accordingly, the Commission also proposed an amendment to end any confusion in this area.

The one person who specifically commented on these amendments strongly supported them. Accordingly, the Commission had adopted this amendment as proposed.

B. Section 4.22(c): The Annual Report

Section 4.22(c) requires each registered CPO to distribute and file an Annual Report for each pool that it operates within 90 calendar days after the end of the pool's fiscal year. As the Commission stated in proposing its amendment to § 4.22(c):

> One of the purposes of the Annual Report requirement is to enable pool participants to receive financial information in a timely manner.
>
> However, under the current rule, this purpose is defeated in cases where the pool stops trading before the end of its fiscal year. Accordingly, the proposal would require that the Report be distributed and filed within 90 calendar days after the end of the pool's fiscal year or the permanent cessation of trading, whichever is earlier, but in no event later than 90 days after funds are returned to pool participants. Permanent cessation of trading would be determined by reference to objective indications such as, but not limited to, the date notice is sent to pool participants advising that the pool has ceased trading or the date the CPO states in writing to the Commission, National Futures Association ("NFA") or other party that the pool has ceased operation. In any event, the Annual Report would be required to be filed with the Commission and distributed to pool participants no later than 90 days after funds are returned to the participants. As a result of this proposal, a participant would never have to wait more than 90 days from the end of the pool's operation to receive his final Annual Report. 52 FR 19522 at 19526.

In the absence of any negative comments, the Commission has adopted as proposed the amendment to § 4.22(c) to clarify when the Annual Report must be filed if a pool permanently ceases operations before the end of a pool's fiscal year.

C. Sections 4.21(g), 4.22(c) and 4.31(f): Numbers of Copies of Documents to be Filed

In light of generally favorable comments, the Commission has adopted as proposed amendments to §§ 4.21(g) and 4.31(f) which reduce to two from three the number of copies of the Disclosure Document that a CPO or a CTA must file with the Commission. Likewise, § 4.22(c) has been amended as proposed to require that only two copies of the Annual Report be filed with the Commission.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 et seq. (1982), requires that agencies, in proposing rules, consider the impact of those rules on small business. The Commission has already established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such small entities in accordance with the RFA.[52]

As the Commission noted in the preamble to the proposed rules, these definitions do not address the persons set forth in proposed §§ 4.6 and 4.14(a)(8) because, by the very nature of those proposals, the operations and activities of such persons generally are regulated by Federal and State authorities other than the Commission.[53] Assuming, *arguendo*, that such persons and entities would be "small entities" for purposes of the RFA, the Commission expressed its belief that proposed §§ 4.6 and 4.14(a)(8) would not have a significant economic impact on them because it merely would require in the case of the former rule certain information upon special call and in the case of the latter rule the filing of a notice with the Commission, the documentation for either of which should be pre-existing. Moreover, the proposals would relieve these persons from the requirement to register as a CTA and from the disclosure and recordkeeping requirements applicable to registered CTAs.[54]

As for those proposals which addressed registered CPOs,[55] the Commission previously had determined that registered CPOs are not small entities for the purpose of the FRA.[56] Thus, no economic analysis of these proposals as they relate to registered CPOs was required.[57]

As for the proposals which addressed registered CTAs,[58] the Commission had stated that it was more appropriate to consider on a case-by-case basis which CTAs should be deemed small under the RFA.[59] However, since the proposal would have reduced an existing burden on those registered CTAs to which it would apply, the Commission expressed its belief the proposal would not have a significant economic impact on any of those CTAs—regardless of whether any such CTA would be a small entity for the purpose of the RFA.

In certifying, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), that these proposed rules would not have a significant economic impact on a substantial number of small entities, the Commission nonetheless invited comments from any CTA or CPO which believed that these proposed rules would have such an impact on its operations. No such comments were received.

B. Section 15 of the Act

Section 15 of the Act, 7 U.S.C. 19 (1982), requires the Commission to—

> Take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act, in issuing any order or adopting any Commission rule or regulation.

The Commission has taken into consideration the public interest to be proteted by the antitrust laws and has endeavored to take the least anti-competitive means of achieving the regulatory objectives of the Act. To the extent the rules adopted herein raise competitive concerns, the Commission has determined that such rules are necessary and appropriate. This is particularly true in light of the nature and extent of regulatory relief available under §§ 4.6, 4.12(b) and 4.14(a)(8) to the persons and with respect to the activities specified therein. As for other persons and activities, the Commission notes that, as is discussed above, while it closely has followed the Committee Report in adopting these rules it intends that staff will continue to issue exemptions and interpretations under Part 4—such that, under appropriate circumstances, relief from CTA or CPO regulation may be afforded to other persons who engage in activities not covered by these rules.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with these conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with that Act the Commission previously submitted these rules in proposed form and its associated information collection requirements to the Office of Management and Budget. The Office of Management and Budget approved the collection of information associated with these rules on July 15, 1987 and assigned OMB control number 3038–0023 Part 3 and 3038–0005 to Part 4.

Copies of the OMB approved information collection package associated with these rules may be obtained from Bob Neal, Office of Management and Budget, Room 3220, NEOB, Washington, DC 20503, (202) 395–7340.

D. Effective Dates

The Administrative Procedure Act generally requires that rules promulgated by an agency may not be made effective less than 30 days after publication except for, among other things, "a substantive rule which grants or recognizes an exemption or relieves a restriction" or "or for good cause." Insasmuch as §§ 4.6 and 4.14(a)(8) and the amendments to §§ 3.16(a)(3), 4.12, 4.21(a)(17), 4.21(g), that portion of § 4.22(c) which pertains to the number of copies of the Annual Report which must be filed and § 4.31(f) come within the first exception, the Commission is making these rules effective upon the date of publication of this **Federal Register** release. As is explained more fully above, however, by this **Federal Register** release the Commission also, in effect, is providing a 60 day "no-action" period for person to file the requisite notice of exemption necessary to claim the relief available under § 4.14(a)(8). Since the amendments to § 140.93(a)(1) and (a)(6) necessarily flow from the

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[44] *See, e.g.*, § 4.23 (a)(6) and (a)(6), which respectively require the CPO to make and keep a general ledger and "all other records" generated for the pool.

[45] The Commission previously has explained in n. 27, *supra*, why it is necessary to send a copy of the claim to the NFA.

[46] Accordingly, the Commission has amended § 140.93(a)(1) such that it now applies to any general request for exemption under § 4.12(a).

[47] This requirement is intended to ensure that the Commission is informed under all circumstances of those CPOs who have claimed relief under § 4.12(b) and the documents for which they have claimed such relief. Accordingly, the CPO may—but is not required—to include such a statement on any Disclosure Document or Annual Report that it provides to the participants in its pool.

[48] Specifically, those registered CTAs who seek to direct or to guide client accounts are subject to § 4.31.

[49] *See e.g.*, NFA Guideline for the Disclosure by CPOs and CTAs of "Up Front" Fees and Organizational and Offering Expenses, NFA Manual ¶ 10,067.

[50] *See e.g.*, regulation S–K, items 501, 502 and 503, 17 CFR § 229.501–.503 (1987).

[51] 44 FR 1918 at 1922 (Jan. 8, 1979).

[52] 47 FR 18618–18621 (April 30, 1982).

[53] For example, § 4.6 applies to, among other persons, "an insurance company subject to regulation by any State" and § 4.14(a)(8) applies to IAs who are registered with, and subject to the supervision of, the SEC.

[54] 52 FR 19522 at 19528. Section 3.16(a)(3) exempts from registration as an AP of a CTA an AP of a person exempt under § 4.14(a)(8). An AP must be an individual: *See* Section 4k of the Act, 7 U.S.C. 6k (1982). Because the RFA does not apply to "individuals," no economic analysis of proposed § 3.16(a)(3) was required.

[55] *See* proposed § 4.12(b) and the proposed revisions to §§ 4.21(a)(17)(i), 4.21(g) and 4.22(c).

[56] 47 FR 18619–20.

[57] As the Commission further noted, those proposals would not have imposed any new requirements on registered CPOs. In fact, certain of the proposals would have relieved existing requirements. *See, e.g.*, §§ 4.12(b) and 4.21(g).

[58] *See* the proposed revision to § 4.31(f).

[59] 47 FR 18620.

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adoption of §§ 4.12 and 4.6, respectively, the Commission finds that good cause exists similarly to make these rules effective upon publication. The amendment to § 4.22(c) which pertains to when the Annual Report must be distributed and filed does not come within any such exception and, accordingly, it is to be effective 30 days after publication.

List of Subjects

17 CFR Part 3

Registration, Associated persons, Commodity futures.

17 CFR Part 4

Commodity pool operators, Commodity trading advisors, Commodity futures.

17 CFR Part 140

Authority delegation (Government agencies), Commodity futures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(1)(A), 4k, 4*l*, 4m, 4n, 4*o*, and 8a, 7 U.S.C. 2, 6k, 6*l*, 6m, 6n, 6*o*, and 12a and in 5 U.S.C. 552 and 552b (1982), the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

1. The authority citation for Part 3 continues to read as follows:

Authority: 7 U.S.C. 2 and 4, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6*i*, 6k, 6m, 6n, 6*o*, 6p, 8, 9, 9a and 13b, 12, 12a, 18, 19, 21 and 23; 5 U.S.C. 552 and 552b.

2. Section 3.16(a)(3) is revised to read as follows:

§ 3.16 Registration of associated persons of commodity trading advisors and commodity pool operators.

(a) * * *

(3) Is exempt from registration as a commodity trading advisor pursuant to the provisions of § 4.14(a)(1), § 4.14(a)(2) or § 4.14(a)(8) of this chapter or is associated with a person who is so exempt from registration: *Provided,* That the provisions of this paragraph (a)(3) shall not apply to the solicitation of a client's or prospective client's discretionary account, or the supervision of any person or persons so engaged, by, for, on behalf of a commodity trading advisor (i) which is not exempt from registration pursuant to the provisions of § 4.14(a)(1), § 4.14(a)(2) or § 4.14(a)(8) of this chapter or (ii) which is registered as a commodity trading advisor notwithstanding the availability of that exemption;

* * * * *

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

3. The authority citation for Part 4 continues to read as follows:

Authority: 7 U.S.C. 2, 6b, 6c, 6*l*, 6m, 6n, 6*o*, 12a, and 23; 5 U.S.C. 552 and 552b.

4. Section 4.6 is added to read as follows:

§ 4.6 Exclusion for certain otherwise regulated persons from the definition of the term "commodity trading advisor."

(a) Subject to compliance with the provisions of this section, the following persons, and any principal or employee thereof, shall be excluded from the definition of the term "commodity trading advisor:"

(1) An insurance company subject to regulation by any State, or any wholly-owned subsidiary or employee thereof; *Provided, however,* That its commodity interest advisory activities are solely incidental to the conduct of the insurance business of the insurance company as such; and

(2) A person who is excluded from the definition of the term "commodity pool operator" by § 4.5; *Provided, however,* That:

(i) Its commodity interest advisory activities are solely incidental to its operation of those trading vehicles for which § 4.5 provides relief; and

(ii) Where necessary, prior to providing any commodity interest trading advice to any such trading vehicle the person files a notice of eligibility as specified in § 4.5 to claim the relief available under that section.

(b) Any person who has claimed an exclusion under this § 4.6 must submit to such special calls as the Commission may make to require the person to demonstrate compliance with the provisions of paragraph (a) of this section.

(c) An exclusion claimed under this § 4.6 shall cease to be effective upon any change which would render the person claiming the exclusion ineligible under paragraph (a) of this section.

5. Section 4.12 is revised to read as follows:

§ 4.12 Exemption from provisions of Part 4.

(a) *In general.* (1) The Commission may exempt any person or any class or classes of persons from any provision of this Part 4 if it finds that the exemption is not contrary to the public interest and the purposes of the provisions from which the exemption is sought.

(2) The Commission may grant the exemption subject to such terms and conditions as it may find appropriate.

(b) *Exemption from Subpart B for certain commodity pool operators.* (1) Any person who is registered as a commodity pool operator, or has applied for such registration, may claim any or all of the relief available under paragraph (b)(2) of this section if:

(i) The pool for which it makes such claim:

(A) Will be offered and sold pursuant to the Securities Act of 1933 or pursuant to an exemption from said Act;

(B) Will generally and routinely engage in the buying and selling of securities and securities derived instruments;

(C) Will not enter into commodity futures and commodity options contracts for which the aggregate initial margin and premiums exceed 10 percent of the fair market value of the pool's assets, after taking into account unrealized profits and unrealized losses on any such contracts it has entered into; *Provided, however,* That in the case of an option that is in-the-money at the time of purchase, the in-the-money amount as defined in § 190.01(x) may be excluded in computing such 10 percent; and

(D) Will trade such commodity interests in a manner solely incidental to its securities trading activities.

(ii) Each existing participant and prospective participant in the pool for which it makes such request is informed in writing of the restrictions set forth in § 4.12(b)(1)(i) (C) and (D) prior to the date the pool commences trading commodity interests. The pool operator may furnish this information by way of the pool's Disclosure Document, Account Statement, a separate notice or other similar means.

(2) The commodity pool operator of a pool which meets the criteria of paragraph (b)(1) of this section may claim the following relief:

(i) In the case of § 4.21(a), that the Commission accept in lieu and in satisfaction of the Disclosure Document specified by that section an offering memorandum for the pool which does not contain the information required by § 4.21 (a)(4), (a)(5), (a)(17) and (a)(18); *Provided, however,* That the offering memorandum:

(A) Is prepared pursuant to the requirements of the Securities Act of 1933 or the exemption from said Act pursuant to which the pool is being offered and sold; and

(B) Responds to the information requirements of § 4.21 (a)(1) through (a)(3) and (a)(6) through (a)(16).

(ii) In the case of § 4.22 (a) and (b), that the Commission accept in lieu and in satisfaction of the Account Statement and prescribed frequency respectively specified by those sections a statement which indicates the net asset value of the pool as of the end of the reporting period and the change in net asset value from the end of the previous reporting period, to be prepared and distributed no less frequently than quarterly; *Provided, however,* That each such statement complies with the other requirements of § 4.22 (a) and (b), including the references in those sections to § 4.22 (g) and (h).

(iii) In the case of § 4.22 (c) through (e), that the Commission accept in lieu and in satisfaction of the financial information and statements in the Annual Report specified by those sections an annual report for the pool which contains, at a minimum, a Statement of Financial Condition as of the close of the pool's fiscal year and a Statement of Income (Loss) for that year; *Provided, however,* That:

(A) Each such annual report complies with the other requirements of § 4.22(c), including the reference in that section to § 4.22(h) and the requirement in § 4.22(c)(5) that the annual report must contain appropriate footnote disclosure and further material information; and

(B) The financial statements in such annual report must be presented and computed in accordance with generally accepted accounting principles consistently applied and must be certified by an independent public accountant.

(iv) In the case of § 4.23 (a)(10) and (a)(11), to exempt the pool operator from the requirements of those sections with respect to the pool.

(3) Any registered commodity pool operator who desires to claim the relief available under this § 4.12(b) must file a claim of exemption with the Commission. Such claim must:

(i) Be in writing;

(ii) Provide the name, main business address and main business telephone number of the registered commodity pool operator, or applicant for such registration, making the request;

(iii) Provide the name of the commodity pool for which the request is being made;

(iv) Contain representations that the pool will be operated in compliance with § 4.12(b)(1)(i) and the pool operator will comply with the requirements of § 4.12(b)(1)(ii);

(v) Specify the relief sought under § 4.12(b)(2);

(vi) Be signed by the pool operator, as follows: If the pool operator is a sole proprietorship, the request must be signed by the sole proprietor; if a partnership, by a general partner; and if a corporation, by the chief executive officer or chief financial officer; and

(vii) Be filed, along with a copy, with the Commission at the address specified in § 4.2.

(viii) A copy also must be filed with the National Futures Association at its headquarters office (Attn: Director of Compliance, Compliance Department).

(4)(i) The claim of exemption must be filed before the date the commodity pool first enters into a commodity interest transaction.

(ii) The claim of exemption shall be effective upon filing; *Provided, however,* That any exemption claimed hereunder shall cease to be effective upon any change which would render the representations made pursuant to paragraph (b)(3)(iv) of this section inaccurate or the continuation of such representations false or misleading.

(5)(i) If a claim of exemption has been made with respect to § 4.12(b)(2)(i), the commodity pool operator must make a statement to that effect on the cover page of each offering memorandum, or amendment thereto, that it is required to file with the Commission pursuant to § 4.21(g).

(ii) If a claim of exemption has been made with respect to § 4.12(b)(2)(iii), the pool operator must make a statement to that effect on the cover page of each annual report that it is required to file with the Commission pursuant to § 4.22(c).

(6)(i) Any claim of exemption effective hereunder shall be effective only with respect to the pool for which it has been made.

(ii) The effectiveness of such claim shall not affect the obligations of the commodity pool operator to comply with all other applicable provisions of this Part 4, the Act and the Commission's rules and regulations issued thereunder with respect to the pool and any other pool the pool operator operates or intends to operate.

6. Section 4.14 is amended by adding paragraph (a)(8) to read as follows:

§ 4.14 Exemption from registration as a commodity trading advisor.

(a) * * *

(8) It is registered as an investment adviser under the Investment Advisers Act of 1940 or is excluded from the definition of the term "investment adviser" pursuant to the provisions of sections 202(a)(2) and 202(a)(11) of that Act; *Provided, however,* That:

(i) The person's commodity interest trading advice:

(A) Is directed solely to, and for the sole use of, entities which are excluded from the definition of the term "pool" under § 4.5 or are qualifying entities under § 4.5 for which a notice of eligibility has been filed;

(B) Is solely incidental to its business or providing securities advice to each such entity; and

(C) Employs only such strategies as are consistent with eligibility status under § 4.5.

(ii) The person is not otherwise holding itself out as a commodity trading advisor; and

(iii) Prior to the date upon which such person intends to engage in business as a commodity trading advisor, the person files a notice of exemption with the Commission.

(A) The notice must provide the name, main business address and main business telephone number of the person filing the notice.

(B) The notice must represent that the person qualified for exemption under this § 4.14(a)(8) and that it will comply with the criteria of this section.

(C) The notice shall be effective upon filing; *Provided, however,* That an exemption claimed hereunder shall cease to be effective upon any change which would render the representations made pursuant to paragraph (a)(8)(iii)(B) of this section inaccurate or the continuation of such representations false or misleading.

(iv) In the event a person who has filed a notice of exemption under this § 4.14(a)(8) subsequently becomes registered as a commodity trading advisory, the person must file a supplemental notice of that fact.

(v) Any notice required to be filed hereunder must be:

(A) In writing;

(B) Signed by a duly authorized representative; and

(C) Filed, along with a copy, with the Commission at the address specified in § 4.2.

(D) A copy also must be filed with the National Futures Association at its headquarters office (ATTN: Director of Compliance, Compliance Department).

* * * * *

7. Section 4.21 is amended by revising paragraphs (a)(17)(i) introductory text and (g) to read as follows:

§ 4.21 Disclosure to prospective pool participants.

(a) * * *

(17)(i) The following Risk Disclosure Statement, to be prominently disclosed on, and as the only language on, the

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page immediately following any disclosures required to appear on the cover page as provided by the Commission or any registered futures association, or immediately following the disclosures explicitly required in the forepart of a securities prospectus pursuant to any regulations promulgated under applicable securities laws.

* * * * *

(g)(1) The commodity pool operator must file with the Commission two copies of the Disclosure Document for each pool that it operates or that it intends to operate not less than 21 calendar days prior to the date the pool operator first intends to deliver the Document to a prospective participant in the pool.

(2) The commodity pool operator must file with the Commission two copies of all subsequent amendments to the Disclosure Document for each pool that it operates or that it intends to operate within 21 calendar days of the date upon which the pool operator first knows or has reason to know of the defect requiring the amendment.

8. Section 4.22 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 4.22 Reporting to pool participants.

* * * * *

(c) Each commodity pool operator registered or required to be registered under the Act must distribute an Annual Report to each participant in each pool that it operates, and must file two copies of the Report with the Commission, within 90 calendar days after the end of the pool's fiscal year or the permanent cessation of trading, whichever is earlier, but in no event longer than 90 days after funds are returned to pool participants; *Provided, however,* that if during any calendar year the commodity pool operator did not operate a commodity pool, the pool operator must so notify the Commission within 30 calendar days after the end of such calendar year. * * *

* * * * *

9. Section 4.31 is amended by revising paragraph (f) to read as follows:

§ 4.31 Disclosure to prospective clients.

* * * * *

(f)(1) The commodity trading advisor must file with the Commission two copies of the Disclosure Document for each trading program that it offers or that it intends to offer not less than 21 calendar days prior to the date the trading advisor first intends to give the Document to a prospective client in the trading program.

(2) The commodity trading advisor must file with the Commission two copies of all subsequent amendments to the Disclosure Document for each trading program that it offers or that it intends to offer within 21 calendar days of the date upon which the trading advisor first knows or has reason to know of the defect requiring the amendment.

* * * * *

PART 140—ORGANIZATION, FUNCTIONS AND PROCEDURES OF THE COMMISSION

10. The authority citation for Part 140 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 4a(c), 4a(j), 6, 6c, 6d, 6e, 6f, 6g, 6k, 6*l*, 6m, 6n, 6p, 7, 7a, 8, 8a, 12, 12a, 16 and 23; 5 U.S.C. 552 and 552b.

11. Section 140.93(a) is amended by revising paragraph (a)(1) and by adding paragraph (a)(6) to read as follows:

§ 140.93 Delegation of authority to the Director of the Division of Trading and Markets.

(a) * * *

(1) All functions reserved to the Commission in § 4.12(a) of this chapter.

* * * * *

(6) All functions reserved to the Commission in § 4.6(b) of this chapter.

* * * * *

Issued in Washington, DC on October 27, 1987, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-25280 Filed 10-30-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Devices and Radiological Health

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to certification of true copies and use of the Department seal to add to the list of delegates the Director and Deputy Director and the Freedom of Information Officers of the Office of Standards and Regulations, Center for Devices and Radiological Health (CDRH).

The additional authority is being delegated because the CDRH Freedom of Information function is located in the Office of Standards and Regulations.

EFFECTIVE DATE: November 2, 1987.

FOR FURTHER INFORMATION CONTACT: Melissa H. Moncavage, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: FDA is amending § 5.22 *Certification of true copies and use of the Department seal* (21 CFR 5.22) to add to the list of delegates the Director and Deputy Director and the Freedom of Information Officers of the Office of Standards and Regulations, CDRH. The additional authority is being delegated because the CDRH Freedom of Information function is located in the Office of Standards and Regulations.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR Part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552; 7 U.S.C. 2217; 15 U.S.C. 638, 1451 et seq.; 21 U.S.C. 41 et seq., 61-63, 141 et seq., 301-392, 467f(b), 679(b), 801 et seq., 823(f), 1031 et seq.; 35 U.S.C. 156; 42 U.S.C. 219, 241, 242(a), 242a, 242l, 242o, 243, 262, 263, 263b through 263m, 264, 265, 300u et seq., 1395y and 1395y note, 3246(b)(3), 4831(a), 10007, and 10008; Federal Caustic Poison Act (44 Stat. 1406); Federal Advisory Committee Act (Pub. L. 92-463); E.O. 11490, 11921.

2. In § 5.22 by adding new paragraphs (a)(9) (v) and (vi) to read as follows:

§ 5.22 Certification of true copies and use of Department seal.

(a) * * *

(9) * * *

(v) The Director and Deputy Director, Office of Standards and Regulations, CDRH.

(vi) Freedom of Information Officers, Office of Standards and Regulations, CDRH.

* * * * *

Dated: October 26, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-25275 Filed 10-30-87; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 175

[Docket No. 86F-0515]

Indirect Food Additives: Adhesives and Components of Coatings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 4-(diiodomethylsulfonyl) toluene for use as a preservative in can-sealing cements which contact food. This action responds to a petition filed by Abbott Laboratories.

DATES: Effective November 2, 1987; objections by December 2, 1987.

ADDRESSES: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 3, 1987 (52 FR 3350), FDA announced that a petition (FAP 6B3961) had been filed by Abbott Laboratories, Abbott Park, IL 60064, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) of the food additive regulations be amended to provide for the safe use of 4-(diiodomethylsulfonyl) toluene for use as a preservative in can end and can side seam cements contacting food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that 21 CFR 175.300(b)(3)(xxxii) should be amended as set forth below. This listing of the additive will provide for its use in both can end and can side seam cements contacting food.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before December 2, 1987 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR Part 175 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 175.300 is amended in paragraph (b)(3)(xxxii) by alphabetically inserting a new item in the list of substances to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxxii) * * *

4-(Diiodomethysulfonyl) toluene (CAS Reg. No. 20018-09-1)	for use as a preservative at a level not to exceed 0.3 percent by weight in can-sealing cements.

* * * * *

Dated: October 22, 1987.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-25276 Filed 10-30-87; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address for CEVA Laboratories, Inc.

EFFECTIVE DATE: November 2, 1987.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: CEVA Laboratories, Inc., 7101 College Blvd., Suite 610, Overland Park, KS 66210, the sponsor of several NADA's, has advised FDA of a change of address from "10560 Barkley, Overland Park, KS 66212." The agency is amending the address entry in 21 CFR 510.600 in paragraph (c)(1) for "CEVA Laboratories, Inc.," and in paragraph (c)(2) for "050604" to reflect this change of address.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling,

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Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) in the entry for "CEVA Laboratories, Inc.," and in paragraph (c)(2) in the entry for "050604" by revising the sponsor address to read "7101 College Blvd., Suite 610, Overland Park, KS 66210."

Dated: October 26, 1987.

Richard A. Carnevale,

Acting Associate Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 87-25273 Filed 10-30-87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoffmann-La Roche, Inc., providing for the use of Type C lasalocid feeds for the control of coccidiosis in cattle having a body weight of up to 800 pounds.

EFFECTIVE DATE: November 2, 1987.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Hoffmann-La Roche, Inc., Nutley, NJ 07110, is the sponsor of NADA 96-298, which provides for the use of Type C lasalocid feeds for the control of coccidiosis caused by *Eimeria bovis* and *Eimeria zuernii* in cattle having a body weight of up to 800 pounds. The drug is provided at 1 milligram of lasalocid per 2.2 pounds body weight. Based on data and information submitted, the supplemental NADA is approved and 21 CFR 558.311 is amended by revising paragraph (b)(3) and adding new paragraph (e)(1)(xiii). The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.311 is amended in paragraph (b)(3) by revising the phrase "(e)(1) (vi), (vii), (ix), (xi) and (xii)" to read "(e)(1) (vi), (vii), (ix), (xi), (xii), and (xiii)" and by adding new paragraph (e)(1)(xiii), to read as follows:

§ 558.311 Lasalocid.

* * * * *

(e) * * *

(1) * * *

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
*	*	*	*	*
(xiii)	———	Cattle: for control of coccidiosis caused by *Eimeria bovis* and *Eimeria zuernii*.	For cattle: feed continuously at a rate of 1 mg of lasalocid per 2.2 pounds body weight per day to cattle weighing up to 800 pounds with a maximum of 360 mg of lasalocid per head per day.	000004

* * * * *

Dated: October 23, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-25274 Filed 10-30-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 232 and 235

[Docket No. R-87-1362; FR-2426]

Mortgage Insurance; Changes in Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations increases the maximum allowable interest rate on certain section 232 (Mortgage Insurance for Nursing Homes) loans and on all section 235 (Homeownership for Lower Income Families) insured loans. This final rule is intended to bring the maximum permissible financing charges for these programs into line with competitive market rates.

EFFECTIVE DATE: October 22, 1987.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Chief Mortgage and Capital Market Analysis Branch, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755-7270. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The following amendments to 24 CFR Chapter II have been made to increase the maximum interest rate which may be charged on loans insured by this Department under section 232 (fire safety equipment) and section 235 of the National Housing Act. The maximum interest rate on the HUD/FHA section 232 (fire safety equipment) and section 235 insurance programs has been raised from 10.50 percent to 11.00 percent.

The Secretary has determined that this change is immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change.

As a matter of policy, the Department submits most of its rulemaking to public comment, either before or after effectiveness of the action. In this instance, however, the Secretary has determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this final rule effective immediately.

HUD regulations published at 47 FR 56266 (December 15, 1982), amending 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule fall within the categorical exclusions set forth in paragraph (*l*) of § 50.20, the preparation of an Environmental Impact Statement or Finding of No Significant Impact is not required for this rule.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule provides for a small increase in the mortgage interest rate in programs of limited applicability, and thus of minimal effect on small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 26, 1987 (52 FR 40358) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.108, 14.117, and 14.120.

List of Subjects

24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs: housing and community development.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs: health, Loan programs: housing and community development, Mortgage insurance, Nursing homes, Intermediate care facilities.

Accordingly, the Department amends 24 CFR Parts 232 and 235 as follows:

PART 232—MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES

1. The authority citation for 24 CFR Part 232 continues to read as follows:

Authority: Secs. 211, 232, National Housing Act, (12 U.S.C. 1715b, 1715w); sec. 7(d), Department of Housing and Urban Development, (42 U.S.C. 3535(d)).

2. In § 232.560, paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 11.00 percent per annum with respect to mortgages insured on or after October 22, 1987.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

3. The authority citation for 24 CFR Part 235 continues to read as follows:

Authority: Secs. 211, 235, National Housing Act (12 U.S.C. 1715b, 1715z); sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

4. In § 235.9, paragraph (a) is revised to read as follows:

§ 235.9 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.00 percent per annum with respect to mortgages insured on or after October 22, 1987.

5. In § 235.540, paragraph (a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed on by the mortgagee and the mortgagor, which rate shall not exceed 11.00 percent per annum with respect to mortgages insured after October 22, 1987.

* * * * *

Date: October 20, 1987.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 87-25281 Filed 10-30-87; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Part 885

[Docket No. R-87-1363; FR-2427]

Loans for Housing for the Elderly or Handicapped; Fiscal Year 1988 Interest Rate

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of section 202 Loan Interest Rate—Fiscal Year 1988.

SUMMARY: This document established 9 percent per annum as the interest rate for loans that are made during Fiscal Year 1988 for housing for the elderly or handicapped under section 202 of the Housing Act of 1959.

FOR FURTHER INFORMATION CONTACT: Robert W. Wilden, Director, Assisted Elderly and Handicapped Housing Division, 451 Seventh Street, SW., Room 6116, Washington, DC 20410-8000, telephone (202) 426-8730. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Under 24 CFR 885.410(g)(2), the Secretary of Housing and Urban Development is required to publish an annual document establishing the interest rate for loans for housing for the elderly or handicapped under section 202 of the Housing Act of 1959. This interest rate may not exceed either:

(1) A rate determined by the Secretary of the Treasury to be the average interest rate on all interest-bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year immediately prior to the date on which the loan is made, plus an allowance to cover administrative costs and probable losses under the program. (This

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allowance has been determined by the Secretary of Housing and Urban Development to be one-fourth of one percent (.25%) per annum for both the construction and permanent loan periods); or

(2) Any statutory ceiling on interest rates or allowances for administrative costs and probable losses for such loans as may be applicable. (24 CFR 885.410(g)(1).)

The interest rate on the described interest-bearing obligations of the United States at the end of Fiscal Year 1986 (as determined by the Secretary of the Treasury) was 8.75 percent annum. This rate plus the .25 percent per annum allowance for administrative costs and probable losses yields an interest rate of 9 percent per annum. Accordingly, this document announces that the Secretary of HUD has established the interest rate for section 202 loans made during Fiscal Year 1988 at the rate of 9 percent per annum.

Under 24 CFR 50.20(1) an environmental finding is not necessary because the statutorily required establishment of interest rates is among matters that are categorically excluded from the environmental requirements of 24 CFR Part 50.

Authority: Sec. 202, Housing Act of 1959, U.S.C. 1701q; Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 353(d).

Date: October 27, 1987.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 87-25318 Filed 10-30-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 358

[Department of the Treasury Circular, Public Debt Series No. 28-87]

Regulations Governing CUBES (Coupons Under Book-Entry Safekeeping)

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Interim rule.

SUMMARY: This interim rule establishes regulations governing the Treasury's Coupons Under Book-Entry Safekeeping ("CUBES") program. This program was the subject of a Notice published on December 5, 1986 (51 FR 44003). This Notice stated that the CUBES program would provide a one-time opportunity to present physical coupons detached from U.S. Treasury obligations, i.e., bonds and notes, for conversion to book-entry form, to be held in an off-line book-entry system maintained and administered by the Federal Reserve Bank of New York, as fiscal agent of the United States. The terms and conditions governing the CUBES program were set out in a written agreement signed by participating depository institutions. These regulations modify the CUBES program, as originally set forth in the written agreements, to provide a more efficient method of maintenance and transfer of CUBES. CUBES may now be traded on-line and against payment, and depository institutions will maintain their CUBES accounts at the Federal Reserve Bank or Branch of their district. These regulations provide that the general regulations governing transactions in book-entry Treasury securities will govern transactions in CUBES.

DATES: Interim rule effective November 2, 1987; comments must be received on or before December 2, 1987.

ADDRESS: Send comments to the Washington Office, Office of the Chief Counsel, Bureau of the Public Debt, Engraving and Printing Annex, Washington, DC 20239-0001.

FOR FURTHER INFORMATION CONTACT: Rochelle F. Granat, Attorney-Adviser, Bureau of the Public Debt, Washington, DC, (202) 447-9859.

SUPPLEMENTARY INFORMATION: In the Notice published December 5, 1986, at 51 FR 44003, the Bureau of the Public Debt announced the implementation of a Coupons Under Book-Entry Safekeeping (CUBES) program. Under the program, depository institutions holding coupons stripped from physical Treasury securities were permitted to convert them to book-entry form by presenting them, between January 5, 1987, and April 30, 1987, pursuant to instructions provided by the Federal Reserve Bank of New York and the Department of the Treasury.

All depository institutions which participated in the conversion process were required to sign an "Agreement to the Terms and Conditions Governing CUBES." Appendix A contains the terms of the agreement. Depository institutions which did not participate in the conversion phase of the CUBES program but subsequently participated in the trading of off-line CUBES were required to sign a modified agreement which contained only those terms governing post-conversion transactions.

Under the original terms and conditions of the CUBES program, CUBES accounts were to be maintained in an off-line system at the Federal Reserve Bank of New York. The program offered off-line trading of CUBES between depository institutions. Transfers between accounts required that written or "tested" telephonic instructions be sent to the Federal Reserve Bank of New York through the Federal Reserve Bank or Branch in whose district the depository institution was located. Payments associated with transfers of CUBES had to be settled outside of the book-entry system. Transfers of CUBES were subject to the Treasury fee schedule applicable to the transfer of other off-line book-entry securities.

These regulations modify the CUBES program to provide a more efficient method of account maintenance and transfer. Section 358.2 allows each depository institution holding or receiving CUBES accounts to maintain them at the Federal Reserve Bank or Branch in the district in which it is located. Depository institutions will be able to effect transfers of CUBES nationwide, on-line, and against payment. This means that a depository institution with on-line connections to its Federal Reserve Bank or Branch can initiate and receive transfers of CUBES directly and need not provide instructions to the Reserve Bank or Branch. In addition, on-line depository institutions will be assessed the on-line book-entry transfer fee per origination instead of the higher off-line fee for each origination and receipt.

The one-time transfer of CUBES account balances to the Federal Reserve Bank or Branch of the district in which the depository institution is located will be subject to the same terms and conditions as applied to off-line transfers of CUBES in the original agreement, except that no fee will be charged for this transfer. All subsequent transfers of CUBES will be subject to the same rules and regulations as all other commercial book-entry Treasury securities.

Each depository institution holding CUBES accounts prior to implementation of this modification has been informed of the planned modification to the CUBES program. Because the securities wire cannot accommodate par amounts of less than one dollar, each institution has agreed in writing to waive all amounts of less than one dollar in the aggregate for each CUBES CUSIP and has stated its intention to authorize the transfer of its CUBES balances to the Federal Reserve Bank or Branch of its district.

These regulations, as stated in § 358.0(b), therefore, modify the terms and conditions provided in the written agreement to the extent inconsistent therewith. All other terms remain in full force and effect. In addition, the regulations clearly establish, at § 358.3, that the general regulations governing transactions in book-entry Treasury securities govern transactions in CUBES (31 CFR Part 306, Subpart O). CUBES will be included within the definition of "security" for purposes of Subparts A, B, and D of Part 357 of Title 31, at such time as the Treasury/Reserve Automated Debt Entry System (TRADES) regulations are published as a final rule.

The Department has determined that the publication of these CUBES regulations is appropriate at this time because it is no longer practical to have the agreement serve as the primary source for reference to the terms and conditions governing transactions in CUBES and to require each new participant in the program to execute the written agreement. These regulations are, therefore, issued to provide easily-referenced terms and conditions, binding on all present and future holders of CUBES, and to establish that CUBES may be held and transferred in the same manner, and subject to the same general regulations, as all other commercial book-entry Treasury securities.

Procedural Requirements

This interim rule is not a "major rule" as defined in Executive Order 12291. A regulatory impact analysis is therefore not required.

The notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). Moreover, the current participants in the CUBES program have been informed of the modification to the CUBES program and have agreed in writing to the waiver of the amounts which cannot be accommodated on the securities wire. Once CUBES accounts are transferred to the Federal Reserve Banks or Branches of the districts in which the depository institutions are located, transactions in CUBES will take place in the same manner and be subject to the same regulations as all other commercial book-entry Treasury securities. As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply. Therefore, the Department finds that notice and public procedures are not necessary.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) does not apply to this rule because it does not contain information collection requirements which necessitate approval by the Office of Management and Budget.

List of Subjects in 31 CFR Part 358

Government securities, Federal Reserve System.

Dated: October 6, 1987.

Gerald Murphy,

Fiscal Assistant Secretary.

Part 358 is added to Subchapter B of Title 31, Code of Federal Regulations, Chapter II, to read as follows:

PART 358—REGULATIONS GOVERNING CUBES (COUPONS UNDER BOOK-ENTRY SAFEKEEPING)

Sec.

358.0 Applicability.
358.1 Definitions.
358.2 Maintenance of CUBES accounts at Federal Reserve Banks nationwide; on-line capability.
358.3 Governing regulations.
358.4 Supplements, amendments or revisions.

Appendix A to Part 358—Terms of the Written Agreement Governing Participation in CUBES Program

Authority: 31 U.S.C. Ch 31; 12 U.S.C. 391.

§ 358.0 Applicability.

(a) These regulations apply to CUBES (Coupons Under Book-Entry Safekeeping). CUBES represent physical coupons that were detached from United States Treasury obligations and that were converted to book-entry form pursuant to the terms and conditions contained in Appendix A of this part, these terms and conditions having constituted, in pertinent part, the written "Agreement to the Terms and Conditions Governing CUBES," signed by those depository institutions who participated in the CUBES program prior to publication of the regulations in this part.

(b) These regulations modify the terms and conditions governing CUBES articulated in the written agreements, and referenced in Appendix A, to the extent that they are inconsistent with those terms and conditions. All other terms remain in full force and effect, and bind all holders of CUBES.

§ 358.1 Definitions.

In this part, unless the context indicates otherwise:

"CUBES" refers to physical coupons that have been detached from United States Treasury obligations and that have been converted into book-entry form under the Treasury's Coupons Under Book-Entry Safekeeping program.

"Depository institution" means an entity described in section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)).

"Federal Reserve Bank" or "Reserve Bank" means a Federal Reserve Bank or Branch.

"Physical coupon" means a definitive coupon stripped from the corpus of a bearer definitive United States Treasury note or bond.

"On-line" means an automated telecommunications system which links depository institutions and the Federal Reserve Banks and allows the transfer of book-entry securities to be initiated and received directly by depository institutions with such capability.

"Off-line" means any method for holding and transferring book-entry securities that is not "on-line" as described above.

§ 358.2 Maintenance of CUBES accounts at Federal Reserve Banks nationwide; on-line capability.

(a) By a date determined by the Department of the Treasury, CUBES holdings of each depository institution will be transferred from the off-line system at the Federal Reserve Bank of New York to the Federal Reserve Bank or Branch in the district in which the depository institution is located. Thereafter, transfers may be effected nationwide on the securities wire. Depository institutions with on-line connections to the Federal Reserve Bank in their district may initiate and receive transfers of CUBES directly and against payment. Depository institutions that do not have on-line connections with the Federal Reserve Bank in their district may inititate and receive transfers of CUBES against payment in accordance with the procedures normally used for off-line book-entry securities.

(b) The terms and conditions governing off-line transfers of CUBES as provided in the written agreement governing CUBES also apply to the one-time transfer of CUBES balances from the off-line system at the Federal Reserve Bank of New York to the Federal Reserve Bank in the district in which the depository institution is located. However, no fee will be charged for this transfer.

(c) CUBES balances cannot be transferred back to the off-line system at the Federal Reserve Bank of New York.

(d) The on-line book-entry transfer fee applies to on-line transfers of CUBES. The off-line book-entry transfer fee applies to off-line transfers of CUBES.

(e) Upon transfer from the off-line system at the Federal Reserve Bank of New York to the Federal Reserve Bank in the depository institution's district, amounts of less than one dollar in the aggregate per CUBES CUSIP are waived.

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§ 358.3 Governing regulations.

CUBES are deemed to be securities for purposes of Subpart O of Part 306 of this title, until such time as the TRADES (Treasury/Reserve Automated Debt Entry System) regulations are published in final form, at which time CUBES will be deemed to be securities for purposes of Subparts A, B, and D of Part 357 of this title.

§ 358.4 Supplements, amendments or revisions.

The Secretary may, at any time, prescribe additional supplemental, amendatory or revised regulations with respect to CUBES.

Appendix A to Part 358—Terms of the Written Agreement Governing Participation in the CUBES Program

(1) By signing this agreement and by submitting coupons for conversion to book-entry accounts under CUBES, the undersigned depository institution (DI) agrees to be bound by all the terms and conditions stated herein and agrees to follow all written instructions and procedures provided by the Federal Reserve Bank of New York (FRBNY) and the Treasury.

(2) Presentation of physical coupons to FRBNY for conversion to book-entry accounts under the CUBES program constitutes a representation by the DI that it has authority to convert said coupons to book-entry form and that said coupons were stripped prior to January 5, 1987.

(3) Instructions to effect transfers between CUBES accounts constitutes a representation that the DI has authority to effect such transfers.

(4) The Treasury and FRBNY acting as fiscal agent of the United States, shall not be liable for conversion or for participation in any breach of fiduciary duty or legal obligation if the DI has no right or authority to convert the coupons to book-entry form or to take other actions in respect to book-entry accounts in CUBES.

(5) Neither the Treasury nor FRBNY shall be liable for any loss incurred by the DI which results from the failure of the DI to properly follow the written procedures provided by FRBNY and the Treasury.

(6) Coupons will be accepted for conversion only between January 5, 1987 and April 30, 1987. No coupons will be accepted for conversion from the undersigned after April 30, 1987. Coupons shall be submitted in accordance with a schedule provided by FRBNY.

(7) The DI agrees to bear the full cost and risk of loss associated with the delivery of the coupons to FRBNY. The United States assumes the risk of transportation of the submitted coupons between FRBNY and the Treasury.

(8) Coupons must be submitted to FRBNY in accordance with the instructions provided and must be accompanied by Form GB 122, executed by an authorized officer of the DI.

(9) Only stripped Treasury coupons maturing on or after January 15, 1988, are eligible for conversion to book-entry form under CUBES, except those maturing after the first date of call.

(10) Any coupons which are returned to the DI will be returned at the DI's risk and expense.

(11) The DI's presentation(s) of physical coupons will be subject to rejection or adjustment until verified by both FRBNY and the Treasury.

(12) The DI will pay a non-refundable fee of four dollars ($4.00) for each coupon presented for the CUBES program. The fee for any coupons which are rejected by the Treasury, for whatever reason, is not refundable.

(13) After processing and verification by FRBNY, FRBNY will credit amounts accepted to special "off-line" book-entry accounts to be established at FRBNY. Verification by Treasury will be accomplished within ten (10) business days of receipt of the coupons at Treasury. No trading activity in the CUBES account will be allowed during this ten day period. If at any time after this ten (10) day period the Treasury determines that coupons were improperly credited to the DI's CUBES account, such as in the case of a previously undetected counterfeit, the Treasury reserves the right to adjust the DI's CUBES account pursuant to the terms of clause fifteen (15) of this agreement.

(14) CUBES accounts will be maintained separately from accounts maintained in Treasury's STRIPS (Separate Trading of Registered Interest and Principal of Securities) program.

(15) In the event that the Treasury makes an adjustment to or rejects all or part of a deposit, FRBNY is authorized to delete from the DI's CUBES account CUBES of the same payment date and face value (i.e., the same "generic" CUBES CUSIP) as those for which the DI received credit but were subsequently rejected. If no such CUBES exist in the DI's CUBES account, the DI will be instructed by FRBNY as to how an adjustment will be made. In the event that the DI fails to comply with FRBNY's instructions within five (5) business days of receipt of such instructions, FRBNY reserves the right to debit the DI's reserve or clearing account for the face value of the rejected coupon(s).

(16) Off-line transfers between CUBES accounts that occur after conversion to book-entry will require written or "tested telephonic" instructions via the DI's local Federal Reserve Bank to FRBNY. CUBES transactions will not be processed unless CUBES accounts have been properly established and FRBNY has received appropriate instructions from both the sending and receiving DI's. Book-entry balances will be adjusted to reflect transfers on a one day lagged basis by FRBNY, volume permitting. Such off-line transfers may take place only between DIs. Payments associated with transfers of CUBES must be settled outside of the book-entry system. Instructions that request delivery or receipt against payment will be rejected.

(17) The Treasury and FRBNY shall not be liable for any action taken in accordance with the information set out in written or "tested telephonic" transfer requests provided by the DI.

(18) Except as otherwise provided by regulation, circular, or written agreement, FRBNY shall be liable in connection with any action taken or omission by it only for its failure to exercise ordinary care. FRBNY and the Treasury shall not have or assume any responsibility to any party except the sending and receiving DIs involved in a CUBES transaction. FRBNY and the Treasury shall not be liable, in connection with a CUBES transaction, for the insolvency, neglect, misconduct, mistake or default of another bank or person, including the immediate participants.

(19) Book-entry transfers under the CUBES program will be subject to the Treasury fee schedule applicable for the transfer of other off-line book-entry securities. The Treasury reserves the right to revise this fee schedule at any time by notice in the **Federal Register**.

(20) The DI agrees that all charges associated with its CUBES account, including the per coupon conversion fee, will be processed against its reserve or clearing account at its local Federal Reserve Bank, as such charges accrue and without prior notice.

(21) Once stripped coupons have been converted to book-entry form, reconversion to physical form will not be possible.

(22) Principal (corpus) securities from which interest coupons have been stripped will not be converted into book-entry form.

(23) Converted coupons are not eligible as collateral for tax and loan balances or other public funds.

(24) This agreement shall be construed in accordance with Federal law, the general regulations governing United States Securities, Federal Reserve regulations, and FRBNY's operating circulars.

(25) The Secretary of the Treasury reserves the right, in his discretion, to waive or modify any provision or provisions of these terms and conditions in any particular case or class of cases if such action is not inconsistent with law and does not impair any existing right.

[FR Doc. 87-25251 Filed 10-30-87; 8:45 am]
BILLING CODE 4810-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 361

[DoD Directive 5105.42]

Defense Investigative Service (DIS)

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule revises 32 CFR Part 361. It has been developed to reflect the transfer of responsibility for DIS from the Department of Defense, Office of the General Counsel to the Deputy Under Secretary of Defense for Policy and to update policy concerning the administration and functions of DIS.

EFFECTIVE DATE: June 14, 1985.

FOR FURTHER INFORMATION CONTACT: William H. Bell, Office of the Deputy Under Secretary of Defense for Policy, the Pentagon, Room 3C267, telephone (202) 697-3969.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 361

Organization and functions (government agencies).

Accordingly, 32 CFR Part 361 is revised as follows:

PART 361—DEFENSE INVESTIGATIVE SERVICE (DIS)

Sec.

361.1 Reissuance and purpose.
361.2 Applicability.
361.3 Organization and management.
361.4 Functions.
361.5 Responsibilities.
361.6 Relationships.
Appendix A—Delegations of Authority.

Authority: 10 U.S.C. Chapter 4.

§ 361.1 Reissuance and purpose.

This part revises 32 CFR Part 361 and, pursuant to the authority vested in the Secretary of Defense under Title 10, U.S. Code assigns direction, authority, and control over the Defense Investigative Service (DIS) to the Deputy Under Secretary of Defense for Policy (DUSD(P)), and prescribes the organization and management, functions, responsibilities, relationships, and authorities described in the following.

§ 361.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

§ 361.3 Organization and management.

(a) The DIS is a separate agency of the Department of Defense under the direction, authority, and control of the DUSD(P).

(b) The DIS shall consist of a Director, appointed by the Secretary of Defense, a management headquarters; a Defense Industrial Security Clearance Office (DISCO); a Personnel Investigations Center (PIC); a Defense Security Institute; and such subordinate units and field activities as are established by the Director, DIS, or as assigned to the DIS by the Secretary of Defense. Subordinate units and field activities may be located overseas in support of the industrial security mission.

(c) The DIS shall be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense deems necessary.

(d) Military personnel may be assigned to the DIS from the Military Departments in accordance with approved authorizations and established procedures for assignment to joint duty.

§ 361.4 Functions.

The DIS is a law enforcement, personnel security investigative, and industrial security agency and shall:

(a) Provide a single, centrally directed personnel security investigative service to conduct personnel security investigations for DoD Components within the United States and its Trust Territories and, when authorized by the DUSD(P), for other U.S. Government departments and agencies. The DIS shall request the Military Departments, or when appropriate other U.S. Government activities, to accomplish investigative requirements assigned to it in other geographic areas.

(b) Operate a consolidated Personnel Security Investigations Center in accordance with DoD Directive 5200.27 [1].

(c) Manage the Defense Central Index of Investigations.

(d) Administer the Defense Industrial Security Program (DISP) under DoD 5220.22-R.

(e) Operate the DISCO as a consolidated central facility to process industrial personnel security clearances.

(f) Administer the Defense Industrial Facilities Protection Program (DIFPP) under DoD Directive 5160.54 [2].

(g) Provide inspection policy and procedures essential to assess DoD contractor compliance with DoD physical security requirements for the protection of sensitive conventional arms, ammunition and explosives (AA&E) under DoD Instruction 5220.30 [3].

(h) As authorized by the DUSD(P) and under 32 CFR Part 213 provide support for law enforcement investigations involving DoD personnel, facilities, or contractors conducted by authorized investigative agencies of the Military Departments, Inspector General, Department of Defense (IG, DoD), the Federal Bureau of Investigation, or other Federal investigative agencies.

(i) Conduct investigations of unauthorized disclosure of classified information not under the jurisdiction of the Military Departments and other investigations as the DUSD(P) may direct.

(j) Review criminal history record information at police local, State, or Federal law enforcement agencies; and related record repositories, as required.

(k) Conduct surveys and prepare analyses and estimates of managed programs.

(l) Provide administrative and computer support to the Defense Integrated Management Information System (DIMIS).

(m) Maintain an official seal and attest to the authenticity of official DIS records under that seal.

§ 361.5 Responsibilities.

(a) The *Director, Defense Investigative Service,* shall:

(1) Organize, direct, and manage the DIS and all assigned resources.

(2) Establish standards and procedures for certification and accreditation of DIS personnel assigned to perform investigative and industrial security duties.

(3) Provide for industrial security and personnel security investigative training for DIS personnel and information and industrial security training for DoD and

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center 5801 Tabor Avenue, Attn: Code 301, Philadelphia, PA 19120.

[2] See footnote 1 to § 361.4(b).

[3] See footnote 1 to § 361.4(b).

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other U.S. Government personnel, employees of U.S. Government contractors, and selected foreign governments.

(4) Program, budget, account for, and report the activities of the DIS in accordance with the policies and procedures established by the Secretary of Defense.

(5) Refer to the appropriate civilian and military investigative agency matters developed as a result of DIS investigations that involve alleged criminal misconduct or have a significant intelligence or counterintelligence aspect.

(6) Under normal circumstances, refer alleged criminal activity by DIS personnel to the Office of the Assistant Inspector General for Investigations (OAIG–INV), DoD who shall make referral to the Department of Justice (DoJ). If the OAIG–INV or DoJ decline investigative jurisdiction, the Director shall assign DIS personnel to conduct an investigation and determine appropriate administrative action to be taken.

(7) Administer the DISP, DIFPP, and the AA&E Programs.

(8) Develop, publish, and implement procedures under the policy guidance and general supervision of the DUSD(P) with respect to the DISP, DIFPP, and AA&E Programs.

(9) Arrange, conduct, and participate in meetings, seminars, and conferences between industry, industrial and professional associations, international organizations, foreign governments, and the Department of Defense and other U.S. Government agencies concerning all aspects of industrial security.

(10) Administer the Security Classification Management Program in industry under E.O. 10865 and E.O. 12356, including promulgation of policy, regulatory provisions, educational requirements, and resolution of problems.

(11) Under the general supervision and approval of the DUSD(P), prepare and publish Industrial Security Letters and Industrial Security Bulletins.

(12) Obtain reports, information advice, and assistance, consistent with DoD Directive 5000.19 [4] as may be necessary for the performance of assigned functions and responsibilities.

(13) Ensure that all allegations of wrongdoing directed against DIS employees are promptly and thoroughly reviewed, evaluated, and processed in accordance with Office of Personnel Management (OPM), DoD, and DIS regulations, instructions, directives and where applicable, Federal statutes.

[4] See footnote 1 to § 361.4(b).

(b) The *Heads of DoD Components* shall cooperate with and assist the Director, DIS, by providing access to information within their respective fields as required for the DIS to carry out functions assigned by this part.

(c) The *Secretaries of the Military Departments* shall ensure that the overseas military investigative agencies provide prompt responses to DIS personnel security lead requests in order to expedite personnel security investigative matters within the DIS.

§ 361.6 Relationships.

The Director, DIS, shall carry out the above responsibilities under the direction, authority and control of the DUSD(P) and shall:

(a) Maintain liaison with other DoD Components, law enforcement agencies, industry, professional associations, academies, international organizations, foreign governments, and other agencies for the exchange of information in the field of assigned responsibility and shall render assistance, as appropriate, within the limits of established policy.

(b) Maintain a close working relationship with industrial representatives to encourage industry participation and cooperation in the furtherance of the DISP.

(c) Use existing DoD facilities and services whenever practical to achieve maximum efficiency.

Appendix A—Delegations of Authority

The Director, DIS, or in the absence of the Director, a person acting for the Director, is hereby delegated, subject to the direction, authority, and control of the DUSD(P), and in accordance with DoD policies, directives, and instructions, and pertinent publications, authority as required in the administration and operation of the DIS to:

1. In accordance with 5 U.S.C. 302 and 3101, employ, direct, and administer DIS civilian personnel.

2. Fix rates of pay for wage board employees exempt from 5 U.S.C. Chapter 51, on the basis of rates established under the Coordinated Federal Wage System. In fixing those rates, the wage schedules established by DoD Wage Fixing Authority shall be followed.

3. Establish advisory committees and part-time advisors for the performance of DIS functions pursuant to 10 U.S.C. 173, and to hire experts and consultants under 5 U.S.C. 3109(b), and the agreement between the DoD and the Office of Personnel Management on employment of experts and consultants, June 21, 1977.

4. Administer oaths of office incident to entrance into the Executive Branch of the Federal government or any other oath required by law in connection with employment therein, in accordance with 5 U.S.C. 2903(b), and to designate in writing other officers and employees of the DIS to perform this function or to administer oaths incident to any investigation conducted by the DIS.

5. Establish a DIS Incentive Awards Board and pay cash awards to, and incur necessary expenses for, the honorary recognition of civilian employees of the government whose suggestions, inventions, superior accomplishments, or other personal efforts, including special acts or services, benefit or affect the DIS or its subordinate activities in accordance with 5 U.S.C. 4503, and Office of Personnel Management regulations.

6. Perform the following functions in accordance with 5 U.S.C. 7532; Executive Order 10450, April 27, 1953; and DoD 5200.2–R, February 1984.

a. Designate the security sensitivity of positions within the DIS.

b. Authorize, in the case of an emergency, the appointment of a person to a sensitive position in the DIS for a limited period of time for whom a full field investigation or other appropriate investigation, including the National Agency Check, has not been completed.

c. Authorize the suspension and, when authorized by the DUSD(P), terminate the services of a DIS employee in the interests of national security.

7. Clear DIS personnel and such other individuals as may be appropriate for access to classified DoD material and information in accordance with the provisions of DoD 5200.2–R. As an exception, the personnel security investigation of individuals who are incumbents of, or are proposed for, Senior Executive Service positions within the DIS as Director, Deputy Director (Investigations), or Deputy Director (Industrial Security), shall be conducted by a non-DIS investigative agency designated by the DUSD(P). Similarly, the results of such investigations shall be adjudicated by a non-DIS authority designated by the DUSD(P).

8. Act as an agent for the collection and payment of employment taxes imposed by Chapter 21 of the Internal Revenue Code of 1954, and, as such agent, make all determinations and certifications required or provided under 26 U.S.C. 3122 and 42 U.S.C. 405(p) (1) and (2), with respect to DIS personnel.

9. Authorize and approve overtime work for DIS personnel in accordance with the provisions of § 550.111 of the OPM Regulations.

10. Authorize and approve:

a. Travel for DIS personnel in accordance with the Joint Travel Regulations (JTR), Volume 2, Department of Defense civilian personnel.

b. Temporary duty travel for military personnel assigned or detailed to the DIS in accordance with JTR, Volume 1, Members of the Uniformed Services.

c. Invitational travel to persons serving without compensation whose consultative, advisory, or highly specialized technical services are required in a capacity that is directly related to, or in connection with, DIS activities, pursuant to 5 U.S.C. 5703.

11. Approve the expenditure of funds available for travel by military personnel assigned or detailed to DIS for expenses incident to attendance at meetings of technical, scientific, professional or other similar organizations in such instances where the approval of the Secretary of Defense or his designee is required by law (37 U.S.C. 412, 5 U.S.C. 4110 and 4111). This authority cannot be redelegated.

12. Develop, establish, and maintain an active and continuing Records Management Program under 44 U.S.C. 3102 and DoD Directive 5015.2, September 17, 1980.

13. Enter into and administer contracts, directly or through a DoD Component, or other Government department or agency, as appropriate, for supplies, equipment, and services required to accomplish the mission of the DIS. To the extent that any law or Executive Order specifically limits the exercise of such authority to persons at the secretarial level or a Military Department, such authority will be exercised by the Assistant Secretary of Defense (Manpower, Installations, and Logistics).

14. Establish and use imprest funds for making small purchases of material and services, other than personal, for the DIS when it is determined it is more advantageous and consistent with the best interests of the government, in accordance with the provisions of DoD Instruction 5100.71, March 5, 1973.

15. Authorize the publication of advertisements, notices, or proposals in public periodicals as required for the effective administration and operations of the DIS pursuant to 44 U.S.C. 3702.

16. Establish and maintain appropriate property accounts for DIS. Appoint Boards of Survey, approve reports of survey, relieve personal liability, and drop accountability for DIS property contained in the authorized property accounts that has been lost, damaged, stolen, destroyed, or otherwise rendered unserviceable, in accordance with applicable laws and regulations.

17. Promulgate the necessary security regulations for the protection of property and activities under the jurisdiction of the Director, DIS, pursuant to DoD Directive 5200.8, July 29, 1980.

18. Develop and maintain DoD publications and changes thereto, consistent with DoD 5025.1–M, April 1981.

19. Enter into support and service agreements with the Military Departments, other DoD Components, or other Government agencies as required for the effective performance of responsibilities and functions assigned to the DIS.

20. Issue appropriate implementing documents and establish internal procedures to ensure that the selection and acquisition of automated data processing resources are conducted in accordance with DoD Directive 7920.1, October 17, 1978; the Federal Property Management regulations; and the Federal Acquisition Regulation.

The Director, DIS, may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 27, 1987.

[FR Doc. 87–25278 Filed 10–30–87; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD5 87–038]

Security Zone; James River, VA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the current regulations regarding the entry of shellfishermen into the security zone in the vicinity of Newport News Shipbuilding and Dry Dock Company along the James River. This rule permits shellfishing vessels to enter the security zone if the owners register their vessels with the Captain of the Port, Hampton Roads, VA.

EFFECTIVE DATE: December 2, 1987.

FOR FURTHER INFORMATION CONTACT: Lieutenant D. T. Ormes, (804) 398–6388.

SUPPLEMENTARY INFORMATION: On July 16, 1987 the Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** for these regulations (52 FR 26703). Interested persons were requested to submit comments. No comments were received.

Drafting Information

The drafters of these regulations are Lieutenant D. T. Ormes, Project Officer, Port and Vessel Safety Branch, Fifth Coast Guard District, and Commander R. J. Reining, Project Attorney, Fifth Coast Guard District Legal Staff.

Discussion

No changes have been made to the proposed rule. The collection of information for registering the vessels with the Captain of the Port is authorized under OMB Control # 2115–0076.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). This proposal should not have any economic impact on the affected industry, therefore a full regulatory evaluation is unnecessary. If there is to be any adverse affect caused by these changes, it has not been identified. In all likelihood, the regulations will, if anything, reduce any economic burden to the public.

The Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulations

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations is amended as follows:

PART 165—[Amended]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. In § 165.504, paragraph (c)(1)(vii) is revised to read as follows:

§ 165.504 Newport News Shipbuilding and Dry Dock Company Shipyard, James River, Newport News, VA.

* * * * *

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(c) * * *
(1) * * *
(vii) Commercial shellfish harvesting vessels taking clams from the shellfish beds within the zone, if—
(A) The owner of the vessel has previously provided the Captain of the Port, Hampton Roads, Virginia, information about the vessel, including:
(1) The name of the vessel;
(2) The vessel's official number, if documented, or state number, if numbered by a State issuing authority;
(3) A brief description of the vessel, including length, color, and type of vessel;
(4) The name, Social Security number, current address, and telephone number of the vessel's master, operator, or person in charge; and
(5) Upon request, information the vessel's crew.
(B) The vessel is operated in compliance with any specific orders issued to the vessel by the Captain of the Port or other regulations controlling the operation of vessels within the security zone that may be in effect.
* * * * *

Dated: October 20, 1987.

A.D. Breed,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 87-25306 Filed 10-30-87; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-3285-4]

Oklahoma; Schedule of Compliance for Modification of Oklahoma Hazardous Waste Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Oklahoma compliance schedule to adopt program modifications.

SUMMARY: September 22, 1987, EPA promulgated amendments to the deadline for State program modifications, and published requirements for States to be placed on a compliance schedule to adopt the necessary program modifications. EPA is today publishing a compliance schedule for Oklahoma to modify its program in accordance with § 271.21(g) to adopt the Federal program modifications.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Prince, State Programs Section (6H-HS), Hazardous Waste Programs Branch, U.S. EPA Region VI, Allied Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, Phone (214) 655-6760.

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Federal hazardous waste program within the State is granted by EPA if the Agency finds that the State program (1) is "equivalent" to the Federal program, (2) is "consistent" with the Federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6226(b)). EPA regulations for final authorization appear at 40 CFR 271.1-271.24. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712 September 22, 1986, for a complete discussion of these procedures and deadlines.

B. Oklahoma

Oklahoma received final authorization for its hazardous waste program on January 10, 1985, (49 FR 50362, December 27, 1984). Today EPA is publishing a compliance schedule for Oklahoma to obtain program revisions for the following Federal program requirements:

(1) Permit Rules: Settlement Agreement, 49 FR 17718, 4/24/84
(2) State Availability of Information, HSWA section 3006(f), 11/8/84
(3) Redefinition of Solid Waste, 50 FR 614, 1/4/85
(4) Closure, Post-Closure and Financial Responsibility Requirements, 51 FR 16422, 5/2/86

The State has agreed to obtain the needed program revisions according to the following schedule:

12-31-87 State will submit a revision application that reflects changes through Non-HSWA Cluster II.
12-31-87 State will submit statutes and statutory checklist.

Authority

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: October 20, 1987.

Robert E. Layton, Jr.,

Regional Administrator.

[FR Doc. 87-25299 Filed 10-30-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 2

Confidentiality of Alcohol and Drug Abuse Patient Records; Correction

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, PHS, HHS.

ACTION: Final rule; correction.

SUMMARY: The Alcohol, Drug Abuse, and Mental Health Administration is correcting errors in the preamble and final rule titled, "Confidentiality of Alcohol and Drug Abuse Patient Records" published in the issue of Tuesday, June 9, 1987, beginning on page 21796.

EFFECTIVE DATE: August 10, 1987.

FOR FURTHER INFORMATION CONTACT: The National Clearinghouse for Alcohol and Drug Information, P.O. Box 2345, Rockville, Maryland 20852, (301) 468-2600 (for copies of the final rule); the ADAMHA Division of Intergovernmental Activities and Data Policy (301) 443-3820 (for technical assistance to States); Judith T. Galloway (301) 443-4640 (for questions of a legal nature).

SUPPLEMENTARY INFORMATION: This document corrects the rule document 87-11785 beginning on page 21796 in the issue of Tuesday, June 9, 1987. Section 2.52(a)(3) was inadvertently omitted in that document. See explanation of the omitted paragraph in the preamble on page 21800, third column under the heading "Assessment of Research Risks". This document also corrects a paragraph designation and a typographical error.

List of Subjects in 42 CFR Part 2

Alcohol abuse, Alcoholism, Confidentiality, Drug abuse, Health records, Privacy.

PART 2—[AMENDED]

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 408 of Pub. L. 92-255, 86 Stat. 79, as amended by sec. 303 (a), (b) of Pub. L. 93-282, 83 Stat. 137, 138; sec. 4(c)(5)(A) of Pub. L. 94-237, 90 Stat. 244; sec. 111(c)(3) of Pub. L. 94-581, 90 Stat. 2852; sec. 509 of Pub. L. 96-88, 93 Stat. 695; sec. 973(d) of Pub. L. 97-35, 95 Stat. 598; and transferred to sec. 527 of the Public Health Service Act by sec. 2(b)(16)(B) of Pub. L. 98-24, 97 Stat. 182 and as amended by sec. 106 of Pub. L. 99-401, 100 Stat. 907 (42 U.S.C. 290ee-3) and sec. 333 of Pub. L. 91-616, 84 Stat. 1853, as amended by sec. 122(a) of Pub. L. 93-282, 88 Stat. 131; and sec. 111(c)(4) of Pub. L. 94-581, 90 Stat. 2852 and transferred to sec. 523 of the Public Health Service Act by sec. 2(b)(13) of Pub. L. 98-24, 97 Stat. 181 and as amended by sec. 106 of Pub. L. 99-401, 100 Stat. 907 (42 U.S.C. 290dd-3).

2. In the document preamble, on page 21803 in the second column, first paragraph, 14th line, the citation "2.53(c)" should read "2.53(d)".

§ 2.32 [Amended]

3. In § 2.32, remove the paragraph designation (a).

§ 2.52 [Amended]

4. In § 2.52, amend paragraph (a)(1) by removing the word "and" at the end of the paragraph, amend paragraph (a)(2)(ii) by removing "." and adding "; and" at the end of the paragraph, and add paragraph (a)(3) to read as follows:

(a) * * *
(3) Has provided a satisfactory written statement that a group of three or more individuals who are independent of the research project has reviewed the protocol and determined that:
(i) The rights and welfare of patients will be adequately protected; and
(ii) The risks in disclosing patient identifying information are outweighed by the potential benefits of the research.
* * * * *

Please note that an additional correction to this document appears elsewhere in the Corrections Section of this issue.

Date: October 22, 1987.

James F. Trickett,

Deputy Assistant Secretary for Administrative and Management Services.

[FR Doc. 87-24965 Filed 10-30-87; 8:45 am]

BILLING CODE 4160-20-M

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Proposed Rules

Federal Register
Vol. 52, No. 211
Monday, November 2, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Ch. III

Alternatives for Resolving Government Contract Appeals

AGENCY: Administrative Conference of the United States.

ACTION: Request for public comments.

SUMMARY: The Administrative Conference's Committee on Administration has under consideration a draft recommendation on alternative means of dispute resolution in governmental contract appeals. Interested persons are invited to comment on the draft recommendation.

DATE: Comments due by Monday, November 16, 1987.

ADDRESS: Send comments to Charles Pou, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Charles Pou, 202–254–7065.

SUPPLEMENTARY INFORMATION: The Administrative Conference's Committee on Administration is seeking comment on a draft recommendation and report on potential uses in government contract disputes of alternative means of dispute resolution ("ADR"). The report, drafted by Washington attorney Eldon Crowell and Charles Pou of the Conference, examines agencies' ADR experiments to date and seeks to draw lessons from them (copies available on request). The proposed Conference recommendation, which will be discussed in detail when the Committee on Administration meets next month, calls on major contracting agencies, and those who deal with them, to explore seriously the potential uses for ADR and to begin creating an atmosphere in which these methods can be readily employed. In brief, it recommends: (1) Amendments to the Contract Disputes Act and Office of Federal Procurement Policy Guidance authorizing and encouraging greater resort to ADR; (2) agency policy statements and rules encouraging voluntary use of ADR; (3) increased guidance on appropriate documentation justifying ADR settlements; and (4) priority attention by agencies and others in interested groups to training in negotiation and other ADR skills for BCA judges, government attorneys and contracting officers, and others involved in contract appeals. The proposal also offers advice on locating neutrals, calling for creation of a central roster that includes board of contract appeals judges interested in taking such a role, to help resolve government contract disputes. It concludes with suggestions on the application to contract appeals of the ADR methods most commonly used, particularly the minitrial. Comments on the draft recommendation should be received by Monday, November 16. Reactions to the draft report should be received within a week after that date.

The Conference's Committee on Administration will meet again in late November for further consideration of the draft recommendation in the light of any comments that may be received. At that time, the Committee will decide whether to approve a draft recommendation for consideration by the Administrative Conference at its Plenary Session scheduled for December 17 and 18, 1987. Comments should be sent to the address given above.

Draft Recommendation

Alternatives for Resolving Government Contract Appeals

Government procurement has become a major component of federal spending. It now comprises an important part of the nation's economy. The recent expansion of government contracting has been matched, perhaps exceeded, by the rise in disputes between agencies and contractors. Increasingly, management problems are handed over to lawyers and accountants to be resolved contentiously by criteria that are often only marginally relevant. Causal factors include increased regulatory requirements; reduced authority of agency contracting officers; a greater willingness among contractors to resort to litigation; an expanding government contracts bar; broadened notions of due process; enhanced congressional oversight that can discourage settlement; and the establishment (or expansion) of offices of inspector general and intra-agency audit offices that often inhibit decisional flexibility.

Most knowledgeable government officials, contractors and attorneys agree that government contract appeals have become too onerous, too expensive and too time-consuming. Despite Congress' goals in enacting the Contract Disputes Act of 1978 ("CDA") to provide an expeditious alternative to court litigation and to encourage negotiated settlements, most appeals are not now resolved either promptly or inexpensively. Agency boards of contract appeals ("BCAs"), originally intended to be alternatives to courts, have become "judicialized," with depositions, discovery and lengthy opinions common.

The system established by the CDA [1] begins with the contracting officer ("CO"), an agency official whose function is to enter into and administer government contracts. Any claim arising out of a contract is to be presented to the CO. The CO has a dual role: to represent the government as a party to the contract, but also to make initial decisions on claims subject to certain procedural safeguards. If the dispute is not amicably resolved, the CDA requires the CO to issue a brief written decision stating his or her reasons. A contractor dissatisfied with a CO's decision may appeal either to an agency BCA or directly to the U.S. Claims Court. The proceedings become considerably more formal at this stage.

A variety of remedies have been prescribed for the growing cost, delay, and other problems encountered in federal contract disputes. They range from marginal revisions of the boards (e.g., enlargement of BCA resources), to increased professionalization of COs, to structural changes in the ways agencies do business. While a number of these proposals have merit, the Conference is focusing herein only on the cluster of methods that have come to be known as alternative means of dispute resolution ("ADR").[2] These methods are consistent with CDA's goals, and have proven efficient and fair. They serve to involve decisionmakers, rather than their representatives, in the conflict resolution process. ADR methods have regularly aided private parties to resolve disputes similar to those decided by BCAs.

Several ADR methods are particularly appropriate to resolving many government contract claims, and a few agencies have begun to experiment successfully with them. The Conference urges all major contracting agencies, and persons who deal with them, to explore seriously the potential uses for ADR and to begin creating an atmosphere in which these methods can be readily employed.[3] This recommendation offers advice on the application of the ADR methods most commonly used to cases before agency boards of contract appeals.

Recommendation

1. Agencies' ADR policies and practices—a. Congress should amend the Contract Disputes Act (1) to authorize the contractor and the government to agree to use any alternative means of dispute resolution, including arbitration [4] or other mutually agreeable procedures, for resolving claims relating to agency contracts and (2) to encourage COs to make all reasonable efforts to resolve a claim or dispute consensually, either prior to issuance of a decision or subsequently.

b. The Office of Federal Procurement Policy should issue a policy statement urging COs, before issuing a decision likely to be unacceptable to a claimant, to recommend to the parties and their representatives that they seek to resolve their differences by exploring and using ADR. The policy statement should also encourage agencies to adopt policies or rules concerning ADR, as set forth below.

c. Agencies should adopt policies encouraging voluntary use of ADR in contract disputes. The policies should place the responsibility for implementing ADR with contracting officers, government counsel, and BCA judges. These policies should make clear that the responsible agency officials will support settlements reached by means of properly selected ADR methods. The policy should also provide for systematic review of all cases for susceptibility to ADR, specify who has authority to approve the selection of a case for ADR, and set forth guidance on documenting the negotiation process or justifying settlements. Agencies should also consider adopting a policy requiring COs to offer certain forms of ADR to contractors in specified kinds of disputes (e.g., those involving $25,000 or less).

d. Agencies should adopt regulations that (1) authorize agency officers to make use of ADR in contract disputes; (2) make provisions for automatically alerting the parties, both at the CO level and as soon as an appeal is filed, that one or more ADR methods is available; (3) authorize BCA judges to encourage ADR use and to require the attendance, at any conference held for the purposes of proposing or implementing ADR, of at least one representative of each party who has authority to settle all matters [alternative: negotiate concerning the resolution of all issues in controversy]; (4) briefly describe the alternative procedures; and (5) authorize the parties to agree to vary any procedural rule in their case.

e. Agency boards of contract appeals should:

(1) Routinely include in docketing notices an announcement indicating the availability of ADR, describing the available methods, and telling how interested persons can follow up to explore potential ADR use in their cases.

(2) Amend their procedural rules to provide explicitly for conferences to consider the possible use of ADR in each case to help dispose of any or all issues in dispute.

f. Presiding and chief judges at BCAs should regularly review their dockets and suggest use of a settlement judge, mediation, minitrial, or other ADR methods whenever appropriate.

2. Employing alternatives in contract disputes—a. *Finding neutrals* [5] (1) The Administrative Conference, in consultation with the Federal Mediation and Conciliation Service and other interested groups, should establish a central roster of minitrial advisors and other neutrals available to help resolve government contract disputes. The list should include, at a minimum:

(a) All persons who have experience as neutral advisors in government contracts minitrials;

(b) Any BCA judges who wish to serve as neutral advisors for disputes within their own agency, another agency, or both. (Some safeguards to ensure interagency reciprocity and to assure no other involvement with the dispute may be necessary); and

(c) Any retired federal district court and Claims Court judges, BCA judges, and ALJs who are interested.

(2) In any case before a contracting officer or a BCA, the parties should have the option of selecting *any* mutually agreeable neutral (subject to his or her availability), regardless of where the neutral comes from.

(3) Each BCA should take steps to make available its judges to serve as settlement judges, minitrial advisors, or other neutrals to help resolve disputes before other agencies' BCAs.

(4) No standard fee scale should be established, and, indeed, neutrals should be encouraged to serve in some cases *pro bono* or at reduced rates; agencies expecting to have their judges loaned should consider developing standards for reimbursement by the user agencies.

b. *Minitrials.* (1) Agencies should develop and distribute minitrial guidelines that include sections dealing with criteria for identifying appropriate cases; rules as to any discovery; roles of the participants, including any neutral; authority of the principals; exchange of position papers, audit reports, quantum submissions, and other documents and exhibits; procedure and format of the hearing; possible time limit on the negotiations; fees and expenses; and confidentiality of the proceedings. The guidelines, which should be used only as procedural suggestions, should also give each party the right to terminate the minitrial procedure at any time for any reason.

(2) In selecting principals to represent the agency in a minitrial, agencies should ensure that principals:

(a) Are located high enough in the agency to negotiate, and successfully defend, a binding settlement.

(b) Have authority to bind their organizations in the dispute at hand, or at least to make recommendations that will be accorded substantial weight.

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[1] 41 U.S. Code 601–613; 5 U.S.C. 5108(c)(3); 28 U.S.C. 1346(a)(2), 149(a)(2), 2401(a), 2414, 2510, 2517; 31 U.S.C. 1304(a)(3)(C) (1982); enacted November 1, 1978 by Pub. L. No. 95–563, 92 Stat. 2383.

[2] These include arbitration, factfinding, minitrial, mediation, facilitation, convening, conciliation, and negotiation.

[3] The Conference has repeatedly recommended that agencies employ ADR. Recommendation 86–3 calls on agencies to make greater use of mediation, negotiation, minitrials, and other "ADR" methods to reduce the delay and contentiousness accompanying many agency decisions. *Agencies' Use of Alternative Means of Dispute Resolution*, 1 CFR 305.86–3. The Conference has previously called for using mediation, negotiations, informal conferences and similar innovations to decide certain kinds of disputes more effectively. E.g., *Procedures for Negotiating Proposed Regulations*, 1 CFR 305.82–4, 85–5; *Negotiated Cleanup of Hazardous Waste Sites Under CERCLA*, 1 CFR 305.84–4; *Resolving Disputes under Federal Grant Programs*, 1 CFR 305.82–2.

[4] Such arbitration authority should be consistent with the procedures and safeguards set forth in Conference Recommendations 86–3, *id*, and 87–5, *Assuring the Fairness and Acceptability of Arbitration in Federal Programs*, 1 CFR 305.87–5.

[5] In recommendation 86–8, *Acquiring the Services of "Neutrals" for Alternative Means of Dispute Resolution*, 1 CFR 305.86–8, the Conference addressed issues involving neutrals' availability, qualifications and acquisition. The present Recommendation seeks to elaborate on 86–8 in the context of contract appeals.

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(c) Ideally have little prior involvement with the case so as to be able to evaluate objectively the issues and the agency's potential liability.

(d) Have enough technical expertise to grasp the main issues quickly.

(e) Not be at such a high level that his or her involvement will detract in a major way from the agency's operations. Agencies should meet these concerns by, among other things, tailoring the rank of the principal to suit the magnitude of the case and by encouraging ADR use earlier in the case (e.g., the CO level).

(3) Agencies should take steps to make participation as a principal an attractive career step and encourage or provide training in negotiation and mediation skills among groups of potential principals.

(4) Once the principals have had a chance to assess the strengths and weaknesses of both sides' positions, their negotiations should take place promptly and should ordinarily be final and binding. While principals should consider caucusing with others from their organizations at times during the negotiation phase to discuss the progress of the negotiations and agency staff's concerns (and even bringing auditors or other staff members into the negotiations), the responsible principals ordinarily should have, and feel comfortable exercising, authority to resolve all issues before them without seeking further agency approval following the close of negotiations. One exception here may be occasional consultation with in-house counsel in preparation of a settlement or legal memorandum supporting the result.

(5) Principals should generally have access to technical, legal, accounting, or other advice from agency staff during the hearings and negotiations so as to produce a more well-informed, defensible resolution, enhance accountability, and build intra-organizational support for any settlement. Unless secrecy is especially important, it will ordinarily be unwise to sequester most minitrial witnesses, particularly experts, since a looser format may encourage dialogs or exchanges that can help focus issues and sometimes promote agreement.

(6) While the "neutral advisor" who helps the principals at a minitrial assess the merits of a case can be quite useful, the parties should consider foregoing such aid in cases where the principals already have a good working relationship, where issues are simple or amounts small, or, conversely, where complex technical issues predominate to such an extent that it would be futile to waste time trying to educate a neutral. Neutrals probably will also be less needed where the minitrial occurs early on—say, at the CO level—when positions may be less rigid, formal procedures not yet invoked, and fewer parts of the agency involved. In those cases, the CO might well serve as a sort of presider-principal.

(7) A neutral advisor's role should be defined by the parties (at least tentatively) prior to the hearing with input from the principals, who should know what to expect from the neutral. Any shift during the proceeding should be only with the concurrence of the principals.

(8) Where minitrial neutral advisors are used, the parties should consider whether to seek their assistance in any of the following ways:

(a) Presiding over the hearing;

(b) Serving as a source of information, responding to technical legal questions, or offering insights and observations on issues in controversy;

(c) Posing questions at the hearing in a probing yet nonadversarial manner, so as to ensure that the basic facts are ascertained;

(d) Suggesting novel approaches to presenting relevant information;

(e) Working actively during the principals' negotiation sessions to aid settlement, as by advising each side on the strengths and weaknesses of its case, relevant legal principals, and how the law might apply to the facts established;

(f) Serving as a mediator, as by suggesting middle grounds;

(g) Suggesting that certain advisors or staff members be brought into the negotiations or briefed; or

(b) Providing a written, nonbinding opinion to the principals, or helping them prepare a justification for the settlement agreed on.

c. *Mediation.* Agency boards of contract appeals should establish mediation programs, similar to that recently developed by the U.S. Court of Appeals for the District of Columbia Circuit, in which parties can be required to attend an initial mediation session at which distinguished members of the bar serve as mediators. The boards should require parties to be represented at the session by a person with authority to enter into a settlement agreement [alternative: to negotiate concerning the resolution of all issues in controversy]. The boards may wish to exclude from these programs cases involving multiple parties or interviewers. Counsel should be required, where appropriate, to provide specified documents to the mediator, and to prepare short position papers.

d. *Settlement Judges.* (1) Agency boards of contract appeals should institute a procedure under which a settlement judge—not the presiding judge in the case—may be appointed to preside over settlement conferences or negotiations, assess settlement potential, and work with the parties to explore possible settlement of a dispute. The settlement judge device should be capable of being invoked by the chief judge on his own motion or that of any participant or the presiding judge. An order appointing a settlement judge should specify whether, and to what extent, the proceeding is suspended during the settlement negotiations and may define the scope of any negotiations to specified issues. The order may also expressly limit the period for settlement negotiations and require a brief report from the settlement judge.

(2) The settlement judge should be empowered to act as a mediator, to suggest privately what concessions a party should consider, to confer privately as to the reasonableness of each party's case or settlement position, and to require that representatives having full settlement authority be present at the settlement conference. The settlement judge should be prohibited from discussing the merits of a case with any other BCA judge or other person, and should not be called as a witness in the case.

3. *Documentation and oversight.* a. Agencies should offer guidance to their personnel on appropriate documentation justifying settlements that have been reached via ADR; the guidance should balance consideration of accountability and flexibility. For instance, the guidance could require the principal representing the agency in negotiations or his advisor to set down cost and other factors taken into consideration, any pre-negotiation positions developed, and a statement justifying acceptance of the compromise; in short, a reflection of the thought process or rationale of officials who agreed to the settlement. This documentation should not exceed what would ordinarily be used to justify negotiated settlements of contract disputes, and should generally be written after the fact so that ongoing negotiations are not jeopardized or delayed. A neutral who has helped the parties resolve a potentially serious case may be asked to help draw up the justification memo, or offer a brief advisory decision.

b. Since the effectivness of expanded reliance on ADR will depend in part on the degree of support or opposition from relevant congressional committees and offices of inspector general, these groups should support and encourage these efforts, recognizing that negotiated solutions inevitably involve compromises. These groups, in exercising their authority to investigate or question a specific settlement as circumstances may warrant, should do so with an understanding of the salutary goals of ADR and a recognition that an occasional "bad" settlement or misjudgment in employing ADR methods will not necessarily invalidate their use overall.

4. *Training and outreach.* a. Agencies should give priority attention to offering training in negotiation and other ADR skills to BCA judges, government attorneys, COs, and others involved in contract appeals. Training courses or seminars might be developed by agencies jointly or in cooperation with the Administrative Conference, Federal Mediation and Conciliation Service, Board of Contract Appeals Judges Association, American Bar Association, or other professional organizations. Agencies should also work with other interested groups to sponsor similar programs or outreach sessions for contractors and their representatives, and seek to incorporate materials on ADR into the training curricula for COs and project managers.

b. Agencies should designate an employee to serve as an ADR specialist in connection with contract disputes, and should consider retaining the services of a trained mediator or similar professional to review cases for susceptibility to ADR, advise BCA judges, and mediate selected cases.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 87-25446 Filed 10-30-87; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-127-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-80 (MD-80) Series Airplanes, Fuselage Numbers 1237 Through 1368

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to certain DC-9-80 (MD-80) series airplanes, which currently requires inspection and replacement of certain cowl door latches. That action was prompted by reports of failures of cowl door latches on the engine nacelle. This action would require the replacement of certain cowl door latches installed on additional airplanes, fuselage numbers 1237 through 1276. This condition, if not corrected, could result in the loss of directional control during critical flight regimes, or cause a hazard to the public by falling debris.

DATE: Comments must be received no later than December 28, 1987.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-127-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6319.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-127-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The FAA issued AD 87-15-08, Amendment 39-5691 (52 FR 28134; July 28, 1987), applicable to certain McDonnell Douglas Model DC-9-80 (MD-80) series airplanes, to require repetitive visual inspections for fractures of cowl door latch assemblies, part number (P/N) 7958533-517 (Hartwell P/N H2816-3), and replacement, if necessary. In addition, new latch assemblies, P/N 7958533-519 (Hartwell P/N H2816-5), are required to be installed on airplanes, fuselage numbers 1277 through 1368, within 70 days after the effective date of that amendment. Inspection and replacement of the cowl door latch assemblies is required to be accomplished in accordance with the procedures described in McDonnell Douglas DC-9-80 (MD-80) Alert Service Bulletin A71-42, dated June 24, 1987.

That action was prompted by reports of four cases of failed upper cowl door latch assemblies on DC-9-80 (MD-80) series airplanes. All were due to the failure of the internal attachment hooks. Analysis has confirmed that at least three of the attachment hooks failed due to hydrogen embrittlement, the hydrogen being infused into the hooks during the plating process. This condition is due to improper heat treatment after cadmium plating of the high tensile steel hooks. The cause of the fourth failure could not be determined since the fracture surfaces were destroyed by a weld repair. In tracing the manufacturing history of these particular failed attachment hooks, it was revealed that they came from two production lots containing several hundred attachment hooks. McDonnell Douglas has advised FAA that all cowl door latch assemblies manufactured after June 1986 are suspected of having this condition. This condition, if not corrected, could result in the loss of directional control during critical flight regimes, or cause a hazard to the public by falling debris..

Since this condition is likely to exist or develop on other airplanes of this same type design, the FAA proposes to revise AD 87-15-08 to add a requirement to replace all cowl door

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latches, P/N 7958533–517 (Hartwell P/N H2816–3) manufactured after June 1986, installed on airplanes, fuselage numbers 1237 through 1276.

It is estimated that 39 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,900.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any Model DC–9 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 87–15–08, Amendment 39–5691 (52 FR 28134; July 28, 1987), by redesignating existing paragraphs "B., C., D., and E." as "C., D., E., and F.," respectively, and adding a new paragraph B., as follows:

B. For fuselage numbers 1237 through 1276 only:

Within 45 days after the effective date of this AD, install new latch assemblies P/N 7958533–519 (Hartwell P/N H2816–5) in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A71–42, dated June 24, 1987, or later FAA-approved revisions.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1–L00 (54–60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on October 22, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–25256 Filed 10–30–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87–NM–132–AD]

Airworthiness Directives; McDonnell Douglas Model DC–6, –6A, –6B, R6D, and C–118A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to DC–6 series airplanes, which would require inspection and replacement, if necessary, of vertical stabilizer rear spar attach fittings. This proposal is prompted by reports of stress corrosion cracks in the attach fittings at the root of the vertical stabilizer. This condition, if not corrected, could lead to loss of the vertical stabilizer.

DATE: Comments must be received no later than December 28, 1987.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–132–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98166. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, Cl–LOO (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. William Roberts, Aerospace Engineer, Airframe Branch, ANM–121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6319.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–132–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

Following the finding by one operator of stress corrosion cracking in the rear spar attach fittings at the root of the vertical stabilizer of a McDonnell Douglas DC–6 airplane, the FAA issued Action Notice A8300.22, dated May 18, 1987, calling for inspections to be carried out to determine the condition of the fleet. For this initial inspection, the FAA referenced previously-approved Douglas DC–6 Service Bulletin 723, dated May 27, 1957, which describes inspection and replacement, if necessary, of the vertical stabilizer rear spar attach fittings. The operators reported their results, indicating four airplanes with two of the four rear spar attach fittings cracked, and three other airplanes each with one fitting cracked. In-flight failure of these fittings could lead to loss of the vertical stabilizer.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection of the vertical stabilizer rear spar attach fittings, immediate replacement of fittings with certain cracks, and replacement within three months for fittings with lesser cracks. The inspections and necessary replacement would be in accordance with McDonnell Douglas DC–6 Service Bulletin 723.

It is estimated that 187 airplanes of U.S. registry would be affected by this AD, that it would take approximately 36 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $269,280.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a signifcant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any small entities operate DC–6 airplanes. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–6, –6A, –6B, R6D, and C–118A series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect cracks and prevent failure of the vertical stabilizer rear spar attach fittings, accomplish the following:

A. Within the next 3 months after the effective date of this AD, unless already accomplished within the last 9 months, and thereafter at intervals not to exceed one year or before further flight, whichever occurs later, inspect the vertical stabilizer rear spar attach fittings, front and rear, right and left, in accordance with Douglas DC–6 Service Bulletin 723, dated May 27, 1957, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. After each inspection, apply LPS–3 corrosion inhibiting oil or equivalent to each fitting.

B. If a crack is found, accomplish the following:

1. Replace the fitting(s) before further flight for each of the following conditions:

a. a crack is found that matches the description in paragraph 1., of Douglas DC–6 Service Bulletin 723, dated May 27, 1957, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region;

b. more than 1 fitting per airplane is cracked;

c. the crack is chordwise.

2. Replace the fitting within the next 3 months after the crack is found, or before further flight, whichever occurs later, if the crack matches the description of paragraph 2., of Douglas DC–6 Service Bulletin 723, dated May 27, 1957, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base to comply with the repair requirement of this AD when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1–L00 (54–60).

This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on October 22, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–25259 Filed 10–30–87; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

18 CFR Part 37

Federal Energy Regulatory Commission

[Docket No. RM87–35–000]

Generic Determination of Rate of Return on Common Equity for Public Utilities; Extension of Time for Comments

October 27, 1987.

AGENCY: Federal Energy Regualtory Commission, DOE.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On September 30, 1987, the Commission issued a Notice of Proposed Rulemaking involving generic determination of rate of return on common equities for public utilities under Part 37 of its regulations (50 FR. 37326, October 6, 1987). The comment period is being extended.

DATE: Comments must be submitted on or before November 20, 1987.

ADDRESS: Submit comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, (202) 357–8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–25308 Filed 10–30–87; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 85N–0061]

Food Labeling; Public Health Messages on Food Labels and Labeling; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending for 60 days the period for submitting comments on its proposal to allow the listing of public health messages on food labels, and to propose amendments to 21 CFR 101.9 on nutrition labeling. FDA is granting this extension based on

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requests for the extension of the comment period.

DATE: Comments by January 2, 1988.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David Hattan, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–245–3117.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 4, 1987 (52 FR 28843), FDA proposed to allow the listing of public messages on food labeling; the criteria it will apply in evaluating the propriety of such labeling; the formation of a Public Health Service committee that will attempt to develop "health messages" appropriate for use on food labeling and related amendments to 21 CFR 101.9 on nutrition labeling. Interested persons were given until November 2, 1987, to submit written comments on the proposal.

The American Dietetic Association (ADA) submitted a request seeking a 60-day extension of the comment period on the proposed rulemaking. ADA points out that many of its members will be attending professional meetings at the time comments are due to be received. For this reason, they are requesting an extension of the comment period. The agency also received a request for a 60-day extension on behalf of the National Nutritional Foods Association (NNFA) and the National Association of Pharmaceutical Manufacturers (NAPM) to allow time for these industry organizations to compile relevant literature and data on dietary supplement use.

The American Institute of Nutrition (AIN) has also submitted a request seeking a 30- to 60-day extension. A large proportion of the members of AIN are involved in academic medicine and teaching of graduate and undergraduate programs in nutritional sciences. Because of the involvement of its members in the start of the academic year and the October meeting of the AIN Council, AIN requested an extension.

The National Soft Drink Association (NSDA) has also submitted a petition for an extension to the comment period. NSDA's next annual Executive Board meeting will be in November. NSDA has requested a 90-day extension so that its Scientific and Legal Advisory Committees can formulate comments to FDA based on the recommendations of its Executive Board.

The agency believes that a 60-day extension of the comment period is reasonable and will provide sufficient time for ADA, NNFA, NAPM, AIN, NSDA, and other interested persons to prepare comments on the proposed rule. Therefore, the agency is granting an extension of 60 days at this time.

Interested persons may, on or before January 2, 1988, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 27, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–25272 Filed 10–30–87; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 24

[Docket No. R–87–0831; FR–1676]

Debarment, Suspension and Limited Denial of Participation[1]

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would make conforming changes to Part 24 based on the OMB final Guidelines for Nonprocurement Debarment and Suspension (Guidelines) (52 FR 20360, May 29, 1987). Primarily, these changes would: (1) Provide for government-wide effect of sanctions to all tiers of nonprocurement participants; (2) establish a comprehensive reporting system to the General Services Administration of participants who have been debarred, suspended, declared ineligible, voluntarily excluded or subjected to limited denials of participation; (3) require certain paritcipants to certify that they (or any person in specified capacities) have not, in the preceding three years, been subjected to, or been proposed for, sanctions or otherwise been indicted, convicted or had a civil judgment rendered against them for any of the offenses listed at § 24.6(a); (4) abolish the time limitation on the decision to order debarment or suspension; (5) expand the definition of "legal proceedings" to include proceedings by Federal, state, local or quasi-governments; (6) abolish the requirement that a shareholder have a 10% or greater equity interest before his or her seriously improper conduct can be imputed to a participant or contractor; (7) provide that debarred and suspended individuals are excluded from participation in covered transactions in various capacities; (8) provide that debarment may be imposed under § 24.6(c)(2) for doing business with a debarred, suspended or otherwise excluded person, where it is known *or* where it reasonably should have been known that the person is excluded from participation in covered transactions; (9) broaden the circumstances under which conduct may be imputed to a contractor or participant under § 24.11(b); (10) amend the list of covered program transactions to include scholarships and fellowships, as well as awards, subawards, contracts, subcontracts and transactions at any tier that are charged as direct *or* indirect costs; (11) revise the definitions of "control", "participant", and "suspension" to conform to the definitions in the Guidelines; (12) require that, upon issuance of a notice of proposed debarment (and in the absence of a waiver), the Department will not make any new awards to a respondent until the final debarment decision is rendered; (13) specify that the Debarring Official may consider all mitigating factors in deciding whether administrative sanction is warranted; (14) provide the method for computing relevant time preiods under Part 24; (15) clarify certain procedural mechanisms where an oral hearing is not provided to a respondent, where a respondent requests Secretarial review or where the Department receives a reinstatement request; and (16) indicate that in a limited denial of participation proceeding, the Hearing Officer must consider rebuttal evidence submitted by the respondent as well as any mitigating circumstances.

DATE: Comments must be received by January 4, 1988.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Commenters should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address.

[1] For other proposed rules and an interim final rule on nonprocurement debarment and suspension published by 25 departments and agencies, see the October 20, 1987 **Federal Register** (52 FR 39015–39062 and 39196–39204).

FOR FURTHER INFORMATION CONTACT: Patricia M. Black, Assistant General Counsel for Inspector General and Administrative Proceedings, Department of Housing and Urban Development, Room 10286, 451 Seventh Street SW., Washington, DC 20410, (202) 755–7200. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

24 CFR Part 24 sets forth procedures relating to debarment, suspension and ineligibility of contractors and grantees with respect to participation in programs administered by the Department of Housing and Urban Development. HUD's procedures cover exclusion from both procurement and nonprocurement activities of the Department. A proposed comprehensive revision of Part 24 was published on July 8, 1980 (45 FR 46012). On July 1, 1982, the Office of Federal Procurement Policy of the Office of Management and Budget (OFPP) published Policy Letter 82–1, establishing criteria for suspension and debarment of Government contractors and subcontractors throughout the Executive Branch (47 FR 28854). Based on a review of the public comments received on the proposed rule published in December 1980 and the OFPP Policy Letter, HUD published a revised proposed rule on October 11, 1983 (48 FR 46072).

The Department received four public comments on the October 1983 proposed rule that were used in formulating a revised Part 24. However, because of the need to conform Part 24 to the "Department, Suspension and Ineligibility" procedures of the Federal Acquisition Regulation, 48 CFR Subpart 9.4, and issuance of the Office of Management and Budget's final Guidelines for Nonprocurement Debarment and Suspension (Guidelines), 52 FR 20360 (May 29, 1987), it was determined that the regulation should be published as an interim rather than as a final rule (see 52 FR 37112, October 2, 1987) so that the public could have an opportunity to comment.

This proposed rule is intended to incorporate the remaining provisions of the Guidelines that were not adopted in the October 1987 inerim rule. Because of the number of proposed changes, and for the sake of clarity to the reader, the full text of Part 24 is being set out. Since the interim rule will take effect following 30 calendar days of continuous session of Congress from its October 2, 1987 publication date, the reader is advised to refer to the interim rule when considering proposed changes discussed in this rule. Comments received by the Department on both the interim rule and this proposed rule will be used in formulating a final regulation on Part 24.

OMB Final Guidelines for Nonprocurement Debarment and Suspension (Guidelines)

Executive Order 12549, "Debarment and Suspension" was signed by President Reagan on February 18, 1986 and was published February 21, 1986 (51 FR 6370–71).

As part of the Administration's initiatives to curb fraud, waste, and abuse, the President's Council on Integrity and Efficiency created an interagency task force to study the feasibility and desirability of a comprehensive debarment and suspension system encompassing the full range of Federal activities. The task force concluded, in its November 1982 report, that such a system was desirable and feasible.

As a result, the Office of Management and Budget (OMB) established an interagency Task Force on Nonprocurement Suspension and Debarment. This task force recommended, in its November 1984 report, that a government-wide nonprocurement debarment and suspension system, similar to that currently in effect for procurement, be established. (This is possibly the first step toward a comprehensive system, including both procurement and nonprocurement.)

The Task Force on Nonprocurement Suspension and Debarment considered many issues in developing the proposed guidelines. It concluded that the system should be as compatible as possible with the procurement debarment and suspension system included in the Federal Acquisition Regulation (FAR), while fully addressing the needs and concerns of nonprocurement programs. As a result, the Guidelines generally used the due process procedural structure of the FAR. Also, the proposed grounds for debarment and suspension were substantially similar to those in the FAR. The proposal combined the criteria common to the existing agency nonprocurement regulations with the criteria in the FAR.

On February 21, 1986, OMB published proposed guidelines covering the subjects indicated in section 6 of E.O. 12549, including: Coverage, government-wide criteria, and minimum due process procedures (51 FR 6372–79). These guidelines were prepared in regulation format as a mimimum model rule to facilitate their use by executive departments and agencies in preparing the agency regulations called for by section 3 of the Order.

OMB received 60 comments on the proposed Guidelines. All comments were provided to the Task Force on Nonprocurement Suspension and Debarment for consideration in preparing the final guidelines, which were published on May 29, 1987 (52 FR 20360–69).

Section 3 of E.O. 12549 directs Federal agencies to issue regulations governing implementation of the Order; the regulations must be consistent with these guidelines. In order to comply with these instructions, executive departments and agencies are required to essentially adopt the Guidelines—with the exception of two areas, "Coverage" and "Responsibilities of Federal Agencies." Public comments are especially invited on these two sections, which are discussed below.

The scope of the final OMB guidelines published on May 29, 1987 covered direct and indirect costs, but left to agency discretion whether to limit coverage (that is, the responsibility to check the consolidated list or certification) to items charged as direct costs. HUD has chosen to extend coverage in this proposed rule both to direct and to indirect costs. This is because the Department is not essentially a direct grant agency; instead, most participants in departmental programs receive Federal funds indirectly through State and local agencies, or are the beneficiaries of HUD insurance programs. By limiting coverage of Part 24 to direct costs only, the Department would be frustrating the purpose and intent of Executive Order 12549 to reduce fraud and abuse in Federal programs.

The participant certification requirement has also been expanded since publication of the final OMB guidelines. The guidelines allowed agency discretion in determining when agencies, in the financial assistance process, would require certification by nonprocurement participants. The Department is proposing to require certification by all nonprocurement participants receiving $25,000 or less. This is consistent with the small purchase threshold in the proposed government-wide common rule for grants to State and local governments, as well as with the Federal Acquisition Regulation (FAR). Nonprocurement participants receiving in excess of the

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$25,000 threshold would be required to check the Consolidated List to verify that participants with whom they have dealings in covered transactions are not listed. The Department invites public comment, in particular, on the $25,000 monetary threshold and the combined certification/verification procedures described in this proposed rule, either of which may be reformulated under the final rule on Part 24.

Regulatory Changes

In its interim rule published on October 2, 1987 (52 FR 37112), they incorporated the following provisions of the final OMB Guidelines:

1. Conforming definitions of the terms "proposal", "subsidiary", "agency" and "notice";

2. The requirement that the grounds for debarment be included in the notice of sanction (§ 24.7(c)).

3. Notification to a participant or contractor that a suspension is for a temporary period pending the completion of an investigation, debarment or legal proceedings (§ 24.19(b));

4. Notification to the Department of Justice of an impending termination of suspension (§ 24.21(b));

5. Adoption of the Guidelines' standard for continuing agreements in existence at the time a person is suspended, debarred, declared ineligible or voluntarily excluded (§§ 24.8(c) and 24.20(c)). In addition, § 24.34(b) incorporated the Guidelines' standard for granting an exception to participants and contractors included on the HUD List. This exception would permit a debarred, suspended or excluded person to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reasons for deviating from the policy established by Executive Order 12549.

6. Adoption of the Guidelines' standard on the scope of debarments, suspensions and limited denials of participation (§§ 24.11 and 24.27) by providing that these sanctions may include "any other affiliate of the participant or contractor that is specifically named and given written notice * * * and an opportunity to respond." The interim rule further provided that "[T]he burden of proving that a particular affiliate or organizational element is currently responsible and is not controlled by the primary sanctioned party (or by an entity that itself is controlled by the primary sanctioned party) is placed on the affiliate or organizational element.

In addition to the interim rule's changes, described above, the Department proposes in this rule to make the following conforming changes based on the OMB Guidelines:

1. Adding government-wide provisions that would encompass all tiers of nonprocurement participants. This change in effect would bring HUD nonprocurement sanctions in line with the government-wide provisions for procurement sanctions contained in the FAR (although the FAR currently limits government-wide effect to procurement contractors and federally approved subcontractors). In HUD's October 1987 interim rule, the Department indicated that it intended to carve an exception to the government-wide provisions for *agency-specific* sanctions. (The interim rule cited § 24.6(c)(6) as an example: That section provides that a material violation of a limited denial of participation—a HUD-specific sanction—constitutes grounds for imposing a debarment. On reconsideration, the Department has determined that such an exception would be contrary to the public interest, since it would permit an irresponsible participant to thwart the purpose of E.O. 12549 by participating in Federal programs not administered by HUD).

2. Providing, under proposed § 24.8, Effect of Debarment and Suspension, that debarred and suspended participants are also excluded from participating in covered transactions in the following capacities: (1) As an owner or partner holding a controlling interest; (2) as a director or officer of the participant; (3) as a principal investigator, project director, or other actor involved in management of the covered transaction; (4) as a provider of federally-required audit services; (5) in any other position, to the extent that the incumbent is responsible for the administration of Federal funds; or (6) in any other position charged as a direct cost under the covered transaction.

3. Establishing a comprehensive system for reporting to the General Services Administration of those participants who have been debarred, suspended, declared ineligible, voluntarily excluded, or subjected to limited denials of participation (see proposed § 24.31). (Exceptions granted by the Department under § 24.34 that would enable a sanctioned participant to continue business dealings with HUD would also be reported to GSA.)

4. Implementing a participant certification process that would require participants in covered transactions at or below the proposed small purchase threshold of $25,000 to certify whether they (or any person in specified capacities with respect to the participant or the particular covered transaction) have, in the preceding three years, been: (a) Debarred, suspended or declared ineligible; (b) formally proposed for debarment, with a final determination still pending; (c) voluntarily excluded from participation; or (d) indicted, convicted, or had a civil judgment rendered against them for any of the offenses listed in § 24.6(a). Nonprocurement participants receiving in excess of the $25,000 threshold would be required to check the Consolidated List to verify that participants with whom they have dealings in covered transactions are not listed. Public comment is specifically invited on the $25,000 monetary threshold and the certification/verification procedure described above.

5. Abolishing the time limitation on the decision to order a debarment or suspension at §§ 24.5(b) and 24.17(b). The Department believes this three-year limitation to be inimical to the mandate of Executive Order 12549, and that its removal would be consistent with an aggressive policy of curtailing fraud, waste and abuse in Federal programs.

6. Expanding the definition of "legal proceedings" at § 24.4(q) to include proceedings by Federal, State, local or quasi-governments. This change would increase the instances in which the Department could suspend an individual "pending the completion of * * * legal proceedings" under § 24.21. (HUD currently defines this term to include only civil or criminal judicial proceedings in which the Federal government is a party.)

7. Modifying the language of § 24.6(c)(2), under causes for debarment, from "doing business with a debarred, suspended or otherwise excluded person, in connection with a covered transaction, where it is known that the person is debarred, suspended or otherwise excluded from participation in such transactions" to "where it is known or reasonably should have been known." This change would enable the Department to debar an individual under this subsection who could, under current rules, merely assert a lack of knowledge.

8. Abolishing the requirement that a shareholder have a 10% or greater equity interest before his or her seriously improper conduct can be imputed to a participant or contractor under § 24.11(b).

9. Permitting conduct to be imputed to a contractor or participant under § 24.11(b) either where the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor or participant, OR where the participant or

contractor knew, or should have known, or approved or acquiesced in, the conduct. Under the September 1987 interim rule, conduct may be imputed only when *both* factors are satisfied, making it more difficult for the Department to curb fraud and waste in HUD programs.

10. Amending the list of covered program transactions at § 24.3(a)(1) to include scholarships and fellowships. Providing additionally that awards, subawards, contracts, subcontracts and transactions at any tier that are charged as direct or indirect costs are covered program transactions. (Under current practice, only awards, subawards, contracts, subcontracts and transactions charged as *direct* costs are included as covered program transactions.)

11. Including various indicia of control at § 24.4(h) such as: Interlocking management or ownership; identity of interests among family members; shared facilities and equipment; common use of employees; and establishment, following the debarment, suspension or other exclusion of a participant, of an organization or entity which is to operate in the same business or activity and to have substantially the same management, ownership, or principal employees as the debarred, suspended or excluded participant.

12. Broadening the definition of "participant" at § 24.4(t) to include "any person who submits proposals for, receives an award or subaward or performs services in connection with, or reasonably may be expected to be awarded or to perform services in connection with, a covered transaction."

13. Specifying, in the definition of "suspension" at § 24.4(aa) that the sanction may be imposed to exclude a person from directly or indirectly participating in covered transactions for a temporary period, pending completion of an "investigation and such legal or debarment proceedings as may ensue." (Existing language reads "pending completion of an investigation or administrative or legal proceedings.")

14. Adding a provision at § 24.8(d), Effect of Debarment and Suspension, which provides that upon issuance of a notice of proposed debarment, the Department will not make any new awards to the respondent until a final debarment decision is rendered. HUD may waive this exclusion pending a debarment decision upon a written determination by the debarring official that identifies the reasons for the waiver action. In the absence of a waiver, the provisions of § 24.34, allowing exceptions for particular transactions, could be applied.

15. Clarifying, at § 24.5, Officials who may initiate debarment, that the Debarring Official may consider all mitigating factors in determining the seriousness of the offense, failure or inadequacy of performance, and in deciding whether administrative sanction is warranted.

16. Including at § 24.13, Hearing procedures, the relevant method for computing relevant time periods under Part 24. This provision is identical to the provision contained in Part 26 and was added for the sake of convenience to the reader.

17. Providing at § 24.13(b)(1), Right to hearing, that in those suspension cases where a hearing is not provided because of pending or contemplated legal proceedings by the Department of Justice, the Hearing Officer shall nevertheless: (a) Make a decision on the basis of all the information in the administrative record, including any submission made by the respondent; and (b) such decision shall be made within 45 days after receipt of any information and argument submitted by the respondent, unless the Hearing Officer extends this period for good cause.

18. Indicating at § 24.13(c), Standard of proof, that while the standard of proof in limited denial of participation cases is "adequate evidence", the Hearing Officer must consider any evidence offered by the respondent in opposition to HUD's proof, as well as any evidence of mitigating circumstances.

19. Including additional procedures at § 24.14(c) relating to Secretarial review. These procedures are identical to those provided in existing Part 24, but were inadvertently omitted from the interim rule published in October 1987.

20. Clarifying at § 24.15, requests for reinstatement, that the procedures for reinstatement are substantially similar to those involved in the initial proceedings and that reinstatement must be granted where it is in the best interests of the Government to do so. This language is included in the Department's existing Part 24, but was inadvertently omitted in the drafting of the October 1987 interim rule.

In addition to the regulatory changes described above, the Department wishes to clarify that the presumptions raised at § 24.4(s) (stating that notice, if undeliverable, shall be presumed to have been received by the addressee five days after being properly sent to the last address known by the agency) and § 24.11(b)(1) and (3) (that conduct may be imputed to a contractor or participant under certain circumstances and that "acceptance of the benefits derived from the conduct is presumptive evidence of such knowledge, approval or acquiescence") are *rebuttable* and that, in every instance, the respondent shall be afforded an opportunity to counter the presumption in the course of the administrative hearing.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterparises in domestic or export markets.

Under the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, since it will have applicability only to a very small percentage of the total number of entities which have dealings with the Department.

This rule was listed as item 920 in the Department's Semiannual Agenda of Regulations (published at 52 FR 40358, 40368) on October 26, 1987, under Executive Order 12291 and the Regulatory Flexibility Act.

This rule impacts upon the full range of loan, loan guarantee, grant, insurance, interstate land sales, and manufactured housing programs administered by the Department and that are designated Catalog of Federal Domestic Assistance program numbers 14.103–14.852.

List of Subjects in 24 CFR Part 24

Administrative practice and procedure, Government contracts, Organization and functions (Government agencies), Government procurement, Grant programs: housing and community development, Loan

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programs: housing and community development.

Accordingly, the Department revises 24 CFR Part 24 to read as follows: (Parallel references to the OMB final Guidelines for Nonprocurement Debarment and Suspension are cited, where applicable)

PART 24—DEBARMENT, SUSPENSION AND LIMITED DENIAL OF PARTICIPATION

Subpart A—General

Sec.

24.1 (____.115) Policy.
24.2 (____.100) Scope.
24.3 (____.110) Applicability.
24.3a Relationship to other HUD administrative sanction procedures.
24.4 (____.120) Definitions.

Subpart B—Debarment

24.5 (____.300) General.
24.6 (____.305) Causes for debarment.
24.7 (____.310) Debarment procedures.
24.8 (____.200) Effect of debarment and suspension.
24.9 (____.205) Voluntary exclusion.
24.10 (____.325) Period of debarment.
24.11 (____.330) Scope of debarment.
24.12 (____.310) Appeal procedures.
24.13 (____.310) Hearing procedures.
24.14 (____.310) Determination of hearing officer; review of determination.
24.15 (____.325) Requests for reinstatement.
24.16 Settlement.

Subpart C—Suspension

24.17 (____.400) General.
24.18 (____.405) Causes for suspension.
24.19 (____.410) Procedures.
24.20 (____.200) Effect of suspension.
24.21 (____.415) Period of suspension.
24.22 (____.420) Scope of suspension.
24.23 (____.410) Appeal procedures.
24.24 Settlements.

Subpart D—Limited Denial of Participation

24.25 General.
24.26 Causes for a limited denial of participation.
24.27 Period and scope of a limited denial of participation.
24.28 Notice.
24.29 Conference.
24.30 Appeal.

Subpart E—Lists of Excluded Participants and Contractors; Certification Requirement

24.31 (____.500) The consolidated lists.

24.32 Establishment and maintenance of the HUD list of debarred, suspended and ineligible contractors and participants.
24.33 Classifications for entry on the HUD list.
24.34 (____.200; ____.215) Effect of sanctions.
24.35 (____.505) Certification.
24.36 Retroactivity.

Authority: Section 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)); Executive Order No. 12549, 3 CFR Part 189 (1986).

Subpart A—General

§ 24.1 (____.115) Policy.

In order to protect the public interest, it is the policy of the Federal Government to conduct business only with responsible persons. It is essential to the accomplishment of the Department's mission that grants, loans and contracts are awarded or insured by the Department and by those entities with whom it does business, and that participation in HUD financial assistance programs is limited, only to responsible contractors, grantees, and other participants. Accordingly, for the protection of the public interest, including the deterence of irresponsible conduct in Department programs, and not for punitive purposes, persons, firms, and other entities may be excluded from participation in HUD programs, and from contracts, subcontracts, and participation in covered transactions throughout the Executive Branch, in accordance with this part.

§ 24.2 (____.100) Scope.

(a) This part—

(1) Prescribes policies and procedures governing the debarment, suspension and limited denial of participation of contractors and participants for the causes given in §§ 24.6, 24.18 and 24.26.

(2) Provides for the listing of debarred, suspended, and ineligible contractors and participants; and

(3) Sets forth the consequences of this listing.

(b) Although this part does cover the listing of ineligible contractors and participants (§ 24.31) and the effect of this listing (§ 24.34), it does not prescribe policies and procedures governing declarations of ineligibility.

§ 24.3 (____.110) Applicability.

(a) The sanctions set forth in this part apply to participation as described below.

(1) *Covered program transactions.* Covered transactions (whether by a Federal agency, recipient, subrecipient, or intermediary; or whether involvement is as a contractor or participant or as one receiving Federal funds directly or indirectly from a contractor or participant) include all programs funded or administered by a Federal agency, except as noted in paragraph (a)(3) of this section. These transactions include but are not limited to: Grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurance, payments for specified use and donation agreements; awards, subawards, contracts, subcontracts and transactions at any tier that are charged as direct or indirect costs, regardless of type (including subtier awards under awards that are statutory entitlement or mandatory awards); and specially covered activities identified in paragraph (a)(2) of this section. Persons may be subject to sanctions whether or not they were engaged in a Federal program at the time of the conduct on which the sanction is based, or whether they acted individually, on behalf of others, or in a private or public capacity.

(2) *Specially covered activities.* In addition to those transactions identified in paragraph (a)(1) of this section, participants in the loan, loan guarantee, or insurance programs of the Department or in the interstate land sales or manufactured housing programs of the Department and those in business relationships with such participants in connection with such programs are also subject to the provisions of this part, whether or not their participation involves the actual receipt of Federal funds.

(3) *Exceptions under Executive Order 12549.* Sanctions taken under this part shall not preclude: Receipt of statutory entitlement or mandatory awards (but not subtier awards thereunder which are not themselves mandatory), including but not limited to contracts with, or grants made to, owners of occupants of real property in connection with eminent domain proceedings and relocation payments made to eligible displaced parties; incidental benefits derived from ordinary governmental operations; and participation in or benefits from other transactions where the application of this part would be prohibited by law.

(4) *Other exceptions.* (i) Sanctions under this part shall also not preclude the receipt of benefits from the sale of the personal residence of an excluded individual or the purchase of HUD-owned housing units offered for all-cash sale without qualification at public sales.

(ii) Sanctions against participants whose only involvement in HUD programs is as ultimate beneficiaries, such as subsidized tenants and subsidized mortgagees, may be taken only upon evidence of fraud or serious program abuse, unless the participant has otherwise been debarred or suspended by another Federal agency.

§ 24.3a Relationship to other HUD administrative sanction procedures.

(1) *Sanctions provided pursuant to contract provisions.* Nothing in this part shall impair or limit the right to impose any sanction provided for by contract, including guaranty agreements with the Government National Mortgage Association.

(2) *Other departmental sanctions.* Where an office of the Department is required by statute, regulation, or Executive Order to follow administrative sanction procedures that may differ from the requirements of this part, the requirements of the statute, regulation or Executive Order shall take precedence. These alternate procedures include, but are not limited to: Part 200 Previous Participation Review and Clearance procedures, Part 25 Mortgagee Review Board administrative actions, and Part 570 Community Development Block Grant corrective and remedial actions.

§ 24.4 (____.120) Definitions.

The following terms are used in this part:

(a) "Adequate evidence". Information sufficient to support the reasonable belief that a particular act or omission has occurred.

(b) "Affiliates". Individuals or business concerns are affiliates if, directly or indirectly:

(1) Either one controls or can control the other; or

(2) A third individual or concern controls or can control both.

(c) "Agency". Any executive department, military department or defense agency, or other agency of the executive branch, excluding the independent regulatory agencies.

(d) "Benefits". Money or any other thing of value provided by, or realized because of, the Department. "Thing of value" includes insurance or guarantees of any kind.

(e) "Consolidated lists". Lists compiled, maintained, and distributed by the General Services Administration (GSA) (see § 24.31) containing the names and other information regarding contractors and participants debarred or suspended or declared ineligible by agencies under the procedures of this part as well as under other statutory or regulatory authority.

(f) "Contractor". Any individual or other legal entity that:

(1) Submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Government contract or a subcontract under a Government contract; or

(2) Conducts business with the Government as an agent or representative of another contractor.

(g) "Control". The power to exercise, directly or indirectly, a controlling influence over the management, policies, or activities of a person, whether through the ownership of voting securities, through one or more intermediary persons, or by other means. For purposes of actions under this part, a person who owns or has the power to vote more than 25 percent of the outstanding voting securities of another person, or more than 25 percent of total equity if the other person has no voting securities, is presumed to control. This presumption may be rebutted by evidence. Other indicia of control include, but are not limited to: interlocking management or ownership; identity of interests among family members; shared facilities and equipment; common use of employees; and establishment, following the debarment, suspension, or other exclusion of a contractor or participant, of an organization or entity which is to operate in the same business or activity and to have substantially the same management, ownership, or principal employees as the debarred, suspended or excluded contractor or participant.

(h) "Conviction". A judgment of conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, including a plea of nolo contendere.

(i) "Debarment". An action taken by a debarring official in accordance with Subpart B of this part to exclude a contractor from Government contracts or federally approved subcontracts under contracts or to exclude a person from directly or indirectly participating in covered transactions. "Debarment" also includes an action taken by any other Federal agency (as defined in 48 CFR 9.403) in accordance with agency regulations to exclude a contractor from Government contracts or federally approved subcontracts under contracts, or to exclude a participant from covered transactions for a reasonable, specified period. A contractor or other person so excluded is "debarred".

(j) "Debarring official". Any Assistant Secretary of HUD, the General Counsel of HUD or the President of the Government National Mortgage Association.

(k) "Grant". An award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible recipient. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

(l) "Grantee". The government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.

(m) "Hearing officer". An Administrative Law Judge or Board of Contract Appeals Judge authorized by HUD's Secretary, or by the Secretary's designee, to conduct proceedings under this part.

(n) "HUD List of Debarred, Suspended or Ineligible Contractors and Participants". A list compiled, maintained and distributed by the HUD Inspector General in accordance with § 24.32 containing the names of all participants and contractors debarred, suspended or determined to be ineligible in accordance with this part.

(o) "Indictment". Indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

(p) "Ineligible". Excluded from participation in covered transactions, agreements, or Government contracting (and subcontracting, if appropriate) pursuant to statutory, Executive Order, or regulatory authority, other than the Department's debarment, suspension, or limited denial of participation procedures, such as the Davis-Bacon Act and its related statures and implementing regulations, the Service Contract Act, the Equal Opportunity Acts and Executive Orders, the Walsh-Healey Public Contracts Act, the Buy American Act, and the Environmental Protection Acts and Executive Orders.

(q) "Legal proceedings". Any criminal proceeding or civil judicial proceeding to which the Government is a party, or a State or local government or quasi-governmental authority is a party. The term includes appeals from such proceedings.

(r) "Limited denial of participation". An action taken to exclude immediately from direct or indirect participation, or immediately to impose conditions on the direct or indirect participation, of any person in a program of the Department within a limited geographical area.

(s) "Notice". A written communication served in person or sent by certified mail, return receipt requested, or its equivalent, to the last known address of a party, its identified counsel, its agent for service or process, or any partner, officer, director, owner, of joint venturer of the party. Notice, if undeliverable, shall be presumed to have been received by the addressee five days after being properly sent to the last address known by the agency.

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(t) "Participant". Any person who submits proposals for, receives an award or subaward or performs services in connection with, or reasonably may be expected to be awarded or to perform services in connection with, a covered transaction. This term also includes any person who conducts business with Federal agency as an agent or representative of another participant. (For example, a participant in housing programs of another Federal agency or State government is a participant.) "Participant" encompasses any recipient of HUD benefits, either directly or indirectly, through non-Federal sources or other recipients, and includes grantees and subgrantees as well as loan recipients. "Participant" includes, but is not limited to, State and local governments, bonding companies, borrowers, builders, HUD contractors, principals in multifamily projects (as defined in 24 CFR Part 200, Subpart G), purchasers at sales of HUD-owned housing units offered with conditions for sale, purchasers of a property with a HUD-insured or Secretary-held mortgage, recipients under assistance agreements, ultimate beneficiaries of HUD programs, mortgagees, fee appraisers and inspectors, real estate agents and brokers, area management brokers, management and marketing agents, or persons employed by or in a business relationship with participants, such as accountants, consultants, investment bankers, architects, engineers, contrators with participants, and attorneys.

(u) "Person". Any individual, corporation, partnership, association, unit of government or legal entity, however organized, including any subsidiary of any of the foregoing.

(v) "Preponderance of the evidence". Proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(w) "Proposal". A solicited or unsolictied bid, application, request, invitation to consider or similar communication by or on behalf of a person seeking a benefit, directly or indirectly, under a covered transaction.

(x) "Respondent". A person against whom a debarment, suspension, or limited denial of participation action has been initiated.

(y) "Subsidiary". Any corporation, partnership, association or legal entity however organized, owned or controlled by another person.

(z) "Suspending official". Any Assistant Secretary of HUD, the General Counsel of HUD, or the President of the Government National Mortgage Association.

(aa) "Suspension". An action taken by a suspending official in accordance with Subpart C of this part immediately to exclude a contractor from Government contracts or federally approved subcontracts under contracts, or immediately to exclude a person from directly or indirectly participating in covered transactions for a temporary period, pending completion of an investigation and such legal or debarment proceedings as may ensue. A person so excluded is suspended.

(bb) "Ultimate beneficiaries". Ultimate beneficiaries of HUD programs include, but are not limited to, subsidized tenants and subsidized mortgagors such as those assisted under section 8 Housing Assistance Payments Contracts, section 236 Rental Assistance, or by Rent Supplement payments.

(cc) "Voluntary exclusion". A status of nonparticipation or limited participation in covered transactions assumed by a person under the terms of a settlement.

Subpart B—Debarment

§ 24.5 (____.300) General.

Any debarring official may initiate debarments. No debarment may be initiated against HUD-FHA approved mortgagees, however, without approval of the Mortgagee Review Board. A debarring official, acting in the public interest, may debar a participant or contractor for any cause set forth in § 24.6. In each case, even if the offense or violation is of a criminal, fraudulent or other serious nature, the decision to initiate debarment shall be within the discretion of the debarring official and in the best interests of the Government. Likewise, all mitigating factors may be considered in determining the seriousness of the offense, failure or inadequacy of performance, and in deciding whether the administrative action is warranted.

§ 24.6 (____.305) Causes for debarment.

Debarment may be imposed in accordance with the provisions of §§ 24.5 and 24.7 for:

(a) *Conviction.* Conviction of, or civil judgment for, any offense indicating a lack of business integrity or honesty which affects the present responsibility of a contractor or participant, including but not limited to:

(1) Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement;

(2) Bribery, embezzlement, false claims, false statements, falsification or destruction of records, forgery, obstruction of justice, receiving stolen property, or theft; or

(3) Unlawful price fixing between competitors, allocation of customers between competitors, bid rigging, or any other violation of Federal or State antitrust laws that relates to the submission of bids or proposals.

(b) Violation of a contract or the terms of a public agreement so serious as to affect the present responsibility of a contractor or participant, including but not limited to:

(1) A willful or material failure to perform under one or more contracts or agreements; or

(2) A history of substantial noncompliance with the terms of one or more contracts or agreements.

(3) A willful or material violation of a statutory or regulatory provision or requirement applicable to a public agreement.

(c) *Other causes.* Any of the following causes:

(1) Debarment or equivalent exclusionary action by any public agency or instrumentality for causes substantially the same as provided for in §24.6;

(2) Doing business with a debarred, suspended or otherwise excluded person, in connection with a covered transaction, where it is known or where it reasonably should have been known that the person is debarred, suspended or otherwise excluded from participation in such transactions;

(3) Conduct indicating a lack of business integrity or honesty which affects the present responsibility of a contractor or participant;

(4) Loss or denial of the right to do business or practice a profession under circumstances indicating a lack of business integrity or honesty or otherwise affecting the present responsibility of a contractor or participant;

(5) Failure to pay a debt (including disallowed costs and overpayments) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted; or

(6) Violation of a material provision of a voluntary exclusion or of any settlement of a debarment, suspension or limited denial of participation action;

(7) Failure to comply with Title VIII of the Civil Rights Act of 1968 or Executive Order 11063, HUD's Affirmative Fair Housing Marketing regulations or an Affirmative Fair Housing Plan;

(8) Violation of Title VI of the Civil Rights Act of 1964, section 109 of the Housing and Community Development Act of 1973, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975;

(9) Violation of any law, regulation, or agreement relating to conflict of interest;

(10) Violation of any nondiscrimination provisions included in any agreement or contract;

(11) Violation of any law, regulation, or obligation relating to applications for financial assistance, insurance, or guarantees, or to the performance of obligations under an assistance award or conditional or final commitment to insure or guarantee;

(12) Making or causing to be made any false statement for the purpose of influencing in any way an action of the Government; or

(13) Any other cause determined by a debarring official to be of so serious or compelling a nature that it affects the present responsibility of a contractor or participant.

§ 24.7 (____.310) Debarment procedures.

(a) *Decision-making process.* The debarment decision-making process shall be as informal as practicable, consistent with principles of fundamental fairness.

(b) *Notice of proposal to debar.* Debarment shall be initiated by advising the participant or contractor and any specifically named affiliates, by certified mail, return receipt requested—

(1) That debarment is being proposed;

(2) Of the reasons for the proposed debarment in terms sufficient to put the participant or contractor on notice of the conduct or transaction(s) upon which it is based;

(3) Of the cause(s) relied upon under § 24.6 for proposing debarment;

(4) Of the right to request in writing, within 30 days of receipt of the notice, a hearing (either oral or on the basis of any written submission made by the respondent) pursuant to § 24.13;

(5) Of the following potential effects of the sanction:

(i) For a participant, that except to the extent prohibited by law, the debarment shall be effective throughout the executive branch of the Federal Government. Except as provided in § 24.35, participants who are debarred or suspended under these provisions are excluded from participation in covered transactions of all agencies, including all participation, direct or indirect, in any HUD program, including any program funded, guaranteed, or insured by HUD, for the period of their debarment or suspension;

(ii) For a contractor, that in addition to exclusion from direct or indirect participation in HUD programs, the contractor will be excluded from receiving any Federal Government contract, and Federal agencies shall not solicit offers from, or award contracts or subcontracts to, the contractor unless the acquiring agency's head or designee determines that there is a compelling reason for such action.

(6) Of HUD's procedures governing debarment decision-making, including a statement that, if no response is made within 30 days, the decision will be made final.

(c) *Notice of debarring official's final decision.* If no request for hearing (either oral or on the basis of any written submission made by the respondent) is received within 30 days, the debarring official, or designee, shall give the participant or contractor and any affiliates prompt notice of the final decision to debar by certified mail, return receipt requested—

(1) Referring to the notice of proposed debarment;

(2) Specifying the reasons for debarment;

(3) Stating that the debarment is effective immediately; and

(4) Stating the period of debarment, including effective dates.

§ 24.8 (____.200) Effect of debarment and suspension.

(a) *Contractors.* In addition to exclusion from direct or indirect participation in HUD programs, a contractor's debarment or suspension from procurement shall be effective throughout the Executive Branch of the Government, in accordance with 48 CFR 9.406–1(c), unless a contracting agency's head, or designee, states in writing the compelling reasons justifying continued business dealings between the agency and the contractor.

(b) *Participants.* (i) A participant's debarment or suspension extends to participation in all covered transactions throughout the Executive Branch, including direct or indirect participation in HUD programs. Such participation includes receipt of any direct or indirect benefit or financial assistance through grant or contractual arrangements; direct or indirect benefit or assistance in the form of loan guarantees or insurance; and award of procurement contracts, notwithstanding any quid pro quo given or whether the Department gives anything in return. Accordingly, agencies and participants shall not make awards to or agree to participation by such debarred or suspended persons during such period;

(ii) In addition, participants who are debarred or suspended are excluded from participation in or under any covered transaction in any of the following capacities: As an owner or partner holding a controlling interest, director, or officer of the participant; as a principal investigator, project director, or other position involved in management of the covered transaction; as a provider of federally-required audit services; in any other position to the extent that the incumbent is responsible for the administration of Federal funds; or in any other position charged as a direct cost under the covered transaction.

(c) Notwithstanding the debarment, suspension, voluntary exclusion, or ineligible status of any person, agencies and participants may continue agreements in existence at the time the person was debarred, suspended, declared ineligible or voluntarily excluded. A decision as to the type of termination action, if any, to be taken should be made only after thorough review to ensure the propriety of the proposed action.

(d) Upon issuance of a notice of proposed debarment and until the final debarment decision is rendered, HUD shall not make any new awards to the respondent. HUD may waive this exclusion pending a debarment decision upon a written determination by the debarring official identifying the reasons for doing so. In the absence of such a waiver, the provisions of § 24.34 allowing exceptions for particular transactions may be applied.

Agencies and participants shall not renew or extend the duration of current agreements with any person who is debarred, declared ineligible or under a voluntary exclusion, except as provided under § 24.34.

§ 24.9 (____.205) Voluntary exclusion.

A contractor or participant and an agency may enter into settlement agreement providing for the exclusion of the contractor or participant. Such exclusion shall be entered on the appropriate consolidated list (see Subpart E).

§ 24.10 (____.325) Period of debarment.

Debarment shall be for a period commensurate with the seriousness of the cause(s), generally not to exceed three (3) years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period. Where the offense is willful and egregious, a longer term of debarment may be imposed, up to an indefinite period.

§ 24.11 (____.330) Scope of debarment.

(a) *Scope in general.* (1) Debarment of a person or affiliate under this part

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constitutes debarment of all its subsidiaries, divisions, and other organizational elements unless the debarment decision is limited by its terms to one or more specifically identified individuals or organizational elements or to specific types of agreements.

(2) The debarment action may include any other affiliate of the participant or contractor that is—

(i) Specifically named; and

(ii) Given written notice of the proposed debarment and an opportunity to respond as set forth in § 24.7(b).

An affiliate may be included in a debarment solely on the basis of its affiliation and regardless of its knowledge of or participation in the acts. The burden of proving that a particular affiliate or organizational element is currently responsible and is not controlled by the primary debarred party (or by an entity that itself is controlled by the primary debarred party) is placed on the affiliate or organizational element.

(b) *Imputing conduct.* For purposes of determining the scope of debarment, conduct may be imputed as follows:

(1) *Conduct imputed to contractor or participant.* The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated in a business context with a contractor or participant may be imputed to the contractor or participant when:

(i) The conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor or participant; or

(ii) The participant or contractor knew, or should have known of, or approved or acquiesced in, the conduct. Acceptance of the benefits derived from the conduct shall be presumptive evidence of such knowledge, approval or acquiescence.

(2) *Conduct imputed to individuals associated with participant.* The fraudulent, criminal, or other seriously improper conduct of a contractor or participant may be imputed to any officer, director, shareholder, partner, employee, or other individual associated in a business context with the contractor or participant who participated in, knew of, or had reason to know of the contractor's or participant's conduct.

(3) *Conduct of one contractor or participant imputed to other participants in a joint venture.* The fraudulent, criminal, or other seriously improper conduct of one contractor or participant in a joint venture or similar arrangement may be imputed to other participating parties if the conduct occurred for or on behalf of the joint venture or similar arrangement, or with the knowledge, approval, or acquiescence of the contractors or participants. Acceptance of the benefits derived from the conduct shall be presumptive evidence of such knowledge, approval or acquiescence.

§ 24.12 (____.310) Appeal procedures.

Within 30 days of receipt of a notice of proposed debarment, any participant or contractor, including any affiliate, desiring a hearing shall file a written request for a hearing with the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. If no appeal is filed within the time limit, the proposed decision to debar shall be final.

§ 24.13 (____.310) Hearing procedures.

(a) *General.* Hearings shall be governed by the procedures set forth at 24 CFR Part 28 (except as provided in (b)–(d) of this section and shall include § 26.16 regarding time computation. Specifically, § 26.16 provides that computation of any period of time prescribed or allowed by this part shall begin with the first business day following the day on which the act, event, development or default initiating the period of time occurred. When the last day of the period computed is a Saturday, Sunday, or national holiday, or other day on which the Department of Housing and Urban Development is closed, the period shall run until the end of the next following business day. Except when any prescribed or allowed period of time is seven days or less, each of the Saturdays, Sundays, and national holidays shall be included in the computation of the prescribed or allowed period.

(b) *Right to hearing.* A participant or contractor, including any affiliate, that has requested a hearing has the right to be heard before a Hearing Officer and to be represented by counsel as follows:

(1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, the participant or contractor may request an oral hearing before a hearing officer. Where debarment is based on a finding of civil rights noncompliance after a hearing, however, the hearing officer is bound by the finding of noncompliance reached in the prior hearing.

(2) Where an Assistant Attorney General or a U.S. Attorney advises in writing, and a hearing officer determines that a suspension is based on the same facts as pending or contemplated legal proceedings and that substantial interests of the Government in those proceedings would be prejudiced by a hearing, there shall be no right to a hearing under this part. However, the participant or contractors may submit documentary evidence and written briefs for consideration by the hearing officer. The hearing officer shall make a decision on the basis of all the information in the administrative record, including any submission made by the respondent. The decision shall be made within 45 days after receipt of any information and argument submitted by the respondent, unless the hearing officer extends this period for good cause.

(3) Where the action is based solely upon an indictment or conviction, or upon suspension or debarment by another Federal Government agency, the hearing shall be limited to the opportunity to submit documentary evidence and written briefs for consideration by a hearing officer.

(c) *Standard of proof.* The cause for debarment must be established by a preponderance of the evidence. If the debarment is based upon a conviction, a civil judgment, or debarment by another Federal Government agency, the standard shall be deemed to have been met. The cause for suspension and limited denial of participation must be established by adequate evidence. For limited denials of participation, the hearing officer shall consider any evidence offered by respondent in opposition to HUD's proof as well as evidence of any mitigating circumstances. If the action is based upon an indictment or suspension by another Federal Government agency, the standard shall be deemed to have been met. If the limited denial of participation is based upon a limited denial of participation by another HUD regional or field office, the standard shall be deemed to have been met.

(d) *Consolidation of hearing.* Where a sanction under this part is accompanied or followed by another sanction under this part, the hearings may be consolidated.

§ 24.14 (____.310) Determination of hearing officer; review of determination.

(a) *Written determination.* After the participant or contractor has been afforded an opportunity to be heard, the hearing officer shall make a written determination on the evidence presented, including any evidence of mitigating circumstances. The hearing officer shall issue a determination in accordance with Part 28. If it is proposed that the sanction include an affiliate, the hearing officer shall rule specifically whether, and to what extent, the determination applies to the affiliate.

The hearing officer's determination shall be transmitted to all appealing parties by certified mail, return receipt requested.

(b) *Transmission of determination.* The hearing officer's determination also shall be transmitted promptly to the HUD official who invoked the administrative sanction, and to the Office of the General Counsel.

(c) *Finality and Secretarial review.* The hearing officer's determination shall be final unless, pursuant to 24 CFR Part 28, the Secretary, or designee, decides as a matter of discretion to review the finding of the hearing officer. Any party may request such a review in writing within 15 days of a receipt of the hearing officer's determination.

(d) Where a review is granted, the determination by the Secretary, or the Secretary's designee, shall be based on the record of the initial hearing and shall fully recite the evidentiary grounds upon which the Secretary's determination is made. Such determination shall be issued within 30 days from the decision to grant a review.

(e) Each determination shall become a part of the record.

(f) Notice of the Secretary's decision to review the hearing officer's determination and subsequent determination by the Secretary, or the Secretary's designee, shall be given in writing, signed by the Secretary or the Secretary's designee and transmitted by certified mail, return receipt requested.

§ 24.15 (____.325) Requests for reinstatement.

(a) *Grounds.* Request for reinstatement shall be made in writing, addressed to the official imposing the sanction, as follows:

(1) Immediately upon proof of:

(i) Discovery of new and material evidence not previously available;

(ii) Dismissal of the indictment or reversal of the conviction or judgment, or reversal of the suspension or debarment by another agency upon which HUD's sanction was based; or

(iii) Bona fide change in ownership or management sufficient to justify a finding of present responsibility.

(2) Not less than six months after the final determination of debarment or imposition or affirmation of the suspension or limited denial of participation, upon proof that causes for the sanction have been eliminated and upon certification that the requirements of applicable statutes and administrative rules and regulations are understood by the participants or contractor and will be followed in the future.

(b) *Procedures.* The request for reinstatement shall be forwarded by the official imposing the sanction to a hearing officer for a recommendation on reinstatement. The procedures for reinstatement are substantially similar to those invoked in the initial proceedings. In reaching the determination regarding reinstatement, the hearing officer must be satisfied that it is in the best interest of the Government to reinstate and also be persuaded from the assurances of the respondent that the respondent understands the requirements of the statutes and the administrative rules and regulations and will comply with them in the future. The hearing officer shall recommend to the official imposing the sanction whether or not reinstatement is warranted under the standards of paragraph (a) of this section.

§ 24.16 Settlement.

A debarring official may settle an administrative action under this part in the interest of the Government at any time.

Subpart C—Suspension

§ 24.17 (____.400) General.

Any suspending official may issue suspensions. No suspension may be issued against a HUD–FHA approved mortgagee, however, without approval of the Mortgagee Review Board. A suspending official, acting in the public interest, may suspend a participant or contractor for any cause set forth in § 24.18. In each case, even if the offense or violation is of a criminal, fraudulent or other serious nature, the decision to suspend shall be within the discretion of the suspending official and in the best interests of the Government.

§ 24.18 (____.405) Causes for suspension.

(a) *Causes.* Suspension may be imposed in accordance with the provisions of §§ 24.17 and 24.19 upon adequate evidence:

(1) To suspect the commission of an offense listed in § 24.6(a); or;

(2) That a cause for debarment under § 24.6 may exist.

(b) *Indictment.* Indictment shall constitute adequate evidence for the purpose of suspension actions.

(c) *Suspension.* Suspension by another Federal agency for any cause specified in paragraph (a) of this section shall constitute adequate evidence for a concurrent suspension.

§ 24.19 (____.410) Procedures.

(a) *Decision-making process.* The suspension decision-making process shall be as informal as practicable, consistent with principles of fundamental fairness. Suspension is a serious action to be imposed on the basis of adequate evidence, pending the completion of an investigation and such legal or debarment proceedings as may ensue, when it has been determined that immediate action is necessary to protect the Government's interest. In assessing the adequacy of the evidence, the suspending official shall consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result.

(b) *Notice of suspension.* Suspension shall be made effective by advising the participant or contractor and any specifically named affiliates, by certified mail, return receipt requested—

(1) That suspension is being imposed;

(2) That suspension is based on an indictment or other adequate evidence that the participant or contractor has committed irregularities—

(i) of a serious nature in business dealings with the Government; or

(ii) Seriously reflecting on the propriety of further Government dealing with the participant or contractor.

Any such irregularities shall be described in terms sufficient to place the participant or contractor on notice without disclosing the Government's evidence;

(3) Of the cause(s) relied upon under § 24.18 for imposing suspension;

(4) That the suspension is for a temporary period pending the completion of an investigation and such legal or debarment proceedings as may ensue;

(5) Of the right to request within 30 days, in writing, a hearing (either oral or on the basis of any written submission made by the respondent) pursuant to § 24.13;

(6) Of the potential effect(s) of suspension as set forth in § 24.8.

(7) Of HUD's procedures governing suspension decision-making.

§ 24.20 (____.200) Effect of suspension.

The effect of suspension is set forth in § 24.8.

§ 24.21 (____.415) Period of suspension.

(a) All suspensions shall be for a temporary period pending the completion of an investigation and such legal or debarment proceedings as may ensue. A suspension shall become effective immediately upon issuance of the notice specified in § 24.19(b). In cases involving suspected violations of Federal law where prosecutive action has not been initiated by the

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Department of Justice within 12 months from the date of the notice of suspension, the suspension shall be terminated unless an Assistant Attorney General or a United States Attorney requests, in writing, a continuance for an additional six months. In no event shall a suspension continue beyond 18 months unless prosecutive action has been initiated within that period. The time limitations for suspension contained in this section may be waived by the affected party.

(b) The suspending official shall notify the Department of Justice of an impending termination of a suspension, at least 30 days before the 12-month period expires, to give that Department an opportunity to request an extension.

§ 24.22 (____.420) Scope of suspension.

The scope of a suspension shall be the same as the scope of a debarment (see § 24.11), except that the procedures of § 24.19 shall be used in imposing a suspension.

§ 24.23 (____.410) Appeal procedures.

Within 30 days of receipt of a notice of suspension, a participant or contractor, including any affiliate, desiring a hearing shall file a written request for a hearing with the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. If a hearing is requested, it shall be held in accordance with §§ 24.12 through 24.14.

§ 24.24 Settlements.

A suspending official may settle an administrative action under this part in the interest of the Government at any time.

Subpart D—Limited Denial of Participation

§ 24.25 General.

Official who may order a limited denial of participation. A regional administrator, office manager, or director of an Office of Indian Programs is authorized to order a limited denial of participation affecting any participant or contractor and its affiliates except HUD-FHA approved mortgagee. In each case, even if the offense or violation is of a criminal, fraudulent or other serious nature, the decision to order a limited denial of participation shall be discretionary and in the best interests of the Government.

§ 24.26 Causes for a limited denial of participation.

(a) *Causes.* A limited denial of participation shall be based upon adequate evidence of any of the following causes:

(1) That approval of an applicant for insurance would constitute an unsatisfactory risk;

(2) Irregularities in a participant's or contractor's past performance in a HUD program;

(3) Failure of a participant or contractor to maintain prerequisites of eligibility to participate in a HUD program;

(4) Failure to honor contractual obligations or to proceed in accordance with contract specifications or HUD regulations;

(5) That requirements of an assistance agreement or contract will not be satisfied upon completion;

(6) Construction deficiencies in ongoing projects;

(7) Making a false certification in connection with any HUD program, whether or not the certification was made directly to HUD;

(8) Commission of an offense listed in § 24.6(a);

(9) Violation of any law, regulation, or procedure relating to the application for financial assistance, insurance or guarantee, or to the performance of obligations incurred pursuant to a grant of financial assistance or a conditional or final commitment to insure or guarantee.

(10) Making or procuring to be made any false statement for the purpose of influencing in any way the action of the Department.

(11) Imposition of a limited denial of participation by any other HUD regional or field office.

(12) Debarment or suspension by another Federal agency for any cause substantially the same as provided in § 24.6.

(b) *Indictment.* Indictment shall constitute adequate evidence for the purpose of limited denial of participation actions.

(c) *Limited denial of participation.* Imposition of a limited denial of participation by any other HUD regional or field office shall constitute adequate evidence for a concurrent limited denial of participation.

§ 24.27 Period and scope of a limited denial of participation.

(a) *Generally.* A limited denial of participation extends to both direct and indirect participation in the program under which the cause arose, except that where it is based on an indictment, conviction or suspension or debarment by another agency it need not be based on offenses against HUD and it may apply to all programs. Such participation includes receipt of any direct or indirect benefit or financial assistance through grant or contractual arrangements; direct or indirect benefit or assistance in the form of loan guarantees or insurance; and award of procurement contracts, notwithstanding any quid pro quo given or whether the Department gives anything in return. The sanction may be imposed for a period not to exceed 12 months, is limited to HUD programs, and is effective only within the geographic jurisdiction of the office imposing it. For the purpose of this subpart, the term "program" may, in the discretion of the authorized official, include any or all of the functions within the jurisdiction of an Assistant Secretary.

(b) *Effectiveness.* This sanction shall be effective immediately upon being signed by the authorized official and shall remain effective up to 12 months. However, if the cause for the limited denial of participation is reason before the expiration of the 12-month period, the authorized official may terminate the sanction. The imposition of a limited denial of participation shall not affect the right of the Department to suspend or debar any party under this part.

(c) *Affiliates.* An affiliate or organizational element may be included in a limited denial of participation solely on the basis of its affiliation and regardless of its knowledge of or participation in the acts providing cause for the sanction. The burden of proving that a particular affiliate or organizational element is currently responsible and not controlled by the primary sanctioned party (or by an entity that itself is controlled by the primary sanctioned party is on the affiliate or organizational element.

§ 24.28 Notice.

(a) *Generally.* A limited denial of participation shall be initiated by advising a participant or contractor and any specifically named affiliate, by certified mail, return receipt requested—

(1) That the sanction is imposed on the date of the notice;

(2) Of the reasons for the sanction in terms sufficient to put the participant or contractor on notice of the conduct or transaction(s) upon which it is based;

(3) Of the cause(s) relied upon under § 24.26 for imposing the sanction;

(4) Of the right to request in writing within 30 days of receipt of the notice, a conference on the sanction;

(5) Of the Department's procedures governing limited denial of participation; and

(6) Of the potential effect of the sanction and the impact on the participant's or contractor's participation in Departmental programs, specifying the program involved and the geographical area affected by the action.

(b) *Notification of action.* After 30 days, the official imposing the limited denial of participation shall notify the participation and compliance officer for Housing Programs if no conference has been requested. If a conference is requested within the 30-day period, no notice shall be given unless a decision to affirm all or a portion of the remaining period of exclusion is issued. The participation and compliance officer will be responsible for notifying all HUD field offices of sanctions imposed.

§ 24.29 Conference.

Upon receipt of a request for a conference, the official imposing the sanction shall arrange such a conference with the participant or contractor and may designate another official to conduct the conference. The participant shall be given the opportunity to be heard within 10 business days of receipt of the request. This conference precedes, and is in addition to, the formal hearing provided if an appeal is taken under § 24.30. Although the formal rules of procedure contained in 24 CFR Part 26 do not apply to the conference, the participant or contractor may be represented by counsel and may present all relevant information and materials to the official, or designee. After consideration of the information and materials presented, the official shall, in writing, advise the participant or contractor of the decision to withdraw, modify or affirm the limited denial of participation. If the decision is to affirm all or a portion of the remaining period of exclusion, the participant shall be advised of the right to request in writing, within 30 days of receipt of notice of the decision, a formal hearing. This decision shall be issued promptly, but in no event later than 20 days after the conference and receipt of materials.

§ 24.30 Appeal.

Where the decision is to affirm all or a portion of the remaining period of exclusion, any participant desiring an appeal shall file a written request for a hearing with the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. This request shall be filed within 15 days of receipt of the decision to affirm. If a hearing is requested, it shall be held in accordance with the procedures set forth at §§ 24.12 through 24.14.

Subpart E—Lists of Excluded Participants and Contractors; Certification Requirement

§ 24.31 (____.500) The consolidated lists.

(a) The Inspector General shall compile and transmit to the General Services Administration (GSA) a list of all contractors and participants debarred, suspended or declared ineligible by the Department. The list shall indicate:

(1) The names and addresses of all debarred, suspended, or ineligible contractors, in alphabetical order, with cross-references when more than one name is involved in a single action;

(2) The name of the agency or other authority taking the action;

(3) The cause for the action or other statutory or regulatory authority;

(4) The scope of the action;

(5) The termination date for each listing;

(6) The name and telephone number of the point of contact for the action; and

(7) The DUNS No. for the contractor.

(b) The Inspector General shall compile and transmit to the General Services Administration (GSA) a list of all participants who have been debarred, suspended, or voluntarily excluded under Executive Order 12549 and this part and those who have been determined to be ineligible. The list shall indicate:

(1) The names and addresses of all debarred, suspended, voluntarily excluded and ineligible participants in alphabetical order, with cross references when more than one name is involved in a single action;

(2) The type of action;

(3) The cause of the action or other statutory or regulatory authority;

(4) The effect of the action;

(5) Any termination date for each listing; and

(6) The agency name and telephone number of the point of contact for the action.

(c) The Inspector General shall:

(1) Notify GSA of the information required by paragraphs (a) and (b) of this section within five working days after the action becomes effective, unless an alternative schedule is agreed to by GSA;

(2) Notify GSA within five working days after modifying or rescinding an action, unless an alternative schedule is agreed to by GSA;

(3) Until February 18, 1989, provide GSA and OMB with information concerning all transactions involving participants in which HUD has granted exceptions under § 24.34(a)(3);

(4) Notify GSA of the names and addresses of offices within HUD that are to receive each consolidated list and the number of copies to be furnished to each recipient.

(5) In accordance with internal retention procedures, maintain records relating to each suspension or debarment action taken by the Department;

(6) Establish procedures to provide for the effective use of the list, to ensure that the Department does not solicit offers from, award contracts to, or consent to subcontracts with listed contractors, or permit participation in covered transactions, except as provided in § 23.24; and

(7) Direct inquiries concerning listed contractors to the agency or other authority that took the action.

§ 24.32 Establishment and maintenance of the HUD list of debarred, suspended and ineligible contractors and participants.

(a) *Maintenance of HUD lists.* The HUD Inspector General shall maintain of participants and contractors. All lists shall be kept current. Procedures for issuance of notices of additons and deletions shall be established by the Inspector General. Each suspending or debarring official under this part shall appoint a liaison officer responsible for providing the Office of Inspector General with current information. The Office of Inspector General shall, in cooperation with other offices of HUD, establish procedures for assuring the timely receipt of informatin relevant to updating the lists.

(b) *Information in the list.* The HUD list shall contain, at a minimum, the following information:

(1) An alphabetical listing of those persons against whom HUD has invoked administrative sanctions of debarrment or suspension, and those persons voluntarily excluded, with appropriate cross-references where more than one name is involved in a single action.

(2) The basis of authority for such action;

(3) The extent of the restrictions imposed, including their expiration date;

(4) The name of the office initiating the action; and

(5) Designation of whether debarred as a participant or contractor.

(c) *Distribution of the HUD list.* The Inspector General shall arrange for reproduction and distribution of the HUD list. The list shall be distributed among HUD employees and to others outside HUD whose duties require access to the list, as authorized by the Assistant Secretaries, Office Managers, Directors of Indian Housing Programs, and Regional Administrators. Distribution shall also be made upon

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request. Procedures for submitting requests for information contained in the HUD list and distribution of such information shall be established by the Office of Inspector General. Names of persons on the HUD list shall be available upon request to that office.

§ 24.33 Classifications for entry on the HUD list.

Persons may be listed on the HUD list in accordance with the following classifications:

(a) Those listed by the Comptroller General in accordance with the provisions of section 3 of the Walsh-Healy Public Contracts Act (41 U.S.C. 35, *et seq.*), or the Service Contract Act (41 U.S.C. 351 *et seq.*) as found by the Secretary of Labor to have violated any of the agreements or representations required by those Acts.

(b) Those listed by the Comptroller General in accordance with the provisions of section 3 of the Davis-Bacon Act (40 U.S.C. 276a–2(a)), as found by the Comptroller General to have violated that Act.

(c) Those listed by the Comptroller General as found by the Department of Labor to have failed to satisfy obligations arising out of a contract incorporating the nondiscrimination and affirmative action provisions of Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended (12 U.S.C. 793), or the Vietnam Era Veterans Readjustment Assistant Act of 1974, as amended (38 U.S.C. 2012), implementing regulations (41 CFR Chapter 60), and orders issued in connection therewith.

(d) Those listed by the Comptroller General in accordance with the provisions of 29 CFR 5.6(b) of the regulations of the Secretary of Labor as found by the Secretary of Labor to be in aggravated or willful violation of the prevailing wage or work hour provisions of the applicable statutes listed in 29 CFR 5.1.

(e) Those listed by the Director of the Office of Federal Contract Compliance on the Contract Ineligibility List because of noncompliance with the equal opportunity clause (41 CFR 60–1.3) or affirmative action clauses (41 CFR 60–250.4 and 60–741.4).

(f) Those persons debarred, suspended or voluntarily excluded by HUD in accordance with this part.

(g) Those determined by an Executive agency in accordance with section 3(b) of the Buy American Act (41 U.S.C. 10b(b)) to have failed to comply with the provisions of section 3(a) of that Act under a contract containing the specific provisions required by section 3(a) and made by the agency for the construction, alteration, or repair of any public building or public work.

§ 24.34 (___.200; ___.215) Effect of sanctions.

(a) *Consolidated list of contractors—*(1) *Debarred or suspended contractor.* Debarred or suspended contractors who are included on the consolidated list are excluded from receiving contracts, and HUD shall not solicit offers from, award contracts to, or consent to subcontracts with, these contractors, unless the Secretary or designee determines in writing that there is a compelling reason for such action.

(2) *Contractors listed as ineligible.* Contractors listed on the consolidated list as ineligible on the basis of statutory or other regulatory procedures are excluded from receiving contracts and, if applicable, subcontracts, under the conditions and for the period set forth in the statute or regulation. Agencies shall not solicit offers from, award contracts to, or consent to subcontracts with, these contractors except under the conditions and for the duration specified in the statute or regulation.

(b) *Consolidated list of participants—*(1) *Debarred or suspended participant.* Debarred or suspended participants who are included on the consolidated list are excluded from participating in all covered transactions of all agencies throughout the Executive Branch of the Federal Government for the period of their debarment or suspension, and HUD shall not make awards to or agree to participation by such debarred or suspended persons during such period.

(2) HUD may grant an exception permitting a debarred, suspended or excluded person to participate in a particular transaction upon a written determination by the Secretary or the Secretary's authorized designee stating the reason(s) for deviating from the Presidential policy established by Executive Order 12549. However, the Order states that it is the President's intention that exceptions to this policy should be granted only infrequently. Exceptions shall be reported in accordance with §24.31.

§ 24.35 (___.305) Certification.

(a) HUD shall require participants in covered transactions at or below the proposed small purchase threshold of $25,000 to certify whether the participant, or any person acting in a capacity listed in § 24.8(b)(ii) with respect to the participant or the particular covered transaction, is currently or within the preceding three years has been:

(1) Debarred, suspended or declared ineligible;

(2) Formally proposed for debarment, with a final determination still pending;

(3) Voluntarily excluded from participation; or

(4) Indicted, convicted, or had a civil judgment rendered against them for any of the offenses listed in §24.8(a).

Adverse information on the certification need not necessarily result in denial of participation, unless the information indicates that the participant is currently suspended, debarred or otherwise ineligible. In all other cases, the information will be referred to the HUD program office responsible for administering the transaction for a determination on the effect of the information on the participant's eligibility.

(b) Participants receiving in excess of the proposed small purchase threshold of $25,000 are required to review the consolidated list to verify that participants with whom they have dealings in covered transactions are not listed.

§ 24.36 Retroactivity.

Limitations on participation in HUD programs proposed or imposed prior to the effective date of these regulations under an ancillary procedure shall not be affected by this part. This part shall apply to sanctions initiated after the effective date of these regulations regardless of the date of the cause giving rise to the sanction.

Date: October 23, 1987.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 87–25246 Filed 10–30–87; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 71008–7208]

Variety Denomination Requirements for Plant Patent Applications

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office proposes to amend certain of the rules of practice applicable to the patenting of plants. Under the proposed rules of practice, an applicant for such a patent would, in addition to any requirements for obtaining a patent, also be required to record an identifying variety denomination for the plant. These proposed rules fulfill an obligation imposed by the Convention of the International Union for the protection of New Plant Varieties (the UPOV Convention), to which the United States adheres.

DATES: Comments on the proposed rules must be submitted by January 8, 1988, to assure their consideration in formulating the rules put into effect. A public hearing will be held on January 15, 1988, beginning at 9:30 a.m., in the Commissioner's Conference Room, Crystal Plaza 3, the Patent and Trademark Office.

ADDRESSES: Address comments to the Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231. All comments received will be publicly available in the Patent and Trademark Office, Crystal Plaza 3, Arlington, Virginia, Room 11C28.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley D. Schlosser, Office of Legislation and International Affairs, by telephone at (703) 557–3065 or by mail addressed to the Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The UPOV Convention became applicable to the United States on November 8, 1981, as a consequence of the President's exercise of authority to adhere to this international agreement. Under Articles 6 and 13 of the UPOV Convention, each plant variety for which protection is sought must be given a variety denomination and that denomination recorded ("registered" in the language of the Convention) at least by the time the patent is granted. It is left to each of the UPOV member states to determine how recordation is effected. For the United States, the issuance of a patent which includes the denomination of the variety would constitute recordation and registration for the purposes of compliance with UPOV Convention. The patent examining process would include consideration of the suitability for recordation of the proposed variety denomination.

Attention is called to two earlier Commissioner's Notices on this subject. The Notice of October 20, 1981 (46 FR 51426) stated that appropriate rules for the registration of variety denominations, as required by the UPOV Convention, would be issued. The Commissioner's Notice, published in the **Federal Register** on August 16, 1985, 50 FR 33062, proposed amendments to the Patent and Trademark Office's rules of practice to carry out this requirement. In light of public comments received, the earlier proposed rules are being withdrawn from consideration and replaced by these revised proposed rules. These would apply to plants patented under either 35 U.S.C. 101 or 161, but would not apply to any protection sought under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), administered by the United States Department of Agriculture.

These proposed rules, in accordance with the patent law requirements for providing a descriptive title for a patent application, would require the variety denomination proposed for recordation to be included in the title of the application. The denomination would be judged for recordability by the examiner assigned the application for examination, who would consult with appropriate trademark examination officials to determine if there exists a possibly conflicting trademark registration or application for registration.

The recordation of a variety denomination for purposes of compliance with UPOV Convention Article 13 is not to be understood as conveying any legal rights in that denomination. Recordation does no more than establish a prima facie case that can be asserted as evidence of the possible generic nature of the variety denomination, if genericness is not already established by its usage in the commercial market, advertising or publication.

Under the proposed rules, the Patent and Trademark Office in examining the recordability of variety denominations will, in addition to its trademark records, utilize the Office's compilation of denominations obtained from horticultural, agricultural, floral and other professional societies, national breeders' rights offices, the UPOV Union's Secretariat, standard references and other available sources.

Article 13 of the UPOV Convention requires that the variety denomination must enable the plant variety to be identified, that the denomination not consist solely of numbers except if this is shown to be an established practice for designating plant varieties, and that the denomination not be liable to mislead or cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. No specific naming system is required by the Article. While a portion of the consuming public and others might prefer plant variety names conforming to the International Code of Nomenclature for Cultivated Plants or the UPOV Guidelines, common usage, code systems or other ways of identifying plants cannot be ignored.

The Patent and Trademark Office would accept for recordation a variety denomination complying with the requirements of the UPOV Convention's Articles 13(2) and 13(4). A number of variety denomination systems currently in use, such as the system described in the 1980 revision of the International Code of Nomenclature for Cultivated Plants, the UPOV Guidelines and various code systems may also meet these requirements. Sexually reproduced varieties could be named in compliance with the requirements of the Federal Seed Act.

In the event the examiner does not approve a proposed variety denomination for recordation, the applicant could petition the Commissioner for approval. Thus, the examination and approval of variety denominations will be handled in the same way as other procedural and administrative requirements not relating to the merits of the invention, such as the requirement to provide an abstract of the disclosure or the requirement to provide a title. A final refusal by the Commissioner on petition would require submission of another proposed denomination for recordation.

The petition to the Commissioner will be subject to a fee and the other requirements relating to petitions. The Commissioner may in appropriate cases delegate to the Assistant Commissioner for Trademarks or other appropriate trademark officials the decision of such petitions, under 37 CFR 1.181(g).

The UPOV Convention requires the applicant to identify the patented variety by the same variety denomination (or a translation thereof) in all UPOV member states. A different denomination may be recorded in a particular member state, however, in cases where the denomination registered in another member state is unsuitable for business or other reasons. An applicant may during the course of examination be required to inform the Office of any other denomination by which the variety is known.

While these rules provide for the recordation of variety denominations, they recognize at the same time that, in cases of conflict, previously established proprietary rights are paramount. Recordation is in legal effect, therefore, no more than publication of a denomination which is or may become the generic name of a plant variety.

Trademark owners, owners of other proprietary rights and patent applicants share a common interest in knowing as early as possible if a variety denomination proposed for recordation possibly conflicts with a trademark or other proprietary rights. Accordingly, each denomination proposed for recordation, along with the genus and

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species to which the variety belongs, shall be published in the *Official Gazette* as soon as reasonably possible after receipt of the application in the Office. The Commissioner has determined that publication of such information constitutes special circumstances under 35 U.S.C. 122.

The public may provide information to the Office concerning the recordability of a proposed denomination. Such information would be entered in the official file wrapper of the application and be available to the examiner. Such information shall be called to the attention of the applicant by the Office.

Also, the *Official Gazette* would list newly recorded denominations in United States patents in order for trademark owners to assert their rights in appropriate cases through private negotiations or judicially, as they may now do in trademark cases. Proceedings in the Office in regard to the registration of variety denominations, however, will be conducted ex parte.

Under the proposed rules, each applicant would be required to specify in an application for protection of a plant variety the date of first use of the denomination if used prior to filing of the patent application, or later to provide information about the date of first commercial use during pendency of the application. In cases of conflict between a trademark and a proposed variety denomination, the variety denomination will not be accepted for recordation unless its first commercial use clearly antedates another's established rights.

If a patentee learns of a conflict between a trademark and the recorded variety denomination after issuance of the patent, the patentee in order to resolve the conflict will be permitted to record a different denomination by means of the Certificate of Correction procedure. Also, a variety denomination found after issuance of a patent to be commercially unsuitable or ill-advised could be changed in a similar manner.

The Office now permits plants and plant varieties to be patented both specifically and broadly under patent 35 U.S.C. 101. In some cases, however, claims in an application will not be limited to a specific variety. These proposed rules would apply only to applications where a specific variety or varieties are claimed. Only these need be identified by a variety denomination, except where the number of varieties involved makes this impractical. In such a case, each claim directed to a specific variety would include its variety denomination, but these variety denominations could be omitted from the title of the patent. Variety denominations would not be required for microorganisms or microscopic plant parts.

Other Considerations

The proposed rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Order 12291 and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* This rule contains a collection of information requirements subject to the Paperwork Reduction Act. This collection of information requirements has been cleared by OMB under control no. 0651–0011.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the proposed rule changes will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354). The variety denomination requirement will not impose extra work on patent applicants (whether small or large businesses or individuals). The rules will help avoid burdensome and expensive litigation over trademark rights.

The Patent and Trademark Office has determined that this proposed rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Inventions and patents.

For the reasons set out in the preamble, 37 CFR Part 1 is proposed to be amended by revising §§ 1.71, 1.163, 1.168 and 1.17 as set forth below. All proposed additions are printed between arrows.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 would continue to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.17 is proposed to be amended by adding the following items in numerical order to the list in paragraph (h) to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(h) * * *

►§ 1.168(d) For petitioning the Commissioner to record a plant variety denomination . . .

►§ 1.168(g) For petitioning the Commissioner to record a substitute plant variety denomination . . .◄

3. Section 1.72 is proposed to be amended by adding the following paragraph:

§ 1.72 Title and abstract.

* * * * *

►(c) In the case of an application for the patenting of a plant variety under the provisions of 35 U.S.C. 101 or 161, the title of the application must include a variety denomination for the specific new variety claimed, except as provided for in § 1.168(b). The granting of the patent will be deemed the recordation of the variety denomination for purposes of compliance with Article 13 of the International Convention for the Protection of New Varieties of Plants, as revised on October 23, 1978.◄

4. A new § 1.168 is proposed to be added, to read as follows:

►§ 1.168 Variety denomination, submission to the Office, examination.

(a) The variety denomination submitted by the patent applicant under § 1.72 will be examined for compliance with the International Convention for the Protection of New Varieties of Plants. Specifically, the denomination:

(1) Must enable the plant variety to be identified;

(2) Must not be likely to cause confusion, to cause mistake or to deceive concerning the characteristics, value or identity of the plant variety or the identity of the breeder;

(3) Must not consist solely of numbers except if this is an established practice for designating plant varieties; and

(4) Must not be likely to cause confusion or mistake or to deceive as to any prior right of a third party, and shall not affect prior rights of third parties.

(b) If a proposed variety denomination is not included as part of the title of the application, when filed, the examiner shall set a period of not less than thirty days to provide a variety denomination. If a plurality of plant varieties are claimed, which make it impractical to include each variety denomination in the title of the application, each claim directed to a specific plant variety shall instead include the denomination of the claimed plant variety. In cases where no specific plant variety is claimed, for example, a patent directed to the improvement of a plant species, the denomination requirement applicable to the patenting of a plant variety or varieties will be waived.

(c) If the examiner determines that a proposed variety denomination is not suitable for recordation, the examiner shall refuse recordation thereof and shall set forth in an Office action the reasons for such refusal. An applicant disagreeing with the reasons for such refusal may request reconsideration and withdrawal of the refusal, giving the reasons therefor. If the examiner's refusal to record a proposed variety denomination is repeated and made final, the examiner shall at the same time require the applicant to propose another variety denomination for recordation.

(d) After a final requirement by the examiner for submission of a proposed new variety denomination, the applicant, in addition to making any response due on the remainder of the action, may in lieu of proposing another variety denomination petition the Commissioner for review of the examiner's holding, upon payment of the fee set forth in § 1.17(h).

(e) The applicant is required to submit for recordation the same variety denomination (or, if not in English, a translation or transliteration thereof) as that previously registered or recorded, or proposed for registration in an earlier filed application for protection of the same variety in another member state of the International Union for the Protection of New Varieties of Plants. The applicant may submit another denomination for recordation, however, upon a showing satisfactory to the examiner as to why the denomination originally submitted or registered in another member state of the said Union is unsuitable for recordation in the United States. During pendency of an application, the examiner may require the applicant to provide information regarding all denominations for the same variety registered or proposed for registration in other member states of the said Union before the application was filed in the United States.

(f) The applicant shall indicate in the application the date of first commercial use in the United States if any, of the variety denomination proposed for recordation; or, if not commercially used prior to filing of the application, indicate during pendency of the application when the denomination has first been commercially used in this country. No variety denomination will be recorded if first commercially used after the establishment of third party proprietary rights to the denomination.

(g) A patentee in order to avoid a conflict between a recorded variety denomination and a trademark or other proprietary right, or where the recorded variety denomination is likely to be confused with another, or where business or marketing considerations dictate, may propose for recordation a substitute variety denomination for that already recorded. Such a proposal shall be in the form of a petition to the Commissioner together with the fee set forth in § 1.17(h). The proposed substitute denomination will be examined in the same manner as the denomination originally recorded, and upon recordation shall be promptly published in the *Official Gazette*. A Certificate of Correction indicating such substitute denomination shall be issued for the patent. If the patent has been assigned, only the assignee of record may apply for recordation of a substitute denomination.

(h) The Commissioner shall upon its receipt in the Office promptly publish in the *Official Gazette* each variety denomination proposed for recordation and the genus and species of the plant involved. Correspondence from the public objecting to the recordation of such denomination, if accompanied by reasons therefor, will be placed in the official file and considered by the examiner in an ex parte manner. An objection to recordation may be based on an earlier recorded or unrecorded variety denomination, a registered or common law trademark, a trade name or trade indicia, or other alleged prior right timely called to the Office's attention. The applicant shall be notified by the Office of the receipt of such correspondence. The secrecy of any pending application will be preserved in accordance with 35 U.S.C. 122.◄

Date: September 18, 1987.

Rene Tegtmeyer,

Assistant Commissioner for Patents.

[FR Doc. 87–25294 Filed 10–30–87; 8:45 am]

BILLING CODE 3510–16–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3277–8]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing to disapprove a site-specific revision to the Ohio State Implementation Plan (SIP) for ozone. This revision is a relaxation from existing emission limits and is in the form of an alternative emission control plan (bubble) for volatile organic compounds (VOC) involving the Morgan Adhesives Company (Morgan Adhesives) facility's 12 paper coating lines (K001–K012) and one vinyl casting line (K013). This facility is located in Summit County, Ohio, an area designated as nonattainment for ozone.

USEPA today is proposing to disapprove this SIP revision because it does not represent the application of reasonably available control technology (RACT), nor does it comply with USEPA's Emissions Trading Policy.

DATES: Comments on this revision and on the proposed USEPA action must be received by December 2, 1987.

ADDRESSES: Copies of the SIP revision request and technical support documents are available at the following addresses for review: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886–6031, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6031.

SUPPLEMENTARY INFORMATION: On March 18, 1983, the Ohio Environmental Protection Agency (OEPA) submitted a proposed site-specific VOC revision to its ozone SIP for Morgan Adhesives' 12 paper coating lines (K001–K012) and 1 vinyl casting line (K013), which are located at Morgan Adhesives' facility in Summit County, Ohio. The proposed revision consists of a bubble for all 13 lines, and is based on RACT[1] for

[1] A definition of RACT is contained in a December 9, 1976, memorandum from Roger Strelow, former Assistant Administrator for Air and

Continued

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Morgan Adhesives' paper coating lines. The proposal is not approvable because it does not satisfy the emissions trading policy, the allowable emissions are determined on a volume (as opposed to a solids) basis and as such are not consistent with RACT, and RACT has not been established for the vinyl casting line.

I. Emission Limits

A. Paper Coating Lines

Under the existing federally approved SIP, each paper coating line (K001–K012) at Morgan Adhesives is subject to the control requirement contained in OAC Rule 3745–21–09(F) of 2.9 pounds of VOC/gallon of coating. OAC Rule 3745–21–04(C)(5) requires final compliance by April 1, 1982.

B. Vinyl Casting Line

The vinyl casting line (K013) at Morgan Adhesives is currently subject to the control requirements contained in OAC Rule 3745–21–07(G), which limits the "photochemically reactive" solvent content in coatings. This rule, however, does not require RACT level VOC emission limitations for surface coating operations. Final compliance with the rule was required by April 15, 1974. The paper coating line (K012) is also permitted to operate as a vinyl casting line.

II. Alternative Emission Control Program (Bubble)

A. USEPA's Emissions Trading Policy

On April 7, 1982 (47 FR 15076), the USEPA issued a proposed Emissions Trading Policy Statement (ETPS) which sets forth general principles for the creation, banking and use of emission reduction credits for Bubbles. This statement indicated that it is the policy of USEPA to encourage use of emissions trades to achieve more flexible, rapid and efficient attainment of national ambient air quality standards (NAAQS). It describes emissions trading, sets out general principles that USEPA will use to evaluate emissions trades under the Clean Air Act, and expands opportunities for States and industry to use these less costly control approaches. The April 7, 1982, notice noted that until USEPA took final action on its policy statement, State actions involving emission trades would be evaluated under the provisions set forth in the proposed statement. On December 4, 1986 (51 FR 43814), USEPA issued its final ETPS, which contains the criteria by which emission trades will be evaluated.

A source may secure emission reduction credits by meeting each of the applicable requirements of the final ETPS. Only reductions which are surplus, enforceable, permanent and quantifiable can qualify as an emission reduction credit. In nonattainment areas that lack an approved demonstration of primary NAAQS (e.g., Summit County), surplus reductions consist of an emission reduction from each source's baseline equivalent to the lowest of actual, SIP-allowable, or RACT-allowable emissions, plus an additional emissions reduction, generally of at least 20 percent.[2] Use of past shutdowns, curtailments or other reductions which occurred before application for credit is essentially eliminated from baseline calculations.

A source's baseline emissions for bubble purposes is determined from the lower of actual, SIP-allowable, or RACT-allowable values for each of three baseline factors. These three baseline factors are described in the following paragraph. Actual values for these factors are normally determined based upon the source's average historical values for the factors for the 2-year period preceding the source's application to trade emission reduction credits.

For bubbles, a source's "baseline" emissions are equal to the product of its: (1) *Emission rate* ("ER"), specified in terms of mass emissions per unit of production or throughput (e.g., pounds of sulfur dioxide (SO_2) per million British Thermal Units (BTU) or pounds of VOC per weight of solids applied); (2) *average hourly capacity utilization* ("CU") (e.g., millions of BTU per hour or weight of solids applied per hour); and (3) *number of hours of operation* ("H") during the relevant time period. In sum, baseline emissions = ER × CU × H. Net baseline emissions for a bubble are the sum of the baseline emissions of all sources involved in the trade.

B. Bubble Evaluation

The proposed bubble VOC emission limitation is specified within the special terms and conditions of the variances for coating lines K001(B), K002(C), K003(D), K006(G), K007(H), K008(J), K009(K), and K012(R) and the permits to operate for coating lines K004(E), K005(F), K010(M), K011(N) and K013(V). This limitation is presented below.

The allowable daily emission limitation (A_d) for VOC from coating lines B through H, J, K, M, N, R and V shall be determined by the following equation:

$$A_d = \sum_{i=1}^{n} V_i L_i$$

where

A_d = pounds of volatile organic compound (VOC) emissions allowed for the day;

V = volume of surface coating applied for the day, in gallons (excluding water);

L = 2.9 pounds of VOC per gallon of coating applied, excluding water, for paper coatings, 3.7 pounds of VOC per gallon of coating applied, excluding water, for urethane casting coatings; and 6.6 pounds of VOC per gallon of coating applied, excluding water, for vinyl casting coatings;

i = subscript denoting a specific surface coating employed; and

n = total number of surface coatings employed.

Table A, below, was provided by OEPA and is the only emission information submitted with this proposed SIP revision. This table, which is based upon 1975 production levels, shows that 3404.6 tons VOC per year would be allowed from paper coaters under this bubble, as proposed (calculated in a volume basis). This table also shows that only 1309 tons of VOC per year would be allowed (based upon 1975 production levels) if the calculations were performed on a solids basis as required by USEPA policy. Therefore, the allowable emissions proposed for the paper coaters under the bubble are 2.6 times the emissions that would be allowed if the calculations were performed on a solids basis. Approving this proposed revision using volume-based calculations would result in a relaxation of 2,096 tons per year from the current SIP-allowable emissions for paper coaters. The requirement that equivalency calculations be on a solids basis is contained in USEPA's May 5, 1980, memorandum from Richard Rhoads, former Director of the Control Programs Development Division. In addition, the Technical Issues Document (of the final ETPS) states that VOC trading must require that surface coating emissions be calculated on a solids applied basis.

Waste Management. RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

[2] It should be noted that this is not a "pending bubble" under the final ETPS because it is inadequate under the 1982 proposed bubble policy (e.g., Due to the use of volume applied basis in the Calculation of allowable emissions). USEPA Region V, notified OEPA that this proposed SIP revision is not approvable in letter dated May 23, 1983, September 1, 1983 and February 28, 1985.

TABLE A [3]

	Hydrocarbon emissions (tons/per yr.)		
	1975 baseline	RACT on solid basis	Revision on volume basis
Original SIP (includes paper coating lines and vinyl casting line	7093		4207
Corrected SIP:			
(12) Paper coating lines	5648.5	1309.0	3404.6
		[1] (1202.0)	[1] (3339.7)
(1) Vinyl casting line	756.9	[2] 756.9	[2] 756.9
13 Coating lines bubble being proposed as facility-specific RACT revision to SIP	6405.4	2065.9	4161.5

[1] Adjusted value based on maintaining the existing VOC content for any coating meterial which has a VOC content already below the RACT presumptive norm of 2.9 pounds of VOC per gallon, excluding water.

[2] RACT for the vinyl casting line is based on maintaining the existing VOC content for the current coating materials which comply with the requirements of paragraph (G) of OAC rule 3745–21–07. (See the discussion concerning RACT below.)

[3] Table A is provided for informational purposes only and USEPA is not using this infomation to determine the approvability of this bubble.

(Note: The above hydrocarbon emissions are based on 1975 production and do not include any growth projections.)

Moreover, this bubble is not approvable since this proposed revision is not based upon baseline levels which reflect the lower of actual or SIP allowable or RACT allowable emissions for each line, which is a requirement of the ETPS.

The State submittal indicates that certain emission reduction technologies may have been put in place prior to the application for the bubble. If so, credit cannot be given for such emission reductions. In addition, this bubble does not provide production information for the 2 years prior to submittal of this bubble. This information is required by the ETPS. In this case, production information for the 2-year period of 1978 and 1979 would be required to support the bubble. In addition, as discussed below, RACT-allowable emissions for vinyl casting lines has not been established.

In addition, this revision does not provide an additional 20 percent emission reduction credit. The ETPS requires that bubbles in areas that lack approved attainment demonstrations produce a net reduction in emissions, generally by generating at least an additional 20 percent emission reduction credit (over what would otherwise be required). Akron (Summit County) currently lacks an approved attainment demonstration.

III. Reasonably Available Control Technology

A. USEPA's RACT Policy

USEPA's May 5, 1980, policy memorandum, subject "Procedure to Calculate Equivalency with the CTG Recommendations for Surface Coating" from Richard Rhoads, Director of the Control Programs Development, Division Directors, contains USEPA's policy on VOC equivalency calculations. This policy requires all VOC equivalency calculations be done on a solids applied basis.

B. RACT Evaluation

The proposed daily weighted average, volume-based emission limit cannot be considered to be RACT, without additional technical support. Although OEPA believes that the emission limits represent a facility-specific RACT determination in the form of a bubble control strategy, documentation has not been provided which supports the proposed limits as RACT. On October 6, 1986, USEPA informed OEPA that USEPA was not aware of any information that would support the proposed limits as RACT. OEPA should submit such information if it exists. In addition, a RACT level emission limitation and supporting technical information must be established for the vinyl casting line, which is indicated in Table A to be a major non-control techniques guidelines source. Finally, any RACT equivalency demonstrations which OEPA and Morgan Adhesives may develop in support of this revision must be performed consistent with the Agency's policy on VOC equivalence calculations contained in a May 5, 1980, memorandum from Richard Rhoads, Director of the Control Programs Development Division, to the Regional Air and Harzardous Waste Division Directors. This would require that all calculations be done on a solids applied basis.

SIP Deficiency Morgan Adhesives

Under USEPA's July 29, 1983, SIP revision policy memorandum entitled "Source Specific SIP Revisions" from Sheldon Meyers, Director of the Office of Air Quality Planning and Standards, sources which are located in areas lacking current federally approved ozone attainment demonstrations cannot be considered for relaxations, until the SIP has been revised to demonstrate attainment and maintenance of the national ambient air quality standard (NAAOS) for ozone. In addition, the State must demonstrate that Reasonable Further Progress (RFP) will be maintained in the area. An attainment demonstration for the Akron area (which includes Morgan Adhesives) was submitted to USEPA on April 11, 1986, and is currently under review. However, at the present time Akron lacks a federally approved demonstration of attainment; and the proposed SIP revision would result in a relaxation of 2,096 tons per year from the SIP allowable for paper coaters. Therefore, approval of the Morgan Adhesives revision in its present form is not possible for all the reasons discussed above.

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before December 27, 1987, will be considered in USEPA's final rulemaking. All comments will be available for inspection during during normal business hours at the Region V office.

Under 5 U.S.C. 605(b), I cerify that this proposed disapproval will not have a significant economic impact on a substantial number of small entities because it applies to only one firm, Morgan Adhesives.

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Authority: 42 U.S.C. 7401–7642.

Dated: December 31, 1986.

Valdas V. Adamkus,

Regional Administrator.

Editorial Note: This document was received at the Office of the Federal Register on October 27, 1987.

[FR Doc. 87–25201 Filed 10–30–87; 8:45 am]

BILLING CODE 6560–50–M

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Notices

Federal Register
Vol. 52, No. 211
Monday, November 2, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Monday, November 16, 1987. The meeting will be held in Room M09 at the Old Post Office, 1100 Pennsylvania Ave., NW., Washington, DC.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, and Transportation; the Director, Office of Administration; the Chairman of the National Trust for Historic Preservation; the Chairman of the National Conference of State Historic Preservation Officers; a Governor, a Mayor; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

I. Chairman's Report
II. Executive Director's Report
III. Task Force Reports
IV. Legislation
V. New Business
VI. Adjourn

Note:—The meetings of the Council are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., Room 809, Washington, DC, 202–786–0503 at least seven (7) days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW. #809, Washington, DC 20004.

Robert D. Bush,
Executive Director.
Date: October 27, 1987.
[FR Doc. 87–25295 Filed 10–30–87; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, 86 Stat. 770–776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.

Date and Time: December 1, 1987, 8:30 a.m.–4:30 p.m.

Place: U.S. Department of Agriculture, Room 244–W, Administration Building, Washington, DC 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.

Contact Person for Agenda and More Information: Dr. Edward M. Wilson, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Room 223 Justin Smith Morrill Building, Washington, DC 20251–2200, Telephone: 202/447–4567.

Done at Washington, DC, this 22nd day of October 1987.

John Patrick Jordan,
Administrator, Cooperative State Research Service.
[FR Doc. 87–25326 Filed 10–30–87; 8:45 am]
BILLING CODE 3410–22–M

Federal Grain Inspection Service

Designation Renewal of the Aberdeen Agency (SD), McGregor Agency (IA), and State of Missouri (MO)

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of the Aberdeen Grain Inspection, Inc. (Aberdeen), McGregor Grain Inspection and Weighing Corporation, Inc. (McGregor), and Missouri Department of Agriculture (Missouri), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

EFFECTIVE DATE: December 1, 1987.

ADDRESSES: James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service announced that Aberdeen's, McGregor's, and Missouri's designations terminate on November 30, 1987, and requested applications for official agency designation to provide official services within specified geographic areas in the June 1, 1987, Federal Register (52 FR 20434). Applications were to be postmarked by July 1, 1987. Aberdeen, McGregor, and Missouri were the only applicants for designation in their geographic area and each applied for designation renewal in the area currently assigned to that agency.

The Service announced the applicant names in the August 3, 1987, Federal Register (52 FR 28738) and requested comments on the designation renewal of Aberdeen, McGregor, and Missouri. Comments were to be postmarked by September 17, 1987; none were received.

The Service evaluated all available information regarding the designation

criteria in section 7(f)(1)(A) of the Act; and, in accordance with section 7(f)(1)(B), determined that Aberdeen, McGregor, and Missouri are able to provide official services in the geographic area for which the Service is renewing their designations. Effective December 1, 1987, and terminating November 30, 1990, Aberdeen, McGregor, and Missouri will provide official inspection services in their entire specified geographic area, previously described in the June 1 Federal Register.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency for the performance of official inspection or Class X or Class Y weighing services and where the agency and one or more of its inspectors or weighers is located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring an inspector or weigher to all locations within its geographic area.

Interested persons may receive a listing of an agency's specified service points by contacting either the Review Branch, Compliance Division, at the address listed above or the agencies at the following addresses: Aberdeen Grain Inspection, Inc., 15 S. Dakota Street, P.O. Box 842, Aberdeen, SD 57401; McGregor Grain Inspection and Weighing Corporation, Inc., 125 B Street, P.O. Box 201, McGregor, IA 52157; Missouri Department of Agriculture, Department of Agriculture Building, 1616 Missouri Boulevard, P.O. Box 630, Jefferson City, MO 65102.

(Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Dated: October 20, 1987.

Neil E. Porter,
Acting Director, Compliance Division.
[FR Doc. 87–25235 Filed 10–30–87; 8:45 am]
BILLING CODE 3410–EN–M

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to the Lincoln (NE) and Omaha (NE) Agencies

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agencies. The official agencies are the Lincoln Inspection Service, Inc. (Lincoln), and Omaha Grain Inspection Service, Inc. (Omaha).

DATE: Applications to be postmarked on or before December 2, 1987.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Lincoln, located at 505 Garfield Street, P.O. Box 2724, Station B, Lincoln, NE 68502; and Omaha, located at 2525 South 13th Street, Omaha, NE 68102, were each designated under the Act as an official agency to provide inspection functions on May 1, 1985.

Each official agency's designation terminates on April 30, 1988. Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Lincoln, in the States of Iowa and Nebraska, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North (in Nebraska) by the northern York, Seward, and Lancaster County lines; the northern Cass County line east to the Missouri River; the Missouri River south to U.S. Route 34; (in Iowa) U.S. Route 34 east to Interstate 29;

Bounded on the East by Interstate 29 south to the Fremont County line; the northern Fremont and Page County lines; the eastern Page County line south to the Iowa-Missouri State line; the Iowa-Missouri State line west to the Missouri River; the Missouri River south-southeast to the Nebraska-Kansas State line;

Bounded on the South by the Nebraska-Kansas State line west to County Road 1 mile west of U.S. Route 81; and

Bounded on the West (in Nebraska) by County Road 1 mile west of U.S. Route 81 north to State Highway 8; State Highway 8 east to U.S. Route 81; U.S. Route 81 north to the Thayer County line; the northern Thayer County line east; the western Saline County line; the southern and western York County lines.

Exceptions to the assigned geographic area are the following locations inside Lincoln's area which have been and will continue to be serviced by Omaha Grain Inspection Service, Inc.: Fremont Company Coop, McPaul, Fremont County, Iowa; and Lincoln Grain, Murray, Cass County, Nebraska.

The geographic area presently assigned to Omaha, in the States of Iowa and Nebraska, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by Nebraska State Route 91 from the western Washington County line east to U.S. Route 30; U.S. Route 30 east to the Missouri River; the Missouri River north to Iowa State Route 175; Iowa State Route 175 east to Iowa State Route 37; Iowa State Route 37 southeast to the eastern Monona County line;

Bounded on the East by the eastern Monona County line; the southern Monona County line west to Iowa State Route 183; Iowa State Route 183 south to the Pottawattamie County line; the northern and eastern Pottawattamie County lines; the southern Pottawattamie County line west to M47; M47 south to Iowa State Route 48; Iowa State Route 48 south to the Montgomery County line;

Bounded on the South by the southern Montgomery County line; the southern Mills County line west to Interstate 29; Interstate 29 north to U.S. Route 34; U.S. Route 34 west to the Missouri River; the Missouri River north to the Sarpy County line (in Nebraska); the southern Sarpy County line; the southern Saunders County line west to U.S. Route 77; and

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Bounded on the West by U.S. Route 77 north to the Platte River; the Platte River Southeast to the Douglas County line; the northern Douglas County line east; the western Washington County line northwest to Nebraska State Route 91.

The following locations, outside of the above contiguous geographic area are part of this geographic area assignment: Murren Grain, Elliot, Montgomery County, Iowa; Hemphill Feed & Grain, and Hansen Feed & Grain, both in Griswold, Cass County, Iowa; Fremont Company Coop, McPaul, Fremont County, Iowa; Lincoln Grain, Murray, Cass County, Nebraska; Farmers Coop Business Assn., Rising City, Butler County, Nebraska; and Farmers Coop Business Assn., Shelby, Polk County, Nebraska.

Exceptions to Omaha's assigned geographic area are the following locations inside Omaha's area which have been and will continue to be serviced by the following official agency:

Fremont Grain Inspection Department, Inc.: Farmers Cooperative, and Krumel Grain and Storage, both in Wahoo, Saunders County, Nebraska.

Interested parties, including Lincoln and Omaha, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning May 1, 1988, and ending April 30, 1991. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Date: October 20, 1987.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 87-25236 Filed 10-30-87; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicants in the Geographic Area Currently Assigned to the State of Alabama

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in the geographic area currently assigned to the Alabama Department of Agriculture and Industries (Alabama).

DATE: Comments to be postmarked on or before December 17, 1987.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, FGIS, USDA, Room 1661 South Building, P.O. Box 96454, Washington, DC 20090-6454. *Telemail* users may respond to [IRSTAFF/FGIS/USDA] telemail. *Telex* users may respond as follows:

To Lewis Lebakken

TLX: 7607351, ANS: FGIS UC.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Labakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Exeuctive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within a specified geographic area in the September 1, 1987, **Federal Register** (52 FR 32947). Applications were to be postmarked by October 1, 1987. Alabama was the only applicant for designation in its geographic area and applied for designation renewal in the area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the designation of the applicant. Commenters are encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Information Resources Staff, Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Dated: October 20, 1987.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 87-25237 Filed 10-30-87; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicants in the Geographic Area Currently Assigned to the Agri Seed Agency (AZ)

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in the geographic area currently assigned to the Agricultural Seed Laboratories, Inc. (Agri Seed).

DATE: Comments to be postmarked on or before December 17, 1987.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, FGIS, USDA, Room 1661 South Building, P.O. Box 96454, Washington, DC 20090-6454. *Telemail* users may respond to [IRSTAFF/FGIS/USDA] telemail. *Telex* users may respond as follows:

TO: Lewis Lebakken

TLX: 7607351, ANS:FGIS UC.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within a specified geographic area in the July 1, 1987, **Federal Register** (52 FR 24490). Applications were to be postmarked by July 31, 1987. The Service received no applications for Agri Seed's designation postmarked by that date. As a result, the Service again requested applications for official agency designation to provide official services within Agri Seed's geographic area in the September 1, 1987, **Federal Register** (52 FR 32949). Applications were to be postmarked by October 1, 1987. Agri Seed was the only applicant for designation in its geographic area and applied for designation renewal in the area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the designation of the applicant. Commenters are encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Information Resources Staff, Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Date: October 23, 1987.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 87-25238 Filed 10-30-87; 8:45 am]

BILLING CODE 3410-EN-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 24-87]

Proposed Foreign-Trade Zone, Brazoria County, TX, Freeport, TX, Port of Entry Area; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Brazos River Harbor Navigation District requesting authority to establish a general-purpose foreign-trade zone at sites at Brazoria County, Texas, within the Freeport Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board. It was formally filed on October 22, 1987. The applicant is authorized to make this proposal under House Bill 2443, State of Texas, 69th Legislature (June 12, 1985).

The proposed foreign-trade zone would consist of six sites (1,957 acres) within the Port of Freeport and at the Brazoria County Airport. Site 1 (280 acres) is located on F.M. Route 1495 at Freeport Harbor, on the east side of the Brazos River Channel. The site has several buildings that would be used for general-purpose zone activity. Site 2 (154 acres) is located on Holly Street, south of the Gulf Intracoastal Waterway. This facility is used for liquid bulk storage. The remaining four sites are being requested as standby space for future zone activity. Site 3 (1,063 acres) is located at the intersection of State Highway 288 and F.M. Route 1495. Site 4 (242 acres) is located on F.M. Route 1492, north of the Gulf Intercoastal Waterway and south of the Brazos River Channel. Site 5 (213 acres) is located on County Road 723, south of Site 4 and the Gulf Intercoastal Waterway. Site 6 (5 acres) is located at the Brazoria County Airport.

The application contains evidence of the need for zone services in the Freeport port of entry area. Several firms have indicated an interest in using zone procedures for the storage and distribution of products such as foodstuffs, jute bags, lumber and chemicals. No requests for manufacturing approval are being sought at this time. Such requests will be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Don Gough, Deputy Assistant Regional commissioner, Inspection and Control, U.S. Customs Service, Southwest Region, 5850 San Felipe Street, Houston, Texas 77057-3012; and Colonel John A. Tudela, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, Texas 77553-1229.

As part of its investigation, the examiners committee will hold a public hearing on December 8, 1987, beginning at 9 a.m. in the Port of Freeport Administration Building, Board Meeting Room, 1001 Pine Street, Freeport, Texas 77541.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by November 30. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through January 11, 1988.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 100 Pine Street, P.O. Box D, Freeport, Texas 77541

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: October 27, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87-25321 Filed 10-30-87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C-351-029]

Certain Castor Oil Products From Brazil; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On May 19, 1987, the Department published the preliminary results of its administrative review of the countervailing duty order on certain castor oil products from Brazil. The review covers the period January 1, 1985 through December 31, 1985 and 15 programs

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all the comments received, the Department has determined the net subsidy to be 0.39 percent *ad valorem* for the period of review. The Department considers any rate below 0.50 percent *ad valorem* to be *de minimis*.

EFFECTIVE DATE: November 2, 1987.

FOR FURTHER INFORMATION CONTACT: Jean M. Carroll or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 19, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 18726) the preliminary results of its administrative review of the countervailing duty order on certain castor oil products from Brazil (41 FR 8634, March 16, 1976). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

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Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. Congress is considering legislation to convert the United States to this harmonized system ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate Tariff Schedules of the United States Annotated ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Imports covered by the review are shipments of Brazilian hydrogenated castor oil and 12-hydroxystearic acid. Such merchandise is currently classifiable under TSUSA items 178.2000, 490.2650, and 490.2670. These products are currently classifiable under HS item numbers 1516.20.9000, 1519.11.0000 and 2915.90.1050.

The review covers the period January 1, 1985 through December 31, 1985 and 15 programs: (1) CACEX export financing; (2) an income tax exemption for export earnings; (3) the export credit premium for the IPI; (4) CIC-CREGE 14–11 financing; (5) incentives for trading companies (Resolution 643); (6) accelerated depreciation for Brazilian-made capital goods; (7) BEFIEX; (8) CIEX; (9) FINEX; (10) duty-free treatment and tax exemption on equipment used in export production ("CDI"); (11) FUNPAR; (12) exemption from state-adminstered value added taxes on domestic sales ("ICM"); (13) PROEX; (14) PROSIM; and (15) financing for the storage of merchandise destined for export (Resolution 330).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the Government of Brazil and three exporters, Sociedade Algodoeira do Nordeste Brasileiro, S.A. ("SANBRA"), Braswey, S.A., Industria e Comercio, (Braswey) and Braswey Exportadora, S.A. (Braswey Trading).

Comment 1: The Government of Brazil argues that the Department incorrectly weighted the benefits from CACEX export financing by the proportion of each firm's exports to all markets. The Department should weight the benefits by the proportion of exports of this merchandise to the United States.

Department's Position: We agree and have corrected the calculations. We determine the benefit from CACEX export financing under Resolution 882 to be 0.09 percent *ad valorem* and from CACEX trading company financing to be 0.05 percent *ad valorem*.

Comment 2: The Government of Brazil argues that the Department should not include the exemption from the IOF tax (tax on financial transactions) in its calculation of the interest rate benchmark.

Department's Position: We have considered and rejected this argument in other Brazilian countervailing duty cases. *See, e.g., Certain Castor Oil Products from Brazil* (48 FR 40534, September 8, 1983).

Comment 3: The Government of Brazil, Braswey, and Braswey Trading Company argue that the Department failed to weight-average the companies' benefits from the income tax exemption program by the proportion of their exports of this merchandise to the United States.

Department's Position: We agree and have corrected the calculations. We determine the benefit from this program to be 0.21 percent *ad valorem*.

Comment 4: The Government of Brazil argues that the Department should use total sales, not total exports, as the denominator in calculating the benefit from the income tax exemption program.

Department's Position: We disagree. See the final results of our last administrative review in this case (51 Fr 45497, December 19, 1986).

Comment 5: The Government of Brazil contends that CIC–CREGE 14–11 loans should not be countervailed because the government does not fund such loans and does not regulate or in any way control the provision of such loans. In additon, the terms of these loans are comparable to commercial terms.

Department's Position: We disagree. See the final results of our last administrative review in this case. Because the Government of Brazil has provided no new information on this program, we have not reconsidered it.

Comment 6: The Government of Brazil argues that under CIC–CREGE 14–11, commercial banks recover all of their costs and that, therefore, the loans cannot be countervailable.

Department's Position: We do not consider the cost to commercial banks in determining whether a program is countervailable. We are concerned with the benefit to the recipient of the financing, rather than to the commercial bank. We measure the benefit from preferential loans against our commercial benchmark, which is a national average interest rate. We found that the rate for this program was lower than our benchmark. Therefore, regardless of whether the commercial banks recover their costs, the loans are countervailable.

Comment 7: Assuming that CIC–CREGE loans do confer a subsidy, the Government of Brazil argues that the Department incorrectly weighted the benefit from these loans by the proportion of each firm's exports to all markets. The Department should weight the benefits by the proportion of each firm's exports of this merchandise to the United States.

Department's Position: We agree and have corrected the calculations. We now determine the benefit from this program to be 0.04 percent *ad valorem*.

Comment 8: Assuming that CIC–CREGE loans do confer a subsidy, the Government of Brazil contends that the Department used the wrong benchmark is calculating the benefit. The Department used the average annual interest rate in effect when the loan was received. The Government of Brazil argues that the Department should use the relevant weekly or monthly rate in effect when the loan was received to calculate the benefit.

Department's Position: We disagree. See the final results of our last administrative review in this case. Because the Government of Brazil has provided no new information or new arguments on this issue, we have not reconsidered it.

Comment 9: The Government of Brazil contends that the rate published in *Analise/Business Trends* is not the most appropriate benchmark interest rate available. The Department should use the average commercial bank lending rates published by Morgan Guaranty Trust Company in its *World Financial Markets*.

Department's Position: We disagree. See the final results of the last administrative review in this case. Because the Government of Brazil has provided no new information or new arguments on this issue, we have not reconsidered it.

Comment 10: The Government of Brazil argues that the accelerated depreciation provisions of the Brazilian Industrial Development Council ("CDI") are generally available and, therefore, not countervailable. If the Department continues to consider the program countervailable, the Brazilian government contends that there is still no benefit because the "recapture" (*i.e.*, the amount added back to the current year's net profit from the amount of accelerated depreciation claimed in prior years) eliminates any net tax benefit. In its last verification, the Department collected all the documents relevant to this review period showing that there was no net benefit from this program. The Government of Brazil argues that the Department miscalculated the benefit from the accelerated depreciation program by not subtracting the amount of recapture from the amount of accelerated depreciation claimed in the review period.

Department's Position: We disagree. We have found that CDI benefits are provided by the government to specific industries. *See, Certain Carbon Steel Products from Brazil* (49 17988, April 26, 1984). Regarding the recapture, we addressed this issue in the final results of the last administrative review in this case. Although we do have the tax forms filed in the review period, those forms do not show the amount of recapture attributable to CDI. Neither at our last verification nor in its questionnaire response did the Government of Brazil provide documents linking the recapture to the CDI program.

Comment 11: The Government of Brazil argues that the Department failed to take into consideration the full amount of the export taxes paid during the review period. Since the export taxes paid were higher than the IPI export credit premiums received, the Department should consider the overpayment an offset against the total subsidy received.

Department's Position: We disagree. See the final results of the last administrative review in this case. Because the Government of Brazil has provided no new information or new arguments on this issue, we have not reconsidered it.

Final Results of Review

After reviewing all of the comments received, we determine the net subsidy to be 0.39 percent *ad valorem* for the period of review. The Department considers any rate below 0.50 percent *ad valorem* to be *de minimis*.

The Department will therefore instruct the Customs Service not to assess countervailing duties on any shipments of this merchandise exported on or after January 1, 1985 and on or before December 31, 1985.

The Department will instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on any shipments of certain castor oil products from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.10.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Date: October 27, 1987.

[FR Doc. 87–25319 Filed 10–30–87; 8:45 am]

BILLING CODE 3510–DS–M

Applications for Duty-Free Entry of Scientific Instruments; Baylor College of Medicine et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m., and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 87–273. *Applicant:* Baylor College of Medicine, Center for Biotechnology, One Baylor Plaza, Houston, TX 77030. *Instrument:* Electron Microscope, Model H–7000. *Manufacturer:* Hitachi, Japan. *Intended Use:* Study of biological material from a variety of animal species including the human; specifically retinal tissue from the eye and some tissues from the central nervous system. Experiments will be conducted to identify the neurotransmitter/neurotransmitters used at a synaptic site and to study the organization of these synapses in an attempt to understand how this organization provides a structural basis for information processing. *Application Received by Commissioner of Customs:* August 6, 1987.

Docket Number: 87–287. *Applicant:* Massachusetts Eye and Ear Infirmary, Research Administration and Finance, 243 Charles Street, Boston, MA 02114. *Instrument:* Electron Microscope, Model CM10/PC. *Manufacturer:* N.V. Philips, The Netherlands. Intended Use: The instrument will be used to conduct varied research projects including studies of: (1) Vision and ocular disease; (2) trabecular meshwork in glaucoma; (3) aminoglycoside-induced outer retinal injury; (4) the mucous layer of the preocular tear film in normal and diseased human conjunctiva; (5) trabecular meshwork, including extracellular matrix components, structure of cytoskeletal elements in trabecular cells, and phagocytosis; (6) laser-induced vascular injury in the choroid, particularly after introduction of exogenous chromophores and (7) retinal injury following exposure of the retina to ultrashort laser pulses. *Application Received by Commissioner of Customs:* September 8, 1987.

Docket Number: 87–289. *Applicant:* Rutgers University, Procurement and Contracting, P.O. Box 1089, Piscataway, NJ 08854. *Instrument:* Portable Dilution Refrigerator. *Manufacturer:* D.Ph,S.R.M., CEN Saclay, France. *Intended Use:* The instrument will be used in the research project Experimental Study of Quantum Chaos and Magnetic Solidification in a 2-Dimensional Electron System which involves studies of microwave liberation of electrons bound to the liquid helium surface and studies of the magnetically induced Wigner transition in a 2-D electron system. The instrument will also be used for training graduate students who use the instrument for research that satisfies the requirements for the PhD. degree. *Application Received by Commissioner of Customs:* September 8, 1987.

Docket Number: 87–291. *Applicant:* Emory University, Department of Oral Biology, 1462 Clifton Road, Atlanta, GA 30322. *Instrument:* Electron Microscope, Model EM 10CA/CR/C. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* The instrument will be used for the localization of antigens and enzymes by immunocytochemistry, analysis of structural details of the crystalline material, microfilaments and microtubles, and the production of high quality, distortion-free photomicrographs for publication. The research projects include the following:

1. Diabetic Autonomic Neuropathy Salivary Gland Function in the Rat
2. Insulin and Protein Synthesis in the Rat Submandibular Gland
3. Functional and Metabolic Characterization of Isolated Osteoclasts
4. Bachtericidal Activity of Human Lactoferrin: Characterization of Active Sites and Bacterial Cell Surface Targets
5. Characterization of the Instracellular Interactions Between *Legionella pneumophila* and Freshwater Amoebae
6. Analysis of Purified *Streptococcus mutans* Ribosomes and Preparation of Synthetic Analogs

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7. Neutrophil and its Environment: Structural and Functional Relationship of the Inflammatory Processes.

Application Received by Commissioner of Customs: September 10, 1987.

Docket Number: 87-292. *Applicant:* University of California, San Francisco, 3rd and Parnassus, San Francisco, CA 94143. *Instrument:* Electron Microscope, Model JEM-1200EX. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used to study the ultrastructure of several tissue and cell types and to localize cell-surface antigens in a variety of cell types. All specimens to be studied will be of biological origin and include: Permanent control and tumor tissue culture cell lines of rodent, avian and human origin; mouse embryonic tissues; mouse and human placental tissue and human amnion; neutrophils; oral pathogenic bacteria; oral lesions associated with infection with the AIDS virus. In addition, the instrument will be used for the training of dental and graduate students, residents and post doctoral fellows. *Application Received by Commissioner of Customs:* September 11, 1987.

Docket Number: 87-294. *Applicant:* University of California, Los Angeles, 405 Hilgard Ave., Los Angeles, CA 90024. *Instrument:* Preparative Quench and Stopped-flow Sample Handling Unit, Model PQ/SF-53. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* The instrument will be used to study the enzyme responsible for acid secretion into the stomach, IUB name: magnesium requiring, proton translocating, and potassium activated adenosine 5'-triphosphatase. Experiments will be conducted to learn:

(a) How protons affect the phosphorylation rate.

(b) Whether the flourescence changes are fast enough to report steps in the catalysis-transport mechanism.

(c) Whether pNPP hydrolysis is catalyzed via a phosphoenzyme intermediate.

Application Received by Commissioner of Customs: September 11, 1987.

Docket Number: 87-295. *Applicant:* University of Delaware, Department of Plant Science, Soil Chemistry Labortory, Newark, DE 19717-1303. *Instrument:* Pressure-Jump Spectrometer consisting of Relaxation Digitizer, Model DIA-RP and DIA-RRD. *Manufacturer:* DiaLog, West Germany. *Intended Use:* The instrument will be used to measure the kinetics of cation and anion reactions on soils and soil constituents at micro- and millisecond time scales. The studies will involve the rapid rate of absorption/desorption of ions such as nitrate, phosphate, borate, potassium, and magnesium. These rapid reations are important in soils, and their measurement will assist in the modeling of field reactions so that groundwater pollution can be minimized. *Application Received by Commissioner of Customs:* September 11, 1987.

Docket Number: 87-296. *Applicant:* New York Medical College, Department of Pathology, Basic Science Building, Valhalla, NY 10595. *Instrument:* Electron Microscope, Model H-7000. *Manufacturer:* Hitachi Scientific Instruments, Japan. *Intended Use:* Studies of heart, lungs, isolated cell, cytolytic attack complex of C5-9 and C5-C5 convertase interactions to gain new and useful information in the immunobiological reactions in the lung in response to oxygen toxicity, C5a induced inflammation and in hypertensive heart disease. *Application Received by the Commissioner of Customes:* September 11, 1987.

Docket Number: 87-297. *Applicant:* University of Vermont, Department of Biochemistry, Given Building, Burlington, VT 05401. *Instrument:* Five Syringe Quenched Flow Module. *Manufacturer:* Biologic, France. *Intended Use:* Studies of the rapid reaction kinetics of prothrombin activation catalyzed by the enzyme prothrombinase. These studies will be done using purified proteins isolated from Bovine or Human plasma and will provide information relating to the fundamental reactions involved in the formation of the blood clot. *Application Received by the Commissioner of Customs:* September 14, 1987.

Docket Number: 87-298. *Applicant:* The Catholic University of America, Vitreous State Laboratory, 620 Michigan Ave., NE., B-2 Keane Building, Washington, DC 20064. *Instrument:* Inductively Coupled Plasma Mass Spectrometer, Model PlasmaQuad. *Manufacturer:* VG Isotopes, United Kingdom. *Intended Use:* The instrument will be used to perform highly sensitive elemental and isotopic analyses required in the following research programs:

(1) Development of ultrapure zirconium oxychloride optical fibers

(2) Development of isotopic tracers for acid rain transport modeling

(3) Isotopic analyses of vitrified nuclear wastes and their leachates as part of the Department of Energy's High Level Nuclear Waste Program

(4) Development of extractionless analytical screening methods for toxic/hazardous waste sites.

Application Received by Commissioner of Customs: September 14, 1987.

Docket Number: 87-299. *Applicant:* University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. *Instrument:* Thermal Image Single Crystal Growth Furnace. *Manufacturer:* NEC Corporation, Japan. *Intended Use:* The instrument will be used for studies of the following:

1. Single crystals of geoscience interest such as olivine, forsterite, fayalite, etc.

2. Single crystals that have the properties to be used as laser host material such as GGG, YAG, etc.

3. Single crystals which have non-linear optical properties such as LiNbo3 etc.

Experiments will be conducted to: (a) Have a better understanding of the earth's upper mantle, (b) search for new laser host single crystal material, (c) study the effect of impurity on the properties of laser material. *Application Received by Commissioner of Customs:* September 14, 1987.

Docket Number: 87-300. *Applicant:* University of Oklahoma, 660 Parrington Oval, Norman, OK 73019. *Instrument:* Electron Microscope with Accessories, Model JEM-2000FX/SIP/DP. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used to examine biological, ceramic, chemical, geological and metallurgical specimens to determine their fine structural characteristics and elemental composition. The objectives of the research include basic scientific investigation of the organization of physical and biological materials. In addition, the instrument will be sued in various botany courses to provide graduate and undergraduate students with instruction in the classroom and laboratory using lectures, video-taped instruction, experiments and supevised hands-on equipment usage. *Application Received by Commissioner of Customs:* September 15, 1987.

Docket Number: 87-301. *Applicant:* Father Flanagan's Boys Town, Boys Town National Institute, 555 North 30th Street, Omaha, NE 68131. *Instrument:* Electron Microscope, Model CM 10/PC. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* The instrument will be used for the study of the fine structure of sensory organs to determine the effects of experimental treatments, such as surgical intervention and treatment with toxic substances and to investigate the normal development of brain neurons and abnormal development following experimental treatments. *Application Received by Commissioner of Customs:* September 16, 1987.

Docket Number: 87-302. *Applicant:* University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, L-650, Livermore, CA 94550. *Instrument:* Inductively Coupled Plasma Source Mass Spectrometer with Accessories, Model PlasmaQuad. *Manufacturer:* V.G. Isotopes, Ltd., United Kingdom. *Intended Use:* The instrument is intended to be used for isotopic and elemental determinations of special nuclear materials, stainless stell alloys, aluminum alloys and environmental samples. The elements to be analyzed include the transition and rare earth elements. Investigations will be conducted to develop rapid, high sensitivity methods for isotopic and elemental analysis. *Application Received by Commissioner of Customs:* September 16, 1987.

Docket Number: 87-303. *Applicant:* The Research Foundation of the State University of New York, P.O. Box 9, Albany, NY 12201-0009. *Instrument:* X-Y-Z and Rotation Stage for NRD Press. *Manufacturer:* NRD Corporation, Japan. *Intended Use:* Studies of oxide and silicate minerals and their chemical analogues to determine (a) precise equilibrium boundaries between coexisting phases; (b) pressure-volume-temperature equations of state and (c) kinetics and mechanisms of phase transformations. The objectives of the experiments conducted are to understand more fully the behavior and properties of materials under ultra high-pressure conditions. educational uses will include teaching students the concepts and techniques of high pressure mineral physics and crystallography. *Application Received by Commissioner of Customs:* September 25, 1987.

Docket Number: 87-304. *Applicant:* University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. *Instrument:* ICP Mass Spectrometer, Model PlasmaQuad. *Manufacturer:* V.G. Isotopes, United Kingdom. *Intended Use:* The instrument will be used for (a) isotopic composition measurements of elements not accessible by conventional isotope ratio mass spectrometry, (b) elemental concentration determinations, and (c) determination of impurities in samples prepared for other methods of analysis. *Application Received by Commissioner of Customs:* October 6, 1987.

Docket Number: 87-306. *Applicant:* Harvard University School of Public Health, 665 Huntington Avenue, Boston, MA 02115. *Instrument:* Electron Microscope with Integrated Imaging Spectrometer, Model CEM 902. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* The instrument will be used for the determination of the spatial distribution and concentration of biologically relevant elements over every point in an image in relationship to the underlying matrix. Research programs will include but are not limited to the following:

1. Exploration of the relationship between the environment and the mammalian respiratory tract

2. Use of magnetic particles to assess macrophage behavior and lung injury

3. Deposition and clearance of particles in bird lungs

4. Cell structures involved in phagocytosis and organelle movement

5. Pulmonary macrophage immunology and cell biology

6. Lung insterstitium in health and disease.

Application Received by Commissioner of Customs: October 6, 1987.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-25320 Filed 10-30-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will convene a public meeting of its Red Drum Stock Assessment Panel, November 9, 1987, from 9 a.m. to 5 p.m., and reconvene November 10 from 9 a.m. to 4 p.m., to review the revised red drum stock assessment and develop a report to the Council recommending an allowable biological catch range, with associated risk analysis, etc. The public meeting will convene at the National Marine Fisheries Service, Southeast Fisheries Center, 75 Virginia Beach Drive, Miami, FL.

For further information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL 33609; telephone: (813) 228-2815.

Date: October 28, 1987.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87-25334 Filed 10-30-87; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will convene a public meeting of its Texas Habitat Protection Advisory Panel to develop recommendations to the Council's Habitat Protection Committee concerning positions on the Galveston Bay area navigation project and the Wallisville project, and to discuss updates on environmental issues of the Gulf Intracoastal Waterway. The public meeting will convene November 12, 1987, from 3 p.m. to 5 p.m., at the University of Houston, Conrad N. Hilton College Building, 4800 Calhoun, Houston, TX, and reconvene November 13 from 8 a.m. to noon.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL 33609; telephone: (813) 228-2815.

Date: October 23, 1987.

Richard H. Schaefer,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87-25291 Filed 10-30-87; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Gulf of Alaska and Bering Sea/Aleutian Islands Groundfish Plan Teams, and the Halibut Management Team will convene separate public meetings at the National Marine Fisheries Service, Northwest and Alaska Fisheries Center, 7600 Sand Point Way, NE., Building 4, Seattle, WA, as follows:

Groundfish Plan Teams—Will convene November 16-19, 1987, in Rooms 2079 and 2143 to prepare final resource assessment documents for Gulf of Alaska and Bering Sea/Aleutian Islands groundfish for 1988, and to

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review proposals to amend the groundfishery management plans.

Halibut Management Team—Will convene November 19–20 in Room 2079 to prepare environmental assessment and regulatory impact review documents for allocative regulations proposed for the International Pacific Halibut Commission Registration Areas 4C and 4E to be considered by the Council in December.

For further information contact the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; Telephone: (907) 274–4563.

Date: October 28, 1987.

Richard H. Schaefer,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87–25292 Filed 10–30–87; 8:45 am]

BILLING CODE 3510–22–M

North Pacific Fishery Management Concil; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council has scheduled separate public meetings of its advisory entities as follows:

Interim Action Committee for the Bering Sea/Aleutian Islands Groundfish Fisheries—is tentatively scheduled to convene October 30, 1987, at 9 a.m., at the National Marine Fisheries Service, Northwest and Alaska Fisheries Center, 7600 Sand Point Way NE. (no room yet assigned), to consider a request from the American High Seas Fisheries Association for immediate Council action to raise the upper limit of the optimum yield range inthe Bering Sea/Aleutian Islands Groundfish Fishery Management Plan (FMP).

Scientific and Statistical Committee—will convene November 17–18, 1987, with the Council's Plan Team, at 9 a.m., at the National Marine Fisheries Service, Northwest and Alaska Fisheries Center, 2725 Montlake Boulevard, East, Seattle, WA, to review the revised draft Bering Sea/Aleutian Islands King and Tanner Crab FMP.

A new Council workgroup, charged with making recommendations to the Council on long-term management strategies for groundfish fisheries in the Gulf of Alaska and Bering Sea/Aleutian Islands, will convene an organizational meeting November 19–20, 1987, at the Montlake auditorium (address above). The public meeting will convene at 9 a.m. on November 19.

For further information contact the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274–4563.

Date: October 28, 1987.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87–25335 Filed 10–30–87; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council and its advisory entities will convene separate public meetings, November 16–19, 1987, at the Red Lion Inn-Columbia River, 1401 North Hayden Island Drive, Portland, OR, as follows:

Council—On November 16 the Council will convene at 8 a.m., with a closed session (not open to the public) to discuss litigation, personnel, and other appropriate matters. At 8:30 a.m. the Council will commence its open session to consider administrative matters and groundfish management issues. After receiving comments from its advisory entities and the public, the Council will adopt 1988 specifications of optimum yield, harvest guidelines, and total allowable level of foreign fishing; domestic management measures for 1988; joint venture and foreign fishery management measures; limited entry objectives; amemdments to the Groundfish Fishery Management Plan (FMP) concerning habitat and vessel safety; and also will address other groundfish matters. There will be a public comment period at approximately 4 p.m. On November 19 the Council will reconvene at 8 a.m. to complete any unfinished groundfish business and address halibut allocation, salmon and anchovy management. After receiving comments from its advisory entities and the public, the Council will consider refinements to its preseason salmon management process and schedule for 1988; adopt final amendments to the Salmon FMP concerning habitat and vessel safety; discuss options for revising the framework allocation plan for ocean salmon fisheries north of Cape Falcon, OR, and address other salmon matters.

The Council also will consider proposed regulations for allocating Pacific halibut among U.S. fishermen and amending the Anchovy FMP to include other coastal pelagic species.

Scientific and Statistical Committee—On November 16 will convene at 1 p.m. to consider matters on the Council's agenda, and will reconvene November 17 at 8 a.m.

Groundfish FMP Rewrite Oversight Group—On November 16 will convene at 1 p.m. to give initial guidance to the drafting team designated to rewrite the Groundfish FMP.

Groundfish Select Group—On November 17 will convene at 8 a.m. to develop recommendations to the Council on groundfish management measures for 1988.

Groundfish Advisory Subpanel—On November 17 will convene at 1 p.m. to address groundfish management matters on the Council's agenda.

Foreign Fishing Committee—On November 17 will convene at 3 p.m. to consider joint venture and foreign fishery management issues on the Council's agenda.

Enforcement Consultants—On November 17 will convene at 7 p.m. to discuss enforcement issues as they relate to Council management plans.

Salmon Advisory Subpanel/Salmon Select Group—On November 18 will convene at 1 p.m. to recommend refinements to the Council's preseason salmon management process for 1988.

Detailed agendas for all of the above meetings will be available to the public after November 6. For further information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 SW. First Avenue, Suite 420, Portland, OR 97201; telephone: (503) 221–6352.

Date: October 28, 1987.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87–25336 Filed 10–30–87; 8:45 am]

BILLING CODE 3510–22–M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council, its Committees, and its Billfish Advisory Panel will convene public meetings as follows:

Council and its Committees—On November 30, 1987 through December 3, 1987, at the Jekyll Island Club on Jekyll Island, GA, will convene with a closed session (not open to the public) to discuss personnel matters. Following the closed session, discussions will concern large pelagics, snapper-grouper, king and Spanish mackerel, law enforcement, and other fishery management business. A detailed agenda will be available to the public on or around November 19, 1987.

Billfish Advisory Panel—Rescheduled from November 2, 1987, to November 9, 1987, from 1 p.m. to 5 p.m. at the Council's Headquarters (address below), will review billfish public hearing comments and develop recommendations for the Council on the Billfish Plan. A detailed agenda will be available to the public on or around October 30, 1987.

For further information contact Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571–4366.

Date: October 28, 1987.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87–25337 Filed 10–30–87; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council will convene separate public meetings of its Plan Monitoring Teams at 1164 Bishop Street, Room 602, Honolulu, HI, as follows:

Pelagics Plan Monitoring Team—On November 3, 1987, at 9 a.m., will discuss the status of the first annual report on the Pelagic Species Fishery Management Plan (FMP), draft guidelines for experimental drift gillnet permits, review the draft paper on "The Blue Marlin Fishery of Kona, Hawaii," preview a video on promotion of tag and release of billfish, as well as discuss other Team business.

Bottomfish Plan Monitoring Team—On November 6, 1987, at 9 a.m., will review the first annual report on the Bottomfish FMP, review the National Marine Fisheries Service Southwest Regional Counsel's recommended changes to the July 1987 limited entry amendment as prepared by the consultant, review the November 1987 limited entry amendment as prepared by the Council's staff, as well as discuss other Team business.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523–1368

Date: October 28, 1987.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87–25338 Filed 10–30–87; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits of Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Jamaica

October 28, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 3, 1987. For further information contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementaion of Textile Agreements directs the Commissioner of Customs to increase the previously established 1987 restraint limit for cotton and man-made fiber textile products in Category 341/641, produced or manufactured in Jamaica.

Background

A CITA directive dated March 27, 1987 was published in the **Federal Register** (52 FR 10389) which established import restraint limits for certain cotton and man-made fiber textile products, including, Categoray 338/339/638/639, produced or manufactured in Jamaica and exported during the sixteen-month period which began on September 1, 1986 and extends through December 31, 1987. A further CITA directive dated April 21, 1987 (52 FR 13858) established an import restraint limit for Category 341/641, among others, for the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

In accordance with the terms of the Bilateral Cotton, Wool, Man-Made Fiber Silk Blend and Other Vegetable Fiber Textile Agreement of August 27, 1986, as amended, and at the request of the Government of Jamaica, the limit for Category 341/641 is being increased by application of swing and carryforward. The limit for Category 338/339/638/639 is being reduced to account for the swing applied to Category 341/641.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 17, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 28622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51, FR 27088) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Adoptions by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustment to the limits affected by adoption of the HCC will be published in the **Federal Register**.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Comaittee for the Implementation of Textile Agreements

October 28, 1987.

Commissioner of Customs;

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives issued to you on March 27, 1987 and April 21, 1987 concerning certain cotton, Wool, man-made fiber and other vegetable fiber textiles and textile products, produced or manufactured in Jamaica and exported during the periods which began, in the case of Category 338/339/638/639, on September 1, 1986; and, in the case of Category 341/641, on January 1, 1987 and extend through December 31, 1987.

Effective on November 3, 1987, the directives of March 27, 1987 and April 21, 1987 are hereby amended to include adjustments to the prviously established restraint limits for cotton and man-made fiber textile products in the following categories,

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as provided under the terms of the bilateral agreement of August 27, 1986, as amended [1]:

Category	Adjusted 12-mo. limit [1]
338/339/638/639	5542,435 doz.
341/641	431,200 doz.

[1] The limits have not been adjusted to account for any imports exported after August 31, 1986 for Category 338/339/638/639 and December 31, 1986 for Category 341/641.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).elderly 2

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–25285 Filed 10–30–87; 8:45 am]

BILLING CODE 3510-DR-M

Import Limit for Certain Cotton, Wool and Man-Made Fiber Sweaters Assembled in the Northern Mariana Islands (CNMI) From Imported Parts

October 27, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 2, 1987. For further information contact Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377–3715.

Background

On November 3, 1986, a notice was published in the **Federal Register** (50 FR 39902) announcing that, effective on November 1, 1986, cotton, wool and man-made fiber sweaters in Categories 345, 445, 446, 645 and 646, determined by the U.S. Customs Service to be products of foreign countries or foreign territories and exported from the Commonwealth of the Northern Mariana Islands (CNMI), and certified to have been assembled in the CNMI, may be entered into the United States for consumption, or withdrawn from warehouse for consumption, in an amount not to exceed 100,000 dozen. This limited exception was to be effective for sweaters exported from the CNMI during the period which began on November 1, 1986 and extends through October 31, 1987. Subsequent notices published on September 10, 1987 and October 2, 1987 (52 FR 34271 and 52 FR 36994) announced amendments to this limit.

The purpose of this notice is to advise the public that this exception is being continued for goods exported on and after November 1, 1987 and extending through October 31, 1988, in accordance with the terms of the extension of the certification arrangement, dated October 17, 1986, between the Governments of the United States and the Commonwealth of the Northern Mariana Islands, which requires that at least 40 percent of the sweater assembly employees are citizens or nationals of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, or the United States, in accordance with Title I, Article IV of the Compact of Free Association (48 U.S.C. 1681 note).

As a result of an investigation verifying that at least 40 percent of the workers involved in the assembly of the sweaters were citizens or nationals of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, or the United States, the limit for the twelve-month period beginning on November 1, 1987 and extending through October 31, 1988 is 100,000 dozen, with a wool sublimit not to exceed 15,000 dozen. If subsequent investigations determine that less than 40 percent of the employees are citizens or nationals of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, or the United States, the limit may be reduced to 77,910 dozen, with a wool sublimit of 11,687 dozen. However, if subsequent investigations determine that at least 50 percent of the employees are citizens or nationals of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, or the United States, the limit may be increased to 120,000 with a wool sublimit of 18,000 dozen.

A certification will continue to be required and will be issued by the authorities in the CNMI prior to exportation as verification of assembly in the CNMI. A facsimile of the certification stamp was published in the **Federal Register** on September 9, 1985 (50 FR 36645).

For those sweaters properly certified, no export visa or license will be required from the country of origin of the merchandise, and imports entered under this procedure will not be charged to limits established for exports from the country of origin. Exports of sweaters in Categories 345, 445, 446, 645 and 646, which are not accompanied by a certification and those in excess of 100,000 dozen (15,000 dozen for the wool sublimit), will require the appropriate visa or export license from the country of origin and willbe subject to any other applicable restriction.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 28622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

October 27, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, effective on November 2, 1987, you are directed to permit entry or withdrawal from warehouse for consumption in the United States in an amount not to exceed 100,000 dozen cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646, with a wool sublimit for Categories 445 and 446 not to exceed 15,000 dozen, the product of any foreign country or foreign territory, as determined under Customs Regulation Part 12, Section 12.130 and which have been certified as assembled in the Commonwealth of the Northern Marianas Islands (CNMI) and exported to the United States during the twelve-month period beginning on November 1, 1987 and extending through October 31, 1988. You are directed not to require any otherwise applicable export visa or license and not to charge against any otherwise applicable import restriction sweaters subject to this provision. A certification will be issued by the authorities in the CNMI prior to exportation as verification of assembly in the CNMI. A facsimile of the certification stamp has been provided.

You are directed to require the appropriate visa or export license from the country of origin and charge any shipments of cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646 to the country of origin if (a) the 100,000 dozen limit or the 15,000 dozen wool sublimit have been filled, or (b) the products are not accompanied by certification, or (c) the products are not assembled in the Commonwealth of the Northern Mariana Islands and are not of the Commonwealth of the Northern Marianas origin.

In carrying out this directive, entries of the foregoing categories which have been exported to the United States on and after November 1, 1986 and extending through October 31, 1987, shall, to the extent of any unfilled balance be charged against the level of restraint established for such goods during the twelve-month period beginning on November 1, 1986 and extending through October 31, 1987. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–25286 Filed 10–30–87; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that (1) specific limits may be exceeded by designated percentages for swing, carryforward and carryover; (2) no carryover shall be available in the first or final agreement periods.

DEPARTMENT OF EDUCATION

[CFDA No.: 84.117J]

Invitation of Applications for Fellowship Awards Under the Office of Educational Research and Improvement Fellows Programs for Fiscal Year 1988

Purpose: To provide Federal financial assistance enabling individuals to make contributions to the improvement of education by engaging in educational research.

Deadline for Transmittal of Applications: December 2, 1987.

Available Funds: The Department has requested $300,000 for this program for fiscal year 1988. However, the actual level of funding is contingent upon final congressional action.

Estimated Range of Awards: $25,000–$60,000.

Estimated Average Size of Awards: $40,000.

Estimated Number of Awards: 6–8.

Project Period: Projects will be no less than four nor more than 12 months of full-time activity or the equivalent in less than full-time participation.

Applicable Regulations: Regulations for the Office of Educational Research and Improvement Fellows Program, 34 CFR Part 762. Final regulations for this program were published in the **Federal Register** on August 10, 1987 (52 FR 29608).

Transmittal of Applications: Applications for awards must be mailed, hand- or courier-delivered on or before the deadline date.

Applications Delivered by Mail: Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: (CFDA No. 84.117J), 400 Maryland Avenue, SW., Washington, DC 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand or Courier: Applications that are hand- or courier-delivered must be taken to the U.S. Department of Education, Application Control Center, Room, 3633, Regional Office Building 3, Seventh and D Streets, SW., Washington, DC.

The Department will accept hand- and courier-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand-delivered will not be accepted by the Department after 4:30 p.m. on the closing date.

Application Forms: The Department has no application forms or prescribed format for the Fellows Program. Applicants are encouraged to submit their curriculum vitae and sufficient information to allow the Secretary to determine the merits of the proposed activities.

For Information Contact: Stephen Clements, Office of Educational Research and Improvement, 555 New Jersey Avenue, NW., Room 600, Washington, DC 20208. Telephone Number (202) 357–6050.

Program Authority: 20 U.S.C. 1221e.

Dated: October 27, 1987.

Chester E. Finn, Jr.,

Assistant Secretary and Counselor to the Secretary.

[FR Doc. 87–25322 Filed 10–30–87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES88-4-000, et al.]

Texas-New Mexico Power Co., et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the Commission:

1. Texas-New Mexico Power Company

[Docket No. ER88-4-000]

October 20, 1987.

Take notice that on October 13, 1987, Texas-New Mexico Power Company filed an application pursuant to section 204 of the Federal Power Act for authority to guarantee up to $345,000,000 of short-term promissory notes and commercial paper in connection with the financing of electric generating plant facility.

Comment Date: November 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa-Illinois Gas and Electric Company

[Docket No. ER88-38-000]

October 20, 1987.

Take notice that on October 15, 1987, Iowa-Illinois Gas and Electric Company (Iowa-Illinois), 206 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, tendered for filing pursuant to § 35.27(d) of the Regulations under the Federal Power Act a proposed rate schedule change [reduction] due to reductions in the Federal corporate income tax rate applicable to Rate Schedule Wholesale Electric Service-Municipal Partial Requirements. The only customer currently served under this Rate Schedule is the city of Eldridge, Iowa.

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The proposed rate change would reduce annual revenues under the rate of approximately 6.8% based on sales for the 12-month ended June 1987.

Iowa-Illinois proposes that, upon acceptance by the Commission, the rate reduction be effective retroactive to July 1, 1987 in accordance with § 35.27(f) of the Regulations.

Comment Date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ES88-1-000

3. Gulf States Utilities Company

October 20, 1987

Take notice that on Octoer 5, 1987, Gulf States Utilities Company (Applicant) filed an application pursuant to section 204 of the Federal Power Act for authority to issue up to $400,000.00 of secured and/or unsecured short-term promissiory notes and commercial paper with a final maturity date of no later than December 31, 1990.

Comment Date: November 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. FR88-37-000]

4. Green Mountain Power Corporation

Take notice that on October 15, 1987, Green Mountain Power Corporation (Company) tendered for filing Supplements to its postage-stamp transmission rate schedules, FERC Schedule Nos. 60, 62, 64, 66, 68, 73 and 85. These Supplements provide for a decrease in the Company's transmission (wheeling) rate form 56.5 cents per kilowatt-month to 52.4 cents per kilowatt-month to be made effective as of July 1, 1987.

The Company states that the rate reduction, which reflects a change in the federal corporate tax rate from 46% to 34%, was calculated using the formula mandated by FERC in its Order in Docket No. RM87-4-000 and embodied in 18 CFR 35.27(c).

The Company states that copies of the filing have been served upon the Village of Hardwick, Electric Department, the Village of Morrisville Water and Light Department, the Village of Northfield Electric Department, the Village of Stowe Water and Light Department, Washington Electric Cooperative, Inc., the Village of Readsboro Light Department, the Village of Jacksonville Light Department, Burlington Electric Department, the Vermont Public Service Board and the Vermont Public Service Department.

Comment Date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER88-50-000]

5. Virginia Electric and Power Company

October 25, 1987

Take notice that on October 20, 1987, Virginia Electric and Power Company (Company) tendered for filing a Settlement Agreement between the Company and Old Dominion Electric Cooperative (ODEC) pursuant to which, among other matters, the Company would

(1) Waive the requirements of the Interconnection and Operating Agreement between the Company and ODEC that relate to notice for termination of service; and

(2) Provide the services, including regulation services and emergency power, to accommodate the power sale from the APS Company to ODEC filed in Docket No. ER87-586-000.

Waiver of the Commission's notice requirements is requested so as to permit service to commence concurrent with the sale by the APS Companies to ODEC.

Copies of the filing have been served on ODEC, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment Date: November 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER87-65-005]

6. West Texas Utilities Company

October 20, 1987

Take notice that on October 19, 1987, West Texas Utilities Company (WTU) tendered for filing a refund report pursuant to the Commission's letter order, dated September 15, 1987, in this proceeding.

WYU's refund report included tabulations for each wholesale customer showing the monthly billing determinants, revenue receipt dates and revenues under prior, present and settlement rates; the monthly revenue refunds, the monthly interest and a summary of all refunds; and workpapers underlying the interest calculations.

Comment Date: November 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Indiana Michigan Power

[Docket Nos. ER88-30-000, ER88-31-000, ER88-32-000, ER88-33-000, and ER88-34-000]

October 20, 1987.

Take notice that on October 21, 1987, Indiana Michigan Power (I&M) tendered for filing an amendment to its application to change rates filings dated October 15, 1987. I&M states that it has discovered an error in the rate design portion of these filings, and has submitted corrected rate schedules and related statements and exhibits. The error has no impact on the overall revenue requirements requested, but does affect the proposed demand, customer, and energy charges to produce this revenue.

Comment Date: November 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Electric Energy, Inc.

[Docket No. ER88-51-000]

October 20, 1987.

Take notice that on October 21, 1987, Electric Energy, Inc. (EEInc.) tendered for filing Modification No. 12 to the Power Contract between EEInc. and the United States Department of Energy (DOE) and a Power Supply Agreement between EEInc. and its four Sponsoring Companies, Central Illinois Public Service Company (CIPS), Illinois Power Company (IP), Kentucky Utilities Company (KU) and Union Electric Company (UE). The two agreements supersede, in their entirety, EEInc.'s current contracts with DOE and the four Sponsoring Companies. EEInc. requests an effective date of December 1, 1987 for each of the agreements and, accordingly, seeks waiver of the notice requirements of the Federal Power Act.

Copies of the filing have been served on DOE, the four Sponsoring Companies and the Illinois Commerce Commission. Copies are also available for inspection at EEInc.'s offices in Joppa, Illinois.

Comment date: November 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Georgia Power Company

[Docket No. ER87-307-000]

October 20, 1987.

Take notice that Georgia Power Company (Georgia Power) on April 21, 1987 and October 2, 1987, tendered for filing proposed changes in its FERC Rate Schedule No. 704, the Interchange Agreement between Georgia Power Company and the Tennessee Valley Authority. The proposed changes provides for an additional delivery point between the parties and substitution of a 14% return on equity in calculating Georgia Power's carrying costs instead of a varying rate based on Georgia Power's most recent wholesale rate case. Georgia Power has requested an effective date of January 1, 1987 for the changes.

Copies of the filings were served upon the Tennessee Valley Authority.

Comment Date: November 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Gulf States Utilities Company

[Docket No. ES88-5-000]

October 27, 1987.

Take notice that on October 19, 1987, Gulf States Utilities Company (Applicant) filed an application seeking an order under section 204(a) of the Federal Power Act authorizing the Applicant to issue up to $250,000,000 principal amount of secured or unsecured debentures or notes in one or more series and for exemption from competitive bidding and certain negotiating requirements.

Comment Date: November 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

Union Electric Company

[Docket No. ES88-6-000]

October 27, 1987.

Take notice that on October 21, 1987, Union Electric Company (Applicant) filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of short-term, unsecured promissory notes in the aggregate amount of $300,000,000 at any one time, of which up to $150,000,000 at any one time may be in the form of commercial paper, with final maturities not later than December 31, 1990.

Comment Date: November 20, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intevene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25310 Filed 10-30-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF88-4-000, et al.]

Indeck Energy Services, Inc., et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment Date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Indeck Energy Services, Inc.

[Docket No. QF88-4-000]

October 20, 1987.

On October 5, 1987, Indeck Energy Services, Inc. (Applicant) of 1111 S. Willis Avenue, Wheeling, Illinois 60090, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located adjacent to the Morton Salt Company, at 45 Riband Avenue East, in Silver Springs, New York. The facility will consist of a combustion turbine generator, a waste heat recovery steam generator, and an extraction/condensing steam turbine generator. Extraction steam from the steam turbine will be used in the preparation and production of salt and for space heating. The maximum net electric power production capacity of the facility will be 49.9 MW. The primary energy source will be natural gas. The facility is expected to commence operation in July 1990.

2. Wadham Energy Limited Partnership, A California Limited Partnership

[Docket No. QF85-148-001]

October 20, 1987.

On September 21, 1987, Wadham Energy Limited Partnership, A California Limited Partnership (Applicant), c/o The Oxford Energy Company, 675 Third Avenue, New York, New York 10017 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Colusa County, California. The facility will consist of a biomass-fired steam generator and a steam turbine generator. The net electric power production capacity will be 26.5 megawatts. The primary energy source will be biomass in the form of rice hulls and rice straw. Approximately one percent (1%) of the total energy input will be natural gas which will be used for start-up fuel and pilot light operation.

3. Cambria Cogen Co.

[Docket No. QF87-93-001]

October 20, 1987.

On September 30, 1987, Cambria Cogen Co. (Applicant), of P.O. Box 536, Allentown, Pennsylvania 18105 submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

Under the instant application, recertification is sought to acknowledge subsequent additions to the facility and a change in ownership from Cambria Cogen, Inc. to the Applicant as above. The changes to the facility will consist of the inclusion of interconnection facilities and a transmission line for connection of the facility to the Pennsylvania Electric Company (Penelec). This proposed transmission line will be constructed by Cambria and will be used exclusively to transmit power from the qualifying facility to Penelec. All other details of the facility as described in the original application remain unchanged.

4. Lackawanna Cogeneration Company

[Docket No. QF84-102-001]

October 21, 1987.

On October 9, 1987, Lackawanna Cogeneration Company (Applicant), 100 Clinton Square, Suite 400, Syracuse, New York 13202, submitted for filing an application for certification of a facility as a qualifying cogeneration facility puruant to § 292.207 of the Commission's regulations and request for finding that the facility constitutes "new capacity" pursuant to § 292.304(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located in Lackawanna, New York. The facility will be a topping cycle cogeneration facility consisting of one combustion turbine, one extraction steam turbine, one waste heat recovery boiler, two steam boilers, and appurtenant facilities. The facility will have a total power production capacity of 62.25 megawatts. The steam produced from the facility will be used in the coke-making process. The primary energy source will be coke oven gas.

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5. General Energy Development, Inc.

[Docket No. QF84-504-001]

October 27, 1987.

On September 29, 1987, General Energy Development, Inc. (Applicant), of 155 North Main Street, New City, New York 10956 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in the Town of Islip, Hauppauge, New York. The facility will consist of internal combustion generator sets. The electric power production capacity will be 4,375 kilowatts. The primary energy source will be biomass in the form of methane and other gases from a sanitary landfill.

By order issued December 18, 1984, the Director of Office of the Electric Power Regulation granted certification of the facility as a small power production facility (29 FERC ¶ 62,317).

The recertification is requested due to change in ownership from Wehran Energy Corporation to General Energy Development, Inc. and electric power production capacity decrease from 4,400 kilowatts to 4,375 kilowatts. All other facility's characteristics remain the same.

6. General Energy Development, Inc.

[Docket No. QF87-63-001]

October 23, 1987.

On September 29, 1987, General Energy Development, Inc. (Applicant), of 155 North Main Street, New City, New York 10956 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Goshen, New York. The facility will consist of internal combustion generator sets. The electric power production capacity will be 5 megawatts. The primary source of energy will be biomass in the form of methane and other gases from a sanitary landfill.

By order issued April 17, 1987, the Director of Office of the Electric Power Regulation granted certification of the facility as a small power production facility (39 FERC ¶ 62,060).

The recertification is requested due to change in ownership from Wehran Energy Corp. to General Energy Development Inc. and electric power production capacity decrease from 9.5 megawatts to 5 megawatts. All other facility's characteristics remain the same.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25309 Filed 10-30-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3284-8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 13, 1987 Through October 16, 1987 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 24, 1987 (52 FR 13749).

Draft EISs

ERP No. D-BIA-K08015-CA, Rating EC2, Colmac 45 MW Biomass-Fueled Power Plant, Construction and Operation, Lease Approval and Right-of-Way, Los Alamos, Rio Arriba and Santa Fe Counties, NM. SUMMARY: The draft EIS did not adequately discuss the quality, treatment and disposal of wastewater generated by the powerplant. EPA provided information on the required PSD permit and hazardous waste disposal requirements, for ash product that could be classified as hazardous waste under RCRA.

ERP No. D-COE-C36063-NY, Rating EC2, Cattargus Creek and Watershed Flood Damage Reduction Plan, Feasibility Phase, Implementation. SUMMARY: EPA's review of the draft EIS highlights concern over potential adverse impacts to aquatic habitat and ground water as well as impacts from secondary development. Accordingly, EPA requested additional information in the final EIS regarding these concerns.

ERP No. DA-COE-G30008-LA, Rating EC2, New Orleans to Venice Hurricane Protection Plan, Barrier Features Construction, Plaquemines Parish, LA. SUMMARY: EPA expresses environmental concerns with the proposed action without reasonable mitigation for the fishery and upland losses as discussed in the EIS. EPA understands that a mitigation plan will be incorporated in the final EIS.

Final EISs

ERP No. F-FHW-K40153-CA, I-5/ Santa Ana Freeway Widening and Interchange Reconstruction, I-405 to CA-55, Funding, 404 Permit, Cities of Irvine and Tustin, Orange County, CA. SUMMARY: EPA expressed continuing concerns with air quality impacts because the FEIS did not adequately discuss: (1) The project's effect on regional air pollutant levels; (2) the effect on development in the area caused by the project and resulting increases in traffic generation; and (3) the Cumulative impacts to regional air quality from this highway project and ajoining segments.

ERP No. F-FHW-K40154-CA, CA-85 Transportation Corridor Construction, CA-101 in South San Jose to I-280/ Stevens Creek Boulevard in Cupertino, Funding, Santa Clara County, CA. SUMMARY: The final EIS Addressed the concerns EPA had raised on the draft EIS concerning impacts to air quality, wetlands, and riparian habitat areas.

Regulations

ERP No. R-FAA-A52063-00, 14 CFR Parts 36 and 91; Noise Standards and Air Traffic Operating and Flight Rules; Proposed Limits on the Growth of Noise form Certain Airplanes and Airplane Types. SUMMARY: EPA has no objection to the rule as proposed. (Note—The above summary should have appeared in the October 2, 1987 FR Notice.)

ERP No. R-FAA-A52104-00, 14 CFR PART 91, Special Federal Aviation Regulation No. 47; Special Flight Authorization for Noise Restricted Aircraft. SUMMARY: EPA agrees with FAA finding that proposed rule does not significantly affect the quality of the environment and accordingly has no objection. (Note—The above summary should have appeared in the October 2, 1987 FR Notice.)

Dated: October 28, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87-25323 Filed 10-30-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140088; FRL-3285-5]

Contractor and Subcontractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized several contractors and subcontractors for access to information which has been submitted to EPA under various sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATE: Access to the confidential data submitted to EPA will occur no sooner than November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M Street SW., Washington, DC 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether the manufacture, processing, distribution in commerce, use, or disposal of certain chemical substances or chemical mixtures may present an unreasonable risk of injury to human health or the environment. New chemical substances, i.e., those not listed on the TSCA Chemical Substances Inventory, are evaluated by EPA under section 5 of TSCA. Existing chemical substances, i.e., those listed on the TSCA Inventory, are evaluated by the Agency under sections 4, 6, and 8 of TSCA. Section 12 requires a person to report his or her intent to export certain chemical substances to foreign countries. .

In accordance with 40 CFR 2.306(j), EPA has determined that the following contractors and subcontractors will require access to CBI submitted to EPA under TSCA to successfully perform work under the contracts described in the following sections of this notice.

Access to CBI by the contractors shown below was announced in earlier Federal Register notices. EPA is issuing this notice to inform submitters of changes in the TSCA CBI access status under these contracts.

Contract No.: 68-02-4235
Contract Name: ICF incorporated
Address: 1850 K Street NW., Suite 950, Washington, DC 20006
Authorized Sections of TSCA: All
Site Information: EPA Headquarters, Contractor and Subcontractor Facilities
FR Publication Date/Cite: 50 FR 38199 (9/20/85)
Extended Access Expiration Date: 9/30/88
Subcontractors:
Putman, Hayes & Bartlett, 124 Mt. Auburn Street, Cambridge, MA 02138
PEI Associates, Incorporated, 11499 Chester Road, Cincinnati, OH 45246-0100
Sobotka & Company, Incorporated, 2501 M Street NW., Washington, DC 20037
Mathtech, Incorporated, 5111 Leesburg Pike, Suite 702, Falls Church, VA 22046

Contract No.: 68-02-4246
Contract Name: Battelle Columbus
Address: 2030 M Street NW., Washington, DC 20036
Authorized Sections of TSCA: All
Site Information: EPA Headquarters Only
FR Publication Date/Cite: 51 FR 37786 (10/24/86)
Extended Access Expiration Date: 9/30/88
Subcontractors:
Westat, Incorporated, 1650 Research Boulevard, Rockville, MD 20852
Clement Associates, 1850 K Street NW., Washington, DC 20006 (Previously named K.C. Crump & Company)
Washington Consulting Group, 1625 I Street, NW., Washington, DC 20006
University of North Carolina, Dept. of Biostatistics, 401 Rosenau, 201H Chapel Hill, NC 27514

Contract No.: 68-02-4232
Contract Name: MITRE Corporation
Address: 1820 Dolley Madison Blvd., McLean, VA 22102
Authorized Sections of TSCA: All
Site Information: EPA Headquarters and Contractor Facilities
FR Publication Date/Cite: 50 FR 38199 (9/20/85)
Extended Access Expiration Date: 9/30/88

Contract No.: 68-02-4236
Contract Name: Maxima Corporation
Address: 2101 East Jefferson St. at Executive Blvd., Rockville, MD 20852
Authorized Sections of TSCA: All
Site Information: EPA Headquarters Only
FR Publication Date/Cite: 50 FR 38199 (9/20/85)
Extended Access Expiration Date: 9/30/88

Contract No.: 68-01-7282
Contract Name: CRC Systems, Incorporated
Address: 4020 Williamsburg Court, Fairfax, VA 22032
Authorized Sections of TSCA: All
Site Information: EPA Headquarters Only
FR Publication Date/Cite: 52 FR 19921 (5/28/87)
Extended Access Expiration Date: 12/31/87

Contract No.: 68-01-7178
Contract Name: CRC Systems, Incorporated
Address: 4020 Williamsburg, Fairfax, VA 22032
Authorized Sections of TSCA: 5 & 8
Site Information: EPA Headquarters Only
FR Publication Date/Cite: 51 FR 37786 (10/24/86)
Extended Access Expiration Date: 9/30/88

Contract No.: 68-01-6690
Contract Name: CRC Systems, Incorporated
Address: 4020 Williamsburg Court, Fairfax, VA 22032
Authorized Sections of TSCA: 5 & 8
Site Information: EPA Headquarters Only
FR Publication Date/Cite: 50 FR 27844 (7/8/85)
Extended Access Expiration Date: 12/31/87

Contract No.: 68-01-6973
Contract Name: Molecular Design Limited
Address: 2132 Farallon Drive, San Leandro, CA 94577
Authorized Sections of TSCA: 5, 8 & 12
Site Information: EPA Headquarters Only
FR Publication Date/Cite: 51 FR 37786 (10/24/86)
Extended Access Expiration: 9/5/88.

Contract No.: 68-01-7380
Contract Name: Chemical Abstracts Service
Address: 2540 Olentangy River Road, Columbus, OH 43210
Authorized Sections of TSCA: 5 & 8
Site Information: EPA Headquarters & Contracting Facilities

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FR Publication Date/Cite: 52 FR 19197 (5/21/87)
Extended Access Expiration Date: 9/30/88
Contract No.: 68-01-6658
Contract Name: System Development Corporation
Address: P.O. Box 12314, Research Triangle Park, NC 27709
Authorized sections of TSCA: All
Site Information: EPA Headquarters & Research, Triangle Park Facilities
FR Publication Date/Cite: 52 FR 1241 (1/12/87)
Extended Access Expiration Date: 10/31/87

The contractors and subcontractors listed above that are authorized to transfer CBI materials from EPA Headquarters to their facilities will, upon completing review of the CBI materials, return them to EPA. Contractors and subcontractors requiring access to TSCA CBI at their facilities will be authorized for such access under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has received their security plans and will perform the required inspections of their facilities before CBI access at the sites will be allowed. Contractor before CBI access at the sites will be allowed. Contractor and subcontractor personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: October 22, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87-25301 Filed 10-30-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3285-1]

Science Advisory Board, Research Strategies Committee Exposure Group; Open Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby that a one-day meeting of the Exposure Group of the Research Strategies Committee of the Science Advisory Board will be held on December 3, 1987, in Conference Room 1112, U.S. EPA, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia. The meeting will be conducted from 9:30 a.m. to 3:00 p.m. The purpose of the meeting will be to continue the development of the research strategy for exposure research.

The meeting will be open to the public. Any member of the public wishing to attend the meeting must contact Mr. Robert Flank, Executive Secretary to the Committee by telephone at (202) 382-2552 or by mail to Science Advisory Board (A-101F), 401 M Street SW., Washington, DC 20460 no later than c.o.b. November 30, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

Date: October 23, 1987.

[FR Doc. 87-25300 Filed 10-30-87; 8:45 am]

BILLING CODE 6560-50-M

EXPORT-IMPORT BANK OF THE UNITED STATES

Advisory Committee of the Export-Import Bank of the United States; Open Meeting

Summary: The Advisory Committee was established by Pub. L. 98-181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

Time and Place: Tuesday, November 17, 1987 from 9:30 a.m. to 12 noon. The meeting will be held in Room 1143, 811 Vermont Avenue NW., Washington, DC 20571.

Agenda: The meeting agenda will include a discussion of the following topics: Financial Report, Program Update, Working Capital Guarantees' (1987 Results), Legislative Update, Report of State/Municipal/City Task Force, and other topics.

Public Participation: The meeting will be open to public participation; and the last 20 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Joan P. Harris, Room 935, 811 Vermont Avenue NW., Washington, DC 20571, (202) 566-8871, not later than November 16, 1987. If any person wishes auxiliary aids (such as a language interpreter) or other special accommodations, please contact prior to November 10, 1987 the Office of the Secretary, Room 935, 811 Vermont Avenue NW., Washington, DC 20571, Voice: (202) 566-8871 or TDD: (202) 535-3913.

Further Information: For further information, contact Joan P. Harris, Room 935, 811 Vermont Avenue NW., Washington, DC 20571, (202) 566-8871.

Hart Fessenden,

General Counsel.

[FR Doc. 87-25285 Filed 10-30-87; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 87-1110]

Approval of Conversion Application; Withdrawal of Approval; Home Federal Savings and Loan Association of Washington

Date: October 27, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Approval of conversion application; withdrawal.

SUMMARY: On October 16, 1987, the Federal Home Loan Bank Board ("Board") published notice of approval of the coversion application of Home Federal Savings and Loan Association of Washington, DC, on October 13, 1987. *See* 52 FR 38525 (October 16, 1987). This was an inadvertent publication and is hereby withdrawn.

EFFECTIVE DATE: This withdrawal is effective October 21, 1987.

FOR FURTHER INFORMATION CONTACT: Bravitt C. Manley, Jr., Attorney, (202) 377-7505, or J. Larry Fleck, Associate General Counsel, Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-25342 Filed 10-30-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-870; FHLBB No. 0006]

Final Action; Approval of Conversion Application; Standard Federal Savings and Loan Association, Columbia, SC

Date: October 27, 1987.

Notice is hereby given that on October 23, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Standard Federal Savings and Loan Association, Columbia, South Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, 1475 Peachtree Street NE., Atlanta, Georgia 30309.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-25341 Filed 10-30-87; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010776-021.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.
Barber Blue Sea
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Lines
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line, Ltd.
Yamashita-Shinnihon Steamship Co., Ltd.
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment amends the neutral body policing rules with respect to cargoes moving from the Far East to Canada to provide that if, in the course of any investigation on a specific complaint, the Neutral Body finds evidence of a malpractice on a different Canadian matter, it is authorized to act on that additional matter as though it were a formal complaint.

Agreement No.: 203-011153.

Title: Hanjin Container Lines, Ltd. Korea Shipping Corporation Facilitation Agreement.

Parties:

Hanjin Container Lines, Ltd.
Korea Shipping Corporation

Synopsis: The proposed agreement would permit the parties to coordinate their services in the transpacific trades, and includes authority to charter space on each other's vessels, rationalize sailings, interchange equipment and share facilities. The parties will remain competitors and will have no obligation to adhere to any agreement reached, other than voluntarily. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: October 27, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-25257 Filed 10-30-87; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 202-010669-028]

Transpacific Westbound Rate Agreement; Correction

In the **Federal Register** notice of October 26, 1987 (52 FR 39994), Synopsis, sub-section (2), the reference to "one of the objecting parties" should have read "the proposing party." By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: October 28, 1987.

[FR Doc. 87-25303 Filed 10-30-87; 8:45 am]

BILLING CODE 6730-01-M

Shipping Act of 1984; Survey of Ocean Common Carriers

The Federal Maritime Commission recently sent surveys to ocean common carriers offering liner service in the United States foreign waterborne commerce seeking their views as to the impact of the U.S. Shipping Act of 1984. The survey is being conducted as part of a five-year study mandated in section 18 of the 1984 Act. The Commission has been directed by the U.S. Congress to "collect and analyze information concerning the impact of this Act upon the international shipping industry," and to present its findings to an Advisory Commission on Conferences in Ocean Shipping, to be convened five and one-half years after enactment of the Act.

The Commission would like its survey to have the widest possible distribution. All interested ocean common carriers offering liner service who have not received a copy of the survey are urged to contact: Sandra Kusumoto, Bureau of Economic Analysis, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, Tel. (202) 523-5870.

Joseph C. Polking,

Secretary.

Dated: October 28, 1987.

[FR Doc. 87-25305 Filed 10-30-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

October 27, 1987.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer, Nancy Steele, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer, Robert Fishman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503 (202-395-7340)

Proposal To Approve Under OMB Delegated Authority the Extension, With Revision, of the Following Reports

1. *Report title:* Weekly Report of Assets and Liabilities for Large Banks and Weekly Report of Selected Assets.
Agency Form Number: FR 2416 and 2644, respectively.
OMB Docket Number: 7100-0075.
Frequency: Weekly.
Reporters: U.S. commercial banks.
Annual Reporting Hours: 48,573 hours.
Small businesses are not affected.
General Description of the Report: This information collection is voluntary (12 U.S.C. 225(a) and 248(a)) and is given confidential treatment (5 U.S.C. 552(b)(4) and (8)).

These reports provide basic data from U.S. commercial banks for estimating bank credit and nondeposit funds and for analyzing banking and monetary developments. The proposed revisions affect the FR 2416 report, and include minimal changes to the current reporting panel, two changes in content to

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improve monitoring of bank investment policy and estimation of components of the broad monetary aggregate, L, and elimination of one item.

2. *Report Title:* Domestic Finance Company Report of Assets and Liabilities.

Agency Form Number: FR 2248 and FR 2248a.

OMB Docket Number: 7100–0005.

Frequency: The FR 2248 is filed at the end of each month, except for March, June, September and December, which is when the FR 2248a is filed.

Reporters: Domestic finance companies.

Annual Reporting Hours: 2,045 hours. Small businesses are affected.

General Description of Report: This information collection is voluntary (12 U.S.C. 225(a)) and is given confidential treatment (5 U.S.C. 552(b) (4) and (8)).

These reports collect information on major categories of consumer and business credit extended and held by finance companies and on major short-term liabilities outstanding. These data are used by the Federal Reserve for assessing aggregate credit market activity. The proposed revisions include a substantial reduction in the approved size of the panel, the consolidation of the two report forms into one, and several item changes designed to reduce the average response time.

3. *Report Title:* Senior Loan Officer Opinion Survey on Bank Lending Practices.

Agency Form Number: FR 2018.

OMB Docket Number: 7100–0058.

Frequency: Up to six times per year.

Reporters: Large U.S. commercial banks.

Annual Reporting Hours: 720 hours. Small businesses are not affected.

General Description of the Report: This information collection is voluntary (12 U.S.C. 246(a)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

This survey, in which responses are collected through a telephone interview with a senior loan officer at each of 60 large commercial banks, collects qualitative information about changes in business loan demand and various aspects of bank lending practices. It serves as a very important tool for monitoring and understanding the evolution of lending practices at banks and developments in credit markets generally. The proposed revision will reduce the number of authorized surveys from eight to six per year.

4. *Report Title:* Monthly Survey of Eligible Bankers Acceptances.

Agency Form Number: FR 2006.

OMB Docket Number: 7100–0055.

Frequency: Monthly.

Reporters: U.S. commercial banks, U.S. branches and agencies of foreign banks and Edge corporations.

Annual Reporting Hours: 3,236 hours. Small businesses are not affected.

General Description of the Report: This information collection is voluntary (12 U.S.C. 248(a), 625, and 3105(b)) and is given confidential treatment (5 U.S.C. 552(b) (4) and (8)).

This report provides timely and detailed information on eligible dollar acceptances that are payable in the United States. The data are used in constructing monetary and credit aggregates and are relied upon to provide information on the acceptance market to the Federal Reserve's trading desk. A reduction of 40 percent in panel size is proposed, owing to a modification in the reporting threshold to limit coverage to only those banks with more than $100 million in total acceptances, up from the current minimum of $50 million. Two minor modifications in item content would reduce burden slightly.

Board of Governors of the Federal Reserve System, October 27, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87–25254 Filed 10–30–87; 8:45 am]

BILLING CODE 6210–01–M

Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies; John L. Lillibridge, et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 17, 1987.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. **John L. Lillibridge, Burke, South Dakota, and Thomas L. Lillibridge, Bonesteel, South Dakota;** each to acquire 50 percent of the voting shares of Fidelity Corporation, Burke, South Dakota, and thereby indirectly acquire First Fidelity Bank, Burke, South Dakota.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Israel Feurzeig,* San Diego, California, and Murray L. Galinson, San Diego, California; each to acquire up to 24.99 percent of the voting shares of SDNB Financial Corp., San Diego, California, and thereby indirectly acquire San Diego National Bank, San Diego, California.

Board of Governors of the Federal Reserve System, October 27, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–25255 Filed 10–30–87; 8:45 am]

BILLING CODE 6210–01–M

Application To Engage in Investment Advisory and Securities Brokerage Services; Sovran Financial Corp., Norfolk, VA

Sovran Financial Corporation, Norfolk, Virginia ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage through its subsidiary, Sovran Investment Corporation, Richmond, Virginia ("Company"), in the activities of purchasing and selling as agent for its corporate and other institutional customers a limited range of non-bank eligible securities and providing, on occasion, non-fee investment advice in connection with the brokerage activity. Company is currently engaged in a number of securities-related activities.

The Board previously has determined that the combined offering of investment advice with securities brokerage services to institutional customers from the same bank holding company subsidiary is a permissible nonbanking activity and does not violate the Glass-Steagall Act. *National Westminster Bank PLC,* 72 Federal Reserve Bulletin 584 (1986); *J.P. Morgan and Company, Inc.,* 73 Federal Reserve Bulletin _____ (Order dated August 5, 1987); *Manufacturers Hanover Corporation,* 73 Federal Reserve Bulletin _____ (Order dated October 1, 1987). In those cases, however, the Board required certain commitments from the applicants. Applicant has offered many, but not all of these commitments. Specifically, Applicant will have interlocking officers and directors between Company and Applicant (as was the case in *Manufacturers Hanover Corporation,* supra.) and, in the case of certain officers, between Company and its affiliate banks. Further, Company would exchange customer lists with its affiliates, and although it would not generally permit the exchange of confidential information concerning its customers from its affiliate banks to Company, it would permit such exchange where such information might be used by Company in making credit decisions with respect to particular customers.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than Friday, November 13, 1987. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–25256 Filed 10–30–87; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abyse, and Mental Health Administration

Mental Health Services Demonstration Grants for Child and Adolescent Service System Program (CASSP)

AGENCY: National Institute of Mental Health, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The National Institute of Mental Health (NIMH) announces the availability of Mental Health Service Demonstration Grants for Child and Adolescent Service System Program (CASSP) projects for seriously emotionally disturbed children and adolescents, MH–87–22. These grants will be made under the authority of section 504(f) of the Public Health Service Act (42 U.S.C. 290aa–3).

The major goals of CASSP are to: (1) Develop leadership capacity and increase priority in allocation of resources for child and adolescent mental health services at the State level; and (2) improve the availability of continuums of care for severely emotionally disturbed children and adolescents at the community level, and thus improve the availability and access to appropriate services across child service systems.

In Fiscal Year 1988, four types of grants will be funded, (1) State-level service system development, (2) Community-level service system development, (3) State-level capacity building, and (4) State system building grant renewal (competing continuations). It is estimated that $750 thousand will be available to fund 5–7 State and Community level service system development projects, $250 thousand will be available for 4–6 State capacity building projects, and $2.4 million will be available for 18 State system building renewal projects. However, the amount of funding available will depend on appropriated funds and program priorities at the time of award.

NIMH is limiting potential applicants under this announcement to State mental health authorities, other State agencies in which the statewide responsibility for child mental health resides, or other State child services coordinating organizations as designated by the Governor. There are several reasons for this eligibility restriction. Since these grants are for service system development for severely emotionally disturbed children and adolescents at State and then the local level, it is imperative that the proper State mental health financing and planning authority be the entity from which the grant activities are performed. The degree of coordination across State agencies required to develop the type of systems needed by the target population can best happen at the State level. Local level projects are more likely to be successful when they result from a State level planning process. Prior NIMH demonstration efforts under section 504(f) of the PHS Act with the NIMH Community Support Program (CSP) have shown the State mental health authorities to be extremely effective in stimulating the development of coordinated community-based services. Finally, if these systems of care are to survive beyond the period of Federal funding, it is probable that the main source of funding will come from State mental health authorities and other related State human service agencies.

Eligible State agencies may apply for only one new CASSP grant under this announcement, with the exception that current State grantees who are applying for a competing Renewal may also apply for a related community-level project. In making application for assistance, the applicant must designate the type of grant (State-level, Capacity building, Renewal, or Community-level) for which it is applying.

This program is subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs and 45 CFR Part 100. Executive Order 12372 allows States/territories the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit (Form PHS–5161) will contain a listing of States which have chosen to set up a review system and will provide a point of contact in the States for that review. Since 60 days are allowed for the State review, applicants are advised to discuss projects with and provide copies of their applications to State contact points as early as possible.

Receipt and Review Procedures for Applications

Applications in response to this announcement will be accepted under the single receipt date of January 4, 1988. The following criteria will be used in the review of applications: Clarity of statement of need for project and quality of problem definition in the narrative; evidence of familiarity with CASSP concepts; strength of the State-level plan and strategy concerning services for severely emotionally disturbed children and adolescents; projected role of families of severely emotionally disturbed children and adolescents in the demonstration projects; emphasis on the special needs of minority families represented in the project; feasibility of the proposed project and likelihood that it will significantly address program gaps and improve services and opportunities for the target population; capability and experience of project director, consultants, and other key staff proposed for the project and adequacy of staffing plan; evidence of activities directed at developing continued funding support for the project after the grant is terminated; clarity and feasibility of evaluation plans; and, quality of plan to disseminate project findings.

For additional program guidance, potential applicants should contact: Ira S. Lourie, M.D., Assistant Chief, Community Service Systems Branch, National Institute of Mental Health, Room 7C–14, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1333.

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The Catalog of Federal Domestic Assistance number for this program is 13.125.

Donald Ian Macdonald,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 87-25288 Filed 10-30-87; 8:45 am]

BILLING CODE 4160-20-M

Mental Health Services Demonstration Grants for Severely Mentally Ill Adults

AGENCY: National Institute of Mental Health, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The National Institute of Mental Health (NIMH) announces the availability of Mental Health Services Demonstration Grants for adults with severe, long-term mental illness, MH-87-24. These grants will be made under the authority of section 504(f) of the Public Health Service Act (42 U.S.C. 290aa-3), which authorizes funds for demonstrations of mental health services for the long-term, severely mentally ill population.

The goals of this program are: To respond to the needs of severely mentally ill adults, with an emphasis on persons at risk of being homeless, to support State level leadership to focus on their service needs; to stimulate the development of local comprehensive, integrated systems of mental health and other supportive services; to foster the development of cost-effective consumer-operated, self-help approaches; and to address the largest service gap (permanent, rehabilitative housing) for the priority population.

Addressing the need for rehabilitative housing will be accomplished through supporting the development, evaluation, dissemination, and utilization of approaches to providing supportive housing linked to flexible services, and through the implementation of a national Community Residential Services Technical Assistance (TA) center to focus on all aspects of developing supportive housing for the population.

In fiscal year 1988, it is estimated that $.7 million will be available to fund approximately 14 Community Support Program (CSP) Service System Improvement Projects to stimulate State level leadership (average award of $50,000); $2 million to fund approximately 4 CSP Comprehensive Community Systems Change Projects to build integrated, coordinated community service systems (average award of $500,000); $750,000 to fund approximately 6 CSP Local Consumer-Operated Services Demonstration Projects (average award of $125,000); $750,000 to fund approximately 8 CSP Local Supportive Housing Demonstration Projects (average award of $125,000); and $200,000 to fund one CSP Community Residential Services TA Center.

NIMH is limiting potential applicants for State and local demonstrations under this announcement to State mental health authorities. There are three reasons for this eligibility restriction. First, because multiple agencies and providers will be involved at both the State and local levels in coordinating these demonstration initiatives, centralized State assistance is needed to assure that sufficient resources will be allocated to the project and appropriate staff and organizations will be involved. The State mental health authorities are best qualified to undertake this coordination function, since they oversee a wide range of mental health service providers. Prior NIMH demonstration efforts under section 504(f) of the PHS Act [NIMH Community Support Program (CSP) and Child and Adolescent Service Systems Program (CASSP)] have shown the State mental health authorities to be extremely effective in stimulating the development of coordinated community-based services.

Second, a related Federal initiative focused on the long-term mentally ill population, authorized under Pub. L. 99-660, The State Comprehensive Mental Health Planning Act, requires State governments to coordinate services for these persons. Finally, if these systems of care and programs are to survive beyond the period of Federal funding, it is probable that the main source of funding will come from State mental health authorities and other related State human service agencies. Based on previous program experience, involving States in the demonstration projects greatly increases the probability that they will provide continuation funding for projects.

Potential applicants for the Community Residential Services TA Center include any public or private non-profit organization.

In making application for assistance, the State mental health authority must designate the type of grant (CSP Service System Improvement, CSP Comprehensive Community Systems Change, CSP Local Supportive Housing Demonstration, CSP Local Consumer-Operated Services Demonstration, or CSP Community Residential Services TA Center) for which it is applying and identify the community and the organization(s) that will carry out the demonstration activities at the local level. Each State may submit only one application for each of the above designated types of grants. States that currently have a CSP Service System Improvement Grant are not eligible to apply for another one.

This program is subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs and 45 CFR Part 100. Executive Order 12372 allows States/territories the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit (Form PHS-5161) will contain a listing of States which have chosen to set up a review system and will provide a point of contact in the States for that review. Since 60 days are allowed for the State review, applicants are advised to discuss projects with and provide copies of their applications to State contact points as early as possible.

Receipt and Review Procedures for Applications

Applications in response to this announcement will be accepted under the single receipt date of January 11, 1988. Applications received after this date will not be reviewed. The following criteria will be used in the review of applications: Clarity of discussion of the barriers and problems that the proposed project will address; quality of the proposed approach including clear evidence of involvement by all necessary entities; adequacy of resource utilization, project staffing, and project management plans; relevance of proposed project for ethnic and racial minority persons; quality of the proposed project evaluation plan; qualifications and prior experience of the proposed staff and consultants in working with the target population; and adequacy and feasibility of proposed plans for continued funding of the project after the demonstration period.

For additional program guidance, potential applicants should contact:

Neal Brown, Chief, Community Service Systems Branch, Division of Education and Service Systems Liaison, National Institute of Mental Health, 5600 Fishers Lane, Room 11C-22, Rockville, Maryland 20857, Telephone: (301) 443-3653

The Catalog of Federal Domestic Assistance number for this program is 13.125.

Donald Ian Macdonald,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 87-25289 Filed 10-30-87; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 87F-0330]

Keller and Heckman; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Keller and Heckman has filed a petition proposing that the food additive regulations be amended to provide for the safe use of *3a,4,7,7a*-tetrahydromethyl-4,7-methanoisobenzofuran-1,3-dione for grafting onto ethylene homopolymers complying with 21 CFR 177.1520(c), item 2.2.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B4043) has been filed by Keller and Heckman, 1150 17th St. SW., Washington, DC 20036, proposing that § 177.1520 *Olefin polymers* (21 CFR 177.1520) of the food additive regulations be amended to provide for the safe use of 3a,4,7,7a-tetrahydromethyl-4,7-methanoisobenzofuran-1,3-dione for grafting onto ethylene homopolymers complying with 21 CFR 177.1520(c), item 2.2.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: October 20, 1987.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-25307 Filed 10-30-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Use Council's Land Use Advisors Committee; Public Invitation Soliciting Nominations

The Federal and State Cochairmen of the Alaska Land Use Council are soliciting nominations for appointment or reappointment to the Council's Land Use Advisors Committee.

The Land Use Advisors Committee is mandated by section 1201(m) of the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96-487, dated December 2, 1980. The Committee plays a key role in the public participation program established by the Alaska Land Use Council. Among other responsibilities, the Committee makes recommendations to the Council concerning actions of the Federal agencies as they implement the Alaska lands legislation and the Council's annual work program.

The Alaska Lands Act requires that the Land Use Advisors Committee be representative of a balance between State and national interests concerned with the use of federally-owned public lands and resources in Alaska and the several geographic regions of the State. Members of the Committee are appointed jointly by the two Cochairmen and serve without compensation but are reimbursed for necessary travel expenses.

If you are interested in serving on the Alaska Land Use Council's Land Use Advisors Committee, send a letter of interest along with a detailed resume to:

Alaska Land Use Council, Office of the Federal Cochairman, 1689 C Street, Suite 100, Anchorage, Alaska 99501, (907) 272-3422, (FTS) 271-5485

Alaska Land Use Council, State Cochairman Designee, Division of Governmental Coordination, 2600 Denali St., Suite 700, Anchorage, Alaska 99503, (907) 274-3528

The deadline for filing your letter of interest is December 1, 1987. These appointments are for one calendar year, January 1, 1988, through December 31, 1988. For further information, you may write to either of the above addresses or call.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-25290 Filed 10-30-87; 8:45 am]

BILLING CODE 4310-10-M

Alaska Land Use Council; Public Meeting

As required by the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96-487, dated December 2, 1980, section 1201, Paragraph (h), the Alaska Land Use Coucil will meet at 8:00 a.m., Tuesday, November 24, 1987, in the Legislative Affairs Agency, 311 C Street Anchorage, Alaska.

At 8:00 a.m., the Alaska Land Use Council will meet in joint session with the Council's Land Use Advisors Committee. The regularly scheduled quarterly meeting of the Council will begin immediately after the joint session with the Advisors Committee is concluded.

The tentative agenda for the Council meeting will include consideration of:

—Draft ROD's for the U.S. Fish and Wildlife Service Comprehensive Conservation Plans for the Alaska Peninsula NWR, the Innoko NWR, the Kodiak NWR, the Koyukuk NWR, the Nowitna NWR, the Selawik NWR, the Tetlin NWR, and the Yukon Flats NWR.

—Briefing on the Status of the Council's Project on the Wilderness Review Provision of ANILCA section 1317 by the National Park Service and the U.S. Fish and Wildlife Service.

—Briefing on the Denali National Park and Preserve Land Exchange Proposal by the National Park Service and the State of Alaska.

—Other items as may be appropriately considered by the Council.

Any individual desiring to appear before the Council to address any of the above matters or matters of general concern to the Council should contact either Cochairman's office before the close of business Tuesday, November 10, 1987.

FOR FURTHER INFORMATION CONTACT:

Alaska Land Use Council, Office of the Federal Cochairman, 1689 C Street, Suite 100, Anchorage, Alaska 99501, (907) 272-3422 (FTS) 271-5485

Alaska Land Use Council, Office of the State, Cochairman Designee, P.O. Box AW, Juneau, Alaska 99811, (907) 465-3562

or

2600 Denali St., Suite 700, Anchorage, Alaska 99503, (907) 274-3528

The public is invited to attend.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-25289 Filed 10-30-87; 8:45 am]

BILLING CODE 4310-10-M

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Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

October 19, 1987.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone, 202–395–7313.

Title: Additional Requirements for Trust Responsibilities, 25 CFR 271.33

Abstract: Indian tribes which are preparing contract applications which involve Bureau trust responsibilities in the area of natural resources provide additional information to assure the protection, preservation and perpetuation of such resources, to ensure fair market value to tribes or individual Indians and that no delegation of trust responsibility occurs.

Frequency: Upon initial application.

Description of Respondents: Indian tribes contracting Bureau programs in the area of natural resources.

Annual Responses: 74.

Annual Burden Hours: 2,300.

Bureau Clearance Officer: Cathie Martin, 202–343–3577.

Hazel E. Elbert,

Deputy to the Assistant Secretary—Indian Affairs (Tribal Services).

[FR Doc. 87–25293 Filed 10–30–87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Availability of San Juan River Regional Coal Environmental Impact Statement Record of Decision, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: On October 26, 1987, Larry Woodward, New Mexico State Direcor, BLM, signed the Record of Decision (ROD) for the San Juan River Regional Coal Environment Impact Statement (SJRRCEIS). This ROD documents the approval of a portion of the Preferred Alternative of the Final SJRRCEIS of March 1984 and also documents the deferral of the remainder of the alternative.

The State Director had decided to defer any decision on where or when to conduct competitive coal leasing until the Regional Coal Team (RCT) convenes and issues its recommendations. At a later date a supplemental ROD will be issued. It will include consideration of the RCT recommendations. The State Director has also decided to fully adjudicate the 26 Preference Right Lease Applications (PRLAs) applying the mitigation measures, listed in Appendix 3 of the ROD. The results of this will be that approximately 1.6 billion tons of coal will be recovered in addition to the 3 billion tons recoverable under the No Action Alternative of the Final SJRRCEIS.

ADDRESS: A copy of the Draft or Final SJJRRCEIS may be reviewed at the New Mexico State Office, Joseph M. Montoya Federal Building, Room 313, South Federal Place, P.O. Box 1449, Santa Fe, NM 87504–1449. Copies of the ROD are available at the same address or can be obtained by calling (505) 988–6000.

FOR FURTHER INFORMATION CONTACT: Ron Fellows, Farmington Resource Area Manager at Caller Service 4104, Farmington, NM 87499–4104: telephone (505) 325–4572 or FTS 476–6441.

SUPPLEMENTARY INFORMATION: The ROD incorporates resource information gathered since the completion of the Final SJRRCEIS. The effects of the new data have been determined to fall within the range of impacts analyzed in the alternatives, therefore, a new analysis of environmental impacts is not required. This data is available in the ROD, which is being sent to all parties who received the Final SJRRCEIS.

Larry L. Woodard,

State Director.

[FR Doc. 87–25144 10–30–87; 8:45 am]

BILLING CODE 4310-FB-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31137]

Railroad Operations; Mt. Hood Railroad Co.; Exemption Acquisition and Operation; Oregon-Washington Railroad & Navigation Co., Mt. Hood Railway Co. and Union Pacific Railroad Co.

Mt. Hood Railroad Company has filed a notice of exemption to acquire and operate 21.085 miles of rail line owned by Oregon-Washington Railroad & Navigation Company Mt. Hood Railway Company, and Union Pacific Railroad Company between Milepost 0.05 at Hood River, OR, and Milepost 21.135 at Parkdale, OR, all in Hood River County, OR. Any comments must be filed with the Commission and served on William C. Evans, Suite 1000, 1660 L Street NW., Washington, DC 20036.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 20, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–25106 Filed 10–30–87; 8:45 am]

BILLING CODE 7034-01-M

[Finance Docket No. AB–55 (Sub-No. 216X)]

Railroad Services; CSX Transportation, Inc.; Exemption; Abandonment in Osceola and Clare Counties, MI

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon its 23.66-mile line of railroad between milepost 75.66 at or near Evart, MI, and milepost 52.00 at or near Clare, MI, in Osceola and Clare Counties, MI.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate state agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective December 2, 1987, unless stayed pending reconsideration. Petitions to stay must be filed by November 12, 1987, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 23, 1987 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representatives:

Lawrence H. Richmond, Peter J. Shudtz, 100 North Charles Street, Baltimore, MD 21201

Charles M. Rosenberger, Patricia Vail, 500 Water Street, Jacksonville, FL 32202

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 19, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–25105 Filed 10–30–87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Modification to List of Bureau of Prisons Institutions

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice.

SUMMARY: Attorney General Order No. 646–76 (41 FR 14805), as amended, classifies and lists the various Bureau of Prisons institutions. Attorney General Order No. 960–81, Reorganization Regulations, published in the Federal Register October 27, 1981 (at 46 FR 52339 et seq.) delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(r), the authority to establish and designate Bureau of Prisons institutions. In this present document, the Bureau is publishing a consolidated listing of its institutions, and is designating a new Federal Prison Camp at Tyndall Air Force Base, Florida. The institution is expected to open later this year.

FOR FURTHER INFORMATION CONTACT: Hank Jacob, Office of General Counsel, Bureau of Prisons, 320 First Street NW., Washington, DC 20534 (202–272–6874).

SUPPLEMENTARY INFORMATION: This notice is not a rule within the meaning of the Administrative Procedure Act, 5 U.S.C. 551(4), the Regulatory Flexibility Act, 5 U.S.C. 601(2), or Executive Order No. 12291, section 1(a).

By virtue of the authority vested in the Attorney General in 18 U.S.C. 4001, 4003, 4042, 4081, and 4082 and delegated to the Director, Bureau of Prisons by 28 CFR 0.96(r), it is hereby ordered as follows:

The following institutions are established and designated as places of confinement for the detention of persons held under authority of any Act of Congress, and for persons charged with or convicted of offenses against the United States or otherwise placed in the custody of the Attorney General of the United States.

A. The Bureau of Prisons institutions at the following locations are designated as U.S. Penitentiaries:

(1) Atlanta, Georgia;
(2) Leavenworth, Kansas;
(3) Lewisburg, Pennsylvania;
(4) Lompoc, California;
(5) Marion, Illinois; and
(6) Terre Haute, Indiana.

B. The Bureau of Prisons institutions at the following locations are designated as Federal Correctional Institutions:

(1) Alderson, West Virginia;
(2) Ashland, Kentucky;
(3) Bastrop, Texas;
(4) Butner, North Carolina;
(5) Danbury, Connecticut;
(6) El Reno, Oklahoma;
(7) Englewood, Colorado;
(8) Fort Worth, Texas;
(9) La Tuna, Texas;
(10) Lexington, Kentucky;
(11) Loretto, Pennsylvania;
(12) Memphis, Tennessee;
(13) Milan, Michigan;
(14) Morgantown, West Virginia;
(15) Otisville, New York;
(16) Oxford, Wisconsin;
(17) Petersburg, Virginia;
(18) Phoenix, Arizona;
(19) Pleasanton, California;
(20) Ray Brook, New York;
(21) Safford, Arizona;
(22) Sandstone, Minnesota;
(23) Seagoville, Texas;
(24) Talladega, Alabama;
(25) Tallahassee, Florida;
(26) Terminal Island, California;
(27) Texarkana, Texas; and
(28) Tucson, Arizona.

C. The Bureau of Prisons institutions at the following locations are designated as Federal Prison Camps:

(1) Allenwood, Pennsylvania;
(2) Big Spring, Texas;
(3) Boron, California;
(4) Duluth, Minnesota;
(5) Eglin Air Force Base, Florida;
(6) Maxwell Air Force Base/Gunter Air Force Station, Montgomery, Alabama; and
(7) Tyndall Air Force Base, Florida.

D. The Bureau of Prisons institutions at the following locations are designated as Metropolitan Correctional Centers:

(1) Chicago, Illinois;
(2) Miami, Florida;
(3) New York, New York; and
(4) San Diego, California.

E. The Bureau of Prisons institution at Springfield, Missouri is designated as the U.S. Medical Center for Federal Prisoners.

F. The Bureau of Prisons institution at Rochester, Minnesota is designated as the Federal Medical Center.

G. The Bureau of Prisons institution at Oakdale, Louisiana is designated as the Federal Detention Center.

J. Michael Quinlan,

Director, Bureau of Prisons.

[FR Doc. 87–25302 Filed 10–30–87; 8:45 am]

BILLING CODE 4410-05-M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 87–5]

Request for Information, Eleventh Amendment

AGENCY: Copyright Office, Library of Congress.

ACTION: Request for information.

SUMMARY: This Request for Information is issued to advise the public that the Copyright Office of the Library of Congress is investigating the issue of states' Eleventh Amendment immunity from suit for money damages in copyright infringement cases. The purpose of this notice is to elicit public comments, views, and information which will inform the Copyright Office as to (1) any practical problems faced by copyright proprietors who attempt to enforce their claims of copyright infringement against state government infringers, and (2) any problems state governments are having with copyright proprietors who may engage in unfair copyright or business practices with respect to state governments' use of copyrighted materials. The Copyright Office also invites comment concerning the legal interpretation of Eleventh Amendment immunity in copyright infringement cases.

DATE: Comments should be received on or before February 1, 1988.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail, to: Office of the General Counsel, Copyright Office, Library of Congress, Department 100, Washington, DC 20559.

If delivered by hand, copies should be brought to: Office of the General Counsel, U.S. Copyright Office, James

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Madison Memorial Building, Room 407, First and Independence Avenues SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Department 100, Washington, DC 20559. Telephone: (202) 287–8380.

SUPPLEMENTARY INFORMATION: At the request of the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the House Committee on the Judiciary, the Copyright Office is conducting a study and preparing a report [1] on the issue of states' immunity from suit for money damages in copyright infringement cases.

The Copyright Act of 1976, Title 17 of the United States Code, grants copyright owners certain exclusive rights in their works. 17 U.S.C. 106. Although 28 U.S.C. 1338(a) grants Federal courts exclusive subject matter jurisdiction over cases concerning the Federal copyright law, the Eleventh Amendment to the Constitution generally prohibits Federal courts from entertaining suits brought by citizens of one state against another state. The question has arisen whether Congress, in enacting the Copyright Act of 1976 under the Copyright Clause of the Constitution, has subjected the states to copyright liability and overcome any claim of immunity under the Eleventh Amendment.[2]

In actual practice, most state agencies have traditionally recognized the rights of copyright owners and have paid royalties for their use of copyrighted works. At least eight state Attorneys General have issued opinions interpreting the Copyright Act to provide guidance for a state and its agencies.[3] This suggests that these states recognized their liability under the federal copyright statutes. However, a recent line of Federal court cases interpreting the application of states' Eleventh Amendment immunity in copyright infringement cases might influence states to change their practices of recognizing the rights of copyright owners. Applying recent Supreme Court decisions in Eleventh Amendment cases (not involving copyright law), Federal district courts in five states have found state governments immune from suit for money damages in copyright infringement lawsuits.[4]

Concern has been expressed about these cases because they appear to remove copyright owners' only pecuniary remedy against state governments that violate Federal copyright law. On the other hand, it is sometimes alleged that some copyright owners or their representatives may put undue pressure on state governments to pay for their uses of copyrighted works that might, in fact, be "fair use" under section 107 of the Copyright Act of 1976 or exempt under another provision of the Act.

By letter dated August 3, 1987, the Subcommittee requested that the Copyright Office completely assess the nature and extent of the clash between the Eleventh Amendment and Federal copyright law. As a part of this assessment, the Subcommittee specifically instructed the Office to conduct the following inquiries:

(1) An inquiry concerning the practical problems relative to the enforcement of copyright against state governments;

(2) An inquiry concerning the presence, if any, of unfair copyright or business practices vis a vis state governments with respect to copyright issues.

It is the purpose of this Request for Information to solicit public comments, views, and information which will inform the Copyright Office on these issues.

The Copyright Office also invites comments and arguments concerning the legal interpretation of Eleventh Amendment immunity in copyright infringement cases.

Dated: October 19, 1987.

Ralph Oman,

Register of Copyrights.

Approved:

William J. Welsh,

Acting Librarian of Congress.

[FR Doc. 87–25288 Filed 10–30–87; 8:45 am]

BILLING CODE 1410–07–M

[1] This is not in any sense a rulemaking proceeding. The Office will, however, seek the widest possible public comment through this publication in the **Federal Register** and through other channels, such as associations representing state government and copyright interests.

[2] The same issue arose under the Copyright Act of 1909, Title 17 U.S.C. in effect through December 31, 1977; the Ninth Circuit in *Mills Music, Inc. v. State of Arizona*, 591 F.2d 1278 (9th Cir. 1979) held that states were not immune to copyright damage suits under the Eleventh Amendment, on the ground of the Copyright Clause. In this Request for Information we focus on the interpretation of the current Act because any cause of action against a state presumably arises under the Copyright Act of 1976, effective January 1, 1978.

[3] 107 Op. Att'y. Gen. Alas. (1983); 366 Inf. Op. Att'y Gen. Alas. 404 (1982); 187 Slip Op. Att'y Gen. Ariz. 108 (1986); 65 Op. Att'y Gen. Cal. 106 (1982); 64 Op. Att'y Gen. Cal. 160 (1981); 62 Op. Att'y Gen. Fla. 148 (1982); Slip. Op. Att'y Gen. Kan. 202 (1981); 64 Slip Op. Att'y Gen. La. 436 (1985); 82 Slip Op. Att'y Gen. La. 662 (1982); Slip Op. Att'y Gen. S.C. (1977); 82 Slip Op. Att'y Gen. Ut. 03 (1982).

[4] See *BV Engineering v. Univ. of California, Los Angeles*, CV 86–4708, slip. op., 3 U.S.P.Q. 2d 1054 (D.C. Calif. April 17, 1987); *Miholeck Corp. v. Michigan*, 595 F. Supp. 903 (E.D. Mich. 1984), *aff'd on other grounds*, 814 F.2d 290 (6th Cir. 1987); *Cardinal Indus. v. Anderson Parrish Assoc.*, No. 83–1038–Civ–T–13 (M.D. Fla. Sept. 8, 1985), *aff'd* 811 F.2d 609 (11th Cir. 1987); *Richard Anderson Photography v. Radford Univ.*, 633 F. Supp. 1154 (W.D. Va. 1986); *Woelffer v. Happy States of Am., Inc.*, 626 F. Supp. 409 (N.D. Ill. 1985).

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304]

Environmental Assessment and Finding of No Significant Impact; Commonwealth Edison Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from the requirements of Section III.G of Appendix R to 10 CFR Part 50 to the Commonwealth Edison Company (CECo) (the licensee) for the Zion Nuclear Power Station, Units 1 and 2, located at the licensee's site in Lake County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant six exemptions from requirements of Section III.G of Appendix R to 10 CFR Part 50 consisting mainly of requirements for automatic area-wide fire suppression systems and separation between components.

Need for the Proposed Action

Existing and proposed fire protection features at Zion Units 1 and 2 accomplished the underlying purpose of the rule in that they provide an equivalent level of protection. Implementing additional modifications to provide additional suppression systems, detection systems, and fire barriers would require the expenditure of engineering and construction resources as well as the associated capital costs which would represent an unwarranted burden on the licensee's resources. The staff has concluded that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50.

Environmental Impact of the Proposed Action

Upon the review of the requested exemptions, the staff has concluded that the level of fire safety in the affected areas is equivalent to that achieved by compliance with technical requirements of Section III.G of Appendix R. Therefore, fire-related radiological releases will not differ from those determined previously and the proposed exemption does not otherwise affect facility radiological effluent or occupational exposure. With regard to potential nonradiological impacts, the proposed exemptions do not affect plant nonradiological effluents and have no other environmental impact. Therefore, the Commissions concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemptions.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemptions, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the exemption would be to require rigid compliance with the requirements of Section III.G of Appendix R. Such action would not enhance the protection of the environment and would result in unjustified costs for the licensee.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement Zion Nuclear Power Station, Units 1 and 2.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission had determined not to prepare an environmental impact statement for the proposed exemption. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letter dated July 27, 1984, as supplemented by letters dated August 31, 1984, January 24, 1985, February 18, 1986 and February 9, 1987. These letters are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Bethesda, Maryland, this 26th day of October 1987.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87–25315 Filed 10–30–87; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on November 5–7, 1987, in Room 1046, 1717 H Street NW., Washington, DC. Notice of this meeting was published in the **Federal Register** on October 19, 1987.

Thursday, November 5, 1987

8:30 a.m.–8:45 a.m.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 a.m.–10:15 a.m.: Management of Resources (Closed)—Discuss internal allocation and management of agency resources to provide advice regarding regulation of nuclear radioactive waste.

This portion of the meeting will be closed to discuss information that involves the internal personnel rules and practices of the agency and information the release of which would represent an unwarranted invasion of personal privacy.

10:30 a.m.–11:30 a.m.: Station Blackout (Open)—Briefing and discussion regarding proposed NRC Staff resolution of USI A–44, Station Blackout and related activities of NUMARC.

11:30 a.m.–12 Noon: Decay Heat Removal (Open)—Report by ACRS Subcommittee chairman regarding the status of resolution of USI A–45, Shutdown Decay Heat Removal Requirements.

1:00 p.m.–2:00 p.m.: Management Meeting (Closed)—Meeting with NRC Commissioners to discuss internal allocation and management of resources to provide advice regarding regulation of nuclear radioactive waste.

This session will be closed to discuss information that involves the personnel rules and practices of the agency and information the release of which would represent an unwarranted invasion of personal privacy.

2:15 p.m.–3:45 p.m.: TVA Nuclear Power Plant Operations (Open)—Consider proposed TVA Corporate Management Plan and resolution of deficiencies associated with design, construction, and operation of TVA nuclear power plants, including proposed restart of the Sequoyah Nuclear Station.

3:45 p.m.–5:15 p.m.: Use of Probabilistic Risk Assessment (Open)—Briefing and discussion of NRC Staff response to ACRS recommendations regarding use of NUREG–1150, Reactor Risk Reference Document in the regulatory process.

5:15 p.m.–5:45 p.m.: ACRS Future Activities (Open)—Discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee.

Friday, November 6, 1987

8:30 a.m.–10:00 a.m.: Safety Implications of Control Systems (Open)—Discuss proposed resolution of USI A–47, Safety Implications of Control Systems, and applicable comments by Mr. D. Basdekas, NRC Staff, regarding this matter as it relates to Babcock and Wilcox nuclear steam generating systems.

10:15 a.m.–12:15 p.m.: Nuclear Waste Management (Open)—Discuss proposed radiation protection standards for low-level nuclear waste and related radwaste matters.

1:15 p.m.–2:15 p.m.: Westinghouse Advanced PWR (Open)—Briefing and discussion regarding WAPWR (RESAR SP–90) design features.

2:15 p.m.–3:00 p.m.: Systematic Assessment of Operating Experience (Open)—Report by ACRS Subcommittee chairman and discussion of AEOD evaluation of nuclear power plant operating experience.

3:15 p.m.–4:15 p.m.: NRC Technical Specification Policy Statement (Open)—Briefing by NRC Staff representatives and discussion of proposed NRC policy statement regarding changes in technical specifications for nuclear power plants.

4:15 p.m.–5:15 p.m.: Long Range ACRS Activities (Open)—Report of ACRS subcommittee and discussion of ACRS role and objectives as NRC advisors.

5:15 p.m.–5:45 p.m.: Selection of ACRS Officers (Closed)—Report and discussion of the qualifications of candidates proposed as ACRS officers for CY 1988. Selection of Member-at-Large to ACRS Planning Subcommittee.

This section will be closed to discuss information of a personal nature the release of which would represent a clearly unwarranted invasion of personal privacy.

Saturday, November 7, 1987

8:30 a.m.–12:30 p.m. and 1:30 p.m.–2:30 p.m.—Preparation of ACRS Reports (Open)—Discuss proposed ACRS

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reports regarding items considered during this meeting and safety-related matters, including the proposed NRC Integrated Safety Assessment Program, the Nuclear Energy Reorganization Act of 1987, nuclear radwaste research, and instrument air systems.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1987 (51 FR 37241). In accordance with these procadures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attent should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss information related to the internal personnel rules and practices of the agency (5 U.S.C. 552b(c)(2)) and information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m.

Date: October 27, 1987.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 87–25313 Filed 10–30–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–445 and 50–446]

Texas Utilities Electric Co. et al., Comanche Peak Steam Electric Station, Units 1 and 2; Issuance of Director's Decision

Notice is hereby given that the Director, Office of Special Projects, has issued a decision concerning a Petition filed with the Nuclear Regulatory Commission (NRC) on March 19, 1984, by the Government Accountability Project on behalf of Citizens Association for Sound Energy and several nuclear workers at the Comanche Peak Steam Electric Station. The Petition requested that the NRC take certain actions with respect to alleged serious construction and documentation deficiencies at the Comanche Peak Steam Electric Station of the Texas Utilities Electric Company, *et al.* (Licensees). Relief requested included immediate suspension of construction and the construction permit for the Comanche Peak facility, a special NRC inspection at the facility, an independent design and construction verification program to assess the integrity of the Comanche Peak Quality Assurance Program, and a comprehensive management audit of the Licensees' officials by an independent management auditing firm.

The relief requested is granted in part and denied in part. The request for special NRC inspections at the facility has been granted. The requests to suspend construction activities, and direct the Licensees to initiate a management audit and an independent design and construction verification program at Comanche Peak are denied. The reasons for these decisions are explained in the "Director's Decision Under 10 CFR 2.206," DD–87–17, which is available for public inspection at the Commissions Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the local public document room for the Comanche Peak facility located at the Somervell County Public Library, On The Square, Glen Rose, Texas 76043.

A copy of this Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the Decision will constitute final action of the Commission twenty-five (25) days after issuance, unless the Commission, on its own motion, institutes review of the Decision within that time period.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 10th day of October, 1987.

James G. Keppler,

Director, Office of Special Projects.

[FR Doc. 87–25316 Filed 10–30–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 40–3453; ASLBP No. 87–557–05–SP; Source Material License No. SUA–917]

Atlas Minerals Division of Atlas Corp.

October 26, 1987.

Order

On October 9, 1987, there was published in the **Federal Register** a Notice of Hearing in this proceeding setting November 9, 1987, as the deadline for filing and serving petitions to intervene. See 52 FR 37855. This Notice followed the Commission's Order of September 25, 1987, commencing this proceeding and naming Atlas Corporation and NRC Staff as parties.

In view of settlement negotiations between them, on October 19 Atlas and Staff filed a joint motion to hold this proceeding in abeyance. Apparently, they contemplate filing a report by November 20 on the status of those negotiations. It is not clear from the motion whether they seek thirty days to complete their negotiations, or whether they seek an unlimited time and contemplate monthly reports to the Presiding Officer on the status of those negotiations.

In consideration of the foregoing, it is ordered:

1. This proceeding is held in abeyance pending further Order of the Presiding Officer;

2. Atlas and Staff are to report on the status of their settlement negotiations by November 20, 1987; and

3. The deadline for filing and serving petitions to intervene set in the Notice of Hearing is suspended pending further Order of the Presiding Officer.

John H. Frye, III,

Administrative Judge.

[FR Doc. 87–25314 Filed 10–30–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–324]

Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing; Carolina Power & Light Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–62, issued to Carolina Power & Light Company (the licensee), for operation of the Brunswick Steam Electric Plant, Unit 2, (Brunswick Unit 2) located in Brunswick County, North Carolina.

In accordance with the application for amendment dated September 29, 1987, the amendment would revise the provisions in the Technical Specifications for Brunswick Unit 2 to change the operability and surveillance requirements for the recirculation pump trip instrumentation installed to mitigate postulated anticipated transients without scram (ATWS).

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By December 2, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Thomas A. Baxter, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated Spetember 29, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Local Public Document Room, University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Dated at Bethesda, Maryland, this 27th day of October 1987.

For the Nuclear Regulatory Commission.

Ernest D. Sylvester,

Project Manager, Project Directorate II–1, Division of Reactor Projects I/II.

[FR Doc. 87–25317 Filed 10–30–87; 8:45 am]

BILLING CODE 7590–01–M

PHYSICIAN PAYMENT REVIEW COMMISSION

Commission Hearing and Full Commission; Public Meetings

AGENCY: Physician Payment Review Commission.

ACTION: Notice of public meetings.

SUMMARY: The Physician Payment Review Commission will hold a public hearing on Tuesday, November 10, 1987, beginning at 1:30 p.m., to hear the views of groups interested in Medicare physician payment on the issues and options to be included in the Commission's next annual report to Congress. The Commission is particularly interested in comments on development of a relative value scale and other elements of a fee schedule for Medicare and on options that reduce inappropriate utilization of physician services while not compromising quality. The hearing will be held in the Montpelier Room of the Sheraton Grand Hotel, 525 New Jersey Avenue, NW.

The full Commission meeting will be held on Thursday, November 12, 1987, from 9:00 a.m. to 5:00 p.m. and on Friday, November 13, 1987, beginning at 9:00 a.m. The meeting will be held in the Federal Ballroom of the Quality Inn, 415 New Jersey Avenue, NW. The agenda

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will include discussion of the following issues: policy options to reduce utilization of inappropriate services, options for reducing inappropriate variation in charges across geographic areas, plans for the development of the Commission's relative value scale, specialty differentials, capitation, comparability of Medicare payments with those of private payers, and issues related to PPO arrangements for Medicare. The Commission was established by section 9305 of Pub. L. 99–272.

FOR FURTHER INFORMATION CONTACT: Lauren LeRoy, Deputy Director, 202/653–7220.

Paul B. Ginsburg,

Executive Director.

[FR Doc. 87–25340 Filed 10–30–87; 8:45 am]

BILLING CODE 6820–SE–M

PRESIDENT'S COMMISSION ON PRIVATIZATION

Business Meeting and Hearings

SUMMARY: Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the President's Commission on Privatization will be held.

DATES AND TIMES: November 9 and 10, 1987.

Business Meeting—November 9, beginning at 10:00 a.m.

Hearings—November 9, beginning at 2:00 p.m. and November 10, beginning at 9:30 a.m.

ADDRESS: Room 138 of the Dirksen Senate Office Building, Washington, DC.

FOR FURTHER INFORMATION: Contact Mr. Wiley Horsley, Commission Staff Manager, 1825 K Street NW., Suite 310, Washington, DC 20006, 202/634–4874.

SUPPLEMENTARY INFORMATION: The purpose of the business meeting is to review the first draft of the report addressing housing issues, and other matters. The purpose of the hearings is to hear witness testimony relating to the divestitute of loan portfolios. The business meeting and the hearings are open to the public.

James C. Miller III,

Director, Office of Management and Budget.

[FR Doc. 87–25447 Filed 10–29–87; 4:40 pm]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–25064; File No. SR–NASD–87–44]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc. ("NASD"), Order Approving Proposed Rule Change on an Accelerated Basis Relating to Proposed Amendments to the Rules of Practice and Procedure for the NASD's Small Order Execution System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 26, 1987, the NASD filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NASD. The Commission is publishing this order to solicit comments on the proposed rule change from interested persons. For reasons described below, the Commission is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends section (a)7 of the Rules of Practice and Procedure for the Small Order Execution System ("SOES") to give the President of the NASD the authority to define the term "limited size" as it appears in the Rules of Practice and Procedure for the Small Order Execution System. Under the amendment the President will be able, from October 23, 1987 to December 31, 1987, to set the maximum size of individual orders that may be entered into or executed through SOES, at any level between 300 and 1,000 shares.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This rule change amends section (a)7 of the Rules of Practice and Procedure for SOES and has been approved by the Executive Committee on behalf of the Board of Governors. The rule change is consistent with section 11A(a)(1)(C) of the Act because it seeks to assure the efficient execution of small orders in an environment of extraordinarily high volume in the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests the Commission to find good cause for approving the proposed rule change prior to the 35th day after its publication in the **Federal Register** because of the extraordinary circumstances currently present in the marketplace.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of sections 11A(a)(1)(C) and 15A, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing thereof, in that accelerated approval is warranted by the extraordinary circumstances currently present in the marketplace.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW.,

Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room at the above address. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 23, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3(a)(12).

Dated: October 27, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–25284 Filed 10–30–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18085; (File No. 821–6805)]

Bank Dagang Negara; Application

Date: October 26, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Bank Dagang Negara.

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from all provisions.

Summary of Application: Applicant seeks an order permitting it to issue and sell its debt securities in the United States.

Filing Date: The application was filed on July 28, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on November 29, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicants, c/o John W. Erickson, Esq., White & Case, 1155 Avenue of the Americas, New York, NY 10036.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 272–3033, or Brion R. Thompson, Special Counsel (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is one of five state-owned banks which dominate commercial banking in Indonesia. Applicant is extensively regulated by Indonesian and other banking authorities, which regulation includes filing detailed periodic reports with Bank Indonesia, the central bank of Indonesia, and audit review by the State Audit Office. In addition, Bank Indonesia imposes certain liquidity requirements and foreign exchange limitations. Applicant engages in a wide range of commercial, retail and other banking activities, including deposit taking, commercial lending, trade credit and foreign exchange. These activities are conducted both in Indonesia and through a number of overseas branches and agencies.

2. Applicant presently proposes to issue and sell, through its Cayman Islands branch, commercial paper denominated in United States dollars ("Notes"). The Notes will be sold in minimum denominations of $250,000, and other terms of the Notes will be such as to qualify them for the exemption from registration under the Securities Act of 1933 ("1933") afforded by section 3(a)(3) or section 4(2) of the 1933 Act, or, if backed by a letter of credit from an appropriate banking institution, section 3(a)(2) of the 1933 Act. Applicant will not issue and sell any Notes until receiving an opinion of special legal counsel in the United States to the effect that, under the circumstances of the proposed offering, the Notes would be entitled to such exemption. Applicant does not request SEC review or approval of such counsel's opinion regarding the availability of such exemption. Applicant's obligation in respect of the Notes will rank pari passu with all unsecure and unsubordinated indebtedness (including deposit liabilities) of Applicant and superior to any subordinated indebtedness of Applicant and to claims of the holders of Applicant's capital stock.

3. Prior to issuance of the Notes or any other debt securities in the future, the Notes or such other debt securities shall have received one of the three highest investment grade ratings for at least one nationally recognized statistical rating organization and Applicant's United States counsel shall have certified that such a rating has been received; however, no such rating shall be required if, in the opinion of such counsel (having taken into account the doctrine of "integration" referred to in Rule 502 of Regulation D under the 1933 Act and various "no-action" letter made publicly available by the SEC), an exemption from registration is available pursuant to section 4(2) of the 1933 Act.

4. The Notes will be issued and sold either directly or to or through one or more commercial paper dealers in the United States which will reoffer the Notes to investors. The Notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold to institutional investors and other entities and individuals who normally purchase commercial paper.

5. Applicant may, from time to time, offer its debt securities other than the Notes ("Future Securities") for sale in the United States. Any such offerings would be made only pursuant to a registration statement filed under the 1933 Act, or pursuant to an applicable exemption from such registation provided Applicant has received an opinion of United States counsel or a "no-action" letter issued by the staff of the SEC to the effect that the proposed offering is entitled to such exemption.

6. Applicant will expressly accept the jurisdiction of any State or Federal court in The City of New York, and will authorize an agent in The City of New York to accept service of process, in any action based upon the Notes or Future Securities. Such consent to jurisdiction and such appointment of an authorized agent to accept service of process will be irrevocable until all amounts due and to become due in respect of the Notes or Future Securities have been paid in full.

Applicant's Legal Conclusion

1. Applicant contends that it is impractical and unnecessary to regulate it under the 1940 Act. Specifically, Applicant believes that it is clearly primarily engaged in the commercial banking business. Applicant has never held itself out as, or considered itself to be, an investment company. Applicant is

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extensively regulated by Indonesian and other banking authorities. Accordingly, Applicant submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicant's Conditions

1. Applicant undertakes to ensure that there will be provided to each offeree who has indicated an interest in the Notes a memorandum ("Offering Memorandum") which: (i) Describes the business of Applicant, (ii) contains the most recent publicly available fiscal year-end audited balance sheet and income statement of Applicant, and (iii) describes the material differences between the accounting principals utilized in the preparation of Applicant's financial statements and generally accepted accounting principles as applied in the United States. Applicant additionally undertakes that the Offering Memorandum will be at least as comprehensive as those customarily used in commercial paper offerings in the United States and will be updated periodically to reflect material changes in the financial condition of Applicant.

2. Any offering of Future Securities will be made on the basis of appropriate disclosure documents which are at least as comprehensive as those customarily used in offerings of similar securities in the United States.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25283 Filed 10-30-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16064; 812-6856]

North American Security Life Insurance Co., et al.; Application for Exemption

October 26, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: North American Security Life Insurance Company ("Security Life"), NASL Variable Life Account ("Variable Life Account"), NASL Series Fund, Inc. ("Fund"), NASL Financial Services, Inc. ("NASL Financial") and Wood Logan Associates, Inc. ("WoodLogan").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 2(a)(32), 2(a)(35), 9(a), 13(a), 15(a), 15(b), 22(c), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the 1940 Act, paragraphs (b)(1), (b)(12), (b)(13)(i), (b)(13)(iii), (b)(13)(iv), (b)(15), (c)(1)(i) and (c)(4) of Rule 6e-2 thereunder and Rule 22c-1 thereunder.

Summary of Application: Applicants seek an order to the extent necessary to permit the following transactions in connection with the issuance and sale of modified single premium variable life insurance contracts ("contracts"): (1) To permit the Variable Life Account, without the use of a custodian or trustee, to hold Fund shares in uncertificated form; (2) to deduct on surrender or lapse during the first nine contract years a surrender charge consisting of a contingent deferred sales charge and a charge for unrecovered premium taxes; (3) to deduct premium tax, cost of insurance, minimum death benefit guarantee and mortality and expense risk charges from the assets of the Variable Life Account; (4) to permit a death benefit which does not vary with the investment experience of the Variable Life Account under certain circumstances; (5) to use the 1980 CET Table for purposes of calculating sales load, including treating the difference between 1980 CSO and 1980 CET cost of insurance rates in connection with the simplified under writing procedure as a substandard insurance charge; and (6) to permit "mixed" funding of variable annuity and variable life insurance contracts.

Filing Date: The Application was filed on August 31, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the Application will be granted. Any interested person may request a hearing on this Application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 20, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 695 Atlantic Avenue, Boston, MA 02111.

FOR FURTHER INFORMATION CONTACT: Financial Analyst Denise M. Furey, (202) 272-2067 or Special Counsel Lewis B. Reich, (202) 272-2061 (Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations and Statements

1. Security Life is a stock life insurance company organized under the laws of Delaware in 1979. The Variable Life Account is a separate account of Security Life established in 1986 under the laws of the State of Delaware for the purpose of funding variable life insurance contracts. The Variable Life Account is registered under the 1940 Act as a unit investment trust and otherwise satisfies the conditions of paragraph (a) of Rule 6e-2 so as to be entitled to the exemptions accorded by Rule 6c-3.

2. Assets of the Variable Life Account are invested in shares of the Fund, a Maryland corporation registered under the 1940 Act as a diversified open-end management investment company. Shares of the Fund will be held under an open account arrangement without the issuance of any stock certificates. The Fund is currently used as the underlying investment medium for variable annuity contracts issued by Security Life.

3. NASL Financial, a wholly-owned subsidiary of Security Life, will be the principal underwriter of the contracts. It is a broker-dealer registered under the Securities Exchange Act of 1934 ("1934 Act") and a member of the National Association of Securities Dealers, Inc. Wood Logan, a Connecticut corporation registered as a broker-dealer under the 1934 Act, has entered into an agreement with Security Life and NASL Financial to serve as the exclusive promotional agent for the contracts.

4. The contracts are modified single premium variable life insurance contracts under which the contract value will and the death benefit may vary to reflect the investment experience of the Variable Life Account. For insureds over age 15, the minimum initial premium is $10,000. For insureds age 15 or less, the minimum initial premium is $5,000. A contract owner may pay premiums in addition to the initial premium only in very limited circumstances. There is no minimum guaranteed contract value. The death benefit under the contract is the greater of (i) the initial face amount or (ii) the contract value on the date of the insured's death multiplied by the applicable death benefit factor. The contract is designed to qualify as life insurance under section 7702 of the Internal Revenue Code.

5. There are generally no deductions made from premium payments. However, for contracts sold in jurisdictions where premium taxes exceed 3%, the excess will be deducted from premium payments. There is a surrender charge imposed on surrender of the contract during the first nine contract years. Otherwise, all charges are deducted from the assets of the Variable Life Account. Each of the charges under the contract is described in more detail below.

6. If the contract owner surrenders the contract during the first nine contract years, Security Life imposes a surrender charge which declines during that nine year period. The surrender charges a percentage of the initial net premium and consists of two components: A contingent deferred sales charge and a charge for unrecovered premium taxes. The contingent deferred sales charge is 7.2% in the first contract year, 6.9% in the second contract year, 6.6% in the third contract year and thereafter declines by 0.6% per year until it becomes 0% in the tenth contract year. The unrecovered premium tax charge is 1.8% in the first contract year and declines by 0.2% each year thereafter. The contingent deferred sales charge is designed to compensate Security Life for expenses incurred in connection with distribution of the contract. The charge for unrecovered premium taxes is designed to reimburse Security Life for the portion of the average premium tax paid by it with respect to a contract which has not been recovered through the premium tax charge described below.

7. Security Life deducts a daily charge equivalent to .45% for the first ten contract years and .30% thereafter on an annual basis of the average daily net assets of the Variable Life Account for administrative expenses, including underwriting costs, establishing and maintaining records, processing contract transactions such as loans, surrenders and transfers, calculating contract values and providing reports to contract owners. The administration charge is guaranteed never to be increased over the life of the contract, and was established in order to cover the average anticipated administrative expenses to be incurred over the period this class of contract will be in force. The charge contains no element of anticipated profit.

8. During the first ten contract years, Security Life deducts a daily charge equivalent to .20% on an annual basis of the average daily net assets of the Variable Life Account to defray premium taxes paid to state and local governments in connection with the contract. In addition, if the jurisdiction in which a contract is issued imposes a premium tax in excess of 3%, the excess will be deducted from premium payments. These charges are designed to off-set the average premium tax Security Life expects to pay with respect to a contract.

9. Security Life deducts a daily charge equivalent to .85% on an annual basis of the average daily net assets of the Variable Life Account for providing life insurance coverage for the insured. The life insurance coverage is the excess of the death benefit over the contract value. Security Life reserves the right to increase or decrease the cost of insurance charge. Security Life guarantees, however, not to increase the cost of insurance charge to an amount greater than the maximum cost of insurance charge based on the 1980 Commissioners Extended Term Mortality Table B (Unisex), age last birthday (hereinafter "1980 CET Table"). That table is used to permit the simplified underwriting procedure on contract issue.

10. Security Life deducts a daily charge equivalent to .40% on an annual basis of the average daily net assets of the Variable Life Account for assuming the risk of providing the minimum death benefit guarantee. The guarantee is that absent a contract loan, the contract will never lapse as a result of adverse investment experience and that Security Life will pay a death benefit at least equal to the initial face amount on the death of the insured.

11. Security Life deducts a daily charge equivalent to .60% on an annual basis of the daily net assets of the Variable Life Account for assuming the mortality and expense risks under the contract. The mortality risk assumed under the contract is the risk that the cost of providing the death benefit will exceed the maximum guaranteed cost of insurance charge. The expense risk assumed under the contract is the risk that the cost of providing administrative services will exceed the administration charge.

Exemptions Requested

Custodian or Trustee

12. Paragraph (b)(13)(iii) of Rule 6e-2 provides a limited exemption from the custodianship requirements under sections 26(a)(1), 26(a)(2), and 27(c)(2) of the 1940 Act if the life insurer complies, to the extent applicable, with all other provisions of Section 26 as if it were a trustee, depositor, or custodian for the separate account, and satisfies the conditions enumerated in sub-paragraphs (A), (B) and (C) of paragraph (b)(13)(iii) of Rule 6e-2. Apart from the relief requested in the Application, Security Life represents that it will comply with section 26 of the 1940 Act and subparagraphs (A), (B) and (C) of paragraph (b)(13)(iii) of Rule 6e-2, except that (1) the Variable Life Account will hold shares of the Fund under an open account arrangement without the use of stock certificates and (2) Security Life will not be acting as trustee or custodian pursuant to a trust indenture or other document. Accordingly, Security Life may not literally meet all of the requirements under sections 26(a) and 27(c)(2) of the 1940 Act including the requirements that it have "possession" of the securities and property of the Variable Life Account, that such shares be held in trust for the contract owners, and that the substantative provisions stated in section 26(a) be contained in a trust indenture. Therefore, Applicants request an exemption from sections 26(a) and 27(c)(2) of the 1940 Act and paragraph (b)(13)(iii) of Rule 6e-2 to the extent necessary to permit them to hold shares of the Fund in uncertificated form without acting as a trustee or custodian pursuant to a trust indenture of other document. In view of the conditions in subparagraphs (A) and (B) of paragraph (b)(13)(iii) of Rule 6e-2 pertaining to the financial condition of the life insurer and its supervision by state authorities, it does not appear to be necessary for the assets of the Variable Life Account to be held pursuant to a trust indenture or similar instrument. In addition, since the Variable Life Account will hold shares of the Fund under an open account arrangement and will not have physical possession of stock certificates, there is no need for a custodian with respect to Fund shares.

Surrender Charge

13. The 1940 Act and Rule 6e-2 thereunder generally contemplate front-end sales loads and premium tax charges. Consequently, Applicants request the relief more specifically described below: With respect to the sales charge component of the surrender charge Applicants request exemption from (1) the definition of "sales load" and with respect to both components of the surrender charge Applicants request relief from (2) the definition of "variable life insurance contract" and (3) the "redeemability" provisions of the 1940 Act and Rules 6e-2 and 22c-1 thereunder.

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(a) Definition of Sales Load

14. Security Life will deduct a contingent deferred sales charge on surrender or lapse of a contract during the first nine contract years. In order to avoid any question concerning full compliance with the 1940 Act and rules thereunder, Applicants request exemptive relief from section 2(a)(35) and paragraphs (b)(1) and (c)(4) of Rule 6e–2 to the extent necessary for the term "sales load," as used in the 1940 Act and Rule 6e–2, to encompass the contingent deferred sales charge component of the surrender charge under the contract. Applicants assert that imposition of the sales load in the form of an "asset-based" deferred charge is more favorable to a contract owner than a charge that is deducted from the initial premium. The contingent deferred sales charge component of the surrender charge will result in greater amounts of money being available for investment on a contract owner's behalf and generally higher cash values under the contract. Since greater amounts of money will be allocated to the Variable Life Account, the death benefit under the contract may be larger than it would be if the sales load were deducted prior to allocation of monies to the Variable Life Account.

(b) Definition of Variable Life Insurance Contract

15. Rule 6e–2(c)(1)(i), as relevant, defines a "variable life insurance contract" as one which provides for a death benefit and cash surrender value which vary to reflect the investment experience of the separate account. Since the cash surrender value of the contract will be reduced during the first nine contract years to reflect the contract's surrender charge, it is possible that the contract may not meet the literal requirements of the definition of a "variable life insurance contract" in paragraph (c)(1)(i) of Rule 6e–2. To the extent necessary, Applicants hereby request exemptive relief from paragraph (c)(1)(i) of Rule 6e–2 to resolve this technical definitional question. Applicants submit that a surrender charge is more beneficial to contract owners than a front-end charge since more money is invested on their behalf than would be the case if the sales charge and premium taxes under the contract were deducted prior to allocation of the initial premium to the Variable Life Account.

(c) Redeemable Security

16. Sections 2(a)(32), 22(c), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the 1940 Act and Rule 6e–2 thereunder could be read so as not to contemplate that a redeemable security would include a security that provides for imposition of a surrender charge upon redemption. Applicants submit that imposition of the surrender charge is neither inconsistent with or in violation of the provisions of the 1940 Act and Rules thereunder from which relief is sought. Further, Applicants believe that the assessment of the surrender charge upon certain redemptions is not and should not be construed as a restriction on redemption that would prevent the contract from qualification as a "redeemable security." However, in order to avoid any question as to the potential applicability of the foregoing, Applicants request exemptive relief from sections 2(a)(32), 22(c), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the 1940 Act, paragraphs (b)(12), (b)(13)(iii) and (b)(13)(iv) of Rule 6e–2 and Rule 22c–1 to the extent necessary to permit Applicants to impose the surrender charge.

17. Applicants submit that imposition of the surrender charge on a contingent deferred basis is more favorable to contract owners in several respects than a charge deducted from the initial premium, the conventional method of assessing such a charge. The amount of a contract owner's investment in the Variable Life Account is greater than it would be if the charge were deducted from the initial premium. The total amount charged to any contract owner when the charge is deferred is no greater than if this charge were taken from the initial premium. In fact, the amount charged may be less for contract owners who surrender or lapse after the first contract year due to the fact that the surrender charge grades off. Additionally, the charge will not be imposed at all on contract owners who keep their contracts in force more than nine years. Finally, deferring this charge means that it is never deducted from the death benefit. Therefore, contract owners receive the primary benefit of the contract insurance protection without incurring the charge.

18. Applicants contend that the surrender charge would in no way have the dilutive effect which Rule 22c–1 was designed to prohibit. When a surrender is requested, the amount paid will be based upon the net asset value of the accumulation units credited to a contract owner's account next computed after receipt by Security Life of the request for surrender. The surrender charge will be deducted from a contract owner's cash value at the time of redemption. Such a deduction in no way changes the fact that the amount redeemed and the contract owner's cash value are always derived from his or her proportionate share of the assets of the Variable Life Account. Furthermore, variable life policies, by their very nature, do not lend themselves to the kind of speculative short-term trading that Rule 22c–1 was designed to address. Rather, the surrender charge could be seen as discouraging, rather than encouraging, such activity.

Asset Charges

19. Applicants request exemptive relief from sections 26(a) and 27(c)(2) of the 1940 Act to the extent necessary to deduct premium tax and cost of insurance charges from the assets of the Variable Life Account. The cost of insurance charge is guaranteed never to exceed a daily cost of insurance charge based upon the 1980 CET Mortality Table. The premium tax charge has been set at a level designed to reimburse Security Life for the average tax which it pays to each state when the contract is issued. If, as permitted, these charges were deducted from the initial premium, Security Life would have to make the deductions very large in as much as the contract is designed for the payment of a single premium. For the cost of insurance charge, the amount of the deduction would need to be based on assumptions about the length of time the contract would be in force, the investment performance of the various subaccounts of the Variable Life Account, how the contract owner would allocate cash value among the subaccounts and the other factors necessary to determine the net amount at risk over the life of the contract. Applicants believe that deducting premium tax and cost of insurance charges on an ongoing basis from the assets of the Variable Life Account rather than making large initial deductions from the initial premium is more equitable and beneficial to contract owners because it substantially increases the amount initially invested in the Variable Life Account on the contract owner's behalf.

20. Applicants request exemption from sections 26(a) and 27(c)(2) of the 1940 Act and paragraph (b)(13)(iii) of Rule 6e–2 to the extent necessary to impose the minimum death benefit guarantee and mortality and expense risks charges. Security Life represents that it has reviewed the level of the minimum death benefit guarantee risk charge and asserts that it is reasonable in relation to the risks assumed by Security Life under the contract. Security Life represents that it has reviewed the level of the charge for mortality and expense risks and asserts that this charge is within the range of industry practice for comparable contracts. Security Life has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the contract will benefit the Variable Life Account and the contract owners. Security Life will keep and make available to the Commission upon request memoranda setting forth the basis for such representations and conclusion. Applicants further represent that the Variable Life Account will only invest in underlying fund(s) which have undertaken to have a board of directors, a majority of whom are not interested persons of the fund, formulate and approve any plan under Rule 12b–1 under the 1940 Act to finance distribution expenses.

Non-Variable Death Benefit

21. Paragraph (c)(1)(i) of Rule 6e–2 in pertinent part provides that a "variable life insurance contract" shall have a death benefit which varies to reflect the investment experience of a separate account. The contract provides that the death benefit will be the greater of the initial face amount or the contract value on the date of the insured's death multiplied by the applicable death benefit factor. Only when the death benefit is determined by the latter test will it vary to reflect the investment experience of the Variable Life Account. Consequently, Applicants request exemptive relief from paragraph (c)(1)(i) of Rule 6e–2 to the extent necessary to permit a death benefit that may, rather than will, vary with the investment experience of the Variable Life Account. Applicants are aware of no policy reason that should prohibit such a design.

Use of 1980 CET Table in Calculating Sales Load

22. Applicants propose to guarantee that the cost of insurance charges will not exceed charges based on the 1980 CET Table because they intend to use a simplified underwriting procedure and believe that the 1980 CET Table appropriately reflects the increased mortality risks associated with that procedure. The 1980 CET Table equals the mortality rates in the 1980 CSO Table plus the greater of (i) an increase of .75 deaths per thousand to such mortality rates or (ii) a 30% increase in such rates.

23. In view of the changes to paragraph (c)(4)(vi) incorporated in the latest version of Rule 6e–3(T), (Investment Company Act Release No. 15651 (March 30, 1987)), Applicants submit that it is appropriate to view the requested relief in two parts. Applicants request relief from paragraphs (b)(13)(i) and (c)(4)(ii) to use the 1980 CSO Table rather than the 1958 CSO Table and from (b)(13)(i) and (c)(4)(vi) to charge the premium over the 1980 CSO Table represented by the 1980 CET Table in connection with the simplified underwriting procedure.

24. Applicants believe that referencing cost of insurance charges to the 1980 CSO Table is appropriate for several reasons. First, that table reflects more accurately than the 1958 CSO Table current mortality experience. Second, many states will require use of the 1980 CSO Table starting in 1988. Third, the Commission has recognized the foregoing factors in proposing the use of the 1980 CSO Table in both the proposed amendments to Rule 6e–2 and in Rule 6e–3(T).

25. Applicants further submit that charging a premium referenced to the 1980 CSO rates in connection with a simplified underwriting procedure is consistent with the Commission,s adoption of the latest version of Rule 6e–3(T). Rule 6e–3(T)(c)(4)(vi) provides that in calculating sales load an issuer may deduct from payments "any additional charge assessed if the insured does not meet standard underwriting requirements, including, but not limited to, any additional cost of insurance charge for a contract purchased on a simplified underwriting or guaranteed issue basis." For the reasons set forth above, Applicants submit that the 1980 CET Table appropriately reflects the additional mortality risks associated with the simplified underwriting procedure. Applicants further submit that there is no reason to believe that the Commission in adopting Rule 6e–2 intended that the charge for such bona fide insurance services be treated as sales load pursuant to paragraph (c)(4) of Rule 6e–2.

Mixed Funding

26. Applicants request exemption from sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and paragraph (b)(15) of Rule 6e–2 to the extent necessary to permit the sale of Fund shares to both variable annuity and variable life insurance separate accounts, subject to the provisions of clauses (i) through (iv) of Rule 6e–2(b) (15) and the undertakings set forth below. There is no policy reason why the exemptions provided by paragraph (b)(15) of Rule 6e–2 should not apply to the Fund solely because NASL Variable Account and other Security Life variable annuity separate accounts as well as the Variable Life Account and other variable life insurance separate accounts invest or may invest in the future in Fund shares. The Commission appears to have so concluded since the proposed amendments to paragraph (b)(15) of Rule 6e–2 permit, *inter alia*, funds underlying unit investment trusts to offer their shares to both variable life insurance and variable annuity separate accounts. In the release accompanying the proposed amendments, the Commission indicated that the conditions of the proposed amendment to paragraph (b)(15) sufficiently ameliorate the potential conflicts of interest so that the "mixed funding" of variable annuity and variable life insurance separate accounts should be permitted (Investment Company Act Release No. 14421 (March 15, 1985) at Section B.5). Applicants will comply with those conditions and agree that the order herein requested may be subject to those conditions as set forth below:

(1) The Board of Directors of the Fund, constituted with a majority of disinterested directors, will monitor the Fund for the existence of any material irreconcilable conflict between the interests of variable annuity contract owners investing in the Fund and interests of variable life insurance contract owners investing in the Fund.

(2) Security Life agrees that it will be responsible for reporting any potential or existing conflicts to the directors of the Fund.

(3) If a material irreconcilable conflict arises, Security Life will, at its own cost, remedy such conflict up to and including establishing a new registered management investment company and segregating the assets underlying the variable annuity contracts and the variable life insurance contracts.

27. Applicants submit that for the reasons and upon the facts set forth above, the exemptions requested in the Application are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–25282 Filed 10–30–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending October 23, 1987

The following agreements were filed with the Department of Transportation

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under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 45210

Parties: Members of International Air Transport Association
Dated Filed: October 19, 1987
Subject: North Atlantic-Israel Fares
Proposed Effective Date: January 1, 1988

Docket No. 45211

Parties: Members of International Air Transport Association
Date Filed: October 19, 1987
Subject: Circle Pacific Fares
Proposed Effective Date: April 1, 1988

Docket No. 45217

Parties: Members of International Air Transport Association
Date Filed: December 1, 1987
Subject: Japan-No/So/Cent America Fares
Proposed Effective Date: December 1, 1987

Docket No. 45218

Parties: Members of International Air Transport Association
Date Filed: October 20, 1987
Subject: Venezuela and TC2 Cargo Fares
Proposed Effective Date: November 1, 1987/January 1, 1988

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-25283 Filed 10-30-87; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended October 23, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45228

Date Filed: October 21, 1987
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 18, 1987

Description: Application of Sociedad Ecuatoriana De Transportes Aereos Saeta, S.A., pursuant to section 402 of the Act and Subpart Q of the Regulations requests authority to engage in regular foreign air transportation with respect to persons, property and mail from the Republic of Ecuador to Miami, Florida.

Docket No. 45229

Date Filed: October 22, 1987
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 19, 1987

Description: Joint Application of Continental Airlines, Inc. and Eastern Air Lines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations to renew the authority to engage in air transportation as set forth in the certificate for Route 389 for a further period of five years. (U.S.-South America)

Docket No. 45229

Date Filed: October 22, 1987
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 19, 1987

Description: Application of Continental Airlines, Inc. and Air Micronesia, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests amendment of Continental's certificate of public convenience and necessity for Route 171 and Air Micronesia's certificate of public convenience and necessity for Route 170 to authorize Continental and Air Micronesia to provide foreign air transportation of persons, property and mail between the coterminal points Honolulu and Guam, on the one hand, and the terminal point Port Moresby, Papua New Guinea, on the Other hand.

Docket No. 45236

Date Filed: October 23, 1987
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 20, 1987

Description: Application of Air Nauru, pursuant to section 402 of the Act and Subpart Q of the Regulations applies for renewal and amendment of its foreign air carrier permit and authority to provide scheduled foreign air transportation of persons, property and mail.

Docket No. 45240

Date Filed: October 23, 1987
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 20, 1987

Description: Application of Traslados, S.A. pursuant to section 402 of the Act and Subpart Q of the Regulations requests a foreign air carrier permit authorizing it to provide scheduled foreign air transportation of persons, property and mail.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-25284 Filed 10-30-87; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

Commercial Space Transportation Advisory Committee; Meeting

AGENCY: Office of the Secretary of Transportation (OST); Department of Transportation (DOT).

ACTION: Commercial Space Transportation Advisory Committee; open meeting.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. 1), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee. The meeting will take place on Thursday, November 12, 1987, from 9:00 a.m. to 5:00 p.m., and Friday, November 13, 1987, from 9:00 a.m. to 3:00 p.m., in room 8236 of the Department of Transportation's headquarters building at 400 Seventh Street, SW. in Washington, DC. This will be the sixth meeting of the Committee. The meeting will address issues associated with liability and insurance, government procurement practices, technology transfer policy, and recent consultations with the European Space Agency. The members of the Committee are:

Lionel Alford, Corporate Senior Vice President for Aerospace, The Boeing Company;
Joel Alper, President, Space Communications Division, Communications Satellite Corporation;
James W. Barrett, President, International Technology Underwriters, Inc.;
Richard E. Brackeen, President, Commercial Titan Systems, Martin Marietta Corp;
Jonathan Conrad, Executive Vice President, Sconset Group, Inc.;
Leonard Cormier, President, Third Millennium, Inc. (MMI);
William F. Ezell, Vice President, Propulsion Systems, Rocketdyne Division, Rockwell International Corporation;
Jerry Grey, Publisher, *Aerospace America,* American Institute of Aeronautics and Astronautics;
David Grimes, Chairman, Transpace Carriers, Inc.,
George A. Koopman, President and Chief Executive Officer, American Rocket Company
John Krimsky, Jr., Deputy Secretary General, United States Olympic Committee;
Adolph Medica, President, Space Transportation Systems;
Thomas Pauken, Vice President and Corporate Counsel, GARVON, Inc.;
Robert Roney, Sr. Vice President, Hughes Aircraft Company;
Daniel Ruskin, Vice President, Government Requirements, Lockheed Missiles;
Jerome Simonoff, Vice President, Citicorp Industrial Credit, Inc.;

Donald (Deke) Slayton, President, Space Services, Inc. and former astronaut.

This meeting is open to the interested public, but may be limited to the space available. Additional information may be obtained from DOT's Office of Commercial Space Transportation, Room 10401, 400 Seventh Street, SW., Washington, D.C. 20590. Contact: Ann M. Linnertz, telephone 202-366-5770.

Issued in Washington, DC, on October 27, 1987.

Courtney A. Stadd,

Director, Office of Commercial Space Transportation.

[FR Doc. 87-25339 Filed 10-30-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Railroad Administration

Petitions for Exemption or Waiver of Compliance; New Jersey Transit Rail Operations

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for an exemption from or waiver of compliance with certain requirements of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST-84-21) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Communications received before December 17, 1987, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

New Jersey Transit Rail Operations

FRA Waiver Petition Docket Numbers LI-87-8 and SA-87-7

The New Jersey Transit Rail Operation (NJTRO) requests waivers of compliance with certain provisions of the Railroad Locomotive Safety Standards (49 CFR Part 229) and Railroad Safety Appliance Standards (49 CFR Part 231). These requests have been designated FRA Waiver Petition Docket Numbers LI-87-8 and SA-87-7, respectively. The waiver petitions pertain to three 4500 TM Trackmobile car movers that would be used at a new passenger railcar facility at Kearny, New Jersey, in lieu of standard locomotives, and would be operated in the shop and yard areas by mechanical department personnel. NJTRO seeks relief from Locomotive Safety Standards § 229.93(b) (involving fuel safety cut-off devices), § 229.121 (involving locomotive cab noise levels), and § 229.125(b) (involving headlights). The railroad also seeks relief from Safety Appliance Standards § 231.30 (regarding locomotives used in switching service).

Although the petitioner believes that the 4500 TM car movers are constructed to specifications that produce full conformity with the Code of Federal Regulations, FRA has determined that several elements incorporated in the car movers or lacking therein place the units beyond the pale. In respect to these points of contention, NJTRO has submitted this request for a permanent waiver.

Issued in Washington, DC, on October 27, 1987.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 87-25324 Filed 10-30-87; 8:45 am]

BILLING CODE 4910-06-M

Maritime Administration

[Docket No. S-816]

Lykes Bros. Steamship Co., Inc.; Application To Provide Privilege Service to the Marshall Islands in Conjunction With Its Existing Service on Trade Route 22

Lykes Bros. Steamship Co., Inc. (Lykes) by application dated October 20, 1987, has requested an amendment to Appendix A of Operating-Differential Subsidy Agreement, Contract MA/MSB-451, to permit calls at the Marshall Islands on a privilege basis in conjunction with service on its Line D, Trade Route 22 (U.S. Gulf/Far East) service.

Lykes request is premised on the fact that there is currently no all-water U.S.-flag service offered from U.S. Gulf ports. Lykes states that its breakbulk service gives Lykes the flexibility to position ships as needed for such a service. Also, vessels operating outbound to the Far East could carry export cargo for the Marshall Islands.

In support of its request, Lykes notes that there is no subsidy impact since it would use existing vessels and it is in keeping with the purposes and policy of the Merchant Marine Act, 1936, as amended, since the privilege calls will ensure that more cargo will move on U.S.-flag vessels.

According to Lykes, the first sailing with such a privilege would be the SS MARJORIE LYKES, loading U.S. Gulf December 4, 1987.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5:00 p.m. on November 17, 1987.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies)

By Order of the Maritime Administrator.

Date: October 28, 1987.

Joel C. Richard,

Assistant Secretary.

[FR Doc. 87-25286 Filed 10-30-87; 8:45 am]

BILLING CODE 4910-81-M

[Docket No. S-815]

Lykes Bros. Steamship Co., Inc.; Application To Provide Privilege Service to the U.S. Atlantic Coast in Conjunction With Its Existing Service on Trade Route 22

Lykes Bros. Steamship Co., Inc. (Lykes) by application dated October 20, 1987, has requested an amendment to Appendix A of Operating-Differential Subsidy Agreement, Contract MA/MSB-451, in order to permit calls at the U.S. Atlantic coast on a privilege basis in conjunction with service on its Line D, Trade Route 22 (U.S. Gulf/Far East) service.

Lykes request is premised on the fact that there is currently no all-water U.S.-flag service offered from U.S. Atlantic

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coast ports. Lykes states that its breakbulk service gives Lykes the flexibility to position ships as needed for such a service. The proposed service would permit Lykes' vessels operating homebound from the Far East to carry import cargo for the U.S. east coast to position themselves for outward cargo.

In support of its request, Lykes notes that there is no subsidy impact since it would use existing vessels and it is in keeping with the purposes and policy of the Merchant Marine Act, 1936, as amended, since the privilege calls will ensure that more cargo will move on U.S.-flag vessels. Lykes points out that there is no competitive implication involved since no other U.S. line serves the Far East from the U.S. east coast.

Lykes notes that it is also requesting the Marshall Islands as a privilege from the U.S. Gulf on Line D, Trade Route 22. If that privilege is granted, Lykes states it would request that the U.S. Atlantic coast be included.

Further, Lykes advises that the first sailing with the U.S. Atlantic privilege would be the SS Marjorie Lykes, with an ETA at Newport News, Virginia, of November 16, 1987.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5:00 p.m. on November 17, 1987.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies.)

By Order of the Maritime Administrator.

Date: October 28, 1987.

Joel C. Richard,

Assistant Secretary.

[FR Doc. 87-25297 Filed 10-30-87; 8:45 am]

BILLING CODE 4910-81-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 211
Monday, November 2, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., November 6, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

CONTACT PERSONS FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-25394 Filed 10-29-87; 1:21 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., November 6, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-25395 Filed 10-29-87; 1:21 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., November 13, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Market Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-25396 Filed 10-29-87; 1:21 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., November 13, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission

[FR Doc. 87-25397 Filed 10-29-87; 1:21 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., November 20, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Market Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-25398 Filed 10-29-87; 1:22 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., November 20, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-25399 Filed 10-29-87; 1:22 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., November 27, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Market Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-25400 Filed 10-29-87; 1:22 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., November 27, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-25401 Filed 10-29-87; 1:22 pm]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, November 5, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Bunk Bed Petition, CP 86-2

The staff will brief the Commission on Petition CP 86-2, which requests the Commission to issue a consumer product safety standard for bunk beds.

2. Petroleum Distillates Labeling: Final Rule

The staff will brief the Commission on a final rule to revise cautionary labeling rules for petroleum distillates.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

Sheldon D. Butts,

Deputy Secretary.

October 29, 1987.

[FR Doc. 87-25393 Filed 10-29-87; 1:20 pm]

BILLING CODE 6355-01-M

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FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Thursday, November 5, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposal to participate with the Federal Deposit Insurance Corporation in the publication of guidance for directors of financial institutions.
2. Proposed funding for portraits of former Board chairmen.

Discussion Agenda

3. Proposed amendment to Regulation Z (Truth in Lending) to implement the provisions of the Competitive Equality Banking Act of 1987 regarding adjustable rate mortgage caps. (Proposed earlier for public comment; Docket No. R-0615)
4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: October 28, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25369 Filed 10-29-87; 11:52 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 10:30 a.m., Thursday, November 5, 1987, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: October 28, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25370 Filed 10-29-87; 11:52 am]

BILLING CODE 6210-01-M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 39584, October 22, 1987.

PREVIOUSLY ANNOUNCED DATE: November 3, 1987.

CHANGES IN THE MEETING: Addition of the following agenda item: Officer Compensation.

CONTACT PERSON FOR MORE INFORMATION: Mr. David F. Harris, Secretary of the Board, (202) 268-4800.

David F. Harris,

Secretary.

[FR Doc. 87-25427 Filed 10-29-87; 3:07 pm]

BILLING CODE 7710-12-M

UNITED STATES INSTITUTE OF PEACE

TIME AND DATE: 9:00-5:00 p.m., Thursday, November 5, 1987.

PLACE: National Trust for Historic Preservation, 1785 Massachusetts Avenue NW., Washington, DC 20035.

STATUS: Open (portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. L. 98-525).

AGENDA (TENTATIVE): Meeting of the Board of Directors convened. Chairman's Report. President's Report. Committee Reports. Consideration of the minutes of the seventeenth meeting. Consideration of grant applications matters.

CONTACT: Mrs. Olympia Diniak. Telephone: (202) 789-5700.

Dated: October 28, 1987.

Robert F. Turner,

President, Unites States Institute of Peace.

[FR Doc. 87-25340 Filed 10-29-87; 9:37 am]

BILLING CODE 3155-01-M

Corrections

Federal Register
Vol. 52, No. 211
Monday, November 2, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3235-2]

Standards of Performance for New Stationary Sources; Test Methods in Appendix A and Performance Specifications in Appendix B; Technical Correction

Correction

In rule document 87-20760 beginning on page 34639 in the issue of Monday, September 14, 1987, make the following corrections:

1. On page 34643, in the first column, in the amendatory instructions for Appendix A, Method 2, in paragraph (b), in the third line, "$C\rho$ (side A)" should read "$\bar{C}\rho$ (side A)".
2. On page 34645, in the third column, in the amendatory instructions for Appendix A, Method 9, in paragraph (b), the symbol in the second and third lines should read "Θ".
3. On page 34650, in the second column, in the amendatory instructions for Appendix A, Method 17, in paragraph (b), in the second line, "p_w" should read "ρ_w".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BERC-354-N]

Medicare Program; Schedule of Limits for Skilled Nursing Facility Inpatient Routine Service Costs

Correction

In notice document 87-22853 beginning on page 37098 in the issue of Friday, October 2, 1987, make the following corrections:

1. On page 37101, in the table at the top of the page, the column headings "Labor" and "Non-Labor" should read "Urban" and "Rural".
2. On page 37105, in the third column, after the wage index entry for Mayaguez, PR, insert a reference to footnote 1.
3. On page 37106, in the first column, in the entry for Nassau-Suffolk, NY, the wage index should read "1.3399".
4. On the same page, in the third column, under Providence-Pawtucket-Woonsocket, RI, "Kent, T" should read "Kent, RI".
5. On page 37107, in the first column, in the entry for Rochester, MN, the wage index should read "1.0284".
6. On the same page, in the second column, in the entry for San Francisco, CA, the wage index should read "1.6517".
7. On page 37109, in the heading for the Appendix at the top of the page, "Cost Limits Effective October 1, 1987" should have appeared on a separate line.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 2

Confidentiality of Alcohol and Drug Abuse Patient Records

Correction

In rule document 87-11765 beginning on page 21796 in the issue of Tuesday, June 9, 1987, make the following corrections:

§ 2.12 [Corrected]

1. On page 21807, in the first column, in § 2.12(b)(3)(ii), in the second line, "until" should read "unit".

§ 2.17 [Corrected]

2. On page 21809, in the first column, in § 2.17(a), in the third line, "§ 2.6" should read "§ 2.67", and in § 2.17(b), in the fifth line, "place" should read "placed".

§ 2.61 [Corrected]

3. On page 21812, in the third column, in § 2.61(b)(2), in the 14th line, "restrictions" was misspelled.

§ 2.65 [Corrected]

4. On page 21814, in the first column, in § 2.65(e)(3), in the third line, "on" should read "of".

For a Public Health Service correction to this document, see the Rules section of this issue.

BILLING CODE 1505-01-D

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federal register

Monday
November 2, 1987

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determinations: Two Populations of the Roseate Tern, and Bonamia Grandiflora (Florida Bonamia); Final Rules

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered and Threatened Status for Two Populations of the Roseate Tern

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the population of the roseate tern (*Sterna dougallii*) that nests in northeastern North America to be endangered and the Caribbean population, including birds that neat in the U.S. Virgin Islands, Puerto Rico, and Florida, to be threatened. This action is being taken because the number of suitable nesting islands for colonies of this species has been greatly reduced by human activity, competition from expanding numbers of large gulls, and predation. Critical habitat is not being designated at this time. The rule implements the protection of the Endangered Species Act of 1973 (Act), as amended, for the roseate tern.

EFFECTIVE DATE: December 2, 1987.

ADDRESSES: A complete administrative file for this rule is available for inspection by appointment during normal business hours at the U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

FOR FURTHER INFORMATION CONTACT: Paul R. Nickerson, Endangered Species Coordinator, at the above address (617/965–5100, extension 316 or FTS 829–9316).

SUPPLEMENTARY INFORMATION:

Background

The roseate tern is a dove-sized coastal bird, one of several similar-appearing species of terns found in the United States and elsewhere throughout most of the world. All of these terns are graceful, whitish seabirds with black caps and long forked tails. They are strong fliers that feed mainly on small fish, which they capture by plunging headfirst into the water. They nest on the ground, usually on small islands, in dense colonies of hundreds and sometimes thousands of birds. Often, two or more species share the same nesting areas. Although all of the associated species face similar problems, the roseate tern is particularly vulnerable because its nesting populations in North America and the Caribbean are very small and localized. Unlike certain other terns, they occur only along marine coasts. Gochfeld (1983) determined a documented world population of this wide-ranging species to be between 20,000 and 30,000 pairs, but estimated that the actual population might be closer to 44,000 pairs, with the largest numbers in the Indian Ocean.

In North America this species can be distinguished from its close relatives by its pale color, mostly black bill, and a slight rosy tint on its breast in summer. In winter, the black cap is largely replaced with a white forehead. The sexes look alike, but immature birds retain a distinctive plumage for their first year. This tern is about 38 centimeters (15 inches) long, including the long tail, and has a wing spread about twice its length. Weight averages 110 grams (3.9 ounces). They usually do not nest until they are 3 or 4 years old, although a few nest at 2 years of age.

Five subspecies are recognized worldwide, but only one, the nominate subspecies (*Sterna d. dougallii*) occurs in the Northern Hemisphere, where widely separated breeding populations occur on the northeastern coast of North America, several islands in the Caribbean Sea and in northwestern Europe (Gochfeld 1983). This subspecies also breeds at locations along the south and east coasts of Africa (Cramp 1985). Other former breeding areas, such as Bermuda, have been abandoned for many decades and recent surveys indicate that numbers nesting in the northeastern United States, adjacent Canada, the British Isles and northwest France have declined sharply (Buckley and Buckley 1984, Kirkham and Nettleship 1985, Cramp 1985).

The size and trend of the island nesting population of roseate terns in the Caribbean Sea, and occasionally the Florida Keys and Dry Tortugas, is less clear due to limited observations in many areas and some confusion between this species and the common tern (*Sterna hirundo*) in the literature. This population nests primarily in Puerto Rico and the U.S. Virgin Islands, where Van Halewyn and Norton (1984) estimate about 2,500 pairs. Sprunt (1984) estimates that 1,000 to 2,000 pairs nest in small colonies on cays and small islands in the Bahamas. In Florida, a few dozen pairs nest every year among vast numbers of other terns at the Dry Tortugas and about 40 pairs have nested on flat, gravelled rooftops in Key West in recent years (Clapp and Buckley 1984).

Roseate terns that nest in the northeastern United States appear to winter primarily in the waters off Trinidad and northern South America from the Pacific Coast of Columbia to eastern Brazil (Hamilton 1961, Nisbet 1984). Wintering grounds of the Caribbean population are still unknown, but may be the same general areas used by terns from the northeastern United States.

Although its nesting range in North America is often listed as extending from Nova Scotia to Virginia or North Carolina, and the southern tip of Florida (America Ornithologists' Union 1983), the roseate tern was always most common in the central portion of this range (Massachusetts to Long Island) and in recent years has all but disappeared from the edges of this range (Buckley and Buckley 1981, Buckley and Buckley 1984). In 1986, aside from Florida, nesting was known to have occurred only in the northeastern States of Connecticut, Maine, Massachusetts and New York (see table). In 1985, about 100–120 additional pairs nested in the province of Nova Scotia and 2 or 3 pairs on the Magdalen Islands in Quebec (Kirkham and Nettleship 1985).

The nesting population in the northeastern United States was greatly reduced by hunting for the millinery trade in the late 19th century. The population soon recovered when protection was provided and reached a high of about 8,500 pairs in the 1930's (Nisbet 1980). Subsequently, it declined to about 4,800 pairs in 1952 and may have reached a low of less than 2,500 pairs in 1977 (Erwin and Korschgen 1979). The estimated population has fluctuated in the range of 2,500 to 3,300 pairs since then (Nisbet 1980, Buckley and Buckley 1981, Kress *et al.* 1983).

Improved, more complete surveys and censuses that have been conducted in recent years have not indicated sizable changes in the total population, but a decrease in the number of nesting sites used. Improved census techniques often indicate population increases of colonial birds because the previous methods tended to underestimate. In all colonies in northeastern U.S. and Canada, this species nests among common terns (*Sterna hirundo*), which usually greatly outnumber it. An accurate census requires careful count of nests. The nests and eggs of the two species are similar, but roseates tend to conceal their nests under vegetation, boulders, driftwood, etc., making a complete nest count difficult. Also, young birds nesting for the first time tend to nest substantially later than old birds and could be missed on a single census (Spendelow 1982).

ESTIMATED PAIRS AND COLONY SITES, NE U.S., 1977, 1984–6.

State	1977	1984	1985	1986	1987
Maine:					
Pairs	80	67	25	41	61
Sites	3	8	3	3	5
Massachusetts:					
Pairs	1,327	1,020	1,618	1,746	1,697
Sites	6	8	7	4	6
Rhode Island:					
Pairs	1	2	0	0	0
Sites	1	1	0	0	0
Connecticut:					
Pairs	64	210	242	176	185
Sites	3	4	5	2	1
New York:					
Pairs	861	917	967	873	948
Sites	9	5	4	5	5
Total:					
Pairs	2,332	3,016	2,853	2,850	2,871
Sites	22	24	19	14	17

At least 29 major sites formerly used by roseate terns have been abandoned since 1920. Some of these colonies moved because of repeated predation, primarily by nocturnal-feeding mammals, but nearly half of the sites were abandoned because of competition for nesting space from expanding populations of gulls (Nisbet 1980).

On December 30, 1982, the Service published a notice of review in the **Federal Register** (47 FR 58454) indentifying vertebrate taxa, native to the U.S., being considered for addition to the List of Endangered and Threatened Wildlife pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The notice included the roseate tern as a category 2 species (i.e., a species still needing some data before a determination on whether to propose or not could be made). Since then, the Service reviewed further data on the nesting status and biology of the tern on the northeastern coast of the U.S. and on some islands in the Caribbean Sea.

On September 18, 1985, the Service issued a revised notice of vertebrate animal taxa under consideration (50 FR 37958). That notice considered the roseate tern a category 1 species, indicating substantial information on hand to support the biological appropriateness of proposing to list as endangered or threatened.

On November 4, 1986, the Service published a proposed rule in the **Federal Register** (51 FR 40047) advising that sufficient information was on file to support a determination that the roseate tern is an endangered and threatened species pursuant to the Act. The proposal solicited comments on the proposed listing from any interested parties, especially concerning threats to this species, its distribution and range, whether or not critical habitat should be designated, and activities that might impact the species.

Summary of Comments and Recommendations

In the November 4, 1986, proposed rule, all interested parties were requested to submit factual information that might contribute to the development of a final rule. Appropriate State resource agencies in the tern's range, county governments, Federal agencies, foreign countries, scientific organizations, and other interested parties were contacted and requested to comment. Notices inviting public comment were published in several newspapers. Comments were received by mail from 20 parties during the public comment period. These included three Federal agencies and six State or territorial departments. Most of the commenters (16) supported the proposed listing, and none opposed listing. A few suggested technical corrections or provided additional information for the proposal. Others recommended recovery measures. Those comments that did not specifically address the issued of listing are not responded to here.

Seven commenters recommended the designation of certain areas as critical habitat. Most of them specified only nesting sites, but two thought that major feeding areas also should be designated. The Service finds that designation of critical habitat at this time would not be prudent for reasons that are discussed in more detail below. However, it should be noted that designation of critical habitat is intended to make agencies of the Federal government aware of areas in which they may be subject to their obligation to not further endanger listed species. It does not actually increase protection from adverse actions of private individuals.

Four commenters noted that mortality on the wintering grounds, possibly due to human predation, may be major cause of low population levels but that no plan is proposed for international cooperation to alleviate or reduce the threat. Although the Service has limited opportunity for a direct management role in foreign countries, there are some opportunities for international educational and research activities under the Endangered Species Act. The Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere is another such vehicle for encouraging conservation in Latin America. Steps will be taken to make the maximum use of these opportunities.

Two commenters questioned the separate designations of threatened and endangered for the two populations. One thought that both populations should be listed as threatened; the other recommended endangered status for all North American roseate terns. The second commenter thought that the small number of birds nesting in Florida in particular should be listed as endangered. The Service agrees that this tern, which usually nests in dense colonies, but at only a few locations, is at risk wherever it breeds and perhaps even more so on wintering grounds that may be shared by both populations. On the basis of all available information, the Service concluded that the few nesting sites and relatively small nesting population in the northeast warranted designation of that population as endangered. Although less is known about the breeding population in the West Indies, indications of more birds nesting at more sites led to the conclusion that only threatened status was warranted at this time.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, including the comments received, the Service has determined that the population of the roseate tern that nests in northeastern North America should be classified as endangered and the Caribbean population as threatened. Procedures found at section 4(a)(1) of the Act and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to roseate terns in the Western Hemisphere are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Almost all important colonies of roseate terns are and have been on small islands, often located at ends or breaks in barrier islands. Nesting habitat for the northeastern North America population has been greatly reduced by housing developments and other human activity on and near the coastal barrier islands. Some roseate terns have attempted to nest with common terns in the salt marshes but with almost no success (Buckley and Buckley 1981).

In southern New England, many traditional nesting sites were abandoned during the 1940's and 1950's when herring *(Larus argentatus)* and great black-backed *(Larus marinus)* gulls rapidly expanded their nesting ranges southward into that region. These large and aggressive gulls not

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only preyed on young terns, but gradually took over most of the outer islands that were preferred by nesting terns. The gulls select nesting sites and initiate nesting in early spring, before the terns return from wintering areas. After a few years, when the nesting gulls reach a certain density, the terns are forced to seek other sites. In several instances islands close to shore, or even peninsulas, have been used, but various predators or human disturbance caused the terns to abandon those sites within a few years.

Many of the islands used by nesting terns in recent years were long-time sites of lighthouses with occupied residences. The presence of humans usually discouraged nesting by gulls, but not terns. However, as the lights have become automated and human occupation has been terminated, the gulls have gradually taken over the islands. At one such site in Massachusetts nesting gulls had displaced all terns by 1966. A gull removal program was implemented and the island now supports nearly 60% of all nesting roseate terns in North America as well as large numbers of common terns. Other islands with formerly manned lighthouses or forts now support large tern colonies, but only because nesting gulls have been kept out. In the Caribbean area, almost all of the recorded breeding sites of roseate terns have been on very small islets, usually located off small or medium-sized islands. Although these islets are too small for development and lack competing gulls they are regularly visited by "eggers" who collect large quantities of eggs for food (Van Halewyn and Norton 1984).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The roseate tern, as most other terns and many other colonial nesting waterbirds, suffered a drastic population decline in the United States in the late 19th century due to hunting for the millinery trade. However, under protective laws such as the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703–711) and changing fashions in the early 20th century, the species staged a rapid comeback. Most existing colonies are on publicly-owned lands and receive some protection.

Some of the larger colonies are the subject of intensive, long-term research that involves nest-trapping, banding, measurements of eggs and young and other activities that can be disruptive. However, high productivity in those colonies suggests that regular presence by humans conducting studies may actually be beneficial by deterring predation from mammals and birds as well as possible human vandalism. The research activity also habituates the birds to human presence, resulting in less harm from casual human visitation (Nisbet 1981b).

A major cause of the declining population since the 1950's may be the trapping and netting of wintering terns for human consumption along the northeastern coast of South America (Nisbet 1984). In the U.S. Virgin Islands, and elsewhere in the Caribbean, the harvest of eggs for food is a common, although generally illegal, practice.

C. *Disease or predation.* Disease has not been identified as a significant problem in this species in North America, but terns of other species have succumbed to avian cholera, botulism and paralytic shellfish poisoning. An arbovirus was collected from dead roseate terns at a nesting colony in the Seychelles, and probably was transmitted by ticks (Converse *et al.* 1976).

Adult terns are relatively long-lived birds and not highly vulnerable to predators other than humans. On the other hand, eggs and young are vulnerable and predation may completely wipe out production in a given colony (Nisbet 1981a).

In daylight hours roseate terns (and the more aggressive common terns among which they usually nest), are fairly successful in deterring potential nest predators by harrassment. Nocturnal predators are more of a problem because they may panic the terns and cause the entire colony to abandon eggs and young and not return until dawn. Although the predator may destroy only a few nests, other eggs and young are exposed to chilling, resulting in delayed hatching of eggs and, under extreme weather conditions, major losses of eggs and young. In some locations, delay at the hatching stage may increase losses of young to ants which enter the hatching egg and kill the chick (Nisbet 1981a).

The main reason most terns use remote, small islands for nesting is the absence of predatory mammals such as foxes, skunks and the exotic brown rats. If mammalian predators do gain access, the terns usually abandon the site, but sometimes only after consecutive years of reproductive failure. Predatory birds, particularly nocturnal feeders such as great-horned owls *(Bubo virginianus)* and black-crowned night-herons *(Nycticorax nycticorax)*, pose a greater problem because they can fly to the small islands. Sometimes individuals of these species specialize in preying on terns and return to a colony night after night. The owls prey on adult terns or nearly-grown young; the night-herons on eggs and recently hatched young. When terns nested on remote outer islands, they had less contact with these predators. However, as gulls took over the preferred nesting islands, the terns were restricted to islands closer to the mainland.

In the Caribbean area, populations may be declining as a result of disturbance and predation by man and introduced mammals, including the brown rat and mongoose (Van Halewyn and Norton 1984; Sprunt 1984).

D. *The inadequacy of existing regulatory mechanisms.* The Migratory Bird Treaty Act protects the roseate tern and its parts, nest, and eggs from taking and trade while it is under United States jurisdiction, but not when in most of its Caribbean or South American wintering grounds. The roseate tern is a State-listed species in Florida, New Hampshire, and Massachusetts (threatened) and in Maine, New York and Connecticut (endangered), but these listings provide little if any additional protection. Although its current major nesting islands in the Northeast are largely protected, pressure from human encroachment and nesting gulls limits any opportunity for expansion or shift to new sites. Most of the current nesting sites are on lands administered by the Service (National Wildlife Refuges), National Park Service, or State or local governments, but the protection of most colonies is by volunteer private interests that are largely self-funded and without long-term institutional commitment. The Endangered Species Act offers additional possibilities for increased protection and management of nesting habitat for the bird.

E. *Other natural or manmade factors affecting its continued existence.* As previously noted, the displacement of roseate terns from their traditional colonies by gulls has been the major factor in reducing the number of nesting colonies in northeastern North America, if not in reducing the population as well. The increase of gulls is primarily attributed to an increased food base provided by human waste, particularly garbage at landfills. Survival of young gulls in the critical first winter is greatly enhanced by the abundant food source. In order to make more nesting habitat available for the terns, it may be necessary to reduce or eliminate gull populations at some locations.

The roseate tern is a specialist feeder on small schooling marine fish, which the tern captures by plunging into the water. In southern New England (and probably in New York), American sand lance (*Ammodytes americanus*) have comprised 80–100% of the fish eaten by adults or fed to young (Nisbet 1981a). This fish has become extremely plentiful in recent years, which may help account for the relatively high reproductive success among these terns. In other places the terns feed on other small schooling fish. They may fly as far as 10 kilometers (6 miles) from nesting areas to feeding areas (Nisbet 1981a) but utilize nearby tide-rips or inlets if fish are present. If conditions that now sustain the high number of sand lances in the major tern-nesting areas change and fish populations dwindle, the roseate terns may raise fewer young and suffer accelerated population decline.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the population of roseate terns that nests in northeastern North America as endangered. This small, reduced population that nests within a constricted range, at only a few sites, and with nearly 60% of the population confined to one small island off southeastern Massachusetts, warrants endangered status. If gulls are allowed to take over the few remaining major nesting islands, this tern will be in danger of becoming extirpated from this region of North America. The preferred action for the population of roseate terns that nests in the Caribbean, including the U.S. Virgin Islands, Puerto Rico (Culebra), and Florida (Dry Tortugas and Florida Keys), is to list as threatened. This is based on available information that indicates the population is larger and nests in many small colonies at widely scattered sites.

Critical Habitat

Section 4(a)(3) of the Act requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Although the Service received several comments advocating the designation of critical habitat, it has concluded that there is no demonstrable overall benefit to the roseate tern in designating critical habitat and that such an action is not prudent at this time. This determination has been made for the following reasons:

1. Most nesting colonies of the roseate tern in the U.S. are on lands that are owned and protected by Federal, State or local government agencies who have already been notified of the terns' locations.

2. Localities of some colonies and their feeding areas change over time, so rigidly defining critical habitat boundaries around presently utilized nesting and feeding areas would serve no long-term purpose.

3. Post-breeding dispersal of adult and young birds takes them to coastal locations that may be widely separated from the nesting areas and are difficult to delineate. They subsequently leave the coast and become more pelagic.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State (incl. Puerto Rico and U.S. Virgin Islands), and local governments and private agencies, groups and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

The Migratory Bird Treaty Act makes it illegal to take, possess, sell, deliver, carry, transport or ship roseate terns or their parts, nests, eggs or young, but provides no protection for their habitat. Section 7(a) of the Endangered Species Act requires Federal agencies to evaluate their actions with respect to any species that is listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. There are no known Federal projects or activities that would require consultation and possible modification because of any likely effect upon this species. However, as previously noted, this tern formerly was more widely distributed but has suffered from habitat losses and disturbances throughout much of that range.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general trade prohibitions and exceptions that apply to all endangered or threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered or threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes (including banding and marking), to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available. Because the roseate tern already is protected from trade under the Migratory Bird Treaty Act, hardship permits are not expected.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

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The primary author of this final rule is Ralph Andrews, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617/965–5100 or FTS 829–9316/829–9379).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Final Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under BIRDS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species							
Common name	Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Birds							
Tern, roseate	*Sterna dougallii dougallii*	Tropical and temperate coasts of Atlantic Basin and East Africa.	U.S.A. (Atlantic Coast south to NC), Canada (NF,NS,ON), Bermuda.	E	298	NA	NA
Do	do	do	Western Hemisphere and adjacent oceans, incl. U.S.A. (FL,PR,VI), where not listed as endangered.	T	298	NA	NA

Dated: October 22, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–25332 Filed 10–30–87; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Bonamia grandiflora (Florida Bonamia)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Bonamia grandiflora*, a plant in the family Convolvulaceae (morning glories), to be a threatened species pursuant to the Endangered Species Act of 1973 (Act), as amended. Critical habitat is not determined. This plant is endemic to sand pine scrub vegetation in the Florida peninsula, with a historic distribution from Volusia and Marion Counties south to Sarasota and Highlands Counties. The known populations of this plant are on private land and in the Ocala National Forest. *Bonamia grandiflora* is threatened by residential and commercial development of its habitat and by successional changes. This rule will implement the Federal protection and recovery provisions afforded by the Act for *Bonamia grandiflora*.

DATE: The effective date of this rule is December 2, 1987.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

FOR FURTHER INFORMATION CONTACT: David J. Wesley, Endangered Species Field Supervisor, at the above address (904/791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

Bonamia grandiflora was first collected in Florida by Ferdinand Rugel between 1842 and 1849. Specimens collected by A. P. Garber from Manatee and Sarasota Counties, Florida in 1878 were assigned by Asa Gray (1880) to a new species, *Breweria grandiflora*. The genus *Breweria* has since been merged into *Bonamia*. Hans Hallier transferred the plant to the genus *Bonamia* in 1897 (Myint and Ward 1968; D. Austin, Florida Atlantic Univ., pers. comm., 1986), but Small (1933) attributed the transfer to A. Heller, apparently in error. The plant is endemic to peninsular Florida. It is a perennial vine with sturdy prostrate stems about a meter (3 feet) long. The leathery oval or ovate leaves, up to about 4 centimeters (1.6 inches) long, are either upright or spreading. The flowers are solitary in the leaf axils. The funnel-shaped corolla is 7–10 centimeters (2.7–3.9 inches) long and 7–8 centimeters (2.7–3.1 inches) across, and pale but vivid blue with a paler center, similar to the cultivated "Heavenly Blue" morning glory. The fruit is a capsule. This plant is the only morning glory vine of the scrub with large blue flowers (Wunderlin *et al.* 1980) and can be readily identified even when not in flower. *Bonamia grandiflora* is restricted to sand pine scrub vegetation consisting of evergreen scrub oaks and sand pine (*Pinus clausa*), with openings between the trees and shrubs occupied by lichens and herbs. The sandy openings are created by infrequent, severe fires or by mechanical disturbance. The openings eventually disappear as oaks regrow from their roots and as sand pines grow from seed. In Highlands and Polk Counties, *Bonamia grandiflora* occupies sandy openings along with other scrub endemic plants, including three that are federally listed: Highlands scrub hypericum (*Hypericum cumulicola*), papery whitlow-wort (*Paronychia chartacea*), and scrub plum (*Prunus geniculata*). In Orange County, *Bonamia grandiflora* occurs with scrub lupine (*Lupinus aridorum*), which is federally listed as endangered. The historic range of *Bonamia grandiflora* was from central Highlands County northward through Polk, northwestern Osceola, western Orange, Lake, eastern Marion and northwestern Volusia Counties on ridges and uplands of the central peninsula. An isolated site was found by Johnson (1961) in Hardee County, and collections were made in Manatee and Sarasota Counties in 1878 and 1916 (Wunderlin *et al.* 1980). The plant has been extirpated from much of its former range by urban and agricultural development, especially citrus groves. In the Ocala National Forest, *Bonamia grandiflora* is restricted to bare, sunny sand at the margins of sand pine stands on road rights of way, fire lanes, and other places that are kept clear of trees and shrubs.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In this report, *Bonamia grandiflora* was listed as threatened. On July 1, 1975, the Service published a notice in the Federal Register (40 FR 27823) that accepted the report as a petition in the context of former section 4(c)(2) of the Act (petition acceptance is now covered by section 4(b)(3)(A) of the Act, as amended). On December 15, 1980, the Service published a notice of review for plants (45 FR 82480), which included *Bonamia grandiflora* as a category-2 candidate (a species for which data in the Service's possession indicate listing is possibly appropriate, but for which additional biological information is needed to support a proposed rule). A supplement to the 1980 notice of review, published on November 28, 1983 (48 FR 53640), treated *Bonamia grandiflora* as a category-1 candidate (a species for which data in the Service's possession indicate listing is warranted), based on a status report by Wunderlin *et al.* (1980). An updated notice of review published on September 27, 1985 (50 FR 39525), maintained the plant as a category-1 candidate. Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Bonamia grandiflora* because the Service had accepted the 1975 Smithsonian report as a petition. On October 13, 1983, October 12, 1984, October 11, 1985, and October 10, 1986, the Service found that the petitioned listing of this species was warranted, and that, although pending proposals had precluded its proposal, expeditious progress was being made to list this species. The proposed rule to list *Bonamia grandiflora* as a threatened species was published in the Federal Register (51 FR 40044) on November 4, 1986.

Summary of Comments and Recommendations

In the November 4, 1986, proposed rule (51 FR 40044) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices that invited general public comment were published in the *Ocala Star Banner* (November 26, 1986), the *Orlando Sentinel* (November 23, 1986), the *Polk County Democrat* (November 24, 1986), the *Sebring News-Sun* (November 23, 1986), and the *Wauchula Herald-Advocate* (November 27, 1986). Seven written comments were received on the proposal and are discussed below. The Office of the Governor noted that "the proposed action is in accord with State plans, programs, procedures, and objectives." The Florida Department of Agriculture and Consumer Services and the Florida Game and Fresh Water Fish Commission supported the listing proposal as published. The Florida Department of Environmental Regulation determined the listing to be consistent with the Florida Coastal Management Program and, in a separate comment, had no objection to the listing. The Florida Department of State, Division of Historical Resources, determined that the proposal had no effect on historic sites. A Florida botanist noted that the Service "had already consulted the best experts."

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Bonamia grandiflora* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Bonamia grandiflora* (A. Gray) H. Hallier. (Florida bonamia) are as follows:

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A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Bonamia grandiflora* is currently known from a number of sites in Ocala National Forest in Marion County and from 18 sites south of the Forest: Hardee County, one site; Highlands County, 2 sites; Polk County, 10 sites; and Orange County, 5 sites. Habitat destruction is the principal threat. In Highlands County, 64.2 percent of the xeric vegetation (scrub, scrubby flatwoods, and southern ridge sandhills) present before settlement was destroyed by 1961, and an additional 10.3 percent of the xeric vegetation was moderately disturbed, primarily by construction of roads for housing subdivisions (Peroni and Abrahamson 1985). Remaining tracts of scrub are rapidly being developed for citrus groves and housing (Fred Lohrer, Archbold Biological Station, pers. comm. 1985). Habitat destruction is similar in Polk County, the leading county in the state for citrus production (Fernald 1981). A careful survey of scrub vegetation by the Florida Natural Areas Inventory found *Bonamia grandiflora* at only 12 sites in these two counties. Farther north, most of the former habitat of the plant in northwest Osceola, western Orange, and central Lake Counties has been converted to agricultural or urban uses. The five known sites for the plant in Orange County are all on small remnants of scrub vegetation or vacant lots surrounded by houses or orange groves west and southwest of Orlando, one of the fastest growing urban areas in the United States. Current management of the Ocala National Forest seems compatible with the protection of *Bonamia*. The 1985 Land and Resource Management Plan for the National Forests in Florida appears to be beneficial for *Bonamia grandiflora*. Practices that limit off-road vehicles and that maintain the early successional habitat of this plant (see Factor E) will contribute to this species' continued existence in the Forest.

Bonamia grandiflora is protected on The Nature Conservancy's Tiger Creek Preserve in Polk County, but land acquisition has not yet been completed. Land acquisition by The Nature Conservancy or the Florida State government in the Saddle Blanket Lakes area of Polk County may preserve more habitat for this species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Bonamia grandiflora* is conspicuous and distinctive when in flower, and tends to grow in accessible areas, and so it is vulnerable to excessive scientific collecting and to vandalism. Because of its flowers, the plant may be of interest as an ornamental.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms. Bonamia grandiflora* is listed as endangered under the Preservation of Native Flora of Florida Act (Section 581.185–187, Florida Statutes), which regulates the harvest, destruction, transport, and sale of plants but does not provide habitat protection. The populations in Ocala National Forest are included on the "Regional Forester's Proposed Sensitive List;" species on this list are provided protection and management as outlined in 36 CFR Part 261. Listing under the Act will augment the Forest Service protective measures by providing for a recovery plan and other conservation measures throughout its range.

E. *Other natural or manmade factors affecting its continued existence.* In Hardee, Highlands, Polk, and Orange Counties, *Bonamia grandiflora* is restricted to remnant tracts of scrub. These tracts are surrounded by residential and agricultural areas and are vulnerable to trash dumping, invasion by exotic plants and weeds, and damage from off-road vehicles. *Bonamia* depends on occasional fires (see "Background" section) or equivalent mechanical land disturbance to renew the sunny openings that it inhabits. The Tiger Creek Preserve will probably develop a prescribed burning program. *Bonamia grandiflora* does not occur within the dense managed sand pine forests of Ocala National Forest. The plant inhabits the edges of such forests, road rights-of-way, and fire lanes. The sites are created and maintained by human activity, therefore the plant is vulnerable to changes in the management of such areas which would allow succession to progress. The plant's spotty distribution and small geographic range make it especially susceptible to any adverse management practices.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Bonamia grandiflora* in determining to make this rule final. Based on this evaluation, the preferred action is to list *Bonamia grandiflora* as threatened. The plant has already been extirpated from part of its historic range (Volusia County, Lake County outside the Ocala National Forest, most of western Orange County, and Manatee and Sarasota Counties). In the Ocala National Forest, in Lake and Marion Counties, existing forest management practices and the new Land and Resource Management Plan satisfactorily accommodate the habitat requirements of *Bonamia grandiflora*. However, in the National Forest the plant is effectively confined to manmade open areas, where it is vulnerable to a variety of human activities. Critical habitat is not being determined for *Bonamia grandiflora* for the reasons described in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Bonamia grandiflora* at this time. Publication of critical habitat descriptions and maps would increase the degree of threat from taking or other human activity. *Bonamia grandiflora* has a large blue "morning glory" type flower and may be of potential horticultural interest. Forest Service personnel at the forest Supervisor's Office and the Regional Office were contacted during the preparation of the proposal and informed of the precise locations of this plant. Designation of critical habitat on Forest Service land might increase the vulnerability of *Bonamia grandiflora* to vandalism, collecting, and unintentional trampling by visitors. While collecting is regulated on National Forests, such regulations are difficult to enforce. Therefore, the Service finds that designation of critical habitat for *Bonamia grandiflora* is not prudent at the present time, since such designation can be expected to increase the degree of threat from taking or other human activity.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the

prohibitions against collecting are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. All presently known sites for *Bonamia grandiflora* are on private land, except for those in the Ocala National Forest. The Forest Service's present management and its new Land and Resource Management Plan appear to benefit this species; consultation is not foreseen unless a decline in *Bonamia grandiflora* is observed in the National Forest or unless the Plan is significantly revised.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export a threatened plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened plant species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this final rule is David Martin, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580 or FTS 946–2580).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Convolvulaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Convolvulaceae—Morning glory family:						
Bonamia grandiflora	Florida bonamia	U.S.A. (FL)	T	297	NA	NA

Dated: October 22, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–25333 Filed 10–30–87; 8:45 am]

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H.J. Res. 234/Pub. L. 100-142
To designate the month of November in 1987 as "National Hospice Month." (Oct. 28, 1987; 101 Stat. 835; 1 page) Price: $1.00

S.J. Res. 163/Pub. L. 100-143
To designate the month of November 1987, as "National Family Bread Baking Month." (Oct. 28, 1987; 101 Stat. 836; 1 page) Price: $1.00

S.J. Res. 168/Pub. L. 100-144
Designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week." (Oct. 28, 1987; 101 Stat. 837; 2 pages) Price: $1.00

S.J. Res. 186/Pub. L. 100-145
To designate the week beginning on November 2, 1987, and ending on November 8, 1987, as "National Tourette Syndrome Awareness Week." (Oct. 28, 1987; 101 Stat. 839; 1 page) Price: $1.00

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 88-01 of October 5, 1987

Determination of FY 1988 Refugee Admissions Numbers and Authorization of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), Respectively, of the Immigration and Nationality Act

Memorandum for the United States Coordinator for Refugee Affairs

In accordance with Section 207 of the Immigration and Nationality Act ("the Act"), and after appropriate consultation with the Congress, I have made the following determinations:

a. The admission of up to 72,500 refugees to the United States during FY 1988 is justified by humanitarian concerns or is otherwise in the national interest.

b. Four thousand of these admissions numbers shall be set aside for private sector admissions initiatives. The admission of refugees using these 4,000 numbers shall be contingent upon the availability of private sector funding sufficient to cover the essential and reasonable costs of such admissions.

c. The 68,500 refugee admissions covered under Federal programs shall be allocated among refugees of special humanitarian concern to the United States as described in the documentation presented to the Congress during the consultations that preceded this Determination and in accordance with the following regional allocations:

Africa	3,000
East Asia, First Asylum	29,500
East Asia, Orderly Departure Program	8,500
Eastern Europe/Soviet Union	15,000
Latin America/Caribbean	3,500
Near East/South Asia	9,000

Unused admissions numbers allocated to a particular region may be transferred to one or more other regions if there is an overriding need for greater numbers for the region or regions to which the numbers are being transferred. The Coordinator will consult with the Congress prior to any such reallocation.

d. The 4,000 privately funded admissions may be used for refugees of special humanitarian concern to the United States in any region of the world at any time during the fiscal year. The Congress shall be notified in advance of the intended use of these numbers.

e. An additional 5,000 refugee admissions numbers shall be made available for the adjustment to permanent resident status under Section 209(b) of the Act of aliens who have been granted asylum in the United States under Section 208 of the Act, as this is justified by humanitarian concerns or is otherwise in the national interest.

In accordance with Section 101(a)(42) of the Act, and after appropriate consultation with the Congress, I have specified that the following persons may, if otherwise qualified, be considered refugees for the purposes of admission to the United States while still within their countries of nationality or habitual residence:

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a. Persons in Vietnam and Laos with past or present ties to the United States; persons who have been or currently are in reeducation camps in Vietnam or seminar camps in Laos; Amerasians in Vietnam; and the accompanying family members of such persons.

b. Present and former political prisoners and persons in imminent danger of loss of life in countries of Latin America and the Caribbean, and their accompanying family members.

You are hereby authorized and directed to report this Determination to the Congress immediately and to publish it in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, October 5, 1987.

[FR Doc. 87-25520
Filed 10-30-87; 12:54 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1468 and 1472

Payment Program for Mohair and Shorn Wool and Unshorn Lambs (Pulled Wool), 1986 Through 1990

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to adopt, as a final rule, an interim rule which was published in the **Federal Register** on February 11, 1987 (52 FR 4275) and to make this final rule retroactively effective to August 23, 1985 (wool) and November 14, 1985 (mohair). The interim rule amended the mohair and wool price support regulations with respect to a producer's eligibility for price support payments for mohair and wool, respectively, and made certain other minor changes.

EFFECTIVE DATES: August 23, 1985 for the wool price support regulations (7 CFR Part 1472); November 14, 1985 for mohair price support regulations (7 CFR Part 1468).

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Agriculture Program Specialist, Emergency Operations and Livestock Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Telephone (202) 475-3605.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under U.S. Department of Agriculture (USDA) procedures established in accordance with provisions of Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified as "not major." It has been determined that these provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or (3) significant adverse effects on competition, employment investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance programs to which this rule applies are: Title—Commodity loans and Purchases; Number—10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

These programs/activities are not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Background

On February 11, 1987, the Commodity Credit Corporation, U.S. Department of Agriculture (CCC/USDA) published an interim rule in the **Federal Register** (52 FR 4275) which amended the mohair and wool price support regulations with respect to producers eligibility for price support payments on sales of mohair and wool.

There were two principle changes. First, the interim rule deleted the requirement that in order to be eligible for price support payment, a sale must be made to a person or business engaged in the business of buying and selling mohair or wool on a grease basis. In its stead, the regulations were amended to require only that the wool or mohair must be sold to a person or business which normally purchases wool or mohair on a grease basis. Second, the interim rule established a procedure whereby a limit is placed on the amount of the sales price of the wool or mohair received by a producer on which the price support payment would be made.

The changes in the interim rule were necessary to correct certain unintended effects resulting from the changes to the mohair and wool price support regulations made on November 14, 1985 (50 FR 47033) and August 23, 1985 (50 FR 34082) (hereafter the "1985 amendments"), respectively. The 1985 amendments were made to correct certain abuses by producers which were discovered during a review of the 1983 wool price support program conducted by CCC/USDA.

The review disclosed that, in many instances, price support payments were made to producers who sold wool to persons not engaged in the business of buying and selling wool, such as a family member, or to a business in which the producer had an interest. These fictitious or fraudulent transactions often resulted in reports of sales of wool which were not bona fide sales and which were often at substantially higher prices than the prices generally received by producers who marketed their wool through normal or traditional channels. Thus, because of these higher prices these producers received higher price support payments. The review also revealed attempts to submit to CCC/USDA documents representing sales, transfers, or other arrangements with respect to wool which were fictitious or not legally binding.

Accordingly, the mohair and wool price support regulations were amended in 1985 to address these concerns. The 1985 amendments set forth the requirements of a bona fide marketing of wool and mohair which would be eligible for a price support payment. Among the requirements were that the mohair and wool had to be sold to a person or business engaged in the business of buying and selling wool and mohair on a grease basis and that the mohair or wool had to be purchased in the course of that business. The sale also had to be based on the fair market value for mohair and a reasonable appraised price for wool.

However, in early 1986, it was determined by CCC/USDA, after thorough consideration of the impact of the 1985 amendments on certain mohair and wool producers, that the 1985 amendments had the unintended effect

of disqualifying producers who sold mohair and wool to purchasers, such as hobby crafters, handspinners and other similar individuals who were only buying mohair or wool for their handspinning and crafting activities. Accordingly, CCC/USDA determined that price support payments should be made available on sales made by producers to hobby crafters, handspinners and similar individuals who only purchased wool or mohair but did not sell wool or mohair. However, since these sales were made at prices substantially higher than prices generally received by producers who marketed their mohair and wool through normal or traditional channels, it was determined that the price support payments should not be made on the entire sales price per pound but only on the appraised price of wool or mohair which, for the 1985 marketing year, was determined to be that portion of the sales price per pound which was four times the national average market price for wool or mohair received by all producers for that year. Accordingly, on May 21, 1986, CCC/USDA, through the Agricultural Stabilization and Conservation Service (ASCS), issued a directive (Notice LD-276) to all ASCS State and county offices advising them to make price support payments in accordance with such determinations and, in cases where price support payments had been made prior to the issuance of the notice, to review the producer's files and to recover any portion of the price support payments not made in accordance with the notice.

Many producers have written to the CCC/USDA concerning the action taken by CCC/USDA pursuant to Notice LD-276. CCC/USDA has made clear in all its responses that under the wool and mohair price support regulations in existence at the time price support payments were due for the 1985 marketings of wool and mohair, producers who made sales to hobby crafters, handspinners, and other similar individuals were not eligible for any price support payments on such sales because such sales were not made to purchasers who were in the business of buying and selling wool and mohair. The producers were advised that the action taken by the CCC/USDA in Notice LD-276 provided a reasonable, fair and equitable treatment of those producers who were otherwise not eligible for price support payments.

The interim rule, therefore, was issued to amend mohair and wool price support regulations to reflect the determinations made by CCC/USDA with respect to the eligibility of sales made by producers to purchasers such as hobby crafters and handspinners.

On April 1, 1987, the Comptroller General of the United States, after reviewing the action taken by the CCC/USDA in the issuance of Notice LD-276 and the subsequent promulgation of the interim rule on February 11, 1987, issued an opinion which stated that the action taken by the CCC/USDA through the notice in authorizing price support payments to producers who were not eligible under the mohair and wool price support regulations was not consistent with the regulations. The Comptroller General, however, stated that the interim regulations were legally sound and that the CCC/USDA had the authority to limit price support payments based on the sales price of mohair and wool.

The interim rule amends the mohair, and wool price support regulations at 7 CFR 1468.107(c) and 1472.1507(c), respectively, to delete the requirements that to constitute a bona fide marketing of mohair or wool, (i) the person or business buying mohair or wool must be engaged in the business of buying and selling grease basis mohair or wool and buys the mohair or wool in the course of the business and (ii) the sale must be based on the fair market value for mohair and a reasonably appraised price for wool.

The interim rule also amended 7 CFR 1468.116 and 1472.1545 of the mohair and wool price support regulations, respectively, to provide that price support payments shall not be made with respect to that portion of the sales proceeds received by a producer for eligible mohair or wool which is based on sales prices in excess of the maximum sales price per pound as determined by the Deputy Administrator State and County Operations (DASCO), ASCS. DASCO will determine such maximum sales price per pound for mohair and wool marketed in each marketing year on the basis of the national average market price of mohair or wool computed for each marketing year. Such maximum sales price shall be an amount which DASCO determines will encourage the continued domestic production of mohair and wool at prices fair to both producers and consumers in a manner which would assure a viable domestic mohair and wool industry. Such maximum sales price shall be publicly announced by USDA at the end of each marketing year for mohair or wool.

Discussion of Comments

A total of 100 comments were received concerning the interim rule. Of these, 72 came from producers, 20 from producers/spinners, 12 from wool grower groups/associations, 1 from a State Department of Agriculture, and 1 from a Congressman.

The comments focused generally on the area of limiting the amount of price support payments based on a maximum sales price per pound as determined by DASCO. There was little comment on the part of the rule which deleted the requirement that sales of mohair or wool had to be made to a purchaser who was in the business of buying and selling mohair or wool and which provided in lieu thereof the requirement that the mohair or wool had to be sold to a person or business which normally purchased mohair or wool on a grease basis.

A. Favorable Comments

Six commentors supported the portion of the interim rule which limited the amount of price support payment based on the sales price of the mohair or wool. These commentors stated that producers who sold wool or mohair to hobby crafters and handspinners should not be entitled to receive price support payments on the full sales price of the mohair or wool because they were selling wool in a specialized market that permitted them to receive prices far in excess of the prices that a majority of producers received by selling their mohair and wool in the usual or normal market trade channels. A seventh commentor was in favor of §§ 1472.1503 and 1472.1507 of the interim rule but objected to § 1472.1545 without giving any reason.

B. Objections

Most commentors opposed the portion of the interim rule which limited the amount of the price support payments based on the sales price of the mohair or wool. Forty six individuals and three associations objected to the interim rule without giving any reason for their objection.

These commentors stated that there should not be a limit on the amount of the sales price on which price support payments would be made because of the marketing techniques of producers and that the price support payments should be made on the full sales price of the mohair or wool which really was a free market price. They claimed that the mohair or wool they sold commanded premium prices because of the high quality wool they produced through special care and efforts, good management, and selective breeding. They believed that they are being penalized for producing a superior wool comparable to high quality wool from New Zealand and that the CCC/USDA had changed the mohair and wool price support programs after the producers had made significant investments in the production of high quality wool. They also claim that while there may have been some cases of fraud, most of their sales were made to bona fide purchasers and, therefore, they were entitled to price support payments based on the full sales price. They claim that the mohair and wool price support programs had been established to encourage people to stay in the sheep producing business and that any limitation of price support payments was inconsistent with this objective. They further claimed that since the price support funds came from tariffs on imports and not from money collected from taxpayers, there was no cost to the government and, therefore, there should be no limit to the price support payments. They claim that price support payments are an incentive to (1) produce more mohair and wool, (2) produce a better quality wool and mohair, and (3) receive as high a price for mohair and wool as possible, and that, the higher the price of the mohair and wool, the closer the average mohair and wool price will be to the support price and the lower the price support payment and the lower overall cost to the Government.

The CCC/USDA has reviewed all these comments and has determined that they do not provide an adequate basis to change the interim rule for reasons discussed hereafter.

a. *Small Producers:* The producers who are primarily affected by the interim rule are those that sell their mohair and wool production to hobby crafters, handspinners, and other similar individuals. They constitute a relatively small number of all the mohair and wool producers in the United States. However, the CCC/USDA does recognize that these small mohair and wool producers are an important segment of the mohair and wool industry. CCC/USDA commends these small producers who are producing a superior premium mohair or wool comparable to the high quality wool from New Zealand through special care and effort and marketing techniques. The rule, of course, is intended to apply not only to small producers of mohair or wool but to all producers regardless of whether they market mohair or wool to handspinners and hobby crafters or to the industry as a whole.

b. *Abuses in the Wool Price Support Program:* It appears that some commentors misunderstood the discussion in the preamble to the interim rule concerning the producer abuses discovered in the review of the 1963 wool price support program. There was no intent to correlate the relatively high sales prices of mohair or wool through nontraditional channels with fictitious or otherwise improper sales. The review uncovered many types of abuses which led to the 1985 amendments to prevent such abuses. As previously explained in the preamble, the 1985 amendments had unintended effects in that they disqualified all sales of mohair and wool made by producers to hobby crafters, handspinners, and other similar individuals. Accordingly, the interim rule corrects the unintended effects of the 1985 amendments by permitting price support payments on sales made by producers to persons who normally purchase wool such as hobby crafters, etc.

c. *Limit on Price Support Payments:* As indicated previously, CCC/USDA is aware that the relatively high prices received by these producers were not due to fictitious sales but due to the high quality mohair or wool produced by them. CCC/USDA also understands that these sales which are made through nontraditional channels reflect changes in the mohair and wool industry and that the sales made by these producers at substantially higher prices are due to supply/demand pressures for high quality mohair and wool. CCC/USDA also is aware of the special efforts in management, stock breeding, and marketing techniques used by these producers to develop high quality mohair and wool. All these efforts to develop high quality mohair and wool and to sell them at a premium price is to be commended. However, CCC/USDA is limiting the amount of price support payments based on the sales price of mohair and wool because it is in accord with the purpose of the National Wool Act of 1954 (Wool Act), and because it utilizes the U.S. taxpayers money for the mohair and wool price support programs in the most effective way.

The legislative history of the Wool Act indicates that the main purpose of the Wool Act is to enable the producers to compete successfully with producers from cheaper production areas of the world and to encourage the rebuilding of sheep herds so that the United States produces a larger proportion of its own mohair and wool requirements.

CCC/USDA believes that price support payments authorized under the Wool Act are intended to encourage the domestic production of mohair and wool at prices fair to both producers and consumers in a manner which assures a viable domestic mohair and wool industry.

Section 704 of the Wool Act provides, in part, that "[i]f payments are utilized as the means of price support, the payments shall be such as the Secretary of Agriculture determines to be sufficient, when added to the national average price received by producers, to give producers a national average return for the commodity equal to the support level." In 1985, the wool price support level was $1.65 per pound and the national average market price for wool was 63.3 cents per pound. The price support payment rate based on the difference between these two figures was 165 per centum. This percentage was applied to the sales proceeds of all 1985 marketings except, pursuant to Notice LD-276, it was not applied to the portion of any sales proceeds to the extent that the sales price per pound exceeded four times the national average market price.

The premium price received by producers on their sale to hobby crafters, handspinners, etc. were substantially higher than the 1985 wool price support level of $1.65 per pound and far in excess of the national average market price of 63.3 cents per pound. In addition, these producers received price support payments on that portion of the sales proceeds which did not exceed four times the national average market price for wool or $2.53 per pound (4 times 63.3).

Under these circumstances it would appear to be difficult for these producers to claim that they were unfairly treated or that such limitation was not in accordance with the purpose of the Wool Act or that it was not a reasonable limitation of the expenditures of taxpayers money.

d. *Tariff Act of 1930, as amended:* There is a general misunderstanding that price support payments made under the Wool Act are financed by duties on wool and not from the U.S. Treasury because sections 704 and 705 of the Wool Act refer to duties collected under the Tariff Act of 1930, as amended. However, the reference to such duties in sections 704 and 705 merely places a limit on the total amount of price support payments which can be made to 70 percent of the duties collected. These duties are collected and deposited in the U.S. Treasury and used for general governmental purposes. Price support payments for mohair and wool are paid from Commodity Credit Corporation (CCC) funds and section 705 of the Wool Act provides for reimbursement to CCC from the U.S. Treasury not to exceed 70 per centum of the gross receipts from duties collected.

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e. *Maximum Sales Price Per Pound:* There were a number of comments with respect to the changes in the mohair and wool price support regulations to limit the amount of price support payments based on the sales price per pound for mohair and wool. A number of commentors objected to the deletion of the provision in § 1472.1507 which provided that a bona fide marketing was a "sale based on a reasonably appraised price for wool." Their comments suggest that the price support payments for their speciality wool be based on the full free market value of such speciality wool or the appraised price of such wool in the speciality market for such wool.

The phrase "reasonable appraised price of wool" in § 1472.1507 and a comparable phrase "fair market value for mohair" in § 1468.107(c) were deleted because they were inconsistent provisions and also because they were intended to prevent price support payments to be made where the sales price of the mohair or wool was substantially higher than the reasonable appraised price of wool or the fair market value for mohair in the traditional wool or mohair markets, respectively. In such case the entire sales price would have been ineligible for price support payments. However, these provisions were deleted because CCC/USDA did not wish to make the entire sales proceeds of wool and mohair sold to hobby crafters, hand-spinners, and similar individuals ineligible for price support payments.

Another comment urged that since the premium prices received by the producers on sales of high quality wool to hobby crafters and handspinners have been used to calculate the national average price for wool, the same premium price should be used to calculate the wool price support payment. The premium prices for high quality wool are included in the determination of the national average market price which is determined by taking the average weighted market price of all wool sold by producers. Section 704 of the Wool Act provides that the price support payments shall be such as the Secretary of Agriculture determines to be sufficient when added to the national average price to equal the price support level for wool. This amount expressed in percentage is applied against the producer sales price to determine the price support payment due the producer. This percentage is applicable to all sales of wool. However, the interim rule would apply the percentage to each sales price up to the maximum sales price determined by DASCO for each marketing year.

There were also comments to the effect that sales by hobby crafters and handspinners should be considered sales through "normal channels" for high quality wool. We believe this is a matter of semantics. While the point of the comment is true, since only a small fraction of all the wool marketed is sold to hobby crafters and handspinners, the term "normal channels" was intended to mean the traditional sales of wool made to large commercial wool buyers.

There were also comments criticizing the limitation of the amount of the sales proceeds which would be eligible for price support payments to four times the national average price ("four times rule") as being unfair. The four times rule was effective for the 1985 and 1986 marketings of mohair and wool. Under the interim rule, the maximum sales price for which price support payments would be made is determined by DASCO at the end of each marketing year based on the national average market price and is an amount which DASCO determines will encourage the continued domestic production of wool at prices fair to both producers and consumers in a manner which would assure a viable domestic mohair and wool industry.

As indicated earlier, the Comptroller General of the United States reviewed the interim rule and concluded that CCC/USDA had authority to limit the amount of the sales price per pound on which price support payments would be made. The Comptroller General stated that since under the Wool Act the Secretary can set the amounts, terms, and conditions of price support operations, he had the authority to establish price support payment limitations to prevent abuses, based on the reasonably appraised prices for wool.

The final rule provides that the effective date will be retroactive to the dates the 1985 amendments were made to the mohair and wool price support regulations; November 14, 1985 and August 23, 1985, respectively. It is necessary that the interim rule be made effective retroactively in order to nullify the unintended effects of the 1985 amendments with respect to the eligibility of certain producers to receive price support payments who would otherwise not be eligible for price support payments. The retroactive application will not affect other producers who were otherwise eligible for price support payments.

List of Subjects

7 CFR Part 1468

Commodity Credit Corporation, Price Support Program—Mohair, Reporting and recordkeeping requirements.

7 CFR Part 1472

Commodity Credit Corporation, Price Support Program—Wool, Reporting and recordkeeping requirements.

Final Rule

Accordingly, the interim rule published at 52 FR 4275 (February 11, 1987), which amended 7 CFR Parts 1468 and 1472, is hereby adopted as a final rule without change.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b, 714c); secs. 702–708, 68 Stat. 910–912, as amended (7 U.S.C. 1781–1787).

Signed at Washington, DC, on October 27, 1987.

Vera Neppl,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 87-25382 Filed 11-2-87; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Evaluation of the Adequacy of Off-Site Emergency Planning for Nuclear Power Plants at the Operating License Review Stage Where State and/or Local Governments Decline To Participate in Off-Site Emergency Planning

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its rules to provide criteria for the evaluation at the operating license review stage of utility-prepared emergency plans in situations in which state and/or local governments decline to participate further in emergency planning. The rule is consistent with the approach adopted by Congress in section 109 of the NRC Authorization Act of 1980, Pub. L. 96–295, described in the Conference Report on that statute (H.96–1070, June 4, 1980), twice re-enacted by the Congress (in Pub. L. 97–415, Jan. 4, 1983, and Pub. L. 98–553, Oct. 30, 1984), and followed in a prior adjudicatory decision of the Commission, *Long Island Lighting Co.*, (Shoreham Nuclear Power Station, Unit 1), CLI–86–13, 24 NRC 22 (1986). The rule

recognizes that though state and local participation in emergency planning is highly desirable, and indeed is essential for maximum effectiveness of emergency planning and preparedness, Congress did not intend that the absence of such participation should preclude licensing of substantially completed nuclear power plants where there is a utility-prepared emergency plan that provides reasonable assurance of adequate protection to the public.

EFFECTIVE DATE: December 3, 1987.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Discussion

On March 6, 1987, the NRC published its notice of proposed rulemaking in the Federal Register, at 52 FR 6980. The period for public comment (60 days, subsequently extended for an additional 30 days) expired on June 4, 1987.

The proposed rule drew an unprecedentedly large number of comments. Some 11,500, individual letters were sent to NRC, as well as 27,000 individually signed form letters sent to Congress or the White House and forwarded to NRC. Approximately 16,300 persons signed petitions to the NRC. Every comment was read, including form letters, which were examined one by one so that any indivdual messages added by the signatories could be taken into account. NRC attempted to send cards of acknowledgment to each commenter.

The sheer volume of the comments received makes it clearly impracticable to discuss them individually. As a result, the following discussion will focus on the principal issues raised in the comments.

Issue #1. Is the proposed rule legal? Specifically, is it in accord with the language and legislative history of the emergency planning provisions enacted by the Congress in 1980?

Answer: Yes. The intent of the proposed rule, as clarified in Commission testimony and in other responses to the Congress, is to give effect to the Congress's 1980 compromise approach to emergency planning, not go beyond it. To explain this requires a somewhat detailed discussion of the background of the actions taken in 1980 by Congress and by the Commission with regard to emergency planning.

The backdrop for the actions taken by the Congress and the Commission in 1980 was, of course, the 1979 accident at Three Mile Island. The accident changed the NRC's regulatory approach to radiological emergency planning. Before the accident, emergency planning received relatively little attention from nuclear regulators. The prevailing assumption was that engineered safety features in nuclear power plants, coupled with sound operation and management, made it unlikely that emergency planning would ever be needed. At that time, only a limited evaluation of offsite emergency planning issues took place in the pre-construction review of applications to build nuclear power plants. The Three Mile Island accident led to the widespread recognition that, while there is no substitute for a well built, well run, and well regulated nuclear power plant, a substantial upgrading of the role of emergency planning was necessary if the public health and safety were to be adequately protected.

The Commission issued an advance notice of proposed rulemaking in July 1979, and in September and December of the same year it issued proposed emergency planning rules. 44 FR 54308 (September 19, 1979); 44 FR 75167 (December 19, 1979). Before the Commission took final action on the rules, however, the Congress took action, writing emergency planning provisions into the NRC Authorization Act for fiscal year 1980, Pub. L. No. 96–295. It is extremely important to focus on what the Congress did in that Act, because Congress' actions were the starting point for all the NRC did subsequently in the emergency planning area, as the written record makes clear.

Section 109 of the NRC Authorization Act directed the Commission to establish regulations making the existence of an adequate emergency plan a prerequisite for issuance of an operating license to a nuclear facility. The NRC was further directed to promulgate standards for state radiological response plans.

In the same section of the 1980 Act, Congress specified the conditions under which the Commission could issue operating licenses, and in doing so, it made clear its preferences with regard to state and local participation. Its first preference, reflected in section 109(b)(1)(B)(i)(I), is for a "State or local radiological emergency response plan which provides for responding to any radiological emergency at the facility concerned and which complies with the Commission's standards for such plans." In section 109(b)(1)(B)(i)(II), however, the Congress set out a second option: "In the absence of a plan which satisfies the requirements of subclause (I), there exists a State, local, *or utility* plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned." (Emphasis added.) In addition, section 109 provided that the Commission's determination under the first but not the second of the two options could be made "only in consultation with the Director of the Federal Emergency Management Agency and other appropriate agencies." Section 109(b)(1)(B)(ii). The statute further directed the Commission to "establish by rule * * * a mechanism to encourage and assist States to comply as expeditiously as practicable" with the NRC's standards for State radiological emergency response plans. Section 109(b)(1)(C).

The Conference Report on the legislation, H. 96–1070 (June 4, 1980) explained in clear terms, at p. 27, the rationale for the two-tiered approach: "The conferees sought to avoid penalizing an applicant for an operating license if a State or locality does not submit an emergency response plan to the NRC for review or if the submitted plan does not satisfy all the guidelines or rules. In the absence of a State or local plan that complies with the guidelines or rules, the compromise permits NRC to issue an operating license if it determines that a State, local *or utility* plan, such as the emergency preparedness plan submitted by the applicant, provides reasonable assurance that the public health and safety is not endangered by operation of the facility." (Emphasis added.)

The statute, which was enacted on June 30, 1980, and the Conference Report make abundantly clear that in Congress' view, the ideal situation was one in which there is a state or local plan that meets all NRC standards. It is generally clear that in Congress' view, there could be emergency planning under a utility plan that to some degree fell short of the ideal but was nevertheless adequate to protect the health and safety of the public.

That Congressional judgment was before the Commission when it considered final emergency planning rules only a few weeks later, and the Commission took pains to make clear on the record that it was following the Congress' approach. As the Commission stated in its notice of final rulemaking, published on August 19, 1980, at 45 FR 55402:

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Finally, on July 23, 1980, at the final Commission consideration of these rules, the Commission was briefed by the General Counsel on the substance of conversations with Congressional staff members who were involved with the passage of the NRC Authorization Act for fiscal year 1980, Pub. L. No. 96–295. The General Counsel advised the Commission that the NRC final rules were consistent with that Act. The Commission has relied on all of the above information in its consideration of these final rules. In addition, the Commission directs that the transcripts of these meetings shall be part of the administrative record in this rulemaking.

In addition, in a key portion of the rule, dealing with the question of whether NRC should automatically shut down nuclear plants in the absence of an NRC-approved state or local emergency plan, or should instead evaluate all the relevant circumstances before deciding on remedial action, the NRC again explicitly followed the Congress' lead. In determining what action to take, the Commission said, it would look at the significance of deficiencies in emergency planning, the availability of compensating measures, and any compelling reasons arguing in favor of continued operation. 10 CFR 50.47(c). The Commission explained: "This interpretation is consistent with the provisions of the NRC Authorization Act for fiscal year 1980, Pub. L. 96–295." 45 FR 55403. Thus in deciding that the lack of an approved state or local plan should not be grounds for automatic shutdown of a nuclear power plant, the Commission expressly declared itself to be following the statutory approach.

This background sheds considerable light on a passage from the **Federal Register** notice which some commenters saw as indication that the Commission consciously decided in 1980 that states and localities should have the power to exercise a veto over nuclear power plant operation. The Commission said:

> The Commission recognizes that there is a possibility that the operation of some reactors may be affected by this rule through inaction of State and local governments or an inability to comply with these rules. The Commission believes that the potential restriction of plant operation by State and local officials is not significantly different in kind and effect from the means already available to prohibit reactor operation. . . . Relative to applying this rule in actual practice, however, the Commission need not shut down a facility until all factors have been thoroughly examined.

45 FR 55404. (Emphasis added.)

It has been argued that the language just quoted indicates that the Commission made a conscious decision in 1980 to allow states and localities to exercise a veto power over completed nuclear power plants. Seen in context, however, it is apparent that the Commission did no such thing. Rather, the Commission was acknowledging the fact that under the approach it was taking, the action (or inaction) of a state or locality had the potential to affect the operation of nuclear power plants, since state and local non-participation would clearly make it more difficult for an applicant to demonstrate the adequacy of emergency planning. It is worth emphasizing the word "potential" in the quoted passage. It indicates that the Commission believed that in some cases, state and local action or inaction might have the effect of restricting plant operation, while in other cases it would not. In other words, the Commission foresaw a case-by-case evaluation, with the result not foreordained either in the direction of plant operation or of shutdown. Clearly, neither the Commission nor the Congress envisioned that state or local non-participation should automatically bar plant operation without further inquiry.

The mechanism adopted by the Commission for implementing the two-tiered approach was set forth in 10 CFR 50.47 of the Commission's regulations. For the first tier, sixteen planning standards for a state or local emergency plan were spelled out in 10 CFR 50.47(b)(1–16) of the Commission's regulations. The second tier, by contrast, was dealt with in a brief and unspecific provision, 10 CFR 50.47(c)(1):

> Failure to meet the [16] applicable standards set forth in paragraph (b) of this section may result in the Commission declining to issue an operating license; however, the applicant will have an opportunity to demonstrate to the satisfaction of the Commission that deficiencies in the plans are not significant for the plant in question, that adequate interim compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit plant operation.

In a 1986 decision, the Commission declared that in a situation in which state and local authorities decline to participate in emergency planning, the NRC has the authority and the legal obligation to consider a utility plan and render a judgment on the adequacy of emergency planning and preparedness. *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), CLI–86–13, 24 NRC 22. The Commission observed in *LILCO* that the emergency planning standards of 10 CFR 50.47(b)—the regulation which establishes the 16 planning standards by which a state and local plan is to be measured—"are premised on a high level of coordination between the utility and State and local governments," so that "[i]t should come as no surprise that without governmental cooperation [the utility] has encountered great difficulty complying with all of these detailed planning standards." 22 NRC 22, 29. The Commission noted, however, that its emergency planning rules were intended to be "flexible," and that a utility plan will pass muster under 10 CFR 50.47(c) "notwithstanding noncompliance with the NRC's detailed planning standards * * * (1) if the defects are 'not significant'; (2) if there are 'adequate interim compensating actions'; or (3) if there are 'other compelling reasons.'" The Commission added: "The decisions below focus on (1) and (2) and we do likewise."

The Commission then explained that the "measure of significance under (1) and adequacy under (2) is the fundamental emergency planning standard of § 50.47(a) that 'no operating license * * * will be issued unless a finding is made by NRC that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.'" The "root question," the Commission said, was whether a utility plan "can provide for 'adequate protective measures * * * in the event of a radiological emergency.'" To answer that question, the Commission continued, requires recognition of the fact that emergency planning requirements do not have fixed criteria, such as prescribed evacuation times or radiation dose savings, but rather aim at "reasonable and feasible dose reduction under the circumstances." 24 NRC 22, 30.

Thus the Commission is already on record as believing itself legally obligated to consider the adequacy of a utility plan in a situation of state and/or local non-participation in emergency planning. Likewise, it is on record as believing that the evaluation of a utility plan takes place in the context of the overriding obligation that no license can be issued unless the emergency plan is found to provide reasonable assurance of adequate protective measures in an emergency. The Commission believes that the planning standards of 10 CFR 50.47(b), which are used to evaluate a state or local plan, also provide an appropriate framework to evaluate a utility plan. Therefore, the new rule provides for the first time that where a utility plan is submitted, in a situation of state and/or local non-participation in emergency planning, it will be evaluated for adequacy against the same standards used to evaluate a state or local plan. However, due allowance will be made both for the non-participation of the state and/or local governmental authorities and for the compensatory

measures proposed by the utility in reaching a determination whether there is "reasonable assurance that adequate protective measures can and will be taken."

To sum up, therefore, the rule is in accord with legal requirements for emergency planning at nuclear power plants because:

—The rule is consistent with section 109 of the NRC Authorization Act of 1980, a measure which has twice reenacted by the Congress, though it has since expired. In addition, the House of Representatives recently rejected an amendment designed to bar implementation of the rule for two specific plants.

—The rule is consistent with existing NRC regulations, and is well within NRC's rulemaking authority.

—Since the rule provides for no diminution of public protection from what was provided under existing regulations, it cannot be in contravention of any statutory requirements governing the level of NRC safety standards.

Issue #2: Is this a generic rule, or is this proposal really aimed at the Shoreham and Seabrook plants?

The rule is generic in the sense that it is of general applicability and future effect, covering future plants as well as existing plants. At present, however, there are only two plants with pending operating license applications for which state and/or local non-participation is an issue. Those plants are Shoreham and Seabrook. The NRC's 1980 rules, perhaps because of optimism that states and localities would always choose to be partners in emergency planning, included only a general provision, 10 CFR 50.47(c), dealing with cases in which utilities are unable to satisfy the standards for state and local emergency plans, and had no specific discussion of the evaluation of a utility plan in cases of state or local non-participation. This does not mean that the NRC was compelled to adopt new regulations in order to act on the Shoreham and Seabrook license applications. On the contrary, the NRC has always had the option of proceeding by case-by-case adjudication under its 1980 regulations.

Issue #3: Will this rule assure licenses to the Shoreham and Seabrook plants?

It will not assure a license to any particular plant or plants. It will establish a framework in which a utility seeking an operating license can, in a case of state and/or local non-participation, attempt to demonstrate to the NRC that emergency planning is adequate. Whether a utility could succeed in making that showing would depend on the record developed in a specific adjudication, the results of which would be subject to multiple levels of review within the Commission as well as to review in the courts.

Issue #4: Is state or local participation essential for the NRC to determine that there will be adequate protection of the public health and safety?

We do not have a basis at this time for determining generically whether state and local participation in emergency planning is essential for NRC to determine that there will be adequate protection of the public health and safety. There has yet to be a final adjudicatory determination in any proceeding on the adequacy of a utility plan where state and local governmental authorities decline to participate in emergency planning. Clearly, it will be more difficult for a utility to satisfy the NRC of the adequacy of its plan in the absence of state and local participation, but whether it would be impossible remains to be seen. The fact that Congress provided for evaluation of a utility plan in section 109 of the NRC Authorization Act of 1980 (and in two subsequent Authorization Acts) indicates that Congress believed that it was at least possible in some cases for a utility plan to be found to provide "reasonable assurance that public health and safety is not endangered by operation of the facility concerned," in the words of the "second tier" provided in section 109.

Issue #5: Is emergency planning as important to safety as proper plant design and operation?

First of all, this issue does not have to be addressed in the context of the final rule announced in this notice, since the present rule involves no redrawing by NRC of the balance between emergency planning and other provisions for the protection of health and safety. Having said that, we turn to the question of the place of emergency planning in the overall regulatory scheme for the protection of public health and safety.

Though the Commission in its 1980 rulemaking explicitly described emergency planning as "essential," it is less clear what importance the Commission assigned to emergency planning, as compared to the importance accorded to other means of protecting public health and safety, notably sound siting, design, and operation. In the Supplementary Information explaining the 1980 rulemaking, the Commission stated that "adequate emergency preparedness is an *essential* aspect in the protection of the public health and safety," 55 FR 55404, and commented that "onsite and offsite emergency preparedness as well as proper siting and engineered design features are *needed* to protect the health and safety of the public." (Emphasis added.) 45 FR 55403. The Commission also explained that in light of the Three Mile Island accident it had become "clear that the protection provided by siting and engineered design features must be bolstered by the ability to take protective measures during the course of an accident." *Id.* Though the word "bolstered" suggests that the Commission of 1980 viewed emergency planning as a backstop for other means of public protection rather than as of equal importance to them, the issue cannot be resolved definitively by microscopic analysis of the particular words chosen in 1980.

More relevant to the task of ascertaining the intent of the 1980 rulemaking is the regulatory structure established under the 1980 rules. In 10 CFR 50.54(s)(2)(ii), the Commission provided that if it "finds that the state of emergency preparedness does not provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency * * * and if the deficiencies * * * are not corrected within four months of that finding, the Commission will determine whether the reactor shall be shut down until such deficiencies are remedied or whether other enforcement action is appropriate." In other words, a plant ordinarily may operate for at least four months with deficiencies in emergency planning before the NRC is required even to decide whether remedial action should be taken. This approach, the Commission said in the Supplementary Information to the 1980 rule, was consistent with section 109 of the NRC Authorization Act of 1980. 45 FR 55407. At the time that the Commission created the so-called "120-day clock" for deficiencies in emergency planning, it was settled Commission law (and remains so today) that the NRC must issue an order directing a licensee to show cause why its license should not be modified, revoked or suspended whenever it concludes that "substantial health or safety issues ha[ve] been raised" about the activities authorized by the license. *Consolidated Edison Company of New York* (Indian Point, Units No. 1, 2 and 3), CLI–75–8, 2 NRC 173, 176. That standard was endorsed by the Court of Appeals for the District of Columbia Circuit in *Porter County Chapter of the Izaak Walton League* v. *NRC*, 606 F.2d 1363 (1978). In the context of that standard, the 120-day clock provision for emergency planning deficiencies amounts to a Commission

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finding that, at least for the first 120 days, even a major deficiency in emergency planning does not automatically raise a "substantial health or safety issue" with regard to plant operation. By contrast, a major safety deficiency relating to emergency conditions—for example, the availability of the emergency core cooling system—would warrant immediate shutdown.

In sum, despite language indicating that emergency planning was "essential," the Commission in 1980 created a regulatory structure in which emergency planning was treated somewhat differently, in terms of the corrective actions to be taken when deficiencies are identified, from the engineered safety features ("hardware") that would be relied on in an emergency.

Issue #6: Assuming that NRC should consider a utility plan, what criteria should apply? In particular:

(a) Should the utility plan provide just as much protection as a state or local plan, or may less protection be adequate?

(b) If less protection may be adequate, must NRC still find reasonable assurance that under the utility plan, adequate protective measures can and will be taken? Or is it sufficient for NRC to find that the totality of the risk, including all relevant factors, including the likelihood of an accident, assures that there is adequate protection of public health and safety?

Under the rule adopted in this notice, a utility plan, to pass muster, is required to provide reasonable assurance that adequate protective measures can and will be taken in an emergency. The rule recognizes—as did Congress when it enacted and re-enacted the provisions of Section 109 of the NRC Authorization Act of 1980—that no utility plan is likely to be able to provide the same degree of public protection that would obtain under ideal conditions, i.e. a state or local plan with full state and local participation, but that it *may* nevertheless be adequate. The rule starts from the premise that accidents can happen, and that at every plant, adequate emergency planning measures are needed to protect the public in the event an accident occurs. Whether in fact a particular utility plan will be found adequate would be a matter for adjudication in individual licensing proceedings.

Issue #7: May NRC assume that a state or local government which refuses to cooperate in emergency planning will still respond to the best of its ability in an actual emergency? If so:

(a) May NRC assume that the state or local response will be in accord with the utility plan?

(b) May NRC assume that the state or local response will be adequate?

(c) If the NRC rule calls for reliance on FEMA, and FEMA says that it can't judge emergency planning except when there is state and local participation in an exercise, how can the NRC ever make a judgment on emergency planning in a situation in which state and local authorities do not participate?

In this rule, the Commission adheres to the "realism doctrine," enunciated in its 1986 decision in *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), CLI–86–13, 24 NRC 22, which holds that in an actual emergency, state and local governmental authorities will act to protect their citizenry, and that it is appropriate for the NRC to take account of that self-evident fact in evaluating the adequacy of a utility's emergency plan. The NRC's realism doctrine is grounded squarely in common sense. As the Commission stated in *LILCO*, even where state and local officials "deny they ever would or could cooperate with [a utility] either before or even during an accident," the NRC "simply cannot accept these statements at face value." 24 NRC 22, 29 fn. 9. It would be irrational for anyone to suppose that in a real radiological emergency, state and local public officials would refuse to do what they have always done in the event of emergencies of all kinds: do their best to help protect the affected public.

The *Long Island Lighting Co.* decision included the observation that in an accident, the "best effort" of state and county officials would include utilizing the utility's plan as "the best source for emergency planning information and options." 24 NRC 22, 31. This rule leaves it to the Licensing Board to judge what form the "best efforts" of state and local officials would take. However, the rulemaking record strongly supports the proposition that state and local governments believe that a planned response is preferable to an ad hoc one. Therefore it is only reasonable to suppose that in the event of a radiological emergency, state and local officials, in the absence of a state or local radiological emergency plan approved by state and local governments, will either look to the utility and its plan for guidance or will follow some other plan that exists. Thus the presiding Licensing Board may presume that state and local governmental authorities will look to the utility for guidance and generally follow its plan in an actual emergency; however, this presumption may be rebutted by, for example, a good faith and a timely proffer of an adequate and feasible state or local radiological response plan which would in fact be relied upon in an emergency. The presiding Licensing Board should not hesitate to reject any claim that state and local officials will refuse to act to safeguard the health and safety of the public in the event of an actual emergency. In actual emergencies, state, local, and federal officials have invariably done their utmost to protect the citizenry, as two hundred years of American history amply demonstrates.

At the present time, the Commission does not have a basis in its adjudicatory experience to judge either that a utility plan would be adequate in every case or that it would be inadequate in every case. Implementation of this rule may ultimately provide that informational basis.

The problem of how the NRC can decide the adequacy of emergency planning in the face of FEMA's declared reluctance to make judgments on emergency planning in cases of state and local non-participation does not appear insoluble. Though FEMA has expressed its reluctance to make judgments in such circumstances, because of the degree of conjecture that would in FEMA's view be called for, we do not interpret its position as one of refusal to apply its expertise to the evaluation of a utility plan. For FEMA to engage in the evaluation of a utility plan would necessitate no retreat from its stated view that it is highly desirable to have, for each nuclear power plant, a state or local plan with full state and local participation in emergency planning, including emergency exercises. (The Commission shares that view.) FEMA's advice would undoubtedly include identification of areas in which judgments are necessarily conjectural, and NRC's overall judgment on whether a utility's plan is adequate would in turn have to take account of the uncertainties included in FEMA's judgment. Beyond a certain point, uncertainty as to underlying facts would plainly make a positive finding on "reasonable assurance" increasingly difficult. These are issues, however, which can be addressed in the case-by-case adjudications on individual fact-specific situations. It should be noted that while the rule makes clear that ultimate decisional authority resides with NRC, it does envision a role for FEMA in the evaluation of utility plans, although section 109 of the NRC Authorization Act of 1980 did not specify any role for FEMA in the evaluation of utility plans (as opposed to state and local plans).

Issue #8: If this is a national policy question, why doesn't the Commission leave the issue to the Congress to resolve?

Congress did address, in 1980, the issue of what should be done in the event there is no acceptable state or local emergency plan: it directed the NRC to evaluate a state, local, or utility plan to determine whether it provided "reasonable assurance that public health and safety is not endangered by operation of the facility concerned." Perhaps because it was overly optimistic that there would be an acceptable state or local plan in every case, the Commission did not, except in general terms (at 10 CFR 50.47(c)), provide in its regulations for the evaluation of a utility plan. The present rule is an effort to make up for that omission by incorporating provisions implementing the Congress's 1980 policy decision into the NRC's rules. As noted elsewhere, the 1980 statute, twice re-enacted, has expired, but the NRC does not need the specific authority of that statute to adopt this rule, which is promulgated pursuant to the NRC's general authority, under section 161(b) and other provisions of the Atomic Energy Act, to regulate the use of nuclear energy.

The House of Representatives, as has been described above, voted 261–160 on August 5, 1987 to reject an amendment which would have barred the application of this rule to two specific plants. The Congress is thus well aware of the Commission's emergency planning rulemaking.

For the Commission to terminate its rulemaking and ask the Congress to address the policy issues involved thus seems unwarranted at this time. The Commission is still well within the framework of the guidiance which the Congress gave it in 1980 (and in the two re-enactments of the statute) and also well within its rulemaking authority. It has yet to carry through that guidance to the point of making an adjudicatory decision on the adequacy of a utility plan. If and when the Commission determines, through adjudications in individual cases, that there is a continuing problem which only Congressional action can solve, it can so notify the Congress, but that point has not yet been reached.

Issue #9: Doesn't the proposed rule still leave open the possibility that state or local action or inaction can have the effect of blocking operation of a plant? If so, how can the proposed rule be said to effectuate the Congressional intent that licensees not be penalized for the inaction or inadequate action of state and local authorities?

Yes, the proposed rule does leave open the possibility that state or local non-participation can indirectly block the operation of a nuclear plant. This is so because under the particular facts of an individual case it may be impossible for the NRC to conclude that a utility plan is adequate, as defined in this rule. That does not mean, however, that the Congress's intent, as expressed in the 1980 statute and its re-enactments, is thereby frustrated. The Congress was concerned that utilities not be "penalized," but not to the extent that it was willing to countenance operation of a nuclear power plant in a situation where the public was not adequately protected. Congress intended to give a utility the opportunity to demonstrate that its plan provided "reasonable assurance," but it also provided that the NRC could not permit a plant to operate unless it found that the utility had met that burden.

Issue #10: Will the proposed rule discourage cooperation between licensees and state and local governments in emergency planning?

There is no reason to believe that the rule would discourage cooperation between licensees and state and local governments in emergency planning. Realistically, the only way in which the rule could discourage such cooperation would be if utilities were to decide that because of the new rule, they had less of an incentive to be accommodating to the needs and desires of state and local authorities. That might be a possible result if it appeared that the new rule make it easy and fast for a utility to obtain approval for its plan in cases of state and local non-participation.

In reality, it is likely to be much more difficult and time-consuming for a utility to obtain approval of its plan in the face of state and local opposition. The problems highlighted by this rulemaking are likely, if anything, to impress utilities anew with the desirability of doing everything necessary to obtain and retain full state and local participation in emergency planning.

Issue #11: Is the proposed rule based on an NRC consideration of economic costs?

The NRC rule is an effort to bring the NRC's regulations more clearly into line with a policy decision made by the Congress in 1980. The NRC's rule is thus based on economic considerations only to the extent that the Congress's policy decision of 1980 was based on economic considerations. In the Conference Report on the NRC Authorization Act of 1980 (H.96–1070, June 4, 1980), the conferees stated that they did not wish utilities to be "penalized" in situations in which there was no acceptable state or local plan. That could be taken as a reference to economic costs or simply to considerations of fairness, in that the issue was whether a utility was to be barred from operating a plant by the actions of third parties over which it had no control.

The NRC's motivation in promulgating this rule is not economics. Its motivation is to assure that the NRC is in a position to make the decisions that Congress intended that it make, and that the Commission has declared that it would make.

Issue #12: Is the proposed rule intended to read states and localities out of the emergency planning process?

Emphatically not. The rule leaves the existing regulatory structure unchanged for cases in which state and local authorities elect to participate in emergency planning. The NRC, in common with the Congress and FEMA, regards full state and local participation in emergency planning to be necessary for optimal emergency planning. The rule change is directed to the question of what the NRC's regulatory approach should be in which states and localities decide to take *themselves* out of the emergency planning process. Ideally, in the NRC's view, the new rule would never have to be used, because states and localities would never refuse to participate in emergency planning.

Issue #13: Does the proposed rule alter the place of emergency planning in the overall safety finding that the Commission must make?

It does not. As described above, the Commission must make both a finding of "adequate protective measures * * * in an emergency" and an overall safety finding of "reasonable assurance that the health and safety of the public will not be endangered" (10 CFR 50.35(c), implementing section 182 of the Atomic Energy Act, 42 U.S.C. 2232). The rule does nothing to alter either the requirement that emergency planning must be found adequate or the place of emergency planning in the overall safety finding.

Issue #14: What effect if any does the proposed rule have on nuclear plants that are already in operation?

The rule does not specifically apply to plants that already have operating licenses. As described above, 10 CFR 50.54(s)(2)(ii) of the Commission's regulations already provides a mechanism (the "120-day clock") for addressing situations in which deficiencies are identified in emergency planning at operating plants. To the extent that this rule provides criteria by

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which a utility plan would be judged by state and local withdrawal from participation in emergency planning, those criteria would presumably be of assistance to decisionmakers in determining, under 10 CFR 50.54(s)(2)(ii), whether remedial action should be taken, and if so, what kind, where deficiencies in emergency planning remain uncorrected after 120 days.

Issue #15: Does the Commission's rule mean that the NRC does not have to find that a utility plan would offer protection equivalent to what a plan with full state and local participation would provide?

As stated previously, under the rule adopted in this notice, a utility plan, to pass muster, is required to provide reasonable assurance that adequate protective measures can and will be taken in emergency. The rule recognizes—as did Congress when it enacted and re-enacted the provisions of Section 109 of the NRC Authorization Act of 1980—that no utility plan is likely to be able to provide the same degree of public protection that would obtain under ideal conditions, i.e. a state or local plan with full state and local participation, but that it may nevertheless be adequate.

The Commission's rule, as modified and clarified, would establish a process by which a utility plan can be evaluated against the same standards that are used to evaluate a state or local plan (with allowances made both for those areas in which compliance is infeasible because of governmental non-participation and for the compensatory measures proposed by the utility). It must be recognized that emergency planning rules are necessarily flexible. Other than "adequacy," there is no uniform "passing grade" for emergency plans, whether they are prepared by a state, a locality, or a utility. Rather, there is a case-by-case evaluation of whether the plan meets the standard of "adequate protective measures . . . in the event of an emergency." Likewise, the acceptability of a plan for one plant is not measured against plans for other nuclear plants. The Commission, in its 1986 *LILCO* decision, stressed the need for flexibilty in the evaluation of emergency plans. In that decision, the Commission observed that it "might look favorably" on a utility plan "if there was reasonable assurance that it was capable of achieving dose reductions in the event of an accident that are generally comparable to what might be accomplished with government cooperation." 24 NRC 22, 30. We do not read that decision as requiring a finding of the precise dose reductions that would be accomplished either by the utility's plan or by a hypothetical plan that had full state and local participation: such findings are never a requirement in the evaluation of emergency plans. The final rule makes clear that every emergency plan is to be evaluated for adequacy on its own merits, without reference to the specific dose reductions which might be accomplished under the plan or to the capabilities of any other plan. It further makes clear that a finding of adequacy for any plan is to be considered generally comparable to a finding of adequacy for any other plan.

The rule change is designed to establish procedures and criteria governing the case-by-case adjudicatory evaluation, at the operating license review stage, of the adequacy of emergency planning in situations in which state and/or local authorities decline to participate further in emergency planning. It is not intended to assure the licensing of any particular plant or plants. The rule is intended to remedy the omission of specific procedures for the evaluation of a utility plan from the NRC's existing rules, adopted in 1980. In providing for the evaluation of a utility plan, however, the rule represents no departure from the approach envisioned in 1980 by the Congress and by the Commission. In 1980, the supplementary information to NRC's final rule stated that the rule was consistent with the approach taken by Congress in Section 109 of the NRC Authorization Act of 1980 (which, in a compromise between House and Senate versions, provided for the NRC to evaluate a utility's emergency plan in situations where a state or local plan was either nonexistent or inadequate), though the rule itself included no explicit provisions governing the NRC's evaluation of a utility plan in such circumstances. It should be emphasized that the rule is not intended to diminish public protection from the levels previously established by the Congress or the Commission's rules, since the Commission's rules and the Congress have since 1980 provided for a two-tier approach to emergency planning. The rule takes as its starting point the Congressional policy decision reflected in section 109 of the NRC Authorization Act of 1980. That statute adopted a two-tier approach to emergency planning. The preferred approach was for operating licenses to be issued upon a finding that there is a "State or local radiological emergency response plan * * * which complies with the Commission's standards for such plans," but failing that, it also permitted licensing on a showing that there is a "State, local, or utility plan which provides reasonable assurance that the public health and safety is not endangered by operation of the facility concerned."

Under the Commission's 1980 rules, the regulatory provision that implemented the second of the two tiers of Section 109 was general and unspecific. The relevant regulation, 10 CFR 50.47(c), allowed a nuclear power plant to be licensed to operate, notwithstanding its failure to comply with the planning standard of 10 CFR 50.47(b), on a showing that "deficiencies in the plans are not significant for the plant in question, that adequate interim compensating measures have been or will be taken promptly, or that there are other compelling reasons to permit plant operation," without defining those terms further. The Commission currently believes that the planning standards of 10 CFR 50.47(b), which are used to evaluate a state or local plan, also provide an appropriate framework to evaluate a utility plan. Therefore, the new rule provides for the first time that where a utility plan is submitted, in a situation of state and/or local non-participation in emergency planning, it will be evaluated for adequacy against the same standards used to evaluate a state or local plan. However, due allowance will be made both for the non-participation of the state and/or local governmental authorities and for the compensatory measures proposed by the utility in reaching a determination whether there is "reasonable assurance that adequate protective measures" can and will be taken.

The approach reflected in this rule amplifies and clarifies the guidance provided in the Commission's decision in *Long Island Lighting Co.*, (Shoreham Nuclear Power Station, Unit 1), CLI–86–13, 24 NRC 22 (1986). The rule incorporates the "realism doctrine," set forth in that decision, which holds that in an actual emergency, state and local governmental authorities will act to protect the public, and that it is appropriate therefore for the NRC, in evaluating the adequacy of a utility's emergency plan, to take into account the probable response of state and local authorities, to be determined on a case-by-case basis.

That decision also included language which could be interpreted as envisioning that the NRC must estimate the radiological dose reductions which a utility plan would achieve, compare them with the radiological dose reductions which would be achieved if there were a state or local plan with full state and local participation in emergency planning, and permit licensing only if the dose reductions are "generally comparable." Such an interpretation would be contrary to NRC practice, under which emergency plans are evaluated for adequacy without reference to numerical dose reductions which might be accomplished, and without comparing them to other emergency plans, real or hypothetical. The final rule makes clear that every emergency plan is to be evaluated for adequacy on its own merits, without reference to the specific dose reductions which might be accomplished under the plan or to the capabilities of any other plan. It further makes clear that a finding of adequacy for any plan is to be considered generally comparable to a finding of adequacy for any other plan.

The *Long Island Lighting Co.* decision included the observation that in an accident, the "best effort" of state and county officials would include utilizing the utility's plan as "the best source for emergency planning information and options." 24 NRC 22, 31. This rule leaves it to the Licensing Board to judge what form the "best efforts" of state and local officials would take, but that judgment would be made in accordance with certain guidelines set forth in the rule and explained further below. The rulemaking record strongly supports the proposition that state and local governments believe that a planned response is preferable to an ad hoc one. Therefore it is only reasonable to suppose that in the event of a radiological emergency, state and local officials, in the absence of a state or local radiological emergency plan approved by state and local governments, will either look to the utility and its plan for guidance or will follow some other plan that exists. Thus, the presiding Licensing Board may presume that state and local governmental authorities will look to the utility for guidance and generally follow its plan in an actual emergency; however, this presumption may be rebutted by, for example, a good faith and timely proffer or an adequate and feasible state or local radiological response plan which would in fact be relied upon in an emergency. The presiding Licensing Board should not hesitate to reject any claim that state and local officials will refuse to act to safeguard the health and safety of the public in the event of an actual emergency. In actual emergencies, state, local, and federal officials have invariably done their utmost to protect the citizenry, as two hundred years of American history amply demonstrates.

The rule thus establishes the framework by which the adequacy of emergency planning, in cases of state and/or local non-participation, can be evaluated on a case-by-case basis in operating license proceedings. The rule does not presuppose, nor does it dictate, what the outcome of that case-by-case evaluation will be. As with other issues adjudicated in NRC proceedings, the outcome of case-by-case evaluations of the adequacy of emergency planning using a utility's plan will be subject to multiple layers of administrative review within the Commission and to judicial review in the courts.

Backfit Analysis

This amendment does not impose any new requirements on production or utilization facilities; it only provides an alternative method to meet the Commission's emergency planning regulations. The amendment therefore is not a backfit under 10 CFR 50.109 and a backfit analysis is not required.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact upon a substantial number of small entities. The proposed rule applies only to nuclear power plant licensees which are electric utility companies dominant in their service areas. These licensees are not "small entities" as set forth in the Regulatory Flexibility Act and do not meet the small business size standards set forth in Small Business Administration regulations in 13 CFR Part 121.

Paperwork Reduction Act

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget, approval No. 3150–0011.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and Recordkeeping requirements.

Environmental Assessment and Finding of No Significant Environmental Impact

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. The Commission has prepared, in support of this finding, an environmental assessment which is available for inspection and copying, for a fee, at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

Regulatory Analysis

The Commission has prepared a regulatory analysis for this regulation. This analysis further examines the costs and benefits of the proposed action and the alternatives considered by the Commission. The analysis is available for inspection and copying, for a fee, at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

For the reasons set out in the preamble, and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the Commission is adopting the following amendments to 10 CFR Part 50:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68, Stat. 936, 937, 148, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91 and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2071, 2073 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), secs. 50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); secs. 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and secs. 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§ 50.47 [Amended]

2. In 10 CFR Part 50, paragraph (c)(1) of § 50.47 is revised to read as follows:

* * * * *

(c)(1) Failure to meet the applicable standards set forth in paragraph (b) of this section may result in the

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Commission declining to issue an operating license; however, the applicant will have an opportunity to demonstrate to the satisfaction of the Commission that deficiencies in the plans are not significant for the plant in question, that adequate interim compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit plant operations. Where an applicant for an operating license asserts that its inability to demonstrate compliance with the requirements of paragraph (b) of this section results wholly or substantially from the decision of state and/or local governments not to participate further in emergency planning, an operating license may be issued if the applicant demonstrates to the Commission's satisfaction that:

(i) The applicant's inability to comply with the requirements of paragraph (b) of this section is wholly or substantially the result of the non-participation of state and/or local governments.

(ii) The applicant has made a sustained, good faith effort to secure and retain the participation of the pertinent state and/or local governmental authorities, including the furnishing of copies of its emergency plan.

(iii) The applicant's emergency plan provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned. To make that finding, the applicant must demonstrate that, as outlined below, adequate protective measures can and will be taken in the event of an emergency. A utility plan will be evaluated against the same planning standards applicable to a state or local plan, as listed in paragraph (b) of this section, with due allowance made both for—

(A) Those elements for which state and/or local non-participation makes compliance infeasible and

(B) The utility's measures designed to compensate for any deficiencies resulting from state and/or local non-participation.

In making its determination on the adequacy of a utility plan, the NRC will recognize the reality that in an actual emergency, state and local government officials will exercise their best efforts to protect the health and safety of the public. The NRC will determine the adequacy of that expected response, in combination with the utility's compensating measures, on a case-by-case basis, subject to the following guidance. In addressing the circumstance where applicant's inability to comply with the requirements of paragraph (b) of this section is wholly or substantially the result of non-participation of state and/or local governments, it may be presumed that in the event of an actual radiological emergency state and local officials would generally follow the utility plan. However, this presumption may be rebutted by, for example, a good faith and timely proffer of an adequate and feasible state and/or local radiological emergency plan that would in fact be relied upon in a radiological emergency.

Appendix E—[Amended]

3. In 10 CFR Part 50, Appendix E, a new paragraph 6 is added to section IV.F to read as follows:

6. The participation of state and local governments in an emergency exercise is not required to the extent that the applicant has identified those governments as refusing to participate further in emergency planning activities, pursuant to 10 CFR 50.47(c)(1). In such cases, an exercise shall be held with the applicant or licensee and such governmental entities as elect to participate in the emergency planning process.

Dated at Washington, DC, this 29th day of October, 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[Editorial note: The following regulatory analysis and environmental assessment will not appear in the Code of Federal Regulations]

Regulatory Analysis—Evaluation of the Adequacy of Offsite Emergency Planning for Nuclear Power Plants at the Operating License Review Stage Where State and/or Local Governments Decline to Participate in Offsite Emergency Planning

Statement of the Problem

In 1980, Congress enacted provisions dealing with emergency planning for nuclear power plants in the NRC Authorization Act for fiscal year 1980. Section 109 of that Act provided for the NRC to review a utility's emergency plan in situations in which a state or local emergency plan either did not exist or was inadequate. The NRC published regulations later than year that were designed to be consistent with the Congressionally mandated approach, but they did not include specific mention of utility plans. The absence of such a provision has led to uncertainty about the NRC's authority to consider a utility plan and the criteria by which such a plan would be judged. The present rulemaking is designed to clarify both the NRC's obligation to consider a utility plan at the operating license stage in cases of state and/or local non-participation in emergency planning and the standards against which such a plan would be evaluated.

Objective

The objective of the proposed amendments are to implement the policy underlying the 1980 Authorizaiton Act and to resolve, for future licensing, what offsite emergency planning criteria should apply where state or local governments decide not to participate in offsite emergency planning or preparedness.

Alternatives

Five alternatives were considered, including leaving the existing rules unchanged. The pros and cons of these alternatives are discussed in the rule preamble published in the Federal Register.

Consequences

NRC

The amendments will probably not impact on NRC resources currently being used in licensing cases because current NRC policy, developed in the adjudicatory case law, is to evaluate utility plans as possible interim compensating actions under 10 CFR 50.47(c)(1). Thus, while there could be extensive litigation and review regarding whether the rule's criteria are met, this would likely be similar to the review and litigation under current practice.

Other Government Agencies

No impact on other agency resources should result with the possible exception that FEMA will need to devote resources to develop criteria for review of utility plans and/or to review the plans on a case-by-case basis.

Industy

Impacts on the industry are speculative because there is no way to predict, in advance of their actual application, whether any partcular utility plan will satisfy the rule. However, industry should generally benefit from knowing that rules are in place so that plans for compliance can be formulated.

Public

Under the rule being adopted a utility plan, to pass muster, is required to provide reasonable assurance that adequate protective measures can and will be taken in an emergency. The rule recognizes—as did Congress when it enacted and re-enacted the provisions of Section 109 of the NRC Authorization Act of 1980—that while no utility plan is likely to be able to provide precisely the same degree of public protection that would obtain under ideal conditions, i.e. a state or local plan with full state and local participation, such a plan may nevertheless be adquate. The rule starts from the premise that accidents can happen, and that at every plant, adequate emergency planning measures are needed to protect the public in the event an accident occurs. Whether in fact a particular utility plan will be found adequate would be a matter for adjudication in individual licensing proceedings.

Impact on Other Requirements

The proposed amendments would not affect other NRC requirements.

Constraints

No constraints have been identified that affect implementation of the proposed amendments.

Decision Rationale

The decision rationale is set forth in detail in the preamble to the rule change published in the Federal Register.

Implementation

The rule should become effective 30 days after publication in the Federal Register. Implementation will involve cooperation with FEMA and the development of FEMA/NRC criteria for review of utility plans may be required before the rule is applied to specific cases.

Environmental Assessment for Amendments to Emergency Planning Regulations Dealing With Evaluation of Offsite Emergency Planning for Nuclear Power Plants at the Operating license Review Stage Where State and/or Local Governments Decline to Participate in Offsite Emergency Planning

Identification of the Action

The Commission is amending its regulations to provide criteria for the evaluation at the operating license stage of offsite emergency planning where, because of the non-participation of state and/or local governmental authorities, a utility has proposed its own emergency plan.

The Need for the Action

As described in the Federal Register notice accompanying the final rule, the Commission's emergency planning regulations, promulgated in 1980, did not explicitly discuss the evaluation of a utility emergency plan, although Congress expressly provided that in the absence of a state or local emergency plan, or in cases where a state or local plan was inadequate, the NRC should consider a utility plan. That omission has led to uncertainty as to whether the NRC is empowered to consider a utility plan in cases of state and/or local non-participation, as well as about what the standards for the evaluation of such a plan would be.

Alternatives Considered

The Commission published a proposed rule change on March 6, 1987, at 52 FR 6980. In deciding on a final rule, the Commission considered four options in addition to the one reflected in the final rule. These were: issuance of the rule as originally proposed and described; issuance of a rule making clear that in cases of state and/or local non-participation, licenses could be issued on the basis of the utility's best efforts; issuance of a rule barring the issuance of licenses in cases of state and/or local non-participation; and termination of the rulemaking without the issuance of any rule change.

Environmental Impacts of the Action

The rule does not alter in any way the requirement that for an operating license to be issued, emergency planning for the plant in question must be adequate. The rule is designed to effectuate the second track of the two-track approach adopted by the Congress in the NRC Authorization Act of 1980 and two successive authorization acts, as described in detail in the Federal Register notice. The rule does not affect the place of emergency planning in the overall safety finding which the Commission must make prior to the licensing of any plant. Accordingly, the rule change does not diminish public protection and has no environmental impact.

Agencies and Persons Consulted

A summary of the very numerous comments appears as part of the Federal Register notice. Shortly before presenting an options paper to the Commission, NRC representatives briefed representatives of the Federal Emergency Management Agency on the contents of the options paper.

Finding of No Significant Impact

Based on the above, the Commission has decided not to prepare an environmental impact statement for the rule changes.

[FR Doc. 87-25439 Filed 11-2-87; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Regulation H; Docket No. R-0615]

Agricultural Loan Loss Amortization

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule with request for comments.

SUMMARY: This regulation implements Title VIII of the Competitive Equality Banking Act of 1987 ("CEBA") which permits state member agricultural banks to amortize losses on qualified agricultural loans. The regulation describes the procedures and standards applicable to state member banks desiring to amortize losses under that statute. It also describes the manner in which such amortizations are to be done. Title VIII of CEBA requires regulations implementing Title VIII to be issued not less than 90 days after enactment, that is, by November 9, 1987. Therefore, the Board is publishing the rule as a final rule effective November 9, 1987, for the Call Report for December 31, 1987, but is allowing interested parties to comment through December 3, 1987. Should changes be indicated by the comments, the Board will endeavor to adopt them shortly after the close of the comment period but before the Call Report for December 31, 1987, is filed. Banks wishing to amortize losses may file an application any time after publication of the rule.

DATES: The rule will be effective November 9, 1987, and the first Call Report affected will be the Call Report for December 31, 1987. Comments must be received on or before December 3, 1987.

ADDRESSES: All comments should refer to Docket No. R-0615 and should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to Room B-2223, 20th Street and Constitution Avenue NW., Washington, DC, between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Rhoger H. Pugh, Manager (202) 728-5883, Stanley B. Rediger, Senior Financial Analyst (202) 452-2629, Division of Banking Supervision and Regulation (202) 728-5883; Helen Lewis (202) 452-3490, Economist, Financial Reports Section, Division of Research and Statistics; or John Harry Jorgenson, Senior Attorney (202) 452-3778, Legal Division; Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired ONLY, Telecommunications Device for the Deaf, Earnestine Hill or Dorothea Thompson, (202) 452-3544.

SUPPLEMENTARY INFORMATION: Title VIII of the Competitive Equality Banking Act of 1987 ("CEBA") permits agricultural banks to amortize: (1) Losses on qualified agricultural loans shown on its annual financial statement for any year between December 31, 1983 and January 1, 1992; and (2) losses suffered as the result of an appraisal of other assets (related to a qualified agricultural loan) that it owned on January 1, 1983, or acquires prior to January 1, 1992. Title VIII of CEBA also requires that the federal banking agencies issue implementing regulations no later than 90 days after the effective date of the Act (that is, no later than November 9, 1987). This regulation is intended to comply with this requirement. The other federal banking agencies (the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation ("FDIC")) are proposing substantially identical regulations containing only technical variations necessary to accommodate their own regulatory and organizational systems. The standards to be applied are unchanged.

Statutory Requirements for Loan Loss Amortization

Title VIII of CEBA includes the following elements: (1) To be eligible to amortize losses, a bank must meet the following requirements:

(a) Its deposits must be insured by the FDIC;

(b) It must be located in an area the economy of which is dependent upon agriculture;

(c) It must have assets of $100 million or less;

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(d) It must have 25 per cent or more of its total loans in "qualified agricultural loans" (or, if such loans are less than 25 per cent, it must be recommended by its federal or state regulator to the FDIC as eligible);

(e) It must be in need of capital restoration, and it must have a plan to restore capital no later than the close of the amortization period;

(f) There must be no evidence that fraud or criminal abuse on the part of the bank led to the agricultural loan losses; and

(g) To remain eligible, the bank must agree to maintain in its loan portfolio a percentage of agricultural loans no lower than the percentage in its portfolio on January 1, 1986;

(h) The condition of the bank must not deteriorate to the point where it is no longer viable and fundamentally sound.

(2) A bank that is accepted as eligible may amortize, over a period of up to seven years, any loss on a qualified agricultural loan that would otherwise be reflected on the bank's annual financial statements for any year between and including 1984 and 1991. Amortization over a period of up to seven years is also permitted for losses on reappraisal or sale of real or personal property that was acquired in connection with a qualified agricultural loan and that the bank owned on January 1, 1983, or subsequently acquires prior to January 1, 1992.

(3) Amortization under the program will terminate on December 31, 1998, when all loans accepted for amortization through the January 1, 1992 closing date established by the statute will be fully amortized.

Definitions

The regulation will adopt a definition of "agricultural bank" which is essentially the same as the language of Title VIII of CEBA. The definition will be used to determine whether a bank making agricultural loans should be regarded as eligible to amortize losses on those loans. Included in the definition of an agricultural bank in Title VIII of CEBA is a bank which does not meet the agricultural loan volume test (that agricultural loans must be 25 per cent or more of total loans) but which the bank's federal or state regulator recommends to the FDIC for eligibility. Losses to be deferred may be included in determining whether a bank meets the agricultural loan volume test. Because of the regulation's flexibility in defining agricultural loans (see discussion below), it is anticipated that such recommendations rarely will be necessary.

The definition of "qualified agricultural loan" incorporates the definitions of "loans to finance agricultural production and other loans to farmers" and "loans secured by farm land" contained in the Schedule RC–C of the Federal Financial Institutions Examination Council's consolidated Reports of Condition and Income ("Call Report"). The Call Report definitions are virtually identical to those contained in Title VIII of CEBA but are more comprehensive and permit the agencies to use the Call Reports as the predominant monitoring device for the amortization program. Additionally, as suggested by Title VIII of CEBA, the Board has retained discretion to deem other types of loans and leases to be "qualified" and to recommend them to the FDIC as eligible if the requesting bank demonstrates those assets to be sufficiently related to agriculture.

While Title VIII of CEBA uses the phrase "area the economy of which is dependent on agriculture," the agencies have not attempted to describe such an agricultural area because the normal means of identifying such areas—income levels, revenue flows, acreage in production—are abnormally depressed due to the current state of the agricultural economy. Adopting a list of acceptable counties or geographic regions might leave the erroneous impression that a bank located outside such an arbitrary area could not qualify even though it might otherwise qualify as an "agricultural bank." Each application should include a description of the bank's location, dominant lines of commerce in its service area, and any other information the bank believes will support the contention that it is located in an agricultural area.

Loss Amortization

The purpose of Title VIII of CEBA is best accomplished by permitting eligible banks to amortize losses on qualifying agricultural loans and other related assets that they would otherwise be required to charge off by reporting the amount of such deferred losses in new items in the asset and equity capital sections of the balance sheet of their Call Report. This approach will provide for the disclosure of the deferred losses, will not distort reported income, and will facilitate the monitoring of the bank's compliance with the loss deferral program through regular, quarterly Call Reports. Moreover, the full unamortized balance of the deferred losses will be included in primary capital for all federal regulatory and supervisory purposes by the three Federal banking agencies.

The provisions on loss amortization and reappraisal address two issues: (1) Which losses are subject to amortization, and (2) how they may be amortized. On the first issue, the regulation reflects Congress' clear intent that losses resulting from fraud or criminal abuse on the part of the bank, its officers, directors, or principal shareholders not be eligible for amortization. Accordingly, where a bank has been found eligible to participate in the loss amortization program, fraudulent losses will not be eligible for amortization. Additionally, it should be noted that Title VIII of CEBA requires there be "no evidence of" fraud or criminal abuse. Accordingly, under the regulation, it is not necessary that such fraud or criminal abuse be conclusively established to disqualify a loan or, as discussed below, a bank.

To be eligible for amortization under the regulation, a loss on a qualified agricultural loan must otherwise have been required to be reflected in the bank's financial statements for the years 1984 through 1991. Similarly, charge-offs that result from a reappraisal or sale of real or personal property may be amortized if the property is owned by the bank on or after November 9, 1987; was acquired in connection with a qualified agricultural loan; and was owned on or after January 1, 1983, or subsequently acquired before January 1, 1992.

With respect to the second issue, *i.e.*, the manner of amortization, Title VIII of CEBA provides that the loss shall be amortized over a period not to exceed seven years as provided in regulations issued by the federal banking agencies. The regulation provides that amortization shall occur on a quarterly straight-line basis.

The regulation permits qualified losses to be amortized over a period not to exceed seven years so as to be fully amortized by December 31, 1998. Losses sustained in years prior to the effective date of the regulation would be treated as if amortized over seven years beginning on the date of the loss. Thus, a bank could take only the amortizations which remain for such a loss after it enters the program. For example, if a bank began to participate in the program in the last quarter of 1987 and had a loss sustained in the fourth quarter of 1985, that loss would be amortized over a seven year period beginning in 1985. Therefore, 5/7ths of the 1985 loss would remain to be amortized as of December 31, 1987.

Accounting for Amortization

The regulation directs that in accounting for loss amortization, a bank should restate its capital and other relevant accounts in accordance with the FFIEC instructions for the Consolidated Reports of Condition and Income. Those instructions will continue to require the reporting of actual loan losses and recoveries through the Allowance for Loan and Lease Losses but will then permit losses eligible for deferral to be reinstated in new items in the asset and equity sections of the balance sheet on the Report of Condition. Additionally, the regulation provides that any resulting increase in the capital account shall be treated as primary capital for purposes of determining the bank's compliance with the various federal regulatory requirements, guidelines, and standards affecting or related to capital.

Eligibility

Under the regulation, any bank desiring to participate in the program will be required to submit to the appropriate federal banking agency a proposal establishing both its eligibility and the eligibility of the losses it proposes to amortize. In order to be eligible, the proposing bank must be an "agricultural bank" as defined in the regulation.

Further, the proposing bank's current capital must be in need of restoration, but the bank also must be an economically viable, fundamentally sound institution. Therefore, a bank with capital below levels established by the Board's Regulation Y (12 CFR Part 225), or which is subject to an enforcement action related to capital levels can be eligible. Acceptance of a bank for loss amortization with an adequate capital plan will normally relieve the bank of any inconsistent provisions dealing with capital in any extant Board order, agreement, or directive.

The legislative history of Title VIII of CEBA indicates that the Congress intended that only banks with capital in need of restoration be permitted to amortize losses. Banks which have experienced capital declines but which retain an acceptable amount of capital have no need to amortize or defer their recognition of losses. Congress clearly was aware of this fact in that it required as an essential condition of eligibility the submission of a plan to restore capital to a level acceptable to the banking agency.

In order to be approved, the capital plan must be based upon realistic projections as to earnings and other material factors which accurately reflect conditions in the bank's market area. Further, it should address dividend levels, compensation to directors, executive officers and individuals who have a controlling interest and their related interests, and payments for services or products furnished by affiliated companies.

Viability is not defined in the regulation. It is a judgment based on many variables. One measure of viability would be whether a bank's traditional funding sources and demand for loans of acceptable quality within its market area are sufficient to permit the bank to earn a reasonable profit in a normal environment while achieving and maintaining a capital level that enables the bank to operate throughout the normal downturns in economic cycles without suffering severe financial problems. Usually, a bank will be considered viable if it has a reasonable prospect of remaining a going concern throughout the program and at the end of the amortization period.

Congress intended that only banks with reasonable prospects for survival should be permitted to amortize losses; the legislative history indicates that Title VIII of CEBA was intended to permit "fundamentally sound banks to weather this storm." Cong. Rec. (Daily ed.) S3941 (March 26, 1987). To permit non-viable institutions to amortize losses would merely increase the loss exposure of the FDIC with no countervailing public benefit.

The regulation does not prescribe any absolute level of capital to be achieved. The Board's capital adequacy guidelines (referenced at 12 CFR 208.13 as Appendix A to the Board's Regulation Y, 12 CFR Part 225; Fed. Res. Reg. Serv., ¶ 3–1506) already establish minimum capital standards for well run banks in satisfactory financial condition. Each bank's individual circumstances will be evaluated during the review of the requisite capital plan. This approach parallels the current practice under the Board's existing capital forbearance programs.

An additional criterion for eligibility is that there be no evidence that fraud or criminal abuse by the bank or its officers, directors or principal shareholders led to significant losses on qualified agricultural loans. Literally read, Title VIII of CEBA would seem to disqualify any bank in which there was evidence that losses resulted from fraud or criminal abuse no matter how small in amount the losses were. Certainly, where insider fraud results in significant agricultural loan losses, the bank should be disqualified. Congress intended Title VIII to "provide assistance for agricultural banks, who through no fault of their own, are being squeezed by the ongoing agricultural crisis * * *" *Id.* However, a reasonable interpretation of Title VIII, adopted in the regulation, would disqualify only banks where significant fraud losses occurred.

Conditions on Acceptance

The regulation specifies that any acceptance of a bank's proposal will be subject to certain conditions. These conditions are designed to ensure that a bank continues to meet the eligibility requirements and is properly amortizing losses under the program. First, the bank will be required to fully adhere to the approved capital plan or to obtain the prior approval of any modifications to the plan. Second, the bank will be required to maintain accounting records adequate to document the amount and timing of deferrals, repayments, and amortizations for each loss subject to deferral under the program. Third, the bank must remain a viable, fundamentally sound institution. Fourth, the bank must agree to make a reasonable effort, consistent with safe and sound banking practices, to maintain in its portfolio a percentage of agricultural loans which is not lower than the percentage of such loans in its loan portfolio on January 1, 1986. Fifth, participating banks will be required to provide the Board or the Reserve Bank in whose District the bank is located, upon request, any information necessary to monitor the bank's amortization or its compliance with conditions, or its continued eligibility under the program. The failure of a bank to comply with any condition is grounds for revocation of an acceptance and termination of eligibility to participate in the loss deferral program. Finally, a violation of a condition may result in an administrative action against the bank under 12 U.S.C. 1818(b) because such conditions are imposed in connection with the granting of a request.

Submission of Proposals

Finally, the regulation lists the content of proposals to be submitted by banks desiring to participate in loss amortization. In addition to the items previously discussed, the proposal shall include a copy of a resolution by the bank's Board of Directors authorizing submission of the proposal. This is to ensure that the Board of Directors has been fully informed. Proposals may be submitted to the Federal Reserve Bank for the Federal Reserve District in which the bank is located on or after November 9, 1987.

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Notice and Public Comment

The Board finds good cause for asking for public comment concurrently with the adoption of the rule, for not seeking public comment prior to the adoption of the rule, and for having the rule effective less than thirty days after publication. First, Title VIII of CEBA requires that regulations implementing the Title be implemented no later than 90 days after the effective date of that Title (that is, by November 9, 1987). Therefore, this regulation must be effective on November 9, 1987, which is less than thirty days of the publication date. Second, the Call Report for December 31, 1987, is the first accounting report that could be affected by this regulation, and it will not be due until after the close of the comment period. Thus, any eligible bank receiving approval to amortize loans on the basis of the regulation in its current form will have ample time prior to filing its Call Report for December 31, 1987, to make any adjustments necessary because of amendments to this rule resulting from any comments received. Accordingly, the Board believes that notice and public participation beyond that provided for is impracticable, unnecessary and contrary to the public interest.

Information Collection

The information to be included in an application and all information needs under the loan loss deferral program are contained in a new information collection, the "Report by Banks Proposing to Amortize Losses on Qualified Agricultural Loans" (form FR 4020; OMB No. 7100-0226). This report was approved by the Board under delegated authority from the Office of Management and Budget ("OMB") at the same time the Board approved this final rule. Notice of the implementation of this information collection is provided in a separate **Federal Register** notice published contemporaneously with this final rule.

In addition to the information required to establish eligibility under the program, certain continuing information will be required for monitoring. For this purpose, the Board and the other agencies intend to rely mainly on the Reports of Condition and Income (FFIEC 031-034; OMB No. 7100-0036). A proposal requesting approval to make the necessary changes to these reports for the December 31, 1987, report date is being submitted shortly to OMB. A separate **Federal Register** notice regarding those changes will be published at the time the proposal is submitted to OMB.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Board certifies that the amendments will not have a significant economic impact on a substantial number of small entities. The amendments would not have any effect on many depository institutions, and any adverse impact on small depositories affected (which only occurs if an institution chooses to take advantage of this regulation) would likely be outweighed by the benefits bestowed by the regulation on these small depository institutions.

List of Subjects in 12 CFR Part 208

Banks, Banking, State member banks, Applications, Recordkeeping, Flood insurance, Capital.

Pursuant to the Board's authority under Title VIII of the Competitive Equality Banking Act of 1987 (Pub. L. No. 100-86), and section 9 of the Federal Reserve Act, 12 U.S.C. 321 *et seq.*, the Board is amending 12 CFR Part 208 as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. The authority citation for 12 CFR Part 208 is revised to read as follows:

Authority: Sections 9, 11, and 21 of the Federal Reserve Act (12 U.S.C. 321-338, 248, and 486); sections 4 and 13(j) of the Federal Deposit Insurance Act (12 U.S.C. 1814 and 1823(j)); and sections 907 and 908 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906 and 3907).

2. A new § 208.15 is added as follows:

§ 208.15 Agricultural loan loss amortization.

(a) *Definitions.* For purposes of this section:

(1) "Agricultural Bank" means a bank:

(i) The deposits of which are insured by the Federal Deposit Insurance Corporation;

(ii) Which is located in an area of the country the economy of which is dependent on agriculture;

(iii) Which has total assets of $100,000,000 or less as of the most recent Report of Condition; and

(iv) Which has:

(A) At least 25 percent of its total loans in qualified agricultural loans; or

(B) Less than 25 percent of its total loans in qualified agricultural loans, but which bank the Board or the Reserve Bank in whose District the bank is located or its primary state regulator has recommended to the Federal Deposit Insurance Corporation for eligibility under this part.

(2) "Qualified Agricultural Loan" means:

(i) Loans qualifying as "loans to finance agricultural production and other loans to farmers" or as "loans secured by farm land" for purposes of Schedule RC-C of the FFIEC Consolidated Report of Condition;

(ii) Other loans or leases that a bank proves to be sufficiently related to agriculture for classification as an agricultural loan by the Board or the Reserve Bank in whose District the bank is located; and

(iii) the remaining unpaid balance of any loans, as described in paragraph (a)(2)(i) and (ii) of this section, that have been charged off since January 1, 1984, and that qualify for deferral under this regulation.

(3) "Accepting Official" means:

(i) The Reserve Bank in whose District the bank is located; or

(ii) The Director of the Division of Banking Supervision and Regulation in cases in which the Reserve Bank cannot determine that the bank qualifies under the regulation.

(b) *Loss amortization and reappraisal.* (1) Provided that there is no evidence that the loss resulted from fraud or criminal abuse on the part of the bank, its officers, directors, or principal shareholders, a bank that has been accepted under this section may, in the manner described below, amortize in its Reports of Condition and Income:

(i) Any loss on any qualified agricultural loan that the bank reflected in its annual financial statements for any year between and including 1984 and 1991; and

(ii) Any loss reflected in its financial statements resulting from a reappraisal or sale of currently owned property, real or personal, that it acquired in connection with a qualified agricultural loan and that it owned on January 1, 1983, and any such additional property that it acquires on or before December 31, 1991.

(2) Amortization under this section shall be computed over a period not to exceed seven years on a quarterly straight-line basis commencing in the first quarter after the loan was or is charged off so as to be fully amortized not later than December 31, 1998.

(c) *Accounting for amortization.* Any bank which is permitted to amortize losses in accordance with paragraph (b), of this section, may restate its capital and other relevant accounts and account for future authorized deferrals and amortizations in accordance with the instructions to the FFIEC Consolidated Reports of Condition and Income. Any resulting increase in the capital account

shall be included in primary capital as per section 208.13 of this Part.

(d) *Eligibility.* A proposal submitted in accord with paragraph (f) shall be accepted, subject to the conditions described in paragraph (e), if the Accepting Official finds:

(1) The proposing bank is an agricultural bank;

(2) The proposing bank's current capital is in need of restoration, but the bank remains an economically viable, fundamentally sound institution;

(3) There is no evidence that fraud or criminal abuse by the bank or its officers, directors or principal shareholders led to significant losses on qualified agricultural loans and related assets; and

(4) The proposing bank has submitted a capital plan approved by the Accepting Official that will restore its capital to an acceptable level.

(e) *Conditions on acceptance.* All acceptances of proposals shall be subject to the following conditions:

(1) The bank shall fully adhere to the approved capital plan and shall obtain the prior approval of the Accepting Official for any modifications to the plan;

(2) With respect to each asset subject to loss deferral under the program, the bank shall maintain accounting records adequate to document the amount and timing of the deferrals, repayments and amortizations;

(3) The financial condition of the bank shall not deteriorate to the point where it is no longer a vaible, fundamentally sound institution;

(4) The bank agrees to make a reasonable effort, consistent with safe and sound banking practices, to maintain in its loan portfolio a percentage of agricultural loans not lower than the percentage of such loans in its loan portfolio on January 1, 1986; and

(5) The bank shall agree to provide the Accepting Official, upon request, with such information as the Accepting Official deems necessary to monitor the bank's amortization, its compliance with conditions, and its continued eligibility.

(f) *Submission of proposals.* (1) A bank wishing to amortize losses on qualified agricultural loans or other related assets shall submit a proposal to the appropriate Accepting Official.

(2) The proposal shall contain the following information:

(i) Name and address of the bank;

(ii) Information establishing that the bank is located in an area the economy of which is dependent on agriculture; the information could consist of a description of the bank's location, dominant lines of commerce in its service area, and any other information the bank believes will support the contention that it is located in such an area.

(iii) A copy of the bank's most recent Report of Condition and Income;

(iv) If the Report of Condition and Income fails to show that at least 25 percent of the bank's total loans are qualified agricultural loans, the basis upon which the bank believes that it should be declared eligible to amortize losses;

(v) A capital plan demonstrating that the bank will achieve an acceptable capital level not later than the end of the bank's amortization period. The plan should provide for a realistic improvement in the bank's capital, over the course of the amortization period, from earnings retention, capital injections, or other sources; and include specific information regarding dividend levels, compensation to directors, executive officers and individuals who have a controlling interest and in turn to their related interests, and payments for services or products furnished by affiliated companies.

(vi) A list of the loans and reappraised property upon which the bank proposes to defer loss including for each such loan or property, the following information:

(A) The name of the borrower, the amount of the loan that resulted in the loss, and the amount of the loss;

(B) The date on which the loss was declared;

(C) The basis upon which the loss resulted from a qualified agricultural loan;

(vii) A certification by the bank's chief executive officer that there is no evidence that the losses resulted from fraud or criminal abuse by the bank, its officers, directors, or principal shareholders;

(viii) A copy of a resolution by the bank's Board of Directors authorizing submission of the proposal; and

(ix) Such other information as the Accepting Official may require.

(g) *Revocation of eligibility.* The failure to comply with any condition in an acceptance or with the capital restoration plan is grounds for revocation of acceptance for loss amortization and for an administrative action against the bank under 12 U.S.C. 1818(b). Additionally, acceptance of a bank for loss amortization will not foreclose any administrative action against the bank that the Board may deem appropriate.

* * * * *

By order of the Board of Governors of the Federal Reserve System, October 28, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-25359 Filed 11-2-87; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563b

[No. 87-1103]

Acquisition of Securities of Converting and Converted Insured Institutions

Date: October 23, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is amending its regulations pertaining to the processing of applications involving offers to acquire or acquisitions of securities of converting and converted institutions whose accounts are insured by the FSLIC ("insured institutions"). The Board is amending its regulations to authorize the General Counsel, or his designee, to grant approval of any application to offer to acquire or acquire the beneficial ownership of more than ten percent of any class of an equity security of a recently converted insured institution, submitted under § 563b.3(i)(3) of the Regulations of the Federal Savings and Loan Insurance Corporation ("Insurance Regulations"). which does not raise a significant issue of law or policy. The Board is also amending is regulations to specify where such applications are to be filed. The Board is not soliciting comment on the amendments because they involve matters of agency procedure that do not impose any new or additional compliance obligations on potential acquirers of the equity securities of insured institutions.

EFFECTIVE DATE: December 3, 1987.

FOR FURTHER INFORMATION CONTACT: Steven J. Gray, Attorney (202) 377-7506; V. Gerard Comizio, Director (202) 377-6411, Corporate and Securities Division; or Julie L. Williams, Deputy General Counsel for Securities and Corporate Structure (202) 377-6459; Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

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SUPPLEMENTARY INFORMATION:

Section 563b.3(i)(3) of the Insurance Regulations (the "Rule") provides that, without the prior written approval of the Corporation, no person shall directly or indirectly offer to acquire or acquire the beneficial ownership of more than ten percent of any class of equity security of an insured institution for a period of three years following the institution's conversion from mutual to stock form pursuant to Part 563b of the Insurance Regulations. 12 CFR 563b.3(i)(3) (1987). The restriction on acquisitions was originally adopted by the Board in Resolution No. 76–648, dated November 10, 1976, in recognition of the unique considerations presented by acquisition and changes in control of recently converted institutions. In Resolution No. 84–90, dated February 23, 1984, the Board extended the restriction, from a one year period to a three year period following a conversion, to facilitate the deployment of the conversion stock sale proceeds and protect the integrity of the conversion process. The Rule was adopted as a final rule essentially in its current form in Resolution No. 84–800, dated August 2, 1984.

The Board has gained considerable experience in the processing of applications submitted under the Rule in the past several years. Based on this experience and in the interest of more efficiently processing such applications, the Board has determined that it is appropriate and desirable to delegate authority to the General Counsel, or his designee, to grant approval of any application submitted under the Rule that does not raise a significant issue of law or policy. Any applications under the Rule that raise significant issues of law or policy or that the Office of General Counsel determines to recommend denial would continue to require consideration and action by the Board. The Board notes that the General Counsel has previously been delegated authority to act on applications for conversion under Subpart A of Part 563b, subject to certain enumerated exceptions. To implement this additional delegation of authority, the Board is revising § 563b.8(w)(2) to modify the exception to the general delegation of authority relating to applications under the Rule.

The Board is also revising § 563b.3(i)(3) to specify that (1) the original and one copy of all applications under the Rule should be filed with the Corporate and Securities Division of the Board's Office of General Counsel and (2) one copy of all such applications should be filed with the appropriate Supervisory Agent.

The Board had determined that the amendments will enhance the processing efficiency of applications under the Rule within the Board and will not impose any new or additional compliance obligations on potential acquirors of the equity securities of recently converted insured institutions. The Board therefore finds that observance of the public notice and comment period, pursuant to 5 U.S.C. 552(b) and 12 CFR 508.11, is unnecessary.

List of Subjects in 12 CFR Part 563b

Reporting and recordkeeping requirements, Savings and loan associations, Securities.

Accordingly, the Board hereby amends Part 563b, Subchapter D, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

Subpart A— Standard Conversions

1. The authority citation for Part 563b continues to read as follows:

Authority: Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a) sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); secs. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464); secs. 401–403, 405–407, 48 Stat. 1255–1257, 1259–1260, as amended (12 U.S.C. 1724–1726, 1728–1730); sec. 480, 82 Stat. 5, as amended (12 U.S.C. 1730a); secs. 3(b), 12–14, 23, 48 Stat. 882, 892, 894–895, 901, as amended (15 U.S.C. 78c, 1–n, w); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

2. Amend § 563b.3 by revising paragraph (i)(3) to read as follows:

§ 563b.3 General principles of conversions.

* * * * *

(i) *Acquisition of the securities of converting and converted institutions*—(1) * * *

(3) *Prohibition on offers to acquire and acquisitions of stock for three years following conversion.* For a period of three years following the date of the completion of the conversion, no person shall directly or indirectly, offer to acquire or acquire the beneficial ownership of more than ten percent of any class of an equity security of an insured institution converted in accordance with the provisions of this Part 563b, without the prior written approval of the Corporation. Where any person, directly or indirectly, acquires beneficial ownership of more than ten percent of any class of any equity security of an insured institution converted in accordance with Part 563b, without the prior written approval of the Corporation as required by this section, the securities beneficially owned by such person in excess of ten percent shall not be counted as shares entitled to vote and shall not be voted by any person or counted as voting shares in connection with any matter submitted to the stockholders for a vote. For the purposes of this section, a person shall be deemed to have acquired beneficial ownership of more than ten percent (10%) of a class of equity security of an insured institution where the person holds any combination of stock or revocable or irrevocable proxies of the institution under circumstances that give rise to a conclusive control determination or rebuttable control determination under § 574.4 (a) and (b) of this chapter. The original and one copy of all applications for approval of the Corporation under this paragraph should be filed with the Corporate and Securities Division of the Board's Office of General Counsel and one copy of all such applications should be filed with the appropriate Supervisory Agent.

* * * * *

3. Amend § 563b.8 by revising paragraph (w)(2) to read as follows:

§ 563.8 Procedural requirements.

* * * * *

(w) *Delegation of authority—(1)* * * *

(2) *Approval of applications for conversion.* The Corporation delegates to the General Counsel or his designee the authority to approve but not to deny applications for conversion pursuant to the standards and restrictions set forth in this Subpart A, and to exercise any other authority to the Corporation under this Subpart A, excepting (i) the authority to waive any material provision of this Subpart A pursuant to § 563b.1(a); (ii) the authority to approve other equitable provisions in the plan of conversion under § 563b.3(d)(13); (iii) the authority to approve any application for conversion in regard to which an objection has been filed pursuant to § 563b.4(b)(1); and (iv) the authority to approve an application for approval to offer to acquire or to acquire more than 10 percent of the stock of a converted insured institution under § 563b.3(i)(3) that raises a significant issue of law or policy or to deny an application submitted under that paragraph. The Board also delegates to the General Counsel or his designees, in connection with the approval of an application for conversion under this Subpart A, the authority to approve but not to deny applications for approval of security

forms, charter amendments, and bylaw amendments under § 583.1 of this Subchapter, and §§ 544.1, 544.5, and 555.2 of this chapter. In connection with the approval of an application for conversion under this Subpart A, the Board also delegates to the General Counsel the authority to permit the converted insured association which previously had a greater number of directors than allowed under § 552.3 to retain that number of directors in accordance with the acceptable plan for complying with § 552.3 within three years after its next annual meeting.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

[FR Doc. 87–25450 Filed 11–2–87; 8:45 am]
BILLING CODE 6720–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards

AGENCY: Small Business Administration.
ACTION: Final rule.

SUMMARY: Section 4(g) of Small Business Innovation Research (SBIR) Policy Directive No. 65 01 2, published in the **Federal Register** on January 8, 1985, 50 FR 917, 919, provides that the time at which the size of a concern is determined for either Phase I of Phase II SBIR awards is the date of award. This rule amends § 121.5(a) of SBA's regulations to make time of size for Phase I and Phase II SBIR awards consistent with the SBIR Policy Directive.

EFFECTIVE DATE: November 3, 1987.

FOR FURTHER INFORMATION CONTACT: Richard J. Shane, Assistant Administrator for Innovation, Research & Technology, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

SUPPLEMENTARY INFORMATION: On August 10, 1987, 52 FR 29533, SBA published a proposal to amend § 121.5(a) of Title 13, Code of Federal Regulations, to require that for purposes of the SBIR program, the date at which firm size is determined would be the date of award. This is consistent with long standing program policy. The reasons for the proposal are discussed in the preamble to the proposed rule.

SBA provided for a 30-day public comment period following the August 10, 1987 **Federal Register** publication. During that period, SBA received one comment which addressed the difficulties of firms which have exceeded the SBA size standards for their industires. Since the comment addressed a statutory, and not a regulatory decision, SBA made no changes to the proposed rule as a result of that comment.

Accordingly, SBA hereby amends its size regulations to adopt the time of size policy developed for the SBIR program and articulated in the proposed rule (52 FR 29533): namely, that the time of a size determination for the SBIR program is the date of award of the funding agreement.

This final rule is effective upon publication so that SBIR awards made during fiscal year 1988 and thereafter will be subject to the same size requirements. Since this change is consistent with the SBIR Policy Directive (65 01 2) used by most contracting officers, SBA believes that making the rule effective immediately will pose little, if any, hardship to the SBIR Program participants.

SBA certifies that this final rule does not constitute a major rule for the purpose of Executive Order 12291. It should have no economic effect and should not result in an increase in costs or prices since businesses and Federal agencies participating in the SBIR Program have been utilizing the time of size policy set forth in the SBIR Policy Directive since the Program's inception. This rule merely conforms SBA's size regulations to this policy.

SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* As previously stated, this rule will merely conform SBA's size regulations to take into account the SBIR time of size policy for Phase I and Phase II SBIR awards which has been followed since the Program's inception. Small entities seeking to participate in the SBIR Program will follow the same procedures which were being followed before the effective date of this rule. This rule contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 13 CFR Part 121

Small business, Small business size standards.

Accordingly, Part 121 of 13 CFR is amended as follows:

PART 121—[AMENDED]

1. The authority citation for Part 121 continues to read as follows:

Authority: Secs. 3(a) and 5(b)(6) of the Small Business Act, 15 U.S.C. 632(a) and 634(b)(6).

2. Section 121.5 is amended by revising paragraph (a) to read as follows:

§ 121.5 Small business for Government procurement.

(a) A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is not dominant in the field of operation in which it is bidding on Government contracts and can further quality under the criteria set forth in this section. Except for Phase I and Phase II awards under SBA's Small Business Innovation Research (SBIR) Program, the size status of a concern (including its affiliates) is determined as of the date of its written self-certification as a small business as part of the concern's submission of a bid or offer. For proposes of Phase I and Phase II awards under SBA's SBIR Program, the size status of a concern is determined as of the date of the award. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of an SBA inquiry is not considered an SBA size determination.

* * * * *

Date: October 15, 1987.
Donald A. Clarey,
Deputy Administrator.

[FR Doc. 87–25409 Filed 11–2–87; 8:45 am]
BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 040CE, Special Conditions No. 23–ACE–34]

Special Conditions; DeVore Model 100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the DeVore Model 100 Series Airplanes. The airplane will have novel and unusual design features when compared to the state of technology envisaged in the airworthiness standards of 14 CFR Part 23 of the Federal Aviation Regulations (FAR). These novel and unusual design features include the aerodynamic configuration of the airplane, the location of the engine and propeller, and the use of composite materials for primary flight structure, for which the regulations do not contain adequate or appropriate

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airworthiness standards. These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of Part 23.

EFFECTIVE DATE: November 3, 1987.

FOR FURTHER INFORMATION CONTACT: Bobby W. Sexton, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 1985, DeVore Aviation Corporation, 6104 B Kircher Boulevard, NE, Albuquerque, New Mexico, 87109, made application to the FAA for a type certificate for the DeVore Model 100 Airplane. The DeVore Model 100 will be a two-place, single-engine airplane with a pusher propeller, tricycle landing gear, a gross weight of 1050 pounds, and constructed using composite material in the primary structure.

Special conditions are issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with § 11.49, after public notice as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.17(a)(2).

The proposed type design of the DeVore Model 100 Airplane contains a number of novel or unusual design features not envisaged by the applicable Part 23 airworthiness standards. Special conditions are considered necessary because the airworthiness standards of Part 23 do not contain adequate or appropriate safety standards for the novel or unusual design features of the DeVore Model 100 Airplane.

The DeVore Model 100 has been designed using new National Aeronautics and Space Administration (NASA) wing design technology which is novel and unusual relative to the wing designs envisaged when the requirements of § 23.221 were promulgated.

The current provisions of § 23.221 requires spin testing for single-engine airplanes and satisfactory recovery characteristics for either a one-turn spin, a six-turn spin, or the airplane must be shown characteristically incapable of spinning. After significant research, NASA, in cooperation with the General Aviation Manufacturers Association (GAMA), has developed new wing design technology which provides airplane control characteristics at minimum flight speeds which they believe are far superior to current airplane designs. NASA and GAMA believe this new wing design, commonly described as a "partial-span, drooped leading edge with a sharp discontinuity", provides considerably improved protection against inadvertent loss of control at slow speeds than does the present § 23.221 requirement to demonstrate recovery from a one-turn spin.

Since the earliest of civil certification standards, the phenomena of loss of control at minimum speed has been recognized and criteria has been established to avoid the hazardous conditions that result from that phenomena. The basic tenet was that airplanes would stall, and if stalled, they could spin. Therefore, spin recovery qualifications were established for both pilot and airplane. Subsequent history and accident records proved that just providing spin recovery capabilities did not prevent airplanes from inadvertently spinning. If a spin occurs near the ground, recovery is highly improbable.

After several iterations, the standards of present § 23.221 were set forth in Civil Air Regulations (CAR) Part 03-0 in 1945 and further clarified in Amendment 3-7 of CAR 3 in May 1962. The preamble to these standards in CAR 3 clearly indicates that the objective was "spin prevention" rather than "spin recovery" for normal category airplanes. The one-turn spin tests were intended to be investigations of the ability to regain control of the airplane after delaying recovery or abusing the controls during stalls rather than true spin tests. Concurrent with changes to the airplane spin certification requirements, the pilot licensing rules, CAR Part 20, was changed in 1949 to eliminate spin proficiency demonstrations stating that emphasis on the recognition of, and recovery from, stalls would contribute more effectively to safety.

By strengthening stall criteria in airplane and airman certification and by relaxing spin requirements for both airplane and airman certification, the stated intent was to provide an incentive for manufacturers to build, and operators of schools to use, spin-resistant or spin-proof airplanes. The technology to meet those objectives has been slow in coming. In the extensive NASA research program conducted to develop suitable technology, NASA has coordinated closely with FAA in establishing criteria that would provide equal or better potential for avoiding loss of control at the stall or minimum flight speed. It is emphasized that the intent was not to design an airplane that is absolutely spin-proof, but rather one that would be virtually impossible to accidently spin so that normal use of flight controls would recover or regain straight flight. The emphasis is on "normal" use of flight controls such that no special training or unique flight control movements are necessary to regain control. American Institute of Aeronautics and Astronautics (AIAA) Paper No. 86-9812 presented by NASA personnel to the AIAA serves as a good reference for the technical background for the NASA/GAMA proposed spin-resistance criteria as well as the historical aspect of the spin problem in airplanes.

The current requirements of § 23.221 may not be adequate or appropriate for the unique wing design of the DeVore Model 100 Airplane. Therefore, in accordance with § 21.16, a special condition is necessary to establish adequate safety criteria relative to spin requirements.

The DeVore Model 100 airframe is made of advanced composite material and are assembled by the extensive use of bonding. This material and its assembly is completely different from the typical semi-monicoque aluminum airframes that have been predominant since the early 1940's. Composite materials of the type used on the DeVore Model 100 Airplane are generally not susceptible to initiation of fatigue cracks by the application of repetitive loads, but are susceptible to damage in the form of cracks, breaks, and delaminations from intrinsic and discrete sources growing under application of repetitive loads. Because of this and other factors, the FAA has determined that the wing fatigue requirements of § 23.572 are inadequate to assure that composite material structure can withstand the repeated loads of variable magnitude expected in service.

The use of composite materials and extensive bonding of these materials in primary flight structure is a novel and unusual design feature with respect to the type of airplane construction envisaged by the existing airworthiness standards of Part 23. Because the requirements of Part 23 do not require the level of substantiation necessary for composite material structure, special conditions are necessary to include the necessary airworthiness standards as a part of the type certification basis for the DeVore Model 100 Airplane. This special condition is necessary to assure that a level of safety exists for airplanes made from bonded, composite materials equivalent to those existing for aluminum airplanes.

This special condition will require the wings and other composite structural components critical to safe flight be evaluated by damage tolerance criteria. The damage tolerance consideration includes principal structural elements such as the wing, wing carry-through, wing attaching structure, fuselage, and the vertical and horizontal stabilizers and their carry-through structures, since failure of these structures could have catastrophic results. When damage tolerance is shown to be impractical, the special condition is worded to permit approval, based on safe-life testing. Metal details may continue to be evaluated to the fatigue requirements of § 23.572.

Damage tolerance criteria for composite structure, in combination with the existing material requirements of Part 23, such as §§ 23.603 and 23.613, will provide a level of safety for the composite material airframe structure used in the DeVore Model 100 Airplane equivalent to that required by the airworthiness standards of Part 23.

In addition to those components requiring fatigue/damage tolerance evaluations, other components that are critical to flight safety, such as moveable control surfaces and wing flaps, must also be protected against loss of strength or stiffness. Protection conventionally is provided through design and inspection. Since composite material strength is susceptible to manufacturing defects and damage from discrete sources, including lightning strikes, process controls and inspectibility are limited; therefore, structures design must provide for these limits with adequate protection allowances.

The lack of adequate service experience with composite material structures in airplanes type certificated to the airworthiness standards of Part 23, the unusual mechanical properties characteristics, and the experience with composite material structural bonding, to date, necessitates special conditions to assure an appropriate level of safety for the DeVore Model 100 airframe structure. These special conditions will require: (1) Accounting for environmental effects; i.e., temperature and humidity on material mechanical properties in all structural substantiation analysis and test, (2) limit load residual strength with impact damage from discrete sources; (3) ability to carry ultimate load with realistic intrinsic and discrete impact damage at the threshold of detectability, and (4) design features to prevent disbonds greater than the disbonds for which limit load capability has been shown. Proof-testing of each production component to limit load and reliance on manufacturing quality control procedures between limit and ultimate load may be used in lieu of "design features," provided each bonded joint is subjected to its critical design limit load during the proof testing. Acceptable non-destructive testing techniques do not yet exist in state-of-the-art composite technology to reliably identify weak bonds. However, proof-testing of each production article may be discontinued if such tests are developed and accepted by the FAA.

Because the composite material and bonding may require preventative maintenance and inspection procedures different from those commonly utilized for aluminum airframes, this special condition requires that instructions for continued airworthiness be established in addition to those required by § 23.1529.

Since the aft-location of the propeller on the DeVore Model 100 Airplane is an unconventional design feature, passenger and ground personnel may be less aware of the proximity of the propeller blades. A special condition is necessary to require the necessary visibility of the propeller disc corresponding to similar requirements of Parts 27 and 29 concerning the conspicuity of the tail rotor.

Type Certification Basis

The type certification basis for the DeVore Model 100 Airplane is as follows: Part 23, effective February 1, 1965, as amended by amendments 23-1 through 23-31 and §§ 23.2 and 23.785 (g) and (h) as amended by amendment 23-32, effective December 12, 1985; Part 36, effective December 1, 1969, as amended by amendments 36-1 through the amendment effective on the date of type certification; exemptions, if any; and the special conditions that may result from this proposal.

Discussion of Comments

Notice of Proposed Special Conditions was published in the **Federal Register** on Monday, July 20, 1977, Notice No. 23-ACE-34, (52 FR 27219) and the comment period closed on August 19, 1987. There was one set of comments received by the FAA in response to the notice and that commenter supported the special conditions as presented in the notice.

Conclusion

This action affects only one model series of airplane. It is not a rule of general applicability and applies only to the series and model of airplane identified in these final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

Adoption of the Special Conditions

In consideration of the foregoing, the following special conditions are issued for type certification of the Devore Model 100 Series Airplanes.

1. Spin Resistant Requirement

DeVore must either comply with § 23.221 or the airplane must be shown to have spin-resistant safety features by complying with the following:

(a) During the stall maneuvers contained in § 23.201, the pitch control must be pulled back and held against the stop. Then, using ailerons and rudders in the proper sense of direction, it must be possible to maintain wings-level flight within 15 degrees of bank and to roll the airplane from a 30-degree bank in one direction to a 30-degree bank in the other direction.

(b) Reduce the airplane speed using pitch control at a rate of approximately one knot per second until the pitch control reaches the stop. With the pitch control pulled back and held against the stop, full rudder control must be applied in a manner to promote spin entry, for a period of seven (7) seconds or through a 360-degree heading change, whichever occurs first. If the 360-degree heading change is reached first, it must have taken no less than four (4) seconds. This maneuver must be performed with the ailerons in neutral position, and with the ailerons deflected opposite the direction of turn or in the most adverse manner. Power or thrust and airplane configuration must be set in accordance with § 23.201(f) without change during the maneuver. At the end of seven (7) seconds or a 360-degree heading change, as appropriate, the airplane must respond immediately and normally to primary flight controls applied to regain coordinated, unstalled flight without reversal of control effect and without exceeding the temporary control forces specified by § 23.143(c).

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(c) Compliance with §§ 23.201 and 23.203 must be demonstrated with the airplane in uncoordinated flight, corresponding to one-ball-width displacement on a slip-skid indicator, unless one-ball-width displacement cannot be obtained with full rudder, in which case, the demonstration must be with full rudder applied.

2. Evaluation of Composite Structure

In lieu of complying with § 23.572, and in addition to the requirements of §§ 23.603 and 23.613, airframe structure, the failure of which would result in catastrophic loss of the airplane, in each wing, wing carry-through, wing attaching structure, fuselage, vertical and horizontal stabilizers and their carry-through structures, wing flap, and moveable control surface must be evaluated to damage tolerance criteria prescribed in paragraphs (a) through (i) Of this special condition, unless shown to be impractical. In cases shown to be impractical, the aforementioned structure must be evaluated in accordance with the criteria of paragraphs (a) and (j) of this special condition. Where bonded joints are used, the structure must also be evaluated in accordance with the residual strength criteria in paragraph (g) of this special condition.

(a) It must be demonstrated by tests, or by analysis supported by tests, that the structure is capable of carrying ultimate load with impact damage. The level of impact damage considered need not be more than the established threshold of detectability considering the inspection procedures employed.

(b) The growth rate of damage that may occur from fatigue, corrosion, intrinsic defects, manufacturing defects; e.g., bond defects, or damage from discrete sources under repeated loads expected in service; i.e., between the time at which damage becomes initially detectable and the time at which the extent of damage reaches the value selected by the applicant for residual strength demonstration, must be established by tests or by analysis supported by tests.

(c) The damage growth, between initial detectability and the value selected for residual strength demonstrations, factored to obtain inspection intervals, must permit development of an inspection program suitable for application by operation and maintenance personnel.

(d) Instructions for continued airworthiness for the airframe must be established consistent with the results of the damage tolerance evaluations. Inspection intervals must be set so that after the damage initially becomes detectable by the inspection method specified, the damage will be detected before it exceeds the extent of damage for which residual strength is demonstrated.

(e) Loads spectra, load truncation, and the locations and types of damage considered in the damage tolerance evaluations must be documented in test proposals.

(f) Each wing, wing carry-through, wing attaching structure, wing flap, movable control surface, and wing-mounted vertical stabilizer structure must be shown by residual strength tests, or analysis supported by residual strength tests, to be able to withstand critical limit flight loads, considered as ultimate loads, with the extent of damage consistent with the results of the damage tolerance evaluations.

(g) In lieu of a non-destructive inspection technique which assures ultimate strength of each bonded joint, the limit load capacity of each bonded joint critical to safe flight must be substantiated by either of the following methods used singly or in combination:

(1) The maximum disbonds of each bonded joint consistent with the capability to withstand the loads in paragraphs (f) and (g) of this special condition must be determined by analysis, tests, or both. Disbonds of each bonded joint greater than this must be prevented by design features.

(2) Proof testing must be conducted on each production article which will apply the critical limit design load to each critical bonded joint.

(h) The effects of material variability and environmental conditions; e.g., exposure to temperature, humidity, erosion, ultraviolet radiation, and/or chemicals, on the strength and durability properties of the composite materials must be accounted for in the damage tolerance evaluations and in the residual strength tests.

(i) The airplane must be shown by analysis to be free from the flutter to V_D with the extent of damage for which residual strength is demonstrated.

(j) For those structures where the damage tolerance method is shown to be impractical, the strength of such structures must be demonstrated by tests, or analysis supported by tests, to be able to withstand the repeated loads of variable magnitude expected in service. Impact damage in composite material components which may occur must be considered in the demonstration. The impact damage level considered must be consistent with detectability by the inspection procedures employed.

3. Propeller Marking

In the absence of specific regulations, the propeller must be marked so that the disc is conspicuous under normal daylight ground conditions.

Issued in Kansas City, Missouri, on October 14, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-25350 Filed 11-2-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of FD&C Red No. 3 in Cosmetics and Externally Applied Drugs and of its Lakes in Food and Ingested Drugs; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of FD&C Red No. 3 for use in coloring cosmetics and externally applied drugs and of the lakes of this color additive for use in coloring food and ingested drugs. The new closing date for the provisional listing of this color additive will be May 2, 1988. This postponement will provide additional time for FDA to complete its evaluation of the toxicological data relating to FD&C Red No. 3. FDA is also correcting an inadvertent error that appeared in the table entry as "D&C Red No. 3" to read "FD&C Red No. 3" (50 FR 35783 at 35789; September 4, 1985).

EFFECTIVE DATE: Effective November 3, 1987, the new closing date for FD&C Red No. 3 and its lakes will be May 2, 1988.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of November 3, 1987, by a rule published in the **Federal Register** of November 3, 1986 (51 FR 39856). FDA issued the postponement to provide time for the scientific review panel (the panel), assembled to consider data pertaining to suggested secondary mechanism of action for the carcinogenicity of FD&C Red No. 3, to complete its report. The panel has completed its review and submitted its report (availability announced in the **Federal Register** of August 11, 1987; 52 FR 29728) to the agency for use in determining the regulatory status of FD&C Red No. 3. In addition to its inquiry into the mechanism of action of FD&C Red No. 3 the panel was directed to determine whether the potential risk to humans from use of the color could be determined. FDA is also correcting an inadvertent error in the table, appearing in the introductory text of 21 CFR 81.27(d). The entry for "D&C Red No. 3" is revised to read "FD&C Red No. 3."

Because of the complexity of the issues involved in the evaluation of the data for FD&C Red No. 3, the agency concludes that the closing date for the provisional listing of FD&C Red No. 3 should be extended until May 2, 1988. (For further discussion of the issues concerning FD&C Red No. 3 see 50 FR 26377 at 26379; June 26, 1985, and 50 FR 35783 at 35786; September 4, 1985.) Additional time is needed for the agency to complete its review of the panel's report. In addition, the extension of time will be used to consider what effect, if any, the recent decision in *Public Citizen* v. *Young* (D.C. Cir. No. 86-1548, October 23, 1987), has on this proceeding. The extension will also permit time for the development and issuance of an appropriate **Federal Register** document.

The agency has considered what, if any, effect this extension would have on the public health. FDA has concluded that there is no basis to believe that a 6-month extension would present a hazard to public health. This extension is thus consistent with *McIlwain* v. *Hayes* (690 F.2d 1041, D.C. Cir. 1982).

Because of the shortness of time until the November 3, 1987, closing date, FDA concludes that notice and public procedure on this regulation are impracticable and that good cause exists for issuing the postponement as a final rule and for an effective date of November 3, 1987. This regulation will permit the uninterrupted use of this color additive until further action is taken. In accordance with 5 U.S.C. 553 (b) and (d) (1) and (3), this postponement is issued as a final regulation, effective November 3, 1987.

List of Subjects in 21 CFR Part 81

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

2. Section 81.1 *Provisional lists of color additives* is amended in paragraph (a) by revising the closing date for the uses of "FD&C Red No. 3" to read May 2, 1988.

§ 81.27 [Amended]

3. Section 81.27 *Conditions of provisional listing* is amended in the table, appearing in the introductory text in paragraph (d), by revising the entry for "D&C Red No. 3" to read "FD&C Red No. 3," and by revising the closing date for "FD&C Red No. 3" to read May 2, 1988.

Dated: October 27, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-25270 Filed 11-2-87; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Red No. 33 and D&C Red No. 36; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Red No. 33 and D&C Red No. 36 for use as color additives in drugs and cosmetics. The new closing date will be January 4, 1988. FDA has decided that this brief postponement is necessary to provide time for the preparation of documents that will explain the bases for the agency's decisions concerning the conditions under which these color additives may be safely used.

EFFECTIVE DATE: Effective November 3, 1987, the new closing date for D&C Red No. 33 and D&C Red No. 36 will be January 4, 1988.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of November 3, 1987, for the provisional listing of D&C Red No. 33 and D&C Red No. 36 by regulation published in the **Federal Register** of September 4, 1987 (52 FR 33573). FDA extended the closing date for these color additives until November 3, 1987, to provide time for completion of the agency's review and evaluation of the data concerning the drug and cosmetic uses of these color additives, and for publication of a regulation in the **Federal Register** regarding the agency's final decision on the petitions for the permanent listing of these color additives. The regulation set forth below will postpone the November 3, 1987, closing date for the provisional listing of these color additives until January 4, 1988.

FDA has nearly completed its review and evaluation of available information relevant to the use of these color additives in drugs and cosmetics. The agency has concluded that drug and cosmetic uses of D&C Red No. 33 and D&C Red No. 36 are safe. Thus, the agency has decided to permanently list the color additives for these uses. New certification specifications are also being developed for these color additives.

The agency has not yet completed documents fully describing the bases for each of these decisions and setting forth detailed conditions for use. Therefore, FDA believes that it is reasonable to postpone the closing date for these color additives until January 4, 1988, to provide time for the preparation and publication of appropriate **Federal Register** documents. The agency intends to publish these documents as soon as possible. FDA concludes that this short extension is consistent with the public health and the standards set forth for continuation of provisional listing in *McIlwain* v. *Hayes*, 690 F.2d 1041 (D.C. Cir. 1982).

The extension of time will also be used to consider what effect, if any, the recent decision in *Public Citizen* v. *Young* (D.C. Cir. No. 86-1548, October 23, 1987), has on this proceeding.

Because of the shortness of time until the November 3, 1987, closing date, FDA concludes that notice and public procedure on this regulation are impracticable and that good cause exists for issuing the postponement as a final rule and for an effective date of November 3, 1987. This regulation will permit the uninterrupted use of these color additives until further action is taken. In accordance with 5 U.S.C. 553

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(b) and (d) (1) and (3), this postponement is issued as a final regulation, effective on November 3, 1987.

List of Subjects in 21 CFR Part 81

Color additives, Cosmetics, Drugs.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR Part 81 is revised to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

2. In § 81.1 *Provisional lists of color additives* by revising the closing dates for "D&C Red No. 33" and "D&C Red No. 36" appearing in the table in paragraph (b) to read "January 4, 1988."

§ 81.27 [Amended]

3. In § 81.27 *Conditions of provisional listing* by revising the closing dates for "D&C Red No. 33" and "D&C Red No. 36" in the table, appearing in the introductory text in paragraph (d), to read January 4, 1988."

Dated: October 27, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-25271 Filed 11-2-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8162]

Low-Income Housing Credit for Federally-Assisted Buildings and OMB Control Numbers Under the Paperwork Reduction Act

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations concerning the low-income housing credit for certain Federally-assisted buildings under section 42 of the Internal Revenue Code of 1986, as enacted by the Tax Reform Act of 1986. These regulations provide guidance concerning the low-income housing credit allowable for certain Federally-assisted buildings acquired during a 10-year period. In addition, the text of the temporary regulations set forth in this document serves as the comment document for the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**.

EFFECTIVE DATE: The regulations are effective for buildings placed in service by a taxpayer after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Robert Beatson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T LR–61–87) (202–566–3829, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the low-income housing credit allowable under section 42(d)(6) of the Internal Revenue Code of 1986 for certain Federally-assisted buildings described in section 42(d)(2)(B)(ii), as enacted by section 252 of the Tax Reform Act of 1986 (Pub. L. 99–514). New § 1.42–2T is added by this document to Part 1 of Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by final regulation on this subject.

Explanation of Provisions

Section 252 of the Tax Reform Act of 1986 enacted a new low-income housing credit equal to the applicable percentage of the qualified basis of each qualified low-income building. The temporary regulations provide guidance with respect to the credit allowable for certain Federally-assisted buildings acquired during a 10-year period. The low-income housing credit is available to the acquirer of a qualified low-income building for which a special waiver is granted by the Internal Revenue Service in order to avert an assignment of the mortgage secured by the building to the Department of Housing and Urban Development or the Farmers' Home Administration, or to avert a claim against a Federal mortgage insurance fund with respect to a mortgage which is so secured.

Special Analyses

The Commissioner of Internal Revenue has determined that these temporary regulations are not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

No general notice of proposed rulemaking is required by 5 U.S.C. 553 (b) because these are temporary regulations, and there is a need to provide the public with immediate guidance. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Paperwork Reduction Act

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB (Control no. 1545–1005).

Drafting Information

The principal author of these regulations is Robert Beatson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR 1.0–1—1.58–8

Income taxes, Tax liability, Tax rates, Credits.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

The amendments to 26 CFR Parts 1 and 602 are as follows:

PART 1—INCOME TAX REGULATIONS

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.42–2T also issued under 26 U.S.C. 42 (m).

Par. 2. A new § 1.42–2T is added immediately following § 1.42–1T to read as follows:

§ 1.42–2T Waiver of requirement that an existing building eligible for the low-income housing credit has been held for 10 years prior to acquisition by the taxpayer (temporary).

(a) *Low-income housing credit for existing building.* Section 42 provides that, for purposes of section 38, new and existing qualified low-income buildings are eligible for a low-income housing credit. The eligibility rules for new and existing buildings differ. Under section 42(d)(2), the acquisition cost (to the extent properly included in basis) of an existing building may be eligible for the low-income housing credit if—

(1) The taxpayer acquires the building by purchase (as defined in section 179(d)(2), as applicable under section 42(d)(2)(D)(iii)(I)),

(2) There is a period of at least 10 years between the date of the building's acquisition by the taxpayer and the later of—

(i) The date the building was last placed in service, or

(ii) The date of the most recent nonqualified substantial improvement of the building, and

(3) The building was not previously placed in service by the taxpayer, or by a person who was a related person (as defined in section 42(d)(2)(D)(iii)(II)) with respect to the taxpayer as of the time the building was last previously placed in service.

(b) *Waiver of 10-year holding period requirement.* Section 42(d)(6) provides that a taxpayer may apply for a waiver of the 10-year holding period requirement specified in paragraph (a)(2) of this section. The Internal Revenue Service will grant a waiver only if—

(1) The existing building satisfies all of the requirements in paragraph (c) of this section, and

(2) The taxpayer makes an application in conformity with the requirements in paragraph (d) of this section.

(c) *Waiver requirements*—(1) *Federally-assisted building.* To satisfy the requirement of this paragraph (c)(1), a building must be a Federally-assisted building. The term "Federally-assisted building" means any building which is substantially assisted, financed, or operated under section 8 of the United States Housing Act of 1937, section 221(d)(3) or 236 of the National Housing Act of 1934, or section 515 of the Housing Act of 1949, as such acts were in effect on October 22, 1986.

(2) *Federal mortgage funds at risk.* To satisfy the requirement of this paragraph (c)(2), Federal mortgage funds must be at risk with respect to a mortgage that is secured by the building or a project of which the building is a part. For purposes of this paragraph (c)(2), Federal mortgage funds are at risk if, in the event of a default by the mortgagor on the mortgage secured by the building or the project of which the building is a part—

(i) The mortgage could be assigned to the Department of Housing and Urban Development or the Farmers' Home Administration, or

(ii) There could arise a claim against a Federal mortgage insurance fund (or such Department or Administration).

(3) *Action by the Department of Housing and Urban Development or the Farmers' Home Administration.* To satisfy the requirement of this paragraph (c)(3), specified Federal action must have been taken by either the Department of Housing and Urban Development or the Farmers' Home Administration ("the Federal agency") with respect to the building or the project of which the building is a part that demonstrates that a waiver of the 10-year holding period requirement is necessary to avert Federal mortgage funds being at risk within the meaning of paragraph (c)(2) of this section. The following specified Federal actions shall be the only means of satisfying the requirement of this paragraph (c)(3):

(i) The federal agency intends to accept an assignment of a mortgage secured by the building or the project of which the building is a part, and such assignment requires payments by the agency or a mortgage insurance fund maintained by the agency to the prior mortgagee;

(ii) The Federal agency or a mortgage insurance fund maintained by the agency intends to accept, as a consequence of foreclosure proceedings or otherwise, conveyance of the building or the project of which the building is a part;

(iii) The Federal agency or a mortgage insurance fund maintained by the agency intends, as a consequence of default, to take possession of, hold title to, or otherwise assume ownership of the building or the project of which the building is a part; or

(iv) The Federal agency has designated the building or the project of which the building is a part as a troubled building or project. A designation of a troubled building or project must satisfy the following requirements:

(A) Designation of troubled status must be based on a review by the Federal agency of the financial condition of the building or project and on a determination by the agency of a history of financial distress and mortgage defaults;

(B) Designation of troubled status must be made or received and approved by the national office of the Federal agency; and

(C) Federal agency regulations or procedures must provide that, in the event of transfer of the ownership of a designated troubled building or project, the building or project may be subject to review by the Federal agency.

Each Federal agency may prescribe its own standards and procedures for designating a troubled building or project so long as such standards are consistent with the requirements of this paragraph (c)(3)(iv).

(4) *No prior credit allowed.* The requirement of this paragraph (c)(4) is satisfied only if no prior owner was allowed a low-income housing credit under section 42 for the building.

(d) *Application for Waiver*—(1) *Time and manner.* In order to receive a waiver of the 10-year holding period requirement specified in paragraph (a)(2) of this section, a taxpayer must file an application that complies with the requirement of this paragraph (d) and applicable procedural rules set forth in paragraph (e) of § 601.201 (Statement of Procedural Rules). The application must be filed by a taxpayer who has acquired the building by purchase or who has a binding contract to purchase the building. Such binding contract may be conditioned upon the granting of a waiver under this section. The application may be filed at any time after a binding contract has been entered into, but no later than 12 months after the taxpayer's acquisition of the building. An application for a waiver of the 10-year holding period requirement must not contain a request for a ruling on any other issue arising under section 42 or other sections of the Internal Revenue Code. An application for a waiver of the 10-year holding period requirement must be mailed or delivered to the Internal Revenue Service, Associate Chief Counsel (Technical and International), Attention CC:IND:D:C, Room 6545, 1111 Constitution Avenue, NW., Washington, DC 20224.

(2) *Information required.* An application for a waiver of the 10-year holding period requirement must contain the following information:

(i) The taxpayer's name, address and taxpayer identification number;

(ii) The name (if any) and address of the acquired building and the project (if any) of which it is a part;

(iii) The date of acquisition or of the binding contract for acquisition of the building by the taxpayer, the amount of consideration paid or to be paid for the acquisition (including the value of any

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liabilities assumed by the taxpayer), and the taxpayer's certification that such acquisition is by purchase (as defined in section 179(d)(2), as applicable under section 42(d)(2)(D)(iii)(I));

(iv) The identity of the person from whom the building is acquired, and whether such person is a Federal agency, a mortgagee holding title to the building, or the mortgagor or prior owner;

(v) The date the building was last placed in service and the date of the most recent (if any) nonqualified substantial improvement of the building (as defined in section 42(d)(2)(D)(i));

(vi) The taxpayer's certification that the building was not previously placed in service by the taxpayer, or by a person who was a related person (as defined in section 42(d)(2)(D)(iii)(II)) with respect to the taxpayer as of the time the building was last placed in service;

(vii) The source of Federal assistance received by the building (for purposes of paragraph (c)(1) of this section);

(viii) The taxpayer's certification that, as of the earlier of the time of acquisition of the building or the time of application for the waiver, the building is a Federally-assisted building (as defined in paragraph (c)(1) of this section);

(ix) The amount and disposition (*e.g.*, discharge, assignment, assumption, or refinance) of any outstanding mortgage, if any, at the time of acquisition and the identities of the mortgagee and mortgagor;

(x) The taxpayer's certification that, as of the earlier of the time of acquisition of the building or the time of application for the waiver, Federal mortgage funds are at risk within the meaning of paragraph (c)(2) of this section;

(xi) Documentation of specified Federal agency action within the meaning of paragraph (c)(3) of this section; and

(xii) The taxpayer's certification that no prior owner was allowed a low-income housing credit under section 42 of the building.

(3) *Other rules.* (i) In the event that an acquired building will be owned by more than one taxpayer, a single application for waiver may be filed by one taxpayer on behalf of the co-owners, if the application contains the names, addresses and taxpayer identification numbers of the other owners. A general partner or a designated limited partner may file an application for waiver on behalf of a partnership.

(ii) With respect to the requirement in paragraph (d)(2)(xi) of this section for documentation of specified Federal agency action, in the case of Federal agency designation of a troubled building or project (as described in paragraph (c)(3)(iv) of this section), a letter or other written statement is required from an appropriate official in the national office of the Federal agency verifying designation of troubled status and compliance with the requirements in paragraph (c)(3)(iv) of this section.

(iii) With respect to the certifications required in paragraphs (d)(2) (x) and (xii) of this section, the taxpayer may make the certifications to the best of its knowledge, and no documentation from other persons need be submitted with the application.

(4) *Effective date of waiver.* A waiver will be effective when granted but in no event later than 60 days after a taxpayer files a substantially complete application for waiver under this paragraph (d). If a taxpayer has filed a substantially complete application but the Internal Revenue Service requires additional information or materials, any waiver granted will be effective no later than 60 days after the initial application was filed.

(5) *Attachment to return.* A waiver letter granted by the Internal Revenue Service shall be filed with the taxpayer's Federal income tax return for the first taxable year the low-income housing credit is claimed by the taxpayer.

(e) *Effective date of regulations.* The provisions of § 1.42–2T are effective for buildings placed in service by the taxpayer after December 31, 1986.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.42–2T * * * 1545–1005".

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: October 19, 1987.

Donaldson Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 87–25444 Filed 10–30–87; 9:56 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5 and 19

[T.D. ATF–260; Ref: Notice No. 606]

Principal Place of Business Address on Distilled Spirits Products Labels

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is amending regulations in 27 CFR Parts 5 and 19 to allow the use of a principal place of business address on distilled spirits products labels. A proprietor using its principal place of business address on distilled spirits products, if different from the address where the operation occurred, will indicate on the label or on the bottle by printing, coding, or other markings, the address where the operation occurred. This amendment would benefit multiplant distilled spirits proprietors by allowing them to use a "universal" label at all of their distilled spirits plants or at distilled spirits plants under contract to affix their label.

DATE: This final rule is effective December 3, 1987.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Coordinator, FAA, Wine and Beer Branch, (202) 566–7626, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 12th and Pennsylvania Avenue NW., Washington, DC.

SUPPLEMENTARY INFORMATION:

Background

Heublein Spirits, Hartford, Connecticut, submitted a petition to allow the principal place of business address to be shown on domestic distilled spirits labels and wine labels when the labels have a code indicating the address where the operation occurred. The petitioner stated that the name and address of the bottler's principal place of business is allowed for imported bottled distilled spirits and wine. Also, a code is allowed for beer labels to indicate the place of production when there are two or more breweries of the same ownership and the principal place of business is shown.

The manufacturer or bottler or importer is required to be shown on labels and advertisements of distilled spirits products under 27 U.S.C. 205 (e) and (f). The purpose of this requirement is to "* * * provide the consumer with adequate information as to the identity and quality of the products. * * *" The

manufacturer or bottler or importer is required to be shown on labels of distilled spirits products under the authority conferred by 26 U.S.C. 5301(a). This section reads, in part, "Whenever in his judgment such action is necessary to protect the revenue, the Secretary is authorized, by the regulations prescribed by him * * * to regulate the kind, size, branding, marking, * * * of containers (of a capacity of not more than 5 wine gallons) designed or intended for use for the sale of distilled spirits * * *". The current regulations, 27 CFR 5.36 (implementing 27 U.S.C. 205(e)), and 27 CFR 19.645 (implementing 26 U.S.C. 5301(a)), require that the name and address of the proprietor where the specified operation occurred appear on the label. We believe the consumer will be sufficiently informed as to who is responsible for the distilled spirits product if proprietors were allowed to use their principal business address on the label. Proprietors with more than one distilled spirits plant or who use contract bottlers would have a reduced cost in maintaining separate label inventories because of different addresses printed on labels. Since most proprietors use some form of identification code imprinted at the time of bottling, the location of the premises where the product was bottled can easily be included in the code. Proprietors who use an identification code on their products are able to trace back specific information concerning the product should the need occur.

Comments

A copy of the petition and the five comments received, all favoring the proposal, are available for inspection during normal business hours at the ATF Reading Room, Room 4406, Office of Public Affairs and Disclosure, 1200 Pennsylvania Avenue NW., Washington, DC.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have a significant secondary or incidental effect on a substantial number of small entities. Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this final rule is not a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The requirement to collect information proposed in Notice No. 606 was submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35. The Office of Management and Budget has assigned control number 1512–0461 to the collection of information in this document.

Drafting Information

The principal author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers.

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouse, Wine.

Authority and Issuance

27 CFR Part 5—Labeling and Advertising of Distilled Spirits is amended as follows:

PART 5—(AMENDED)

Paragraph 1. The authority citation for Part 5 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 5.36 is amended by adding a new paragraph (a)(6) to read as follows:

§ 5.36 Name and Address.

(a) * * *

* * * * * *

(6) The label may state the address of the proprietor's principal place of business in lieu of the place where the bottling, distilling or rectification operation occurred, if the address where the operation occurred is indicated by printing, coding, or other markings, on the label or on the bottle.

* * * * * *

27 CFR Part 19—Distilled Spirits Plants is amended as follows:

PART 19—(AMENDED)

Par. 3. The authority citation for Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5041, 5061, 5062, 5066, 5101, 5111–5113, 5171–5173, 5175, 5176, 5178–5181, 5201–5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271–5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 4. Section 19.645 is amended by removing from paragraph (c) following the semicolon the word "and", by removing from paragraph (d) the "period" at the end of the paragraph and inserting in its place "; and", and by adding a new paragraph (e) to read as follows:

§ 19.645 Name and address of bottler.

* * * * * *

(e) The label may state the address of the proprietor's principal place of business in lieu of the place where the bottling, distilling or processing operation occurred, if the address where the operation occurred is indicated by printing, coding, or other markings, on the label or on the bottle. The coding system employed will permit an ATF officer to determine where the operation stated on the label occurred. Prior to using a coding system, the distilled spirits plant proprietor shall send a notice explaining the coding system to the regional director (compliance) of each region where a label code is used.

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Signed: October 23, 1987.
Stephen E. Higgins,
Director.
Approved: October 27, 1987.
Francis A. Keating II,
Assistant Secretary (Enforcement).
[FR Doc. 87-25311 Filed 11-2-87; 8:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS BIDDLE

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Under Secretary of the Navy has determined that USS BIDDLE (CG-34) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 15, 1987.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Under Secretary of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS BIDDLE (CG-34) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the vessel, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights, without intefering with its special functions as a naval cruiser. The Under Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(ii)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS BIDDLE	CG-34						x	x	27

Approved:
H. Lawrence Garrett III,
Undersecretary of the Navy.
Date: October 15, 1987.
[FR Doc. 87-25417 Filed 11-2-87; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS MISSISSIPPI

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certification and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Under Secretary of the Navy has determined that USS MISSISSIPPI (CGN-40) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 15, 1987.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Under Secretary of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS MISSISSIPPI (CGN-40) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the vessel, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a Navy vessel. The Under Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(ii)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS MISSISSIPPI	CGN-40	—	—	—	—	—	X	X	13

Approved:
H. Lawrence Garrett III,
Undersecretary of the Navy.
Date: October 15, 1987.
[FR Doc. 87-25418 Filed 11-2-87; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS TENNESSEE

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Under Secretary of the Navy has determined that USS TENNESSEE (SSBN-734) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 15, 1987.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Under Secretary of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS TENNESSEE (SSBN-734) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(i), pertaining to the height of the masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Under Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS TENNESSEE (SSBN-734) is a member of the SSBN-726 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS TENNESSEE (SSBN-734).

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by adding the following vessel:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i), Annex I
USS TENNESSEE	SSBN-734	3.70

3. Table Three of § 706.2 is amended by adding the following vessel:

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Vessel	Number	Masthead lights, arc of visibility; Rule 21(a)	Side lights; arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Side lights, distance inboard of ship's sides in meters § 3(b), Annex I	Stern light distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights relationship of aft light to forward light in meters; § 2(k), Annex I
USS TENNESSEE	SSRN-734			209'	5.3	9.0	3.8	4.0 below.

Approved:
H. Lawrence Garrett III,
Under Secretary of the Navy.

Date: October 15, 1987.

[FR Doc. 87-25416 Filed 11-2-87; 8:45 am]

BILLING CODE 3810-AE-M

VETERANS ADMINISTRATION

38 CFR Part 1

Standards for Collection, Compromise, Suspension, or Termination to Collection Efforts and Referral of Civil Claims for Money or Property; Regional Office Committees on Waivers and Compromises

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: In order to comply with recent legislative changes and revisions to General Accounting Office (GAO)/ Department of Justice claims collection standards, the Veterans Administration (VA) has amended current regulations on claims collection standards and compromise standards and updated authority for the consideration of a request for waiver of erroneous payments of travel, transportation and relocation expenses and allowances by the Committees on Waivers and Compromises.

EFFECTIVE DATE: December 3, 1987.

FOR FURTHER INFORMATION CONTACT: Peter Mulhern, Office of Budget and Finance (Controller), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3405.

SUPPLEMENTARY INFORMATION: On pages 21700 through 21709 of the **Federal Register** of June 9, 1987, the VA published proposed regulations to establish policy and procedures for the collection of debts and the operations of the Committees on Waivers and Compromises. No comments were received.

Public Law 97-365, the Debt Collection Act of 1982, amended the Federal Claims Collection Act. To comply with this legislation, GAO and the Department of Justice completely revised title 4 of the Code of Federal Regulations pertaining to the Federal Claims Collection Standards. The Debt Collection Act of 1982 enhanced the capability of Federal agencies to collect money or property owed to the Federal government by giving new and broader authority to collect such debts. Some of this new authority, such as the charging of interest and administrative costs, referral of debtor information to consumer reporting agencies, and standards for administrative offset, had already been granted to the VA by Pub. L. 96-466, the Veterans Rehabilitation and Education Amendment of 1980. The VA published regulations to implement this authority (52 FR 21700). However, many of the revisions to title 4 of the Code of Federal Regulations deal with technical changes for termination and suspension of collection action, referral of cases to GAO/Department of Justice, and new compromise standards. In addition, the revisions to Title 4 also contain new regulations required by the Debt Collection Act of 1982 for offset of Civil Service Retirement and standards for the use of IRS taxpayer mailing addresses, for which this Agency currently does not have any regulations. As a result of these revisions to title 4, we believe that it is necessary for this Agency's regulations on claims collection and compromise standards to be updated.

Public Law 99-224 (Dec. 28, 1985) amended the statutes (5 U.S.C. 5584, 10 U.S.C. 2774, and 32 U.S.C. 716) granting the Comptroller General and agency heads the authority to waive collection of erroneous payments made to civilian employees and members of the Armed Services. Prior to enactment of Pub. L. 99-224, waiver consideration was limited to erroneous payments of pay and allowances. With the enactment of this legislation, waiver authority has been expanded to include authority to waive erroneous payments of travel, transportation, and relocation expenses and allowances. This expanded authority applies only to overpayments made on or after December 28, 1985.

We have made only one technical change to the proposed version of the regulations in preparation for the final publication. This change is found in § 1.919(f)(2)(ii). In the proposed version, the section referred incorrectly to two waiver statutes, 5 U.S.C. 5584 and 38 U.S.C. 3102. The proper reference should have been made only to 38 U.S.C. 3102.

The Administrator hereby certifies that these final rules will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these final rules are therefore exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is that these final rules primarily affect only individuals indebted to the United States Government as a result of either participation in programs administered by the VA or the erroneous payment of pay or allowances.

These final rules have also been reviewed under E.O. 12291, Federal Regulation, and have been determined to be nonmajor because they will not have a $100 million annual effect on the economy and will not have any adverse economic impact on or increase costs to consumers, individual industries, Federal, State, and local government agencies or geographic regions.

There is no Catalog of Federal Domestic Assistance Program number.

List of Subjects in 38 CFR Part 1

Administrative practice and procedures, Claims, Veterans.

Approved: September 10, 1987.

Thomas K. Turnage,
Administrator.

38 CFR Part 1, *General*, is amended as follows:

PART 1—[AMENDED]

1. In § 1.900 the first sentence is revised to read as follows:

§ 1.900 Prescription of standards.

The instructions contained in §§ 1.900 through 1.954 are issued pursuant to the Federal Claims Collection Act (Pub. L. 89-508 and 97-365) and the joint regulations thereunder of the Comptroller General of the United States and the Attorney General of the United States, Title 4, Chapter II, Code of Federal Regulations. * * *

2. Section 1.901 is revised to read as follows:

§ 1.901 Omissions not a defense.

The standards set forth in §§ 1.900 through 1.954 shall apply to VA handling of civil claims for money and property but the failure of the agency to comply with any provision of the standards shall not be available as a defense for any debtor.

3. Section 1.902 is revised to read as follows:

§ 1.902 Fraud, antitrust and tax claims excluded.

(a) The standards set forth in §§ 1.900 through 1.954 do not apply to the handling of any claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, or to any claim based in whole or in part on violation of the antitrust laws. Only the Department of Justice has authority to compromise, suspend, or terminate collection action on such claims.

(b) Upon identification of a claim of any of the types described in paragraph (a) of this section (an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim), the VA shall refer the matter promptly to the Department of Justice. At its discretion, the Department of Justice may determine that no action is warranted and return the claim to the VA for further handling in accordance with §§ 1.900 through 1.954.

(c) The VA has no authority to consider or compromise Federal tax claims, as to which differing exemptions, administrative considerations, enforcement considerations, and statutes apply.

(d) Sections 1.900 through 1.954 do not apply to claims between Federal agencies. The VA shall attempt to resolve interagency claims by negotiation. Any unresolved claims shall be referred to the General Accounting Office (GAO) for final resolution.

(Authority: 37 U.S.C. 3711)

4. In § 1.903, the first two sentences are revised to read as follows:

§ 1.903 Settlement, waiver, or compromise under other statutory or regulatory authority.

Nothing in §§ 1.900 through 1.954 is intended to preclude VA settlement, waiver, or compromise of claims under statutes other than the Federal Claims Collection Act. See, e.g. 38 U.S.C. 1820(a) (4) and (5) and 3102(a) and 42 U.S.C. 2651-2653. * * *

5. Section 1.905 is revised to read as follows:

§ 1.905 Subdivision of claims not authorized.

Claims shall not be subdivided in order to avoid the monetary ceiling established by 31 U.S.C. 3711(a)(2). A debtor's liability arising from a particular transaction or contract shall be considered as a single claim in determining whether the claim is one of less than $20,000, exclusive of interest and administrative costs, either for purposes of suspension or termination of collection action (§§ 1.940 through 1.943) or for determining the applicability of the $20,000 limit with respect to compromise (§§ 1.930 through 1.938).

(Authority: 31 U.S.C. 3711)

6. Section 1.907 is added to read as follows:

§ 1.907 Definitions.

(a) For the purpose of §§ 1.900 through 1.954, the terms "claims" and "debt" are synonymous and interchangeable. They refer to any amount of money or property which has been determined by an appropriate official of the VA to be owed to the United States by any person, organization or entity, except another Federal agency.

(b) A debt is considered delinquent if it has not been paid by the date specified in the initial written notice of indebtedness or applicable contractual agreement, unless other satisfactory payment arrangements have been previously made. A debt is also considered delinquent if the debtor fails to satisfy obligations under a repayment agreement with the VA.

(c) As used in §§ 1.900 through 1.954, "referral for litigation" means referral to the Department of Justice for appropriate legal actions, except in those specified instances where a case is referred to the VA District Counsel for legal action.

(Authority: 31 U.S.C. 3701, 3711)

§ 1.911 [Removed]

7. Section 1.911 is removed.

§ 1.911a [Redesignated as § 1.911]

8. Section 1.911a is redesignated § 1.911.

§ 1.911 [Amended]

9. In § 1.911(a) remove the words "Chapter II" and add in their place the words "Part 102".

10. Section 1.912 is revised to read as follows:

§ 1.912 Collection by offset.

(a) *Authority and scope.* In accordance with Part 102 of Title 4 of the Code of Federal Regulations, the VA shall collect debts by administrative offset from any payments made by the VA to an individual indebted to the VA. This section does not pertain to offset from either current salary or from benefit payments, but does apply to offset from all other VA payments, including an employee's final salary check and lump-sum leave payment. Procedures for offset from benefit payments and current salary are found in § 1.912a and §§ 1.980 through 1.984. NOTE: The VA cannot offset or refer for the purpose of offset, either under the authority of this section or under any other authority found in §§ 1.900 through 1.954 and §§ 1.980 through 1.984, any debt described in 38 U.S.C. 1826 unless the requirements set forth in that section have been met.

(b) *Notification.* Prior to initiation of administrative offset, if not provided in the initial notice of indebtedness, the VA is required to provide the debtor with written notice of:

(1) The nature and amount of the debt;

(2) The VA's intention to pursue collection by offset procedures from the specified VA payment, the date of commencement of offset, and the exact amount to be offset;

(3) The opportunity to inspect and copy VA records pertaining to the debt;

(4) The right to contest either the existence or amount of the debt or the proposed offset schedule, or if applicable, to request a waiver of collection of the debt, or to request a hearing on any of these matters;

(5) That commencement of offset will begin, unless the debtor makes a written request for the administrative relief discussed in paragraph (b)(4) of this section within 30 days of the date of this notice; and

(6) The oppportunity to enter into a written agreement with the VA to repay the debt in lieu of offset.

(c) *Deferral of offset.* (1) If the debtor, within 30 days of the date of the notification required by paragraph (b) of this section, disputes in writing the existence or amount of the debt or the amount of the scheduled offset, offset shall not commence until the dispute is reviewed and a decision is rendered by the VA adverse to the debtor.

(2) If the debtor, within 30 days of the date of the required notification by the VA, requests in writing the waiver of collection of the debt in accordance with § 1.963 or § 1.964, offset shall not commence until the VA has made an

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initial decision to deny the waiver request.

(3) If the debtor, within 30 days of the required notification by the VA, requests in writing a hearing on the issues found in paragraphs (c) (1) and (2) of this section, offset shall not commence until a decision is rendered by the VA on the issue which is the basis of the hearing.

(d) *Exceptions.* (1) Offset may commence prior to either resolution of a dispute or decision on a waiver request as discussed in paragraph (c) of this section, if collection of the debt would be jeopardized by deferral of offset. In such a case, notification pursuant to paragraph (b) of this section shall be made at the time offset begins or as soon thereafter as possible.

(2) If the United States has obtained a judgment against the debtor, offset may commence without the notification required by paragraph (b) of this section. However, a waiver request filed in accordance with the time limits and other requirements of § 1.963 or § 1.964 will be considered, even if filed after a judgment has been obtained against the debtor. If waiver is granted, in whole or in part, refund of amounts already collected will be made in accordance with § 1.967.

(e) *Hearing.* (1) After a debtor requests a hearing, the VA shall notify the debtor of the form of the hearing to be provided; i.e., whether the hearing will either be oral or paper. If an oral hearing is determined to be proper by the hearing official, the notice shall set forth the date, time, and location of the hearing. If the hearing is to be a paper review, the debtor shall be notified that he or she should submit his or her position and arguments in writing to the hearing official by a specified date, after which the record shall be closed. This date shall give the debtor reasonable time to submit this information.

(2) Unless otherwise required by law, an oral hearing under this paragraph is not required to be a formal evidentiary type of hearing.

(3) A debtor who requests a hearing shall be provided an oral hearing if the VA determines that the matter cannot be resolved by review of documentary evidence. Whenever an issue of credibility or veracity is involved, an oral hearing will always be provided the debtor. For example, the credibility or veracity of a debtor is always an issue whenever the debtor requests a waiver of collection of the debt. Thus, a hearing held in conjunction with a waiver request will always be an oral hearing. If a determination is made to provide an oral hearing, the hearing official may offer the debtor the opportunity for a hearing by telephone conference call. If this offer is rejected or if the hearing official declines to offer a telephone conference call, the debtor shall be provided an oral hearing permitting the personal appearance of the debtor, his or her personal representative, and witnesses. Witnesses shall testify under oath or affirmation.

(4) In all other cases where a debtor requests a hearing, a paper hearing shall be provided. The debtor shall be provided an opportunity to submit material for the record. A paper hearing shall consist of a review of the written evidence of record by the designated hearing official.

(f) When collecting multiple debts by administrative offset, the VA will apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitation. In accordance with 4 CFR 102.3(b)(3), the VA may not initiate offset to collect a debt more than 10 years after the VA's right to collect the debt first accrued (with certain exceptions as explained in § 102.3(b)(3)).

(Authority: 31 U.S.C. 3716)

11. In § 1.912a, the heading and paragraph (a) are revised to read as follows:

§ 1.912a Collection by offset—from VA benefit payments.

(a) *Authority and scope.* The VA shall collect debts governed by 38 U.S.C. 3101(c) and § 1.911 by offset against any current or future VA benefit payments to the debtor. Unless paragraph (c) or (d) of this section apply, offset shall commence promptly after notification to the debtor as provided in paragraph (b) of this section. The collection by offset of all other debts is governed by Part 102, Chapter II, of Title 4, Code of Federal Regulations, and § 1.912.

* * * * *

12. Section 1.916 is revised to read as follows:

§ 1.916 Liquidation of collateral.

The VA will exercise its rights to liquidate security or collateral and apply the proceeds to debts due it through use of a power of sale in the security instrument or a non-judicial foreclosure if the debtor fails to pay his or her debt, within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or the particular circumstances require judicial foreclosure. The VA must provide the debtor with reasonable notice of the sale, and an accounting of any surplus proceeds, as well as notice of any other procedures required by law or contract. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety or insurance company unless such action is expressly required by statute or contract.

(Authority: 31 U.S.C. 3711)

13. Section 1.917 is revised to read as follows:

§ 1.917 Collection in installments.

(a) Whenever feasible, and except as otherwise provided by law, debts owed to the VA together with any interest and administrative costs assessed under § 1.919, shall be collected in full in one lump sum. Collection in one lump sum is applicable whether the debt is being collected by administrative offset or by another method, including voluntary payment. However, payments may be accepted in regular installments when the debtor is financially unable to pay the debt in one lump sum.

(b) In agreeing to accept regular installment payments to liquidate an outstanding indebtedness, the VA shall obtain a legally enforceable written agreement from the debtor which specifies all of the terms of the agreement and which contains a provision accelerating the debt in the event that the debtor defaults. The size and frequency of installment payments should bear a reasonable relationship to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the debt in not more than three years. Installment payments of less than $50 per month shall be accepted only if justified on the grounds of financial hardship or for some other reasonable cause.

(c) If the VA is holding an unsecured claim for administrative collection, it shall attempt to obtain from a debtor an executed confess-judgment note in States and jurisdictions where permitted, using Department of Justice Form 1, or another appropriate Department of Justice form, whenever the total amount of the deferred installments will exceed $750. Such notes may also be sought when an unsecured obligation of a lesser amount is involved. When attempting to obtain confess-judgment notes, the VA shall provide debtors with a written explanation of the consequences of signing the note, and shall maintain sufficient documentation to demonstrate that the debtor signed the note knowingly and voluntarily. Security for deferred payments, other than a confess-judgment note, may be accepted in appropriate cases. The VA may accept installment payments even if the debtor refuses to execute a confess-judgment note or to give other security.

(d) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied as among these debts, that designation must be followed by the VA. If the debtor does not designate the application of the payment, the VA shall apply payments to the various debts in accordance with the best interests of the Government as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

(Authority: 31 U.S.C. 3711)

14. Section 1.918 is revised to read as follows:

§ 1.918 Exploration of compromise.

The VA will attempt to effect compromises, preferably during the course of personal interviews, in accordance with the standards set forth in §§ 1.930 through 1.938 in all cases in which it is ascertained that the debtor is financially unable to pay the full amount or in which the litigative risks or the costs of litigation dictate such action.

15. In § 1.919, paragraphs (a), (c), (e), and (f) are revised to read as follows:

§ 1.919 Interest.

(a) Except as otherwise provided by statute, contract, or other regulation to the contrary, the VA shall assess:

(1) Interest on all indebtedness to the United States arising as a result of participation in VA benefit programs which are being paid in installments,

(2) Interest and administrative costs of collection on debts where repayment has become delinquent, and

(3) Interest, penalties, and administrative costs on all nonbenefit debts in accordance with 4 CFR 102.13.

* * * * *

(c) The rate of interest charged by the VA shall be based on the rate paid by the United States for its borrowing as published in the Treasury's Cash Management Regulations (ITFM 6–8000). The rate of interest shall be adjusted annually on the first day of the calendar year to reflect the average rate being charged in accordance with the Treasury's Cash Management Regulations. Once the rate of interest has been determined for a particular debt, the rate shall remain unchanged throughout the duration of repayment of that debt.

* * * * *

(e) Interest under this section shall not be charged if the debt is paid in full within 30 days of mailing of the initial notice described in paragraph (b) of this section. Once interest begins to accrue, and after expiration of the time period for payment of the debt in full to avoid assessment of interest and administrative costs, any amount received toward the payment of such debt shall be first applied to payment of outstanding administrative cost charges and then to accrued interest or costs, and then to principal, unless a different rule is prescribed by statute, contract, or other regulation.

(f) All or any part of the interest and administrative costs assessed under this section are subject to consideration for waiver under section 3102 of Title 38, United States Code, and appropriate administrative procedures.

(1) In general, interest and administrative costs may be waived only when the principal of the debt on which they are assessed is waived by a Committee on Waivers and Compromises. However, the VA may forbear collection of interest and administrative costs, exclusive of collection of the principal of the debt on which they are assessed, as well as terminate further assessment of interest and administrative costs when the collection of such interest and costs are determined to be not in the government's best interest. Collection of interest and administrative costs shall not be considered to be in the best interest of the government when the amount of assessed interest and administrative cost is so large that there is a reasonable certainty that the original debt will never be repaid. The determination to forbear collection of interest and administrative cost, exclusive of collection of the principal of the debt, shall be made by the Chief of the Fiscal activity at the station responsible for the collection of the debt. Such a determination is not within the jurisdiction of a Committee on Waivers and Compromises.

(2) When a debtor requests a waiver of collection of the indebtedness, interest and administrative costs shall not be assessed until either

(i) A Committee on Waivers and Compromises has considered the request and rendered an initial decision, or

(ii) The applicable time limit for requesting waiver, as stated in 38 U.S.C. 3102, has expired and the debtor, after notice in accordance with § 1.911, has not made such a request. This subsection does not apply to debts resulting from participation in the loan program administered under Chapter 37 of title 38 of the United States Code.

(Authority: 38 U.S.C. 3102, 3115)

* * * * *

16. In § 1.922, paragraphs (a)(1), (c), and (d)(2)(i) are revised to read as follows:

§ 1.922 Disclosure of debt information to consumer reporting agencies (CRAs).

(a) * * *

(1) obtaining the location of an individual indebted to the United States as a result of participation in any benefits program administered by the VA or indebted in any other manner to the VA;

* * * * *

(c) Subject to the conditions set forth in paragraph (d) of this section, information concerning individuals may be disclosed to consumer reporting agencies for inclusion in consumer reports pertaining to the individual, or for the purpose of locating the individual. Disclosure of the fact of indebtedness will be made if the individual fails to respond in accordance with written demands for repayment, or refuses to repay a debt to the United States. In making any disclosure under this section, the VA will provide consumer reporting agencies with sufficient information to identify the individual, including the individual's name, address, if known, date of birth, VA file number, and Social Security number.

* * * * *

(d) * * *

(2)(i) The VA will notify each individual of the right to dispute the existence or amount of any debt in accordance with §§ 3.101(e) and 19.100, and to request a waiver of the debt in accordance with §§ 1.955 through 1.970 if applicable.

* * * * *

17. Sections 1.923, 1.924, 1.925, 1.926, 1.927, and 1.928 are added to read as follows:

§ 1.923 Contracting for collection services.

(a) The VA has authority to contract for collection services to recover delinquent debts, provided that:

(1) The authority to resolve disputes, compromise claims, suspend or terminate collection and refer the matter for litigation shall be retained by the VA;

(2) The contractor shall be subject to 38 U.S.C. 3301, and to the Privacy Act of 1974, as amended, to the extent specified in 5 U.S.C. 552a(m), and to applicable Federal and State laws and

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regulations pertaining to debt collection practices, such as the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq.

(3) The contractor shall be required to strictly account for all amounts collected;

(4) Upon returning an account to the VA for subsequent referral to the Department of Justice for litigation, the contractor must agree to provide any data contained in its files relating to § 1.951.

(b) Funding of collection service contracts:

(1) The VA may fund a collection service contract on a fixed-fee basis (i.e., payment of a fixed fee determined without regard to the amount actually collected under the contract). Payment of the fee under this type of contract must be charged to available appropriations;

(2) The VA may also fund a collection service contract on a contingent-fee basis (i.e., by including a provision in the contract permitting the contractor to deduct its fee from amounts collected under the contract). The fee should be based upon a percentage of the amount collected, consistent with prevailing commercial practice;

(3) The VA may enter into a contract under paragraph (b)(1) of this section only if and to the extent that funding for the contract is provided for in advance by an appropriation act or other legislation, except that this requirement does not apply to the use of a revolving fund authorized by statute;

(4) Except as authorized under paragraphs (b)(2) and (b)(5) of this section, or unless otherwise specifically provided by law, the VA shall deposit all amounts recovered under collection service contracts for Loan Guaranty debts into the Loan Guaranty Revolving Fund, and for all other debts in the Treasury as miscellaneous receipts pursuant to 31 U.S.C. 3302.

(5) For benefit overpayments recovered under collection service contract, the VA, pursuant to 31 U.S.C. 3302, shall deposit:

(i) Amounts equal to the original overpayments in the appropriations account from which the overpayments were made, and

(ii) Amount of interest or administrative costs in the Treasury as miscellaneous receipts.

(Authority: 31 U.S.C. 3718)

§ 1.924 Use and disclosure of mailing addresses.

(a) When attempting to locate a debtor in order to collect or compromise a debt in accordance with §§ 1.900 through 1.954, the VA may send a request to the Secretary of the Treasury, or his/her designee, in order to obtain the debtor's most current mailing address from the records of the Internal Revenue Service.

(b) The VA may disclose a mailing address obtained under paragraph (a) of this section to other agents, including collection service contractors hired by the VA, in order to facilitate the collection or compromise of debts. A mailing address obtained under paragraph (a) of this section may be disclosed to a consumer reporting agency under authority of § 1.922 only for the limited purpose of obtaining a commercial credit report on the particular taxpayer.

(c) The VA will insure that procedures established under this section comply with the Privacy Act (5 U.S.C. 552a) and the provisions of 26 U.S.C. 6103(p)(4) and applicable regulations of the Internal Revenue Service.

(Authority: 31 U.S.C. 3711)

§ 1.925 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund, Federal Employees Retirement System (FERS), final salary check, and lump sum leave payments.

(a) Unless otherwise prohibited by law or regulation, the VA may request that money which is due and payable to a debtor from either the Civil Service Retirement and Disability Fund or the Federal Employees Retirement System (FERS) be administratively offset in reasonable amounts in order to collect, in one full payment or a minimal number of payments, debts that are owed to the VA by the debtor. Such requests shall be made to the appropriate officials at the Office of Personnel Management in accordance with such regulations prescribed by the Director of that Office. See 5 CFR Part 831, Subpart R (§§ 831.1801 through 831.1808) and Part 845, Subpart O (§§ 845.401 through 845.408). In addition, the VA may also offset against a Federal employee's final salary check and lump sum leave payment, unless they represent continuation of an offset against current salary initiated in accordance with §§ 1.980 through 1.994. See § 1.912 for procedures for offset against a final salary check and lump sum leave payment.

(b) When making a request to the Office of Personnel Management for administrative offset under paragraph (a) of this section, the VA shall include a written certification that:

(1) The debtor owes the VA a debt, including the amount of the debt;

(2) The VA has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) The VA has complied with §§ 1.911, 1.912, 1.912a, or 4 CFR 102.3 including any required hearing or review.

(c) Once the VA decides to request administrative offset from the Civil Service Retirement and Disability Fund or Federal Employees Retirement System (FERS) under paragraph (a) of this section, it shall make the request as soon as possible after completion of the applicable procedures in order that the Office of Personnel Management may identify the debtor's account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the Fund or FERS. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statutes of limitations. At such time as the debtor makes a claim for payments from the Fund or FERS, if at least a year has elapsed since the offset request was originally made, the debtor should be permitted to offer a satisfactory repayment plan in lieu of offset upon establishing that such offset will create financial hardship.

(d) If the VA collects all or part of the debt by other means before deductions are made or completed in accordance with paragraph (a) of this section, the VA shall promptly act to modify or terminate its request for offset under paragraph (a) of this section.

(e) The Office of Personnel Management is neither required nor authorized by this section to review the merits of the VA's determination with respect to the amount and validity of the debt' waiver under 5 U.S.C. 5584 or 38 U.S.C. 3102, or providing or not providing an oral hearing.

(Authority: 5 U.S.C. 8461; 31 U.S.C. 3711, 3716)

§ 1.926 Referral of VA debts.

(a) When authorized, the VA may refer an uncollectible debt to another Federal or State agency for the purpose of offsetting the debt from any payment, except salary, (see paragraph (e) of this section), made by such agency to the person indebted to the VA.

(b) The VA must certify in writing that the individual owes the debt, the amount and basis of the debt, the date on which payment became due, and the date the VA's right to collect the debt first accrued.

(c) This certification will also state that the VA provided the debtor with written notice of:

(1) The nature and amount of the debt;

(2) The VA's intention to pursue collection by offset procedures;

(3) The opportunity to inspect and copy VA records pertaining to the debt;

(4) The right to contest both the existence and amount of the debt and to request a waiver of collection of the debt (if applicable), as well as the right to a hearing on both matters;

(5) The opportunity to enter into a written agreement with the VA for the repayment of the debt; and

(6) Other applicable notices required by §§ 1.911, 1.912, and 1.912a.

(d) The written certification required by paragraphs (b) and (c) of this section will also contain (for all debts) a listing of all actions taken by both the VA and the debtor subsequent to the notice, as well as the dates of such actions.

(e) The referral by the VA of a VA debt to another agency for the purposes of salary offset shall be done in accordance with 5 CFR 550.1106.

(Authority: 31 U.S.C. 3711)

§ 1.927 Analysis of costs and prevention of debts.

(a) VA collection procedures should provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and various dollar ranges should be used to compare the cost effectiveness of alternative collection procedures, establish guidelines with respect to points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating compromise offers, and establish minimum debt amounts below which collection efforts need not be taken. Costs and recovery data should also be useful in justifying adequate resources for an effective collection program, evaluating the feasibility and cost effectiveness of contracting for consumer reporting agencies' services (§ 1.922), collection services (§ 1.923), and for determining appropriate charges for administrative costs (§ 1.919).

(b) The VA shall insure that adequate procedures are established which both identify the causes of overpayments, delinquencies, and defaults and also describe the actions necessary to correct such problems.

(Authority: 31 U.S.C. 3711 through 3719)

§ 1.928 Exemptions.

(a) Sections 1.900 through 1.954 do not apply to debts arising under, or to payments made under, the Internal Revenue Code of 1954, as amended (26 U.S.C. 1 *et seq.*), the Social Security Act (42 U.S.C. 301 *et seq.*), or tariff laws of the United States. However, the remedies and procedures described in §§ 1.900 through 1.954 are still authorized with respect to debts which are exempt from the purview of the Debt Collection Act of 1982, to the extent that they are authorized under some other statute or common law.

(b) This section shall not be construed as prohibiting the use of §§ 1.900 through 1.954 when the VA attempts to collect debts owed to this agency by persons employed by the agencies administering the laws cited in paragraph (a) of this section.

(Authority: 31 U.S.C. 3711)

18. Section 1.930 is revised to read as follows:

§ 1.930 Scope and application.

(a) The standards set forth in §§ 1.930 through 1.938 apply to the compromise of claims in accordance with 31 U.S.C. 3711. The VA may exercise such compromise authority where the claim owed to the VA does not exceed $20,000, exclusive of interest or administrative costs. This $20,000 limit does not apply to debts which arise out of participation in the loan program under Chapter 37 of Title 38 of the United States Code. The Comptroller General or his/her designee may exercise compromise authority with respect to claims referred to the General Accounting Office (GAO). Only the Comptroller General or his/her designee may compromise a claim that arises out of an exception made by the GAO in the account of an accountable officer, including a claim against the payer, prior to its referral by the GAO to the Department of Justice for litigation.

(b) When the claim exceeds $20,000, exclusive of interest and administrative costs, the authority to accept a compromise offer rests solely with the Department of Justice. However, approval by the Department of Justice is not required if the VA wishes to reject a compromise offer on a debt in excess of $20,000. If the VA believes that the compromise offer on a debt in excess of $20,000 should be accepted, it shall refer the matter to the Department of Justice by using the Claims Collection Litigation Report (§ 1.951). If the gross amount of the claim is in excess of $100,000, then the claim will be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530. If the gross amount of the claim is $100,000 or less, such claims will be referred to the U.S. Attorney in whose judicial district the debtor can be found. The referral should contain a written memorandum by the local Committee on Waivers and Compromises specifying the exact reason why it is believed that the compromise offer should be accepted.

(Authority: 31 U.S.C. 3711)

19. Section 1.931 is revised to read as follows:

§ 1.931 Inability to pay.

(a) A claim may be compromised by the VA pursuant to §§ 1.930 through 1.938 if the VA cannot collect the full amount of the debt because of:

(1) The debtor's inability to pay the full amount of the debt within a reasonable amount of time; or

(2) The refusal of the debtor to pay the claim in full and the inability of the VA to collect the debt in full within a reasonable time by means of enforced collection.

(b) In determining the debtor's ability to pay, the following factors, among others, may be considered:

(1) Age and health of the debtor;

(2) Present and potential income;

(3) Inheritance prospects;

(4) The possibility that assets have been concealed or improperly transferred by the debtor; and

(5) The availability of assets or income which may be realized by means of enforced collection procedures.

(c) The VA will give consideration to the applicable exemptions available to the debtor under various State and Federal laws in determining the ability to enforce collection. Uncertainty as to the price which collateral or other property will bring at a forced sale may be properly considered in determining the ability to enforce collection. A compromise effected under §§ 1.930 through 1.938 should be for an amount which bears a reasonable relation to the amount which can be recovered by enforced collection procedures, having regard for the exemptions available to the debtor and the time in which collection will take place.

(d) The payment of a compromise in installments is to be discouraged. However, if payment of a compromise in installments is necessary, then a legally enforceble agreement shall be obtained from the debtor for the reinstatement of the original amount of the indebtedness, less any amounts paid there on by the debtor, and also an acceleration of the balance due upon default. Such an agreement, together with security as described in § 1.917, should be obtained in every case possible.

(e) If the VA files do not contain recent credit information as a basis for assessing a compromise proposal, such information shall be obtained from the debtor by obtaining a statement, executed under penalty of perjury, showing the debtor's assets and liabilities, income and expenses. Forms such as VA Form 4–5655 "Financial Status Report" or Department of Justice Forms OBD–500 or OBD–500B shall be used to obtain this information. Similar data may be obtained from corporate

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debtors by using a form, such as Department of Justice Form OBD–500C or by resort to balance sheets and such additional data as may be required.

(Authority: 31 U.S.C. 3711)

20. Section 1.932 is revised to read as follows:

§ 1.932 Litigative possibilities.

The VA will attempt to compromise claims when there is a real doubt as to the Government's ability to prove its case in court for the full amount claimed either because of the legal issues involved or bona fide dispute as to the facts. The amount accepted in compromise will fairly reflect the probability of prevailing on the legal question involved, the probabilities with respect to full or partial recovery of a judgment having due regard to the availability of witnesses and other evidentiary support for the Government claim, and related pragmatic considerations. Proportionate weight will be given the court costs and attorney fees which may be assessed against the Government if it is unsuccessful in litigation, having regard for the litigative risks involved. (See 28 U.S.C. 2412.)

§§ 1.934 through 1.937 [Redesignated as §§ 1.935 through 1.938]

21. Section 1.934 is redesignated as § 1.935; § 1.935 is redesignated as § 1.936; § 1.936 is redesignated as § 1.937; and § 1.937 is redesignated as § 1.938. New § 1.934 is added to read as follows:

§ 1.934 Enforcement policy.

Statutory penalties, interest, and administrative costs which are established as an aid to enforcement and to compel compliance may be compromised pursuant to §§ 1.930 through 1.938. However, such additional costs on debts will be considered for compromise only in connection with compromise of the total amount of the debt (original amount of debt plus interest and costs). Interest, administrative costs, and other additional costs will never be considered for compromise separately or exclusively from the original amount of the debt.

(Authority: 31 U.S.C. 3711)

22. Section 1.935 is revised to read as follows:

§ 1.935 Joint and several liability.

When two or more debtors are jointly and severally liable, collection action will not be withheld against one such debtor until the other or others pay their proportionate shares. The VA shall not attempt to allocate the burden of paying such claims as between the debtors, but shall proceed to liquidate the indebtedness as quickly as possible. Proper measures shall be taken to insure that a compromise with one such debtor does not release the VA's claim against the remaining debtor. The amount of a compromise accepted from one debtor shall not be considered as a precedent or as morally binding in determining the amount which will be required from the other debtor held to be jointly and severally liable on the claim.

(Authority: 31 U.S.C. 3711)

23. Section 1.937 is revised to read as follows:

§ 1.937 Further review of compromise offers.

The VA may refer to the GAO or Department of Justice firm written offers, plus supporting data, from debtors when there is doubt whether the offers should be accepted.

24. Section 1.938 is revised to read as follows:

§ 1.938 Restrictions.

The VA will not accept either a percentage of a debtor's profits or stock in a debtor corporation in compromise of a claim. In negotiating a compromise with a business concern, consideration shall be given to requiring a waiver of the tax-loss-carry-forward and tax-loss-carry-back rights of the debtor.

25. Section 1.940 is revised to read as follows:

§ 1.940 Scope and application.

(a) The standards set forth in §§ 1.940 through 1.943 apply to the suspension or termination of collection action pursuant to 31 U.S.C. 3711(a)(3) on claims which do not exceed $20,000, exclusive of interest, penalties (if applicable), and administrative costs, after deducting the amount of partial payments or collections, if any. The VA may suspend or terminate collection action under §§ 1.940 through 1.943 with respect to claims for money or property arising out of this agency's activities prior to the referral of such claims to the GAO or to the Department of Justice for litigation. The Comptroller General may exercise such authority with respect to such claims referred to the GAO by the VA prior to their further referral to the Department of Justice for litigation.

(b) If after deducting the amount of any partial payments or collections, a claim exceeds $20,000, exclusive of interest and administrative costs, then the authority to suspend or terminate further collection action rests solely with the Department of Justice. If the VA determines that suspension or termination is appropriate for such a debt, after evaluation in accordance with the standard set forth in §§ 1.941 and 1.942, then the matter shall be referred to the Department of Justice, using the Claims Collection Litigation Report (see § 1.951). The referral shall contain a written recommendation, which specifies the reasons why suspension or termination is advantageous to the government. If the VA determines that its claim is plainly erroneous or clearly without legal merit, it may terminate collection action regardless of the amount involved, without the concurrence of the Department of Justice.

(Authority: 31 U.S.C. 3711)

26. Section 1.941 is revised to read as follows:

§ 1.941 Suspension of collection activity.

(a) Collection action may be suspended temporarily on a claim when the debtor cannot be located after diligent effort and there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim. The following sources shall be used to locate missing debtors: Telephone directories, city directories, postmasters, drivers license records, automobile title and registration records, State and local government agencies, the Internal Revenue Service (§ 1.924), other Federal agencies, employers, relatives, credit agency locate reports, and credit bureaus. Suspension as to a particular debtor should not prohibit the early liquidation of any security held for the debt. Every reasonable effort should be made to locate missing debtors sufficiently in advance of the bar of any applicable statute of limitations, in order to permit the timely filing of a suit, if such action is warranted. If the missing debtor has signed a confess-judgment note and is in default, referral of the note for the entry of judgment should not be delayed because of his/her missing status.

(b) Collection action may also be suspended temporarily on a claim when the debtor owns no substantial equity in real or personal property and is unable to make payments on the debt owed to the VA or effect a compromise at the time, but his/her future prospects justify retention of the claim for periodic review and action, and:

(1) The applicable statute of limitations has been tolled or started running again, or

(2) Future collection can be affected by offset, notwithstanding the statute of limitations, with due regard to the 10 year limitation prescribed by 31 U.S.C. 3716(c)(1), or

(3) The debtor agrees to pay interest on the amount of the debt on which collection action has been suspended temporarily, and such temporary suspension is likely to enhance the debtor's ability to pay the debt in full, with interest, at a later time.

(c) Collection action may also be suspended, in accordance with §§ 1.911,1.912, and 1.912a, pending agency action on requests for administrative review or waiver.

(Authority: 31 U.S.C. 3711)

27. In § 1.942, paragraphs (a), (c) and (f) are revised to read as follows:

§ 1.942 Termination of collection activity.

* * * * *

(a) *Inability to collect any substantial amount.* Collection action may be terminated on a claim when it becomes clear that the VA cannot collect or enforce collection of any significant amount from the debtor, having due regard for the judicial remedies available to the agency, the debtor's future financial prospects, and the exemptions available to the debtor under State and Federal law. In determining the debtor's inability to pay, the following factors, among others, shall be considered: Age and health of the debtor, present and potential income, inheritance prospects, the possibility that assets have been concealed or improperly transferred by the debtor, the availability of assets or income which may be realized by means of enforced collection proceedings.

* * * * *

(c) *Death of debtor.* The debtor is determined to be deceased and the Government has no prospect of collection from his/her estate.

* * * * *

(f) *Claim cannot be substantiated by evidence.* The VA will terminate collection action on once asserted claims because of lack of evidence or unavailability of witnesses only in cases where efforts to induce voluntary payment are unsuccessful.

28. Section 1.943 is revised to read as follows:

§ 1.943 Transfer of claims.

When the VA has doubt as to whether collection action should be suspended or terminated on a claim, it may refer the claim to the GAO for advice. When a significant enforcement policy is involved in reducing a statutory penalty or forfeiture to judgment, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, such as the suspension or revocation of a license or the privilege of participating in a government sponsored program, the VA may refer such a claim for litigation even though termination of collection activity might otherwise be given consideration. Claims on which the VA holds a judgment by assignment or otherwise shall be referred to the Department of Justice for further actions if renewal of the judgment lien or enforced collection proceedings are justified, except where the VA has authority for handling its own litigation.

(Authority: 31 U.S.C. 3711)

29. The center heading between §§ 1.943 and 1.950 is revised to read as follows:

Referrals to GAO, Department of Justice, or IRS

30. Section 1.950 is revised to read as follows:

§ 1.950 Prompt referral.

(a) Except as provided in paragraphs (b) and (c) of this section, claims on which aggressive collection action has been taken and which cannot be compromised, or on which collection action cannot be suspended or terminated, shall be promptly referred to the Department of Justice for litigation. Claims for which the gross original amount is over $100,000 shall be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530. Claims for which the gross original amount is $100,000 or less shall be referred to the United States Attorney in whose judicial district the debtor can be found. Referrals should be made as early as possible, consistent with aggressive collection action and the observance of §§ 1.900 through 1.954, and well within the time period for bringing a suit against the debtor. Ordinarily, such referrals should be made within one year of the VA's final determination of the fact and amount of the debt.

(b) Claims arising from audit exceptions taken by the GAO to payments made by the VA must be referred to the GAO for review and approval, prior to referral to the Department of Justice, unless the VA has been granted an exception by the GAO.

(c) When the merits of the VA claim, the amount owed on the claim, or the propriety of acceptance of a proposed compromise, suspension, or termination are in doubt, the Veterans Administration shall refer the matter to the GAO for resolution and instructions prior to proceeding with collection action and/or referral to the Department of Justice for litigation.

(d) Once a claim has been referred to the GAO or the Department of Justice pursuant to this section, the VA shall refrain from having any contact with the debtor and shall direct the debtor to the GAO or the Department of Justice, as appropriate, when questions concerning the claim or a request for waiver of the claim are raised by the debtor. The GAO or the Department of Justice, as appropriate, shall be immediately notified by the VA of any payments or requests for administrative remedies, such as waiver, which are received by this agency from the debtor subsequent to referral of a claim under this section.

(e) In accordance with procedures set forth in 26 CFR Part 301, information pertaining to past-due, legally enforceable debts owed to the VA may be referred to the Internal Revenue Service by the VA for the purpose of collection of such debts by means of tax refund offset.

(Authority: 31 U.S.C. 3711)

31. Section 1.951 is revised to read as follows:

§ 1.951 Claims Collection Litigation Report.

(a) Unless an exception is granted by the Department of Justice, the Claims Collection Litigation Report (CCLR) shall be used with all referrals of administratively uncollectible claims made pursuant to § 1.950. As required by the CCLR, the following information shall be included:

(1) *Report of prior collection actions.* A checklist or brief summary of the actions taken to collect or compromise the claim will be forwarded with the claim upon its referral. If any of the administrative collection actions described in §§ 1.900 through 1.954 have been omitted, the reasons for their omission must be provided. The Department of Justice or GAO may return claims at their option when there is insufficient justification for the omission of one or more of the administrative collection actions.

(2) *Current address of the debtor.* The current address of the debtor, or the name and address of the agent for a corporation upon whom service may be made, shall be provided. Reasonable and appropriate steps will be taken to locate missing parties in all cases. Referrals to the Department of Justice, in which the current address of any party is unknown, shall be accompanied by a listing of the prior known addresses of such party and a statement of the steps taken to locate that party.

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(3) *Credit data.* Current credit data, when applicable, indicating that there is a reasonable prospect of effecting enforced collection from the debtor, having due regard for the exemptions available to the debtor under State and Federal law and judicial remedies available to the government, shall be included:

(i) Such credit data may take the form of:

(A) A commercial credit report;

(B) An agency investigative report showing the debtor's assets, liabilities, income, and expenses;

(C) The individual debtor's own financial statement executed under penalty of perjury reflecting the debtor's assets, liabilities, income, and expenses; or

(D) An audited balance sheet of a corporate debtor.

(ii) Such credit data may be omitted if:

(A) A surety bond is available in an amount sufficient to satisfy the claim in full;

(B) The forced sale value of the security available for application to the VA claim is sufficient to satisfy the claim in full;

(C) The VA wishes to liquidate the loan collateral through judicial foreclosure but does not desire a deficiency judgment;

(D) The debtor is in bankruptcy or receivership;

(E) The debtor's liability to the VA is fully covered by insurance, in which case the VA will furnish such information as it can develop concerning the identity and address of the insurer and the type and amount of insurance coverage;

(F) The nature of the debtor is such that credit data is not normally available or cannot reasonably be obtained; or

(G) Where it is clearly irrelevant to the Government's case.

(b) The VA shall also use the Claims Collection Litigation Report (CCLR) when referring claims to the Department of Justice in order to obtain approval of that department with respect to compromise, suspension, or termination.

(Authority: 31 U.S.C. 3711)

32. Section 1.952 is revised to read as follows:

§ 1.952 Preservation of evidence.

Care shall be taken to preserve all files, records, and exhibits on claims referred to or to be referred to the Department of Justice for litigation. Under no circumstances should original documents be sent to the Department of Justice or to the U.S. Attorney without their specific prior approval to do so. Copies of relevant documents should be sent whenever necessary.

(Authority: 31 U.S.C. 3711)

33. Section 1.953 is revised to read as follows:

§ 1.953 Minimum amount of referrals to the Department of Justice.

The VA shall not refer claims of less than $600, exclusive of interest, penalties (if applicable), and administrative costs, for litigation unless:

(a) Referral is important to a significant enforcement policy, or

(b) The debtor not only has the clear ability to pay the claim but the government can effectively enforce payment, having due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the government.

(Authority: 31 U.S.C. 3711)

34. Section 1.954 is revised to read as follows:

§ 1.954 Preliminary referrals to GAO.

As required by § 1.950, preliminary referrals to the Government Accounting Office (GAO) will be in accordance with instructions, including monetary limitations, contained in the "General Accounting Office Policy and Procedures Manual for the Guidance of Federal Agencies".

§ 1.955 [Amended]

35. In 38 CFR 1.955(a)(1), remove the words "31 U.S.C. 951–953" and add, in their place, the words "31 U.S.C. 3711".

§ 1.957 [Amended]

36. In 38 CFR 1.957(a)(2)(ii), remove the words "31 U.S.C. 951–953" and add, in their place, the words "31 U.S.C. 3711".

37. In § 1.957, paragraphs (a)(2)(ii) (B), (b) introductory text, and (b)(1) are revised and paragraphs (a)(2)(ii) (C) and (D) are added to read as follows:

§ 1.957 Committee authority.

(a) * * *

(2) * * *

(ii) * * *

(B) Accept or reject a compromise offer on a debt of $1,000 or less, exclusive of interest, which is not disposed of by the Chief, Fiscal activity, pursuant to paragraph (b) of this section.

(C) Reject a compromise offer on a debt which exceeds $20,000, exclusive of interest or administrative costs.

(D) Recommend approval of a compromise offer on a debt which exceeds $20,000, exclusive of interest and administrative costs. The authority to accept a compromise offer on such a debt rests solely within the jurisdiction of the Department of Justice. The Committee should evaluate a compromise offer on a debt in excess of $20,000, using the factors set forth in §§ 1.930 through 1.938. If the Committee believes that the compromise is advantageous to the government, then the Committee members shall so state this conclusion in a written memorandum of recommendation of approval to the Chairperson. This recommendation, along with a Claims Collection Litigation Report (CCLR) completed in accordance with § 1.951, will be referred to the Department of Justice for final approval.

(Authority: 31 U.S.C. 3711)

* * * * *

(b) *Chief of Fiscal Activity.* The Chief of the Fiscal activity at both DVB and DM&S offices has authority as to debts arising within his/her jurisdiction, to:

(1) Suspend or terminate collection action on all debts which do not exceed $20,000, exclusive of interest and administrative costs, after deducting the amount of any payments or collections.

* * * * *

38. In § 1.962, paragraph (b) is revised to read as follows:

§ 1.962 Waiver of overpayment.

* * * * *

(b) In any case where there is an indication of fraud or misrepresentation of a material fact on the part of the debtor or any other party having an interest in the claim, action on a request for waiver will be deferred pending appropriate disposition of the matter. However, the existence of a prima facie case of fraud shall, nevertheless, entitle a claimant to an opportunity to make a rebuttal with countervailing evidence; similiarly, the misrepresentation must be more than non-willful or mere inadvertence. The Committee may act on a request for waiver concerning such debts, after the Inspector General or the District Counsel has determined that prosecution is not indicated, or the Department of Justice has notified the VA that the alleged fraud or misrepresentation does not warrant action by that department, or the Department of Justice or the appropriate United States Attorney, specifically authorized action on the request for waiver.

(Authority: 38 U.S.C. 210(c)(1))

39. In § 1.963a, the last sentence in paragraph (a) and the first sentence in paragraph (b) are revised to read as follows:

§ 1.963a Waiver—erroneous payment of pay and allowances.

(a) * * * It also includes expenses of travel and transportation or expenses of transportation of household goods.

(b) Allowances as they relate to an employee include, but are not limited to, payments for quarters, uniforms, and overseas cost of living expenses, as well as travel and transportation expenses and relocation allowances. * * *

* * * * *

[FR Doc. 87-25312 Filed 11-2-87; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 21

Payments to Dependents of Veterans in Training

AGENCY: Veterans Administration.

ACTION: Final regulatory amendments.

SUMMARY: The purpose of these amendments is to provide more detailed instructions regarding the beginning date of payments for veterans' dependents, particularly dependents the veteran acquires after he or she begins training under chapter 31. The beginning date of payment for dependents the veterans acquires after he or she begins training may not be made earlier than the date the dependent's existence is established. The amendment should eliminate any misinterpretation of this rule.

EFFECTIVE DATE: November 3, 1987.

FOR FURTHER INFORMATION CONTACT: Morris Triestman, Rehabilitation Consultant, Vocational Rehabilitation Policy and Development, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC, (202) 233-5449.

SUPPLEMENTARY INFORMATION: At pages 19174 and 19175 of the Federal Register of May 21, 1987, the VA published a proposed regulatory amendment concerning the beginning date of payment for veterans' dependents under 38 CFR 21.322, particularly dependents the veteran acquires after he or she begins training under chapter 31. Interested persons were given 30 days in which to submit their comments, suggestions, or objections to the proposed regulatory amendment. We received one informal comment. The commentor pointed out an error which had not been identified in the editing process. This error has been corrected. Since no other comments, suggestions, or objections were received, the amendment is hereby adopted as final.

These amendments do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. The changes will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

The Administrator certifies that these amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the changes only concern the rights and responsibilities of individual VA beneficiaries under chapter 31. Thus, no regulatory burdens are imposed on small entities by these changes.

The Catalog of Federal Domestic Assistance Number is 64.116.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 21, 1987.

Thomas K. Turnage,

Administrator.

38 CFR Part 21, *Vocational Rehabilitation and Education,* is amended as follows:

PART 21—[AMENDED]

1. In § 21.260, paragraph (d) is added to read as follows:

§ 21.260 Subsistence allowance.

* * * * *

(d) *Dependents.* The term "dependent" means a spouse, child or dependent parent who meets the definition of relationship specified in §§ 3.50, 3.51, 3.57 or 3.59 of this chapter.

(Authority: 38 U.S.C. 1508(b))

2. In § 21.322, paragraph (c) is revised and a new cross-reference is added to read as follows:

§ 21.322 Commencing dates of subsistence allowance.

* * * * *

(c) *Increases for dependents*—(1) *Dependency exists at the time of entrance or reentrance into a rehabilitation program.* A veteran may have one or more dependents on or before the date he or she enters or reenters a rehabilitation program. When this occurs, the following rules apply:

(i) The effective date of the increase will be the date of entrance or reentrance if:

(A) The VA receives the claim for the increase within one year of the date of entrance or reentrance; and

(B) The VA receives any necessary evidence within one year of its request.

(ii) The effective date of the increase will be the date the VA receives notice of the dependents existence if:

(A) The VA receives the claim for the increase more than one year after the date of entrance or reentrance; and

(B) The VA receives any necessary evidence within one year of its request.

(iii) The effective date of the increase will be the date the VA receives all necessary evidence if that evidence is received more than one year from the date the VA requested the evidence.

(2) *Dependency arises after entrance or reentrance into a rehabilitation program.* If the veteran acquires a dependent after he or she enters or reenters a rehabilitation program, the increase will be effective on the latest of the following dates:

(i) *Date of claim.* This term means the following listed in order of their applicability:

(A) Date of the veteran's marriage, or birth of his or her child, or his or her adoption of a child, if the evidence of the event is received within one year from the date of the event;

(B) Date notice is received of the dependent's existence if evidence is received within one year from the date of the VA request for this evidence;

(C) Date the VA receives evidence of the dependent's existence if this date is more than one year after the VA request for this evidence;

(ii) *Date dependency arises*—(3) *Increased award not permitted.* No increased award for dependency may be paid prior to the date the law permits benefits for dependents generally.

(Authority: 38 U.S.C. 1508(b))

* * * * *

Cross-Reference. See § 21.260(c) for definition of dependents.

[FR Doc. 87-25430 Filed 11-2-87; 8:45 am]

BILLING CODE 8320-01-M

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL-3286-3]

Standards of Performance for New Stationary Sources; Delegation of Authority to Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: Section 111(c) of the Clean Air Act permits EPA to delegate to the states the authority to implement and enforce the standards set out in 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS).

The State of Oregon Department of Environmental Quality (DEQ), on September 11, 1987, requested EPA to delegate to DEQ the authority to implement and enforce Subpart Db (Industrial-Commercial-Institutional Steam Generating Units) under NSPS. EPA granted the request on October 8, 1987. DEQ now has the authority to enforce Subpart Db as approved in their OAR 340-25-553.

EFFECTIVE DATE: October 8, 1987.

ADDRESSES: Material in support of this delegation may be examined during normal business hours at the following locations:

Air Programs Branch, (10A-87-16), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

Oregon Department of Environmental Quality, 811 S.W. Sixth, Portland, Oregon 97204.

FOR FURTHER INFORMATION CONTACT: Mark Hooper, Air Programs Branch, AT-092, Environmental Protection Agendy, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1949, FTS: 399-1949.

SUPPLEMENTARY INFORMATION: On November 11, 1975, the Regional Administrator for EPA Region 10 delegated to the State of Oregon the authority to implement and enforce New Source Performance Standards (NSPS) for 13 categories of stationary sources as promulgated by EPA prior to January 1, 1975. This delegation was published in the **Federal Register** on February 20, 1976 (41 FR 7749). Additional delegations were made on December 3, 1981 (46 FR 62066), September 3, 1982 (47 FR 38982), September 27, 1983 (48 FR 46535), October 12, 1984 (49 FR 40031) January 24, 1986 (51 FR 3172), and June 20, 1986 (51 FR 22520).

The State of Oregon Department of Environmental Quality (ODEQ), in a letter dated September 11, 1987, requested delegation of Subpart Db. After a review of that request, the Regional Administrator of Region 10 approved this additional delegation of authority to DEQ in the following letter:

Fred Hansen,
Department of Environmental Quality, 811 S.W. Sixth, Portland, Oregon 97204

Dear Mr. Hansen: On September 11, 1987 you requested that EPA extend the delegation of authority to enforce an additional New Source Performance Standard (NSPS) to the Department of Environmental Quality (DEQ). We have reviewed that request and hereby grant to DEQ the authority to enforce Subpart Db (Industrial Commercial Institutional Steam Generating Units).

This delegation is subject to the conditions outlined in the original letter of delegation dated November 10, 1975 and published in the **Federal Register** (40 FR 7749). A Notice announcing this delegation will be published in the **Federal Register** in the near future.

Effective immediately all reports required pursuant to the federal NSPS from sources located in the state which were previously sent to EPA will now be sent to the Director of DEQ. Additionally, DEQ agrees to submit, until further notice, copies of reports required pursuant to 40 CFR 60.7(c) relating to excess emissions to EPA Region 10, Attention: Chief, Air Operations Section. DEQ has the authority to enforce revisions to those previously delegated NSPS sources which have been updated through January 15, 1987.

Since this delegation is effective immediately, there is no requirement that DEQ notify EPA of its acceptance. Unless EPA receives from DEQ written notice of objections within ten days of the date of receipt of this letter, then DEQ will be deemed to have accepted all the terms of the delegation.

An advance copy of the **Federal Register** is enclosed for your information.

Sincerely,
Robie G. Russell,
Regional Administrator.

Enclosure
cc: James Herlihy, 000

This Notice notifies the public that a delegation of Subpart Db (Industrial-Commercial-Industrial Steam Generating Units) under NSPS took place on October , 1987 to the State of Oregon Department of Environmental Quality. The public should also note that the State of Oregon Department of Environmental Quality is now adopting its NSPS rules by reference.

This Notice is issued under the authority of section 110 of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7502).

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc.

Dated: October 8, 1987.

Nora L. McGee,
Acting, Regional Administrator.

[FR Doc. 87-25390 Filed 11-2-87; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 61220-7033]

Groundfish of the Gulf of Alaska; Inseason Adjustment

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustment.

SUMMARY: This action changes the prohibited species catch (PSC) limits for Pacific halibut applicable to United States vessels fishing for groundfish in the Gulf of Alaska. It decreases the halibut PSC limit for domestic annual processing (DAP), and increases the limit for joint venture processing (JVP) in the Gulf of Alaska. This section is necessary because additional amounts of groundfish have recently been apportioned to JVP, thereby increasing the likelihood of bycatch of Pacific halibut. It is necessary to promote a growing U.S. groundfish fishery for JVP while not causing biological harm to Pacific halibut stocks.

DATES: This notice is effective on November 2, 1987. Comments are invited until November 17, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Alaska Region, NMFS), 907-586-7229.

ADDRESSES: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802-1668.

SUPPLEMENTARY INFORMATION: Domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the Gulf of Alaska are managed under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), which was developed by the North Pacific Fishery Management Council (Council) under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and implemented by regulations appearing at 50 CFR 611.92 and Part 672. Target

quotas (TQs) for groundfish species in the Gulf of Alaska are established by the FMP. The sum of the TQs for all species must fall within the established optimum yield (OY) range for these species of 116,000 to 800,000 metric tons (mt).

TQs are apportioned initially among domestic annual processing (DAP), joint venture processing (JVP), reserves, domestic annual harvest, and total allowable level of foreign fishing (TALFF) for each species and species category under §§ 611.92 and 672.20(a)(2). DAP amounts are intended for harvest and processing by the U.S. industry. JVP amounts are intended for joint ventures in which U.S. fishermen typically deliver their catches to foreign processors at sea.

Incidental catches of certain fish species important to other U.S. fishing industries occur at times while fishing for groundfish. One of these species is Pacific halibut for which there is a well established U.S. fishing industry which depends significantly upon this species for its economic well being. To protect Pacific halibut stocks and to reduce bycatch by U.S. groundfish fishermen, regulations implementing the FMP at § 672.20(f)(2)(i) impose PSC limits for Pacific halibut. Section 672.20(f)(2)(ii) requires that the limits be based on the following types of information: Historical halibut bycatches, expected changes in groundfish catch, expected changes in groundfish biomass, current estimates of Pacific halibut biomass and stock condition, potential impacts of expected fishing for groundfish on Pacific halibut stocks and the U.S. fisheries for them, and other biological and socioeconomic information. Halibut PSC limits for the 1987 fishing year were set at 2,849 mt for DAP fisheries and 183 mt for JVP fisheries on October 26 (52 FR 41560, October 29, 1987).

Under § 672.20(f)(1) of the regulations implementing the FMP, the Director, Alaska Region, NMFS (Regional Director) will publish a notice in the **Federal Register** prohibiting fishing with trawl gear other than pelagic trawl gear by U.S. vessels delivering their catch to foreign vessels (JVP vessels) or U.S. vessels catching and processing their catch or delivering their catch to U.S. processors (DAP vessels) for the rest of the year, if he determines that U.S. vessels will reach the applicable PSC limit for Pacific halibut. However, the Secretary of Commerce (Secretary) may, under § 672.20(f)(2)(iii), change the Pacific halibut PSC limits during the fishing year based on new information as set forth in § 672.20(f)(2)(ii).

The Regional Director has determined that new information exists that warrants increasing the Pacific halibut PSC limit applicable to JVP. Three types of information are available. First, under § 672.20(f)(2)(ii)(B), the Regional Director has determined that changes in groundfish catches are expected, because the JVP specification has been increased following reapportionments of pollock reserve and surplus pollock DAP to JVP, and surplus Pacific cod DAP to JVP. Second, under § 672.20(f)(2)(ii)(D), the Regional Director has determined that the status of Pacific halibut continues to be good, producing record harvest levels. The abundance of Pacific halibut has increased the likelihood that they will be caught incidentally in the JVP fisheries. Third, under § 672.20(f)(2)(ii)(E), the Regional Director has determined that, since the overall PSC catch of Pacific halibut is likely to be about the same after the PSC change as before the change, and the Pacific halibut resource is healthy, potential impacts of groundfish fishing on Pacific halibut stocks and the Pacific halibut fisheries will be negligible. NMFS projections of DAP for the remaining months of 1987, which resulted in reapportionments of surplus DAP to JVP, will reduce the amount of Pacific halibut PSC needed in DAP fisheries by 250 mt. Therefore, the Secretary is reapportioning 250 mt of Pacific halibut PSC to JVP, which increases it from 183 mt to 433 mt and reduces the Pacific halibut PSC allocated to DAP from 2,849 mt to 2,599 mt.

Classification

This action is taken under the authority of § 672.20 and complies with Executive Order 12291.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide for prior notice and comment on this action. Immediate effectiveness of this notice is necessary to benefit U.S. fishermen delivering to foreign processors who otherwise would forego amounts of groundfish if prevented by the current Pacific halibut PSC limit from further bottom trawling. Interested persons are invited to submit comments in writing (see **ADDRESS**) for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 29, 1987.

Carmen J. Blondin,
Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-25428 Filed 11-2-87; 8:45 am]
BILLING CODE 3510-22-M

VOL 52 ISS 212 NO 3 1987 UMI

Proposed Rules

Federal Register
Vol. 52, No. 212
Tuesday, November 3, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 501, 543, 544, 545, 546 and 551

[No. 87-1120]

Corporate Governance, Parts III and IV; Extension of Comment Period

Date: October 27, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Federal Home Loan Bank Board ("Board") is extending to February 1, 1988, the comment period on its proposed rules regarding the corporate governance of Federal associations.

DATE: Comments must be received on or before February 1, 1988.

ADDRESS: Send comments to: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Ulrich, Staff Attorney, Corporate and Securities Division, (202-377-7049); Carol Johnson, Staff Attorney, Regulations and Legislation Division, (202-377-6357); V. Gerard Comizio, Director, Corporate and Securities Division, (202-377-6411); Peggy W. Spohn, Deputy Director, Office of Community Investment, (202-377-2684); Edward J. Taubert, Associate Director, Policy Division, Office of Regulatory Policy, Oversight and Supervision, (202-778-2511); Patricia D. Neidecker, Paralegal, Corporate and Securities Division, (202-377-6410); or Julie L. Williams, Deputy General Counsel for Securities and Corporate Structure, Office of General Counsel, (202-377-6459), at the above address.

SUPPLEMENTARY INFORMATION: On June 22, 1987 the Board proposed Parts III and IV of a four-part proposal to revise its regulations regarding the corporate governance of Federal associations in order to update and clarify these regulations, 52 FR 25870 (July 9, 1987). The proposal was published with a 60-day comment period that expired September 8, 1987.

The Board notes extensive interest by the thrift industry in many aspects of this broad proposal and believes that, because of the magnitude of the proposed revisions and their impact on the operations of Federal associations, it will serve the public interest to extend the comment period for an additional time. The comment period will now expire on February 1, 1988. As specified in the original proposal of Corporate Governance Parts III and IV, comments on Parts I [50 FR 38832 (Sept. 25, 1985)] and II [50 FR 52482 (Dec. 24, 1985)] also may be submitted during this period.

Comments already submitted in response to the proposal need not be resubmitted during the extension of the comment period. The Board will consider all comments submitted in reaching a final decision; it encourages all interested parties to submit their comments on all aspects of the proposed rules.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-25451 Filed 11-2-87; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[LR-62-87]

Low-Income Housing Credit for Federally-Assisted Buildings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to the low-income housing credit for certain Federally-assisted buildings under section 42 of the Internal Revenue Code of 1986, as enacted by the Tax Reform Act of 1986 (Pub. L. 99-514). The text of those temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 4, 1988. In general, the regulations are proposed to be effective for buildings placed in service by a taxpayer after December 31, 1986.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-62-87), 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Robert Beatson of the Legislation and Regulations Divisions, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3629, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend 26 CFR Parts 1 and 602. The temporary regulations add new § 1.42-2T to Part 1 of Title 26 of the Code of Federal Regulations. The final regulations, which this document proposes to be based on those temporary regulations, would amend 26 CFR Parts 1 and 602 and would add new § 1.42-2 to Part 1 of Title 26 of the Code of Federal Regulations. For the text of the temporary regulations, see FR Doc. 87-25444 (T.D. 8162) published in the Rules and Regulations portion of this issue of the **Federal Register.** The preamble to the temporary regulations explains the additions to the Income Tax Regulations.

The proposed regulations provided needed guidance regarding the provisions of section 42(d)(6), as enacted by section 252 of the Tax Reform Act of 1986. Section 42(d)(6) provides rules for the low-income housing credit allowable for certain Federally-assisted buildings acquired during the 10-year period described in section 42(d)(2)(B)(ii).

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, this proposed regulation does not constitute a regulation subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is Robert Beatson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations both on matters of substance and style.

Comments and Requests for a Public Hearing

Before adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. Comments are encouraged both with respect to the matters addressed in these proposed regulations and any other issues arising under section 42 with respect to which guidance is needed. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.** The collection of information requirements contained herein have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on the requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, DC 20503. The Internal Revenue Service requests persons submitting comments to OMB to also send copies of the comments to the Service.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87-25445 Filed 10-30-87; 9:56 am]

BILLING CODE 4830-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 61, 62, 65, 70, and 72

National Flood Insurance Program

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the National flood Insurance Program (NFIP) regulations dealing with: Flood plain management standards; criteria for the identification of coastal high hazard areas, more commonly referred to as V zones, and delineated as Zone V, VO, V1-30 or VE on NFIP maps; criteria under which communities may permit flood plain and floodway developments which could increase base flood elevations; requirements for maintenance of altered watercourses; procedures for map correction; reimbursement procedures for the review of *proposed* projects to determine if they would qualify for NFIP map revisions upon their completion; and changes in the Standard Flood Insurance Policy (SFIP) terms and provisions.

DATE: Comments must be received on or before January 4, 1988.

ADDRESSES: Send comments to Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472; telephone number (202) 646-3422.

SUPPLEMENTARY INFORMATION: These proposed amendments are the result of a continuing reappraisal of the National Flood Insurance Program (NFIP) to achieve greater administrative and fiscal effectiveness in the operation of the NFIP and to encourage sound flood plain management so that reductions in loss of life and to property can be realized.

Coastal High Hazard Area and Erosion Considerations for Sand Dunes

Flood Insurance Rate Maps (FIRM's) have been published by the Federal Emergency Management Agency (FEMA) depicting coastal high hazard areas (Zones V, VO, VE and V1-30) for approximately 700 communities along the Atlantic and Pacific Oceans and the Gulf of Mexico. These FIRM's were developed in recognition of flood hazards associated with storm surges from hurricanes and other coastal storm events. In addition, flooding caused by tsunamis (seismic sea waves) have been considered, where appropriate, for Pacific Coast communities. For communities along the Atlantic and Gulf of Mexico Coasts, base flood elevations, where appropriate, include an adjustment to reflect the increase in water level associated with waves as they pass through areas inundated by storm surges. Areas of significant wave action are designated as coastal high hazard areas (V-Zones).

The depth of water at a partcular site is a critical factor in determining the lateral extent of the areas subject to significant wave action. Generally speaking, the greater the depth, the more significant the wave action. Efforts to define ground elevations, particularly in sandy beach and dune areas which are subject to significant degrees of storm-related erosion, have been hindered due to the lack of methodology for estimating the extent of erosion which would be associated with a one percent annual chance (100-year) flood event. Attempts have been made to account for storm-induced erosion in the present mapping of areas subject to coastal flood hazards, including the application of simplified analytical models and use of engineering judgment. However, there are many areas where dune erosion has not been considered or has been clearly underestimated.

In these instances, the inappropriate crediting of sand dunes has resulted in the unrealistic delineation of coastal flood hazard zones that terminate at the seaward face of the dune for many barrier islands and other open coastal areas. Consequently, it is estimated that the extent of coastal high hazard areas may be understimated in approximately 250 communities along the open coast that are subject to this phenomenon.

In the recent past, FEMA has received numerous comments, from state and local governments, criticizing the mapping of V-Zone in such areas. FEMA responded to these comments by conducting an investigation to evaluate the extent of dune erosion in many historical flood events. It was concluded that the primary frontal dune would, in most cases, be completely eroded during 100-year storm surge conditions. For example, following Hurricane Hazel (1954) the U.S. Weather Bureau (now the National Weather Service) reported that between the South Carolina-North Carolina state line and Cape Fear "grass covered dunes some 10 to 20 feet high

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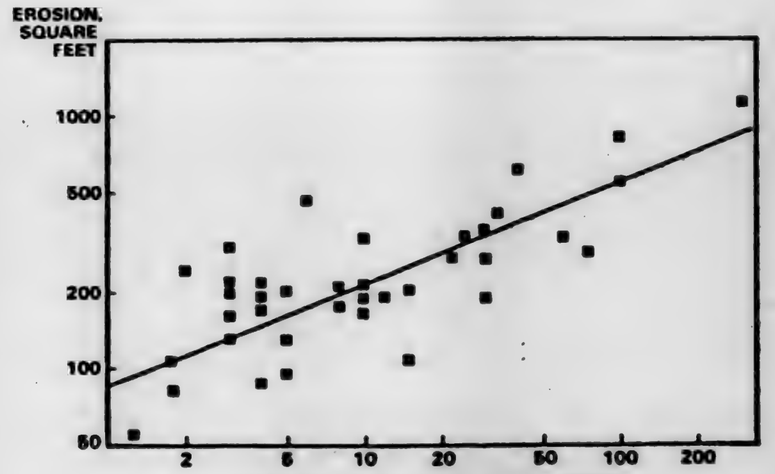
. . . simply disappeared." Hurricane Hazel produced an average storm surge in that section of the coast comparable to the 100-year surge elevation. Once dunes are destroyed, storm surge and waves are free to move inland causing extreme hazards where development typically occurs.

The investigation of sand dunes led to the development of an empirical relationship between the quantity of sand that would be removed from a frontal dune and the recurrence interval of the local storm tide as is shown in Figure 1.



MEDIAN CROSS-SECTIONAL EROSION ABOVE FLOOD ELEVATION VERSUS FLOOD RECURRENCE INTERVAL BASED ON 38 CASES OF DUNE RETREAT DURING VARIOUS COASTAL STORMS.

Figure 1.

This relationship established that primary frontal sand dunes with a cross-sectional area of 540 square feet or less above the 100-year storm tide stillwater level and seaward of the dune crest would be swept away during a 100-year storm surge event.

The investigation also determined that there are some instances where the quantity of sand in the frontal dune is great enough to preclude total destruction of the dune (i.e., cross-sectional areas greater than 540 square feet). Under these conditions, the remaining dune would act as a barrier, preventing the inland propagation of wave action. However, the dunes themselves are not free of coastal high hazards. Wave runup on the dune face and overtopping of the dune crest is a factor that would cause a serious hazard to exist on the entire dune. Wave runup is a component of wave action that is the result of wave breaking on a sloping surface, such as a dune, and literally running up and over the surface. This phenomenon is different from that analyzed in the current V-Zone mapping where wave crest elevations have been determined at the point of breaking. What happens after breaking has generally not been considered, with the exception of areas of steeply sloping beaches such as are found in northern New England and the Pacific Coast where wave runup can be a very significant factor. However, the wave runup and overtopping phenomena do occur to some degree in almost all coastal areas with sand because of their relatively steep slopes.

Under current coastal mapping procedures, there are many instances where frontal dunes have been designated as A, B, or C Zones because errosion potential and wave runup have not been considered. Structures built on dunes using standards permissible in A, B, and C Zones are subject to total destruction by undermining and failure of the foundation system by these phenomena.

It is therefore, prudent to classify all primary frontal dunes as V-Zones. This would insure that adequate insurance rates apply and that appropriate construction standards are imposed, should building on primary frontal dunes be permitted by state or local

ordinances. In addition, NFIP regulations at § 60.3(e)(7), prohibition and alteration of sand dunes in V-Zones which would increase potential flood damage, would be made more effective in protecting frontal sand dunes.

The proposed rule revises the definition of "coastal high hazard area" to include primary frontal sand dunes along barrier islands and other similarly exposed open coasts. Additionally, a definition is proposed for "primary frontal sand dune" to provide greater clarification of the revised definition for "coastal high hazard area." Also, a new section is proposed at Part 65 which identifies a cross-sectional area of 540 square feet as the basic criterion to be used in evaluating whether a primary frontal dune will act as an effective barrier during base flood storm surge events.

The 540 square foot criterion will be applied in designating coastal flood hazard zones as new flood insurance studies and restudies are performed. Thus, adoption of this criterion will not be followed by wholesale and immediate change to the FIRM's that have already been published for coastal communities.

Requirements for Maintenance of Altered Watercourses

One important aspect of flood hazard management, particularly in rapidly developing areas, is adequate maintenance of altered or relocated watercourses, specifically of modified channels, which were built to reduce flood hazards. This maintenance consists of a comprehensive program of periodic inspections, routine channel clearing and dredging, and other related functions. Inadequate maintenance could result in more significant flood hazards than depicted on the NFIP maps, therefore, FEMA must have assurance that communities participating in the NFIP will assume ultimate responsibility for the maintenance of any altered watercourses intended for flood hazard mitigation that are reflected on NFIP maps. These assurances should specify all maintenance activities, the frequency of their performance, and the community officials responsible for their performance.

Currently, as a condition of participation in the NFIP, communities must adopt ordinances which contain the provision of § 60.3(b)(7). This provision requires that the community "assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained". In the past, FEMA has found that communities have not always known or understood their responsibilities under the NFIP to maintain such watercourses. In addition, communities do not always follow through on their maintenance responsibilities; often communities have not committed adequate funds or are not fully aware of the necessary maintenance procedures. This has resulted in situations such as severe overgrowth or sediment deposition in channelized streams, causing reduced conveyance and increased flood hazards. In other cases, inadequate maintenance has resulted in erosion and scour problems within altered watercourses, thereby increasing potential floodwater velocities and downstream flood damage. For these reasons, it is imperative that appropriate assurances of maintenance of altered watercourses be provided prior to FEMA depicting the accompanying flood hazard mitigation effects of NFIP maps. Threfore, the proposed rule would change the NFIP criteria regarding revision of base flood elevation determinations in § 65.6 to enable FEMA to obtain specific documentation that the provisions of 60.3(b)(7) will be met prior to FEMA's revising NFIP maps to reflect the flood hazard mitigation effects of specific flood control projects.

Flood Plain Management Criteria for Regulatory Floodways

Current NFIP criteria at § 60.3(d)(3) require communities to prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway, that would result in any increase in flood levels within the community during the occurrence of the base flood elevation. These criteria as written contain no provision for requiring that a community base its decisions to allow encroachments in an adopted regulatory floodway only after hydrologic and hydraulic analyses have been performed in accordance with standard engineering practice that demonstrate the proposed encroachment does not increase base flood elevations by more than the amount specified in § 60.3. These analyses are required by § 65.7 when a community is seeking to have its adopted regulatory floodway revised and they are required in order for a community to be considered fully compliant by FEMA with the intent of § 60.3(d)(3). Accordingly, the proposed rule amends § 60.3(d)(3) to add clarity to the criteria specified therein and to ensure consistency with § 65.7 by incorporating the requirement that these analyses be preformed before a community can permit encroachments to occur in its adopted regulatory floodway.

Revision of Flood Insurance Rate Maps to Reflect Base Flood Elevation (BFE) Increases Exceeding NFIP Standards

Current NFIP criteria at § 60.3(c)(10) require communities, which have no regulatory floodway established, to prohibit encroachments within the floodplain which would cumulatively result in a Base Flood Elevation (BFE) increase greater than one foot. When a regulatory floodway has been established, NFIP criteria at § 60.3(d)(3) require communities to prohibit encroachments within the floodway which would result in any increase in the BFE. No mechanism is provided in the current NFIP regulations to allow for exceptions to these provisions and corresponding revisions of community flood maps. Yet, there are circumstances under which encroachments in the flood plain and floodway that exceed these limits can result in reduced flood hazards or have a net public benefit. For example, the construction of dams or levees may increase BFE's in some locations, and yet, in other areas, reduce the overall flood hazard. Additionally, many communities are now requiring developers to mitigate the increased runoff expected from development by providing stormwater detention facilities. Although such facilities may prevent increased flood hazards to downstream development, they must be placed in the floodway and usually result in BFE rises greater than one foot, thereby conflicting with the provisions of § 60.3(c)(10) and (d)(3).

In other instances, projects may be constructed which, although lacking direct flood hazard reduction benefits, offer benefits in excess of the costs associated with their resulting BFE increase. Examples of such cases include increasing the height of existing dams to provide hydroelectric power, and the construction of bridges. The cost of bridge construction to completely span floodways without having supports such as piers or columns that encroach on the floodway can often be economically prohibitive, yet, in some instances, the construction of structures that do not completely span the floodway might provide significant net public benefits where no existing development would be impacted by the BFE increase resulting from the project. Often, agencies proposing to construct such facilities are willing to purchase or relocate potentially impacted structures and purchase flooding easements to mitigate the impacts of increased BFE's.

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These examples serve to establish the need for a mechanism within the NFIP regulations to allow for exceptions to the limitations on BFE increases contained in § 60.3 (c)(10) and (d)(3). At the same time, the protection of the conveyance capacity of a watercourse is vital to ensuring proper flood plain management and avoiding exacerbation of flood hazards. Likewise, protection of the interests of property owners that might be affected by BFE increases continues to remain a paramount concern to FEMA. Unless carefully managed, BFE increases could also result in increased exposure of the National Flood Insurance Fund (NFIF) to losses because of increased risks to existing insured or insurable structures which are "grandfathered" at risk premium rates based on their flood risk at date of construction. Therefore, the proposed rule contains provisions that, while allowing BFE increases in certain situations, are intended to prevent or compensate for the adverse impacts on property owners and the NFIF and to assure that regulatory floodways and BFE's are not revised without proper notification of all affected property owners.

The provisions of the proposed rule would be incorporated into Part 65 and would also modify § 60.3. Cases involving BFE increases and/or floodway revisions would be processed under map revision procedures established at Parts 65 and 72 and would require all scientific and technical information specified in those Parts be provided to FEMA in support of the request. The proposed rule also requires that the requester of an exception from the NFIP floodway standards, currently established at § 60.3 (c)(10) and (d)(3), show evidence that a BFE increase is justified, that all engineering alternatives have been considered and determined to be unsuitable, that community approval has been obtained, that no structures are impacted, and that any property owners adversely impacted are properly notified.

Procedure for Map Correction

The present regulations at §§ 70.3 and 70.4 are inconsistent regarding the data an applicant is required to submit and the data which is reviewed by the Federal Insurance Administrator (the Administrator) in connection with applications for map corrections.

According to § 70.3, the applicant submits "* * * the elevation of the lowest floor (including basement) of the structure or structures located on the property in question * * *" However, in § 70.4, the Administrator notifies the applicant "* * * that either the ground elevations of an entire legally defined parcel of land or the elevation of the lowest adjacent grade to a structure have been compared with the elevation of the base flood * * *" In essence, the applicant is required to submit the elevation of the lowest floor (including basement) which is not used by the Administrator in making his determination, but is not asked to provide the elevation of the lowest adjacent grade which is used by the Administrator in making his determination.

During rulemaking in 1986, §§ 70.3 and 70.4 were amended by a final rule that was published (51 FR 30317) on August 25, 1986, and became effective on October 1, 1986. Through an administrative oversight, § 70.3(b) was not properly amended to be compatible with the amendment made to § 70.4. The proposed rule will eliminate the need for an owner or lessee of real property (applicant) to provide the elevation of the lowest floor (including basement) of the structure in question and will instead specify that the applicant provides the elevation of the lowest adjacent grade to the structure in question. This change will eliminate the inconsistency between the previously mentioned paragraphs and will correct § 70.3(b) to read as it was intended to read when it was previously amended.

Procedures and Fees for Obtaining Conditional Approval of Map Changes

FEMA is obligated by Parts 65 and 70 of the NFIP regulations to revise Flood Insurance Studies and maps as a result of appeals by communities and individuals. Many of these requests come about as a result of structural flood control projects. FEMA's review of and response to appeals based on in-place projects is totally funded out of appropriated monies. However, FEMA is often requested to provide the service of reviewing plans for proposed projects to determine if they would qualify for map revisions upon their completion. Conditional Letters of Map Amendment (CLOMAs) and Conditional Letters of Map Revision (CLOMRs) have been used to provide FEMA's determinations to individuals, developers, and communities as to whether their projects would be accepted for map revision upon completion. Furthermore, CLOMAs and CLOMRs are often needed by developers to obtain construction loans and building permits and attract prospective buyers.

To reduce expenses to the general taxpayer, a procedure for charging the beneficiaries of these services was published under Part 72 on September 4, 1985, as final rulemaking which was implemented on January 1, 1986. This reimbursement procedure shifted the cost from the general taxpayer to those who benefit from FEMA's review and ultimate acceptance of the project.

Section 72.5 of these procedures specifies that Federal, State, and local governments may be exempt from fees for projects they sponsor if the requester certifies that the particular project is for the public benefit and primarily intended for flood loss reduction to existing development in identified flood hazard areas, as opposed to planned flood plain development.

Many requests for proposed projects which obviously met the exemption of fees criteria have been received since these regulations were implemented, but lacked the required certification. Since the regulations are binding and do not grant FEMA discretion in deciding when fees may be waived, much time and effort are lost in preparing and exchanging correspondence to obtain the necessary certification.

The proposed rule will amend § 72.5 to grant the Federal Insurance Administrator discretion in waiving the collection of fees when he has determined, through any means, that the proposed project satisfies the exemption criteria, but the required certification has not been provided as part of the original submission by the requester. This amendment will allow the expeditious processing of requests of this nature, will improve the administrative effectiveness of the NFIP, and will reduce the administrative burden on the requester.

Standard Flood Insurance Policy

The NFIP does not allow for the purchase of duplicate policies, i.e., more than one policy for a building or the contents in a building. The proposed rule would state this in the Standard Flood Insurance Policy (SFIP), along with the corrective procedure when this is discovered.

The Dwelling Form of the SFIP provides for reimbursement of the labor of the insured for moving insured property to protect it from the imminent danger of flood; for certain other specified mitigative measures, such as sandbags, in the event of imminent danger of flooding; and for the removal of debris directly caused by flood. The proposed rule would extend reimbursement to include the labor of members of the household of the insured in all these cases.

A recent district court decision held that damage caused by the destabilization of land resulting from the accumulation of water in subsurface land areas was covered by the SFIP. Because this was never intended by the NFIP, the SFIP would be revised by the proposed rule to specifically exclude such damage.

Antique furniture is included in a list of contents items in the SFIP for which there is a limitation of $250. The NFIP interpretation of this limitation regarding antique furniture is that it does not apply where antique furniture is replaced by furniture of equivalent functional value, but with no antique value. The SFIP would be revised by the proposed rule to reflect this by deleting antique furniture (and antique silver) from the limitation provision and adding in the insuring agreement a provision that the SFIP does not cover antique value.

The SFIP, in providing for premium refunds under certain conditions, specifies that the expense constant is to be retained by the NFIP when the policy is being cancelled because it has been determined that the insured property is not in a special flood hazard area and the insurance had been required under the mandatory purchase requirements of Pub. L. 93-234, section 102. FEMA has now decided that it would be more appropriate in this case not to retain the expense constant because in these cases the insurance had been purchased due to a mistaken application of Pub. L. 93-234, section 102.

For renewal without a lapse in coverage, the SFIP currently requires renewal premium payments to be mailed prior to the expiration date of the previous policy term and to be received within five days of that expiration date, or to be mailed by certified mail prior to that expiration date with no requirement in that case for when it must be received by the NFIP. To provide better service to the NFIP policyholder, to encourage retention of flood insurance business for the NFIP, and to facilitate the Write-Your-Own Program by making NFIP practices more compatible with private insurance industry practices, the proposed rule would provide in the SFIP for a 30-day grace period for the receipt of renewal premium payments, with continuation of the certified mail alternative.

In addition to the changes described above, the proposed rule would also make a few other changes for consistency between the Dwelling Form and the General Property Form or of an editorial nature, including incorporating the separate condominium endorsements, one for the Dwelling Form and one for the General Property Form, that became effective June 1, 1987, into those two policy forms and deleting them as endorsements separate from those two policy forms.

FEMA has determined, based upon an Environmental Assessment, that this proposed rule will not have significant impact upon the quality of the human environment. As a result, an Environmental Impact Statement will not be prepared. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

This proposed rule will not have a significant economic impact on a substantial number of small entities and hence, has not undergone regulatory flexibility analysis.

This proposed rule is not a "major rule" as defined in Executive Order 12291, dated February 27, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that this proposed rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Parts 59, 60, 61, 62, 65, 70, and 72

Flood insurance, Flood plains, Claims.

Accordingly, it is proposed to amend 44 CFR Chapter 1, Subchapter B as follows:

PART 59—GENERAL PROVISIONS

1. The authority citation for Part 59 continues to read as follows:

Authority: 42 U.S.C. 4001, *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 59.1 [Amended]

2. Section 59.1 is amended as follows:

a. By revising the definition of "Coastal high hazard area" to read as follows:

* * * * *

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

* * * * *

b. By adding, alphabetically, a definition of "Primary frontal dune" to read as follows:

* * * * *

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

* * * * *

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

3. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 4001, *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 60.3 [Amended]

4. Section 60.3 is amended as follows:

a. By redesignating paragraph (c)(11) and (c)(12) as (c)(12) and (c)(13), respectively, and adding a new paragraph (c)(11) to read as follows:

* * * * *

(c) * * *

(11) Notwithstanding any other provisions of § 60.3, a community may approve certain development in Zones A1–30, AE, and AH, on the community's FIRM which increase the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision, fulfills the requirements for such a revision as established under the provisions of § 65.12, and receives the approval of the Administrator.

* * * * *

b. By removing in paragraph (d)(3) the phrase "that would" and adding in its place the phrase "unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not".

c. By adding new paragraph (d)(4) to read as follows:

* * * * *

(d) * * *

(4) Notwithstanding any other provisions of § 60.3, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of the Administrator.

* * * * *

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PART 61—INSURANCE COVERAGE AND RATES

5. The authority citation for Part 61 continues to read as follows:

Authority: 42 U.S.C. 4001, *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 122127.

§ 61.4 [Amended]

6. Section 61.4 is amended by removing in paragraph (c) the phrase "or from earthquakes" and adding in its place the phrase ", destabilization or movement of land resulting from the accumulation of water in subsurface land areas, earthquakes,".

§ 61.5 [Amended]

7. Section 61.5 is amended by removing in paragraph (f)(4) the words "driveways and other surfaces outside the foundation walls of the building;" and adding in their place the words "walkways, driveways, patios, and other surfaces, all of whatever kind of construction, located outside the perimeter, exterior walls of the insured building;" and by adding new paragraph (j) to read as follows:

* * * * *

(j) Duplicate policies are not allowed. Property may not be insured under more than one policy issued under the National Flood Insurance Act of 1968, as amended. If a policy is issued under that Act for any property when another policy issued under that Act is in effect for the same property, the policy with the later effective date is void from its effective date, and a refund shall be made of the premium paid, less expense constant, for that policy for the entire period for which it was in effect without any lapse in coverage. For purposes of this paragraph (j), the term "effective date" means the date coverage that has been in effect without any lapse was first placed in effect. When the duplicate policies are discovered by the insurer, the insurer shall by written notice give the insured an opportunity to add the coverage limits of the later policy to those of the earlier policy, as of the effective date of the later policy, by paying the pro rata premium for the increased coverage within 30 days of the written notice; provided, the resulting coverage limits shall in no event exceed the statutorily permissible limits of coverage under the Act or the insured's insurable interest, whichever is less.

Appendix A(1) of Part 61—[Amended]

8. Appendix A(1) of Part 61, Standard Flood Insurance Policy, is amended as follows:

a. The Dwelling Form—Insuring Agreement (appearing immediately before Article I) is amended by adding after the phrase "42 U.S.C. 4001, *et seq.*" and within the parentheses the phrase ", hereinafter called the Act" and by removing the clause beginning with the words "we insure" and ending with the words "property at the time of loss", and adding in its place the following: "we insure you and your legal representatives against all "Direct Physical Loss by or from Flood", as defined in Article II of this Agreement, to the insured property, to the extent of the actual cash value, not including any antique value, of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after the loss."

b. In Article II—Definitions, the definition of "Direct Physical Loss by or from Flood" is amended by adding in the first sentence after the word "labor," and before the word "at" the words "and the labor of members of your household".

c. In Article III—Losses Not Covered, paragraph A.1 is amended by adding after "landslide," and before "gradual erosion" the follow: "destablization or movement of land resulting from the accumulation of water in subsurface land areas,".

d. In Article IV—Property Covered (Subject to "Property Not Covered" Provisions), paragraph A.1 is amended by removing the comma and the words "if your" after the words "building's common elements" and adding in their place the following: "and the common elements of any other building of your condominium association covered by insurance that is: (i) In the name of your condominium association, (ii) provided under the Act, and (iii) in an amount at least equal to the actual cash value of the building's common elements at the beginning of the current policy term or the maximum building coverage limit available under the Act, whichever is less; provided that the insurance under this policy shall be excess over any insurance in the name of your condominium assocation covering the same property covered by this policy; provided, your condominium" and by removing after the words "one family and" the word "if".

e. In Article IV—Property Covered (Subject to "Property Not Covered" Provisions), paragraph A.7 is amended by adding after the word "labor" and before the word "at" the words "and the labor of members of your household".

f. In Article IV—Property Covered (Subject to "Property Not Covered" Provisions), paragraph C is amended by removing in the first sentence the words "antique furniture" and the words "antique silver".

g. In Article IV—Property Covered (Subject to "Property Not Covered" Provisions), paragraph D is amended by adding after the word "labor" and before the word "at" the words "and the labor of members of your household".

h. In Article V—Property Not Covered, paragraph D is amended by removing the words "driveways and other surfaces, outside the foundation walls of the building" and adding in their place the words "walkways, driveways, patios, and other surfaces, all of whatever kind of construction, located outside the perimeter, exterior walls of the insured building."

i. In Article VIII—General Conditions and Provisions, paragraph E is amended by removing the words ", but with retention of the expense constant" at the end of paragraph 1.b; and by removing the words "on a short-rate basis" and adding in their place the words "pro rata but with retention of the expense constant" in paragraph 1.c.

j. In Article VIII—General Conditions and Provisions, paragraph G is amended by revising the second paragraph to read as follows:

* * * * *

This policy shall not be renewed and the coverage provided by it shall not continue into any successive policy term unless the renewal premium payment is received by us at the office of the NFIP within 30 days of the expiration date of this policy, subject to Article VIII.F of this appendix. If the renewal premium payment is mailed by certified mail to the NFIP prior to the expiration date, it shall be deemed to have been received within the required 30 days. The coverage provided by the renewal policy is in effect for any loss occurring during this 30-day period even if the loss occurs before the renewal premium payment is received, so long as the renewal premium payment is received within the required 30 days. In all other cases, this policy shall terminate as of the expiration date of the last policy term for which the premium payment was timely received at the office of the NFIP, and in that event, we shall not be obligated to provide you with any cancellation, termination, policy lapse, or policy renewal notice advising you of any such cancellation, termination, policy lapse, or policy renewal; provided, however, with respect to any mortgagee (or trustee) named in the declarations form attached to this policy, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 30 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

k. Article VIII—General Conditions and Provisions is amended by adding new paragraph T to read as follows:

* * * * *

T. *Duplicate policies not allowed.* Property may not be insured under more than one policy issued under the Act. If a policy is issued under the Act for any property when another policy issued under the Act is in effect for the same property, the policy with the later effective date is void from its effective date, and we shall make a refund to you of the premium paid, less the expense constant, for that policy for the entire period for which it was in effect without any lapse in coverage. For purposes of this paragraph T, the term "effective date" means the date coverage that has been in effect without any lapse was first placed in effect. When the duplicate policies are discovered by us, we shall by written notice give you an opportunity to add the coverage limits of the later policy to those of the earlier policy, as of the effective date of the later policy, by paying the pro rata premium for the increased coverage within 30 days of the written notice; provided, the resulting coverage limits shall in no event exceed the statutorily permissible limits of coverage under the Act or your insurable interest, whichever is less.

Appendix A(2) of Part 61—[Amended]

9. Appendix A(2) of Part 61, Standard Flood Insurance Policy is amended as follows:

a. The statement in brackets immediately following the heading "Standard Flood Insurance Policy" is amended by adding after the word "Thereof" and before the comma the phrase "(hereinafter called the Act)".

b. The paragraph immediately following the heading "General Property Form" is amended by adding after the words "actual cash value" the phrase ", not including any antique value,".

c. The following headings are amended by adding article numbers as indicated below:

Article I—Persons Insured
Article II—Definitions
Article III—Perils Excluded
Article IV—Property Covered (Subject to "Property Not Covered" Provisions)
Article V—Property Not Covered
Article VI—Deductibles
Article VII—General Conditions and Provisions

d. In newly designated Article III—Perils Excluded, paragraph D is amended by adding after "landslide," and before "gradual erosion" the following: "destabilization or movement of land resulting from the accumulation of water in subsurface land areas,".

e. In newly designated Article IV—Property Covered, paragraph B.2 is amended by removing in the last paragraph the words "antique furniture" and the words "antique silver".

f. In newly designated Article V—Property not covered, paragraph D is amended by removing the words "driveways and other surfaces outside the foundation walls of the building." And adding in their place the words "walkways, driveways, patios, and other surfaces, all of whatever kind of construction, located outside the perimeter, exterior walls of the insured building."

g. In newly designated Article VII—General Conditions and Provisions, paragraph J is amended by revising the second and third paragraphs to read as follows:

* * * * *

This policy shall not be renewed and the coverage provided by it shall not continue into any successive policy term unless the renewal premium payment is received by the National Flood Insurance Program (NFIP) at its office within 30 days of the expiration date of this policy, subject to Article VII.E of this appendix. If the renewal premium payment is mailed by certified mail to the NFIP prior to the expiration date, it shall be deemed to have been received within the required 30 days. The coverage provided by the renewal policy is in effect for any loss occurring during this 30-day period even if the loss occurs before the renewal premium payment is received, so long as the renewal premium payment is received within the required 30 days.

In all other cases, this policy shall terminate as of the expiration date of the last policy term for which the premium payment was timely received at the office of the NFIP, and in that event, the Insurer shall not be obligated to provide the Insured with any cancellation, termination, policy lapse, or policy renewal notice advising the Insured of any such cancellation, termination, policy lapse, or policy renewal; provided, however, with respect to any mortgagee (or trustee) named in the Declaration form attached to this policy, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 30-days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

h. In newly designated Article VII—General Conditions and Provisions, paragraph K is revised to read as follows:

* * * * *

K. *Cancellation of policy by insured.* 1. The Insured can cancel this policy at anytime but a refund of premium will be made only when:

a. The Insured cancels because the Insured has transferred ownership of the insured property to someone else. In this case, the Insurer will refund to the Insured, once the Insurer receives the Insured's written request for cancellation (signed by the Insured) the excess of premiums paid by the Insured which apply to the unused portion of the policy's term, pro rata but with retention of the expense constant.

b. The Insured cancels because it has been determined that the insured property is not, in fact, in a special flood hazard area; and the Insured was required to purchase flood insurance coverage by a private lender or Federal agency pursuant to Pub. L. 93–234, section 102; and the lender or Federal agency no longer requires the retention by the Insured of the coverage. In this event, if no claims have paid or are pending, the premium payments will be refunded to the Insured in full, according to our applicable regulations.

c. The Insured cancels a policy having a term of three (3) years, on an anniversary date, and the reason for the cancellation is:

(i) A policy of flood insurance has been obtained or is being obtained in substitution for this policy and the Insurer has received a written concurrence in the cancellation from any mortgagee of which the insurer has actual notice, or (ii) the Insured has extinguished the insured mortgage debt and is no longer required by the mortgagee to maintain the coverage.

Refund of any premium under this subparagraph "c" shall be pro rata but with retention of the expense constant.

* * * * *

i. Newly designated Article VII—General Conditions and Provisions is amended by adding new paragraph X to read as follows:

* * * * *

X. *Duplicate policies not allowed.* Property may not be insured under more than one policy issued under the Act. If a policy is issued under the Act for any property when another policy issued under the Act is in effect for the same property, the policy with the later effective date is void from its effective date, and the Insurer shall make a refund to the Insured of the premium paid, less expense constant, for that policy for the entire period for which it was in effect without any lapse in coverage. For purposes of this paragraph X, the term "effective date" means the date coverge that has been in effect without any lapse was first placed in effect.

When the duplicate policies are discovered by the Insurer, the Insurer shall be written notice give the Insured an opportunity to add the coverge limits of the later policy to those of the earlier policy, as of the effective date of the later policy, by paying the pro rata premium for any increased coverage within 30 days of the written notice; provided, the resulting coverage limits shall in no event exceed the statutorily permissible limits of coverage under the Act or the Insured's insurable interest, whichever is less.

j. The Condominium Association Endorsement is amended by adding new paragraph 8 to read as follows:

* * * * *

8. The Insurer shall not be liable for any loss or any portion of any loss for which payment is made under any insurance in the name of any condominium unit owner, i.e., any member of the condominium association.

Appendix A(3) of Part 61—[Removed]

10. Part 61 is amended by removing Appendix A(3).

Appendix A(4) of Part 61—[Removed]

11. Part 61 is amended by removing Appendix A(4).

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PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

12. The authority citation for Part 62 is revised to read as set forth below and the authority citations following all the sections in Part 62 are removed.

Authority: 42 U.S.C. 4001, *et seq.;* Reorganization Plan No. 3 of 1978; E.O. 12127.

* * * * *

§ 62.5 [Amended]

13. Section 62.5 is amended by removing in the last sentence the words "on a short-rate basis." and adding in their place the words "pro rata but with retention of the expense constant."

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

12. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001, *et seq.;* Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 65.6 [Amended]

13. Section 65.6 is amended by adding a new paragraph (a)(12) to read as follows:

* * * * *

(a) * * *

(12) If a community or other party seeks recognition from FEMA, on its FHBM or FIRM, that an altered or relocated portion of a watercourse provides protection from, or mitigates potential hazards of, the base flood, the Administrator may request specific documentation from the community certifying that, and describing how, the provisions of § 60.3(b)(7) of this subchapter will be met for the particular watercourse involved. This documentation, which may be in the form of a written statement from the Community Chief Executive Officer, an ordinance, or other legislative action, shall describe the nature of the maintenance activities to be performed, the frequency with which they will be performed, and the title of the local coummunity official who will be responsible for assuring that the maintenance activities are accomplished.

§ 65.11 [Amended]

14. Part 65 is amended by redesignating § 65.11 as § 65.13 and adding new §§ 65.11 and 65.12 to read as follows:

§ 65.11 Evaluation of sand dunes in mapping coastal flood hazard areas.

(a) *General conditions.* For purposes of the NFIP, FEMA will consider storm-induced dune erosion potential in its determination of coastal flood hazards and risk mapping efforts. The criterion to be used in the evaluation of dune erosion will apply to primary frontal dunes as defined in § 59.1, but does not apply to artifically designed and constructed dunes that are not well-established with long-standing vegetative cover, such as the placement of sand materials in a dune-like formation.

(b) *Evaluation criterion.* Primary frontal dunes will not be considered as effective barriers to base flood storm surges and associated wave action where the cross-sectional area of the primary frontal dune as measured perpendicular to the shoreline and above the 100-year stillwater flood elevation and seaward of the dune crest is equal to, or less than, 540 square feet.

(c) *Exceptions.* Exceptions to the evaluation criterion may be granted where it can be demonstrated through authoritative historical documentation that the primary frontal dunes at a specific site withstood previous base flood storm surges and associated wave action.

§ 65.12 Revision of flood insurance rate maps to reflect base flood elevations caused by proposed encroachments.

(a) When a community proposes to permit encroachments upon the flood plain when a regulatory floodway has not been adopted or to permit encroachments upon an adopted regulatory floodway which will cause base flood elevation increases in excess of those permitted under paragraphs (c)(10) or (d)(3) of § 60.3 of this subchapter, the community shall apply to the Administrator for conditional approval of such action prior to permitting the encroachments to occur and shall submit the following as part of its application:

(1) A request for conditional approval of map change and the appropriate initial fee as specified by § 72.3 of this subchapter or a request for exemption from fees as specified by § 72.5 of this subchapter, whichever is appropriate;

(2) An evaluation of alternatives which would not result in a base flood elevation increase above that permitted under paragraphs (c)(10) or (d)(3) of § 60.3 of this subchapter demonstrating why these alternatives are not feasible;

(3) Documentation of individual legal notice to all impacted property owners within and outside of the community, explaining the impact of the proposed action on their property.

(4) Concurrence of the Chief Executive Officer of any other communities impacted by the proposed action;

(5) Certification that no structures are located in areas which would be impacted by the increased base flood elevation;

(6) A request for revision of base flood elevation determination according to the provisions of § 65.6 of this part;

(7) A request for floodway revision in accordance with the provisions of § 65.7 of this part;

(b) Upon receipt of the Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to the Administrator of the adoption of flood plain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition.

(c) Upon completion of the proposed encroachments, a community shall provide as-built certifications in accordance with the provisions of § 65.3 of this part. The Administrator will initiate a final map revision upon receipt of such certifications in accordance with Part 67 of this subchapter.

PART 70—PROCEDURE FOR MAP CORRECTION

15. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 4001, *et seq.;* Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 70.3 [Amended]

16. Section 70.3 is amended as follows:

a. By removing the phrase "floor (including basement) of the" in paragraph (b)(2)(iv) and adding in its place the phrase "adjacent grade to a".

b. By revising paragraph (b)(4) to read as follows:

* * * * *

(b) * * *

(4) A certification by a Registered Professional Engineer or Licensed Land Surveyor that the lowest grade adjacent to the structure is above the base flood elevation.

PART 72—PROCEDURE AND FEES FOR OBTAINING CONDITIONAL APPROVAL OF MAP CHANGES

17. The authority citation for Part 72 is revised to read as follows:

Authority: 42 U.S.C. 4001, *et seq.;* Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 72.5 [Amended]

18. Section 72.5 is amended by adding after the word "if", the phrase "the Administrator determines or".

Dated: October 28, 1987.

Harold T. Duryee,

Federal Insurance Administrator.

[FR Doc. 87-25368 Filed 11-2-87; 8:45 am]

BILLING CODE 6718-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 525 and 552

[GSAR Notice No 5-131]

General Services Administration Acquisition Regulation

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR), which would revise Part 525 to prescribe specific policy on the use and approval of non-domestic construction materials; and to provide a method for evaluating offers when non-domestic construction materials are proposed. The change would also revise Part 552 to prescribe a solicitation provision for use in contracting for construction. The intended effect is to improve the regulatory coverage and provide uniform procedures for contracting under the regulatory system.

DATE: Comments are due in writing on or before December 3, 1987.

ADDRESS: Requests for a copy of the proposal and comments should be addressed to Ms. Majorie Ashby, Office of GSA Acquisition Policy and Regulations, 18th & F Streets NW., Room 4024, Washington, DC 20405, (202) 523-3822.

FOR FURTHER INFORMATION CONTACT: Ms. Ida Ustad, Office of GSA Acquisition Policy and Regulations, 18th and F Streets NW., Washington, DC 20405, (202) 556-1224.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB) by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this proposed rule. This proposed rule may have a significant economic impact upon a small number of small entities within the meaning of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), principally with respect to those entities proposing to use on a contractor by contractor basis foreign construction materials in construction contracts performed in the United States. Accordingly, comments that will permit a determination before issuance of the final rule are hereby solicited. The information collection requirement in the proposed rule has been submitted to OMB for approval under (44 U.S.C. 3501 *et. seq.*).

List of Subjects in 48 CFR Parts 525 and 552

Government Procurement.

Dated: October 23, 1987

Ida M. Ustad,

Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 87-25355 Filed 11-2-87; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

South Atlantic Fishery Management Council; Snapper-Grouper Fishery of the South Atlantic; Public Hearing

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearing and request for comments.

SUMMARY: The South Atlantic Fishery Management Council will hold a public hearing and provide an opportunity for the public to comment on the possibility of designating certain artificial reefs as special management zones (SMZs).

DATES: The hearing will begin at 7:00 p.m., on Thursday, November 19, 1987. Written comments will be received until November 27, 1987.

ADDRESSES: The hearing will be held at the Holiday Inn Oceanfront, 2600 North Highway, A1A, Ft. Pierce, FL. Written comments may be sent to Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Robert K. Mahood, 803-571-4366.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region provides for designating artificial reefs as SMZs within which certain highly efficient fishing gear may be restricted or prohibited. The intent is to encourage biological production and to create recreational fishing opportunities that would not otherwise exist.

This public hearing will discuss these management objectives and specifically address the possibility of establishing SMZs for certain artificial reefs off Ft. Pierce, Florida, and measures to restrict fish traps, bottom longlines, spearguns, and powerheads in these SMZs.

Dated: October 29, 1987.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87-25422 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-22-M

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Notices

Federal Register
Vol. 52, No. 212
Tuesday, November 3, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance under the expedited review process the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration
Title: Anti-Friction Bearings, 232 Investigation of Producers and Importers
Form Numbers: Agency—ITA-9057 and ITA-9058; OMB—None
Type of Request: New Collection—Expedited Review Requested
Burden: 116 respondents; 997 burden hours
Needs and Uses: This information collection will be directed to primary domestic bearing manufacturers and importers of bearings and bearing components. The information will be used to determine the impact of imports of bearings and bearing components on the national security.
Affected Public: Businesses or other for-profit organizations
Frequency: One-time only
Respondent's Obligation: Mandatory
OMB Desk Officer: John Griffen, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: October 28, 1987.

J. Randall Blumenschein,

Chief, Management Support Division, Office of Management and Organization.

[FR Doc. 87-25360 Filed 11-2-87; 8:45 am]

BILLING CODE 3510-CW-M

National Oceanic and Atmospheric Administration

Availability of Marine Mammal Annual Report

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of Marine Mammal Annual Report.

SUMMARY: The 1986/87 Annual Report on the administration of the Marine Mammal Protection Act is available now, on request, from the National Marine Fisheries Service.

ADDRESS: Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz (Protected Resources Division), (22) 673-5349.

SUPPLEMENTARY INFORMATION:

Background

The Marine Mammal Protection Act of 1972 assigns responsibility for marine mammals of the Order Cetacea (whales and dolphins) and the Suborder Pinnipedia (seals and sea lions), except walrus, to the Department of Commerce. This annual report reviews the progress NMFS has made to protect these animals; the permit programs for scientific research, public display, the incidental take of marine mammals in commercial fisheries and other activities; the marine mammal stranding network; international activities; legal actions; and enforcement activities. It includes a discussion on the management and research programs for cetaceans and pinnipeds that are carried out at NMFS' Regional Offices and Research Centers.

Dated: October 28, 1987.

Carmen J. Blondin,

Director, Office of Trade and Industry Service, National Marine Fisheries Service.

[FR Doc. 87-25423 Filed 11-2-87; 8:45 am]

BILLING CODE 3510-22-M

Productivity Improvement Program Review List

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of availability.

SUMMARY: Pursuant to Office of Management and Budget (OMB) Circular No. A-76 and Department of Commerce Administrative Order 201-41, the Department of Commerce has compiled an inventory of activities it operates which provide a product or service which could be obtained from a commercial source. The National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (NOAA) is conducting an A-76 Review of the facilities maintenance functions in Seattle, Washington; Kodiak, Alaska; Auke Bay, Alaska; and Little Port Walter, Alaska. This is for the sole purpose of announcing an A-76 study which was not on the Commerce Productivity Improvement Program Review List in the June 1, 1987, Federal Register.

FOR FURTHER INFORMATION CONTACT: Annie O'Donoghue, Office of A-76 Activities, Room 1800, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230, (202) 377-1919.

SUPPLEMENTARY INFORMATION: This notice is issued under the authority of the Budget and Accounting Act of 1921 (31 U.S.C. 501); the Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401 et seq.); Office of Management and Budget (OMB) Circular No. A-76, Performance of Commercial Activities; and Department Administrative Order (DAO) No. 201-41, "Performance of Commercial Activities." Commercial activities are those which are operated by the agency and which provide a product or service which could be obtained from a commercial source.

William Matuszeski,

Director, Office of A-76 Activities.

Identifier	Location of activity	Name of activity	Description of activity	Approx. No. of FTEs	Review start date	Review end date
NOA-F009 C	Seattle, Wash.; Kodiak, Alaska; Auke Bay, Alaska; and Little Port Walter, Alaska	Northwest Facilities Maintenance	Upkeep, repair, and operation of buildings, grounds, and equipment.	15	12/01/87	04/20/89

[FR Doc. 87-25362 Filed 11-2-87; 8:45 am]

BILLING CODE 3510-08-M

Patent and Trademark Office

Interim Protection for Mask Works of Nationals, Domiciliaries, and Sovereign Authorities of Finland

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Issuance of interim order.

SUMMARY: The Secretary of Commerce has delegated to the Assistant Secretary and Commissioner of Patents and Trademarks, by Amendment 2 to Department Organization Order 10-14, the authority under section 914 of title 17 of the United States Code (the copyright law) to make findings and issue orders for the interim protection of mask works.

On August 28, 1987, the Confederation of Finnish Industries with the support of the Finnish Government submitted a petition for the issuance of an interim order. Comments on the petition were requested on or before September 28, 1987, and a hearing was set for October 7, 1987. Requests to testify were received from the Semiconductor Industry Association (SIA) and the Confederation of Finnish Industries.

Following the October 7, 1987, hearing, after receiving assurances that the protection afforded under Finnish law would generally be similar to that under the SCPA, the SIA in a letter to the Commissioner supported the issuance of an interim order. SIA urged that, in view of their areas of concern, any order issued should be for one year, should the Commissioner's authority to issue such orders be extended beyond November 8, 1987. The Confederation of Finnish Industries urged that the order should issue for one year or for the remaining term of the Commissioner's authority. The Commissioner has determined that Finland has demonstrated good faith efforts and reasonable progress toward providing protection for mask works of U.S. nationals and domiciliaries, and has determined that an order should issue until November 8, 1987.

EFFECTIVE DATE: The effective date of this order shall be August 28, 1987, the date of receipt of the petition.

Termination date: This order shall terminate on November 8, 1987.

FOR FURTHER INFORMATION CONTACT: Michael K. Kirk, Assistant Commissioner for External Affairs, by telephone at (703) 557-3065, or by mail marked to his attention and addressed to Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Chapter 9 of title 17 of the United States Code establishes an entirely new form of intellectual property protection for mask works that are fixed in semiconductor chip products. Mask works are defined in 17 U.S.C. 901(a)(2) as:

> A series of related images, however, fixed or encoded
> (A) having or representing the predetermined, three-dimensional pattern of metallic, insulating or semiconductor material present or removed from the layers of a semiconductor chip product; and
> (B) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product.

Chapter 9 provides for a 10-year term of protection for original mask works, measured from the earlier of their date of registration in the U.S. Copyright Office, or their first commercial exploitation anywhere in the world. Mask works must be registered within 2 years of their first commercial exploitation to maintain this protection.

Foreign mask works are eligible for protection under basic criteria set out in 17 U.S.C. 902. Either (i), the owner of the mask works must be a national, domiciliary, or sovereign authority of a foreign nation that is a party to a treaty providing for the protection of a mask work to which the United States is also a party, or a stateless person wherever domiciled; (ii) the mask work must be first commercially exploited in the United States; or (iii) the mask work must come within the scope of a Presidential proclamation. Section 902(a)(2) provides that where:

> A foreign nation extends to masks works of owners who are nationals or domiciliaries of the United States protection (A) on substantially the same basis as that on which the foreign nation extends protection to mask works of its own nationals and domiciliaries and mask works of its own nationals and domiciliaries and mask works first commercially exploited in that nation, or (B) on substantially the same basis as provided under this chapter, the President may by proclamation extend protection under this chapter to mask works (i) of owners who are, on the date on which the mask works are registered under section 908, or the date on which the mask works are first commercially exploited anywhere in the world, whichever occurs first, nationals, domiciliaries, or sovereign authorities of that nation, or (ii) which are first commercially exploited in the nation.

In order to encourage steps toward a regime of international comity in mask works protection, section 914(a) provides that the Secretary of Commerce may extend the privilege of obtaining interim protection under chapter 9 to nationals, domiciliaries, and sovereign authorities of foreign nations if the Secretary finds;

> (1) that the foreign nation is making good faith efforts and reasonable progress toward—
> (A) entering into a treaty described in section 902(a)(1)(A); or
> (B) enacting legislation that would be in compliance with subparagraph (A) or (B) of section 902(a)(2); and
> (2) that the nationals, domiciliaries, and sovereign authorities of the foreign nation, and persons controlled by them, are not engaged in a misappropriation, or unauthorized distribution or commercial exploitation of mask works; and
> (3) that issuing the order would promote the purposes of this chapter and international comity with respect to the protection of mask works.

At the October 7 hearing Finland was represented by Mr. Jukka Liedes, Special Adviser, Ministry of Education; Ms. Satu Lahtinen, Ministry of Education; Mr. Henrik Raiha, Legal Department, Confederation of Finnish Industries; and Mr. Kauko Jamsen, Economic Counselor, Embassy of Finland. Mr. Jamsen introduced the members of the delegation and explained that in Finland the Ministry of Education was responsible for intellectual property matters such as the protection of semiconductor chips. Mr. Jamsen introduced Mr. Liedes as the head of the Finnish delegation.

Mr. Liedes explained that the preparation of chip legislation started in Finland soon after the enactment of the U.S. Semiconductor Chip Protection Act. The State Copyright Committee was entrusted with the task of preparing a draft bill in January 1986, after a

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proposal by the Confederation of Finnish Industries.

The Committee published its report in April 1987 containing studies and proposed amendments concerning several aspects of information technology and copyright. One part of this report is a proposal for a *sui generis* bill on the protection of integrated circuits.

The subject matter of the protection in the proposed act is the layout design of an integrated circuit. Layout design means the abstract disposition or pattern of the elements of an integrated circuit. Thus, the protection would cover the layout design in all of the forms in which it can be expressed or fixed. The proposed protection would not be subject to any formalities. A certain level of originality would be a requirement for the protection, in the same way as in the U.S. law and the WIPO draft treaty.

Mr. Liedes explained that there is complete political certainty that the Finnish government will present to the parliament its proposal for new legislation concerning protection for layout designs of integrated circuits.

The Government of Finland in the World Intellectual Property Organization has supported a simple and flexible treaty that would allow as many countries as possible to join. From the beginning of this international preparatory work, Finland has supported the idea of a treaty that could be applied to electronic integrated circuits, but also circuits that perform similar functions. Finland is ready to accept the treaty as it stands and is ready to participate in a diplomatic conference, preferably in the framework of WIPO.

The Finland authorities do not have any knowledge of cases in which Finnish citizens or companies have engaged in misappropriation of mask works or of integrated circuits.

Mr. Raiha explained that after consultations with officials from the Ministry of Education, the Confederation of Finnish Industries feels confident that the Finnish law will provide protection equivalent to the SCPA. The Confederation has studied the purchasing and R&D practices of Finnish electronics and semiconductor companies and is convinced that no Finnish companies have been engaged in the misappropriation or unauthorized distribution or commercial exploitation of mask works.

Mr. Richards, representing the Semiconductor Industry Association (SIA) observed that the documents submitted by the Confederation of Finnish Industries raise several questions concerning the proposed Finnish law. But, if these issues are resolved satisfactorily, SIA would support the granting of an interim order to Finland.

SIA stated its opinion that Finland appears to be making good faith efforts toward enacting semiconductor chip protection legislation. SIA is not aware of any instances in which Finnish nationals have been or are engaged in the misappropriation of semiconductor designs. SIA believes that issuing a section 914 interim order to Finland would promote the purposes of the Chip Protection Act and international comity with respect to the protection of mask works if the questions raised by the Finnish proposal can be resolved.

In determining whether granting an interim order to Finland would promote the purpose of the SCPA and international comity, SIA believes the following central criteria should be met:

First, that protection should be provided for semiconductor mask works;

Second, that protection should be provided for original, as opposed to novel works;

Third, that the term of protection should be at least 10 years.

Fourth, that innocent infringement provisions should be included;

Fifth, that reverse engineering should be permitted with the limitations of the SCPA.

Mr. Richards further observed that SIA believes that these criteria generally are consistent with the position of the PTO, as reflected in the testimony of Commissioner Quigg before the Senate Judiciary Committee on February 26, 1987.

SIA sought assurances from Finnish officials on several points. SIA explained that since the scope of coverage of the proposed Finnish law is limited to intergrated circuits and not to all semiconductors the coverage may not be compatible with the SCPA.

Mr. Richards also observed that the SCPA and the European Community Directive both refer to protection for all semiconductor chip products which meet certain criteria. As currenly drafted SIA was uncertain whether the Finnish law would provide protection to discrete semiconductor devices.

SIA also observed that the proposed law would permit the reproduction of mask works for "private use, teaching and analysis of the layout-design." SIA is not entirely clear as to Finland's definition of private use, and why this exemption is necessary in addition to the exemption for teaching and analysis.

SIA also expressed concern that the act does not indicate what criteria Finland will use to determine when it will provide protection for foreign mask works.

A final point is that the draft Finnish law contains no notice provision. While SIA did not regard the absence of such a notice provision to be a serious flaw in the proposed legislation, SIA would prefer that the law address this issue. SIA stated that if actions are taken or assurances provided that its concerns with respect to the proposed Finnish law are satisfactorily clarified, the Commissioner of the Patent and Trademark Office should issue an interim order to Finland for the period through November 9, 1987, with possible subsequent extension for an additional year.

Mr. Liedes explained that the intent of the Finnish law was to to exclude any possible subject matter, and that it would protect works protected by the U.S. law. He also explained that it was the intent to provide for foreign protection by a decree issued at the time of passage of the law. Such protection would be extended on the condition of reciprocity to countries that protect Finnish works.

Ms. Lahtinen explained that the scope of private copying permitted would only be for non-commerical purposes. Commercial copying would not be covered by this provision. Mr. Liedes further explained that if the fundamental condition for protection—originality—were met, any circuit design would be protected regardless of whether it was a "discrete" or not.

Mr. Richards explained the SIA still had some concerns with respect to discrete devices, but that the personal use question and the question of providing rights to U.S. rights holders had been clarified. The notice issue is not an issue over which the SIA would object to an interim order.

On October 8, 1987, SIA responded in writing that all of their concerns had been satisfactorily addressed and that they supported an interim order for Finland.

The record supports the conclusion that Finland is making good faith efforts and reasonable progress toward establishing a system for the protection of mask works in Finland on substantially the same basis as under the SCPA. There is no evidence of misappropriation of U.S. mask works in Finland and the support that Finland has shown for a new chip protection treaty is strong evidence of Finnish efforts to assist the development of international comity in this important area of intellectual property law. Accordingly, I have concluded that an interim order should issue for nationals, domiciliaries, and sovereign authorities of Finland. This order shall endure until November 8, 1987, and the Effective date shall be August 28, 1987, the date of receipt of the petition.

Order Extending Interim Protection Under Chapter 9, Title 17, United States Code, to Nationals, Domiciliaries, and Sovereign Authorities of Finland

In accordance with the authority vested in me by Amendment 1 to Department Organization Order 10-14 regarding 17 U.S.C. 914, and based upon the records of this proceeding commenced on October 7, 1987, I find that: Finland is and has, since August 28, 1987, been making good faith efforts toward enacting legislation that will be in compliance with 17 U.S.C. 902(a)(2); Finnish nationals, domiciliaries, and sovereign authorities and persons controlled by them are not engaged in the misappropriation or unauthorized distribution or commercial exploitation of mask works; and, the issuance of this order will promote international comity with respect to the protection of mask works.

Accordingly, nations, domiciliaries and sovereign authorities of Finland are entitled to protection under Chapter 9 of 17 U.S.C. subject to compliance with all formalities specified therein. The effective date of this order shall be August 28, 1987, and this order shall terminate on November 8, 1987.

Donald W. Peterson,

Deputy Assistant Secretary and Deputy Commissioner of Patents and Trademarks.

Date: October 22, 1987.

[FR Doc. 87-25377 filed 11-2-87; 8:45 am]

BILLING CODE 3510-16-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the People's Republic of China

October 28, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 3, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the previously established restraint limit for wool textile products in Category 443, produced or manufactured in the People's Republic of China and exported during 1987.

Background

A CITA directive dated December 23, 1986 (51 FR 47041) established import restraint limits for certain cotton, wool and man-made fiber textile products, including Categories 443 and 447, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Under the terms of the bilateral textile agreement of August 19, 1983, as amended, and at the request of the Government of the People's Republic of China, the limit for Category 443 is being increased by application of swing. To account for the swing applied to Category 443, the limit for Category 447 is being reduced. The reduction in Category 447 also accounts for swing applied to Catetory 433 which was published in a separate directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

October 28, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 23, 1986 concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on November 3, 1987, the directive of December 23, 1986 is further amended to include adjustments to the previously established restraint limits for the following categories, as provided under the terms of the bilateral agreement of August 19, 1983, as amended: [1]

Category	Adjusted 12-mo. limit [1]
443	10,653 dozen.
447	68,376 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulvmaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25357 Filed 11-2-87; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that: (1) With the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yard equivalent total, provided that the amount of increase is compensated by an equivalent square yard decrease in one or more other specific limits in that agreement year; (2) the specific limits for categories may be increased for carryover or carryforward; and (3) administrative arrangement or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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Adjustment of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Macau

October 28, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 28, 1987. For further information contact Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343–6495. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the aggregate limit, group limits and certain individual limits for textiles and textile products, produced or manufactured in Macau and exported during 1987.

Background

A CITA directive dated December 23, 1986 was published in the **Federal Register** (51 FR 47045), as amended on July 6, 1987 (52 FR 47045), announcing import restraint limits for certain categories of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, including an aggregate limit, group limits and individual limits within the aggregate for Categories 333/334/335/833/834/835, 338, 339, 340, 341, 345, 347/348/847, 445/446, 642/842 and 845/846, produced and manufactured in Macau and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. Under the terms of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of December 29, 1983 and January 9, 1984, as amended, between the Government of the United States and Macau, the aggregate limit and the limits for Groups I and II and Categories 333/334/335/833/834/835, sublimit 333/335/833/835, 338, 339, 340, 341, 345, 347/348/847, 445/446, 642/842 and 845/846 are being adjusted, variously, by application of swing, carryforward and carryforward used in 1986.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

October 28, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, DC. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 23, 1986, as amended on July 6, 1987, which directed you to prohibit entry of certain categories of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987, in excess of designated restraint limits.

Effective on Oct. 28, 1987, the directive of December 23, 1986, as amended, is hereby further amended to adjust the limits for the following categories, according to the terms of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of December 29, 1983 and January 9, 1984, as amended, between the Governments of the United States and Macau [1]:

Category	Adjusted 12-mo limit [1]
300–354, 359–369, 400–448, 458–469, 600–654, 658–670, 800, 810, 831–859 and 863–899, as a group.	81,737,571 square yards equivalent.
Group I	
300–354, 359–369, 600–654, 658–670, 800, 810, 831–859, 863–899, as a group.	78,780,000 square yards equivalent.
Group II	
400–448 and 459–469, as a group.	1,657,540 square yards equivalent.
333/334/335/833/834/835.	147,660 dozen of which not more than 80,250 dozen shall be in Category 333/335/833/835.
338	188,535 dozen.
339	814,408 dozen.
340	160,513 dozen.
341	122,551 dozen.
345	33,900 dozen.
347/348/847	471,737 dozen.
445/446	76,454 dozen.
642/842	56,710 dozen.
845/846	214,000 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–25358 Filed 11–2–87; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that: (1) Within the aggregate limit specific restraint limits may be exceeded by designated percentages; (2) specific limits may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of the Marriage and Family Therapists as Independent Providers Demonstration Project.

SUMMARY: Chapter 55, Title 10 U.S.C. 1092(a) authorizes OCHAMPUS to establish demonstrations of alternative methods of encouraging the efficient and economical delivery of health and medical care services. OCHAMPUS has determined that a potential exists to enhance the efficiency of delivery of some mental health care given by a specific group of practitioners and contain DoD costs by allowing marriage and family therapists to provide mental health services as independent practitioners, not requiring the referral or supervision of a physician. This will be tested in four states in a single

CHAMPUS fiscal intermediary area and require the execution of an Agreement of Participation by those marriage and family therapists qualified to be considered independent practitioners for the purpose of this project. This notice sets forth the parameters of the demonstration.

EFFECTIVE DATE: December 1, 1987.

FOR FURTHER INFORMATION CONTACT: Project Officer: LTC(P) Robert T. Moore, MSC, USA, Office of Demonstrations and Special Projects, OCHAMPUS, Washington, DC 20301–1200 [202–695–3350].

Claims Processing and Agreements of Participation: George Schobel, Vice President, Blue Cross Blue Shield of Rhode Island Inc., One Weybossett Hill, Providence, RI 02903 [401–272–8500].

SUPPLEMENTARY INFORMATION:

In Fiscal Year 1983, the requirement for physician referral and supervision of certified nurse practitioners (including certified psychiatric nurses) and for certified clinical social workers was eliminated. At the present time the only groups of mental health professionals for which CHAMPUS requires physician referral and supervision when providing psychotherapy are marriage and family therapists and pastoral counselors.

In 1986, the House Committee on Armed Services in House Report 99–718, entitled "National Defense Authorization Act for Fiscal Year 1987," page 248, dated 25 July 1986, directed that CHAMPUS conduct a demonstration project of marriage and family therapists as independent health care providers. The Committee further directed that the demonstration project be established within a geographic region administered by one of the CHAMPUS fiscal intermediaries and should include two types of marriage and family therapists in the demonstration. The first group should be state licensed or certified marital and family therapists. The second group should be providers in states which do not currently license or certify marital and family therapists. This second group should, as a minimum, meet the criteria established by nationally recognized credentialing organizations in the field of marriage and family therapy including the completion of a master's or doctoral degree in marital and family therapy from an accredited educational institution or an equivalent course of study and degree as prescribed by the Secretary. The Committee also directed that the beneficiaries not incur any out-of-pocket costs, beyond the existing cost-share required by CHAMPUS, and that, as a condition of participation in the demonstration, providers must agree in writing that they will not seek reimbursement from the beneficiary if their claim for service is denied by CHAMPUS.

The Northern Region has been selected as the region in which this demonstration will be conducted. This region contains two states, Connecticut and New Jersey, which have marriage and family therapists licensing/certifying laws. In these states, any licensed/certified marriage and family therapist who is an authorized CHAMPUS provider, meets the criteria for Clinical Membership in the American Association for Marriage and Family Therapy and agrees to participate in the demonstration project will be reimbursed as an independent provider for authorized care rendered to CHAMPUS beneficiaries.

Two other states in this region, New York and Massachusetts, are the states selected which have no existing licensing laws for marriage and family therapists. In these states, only those authorized CHAMPUS providers who meet the criteria for Clinical Membership in the American Association for Marriage and Family Therapy and agree to participate in the demonstration project will be reimbursed as independent providers for authorized care rendered to CHAMPUS beneficiaries. In order to be a CHAMPUS authorized marriage and family therapist, whether participating in the demonstration or not, the provider must comply with the existing requirements outlined in Chapter 6, C.3.d.(1) of the CHAMPUS Regulation, DoD 6010.8–R (32 CFR Part 199). This demonstration applies to only marriage and family therapists and does not include either pastoral counselors or mental health counselors unless they meet the criteria of a marriage and family therapist.

The three criteria which must be met to qualify for Clinical Membership in the American Association for Marriage and Family Therapy are the following:

1. *Education.* Completion of a master's or doctoral degree in Marriage and Family Therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy, or completion of a master's or doctoral program from a regionally accredited educational institution which includes: 9 semester hours of human development; 9 semester hours of marital and family studies; 9 semester hours of marital and family therapy; 3 semester hours of research methodology; 3 semester hours of professional studies; and 300 hours of supervised clinical practicum, of which approximately 180 to 200 hours was in face-to-face contact with individuals, couples and families for the purpose of assessment and intervention.

2. *Clinical Experience.* Completion of two (2) years of post-graduate work experience in marriage and family therapy and supervised clinical experience following the award of the first qualifying graduate degree and the practicum prescribed for that course of study, which includes: a. Successful completion of at least 1,000 hours of face-to-face contact with couples or families for the purpose of assessment and intervention, and b. At least 200 hours of supervision of marriage and family therapy, at least 100 hours of which are individual supervision.

3. *Licensure.* Possession of a valid state license or certificate as a marriage and family therapist, or a license or certificate which allows the individual to provide psychotherapy in states that require such licensing or certification. Clincial members of the American Association of Marriage and Family Therapy are recognized as having met this requirement.

This demonstration project does not in any way alter the benefit structure of CHAMPUS. Marriage and family therapists will be reimbursed only for psychotherapy that is considered to be psychologically necessary, as determined under the CHAMPUS "Utilization Review of Mental Health Services" process (Appendix A, Volume Two, CHAMPUS Policy Manual). Claims submitted for mental health services by marriage and family therapists participating in this demonstration project are subject to the limitations on mental health disorders for which reimbursement is authorized, as specified in the regulation, and to the criteria in the "Utilization Review of Mental Health Services," Appendix A, Volume Two, CHAMPUS Policy Manual. No reimbursement will be made for marriage and family counseling, as such, which is not a benefit under CHAMPUS.

This demonstration project does not in any way alter the current CHAMPUS regulatory provider standards, cost-sharing requirements, the allowable amount of reimbursement, nor the reimbursement methodology of CHAMPUS. The demonstration project does not change any of the requirements regarding recoupment or the coordination of benefits. Participating marriage and family therapists will continue to collect the normal deductible and cost share from each beneficiary. Participating marriage and family therapists will prepare and submit CHAMPUS Form 500 or CHAMPUS Form 501/HCFA Form 1500,

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which contains the CHAMPUS certification on the reverse side of the claim form, for reimbursement of authorized services. Participating marriage and family therapists claims will automatically be processed as "participating." Should a beneficiary submit a claim for services provided by a participating provider, the Fiscal Intermediary will deny the claim with a message "Provider is to Submit Claim." Participating marriage and family therapists will not seek reimbursement from the beneficiary for any claims denied by the Fiscal Intermediary of the Northern Region for the following reasons: requested information not received; Nonavailability Statement not supplied; non-covered diagnosis; services covered by Workers Compensation; non-covered service; treatment summary not received; request for information not received; psychiatric limit exceeded; services filed after time limit; authorized services limit exceeded; approval for therapy not received; and, insufficient information received. Participating marriage and family therapists will be subject to the denial of future claims reimbursement if they seek reimbursement for claims denied by the Fiscal Intermediary for the above stated reasons. The Fiscal Intermediary is required to recoup any erroneously paid monies on subsequently received claims once this determination has been made.

Participating marriage and family therapists may, of course, seek full reimbursement from a patient for those claims denied by the Fiscal Intermediary on the basis of a DEERS ineligibility determination.

Participating marriage and family therapists are required to submit CHAMPUS Treatment Reports for all claims for crisis intervention and CHAMPUS Treatment Reports for all patients whose treatent episodes have reached the 24th session and every 24 sessions thereafter. Peer Review requirements specified in Appendix A, Volume Two, CHAMPUS Policy Manual will be applied by the Fiscal Intermediary for the Northern Region. This fiscal intermediary will establish the peer review activity for this demonstration and will include, among their consultants, authorized CHAMPUS marriage and family therapists who are also Clinical Members of the American Association of Marriage and Family Therapy to perform required Second Level Review and Third Level Peer Reviews of cases managed by the participating marriage and family therapists.

The demonstration project will, for data collection purposes, run for twelve months, beginning 1 December 1987 and ending 30 November 1988. At the end of the demonstration data collection period, those marriage and family therapists who are participating independent providers will continue to be considered independent providers for the next twelve months, until 30 November 1989. This additional period of independent provider status is required, in fairness to both the participating providers and their patients, to allow the evaluation of the demonstration to be completed and a determination made with respect to any permanent change in the CHAMPUS regulation, DoD 6010.8R (32 CFR Part 199), and the CHAMPUS statute (10 U.S.C. Chapter 55), regarding the status of this specific provider category. The results of the evaluation and approved recommendations will be reported to Congress on, or before, 15 August 1989. An interim Report to Congress will be prepared and submitted on or before 30 November 1988.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 28, 1987.

[FR Doc. 87-25406 Filed 11-2-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Maunalua Bay Navigation Improvements Study

AGENCY: U.S. Army Corps of Engineers, Honolulu District, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY:

1. The study is reevaluating the feasibility of a small boat harbor development authorized by the Rivers and Harbors Act of 27 October 1965 for Maunalua Bay, Oahu.

2. Three alternative plans are being investigated for this site. The first alternative is a mooring facility with a two lane launch ramp. The second alternative is a berthing facility for 300 boats with a two lane launch ramp and an open causeway, allowing boats to pass beneath. The third alternative plan is similar to alternative two except that it has a closed causeway with box culverts to allow water circulation. The third alternative plan has been selected for further investigation.

3. Public coordination has been extensive including a workshop held in June 1984 and a number of meetings with neighborhood boards and community associations. An informal citizens group has been formed to discuss harbor development and resolve multiple use issues. Local interest groups, private organizations, Federal, State and County agencies will again be contacted during the course of the study.

The DEIS will address the effects of the harbor on fish and wildlife resources, recreational uses and other social considerations identified by local residents at the public workshops. The U.S. Fish and Wildlife Service will provide an analysis of project effects on fish and wildlife resources for inclusion in the DEIS. Consultation with the U.S. Advisory Council on Historic Preservation, State Historic Preservation Officer, State Department of Health, U.S. Environmenatl Protection Agency and National Marine Fisheries Service will be completed during the study as appropriate.

4. A scoping meeting is not planned at this time.

5. The DEIS will be made available for public review about January 1989.

6. Questions and comments regarding the proposed action and DEIS may be addressed to: Dr. James E. Maragos, Chief, Environmental Resources Section, U.S. Army Engineering District, Honolulu, Building T-1, Fort Shafter, HI 96858-5440. Telephone: 438-2263.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 87-25365 Filed 11-2-87; 8:45 am]

BILLING CODE 3710-XX-M

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for Heeia Kea Navigation Improvements Study

AGENCY: U.S. Army Corps of Engineers, Honolulu District, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY:

1. The study is reevaluating the feasibility of a small boat harbor development authorized by the Rivers and Harbors Act of 27 October 1965 for Heeia Kea, Oahu.

2. The authorized plan encompasses a tri-compartmentalized harbor of approximately 47 acres with a total berthing capacity of 1,600 boats. The preferred alternative is designed for a berthing capacity for 300 boats and four lanes of launch ramp. The berthing area would be protected by the construction of four off-shore islands designed to enhance water circulation and aesthetics.

3. A public workshop was held in June 1984 to discuss the need for expansion and proposed improvements. Local interest groups, Federal, State and County agencies will again be contacted during the course of the study. A public meeting will be held after submittal of the Draft Feasibility Report and EIS.

The DEIS will address the effects of the harbor on fish and wildlife resources, recreational uses and other social considerations identified by local residents at the public workshops. The U.S. Fish and Wildlife Service will provide an analysis of project effects on fish and wildlife resources for inclusion in the DEIS. Consultation with the U.S. Advisory Council on Historic Preservation, State Historic Preservation Officer, State Department of Health, U.S. Environmental Protection Agency and National Marine Fisheries Service will be completed during the study as appropriate.

4. A scoping meeting is not planned at this time.

5. The DEIS will be made available for public review about January 1989.

6. Questions and comments regarding the proposed action and DEIS may be addressed to: Dr. James E. Maragos, Chief, Environmental Resources Section, U.S. Army Engineering District, Honolulu, Building T-1, Fort Shafter, HI 96858-5440. Telephone: 438-2263

John O. Roach, II,

Army Liaison Officer With the Federal Register.

[FR Doc. 87-25366 Filed 11-2-87; 8:45 am]

BILLING CODE 3710-XX-M

Armed Forces Institute of Pathology Scientific Advisory Board; Meeting

In order to comply with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the meeting of the Armed Forces Institute of Pathology's Scientific Advisory Board, November 19-20, 1987, at 0830 hours in the Director's Conference Room, Armed Forces Institute of Pathology, Washington, DC 20306-6000. This meeting will be open to the public.

The proposed agenda will include professional discussion of the mission of the Armed Forces Institute of Pathology relating to consultation, education and research. The Executive Secretary from whom substantive program information may be obtained is Colonel Lloyd A. Schlaeppi, Executive Officer, Armed Forces Institute of Pathology, Washington, DC 20306-6000, telephone 202-576-2900.

For the Director.

Lloyd A. Schlaeppi,

Colonel, MS, USA, Executive Officer.

[FR Doc. 87-25363 Filed 11-2-87; 8:45 am]

BILLING CODE 3710-08-M

Military Traffic Management Command; Freight Carrier Performance Program

AGENCY: Notice of procedural changes relative to the Freight Carrier Performance Program (CPP).

SUMMARY: The following changes establish procedures which the Military Traffic Management Command (MTMC) will consider when evaluating the level of performance provided by a commercial freight carrier handling Department of Defense (DOD) shipments. As part of MTMC's continuing obligation to ensure that DOD freight is tendered to responsible carriers, additional procedures have been established to define and clarify the maximum acceptable telephone response times for shipment acceptance by a carrier and the minimum standards for responding to telephone inquiries from shippers. References: Defense Traffic Management Regulation, Chapter 42, Carrier Performance Program.

DATES: These procedures will be implemented on 1 January 1988.

ADDRESSES: Comments should be addressed to: HQ, MTMC, ATTN: MT-INFF, 5611 Columbia Pike, Falls Church, VA 22041-5050.

FOR FURTHER INFORMATION CONTACT: Ms Patricia McCormick, Headquarters, Military Traffic Management Command, ATTN: MT-IN, 5611 Columbia Pike, Falls Church, VA 22041-5050, (202) 756-1356.

SUPPLEMENTARY INFORMATION: MTMC is authorized by DOD Directive 5160.53 to develop and maintain procedures for the movement of DOD shipments within the continental United States. MTMC is also required to ensure that DOD shipments are tendered to carriers able to meet DOD requirements at the lowest overall cost. Therefore, the following guidelines have been established to ensure responsive service by the carrier industry.

(1) Recognizing that carriers need a reasonable amount of time to determine whether they have equipment and employees available to fulfill a DOD shipper or transportation office request for service, shippers and carriers are authorized to set a mutually agreeable response time for acceptance of a shipment. However, failure to accept or decline a shipment as described in (a), (b), and (c) below will be considered by MTMC as a shipment refusal. The following standards will apply in the absence of a specific service agreement:

(a) When offered a shipment before 12 noon (shippers time), the carrier must accept or decline the shipment before the shippers close of business.

(b) When offered a shipment after 12 noon (shippers time), the carrier must accept or decline the shipment before 10 a.m. the next day.

(c) The shipper retains the right to specify a shorter response time than those in (a) and (b) above for high priority shipments. However, when given less than 2 hours notice the carrier will not be charged with a refusal.

(2) Telephone numbers on a tender of service must be answered by a carrier representative, answering service, or answering machine between the hours of 9 a.m. and 5 p.m. (local time of the number), Monday thru Friday. Further, the carrier must respond to a service inquiry within 24 hours from the initial request.

Disconnected numbers and unanswered inquiries will be considered as evidence that the carier is no longer providing service. If the phone is not answered within 3 days (one attempt per day), a notice of removal will be sent by HQMTMC to the address listed on the current tender. The carrier may file new tenders upon reestablishing contact with HQMTMC and meeting all qualification standards.

John O. Roach, II,

Army Liaison Officer With the Federal Register.

[FR Doc. 87-25367 Filed 11-2-87; 8:45 am]

BILLING CODE 3710-08-M

Policy Statement Concerning Master-Leases

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, (DOD).

ACTION: Policy clarification.

SUMMARY: The DOD must maintain high visibility over sensitive shipments and, therefore, prohibits trip-leasing of shipments which require a Transportation Protective Service (TPS). By using trip-lease equipment, DOD would lose control over the shipment and would not be assured of the driver's qualifications or the equipment's adequacy to transport the shipments. The vehicles used must be owned or leased under a valid agreement by the company transporting the shipment, and the vehicle drivers must be full-time employees or under the direct control

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and responsibility of that company. This is not intented to prevent a carrier from interchanging equipment to allow for the through movement of traffic. Master-leases which do not meet the requirements of a long-term lease or that depend on other documentation and/or subleases to be complete are viewed as trip-leases.

DATE: Comments must be received on or before 1 January 1988.

ADDRESS: Comments should be addressed to: Headquarters, Military Traffic Management Command, ATTN: MT–INFF, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia McCormick, HQMTMC 5611 Columbia Pike, Falls Church, VA 22041–5050, (202) 756–1887.

SUPPLEMENTARY INFORMATION: Master-leases which do not conform to the requirements of a long-term lease are, in fact, trip-leases and therefore, will not be used for TPS shipments. To be considered a long-term lease, the lease must be in writing, signed by the lessor and lessee, and must not contain a provision authorizing cancellation by either party on less than 30 days' notice. In addition, the lease must provide for the exclusive possession, control, and use of the equipment, and for the complete assumption of liability. The leased equipment may not be further leased or subject to any other carrier for the duration of the lease.

Transportation Officers will refuse to load shipments requiring a TPS onto equipment that is offered under a trip-lease or master-lease. Carriers offering improperly leased equipment and/or driver for a TPS shipment may be charged with a service failure for providing improper/inadequate equipment.

John O. Roach, II,

Army Liaison Officer With the Federal Register.

[FR Doc. 87–25364 Filed 11–2–87; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Mine Warfare Capabilities Task Force will meet November 12–13, 1987 from 9 a.m. to 5 p.m. each day, at Norfolk, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review current and projected U.S. and Allied Mine Warfare capabilities and potential U.S vulnerabilities in the broad context of maritime operations and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Ann Lynn Cline, Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22303–0268. Phone (703) 756–1205.

Date: October 28, 1987.

Jane M. Virga,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 87–25415 Filed 11–2–87; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Finding of No Significant Impact (FONSI) for the Proposed New Agreement for Peaceful Nuclear Cooperation Between the United States and Japan and an Associated Subsequent Arrangement for the Return of Recovered Plutonium From EURATOM to Japan

AGENCY: Department of Energy.

ACTION: Finding of No Significant Impact.

SUMMARY: The Department of Energy (DOE) has prepared an Environmental Assessment (EA) (DOE–EA–00336) for the proposed new Agreement for Peaceful Nuclear Cooperation Between the United States and Japan and an associated "subsequent arrangement" for the return of recovered plutonium from EURATOM to Japan.

The proposed action is to enter into the new Agreement pursuant to section 123 of the Atomic Energy Act as amended, and an associated "Subsequent Arrangement" which would implement a provision of the proposed Agreement in which the U.S. undertakes to give its approval, subject to specified conditions, to the transfer of separated plutonium from EURATOM to Japan. One of the conditions for this approval is that the recovered plutonium must be shipped by air pursuant to various measures designed to assure its security and safety. This would include shipments of plutonium via a "polar route or other route selected to avoid areas of natural disaster or civil disorder".

The environmental consequences of the proposed action are limited to those associated with air transport of plutonium oxide from Europe to Japan, and are predicted to be minor. The only radiological dose under normal conditions will be to the transport crew, including the air crew, any escort force on board, and those on the ground during refueling operations. The annual radiation dose is a small fraction of that associated with air transport of all radioactive materials in the United States.

The radiological risk from a major transport accident involving a crash of the plane followed by a fire is also very small. The annual radiological risk is estimated to range from 1.1×10^{-8} person-rem to 3.2×10^{-8} person-rem. The estimated number of adverse health effects from inhalation of plutonium as a result of such an accident ranges from 2×10^{-10} to 6×10^{-10} per year, an extremely small value compared to the normal incidence of cancer in the general population or the hazard from accidental death due to transportation.

The non-radiological impacts of the proposed action will also be negligible given the low number of air shipments per year required to implement the proposed action and the temporal nature of these impacts.

Three alternatives were also considered. The environmental consequences of each would be similar to those for the proposed action.

Based on the findings of this EA, the Department of Energy (DOE) has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Therefore an environmental impact statement is not required.

The Environmental Assessment and Finding of No Significant Impact are being made available to the public. For further information on the proposed action or for copies of either document contact: Peter N. Brush, IE–13, Office of Nuclear Nonproliferation Policy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

For further information on the NEPA process for the proposed action contact: Carol Borgstrom, EH–25, Office of NEPA Project Assistance, Office of the Assistant Secretary, for Environment, Safety and Health, 1000 Independence Avenue SW., Washington, DC, 20585.

SUPPLEMENTARY INFORMATION:

The Department of Energy has prepared an Environmental Assessment (EA) (DOE/EA–0336) for a proposed new Agreement for Cooperation with Japan Concerning the Peaceful Uses of Nuclear Energy Pursuant to section 123 of the Atomic Energy Act, as amended (AEA), and an associated "Subsequent Arrangement" pursuant to section 131 of the AEA. Together these actions will provide the framework for the return from EURATOM to Japan of plutonium recovered from spent fuel reprocessing for Japan in France or the United Kingdom. This Agreement has been negotiated in accordance with the mandate of section 404(a) of the Nuclear Non-Proliferation Act of 1978 (NNPA).

The proposed "Subsequent Arrangement" within the meaning of section 131 of the AEA, would be concluded under an existing agreement for peaceful nuclear cooperation with the European Atomic Energy Community (EURATOM) and will implement a provision of the proposed agreement in Japan in which the U.S undertook to give its approval, subject to specified conditions to the transfer of separated plutonium from EURATOM to Japan. One of the conditions for approval is that the recovered plutonium must be shipped by air pursuant to various measures designed to assure its security and safety. This would include shipments of plutonium via a "polar route or other routes selected to avoid areas of natural disaster or civil disorder."

This Environmental Assessment has been prepared to assess the potential environmental impacts of air shipments of plutonium over U.S. territory under the proposed new Agreement with Japan and associated subsequent arrangement with EURATOM. Where applicable it also considers the likely environmental effects of such shipments on the global commons.

This Assessment includes a discussion of the quantities of plutonium that could be shipped, the likely number of shipments that would be involved in a given period, the nature of the conditions that will have to be met before any such air shipments will be approved by the United States and the alternatives to authorizing air shipments of the subject plutonium from EURATOM back to Japan including their environmental implications.

The Alternatives to the proposed action considered include:

Taking no action on the proposed Agreement for Cooperation and associated "Subsequent Arrangement" with EURATOM;

Concluding an Agreement for Cooperation not involving advance long-term U.S. consent to the return of U.S. origin plutonium from Europe to Japan (such shipments would continue to be approved case-by-case);

The use of transportation modes or transportation criteria other than those contemplated in the new Agreement and the associated "Subsequent Arrangement";

The environmental consequences of the alternatives were analyzed and found to be similar to those for the proposed action.

The environmental consequences of the proposed action are limited to those associated with air transport of plutonium oxide from Europe to Japan. The environmental impacts are predicted to be minor. The only radiological does under normal conditions will be to the transport crew, including the air crew, any escort force on board, and those on the ground during refueling operations. The annual radiation does is estimated to range between 0.73 to 2.19 person-rem, dependent on the number of shipments (the lower value corresponds to 12 shipments per year and the upper value corresponds to a maximum of 36 shipments per year). This value is a small fraction of that associated with air transport of all radioactive materials in the United States.

The radiological risk from a major transport accident involving a crash of the plane followed by a fire is also very small. The annual radiological risk (expressed as the product of the probability of the accident occurring and the consequences of the accident expressed as the 50-year committed effective dose equivalent to 10 individuals located 500 m downwind from the crash site) is estimated to range from 1.1×10^{-6} person-rem (for 12 shipments per year), to 3.2×10^{-6} person-rem (for a maximum of 36 shipments per year). The estimated number of adverse health effects from inhalation of plutonium as a result of such an accident ranges from 2×10^{-10} per year, to 6×10^{-10}, an extremely small value compared to the normal incidence of cancer in the general population or the hazard from accidental death due to transportation.

With respect to the consequences of an accident on the global commons, these are expected to be the same or similar to those described for a flight transiting or landing in the U.S.

The non-radiological impacts of the proposed action (e.g., degradation of air quality due to the use of aviation fuel, increased noise levels, etc.) will also be negligible given the low number of air shipments per year required to implement the proposed action and the temporal nature of these impacts.

Determination

Based on the findings of this EA, the Department of Energy (DOE) has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Therefore, an environmental impact statement is not required.

Issued in Washington, DC, September 11, 1987.

Mary L. Walker,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 87–25459 Filed 11–2–87; 8:45 am]

BILLING CODE 6455–01–M

Economic Regulatory Administration

[ERA Docket No. 87–36–NG]

Texarkoma Transportation Co.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Order Granting Blanket Authorization to Import Natural Gas From Canada

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an Order granting Texarkoma Transportation Company (Texarkoma) blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 87–36–NG authorizes Texarkoma to import up to 29.2 Bcf over a two-year period for sale in the domestic spot market beginning on the date of first delivery.

A copy of this order is available for inspection and copying at the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585 (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

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Issued in Washington, DC, October 27, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25480 Filed 11-2-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

CWC Fisheries, Inc.; Existing Licensee's Intent To File an Application for New License

October 28, 1987.

Take notice that on October 8, 1987, CWC Fisheries, Inc., licensee for the Dry Spruce Bay Project No. 1432 has stated its intent pursuant to section 15(b)(1) of the Federal Power Act (Act) to file an application for a new license. The license for the Dry Spruce Bay Project No. 1432 will expire on October 20, 1988. The project is located on an unnamed creek which is a tributary to Dry Spruce Bay in the Kodiak Recording District, Kodiak Island, Alaska, and has a total capacity of 75 kW.

The principal project works currently licensed for Project No. 1432 are: (1) Two diversion ditches; (2) two ponds; (3) two earthfill dams; (4) a 12-inch, 6,722-foot-long pipeline; (5) a powerhouse containing one generating unit; and (6) appurtenant facilities.

Pursuant to section 15(b)(2), the licensee is required to make available current maps, drawings, data and such other information as the Commission shall by rule require regarding the construction and operation of the licensed project. See Docket No. RM87-7-000 (Interim Rule issued March 30, 1987), for a detailed listing of required information. A copy of Docket No. RM87-7-000 can be obtained from the Commission's Public Reference Section, Room 1000, 825 North Capitol Street, NE, Washington, DC 20426. The above information is required to be available for public inspection and reproduction at a reasonable cost as described in the rule at the licensee's offices.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25431 Filed 11-2-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8998-001]

Donald K. Lee; Surrender of Exemption

October 28, 1987.

Take notice that Donald K. Lee, exemptee for the proposed Bluff Springs Hydroelectric Project No. 8998 has requested that his exemption be terminated. The exemption was issued on September 17, 1985. The project would have been located at Bluff Springs, in Tehama County, California. No construction has commenced at this project.

The exemptee filed the request on August 31, 1987, and the exemption for Project No. 8998 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25433 Filed 11-2-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4490-005]

Richvale Irrigation District, et al.; Surrender of Small Conduit Exemption

October 28, 1987.

Take notice that Richvale Irrigation District, Sutter Extension Water District, Butte Water District and Biggs-West Gridley Water District, exemptees for the proposed Sutter-Butte Power Project No. 4490, have requested that their exemption be terminated. The exemption was issued on July 6, 1984. The project would have been located on the Sutter-Butte Canal in Butte County, California. No construction has commenced at this project.

The exemptees filed the request on September 28, 1987, and the exemption for Project No. 4490 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25434 Filed 11-2-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI86-371-002 and CI86-392-002]

Producer-Suppliers of Southern Natural Gas Co.; Petition to Further Amend Order Permitting and Approving Limited-Term Blanket Abandonment and Issuing Limited-Term Blanket Certificate With Pre-Granted Abandonment

October 28, 1987.

Take notice that no October 1, 1987, Southern Natural Gas Company ("Southern"), P.O. Box 2563, Birmingham, Alabama 35202, filed in this proceeding a Petition pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure (18 CFR 385.207), requesting the Commission to further modify its Order Permitting and Approving Limited-Term Blanket Abandonment and Issuing Limited-Term Blanket Certificate With Pre-Granted Abandonment (Order), which the Commission issued in this proceeding on September 29, 1986, and amended by Order dated March 31, 1987. In its Petition, Southern requested that the Commission authorize a three-year extension of the limited-term abandonment and sales authorization ("LTA") granted to Southern's producer-suppliers, which is currently due to expire on December 31, 1987.

The Order authorized Southern's limited-term abandonment program (LTA program), which granted to producer-suppliers making sales to Southern for resale in interstate commerce pursuant to certificates of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act (NGA Producer-Suppliers), *inter alia:* (i) authorization pursuant to section 7(b) of the NGA to abandon sales to Southern for a term extending up to December 31, 1987; (ii) blanket certificates of public convenience and necessity pursuant to section 7(c) of the NGA authorizing the sale for resale in interstate commerce of the natural gas authorized to be abandoned; and (iii) pre-granted abandonment under section 7(b) of the NGA of any sales for resale made under the requested blanket certificate. The forgoing authorizations applied to gas having a maximum lawful price or a weighted average cost to Southern equal to or greater than the maximum lawful price under section 109 of the Natural Gas Policy Act (NGPA) that Southern and its NGA Producer-Suppliers mutually agree to release from the applicable gas purchase contract.

By Order Approving, Amending, and Extending Limited-Term Abandonment and Blanket Sales Certificates with Pre-Granted Abandonment issued March 31, 1987, in Docket Nos. CI86-371-001 and CI86-392-001, the Commission amended the Order to eliminate the requirement that the gas to which the blanket abandonment and certificate authorizations apply must have a maximum lawful price or a weighted average cost to Southern equal to or greater than the maximum lawful price under Section 109 of the NGPA, and thereby expand Southern's LTA program to include all NGPA categories of gas that Southern and its NGA Producer-Suppliers mutually agree to release.

Southern states in its Petition that its reasons for requesting the Commission's grant to LTA authority in its original application in this proceeding—*i.e.*, substantially reduced takes from the NGA Producer-Suppliers due to sharply reduced pipeline sales, resulting in shut-in gas, severe supply-demand imbalances, and mounting take-or-pay exposure—have not changed. Indeed, the imbalance between the supply and demand for Southern's system gas supplies has continued to worsen as a result of expanded gas-to-gas competition in Southern's market area. Southern states that it anticipates a continuation of reduced sales levels during the next few years which, absent release of Southern's gas supplies subject to the jurisdiction of the Commission under the NGA, could render Southern unable to take the minimum volumes from its producer-suppliers necessary to protect against drainage and potential well or reservoir damage, and to take casinghead gas produced in association with oil. Utilizing the LTA program, however, Southern states that its producers have been able to find alternate markets for their gas, with Southern providing transportation service and receiving take-or-pay credits or being relieved of take-or-pay obligations.

Southern submits that the extension of term requested in its Petition is required by the public convenience and necessity for the reasons stated in its Petition and is consistent with the Commission's recent orders in *ANR Pipeline Co.*, 38 FERC Par. 61,046 (1987), wherein the Commission granted LTA authority for varying terms up to three years as requested by each pipeline.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 12, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25432 Filed 11-2-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of September 11 Through September 18, 1987

During the Week of September 11 through September 18, 1987, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

October 27, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of September 11 through September 18, 1987]

Date	Name and location of applicant	Case No.	Type of submission
Sep. 11, 1987	Amoco II/Montana, Helena, MT	RM251-82	Request for Modification/Rescission in the Amoco II Second Stage Refund Proceeding. If granted: The August 13, 1987 Decision and Order issued to the State of Montana (Case No. RQ251-82) would be rescinded, and the State's plan for use of its share of the Amoco II second stage refund monies would be approved.
Sep. 14, 1987	Merit Petroleum, Inc. et al., Washington, DC.	KRD-0530, KRH-0530	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an Evidentiary Hearing would be convened in connection with the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. KRO-0530) issued to Merit Petroleum, Thomas H. Battle and Anton E. Meduna.
Sep. 15, 1987	Charter/OKC Corp./Louisiana, Baton Rouge, LA.	RM23-83, RM13-84	Request for Modification/Rescission in the Second Stage Refund Proceeding. If granted: The June 25, 1987 Decision and Order issued to the State of Louisiana (Case Nos. RQ23-359 and RQ13-375) would be modified, and the State's plan for use of its share of the Charter and OKC Corp. Second stage refund monies would be approved.

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LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of September 11 through September 18, 1987]

Date	Name and location of applicant	Case No.	Type of submission
Sep. 16, 1987	J.D. Streett & Co., Inc., Washington, DC	KRZ-0067	Interlocutory. If granted: The Office of Hearings and Appeals would certify the August 14, 1987 Decision and Order (Case No. KRX-0040) issued to J.D. Streett & Co. as an administrative order appealable to the Federal Energy Regulatory Commission.
Sep. 16, 1987	Petrolane/Lomita/International Drilling & Energy Corporation, Midland, TX.	RR208-1	Request for Modification/Rescission of a Refund Proceeding. If granted: The August 19, 1987 Decision and Order issued to International Drilling & Energy Corporation (Case No. RF208-22) would be modified regarding the firm's Application for Refund in the Petrolane Lomita refund proceeding.
Sep. 16, 1987	Southern Pacific Transportation, Washington, DC.	RR271-5	Request for Modification/Rescission in the Rail & Water Transporters. If granted: The September 3, 1987 determination (Case No. RF271-57) would be modified regarding the firm's Application for Refund submitted in the Rail & Water Transporters refund proceeding.
Sep. 17, 1987	Kasiglyk, Inc., Kasiglyk, AK	KEE-0153	Exception to the Reporting Requirements. If ganted: Kasiglyk, Inc. would no longer be required to file certain EIA reporting forms.

REFUND APPLICATIONS RECEIVED

[Week of September 11 to September 18, 1987]

Date received	Name of refund proceeding/Name of refund application	Case No.
9/11/87 thru 9/18/87	Crude Oil Refund Applications Received	RF272-5998 thru RF272-6470
9/11/87 thru 9/18/87	Gulf Oil II Refund Applications Received	RF300-1 thru RF300-252
9/16/87	W.S. Carpenter & Sons, Inc	RF299-1
9/15/87	Rising Sun Truck Stop	RF250-2734
9/16/87	Friendly Service Oil Company	RF225-10907
9/16/87	Friendly Service Oil Company	RF225-10908
9/08/87	Don & Cal's Service Station, Inc	RF225-10909
9/18/87	Felicia Oil Co, Inc	RF225-10910
9/17/87	James W. Kelley	RF250-2735
9/17/87	Banich Marathon	RF250-2736
9/18/87	Cyril Johnson Mills	RF299-2
9/17/87	Sunshine Biscuits, Inc	RF299-3
9/15/87	The Converse Company, Inc	RF299-4
9/16/87	Perry's Oil Service, Inc	RF299-5
9/22/87	Atlantic Wire Company	RF299-6
9/21/87	E.G. Bradford & Sons, Inc	RF299-7
9/21/87	Hope Valley Dyeing Corporation	RF299-8
9/21/87	Fuller Company	RF299-9
9/18/87	Mercury Aircraft, Inc	RF299-10
9/23/87	Hardy Gas Co., Inc	RF299-11
9/23/87	Cimarron Valley, Inc	RF253-29
9/23/87	Honeggers & Co., Inc	RF270-2487
9/28/87	Motzner Oil Company	RF265-2555

[FR Doc. 87-25455 Filed 11-2-87; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed During the Week of September 18 Through September 25, 1987

During the Week of September 18 through September 25, 1987, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 27, 1987

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of September 18 through September 25, 1987]

Date	Name and locaton of applicant	Case No.	Type of submission
May 11, 1987	T.E. Reserve Corporation, Houston, TX	KRD-0400	Motion for Discovery. If granted: T.E. Reserve Corporation would be permitted to obtain discovery in connection with the February 26, 1986 Proposed Remedial Order (Case No. KRO-0400) issued to T.E. Reserve Corporation and James G. Allision, Jr.
Sep. 18, 1987	Economic Regulatory Administration, Washington, DC.	KRD-0029	Motion for Discovery. If granted: The Economic Regulatory Administration would be permitted to obtain discovery in connection with the Proposed Remedial Order (Case No. HRO-0285) issued to Cities Service Oil & Gas Corporation.
Sep. 18, 1987	Kaibab Industries, Phoenix, AZ	RR270-18	Request for Modfication/Reescission in the Stripper Well Litigation Proceeding. If granted: The August 25, 1987 Decision and Order issued to Kaibab Industries (Case No. RF270-18) would be modified regarding the firm's application as a surface transporter is the stripper well litigation proceeding.
Sep. 21, 1987	Government Accountability Project, Appleton, WI.	KFA-0123	Appeal of an Information Request Denial. If granted: The August 5, 1987 Freedom of Information Request Denial issued by the Office of Nuclear Energy would be rescinded and the Government Accountability Project would receive access to documents requested.
Sep. 22, 1987	Economic Regulatory Administration, Washington, DC.	KRD-0461	Motion for Discovery. If granted: The Economic Regulatory Administration would be permitted to obtain discovery in connection with the Proposed Remedial Order (Case No. KRO-0460) issued to Murphy Oil Corp.
Sep. 24, 1987	Amoco/Idaho, Boise, ID	RM21-85	Request for Modification/Rescission in the Amoco Second Stage Refund Proceeding. If granted: The June 19, 1987 Decision and Order issued to the State of Idaho (Case No. RQ21-370) would be modified, and the state's plan for use of its share of the Amoco second stage refund monies would be approved.
Sep. 25, 1987	Glen Milner, Seattle, WA	KFA-0124	Appeal of an Information Request Denial. If granted: The September 4, 1987 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Glen Milner would receive access to records on organizations and individuals opposing the Trident system.
Sep. 25, 1987	Harvin Petroleum Company, Sumter, SC	KEE-0154	Exception to the Reporting Requirements. If granted: Harvin Petroleum Company would no longer be required to file form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report".

REFUND APPLICATIONS RECEIVED

[Week of September 18 to September 25, 1987]

Date received	Name of refund proceeding/Name of refund applicant	Case No.
9/18/87 thru 9/25/87	Curde Oil Refund Applications Received	RF272-6471 thru RF272-6925
9/18/87 thru 9/25/87	Gulf Oil II Refund Applications Received	RF300-253 thru RF300-625
9/24/87	Hy-Grade Oil Company	RF299-12
9/25/87	Pelliccia Bottle Gas	RF299-13
9/25/87	Beacon Manufacturing Co.	RF299-14
9/25/87	Jackson County Ready Mix	RF299-15
9/25/87	Harrell Petroleum Company	RF225-10912
9/25/87	Harrell Petroleum Company	RF225-10911
9/17/87	Johnson Oil Company	RF265-2556
9/28/87	Brandt Transportation	RF270-2488
9/28/87	Greyhound Lines, Inc.	RF270-2489
9/21/87	Bars Mills Market	RF300-253
9/21/87	Blue Ridge Trucking Company	RF300-254
9/21/87	Beals Variety Store	RF300-255
9/21/87	Cleveland County	RF300-256
9/21/87	T.J. Bartett Company	RF300-257
9/29/87	Jack Davidson	RF250-2737
9/29/87	E-Z Mart Stores, Inc.	RF263-36
9/29/87	Robert L. Tigrett	RF253-30
9/29/87	E-Z Mart Stores, Inc.	RF253-31
9/29/87	Howmet Aluminim Corporation	RF299-16

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REFUND APPLICATIONS RECEIVED—Continued

[Week of September 18 to September 25, 1987]

Date received	Name of refund proceeding/Name of refund applicant	Case No.
5/7/87	Edward W. Bryan	RF285-2557
9/29/87	Jack's Auto Parts	RF301-1
9/30/87	Keysone Fuel Oil, Atemos	RF255-10913

[FR Doc. 87-25456 Filed 11-2 87; 8:45 am]
BILLING CODE 6545-01-M

Issuance of Proposed Decision and Order During the Period of September 28 Through October 9, 1987

During the period of September 28 through October 9, 1987, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,
Director, Office of Hearings and Appeals.
October 27, 1987.

Wholesale Petroleum Agency, Owensboro, Kentucky, KEE-0150, Reporting Reqm'ts.

Wholesale Petroleum filed an Application for Exception in which the firm sought to be relieved of the requirement to file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In its Application the firm argued that exception relief was warranted on the grounds that it is in the process of installing a new computer system and, until the system is functioning, the Form would require an excessive amount of time to fill out. In addition, the firm stated that it has only seven employees and that they are overburdened with a double workload since Wholesale Petroleum recently expanded its sales operations. In considering the request, the DOE found that the firm would not suffer an inordinate burden by fulfilling its reporting obligation. On October 9, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 87-25453 Filed 11-2-87; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders During the Week of September 21 Through September 25, 1987

During the week of September 21 through September 25, 1987, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,
Director, Office of Hearings and Appeals.
October 27, 1987.

Deaton Oil Company, Murfreesboro, Arkansas, KEE-0152, Crude Oil.

Deaton Oil Company filed an Application for Exception from the provisions of EIA Form 782B. The exception request, if granted, would permit Deaton Oil Company to be excused from filing EIA Form 782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report". On September 22, 1987, the Department of Energy issued a Proposed Decision and Order which determined that exception request be granted.

[FR Doc. 87-25458 Filed 11-2-87; 8:45 am]
BILLING CODE 6450-01-M

Objection To Proposed Remedial Order Field During the Period of July 20, Through October 2, 1987

During the period of July 20 through October 2, 1987, the notice of objecton to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,
Director, Office of Hearings and Appeals.
October 27, 1987.

Texaco Inc., White Plains, New York, KRO-0550, Crude Oil.

On October 2, 1987, Texaco Inc., 200 Westchester Avenue, White Plains, New York 10650, filed a Notice of Objection to a Proposed Remedial Order which the Economic Regulatory Administration issued to the firm on September 9, 1987. In the PRO, the ERA found that during the period September 1973 through December 1976, Texaco overstated its increased shrinkage cost due to the incorrect use of incremental pricing, the improper inclusion of cycling plants in the shrinkage calculation, and shrinkage cost overreporting, in violation of pricing provisions set forth in 10 CFR Part 212, Subparts E and K. The PRO requires that Texaco peform price recalculations and refund any overcharges found to exist.

[FR Doc. 87-25457 Filed 11-2-87; 8:45 am]
BILLING CODE 6450-01-M

Objection To Proposed Remedial Order Filed During the Week of October 5 Through October 9, 1987

During the week of October 5 through October 9, 1987, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

October 27, 1987.

George B. Breznay,
Director, Office of Hearings and Appeals.

Texaco Inc., White Plains, New York, KRO-0560, Crude Oil.

On October 2, 1987, Texaco Inc., (Texaco) 2000 Westchester Avenue, White Plains, New York 10650, filed a Notice of Objection to a Proposed Remedial Order which the Economic Regulatory Administration (ERA) issued to the firm on May 12, 1987. In the PRO, the ERA found that during the period June 1980 to January 1981, Texaco violated 10 CFR 212.183(b), 210.62(c) and 205.202 by receiving consideration, in the form of discounts on its purchase of entitlements-exempt crude oil, in excess of its maximum lawful selling price. According to the PRO the violation resulted in $32,452,636.27 of overcharges, plus interest accrued through March 31, 1987 of $40,517,776.000

[FR Doc. 87-25461 Filed 11-2-87; 8:45 am]
BILLING CODE 6450-01-M

Western Area Power Administration

Record of Decision to Construct the Conrad-Shelby 230-KV Transmission Line Project, Montana

AGENCY: Western Area Power Administration, DOE.

ACTION: Record of decision to construct the Conrad-Shelby 230-kV Transmission Line Project, Montana.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western), has made the decision to construct the Conrad-Shelby 230-kilovolt (kV) Transmission Line within the environmentally preferred alternative corridor identified in the draft and final environmental impact statement (EIS). The transmission line will be constructed with single-pole structures made of concrete, steel, or a combination of these materials. One new substation will be constructed as part of the project. Western will proceed with land acquisition, construction, and subsequent operation and maintenance of the proposed facilities. The availability of the draft and final EIS for the project was announced in the Federal Register by the Environmental Protection Agency on November 14, 1986, and July 17, 1987, respectively.

Western has adopted the mitigation measures listed in the EIS. In addition, any site-specific mitigation requirements identified during construction will be addressed by Western and coordinated with appropriate, Federal, State, and local agencies.

FOR FURTHER INFORMATION CONTACT: Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101, (406) 657-6532.

SUPPLEMENTARY INFORMATION: The electrical needs of the Cut Bank-Shelby area in north central Montana are presently served by a high-voltage transmission loop beginning at the Rainbow Substation near Great Falls and running northwest to Conrad and Cut Bank, east to Havre, and back to Rainbow. The loop consists of 115-kV and 161-kV transmission lines. A portion of the loop receives support from a 230-kV transmission line between Great Falls and Conrad, Montana. Subtransmission services in the Cut Bank-Shelby area is supported by a 69-kV system. Power simulation studies and operational experience have both demonstrated an urgent need for improvements to the transmission system due to low voltages, overloaded facilities, and loss of load conditions which presently occur with an outage of the Conrad-Cut Bank (Valier) 115-kV Transmission Line, Havre-Rudyard 115-kV Transmission Line, or Havre 161/115-kV transformer.

The proposed action would: (1) Provide improved service to area loads; (2) improve system reliability; (3) contribute to energy conservation; and (4) provide flexibility for future system expansion.

Planning for the proposed project began in the summer of 1985. In September 1985, Western conducted scoping meetings with Federal, State, and county agencies, and the general public. The public scoping meetings

were held in Shelby and Conrad, Montana. The Primary concerns identified were: (1) The need for the project; (2) impacts to agricultural land use and how they would be mitigated; (3) right-of-way (ROW) acquisition procedures and the extent to which individual landowners would be informed and involved in decision making; (4) design, construction and routing alternatives, including underground construction, double-circuiting, paralleling existing transmission lines or other linear developments, and construction of a line of sufficient capacity to preclude additional transmission line construction in the near future; (5) cultural resources; (6) threatened and endangered species; and (7) the environmental studies which would be conducted and the methodology for selecting a preferred corridor.

Following the scoping meetings, Western evaluatd the resources within the study area. The factors considered in this phase of the siting study included: (1) Land use patterns, especially agricultural and residential; (2) vegetation and habitat; (3) wildlife and fisheries resources; (4) floodplains/wetlands; (5) visual resources; (6) geology and soils; (7) hydrology; (8) socioeconomics; (9) archeological and historical sites; (10) areas of religious significance to Native Americans; and (11) paleontological resources. Areas of opportunity for locating a transmission line and those of avoidance or exclusion were identified resulting in the development of several alternative routing corridors. Western then conducted a series of planning workshops to present the alternative corridors and solicit input from landowners and other interested groups and individuals. The planning workshops were held in Shelby and Conrad in December 1985. The alternative corridors were further refined in response to public comments. An environmentally preferred corridor was then identified through an impact assessment process.

Western presented the environmentally preferred corridor during a second series of public planning workshops in April 1986.

The draft EIS was issued in November 1986. Public hearings on the draft EIS were conducted in Shelby and Conrad in December 1986. One oral comment and 14 written comments were received during the 45-day draft EIS public review period. The final EIS was issued in July 1987.

Description of Alternatives and Basis of Decision

1. No Action—Western would construct no transmission facilities between Conrad and Shelby. The no-action alternative would result in low voltage, overload, and loss of load on the Great Falls-Cut Bank-Havre 115-kv transmission loop, increasingly frequent and severe service interruptions and overloaded lines and poor voltage regulation on the area 69-kV subtransmission system. It was considered an unacceptable alternative.

2. Energy Conservation—Western continually encourages its customers to exercise energy conservation through its power marketing contracts. Energy conservation measures could not be implemented which would sufficiently reduce existing area loads to a point where the problem would become and remain nonexistent.

3. Alternative Generation Sources—Two large generating facilities are being considered for construction by a local utility in the post-2000 timeframe and several low-head hydroelectric sites have been identified at existing diversion dams on the Sun River. Development of these generating sources would supply more power to satisfy future load growth in the area. However, additional generation is not the solution to the problem of a deficient transmission system.

4. Alternative Transmission Systems and Technologies—Western evaluated the possibility of fulfilling the needs discussed earlier by means of other existing or planned transmission/distribution systems, or by means of alternative technologies, such as direct current (DC) versus alternating current (AC) and overhead versus underground construction.

There are no existing transmission facilities in the area which could be used to alleviate the problem. Other area utilities have indicated they have no future plans to construct new transmission facilities since their existing facilities are adequate to meet their own load/resource obligations.

In comparison to an AC transmission system, a DC system is not economical except for transferring large blocks of power over long distances (i.e., 300 or more miles). In addition, the environmental consequences of a DC transmission line would be similar to those of an AC line.

Construction of an underground 230-kV transmission line between Shelby and Conrad would be technically possible; however, costs would be about 8 to 10 times greater than overhead construction. The environmental impacts and maintenance problems associated with an underground system would likely be greater than an overhead line.

5. Design Alternatives—Western considered various voltage levels, structure types, and conductors.

a. Voltage Level—Two voltage levels were studied: 115- and 230-kV. Both of these voltage levels presently exist in the transmission system in the project area. Based upon an analysis of system performance which compared voltage regulation, outage performance, and loss efficiency, the 230-kV alternative was superior under both system intact and outage conditions. The 230-kV alternative would result in about one-half of the system losses of the 115-kV alternative and also provide four times more transfer capacity to serve the area's electrical loads in the future.

b. Structure Types—Single-pole construction using either concrete, steel, or a combination of those materials, steel lattice, and wood pole H-frame structures were the alternatives considered by Western. Western selected the single-pole structure type because agriculture conflicts would be less than for steel lattice structures or wood pole H-frame structures.

c. Conductors—Three conductor sizes were considered for the project: 795 kcmil, 954 kcmil, and 1272 kcmil ACSR. Also, specular (normal) and nonspecular (dulled finish) conductors were evaluated. Economics and performance in terms of line losses and electromagnetic interference resulted in the selection of 954 kcmil conductor. In order to lessen the visual impacts of the line, Western will use nonspecular conductors.

6. Routing Alternatives—Six alternative routing corridors for the 230-kV line and two short interconnecting 115-kV lines were evaluated. These ranged from 32.1 miles to 39.8 miles in length and were composed of a total of 35 corridor links, each 2,000 and 6,000 feet wide. The corridors were compared and ranked by an interdisciplinary environmental study team resulting in the identification of the environmentally preferred alternative corridor. The environmentally preferred corridor was identified as Western's preference in the draft and final EIS.

Mitigation

All practicable means to avoid or minimize environmental harm from Western's preferred alternative were identified in the draft and final EIS. Western will incorporate these measures in the proposed project. Special environmental requirements for sensitive or fragile areas will be included in the project construction specifications including requirements for ROW clearing and site preparation, location and erection of structures relative to sensitive areas, conductor stringing, timing of construction, and the protection of archeological and historical resources. Western will consider any additional reasonable site-specific mitigation measures identified during consultation with other Federal and State agencies.

Western project inspectors will be fully familiarized with the project mitigation measures and ensure their implementation during construction. When crossings of Federal and State lands are involved, Western will ensure that agency representatives are notified to perform any necessary monitoring functions. The mitigating measures which have been adopted are generally self-executing through Western's standard construction specifications and procedures.

Integration With Other Requirements

Intergovernmental Cooperation—Under requirements of the Intergovernmental Coordination Act, Western notified the Montana State Clearinghouse of the proposed project by sending it copies of the draft and final EIS. Western coordinated project planning with other Federal and State agencies. The Montana Department of Natural Resources and Conservation (DNRC) was closely involved in the project in an advisory and review capacity. Representatives from DNRC attended project EIS scoping meetings, planning workshops, and public hearings; reviewed the draft and final EIS; and provided coordination with other State agencies. In addition, DNRC conducted an independent evaluation of the potential impacts of the proposed transmission line and substation facilities and prepared a report for the Montana Board of Natural Resources and Conservation (Board). The Board adopted Western's draft and final EIS as that of the State's.

Western coordinated with the Senate Historic Preservation Officer, Montana Department of Fish Wildlife and Parks, U.S. Fish and Wildlife Service (FWS), and local planning boards and commissions. It also incorporated any reasonable suggestions and concerns of affected landowners into project planning wherever feasible. Endangered Species—The FWS recommended that Western use aviation ball markers or some other effective means to increase the visibility of the overhead ground wires to reduce impacts to bald eagles and peregrine falcons where the transmission line crosses the Marias River. Western has agreed to install aviation ball markers on this crossing. The FWS has determined that the project would not threaten the further existence of any listed threatened or endangered species.

Floodplains/Wetlands—In response to Executive Order 11988, Floodplain Management (May 24, 1977), DOE's *Compliance with Floodplain/Wetlands Environmental Review Requirements* (10 CFR Part 1022), Western evaluated the potential effects of the project on floodplain/wetlands. Western located the preferred route to avoid floodplains and wetlands wherever possible. All wetlands can be avoided; however, the 100-year floodplains of the Marias and Dry Fork of the Marias River could not be avoided by the preferred route or the alternatives. To the extent possible, Western will avoid locating transmission structures, access roads, and other facilities in floodplains. Western will design structures and access roads according to State and local floodplain protection standards and implement erosion control measures including reseeding and the use of selective biodegradable soil-Stabilizing agents to minimize erosion impacts.

Copies of this record of decision will be sent to the Montana State Clearinghouse, appropriate Federal and State agencies, and to other agencies, organizations, and individuals commenting on the draft or final EIS.

Issued at Golden, Colorado, September 16, 1987.

William H. Clagett,

Administrator.

[FR Doc. 87-25454 Filed 11-2-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3285-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382-2740 (FTS 382-2740).

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Hazardous Waste Industry Studies (EPA ICR No. 0618).

Abstract: For more effective regulation of hazardous wastes under RCRA, EPA proposes to collect information on industrial process residuals, their quantities, characteristics, and management. Data will be gathered primarily through industry questionnaires and supplemented with a selected number of site visits.

Respondents: Owners and Operators of Hazardous Waste Generating Industries.

Estimated Annual Burden: 36,280.

Frequency of Collection: On Occasion.

Title: Spill Prevention Control and Countermeasure Plan and Review. (EPA ICR No. 0328).

Abstract: Statute and regulation requires and/or operators of establishments storing oil in excess of certain quantities to prepare and implement plans to prevent oil spills and, in case of a spill, to mitigate damage, and to submit plan to EPA after a spill event.

Respondents: Owners and Operators of Establishments Storing Oil.

Estimated Annual Burden: 560,000.

Frequency of Collection: Recordkeeping—After respondent has oil spill.

Comments on the abstract on this notice may be sent to:

Carla Levesque, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street, SW, Washington, DC 20460

and

Marcus Peacock, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3019), 726 Jackson Place, NW, Washington, DC 20503.

Date: October 27, 1987.

Daniel J. Fiorino,

Director, Information Regulatory Systems Division.

[FR Doc. 87-25387 Filed 11-2-87; 8:45 am]

BILLING CODE 6560-50-M

VOL 52 ISS 212 NO 3 1987 UMI

[FRL-3286-4]

Sale and Use of Aftermarket Catalytic Converters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of revision of interim enforcement policy.

SUMMARY: This Notice announces a revision of EPA's interim enforcement policy guidelines for the sale and use of replacement catalytic converters ("converters") for motor vehicles. After December 31, 1987, EPA will no longer exercise its discretion not to prosecute automotive service and repair facilities and fleet operators and other parties named in section 203(a)(3) of the Clean Air Act who install or otherwise sell any aftermarket catalytic converter which is not as effective as the new original equipment manufacturer (OEM) converter originally on the vehicle or which has not met the criteria of the interim aftermarket converter policy (and is properly so labeled). The installation of a non-complying catalytic converter by a named party will be considered a violation of the Clean Air Act, 203(a)(3), and the violator may be prosecuted accordingly. Any person who causes such violations will also be considered liable under the Clean Air Act.

FOR FURTHER INFORMATION CONTACT: Nancy Pirt or Steve Albrink (202) 382-2640, Field Operations and Support Division (EN-397F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC. 20460.

SUPPLEMENTARY INFORMATION: On August 5, 1986, the U.S. Environmental Protection Agency (EPA) published an interim enforcement policy entitled "Sale and Use of Aftermarket Catalytic Converters." This interim policy set out specific requirements, criteria, and test procedures for the manufacture and sale of new and used aftermarket catalytic converters and specified installation requirements for fleet operators, dealers and automotive service and repair facilities. This interim policy was based on a detailed, proposed enforcement policy, also published on August 5, 1986. (EPA has not yet decided whether to make that policy final and permanent. Thus, it should be remembered that this interim policy is temporary and potentially subject to change in the future.) Under the interim policy, any manufacturer or installer of an aftermarket converter who voluntarily complied with the conditions of the proposed policy would not be prosecuted for violating section 203(a) of the Act.

In letters dated October 28, 1986—which were widely distributed in the aftermarket industry—EPA stated that it would exercise its enforcement discretion by not prosecuting persons who manufactured, bought or installed aftermarket converters that were neither as effective as OEM converters nor met the conditions of the interm policy, as long as the converters were manufactured prior to December 18, 1986 and designed to perform the same function with respect to emission control as the OEM converters.

The purpose of allowing manufacturers or remanufacturers until December 18, 1986 to bring their converters into compliance was to provide for the orderly cessation of the manufacture, distribution and sale of the converters which did not conform to the interim guidelines. In addition to using up existing inventories of materials and other supplies, it assured there would not be a shortage of aftermarket converters during the transition period. It also gave companies time to develop, test, and begin gearing up to produce converters which met EPA's interim policy requirements.

Even though the Agency effectively allowed converter manufacturers until December 18, 1986 to start producing converters which met the August 1986 policy requirements, there is some uncertainty among installers, manufacturers and remanufacturers as to how long the installation of noncomplying (i.e., pre-December 1986) converters would be allowed under EPA's interim policy. Because of this uncertainty and the difficulties of enforcing a "stop-manufacture" date, a "stop-installation" date for the installation of noncomplying converters has become necessary to the success of this program. A number of manufacturers have indicated that they are marketing converters which meet EPA's interim policy's criteria and that there are plenty of these converters available to satisfy the demand. The EPA is therefore satisfied that a stop-installation date is appropriate at this time. The effort to enhance air quality will benefit while installers will be more certain of their potential liability and consumers are protected from being misled. Establishing a stop-installation date at this time will provide the enforcement mechanism necessary to make this an effective and fair program.

Establishing a stop-installation date for noncomplying converters would also be consistent with that many State governments either have done or are considering. Establishing national requirements would keep all the less-effective, noncomplying converters in inventory from being redistributed to areas which do not have such requirements.

Finally, most manufacturers and remanufacturers who seem to be making an effort to comply with the interim policy have informed the Agency that either they have long ago exhausted their inventory of old-type converters or that they soon will have exhausted it, so a stop-installation date will have little impact on their businesses. In fact, many have requested that EPA establish such a date, as has the Exhaust System Professional Association, which represents a large number of exhaust repair shops throughout the country. The EPA is therefore satisfied that a stop-installation date is appropriate at this time.

Therefore, EPA is hereby announcing an addition to the interim aftermarket converter enforcement policy which will apply to installers of aftermarket catalytic converters.

After December 31, 1987, EPA will no longer exercise its discretion not to prosecute automotive service and repair facilities and fleet operators and other parties named in section 203(a)(3) of the Clean Air Act who install or otherwise sell any aftermarket catalytic converter which is not as effective as the new OEM converter originally on the vehicle or which has not met the criteria of the interim aftermarket converter policy (and is properly so labeled). The installation of a noncomplying catalytic converter by a named party will be considered a violation of the Clean Air Act, 203(a)(3), and the violator may be prosecuted accordingly. Any person who causes such violations will also be considered liable under the Clean Air Act.

Dated: October 28, 1987.

Don R. Clay,

Acting Assistant Administrator.

[FR Doc. 87-25368 Filed 11-2-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3286-2]

Science Advisory Board Research Strategies Subcommittee Risk Reduction Group; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the risk Reduction Group of the Science Advisory Board's Research Strategies Subcommittee will meet Tuesday, November 24, 1987 from 9:00 a.m. to 5:00 p.m. in South Conference Center, Room #6, Ground Floor, near the Washington Information Center, Waterside Mall, U.S. Environmental Protection Agency's headquarters building at 401 M Street SW., Washington, DC.

The purpose of the meeting is to review the first draft of the Risk Reduction Group's strategy on environmental risk reduction.

The meeting is open to the public. Any member of the public wishing to attend, make brief oral comments, or submit written comments to the Group should notify Mrs. Kathleen Conway, Executive Secretary, or Mrs. Dorothy Clark, Staff Secretary, (A101-F) Science Advisory Board, by the close of business on Friday, November 20, 1987. The telephone number is (202) 382-2552

Terry F. Yosie,

Director, Science Advisory Board.

Date: October 28, 1987.

[FR Doc. 87-25369 Filed 11-2-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3286-1]

Science Advisory Board Research Strategy Subcommittee Sources, Transport and Fate Group; Open Meeting

Under Pub. L. 92-463, notice is hereby given that the Sources, Transport and Fate Subgroup of the Science Advisory Board's Research Strategies Subcommittee will meet from 9:00 a.m. to 4:00 p.m. on December 8th at the Hyatt Regency Hotel, International Parkway (inside the Dallas Fort Worth Airport), in the Conference Room. The purpose of the Research Strategies Subcommittee is to advise the Administrator of the Environmental Protection Agency on the development of research strategies needed to enhance the Agency's ability to acquire scientific and technical information to support regulatory decision making, and to identify emerging environmental issues. The Sources, Transport and Fate Subgroup will evaluate environmental contaminants from both a media-specific and a multi-media basis.

The meeting is open to the public. Any member of the public wishing to attend or submit written comments should notify Dr. Terry F. Yosie, Director, Science Advisory Board, at 202-382-4126 or Joanna Foellmer by December 4, 1987.

Date: October 28, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87-25391 Filed 11-2-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-60011; FRL-3286-8]

Chlordane and Heptachlor Termiticides; Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Order.

SUMMARY: On October 1, 1987, EPA issued an Order accepting the voluntary cancellation of certain chlordane and heptachlor termiticide registrations held by Velsicol Chemical Corporation, and limiting the use of existing stocks of Velsicol's chlordane and heptachlor termiticide products outside the company's control on August 11, 1987. Under the terms of the Order, such stocks may be sold, distributed or used according to their current labels until November 30, 1987. From December 1, 1987 until April 15, 1988, such stocks may only be sold, distributed or used in accordance with the Directions for Use accompanying the Order. No sale, distribution or use of such stocks will be permitted after April 15, 1988.

FOR FURTHER INFORMATION CONTACT:

By mail: George LaRocca, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 204, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-2400.

SUPPLEMENTARY INFORMATION: On August 11, 1987, EPA and Velsicol Chemical Corporation (Velsicol) entered into an agreement affecting Velsicol's registrations of chlordane and heptachlor termiticide products (except for a registration involving underground cable treatments). Under the terms of the agreement, certain uses of Velsicol's termiticide products were deleted from the label and the remainder of the registrations were converted into conditional registrations. Under the terms of the conditional registrations, no further sale or distribution by Velsicol of its affected chlordane and heptachlor termiticide products was allowed unless and until Velsicol satisfied air monitoring requirements specified in the conditional registrations. The August 11th agreement did not affect existing stocks of Velsicol's termiticide products outside of Velsicol's control on or before that date (which EPA estimated at the time to be a volume equal to approximately 2 months average use, or about 110,000 gallons).

Portions of the August 11th agreement were challenged by a number of environmental groups in a federal court action.

The court in that action expressed concern that EPA might have underestimated the amount of existing stocks or that use of the existing stocks might continue indefinitely. While EPA continues to believe that its estimate was an accurate one, EPA and Velsicol agreed to supplement the August 11th agreement in order to alleviate the court's concerns.

Under the terms of the Supplement, ratified on October 1, 1987, Velsicol's chlordane and heptachlor termiticide registrations were split into product registrations containing the deleted uses and product registrations containing the retained uses. Those registrations containing the deleted uses were voluntarily canceled. EPA issued an Order on October 1, 1987, accepting the voluntary cancellation and placing a two-tiered cap on the use of existing stocks of Velsicol's chlordane and heptachlor termiticide products outside of Velsicol's control on August 11, 1987. These stocks may be sold, distributed and used in any manner consistent with their labeling until November 30, 1987. From December 1, 1987 until April 15, 1988, these stocks may be sold, distributed and used only in accordance with the specific directions for use attached to the October 1st Order. No use of existing stocks will be permitted after April 15, 1988.

The text of the October 1st Order and the attached Directions for Use are set forth below:

In the Matter of: The Voluntary Cancellation of Certain Pesticide Product Registrations Held by the Velsicol Chemical Corporation.

Order Accepting Voluntary Cancellation and Authorizing Use of Existing Stocks With Limitations

As explained more fully below, this order accepts the voluntary cancellation of the registrations of certain pesticide products registered by the Velsicol Chemical Corporation ("Velsicol") and imposes limitations on the continued sale, distribution, and use of existing stocks of such products. This Order is issued pursuant to the authority in section 6(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act.

On August 11, 1987, Velsicol and EPA entered into an agreement affecting Velsicol's registrations of chlordane and heptachlor products. The agreement is memorialized in a Memorandum of Understanding and accompanying Conditions of Registration and Monitoring Protocol. Under the terms of the August 11 agreement, Velsicol classified the following uses of its end-

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use termiticide products as "deleted uses":

a. Post-construction application of material from within a structure frequented by humans ("structure");

b. Post-construction application of material from outside a structure to inside or underneath a structure;

c. The use of pressure rodding for post-construction application of material to a basement-type or crawl-space type structure;

d. Pre- or post-construction treatment of the area underneath crawl-space and post and pier type structures;

e. Treatment of voids and spaces in masonry or block walls or areas behind veneers;

f. Applications by non-certified applicators;

g. Soil-injection pressure rodding at pressures greater than 25 psi.

The agreement further classified the following uses of end-use termiticide products as "retained uses":

a. Application to the outside perimeter of any structure by trenching, or drilling through sidewalks, patios, or other unenclosed slabs, and applying material to the soil without pressure (*e.g.*, flow or gravity feed);

b. Applications by the excavation technique to the exterior of any structure (*i.e.*, by removing soil next to the foundation, placing on a tarp, treating with termiticide, and placing back in trench after soil dries);

c. Pre-construction low-pressure (maximum 25 psi) vertical rodding (with the application rod equipped with a pressure control device to prevent higher pressures) of the perimeter outside any structure;

d. Post-construction low-pressure (maximum 25 psi) vertical rodding (with the application rod equipped with a pressure control device to prevent higher pressures) outside slab and post and pier type structures;

e. Post-construction coarse spray surface treatment (maximum 50 psi) and low-pressure (maximum 25 psi) vertical rodding (with the application rod equipped with a pressure control device to prevent higher pressures) under the slab of slab type structures.

The agreement classified one use, the protection of underground cables, as an "unaffected use".

In addition to this classification of the uses of Velsicol's termiticide products, the agreement included, *inter alia*, the following provisions:

- The retained uses were converted to restricted uses as provided for in sections 3(d) and 4 of FIFRA;
- The registrations of the retained uses were amended to conditional registrations, with no sale or distribution by Velsicol allowed until certain conditions set forth in the Conditions of Registration are met.
- No further sale or distribution by Velsicol of end-use products labeled for deleted uses was allowed.
- Velsicol amended the label of its manufacturing-use products to provide that such products could not be used to manufacture any end-use product (other than Velsicol products) for sale and distribution in the United States that is labeled for use as a subterranean termiticide.

The agreement became effective immediately on August 11, 1987. In return for the conditions accepted by Velsicol, EPA agreed, *inter alia*, that it would take no action against existing stocks of Velsicol's products then in the hands of applicators and distributors. EPA estimated that a volume equal to approximately two-months average use of chlordane and heptachlor termiticides (or approximately 110,000 gallons) was in the hands of applicators and distributors as of August 11th.

Portions of the agreement between Velsicol and EPA have been challenged in a federal court action brought by a number of environmental groups (*NCAMP* v. *EPA*, Civil Action No. 87–1089–LFO, D.D.C.). The court in that action has expressed concerns that EPA may have substantially underestimated the amount of existing stocks as of August 11th or that some individuals may have large stockpiles of chlordane products. While EPA continues to believe that its earlier estimate of existing stock was an accurate one, EPA contacted Velsicol (as well as the plaintiffs in the federal litigation) to discuss possible amendments to the August 11 agreement in order to resolve the court's concern. Velsicol agreed to amend the agreement, and on October 1, 1987, Velsicol and EAP ratified a Supplement to the Memorandum of Understanding (a copy of which is attached hereto).

Under the terms of this Supplement, Velsicol's chloradane termiticide registrations have been split into product registrations containing the deleted uses and product registrations containing the retained uses. Velsicol and EPA have agreed to the voluntary cancellation of certain product registrations, including those containing the deleted uses (but not those containing the retained uses), and have further agreed to the placement of a two-tiered cap on the use of existing stocks of Velsicol's products outside of its control before August 11. These existing stocks may be sold, distributed, and used in any manner consistent with their labeling until November 30, 1987. From December 1, 1987 until April 15, 1988, these stocks may be sold, distributed, and used only in accordance with the conditions of use prescribed in Appendix A of this Order. No use will be permitted after April 15, 1988.

EPA believes the terms of this Supplement will allow for an orderly and efficient phase-out of chloridane use. The Supplement provides sufficient time for the use of the volume of existing stocks estimated by EPA to exist in August of 1987, but will prevent unlimited use of such stocks if EPA was substantially incorrect in its estimate or if individuals possess large stockpiles. EPA favors a two-tiered approach because it encourages the use of application methods that are believed to pose less potential for misapplication and are believed less likely to result in indoor exposure than the uses that will be discontinued after November 30, 1987.

EPA finds that implementation of this Supplement is consistent with the purposes of FIFRA and will not have unreasonable adverse effects on the environment. EPA has previously determined that the agreement entered into on August 11, 1987, which contained no limitations on the use of existing stocks, was consistent with the purposes of the Act. The limitations contained in this Order will not permit any greater use of stocks than that which the Agency has already found to be acceptable.

The Agency considers the dates set forth herein, which were the product of an agreement between Velsicol and EPA, to be appropriate for several reasons. First, the Agency believes the dates chosen satisfy the concerns that the Agency may have substantially underestimated the amount of stocks in the possession of applicators and distributors as of August 11, 1987 or that individuals may have large stockpiles, by establishing a cap on use that would prevent the use of significantly larger quantities than the amount estimated to exist by EPA. Second, these dates allow for an orderly transition away from the deleted uses (with such uses not being permitted after November 30, 1987), and eventually from all other uses (after April 15, 1988). In particular, they provide EPA, Velsicol, and the National Pest Control Association with an adequate opportunity to notify applicators and state enforcement agencies of the terms of this Order; the dates will not encourage a hurried use of existing stocks which could lead to misapplication and greater indoor exposures; and they will allow for the certification of applicators (use of the existing stocks will be a restricted use as set forth in FIFRA sections 3(d) and 4 after November 30, 1987). Finally, the dates reflect information provided to EPA that, even though there may well have been only 110,000 gallons of existing stocks in the hands of applicators and distributors on August 11, 1987, the sale of chlordane use has decreased since that date, and will of necessity decrease even further after November 30, 1987 when certain uses will no longer be permitted.

Based on all the foregoing, pursuant to FIFRA section 6(a)(1):

1. The following registrations of Velsicol's End Use Products are hereby cancelled:

A. The End Use Product described in Section II.A.2 of the attached Supplement (that product currently assigned EPA Registration Number 876–233 bearing all uses of Gold Crest Termide other than the retained uses).

B. The End Use Product described in Section II.B.2 of the attached Supplement (that product currently assigned EPA Registration Number 876–63 bearing all uses of Gold Crest C–100 other than the retained uses).

C. The End Use Product described in Section II.C.2 of the attached Supplement (that product currently assigned EPA Registration Number 876–104 bearing all uses of Chlordane 8EC Termite other than the retained uses).

D. Gold Crest C–50 (EPA Reg. No. 876–86).

E. Gold Crest H–60 (EPA Reg. No. 876–85).

F. California SLN for crawlspace perimeter spray (Termide) (CA–810012).

G. California SLN for crawlspace perimeter spray (C–100) (CA–810011).

H. Hawaii SLN for crawlspace perimeter spray (C–100) (HI–850003).

2. The sale, distribution, and use of existing stocks of any products in the possession of persons other than Velsicol on or after August 11, 1987 bearing Registration Numbers 876–63, 876–85, 876–86, 876–104, 876–233, CA–810011, CA–810012, or HI–850003 is subject to the following conditions:

A. Such products may be sold, distributed, and used in any manner consistent with their labeling until November 30, 1987.

B. Such products may be sold, distributed, and used from December 1, 1987 until April 15, 1988 only in accordance with the provisions contained in Appendix 1 to this Order.

C. Such products may not be sold, distributed, or used after April 15, 1988.

D. Any such products that have not been used on or before April 15, 1988 must be disposed of in accordance with applicable federal, state and local laws.

It is so ordered this 1st day of October, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Appendix 1—Voluntarily Cancelled Subterranean Termite Control Products Directions for Use Between December 1, 1987, and April 15, 1988

Restricted use Pesticide

For Retail Sale to and use Only by Certified Applicators or Persons Under Their Direct Supervision

It is a violation of Federal law to use this product in a manner inconsistent with these Directions. This product may not be used against any pests not named in these Directions. Apply only to establish subsurface termite control barriers specified in these Directions.

Contamination of public and private water supplies must be avoided by following these precautions: Use anti-backflow equipment or procedures to prevent siphonage of pesticide back into water supplies. Do not treat soil beneath structures that contain cisterns or wells. Do not treat soil that is water saturated or frozen. Consult state and local specifications for recommended distances of treatment areas from wells, and refer to Federal Housing Administration Specifications on new construction for further guidance.

Preconstruction Subterranean Termite Treatment

Effective preconstruction subterranean termite control requires the establishment of an unbroken vertical and/or horizontal chemical barrier between wood in the structure and the potential or existing termite colonies in the soil. To meet FHA termite proofing requirements, follow the latest edition of the Housing and Urban Development (HUD) Minimum Property Standards.

Dilution Instructions for Gold Crest Termide

Use a .75% water emulsion for subterranean termites other than *Coptotermes* spp. Mix 1 gallon of Gold Crest Termide in 99 gallons of water to produce a 0.75% water emulsion. Use a 0.75–1.5% water emulsion for *Coptotermes* spp. where necessary. Mix 1–2 gallons of Gold Crest Termide in 99 gallons of water to produce a 0.75–1.5% water emulsion.

Dilution Instructions for Gold Crest C100 and Chlordane 8EC/Termite

Use a 1% water emulsion for subterranean termites other than *Coptotermes* spp. Mix 1 gallon of product in 95 gallons of water to produce a 1% water emulsion. Use a 1–2% water emulsion for *Coptotermes* spp. where necessary. Mix 1–2 gallons of product in 95 gallons of water to produce a 1–2% water emulsion.

Dilution Instructions for Gold Crest H–60

Use a .5% water emulsion for subterranean termites other than *Coptotermes* spp. Mix 1 gallon of product in 59 gallons of water to produce a .5% water emulsion. Use a 1% water emulsion for *Coptotermes* spp. where necessary. Mix 2 gallons of product in 59 gallons of water to produce a 1% water emulsion.

Dilution Instructions for Gold Crest C–50

Use a 1% water emulsion for subterranean termites other than *Coptotermes* spp. Mix 1 gallon of product in 47 gallons of water to produce a 1% water emulsion. Use a 2% water emulsion for *Coptotermes* spp. where necessary. Mix 2 gallons of product in 47 gallons of water to produce a 2% water emulsion.

Do not apply to soil beneath structures which will contain subslab or intra-slab air ducts. Do not apply to any area intended as a plenum air space. Check with builder or contractor or determine if the design of the structure includes these ducts or a plenum.

Do not apply to any area inside the foundation wall which will not be covered by a concrete slab (e.g., bath traps, inside surfaces of concrete or block walls above the level of the slab). Cover these areas during application with polyethylene or similar material. Do not treat into or through hollow masonry voids.

Slab Construction

Horizontal Barriers

Before footings are poured, horizontal barriers may be established in footing trenches. Treatment of the footings through hollow masonry voids is prohibited. Then, after interior grading is completed and prior to the pouring of concrete slabs, horizontal barriers may be established on soil which will be covered by concrete floor, entrance platforms, and in other critical areas which will be covered by concrete slabs.

In the case of a single-pour, monolithic slab which does not have a separate foundation or footing, an overall horizontal barrier would be created before the concrete is poured.

To produce a horizontal barrier, apply the emulsion at the rate of 1 gallon per 10 square feet to fill dirt. If fill is washed gravel or other coarse material, apply at 1½ gallons per 10 square feet.

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—It is important that the emulsion reaches the soil.
—Applications shall be made with pressures less than 50 p.s.i. at the nozzle using a coarse spray nozzle when establishing horizontal barriers.
—If concrete slabs cannot be poured over soil the same day it has been treated, a water-proof cover, such as polyethylene sheeting, should be placed over the soil to prevent erosion. This is not necessary if foundation walls have been installed around the treated soil.

Vertical Barriers

After the foundation walls have been poured or built but before slabs are poured, vertical barriers may be established in soil which will be under the perimeters of floating or supported slabs, around utilities which will penetrate the slab, and in other critical areas which will be covered by concrete. After the final exterior grading is completed, vertical barriers may be created in back-filled soil against foundation walls or against the outside of monolithic slab. To produce a vertical barrier, apply the emulsion at the rate of 4 gallons per linear feet per foot of depth from grade to the top of the footing. For monolithic slabs, apply to the bottom of the concrete.

—Low pressure rodding and/or trenching applications should not be made below the top of the footing except when the footing is exposed at or above grade. Special care should be taken to avoid soil washout around the footing.
—When rodding, use only low pressure (less than 25 p.s.i. at the nozzle). It is important that emulsion reaches the footing. Rod holes should be spaced to provide a continuous barrier.
—Trenches need not be wider than 6 inches.
—Emulsion should be mixed with the soil as it is being replaced in the trench. Cover treated soil with approximately 2 inches of untreated soil.

Crawl Space Foundations

For crawl space foundations, vertical barriers may be established in the soil on the outside perimeter of the foundation using a rate of 4 gallons of emulsion per 10 linear feet per foot of depth from grade to the top of the footing. Application may be made by low pressure rodding and/or trenching to the footing. If the footing is exposed at or above grade, application should be made with special care to avoid washout around the footing.

—Do not treat the footing through hollow masonry voids.
—Rod holes should be spaced to provide a continuous chemical barrier.
—When rodding the outside perimeter, use low pressure (less than 25 p.s.i. at the nozzle).
—Trenches need not be wider than 6 inches nor below the footing. The emulsion should be mixed with the soil as it is being replaced in the trench. Cover the treated soil with approximately 2 inches of untreated soil.
—A complete termite barrier may require treatment with another EPA-registered product to the inside perimeter of the foundations and to other interior critical areas.

Basement Foundations

Horizontal Barriers

After exterior grading is completed and prior to the pouring of concrete slabs, horizontal barriers may be established on soil which will be covered by concrete entrance platforms, and in other exterior critical areas which will be covered by concrete slabs. To produce a horizontal barrier, apply the emulsion at the rate of 1 gallon per 10 square feet to fill dirt. If fill is washed gravel or other coarse material, apply at 1½ gallons per 10 square feet.

—It is important that the emulsion reaches the soil.
—Applications shall be made (with pressures less than 50 p.s.i. at the nozzle) using a course spray nozzle when establishing horizontal barriers.
—If concrete slabs cannot be poured over soil the same day it has been treated, a water-proof cover, such as polyethylene sheeting, should be placed over the soil to prevent erosion.
—Do not apply to any area inside the foundation wall.

Vertical Barriers

After the final exterior grading is completed, vertical barriers may be created in back-filled soil against foundation walls. To produce a vertical barrier, apply the emulsion by low pressure rodding or trenching at the rate of 4 gallons per linear feet per foot of depth from grade to the top of the footing.

—Low pressure rodding and/or trenching applications should not be made below the top of the footing except when the footing is exposed at or above grade. Special care should be taken to avoid soil washout around the footing.
—When rodding, use low pressure (less than 25 p.s.i. at the nozzle). It is important that emulson reaches the footing. Rod holes should be spaced to provide a continuous barrier.
—Trenches need not be wider than 6 inches.
—Emulsion should be mixed with the soil as it is being replaced in the trench. Cover treated soil with approximately 2 inches of untreated soil.

Postconstruction Treatments

Dilution Instruction for Gold Crest Termide

Use a .75% water emulsion for subterranean termites other than *Coptotermes* spp. Mix 1 gallon of Gold Crest Termide in 99 gallons of water to produce at 0.75% water emulsion. Use a 0.75–1.5% water emulsion for *Coptotermes* spp. where necessary. Mix 1–2 gallons of Gold Crest Termide in 99 gallons of water to produce a 0.75–1.5% water emulsion.

Dilution Instructions for Gold Crest C100 and Chlordane 8EC/Termite

Use a 1% water emulsion for subterranean termites other than *Coptotermes* spp. Mix 1 gallon of product in 95 gallons of water to produce a 1% water emulsion. Use a 1–2% water emulsion for *Coptotermes* spp. where necessary. Mix 1–2 gallons of product in 95 gallons to produce a 1–2% emulsion.

Dilution Instruction for Gold Crest H–60

Use a .5% water emulsion for subterranean termites other than *Coptotermes* spp. Mix 1 gallon of product in 59 gallons of water to prodcue a .5% water emulsion. Use a 1% water emulsion for *Coptotermes* spp. where necessary. Mix 2 gallons of product in 59 gallons of water to produce a 1% water emulsion.

Dilution Instruction for Gold Crest C–50

Use a 1% water emulsion for subterranean termites other than *Coptotermes* spp. Mix 1 gallon of product in 47 gallons of water to produce a 1% water emulsion. Use a 2% water emulsion for *Coptotermes* spp. where necessary. Mix 2 gallons of product in 47 gallons of water to produce a 2% water emulsion.

Do not apply this produce into hollow masonry voids.

Do not apply this product to soil beneath the interior of the structure. Do not apply to the soil beneath a plenum air space.

Do not apply emulsion until location of pipes, water and sewer lines and electrical conduits are known and identified.

Slab Construction

Vertical barriers may be established along the outside of the foundation by low pressure rodding and/or trenching at the rate of 4 gallons of emulsion per 10 linear feet. Low pressure rodding should not extend beyond the tops of the footings.

—When rodding, use only low pressure (less than 25 p.s.i. at the nozzle).
—Drill holes in outside slabs (patios, sidewalks, etc.) about 12 to 36 inches apart to provide a continuous chemical barrier.
—For shallow foundations, 1 foot or less, dig a narrow trench approximately six inches wide along the outside of the foundation walls. Do not trench below the bottom of the foundation. The emulsion should be applied to the trench and the soil at 4 gallons per 10 linear feet as the soil is replaced in the trench. Cover the treated soil with approximately 2 inches of untreated soil.
—For foundations deeper than 1 foot apply 4 gallons per 10 linear feet per foot of depth.

Basement and Crawl Space Foundations

For basement foundations, outside perimeter barriers may be applied only by trenching or the excavation technique below at a rate of 4 gallons of emulsion per 10 linear feet per foot of depth to be treated. Where exterior slabs are adjacent to the foundation wall, drill through the slab along the outside of the wall at a spacing that provides application of a continuous barrier and apply the emulsion just under the slab. After drilling, emulsion may be applied. Apply only at the lowest pressure that will start the flow of emulsion from an unobstructed rod. Apply up to 4 gallons of emulsion per 10 linear feet.

A complete termite barrier may require application of another EPA-registered product under interior slabs, through hollow masonry voids to the footing, and to other interior critical areas.

Excavation Technique

If treatment is to be made in difficult situations such as near wells or cisterns, along faulty foundation walls, and around pipes and utility lines which lead downward from the structure, application must be made in the following manner to avoid intrusion of termiticide into water supplies or the interior of the structure.

—Trench and remove the soil to be treated only heavy plastic sheeting or similar liner.
—Treat the soil at the rate of 4 gallons of emulsion per 10 linear feet per foot of depth of the trench. Mix the emulsion thoroughly into the soil taking care to prevent liquid from running off the liner.
—After the treated soil has dried adequately, replace the soil in the trench and cover with approximately 2 inches of untreated soil.

Retreatment Restrictions

Retreatment for subterranean termites should only be made when there is evidence of reinfestation subsequent to the initial treatment, or there has been disruption of the chemical barrier in the soil due to construction, excavation, landscaping, etc. Retreatment should be made as a spot application to these areas.

Retreatments may be made to critical areas in accordance with the application techniques described above. This application should be made as a spot treatment to these areas. Do not annually retreat entire premises.

Copies of the August 11, 1987, agreement and the October 1, 1987, supplementary agreement between EPA and Velsicol, can be obtained from the person listed under **FOR MORE INFORMATION CONTACT:**

Dated: October 23, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 87–25383 Filed 11–2–87; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180747; FRL–3298–5]

California Department of Food and Agriculture; Receipt of Application for Emergency Exemption To Use Hydrogen Cyanamide; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a request for an emergency exemption from the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use the active ingredient hydrogen cyanamide ("Dormex") to promote uniform bud break in 18,800 acres of table grapes grown in the Coachella Valley in Riverside County, California. Dormex contains an unregistered active ingredient and, therefore, in acordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant the exemption.

DATE: Comments must be received on or before November 16, 1987.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180747," should be submitted by mail to: Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provisions of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption to permit the use of an unregistered plant regulator, hydrogen cyanamide (CAS 420–04–2), manufactured as Dormex, by SKW Trostberg Aktiengesellschaft, to promote uniform bud-break in table grapes grown in the Coachella Valley in Riverside County, California. Information in accordance with 40 CFR Part 166 was submitted as part of this request.

Approximately 18,800 acres of table grapes, *Vitis* spp., are grown in the Coachella Valley. The Applicant indicates that California growers of early market table grapes are facing economic losses due to increasing competition from foreign imports, particularly from Mexico. The Applicant

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states that table grapes grown in the Coachella Valley may not experience adequate winter chilling to promote uniform bud-break and fruit ripening in the spring. As a result, cane growth can be delayed and uneven, causing the harvest to be late and allowing foreign competition to dominate the market. Currently there are no registered materials to promote uniform bud-break in grapes.

Dormex will be applied by ground at a maximum rate of 4 gallons (16 pounds active ingredient) per acre. Application will be made once in dormancy after pruning sometime between December 1 and February 15, 1988 to approximately 18,800 acres of table grapes in Riverside County.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for the opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the California Department of Food and Agriculture.

Dated: October 27, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-25386 Filed 11-2-87; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-3285-8]

Office of Municipal Pollution Control's Indian Workgroup; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under ongoing activities to implement Pub. L. 100-4, the Water Quality Act of 1987 (WQA), section 518, EPA's Office of Municipal Pollution Control (OMPC), in cooperation with the Indian Health Service, is currently assessing the need for sewage treatment works to serve Indian Tribes and obstacles which keep these needs from being met. OMPC is also proposing a process for administering funds reserved under section 518(c) for federal grants to fund the planning and construction of sewage treatment works to serve Indian Tribes as defined in this Act.

A workgroup that includes members of various Indian Tribes, EPA and Indian Health Service staff will convene a meeting November 20, 1987, 8:30 a.m., at the Fiesta Inn, 2100 South Priest Drive, Tempe, Arizona 85282 to discuss the Indian Needs Survey, the proposed process for providing grants to construct wastewater treatment systems, and a draft Report to Congress on these efforts.

Note: Pending passage of the 1988 Federal Budget and related circumstances, this meeting may be rescheduled for a later date. Please contact Chris Powers, Planning and Analysis Division, Office of Municipal Pollution Control, Room 1117ET, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 or call 202-382-3770 before attending this meeting.

Date: October 27, 1987.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 87-25392 Filed 11-2-87; 8:45 am]

BILLING CODE 6560-50-M

Federal Home Loan Bank Board

[No. 87-1118]

Approval of Application for Unlisted Trading Privileges; Midwest Stock Exchange

Date: October 27, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: On July 30, 1987, the Midwest Stock Exchange filed with the Federal Home Loan Bank ("Board") an application (Application"), pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f-1 [17 CFR 240.12f-1] thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchange:

Northeast Savings, F.A.
Hartford, Connecticut (FHLBB No. 3231)
Common Stock, $.01 Par Value

Notice of the Application and opportunity for hearing was published in the **Federal Register** on August 19, 1987, and interested persons were invited to submit written data, views and arguments within 15 days. See Board Resolution No. 87-677, dated August 13, 1987 (52 FR 31086, August 19, 1987). The Board received no comments with respect to the Application. Notice is hereby given that the Office of General Counsel of the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Application for unlisted trading privileges in these securities on October 14, 1987.

SUPPLEMENTARY INFORMATION: The Board finds that the approval of the Application for unlisted trading privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities exchange registered with the Securities and Exchange Commission ("Commission") pursuant to section 6 of the Act, the Midwest Stock Exchange is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system contemplated by Rule 11Aa3-1 under the Act [17 CFR 240.11Aa3-1] The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Midwest Stock Exchange are executed at prices which are reasonably related to those occurring in other markets. Further, the approval of the Application will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Board received no comments indicating that the granting of the Application would not be consistent with the maintenance of fiar and orderly markets and the protection of investors.

Accordingly, pursuant to section 12 (f)(1)(B) of the Act, the Office of General Counsel for the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Application for unlisted trading privileges in the above named securities on October 14, 1987.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-25452 Filed 11-2-87; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in §§ 560.7 and/or 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224-200053

Title: The Port Authority of New York and New Jersey Terminal Agreement.
Parties: The Port Authority of New York and New Jersey Sea-Land Service, Inc.
Synopsis: The proposed agreement provides that Sea-Land lease and operate the Elizabeth-Port Authority Marine Terminal. It provides Sea-Land the right to berth vessels at the terminal berthing area and provides for specified additional rental payments for cargoes loaded onto or discharged from certain of these vessels.
Filing Party: William J. Coffey, Secretary and Counsel, Sea-Land Service, Inc., P.O. Box 800, Iselin, NJ 08830.

By Order of the Federal Maritime Commission.

Dated: October 28, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-25344 Filed 11-2-87; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200052

Title: Port of Tampa Terminal Lease Agreement
Parties: Tampa Port Authority Bay Terminal and Stevedoring Co.
Synopsis: The proposed agreement authorizes the Tampa Port Authority to lease approximately 57,600 sq. ft. of remote paved open storage area and approximately 36,000 sq. ft. of dockside unpaved open storage area, for a period of 364 days with right of occupancy commencing on May 15, 1987 and extending through May 13, 1988 to Bay Terminal and Stevedoring Co.

By Order of the Federal Maritime Commission.

Dated: October 28, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-25345 Filed 11-2-87; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting:

Kansas City District Office, chaired by James A. Adamson, District Director. The topic to be discussed is health claims on food labels.

DATE: Tuesday, November 17, 1987, 1 p.m.

ADDRESS: Conference Room, 601 East 12th St., Rm. 545A, Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Julia F. Hewgley, Consumer Affairs Officer, Food and Drug Administration, 1009 Cherry St., Kansas City, MO 64106, 816-374-3817.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 28, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-25425 Filed 11-2-87; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[HCA-015-N]

Task Force on Technology-Dependent Children; Meeting

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), this notice announces a meeting of the Task Force on Technology-Dependent Children.

DATE: The meeting will be held on December 3, 1987 from 9:00 a.m. to 5:00 p.m., E.S.T., and on December 4, 1987 from 9:00 a.m. to 2:00 p.m., E.S.T. The meeting will be open to the public.

ADDRESS: The meeting will be held in the Shoreham Hotel, 2500 Calvert Street NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Bill Pickens, Executive Director, Task Force on Technology-Dependent Children, Department of Health and Human Services, Room 4414 HHS North Building, 330 Independence Avenue SW., Washington, DC 20201, (202) 245-0070.

SUPPLEMENTARY INFORMATION:

Purpose

The Task Force on Technology-Dependent Children, established under section 9520 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272), investigates alternatives to institutional care for technology-dependent children. Technology-dependent children are those with chronic conditions requiring continuing use of medical technology.

The Task Force must report to the Secretary of Health and Human Services, the Administrator of the Health Care Financing Administration (HCFA), and to Congress concerning alternatives to institutional care for technology-dependent children. The Task Force must develop recommendations designed to—

(1) Identify barriers that prevent the provision of appropriate care in a home

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or community setting to meet the special needs of technology-dependent children; and

(2) Recommend changes in the provision and financing of health care in private and public health care programs (including appropriate joint public-private initiatives) so as to provide home and community-based alternatives to the institutionalization of technology-dependent children.

The Task Force will address fully the two specified goals before it takes up any other questions. To the extent that time and resources permit, the Task Force may develop recommendations that would address additional concerns regarding technology-dependent children. The Task Force recommendations are intended to be used only at the option of the Department of Health and Human Services and the Congress.

Agenda

The Task Force will conduct a business meeting to evaluate and review testimony, data, and information that has been received to date. It will consider barriers, recommendations, and possible solutions for technology-dependent children.

The public is invited to present testimony to the Task Force. We request those wishing to testify to contact the Task Force by November 23, 1987.

Agenda items are subject to change as priorities dictate.

(Sec. 10(a) (2) of Pub. L. 92-463, as amended (5 U.S.C. App. I, Sec. 1-15) and Sec. 9520 of Pub. L. 99-272 (42 U.S.C. 1396a note); 45 CFR Part 11)

Dated: October 28, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 87-25381 Filed 11-2-87; 8:45 am]

BILLING CODE 4120-01-M

Office of Human Development Services

President's Committee on Mental Retardation; Meeting

Agency Holding the Meeting: President's Committee on Mental Retardation.

Time and Date: Executive Committee, Sunday, November 15, 1987, 1:00 P.M.-5:00 P.M., Full Committee, November 16-17, 1987, 9:00 A.M.-5:00 P.M., November 16, 1987, 9:00 A.M.-5:00 P.M., November 17, 1987.

Place: Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC 20008.

Status: Meetings are open to the public. An interpreter for the deaf will be available upon advance request. All locations are barrier free.

Matters to be Considered: Reports by members of the Executive Committee of the President's Committee on Mental Retardation (PCMR) will be given. The Committee plans to discuss critical issues concerning prevention, family and community services, full citizenship, public awareness and other issues relevant to the PCMR's goals.

The PCMR: (1) Acts in an advisory capacity to the President and the Secretary of the Department of Health and Human Services on matters relating to programs and services for persons who are mentally retarded; and (2) is responsible for evaluating the adequacy of current practices in programs for the retarded, and reviewing legislative proposals that affect the mentally retarded.

Contact Person for More Information: Jim F. Young, 330 Independence Avenue SW., Room 4725—North Building, Washington, DC 20201, (202) 245-7634.

Dated: October 27, 1987.

Jim F. Young,

Acting Executive Director, PCMR

[FR Doc. 87-25435 Filed 11-2-87; 8:45 am]

BILLING CODE 4130-01-M

Social Security Administration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) covers the Social Security Administration (SSA). Notice is given that Chapter S3B, sections S3B.10 and S3B.20, is amended to abolish the Division of Retirement and Survivors Studies, to establish the Program Management and Studies Staff and to correct a previous error.

The changes are as follows:

Section S3B.10 *The Office of Retirement and Survivors Insurance*—(Organization):

Delete: G. The Division of Retirement and Survivors Studies (S3B5).

Add: D. The Program Management and Studies Staff ( ). Current Subsections D. through F. should be relettered as Subsections E. through G.

Section S3B.20 *The Office of Retirement and Survivors Insurance*—(Functions):

Delete: G. The Division of Retirement and Survivors Studies (S3B5) in its entirety.

Add:

D. The Program Management and Studies Staff ( ).

1. Plans and conducts research, studies and projects of interdivisional priorities which impact on the Retirement and Survivors Insurance (RSI) program.

2. Plans and develops data collection instruments, and provides statistical expertise.

3. Provides leadership in intra-office assignments and initiatives and is responsible for resolving controversial issues that deal with the RSI program policies.

4. Coordinates and directs, for the RSI program, assignments and projects that result from the claims modernization and the systems modernization plans.

5. Develops programs for RSI to support management information and operational policy needs.

Current Subsections D. through F. should be relettered as Subsections E. through G.

New Subsection E. The Division of Coverage should be amended to insert the word "program" in the fourth line after the word "Insurance."

Dated: October 21, 1987.

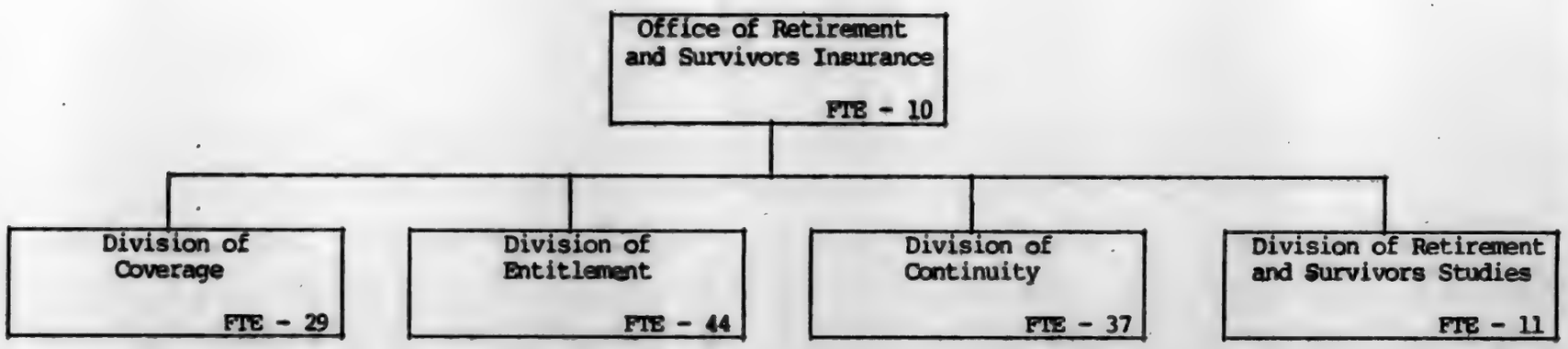
Nelson J. Sabatini,

Deputy Commissioner for Management.

BILLING CODE 4190-11-M

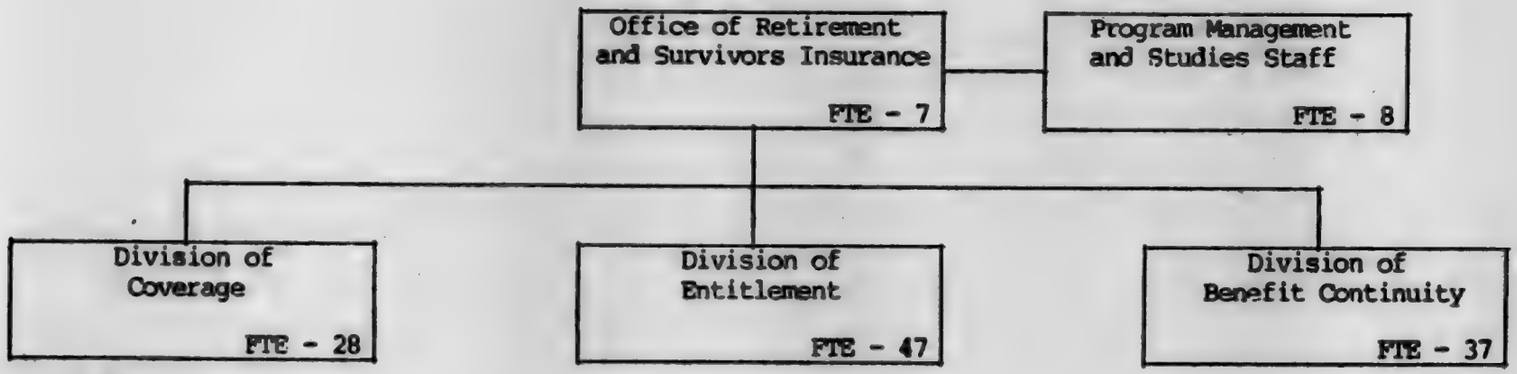
Current Organization

Department of Health and Human Services
Social Security Administration
Office of Retirement and Survivors Insurance



Proposed Organization

Department of Health and Human Services
Social Security Administration
Office of Retirement and Survivors Insurance



[FR Doc. 87-25424 Filed 11-2-87; 8:45 am]
BILLING CODE 4190-11-C

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

Alaska OCS Region; Alaska Information Transfer; Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Alaska information transfer meeting notice.

DATE: November 17–20, 1987.

The Minerals Management Service (MMS), Alaska Outer Continental Shelf (OCS) Region, will hold its second Alaska Information Transfer Meeting (ITM) at the Anchorage Hilton Hotel, Anchorage, Alaska. This ITM is presented by the MMS Environmental Studies Program, which has spent approximately $113 million since 1975 on studies in Arctic Alaska.

The purpose of the ITM is to share with the scientific community, government agencies, and the general public results of studies applicable to lease sale planning areas in the Beaufort and Chukchi Seas.

Topics which will be addressed at the meeting are:

- Oceanographic processes;
- Pollutant transport;
- Environmental monitoring;
- Marine birds and mammals;
- Arctic ecosystems;
- Fisheries;
- Information management;
- The MMS procurement process;
- Social and economic issues.

Presentations will be made by staff and contractors from MMS and the National Oceanic and Atmospheric Administration's Environmental Assessment Program.

FOR FURTHER INFORMATION CONTACT: Ms. Toni M. Johnson, MMS, Alsaka OCS Region, 949 East 36th Avenue, Room 110, Anchorage, Alaska 99508–4302, telephone (907) 261–4632 or 261–4080.

Dated: October 19, 1987.

Alan D. Powers,

Regional Director, Alaska OCS Region.

[FR Doc. 87–25378 Filed 11–2–87; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31133]

Petition for Exemption; Gordon H. Fay

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 11322 Gordon H. Fay acting as a common officer and director of Bay Colony Railroad Corporation, NRUC Corporation, and Seminole Gulf Railway, Inc.

DATE: This exemption will be effective on November 6, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245 [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan area). Assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters.

Decided: October 20, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87–25419 Filed 11–2–87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 87–50]

John Richard Janovich, M.D., Memphis, TN; Hearing

Notice is hereby given that on April 23, 1987, the Drug Enforcement Administration, Department of Justice, issued to John Richard Janovich, M.D. an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Registration, AJ5457331, and deny any pending applications.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Wednesday, November 4, 1987, in Courtroom A–702, Kefauver Federal Building, U.S. Courthouse, 801 Broadway, Nashville, Tennessee.

Dated October 29, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87–25410 Filed 11–2–87; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 87–56]

Mark A. Judge, M.D., Joplin, MO; Hearing

Notice is hereby given that on June 23, 1987, the Drug Enforcement Administration, Department of Justice, issued to Mark A. Judge, M.D. an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Registration, AJ6475964, and deny any pending applications.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, November 17, 1987, in Courtroom No. 2, Room 502, United States Court of Appeals, U.S. Courthouse and Custom House, 1114 Market Street, St. Louis, Missouri.

Dated October 29, 1987

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87–25411 Filed 11–2–87; 8:45 am]

BILLING CODE 4410-09-M

Revocation of Registration; Jose Antonio Pla-Cisneros, M.D.

On April 21, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Jose Antonio Pla-Cisneros, M.D. of 1154 SW. 8th Street, Miami, Florida 33130, proposing to revoke his DEA Certificate of Registration AP9085918 and to deny his pending application for renewal of said registration executed on March 1, 1987. The statutory basis for the Order to Show Cause was that Dr. Pla-Cisneros' continued registration would be inconsistent with the public interest as evidenced by the fact that on November 25, 1986, Dr. Pla-Cisneros was arrested by police officers from the Metro Dade Police Department in Dade County, Florida and charged with one count each of trafficking, possession, delivery, and conspiracy to traffic cocaine.

The Order to Show Cause was sent to Dr. Pla-Cisneros by registered mail, return receipt requested. The return-receipt indicates that the Order to Show Cause was received on April 24, 1987. More than thirty days have elapsed since the Order to Show Cause was received, and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Dr. Pla-Cisneros is deemed to have waived his opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based upon the investigative file. 21 CFR 1301.57.

The Administrator finds that on November 21, 1984, an anonymous caller informed a DEA Agent that an individual was laundering drug money through a Miami bar. According to state records, the bar was owned by an investment corporation. Dr. Pla-Cisneros was listed as one of the corporate officers.

On November 25, 1986, Dr. Pla-Cisneros and four individuals were arrested and charged with one count each of trafficking, possession, delivery, and conspiracy to traffic cocaine. Cocaine is a Schedule II narcotic controlled substance. At the time of the arrest, a search was conducted of the car occupied by Dr. Pla-Cisneros and the four other individuals. The search uncovered three kilograms of cocaine. One kilogram was seized from Dr. Pla-Cisneros and another individual. A second kilogram was found in a box located on the front floorboard of the car. The third kilogram was seized from an individual who had taped the cocaine to the small of his back.

Based upon the foregoing, the Administrator finds that sufficient evidence exists to conclude that Dr. Pla-Cisneros was in possession of, and intended to distribute a large quantity of cocaine. Further, there is absolutely no information to suggest that Dr. Pla-Cisneros possessed the cocaine for any legitimate medical purpose. Dr. Pla-Cisneros' unlawful activities demonstrate his total disregard for the Federal controlled substance laws under which he is registered.

A physician, because of his training and experience, must be aware of the awful devastation and health consequences associated with cocaine abuse. By participating in the unlawful distribution of this drug, Dr. Pla-Cisneros abandoned the trust which society placed in him as a physician as well as his responsibility, as a registrant, to safeguard the public against the illegal distribution of dangerous drugs. Therefore, the Administrator concludes that Dr. Pla-Cisneros can no longer be entrusted with the DEA Certificate of Registration.

Having considered the foregoing facts, the Administrator concludes that Dr. Pla-Cisneros' DEA Certificate of Regulation should be revoked. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 21 CFR 0.100(b), hereby orders that DEA Certificate of Registration AP9085918, previously issued to Jose Antonio Pla-Cisneros, M.D., be, and it hereby is, revoked. The Administrtor further orders that any pending applications for renewal of said registration be, and they hereby are, denied.

This order is effective immediately.

Dated: October 20, 1987.

John C. Lawn,

Administrator.

[FR Doc. 87–25343 Filed 11–2–87; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 87–53]

James B. Rivers, D.M.D., Knoxville, TN; Hearing

Notice is hereby given that on May 6, 1987, the Drug Enforcement Administration, Department of Justice, issued to James B. Rivers, D.M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Registration, BR0321896, and deny any pending applications.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, November 3, 1987, in Courtroom A–702, Kefauver Federal Building, U.S. Courthouse, 801 Broadway, Nashville, Tennessee.

Dated: October 29, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87–25412 Filed 11–2–87; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 87–61]

Richard N. Shatz, M.D., Creve Coeur, MO; Hearing

Notice is hereby given that on June 23, 1987, the Drug Enforcement Administration, Department of Justice, issued to Richard N. Shatz, M.D. an Order to Show Cause as to why the Drug Enforcement Administration should not deny your application for a DEA Certificate of Registration.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Wednesday, November 18, 1987, in Courtroom No. 2, Room 502, United States Court of Appeals, U.S. Courthouse and Custom House, 1114 Market Street, St. Louis, Missouri.

Dated: October 29, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87–25413 Filed 11–2–87; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 87–57]

Wyeth Hardy Worley, D.D.S., Bossier City, LA; Hearing

Notice is hereby given that on June 24, 1987, the Drug Enforcement Administration, Department of Justice, issued to Wyeth Hardy Worley, D.D.S., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Registration, AW3378880, and deny any pending applications.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, November 17, 1987, in Courtroom No. 211, United States Tax Court, 423 Canal Street, New Orleans, Louisiana.

Dated: October 20, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87–25414 Filed 11–2–87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of

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Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need and uses of the information collection.

Comments and Questions. Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395–6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Bureau of Labor Statistics.
CPI User Survey.
BLS 1400A, BLS 1400B, BLS 1400C.
One Response.
Individuals or households; State and Local governments; Businesses or other for-profit; Federal agencies or employees; Non-Profit institutions; Farms; Small businesses or organizations. 2,450 responses; 654 hours; 1 form.

This is a survey of the users of the Consumer Price Index.

The survey will allow BLS to develop a user profile, determine how CPI data are actually being applied, obtain opinions on how well BLS does in distributing and presenting index information, and elicit suggestions for program improvements.

Extension

Mine Safety and Health Administration.
Escape and Evaluation Plan.
1219–0046.
Semi-annually.
Businesses or other for profit; small businesses or organizations.
430 respondents; 10,320 hours.

Regulation requires development of a specific escape and evacuation plan for each underground metal and nonmetal mine.

It additionally requires revisions as mining progresses, availability to inspectors, and conspicuous posting for the benefit of affected miners. Plans are required to be reviewed every six months.

Mine Safety and Health Administration.
Fire Protection—Escape and Evacuation Plan.
1219–0051.
On occasion.
Businesses or other for profit; small businesses or organizations.
321 respondents; 1,234 hours.

Requires coal mine operators to establish and keep current a specific escape and evacuation plan to be followed in the event of a fire. The plan is used to instruct employees in the proper method of exiting work areas.

Mine Safety and Health Administration.
Ground Control Plan.
1219–0026.
On occasion.
Businesses and other for profit; small businesses or organizations.
410 respondents; 16,400 hours.

Requires operators of surface coal mines to establish and follow a ground control plan for the safe control of high-walls, pits and spoil banks which is consistent with prudent engineering design and will insure safe working conditions.

Signed at Washington, DC, this 29th day of October, 1987.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 87–25462, Filed 11–2–87; 8:45 am]

BILLING CODE 4510–43–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Allied Bendix Aerospace, et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 26th day of October 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/worker/firm	Location	Date received	Date of petition	Petition No.	Articles produced
Allied Bendix Aerospace (USWA)	Utica, NY	10/26/87	10/13/87	20,201	Aircraft accessories.
Columbia Northwest Corp. (United Cement Wkrs)	Bellingham, WA	10/26/87	9/26/87	20,202	Clinker.
Columbia Northwest Corp. Seattle Terminal (United Cement Wkrs)	Seattle, WA	10/26/87	9/26/87	20,203	Clinker.
Columbia Northwest Corp. Pasco Terminal (United Cement Wkrs)	Pasco, WA	10/26/87	9/26/87	20,204	Clinker.
Columbia Northwest Corp. Portland Terminal (United Cement Wkrs)	Portland, OR	10/26/87	9/26/87	20,205	Clinker.
Columbia Northwest Corp. Kendall Quarry (United Cement Wkrs)	Sumas, WA	10/26/87	9/26/87	20,206	Clinker.
Columbia Northwest Corp. Anchorage Terminal (United Cement Wkrs)	Anchorage, AK	10/26/87	9/26/87	20,207	Clinker.
Double A. Products (IAM)	Manchester, MI	10/26/87	10/15/87	20,208	Pumps.
Ethyl Corporation (Company)	Saymville, NJ	10/26/87	10/9/87	20,209	Chemicals.
General Electric Co. (IUE)	Rencomerstown, OH	10/26/87	10/5/87	20,210	Coils.
H&H Plastic Co., Inc. (URW)	Paramount, CA	10/26/87	10/14/87	20,211	Toys.
Murray-Ohio Corp. (Workers)	Lawrenceburg, TN	10/26/87	10/15/87	20,212	Bicycles.
National Aluminum Corp. (UEF&AMWA)	Murrysville, PA	10/26/87	10/1/87	20,213	Aluminum.
Nibco of Colorado, Incorp. (Workers)	LaJunta, CO	10/26/87	10/13/87	20,214	Copper.
Phoenix Steel Corp. (USWA)	Phoenixville, PA	10/26/87	10/13/87	20,215	Steel.
Producto Machine Co. (Company)	Bridgeport, CT	10/26/87	10/14/87	20,216	Machines.
River Cement Co. (Boilermakers)	Festus, MO	10/26/87	10/13/87	20,217	Cement.
River Cement Co. (Boilermakers)	St. Louis, MO	10/26/87	10/13/87	20,218	Cement.
Tioga Foundry Corp. (Company)	Owego, NY	10/26/87	10/16/87	20,219	Castings.

[FR Doc. 87–25463 Filed 11–2–87; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; CPT Corp. et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 19, 1987–October 23, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–20,003; CPT Corp., Chanhassen, MN

TA–W–20,092; Harris Metals, Inc., Racine, WI

TA–W–20,047; General Electric Co., Warren, OH

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–20,064; Specialty Metal Products, Edmond, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–20,053; General Motors Corp., Truck & Bus Div., St. Louis, MO

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–20,086; White Consolidated Industries, Parts Distribution Center, Columbus, OH

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–20,068; Building Technologies, Nicholasville, KY

U.S. imports of metal buildings are negligible.

TA–W–20,061; Kaiser Steel Corp., Stockton, CA

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–20,038; Allen Bradley Co., Milwaukee, WI

U.S. imports of industrial controls declined absolutely and relative to domestic shipment in 1986 compared to 1985.

TA–W–20,080; Otis Engineering Corp., Lindsay, OK

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–20,039; Allied Leather Corp., Penacook, NH

U.S. imports of tanned and finished cattlehides decreased absolutely and relative to domestic production in 1986 compared to 1985 and absolutely in January–June 1987 compared to the same period in 1986.

TA–W–20,096; Westview Health Care Center, Racine, WI

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–20,104; Lynda Lee Fashions, Inc., Rutland, VT

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–20,071; Cumberland Steel Co., Cumberland, MD

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–20,040; Allied Leather Corp., Boscawen, NH

U.S. imports of tanned cattlehide splits decreased absolutely and relative to domestic production in 1986 compare to 1985 and in January–June 1987 period compared to the same period in 1986.

Affirmative Determinations

TA–W–20,045; Eastland Woolen Mill, Inc., Corinna, ME

A certification was issued covering all workers of the firm separated on or after July 1, 1987.

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TA-W-20,063; Mosbasher Energy Co., Houston, TX

A certification was issued covering all workers of the firm separated on or after August 15, 1986.

TA-W-20,076; Malouf Manufacturing Co., Whitesboro, TX

A certification was issued covering all workers of the firm separated on or after Augsut 13, 1986 and before March 28, 1987.

TA-W-20,050; General Motors Corp., BOC Clark St., Detroit, MI

A certification was issued covering all workers of the firm separated on or after August 17, 1986.

TA-W-20,051; General Motors Corp., BOC Fleetwood, Detroit, MI

A certification was issued covering all workers of the firm separated on or after August 17, 1986.

TA-W-20,075; L. Farber Co., Worcester, MA

A certification was issued covering all workers of the firm separated on or after Augsut 21, 1986.

TA-W-20,008; General Electric Co., Lynn, MA

A certification was issued covering all workers of Lynn Turbine Division separated on or after July 28, 1986.

I hereby certify that the aforementioned determinations were issued during the period October 19, 1987–October 23, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: October 27, 1987.

[FR Doc. 87-25464 Filed 11-2-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,998]

Dismissal of Application for Reconsideration; Phoenix Abrasive & Manufacturing, Jamaica, NY

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Phoenix Abrasive & Manufacturing, Jamaica, New York. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-19,998; Phoenix Abrasive & Manufacturing, Jamaica, New York (October 27, 1987.)

Signed at Washington, DC, this 28th day of October 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-25465 Filed 11-2-87; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket NO. M-87-210-C]

BethEnergy Mines Inc.; Petition of Application of Mandatory Safety Standard

BethEnergy Mines Inc., 7012 MacCorkle Avenue SE., Charleston, West Virginia 25304 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its mine No. 131 (I.D. No. 46-01288) located in Boone County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concern the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use air from belt haulage entries to ventilate active working places.

3. In support of this request, petitioner proposes to install an early warning fire detection system. A low-level carbon monoxide (CO) detection system will be installed in all belt entries used as intake aircourses and at each belt drive and tailpiece. The monitoring devices will be capable of giving warning of a fire for four hours should the power fail; a visual altert signal will be activated when the CO level is 10 parts per million (ppm) above ambient air and an audible signal will sound at 15 ppm above ambient air. All persons will be withdrawn to a safe area at 10 ppm and evacuated at 15 ppm. The fire alarm signal will be activated at an attended surface location where there is two-way communication. The CO system will be capable of identifying any activated sensor and for monitoring electrical continuity to detect any malfunctions.

4. The CO system will be visually examined at least once each coal-producing shift and tested for functional operation weekly to insure the monitoring system is functioning properly. The monitoring system will be calibrated with known concentrations of CO and air mixtures at least monthly.

5. If the CO monitoring system is deenergized for routine maintenance or for failure of a sensor unit, the belt conveyor will continue to operate and qualified persons will patrol and monitor the belt conveyor using hand-held CO detecting devices.

6. In further support of this request, petitioner states that the resultant use of belt line entries as intake aircourses will be an increase in the overall intake capacity of the mine by minimizing intake pressure losses, and provide more positive ventilation overall in both developing faces and across projected job areas. The accumulation of mine gases will be reduced, the control of dust in face areas will be enhanced and possible neutral zones along belt haulage entries will be eliminated.

7. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 3, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 23, 1987.

[FR Doc. 87-25466 Filed 11-2-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-214-C]

Quarto Mining Co., Petition for Modification of Application of Mandatory Safety Standard

Quarto Mining Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1003-(2)(f) (requirements for movement of off-track mining equipment in areas of active workings where energized trolley wires or trolley feeder wires are present; pro-movement requirements; certified and qualified persons) to its Powhatan No. 4 Mine (I.D. No. 33-01157) located in Monroe County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a minimum vertical clearance of 12 inches be maintained between the farthest projection of the unit of equipment which is being moved and the energized trolley wires or trolley feeder wires at all times during the movement or transportation of such equipment.

2. Petitioner states that the mine is requesting relief only for movement of longwall shields. The longwall shields, when collapsed and loaded onto equipment dollies for moving are lower than the normal rolling stock, i.e., mine cars. Twelve inches of radial clearance is provided from all trolley wires for shields on dollies. All fire resistant fluid that can be removed from the shields without disassembly is removed prior to transporting them.

3. As an alternate method, petitioner states that prior to moving a shield which has been loaded on a dolly past energized trolley wires, the following procedures will apply:

(a) When the shields are fully collapsed and loaded for movement on the equipment dolly, measurements will be taken to verify that they are lower than rolling stock;

(b) The top and wire side of each shield will be covered with fire resistant material;

(c) The shields and dollies will be examined by a certified person to ensure that coal dust, float dust, loose coal, oil, grease, and other combustible materials have been cleared up and not permitted to accumulate on either unit;

(d) The shield will be effectively grounded to the dolly;

(e) A qualified person will examine the trolley wires, trolley feeder wires, and associated automatic circuit interrupting devices for the entire route to ensure proper short circuit protection exists;

(f) A mine car will be transported over the entire route to physically assure all crossings and clearances;

(g) All shields will be securely anchored to the equipment dolly to prevent shifting and/or separation from the dolly.

(h) Any shield which does not meet the requirements of paragraph 3(a) above will be moved in full compliance with the standard; and

(i) All personnel involved with the move will be reinstructed as to the new procedure.

4. Petitioner states that the proposed alternate will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 3, 1987. Copies of the petition are available for inspection at that address.

Dated: October 23, 1987.

Patricia W. Silvey,

Acting Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-25467 Filed 11-2-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-206-C]

Sandy Fork Mining Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Sandy Fork Mining Company, Inc., P.O. Box 68, Beverly, Kentucky 40913 has filed a petition to modify the application of 30 CFR 75.1605(k) (berms or guards) to its No. 10 Mine (I.D. No. 15-12397) located in Leslie County, Kentucky, and its No. 8 Mine (I.D. No. 15-15519) located in Bell County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be provided on the outer banks of elevated roadways.

2. Petitioner states that application of the standard would result in a diminution of safety to the miners affected because more than half of the haulage roads are county and state roads which do not have berms or guards and are more hazardous than the petitioner's roads. Berms would prevent the removal of snow and ice from the roadways, causing the road surface to deteriorate.

3. As an alternate method, petitioner states that—

(a) All equipment operators will be trained in the use of haulage equipment and the safety of vehicles on haulage roads;

(b) All haulage vehicles will have original manufacturers brakes, engine or Jacob brakes, and an emergency (parking) braking system;

(c) Roadway surfaces will be kept free of debris, excessive water, snow, and ice, and maintained as free as practicable of small ditches (washboard effects);

(d) Warning signs will be posted designating curves, steep grades, where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs will be posted where one road intersects another, giving main haulage traffic the right-of-way, and signs will be posted designating passing points;

(e) A traffic system will be put into use for these roads requiring that loaded trucks have the right of way on the highwall side of roads regardless of their direction of travel; and

(f) Adequate supplies of crushed stone or other suitable material will be stored at strategic locations along the haulage roads for use when road surfaces become slippery.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 3, 1987. Copies of the petition are available for inspection at that address.

Dated: October 23, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-25468 Filed 11-2-87; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

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DATE: Comments on this information collection must be submitted by December 3, 1987.

ADDRESSES: Send comments to Miss Elaina Norden, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Mr. Murray Welsh, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506; (202–682–5401).

FOR FURTHER INFORMATION CONTACT: Mr. Murray Welsh, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506; (202–682–5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests a review of the revisions of two currently approved collections. The entries are issued by the Endowment and contain the following information: (1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Music Presenters and Festivals Application Guidelines FY 1989.
Frequency of Collection: One-time.
Respondents: State or local governments, non-profit institutions.
Use: Guideline instructions and applications elicit relevant information from state or local arts agencies and nonprofit organizations that apply for funding under specific Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.
Estimated Number of Respondents: 384.
Estimated Hours for Respondents to Provide Information: 15,552

Title: Design Arts Application Guidelines FY 1989.
Frequency of Collection: One-time.
Respondents: Individuals, state or local governments, non-profit institutions.
Use: Guideline instructions and applications elicit relevant information from individual artists, state or local arts agencies, and non-profit organizations that apply for funding under specific Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.
Estimated Number of Respondents: 831.
Estimated Hours of Respondents to Provide Information: 28,472.

Murray R. Welsh,
Director, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 87–25429 Filed 11–2–87; 8:45 am]
BILLING CODE 7537–01–M

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Care of Collection Section) to the National Council on the Arts will be held on November 18–20, 1987, from 9:00 a.m.—5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,
Acting Director, Council and Panel Operations, National Endowment for the Arts.
October 27, 1987.

[FR Doc. 87–25353 Filed 11–2–87; 8:45 am]
BILLING CODE 7537–01–M

Inter-Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Challenge III Section) to the National Council on the Arts will be held on November 20, 1987, from 9:00 a.m.–5:30 p.m. in room M–14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,
Acting Director, Council and Panel Operations, National Endowment for the Arts.
October 27, 1987.

[FR Doc. 87–25354 Filed 11–2–87; 8:45 am]
BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Decay Heat Removal Systems; Meeting

The ACRS Subcommittee on Decay Heat Removal Systems will hold a meeting on November 17, 1987, Room 1046, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Tuesday, November 17, 1987—1:00 p.m. Until the Conclusion of Business.*

The Subcommittee will discuss: (1) The decision by Toledo Edison not to install a dedicated blowdown system at Davis Besse; (2) implications of secondary side water level control in B&W OTSGs vis-a-vis operator actions in accident situations; and (3) implications of the Diablo Canyon loss of shutdown cooling event vis-a-vis lack of steam generator water box vents.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 29, 1987.
Gary R. Quittschreiber,
Chief, Project Review Branch #2.

[FR Doc. 87–25436 Filed 11–2–87; 8:45 am]
BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Thermal Hydraulic Phenomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on November 18 and 19, 1987, Room 1046, 1717 H Street, NW., Washington, DC.

Most of the meeting will be open to public attendance. A portion of the meeting may be closed to permit discussion of material that would not otherwise be available to the Subcommittee regarding the FY 1989 budget and future spending projections.

The agenda for the subject meeting shall be as follows:

Wednesday, November 18, 1987—8:30 a.m. Until the Conclusion of Business.
Thursday, November 19, 1987—8:30 a.m. Until the Conclusion of Business.

The Subcommittee will review key elements of NRC RES's 5-Year Thermal Hydraulic Research Program for input to an ACRS report on thermal hydraulic research. The Subcommittee will also discuss the status of NRC's action on the issue of a potentially unanalyzed LB LOCA scenario.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: October 29, 1987.
Gary R. Quittschreiber,
Chief, Project Review Branch #2.

[FR Doc. 87–25437 Filed 11–2–87; 8:45 am]
BILLING CODE 7590–01–M

Proposed Availability of Fiscal Year 1988 Funds for Financial Assistance To Enhance Technology Transfer and Dissemination of Nuclear Energy Process and Safety Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The Nuclear Regulatory Commission (NRC), Office of Nuclear Regulatory Research announces proposed availability of FY 1988 funds for grants to support professional meetings, symposia, conferences, national and international commissions and publications for the expansion, exchange and transfer of knowledge, ideas and concepts directed toward the research necessary to provide a technology base to assess that safety of nuclear power (hereinafter called project). NRC has increased its emphasis on providing grants to a broader range of research projects. Funding of grants to universities will be limited to a total of approximately $1,000,000.00.

Projects will be funded through grants.

EFFECTIVE DATE: November 1, 1987 through September 30, 1988. Grant applications submitted earlier in the fiscal year have a greater likelihood of receiving FY 88 funding because of the ceiling on the total amount of grants to educational institutions.

ADDRESS: Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contract, Office of Administration and Resources Management, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: The cognizant NRC grant official is Mr. Ronald Thompson, telephone (301) 492–4322.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1986, the Nuclear Regulatory Commission (NRC) published in the **Federal Register** (51 FR 40362) a notice that announced the proposed availability of FY 87 funds for financial assistance to enhance techology transfer and dissemination of the nuclear energy process and safety information. The NRC is revising that notice to emphasize its desire to receive grant proposals from education institutions in a variety of program areas during FY 88.

A. Scope and Purpose of this Announcement

Pursuant to sections 31.a. and 141.b. of the Atomic Energy Act of 1954, as amended, the NRC's Office of Nuclear Regulatory Research proposes to support educational institutions, nonprofit institutions, state and local governments, and professional societies through providing funds for expansion, exchange and transfer of knowledge, ideas and concepts directed toward the research program. The program includes, but is not limited to, support of professional meetings, symposia, conferences, national and international commissions, and publications. The primary purpose of this will be to stimulate research to provide a technological base for the safety assessment of systems and subsystems technologies used in nuclear power applications. The results of this program

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will be to increase public understanding relating to nuclear safety, to pool the funds of theoretical and practical knowledge and technical information, and ultimately to enhance the protection of the public health and safety.

NRC specifically encourages educational institutions to submit proposals in the following areas:

• Development of advanced computational methods for solving dynamic problems in nuclear reactor coolant systems under accident conditions;

• Severe accident evaluation including, high temperature chemistry of severe accident reactor radionuclides; advanced thermal hydraulic modeling of fluids including combustible gases and molten core materials in reactor primary systems during severe accidents;

• Advanced demographic models or statistical methods to predict population density and distribution around future power reactor sites;

• High temperature material interactions during severe accidents (e.g., core-concrete, core debris/vessel components);

• Steam explosions in reactors during severe accidents;

• Human factors evaluation including, criteria and guidelines to determine the risk reduction from application of human factors requirements on Nuclear Power Plant operations and maintenance;

• Methods for the nuclear industy to use the growing pool of human performance data;

• Development of methodology for Risk and Reliability Analysis of closed loop control systems including advanced digital based control systems;

• Nuclear Power Plant Aging and Residual Lifetime Evaluation, including:

—methods to analyze and understand aging effects, improved examination and testing methods for determining condition of structures, and components, and methods to assess residual lifetime of structures and components;

• Mechanical and Structural Engineering including:

—methods for assuring component structural reliability, realistic methods to define the probabilities of radioactive release due to earthquakes;

• Materials Engineering including:

—methods for assuring integrity of the primary system, i.e., pressure vessels, piping, steam generator tubing;

• Chemical Engineering including:

—methods to establish and validate decommissioning criteria, and effects of water chemistry on the primary system integrity;

• Waste Management including:

—methods for evaluating salt, basalt, and tuff sites for high-level waste disposal;

• Radiation Protection:

—design concepts to increase the safety of industrial radiography devices;

—improved instrumentation or techniques for measuring radiation dose and dose rates, especially from small radioactive particles;

—methods for contamination prevention, measurement and control;

—improved radiological air sampling methology;

• Radiation Health Effects:

—investigation of the types, sensitivity and linearity of various biological effects of radiation that could be used as biological dosimeters;

—metabolism of radionuclides and their compounds relative to calculation of internal dose;

—investigation of placental transfer of, and fetal doses from radionuclides incorporated by the pregnant worker;

—investigation of the efficacy of radio protective agents;

• Develop Methodology for implementation of a nonprescriptive regulatory process at NRC, considering such factors as:

—What would be the most effective framework?

—Pros/cons and practice aspects of its implementation.

—What would have to be changed in NRC's current process and legislation to implement such a change?

• Develop a method for prioritizing NRC research programs, considering such factors as:

—Potential risk reduction resulting from the research.

—Cost of the research.

—Uncertainty reduction resulting from the research.

B. Eligible Applicants

Educational institutions, nonprofit entities, State and local governments and professional societies are eligible to apply for a grant under this announcement.

C. Factors Generally Indicating Support Through Grants

The NRC's benefit from the results of grants should be no greater than for other interested parties, i.e., the public must be the primary beneficiary of the work performed. For example, surveys, studies, or research which provide specific information or data necessary for the NRC to exercise its regulatory or research mission responsibilities should be obtained by procurement contracts.

a. The primary purpose is to aid or support the development of knowledge or understanding of the subject of phenomena under study.

b. The exact course of the work and its outcome are not defined precisely and specific points in time for achievement of significant results may not be specified.

c. NRC desires that the nature of the proposed investigation be such that the recipient will bear prime responsibility for the conduct of the research and exercise judgment and original thought toward attaining the scientific goals within broad parameters of the proposed research areas and the resources provided.

d. Meaningful technical reports (as distinguished from Semi-Annual Status Reports) can be prepared only as new findings are made, rather than on a predetermined time schedule.

e. Simplicity and economy in execution and administration are mutually desirable.

D. Research Proposals

A research proposal should describe: (i) The objectives and scientific significance of the proposed research project or conference; (ii) the methodology to be proposed or discussed, and its suitability; (iii) the qualifications of the participants and the proposing organization; and (iv) the level of financial support required to perform the proposed effort.

Proposals should be as brief and concise as is consistent with communication to the reviewers. Neither unduly elaborate applications nor voluminous supporting documentation is desired.

State and local governments shall submit proposals utilizing the standard forms specified in Office of Management and Budget (OMB) Circular A–102, Attachment M. Nonprofit organizations, universities, and professional societies shall submit proposals utilizing the standard forms stipulated on OMB Circular A–110, Attachment M.

The format used for project proposals should give a clear presentation of the proposed project and its relation to the specific objectives contained in this notice. Each proposal should follow the format outlined below unless the NRC specifically authorizes exception.

1. *Cover Page.* The Cover Page should be typed according to the following format (submit separate cover pages if the proposal is multi-institutional):

Title of Proposal—To describe the research or conference;
Name of Principal Investigators for research or participants for conferences;
Total Cost of Proposal;
Period of Proposal;
Organization or Institution and Department;
Required Signatures:
Principal Participants:
Name:
Date:
Address:
Telephone No.:
Required Organization Approval:
Name:
Date:
Address:
Telephone No.:
Organization Financial Officer:
Name:
Date:
Address:
Telephone No.:

2. *Project Description.* Each proposal shall provide, in ten pages or less, a complete and accurate description of the proposed project. This section should provide the basic information to be used in evaluating the proposal to determine its priority for funding.

Applicants must identify other proposed sources of financial support for a particular project.

The information provided in this section must be brief and specific. Detailed background information may be included as supporting documentation to the proposal.

The following format shall be used for the project description:

(a) Project Goals and Objectives

The project's objectives must be clearly and unambiguously stated.

The proposal should justify the project including the problems it intends to clarify and the development it may stimulate.

(b) Project Outline:

The proposal should show the research plan or conference agenda, including a list of principal areas or topics to be addressed.

(c) Project Benefits:

The proposal should indicate the direct and indirect benefits that the project seeks to achieve and to whom these benefits will accrue.

(d) Project Management:

The proposal should describe the physical facilities required for the conduct of the project. Further, the proposal should include brief biographical sketches of individuals responsible for planning the project.

(e) Project Costs:

Nonprofit organizations shall adhere to the cost principles set forth in OMB Circular A–122; Educational Institutions shall adhere to the cost principles set forth in OMB Circular A–21; and state and local governments shall adhere to the cost principles set forth in OMB Circular A–87.

The proposal must provide a detailed schedule of project costs, identifying in particular:

(1) Salaries—in proportion to the time or effort directly related to the project;

(2) Equipment (rental only);

(3) Travel and Per Diem/Subsistence in relation to the project;

(4) Publication Costs;

(5) Other Direct Costs (specify)—e.g., supplies or registration fees;

Note—Dues to organizations, federations or societies, exclusive of registration fees, are not allowed as a charge.

(6) Indirect Costs (attach negotiated agreement/cost allocation plan); and

(7) Supporting Documentation. The supporting documentation should contain any additional information that will strengthen the proposal.

E. Proposal Submission and Deadline

This notice is valid for Federal Government Fiscal Year 1988 (October 1, 1987 to September 30, 1988). Potential grantees are advised, however, that due to the limited funding available for NRC grants, proposals received after May 1, 1988 may not be considered for funding in Fiscal Year 1988.

F. Funds

For Fiscal Year 1988, the U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research anticipates making a total of approximately $1,000,000.00 available for funding the project(s) mentioned herein.

The NRC anticipates that approximately 15 to 25 projects will be funded.

G. Evaluation Process

All proposals received as a result of this announcement will be evaluated by an NRC review panel.

H. Evaluation Criteria

The award of NRC grants is discretionary. Generally, projects are supported in order of merit to the extent permitted by available funds.

—Evaluation of proposals for professional meetings, conferences, symposia, etc. will employ the following criteria:

1. Potential usefulness of the proposed project for the advancement of scientific knowledge;

2. Clarity of statement of objectives, methods, and anticipated results;

3. Range of issues covered by the meeting agenda;

4. Qualifications and experience of project speakers; and

5. Reasonableness of estimated cost in relation to anticipated results.

—Evaluation of proposals for research will employ the following criteria:

1. Technical adequacy of the investigators and their institutional base;

2. Adequacy of the research design;

3. Scientific significance of proposal;

4. Utility or relevance; and

5. Reasonableness of estimated cost in relation to the work to be performed and anticipated results.

I. Disposition of Proposals

Notification of award will be made by the Grants Officer and organizations whose proposals are unsuccessful will be so advised.

J. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from or submitted to:

U.S. Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts, AR–2223, Office of Administration and Resources Management, Washington, DC 20555.

The address for hand-carried applications is: U.S. Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts, Office of Administration and Resources Management, Room 2223, 4550 Montgomery Avenue, Bethesda, MD 20814.

Nothing in this solicitation should be construed as committing the NRC to dividing available funds among all qualified applicants.

Dated at Washington, DC, this 27th day of October 1987.

For the U.S. Nuclear Regulatory Commission.

Ronald D. Thompson,

Chief, Contract Negotiations Branch No. 2, Division of Contracts, Office of Administration and Resources Management.

[FR Doc. 87–25441 Filed 11–2–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–352–OLA (TS Iodine); ASLBP No. 87–550–03–OLA]

Philadelphia Electric Co., Limerick Generating Station, Unit 1; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721, the Atomic Safety and Licensing Board for Philadelphia Electric Company (Limerick Generating Station, Unit 1), Docket No. 50–352–OLA, is

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hereby reconstituted by appointing Administrative Judge George A. Ferguson in place of Administrative Judge Peter A. Morris, who retired.

As reconstituted, the Board is comprised of the following Administrative Judges:

Sheldon J. Wolfe, Chairman
Dr. Richard F. Cole
Dr. George A. Ferguson

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Judge George A. Ferguson, 1939 Shepherd Street NW., Washington, DC 20011.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

Issued at Bethesda, Maryland, this 28th day of October 1987.

[FR Doc. 87-25438 Filed 11-2-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25056; File No. SR-Amex-87-26]

Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Accelerated Approval to Proposed Rule Change by the American Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice is hereby given that on October 13, 1987, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or "Exchange") proposes to expand its automatic execution system ("AUTO-EX") to all equity options and to continue on a permanent basis the use of AUTO-EX in competitively traded options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basic for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

AUTO-EX is an automated execution system that enables member firms to route public customer market and marketable limit orders in options for automatic execution at the best bid or offer at the time the order is entered. If the best bid or offer is on the specialist's book, the incoming order is routed to the specialist's post where it is executed against the book order, thus assuring public customers' orders on the book retain priority over orders in the crowd. If the best bid or offer is not on the specialist's book, the contra side of the AUTO-EX trade is assigned on a rotation basis to either one of the Amex Registered Option Trades who have signed on the system or to the specialist.

The Commission recently approved the Exchange's proposal to increase the number of contracts that can be executed through AUTO-EX from 10 to 20 (see SR-AMEX-87-21; Release No. 34-24899).

Since its initial implementation in December 1985, AUTO-EX has been extended (i) to full-time use in selected series of Major Market Index (XMI) options, (ii) to use during periods of extremely high order flow in stock options and (iii) to use in selected competitively traded stock options.[1] Overall, member firms have been supportive of these various applications of AUTO-EX and the Member Firm Floor Advisory Committee, representing the major wire houses, has urged the Exchange to make AUTO-EX more generally available for stock options.

The Exchange initially plans to extend AUTO-EX to a select group of equity options in order to determine how to best implement AUTO-EX on a floor-wide basis. The Exchange, however, seeks the right to expend the use of AUTO-EX to any additional equity options it designates.

In July 1987, the Exchange received approval, on a 90-day pilot basis, to use the AUTO-EX system, on a case-by-case basis, to accommodate competitive trading situations. Application of the Exchange's AUTO-EX system to such competitive situations has permitted the Exchange to provide member firms and their customers with efficient execution of dually traded stock options. A competitive trading situation is one where another options exchange can trade the same option as is traded on the AMEX.

The Exchange believes the eventual expansion of the AUTO-EX system to all options and the continuation of the use of AUTO-EX system in competitive trading situations is necessary for it to remain competitive with other marketplaces and to attract sufficient order flow to enable the maintenance of viable markets.

Therefore, the proposed rule change is consistent with section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Options Committee, a committee of the AMEX Board of Governors comprised of members and representatives of member firms, has endorsed the proposed rule change.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

With respect to the continuation of the use of the AUTO-EX system in competitive trading situations, the Commission has determined that it is appropriate to grant partial accelerated approval, extending such for an additional 120 days. The Commission had previously approved, on a 90-day pilot basis, the use of the AUTO-EX system to accommodate competitive trading situations.

As noted in the Commission's previous 90 day approval of the use of the Auto-Ex for competitively traded options, the Commission believes that the operation of Auto-Ex in these options will not negatively affect public customer limit orders since these orders will not be bypassed by the operation of Auto-Ex. The Commission notes that these options will receive the customary limit order protection afforded public customer orders placed on the book.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the Exchange previously has demonstrated the operational efficiencies of Auto-Ex for an extended period. Approval of this portion of the proposed rule change will enable Amex to continue the use of Auto-Ex for competitively traded options while the Commission considers approval of the use of Auto-Ex for all equity options.

The date of effectiveness and timing for Commission action, with respect to the expansion of the AUTO-EX system to all equity options, shall be within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commisson and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 24, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 23, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25902 Filed 11-2-87; 8:45 am]

BILLING CODE 8010-01-M

[1] See SEC Release No. 34-23544; dated August 27, 1986; approving SR-AMEX-86-16 to use AUTO-EX on a permanent basis in XMI options; SEC Release 34-24228, dated March 18, 1987, approving SR-AMEX-87-4 to use AUTO-EX during emergency situations and SEC Release No. 34-24714, dated July 17, 1987, approving SR-AMEX-87-19 to use AUTO-EX in competitively traded options on a 90-day pilot basis.

[Release No. 34-25063; File No. SR-CBOE 87-46]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice is hereby given that on October 5, 1987, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Trading Halt Policy Options on Individual Equity Securities Chicago Board Options Exchange, Inc.

Trading halts are, by definition, unusual market conditions. Accordingly, all of the precise circumstances of a trading halt cannot be anticipated. Judgment of all the circumstances at the time a trading halt is under consideration is critical. Except as provided below, to assure consistent application of the Exchange's trading halt policy, the concurrence of two floor officials and a senior Exchange staff official is required. Bearing in mind the need to exercise discretion in response to particular circumstances as they occur, the following are guidelines for trading halts at the Exchange under varying circumstances:

1. *No last sale and/or quotation dissemination either by the Exchange or by OPRA.* At the outset, a time-critical review by two floor officials and a senior Exchange staff official will be made of the circumstances causing the failure of dissemination. If it is believed by this group that the dissemination will resume in less than 15 minutes, trading will continue and a message will be given to the news wire services announcing the dissemination difficulty. If it is believed by this group that the dissemination problem will extend beyond 15 minutes, ordinarily a halt will be imposed on all trading in affected securities; trading will resume 15 minutes after notification to the news wire services.

2. *Primary market halts trading in one or more stocks for regulatory reasons.* Trading in the individual stock option overlying a stock which has been halted for regulatory reasons will halt immediately upon the notification thereof by the primary market. Trading will resume upon notification that the underlying security trading has resumed in the primary market. These decisions may be made by two concurring floor officials.

3. *Primary market non-regulatory trading halt in one or more individual equity securities.* Upon notification by the primary market of a non-regulatory trading halt of an individual equity security in the primary market, trading in the individual stock option overlying the security so halted will be halted as well. In the event that trading activity elsewhere is sufficient, as measured by transaction and share volume, to support trading in the overlying option, trading will be resumed prior to resumption of trading of the underlying security in the primary market 15 minutes after notification to the wire services. Trading will also be resumed immediately upon resumption of trading in the underlying security on the primary market. These decisions may be made with the concurrence of two floor officials.

4. *The primary market halts trading floor-wide.* If the primary market halts trading floor-wide, the Exchange will halt trading in all individual equity options and will assess the viability of markets in the underlying securities elsewhere, as measured by transactions and by share volume. In the event that it is determined by two floor officials, with the concurrence of a senior staff official, that sufficient markets will support trading other than at the primary exchange, the Exchange will resume trading upon one hour notification to the news wire services.

5. *Primary market is open but is unable to disseminate last sale or quotation information.* The Exchange's options trading will remain open for trading unless, in the opinion of two floor officials, the absence of disseminated information will imped

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the ability of market-makers to maintain fair and orderly markets in the options. The concurrence of a senior Exchange staff official is required if more than one option class is affected.

6. *Over-the-counter quote dissemination halt.* Trading in options of overlying over-the-counter securities affected by such a quote dissemination halt will be halted upon first notification of the dissemination halt. Resumption of trading will commence if, in the opinion of two floor officials there is sufficient trading activity, as measured by transactions and share volume, and information available to resume trading. Trading will resume 15 minutes after notification to the news wire services. The concurrence of a senior Exchange staff official is required if more than one option class is affected.

7. *Expiration Friday trading in individual equity options.* In the event that any of the foregoing should occur on expiration Friday, it is the preference of the Exchange to allow trading to continue on that date. This will be a primary consideration in the assessments to be made by the floor officials and the senior Exchange staff official.

8. *Dissemination of news after the close of trading in the primary market.* In the event of disseminated news which causes the Exchange to believe that trading in options should be halted to allow market participants an opportunity to consider the effect of the news on pricing of trades, the Exchange will halt trading. Two floor officials and a senior Exchange official will then decide whether and, if so, when to recommence trading. This may occur after the primary market of the underlying security has closed for the day, in which event, the decision may be not to resume trading until the next trading day or to have a closing rotation after appropriate notification to the public.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change.

The purpose of the proposed rule change is to provide members with a circular on the Exchange's existing trading halt policy for options on individual equity securities. The authority for trading halts is derived from Exchange Rule 6.3.

The Commission staff urged the exchanges to develop a uniform trading halt policy. This policy reflects an effort by this Exchange to develop such a uniform policy. To that end, the Exchange solicited the views of representatives of member firms and the American, New York, Pacific and Philadelphia Stock Exchanges, and met with the Exchange's Floor Procedure Committee and the American Stock Exchange's Options Committee.

The policy generally reflects the view that so long as viable trading in the underlying security exists, options market participants should not be disabled from trading options. The policy also builds in the step of taking responsible steps to notify market participants of dissemination or other technical difficulties.

The policy notes that the Exchange has an overriding preference to allow market participants to trade options on the last trading day prior to expiration, since this is the last opportunity to trade out of a position prior to expiration.

The policy provides for imposing a trading halt upon the dissemination of news after the close of trading in the primary market.

Finally, it should be noted that any trading halt policy, including this one, must be responsive to particular circumstances which may arise in any possible trading halt situation. Thus, the policy can only provide guidance and must allow for the exercise of judgment and discretion in each instance.

The Exchange believes that the proposed rule in consistent with the provisions of the Securities Exchange Act of 1934, the rules and regulations promulgated thereunder, and in particular section 6(b)(5) in that the rule increases market efficiency and enhances rule compliance.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The policy was the subject of comments by the Floor Procedure Committee, and representatives of member firms and other exchanges. The Exchange believes that the policy reflects a reasonable consensus of the views expressed by these commentators.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 24, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 26, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-75903 Filed 11-2-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8963]

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; The Home Insurance Company

October 28, 1987.

The Home Insurance Company ("Company") has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration on the American Stock Exchange, Inc. ("Amex"). The Company's $2.95 Cumulative Preferred Stock, Series A, Par Value $1.00, is also listed and actively traded on the New York Exchange ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration inlcude the following: In making the decision to withdraw its Preferred Stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its Preferred Stock on the NYSE and the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its Preferred Stock.

Any interested person may, on or before November 19, 1987, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, it any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25405 Filed 11-2-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25065; File No. SR-NASD-87-40]

Self-Regulatory Organizations; Proposed Rule Change by the National Association of Securities Dealers, Inc.,

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 7, 1987, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule change

The National Association of Securities Dealers, Inc. ("NASD") hereby files, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, for Commission authorization to initiate a joint Pilot Program with the Stock Exchange of Singapore ("SES"). The Pilot Program is scheduled to be fully operational on December 1, 1987 [1] and continue for a two-year term. The first phase of the pilot program encompasses the collection and dissemination of final trading information on 35 NASDAQ stocks after the close of trading in each market center. Because of the thirteen hour time difference (twelve hours during Eastern Daylight Time), there is no overlap in the trading hours of the SES and NASD markets. For this reason, the end-of-day information to be exchanged under the Pilot Program will mainly assist in establishing opening prices the following day. The Pilot Program's operation will not include automated order routing and execution capabilities.[2] The terms of substance of the proposed Pilot Program are set forth below.

Scope of the Pilot Program

This proposed relates to the SES's initiative to develop a new Foreign Equities Market patterned after the competing dealer model of the NASDAQ system. This new market will share the architecture and facilities of the SESDAQ system.[3] The Pilot Program contemplates that 35 NASDAQ securities will be eligible for quotation in the SES Foreign Equities Market by certain Singapore dealers. Only these securities will be subject to the two-way transmission of closing market information specified under the Pilot Program. Hence, the intent is to develop a Singapore dealer market in these securities while the NASDAQ market is closed. The activity in the SES Foreign Equities Market for these 35 issues will be reflected in the closing market data transmitted to the NASD, which data will be accessible to all NASDAQ Level ⅔ subscribers. Because of the thirteen hour time difference between Singapore and Eastern Standard Time in the U.S., the receipt of closing SES (NASDAQ) data on the 35 Pilot securities will mainly benefit NASDAQ (SES) market makers who would be preparing to establish their opening markets in those securities. Hence, the Pilot linkage consists of two daily transmissions of static information, one by each market, after the close of the respective SES and NASDAQ market in the subject securities. These transmissions will be effected via international electronic mail with an equal split of the costs between the NASD and SES.

Although the proposed linkage has been designated a Pilot Program, it is anticipated that both the extent and use of the shared information and access to the facilities operated by the other party may be explanded upon further written agreement of the NASD and SES.[4] One fact of this undertaking will be to explore the potential for trading linkages and the concurrent development of suitable inter-market regulatory programs. Of course, the latter would occur under the auspices of the Monetary Authority of Singapore (MAS) and the Commission. In the interim, the NASD and SES have entered into an agreement to share regulatory information as needed. This is believed

[1] On or about November 16, 1987, the NASD will begin to test its capacity to transmit Pilot Program information to the SES. It is anticipated that the corresponding SES information will not be available until December 1, 1987, the effective date of regulations establishing certain reporting requirements for Singapore dealers. Hence, the latter date was chosen to initiate the instant Pilot Program.

[2] It is likely that such capabilities will be developed at a later phase of the Pilot Program. Any changes in the Pilot Program would have to be filed as proposed rule changes under section 19(b) of the Act.

[3] SES facilities also support the "Main Board," a floor-based stock exchange providing a market for about 317 listed companies. Currently, 24 full members are active in the "Main Board" of the SES. The SESDAQ system was designed to provide a separate dealer market for newly privatized or less seasoned companies that were not yet eligible for listing on the Main Board. It should be noted, however, that the SES Foreign Equities Market is distinct from the SESDAQ Market, though accessible through SESDAQ terminals.

[4] Any future modifications of the Pilot Program must be submitted to the Commission for its review pursuant to section 19(b) of the Act.

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appropriate given the nature and very limited scope of the proposed Pilot Program.

Description of Information

At the commencement of the Pilot Program, the interchange of information will be limited exclusively to the 35 NASDAQ securities chosen for the Pilot. As to each of these securities, the following data elements will be communicated after the close of the NASDAQ and SES markets, respectively:

(i) The closing quotes of each market maker;

(ii) The closing inside market;

(iii) The last reported sale (for NASDAQ/NMS issues); and

(iv) Cumulative volume for that day.

During the Pilot Program, all last sale reports and quotations will be expressed in U.S. dollars. The information received from the SES will be accessible to all NASDAQ Level ⅔ subscribers. NASD information transmitted via the linkage will be accessible to full and associate members of the SES; this universe currently numbers about 36 firms. Of this number, 12 are SES market makers. When the Pilot Program begins, it is projected that there will be about five Singapore dealers making markets in each of the designated NASDAQ issues.

Provision of the Information

The new Foreign Equities Market in Singapore will be supported by computer facilities of the SES and operate under a separate set of rules promulgated by a subcommittee of the SES Board. Market information in Pilot securities will be communicated through the linkage in the following manner. Because of the 13 hour difference between NASDAQ System time and Singapore time, the information interchange will consist of two one-way transmissions in each direction daily. At the end of the NASDAQ day, 6:00 p.m. local time in the U.S., a transmission of the NASD's information would originate in the NASDAQ system for receipt in Singapore at 7:00 a.m. local time the next day. This information would be available to Singapore dealers for establishing their opening market in the designated securities. Similarly, at the end of the trading day in Singapore, SES information in the designated securities would be collected and disseminated to the NASD at 5:00 p.m. Singapore time for receipt in the U.S. at 4:00 a.m. local time. Although the SES information would be accessible to all NASDAQ Level ⅔ subscribers, its principal value would lie with NASDAQ market makers in setting their opening prices in NASDAQ issues designated for inclusion in this linkage. A commercial electronic mail service will be used to convey the NASD/SES information described in the preceding section.

Usage and Fees

The SES will receive and disseminate NASD information through SESDAQ terminals, approximately 45 of which are in operation in Singapore, that now are utilized by 24 Main Board firms and 12 SESDAQ dealer firms. In addition, there are approximately 1,000 existing Main Board member terminals that will become eligible to receive this information or a subset thereof, during the course of the Pilot. The SES is now in the process of planning the replacement of its current Main Board terminal network with SESDAQ compatible equipment that will permit the display of NASD information. Pending that conversion, the SES has indicated its intention to provide the existing Main Board member terminal population with the capability to display a portion of the NASD information, *i.e.*, the inside quotations and last sale of the day for the Pilot securities, if system capacity limitations allow. NASD information shall be provided to the SES for display over its network under the same terms and conditions utilized by the SES to protect and preserve the integrity of its own information.

The NASD will receive and disseminate SES information through all terminals receiving either NASDAQ Level ⅔ Service or the new replacement NASDAQ Workstation Service. SES information shall be provided to the NASD for display over these terminals under the same terms and conditions utilized by the NASD to protect and preserve the integrity of its own information.

The cost of transfer of information, accomplished through two separate transmissions of information at the close of the NASD or SES trading day by means of international electornic mail, as applicable, shall be shared equally by the parties. The NASD's total telecommunication cost of transfer is currently estimated to be less than $5,000 per year. The cost of processing the information supplied to the SES by the NASD is believed to be *de minimis*, and is subsumed within that portion of processing currently performed to provide news wire services with end of day quotations, last sale information and cumulative volume in NASDAQ securities, which is currently being provided without charge to news organizations. To the extent that individual market makers' closing quoations will also be provided on approximately 35 securities, this information represents an extremely small portion of the processing utilized to provide continuously update market maker quotations throughout the trading day in a total of over 5,500 NASDAQ securities, in connection with the NASDAQ Level ⅔ and NQDS Services. Moreover, it does not appear that allocation of a specific cost to the closing market makers quotations in these thirty-five securities is practicably or economically feasible. In view of the extremely limited number of securities and the derivation of these few quotations from existing information, the cost involved in the processing of this information is believed to be *de minimis*. Accordingly, on the basis of the apparent minimal cost of providing the SES with this information and in view of the like kind SES information that will be provided to the NASD, the NASD believes that there is no compelling need to require a separate fee arrangement between the parties or between a party and the subscribers of the other party. However, nothing shall preclude future modification to this fee arrangement, upon written agreement of the parties, in the event additional information, services or costs arising under the Pilot Program would make such modification appropriate.[6]

Cooperative Regulatory Undertaking

The Pilot Program to be implemented provides for the exchange of certain information that is believed to represent a definitive first step toward greater cooperation between the SES and NASD in the evolving international securities markets and in particular between a U.S. and Far East market. The SES and NASD fully expect this Pilot Program to result in significant cooperation and coordination in the areas of information disclosure, quotation and trading halts or suspensions and resumptions, and the surveillance and investigation of trading in securities of mutual market concern.

With the initiation of the Pilot Program, each party contemplates the prioritization of, coordination with, and communication of relevant information to, the other with respect to quotation and trading halts and/or suspensions and the resumption of trading in each market. Similarly, it is contemplated that the parties will cooperate in sharing regulatory information as needed by either the SES or NASD for purposes of their surveillance and investigative responsibilities with respect to the securities included within the Pilot Program.

[6] Changes in the terms of operation of the Pilot Program would be subject to the Commission's review pursuant to section 19(b) of the Act.

In furtherance of these cooperative regulatory efforts, the NASD and the SES contemplate the exploration of joint regulatory initiatives which may include the development of uniform standards applicable to international transactions in NASD or SES securities and appropriate procedures to assure compliance with such standards by the respective members of the NASD and SES. An indication of the willingness of the SES to pursue effective and enhanced regulation is the consideration which they are now giving to implementation of trade reporting requirements in the Pilot Program securities directly comparable to those in effect in this country.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the Pilot Program is twofold. The Pilot Program will provide market participants in both the United States and Singapore with access to static information on selected securities traded in discrete dealer markets in both countries. The Pilot Program will also serve as a foundation for evaluation of the technical ramifications and regulatory implications of international securities transactions, information dissemination and clearance and settlement in the evolving international marketplace.

The statutory basis for undertaking the Pilot Program is found in section 11A(a)(1)(B) and (C), 15A(b)(6), and 17(A)(1)(B) and (C) of the Act. Subsections (B) and (C) of section 11A(a)(1) set forth the Congressional goals of achieving more efficient and effective market operations, the availability of information with respect to quotations for securities and the execution of investor orders in the best market through new data processing and communications techniques. Section 15A(b)(6) requires that the rules of the Association be designed "to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market * * *" Finally, section 17A(a)(1) sets forth the Congressional goal of linking all clearance and settlement facilities and reducing costs involved in the clearance and settlement process through new data processing and communications techniques. The NASD believes that the Pilot Program will further these ends by providing the cooperative regulatory environment and operating experience needed for potential achievement of these goals in the evolving international marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed Pilot Program will provide for the sharing of static market data on a limited group of NASDAQ securities, between the NASD and the SES on a nonexclusive basis. The NASD believes that neither the structure nor operation of the Pilot Program will impose any burden on competition. If successful, the proposed linkage may significantly improve the competitive dynamics of the international markets for these securities. To the extent that any burden on competition may be perceived, it is believed that the benefits to be derived from the cooperative regulatory undertakings contemplated and operational experience to be gained will outweigh any theoretical burden upon competition and materially advance the purposes articulated under the foregoing sections of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-87-40 and should be submitted by November 24, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: October 28, 1987.

[FR Doc. 87-25404 Filed 11-2-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2293]

Declaration of Disaster Loan Area; New York

Allegany County and the adjacent County of Steuben in the State of New York constitute a disaster loan area because of damage from severe weather resulting in flooding which occurred on September 12, 1987. Applications for loans for physical damage may be filed until the close of business on December 22, 1987, and for economic injury until the close of business on July 25, 1988, at the address listed below: Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, New Jersey 07410, or other locally announced locations.

The interest rates are:

	Percent
Homeowners With Credit Available Elsewhere	8.000

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	Percent
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses Without Credit Available Elsewhere	4.000
Businesses (EIDL) Without Credit Available Elsewhere	4.000
Other (Non-Profit Organizations Including Charitable And Religious Organizations)	9.000

The number assigned to this disaster is 229306 for physical damage and for economic injury the number is 656700.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59006)

Date: October 23, 1987.

Donald A. Clarey,

Acting Administrator.

[FR Doc. 87-25408 Filed 11-2-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program; Salt Lake City International Airport, Salt Lake City, UT

AGENCY: Federal Aviation Administration.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its finding on the noise compatibility program submitted by the Salt Lake City Airport Authority under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and non-Federal responsibilities in Senate Report No. 96-52 (1980). On June 18, 1987, the FAA determined that the noise exposure maps submitted by the Airport authority under Part 150 were in compliance with applicable requirements. On September 13, 1987, the Administrator approved the Salt Lake City International Airport noise compatibility program. Most of the program elements were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Salt Lake City International Airport noise compatibility program is September 13, 1987.

FOR FURTHER INFORMATION CONTACT: Dennis G. Ossenkop, Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM-611, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Salt Lake City International Airport, effective September 13, 1987.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatable land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such a program to be developed in consultation with interested and affected parties including the state, local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commence, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, § 150.5. Approval is not a determination concerning the acceptability or unacceptability of that land use under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA.

Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Denver, Colorado.

The Airport Authority submitted to the FAA the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted at Salt Lake City International Airport. The Salt Lake City International Airport noise exposure maps were determined by the FAA to be in compliance with applicable requirements on June 18, 1987. Notice of this determination was published in the **Federal Register** on June 29, 1987.

The Salt Lake City International Airport noise compatibility program contains a proposed noise compatibility program comprised actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 1990. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on June 18, 1987, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 20 proposed actions for noise mitigation on and off the airport and for review and monitoring of the program. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective September 13, 1987.

Outright approval was granted for 13 specific program elements. No action was taken on program elements A.3, A.6, and A.7 as they relate to flight procedures which require additional information and analysis. Program elements A.5.b and A.5.c were disapproved because they do not contribute to reducing noise over existing incompatible land uses or to preventing the introduction of additional incompatible land uses. Program element C.3.a was disapproved because it will create additional workload demands on air traffic control tower personnel. Program element C.3.b was disapproved because it may not be possible to positively commit to use of radar displays during a given month.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on September 13, 1987. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of Salt Lake City International Airport.

Issued in Seattle, Washington on September 25, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-25352 Filed 11-2-87; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-87-29]

Petition for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 23, 1987.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on October 27, 1987.

Denise D. Hall,

Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
19114	Flying Tiger Line, Inc.	14 CFR 121.547 and 121.583	To allow petitioner to carry a reporter, photographer, or journalist aboard its B-747 and DC-8 aircraft without complying with the passenger-carrying provisions of 14 CFR Part 121.
21636	United Airlines	14 CFR 121.371(a) and 121.378	To extend Exemption No. 4615A, which expires February 19, 1988, and which allows petitioner to contract with Hong Kong Aircraft Engineering Co. for maintenance, preventive maintenance, and alterations on petitioner-operated L-1011-385-3 aircraft and the engines and components of such aircraft subject to certain conditions and limitations.
25296	Ramwood, Inc.	14 CFR 135.143(b)	To allow petitioner to operate single-engine aircraft with inoperable optional instruments and equipment without a Minimum Equipment List.

[FR Doc. 87-25351 Filed 11-2-87; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 160-406 MHz Emergency Locator Transmitters (ELT); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given for the 6th meeting of the RTCA Special Committee 160 on 406 MHz Emergency Locator Transmitters (ELT) to be held on November 23-25, 1987, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's remarks; (2) Approval of the fifth meeting; (3) Review and discuss EUROCAE Working Group 29 Activities; (4) Report on potential problems of frequency interference in 406 MHz Band; (5) Review of task assignments from last meeting; (6) Review the third Draft of the MOPS; (7) New task assignments; (8) Other business; and (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 23, 1987.

John E. Turner,

Designated Officer.

[FR Doc. 87-25348 Filed 11-2-87; 8:45 am]

BILLING CODE 4910-13-M

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Radio Technical Commission for Aeronautics (RTCA); Executive Committee Meeting With International Associates

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on November 16, 1987, in the Grand Hyatt Washington, Constitution Ballroom E, 1000 H Street, NW., Washington, DC, 20001 commencing at 2:00 p.m.

The Agenda for this meeting is as follows: (1) Chairman's Remarks and Introductions; (2) Approval of the Minutes of Meeting held September 18, 1987; (3) Executive Director's report; (4) Special Committee activities report for September–October 1987; (5) Consideration of proposals to establish special committees; (6) Report on EUROCAE working group activities and forward planning; (7) Comments and reports by international associates present; (8) Other business; (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 22, 1987.

Herbert P. Goldstein,

Designated Officer.

[FR Doc. 87-25349 Filed 11-2-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: October 28, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0015
Form Number: 706
Type of Revision: Resubmission
Title: United States Estate (and Generation-Skipping Transfer) Tax Return
Description: Form 706 is used by executors to report and compute the Federal Estate Tax imposed by Internal Revenue Code section 2001, the Federal GST tax imposed by Internal Revenue Code section 2601 and the additional Estate Tax imposed by Code section 4981A. IRS uses the information to enforce these taxes and to verify that the tax has been properly computed
Respondents: Individuals or households, Businesses or other for-profit
Estimated Burden: 2,336,784 hours

OMB Number: 1545-0118
Form Number: 1099-PATR
Type of Review: Resubmission
Title: Statement for Recipients (Patrons) of Taxable Distributions Received from Cooperatives
Description: Form 1099-PATR is used to report patronage dividends paid by co-ops (Internal Revenue Code section 6044). The information is used by IRS to verify reporting compliance on the part of the recipient
Respondents: Businesses or other for-profit
Estimated Burden: 775,981 hours

OMB Number: 1545-1017
Form Number: 33
Type of Review: Resubmission
Title: Affidavit of Individual Surety on Bond
Description: Form 33 is required under Regulations 301.7101-1(b)(3)(v) to provide information on the adequacy of security of individual surety given when posting a bond. This form is attached to Form 928, Gasoline Bond.
Respondents: Individuals or households
Estimated Burden: 27 hours

Clearance Officer: Garrick Shear, (202) 535-4297, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 87-25372 Filed 11-2-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: October 28, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0001
Form Number: 7509
Type of Review: Reinstatement
Title: Air Cargo Manifest
Description: The CF 7509 is the source of information that provides for the accountability, integrity, and security of goods in air commerce that are imported into the United States
Respondents: Businesses or other for-profit
Estimated Burden: 86,466 hours
Clearance Officer: B.J. Simpson (202) 566-7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue NW., Washington, DC 20229
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 87-25373 Filed 11-2-87; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: October 15, 1987.

By direction of the Administrator.

Frank E. Lalley,

Director, Office of Information Management, and Statistics.

Extension

1. Office of Small and Disadvantaged Business Utilization
2. VAAR 819.70—Veteran-Owned and Operated Small Business Concerns
3. Exceptions to SF 18 and SF 129
4. This information is used to ensure that efforts are being made to identify veteran-owned businesses and to monitor the acquisition accomplished through veteran-owned firms
5. On occasion
6. Businesses or other for-profit; and Small businesses or organizations
7. 3,298,500 responses
8. 13,744 hours
9. Not applicable.

[FR Doc. 87-25428 Filed 11-2-87; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Veterans Administration give notice under Pub. L. 92-463 that a meeting of the Adivsory Committee on the Readjustment Problems of Vietnam Veterans will be held November 19 and 20, 1987. The purpose of the meeting is to enable the committee to have first hand experience of VA health care services for Vietnam era veterans through review of treatment units, and dissussions with VA mental health professionals and veteran patients. This meeting will be a field meeting conducted at the St. Petersburg Vet Center and Bay Pines VA Medical Center. The St. Petersburg Vet Center is located at 235 31st St. North, St. Petersburg, Florida, and the Bay Pines VA Medical Center is located at 1000 Bay Pines Boulevard, Bay Pines, Florida. The meeting on November 19 will begin at 8 a.m. and conclude at 4:30 p.m. The day's agenda will consist of direct observations of several VA treatment units and facilities to include the Stress Recovery Unit, Alcohol Dependence Treatment Unit, Mental Hygiene Clinic, and the St. Petersburg Vet Center. The meeting on November 20, will begin at 8 a.m. and conclude at 12 noon. The second day's agenda will consist of a stationary meeting at the Bay Pines VAMC in conference with several VA officials regarding overall mental health services for Vietnam era veterans. Participating VA officials include the Medical Center Director, the Chief of Staff, the Chiefs of Psychiatry, Psychology, and Social Work Services, and the Chief of Personnel Services.

The meeting will be closed from 8 a.m. to 4:30 p.m. on Thursday, November 19, in accordance with provisons cited in 5 U.S.C. 552b(c)(6). during this portion of the meeting, the committee will be engaging in discussions with VA mental health professionals and veteran patients regarding services for Vietnam era veterans. These discussions will disclose information of a personal nature for veteran patients which would constitute a clearly unwarranted invasion of personal privacy. The meeting on November 20 will be located at Bay Pines VAMC Marr Conference Room, and will be open to the public to the seating capacity of the room.

Anyone having questions concerning the meetings may contact Arthur S. Blank, Jr., M.S., Direcor, Readjustment Counseling Service, Veterans Administration Cental Office. (phone number 202-233-3317/3303).

Dated: October 26, 1987.

By director of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87-25347 Filed 11-2-87; 8:45 am]

BILLING CODE 8320-01-M

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Sunshine Act Meetings

Federal Register
Vol. 52, No. 212
Tuesday, November 3, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 29, 1987.

TIME AND DATE: 10:00 a.m., Thursday, November 5, 1987.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *U.S. Steel Mining Co., Inc.*, Docket No. WEVA 86-371. (Issues include whether the Administrative Law Judge erred in concluding that a central repair shop of the operator was subject to the requirements of 30 CFR 77.1713.)

2. *Ronald Tolbert* v. *Chaney Creek Coal Corp.*, Docket No. KENT 86-123-D. (Issues include consideration of complainant's motion to reopen the proceedings.)

Any person who attends this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 87-25489 Filed 10-30-87; 11:37 am]
BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, November 9, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on October 14, 1987.)

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: October 30, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87-25540 Filed 10-30-87; 3:29 pm]
BILLING CODE 6210-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 2, 9, 16, and 23, 1987.

PLACE: Commissioner's Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 2

Tuesday, November 3

10: a.m.
Briefing on the Status of High Level Waste Issues (Public Meeting)

Wednesday, November 4

2:30 p.m.
Briefing on Integrated Safety Assessment Program (ISAP) (Public Meeting)

Thursday, November 5

11:00 a.m.
Affirmation/Discussion and vote (Public Meeting)
a. Commission Review of ALAB-832 (Shoreham)

1:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Week of November 9—Tentative

Monday, November 9

9:30 a.m.
Briefing on North Anna Steam Generator Tube Rupture Event (Public Meeting)

Thursday, November 12

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 16—Tentative

Thursday, November 19

2:00 p.m.
Briefing on EEO Program (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting (if needed)

Week of November 23—Tentative

Wednesday, November 25

10:00 a.m.
Briefing on New Westinghouse Standardized Plants (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Discussion/Possible Vote on Full Power Operating License for Palo Verde-3 (Public Meeting) scheduled for October 28, *postponed.*

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING) (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Andrew Bates, (202) 634-1410.

Andrew L. Bates,
Office of the Secretary.
October 29, 1987.

[FR Doc. 87-25560 Filed 10-30-87; 4:03 pm]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of November 2, 1987:

A closed meeting will be held on Tuesday, November 3, 1987, at 1:00 p.m. An open meeting will be held on Thursday, November 5, 1987, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel for the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Peters, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 3, 1987, at 1:00 p.m., will be:

Regulatory matter regarding financial institution.
Institution of administrative proceeding of an enforcement nature.
Institution of injunctive action.
Formal orders of investigation.
Legislative matter relating to enforcement program.

The subject matter of the open meeting scheduled for Thursday, November 5, 1987, at 10:00 a.m., will be:

1. Consideration of whether to propose for public comment amendments to Rule 204-2, the recordkeeping rule under the Investment Advisers Act of 1940. The proposed amendments would require advisers to retain, for Commission inspection, all advertisements and supporting records for performance information in advertisements. These advertisements and supporting records would be required to be kept for five years from the end of the fiscal year in which the advertisement as last published. For further information, please contact Dorothy M. Donohue, at (202) 272-7317.

2. Consideration of whether to adopt amendments to Rule 174 under the Securities Act of 1933. The amendments would reduce the 40 or 90 day period during which dealers must deliver prospectuses in aftermarket securities transactions following public offerings. The Commission also will consider adopting conforming amendments to Item 502(e) of Regulation S-K and Rule 15c2-8 under the Exchange Act of 1934. For further information, please contact Larisa Dobriansky at (202) 272-2589.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Judith Axe at (202) 272-2092.

Jonathan G. Katz,
Secretary.
October 29, 1987.

[FR Doc. 87-25524 Filed 10-30-87; 1:23 pm]
BILLING CODE 8010-01-M

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Corrections

Federal Register
Vol. 52, No. 212
Tuesday, November 3, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-940-07-4212-13; A-22539]

Realty Action; Arizona

Correction

In notice document 87-22596 beginning on page 36842 in the issue of Thursday, October 1, 1987, make the following corrections:

1. On page 36842, in the second column, the land description for T. 25 N., R. 21 W., Sec. 1 * * * should read:

"Sec. 1, lot 1, except S½S½SE¼NE¼NE¼, lots 2, 3, 4, N½NE¼NW¼SE¼NE¼, W½NW¼SE¼NE¼, E½SE¼NE¼SE¼NE¼, NE¼SE¼SE¼NE¼, S½S½SE¼NE¼, N½N½SW¼NE¼, N½SW¼NE¼SW¼NE¼, SE¼NE¼SW¼NE¼, N½S½NW¼SW¼NE¼, W½SW¼NW¼, W½E½SW¼NW¼, E½SE¼SW¼NW¼, N½NE¼NE¼SW¼NW¼, S½SE¼NE¼SW¼NW¼, N½N½SE¼NW¼, N½SW¼NE¼SE¼NW¼, SE¼NE¼SE¼NW¼, NW¼SW¼SE¼NW¼, S½NE¼SW¼SE¼NW¼, S½S½SE¼NW¼, SW¼, S½SE¼;"

2. On the same page, in the third column, the land description for T. 30 N., R. 16 W., Sec 11 * * * should read:

"Sec. 11, SW¼NW¼NE¼, SW¼SE¼NW¼NE¼, SW¼NE¼, NW¼SW¼SE¼NE¼, S½SW¼SE¼NE¼, W½, NW¼NE¼SE¼, S½NE¼SE¼, NW¼SE¼, S½SE¼, NW¼NE¼NE¼SE¼, S½NE¼NE¼SE¼;".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-ASW-33]

Proposed Revision of Control Zone; Oklahoma City Wiley Post Airport, and Oklahoma City Will Rogers World Airport, OK

Correction

In proposed rule document 87-24115 beginning on page 38786 in the issue of Monday, October 19, 1987, make the following correction:

§71.171 [Corrected]

On page 38787, in the first column, in the last paragraph, in the last line, the longitude should read, "97°35'18" W.".

BILLING CODE 1505-01-D

federal register

Tuesday
November 3, 1987

Part II

Environmental Protection Agency

40 CFR Parts 141 and 142
National Primary Drinking Water Regulations; Filtration and Disinfection; Turbidity, Giardia Lamblia, Viruses, Legionella, and Heterotrophic Bacteria; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[WH-FRL-3229-9(a)]

National Primary Drinking Water Regulations; Filtration and Disinfection; Turbidity, Giardia Lamblia, Viruses, Legionella, and Heterotrophic Bacteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule, issued under the Safe Drinking Water Act, as amended in 1986, consists of: (1) Maximum contaminant level goals for *Giardia lamblia* viruses, and *Legionella;* and (2) national primary drinking water regulations for public water systems using surface water sources that include (a) criteria under which filtration (including coagulation and sedimentation as appropriate) would be required and procedures by which the State would determine which systems must install filtration, and (b) disinfection requirements for public water systems using surface water sources. The filtration and disinfection requirements are proposed as treatment technique regulations to protect against the potential adverse health effects of exposure to *Giardia lamblia,* viruses, *Legionella,* and heterotrophic bacteria, as well as many other pathogenic organisms that are removed by these treatment techniques. This notice also proposes certain limits on turbidity as criteria for: (1) Determining whether a public drinking water system is required to filter; and (2) determining whether filtration, if required, is adequate.

DATES: There will be two public hearings held. The first will be held in Washington, DC on November 23–24 from 9:00 a.m.—4:30 p.m. The second public hearing will be held in Denver, Colorado on Monday and Tuesday, December 2–3 from 9:00 a.m.—4:30 p.m. A block of 45 rooms have been set aside for attendees to the Denver hearing. To reserve one of these rooms, the hotel must be contacted [(303) 893–3333] at least two weeks prior to the event. Inform the hotel that you are attending the EPA public hearing.

Written comments must be submitted on or before January 4, 1988.

ADDRESSES: Send written comments on this proposed rule to Surface Water Treatment Requirements Rule, Comment Clerk, Criteria and Standards Division, Office of Drinking Water (WH–550), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A copy of the comments and supporting documents will be available for review at the EPA, Drinking Water Docket, Room EB49, 401 M Street, SW., Washington, DC 20460. For access to the docket materials, call 382–3027 between 9 a.m. and 3:30 p.m. Supporting documents cited in the reference section of the proposed rule will be available for inspection at the Drinking Water Supply Branches in EPA's Regional Offices, listed below.

I. JFK Federal Bldg., Room 2203, Boston, MA 02203, Phone: (617)565–3610, Jerome Healey
II. 26 Federal Plaza, Room 624, New York, NY 10278, Phone: (212)264–1800, Walter Andrews
III. 841 Chestnut Street, Philadelphia, PA 19107, Phone: (215)597–9873, Jon Capacasa
IV. 345 Courtland Street, Atlanta, GA 30365, Phone: (404)347–1913, William Patton
V. 230 S. Dearborn Street, Chicago, IL 60604, Phone: (312)353–2650, Joseph Harrison
VI. 1445 Ross Avenue, Dallas, TX 75202, Phone: (214) 655–7155, Thomas Love
VII. 726 Minnesota Avenue, Kansas City, KS 66101, Phone: (913)236–2815, Gerald R. Forsé
VIII. One Denver Place, 999 18th Street, Suite 1300, Denver, CO 80202–2413, Phone: (303)293–1424, Marc Alston
IX. 215 Fremont Street, San Francisco, CA 94105, Phone: (415)974–8073, William Thurston
X. 1200 Sixth Avenue, Seattle, WA 98101, Phone: (206)442–1225, Richard Thiel

The public hearing in Washington, DC will be held at the GSA Regional Office Building, 7th and D Street SW. (D street side), Washington, DC 20407. The building is located across the street from the L'Enfant metro stop. The second hearing will take place at the Hotel Radisson, 16th and Court, Denver, Colorado. If you plan to attend either public hearing, contact Marlene Regelski, EPA (WH–550D), 401 M Street SW., Washington, DC 20460, telephone (202)382–3639, at least two weeks before the meeting.

Copies of the Draft Guidance Manual for Compliance with the Surface Water Treatment Requirements for Public Water Systems ("Guidance Manual"), Regulatory Impact Analysis: Benefits and Costs of Proposed Surface Water Treatment Requirements and Total Coliform Rule, and Health Advisory for *Legionella,* are available upon request from the Safe Drinking Water Hotline. The Hotline number is 1–800–426–4791 or (202) 382–5533. Copies of the Draft Cost and Technology Document for the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources, and draft health criteria documents for *Giardia lamblia* viruses, *Legionella,* and turbidity are available for a fee from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800/336–4700; the local number is 703/487–4650.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, telephone (800) 426–4791, or (202) 382–5533 in the Washington, DC metropolitan area, or Stig Regli, Environmental Engineer, Science and Technology Branch, Criteria and Standards Division, Office of Drinking Water (WH–550D), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382–7379.

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Preamble

I. Legal Authority

EPA is proposing this regulation and conforming changes under the authority of sections 1401, 1412, 1413, 1414, 1415, 1416, 1445, and 1450 of the Safe Drinking Water Act, as amended. 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300j–4, and 300j–9.

II. Background

A. Statutory Requirements

The 1986 amendments to the Safe Drinking Water Act ("SDWA" or the "Act"), Pub. L. 99–339, require EPA to promulgate, by December 19, 1987, a national primary drinking water regulation (NPDWR) specifying criteria under which "filtration" (defined in section 1412(b)(7)(C)(i) as including pretreatment measures such as coagulation and sedimentation, as appropriate) is required as a treatment technique for public water systems supplied by surface water sources. In establishing these criteria, EPA must consider source water quality, protection afforded by watershed management, treatment techniques such as disinfection practice and length of water storage, and other factors relevant to protection of health.

In lieu of provisions for obtaining a variance from the filtration requirements under section 1415 of the Act, EPA must instead specify procedures which the State is to use to determine which public systems must use filtration based on the criteria that EPA establishes in this regulation. (*Note:* Throughout this preamble, we use the term "State" to mean a State with primary enforcement responsibility for public water systems or "primacy," and to mean EPA in the case of a State that has not obtained primacy.) States may require the public water system to provide studies or other information to assist in this determination. The procedures for determining whether filtration will be required must provide notice and opportunity for public hearing.

The 1986 amendments to the SDWA require that within 18 months from the time that EPA promulgates the NPDWR specifying the criteria and procedures regarding filtration, a State with primary enforcement responsibility for public water systems must adopt any regulations necessary to implement the requirements of this NPDWR. Within 12 months of adoption of such regulations, the State must make determinations regarding filtration for all public water systems within its jurisdiction. If the State determines that filtration by a public water system is required, the State must prescribe a schedule for that system that requires compliance within 18 months of the date that it makes the determination.

The 1986 amendments to the Safe Drinking Water Act also require EPA, by June 1989, to: (1) Promulgate a NPDWR requiring disinfection as a treatment technique for all public water systems and a rule specifying criteria by which variances to this requirement may be granted; and (2) publish maximum contaminant level goals and promulgate NPDWRs for 83 contaminants listed in the Advance Notices of Proposed Rulemaking at 47 FR 9352 (March 4, 1982) and 48 FR 45502 (October 5, 1983). This list of contaminants includes turbidity and five microbiological contaminants: *Giardia lamblia* ("*Giardia*"), viruses, *Legionella,* Heterotrophic Plate Count bacteria ("heterotrophic bacteria" or "HPC"), and coliforms.

The Safe Drinking Water Act defines a NPDWR as a regulation which specifies either: (a) A maximum contaminant level (MCL); or (b) a treatment technique requirement if the Administrator determines it is not economically or technologically feasible to measure the level of a contaminant. A NPDWR also specifies criteria and procedures including quality control and testing procedures to assure compliance with MCLs and to assure proper operation and maintenance of the system. A NPDWR that requires the use

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of a treatment technique must identify those treatment techniques which, in EPA's judgment, would prevent known or anticipated adverse effects on the health of persons to the extent feasible.

B. Regulatory Framework

This proposed rule would satisfy the following statutory requirements:

(1) The requirement that EPA promulgate a NPDWR specifying criteria under which filtration (including coagulation and sedimentation, as appropriate) is required as a treatment technique for public water systems using surface water sources, including procedures by which the State would determine which systems must install filtration.

(2) EPA will promulgate a NPDWR requiring disinfection as a treatment technique. This proposal addresses public water systems using surface water sources; EPA intends to promulgate additional regulations specifying disinfection requirements for systems using ground-water sources at a later date.

(3) The requirement that EPA regulate *Giardia lamblia*, viruses, *Legionella*, heterotrophic plate count bacteria (HPC), and turbidity. (EPA is proposing an MCLG and MCL for total coliforms elsewhere in today's **Federal Register**.) *Giardia lamblia* cysts pose significant risks to health in systems using surface waters (as defined in the proposed rule), but usually not in systems using ground water, because these protozoan cysts are removed from water by natural filtration processes in the course of the water's passage through the ground. Turbidity is an indicator for the effectiveness of treatment processes to control pathogens in systems using surface water. Therefore, EPA believes that promulgation of this regulation, which only applies to public water systems using surface water sources, fulfills the SDWA requirement to regulate *Giardia lamblia and* turbidity. In other words, additional NPDWRs to regulate *Giardia* and turbidity in ground water are unnecessary. This rule also provides significant protection from viruses, *Legionella*, and HPC in surface water and thereby complies with the SDWA requirement to regulate these contaminants in surface water systems. EPA may determine that it is necessary to promulgate NPDWRs to control the levels of viruses, *Legionella*, and HPC in drinking water derived from groundwater sources. If so, these regulations will be included in a future regulation which addresses disinfection requirements for groundwater sources. EPA's rationale for regulation of each of these contaminants is described in more detail below.

Giardia and viruses. On November 13, 1985, EPA proposed recommended maximum contaminant levels or "RMCLs," renamed maximum contaminant level goals or "MCLGs" in the 1986 SDWA amendments, of zero for both *Giardia* and viruses (50 FR 46951). After EPA published this proposal, the Act was amended to require that EPA propose a MCLG at the same time it proposes a NPDWR for a contaminant, unless EPA had already published a MCLG for the contaminant prior to June 19, 1986, the date of the amendments. Since a MCLG has not yet been published for these contaminants, EPA is reproposing MCLGs of zero for *Giardia* and viruses in this notice, along with the proposed NPDWRs for these two contaminants. (*Note:* "Enteric viruses," which means viruses of or relating to the intestines, are regulated rather than the more general generic category "viruses," because these are the only type of virus which has been implicated in waterborne disease and for which treatment removal efficiency data exist.) The basis for the proposed MCLGs as set out in the November 1985 notice remains the same. All the comments submitted on these proposed MCLGs in the November 1985 notice are included in the record for today's notice and need not be resubmitted. Any additional comments are welcome.

The NPDWRs for filtration and disinfection that EPA is proposing today would fulfill EPA's obligation to promulgate NPDWRs for *Giardia* and viruses. As noted above, the SDWA authorizes EPA to promulgate a NPDWR that requires the use of a treatment technique in lieu of establishing a MCL for a contaminant if it is not economically or technologically feasible to measure the level of that contaminant in drinking water. EPA believes that it is not economically or technologically feasible to measure the level of *Giardia* or enteric viruses in drinking water because (1) the only analytical methods which are available require levels of expertise that utility personnel generally do not have; (2) analysis by independent laboratories is generally very expensive; (3) validation procedures have not yet been established; (4) systems would have to monitor inordinately large and frequent samples of water to ensure that the occurrence of *Giardia* or enteric viruses is not of health risk significance (i.e., failure to detect *Giardia* in one or a few samples provides no assurance that *Giardia* do not occur at significant levels in the water supply); and (5) it is not possible to assure that these contaminants will be detected before they actually cause or contribute to increased risk to health, thus monitoring does not provide adequate advance notice as a means of assuring the safety of drinking water at the consumer's tap.

Turbidity. In the November 1985 **Federal Register** notice, EPA proposed a MCLG for turbidity of 0.1 NTU (Nephelometric Turbidity Units). Turbidity is a measure of light scatter or absorption caused by suspended or colloidal matter, and is used as an indicator of treatment effectiveness, specifically for clarification and filtration processes. No direct correlation exists between turbidity levels in water and health effects associated with the consumption of that water. High turbidity levels are, however, of concern because high levels may reduce the efficiency of disinfection and interfere with total coliform analyses performed by the membrane filter procedure. Turbidity is only an imprecise indicator of treatment effectiveness. As an example, very low turbidity levels, when resulting from a substantial percent removal of turbidity, are a good indicator of effective *Giardia* cyst removal by rapid granular filtration (e.g., conventional treatment or direct filtration). In contrast, for other filtration technologies, such as slow sand filtration, turbidity is not a meaningful indicator for pathogen removal. Likewise, different turbidity levels may or may not interfere with disinfection, depending upon the fraction of the solids consisting of inorganic particulate matter. Numerous commenters on the proposed MCLG for turbidity stated that since EPA cannot specify a turbidity level at which there will be no adverse health risks, and since the turbidity level is not always an accurate indicator of pathogen removal, it is inappropriate to specify any MCLG. EPA agrees. Accordingly, this notice withdraws the proposed MCLG for turbidity. EPA, however, does believe that it is appropriate to regulate turbidity to ensure treatment effectiveness. Accordingly, this notice proposes various turbidity levels, tailored to specific treatment techniques, to ensure that adequate treatment takes place.

HPC. As explained in the November 1985 **Federal Register** proposal, the HPC procedure, which measures heterotrophic bacteria, counts both bacterial pathogens and innocuous bacteria; there is no way to know whether the bacteria counted are pathogens or innocuous, or what the proportion of each is. 50 FR 46955. Therefore, EPA believes it is impossible to specify a scientifically rational

MCLG. Specifically, EPA cannot set any particular HPC level (other than at zero) at which no adverse health effects occur, since the test measures both pathogenic and innocuous bacteria; drinking water with any given HPC level might contain numerous, few, or no pathogens. EPA believes a MCLG of zero is inappropriate since the Act would then require EPA to promulgate a MCL as close to zero as feasible; the health benefits of meeting a level near zero versus some higher level (e.g., 500 per 100 ml) are unquantifiable and probably negligible, if any. Also, excessive amounts of disinfectant would be needed to achieve such a level and thus could result in excessive disinfection byproducts in the finished water. Based on these considerations, EPA is not proposing a MCLG for HPC.

However, EPA recognizes that HPC is a good operational tool for measuring microbial breakthrough, evaluating modifications of the water treatment process, and detecting loss of water main integrity. However, EPA does not believe it is appropriate to include HPC as a treatment performance criterion in the proposed rule since small systems (which includes most public water systems) would not have in-house analytical capability to conduct the measurement, and they would need to send the samples to a private laboratory. Unless the analysis is conducted rapidly, HPC may multiply, and the measurement may be misrepresentative. The recommended maximum elapsed time between collection and examination of samples is eight hours. If analysis cannot begin within eight hours, samples must be maintained at temperatures below 4 °C, with the maximum elapsed time between collection and analysis not to exceed 30 hours. EPA believes these conditions would be difficult to meet routinely and would impose a considerable burden, especially on small systems.

EPA believes that a water treatment plant in compliance with the filtration and disinfection criteria in the proposed rule would effectively control HPC. Well-operated water treatment plants, with well-maintained distribution systems, which the proposed rule would require, typically maintain low HPC densities (i.e., well below 500 per ml.) (McCabe *et al.*, 1970; Geldreich *et al.*, 1972).

EPA is including HPC monitoring, on a nonroutine basis, and HPC limits in the NPDWR for total coliforms, proposed elsewhere in today's **Federal Register**. The requirements would entail sampling the distribution system for HPC whenever there is evidence that high levels of these organisms are interfering with the total coliform analysis. In such cases, if the HPC measurement exceeds 500/ml, the sample would be considered coliform-positive and be counted in the determination of whether the system is in compliance with the coliform MCLs. EPA believes that the proposed filtration and disinfection requirements in this notice, which would remove heterotrophic bacteria from drinking water and limit growth in the distribution system, coupled with the proposed total coliform rule, would fulfill the SDWA requirements to regulate HPC.

Legionella. Legionellae are bacteria that have been identified as the cause of legionellosis. The Centers for Disease Control has estimated that 50,000–100,000 cases of this disease occur annually within the United States and are caused primarily by one of the 23 currently recognized species of the genus *Legionella* (Foy *et al.*, 1979). The number of cases attributable directly to drinking water is unknown. Most people who have developed Legionnaires' disease, the pneumonia form of legionellosis, were patients that were immunosuppressed or were individuals who appeared to be more susceptible because of an underlying illness, heavy smoking, alcoholism, or old age, (i.e., "compromised individuals"). In contrast, while some apparently healthy individuals have developed Legionnaires' disease, outbreaks involving healthy people have been limited mostly to the milder non-pneumonia form of the disease called Pontiac Fever. Both individual and outbreaks of legionellosis have occurred when aerosols containing virulent legionellae are inhaled by susceptible individuals. Foodborne outbreaks or secondary spread have not been reported.

Legionellae are abundant in ambient surface water, but some data suggest they are less prevalent or absent in ground water. In a number of outbreaks of Legionnaires' disease that have occurred in the United States, aerosols of water documented to contain the specific type of *Legionellae* that was recovered from the patient have been identified as the vehicle for transmission. These bacteria may proliferate in water systems when factors not yet fully determined allow. These factors probably include inadequate disinfectant residuals, warm temperatures, and availability of nutrients, including those nutrients produced by non-*Legionella* bacteria (USEPA, 1985a). Contamination may also occur from unsanitary opening of pipelines.

The infectious dose for humans, especially compromised individuals, is not known. Virulence apparently varies with the *Legionella* strain. Most outbreaks in hospitals have been attributed to *Legionella pneumophila*, serotype 1.

As noted earlier, the Safe Drinking Water Act requires EPA to set a MCLG "* * * at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety." EPA proposes that the MCLG for *Legionellae* in finished water be zero since only a few *Legionella* organisms (perhaps a single organism) may pass through the treatment and distribution system and enter into an air conditioning system or plumbing system, proliferate under certain conditions, and possibly cause disease if a person, especially a compromised individual, is exposed via aerosols.

Although methods exist for the recovery and enumeration of *Legionellae*, it is not technically or economically feasible to monitor for these organisms. Most of the problems that make it economically and technically infeasible to measure *Giardia* and viruses in drinking water also apply to *Legionella*. Specifically, *Legionella* can only be detected by methodology that requires expert knowledge and experience to conduct. Both the techniques and the acquisition and utilization of expertise are expensive. Furthermore, while experts agree that *Legionellae* can be effectively isolated from water, currently only estimates of the numbers of *Legionellae* can be made (Feely, 1984).

EPA is proposing a treatment technique rather than an MCL for *Legionella* to significantly reduce the transport of legionellae from source water into the distribution system and reduce the potential for colonization. In particular, EPA believes that the proposed filtration and disinfection requirements in this notice would remove and/or inactivate *Legionella* which might occur in source waters, thereby reducing chances that *Legionella* will be transported through the system and reducing the possibility that growth might occur in the distribution system or in hot water systems within homes and institutions. The Agency recognizes that, regardless of the treatment provided, some *Legionella* may enter plumbing and air conditioning systems and subsequently multiply. EPA believes that these concerns are best addressed through

guidance. EPA is including such guidance in the Guidance Manual for Compliance with the Surface Water Treatment Requirements for Public Water Systems (Guidance Manual). In addition, EPA has prepared a health advisory for the control of *Legionella* in plumbing systems (USEPA, 1987a), which is available for comment, upon request. EPA believes that the treatment requirements proposed in today's notice, complemented by the implementation of institutional control measures, as recommended in guidance, are the best available means at this time to control *Legionella*. EPA is also investigating whether disinfectant residuals of various types or management practices such as hot water system temperature or periodic shock disinfection may reduce the potential for colonization of distribution systems.

C. Etiology of Waterborne Disease

From 1971 through 1985 there were 106 reported outbreaks of waterborne disease involving over 34,436 individuals attributed to microbiological contaminants resulting from deficiencies in treatment by public water systems using surface water source (Table I–1).

TABLE I–1—ETIOLOGY OF WATERBORNE DISEASE OUTBREAKS FROM USE OF PUBLIC WATER SYSTEMS WITH SURFACE WATER SOURCES, 1971–1985 [1]

Water Supply Deficiency/Illness	Outbreaks (Number)	Cases of Illness
A. No treatment:		
1. Gastroenteritis, undefined	7	945
2. Giardiasis	6	245
3. Shigellosis	2	278
Total	15	1,468
B. Inadequate Disinfection (systems with no filtration [2]):		
1. Giardiasis	36	12,420
2. Gastroenteritis, undefined	10	5,247
3. Campylobacteriosis	2	3,022
4. Gastroenteritis, viral	1	190
5. Salmonellosis	1	34
Total	50	20,913
C. Interrupted Disinfection (systems with no filtration):		
1. Gastroenteritis, undefined	15	2,048
2. Shigellosis	1	50
3. Giardiasis	1	17
Total	17	2,115
D. Interrupted Disinfection (systems with filtration):		
1. Giardiasis	2	67
2. Gastroenteritis, viral	1	25
3. Hepatitis A	1	6
Total	4	98
E. Ineffective Filtration/Pretreatment (systems with filtration and disinfection): [3]		
1. Giardiasis	15	7,440
2. Gastroenteritis, undefined	4	651
3. Gastroenteritis, viral	1	1,761
Total	20	9,852
Grand Total	106	34,436

[1] Excluding outbreaks in surface water systems caused by chemical feed, distribution, storage, or miscellaneous other deficiencies.
[2] Includes two outbreaks (42 cases) of Giardiasis where filtration facilities were bypassed. Inadequate disinfection means either an absence of disinfectant residual or insufficient disinfection to prevent the outbreak.
[3] Operational problem with filtration or pretreatment (coagulation, flocculation, sedimentation) identified.
Note.—Craun, 5/87.

Table I–2 characterizes differences in rates of waterborne disease outbreaks and illnesses as a function of the level of treatment provided in community water systems (40 CFR § 141.2 defines "community water system" (CWS) as a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents). The data indicate that in general, systems using multiple barriers of treatment (i.e., at least filtration and disinfection) are significantly more effective in preventing waterborne disease than systems using disinfection alone. This is especially noteworthy in that systems which use filtration and disinfection tend to have significantly higher levels of fecal contamination in their source water than those which practice disinfection only or have no treatment in place.

TABLE I–2.—WATERBORNE DISEASE OUTBREAK AND DISEASE RATES ATTRIBUTED TO SOURCE CONTAMINATION AND TREATMENT INADEQUACIES IN COMMUNITY SYSTEMS USING SURFACE WATER SOURCES [1] 1971–1985

Type of community water system	Waterborne disease outbreaks per 1,000 water systems	Waterborne illnesses per million-person years
Untreated	32.5	370.9
Disinfected only	40.5	66.9
Filtered and disinfected water	5.0	4.7

[1] Craun, G., 5/87.

Table I–3 indicates the current filtration practice of community water systems in the United States by system size. These numbers are based on a survey conducted by the Association of State Drinking Water Administrators (ASDWA, 1986). According to the survey, 87 percent of the 1,346 systems which do not filter do practice disinfection. The ASDWA survey also indicated that 1,536 of 3,424 non-community water systems (defined in 40 CFR 141.2 as all public water systems that are not community water systems) which used surface water sources do not filter. Most of these systems serve populations of less than 1,000 people and are believed to practice disinfection.

TABLE I–3.—NUMBER OF COMMUNITY WATER SYSTEMS (PLANTS) HAVING FILTERED VERSUS UNFILTERED SURFACE WATER SUPPLIES BY SIZE CATEGORY AND ESTIMATED POPULATION SERVED

	Community Water System Size Categories												
	25 to 100	101 to 500	501 to 1,000	1,001 to 3,300	3,301 to 10,000	10,001 to 25,000	25,001 to 50,000	50,001 to 75,000	75,001 to 100,000	100,001 to 500,000	500,001 to 1,000,000	1,000,000 plus	Total
Number or plants of systems:													
Filtered	523	474	537	814	999	504	303	144	98	166	40	12	4,611
Unfiltered	310	305	217	226	160	65	25	13	10	9	3	3	1,346
Total [1]	833	779	754	1,040	1,156	569	328	157	108	175	43	15	5,957
Estimated population served (millions):													
Filtered	0.06	0.51	1.11	3.87	9.22	11.66	15.02	9.55	9.25	34.78	19.97	18.54	133.56
Unfiltered	0.02	0.06	0.17	0.45	0.97	0.98	0.88	0.76	0.85	1.98	2.41	11.55	21.10
Total [1]	0.09	0.57	1.28	4.33	10.20	12.64	15.91	10.31	10.09	36.77	22.38	30.09	154.66

[1] Totals may not add due to rounding.

The reported disease incidence indicated in Tables I–1 and I–2 probably substantially underestimates the actual occurrence of outbreaks of waterborne disease. Many outbreaks, perhaps the great majority, are not reported to the U.S. Centers for Disease Control (Centers for Disease Control, 1985) which keeps records on the incidence of reportable diseases. This is because only a few types of waterborne diseases are required to be reported and also because disease outbreaks are often not recognized in a community or, if recognized, are not traced to the drinking water source. For example, in Colorado, an EPA-funded effort to improve the outbreak reporting system indicated that only about one-quarter of the actual outbreaks were being recognized and reported (Centers for Disease Control, 1984). Other data indicate that actual disease occurrence versus that reported when an outbreak has been identified may be underestimated by a factor of 25 (Hauschild, A.P. and Bryan, F.L., 1980). EPA believes these data support the need for better control of microbiological contaminants in drinking water, and support the use of treatment requirements, specifically filtration and disinfection requirements. EPA believes that if all surface water systems were to comply with the requirements of this proposed rule, most incidences of waterborne disease associated with these systems would be eliminated.

III. General Basis for Criteria of Proposed Rule

The proposed rule is based upon the following general principles:

(1) The public's best assurance for obtaining drinking water of consistently good quality is reliance upon a properly designed and operated public water system.

(2) Water to be used for human consumption should be obtained from the best available source.

(3) All surface water supplies are at risk from pathogen contamination.

(4) All public water systems should practice adequate disinfection and detectable residuals of the disinfectant should be measurable in all parts of the distribution system. Although many ground water supplies are free from pathogen contamination, disinfection will provide valuable additional protection from potential pathogen contamination of finished water.

(5) The level of treatment in public water systems provided should at least be commensurate with the potential for pathogen contamination in the source water. Multiple barriers of treatment, including filtration, are desirable to provide a consistently high quality water supply.

(6) To minimize the introduction of unnecessary contaminants during treatment, public water systems should employ processes which will reduce the concentration of precursor chemicals prior to the introduction of disinfectant chemicals.

(7) Public water systems should employ strong oxidants, including

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ozone, chlorine, and chlorine dioxide, with adequate contact time for pathogen inactivation before the water enters the distribution system. Chloramines are appropriate for maintaining a residual in the distribution system when the use of stronger oxidants are not feasible. Ozone, because of its potency in destroying microorganisms and its rapid dissipation, is particularly encouraged for use in clarification processes and as a disinfectant. Other high energy disinfection processes such as use of ultraviolet light also show significant promise.

(8) Public water systems should adjust pH levels to optimize clarification and disinfection processes within the treatment plant and corrosion control within the distribution system.

(9) Adequate monitoring, tailored to the particular circumstances, should be practiced in all public water systems. This should include monitoring of microbiological parameters; physical factors affecting water quality such as turbidity, pH, and temperature; and disinfectant residuals. Systems should conduct raw water monitoring to determine that an adequate level of treatment is provided.

(10) Properly operated public water systems should have no detectable concentrations of pathogens in the finished water.

(11) The public has a right to be informed of the quality of the water that is being provided by its public water system and the public should be included in the decision processes.

The rationale for specific requirements of the proposed rule appear in Section V of this preamble.

IV. Description of Proposed Rule

A. General Requirements

1. Applicability

This rule would apply to all public water systems (both community and non-community) which use surface water sources. EPA believes that all surface waters are at risk, at least to some degree, from contamination by *Giardia lamblia*, viruses, and pathogenic bacteria and that public water systems using such source waters should provide minimum levels of treatment to ensure protection from illness caused by these contaminants. This is consistent with EPA's mandate in section 1412(b)(7)(A) of the Act, which specifies that treatment techniques are to "prevent known or anticipated adverse effects on the health of persons to the extent feasible."

This proposed rule defines "surface water" as all water open to the atmosphere and subject to surface runoff (e.g., rivers, lakes, streams, reservoirs, impoundments), and all springs, infiltration galleries, wells, or other collectors that are directly influenced by surface water. "Directly influenced by surface water" means the source is subject to pathogen contamination from surface waters. This determination is to be made on a case-by-case basis based on whether there are significant and relatively rapid shifts in water quality characteristics such as turbidity, temperature, conductivity, or pH (all of which may also change in ground water but at a much slower rate) which closely correlate to climatological or surface water conditions; and/or the presence of insects or other macro-organisms, algae, or large-diameter pathogens such as *Giardia lamblia*. Procedures that may be used for evaluating the significance of these factors appear in the draft Guidance Manual.

The State would be responsible for determining whether a system uses surface water and, therefore, would be subject to the requirements of this rule. For systems which use mixed source water supplies (i.e., ground and surface waters), this rule would apply to the water originating from the surface water source. Wells and springs, which may be defined as surface water systems under this rule, may be defined as ground water sources under other EPA guidances and regulations.

2. Treatment Requirements

Under this proposal, all community and non-community public water systems using any surface water source would be required to treat their surface water source(s) so as to achieve at least 99.9 percent removal and/or inactivation of *Giardia* cysts, and at least 99.99 percent removal and/or inactivation of enteric viruses. A system would be presumed to be in compliance with this requirement if it complied with the treatment technique requirements specified in this rule. At a minimum, the treatment required for any surface water would include disinfection. In addition, unless the system met certain source water quality criteria and certain site-specific criteria, the required treatment would also include filtration.

Specifically, systems with very clean and protected source waters that met the source water quality criteria (including low total coliform or fecal coliform levels and low turbidity levels as specified in the rule) and certain site-specific criteria, including an effective watershed control program, would only be required to use disinfection to achieve 99.9 percent and 99.99 percent inactivation of *Giardia* cysts and enteric viruses, respectively. If such systems were able to continually meet certain disinfectant residual concentration ("C", in mg/1) and disinfectant contact time ("T", in minutes) requirements, (i.e., "CT" value, which is "C" multiplied by "T") (depending upon pH and water temperature) as specified in the rule, the system would be assumed to be in compliance with the above inactivation requirements for *Giardia* and enteric viruses without monitoring for these organisms.

At the discretion of the State, public water systems with no potential sources of human enteric viruses within the watershed would not be subject to the requirement for 99.99 percent inactivation of enteric viruses to avoid filtration. This provision would only benefit systems successfully using chloramination for primary disinfection since other disinfectants (e.g., chlorine, ozone, chlorine dioxide), which achieve 99.9 percent inactivation of *Giardia* cysts also achieve much greater than 99.99 percent inactivation of enteric viruses. The State should carefully evaluate those systems using chloramination as primary disinfectant to assure that they are providing adequate pathogen control with adequate margins of safety for the stress conditions that might be encountered. Potential sources of human enteric viruses include sewage discharges; septic tank discharges; recreational activities including swimming, boating, camping, fishing, hiking, and hunting; and any other human usage or habitation which may result in human waste disposal within the watershed.

Systems required to filter could use a variety of treatment technologies to meet the minimum 99.9 and 99.99 percent performance levels. A system that meets certain turbidity removal and disinfection performance criteria, and complies with design and operating criteria specified by the State, would be considered to be in compliance with these performance requirements.

Conventional treatment (which includes coagulation, flocculation, sedimentation, rapid granular filtration, and disinfection) has been demonstrated to achieve at least 99.9 percent removal and/or inactivation of *Giardia* cysts and 99.99 percent removal and/or inactivation of enteric viruses under appropriate design and operating conditions (USEPA, 1987c). EPA considers conventional treatment to be the best technology for most source waters in the United States because of the multiple barriers of protection that it provides.

Direct filtration (which includes coagulation), slow sand filtration, and diatomaceous earth filtration, each with disinfection, also have been demonstrated to achieve at least 99.9 percent removal and/or inactivation of *Giardia* cysts and 99.99 percent removal of enteric viruses under appropriate design and operating conditions (USEPA, 1987c). This rule would allow their use under certain source water quality conditions as determined by the State.

Under the proposed rule, a public water system could use filtration technologies other than those specified above if it first demonstrated through pilot plant challenge studies, using *Giardia* cysts and viruses or equivalent indicators, that the alternate filtration technology, in combination with disinfection, can achieve at least 99.9 percent and 99.99 percent removal and/or inactivation of *Giardia* cysts and enteric viruses, respectively. In addition, the State could approve a technology demonstrated to be effective at one site for use at another site if the source water quality conditions at the two sites were similar.

In determining the appropriate filtration technology to be used, source-water quality, site-specific factors, and economic constraints would need to be considered. In general, the level of treatment provided should be commensurate with the potential for pathogen contamination in the source water. Table IV–I provides source-water quality guidelines for selecting the technology(ies) to be used. Site-specific factors such as available land and location of the treatment plant relative to the water source and economic constraints would also influence the selection of the technology. Pilot plant studies are recommended to help determine the most appropriate filtration technology and the optimum design conditions. Guidelines for determining the appropriate technology and design conditions appear in the draft Guidance Manual.

TABLE IV–1.—GENERALIZED CAPABILITY OF FILTRATION SYSTEMS TO ACCOMMODATE RAW WATER QUALITY CONDITIONS [1]

Treatment Technology	General Constraints (Indicated values could occasionally be exceeded)		Color (CU) [2]
	Total Coliforms (#/100 ml)	Turbidity (NTU)	
Conventional Treatment	<20,000	No restrictions	75
(with no predisinfection)	<5,000	No restrictions	75
Direct Filtration	<500	<7–14	<40
Slow Sand Filtration	<800	<10	<5
Diatomaceous Earth Filtration	<50	<5	<5

[1] Adopted from Guidance Manual (USEPA, 1987b).
[2] Colorimetric units.

3. Operator Personnel Requirements

Under the proposal, all systems must be operated by personnel that meet the qualifications specified by the State. The criteria for determining if an operator is qualified would depend upon the type and size of the system. EPA encourages States which do not yet have operator license certification programs in effect to develop such programs. In any case, the State would be responsible for establishing criteria for evaluating operator personnel for their knowledge and competence in operating a water treatment system.

B. Specific Criteria

This section explains in greater detail the general treatment requirements described above. The rationale for these criteria appears in Section V of this preamble.

1. Criteria for Determining If Filtration Would Be Required

Under the proposed rule, a public water system would be required to use filtration unless it met the following criteria as described below:

Source Water Quality Criteria

- Source water total coliform or fecal coliform limits.
- Source water turbidity limits.

Site-specific Criteria

- Disinfection requirements.
- Watershed control program requirements.
- Sanitary survey requirements.
- No waterborne disease outbreaks.
- Compliance with the total coliform long-term maximum contaminant level (MCL).
- Compliance with the MCL level for total trihalomethanes (TTHMs).

These criteria are described in detail below.

a. Source Water Quality Criteria

(i) *Coliform limits.* To avoid filtration, a system would be required to meet one of the following criteria: (1) The fecal coliform concentration in water prior to disinfection is less than 20/100 ml, in 90 percent of the samples; or (2) the total coliform concentration in water prior to disinfection is less than 100/100 ml, in 90 percent of the samples. If monitoring were conducted for both parameters, the system could exceed the total coliform limit but not the fecal coliform limit. Public water systems would be required to collect samples in such a way as to adequately represent water quality fluctuations, taking into account the characteristics of the watershed. Minimum sampling frequencies for different system sizes would be as follows:

Population served	Samples/week
<500	1
501–3,300	2
3,301–10,000	3
10,000–25,000	4
>25,000	5

This sampling must include one measurement on every day during which the turbidity exceeds 1 NTU. However, this sample counts toward the total number that must be taken each week.

Guidelines for determining when higher frequency sampling might be warranted appear in the Guidance Manual. The coliform limits would be an ongoing requirement; at the end of each month, the system would evaluate the data collected for the preceding six months and determine if this source

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water quality condition was still being met. If the criterion had not been met, the system would be required to filter.

(ii) *Turbidity limits.* To avoid filtration, a system would be required on an ongoing basis to demonstrate that the turbidity of the water prior to disinfection does not exceed 5 NTU, based on the collection of grab samples at least every four hours. Continuous turbidity monitoring could be substituted for grab sample monitoring if this measurement was validated for accuracy with grab sample measurements on a regular basis, with a protocol approved by the State. If the public water system used continuous monitoring, the system would use turbidity values taken every four hours to determine whether it met the turbidity raw water limit. A system would be allowed to exceed the 5 NTU limit (although it would be in violation of a treatment technique requirement), no more than two periods during twelve consecutive months or five periods during 120 consecutive months, provided that (a) the system informed, as soon as possible but in no case later than 72 hours, its customers and the State, to boil their water before consumption until it is determined that the water is safe, and (b) the State determined that the exceedance occurred because of unusual or unpredictable circumstances. A "period" would be defined as the number of consecutive days in which at least one turbidity measurement each day exceeded 5 NTU.

b. Site-Specific Criteria

(i) *Disinfection requirements.* To avoid filtration, the proposed rule would require that a system practice disinfection and have redundant disinfection capability including an auxiliary power supply, with automatic start up (and alarm), to ensure that continuous disinfection is provided. The system would have to demonstrate on an ongoing basis that the disinfectant residual of at least 0.2 mg/l is maintained in the water entering the distribution system. The system would also be required to demonstrate by monitoring that it is achieving disinfection operational conditions which inactivate 99.9 percent of *Giardia* cysts and 99.99 percent of enteric viruses at all times. To make this determination, the system would monitor (and report) the disinfectant(s) used, disinfectant residual(s), disinfectant contact time(s), pH, and water temperature, and apply these data to determine if it met the CT value in the rule. A system would be considered in compliance with the inactivation requirements if it met (or exceeded) the "CT" value [disinfectant concentration (mg/l) × disinfectant contact time (minutes)] specified in the rule. This determination would be required each day that the system is delivering water to its customers. The CT values necessary to achieve 99.9 percent inactivation of *Giardia* cysts by various disinfectants and under various conditions are specified in the rule. An example of some of these values appears in Table IV–2. These values, which are based on laboratory studies, include safety factors. The basis for these values is discussed in Section V of this preamble and in greater detail elsewhere (Regli, 1987; USEPAb, 1987). Since *Giardia* cysts are much more resistant to free chlorine, ozone, and chlorine dioxide than are enteric viruses, it can be assumed that if a system achieves 99.9 percent inactivation of *Giardia* cysts using these disinfectants, it will achieve much greater than a 99.99 percent inactivation of enteric viruses. Therefore, minimum CT values to achieve 99.99 percent inactivation of enteric viruses are not presented in this preamble, although values are available in the draft Guidance Manual.

TABLE IV–2.—CT VALUES FOR ACHIEVING 99.9 PERCENT INACTIVATION OF GIARDIA LAMBLIA

	pH	Temperature			
		0.5 °C	5 °C	10 °C	15 °C
Free Chlorine [1]	6	170	120	90	60
	7	260	190	130	100
	8	380	270	190	140
	9	520	370	260	190
Ozone	6–9	4.5	3	2.5	2
Chlorine Dioxide	6–9	81	54	40	27
Chloramines	6–9	3,800	2,200	1,850	1,500

[1] CT values will vary depending on concentration of free chlorine. Values indicated are for 2.0 mg/l free chlorine. CT values for different free chlorine concentrations are specified in tables in the proposed rule.

The CT values given for chloramines in Table IV–2 (and in the proposed rule) were determined under laboratory conditions in which no free chlorine was present, i.e., the chloramines were preformed. Systems would probably not be able to achieve these CT values. Under field conditions, chloramination as a treatment process involves the addition of free chlorine and ammonia either concurrently, or sequentially, the order of addition and timing between adding each component being determined by the needs of the utility. Regardless of the process used, chloramination, as conducted in the field, is more effective than using preformed chloramines (Hoff, 1986). The relative effectiveness will be influenced by the order of addition, the chlorine to ammonia ratio, water pH, and temperature.

The proposed rule allows utilities using chloramines, to demonstrate, through the use of a State approved protocol for on-site disinfection challenge studies, if lower CT values than those indicated in the rule would achieve the required inactivations of *Giardia* and enteric viruses. In addition, since enteric viruses may be significantly more resistant to chloramine residuals than are *Giardia* cysts, systems using chloramination for primary disinfection would also need to conduct on-site studies, to demonstrate that they are achieving 99.99 percent inactivation of enteric viruses (unless the watershed has no potential sources of human enteric viruses) as well as 99.9 percent inactivation of *Giardia* cysts. Such studies require a high level of expertise, and it may be necessary for utilities using chloramination to hire specialized independent (commercial) laboratories or university researchers to make such determinations.

For the purpose of calculating CT values, disinfection contact time is the time it takes the water to move between the point of disinfectant application and a point before or at the first customer during peak hourly flow; residual disinfectant concentration is the concentration of the disinfectant before or at the first customer after which contact time is measured. Contact time in pipelines must be calculated based on "plug flow" (i.e., where all water moves homogeneously in time between two points) by dividing the internal volume of the pipeline by the peak hourly flow rate through that pipeline. Contact time within mixing basins and storage reservoirs must be determined by tracer studies or an equivalent demonstration.

If disinfectants are applied at more than one point, the percent inactivation of each disinfectant sequence prior to the first customer would be considered as part of the determination of the total percent inactivation. In making this determination, the disinfectant residual of each disinfection sequence and corresponding contact time would be measured before subsequent disinfection application point(s) to determine the percent inactivation for each sequence, and the total percent inactivation achieved. For example, if the first disinfection sequence achieved 99 percent inactivation and the second disinfection sequence achieved 90 percent inactivation, the total percent inactivation would be 99.9 percent, determined as follows:

$$99 + \frac{90(100-99)}{100} = 99.9$$

The proposed rule includes formulas for calculating CT values necessary to achieve 90, 95, 99, and 99.5 percent inactivation of *Giardia lamblia* cysts, based on the CT values specified in the rule which achieve 99.9 percent inactivation.

Guidance for determining percent inactivation of *Giardia* cysts and enteric viruses for different situations is given in the draft Guidance Manual.

Under the proposed rule, systems would also be required on an ongoing basis to demonstrate that disinfectant residuals in the distribution system are not less than 0.2 mg/l in more than five percent of the samples in a month, for two consecutive months. The rule would require the public water system to monitor the disinfectant residual at the same frequency and locations as total coliform measurements taken pursuant to the coliform MCL regulation proposed elsewhere in today's **Federal Register.**

(ii) *Watershed control.* To avoid filtration, the proposed rule would require a system to maintain an effective watershed control program, determined to the satisfaction of the State, to minimize the potential for contamination by *Giardia* cysts and enteric viruses in the source water. The scope and specificity of the watershed control program would increase as the size of the watershed and the volume of water supplied by the system increased. The watershed control program would include: (1) Characterization of the watershed hydrology and land ownership; (2) identification of watershed characteristics and activities which may have an adverse impact on the water quality; and (3) programs to monitor and control the occurrence of activities which may be detrimental to water quality. The public water system would be required to demonstrate through ownership or written agreements with landowners in the watershed, or a combination of both, that it is able to control all human activities which may have an adverse impact on water quality. Guidance for developing and maintaining an effective watershed control program appears in the draft Guidance Manual.

(iii) *Sanitary survey.* To avoid filtration under the proposed rule, the system must have an on-site sanitary survey conducted each year by an agent approved by the State, or by the State. The survey results must indicate to the State's satisfaction that the system is providing a safe water supply to the community. Disinfection and any other treatment processes, sanitary survey, and the watershed control program are interrelated preventive strategies. The watershed control program is mainly concerned with the water source. The sanitary survey is a comprehensive evaluation of the watershed control program, the treatment in place, and the distribution of water. The purpose of the survey is to identify all microbiological health hazards and assess their present and future importance. The survey would include a review of all activities within the watershed over the entire previous year which could have an effect on the raw water source and finished water quality. The survey would identify potential sources of contamination of the water supply such as sewage discharges, septic tank fields, and sanitary landfills and their impact upon the source water quality of the system. The person making the survey would need to have an education in basic sanitary sciences and competence in the epidemiology of waterborne disease and have experience in evaluating water systems for sanitary defects. Under the proposed rule, the survey report, summarizing all findings, including maps and sketches where appropriate, should be submitted to the State on a yearly basis. Specific criteria for the sanitary survey appear in the draft Guidance Manual. The State would judge the adequacy of the survey and whether the system is satisfactorily meeting the criteria.

(iv) *Disease outbreaks.* To avoid filtration, the proposed rule would require that a system in its current configuration not have had an identified waterborne disease outbreak. "Waterborne disease outbreak" is defined as the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system, deficient in treatment, as determined by the appropriate health agency or State.

(v) *Compliance with the long-term total coliform maximum contaminant level (MCL).* Under the proposed rule, to avoid filtration, a system must comply with the "long-term MCL" for total coliforms, proposed elsewhere in today's **Federal Register.** The coliform rule would require systems which do not filter to collect an additional sample near the first customer each day that the turbidity level exceeds 1 NTU and to analyze the sample for the presence of total coliforms. The results would be included in the determination of whether the system is in compliance with the long-term MCL for total coliforms. The system would meet this requirement for avoiding filtration if no more than five percent of the coliform measurements in the distribution system were positive for any twelve previous months, or 60 previous samples, whichever number of samples was greater.

(vi) *Compliance with the maximum contaminant level for total trihalomethanes.* Under the proposed rule, to avoid filtration, a system must demonstrate that it is in compliance with the total trihalomethane regulation (40 CFR 141.12 and 141.30). At present, this requirement only applies to systems serving over 10,000 people. When new regulations for disinfection by-products

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are promulgated, EPA intends to also impose those limits on smaller systems. At that time, these smaller systems would be required to comply with these requirements in order to avoid filtration.

2. Criteria for Determining if Treatment is Adequate for Filtered Systems

a. Design and Operating Conditions

Under the proposed rule, the State would specify design and operating criteria for filtration and disinfection for each system under its jurisdiction that would ensure overall removal and/or inactivation of at least 99.9 percent of *Giardia* cysts and at least 99.99 percent of enteric viruses. Each system would be required to meet the design and operating criteria specified by the State. The draft Guidance Manual recommends design and operating criteria for different treatment technologies and source water qualities.

b. Disinfection Requirements

The proposed rule would require each system to continuously monitor the disinfectant residual of the water after filtration but before it enters the distribution system, and measure and record the disinfectant residual in the distribution system taps at the same frequency and locations as required for total coliform measurements (see the regulation for total coliforms, proposed elsewhere in today's **Federal Register**). A disinfectant residual of at least 0.2 mg/l would need to be maintained at all times in the water entering the distribution system, and disinfectant residuals could not be allowed to be less than 0.2 mg/l at any location in the system in more than five percent of the samples in a month, for any two consecutive months, on an ongoing basis.

c. Turbidity Monitoring Requirements

Under the proposed rule, systems which used conventional treatment, direct filtration, or diatomaceous earth filtration would be required to monitor the turbidity of the representative filtered water by grab sample every four hours (or shorter regular time interval), when water is being delivered to the distribution system.

A public water system could substitute continuous turbidity monitoring for grab sampling if it validated this measurement for accuracy with grab sample measurements on a regular basis, as specified by the State. If a system used continuous monitoring, it would be required to use the turbidity value for every four hours (or some shorter regular time interval) to determine compliance with the turbidity performance criterion.

For systems using slow sand filtration and technologies other than conventional treatment, direct filtration, or diatomaceous earth filtration (such as cartridge filtration), the State could reduce the sampling frequency for turbidity to one sample per day if it determined that the prescribed frequency was not necessary to indicate effective filtration performance.

d. Turbidity Performance Criteria

(i) *Conventional treatment or direct filtration.* For systems using conventional treatment or direct filtration, the proposed rule requires that filtered water turbidity be less than or equal to 0.5 NTU in 95 percent of the measurements taken every month. If the State determined that on-site studies demonstrate effective removal and/or inactivation of *Giardia lamblia* cysts, or effective removal of *Giardia lamblia* cyst-sized particles, at other filtered water turbidity levels, then the State could specify these levels as the appropriate performance criteria instead. This provision would allow the State to take disinfection performance into account in determining the overall performance by the system. For example, the State could allow less stringent turbidity performance criteria for systems using ozonation at CT values that achieve 99.9 percent inactivation of *Giardia* cysts (and therefore much greater than 99.99 percent inactivation of viruses). However, the proposed rule would require that, in all cases, the maximum filtered water turbidity level must be less than or equal to 1 NTU in 95 percent of the measurements taken each month and at no time could exceed 5 NTU.

All systems would be expected to optimize their treatment so as to achieve the lowest turbidities feasible at all times. This would promote optimal removal of *Giardia* cysts and other pathogens, and optimum conditions for disinfection.

(ii) *Slow sand filtration.* For systems using slow sand filtration, the proposed rule would require that the filtered water turbidity be less than or equal to 1 NTU in 95 percent of the measurements taken each month and at no time exceed 5 NTU. However, the State could allow a turbidity value greater than 1 NTU, but below 5 NTU, in 95 percent of the measurements if the filter effluent at the plant prior to disinfection met the long-term MCL for total coliforms for one year (see § 141.63(b) of the proposed coliform rule, proposed elsewhere in today's **Federal Register**).

(iii) *Diatomaceous earth filtration.* For systems using diatomaceous earth filtration, the filtered water turbidity would have to be less than or equal to 1 NTU in 95 percent of the measurements taken each month and at no time exceed 5 NTU.

(iv) *Other filtration technologies.* For systems using other filtration technologies, the performance criteria would be the same as for conventional treatment and direct filtration. The State could allow a turbidity value greater than 0.5 NTU in 95 percent of the measurements, at no time exceeding 5 NTU, if the system were able to demonstrate effective performance at such levels to the State. Guidance for making such demonstrations is provided in the draft Guidance Manual.

C. Monitoring and Reporting Requirements

Monitoring and reporting requirements for all public water systems which use surface water sources to document compliance with the various filtration and disinfection requirements in § 141.71, 141.72, and 141.73 are proposed in §§ 141.74 and 141.75. Separate requirements are specified for systems which use filtration and systems which do not use filtration.

1. Systems Not Using Filtration

Systems which do not use filtration because they meet the requirements of § 141.71 would be required to report to the State on a monthly basis. The report would include a summary of the results of source water monitoring for total or fecal coliforms and turbidity, in order to demonstrate compliance with § 141.71(a)(1). The summary of fecal or total coliform sampling would include the number of samples collected, the values obtained for each measurement, the number of samples which exceeded the performance criteria of 20/100 ml or 100/100 ml, respectively, the cumulative total of samples collected since the beginning of the running six-month compliance period, and the percent of these which are below the respective criteria. Information pertaining to turbidity measurements would include the values obtained for each measurement, the value and specific date when any turbidity measurement exceeded 5 NTU, and when the system informed its customers to boil their water.

Systems that do not use filtration would report disinfection conditions monthly to demonstate that: (1) It was continuously meeting the 99.9 percent *Giardia* cyst and 99.99 percent enteric virus inactivation performance criteria; (2) there was a disinfectant residual of at least 0.2 mg/l at all times in the water supplied to the distribution system; and (3) there is a disinfectant residual of 0.2 mg/l or more in at least 95 percent of the samples analyzed in the distribution system in one month, or if this limit was exceeded, that it was not exceeded the previous month as well. The system must also report information monthly that demonstrates the effectiveness of the disinfection process. The report would include a summary of the daily measures of disinfected water temperature and pH; the disinfectant contact time and disinfectant residual of each disinfection sequence prior to the first customer during peak hourly flow conditions; the minimum CT value(s) for each day necessary for achieving 99.9 percent *Giardia* cyst inactivation and 99.99 percent enteric virus inactivation, as calculated from the rule; and the actual CT values (disinfectant concentration in mg/l times the minimum contact time in minutes) prior to the first customer for each day. The system would also be required to report the date of each instance when the actual CT is less than the minimum CT necessary for 99.9 percent *Giardia* cyst or 99.99 percent enteric virus inactivation (specified in the rule), and the date of each instance that there is less than 0.2 mg/l disinfectant residual in water supplied to the distribution system. To determine compliance with the distribution system disinfectant residual requirements, the public water system would report on a monthly basis the values measured and the total number and percent of disinfectant residual measurements less than 0.2 mg/L.

Other reporting requirements for systems which do not use filtration include:

- An annual report of the watershed control program which summarizes the system's watershed related activities, any problems identified during the year, and potential areas of concern for the future.
- An annual report summarizing the results of the system's sanitary survey unless the survey is conducted by the State, in which case the State would provide a copy of its report to the public water system.
- A report to the State within 48 hours following attribution of the occurrence of any waterborne disease outbreak attributed to the system by a public health agency or State.
- A copy of any public notice issued during the month pursuant to § 141.32.

2. Systems With Filtration

Public water systems which use filtration would report on a monthly basis to the State information regarding filtered water turbidity, disinfectant residual concentration in the water entering the distribution system, maintenance of disinfectant residuals in the distribution system, and public notification.

Turbidity reporting requirements would vary depending upon the filtration technology used. Systems using conventional and direct filtration would report monthly the total number of turbidity measurements, the date and values of any measurements which exceed 0.5 NTU, and the percent of turbidity measurements which are less than 0.5 NTU. The reporting requirements for systems using slow sand filtration would be the same as those for conventional and direct filtration except that the system would report turbidity values which exceed one NTU rather than 0.5 NTU. In addition, if the filtered water turbidity level was not less than one NTU in at least 95 percent of the measurements taken in a month, the system would also report the results of sampling to demonstrate that the filter effluent prior to disinfection meets the long-term MCL for total coliforms for the previous year (§ 141.63(b), see the coliform rule proposed elsewhere in today's **Federal Register**). The reporting requirements for systems using diatomaceous earth filtration are the same as those for conventional and direct filtration except that the system would report the date and values of turbidity measurements which exceed 1 NTU and the percent of measurements which exceeded 1 NTU that month. If the State allows other filtration technologies, those systems must meet the reporting requirements for conventional and direct filtration, except that the State may specify that other turbidity values be reported to allow determination of compliance with different performance criteria.

To verify compliance with the disinfection requirements of § 141.72(b), each system using filtration must report monthly the date and duration of each instance the disinfectant residual is less than 0.2 mg/L in the water supplied to the distribution system. To determine whether adequate disinfectant residuals are being maintained in the distribution system, the system would also report monthly the total number and values of disinfectant residual measurements in the distribution system. These measurements would be taken no less frequently than samples for total coliforms required pursuant to § 141.21 of the coliform rule (proposed elsewhere in today's **Federal Register**). In addition, the system would report the values measured, and the total number and percent of values which are less than 0.2 mg/L.

Each month the system would also provide a copy of any public notice issued during the month pursuant to § 142.32.

D. Compliance

Within 18 months following the promulgation of this rule, States are required by the SDWA to promulgate their own criteria for determining which systems must filter, which are at least as stringent as those required by EPA. Within 12 months following promulgation of its criteria, each State must determine which systems will be required to filter. Procedures for State implementation of both the filtration and disinfection requirements appear in Section VI below. If a State fails to comply with this schedule for adopting the criteria and applying them to determine who must filter, systems would be required to comply with the "objective" or self-implementing criteria (i.e., the requirements that are clear on the face of the rule and do not require State judgment), within 30 months of the promulgation of this rule or install filtration within 48 months. As soon as the State adopts the criteria, the system would have to comply with all the requirements.

The proposed rule has self-implementing requirements which pertain to both unfiltered and filtered water systems. These are listed in § 141.76(a)(1)(2)(4)(5)(6) and 141.76(b)(1)(2)(4)(5)(6), respectively; they would go into effect for each public water system within 48 months following the promulgation of this rule (unless the State has imposed more stringent requirements). The subjective criteria (such as those pertaining to watershed control and design and operating conditions), listed in § 141.76 (a)(3) and (b)(3), would go into effect following the establishment of these criteria by the State. Systems which are not in compliance with the objective criteria for avoiding filtration 30 months after promulgation would be required to install filtration and meet the objective performance criteria (listed in § 141.76) for the filtration technology they choose within 48 months after promulgation.

Any system failing to meet the criteria listed in § 141.76 (a)(1)(2) or (b)(1)(2), within 48 months following promulgation of this rule, would be in violation of a treatment technique requirement. Any system failing to meet

the subjective criteria, listed in § 141.76 (a)(3) or (b)(3), following the determination made by the State, would also be in violation of a treatment technique requirement. Any system failing to meet the criteria pertaining to analytical, monitoring, and reporting requirements, listed in § 141.76(a)(4)(5)(6) or § 141.76(b)(4)(5)(6) would be in violation of a testing procedure requirement, monitoring requirement, or reporting requirement.

The 48-month time limit is based on the 1986 SDWA amendments which require: (1) States to adopt criteria for determining which systems must filter within 18 months following EPA's promulgation of such criteria; (2) States to determine which systems must filter within 12 months following such adoption of criteria; and (3) systems to install filtration within 18 months of the determination that filtration is required.

Figure IV–1 illustrates how it would be determined whether a system is in compliance with the rule. Strategies for implementing the requirements of this rule for different systems, based on current treatment in place and on water quality, are described below.

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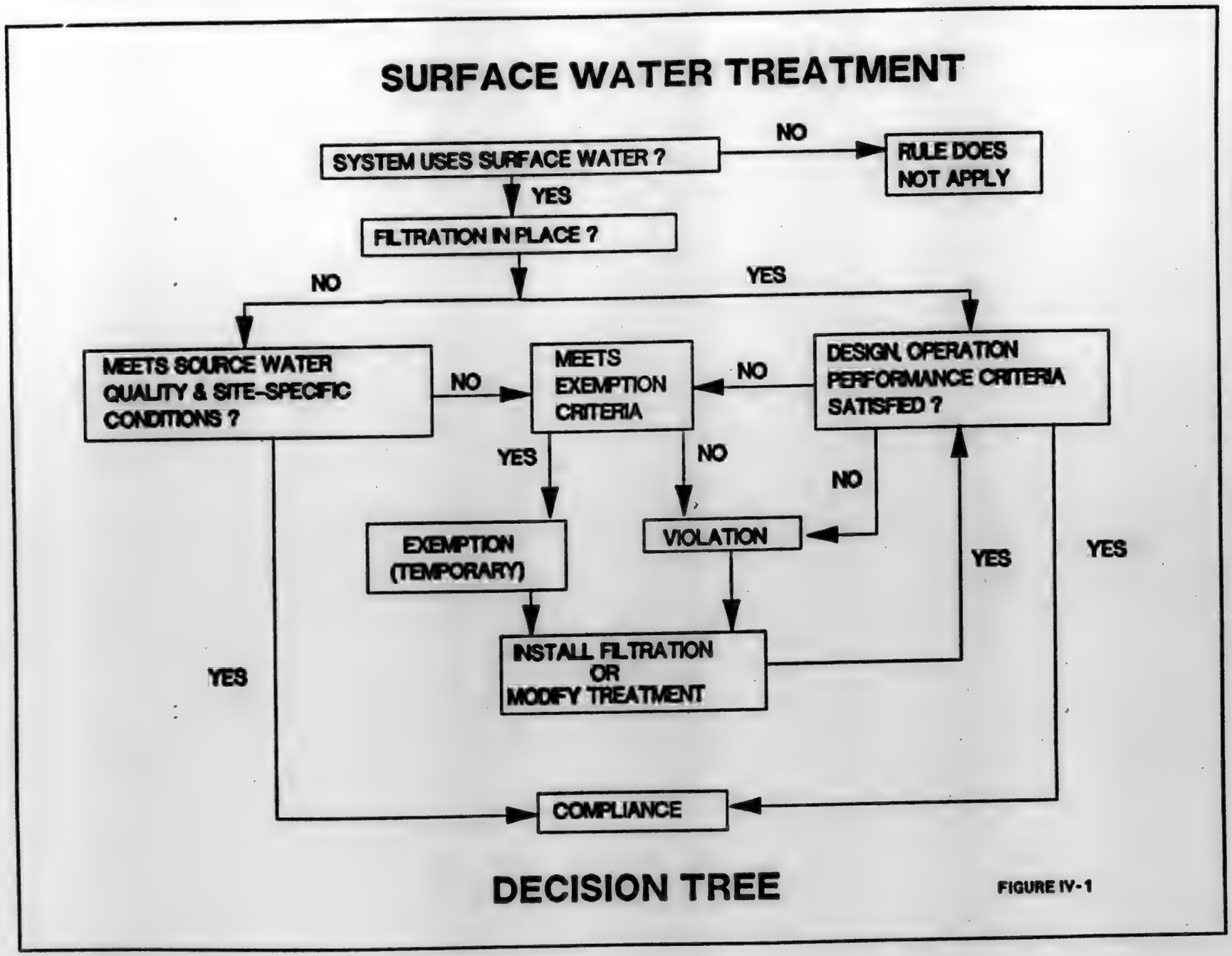

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1. Systems With No Disinfection in Place

If the system uses surface water and does not currently provide disinfection, the system would need to begin disinfection, and possibly to filter its water as well.

While the system is being evaluated to determine the necessary treatment to be installed (e.g., disinfection without filtration; disinfection first, filtration later because of time differences needed for construction; or filtration and disinfection at the same time), interim measures to alleviate health risk might be needed, as determined by the State (such as a notice to consumers that water should be boiled before use or distribution of bottled water). Guidelines for the appropriate action to be taken as a function of different circumstances are given in the draft Guidance Manual.

2. Systems With Disinfection But With No Filtration in Place

Systems which failed to meet one or more of the conditions of §§ 141.70, 141.71, or 141.72(a) would be required to filter 48 months after promulgation of this rule unless they were able to obtain an exemption. If the system sought an exemption, it might need to initiate remedial action, as determined by the State, to ensure there was no unreasonable risk to health until adequate treatment was provided (e.g., implementing more stringent disinfection conditions until filtration is installed).

3. Systems With Filtration and Disinfection in Place

Systems with filtration and disinfection in place which failed to meet the requirements of §§ 141.70, 141.72(b), or 141.73 would be in violation of a treatment technique requirement. Many such systems will already be in compliance with all the requirements of the rule. However, some systems will require significant upgrades in treatment to meet all performance criteria and design and operating conditions specified by the State.

Filtration without disinfection, with proper pretreatment where appropriate, can be expected to achieve 99 to 99.9 percent removal of *Giardia* cysts and 90 to 99.9 percent removal of viruses (Logsdon, 1987). Disinfection is needed to supplement filtration so that the overall treatment achieves the minimum treatment requirements of the rule, i.e., greater than 99.9 percent removal and/or inactivation of *Giardia* cysts and 99.99 percent removal and/or inactivation of viruses. In order to achieve these performance criteria with a substantial margin of safety, it is recommended that filtered water systems be designed and operated so that disinfection achieves at least 90 percent inactivation of *Giardia* cysts which, with the possible exception of disinfection using chloramines, would be expected to achieve greater than a 99.99 percent inactivation of enteric viruses.

CT values necessary to achieve 90 percent inactivation of *Giardia lamblia* cysts are indicated in Table IV-3. Guidelines for defining "C" and "T" within the treatment chain of a filtration plant are given in the draft Guidance Manual. If multiple disinfectants are used, e.g., ozone followed by chloramines or chlorine, the percent inactivation achieved by each of the disinfectants would be used together to determine the overall disinfection performance provided.

TABLE IV-3.—CT VALUES FOR ACHIEVING 90 PERCENT INACTIVATION OF GIARDIA LAMBLIA [1]

	pH	Temperature			
		0.5 °C	5 °C	10 °C	15 °C
Free chlorine [2]	6	60	40	30	20
	7	90	60	40	30
	8	130	90	60	50
	9	170	120	90	60
Ozone	6–9	1.5	1	0.8	0.7
Chlorine dioxide	6–9	27	17	13	9
Chloramines (preformed)	6–9	1,270	730	520	500

[1] From draft Guidance Manual.
[2] CT values will vary depending on concentration of free chlorine. Indicated CT values are for 2.0 mg/l free chlorine. (For other free chlorine concentrations, see Guidance Manual).

Disinfection of the clarified water should be commensurate with the degree of potential pathogen contamination in the source water and the extent of clarification, filtration, and preoxidation (e.g., ozonation, prechlorination) processes prior to this disinfection. The system should provide more stringent disinfection (e.g., 99 or 99.9 percent inactivation of *Giardia* cysts) when source waters have significant levels of fecal contamination. Guidelines for providing an appropriate level of disinfection as a function of source water quality conditions are available in the draft Guidance Manual.

E. Public Notification

EPA has recently promulgated final regulations to revise the existing public notification requirements in 40 CFR 141.32 to implement the 1986 amendments to the public notification provisions section 1414(c) of the Safe Drinking Water Act. The revised public notification requirements are effective 18 months after promulgation. The regulations specify general notification requirements, including the frequency, manner, and content of notices, and require the inclusion of specific health effects information. The regulations divide violations into two types of tiers, with each tier having different public notification requirements. Tier 1 violations are violations of an MCL, a treatment technique, or a variance or exemption schedule. (Some Tier 1 violations may be designated as "acute" violations.) Tier 2 violations are defined as failures to comply with monitoring requirements, failures to comply with a testing procedure prescribed by the NPDWR, and operating under a variance or exemption. This notice proposes to amend § 141.32 to classify violations of §§ 141.70, 141.71, 141.72, and 141.73 (as specified in § 141.76) as Tier 1 violations and violations of §§ 141.74 and 141.75 as Tier 2 violations. In addition, this notice proposes to amend § 141.32(a)(iii) to designate the following conditions as "acute" Tier 1 violations for purposes of requiring electronic media notice within 72 hours after the violation:

1. When the turbidity of the water prior to disinfection of an unfiltered supply, or the turbidity of filtered water, exceeds 5 NTU at any time; or

2. There is a failure to maintain a disinfectant residual of at least 0.2 mg/l in the water being delivered to the distribution system.

All of the requirements of the § 141.32 General Public Notification Requirements, including the manner and frequency of notification, would apply to this proposed regulation. The final public notification regulation requires all public notices to include specific health effects information. The mandatory information for certain contaminants was contained in the public notification rule; for others it is to be promulgated when the MCL is promulgated. In accord with this, the proposed mandatory language to be included in public notifications for violations of filtration and disinfection requirements is specified below:

Microbiological contaminants in water that has been treated improperly may be a problem for people who drink that water because these contaminants can cause various types of illness such as hepatitis, giardiasis, and gastroenteritis. These illnesses can cause different symptoms, including diarrhea, jaundice, abdominal cramps, nausea, headaches, weight loss, and fatigue. To reduce any potential risk of microbial contamination of drinking water, there are requirements for treating drinking water, such as filtering and disinfecting the water, which remove or destroy microbiological contaminants at water treatment facilities.

F. Variances

Section 1415 allows variances from national primary drinking water regulations under certain conditions. However, section 1412(b)(7)(C)(ii) of the Safe Drinking Water Act states that, in lieu of the variance provisions of section 1415, the EPA is to specify criteria by which States will determine which public water systems will be required to filter. This notice proposes such filtration requirement criteria. Therefore, the proposed rule would not permit variances. As for the disinfection requirements in this proposal, due to the acute and high risk associated with poor disinfection of surface waters, EPA is proposing that no variances be allowed. The rationale for not allowing variances to the disinfection requirements is discussed in Section V of this notice.

G. Exemptions

Section 1416 of the Safe Drinking Water Act allows a State to exempt any public water system within its jurisdiction from any treatment technique requirement imposed by a national primary drinking water regulation upon a finding that:

1. Due to compelling factors (which may include economic factors), the public water system is unable to comply with the treatment technique requirement;

2. The public water system was in operation on the effective date of the treatment technique requirement, or for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to the new system; and

3. The granting of the exemption will not result in an unreasonable risk to health.

If a State grants a public water system an exemption, the State must prescribe, at the time the exemption is granted, a schedule for:

1. Compliance (including increments of progress) by the public water system with each treatment technique requirement with respect to which the exemption was granted; and

2. Implementation by the system of such control measures as the State may require for each treatment technique requirement, during the period the exemption is in effect.

Before prescribing a schedule, the State must provide notice and opportunity for a public hearing on the exemption. The schedule prescribed must require compliance by the public water system with the treatment technique requirement as expeditiously as practicable, but in no case later than one year after the exemption is issued (except that if the system meets certain requirements, the final date for compliance may be extended for a period not to exceed three years from the date the exemption is granted). For systems serving less than 500 service connections and which need financial assistance for the necessary improvements, the State may renew the exemption for one or more additional two-year periods, if the above conditions were satisfied. EPA is proposing that no exemptions be allowed from the requirement of providing disinfection for surface water systems, but that exemptions be allowed for the degree of disinfection required and for meeting the filtration requirements. For example, under certain conditions, it might be appropriate for an unfiltered system to receive an exemption if it achieved a 99 percent removal and/or inactivation of *Giardia* but not the required 99.9 percent removal and/or inactivation of enteric viruses. Guidance for determining conditions under which an exemption might be appropriate is discussed in the draft Guidance Manual.

V. Basis for Major Components of Proposed Rule

The rationale for each of the major criteria of the proposed rule are presented below.

A. Definition of Surface Water and Coverage

The purpose of the proposed definition of "surface waters" is to subject to the requirements of the rule all systems which may be subject to surface water contamination by *Giardia lamblia*. *Giardia lamblia* are orders of magnitude larger than viruses and are thus much more readily removed by natural filtration processes in the ground. However, *Giardia lamblia* are much more resistant than viruses and bacteria to disinfection, and either require filtration and disinfection together or very stringent disinfection for adequate removal and/or inactivation. When disinfection requirements for groundwater supplies are proposed at a later date, they will address the concern for viral contamination in such supplies.

Drinking water supplies originating from infiltration galleries, springs, and wells have been found to be contaminated by *Giardia* cysts (Hoffbuhr *et al.*, 1986; Hibler *et al.*, 1987). In addition, waterborne giardiasis outbreaks have occurred in systems using springs and wells as their source water (Craun, *et al.* 1986). These data indicate that not all water from beneath the surface of the ground is adequately filtered by passage through the ground or protected from surface water so as to prevent contamination by *Giardia lamblia*. Since a major purpose of this proposed rule is to control *Giardia lamblia*, the proposed definition of "surface water" includes springs, infiltration galleries, wells, and other collectors which are directly influenced by surface water. "Direct influence" would be determined on a case-by-case basis by the State. Direct influence of surface water may be indicated by rapid shifts in water quality indicators such as turbidity or conductivity, the presence of diatoms, plant debris, rotifers, insect parts, larvae, *Coccidia*, or *Giardia* cysts in the source water. This broad definition of "surface water" would give the State the authority to require a system with a source from beneath the surface, which may be subject to surface water contamination, to demonstrate that the source water is not subject to direct influence from surface water in

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order to avoid coverage by this rule. A sanitary survey, hydrogeological survey, and/or monitoring to determine whether there are fluctuations in water quality indicators of surface water influence present such as diatoms, plant debris, rotifers, *Coccidia*, insect parts, larvae, or *Giardia* cysts may be needed in order to make an appropriate determination. Recommended procedures for making these determinations appear in the draft Guidance Manual.

B. Requirement That All Surface Water Systems Must Disinfect (No Variances or Exemptions Allowed)

The proposed rule requires disinfection for all systems with surface water sources, with no variances or exemptions allowed, because all surface water sources have a significant probability of being subject to contamination from pathogenic bacteria, viruses, and *Giardia lamblia*. Currently available water quality indicators (e.g., total coliforms, turbidity) are not adequate by themselves for demonstrating that surface water is not at risk from contamination of pathogenic organisms.

A properly maintained and operated disinfection system is essential for controlling waterborne disease. As indicated in Table I–1, most disease outbreaks occur in systems with inadequate or interrupted disinfection. Clarification and filtration processes by themselves do not provide adequate removal of pathogenic bacteria and viruses. Disinfection must supplement these processes to provide the most effective treatment barrier for these organisms and to provide additional protection from *Giardia* cysts.

At the April 1985, Baltimore Workshop on Filtration, Disinfection and Microbial Monitoring, which EPA and the American Water Works Association sponsored, participants representing utilities, state regulatory programs, and the scientific community recommended that disinfection be required, with no variances allowed, for all systems using surface water sources (Regli, S.; Berger, P., eds., 1987).

C. 99.9 Percent Removal and/or Inactivation of Giardia Cysts

Tables V–1 and V–2 characterize the occurrence of *Giardia* cysts in raw and finished public drinking water supplies as a function of source water type and treatment in place. The data are based on analyses by the Department of Pathology, Colorado State University on samples submitted from municipalities throughout the United States (Hibler, 1987).

TABLE V–1.—DETECTIONS OF GIARDIA CYSTS IN SOURCE WATERS OF PUBLIC DRINKING WATER SUPPLIES IN THE U.S.[1]

Classification	Samples	No. sites	No. positive samples	No. positive sites	Percent	
					Positive of samples	Positive of sites
Creeks	444	75	161	38	41	51
Rivers	449	74	163	38	36	51
Lakes	829	49	138	19	17	39
Springs [2]	84	6	16	2	19	33
Wells [2]	63	40	2	2	3	5

[1] Ref. (Hibler, 1987).
[2] Samples represent finished water. Most water from springs and wells is unfiltered and may or may not be disinfected before consumption.

TABLE V–2.—DETECTIONS OF GIARDIA CYSTS IN FINISHED DRINKING WATER SUPPLIES OF THE U.S.[1]

Classification	Samples	No. sites	No. positive samples	No. positive sites	Percent	
					Positive of samples	Positive of sites
Unfiltered, chlorinated	1,214	94	80	16	6.6	17
Direct filtration [2]	615	92	148	17	24.0	18.5
Conventional treatment	357	86	12	5	3.4	5.8
Slow sand and diatomaceous earth filtration	16	3	0	0	0	0
Commercial filters and/or pressure filters	33	12	4	2	12.1	16.7
Cartridge filters	51	13	11	7	21.6	53.8
Infiltration galleries	37	16	7	5	18.9	31.3
Filter type unknown	85	24	15	6	18.0	25.0

[1] Based on data collected from 1979–1986, Hibler, 1987.
[2] May or may not include coagulation or disinfection. Number of systems applying coagulant and/or polymer, or whether disinfection was interrupted, could not be determined.

The data in Tables V–1 and V–2 underestimate the occurrence of positive cysts in the samples that were analyzed because:

1. Percent recoveries of cysts were less than 100 percent, estimated to range from about 10 percent (in waters with high organic turbidity) to about 85 percent (in waters with low inorganic turbidity), and

2. Many of the finished water samples contained a chlorine residual so that, with the lag time in shipping and processing, cysts that may have been present were either killed or compromised and therefore not detected.

In most of the systems using conventional treatment in which cysts were detected in the raw water, no cysts were detected in the finished water. However, the data indicate that even when filtration technologies (e.g., direct filtration or conventional treatment) are in place, *Giardia* cysts may not be effectively removed if chemical pretreatment (e.g., coagulation) is absent or maintenance and operation are improper or inadequate. This conclusion is further supported by epidemiological

data (previously presented in Table I–1) which indicate that about one-third of all reported cases of waterborne giardiasis occurred in systems which filter their water but which were improperly maintained or operated. These data indicate that it is not enough to require that some type of filtration be installed where appropriate, but that it is necessary to specify requirements for filtration which will ensure adequate performance. All surface waters are susceptible to *Giardia* cyst contamination from animal or human sources. Even in protected watersheds, where restrictions on access may significantly reduce the probability of contamination, a large measure of uncertainty will always exist that warrants a minimum level of protection.

EPA is proposing treatment requirements which achieve at least 99.9 percent removal and/or inactivation of *Giardia* cysts. All waterborne giardiasis outbreaks have occurred in systems with no treatment in place or with faulty water treatment plant design or operation. On the other hand, no properly operated water treatment plant using conventional treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration with disinfection has been implicated in a waterborne giardiasis outbreak. Laboratory and pilot-scale studies indicate that these technologies, under appropriate design and operating conditions, remove and/or inactivate at least 99.9 percent of *Giardia* cysts (U.S. EPA, 1987c) (Amirthirajah, 1986). In addition, at the April 1985 Baltimore Workshop on Filtration, Disinfection and Microbial Monitoring, participants recommended that if systems were allowed not to filter, they should be required to achieve a 99.9 percent inactivation of *Giardia* cysts by disinfection (as well as other requirements).

Although some systems might not actually need a 99.9 percent removal and/or inactivation of *Giardia* cysts to provide adequately safe water to their customers, EPA believes it is not feasible for a system to demonstrate with assurance that lower removals and/or inactivations would be adequately protective of public health. A methodology has been suggested which would allow a public water system to demonstrate that it is providing finished water below a designated risk level (e.g., less than one infection per 10,000 people per year), based on intensive monitoring of *Giardia* cyst occurrence in the raw water and an estimate of percent inactivation achieved by disinfection (Regli *et al.*, 1986; Borup, 1986). It is not feasible at this time, however, to base a maximum contaminant level on such an analysis since:

(a) There is no "standard" method for counting *Giardia* cysts.

(b) Available methods have not been validated by a number of laboratories using different waters.

(c) Validation procedures need to be established.

(d) The precision, efficiency and sensitivity have not been adequately determined for any one analytical method.

(e) Percent recovery of *Giardia* cysts by available analytical methods is not predictable.

(f) Laboratory certification procedures are not available.

(g) Practical methods for assessing cyst viability have not been developed.

(h) Sampling frequencies needed to demonstrate low levels of risk appear to be economically prohibitive for most systems.

Therefore, EPA believes it appropriate to require that all systems using surface water achieve a minimum removal and/or inactivation of 99.9 percent *Giardia* cysts. A minimum performance level is specified in the proposed rule (rather than minimum design and operating conditions) to allow for a variety of technological solutions. Guidance for evaluating *Giardia* removal and/or inactivation by filtration and disinfection processes, with appropriate safety factors, is provided in the Guidance Manual.

D. 99.99 Percent Removal and/or Inactivation of Enteric Viruses

In 1971–1985, 36 percent of reported waterborne illnesses in systems using surface waters were diagnosed as acute gastrointestinal disease of unknown pathogen etiology. EPA believes that many of these illnesses are caused by viruses. The Committee on Viruses of the American Water Works Association has expressed concern about viral transmission by drinking water because:

1. Human enteric viruses can survive for extended periods in the aquatic environment and these viruses have been readily isolated from wastewater and polluted surface water used as source water for treatment plants.

2. Laboratory data have shown most enteric viruses to be more resistant than indicator bacteria to inactivation by disinfectants used for water.

3. Infectivity tests have shown that, under experimental conditions, human infections could be caused by a one-cell culture dose of poliovirus.

4. There is a consistently high endemic level of hepatitis A in the United States and investigations have shown contaminated water to be a source of hepatitis A outbreaks.

5. Sporadic outbreaks of non-bacterial gastroenteritis suspected of being waterborne in origin occur rather frequently, and an endemic level of gastroenteritis occurs in the United States; waterborne viruses may be responsible.

6. Increased water demand is making direct recycling of wastewater almost a reality for some water systems, and conventional water treatment is not designed to produce potable water from wastewater. (AWWA Committee Report, 1979)

Enteric virus removal by clarification and filtration processes, without disinfection, can be expected to range from 90 to 99.7 percent for conventional treatment, 90 to 99 percent for direct filtration (with coagulation-flocculation), zero to greater than 99 percent for diatomaceous earth filtration (depending on whether pretreatment is used), and from 90 to greater than 99.9 percent by slow sand filtration (Engelbrecht, 1983; Logsdon, 1987).

The effectiveness of enteric virus inactivation by disinfection depends upon the type of disinfectant, disinfectant residual, disinfectant contact time, pH, and temperature, and may be affected by the ionic environment and clumping (Hoff, 1986). The AWWA Committee on Viruses in Drinking Water has recommended that following conventional treatment, a free chlorine residual of 1.0 mg/l be maintained for at least 30 minutes at a water pH not to exceed 8.0, to provide reasonable assurance of a virologically safe water (AWWA Committee Report, 1979). The Committee further recommended that reductions in contact time or increases in pH should be compensated for by appropriate increases in free chlorine residual.

The recommended minimal disinfection conditions by AWWA can be expected to achieve greater than a 99.9 percent inactivation for most enteric viruses for which data exists (Liu et al., 1971; Hoff, 1986; U.S. EPA, 1987c).

Well-operated systems with filtration and disinfection can be expected to achieve at least a 99.99 percent removal and/or inactivation of enteric viruses. No waterborne disease has ever been implicated in a well-operated water treatment plant using filtration and disinfection. EPA believes that at least a 99.99 percent removal and/or inactivation of enteric viruses by

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treatment for surface water systems is necessary to ensure an adequate margin of safety.

A minimum performance level is specified in the proposed rule (rather than minimum design and operating conditions) to allow for a variety of technological solutions. Guidance for evaluating enteric virus removal and/or inactivation by filtration and disinfection processes, with appropriate safety factors, is provided in the Guidance Manual.

E. Criteria for Determining if Filtration is Required

1. Source Water Quality Requirements

a. *Coliforms.* Historically, standards for raw water used as sources for public drinking water, where disinfection is the only treatment provided, have ranged from 50 to 100 total coliforms per 100 ml based on a monthly arithmetic average (McKee, J.E., Wolf, H.W., 1963). Standards in this range have been issued by the U.S. Public Health Service (PHS), New England Interstate Water Pollution Control Commission, Interstate Commission on the Potomac River Basin, Pollution Control Council, and numerous State health departments. These standards were based on extensive U.S. PHS studies conducted earlier in the century.

In 1968, the U.S. PHS issued the "Manual for Evaluating Public Drinking Water Supplies," Public Health Service Publication 1620, also known as the "Green Book," in which it recommended that for systems whose only treatment was disinfection, the raw water should not exceed fecal coliform (FC) counts of 20 per 100 ml, and total coliform (TC) counts of 100 per 100 ml, as determined by a monthly arithmetic mean (U.S. EPA, 1971). However, the total coliform count could exceed 100 per 100 ml if the fecal coliform count did not exceed the recommended limit. The fecal coliform number was given precedence over the total coliform number because it only measures coliforms excreted from humans and warm blooded animals, whereas total coliforms includes coliforms from plants or soils which may not have health risk significance.

As noted earlier, EPA is proposing that to avoid filtration a system would be required to show that the fecal coliform concentration in its source water is less than 20 per 100 ml in 90 percent of the samples taken during the previous six months, calculated every month, with minimum sampling frequencies as follows:

System size	Samples/ week
<501	1
501–3,300	2
3,301–10,000	3
10,001–25,000	4
>25,000	5

In addition, systems would be required to collect at least one coliform sample during any day in which a turbidity measurement in the raw water exceeded 1 NTU (these samples would count towards the weekly minimum).

Systems would be allowed to monitor for total coliforms in lieu of fecal coliforms. In such cases, the system must show that the total coliform concentration is less than 100 per 100 ml in 90 percent of the samples the previous six months period, calculated every month. If both fecal coliform and total coliform measurements are made, the system would only be required to meet the fecal coliform limit to avoid filtration. These criteria are based on the following considerations:

(1) A limit that must be met a certain percentage of the time, rather than an average limit, reflects more accurately the probabilities of occurrence of water quality periods in which the system may be significantly stressed (in contrast to averages, which tend to mask periodic excursions).

(2) The prescribed sampling frequency allows smaller systems to collect fewer samples because in such systems probabilities of adverse effects are less. In addition, monitoring by small systems is significantly more expensive than for large systems because the analysis generally cannot be conducted in-house. The requirement that the public water system collect an additional sample each day that raw water turbidities exceed 1 NTU would ensure that sampling is conducted when water quality is likely to most severely stress disinfection treatment. The monitoring frequencies prescribed for small systems are consistent with those required for the distribution system under the total coliform MCL regulation proposed elsewhere in today's **Federal Register**. Therefore, sample collection and analysis easily could be conducted at the same time to fulfill the requirements of both rules. It should be noted that this regulation would not require more than five samples per week for large systems (as opposed to the more frequent monitoring required throughout the distribution system in the proposed total coliform MCL regulation) since EPA believes that source water quality, as opposed to distribution system water quality, is adequately measured by taking samples at one representative point through which all the water to be treated passes.

(3) The proposed limit is applied over every consecutive six months rather than just one month because (1) the minimum number of source water samples required for small systems (e.g., three samples or less per week for systems serving less than 10,000 people) would not provide enough samples for reasonable application of the criterion on a monthly basis, and (2) the evaluation of data for six months, rather than just one month, provides better overall representation of the water quality and more data on which to determine whether a system must filter or not. The proposed limit is applied over six months rather than a longer interval (e.g., one year) because the amendments to the SDWA require States to determine which systems must filter within one year following the adoption of these criteria; using six months of data still leaves the State time to make its determination.

(4) The more stringent historical standard, i.e., 50 total coliforms per 100 ml versus 100 total coliforms per 100 ml (or alternatively ten fecal coliforms per 100 ml, assuming a 5:1 total coliform to fecal coliform ratio), was used as the mean value concentration for determining an upper allowable limit.

The upper allowable limit set for the historical standards are based on the 90% confidence limits of the most probable number (MPN) estimates for the 5 tube, 3 decimal dilution test. The upper 90 percent confidence limit for the MPN technique was selected because the variation around an MPN mean estimate is constant over the entire range of values for any set number of tubes and it is greater than the variation encountered with membrane filter techniques. It has been shown graphically that the upper 90 percent confidence interval value for a 3 decimal dilution, 5 portion MPN estimate for a mean value of 10 fecal coliforms is 20 (Velz, 1951). For a test using 3 portions, the upper 90% limit is 25. Since the application of both methods is acceptable, and considering the close proximity of 20 and 25, the value 20 was selected as the upper allowable limit. Applying the same analysis for total coliforms results in an upper limit of approximately 100 per 100 ml.

(5) EPA is proposing to allow a system to demonstrate they are meeting a total coliform limit, in lieu of the fecal coliform limit, because many public water systems already have a large data base of total coliform data from which

to determine whether they would be required to filter. The total coliform 90th percentile limit of 100 per 100 ml would be allowed as a surrogate for the fecal coliform limit because FC:TC ratios in waters relatively remote from fecal discharge tend to be much lower than 1:5 and thus, for such waters, the total coliform limit provides a much more conservative limit than the fecal coliform limit. The Ohio River Valley Water Sanitation Commission (ORSANCO, 1971) compared levels of fecal coliform and total coliform in over 1,000 samples from different locations on the Ohio River. The ORSANCO study found an overall FC:TC ratio of 14:100 (varying from 4:1,000 to 45:100), averaging approximately 1:5 near discharge points of wastewater treatment plants and less than this further away from such discharge points.

EPA is currently collecting raw water quality data from a large number of public water systems that disinfect, but do not filter their water, which it will use to evaluate the proposed raw water limits. Data gathered to date are shown in Table V–3. These data suggest that an arithmetic mean upper limit may be more appropriate than a percentile occurrence upper limit because the two systems with the highest arithmetic mean (i.e., utilities "F" and "J") were the only systems which experienced noncompliance with the current total coliform MCL for distribution system monitoring. These systems (along with utility "K") also experienced the highest annual mean and 90th percentile turbidity occurrence levels.

TABLE V–3—OCCURRENCE OF TOTAL COLIFORMS AND TURBIDITY LEVELS FOR ONE YEAR IN SOURCE WATERS OF SYSTEMS PRACTICING DISINFECTION ONLY

Utility	Total Coliforms per 100 ml			Turbidity (NTU)		
	Mean	90th [1]	No. Samples [2]	Mean	90th	No. Samples
A	30	54	279 (D)			
B	8	16	508 (W)	0.99		107 (M)
C	56	184	51 (W)	0.41	0.56	51 (W)
D	6	18	401 (D)	0.33	0.43	404 (D)
E	11	24	1,393 (D)	0.25	0.32	1,411 (D)
F*	93	117	168 (D)	2.56	5.50	80 (D)
G	41	129	41 (M)	1.37	1.60	44 (M)
H	26	55	42 (M)	1.04	1.40	46 (M)
I	6	11	43 (M)	1.53	2.10	45 (M)
J*	64	80	363 (D)	1.62	2.40	365 (D)
K	35	57	60 (M)	1.86	2.64	60 (M)
L	.5	5.2	60 (M)	0.50	0.81	60 (M)

* Noncompliance with total coliform MCL by distribution system monitoring.
[1] 90th=90 percent of all values less than that value (90th percentile).
[2] D=daily samples, W=weekly samples, M=monthly averages.

b. *Turbidity.* The proposed raw water turbidity requirement for systems which do not filter is related to the existing turbidity MCL, which has been in effect since 1977. Under the existing MCL, a system is in violation if the turbidity of the water, at a representative entry point to the distribution system exceeds 1 NTU, as determined by a monthly average (based on at least one sample per day), or if the average turbidity for two consecutive days exceeds 5 NTU. Under the existing MCL the monthly average limit of 1 NTU may be exceeded up to 5 NTU if the system demonstrates to the State that the higher turbidity does not (1) interfere with disinfection; (2) prevent maintenance of a disinfectant residual throughout the distribution system; or (3) interfere with microbiological determinations.

Under the proposed rule, a system would be required to filter if the turbidity of the raw water, just prior to disinfection, exceeds 5 NTU at any time unless the following conditions were met: (a) turbidity levels did not exceed 5 NTU in more than two periods in twelve consecutive months, or more than five periods in 120 consecutive months (where "period" is one or more consecutive days when at least one turbidity measurement each day exceeds 5 NTU); (b) the system informs its customers that they must boil the water before consumption during the period the turbidity exceeds 5 NTU; and (c) the State determines that the exceedance is unusual and unpredictable. Measurements for making this determination would be required at least every four hours. EPA has not proposed an average monthly limit of 1 NTU in accordance with the conditions of the existing turbidity MCL because:

a. The proposed rule would require systems to filter if they fail to comply with the proposed long-term MCL for total coliforms proposed elsewhere in today's **Federal Register**. Under the proposed total coliform MCL, systems would be required to monitor throughout the distribution system. If there is evidence of interference with the coliform analysis, repeat samples would be required, for determining both the presence or absence of coliforms and the number of heterotrophic bacteria present. If the heterotrophic bacteria level exceeds 500 colonies/ml, the system would be required to report that repeat sample as coliform-positive, even in the absence of detectable coliforms. In addition, for surface water systems which do not filter, the proposed rule would require them to sample for coliforms near the first customer each day the turbidity exceeds one NTU. These measurements would be counted in determining whether the system is in compliance with the total coliform MCL.

Analysis of recent occurrence data that public water systems have submitted to EPA indicates that several systems which use disinfection as the only treatment, and which have had average turbidity levels exceeding 1.5 NTU in their source water, have been out of compliance with the existing total coliform MCL (Table V–3). Meeting the proposed coliform MCL, which is more stringent than the existing MCL, would serve as an indicator that there is no significant interference of disinfection by turbidity.

b. Under the proposed rule systems would be required to filter unless they met the following disinfection conditions:

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(i) Maintenance of CT values, determined each day, that theoretically achieve 99.9 percent inactivation of *Giardia* cysts and 99.99 percent inactivation of enteric viruses, with some margin of safety.

(ii) Maintenance of a disinfectant residual both at the point of entry into the distribution system and throughout the distribution system.

EPA believes that the proposed raw water quality upper limit of 5 NTU (with more frequent monitoring than the current rule for turbidity), in conjunction with the other requirements of this rule, would provide a greater margin of safety than the requirements of the existing turbidity MCL for ensuring that raw water quality will not significantly interfere with disinfection of *Giardia* cysts, bacteria, and enteric viruses. Since significant fluctuations in turbidity levels can occur during a 24-hour period, this proposed rule would require more frequent monitoring than does the current NPDWR for turbidity to ensure a more representative measurement of turbidity occurrence. Increases in turbidity occurrence levels from less than 1 NTU to greater than 5–10 NTUs have been shown to correlate with decreases in disinfection effectiveness in unfiltered source waters (Le Chevalier, *et al.*, 1981). In addition, high turbidity waters may be unaesthetic in appearance and cause consumers to avoid use of the public water supply and possibly choose less safe sources. Exceedances to the 5 NTU limit are allowed for a limited number of unusual and unpredictable circumstances such as avalanche, hurricane, or ten-year flood. EPA believes that the boiled water notice required to be issued at such times would prevent exposure to acute risks.

The proposed turbidity limit for systems which do not filter (i.e., only practice disinfection) is less stringent than the turbidity limits proposed for systems which filter because:

(a) EPA believes the requirements that systems which do not filter meet the raw water fecal coliform and total coliform limits, and maintain a watershed control program to restrict human activities, ensure very high probabilities of minimal (if any) occurrence of human viruses in the source water. Although watershed control will not eliminate animal activity, no viruses excreted by animals have yet been shown to be pathogenic to humans.

(b) *Giardia lamblia* cysts are relatively large organisms compared to bacteria and viruses, so interference with their removal and/or inactivation by turbidity levels below the specified limits is very unlikely. And, as noted earlier, achieving 99.9 percent inactivation of *Giardia* cysts will achieve much greater than 99.99 percent inactivation of enteric viruses and heterotrophic bacteria, if chlorine, ozone, or chlorine dioxide are used for disinfection (Hoff, 1986). As discussed previously, if a system used chloramination it would probably not be feasible for it to achieve the CT values specified in the proposed rule for the required inactivation of *Giardia* and enteric viruses. The draft Guidance Manual provides a methodology by which systems using chloramination could conduct pilot studies of their disinfection process to demonstrate, on-site, whether it is achieving 99.9 percent and 99.99 percent removal and/or inactivation of *Giardia* cysts and enteric viruses, respectively.

2. Disinfection Requirements

To avoid filtration the proposed rule would require systems which do not filter to: (1) provide disinfection which achieves at least 99.9 percent inactivation of *Giardia lamblia* cysts and 99.99 percent inactivation of enteric viruses based on application of CT values; (2) provide treatment with redundant back-up components for disinfection in case of system failure; (3) maintain a disinfectant residual of at least 0.2 mg/l at all times in the water entering the distribution system; and (4) maintain a disinfectant residual in the distribution system of no less than 0.2 mg/l in more than 5 percent of the measurements in a month, for two consecutive months. The basis for these requirements is discussed as follows:

(a) Application of CT Values for Determining 99.9 Percent Inactivation

The rationale for the minimum levels of inactivation has already been discussed. The rule sets out CT tables which specify the percent inactivation based on the contact time and residual disinfectant concentration. In addition, the rule specifies how "contact time" and "residual disinfection concentration" are to be determined. EPA believes this specification is necessary in the rule because many systems have traditionally determined CT values based on the disinfectant residual "C" (mg/l), measured at the point of application and contact time "T" (minutes) measured during average flow rate conditions, assuming no short circuiting of the water through the treatment plant (such as within storage tanks or mixing basins). However, CT measurements determined in this manner would overestimate the actual percent removal and/or inactivation. The proposed rule specifies that "C" be measured near the first customer or before a subsequent point of disinfectant application (e.g., chlorination or chloramination after ozone). Water prior to this point of measurement could be assumed to have a higher disinfectant concentration than near the first customer because of oxidant demand in the water. The measured "C", as specified in the proposed rule, will thus reflect a substantially lower disinfectant concentration than would actually be present during disinfection, since some of the disinfectant would have been reduced over time. The proposed rule also specifies that contact time be based on peak hour flow rate conditions and that systems use tracer studies to determine actual contact time in mixing basins and storage reservoirs. The determined contact time "T" will thus reflect a minimum value. The product of (C) x (T) will reflect a substantially lower CT value than would actually be in effect and thus result in the determination of a substantially conservative estimate of percent inactivation from the CT tables in the rule.

The basis for the CT values in the proposed rule are discussed elsewhere (Regli, 1987; USEPA, 1987b). CT values for free chlorine are based on animal infectivity data (Hibler *et al.*, 1987) and application of a regression model to this data (Clark *et al.*, 1987). As a safety factor, the CT values in the proposed rule to achieve 99.9 percent inactivation are defined as the CT values that were needed to achieve 99.99 percent inactivation under experimental conditions. If this safety factor were not applied, the CT values in Table IV–2 would be about 25 percent lower.

The CT values for ozone are based on disinfection studies using *in vitro* excystation of *Giardia lamblia* (Wickramanayake, G.B., *et al.*, 1985). The CT values for chlorine dioxide are based on disinfection studies using *in vitro* excystation of *Giardia muris* (Leahy, J.G., 1985). As a safety factor, the highest CT values obtained for ozone and chlorine dioxide in these studies were multiplied by 3 to obtain the CT values indicated in Table IV–1. A much larger safety factor was applied to the ozone and chlorine dioxide data than to the chlorine data because:

1. Less data were available for ozone and chlorine dioxide than for chlorine.

2. Data available for ozone and chlorine dioxide, because of the limitations of the excystation procedure, only reflected up to or slightly more than 99 percent inactivation. Data for chlorine reflected inactivation of 99.99 percent removal and/or inactivation with ozone and chlorine dioxide, versus the direct determination of CT values for achieving 99.99 percent removal and/or inactivation using chlorine, involved greater uncertainty.

3. The CT values for ozone and chlorine dioxide to achieve 99.9 percent inactivation are feasible to achieve.

4. Use of ozone and chlorine dioxide is likely to occur within the plant rather than in the distribution system (versus chlorine and chloramines which are the likely disinfectants for use in the distribution system). Contact time measurements within the plant will involve greater uncertainty than measurement of contact time in pipelines.

The CT values for chloramines are based on disinfection studies using preformed chloramines and *in vitro* excystation of *Giardia muris* (Rubin, 1987). No safety factor was applied to these data since chloramination, conducted in the field, is more effective than using preformed chloramines. Also, *Giardia muris* appears to be more resistant than *Giardia lamblia* to chloramines (Rubin, 1987).

For systems with sequential disinfection sequences, the rule provides multiplication factors for determining CT values to achieve 90, 95, 99, and 99.5 percent inactivation of *Giardia lamblia*, based on application to the CT values specified in the rule which achieve 99.9 percent inactivation. The multiplication factors were derived based on first order disinfection kinetics, discussed elsewhere (Regli, 1987; Clark *et al.*, 1987).

(b) Redundant system components

The requirement of redundant disinfection system components to be in place, such as additional chemical feed units, is to provide an additional margin of safety in case of mechanical failure since only one treatment barrier, disinfection, exists between the raw water and the consumer.

(c) Maintenance of 0.2 mg/L disinfectant residual entering the distribution system

This requirement is to ensure continuous disinfection. Disinfection is the only treatment barrier preventing exposure from potential pathogenic organisms in the source water. Since the rule only requires CT determinations, once during the day, i.e., during peak hourly flow conditions, a provision was considered necessary to ensure continuous disinfection at all times. A minimum disinfectant residual of 0.2 mg/l is specified to assure confidence in the measurement, and for consistency with the disinfectant residual requirements for the distribution system.

(d) Distribution system residuals

The requirement for all systems that disinfectant residuals in the distribution system (measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide) be at least 0.2 mg/l in at least 95 percent of the samples each month, for two consecutive months, would:

(i) Ensure that the distribution system is properly maintained and identify and limit contamination from outside the distribution system when it might occur;

(ii) Limit growth of heterotrophic bacteria and *Legionella* within the distribution system;

(iii) Provide a quantifiable minimum target which, if exceeded, would trigger remedial action. EPA believes that an absolute criterion, i.e., requiring systems to maintain a disinfectant residual at all times throughout the distribution system, and/or imposing a higher concentration of disinfectant residual, while an appropriate goal, would be unrealistic to achieve and enforce. EPA believes the proposed standard is attainable and would be feasible to enforce. Systems which exceeded the criterion for one month would be given the opportunity to take remedial action so as to meet the limit in the following month.

The AWWA Committee on Water Quality in Transmission and Distribution Systems has recommended that a total chlorine residual of 0.2–0.3 mg/l be maintained in the far reaches of the distribution system (Victoreen, 1974). EPA believes this limit is also appropriate for chlorine dioxide because it is a more effective disinfectant than chlorine or chloramines. A lower limit is not appropriate for chlorine dioxide because such measurements could not be determined with confidence due to limitations with the analytical methodology.

Disinfectant residuals higher than 0.2 mg/l, for any disinfectant, are not required because of concern for disinfection by-products. The National Academy of Sciences (NAS) has recently published Volume 7 of the Drinking Water and Health series. This volume discusses the health effects of many drinking water disinfectants and disinfection by-products. The disinfectants (chlorine, chlorine dioxide, and chloramines) have been tested in several animal models. The health effects associated with these disinfectants include depressed thyroid function and altered hemological parameters related to oxidative stress. Chlorinated water has been associated with increased bladder, rectal, and colon cancers. The NAS has recommended a Suggested-No-Adverse-Response-Level (SNARL) of 0.2 mg/l for chlorine dioxide and 0.5 mg/l for chloramine. The SNARL represents a level of exposure which is not expected to pose a health hazard over a lifetime. The NAS has incorporated a 20 percent relative source contribution from drinking water. However, exposure to these disinfectants from sources other than drinking water is expected to be minimal. Therefore, assuming that near 100 percent of exposure comes from drinking water, the resulting SNARLs might be estimated as up to 1 mg/l for total chlorine dioxide and its by-products and up to 2.5 mg/l for chloramine. The NAS has not recommended a SNARL for chlorine.

The EPA is presently evaluating the health effects of drinking water disinfectants and disinfection by-products for development of MCLGs and MCLs. Promulgation of MCLGs and MCLs is expected by January 1991. EPA does not expect the minimum disinfectant residual requirements for the distribution system proposed in this rule to conflict with future regulations to control disinfection by-products.

F. Criteria for Determining if Treatment is Adequate for Filtered Systems

1. Design and Operating Criteria (State Determination)

Historically, States have been responsible for establishing design and operating criteria for public drinking water plants. States have worked through organizations such as the Water Supply Committee of the Great Lakes Upper Mississippi River Board of State Sanitary Engineers and the AWWA to establish appropriate design and operating criteria. Rather than including design and operating requirements in this rule, EPA believes it is more appropriate for States to continue to take the responsibility for establishing design and operating criteria since they are most familiar with the systems they regulate, local conditions, etc. Therefore, this proposed regulation describes treatment processes that may be used to meet minimum performance criteria. States would be responsible for setting design and operating conditions for these (or other) treatment processes to assure that these performance criteria would be met. This preamble and regulation, and the draft Guidance Manual, provide information on appropriate design and operating criteria for assuring compliance with the performance criteria.

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2. Turbidity Performance Requirements

The proposed turbidity performance criteria for systems that filter are more stringent than those of the existing MCL. EPA has concluded that the existing MCL turbidity criteria are not adequate performance criteria for filtered systems because:

a. High turbidity levels can frequently occur in finished water (e.g., during storm events, at the end of filter runs, and following backwash cycles), during which passage of pathogens are most likely to occur; yet the system could still be in compliance with the current MCL. Continuous effective filtration, demonstrated by continuous effective turbidity removal, is essential for continuous effective pathogen control.

b. Systems using conventional treatment and direct filtration can easily meet the current MCL while not optimizing pretreatment (e.g., coagulation and flocculation processes). For these technologies, effective pretreatment is essential for effective virus removal (Robeck, *et al.*, 1962), and *Giardia* cyst removal (DeWalle, *et al.*, 1984; Logsdon, *et al.*, 1985; Al-Ani, *et al.*, 1986). *Giardia* cysts have frequently been detected in finished waters of systems using rapid granular filtration (direct filtration and conventional treatment) which have inadequate pretreatment (Hibler, 1987a).

Good correlations between turbidity removal and *Giardia* cyst removal have been demonstrated in pilot plant studies (Logsdon, *et al.*, 1981; Al-Ani, *et al.*, 1986). Although finished water turbidity goals of 0.1 NTU have long been advocated within the drinking water industry, many systems have not taken the initiative to optimize turbidity removal, despite the fact that such treatment improvements have relatively low associated costs (U.S. EPA, 1987c).

The purpose of the performance criterion for conventional treatment and direct filtration is to ensure that public water systems optimize pretreatment to ensure effective *Giardia* cyst removal. EPA believes the proposed performance criterion of less than or equal to 0.5 NTU 95 percent of the time is the lowest turbidity level which is generally achievable by these technologies. The National Drinking Water Advisory Council supports these criteria as being achievable (National Drinking Water Advisory Council, 1986). The Agency recognizes that the proposed performance criterion may not be adequate for a system whose source waters have a turbidity of less than 1 NTU (Al-Ani, *et al.*, 1986; Hendricks, 1986). Therefore, in such cases, the State should set more stringent turbidity performance criteria as appropriate. Guidance for setting such criteria appears in the draft Guidance Manual. The proposed rule would require turbidity measurements to be made at least every four hours that the system is in operation and that no more than five percent of the measurements in one month exceed 0.5 NTU. The purpose of this requirement is to ensure the practice of continuous effective filtration.

For removal of *Giardia* cysts, the turbidity of the filtered water in systems using diatomaceous earth and slow sand filtration has been shown to be relatively less important, as long as the mechanical integrity of the filter is preserved. Since no relationship between turbidity removal and *Giardia* cyst removal has been demonstrated for diatomaceous earth and slow sand filtration systems, the proposed turbidity performance criteria are higher than for conventional treatment or direct filtration.

When diatomaceous earth filtration is practiced, the relationship between the turbidity and microbiological quality depends on the nature of the turbidity-causing particles and the microorganisms of concern. If the diatomaceous earth is not treated with a polymer or with salts of aluminum or iron, the removal mechanism is straining; raw water coagulation is generally not practiced in diatomaceous earth filtration. Turbidity removal increases as finer grades of diatomaceous earth are used, but *Giardia* cyst removal has been shown to be very effective for all grades tested (Lange, *et al.*, AWWA, 1986). If turbidity-causing particles are very small, they can penetrate the filter even when cysts are removed.

Studies of slow sand filtration have shown that this process is very effective for *Giardia* cyst removal. Pilot plant studies (Bellamy, *et al.*, JAWWA, 1985) have demonstrated that cyst reductions were almost always greater than 99.9 percent, even though turbidity removal generally was only from 6 to 8 NTU (raw) to 3 to 5 NTU (filtered). The existing MCL of 1 NTU was seldom, if ever, met in water treated by the slow sand filtration. The turbidity-causing particles appeared to be fine clay. Other slow sand filter research (Cleasby, *et al.*, JAWWA, 1984) indicates that slow sand filters can effectively remove both turbidity and microorganisms. Turbidity removal effectiveness appeared to be influenced by the quantity of nutrients in the water; waters that are low in nutrients may not be as treatable with respect to turbidity removal.

The upper turbidity limit of less than or equal to 1 NTU in 95 percent of the turbidity measurements for all the filtration technologies is to ensure a high probability that there is no significant interference with disinfection. Slow sand filters can substantially reduce concentrations of viruses, bacteria, and protozoan cysts in water, and tend to attain the microbiological water quality achieved by disinfection. If substantial reductions of microorganisms are attained by slow sand filters, disinfection need not be as stringent. Therefore, under the proposed rule, water treated by slow sand filters could have turbidity above one NTU (up to five NTU), at the State's discretion, if the system demonstrates that the filter effluent, prior to disinfection, meets the proposed long-term MCL for total coliforms for one year.

3. Disinfection Requirements

Filtered systems would be required to (1) maintain a disinfectant residual of at least 0.2 mg/l at all times in the water entering the distribution system and (2) maintain a disinfectant residual in the distribution system of no less than 0.2 mg/l in more than 5 percent of the measurements in a month, for two consecutive months. For the most part, the rationale for these criteria has already been discussed under the disinfection requirements for unfiltered systems. For filtered systems, disinfection is the principal treatment barrier for bacteria and viruses, and a supplemental treatment barrier for *Giardia lamblia*. The continuous disinfection requirement is thus also considered essential for filtered systems.

VI. State Implementation of the Surface Water Treatment Requirements

A. General

Section 1413 of the Safe Drinking Water Act (SDWA) establishes requirements a State must meet to have primary enforcement responsibility (primacy) for public water systems. These include: (1) Adopting drinking water regulations no less stringent than the national primary drinking water regulations (NPDWRs) in effect under sections 1412(a) and 1412(b); (2) adopting and implementing adequate procedures for enforcement; (3) keeping records and making such reports with respect to its activities as EPA may require by regulation; (4) issuing variances and exemptions (if allowed at all by the State) under conditions no less stringent than allowed by sections 1415 and 1416; and (5) adopting and

being able to implement an adequate plan for the provision of safe drinking water under emergency situations.

40 CFR Part 142 sets out requirements for States to obtain primacy for the public water system supervision (PWSS) program, as authorized under section 1413 of the SDWA. EPA first promulgated these regulations on January 29, 1976; since then, the basic requirements have remained relatively unchanged. Since 1976, however, much has happened in the PWSS program. With the exception of Wyoming and Indiana, all eligible States have received PWSS primacy. In addition, the SDWA amendments of 1986 made sweeping changes in the program. For example, the amendments mandate that EPA promulgate regulations for many additional drinking water contaminants; require EPA to develop primary drinking water regulations specifying criteria under which filtration is required as a treatment technique for public water systems supplied by surface water sources; direct the Agency to be much more active in enforcing the national primary drinking water regulations; establish a ban on the use of lead pipe, solder, and flux in public water systems and plumbing systems providing water for human consumption; and authorize Indian tribes to obtain primacy for public water systems in their jurisdictions.

With these extensive changes in the program and the law, portions of the implementation regulations at 40 CFR Part 142 have become outdated. In response, the Agency has formed a primacy workgroup to develop and evaluate options to address the major primacy issues associated with implementing the 1986 amendments. The Agency is planning to propose revisions to 40 CFR Part 142, Subpart B which will take into account the program's evolution since it began in 1974, as well as the new legislative mandates. These revisions will be published for comment in the **Federal Register** later this fall. The Agency is today proposing, and is soliciting comments only on those changes to Part 142 needed to implement the surface water treatment requirements.

B. Statutory requirements

The SDWA specifies that a State has primary enforcement responsibility for public water systems when the EPA determines, pursuant to regulations promulgated under section 1413(b), that the State meets certain conditions. One condition is that the State must demonstrate that it has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations in effect under sections 1412(a) and 1412(b) of the Act, including maximum contaminant levels and treatment techniques. These NPDWRs appear in 40 CFR Part 141. In the case of the filtration requirements in today's proposed changes to Part 141, the Act actually establishes deadlines for: (1) EPA to promulgate the regulations specifying criteria under which filtration is required; (2) States with primacy to adopt any necessary statutes or regulations to implement those filtration regulations; and (3) public water systems to achieve compliance.

EPA is today proposing the changes to 40 CFR Part 142 needed to implement the filtration and disinfection requirements proposed today. Other changes to Part 142 will be proposed later this fall as explained earlier.

C. State Program Revisions

One of the deficiencies in the existing program implementation regulations at 40 CFR Part 142, which EPA plans to correct in its proposal later this fall, is that the regulations do not require States with primacy to revise their programs following EPA promulgation of new or revised NPDWRs, nor do they specify a procedure for doing so. EPA is preparing to propose regulations which will require States to revise their programs following the promulgation of new or revised NPDWRs to maintain primary enforcement responsibility. Under the SDWA, EPA has had a strong and continuing policy of approving only those State programs that had adopted the full EPA program, e.g., all NPDWRs; States could not obtain partial or conditional primacy. EPA intends to continue this "full primacy" policy as it implements the 1986 SDWA amendments by requiring States to revise their programs to adopt all new or revised NPDWRs to maintain primary enforcement responsibility. (If partial primacy were allowed, the result would be confusion for the regulated community as the State would be implementing part of the program and EPA the other—the public water system would be confused as to which regulation it was subject.) Therefore, EPA is planning to require State program revisions and will propose a procedure to review and approve these. The procedure EPA is planning to propose will be similar to that in Part 142 for obtaining initial primacy. It will require States to meet the basic requirements for primary enforcement responsibility for each new or revised NPDWR and any requirements specific to an NPDWR which EPA has established. It is anticipated that such additional regulation-specific requirements would be necessary only in those situations where the NPDWR provides flexibility to the State on how to accomplish a particular requirement. If these regulation-specific requirements are needed, EPA will promulgate them at the same time it promulgates the NPDWR. Today's proposal at 40 CFR 142.16(a) specifies the additional requirements that a State would be required to include in a program revision application to adopt the surface water treatment requirements proposed today in 40 CFR Part 141. EPA solicits comments solely on these requirements. Comments on the broader changes to Part 142 will be solicited later this year when those changes are proposed. EPA is also proposing the changes to the reporting and recordkeeping requirements needed to implement the surface water treatment requirements also proposed today. EPA also solicits comments on these. EPA's proposed changes to Part 142 are explained below.

D. State Reporting and Recordkeeping Requirements

Changes to the existing recordkeeping requirements to implement the filtration criteria and filtration and disinfection provisions proposed in this notice would require States to:

(1) Record which systems using surface water sources are required to provide filtration and which systems are not in the inventory of public water systems which they are already required to maintain;

(2) Retain the results of microbiological contaminant analysis of source water samples in the same manner as other microbiological contaminant analytical results.

(3) Retain records of disinfectant residual measurements and other parameters necessary to document disinfection effectiveness for at least one year. These records would include either the analytical results necessary for the State to determine daily disinfection efficiency using the CT tables in proposed 40 CFR 141.72 or the daily disinfection efficiency achieved as determined by the State or the public water system using the same tables. Analytical results necessary to determine disinfection efficiency include water temperature, disinfectant residual, and disinfectant contact time.

(4) States would retain records for not less than 10 years of any determination under 40 CFR 141.71 that a public water system supplied by surface water sources was or was not required to provide filtration treatment.

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Proposed changes to the current reporting requirements to implement the filtration and disinfection requirements include the requirement for each State to identify quarterly all public water systems (including their PWSS identification numbers) supplied by surface water sources for which the State made a determination during that quarter that the system was not required to provide filtration treatment.

E. Specific Primacy Requirements for States to Adopt 40 CFR 141 Subpart H—Filtration and Disinfection

The implementation aspects of the proposed regulations at 40 CFR Part 141, Subpart H Filtration and Disinfection are somewhat different when compared to the implementation of other NPDWRs. The proposed filtration and disinfection requirements in many cases allow the primacy State broad discretion with regard to how the objectives of the regulations are to be achieved. For instance, the rule requires public water systems to comply with design and operating requirements specified by the State. In such cases, State regulations would be required to augment the national regulations to establish enforceable requirements (in the form of State regulations or permit requirements). This will inform each public water system precisely to what requirements it is subject.

To ensure that the State program includes all the elements necessary for a complete enforcement program, this notice proposes that to obtain approval of a program revision for filtration and disinfection, the State's application would be required to include the following:

(1) A requirement that a public water system using surface water sources be under the control of a qualified operator.

(2) Procedures for identifying public water systems supplied by surface water sources as defined in proposed 40 CFR 141.2. This definition of surface water includes impoundments, springs, infiltration galleries, wells, or other collectors which are directly influenced by water open to the atmosphere. Systems supplied by such surface water sources may not be visibly identifiable and the State would be required to establish procedures to identify and make filtration decisions regarding these systems.

(3) A description of the protocol or procedures to be used by the State to determine whether a public water system supplied by surface water sources must provide filtration treatment. The procedures would address both the timing and methods to be used by the State to inform and consider comments from the public with respect to each decision as specified in section 1412(b)(7).

(4) Requirements for watershed control programs for public water systems supplied by surface water sources that do not provide filtration treatment.

(5) Sanitary survey requirements for public water systems supplied by surface water sources that do not provide filtration treatment. If the State allows the system or third parties to conduct the sanitary survey, the State must establish qualification requirements for the parties conducting the sanitary survey, and procedures to ensure that parties proposing to conduct the sanitary survey meet those requirements.

(6) Requirements for public water systems supplied by surface water sources that provide filtration treatment. These regulations would be required to include:

(a) Allowable filtration technologies and corresponding source water quality requirements;

(b) Performance criteria or a procedure for establishing enforceable performance criteria on a system-by-system basis (such as a permit system); and

(c) Enforceable design and operating requirements or a procedure to establish design and operating requirements on a system-by-system basis (such as a permit system).

(7) Enforceable disinfection system design and operating requirements for public water systems supplied by surface water sources that do not provide filtration treatment.

(8) Enforceable disinfection system design and operating requirements for public water systems supplied by surface water sources that provide filtration treatment.

F. EPA Oversight of State Decisions Regarding Filtration Requirements

As noted earlier, section 1412(b)(7)(C)(ii) of the Act requires EPA to specify in lieu of the variance requirements of section 1415, procedures by which States determine which public water systems must adopt filtration under criteria EPA promulgates pursuant to section 1412(b)(7)(C)(i). EPA intends to periodically review States' decisions whether or not public water systems supplied by surface water sources are required to provide filtration using a procedure similar to that currently required by section 1415(a)(1)(F) of the Act for EPA oversight of variances and exemptions issued by States. EPA considers this to be the appropriate procedure for review of filtration decisions since (1) the Act links filtration determinations and decisions on variances by requiring EPA to specify "in lieu of the variance requirements of section 1415" procedures by which States determine which public water systems must adopt filtration and (2) the decisions are similar in nature. Essential elements of the proposed procedure which appears at 40 CFR Part 142, Subpart I include: (1) Reporting by States of filtration decisions; (2) periodic review preceded by Federal Register notice, of State decisions by EPA; (3) notice to the State if the Administrator finds the State has abused its discretion; (4) opportunity for the State to take corrective action; (5) public hearing conducted by a hearing officer to review testimony; (6) a final decision by the Administrator that upholds or rescinds the finding that the State has abused its discretion.

In the event the Administrator finds that the State has abused its discretion, (s)he would revoke decisions with regard to filtration made by the State and/or revoke a compliance schedule approved by the State. Use of this procedure would not preclude the Administrator from using other means to encourage the State to exercise its discretion properly. Such measures may include grant conditions or initiation of primacy revocation procedures.

VII. Estimated Cost Impacts of Proposed Rule

The following analysis is derived from a more detailed analysis provided elsewhere (USEPA, 1987d).

A. Total Cost of the Proposed Rule

These proposed filtration and disinfection requirements would have cost impacts on four groups of public water systems using surface water sources:

1. Estimated 1,346 community water systems that are currently unfiltered.

2. Estimated 1,536 non-community water systems currently unfiltered.

3. Estimated 4,611 community water systems currently filtered.

4. Estimated 2,308 non-community water systems currently filtered.

There are, therefore, an estimated 2,882 total water systems that are currently unfiltered and an estimated 6,919 that are currently filtered which would be affected. Non-community systems include systems serving transient and non-transient populations.

These figures do not include systems which purchase water from such systems, or systems traditionally defined as ground-water systems which might be defined as "surface water" systems under the proposed rule (e.g., systems using springs or infiltration galleries). EPA believes that the systems in the latter category are generally very small systems and that many of these systems could make structural changes so as to avoid being defined as a "surface water." It is assumed that these costs would not, therefore, significantly effect total national costs.

All 2,882 unfiltered surface water systems would incur some costs under this rule. However, systems that meet the specified requirements would not have to filter, thus reducing the cost impact on some of those systems.

Of the estimated 6,919 filtered surface water systems, EPA estimates that about 5,128 will incur costs in upgrading their systems to comply with the new requirements. Of the 5,128 systems, EPA estimates that 1,409 are in violation of the present turbidity MCL. The increment of cost required for these 1,409 systems to comply with the present standard was thus not included in the total cost of complying with the proposed rule. EPA did include, however, the estimated costs for these systems to reduce turbidity levels from the present standard to the lower levels in the proposed rule.

The total projected cost of the proposed filtration and disinfection requirements is indicated in Table VII–1.

TABLE VII–1.—PROJECTED COST OF THE PROPOSED FILTRATION AND DISINFECTION REQUIREMENTS

	Capital cost ($ Millions)	Annualized cost ($ Millions/Yr)
Currently unfiltered systems	$1,613	$216
Currently filtered systems	333	[1] 95
State implementation		28
Totals	1,946	339

[1] In addition to costs reported in the above table, the surface water treatment requirements will impose additional monitoring requirements on filtered systems for measuring turbidity and disinfectant residuals. These requirements might add as much as $16 million per year, depending upon the extent of such monitoring already in effect.

EPA also performed a highest cost analysis in which it assumed that all surface water systems currently not filtering would be required to filter. On this basis, EPA estimated the total capital cost to unfiltered systems to be $2.4 billion and the total annualized cost to be $308 million. The provisions in the proposed rule for allowing systems to avoid filtration if they meet certain requirements would reduce required capital outlays by $0.8 billion and annualized costs by $93 million over these worst case estimates.

B. Concepts of Cost Analysis

EPA has developed capital, operating, and annualized costs for individual filtration and disinfection technologies (USEPA, 1987c). The annualizing procedure used in that document is intended to reflect the actual financing cost that a typical water system might face in capital markets (i.e., it is an estimate of the "market cost"). System level costs for installing filtration, presented in Figure VII–1, are "market costs" and represent an esimate of the actual costs likely to be faced by water systems and consumers.

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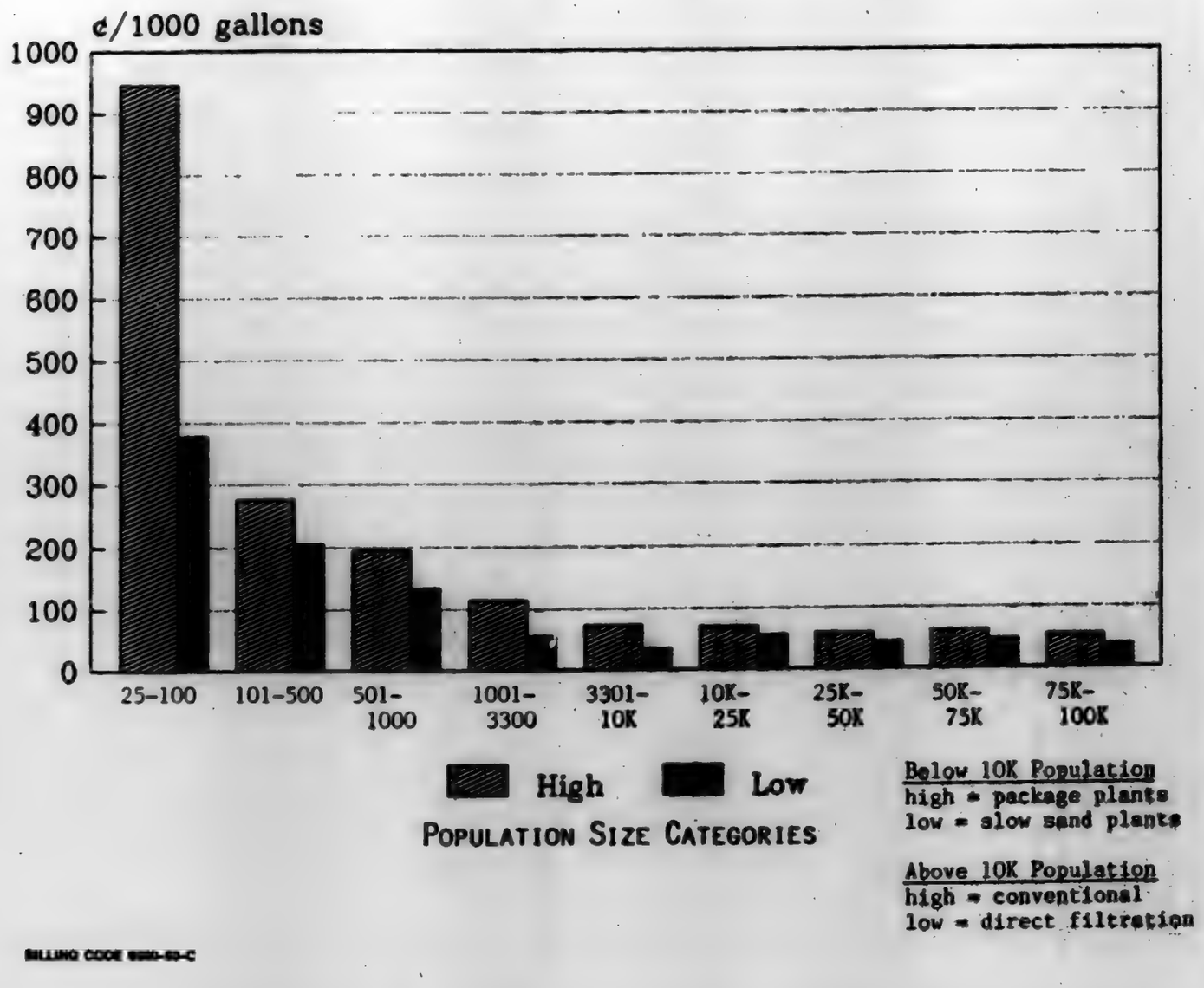
FIGURE VII-1

Cost of Installing Filtration in Systems Serving < 100,000



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The above total annual cost estimate of $330 million (see Table VII–1), however, is intended to represent the total "social" cost to the nation for purposes of making benefit/cost comparisons. It is computed using a different discount rate. The discount rate used to assess "market" cost is ten percent. This is made up of three components: (1) A risk premium (reflecting the market's assessment of the risk of default); (2) an inflation premium (reflecting the market's expectations about the economy); and, (3) the true carrying cost of capital (the time value of money). The first two components are financial concepts while the third is both a financial and an economic concept. The "social" discount rate consists only of the third of these three components because the benefits to which costs are being compared are a risk-free, inflation-free economic concept. Three percent was selected for use in these analyses.

C. Costs of Compliance for Currently Unfiltered Surface Water Systems

EPA has estimated the costs of installing filtration at the system level for various sizes of public water systems. The basis for these cost estimates is discussed elsewhere (USEPA, 1987c).

EPA based its estimates of the number of community and non-community water systems that are currently unfiltered on a survey conducted by the Association of State Drinking Water Administrators (ASDWA, 1986). EPA estimates the total national cost of compliance for the 2,882 currently unfiltered systems using a straightforward procedure of forecasting likely compliance choices. Estimated compliance choices of 2,867 of these unfiltered systems, each of which serves fewer than 100,000 people, appear in Table VII–2.

TABLE VII–2.—ESTIMATED COMPLIANCE CHOICES FOR UNFILTERED SYSTEMS

Number of systems	Projected action
457	Meet requirements for avoiding filtration.
899	Switch to an alternate water source (ground or purchased).
221	Install a package treatment plant.
58	Install conventional treatment.
89	Install direct filtration.
115	Install diatomaceous earth filtration.
990	Install slow sand filtration.
38	Install ultrafiltration.

EPA based the forecasts of compliance choices largely on the comparative costs of the different options. The Agency predicts that slow sand filtration, switching to an alternate source, and package treatment plants would be popular solutions due to the relatively low costs of these technologies versus other technologies and the preponderance of small water systems among those affected; over 90 percent of currently unfiltered water systems serve fewer than 10,000 people.

In addition to considering the 2,867 unfiltered systems which each serve fewer than 100,000 people, it is important to note that a large proportion of total costs is attributable to a small group of fifteen unfiltered systems which each serve more than 100,000 people. These fifteen systems account for approximately 42 percent of the total costs in the worst case scenario. However, these fifteen systems also account for approximately 16 million of the estimated 21.4 million people exposed to unfiltered surface water (75 percent).

The degree of savings attributable to those systems serving more than 100,000 people, which could meet the criteria for avoiding filtration, was estimated based on the mix of compliance choices forecast for the category of systems serving 50,000–100,000 people.

The cost estimates do not include real estate costs because they are very site-specific. EPA does not know the extent to which unfiltered systems own real estate upon which the system could build a filtration plant. As a result, it is impossible for EPA to estimate what real estate costs should be included in this rule. In larger systems, real estate costs are likely to be greater, but many large unfiltered systems own considerable real estate in the form of protected watersheds. It is questionable whether use of such real estate to construct a filtration plant would significantly diminish the amount to which the affected acreage contributes to the watershed protection program. It is possible to build the plant in a way which produces negligible changes in the run-off characteristics of a site. If there is no loss of watershed protection value, then there may be no significant opportunity cost. In small system size categories, real estate costs may be a much smaller proportion of total cost.

Figure VII–1 illustrates the system level costs of complying with the filtration requirement for system size categories serving fewer than 100,000 persons. The costs shown represent the approximate high and low extremes of the cost of installing filtration. No costs for disinfection were added since these systems were assumed to already have adequate disinfection in place if filtration were installed. For systems serving less than 10,000 people, EPA used slow sand filtration as the basis for the low cost estimate and package treatment as the basis for the high cost estimate. For systems serving between 10,000 and 100,000 people, EPA used direct filtration to represent the low cost case and conventional treatment for the high estimate. System level costs for installing filtration in the 15 large city systems, i.e., the systems which serve more than 100,000 persons and not indicated in Figure VII–1, were based on the actual types and sizes of filter plants that might be built in those cities. These ranged from $0.15 to $0.55 per thousand gallons of water produced.

D. Costs of Compliance for Currently Filtered Surface Water Systems

EPA estimated the total national cost of the turbidity performance requirements with a methodology which utilized survey data from a random sample of over 500 water systems, stratified by system size. The survey data provide a profile of the type of filtration technologies currently in place and their turbidity performance. A summary of the survey data is presented elsewhere (ADSWA, 1986).

Currently, the average monthly turbidity being achieved in the water industry is estimated to be 0.7 NTU. The proposed turbidity performance requirement (less than 0.5 NTU, 95 percent of the time) for systems using rapid granular media filtration, i.e., direct filtration or conventional treatment (systems using diatomaceous earth or slow sand do not have to meet this requirement), is believed to be equivalent to a monthly average of about 0.3 NTU. From the survey data, EPA estimated that approximately 5,128 systems are achieving monthly averages above 0.3 NTU. Of these, 1,409 are estimated to be in violation of the current turbidity requirement which calls for a monthly average of 1.0 NTU.

EPA further subdivided the systems which would not be in compliance with the proposed turbidity performance requirements by size and type of filtration process currently in place. A forecast of the likely compliance choices of systems in each subcategory was developed. The compliance choices evaluated include various combinations of the following:

- Hiring a consulting engineer to do diagnostic analysis;
- Improving operation and maintenance practices;

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- Adding rapid mix;
- Adding pH adjustment capability;
- Replacing filter media;
- Adding polymer;
- Adding alum or $FeCl_3$;
- Adding flocculation or contact chambers.

The system-level cost of each of the above compliance options is estimated elsewhere (USEPA, 1987d). Average system-level costs, which include combinations of these options, are shown in Table VII–3. The total national capital cost predicted by the forecast of compliance choices is $333 million. The total annualized cost is $95 million.

TABLE VII–3.—COSTS OF UPGRADING TO MEET TURBIDITY PERFORMANCE REQUIREMENTS

System size (by population served)	Costs (¢/1,000 gallons)
25–100	78
101–500	32
501–1,000	27
1,001–3,300	15
3,301–10,000	7
10,001–25,000	3
25,001–50,000	2
>50,000	<2

These national cost estimates for the turbidity requirements may be on the high side. The turbidity performance profile which underlies the analysis is based on survey results which embody a certain amount of statistical error. The foremost concern is that the survey solicited data on monthly average turbidity. Under the present turbidity requirement, it is conceivable there are many water systems that are monitoring well enough to document they are below a 1.0 NTU monthly average, but not well enough to document lower levels with precision. Measurement in the 0.3 NTU range would require greater care. Thus, some of the systems believed to be above a monthly average of 0.3 NTU may require no more than better monitoring to achieve compliance.

Total costs for filtered systems to upgrade disinfection practice to meet the disinfection requirements of the proposed rule were not considered significant relative to the total costs for upgrading filtration practice. EPA believes that most filtered water systems would already meet the proposed disinfection requirements, since many States already have disinfection standards in place that are similar to those in the proposed rule. For example, the Committee of the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers (1982), as part of its "Ten State Standards", maintains the following disinfection requirements for surface water systems:

1. Due consideration shall be given to the contact time of the chlorine in water with relation to pH, ammonia, taste-producing substances, temperature, bacterial quality, trihalomethane formation potential and other pertinent factors. Chlorine should be applied at a point which will provide adequate contact time. All basins used for disinfection must be designed to minimize short circuiting.

2. At plants treating surface water, provisions should be made for applying chlorine to the raw water, applied water, filtered water, and water entering the distribution system. The contact time as required in (4) must be provided after filtration unless otherwise approved by the reviewing authority.

3. As a minimum, at plants treating groundwater, provisions should be made for applying chlorine to the detention basin inlet and water entering the distribution system.

4. Free residual chlorination is the preferred practice. 30 minutes contact time must be provided for groundwaters and two hours for surface waters. In those instances where combined residual chlorination is approved by the reviewing authority, two hours' contact time for ground water and three hours contact time for surface water must be provided.

5. Minimum free chlorine residual at distant points in a water distribution system should be 0.2 to 0.5 milligrams per liter. Combined chlorine residuals, if appropriate, should be 1.0 to 2.0 milligrams per liter at distant points in the distribution system. Higher residuals may be required depending on pH, temperature and other characteristics of the water.

Although the above standards were developed by ten States (Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, and Wisconsin) and the Province of Ontario, Canada, they have been adopted by many other States in the United States.

E. Regulatory Impact Analysis

1. Overview

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This proposed action constitutes a "major" regulatory action because it will have a major financial or adverse impact on the regulated community of over $100 million per year. Therefore, EPA prepared an Economic Impact Analysis during regulation development and submitted it to the Office of Management and Budget for review.

EPA evaluated the benefits and net benefits of the proposed filtration and disinfection requirements as required by Executive Order 12291. Benefits were calculated in terms of cases of disease avoided and social costs avoided. First, benefits were calculated based on system size. Then, net benefits were derived by subtracting the costs of compliance with the proposed rule from the benefits achieved by compliance. Monetized estimates of benefits and net benefits are probably low because not all of the benefits could be quantified. Finally, national benefits estimates were developed from national records on cases of disease and outbreaks of disease available from the Centers for Disease Control.

On the national level, EPA estimates that between 212,000 and 470,000 cases of disease from contaminated water per year could be avoided directly by implementation of the proposed rule. Most of these projected cases avoided are not detected. Additional cases associated with problems in the distribution systems of water supplies such as cross-connections, contamination of water mains due to plumbing, and contamination of stored water would also be prevented. Indirect benefits of the proposal include removal of contaminants and precursors of contaminants beyond those the rule is designed to control. For example, inorganic chemicals like lead, cadmium and arsenic; synthetic organic chemicals like chlordane, heptachlor and polychlorinated biphenyls (PCBs); and precursors to trihalomethanes and other disinfection by-products would be removed more efficiently. This removal results from the reduction in turbidity associated with well-operated filtration units. Substantial benefits that cannot be stated in terms of money are expected; avoidance of pain, suffering and anxiety were not included in the analysis. Finally, the peace of mind increased confidence in the quality of drinking water provides is an important, yet intangible benefit which would result from the proposed rule.

Recent litigation highlights the significance of some of the categories of benefit which were omitted from the analysis. Fifteen individual and six class action lawsuits concerning a single outbreak in Luzerne County, Pennsylvania in 1983 are outstanding, with additional claims still expected to be filed. The plaintiffs in these suits generally allege that they became ill as a result of ingesting water supplied by the Pennsylvania Gas and Water company that contained *Giardia* cysts; and/or they suffered mental anguish as a result of *Giardia* cysts in the water; and/or they incurred economic losses in their businesses due to a decline in customers, a decrease in the value of their property, or the expense and inconvenience of boiling water or obtaining other water. The plaintiffs seek damages, including more than $20,000 in compensatory damages and $20,000 in punitive damages for each class member. Some of the class action suits allege that the class exceeds 100,000 people. In total, the water company may be subject to more than $2 billion in damages if the plaintiffs prevail in court. Both the costs of litigation and the possible awards to plaintiffs suggest that the costs avoided by compliance with the proposed rule substantially outweigh the costs the rule would impose.

The rest of this section describes how the EPA estimated the benefits and net benefits of the proposed rule. First, the method EPA used to estimate the benefits that would have accrued, had the proposed rule been in place in Luzerne County, Pennsylvania is described. Then, the case study analysis is expanded to provide estimates of benefits for nine categories of water systems. The categories are based on system size (the number of people served by the water system). In addition, a series of less detailed but similar case studies was developed to assess the effects of the proposal on the fifteen largest water systems currently without filtration. Local economic and demographic data were used, to the extent feasible, in these cases. Finally, aggregate national benefits were developed. More detailed discussions of the benefits are available in the Regulatory Impact Analysis.

2. Case Study—Luzerne County, Pennsylvania

To develop a framework for estimating the economic losses from an outbreak of waterborne giardiasis, EPA conducted a case study of an outbreak of giardiasis which struck Luzerne County, Pennsylvania in the fall of 1983 and continued through the summer of 1984. Four major categories of cost were assessed: costs to individuals, costs to businesses, costs to government agencies, and costs to water utilties. Losses to individuals included in the analysis are: direct medical costs, costs associated with lost work time and productivity, lost leisure time, and the costs of avoidance of additional infection and disease (purchasing bottled water or boiling tap water before consumption). In all, EPA estimated that the losses from the single outbreak ranged from $23.3 million to $55.5 million for the two scenarios studied. (Harrington, 1985)

These estimates are likely to be low due to the many factors not included. Intangible costs of pain and suffering were excluded, as were losses of highly valued leisure time such as lost vacation plans.

3. Extension of the Case-Study Method to Other Systems

Although the costs incurred in Luzerne County are not directly applicable to those incurred in other places, EPA extended the analytical method to estimate what comparable costs might be in situations other than the initial case study. In this analysis, only two categories of costs avoided were assessed: costs to individuals and costs to businesses. The remaining two categories are too event-specific to include in a general analysis. EPA found that the estimates of benefits of avoiding cases of illness depend critically on five key assumptions. These include: the endemic rate of illness, probability of outbreak, severity of outbreak, and the timing and nature of steps taken by potentially exposed persons to avert exposure and illness. Table VII–4 shows the value of damages avoided, cost of filtration, and net benefits of this rule.

TABLE VII–4.—NET BENEFITS OF INSTALLING FILTRATION ASSUMING P_1 (OUTBREAK)=1/50 YEARS

	Outbreak damages ($Millions)		Annual expected value of outbreak ($Mil/yr)		Annual endemic damages ($Mil/yr)		Total annual damages ($Mil/yr)		Annual cost of filtration ($Mil/yr)	Net benefits ($Mil/yr)	
	High	Low	High	Low	High	Low	High	Low		High	Low
Large water systems:											
Average of 15 large systems	526.70	249.53	12.17	4.97	8.25	6.05	20.43	11.01	11.06	10.67	−0.05
Smaller Population Categories:											
75,001 to 100,000	49.18	19.35	0.96	0.39	1.23	0.91	2.21	1.30	1.85	0.368	−0.551
50,001 to 75,000	34.71	13.49	0.69	0.27	0.88	0.65	1.57	0.92	1.34	0.237	−0.417
25,001 to 50,000	21.74	9.80	0.43	0.20	0.52	0.38	0.95	0.58	0.74	0.220	−0.155
10,001 to 25,000	9.72	4.41	0.19	0.09	0.24	0.18	0.43	0.28	0.25	0.178	−0.010
3,301 to 10,000	3.28	1.49	0.07	0.03	0.08	0.06	0.15	0.09	0.10	0.051	−0.006
1,001 to 3,300	1.23	0.63	0.02	0.01	0.03	0.02	0.05	0.03	0.05	0.003	−0.015
501 to 1,000	0.40	0.22	0.01	0.00	0.01	0.01	0.02	0.01	0.04	0.017	−0.024
101 to 500	0.14	0.08	0.00	0.00	0.00	0.00	0.01	0.00	0.02	0.012	−0.014
25 to 100	0.03	0.02	0.00	0.00	0.00	0.00	0.00	0.00	0.01	0.008	−0.008

4. National Benefits

EPA's best estimate of the number of cases of illness avoided per year as a result of implementation of the proposed rule is a range of approximately 212,000 to 470,000. This estimate is derived from the numbers of reported outbreaks and illness presented in Table I–1 (adjusted by an underreporting factor of 4) and assumptions regarding endemic disease occurrence. Annual endemic waterborne disease was assumed to range from 0.25 to 0.5 percent for systems serving more than 100,00 and from 0.5 to 1.0 percent for systems serving less than 100,000. Annual endemic waterborne disease was assumed to be half these rates for filtered systems, for the two respective size categories, which exceed the proposed turbidity performance criteria.

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It is recognized that many systems will probably fall below or above these estimated endemic disease rates. Taken as an aggregate national analysis, however, the above estimates are believed to be reasonable.

It is inappropriate and invalid to calculate an estimate of cost per case avoided using these estimates and the national estimates of cost discussed earlier, because the benefits accrue disproportionately for large and small systems. This difference occurs due to the large variation in the number and variety of opportunities for exposure of consumers of water. For example, a large community will have many more hotels, bars, restaurants and other publicly accessible water sources than a small community.

F. Executive Order and Statutory Requirements

1. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This proposed action constitutes a "major" regulatory action because it will have a major financial or adverse impact on the regulated community of over $100 million per year. Therefore, EPA prepared a Regulatory Impact Analysis during regulation development and submitted it to the Office of Management and Budget for review.

2. Regulatory Flexibility Act

The Regulatory Flexibility Act requires EPA to explicitly consider the effect of proposed regulations on small entities. If there is a significant effect on a substantial number of small systems, means should be sought to minimize the effects.

The Small Business Administration defines a "small water utility" as one which serves fewer than 50,000 people. There are about 200,000 public water systems using surface and ground water supplies which for the purposes of this analysis are considered small systems and about 8,000 of those (less than 4%) will be affected by the requirements of this rule.

In developing this regulation, EPA allows flexibility for small systems by providing less expensive treatment techniques (e.g., slow sand filtration and innovative technologies) and flexible performance evaluation criteria (e.g., distribution system disinfection monitoring requirements sensitive to system size). These considerations reflect EPA's best efforts to minimize the effects upon small systems and thereby comply with this Act.

3. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA (ICR No. 0270–(SW) and a copy may be obtained from Eric Strassler, Information Policy Branch; EPA; 401 M St., SW. (PM–223); Washington, DC or by calling (202) 382–2709. Submit comments on the information collection requirements to EPA and: Timothy Hunt, Office of Information and Regulatory Affairs; OMB; 726 Jackson Place, NW.; Washington, D.C. 20503. The final rule will respond to any OMB or public comments on the information collection requirements.

VIII. Request for Public Comments

EPA solicits comments on the conceptual approach to this regulation, and each of the proposed rules: § 141.70 (General requirements and definitions), § 141.71 (Criteria under which filtration is required), § 141.72 (Disinfection), § 141.73 (Filtration), § 141.74 (Monitoring and analytical requirements), § 141.75 (Reporting, public notification and recordkeeping), § 141.76 (Violations), and the contents of the Guidance Manual, as specified below. EPA also solicits comments on the implementation rule: § 142.14 (Records kept by States, § 142.15 (Reports by States), § 142.16(a) (Special primacy requirements for States to adopt filtration and disinfection), as specified below.

A. Conceptual Approach, General Requirements and Definitions

Is the proposed MCLG of zero for *Giardia*, enteric viruses, and *Legionella* reasonable? Is the basis for not proposing MCLGs for HPC and turbidity reasonable? Is the basis for proposing treatment requirements, rather than MCLs, for *Giardia lamblia*, enteric viruses, *Legionella*, heterotrophic plate count, bacteria and turbidity reasonable? If not, what would be the rationale for an MCL regulation(s)? Would the proposed treatment requirements provide reasonable margins of safety from *Giardia lamblia*, viruses, *Legionella*, and heterotrophic plate count bacteria?

Is the approach of basing treatment requirements on minimum removal and/or inactivation of 99.9 percent *Giardia lamblia* and 99.99 percent enteric viruses reasonable? Are these appropriate minimum levels of treatment performance? Should other organisms or parameters be targeted? For example, would it be appropriate to require finished waters of water treatment plants and waters within the distribution system to be below some concentration level of heterotrophic plate count bacteria? If so, what would be the rationale for setting such a limit and what monitoring would be appropriate to demonstrate that such a limit was being met?

Is the definition of "surface water" appropriate? Should such a definition, or only part of the proposed definition, be included? Are the methodologies provided satisfactory in the draft Guidance Manual for making the determination of whether a source water is a "surface water"? What other methodologies are available for distinguishing whether a water should be classified as a "surface water" (i.e., subject to potential contamination of *Giardia* cysts from surface water)?

Are the proposed definitions appropriate? If not, what alternative definitions are recommended and on what basis?

B. Criteria for Determining if Filtration is Required

(1) General

What role should States have in making the determination of which systems should be required to filter? Do the proposed criteria allow appropriate discretion to the State for making these determinations? Are the criteria too specific or not specific enough? Under what conditions, if any, should systems be allowed to exceed a specific criteria to avoid filtration if they can remedy the situation?

(2) Source Water Quality Conditions

Are the proposed fecal coliform and total coliform limits appropriate? Is the basis for allowing demonstration of meeting the total coliform limit in lieu of the fecal coliform limit reasonable? Are the minimum sampling requirements adequate? Is the proposed turbidity limit of five NTU with the conditions for allowed exceedance, and the monitoring requirements for this determination, appropriate? Do the conditions for being allowed an exceedance provide adequate flexibility, i.e., no more than two periods of exceedance per year or five periods per ten years and that each period must be unusual and unpredictable, as determined by the State? Is a two day average of NTU a more appropriate limit? On what basis? Is it appropriate to retain a monthly average turbidity limit? If so, to what extent should a system be allowed to exceed a monthly limit, and under what conditions? For example, what methodology would be appropriate for demonstrating that turbidity does not interfere with disinfection?

Currently some unfiltered systems blend their surface water with ground water during high turbidity events. The proposed rule does not prevent a system from such blending (prior to disinfection), during these times, to enable the system to achieve compliance with the source water quality criteria. The Guidance Manual does not generally recommend this practice, because of the concern for possible pathogen association with particulate matter. The Guidance Manual recommends that if such practice were to be allowed, the surface water fraction of the water should not contain total coliforms, or fecal coliforms, above 100/100 ml or 20/100 ml, respectively, and that the turbidity should essentially consist of inorganic particulate matter. Should the rule allow blending at all? On what basis? Should conditions under which blending could be allowed be defined in the rule, or left to Guidance?

Under the proposed rule, systems which have no potential for human virus occurrence within the watershed may be exempt from the requirement to achieve 99.99 percent inactivation of enteric viruses. Is the allowance of such an exclusion to the requirement appropriate? The allowance is based on the assumption that viruses excreted from animals are not infectious in humans. Is data available to support or contradict this assumption?

(3) Site-Specific Conditions

Are the watershed control and sanitary survey requirements for systems that wish to avoid filtration appropriate? Should watershed protection as defined in the rule include more specific requirements? Are the procedures in the draft Guidance Manual for evaluating whether these requirements are met adequate or appropriate? Should some of these provisions be included in the rule? Is the definition of waterborne disease outbreak appropriate? Is it appropriate to require compliance with the proposed total coliform MCL for distribution system measurements to avoid filtration? Is it appropriate to require compliance with the THM MCL to avoid filtration? Should the THM requirement be extended to systems serving less than 10,000 people which are currently not required to meet the THM MCL?

C. Disinfection Requirements

Are the proposed disinfection requirements for unfiltered systems appropriate? For calculating CT values, are the definitions of disinfectant residual concentration (C, mg/l) and contact time (T, minutes) appropriately defined? Is it appropriate to estimate inactivation rates based on CT values? Is the basis for the CT values in the rule appropriate? Are the safety factors for applying laboratory data to field conditions appropriate? Since ozone dissipates so rapidly should "C" and "T" be defined differently for this disinfectant? If so, how, and on what basis? Are the violations to the disinfection requirements appropriate for determining that a system should filter?

Are the proposed disinfection requirements for filtered water systems appropriate? Should CT values for filtered water systems be specified in the rule? What should form the basis for such CT values, e.g., achieving a minimum of 90 percent inactivation of *Giardia lamblia*, such as those given in Table III–3 in this preamble?

Are the proposed disinfection requirements for the distribution system appropriate? If not, how should they be changed and on what basis? Should different residual concentrations be specified for different oxidants? Should systems be allowed to exceed the required limits under certain conditions?

An alternative to the proposed requirement might be to allow systems to either maintain (a) a disinfectant residual of at least 0.2 mg/1 in at least 95 percent of the measurements, not to be exceeded for any two consecutive months, or (b) HPC measurements of less than 500 per ml, using the standard pour plate method, in at least 95 percent of the measurements, not to be exceeded for any two consecutive months. This alternative would allow systems which could not maintain residuals in parts of the distribution system to show that heterotrophic bacterial populations were still being maintained below reasonable levels and thereby satisfy the main purpose of the distribution system residual requirement.

EPA solicits comments on the appropriateness of such an alternative requirement. In such a case, which method(s) should be specified for measuring HPC? What numeric and associated percentile limits would be appropriate? On what basis?

Are the proposed analytical and monitoring requirements appropriate? Should some methods be excluded or included? Should different oxidant residual limits be required for different disinfectants? Should these conditions be specified or left to States to determine?

D. Criteria for Determining if Filtration is Adequate

Should States be given more discretion for determining when filtration is inadequate? Are the proposed turbidity monitoring and performance requirements appropriate for determining whether filtration is adequate? Should monitoring and performance requirements be specified in the rule for each filter within the system? If so, how should such requirements differ (if at all) from those of the representative water of the system? How should results from continuous turbidity measurements be validated? Should such a procedure be specified in the rule? Are the proposed methodologies in the Guidance Manual for demonstrating effective *Giardia* cyst and virus removal and/or inactivation appropriate? Should there be exceptions to the minimum 3-log inactivation requirement for *Giardia* cysts in water supply systems that use unfiltered water, and if so, under what conditions should those exceptions be made?

E. Reporting Requirements

Are the proposed reporting requirements for filtered and unfiltered systems appropriate? Should the reporting requirements be more general, with the specific requirements left for State agencies to determine? Is the frequency of routine reporting and violation reporting appropriate? What is gained by requiring the reporting of all monitoring results on a monthly versus a quarterly basis? Should reporting of violations be required more frequently if significant? Under what conditions would more frequent reporting requirements be appropriate?

F. Violations and Public Notification

Has EPA appropriately defined violations of the proposed filtration and disinfection treatment requirements, and are these definitions compatible with the general public notification requirement for treatment technique violations proposed on April 6, 1987 (52 FR 10972)? Should some other time frame be used for acute violations, such as 48 hours, as opposed to 7 days, as in the proposed revisions to the public notification requirements. Also, should EPA specify when the content of the notice proposed in this preamble, includes other information, such as notice to boil the water. NOTE: In this notice, EPA is not seeking comments on the general public notification

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requirements proposed in April 1987. Commenters should limit comments to the application of those requirements to the filtration and disinfection requirements of this rule.

G. Costs and Benefits of the Proposed Rule

Does the Regulatory Impact Assessment (RIA) adequately evaluate the cost of the proposed rule? Are the cost and technology assumptions used for the different sizes of public water supply systems reasonable? How might system and national cost estimates be improved?

In the RIA analysis, several major assumptions were made because of limited data. These include: (a) Most filtered water systems will be able to meet the proposed disinfection requirements, and if not, the costs to make the necessary upgrade to meet these requirements on a national basis would not be significant relative to the costs for upgrading filtration to meet the proposed turbidity limits; and (b) in regard to the proposed definition of "surface water," most systems, currently defined as ground water, will not be reclassified as surface water systems. Although some springs and infiltration galleries, now defined as groundwater systems, are expected to be reclassified as surface water systems, most of these systems are expected to be small and would therefore not have a significant impact on the total national costs. Are these assumptions reasonable? If not, what data are available to quantify these cost impacts?

Does the RIA adequately evaluate the benefits of the proposed rule? Are there additional data on outbreak rates and/or endemic rates of waterborne disease that could be used to provide a better estimate of the potential benefits of the rule? Is the range of benefits estimated for the rule reasonable? Is the range too wide or too narrow? Basis? How could the benefits analysis be improved?

H. State Implementation

Are the proposed changes to the State recordkeeping and reporting requirements to implement the filtration rule reasonable?

1. *EPA's oversight of State filtration decisions.* Is the procedure proposed for the EPA's review of State filtration decisions reasonable? Are there alternative procedures available for EPA to ensure that States apply the filtration criteria consistently and in accordance with the requirements of the national primary drinking water regulation?

2. *Specific requirements to adopt the filtration regulations.* Are the proposed additions to the implementation regulations at 40 CFR 142.16 to specify the requirements necessary for State programs implementing the filtration and disinfection requirements of this notice appropriate? Are there other requirements that should be included?

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List of Subjects in 40 CFR Parts 141 and 143

Chemicals, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply, Administrative practice and procedure.

Dated: October 17, 1987.

Lee M. Thomas,

Administrator.

For the reasons set forth in the preamble, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority for Part 141 continues to read as follows:

Authority: 42 U.S.C. 300g–1, 300g–3, 300g–4, 300j–4, and 300j–9.

2. In § 141.2 the following new definitions are added and arranged alphabetically to read as follows:

§ 141.2 Definitions.

* * * * *

"Coagulation" means a process using coagulant chemicals and mixing by which colloidal and suspended material are destabilized and agglomerated in nonfilterable flocs which settle.

"Conventional filtration treatment" means a series of processes including coagulation, flocculation, sedimentation and filtration.

* * * * *

"CT" is the product of "residual disinfectant concentration" (C) determined prior to the first customer, and "disinfectant contact time" (T), i.e., "C" x "T". If the public water system applies disinfectants at more than one point prior to the first customer, it must determine the CT of each disinfectant sequence prior to the first customer to determine the total percent inactivation achieved by disinfection prior to the first customer. In determining the total percent activation, the public water system must determine the residual disinfectant concentration of each disinfection sequence and corresponding contact time before subsequent disinfection application point[s].

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"Diatomaceous earth filtration" means a process resulting in substantial particulate removal in which (1) a precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum), and (2) while the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water, in order to maintain the permeability of the filter cake.

"Direct filtration" means a series of processes including coagulation and filtration but excluding sedimentation.

* * * * *

"Disinfectant contact time" is the time in minutes that it takes for water to move from the point of disinfectant application to the point where residual disinfectant concentration is measured. Contact time in pipelines must be calculated based on "plug flow" by dividing the internal volume of the pipeline by the flow rate through that pipeline. Contact time within mixing basins and storage reservoirs must be determined by tracer studies or an equivalent demonstration. Guidance for making the above determinations appears in the "Guidance Manual for Compliance with the Surface Water Treatment Requirements for Public Water Systems" (U.S. EPA, Office of Drinking Water, Criteria and Standards Division, December, 1987).

"Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

* * * * *

"Filtration" means a process for removing particulate matter from water by passage through porous media.

"Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable or nonfilterable particles through gentle stirring by hydraulic or mechanical means.

* * * * *

"Point of disinfectant application" is where the water being disinfected is no longer subject to surface runoff.

"Residual disinfectant concentration" means the concentration of disinfectant measured in mg/l in a representative sample of water.

* * * * *

"Sedimentation" means a process for removal by gravity or separation of solids before filtration.

"Slow sand filtration" means a process involving passage of raw water through a bed of sand at low velocity (generally less than 0.4 m/h) resulting in substantial particulate removal by physical and biological mechanisms.

* * * * *

"Surface water" means all water (1) open to the atmosphere and subject to surface runoff, or (2) which is directly influenced by surface water, as defined in (1), which may include springs, infiltration galleries, or wells. Whether there is direct influence by surface water must be determined on a case-by-case basis. Direct influence may be indicated by: (i) Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH (which may also change in ground water but at a much slower rate) which closely correlate to climatologic or surface water conditions, or (ii) the presence of insects or other macroorganisms, algae, organic debris, or large-diameter pathogens such as *Giardia lamblia*.

* * * * *

"Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system which is deficient in treatment, as determined by the appropriate health agency or State.

3. Section 141.32 is amended by adding paragraphs (a)(1)(iii)(C), (a)(1)(iii)(D), and (e)(10) to read as follows:

§ 141.32 Public notification.

* * * * *

(a) * * *

(1) * * *

(iii) * * *

(C) When the turbidity of the water prior to the point of disinfection of an unfiltered supply, or the turbidity of filtered water, exceeds 5 NTU at any time;

(D) A failure to maintain a disinfectant residual of at least 0.2 mg/l in the water being delivered to the distribution system.

* * * * *

(e) * * *

(10) *Microbiological contaminants.* The United States Environmental Protection Agency (EPA) sets drinking water treatment technique requirements for microbiological contaminants (such as viruses, bacteria, and some other microorganisms) which are of health concern. To reduce any potential risk of microbiological contamination of drinking waters, drinking water treatment facilities are required to treat drinking water, such as by filtering or disinfecting, which removes or destroys microbiological contaminants. Violation of the required treatment technique indicates that the water has been treated improperly and may expose people who drink that water to contaminants which can cause various types of illness, such as hepatitis, giardiasis, and gastroenteritis. These illnesses can cause different symptoms, including diarrhea, abdominal cramps, nausea, jaundice, headaches, fatigue, and weight loss.

* * * * *

4. A new Subpart H is added to read as follows:

Subpart H—Filtration and Disinfection

141.70 General requirements.
141.71 Criteria under which filtration is required.
141.72 Disinfection.
141.73 Filtration.
141.74 Monitoring and analytical requirements.
141.75 Reporting, public notice, and recordkeeping requirements.
141.76 Violations.
Appendix to Subpart H—Tables

Subpart H—Filtration and Disinfection

§ 141.70 General requirements

(a) The requirements of this Subpart H constitute national primary drinking water regulations. These regulations establish criteria under which filtration is required as a treatment technique for public water systems supplied by surface water sources. In addition, these regulations establish treatment techniques in lieu of maximum contaminant levels for the following contaminants: *Giardia lamblia*, viruses, heterotrophic plate count bacteria, *Legionellae*, and turbidity. Each public water system with a surface water source must provide treatment of that surface water for these contaminants. "Treatment" consists of installing and properly operating those water treatment processes that reliably ensure that:

(1) At least 99.9 percent removal and/or inactivation of Giardia lamblia cysts is achieved between the raw water no longer subject to runoff and prior to delivery to the first customer; and

(2) At least 99.99 percent removal and/or inactivation of enteric viruses is achieved between the raw water no longer subject to runoff and prior to delivery to the first customer.

(b) A public water system using surface water sources is considered to be in compliance with the requirements of paragraphs (a)(1) and (2) of this section by either'

(1) Meeting the requirements of both §§ 141.71 and 141.72(a) of this part; or

(2) Meeting the requirements of §§ 141.72(b) and 141.73 of this part.

(c) All water treatment systems must be operated by qualified personnel who meet the requirements specified by the State.

(d) Public water systems using surface water sources must also meet the monitoring, analytical and reporting requirements specified in §§ 141.74 and 141.75 of this part.

§ 141.71 Criteria under which filtration is required.

The following criteria shall be used by the State to determine whether filtration is required in a public water system that utilizes surface water as a source. A public water system that uses surface water as a source, which does not meet all of the conditions of § 141.71 (a) and (b) of this section, must provide filtration treatment as specified in § 141.73 of this part and disinfection treatment as specified in § 141.72(b) of this part. A public water system that uses surface water as a source which meets all of the conditions of paragraphs (a) and (b) of this section is not required to provide filtration treatment but is required to provide disinfection treatment as specified in § 141.72(a) of this part.

(a) *Source water quality conditions.* (1) Either the fecal coliform concentration must be equal to or less than 20/100 ml, or the total coliform concentration must be equal to or less than 100/100 ml, in the source water immediately prior to disinfection in not less then 90 percent of the measurements made each month, for the six previous months on an ongoing basis. If the system measures both fecal and total coliforms, then only the fecal coliform criterion in the previous sentence applies.

(2) The turbidity level may not exceed 5 NTU for more than two periods in any consecutive twelve months, or five periods in any consecutive 120 months. A "period" is one or more consecutive days when at least one turbidity measurement each day exceeds 5 NTU. When the turbidity exceeds 5 NTU, it is in violation of a treatment technique requirement and the system must inform its consumers and the State, as soon as possible but in no case later than 72 hours, that it is necessary to boil the water before consumption, until it is determined that the water is safe.

(3) The turbidity level cannot exceed 5 NTU unless the State determines that the exceedence was unusual and unpredictable.

(b) *Site-specific conditions.* (1) The public water system must demonstrate that it is providing disinfection in compliance with the requirements of § 141.72(a) of this part.

(2) The public water system must maintain a watershed control program which minimizes the potential for contamination by *Giardia lamblia* cysts and enteric viruses in the source water and is satisfactory to the State. The watershed control program must:

(i) Characterize the watershed hydrology and land ownership;

(ii) Identify watershed characteristics and activities which may have an adverse effect on source water quality; and

(iii) Monitor and control the occurrence of activities which may have an adverse effect on source water quality. The public water system must control all human activities which may have an adverse impact on the biological quality of the waters through ownership and written agreements with landowners within the watershed. Guidelines for maintaining such a program and demonstrating compliance with this requirement appear in the "Guidance Manual for Compliance With the Surface Water Treatment Requirements" for Public Water Systems (U.S. EPA, Office of Drinking Water, Criteria and Standards Division, September, 1987).

(3) The public water system must have an on-site sanitary survey performed each year, by the State or a party approved by the State, and the survey results must indicate to the State's satisfaction that the disinfection treatment process and the watershed control program are adequately designed and maintained. Criteria for the sanitary survey appear in the "Guidance Manual for Compliance With the Surface Water Treatment Requirements" for Public Water Systems (U.S. EPA, Office of Drinking Water, Criteria and Standards Division, September, 1987).

(4) The public water system in its current configuration must not have been identified as a source of a waterborne disease outbreak as defined in § 141.2 of this part.

(5) The public water system must be in continuous compliance with the long-term maximum contaminant level (MCL) requirements for total coliforms in § 141.63(b) of this part.

(6) The public water system must be in continuous compliance with the requirements for trihalomethanes in §§ 141.12 and 141.30 of this part.

§ 141.72 Disinfection.

All public water systems which use any surface water sources must provide disinfection treatment of that surface water prior to distributing it to consumers. Systems which meet the requirements of § 141.71 (a) and (b) of this part, and which elect not to provide filtration that meets the requirements of § 141.73 of this part, must provide disinfection treatment as specified by paragraph (a) of this section. Systems which provide filtration as specified by § 141.73 of this part must provide disinfection as specified in paragraph (b) of this section.

(a) *Disinfection requirements for public water systems that do not provide filtration.* (1) The disinfection process must achieve at least a 99.9 percent inactivation of *Giardia lamblia* cysts and a 99.99 percent inactivation of enteric viruses. This must be demonstrated by calculating the CT values from the public water system's treatment parameters, as specified in § 141.74(b)(3) of this part, and comparing these values with the minimum CT values specified in Tables 1.1—1.6, 2.1, and 3.1 in the Appendix to this Subpart. Systems using chloramines may demonstrate, through the use of a State-approved protocol for on-site disinfection challenge studies, that lower CT values than those indicated in Table 3.1 are needed to achieve the required percent inactivation. Guidance is available for conducting such studies in the "Guidance Manual for Compliance With the Surface Water Treatment Requirements for Public Water Systems" (U.S. EPA, Office of Drinking Water, Criteria and Standards Division, September, 1987). The 99.99 percent inactivation requirement for enteric viruses does not apply if the system has no potential sources of human enteric viruses within the watershed, as determined by the State. Potential sources of human enteric viruses include sewage discharges, septic tank discharges, swimming, boating, camping, fishing, hiking, hunting or any other human usage or habitation which may result in human waste disposal within the watershed.

(2) The disinfection system must have redundant components, including an auxiliary power supply with automatic start-up and alarm to ensure that disinfectant application is maintained continuously while water is being delivered to the distribution system.

(3) The public water system must comply with all design and operating requirements specified by the State.

(4) The public water system must demonstrate by continuous monitoring, and recording, as specified in § 141.74 (a)(4), (b)(4) and (b)(5) of this part, that it is continuously maintaining a disinfectant residual of at least 0.2 mg/l in the water delivered to the distribution system.

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(5) The residual disinfectant concentrations of samples from the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, pursuant to the monitoring requirements of § 141.74 (a)(4), (b)(4) and (b)(5) of this part, cannot be less than 0.2 mg/l in more than 5 percent or more of the samples, each month, for any two consecutive months.

(b) *Disinfection requirements for public water systems which provide filtration in accordance with § 141.73.* (1) The public water system must comply with all design and operating requirements specified by the State.

(2) The public water system must demonstrate by continuous monitoring, and recording, as specified in § 141.74 (a)(4), (b)(4) and (b)(5) of this part, that a disinfectant residual of at least 0.2 mg/l is continuously maintained in the water delivered to the distribution system.

(3) The residual disinfectant concentrations of samples from the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide pursuant to the monitoring requirements of § 141.74 (a)(4), (b)(4) and (b)(5) of this part, cannot be less than 0.2 mg/l in more than 5 percent or more of the samples, each month, for any two consecutive months.

§ 141.73 Filtration

Public water systems which use surface water sources and do not meet all the requirements of §§ 141.71 (a) and (b) and § 141.72(a) of this part must provide treatment consisting of both disinfection, as specified in § 141.72(b) of this part, and filtration treatment which complies with the requirements of paragraphs (a), (b), (c) or (d), and (e) of this section.

(a) *Conventional filtration treatment or direct filtration.* (1) The turbidity level of representative samples of the system's filtered water must be less than or equal to 0.5 NTU in at least 95 percent of the measurements taken each month, measured pursuant to the monitoring requirements of § 141.74(c) of this part, except as provided in paragraph (a)(2) of this section.

(2) If the State determines that on-site studies demonstrate effective removal and/or inactivation of *Giardia lamblia* cysts, or effective removal of *Giardia lamblia* cyst-sized particles at higher turbidity levels than specified in paragraph (a)(1) of this section, the State may specify these levels as the appropriate performance standard instead. In such cases, the filtered water turbidity level allowed by the State must be equal to or less than 1 NTU in 95 percent of the samples taken each month measured pursuant to the monitoring requirements of § 141.74(c) of this part.

(3) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured pursuant to the monitoring requirements of § 141.74(c) of this part.

(b) *Slow sand filtration.* (1) The turbidity level of representative samples of the system's filtered water must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month. The State may allow the system to meet a higher turbidity level if:

(i) The turbidity level never exceeds 5 NTU; and

(ii) The filter effluent prior to disinfection meets the long-term MCL for total coliforms in § 141.63(b) of this part for one year.

(2) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured pursuant to the monitoring requirements of § 141.74(c) of this part.

(c) *Diatomaceous earth filtration.* (1) The turbidity level of the representative samples of the system's filtered water must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month, measured pursuant to the monitoring requirements of § 141.74(c) of this part.

(2) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU.

(d) *Other filtration technologies.* (1) A public water system may use filtration technology not listed in paragraphs (a) thru (c) of this section if it demonstrates to the State, using pilot plant studies conducted on-site or at another site with similar source water conditions, that the filtration technology (including disinfection) consistently achieves 99.9 percent removal and/or inactivation of *Giardia lamblia* cysts and 99.99 percent removal and/or inactivation of enteric viruses. The system must meet the requirements of § 141.73(b) of this part.

(e) *Design and operating requirements.* (1) The public water system must comply with all design and operating conditions specified by the State.

(2) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU.

§ 141.74 Monitoring and analytical requirements.

(a) *Analytical requirements.* Only the analytical method(s) specified in this paragraph, or otherwise approved by EPA, may be used to demonstrate compliance with the requirements of §§ 141.71, 141.72, and 141.73 of this part. In addition, each analysis must be performed by a laboratory approved by the State and results must be reported in the units specified by the analytical method used.

(1) Fecal coliform concentration—Methods 908 C, D (MPN Procedure) or 909 C (Membrane Filter Procedure) as set forth in *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, 16th edition.

(2) Total coliform concentration—Methods 908 A, B, D (MPN Procedure) or 909 A, B (Membrane Filter Procedure) as set forth in *Standard Method for the Examination of Water and Wastewater*, American Public Health Association, 16th edition.

(3) Turbidity—Method 214 A (Nephelometric Method) as set forth in *Standards Methods for the Examination of Water and Wastewater*, American Public Health Association, 16th edition.

(4) Disinfectant residuals—Disinfectant residuals for free chlorine and combined chlorine must be measured by Method 408C (Amperometric Titration Method), Method 408D (DPD Ferrous Titrimetric Method), Method 408E (DPD Colorometric Method), or Method 408F (Leuco Crystal Violet Method) as set forth in *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, 16th edition. Disinfectant residuals for free chlorine and combined chlorine may also be measured by using DPD colorimetric test kits if approved by the State. Disinfectant residuals for ozone may be measured at the water treatment plant by the Indigo Method (Bader, H., Hoigne, J., "Determination of Ozone in Water by the Indigo Method; A Submitted Standard Method;" Ozone Science and Engineering, Vol. 4, pp. 169–176, Pergamon Press Ltd., 1982). This method is described in the "Guidance Manual for Compliance With the Surface Water Treatment Requirements for Public Water Systems" (U.S. EPA, Office of Drinking Water, Criteria and Standards Division, September, 1987). (Note: This method will be published in the 17th edition of *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association; the Idiometric Method in the 16th edition may not be used.) Disinfectant residuals for chlorine dioxide must be measured by Method 410B (Amperometric Method) or Method 410C (DPD Method) as set forth in *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, 16th edition.

(5) Temperature—Method 212 as set forth in *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, 16th edition.

(6) pH—Method 423 as set forth in *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, 16th edition.

(b) *Monitoring requirements for systems that wish to demonstrate that they meet the criteria of § 141.71 of this part for avoiding filtration.* (1) Fecal coliform or total coliform density determinations as required by § 141.71 (a)(1), (a)(2), (a)(3), and (a)(4) of this part must be performed on samples of the source water immediately prior to the first point of disinfectant application. The system must sample for fecal or total coliforms at the following minimum frequency:

System size (persons served)	Samples/week
<500	1
501–3,300	2
3,301–10,000	3
10,001–25,000	4
>25,000	5

Also, one fecal or total coliform density determination must be made every day during which the turbidity of the source water exceeds 1 NTU (these samples count towards the weekly minimum).

(2) The system must measure turbidity of a representative grab sample of the source water. The sample must be collected immediately prior to the first point of disinfectant application, at least once every four hours of system operation to determine compliance with the maximum turbidity level specified in § 141.71 (a)(2) and (a)(3) of this part. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the State.

(3) The CT value for each day of the month must be determined based on the following:

(i) The temperature of the disinfected water must be measured at least once per day.

(ii) The pH of the disinfected water must be measured at least once per day if chlorine is the disinfectant.

(iii) The disinfectant contact time, as defined in § 141.2, must be determined for each disinfection sequence prior to the first customer at least once per day, during peak hourly flow.

(iv) The disinfectant concentration of the water prior to the first customer, including the disinfection for which contact time is determined, must be measured each day, during peak hourly flow, and be used to calculate the CT value. If the system uses more than one disinfection sequence prior to the first customer, the disinfectant residual of each such disinfection sequence immediately prior to the next point of disinfectant application, must be measured during peak hourly flow. The CT value of each sequence and subsequent percent inactivation for that sequence must be calculated to determine if the system is in compliance with § 142.72(a) of this part. In making this determination, the following formula must be used.

$$G_{in} = G_{in-1} + G_n \quad \frac{(100 - G_{in-1})}{100}$$

where:

n = number of points of disinfection application

G_{in} = total percent inactivation achieved by "n" disinfectants

G_{in-1} = percent inactivation for the disinfection sequence(s) prior to the nth disinfection sequence

G_n = percent inactivation achieved through the nth disinfectant sequence

CT values necessary to achieve less than 99.9 percent inactivation of *Giardia lamblia*, as indicated in Tables 1.1–1.6, 2.1, and 3.1 in the Appendix to this subpart, must be determined as follows:

$CT_{99} = .33 \times CT_{99.9}$

$CT_{90} = .43 \times CT_{99.9}$

$CT_{80} = .67 \times CT_{99.9}$

$CT_{99.9} = .77 \times CT_{99.9}$

where CT_x = the CT value needed to achieve "x" percent inactivation.

Guidance for making the above determination is contained in the "Guidance Manual for Compliance With the Surface Water Treatment Requirements for Public Water Systems" (U.S. EPA, Office of Drinking Water, Criteria and Standards Division, September, 1987).

(4) The disinfectant residual concentration of the water being supplied to the distribution system must be monitored continuously, and the lowest value must be recorded each day.

(5) The disinfectant concentration must be measured at representative points in the distribution system no less frequently than the frequency required for total coliform sampling in § 141.24 of this part.

(c) *Monitoring requirements for systems using filtration treatment as specified by § 141.73 of this part.* (1) The public water system must determine the turbidity level of representative samples of the system's filtered water at least once every four hours that the system is in operation, except as provided in paragraph (c)(2) of this section.

(2) A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the State. For systems using slow sand filtration and filtration treatment other than conventional treatment, direct filtration, or diatomaceous earth filtration, the State may reduce sampling frequency to once per day.

(3) The system must comply with the disinfection monitoring requirements of paragraph (b)(4) and (b)(5) of this section.

§ 141.75 Reporting, public notices, and recordkeeping requirements.

(a) Public water system supplied by surface water sources that meet the requirements of §§ 141.71 and 141.72(a) of this part and do not use filtration treatment as specified by § 141.73 of this part must report the following information to the State:

(1) Source water quality information to be reported to the State within 10 days of the end of each month the system is in operation for any period of time:

(i) The number of cumulative months for which results are reported.

(ii) The number of total or fecal coliform samples analyzed during the month.

(iii) The number of samples during the month that had less than 20/100 ml fecal coliforms or less than 100/100 ml total coliforms.

(iv) The cumulative number of fecal or total coliform samples analyzed in the previous six months.

(v) The cumulative number of samples with less than 20/100 ml fecal coliforms or less than 100/100 ml total coliforms during the previous six months.

(vi) The percentage of samples with less than 20/100 ml fecal coliforms or less than 100/100 ml total coliforms for the previous six months.

(vii) The maximum turbidity level that occurred during the month and the date of each measurement which exceeded 5 NTU.

(viii) The dates and cumulative number of periods during which the turbidity exceeded 5 NTU in the previous 12 months.

(ix) The dates and cumulative number of periods during which the turbidity exceeded 5 NTU in the previous 120 months, beginning [insert 138 months after publication of final rule].

(x) The dates during which the customers of the public water system

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were notified to boil the water being consumed.

(2) Disinfection information to be reported to the State within 10 days of the end of each month that the system is in operation:

(i) The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.2 mg/1.

(ii) The disinfectant concentrations (in mg/1) used each day for calculating the CT value, as required in § 141.74(b)(3). When multiple disinfectants are used, the public water system must report the residual concentration used each day for calculating the CT value of each disinfectant sequence prior to the first customer.

(iii) The disinfectant contact time in minutes, during peak hourly flow, for each disinfectant that is applied for each day.

(iv) The daily measurement of pH of disinfected water following each point of disinfection with chlorine for each day.

(v) The daily measurement of water temperature following each point of disinfection.

(vi) The daily CT values for each disinfectant sequence used prior to the first customer.

(vii) The daily determination of the CT value(s) necessary for the system to achieve a 99.9 percent *Giardia* cyst and 99.99 percent enteric virus inactivation using the above information and tables.

(viii) The date of each instance when the daily CT(s) is less than that required to achieve a 99.9 percent *Giardia* cyst and 99.99 percent virus inactivation.

(ix) The total number of disinfectant residual concentration measurements taken in the distribution system in conjunction with total coliform monitoring pursuant to § 141.70 of this part.

(x) The number of disinfectant residual concentration measurements in the distribution system which are less than 0.2 mg/l.

(xi) The percent of disinfectant residuals in the distribution system which are less than 0.2 mg/l.

(3) Within ten days of the end of each Federal fiscal year, each system must provide to the State a report which summarizes its compliance with all watershed control program requirements as specified under § 141.71(b)(2).

(4) Each system must provide to the State an annual report of the yearly sanitary survey unless the sanitary survey is conducted by the State.

(5) Each system, within 48 hours of the discovery that a waterborne disease outbreak potentially attributable to that water system has been identified, must report that occurrence to the State.

(b) Each public water system supplied by a surface source and which uses filtration as specified by § 141.73 of this part must report the following information to the State:

(1) Turbidity performance measurements specified by § 141.74(c) of this part must be reported within 10 days of the end of each month the system operates for any period of time. Measurements that must be reported include:

(i) The total number of turbidity measurements taken during the month.

(ii) The number of turbidity measurements taken during the month which are less than or equal to the turbidity limits specified for each filtration technology in § 141.73 of this part.

(iii) The percent of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity requirements in § 141.73 of this part.

(iv) The date and value of any turbidity measurements taken during the month which exceed 5 NTU.

(v) If the turbidity level of the filter effluent from a slow sand filter is greater than 1 NTU in at least 95 percent of the measurements taken that month, the public water system must also report within 10 days of the end of the month to the State the dates and results of total coliform sampling of the filter effluent prior to disinfection conducted in the same manner and frequency as required in § 141.63(b) of this part.

(2) Disinfection monitoring requirements specified by § 141.74(c) of this part must be reported within 10 days of the end of each month the system operates for any period of time. Measurements that must be reported include:

(i) The value of the lowest measurement of disinfectant concentration in mg/L in water supplied to the distribution system for each day.

(ii) The date of each instance during the month when there is less than 0.2 mg/l disinfectant residual in water supplied to the distribution system.

(iii) The total number of samples and values of disinfectant residual for each sample measured in the distribution system in conjunction with coliform monitoring during the month.

(iv) The number of disinfectant residual measurements in the distribution system during the month which are greater than or equal to 0.2 mg/l.

(v) The percent of disinfectant residual measurements in the distribution system which are greater than or equal to 0.2 mg/l.

(c) Each system, within 48 hours of the discovery that a waterborne disease outbreak potentially attributable to that water system has been identified, must report that occurrence to the State.

(d) All systems must comply with the recordkeeping requirements of the National Primary Drinking Water Regulations.

§ 141.76 Violations.

(a) A public water system using surface water sources that does not provide filtration treatment, and

(1) Fails to meet the requirements of § 141.71(a)(2), § 141.71(b)(4) or § 141.72(a)(4), following [*insert date 48 months after publication of final rule*], is in violation of a treatment requirement which poses an acute risk to human health; or

(2) Fails to meet any of the following requirements: § 141.71 (a)(1), (b)(1); § 141.72 (a)(1), (a)(2), (a)(5) following [*insert date 48 months after publication of final rule*], is in violation of a treatment requirement, or

(3) Fails to meet any of the following requirements: § 141.70(c); § 141.71 (a)(3), (b)(2), (b)(3); § 141.72(a)(3); following this determination by the State, is in violation of a treatment requirement, or

(4) Fails to meet any of the requirements of § 141.74(a)(1)–(6) following [*insert date 48 months after publication of final rule*] is in violation of a testing procedure requirement.

(5) Fails to meet any of the requirements of § 141.74 (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5) [*insert date 48 months after publication of final rule*], is in violation of a monitoring requirement, or

(6) Fails to meet any of the requirements of § 141.75(a) [*insert date 48 months after publication of final rule*], is in violation of a reporting requirement, or

(b) A public water system using surface water sources that provides filtration treatment, and

(1) Fails to meet any of the following applicable requirements: § 141.72(b)(2), § 141.73(a)(3), § 141.73(b)(2), § 141.73(c)(2) or § 141.73(d)(2) following [*insert date 48 months after publication of final rule*], is in violation of a treatment requirement which poses an acute risk to human health, or

(2) Fails to meet any of the following applicable requirements: § 141.72 (b)(1), (b)(3), § 141.73 (a)(1), (a)(2), (b)(1), (c)(1), or (d)(1) following [*insert date 48 months after publication of final rule*], is in violation of a treatment requirement, or

(3) Fails to meet any of the following requirements: § 141.70(c); § 141.72(b)(1); § 141.73(e)(1); following this determination by the State, is in violation of a treatment requirement, or

(4) Fails to meet any of the requirements of § 141.74 (a)(3) or (a)(4) following [*insert date 48 months after publication of final rule*] is in violation of a testing procedure requirement.

(5) Fails to meet any of the following requirements: § 141.74(c) of this part, following [*insert date 48 months after publication of final rule*], is in violation of a monitoring requirement.

(6) Fails to meet any of the requirements of § 141.75(a) [*insert date 48 months after publication of final rule*], is in violation of a reporting requirement.

(c) A public water system in violation of any of the requirements of this subpart must comply with the public notification drinking water regulations (see § 141.32).

Appendix to Subpart H—Tables

TABLE 1.1.—CT VALUES FOR 99.9 PERCENT INACTIVATION OF GIARDIA CYSTS BY FREE CHLORINE AT 0.5 °C*

Free residual (mg/l)	pH						
	6.0	6.5	7.0	7.5	8.0	8.5	9.0
≤0.4	129	160	196	238	284	335	392
0.6	138	172	211	255	305	360	421
0.8	145	181	222	268	321	379	443
1.0	151	188	231	279	333	394	461
1.2	156	194	238	288	344	407	476
1.4	160	200	245	296	354	418	489
1.6	164	205	251	303	362	428	501
1.8	168	209	256	310	370	437	511
2.0	171	213	261	315	377	445	521
2.2	174	216	265	321	383	453	530
2.4	176	220	269	326	389	460	538
2.6	179	223	273	330	395	466	546
2.8	181	226	277	335	400	472	553
3.0	183	228	280	339	405	478	559

*These CT values achieve greater than a 99.99 percent inactivation of enteric viruses.

TABLE 1.2.—CT VALUES FOR 99.9 PERCENT INACTIVATION OF GIARDIA CYSTS BY FREE CHLORINE AT 5.0 °C*

Free residual (mg/l)	pH						
	6.0	6.5	7.0	7.5	8.0	8.5	9.0
≤0.4	92	114	140	169	202	239	280
0.6	98	123	150	182	217	257	300
0.8	104	129	158	191	229	270	316
1.0	108	134	165	199	238	281	329
1.2	111	139	170	206	245	290	339
1.4	114	142	175	211	252	298	349
1.6	117	146	179	216	258	305	357
1.8	119	149	183	221	264	311	365
2.0	122	152	186	225	269	317	371
2.2	124	154	189	229	273	323	378
2.4	126	157	192	232	277	328	383
2.6	127	159	195	235	281	332	389
2.8	129	161	197	239	285	337	394
3.0	131	163	200	242	288	341	399

*These CT values achieve greater than a 99.99 percent inactivation of enteric viruses.

TABLE 1.3.—CT VALUES FOR 99.9 PERCENT INACTIVATION OF GIARDIA CYSTS BY FREE CHLORINE AT 10 °C *

Free residual (mg/l)	pH						
	6.0	6.5	7.0	7.5	8.0	8.5	9.0
≤0.4	69	86	105	127	152	179	210
0.6	74	92	113	136	163	193	225
0.8	78	97	119	144	171	203	237
1.0	81	101	123	149	178	211	247
1.2	83	104	128	154	184	218	255
1.4	86	107	131	158	189	224	262
1.6	88	109	134	162	194	229	268
1.8	90	112	137	166	198	234	273
2.0	91	114	140	169	201	238	279

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TABLE 1.3.—CT VALUES FOR 99.9 PERCENT INACTIVATION OF GIARDIA CYSTS BY FREE CHLORINE AT 10 °C *—Continued

Free residual (mg/l)	pH						
	6.0	6.5	7.0	7.5	8.0	8.5	9.0
2.2	93	116	142	172	205	242	283
2.4	94	117	144	174	208	246	288
2.6	96	119	146	177	211	249	292
2.8	97	121	148	179	214	253	296
3.0	98	122	150	181	216	256	299

*These CT values achieve greater than a 99.99 percent inactivation of enteric viruses.

TABLE 1.4.—CT VALUES FOR 99.9 PERCENT INACTIVATION OF GIARDIA CYSTS BY FREE CHLORINE AT 15 °C *

Free residual (mg/l)	pH						
	6.0	6.5	7.0	7.5	8.0	8.5	9.0
<0.4	46	57	70	85	101	120	140
0.6	49	61	75	91	109	128	150
0.8	52	65	79	96	114	135	158
1.0	54	67	82	100	119	140	164
1.2	56	69	85	103	123	145	170
1.4	57	71	87	106	126	149	174
1.6	59	73	89	108	129	153	178
1.8	60	74	91	110	132	156	182
2.0	61	76	93	112	134	159	186
2.2	62	77	95	114	137	161	189
2.4	63	78	96	116	139	164	192
2.6	64	79	97	118	141	166	194
2.8	65	80	99	119	142	168	197
3.0	65	81	100	121	144	170	199

*These CT values achieve greater than a 99.99 percent inactivation of enteric viruses.

TABLE 1.5.—CT VALUES FOR 99.9 PERCENT INACTIVATION OF GIARDIA CYSTS BY FREE CHLORINE AT 20 °C *

Free residual (mg/l)	pH						
	6.0	6.5	7.0	7.5	8.0	8.5	9.0
<0.4	34	43	53	64	76	90	105
0.6	37	46	56	68	82	96	113
0.8	39	48	59	72	86	101	119
1.0	40	50	62	75	89	105	123
1.2	42	52	64	77	92	109	127
1.4	43	53	66	79	95	112	131
1.6	44	55	67	81	97	114	134
1.8	45	56	68	83	99	117	137
2.0	45	57	70	84	101	119	139
2.2	46	58	71	86	102	121	142
2.4	47	59	72	87	104	123	144
2.6	48	60	73	88	106	125	146
2.8	48	60	74	90	107	126	148
3.0	49	61	75	91	108	128	150

* These CT values achieve greater than a 99.99 percent inactivation of enteric viruses.

TABLE 1.6.—CT VALUES FOR 99.9 PERCENT INACTIVATION OF GIARDIA CYSTS BY FREE CHLORINE AT 25 °C *

Free residual (mg/l)	pH						
	6.0	6.5	7.0	7.5	8.0	8.5	9.0
<0.4	23	29	35	42	51	60	70
0.6	25	31	38	46	54	64	75
0.8	26	32	40	48	57	68	79
1.0	27	34	41	50	59	70	82
1.2	28	35	43	51	61	73	85
1.4	29	36	44	53	63	75	87
1.6	29	36	45	54	65	76	89

TABLE 1.6.—CT VALUES FOR 99.9 PERCENT INACTIVATION OF GIARDIA CYSTS BY FREE CHLORINE AT 25 °C *—Continued

Free residual (mg/l)	pH						
	6.0	6.5	7.0	7.5	8.0	8.5	9.0
1.8	30	37	46	55	66	78	91
2.0	30	38	47	56	67	79	93
2.2	31	39	47	57	68	81	94
2.4	31	39	48	58	69	82	96
2.6	32	40	49	59	70	83	97
2.8	32	40	49	60	71	84	99
3.0	33	41	50	60	72	85	100

* These CT values achieve greater than a 99.99 percent inactivation of enteric viruses.

TABLE 2.1.—CT VALUES FOR 99.9 PERCENT GIARDIA CYST INACTIVATION [1]

	Temperature					
	0.5 °C	5 °C	10 °C	15 °C	20 °C	25 °C
Chlorine Dioxide	81	54	40	27	21	14
Ozone	4.5	3	2.5	2	1.5	1

[1] These values are for pH values of 6 to 9. These CT values achieve greater than 99.99 percent inactivation of enteric viruses.

TABLE 3.1.—CT VALUES FOR CHLORAMINES [1]

Inactivation	Temperature					
	0.5 °C	5 °C	10 °C	15 °C	20 °C	25 °C
99.9% of *Giardia* cysts	3,800	2,200	1,850	1,500	1,100	750
99.99% of enteric viruses	>5,000	>5,000	>5,000	>5,000	.....	.....

[1] These values are for pH values of 6 to 9.

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

1. The authority citation for Part 142 continues to read as follows:

Authority: 42 U.S.C. 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, and 300j–9.

2. Section 142.14 is amended by revising paragraph (a)(1)(iii) and (a)(4) introductory text and by adding paragraphs (a)(5) and (d)(4), to read as follows:

§ 142.14 Records kept by States.

(a) * * *

(1) * * *

(iii) The analytical results, set forth in a form which makes possible comparison with the limits specified in §§ 141.14, 141.71, 141.72, and 141.73 of this chapter.

* * * * *

(4) Records of analyses for other than total coliforms, turbidity, disinfectant residual, and other parameters that determine disinfection effectiveness, shall be retained for not less than 40 years and shall include at least the following information:

* * * * *

(5) Records of disinfectant residual measurements and other paramenters necessary to document disinfection effectiveness in accordance with § 141.72 of this chapter shall be retained for not less than one year. Such records shall include the date, sampling location, and results of each sample analysis.

* * * * *

(d) * * *

(4) Records of any determination under § 141.71 of this chapter that a public water system supplied by a surface water source is or is not required to provide filtration treatment.

3. Section 142.15 is amended by adding paragraph (b)(3) and by revising paragraph (c), to read as follows:

§ 142.15 Reports by States.

* * * * *

(b) * * *

(3) A list, including the PWS identification number, of each public water system supplied by a surface water source which the State, during the reporting period has determined in accordance with § 141.71 of this chapter is not required to provide filtration treatment.

(c) Prompt notification of the granting of any variance or exemption or determination that a water system using a surface water source is not required to provide filtration. For variances or exemptions, the notice shall include a statement of the reasons for the granting of the variance or exemption, including support for the need for the variance or exemption and for the finding that the granting of the variance or exemption will not result in an unreasonable risk to health. A single notification may be used to report two or more similar variances or exemptions. For a determination that a public water system using a surface water source is not required to provide filtration, the notice shall include a statement describing the system's compliance with each requirement of the State's regulations that implement § 141.71 of this chapter.

* * * * *

4. Section 142.17 is added as follows:

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§ 142.17 Special Primacy Requirements for States to Adopt 40 CFR Part 141, Subpart H, Filtration and Disinfection.

(a) Special Primacy Requirements for States to Adopt 40 CFR Part 141, Subpart H, Filtration and Disinfection.

(1) General. An application for approval of a State program revision that adopts 40 CFR Part 141, Subpart H, Filtration and Disinfection, must contain:

(i) The text of the State's statute or regulations that requires public water systems supplied by surface water sources to provide at least 99.9 percent and 99.99 percent removal or inactivation of *Giardia lamblia* cysts and enteric viruses, respectively.

(ii) The text of the State's statute or regulations that requires public water systems using surface water sources to be under the control of a qualified operator.

(2) Criteria under which filtration is required as a treatment technique. An application for approval of a State program revision that adopts the criteria under which filtration is required as a treatment technique in § 141.71 of this chapter must contain the following information:

(i) A description of the techniques or protocol to be used by the State to identify all surface water sources as defined in § 141.2.

(ii) A description of the protocol to be used by the State to determine whether a public water system supplied by a surface water source must provide filtration, including procedures and timing to be used to inform the public and review comments from them with respect to each such decision.

(iii) The text of the State's statute or regulations that specifies when a public water system supplied by a surface water source must use filtration treatment as specified in § 141.71 of this chapter. The statute or regulations may require filtration as a minimum treatment by all systems using surface water sources. If the statute or regulations establish criteria specifying when a public water system supplied by a surface water source need not use filtration, then its provisions must be no less stringent than those of § 141.71 which include:

(A) The source water quality conditions listed in § 141.71(a) including:

(*1*) The coliform requirements of § 141.71(a)(1) of this chapter.

(*2*) The turbidity requirements of § 141.71(a)(2) of this chapter.

(B) The site-specific conditions in § 141.71(b) of this chapter including:

(*1*) The requirements for disinfection specified in § 141.72(a) of this chapter.

(*2*) The requirement in § 141.71(b)(2) of this chapter for a watershed control program which minimizes the potential for contamination by *Giardia lamblia* cysts and enteric viruses in the source water. The State must require by statute or regulation that the public water system identify the activities and controls it will use to protect the sanitary quality of the source water and to own or have written agreements with watershed landowners that control activities which may adversely affect the sanitary quality of the water. In addition, the State's statutes or regulations must require systems to characterize watershed hydrology and land ownership; identify watershed characteristics and activities which may have an adverse effect on water quality; and monitor and control the occurrence of activities which may have an adverse effect on source water quality.

(*3*) The requirement for an annual sanitary survey in § 141.71(b)(3). If the State allows another party to conduct the sanitary survey, the State must specify the necessary qualifications of the party in its statutes or regulations and must require that party to furnish a report to the State containing the results of the survey. In addition, the State must have a procedure in its statutes or regulations (e.g., a permit or certification system) for determining that the party proposing to conduct the sanitary survey meets the qualifications adopted by the State.

(*4*) The requirement of § 141.71(b)(4) of this chapter that the system in its current design, or operational configuration has not been identified as the source of a waterborne disease outbreak.

(*5*) The requirement of § 141.63 of this chapter which establishes maximum contaminant levels for total coliforms and § 141.21 of this part which establishes sampling and analytical requirements for total coliforms.

(*6*) The requirement for compliance with § 141.12(c) of this chapter which establishes a maximum contaminant level for total trihalomethanes and the requirements of § 141.30 of this chapter which establishes the monitoring requirements for total trihalomethanes.

(3) Filtration. An application for approval of a State program that adopts the filtration requirements of § 141.73 of this chapter must contain the text of the State statutes or regulations specifying requirements for public water systems using filtration. At a minimum, these requirements must specify:

(i) Allowable filtration technologies. The State may permit the use of the following filtration technologies as defined in § 141.2 of this chapter: conventional filtration treatment, direct filtration, slow sand filtration, and diatomaceous earth filtration. In addition, the State may permit the use of any other filtration technology if the State's approved application contains a protocol for on-site pilot plant studies to demonstrate consistent achievement of not less than 99.9 percent reduction of *Giardia lamblia* cysts and not less than 99.99 percent reduction of enteric viruses.

(ii) For each filtration treatment technology allowed, the State must specify:

(A) The range of source water quality for which the use of filtration technology is appropriate or a procedure for determining appropriate filtration technologies for source waters of various qualities;

(B) Performance criteria or a mechanism for establishing enforceable performance criteria on a system-by-system basis (i.e., a permit system);

(C) Monitoring requirements of § 141.74 of this chapter or a mechanism for establishing enforceable monitoring requirements on a system-by-system basis;

(D) Enforceable reporting requirements, including routine reports, reports of violations, and potential violations (e.g., when a condition occurs that is likely to result in a violation at the end of the time period over which compliance is determined) and the public notification requirements of the national primary drinking water regulations; and

(E) Enforceable design and operating criteria, including the requirement for a qualified operator. The State in its statute or regulations must specify enforceable design and operating criteria or a procedure for establishing design and operating conditions on a system-by-system basis (e.g., a permit system). In addition, the State must have a procedure for determining that both the design and operating criteria and the criteria for qualifying the operator have been met (e.g., construction inspection system for design and operating criteria, a certification or testing reciprocity program for operators).

(4) Disinfection. An application for approval of a State program revision that adopts the disinfection requirements of § 141.72 of this chapter must contain the text of the State statute or regulations specifying requirements for public water systems using disinfection treatment.

(i) For public water systems supplied by surface water sources that do not provide filtration treatment, these must include:

(A) *Giardia lamblia* cyst reduction efficiency of not less than 99.9 percent as required by § 141.72(a)(1) of this chapter;

(B) Enteric virus reduction efficiency of not less than 99.99 percent as required by § 141.72(a)(1) of this chapter;

(C) State design and operating requirements as required by § 141.72(a)(3) of this chapter;

(D) The requirement of § 141.72(a)(4) of this chapter that each system continuously provide and demonstrate by continuous monitoring that there is a disinfectant residual in the water delivered to the distribution system;

(E) The requirement of § 141.72(a)(5) of this chapter that each system maintain and demonstrate that it maintains a disinfectant residual in the distribution system;

(F) The requirement of § 141.72(a)(2) of this chapter specifying redundant disinfection capability and automatic auxilary power supplies;

(G) The requirement that determination of *Giardia* cyst and enteric virus reduction efficiency be made by calculating the CT values from the public water system treatment parameters as specified in § 141.74(b)(2) of this chapter and comparing these values with the minimum CT values specified in Tables 1.1–1.6, 2.1, and 3.1 in the Appendix to Subpart H of Part 141.

(ii) For public water systems supplied by surface water sources that provide filtration, the application must include:

(A) The text of the State statute or regulations requiring that public water systems using filtration ensure the presence of a disinfectant residual in the water provided to the distribution system as required by § 141.72(b)(2).

(B) The text of the State statute or regulations requiring that public water systems using surface water sources which provide filtration maintain a disinfectant residual of not less than 0.2 mg/l in the distribution system in no more than 5 percent of the samples examined each month as required by § 141.72(b)(3) of this chapter. The statute or regulations must require samples to be taken at least as frequently, and in the same locations, as required by the national primary drinking water regulations for total coliforms in § 141.21 of this chapter.

(C) Enforceable disinfection system design and operating requirements as required by § 141.72(b)(1) of this chapter.

5. Subpart I is added to read as follows:

Subpart I—Administrator's Review of State Decisions That Implement Criteria Under Which Filtration Is Required

142.80 Review procedures
142.81 Notice to the State.

Subpart I—Administrator's Review of State Decisions That Implement Criteria Under Which Filtration Is Required

§ 142.80 Review procedures.

(a) Not later than two years following the effective date of the national primary drinking water regulations that establish criteria under which filtration is required as a treatment technique (§ 141.70 of this chapter), the Administrator shall initiate a comprehensive review of the decisions made by States with primary enforcement responsibility to determine, in accordance with § 141.71 of this chapter, if public water systems using surface water sources must provide filtration treatment. The Administrator shall complete this review within one year of its initiation and shall schedule subsequent reviews as he/she deems necessary.

(b) EPA shall publish notice of a proposed review in the **Federal Register**. Such notice must:

(1) Provide information regarding the location of data and other information pertaining to the review to be conducted and other information including new scientific matter bearing on the application of filtration criteria; and

(2) Advise the public of the opportunity to submit comments.

(c) Upon completion of any such review, the Administrator shall notify each State affected by the results of the review and shall make the results available to the public.

§ 142.81 Notice to the State.

(a) If the Administrator finds through periodic review or other information available to him that a State has abused its discretion in applying the filtration criteria under § 141.71 of this chapter in determining that a system does not have to provide filtration treatment or that the State has failed to prescribe compliance schedules for those systems which must provide filtration in accordance with section 1412(b)(7)(C)(ii) of the Act, he/she shall notify the State of these findings. Such notice shall:

(1) Identify each public water system for which the Administrator finds the State has abused its discretion;

(2) Specify the reasons for the finding;

(3) As appropriate, propose that the criteria of § 141.71 of this chapter be applied properly to determine the need for a public water system to provide filtration treatment or propose a revised schedule for compliance by the public water system with the filtration treatment requirements.

(b) The Administrator shall also notify the State that a public hearing is to be held on the provisions of the notice required by paragraph (a) of this section. Such notice shall specify the time and location of the hearing. If, upon notification of a finding by the Administrator that the State has abused its discretion under § 141.71 of this chapter, the State takes corrective action satisfactory to the Administrator, the Administrator may rescind the notice to the State of a public hearing.

(c) The Administrator shall publish notice of the public hearing in the **Federal Register** and in a newspaper of general circulation in the involved State, including a summary of the findings made pursuant to paragraph (a) of this section, a statement of the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

(d) Hearings convened pursuant to paragraphs (b) and (c) of this section shall be conducted before a hearing officer to be designated by the Administrator. The hearing shall be conducted by the hearing officer in an informal, orderly, and expeditious manner. The hearing officer shall have the authority to call witnesses, receive oral and written testimony, and take such other action as may be necessary to ensure the fair and efficient conduct of the hearing. Following the conclusion of the hearing, the hearing officer may make a recommendation to the Administrator based on the testimony presented at the hearing and shall forward any such recommendation and the record of the hearing to the Administrator.

(e) Within 180 days after the date notice is given pursuant to paragraph (b) of this section, the Administrator shall:

(1) Rescind the finding for which the notice was given and promptly notify the State of such recision; or

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(2) Uphold the finding for which the notice was given. In this event, the Administrator shall revoke the State's decision that filtration was not required or revoke the compliance schedule approved by the State, and promulgate, as appropriate, with any appropriate modifications, a revised filtration decision or compliance schedule and promptly notify the State of such action.

(f) Revocation of a State's filtration decision or compliance schedule and/or promulgation of a revised filtration decision or compliance schedule shall take effect 90 days after the State is notified under paragraph (e)(2) of this section.

[FR Doc. 87-25198 Filed 11-2-87; 8:45 am]
BILLING CODE 6560-50-M

federal register

Tuesday
November 3, 1987

Part III

Environmental Protection Agency

40 CFR Parts 141 and 142
Drinking Water; National Primary Drinking Water Regulation; Total Coliforms; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[WH-FRL-3229-9(b)]

Drinking Water; National Primary Drinking Water Regulations; Total Coliforms

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice under the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*) proposes to amend the maximum contaminant levels for total coliform bacteria. The rule also proposes monitoring requirements and analytical methodology. In addition, the proposal includes a limit for heterotrophic bacteria. The rule would apply to all public water systems.

EPA proposed a non-enforceable health goal ("recommended maximum contaminant level," now termed "maximum contaminant level goal," under the Safe Drinking Water Act, as amended on June 19, 1986) of zero for total coliforms on November 13, 1985 (50 FR 46902). This notice reproposes this MCLG at zero (comments submitted on the November 13, 1985, proposal need not be resubmitted).

DATES: Written comments should be submitted on or before January 4, 1988. The effective date of the final rule will be 18 months after the date of publication as a final rule.

There will be two public hearings held. The first will take place in Washington, DC, on November 23–24 from 9:00 a.m.–4:30 p.m. The second hearing in Denver, CO is scheduled for December 2–3 from 9:00 a.m.–4:30 p.m. If you plan to attend either public hearing, contact Marlene Regelski, EPA (WH-550D), 401 M Street, SW., Washington, DC 20460, telephone (202) 382–3639, at least two weeks before the meeting.

ADDRESSES: Send written comments on this proposed rule to Coliforms Comment Clerk, Criteria and Standards Division, Office of Drinking Water (WH-550D), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A copy of the comments and supporting documents will be available for review during normal business hours at EPA, Room 49ET, 401 M Street SW., Washington, DC 20460. Supporting documents cited in this notice are available for inspection at the Drinking Water Supply Branches in EPA's Regional Offices listed with the Supplementary Information. In addition, criteria documents for total coliforms and heterotrophic bacteria are available from the National Technical Information Center, 5285 Port Royal Road, Springfield, VA 22161.

The first public hearing will be held in Washington, DC, at the GSA Regional Office Auditorium in the GSA Building, 7th and D Streets, SW. (enter on D street side), Washington, DC 20407. The building is located across the street from the L'Enfant Plaza metro stop.

The second public hearing will be held in Denver, Colorado, at the Hotel Radisson, 16th and Court, Denver, Colorado. A block of 45 rooms have been set aside for attendees. To reserve one of these rooms, the hotel must be contacted [(303) 893-3333] at least two weeks before the event. Inform the hotel that you are attending the EPA public hearing.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, telephone (800) 426-4791, or (202) 382-5533 in the Washington, DC metropolitan area, or Paul S. Berger, Ph.D., Microbiologist, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382-3039.

SUPPLEMENTARY INFORMATION:

EPA Regional Offices

I. Jerome Healey, JFK Federal Bldg., Room 203, Boston, MA 02203, (617) 223-5486

II. Walter Andrews, 26 Federal Plaza, Room 824, New York, NY 10278, (212) 264-1800

III. Jon Capacasa, 841 Chestnut Street, Philadelphia, PA 19107, (215) 597-9873

IV. William Patton or Michael Leonard, 345 Courtland Street, Atlanta, GA 30365, (404) 347-2913

V. Joseph Harrison, 230 S. Dearborn Street, Chicago, IL 60604, (312) 353-2650

VI. Thomas Love, 1445 Ross Avenue, Dallas, TX 75202, (214) 655-7155

VII. Gerald Foree, 726 Minnesota Ave., Kansas City, KS 66101, (913) 236-2815

VIII. Marc Alston, One Denver Place, 999 18th Street, Suite 1300, Denver, CO 80202-2413, (303) 293-1424

IX. William Thurston, 215 Fremont Street, San Francisco, CA 94105, (415) 974-0753

X. Richard Thiel, 1200 Sixth Avenue, Seattle, WA 98101, (206) 442-1225

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I. Statutory Requirements

The Safe Drinking Water Act ("SDWA" or "the Act"), as amended in 1986 (Pub. L. No. 99-339, 100 Stat. 642), requires EPA to publish "maximum contaminant level goals" (MCLGs) for contaminants which in the judgment of the Administrator may have any adverse effect on the health of persons and which are known or anticipated to occur in public water systems. Section 1412(b)(3)(A). MCLGs are to be set at a level at which, in the Administrator's judgment, "no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety." Section 1412(b)(4).

At the same time EPA publishes an MCLG, which is a non-enforceable health goal, it also must promulgate a National Primary Drinking Water Regulation (NPDWR) which includes either (a) a maximum contaminant level (MCL) or (b) a treatment technique. A treatment technique may be set only if it is not "economically or technologically feasible" to ascertain the level of a contaminant. Sections 1412 (a)(3) and (b)(7)(A). An MCL must be set as close to the MCLG as feasible. Section 1412(b)(4). Under the Act, "feasible" means "feasible with the use of the best technology, treatment techniques and other means which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration)." Section 1412(b)(5). The legislative history indicates that EPA is to base MCLs on treatment technology affordable by the largest public water systems. 132 Con . Rec. S6287 (daily ed., May 21, 1986). Each National Primary Drinking Water Regulation which establishes an MCL must list the best available technology, treatment techniques, and other means which are feasible for meeting the MCL (BAT). Section 1412(b)(6).

National primary drinking water regulations under the Act also are to include monitoring requirements, specifically, "criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels * * *." Section 1401(2)(D). Section 1445 also authorizes EPA to promulgate monitoring requirements: "Every person who is a supplier of water, who is * * * subject to a primary drinking water regulation prescribed under Section 1412 * * * shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under [the Safe Drinking Water Act], in determining whether such person has acted or is acting in compliance with [the Safe Drinking Water Act], * * * in evaluating the health risks of unregulated contaminants, or in advising the public of such risks."

Section 1414(c) requires each owner or operator of a public water system to give notice to persons served by it of (1) any failure to comply with a maximum contaminant level, treatment technique, or testing procedure required by a national primary drinking water regulation; (2) any failure to comply with any monitoring required pursuant to Section 1445 of the Act; (3) the existence of a variance or exemption; or (4) any failure to comply with the requirements of any schedule prescribed pursuant to a variance or exemption.

Under the 1986 amendments to the SDWA, EPA must promulgate NPDWRs for 83 contaminants in three phases, by June 19, 1989. A group of related bacteria known as total coliforms is one of the 83 contaminants which EPA must regulate. Heterotrophic bacteria (as a group) is another contaminant specified among the 83. Heterotrophic bacteria, defined as those bacteria which require complex organic compounds of nitrogen and carbon for growth, interfere with the measurement of coliforms. This proposal covers these two contaminants.

II. Regulatory History

As required by the SDWA of 1974, on December 24, 1975, EPA published National Interim Primary Drinking Water Regulations (NIPDWRs) which established regulations for ten inorganic chemicals; six pesticides; and two microbiological indicator contaminants, total coliforms and turbidity. EPA based the requirements for total coliforms, including the MCLs and monitoring frequency, on the U.S. Public Health Service drinking water regulations of 1962. This NIPDWR, which is still in effect (40 CFR 141.14 and 141.21), applies to both community water systems (systems which serve year-round residents) and non-community water systems (all other public systems). Currently there are approximately 60,000 community water systems and 160,000 non-community water systems. The NIPDWR includes two coliform MCLs: a "single-sample" MCL and a "monthly average" MCL. Both MCLs are based on the number of coliform bacteria detected in the sample. The single-sample MCL and the monthly average MCL vary according to the analytical method used (membrane filter vs. multiple-tube fermentation technique) and the sample volume (50 ml or 500 ml for the multiple-tube fermentation technique and 100 ml for the membrane filter technique). The single-sample MCL also varies according to the number of samples collected each month. If the coliform density exceeds a specific level (which depends on the analytical method used) (see Table I), at least two consecutive daily check samples must be collected from the same sampling point and examined for coliforms. The current regulations also specify the required minimum monitoring frequency, which varies according to the population served by the system.

Despite existing drinking water regulations, waterborne disease outbreaks have continued to occur, especially in cases where inadequate treatment exists or coliform and/or turbidity standards are not being met. Between 1971–1985, there were 447 reported outbreaks of waterborne disease affecting more than 105,000 people (see Table II). While a number of bacteria, viruses, and protozoa have been implicated in these outbreaks, in about half the outbreaks, the etiological agent was not identified.

TABLE I—INTERIM REGULATIONS (PROMULGATED 12/24/75): TOTAL COLIFORMS [1]

Parameter	MCL
1. Total Coliforms:	
a. Membrane filter technique:	
Monthly average MCL	1/100 ml.
3Single-sample MCLs:.	
<20 samples/month	4/100 ml once/mo.
>0 samples/month	4/100 ml in 5 pct of samples.
b. Multiple-tube fermentation procedure (10-ml portions):	
Monthly average MCL	10 pct of tubes positive.
Single-sample MCLs:	
<20 samples/month	3 or more tubes positive in one sample/mo.
>20 samples/month	3 or more tubes positive in 5 pct of samples/mo.
c. Multiple-tube fermentation procedure (100-ml portions):	
Monthly average MCL	60 pct of tubes positive.
Single-sample MCLs:	
<5 samples/month	5 tubes positive in one sample/mo.
>5 samples/month	5 tubes positive in 20 pct of samples/mo.

[1] From 40 CFR 141.14.

TABLE II—WATER SUPPLY DEFICIENCIES RESPONSIBLE FOR WATERBORNE OUTBREAKS, 1971–85 [1]

Source of deficiency	Outbreaks	Reported illnesses
Surface Water Source:		
No Treatment	31	1,647
Disinfection Only, or Inadequate Disinfection	67	23,026
Disinfection With Other Treatment (but no Filtration)	5	969
Filtration and Disinfection	20	9,852
Totals	123	35,496

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TABLE II—WATER SUPPLY DEFICIENCIES RESPONSIBLE FOR WATERBORNE OUTBREAKS, 1971–85 [1]—Continued

Source of deficiency	Outbreaks	Reported illnesses
Groundwater Source:		
No Treatment	154	11,266
Inadequate Disinfection	90	40,893
Disinfection With Other Treatment	1	22
Totals	245	52,181
Distribution System:		
Cross-connection	44	8,124
Contamination of Mains/Plumbing	14	3,413
Contamination of Storage	11	8,244
Corrosive Water	10	147
Totals	79	17,928
Grand Total (Reported):		
Outbreaks		447
Illnesses		105,605

[1] Reference: Craun, personal communications, May 1987.

EPA's current drinking water regulations do not address heterotrophic bacteria. EPA indicated in its November 13, 1985, notice that it was considering some type of limit (though not an MCL) on the level of these bacteria as part of the revised coliform regulations. (50 FR 46902; November 13, 1985.) EPA's rationale for regulating heterotrophic bacteria was presented in the Criteria Document for Heterotrophic Bacteria (USEPA, 1984b) and is discussed in Section III, below. Subsequently, the SDWA amendments were enacted which include "Standard Plate Count" (SPC) as one of the 83 contaminants EPA must regulate by 1989. The SPC procedure measures the level of heterotrophic bacteria. Recently the designation "SPC" has been changed to "HPC" (APHA 1985). This notice, which uses the HPC designation, proposes to regulate HPC as well as total coliforms.

III. Background

A. Summary

- *Maximum contaminant level goal for total coliforms*—zero
- *Maximum contaminant levels for total coliforms.*

—based on the presence or absence of total coliforms in sample, rather than estimate of coliform density

—monthly MCL

—if system analyzes fewer than 40 samples/month, no more than one sample/month can be coliform-positive

—if system analyzes at least 40 samples/month, no more than five percent of samples can be coliform-positive

—long-term MCL

—if system analyzes fewer than 60 samples/year, no more than five percent of the most recent 60 samples can be coliform-positive

—if system analyzes at least 60 samples/year, no more than five percent of all samples in the most recent 12-month period can be coliform-positive.

- *Monitoring frequency for total coliforms.*

—for systems serving 3,300 persons or fewer:

—basic requirement is five samples/month

—reduced monitoring to a minimum of one sample/ month for any system serving 25–500 persons and three samples/month for any system serving 501–3,300 persons, if the system:

(a) filters and disinfects surface water and disinfects ground water in compliance with 40 CFR Part 141, Subpart H; and

(b) is subject to a sanitary survey at the frequency specified in Table 1 of the proposed regulation and the results are satisfactory to the State.

—reduced monitoring to a minimum of one sample/ month for any system serving 25–300 persons and three samples/month for any system serving 301–500 persons, if the system uses undisinfected ground water and:

(a) demonstrates to the State that coliform data for previous three years meets long-term MCL; and

(b) is subject to a sanitary survey at the frequency specified in Table 1 of the proposed regulations and the results are satisfactory to the State.

—for systems serving more than 3,300 persons:

—basic requirement is based on population served (see Table 2 of the proposed regulation)

—for systems which use surface water, in total or in part, but do not filter in compliance with 40 CFR Part 141, Subpart H, regardless of population served:

—one coliform sample each day the turbidity level exceeds one NTU.

- *Response to a coliform-positive sample.*

—if total coliforms, but not fecal coliforms, are detected in any sample, system must collect a set of five repeat samples from the same location as the original sample, except some may be from the next service connection; the five samples must be taken on the same day.

—if total coliforms, but not fecal coliforms, are detected in any repeat sample, the system must collect and analyze another set of five repeat samples from the same location unless an MCL has been violated and the system has notified the State; the five samples must be taken on the same day.

- *Fecal coliforms.*

—if any original or repeat sample is total coliform-positive, system must analyze total coliform-positive culture medium to determine if fecal coliforms are present; if present, system is in violation of monthly MCL for total coliforms and must notify the State within 48 hours.

- *Heterotrophic bacteria (HPC).*

—proposed regulation based on HPC interference with total coliform analysis

—if coliform sample produces a turbid culture in the absence of gas production using the multiple-tube fermentation technique, produces a turbid culture in the absence of an acid reaction using the presence-absence (P–A) test, or produces confluent growth or a colony number that is "too numerous to count" using the membrane filter technique, the system may either count the sample as coliform-positive or declare the sample invalid and collect and analyze another water sample. Second sample is analyzed for both total coliforms and HPC. If HPC is greater than 500 colonies/ml, then sample is considered coliform-positive, even if total coliform analysis is negative.

- *Variances and exemptions*—none allowed.

B. Proposed Maximum Contaminant Level Goal

Total coliforms have been used by public health officials and professionals for decades as the primary means to assess the microbiological quality of drinking water. This group of closely-related organisms is used to evaluate the effectiveness of treatment, to determine the integrity of the distribution system, and to signal the possible presence of fecal contamination. Total coliforms, which include the fecal coliforms, are usually not pathogenic in themselves. However, their presence in drinking water indicates the potential presence of fecal pathogens, as shown by their frequent association with waterborne disease outbreaks. For example, Craun (1978) examined outbreaks between 1971–1975, and found that in the majority of cases where sufficient coliform data were available, coliforms were present. Other publications which demonstrate an association of coliforms with outbreaks are indicated in the total coliform criteria document (USEPA, 1984a). Shortcomings for use of coliform bacteria as a water quality monitor include the following: (1) Given their ubiquitous nature, coliforms are often present in the absence of fecal contamination and fecal pathogens; and (2) the absence of coliforms may not assure the absence of *Giardia* and other protozoa, enteric viruses, and bacterial pathogens. Despite these limitations, total coliforms are still the single most useful indicator of microbiological drinking water quality (USEPA, 1985).

EPA proposed an RMCL, renamed MCLG by the 1986 amendments to the Act, for total coliforms (as well as for each of a number of other contaminants) in the Federal Register of November 13, 1985 (50 FR 46902). The proposed RMCL for total coliforms was zero. Since then, the 1986 amendments streamlined the rulemaking process. Under the amended statute, EPA must propose both the MCLG and the MCL for a contaminant simultaneously, and it then must publish the MCLG and promulgate the MCL simultaneously. Section 1412(a)(3). To bring the rulemaking for total coliforms in line with the amended process in this notice, EPA is reproposing the RMCL as a proposed MCLG at the same level, i.e., zero, on the same basis set out in the November 1985 notice and in the Criteria Document for Total Coliforms (USEPA, 1984a). EPA invites public comment on the MCLG. However, comments submitted during the public comment period on the November 1985 notice need not be resubmitted; EPA will fully consider them together with any additional comments received in response to this notice.

C. Proposed Maximum Contaminant Levels

The coliform MCLs in the interim (current) regulations, as indicated previously, include density limits for single samples and the monthly average (see Table I). EPA is proposing to change this approach by basing the MCLs simply on the presence or absence of coliforms in a sample rather than density. The proposal includes a monthly MCL and a long-term MCL. To comply with the monthly MCL, if a system analyzes fewer than 40 samples/month, no more than one sample/month could be coliform-positive; if forty or more samples/month are collected, no more than five percent of the samples could be coliform-positive. To comply with the long-term MCL, no more than five percent of 60 consecutive samples could be coliform-positive for systems analyzing fewer than 60 samples/year, and no more than five percent of the total number of samples analyzed in the most recent 12-month period could be coliform-positive for systems analyzing at least 60 samples/year. This section provides the rationale for these proposed requirements.

1. Presence-Absence Concept

EPA has decided to propose coliform MCLs based on their presence or absence rather than on an estimation of coliform density because data in the literature (see USEPA, 1984a) do not demonstrate a quantitative relationship between coliform densities and either pathogen density or the potential for a waterborne disease outbreak. This presence-absence concept (not to be confused with the presence-absence analytical test described later) has several advantages: (1) Unlike the uncertainties associated with estimates of coliform density of a sample, it is easy to determine the presence or absence of coliforms; (2) the sample transit time is less critical, because any decrease in coliform density between sample collection and analysis will seldom result in complete die-out of all coliforms in that sample; and (3) this change eliminates the data truncation implicit in the analytical methodology as a calculation difficulty, e.g., the 5-tube multiple fermentation tube procedure is not sufficiently sensitive to allow estimation of densities less than 2.2 or greater than 16 coliforms/100 ml. The monthly average MCL in the current regulation has been criticized because the variability of coliform counts greatly reduces the precision of the estimates of the average density, i.e., there is a large standard deviation. The presence/absence concept, which EPA is proposing, eliminates this problem.

EPA also recognizes some shortcomings associated with the presence-absence concept. High coliform levels may, on occasion, signal the occurrence of high pathogen densities. In addition, the current regulations have been in use for decades and State officials and public water system operators are familiar with them; a change in the approach will require adjustment. Nevertheless, EPA believes that the advantages of the presence-absence concept outweigh the disadvantages.

The presence-absence concept was recommended to EPA by a workshop held on December 2–4, 1981, sponsored by the EPA's Office of Drinking Water, in conjunction with the American Society for Microbiology, to assess the microbiology and turbidity standards for drinking water (the "1981 Workshop"). Participants included a member of the Safe Drinking Water Committee of the National Academy of Sciences; leading university scientists; public health experts; professional microbiologists; engineers; water supply personnel; and Federal, State and local public officals, including members of EPA's Office of Research and Development and Office of Drinking Water. All worked together to evaluate existing information and to suggest revisions for the national drinking water regulations based on these evaluations. EPA has published the workshop proceedings (USEPA, 1983). A second workshop, held in Baltimore, Maryland, on April 23–25, 1985, addressed filtration, disinfection, and various aspects of regulating coliforms, including MCLs (the "1985 Workshop"). EPA published these proceedings as well (USEPA, 1987).

2. Monthly and Long-term MCLs

Based on the recommendations of the 1981 workshop, EPA is proposing two types of total coliform MCLs for all community and non-community public water systems: A monthly MCL and a long-term MCL. The monthly MCL would warn of an acute health risk, while the long-term MCL would characterize the consistency of the quality of the drinking water over a 12-month period or longer.

In order to select an appropriate long-term MCL based on the presence-absence concept, EPA examined the relationship between the percentage of drinking water which is contaminated (i.e., level of contamination) and the percentage of samples from that drinking water which are coliform-positive. The statistical approach used to describe this relationship is presented in Appendix A to this preamble.

The practical limitations of a long-term MCL include uncertainty as to whether samples are really collected randomly and whether water quality in a small system is stable over the time needed to collect a representative number of samples. EPA is proposing to base the long-term MCL on at least 60 samples, because this value is sufficiently large for the statistical calculations to be valid, yet small enough to be collected in a reasonably short period of time without undue burden to individual public water systems. In addition, 60 samples/year is the smallest value which both allows an equal number of samples/month (i.e., five samples) and results in a whole

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number (i.e., three) for compliance when using the proposed long-term MCL of no more than five percent coliform-positive samples.

For systems collecting 60 samples/year or less, the proposed long-term MCL specifies that no more than five percent of the most recent 60 samples could be coliform-positive. The 60 samples would include any repeat samples collected after a coliform-positive sample is found. EPA based this value of five percent on the statistical analysis in Appendix A to this preamble which indicates that if 60 samples are collected and 95 percent are negative for coliforms, then there is a 95 percent confidence level that the fraction of water with coliforms present is less than ten percent (Pipes, 1983). EPA believes that this level of quality, at this level of confidence, represents reasonably safe water. This definition is consistent with the 1981 workshop recommendations (Pipes, 1983) and was tentatively supported by the American Water Works Association, Organisms in Water Committee (AWWA, 1987). For systems collecting more than 60 samples/year, the proposed long-term MCL specifies that no more than five percent of the total number of samples collected during the most recent 12 months could be coliform-positive. This would provide a more precise estimate of the frequency-of-occurrence than is indicated in Appendix A to this preamble, in Table I. If any system violates the long-term MCL, it would remain in non-compliance until coliforms are detected in no more than five percent of the most recent 20 or more samples.

Depending on the monitoring frequency, it could take five years or longer for some smaller systems to reach the 60-sample level. Therefore, EPA is proposing that a system that has not collected 60 samples by the effective date of the long-term MCL would be in compliance with the long-term MCL if no more than five percent of those samples which have been collected are coliform-positive. Thus, no more than one positive sample in the most recent 39 or fewer samples, or no more than two positive samples in the most recent 40–59 samples would be permitted. EPA would expect systems to maintain adequate records on total coliform sample results before the effective date of this regulation, so that they can begin long-term MCL compliance determinations for coliforms by the effective date.

In addition to the long-term MCL, which is primarily intended to ensure the reliability of a system over time and water quality throughout the distribution system, EPA believes that the public should also be protected against acute contamination, as indicated by several coliform-positive samples closely spaced in time. Consequently, the Agency is proposing a monthly MCL which would limit the percentage of coliform-positive samples to five percent for a single month. The proposed five percent monthly limit for the presence of coliforms represents EPA's best scientific judgment on what constitutes a protective and practical monthly standard. This limit is consistent with the MCL in the current coliform rule when 20 or more samples are examined (40 CFR 141.14) and is also consistent with the proposed long-term MCL for total coliforms.

For systems which collect less than 20 samples/month, however, this five percent limit would be exceeded by a single coliform-positive sample, e.g., if one coliform-positive sample in 19 total samples is greater that five percent. For systems which collect between 21–39 samples/month, the five percent limit would be exceeded by only two coliform positive samples. EPA believes that an infrequent single coliform-positive sample does not necessarily represent a health risk, and therefore proposes to allow one coliform-positive sample/month for systems collecting less than 40 samples/month without being considered in violation of the monthly MCL. For a small system, however, this proposed monthly MCL would allow a sizable percentage of the samples to be coliform-positive (e.g., if a system collects five samples/month, as many as 20 percent of the water samples could contain coliforms month after month without violating the monthly MCL). However, a system could not repeatedly have more than five percent of coliform-positive samples because such a system would be in violation of the long-term MCL. In this way, the monthly MCL and long-term MCL together ensure that systems with an acute problem (as evidenced by several coliform-positive samples closely spaced in time) as well as systems with some "chronic" problem (as evidenced by regular coliform-positive samples over at least a year) are both identified. Yet the monthly and long-term MCLs are not so stringent that a single, infrequent coliform-positive sample (which alone is inadequate to confirm a health threat in the water supply) results in non-compliance.

This proposal would apply to both community and non-community public water systems, as does the current coliform regulation. Any water consumed by the public should be safe, regardless of the size of the population served, the number of days the system is operating, and whether consumers are transients or full-time residents (since coliforms can cause acute illness, protection of transient users is as important as protecting non-transient users).

To compare the relative stringency between the proposed rule and the current monthly average rule, EPA examined compliance data provided by three States. The number of long-term MCL violations under the proposed rule would have been two to three times as great as under the current monthly average rule (USEPA, 1987b). Part of this increase is due to the assumption that systems now collecting less than five samples/month would collect five samples/month under the proposed rule, and that the greater monitoring frequency will detect contaminants more promptly than is the case under the current regulations. The proposed rule, however, would allow States to reduce the minimum monitoring frequency below five samples/month for small systems under certain conditions, as discussed below. This reduced monitoring would result in fewer MCL violations within a given time, thereby decreasing the stringency of the proposed rule.

EPA seeks public comment on the proposed MCLs, particularly whether the ten percent limit on the fraction of drinking water containing coliforms (see Appendix A to the preamble, Table I) is reasonable. The Agency also requests public comment on whether the proposed monthly MCL should be eliminated for systems collecting 40 or more samples/month, given that the monthly and long-term MCLs are identical at these monitoring frequencies.

Coliform contamination is indicative of a situation needing immediate correction. Such corrections could include flushing of mains, increased disinfection, or improvements in filtration process control. This is a situation that warrants quick action to determine the cause of the problem in order to severely limit human exposure to the pathogenic microbes for which total coliforms serve as an indicator.

D. Monitoring Frequency

1. Basis: Population Served vs. Other Alternatives

The interim regulations require public water systems to monitor coliforms at a frequency which varies according to the number of people served by that system.

EPA proposes to retain this approach, for the reasons explained below.

In many countries, sampling frequency is based on the size of the population served (World Health Organization, 1984, Council of the European Communities, 1975). This approach recognizes that, as the population served increases, so does the size and complexity of the system and the potential for distribution network contamination by cross-connections and back-siphonage (Craun, 1978). Relating the sampling frequency to the size of the population also reflects the fact that the larger the population served, the greater the number of persons at risk when water treatment is defective. The participants in the 1981 and 1985 workshops recommended that EPA continue using the size of the population served as the basis for monitoring frequency.

EPA considered several alternatives as a basis for establishing monitoring requirements. EPA first considered basing the monitoring frequency on the number of service connections (excluding fire hydrants). The inherent weakness of this approach, however, is that the large populations of multiple-family residences, such as apartment buildings, hospitals, and rest homes, or large workplace sites such as high-rise office buildings and factories, are not reflected in the number of service connections.

EPA also considered total length of the distribution pipe network as a basis for setting sampling frequency. This approach assumes that increased length of pipe network reflects increased risk of contamination from residential and commercial service connections and by ground disturbance in the area of construction projects. However, the total-length-of-pipe approach can be misleading where local topography makes long distribution lines necessary to reach small clusters of homes.

In addition, EPA considered basing sampling frequency on the volume of water provided. The advantage of this approach is that the public water system knows, with some accuracy, the water demand of different zones of the distribution system. The major weakness is that a significant portion of water demand may relate to industrial use and lawn watering, rather than to drinking water consumption.

After examining these options, EPA has decided to retain population served as the basis of monitoring frequency for both community and non-community water systems. EPA believes that the overriding consideration is the number of people who are at risk if there is fecal contamination of the system, regardless of the number of service connections, length of pipe, or volume of water used. EPA invites public comment on this issue.

2. Number of Samples Collected/Month

The present EPA regulations for total coliforms specify the minimum number of samples a public water system must collect and analyze each month. The smaller the system, the less monitoring required (i.e., systems serving populations of 1,000 or fewer are only required to analyze one sample per month, or one sample per quarter if it meets the conditions in 40 CFR 141.21(b)). EPA is proposing minor modifications to the current requirements to simplify and streamline the current categories of monitoring frequency. In addition, EPA is proposing to establish a generally-applicable minimum monitoring frequency for public water systems serving 3,300 persons or fewer of five samples/month (although, as discussed later, fewer samples would be permitted under certain circumstances). This section provides the rationale for these proposed changes.

EPA based the monitoring frequencies required in the current regulations upon the 1962 U.S. Public Health Service Drinking Water Standards, which in turn, were based on a study of the sampling frequencies used in New York State. The purpose of that study was to determine the minimal acceptable sampling frequencies for various cities which did not experience any detectable waterborne outbreaks. Unfortunately, the results of that study were never published. The resulting values appear to have been based on what was financially and technically attainable. The values have proved to be practicable and not burdensome during the 25 years they have been in use and systems are familiar with them, so EPA is proposing to retain them with minor modifications to simplify and streamline the requirements.

EPA sought to develop a systematic basis for establishing the minimum monitoring frequency for small systems by funding a study to examine the distribution of coliforms in the distribution system of these systems. The study included extensive statistical analyses on coliforms in samples from small water distribution systems in Pennsylvania and New Jersey (Pipes and Christian, 1982; Christian and Pipes, 1983). These data demonstrate that coliforms in a contaminated water system are very unevenly dispersed; small areas within the system may have high coliform densities while large volumes may lack coliforms entirely. This heterogeneous distribution is best described by the negative binomial or truncated lognormal distribution, rather than by a normal or Poisson distribution. If the lognormal distribution is used to describe the coliform data, the geometric standard deviation of the counts (usually between 10 and 100) is much greater than the geometric mean (for most systems, between 10^{-1} and 10^{-6}). The calculations in this study demonstrate that even when the arithmetic mean coliform density is greater than 1 per 100 ml, the probability that a single 100-ml sample will have no coliforms present is very high. It follows, therefore, that most samples even in a contaminated system will be coliform-free, thus, a larger number of samples is necessary to detect contamination.

An expert panel at the 1981 workshop examined the data described above and recommended that the minimum sampling frequency be five samples/month for small systems. As previously stated, this value is based on the calculation that, if 60 or more samples per year are collected and 95 percent or more are negative, there is 95 percent confidence that the fraction of water with coliforms present is less than 10 percent. The expert panel recommended this level, at which at least 90 percent of the water is coliform-free, be accepted as a "protection reliability standard." As a comparison, if a system only collects one sample/month, or 12 samples/year, and one of those 12 samples is coliform-positive, there is a 95 percent certainty only that less than 34 percent of the water is contaminated (Pipes, 1983). This affords markedly less assurance of safety than the panel's recommendation.

EPA has decided to accept the panel's recommendation and propose to require that water systems serving 3,300 or fewer persons collect and analyze a minimum of five samples/month. The Agency believes that, in the absence of other assurances of protection, fewer than five samples/month cannot adequately represent the microbiological quality of water, and that a few negative coliform samples/month may give a false sense of safety. As discussed later, under this proposal, systems would be allowed to monitor less often than five samples/month, based upon the results of a sanitary survey and other considerations.

Public water systems serving less than 3,300 people traditionally have had more difficulty complying with regulatory requirements. This is due to two factors: (1) They generally have a part-time, uncertified plant operator; and (2) their

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revenues and capital assets are often inadequate (USEPA, 1982). EPA expects this will be true for the proposed total coliform MCL, as well. These small systems are unlikely to be able to afford the trained laboratory and operating staff available to the large metropolitan systems. Typically, many of these small systems are untreated. Therefore, if a small system violates the proposed coliform MCL, it would have the most difficulty in coming back into compliance.

EPA is proposing that the minimum monitoring frequency specified in Tables 1 and 2 of the proposed regulation apply to non-community water systems as well as community water systems. The size of the population served by some non-community water systems may vary dramatically according to the season; therefore, EPA is further proposing a requirement that such systems be allowed to adjust their sampling frequency monthly, based on a reasonable estimate of the total population being served during the month. The number of samples would be determined using Tables 1 and 2 of the proposed regulation and the corresponding monthly population estimate. EPA believes it is important to protect transient populations from exposure to pathogens, since, unlike the usual case for chemical contamination of water, a single exposure to pathogenic microorganisms has a much greater risk of causing illness.

One reason EPA is proposing the presence-absence concept is to reduce the burden on small systems. An advantage of this concept is that it is sufficiently simple to allow field inoculation and analysis. A system operator could either send the water sample to a certified laboratory or conduct the analysis on-site by adding a 100-ml sample to a bottle containing commercially pre-sterilized medium (Clark P–A test medium or lauryl tryptose broth), and incubating the sample. This latter option would allow a small system to avoid the expense of using a certified laboratory, thereby reducing monitoring costs per sample and consequently making the higher required monitoring frequency (i.e., five samples/month) more economical. To use the on-site incubation approach would require that the system be allowed to determine the presence of coliforms based only on the results of this "presumptive" test, rather than on a subsequent test to confirm the presence of coliforms. In addition, practical field inoculation and analysis techniques to distinguish fecal coliforms from total coliforms or determine the number of heterotrophic bacteria present in a sample are not yet available. (The importance of both are described later in this document.) On-site analysis may have a significantly greater potential for unreliable results and abuse than those performed in a certified laboratory. EPA believes that a training program for operators who wish to perform on-site analyses would be necessary to ensure dependable results. Although EPA is not proposing in this notice to allow on-site analysis in a non-certified laboratory, the Agency requests comment on whether this approach is appropriate, and if so, what laboratory certification criteria are needed.

For populations greater than 3,300, there are several approaches for determining the appropriate number of monthly samples based on the number of persons served. The monitoring frequency in the current regulations has been used for decades, and panels at the 1981 and 1985 workshops, described above, supported retaining it. EPA believes, however, that it makes sense to reduce the number of population categories from the current 84. In the United States, there are 3,322 public water systems serving more than 10,000 persons and 299 systems serving more than 100,000 persons. Under the current regulations, the number of public water systems serving communities with populations above 10,000 persons and 100,000 persons, per system size category, averages 60 and 7, respectively. Therefore, EPA is considering some simpler approaches to deriving population categories.

One such approach involves the use of the formula 5+P/1,000, where P=population served. For example, if a system serves a community of 50,000 people, this formula would require minimum monthly monitoring frequency to be 5+50,000/1,000 or 55 samples/month. Another proposal suggests the minimum monthly sampling frequencies shown below in Table III for populations of 9,000 and below, and an increase of 5 samples for every 6,000 above the 9,000 level.

TABLE III.—EXAMPLE OF A PROPOSED MONTHLY SAMPLING APPROACH

Persons served	Samples/month
25–3,300	5
3,301–5,000	10
5,001–9,000	15
9,001–15,000	20
15,001–21,000, etc.	25

Table IV compares the monitoring frequency required under each of the approaches described above for systems serving eight population categories. This table shows that the monitoring frequencies are similar between 10,000 and 100,000 persons, but then diverge substantially for higher populations. EPA does not believe there is a need to increase the monitoring frequency for systems serving more than 100,000 persons substantially above that required in the current regulations.

TABLE IV.—MONTHLY SAMPLING FREQUENCIES: DIFFERENT APPROACHES

Population served	Interim regs	5+P/1000	5 samples/6000 persons	EPA proposed frequency
5,000	6	10	10	5
10,000	11	15	20	10
50,000	55	55	55	50
100,000	100	105	95	100
200,000	140	205	175	120
500,000	210	505	425	200
1,000,000	300	1,005	845	300
4,000,000	460	4,005	3,345	460

EPA proposes to simplify and streamline the current monitoring frequency, by decreasing the number of population size categories for communities with populations above 10,000 (as shown in Table V). By including more communities in each category, and thereby reducing the total number of population categories from 84 to 43, this proposal simplifies the requirements for sampling frequency. Yet this change would not substantially change the minimum number of samples required for a particular population size, when compared to that required in the current regulations. EPA requests public comment on this proposed change and any alternative approaches.

TABLE V.—PROPOSED MINIMUM MONTHLY SAMPLING FREQUENCY

Population served	Samples/month
25–3,300	5.
3,301–5,800	6.
5,801–6,700	7.
6,701–7,600	8.
7,601–8,500	9.
8,501–10,800	10.
10,801–100,000	5 sample increase/5,000 pop. increase.
100,001–400,000	30 sample increase/100,000 pop. increase.
400,001–1,000,000	20 sample increase/100,000 pop. increase.
1,000,001–2,000,000	20 sample increase/200,000 pop. increase.
2,000,001–4,000,000	20 sample increase/500,000 pop. increase.
>4,000,000	500 samples/month.

EPA has considered the appropriate timing for collecting multiple samples; i.e., should sample collection be evenly spaced throughout a month, or is a clustered collection pattern justified? The latter would be less expensive because collecting several samples over a few hours is more efficient than collecting each of those samples on different days. However, an evenly-spaced sample collection might provide earlier warning of a rapid deterioration in water quality. Two EPA-funded studies (Jacobs et al., 1988; Caldwell and Seidler, in press) suggest that for systems using ground water, five samples collected on the same day from different points in the distribution system as a cluster provide data that are not statistically different from those five single samples taken at "regular" time intervals. Thus, EPA proposes to allow collection of up to five samples per day (at different points) for systems using ground water exclusively. The data, however, indicate that surface water quality variability may be too great to allow systems using surface water to exercise this option (Symons et al., 1981); thus, EPA proposes to restrict cluster sampling to ground water systems.

3. Sanitary Survey Requirements

The current regulation allows some small community public water systems to reduce their monitoring frequency on the basis of sanitary survey results as well as compliance with certain other requirements. Specifically, 40 CFR 141.21(b) states:

Based on a history of no coliform bacterial contamination and on a sanitary survey by the State showing the water system to be supplied solely by a protected ground water source and free of sanitary defects, a community water system serving 25 to 1,000 persons, with written permission from the State, may reduce this sampling frequency except that in no case shall it be reduced to less than one per quarter.

Likewise, 40 CFR 141.21(c) also allows the State to adjust the monitoring frequency for non-community water systems on the basis of sanitary survey results. EPA proposes to expand the role of on-site sanitary surveys by allowing a State to reduce the monitoring frequency below five samples/month for (1) systems serving 3,300 persons or fewer which filter and disinfect their surface water (as specified in the surface water treatment requirements, proposed elsewhere in today's Federal Register) or disinfect their ground water; and (2) systems serving 500 persons or fewer which use ground water exclusively and do not practice disinfection. EPA is further proposing that the State, or an agent acceptable to the State, conduct these sanitary surveys and that the State determine whether the results are satisfactory. This provision would be analogous to 40 CFR 141.40(g)(8)(iv), promulgated on July 8, 1987 (National Primary Drinking Water Regulations for Volatile Organic Chemicals) which says, "Vulnerability of each public water system shall be determined by the State based on an assessment of the following factors * * *." EPA is proposing that States must similarly determine the vulnerability of systems to coliform contamination as a condition of reduced monitoring. This section provides the rationale for using sanitary surveys to reduce monitoring frequency.

Sanitary surveys would function as a "second line of defense" to alert public water systems and States of possible health risks which might not be apparent from routine coliform sampling because of an uneven distribution of coliforms in the distribution system, variability in surface water quality, the length of time between sample collections, the length of time between sample collection and receipt of analytical results, and lack of data on water quality in parts of the distribution system not included in recent sampling sites. This is especially critical for populations served by unfiltered surface water and, to a somewhat lesser extent, undisinfected ground water.

EPA believes that systems which properly filter and disinfect surface water generally provide water which poses less microbial risk to health than those without such treatment, as explained in the preamble to the surface water treatment requirements proposed elsewhere in today's Federal Register. Similarly, EPA believes that systems using ground water which disinfect generally provide safer water than those which do not. EPA is also aware that five samples/month may impose an economic burden to small systems. Thus EPA is proposing to allow the State to reduce the monitoring frequency for a small system, i.e., systems serving fewer than 3,300 persons, if sanitary surveys are performed at a frequency specified by EPA (see Table 1 in the proposed regulation) and the State determines that the results are satisfactory. This option would be restricted to systems serving 3,300 or fewer persons which filter and disinfect their surface water in compliance with the surface water treatment requirements (proposed elsewhere in today's Federal Register) or disinfect their ground water. Under this option, the proposed frequency of

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sanitary surveys necessary to qualify for reduced monitoring would vary, depending on the number of persons served (i.e., 25–500 persons vs. 501–3,300 persons) and whether the system uses surface water or ground water.

Because EPA realizes that very small systems may not be able to afford to collect five samples/month, the Agency is further proposing that States be given the discretion to allow systems which serve 25 to 500 persons and do not disinfect their ground water to reduce their monitoring frequency from five samples/month to three samples/month for systems that serve between 301 to 500 persons and to one sample/month for systems that serve between 25 to 300 persons, provided certain conditions are satisfied. First, the State or an agent approved by the State must conduct a sanitary survey every three years and this sanitary survey must demonstrate to the State's satisfaction that the monitoring frequency can be safely reduced. Second, the system must demonstrate that no more than five percent of its last 20 or more consecutive samples were coliform-positive. These 20 or more samples must be collected within the previous three years, which corresponds to the time between required sanitary surveys; this three-year period may have begun before promulgation of this rule. EPA is requiring repetition of the survey periodically, as well as periodic reviews of recent coliform monitoring, because source water may deteriorate over time, and information and sample results that are not sufficiently recent may not be representative of current drinking water quality.

EPA is also considering an alternative approach which would also be based in part on satisfactory sanitary survey results. This approach would allow systems which use ground water (whether disinfected or not disinfected) and which serve 500 persons or fewer to use the lower monitoring frequency specified in Table 1 of the proposed regulation as a base (i.e., one/month for systems which disinfect, one/month for systems serving 25–300 persons which do not disinfect, and three/month for systems serving 301–500 persons which do not disinfect). The State, or an agent approved by the State, would have to conduct a sanitary survey at the frequency specified in Table 1 of the proposed regulation. The results of the sanitary survey, together with a history of previous compliance with coliform MCLs and monitoring requirements and occurrence of any waterborne disease outbreak would be used by the State to determine the need for more frequent monitoring (up to five samples/month) on a case-by-case basis. In the absence of a periodic sanitary survey with satisfactory results, the system would be required to collect five samples/month. Assuming most small systems would qualify for a monitoring frequency below the proposed five samples/month, using the criteria set forth in the proposal (as opposed to the alternative just described), this alternative approach would impose less of an administrative implementation burden on States than the proposed provisions by substantially reducing the personnel resources and paperwork needed; States would need to notify only a minority of small systems to change (i.e., increase) their monitoring frequency. It is important to note that this alternative approach would place the responsibility on the State to demonstrate that a water system needs to monitor more frequently, rather than requiring the water system to show the State that a lower monitoring frequency would not pose a health risk. Also, EPA believes it would be more difficult to ensure that small systems actually had a periodic sanitary survey conducted under the alternative than under the proposal. EPA requests public comment on whether this alternative approach is more appropriate than the proposed approach.

EPA believes that the proposed sanitary survey frequencies are roughly correlated with the relative potential health risk; i.e., they are based on the fact that there is a greater potential for contamination of surface water than ground water and that systems which serve larger populations, if contaminated, would put more persons at risk than systems which serve smaller populations.

Guidance for conducting a sanitary survey is provided in the EPA's draft *Guidance Manual for Compliance with the Surface Water Treatment Rule for Public Water Systems ("Guidance Manual")* (USEPA, in press).

4. Requirements for Additional Coliform Monitoring in Conjunction With Surface Water Treatment Requirements

EPA is proposing to require additional coliform monitoring near the first service connection for systems which use surface water and do not practice filtration. This proposal would require that these systems collect one coliform sample near the first service connection on each day that a turbidity measurement exceeds one NTU. This is to insure that the high turbidity level does not interfere with disinfection. Monitoring is required near the first service connections because at these sites the disinfectant contact time is less than anywhere else within the distribution system. The system would collect the sample within 24 hours after the turbidity level of 1 NTU had been exceeded. EPA is proposing to define "near the first service connection" as the 20 percent of service connections nearest the water supply treatment facility, as measured by the water transport time within the distribution system. The Agency believes that restricting monitoring to the single service connection with the shortest contact time is unnecessarily stringent. EPA is proposing the 20 percent value so that all systems, including those with few service connections, have some flexibility in choosing the connections they sample.

The provision is included in this proposal, rather than in the surface water treatment requirements (40 CFR Part 141, Subpart H—Filtration and Disinfection), proposed elsewhere in today's **Federal Register**, to avoid confusion which might result in having coliform monitoring requirements in two different regulations. This coliform monitoring would be included as part of the monitoring specified in Tables 1 and 2 of the proposed regulation. Sample results from this coliform monitoring would be included in all MCL compliance calculations, and a coliform-positive sample would be treated in the same manner as a routine compliance sample that is coliform-positive.

E. Sampling Sites

The current regulation states that "• • • samples shall be taken at points which are representative of the conditions within the distribution system" (40 CFR 141.21(a)). This suggests, but does not specify, sampling throughout the water distribution system.

An EPA-funded study demonstrated that differences in the frequency of coliform occurrences could be substantial among the different sections of a single distribution system isolated by the direction of water flow (Pipes and Christian, 1982). The study also found that this variability did not increase with distance from the water source, i.e., no significant differences were found between peripheral and non-peripheral sampling locations in the distribution systems examined. This study suggests that all parts of the system should be sampled eventually.

Based on this study, EPA proposes to refine the present regulation by specifying that the number of sites sampled during a 12-month period be either at least three times the number of monthly samples required by Tables 1 and 2 of the proposed regulation or the total number of service connections, whichever is fewer, so that the same sampling sites are not used every month. For example, a system which must collect 20 samples/month would be required to sample from at least 60 sites during a 12-month period. EPA intends that sampling sites be varied over a year in a regular manner, so that the use of different sites is not confined to a short period of time, e.g., one or two months. In addition, new sampling sites would be selected every year. The intention is that all isolated sections of the distribution system be sampled periodically. The sampling program should be designed so that there is no place in the distribution system where microbiological contamination could persist indefinitely with little chance of detection.

EPA is proposing the factor of three as opposed to other values on the basis of the Agency's best judgment on what is reasonable for a system. The Agency requests public comment on whether a factor of three is appropriate or whether another factor is more appropriate to insure coverage of all isolated sections of the distribution system over time.

F. Check/Repeat Samples

Current EPA regulations require that when a public water system finds more than four coliforms/100 ml in a sample using the membrane filter technique or when it finds coliforms in three or more 10-ml portions using the multiple-tube fermentation technique, the system must collect daily check samples until the results from at least two consecutive samples are negative. If any check sample confirms the presence of coliforms, the public water system must notify the State within 48 hours. EPA is proposing to require a set of five repeat samples for every positive coliform sample, in place of this requirement. The rationale for this requirement is discussed below.

Based upon the study mentioned previously which indicates that the distribution of coliform densities in a water system has a large variance (Pipes and Christian, 1982), it is clear that the term "check sample" is a misnomer. Even if a check sample is taken from the same sampling point, the results obtained will not necessarily be representative of the conditions when the original sample was collected. Pipes and Christian (1982) found that, even when the arithmetic mean coliform density is greater than 1/100 ml, the probability that a 100-ml sample will have no coliforms present is high. For example, it is possible for a number of samples to be collected at the same time in a contaminated section of a distribution system and to obtain coliform-negative results in all samples except one which may have many coliforms. With this uneven distribution pattern, it is clear that one or even two additional samples are of dubious reliability, except perhaps when a system is grossly polluted. In other words, EPA believes that two negative check samples of 100 ml are not adequate to invalidate a positive original sample.

Based on this study, EPA believes it is appropriate to accept the original positive sample as a valid finding and use it in compliance calculations. Coliform-positive repeat samples would indicate a serious continuing problem. Negative repeat samples would give some assurance that the contamination is not extensive or has been eliminated. Moreover, given the random nature of the occasional positive result as described above, a repeat sample should have as much weight as an original sample in MCL calculations. EPA considers the term "repeat sample" more appropriate than "check sample," and therefore will use this term in this regulation.

As noted above, a relatively large number of samples is necessary to evaluate the significance of a coliform-positive occurrence. Therefore, EPA is proposing to require all water systems to collect five repeat samples for each coliform-positive sample. As explained previously, this proposed rule would allow a water system serving 3,300 persons or fewer to monitor less than five samples/month if it can demonstrate by a periodic sanitary survey and proper treatment (see Table 1 of the proposed regulation) that the water system is properly designed, protected and operated to be reliably producing safe water. The finding of a positive sample in a system that had qualified for less frequent monitoring would seriously undermine this conclusion. Therefore, EPA believes that water systems which serve 3,300 persons or fewer should collect, for each coliform-positive sample, the minimum number of samples required per month, i.e., five, for systems which cannot qualify for the lower monitoring frequency option. EPA believes that five repeat samples are necessary for systems allowed to collect less than five samples/month, since the assumption that these systems are at low risk may no longer be valid.

EPA also believes a set of five repeat samples is appropriate because it would allow the system to determine quickly whether a serious contamination problem exists and whether an MCL has been exceeded. Moreover, five negative repeat samples provide confidence to a small system that a much smaller percentage of its samples are coliform-positive (e.g., only 10 percent positive vs. 20 percent positive).

For systems which serve more than 3,300 persons, EPA believes that five repeat samples for every coliform-positive sample are necessary to determine quickly the extent of local contamination. EPA believes that five additional samples, if they are all negative, would reasonably demonstrate that the prior positive occurrence is no longer indicative of a health risk to consumers at that location.

A fewer number of repeat samples than five is less expensive and more consistent with the traditional number of repeat samples required (i.e., two); but, given the heterogeneous distribution of coliforms in the distribution system, a fewer number, if negative, would provide significantly less confidence that the water is uncontaminated.

EPA is also proposing that systems not be required to collect repeat coliform samples when fecal coliforms are detected in any total coliform-positive sample. As indicated above, the primary reason for conducting repeat sampling is to allow the system to assess whether the degree of contamination jeopardizes the safety of the water. If it does, the system must report a violation of the total coliform MCL(s). In the case of a fecal coliform-positive sample, however, that determination has already been established, i.e., the water is unsafe for human consumption; and, as discussed later, when a system detects fecal coliforms in any total coliform-positive culture, the system would report a violation of the monthly MCL for total coliforms and warn the public immediately via electronic media of an acute health risk.

EPA is proposing that a public water system collect a set of five repeat samples for every total coliform-positive original sample or repeat sample within 24 hours of being notified that the total coliform-positive sample is fecal coliform-negative, and that the system collect this set of five at the same service connection as the coliform-positive sample (except that some of the repeat samples may be taken at the next service connection above or below). All five repeat samples would be collected during the same day. The Agency is further proposing that sets of five repeat samples be collected at the same or nearby service connection as the

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coliform-positive sample, until either a set of five is coliform-negative or an MCL has been exceeded and the system notifies the State. The proposed rule specifies that original samples and repeat samples will be treated the same in determining MCL compliance. Repeat samples would be included in the total number of monthly samples required by Tables 1 and 2 of the proposed regulation. For example, a system required to collect seven samples/month could use the five repeat samples as part of the seven required samples; likewise, a system required to collect 200 samples/month could also use the five repeat samples as part of the total.

EPA invites comment on the number of repeat samples a system should collect in response to a coliform-positive sample, their location and how they should be used to determine compliance.

G. Analytical Methodology for Total Coliforms

Analytical methodology for total coliform monitoring has existed for decades. The current EPA regulations (40 CFR 141.21(a)) specify the use of either the multiple-tube fermentation technique (MTF) or the membrane filter (MF) technique, as described in the 14th edition of *Standard Methods for the Examination of Water and Wastewater* ("*Standard Methods*") (APHA, 1976) and *Microbiological Methods for Monitoring the Environment: Water and Wastes* (USEPA, 1978). The volume of sample currently required for analysis is 100 ml for the MF test and 50 ml for the 5-tube MTF test.

EPA is proposing that analysis for coliforms under this regulation be conducted using either the MF test, 10-tube MTF test, or the Presence-Absence (P–A) Coliform Test. The protocols for each of these tests is described in Methods 908, 908A and 908B (pp. 872–878); 908E (pp. 882–886); and 909, 909A and 909B (pp. 886–896), in the 16th edition of *Standard Methods* (APHA, 1985).

EPA is specifying use of the protocols in *Standard Methods* because it is a highly respected and widely used reference which has been peer-reviewed throughout the scientific community. The MF method is also described in EPA's *Microbiological Methods for Monitoring the Environment, Water and Wastes* (USEPA, 1978).

EPA is not proposing to allow the continued use of the five-tube MTF test, however, because the test uses only a 50-ml sample volume (see discussion on standard volume, below). EPA has funded an evaluation of the P–A Coliform Test and has determined that it is at least as efficient in recovering coliforms as are the methods currently in use (Jacobs et al., 1986). In this study, the MF, MTF, and P–A tests were compared. Of the 1,483 water samples collected, 23 percent contained coliforms by at least one of the three methods. The MTF technique detected 82 percent, the P–A test detected 86 percent, and the MF test detected 64 percent of these positives. Other studies indicate that coliform recovery efficiencies are similar for the MTF and MF with respect to the number of positive and negative results (Hsu and Williams, 1982; Pipes et al., 1986).

As noted earlier, regardless of the analytical methods used, determination of coliform density would not be required for determining compliance with the MCLs; only the presence or absence of coliforms in the samples would be reported. This proposed regulation, however, would not preclude a system from either enumerating or characterizing coliforms or other organisms.

The use of the presence-absence concept requires EPA to propose that a standard volume be analyzed, regardless of the methodology employed. EPA is proposing that this volume be 100 ml, i.e., that the presence or absence of coliforms in a sample will be based on a 100-ml sample. The Agency believes this volume is appropriate because it is sufficiently small for easy handling and shipping and is already being employed in the widely used MF test. EPA requests comments on whether 100 ml is the appropriate volume for all total coliform analyses, including the MTF technique. EPA also solicits comment on the suitability of the proposed analytical techniques, and whether other techniques should be allowed.

H. Fecal Coliforms

Many strains of coliform bacteria are indigenous in aquatic environments. Some total coliforms, however, are fecal in origin (fecal coliforms); their presence in drinking water is strong evidence of recent sewage contamination. The presence of fecal coliforms in drinking water indicates that an urgent public health problem exists, since fecal pathogens often co-exist with fecal coliforms. There are no standards for fecal coliforms in the current regulations. In this notice, EPA is proposing to define the presence of any fecal coliform as a violation of the monthly total coliform MCL.

Because its presence in drinking water would represent an acute health risk, EPA is Proposing to require public water systems to analyze each total coliform-positive sample (whether it is an original or repeat sample) to determine if it contains fecal coliforms. If fecal coliforms are detected, the system would be in violation of the monthly coliform MCL and would be required to notify the State within 48 hours. Only the presence or absence of fecal coliforms would be reported; a determination of fecal coliform density would not be required.

EPA is proposing that the public water system determine whether a coliform-positive sample contains fecal coliforms by transferring the total coliform-positive culture to EC medium. The preparation of EC Medium is described in *Standard Methods for the Examination of Water and Wastewater*, Method 908C, p. 879, para. 1 (APHA, 1985).

EPA requests comment on whether fecal coliform analysis should be conducted on coliform-positive repeat samples only rather than on all total coliform-positive samples, or whether a fecal coliform analysis should only be required for systems in violation of either the monthly or long-term MCL for total coliforms. EPA also requests comment on whether it would be appropriate to require an analysis for the presence of *Escherichia coli* or enterococci rather than fecal coliforms; EPA recently revised its ambient water quality criteria on the basis that several bathing beach studies found that densities of *E. coli* and enterococci were more closely related to gastroenteritis in swimmers than were the densities of other candidate indicators of water quality, including fecal coliforms (51 FR 8012, March 7, 1986).

I. Heterotrophic Bacteria

As noted earlier, heterotrophic bacteria are a broad class of organisms which use organic nutrients for growth. This group includes many innocuous bacteria as well as virtually all of the bacterial pathogens and those bacteria which infect when the host's defenses are weakened (opportunistic pathogens). The population density of these bacteria in water is often measured by the Standard Plate Count (SPC) procedure, as described in *Standard Methods* (APHA, 1976). The 16th edition of this book changes the term "SPC" to "Heterotrophic Plate Count" or "HPC" (APHA, 1985). The 1986 amendments to the Safe Drinking Water Act included this group of organisms as one of 83 contaminants the Agency must regulate.

EPA proposes to specify a limit on HPC of 500 bacteria/ml. If this value is exceeded, the sample would be considered coliform-positive. However, EPA is proposing to require monitoring

for these organisms only when there is evidence, as described below, that high levels of heterotrophic bacteria are interfering with the total coliform analysis. The rationale for this proposal is explained below. EPA believes that this proposed requirement, along with the surface water treatment requirements proposed elsewhere in today's Federal Register, which would reduce heterotrophic bacteria numbers in drinking water and limit growth in the distribution system, together would fulfill the Congressionally-mandated requirement to regulate heterotrophic bacteria. (See the preamble to the proposed surface water treatment requirements for a more detailed explanation of EPA's rationale.)

As explained in the November 13, 1985, Federal Register proposal (50 FR 46955), the HPC procedure imprecisely counts both some bacterial pathogens and many innocuous bacteria. Therefore, EPA believes it is impossible to specify a scientifically rational MCLG. Specifically, EPA cannot set any particular HPC level (other than at zero) at which no adverse health effects occur, since the test measures both pathogenic and innocuous bacteria; drinking water with any given HPC level might contain numerous, few, or no pathogens. EPA believes an MCLG of zero is inappropriate because the SDWA would then require EPA to promulgate an MCL as close to zero as is feasible. The health benefit of meeting a level near zero versus some higher level (e.g., 500 colonies/ml) is probably negligible, if any. In addition, excessive amounts of disinfection would be needed to achieve these removals, which could result in excessive concentrations of disinfection byproducts in the finished water which may have adverse health effects. Therefore, EPA believes it is inappropriate to set an MCLG for HPC.

A problem associated with heterotrophic bacteria contamination is that higher densities of such bacteria may interfere with total coliform analysis. There are ample data which demonstrate such interference (summarized in USEPA, 1984b). Bacterial densities greater than 500 colonies/ml (and perhaps as low as 100 colonies/ml) can suppress coliform growth with the membrane filter and/or multiple tube fermentation procedures (summarized in USEPA, 1984b). There is also strong evidence that drinking water samples containing high densities of heterotrophic bacteria resulting from growth during sample transit may reduce the chances of detecting coliforms. Since the presence of coliforms in drinking water indicates the possible concurrent presence of pathogens, the masking of coliforms by high levels of heterotrophic bacteria can prevent the detection of a health threat.

Therefore, to safeguard public health, EPA proposes to require that public water systems monitor for heterotrophic bacteria in drinking water supplies in conjunction with coliform monitoring. Under this proposal, when the heterotrophic bacteria limit has been exceeded, it would be counted as a coliform-positive sample. EPA believes that this approach is sensible because it will limit heterotrophic bacteria densities in drinking water while addressing directly a specific problem associated with high levels of these bacteria, i.e., interference with total coliform analysis.

Although there is some evidence that heterotrophic bacteria may interfere with total coliform analysis at levels as low as 100 colonies/ml, EPA is proposing the limit of 500 colonies/ml rather than a lower level for the following reasons: (1) The Agency believes that interference is less likely to occur at lower HPC levels; and (2) the higher limit reduces the cost burden to public water systems, since 89 percent of all community systems meet this limit (McCabe *et al.*, 1970).

EPA considered several options for monitoring heterotrophic bacteria. One approach is to require a system to collect a specified number of samples per month and analyze for these organisms. Another approach, which was recommended by a panel at the 1985 workshop, is to require monitoring of the distribution system only when a coliform analysis shows evidence of coliform interference, i.e., there is confluent growth or the colonies are "too numerous to count" when using the membrane filter technique, or there are turbid, gas-negative tubes when using the multiple tube fermentation technique. EPA is adopting the panel's recommendation that the distribution system be monitored when growth conditions interfere with coliform evaluation, because the Agency believes that routine monitoring may be economically impractical for many systems and that there would be little incremental benefit beyond total coliform monitoring alone.

EPA recognizes that if large numbers of heterotrophic bacteria pass into, or proliferate in, a water distribution system, they can cause deterioration in water quality, either directly (e.g., slime deposits, taste and odor problems) or indirectly (e.g., through accelerated pipe deterioration). Therefore, although not proposed as a requirement, EPA encourages public water systems to perform supplemental monitoring to ensure that HPC levels are not excessive in their particular system, especially if the system exhibits one or more of these problems.

EPA is proposing that the elapsed time between collection and processing of the water sample for heterotrophic bacteria be limited to eight hours (30 hours if the water temperature is maintained below 4 °C, but above 0 °C). These limits are recommended by *Standard Methods* (APHA, 1985), because data indicate that levels of heterotrophic bacteria, as measured by the HPC method, may change substantially in samples maintained at ambient temperatures beyond eight hours (McDaniels et al., 1985; Geldreich et al., 1972).

EPA is also proposing to approve the use of the Pour Plate Method (907A) described on pp. 864–866 in the 16th edition of *Standard Methods* (APHA, 1985) for enumeration of heterotrophic bacteria. EPA is proposing the Pour Plate Method because most of the data on interference by heterotrophic bacteria with the total coliform analysis are based on the use of this method, with an incubation time of 48 hours and an incubation temperature of 35–37 °C. As noted previously, EPA is citing methods in *Standard Methods*, because this publication has international standing and is updated frequently by a diverse group of experts in the field.

For the purposes of this regulation, then, whenever any sample exhibits confluent growth or contains colonies too numerous to count, or yields a turbid liquid medium without gas production, this would be presumptive evidence that heterotrophic bacteria are interfering with the total coliform analysis. The public water supply would have the option to (1) declare the sample coliform-positive and include it in its calculations for determining compliance with the coliform MCLs; or (2) consider the sample an invalid coliform determination, and collect another sample and analyze it both for the presence or absence of coliforms and the number of heterotrophic bacteria present. A sample with a heterotrophic bacteria level in excess of 500 colonies/ml is indeterminate with respect to coliform content. For regulatory purposes, the system would be required to report this second sample as coliform-positive if it contained greater than 500 colonies/ml, even in the absence of detectable coliforms. Option 1 above would be appropriate for those systems unable to meet the eight-hour sample

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transit time limit for analysis of heterotrophic bacteria. If the sample is declared coliform-positive, or if it contains greater than 500 colonies/ml, then the system would be required to collect five repeat samples.

EPA requests public comment on whether it is appropriate to regulate heterotrophic bacteria on the basis that it may interfere with the total coliform analysis, and if not, whether there is a more appropriate basis for regulating heterotrophic bacteria. The Agency also invites comment on whether the proposed approach for controlling such interference is appropriate or whether there is a more suitable approach, e.g., require routine monitoring of heterotrophic bacteria at the tap and limit the density of these organisms to 500 colonies/ml in 95 percent of these routine samples, or require a disinfectant residual in the distribution system. EPA solicits comment on whether the proposed HPC limit of 500 colonies/ml is reasonable for curbing HPC interference with coliform analysis, and whether the HPC limit should vary, depending on the particular analytical procedure used for coliform detection. The Agency also requests comment on whether it is practical for small rural systems to meet the requirement that unrefrigerated samples reach a laboratory within eight hours of collection.

J. Determination of Compliance

This section briefly summarizes the actions required by a public water system to conform to the provisions of this proposed rule.

EPA is proposing that all public water systems meet two total coliform MCLs: A monthly MCL and a long-term MCL. The monthly MCL for systems collecting less than 40 samples/month (equal to the number of original and samples plus any repeat samples) would be no more than one positive coliform sample/month. The monthly MCL for systems collecting 40 or more samples/month would be no more than five percent positive.

The long-term MCL for a system analyzing at least 60 or more samples/year would limit the number of positive samples to no more than five percent of the annual total of samples collected. For systems analyzing fewer than 60 samples/year, no more than five percent of the most recent 60 samples could be positive for coliforms.

If total coliforms, but no fecal coliforms, were detected in a sample, the public water system would be required to collect a set of five repeat samples from the same service connection, except that some could be collected at the next service connection. If all repeat samples were negative, no further action would be required. If any repeat sample was coliform-positive, another set of five repeat samples would be required unless an MCL has been exceeded. The original sample and all repeat samples would be included in both the monthly and long-term MCL compliance calculations.

If any original or repeat sample is coliform-positive, the laboratory would be required to determine whether the total coliforms in the sample(s) include fecal coliforms. If fecal coliforms were to be detected, the system would be in violation of the monthly total coliform MCL.

If there was evidence that high levels of heterotrophic bacteria may be interfering with the total coliform analysis, as described previously, the system could either (1) count the sample as coliform-positive and collect five repeat samples; or (2) consider the sample invalid and collect another sample from the same location and instruct the laboratory to analyze it for both total coliforms and HPC. If the second total coliform analysis was positive, then five repeat samples would be necessary. If coliforms were not detected in the second sample, but the HPC level was greater than 500 colonies/ml, samples must be collected and analyzed in the same manner as before. This process would be repeated until the system obtains either one set of five negative results or the monthly MCL has been exceeded and the system notifies the State. The results of both the positive original and the sample would be considered coliform-positive and five repeat samples would be collected and analyzed as before. Data from all total coliform samples, except for the invalid original sample, would be used in both the monthly and long-term MCL calculations.

EPA is also proposing that the size of the population served be retained as the basis of monitoring frequency; that the minimum monitoring frequency for systems serving 3,300 persons or fewer be five samples/month, except that fewer samples would be permitted if (1) the system filters and disinfects its surface water, as required by the surface water treatment requirements proposed elsewhere in today's Federal Register, and disinfects its ground water: and (2) the State, or an agent of the State, conducts a sanitary survey at the frequency specified in Table 1 of the proposed regulation and determines that the results are satisfactory. In addition, a State may permit a system which serves 25 to 500 persons and uses undisinfected ground water to reduce its monitoring frequency if (1) the State, or agent of the State, conducts a sanitary survey every three years and the State determines that the results are satisfactory; and (2) the system can demonstrate that no more than five percent of its last 20 or more consecutive samples collected within the past three years contained coliforms, regardless of whether or not these analyses were performed before promulgation of this rule.

IV. Variances and Exemptions

EPA is proposing that variances and exemptions from these coliform and heterotrophic bacteria regulations not be available. Under the Safe Drinking Water Act, a State may grant a variance to a public water system "which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels * * *." Section 1415(a)(1)(A). Before a State may grant a variance, it must determine that the variance will not result in an unreasonable risk to health. Section 1415(a)(1)(A). Under the Act, a State may grant an exemption to a public water system if "due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level * * * and the granting of the exemption will not result in an unreasonable risk to health." Section 1416(a).

The current regulations permit the granting of variances and exemptions from the total coliform standard. EPA, however, is not aware of any States that are granting them. The Agency believes this is appropriate because coliforms are the primary indicator of the microbiological quality of water. To the extent a variance or exemption would permit the continued presence of coliforms, the potential presence of pathogens would remain. Therefore, EPA believes States would be unable to make the determination that no unreasonable risk to health would result from the variance or exemption. In addition, it is important to recognize that the proposed coliform rule already provides flexibility by allowing coliforms to be present in some, i.e., five percent, of the samples taken. Accordingly, EPA is proposing not to allow variances or exemptions from either the monthly or long-term coliform MCL.

Nevertheless, EPA recognizes that some communities have a persistent problem with coliforms in the distribution system, even after they increase the disinfectant dose, flush the system with disinfectant, and perform other suitable control measures. This persistence may be due to protection against the action of the disinfectant conferred by slimes, encrustations, tubercles, and sediments associated with the piping, or to the continued penetration of the treatment barrier by coliforms, perhaps aided by their ability to encapsulate or by their adsorption to organic colloidal particles in the water. In the few cases of coliform persistence reported in the scientific literature, no fecal coliforms were detected and no waterborne disease outbreak was reported. There is a body of thought, at least in some of these published cases, that inadequate treatment of the source water was responsible for the persistent coliform contamination. If EPA were to allow variances in this narrow circumstance, it would restrict them to those systems which employ the best available treatment technology (BAT), as required by the Act. The Agency requests public comment on whether variances should be granted, and if so, what the conditions of variance should be.

V. Best Available Technology (BAT) for Total Coliforms

Section 1412(b)(6) of the Safe Drinking Water Act states that each national primary drinking water regulation which established an MCL shall list the technology, treatment techniques, and other means which the Administrator finds to be feasible for meeting the MCL.

Pursuant to this section of the Act, the coliform MCLs can be achieved using the following technologies, treatment techniques, and other means:

- Protection of wells from contamination by coliforms by appropriate placement and construction;
- Maintenance of a disinfectant residual of at least 0.2 mg/l throughout the distribution system;
- Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, and continual maintenance of positive water pressure in all parts of the distribution system; and
- Filtration and disinfection of surface water, as defined in 40 CFR Part 141, Subpart H (proposed elsewhere in today's Federal Register); or
- Disinfection of ground water using strong oxidants such as chlorine, chlorine dioxide, and ozone.

There is a very long history to the success of these methods for achieving the coliform MCLs. The technologies for removal of microbial contamination are discussed extensively in *Technologies and Costs for the Treatment of Microbial Contaminants in Potable Water Supplies* (USEPA, in press). Filtration, disinfection, and maintenance of the distribution system are also discussed in the draft *Guidance Manual* (USEPA, in press). This regulation would not require the use of the above techniques; however, systems would be free to meet the requirements of this regulation using the technologies of their choice (if treatment is necessary). However, Section 1412 of the Safe Drinking Water Act requires that regulations requiring disinfection of all drinking water supplies be issued by June 19, 1989. Disinfection of ground waters is primarily designed to inactivate viruses which have been demonstrated to travel great distances through soils and aquifers. While EPA recognizes that many systems are designed to provide natural barriers to this kind of contamination which afford marginal safety without disinfection, EPA will be proposing disinfection treatment technique requirements at a later date. However, it is important to recognize the relationship between appropriate treatment for a given raw water and the safety of water at the tap. Residual disinfection is also an appropriate means to control regrowth and recontamination by bacteria in the distribution system.

VI. Waterborne Disease Outbreaks

EPA is concerned about deficiencies in the way that waterborne disease outbreaks are being recognized and reported. The outbreak surveillance and reporting system is generally passive; the great majority of outbreaks and cases are not being reported, at least to the Federal level. About 9,000 cases per year of waterborne illness were recorded by the Centers for Disease Control (CDC) between 1975–1984 (CDC, 1985). One EPA-funded study in Colorado found that only about one-quarter of the waterborne disease outbreaks were being recognized and reported (CDC, 1985). Another study concluded that the ratio of the estimated ill to the initially reported ill for food- and waterborne outbreaks is 25:1 (Hauschild and Bryan, 1980). In addition, EPA understands that in some States, a lack of communications between agencies responsible for public health and water supply is creating an obstacle to reliable waterborne disease outbreak recognition and reporting. The Agency needs more accurate data to determine how effective the drinking water regulations are and to determine what revisions or additional regulations and guidelines are needed. Such information would also help EPA to determine research priorities.

EPA is examining several options to improve surveillance and reporting. One option is to require that States in conjunction with the Centers for Disease Control (CDC) provide more active surveillance and reporting as a condition for receiving annual drinking water grant funds. Another alternative is to develop additional guidance based on recently developed guidelines on how to search for waterborne disease outbreaks (Bryan, 1986; Erickson and Dufour, 1986; Lippy, 1986). EPA is also planning a workshop on improved surveillance and capabilities at the State and local level for improved detection reporting.

EPA is also considering the development of a regulation requiring States to search for and investigate all incidents of waterborne disease outbreaks and report them periodically, either to EPA or CDC. The statutory basis for such a regulation would be sections 1413(a)(3) and 1445(a) of the Act. Section 1413(a)(3) states that a State with primacy "will keep such records and make such reports with respect to its activities * * * as the Administrator may require by regulation." Section 1445(a) further states that "Every person who is a * * * grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations * * * in evaluating the health risks of unregulated contaminants, or in advising the public of such risks."

EPA has been working closely with CDC to obtain, review, and tabulate data on outbreaks, and expects to continue this activity, regardless of which option(s) is selected. The Agency requests public comment on these options and on any other alternatives which might contribute to improving waterborne disease outbreak surveillance and reporting.

VII. Chlorine Substitution Policy

The current coliform requirements at 40 CFR 141.21(h) state that "a supplier of water of a community or non-community system may, with the approval of the State and based upon a sanitary survey, substitute the use of chlorine residual monitoring for not more than 75 percent of the [coliform] samples required to be taken * * * *provided*, that the supplier of water takes chlorine residual samples at points which are representative of the

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condition within the distribution system at the frequency of at least four for each substituted microbiological sample. There shall be at least daily determinations of chlorine residual." The regulations also require that a minimum of 0.2 mg/l of free chlorine residual be maintained throughout the distribution system.

The rationale for the substitution provision is that it is easier for the water plant operator to run the simpler test for measuring chlorine residual than the more complicated coliform analysis, and allows an almost immediate adjustment of the operation if the chlorine residual is too low.

The basic premise of the chlorine substitution rule, however, holds that the presence of free chlorine in water at the time of sampling is equivalent to the absence of coliforms, and thus that the water is free from pathogens. EPA is not aware of any States that allow public water systems to use the chlorine substitution provisions. EPA has decided not to incorporate the chlorine substitution rule in these proposed regulations, but it has not made a final decision; the Agency will consider incorporating this concept in the upcoming ground water disinfection rule which EPA must promulgate under section 1412(b)(8). In a sense, however, the chlorine substitution policy is incorporated in the proposed coliform rule, since it would allow the States to reduce coliform monitoring for small ground water systems which disinfect their water (see Table 1 of the proposed regulations). EPA requests comment on whether a separate chlorine substitution provision is appropriate.

VIII. Reporting, Public Notification, and Record Maintenance

Requirements for reporting, public notification, and record maintenance are found in proposed 40 CFR 141.31, 141.32, 141.33, respectively.

EPA is proposing to require a water system to report to the State within 48 hours of its discovery a violation of the monthly coliform MCL or coliform monitoring requirement, e.g., failure to monitor. The Agency is further proposing to require the system to report a violation of the long-term coliform MCL to the State within seven days following the end of the month in which the violation occurred. If the system detects fecal coliforms in any sample, EPA is proposing to require the system to report this violation, which is considered a violation of the monthly coliform MCL, to the State within 48 hours of its discovery. EPA believes these relatively short time limits reflect the urgency of the situation and can be met by public water systems.

EPA has amended the public notification requirements in order to incorporate new statutory requirements imposed by section 1414(c) of the Safe Drinking Water Act. The revised public notification regulations require that notices of violation of the MCL for a specific contaminant must include specified language on the adverse health effects of that contaminant. In this notice, EPA is proposing the following language for public notices for violation of either the monthly or long-term coliform MCLs:

> The U.S. Environmental Protection Agency (EPA) sets drinking water standards. To reduce the risk of a water supply being contaminated with disease-causing organisms, EPA has set an enforceable drinking water standard for coliforms. Coliform bacteria are common in the environment and are generally not harmful themselves. Their presence in drinking water, however, indicates that there is a problem at the water treatment plant or in the pipes which distribute the water, and that the water may be contaminated with organisms that can cause disease. Disease symptoms may include headaches, fatigue, diarrhea, cramps, nausea, and jaundice.

The presence of fecal coliforms in treated water is cause for grave concern and is an acute risk to human health because when fecal coliforms are detected, it is likely that human pathogens are present. These human pathogens can cause a disease outbreak among the public served by the affected water system. For this reason, EPA believes that more urgent public notice language is needed when fecal coliforms are detected, compared to that for total coliforms, even though the detection of fecal coliforms constitutes a violation of the monthly MCL for total coliforms. Therefore, EPA is proposing the following language for public notices when fecal coliforms are detected. Systems would use this language rather than the language used for other types of total coliform MCL violations.

> The United States Environmental Protection Agency (EPA) sets drinking water standards. EPA has determined that fecal coliforms are an acute health risk and has established an enforceable requirement that no drinking water samples contain fecal coliforms. The presence of fecal coliforms in treated drinking water is serious because they are usually associated with sewage or animal wastes. Drinking water contaminated with fecal coliforms may place the consumer at high risk for acute diseases like hepatitis, typhoid fever, and dysentery. Acute diseases are marked by a rapid onset of symptoms a few days to a few weeks after consuming contaminated water. The purpose of this notice is to notify the affected public quickly so that they can take appropriate action to protect themselves. Protective action includes boiling the water or using alternate sources of water.
>
> Local and State health authorities are the best source for detailed information on the necessity and proper procedures for boiling drinking water. You will receive notice when the water is safe for drinking.

Because of the acute nature of risk of exposure to water contaminated with fecal coliforms, EPA is proposing to require immediate public notice via the electronic media as specified in 40 CFR 141.32. The form and content of the notice will be specified by that rule. The reason for this immediate notice is to permit a rapid response to avoid outbreaks of disease associated with fecal coliform contamination. The public water system should take immediate measures to correct the situation, including improvements in disinfection and other treatment practices, or any other means immediately available. The State or health officials should be contacted about the necessity for boiling water or seeking alternate sources. This latter action is an important part of the electronic media notice. This will allow the affected public to understand the situation and take appropriate action.

EPA requests comment on whether this language adequately explains the potential health effects of total coliforms and fecal coliforms in drinking water and whether the presence of fecal coliforms should be considered an acute health risk requiring systems to notify the public immediately via the electronic media.

IX. Costs and Benefits of Complying With Coliform Monitoring Requirements

Proposed revisions to the coliform regulations will require more frequent monitoring by small systems than is currently required and, at the same time, change the definition of a "positive" sample. Initially, the result will be a larger number of systems that report coliform violations. Two types of costs will result: (1) Increased monitoring costs; and, (2) remedial action costs to correct the circumstances that cause violations.

Only the monitoring costs are counted in this analysis. Given the nature of coliform contamination, it is likely that the same number of systems would eventually be identified as needing remedial action costs under either the existing or the proposed monitoring regulations. Thus the total costs of remedial actions would be the same except for the loss of time value on some of the funds expended.

Assuming the use of a commercial laboratory for analysis, EPA has quantified the increment of additional monitoring cost. EPA assumed $15 per sample for analytical and mailing costs for total coliform samples.

For surface water systems, EPA assumed that all affected systems would collect the number of samples specified in the proposal. This is a highest cost assumption, since the proposal gives the State flexibility to reduce the monitoring (e.g., substituting sanitary surveys and other requirements for some monitoring). Costs to ground water systems are evaluated under two assumptions: (1) No exercise of State flexibility (worst case); and (2) maximum exercise of State flexibility—a lowest cost case. A lowest cost case was not estimated for surface water systems because it is not expected that States will reduce monitoring for those systems, even if allowed to under the rule.

Based on these assumptions, the total national cost of the additional monitoring is estimated to be $163 million per year in the highest cost case and $72 million per year in the lowest cost case.

In the highest cost case, $122 million of the total cost would be borne by non-community water systems while $41 million would be borne by community water systems. In the lowest cost case, $47 million of the total cost would be borne by non-community water systems while $25 million would be borne by community water systems.

In the highest cost case, $154 million of total cost would be borne by groundwater systems while $9 million would be borne by surface water systems. In the lowest cost case, $63 million of the total cost would be borne by groundwater systems while the cost to surface water systems would remain the same at $9 million.

In the highest cost case analysis, the proposed regulations would require 11 million additional coliform samples per year. In the lowest cost case, an approximately 3.4 million coliform samples per year would be required of these same systems. Most of these would be required of non-community water systems which would be required to switch from quarterly to monthly sampling. Some 200,000 community water systems and non-community water systems serving a total of 48 million people are affected by these requirements.

The additional monitoring for small systems is designed to ensure that the drinking water meets the standard. While the national costs for the additional samples are rather large, the cost per system is relatively small. The annual cost ranges from $19.00 per household in the smallest size category to less than $1.00 per household in categories exceeding 1,000 people. If the benefits are viewed as the avoidance of waterborne disease, the net benefits at a system level are overwhelmingly positive in all system size categories. Moreover, the benefits expected from this rule are particularly substantial for systems using water sources which are most prone to contamination. Of the total number of outbreaks of waterborne disease, nearly two-thirds occurred in systems using ground water which did not have adequate protection or treatment even though such systems serve only one-third of the U.S. population. Therefore, control of coliform contamination in ground water supplies is especially important as it could potentially eliminate over half of the outbreaks of waterborne disease in the United States. Furthermore, the proposed rule would result in a more rapid identification of a treatment or distribution system deficiency than the current coliform rule, and thereby allow earlier correction; this should result in fewer waterborne disease outbreaks and waterborne illness. Additionally, these benefits would be achieved at a low cost to the water supplier.

This proposal addresses partially the statutory requirement mandating disinfection of all water supplies because many water supply systems will have to disinfect their water to meet the proposed coliform regulations. Compliance with the coliform regulations may become a criterion for obtaining a variance from the disinfection treatment technique requirement. If so, this revised coliform rule would provide the basis, both for relief for small systems with economic difficulties in complying with requirements for disinfection and for protection of the public's health.

The Agency specifically requests comments on the following cost and benefit questions. Are the cost and benefits in the Regulatory Impact Assessment reasonable? How might they be improved? Is it appropriate to only include the costs associated with increased monitoring and not include the remedial action costs which are attributed to the existing coliform regulation or to the forthcoming disinfection regulation covering groundwater systems?

X. State Implementation of Coliform Requirements

A. General

Section 1413 of the Safe Drinking Water Act (SDWA) establishes requirements a State must meet to obtain primary enforcement responsibility (primacy) for public water systems. These include: (1) Adopting drinking water regulations no less stringent than the national primary drinking water regulations (NPDWRs) in effect under sections 1412(a) and 1412(b); (2) adopting and implementing adequate procedures for enforcement; (3) keeping records and making such reports with respect to its activities as EPA may require by regulation; (4) issuing variances and exemptions (if allowed at all by the State) in a manner and under conditions no less stringent than allowed by sections 1415 and 1416 of the SDWA; and (5) adopting and being able to implement an adequate plan for the provision of safe drinking water under emergency situations.

40 CFR Part 142 sets out requirements for States to obtain primacy for the public water system supervision (PWSS) program, as authorized under section 1413 of the SDWA. EPA first promulgated these regulations on January 20, 1976. Since then, the basic regulatory requirements have remained relatively unchanged; however, much has happened in the program. All States, with the exception of Indiana and Wyoming, have applied for and obtained primary enforcement responsibility. In addition, the 1986 amendments to the SDWA made major changes in the program. For example, EPA must promulgate regulations for many additional contaminants and establish a ban on the use of lead pipe, solder, and flux in public water systems and plumbing systems providing water for human consumption.

With both substantial program and statutory changes, portions of the existing Part 142 regulations have become outdated. In response to this, the Agency is developing and evaluating options for addressing the primacy issues associated with implementing the 1986 amendments. This workgroup will be proposing revisions to Part 142 to take into account the program's evolution as well as the new legislative mandates.

One of the deficiencies in the existing Part 142 regulations is that they do not require States with primacy to revise their programs following EPA promulgation of new or revised NPDWRs nor do they provide a procedure for doing so. Thus, EPA intends to propose regulations requiring States to revise their programs following the promulgation of new NPDWRs. The procedure EPA is planning to propose for State program revisions will be similar to the procedure in Part 142 for obtaining initial primacy. The procedure

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will also allow EPA to establish requirements specific to a NPDWR at the time it promulgates the NPDWR. It is anticipated that such additional regulation-specific requirements would be necessary only in those situations where the NPDWR provides flexibility to the State on how to achieve the objective of the regulation.

In today's notice, EPA is proposing the changes to Part 142 needed to implement the revisions to the Part 141 coliform regulations also proposed today. The proposed changes are in two areas: (1) revision of State recordkeeping and reporting requirements; and (2) specific requirements States must meet to obtain approval of program revisions to adopt the coliform regulations. They are explained below. EPA solicits comments only on the changes to Part 142 needed to implement the coliform rule; the general changes to Part 142 will be proposed in the near future.

B. State Reporting and Recordkeeping Requirements

EPA is proposing only one change to the existing State recordkeeping requirements to implement the coliform regulation proposed elsewhere in this notice. Under this proposal, States would be required to retain records of any determination that a public water system serving 3,300 or fewer persons may monitor for total coliforms fewer than five times per month. The records would also have to specify the required monitoring frequency for each system which qualifies for these reduced requirements.

EPA is also proposing one change to the existing State reporting requirements to implement the coliform regulation. This proposed change would require States to report to EPA the number of public water systems serving 3,300 or fewer persons which the State has authorized during that reporting period to monitor for total coliforms fewer than five times per month.

C. Specific Primacy Requirements for States to Adopt the Coliform Rule

The procedure which EPA plans to propose for revising State programs following EPA promulgation of new or revised NPDWRs would allow EPA the opportunity to establish requirements specific to a NPDWR at the same time a NPDWR is promulgated (as explained previously and in the surface water treatment requirements proposed elsewhere in today's **Federal Register**). These additional requirements are necessary where the NPDWR provides the State discretion in how to achieve the objective of the regulation. In these instances, State regulations are necessary to augment the national regulations to establish enforceable requirements and to inform the public water systems of the requirements to which they are subject.

Since the NPDWR proposed today for total coliforms provides the State discretion to reduce a system's monitoring requirements, the State would be required to explain how it will implement these provisions (if it chooses to exercise this flexibility). Specifically, to obtain approval of a State's program revision which adopts the coliform rule, the State's application would be required to include the following:

(1) Procedures and/or criteria the State will use in evaluating reports of sanitary surveys to determine whether a public water system serving 3,300 or fewer persons may decrease its required minimum monitoring frequency below that specified in 40 CFR 141.21. These procedures must also specify how a State will determine the reduced monitoring requirements.

(2) If the State allows another party to conduct sanitary surveys in the State, the State must specify in statutes or regulations the qualifications required of a party who conducts sanitary surveys in the State and a procedure for determining whether a party meets those qualifications.

XI. Other Statutory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This proposed action does not constitute a "major" regulatory action because it will not have a major financial or adverse impact on the regulated community. However, EPA did prepare a Regulatory Impact Analysis, which was summarized above; this analysis was submitted to the Office of Management and Budget for review.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act requires EPA to explicitly consider the effect of proposed regulations on small entities. If there is a significant effect on a substantial number of small systems, means should be sought to minimize the effects.

The Small Business Administration defines a small water utility as one which serves fewer than 50,000 people. Under this definition, this rule would affect about 200,000 small systems.

In developing this regulation, EPA allows flexibility for small systems by allowing a State to reduce the monitoring frequency below five samples/month for (1) systems serving 3,300 persons or fewer which filter and disinfect their surface water or disinfect their ground water; and (2) systems serving 500 persons or fewer which use ground water exclusively and do not practice disinfection, if the State or an agent approved by the State conducts a periodic sanitary survey and the State determines that the results are satisfactory. These considerations reflect EPA's best efforts to minimize the effects upon small systems and thereby comply with this Act.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA (ICR No. 0270-TC) and a copy may be obtained from Eric Strassler, Information Policy Branch, EPA, 401 M Street SW. (PM-223), Washington, DC, or by calling (202) 382-2700. Submit comments on the information collection requirements to EPA and: Timothy Hunt, Office of Information and Regulatory Affairs, OMB, 726 Jackson Place NW., Washington, DC 20503. The final rule will respond to any OMB or public comments on the information collection requirements.

D. Science Advisory Board

This proposed rule has been submitted to the EPA Science Advisory Board as required by Section 1412(e) of the Safe Drinking Water Act.

List of Subjects in 40 CFR Parts 141 and 142

Administrative practice and procedure, Chemicals, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

Dated: October 17, 1987.

Lee M. Thomas,

Administrator.

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Appendix A—Statistical Approach Used in Development of Coliform Rule

Using the binomial distribution, if n samples are collected, and p samples have coliforms present, then the ratio, $r=p/n$ can be used to estimate the actual fraction of the water which is contaminated, ρ. If a sufficient number of samples is examined, the estimate r should be very close to the actual fraction contaminated; if few samples are examined, r may differ from ρ by a considerable amount.

The ratio, r, is assumed to have a binomial distribution with a mean of ρ and a variance of $\rho(1-\rho)/n$. When n is greater than 30, the binomial distribution can be approximated by the normal distribution, and the upper point of a one-sided confidence interval is:

$$L_u = r + t\sqrt{r(1-r)/n},$$

where t=student t (one-tailed) and L_u is the proportion of water containing coliforms. If the confidence interval selected is 95 percent, then t=1.645 when the number of samples is very large, but will increase somewhat when there are fewer samples. These t values can be found in statistical tables indicating the percentile of student t distributions. At a 95 percent confidence interval (one-sided), when n=60, then

$$L_u = r + 1.671\sqrt{r(1-r)/n}$$

Using this formula, EPA calculated the maximum percentage of water with coliforms (at a 95 percent confidence level)(L_u) for several positive sample values in 60 total samples. EPA also calculated $100-L_u$; this represents the percentage of water which is free of coliforms (Table I). For example, if 2 of 60 samples are positive for coliforms, then there is 95 percent confidence that less than 7.2 percent of the water passing through the distribution system is contaminated, i.e., contains coliforms.

TABLE I.—RELATIONSHIP OF THE NUMBER OF POSITIVES IN SIXTY SAMPLES TO 95 PERCENT CONFIDENCE LEVELS FOR COLIFORM PRESENCE OR ABSENCE

Samples positive	Percent positive	L_u(percent)	$100-L_u$(percent)
2	3.3	7.2	92.8
3	5.0	9.7	90.3
4	6.7	12.1	87.9
5	8.3	14.3	85.7

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TABLE I.—RELATIONSHIP OF THE NUMBER OF POSITIVES IN SIXTY SAMPLES TO 95 PERCENT CONFIDENCE LEVELS FOR COLIFORM PRESENCE OR ABSENCE—Continued

Samples positive	Percent positive	L_1(percent)	100 − L_2(percent)
6	10.0	16.5	83.5
7	11.7	18.6	81.4
8	13.3	20.6	79.4

The basic assumptions underlying this presence-absence (frequency-of-occurrence) approach follow:

1. The occurrence of coliform densities of one or more per 100 ml is sporadic and unpredictable.

2. If all the water passing through a distribution system in a defined period of time were collected and examined, some of the 100-ml samples would have one or more coliform bacteria present and some would have no coliforms present. The actual fraction of 100-ml samples with one or more coliforms present is represented as ρ. Since the system cannot examine all of the 100-ml samples of water from a distribution system, it can never know the exact value of ρ; however, it can be estimated.

3. If n samples of water, each 100 ml, are collected and examined and p of the n samples have coliform bacteria present, then p/n, or "r", is an estimate of the frequency-of-occurrence of coliform bacteria at densities of one or more per 100 ml. The parameter r is a fraction between zero and one and has a binomial distribution with mean ρ and variance $\rho(1-\rho)/n$.

4. If n is greater than 30, the binomial distribution of r can be approximated by a normal distribution.

5. The larger the value of n, the smaller the variance of r and, thus, the more precise the estimate of frequency-of-occurrence.

6. The samples used to determine $r=p/n$ are collected randomly over the area of the distribution system and randomly in time.

7. A single confidence interval for r can be used to represent the coliform occurrences over the period of time allowed for evaluation of microbiological water quality.

For the reasons set forth in the preamble, Title 40, Chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for Part 141 continues to read as follows:

Authority: 42 U.S.C. 300g–1, 300g–3, 300g–6, 300j–4, and 300j–9.

2. In § 141.2, the following new definitions are added and arranged alphabetically to read as follows:

§ 141.2 [Amended]

* * * * *

"Coliform-positive sample" means a drinking water sample of 100 ml in which at least one coliform bacterium is detected by an EPA-approved analytical method.

"Confluent growth" means continuous bacterial growth covering the entire filtration area of a membrane filter or a portion thereof, in which bacterial colonies are not discrete.

* * * * *

"Near first service connection" means the 20 percent of all service connections nearest the water supply treatment facility, as measured by the water transport time within the distribution system.

* * * * *

"Too numerous to count" means that the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

* * * * *

§ 141.14 [Removed]

3. Section 141.14 is removed.

4. Section 141.21 is revised to read as follows:

§ 141.21 Microbiological contaminant sampling and analytical requirements.

(a) *Routine sampling.* (1) Public water systems must collect coliform samples at sites which are representative of the conditions of the distribution system. The number of such sites sampled during a 12-month period must be either at least three times the number of monthly samples required by Tables 1 and 2 or the total number of service connections, whichever is fewer. For example, a system which must collect 20 samples/month would be required to sample from at least 60 sites during a 12-month period.

(2) Public water systems serving 3,300 or fewer persons must collect at least five samples/month. The State may specify a lower monitoring frequency, but no lower than that specified in Table 1, if:

(i) The system provides filtration for surface water sources in accordance with 40 CFR Part 141, Subpart H, of this Part and disinfection for ground water sources; and

(ii) The State, or an agent approved by the State, conducts a sanitary survey at the frequency specified in Table 1 and the State determines that the results are satisfactory.

(3) States have the discretion to allow systems which do not disinfect their ground water to reduce their monitoring frequency from five samples/month to three samples/month for systems that serve between 301 to 500 persons and to one sample/month for systems that serve between 25 to 300 persons, provided that the following conditions are satisfied:

(i) The State, or an agent approved by the State, conducts a sanitary survey every three years and this sanitary survey demonstrates to the State's satisfaction that the monitoring frequency can be safely reduced; and

(ii) The system demonstrates every three years that no more than five percent of its last 20 or more consecutive samples contained coliforms. These 20 or more samples must have been collected within the previous three years.

(4) Public water systems serving over 3,300 persons must collect samples, at a minimum, at the frequency prescribed in Table 2.

(5) Public water systems that do not provide water year-round need only collect samples each month that the system provides water to the public. They must monitor as specified in Tables 1 and 2, using the estimated population, including transients, served during that month.

(6) The public water system must collect water for detection of coliforms at regular time intervals throughout the month, except that a system which uses ground water exclusively and which serves 3,300 persons or fewer, may collect up to five samples from different parts of the distribution system on a single day.

(7) Special purpose samples, such as those taken to determine whether disinfection practices have been sufficient following pipe placement, replacement, or repair, shall not be used to determine compliance. Repeat samples are not considered special purpose samples.

(8) Data from all original samples and repeat samples must be included in calculations to determine MCL compliance. All coliform-positive samples must be used in determining compliance with the monthly MCL and the long-term MCL, unless the laboratory establishes that improper sample analysis caused the positive result.

(9) Public water systems which use surface water in part or in total, but which do not practice filtration and disinfection in accordance with 40 CFR Part 141, Subpart H, must collect a sample near the first service connection each day during which the turbidity level exceeds 1 NTU, and analyze it for the presence of total coliforms. Sample results must be included in all MCL compliance calculations. Whenever a sample is coliform-positive, the system must conduct repeat monitoring, as specified in paragraph (c) of this section.

(b) *Analytical methodology.* (1) Public water systems must conduct total coliform analyses in accordance with the analytical methods set forth in *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, 16th Edition, Method 908, 908A, and 908B—pp. 872–878 (Multiple-Tube Fermentation Technique), except that 10 fermentation tubes shall be used; Method 908E—pp. 882–886 (Presence-Absence Coliform Test); Method 909, 909A, and 909B—pp. 886–898 (Membrane Filter Technique); or *Microbiological Methods for Monitoring the Environment, Water and Wastes*, U.S. EPA, Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268 (EPA–600/8–78–017, December 1978, available from ORD Publications, CERI, U.S. EPA, Cincinnati, Ohio 45268), Part III, Section B 21—2.6, pp. 108–112 (Membrane Filter Methods); Part III, Section B 4.1—4.6.4, pp. 114–118 (Most Probable Number Method), except that 10 fermentation tubes shall be used.

(2) The public water system is required to report the presence or absence of total coliforms in a sample; a determination of coliform density is not required for determining compliance with the MCLs.

(3) The standard sample volume required for analysis, regardless of method, is 100 ml.

(c) *Repeat sampling.* Within 24 hours of being notified that a sample is total coliform-positive, but fecal coliform-negative, a public water system must collect and analyze five repeat samples. The set of five repeat samples must all be collected from the same sampling point as the original sample, except that some may be collected at the next service connection above or below. All five samples must be collected on the same day. If any repeat sample is total coliform-positive, but fecal coliform-negative, the public water system must collect and analyze an additional set of five repeat samples within 24 hours of being notified. The system must repeat this process until either coliforms are not detected in one set of five repeat samples or the system determines that the monthly coliform MCL has been exceeded and notifies the State.

(d) *Fecal coliform requirements.* (1) If any original or repeat sample is positive for total coliforms, the public water system must determine whether the detected coliform(s) is a fecal coliform (see Appendix A for analytical procedure). If it is, the system is out of compliance with the monthly MCL for total coliforms and must:

(i) Report the monthly MCL violation to the State within 48 hours of detection of fecal coliforms; and

(ii) Notify the public in accordance with § 141.32 of this part. For the purposes of § 141.32(a)(1)(iii) of this part, a fecal coliform-positive sample is defined as an acute risk to human health.

(e) *Response to Violation.* (1) A public water system which has exceeded the monthly MCl for total coliforms, or has failed to comply with the coliform monitoring requirements, must:

(i) Report any violation of the monthly MCL for total coliforms or monitoring requirement to the State within 48 hours of its discovery; and

(ii) Notify the public in accordance with § 141.32 of this part.

(2) A public water system which has exceeded the long-term MCL for total coliforms must:

(i) Report the violation to the State within seven days following the end of the month in which the violation occurred.

(ii) Notify the public in accordance with § 141.32 of this part.

(3) The location at which the coliform-positive sample was taken shall not be eliminated from future sampling without approval of the State.

(f) *Heterotrophic bacteria requirements.* To monitor the interference caused by heterotrophic bacteria in analyzing for total coliforms, the following requirements apply:

(1) Any coliform sample that produces a turbid culture in the absence of gas production using the multiple-tube fermentation technique or turbid growth in the absence of an acid reaction in the presence-absence coliform test must be analyzed for the presence of suppressed coliforms, using the analytical methods specified in paragraph (b)(1) of this section.

(2) When a coliform sample exhibits confluent growth or produces colonies "too numerous to count" on the membrane filter or when coliforms are not detectable in the sample described in paragraph (f)(1) of this section, the public water supply must either consider the sample coliform-positive and perform repeat sampling in accordance with paragraph (c) of this section, or declare the sample invalid and collect another sample from the same location as the original sample. The second sample must be analyzed within eight hours of sample collection (up to 30 hours if refrigerated) for both total coliforms and heterotrophic bacteria. The results of the second sample must be used for all MCL compliance determinations. If the coliform test on the second sample is negative, but the heterotrophic bacterial density exceeds 500 colonies/ml, the sample must be considered coliform-positive.

(3) Analyses for heterotrophic bacteria must be conducted in accordance with the Pour Plate Method set forth in *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, 16th Edition, Method 907A, pp. 864–866. The incubation temperature must be 35–37 °C and the incubation time must be 48 hours.

Table 1 to § 141.21—Coliform Monitoring Requirements

Ground Water

No Disinfection:
- 25–500 persons: 5 samples/month.[1]
- 501–3,300 persons: 5 samples/month.
- over 3,300 persons: monitoring frequency specified in Table 2.

With Disinfection:
- 25–500 persons: 5 samples/month *OR* a sanitary survey every 5 years and one sample/month.
- 501–3,300 persons: 5 samples/month *OR* a sanitary survey every 5 years and 3 coliform samples/month.
- over 3,300 persons: monitoring frequency specified in Table 2.

Surface Water

With Disinfection Only (No Filtration) [2,3]

[1] State may permit systems serving 25–300 persons to reduce monitoring to 1 sample/month and systems serving 301–500 persons to reduce monitoring to 3 samples/month if (1) sanitary survey results every 3 years are satisfactory, and (2) system has record of compliance with the coliform MCLs and monitoring requirements.

[2] In compliance with 40 CFR Part 141, Subpart H.

Continued

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- 25–500 persons: 5 samples/month.
- 501–3,300 persons: 5 samples/month.
- over 3,300 persons: monitoring frequency specified in Table 2.

With Filtration and Disinfection [2]

- 25–500 persons: 5 samples/month *OR* a sanitary survey every 5 years and one sample/month.
- 501–3,300 persons: 5 samples/month *OR* a sanitary survey every 3 years and 3 samples/month.
- over 3,300 persons: monitoring frequency specified in Table 2.

TABLE 2 TO § 141.21—COLIFORM MONITORING FREQUENCY BY POPULATION SERVED

Population served	Samples/month	Population served	Samples/month
25 to 3,300	[1] 5	85,001 to 90,000	90
3,301 to 5,800	6	90,001 to 95,000	95
5,801 to 6,700	7	95,001 to 100,000	100
6,701 to 7,600	8	100,001 to 200,000	130
7,601 to 8,500	9	200,001 to 300,000	160
8,501 to 10,000	10	300,001 to 400,000	180
10,001 to 15,000	15	400,001 to 500,000	200
15,001 to 20,000	20	500,001 to 600,000	220
20,001 to 25,000	25	600,001 to 700,000	240
25,001 to 30,000	30	700,001 to 800,000	260
30,001 to 35,000	35	800,001 to 900,000	280
35,001 to 40,000	40	900,001 to 1,000,000	300
40,001 to 45,000	45	1,000,001 to 1,200,000	320
45,001 to 50,000	50	1,200,001 to 1,400,000	340
50,001 to 55,000	55	1,400,001 to 1,600,000	360
55,001 to 60,000	60	1,600,001 to 1,800,000	380
60,001 to 65,000	65	1,800,001 to 2,000,000	400
65,001 to 70,000	70	2,000,001 to 2,500,000	420
70,001 to 75,000	75	2,500,001 to 3,000,000	440
75,001 to 80,000	80	3,000,001 to 3,500,000	460
80,001 to 85,000	85	3,500,001 to 4,000,000	480
		over 4,000,000	500

[1] Unless reduced by the State as provided in 40 CFR 141.21(a).

Appendix A to § 141.21(d).—Procedure for Transferring a Total Coliform-Positive Culture to Fecal Coliform EC Medium

Public water systems shall conduct fecal coliform analysis in accordance with the following procedure. For the multiple-tube fermentation technique and presence-absence (P–A) coliform test cited in 40 CFR 141.2(b), shake the coliform-positive presumptive tube or P–A bottle vigorously and transfer the growth with a sterile 3-mm loop or sterile applicator stick into brilliant green lactose bile and EC broth to determine the presence of total and fecal coliforms, respectively. For the membrane filter procedure, cited in 40 CFR 141.21(b), remove the membrane containing the total coliform colonies from the substrate with a sterile forceps and carefully curl and insert the membrane into a tube of EC Medium broth. Gently shake the inoculated EC tubes to insure adequate mixing and incubate in a waterbath at 44.5 ±0.2 °C for 24 ±2 hours. Gas production of any amount in the inner fermentation tube of the EC medium indicates a positive fecal coliform test. The preparation of EC Medium is described in *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, 16th Edition, Method 908C—p. 879, para. 1. Only the presence or absence of fecal coliforms must be reported; a determination of fecal coliform density is not required.

[2] System must collect at least 1 coliform sample near the first customer on each day that a turbidity measurement, as required in 40 CFR Part 141.74, exceeds 1 NTU.

5. Section 141.32 is amended by adding paragraphs (a)(1)(iii)(E) and (e)(11) and (12) to read as follows:

§ 141.32 Public notification.

* * * * *

(a) * * *

(1) * * *

(iii) * * *

(E) The presence of fecal coliforms in the water distribution system.

* * * * *

(e) * * *

(11) *Total coliforms* (to be used when there is a violation of § 141.63(b), but not § 141.21(d)). The U.S. Environmental Protection Agency (EPA) sets drinking water standards. To reduce the risk of a water supply being contaminated with disease-causing organisms, EPA has set an enforceable drinking water standard for coliforms. Coliform bacteria are common in the environment and are generally not harmful themselves. Their presence in drinking water, however, indicates that there is a problem at the water treatment plant or in the pipes which distribute the water, and that the water may be contaminated with organisms that can cause disease. These diseases may cause various symptoms, including headaches, fatigue, diarrhea, cramps, nausea, and jaundice.

(12) *Fecal coliforms* (to be used when there is a violation of § 141.21(d)). The United States Environmental Protection Agency (EPA) sets drinking water standards. EPA has determined that fecal coliforms are an acute health risk and has established an enforceable requirement that no drinking water samples contain fecal coliforms. The presence of fecal coliforms in treated drinking water is a serious concern because they are usually associated with the presence of sewage or animal wastes. Drinking water contaminated with fecal coliforms may place the consumer at high risk for acute diseases like hepatitis, typhoid fever, and dysentery. Acute diseases are marked by a rapid onset of symptoms a few days to a few weeks after consuming contaminated water. The purpose of this notice is to notify the affected public quickly so that they can take appropriate action to protect themselves. Protective action includes boiling the water or using alternate sources of water. Local and State health authorities are the best source for detailed information on the necessity and proper procedures for boiling drinking water. You will receive notice when the water is safe for drinking.

6. Section 141.52 is added to read as follows:

§ 141.52 Maximum contaminant level goal for microbiological contaminants.

MCLGs for the following contaminants are as indicated:

Contaminants	MCLG
(1) Total coliforms	0

7. Section 141.63 is added to read as follows:

§ 141.63 Maximum contaminant levels for microbiological contaminants.

(a) The effective date of § 141.63(b) is 18 months from the date of publication of the final rule.

(b) *Total coliforms.* The maximum contaminant levels (MCLs) for total coliforms are based on the presence or absence of coliform bacteria, which is determined as follows:

(1) *Monthly MCL.* (i) For public water systems that analyze 39 or fewer samples/month for coliforms, the occurrence of less than two coliform-positive samples/month constitutes compliance with the monthly MCL.

(ii) For public water systems that analyze 40 or more samples/month for coliforms, the occurrence of five percent or less coliform-positive samples/month constitutes compliance with the monthly MCL.

(2) *Long-term MCL.* (i) For systems that analyze fewer than 60 samples/year for coliforms, the occurrence of five percent or less coliform-positive samples in the most recent 60 samples constitutes compliance with the long-term MCL. Compliance with the MCL must be calculated within seven days of the end of each month in which sampling has occurred.

(ii) For systems which have not collected 60 samples by the effective date of the long-term MCL, no more than one coliform-positive sample in the most recent 39 or fewer samples, or two coliform-positive samples in the most recent 40–59 samples constitutes compliance with the long-term MCL.

(iii) For systems that analyze at least 60 samples/year for coliforms, the occurrence of five percent or less coliform-positive samples constitutes compliance with the long-term MCL. The determination of compliance must be based on the most recent 12 months in which sampling has occurred and shall be calculated within seven days of the end of each month that sampling occurs.

(iv) Public water systems which have violated the long-term MCL remain in noncompliance until coliforms are not detected in five percent or less of the most recent 20 or more samples.

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

1. The authority citation for Part 142 continues to read as follows:

Authority: 42 U.S.C. 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, and 300j–9.

2. Section 142.14 is amended by adding a new paragraph (d)(5) to read as follows:

§ 142.14 Records kept by States.

* * * * *

(d) * * *

(5) Records of any determination under § 141.21(a) of this title that a public water system serving 3,300 or fewer persons may monitor for total coliforms fewer than five times per month and the substitute monitoring requirements.

3. Section 142.15 is amended by adding a new paragraph (b)(4) to read as follows:

§ 142.15 Reports by States.

* * * * *

(b) * * *

(4) A summary report showing the number of public water systems serving 3,300 or fewer persons which the State has authorized under § 141.21(a) of this title during the reporting period to monitor for total coliforms fewer than five times per month, including the substitute monitoring requirements.

* * * * *

4. Section 142.16 is amended by adding a new paragraph (b) to read as follows:

§ 142.16 Special primary requirements.

* * * * *

(b) *Total coliforms.* In addition to the general requirements for a program revision application, a program revision application submitted for the Administrator's approval which adopts the requirements of the national primary drinking water regulation for total coliforms must contain:

(1) The procedure and/or the criteria the State will use in evaluating the results of sanitary surveys to determine that a public water system serving 3,300 or fewer persons may decrease its monitoring requirements from the minimum specified in § 141.21(a) and the method for determining substitute monitoring requirements;

(2) The text of the State statutes or regulations which specify:

(i) The qualifications required of a party (other than the State) who conducts sanitary surveys in the State;

(ii) The procedure for determining that the party proposing to conduct the sanitary survey meets those qualifications.

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DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Charter Service Questions and Answers

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice.

SUMMARY: This notice publishes questions and answers regarding the Urban Mass Transportation Administration's revised charter service regulation, 49 CFR Part 604. Since publication of the final rule on April 13, 1987, UMTA has received numerous questions regarding the application of the regulation. The following frequently asked questions regarding the application of the regulation and UMTA's response to them are published today to provide guidance to recipients of UMTA assistance, private charter operators, and other interested parties. This notice does not amend or in any way affect the regulation. The charter service regulation remains in effect, as published on April 13, 1987.

DATE: The charter service regulation, 49 CFR Part 604, went into effect on May 13, 1987 (52 FR 11916, April 13, 1987).

FOR FURTHER INFORMATION CONTACT: Rita Daguillard, Office of the Chief Counsel, Room 9316, UMTA, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–1936.

SUPPLEMENTARY INFORMATION: UMTA's revised charter service regulation, 49 CFR Part 604, went into effect on May 13, 1987. The principle behind the regulation is that federally funded equipment and facilities should not be used to compete unfairly with private charter operators. The regulation implements sections 3(f) and 12(c)(6) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. app. 1602(f) and 1608(c)(6)). The regulation prohibits recipients of UMTA assistance from providing any charter service using UMTA funded equipment or facilities if there is at least one private operator willing and able to provide the charter service. The regulation is subject to five limited exceptions, which are set out at 49 CFR 604.9.

Since publication of the final rule on April 13, 1987, UMTA has received numerous questions regarding the application of the regulation. This notice contains frequently asked questions regarding the application of the regulation and its exceptions and UMTA's response to the questions. They are being published in the Federal Register to provide guidance to recipients of UMTA assistance, private charter operators, and other interested parties. This notice does not amend or in any way affect the regulation. The charter service regulation remains in effect, as published at 52 FR 11916, April 13, 1987.

Applicability

1. *Question:* To what types of charter operations do UMTA's revised regulations apply?

Answer: The preamble to the regulations, at page 11918, states that they apply only to charter service performed by operators using UMTA funded facilities and equipment. If a recipient sets up a separate company that has only locally funded equipment and facilities and operates these with only local funds, or the recipient is able to maintain separate accounts for its charter operators to show that the charter service is truly a separate division that receives no benefits from the mass transportation division, then the charter rule would not apply.

A subsidiary question is that of the applicability of the rule to any entity, public or private, that receives UMTA assistance through an UMTA recipient. In answering this question, it is necessary to look at the language of the rule's enabling legislation, specifically section 3(f) of the UMT Act, which states that its restrictions apply to the recipient "or any operator of mass transportation equipment" for the recipient. It is UMTA's opinion that this language provides little room for discretion and requires that all entities, public or private, that operate for a recipient must be covered by the rule to the extent that the entity provides charter service using UMTA funded facilities or equipment. Consequently, all operators, whether public or private, under contract or receiving assistance through the recipient, are subject to the charter rule but only to the extent that the operator uses UMTA funded equipment or facilities to provide charter service. In short, the rule treats all operators for a recipient as a recipient to the extent that they stand in the recipient's shoes.

Procedures for Determining if There Are Any Private Willing and Able Operators

2. *Question:* What is the process by which private operators are determined to be "willing and able" under the regulations?

Answer: The procedure for determining if there are "willing and able" private operators is described in 49 CFR 604.11. If a recipient transit agency was not providing charter service on May 13, 1987, the effective date of the new rule, it must publish a notice at least 60 days before it will begin charter service. If a recipient was providing charter service on the effective date of the rule and desires to continue doing so, it must have completed its public notification process not more than 90 days thereafter, or by August 11, 1987.

To start the process, the recipient must publish the notice in a newspaper within its geographic service area. A copy of the notice must be sent to all private charter operators within the service area and to any private operator that requests it, as well as to the American Bus Association (ABA) and the United Bus Owners of America (UBOA). The distribution to UBOA and the ABA ensures that the notice will be delivered to the largest possible number of private operators. The notice must describe the charter service desired to be performed and must give private operators at least 30 days to submit evidence indicating that they are "willing and able" to perform the service. The notice must not require anything beyond: (1) A statement that the private operator has the desire to provide the service described and the physical capability to do so, and (2) submission of documents showing that it possesses the requisite legal authority. The recipient may cease its review of the evidence submitted by private operators once it has been foreclosed from providing the proposed service, i.e., once it has been determined that there is at least one private operator willing and able to provide the service. The transit agency must notify private operators of its "willing and able" determination within 60 days of the deadline for their submission of evidence.

3. *Question:* Section 604.11(c) specifies that a grantee's notice of the charter service to be provided must be limited to a description of the days, times of day, geographic area, and categories of revenue vehicle for service. This description may not provide a private operator with sufficient information upon which to base a decision whether or not the private operator is truly willing to provide the service. For a variety of reasons, a private operator may be unwilling or unable to service certain types of clientele. May the content of the notice be expanded in such cases to allow the inclusion of information which would be helpful to the private operator in deciding whether to respond?

Answer: It is UMTA's intention to allow grantees some flexibility in the way that charter services are described. However, a notice must not be worded in a way that would discourage a response from any person who meets the minimum criteria for a willing and able operator. Regardless of how the grantee describes its own service, the grantee must make it clear in the notice that private operators are not required to respond in similar detail. Instead, private operators are required to show only that they have the requisite legal authority and the desire to perform the service plus at least one bus or van. To facilitate a better exchange of information than is possible through the formal notice process, grantees are encouraged to engage private operators in a dialogue through other means as well, such as other written communications, conferences or informal meetings. Grantees may also provide in their notices a telephone number which private operators may call to obtain further information. Through coooperation, it should be possible to ensure that critical consumer needs for charter service will be met.

4. *Question:* When grantees publish their descriptions of the charter services they wish to provide, can their services be described in terms of trip purposes or certain groups (e.g., Boy Scouts to the ball game)?

Answer: Though the regulations neither specifically permit nor prohibit these descriptions, UMTA encourages their use, since certain trips are of the type that private enterprise traditionally declines to provide. To the extent that such descriptions allow private operators to decide whether they desire to perform a certain trip, they are useful to the "willing and able" determination process.

5. *Question:* How does a private charter operator demonstrate that it is "willing"?

Answer: In response to the charter notice published by the transit agency, the operator need only express in writing its desire to perform charter service generally in the service area specified by the transit agency. The preamble to the new regulation explains that a private charter operator is considered "willing" even if it refuses to provide charter service to some customers in the affected area.

6. *Question:* How does a private charter operator demonstrate that it is "able"?

Answer: The charter operator must show two things—that it has the physical capability of providing the categories of revenue vehicles specified in the notice and that it has the required legal authority to operate charter service in the area where it desires to provide such service.

In order to prove that it is "able" to provide the service, the charter operator does *not* have to demonstrate that it has any particular capacity level; in other words, a charter operator is as willing and able if it has one bus as it would be if it had one hundred buses. Also, there are only two categories of revenue vehicle that the transit agency can designate in its notice—buses and vans. Under the UMTA regulations, a bus is a bus whether it is an intercity bus, a transit bus, a school bus, or a trolley bus. A private operator does not have to demonstrate that it has any particular type of bus in order to be considered "able." Finally, the "willing and able" concept is not intended to include any duration limitations; in other words, the fact that a private operator may be required by state regulation to charge for a minimum five hour trip does not mean that it is not "able" to provide for charter of lesser duration.

7. *Question:* Can brokers be considered "willing and able" private operators?

Answer: No. The preamble to the regulations, at page 11922, specifically states that UMTA has decided not to include brokers in the definition of "willing and able." This is because brokers, who have no equipment of their own, must rely on other parties to provide service. Such an arrangement could result in uncertainty for the customer, since there would never be a guarantee that the broker could provide the necessary equipment. For this reason, UMTA requires that an operator must have at least one bus or van to be determined "willing and able."

8. *Question:* Can the public authority be held responsible if a "willing and able" private operator is involved in a serious accident and lawsuits are the result?

Answer: When a public authority determines that a private operator is "willing and able," it is merely attesting that the private operator has the requisite type of vehicle and the legal authority necessary for performing charter service. In making its determination, the public authority is not acting as a guarantor of the safety or quality of the private operator's service. Consequently, the transit authority cannot be held responsible for any accident or injury caused by the private operator when performing charters.

9. *Question:* Can grantees go through the publication process and the determination of whether there is a "willing and able" private operator, more than once a year?

Answer: While the regulations state that the publication process should be an annual one, there are circumstances which would justify more frequent publication. These include cases, such as a suspension of legal authority, in which the private operator is unable to provide service. Grantees who find themselves faced with such situations should repeat the publication process as outlined in § 604.11 of the regulation.

10. *Question:* What if a private operator retracts its statement that it is willing and able to provide charter service less than a year after the determination is made. Must a recipient repeat the public participation process before resuming charter service?

Answer: If a private operator retracts its willingness to provide charter service less than a year after it was determined willing and able, and no other private operators in the service area have been determined "willing and able," a recipient may resume charter service without re-publishing a notice *for the rest of that year only.* At the end of this period, if the recipient wishes to continue providing charter service, it must repeat the public participation process to determine if there are any other willing and able operators in the area.

In determining whether there are any other willing and able private operators in their service area, recipients should go back to review all of the responses to their charter notices. If, for instance, a recipient received several responses to its notice but ceased the review process after determining that one operator was willing and able, it should, before resuming charter service, complete the process to ensure that there are no other willing and able operators.

11. *Question:* May a recipient operate a particular charter trip if all the "willing and able" operators in its service area agree to allow it to do so?

Answer: An UMTA recipient may operate charter trips, even though it has determined that there are "willing and able" private operators in its service area, when there is an agreement to this effect between the recipient and the private operators. The recipient's annual public charter notice must, however, have provided for this type of agreement. If it did not, the grantee must, before undertaking the charter trip in question, amend its charter notice to specifically refer to such agreement. UMTA believes that arrangements of this type are in keeping with the spirit of cooperation between recipients and the private sector that the regulations seek to foster.

12. *Question:* What if a recipient determines that there is no "willing and able" operator despite clear evidence to the contrary?

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Answer: Under 49 CFR 604.13, a recipient has no discretion in making its "willing and able" determination. If a private operator submits documentary evidence that it has the desire to provide service and the ability to supply vehicles, as well as the necessary legal authority, it must automatically be determined "willing and able." Moreover, a recipient may look behind the evidence submitted by a private charter operator only if the recipient has reasonable cause to believe that some or all of it has been falsified. The remedy when a recipient unjustifiably fails to make the "willing and able" determination is a complaint to the UMTA Chief Counsel, who will direct the parties to attempt to resolve the dispute informally, and failing that, will rule on the complaint in approximately 90 days.

13. *Question:* Must a recipient publish a notice of intention to provide charter service even when it is aware of at least one willing and able private operator within its geographic area?

Answer: It is UMTA's position that a recipient need not publish a notice of its willingness to provide charter service if the recipient is aware of at least one willing and able private provider within its geographic area. Such a recipient, however, may not provide any charter service if it fails to complete the public participation process, except that the recipient may engage in leasing to a private charter operator as provided in the exception at 49 CFR 604.9(b)(2). A recipient that has not conducted a public participation process is not precluded, solely on those grounds, from qualifying for a special events exception as described at 49 CFR 604.9(b)(4). It should be noted, however, that a recipient seeking a hardship exemption under 49 CFR 604.9(b)(3) must provide written notice to all private charter operators it has determined "willing and able," and allow them 30 days to submit written comments on the exemption request. UMTA will not grant a hardship exception until this process is completed.

14. *Question:* Does a recipient's failure to complete the public participation process constitute sufficient grounds to warrant scrutiny of the recipient's charter activities to a greater degree than might otherwise be required?

Answer: UMTA does not believe that a recipient's failure to carry out a public participation process necessarily warrants greater scrutiny of the recipient's charter activities than the charter activities of a recipient that has completed the public participation process. This is especially true since the only charter activities that a recipient which has not completed the notification process would be allowed to perform are leasing to a private operator which lacks capacity or accessible equipment, or service under a special events exception. Thus, if a recipient is in conformity with the regulations, its charter activities will necessarily be limited. If, however, private associations or operators have reason to believe that any UMTA recipient, whether or not it has completed the public participation process, is engaging in impermissible charter operations, they may monitor such operations and report on them to UMTA, which will investigate and, if need be, take enforcement action.

15. *Question:* What is UMTA's position with regard to recipients that refuse to follow the public notification process of the regulations because, "we are certain that the type of charter work we do would be of no interest to any private carrier.

Answer: Until a recipient actually engages in charter service in violation of the regulations, there are no grounds for complaint. However, such recipients may not engage in charter service without completing a public participation process, except for leasing their vehicles to a private provider or providing authorized service for special events after obtaining an UMTA waiver in accordance with § 604.9(b)(4) of the regulations.

16. *Question:* May a recipient hold a public hearing in connection with its public participation process for determining whether there is a willing and able private provider?

Answer: UMTA has no objection to a recipient's decision to hold a public hearing in connection with determining whether there is a willing and able private provider. The hearing, however, must be in addition to and not a substitute for the public notice requirements of section 604.11. Moreover, in order to demonstrate that the hearing was conducted in a fair and equitable manner, the recipient is advised to make a copy of the hearing transcript available to any party that requests it. UMTA believes that the recipient's willingness to consider a private provider's oral assertion that the private provider is willing and able to perform charter service, offers an additional means for determining whether the latter is willing and able. However, § 604(c)(5) of the regulations requires that in addition to a statement of willingness, the private operator must demonstrate that it has the required physical capability and the legal authority to perform charter service. For this reason, it is important that grantees which conduct such hearings complete their review of written submissions from private operators as provided in the regulations.

17. *Questions:* What if a transit agency simply fails to conduct, or complete, a "willing and able" determination process and continues to provide charter service?

Answer: 49 CFR 604.17 provides that the UMTA Chief Counsel has the authority to order remedies for such violations, including withholding of subsidies. Where there has been a "continuing pattern of violation," the Chief Counsel may bar the recipient from any further Federal transportation aid.

18. *Question:* When a private operator has been determined to be "willing and able" to provide service, but is actually unwilling or unable to provide a particular charter trip, may an UMTA grantee fill the void and provide the service?

Answer: The grantee may not provide the service unless an exception applies, e.g., the grantee provides service or vehicles through a contract or lease with a private operator who lacks vehicle capacity or accessibility, the grantee provides service with locally funded facilities which have been entirely separated from UMTA-funded ones, the grantee is given a special events exception, etc.

19. *Question:* Are grantees required to give a member of the public the name of a "willing and able" provider if the public calls the granteee for charter services?

Answer: UMTA does not require granteees to give members of the public who request it the name of a "willing and able" private provider. The intention of the regulation is not to create a list of private operators, but rather to determine if there is a at least one willing and able to provide charter service. UMTA recognizes, however, that this information may be beneficial to the public, and encourages grantees to provide it. Grantees who have a roster of several private providers may use their discretion in determining which names to give to a member of the public who calls. They may give out all, some, or only one of the names on their list of "willing and able" operators. However, UMTA will view any attempt on the part of the recipient to establish an exclusive subcontracting or brokering relationship with or steer customers toward one particular operator, as a contravention of the regulations, and will in such cases take appropriate action.

Exceptions to the Regulations

20. *Question:* Are there any exceptions under the regulations which permit a recipient to provide charter service with UMTA funded equipment and facilities?

Answer: Yes, 49 CFR 604.9 sets out five limited exceptions to the basic prohibition in the rule. These exceptions, and their limits, are described below.

Exception #1: A recipient may provide charter service to the extent that there are no "willing and able" private operators. This can occur only after the process described above has been completed.

Exception #2: A recipient may enter into a contract to provide charter equipment to a private operator when the operator needs equipment in excess of its capacity.

Service provided by the recipient under this exception must be under contract to a private charter operator, who is responsible for the direction and control of the recipient's equipment while the service is being provided. Also, while the regulation does not prevent the recipient from turning over the charter service that is previously provided directly to one or more private operators, the systematic steering of customers toward one particular operator is against the spirit and intent of the regulation. UMTA would encourage recipients to channel their previous charter business to private operators in a fair and equitable manner.

Another situation discouraged by UMTA is that in which a private operator subrecipient contracts out its charter business to an affiliate that is not entirely separate or independent. This is because the regulations apply to subrecipients of UMTA funds which use UMTA-funded equipment or facilities, just as it does to recipients. The rule does not apply, however, to subrecipients not using UMTA-funded equipment or facilities, or to independent companies operated by subrecipients. In order to ensure that its charter operations are not affected by the prohibition of the rule, a subrecipient should set up an entirely distinct company to handle its charter operations, or at the very least keep separate accounts for its charter business.

Exception #3: This exception allows recipients to contract with private operators to provide "equipment accessible to elderly and handicapped persons" when the private operator does not have such equipment. Again, the contract would never be between the recipient and the customer, but always between the recipient and the private operator. Exception #3 is similar to Exception #2, and the same limitations apply to both.

Exception #4: A recipient in a non-urbanized area (i.e., an area with a population of less than 50,000) may petition UMTA to provide charter service directly when charter service provided by willing and able charter operators would create a hardship on the customer because the private operators "are located too far from the origin of the charter service" or where the private operators must, by State regulation, impose minimum durations longer than the desired trip length. Before any such exception is granted, the recipient must petition the UMTA Chief Counsel to grant such an exception, and give notice of its request for an exception to any private operator it has determined "willing and able." The private operators then have 30 days to submit written comments to the recipient on the request. The question of what is "too far" from the charter point of origin will be decided by the Chief Counsel on a case-by-case basis.

With regard to the minimum duration exception, the important point is that this only applies when minimum duration charges are required by State regulation; however, the exception does not apply if the minimum durations "are the result of an industry practice." Thus, there should be few cases where this exception would apply. Moreover, the exception only applies for charters up to the minimum duration required by State law or regulation.

Exception #5: Recipients may petition the UMTA Administrator for an exception to provide charter service directly for "special events" when the private operators do not have the capacity to provide all necessary service. UMTA has not defined "special events," but intends that it cover only events of an extraordinary and singular nature, such as the Pope's visit or the Pan American Games. Regularly scheduled yearly or periodic events, such as an Independence Day fireworkers display or ham operators' convention, would not qualify for the exception. Any exception granted by the Administrator under this exemption is only good for the particular special event specified.

21. *Question:* Special events are sometimes planned with less than ninety days advance notice. Will UMTA consider requests for special events exceptions on less than a ninety-day schedule?

Answer: The regulations reflect the congressional directive that certain events of a singular nature be given special consideration. They do not provide for a waiver of the requirement that a petition for a special events exception be submitted at least 90 days prior to the event. However, those events mentioned in the Report of the Senate Committee on Appropriations, i.e., the Pan American Games or visits by foreign dignitaries, were so obvious in nature and occurred so close to the effective date of the Rule that they would not require a ninety-day advance notice. (See, Senate Report 99-423, to accompany H.R. 5205, the Department of Transportation and Related Agencies Appropriations Bill, 1987, 99th Cong. 2d Sess., Aug. 19, 1986, p. 66). UMTA will continue to work with grantees to ensure that adequate charter service is provided for truly special events.

22. *Question:* If a grantee intends to petition UMTA for an exemption to provide service in a non-urbanized area (section 604.9(b)(3) of the regulation), must the grantee also have complied with the general public notice requirements (section 604.11)?

Answer: Yes, compliance with § 604.11 is a first step for *any* grantee wanting to provide charter service under the hardship exception of § 604.9(b)(3). The provisions of § 604.11 are designed to enable a grantee to determine whether any private operator is willing and able to provide the desired charter service. If no willing and able operator exists, then the UMTA grantee may provide the service as long as it does not interfere with mass transportation, and the grantee does not need to request a hardship exception. Therefore, the initial inquiry into the availability of willing and able operators is required.

23. *Question:* Must a grantee comply with the public notice requirements of § 604.11 before seeking a special events exemption under § 604.9(b)(4)?

Answer: No, compliance with § 604.11 is not a prerequisite to obtaining a special events exemption under § 604.9(b)(4). However, UMTA would expect a recipient applying for a special events exception to have at least contacted private operators in their service area to determine to what extent these operators are unable to provide the service in question.

Charter Service

24. *Question:* When a recipient falls within one of the exceptions described above, may it provide any charter service it chooses as long as it is covered by the exception?

Answer: No, charter services provided under one of the exceptions must be "incidental" charter service.

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"Incidental" is described as charter service which does not "interfere with or detract from" providing mass transportation service or does not "shorten the mass transportation life of the equipment or facilities" being used.

UMTA has given the following examples of what charter service would not be considered "incidential": service performed during peak hours; service which does not meet its fully allocated cost; service being used to count toward meeting the useful life of any facilities or equipment; and service provided in equipment that is in excess of an UMTA-approved spare ratio. It is important to note that these are examples only, and UMTA will decide what is "incidental" on a case-by-case basis.

25. *Question:* If the customer insists on a particular type of equipment that the willing and able to private operator does not have, for example, a trolley lookalike, articulated or double-decker bus, may the grantee provide the service?

Answer: The regulation recognizes only two categories of vehicles, i.e., buses or vans. Trolleys, artics, double-deckers and other types of specifically modified equipment are placed in one of these categories and are subject to the same rules as all other equipment. Therefore, the grantee would be able to provide the service only if one of the regulatory exceptions applies.

26. *Question:* When a grantee is providing charter service with locally funded buses or vans, may the equipment be stored and maintained in UMTA-funded facilities?

Answer: In a recent opinion involving charter operations by the Manchester (NH) Transit Authority, the Chief Counsel stated that under the new charter regulations, if there is a willing and able private provider, a transit authority may *not* allow its separate charter entity to use, on an incidental basis, the UMTA-funded garage in connection with its charter operations, even if the separate charter service were to pay the transit authority rent and fees for such incidental use. This prohibition is based on the language in 49 CFR 604.9(a), which explicitly states: "To the extent that there is one * * * private operator, *the recipient is prohibited from providing charter service with UMTA-funded equipment or facilities* * * *" (Emphasis supplied). It should be noted that the term "facilities" in the context of the charter regulations applies to offices and other administrative locales. This rule, however, applies only to the use of facilities by public transit authorities and their charter entities. Thus, if a grantee has excess space in its UMTA-funded garage, it may lease that space to a private operator on an incidental basis.

Moreover, any maintenance expenses incurred by a grantee's separate charter entity must be paid for exclusively out of local funds. Thus, any expense for items such as depreciation, utilities, labor, etc., incurred by the entity in providing charter service must be accounted for separately and not charged to any UMTA grant. To avoid accounting difficulties and possible violations of UMTA regulations, grantees should consider contracting for the maintenance of the locally funded vehicles rather than doing the work in-house.

27. *Question:* Do the following types of service fall within the definition of "charter service" for the purposes of the regulation:

a. Service that is provided for free but otherwise meets the criteria in the definition of charter?

Answer: Cost is irrelevant in determining whether service is mass transportation or charter service. Thus, service which meets the criteria set by UMTA, i.e., service controlled by the user, not designed to benefit the public at large, and which is provided under a single contract, will be charter regardless of the fact that it is provided for free.

As a general rule, free charter service would be "non-incidential" since it does not recover its fully allocated cost, and could not be performed by an UMTA recipient, even under one of the exceptions to the charter regulations. However, UMTA will consider certain types of free charter service to be "incidental." An example of this would be free service to an economically disadvantaged group when there is no private operator willing and able to perform the service. Since UMTA is concerned about the diversion of mass transit revenues and the reduction in mass transportation life resulting from service provided below cost, it will, when presented with a complaint, consider such service "incidental" charter only in a very limited number of cases.

b. Service that is exclusively for the elderly and handicapped but otherwise meets the definition of charter?

Answer: Exclusive service for the elderly and handicapped, even when provided on a demand responsive basis, is "mass transportation" under the definitions in the UMT Act and is not considered to be charter. It should be noted that to qualify as "exclusive," the service in question must be open to all elderly or handicapped in a particular geographic service area and not restricted to a particular group of elderly or handicapped persons.

c. Service to regularly scheduled but relatively infrequent events (sporting events, annual festivals) that is open door, with the routes and schedules set by the grantee and with fares collected from individuals, whether or not the individual fares are subsidized by a donor?

Answer: No. Such service does not meet the charter criteria of being under a single contract, for a fixed charge, exclusive use, or with an itinerary controlled by a party other than the grantee. However, such services would appear to be excellent candidates for privatization since they may very well be self-supporting without the need for public subsidies. In accordance with UMTA's private enterprise policy, grantees should examine the interest and capability of the private sector in providing the service.

d. Service within a university complex according to routes and schedules requested by the university?

Answer: If the service is for the exclusive use of students and the university sets fares and schedules, the service would be charter. However, such service operated by a recipient which sets fares and schedules and is open door, though it serves mainly university students, would be mass transportation.

e. An UMTA recipient proposes to provide the following "group demand" service using federally funded buses. Certain groups, e.g., the handicapped or employees of a common workplace, would contract with the transit authority for the service. Each individual would pay his or her own fare at the recipient's basic rate. The buses would pick up the riders at designated stops and remain in service on whatever routes require them. None of the trips would be devoted to members of a particular group, and anyone else would be free to board the buses. Can this be regarded as "charter service" under the new regulations?

Answer: The service described above would probably be "mass transportation" as defined on page 11920 of the preamble. First, the service is under the control of the recipient, who is responsible for setting the route, rate, schedule, and deciding the equipment to be used. Second, it is open to the public and is not closed door. Anyone wishing to ride the service is free to do so. Moreover, to the extent that the trip is for the benefit of clients of a human service agency and is open door, it would, in accordance with the example provided on page 11920 of the preamble to the regulations, be "mass transportation."

28. *Question:* How should grantees calculate "mass transit useful life" less "charter life" of vehicles?

Answer: Any reasonable method of calculation is sufficient (e.g., average hours per week, month, or year subtracted from total hours; average miles per week, etc., subtracted from total miles). The calculation does not necessarily have to be done for each particular bus, and averages can be applied to an entire fleet. For instance, a grantee that provides 3 days of charter service per year per bus, would subtract 36 days from the 12-year useful life of each individual bus. Where, however, a transit authority reserves a particular bus or fleet of buses for charter service, it should keep manifests which record the charter life of the vehicles in question. This calculation applies to all buses a grantee is currently using, whether purchased before or after the effective date of the new charter regulations.

29. *Question:* How should grantees calculate "mass transit useful life" less "charter life" of facilities?

Answer: The "useful life" concept applies only to buses and not to facilities. However, in cases where grantees lease facility space to private bus companies, such leases must be "incidental" to mass transit use. In the case of facility space, this means that in no instance should charter buses have priority over mass transportation buses.

30. *Question:* Does the charter regulation prohibit peak hour charter?

Answer: Peak hour charter is cited on page 11928 of the preamble as one instance of non-incidental use. It is, however, cited as an example only, and the language of the preamble cannot be interpreted as a prohibition. In a complaint citing peak hour use by an UMTA recipient or subrecipient, UMTA would review the facts and make a case-by-case determination.

31. *Question:* Are monthly, quarterly, or yearly trips organized by social service groups for their clients, to be considered "charters" or "mass transportation"?

Answer: Such trips would generally be considered charters. However, in the preamble to the new regulations, at page 11920, UMTA has indicated that periodic trips organized by a social service agency can be considered "mass transportation" if they are "open door" and the recipient can put on any rider in addition to the agency's clients. There are many cases which fall in between these two categories, and, in a complaint on the subject, UMTA will examine each case individually. It should be noted, however, that UMTA would consider the inaitutition or substantial modification of such service of this sort as an opportunity for the public authority to solicit the participation of the private sector.

32. *Question:* When a private operator requests buses from a grantee to run a given charter service, what is a grantee's responsibility to assure the circumstances fit the limited exceptions set forth in § 604.9(b)(2)?

Answer: The above-cited regulation allows grantees to contract with private operators only when and to the extent that the private operator lacks equipment that is accessible to the elderly and handicapped or lacks capacity. UMTA will allow its grantees to use their reasonable, good faith judgment as to whether the requirements of the regulations have been met, and, in the absence of apparent fraud or falsified statement, will not require them to look behind a request for the use of their buses by a private operator.

33. *Question:* Many small transit systems are departments of city or local government rather than separate authorities or commissions. As such, they are occasionally requested by another city department to make a bus available for some use, typically to take members of the city council and staff on a tour of that department's facilities or projects, or some other trip in connection with the department's operations. Would these movements be considered "charters" within the definition of the rule?

Answer: Yes. The trips described above share most of the characteristics of "charter service" provided on page 11919 of the preamble. Specifically, the service is: (1) By bus; (2) to a defined group of people; (3) there are no single contracts between the recipient and individual riders; (4) the patrons have the exclusive use of the bus; (5) the riders have the sole authority to set the destination. Since the regulations do not include an exception for a particular category of customers, such as state entities, a transit authority that wishes to provide service of this type would be obliged to comply with the requirements of the charter regulations.

34. *Question:* May a recipient provide charter service if it is under court order to do so? Suppose, for instance, that a court issues an order requiring a recipient to provide charter service to transport a jury to view a scene in connection with a court case.

Answer: UMTA's charter regulations prohibit a recipient from providing such service using UMTA-funded facilities or equipment if there is at least one willing and able private operator in its geographic area. If there is one such willing and able private provider, the recipient may perform charter service only if it qualifies for an exception to the regulation and operates the service on an incidental basis. In this case, the recipient might be able to supplement the capacity of a private operator, under the exception set out in 49 CFR 604.9(b)(2).

If the recipient is in a non-urbanized area, there is a possibility that there might be no willing and able private operator, in which case the recipient would be authorized to provide incidental charter service directly to the customer. In addition, a recipient in a non-urbanized area might be eligible for a hardship exception under the terms of 49 CFR 604.9(b)(3). Unless the recipient meets one of the exceptions, it cannot provide charter service without jeopardizing its Federal transit assistance. UMTA presumes that a court would not intentionally issue an order whose implementation might necessarily cause an entity to violate Federal regulations. For this reason, UMTA would urge a court seeking to impose upon a recipient an order to provide charter service, to secure service from a private operator if a private operator has been determined willing and able.

Charter Agreement

35. *Question:* Are Metropolitan Planning Organizations (MPO's) that pass funds through to transit authorities and other city entities which operate transit services, required to submit a charter agreement to UMTA?

Answer: 49 CFR 604.3 provides that the charter regulations apply only to certain specified applicants and recipients of Federal transportation assistance. MPO's which perform no transit services and simply serve as a conduit for Federal funds, would not be required to submit the charter agreement described in section 604.7 of the regulations. However, MPO's which contract directly with a private operator to run mass transit service, would be subject to the requirement.

36. *Question:* Do transit authorities need to file a charter agreement if they do not intend to provide charter service and only intend to lease buses to private operators when private operators lack capacity or accessible vehicles?

Answer: Under § 604.7 of the charter regulations, all applicants for UMTA assistance, with the exception of section 16(b)(2) grantees, must file a charter agreement, whether or not they intend to provide charter service.

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Definitions

37. *Question:* What is the meaning of the term "geographic charter service area" which appears in § 604.11(b)(1) of the regulations?

Answer: The term "geographic charter service area" used in § 604.11(b)(1), which deals with the publication of charter notices, refers to the geographic area in which the recipient desires to provide charter service. The preamble, at page 11927, explains that if the geographic area is large enough, the notice may have to be published in more than one newspaper in order to cover the entire area.

38. *Question:* What is the meaning of the term "too far" which appears in § 604.9(b)(3)(ii)?

Answer: Section 604.9(b)(3) describes the exception that recipients in non-urbanized area may apply for when State imposed minimum durations or the private operators' distance from the origin of charter service would result in a hardship to the customer. In the latter case, the recipient may apply for an exception when it believes that the private operator is located at too great a distance from the origin of service to provide reliable and affordable service to the customer. UMTA has no fixed guidelines for determining what is "too far," but will examine the information or materials provided by a recipient before deciding to grant or deny the exception.

39. *Question:* How does UMTA define "sightseeing"?

Answer: The preamble to the charter regulation states that UMTA applies to "sightseeing service" the Interstate Commerce Commission's definition of "special service." In keeping with this definition, "sightseeing service" is held to be service offered and arranged by the recipient, and contracted individually with each patron, and not with patrons as a group. This is in contrast to "charter service," which is considered the one-time provision of service, of which the rider, and not the recipient, has control. In order to distinguish between the two types of service, the preamble offers the following example: If a customer comes to the recipient and contracts for the exclusive use of the vehicle, the service would probably be charter service. On the other hand, if the recipient offers individual contracts to anyone to ride to a destination that the recipient has selected, the service would probably be sightseeing service. 52 FR 11920 and 11921, April 13, 1987. Sightseeing service is not subject to the restrictions placed on charter service by the new regulations, and may be provided by a recipient if it is incidental to the provision of mass transportation.

However, recipients should not attempt to convert charter service into sightseeing as a way of circumventing the regulations. UMTA would be suspicious or concerned about incidents in which recipients operate service which, though it conforms to the above criteria, is without pre-arranged schedules and is specifically designed to accommodate the desires of a particular group. Likewise, UMTA would not consider the fact that an operator charges individual fares or a group rate based on the number of passengers as sufficient to make the service sightseeing when none of the other characteristics of sightseeing are present. In such cases, UMTA would consider the service to be charter and not sightseeing.

Subcontracting With Private Operators

40. *Question:* Section 604.9(b) of the regulations allows a recipient to subcontract with a private operator which lacks capacity or accessible vehicles. Must a recipient subcontract every time a private operator requests that it do so?

Answer: No. UMTA has allowed recipients complete discretion in deciding if and with whom they wish to subcontract. The preamble states that ". . . the regulation does not require that the recipient contract with the private operator. The recipient may refuse to provide any equipment or services to the private charter operators." 52 FR 11924, April 13, 1987.

41. *Question:* Does a transit agency have to follow the notification requirements of § 604.11 every time a private operator wants it to subcontract equipment to be used for charter service?

Answer: No. The notice requirements of § 604.11 only affect recipients that wish to provide charter service. If a recipient has no desire to provide direct charter service, but only subcontracts equipment at the request of a private operator, it is not required to file a charter notice.

42. *Question:* How would UMTA's subcontracting requirements apply to the following case: A private operator contracts to take a charter group from State A to State B and tour in that State, a considerable distance away. A substantial number of the passengers wish to fly instead of making the entire trip by charter bus. When the operator gets to State B, may he go directly to the transit authority in State B to lease the buses he needs to accommodate the passengers who flew?

Answer: If, when the operator gets to State B, all his buses remaining in State A are in use, he has a capacity problem and may subcontract with the transit authority under the exception in § 604.9(b)(2)(i). If his buses in State A are not in use, he may subcontract with the transit authority only after making a reasonable and diligent effort to lease extra buses from private providers in State B. UMTA has established no guidelines as to what constitutes a reasonable and diligent effort, but will rely on the private providers good faith. However, it would be desirable, if he has planned his trip with sufficient lead time, that the private provider contact the ABA or UBOA for the names of private providers from whom he could lease the extra buses needed once he has reached his destination.

Special Categories of Vehicles and Users

43. *Question:* The charter regulation at 49 CFR 604.5(d) differentiates buses from vans. Is there any difference in the way the regulation applies to each category of vehicle?

Answer: While the regulation recognizes buses and vans as separate categories of vehicles, it applies equally to each mode. As is explained in the preamble at page 11920, the service which section 12(c)(6) of the UMT Act distinguishes from mass transportation is merely charter service, not charter bus service. Since the regulation seeks to ensure that UMTA-funded equipment and facilities are used for mass transportation, either vehicle mode, to the extent that it provides mass transportation, may be included within its purview.

Nonetheless, when UMTA published its revised charter service regulation on April 13, 1987, it issued a request for comments on the appropriateness of including vans. See the preamble to the regulation at 52 FR 11920, April 13, 1987. The 45-day period which UMTA had provided for comments ended on May 28, 1987. UMTA is now evaluating the comments that have been received to determine whether it should continue to include vans in the scope of the regulation. However, unless and until UMTA decides that the regulation will affect only buses and not vans, it will apply in the same manner to each category of vehicle.

44. *Question:* Is there a special exception in the charter regulation for charitable or non-profit groups?

Answer: UMTA's charter service regulation does not contain a special exception for charitable or non-profit groups. The drafters of the regulation, however, were aware of the concerns of such groups. As stated in the preamble to the regulation at 52 FR 11924, April 13, 1987, it is UMTA's opinion that private charter operators will be able to adapt their service to the needs of various categories of customers, if necessary by tailoring prices to meet the buyer's limitations. For this reason, UMTA believes that there is little reason to include any exceptions for the non-profit customer.

However, given the concerns expressed about the charter regulation by certain non-profit groups and the congressional guidance set forth in the House Report language accompanying the FY 1988 Department of Transportation and Related Agencies Appropriations Bill (H.R. 2890), UMTA is in the process of re-evaluating its position. UMTA is in fact preparing to issue a notice of proposed rulemaking which will address this issue and, if it concludes that an exception for charitable or non-profit groups is necessary, will propose a change in the regulations by the end of the present calendar year.

45. *Question:* Is there a special exception in the charter regulations for emergency situations?

Answer: UMTA will allow recipients to perform otherwise prohibited charter service in the case of a serious emergency, in which time is of the essence in transporting victims or rescue workers. The types of emergency situations contemplated under this exception are man-made or natural disasters, such as fire, chemical spills, floods or hurricanes. The need to transport persons to meet social obligations or protocol type demands, would not be considered an emergency.

46. *Question:* UMTA funds have, in many instances, purchased trolley vehicles for use by public transit authorities. In some cases, these are the only trolley vehicles for use in a particular geographic service area. What should be the position of a private operator, who is pleased with the present UMTA charter regulations, but which is faced with inquiries for charter use of trolley vehicles that can be obtained only from the public authority?

Answer: While UMTA has no authority to direct the activities of private operators, UMTA suggests that if a private operator does receive many requests for the use of trolley vehicles, then the operator might consider acquiring an appropriate number of vehicles, either by lease or purchase. However, UMTA does not consider it essential to the public interest to take measures to assure the availability of UMTA-funded buses to meet public demand for a particular type of vehicle.

47. *Question:* Is there a way in which private operators may approach agencies that have trolleys to arrange to lease or purchase those trolley vehicles?

Answer: UMTA's charter service regulations provide an exception at 49 CFR 604.9(b)(2) that would permit a recipient to lease its vehicles on an incidental basis to a private operator. If the trolley buses or other vehicles in question are accessible to elderly and handicapped passengers, a recipient may honor a private operator's request for the use of its accessible vehicles provided the recipient is capable of meeting its primary mass transportation obligations. 49 CFR 604.9 (b)(2)(ii). However, if the trolley buses in question or other vehicles are not accessible, then the recipient may not honor the private operator's request to use non-accessible vehicles unless the private operator has exhausted its own capacity to provide service in its own vehicles. 49 CFR 604.9(b)(2)(i). Within these restrictions, a private operator is free to pursue the possibility of leasing an UMTA recipient's trolley buses.

In addition, UMTA requires its recipients to dispose of UMTA-funded equipment and facilities when such equipment and facilities are no longer needed for mass transportation. Therefore, it would be entirely appropriate for a private operator to express an interest to an UMTA recipient in acquiring the recipient's trolley buses if the recipient finds it no longer needs trolley buses to fulfill its mass transportation obligations.

Alfred A. DelliBovi,

Deputy Administrator.

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Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 780, 784, 815, 816 and 817

Performance Standards for Roads at Surface and Underground Mining Operations and Coal Exploration Operations; Proposed Rule

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 780, 784, 815, 816 and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Reclamation and Operation Plan; Performance Standards; Roads

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the U.S. Department of the Interior (DOI) proposes to amend its rules governing roads at surface and underground mining operations and coal exploration operations. The provisions for roads are being proposed to replace rules that previously were suspended. This proposed rule defines a road, establishes a road classification system, and sets forth performance standards that permit regulatory authorities to approve designs tailored to local needs. Also, revised requirements for the reclamation and operation plan are being proposed to reflect changes in the performance standards for roads.

DATES:

Written comments

OSMRE will accept written comments on the proposed rule until 5 p.m. Eastern Time on January 12, 1988.

Public hearings

Upon request, OSMRE will hold public hearings on the proposed rule in Washington, DC; Denver, Colorado; and Knoxville, Tennessee at 9:30 a.m. local time on January 5, 1988. Upon request, OSMRE also will hold public hearings in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington at times and on dates to be announced prior to the hearings. OSMRE will accept requests for public hearings until 5:00 p.m. eastern time on December 22, 1987.

Individuals wishing to attend but not testify at any hearing should contact the person identified under **"FOR FURTHER INFORMATION CONTACT"** beforehand to verify that the hearing will be held.

ADDRESSES:

Written Comments

Hand-deliver to the Office of the Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L Street NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131–L, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240.

Public Hearings

Department of the Interior Auditorium, 18th and C Street NW., Washington, DC; Brooks Towers, 2d Floor Conference Room, 1020 15th Street, Denver, Colorado; and the Hyatt House, 500 Hill Avenue SE., Knoxville, Tennessee. The addresses for any hearing scheduled in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, or Washington will be announced prior to the hearing.

Requests for Public Hearings

Submit orally or in writing to the person and address specified under **"FOR FURTHER INFORMATION CONTACT"** by the time specified under **"DATES."**

FOR FURTHER INFORMATION CONTACT: Robert A. Wiles, P.E., Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC. 20240; Telephone: 202–343–1502.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit five copies of their comments (see **"ADDRESSES"**). Comments received after the close of the comment period or delivered to addresses other than those listed above (see "DATES") may not be considered or included in the Administrative Record for the final rule.

Public hearings

OSMRE will hold public hearings on the proposed rule on request only. The time, dates, and addresses scheduled for the hearings at three locations are specified previously in this notice (see **"DATES"** and **"ADDRESSES"**). The time, dates, and addresses for the hearings at the remaining locations have not yet been scheduled, but will be announced in the **Federal Register** at least 7 days prior to any hearings held at these locations.

Any person interested in participating at a hearing at a particular location should inform Mr. Wiles (see **"FOR FURTHER INFORMATION CONTACT"**) either orally or in writing of the desired hearing locations by 5:00 p.m. Eastern Time on December 15, 1987. If no one has contacted Mr. Wiles to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a written copy of their testimony. To assist OSMRE in preparing appropriate questions for clarification of issues, OSMRE also requests that persons who plan to testify submit to OSMRE at the address previously specified for the submission of written comments (see **"ADDRESSES"**) an advance copy of their testimony.

II. Background

Environmental protection performance standards governing roads used for access into an across the mine site during surface coal mining and reclamation operations are set forth in sections 515(b)(17) and (18) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1265(b)(17) and (18). Section 516(b)(10) of the Act imposes these same requirements on underground mines with such modifications as are necessary to accommodate the distinct differences between surface and underground mining.

The permanent regulatory program promulgated on March 13, 1979, contained provisioins pertaining to road construction, maintenance and postmining conditions. The rule at 30 CFR 701.5 defined roads for surface mining operations and established a 3-tier road classification system (44 FR 15320, (1979)). Specific provisions for each classification were established at 30 CFR 816.150 through 30 CFR 816.176 (44 FR 15416–15421 (1979)). At the same time, similar requirements for underground mines were established at 30 CFR 817.150 through 817.176 (44 FR 15442–15447 (1979)).

The permanent program rules were challenged in a suit filed before the U.S. District Court for the District of Columbia. As a result, the court remanded the rules to OSMRE for further consideration because the Secretary had not given adequate notice that he was considering a classification system. *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144, slip op. at 32–36 (D.D.C. May 16, 1980). As a result of the court decision, OSMRE suspended its permanent program rules for roads (45 FR 51547 (1980)).

The permanent program rule suspended in 1980 was followed by a new rule published May 18, 1983 (48 FR 22110), which gave regulatory authorities greater flexibility as to the details of road design. Upon issuance, the revised permanent program rule for roads was once again challenged in the U.S. District Court for the District of Columbia. In response to the challenge, the court remanded section 816.150(a) to OSMRE. *In re: Permanent Surface Mining Regulation Litigation II (Round II)*, No. 79–1144, slip op. at 24–28 (D.D.C. Oct. 1, 1984). The court held that OSMRE, in promulgating the classification system in 30 CFR 816.150(a), violated the Administrative Procedure Act (APA), 5 U.S.C. 553, by not providing adequate notice and opportunity to comment. Slip op. at 28.

Subsequently, in an amended order filed December 10, 1984, the court remanded all of the rules governing roads which were dependent upon the road classification system. OSMRE then suspended those rules as well as the definition of *road* at § 701.5 (50 FR 7278 (1985)). The definition was suspended to give OSMRE an opportunity to reconsider all the provisions in the rules affecting the performance standards for roads.

This proposed rule would replace the suspended rules. In many cases OSMRE believes, based on a reconsideration of the issues involved, the legislative history of the Act, and the administrative record of these rules, that the language promulgated in 1983 is the most effective means of meeting the requirements of the Act. For these cases, identified below, OSMRE is proposing repromulgating the provisions of the 1983 rule. OSMRE is interested in receiving comments on these provisions, as well as the new provisions proposed below.

Section 516(b)(10) of the Act requires OSMRE to consider the differences between surface and underground mining when promulgating rules governing the surface impacts of underground mining. OSMRE has not identified any differences between roads for surface and underground mines that necessitate different provisions. Therefore, the proposed provisions for surface mining (Part 816) and for underground mining (Part 817) are identical. Except for the section heading designation, in which both surface and underground rules are cited, the following discussion references only the surface rules. Comments are requested on any differences OSMRE may have overlooked.

The proposed rule defines the term *road* and addresses the design, construction, use and maintenance of roads used in surface coal mining operations and in coal exploration operations. The preamble for the 1983 rules (48 FR 22110–22121 (1983)) should be consulted for additional information on the provisions that are being reproposed.

Revisions also are proposed in the permit application requirements for roads at surface and underground mining operations to reflect the changes proposed in the performance standards. The revisions proposed for surface mining (Part 780) and for underground mining (Part 784) are identical. Except for the section heading designation, in which both surface and underground rules are cited, the following discussion references only the surface rules. Comments are requested on any differences OSMRE may have overlooked.

III. Discussion of Proposed Rule

A. Section 701.5 Definitions: Road.

The proposed definition of *road* is similar to the 1983 rule, but is revised to describe more specifically what portions of the affected area would be subject to the performance standards for roads. The proposed rule would define *road* to mean a surface right-of-way for purposes of travel by land vehicles, including mining equipment, used in surface coal mining and reclamation operations or coal exploration. The term *road* would encompass the entire area and structures within a surface right-of-way that is constructed, used, reconstructed, improved or maintained for use in surface coal mining and reclamation operations or coal exploration, including use by coal hauling vehicles leading to transfer, processing or storage areas. The term would specifically exclude pioneer roads, temporary routes used for constructing access or haul roads, ramps and routes of travel within the immediate mining area (discussed below) and within excess spoil or coal mine waste disposal areas. For additional information on the definition of *road* see the preamble for the final rule published May 16, 1983 (48 FR 22110 *et seq.*).

Pioneer roads were excluded from the definition of roads in the 1979 rule and in the 1983 rule. The Secretary's exclusion of pioneer roads from the definition of a road in 1983 was challenged on the basis that pioneer roads are constructed to gain access to mining operations. OSMRE has reviewed the issue and believes that pioneer roads provide preliminary access for the construction of permanent access and haul roads or equipment roads and not for mining purposes. Once a pioneer road fulfills its limited purpose, it is either replaced by a primary or ancillary road or reclaimed. However, pioneer roads or construction roads are "surface coal mining operations" subject to the other performance standards of the regulations.

The proposed road definition would also be revised by changing the 1983 rule language "immediate mining-pit area" to "immediate mining area." The word "pit" refers to the area where coal is being removed from the seam. OSMRE believes that there are other areas in the vicinity of the pit that should not be subject to the performance standards for roads because they are subject to frequent surface changes. These include areas where topsoil and overburden are being moved and areas undergoing active reclamation. OSMRE intends the term "immediate mining area" to refer to such areas of frequent surface change.

Many areas in a mining operation contain routes of travel that are moved every few days as the mining advances during coal removal, and as the operator works in coal waste disposal and spoil areas. These routes have a short life and would not be included in the definition of road or subject to the road performance standards, but would be subject to the other performance standards of the regulations that apply to all surface coal mining operations.

Temporary routes within spoil or coal mine waste disposal areas would be excluded from the definition of road according to an agreement by the Secretary in *Round II* (slip op. at footnote 14). The industry plantiffs had contended and OSMRE agreed that it was not reasonable to require roads within coal spoil and refuse disposal areas to be surfaced with nonacid- or nontoxic-forming substances, since these areas often contain acid- and toxic-forming materials. In addition, all of the surface drainage from these areas is controlled by siltation structures and treatment facilities, where necessary, to mitigate any potential adverse environmental affects effectively.

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Finally, the phrase "within the affected area," which appeared in the 1983 rule would be deleted from the proposed definition because all road activities are in the permitted area and thus the phrase is superfluous.

B. Sections 780.37/784.24 Road Systems.

Proposed § 780.37 contains new permit application requirements which would specify the plans and drawings an operator is required to submit on each road within the proposed permit area. The section also discusses certification of primary roads and the establishment of standard design plans by the regulatory authority.

This section has not been revised since 1979 and the proposed revision would provide consistency with the performance standards of 30 CFR Chapter 7, Subchapter K, promulgated in 1983. They would apply to all roads, as defined by § 701.5, used for surface coal mining and reclamation operations. Since the provisions proposed in § 780.37 would apply only to roads, OSMRE is proposing to move the provisions in the existing rule that apply to conveyors and rail systems to a new § 780.38 discussed below. To reflect this change, OSMRE is proposing to change the title of § 780.37 from "Transportation facilities" to "Road systems."

Sections 780.37 (a)/784.24(a) Plans and drawings.

Proposed § 780.37(a) would require that the permit application include plans and drawings for each road to be constructed, used or maintained within the proposed permit area. OSMRE believes the information in the plans and drawings would enable the regulatory authority to assess the impacts resulting from any road that would be constructed or used as part of the surface mining operation and determine whether the operation and reclamation plan would be effective in mitigating as much of the cumulative impacts on the environment as possible, consistent with the purpose of the Act.

Proposed paragraph (a)(1), which is the same as the 1979 rule, requires the applicant to submit a map, and, as appropriate, cross sections, design drawings and specifications for road widths, gradients, surfacing materials, cuts, fill embankments, culverts, bridges, drainage ditches, low-water crossings, and drainage structures. OSMRE expects that the amount of detail submitted by the applicant under this paragraph would be appropriate to the classification of the road and to the extent of the projected impact from the specific feature. For example, for an ancillary road, less detail would be required than for a primary road, where the drawings and specifications would be quite extensive. See § 816.150(a) for the proposed definitions of *ancillary road* and *primary road.*

Sections 780.37(a)(2), (a)(3), (a)(5) and (a)(6) are new and would require permit applicants to submit additional design information on each road. Proposed paragraph (a)(2) would require drawings and specifications of each proposed road that would be located in the channel of an intermittent or perennial stream to give the regulatory authority the information necessary to approve the road, as required by the performance standard in proposed § 816.150(d)(1).

Proposed paragraph (a)(3) would require that the drawings and specifications for each proposed stream ford that would be used as a temporary route provide the regulatory authority with sufficient information to review the stream ford and decide whether to approve it, as required by the performance standard in proposed § 816.151(c)(2).

Proposed paragraph (a)(4) would reinstate the language of § 780.37(c) of the permit requirements as adopted in 1979. This paragraph would require a description of measures that the applicant would take to obtain the approval of the regulatory authority for alteration or relocation of a natural drainageway, as required by the performance standard in proposed § 816.151(d)(5).

Proposed paragraph (a)(5) would require drawings and specifications for each low-water crossing, to enable the regulatory authority to maximize the protection of the stream in accordance with the performance standard in proposed § 816.151(d)(6). A low-water crossing resembles a bridge in that water flows under the structure at normal stream level, but high water goes over the structure and makes it impassable during storm or flood events. See the following preamble discussion for § 816.151(d)(6) for additional information on low-water crossings.

Proposed paragraph (a)(6) would require information on the applicant's plans to remove and reclaim each road, and the schedule to be followed for road reclamation, to ensure consistency with the performance standards. This information would not be required for a road that is proposed to be retained for use under an approved postmining land use.

Two provisions previously in the rule at § 780.37(a) are not being proposed for repromulgation. These permitting provisions were promulgated in 1979; however, the corresponding performance standards were removed from 30 CFR Part 816 in 1983. One provision is the requirement for a report of appropriate geotechnical analysis for alternative specifications for cuts on steep slopes. The other is the requirement for a description of measures to be taken to protect the inlet end of a ditch relief culvert if a rock headwall is not used. These provisions are not being reproposed because there are no equivalent performance standards.

Sections 780.37(b)/784.24(b) Primary road certification.

OSMRE is proposing to move the provision on design certification for primary roads from the performance standards at § 816.151(a), where they were in the 1983 rule, to the permit requirements at § 780.37(b), since design certification is not, strictly speaking, a performance standard, but a requirement of the permit approval process. The proposed provision would require that the plans and drawings for each primary road be prepared by or under the direction of a qualified registered professional engineer experienced in the design and construction of roads. It would also require that the engineer certify that the design meets the performance standards of 30 CFR Chapter VII, current, prudent engineering practices, and any design criteria established by the regulatory authority. The phrase "current, prudent engineering practices" includes those practices well-established by engineering principles and widely recognized by experts with experience in the subject.

The proposed rule also would allow design and certification by a qualified registered professional land surveyor experienced in the design and construction of roads in any State which authorizes land surveyors to certify the design of primary roads. This provision is based on the November 4, 1983, amendment to the Act which authorizes land surveyors to prepare and certify cross sections, maps and plans (Sec. 115, Pub. L. 98-146, 97 Stat. 938 (1983)). The amendment provides that "(n)ot withstanding section 507(b)(14) of the Surface Mining and Reclamation Act of 1977 (Pub. L. 95-87), cross sections, maps or plans of land to be affected by an application for surface mining and reclamation permit shall be prepared by or under the direction of a qualified registered professional engineer or geologist, or qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans." Before a land surveyor could certify the design of a primary road under this rule, State law also would have to grant corresponding authority.

Sections 780.37(c)/784.24(c) Standard design plans.

Proposed § 780.37(c) is a new section that would allow the regulatory authority to establish engineering design standards for primary roads through the State program approval process, in lieu of the engineering tests that otherwise would be performed to establish compliance with the minimum static safety factor of 1.3 for all primary road embankments. Suitable engineering design standards would be those that are accepted in the engineering community as the basis for constructing stable roads, and are known to assure proper performance through testing and past practice. OSMRE believes that this provision would enable the regulatory authority and the operator to save time and effort during the design and review of road plans, and also would ensure protection of the environment through the application of standards that have proven effective for the conditions prevalent in each State.

C. Sections 780.38/784.30 Support facilities.

Previously, § 780.37 generally required that each permit application contain a detailed description of each road, conveyor or rail system to be constructed, used or maintained within the permit area. Some of the requirements in the section applied only to roads; others applied to roads as well as to conveyors and rail systems. As discussed previously, this proposed rule would limit § 780.37 exclusively to requirements for roads. The requirements for conveyors and rail systems would be moved to proposed § 780.38 for clarity. In addition, the coverage of new § 780.38 would be expanded to include not only conveyors and rail systems, but also other transportation facilities and support facilities in general.

This rule also would expand new § 780.38 to cover support facilities in general. Although existing 30 CFR Part 780 contains a number of requirements applicable to support facilities, the existing rules do not contain a general requirement that a permit application include plans and drawings for support facilities that would be sufficient to demonstrate compliance with § 816.181. To remedy this deficiency, proposed § 780.38 would apply to all support facilities in addition to the conveyors and rail systems covered by previous § 780.37.

Proposed § 780.38 would include the specific permit application requirements for all support facilities covered by § 816.181 of the performance standards. A permit application would have to contain a description, plans and drawings showing the details of each facility. The plans and drawings would include a map, appropriate cross sections, design drawings, and specifications sufficient to demonstrate compliance with § 816.181. Other more general permit application requirements applicable to support facilities elsewhere at 30 CFR 780.14(b)(1) would remain unchanged.

D. Section 815.15(b) Road standards for coal exploration.

Proposed § 815.15(b) would require all roads or other transportation facilities used for coal exploration to comply with the applicable provisions of 30 CFR 816.150, 816.180 and 816.181. The changes from the 1983 rule are explained below.

Section 815.15(b), as published on September 8, 1983 (48 FR 40636), required all roads or other transportation facilities used for coal exploration to comply with the applicable provisions of 30 CFR 816.150 (roads—general), 816.151 (primary roads), 816.180 (utility installations), and 816.181 (support facilities). Thus, the performance standards in the existing rule for §§ 816.150 and 816.151, as discussed below, for the use, construction, reconstruction, maintenance and reclamation of roads used for surface coal mining activities applied to roads used for coal exploration. OSMRE proposes that because the amount of coal or spoil transported during coal exploration operations is small, it is not necessary for roads used for coal exploration to meet the standards of § 816.151 for primary roads. OSMRE believes that § 816.150 provides sufficient protection for the environment during coal exploration, and thus, is proposing to delete from § 815.15(b) the reference to §§ 816.150(a) and 816.151.

Under section 512(a) of the Act, 30 CFR 815.15 applies only to "coal exploration activities which substantially disturb tbe natural land surface." Thus, a road must comply with the applicable provisions of 30 CFR 816.150 only to the extent that the coal exploration activities substantially disturb the land where the road is located. OSMRE has defined the term "substantially disturb" in 30 CFR 701.5.

OSMRE believes that routine maintenance of an existing road used for coal exploration is not a substantial disturbance requiring the road to be reclaimed in accordance with the performance standards of section 515 of the Act. To use an existing road that is in poor condition due to lack of maintenance, a coal exploration operator may need to blade the road surface, replace some culverts or do other minor routine maintenance. Such routine maintenance of an existing road would not be considered substantial disturbance of the natural land surface that would require reclamation of the road.

E. Sections 816.150/817.150 Roads: General.

Proposed § 816.150 would apply to all roads as defined by 30 CFR 701.5. It would include a road classification system, performance standards, design and construction limits, provision for design criteria and provisions on road location, maintenance and reclamation. The proposed rule is similar to the 1983 rule, and the preamble for that rule (48 FR 22110-22121 (1983)) provides additional information on its provisions.

Sections 816.150(a)/817.150(a) Road classification system.

Proposed § 816.150(a) would classify all mine roads as either primary or ancillary. The classification is identical to that in the rule that was remanded by the District Court in *Round II* (slip op. at 28), and suspended by OSMRE on February 21, 1985 (50 FR 7276). OSMRE believes that a two-tiered system is needed so that roads can be regulated based on their potential for causing environmental damage. OSMRE is especially interested in receiving comments on whether it is reasonable to make this distinction, as well as on what specific requirements that apply to primary roads would not need to be applied to ancillary roads.

Primary and ancillary roads are distinguished in the rule on the basis of purpose and frequency of use. Primary roads would be those used for transporting coal or spoil; frequently used for access or for other purposes for periods in excess of six months; or to be retained as part of the approved postmining land use. Vehicles using primary roads would frequently be large and carry heavy loads. Primary roads have the greatest potential for adverse environmental impacts.

Roads used to transport coal or spoil, regardless of the frequency or length of use, and any other road which is frequently used for a period in excess of six months would be considered primary roads. This six month period sets a reasonable limit between short- and long-term usage.

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Ancillary roads would be all roads not designated as primary. Vehicles using such roads are likely to be small and would generally not be used for carrying heavy loads. OSMRE has not identified specific types of roads in the rule as ancillary because it would not be possible to make an all-inclusive list. Examples of ancillary roads are those which provide access to locations for hydrologic sampling, equipment maintenance, monitoring or other similar uses.

Additional discussion of the basis for the distinction between primary and ancillary roads can be found in the preamble to the 1983 rule, at 48 FR 22116.

Sections 816.150(b)/817.150(b) Performance Standards.

Proposed § 816.150(b) would establish performance standards that operators must meet when locating, designing, constructing, reconstructing, using, maintaining and reclaiming roads associated with surface coal mining operations as defined by 30 CFR 701.5. The proposed performance standard in paragraph (b)(1) would require vegetating or otherwise stabilizing all exposed surfaces in accordance with current prudent engineering practices to control or prevent erosion, siltation, and the air pollution attendant to erosion.

The proposed standards in paragraphs (b)(2) through (b)(7) would require an operator to control or prevent damage to fish, wildlife or their habitat and related environmental values; control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area; neither cause nor contribute, directly or indirectly, to the violation of State or Federal water quality standards applicable to receiving waters; refrain from seriously altering the normal flow of water in streambeds or drainage channels; prevent or control damage to public or private property; and prohibit the use of acidic or toxic substances in road surfacing.

The proposal is identical to the 1983 rule except for the following changes:

(1) The provision in paragraph (b)(1) on controlling air pollution attendant to erosion would specify that measures such as watering, or chemical or other dust suppressants be considered to control road dust caused by wind or movement of equipment. To a certain degree, § 816.150(b)(1) would duplicate 30 CFR 816.95, which applies to all surface coal mining activities and requires that all exposed surface areas be protected and stabilized to effectively control air pollution attendant to erosion.

In response to concerns raised by the Environmental Protection Agency, OSMRE wishes to clarify that air pollution attendant to erosion includes, among other things, road dust, as well as dust occurring on other exposed surfaces. OSMRE's performance standards require surface stabilization measures to control the occurrence of such dust. To ensure that operators intend to implement such measures, OSMRE's permitting rules at 30 CFR 780.15 and 784.28 require each permit application to include a plan enumerating the surface stabilization measures the operator will employ to control dust. As with all portions of the permit application, the dust control plan is subject to public scrutiny and comment, and, if inadequate, to revision.

(2) Requirements formerly in § 815.150(b)(5) to minimize the diminution to or degredation of the quality or quantity of surface- and ground-water systems would not be included in the proposed rule because proposed paragraphs (b)(3), (b)(4) and (b)(5), as well as existing provisions in § § 816.41 through 816.45 would protect the quality and quantity of water systems adequately.

(3) In proposed paragraph (b)(5), which specifies that roads must refrain from seriously altering the normal flow of water in stream beds or drainage channels, the term "significantly" from paragraph (b)(6) of the 1983 rule would be changed to "seriously" to reflect the wording of the Act.

(4) In proposed § 816.150(b)(6), which generally requires mining roads to be located, designed, constructed, reconstructed, used, maintained and reclaimed to prevent or control damage to public or private property, OSMRE is proposing to specify certain public properties for which special consideration is warranted. This provision is based on Sec. 515(b)(17) of the Act.

The proposal would require the prevention or mitigation of adverse effects from roads to lands within the boundaries of the units of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including designated study rivers, and National Recreation Areas designated by Acts of Congress. These areas are the same areas covered by the mining prohibitions of section 522(e)(1) of the Act. However, the proposed performance standard would not be subject to the exemption in section 522(e) for "valid existing rights", because this is a performance standard on permitted activities rather than a prohibition against permitting such activities. The rule would also apply to mining roads outside the boundaries of section 522(e)(1) areas.

(5) The reference to the 1.3 safety factor for all embankments in paragraph (b)(9) of the 1983 rule would be moved from § 816.150 to § 816.151 so that it would apply only to primary roads. OSMRE believes that the safety factor requirement is more appropriate for the larger embankments on primary roads that have the potential for greater adverse environmental impacts. OSMRE does not believe that this requirement is necessary for ancillary roads, which have little potential for causing adverse environmental impacts. OSMRE is especially interested in receiving comments on the necessity of imposing this factor on ancillary roads.

Sections 816.150(c)/817.150(c) Design and construction limits and establishment of design criteria.

Proposed paragraph (c) would require that roads be designed and constructed or reconstructed to meet certain criteria in order to ensure environmental protection appropriate for their planned duration and use. These criteria include limits for grade, width, surface materials, surface drainage control, culvert placement and culvert size, that would be in accordance with current, prudent engineering practices, and any other necessary design criteria established by the regulatory authority. (See 1983 preamble for a discussion on establishing design and construction limits for roads (48 FR 22110)).

The provisions of proposed paragraph (c) would be the same as the 1983 rule, except that the provision from the 1983 rule governing road safety is not included in the proposed rule because safety considerations for users of roads associated with surface and underground mining are the responsibility of the Mine Safety and Health Administration, and have been addressed in that agency's rules at 30 CFR 77.1600 *et seq.* The environmental protection requirements of this paragraph derive from sections 515(b)(17) and (18) of SMCRA, which establish performance standards to ensure that the construction, maintenance and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property. Road safety is not addressed by these provisions of SMCRA, and therefore OSMRE believes it is not appropriate to include

requirements pertaining to safety in this rule.

Sections 816.150(d)/817.150(d) Location.

Proposed § 816.150(d) includes location performance standards identical to those in the 1983 rule. They would prohibit the placement of any part of a road in the channel of an intermittent or perennial stream unless the regulatory authority specifically approves such an action, and would require that roads be located to minimize downstream sedimentation and flooding.

Sections 816.150(e)/817.150(e) Maintenance.

Proposed paragraph (e) is similar to § 816.150(e) in the 1983 rule, and would govern the general maintenance responsibilities of the operator. Under this proposal, a road must be maintained to meet the performance standards and any additional design criteria established by the regulatory authority. Also, the proposed rule would provide that in the event of damage due to a catastrophic event a road must be repaired as soon as practicable after the damage has occurred. The requirement in the 1983 rule to maintain a road throughout its life is not included in the proposed rule because under SMCRA an operator has no responsibility for a road in the post mining use period.

Section 816.150(f)/817.150(f) Reclamation.

Proposed § 816.150(f) provides that a road which is not to be retained under an approved postmining land use must be reclaimed immediately after it no longer is needed for mining and reclamation operations. The reclamation activities that would be required by this paragraph include (1) closing the road to traffic; (2) removing all bridges and culverts unless approved as part of the postmining land use; (3) removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and the revegetation requirements of the regulation; (4) reshaping cut and fill slopes as necessary to be compatible with the postmining land use and to complement the natural drainage pattern of the surrounding terrain; (5) protecting the natural drainage patterns by installing dikes or cross drains as necessary to control surface runoff and erosion; and (6) scarifying or ripping the roadbed, replacing topsoil or substitute material and revegetating disturbed surfaces in accordance with 30 CFR 816.22 and 816.111 through 816.116.

These proposed reclamation requirements are similar to those in the 1983 rule, but also include several concepts from the 1979 rule. Proposed paragraph (f)(3), from the 1979 rule, would require the removal or other disposal of road-surfacing materials that are incompatible with the reclamation requirements of the Act. The operator would be required to remove the road-surfacing materials or to bury them on the roadbed if they were incompatible with the postmining land use and the revegetation requirements of 30 CFR 816.111 through 816.116. As stated in the preamble to the 1979 rule (44 FR 15280), surfacing materials that are buried on the roadbed would have to be covered with sufficient material to meet the intent of the Act, including representing no risk to vegetation or water quality.

Proposed paragraph 816.150(f)(4) includes provisions from the 1979 rules. The requirement to reshape all cut and fill slopes in the 1983 rule would be changed by adding language from the 1979 rule that requires that cut and fill slopes be reshaped only as necessary to be compatible with the postmining land use and to complement the natural drainage pattern of the surrounding terrain. OSMRE believes this change is reasonable because in some cases, such as grazing and wildlife areas, cut and fill slopes may not need modification to be compatible with post-mining land uses.

Proposed paragraph 816.150(f)(5) would introduce a requirement to protect natural drainage patterns by installing dikes or cross drains as necessary to control surface runoff and erosion. OSMRE believes this requirement is necessary to prevent erosion where revegetation and mulching would not control erosion and runoff from the reclaimed road right-of-way, such as may occur on very steep slopes, in situations where the road grade is not eliminated.

Proposed paragraph 816.150(f)(6) would require the operator to scarify or rip the roadbed prior to replacing topsoil or other substitute material before revegetating the area. Scarifying or ripping the roadbed is necessary to break up tbe compacted soil and allow for moisture percolation and root penetration. The proposed paragraph would modify the 1983 language to permit the use of topsoil substitutes or supplements when reclaiming roadbeds, thus making these provisions consistent with the topsoil provisions in 30 CFR 816.22.

E. Sections 816.151/817.151 Primary Roods.

Because primary roads have greater potential than ancillary roads to cause adverse environmental impacts, proposed § 816.151 would establish an additional set of performance standards for their design, construction and maintenance, in addition to those established for all roads in § 816.150. These proposed performance standards are similar to those in the 1983 rule, with the addition of two new requirements.

These new requirements, as explained in the following section, would allow land surveyors to certify the construction or reconstruction of roads in certain cases, and would apply the minimum static safety factor of 1.3 only to embankments of primary roads.

Sections 816.151(a)/817.151(a) Certification.

Proposed § 816.151(a) would require that primary road construction or reconstruction be certified in a report to the regulatory authority by a qualified registered professional engineer. The requirement for professional certification, which would assure that the road is properly constructed to meet the environmental protection standards of the Act, was included in the 1983 rule. Under the proposal, however, certification by a qualified registered professional land surveyor also would be allowed in any State which authorizes land surveyors to certify the construction or reconstruction of primary roads. This provision is based on a November 4, 1983, amendment to the Act (Sec. 115, Pub. L. 98-146, 97 Stat. 938 (1983)) which provides that "(n)ot withstanding section 507(b)(14) of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87), cross sections, maps or plans of land to be affected by an application for a surface mining and reclamation permit shall be prepared by or under the direction of a qualified registered professional engineer or geologist, or qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans." A registered land surveyor would have to have experience in the design and construction of roads in order to substitute for a qualified registered professional engineer. This requirement is equivalent to the experience requirement for certified engineers.

Proposed § 816.151(a) would also require the certifying professional to prepare and submit to the regulatory authority a report certifying that the primary road was constructed or reconstructed as designed and in accordance with the approved plan. This provision is unchanged from the 1983 rule.

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Sections 816.151(b)/817.151(b) Safety factor.

Proposed § 816.151(b) would require that all embankments have a minimum static safety factor of 1.3. Under the proposal, this provision would be moved from § 816.150, where it was in the 1983 rule, to § 816.151, and would apply only to primary roads. This would be consistent with the concept developed in the 1979 rule where the static safety factor applied only to roads that had greater environmental effects (Class I and II roads in the 1979 classification system) due to high embankments and a high volume of traffic which results in greater degradation. (44 FR 15253 (1979)). It would also be almost identical to the factor of 1.25 used in the 1979 rule. OSMRE is especially interested in receiving comments on the adequacy of this proposed factor, and the need to apply the factor to ancillary as well as primary roads.

Rather than specify particular design criteria for road embankments, the 1.3 factor of safety would establish a performance standard that must be attained. The operator would have the flexibility to select the particular design for the road that meets this standard. In a related proposal, proposed § 780.37(c) would enable the regulatory authority to establish engineering design standards through the State program approval process in lieu of engineering tests that are performed to establish compliance with the safety factor.

Sections 816.151(c)/817.151(c) Location.

Proposed § 816.151(c)(1) would require primary roads to be located, insofar as practicable, on the most stable available surfaces to minimize erosion. Proposed paragraph (c)(2) would prohibit primary roads from using stream fords on perennial or intermittent streams unless specifically approved by the regulatory authority as temporary routes during road construction. These provisions are the same as those in the 1983 rule except for the requirement for prohibiting stream fords on perennial or intermittent streams, which is included to keep the provision consistent with proposed § 816.150(d)(1).

Sections 816.151(d)/817.151(d) Drainage Control.

Proposed § 816.151(d) would require that surface water drainage for each primary road be controlled in accordance with the approved reclamation and operation plan specified by proposed § 780.37(a). Since the design aspect of drainage control is a part of this plan, it is not necessary to include similar provisions in the drainage control provision of § 816.151(d). Generally, the provisions of proposed paragraph (d) are similar to §§ 816.151 (c)(1) through (c)(6) of the 1983 rule; any differences are discussed below.

Proposed paragraph (d)(1) would require that primary roads be constructed, reconstructed and maintained to have adequate drainage control by using structures such as, but not limited to, bridges, ditches and drains. Paragraph (d)(1) also would require that, at a minimum, drainage control systems be designed to safely pass the peak runoff from a 10-year, 6-hour or greater precipitation event. To provide flexibility to regulatory authorities to account for particular situations likely to be encountered over the life of a mine, or related to specific downstream conditions, the proposed rule would allow modification of this standard by the regulatory authority in those situations where the 10-year, 6-hour precipitation event might not be appropriate.

Proposed paragraph (d)(2) would require that drainage pipes and culverts be installed as designed and maintained in a free and operating condition, and to avoid erosion at inlets and outlets. Proposed paragraph (d)(3) would require that drainage ditches be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment. The requirement from the 1983 rule that trash racks and debris basins be installed in drainage ditches where debris may impair the functioning of drainage and sediment control structures is not included in this proposed rule. OSMRE believes this requirement represents only one of several specific methods of meeting the performance standards of § 816.151(d)(3). Since drainage ditches, pipes and culverts must function during the maintenance phase of a road, OSMRE is proposing to add a maintenance requirement to paragraphs (d)(2) and (d)(3).

Proposed paragraph (d)(4) would require that culverts be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road. As noted above, the reference to design criteria has not been reproposed in this paragraph. Proposed paragraph (d)(5) would require that natural stream channels not be altered or relocated without prior approval of the regulatory authority, except as provided by the rules on hydrologic balance in 30 CFR 816.41 through 816.43 and 816.57. Proposed paragraph (d)(6) would require that except as provided in paragraph (c)(2), stream channel crossings for perennial and intermittent streams be accomplished using bridges, culverts, low-water crossings, or other structures designed, constructed and maintained using current, prudent engineering practices.

The requirement for drainage structures at perennial and intermittent streams would be made to ensure consistency with § 816.150(d)(1) of this part. By using current, prudent engineering practices to design, construct and maintain crossings, the hydrologic and environmental balance of the stream would be protected when the crossing were in place.

Proposed paragraph (d)(6) includes language referring to perennial and intermittent streams, for consistency with the language of the performance standard in § 816.150(d). It has also been reworded for clarity. More significantly, low-water crossings would be added to the list of structures that are allowed for stream crossings. Low-water crossings pass the low or normal flow through the structure, while high-water flows over the structure, which is designed to accommodate high-water flows by using a nonerodable roadway surface such as concrete. During normal flow, traffic uses the structure as a bridge, but high flows restrict the use of the crossing. Proposed paragraph (d)(6) would specify that when the operator proposes to use a low-water crossing, the regulatory authority shall ensure that the crossing is designed, constructed and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to streamflow. OSMRE believes that properly constructed and maintained low-water crossings meet the requirements of the Act and provide another type of structure suitable for stream crossings.

Sections 816.151(e)/817.151(e) Surfacing.

Proposed § 816.151(e) would require that primary roads be surfaced with material approved by the regulatory authority as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road. This proposal is essentially the same as paragraph (d) in the 1983 rule, but would not specify the kinds of materials which must be used for surfacing primary roads. OSMRE believes that since the regulatory authority may approve only surfacing materials which meet the requirements of this paragraph, it is not necessary to list the materials that may be used. The regulatory authority should have the flexibility to approve any material which will satisfy these requirements.

Paragraph 816.151(e) of the 1983 rule, which listed routine maintenance responsibilities for primary roads, is not included in this proposed rule. Section 816.150(e)(1) of this proposal establishes maintenance requirements for all roads; it is not necessary to establish separate requirements for primary roads. The regulatory authority may specify additional maintenance criteria for primary roads, as necessary.

Effect in Federal Program States

The rule proposed here, if adopted, would be applicable through cross-referencing in those States with Federal programs. This includes Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. Comments are specifically solicited as to whether unique conditions exist in any of these States relating to this proposal which should be reflected either as changes to the national rules or as State-specific amendments to any of the Federal program rules. The proposed rules also apply through cross-referencing to Indian lands under Federal programs for Indian lands as provided in 30 CFR Part 750.

IV. Procedural Matters

Federal Paperwork Reduction Act

The proposed rule contains revised information collection requirements for §§ 780.37, 780.38, 784.24 and 784.30 which have been submitted to the Office of Management and Budget (OMB) under 44 U.S.C. 3507. The information collection requirements for Part 816 have also been submitted to OMB for review, and the information collection requirements for 30 CFR Part 817 will be submitted to OMB for review by November 1, 1987.

Executive Order 12291

The DOI has examined the proposed rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis.

Regulatory Flexibility Act

The DOI also has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rule will not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

OSMRE has prepared an environmental assessment (EA) for this rule, and has made a finding that it would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). The EA and finding of no significant impact are on file in the administrative record for this rule in the OSMRE Administrative Record Room at 1100 L Street NW., Washington, DC.

Author

The author of this proposed rule is Robert A. Wiles, P.E., Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: 202–343–1502.

List of Subjects

30 CFR Part 701

Law enforcement, Surface mining, Underground mining.

30 CFR Part 780

Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 784

Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 815

Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 816

Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

Accordingly, it is proposed to amend 30 CFR Parts 701, 780, 784, 815, 816, and 817 as set forth below.

Date: June 3, 1987.

J. Steven Griles,

Assistant Secretary—Land and Minerals Management.

PART 701—PERMANENT REGULATORY PROGRAM

1. The authority citation for Part 701 reads as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*).

2. In § 701.5, the definition of "road" is revised to read as follows:

§ 701.5 [Amended]

* * * * *

Road means a surface right-of-way for purposes of travel by land vehicles used in surface coal mining and reclamation operations or coal exploration. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches and surface. The term includes access and haul roads constructed, used, reconstructed, improved or maintained for use in surface coal mining and reclamation operations or coal exploration, including use by coal hauling vehicles leading to transfer, processing, or storage areas. The term does not include pioneer roads, temporary routes used for constructing access or haul roads, ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

* * * * *

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

3. The authority citation for Part 780 reads as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

4. Section 780.37 is revised to read as follows:

§ 780.37 Road systems.

(a) *Plans and drawings.* Each applicant for a surface coal mining and reclamation permit shall submit plans and drawings for each road, as defined in § 701.5 of this chapter, to be constructed, used or maintained within the proposed permit area. The plans and drawings shall—

(1) Include a map, appropriate cross sections, design drawings and specifications for road widths, gradients, surfacing materials, cuts, fill embankments, culverts, bridges, drainage ditches, low-water crossings and drainage structures;

(2) Contain the drawings and specifications of each proposed road that is located in the channel of an intermittent or perennial stream and thus requires the approval of the regulatory authority in accordance with § 816.150(d)(1) of this chapter;

(3) Contain the drawings and specifications for each proposed stream ford that is used as a temporary route and thus requires the approval of the regulatory authority in accordance with § 816.151(c)(2) of this chapter;

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(4) Contain a description of measures to be taken to obtain approval of the regulatory authority for alteration or relocation of a natural drainageway under § 816.151(d)(5) of this chapter;

(5) Contain the drawings and specifications for each low-water crossing so the regulatory authority can maximize the protection of the stream in accordance with § 816.151(d)(b) of this chapter; and

(6) Describe the plans to remove and reclaim each road that would not be retained under an approved postmining land use, and the schedule for this removal and reclamation.

(b) *Primary road certification.* The plans and drawings for each primary road shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer, or in any State which authorizes land surveyors to certify the design of primary roads a qualified registered professional land surveyor, with experience in the design and construction of roads, as meeting the requirements of this chapter; current, prudent engineering practices; and any design criteria established by the regulatory authority.

(c) *Standard design plans.* The regulatory authority may establish engineering design standards for primary roads through the State program approval process in lieu of engineering tests to establish compliance with the minimum static safety factor of 1.3 for all embankments specified in § 816.151(b) of this chapter.

5. Section 780.38 is added to read as follows:

§ 780.38 Support facilities.

Each applicant for a surface coal mining and reclamation permit shall submit a description, plans and drawings for each support facility to be constructed, used or maintained within the proposed permit area. The plans and drawings shall include a map, appropriate cross sections, design drawings and specifications sufficient to demonstrate compliance with § 816.181 of this chapter for each facility.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

6. The authority citation for Part 784 reads as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

7. Section 784.24 is revised to read as follows:

§ 784.24 Road systems.

(a) *Plans and drawings.* Each applicant for an underground coal mining and reclamation permit shall submit plans and drawings for each road, as defined in § 701.5 of this chapter, to be constructed, used or maintained within the proposed permit area. The plans and drawings shall—

(1) Include a map, appropriate cross sections, design drawings and specifications for road widths, gradients, surfacing materials, cuts, fill embankments, culverts, bridges, drainage ditches, low-water crossings and drainage structures;

(2) Contain the drawings and specifications of each proposed road that is located in the channel of an intermittent or perennial stream and thus requires the approval of the regulatory authority in accordance with § 817.150(d)(1) of this chapter;

(3) Contain the drawings and specifications for each proposed stream ford that is used as a temporary route and thus requires the approval of the regulatory authority in accordance with § 817.151(c)(2) of this chapter;

(4) Contain a description of measures to be taken to obtain approval of the regulatory authority for alteration or relocation of a natural drainageway under § 817.151(d)(5) of this chapter;

(5) Contain the drawings and specifications for each low-water crossing so the regulatory authority can maximize the protection of the stream in accordance with § 817.151(d)(6) of this chapter; and

(6) Describe the plans to remove and reclaim each road that would not be retained under an approved postmining land use, and the schedule for this removal and reclamation.

(b) *Primary road certification.* The plans and drawings for each primary road shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer, or in any State which authorizes land surveyors to certify the design of primary roads a qualified registered professional land surveyor, experienced in the design and construction of roads, as meeting the requirements of this chapter; current, prudent engineering practices; and any design criteria established by the regulatory authority.

(c) *Standard design plans.* The regulatory authority may establish engineering design standards for primary roads through the State program approval process in lieu of engineering tests to establish compliance with the minimum static safety factor of 1.3 for all embankments specified in § 817.151(b) of this chapter.

8. Section 784.30 is added to read as follows:

§ 784.30 Support facilities.

Each applicant for an underground coal mining and reclamation permit shall submit a description, plans and drawings for each support facility to be constructed, used or maintained within the proposed permit area. The plans and drawings shall include a map, appropriate cross sections, design drawings and specifications sufficient to demonstrate compliance with § 817.181 of this chapter for each facility.

PART 815—PERMANENT PROGRAM PERFORMANCE STANDARDS—COAL EXPLORATION

9. The authority citation for Part 815 reads as follows:

Authority: Pub. L. 95–87, U.S.C. 1201 *et seq.*

10. Section 815.15 is amended by revising paragraph (b) to read as follows:

§ 815.15 Performance standards for coal exploration.

* * * * *

(b) All roads or other transportation facilities used for coal exploration shall comply with the applicable provisions of §§ 816.150 (b) through (f), 816.180 and 816.181 of this chapter.

* * * * *

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

10. The authority citation for Part 816 reads as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

11. Section 816.150 is revised to read as follows:

§ 816.150 Roads: General.

(a) *Road classification system.* (1) Each road, as defined in § 701.5 of this chapter, shall be classified as either a primary road or an ancillary road.

(2) A primary road is any road which is—

(i) Used for transporting coal or spoil;

(ii) Frequently used for access or other purposes for a period in excess of six months; or

(iii) To be retained for an approved postmining land use.

(3) An ancillary road is any road not classified as a primary road.

(b) *Performance standards.* Each road shall be located, designed, constructed, reconstructed, used, maintained and reclaimed so as to:

(1) Control or prevent erosion, siltation, and the air pollution attendant to erosion, by measures such as vegetating, watering, using chemical or other dust suppressants or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices;

(2) Control or prevent damage to fish, wildlife or their habitat and related environmental values;

(3) Control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area;

(4) Neither cause nor contribute to, directly or indirectly, the violation of State or Federal water quality standards applicable to receiving waters;

(5) Refrain from seriously altering the normal flow of water in streambeds or drainage channels;

(6) Prevent or control damage to public or private property, including the prevention or mitigation of adverse effects to lands within the boundaries of units of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including designated study rivers, and National Recreation Areas designated by Act of Congress; and

(7) Use nonacid- or nontoxic-forming substances in road surfacing.

(c) *Design and construction limits and establishment of design criteria.* To ensure environmental protection appropriate for their planned duration and use, including consideration of the type and size of equipment used, the design and construction or reconstruction of roads shall incorporate appropriate limits for grade, width, surface materials, surface drainage control, culvert placement, culvert size, that would be in accordance with current, prudent engineering practices, and any necessary design criteria established by the regulatory authority.

(d) *Location.* (1) No part of any road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the regulatory authority.

(2) Roads shall be located to minimize downstream sedimentation and flooding.

(e) *Maintenance.* (1) A road shall be maintained to meet the performance standards of this part and any additional criteria specified by the regulatory authority.

(2) A road damaged by a catastrophic event, such as a flood or earthquake, shall be repaired as soon as is practicable after the damage has occurred.

(f) *Reclamation.* A road not to be retained under an approved postmining land use shall be reclaimed in accordance with the approved reclamation plan immediately after it is no longer needed for mining and reclamation operations. This reclamation shall include:

(1) Closing the road to traffic;

(2) Removing all bridges and culverts unless approved as part of the postmining land use;

(3) Removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and revegetation requirements;

(4) Reshaping cut and fill slopes as necessary to be compatible with the postmining land use and to complement the natural drainage pattern of the surrounding terrain;

(5) Protecting the natural drainage patterns by installing dikes or cross drains as necessary to control surface runoff and erosion; and

(6) Scarifying or ripping the roadbed, replacing topsoil or substitute material and revegetating disturbed surfaces in accordance with §§ 816.22 and 816.111 through 816.116 of this chapter.

12. Section 816.151 is revised to read as follows:

§ 816.151 Primary roads.

Primary roads shall meet the requirements of § 816.150 and the additional requirements of this section.

(a) *Certification.* The construction or reconstruction of primary roads shall be certified in a report to the regulatory authority by a qualified registered professional engineer, or in any State which authorizes land surveyors to certify the construction or reconstruction of primary roads a qualified registered professional land surveyor, with experience in the design and construction of roads. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.

(b) *Safety factor.* Each primary road embankment shall have a minimum static safety factor of 1.3.

(c) *Location.* (1) To minimize erosion, a primary road shall be located, insofar as is practicable, on the most stable available surface.

(2) Fords of perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the regulatory authority as temporary routes during periods of construction.

(d) *Drainage control.* In accordance with the approved plan—

(1) Each primary road shall be constructed or reconstructed, and maintained to have adequate drainage control, using structures such as, but not limited to bridges, ditches, cross drains and ditch relief drains. The drainage control system shall be designed to safely pass the peak runoff from a 10-year, 6-hour or greater precipitation event, unless otherwise specified by the regulatory authority;

(2) Drainage pipes and culverts shall be installed as designed, and maintained in a free and operating condition and to avoid erosion at inlets and outlets;

(3) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment;

(4) Culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road;

(5) Natural stream channels shall not be altered or relocated without the prior approval of the regulatory authority in accordance with applicable §§ 816.41 through 816.43 and 816.57 of this chapter; and

(6) Except as provided in paragraph (c)(2) of this section, structures for perennial or intermittent stream channel crossings shall be made using bridges, culverts, low-water crossings, or other structures designed, constructed and maintained using current, prudent engineering practices. The regulatory authority shall ensure that low-water crossings are designed, constructed and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to streamflow.

(e) *Surfacing.* Primary roads shall be surfaced with material approved by the regulatory authority as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

13. The authority citation for Part 817 reads as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

14. Section 817.150 is revised to read as follows:

§ 817.150 Roads: General.

(a) *Road classification system.* (1) Each road, as defined in § 701.5 of this

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chapter, shall be classified as either a primary road or an ancillary road.

(2) A primary road is any road which is—

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(ii) Frequently used for access or other purposes for a period in excess of six months; or

(iii) To be retained for an approved postmining land use.

(3) An ancillary road is any road not classified as a primary road.

(b) *Performance standards.* Each road shall be located, designed, constructed, reconstructed, used, maintained and reclaimed so as to:

(1) Control or prevent erosion, siltation, and the air pollution attendant to erosion, by measures such as vegetating, watering, using chemical or other dust suppressants or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices;

(2) Control or prevent damage to fish, wildlife or their habitat and related environmental values;

(3) Control of prevent additional contributions of suspended solids to stream flow or runoff outside the permit area;

(4) Neither cause nor contribute to, directly or indirectly, the violation of State or Federal water quality standards applicable to receiving waters;

(5) Refrain from seriously altering the normal flow of water in streambeds or drainage channels;

(6) Prevent or control damage to public or private property, including the prevention or mitigation of adverse effects to lands within the boundaries of units of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including designated study rivers, and National Recreation Areas designated by Act of Congress; and

(7) Use nonacid- or nontoxic-forming substances in road surfacing.

(c) *Design and construction limits and establishment of design criteria.* To ensure environmental protection appropriate for their planned duration and use, including consideration of the type and size of equipment used, the design and construction or reconstruction of roads shall incorporate appropriate limits for grade, width, surface materials, surface drainage control, culvert placement, culvert size, that would be in accordance with current, prudent engineering practices, and any necessary design criteria established by the regulatory authority.

(d) *Location.* (1) No part of any road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the regulatory authority.

(2) Roads shall be located to minimize downstream sedimentation and flooding.

(e) *Maintenance.* (1) A road shall be maintained to meet the performance standards of this part and any additional criteria specified by the regulatory authority.

(2) A road damaged by a catastrophic event, such as a flood or earthquake, shall be repaired as soon as is practicable after the damage has occurred.

(f) *Reclamation.* A road not to be retained under an approved postmining land use shall be reclaimed in accordance with the approved reclamation plan immediately after it is no longer needed for mining and reclamation operations. This reclamation shall include:

(1) Closing the road to traffic;

(2) Removing all bridges and culverts unless approved as part of the postmining land use;

(3) Removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and revegetation requirements;

(4) Reshaping cut and fill slopes as necessary to be compatible with the postmining land use and to complement the natural drainage pattern of the surrounding terrain;

(5) Protecting the natural drainage patterns by installing dikes or cross drains as necessary to control surface runoff and erosion; and

(6) Scarifying or ripping the roadbed, replacing topsoil or substitute material and revegetating disturbed surfaces in accordance with §§ 817.22 and 817.111 through 817.116 of this chapter.

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§ 817.151 Primary roads.

Primary roads shall meet the requirements of § 817.150 and the additional requirements of this section.

(a) *Certification.* The construction or reconstruction of primary roads shall be certified in a report to the regulatory authority by a qualified registered professional engineer, or in any State which authorizes land surveyors to certify the construction or reconstruction of primary roads a qualified registered professional land surveyor, with experience in the design and construction of roads. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.

(b) *Safety factor.* Each primary road embankment shall have a minimum static safety factor of 1.3.

(c) *Location.* (1) To minimize erosion, a primary road shall be located, insofar as is practicable, on the most stable available surface.

(2) Fords of perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the regulatory authority as temporary routes during periods of construction.

(d) *Drainage control.* In accordance with the approved plan—

(1) Each primary road shall be constructed or reconstructed, and maintained to have adequate drainage control, using structures such as, but not limited to bridges, ditches, cross drains and ditch relief drains. The drainage control system shall be designed to safely pass the peak runoff from a 10-year, 6-hour or greater precipitation event, unless otherwise specified by the regulatory authority;

(2) Drainage pipes and culverts shall be installed as designed, and maintained in a free and operating condition and to avoid erosion at inlets and outlets;

(3) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment;

(4) Culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road;

(5) Natural stream channels shall not be altered or relocated without the prior approval of the regulatory authority in accordance with applicable §§ 817.41 through 817.43 and 817.57 of this chapter; and

(6) Except as provided in paragraph (c)(2) of this section, structures for perennial or intermittent stream channel crossings shall be made using bridges, culverts, low-water crossings, or other structures designed, constructed and maintained using current, prudent engineering practices. The regulatory authority shall ensure that low-water crossings are designed, constructed and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to streamflow.

(e) *Surfacing.* Primary roads shall be surfaced with material approved by the regulatory authority as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

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S. 1417/Pub. L. 100-146

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S. 1628/Pub. L. 100-148

To extend the Aviation Insurance Program for five years. (Oct. 30, 1987; 101 Stat. 878; 1 page) Price: $1.00

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Federal Register
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Wednesday, November 4, 1987

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 657, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 657, Amendment 1, removes restrictions on the quantity of California-Arizona navel oranges that may be shipped to market during the period October 30, 1987 through November 5, 1987.

DATES: The amendment is effective for the period October 30, 1987, through November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR Part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order, and approximately 4,065 producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

This action is consistent with the marketing policy for 1987–88 adopted by the Navel Orange Administration Committee (NOAC). The NOAC conducted a telephone vote on October 29, 1987, to consider the current and prospective conditions of supply and demand and recommended open movement in all districts. The NOAC reports that rain has hampered the harvest of navel oranges and supplies will be limited.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of prorate regulations, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. To effectuate the declared purposes of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR Part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.957 (52 FR 41693) is revised to read as follows:

§ 907.957 Navel Orange Regulation 657.

The quantity of navel oranges grown in California and Arizona which may be handled during the period October 30, 1987, through November 5, 1987, are established as follows:

(a) District 1: Unlimited cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

Dated: October 30, 1987.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–25561 Filed 11–3–87; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 1137

Milk in the Eastern Colorado Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues to suspend through February 1988 portions of the Eastern Colorado Federal Milk order that relate to the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still

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be priced under the order. Also suspended for the same period is the "touch-base" requirement that each producer's milk be received at least three times each month at a pool distributing plant. Continued suspension of the provisions was requested by a cooperative association representing producers supplying the market in order to prevent uneconomic movements of milk.

EFFECTIVE DATE: November 4, 1987.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. 96456, Washington, DC 20090-6456, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued October 6, 1987; published October 9, 1987 (52 FR 37800).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This rule has been reviewed under Executive Order 12291 and Department Regulation 1512-1 and has been determined to be a "non-major" rule under the critieria contained therein.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the order regulating the handling of milk in the Eastern Colorado marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on October 9, 1987 (52 FR 37800) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. No comments opposing the proposed suspension were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of October 1987 through February 1988 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In the first sentence of § 1137.12(a)(1), the words "from whom at least three deliveries of milk are received during the month at a distributing pool plant".

2. In the second sentence of § 1137.12(a)(1), the words "30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of" and "distributing".

Statement of Consideration

This action continues for the months of October 1987 through February 1988 suspension of the limit on the amount of producer milk that a cooperative association may divert from pool plants to nonpool plants, and the requirement that three deliveries of each producer's milk be received at a pool distributing plant each month. Earlier actions suspended these provisions for the months of September 1985 through September 1987.

The order provides that a cooperative may divert a quantity of milk not in excess of 30 percent of the cooperative association's member milk received at pool distributing plants in the months of March, April, May, June, July and December, and 20 percent in other months. The suspension allows up to 50 percent of a cooperative's member milk supply to be diverted to nonpool plants and remain eligible to share in the marketwide pool.

The continued suspension was requested by Mid-America Dairymen, Inc., (Mid-Am) a cooperative association of producers supplying the market. Mid-Am also requested the earlier suspensions. The cooperative association stated that the volume of producer milk pooled on the Eastern Colorado order began to increase following the conclusion of the Milk Diversion Program in 1985, and continued to increase during 1986. According to the cooperative, Eastern Colorado producer milk increased 12.7 percent over the previous year during 1985, and 5.8 percent from 1985 to 1986. Producer milk used in Class I increased only 1.8 percent from 1984 to 1985, and did not change from 1985 levels in 1986.

Although Eastern Colorado milk production decreased slightly during the first six months of 1987 due to the Dairy Termination Program, the cooperative stated that producer milk used in Class I is 2.0 percent below the same period in 1986. As a result, according to Mid-Am, there are ample supplies of locally produced milk to meet the fluid requirements of Eastern Colorado distributing plants.

Mid-Am stated that milk production produced in Kansas and Nebraska would have to be shipped to Eastern Colorado pool distributing plants each month in order to qualify Mid-Am producers for continued pool status. The cooperative stated that these shipments would displace Denver-area milk, which would have to be moved to surplus handing plants. Both movements, according to Mid-Am, would represent uneconomic movements of milk. Without the requested continued suspenion, the cooperative expects to incur substantial unnecessary costs for the movement of its milk solely for the purpose of pooling the milk of its members currently associated with the Eastern Colorado market.

No comments in opposition to the proposed action were received. Comments supporting the proposed action were filed by Western Dairymen Cooperative, Inc., a cooperative association representing most of the producers pooled under the order. Mid-Am also filed comments that supported the suspension.

Milk production is slightly above year-earlier levels, when suspenion of the same provisions was also necessary. Consequently, a greater proportion of the available milk supplies will have to be shipped to manufacturing plants for surplus uses than would be allowable under the order's diversion limits. Favorable weather conditions and ample feed supplies provide strong indications that the current production trends will continue, without offsetting increases in Class I use. In view of these circumstances, it is concluded that the suspension of the diversion limits and "touch-base" requirements of the Eastern Colorado milk order should be continued for the months of October 1987 through February 1988 to ensure the orderly marketing of milk supplies. The suspension will prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty day's notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that without extensive unnecessary and expensive hauling and handling substantial quantities of milk from producers who regularly supply the market otherwise would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No view in opposition to this action were received.

Therefore, good casue exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1137

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, that the following provisions of § 1137.12(a)(1) of the Eastern Colorado order are hereby suspended for the months of October 1987 through February 1988:

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

1. The authority citation for 7 CFR Part 1137 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1137.12 [Amended]

2. In the first sentence of § 1137.12(a)(1), the words "from whom at least three deliveries of milk are received during the month at a distributing pool plant" are suspended.

3. In the second sentence of § 1137.12(a)(1), the words "30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of" and "distributing" are suspended.

Signed at Washington, DC, on: October 28, 1987.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 87-25494 Filed 11-3-87; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1951

Servicing of Community Program Loans To Charge a Transfer Fee

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) adopts the proposed rule which was published on May 27, 1987, (52 FR 19732). This action is being taken to include the establishment of a nonrefundable transfer fee for Community Program Loans, with payment at time of application submittal and to implement Public Law (Pub. L.) 97-258 in compliance with OMB Circulars A-25 and A-129, which require a fee to be charged when specialized benefits accrue to an individual rather than the general public. The intent of this regulation is to implement the authority granted to the Secretary in Pub. L. 97-258.

EFFECTIVE DATE: December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Carolyn C. Palmer, Loan Officer, Community Facilities Division, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Agriculture Building, Washington, DC 20250; telephone (202) 382-1503.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined to be nonmajor since the annual effect on the economy is less than $100 million and there will be no significant increase in costs or prices for consumers; individual industries; organizations; governmental agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The net result is expected to offset administrative and contractual cost related to transfer of a Community Program loan.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program". FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969 Pub. L. 91-190, an Environmental Impact Statement is not required.

This change affects the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

Sec.
10.414 Resource, Conservation, and Development Loans.
10.416 Water and Waste Disposal Systems for Rural Communities.
10.419 Watershed and Flood Prevention Loans.
10.422 Business and Industry Loans.
10.423 Community Facilities Loans.

and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR 3015, Subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985).

No comments were received on the proposed rule published May 27, 1987, (52 FR 101) which allowed for a 60 day comment period ending July 27, 1987.

Discussion

(1) Transfer Fee

FmHA is authorized to make direct loans for the purpose of financing water and waste disposal and other essential community facilities providing essential service primarily to rural residents. It is the policy of FmHA to approve transferees who will continue the original purpose of the loan. If an eligible transferee is not available, an ineligible transferee will be considered as a method for servicing problem cases. Legislation authorizing FmHA loan programs gives the Secretary of Agriculture authority to impose transfer fees (user fees). Pub. L. 97-258 authorizes the charging of user fees, including transfer fees, for all loan programs for specialized services. In addition, the Office of Management and Budget (OMB) Circulars A-129 and A-25 require that a fee be assessed where specialized benefits accrue to an individual rather than the general public.

Under this final rule, a transfer fee for the processing of a transfer and assumption will be imposed upon each ineligible transferee. This action established a nonrefundable fee based on the Agency's staffing and other administrative costs related to processing a transfer and assumption to an ineligible transferee. The fee is established at $650 plus the cost of an appraisal, if this service must be contracted out. The fee is to be reviewed annually and adjusted accordingly. This fee is paid by the proposed ineligible transferee when the transfer proposal is submitted.

(2) Transfer Fee Justification

The transfer fee is intended to pay for those services provided by FmHA when processing a transfer and assumption to an ineligible transferee in Community Programs. In some cases, the State Director may elect to use persons from outside the Agency on a service contract basis. Whether the State Director uses personnel from the Agency or outside contractors to carry out the processing (or a portion of the processing, i.e., appraisals) of the transfer, the fee will be paid at the time of submittal of the proposal and cannot be refunded. The additional fee for the appraisal will be collected as soon as a price is obtained.

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Actual cost data for service contracts; i.e., appraisals, environmental assessments, etc., will be collected on all loans and an analysis will be made each year. Deviations of 10 percent between actual charges for contracting and our cost projections will result in a fee review and adjustments to the fee if FmHA determines it appropriate. The fee will be determined by the National Office and issued annually. Information regarding the fee can be obtained in any FmHA County, District, or State Office.

Based on estimated hours to complete the processing of a transfer and assumption to an ineligible transferee, salaries, and other administrative expenses, the current fee has been established as $650 plus the cost of an appraisal if this service is contracted. Estimated hours were taken from the FmHA Resource Management System. These estimates are current levels which are reviewed annually and modified as needed.

List of Subjects in 7 CFR Part 1951

Account servicing, Grant programs—Housing and community development, Loan programs—Housing and community development, Reporting requirements, Rural areas.

Accordingly, FmHA amends Chapter XVIII, Title 7, Code of Federal Regulations to read as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for Part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart E—Servicing of Community Program Loans and Grants

2. Section 1951.203 is amended by adding paragaph (f) to read as follows:

§ 1951.203 Definitions.

* * * * *

(f) *Transfer fee.* A one-time nonrefundable application fee, charged to ineligible applicants for FmHA services rendered in the processing of a transfer and assumption.

3. Section 1951.210 is amended by redesignating paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) as paragraphs (c)(2), (c)(3), (c)(4), and (c)(5), respectively; by redesignating paragraphs (d) introductory text and paragraphs (1) through (4), (d)(5), (d)(6), (e), and (f) as paragraphs (e) introductory text and paragraphs (1) through (4), (e)(6), (e)(7), (f), and (g), respectively; and by adding new paragraphs (c)(1), (d), and (e)(5) to read as follows:

§ 1951.210 Transfer of security and assumption of loans.

* * * * *

(c) * * *

(1) All transfers to ineligible applicants will include a one-time nonrefundable transfer fee. Transfer fees will be collected and payments applied in accordance with paragraph (d) of this section.

* * * * *

(d) *Transfer fees.* Transfer fees for Community Program borrowers are a one-time nonrefundable cost to be collected at the time of application or proposal. (Revised)

(1) *Amount.* Community Program transfer fees will be a standard fee plus the cost of the appraisal if completed by other than FmHA personnel. This fee will be established by the National Office and issued annually. Contract costs will be processed in accordance with FmHA Instruction 2024–P, Cost Payments.

(2) *Remittance.* This fee will be deposited into the Concentration Banking System. In those locations not participating in the Concentration Banking System, the fee will be submitted directly to the Finance Office. In either case, this fee will be identified as a transfer fee using Form FmHA 451–2, Schedule of Remittance. This fee will be credited to the Rural Development Insurance Fund and should be included on the Daily Activity Report.

(3) *Waiver.* When the State Director determines waiving the transfer fee is in the best interest of the Government, the file will be submitted to the National Office with appropriate recommendations for the request.

(e) * * *

(5) The transfer fee is to be waived for a prospective transferee.

* * * * *

4. In § 1951.210 newly redesignated paragraph (f)(13) is amended in the last sentence by changing the reference from "§ 1951.210(d)(6)" to "§ 1951.210(e)(7)."

§ 1951.211 [Amended]

5. Section 1951.211(c) introductory text is amended by changing the reference from "§ 1951.210(e) (1) through (14)" to "§ 1951.210(f) (1) through (14)."

Dated: October 14, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–25558 Filed 11–3–87; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87–ANE–36]

Alteration of VOR Federal Airways; Massachusetts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the descriptions of all Federal airways in the Boston, MA, area affected by the relocation of the Boston very high frequency omni-directional radio range and tactical air navigational aid (VORTAC). The Boston VORTAC has been moved 1,025 feet northeast from its current location. This action is necessary to correct the alignment of all airways that have Boston in their descriptions.

DATES: Effective date—0901 U.T.C. January 14, 1988. Comments must be received on or before December 18, 1987.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, New England Region, Attention: Manager, Air Traffic Division, Docket No. 87–ANE–36, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves mandatory amending to the descriptions of all VOR airways that are affected by the relocation of the Boston VORTAC and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.123 of the Federal Aviation Regulations (14 CFR Part 71) is to change the descriptions of V–3, V–292, V–431 and V–475 all of which were affected by the relocation of the Boston, MA, VORTAC, from its current location on Boston's Logan Airport, to coordinates lat. 42°21'26" N., long. 70°59'24" N., which is 1,025 feet northeast. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the descriptions of V–3, V–292, V–431 and V–475 that were affected by the relocation of the Boston VORTAC. These amendments make only minor changes in the airways to reflect the small dislocation of the VORTAC from its former location. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor technical amendments in which the public would not be particularly interested.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–3 [Amended]

By removing the words "INT Boston 015° and Pease, NH, 185° radials;" and substituting the words "INT Boston 014° and Pease, NH, 185° radials;"

V–292 [Amended]

By removing the words "INT Gardner, MA, 097° and Boston, MA, 015° radials;" and substituting the words "INT Gardner, MA, 097° and Boston, MA, 014° radials;"

V–431 [Amended]

By removing the words "INT Boston 015° and Gardner, MA, 097° radials;" and by substituting the words "INT Boston 014° and Gardner, MA, 097° radials;"

V–475 [Amended]

By removing the words "INT Providence 013° and Boston, MA, 223° radials;" and substituting the words "INT Providence 013° and Boston, MA, 224° radials;"

Issued in Washington, D.C., on October 27, 1987.

Sheloma Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–25485 Filed 11–3–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 87–AWA–18]

Alteration of VOR Federal Airways; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects the description of Federal Airway V–374 as published in the **Federal Register** on October 23, 1987. The description of V–374 that was published terminated the airway at Madison, CT. However, the airway should have been terminated at Binghamton, NY. This action corrects that mistake.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

The final rule published in Docket 87–AWA–18 on October 23, 1987, amended the descriptions of V–374, V–405, V–419 and V–423. Inadvertently, the amended description of V–374 incorrectly showed V–374 terminating at Madison, CT. This action corrects the description to reflect a termination at Binghamton, NY.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, the final rule published on October 23, 1987, page 39622 in the **Federal Register** is corrected to read as follows:

PART 71—[AMENDED]

§ 571.123 [Corrected]

V–374 [Amended]

By removing the words "Madison." and by substituting the words "to Madison. From Carmel, NY; INT Carmel 254° and Deer Park, NY, 308° and Binghamton, NY, 119° radials; Binghamton."

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Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983; 14 CFR 11.69.

Issued in Washington, DC, on October 27, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25482 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 87-ANM-16]

Alteration of VOR Federal Airways and Jet Routes; Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: These amendments change the descriptions of several Federal Airways and Jet Routes located in the vicinity of Portland, OR. The Portland very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) is not located on the Portland Airport. According to FAA guidelines, navigational aids (NAVAID) not located within the confines of the airport boundaries should not retain that airport's name. Therefore, the Portland VORTAC has been renamed Battleground VORTAC. These actions amend the descriptions of all airways and jet routes where "Portland" appears to read "Battleground."

DATES: Effective date—0901 U.T.C., January 14, 1988. Comments must be received on or before December 18, 1987.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 87-ANM-16, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, WA 98168.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although these actions are in the form of a final rule, which involves amending the descriptions of all VOR Federal Airways and Jet Routes that currently have "Portland" in their descriptions to read "Battleground" and were not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of these amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) is to amend the descriptions of all VOR Federal Airways and Jet Routes to read "Battleground" where "Portland" appears. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6C dated January 2, 1987.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the descriptions of all VOR Federal Airways and Jet Routes located in the vicinity of Portland, OR, that have "Portland" in their descriptions to read "Battleground." These actions do not make any change in the configuration of controlled airspace. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor technical amendments in which the public would not be particularly interested.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal airways, Jet routes.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C 106(g) (Revised Pub. L. 97-449, January 12, 1983), 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-23, V-112, V-182, V-287, V-448, V-468, V-495, V-500, V-520 [Amended]

By removing "Portland" wherever it appears and substituting "Battleground".

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

3. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

4. Section 75.100 is amended as follows:

J-1, J-15, J-16, J-67, J-82, J-136, J-159, J-180 [Amended]

By removing "Portland" wherever it appears and substituting "Battleground".

Issued in Washington, DC, on October 27, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25483 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 87-AWA-5]

Alteration of Jet Routes; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects the description of Jet Route J-152 as published in the **Federal Register** on September 23, 1987. The description of J-152 as published was not technically correct with respect to the route alignment around Harrisburg, PA.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 87-21850, which was published on September 23, 1987, altered the description of Jet Route J-152 located in the vicinity of Harrisburg, PA (52 FR 35694). The radial "099°" was inadvertently used in the description instead of the correct radial of "102°." This action corrects the error to avoid confusion.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally correct. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, the final rule published on page 35694 in the **Federal Register** on September 23, 1987, is corrected to read as follows:

PART 75—[AMENDED]

§ 75.100 [Corrected]

J-152 [Amended]

By removing the words "Harrisburg, PA; to INT Harrisburg 102° and Westminster, MD, 058° radials." and substituting the words "to Harrisburg, PA."

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.)

Issued in Washington, DC, on October 26, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25480 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 86-AWP-34]

Alteration of Jet Route J-6; California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action postpones the effective date of an amendment to Jet Route J-6 located in the vicinity of Palmdale, CA. The date of implementation for Jet Route J-6 has been postponed from November 19, 1987, to January 14, 1988. This action is taken for the purposes of internal administration and for coordination of this amendment with other related airspace actions on the west coast.

EFFECTIVE DATE: 0901 UTC, January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still , Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

A final rule Airspace Docket No. 86-AWP-34 published in the **Federal Register** on September 18, 1987 (52 FR 35235) with an effective date of November 19, 1987, implemented modifications to Jet Route J-6. However, due to internal administrative considerations, and in order to permit sufficient time for coordination of this amendment with other related airspace actions, the effective date has been changed to January 14, 1988.

Issued in Washington, DC, on October 26, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25481 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 70504-7233]

Annual Survey of U.S. Direct Investment Abroad (BE-11)

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: These rules amend 15 CFR Part 806 by changing the reporting requirements for the BE-11, Annual Survey of U.S. Direct Investment Abroad, conducted by the Bureau of Economic Analysis, U.S. Department of Commerce, under authority of the International Investment and Trade in Services Survey Act. Specifically, the rules change the reporting requirements on Form BE-11C of the survey to: (1) Require filing of a complete BE-11C report for nonbank foreign affiliates owned at least 20 percent, but less than 25 percent, by the U.S. Reporter and for which total assets, sales, or net income exceed $10 million, and (2) *for fiscal year 1987 only,* require filing of a partial BE-11C report for nonbank foreign affiliates owned at least 10 percent, but less than 20 percent, by the U.S. Reporter and for which total assets, sales, or net income exceed $100 million. Previously, all foreign affiliates owned less than 25 percent were exempt from being reported in the BE-11 survey.

EFFECTIVE DATE: These rules will be effective December 4, 1987, commencing with the reports covering fiscal year 1987.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Acting Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523-0659.

SUPPLEMENTARY INFORMATION: In the September 14, 1987 **Federal Register**, Volume 52, No. 177 (52 FR 34685), BEA published a notice of proposed

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rulemaking to change the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad. No comments on the proposed rulemaking were received. Thus, the final rule changes are the same as the proposed rule changes.

The annual survey is a mandatory survey, conducted pursuant to the International Investment and Trade in Services Survey Act (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108, as amended by section 306 of Pub. L. 98–573). It provides annual time series on important aspects of the operations of U.S. multinational companies, including data on their services activities and international services transactions. The survey covers a sample of nonbank U.S. parent companies and their nonbank foreign affiliates; the sample data are used to generate universe estimates of data for parents and affiliates for years in which benchmark surveys, or censuses, of U.S. direct investment abroad are not conducted.

The BE–11 survey contains three forms—the BE–11A, which covers the U.S. Reporter; the BE–11B, which covers majority-owned foreign affiliates; and the BE–11C, which covers minority-owned foreign affiliates. This rule alters the reporting requirements for the BE–11C form.

Previously, on the BE–11 survey, reporting on form BE–11C was limited to those minority-owned nonbank foreign affiliates owned 25 percent or more, directly or indirectly, by the U.S. Reporter, but not more than 50 percent by all U.S. Reporters of the affiliate combined, and whose assets, sales, or net income exceeded $10 million. U.S. direct investment abroad, however, is defined to include all foreign business enterprises owned *10* (not 25) percent or more, directly or indirectly, by a U.S. person. These final rules alter the reporting requirements on the BE–11C to (1) require filing of a complete BE–11C report for nonbank affiliates owned at least 20 percent, but less than 25 percent, directly or indirectly, by the U.S. Reporter and for which any one of the exemption level items (i.e., total assets, sales or gross operating revenues, or net income) exceeds $10 million, positive or negative, and (2) *for fiscal year 1987 only*, require filing of a partial BE–11C report for nonbank affiliates owned at least 10 percent, but less than 20 percent, directly or indirectly, by the U.S. Reporter and for which any one of the three exemption level items exceeds $100 million, positive or negative. For the former affiliates, all seven data items on the form must be completed each year; for the latter, only three items—assets, sales, and net income—must be completed, and only for fiscal year 1987. The new rules are effective with the BE–11 survey covering 1987.

Collection of the information for 10-to-25 percent-owned affiliates on the BE–11C form will enable the Bureau to provide more reliable estimates for the universe of all foreign affiliates of U.S. companies.

Executive Order 12291

BEA has determined that this rule is not "major" as defined in E.O. 12291 because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The collection of information requirement in this final rule has been approved by OMB (OMB No. 0608–0053).

Regulatory Flexibility Act

The General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities. The $10 million exemption level below which reporting of 20-to-25 percent-owned affiliates is not required on the BE–11C form, and the $100 million level below which reporting of 10-to-20 percent-owned affiliates is not required for fiscal year 1987, exclude small businesses from being reported.

List of Subjects in 15 CFR Part 806

Economic statistics, U.S. investment abroad, Penalties, Reporting and recordkeeping requirements.

Dated: October 14, 1987.

Allan H. Young,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, 15 CFR Part 806 is amended as follows:

PART 806—[AMENDED]

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and E.O. 11961, as amended.

2. In § 806.14, paragraphs (f)(3)(iii) and (f)(3)(iv)(B) are revised; paragraphs (f)(3)(iv) (C) and (D) are redesignated (f)(3)(iv) (D) and (E), respectively; and new paragraphs (f)(3)(iv)(C) and (F)(3)(v) are added to read as follows:

§ 806.14 U.S. direct investment abroad.

* * * * *

(f) * * *

(3) * * *

(iii) A complete Form BE–11C (Report for Minority-owned Foreign Affiliate), including all seven data items on the form, must be filed for each minority-owned nonbank foreign affiliate that is owned at least 20 percent, directly or indirectly, by the U.S. Reporter but not more than 50 percent by all U.S. Reporters of the affiliate combined, and for which any *one* of the exemption level items exceeds $10 million. In addition, *for the report covering fiscal year 1987 only*, a partial BE–11C, including only three data items (that is, total assets, sales or gross operating revenues, and net income), must be filed for each minority-owned nonbank foreign affiliate that is owned at least 10 percent, but less than 20 percent, directly or indirectly, by the U.S. Reporter and for which *any* one of the exemption level items exceeds $100 million.

(iv) * * *

(B) *For fiscal year 1987 only*, it is less than 20 percent owned, directly or indirectly, by the U.S. person and none of its exemption level items exceeds $100 million.

(C) For fiscal years other than 1987, it is less than 20 percent owned, directly or indirectly, by the U.S. person.

* * * * *

(v) Notwithstanding the above, an affiliate holding an equity interest in another affiliate that must be reported on Form BE–11B or C must also be reported on Form BE–11B (if majority owned) or C (if minority owned), regardless of the value of its assets, sales, or net income. That is, all affiliates upward in the chain of ownership must be reported.

[FR Doc. 87–25528 Filed 11–3–87; 8:45 am]

BILLING CODE 3510–06–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–25072, File No. S7–16–87]

Exemption of Certain Foreign Government Securities Under the Securities Exchange Act of 1934 for Purposes of Futures Trading

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission amends Rule 3a12–8 under the Securities Exchange Act of 1934 to designate government debt securities issued by Australia, France, and New Zealand as "exempted securities" for purposes of the marketing and trading in the United States of futures contracts on those securities. Rule 3a12–8 currently grants such an exemption to British, Canadian, and Japanese government debt securities underlying foreign futures contracts that meet certain conditions set forth in the Rule. The amendment will extend the exemption to government securities issued by Australia, France, and New Zealand, thereby removing such securities from those on which futures trading in prohibited by the Commodity Exchange Act. Trading the underlying securities, absent compliance with applicable registration and other requirements, will remain prohibited to the same extent as under current federal securities law.

EFFECTIVE DATE: November 4, 1987.

FOR FURTHER INFORMATION CONTACT: David L. Underhill, Esq., 202/272–2375, Division of Market Regulation, Securities and Exchange Commission, Room 5188 (Mail Stop 5–1), 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under the Commodity Exchange Act ("CEA"), futures trading on individual securities is prohibited unless the underlying security is an exempted security under the Securities Act of 1933 ("Securities Act") or the Securities Exchange Act of 1934 ("Exchange Act"). The Securities and Exchange Commission ("SEC" or "Commission") adopted and later amended Rule 3a12–8 ("Rule") under the Exchange Act to designate British, Canadian, and Japanese government debt obligations ("designated foreign government securities") as "exempted securities" under the Exchange Act solely for purposes of marketing and trading futures on those securities in the United States. In effect, the designation of those securities as exempted securities removes the CEA's prohibition against marketing and trading futures on those securities in the United States, so long as the other terms of the Rule are satisfied. The Commission today adopts an amendment to the Rule. The amendment adds the debt securities of Australia, France, and New Zealand to the list of designated foreign government securities exempted by the Rule. To qualify for the exemption, futures contracts on securities issued by Australia, France, and New Zealand will have to meet all the other existing requirements of the Rule.

II. Background

The CEA, as amended by the Futures Trading Act of 1982,[1] prohibits the trading of futures contracts on individual securities unless those securities qualify as exempted securities under section 3 of the Securities Act or section 3(a)(12) of the Exchange Act.[2] Because foreign government securities are not exempted securities under either of these sections, the CEA prohibition against trading futures on individual securities prevents the marketing and trading of futures on such foreign government securities in this country. Section 3(a)(12) of the Exchange Act, however, provides that the term "exempted security" includes

> Such other securities * * * as the Commission may, by such rules and regulations as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an "exempted security" or to "exempted securities."

In March 1984, pursuant to section 3(a)(12) under the Exchange Act, the Commission promulgated Rule 3a12–8.[3] The Rule, as amended,[4] designates British, Canadian and Japanese government securities that meet certain conditions as "exempted securities" under the Exchange Act. The purpose of the Rule is to permit certain foreign, exchange-traded futures contracts on the designated foreign government securities to be marketed and traded in the United States.[5] Under the Rule, British, Canadian and Japanese government debt securities are considered exempted securities under the Exchange Act only with respect to futures trading on those securities and provided that: (1) The securities are not registered in the United States; (2) the futures contracts require delivery outside the United States; and (3) the futures contracts are traded on a board of trade.[6]

Rule 3a12–8 was promulgated in response to Congress' understanding, in approving the 1982 amendments to the CEA, that neither the SEC nor the Commodity Futures Trading Commission ("CFTC") had intended to bar British government bond futures [7] and that administrative action would be taken to allow the sale of these futures contracts in this country.[8] In promulgating the Rule, the Commission implemented Congress' intent without abandoning its longstanding policy of subjecting foreign government securities, for most purposes, to the requirements of the federal securities laws. Accordingly, the conditions set forth in the Rule are designed to ensure that a domestic market in unregistered foreign government securities does not develop and that futures markets in these instruments are not used to avoid the registration and other provisions of the federal securities laws.

At the time the Commission originally proposed Rule 3a12–8, it recognized that, should the securities of additional governments become subject to futures trading, it would become necessary to amend the Rule to include those

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[1] Pub. L. No. 97–444, 96 Stat. 2294, 7 U.S.C. 1 *et seq.* (1982)

[2] Section 2(a)(1)(B)(v) of the CEA, 7 U.S.C. 2a(v) (1984), provides that "[n]o person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 3 of the Securities Act * * * or section 3(a)(12) of the * * * Exchange Act * * *."

[3] *See* Securities Exchange Act Release Nos. 20708, March 2, 1984, 49 FR 8595 ("Adopting Release"), and 19611, May 25, 1983, 48 FR 24725 ("1983 Proposal Release").

[4] The Rule was amended last year to include Japanese government securities. Securities Exchange Act Release No. 23423, July 11, 1986, 51 FR 25996. As originally adopted, the Rule applied only to British and Canadian government securities. *See* Adopting Release, *supra* note 3.

[5] As discussed above, without this designation the trading of futures on these securities in the United States would be prohibited by section 2(a)(1)(B) of the CEA.

[6] A requirement that the board of trade be located in the country that issued the underlying debt security recently was eliminated. *See* Securities Exchange Act Release No. 24209, March 12, 1987, 52 FR 8675.

[7] *See* 1983 Proposal Release, *supra* note 3, 48 FR at 24725 [citing 128 Cong. Rec. H7492 (daily ed. September 23, 1982) (statements of Representatives Daschle and Wirth)].

[8] In extending the exemption to futures on Canadian government bonds and bills and then to futures on Japanese yen bonds, the Commission noted that there did not appear to be any legal or regulatory reason for treating them differently from British gilt futures.

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securities.[9] Subsequently, the Commission amended the Rule to include Japanese government debt. Currently, the Sydney Futures Exchange ("SFE") is trading futures on Australian government bonds, the Marche a Terme d'Instruments Financiers ("MATIF")[10] is trading futures on French government bonds and bills and New Zealand government bond futures are being traded on the New Zealand Futures Exchange ("NZFE"). The Commission staff has been informed that United States citizens are interested in trading these new products and has received requests that Rule 3a12–8 be amended to allow such trading.[11] As a result, on May 5, 1987, the Commission issued a release ("1987 Proposal Release") proposing two alternative amendments to the Rule.[12] One amendment would add debt securities issued by Australia, France and New Zealand to the Rule's list of designated foreign government securities. The other amendment would add to the Rule's list of designated foreign government securities the unregistered debt obligations of any government with long-term, external sovereign debt outstanding which is rated in one of the two highest rating categories of at least two nationally recognized statistical rating organizations.

III. Discussion

Based on the comment letters received and for the additional reasons discussed below, the Commission has determined that Rule 3a12–8 should be amended to include the debt obligations of Australia, France and New Zealand. The Commission received nine comment letters in response to the 1987 Proposal Release.[13] Seven of the commentators responded to the Commission's request in the 1987 Proposal Release for comments on the desirability of adding debt securities issued by Australia, France and New Zealand to the Rule's list of designated foreign government securities. Each of these seven letters endorsed amending the Rule to add, at a minimum, Australia, France or New Zealand to the list of countries covered by the Rule.[14] Six commentators responded to the Commission's request for comments on the feasibility of a rating standard. Reaction to the rating standard proposal was mixed.[15]

The Commission also solicited comment in its 1987 Proposal Release on whether under either proposal the information available in English regarding newly-eligible futures contracts and underlying sovereign debt would be adequate to permit U.S. investors to make informed investment decisions. While this issue was not addressed specifically by any of the commentators, all of the petitioners that requested that Rule 3a12–8 be expanded to cover the debt securities of Australia, France and New Zealand noted in their petitions that United States investors should have sufficient access to information in English concerning the relevant futures markets and underlying debt instruments.[16]

Finally, the Commission solicited comment on whether there are any legal or policy reasons for determining that debt securities issued by Australia, France and New Zealand or any other country that would qualify under the generic rating standard should not be accorded the same treatment for purposes of futures trading in the United States as are British, Canadian and Japanese debt securities. Each of the two commentators that addressed this issue stated that there did not appear to be any valid legal or policy reasons for denying United States investors the ability to trade futures on debt issued by Australia, France or New Zealand.[17] Indeed, three commentators noted that the expansion of Rule 3a12–8 would represent a positive step forward in the trend toward globalization of the world's securities markets.[18]

The Commission agrees that there are no valid legal or policy reasons for denying United States investors the ability to trade futures on debt securities issued by Australia, France and New Zealand and that the availability of these new hedging vehicles will allow investors to take advantage of the growing globalization of the securities markets. Due in large part to this trend toward internationalization, U.S. investors should have ready access to information in English concerning the markets and government securities of Australia, France and New Zealand. It also is important to note that the existing conditions set forth in the Rule (*i.e.*, that the underlying securities not be registered in the U.S., that the futures contracts require delivery outside the U.S.,[19] and that the contracts be traded on a board of trade) will apply to futures contracts on debt securities issued by Australia, France and New Zealand. This should ensure that the federal securities laws will not be subverted by the marketing and trading of futures on additional government securities in this country.[20]

In light of the comments received and the fact that the Commission has received petitions on behalf of futures exchanges in Australia, France and New Zealand to add debt securities issued by those three countries to the Rule's list of designated foreign government securities, the Commission has determined that the best course is to proceed without delay to amend the Rule to include debt securities issued by Australia, France and New Zealand. Due to the varied comment the Commission received with respect to a proposed amendment to the Rule that would incorporate a generic rating standard and thus expand the Rule to cover the debt securities of countries in addition to Australia, France and New Zealand, the Commission is not taking any action on that proposed amendment. The Commission will continue to assess the feasibility of such an amendment or other alternatives in light of the comments received.

IV. Cost/Benefit Analysis

In connection with the 1987 Proposal Release, the Commission noted that there do not appear to be any costs associated with the amendment adopted today. The amendment is designed to protect U.S. investors by preventing unregistered Australian, French and New Zealand government bonds from entering the country and by requiring that futures on those bonds be traded on boards of trade. In addition, the amendment imposes no recordkeeping or compliance burden in itself and merely provides an exemption under the federal securities laws. The principal benefit associated with the amendment is that it will allow U.S. boards of trade and investors to trade a greater range of futures contracts on foreign government debt. The Commission received no comments on the costs and benefits of the amendment to Rule 3a12–8.

V. Regulatory Flexibility Act Certification

The Chairman of the Commission certified in connection with the 1987 Proposal Release that the amendment to Rule 3a12–8, if adopted, would not have a significant economic impact on a substantial number of small entities. The Commission received no comments on this certification.

VI. Effects on Competition and Other Findings

Section 23(a)(2) of the Exchange Act[21] requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission has considered the amendment to Rule 3a12–8 in light of the standards cited in section 23(a)(2) and believes that adoption of the amendment will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act. As stated above, the amendment is designed to assure the lawful availability in this country of Australian, French and New Zealand government debt futures that otherwise would not be permitted to be marketed under the terms of the CEA. The amendment thus serves to expand the range of financial products available in the United States and enhances competition in financial markets. Insofar as the Rule contains limitations, they are designed to promote the purposes of the Exchange Act by ensuring that futures trading on government securities of Australia, France and New Zealand is consistent with the goals and purposes of the federal securities laws by minimizing the impact of the Rule on securities trading and distribution in the United States.

The Commission finds, in accordance with the Administrative Procedure Act,[22] that the amendment to Rule 3a12–8 is exemptive in nature. Accordingly, the Commission has determined to make the foregoing action effective immediately upon publication in the **Federal Register.**

VII. Statutory Basis

The amendment to Rule 3a12–8 is being adopted pursuant to 15 U.S.C. 78a *et seq.*, particularly sections 3(a)(12), 15 U.S.C. 78c(a)(12) and 23(a), 15 U.S.C. 78w(a).

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

VIII. Text of the Adopted Amendment

The Commission is amending Part 240 of Chapter II, Title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 is amended by adding the following citation:

Authority: Sec. 23, 48 Stat. 901, as amended; 5 U.S.C. 78w. * * * § 240.3a12–8 also issued under 15 U.S.C. 78a *et seq.*, particularly secs. 3(a)(12), 15 U.S.C. 78c(a)(12), and 23(a), 15 U.S.C. 78w(a).

2. Section 240.3a12–8 is amended by removing the word "or" from (a)(1)(ii), removing the period and adding a semi-colon to (a)(1)(iii), and adding paragraphs (a)(1) (iv) through (vi) as follows:

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[9] *See* 1983 Proposal Release, *supra* note 3, 48 FR at 24725–27.

[10] The MATIF is a financial futures exchange established in Paris in February 1986.

[11] *See* letters from Philip McBride Johnson, Skadden, Arps, Slate, Meagher & Flom, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated August 20, 1986 (Australia) ("Petition I"); October 1, 1986 (New Zeland) ("Petition II"), and February 26, 1987 (France) ("Petition III"); and letter from Eugene W. Boehringer, Managing Director, First Boston Corporation, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated October 1, 1986 (France) ("Petition IV").

[12] *See* Securities Exchange Act Release No. 24428, May 5, 1987, 52 FR 18237.

[13] Letters were received from the following: Neil H. Sherman, First Vice President and Associate General Counsel, Shearson Lehman Brothers, dated June 4, 1987 ("Shearson Letter"); Stephen R. Greene, Vice President, First Boston, dated June 12, 1987 ("First Boston Letter"); J.A. Fraser, Minister (Economic), Embassy of Australia, dated June 15, 1987; Thomas R. Donovan, President, Chicago Board of Trade ("CBT"), dated June 15, 1987; Erkki Liikanen, Minister of Finance, and Kalevi Pykala, Acting Cabinet Counsellor, Ministry of Finance, Finland, dated June 15, 1987 ("Finland Letter"); Jorgen Wagner-Knudsen, General Manager, Morgan & Cie, dated June 15, 1987; Rose Tanner, Counsellor (Economic), New Zealand Embassy, dated June 15, 1987 ("New Zeland Letter"); Kurt D. Steele, Senior Vice President and General Counsel, Standard & Poor's Corp. ("S&P"), dated June 15, 1987 ("S&P Letter"); and Mats Ringborg, Embassy of Sweden, undated ("Sweden Letter"). The Sweden Letter addressed only the trading of futures on Swedish government securities.

[14] Australia and Morgan & Cie only addressed, and were in favor of adding, Australian and French debt securities respectively to those exempted by the Rule. Finland favored the adoption of a rating standard over the addition of Australia, France and New Zealand, because the rating standard would exempt the securities of a greater number of countries, while New Zealand, citing problems that could arise if a country's debt rating were to fall below the two highest rating categories, favored the specific addition of Australia, France and New Zealand. The CBT urged the Commission to amend the Rule to specifically include debt issued by all the countries that would qualify under the proposed rating standard, while Shearson suggested that the Commission adopt both amendments, so as to avoid the possibility that the government securities of Australia, France or New Zealand later would become "disqualified" under the rating standard. Finally, First Boston favored the rating standard over the specific addition of Australia, France and New Zealand, but suggested that the Commission consider exempting *all* sovereign debt for purposes of futures trading.

[15] In addition to the CBT, Finland, First Boston, New Zealand, and Shearson comments described at note 14, *supra*, S&P also addressed the rating standard proposal. While the commentators for the most part favored the addition of debt securities of as many countries as possible to the Rule's list of designated foreign government securities, they raised concerns as to the practicability of a rating standard. In general, these concerns related to the proper functioning of the Rule in the event that a government issuer's rating were to fall below the two highest rating categories and the validity of relying on rating standards as a measure of the depth and liquidity of the secondary market for the government issuer's securities.

[16] *See* Petition I, *supra* note 11, at 6; Petition II, *supra* note 11, at 6; Petition III, *supra* note 11, at 7; Petition IV, *supra* note 11, at 2.

In adopting Rule 3a12–8 the Commission decided not to require, as a condition to the exemption, that such information be available. *See* Adopting Release, *supra* note 3, 49 FR 8597–98. At the time Rule 3a12–8 was adopted both the United Kingdom and Canada had government debt issues registered in the United States. As a result, although those particular issues were not the subject of futures trading, United States investors had relevant disclosure materials concerning the issuers, i.e., the governments of Canada and the United Kingdom. The Japanese government, however, had not registered any securities in the United States when it was added to the Rule's list of eligible issuers. Of the new countries that would become eligible under the current proposal, only New Zealand currently has government debt securities registered in the U.S.

[17] *See* First Boston Letter, *supra* note 13, at 3; Shearson Letter, *supra* note 13, at 2.

[18] *See* Finland Letter, *supra* note 13, at 1; First Boston Letter, *supra* note 13, at 1; New Zealand Letter, *supra* note 13, at 1.

[19] The Commission notes that the Australian government bond futures traded on the SFE and the New Zealand government bond futures traded on the NZFE are settled by the delivery of cash, rather than by delivery of the underlying sovereign debt securities. Petition I, *supra* note 11, at 2; Petition II, *supra* note 11, at 2. The proposed domestic trading and marketing of these contracts, which would be the first cash-settled futures to qualify for the exemption afforded by Rule 3a12–8, raises the issue of whether a cash-settled product would satisfy the Rule's delivery requirement. The CFTC also has raised this issue, and suggested that cash settlement would be consistent with the Rule. *See* letters from Virginia F. Crisman, Deputy General Counsel, CFTC, to David Underhill, Attorney, Division of Market Regulation, SEC, dated April 13 and April 16, 1987. The Commission agrees that cash settlement would be consistent with the Rule's requirement that delivery occur outside the U.S. In originally adopting the Rule, the Commission stated that requiring delivery of the underlying, unregistered securities outside the U.S. was designed to "inhibit the development of domestic trading in these unregistered securities." *See* Adopting Release, *supra* note 3, 49 FR at 8598. This concern does not arise in connection with cash settlement, as there is no security required to be delivered. Accordingly, the Commission will not object to the domestic trading and marketing of foreign futures that are cash-settled (whether cash settlement occurs abroad or in the U.S.), assuming the futures satisfy all the Rule's other requirements.

[20] The marketing and trading of foreign futures contracts also is subject to regulation by the CFTC. In particular, Section 4b of the CEA authorizes the CFTC to regulate the offer and sale of foreign futures contracts to U.S. residents, while Rule 30.02 (17 CFR 30.02), promulgated under section 2(a)(1)(A) of the CEA, is intended to prohibit fraud in connection with the offer and sale of futures contracts executed on foreign exchanges. In addition, the CFTC recently adopted a series of regulations governing the domestic offer and sale of futures and options contracts traded on foreign boards of trade. The rules, which become effective on January 4, 1988, require, among other things, that the domestic offer and sale of foreign futures be effected through CFTC registrants or comparably regulated entities under a regulatory framework similar to that governing domestic futures contracts. *See* 52 FR 26980 (August 5, 1987).

[21] 15 U.S.C. 78w(a)(2) (1982).

[22] 15 U.S.C. 553 (1982).

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§ 240.3a12-8 Exemption for designated foreign government securities for purposes of futures trading

(a) * * *
(1) * * *
(iv) Australia;
(v) France; or
(vi) New Zealand.
* * * * *

By the Commission.

Dated: October 29, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25506 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Parts 270 and 274

[Release No. IC-16093; File No. S7-22-86]

Exemption From the Investment Company Act of 1940 for the Offer or Sale of Debt Securities and Non-Voting Preferred Stock by Foreign Banks or Foreign Bank Finance Subsidiaries

AGENCY: Securities and Exchange Commission.

ACTION: Final rule and form.

SUMMARY: The Commission today announced the adoption of rule 6c-9 and a related form under the Investment Company Act of 1940. A foreign bank or the bank's finance subsidiary may rely on the rule to offer or sell its own debt securities or non-voting preferred stock in the United States without registering as an investment company, provided that certain conditions are met. In this connection, the rule eliminates the need for such an entity to obtain an exemptive order.

EFFECTIVE DATE: December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Brian M. Kaplowitz, Chief, (202) 272-2048, or Ann M. Glickman, Special Counsel, (202) 272-3042, Office of Regulatory Policy, Division of Investment Management, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is adopting rule 6c-9 under the Investment Company Act of 1940 (the "Act"), which will permit a foreign bank or the bank's finance subsidiary to offer or sell its own debt securities or non-voting preferred stock in the United States. The rule would be available to any such entity that might otherwise apply for an order under section 6(c) of the Act [15 U.S.C. 80a-6(c)] granting an exemption from all provisions of the Act.[1]

The Commission is also adopting a new form, form N-6C9, which is to be filed with the Commission by foreign entities relying on the rule and, in the case of finance subsidiaries, by their parent companies. The filing of the form will appoint an agent for service of process in the United States.

The Commission proposed rule 6c-9 and form N-6C9 in Investment Company Act Release No. 15314 (September 17, 1986) [51 FR 34221] (the "Proposing Release"). The Commission received several letters of comment in response to the proposals. The rule and form, as adopted, have been modified in some respects to address commentators' concerns.

The background and substance of the proposals are discussed fully in the Proposing Release. This release will, therefore, discuss only briefly the status of foreign banks and their finance subsidiaries under the Act and summarize the proposals. Thereafter, the release will discuss the comments received and describe the provisions of rule 6c-9 and form N-6C9 in their final form.

Background

A. Status of Foreign Banks Under the Act

A bank may be considered an investment company to the extent that it is involved in owning, holding, trading, investing or reinvesting in securities.[2] Institutions that are banks within the definition in section 2(a)(5) of the Act[3] are expressly excepted from the definition of investment company by section 3(c)(3) of the Act [15 U.S.C. 80a-3(c)(3)]. In addition, some foreign banks have been granted exemptions under section 6(c) of the Act permitting them to sell their own equity[4] and debt securities in the United States.[5]

B. Status of Foreign Bank Finance Subsidiaries Under the Act

Foreign banks often form wholly-owned United States subsidiaries to assist them in raising capital. Such a subsidiary sells its own securities and then loans the offering proceeds to the bank or to a company controlled by the bank. As consideration for these loans, the subsidiary receives evidences of indebtedness, such as promissory notes, from the parent or controlled company. The evidences of indebtedness may be considered investment securities under the Act,[6] and if those securities amount to more than 40% of its total assets, the finance subsidiary is considered an investment company under section 3(a)(3) of the Act, unless excepted or exempted by some other section.[7]

A foreign bank finance subsidiary that comes within the definition of investment company must, before offering or selling its own securities in the United States, either register as such with the Commission or apply for an order under section 6(c) for an exemption from the Act. Consequently, many finance subsidiaries have requested and received exemptive orders.[8]

[1] Section 6(c) provides that the Commission may, by rules and regulations upon its own motion, or by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities, or transactions, from any provision or provisions of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and the provisions of the Act.

[2] "Investment company" is defined in section 3(a)(1) of the Act [15 U.S.C. 80a-3(a)(1)] as any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily in the business of investing, reinvesting, or trading in securities.

"Investment company" is defined in section 3(a)(3) of the Act [15 U.S.C. 80a-3(a)(3)] as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40% of the value of the issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

"Investment securities" are defined in section 3(a)(3) to include all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies.

[3] "Bank" is defined in section 2(a)(5) of the Act [15 U.S.C. 80a-2(a)(5)] to include (A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, or (C) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by State or Federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of the Act.

[4] *See infra* at note 18.

[5] *See* Proposing Release at note 9 and accompanying text.

[6] Section 2(a)(36) of the Act [15 U.S.C. 80a-2(a)(36)] defines "security" to include, *inter alia*, any note or evidence of indebtedness. Such an instrument would be considered an "investment security" under section 3(a)(3). *See supra* note. 2.

[7] *See supra* note 2. Rule 3a-5 [17 CFR 270.3a-5] exempts from the definition of investment company the finance subsidiaries of parent companies that are not investment companies under section 3(a) of the Act or that have been excepted or exempted from that definition by Commission order by section 3(b) or by the rules and regulations under section 3(a). Rule 3a-5 is not available to the finance subsidiaries of foreign banks, however, because foreign banks are considered investment companies under the Act and are traditionally exempted by order under section 6(c).

[8] *See* Proposing Release at notes 18 and 19, and accompanying text.

Because of the frequency and routine nature of the applications received from foreign banks and their finance subsidiaries under section 6(c) of the Act, the Commission deemed it appropriate to propose rule 6c-9 to permit such entities to sell their own debt securities and non-voting preferred stock in the United States without registration under the Act.

The Proposed Rule

The principal provisions of proposed rule 6c-9 would have served to (1) define the type of entity to which the rule would apply; (2) limit the type of securities which could be offered in reliance upon the rule; and (3) impose certain conditions as to the offering to be made. In this regard, the proposal was intended to codify, with certain exceptions, the exemptions granted by the Commission to foreign banks and their subsidiaries under section 6(c). The proposed rule would also have been conditioned on the appointment of an agent for service of process by use of a proposed accompanying form.

A. Type of Issuer

1. Definition of the Term "foreign bank"

Proposed rule 6c-9 was designed to exempt from the Act any foreign bank or finance subsidiary of a foreign bank. The proposal defined "foreign bank" as a banking institution incorporated or organized under the laws of a country other than the United States and that is regulated as a bank by that country's government or an agency thereof. The definition also required that the bank be primarily engaged in commercial banking activities, which, in turn, were defined as accepting demand deposits and making commercial loans.

2. Definition of the Term "finance subsidiary of a foreign bank"

The proposed rule defined a "finance subsidiary of a foreign bank" as a subsidiary meeting the conditions of paragraph (a) of rule 3a-5 under the Act.[9] Thus, the subsidiary had to be a wholly-owned subsidiary of its parent bank and the securities being offered or sold in the United States were required to be unconditionally guaranteed by that bank. In addition, the subsidiary was required to comply with the other conditions of rule 3a-5, which are intended to ensure that a finance subsidiary's primary purpose is to act as a conduit for its parent, rather than to engage in investment company activities.

[9] *See* also the discussion of rule 3a-5 *supra* at note 7

Although rule 3a-5 permits a finance subsidiary relying on that rule, or a "company controlled by the parent company" of such a subsidiary (a permissible recipient of the offering proceeds), to be owned by multiple parents in partnership or as a joint venture, proposed rule 6c-9 limited ownership of foreign bank subsidiaries and companies controlled by a foreign bank to a single parent. The proposal was so limited because there was no indication (such as a prior section 6(c) application) of any need to furnish an exemption for debt offerings made by a finance subsidiary owned by more than one foreign bank, or the proceeds of which would be remitted to a company controlled by more than one foreign bank. The Proposing Release, however, solicited comment on this issue.

B. Type of Security

The proposed rule would have provided an exemption for the sale of foreign banks' and finance subsidiaries' own debt and non-voting preferred stock. Non-voting preferred stock was included in the rule because it has many of the characteristics of debt instruments. In addition, the proposed rule was intended to apply only to offerings of securities issued by a bank or finance subsidiary, not to securities representing interests in a collective trust fund or similar investment pool maintained by a foreign bank.

The proposed rule did not include offerings of equity securities other than non-voting preferred stock because of the Commission's limited experience in reviewing exemptive applications for such offerings. However, the Proposing Release specifically requested comment on the conditions which should apply to equity offerings if the proposed rule were amended, or a new rule adopted, to provide an exemption for such offerings.

C. Conditions of the Offering

Under the proposed rule, registration under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (the "Securities Act") of the securities that a foreign bank or a foreign bank finance subsidiary intended to sell in the United States would have entitled the bank or subsidiary to an exemption from registration as an investment company. However, if the foreign bank or subsidiary did not register its securities under the Securities Act in reliance on an available exemption from those registration requirements, the proposed rule would have exempted the bank or subsidiary from registration under the Act only if the securities were of high quality. "High quality" was defined as one of the two highest ratings that may be assigned by a nationally recognized statistical rating organization ("NRSRO"). Moreover, the high quality rating had to be obtained from at least two NRSROs that were not affiliated persons, as defined in section 2(a)(3)(C) of the Act [15 U.S.C. 80a-2(a)(3)(C)], of the issuer of, or of any insurer, guarantor or provider of credit support for, the securities.[10]

D. Appointment of Agent

Under the proposed rule, any foreign bank intending to offer or sell its securities in the United States would have had to file proposed form N-6C9 with the Commission appointing an agent located in the United States for service of process, for as long as the bank had any such securities outstanding. The rule also would have required the bank to file an amended form in the event that the bank appointed a successor agent. Where a foreign bank's finance subsidiary, incorporated or organized under the laws of a jurisdiction other than the United States or any State, was the issuer of the securities, the subsidiary would also have been required to file the form and keep it current. The purpose of this requirement was to ensure that the Commission or a private plaintiff would be able to serve the defendant with notice of a proceeding. However, the Proposing Release specifically requested comment on whether this purpose could be achieved by some other means.

Discussion of Comments and Changes to Rule

Generally, commentators responded favorably to the proposed rule. A number of the commentators, however, had specific suggestions for modification of the rule. Their comments are discussed below.[11]

A Type of Issuer

1. Definition of the Term "foreign bank"

Most of the commentators criticized the definition of the term "foreign bank" as so narrow that it would render the proposed rule inapplicable to many

[10] Section 2(a)(3)(C) of the Act defines affiliated person to include a person directly or indirectly controlling, controlled by or under common control with another person. Control is defined in section 2(a)(9) of the Act [15 U.S.C. 80a-2(a)(9)] as the power to exercise a controlling influence over the management or policies of a company, unless that power arises solely as a result of an official position with that company. Direct or indirect ownership of more than 25% of the voting securities of a company carries a presumption of control over that company.

[11] The letters of comment are publicly available in Commission File No. S7-22-86.

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entities legitimately seeking an exemption from the registration provisions of the Act. While the commentators' criticisms varied, and there was no consensus on any particular revision to the definition, the provision of the proposed rule which appeared to create the most difficulty was the requirement that the entity seeking an exemption be *primarily* engaged in commercial banking activity—that is, *primarily* engaged in accepting demand deposits and making commercial loans (emphasis supplied).

The Commission has decided to revise the definition so that it imposes no requirements as to the primary activities engaged in by the entity seeking to use the rule. Nonetheless, the revised definition includes the condition that the entity make commercial loans and accept demand deposits. Specifically, the rule, as adopted, requires the entity to be engaged regularly in, and to derive a substantial portion of its business from, extending commercial and substantial portion of its business from, extending commercial and other types of credit, and accepting demand and other types of deposits, that are customary in the entity's home country.[13] In view of the expanded scope of the new definition, the Commission has deemed it appropriate to add language to rule 6c–9 to ensure that the entity seeking to use the rule is not operated for the purpose of evading the provisions of the Act.[14] This requirement is based on a similar requirement contained in the Act's definition of the term "bank."[14]

The revised definition was drawn from a commentator's suggestion, and the Commission believes that this definition adequately addresses the concerns of the commentators. At the same time, the Commission is not adopting a broader definition suggested by several other commentators. That definition was patterned after the definition of "bank" as used in the International Banking Act of 1978 [12 U.S.C. 3101(7)] ("IBA"), and would basically include any company organized outside of the United States that engages in the business of banking as is usual in the company's home country.[15] Such a definition might bring within the scope of the rule entities that would not be viewed as banks under the Act if those entities were organized under the laws of the United States or of a State. The Commission is reluctant to extend the rule that far. Of course, entities which do not meet the conditions of the rule's definition may seek to use the exemptive application process.

2. Definition of the Term "finance subsidiary" and Related definitions

The proposed rule's use of paragraph (a) of rule 3a–5 under the Act in defining the term "finance subsidiary of a foreign bank" led to several objections on the part of the commentators.[16] Some comentators found too restrictive subparagraph (a)(5) of rule 3a–5, which requires a finance subsidiary to invest in or loan to its parent company or a company controlled by its parent company at least 85 percent of the proceeds of any offering of the subsidiary's debt or non-voting preferred stock as soon as practicable, but in any event within six months after the subsidiary's receipt of the proceeds. They urged that a broader range of investments be permitted, and that the rule be modified to permit the extension of credit to unrelated parties. However, as the Proposing Release pointed out, a finance subsidiary is required to comply with the conditions of rule 3a–5 to ensure that its primary purpose is to act as a conduit for its parent, rather than to engage in investment company activities. Permitting a broader range of investments or loans might result in the finance subsidiary operating much like an investment company, making an exemption inappropriate.

Commentators also had difficulty with the conditions imposed by subparagraph (a)(1) of rule 3a–5, which requires that any debt securities of the finance subsidiary issued to or held by the public be unconditionally guaranteed by the parent company as to the payment of principal, interest and premium, if any. These commentators argued that arrangements which are economically equivalent to guarantees should be permitted in the rule. While we recognize that other arrangements may provide protection equivalent to that of a guarantee, such alternative arrangements—for example, income maintenance, credit support and throughput and deficiency agreements—can best be evaluated at this time on a case-by-case basis through requests for exemptive orders or no-action advice.[17] Therefore, the Commission is retaining the guarantee requirement.

One commentator raised objection to the proposed rule's definition of the term "company controlled by a parent company" (subparagraph (c)(3) of the proposal). The proposed rule required that the controlled company not be considered an investment company under section 3(a) of the Act, or that it be excepted or exempted by order by section 3(b) or by the rules or regulations under section 3(a), unless the entity was itself a foreign bank. The commentator suggested that the definition be expanded to include a company qualifying for an exemption from the definition of investment company pursuant to section 3(c) of the Act. The difficulty with this suggestion, however, is that a company excepted under section 3(c) could be engaged in or could intend to engage in investment company-type activities. Therefore, the Commission would prefer to consider these situations on a case-by-case basis in the context of the exemptive application process.

In response to the Commission's specific request for comment, one commentator suggested that the rule should be extended to permit ownership by multiple bank parents of a finance subsidiary or of the ultimate recipient of the offering proceeds. However, this commentator acknowledged that joint ventures involving multiple foreign bank parents have been formed only rarely in the past. Since the Commission has received no applications from any finance subsidiaries of multiple parents, such an extension of the rule is unnecessary at this time.

B. Type of Security

Several of the commentators specifically suggested the inclusion of equity offerings in the proposed rule or the adoption of a rule relating to equity offerings in the near future. However, there was no general agreement on the conditions which should apply to such offerings, and one commentator urged that the Commission delay adopting a rule pending the development of "more appropriate standards" through the exemptive application process. Although

[13] *See* subparagraph (b) (3) of the rule's text.

[14] *See* text of rule 6c-9(b)(2)(iii).

[15] *See supra* note 3.

[16] Under the IBA: "Foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, which engages in the business of banking. The term "foreign bank" includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating.

[16] Subparagraph (b)(1) of the proposed rule.

[17] In the case of finance subsidiaries which were unable to use rule 3a–5 because their debt securities are not unconditionally guaranteed by their parent corporations, the Commission has considered exemptive applications involving alternative arrangements and issued orders. *See, e.g.*, notice of application and order for PacTel Capital Resources, Investment Company Act Release Nos. 14964 (February 28, 1986) [51 FR 7887] and 15014 (March 25, 1986.)

the Commission has received some new requests for exemptive orders involving the issuance of equity securities, it is not yet in a position to propose a general rule relating to equity offerings.[18] However, the staff of the Division of Investment Management will monitor this situation with a view to recommending that the Commission propose such a rule when it becomes appropriate.[19]

In the Proposing Release, it was noted that the exemption which would be provided by proposed rule 6c–9 was intended to apply only to the offering of securities issued by a foreign bank or its finance subsidiary, and not to securities representing interests in a collective trust fund or similar investment pool maintained by the bank.[20] In order to avoid confusion, the Commission has decided to make this intention clear by adding to the final rule a requirement that debt securities be direct obligations of, and non-voting preferred stock a direct interest in, the issuer.[21]

C. Conditions of the Offering

Most of the commentators argued that the proposed rule's requirement that an offering not registered under the Securities Act receive "high quality" ratings from two unaffiliated NRSROs, was too restrictive. The letters suggested several alternatives to the requirement. Some commentators urged that standards be adopted reflecting representations commonly found in foreign banks' and finance subsidiaries' exemptive applications under section 6(c). Under these standards, only one rating would be required, and the rating would have to be in one of the top three categories maintained by a NRSRO (instead of the top two categories prescribed by the proposed rule's definition of the term "high quality"). Some of the commentators suggested eliminating the rating requirement altogether, or at least in the case of offerings made in reliance on the exemption from Securities Act registration provided by section 4(2) of that Act (private offerings).[22]

The Commission has decided to eliminate the rating requirement from the final rule. As was noted in the Proposing Release, offerings registered under the Securities Act must comply with comprehensive disclosure requirements. Following exemptive orders granted under section 6(c), unregistered offerings have been made in reliance upon the exemptions provided by Securities Act sections 3(a)(3) (commercial paper) and (4)(2). In the case of offerings exempt under section 3(a)(3), Commission interpretations have required that the securities be of a type not ordinarily purchased by the general public.[23] As was pointed out by one commentator, foreign bank commercial paper is not normally marketable in the United States commercial paper markets without one of the two highest ratings from a NRSRO. Therefore, with respect to commercial paper, it is unnecessary to have a rating requirement included in the rule. Similarly, foreign bank securities sold in this country in reliance on section 4(2) are sold to investors who are knowledgeable with respect to financial matters and capable of evaluating the merits and risks of an investment. Such investors would not need the additional protection that a rating requirement would provide. Therefore, the final rule requires simply that the securities being sold must be registered under the Securities Act or be offered and sold pursuant to an exemption from the Securities Act's registration requirements.

D. Appointment of Agent

Several of the commentators criticized the proposed rule's condition requiring a foreign bank or foreign finance subsidiary to file form N–6C9 appointing an agent located in the United States for service of process. It was argued that the appointment of an agent, without the filing of any sort of document, is sufficient to fulfill the Commission's objective of ensuring that a plaintiff could serve a foreign defendant with notice of a proceeding. It was also pointed out that the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters makes possible the service by mail of judicial documents in many countries.

The Commission has decided to retain the form as a condition to reliance on the final rule. Although an agent may be appointed effectively without a filing with the Commission, the filing provides in an easily accessible location the name of the agent for service of process so that litigation may be commenced expeditiously. Similarly, although documents may be served by mail in most foreign countries, it is more convenient for a plaintiff to have the option of service within the United States.

One commentator raised a concern about paragraph 5 of proposed form N–6C9, which states that the filer consents that an action against the filer may be commenced by the service of process upon the filer's agent and the forwarding by the agent of a copy thereof by registered mail to the filer. The commentator raised a concern as to whether this procedure would put the agent for service in control of whether service is effective. In view of this ambiguity, the Commission has modified the language in the final version of the form.

Cost Benefit Of Action

To evaluate the benefits and costs associated with the proposed rule, the Commission specifically requested commentators to provide views and data as to the costs and benefits associated with the proposal. As was noted above, one commentator provided a negative assessment as to the impact of the NRSRO rating requirement, which has been eliminated in the final rule. As stated in the Proposing Release, proposed rule 6c-9 and form N–6C9 would not impose any significant additional burdens on foreign banks or foreign bank finance subsidiaries, and would significantly reduce the costs that they already incur by eliminating the need to file exemptive applications. The Commission would also benefit because its staff would no longer have to review exemptive applications in this area.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [5 U.S.C. 605(b)], the Chairman of the Commission certified at the time the rule proposals were published that proposed rule 6c-9 and form N–6C9 would not, if adopted, have a significant impact on a substantial number of small entities. No comments were received regarding the certification.

[18] *See, e.g.*, notices of applications and orders for Banco de Santander, S.A. de C., Investment Company Act Release Nos. 15664 (April 3, 1987) [52 FR 11893] and 15713 (April 30, 1987); and Compagnie Financiere de Paribas, Investment Company Act Release Nos. 15835 (June 30, 1987) [52 FR 25510] and 15982 (July 23, 1987).

[19] Certain of the commentators also proposed to include voting preferred stock and stock issued pursuant to employee stock purchase plans in the rule. However, as the Commission has received no exemptive applications in these categories, it does not believe that it is necessary or appropriate to include such securities at this time.

[20] *See* Proposing Release, at note 28.

[21] *See* subparagraph (a)(2) of the rule text.

[22] In response to the Commission's specific request for comment on the costs and benefits associated with the proposed rule, one commentator noted that the cost and effort of obtaining a second NRSRO rating might outweigh the benefit derived from eliminating the necessity to file an exemptive application. The commentator did not, however, provide specific figures to illustrate this point.

[23] *See, e.g.*, Securities Act Release No. 4412 (September 20, 1961) [26 FR 9158].

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List of Subjects in 17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule and Form

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended as shown.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 270 is amended by adding the following citations:

Authority: Secs. 38, 40, 54 Stat. 841, 842; 15 U.S.C. 80a-37, 80c-89; The Investment Company Act of 1940, as amended, 15 U.S.C. 80a-1 *et seq.*; unless otherwise noted. * * * § 270.6c-9 is also issued under Secs. 6(c) [15 U.S.C. 80a-6(c)] and 38(a) [15 U.S.C. 80a-37(a)].

2. By adding § 270.6c-9 to read as follows:

§ 270.6c-9 Exemption for the offer or sale of debt securities and non-voting preferred stock in the United States by foreign banks and subsidiaries organized to finance the operations of foreign banks.

(a) A foreign bank or a finance subsidiary of a foreign bank may offer or sell its own debt securities or non-voting preferred stock by the use of the mails or any means or instrumentality of interstate commerce ("offer or sale") without registering as an investment company; *Provided* that:

(1) The debt securities or non-voting preferred stock are registered under the Securities Act of 1933, or offered or sold pursuant to an exemption from the registration requirements thereof;

(2) Any debt securities issued will be direct obligations of the issuer and any non-voting preferred stock issued will be a direct interest in the issuer; and

(3) Form N–6C9 [17 CFR 274.304] and any required amendments thereto shall have been filed with the Commission by:

(i) The foreign bank offering or selling debt securities or non-voting preferred stock in the United States;

(ii) The finance subsidiary of a foreign bank offering or selling debt securities or non-voting preferred stock in the United States, if such finance subsidiary is organized under the laws of a jurisdiction other than the United States or any State; and

(iii) The foreign bank parent unconditionally guaranteeing the payment of principal, interest, and premium on the debt securities, or the payments of dividends, liquidation preferences, and sinking fund payments on the non-voting preferred stock, offered or sold by its finance subsidiary in the United States.

(b) For purposes of this rule:

(1) "Finance subsidiary of a foreign bank" means a foreign bank subsidiary meeting the requirements of paragraph (a) of rule 3a-5 [17 CFR 270.3a-5].

(2) "Foreign bank" means a banking institution incorporated or organized under the laws of a country other than the United States that is:

(i) Regulated as such by that country's government or any agency thereof;

(ii) Engaged substantially in commercial banking activity; and

(iii) Not operated for the purpose of evading the provisions of the Act.

(3) "Engaged substantially in commercial banking activity" means engaged regularly in, and deriving a substantial portion of its business from, extending commercial and other types of credit, and accepting demand and other types of deposits, that are customary for commercial banks in the country in which the head office of the banking institution is located.

(c) For purposes of determining whether a foreign bank subsidiary meets the requirements of paragraph (a) of rule 3a-5:

(1) "Finance subsidiary" means any corporation:

(i) Whose parent company owns all of its securities other than directors' qualifying shares or debt securities or nonvoting preferred stock meeting the applicable requirements of paragraphs (a) (1) through (a) (3) of rule 3a-5; and

(ii) The primary purpose of which is to finance the business operations of its parent company or companies controlled by its parent company.

(2) "Parent company" means a foreign bank.

(3) "Company controlled by a parent company" means any corporation:

(i) That is either a foreign bank or is not consolidated an investment company under section 3(a) or that is excepted or exempted by order from the definition of investment company by section 3(b) or the rules or regulations under section 3(a); and

(ii) All of whose securities other than directors' qualifying shares or debt securities or non-voting preferred stock are owned by a foreign bank.

Subpart D of Part 274 of Chapter II of Title 17 of the Code of Federal Regulations is amended as shown:

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

3. The authority citation for Part 274 is amended by adding the following citations:

Authority: Secs. 6(c), 15 U.S.C. 80a–6(c), 6(e), 15 U.S.C. 80a–6(e); 38(a), 15 U.S.C. 80–37(a) of the Act. * * * § 274.304 is also issued under Secs. 6(c) [15 U.S.C. 80a–6(c)] and 38(a) [15 U.S.C. 80a–37(a)].

4. By adding § 274.304 to read as follows:

§ 274.304 Form N–6C9, appointment of agent for service of process by foreign banks and their finance subsidiaries offering or selling debt securities or non-voting preferred stock in the United States under rule 6c–9 under the Investment Company Act of 1940.

(a) Form N–6C9 shall be filed by an foreign bank relying on rule 6c–9 (§ 270.6c–9 of this chapter) to offer or sell its debt securities or non-voting preferred stock in the United States directly or through a finance subsidiary. Where the finance subsidiary is incorporated or organized under the laws of a jurisdiction other than the United States or any State, the subsidiary must also file the form.

(b) Form N–6C9 shall be filed in duplicate original.

By the Commission.

Jonathan G. Katz,

Secretary.

October 29, 1987.

Note: The following form will not appear in the Code of Federal Regulations.

BILLING CODE 8010-01-M

FORM N-6C9

U.S. Securities and Exchange Commission
Washington, D.C. 20549

OMB APPROVAL
OMB Number: 3235-0344
Expires: Oct. 31, 1989

APPOINTMENT OF AGENT FOR SERVICE OF PROCESS BY FOREIGN BANKS AND THEIR FINANCE SUBSIDIARIES OFFERING OR SELLING DEBT SECURITIES OR NON-VOTING PREFERRED STOCK IN THE UNITED STATES

General Instructions

I. Form N-6C9 shall be filed by any foreign bank relying on rule 6c-9 (§ 270.6c-9 of this chapter) to offer or sell its own debt securities or non-voting preferred stock in the United States directly or through a finance subsidiary. Where the finance subsidiary is incorporated or organized under the laws of a jurisdiction other than the United States or any State, the subsidiary must also file the form.

Rule 6c-9 permits a foreign bank or the bank's subsidiary to offer or sell its own debt securities or non-voting preferred stock in the United States without registering as an investment company under the Investment Company Act of 1940, provided, among other things, that form N-6C9 has been filed with the Commission.

II. Form N-6C9 shall be filed in duplicate original.

1. Name of foreign entity:

Filer is (select one):

☐ a foreign bank offering or selling debt securities or non-voting preferred stock in the United States;

☐ a finance subsidiary of a foreign bank offering or selling debt securities or non-voting preferred stock in the United States; or

☐ a foreign bank parent unconditionally guaranteeing the payment of principal, interest, and premium on the debt securities or the payment of dividends, liquidation preferences, and sinking fund payments on the non-voting preferred stock offered or sold by its finance subsidiary in the United States.

2. This is (select one):

☐ an original filing for the Filer in the capacity indicated above; or

☐ an amended filing for the Filer in the capacity indicated above.

3. The Filer is incorporated or organized under the laws of (Name of the jurisdiction under whose laws the Filer is organized or incorporated)

and has its principal place of business at (Address in full)

4. The Filer designates and appoints, for as long as any of its debt securities or non-voting preferred stock referred to below are outstanding, (Name of Agent):

("Agent") located at (Address in full):

, USA

as the agent of the Filer upon whom process may be served in any action brought against the Filer arising out of or based on the offer or sale of debt securities or non-voting preferred stock in any place subject to the jurisdiction of any State or of the United States.

5. The Filer consents, stipulates and agrees, for as long as any such debt securities or non-voting preferred stock are outstanding, (a) that any such action may be commenced against it by the service of process upon the Agent, which shall be deemed service upon the Filer, and (b) that such service and forwarding of process shall be held by any appropriate court to be as valid and binding as if personal service has been made.

6. The Filer stipulates and agrees, for as long as any such debt securities or non-voting preferred stock are outstanding, to appoint a successor agent for service of process and file an amended form N-6C9 if the Filer discharges the Agent or the Agent is unwilling or unable to continue to accept service on behalf of the Filer.

SEC 2174 (9-87)

The Filer certifies that it has duly caused this power of attorney, consent, stipulation and agreement to be signed on its behalf by the undersigned, thereunto duly authorized, in the

City of _____ Province (or State) of _____

this _____ day of _____ 19 _____ A.D.

Filer: _____ By (Signature and Title)

This statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) _____

(Title) _____

(Date) _____

Instructions:

1. The power of attorney, consent, stipulation and agreement shall be signed by the Filer, its principal executive officer or officers, at least a majority of the board of directors or persons performing similar functions, and its authorized Agent in the United States. Where the Filer is a limited partnership the power of attorney, consent, stipulation and agreement shall be signed by a majority of the board of directors of any corporate general partner signing the power of attorney, consent, stipulation and agreement.

2. The name of each person who signs form N-6C9 shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs form N-6C9. Each copy shall be manually signed by the persons specified in Instruction 1. Where any name is signed pursuant to a board resolution, a certified copy of the resolution shall be filed with each copy of the form. If any name is signed pursuant to a power of attorney, a manually signed copy of each power of attorney shall be filed with each copy of the form.

NOTE: The persons executing this power of attorney, consent, stipulation and agreement should appear before a person authorized to administer acknowledgements in the jurisdiction in which it is executed and acknowledge that they executed it on behalf of the Filer as its free and voluntary act. The acknowledgement should be in the form prescribed by the law of the jurisdiction in which it is executed. The form of acknowledgement suggested below should be used only if consistent with the requirements of the law of such jurisdiction.

The failure of any acknowledgement to meet applicable requirements shall not affect the validity or effect of the foregoing power of attorney, consent, stipulation and agreement.

Province (or State) of _____)

) ss.

County of _____)

I (Name) _____, a (Official position of person administering acknowledgement)

_____, in and for (said County in) the Province (or State) aforesaid, certify that the foregoing named persons personally appeared before me this day, stated that they are the same persons named in this instrument, that they serve in the capacity stated in this instrument, that they are authorized to execute this instrument for the Filer, and that they signed and sealed this instrument for and on behalf of the Filer as its free and voluntary act for the uses and purposes set forth.

Given under my hand and seal this _____ day of _____, 19_____. A.D.

Signature of official: _____

(Seal)

Official position: _____

My Commission (or Office) expires:

(Date)_____

[FR Doc. 87-25507 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 440, and 455

[Docket No. 87N-0312]

Antibiotic Drugs; Sterile Sulbactam Sodium, Sterile Ampicillin Sodium and Sulbactam Sodium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for: (1) Inclusion of accepted standards for a new antibiotic drug, sterile sulbactam sodium, and (2) use of the antibiotic drug in a new dosage form, sterile ampicillin sodium and sulbactam sodium. The manufacturer has supplied sufficient data and information to establish their safety and efficacy.

DATES: Effective November 4, 1987; comments, notice of participation, and request for hearing by December 4, 1987; data, information, and analyses to justify a hearing by January 4, 1988.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, sterile sulbactam sodium, and its use in a new dosage form, sterile ampicillin sodium and sulbactam sodium. The agency has concluded that the data supplied by the manufacturer concerning these antibiotic drugs are adequate to establish their safety and efficacy when used as directed in the labeling and that the regulations should be amended in 21 CFR Parts 430, 440, and 455 to provide for the inclusion of accepted standards for the product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. This final rule, therefore, is effective November 4, 1987. However, interested persons may, on or before December 4, 1987, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file: (1) On or before December 4, 1987, a written notice of participation and request for hearing, and (2) on or before January 4, 1988, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 440

Antibiotics.

21 CFR Part 455

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 430, 440, and 455 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR Part 430 continues to read as follows:

Authority: Secs. 507, 701(a), 59 Stat. 463 as amended, 52 Stat. 1055 (21 U.S.C. 357, 371(a)); 21 CFR 5.10.

2. Part 430 is amended in § 430.4 by adding new paragraph (a)(57) to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(57) *Sulbactam.* Sulbactam is a semisynthetic antibiotic substance produced by the oxidation of the sulfur atom at the 4 position to its dioxide and the deamination at the 6 position of (2*S*,5*R*)-6-amino-3,3-dimethyl-7-oxo-4 thia-1-azabicyclo[3.2.0]heptane-2-carboxylic acid (6-APA).

3. In § 430.5 by adding new paragraphs (a)(90) and (b)(92) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(90) *Sulbactam.* The term "sulbactam master standard" means a specific lot of sulbactam that is designated by the Commissioner as the standard of comparison in determining the potency of the sulbactam working standard.

(b) * * *

(92) *Sulbactam.* The term "sulbactam working standard" means a specific lot of a homogeneous preparation of sulbactam.

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4. In § 430.6 by adding new paragraph (b)(92) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(92) *Sulbactam.* The term "microgram" applied to sulbactam means the sulbactam activity (potency) contained in 1.002 micrograms of the sulbactam master standard.

PART 440—PENICILLIN ANTIBIOTIC DRUGS

5. The authority citation for 21 CFR Part 440 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

6. Part 440 is amended in § 440.9a by revising paragraph (b)(1)(i) and by adding new paragraph (b)(1)(ii)(*d*) to read as follows:

§ 440.9a Sterile ampicillin sodium.

* * * * *

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Sample preparation.* Dissolve an accurately weighed sample in sufficient sterile distilled water to give a stock solution containing 0.1 milligram of ampicillin per milliliter (estimated), for the microbiological agar diffusion assay and in 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), for the iodometric assay or for the hydroxylamine colorimetric assay to give a stock solution of convenient concentration. For the high-performance liquid chromatographic assay (HPLC), transfer an accurately weighed portion of ampicillin, equivalent to about 100 milligrams of anhydrous ampicillin, to a 100-milliliter volumetric flask. Add about 75 milliliters of diluent (prepared as described in paragraph (b)(1)(ii)(*d*)(*1*)(*ii*) of this section), shake and sonicate, if necessary, to achieve complete dissolution. Also, if it is packaged for dispensing, reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container, or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with either sterile distilled water, solution 1, or HPLC diluent to give a stock solution as specified above.

(ii) * * *

(*d*) *HPLC assay.* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 254 nanometers, a 4-millimeter X 5-centimeter guard column containing 40- to 60-micrometer diameter packing material as described for the analytical column, a 4-millimeter X 30-centimeter analytical column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl hydrocarbon bonded silica, and a flow rate of about 2.0 milliliters per minute. Separately inject equal volumes (about 20 microliters) of the working standard preparation and the sample solution into the chromatograph, record the chromatogram, and measure the responses for the major peaks. Reagents, working standard and resolution test solution, system suitability requirements, and calculations are as follows:

(*1*) *Reagents*—(*i*) *Mobile phase.* Prepare a suitably filtered and degassed mixture of water, acetonitrile, 1.0*M* monobasic potassium phosphate, and 1.0*N* acetic acid (909:80:10:1).

(*ii*) *Diluent.* Mix 10 milliliters of 1.0*M* monobasic potassium and 1 milliliter of 1.0*N* acetic acid, dilute with water to make 1,000 milliliters, and mix.

(*2*) *Preparation of working and internal standard solutions*—(*i*) *Working standard solution.* Dissolve a portion of ampicillin working standard, accurately weighed, in the diluent to obtain a solution having a known concentration of about 1 milligram per milliliter. Shake and sonicate, if necessary, to achieve complete dissolution. Use this solution promptly after preparation.

(*ii*) *Resolution test solution.* Dissolve caffeine in working standard solution to obtain a solution containing about 1 milligram per milliliter.

(*3*) *System suitability requirements*—(*i*) *Tailing factor.* The tailing factor (*T*) is satisfactory if it is not more than 1.4 at 5 percent of peak height.

(*ii*) *Resolution.* The resolution (*R*) between the caffeine and the ampicillin peaks is satisfactory if it is not less than 2.0. The relative retention times are about 2.0 for caffeine and 1.0 for ampicillin.

(*iii*) *Coefficient of variation (relative standard deviation).* The coefficient of variation (S_R in percent) of 5 replicate injections is satisfactory if it is not more than 2.0 percent.

If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter. Alternate chromatographic conditions are acceptable provided reproducibility and resolution are comparable to the system. However, the sample preparation described in paragraph (b)(1)(i) of this section should not be changed.

(*4*) *Calculations.* Calculate the micrograms of ampicillin per milligram of sample as follows:

$$\text{Micrograms of ampicillin per milligram} = \frac{A_u \times P_s \times 100}{A_s \times C_u \times (100-m)}$$

where:

A_u = Area of the ampicillin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the ampicillin peak in the chromatogram of the ampicillin working standard;

P_s = Ampicillin activity in the ampicillin working standard solution in micrograms per milliliter;

C_u = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

* * * * *

7. By redesignating § 440.209 as § 440.209a and by adding new §§ 440.209 and 440.209b to read as follows:

§ 440.209 Ampicillin sodium injectable dosage forms.

§ 440.209a [Redesignated from § 440.209]

§ 440.209b Sterile ampicillin sodium and sulbactam sodium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ampicillin sodium and sulbactam sodium is a dry mixture of ampicillin sodium and sulbactam sodium in which the ratio of ampicillin to sulbactam is 2:1. Its ampicillin potency is not less than 563 micrograms of ampicillin per milligram on an anhydrous basis. It contains not less than 280 micrograms of sulbactam per milligram on an anhydrous basis. Its ampicillin sodium content is satisfactory if it contains not less than 90 percent and not more than 115 percent of the number of milligrams of ampicillin that it is represented to contain. Its sulbactam sodium content is satisfactory if it contains not less than 90 percent and not more than 115 percent of the number of milligrams of sulbactam that it is represented to contain. It is sterile. It is nonpyrogenic. Its moisture content is not more than 2.0 percent. The pH of an aqueous solution containing 10 milligrams of ampicillin and 5 milligrams of sulbactam per milliliter is not less than 8.0 and not more than 10.0. It passes the identity test for ampicillin and sulbactam. The ampicillin sodium content conforms to the standards prescribed by § 440.9e(a)(1) of this chapter. The sulbactam content conforms to the standards prescribed by § 455.82a(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The ampicillin sodium used in making the batch for potency, sterility, pyrogens, moisture, pH, crystallinity, and identity.

(B) The sulbactam sodium used in making the batch for potency, sterility, pyrogens, moisture, crystallinity, and identity.

(C) The batch for ampicillin potency, sulbactam potency, sterility, pyrogens, moisture, pH, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(A) The ampicillin sodium used in making the batch: 12 packages, each containing approximately 300 milligrams.

(B) The sulbactam sodium used in making the batch: 12 packages, each containing approximately 300 milligrams.

(C) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: A minimum of 20 immediate containers collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Ampicillin and sulbactam content.* Proceed as directed in § 436.216 of this chapter, operating isothermally at 25 °C, using an ultraviolet detection system operating at a wavelength of 230 nanometers, a column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl hydrocarbon bonded silica, a flow rate of 2.0 milliliters per minute, and a known injection volume of 10 microliters. Reagents, working standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Reagents*—(A) *1.0M Phosphoric acid.* Prepare by diluting 67.5 milliliters of reagent grade phosphoric acid (85 percent) in distilled water to 1 liter.

(B) *0.005M Tetrabutylammonium hydroxide.* Dilute 6.6 milliliters of tetrabutylammonium hydroxide (40 percent) to 1,800 milliliters with distilled water. Adjust the pH to 5.0 with 1.0*M* phosphoric acid and dilute with distilled water to 2 liters.

(C) *Mobile phase.* Mix 350 milliliters of acetonitrile with 1,650 milliliters of 0.005*M* tetrabutylammonium hydroxide. Filter and degas the mobile phase just prior to its introduction into the chromatograph pumping system. (Slight adjustments in pH and/or acetonitrile content may be made to achieve the system suitability parameters defined in paragraph (b)(1)(iii) of this section.)

(ii) *Preparation of working standard and sample solutions*—(A) *Working standard solution.* Accurately weigh a portion of the ampicillin working standard containing the equivalence of approximately 75 milligrams of ampicillin activity and transfer into a 25-milliliter volumetric flask. Accurately weigh a portion of the sulbactam working standard containing 35 milligrams of sulbactam and transfer into the 25-milliliter volumetric flask containing the ampicillin. Dissolve and dilute to volume with mobile phase. Further dilute 5 milliliters to 25 milliliters with mobile phase.

(B) *Sample solution.* Dissolve an accurately weighed sample in sufficient mobile phase to give a stock solution containing 1 milligram of sample per milliliter (estimated); and, also, if it is packaged for dispensing, reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container, or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with mobile phase to yield a solution containing about 0.30 milligram sulbactam and about 0.60 milligram ampicillin per milliliter.

(iii) *System suitability requirements*—(A) *Tailing factor.* The tailing factor (*T*) is satisfactory if it is not more than 1.5 at 10 percent of peak height in lieu of 5 percent of peak height.

(B) *Efficiency of the column.* The efficiency of the column (*n*) is satisfactory if it is greater than 5,000 theoretical plates for sulbactam for a 30-centimeter column.

(C) *Resolution.* Dissolve 17.5 milligrams of sulbactam in 50 milliliters of 0.01*N* sodium hydroxide and let stand for 30 minutes. Adjust the pH of the solution to 5.0 with concentrated phosphoric acid. Transfer a 5-milliliter aliquot of the resulting solution to a 25-milliliter volumetric flask, add 4.25 milliliters of acetonitrile, and dilute to volume with 0.005*M* tetrabutylammonium hydroxide as described in paragraph (b)(1)(i)(B) of this section. Transfer 2 milliliters of this solution to a 50-milliliter flask, add 30 milligrams of ampicillin potency, dissolve and dilute to volume with mobile phase. Use this solution to determine the resolution factor. The resolution (*R*) between the peaks for ampicillin and sulbactam alkaline degradation product is satisfactory if it is not less than 4.0.

(D) *Coefficient of variation (relative standard deviation).* The coefficient of variation (S_R in percent) of 5 replicate injections is satisfactory if it is not more than 2.0 percent.

If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter. Alternate chromatographic conditions are acceptable provided reproducibility and resolution are comparable to the system. However, the sample preparation described in paragraph (b)(1)(ii)(*b*) of this section should not be changed.

(iv) *Calculations.* (A) Calculate the micrograms of ampicillin or sulbactam per milligram of sample as follows:

$$\text{Micrograms of ampicillin or sulbactam per milligram} = \frac{A_u \times P_s \times 100}{A_s \times C_u \times (100-m)}$$

where:

A_u = Area of the ampicillin or sulbactam peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the ampicillin or sulbactam peak in the chromatogram of the ampicillin or sulbactam working standard;

P_s = Ampicillin or sulbactam activity in the ampicillin-sulbactam working standard solution in micrograms per milliliter;

C_u = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(B) Calculate the ampicillin or sulbactam content of the container as follows:

$$\text{Milligrams of ampicillin or sulbactam per container} = \frac{A_u \times P_s \times d}{A_s \times 1.000}$$

where:

A_u = Area of the ampicillin or sulbactam peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the ampicillin or sulbactam peak in the chromatogram of the ampicillin or sulbactam working standard;

P_s = Ampicillin or sulbactam activity in the ampicillin-sulbactam working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a

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solution containing 20 milligrams of sulbactam and 40 milligrams of ampicillin per milliliter.

(4) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams of ampicillin and 5 milligrams of sulbactam per milliliter.

(6) *Identity.* The high-performance liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the ampicillin-sulbactam working standard.

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

8. The authority citation for 21 CFR Part 455 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

9. Part 455 is amended by adding new § 455.82a to read as follows:

§ 455.82a Sterile sulbactam sodium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sterile sulbactam sodium is sodium (2*S*,5*R*)-3,3-dimethyl-7-oxo-4-thia-1-azabicyclo[3.2.0]heptane-2-carboxylate 4,4 dioxide. It is so purified and dried that:

(i) Its sulbactam potency is not less than 866 micrograms and not more than 941 micrograms per milligram on an anhydrous basis.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) Its moisture content is not more than 1 percent.

(v) It is crystalline.

(vi) It passes the identity test for sulbactam sodium.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, moisture, crystallinity, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics: 30 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 230 nanometers, a column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl hydrocarbon bonded silica, a flow rate of 2.0 milliliters per minute, and a known injection volume of 10 microliters. Reagents, working standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Reagents*—(A) *1.0M Phosphoric acid.* Prepare by dissolving 67.5 milliliters of reagent grade phosphoric acid (85 percent) in distilled water and dilute to 1 liter.

(B) *0.005M Tetrabutylammonim hydroxide.* Dilute 6.6 milliliters of tetrabutylammonium hydroxide (40 percent) to 1,800 milliliters with distilled water. Adjust the pH to 5.0 with 1.0*M* phosphoric acid and dilute with distilled water to 2 liters.

(C) *Mobile phase.* Mix 350 milliliters of acetonitrile with 1,650 milliliters of 0.005*M* tetrabutylammonium hydroxide. Filter and degas the mobile phase just prior to its introduction into the chromatographic pumping system. (Slight adjustments in pH and/or acetonitrile content may be made to achieve the system suitability parameters defined in paragraph (b)(1)(iii) of this section.)

(ii) *Preparation of working standard and sample solutions*—(A) *Working standard solution.* Dissolve an accurately weighed portion of sulbactam working standard in sufficient mobile phase to give a stock solution of a known concentration containing about 1 milligram of sulbactam per milliliter.

(B) *Sample solution.* Dissolve an accurately weighed portion of the sample in sufficient mobile phase to give a stock solution containing 1 milligram of sulbactam per milliliter (estimated).

(iii) *System suitability requirements*—(A) *Tailing factor.* The tailing factor (*T*) is satisfactory if it is not more than 1.5 at 10 percent of peak height in lieu of 5 percent of peak height.

(B) *Efficiency of the column.* The efficiency of the column (*n*) is satisfactory for sulbactam if it is greater than 4,000 theoretical plates for a 30-centimeter column.

(C) *Resolution.* The resolution (*R*) between the peaks for sulbactam and penicillanic acid is satisfactory if it is not less than 3.8.

(D) *Coefficient of variation (relative standard deviation).* The coefficient of variation (S_R percent) of 5 replicate injections is satisfactory if it is not more than 2.0 percent.

If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter. Alternate chromatographic conditions are acceptable provided reproducibility and resolution are comparable to the system. However, the sample preparation described in paragraph (b)(1)(ii)(B) of this section should not be changed.

(iv) *Calculations.* Calculate the micrograms of sulbactam per milligram of sample as follows:

$$\text{Micrograms of sulbactam per milligram} = \frac{A_u \times P_s \times 100}{AG5a \times C_u \times (100-m)}$$

where:

A_u = Area of the sulbactam peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the sulbactam peak in the chromatogram of the sulbactam working standard;

P_s = Sulbactam activity in the sulbactam working standard solution in micrograms per milliliter;

C_u = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 20 milligrams of sulbactam per milliliter.

(4) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(5) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(6) *Identity.* The high-performance liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the sulbactam working standard.

Dated: October 23, 1987.

Daniel L. Michels,

Director, Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 87-25478 Filed 11-3-87; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300168; FRL-3284-1]

Revocation of Certain Interim Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule removes from the listing of interim tolerances the names of two pesticide chemicals and the commodities listed for each of these pesticides. EPA is removing these interim tolerances because permanent tolerances have been established.

EFFECTIVE DATE: November 4, 1987.

ADDRESS: Written objections, identified by the document control number [OPP-300168], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Patricia Critchlow, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703)-557-1806.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 23, 1972 (37 FR 16937), EPA issued permanent tolerances for dipropyl isocinchomeronate (40 CFR 180.143) in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 part per million (ppm) and in milk at 0.004 ppm. In the Federal Register of May 21, 1973 (38 FR 13375), EPA issued permanent tolerances for nicotine (40 CFR 180.167a) in eggs and the meat, fat, and meat byproducts of poultry at 1 ppm. Previously, interim tolerances (40 CFR 180.319) had been established for these pesticide chemicals on the named commodities until such time as action could be completed on pending petitions to establish permanent tolerances. Since the permanent tolerances have been established, the interim tolerances are no longer needed and should be removed.

Therefore, EPA is removing the interim tolerances for isopropyl isocinchomeronate and nicotine.

This action has not been subjected to proposed rulemaking or public comment since amending the regulation results only in removal of duplicate entries.

This final rule has been reviewed under Executive Order 12291 and has been determined to be a "nonmajor" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act, it has been determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 22, 1987.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

§ 180.319 [Amended]

2. By amending § 180.319 *Interim tolerances* by removing the entries for "Dipropyl isocinchomeronate" and "Nicotine" from the alphabetical listings therein.

[FR Doc. 87-25035 Filed 11-3-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4F3115, 4F3116, 4F3117/R916; FRL-3284-3]

Oxyfluorfen; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide oxyfluorfen in or on the raw agricultural commodities (RACs) avocados, dates, kiwifruit, olives, pome fruits group, pomegranates, and stone fruits group. This regulation to establish a maximum permissible level for residues of oxyfluorfen in or on the RACs was requested by Rohm & Haas Co.

EFFECTIVE DATE: Effective November 4, 1987.

ADDRESS: Written objections, identified by the document control number [PP 4F3115, PP4F3116, PP4F3117/R916], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1830.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of May 13, 1987 (52 FR 18019), which announced that Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, had submitted pesticide petitions (PP 4F3115, 4F3116, and 4F3117 to EPA proposing to amend 40 CFR 180.318 by establishing a tolerance for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the dipenyl ether linkage in or on the RACs pome fruits crop group, stone fruits group, avocados, dates, kiwis, olives, and pomegranates at 0.05 part per million (ppm).

Rohm & Haas subsequently amended the petitions to specify the total residues of the herbicide oxyflurofen and its metabolites containing the diphenyl ether linkage.

No comments were received in response to the notice of filing.

The data submitted in the petitions and other relevant material have been evaluated. The toxicology data considered in support of the tolerance include:

1. A 20-month mouse feeding study (chronic feeding/oncogenicity) with no-observed-effect level of 2 ppm (0.3 milligram (mg) per kilogram (kg) of body weight (bw)) and a lowest effect level of 20 ppm (increased absolute liver weight and nonneoplastic histological lesions). The Cancer Assessment Group (CAG) was asked to evaluate the oncogenic potential of oxyfluorfen. CAG stated that both the rat and the mouse chronic studies did not use the maximum tolerated dose (MTD). The Agency requested that 90-day mouse and rat studies be performed as an estimate to determine the MTD. Subsequently, it was determined that toxicological concerns were not considered sufficient to regulate oxyflurofen as an oncogen, and oxyfluorfen received unconditional registration by the Agency.

2. A 2-year dog feeding study with a NOEL of 100 ppm (equivalent to 2.5 mg/kg/day).

3. A rat oral lethal dose LD50 greater than 5.0 grams/kg.

4. A rat cytogenetic test (purified oxyfluorfen), negative; two Ames assays (technical), positive; an Ames assay (purified oxyfluorfen), negative; an Ames assay (polar fraction), positive; and Unscheduled DNA Synthesis Assays (technical and polar fraction), both negative.

5. A rabbit teratology study with no observed teratogenic effect at 30 mg/kg and a developmental toxicity NOEL of 10 mg/kg.

6. A rat teratology study with no observed terata at 1,000 mg/kg/ of bw (highest dose tested) and a developmental toxicity NOEL of 100 mg/kg.

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7. A three-generation rat reproduction study with a NOEL of 10 ppm (0.5 mg/kg of bw).

8. A 2-year rat chronic feeding/oncogenicity study with a NOEL of 40 ppm (2.0 mg/kg of bw) and no oncogenic potential observed at the levels tested (2, 40, and 800 ppm, raised to 1,600 ppm at week 57 of the test).

The acceptable daily intake (ADI), based on the chronic mouse feeding study NOEL of 0.3 mg/kg/day and using a hundred-fold safety factor, is calculated to be 0.003 mg/kg of bw/day. The maximum permitted intake for a 60-kg human is calculated to be 0.18 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0394 mg/day; the current action will increase the TMRC by 0.00222 mg/day (5.63 percent). Published tolerances utilize 21.91 percent of the ADI: the current action will utilize an additional 1.22 percent to total 23.13 percent.

There are no regulatory actions pending against this pesticide. Oxyfluorfen was the subject of a Rebuttable Presumption Against Registration process and a Notice of Determination that was published in the Federal Register of June 23, 1982 (47 FR 27118).

One of the solvents used in the production of technical oxyfluorfen, perchloroethylene (PCE), has been shown to produce liver tumors in mice. The Agency has concluded that potential benefits from use of oxyfluorfen outweigh risks from PCE, provided oxyfluorfen products are produced with no more than 200 ppm PCE contaminant. The producer of oxyfluorfen has verified that oxyfluorfen formulations contain a maximum of 200 ppm PCE.

The pesticide is considered useful for the purpose for which the tolerance is sought. The metabolism of the pesticide is adequately understood for the proposed uses and an adequate analytical method, gas chromatography, is available for enforcement purposes.

Because of the long lead-time from establishing this tolerance to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: William Grosse, Chief, Information Service Branch (TS-767C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 223, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Established tolerances are adequate to cover any secondary residue in meat, milk, and eggs.

Based on the information cited above, the Agency has determined that the establishment of the tolerance for residues of the pesticide in or on the RACs will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 22, 1987.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.381(a) is amended by adding, and alphabetically inserting, the raw agricultural commodities avocados, dates, kiwifruit, olives, pome fruits group, pomegranates, and stone fruits group and removing the raw agricultural commodities cherries, pears, and stone fruits (apricots, nectarines, peaches, plums (fresh prunes)), to read as follows:

§ 180.381 Oxyfluorfen; tolerances for residues.

(a) * * *

Commodities	Parts per million
Avocados	0.05
Dates	0.05
Kiwifruit	0.05
Olives	0.05
Pome fruits group	0.05
Pomegranates	0.05
Stone fruits group	0.05

[FR Doc. 87-25036 Filed 11-3-87; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 201-38

[FIRMR Amdt. 11]

Amendment of the Federal Information Resources Management Regulation (FIRMR) To Clarify the Policy Regarding Authorized Use of Government Telephone Systems

AGENCY: Information Resources Management Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation changes FIRMR provisions regarding permissible and impermissible long distance calls on Government telephone systems by furnishing examples of permissible official business calls and by providing Governmentwide standards to be applied when collecting money from persons making unauthorized use of Government telephone systems. Audits of telephone use have disclosed real abuse; however, narrow interpretations of what constitutes an official call have undermined efforts to eliminate abuse, and are not congruent with good management practice. The intent is to authorize Federal agencies to permit Federal employees to make reasonable use of Government telephone systems and at the same time, to guard against abuse of telephone use.

EFFECTIVE DATE: This rule is effective January 4, 1988, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: John J. Landers, Information Resources Management Service, telephone (202) 535-7425 or FTS, 535-7425.

SUPPLEMENTARY INFORMATION: (1) On March 27, 1987, GSA published a notice of proposed rulemaking. It invited public and agency comment. GSA received comments from 26 organizations or individuals from 3 identifiable categories of commentator:

Federal Agencies	13
Employee representatives	5
Federal employees	8

All but one of the commentators supported the action GSA was proposing and almost all made suggestions to improve the clarity of the regulation.

(2) Section 201-38.007 is retitled and revised to furnish clearer policy regarding the use of Government telephone systems. Several commentators remarked that the use of "Federal telecommunications systems" might be confused with "Federal Telecommunications System." Since the intent was to apply the regulation broadly, the language has been changed to "Government telephone systems."

One commentator was concerned that the proposal only dealt with long distance telephone use by employees and not by contractors. A change has been made in § 201-38.007-6 to remind agencies that they should consider how to apply their implementing instructions to contractor-operated activities. The other changes are explained in the following paragraphs.

(a) Section 201-38.007 is restated to clarify what constitutes an official business call.

Commentators in general welcomed the clarification of policy on official calls in relation to the setting of reasonable bounds consistent with both sound personnel relations and the management of Government resources. The policy was perceived as a positive step in relation to management efforts to deal with waste and abuse in the use of Government telephone systems.

(b) Section 201-38.007-1 furnishes examples of permissible official business calls.

One commentator said that example (1) appeared to place a limit of one call in the event of an employee injured on the job when, in fact, calls to physicians, family, car-pool members, and others might be necessary. The language has been modified to make it clear that more than one call may be appropriate.

Several commentators said that the restriction in example (3) limiting calls by traveling Federal employees to Federal Telecommunications System (FTS) calls was inequitable and should be removed. The example has been modified to remove the restriction but to apply the example only to travel within the United States, only to trips of more than one night, and to establish a limit on the total number of calls.

Some commentators thought that the use of "local commuting area" in examples (5) and (6) meant that such calls were limited to local calls. Since this was not the intent, the language has been modified to make it clearer. Similar language has been added to example (4).

Several of the employee representatives commented that it was not clear in example (7) whether the provision was talking about representative use of Government telephone systems for labor-management relations purposes or about employee use of the systems. Since the intent was to cover both, the language has been left without any modifiers.

One commentator said that the language in example (7) should be changed slightly so that it would conform to 5 U.S.C. 7116. That change has been made. Example (7) has been replaced by § 201-38.007-1(b)(4).

Several commentators suggested adding an example of an emergency call to arrange for such things as home or automobile repair. A new example (7) has been included.

(c) Section 201-38.007-2 cautions against abuse by employees.

(d) Section 201-38.007-3 furnishes guidance on prohibited calls.

One commentator said that the proposed language would not protect employees against penalties for inadvertent violations. "Willful" has been added to deal with this point.

One commentator asked that citations be included. This has been done.

One commentator said that (b) was not needed because there were other ways to deal with employees who are using telecommunications systems properly but not as efficiently as the agency would prefer. Had this been the purpose of this section we would agree with the comment. However, the purpose was to emphasize that the agency business must not be significantly interfered with by employees making the kinds of calls permitted by § 201-38.007-1 (b) and (d). The language has been changed to make this clearer.

(e) Section 201-38.007-4 states the policy regarding collecting money from persons making unauthorized long distance calls.

Some commentators suggested that additional guidance be given on calculating the administrative costs. Since the issue seems reasonably straightforward, e.g., add up the salary and other costs involved in reviewing the long-distance call data and divide by the number of employees in the agency, GSA does not plan to issue additional guidance.

(f) Section 201-38.007-5 calls agencies attention to Office of Management and Budget (OMB) guidance on the Privacy Act as it relates to call detail records.

(g) Section 201-38.007-6 sets forth agency responsibilities. One commentator was concerned that the increased uses of Government telephone systems permitted by this regulation could lead to substantial increases in variety, capability, and cost of agency telephone systems. A sentence has been added to make it clear that the regulation envisions employee use of telephones and services already installed and does not encourage agencies to install additional telephones or to increase levels of service on existing telephones merely to accommodate circumstances for employee calls authorized by this regulation.

(h) Section 201-38.007-7 authorizes delegations of authority within agencies.

(3) The General Services Administration has determined that this is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This Governmentwide management regulation will have little or no cost effect on society. Therefore, the rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 41 CFR Part 201-38

Government property management, Government procurement, Telecommunications, Information resources activities, Federal Telecommunications System.

PART 201-38—MANAGEMENT OF TELECOMMUNICATIONS RESOURCES

1. The table of contents for Part 201-38 is amended by revising and adding the following entries and revising the authority citation for the part to read as follows:

Sec.

201-38.007 Policies on the use of telecommunications services.
201-38.007-1 Authorized use of Government telephone systems.
201-38.007-2 Abuse by employees.
201-38.007-3 Prohibitions.
201-38.007-4 Collections.
201-38.007-5 Privacy Act considerations.
201-38.007-6 Agency responsibilities.
201-38.007-7 Delegation of authority.

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Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Sec. 101(f), 100 Stat. 2128; 40 U.S.C. 751(f).

2. Section 201–38.007 is revised and §§ 201–38.007–1 through 201–38.007–7 are added to read as follows:

§ 201–38.007 Policies on use of telecommunications services.

The Federal Telecommunications System (FTS) intercity network and other Government-provided long distance telephone services are to be used only to conduct official business; i.e., if the call is necessary in the interest of the Government. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 926, Title 31 U.S.C. 1348(b).) These networks are to be used for placement of calls instead of the commercial toll network to the maximum extent practicable. All Government telephone systems represent resources; accordingly, their use must be managed just as any other resource. Supervisors are responsible for the proper management of telephone usage within their jurisdiction. (Note.—See the FIRMR bulletin series for guidance on the management of long-distance telephone services.)

§ 201–38.007–1 Authorized use of Government telephone systems.

(a) The use of Government telephone systems (including calls over commercial systems which will be paid for by the Government) shall be limited to the conduct of official business. Such official business calls may include emergency calls and calls which the agency determines are necessary in the interest of the Government. No other calls may be placed (except in circumstances identified in paragraphs (b) and (d) of this § 201–38.007–1), even if the employee's intention is to reimburse the Government for the cost of the call.

(b) Use of Government telephone systems may properly be authorized as being necessary in the interest of the Government if such use satisfies the following criteria:

(1) It does not adversely affect the performance of official duties by the employee or the employee's organization,

(2) It is of reasonable duration and frequency, and

(3) It reasonably could not have been made at another time, or

(4) It is provided for in a collective bargaining agreement that is consistent with these regulations, or executed before the effective date of these regulations but continuing only until the term of the agreement expires.

(c) Examples of circumstances that may constitute authorized use, when consistent with these criteria, are set forth in the chart entitled "Examples of Use of Government Telephone Systems That May Be Authorized Provided They Are Consistent With § 201–38.007–1(b)" appearing at the end of this § 201–38.007–1.

(d) Personal calls that must be made during working hours may be made over the commercial long distance network if the call is consistent with the criteria in § 201–38.007–1(b) and is—

(1) Charged to the employee's home phone number or other non-Government number (third number call),

(2) Made to an 800 toll-free number,

(3) Charged to the called party if a non-Government number (collect call), or

(4) Charged to a personal telephone credit card.

CHART

Examples of Use of Government Telephone Systems That May Be Authorized Provided They Are Consistent With § 201–38.007–1(b)

(1) Calls to notify family, doctor, etc., when an employee is injured on the job.

(2) An employee traveling on Government business is delayed due to official business or transportation delay, and calls to notify family of a schedule change.

(3) An employee traveling for more than one night on Government business in the U.S. makes a brief call to his or her residence (but not more than an average of one call per day).

(4) An employee is required to work overtime without advance notice and calls within the local commuting area (the area from which the employee regularly commutes) to advise his or her family of the change in schedule or to make alternate transportation or child care arrangements.

(5) An employee makes a brief daily call to locations within the local commuting area to speak to spouse or minor children (or those responsible for them, e.g., school or day-care center) to see how they are.

(6) An employee makes brief calls to locations within the local commuting area that can be reached only during working hours, such as a local government agency or physician.

(7) An employee makes brief calls to locations within the local commuting area to arrange for emergency repairs to his or her residence or automobile.

§ 201–38.007–2 Abuse by employees.

Employees should be particularly sensitive to the use of Government telephone facilities under the conditions outlined in § 201–38.007–1. If possible, such calls should be made during lunch, break, or other off-duty periods. Abuse of Government telephone systems, including abuse of the privileges in § 201–38.007–1, may result in disciplinary action in accordance with applicable agency guidelines.

§ 201–38.007–3 Prohibitions.

The practices set forth in this § 201–38.007–3 are prohibited. A willful violation may result in criminal, civil or administrative action, including suspension or dismissal. (See 5 CFR 735.205.)

(a) Use of the following services, equipment, or facilities for other than official business, except emergency calls, and calls which the agency determines are necessary in the interest of the Government as provided in § 201–38.007–1:

(1) Federal Telecommunications System (FTS);

(2) Government-provided long distance telephone service, other than FTS; or

(3) A commercial network where the Government pays for the call.

(b) Use of any Government-provided telephone service, equipment or facility for calls permitted by § 201–38.007–1 (b) and (d) that significantly interferes with the conduct of Government business.

(c) Making an unauthorized telephone call with the intent to later reimburse the Government.

(d) Listening-in or recording of telephone conversations except as specified by Subpart 201–6.2.

(e) Use of telephone call detail data in other than an authorized fashion. (See § 201–38.007–5.)

§ 201–38.007–4 Collections.

(a) Agencies should collect for any unauthorized calls made by an employee or other person where it is cost-effective to do so. Each call will be valued and collection made in accordance with paragraph (b) of this § 201–38.007–4, as implemented by the agency. Reimbursing the Government for unauthorized calls does not exempt an employee from appropriate administrative, civil, or criminal action.

(b) Agency collections shall be composed of two parts:

(1) The value of the call based on commercial long-distance rates rounded to the nearest dollar, and

(2) An amount rounded to the nearest dollar to cover the agencies' administrative costs, for example, to determine that the call was unauthorized and to process the collection.

(c) Agencies should determine the appropriate account for depositing the monies collected.

§ 201–38.007–5 Privacy Act considerations.

Agencies shall be familiar with the Office of Management and Budget (OMB) "Guidance on the Privacy Act Implications of 'Call Detail' Programs to Manage Employees' Use of the Government's Telecommunications Systems" (52 FR 12990, April 20, 1987).

§ 201–38.007–6 Agency responsibilities.

Agencies shall issue directives consistent with §§ 201–38.007 through 201–38.007–5 governing the use of their telephone facilities and services. Agencies with contractor-operated facilities should consider how to apply the implementing directives to those activities. Such directives specifically shall provide for the further definition of calls necessary in the interest of the Government as used in § 201–38.007–1 and shall include procedures for collections. Agencies should not install additional telephones or increase levels of service on existing telephones merely to accommodate circumstances for calls that may constitute authorized use as identified in the chart, "Examples of Use of Government Telephone Systems That May Be Authorized Provided They Are Consistent With § 201–38.007–1(b)" or other circumstances for calls as defined in agency implementing directives.

§ 201–38.007–7 Delegation of authority.

The head of each agency may designate subordinates to determine and certify what constitutes a call necessary in the interest of the Government.

Dated: October 27, 1987.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87–25496 Filed 11–2–87; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF JUSTICE

48 CFR Part 2806

[Justice Acquisition Circular 87–2]

Amendment to the Justice Acquisition Regulation (JAR) Concerning Competition Advocacy

AGENCY: Justice Management Division, Office of the Procurement Executive, Justice.

ACTION: Final rule.

SUMMARY: The Justice Acquisition Regulation, Part 2806 is amended to serve notice that the agency competition advocate function has been moved from the Office of the Procurement Executive to the Office of Personnel and Administration. The purpose of this transfer is to assure the independence of the competition advocate in accordance with the intent of the Competition in Contracting Act of 1984 (Pub. L. 98–369).

EFFECTIVE DATE: August 24, 1987.

FOR FURTHER INFORMATION CONTACT: W.L. Vann, Procurement Executive, Office of the Procurement Executive, (202) 272–8354.

SUPPLEMENTARY INFORMATION: This amendment to the JAR was not published for public comment because it does not have an effect beyond the internal operating procedures of the agency. The Director, Office of Management and Budget (OMB) by memorandum dated December 14, 1987 exempted procurement regulations from review under Executive Order 12291 except for selected areas. The Department's original implementation of the Competition Advocate concept was reviewed by OMB. This amendment will not change the function or role of the agency competition advocate and the Department has been advised that review is not required. The Department of Justice certifies that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, et seq.).

List of Subjects in 48 CFR Part 2806

Government procurement.

Harry H. Flickinger,

Assistant Attorney General for Administration.

PART 2806—COMPETITION REQUIREMENTS

1. The authority citation for 48 CFR Part 2806 continues to read as follows:

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

Subpart 2806.5—Competition Advocates

2. Section 2806.501, paragraph (a) is revised as follows:

§ 2806.501 [Amended]

* * * * *

(a) The competition advocate for DOJ will be located in the Office of the Deputy Assistant Attorney General, Office of Personnel and Administration.

* * * * *

[FR Doc. 87–25491 Filed 11–3–87; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 70990–7190]

Atlantic Swordfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; notice of OMB control number extension.

SUMMARY: This rule extends the effectiveness of certain mandatory reporting requirements prescribed in the Fishery Management Plan for the Atlantic Swordfish Fishery (FMP). The Office of Management and Budget (OMB) has approved continued collection of information requirements for daily and trip records of persons issued a fishery permit in this fishery. The intent is to continue collection of information for purposes of fishery management.

EFFECTIVE DATE: Section 630.5 (b) and (c) continues effective until October 31, 1988.

FOR FURTHER INFORMATION CONTACT: Donna D. Turgeon (Fishery Management Officer), 202–673–5315.

SUPPLEMENTARY INFORMATION: The regulations at 50 CFR Part 630 implementing the FMP require at § 630.5 (b) and (c) that vessel owners or operators who are permitted to fish for or land swordfish with gear other than rod and reel in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea and who are selected to report must (1) advise in advance the Center Director, Southeast Fisheries Center, NMFS, of their intended departure and expected return from each fishing trip, and (2) maintain a daily fishing record on forms provided by the Center Director and submit these forms to the Center Director monthly. These requirements were implemented by a final rule (51 FR 20297, June 4, 1986) and approved by OMB (51 FR 28575, August 8, 1986) under OMB Control Number 0648–0016 until October 31, 1987. The intention was to collect a year's worth of baseline data for this fishery. These requirements have now been extended under OMB Control Number 0648–0016, and the baseline requirements have now been extended for an additional year.

List of Subjects in 50 CFR Part 630

Fisheries, Fishing.

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Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3510–3520 (1982).

Carmen J. Blondin,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87–25575 Filed 11–2–87; 9:18 am]

BILLING CODE 3510–22–M

50 CFR Part 642

[Docket No. 70605–7141]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes the commercial fishery in the exclusive economic zone (EEZ) for king mackerel from the Gulf migratory group in the western zone. The Acting Director, Southeast Region, NMFS (Regional Director), has determined that the commercial quota of 0.22 million pounds for the western zone will be reached on November 1, 1987. This closure will ensure that the annual commercial quota of king mackerel for this zone is not exceeded.

EFFECTIVE DATE: Closure is effective at 0001 hours, local time, November 2, 1987, until 2400 hours, local time, June 30, 1988.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP), as amended, was developed by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act, and is implemented by regulations at 50 CFR Part 642. Amendment 1 to the FMP, which went into effect on September 22, 1985 (50 CFR 34840, August 28, 1985), established separate allocations for the Gulf and Atlantic migratory groups of king mackerel. Regulations effective June 30, 1987, implemented catch limits recommended by the Councils for the Gulf migratory group for the fishing year (July 1, 1987, through June 30, 1988). Those regulations set the commercial allocation at 0.7 million pounds, divided into quotas of 0.48 million pounds for the eastern zone and 0.22 million pounds for the western zone (52 FR 25012, July 2, 1987; corrected at 52 FR 33594, September 4, 1987). The boundary between the eastern and western zones is a line extending directly south from the Florida/Alabama boundary (87°31'06" W. longitude) to the outer limit of the EEZ.

The Secretary is required under § 642.22 to close any segment of the king mackerel fishery when its allocation or quota has been reached or is projected to be reached by publishing a notice in the **Federal Register**. The Regional Director has determined that the quota of 0.22 million pounds for the western zone of the Gulf migratory group of king mackerel will be reached on November 1, 1987. Hence, the commercial fishery for Gulf migratory group king mackerel from the western zone is closed effective 0001 hours, local time, November 2, 1987. The closure will remain in effect through June 30, 1988, the end of the fishing year.

Except for a person on a charter vessel, during the period of the closure, no person aboard a vessel permitted to fish under a commerical allocation may fish for, retain, or have in possession in the EEZ king mackerel from the western zone. A person aboard a charter vessel may continue to fish for king mackerel in the western zone under the recreational bag limit set forth in § 642.28(a)(1), provided the vessel is under charter, i.e., there are more than three persons aboard including captain and crew. During the closure, king mackerel taken from the western zone of the EEZ, including those harvested under the recreational bag limit, may not be purchased, bartered, traded, or sold. This prohibition does not apply to trade in king mackerel harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

Other Matters

This action is required by 50 CFR 642.22(a) and complies with E.O. 12291.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 30, 1987.

Carmen J. Blondin,

Acting Assistant Administrator, for Fisheries, National Marine Fisheries Service.

[FR Doc. 87–25503 Filed 10–30–87; 1:03 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 52, No. 213
Wednesday, November 4, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 59

Egg Solids Requirement of Egg Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to lower the minimum total egg solids requirement for egg products identified as whole eggs which have been prepared other than in natural proportions from 24.70 to 24.20 percent. The change is proposed based on the results of a recent nationwide study of natural whole egg solids values. This action would bring the existing solids requirement for whole eggs produced in other than natural proportions in line with the current value for naturally produced whole eggs.

DATES: Comments must be received on or before January 4, 1988.

ADDRESS: Written comments may be mailed to D.M. Holbrook, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3944–S, P.O. Box 96456, Washington, DC 20090–6456. (For further information regarding comments, see "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Howard M. Magwire, Assistant Chief, Grading Branch, 202–447–3272.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

An initial determination has been made that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This proposed regulation has been reviewed for cost effectiveness under U.S. Department of Agriculture (USDA) Secretary's procedures established in Departmental Regulation 1512–1 implementing Executive Order 12291. The proposal would revise the solids content requirement for whole eggs prepared other than in natural proportions to more closely approximate the solids content of naturally produced whole eggs.

Effect on Small Entities

The Administrator of AMS has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the revision would reflect current production practices of the egg products industry.

Comments

Interested persons are invited to submit written comments concerning these proposed revisions. Comments must be sent in duplicate to the Standardization Branch and should bear a reference to the date and page number of this issue of the Federal Register. Comments submitted on these proposed revisions will be made available for public inspection in the Washington, DC, Standardization Branch office during regular business hours.

Background

When egg products plants break and separate shell eggs, they produce whites, yolks, and a mixture of whites and yolks. The mixture of whites and yolks is eligible to be labeled and identified as whole eggs provided that the total egg solids content is adjusted to 24.70 percent or greater. This solids content requirement is based on the solids content found in naturally produced whole eggs.

Over the years, AMS has observed a gradual trend toward lower whole egg solids values in naturally produced whole eggs. Due to this trend, the Agency continually monitors test data covering the solids content of naturally produced whole eggs and periodically has conducted comprehensive studies designed to determine the effect of current production and industry practices and other factors on this value. Results over the past few years and two small preliminary studies have substantiated this trend. Because of this and the fact that the present value of 24.70 percent was based on a 1967 study, AMS conducted a comprehensive investigation from March 1986 to March 1987 to determine a current value.

The nationwide whole egg solids study represented various locations, production volumes, and breaking methods. In total 1,305 samples from 27 locations representing 175.6 million pounds of liquid egg production were selected during a 12-month period. After thorough statistical analysis, the data showed that the solids content of naturally produced whole eggs, based on samples derived from a total production of 175.6 million pounds of eggs, was 24.20 percent.

Proposed Revisions

AMS is proposing to revise the Regulations Governing the Inspection of Eggs and Egg Products in 7 CFR Part 59 to lower the total egg solids content percentage of egg products identified as whole eggs which have been prepared other than in natural proportions. The revision will correlate the solids content of naturally produced whole eggs with the solids content of whole eggs which have been prepared other than in natural proportions.

Accordingly, AMS is proposing to revise § 59.411 of the egg products inspection regulations (7 CFR 59.411(d)) to lower the minimum total egg solids content of egg products identified as whole eggs which have been prepared other than in natural proportions from 24.70 to 24.20 percent or greater.

Paperwork Reduction Act

This proposed rule would not change or require any additional collection of information from the public under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35. Existing information collection requirements in 7 CFR Part 59 have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and assigned OMB Control Number 0581–0113.

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List of Subjects in 7 CFR Part 59

Shell eggs, Egg products, Mandatory inspection service.

For reasons set out in the preamble and under authority contained in the Egg Products Inspection Act (21 U.S.C. 1031–1056), it is proposed to amend Title 7, Part 59 of the Code of Federal Regulations as follows:

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

1. The authority citation of Part 59 continues to read as follows:

Authority: Secs. 2–26 of the Egg Products Inspection Act (84 Stat. 1020–1635; 21 U.S.C. 1031–1056).

2. Section 59.411 is amended by revising paragraph (d) to read as follows:

§ 59.411 Requirement of formulas and approval of labels for use in official egg products plants.

* * * * *

(d) Liquid or frozen egg products identified as whole eggs and prepared other than in natural proportions, as broken from the shell, shall have a total egg solids content of 24.20 percent or greater.

* * * * *

Done at Washington, DC, on: October 16, 1987.

J. Patrick Boyle,

Administrator.

[FR Doc. 87–25492 Filed 11–3–87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 984

Walnuts Grown in California; Proposed Free, Reserve, and Export Percentages for the 1987–88 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action gives notice of a proposal to establish a free percentage of 60 percent, a reserve percentage of 40 percent, and an export percentage of 65 percent of the reserve percentage for merchantable California walnuts handled during the 1987–88 season, which began August 1, 1987. This action is taken under the marketing order for walnuts grown in California and is intended to avoid unreasonable fluctuations in supplies and prices in view of a projected large 1987 walnut crop.

DATES: Comments must be received by November 19, 1987.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, USDA, AMS, Fruit and Vegetable Division, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Comments should reference the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 984 (7 CFR Part 984), as amended, regulating the handling of walnuts grown in California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 59 handlers of walnuts subject to regulation under the walnut marketing order, and approximately 8,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California walnuts may be classified as small entities.

This proposal would require handlers of California walnuts to withhold as a reserve, from the normal domestic market, 40 percent of merchantable walnuts received from growers during the 1987–88 crop year. The remaining 60 percent of the crop could be sold by handlers in any market. The 1987 orchard-run production is projected at a record large 520 million inshell pounds, which is 44.4 percent larger than last year's 360 million pound crop and 11.2 percent larger than 1982's previous record crop of 467.6 million inshell pounds.

Of the 40 percent reserve, 65 percent would be available for export and should provide adequate supplies to meet both inshell and shelled export demand. The remainder of the reserve could be transferred to the salable category at a later date if it is found that the salable supply is insufficient to satisfy 1987–88 domestic trade demand, including desirable carryover requirements for use during the 1988–89 crop year. Otherwise these reserve walnuts would be disposed of in secondary outlets such as walnut oil or animal feed. Handlers could also obtain reserve credit for disposing of substandard quality walnuts for oil or animal feed.

While this proposed rule may restrict the amount of walnuts which handlers may sell in normal domestic and export markets, the free and reserve percentages are intended to lessen the impact of the projected oversupply situation facing the industry and to promote stronger marketing conditions, thus avoiding unreasonable fluctuations in prices and supplies and improving grower returns.

Pursuant to § 984.48 of the order, the Board based its recommendation for free, reserve, and export percentages of 60 percent, 40 percent, and 65 percent of the reserve, respectively, on the inshell and shelled domestic and export trade demands for the current marketing year. These trade demands are the amounts of inshell and shelled walnuts expected to be sold in normal domestic or export market outlets, respectively. The Board considers the trade carryover, import prices, competing nut supplies, and other factors when determining domestic and export trade demands.

The total supply subject to regulation is 222 million kernelweight pounds. Estimated domestic trade demand was adjusted to account for supplies of certified walnuts carried in from the 1986–87 marketing year and for supplies deemed desirable to be carried out on July 31, 1988, for early season domestic use next marketing year until the 1988 crop is available for market. After adjusting for inventory, the inshell

domestic trade demand is calculated at 20 million kernelweight pounds and the shelled domestic trade demand is calculated at 113 million kernelweight pounds. Thus, total domestic demand is calculated at 133 million kernelweight pounds. The proposed free percentage of 60 percent is expected to meet those needs.

The remaining 40 percent (81.9 million kernelweight pounds) of the 1987 crop marketable production would be withheld by handlers to meet their reserve obligations. Of the 40 percent held as reserve, 65 percent (53.3 million kernelweight pounds, the export trade demand) has been designated for export outlets. The remainder of the reserve (28.6 million kernelweight pounds) could be transferred to the salable category at a later date if it is found that the salable supply is insufficient to satisfy 1987–88 domestic trade demand, including desirable carryover requirements for use during the 1988–89 crop year.

The United States Department of Agriculture's Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders specify that reserve pool programs must make at least 110 percent of recent years' sales available to primary markets each season. This requirement would be met. The amount to be made available represents 120 percent of the 1983 record large shipments.

The Board used the estimates given in the table below in making its recommendation for the 1987–88 marketing year. Weight figures for inshell walnuts are converted to their equivalent shelled kernelweights.

	Inshell (1,000 lbs)	Conversion factor (percent)	Kernel weight (1,000 lbs)
Supply:			
1. Orchard-Run Production	520,000		
2. Less: Miscellaneous Farm Use	2,000		
3. Commercial Production	518,000	40	207,200
4. Plus:			
Uncertified Carryin Inshell	69	45	31
Uncertified Carryin Shelled			7,208
5. Total Merchantable Supply			214,439
6. Plus: Substandard Creditable for Reserve			8,000
7. Total Supply Subject to Regulation			222,439
Demand:			
8. Inshell Demand	40,000		
9. Plus: Desirable Carryout	4,000		
10. Less: Certified Carryin	583		
11. Adjusted Inshell demand	43,417	45	19,538
12. Shelled Demand			103,000
13. Plus: Desirable Carryout			28,000
14. Less: Certified Carryin			18,020
15. Adjusted Shelled Demand			112,980
16. TOTAL DEMAND (Item 11 + Item 15)			132,518
17. Free Percentage (Item 16 ÷ Item 7 × 100) (percent)			60
18. Reserve Percentage (100% − Item 17 × 100) (percent)			40
Determination of Export Percentage:			
19. Reserve Available for Export (Item 5 − Item 16)			81,921
20. Export Demand:			
Inshell	91,740	45	41,283
Shelled			12,000
Total			53,283
21. Percent of Reserve for Export (Item 20 ÷ Item 19 × 100) (percent)			65

Based on the above, the Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Interested persons are invited to submit their views and comments on this proposal. A 15-day comment period is considered adequate because the current crop year to which the proposed percentages would be applicable began on August 1, 1987. Early fall is usually an active time for walnut sales. Handlers and buyers should know as soon as possible the extent to which volume regulations would be put into effect this crop year.

List of Subjects in 7 CFR Part 984

Marketing agreements and orders, Walnuts, California.

For reasons set forth in the preamble, 7 CFR Part 984 is proposed to be amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 984 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Add a new section consisting of § 984.231 to read as follows:

§ 984.231 Free, reserve, and export percentages for California walnuts during the 1987–88 marketing year.

The free, reserve, and export percentages for California walnuts during the marketing year beginning August 1, 1987, shall be 60 percent, 40 percent, and 65 percent of the reserve, respectively.

Dated: October 29, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87–25563 Filed 11–3–87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1240

Honey Research, Promotion and Consumer Information Order; Proposed Change of Refund Application Dates

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would change the dates by which applications for assessment refunds from honey producers, producer-packers and importers must be filed with the National Honey Board, hereinafter referred to as the Board. The proposed change is designed to allow sufficient time to process applications for refunds of assessments paid under the program. The Honey Research, Promotion, and Consumer Information Order and Act require applications to be processed by June and December of each year. To meet this requirement, the proposed application deadline would be April 30 (previously May 31) and October 31 (previously November 30).

DATE: Comments must be received by December 4, 1987.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Comments should refer to the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456, telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: The rule is proposed under the Honey Research, Promotion and Consumer Information Order (7 CFR Part 1240)(order). The order is effective under the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 *et seq.*) (Act).

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The order issued pursuant to this Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The honey industry is made up of many small entities, and several larger entitites, which are engaged in the production, importation, and marketing of honey. There are generally three categories of honey producers in the United States: The hobbyist; the part-time beekeeper; and commercial beekeepers. There are about 190,000 hobbyist beekeepers; about 10,000 part-time beekeepers; and about 1,600 commercial beekeepers. Because the Act and the order exempt persons who annually produce or import less than 6,000 pounds of honey, hobbyist beekeepers and a significant number of part-time beekeepers are not required to pay assessments and thus would not be affected by this action.

Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of producers, producer-packers and importers of honey may be classified as small entities.

This proposed rule would change the dates by which honey producers, producer-packers and importers must submit applications for assessment refunds and does not affect their eligibility for refunds. Accordingly, the Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The information collection requirements contained in Part 1240, including § 1240.117, have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Control Number 0581–0153 under the provisions of the Paperwork Reduction Act of 1980 (5 U.S.C. 3501 *et seq.*). This proposed rule would not increase the information collection requirement under the Paperwork Reduction Act.

The Act and the order provide that honey producers, producer-packers, and honey importers importing 6,000 pounds of honey or more per year pay an assessment on honey entering channels of commerce in the United States. Honey handlers are required to act as collection agents for honey producers subject to the provisions of the order. The U.S. Customs Service collects the assessments on imported honey. Assessments are paid to the Board, which administers the promotion program.

The order provides that a refund of assessments may be obtained by submitting to the Board documentation of assessments paid and that any demand for a refund is to be made within the time and in the manner prescribed by the Board and approved by the Secretary. The Act and the order stipulate that refunds will be made in June and December.

Section 1240.117(b) of the regulations provides that any producers, producer-packers only for their own production, or importers requesting a refund must mail an application on a prescribed form to the Board within 90 days from the date the assessment becomes payable under the regulations. Pursuant to § 1240.117(d), refund applications may be received until May 31 for refunds payable in June and until November 30 for refunds payable in December. The May and November assessment reports are not due from collection agents until June 15 and December 15, respectively. The Board's refund processing time, therefore, may be limited to 15 days, a period which is insufficient in light of the processing steps required and the number of refund requests which are likely to be submitted.

This action would change the refund application deadlines from May 31 to April 30, and from November 30 to October 31. This proposed action would allow more time for the National Honey Board to verify refund applications by correlating them with monthly assessment reports received from collection agents, and to process the refund payments.

List of Subjects in 7 CFR Part 1240

Honey, Agricultural research, Reporting and recordkeeping requirements, Market development, Consumer information.

For the reasons set forth in the preamble, 7 CFR Part 1240 is proposed to be amended as follows:

PART 1240—HONEY RESEARCH, PROMOTION AND CONSUMER INFORMATION ORDER

1. The authority citation for 7 CFR Part 1240 continues to read as follows:

Authority: Honey Research, Promotion, and Consumer Information Act, Secs. 1–13, 98 Stat. 3115; 7 U.S.C. 4601–4612.

2. Section 1240.117 is amended by revising paragraph (d) to read as follows:

Subpart—General Rules and Regulations

§ 1240.117 Refunds.

* * * * *

(d) *Payment of refunds.* Refunds will be made in June and December only; applications for refunds payable in June must be received by April 30 and applications for payment in December by October 31. For joint application the remittance shall be payable to all eligible producers, producer-packers or importers signing the refund application form.

Dated: October 30, 1987.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 87–25502 Filed 11–3–87; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulation Y; Regulation H; Docket R–0516]

Regulations Regarding Real Estate Investment and Development Activities of Subsidiaries of Holding Company Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Solicitation of public comments.

SUMMARY: The Federal Reserve Board is soliciting comment regarding whether the financial risks to a bank holding company system associated with real estate investment and development activities conducted by subsidiary banks are such that the Board, in acting on applications under the Bank Holding Company Act by bank holding companies to acquire banks or FDIC insured savings banks, should require as a condition of a favorable finding regarding the financial resources and future prospects of the banks involved, that the banks not engage in such activities directly or through a subsidiary. The Board also requests comment on whether nonbank subsidiaries of banks engaged in real estate investment and development activities, as well as real estate projects in which the subsidiary invests, and under certain circumstances, partners or co-venturers with such subsidiaries, should be considered "affiliates" of the bank for purposes of the restrictions on transactions between a bank and its affiliates contained in sections 23A and 23B of the Federal Reserve Act. 12 U.S.C. 371c and 371c–1. Finally, the Board requests comment regarding whether it should establish special capital requirements for real estate subsidiaries of holding company banks pursuant to the International Lending Supervision Act of 1982.

DATE: Comments must be received by December 4, 1987.

ADDRESSES: All comments, which should refer to Docket No. R–0616, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to Room B–2223, 20th & Constitution Avenue, NW., Washington, DC, between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room B–1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: J. Virgil Mattingly, Deputy General Counsel (202/452–3430), Scott G. Alvarez, Senior Counsel (202/452–3583), Legal Division; Roger Cole, Manager (202/452–2618), Division of Banking Supervision and Regulation; or Myron Kwast, Chief, Financial Studies Section, Division of Research and Statistics (202/452–2909), Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, Telecommunications Service for the Deaf, Earnestine Hill or Dorothea Thompson, (202/452–3544).

SUPPLEMENTARY INFORMATION

I. Introduction

The Board currently has under consideration a proposal under section 4(c)(8) of the Bank Holding Company Act ("BHC Act") that would authorize bank holding companies and their nonbank subsidiaries, including nonbank subsidiaries of holding company banks where permitted under state law, to engage in real estate investment and development activities within certain prudential limits. (52 FR 543 (1987)). Alternatively, the Board has asked for comment on a proposal to continue to prohibit such activities for bank holding companies and to modify its existing regulations (12 CFR 225.22(d)(2)) so that this prohibition would apply also to nonbank subsidiaries of holding company banks.

As the Board has previously stated, the Board is concerned that real estate investment and development activities involve a significant degree of risk beyond the risks of other activities conducted by banks and bank holding companies. Investments in real estate are often characterized by considerable variations in economic value, returns and cash flow. In addition, real estate investments are generally illiquid, particularly during periods that involve economic stress on the banking system. To the extent that the profitability of a particular real estate investment rests upon hopes for capital appreciation rather than on established operating profits, the risks of the investment become even greater.

In light of these significant risks associated with real estate investment and development activities, the Board has proposed a framework of prudential limitations for the conduct by bank holding companies of real estate activities. The Board is evaluating the public comments received regarding the appropriateness of those limits.

Several of the prudential limits outlined by the Board in its real estate proposal are designed to insulate banks owned by holding companies from the risks associated with real estate investment and development activities conducted by affiliates of the bank. In its proposal, the Board questioned whether a bank may be adequately insulated from the risks associated with such activities conducted by nonbank subsidiaries of the bank, particularly where those nonbank subsidiaries operate with management and employees of the bank. In light of the Board's concerns that it may not be feasible to insulate a bank from the risks associated with real estate investment and development activities conducted through nonbank subsidiaries of the bank, the Board requested comment in its real estate proposal regarding whether the Board should modify its existing regulation (12 CFR 225.22(d)(2)) to prohibit nonbank subsidiaries of holding company banks from conducting real estate investment and development activities and should require that all real estate investment and development activities, if permitted, be conducted only through a nonbank subsidiary held by the bank holding company and not by a subsidiary of a bank. Under the Board's existing regulation, a nonbank subsidiary of a state bank owned by a bank holding company may, without the Board's approval under the Act, conduct any activity that the state bank may conduct directly subject to the limits

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imposed by state law on the bank. 12 CFR 225.22(d)(2).

The Board's current proposal under section 4 of the BHC Act does not affect real estate activities conducted directly by banks owned by holding companies. The Board has, however, asked for comment on a proposal to establish special capital requirements for bank holding companies that control such banks to reflect the increased risk to the bank holding company system from such activities.

II. Savings Banks Under the Competitive Equality Banking Act

Recently, the Board has considered a number of applications to form bank holding companies under section 3 of the BHC Act that involve banks and savings banks permitted under state law to engage directly and through subsidiaries in various real estate investment and development activities. In these cases, the Applicants have agreed to limit the real estate activities of the banks and their nonbank subsidiaries, to comply with special, enhanced capital requirements, and to conform their activities to the results of the Board's proposed rulemaking. In these cases, the Board has also taken into account the type and amount of real estate exposure of the bank or subsidiary of the bank engaged in real estate investment and development activities in evaluating the financial factors the Board is required to consider under section 3 of the BHC Act.

The Competitive Equality Banking Act of 1987 ("CEBA") recently enacted by Congress contains certain provisions regarding the nonbanking activities of savings banks. Pub. L. 100–86, 101 Stat. 552. In particular, section 101(d) provides that "a qualified savings bank" that becomes a subsidiary of a savings bank holding company (defined as a bank holding company 70 percent or more of the assets of which are represented by savings banks) may continue to engage in any activity, either directly or through a subsidiary of the savings bank, that the savings bank is permitted under state law to conduct as a state savings bank. 101 Stat. at 561–562 (to be codified at 12 U.S.C. 1842(f)).

The provisions of CEBA do not, however, affect the Board's existing authority, in connection with its analysis of an application under section 3 of the BHC Act, to evaluate the financial and managerial resources and future prospects of the bank holding company and bank involved. In this regard, the Board notes that the Senate Report on CEBA states that, while section 101(d) was intended to allow qualified savings banks to engage in state authorized activities, "[t]he Board would, however, be authorized under its general supervisory authority over bank holding companies and their subsidiaries to prevent unsafe or unsound activities; or to require the bank holding company to maintain higher levels of capital to support such activities." S. Rep. No. 100–19, 100th Cong., 1st Sess. 36 (1987).

Accordingly, the Board requests comment regarding whether, and under what circumstances, the Board should, in acting on applications by bank holding companies to acquire banks or savings banks under section 3 of the BHC Act, limit real estate investment and development activities of holding company banks and their nonbank subsidiaries as a matter of safe and sound banking practice. For example, the Board requests comment on whether to require, as a condition of a favorable finding regarding the financial resources and future prospects of the banks involved in an application under section 3 of the BHC Act, that the real estate development activities be conducted through a nonbank subsidiary of the bank holding company rather than through a subsidiary of the bank or savings bank. The Board seeks comment on whether this requirement would enhance the safety and soundness of the bank holding company organization by insulating the bank more effectively from the risks associated with real estate investment and development activities.

As noted, the Board has asked for comment on whether to establish special capital requirements for bank holding companies that control banks engaged in real estate investment and development activities. The Board seeks comment on whether the Board should provide that a bank holding company not make any additional real estate investments through its bank subsidiary in the event the bank holding company's capital falls below the minimum level set forth in the Board's Capital Adequacy Guidelines or, as discussed below, such special capital levels required by the Board under the International Lending Supervision Act ("ILSA").

III. Sections 23A and 23B of the Federal Reserve Act

The Board also seeks comment regarding whether, in the event the Board decides not to limit the conduct of real estate development activities through nonbank subsidiaries of holding company banks or savings banks, the Board should apply the restrictions of sections 23A and 23B of the Federal Reserve Act to transactions between banks, including savings banks, and such subsidiaries. The Board also requests comment on whether these restrictions should be applied to banks that are not in a holding company system and thus would not be subject to any rules the Board may adopt pursuant to the Bank Holding Company Act to limit the conduct of real estate development activities by nonbank subsidiaries of holding company banks.

In this regard, the Board seeks comment on whether a nonbank subsidiary of a bank that engages in real estate activities as well as real estate projects in which these subsidiaries invest, should be deemed "affiliates" of the bank for purposes of sections 23A and 23B of the Federal Reserve Act. (12 U.S.C. 371c and 371c–1). Section 23A of the Federal Reserve Act provides that the term "affiliate" in that section includes any company that the Board determines by regulation or order to have a relationship with a bank such that transactions between the bank and that company may be affected by the relationship to the detriment of the bank. 12 U.S.C. 371c(b)(1)(E). In the event the Board determines that such a subsidiary is an "affiliate" of the bank for purposes of sections 23A and 23B, covered transactions between the bank and the subsidiary would be limited to 10 percent of the bank's capital and such transactions would be required to be on terms and under circumstances, including credit standards, that are substantially the same, or at least as favorable to such bank, as those prevailing at the time for comparable transactions with or involving nonaffiliated companies. A covered transaction includes an extension of credit by the bank to or for the benefit of an affiliate as well as the purchase by a bank of assets from or for the benefit of an affiliate. 12 U.S.C. 371c(b)(7).

The Board is aware that banks that own real estate investment subsidiaries routinely make extensions of credit to real estate subsidiaries and to projects owned by these real estate subsidiaries of the bank. These transactions would be "covered transactions" for purposes of sections 23A and 23B if the real estate subsidiary and project were deemed to be "affiliates" of the bank. The terms or availability of credit from the bank to these real estate subsidiaries and projects may be directly and substantially affected by the relationship of the real estate subsidiary with the bank to the detriment of the bank. Consequently, the Board is considering whether these subsidiaries and the real estate projects in which they invest should be deemed

"affiliates" of the bank for purposes of sections 23A and 23B.

The Board notes that prior regulatory experience in evaluating the relationship between banks and real estate investment trusts in the 1970s and real estate investments made by thrifts suggests that the ownership of an equity interest in a real estate project often provides a powerful incentive to depository institutions to provide credit to support their real estate projects, particularly at times when credit is not available to the project from other sources due to financial or other difficulties experienced by the project. In this situation, the existence of an equity relationship between the bank or thrift could affect the terms and availability of covered transactions between the bank or thrift and the real estate project to the detriment of the depository institution.

The Board also seeks comment on whether partners, joint venturers and other companies associated with a bank or its real estate subsidiary in a real estate project should be deemed to be affiliates of the bank if these business associates use the proceeds of transactions with the bank to finance a real estate project or the company's participation in a real estate project in which the bank has an equity interest. Under this proposal, these business associates in the bank's real estate activities would not be deemed an affiliate of the bank where transactions with these business associates are limited to transactions that the bank adequately documents are on an arms-length basis and are for a purpose other than use in a real estate project in which the bank has an equity interest.

Transactions with companies associated with the bank in a real estate project may be made in order to support a partner or contractor that is experiencing financial or other difficulties that may jeopardize the completion of a real estate project in which the bank has an equity interest. These transactions may involve terms that are more favorable than otherwise available and may be made when credit is not available to the partner or contractor from another source. These transactions could, under these circumstances, be substantially affected by the bank's relationship with the partner or contractor in the real estate project to the detriment of the bank.

Moreover, one of the primary incentives to the bank in entering into a financing or similar transaction with a partner or contractor associated with the bank in a real estate project may be to benefit the real estate project. Section (a)(2) of section 23A deems any transaction by a member bank with any person to be a "covered transaction" for purposes of section 23A to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, an affiliate of the bank. 12 U.S.C. 371c(a)(2). The Board requests comments on whether, and under what circumstances, these transactions should be subject to the terms of sections 23A and 23B of the Federal Reserve Act in order to protect the integrity of the bank and its credit decisions.

In addition, the Board seeks comment on whether to exclude "covered transactions" between a bank and any real estate subsidiary of the bank and partners, joint venturers or other companies associated with the real estate subsidiary in a real estate project from the provisions of § 250.250 of the Board's regulations. (12 CFR 250.250).

The Board also requests comment on the appropriate period of time to allow banks to conform existing covered transactions with their subsidiaries and real estate partners to sections 23A and 23B, in the event the Board adopts the proposals discussed above.

The Board notes that its determination with respect to member banks under sections 23A and 23B would apply to subsidiaries of nonmember banks by virtue of the provisions of the Federal Deposit Insurance Act. 12 U.S.C. 1828(j)(1).

IV. International Lending Supervision Act

The Board has already requested comment, in connection with its current real estate investment rulemaking under section 4(c)(8) of the BHC Act, on a proposal that would exclude real estate investments as well as related extensions of credit from the calculation of the bank holding company's capital for purposes of applying the Board's Capital Adequacy Guidelines. This would apply to real estate investments made by a real estate subsidiary of the bank holding company or directly by a bank or its subsidiaries, whether the activities are funded from capital provided by the bank holding company or from borrowings by the real estate subsidiaries. The Board has previously asked for comment on whether an adjustment to the bank holding company's capital based on the amount of real estate investment and development activities conducted by subsidiaries of a bank holding company is appropriate in order to address the added risks to the holding company organization from those real estate investment and development activities.

The Board now requests comment regarding whether, in order to address the risks associated with real estate activities conducted in a subsidiary of a holding company bank, the Board should, under the International Lending Supervision Act, impose a specific capital requirement directly on nonbank subsidiaries of holding company banks engaged in real estate investment and development activities. The Board also seeks comment on whether it should impose a specific capital requirement on subsidiaries of holding company banks as an alternative to the proposal discussed above to condition Board approval under section 3 of the BHC Act on termination of real estate activities by subsidiaries of banks that are subsequently acquired by bank holding companies.

In this regard, the International Lending Supervision Act provides that the appropriate federal banking agency may impose specific capital requirements on any affiliate of an insured bank, where the federal banking agency is the appropriate federal banking agency for that affiliate. 12 U.S.C. 3909(a)(2). The International Lending Supervision Act provides that the Board is the appropriate federal banking agency for bank holding companies and all nonbank subsidiaries of the holding company. 12 U.S.C. 3902. The Board solicits public comment on the appropriate levels of capital that such subsidiaries should maintain, consistent with industry norms and the safety and soundness of its affiliate banks. The Board also requests comment on whether the leverage and capital requirements proposed in its December, 1986 real estate development proposal should be applied to these subsidiaries. 52 FR 543, 546–547 (January 7, 1987).

V. Comment Period

The Board has proposed a 30-day comment period on these matters because the issues raised here supplement matters on which the Board has already received extensive public comment in connection with its rulemaking proceeding regarding real estate investment and development activities of bank holding companies. The Board expects that it will be able to act on its real estate rulemaking and the matters raised in this request for comment promptly after the close of the comment period on the matters raised in this notice.

VI. Regulatory Flexibility Act Analysis

This proposal is not expected to have a significant economic impact on a

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substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The Board believes that there are not a significant number of small bank holding companies engaged in real estate investment and development activities at this time. As noted, bank holding companies have not previously been permitted to engage in real estate investment and development activities and, while legislation to permit state banks to engage in these activities has been considered in a number of states, these initiatives have been taken only recently. The Board will consider any comment regarding whether, and to what extent, the proposals outlined in this notice would have an impact on small business entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Parts 208 and 225

Banks, banking, Federal reserve system, Holding companies, Reporting and recordkeeping requirements.

For the reasons set out in this notice, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(b)), and section 371c(e) of the Federal Reserve Act (12 U.S.C. 371c(e)), the Board proposes to amend 12 CFR Part 225 and 12 CFR Part 208 as follows:

PART 225—[AMENDED]

1. The authority citation for Part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1843(c)(8), 1844(b), 3106, 3108, 3907 and 3909.

2. The Board proposes to amend § 225.13(b)(1) by adding the following at the end of that section:

§ 225.13 Factors considered in acting on bank applications.

* * * * *

(b) * * *

(1) * * * In light of the risks associated with real estate investment and development activities, the Board will, in acting on any application by a bank holding company under section 3 of the BHC Act, require, as a condition of its finding that the banks involved have satisfactory financial resources and future prospects, that real estate investment and development activities not be conducted by any of such banks directly or through a subsidiary, and that such activities be conducted only in a nonbank subsidiary of the bank holding company in accordance with the prudential limitations set forth in § 225.25(b)(25) of this subpart.

* * * * *

3. The Board proposes to amend Appendix A to 12 CFR Part 225 by adding the following at the end of the Appendix:

Appendix A—Capital Adequacy Guidelines for Bank Holding Companies and State Member Banks

* * * * *

Treatment of Investments in Real Estate Investment and Development Activities for the Purpose of Determining the Capital Adequacy of Bank Holding Companies

The Board believes that real estate investment and development activities involve a significant degree of risk beyond other activities conducted by banks and bank holding companies. These risks result from the illiquid nature of real estate; the considerable variation in economic value, returns and cash flow that often characterize investments in real estate; and the greater risks associated with an equity investment as compared to a traditional bank loan.

Based on these supervisory concerns, the Board believes that the amount of real estate investment activities conducted by a bank holding company and any of its direct or indirect bank and nonbank subsidiaries must be considered in evaluating the capital adequacy of the bank holding company. In this regard, the Board believes that a nonbank subsidiary of a holding company bank that is engaged in real estate investment and development activities must be adequately capitalized in order to lessen the risk to the bank holding company organization from the risks of the subsidiary's real estate investment and development activities. The Board believes that a real estate subsidiary of a holding company bank should meet the same capital and leverage requirements that the Board has proposed for direct nonbank subsidiaries of a bank holding company that engage in real estate investment and development activities. For purposes of these calculations, real estate investment activities, including related extensions of credit, shall be defined as in section 25(b)(25) of this part.

PART 208—[AMENDED]

4. The authority citation for Part 208 is revised to read as follows:

Authority: 12 U.S.C. 248, 321–338, 371c, 371c–1, 480, 1814, 3907, 3909, unless otherwise noted.

5. The Board proposes to amend Part 208 by adding a new § 208.15 under the undesignated center heading "Regulations" to read as follows:

§ 208.15 Affiliates under section 23A and B (12 U.S.C. 371c and 371c–1).

(a) For purposes of sections 23A and 23B of the Federal Reserve Act, an affiliate of a member bank includes a company that is:

(1) A subsidiary of such member bank if the subsidiary engages directly or indirectly in real estate investment or development activities as defined in § 225.25(b)(25) of Regulation Y (12 CFR 225.25(b)(25)); and

(2) A partner, joint-venturer or other company otherwise associated in a business relationship with such subsidiary in a real estate investment or development activity as described in § 225.25(b)(25) of Regulation Y, to the extent that the proceeds of any covered transaction between the member bank or its subsidiaries with the partner, joint-venturer or other company are used to finance such real estate investment or development project or the company's participation in such project.

(b) The exemptions provided in the Board's interpretation at § 250.250 of this chapter shall not apply to covered transactions between a member bank and an affiliate defined in paragraph (a) of this section.

(c) A member bank and its subsidiaries shall have six months from the effective date of this section to conform covered transactions between it and a company that becomes an affiliate as a result of this regulation to the requirements of sections 23A and 23B of the Federal Reserve Act.

(d) The terms "subsidiary", "bank", "company", and "covered transaction" used in this section shall have the meanings given in section 23A of the Federal Reserve Act. 12 U.S.C. 371c(b).

Board of Governors of the Federal Reserve System, October 30, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87–25576 Filed 11–3–87; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 332

Powers Inconsistent With Purposes of Federal Deposit Insurance Law

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Extension of deadline for consideration, adoption, and publication of final rule.

SUMMARY: This notice serves to extend the period of time which the FDIC may use under its internal policy statement for the consideration, adoption, and publication of the FDIC's final rule on participation by insured banks in real estate development and insurance underwriting activities.

DATE: The deadline for final agency action on the proposed rule is extended to December 15, 1987.

FOR FURTHER INFORMATION CONTACT: Pamela E.F. LeCren, Senior Attorney, Legal Division (202) 898–3730, Ken A. Quincy, Chief, Applications Section, Division of Bank Supervision (202) 898–6753, or Daniel M. Gautsch, Examination Specialist, Planning and Program Development Branch, Division of Bank Supervision (202) 898–6912, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The FDIC's Statement of Policy on Development and Review of Rules and Regulations (44 FR 31007 (1979)) states that it is the intention of the FDIC formally to withdraw any proposed regulation on which final action by the Board of Directors has not been taken within nine months from the date the regulation was last published for comment. The FDIC published on June 7, 1985, a proposed amendment to Part 332 of FDIC's regulations governing "Powers Inconsistent with the Purposes of Federal Deposit Insurance Law." (50 FR 23984 (June 7, 1985)). The proposed amendment would, among other things, prohibit insured banks, subject to certain exceptions, from directly engaging in real estate development and insurance underwriting activities and establish certain restrictions on the indirect conduct of such activities.

Pursuant to the FDIC's policy, final action on this proposed regulation should have been taken on March 7, 1986, in order to avoid withdrawal of the proposed rule. Inasmuch as FDIC staff was actively reviewing the June 7, 1985, proposal in the spring of 1986 and due to the then-recent appointments of two members of the FDIC's three member Board of Directors, the Board of Directors determined that additional time was necessary for the staff to complete its review and for the Board of Directors to familiarize itself with the subject matter dealt with by the proposal. As withdrawing the proposal and initiating the rulemaking process anew would have caused unnecessary delay, the Board of Directors determined to extend the deadline for final agency action on the proposed regulation to September 8, 1986. (51 FR 7077 (Feb. 28, 1986)). The Board extended the deadline a second time to March 15, 1987 (51 FR 32336 (September 11, 1986)) in order for the FDIC and the Board of Governors of the Federal Reserve System to attempt to coordinate the final action taken in this rulemaking with any final action taken by the Board of Governors in connection with its solicitation of public comment on real estate activities of bank holding companies and their subsidiaries. (*See* 50 FR 4519 (1985) (solicitation of public comments)).

Since that time, the Board of Governors published a proposed rule on the "Permissibility of Real Estate Investment Activities for Bank Holding Companies and Their District and Indirect Nonbank Subsidiaries" with a public comment due date of February 23, 1987. (51 FR 543 (Jan. 7, 1987)). That comment date was subsequently extended to March 25, 1987. (52 FR 4629 (Feb. 13, 1987)). As additional time was required for FDIC staff to study the Federal Reserve Board's proposal, the comments received in response thereto, and the direction taken by the Board of Governors in response to those comments and the efforts at coordinating final action between the two agencies were still continuing, the Board of Directors determined to extend the deadline for final action on the proposed regulation until September 15, 1987. (52 FR 7442 (March 11, 1987)). As staff efforts to coordinate final action had not produced a uniform regulation by September 15, the Board of Directors extended the deadline for final action until October 30, 1987. (52 FR 35724, September 23, 1987). As the Board of Directors continues to be interested in coming to an agreement with the Federal Reserve Board with respect to the issue of bank and bank holding company involvement in real estate development and negotiations with respect to such involvement continue, the Board of Directors has determined to extend the deadline for actions until December 15, 1987.

By order of the Board of Directors.

Dated at Washington, DC, this 27th day of October, 1987.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–25544 Filed 11–3–87; 8:45 am]

BILLING CODE 6714–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Policy

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule change would permit the Small Business Administration (SBA) to suspend or revoke the privilege of lenders, brokers, dealers and registered holders to sell or otherwise deal in section 7(a) secondary market loan or pool certificates for significant violations of the Rules and Regulations of the secondary market and for certain other offenses. It would also clarify that the disclosure requirements for individual loan certificates and pool certificates apply equally to certificates placed into or used as the backing for a trust, investment pool, mutual fund or any other security. Finally, it would modify the existing regulatory requirements for pool assembler eligibility to require that pool assemblers be regulated by the appropriate regulatory agency, as defined in the Government Securities Act of 1986 (Pulb. L. 99–571, 100 Stat. 3208).

DATE: Comments must be submitted on or before December 4, 1987.

ADDRESS: Comments must be submitted to Edwin T. Holloway, Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Room 880, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Allan S. Mandel, Assistant Deputy Associate Administrator for Financial Assistance, (202) 653–6696.

SUPPLEMENTARY INFORMATION: Under the authority of sections 5(f)–5(h) of the Small Business Act (15 U.S.C. 634(f)–(h)) ("Act"), SBA operates a secondary market in SBA guaranteed loan and pool certificates. The process works as follows:

A lender, previously approved by SBA to make guaranteed loans under Section 7(a) of the Act, makes such a loan to a small business. The lender may sell the guaranteed portion of the loan to a secondary market broker-dealer, which then resells the loan to an investor. Alternatively, broker-dealers that are approved by SBA as pool assemblers may form pools backed by the guaranteed portions of several SBA guaranteed loans, and sell certificates representing total or fractional ownership in such pools to investors.

The changes in regulation described in this notice are to enable SBA to carry out its responsibilities to—

Develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations [Section 5(f)(3) of the Act];

Require the seller of a certificate to disclose to a purchaser information on the terms, conditions and yield of the security [Section 5(h)(3) of the Act]; and

Regulate brokers and dealers in this market [Section 5(h)(3) of the Act].

Suspension or Revocation

SBA is amending its regulations to permit the Agency to suspend or revoke

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the privilege of lenders, brokers, dealers and registered holders to sell or otherwise deal in loan or pool certificates under certain circumstances.

Section 120.605 would be amended to permit SBA to suspend or revoke the privilege of a lender, broker, dealer or registered holder to sell, purchase, or deal in loans, loan certificates or loan pool certificates if such lender, broker or registered holder commits a significant violation, as determined by SBA, of the Rules and Regulations of the Secondary Market. SBA would also be authorized to suspend or revoke such entities for (1) a significant violation, as determined by SBA, of any of the provisions of the contracts entered into by the parties, including, but not limited to, Standard Forms 1085, 1086, 1088 and 1454 or (2) knowingly submitted false or fradulent information in support of its participation in the Secondary Market to SBA or the FTA. SBA would provide written notice of such determination at least 10 business days prior to the effective date of such determination. The notice would inform the broker, dealer, or registered holder of the opportunity for a hearing pursuant to Part 134 of this Chapter. During the period of any proceedings under Part 134 the action of the SBA would remain in effect.

Subparts G (pooling of SBA guaranteed portions) and H (individual SBA guaranteed portions sold into the secondary market) of Part 120 of this Chapter would be amended to exclude any broker or dealer from selling or otherwise dealing in pool certificates—

If the broker's or dealer's authority to engage in the securities business has been revoked or suspended by a supervisory agency. When such authority has been suspended, the broker or dealer would be suspended by SBA for the duration of the suspension by the supervisory agency.

If the broker or dealer has been indicated or otherwise formally charged with a misdemeanor or felony bearing on its fitness to participate in the market for pool certificates, the broker or dealer may be suspended while the charge is pending. Upon conviction, participation may be terminated.

When the broker or dealer has suffered an adverse final civil judgment, holding that the broker or dealer has committed a breach of trust or violation of law or regulation protecting the integrity of business transactions or relationships, participation in the market for certificates may be terminated.

Under the proposed regulation, SBA could, for any of the reasons stated above, suspend or revoke the privilege of any broker or dealer to participate in this market. SBA would give written notice at least ten business days prior to the effective date of such an action. The notice shall inform the broker or dealer of the opportunity for a hearing pursuant to Part 134 of this chapter. During the period of any proceedings under Part 134 the action of the SBA shall remain in effect.

These regulatory changes are counterparts of the existing regulations on suspension and termination of brokers and dealers in the Small Business Investment Company (13 CFR 107.201(c)(4)) and Development Company (13 CFR 108.505(1)) programs. As such, they would make the regulations of the section 7(a) secondary market consistent on this subject with those of the other two programs.

Disclosure Requirements

Sections 120.713 and 120.809 of this Part 120 presently require a seller of individual loan and pool certificates to disclose to the purchaser information on the terms, conditions and yield of the security as described in the Secondary Market Program Guide. The proposed regulations would clarify that this requirement applies equally to loan or pool certificates placed into or used as the backing for a trust, investment pool, mutual fund or any other security. In such cases the same disclosure information must be provided to investors through the prospectus and any promotional material and any other written description of the security. If loan or pool certificates are placed into or used as the backing for money market funds, the yield calculation on the SBA loan or pool certificate portion of such funds must be calculated according to the methodology and assumptions described in the Secondary Market Program Guide.

SBA and the Public Securities Association have agreed upon a methodology for estimating yields on these securities, pursuant to SBA's responsibilities under section 5(h)(3) of the Act. The methodology for estimating the yield on these securities must be carefully specified because SBA guaranteed loans may be prepaid prior to the scheduled maturity if (1) the borrower defaults and SBA honors its guaranty or (2) the borrower voluntarily prepays. (SBA loans may be prepaid by the borrower without penalty.) The occurrence of either of these events cannot be predicted with certainty. Prepayment has a significant impact upon yield, particularly with certificates priced substantially away from par.

The purpose of the disclosure requirements is to provide investors with a benchmark constant annual prepayment rate (CPR) based upon an analysis of the prepayment history of SBA guaranteed loans. The purpose of the benchmark is twofold: (1) To produce a cash flow yield calculation based upon the past performance of SBA loans and (2) to help investors choose between alternative SBA loan and pool certificates and between SBA loan and pool certificates and alternative investments. The elements that form the disclosure requirements enable investors to know the facts and assumptions used to develop the benchmark cash flow yield estimate.

The proposed regulatory changes are necessary because a mutual fund backed by SBA guaranteed portions is sold in the same marketplace as SBA pool and individual loan certificates. Accuracy and consistency in the quoting of yields are necessary to prevent investor confusion, to maintain an orderly and credible market, and to provide accurate information to investors.

Government Securities Act

Under the authority of the Small Business Secondary Market Improvements Act, enacted in 1984 (98 Stat 329), SBA has required pool assemblers to be (1) regulated by a state or federal financial regulatory agency, (2) regulated by SBA, or (3) a member of the National Association of Securities Dealers (13 CFR 120.703(a)). The passage of the Government Securities Act of 1986 (100 Stat. 3208) established for the first time a Federal Government-wide system for regulation of brokers and dealers who transact business exclusively in government securities or a government securities business combined with business in certain other activities. Accordingly, SBA is revising § 120.703(a) to require pool assemblers to be regulated by the appropriate regulatory agency as defined in section 3(a)(34)(G) of the Securities Exchange Act of 1934 as amended (15 U.S.C. 78c(a)(34)(G)), pursuant to the mandate of the Government Securities Act of 1986.

For purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)), SBA certifies that this proposed rule is likely to have a significant economic impact on a substantial number of small entities. This action is being taken to ensure that the secondary market for SBA guaranteed loans is operated efficiently, honestly, and openly. Section 5 of the Small Business Act authorizes SBA to develop procedures for the facilitation, administration, and promotion of secondary market operations. The statute requires disclosure of information to purchasers and allows SBA to regulate brokers and dealers. These proposed regulations implement the statuory authority. It is not possible or feasible to estimate how many of the existing or potential lenders, brokers, dealers, or registered holders are or will be small entities, but it may be safely assumed that of the total universe there will be a larger number of small entities. There are no reporting or recordkeeping requirements created by these proposed regulations. The entities operating in the secondary market, in the nature of things, must operate properly, and the thrust of these proposed regulations is to give SBA the authority to revoke the privilege of participating in the SBA secondary market from a broker or dealer which is acting improperly. There are no Federal rules which duplicate, overlap or conflict with the proposed rule.

There are no significant alternatives since the proposed regulations are consistent with existing SBA regulations on the suspension and termination of brokers and dealers in the Small Business Investment Company and Development Company programs. Further, the Agency must implement the provisions of the Government Securities Act which was effective in July 1987 in regulating brokers and dealers which transact business in government securities.

SBA certifies that this proposed rule does not constitute a major rule for the purpose of Executive Order 12291, since the proposed changes are not likely to result in an annual effect on the economy of $100 million or more.

List of Subjects in 13 CFR Part 120

Loan programs/business, Small business.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend Part 120, Chapter I, Code of Federal Regulations, as follows.

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.605–1 is amended by revising the first sentence to read as follows:

§ 120.605–1 Transferability.

Except as indicated below in § 120.605–2, certificates issued by the FTA shall be freely transferable. * * *

§ 120.605–2 [Redesignated as § 120.605–3]

2. Section 120.605–2 is redesignated as § 120.605–3, and a new § 120.605–2 is added to read as follows:

§ 120.605–2 Violation of Secondary Market Rules and Regulations.

SBA reserves the right to suspend or revoke the privilege of a lender, broker, dealer or registered holder to sell, purchase, broker, or deal in loans, loan certificates or loan pool certificates if such lender, broker, dealer or registerd holder:

(a) Commits a significant violation, as determined by SBA, of the Rules and Regulations of the Secondary Market (Subparts F, G and H of this Part);

(b) Commits a significant violation, as determined by SBA, of any of the provisions of the contracts entered into by the parties, including, but not limited to, Standard Forms 1085, 1086, 1088 and 1454; or

(c) Knowingly submits false or fraudulent information in support of its participation in the SBA Secondary Market to SBA or the FTA.

SBA shall provide written notice of such determination at least 10 business days prior to the effective date of such determination. Such notice shall inform the lender, broker, dealer, or registered holder of the opportunity for a hearing pursuant to Part 134 of this chapter. During the period of any proceedings under Part 134 the action of the SBA shall remain in effect.

3. Section 120.703 is amended by revising paragraph (a)(1) to read as follows:

§ 120.703 Eligible pool assemblers.

(a) * * *

(1) is regulated by the appropriate regulatory agency as defined in section 3(a)(34)G) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(34)(G)].

* * * * * *

§§ 120.705 through 120.712 [Redesignated as §§ 120.706 through 120.713]

4. Sections 120.705 through 120.712 are redesignated as §§ 120.706 through 120.713, and a new § 120.705 is added to read as follows:

§ 120.705 Suspension or revocation of broker or dealer.

(a) In addition to the provisions of § 120.605–2, SBA may exclude any broker or dealer from selling or otherwise dealing in certificates:

(1) If such broker's or dealer's authority to engage in the securities business has been revoked or suspended by a supervisory agency. When such authority has been so suspended, such broker or dealer will be suspended by SBA for the duration of such suspension by the supervisory agency.

(2) If such broker or dealer has been indicted or otherwise formally charged with a misdemeanor or felony bearing on its fitness to participate in the market for certificates, such broker or dealer may be suspended while the charge is pending. Upon conviction, participation may be terminated.

(3) When such broker or dealer has suffered an adverse final civil judgment, holding that such broker or dealer has committed a breach of trust or violation of law or regulation protecting the integrity of business transactions or relationships, participation in the market for certifcates may be terminated.

(b) SBA may, for any of the reasons stated above, suspend or revoke the privilege of any broker or dealer to participate in this market. SBA shall give written notice at least ten (10) business days prior to the effective date of such action. Such notice shall inform the broker or dealer of the opportunity for a hearing pursuant to Part 134 of this Chapter.

(c) Procedures for appealing the decision to suspend or revoke are found in Part 134 of this Chapter. During the period of any proceedings under Part 134 the action of the SBA shall remain in effect.

5. Section 120.713, as redesignated, is revised to read as follows:

§ 120.713 Disclosure requirements.

Prior to any sale, the pool assembler or any subsequent seller of a certificate must disclose to the purchaser, either orally or in writing, information on the terms, conditions and yield as described in the Secondary Market Program Guide. In addition, such information must be provided in writing on the transfer document at the time it is submitted to the FTA. The FTA will, subsequent to the sale, provide such disclosure information in writing to the purchaser. If all or part of a pool certificate is placed into or used as the backing for a trust, investment pool, mutual fund or any other security, this same disclosure information must be provided to investors through the prospectus and any promotional material.

6. Section 120.809 is revised to read as follows:

§ 120.809 Disclosure requirements.

Every registered holder of the guaranteed portion must, prior to any sale, disclose to the purchaser either orally or in writing the terms and conditions and yield of such instrument as described in the Secondary Market Program Guide. In addition, such information must be provided in writing on the transfer document at the time it is

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submitted to the FTA. The FTA will, subsequent to sale, provide such disclosure information in writing to the purchaser. If all or part of a certificate is placed into or used as the backing for a trust, investment pool, mutual fund or any other security, this same disclosure information must be provided to investors through the prospectus and any promotional material.

7. Section 120.810 is added to read as follows:

§ 120.810 Suspension or revocation of broker or dealer.

(a) In addition to the provisions of section 120.605–2, SBA may suspend or revoke any broker or dealer from selling or otherwise dealing in certificates:

(1) If such broker's or dealer's authority to engage in the securities business has been revoked or suspended by a supervisory agency. When such authority has been so suspended, such broker or dealer will be suspended by SBA for the duration of such suspension by the supervisory agency.

(2) If such broker or dealer has been indicted or otherwise formally charged with a misdemeanor or felony bearing on its fitness to participate in the market for certificates, such broker or dealer may be suspended while the charge is pending. Upon conviction, participation may be terminated.

(3) When such broker or dealer has suffered an adverse final civil judgment, holding that such broker or dealer has committed a breach of trust or violation of law or regulation protecting the integrity of business transactions or relationships, participation in the market for certificates may be terminated.

(b) SBA may, for any of the reasons stated above, suspend or revoke the privilage of any broker or dealer to participate in this market. SBA shall given written notice at least ten (10) business days prior to the effective date of such suspension or revocation. Such notice shall inform the broker or dealer of the opportunity for a hearing pursuant to Part 134 of this chapter.

(c) Procedures for appealing the decision to suspend or revoke are found in Part 134 of this chapter. During the period of any proceedings under Part 134 the action of the SBA shall remain in effect.

Date: October 19, 1987.

Donald Clarey,

Deputy Administrator.

[FR Doc. 87–25407 Filed 11–3–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–NM–142–AD]

Airworthiness Directives; Aerospatiale Model ATR–42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to certain Aerospatiale Model ATR–42 series airplanes, that would require modifying the Digital Flight Data Recorder (DFDR) and Cockpit Voice Recorder (CVR) power supply logic. This proposal is needed to prevent the DFDR and CVR from continuing to operate after an accident, thereby progressively erasing the information recorded before the accident. This condition, if not corrected, could result in possible loss of data that may be used to determine the cause and, thereby, result in design changes that may prevent future accidents.

DATE: Comments must be received no later than December 31, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103). Attention: Airworthiness Rules Docket No. 87–NM–142–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Michael West, Systems and Equipment Branch, ANM–130S; telephone (206) 431–1938. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–142–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), the Civil Aviation Authority of France has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unacceptable design condition which may exist on certain Aerospatiale Model ATR–42 series airplanes.

It has been determined that in the event of an accident, the Digital Flight Data Recorder (DFDR) and Cockpit Voice Recorder (CVR) can continue to operate and, therefore, progressively erase the information recorded before the accident. This condition, if not corrected, could result in possible loss of data that may be used to determine the cause and, thereby, result in design changes that may prevent future accidents.

Aerospatiale issued Service Bulletin ATR42–23–0002, Revision No. 1, dated March 11, 1987, to provide a means of modifying the DFDR and CVR power supply logic to prevent continued operation of the DFDR and CVR beyond five minutes after an accident.

The DGAC has classified this service bulletin as mandatory to preclude possible loss of important data in case of an accident.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require modification of the DFDR and CVR in accordance with the Aerospatiale service bulletin previously mentioned.

It is estimated that 6 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,920.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($320). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR–42 series airplanes, as listed in Service Bulletin ATR42–23–0002, Revision No. 1, dated March 11, 1987, certificated in any category. Compliance is required within one year of the effective date of this AD, unless previously accomplished.

To prevent the loss of recorded information by continued operation of the Digital Flight Data Recorder (DFDR) and Cockpit Voice Recorder (CVR) after an accident, accomplish the following:

A. Modify the DFDR and CVR power supply logic in accordance with Aerospatiale Service Bulletin ATR42–23–0002, Revision No. 1, dated March 11, 1987.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 26, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–25486 Filed 11–3–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 87–ACE–10]

Proposed Alteration of VOR Federal Airway V–138; Nebraska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the description of Federal Airway V–138, located in the vicinity of Omaha, NE, by extending V–138 from Lincoln, NE, to Omaha. This action eliminates a break in the airway structure between Lincoln and Omaha. This extension would simplify flight planning, reduce controller workload and save fuel.

DATES: Comments must be received on or before December 18, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Central Region, Attention: Manager, Air Traffic Division, Docket No. 87–ACE–10, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–ACE–10." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence

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Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airway V-138, located in the vicinity of Omaha, NE, by extending it from Lincoln, NE, VORTAC to Omaha VORTAC. This proposed extension has been made possible through negotiations with Offutt Air Force Base RAPCON and Minneapolis, MN, ARTCC. This action would simplify flight planning by eliminating a break in the airway structure between Lincoln and Omaha and reduce controller workload and save fuel by eliminating a circuitous routing between these points. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400-6C dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C 106(g) (Revised Pub L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-138 [Amended]

By removing the words "Lincoln. From" and substituting the word "Lincoln:"

Issued in Washington, DC, on October 27, 1987.

Sheloma Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25484 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 and 178

Entry of Consolidated Shipments

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to the entry procedures for consolidated shipments of imported merchandise. The Tariff Act of 1930 allows the consignee of imported merchandise to designate a Customs broker to make entry. Small shipments of merchandise having various consignees are more efficiently and effectively handled if consolated into large shipments under a master bill of lading or master air waybill prepared by a foreign freight consolidator which covers the numerous individual packages in the shipment. The foreign freight consolidator usually consigns the consolidated shipment to a freight forwarder, courier service or other party in the U.S. This consignee is normally not the same consignee identified on the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill. When the consignee named in the master bill of lading or master air waybill appoints a broker of its own choosing to make entry, the actual consignees of the merchandise named in the individual bills are often frustrated in two respects. First, the entry is made by a broker not of their choosing and, second, entry is made at a port not of their choosing. The amendment revises the entry procedures to prevent frustration of the wishes of the actual consignees identified on the individual bills. After consideration of comments received on the previous notice concerning this matter, certain modifications have been made to the proposal and it is being republished for further comments.

DATES: Comments must be received on or before January 4, 1988.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Room 2324, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments relating to the information collection aspects of the proposal should be addressed to Customs, as noted above, and also the Office of Information and Regulatory Affairs, Attention: Desk Officer for U.S. Customs Service, Office of Management and Budget, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Entry, Licensing, and Restricted Merchandise Branch (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

A Customs broker is a person who is licensed by the Customs Service to transact Customs business on behalf of importers and other persons. As amended in 1983 by Pub. L. 97-446, section 484(a)(1)(C), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)(1)(C)), provides that when an entry of imported merchandise is made, the required documentation shall be filed either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a Customs broker. A problem has arisen with respect to the appointment of a broker by consignees of consolidated shipments.

Small shipments of merchandise having various consignees are more efficiently and effectively handled if consolidated into a large shipment. These consolidated shipments, which are usually packed in containers for movement to the U.S. by vessel or aircraft, have two sets of documents. One set of documents consists of a master bill of lading (for vessel movements) or a master air waybill (for aircraft movements) covering the container and its contents. Individual bills of lading or individual air waybills, also known as "house" bills of lading or "house" air waybills, comprise the second set of documents. The master bill of lading or master air waybill is prepared by a foreign freight consolidator who ordinarily consigns the container to a freight forwarder, courier service similar party in the U.S. The consignee designated by the foreign freight consolidator is normally not the same consignee identified on the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill. When the consignee named in the master bill of lading or master air waybill appoints a broker of its own choosing to make entry, the actual consignees of the merchandise named in the individual bills are often frustrated in two respects. First, entry is made by a broker not of their choosing and second, entry is made at a port of entry not of their choosing. Further, additional expenses may be incurred.

To prevent the foregoing situation from happening, a notice was published in the Federal Register on December 24, 1985 (50 FR 52532), proposing to amend § 141.11, Customs Regulations (19 CFR 141.11), relating to evidence of the right to make entry for importations by common carrier, by adding a new paragraph (c) covering consolidated shipments. The proposal provided that in the case of consolidated shipments by common carrier, entry would not be made by a broker appointed by the consignee named in the master bill of lading or master air waybill if (1) a consignee on any one of the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill has designated another broker to make entry, or (2) any one of the individual bills of lading or individual air waybills indicates that entry will be made by the actual owner or purchaser.

If entry is made by a broker appointed by the consignee named in the master bill of lading or master air waybill, the broker would submit with the entry filed with Customs a signed statement to the effect that none of the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill have: (1) Designated a broker, or a different broker from the one identified in the master bill of lading or master air waybill; or (ii) indicated that entry will be made by the actual owner or purchaser; or (iii) specified that entry is to be made at a different port of entry. The statement may be stamped, typed or printed on the entry documentation provided to Customs. It would not be treated as a missing document for which a bond may be provided (See § 141.66, Customs Regulations (19 CFR 141.66)). If the signed statement is not submitted, separate entry would be made for each package in the consolidated shipment by the importer of record or its broker, as appropriate. Shipments for which no entry is made would be placed in general order pursuant to § 4.37, Customs Regulations (19 CFR 4.37), after the expiration of the lay order period. (See § 127.1, Customs Regulations (19 CFR 127.1)).

Because the proposed amendment applies only to consolidated shipments, it would not apply to those aspects of express delivery operations, courier service operations, or similar delivery operations that do not involve consolidated shipments, or delivery operations that do not use individual house bills of lading or air waybills. Now would the procedures apply to any shipment where the shipper contractually agrees that the carrier is the consignee and may appoint a broker of its own choosing to make entry.

Discussion of Comments

Twenty-eight comments were received in response to the original notice proposing these changes. A discussion of these comments and our responses follows.

Comment: Two commenters claimed that there was no factual basis upon which Customs issued the proposal. Specifically, the commenters disagree with Customs statement in the notice that consignees are often frustrated when entries are made by a broker, or at a port of entry not chosen by the consignees, and that additional expenses may be incurred.

Response: Customs continually receives complaints from brokers who are being consistently denied business from their clients when shipments are entered without either the broker or the broker's client being contacted when a shipping document specifically directed that they be contacted. It is a real problem for both importers and brokers. Customs believes that section 201 was never intended to frustrate an importer in choosing his own broker. We believe that a problem exists and that it was fairly stated in the notice.

Comment: Several courier services commented that people use international air couriers because they want one courier system to take full responsibility for all services required to move shipments from the sender to the addressee. Door-to-door service necessarily includes entering the shipment. Another commenter pointed out that the preamble to the notice states that the rule will not apply where the shipper contractually agrees that the carrier is the consignee and the carrier may appoint a broker of its own choosing to make entry; but it is not so stated in the rule.

Response: We agree. The rule has been revised to include language which allows the foreign shipper to contractually agree that the carrier is the consignee for Customs purposes and may appoint a broker.

Comment: Many comments were received concerning the use of the word "timely" in § 141.11(c). Commenters noted that Customs has not specifically provided either the manner or the number of times which the designated broker must be contacted, or how long the carrier must wait before concluding that the designated broker has failed to timely respond. There were numerous suggestions on the length of time believed to be "timely". Others commented that Customs enforcement of any time requirement would be virtually impossible because consolidators would merely attest that they unsuccessfully had attempted to contact the broker by adding a "boiler plate" certification. Others commented that if the importer has designated a broker to act on his behalf, then there should be no interference in that selection process.

Response: After extensive consideration, Customs has concluded that the provision to allow the appointment of a broker by the consignee named in the master bill of lading or master air waybill contrary to the house bill or house air waybill consignee's specific designation, when the party does not "timely respond" should be removed from the rule. The purpose of the amendment was to ensure that importers' specific instructions on their shipping documents were honored by carriers. Since Customs recognizes this as the problem to be corrected, allowing the carrier to appoint its own broker after a period of time would frustrate that purpose. The law gives consignees, without any restriction, the right to appoint a broker of their choice. The appointment by the consignee on the house bill should be respected without any exception. Accordingly, the rule has been modified to require the merchandise to be placed in general order if the designated broker does not respond to Customs request to make entry of the shipment.

Comment: Several commenters believe that no sanctions exist if there is a false declaration by the consignee named in the master bill of lading or master air waybill.

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Response: Section 592(a)(1)(A), Tariff Act of 1930, as amended, (19 U.S.C. 1592(a)(1)(A)), states that without regard as to whether or not the U.S. is or may be deprived of lawful duties, no person may enter, introduce, or attempt to enter or introduce any merchandise into the commerce of the U.S. by means of any document, written or oral statement, or act which is material and false, or any omission which is material, or, as stated in 19 U.S.C. 1592(a)(1)(B), may aid or abet any other person to violate subparagraph (A). Further, a broker who is involved in the transaction would be subject to sanctions under section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641).

Comment: One commenter discussed the legislative history of Pub. L. 97–446 in which the sponsors of section 201 made statements in a letter to Congressman Bill Frenzel that there was no intention that a courier service would be prevented from using a broker of its own choosing to make entries for merchandise entrusted to it for carriage.

Response: The explanatory material contained in the proposal clearly states that the amendments are not meant to apply to "those aspects of express delivery operations, courier service operations or similar delivery operations that do not involve consolidated shipments, or delivery operations that do not use individual house bills of lading or air waybills." Also, the notice stated that "nor would it apply to any carrier where the shipper contractually agrees that the carrier is the consignee and may appoint a broker of its own choosing to make entry." We agree with those who suggested that limitations be expressly included in the rule and have made this addition.

Comment: One commenter made an extensive legal argument concerning the meaning of the term "consignee" and cited a number of court cases which were all decided before enactment of Pub. L. 97–446. It was argued that the term "consignee" was not given a new meaning by section 201 of Pub. L. 97–446; it only restricted the legal right of the consignee who cannot qualify as an importer of record to make entry himself. He states, "after 1983, the consignee was required to retain a broker to clear shipments; an unlicensed consignee may not do the paperwork." He continues, "it appears legally impossible for Customs to divest the consignee named in the airlines' documentation (either air waybill or carrier certificate) of his legal right to make entry."

Response: It is noted that section 201 of Pub. L. 97–446 introduced the terms "owner or purchaser" into 19 U.S.C. 1484 without defining them. Customs expanded the expression "owner or purchaser" in Customs Directive 3530–02 (November 6, 1984), to include practically any party with an interest in the goods except a nominal consignee. Since there are no statutory definitions, it is not improper for Customs to define those terms in the context of the intent of the legislation. Customs believes that § 201 was never intended to frustrate an importer's choice of a broker when it gave the consignee the right to appoint a broker.

Comment: One commenter urged that a 6 to 9 month lead time be provided before implementation of any final rule to allow carriers sufficient time to order new bills of lading, airway bills, and other shipping documents incorporating new provisions. This will allow them time to use up their existing stocks of documents.

Response: Inasmuch as the proposal provides that "the required statement may be stamped, typed, or printed on the entry documentation provided to Customs", existing stocks can easily be used by merely rubber-stamping them.

Comment: One comment interprets the proposal as depriving an importer of the right to designate his own broker in connection with shipments arriving without his prior knowledge. It is stated that permitting consolidators who are consignees on the master bill of lading or master air waybill to designate a broker for entry purposes where none has been designated by the shipper-consignee will lead to abuses of this privilege. The commenter states that having entries prepared for the account of a consignee who has not designated a specific broker may expose the importer to Customs penalties, including penalties under 19 U.S.C. 1592, because of unauthorized declarations made by the broker designated by the consolidator.

Response: Instead of depriving an importer of the right to designate his broker, the proposal would protect that right where the importer is concerned enough to arrange for the designation on shipping documents. Where no broker has been designated by the shipper or U.S. importer, the consignee on the master bill of lading or master air waybill clearly has the right to appoint a broker under section 201 of Pub. L. 97–446. Concerning the commenter's last statement, an entry cannot be prepared for the account of a consignee who has not designated a specific broker because the broker could not have a power of attorney from the consignee under those circumstances. Accordingly, an entry prepared by a broker under authority from a consignee who is not the owner or purchaser must make the entry in his name as importer of record, thereby obligating him and his bond for Customs duties, penalties, and liabilities.

Comment: A commenter stated that the rule is not clear and suggested that it be changed to stress that clearances by a broker named by the consignee in the master bill of lading must be in the name of the appointed broker and not in the name of the consignee in the master air waybill. It also asked if the consignee in the master air waybill may appoint a broker for the balance of the consolidated shipment when the shipments are separated.

Response: Amended 19 U.S.C. 1484 provides that the importer of record can only be one of three parties; owner, purchaser, or licensed broker. If the owner or purchaser is not appointing the broker to make entry, then the broker appointed by the consignee must act as importer of record. This need not be mentioned in the rule. Customs position is that once an individual shipment is removed from the consolidated shipment, the consolidated shipment is broken and the consignee named in the master bill of lading no longer has any power to appoint the broker for the remaining individual shipments. Each shipment constitutes a separate shipment for which separate entry must be made.

Comment: One commenter suggested that the final rule specifically state that door-to-door courier, express, or overnight delivery services be defined.

Response: Any definition at this time may prove to be obsolete in the near future, given the rapidly changing state of the courier and air carrier business.

Comment: It is suggested that the rule should also indicate that the master bill consignee's appointment of a broker may not be made where the house bill consignee ("owner or purchaser") has given notice to the break bulk agent (master bill consignee) that a particular broker is to be used for clearance of its shipments. It is noted that any names or designations that appear on the house bills were placed there by the exporter or his agent and that while many importers request that the goods be cleared by the broker that they indicate on the house bills as the party to notify, this information often fails to appear on the bills when executed by a clerk in the country of exportation. Also, the shipper or his agent will indicate a party of his own choosing to be notified, regardless of any contrary instructions of the ultimate consignee.

Response: This comment illustrates the inability of American importers to have their foreign shippers, their foreign shippers' agents, and common carriers honor their designations of agents in the U.S. We do not believe it is beneficial to require the consignee on the master bill of lading or master air waybill to certify to Customs that it is not aware that the individual importer stated in any shipping documents, or otherwise, or desired that the consignee not appoint a broker of his own choosing. This would be a nightmare for Customs to enforce, especially when it is claimed that the consolidator "knew from past experience" that the consignee used a specific broker. Instead, the rule provides a workable method to carry out the U.S. Importers' desires.

Comment: One commenter objected to the material in the last paragraph of the preamble to the notice which states that the amendment will not apply where the shipper contractually agrees that the carrier is a consignee and may appoint a broker of its choosing to make entry. He suggested that consideration be given to the terms of shipment, that is, whether such terms are "all free" (landed or delivered with all duty, freight, and clearance charges paid). Because the house bill consignee is under such circumstances only remotely related to the Customs entry transaction due to the overseas shipper still being the owner at the time the goods "crossed the Customs line", the shipper can appoint the carrier as agent for the purpose of making entry using the master bill consignee and his broker as sub-agents. In other words, the commenter urged that if Customs wishes to retain that exception it should be limited to "all free" shipments and, for sake of clarity, the preamble language should be incorporated in the final rule.

Response: We disagree. We doubt whether in an "all free" shipment the American importer would ever have any interest in forcing the foreign shipper to specify a particular broker or notify a party to make entry in the U.S. Further, if the carrier has enough influence to have foreign shippers agree that it can appoint its own brokers to make entry, then Customs should not interfere inasmuch as section 201 of Pub. L. 97–466 gives the consignee that right.

Comment: It was commented that the proposal does not ensure that the entry will be made at the port of the importer's choosing and suggested that when the individual bills of lading or air waybills indicate that the shipment is to be transported to a specific port of entry for Customs clearance, it be honored by the consolidator/consignee in the same manner as the designation of a specific broker.

Response: We agree and the appropriate language has been added to the rule.

Comment: One commenter suggested the elimination of the requirement that a specific statement must appear on the entry, signed by the consignee on the master bill of lading where such consignee is filing the entry, that none of the huge bills of lading or air waybills of lading making up the master bill of lading designates a broker or actual owner who is to file the Customs entry. Instead, the commenter suggested that the regulations simply contain the prohibition against the filing of an entry in contravention of a specific designation contained in the house bills or air waybills. The commenter believes that the language pertaining to this requirement should be eliminated as it only increases an administrative burden without markedly increasing the effective enforcement of the proposed regulation.

Response: We do not agree. The affirmative statement required of the consignee performs two functions. It provides the basis for taking sanctions against the consignee for a false statement under 18 U.S.C. 1001 and under 19 U.S.C. 1592, and it obviates the necessity for Customs officers to leaf through all of the documents in each consolidated shipment to ensure that no designations have been made. The suggestion, if adopted, would put importers essentially in the same position as now and create new administrative burdens for Customs.

Conclusion

After careful consideration of all the comments received and further review of the matter, it has been determined to republish the proposal with the modifications noted and to allow interested persons an additional opportunity to submit comments on the proposal. Commenters on the original proposal need not resubmit their comments. They will be reconsidered along with any new comments received in response to this notice.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2324, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collection of information requirements contained in § 141.11(c) are subject to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501) and have been cleared by the Office of Management and Budget (OMB). Accordingly, Part 178, Customs Regulations (19 CFR Part 178), which lists the information collections contained in the regulations and the control numbers assigned by OMB is being amended to include OMB control number 1515–0150.

Drafting Information

The principal author of this document was Harold M. Singer, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs officers participated in its development.

List of Subjects

19 CFR Part 141

Customs duties and inspection, Imports, Brokers.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collection of information.

Proposed Amendment

It is proposed to amend Parts 141 and 178, Customs Regulations (19 CFR Parts 141, 178), as set forth below.

PART 141—ENTRY OF MERCHANDISE

1. The general authority citation for Part 141, Customs Regulations (19 CFR Part 141), would continue to read as set forth below:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. It is proposed to amend § 141.11 by adding a new paragraph (c) to read as follows:

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§ 141.11 Evidence of right to make entry for importations by common carrier.

* * * * *

(c) *Consolidated shipments by common carrier.*

(1) In the case of consolidated shipments by common carrier, entry shall not be made by a broker appointed by the consignee named in the master bill of lading or master air waybill if a consignee on any one of the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill, has designated on the individual bills of lading or individual air waybills another broker to make entry, or any one of the individual bills of lading or individual air waybills indicates that entry will be made by the actual owner or purchaser, or that entry is only to be made at a different port of entry.

(2) If entry is made by a broker appointed by the consignee named in the master bill of lading or master air waybill, the broker shall submit with the entry a signed statement to the effect that none of the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill have:

(i) Designated a broker or a different broker from the one identified in the master bill of lading or master air waybill; or

(ii) Indicated that entry will be made by the actual owner or purchaser or;

(iii) Specified that entry is to be made at a different port of entry.

The required statement may be stamped, typed, or printed on the entry documentation provided to Customs. This signed statement shall not be treated as a missing document for which a bond may be provided (See § 141.66 of this Chapter). If the signed statement is not submitted, separate entry shall be made for each individual shipment in the consolidated shipment by the importers of record or their brokers, as appropriate. Shipments for which no entry is made will be placed in general order pursuant to § 4.37 of this Chapter, after the expiration of the lay order period.

(3) The procedures set forth in paragraphs (c)(1) and (c)(2) of this section are not applicable in any of the following situations:

(i) The express delivery, courier service, or similar delivery operation does not involve consolidated shipments; or

(ii) The express delivery, courier service, or similar delivery operation does not use individual house bills of lading or air waybills; or

(iii) The shipper has contractually agreed for a particular shipment that the carrier is the consignee and has the right to appoint a broker of its own choosing to make entry; or

(iv) The shipper has paid a fee which includes Customs entry and clearance in the U.S.

PART 178–APPROVAL OF INFORMATION COLLECTON REQUIREMENTS

1. The authority citation for Part 178 would continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

2. It is proposed to amend § 178.2 by inserting the following in the appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB control No.
§ 141.11(c)	Entry of consolidated.	1515-0150 shipments by common carrier

* * * * *

Michael H. Lane,

Acting Commissioner of Customs.

Approved: October 21, 1987.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 87-25470 Filed 11-3-87; 8:45 am]

BILLING CODE 4820-02-M

OFFICE OF INDEPENDENT COUNSEL

28 CFR Part 700

Production or Disclosure of Material or Information of the Office of Independent Counsel

AGENCY: Office of Independent Counsel.

ACTION: Proposed rule.

SUMMARY: The Office of Independent Counsel proposes to amend Title 28 of the Code of Federal Regulations by adding Chapter VII, consistng of Part 700, Subpart A (Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974) and Subpart B (Exemption of the Office of Independent Counsel's Systems of Records Under the Privacy Act). Subpart A relates to individual access to records pursuant to the Privacy Act and the obligations of the Office of Independent Counsel to assure the security, accuracy and completeness of the records. Subpart B exempts the Office of Independent Counsel's systems of records entitled "General Files System of the Office of Independent Counsel (OIC/001)" and "Freedom of Information Act/Privacy Act Files (OIC/002)." The records contained in these systems related to official investigations and to internal policy decisions. The exemption is necessary to prevent delay or interference with the Office's ongoing criminal investigation and to protect that investigation. It is also necessary to protect the privacy of third parties and the identities of confidential sources involved in the investigation. The exemption will help the Office's investigation to proceed more expeditiously and effectively.

DATES: Submit any comments by December 4, 1987.

ADDRESS: Address all comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Pamela Krems, 202–383–8999.

SUPPLEMENTARY INFORMATION: The Office of Independent Counsel operates pursuant to two distinct and separate sources of authority. On December 4, 1986, Attorney General Edwin Meese III filed an application for appointment of an Independent Counsel with the Division for the Purpose of Appointing Independent Counsels of the United States Court of Appeals for the District of Columbia Circuit. On December 19, 1986, the Special Division of the Court of Appeals filed an order appointing Lawrence E. Walsh as Independent Counsel in the Iran/Contra matter. Order Appointing Independent Counsel, *In re Oliver L. North, et al.*, Div. No. 86–6 (Dec. 19, 1986).

On March 5, 1987, Attorney General Meese issued a regulation that created an "Office of Independent Counsel: Iran/Contra" and provided that office with the same jurisdiction and powers that it already possessed under the Ethics in Government Act, 28 U.S.C. 591–598, and the December 19, 1986 court order appointing Independent Counsel Walsh. 52 FR 7270 (Mar. 10, 1987), 9241 (Mar. 23, 1987) (to be codified at 28 CFR Parts 600 and 601). The "Office of Independent Counsel" and the "Office of Independent Counsel: Iran/Contra" are in actuality one and the same office. This proposed regulation is issued by Independent Counsel under both grants of authority.

In the notice section of today's **Federal Register**, the Office of Independent Counsel provides a description of the "General Files System of the Office of Independent Counsel (OIC/001)" and "Freedom of Information/Privacy Act Files (OIC/002)."

This order relates primarily to individuals rather than to small business entities. However, as required by the Regulatory Flexibility Act, 5 U.S.C. 601–612, the Office hereby states that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 700

Privacy.

Dated: October 29, 1987.

Lawrence E. Walsh,

Independent Counsel.

For the reasons set forth in the preamble, and pursuant to the authority vested in me by the Ethics in Government Act, 28 U.S.C. 591–598, the December 19, 1986 Court order, and the authority delegated to me by the Attorney General pursuant to the Attorney General's regulation issued on March 5, 1987, 52 FR 7270 (Mar. 10, 1987), 9241 (Mar. 23, 1987), and 5 U.S.C. 552a, Title 28 of the Code of Federal Regulations is proposed to be amended by adding Chapter VII—*Office of Independent Counsel*, consisting of Part 700, to read as follows:

CHAPTER VII—OFFICE OF INDEPENDENT COUNSEL

PART 700—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION OF THE OFFICE OF INDEPENDENT COUNSEL

Subpart A—Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974

Sec.

700.10 General provisions.
700.11 Request for access to records.
700.12 Responses to requests for access to records.
700.13 Form and content of Office responses.
700.14 Classified information.
700.15 Records in exempt systems of records.
700.16 Access to records.
700.17 Fees for access to records.
700.18 Appeals from denials of access.
700.19 Preservation of records.
700.20 Requests for correction of records.
700.21 Records not subject to correction.
700.22 Request for accounting of record disclosures.
700.23 Notice of subpoenas and emergency disclosures.
700.24 Security of systems of records.
700.25 Use and collection of social security numbers.
700.26 Employee standards of conduct.
700.27 Other rights and services.

Subpart B—Exemption of the Office of Independent Counsel's Systems of Records—Limited Access

Sec.

700.31 Exemption of the Office of Independent Counsel's Systems of Records—Limited Access

Authority citation: 5 U.S.C. 552a.

PART 700—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION OF THE OFFICE OF INDEPENDENT COUNSEL

Subpart A—Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974

§ 700.10 General provisions.

(a) *Purpose and scope.* This subpart contains the regulations of the Office of Independent Counsel implementing the Privacy Act of 1974, 5 U.S.C. 552a. The regulations apply to all records that are contained in systems of records maintained by the Office of Independent Counsel and that are retrieved by an individual's name or personal identifier. These regulations set forth the procedures by which an individual may seek access under the Privacy Act to records pertaining to him, may request correction of such records, or may seek an accounting of disclosures of such records by the office.

(b) *Transfer of law-enforcement records.* The head of the Office, or his designee, is authorized to make written requests under 5 U.S.C. 552a(b)(7) for transfer of records maintained by other agencies that are necessary to carry out an authorized law-enforcement activity of the Office.

(c) *Definitions.* As used in this subpart, the following terms shall have the following meanings:

(1) "Agency" has the meaning given in 5 U.S.C. 551(1) and 5 U.S.C. 552a(a)(1).

(2) "Record" has the same meaning given in 5 U.S.C. 552a(a)(4).

(3) "Request for access" means a request made pursuant to 5 U.S.C. 552a(d)(1).

(4) "Request for correction" means a request made pursuant to 5 U.S.C. 552a(d)(2).

(5) "Request for an accounting" means a request made pursuant to 5 U.S.C. 552a(c)(3).

(6) "Requester" means an individual who makes either a request for access, a request for correction, or a request for an accounting.

(7) "System of records" means a group of any records under the control of the Office from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to that individual.

§ 700.11 Request for access to records.

(a) *Procedure for making requests for access to records.* An individual may request access to a record about him by appearing in person or by writing the Office. A requester in need of guidance in defining his request may write to the FOIA/PA Officer, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, D.C. 20004. Both the envelope and the request itself should be marked: "Privacy Act Request."

(b) *Description of records sought.* A request for access to records must describe the records sought in sufficient detail to enable Office personnel to locate the system of records containing the record with a reasonable amount of effort. Whenever possible, a request for access should describe the nature of the records sought, the date of the record or the period in which the record was compiled, and the name or identifying number of the system of records in which the requester believes the record is kept.

(c) *Agreement to pay fees.* The filing of a request for access to a record under this subpart shall be deemed to constitute an agreement to pay all applicable fees charged under § 700.17 up to $25.00. The Office shall confirm this agreement in its letter of acknowledgment to the requester. When filing a request, a requester may specify a willingness to pay a greater amount, if applicable.

(d) *Verification of identity.* Any individual who submits a request for access to records must verify his identity in one of the following ways, unless the notice published in the **Federal Register** describing the relevant system of records provides otherwise:

(1) Any requester making a request in writing must state in his request his full name, current address, and date and place of birth. In addition, a requester must provide with his request an example of his signature, which shall be notarized. In order to facilitate the identification and location of the requested records, a requester may also, at his option, include in his request his Social Security number.

(2) Any requester submitting a request in person may provide to the Office a form of official photographic identification, such as a passport or an identification badge. If a requester is unable to produce a form of photographic identification, he may provide to the Office two or more acceptable forms of identification (such as a driver's license or credit card) bearing his name and address.

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(e) *Verification of guardianship.* The parent or guardian of a minor (or the guardian of a person judicially determined to be incompetent) who submits a request for access to the records of the minor or incompetent must establish: (1) His own identity and the identity of the subject of the record, as required in paragraph (d) of this section, (2) that he is the parent or guardian of the subject of the record, which may be proved by providing a copy of the subject's birth certificate showing parentage or by providing a court order establishing the guardianship, and (3) that he seeks to act on behalf of the subject of the record.

§ 700.12 Responses to requests for access to records.

(a) *Authority to grant or deny requests.* The head of the Office, or his designee, is authorized to grant or deny any request for access to a record.

(b) *Initial action by the Office.* When the Office receives a request for access to a record in its possession, the Office shall promptly determine whether another Government agency is better able to determine whether the record is exempt, to any extent, from access. If the Office determines that it is the agency best able to determine whether the record is exempt, to any extent, from access, then the Office shall respond to the request. If the Office determines that it is not the agency best able to determine whether the record is exempt from access, the Office shall respond to the request, after consulting with the agency best able to determine whether the record is exempt from access. Under ordinary circumstances, the agency that generated or originated a requested record shall be presumed to be the agency best able to determine whether the record is exempt from access. However, nothing in this section shall prohibit the agency that generated or originated a requested record from consulting with the Office, if the agency that generated or originated the requested record determines that the Office has an interest in the requested record or the information contained therein.

(c) *Law-enforcement information.* Whenever a request for access is made for a record containing information that relates to an investigation of a possible violation of criminal law or to a criminal law-enforcement proceeding and that was generated or originated by another agency, the Office shall consult with that other agency, as appropriate.

(d) *Classified information.* Whenever a request for access is made for a record containing information that has been classified, or that may be eligible for classification, by another agency under the provision of Executive Order 12356 or any other Executive order concerning the classification of records, the Office shall refer the responsibilities for responding to the request to the agency that classified the information or should consider the information for classification. Whenever a record contains information that has been derivatively classified by the Office because it contains information classified by another agency, the Office shall refer the responsibility for responding to the request to the agency that classified the underlying information; however, such referral shall extend only to the information classified by the other agency.

(e) *Agreements regarding consultations.* No provision of this section shall preclude formal or informal agreements between the Office and another agency, to eliminate the need for consultations concerning requests or classes of requests.

(f) *Date for determining responsive records.* In determining records responsive to a request for access, the Office ordinarily will include only those records within the Office's possession and control as of the date of its receipt of the request.

§ 700.13 Form and content of Office responses.

(a) *Form of notice granting request for access.* After the Office has made a determination to grant a request for access in whole or in part, the Office shall so notify the requester in writing. The notice shall describe the manner in which access to the record will be granted and shall inform the requester of any fees to be charged in accordance with section § 700.17 of this subpart.

(b) *Form of notice denying request for access.* When the Office denies a request for access in whole or in part it shall so notify the requester in writing. The notice shall be signed by the head of the Office, or his designee, and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason or reasons for the denial, including the Privacy Act exemption or exemptions that the Office has relied upon in denying the request and a brief explanation of the manner in which the exemption or exemptions apply to each record withheld; and

(3) A statement that the denial may be appealed under § 700.16(a) of this subpart and a description of the requirements of that subsection.

(c) *Record cannot be located or has been destroyed.* If a requested record cannot be located from the information supplied, or is known or believed to have been destroyed or otherwise disposed of, the Office shall so notify the requester in writing.

(d) *Medical records.* When an individual requests medical records pertaining to himself that are not otherwise exempt from individual access, the Office may advise the individual that the records will be provided only to a physician, designated by the individual, who requests the records and establishes his identity in writing. The designated physician shall determine which records should be provided to the individual and which records should not be disclosed to the individual because of possible harm to the individual or another person.

§ 700.14 Classified information.

In processing a request for access to a record containing information that is classified or classifiable under Executive Order 12356 or any other Executive order concerning the classification of records, the Office shall review the information to determine whether it warrants classification. Information that does not warrant classification shall not be withheld from a requester on the basis of 5 U.S.C. 552a(k)(1). The Office shall, upon receipt of any appeal involving classified or classifiable information, take appropriate action to ensure compliance with the provisions of Executive Order 12356.

§ 700.15 Records in exempt systems of records.

(a) *Law-enforcement records exempted under subsections (j)(2) and (k)(2).* Before denying a request by an individual for access to a law-enforcement record that has been exempted from access pursuant to 5 U.S.C. 552a(k)(2), the Office must review the requested record to determine whether information in the record has been used or is being used to deny the individual any right, privilege, or benefit for which he would otherwise be eligible or to which he would otherwise be entitled under federal law. If so, the Office shall notify the requester of the existence of the record and disclose such information to the requester, except to the extent that the information would identify a confidential source. In cases when disclosure of information in a law-enforcement record could reasonably be expected to identify a confidential source, the record shall not be disclosed to the requester unless the Office is able to delete from such information all material that would identify the confidential source.

(b) *Employee background investigations.* When a requester requests access to a record pertaining to a background investigation and the record has been exempted from access pursuant to 5 U.S.C. 552a(k)(5), the record shall not be disclosed to the requester unless the Office is able to delete from such record all information that would identify a confidential source.

§ 700.16 Access to records.

(a) *Manner of access.* The Office, once it has made a determination to grant a request for access, shall grant the requester access to the requested record either by: (1) Providing the requester with a copy of the record or (2) making the record available for inspection by the requester at a reasonable time and place. The Office shall in either case charge the requester applicable fees in accordance with the provisions of § 700.17 of this subpart. If the Office provides access to a record by making the record available for inspection by the requester, the manner of such inspection shall not unreasonably disrupt the operations of the Office.

(b) *Accompanying person.* A requester appearing in person to review his records may be accompanied by another individual of his own choosing. Both the requester and the accompanying person shall be required to sign a form stating that the Office of Independent Counsel is authorized to disclose the record in the presence of both individuals.

§ 700.17 Fees for access to records.

(a) *When charged.* The Office shall charge fees pursuant to 5 U.S.C. 552a(f)(5) for the copying of records to afford access to individuals unless the Office, in its discretion, waives or reduces the fees for good cause shown. The Office shall charge fees only at the rate of $0.10 per page. For materials other than paper copies, the Office may charge the direct costs of reproduction, but only if the requester has been notified of such costs before they are incurred. Fees shall not be charged when they would amount, in the aggregate, for one request or for a series of related requests, to less than $3.00. However, the Office may, in its discretion, increase the amount of this minimum fee.

(b) *Notice of estimated fees in excess of $25.* When the office determines or estimates that the fees to be charged under this section may amount to more than $25, the Office shall notify the requester as soon as practicable of the actual or estimated amount of the fee, unless the requester has indicated in advance his willingness to pay a fee as high as that anticipated. (If only a portion of the fee can be estimated readily, the Office shall advise the requester that the estimated fee may be only a portion of the total fee.) When the estimated fee exceeds $25 and the Office has so notified the requester, the Office will be deemed not to have received the request for access to records until the requester has agreed to pay the anticipated fee. A notice to a requester pursuant to this paragraph shall offer him the opportunity to confer with Office personnel with the object of reformulating his request to meet his needs at a lower cost.

(c) *Form of payment.* Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(d) *Advance deposits.* (1) When the estimated fee chargeable under this section exceeds $25, the Office may require a requester to make an advance deposit of 25 percent of the estimated fee or an advance payment of $25, whichever is greater.

(2) When a requester has previously failed to pay a fee charged under this part, the requester must pay the Office the full amount owed and make an advance deposit of the full amount of any estimated fee before the Office shall be required to process a new or pending request for access from that requester.

§ 700.18 Appeals from denials of access.

(a) *Appeals to Independent Counsel.* When the Office denies in whole or part a request for access to records, the requester may appeal the denial to Independent Counsel within 30 days of his receipt of the notice denying his request. An appeal to Independent Counsel shall be made in writing, addressed to the Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004. Both the envelope and the letter of appeal itself must be clearly marked: "Privacy Act Appeal."

(b) *Action on appeals.* Unless Independent Counsel otherwise directs, he or his designee shall act on all appeals under this section, except that: A denial of a request for access by Independent Counsel, or his designee, shall constitute the final action of the Office on that request.

(c) *Form of action on appeal.* The disposition of an appeal shall be in writing. A decision affirming in whole or in part the denial of a request for access shall include a brief statement of the reason or reasons for the affirmance, including each Privacy Act exemption relied upon and its relation to each record withheld, and a statement that judicial review of the denial is available in the United States District Court for the judicial district in which the requester resides or has his principal place of business, the judicial district in which the requested records are located, or the District of Columbia. If the denial of a request for access is reversed on appeal, the requester shall be so notified and the request shall be processed promptly in accordance with the decision on appeal.

§ 700.19 Preservation of records.

The Office shall preserve all correspondence relating to the requests it receives under this subpart, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to Title 44 of the United States Code. Under no circumstances shall records be destroyed while they are the subject of a pending request for access, appeal, or lawsuit under the Act.

§ 700.20 Requests for correction of records.

(a) *How made.* Unless a record is exempted from correction and amendment, an individual may submit a request for correction of a record pertaining to him. A request for correction must be made in writing. The request must identify the particular record in question, state the correction sought, and set forth the justification for the correction. Both the envelope and the request for correction itself must be clearly marked: "Privacy Act Correction Request."

(b) *Initial determination.* Within 10 working days of receiving a request for correction, the Office shall notify the requester whether his request will be granted or denied, in whole or in part. If the Office grants the request for correction in whole or in part, it shall advise the requester of his right to obtain a copy of the corrected record, in releasable form, upon request. If the Office denies the request for correction in whole or in part, it shall notify the requester in writing of the denial. The notice of denial shall state the reason or reasons for the denial and advise the requester of his right to appeal.

(c) *Appeals.* When a request for correction is denied in whole or in part, the requester may appeal the denial to Independent Counsel within 30 days of his receipt of the notice denying his request. An appeal to Independent Counsel shall be made in writing, shall set forth the specific item of information

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sought to be corrected, and shall include any documentation said to justify the correction. An appeal shall be addressed to the Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004. Both the envelope and the letter of appeal itself must be clearly marked: "Privacy Act Correction Appeal."

(d) *Determination on appeal.* Independent Counsel, or his designee, shall decide all appeals from denials or requests to correct records. All such appeals shall be decided within 30 working days of receipt of the appeal, unless there is good cause to extend this period. If the denial of a request is affirmed on appeal, the requester shall be so notified in writing and advised of: (1) The reason or reasons the denial has been affirmed, (2) the requester's right to file a Statement of Disagreement, as provided in paragraph (e) of this section, and (3) the requester's right to obtain judicial review of the denial in the United States District Court for the judicial district in which the requester resides or has his principal place of business, the judicial district in which the record is located, or the District of Columbia. If the denial is reversed on appeal, the requester shall be so notified and the request for correction shall be remanded to the Office for processing in accordance with the decision on appeal.

(e) *Statements of disagreement.* A requester whose appeal under this section is denied shall have the right to file a Statement of Disagreement with the Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street NW., Washington, DC 20004, within 30 days of receiving notice of denial of his appeal. Statements of disagreement may not exceed one typed page per fact disputed. Statements exceeding this limit shall be returned to the requester for condensation. Upon receipt of a statement of disagreement under this section, Independent Counsel, or his designee, shall have the statement included in the system of records in which the disputed record is maintained and shall have the disputed record marked so as to indicate (1) that a statement of disagreement has been filed, and (2) where in the system of records the statement of disagreement may be found.

(f) *Notices of correction or disagreement.* Within 30 working days of the correction of a record, the Office shall advise all agencies to which it previously disclosed the record that the record has been corrected. Whenever an individual has filed a statement of disagreement, the Office shall append a copy of the statement to the disputed record whenever the record is disclosed. The Office may also append to the disputed record any written statement it has made giving the Office's reasons for denying the request to correct the record.

§ 700.21 Records not subject to correction.

The following records are not subject to correction or amendment as provided in § 700.20 of this subpart:

(a) Transcripts of testimony given under oath or written statements made under oath;

(b) Transcripts of grand jury proceedings, judicial proceedings, or quasi-judicial proceedings that constitute the official record of such proceedings;

(c) Presentence records that are the property of the courts, but may be maintained by the Office in a system of records; and

(d) Records duly exempted from correction pursuant to 5 U.S.C. 552a(j) or 552a(k) by notice published in the Federal Register.

§ 700.22 Request for accounting of record disclosures.

(a) An individual may request the Office to provide him with an accounting of those other agencies to which the Office has disclosed the record, and the date, nature, and purpose of each disclosure. A request for an accounting must be made in writing and must identify the particular record for which the accounting is requested. The request also must be addressed to the Office and both the envelope and the request itself must clearly be marked: "Privacy Act Accounting Request."

(b) The Office shall not be required to provide an accounting to an individual to the extent that the accounting relates to: (1) Records for which no accounting must be kept pursuant to 5 U.S.C. 552a(c) (1), (2) disclosures of records to law-enforcement agencies for lawful law-enforcement activities, pursuant to written requests from such law-enforcement agencies specifying records sought and the law-enforcement activities for which the records are sought, under 5 U.S.C. 552a(c)(3) and (b)(7), or (3) records for which an accounting need not be disclosed pursuant to 5 U.S.C. 552a (j) or (k).

(c) A denial of a request for an accounting may be appealed to Independent Counsel in the same manner as a denial of a request for access, with both the envelope and the letter of appeal itself clearly marked: "Privacy Act Accounting Appeal."

§ 700.23 Notice of subpoenas and emergency disclosures.

(a) *Subpoenas.* When records pertaining to an individual are subpoenaed by a grand jury, court, or quasi-judicial authority, the official served with the subpoena shall be responsible for ensuring that written notice of its service is forwarded to the individual. Notice shall be provided within 10 working days of the service of the subpoena or, in the case of a grand jury subpoena, within 10 working days of its becoming a matter of public record. Notice shall be mailed to the last known address of the individual and shall contain the following information: The date the subpoena is returnable, the court or quasi-judicial authority to which it is returnable, the name and number of the case of proceeding, and the nature of the records sought. Notice of the service of a subpoena is not required if the system of records has been exempted from the notice requirement of 5 U.S.C. 522a(e)(8), pursuant to 5 U.S.C. 552a(j), by a Notice of Exemption published in the Federal Register.

(b) *Emergency disclosures.* If the record of an individual has been disclosed to any person under compelling circumstances affecting the health or safety of any person, as described in 5 U.S.C. 552a(b)(8), the individual to whom the record pertains shall be notified of the disclosure at his last known address within 10 working days. The notice of such disclosure shall be in writing and shall state the nature of the information disclosed, the person or agency to whom it was disclosed, the date of disclosure, and the compelling circumstances justifying the disclosure. The officer who made or authorized the disclosure shall be responsible for providing such notification.

§ 700.24 Security of systems of records.

(a) The Office Administrator or Security Officer shall be responsible for issuing regulations governing the security of systems of records. To the extent that such regulations govern the security of automated systems of records, the regulations shall be consistent with the guidelines developed by the National Bureau of Standards.

(b) The Office shall establish administrative and physical controls to prevent unauthorized access to its systems of records, to prevent the unauthorized disclosure of records, and to prevent the physical damage or destruction of records. The stringency of such controls shall reflect the sensitivity of the records the controls protect. At a minimum, however, the Office's administrative and physical controls shall ensure that:

(1) Records are protected from public view;

(2) the area in which records are kept is supervised during business hours to prevent unauthorized persons from having access to the records; and

(3) records are inaccessible to unauthorized persons outside of business hours.

(c) The Office shall establish rules restricting access to records to only those individuals within the Office who must have access to such records in order to perform their duties. The Office also shall adopt procedures to prevent the accidental disclosure of records or the accidental granting of access to records.

§ 700.25 Use and collection of social security numbers.

(a) Each system manager of a system of records that utilizes Social Security numbers as a method of identification without statutory authorization, or authorization by regulation adopted prior to January 1, 1975, shall take steps to revise the system to avoid future collection and use of the Social Security numbers.

(b) The Office shall take such measures as are necessary to ensure that employees authorized to collect information from individuals are advised that individuals may not be required to furnish Social Security numbers without statutory or regulatory authorization and that individuals who are requested to provide Social Security numbers voluntarily must be advised that furnishing the number is not required and that no penalty or denial of benefits will flow from the refusal to provide it.

§ 700.26 Employee standards of conduct.

(a) The Office shall inform its employees of the provisions of the Privacy Act, including the Act's civil liability and criminal penalty provisions. The Office also shall notify its employees that they have a duty to:

(1) Protect the security of records;

(2) Assure the accuracy, relevance, timeliness, and completeness of records;

(3) Avoid the unauthorized disclosure, either verbal or written, of records; and

(4) Ensure that the Office maintains no system of records without public notice.

(b) Except to the extent that the Privacy Act permits such activities, an employee of the Office of Independent Counsel shall:

(1) Not collect information of a personal nature from individuals unless the employee is authorized to collect such information to perform a function or discharge a responsibility of the Office;

(2) Collect from individuals only that information that is necessary to the performance of the functions or to the discharge of the responsibilities of the Office;

(3) Collect information about an individual directly from that individual, whenever practicable;

(4) Inform each individual from whom information is collected of:

(i) The legal authority that authorizes the Office to collect such information;

(ii) The principal purposes for which the Office intends to use the information;

(iii) The routine uses the Office may make of the information; and

(iv) The effects upon the individual of not furnishing the information;

(5) Maintain all records that are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as to assure fairness to the individual in the determination;

(6) Except as to disclosures to an agency or pursuant to 5 U.S.C. 552a(b)(2), make reasonable efforts, prior to disseminating any record about an individual, to assure that such records are accurate, relevant, timely, and complete;

(7) Maintain no record concerning an individual's religious or political beliefs or activities, or his membership in associations or organizations, unless:

(i) The individual has volunteered such information for his own benefit;

(ii) A statute expressly authorizes the Office to collect, maintain, use or disseminate the information; or

(iii) The individual's beliefs, activities, or membership are pertinent to and within the scope of an authorized law-enforcement or correctional activity;

(8) Notify the head of the Office of the existence or development of any system of records that has not been disclosed to the public;

(9) When required by the Act, maintain an accounting in the prescribed form of all disclosures of records by the Office to agencies or individuals whether verbally or in writing;

(10) Disclose no record to anyone, except within the Office, for any use, unless authorized by the Act;

(11) Maintain and use records with care to prevent the inadvertent disclosure of a record to anyone; and

(12) Notify the head of the Office of any record that contains information that the Act or the foregoing provisions of this paragraph do not permit the Office to maintain.

(c) Not less than once a year, the head of each Office shall review the systems of records maintained by that Office to ensure that the Office is in compliance with the provisions of the Privacy Act.

§ 700.27 Other rights and services.

Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under 5 U.S.C. 552a.

Subpart B—Exemption of the Office of Independent Counsel's Systems of Records Under the Privacy Act

§ 700.31 Exemption of the Office of Independent Counsel Systems of Records—Limited Access.

(a) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4); (d); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f); and (g):

(1) General Files System of the Office of Independent Counsel (OIC/001).

These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1), (k)(2), and (k)(5).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest on the part of the Office of Independent Counsel as well as the recipient agency. This would permit record subjects to impede the investigation, e.g., destroy evidence, intimidate potential witnesses, or flee the area to avoid inquiries or apprehension by law-enforcement personnel. Moreover, the release of the accounting of disclosures made under subsection (b) of the Act, including those disclosures permitted under the routine uses published for these systems would permit the subject of an investigation of an actual or potential criminal, civil or regulatory violation to determine whether he is the subject of an investigation or to obtain valuable information concerning the nature of the investigation, material compiled during the investigation, and the identity of witnesses and informants. Disclosure of the accounting would, therefore, present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f)(1) of the Act is

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specifically exempted for this system of records.

(2) From subsection (c)(4) because an exemption is being claimed under subsection (d) of the Act. This system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act. Subsection (c)(4), therefore, is inapplicable to this system of records.

(3) From subsection (d) because the records contained in this system relate to official federal investigations. Individual access to these records contained in this system would inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identities of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful completion of the investigation, reveal confidential informants, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. Individual access also could constitute an unwarranted invasion of the personal privacy of third parties who are involved in an investigation. Amendment of the records would interfere with ongoing criminal-law enforcement proceedings and impose an impossible administrative burden.

(4) From subsections (e) (1) and (5) because, in the course of criminal or other law-enforcement investigations, cases and matters, the Office of Independent Counsel may occasionally obtain information concerning actual or potential violations of law that are not strictly within its authority or jurisdiction, or may compile information, the accuracy of which is unclear or which is not strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate and necessary to retain all information that may aid in establishing patterns of criminal activity. Moreover, it would impede the specific investigative process if it were necessary to ensure the relevance, accuracy, timeliness and completeness of all information obtained. In particular, this would restrict the ability of trained investigators, intelligence analysts, and government attorneys to exercise their judgment in reporting on information and investigations.

(5) From subsection (e)(2) because, in a criminal or other law-enforcement investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement. In such circumstances, the subject of the investigation or prosecution would be informed of the existence of the investigation and would therefore be able to avoid detection, apprehension, or legal obligations or duties, as well as to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

(6) From subsection (e)(3) because compliance with the requirements of this subsection during the course of an investigation could impede the information-gathering process, thus hampering the investigation. Furthermore, such requirements could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(7) From subsections (e)(4) (G) and (H) because this system is exempt from the individual-access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.

(8) From subsection e(4)(I) because the categories of sources of records in this system have been published in the **Federal Register** in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in these systems, exemption from this provision is necessary in order to protect the confidentiality of the sources of criminal and other law-enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) From subsection (e)(8) because the individual-notice requirements of subsection (e)(8) could present a serious impediment to law enforcement through interference with the Office of Independent Counsel's ability to issue subpoenas and the disclosure of its investigative techniques and procedures.

(10) From subsection (f) because this system is exempt from the individual-access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act. Furthermore, such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or prosecution pending or future.

(11) From subsection (g) because this system is exempt from the individual-access and amendment provisions of subsection (d) and the provisions of subsection (f) pursuant to subsections (j) and (k) of the Privacy Act.

(c) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4), (G), (H) and (I); (e) (5) and (8); (f) and (g):

(1) Freedom of Information Act/ Privacy Act Files (OIC/002). These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(I), (k)(2), and (k)(5).

(d) Because this system contains Office of Independent Counsel criminal law-enforcement investigatory records, exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the disclosure accounting would permit the subject(s) of criminal investigations under investigation or in litigation to obtain valuable information concerning the nature of that investigation, matter or case and present a serious impediment to law-enforcement activities.

(2) From subsection (c)(4) because an exemption is being claimed for subsection (d) of the Act, rendering this subsection inapplicable to the extent that this system of records is exempted from subsection (d).

(3) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation or case of the existence of such, and provide the subject with information that might enable him to avoid detection, apprehension or legal obligations, and present a serious impediment to law enforcement and other civil remedies. Amendment of the records would interfere with ongoing criminal law-enforcement proceedings and impose an impossible administrative burden.

(4) From subsection (e)(1) because in the course of criminal investigations, matters or cases, the Office of Independent Counsel often obtains information concerning the violation of laws other than those relating to an active case, matter, or investigation. In the interests of effective law enforcement and criminal litigation, it is necessary that the Office of Independent Counsel retain this information since it can aid in establishing patterns of activity and provide valuable leads for future cases that may be brought within the Office of Independent Counsel.

(5) From subsection (e)(2) because collecting information to the greatest extent possible from the subject individual of a criminal investigation or prosecution would present a serious impediment to law enforcement. In such circumstances, the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection, apprehension, or legal obligations and duties.

(6) From subsection (e)(3) because providing individuals supplying information with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement. In those circumstances, it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information, and endanger the life and physical safety of confidential informants.

(7) From subsection (e)(4) (G), (H) and (I) because this system of records is exempt from the individual-access and amendment provisions of subsection (d) and the rules provisions of subsection (f).

(8) From subsection (e)(5) because, in the collection of information for law-enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would inhibit the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(9) From subsection (e)(8) because the individual-notice requirements of subsection (e)(8) could present a serious impediment to law enforcement, i.e., this could interfere with the Office of Independent Counsel's ability to issue subpoenas and could reveal investigative techniques and procedures.

(10) From subsection (f) because this system has been exempted from the individual-access and amendment provisions of subsection (d).

(11) From subsection (g) because the records in this system are generally compiled for law-enforcement purposes and are exempt from the individual-access and amendment provisions of subsections (d) and (f), thus rendering subsection (g) inapplicable.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-011F]

Occupational Noise Standard

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comments and information.

SUMMARY: The Occupational Safety and Health Administration is requesting information concerning the current information collection burdens of the occupational noise standard (29 CFR 1910.95). OSHA seeks comments on whether and to what extent the information collection requirements of the standard can be reduced without reducing the effectiveness of the standard in preventing employee hearing loss.

DATE: Comments, information, and data should be submitted by January 4, 1988.

ADDRESSES: Written submissions in response to this notice should be submitted to the Docket Officer, Docket No. H-011F, Room N3670, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3637, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION:

Background

Section 6(a) of the Occupational Safety and Health Act (84 Stat. 1590, 29 U.S.C. 651, *et seq.*) authorized OSHA for a two year period to adopt established Federal safety and health standards. The occupational noise exposure standard was originally promulgated under the Walsh-Healey Public Contracts Act, 41 U.S.C. 35, *et seq*, and therefore, was subsequently adopted as an OSHA standard in 1971. Designated as 29 CFR 1910.95 (a) and (b), the noise standard limited an employee's noise exposure to 90 decibels (dB) as an 8-hour time-weighted average (TWA). Employee exposure to noise above the permissible exposure limit (PEL) must be reduced to within the permissible limits by feasible engineering or administrative controls, and supplemented by personal protective equipment when needed. The employer was also required to administer a continuing effective hearing conservation program if exposures exceeded the PEL, but the 1971 standard did not spell out the elements of such a hearing conservation program.

A hearing conservation amendment to the occupational noise exposure standard was promulgated as a final rule on March 8, 1983 (48 FR 9738) following eight years of rulemaking activity. The amendment requires employers to provide an effective hearing conservation program for all employees exposed to an 8-hour TWA of 85 dB or more and contains requirements for monitoring employee noise exposure, annual audiometric testing of employees exposed to noise at or above a TWA of 85 dB, the proper selection and use of hearing protectors, education and training of employees, and the keeping of records including those for exposure monitoring and audiometric testing (see 29 CFR 1910.95 (c)-(s)).

At the time the hearing conservation amendment was promulgated, OSHA reevaluated the information collection burden to include the new provisions. Such burdens were kept to the minimum thought necessary for an effective program and for OSHA enforcement of the standard. The information collection provisions in the standard had already been examined carefully by OSHA when the original January 1981 hearing conservation amendment (46 FR 4078) was stayed for reconsideration. Several of its detailed recordkeeping requirements were found to be unnecessarily burdensome or redundant and were revoked. The information collection requirements that remain have been considered necessary to insure the effectiveness of the standard. However, these requirements do impose a significant paperwork burden on the almost 200,000 affected employers that has been estimated to be over 6.8 million hours. In addition, the Regulatory Flexibility Act, 5 U.S.C. 601-612, and the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501, *et seq.* (administered by OMB) both require periodic review of regulations with a view towards reducing the burdens they impose on the public. According to OMB, the term "collection of information" includes:

(1) . . . the use of written report forms, application forms, schedules, questionaires, reporting or recordkeeping requirements, or other similar methods. Similar methods may include contracts, agreements, policy statements, plans, rules or regulations, planning requirements, circulars, directives, instructions, bulletins, requests for proposal

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or other procurement requirements, interview guides, disclosure requirements, labeling requirements, telegraphic or telephonic requests, and standard questionnaires used to monitor compliance with agency requirements (5 CFR 1320.7 (c)(1)).

and

(2) Requirements by an agency or a person to obtain or compile information for the purpose of disclosure to members of the public or to the public at large, through posting, notification, labeling or similar disclosure requirements, constitute the "collection of information" whenever the same requirement to obtain or compile information would be a "collection of information" if the information were directly provided to the agency. The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within this definition (5 CFR 1320.7 (c)(2)).

The term "information collection burden" means:

. . . the total time, effort, or financial resources required to respond to a collection of information, including that to read or hear instructions; to develop, modify, construct, or assemble any materials for equipment; to conduct tests, inspections, polls, observations, or the like necessary to obtain the information; to organize the information into the requested format; to review its accuracy and the appropriateness of its manner of presentation; and to maintain, disclose, or report the information.

The time and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of their activities (e.g., in compiling and maintaining business records), will be excluded from the "burden" if the agency demonstrates that the reporting or recordkeeping activities needed to comply are usual and customary (5 CFR 1320.7(b)).

Comments and Information Requested

OSHA seeks comments and information from the public on the practical utility of the information required to be collected by the existing regulation, on the appropriate frequency for collecting the information and on possible alternatives for reducing the burden without reducing the effectiveness of the standard in protecting employee hearing. During rulemaking, specific information, research, and studies were introduced into the record to support the need for the requirements of the standard and the information collection burden these requirements impose. Therefore, persons responding should submit any supporting studies or research that show how the health protection afforded by the existing standard will not be decreased by any proposed method for reducing the information collection burden.

Public Participation

Written Comments and Information

The written comments and information requested herein must be submitted on or before January 4, 1988. Comments should be submitted in quadruplicate to the Docket Officer, Docket H–011F, Room N3670, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC 20210, where they will be available for public inspection and copying during normal business hours.

List of Subjects in 29 CFR 1910

Occupational health standards, noise.

Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 6(b) and 8(d) of the Occupational Safety and Health Act (29 U.S.C. 655, 659).

Signed at Washington, DC, this 29th day of October, 1987.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 87–25522 Filed 11–3–87 8:45 am]

BILLING CODE 4510–26–M

Pension and Welfare Benefits Administration

29 CFR Part 2550

Participant Directed Individual Account Plans (ERISA Section 404(c) Plans); Notice of Extension of Comment Period and Notice of Hearing

AGENCY: Department of Labor.

ACTION: Notice of extension of comment period and notice of hearing.

SUMMARY: This document extends the comment period and provides notice of a public hearing regarding proposed regulations under section 404(c) of Title I of the Employee Retirement Income Security Act of 1974 (ERISA, or the Act) relating to participant directed individual account plans. The proposed regulations were set forth in a notice of proposed rulemaking published in the **Federal Register** at 52 FR 33507 (September 3, 1987).

DATES: The comment period is extended through December 7, 1987. The hearing will be held on Wednesday, February 10, 1988 beginning at 9:15 a.m. e.s.t.

ADDRESSES: Written comments (preferably at least three copies) should be submitted to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N–5669, U.S. Department of Labor, Washington, DC 20210, and marked "Attention: Section 404(c) regulation." All submissions will be available for public inspection in the Public Documents Room, Pension and Welfare Benefits Administration, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

The hearing will be held in Room N 3437 A and B of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Martin A. Staubus, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210, (202) 523–9596 (not a toll free number) or Mark A. Greenstein, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC 20210, (202) 523–8671 (not a toll free number).

SUPPLEMENTARY INFORMATION: On September 3, 1987, the Department of Labor (the Department) published a notice of proposed rulemaking in the **Federal Register** (52 FR 33507) regarding participant directed individual account plans under section 404(c) of ERISA (29 U.S.C. 1104(c)). In that notice the Department invited all interested persons to submit written comments concerning the proposed regulations on or before November 2, 1987.

The Department has received requests from some members of the public for additional time to prepare comments due to the complexity of the issues involved in the proposed regulations, and the Department believes that it is appropriate to grant such additional time. Accordingly, this notice extends the comment period during which comments on the proposed regulations will be received through December 7, 1987.

In addition, the Department has received a number of comments requesting a public hearing. In view of these requests, and the importance of the proposed regulations, the Department has decided to hold a hearing on the proposed regulations on Wednesday, February 10, 1988, beginning at 9:15 a.m. e.s.t., in Room N 3437 A and B of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC.

Any interested person who wishes to be assured of an opportunity to present oral comments at the hearing should submit by 3:30 p.m. e.s.t., February 1, 1988: (1) A written request to be heard, and (2) an outline (preferably five

copies) of the topics to be discussed, indicating the time allocated to each topic. The request to be heard and accompanying outline should be sent to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N–5669, U.S. Department of Labor, Washington, DC 20210, and marked "Attention: Section 404(c) Hearing." Individuals who do not file written comments regarding the proposed regulations may nonetheless submit a request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments. In the absence of special circumstances, each commentator will be allotted ten minutes in which to complete his presentation. Information about the agenda may be obtained on or after February 8, 1988 by telephoning Mark A. Greenstein, Washington, DC, (202) 523–8671 (not a toll free number). Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments. The hearing will be transcribed.

Notice of Extension of Comment Period

Notice is hereby given that the period of time for the submission of public comments on the proposed regulations relating to participant directed individual account plans under section 404(c) of ERISA (proposed at 52 FR 33507, September 3, 1987), is hereby extended through Monday, December 7, 1987.

Notice of Public Hearing

Notice is hereby given that a public hearing will be held on Wednesday, February 10, 1988 regarding proposed regulations (published at 52 FR 33507, September 3, 1987) under section 404(c) of ERISA relating to participant directed individual account plans. The hearing will be held beginning at 9:15 a.m. e.s.t., in Room N 3437 A and B of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC.

Signed at Washington, DC this 30th day of October, 1987.

David M. Walker,

Assistant Secretary of Labor, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87–25577 Filed 11–3–87; 8:45 am]

BILLING CODE 4510–29–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–3287–4]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for Raymark Corp., Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a proposed State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compounds (VOC) emissions from Raymark Corporation, Incorporated in Stratford, Connecticut. The intended effect of this action is to propose approval of a source-specific RACT determination submitted by the State in accordance with commitments made in its Ozone Attainment Plan approved by EPA on March 21, 1984 (49 FR 10542).

DATES: Comments must be received on or before December 4, 1987.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of Connecticut's submittal and EPA's Technical Support Document prepared for this revision are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2311, JFK Federal Bldg., Boston, MA 02203; and the Air Compliance Unit, Department of Environmental Protection, State Office Bldg., 165 Capitol Avenue, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565–3252; FTS 835–3252.

SUPPLEMENTARY INFORMATION: On November 20, 1986 and March 1, 1987, the Connecticut Department of Environmental Protection (DEP) submitted a proposed SIP revision to EPA. This revision is proposed State Order No. 8013 which defines VOC control requirements for Raymark Corporation, Incorporated (Raymark) in Stratford, Connecticut. These control requirements constitute RACT for this facility as required by subsection 22a–174–20(ee), "Reasonably Available Control Technology for Large Sources," of Connecticut's Regulations for the Abatement of Air Pollution.

Subsection 22a–174–20(ee) requires the DEP to determine and impose RACT on all stationary sources with potential VOC emissions of one hundred tons per year (TPY) or more that are not already subject to Connecticut's regulations developed pursuant to the Control Techniques Guideline (CTG) documents. EPA approved this regulation on March 21, 1984 (49 FR 10542) as part of Connecticut's 1982 Ozone Attainment Plan. That approval was granted with the agreement that all source-specific RACT determinations made by the DEP would be submitted to EPA as source-specific SIP revisions.

Summary of SIP Revision

Raymark's principal operation is the manufacture of clutch pads and gaskets. Volatile organic compounds are emitted from five areas at Raymark. The five areas are the storage tanks; the resins manufacturing process; the adhesive manufacturing process; the wet friction products manufacturing process; and the special products manufacturing process.

I. Storage Tanks

Raymark has investigated the feasibility of controlling the VOC emissions from its storage tanks. Raymark has approximately 14 VOC-containing storage tanks with annual throughput of approximately five million pounds of VOC. Raymark has estimated that the tanks annually emit approximately 0.85 tons of VOC. From its investigations, Raymark has shown that no controls are feasible. State Order No. 8013 does not require Raymark to implement controls on its storage tanks. As RACT, Raymark is required to maintain a quarterly allowable emission limit of .2118 tons of VOC from all of its VOC-containing storage tanks. Compliance with the above limitation will be verified by recordkeeping of VOC deliveries to Raymark's storage tanks.

II. Resins Manufacturing

The resins manufacturing process consists of a jacketed reactor vessel which is used to manufacture resins from liquid and solid raw materials. The reactor vessel is equipped with a vapor condensation loop consisting of a vacuum pump which discharges to a condensor. The vapor from the condensor is recycled to the reactor vessel, and thus the system is closed with no significant VOC emissions. The condensate that is collected by the condensor is sent to a boiler to be burned. State Order No. 8013 requires Raymark to maintain a VOC destruction efficiency of 90 percent in the boiler

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when it is burning the condensate. Compliance will be verified with a continuous temperature recorder which Raymark is required to install pursuant to the requirements of State Order No. 8013. The boiler is presently destroying approximately 325.4 tons of VOC per year.

III. Adhesives Manufacturing

The adhesives manufacturing process consists of small reactor vessels that are used to manufacture adhesives. These vessels are jacketed, and the temperature is controlled with cooling water. Raymark estimates that the amount of VOC emitted is not significant during the adhesive manufacturing since the process is simply one of mixing ingredients in closed vessels and holding them until the ingredients dissolve and react. State Order No. 8013 requires Raymark to begin documenting the quantity of VOC emissions from the adhesive manufacturing process by May 1, 1987 through daily recordkeeping.

Under subsection 22a–174–20(aa), "Applicability," of Connecticut's regulations, if the VOC emissions are maintained at less than 40 pounds per day, the adhesive manufacturing process would be exempt under subsection 22a–174–20(ee) from implementing RACT. This 40 pound per day cut-off for exempting VOC processes from RACT requirements, specified in subsection 22a–174–20(aa), was approved by EPA on October 19, 1984 (49 FR 41028). Compliance with the above limitation will be verified by daily recordkeeping of the overall VOC used in the adhesive manufacturing process and the overall amount of VOC contained in the manufactured adhesives.

If Raymark determines that it emits more than 40 pounds per day of VOC, then Raymark is required by the State Order to implement RACT on the adhesive manufacturing process. The Connecticut DEP has determined that RACT would be a reduction in VOC emissions of 80 percent from this process by December 1, 1987.

IV. Wet Friction Products Manufacturing

The wet friction products manufacturing process consists of saturation tanks, precuring ovens, and batch and final curing ovens. The process consists of manufacturing paper wafers which are then put on a conveyor and saturated with a VOC-containing resin in a tank. In the tank the wafers absorb resin and VOC. At the exit from the saturation tank rollers squeeze excess saturant from the wafers. The saturated wafers are then conveyed to precuring ovens where they are subjected to a vacuum at elevated temperatures which removes approximately 96.6 percent of the absorbed VOC. The evaporated solvent is sent to an incinerator to be burned. The precured wafers are then loaded onto trucks and placed in the batch and final cure ovens. The batch and final cure ovens, which are not controlled, remove the remaining 3.4 percent of absorbed solvent.

State Order No. 8013 requires Raymark to maintain an overall capture and destruction efficiency of 90 percent from the entire wet friction products manufacturing process through incineration. The incinerator is presently reducing approximately 540 tons of VOC per year from this process.

To insure that the incinerator will maintain an adequate capture efficiency, the State Order requires Raymark to undertake weekly visible inspections of all hooding and ductwork from the ovens to the incinerator and oven door gaskets for fugitive emission leaks. If visible emissions are observed, repairs are required to be initiated immediately. To insure that the incinerator will maintain an adequate destruction efficiency, the State Order requires Raymark to install a continuous temperature recorder on the incinerator.

Additionally, State Order No. 8013 requires Raymark to maintain a daily recordkeeping system of VOC usage in the wet friction products manufacturing process.

V. Special Products Manufacturing

The special products manufacturing process follows the same basic sequence of wafer production as the wet friction products manufacturing process (i.e., saturation followed by precuring, followed by final curing), excepting that each operation is performed manually rather than automatically. Saturation is performed by manually dipping trucks containing wafers into vats of saturant, and precuring is performed by air drying. The precured products are then trucked to final curing ovens. Certain special products also undergo additional operations such as hot pressing in steam autoclaves to get more resin into the wafers, and adhesive spraying in order to bond the wafers to other materials. There are presently no controls for any of the VOC emission sources in this process.

The special products manufacturing process annually emits approximately 26 tons of VOC. Raymark has investigated the feasibility of installing an incinerator on the saturation tanks which emit approximately 83% (approximately 22 tons/year) of the VOC's released by this process. From Raymark's investigations, it is estimated that the cost of controlling the VOC emissions from the saturation tanks would be in the vicinity of $59,000 per ton of VOC controlled. The Connecticut DEP has determined that this does not represent RACT for this source and is not requiring Raymark to install add-on control equipment. Instead, the DEP is requiring Raymark to maintain an emission limitation on the special products manufacturing process of 2.166 tons of VOC per month. Compliance with this limitation will be verified with daily recordkeeping of the VOC usage for each saturation tank. This limitation and the recordkeeping requirements are contained in the State Order. Additionally, the State Order requires Raymark to install a cover on each saturant tank. These covers should reduce fugitive VOC emissions from this process.

Since the adhesive spraying operation of the special products manufacturing process also utilizes VOC containing materials, State Order No. 8013 requires Raymark to begin documenting the quantity of VOC emissions from the adhesive spraying operation by May 1, 1987 through daily recordkeeping. If the VOC emissions are less than 40 pounds per day, the adhesive spraying operation would be exempt under subsection 22a–174–20(aa) from implementing RACT pursuant to subsection 22a–174–20(ee) provided Raymark maintains its VOC emissions from this process below 40 pounds per day. Compliance with the above limitation will be verified by daily recordkeeping of VOC usage in the adhesive spraying operation. If Raymark determines that it emits more than 40 pounds per day of VOC, then Raymark is required by the State Order to implement RACT on the adhesive spraying operations. The Connecticut DEP has determined that RACT would be a reduction in VOC emissions of 80 percent from this process by December 1, 1987.

EPA has reviewed the requirements of State Order No. 8013 and has determined that they constitute RACT for Raymark Corporation, Incorporated.

EPA is proposing to approve DEP's proposed Order as a revision to the Connecticut SIP and is soliciting public comments. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

This revision is being proposed under a procedure called parallel-processing, whereby EPA proposes rulemaking action concurrently with the State's procedures for amending its regulations. If the proposed revision is substantially changed, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made to the proposed revision, EPA will publish a final rulemaking notice. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the State of Connecticut and formally submitted for incorporation into the SIP.

Proposed Action

EPA is proposing to approve Connecticut's proposed State Order No. 8013 as a revision to the Connecticut SIP. The provisions of Connecticut's proposed State Order No. 8013 define and impose RACT for Raymark Corporation, Incorporated as required by subsection 22a–174–20(ee) of Connecticut's regulations.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Date: April 28, 1987.

Michael R. Deland,

Regional Administrator, Region I.

[FR Doc. 87–25535 Filed 11–3–87; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[FRL–3287–5]

Approval and Promulgation of Implementation Plans Connecticut; Reasonably Available Control Technology for American Cyanamid Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compound (VOC) emissions from American Cyanamid Company in Wallingford, Connecticut. The intended effect of this action is to propose approval of a source-specific RACT determination made by the State in accordance with commitments made in its Ozone Attainment Plan approved by EPA on March 21, 1984 (49 FR 10542).

DATES: Comments must be received on or before December 4, 1987.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of Connecticut's submittal and EPA's Technical Support Document prepared for this revision are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2311, JFK Federal Bldg., Boston, MA 02203; Public Information Reference Unit, and the Air Compliance Unit, Department of Environmental Protection, State Office Bldg., 165 Capitol Avenue, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565–3252; FTS 835–3252.

SUPPLEMENTARY INFORMATION: On December 19, 1986, the Connecticut Department of Environmental Protection (DEP) submitted a SIP revision to EPA. This revision is proposed State Order No. 8012 which defines VOC control requirements for American Cyanamid Company in Wallingford, Connecticut. These control requirements constitute RACT for this facility as required by subsection 22a–174–20(ee), "Reasonably Available Control for Large Sources," of Connecticut's Regulations for the Abatement of Air Pollution.

Subsection 22a–174–20(ee) requires the DEP to determine and impose RACT on all stationary sources with potential VOC emissions of one hundred tons per year (TPY) or more that are not already subject to Connecticut's regulations developed pursuant to the Control Techniques Guideline (CTG) documents. EPA approved this regulation on March 21, 1984 (49 FR 10542) as part of Connecticut's 1982 Ozone Attainment Plan. That approval was granted with the agreement that all such RACT determinations made by the DEP would be submitted to EPA as source-specific SIP revisions.

Summary of SIP Revision

American Cyanamid Company produces polymers at its Wallingford Plant. American Cyanamid has three distinct areas which are subject to the requirements of subsection 22a–174–20(ee) of Connecticut's regulations. The three areas are the Thermoplastics Department (Buildings #10S and #10A), the Thermosetting Department (Building #1), and the Resins Department (Buildings #5 and #6). As RACT, the State Order requires American Cyanamid to install air pollution control equipment on any VOC emission source whose maximum potential VOC emissions exceed forty pounds per day or five thousand pounds per year. Each piece of air pollution control equipment is required to demonstrate a minimum overall VOC reduction of eighty-five percent. Additionally, the State Order requires American Cyanamid to upgrade any existing air pollution control equipment that is not demonstrating a minimum overall VOC reduction of eighty-five percent. All such modified pollution control equipment must also achieve a minimum overall VOC reduction of eighty-five percent.

The State Order exempts any source emitting less than forty pounds of VOC per day and five thousand pounds of VOC per year from any RACT requirements. This exemption is consistent with the provisions of subsection 22a–174–20(aa) which was approved by EPA on October 19, 1984 (49 FR 41028). For purposes of determining which sources are exempt from meeting RACT, American Cyanamid must aggregate similar or identical VOC emission points. For each source that is exempt from meeting RACT, the DEP will impose an enforceable daily cap in pounds VOC per day. The daily cap will be forty pounds VOC per day for sources whose potential emissions are greater than 40 pounds per day but actual emissions are less than 40 pounds per day. For sources whose both potential and actual VOC emissions are less than 40 pounds per day, the daily cap will be set at the level of the source's potential VOC emissions.

State Order No. 8012 requires American Cyanamid to implement a fugitive leak detection program on all of its processes. This program will reduce VOC leaks from valves, pumps, compressors and safety relief valves at American Cyanamid.

On February 10, 1987, EPA sent a letter to the Connecticut DEP with minor comments on proposed State Order No. 8012. In that letter, EPA suggested minor language changes to the State Order to

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improve the enforceability of its requirements. The Connecticut DEP has agreed to make all of the necessary changes that EPA has provided before formally submitting this State Order as a SIP revision.

American Cyanamid is required to achieve full compliance with the requirements of State Order No. 8012 on all of its processes by December 31, 1987. That is the date allowed under subsection 22a–174–20(ee) of Connecticut's federally-approved SIP. Not including the fugitive leak detection program, the application of RACT by American Cyanamid as required by State Order No. 8012 will reduce American Cyanamid's actual emissions by approximately 198 tons per year.

EPA has reviewed the requirements of State Order No. 8012 including its compliance dates, and has determined that they constitute RACT for American Cyanamid.

EPA is proposing to approve DEP's proposed Order as a revision to the Connecticut's SIP, and is soliciting public comments. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

This revision is being proposed under a procedure called parallel-processing, whereby EPA proposes rulemaking action concurrently with the State's procedures for amending its regulations. If the proposed revision is substantially changed, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made to the proposed revision, EPA will publish a final rulemaking notice. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the State of Connecticut and submitted for incorporation into the SIP.

Proposed Action

EPA is proposing to approve Connecticut's proposed State Order No. 8012 as a revision to the Connecticut SIP. The provisions of Connecticut's proposed State Order No. 8012 define and impose RACT for American Cyanamid Company as required by subsection 22a–174–20(ee) of Connecticut's regulations.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Hydrocarbons, Intergovernmental relations, Reporting and Recordkeeping requirements.

Authority citation: 42 U.S.C. 7401–7642.

Date: March 11, 1987.

Michael R. Deland,

Regional Administrator, Region I.

Editorial Note: This document was received at the Office of the Federal Register October 30, 1987.

[FR Doc. 87–25537 Filed 11–3–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 60

[AD–FRL–3287–3]

Standards of Performance for New Stationary Sources; Polypropylene, Polyethylene, Polystyrene, and Poly(Ethylene Terephthalate) Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing.

SUMMARY: This notice for the Standards of Performance for New Stationary Sources—Polypropylene, Polyethylene, Polystyrene, and Poly(ethylene terephthalate) Manufacturing Industry clarifies the information presented in the September 30, 1987 (52 FR 36678), **Federal Register** regarding the date of the public hearing. A public hearing has been requested and the date and place of the hearing are given.

DATES: A public hearing has been requested and it will be held on November 16, 1987, beginning at 10:00 a.m.

ADDRESSES: The public hearing will be held at EPA's Office of Administration Auditorium located off Alexander Drive, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Ann Eleanor, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone Number (919) 541–5578.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Eleanor, (919) 541–5578.

Date: October 28, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 87–25538 Filed 11–3–87; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 52, No. 213
Wednesday, November 4, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by the Office of Management and Budget

October 30, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Agricultural Stabilization and Conservation Service

Request for Long-Term Agreement (Agricultural Conservation Program)
ACP–310
On occasion
Individuals or households; Farms; 3,300 responses; 1,650 hours; not applicable under 3504(h)
Clayton M. Furukawa (202) 475–5571

- Animal and Plant Health Inspection Service

U.S. Origin Health Certificates
VS 17–50 and VS 17–140
On occasion
Farms; Businesses or other for-profit; Federal agencies or employees; 39,040 responses; 19,520 hours; not applicable under 3504(h)
Michael J. Gilsdorf (301) 436–8383

- National Agricultural Statistics Service

Field Crop Production
Weekly; Monthly; Quarterly; Annually
Farms; Businesses or other for-profit; 290,903 responses; 53,767 hours; not applicable under 3504(h)
Larry Gambrell (202) 447–7737

Revision

- National Agricultural Statistics Service

Floriculture and Nursery Survey
Annually
Farms; Businesses or other for-profit; 14,220 responses; 4,740 hours; not applicable under 3504(h)
Larry Gambrell (202) 447–7737

- Agricultural Stabilization and Conservation Service

Peanut Warehouse Contracts, Applications for Approval, Examination Reports, Bond, Warehouse Receipts and Drafts
Recordkeeping; Monthly, Annually, Daily
Farms; Businesses or other for-profit; 79,581 responses; 8,647 hours; not applicable under 3504(h)
Bob Ray (202) 382–9106

- National Agricultural Statistics Service

Vegetable Surveys
Farms; Businesses or other for-profit; 17,412 responses; 2,642 hours; not applicable under 3504(h)
Larry Gambrell (202) 447–7737

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 87–25559 Filed 11–3–87; 8:45 am]

BILLING CODE 3410–01–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Agency Information Collection Activities Under OMB Review

AGENCY: Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Information collection submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Board's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Board clearance officer and to the Office of Management and Budget Architectural and Transportation Barriers Compliance Board Desk Officer, Washington, DC 20503; telephone 202/395–7316.

Title: 29 U.S.C. 792 Emergency Egress and Disabled Persons.

Abstract: Section 502(b)(7) of Pub L. 95–602 requires the Board to establish minimum guidelines and requirements for accessible design. In addition, section 502(f) provides the Board with its technical assistance authority. The information in this collection will be used by the Board's contractor, Hughes Associates, Inc., to adivse the Board on technologies, methods and procedures

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used to evacuate disabled and non-disabled people from federal and high rise office buildings.
Board Form Number: None
Frequency: One-time
Description of Respondents: Building Managers and Nonprofit Institutions
Annual Responses: 1,000
Annual Burden Hours: 235
Board Clearance Officer: Laurinda Steele

Date: October 29, 1987.

Margaret Milner,

Executive Director.

[FR Doc. 87-25499 Filed 11-3-87; 8:45 am]

BILLING CODE 6825-SP-M

CIVIL RIGHTS COMMISSION

New York State Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York State Advisory Committee to the Commission will convene at 3:30 p.m. and adjourn at 6:00 p.m. on November 19, 1987, in Room 305–A of the Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York. The purpose of the meeting is to orient new members, discuss civil rights issues in the State, and select topics for projects and monitoring in the new Fiscal Year. A forum will also be held on preparations for the 1990 decennial census and census undercount problems in minority neighborhoods of big cities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Vice Chairperson Setsuko M. Nioshi (718/780–5466, 212/790–4306) or John I. Binkley, Director of the Eastern Regional Division (202/523–5264; TDD 202/376–8117.) Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 22, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-25497 Filed 11-3-87; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 25-87]

Proposed Foreign-Trade Zone and Citrus and Food Product Processing Subzones, Weslaco, TX; Application and Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Weslaco, Texas, requesting authority to establish a general-purpose foreign-trade zone and food processing subzones in Weslaco, Texas, adjacent to the Progreso Customs port of entry. It was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 21, 1987. The applicant is authorized to make this proposal under Senate Bill 1427, State of Texas, 69th Legislature, (July 24, 1985).

The proposed general-purpose zone will involve two sites in Weslaco, some 40 miles northwest of Brownsville (FTZ 62) and 20 miles east of McAllen (FTZ 12), on the U.S./Mexican Border. Site 1 (440 acres) is the Mid Valley Industrial Park located at Airport Drive and U.S. Highway 83. The facility includes the Weslaco Mid Valley Airport and the Hagger Apparel Co. complex. A 125,000 sq. ft. building is under construction. Site 2 (52,000 sq. ft. warehouse) is the Lake Delta Citrus Association site, located at 320 S. Utah.

The general-purpose zone part of the application contains evidence of the need for general-purpose zone services in the Weslaco area. Several firms have expressed an interest in using zone procedures for the storage and processing of articles such as agricultural products, plastics and apparel. No specific manufacturing approvals are being sought for the general-purpose zone sites at this time. Such requests would be made to the Board on a case by case basis.

The proposal also requests authority for three subzones for food processing operations. Two of them have facilities for inspection, sorting and packing fresh fruits and vegetables from the United States and Mexico for reexport and for the domestic market. These sites are located in Weslaco at the McManus Produce Company facility (9.5 acres), Highway 83/Airport Drive, and the Gulf DeBruyn facility (5.3 acres), 504 East Railroad Street. The third subzone is at the Texsun Corporation facility (35 acres), located at Border Avenue/Railroad Street. It is used to blend, dilute, and package both concentrated and single strength grapefruit and orange juices sourced abroad.

Zone procedures would allow the food processing subzones to avoid Customs duty payments on foreign products that are reexported. On domestic shipments the companies would be able to defer duty payments and avoid them on spoiled products. At the third site Texsun wishes to use zone procedures to pay the duty rate on single strength citrus jucie (20¢ per gallon). The duty rate on concentrated jucie is 35¢ per single-strength-gallon equivalent.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis puccinelli, (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Don Gough, Deputy Assistant Regional Commissioner, Inspection & Control, U.S. Customs Service, Southwest Region, 5850 San Felipe St., Houston, TX 77057-3012; and Colonel John A. Tudela, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, TX 77553-1229.

As part of its investigation, the examiners committee will hold a public hearing on December 9, 1987, beginning at 10:00 a.m., in the auditorium of the Weslaco Public Library, 525 South Kansas Avenue, Weslaco, TX 78596.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by November 30. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through January 11, 1988.

A copy of the application is available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, Rt. 2 Box 600, Progresso, TX 78579

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Ave, NW., Washington, DC 20230

Dated: October 28, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87-25564 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-588-038]

Bicycle Speedometers From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 31, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on bicycle speedometers from Japan. The review covers eleven manufacturers and/or exporters of this merchandise to the United States and generally the period April 1, 1978 through October 31, 1984.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the one comment received, the final results are unchanged for those presented in the preliminary results of review.

EFFECTIVE DATE: November 4, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 38582) the preliminary results of its administrative review of the antidumping finding on bicycle speedometers from Japan (37 FR 24826, November 22, 1972). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of bicycle speedometers currently classifiable under item numbers 711.9300, 711.9820, and 732.4200 of the Tariff Schedules of the United States Annotated and Harmonized System numbers 9029.20.20, 9029.90.40, and 9029.10.80.

The review covers eleven manufacturers and/or exporters of Japanese bicycle speedomters to the United States and generally the period April 1, 1978 through October 31, 1984.

Analysis of Comment Received

We invited interested parties to comment on the preliminary results. We received a comment from one respondent.

Comment: Diversified Products Corporation ("D.P."), an importer, contends that its entries of double gear hub drive speedometers prior to July 2, 1982, the date of the ITA's final determination which included double gear units in the scope of the finding, should not be subject to assessment of dumping duties. Prior to July 2, 1982, the ITA had specifically excluded double gear hub drive speedometers from the finding. D.P. asserts that duties were intended to be imposed on a prospective basis after an affirmative determination and, therefore, the ITA cannot retroactively assess duties on entries made prior to July 2, 1982.

Department's Position: On July 2, 1982, the Department published in the **Federal Register** (47 FR 28979) the final results of its administrative review of the antidumping finding on bicycle speedometers from Japan. In that notice we revised our preliminary decision about double gear hub drive speedometers and ruled that they are within the scope of the finding. In that decision, rather than amending, we merely clarified the scope of the original finding; that is, the scope of the 1972 finding includes double gear hub drive speedometers, and any shipments to the U.S. of this merchandise since 1972 are of the same class or kind of merchandise as that originally investigated in 1972. Entries of this merchandise during this period of review are, therefore, properly subject to the assessment of dumping duties.

Final Results of the Review

Based on our analysis of the comment received, the final results have not changed from those presented in the preliminary results of review, and we determine that the following margins exist:

Manufacturer/Exporter/Importer	Time period	Margin (percent)
Asahi Keiki Mfg. Co./N.S. International/Diversified Products Corp.	11/01/81—10/31/83	0
	11/01/83—10/31/84	0.26
Asahi Keiki Mfg. Co./N.S. International/Allegheny International	11/01/82—10/31/84	0
Asahi Keiki Mfg. Co./N.S. International/Roadmaster Corporation	11/01/82—10/31/84	0
Asahi Keiki Mfg. Co./N.S. International/Chaparal Co.	04/01/78—10/31/81	0
Asahi Keiki Mfg. Co./N.S. International/Ajay Co.	04/01/78—10/31/84	0
Asahi Keiki Mfg. Co./N.S. International/Frabil	04/01/78—10/31/81	1.52
	11/01/81—10/31/82	0
Asahi Keiki Mfg. Co./N.S. International/AMF/Wheel Co.	04/01/78—10/31/81	0
Tsuyama Mfg. Co., Ltd.	11/01/82—10/31/84	0
Tsuyama Mfg. Co., Ltd./Kozaki Trading Co., Ltd.	11/01/82—11/31/84	0
Tsuyama Mfg. Co., Ltd./Yagami Corporation	11/01/82—10/31/84	0
Tsuyama Mfg. Co., Ltd./Kuwahara Co., Ltd.	11/01/83—10/31/84	0
Tsuyama Mfg. Co., Ltd./H. Tano & Co., Ltd.	11/01/82—10/31/83	0
	11/01/83—10/31/84	0.14
Tsuyama Mfg. Co., Ltd./Mitsui & Co.	11/01/82—10/31/84	0
Tsuyama Mfg. Co., Ltd./Shinwa Trading Co., Ltd.	11/01/82—10/31/84	0

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based upon the most recent of the above margins shall be required for these firms. For any shipments from the remaining known manufacturers and/or exporters not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (52 FR 11720, April 10, 1987). For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments of Japanese bicycle speedometers occurred after October 31, 1984 and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 17.74 percent shall be required. These deposit requirements are effective for all shipments of Japanese bicycle speedometers entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

Manufacturer/Exporter/Importer	Time period	Margin (percent)
Asahi Keiki Mfg. Co./Noma Enterprises Co., Ltd.	04/01/78—10/31/81	6.62
	11/01/81—10/31/82	0
Asahi Keiki Mfg. Co./Royal Industries Ltd.	04/01/78—10/31/81	5.83
	11/01/81—10/31/82	0
Asahi Keiki Mfg. Co./Yagami Corporation	04/01/80—10/31/81	6.15
	11/01/81—10/31/82	3.14
	11/01/82—10/31/83	0.15
	11/01/83—10/31/84	0
Asahi Keiki Mfg. Co./N.S. International/Perfection Company	04/01/78—10/31/80	0.05
	11/01/80—10/31/83	0

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Since the margins for Asahi Keiki Mfg. Co./N.S. International/Diversified Products Corp. and Tsuyama Mfg. Co., Ltd./H.Tano & Co., Ltd. are less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit for these firms.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

October 27, 1987.

[FR Doc. 87-25565 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-301-001]

Leather Wearing Apparel From Colombia; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Terminate Suspended Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of intention to review and preliminary results of changed circumstances administrative review and tentative determination to terminate suspended investigation.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review of the countervailing duty order on leather wearing apparel from Colombia. The signatory to the revised suspension agreement no longer accounts for over 85 percent of Colombian leather wearing apparel exports to the United States, and the agreement no longer meets the requirements of section 704(b) of the Tariff Act of 1930. Therefore, we tentatively determine to terminate this suspended investigation and resume the investigation. We invite interested parties to comment on these preliminary results and tentative determination to terminate.

EFFECTIVE DATE: November 4, 1987.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 19963) a notice suspending the countervailing duty investigation on leather wearing apparel from Colombia. On December 8, 1986, the Department published the final results of its last administrative review of the suspended investigation and a revised suspension agreement (51 FR 44199). The Department revised the agreement to substitute a new exporter, Astrakan Ltda., for the original signatory, Confecciones Amazonas Orinoco, which had gone out of business. At the time of the revised agreement, Astrakan accounted for over 85 percent of Colombian leather wearing apparel exports to the United States.

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedules of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments of Colombian men's, boys', women's, girls' and infants' leather coats, jackets and other leather wearing apparel (such as vests, pants and shorts), as well as parts and pieces thereof. Such merchandise is currently classifiable under TSUSA item numbers 791.7620, 791.7640, and 791.7660. These products are currently classifiable under HS item number 4203.10.40-0. The review covers the period from December 8, 1986, the effective date of the revised suspension agreement.

Preliminarily Results of Review and Tentative Determination

As a result of our review, we preliminary determine that Astrakan, the signatory to the suspension agreement, no longer accounts for over 85 percent of Colombian leather wearing apparel exports to the United States. This is the second time that a signatory's exports have fallen below the requirement that it account for over 85 percent of Colombian leather wearing apparel exports to the United States. Consequently, we preliminarily determine that the suspension agreement is administratively unenforceable. We further preliminarily determine that the agreement no longer meets the requirements of section 704(b) of the Tariff Act of 1930 ("the Tariff Act"), and that this is a reasonable basis for terminating the suspended investigation. As provided by section 704(i)(1)(B) of the Tariff Act, should we terminate the suspended investigation, we will resume the investigation as if the affirmative preliminary determination under section 703(b) were made on the effective date of the termination.

We tentatively determine to terminate the suspended investigation on leather wearing apparel from Colombia, effective 90 days prior to the date of publication of the final results of this changed circumstances administrative review.

We intend to instruct the Customs Service, in accordance with section 704(i)(1)(A)(i), to suspend liquidation on all entries of this merchandise entered, or withdrawn from warehouse, for consumption beginning 90 days prior to publication of the notice terminating the agreement. Further, we intend to instruct the Customs Service to require a cash deposit or bond for each such entry of 9.00 percent of the f.o.b. invoice price, the total bounty or grant found in the Department's preliminary affirmative determination (46 FR 3255, January 14, 1981).

Interested parties may submit written comments on these preliminary results and tentative determination to terminate within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication, or the first workday thereafter. The Department will publish the final results of the review and its decision on termination, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, changed circumstances administrative review, tentative determination to terminate, and notice are in accordance with sections 704 (b) and (i) and 751 (b) and (c) of the Tariff Act of 1930 (19 U.S.C. 1671c (b) and (c), 1675(b) and (c)) and 19 CFR 355.32, 355.41, 355.42.

Joseph A. Spetrini,

Acting Assistant Secretary, Import Administration.

Date: October 30, 1987.

[FR Doc. 87-25566 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Permit; Sea Arama, Inc. (P84D)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name: Sea-Arama, Inc.
   b. Address: P.O. Box 3068, Galveston, Texas 77552
2. Type of Permit: Public Display
3. Name and Number of Marine Mammals:
   Pacific False Killer whales (*Pseudorca crassidens*)
4. Type of Take: Live import
5. Location of Activity: Taigi, Japan
6. Period of Activity: 2 Years

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Rm 805, Washington, DC;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Carmen J. Blondin,

Director, Office of Trade and Industry Services, National Marine Fisheries Service.

Date: October 28, 1987.

[FR Doc. 87-25505 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Permit Modification; Dr. Daniel P. Costa et al. (P277E)

Modification No. 2 to Permit No. 422

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 422 issued to Dr. Daniel P. Costa, Mr. John M. Francis and Ms. Carolyln B. Heath, Center for Coastal Marine Studies, University of California at Santa Cruz, Santa Cruz, California 95064 on June 22, 1983 (48 FR 29936), as modified on May 28, 1986 (51 FR 20685), is further modified to extend the period of authorized taking for two years.

Section B.7 is deleted and replaced by:

7. This permit is valid with respect to the taking of authorized herein until December 31, 1989.

This Modification becomes effective on October 29, 1987.

Documents submitted in connection with the above Permit and Modification are available for review in the following offices:

Office of Protected Resources and Habitat Programs, 1825 Connecticut Avenue NW., Room 805, Washington, DC., and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Carmen J. Blondin,

Director Office of Trade and Industry Service National Marine Fisheries Service.

Date: October 29, 1987.

[FR Doc. 87-25504 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Proposed Permit Modification; Ms. Janice M. Straley (P263A)

Notice is hereby given that Ms. Janice M. Straley, P.O. Box 273, Sitka, Alaska 99835, has requested a modification of Permit No. 571 issued on November 14, 1986 (51 FR 42127), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) and the regulations governing endangered species permits (50 CFR Part 217-222).

Permit No. 571 authorizes the taking by inadvertent harassment during the course of observational activities 400 humpback whales (*Megaptera novaeangliae*), 50 killer whales (*Orcinus orca*), and 20 minke whales (*Balaenoptera acutorostrata*) in Southeastern Alaska.

The Permit Holder is requesting that Permit No. 571 be modified to extend the research area to include all of Alaska.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this modification are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification are available for review by interested persons in the following offices.

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Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Rm 805, Washington, DC; and

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802.

Date: October 30, 1987.

Carmen J. Blondin,

Director, Office of Trade and Industry Services, National Marine Fisheries Service.

[FR Doc. 87-25573 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

October 30, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 5, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the previously established 1987 restraint limits for Categories 351, 352 and 359-I. The limits for these categories, which are currently filled, will re-open.

Background

A CITA directive dated December 23, 1986 was published in the **Federal Register** (51 FR 47041) which established import restraint limits for certain cotton, wool and man-made fiber textile products, including Categories 351, 352, 361 and 649, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. Subsequently, CITA directives dated February 24, 1987 (52 FR 6057) and April 17, 1987 (52 FR 13115) established import limits for Categories 359-I and 659-S, respectively, among others, for the same twelve-month period.

In accordance with the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, and at the request of the Govenment of the People's Republic of China, the limits for Categories 351, 352 and 359-I are being increased by application of swing. The limits for Categories 361, 649 and 659-S are being reduced to account for the swing applied to Categories 351, 352 and 359-I.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (49 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25366), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

October 30, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives issued to you on December 23, 1986, February 24, 1987 and April 17, 1987 concerning certain cotton, wool and man-made fiber textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on November 5, 1987, the directives of December 23, 1986, February 24, 1987 and April 17, 1987 are hereby amended to include adjustments to the previously established restraint limits for cotton and man-made fiber textile products in the following categories, as provided under the terms of the bilateral agreement of August 19, 1983, as amended [1]:

Category	Adjusted Twelve-Month Limit [2]
351	370,122 dozen.
352	1,437,909 dozen.
359-I [3]	1,895,080 pounds.
361	2,863,219 numbers.
649	527,421 dozen.
659-S [4]	750,000 pounds.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

[2] In Category 359-I, only TSUSA numbers 384.0429, 384.0441, 384.0442, 384.0444, 384.0805, 384.0810, 384.0815, 384.0820, 384.0825, 384.3451, 384.3452, 384.3453, 384.3454, 384.5162, 384.5163, 384.5187, 384.5189 and 384.5172.

[3] In Category 659-S, only TSUSA numbers 361.2340, 361.3170, 361.9160, 361.9570, 384.1989, 384.2389, 384.9300, 384.9400 and 384.9353.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25525 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DR-M

Deduction in Charges of Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Haiti

October 30, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, the President's February 20, 1986 announcement of a Special Access Program for textile products assembled in participating Caribbean Basin beneficiary countries from fabric formed and cut in the United States, and pursuant to the requirements set forth in 51 FR 21208 (June 11, 1986) and 52 FR 26057 (July 10, 1987), has issued the directive published below to the Commissioner of Customs to be effective on November 5, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

[1] The agreement provides, in part, that: (1) With the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard decrease in one or more other specific limit in that agreement year; (2) the specific limits for certain categories may be increased for carryforward; (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to deduct charges made to the restraint limits established for Categories 340/640, 341/641 and 347/348 for the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. Subsequently, these same amounts will be charged to the guaranteed access levels established for properly certified textile products in Categories 340/640, 341/641 and 347/348 which are assembled in Haiti from fabric formed and cut in the United States and exported from Haiti during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Background

On January 13, 1987 a notice was published in the **Federal Register** (52 FR 1371) announcing import restraint limits for certain cotton and man-made fiber textile products, including Categories 340/640, 341/641 and 347/348, produced or manufactured in Haiti and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A further notice was published in the **Federal Register** on February 27, 1987 (52 FR 6053) which announced guaranteed access levels for properly certified textile products assembled in Haiti from fabric formed and cut in the United States, including products in Categories 340/640, 341/641 and 347/348.

Documentation has been provided to the U.S. Government establishing that additional goods in Categories 340/640, 341/641 and 347/348, which were charged to the designated consultation levels because of the unavailability of proper documentation (CBI Export Declaration (Form ITA-370P)), were assembled exclusively from U.S. formed and cut fabric and qualified for entry under the guaranteed access levels. Based on this documentation, the U.S. Government has agreed to deduct these charges from the designated consultation levels for Categories 340/640, 341/641 and 347/348. Subsequently, charges will be made to the guaranteed access levels established for Categories 340/640, 341/641 and 347/348, in corresponding amounts.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25366), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 30, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of letters dated September 26, and 30, 1986, between the Governments of the United States and Haiti, I request that, effective on November 5, 1987 you deduct the following amounts from the charges made to the import restraint limits established in the directive of December 31, 1986 for Categories 340/640, 341/641 and 347/348, produced or manufactured in Haiti and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Category	Amount to be deducted
340	4,297 doz.
347	25,860 doz.
348	10,258 doz.
641	1,071 doz.

This letter will be published in the **Federal Register**.

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25526 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufacturered in Mexico

October 30, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 30, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 535-9481. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the limit for man-made fiber textile products in Category 647/648, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Background

On December 5, 1986 a notice was published in the **Federal Register** (51 FR 43960), as amended on October 13, 1987 (52 FR 38258), which announced import restraint limits for certain cotton, wool and man-made fiber textile products, including Category 647/648, produced or manufactured in Mexico and exported during the current agreement year which began on January 1, 1987 and extends through December 31, 1987. The Bilateral Cotton, Wook and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, between the Governments of the United States and the United Mexican States, under the terms of which this limit was established, also includes provisions for carryover the shortfalls from the previous agreement year in certain categories (carryover). Under the foregoing provisions of the bilateral agreement and at the request of the Government of the United Mexican States, the limit established for Category 647/648 is being increased by application of carryover and special shift for goods exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** (51 FR 43960), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607, December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068), and in

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Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HHC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

October 30, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on November 20, 1986, as amended on October 13, 1987, by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1987, and extends through December 31, 1987.

Effective on October 30, 1987, the directive on November 20, 1986, as amended, is hereby further amended to adjust the previously established limit for man-made fiber textile products in Category 647/648, as provided under the terms of the bilateral agreement of February 26, 1979, as amended and extended [1]:

Category	Adjusted 1987 limit [1]
647/648	1,332,000 dozen or which not more than 864,960 dozen shall be in Category 647 and not more than 864,960 dozen shall be in Category 648.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

[1] The agreement provides, in part, that: (1) Specific limits and sublimits may be exceeded by not more than seven percent for swing in any agreement period; (2) these same limits may be adjusted for by carryforward and carryover up to 11 percent of the applicable category limit of sublimit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25527 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Defense Initiative Advisory Committee; Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Strategic Defense Initiative (SDI) Subcommittee (Ground Based Free Electron Laser Technology Integration Experiment Technical Advisory Group) will meet in closed session in White Sands Missile Range, New Mexico, on November 16–17, 1987.

The mission of the Subcommittee is to provide the SDI Advisory Committee an independent analysis and assessment of the plans and approaches for the ground based free electron laser technology integration experiment. At the meeting on November 16–17, 1987 the subcommittee will discuss status of laser research and management issues.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C., App II, (1982)), it has been determined that this SDI Advisory Subcommittee meeting, concerns matters listed in 5 U.S.C., 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 30, 1987.

[FR Doc. 87-25555 Filed 11-3-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Agency Information Collection Activities Under OMB Review

ACTION: Public information collection requirement submitted to OMB for review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of information; Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact for whom a copy of the information proposal may be obtained.

Extension

International Military Student Information; DD Form 2339 (OMB No. 0702–0064).

Information is required by U.S. Military Schools in advance of and during attendance to assure integration of International Military Students into U.S. Military Academic environment.

Individual or households.

Responses: 15,000
Burden Hours: 7,500

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Ms. Pearl Rascoe-Harrison, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–1302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained form Ms. Angela R. Petrarca, SAIS–ADR, Room 1C830, The Pentagon, Washington, DC 20310–0107, telephone (202) 694–0754.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 30, 1987.

[FR Doc. 87-25556 Filed 11-3-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Weapon Effectiveness Task Force will meet November 18–19, 1987, from 9 a.m. to 5 p.m. at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review the Navy's ability to maximize weapon effectiveness through both

hardware design and tactical employment, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Ann Lynn Cline, Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Jane M. Virga,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

Date: October 29, 1987.

[FR Doc. 87-25532 Filed 11-3-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Education Appeal Board Hearings

AGENCY: Department of Education.

ACTION: Amendment to the notice of application for review accepted for hearing by the Education Appeal Board.

Purpose: This notice amends the prepared summary in the *Appeal of Illinois Department of Rehabilitation Services, Docket No. 2(238)87, ACN: 05–65032*, published in the **Federal Register** on July 2, 1987 (52 FR 25055).

The previous notice incorrectly stated that the Department is seeking a refund of $8,515,897. In fact, the Department is also seeking the refund of $234,812 for improper matching fund calculations.

The Acting Regional Commissioner concluded that the Illinois Department of Rehabilitation Services (Illinois) improperly included costs for the administration of Illinois funded programs in its Vocational Rehabilitation match calculations for 1983, resulting in a $234,812 disallowed program expense. In sum, the Department seeks a refund of $6,750,709. Illinois disputes all liability.

FOR FURTHER INFORMATION CONTACT: The Honorable Ernest C. Canellos, Chairman, Education Appeal Board, 400 Maryland Avenue SW. (Room 1065, FOB–6), Washington, DC 20202. Telephone (202) 732–1756.

(Catalog of Federal Domestic Assistance No. not applicable)

Dated: October 29, 1987.

Peter R. Greer,

Deputy Under Secretary Intergovernmental and Interagency Affairs.

[FR Doc. 87-25523 Filed 11-3-87; 8:45 am]

BILLING CODE 4000-01-M

Office of Educational Research and Improvement

Advisory Council on Education Statistics (ACES); Meeting

AGENCY: Educational Research and Improvement Office, ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: December 14–15, 1987.

ADDRESS: 555 New Jersey Avenue NW., Room 326, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Iris Silverman, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, Room 400], Washington, DC 20208. Telephone: (202) 357–6831.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the Center for Education Statistics (CES) in the Office of Educational Research and Improvement and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence. The meeting of the Council is open to the public.

The proposed agenda includes the following:

- Planning A Study of School Dropouts.
- CES Evaluation Studies to Improve Data Quality.
- 1990 NAEP/SASS—Analyses issues and design considerations.
- Council Business—Development of the Annual Report.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW., Room 400], Washington, DC 20208.

Date: October 29, 1987.

Chester E. Finn, Jr.,

Assistant Secretary and Counselor to the Secretary, Office of Educational Research and Improvement.

[FR Doc. 87-25529 Filed 11-3-87; 8:45 am]

BILLING CODE 4000-01-M

Department of Energy

Federal Energy Regulatory Commission

[Docket Nos. ER88–52–000 et al.]

Florida Power & Light Co. et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the Commission:

1. Florida Power & Light Company

[Docket No. ER88–52–000]

October 27, 1987.

Take notice that on October 22, 1987, Florida Power & Light Company (FPL) tendered for filing a Stipulation and Agreement executed between FPL and certain of its transmission service, full requirements service, and partial requirements service customers consisting of: Florida Municipal Power Agency, Orlando Utilities Commission, Utilities Commission, City of New Smyrna Beach, City of Homestead, City of Vero Beach, Fort Pierce Utilities Authority, City of Lake Worth, City of Starke, City of Clewiston, City of Key West, City of Green Cove Springs, City of Jacksonville Beach, and the Florida Keys Electric Cooperative, Inc. (Customers). FPL states that the Stipulation and Agreement is intended to comply with the Commission's Order No. 475 in Docket No. RM 87–4 with respect to the effects of the lower marginal federal income tax rate under the Tax Reform Act of 1986.

FPL proposes revised long term transmission service rates (service provided with a duration of more than seven days) to be effective on October 1, 1987. FPL has submitted with this filing amendments to each of the transmission Service agreements pursuant to which FPL provides transmission service to the Customers.

FPL states that the filed Stipulation and Agreement represents an overall compromise in order to satisfy FERC Order 475 in Docket No. RM87–4, which order encourages settlement agreements which take into account the impact of

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the reduction in the federal corporate marginal income tax rate.

FPL states that copies of the filing were served upon the Customers and upon the Florida Public Service Commission.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Arizona Public Service Company

[Docket No. ER88-53-000]

October 28, 1987.

This notice that on October 23, 1987, Arizona Public Service Company (APS) tendered for filing Amendment No. 1 to the Transmission Agreement between Arizona Public Service Company (APS), and Yuma-Mesa Irrigation and Drainage District (YMIDD).

YMIDD has received an increase in power available from the U.S. Department of Interior, Water and Power Resources Service from 87 kW to 125 kW. The original agreement between APS and YMIDD provides for delivery of a maximum of 86 kW by APS to YMIDD. APS has agreed to increase YMIDD's transmission service to a maximum of 125 kW.

APS, with the concurrence of YMIDD, requests a waiver of the Commission's Notice Requirements so that service under the amended agreement can be made effective on February 1, 1987, when YMIDD's increased allocation of power began.

Copies of this filing are being served upon YMIDD and the Arizona Corporation Commission.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Consumers Power Company

[Docket No. ER88-55-000]

October 28, 1987.

Take notice that on October 23, 1987, Consumers Power Company (Consumers Power) tendered for initial filing a Transmission Agreement with Detroit Edison Company. The filed agreement provides for Consumers Power to provide firm transmission service in the City of Pontiac, Oakland County, Michigan, over 120 and 41.6 kV transmission facilities owned by Consumers Power from Detroit Edison's Bloomfield and Walton Substations to nine distribution substations owned by Detroit Edison. The transmission facilities involved in providing such transmission service are isolated from Consumers Power's integrated electric system.

A copy of the filing was served upon Detroit Edison Company.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Consumers Power Company

The Detroit Edison Company

[Docket No. EC88-4-000]

October 28, 1987.

Take notice that on October 23, 1987, Consumers Power Company (Consumers Power) and The Detroit Edison Company (Detroit Edison) tendered for filing a joint application for authority for Consumers Power to sell transmission facilities, and for Detroit Edison to acquire such transmission facilities and merge transmission facilities with its own electric facilities.

The transmission facilities which are the subject of the joint application consist of approximately 2 structure miles of 120 kV line and 11¼ structure miles of 41.6 kV line now owned by Consumers Power in the City of Pontiac, Oakland County, Michigan. The transmission facilities are isolated from Consumers Power's integrated system. The sale of the transmission facilities will permit Detroit Edison to own all of the electric facilities utilized to provide retail electric service in the City of Pontiac. Consumers Power and Detroit Edison request approval of the application pursuant to section 203(a) of the Federal Power Act.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this document.

5. Detroit Edison Company

[Docket No. ER88-54-000]

October 28, 1987.

Take notice that on October 23, 1987, Detroit Edison Company tendered for filing a Notice of Cancellation of its FERC Electric Service Tariff No. 5. The tariff sets forth rates and conditions of service for the sale of electric power and energy to Consumers Power Company for resale at Pontiac, Michigan.

Detroit Edison states that as a result of the sale by Consumers Power of its local distribution facilities and retail electric business in the City of Pontiac to Detroit Edison, no future sales of electricity by Detroit Edison to Consumers Power for resale at Pontiac are anticipated after October 2, 1987.

Copies of the filing were served upon Consumers Power Company and the Michigan Public Service Commission.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Kentucky Utilities Company

[Docket No. ER88-11-000]

October 28, 1987.

Take notice that on October 15, 1987, Kentucky Utilities Company (KU) tendered for filing an amendment to its unilateral filing, dated September 29, 1987, with the Federal Energy Regulatory Commission to modify or amend two agreements. The agreements were between 1) KU and Ohio Valley Electric Corporation (OVEC) and 2) KU and Tennessee Valley Authority (TVA). KU now requests withdrawal of the portion of the filing as relates to the KU-OVEC modification to that agreement.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25568 Filed 11-3-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP84-474-001 et al.]

American Distribution Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. American Distributions Company (Alabama Division)

[Docket No. CP84-474-001]

October 27, 1987.

Take notice that on October 22, 1987, American Distribution Company (Alabama Division) (Applicant) filed in Docket Nos. CP84-474-001 and CP86-263-001 an application pursuant to section 7(c) of the Natural Gas Act for amendments to its certificates to increase deliveries authorized in Docket No. CP84-474-000 and to extend the term of the authorization granted in Docket No. CP86-263-000, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant requests that the term of the certificate granted in Docket No. CP86-263-000 which authorized Applicant to transport up to 3,000 Mcf per day to the municipal facilities of the City of Citronelle, Alabama, for ultimate delivery to Kerr-McGee Corporation, an industrial customer situated near Citronelle's system, be extended to be coterminous with the life of production from the Copeland plant, Washington County, Alabama operated by Collet Ventures, Inc. Applicant also seeks an amendment to its transportation certificate issued in Docket No. CP84-474-000 to increase deliveries at an existing point of interconnection with the facilities of Florida Gas Transmission Company to up to 10,000 Mcf per day. No other changes are proposed.

Comment date: November 20, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. National Fuel Gas Supply Corporation

[Docket No. CP86-292-001]

October 28, 1987.

Take notice that on October 19, 1987, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed a Petition to Amend the Commission's order issued June 16, 1986, in this proceeding to recognize a change in the pipeline route originally selected by National Fuel, all as more fully set forth in the Petition which is on file with the Commission and open to public inspection.

It is stated that National Fuel has been authorized to replace 1.78 miles of its pipeline, designated as Line K, located in the Town of West Seneca, Erie County, New York, with 1.61 miles on new 20-inch coated steel line. Also, National Fuel further was authorized to abandon and replace an existing regulator station with a new facility. The total estimated cost of the project was $556,000.

National Fuel states that as originally conceived, the replacement segment would have been routed along a power corridor owned by Niagara Mohawk Power Corporation (Niagara Mohawk). National Fuel however, was denied access to this corridor. Instead, it is stated that National Fuel has selected a revised route which parallels more closely to a segment of its existing pipeline. National Fuel now proposes to install 1.45 miles of new 20-inch line at an estimated cost of $548,000.

Comment date: November 20, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Northern Natural Gas Company, a Division of Enron Corporation

[Docket No. CP88-36-000]

October 28, 1987.

Take notice that on October 20, 1987, Northern Natural Gas Company, a Division of Enron Corporation (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88-36-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to modify one delivery point and appurtenant facilities to accommodate natural gas deliveries to Peoples Natural Gas Company (Peoples), under Northern's blanket authority in Docket No. CP82-401-000 and § 157.212 of the Commission's Rules and Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Northern requests authority to modify North Branch TBS No. 1, a town border station (TBS) located in Section 21, T35N, R21W, Chisago County, Minnesota. It is stated that Peoples has informed Northern that the subject TBS has expanded substantially in recent years, with a subsequent load increase due to additional residential, commercial, and industrial customers. Northern proposes to modify the existing TBS in order to serve the increased requirements of Peoples and its customers. Northern states such modification would consist of installing a Rockwell T-18 meter. The cost of the proposed facility modifications is estimated at $7,397.

Comment date: December 14, 1987, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP88-27-000]

October 28, 1987.

Take notice that on October 16, 1987, Tennessee Gas Pipeline Company (Applicant), a Division of Tenneco Inc., P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-27-000 a request pursuant to § 284.223 of the Commission's Regulations for authorization to provide a transportation service for Union Texas Petroleum Corporation (Union Texas), a producer under Applicant's blanket certificate issued in Docket No. CP87-118-000 on June 18, 1987, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement dated August 27, 1987, it proposes to transport natural gas for Union Texas from a point of receipt located in Vermilion Block 225, offshore Louisiana, to delivery points at Egan B and Egan D, interconnections with Columbia Gulf Transmission Company (Columbia Gulf) and Texas Gas Transmission Corporation (Texas Gas), the downstream transporters. It is stated that the ultimate consumers of the gas would be various short-term markets off the systems of Columbia Gulf and Texas Gas.

Applicant indicates that the maximum daily and annual quantities would be 80,000 dekatherms and 7,904,440 dekatherms, respectively. It is further stated that service under § 284.223(a) commenced September 1, 1987, as reported in Docket No. ST88-106.

Comment date: December 14, 1987, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requriements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the

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certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the proedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25560 Filed 11-3-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF88-21-000 et al.]

Altresco-Pittsfield, Inc., et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: Thirty days from Publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Altresco-Pittsfield, Inc.

[Docket No. QF88-21-000]

October 27, 1987.

On October 13, 1987, Altresco-Pittsfield, Inc. (Applicant) of 284A South Monaco Parkway, Denver, Colorado 80224, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located on property leased from and owned by General Electric Company (G.E.) within its Pittsfield, Massachusetts, facility. The cogeneration facility will consist of three combustion turbine generator sets, three heat recovery steam generators and one extraction/condensing steam turbine generator. Extraction steam from the steam turbine will be used for G.E. plant process operations and for A.C. Chiller operation. The maximum net electric power production capacity of the facility will be 156.6 MW. The primary energy source will be natural gas. The facility is expected to commence operation on October 1, 1990.

2. Five Points Biomass Power Plant Associates

[Docket No. QF88-19-000]

October 27, 1987.

On October 9, 1987, Five Points Biomass Power Plant Associates (Applicant), of Building C, Suite 28, 1620 Carpenter Road, Modesto, California 95352 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Fresno County, California. The facility will consist of atmospheric fluidized bed combustion steam generator and a steam turbine generator. The net electric power production capacity will be 11 megawatts. The primary energy source will be biomass in the form of agricultural waste (almond tree prunings, wheat straw, corn straw, barley, etc.). Approximately 0.66% of the total energy input during any calendar year period will be from propane gas which will be used for ignition, start-up, flame stabilization and control uses.

3. Redding Power

[Docket No. QF87-370-001]

October 28, 1987.

On October 16, 1987, Redding Power, a Joint Venture (Applicant), of 1900 Churn Creek Road, Suite 308, Redding, California 96002 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Shasta, California. The facility will consist of two wood-fired steam generators and a single steam turbine/generator, with a net electric power production capacity of 23 MW. The primary energy source for the facility will be biomass in the form of wood waste.

By order issued June 9, 1987, the Director of the Office of Electric Power Regulation granted certification to the facility as a small power production facility under Docket No. QF87-370-000.

Recertification is requested in order to report the following changes. Firstly, 80-100 percent (not 80 percent) of the biomass fuel will come from a sawmill located adjacent to the facility. Secondly, the percentage of utility ownership interests in the facility have increased from 31.66% to 49.99%. Thirdly, the usage of natural gas will increase from one to two percent of the total energy input of the facility during any calendar year period. The usage of natural gas will now extend to include flame stabilization/emission control, and supplemental firing during single-boiler facility operation. All other characteristics of the facility remain unchanged.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25570 Filed 11-3-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-3285-9]

Fuel Economy Retrofit Devices

Announcement of Fuel Economy Retrofit Device Evaluation for the "Emission Control Device" of DeAcc Devices, (DeAcc ECD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of fuel economy retrofit device evaluation.

SUMMARY: This document announces the completion of the EPA evaluation of the DeAcc ECD devide under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act. The notice also announces our findings, conclusions, and the availability of the report.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Office of Mobile Sources, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone: (313) 668-4299.

SUPPLEMENTARY INFORMATION:

I. Background

Section 511(b)(1) and section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) "Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate."

(c) "The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device."

EPA published final regulations establishing procedures for conducting evaluations of fuel economy retrofit devices on March 23, 1979 [44 FR 17946].

II. Origin of Request for Evaluation, Device Descriptions and Report Identification

On February 7, 1987, the EPA received a request from DeAcc Devices, Inc. for evaluation of the DeAcc ECD as a fuel saving device with reduced emissions. This device consists of a small gas mixing chamber with lines that are connected to the air intake, exhaust manifold, intake manifold and PCV valve of the engine. The device is claimed to reduce emissions and improve fuel economy by completely burning the blow-by gases.

Report: "EPA Evaluation of the Emission Control Device of DeAcc Devices, Inc. (DeAcc ECD) Under section 511 of the Motor Vehicle Information and Cost Savings Act". Report Number EPA-AA-TEB-511-87-1 contains the analysis and conclusions and consists of 17 pages plus attachments A-Q."

As part of the evaluation process, the applicant conducted screening tests at an independent laboratory using EPA approved protocols. This independent laboratory testing is described in this report.

III. Availability of Evaluation Reports

Copies of this report may be obtained from the National Technical Information Service by using the above report numbers. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone: (703) 487-4650 or FTS 737-4650.

IV. Summary of Evaluation

EPA fully considered all of the information submitted by the device manufacturer in the Application. The evaluation of the DeAcc ECD was based on that information and the results of the screening tests conducted for the applicant at an independent laboratory using EPA approved protocols. These tests consisted of replicate Federal Test Procedure (FTP) and Highway Fuel Economy Tests (HFET) on two vehicles both with and without the device.

The FTP and HFET test data were analyzed by the analysis of variance (ANOVA) technique to determine if the data indicated that there was a statistically significant difference in emissions or fuel economy due to the device. For the FTP And HFET, although the device reduced NO_x emissions, there was an increase in FTP CO emissions and a fuel economy penalty for the FTP. The HFET CO emissions indicated an overall improvement; however, one of the two vehicles showed an increase in CO emissions. The increase in HC emissions for both driving cycles and changes in HFET fuel economy for the device were not statistically significant.

Since vehicles are designed to meet the emission standards for HC, CO, and NO_x our policy in evaluating emissions and/or fuel economy devices is that a device must not show an adverse effect in any emissions and fuel economy tests and second must show a significant improvement. Clearly, the DeAcc device did not pass these criteria and thus, EPA did not proceed to the in-house testing phase. The NO_x reduction with the device can reasonably be attributed to the increase in exhaust gas recirculation (EGR) rather than the postulated catalytic reactions in the copper line of the device. This effect on NO_x could be achieved by recalibrating the EGR valve.

The overall conclusion is that the DeAcc device did not improve emissions or fuel economy.

Date: October 28, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 87-25536 Filed 11-3-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-009735-019.

Title: Steamship Operators Intermodal Committee.

Parties:

Associated Container Transportation (Australia Ltd.)
Barber Blue Sea Line
Companhia de Navegacao Maritima Netumar
Coordinated Caribbean Transport, Inc.
Evergreen Marine Corp., Ltd.
Farrell Lines, Inc.
Flota Mercante Grancolombiana
Hamburg-Suedamerikknische-Dampfschiffahrts-Gesellschaft
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
A.P. Moller-Maersk Line
Neptune Orient Lines Ltd.
Nippon Yusen Kaisha, Ltd.
Sea-Land Service, Inc.
South African Marine Corp.
United States Lines, Inc.
Venezuelan Line
Yamashita-Shinnihon Steamship Co. Ltd.
Yang Ming Line
Zim Israel Navigation Co. Ltd.
American President Lines, Ltd.
Mitsui O.S.K. Lines, Ltd.

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Showa Line, Ltd.
Trans Freight Lines
Atlantic Container Line (BV)

Synopsis: The proposed amendment would delete Seapac Services, Inc. as a party to the agreement.

Agreement No.: 202–010979–008.
Title: Caribbean Shipowners Association.
Parties:
Tropical Shipping & Construction Co., Ltd.
Tecmarine Lines
Sea-Land Service, Inc.
Bernuth Line, Ltd.
Trailer Marine Transport Corporation
Interline Connection, Inc.
Puerto Rico Maritime Shipping Authority
Sea-Barge Group, Inc.

Synopsis: The proposed amendment would add a new Puerto Rico section to the agreement and would provide that only members offering service to the islands covered by a particular section may vote on matters concerning that section.

Agreement No.: 203–011154.
Title: West Coast South and Central America/West Coast United States Discussion Agreement.
Parties:
Empresa Lineas Maritimas Argentinas S.A.
Naviera Interamericana Navicana S.A.

Synopsis: The proposed agreement would permit the parties to meet, discuss and agree upon rates, tariffs, service items, rules and service contracts in the trade between United States Pacific Coast ports and points, and ports and points in Chile, Peru, Ecuador, Central America and Mexico. Adherence to any agreement reached would be voluntary.

By Order of the Federal Maritime Commission.

Joseph C. Polking,
Secretary.

Dated: October 30, 1987.

[FR Doc. 87–25521 Filed 11–3–87; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

October 30, 1987.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

For Further Information Contact

Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3822).

OMB Desk Officer—Robert Fishman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503 (202–395–7340).

Proposal to Approve Under OMB Delegated Authority the Discontinuance of the Following Report

1. *Report title:* Report of Other Demand Deposits.
Agency form number: FR 2019.
OMB Docket number: 7100–0069.
Frequency: Daily.
Reporters: Foreign-related institutions in New York City.
Annual reporting hours: 1,404.
Small businesses are not affected.

General Description of Report:

This report contains daily levels of "other demand deposits" for 28 foreign-related institutions in New York City. These desposits, available with only a two-day lag, are used in projecting a component of M1. The need for this report has been reduced, owing to a substantial improvement in projection procedures.

This information collection is authorized by law [12 U.S.C. 248(a), 353 *et seq.*, 3105(b)(2). Individual respondent data are exempt from disclosure [5 U.S.C. 552(b)(4)].

Board of Governors of the Federal Reserve System, October 30, 1987.

William W. Wiles,
Secretary of the Board.

[FR Doc. 87–25541 Filed 11–3–87; 8:45 am]
BILLING CODE 6210–01–M

Amsterdam-Rotterdam Bank N.V.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 20, 1987.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Amsterdam-Rotterdam Bank N.V.*, Amsterdam, The Netherlands; to acquire DP Asset Management, Inc., Wilmington, Delaware, and thereby engage in providing investment advisory and discretionary portfolio management services to high net worth individuals pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 30, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87–25582 Filed 11–3–87; 8:45 am]
BILLING CODE 6210–01–M

First Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 27, 1987.

A. **Federal Reserve Bank of Atlanta.** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Bancshares, Inc.*, Grove Hill, Alabama; to acquire 100 percent of the voting shares of Jackson Bank & Trust Company, Jackson, Alabama.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Bancorp of Delavan, Inc.*, Delavan, Wisconsin; to become a bank holding company by acquiring at least 80 percent of the voting shares of Citizens Bank of Delavan, Delavan, Wisconsin.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Landmark Bancshares Corporation*, St. Louis, Missouri, and Landmark Acquisition Corporation II, St. Louis, Missouri; to acquire Eagle Bancorporation, Inc., Highland, Illinois, and thereby indirectly acquire Eagle Bank, Highland, Illinois; Eagle Bank of Charleston, Charleston, Illinois; Eagle Bank of Madison County, Glen Carbon, Illinois; Eagle Bank of Washington County, N.A., Nashville, Illinois; and Eagle Bank of Randolph County, Sparta, Illinois. In connection with this application, Landmark Acquisition Corporation II, St. Louis, Missouri, has also applied to become a bank holding company.

D. **Federal Reserve bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Abbott Bank Group, Inc.*, Alliance, Nebraska, and Guardian State Bank and Trust Company, Alliance, Nebraska; to merge with Anchor Banshares, Inc., Merriman, Nebraska, and thereby indirectly acquire The Anchor Bank, Merriman, Nebraska; Chadron Banshares, Inc., Chadron, Nebraska, and thereby indirectly acquire Bank of Chadron, Nebraska; Gordon State Banshares, Inc., Gordon, Nebraska, and thereby indirectly acquire Gordon State Bank, Gordon, Nebraska; Hyannis Banshares, Inc., Hyannis, Nebraska, and thereby indirectly acquire Bank of Hyannis, Hyannis, Nebraska; Mullen Banshares, Inc., Mullen, Nebraska, and thereby indirectly acquire Bank of Mullen, Nebraska; Thedford Banshares, Inc., Thedford, Nebraska, and thereby indirectly acquire Citizens State Bank, Thedford, Nebraska, and Valentine State Banshares, Inc. Valentine, Nebraska, and thereby indirectly acquire Bank of Valentine, Valentine, Nebraska. In connection with this merger, Applicant will also acquire Bridgeport Banshares, Inc., Bridgeport, Nebraska, and thereby acquire Bridgeport State Bank, Bridgeport, Nebraska, of which 80 percent is owned by the parties to the merger.

Board of Governors of the Federal Reserve System, October 30, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87–25543 Filed 11–3–87; 8:45 am]
BILLING CODE 6210–01–M

Norwest Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 18, 1987.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota, and its subsidiaries, Norwest Financial Services, Inc., Des Moines, Iowa; Norwest Financial Inc., Des Moines, Iowa; and Norwest Agencies, Inc., Des Moines, Iowa; to acquire Bain Insurance, Inc., Bismarck, North Dakota, and thereby engage in general insurance agency activities pursuant to § 225.25(b)(8)(vii) of the Board's Regulation Y. These activities will be conducted in communities including and surrounding Bismarck, North Dakota.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87–25471 Filed 11–3–87; 8:45 am]
BILLING CODE 6210–01–M

Harry W. Mack et al.; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available

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for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 18, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Harry W. Mock*, Bedford, Ohio; to acquire 12.85 percent of the voting shares of Independence Bancorp, Independence, Ohio, and thereby indirectly acquire Independence Bank, Independence, Ohio.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Darvin D. Hauff*, Hunter, North Dakota; to acquire 4.75 percent; Robert C. Lauf, Fargo, North Dakota, to acquire 4.75 percent; James R. Dawson, Fargo, North Dakota, to acquire 4.75 percent; and Robert D. Dawson, Fargo, North Dakota, to acquire 6 percent of the voting shares of Hunter Holding Company, Hunter, North Dakota, and thereby indirectly acquire Security State Bank of Hunter, Hunter, North Dakota, and First State Bank of Hope, Hope, North Dakota.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *James M. Wilson Trust*, Durant, Oklahoma (Helen W. Wilson Sedlmeir and Susie Scibek Terrell, both of Durant, Oklahoma, co-trustees); to acquire 49.38 percent of the voting shares of Southeastern Oklahoma Bancorporation, Inc., Boswell, Oklahoma, and thereby indirectly acquire Boswell State Bank, Boswell, Oklahoma.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Richard J. Meyer*, Fullerton, California; to acquire 2.78 percent of the voting shares of Pacific Inland Bancorp, Anaheim, California, and thereby indirectly acquire Pacific Inland Bank, Anaheim, California.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25472 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

National Westminster Bank PLC; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 18, 1987.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *National Westminster Bank PLC*, London, England, and Natwest Holdings, Inc., New York, New York; to engage *de novo* through their subsidiary, County Natwest International Securities, Inc., New York, New York, in making and servicing loans or other extensions of credit for their account and for the account of others pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25473 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

PNC Financial Corp, Formation of, Acquisition by, or Merger of Bank Holding Companies and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 25, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp*, Pittsburgh, Pennsylvania; to acquire the successor by merger to Central Bancorporation, Inc., Cincinnati, Ohio, and thereby indirectly acquire Central Trust Company, N.A., Fort Wright, Kentucky; Central Trust Company, Union, Kentucky; Central Trust Company of N.E. Ohio, Canton, Ohio; Central Trust Company, N.A., Cincinnati, Ohio; Central Trust Company of North Ohio, Lorain, Ohio; Central Trust Company of S.E. Ohio, Marietta, Ohio; and Central Trust Company, Newark, Ohio. In connection with this application, New Financial Corp. has applied to become a bank holding company by merging with Central Bancorporation.

In connection with this application, Applicant also proposes to acquire The CentralBanc Mortgage Company, Cincinnati, Ohio, and thereby engage in mortgage banking activities pursuant to § 225.25(b)(1) of the Board's Regulation Y; and The Shawnee Life Insurance Company, Cincinnati, Ohio, and thereby engage in reinsuring credit life insurance issued in connection with extensions of credit by the Central Bancorporation, Inc. banking subsidiaries pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25474 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

Quad County Bancshares, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 25, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Quad County Bancshares, Inc.*, Viburnum, Missouri; to acquire Viburnum Insurance Services, Inc., Viburnum, Missouri, and thereby engage in acting as general insurance agent in Viburnum, Missouri, which has a population not exceeding 5,000, pursuant to § 225.25(b)(8) of the Board's Regulation Y.

B. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *MCorp*, Dallas, Texas, and MCorp Financial, Inc., Wilmington, Delaware; to acquire Dave M. Boren, Inc., d/b/a/ Management Information Resources, Inc., Lubbock, Texas, and Indiana Information Controls, Inc., Valparaiso, Indiana, and thereby engage in providing to others financial related data processing and data transmission services, facilities, and data bases, or access to them pursuant to § 225.25(b)(7) of the Board's Regulation Y.

2. *MCorp*, Dallas, Texas, and MCorp Financial, Inc., Wilmington, Delaware; to acquire 100 percent of Security Courier Corporation, Carrollton, Texas, and certain assets and certain liabilities of Coben Investments, Inc., Carrollton, Texas; Security Services, Inc., Carrollton, Texas; Transaction Services Corporation, Carrollton, Texas; and Bank Air Transport Corporation, Carrollton, Texas; and thereby engage in providing ground and air courier services for financial institutions and commercial businesses pursuant to § 225.25(b)(10) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25475 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

Trustcorp, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 25, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *TrustCorp, Inc.*, Toledo, Ohio, and TrustCorp of Michigan, Inc., Adrian, Michigan; to acquire 100 percent of the voting shares of Ypsilanti Savings Bank, Ypsilanti, Michigan. Comments on this application must be received by November 18, 1987.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice president) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Citizens Bancgroup, Inc.*, Valley, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank of Shawmut, Valley, Alabama.

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C. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Duco Bancshares, Inc.*, Villa Park, Illinois; to acquire 93.59 percent of the voting shares of Community Bank of Galesburg, Galesburg, Illinois.

2. *Exchange International Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares of River Oaks Bancorp, Inc., Calumet City, Illinois, and thereby indirectly acquire River Oaks Bank & Trust Company, Calumet City, Illinois. Comments on this application must be received by November 23, 1987.

D. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First National Bank of Bemidji Employee Stock Ownership Plan and Trust*, Bemidji, Minnesota; to become a bank holding company by acquiring an additional 17.18 percent of the voting shares of First Bemidji Holding Company, Bemidji, Minnesota, and thereby indirectly acquire First National Bank of Bemidji, Bemidji, Minnesota.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25476 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

Union Planters Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than November 25, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Union Planters Corporation*, Memphis, Tennessee; to acquire an additional 15.21 percent of the voting shares of Bank of East Tennessee, Knoxville, Tennessee.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25477 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

OFFICE OF INDEPENDENT COUNSEL

Privacy Act of 1974; Systems of Records

AGENCY: Office of Independent Counsel.

ACTION: Notice of new system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act, the Office of Independent Counsel hereby gives notice of one of its systems of records.

DATE: Comments must be submitted on or before December 4, 1987.

ADDRESS: Address all comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Pamela Krems, 202-383-8989.

SUPPLEMENTARY INFORMATION: The Office of Independent Counsel operates pursuant to two distinct and separate sources of authority. On December 4, 1986, Attorney General Edwin Meese III filed an application for appointment of an Independent Counsel with the Division for the Purpose of Appointing Independent Counsels of the United States Court of Appeals for the District of Columbia Circuit. On December 19, 1986, the Special Division of the Court of Appeals filed an order appointing Lawrence E. Walsh as Independent Counsel in the Iran/Contra matter. Order Appointing Independent Counsel, *In re Oliver L. North, et al.*, Div. No. 86-6 (Dec. 19, 1986).

On March 5, 1987, Attorney General Meese issued a regulation that created an "Office of Independent Counsel: Iran/Contra" and provided that office with the same jurisdiction and powers that it already possessed under the Ethics in Government Act, 28 U.S.C. 591-598, and the December 19, 1986 court order appointing Independent Counsel Walsh. 52 FR 7270 (Mar. 10, 1987), 9241 (Mar. 23, 1987) (to be codified at 28 CFR Parts 600 and 601). The "Office of Independent Counsel" and the "Office of Independent Counsel: Iran/Contra" are in actuality one and the same office.

Pursuant to the provisions of the Privacy Act of 1974, the Office of Independent Counsel publishes a system of records entitled "Freedom of Information Act/Privacy Act Files (OIC/002)."

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, allows a waiver of its 60-day period in which to review the system. The Office of Independent Counsel has requested a waiver, asking that the system be reviewed within a 30-day period. Therefore, the Office invites the public, OMB, and the Congress to submit written comments about this system. Please submit any comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004, by December 4, 1987.

In accordance with the requirements of the Privacy Act, the Office has provided a report on this system to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: October 29, 1987.

Lawrence E. Walsh,

Independent Counsel.

OIC/001

SYSTEM NAME:

General Files System of the Office of Independent Counsel.

SECURITY CLASSIFICATION:

The highest classification for any record in this system is Top Secret with Sensitive Compartmented Information. Special access program material is contained within the system.

SYSTEM LOCATIONS:

Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004; 26 Federal Plaza, New York, New York 10278; 50 Penn Place, Oklahoma City, Oklahoma 73118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system encompasses matters regarding individuals and entities who relate to the Office of Independent Counsel's investigation of the Iran/Contra matter.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system may include case files, investigatory and litigation material, internal memoranda or reports, exhibits, or other records on a given entity or individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.C. 301, 28 U.S.C. 591-598, 28 CFR 600.1.1-600.1.5 and 44 U.S.C. 3101.

PURPOSES:

This system is maintained for the purpose of conducting an investigation into possible criminal-law violations relating to the Iran/Contra matter.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (a) In any case in which there is an indication of a violation or potential violation of law or legal obligation, criminal, civil, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law or civil remedy; (b) in the course of investigating the potential or actual violation of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (c) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with the procedures governing such proceeding or hearing; (d) a record relating to a case or matter may be disseminated to a federal, state, local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (e) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (f) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (g) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (h) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (i) a record may be disseminated to a federal, state, local, foreign, or international law-enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (j) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country apprehending and/or returning a fugitive to a jurisdiction that seeks his return.

Information permitted to be released to the news media and the public may be made available from systems of records maintained by the Office of Independent Counsel unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy or would violate a security or investigatory guideline or mandate.

Information contained in systems of records maintained by the Office of Independent Counsel, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record unless it is determined that release of the specific information would violate a security or investigatory guideline or mandate.

A portion of these records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

These records may be disclosed to members of the judicial branch of the federal government in response to a specific request when disclosure appears relevant to the authorized function of the recipient court.

These records may be disclosed in a proceeding before a court or adjudicative body before which the Office of Independent Counsel is authorized to appear when the Office of Independent Counsel determines that the litigation is likely to affect it, is a party to litigation, or has an interest in litigation and such records are determined by the Office of Independent Counsel to be arguably relevant to the litigation.

The users of this system include attorneys, legal research assistants, FBI agents, IRS agents and other Office personnel.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored in an accredited SCI facility.

RETRIEVABILITY:

Records are retrievable in accordance with Executive Order 12356, and national security information procedures set forth in 28 CFR Part 17.

SAFEGUARDS:

Records are safeguarded in accordance with Executive Order 12356, and national security information procedures set forth in 28 CFR Part 17.

RETENTION AND DISPOSAL:

Records are retained and will be disposed of, if at all, in accordance with established procedures depending upon the classification of the material.

SYSTEM MANAGER(S) AND ADDRESS:

Document Specialist, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004.

NOTIFICATION PROCEDURE:

Address all inquiries to the FOIA/PA Officer, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004. These

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records will be exempted from subsections (c) (3) and (4); (d); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5).

RECORD ACCESS PROCEDURES:

Make all requests for access to records from this system in writing to the FOIA/PA Officer. Clearly mark both the letter and the envelope "Privacy Act Request."

CONTESTING RECORD PROCEDURES:

Makes all requests to contest or amend information maintained in the system in writing to the FOIA/PA Officer. State clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include individuals, state, local and foreign governmental agencies as appropriate, the executive and legislative branches of the federal government, and interested third parties.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Office of Independent Counsel has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5). A proposed rule has been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and is published in today's **Federal Register**. These exemptions apply only to the extent that information in a record pertaining to a particular matter relates to official federal investigations and law-enforcement matters. Those files indexed under an individual's name that concern policy formulation or administrative matters are not being exempted pursuant to 5 U.S.C. 552(j)(2), (k)(2), (k)(2) or (k)(5).

[FR Doc. 87-25374 Filed 11-3-87; 8:45 am]

BILLING CODE 2210-01-M

Privacy Act Systems of Records

AGENCY: Office of Independent Counsel.

ACTION: Notice of new systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act, the Office of Independent Counsel hereby gives notice of one of its systems of records.

DATE: Comments must be submitted on or before November 4, 1987.

ADDRESS: Address all comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Pamela Krems, 202-383-8989.

SUPPLEMENTARY INFORMATION: The Office of Independent Counsel operates pursuant to two distinct and separate sources of authority. On December 4, 1986, Attorney General Edwin Meese III filed an application for appointment of an Independent Counsel with the Division for the Purpose of Appointing Independent Counsels of the United States Court of Appeals for the District of Columbia Circuit. On December 29, 1986, the Special Division of the Court of Appeals filed an order appointing Lawrence E. Walsh as Independent Counsel in the Iran/Contra matter. Order Appointing Independent Counsel, *In re Oliver L. North, et al.*, Div. No. 86-6 (Dec. 19, 1986).

On March 5, 1987, Attorney General Meese issued a regulation that created an "Office of Independent Counsel: Iran/Contra" and provided that office with the same jurisdiction and powers that it already possessed under the Ethics in Government Act, 28 U.S.C. 591-598, and the December 19, 1986 court order appointing Independent Counsel Walsh. 52 FR 7270 (Mar. 10, 1987), 9241 (Mar. 23, 1987) (to be codified at 28 CFR Parts 600 and 601). The "Office of Independent Counsel" and the "Office of Independent Counsel: Iran/Contra" are in actuality one and the same office.

Pursuant to the provisions of the Privacy Act of 1974, the Office of Independent Counsel publishes a system of records entitled "Freedom of Information Act/Privacy Act Files (OIC/002)."

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, allows a waiver of its 60-day period in which to review the system. The Office of Independent Counsel has requested a waiver, asking that the system be reviewed within a 30-day period. Therefore, the Office invites the public, OMB, and the Congress to submit written comments about this system. Please submit any comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, D.C. 20004, by December 4, 1987.

In accordance with the requirements of the Privacy Act, the Office has provided a report on this system to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: October 20, 1987.

Lawrence E. Walsh,

Independent Counsel.

OIC/002

SYSTEM NAME:

Freedom of Information Act/Privacy Act Files.

SECURITY CLASSIFICATION:

The highest classification for any record in this system is Top Secret with Sensitive Compartmented Information. Special access program material is contained within the system.

SYSTEM LOCATION:

Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, D.C. 20004.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who request disclosure of records pursuant to the Freedom of Information Act, persons who request access to or correction of records pertaining to themselves pursuant to the Privacy Act; and, where applicable, persons about whom records have been requested or about whom information is contained in the requested records.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains copies of all correspondence and internal memoranda related to Freedom of Information and Privacy Act requests, and related records necessary to the processing of such requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.C. 301, 28 U.S.C. 591-598, 28 CFR 600.1.1-600.1.5, and 44 U.S.C. 3101 and is maintained to implement the provisions of 5 U.S.C. 552 and 552a.

PURPOSE(S):

This system is maintained due to the Office of Independent Counsel's investigation into possible criminal-law violations relating to the Iran/Contra matter and in order to assist the Office in connection with matters relating to the Freedom of Information Act and the Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system may be disseminated as a routine use of such record as follows: (1) A record maintained in this system may be disseminated to a federal agency that furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate federal, state, local or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in systems of records.

A portion of the records from this system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records-management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records contained in this system are stored in an accredited SCI facility.

RETRIEVABILITY:

A record is retrieved by the name of the individual or person making a request for access or correction of records, and, where necessary, in accordance with Executive Order 12356 and national security information procedures set forth in 28 CFR Part 17.

SAFEGUARDS:

Access to physical records is limited to the FOIA/PA Officer and known Office of Independent Counsel personnel who have a need for the record in the performance of their duties. The records are safeguarded and protected in accordance with applicable Office rules and policies, and, where necessary, in accordance with Executive Order 12356 and national security information procedures set forth in 28 CFR Part 17.

RETENTION AND DISPOSAL:

Currently, no provisions for disposal of records contained in this system exist.

SYSTEM MANAGER(S) AND ADDRESS:

FOIA/PA Officer, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004.

NOTIFICATION PROCEDURE:

Address all inquiries to the FOIA/PA Officer, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004. These records will be exempted from subsections (c) (3) and (4); (d); (e) (1), (2) and (3); (e) (4) (G), (H) and (I); (e) (5) and (8); (f); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1), (k)(2), and (k)(5).

RECORD ACCESS PROCEDURES:

Make all requests for access to records from this system in writing to the FOIA/PA Officer. Clearly mark both the letter and the envelope "Privacy Act Request." These records will be exempted from subsections (c) (3) and (4); (d); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1), (k)(2), and (k)(5).

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or to amend information contained in the system should direct their request to the FOIA/PA Officer listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the persons making requests, the systems of records searched in the process of responding to the requests, and other agencies referring requests for access to or correction of records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Office of Independent Counsel has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1), (k)(2), and (k)(5). A proposed rule has been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and is published in today's **Federal Register**. These exemptions apply only to the extent that information in a record pertaining to a particular matter relates to official federal investigations and law-enforcement matters. Those files indexed under an individual's name that concern policy formulation or administrative matters are not being exempted pursuant to 5 U.S.C. 552 (j)(2), (k)(1), (k)(2) or (k)(5).

[FR Doc. 87-25375 Filed 11-3-87; 8:45 am]

BILLING CODE 2210-01-M

Privacy Act Systems of Records

AGENCY: Office of Independent Counsel.

ACTION: Notice of new systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act, the Office of Independent Counsel hereby gives notice of one of its systems of records.

DATE: Comments must be submitted on or before November 4, 1987.

ADDRESS: Address all comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Pamela Krems, 202-383-8989.

SUPPLEMENTARY INFORMATION: The Office of Independent Counsel operates pursuant to two distinct and separate sources of authority. On December 4, 1986, Attorney General Edwin Meese III filed an application for appointment of an Independent Counsel with the Division for the Purpose of Appointing Independent Counsels of the United States Court of Appeals for the District of Columbia Circuit. On December 19, 1986, the Special Division of the Court of Appeals filed an order appointing Lawrence E. Walsh as Independent Counsel in the Iran/Contra matter. Order Appointing Independent Counsel, *In re Oliver L. North, et al.*, Div. No. 86-6 (Dec. 19, 1986).

On March 5, 1987, Attorney General Meese issued a regulation that created an "Office of Independent Counsel: Iran/Contra" and provided that office with the same jurisdiction and powers that it already possessed under the Ethics in Government Act, 28 U.S.C. 591-598, and the December 19, 1986 court order appointing Independent Counsel Walsh. 52 FR 7270 (Mar. 10, 1987), 9241 (Mar. 23, 1987) (to be codified at 28 CFR Parts 600 and 601). The "Office of Independent Counsel" and the "Office of Independent Counsel: Iran/Contra" are in actuality one and the same office.

Pursuant to the provisions of the Privacy Act of 1974, the Office of Independent Counsel publishes a system of records entitled "Freedom of Information Act/Privacy Act Files (OIC/002)."

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, allows a waiver of its 60-day period in which to review the system. The Office of Independent Counsel has requested a waiver, asking that the system be reviewed within a 30-day period. Therefore, the Office invites the public, OMB, and the Congress to submit written comments about this system. Please submit any comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth

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Street, NW., Washington, DC 20004, by December 4, 1987.

In accordance with the requirements of the Privacy Act, the Office has provided a report on this system to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: October 29, 1987.

Lawrence E. Walsh,

Independent Counsel.

OIC/003

SYSTEM NAME:

Administrative Files.

SECURITY CLASSIFICATION:

The highest classification for any record in this system is Top Secret with Sensitive Compartmented Information. Special access material is stored within the system.

SYSTEM LOCATION:

Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004; 26 Federal Plaza, New York, New York 10278; 50 Penn Place, Oklahoma City, Oklahoma 73118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Office personnel (past and present); applicants for office positions; vendors; expert professionals whose services are used by the Office; citizens making inquiries or comments; witnesses in court proceedings.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel files (unofficial); applicant files; personnel address and telephone number lists; time and attendance records; sign in/sign out sheets; telephone records and logs; witness records; monthly financial statements; internal proposed fiscal year budget sheets; travel authorizations and vouchers; fiscal vouchers; internal meeting file; address and telephone indexes; lists of repair technicians; correspondence files; and other administrative records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.C. 301, 28 U.S.C. 591–598, 28 CFR 600.1.1–600.1.5, and 44 U.S.C. 3101.

PURPOSES:

This system is maintained due to the Office of Independent Counsel's investigation into possible criminal-law violations relating to the Iran/Contra matter.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (a) In any case in which there is an indication of a violation or potential violation of law or legal obligation, criminal, civil, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law or civil remedy; (b) in the course of investigating the potential or actual violation of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (c) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with the procedures governing such proceeding or hearing; (d) a record relating to a case or matter may be disseminated to a federal, state, local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (e) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (f) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (g) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (h) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (i) a record may be disseminated to a federal, state, local, foreign, or international law-enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (j) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (k) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country apprehending and/or returning a fugitive to a jurisdiction that seeks his return.

Information permitted to be released to the news media and the public may be made available from this system of records maintained by the Office unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy or would violate a security or investigatory guideline or mandate.

Information contained in systems of records maintained by the Office of Independent Counsel, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

A portion of the records from this system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information is recorded on basic paper/cardboard material, and stored within manila file folders within file cabinets, or safes. Records contained in this system are stored in an accredited SCI facility.

RETRIEVABILITY:

Information is retrieved primarily on the basis of name or subject matter. Information within this system of records may be accessed only by employees with a need to know, and, where necessary, in accordance with Executive Order 12356 and national security information procedures set forth in 28 CFR Part 17.

SAFEGUARDS:

Material in this system is stored in the Office, an accredited SCI facility. Some material in the system is located in locked file drawers and safes; other material is stored in unlocked file drawers. The Office is locked at all times and is secured by the Federal Protective Service. The records are safeguarded and protected in accordance with applicable Office rules and policies, and, where necessary, in accordance with Executive Order 12356 and national security information procedures set forth in 28 CFR Part 17.

RETENTION AND DISPOSAL:

Records are retained and will be disposed of, if at all, in accordance with established procedures depending upon the classification of the material.

SYSTEM MANAGER(S) AND ADDRESS:

The Office Administrator is the system manager. The address is: Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street NW., Washington, D.C. 20004.

NOTIFICATION PROCEDURE:

Address all inquiries to FOIA/PA Officer, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street NW., Washington, D.C. 20004.

RECORD ACCESS PROCEDURES:

Make all requests for access to records from this system in writing to the FOIA/PA Officer. Clearly mark both the letter and the envelope "Privacy Act Request." Include in the request the name of the individual involved, his birth date and place of birth, or any other identifying number or information that may be of assistance in locating the record and the name of the matter involved, if known. The requester should also include a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or to amend information contained in the system should direct their request to the FOIA/PA Officer listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to, Office personnel memoranda and reports, correspondence, vouchers, etc., as set forth above under Categories of Records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 87–25376 Filed 11–2–87; 8:45 am]

BILLING CODE 2210–01–M

DEPARTMENT OF THE INTERIOR

National Environmental Policy Act; Revised Implementing Procedures (516 DM 6, Appendix 4)

AGENCY: Department of the Interior.

ACTION: Notice of proposed revised procedures implementing The National Environmental Policy Act (NEPA) for the Bureau of Indian Affairs (BIA).

SUMMARY: This notice announces a proposed revision of Appendix 4 to the Department's NEPA procedures (516 DM 6, Appendix 4) which were published in the **Federal Register** on January 23, 1981 (46 FR 7490).

DATE: The Appendix 4 will be adopted after a 30-day comment period. Comments received during this time will be considered.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, DC 20240; Telephone (202) 343–3891, FTS 343–3891. For the Bureau of Indian Affairs, contact George Farris, Telephone (202) 343–6574, FTS 343–6574.

SUPPLEMENTARY INFORMATION: This proposed revised Appendix 4 to the Departmental Manual (516 DM 6) provides more specific NEPA complaince guidance to the BIA. In particular, it updates information about BIA organizational responsibilities for NEPA compliance, updates guidance to applicants, identifies, without change, actions normally requiring the preparation of an EIS, and updates, revises, and adds to those actions categorically excluded from the NEPA process. The additions reflect continued BIA experience with the NEPA process and are primarily in the forestry and land conveyance areas. The Appendix 4 must be used in conjunction with the Departmental procedures and the Council on Environmental Quality regulations (40 CFR Parts 1500–1508). In addition, the BIA has prepared a Handbook (30 BIAM, Supplement 1) to provide technical guidance on how to apply these procedures to its principal programs at the Area and Agency levels.

Comments are solicited and will be considered in the final version of Appendix 4.

Outline

Part 516 National Environmental Policy Act
Chapter 6 Managing the NEPA Process
Appendix 4 Bureau of Indian Affairs
4.1 NEPA Responsibility
4.2 Guidance to Applicants and Tribal Governments
4.3 Major Actions Normally Requiring an EIS
4.4 Categorical Exclusions

Date: October 30, 1987.

Bruce Blanchard,

Director, Environmental Project Review.

4.1 NEPA Responsibility

A. *Assistant Secretary—Indian Affairs* is responsible for the NEPA compliance of Bureau of Indian Affairs (BIA) activities and programs.

B. *Deputy to the Assistant Secretary—Indian Affairs (Trust and Economic Development)* is responsible for oversight of the BIA program for achieving compliance with NEPA. The Deputy determines the adequacy of all EIS's which come before the Assistant Secretary before making decisions for implementing proposed actions.

C. *The Environmental Services Staff,* (Washington), in the Office of Trust and Economic Development is the focal point for overall NEPA guidance within BIA and is responsible for advising and assisting Area Offices, Agency Superintendents, and other field support personnel in their environmental activities, providing training and acting as the Central Office's liaison with Indian tribal governments on environmental and NEPA compliance matters. Information about BIA NEPA documents or the NEPA process can be obtained by contacting the Environmental Services Staff.

D. *Other Central Office Directors and Division Chiefs* are responsible for

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ensuring that the programs and activities within their jurisdiction comply with NEPA.

E. *Area Directors and Project Officers* are responsible for conducting all activities under their jurisdiction in compliance with NEPA and providing advice and assistance to Agency Superintendents and the Indian tribes on environmental matters related to NEPA; and assigning sufficient trained staff to ensure that these responsibilities are carried out.

F. *Agency Superintendents and Field Unit Supervisors* are responsible, as directed and delegated by the Area Directors, for implementation and enforcement of the BIA environmental policy at the Agency or field unit level, including field inspection and preparation of environmental documents. These documents shall be reviewed for procedural adequacy by the Environmental Coordinator of the Area Office before release to the public.

4.2 Guidance to Applicants and Tribal Governments

A. *Relationship with Applicants and Tribal Governments.*

1. *Guidance to Applicants.* a. An "applicant" is any entity which proposes to undertake any activity which will at some point require BIA action. These may include tribal governments, private entities, state and local governments or other Federal agencies. BIA compliance with NEPA is a Federal responsibility. Compliance is triggered when there will be a BIA decision required to implement an action.

b. Applicants should contact the BIA official at the appropriate level for assistance. This will be the Agency Superintendent, Area Director or Deputy to the Assistant Secretary—Indian Affairs (Trust and Economic Development), in the Central Office.

c. If the applicant's proposed action will affect responsibilities of more than one tribal government, one government agency, one BIA Agency, or where the action may be of State-wide or regional significance, the applicant may contact the respective Area Director(s). The Area Director, in his sole discretion, may assign the environmental responsibilities to one Agency Superintendent to act as the lead office for the proposal. From that point, the Applicant will deal with the designated lead office.

d. Since much of the applicant's planning may take place outside the BIA planning system, it is the applicant's responsibility to prepare a milestone chart for BIA use at the earliest possible stage in order to coordinate the efforts of both parties. Early communication with the BIA responsible office will expedite determination of such matters as the scope, depth and sources of data for an environmental document.

2. *Guidance to Tribal Government.* a. Tribal governments may be applicants, and/or be affected by a proposed action of BIA or another Federal agency. Tribal governments affected by a proposed action shall be consulted during the preparation of environmental documents and, at their option, may cooperate in the review or preparation of such documents. Notwithstanding the above, the BIA retains sole responsibility and discretion in all NEPA compliance matters.

b. Proposed Tribal actions that do not require BIA or other Federal approval or funding are *not* subject to the NEPA process.

B. *Prepared Program Guidance.* BIA has implemented regulations for environmental guidance for surface mining in 25 CFR Part 216 (Surface Exploration, Mining and Reclamation of Lands.) Environmental guidance for Forestry activities is found in 25 CFR 163.27 and 53 BIAM Supplement 2 and Supplement 3.

C. *Other Guidance.* Programs under 25 CFR for which BIA has not yet issued regulations or directives for environmental information for applicants are listed below. These programs may or may not require environmental documents and could involve submission of applicant information to determine NEPA applicability. Applicants for these types of programs should contact the nearest affected BIA office for information and assistance:

1. Loans to Indians from the Revolving Loan Fund (25 CFR Part 101).
2. Loan guaranty, insurance, and interest subsidy (25 CFR Part 103).
3. Leasing and permitting (Lands) (25 CFR Part 162).
4. Sale of lumber and other forest products produced by Indian enterprises from the forests on Indian reservation (25 CFR Part 164).
5. Sale of forest products, Red Lake Indian Reservation, Minn. (25 CFR Part 165).
6. General grazing regulations (25 CFR Part 166).
7. Navajo grazing regulations (25 CFR Part 167).
8. Grazing regulations for the Hopi partitioned lands area (25 CFR Part 166).
9. Rights-of-way over Indian lands (25 CFR Part 169).
10. Roads of the Bureau of Indian Affairs (25 CFR Part 170).
11. Concessions, permits and leases on lands withdrawn or acquired in connection with Indian irrigation projects (25 CFR Part 173).
12. Colorado River Irrigation Project, Arizona (25 CFR Part 175).
13. Flathead Indian Irrigation Project, Montana (25 CFR Part 176).
14. Leasing of tribal lands for mining (25 CFR Part 211).
15. Leasing of allotted lands for mining (25 CFR Part 212).
16. Leasing of restricted lands of members of Five Civilized Tribes, Oklahoma, for mining (25 CFR Part 213).
17. Leasing of Osage Reservation lands, Oklahoma, for mining, except oil and gas (25 CFR Part 214).
18. Lead and zinc mining operations and leases, Quapaw Agency (25 CFR Part 215).
19. Leasing of Osage Reservation lands for oil and gas mining (25 CFR Part 226).
20. Leasing of certain lands in Wind River Indian reservation, Wyoming, for oil and gas mining (25 CFR Part 227).
21. Off-reservation treaty fishing (25 CFR Part 249).
22. Preservation of antiquities (25 CFR Part 261).
23. Contracts under Indian Self-Determination Act (25 CFR Part 271).
24. Grants under Indian Self-Determination Act (25 CFR Part 272).
25. School construction contracts or services for tribally operated previously private schools (25 CFR Part 274).
26. School construction contracts for public schools (25 CFR Part 277).
27. Indian Business Development Program (25 CFR Part 286).

4.3 Major Actions Normally Requiring An EIS

A. The following BIA actions normally require the preparation of an Environmental Impact Statement (EIS):

1. Proposed mining contracts (for other than oil and gas), or the combination of a number of smaller contracts comprising a mining unit for:

a. New mines of 640 acres or more, other than surface coal mines.

b. New surface coal mines of 1,280 acres or more, or having an annual full production level of 5 million tons or more.

2. Proposed water development projects which would, for example, inundate more than 1,000 acres, or store more than 30,000 acre-feet, or irrigate more than 5,000 acres of undeveloped land.

B. If, for any of these actions, it is proposed not to prepare an EIS, an Environmental Assessment (EA) will be prepared and handled in accordance with § 1501.4(e)(2).

4.4 Categorical Exclusions

In addition to the actions listed in the Department's categorical exclusions in Appendix 1 of 516 DM 2, many of which the BIA also performs, the following BIA actions are hereby designated as categorical exclusions unless the action qualifies as an exception under Appendix 2 of 516 DM 2:

A. *Operation, maintenance, and replacement of existing facilities.* Examples are normal renovation of buildings, road repairs and limited rehabilitation of irrigation structures.

B. *Transfer of Existing Federal Facilities to Other Entities.* Transfer of existing operation and maintenance activities of Federal facilities to tribal groups, water user organizations, or other entities where the anticipated operation and maintenance activities are agreed to in a contract, follow BIA policy, and no change in operations or maintenance is anticipated.

C. *Human resources programs having primarily socio-economic effects.* Examples are social services, education services, employment assistance, tribal operations, law enforcement and credit and financing activities.

D. *Administrative actions and other activities relating to trust resources.* Examples are: Management of trust funds, issuance of such documents as certificates of competency, allotments and fee patents; renewal of agricultural and other leases when environmental impacts are addressed in an earlier environmental document.

E. *Self-Determination Act Grants and Contracts.* 1. Self-Determination Act Grants.

2. Self-Determination Act contracts for BIA programs which are listed as categorical exclusions, or for programs in which environmental impacts are adequately addressed in an earlier environmental document.

F. *Rights-of-Way.* 1. Rights-of-way inside another right-of-way, or amendments to right-of-way where minor deviations from or additions to the original right-of-way are involved and where there is an existing environmental document covering the same or similar impacts in the right-of-way area.

2. Service line agreement for a single-poled power or telephone line to an individual residence, building or well from an existing line where installation will involve no clearance of vegetation from the right-of-way other than for placement of poles.

G. *Minerals.* Approval of permits for geologic mapping, inventory, reconnaissance and surface collecting.

2. Approval of unitization agreements, pooling or communitization agreements.

3. Approval of mineral lease adjustments and transfers, including assignments and subleases.

H. *Forestry.* 1. Approval of free-use cutting, without permit, to Indian owners for on-reservation personal use of forest products, not to exceed 2,500 feet board measure.

2. Approval and issuance of free-use cutting permits for forest products not to exceed $2,500 in value.

3. Approval and issuance of paid timber cutting permits for products valued at less than $10,000 when in compliance with policies and guidelines established by a current management plan covered by an environmental document.

4. Approval of annual logging plans when in compliance with policies and guidelines established by a current management plan covered by an environmental document.

5. Approval of *Normal Fire Year Plans* and/or *Mobilization Plans* detailing emergency fire suppression activities.

6. Approval of emergency forest and range rehabilitation plans when limited to environmental stabilization on less than 10,000 acres.

7. Approval of timber stand improvement projects of less than 200 acres when in compliance with policies and guidelines established by a current management plan covered by an environmental document.

8. Approval of timber management access skid trail and logging road construction when consistent with policies and guidelines established by a current management plan covered by an environmental document.

9. Approval of prescribed burning plans of less than 200 acres when in compliance with policies and guidelines established by a current management plan covered by an environmental document.

10. Approval of tree planting projects and associated protection and site preparation activities on less than 200 acres when consistent with policies and guidelines established by a current management plan covered by an environmental document.

I. *Land and Facility Conveyance.* 1. Land transfers from Federal or State Agencies or other DOI Bureaus to the BIA as land to be held in trust for the Indian tribe(s) involving no development, physical alteration, or change in land use.

2. Purchase, sale, abandonment or exchange of tracts of land, mineral rights or other interests in land in which no change in land use or operation is planned.

3. Lands acquired pursuant to 25 CFR Part 465, 35 U.S.C. 501, and 25 U.S.C. 2202 where no development, physical alteration, or change of land use after acquisition is known or planned.

J. *Other.* 1. Data gathering activities such as inventories, soil and range surveys, timber cruising, geological, archeological, paleontological and cadastral surveys.

2. Establishment of non-distrubance environmental quality monitoring programs and field monitoring stations including testing services.

3. Actions where BIA has concurrence or co-approval with another Bureau and the action is categorically excluded for that Bureau.

4. Approval of an Application for Permit to Drill for a new water source or observation well.

5. Approval of conversion of an abandoned oil well to a water well if water facilities are established only near the well site.

[FR Doc. 87-25534 Filed 11-3-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Indian Affairs

Pueblos in New Mexico; Transfer of Indian Owned Land

October 23, 1987.

This notice is published to comply with the Act of February 17, 1978, (Public Law 95-232, 92 Stat. 30). The Act authorized duly authorized officials of each of the Indian Pueblos of New Mexico to convey to the United States of America all right, title, and interest of such Pueblos in certain land located in the City of Albuquerque, County of Bernalillo, State of New Mexico. This land had been conveyed to the New Mexico Pueblos by a quitclaim deed executed on June 17, 1969, by the Acting Commissioner of Indian Affairs, on behalf of the United States and the Secretary of the Interior, and by a correction quitclaim deed executed on July 30, 1970, by the Commissioner of Indian Affairs, in the same capacity.

By deed, approved on May 27, 1987, title to the following described tract of land, containing 11.2857 acres, has been accepted on behalf of the United States in trust jointly for the Pueblo of Acoma, Pueblo of Cochiti, Pueblo of Isleta, Pueblo of Jemez, Pueblo of Laguna, Pueblo of Nambe, Pueblo of Picuris, Pueblo of San Ildefonso, Pueblo of San Juan, Pueblo of Santa Ana, Pueblo of Santa Clara, Pueblo of Santo Domingo, Pueblo of Taos, Pueblo of Tesuque, Pueblo of Zia and Pueblo of Zuni:

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A tract of land lying and being situated in section 7, Township 10 North, Range 3 East of the New Mexico principal meridian, within the City of Albuquerque, County of Bernalillo, State of New Mexico and west of and adjacent to Twelfth Street NW., between Indian School Road NW. and Menaul Boulevard NW., said tract being more particularly described as follows:

Tract "C"

A tract of land lying and being situated in section 7, township 10 north, range 3 east of the New Mexico principal meridian, within the City of Albuquerque, County of Bernalillo, State of New Mexico, said tract being more particularly described as follows:

Beginning at a point on the west right-of-way line for 12th Street and the north right-of-way line for Indian School Road, said point also being corner No. 2 of tract herein described and from whence the New Mexico Highway Department Triangulation Station I-40-15 having established coordinates of Y-1494103.76, X-378204.72 of the New Mexico coordinate system, central zone, bears south 16 degrees 02 minutes 03 seconds east, 980.43 feet. feet.

Thence north 59 degrees 58 minutes 22 seconds west, 261.29 feet along the north right-of-way of Indian School Road to the point of curvature and corner No. 3 of said tract.

Thence in a northwesterly direction 212.69 feet along the right-of-way curve concave to the northeast having a radius of 1,393.27 feet to corner No. 4.

Thence north 8 degrees 49 minutes 05 seconds east, 865.60 feet to corner No. 5, a point on the south right-of-way line of Menaul Boulevard extension.

Thence in a northeasterly direction 493.42 feet along the right-of-way curve concave to the south having a radius of 716.20 feet to corner No. 1, a point on the west right-of-way line for 12th Street.

Thence south 8 degrees 16 minutes west, 1,255.45 feet along said right-of-way to corner No. 2, the point and place of beginning, said tract containing 11.2857 acres, more or less.

This land shall enjoy the tax-exempt status of other trust lands, including exemption from State taxation and regulation. However, such property shall not be "Indian Country" as defined in section 1151 of Title 18, United States Code. Appropriate notation will be made in the land records of the Bureau of Indian Affairs.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 87-25490 Filed 11-3-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AZ-940-08-4212-11; A-20663]

Order Providing for Opening of Public Land; Arizona

October 26, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: Recreation and Public Purposes application A-20633 for lease or patent has been withdrawn and the classification is no longer required. The classification is terminated.

FOR FURTHER INFORMATION CONTACT: Lisa Schaalman, Arizona, State Office, (602) 241-5534.

SUPPLEMENTARY INFORMATION: On March 6, 1986 the following described land was classified suitable for lease or patent under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 to 869-3):

Gila Salt River Meridian, Arizona

T. 14 N., R. 1 W.,
Sec. 31, lots 17, 18, 21, 22 and lots 24, 25, 26 (formerly lots 19 and 20).

A notice of realty action published in the **Federal Register** on March 27, 1987, Vol. 52, Page 9952, determined lot 24 suitable for disposal by public sale under Serial No. A-21343. The lot will continue to be segregated from appropriation under the public land laws, including the mining laws, in accordance with provisions of the March 27, 1987 publication.

The remaining land will be open to the operation of the public land laws, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws on December 4, 1987.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-25501 Filed 11-3-87; 8:45 am]

BILLING CODE 4310-32-M

[AZ-940-08-4212-12; A-19123]

Opening of Public Lands; Arizona

October 26, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Reconveyed mineral estate opened to entry in Mohave County, Arizona.

SUMMARY: This action will open 480 acres of reconveyed land in Mohave County to the mining and mineral leasing laws.

EFFECTIVE DATE: 9:00 a.m., December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Anglea Mogel, Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011, (602) 241-5534.

SUPPLEMENTARY INFORMATION: Pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716), the United States acquired the following described mineral estate from the State of Arizona:

Gila and Salt River Meridian, Arizona

T. 16 N., R. 15 W.,
Sec. 28, NW¼, S½.

The area described comprises 480 acres in Mohave County.

At 9:00 a.m. on December 4, 1987 the reconveyed mineral estate described above will be open to applications and offers under the mineral leasing laws, subject to existing State issued leases and permits. All applications and offers received prior to the effective date, will be considered as simultaneously filed as of that time and date, and a drawing will be held in accordance with 43 CFR 1821.2-3, if necessary. Applications and offers received thereafter shall be considered in the order of filing.

At 9:00 a.m. on December 4, 1987 the reconveyed mineral estate described above will be open to location and entry under the United States mining laws. Appropriation under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to established a location and to initiate a right of possession are governed by State law where not in conflict with Federal laws. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-25502 Filed 11-3-87; 8:45 am]

BILLING CODE 4310-32-M

Minerals Mangagment Service

Development Operations Coordination Document; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0780, Block 33, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 27, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: October 28, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-25500 Filed 11-3-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 24, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 19, 1987.

Carol D. Shull,

Chief of Registration, National Register.

CONNECTICUT

Hartford County

Southington, *Frost, Levi B., House*, 1069 Marion Ave.

New London County

New London, *Williams Memorial Park Historic District*, Roughly bounded by Hempstead & Broad Sts., Williams Memorial Pkwy., & Mercer

FLORIDA

Leon County

Tallahassee, *Woman's Club of Tallahassee*, 1513 Cristobal Dr.

GEORGIA

Bartow County

Adairsville, *Adairsville Historic District*, Roughly Main St. bounded by King & Elm Sts., & city Limits on S & W

ILLINOIS

Champaign County

Mahomet, *Mahomet Graded School*, Main St.

Dupage County

Lombard, *Dupage Theatre and Dupage Shoppes*, 101-109 S. Main St.

Hancock County

Nauvoo, *Reimbold, William J., House*, 950 White St.

LaSalle County

Utica, *Spring Valley House-Sulphur Springs Hotel*, Dee Bennett Rd.

Lee County

Dixon, *Illinois Central Stone Arch Railroad Bridges*, W. First, W. Second, & W. Third Sts. between Monroe & College Aves.

Madison County

Bethalto, Bethalto Village Hall, 124 Main St.

Winnebago County

Rockford, *Haight Village Historic District*, Roughly bounded by Walnut & Kishwaukee Sts., Chicago Northwestern RR tracks, & Madison St.

Woodford County

Benson, *Benson Water Tower*, Clayton St. between Front & Pleasant Sts.

IOWA

Marion County

Pella *Van Asch, William, House—Huibert Debooy Commercial Room*, 1105, 1107, & 1109 W. Washington St.

LOUISIANA

Rapides Parish

Alexandria, *Masonic Home for Children*, 5800 Masonic Dr.

MARYLAND

Baltimore (Independent City)

Business and Government Historic District, Roughly bounded by Saratoga St., City Blvd., Water, Lombard, & Charles St.

NEW YORK

Livingston County

Lima, *Lima Village Historic District*, 1861-1885, 1818-1870 Rochester St., Lima Presbyterian Church, 7304-7312 & 7303-7315 E. Main St.

NORTH CAROLINA

Chatham County

Bonlee, *Mount Vernon Springs Historic District*, SR 1134 & SR 1135

SOUTH CAROLINA

Greenwood County

Greenwood vicinity, *Self, James C., House*, 595 N. Mathis St.

Oconee County

Long Creek vicinity, *Long Creek Academy*, CR 14

Pickens County

Easley vicinity, *Sheriff Mill Complex*, SR 40

UTAH

Juab County

Nephi, *Juab County Jail*, 45 W. Center

Kane County

Mt. Carmel, *Mt. Carmel School and Church*, Off UT 89

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Sanpete County

Ephraim, *Snow Academy Building*, 150 College Ave.

Weber County

Ogden, *Mountain View Auto Court*, 563 W. Twenty-fourth St.

WYOMING

Fremont County

Fort Washakie, *Fort Washakie Historic District*, US 287

[FR Doc. 87-25519 Filed 11-3-87; 8:45 am]
BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-19,791]

RCA Cathode Ray Tube Manufacturing Operation, Lancaster, PA; Negative Determination Regarding Application for Reconsideration

By an application dated August 13, 1987, with an additional time granted by the Department to submit substantial evidence, the International Brotherhood of Electrical Workers (IBEW) and the International Association of Machinists (IAM) with the support of the company requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers at RCA, Lancaster, Pennsylvania. The denial notice was signed on August 5, 1987 and published in the **Federal Register** on August 25, 1987 (52 FR 32072).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Petitioners claim that a substantial amount of Lancaster's production was transferred to a corporate plant in Juncos, Puerto Rico whose workers were under certification for adjustment assistance.

Investigation findings show that a major portion of the cathode ray tube parts and materials produced at Lancaster are sold to RCA's offshore foreign affiliates. The Department's denial notice stated that lost export sales cannot be considered in determining import impact under the terms of the Trade Act of 1974. Sales to the export market would not form a basis for certification.

The remaining production was transferred to RCA picture tube plants in Marion, Indiana and Scranton, Pennsylvania or to the electron mount plant in Juncos, Puerto Rico. Workers at the RCA tube plants in Marion, Indiana and Scranton, Pennsylvania are currently not certified for adjustment assistance. Workers at RCA Borinquen, Inc., Juncos, Puerto Rico were certified for adjustment assistance on February 3, 1986 and that plant closed on June 27, 1986, TA-W-16,370.

Investigation findings show that although a substantial amount of Lancaster's production was integrated with that at Juncos in 1983 and 1984, only a very small percent was integrated during the period applicable to the petition. Investigation finds also showed that the CRT parts work which accounted for a major share of Lancaster's 1986 and 1987 sales was sold by GE in September, 1987 to a domestic firm in Kentucky. The sale of Lancaster's CRT parts work is so dominant a cause that it precludes other causes from contributing importantly since worker separations would have occurred irrespective of imports.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 27th Day of October, 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-25545 Filed 11-3-87; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-87-217C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, P.O. Box 4000, Lebanon, Virginia 24266 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Triple C No. 1 Mine (I.D. No. 44-06375) located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Upper Banner coalbed and ranges from 24 to 60 inches in height, with consistent undulations and very uneven haulage roadways.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because the cabs or canopies would dislodge roof support, decrease the equipment operator's visibility, and create discomfort to the operator.

4. For these reasons, petitioner requests a modification of the standard in mining heights of 48 inches or less.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87-25546 Filed 11-3-87; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-87-227-C]

Double L. Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Double L. Coal Corporation, P.O. Box 46, Big Rock, Virginia 24603 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 1 Mine (I.D. No. 44-00403) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that due to rock falls, and poor roof conditions certain areas of the mine are unsafe to travel.

3. As an alternate method, petitioner proposes to establish two monitoring stations where the quality and quantity of air can be monitored. These examinations will be performed by a certified person on a weekly basis, and a log will be kept at each station.

4. In support of this request, petitioner states that the mine is located above drainage and methane has never been detected.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87-25547 Filed 11-3-87; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-87-228-C]

Island Creek Corp.; Petition for Modification of Application of Mandatory Safety Standard

Island Creek Corporation, 2355 Harrodsburg Road, P.O. Box 11430, Lexington, Kentucky 40575 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Virginia Pocahontas No. 3 Mine (I.D. No. 44-01520) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that due to the roof deteriorating certain areas of the mine are unsafe to travel.

3. As an alternate method, petitioner proposes to establish an evaluation point where air quality, and quantity readings will be taken by a certified person on a daily basis. Roof conditions, the air flow patterns, and the quality of such air into and from the adjacent gob area will also be checked.

4. In support of this request petitioner states that—

(a) Methane or other harmful, noxious, or poisonous gases will not be permitted to accumulate in the airways in excess of legal limits. An increase of 0.5 percent methane above the last previous methane reading will cause an immediate investigation of the affected airways. If at any time the air quantity at any of the measuring stations indicates a reduction in air of 10 percent, an immediate investigation of the affected area will be conducted;

(b) A diagram showing the normal direction of the air current flow will be posted at the evaluation point, at the first-aid station and will be maintained in a legible condition. Any change in the flow of the air current will be reported to the mine foreman immediately;

(c) The evaluation point will be shown on the mine ventilation system and methane and dust control map and will be part of the approved ventilation plan for the mine;

(d) All persons who work in the area will be instructed in emergency evacuation procedures and any other personnel assigned to work in the area will also be trained; and

(e) Four self-contained self-rescuers will be provided near the head, middle, and tail of the longwall face.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87-25548 Filed 11-3-87; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-87-219-C]

Mettiki Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Mettiki Coal Corporation, Route Three, Box 124A, Deer Park, Maryland 21550 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mettiki Mine (I.D. No. 18-00621) located in Garrett County, Maryland. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that due to ground control pressures that have developed, numerous roof falls, floor heave, and loose and broken top the entry is unsafe to travel in certain areas.

3. As an alternate method, petitioner proposes to establish checkpoints where air quality, and quantity can be monitored.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87-25599 Filed 11-3-87; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-87-226-C]

Old Ben Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Old Ben Coal Company, 200 Public Square, Cleveland, Ohio 44114-2375 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley

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wires, trolley feeder wires, high-voltage cables and transformers) to its Mine No. 25 (I.D. No. 11–02392) located in Franklin County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables, and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. The longwall mining equipment presently in use at the No. 25 Mine is powered by 950-volt, a.c. electricity to face electrics controller, the stage loader, panline, and shearer. This equipment is subject to unacceptable voltage drops across the system which causes a decrease in the working torques of the drive motors, and leads to excessive strain on equipment and high current loads in the electric circuitry. The circuit breakers and cables are presently at the practical limits of safe and efficient operation. In order to maintain compliance with overcurrent protection using the 950-volt system, it is necessary to split the loads and increase the number of cables. This doubles the amount of cable handling and electrical connections that has to be done.

3. As an alternate method, petitioner proposes to use 2400-volt A.C. high voltage cables to supply power to longwall mining equipment inby the last open crosscut and within 150 feet of gob areas, with specific conditions as outlined in the petition.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–25550 Filed 11–3–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–218–C]

Ratliff Elkhorn Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Ratliff Elkhorn Coal Company, Inc., P.O. Box 98, Rockhouse, Kentucky 41561 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 110 Mine (I.D. No. 15–16121) located in Pike Country, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the No. 1 Elkhorn seam and ranges from 40 to 50 inches in height. The bottom is soft shale and varies from flat and dry to wet and uneven.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because due to uneven roof and soft bottom the cabs or canopies would dislodge roof support and electrical cables. The cabs or canopies would limit the equipment operator's vision and would also limit the operator's seating position, causing fatigue and creating potential for an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvery,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87–25551 Filed 11–3–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–224–C]

Webster County Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Webster County Coal Corporation, Route 3, P.O. Box 128, Clay, Kentucky 42404 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Dotiki Mine (I.D. No. 15–02132) located in Webster County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coal beds.

2. As an alternate method, petitioner proposes to clean out and plug oil and gas wells using specific techniques and specific procedures as outlined in the petition.

3. In addition, petitioner proposes to mine through the plugged oil or gas well. Prior to mining through, the petitioner would confer with the MSHA District Manager for approval of the specific mining procedures, and appropriate officials would be allowed to observe the process and all mining would be under the direct supervision of a certified official. In addition:

(a) Drivage sites would be installed; firefighting equipment, roof support and ventilation materials would be available;

(b) The quantity of air would be not less than 9000 cubic feet perminute to ventilate the face;

(c) Equipment would be checked for permissibility and serviced prior to mining through the well. The working place would be free from accumulations of debris and rock-dusted to within 20 feet of the face;

(d) Methane monitors would be calibrated prior to the shift and tests would be made during mining approximately every 10 minutes; and

(e) When the wellbore is intersected, all equipment would be deenergized and safety checks would be made before mining would continue inby the well a sufficient distance to permit adequate ventilation around the area of the wellbore.

(4) Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition

are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87–25552 Filed 11–3–87; 8:45 am]

BILLING CODE 4510–43–M

Pension and Welfare Benefit Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Change of Meeting Time for ERISA Advisory Council

The starting time of a meeting of the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans, which is to be held on Thursday, November 12, 1987 and as announced in the **Federal Register**/Vol. 52, No. 194/Wednesday, October 7, 1987/Notices/Page 37542 has been changed. The new starting time is now 1:00 p.m. All else remains the same.

Signed at Washington, DC, this 29th day of October, 1987.

David M. Walker,

Assistant Secretary, Pension and Welfare Benefit Programs.

[FR Doc. 87–25400 Filed 11–3–87; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

Bi-weekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all notices of amendments issued, or proposed to be issued from October 9, 1987 through October 23, 1987. The last bi-weekly notice was published on October 21, 1987 (52 FR 39296).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO FACILITY OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 4, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no

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significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: November 19, 1985 as supplemented by letters dated December 5, 1986, February 18, 1987 and July 24, 1987.

Description of amendment request: By letter dated November 19, 1985 the licensee submitted a request to revise Section 4.3.C.2 of the Technical Specifications (TS) by reducing the frequency and the number of control rods tested in a given cycle. This change would reduce the control rod system wear but still preserve a high probability of detecting a defective control rod and would bring the Pilgrim TS into reasonable conformance with the Standard TS. This request was noticed on February 26, 1986 (51 FR 6820).

By letter dated December 5, 1986, the licensee requested an additional change to add a new section 3.3.A.2.f to the Limiting Conditions of Operation of the TS which states:

> If plant operation is continued with three (3) or more control rods with maximum scram insertion times in excess of 7.0 seconds, perform the surveillance requirement of Section 4.3.C.2 at least once per 60 days.

By letter dated February 18, 1987 the licensee responded to the staff's request for additional information to demonstrate that the proposed amendments to Section 4.3.C.2 and 3.3.A.2 do not degrade safety. The licensee provided results of their review, indicating that no significant deterioration of scram speeds has occurred during any operating cycle. This letter provided staff requested information, only, and did not change the nature of the previous two submittals.

By letter dated July 24, 1987, the licensee proposed a final change to the TS Section 4.3.C.1. The change added a new requirement that each operable control rod be subjected to a scram time test after a reactor shutdown greater than 120 days.

Basis for proposed no significant hazards consideration determination: The licensee proposes that the subsequent applications are bounded by the no significant hazards considerations contained in their initial application letter dated November 19, 1985.

The Commission has provided guidance in the form of examples of amendments that are not considered to involve significant hazards considerations (51 FR 7751). An example of action likely to involve no significant hazards consideration is:

> (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

The licensee's supplemental applications dated December 5, 1986 and July 24, 1987 imposed additional limitations and are identical to Example ii. Therefore, the staff proposes to make a determination that the amendment, as supplemented, involves a no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: Carl Stahle, Acting Director

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois; and Docket No. STN 50-456, Braidwood Station, Unit No. 1, Will County, Illinois

Date of application for amendments: September 29, 1987

Description of amendments request: The amendment would revise the Technical Specifications to extend the allowable outage time for the following systems and subsystems to 7 days from 72 hours: emergency core cooling system subsystems, containment spray system, spray additive system, containment cooling system and component cooling water system. It is the staff's intention to apply this amendment, if it is found acceptable, to Braidwood Station, Unit 2 when it receives its operating license.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and has determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated; or
2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or
3. Involve a significant reduction in a margin of safety.

This proposed amendment extends the allowable outage time from 3 days to 7 days for the emergency core cooling subsystems, containment spray system, spray additive system, containment cooling system, and component cooling water system. The allowable outage time for these systems has no affect on the probability of previously evaluated accidents because these systems are not involved in initiating previously evaluated accidents.

A probabilistic risk assessment was performed to evaluate the change in risk to the public with the increased allowable outage time. The results of this study show a statistically insignificant increase in the relative risk of operation of Byron Station due to the projected increase in the outage times. The conclusions of this study also apply to the Braidwood Station. Brookhaven National Laboratory reviewed this report and independently estimated the changes in risk resulting from the allowable outage time extensions.

Brookhaven National Laboratory concluded that the increase in core melt frequency when increasing the allowable outage time from 72 hours to 7 days is negligible for the systems involved with this amendment request. Accordingly, this proposed amendment does not involve a significant increase in the consequences of previously evaluated accidents.

This proposed amendment only affects the allowable outage time for certain systems. It does not allow any new modes of operation beyond those normally performed at operating PWR's. Additionally, this amendment does not allow any modifications to the plant. For these reasons, this proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Previously evaluated accidents demonstrate margins of safety. These accident analyses are based on the availability of a minimum set of safety equipment and do not take into account allowable outage times for equipment. Therefore, there is no margin of safety associated with allowable outage times.

For the reasons stated above, Commonwealth Edison believes this proposed amendment involves no significant hazards consideration.

Local Public Document Room location: For Byron Station the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101; for Braidwood Station the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael Miller, Isham, Lincoln and Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois; and Docket No. STN 50-456, Braidwood Station, Unit No. 1, Will County, Illinois

Date of application for amendments: September 30, 1987

Description of amendments request: The amendment would revise Technical Specifications to activate the anticipatory reactor trip on turbine trip at the P-8 setpoint (30% power) rather than at the P-7 setpoint (10% power). It is the staff's intention to apply this amendment, if it is found acceptable, to Braidwood Station, Unit 2 when it receives its operating license.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and has determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

This amendment involves a modification to revise the setpoint at which the anticipatory reactor trip following turbine trip is enabled. A change in a setpoint to enable an anticipatory reactor trip, which has not been taken credit for in any accident analysis, does not affect the probability or consequences of previously evaluated accidents.

This amendment will have the effect that turbine trips below 30% power will no longer result in an anticipatory reactor trip. A turbine trip from 100% power without an anticipatory reactor trip has already been analyzed. This is the same event initiated from a more severe condition. As a result, operation of the plant in accordance with this amendment will not create the possibility of a new or different kind of accident.

As previously demonstrated in the accident analysis for a turbine trip from 100% power, margins of safety are provided by the functioning of the reactor protection system, pressurizer safety valves and steam generator safety valves. This modification does not affect those features. Therefore, this modification results in no reduction in a margin of safety.

Therefore, based upon the previous analysis, the staff concludes that the proposed amendment to the Technical Specifications does not involve significant hazards considerations.

Local Public Document Room location: For Byron Station the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101; for Braidwood Station the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael Miller, Isham, Lincoln and Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Unit Nos. 1 and 2, Rock Island County, Illinois

Date of amendment request: October 20, 1987

Description of amendment request: Commonwealth Edison Company (CECo, the licensee) proposes to amend the drywell pressure post-accident monitoring instrumentation requirements contained in Table 3.2-4 of Appendix A, Technical Specifications (TS) to Facility Operating Licenses DPR-29 and 30.

In order to comply with an NRC Regulatory Guide (RG) 1.97 commitment for drywell pressure recorders, CECo has replaced the associated scales and recalibrated corresponding instruments. There were no hardware modifications involved.

Current TS specify the drywell pressure recorder scale as "from 0 to 75 psig." However, the modified scale indicates from "-10 inches Hg to 70 psig" to provide negative drywell pressure indication. This expanded drywell pressure scale meets the licensee's commitment to RG 1.97. As such, TS

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Table 3.2-4 would be revised to reflect the modified pressure range.

An additional TS change is being made for Quad Cities Unit 2, DPR-30, which corrects a typographical error on Table 3.2-4 where reference is erroneously made to Unit 1 instrumentation rather than Unit 2.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Pursuant to 10 CFR 50.91(a), the licensee provided the following analysis of their amendment request which addresses those three standards.

CECo has evaluated the proposed amendment in accordance with the criteria of 10 CFR 50.92(c) and determined it does not involve significant hazards consideration. Consequently, the licensee maintains that operation of Quad Cities Nuclear Power Station in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because only the drywell pressure recorder scale has been changed, no hardware modifications were made. In fact, instrumentation readings have been expanded to provide the operator with indication of drywell pressure in the negative range.

For drywell pressure exceeding 70 psig, there are additional indicators on the control room front panel which track pressure up to 250 psig. This equipment modification and associated amendment change will improve the range of drywell pressure for post-accident monitoring without adversely impacting any plant systems.

(2) Create the possibility of a new or different kind of accident from any previously evaluated because expanding the drywell pressure instrumentation scale will improve post-accident monitoring capability. Since no hardware modification was accomplished, system function, design, and operation remains the same.

(3) Involve a significant reduction in the margin of safety because modifying the drywell pressure recorder will benefit the operator by allowing an immediate visual trending of this parameter on the front panel, using an expanded range of indication. This modification and related amendment are necessary to meet RG 1.97 post-accident monitoring requirements. Instrument design and function have not been affected.

The NRC staff has reviewed the licensee's amendment request and concurs with the significant hazards consideration analysis detailed above. Furthermore, correcting typographical errors in the TS is considered an administrative change. The Commission's guidance (51 FR 7751) clearly establishes that a purely administrative change to technical specifications "is an example of an amendment not likely to involve significant hazards considerations." Therefore, the NRC staff proposes to determine that this application for amendment does not involve a significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln, & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: Daniel R. Muller

Connecticut Yankee Atomic Power Company Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: September 9, 1987

Description of amendment request: The proposed license amendment would revise technical specification 5.4, "Containment," by deleting section 5.4.B., "Penetrations," which references the design information concerning the containment penetrations and their associated bases. Specific design information concerning penetrations is currently discussed in Section 3.8 and 8.3 of the Haddam Neck Plant Updated Final Safety Analysis Report (UFSAR).

Basis for proposed no significant hazards consideration determination: In accordance with 10 CFR 50.92, the licensee has reviewed the proposed license amendment and has concluded that it does not involve a significant hazards consideration. The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised: a conclusion which is supported by the licensee's determinations provided below.

The proposed amendment does nót involve a significant hazards consideration because the proposed change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed. There are no physical changes to the plant as a result of the proposed change; therefore, previously analyzed accidents are not affected.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. The technical specification change deletes the general statements about containment penetrations from Section 5.4.B. The design of containment penetrations is discussed in the UFSAR. As such, there are no hardware modifications associated with this change and, consequently, no failure modes associated with this change.

(3) Involve a significant reduction in the margin of safety. The proposed change will have no affect on the ongoing surveillance requirements or limiting conditions for operation.

The staff has reviewed the licensee's determination that the proposed amendment involves no significant hazards consideration and agrees with the licensee's analyses. Accordingly, the staff proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry, & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: Cecil O. Thomas.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: October 14, 1987

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 3.6.19 "Containment Purge Systems" to increase the limit placed on the amount of time the 4-inch Containment Air Release and Addition (VQ) System valves may be open from 2000 hours per calendar year to 3000 hours. TS Bases 3/4.6.1.9 state that the total time this system may be open is a function of "...anticipated need and operating experience. Only safety-related reasons; e.g., containment pressure control or the reduction of airborne radioactivity to facilitate access for surveillance and maintenance activities may be used to support the addi tional time requests."

The licensee stated that the experience at Catawba Unit 1 indicates the need to open these valves for a period greater than 2000 hours, and that this system is used to maintain containment pressure within the limits of TS 3/4.6.1.4 during normal plant operation. Containment pressure

fluctuations due to postulated accidents are mitigated by safety-related systems other than the VQ System. Because these valves are assumed to be open at the onset of an accident (but would close upon receipt of an Engineered Safety Feature (ESF) signal), relaxing the restriction on the amount of time they may be open will have no effect on the accident analyses. Also, the VQ System valves are containment isolation valves and as such their closure, in response to an ESF signal, will limit the amount of containment air escaping to the atmosphere if there is concurrent loss-of-coolant accident and air release so that the release is within the limits of 10 CFR Part 100. Filters are provided on this system to remove iodine and other radioactive particulates prior to discharge to the atmosphere. Leak rate tests at Catawba have shown that these valves are highly reliable and leak tight.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendments and determined that should this request be implemented, it would not (1) involve a significant increase in the probability of an accident previously evaluated because the request does not change the design or type of operation of any safety-related systems in the plant. Also, it would not involve a significant increase in the consequences of an accident previously evaluated because the valves in the VQ System are leak tight and close upon receipt of an ESF signal.

Furthermore, the proposed amendments would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the changes do not affect the design or type of operation of any safety-related systems. For the reasons stated in the two items above, the proposed changes would not (3) involve a significant reduction in a margin of safety.

Accordingly, the Commission proposes to determine that the above changes involve no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: Kahtan N. Jabbour, Acting Director

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: April 15, 1987, as supplemented July 17, 1987 and September 16, 1987.

Description of amendment request: This change request would provide revised technical specifications (TS) to support operation of Crystal River Unit 3 for Fuel Cycle Seven. These TSs include:

- 2 Reactor safety limit and overpower trip limits
- 2 Rod insertion limits
- 2 Control rod locations and design
- 2 Axial power imbalance limits and imbalance error
- 2 Quadrant power tilt limits
- 2 Bases revision

Most of the proposed changes are necessary to reflect a longer fuel cycle. Other changes provide additional operating margins and clarify TS requirements.

Cycle Seven has been designed to last 550 effective full power days. To support this cycle length and improve fuel efficiency, various design and TS changes are being introduced. These include:

- 2 Zirc-Grid fuel assemblies (Mark-BZ) in lieu of Inconel grid assemblies
- 2 Reduced fuel rod pre-pressurization
- 2 Annealed guide tubes
- 2 Modified control rods with Inconel-clad and a larger clad-to-absorber gap.

The incore-to-excore power detector allowable error and error calculations would be revised for Cycle Seven. These revisions allow a larger power imbalance envelope and provide additional operating margin.

Shutdown margin curves and the associated action statements would be added to the rod insertion limit specifications. Specification 3.1.1.1.1 requires a surveillance of rod group position to assure an acceptable shutdown margin; if rod positions are outside the insertion limits, it is not clear whether the action of Specification 3.1.1.1.1 or 3.1.3.6 should be taken. This change clarifies the required actions.

In support of Cycle Seven operation, including the changes described above, analyses have been performed specifically for Crystal River Unit 3. These changes are described in the Reload Report submitted by the licensee by letter dated April 15, 1987.

Per the NRC Safety Evaluation for Zirc-Grid fuel assemblies, the analysis for combined seismic and LOCA loads was reviewed for Crystal River Unit 3. The previous analysis performed for Rancho Seco in 1983 envelopes Crystal River Unit 3 design conditions. The changes to fuel assemblies, including lower pre-pressurization and annealed guide tubes, were reviewed and found to be bounded by conservative analyses performed for previous cycles.

For Cycle Seven, the moderator dilution accident was reevaluated assuming a larger reactivity worth of emptying a full makeup tank, which is 1.8% delta k/k as compared to 1.0% delta k/k. The resulting thermal power, RCS pressure and subcriticality margin are within the current acceptance criteria for the moderator dilution accident, per Section 14.1.2.4.1.2 of the Final Safety Analysis Report (FSAR) for Crystal River Unit 3.

Analysis of the revised incore-to-excore power imbalance detector correlation has been performed. In accordance with this analysis, the recalibration criteria for the power detectors of Specification 3.2.1.1 is being revised from 3.5% to 2.5%. With this change, Crystal River Unit 3 will be enveloped by the referenced analysis.

The proposed shutdown margin curves for rod insertion are based on a 1.0% shutdown margin. This is consistent with Specification 3.1.1.1.1 and provides additional control to assure operation within this shutdown margin.

The extended-life control rods are not significantly different from the Standard Mark-B control rods currently in use in that the new rods do not change the operating or safety analysis. The external dimensions of the extended life control rods are the same as those for control rods currently in use. The new control rods meet the most limiting mechanical criteria and thermal hydraulic limits used for the Mark-B control rod analysis. The new rods have been used at Arkansas Nuclear One, Cycle Seven (1984) where no significant anomalies were noted. The reactivity differences are small and are conservative or within design allowances, such as poison depletion allowance. The new control rods weigh the same as the standard design, 130 pounds, so trip times and control rod mechanism loads are maintained. The extended life control rods are designed to meet requirements for position indication and rod drop times. The design differences between the current control rod and the extended life control rod have a negligible effect on reactivity control and shutdown capability. While the design differences change FSAR and Technical Specification design descriptions, the safety analyses are not affected.

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Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that this amendment does not involve a significant hazards consideration. This reload involves the reinsertion of fuel assemblies of a type previously used by Crystal River Unit 3 and the insertion of 80 new fuel assemblies of the Mark-BZ type. The Mark-BZ fuel assemblies are similar to previously approved assemblies and differ only slightly in the use of Zircaloy spacer grids rather than Inconel grids, annealed guide tubes and a modified holddown spring. The use of Mark-BZ fuel assemblies has previously been reviewed and approved by the staff for Rancho Seco.

The Cycle Seven control rods are slightly different from those of previous cycles. The new control rods have a larger clad-to-absorber gap, thicker clad, and new clad material (Inconel) in order to increase its lifetime. The overall dimensions are the same with a longer-length absorber within the rod to compensate for the reduced diameter. The use of this type of control rod has been previously approved by the NRC staff for Arkansas Nuclear One, Unit 1.

The revised power imbalance detector correlation is a new application of an analytical error calculation method for Crystal River Unit 3. This revision involves statistically combining assumed errors and tightening the allowable detector error to provide additional operating margin within the imbalance curves. This application has been previously accepted for use at another B&W facility.

The addition of the shutdown margin curve to the rod insertion limits is an additional limitation to clarify the TS. Additionally, the proposed curve is consistent with NRC Guidelines contained in NUREG-0103, Standard Technical Specifications.

Based on the above, the licensee has determined this change will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. Each FSAR accident analysis was examined to determine the effects of the Cycle Seven reload parameters. A discussion of this effort and the results are provided in the submitted Reload Report. The accident doses resulting from the reload would not be significantly different than current accident doses. Additionally, the moderator dilution accident was reevaluated with minor changes to makeup tank reactivity. The results were not significantly different from current accident analysis results and were within FSAR acceptance criteria.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the reload modifications are not significant changes and have been previously reviewed by the NRC staff.

(3) Involve a significant reduction in a margin of safety because design analysis and proposed TS assure an equivalent margin of safety. The fuel and control rod modifications and the revised power imbalance detector correlation are within established acceptance criteria as shown by the referenced analysis.

Thus, the licensee has determined the Cycle Seven reload and resultant TS meet NRC guidelines for an amendment which does not involve a significant hazards consideration.

The Commission's staff has reviewed the licensee's no significant hazards consideration findings and, based on its review, agrees with the licensee's conclusions. Accordingly, the staff proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Crystal River Public Library, 668 NW, First Avenue, Crystal River, Florida 32629

Attorney for licensee: R. W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-424, Vogtle Electric Generating Plant, Unit 1, Burke County Georgia

Date of amendment request: August 26, 1987

Description of amendment request: The proposed amendment would revise the alarm/trip setpoint limit for the chlorine detection systems which initiate operation of the Control Room Emergency Filtration System in the isolation mode. The setpoint limit of specification 3.3.3.7 would be changed from 2 ppm to 5 ppm.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and has determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated. The change only affects the chlorine concentration at which operation of the Control Room Emergency Filtration System is automatically initiated in the isolation mode. The change of the chlorine detection system setpoint to 5 ppm is consistent with Regulatory Guide 1.95. The higher setpoint of 5 ppm still allows the operators 7 minutes, 29 seconds (based on 0.7 m/s windspeed) to don breathing apparatus. This time is considerably in excess of the two minute guideline contained in Regulatory Guides 1.78 and 1.95.

Also, the licensee's proposed changes would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because no new or novel features would be added to plant design. Finally, the licensee's proposed changes would not (3) involve a significant reduction in a margin of safety because the control room operators continue to have significantly greater than the two minute guideline in which to don the protective breathing equipment.

Local Public Document Room location: Burke County Public Library, 4th Street, Waynesboro, Georgia 30830

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, N. E., Atlanta, Georgia 30043

NRC Project Director: Kahtan N. Jabbour, Acting

Indiana and Michigan Electric Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: October 5, 1987

Description of amendments request: The proposed amendments would amend the licenses to change the name of the licensee from the Indiana and Michigan Electric Company to the Indiana and Michigan Power Company wherever it appears in the licenses.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (51 FR 7751). One of these example, (i), is a purely administrative change to technical specifications. The proposed name change of the licensee is directly related to this example. It does not in any way affect or alter the Company's assets, financial condition, corporate structure, or corporate organization. It is a change in name only. On this basis the staff proposes to determine that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shew, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David L. Wigginton, Acting.

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: July 6, 1987, as partially superseded October 23, 1987

Description of amendment request: The application dated July 6, 1987 requested three changes to the Technical Specifications (TSs): (1) an increase in the setpoint for the pump relief valve in a surveillance requirement for the standby liquid control system (SLCS); (2) revision of certain action statements to allow entry into operational conditions, provided the requirements in the action statements are met; and (3) deletion of the requirements for certain isolation valves and associated instrumentation to be operable in refueling shutdowns.

The first request was addressed in Amendment 36 issued September 30, 1987. The third request will be addressed separately. This amendment would address the second request, as superseded by the licensee's October 23, 1987 letter. This amendment would provide one-time exceptions to TS 3.0.4 during the second refueling outage while in Operational Conditions 4 or 5 to allow entry into specified operational conditions without meeting the Limiting Condition for Operation (LCO), provided the requirements of the associated action statements are met.

This notice supersedes portions of the notice published in the Federal Register on August 12, 1987 concerning TS 3.0.4 exceptions (52 FR 29921).

TS Section 3.0.4 states:

3.0.4 Entry into an Operational Condition or other specified condition shall not be made unless the conditions for the Limiting Condition for Operation are met without reliance on provisions contained in the Action requirements. This provision shall not prevent passage through or to Operational Conditions as required to comply with Action requirements. Exceptions to these requirements are stated in the individual Specifications.

The proposed changes to the TSs would provide exceptions to TS 3.0.4 during the second refueling outage for the following TSs.

The first proposed change will add a new Action "c" and "*" footnote to Specification 3.4.9.2, Reactor Coolant System - Cold Shutdown, to state that the provisions of Specification 3.0.4 are not applicable and that the change is applicable until startup from the second refueling outage.

The second proposed change will add a statement to Action "a" of Specification 3.5.2, Emergency Core Cooling System (ECCS) - Shutdown, to state that the provisions of Specification 3.0.4 are not applicable. A "a" footnote will also be added to state that the change is applicable until startup from the second refueling outage.

Specification 3.7.1.1, Standby Service Water (SSW) System, Action Statements "b," "c" and "d" are proposed to be changed by adding the statement that the provisions of Specification 3.0.4 are not applicable. The change to Action Statement "b" will only be applicable for entry into Operational Condition 4. Also added is a "*" footnote to state that the change is applicable until startup from the second refueling outage.

The fourth proposed change will add a new Action "c" to Specifications 3.9.11.1 and 3.9.11.2, Refueling Operations - Residual Heat Removal (RHR) and Coolant Circulation, to state that the provisions of Specification 3.0.4 are not applicable. Also added is a "a" footnote to state that the change is applicable until startup from the second refueling outage.

During the second refueling outage, presently scheduled to extend from November 6, 1987 through January 8, 1988, various combinations of ECCS and RHR systems will be made inoperable to perform required maintenance, surveillance testing and inspections and to make design changes. These activities will require the plant to enter action statements for shutdown cooling and ECCS at various times during the outage. These proposed changes will provide one-time exceptions to TS 3.0.4 for these specifications for the second outage only, to allow the plant to enter Operational Conditions 4 and 5 and to allow reactor head tensioning, reactor cavity flooding and reactor cavity draining while in these action statements. With the present TSs, these ECCS and RHR maintenance and testing activities would have to be interrupted during head tensioning and reactor cavity flooding and draining in order to make the ECCS and RHR operable as required by the LCO of the TSs. After completing the head tensioning, reactor cavity flooding and reactor cavity draining, the ECCS and RHR systems would again be made inoperable and the action statements entered to complete maintenance and testing activities.

In addition to the TS requirements, the licensee's outage policy is to maintain at least one ECCS system and one fuel pool cooling and cleanup system functional at all times. Also, at least one shutdown cooling mode train of RHR will be functional throughout the outage unless required maintenance or testing activities preclude this. The diesel generator associated with each of the above systems is also required to be functional. In accordance with this outage policy, the current outage schedule (which will utilize these proposed changes) provides for separate outage intervals for the two RHR shutdown cooling subsystems, ensuring that the overlap when both loops are inoperable is minimized and is scheduled at a time when the reactor cavity is flooded. Both loops of RHR shutdown cooling are scheduled to be out-of-service approximately eight days while conducting ECCS testing and repairs and leak rate testing on the common suction valves. This maintenance is required, and the resultant outage of both RHR shutdown cooling loops cannot be avoided.

During the time when both loops of RHR shutdown cooling are out-of-service, the present outage schedule requires that the fuel pool cooling and cleanup system and the reactor water

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cleanup system be used for alternate decay heat removal. Calculations have been performed by the licensee to project the times after shutdown that each alternate decay heat removal system will be able to maintain reactor coolant average temperature below the 140° F limit. In accordance with the plant administrative procedures, these systems will be demonstrated by testing to have adequate decay heat removal capability prior to the intentional removal of any RHR shutdown cooling loop from operability. This approach to identifying, analyzing, and testing alternate heat removal paths is standard operating practice and has been successfully executed in both of the licensee's major outages since declaring commercial operation (Fall 1985 and Fall 1986).

These proposed TS changes will represent a significant savings in the time required to complete the second refueling outage by allowing reactor vessel head tensioning activities and reactor cavity flooding and draining evolutions while in action statements. These changes will result in decreasing the length of the outage by approximately 10 to 14 days while maintaining the level of safety of the plant in accordance with the appropriate action statements.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of significant hazards considerations in its request for a license amendment. The licensee has concluded, with appropriate bases, that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations.

The licensee's analysis is reproduced below.

The changes proposed by this submittal are intended to provide operational flexibility during refueling outages while ensuring core decay heat removal capability and ECCS water injection requirements. The net affect of the proposed technical specification changes may allow the plant to remain in the action statements of the affected specifications for slightly longer periods of time during the second refueling outage than present requirements allow. However, while in the action statements, technical specification requirements are such that decay heat removal methods are established and two ECCS systems are restored within 4 hours or operations with a potential to drain the reactor vessel are stopped.

The proposed specification 3.0.4 exceptions will not reduce the ECCS and decay heat removal system requirements for Operational Conditions 4 and 5 that exist in the subject specifications. In addition to technical specification requirements, it is SERI outage policy to minimize time in the action statements, demonstrate capability of alternate cooling methods prior to their use and to minimize the time when both RHR shutdown cooling subsystems are inoperable. SERI policy requires that prior to removal from service, the impact of the removal from service be evaluated and adequate alternates be established as required. This SERI policy will be implemented by technical specification position statement and exceptions will be controlled by the Plant Safety Review Committee.

The proposed change[s] [do] not involve a significant increase in the probability or consequences of an accident previously evaluated. SERI has evaluated UFSAR Chapter 15 events which are considered to be applicable during Operational Conditions 4 and 5. These events include a dropped fuel bundle and inadvertent criticality. The proposed specification 3.0.4 exceptions cannot affect the probability of occurrence of any of these events. The proposed 3.0.4 exceptions would not be utilized during fuel handling evolutions in the containment and would have no effect on fuel handling operations in the spent fuel pool. The proposed changes have no affect on control rod interlocks or fuel loading errors and thus do not affect the probability of occurrence of an inadvertent criticality. The proposed changes will allow the following evolutions to occur during the second refueling outage while in the action statements of the affected technical specifications:

a. Tensioning the reactor vessel head.

b. Lowering the reactor cavity water level to less than 22 feet 8 inches above the reactor pressure vessel flange.

c. Raising the reactor cavity water level to greater than 22 feet 8 inches above the reactor pressure vessel flange.

The above evolutions will be performed while in the action statements associated with ECCS shutdown requirements and while in action provisions concerning the number of RHR shutdown cooling loops that are required operable. Presently, without the requested 3.0.4 exceptions, the required ECCS and RHR systems would have to be made operable just to perform the above 3 evolutions and then they may be made inoperable again for maintenance or testing reasons. The evolution of making systems operable just to change from Operational Condition 4 to 5 (or 5 to 4) and to change reactor cavity water level represents significant impact on the refueling outage. With the proposed changes the outage length can be decreased by approximately 10 to 14 days.

The proposed changes do not affect the consequences of an accident previously evaluated. The proposed changes do not reduce the number of ECCS systems or RHR shutdown cooling loops available during the second refueling outage. The changes may increase by a small amount the total time during the outage that the plant is in the action requirements of the affected technical specifications. This increased time in the action results from not having to make systems operable to exit an action just to perform the evolutions described above. In addition, SERI policy looks at the overall outage plan and attempts to optimize testing and maintenance periods on ECCS and decay heat removal systems in order to ensure optimum availability while at the same time accomplishing required maintenance and testing activities.

Even though the proposed changes do not reduce the number of ECCS and RHR systems available during the second refueling outage, SERI believes system availability is important and policy will establish an objective to maintain at least one ECCS system and one Fuel Pool Cooling and Cleanup System functional at all times. The objective of the SERI policy is also to maintain at least one shutdown cooling mode of RHR functional from the beginning of the outage until alternate heat removal methods can handle the load. Both RHR shutdown cooling loops will be inoperable for approximately eight days while conducting ECCS testing and required maintenance and testing on the common suction line. After this evolution one RHR shutdown cooling loop will be placed back in service. As part of the SERI policy objectives, the diesel/generator associated with each of the above systems will be maintained functional. SERI will minimize the time during the outage when both loops of RHR shutdown cooling are out-of-service in order to minimize reliance on alternate decay heat removal methods.

The proposed changes involving RHR shutdown cooling affect Specifications 3.4.9.2, 3.7.1.1 Actions "b" and "d," 3.9.11.1 and 3.9.11.2. The Action Statements of Specifications 3.4.9.2, 3.9.11.1 and 3.9.11.2 contain provisions to establish alternate methods of decay heat removal, when necessary, with RHR shutdown cooling loops inoperable. These alternate methods of decay heat removal are procedurally prescribed prior to entering an outage based on available equipment and planned outage activities. Since decay heat removal is provided for in the action statements of the affected specifications, entry into the operational conditions with less than the required number of RHR shutdown cooling loops available does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change to Specification 3.7.1.1 Actions "b" and "d" affect the SSW subsystems that support the RHR shutdown cooling loops. With an SSW subsystem inoperable, its associated RHR shutdown cooling loop is also required by the (t)echnical (s)pecifications to be declared inoperable. Entering Operational Conditions 4 and 5 with this SSW subsystem and associated RHR shutdown cooling loop inoperable represents no significant increase in the probability or consequences of an accident previously evaluated. The proposed changes to Specification 3.5.2 and 3.7.1.1 Action "c" will allow operational condition changes with one ECCS subsystem/system operable. Since only Operational Conditions 4 and 5* are affected, present technical specifications indicate that one ECCS subsystem/system is sufficient for water makeup requirements for the four hour time allowance of Action "a" of Specification 3.5.2 to restore at least two required ECCS subsystems/systems. The proposed change to Action "c" of Specification 3.7.1.1 is similar to that for Actions "b" and "d" such that when equipment is out-of-service, a support system such as SSW is not required to be operable for that ECCS function. Since ECCS makeup capability is provided while in Action "a" of Specification 3.5.2, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not create the possibility of a new or different kind of accident from any previously analyzed. The proposed changes do not reduce the number of ECCS or RHR shutdown cooling loops available during the second refueling outage. The proposed changes do not increase the potential for draining the reactor vessel. Since decay heat removal and ECCS capability are not decreased by the proposed changes, there is no possibility of a new or different kind of accident from any previously analyzed. The proposed changes will allow increased times in the action statements of the affected technical specifications, but this time will be minimized by SERI written policy. The proposed changes are intended to increase outage flexibility while maintaining necessary levels of plant safety.

The proposed change[s] [do] not involve a significant reduction in a margin of safety. The proposed specification 3.0.4 exceptions will still ensure that core decay heat removal and ECCS makeup capabilities are available during the second refueling outage. In addition to technical specification action requirements, SERI policy is to maintain at least one ECCS system and one Fuel Pool Cooling and Cleanup System functional at all times during the outage. RHR shutdown cooling loops will be functional unless maintenance or testing removes them from service. The effect of the proposed changes will allow increased time in the action statements during the second refueling outage. However, this time is relatively small and results from not having to make systems operable just to exit action statements and perform evolutions like tensioning the reactor vessel head and changing water level in the reactor vessel cavity. After these evolutions, the affected system could be removed from operability for required maintenance or testing. SERI outage policy will minimize time in the action statements as much as possible. Since decay heat removal and ECCS functions are available as necessary during the outage, the change does not involve a significant reduction in a margin of safety.

The NRC staff concludes, based on its preliminary analysis of the licensee's submittal, that the proposed changes to the TSs by adding one-time exceptions to TS 3.0.4 for the second refueling outage meet the standards in 10 CFR 50.92.

Accordingly, the Commission proposes to determine that the proposed changes to the TSs do not involve significant hazards considerations.

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NRC Project Director: Herbert N. Berkow

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: October 9, 1987

Description of amendment request: The amendment would make changes to the Technical Specifications by replacing some of the spent fuel assemblies with new (reload) fuel assemblies, which are needed for fuel cycle 3 operation. The reload fuel assemblies are supplied by the Advanced Nuclear Fuels (ANF) Corporation, previously known as the Exxon Nuclear Company (ENC). The fuel cycle 3 core would consist of 248 General Electric (GE) Company fuel assemblies from the initial core loading, 264 ANF fuel assemblies from the first refueling and 288 ANF fuel assemblies from this refueling. Of the 288 new fuel assemblies added in this reload, 204 assemblies would contain 6 Gadolinium oxide nuclear poison rods and 84 assemblies would contain 8 poison rods. ANF methods of analysis of fuel protection limits for fuel cycle 3 are the same as those used in fuel cycle 2. Based on results of the licensee's reload analysis, Technical Specifications for cycle 3 would remain the same as those for cycle 2, except that two new curves of power distribution limits would be added for the two new types of ANF fuel assemblies and the average planar exposure limit would be increased to allow for increased burnup in fuel cycle 3. In addition, an administrative change would be made to correct an error in Figure 3.2.1-3.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of significant hazards considerations in its October 9, 1987 request for a license amendment. The licensee has concluded, with appropriate bases, that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations.

The Commission has also provided guidance concerning the application of these standards by providing examples of amendments considered likely, and not likely, to involve a significant hazards consideration. These examples were published in the **Federal Register** on March 6, 1986 (51 FR 7744). The NRC staff has made a preliminary review of the licensee's submittal. A discussion of these examples as they relate to the proposed amendment follows.

One of the examples of actions involving no significant hazards consideration is (iii), a change resulting from a reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This example assumes that no significant changes are made to the acceptance criteria for the Technical Specifications or to the analytical methods previously found acceptable by the NRC. The proposed changes to the Technical Specifications requested for this reload are similar to this example. The ANF reload fuel assemblies are a square bundle of 8x8 fuel rods, like the GE spent fuel assemblies they replace. The dimensions and design of the ANF fuel are very similar to those for the GE fuel. The fuel safety limits remain the same for the ANF fuel as for the GE fuel. The calculated peak cladding temperature for ANF fuel following a loss-of-coolant accident is significantly below the 10 CFR 50.46 limit as it is for the GE fuel. The ANF methods of analysis of loss-of-coolant accidents and transients have been previously approved by the NRC staff either on a generic basis or a plant-specific basis. Limits developed for fuel

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cycle 1 single loop operation, increased core flow region, and extended load region will remain the same for fuel cycle 3.

Another example involving no significant hazards is (i), an administrative change to correct an error. The proposed correction to Figure 3.2.1-3 is similar to this example.

Because the proposed changes are similar to examples in 51 FR 7744 which are likely to involve no significant hazards considerations, the Commission proposes to determine that these changes to the Technical Specifications do not involve significant hazards considerations.

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NRC Project Director: Herbert N. Berkow

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 10, 1987

Description of amendment request: The proposed amendment would modify the Appendix A Technical Specifications relating to the Fire Protection Program. There are eleven proposed changes:

(1) Section 6.2.1.B.7, which requires periodic fire protection audits to be conducted under the cognizance of the Safety Review and Audit Board (SRAB) would be editorially revised for improved clarity with respect to who conducts each periodic audit and at what frequency.

(2) Sections 3.19 and 4.19 of the Technical Specifications would be revised to define which Fire Area Barrier and Penetration Fire Seals are subject to operability and surveillance requirements.

(3) Section 3.19 would be revised to change the phrase "fire barrier" to "fire area barrier".

(4) Section 3.19 would be revised to permit the use of an hourly fire watch patrol in lieu of a continuous fire watch, when the integrity of a fire area barrier or penetration fire seal cannot be maintained, provided the operability of fire detectors on at least one side of the nonfunctional barrier can be verified.

(5) Sections 3.19 and 4.19 would be revised to substitute the term "Penetration Fire Seal" for "Fire Wall Penetration Seal."

(6) Bases for Technical Specifications Sections 3.19 and 4.19 would be revised consistent with the above changes to the Limiting Conditions for Operation and Surveillance Requirements.

(7) In Section 4.14.B the expression "NFPA Code" regarding supervised circuits associated with the fire detector alarms, would be changed to "NFPA Standard". The same technical specification also refers to "Class B supervised circuits supervision" with the word "supervision" being redundant. The proposed amendment would delete the word "supervision".

(8) Section 4.14.B would be revised to include Class A supervised circuits in the Surveillance Requirements applicable to fire detection circuits.

(9) Section 4.15 would be revised to delete statements that are no longer meaningful. The existing 4.15 requires a diesel fire pump fuel storage inventory of 150 gallons. A footnote states that the requirement becomes 250 gallons when the clean water fire protection system becomes operable. The clean water fire protection is now operable and the 250 gallon limitation applies. The amendment would change the "150" to "250", and delete the footnote.

(10) Sections 3.20 and 4.20, Limiting Conditions for Operation and Surveillance Requirements for the Yard Fire Hydrant and Hydrant Hose House would be deleted. These requirements were added to the facility Technical Specifications as Amendment No. 66. At that time, the system configuration consisted of two electric motor driven fire pumps and one diesel engine driven fire pump, all located in the Service Water Pump Room which also contains the four Service Water Pumps. As a result of concern about the possibility of common mode failure of the seven pumps due to fire in the Service Water Pump Room, Sections 3.20 and 4.20 were added to provide additional fire protection to that space. Since that time, one of the two motor driven fire pumps and the diesel driven fire pump have been relocated to a separate pumphouse and a Halon fire suppression system has been installed in the Service Water Pump Room. With the present configuration, the concerns which led to Sections 3.20 and 4.20 have been eliminated.

(11) New operability and surveillance requirements for an additional smoke detector located in the Auxiliary Relay Room would be added to the Technical Specifications. The need for the additional smoke detector was determined during an Appendix R audit (Inspection Report 50-298/86-51). Table 3.14 of the Technical Specifications would be modified to include the additional detector as instrument FP-SD-15-10. (Associated with this change would be the addition of "SW = Service Water" to the legend for Table 3.14.)

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). These examples include:

(i) A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example a more stringent surveillance requirement.

(iv) A relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. This assumes that the operating restriction and the criteria to be applied to a request for relief have been established in a prior review and that it is justified in a satisfactory way that the criteria have been met.

(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or reduce in some way a safety margin, but where the results of the exchange are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (SRP): for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

Change (1) would not modify the scope, frequency or personnel qualifications applicable to the SRAB fire protection audits nor would it affect the effectiveness of the audit program. It would only clarify the wording to preclude possible misinterpretation. The change is therefore within the scope of example (i).

Change (2) would limit the applicability of fire barrier and fire seal penetration Technical Specifications to exclude from coverage those barriers and seals which have no affect on reactor safe shutdown capability. The present Technical Specifications are erroneously worded such that they are subject to the misinterpretation that every fire barrier and penetration located at the facility is subject to the Technical Specifications requirements. The amendment clarifies the applicability statement so as to correct the error and is therefore within the scope of criterion (i).

Change (3) would make a change in nomenclature for consistency and is therefore within the scope of example (i).

Change (4) would permit use of an interim compensatory measure in event of degraded equipment. The interim measure may be less effective than fully operable equipment but is consistent with the staff criteria of the Standard Review Plan. Change (4) therefore is within the scope of example (vi).

Change (5) is a minor change in nomenclature and is within the scope of example (i).

Change (6) affects only the Bases. The Bases are not part of the Technical Specifications. This change will be issued with the amendment for convenience but is not part of the amendment.

Change (7) corrects an editorial error and eliminates an editorial redundancy. It is therefore within the scope of example (i).

Change (8) adds a new limitation. It is therefore within the scope of example (ii).

Change (9) is an administrative correction within the scope of example (i).

Change (10) reflects modifications performed to improve fire protection. The modifications relieve any further need for certain operability and surveillance requirements that were put in place due to staff concerns about the possibility of common mode failure. The change is within the scope of example (iv).

Change (11) constitutes an additional limitation within the scope of example (ii).

Since the application for amendment involves proposed changes that are encompassed by examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

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NRC Project Director: Jose A. Calvo

Northeast Nuclear Energy Company, Docket No. 50-423, Millstone Nuclear Power Station Unit 3 New London County, Connecticut

Date of amendment request: September 9, 1987 and supplemented September 9, 1987, and September 30, 1987.

Description of amendment request: The amendment would revise Millstone Unit No. 3 Technical Specification Sections to support the Cycle 2 reload. These changes will allow a positive moderator temperature coefficient (PMTC) at reactor power levels less than 100%. In addition, the changes are required as a result of the project to replace the existing resistance temperature detector (RTD) bypass system with thermowell-mounted RTDs. The changes are:

A. *Technical Specification Changes due to Cycle 2 Reload*

1. *Section 3.1.1.3* - The change would allow a +5 pcm/° F MTC below 70 percent of rated power, ramping down to 0 pcm/° F at 100 percent power.

2. *Section 3.1.2.5, 3.1.2.6 and 3.5.4* - The change will increase the range of acceptable boron concentration in the Refueling Water Storage Tank (RWST) to 2300 - 2600 ppm from the previous range of 2000-2200 ppm.

3. *Section 3.5.1* - The change will increase the range of acceptable boron concentration in the Accumulators to 2200 - 2600 ppm from the previous range of 1900 - 2200 ppm.

4. *Section 3.6.2.3* - The change will increase the range of acceptable sodium hydroxide concentrations in the chemical addition tank (CAT) to 2.41 - 3.10% from the previous range of 1.35 - 2.00%. The volume (level) in the CAT is reduced to a range of 18000 - 19000 gallons from the previous range of 19100 - 20100 gallons.

5. *Section 3.9.1* - The change will increase the boron concentration in the filled portion of the reactor coolant system (RCS) and refueling canal during Mode 6 to correspond with the new minimum RWST boron concentration.

B. *Technical Specification Changes due to the Elimination of the RTD Bypass System*

1. *Table 2.2-1* - The change will revise the values of "Z" and Sensor Error(s) for the overtemperature delta-T and overpower delta-T trips. In addition, the change will revise the values of "Z", the sensor error(s) and the allowable value for the reactor coolant flow-low trip. In the Table notations for Table 2.2-1 changes are proposed to note 1 to specify how delta-T is to be measured, and to change the lead-lag compensator time constant tau-1. Notes 2 and 4 are to be revised to change the amount by which a channel maximum trip setpoint may exceed it computed trip setpoint.

2. *Sections 3.2.3.1 and 3.2.3.2* - The change will revise the minimum RCS flow rates for both four and three-loop operations. The uncertainty values for flow measurement specified in Sections 3.2.3.1 and 3.2.3.2 are also to be changed.

3. *Table 3.2-1* - The change will revise the values specified for RCS Tave and Pressurizer Pressure which are the limits assumed in the safety analysis.

4. *Table 3.3-2* - The change will revise the response time for the overtemperature delta-T and overpower delta-T trip functions.

5. *Table 4.3-1* - The change will delete the reference to footnote in Table 4.3-1, since it is no longer relevant once the RTD bypass system is removed.

6. *Table 3.3-4* - The change will revise the allowable values for functional Unit 5.d.1 and 5.d.2, "Tave low coincident with reactor trip (P-4)" and Functional Unit 9.b, "ESFAS Interlocks - Low Low Tave (P-12)."

7. *Table 3.3-5* - The change will revise the response time for feedwater isolation on Tave low coincident with reactor trip (P-4).

C. *Other Technical Specification Changes*

1. *Section 3.4.1.6* - The existing specification would require that the boron concentration of an isolated loop be greater than 2300 ppm prior to bringing it back into service if necessary to match the boron concentrations of the operating loops. The change will require a boron concentration of at most 2300 ppm.

Basis for proposed no significant hazards consideration determination: NNECO has reviewed the proposed changes pursuant to 10 CFR 50.59 and has determined that they constitute an Unreviewed Safety question due to a small increase in the radiological consequences of a Locked Rotor Accident for three-loop operation, but has determined the proposed changes to be acceptable and safe.

NNECO has also reviewed the proposed changes in accordance with 10 CFR 50.92 and has concluded that they do not involve a significant hazards consideration because the changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The only accident for which the radiological consequences are affected is by the proposed changes to the allowable moderator temperature coefficient for the Locked Rotor Accident for three-loop operation. The calculated increase

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in radiological consequences are not significant. The 0-2 HR EAB thyroid dose only increases by 1 Rem or 0.3% of the 10 CFR Part 100 limit. The 0-2 HR EAB whole body dose only increases by 0.52 Rem or 2% of the 10 CFR Part 100 limit. The LPZ thyroid dose only increases 3.1 Rem or 1% of the 10 CFR Part 100 limit. The LPZ whole body dose increases by 0.047 Rem or 0.2% of the 10 CFR Part 100 limit. Since the above increases in consequences are not significant, the proposed changes do not involve a significant hazards consideration. In addition, the proposed changes will not have any impact on the probability of occurrence of any design basis accident. The design basis accidents were evaluated for the impact on accident consequences by the changes to the Technical Specification Sections 3.4.1.6, 3.9.1.2 and 5.3.1. In all postulated fuel handling accidents K_{eff} remains less than 0.95. In the boron dilution event, the initial conditions assumed and the results obtained are not changed. In addition, the changes will not have any impact on the probability of occurrence of any design basis accident.

2. Create the possibility of a new or different kind of accident from any previously evaluated. There are no new failure modes associated with these changes and the impacts are all covered by the existing design bases. It is possible that plant response to transients will change due to the positive moderator temperature coefficient (PMTC). Some changes to control systems may be required although it is not expected. This will not affect the safety analysis or create a new accident since credit for control systems is not assumed in the PMTC re-analyses. The changes, resulting from the replacement for the RTD bypass system with thermowell-mounted RTDs, will not physically affect the performance or reliability of any protection or control system. There are no new failure modes associated with these changes.

3. Involve a significant reduction in a margin of safety. The consequences of transients reanalyzed for the PMTC have not degraded to the point of reducing the margin of safety. Also, from a chemistry, corrosion and material compatibility standpoint there were no concerns identified. Therefore, there is no effect on the protective boundaries. In addition, the changes, resulting from the elimination of the RTD bypass system, have no adverse impact on the basis of any Technical Specification. The only changes are to the specific values of the parameters contained in the Technical Specification. Therefore, the proposed changes do not reduce the margin of the safety as specified in the basis of any Technical Specification. For the change to the Technical Specification Section 3.4.1.6, there is no increase in the consequences of any accident. Therefore, there will be no impact on the protective boundaries. For the changes to Technical Specification Sections 5.3.1 and 3.9.1.2, steady state and accident condition results show that K_{eff} in the spent fuel pool remains less than 0.95. Therefore, there is no impact on the safety limits. Thus, the changes do not reduce the margin of safety as specified in the basis of any Technical Specification.

The licensee has therefore concluded that the three criteria of 10 CFR 50.92(c) are not compromised and the proposed amendment does not involve a significant hazards consideration. The staff has reviewed the licensee's submittal and agrees with its no significant hazards consideration determination.

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NRC Project Director: John Stolz

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 12, 1987

Description of amendment request: The proposed amendment would revise Technical Specifications (TSs) contained in Appendix A of the Operating Licenses with changes related to the implementation of a Hydrogen Water Chemistry (HWC) program to improve reactor water chemistry and thus to reduce the potential for intergranular stress corrosion cracking.

(A) The licensee proposes to amend Technical Specification (TS) pages 38, 48, 61, 63, and 90 to reflect a change in the trip setpoint for the main steamline radiation monitor (MSLRM) from a trip setpoint value of three times the normal full power background (NFPB) radiation level to 15 times NFPB. Normal full power background (NFPB) is defined for these purposes as the radiation level at the MSLRM associated with normal full power operations without the use of hydrogen water chemistry. A trip setpoint value three times NFPB has been previously chosen to provide sufficient margin to avoid spurious trips while providing appropriate protection from a control rod drop accident. With the use of HWC the normal background levels at the MSLRM may increase by as much a factor of five due to the increase in nitrogen-16 (N-16) which is attributable to chemical changes that occur in the reactor with hydrogen addition. Therefore, in order to maintain the original margin provided by a trip setpoint-to-background ratio of three the licensee proposes to raise the trip setpoint value to 15 times the NFPB levels which would exist without HWC.

(B) The licensee proposes to amend TS page 63 to modify the alarm setpoint value of 1.5 times NFPB to a value determined from operating experience.

(C) The licensee also proposes to amend the BASES TS page 48 to delete reference to the air ejector offgas monitor isolation trip feature. Deletion of this trip feature had been approved in license amendment numbers 102 and 104 but this associated change to the BASES page 48 was inadvertently omitted at that time.

(D) The licensee proposes to delete Note 14 from Unit 3 TS pages 38 and 40 and a reference to the same Note, identified as Note 10, on Unit 3 TS page 61. The one-time only test to determine feasibility of HWC, to which this note refers, has been completed and the note was accordingly deleted from one of the two tables in which it appears by a previous amendment. Since the test has been completed the note is now meaningless and the licensee proposes its deletion.

(E) The licensee proposes to revise the format for TS Table 3.1.1 on pages 37 and 38 and TS Table 3.2.A on pages 61 and 62 by adding a column to the table which provides a reference number for each of the items listed in the table.

The above changes will facilitate the Hydrogen Water Chemistry (HWC) program developed by the Philadelphia Electric Company to improve reactor water chemistry at Peach Bottom Units 2 and 3. The purpose of the program is to reduce the effects of Intergranular Stress Corrosion Cracking (IGSCC) of stainless steel piping. Hydrogen Water Chemistry, which consists of the combination of good water chemistry and the addition of hydrogen to the feedwater, has been shown to be effective in arresting pipe cracking and pipe crack growth. Addition of hydrogen decreases the oxidizing power of the reactor water and reduces its aggressiveness toward coolant system materials.

Basis for proposed no significant hazards consideration determination:

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

With respect to the change in the main steamline radiation monitor (MSLRM) trip setpoint described in part (A) above, the licensee's updated FSAR in Section 7.12 states that the safety objective of the MSLRM system is to monitor for the gross release of fission products from the fuel and, upon indication of such failure, to initiate appropriate action to limit fuel damage and contain the released fission products. When a significant increase in main steamline radiation level is detected, trip signals are transmitted to the reactor protection system, the isolation systems and to the condenser mechanical vacuum pump. The radiation trip setting is selected so that a high radiation trip results from the fission products released in the design basis control rod drop accident (CRDA). The CRDA is analyzed in updated FSAR Section 14.6. The licensee states that the calculated dose rate from the CRDA at the MSLRM's is 55 rem/hr and that this is four times the proposed setpoint of approximately 13.7 rem/hr. Thus, the current setpoint value of 3 times NFPB (approximately 2.7 rem/hr) would be increased to 15 times NFPB (approximately 13.7 rem/hr). The licensee indicates that the main steamline radiation levels are modeled to change as a step increase for the CRDA, which causes a step increase in sensed activity by the detector. Although the new setpoints are closer to the predicted main steamline radiation levels for the CRDA, the MSLRM response time for the proposed setpoint remains bounded by the licensee's assumption, in the current updated FSAR analysis, of a 0.5 second instrument loop response time. Therefore, the licensee maintains that the total time required to isolate the main steamlines, and the associated total amount of fission product activity transported to the condenser before the steam lines are isolated, remains bounded by the assumptions and results of the CRDA analysis in the updated FSAR.

The capability to monitor for fuel failures is not affected by this change. The Main Steam Line Radiation Monitor's operating detection range is not changed. The Steam Jet Air Ejector Discharge Radiation Monitor, which is more sensitive to fuel failures than the Main Steam Line Radiation Monitor, is not affected by this change and will be capable of alerting the plant staff to the existence of minor fuel failures which could be present below the proposed trip setpoint.

Thus, the proposed amendment discussed in part (A) above will not involve a significant increase in the probability of the control rod drop accident previously evaluated in updated FSAR Section 14.6 since the change in the trip setpoint of the MSLRM instrumentation used to detect the occurrence of the CRDA does not have an effect on those events which could lead to the accident. The consequences of the CRDA would not increase significantly because, as discussed above, the total time to isolate the steamlines and the associated total amount of fission product activity transported to the condenser remains bounded by the values in the updated FSAR.

The proposed amendment discussed in part (A) does not create the possibility of a new or different kind of accident from any previously evaluated because the modification merely adjusts the trip setpoint assumption in an accident analysis that remains bounded by the results currently contained in the updated FSAR. No other station instruments or equipment are involved.

The proposed amendment discussed in part (A) does not involve a significant reduction in a margin of safety since the radiological consequences estimates for the accident do not change as a result of this modification and thus remain bounded by those currently reported in the updated FSAR.

Modification of the alarm setpoint discussed in part (B) above does not involve a significant increase in the probability of an accident previously evaluated because changing the alarm setpoint will have no effect on those events which could lead to the accident. Changing the alarm setpoint does not involve a significant increase in the consequences of an accident previously evaluated because there are no actions dependent on the alarm for which credit is taken in the current updated FSAR, which continues to provide bounding values for the CRDA consequences. The modification discussed in Part (B) does not create the possibility of a new or different kind of accident from any previously evaluated since changing the alarm setpoint will not affect the design of systems and components involved in initiating the CRDA. The modification discussed in Part (B) does not involve a significant reduction in a margin of safety since the radiological consequences for the CRDA do not change as a result of this modification and thus remain bounded by those currently reported in the updated FSAR.

With respect to the changes discussed in items (C), (D), and (E) above, it is noted that the Commission has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples [March 6, 1986, 51 FR 7744] of amendments that are not likely to involve a significant hazards consideration. These proposed changes to correct administrative errors and to improve the format of the TS are enveloped by example (i) which relates to purely administrative changes for correction of an error or a change in nomenclature. The staff proposes to determine that these amendments do not involve significant hazards considerations since they correct previous errors and revise the format of several tables.

Based on the above discussions for items (A), (B), (C), (D) and (E), the staff proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126

Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: June 2, 1987 (TSC 87-31)

Description of amendment requests: The proposed technical specification change would add surveillance requirement 4.6.3.2.d to specifically address the containment isolation signal and valve actuation for the containment vacuum relief isolation valves. The current surveillance requirement 4.6.3.2 does not specifically address test requirements for the dedicated containment isolation logic for these valves.

Basis for proposed no significant hazards consideration determination:

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The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

1. Is the probability of an occurrence or the consequences of an accident previously evaluated in the safety analysis report significantly increased?

No. The addition of the surveillance requirements to test the containment isolation signal for the containment vacuum relief isolation valves will not increase the probability or the consequences of an accident previously evaluated in the safety analysis report. The addition of specific surveillance requirements for this containment isolation feature will decrease the probability of failure of this isolation feature. The consequences of any previously analyzed accident remain unchanged or are reduced because of the increased reliability of this containment isolation feature.

2. Is the possibility for an accident of a new or different type than evaluated perviously in the safety analysis report created?

No. The addition of the surveillance requirement to test the containment isolation signal for the containment vacuum relief isolation valves will not create a new or different type of accident than previously evaluated in the safety analysis report. Testing will be done during cold shutdown or refueling when containment isolation capability is not required. No hardware changes are being made; therefore, no new failure modes are being introduced.

3. Is the margin of safety significantly reduced?

No. The addition of a specific surveillance requirement to test the containment isolation signal for the containment vacuum relief isolation valves will ensure that specific testing is performed on a periodic basis. The addition of the surveillance requirement will increase the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: June 10, 1987 (TSC 87-35)

Description of amendment requests: The proposed amendments would modify Technical Specification (TS) Table 3.4-1, "Reactor Coolant System Pressure Isolation Valves," to add requirements for two flow control valves (FCV-87-7 and FCV-87-8).

A TS change to delete Table 3.4-1 in its entirety was originally proposed in an application dated April 10, 1986. Tennessee Valley Authority (TVA) review of Generic Letter 87-06 indicated the need for this table to remain in the TS. The April 10, 1986 submittal was initially noticed in the **Federal Register** on July 18, 1986 (51 FR 25772).

The above submittal relating to the deletion of Table 3.4-1 is completely superseded by this June 10, 1987 application.

Basis for proposed no significant hazards consideration determination: The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

1. Is the probability of an occurrence or the consequences of an accident previously evaluated in the safety analysis report significantly increased?

No. The proposed amendment to the technical specifications changes Table 3.4-1, "Reactor Coolant System Pressure Isolation Valves," to include flow control valves FCV-87-7 and FCV-87-8. The omission of the subject valves from table 3.4-1 was an oversight. The subject valves currently undergo testing as pressure isolation valves as identified in Surveillance Instruction (SI)-166.11, "Upper Head Injection Check Valve Integrity." The proposed change will provide for the two valves to be subject to the limiting condition for operation for pressure isolation valves and the corresponding surveillance requirements (SRs). Thus, the proposed amendment will provide for increased administrative controls over the subject valves.

2. Is the possibility for an accident of a new or different type than evaluated previously in the safety analysis report created?

No. Flow control valves FCV-87-7 and FCV-87-8 are designed, installed, and maintained as reactor coolant system (RCS) pressure isolation valves. The proposed amendment does not involve a change in hardware capabilities or a modification in the operation of the plant.

3. Is the margin of safety significantly reduced?

No. The margin of safety has actually been increased. The proposed amendment will provide additional assurance that FCV-87-7 and FCV-87-8 will perform their intended function and provide for remedial action should it be determined that the valves are inoperable. Continued operability of these valves will ensure redundant isolation and system integrity are maintained.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: July 2, 1987 (TSC 87-26)

Description of amendment requests: The proposed amendments would revise Technical Specification (TS) Section 3/4.7.11, Fire Suppression Systems, to reflect changes in the minimum flow and pressure requirements for the High Pressure Fire Protection System (HPFPS).

Basis for proposed no significant hazards consideration determination: The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

As a result of the physical walkdown of the fire protection system at Sequoyah to ensure Appendix R compliance, it was necessary to modify the layout of the sprinkler system and to install additional piping to supply some hydraulically remote areas. These modifications affected the flow requirements and system resistance of the HPFPS. Consequently, the minimum flow and head requirements stated in the technical specifications needed to be raised to ensure that the HPFPS capacity was adequate for meeting the most demanding safety-related fire condition.

1. Is the probability of an occurrence or the consequences of an accident previously evaluated in the safety analysis report significantly increased?

No. The probability of the occurrence of an accident is not increased. The function of the HPFPS is to minimize the consequences of onsite fires. This change will ensure that the capacity of the HPFPS is adequate for the most demanding safety-related fire condition.

2. Is the possibility for an accident of a new or different type than evaluated previously in the safety analysis report created?

No. The proposed change will not create a new or different type of accident. While the proposed change does raise the minimum acceptable flow and head requirements for the HPFPS pumps, these requirements do not exceed the design capabilities of the HPFPS.

3. Is the margin of safety significantly reduced?

No. The margin of safety is not changed. The hydraulic requirements of the HPFPS increased because of some modifications and additions to the sprinkler system. Consequently, the minimum technical specification requirements for the HPFPS pumps are being raised to ensure that the previously existing margin of safety is not reduced.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: September 17, 1987 (TS 87-33)

Description of amendment requests: The proposed changes to the Technical Specification (TS) would add a definition of Bypass Leakage Paths to the Auxiliary Building and amend table 3.6-1 to insert those penetrations fitting that definition. In addition, a few editorial changes (relisting definitions alphabetically, correcting a typographical error) would be made.

Basis for proposed no significant hazards consideration determination: The secondary containment is provided to mitigate the postulated consequences of hypothetical accidents by enveloping the primary containment and collecting and treating the fission product leakage from primary containment. The secondary containment consists of the annular volume (annulus) around the primary containment and the Auxiliary Building secondary containment enclosure boundary. During a postulated Design Basis Accident (DBA), leakage from the primary containment to the annulus may occur. This leakage would be treated by the emergency gas treatment system (EGTS).

It is also possible that, because of piping and valve arrangements, some leakage may bypass the annulus. This leakage from the primary containment that circumvents the annulus pressure boundary may escape directly into either the Auxiliary Building or the environment. Bypass leakage to the Auxiliary Building is defined as that leakage from primary containment that would possibly circumvent the annulus and escape to the Auxiliary Building during a postulated DBA. This leakage will be treated by the Auxiliary Building Gas Treatment System (ABGTS). The design of the Sequoyah plant precludes leakage to the environment.

With the proposed TS changes, the paths that encompass bypass leakage to the Auxiliary Building will all be considered in establishing conformance with containment leak rate acceptance limits.

The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment would add a definition of "Bypass Leakage paths to the Auxiliary Building" to the technical specifications and update table 3.6-1 of LCO 3.6.1.2, "Containment Systems, Containment Leakage," to reflect both this definition and the as-built configuration of the plant. This proposed amendment does not involve a change in plant hardware, plant operating setpoints or limits, plant operating procedures, or an increase in potential radiological release to the environment as a result of a postulated design basis accident (DBA). Thus, the proposed technical specification amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. As previously stated, the proposed amendment does not involve a change in plant hardware, plant operating setpoints or limits, or plant operating procedures. Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

No. Again, as previously stated, the proposed amendment does not involve a change in plant hardware, plant operating setpoints or limits, plant operating procedures, or an increase in potential radiological releases to the environment as a result of a postulated DBA. The proposed amendment would add a definition for the purpose of clarifying and delineating Bypass Leakage Paths to the Auxiliary Building as well as modifying table 3.6-1 to reflect the definition and the current plant configuration. Thus, the proposed amendment involves no reduction in margin of safety but rather, through clarification of terminology and correctly describing current plant configuration, provides for an increase in the margin of safety of the plant.

Additionally, the staff notes that the editorial changes are strictly administrative and therefore are encompassed by example (i) of the Commission's examples of amendments considered not likely to involve significant hazards considerations (51 FR 7751) and do not present a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: October 9, 1987

Description of amendment request: The proposed amendment would revise the provisions in the Davis-Besse

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Nuclear Power Station, Unit No. 1, Technical Specifications (TSs) relating to Surveillance Testing required to demonstrate operability of the emergency diesel-generators (EDGs) in accordance with Toledo Edison Company application dated October 9, 1987. Specifically, the proposed amendment would allow an extension of the due date from January 3, 1988, until March 31, 1988, for EDG 1-1 and from December 10, 1987, until March 20, 1988, for EDG 1-2 for performing the surveillances required by Specifications 4.8.1.1.2.d.1 and 4.8.1.1.2.d.3.(c). In addition, an editorial change would be made to Specification 4.8.1.1.2.d.3 to correctly refer to the safety features actuation system test signal vice the safety injection actuation test signal.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that the operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change against the above standards as required by 10 CFR 50.91(a). The Commission has reviewed the licensee's evaluation, and agrees with it. The licensee concluded that:

A. the change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the EDGs are standby equipment which do not contribute to the occurrence of any accident, and the ability of the EDGs to function as required is not degraded by this change,

B. the change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because proper operation of the EDGs is assured by periodic surveillance, and no new failure modes are introduced, and

C. the change does not involve a significant reduction in a margin of safety because no accident analyses assumptions are changed, and the consequences of EDG failure are within the bounds previously analyzed.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Martin J. Virgilio.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: September 9, 1987.

Description of amendment request: The proposed amendment would delete the offsite organization chart (Figure 6.2-1) and the unit organizational chart (Figure 6.2-2) from the technical specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations, using the Commission's standards:

"The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because deletion of the organization charts from the Technical Specifications does not affect plant operation. As in the past, the NRC will continue to be informed of organizational changes through other required controls. The Code of Federal Regulations, Title 10, Part 50.34(b)(6)(i) requires that the applicant's organizational structure be included in the Final Safety Analysis Report. Chapter 13 of the Final Safety Analysis Report provides a description of the organization and detailed organization charts. As required by 10 CFR 50.71(e), the company submits annual updates to the FSAR. Appendix B to 10CFR50 and 10CFR50.54(a)(3) govern changes to organization described in the Quality Assurance Program. Some of these organizational changes require prior NRC approval.

"Union Electric will continue its practice to inform the NRC of any future organizational changes affecting plant operation.

"The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed change is administrative in nature, and no physical altera tions of plant configuration or changes to setpoints or operating parameters are proposed.

"The proposed amendment does not involve significant reduction in a margin of safety. Through Union Electric's strong Quality Assurance Programs and its commitment to maintain only qualified personnel in positions of responsibility, it is assured that safety functions performed by the on-site and the corporate organizations will continue to be performed at a high level of competence."

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; does not involve a reduction in the required margin of safety. The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David L. Wigginton, Acting.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: July 14, 1986, as superseded June 3, 1987

Description of amendment requests: The proposed amendments would revise Section 6 of the Surry Technical Specifications to reflect a Virginia Electric and Power Company (the licensee) reorganization in which the Quality Assurance Organization reports to the Senior Vice President - Engineering and Construction, rather than to the Senior Vice President - Power Operations. As the major emphasis of the licensee's nuclear program is presently on operations rather than construction, it is no longer appropriate that the Quality Assurance Organization report to Power Operations. This change is intended to enhance the independence of the Quality Assurance Organization. In addition, the proposed change would correct the titles of several on-site and off-site managers and supervisors. Also, the Director-Nuclear Training position would be deleted.

This request supersedes the previous request for amendment dated July 14, 1986, noticed on August 13, 1986 (51 FR 29015).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the changes against the standards provided above and has determined that the changes would involve no significant hazards considerations because:

1. The changes would merely revise the reporting requirements of the Quality Assurance (QA) Organization in order to enhance its independence, and would also correct titles in the on-site and off-site organization charts. Thus, these changes do not change plant design or operation and do not increase the probability or consequences of an accident.

2. The licensee has determined that a new or different kind of accident from any accident previously evaluated will not be possible due to these changes. Realigning the QA organization with Engineering and Construction, revising supervisor or manager titles, or deleting the Director-Nuclear Training position does not create the possibility or a new or different kind of accident.

3. These changes do not involve a change in the basis for any Technical Specification or in the Updated Final Safety Analysis Report accident analysis. Therefore, these changes do not involve a significant reduction in a margin of safety.

The NRC staff has made a preliminary review of the licensee's analysis and agrees with the licensee's conclusions that the three standards in 10 CFR 50.92(c) are met for the proposed operating license amendments for the Surry Power Station.

Accordingly, the Commission proposes to determine that the requested changes to the Technical Specifications do not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: May 14, 1987

Description of amendment requests: The proposed amendments would change Section 4.9, "Effluent Sampling and Radiation Monitoring System" of the Surry Units 1 and 2 Technical Specifications to make it consistent with NUREG-0472, "Radiological Effluent Technical Specifications for PWRs, Revision 3." Specifically, Table 4.9-4 has a reporting level of I-131 for water as 2 pCi/liter. The proposed amendments would keep the reporting level of I-131 for ground (drinking) water samples as 2 pCi/liter and change the reporting level of I-131 for surface (non-drinking) water samples to 20 pCi/liter. Also, Table 4.9-5 currently has a lower limit of detection of I-131 for water as 10 pCi/liter. The proposed amendments would change the lower limit of detection of I-131 for ground (drinking) water samples to 1 pCi/liter and keep the lower limit of detection of I-131 for surface (non-drinking) water samples as 10 pCi/liter. The amendments would also insert symbols that were inadvertently deleted on page TS 4.9-15 of the Surry Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Virginia and Electric Power Company (the licensee) has evaluated the changes against the standards provided above and has determined that the changes would involve no significant hazards considerations because:

1. The proposed changes only involve the reporting and detection levels for environmental sampling of water during routine operation and as such do not involve or affect the probability or consequences of a previously evaluated accident. Thus, the proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed changes will not modify or alter an existing plant system; only the reporting and detection levels for environmental sampling of water during routine operation would be changed. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes are requested in order to make Section 4.9 of Surry's Technical Specifications consistent with NUREG-0472, "Radioactive Effluent Technical Specifications for PWRs, Revision 3." These changes only affect environmental sampling criteria; they do not affect, nor are they related to, plant operational safety. Thus, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has made a preliminary review of the licensee's analyses of the proposed changes and agrees with licensee's conclusion that the three standards in 10 CFR 50.92(c) are met. Therefore, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Wolf Creek Nuclear Operating Corporation, Kansas Gas and Electric Company, Kansas City Power & Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: September 17, 1987

Description of amendment request: This amendment request revises Technical Specification Figure 6.2-1, to reflect the removal of the Manager Nuclear Operations Support position,

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the change of the name of the Procurement and Materials Management Division to the Purchasing and Material Service Division, and the deletion of the "Chairman of the Board" and "Vice Chairman of the Board" designations from the organizational box for the "Board of Directors" to eliminate unnecessary detail in the organization chart. In addition, the newly renamed Manager of Purchasing and Material Services will report directly to the President and Chief Executive Officer rather than to the Vice President Nuclear Operations.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

This amendment request revises Wolf Creek Generating Station (WCGS), Unit No. 1, Technical Specification Figure 6.2-1, which addresses the Operating Corporation Organization.

The transfer of the various functions of the Nuclear Operations Support division to other divisions within the Vice President Nuclear Operations organization will increases organizational effectiveness by establishing managerial control at the plant site. This change is, therefore, an organizational enhancement and has no effect on plant equipment or the technical qualifications of plant personnel.

The change in reporting relationship for the Purchasing & Material Services division (formerly the Procurement and Materials Management division) increases organizational effectiveness by revising the previous reporting relationship. The title revision is only a change in nomenclature and has no effect on job responsibilities.

The removal of the wording "Chairman of the Board" and "Vice Chairman of the Board" removes unnecessary detail from Figure 6.2-1. This change has no effect to overall organizational commitments or to job responsibilities.

The proposed revisions do not involve a significant increase in the probability or consequence of an accident previously evaluated. These changes involve organizational modifications and enhancements and, as such, have no effect on plant equipment or the technical qualifications of plant personnel.

The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated. These changes do not affect the qualifications of personnel who operate Wolf Creek Generating Station, nor do they involve any change to installed plant systems or the overall operating philosophy of Wolf Creek Generating Station.

The proposed revisions do not involve a significant reduction in a margin of safety. These changes do not involve any changes in overall organizational commitments. Organizational modifications alone do not reduce any margin of safety.

Based on the above analysis and utilizing the guidance provided by the Commission, it has been concluded that the proposed revisions to the Wolf Creek Generating Station Technical Specifications do not involve a significant hazards consideration.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing examples of Amendments that are not likely to involve Significant Hazards Considerations (51 FR 7751). Among those examples are, "A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the Technical Specifications, corrections of an error, or a change in nomenclature" and "A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications...". The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka Kansas

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this biweekly notice. They are repeated here because the biweekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: September 25, 1987, as superseded October 7, 1987

Brief description of amendment requests: The amendments would revise Section 4.7, "Main Steam Line Trip Valves" of the Surry Units 1 and 2 Technical Specifications by removing the partial-closure test specified in Sections 4.7A and 4.7B and replacing it with a more rigorous full-closure test to be performed at each startup. The proposed amendments would also revise the acceptance criteria for the main steam trip valve closure time testing. Table 4.1-2A would also be revised to be consistent with TS 4.7.

Date of publication of individual notice in the Federal Register: October 16, 1987 (52 FR 38547)

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arizona Public Service Company, et al, Docket Nos. STN 50-528 and STN 50-529, Palo Verde Nuclear Generating Station, Units 1 and 2, Maricopa County, Arizona

Date of application for amendments: January 23, 1987, as supplemented by letters dated April 24, June 8, July 17 and October 1, 1987

Brief description of amendments: The amendments revise the technical specifications by (1) changing Specification 3.1.1.1 and 3.1.1.2 and related Tables 2.2-1 and 3.3-1 concerning shutdown margin requirements for the various modes of operation; (2) revising Specification 3.1.2.3 and related tables in Specification 3.1.2.7 concerning the number of charging pumps in operation while in Mode 5; (3) adding a new Special Test Exception to allow operability testing of the control element drive mechanism system during pre-startup testing without the need for alternating between specifications, and (4) revising several other portions of the technical specifications representing related administrative changes.

Date of issuance: October 9, 1987

Effective date: October 9, 1987

Amendment Nos.: 23 and 13

Facility Operating License Nos. NPF-41 and NPF-51: Amendments change the Technical Specifications.

Date of initial notice in Federal Register: August 12, 1987 (52 FR 29910). The requested amendment for Palo Verde Unit 3 has been deferred pursuant to the licensees' letter dated October 1, 1987.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 9, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

Arizona Public Service Company, et al, Docket No. STN 50-528, Palo Verde Nuclear Generating Station, Unit 1, Maricopa County, Arizona

Date of application for amendment: June 29, 1987, as supplemented by letters dated June 29, July 13, August 20 (two letters), September 4 and October 1, 1987.

Brief description of amendments: The amendment revised several portions of the Technical Specifications to incorporate changes in support of Cycle 2 operation.

Date of issuance: October 21, 1987

Effective date: October 21, 1987

Amendment No.: 24

Facility Operating License No. NPF-41: Amendment changed the Technical Specifications.

Date of initial notice in Federal Register: August 26, 1987 (52 FR 32169) The letters of September 4 and October 1, 1987 provided supplemental information which did not change the initial proposed determination of no significant hazards. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 21, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: July 30, 1987

Brief description of amendment: The amendment revises the surveillance interval for diesel generator inspection from once every 18 months to once every refueling outage. It also corrects reference to a staff Safety Evaluation Report.

Date of issuance: October 21, 1987

Effective date: October 21, 1987

Amendment No.: 8

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications and Attachment 2 of the License.

Date of initial notice in Federal Register: September 9, 1987 (52 FR 34000). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 21, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Commonwealth Edison Company, Docket Nos. 50-237 and 249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of application for amendments: May 14, 1986

Brief description of amendments: The amendments changed the Technical Specifications to impose 4-KV cross-tie operability requirements.

Date of issuance: October 9, 1987

Effective date: October 9, 1987

Amendment Nos.: 98 and 91

Provisional Operating License No. DPR-19 and Facility Operating License No. DPR-25: The amendments revise the Technical Specifications.

Date of initial notice in Federal Register: November 19, 1986 (51 FR 41848). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 9, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket No. 50-373, La Salle County Station, Unit No. 1, La Salle County, Illinois

Date of application for amendment: June 16, 1987

Brief description of amendment: This one-time-only amendment would allow performance of the snubber surveillance for LaSalle Unit 1 to correspond to the scheduled second refueling.

Date of issuance: October 19, 1987

Effective date: October 19, 1987

Amendments No.: 51

Facility Operating License No. NPF-11: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 9, 1987 (52 FR 34001 and 34002). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

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Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: May 20, 1987

Brief description of amendment: The amendment revises the Technical Specifications relating to the limiting conditions for operation of the Auxiliary Feedwater Pumps to be consistent with the Standard Technical Specifications. The change adds limiting conditions for operation for up to three Auxiliary Feedwater Pumps that may be in an inoperable condition.

Date of issuance: October 14, 1987

Effective date: October 14, 1987

Amendment No.: 124

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34002) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 14, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: March 24, 1987

Brief description of amendment: The amendment revises the Technical Specifications to change the flow requirement for the Auxiliary Feedwater System in its limiting conditions for operation. The minimum required pumping capability of the auxiliary feedwater pumps is being revised from 400 gpm to 300 gpm.

Date of issuance: October 15, 1987

Effective date: October 15, 1987

Amendment No.: 125

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 17, 1987 (52 FR 23097) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 15, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: May 28, 1987

Brief description of amendment: This amendment removes the Tables of specific piping snubbers from the Technical Specifications, deletes the numerical value of the acceptance criterion for drag force for mechanical snubbers, and adds the functional testing requirements for snubbers of rated capacity greater than 50,000 pounds.

Date of issuance: October 20, 1987

Effective date: October 20, 1987

Amendment No.: 107

Provisional Operating License No. DPR-20. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 12, 1987 (52 FR 29913). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 20, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: September 29, 1986, as supplemented March 19 and April 9, 1987.

Brief description of amendment: The amendment makes several changes to the Administrative Controls Section of the Technical Specifications. Specifically, the changes are intended to clarify existing requirements, bring closer agreement to the terminology of the NRC Standard Technical Specifications, incorporate overtime work limitations stated in NRC Generic Letter 82-12, and change the titles of some of the staffing positions and modify the minimum shift crew to meet the requirements of 10 CFR 50.54(m).

Date of issuance: October 21, 1987

Effective date: October 21, 1987

Amendment No. 108

Provisional Operating License No. DPR-20. The amendment revised the license and Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1986 (51 FR 47077). Since the date of the initial notice, the licensee provided supplemental information dated March 19 and April 9, 1987. This supplemental information did not change the initial determination and thus did not warrant renoticing. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 21, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Detroit Edison Company Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: January 7, 1987, as supplemented March 6, 1987, and May 20, 1987

Brief description of amendment: This amendment revises Section 6 of the Plant Technical Specifications (Appendix A to Facility Operating License No. NPF-43) to change the titles of various organizations to more accurately reflect the current Fermi-2 plant organization, and to strengthen the responsibilities of the licensee's Onsite Review Organization (OSRO).

The licensee's March 6, 1987, letter provided the current OSRO composition reflecting organizational changes but did not change any functional responsibility. The licensee's May 20, 1987, letter supplemented the January 7, 1987, change request to withdraw the initial request to delete Technical Specification Figure 6.2.1-1, "Offsite Organization" and Figure 6.2.2-1, "Unit Organization", and provided those figures, updated to reflect the organization title changes described in the January 7, 1987 letter.

Date of issuance: October 22, 1987

Effective date: October 22, 1987

Amendment No.: 11

Facility Operating License No. NPF-43. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2880) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 22, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Public Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: July 29, 1985

Brief description of amendments: The amendments revise the Technical Specifications (TSs) to delete those TSs related to the Reactor Vessel Material Surveillance Program.

Date of Issuance: October 19, 1987

Effective date: October 19, 1987

Amendment Nos.: 162, 162, and 159

Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 23, 1985 (50 FR 43024) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 19, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: August 22, 1985, as supplemented on February 11, 1986.

Brief description of amendments: The amendments revise the TSs to correct a typographical error, delete an expired footnote, update the station organization by adding the Station Services and Integrated Scheduling areas and provide clarity and consistency through different wording.

Date of Issuance: October 19, 1987

Effective date: October 19, 1987

Amendment Nos.: 163, 163, and 160

Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 23, 1985 (50 FR 43026) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 19, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: February 5, 1987

Brief description of amendment: Technical Specification 3.4.1.2.2 was changed to permit plant operation with a minimum of two operable Main Steam Safety Valves per steam generator when the reactor has been subcritical for at least one hour and the reactor is between hot shutdown and 5% power.

Date of Issuance: October 15, 1987

Effective date: October 15, 1987

Amendment No.: 133

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13337) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated October 15, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania, 17126

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: July 1, 1987

Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 to provide corrections regarding control room habitability requirements.

Date of issuance: October 15, 1987

Effective date: October 15, 1987

Amendment No. 116

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28376) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 15, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of application for amendment: August 14, 1987. Plant-specific information was provided in a report dated July 31, 1987 and supplemented September 18, 1987.

Brief description of amendment: This amendment modifies the Technical Specifications for Cycle 2 fuel reload and operation.

Date of issuance: October 19, 1987

Effective date: October 19, 1987

Amendment No.: 12

Facility Operating License No. NPF-47. This amendment revised the Technical Specifications and/or License.

Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34010). The licensee's September 18, 1987 submittal clarified the description of the new fuel for Cycle 2 and did not alter the NRC staff's determination of no significant hazards as published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Long Island Lighting Company, Docket No. 50-322, Shoreham Nuclear Power Station, Suffolk County, New York

Date of application for amendment: January 12, 1987

Brief description of amendment: This amendment changed the Technical Specifications with regard to the figures showing the locations of the two meteorological towers. This amendment also included changes to the TSs to correctly identify the title of the Health Physics Engineer.

Date of issuance: October 19, 1987

Effective date: October 19, 1987

Amendment No.: 8

Facility Operating License No. NPF-36. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9573) he Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 23212.

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: July 6, 1987 as supplemented September 14, 1987

Brief description of amendment: The application dated July 6, 1987 requested three changes to the Technical Specifications: (1) an increase in the setpoint for the pump relief valve in a surveillance requirement for the standby liquid control room (SLCS); (2) revision of certain action statements to allow entry into operational conditions, provided the requirements in the action statements are met; and (3) deletion of the requirements for certain isolation valves and associated instrumentation to be operable in refueling shutdowns. This amendment provides the requested

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increase in the setpoint for the pump relief valve in the SLCS. The other two requested changes will be addressed separately.

Date of issuance: September 30, 1987
Effective date: September 30, 1987
Amendment No.: 36
Facility Operating License No. NPF-29. This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** August 12, 1987 (52 FR 29920) The September 14, 1987 letter provided supplemental information which did not change the staff's initial determination of no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1987.

No significant hazards consideration comments received: No
Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: October 3, 1986, as revised December 8, 1986
Brief description of amendment: The amendment revised the wording of Technical Specifications to reflect the existence of a third source of offsite power for supplying auxiliary electrical power.
Date of issuance: October 16, 1987
Effective date: October 16, 1987
Amendment No.: 51
Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 15, 1987 (52 FR 26580 at 26580). The December 8, 1986 submittal revised a previously submitted Technical Specification page to incorporate an improvement in the wording originally submitted. The submittal was clarifying in nature and did not change the initial determination published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 16, 1987.

No significant hazards consideration comments received: No.
Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: June 19, 1987
Brief description of amendment: This amendment changed the Susquehanna Steam Electric Station (SSES), Unit 1 Technical Specifications in support of the fuel reload for Cycle 4 operation.
Date of issuance: October 9, 1987
Effective date: Prior to startup for Cycle 4 operation.
Amendment No.: 72
Facility Operating License No. NPF-14. This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 15, 1987 (52 FR 26593) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 9, 1987.

No significant hazards consideration comments received: No
Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 29, 1987.
Brief description of amendment: The amendment revises Section 6, Administrative Controls, of the Trojan Technical Specifications regarding the review and approval of temporary changes to procedures, and corrects typographical errors.
Date of issuance: October 2, 1987
Effective date: October 2, 1987
Amendment No.: 135
Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28384) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1987

No significant hazards consideration comments received: No.
Local Public Document Room location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: March 10, 1987, and supplemented by letters dated June 24, 1987, and July 9, 1987.
Brief description of amendments: The amendments changed the Technical Specifications regarding boron concentration in the Refueling Water Storage Tanks and the Accumulators. The supplemental information clarified the language of the original submittal and did not contain substantive changes.
Date of issuance: October 16, 1987
Effective date: October 16, 1987
Amendment Nos.: 83 and 55
Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 15, 1987 (52 FR 26596) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 16, 1987.
No significant hazards consideration comments received: No
Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: March 20, 1987
Brief description of amendment: The amendment revises the radiological environmental monitoring program.
Date of issuance: October 23, 1987
Effective date: October 23, 1987
Amendment No.: 66
Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.
Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28387) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1987.
No significant hazards consideration comments received: No
Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: October 22, 1985 (TS 65)
Brief description of amendments: The amendments change the Technical Specifications to increase the setpoints of the radiation monitors in the spent fuel pool areas and to clarify the enrichment limits of fuel stored in the spent fuel pool and new fuel storage areas.
Date of issuance: October 19, 1987
Effective date: October 19, 1987
Amendment Nos.: 60, 52
Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** August 27, 1986 (51 FR 30581) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1987.
No significant hazards consideration comments received: No
Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: May 15, 1987, clarified on June 16, 1987. (TS 87-29).
Brief description of amendments: The amendments revise Technical Specification Table 3.8-2 (Units 1 and 2) to delete references to active motor-operated valves which will have their thermal overload protection device bypassed.
Date of issuance: October 23, 1987
Effective date: October 23, 1987
Amendment Nos.: 61, 53
Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1987.
No significant hazards consideration comments received: No
Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: March 31, 1987 as supplemented by letters dated April 15, June 5, June 16, July 16, July 28, August 7, August 13, August 31, September 9, and October 6, 1987.
Brief description of amendment: The amendment modifies the technical specifications to support a transition from a Westinghouse 17 x 17 low parasitic fuel assembly and optimized fuel assembly fueled core to a Westinghouse 17 x 17 Vantage 5 (V-5) fuel assembly fueled core.

Date of issuance: October 9, 1987
Effective date: October 9, 1987
Amendment No.: 28
Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** June 3, 1987 (52 FR 20804). Renoticed August 12, 1987 (52 FR 29933). The August 7, August 13, August 31 September 9, and October 6, 1987 submittals contained no substantive changes and were only minor changes to, and clarification of, the original application. It was consistent with the staff's original findings. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 9, 1987 and an Environmental Assessment dated October 2, 1987 (52 FR 37661).
No significant hazards consideration comments received: No.
Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: June 18, 1987
Brief description of amendment: The amendment revised the definition of the fully withdrawn shutdown and control rod position from 228 steps to 225 steps or higher.
Date of issuance: October 14, 1987
Effective date: October 14, 1987
Amendment No.: 29
Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28369 at 28389) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 14, 1987.
No significant hazards consideration comments received: No.
Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Virginia Electric and Power Company, et al., Docket No. 50-339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of application for amendment: May 27, 1987 (partial response)
Brief description of amendment: The amendment revises the NA-2 TS 3/4.6.3, Table 3.6-1 to correct an inconsistency between the licensee's response to NUREG-0737 dated December 10, 1980 and the NA-2 TS for specifying the containment isolation signal to be Phase B instead of Phase A.
Date of issuance: October 22, 1987
Effective date: October 22, 1987
Amendment No.: 82
Facility Operating License No. NPF 7. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 15, 1987 (52 FR 26599) he Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 22, 1987.
No significant hazards consideration comments received: No.
Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Wolf Creek Nuclear Operating Corporation, Kansas Gas and Electric Company, Kansas City Power & Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 19, 1987.
Brief description of amendment: The amendment revises Wolf Creek Generating Station (WCGS) Technical Specification 3/4.3.3, Radiation Monitoring for Plant Operation. The proposed revision changes the required number of minimum channels Operable for Table 3.3-6 Functional Unit 1.a., Containment Atmosphere - Gaseous Radioactivity High (GT-RE 31 & 32). The requested revision also modifies Actions 27 and 30 of Table 3.3-6 to permit an allowed outage time of 72 hours with the number of OPERABLE channels one less than the minimum channels Operable requirement.
Date of issuance: October 13, 1987.
Effective date: October 13, 1987.
Amendment No.: 10
Facility Operating License No. NPF-42. Amendment revised the Technica Specifications.
Date of initial notice in **Federal Register:** July 15, 1987 (52 FR 26604). he Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 13, 1987.
No significant hazards consideratio comments received: No.

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Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka Kansas

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By December 4, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Project Director)*: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: September 15, 1987 (NRC-87-0164) as supplemented October 9, 1987 (NRC-87-0178)

Brief description of amendment: This amendment revises Table 3.6.3-1 of Technical Specification 3/4.6.3, which specifies the Type C leakage test requirements for containment isolation valves required to maintain containment isolation following an accident, to correct discrepancies to make Table 3.6.3-1 isolation valve leak test requirements consistent with the design basis analysis detailed in the Fermi-2 Updated Final Safety Analysis Report, the approved Inservice Testing Program for Pumps and Valves, and the approved Surveillance Test Program.

Date of Issuance: October 9, 1987
Effective date: October 9, 1987
Amendment No.: 10
Facility Operating License No. NPF-43: Amendment revises the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. Comments received: No

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 9, 1987.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

Local Public Document Room location: Monroe County Public Library System, 3700 South Custer Road, Monroe, Michigan 48161.

NRC Project Director: Martin J. Virgilio

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application of amendment: September 4, 1987, as supplemented September 11 and 15, 1987

Brief description of amendment: The amendment temporarily added a special tube inspection region associated with the batwings of the steam generators.

Date of Issuance: October 15, 1987
Effective Date: October 15, 1987
Amendment No.: 24
Facility Operating License No. NPF-16: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes. A notice requesting public comments by October 2, 1987 was published in the **Federal Register** on September 17, 1987 (52 FR 35161). Comments received: No.

The licensee provided additional information by letter dated September 15, 1987. The additional information did not alter the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment, consultation with the State and the final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 15, 1987.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

NRC Project Director: Herbert N. Berkow

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of application for amendment: October 13, 1987, as supplemented October 15, 1987

Brief description of amendment: The amendment revised the Technical Specification to add notes to Tables 3.3.7.5-1, Accident Monitoring Instrumentation, Instrument 10 (Safety/Relief Valve Position Indicators) and 4.3.7.5-1, Accident Monitoring Instrumentation Surveillance Requirements, to allow a single acoustic monitor to be inoperable until the plant shuts down for its next scheduled refueling outage or until the first forced outage of sufficient duration to effect repair, whichever occurs first.

Date of issuance: October 16, 1987
Effective date: October 16, 1987
Amendment No.: 47
Facility Operating License No. NPF-21: Amendment revised the Technical Specification.

Public comments requested as to proposed no significants hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the State of Washington and final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 16, 1987.

Attorney for licensee: Nicholas Reynolds, Esquire, Bishop, Cook, Purcell and Reynolds, 1200 Seventh Street, NW., Washington, DC 20036.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

NRC Project Director: George W. Knighton

Dated at Bethesda, Maryland this 26th day of October, 1987.

For the Nuclear Regulatory Commission

Dennis M. Crutchfield,

Director, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation

[Doc. 87-25446 Filed 11-3-87; 8:45 am]

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[Docket No. 50-344]

Issuance of Environmental Assessment and Finding of No Significant Impact; Portland General Electric Co., et al.

The United States Nuclear Regulatory Commission (the Commission) is considering the issuance of exemptions from specific requirements in Appendix R to 10 CFR Part 50 to Portland General Electric Company, et. al. (PGE, the licensee) for the Trojan Nuclear Plant located in Columbia County, Oregon.

Environmental Assessment

Identification of the Proposed Action: The exemptions are related to section III.G.2 of Appendix R to 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979." Section III.G of Appendix R requires fire protection for equipment important to safe shutdown. Such fire protection is achieved by various combinations of fire barriers, fire suppression systems, fire detectors, and separation of safety trains (III.G.2) or alternate safe shutdown equipment independent of the fire area (III.G.3). The objective of this protection is to assure that one train of equipment needed for hot shutdown would be undamaged by fire, and that systems needed for cold shutdown could be repaired within 72 hours (III.G.1).

The Need for the Proposed Action: Because it is not possible to predict the specific conditions under which fire may occur and propagate, the design basis protective features are specific in the rule rather than the design basis fire.

Plant-specific features may require protection different from the measures specified in sections III.G. In such cases, the licensee must demonstrate, by means of a detailed fire hazards analysis, that existing protection in conjunction with proposed modifications will provide a level of safety equivalent to the technical requirements of section III.G of Appendix R.

Environmental Impacts of the Proposed Action: The proposed exemptions provide a level of safety equivalent to the technical requirements of section III.G of Appendix R. These exemptions will not change the types, or allow an increase in the amounts, of effluents that may be released offsite. Furthermore, these exemptions will not result in an increase in individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed Appendix R exemptions.

With regard to political nonradiological impacts, the proposed exemptions involve features located entirely within the restricted areas as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed Appendix R exemptions.

Alternative Use of Resource: This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Trojan Nuclear Plant.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and did consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed Appendix R exemptions.

Based on the foregoing environmental assessment of the proposed exemptions relative to the requirements of Appendix R to 10 CFR Part 50, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the letters requesting exemptions from Appendix R of 10 CFR Part 50, dated July 31, 1984, May 31, 1985, October 16, and November 17, 1986, and May 8, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Local Public Document Room for the Trojan Nuclear Plant located at the Portland State University Library, 731 SW. Harrison Street, Portland, Oregon 97207.

Dated at Bethesda, Maryland, this 27th day of October, 1987.

For the Nuclear Regulatory Commission.

George W. Knighton,

Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87-25554 Filed 11-3-87; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-16091/File No. 812-6787]

Application for Exemption; Crown America Life Insurance Co.

October 28, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Crown America Life Insurance Company ("Crown America"); Crown America Variable Annuity Separate Account ("VA Separate Account"); and Crown America Variable Life Separate Account ("VLI Separate Account").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 9(a), 13(a), 15(a), 15(b), 26(a)(2) and 27(c)(2) of the Act and Rule 6e-2(b)(15) thereunder.

Summary of Application: Applicants seek an order to permit single premium variable life insurance policies currently being issued through the VLI Separate Account and any other single or scheduled premium variable life insurance policies which may be issued through other separate accounts to be established in the future by Crown America and its affiliates to purchase securities from a fund offering its shares to both variable annuity and variable life insurance separate accounts and to permit the VA Separate Account to assess a 1.25% charge for mortality and expense risks.

Filing Date: July 9, 1987, with an amendment on October 13, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on November 23, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Crown America Life Insurance Company, 120 Bloor Street E., Toronto, Canada M4W 1B8.

FOR FURTHER INFORMATION CONTACT: Lewis B. Reich, Special Counsel (202) 272-2061.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800 231-3282 (in Maryland (301) 253-4300)).

Applicants' Representations and Statements

1. Section 9(a) of the Act makes it unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in sections 9(a) (1) or (2). Rules 6e-2(b)(15) (i) and (ii) provide exemptions from section 9(a) (1) or (2). Rules 6e-2(b)(15) (i) and (ii) provide exemptions from section 9(a) under certain circumstances, subject to limitations on mixed funding. Those exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying management company.

2. The partial relief granted in Rule 6e-2(b)(15) from the requirements of section 9 in effect limits the amount of monitoring necessary to ensure compliance with section 9 to that which is appropriate in light of the policy and purposes of section 9. Applicants state that the Rule recognizes that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the Act to apply the provisions of section 9(a) to the thousands of individuals in a large insurance company complex, most of whom will have no involvement in matters pertaining to investment companies in that organization. Applicants argue that it would serve no regulatory purpose in extending the monitoring requirements because of mixed funding. Applicants state that, on the other hand, the increased monitoring costs would reduce the net rates of return realized by contract owners.

3. The language of Rule 6e-2(b)(15)(iii) assumes the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. Pass-through voting privileges will be provided with respect to all variable contract owners.

4. Rule 6e-2(b)(15)(iii) provides exemption from the pass-through voting requirement with respect to several significant matters, assuming the limitations on mixed funding are observed.

5. Applicants assert that Rule 6e-2 recognizes that a variable life insurance contract is an insurance contract, has important elements unique to insurance contracts, and is subject to extensive state regulation of insurance. Applicants assert that in adopting Rule 6e-2(b)(15)(iii), the Commission expressly recognized that state insurance regulators have authority, pursuant to state insurance laws or regulations, to disapprove or require changes in investment policies, investment advisers or principal underwriters. The Application quotes Release No. IC-9104 (Dec. 30, 1975, proposing Rule 6e-2) for the proposition that the Commission deemed such exemption necessary "to assure the solvency of the life insurer and performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer."

6. Applicants also represent that state insurance regulators have much the same authority with respect to variable annuity separate accounts as they have with respect to variable life insurance separate accounts, that insurers generally assume both mortality and expense risks under variable annuity contracts, and that variable annuity contracts pose some of the same kinds of risks to insurers as variable life insurance contracts.

7. Applicants believe that the prohibitions on mixed funding might reflect some concern with possible divergent interests among different classes of investors because when Rule 6e-2 was adopted, variable annuity separate accounts could (and did) invest in mutual funds whose shares were also offered to the general public, and therefore, at the time of the adoption of Rule 6e-2, the Commission staff contemplated underlying funds with public shareholders, as well as with variable life insurance separate account shareholders.

8. According to the Application, however, for reasons unrelated to the Act, Internal Revenue Service Ruling 81-225 (Sept. 25, 1981) effectively deprived variable annuities funded by publicly available mutual funds of their tax-benefited status and the Tax Reform Act of 1984 has codified the prohibition against the use of publicly available mutual funds as an investment medium for variable contracts (including variable life contracts). Consequently, there will be no public shareholders of the Fund.

9. Applicants represent that the right under Rule 6e-2(b)(15) of the insurance company to disregard contract owners, voting instructions is not inconsistent with mixed funding of different insurance products. The Applicants argue that it is necessary unlikely that insurance regulators would find an investment policy, principal underwriter, or investment adviser inappropriate for one insurance product, but not for another. The Application points out that the potential for disagreement is limited by the requirement in Rule 6e-2 that the insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations.

10. The Application asserts that there is no reason why the investment policies of a Series would or should be materially different from what they would or should be if such Series funded only variable annuity contracts or variable life insurance policies, whether flexible premium or scheduled premium policies.

11. In particular, Applicants state that even the "minimum death benefit" guarantee under certain variable life insurance contracts will lead to different investment policies for different types of variable contracts for several reasons: first, the minimum death benefit guarantee is specifically provided for by particular charges, and is always supported by general account reserves as required by state insurance law; second, certain variable annuity contracts also have minimum death benefit guarantees, and to the extent that the degree of risk may differ as between variable annuity contracts and variable life insurance policies, the differing insurance charges imposed, in effect, adjust any such differences and equalize the insurers, exposure in either case; third, the sale of and persistency of all variable insurance products depends on satisfactory investment performance, which provides an incentive for the insurer to optimize investment performance; fourth, under existing statutes and regulations an insurance company and its affiliates can offer a variety of variable annuity and life insurance contracts, some with death benefit guarantees of different types and significance (and degree of risk for the insurer), some without death benefit guarantees, all funded by a single mutual fund.

12. In addition, Applicants argue that no one investment strategy can be identified as appropriate to a particular insurance product. Applicants point out that each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse

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financial status, age, insurance and investment goals and argue that those diversities are of greater significance than any differences in insurance products and that a fund supporting even one type of insurance must accommodate those diverse factors in order to attract and retain purchasers. Permitting mixed funding will facilitate the establishment of additional portfolios serving diverse goals. The Applicants also state that the broader base of contract owners can be expected to provide economic justification for the creation of additional portfolios with a greater variety of investment objectives and policies.

13. Applicant has consented to the following conditions: a. A majority of the Board of Directors of the Fund shall consist of persons who are not "interested person" of the Fund, as defined by section 2(a)(19) of the Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any director or directors, then the operation of this condition shall be suspended (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board of Directors; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

b. The Fund will comply with all provisions of the Act requiring voting by shareholders, and in particular the Fund will either provide for annual meetings (except insofar as the Commission may interpret section 16 not to require such meetings), or comply with section 16(c) of the Act (although the Fund is not one of the trusts described in section 16(c) of the Act) as well as with sections 16(a) and, if and when applicable, 16(b). Further, the Fund will act in accordance with the Commission's interpretation of the requirements of section 16(a) and, if and when applicable, 16(b). Further, the Fund will act in accordance with the Commission may promulgate with respect thereto.

c. The Board of Directors of the Fund will monitor the Fund and consider whether, from the standpoint of variable annuity or variable life insurance policyowners, annuitants, participants, or beneficiaries, continued investment by variable annuity separate accounts in the same investment company or Series utilized by variable life insurance separate accounts would create an irreconcilable material conflict. An irreconcilable material conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any Series are being managed; (e) a difference in voting instructions given by variable annuity policyowners and variable life insurance policyowners; or (f) a decision by an insurer to disregard the voting instructions of policyowners.

d. Crown America and any affiliated insurance companies whose separate accounts invest in the Fund, and the investment adviser of the Fund, shall monitor the Fund and shall promptly provide the Board of Directors of the Fund with information regarding any possible irreconcilable material conflict and all other information reasonably necessary for the board of Directors of the Fund to consider the matters set forth in condition c above.

e. If it is determined by a majority of the Board of Directors of the Fund, or a majority of its disinterested directors, or by the issuer of any variable annuity policies or variable life insurance policies investing in the Fund, that a material irreconcilable conflict exists, the relevant insurance companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested directors), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (1) Withdrawing the assets allocable to some or all of the separate accounts from the Fund or any Series and reinvesting such assets in a different investment medium, including another Series of the Fund, or submitting the question whether such segregation should be implemented to a vote of all affected policyowners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, owners of annuity policies, owners of life insurance policies) that vote in favor of such segregation, or offering to the affected policyowners the option of making such a change; and (2) establishing a new registered investment company or managed separate account.

For purposes of this condition e, the Board shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Fund or the Adviser be required to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of policyowners materially adversely affected by the irreconcilable material conflict.

f. All prospectuses for the Fund shall disclose (1) That the Fund may be used to fund both variable annuity and variable life insurance policies, (2) that this may conceivably in the future be disadvantageous for the owners of either, and (3) that the Fund's Board of Directors intends to monitor events to identify any irreconcilable material conflict and determine what action, if any, should be taken in response thereto.

g. If and to the extent that Rule 6e–2 is amended, to provide exemptive relief from any provision of the Act or the rules promulgated thereunder with respect to mixed funding on terms and conditions materially different from any exemptions granted in the order requested in this Application, then the Fund and/or Crown America and its affiliated insurance companies, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2, as amended, to the extent such rules is applicable.

h. Any action taken in accordance with this exemption and the reasons therefore shall be disclosed in the proxy statement for the next meeting of VLI Policyowners.

14. The VA Separate Account was established in connection with the proposed issuance of flexible premium variable deferred annuity policies ("VA Policies").

15. The VA Separate Account will invest in shares of the Crown America Series Fund, Inc. ("Fund"). The Fund, a diversified, open-end management investment company, has seven Series, four of which are available to VA Policyowners: the Money Market Series, the Capital Growth Series; the Bond Income Series; and the Managed Series. The VA Separate Account has four Sub-Accounts, each of which invests solely in a specific corresponding Series of the Fund.

16. Crown America charges the Sub-Accounts of the Separate Account for the mortality and expense risks Crown America assumes. The mortality risk borne by Crown America arises from its obligation to make income payments regardless of how long all annuitants or any individual annuitant may live; and the expense risk is that the deductions for surrender charges, transfer charges and administrative costs under the VA Policies may be insufficient to cover the actual future costs incurred by Crown America for provision the various VA Policy administrative services.

17. The mortality and expense risk charge of 1.25% is a reasonable charge to compensate Crown America for the risk that annuitants under the VA Policies will live longer as a group than has been anticipated in setting the annuity rates guaranteed in the VA Policies; for the risk that administrative expenses will be greater than amounts derived from the administrative charge; and for the risk that the amounts realized from the surrender charge will be insufficient to cover actual distribution expenses. Of that amount, approximately 0.85% is allocated to cover the mortality risks, and approximately 0.40% is allocated to cover the expense risks.

18. Crown America represent that the charge of 1.25% for mortality and expense risks is within the range of industry practice with respect to comparable annuity products. This representation is based upon Crown America's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. Crown America will maintain at its Executive Office, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

19. Crown America has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the VA Separate Account and the Policyowners. The basis for that conclusion is set forth in a memorandum which will be maintained by Crown America at its Executive Office and will be available to the Commission.

20. Crown America also represents that the VA Separate Account will only invest in management investment companies which undertake, in the event such company adopts a plan under Rule 12b–1 to finance distribution expense, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, approve any such plan under Rule 12b–1.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–25510 Filed 11–3–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15090; File No. 812–6606]

Application for Exemption; Dreyfus Variable Life Investment Fund

October 28, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Dreyfus Variable Life Investment Fund ("Fund" or "Applicant").

Relevant 1940 Act Sections: Exemption requested under section 6(c) of the 1940 Act from sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

Summary of Application: Applicant seeks an order to the extent necessary to permit shares of the Fund to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies.

Filing Date: April 29, 1987, with an amendment thereto on September 25, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on November 23, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Dreyfus Variable Life Investment Fund, 885 Third Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Denise M. Furey, Financial Analyst, at (202) 272–2067 or Lewis B. Reich, Special Counsel, at (202) 272–2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 253–4300).

Applicants' Representations

1. The Fund is a Massachusetts business trust seeking registration under the 1940 Act as an open-end diversified investment company. The Fund currently comprises four Series: the Money Market Series, the Bond Series, the Balanced Series, and the Equity Series. Additional Series may be created in the future.

2. The Fund intends to offer shares of its existing and future Series to separate accounts of any interested insurance company to fund variable annuity contracts and variable life insurance contracts (collectively, "variable contracts"). Insurance companies whose separate accounts own shares of the Fund are referred to herein as "participating insurance companies." It is anticipated that such insurance companies will rely on Rules 6e–2 or 6e–3(T) under the Act, although some may rely on individual exemptive orders as well, in connection with their issuance of variable life insurance contracts. The use of a common management company as the underlying investment medium for both variable annuity and variable life insurance separate accounts is referred to as "mixed funding." The use of a common management company as the underlying investment medium for separate accounts of unaffiliated insurance companies is referred to as "shared funding."

3. Rules 6e–2 and 6e–3(T) under the Act provide exemptions from the Act in order to permit insurance company separate accounts to issue variable life insurance. Rule 6e–2(b)(15), however, precludes mixed and shared funding and Rule 6e–3(T)(b)(15) precludes shared funding. Applicant requests exemptive relief to the extent necessary to permit its shares to be sold for mixed funding and shared funding. Applicant proposes that the requested relief extend to a class consisting of life insurers and variable life separate accounts investing in Applicant (and principal underwriters and depositors of such separate accounts) that would otherwise be precluded from investing in Applicant by virtue of Applicant's offering its shares to variable annuity separate accounts or unaffiliated separate accounts.

4. Applicant asserts that permitting mixed and shared funding will facilitate the establishment of additional portfolios serving diverse goals and that the broader base of contract owners can be expected to provide economic justification for the creation of additional portfolios with a greater variety of investment objectives and

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policies. Further, use of the Fund as a common investment medium for variable contracts would encourage more insurance companies to offer variable contracts. Applicant believes that this will result in increased competition with respect to both variable contract design and pricing, and that this can be expected to result in greater product variety and lower charges. Applicant also believes that mixed and shared funding should benefit variable contract owners by eliminating a significant portion of the costs of establishing and administering separate funds, and that granting the requested relief should result in an increased amount of assets available for investment by the Fund which in turn may benefit variable contract owners by promoting economies of scale, by permitting greater safety through greater diversification, or by making the addition of new Portfolios of the Fund more feasible. Applicant represents that the Fund will not be managed to favor or disfavor any particular insurer or type of insurance product. Applicant believes that mixed and shared funding will have no adverse federal income tax consequences.

Disqualification

5. Section 9(a) of the Act makes it unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in sections 9(a) (1) or (2). Rules 6e–2(b)(15) (i) and (ii), and 6e–3(T)(b)(15) (i) and (ii), provide exemptions from section 9(a) under certain circumstances, subject to limitations on mixed and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying management company.

6. The partial relief granted in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) from the requirements of section 9 in effect limits the amount of monitoring necessary to ensure compliance with section 9 to that which is appropriate in light of the policy and purposes of section 9. Applicant believes that it is unnecessary to apply section 9(a) to the many thousands of individuals in various unaffiliated insurance companies (or affiliated companies of participating insurance companies) that may utilize the Fund as the funding medium for variable contracts, and asserts that extending the monitoring requirements because of mixed or shared funding would serve no regulatory purpose. Applicant states that, on the other hand, the increased monitoring costs would reduce the net rates of return realized by contract owners.

Voting

7. The language of Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) assumes the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. Applicant states that pass-through voting privileges will be provided with respect to all variable contract owners.

8. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide exemptions from the pass-through voting requirement with respect to several significant matters, assuming the limitations on mixed and shared funding are observed. Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard the voting instructions of its contract owners with respect to the investments of an underlying fund or any contract between a fund and its investment adviser when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of those Rules). According to Applicant, if a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer will be required to withdraw its separate account's investment in the Fund. This requirement will be provided for in agreements that will be entered into by participating insurers with respect to participation in the Fund.

Applicants' Conditions

Applicant has consented to the following conditions:

1. A majority of the Board of Trustees of the fund shall consist of persons who are not "interested persons" of the Fund, as defined by section 2(a)(19) of the Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or trustees, then the operation of this condition shall be suspended (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board of Trustees; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Fund will comply with all provisions of the Act requiring voting by shareholders, and in particular the Fund will either provide for annual meetings or comply with section 16(c) of the Act (although the Fund is not one of the trusts described in section 16(c) of the Act) as well as with sections 16(a) and, if and when applicable, 16(b). Further, the Fund will act in accordance with the Commission's interpretation of the requirements of section 16(a) with respect to periodic elections of trustees and with whatever rules the Commission may promulgate with respect thereto.

3. The Board will monitor the Fund for the existence of any material irreconcilable conflict between the interests of the contract owners of all separate accounts investing in the Fund. An irreconcilable material conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any series are being managed; (e) a difference in voting instructions given by variable annuity contract owners and variable life insurance contract owners; or (f) a decision by an insurer to disregard the voting instructions of contract owners.

4. Participating insurance companies and the Fund's investment adviser, Dreyfus Corporation, Inc. ("Adviser"), will report any potential or existing conflicts to the Board of Trustees of the Fund. Participating insurance companies and the Adviser will be responsible for assisting the Board in carrying out its responsibilities under these conditions, by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each participating insurance company to inform the Board whenever contractowner voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all insurers investing in the Fund under their agreements governing participation in the Fund and such responsibilities will be carried out with a view only to the interests of the contract owners.

5. If it is determined by a majority of the Board of Trustees of the Fund, or a majority of its disinterested trustees, that a material irreconcilable conflict exists, the relevant insurance companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (a) Withdrawing the assets allocable to some or all of the separate accounts from the Fund or any Portfolio and reinvesting such assets in a different investment medium, including another Portfolio of the Fund, or submitting the question whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., annuity contract owners, life insurance contract owners, or variable contract owners of one or more participating insurance companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard contract owner voting instructions and that decision represents a minority position or would preclude a majority vote, the insurer may be required, at the Fund's election, to withdraw its separate account's investment in the Fund and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund and these responsibilities will be carried out with a view only to the interests of contract owners. For purposes of this condition 5, a majority of the disinterested members of the Board shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Fund or the Adviser be required to establish a new funding medium for any variable contract. No participating insurance company shall be required by this condition 5 to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of contract owners materially adversely affected by the irreconcilable material conflict.

6. The Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly to all participating insurance companies.

7. Participating insurance companies will provide pass-through voting privileges to all variable contract owners so long as the Commission continues to interpret the Act as requiring pass-through voting privileges for variable contract owners. Participating insurance companies shall be responsible for assuring that each of their separate accounts participating in the Fund calculates voting privileges in a manner consistent with other participating insurance companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the Fund shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund.

8. The Fund will notify all participating insurance companies that prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate.

9. If and to the extent that Rule 6e–2 and Rule 6e–3(T) are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the Act or the rules promulgated thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this Application, then the Fund and/or the participating insurance companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

10. All reports received by the Board of Trustees of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying participating insurance companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

For the Commission, by the Division Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–25511 Filed 11–3–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–16092; File No. 812–6873]

Application for Exemption; Hartford Life Insurance Co., et al.

October 28, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Hartford Life Insurance Company ("Hartford"), Hartford Life Insurance Company-Putnam Capital Accumulation Trust Separate Account ("Account").

Relevant 1940 Act Sections: Exemption requested *under* section 6(c) *from* sections 26(a)(2)(C) and 27(c)(2).

Summary of Application: Applicants request exemption to offer certain flexible premium tax deferred variable annuity contracts ("contracts") subject to a daily asset charge for mortality and expense risks at the annual rate of 1.25%, estimated at .90% and .35%, respectively.

Filing Date: The application was filed on September 18, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by November 23, 1987. Request a hearing in writting, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Hartford Plaza, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Nancy Rappa (202) 272–2058 or Special Counsel Lewis B. Reich (202) 272–2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 253–4300).

Applicant's Representations

1. Hartford Life Insurance Company ("HLIC"), a stock life insurance company organized under the laws of

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the State of Connecticut, is the depositor of the Putnam Capital Accumulation Trust Separate Account ("Separate Account"), a separate account of Hartford registered under the 1940 Act as a unit investment trust. HLIC is a wholly-owned subsidiary of ITT Life Insurance Corporation. HLIC is ultimately owned by Hartford Fire Insurance Company which, in turn, is a subsidiary of ITT Corporation.

2. The Separate Account was established to fund certain flexible premium tax deferred variable annuity contracts (the "Contract" or "Contracts").

3. Under the Contracts, the Contract Owner has the right to allocate purchase payments to any one or more of six portfolios ("Funds") of the Putnam Capital Accumulation Trust, an open-end, diversified series investment company.

4. The Contracts issued with respect to the Separate Account will be offered for sale by Hartford Equity Sales Company, Inc., a registered broker-dealer and the designated principal underwriter for the Contracts.

5. The Contract Owner will not pay a sales charge at the time of purchase. The balance of each premium payment remaining after the deduction of any applicable premium tax is credited to the Contract.

6. A contingent deferred sales charge may be assessed against contract values upon surrender. The length of time from receipt of a premium payment to the time of surrender determines the contingent deferred sales charge, which equals 5% the first year, 5% the second year, 4% the third year, 3% the fourth year, 2% the fifth year and 0% the sixth year.

7. The Contract Owner may make a single partial surrender each year after the first full contract year of up to 10% of the aggregate premium payments made to the Contract without the application of the contingent deferred sales charge.

8. A maintenance fee of $25 is deducted each contract year from contract values. A daily charge of .15% per annum is made against contract values for administration.

9. The Contracts issued with respect to the Separate Account will provide for a 1.25% annual asset charge which will be paid to HLIC on a daily basis for providing mortality and expense guarantees with respect to the Contracts.

10. The mortality undertaking provided by HLIC is to make monthly annuity payments (determined in accordance with the 1983(a) Individual Annuity Mortality Table with ages set back one year and other provisions contained in the contract) to Contract Owners regardless of how long Annuitants may live. HLIC also assumes the liability for payment of a minimum death benefit under the Contract. In providing an expense undertaking, HLIC assumes the risk that the contingent deferred sales charge and the annual administrative and maintenance fees may be insufficient to cover the actual costs.

11. Applicants request an order exempting them from the provisions of sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the deduction by HLIC and the payment to HLIC of the fee for providing the mortality and expense undertakings (deducted on a daily basis).

12. Hartford and the Separate Account represent that:

(a) The mortality and expense risk charge is within the range of industry practice for comparable annuity contracts as determined by a survey of comparable contracts issued by a large number of other insurance companies. Applicant's Contract is comparable to the contracts of other insurance companies in that (i) current charge levels are approximately the same; (ii) all provide minimum death benefit guarantees the same as or lower than Applicant's Contract; (iii) all have guaranteed annuity purchase rates; (iv) all have the same special accounting system for separate account unit value administration; and (v) all are offered in the same market. HLIC will maintain and make available to the Commission upon request a memorandum outlining the methodology underlying this representation.

(b) It is likely that the proceeds from explicit sales loads will be insufficient to cover the expected costs of distributing the contracts. HLIC has therefore concluded that there is a reasonable likelihood that the Separate Account's distribution financing arrangement will benefit the Separate Account and Contract Owners, and will maintain and make available to the Commission upon request a memorandum setting forth the basis for this representation.

(c) The Separate Account will invest only in open-end management companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the open-end management company, formulate and approve any plan under Rule 12b-1 to finance distribution expenses.

13. Applicants submit that the exemption to permit the deduction for mortality and expense risks is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25513 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16087; 812-6828]

Application for Exemption; Shearson Daily Dividend Inc. et al.

October 29, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Shearson Daily Dividend Inc. ("SDDI"), Shearson Lehman Government and Agencies Inc. ("SLGAI"), Shearson High Yield Fund Inc. ("SHYFI"), Shearson Managed Municipals Inc. ("SMMI"), Shearson NY Daily Tax-Free Fund ("SNYDT-F"), Shearson California Daily Tax-Free Fund ("SCDT-F"), Shearson Lehman New York Municipals Inc. ("SLNYMI"), Shearson Lehman California Municipals Inc. ("SLCMI"), Shearson Lehman Michigan Municipals ("SLMM"), Shearson Lehman Ohio Municipals ("SLOM"), Shearson Lehman Series Fund ("SLSF"), Shearson Lehman Precious Metals and Minerals ("SLPMM"), The Italy Fund Inc. ("Italy Fund") (collectively, the "Applicants").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of sections 2(a)(19).

Summary of Application: Applicants seek an order of the SEC determining that Dr. Paul Hardin ("Dr. Hardin") shall not be deemed an "interested person" as defined in section 2(a)(19) of the Act of the Applicant, or any investment company as to which Shearson Lehman Brothers Inc. ("Shearson Lehman") or any of its affiliates (other than the Robinson-Humphrey Company, Inc. ("Robinson-Humphrey")) may, in the future, act as the investment, sub-investment adviser, administrator and/or principal underwriter by reason of Dr. Hardin's status as the father of Mr. P. Russell Hardin ("Mr. Hardin"), an employee of Robinson-Humphrey.

Filing Date: The application was filed on August 10, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application

will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 23, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personaly or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

Addresses: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Two World Trade Center, New York, New York 10048.

For Further Information Contact: Cecilia C. Kalish, Staff Attorney (202) 272-3037, or Curtis R. Hilliard, Special Counsel (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

Supplementary Information: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Each of the Applicants is an investment company registered under the Act. Each, except for the Italy Fund (which is a closed-end company), is an open-end, management company. Shearson Lehman, which is controlled by American Express Company, is one of the leading full-line investment firms serving the United States and foreign securities and commodities markets. Shearson Lehman engages in the general brokerage, commission, clearing, investment banking, investment advisory, real estate, insurance and related businesses including, without limitation, the underwriting of securities. Shearson Lehman acts as the principal underwriter of the shares of, among other investment companies, the Applicants, with the exception of the Italy Fund, and in the future Shearson Lehman may act as the principal underwriter of shares of other investment companies.

2. Bernstein-Macaulay, Inc. ("Bernstein-Macaulay"), a wholly owned subsidiary of Shearson Lehman, is the investment adviser to SDDI, SLGAI, SHYI, SIMM, SLOM and the Money Market, Government Securities and High Income Bond Portfolios of SLSF. Shearson Asset Management Inc. ("Shearson Asset Management"), a wholly owned subsidiary of Shearson Lehman, is investment adviser to SMMI, SNYDT-F, SCDT-F, SLNYMI, SLCMI and the Appreciation Portfolio of SLSF. American Express Asset Management S.A. ("American Express Asset Management"), an indirect wholly-owned subsidiary of Shearson Lehman Brothers Holdings Inc., which also wholly owns Shearson Lehman, is the investment adviser to SLPMM and the Italy Fund. In the future, Bernstein-Macaulay, Shearson Asset Management, American Express Asset Management and other affiliates of Shearson Lehman may act as the investment adviser to other investment companies.

3. The Boston Company Advisors, Inc. ("Boston Advisors"), an indirect wholly owned subsidiary of Shearson Lehman, is sub-investment adviser and/or administrator of each Applicant Fund. In the future, Boston Advisors may act as investment adviser, sub-investment adviser and/or administrator to other investment companies.

4. Robinson-Humphrey, a wholly owned subsidiary of Shearson Lehman, is principally an investment banking and securities brokerage firm that is a member of the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc. and other principal securities exchanges in the United States. Robinson-Humphrey is also engaged in personal financial planning and investment research. Other activities in which Robinson-Humphrey engages include the sale of life insurance and deferred annuities to its clients, real estate brokerage and development activities, investment in Carnegie Capital Management Company, which serves as investment adviser to five registered open-end investment companies, sponsoring a series of municipal bond unit trusts and providing administrative services to pension and profit-sharing plans.

5. Applicants represent that Dr. Hardin's principal occupation is President of Drew University in Madison, New Jersey. He also serves as a Director of New Jersey Bell Telephone Co., The Summit Bancorporation, The Summit Trust Company and Mutual Benefit Life Insurance Company. Applicants represent that, starting in 1979, when he was elected to the Board of Directors of SDDI at its organizational meeting, Dr. Hardin was elected as a director or trustee of each of the Applicants at its respective organizational meetings. He has been deemed at all times not to be an interested person of the Applicants and their advisers and principal underwriter and he continues to serve as such. However, as a result of the employment by Robinson-Humphrey of Mr. Hardin, Dr. Hardin may be characterized as an "interested person" of such companies, although Applicants do not concede that such characterization would be appropriate or correct.

6. Applicants state that Mr. Hardin is Dr. Hardin's son. Mr. Hardin became an employee of Robinson-Humphrey commencing on March 27, 1987. He is engaged in sports management in the Sports Enterprises Division of Robinson-Humphrey. In this capacity, Mr. Hardin's responsibilities are limited to marketing and management activities on behalf of professional athletes and he provides no services whatsoever involving financial planning, investment management or investment advice. Mr. Hardin has been recently employed as an associate with the law firm of King & Spaulding in Atlanta, Georgia, since 1982 after his graduation from law school. Mr. Hardin is 30 years of age, was recently married, maintains a separate household and is financially independent of Dr. Hardin. Mr. Hardin has lived apart from Dr. Hardin and been financially independent continuously for the last six years.

7. Applicants states that Robinson-Humphrey does not serve as underwriter or investment adviser for any of the Applicants. No portfolio transactions of any of the Applicants are or have been executed through Robinson-Humphrey. However, in the event that it is determined that portfolio transactions of any of the Applicants may be executed through Robinson-Humphrey, each of the Applicants hereby undertakes, as a condition to the order requested hereby, that Dr. Hardin will neither vote nor participate in any deliberations as a director or trustee of any of the Applicants with respect to allocation of brokerage to Robinson-Humphrey as long as Mr. Hardin is employed by Robinson-Humphrey.

8. Applicants submit that each of the Applicant's respective Boards of Directors or Trustees have determined in good faith that in light of the foregoing, Dr. Hardin is in a position to act independently on behalf of the Applicants and their respective shareholders without any possible impairment arising out of his son's employment with Robinson-Humphrey and that it is in the best interests of the Applicants and their respective shareholders to have Dr. Hardin's status as a non-interested director clearly acknowledged.

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For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25512 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24486]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 29, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 23, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Maine Yankee Atomic Power Company (70-7444)

Maine Yankee Atomic Power Company ("Maine Yankee"), Edison Drive, Augusta, Maine 04336, an indirect nuclear electric generating subsidiary of Northeast Utilities and of New England Electric System, both registered holding companies, has filed a declaration with this Commission pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

Maine Yankee proposes to issue and sell, no later than December 31, 1990, short-term notes ("Notes") in an aggregate amount at any one time outstanding of up to $21 million under current bank lines of credit, which permit the issuance of Notes aggregating $21 million, and/or commercial paper ("Commercial Paper"). The Notes will mature in nine months or less and, in the case of Commercial Paper, will be issued pursuant to an exception from competitive bidding through dealers in commercial paper and sold to institutional investors.

System Fuels, Inc., et al. (70-7450)

System Fuels, Inc. ("SFI"), P.O. Box 61532, New Orleans, Louisiana 70161, a fuel procurement subsidiary of Arkansas Power & Light Company ("AP&L"), P.O. Box 551, Little Rock, Arkansas 72203, Louisiana Power & Light Company ("LP&L"), 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205, and New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112, (collectively "Parent Companies"), public utility subsidiaries of Middle South Utilities, Inc. ("MSU"), a registered holding company, and System Energy Resources, Inc. ("SERI") P.O. Box 23070, Jackson, Mississippi 39225-3070, a generation subsidiary of MSU, have filed a declaration pursuant to sections 6(a), 7, 12(b) and 12(f) of the Act and Rules 45 and 50(a)(5) thereunder.

By prior Commission order, SFI was authorized to enter into a Letter of Credit and Revolving Loan Agreement ("Credit Agreement") with Wells Fargo Bank, N.A. ("Bank"), dated September 9, 1982, to finance nuclear fuel purchases through November 30, 1987. Under the Credit Agreement, SFI could borrow up to $65 million at any one time outstanding, by issuing and selling its short-term unsecured commercial paper notes supported by the Bank's irrevocable letter of credit, or by making revolving credit loans or unreimbursed Letter of Credit payments ("Borrowings"). The Borrowings bear interest at 110% of the Bank's prime rate for unsecured commercial borrowings. The Parent Companies issued "Comfort Letters" to the Bank in support of SFI, and SERI, AP&L and LP&L, as purchasers of nuclear fuel, consented to a security agreement between SFI and the Bank. (HCAR No. 22628, September 7, 1982).

SFI proposes to extend the agreement to September 30, 1989 on the same terms and conditions, except that the quarterly Letter of Credit Fee on outstanding Borrowings will be increased from 0.25% per annum to 0.375%, the quarterly Facility Fee on the difference between the Bank's commitment and outstanding Borrowings will be increased from .50% per annum to 0.675%, and SFI will reimburse the Bank for any additional costs incurred in making or maintaining its commitment due to changes in applicable capital requirements regulations.

Columbus Southern Power Company (70-7453)

Columbus Southern Power Company (formerly, Columbus and Southern Ohio Electric Company) ("CSPCo"), 215 North Front Street, Columbus Ohio 43215, a subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a declaration pursuant to sections 6(a), 7 and 12(c) of the Act and Rules 50 and 50(a)(5).

CSPCo proposes to issue and sell in any combination, through December 31, 1988, up to $280 million of its first mortgage bonds ("Bonds"), $80 million of its cumulative preferred stock ("Preferred"), and/or $280 million of unsecured long-term notes, as part of its long-term financing program. In no event will the amount of securities issued in the transactions described herein exceed a total of $280 million. The Bonds and Preferred will be sold, in one or more series, on a competitive bid basis, unless CSPCo determines that it would be advantageous to either place the securities privately with institutional investors or to negotiate their sale with underwriters, both subject to further Commission authorization.

The Connecticut Light and Power Company; Western Massachusetts Electric Company (70-7455)

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, wholly owned subsidiaries of Northeast Utilities, a registered holding company, have filed a declaration pursuant to sections 6(a) and 7 of the Act and Rule 50 thereunder.

The proposed transactions relate to the financing and/or refinancing of the companies' respective portions of the cost of acquiring, constructing and installing pollution control and/or sewage or solid waste disposal facilities at nuclear generating plants located in Waterford, Connecticut (Millstone 1, 2 and 3) and, with respect to CL&P only, at Seabrook, New Hampshire (Seabrook 1). The Connecticut Development Authority ("CDA") and the Industrial Development Authority of the State of New Hampshire ("IDA") intend to issue pollution control revenue bonds, as follows. In connection with the financing of Millstone 1, 2 and 3, the CDA will issue two series of bonds on or before December 31, 1987, in principal amounts of up to $65 million for CL&P and up to $20 million for WMECO. In order to refund various bonds issued previously, the CDA will issue (i) on or before June 30, 1988, a series of bonds in principal amount of $30 million for CL&P, and (ii) on or before December 31, 1988, one or more series of bonds in principal amount of up to $223.7 million and up to $52.4 million for WMECO. The IDA also intends to issue, for refunding purposes, one or more series of bonds in principal amount of up to $36.4 million for CL&P, at one or more times through December 31, 1988.

Each series of bonds will be issued under an Indenture of Trust between the issuer and a trustee. The issuer will lend the proceeds of the bonds to CL&P or WMECO, as the case may be, pursuant to a loan agreement. The companies request that their respective borrowings under the loan agreements be excepted from the competitive bidding requirements of Rule 50, pursuant to Rule 50(a)(5). Under the loan agreement, each company will make payments corresponding to the amounts needed to pay the principal of, premium, if any, and interest on the bonds as they become due. The companies' respective obligations to repay their loans will be evidenced by promissory notes.

The bonds will bear interest under one of three rate modes prescribed in the Indentures of Trust. Upon issuance, the bonds will bear interest under the Flexible Rate Mode, under which a remarketing agent will determine the interest rate and interest rate period (not to exceed 270 days) applicable to each bond. While under the Flexible Rate Mode, the bonds will thus be similar to commercial paper. At the option of the borrowing company, the interest rates on the bonds may be converted to the Variable Rate Mode, under which the remarketing agent will set the interest rates for predetermined periods selected by the company, or to the Fixed Rate Mode, under which the remarketing agent will set the interest rate for the remaining term of the bonds. At the option of the company, the bonds will remain subject to conversion from one interest rate mode to another until conversion to the Fixed Rate Mode. The foregoing not withstanding, the interest rate on the Bonds will not exceed 15% per annum at any time. The bonds will be subject to mandatory and optional redemption, sometimes at a premium, as well as mandatory and optional tender by the holder prior to conversion to the Fixed Rate Mode.

Each series of bonds may be secured by an irrevocable letter of credit which will permit the trustee to draw funds from the issuing bank to pay unpaid principal, premium, if any, and interest on the bonds, and to pay tendering holders for bonds which cannot be remarketed. The companies' reimbursement obligations, together with all or some of their repayment obligations under the loan agreements, may be secured by second mortgages on their interests in Millstone 1.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25509 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8500]

Issuer Delisting; Application To Withdraw From Listing and Registration; The Computer Factory Inc.

October 29, 1987.

The Computer Factory, Inc. ("Company") (Common Stock, Par Value $.01), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex"). The Company's common stock was recently listed and registered on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and the Amex. The Company does not see any particular advantage in dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before November 20, 1987, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25500 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25000; File No. SR-Amex-87-23]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Period in Which Expiring Warrants May Be Traded

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 25, 1987, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. is proposing to expand the period in which expiring warrants may be traded.

The text of the proposed rule change is available at the Office of the Secretary, American Stock Exchange, Inc., and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

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A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange is proposing to expand the period in which expiring warrants may be traded. Presently, warrant trading must cease one week in advance of expiration and transactions in the immediately preceding week must be effected on a "next day" settlement basis. These provisions were adopted at a time when members or member organizations were encountering severe back-office problems and investors were unable to obtain physical possession of their securities in sufficient time to permit exercise of "in-the-money" warrants. Today, material enhancements in the trade settlement process, which have significantly reduced the "fail to deliver" problem, obviate the need for these restrictions.

The Exchange proposes to amend Rule 17 to allow warrant trading to continue through the close of business one day before expiration, provided that (i) trades made during the five final trading days be on a "cash" basis, and (ii) trades executed during the preceding three days be settled on a "next day" basis. In this way, any "fails" would surface immediately and sufficient time would be allowed for them to be reconciled. These changes would conform Exchange rules with current practice at the New York Stock Exchange.

A slightly different procedure is appropriate for warrants which are settled under book-entry procedures of the Depository Trust Company. For these, it is proposed that trading take place through the close of business on expiration date since there are no problems of physical delivery. The only warrants to which this procedure would apply presently are certain foreign currency warrants listed on the Exchange.

Technical amendments are proposing to Rule 179 to permit open orders in expiring warrants to be automatically adjusted in accordance with the objective of Rule 17.

In addition, it is proposed that Rule 124(b) be amended to eliminate unnecessary provisions and to avoid any inconsistency between the definition of "next day" therein and the proposed amendments to Rules 17 and 179.

The proposed rule change would enable a member or member organization to trade warrants as close as possible to the expiration date and thus allows the public to benefit from the potential for added and substantial market activity in warrants until expiration.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it is intended to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition and, indeed, will enhance competition insofar as it will eliminate any competitive disparity in the trading of Amex-listed warrants in the over-the-counter market, where the existing restrictions of Rule 17 do not apply.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the File Number SR-Amex-87-23 and should be submitted by November 25, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 29, 1987.

[FR Doc. 87-25514 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing by the Midwest Stock Exchange, Inc.

October 29, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Jackpot Enterprises Inc.
Common Stock, $.01 Par Value (File No. 7-0682)
Enron Oil & Gas Co.
Common Stock, No Par Value (File No. 7-0683)
Foothill Group Inc.
Class A Common Stock, No Par Value (File No. 7-0684)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 20, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25516 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing by the Philadelphia Stock Exchange, Inc.

October 29, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Pacific Resources, Inc.
Common Stock, No Par Value (File No. 7-0684)
Wainoco Oil Corporation
Common Stock, No Par Value (File No. 7-0685)
Arvin Industries, Inc.
Common Stock, $2.50 Par Value (File No. 7-0686)
Cabot Corporation
Common Stock, $1.00 Par Value (File No. 7-0687)
Keystone International, Inc.
Common Stock, $1.00 Par Value (File No. 7-0688)
Americus Trust for IBM Shares
Units, Primes Scores (File No. 7-0689)
Union Texas Petroleum Holdings, Inc.
Common Stock, $0.05 Par Value (File No. 7-0690)
International Rectifier Corporation
Common Stock, $1.00 Par Value (File No. 7-0691)
National Education Corporation
Common Stock, $0.01 Par Value (File No. 7-0692)
Recognition Equipment Inc.
Common Stock, $0.25 Par Value (File No. 7-0693)
AFG Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7-0694)
Anchor Glass Container Corporation
Common Stock, $0.01 Par Value (File No. 7-0695)
Transco Exploration Partners
Depository Units (File No. 7-0696)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 20, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25517 Filed 11-3-87 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25062; File No. SR-Phlx 87-31]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Listing Fee Schedule; Reduction for Certain Share Rights Plan Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 28, 1987, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. pursuant to Rule 19b-4 of the Act submits a proposed rule change amending the Phlx's Listing Fee Schedule for the purpose of adding the following under "Stocks and Warrants:"

Original Listing of Share Rights which are not separately transferable, $2,500 per issue.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to establish a separate liating fee applicable only to share rights.[1] The Exchange has been listing share rights since December 1985 and has been charging the currently applicable original listing fee of $7,500 per issue. For competitive reasons, the Exchange has determined to distinguish share rights from originial listings of shares to be actually traded in light of similar fee reductions enacted by other exchanges.[2]

A flat $2,500 fee will be charged for the initial listing of share rights plans that become effective subsequent to the date of filing of this rule change. The balance of the initial listing fee ($5,000) will be charged when the share rights become exercisable and tradable separately from the common stock. In order to prevent prejudice to issuers who have listed share rights plans in the past six months, the new fees will be retroactive to March 1, 1987. Accordingly, any issuers who, in the past six months, have paid the $7,500 listing fee will be refunded the difference, provided their share rights have not been exercised and traded.

The proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among an exchange's

[1] Share rights plans, or poison pills, have been adopted by issuers as a takeover defensive mechanism. Share rights give holders of common stock the right to purchase, at a discount, securities of the issuer upon the occurrence of certain events, such as the acquisition of a certain percentage of the issuer's common stock by an outside party. The rights are not transferable from the issuer's common stock and cannot be exercised and traded until a triggering event occurs.

[2] *See*, Securities Exchange Act Rel. Nos. 23241 (May 15, 1986), 51 FR 18659 (SR-NYSE-86-13) and 23242 (May 15, 1986), 51 FR 18713 (SR-Amex-86-13).

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members, issuers, and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No comments on this proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission believes that it is reasonable and consistent with section 6(b)(4) of the Act for the Phlx to reduce the initial listing fee for share rights from $7500 to $2500, in light of the fact that these rights are not actually traded on the exchange when they are listed. Further, the collection of an additional $5,000 fee should be rights be converted into stock that is traded on the exchange is also appropriate in that it would put the total $7,500 fee collected on par with the original listing fees for securities listed and immediately traded on the exchange.

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and paragraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the file number in the caption above and should be submitted by November 25, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 26, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–25515 Filed 11–3–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1035]

Public Information Collection Requirements Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

SUMMARY: The Arts in Embassies Program receives donations of art work in the form of loans from private individuals, museums, etc. The information collection is needed to arrange for insurance of the art work and to determine estimated costs involved in shipping the object to its destination. The following summarizes the information collection proposal submitted to OMB:

Title of information collection: Loan Agreement.

Originating office: Arts in Embassy Program.

Form number: DSP–98.

Type of request: New.

Frequency: On occasion.

Respondents: Loaners of Objects of Art.

Estimated number of responses: 600.

Estimated number of hours needed to respond: 600.

Section 3504(h) of Pub. L. 96–511 does not apply.

Additional Information or Comments: Copies of the proposed form and supporting documents may be obtained from Gail J. Cook (202) 647–3536. Comments and questions should be directed to (OMB), Francine Picoult (202) 395–7340.

Dated: October 29, 1987.

Richard C. Faulk,

Acting Assistant Secretary for Administration.

[FR Doc. 87–25466 Filed 11–3–87; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Holmes County, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescind Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for a proposed highway project in Holmes County, Florida.

FOR FURTHER INFORMATION CONTACT: David P. Van Leuven, District Engineer, Federal Highway Administration, 227 North Bronough Street, Room 2015, Tallahassee, Florida 32201, Telephone: (904) 681–7231.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an Environmental Impact Statement (EIS) for a proposed highway project to construct an interchange on I–10 near Westville in Holmes County, Florida, was issued on December 18, 1986 and published in the December 29, 1986 Federal Register. The FHWA, in cooperation with the Florida Department of Transportation, has since determined that preparation of an EIS is not necessary for this proposed highway project and hereby rescinds the previous Notice of Intent. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and construction. The regulations implementing Executive Order 12372 regarding intergovernment consultation of Federal programs and activities apply to this program.)

Issued on: October 22, 1987.

David P. Van Leuven,

District Engineer, Tallahassee, Florida.

[FR Doc. 87–25488 Filed 11–3–87; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

[Docket No. IP 87–07, Notice 2]

Porsche Cars North America, Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Porsche Cars of North America, Inc., of

Reno, Nevada, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1361 *et seq.*) for a noncompliance with 49 CFR 571.108, Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment.* The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of a petition was published on June 17, 1987, and an opportunity afforded for comment (52 FR 23132).

Paragraphs S4.1.1.36(a) (2) and (3) of Standard No. 108 require that the lens of each replaceable bulb headlamp have three pads which meet the requirements of dimensional specifications for location of aiming pads on replaceable bulb headlamp units. Unless the most forward aiming pad is the lower inboard aiming pad, a whole number, which represents the distance in tenths of an inch from the aiming reference plane to the respective aiming pads which are not in contact with the plane, shall be inscribed adjacent to each respective aiming pad on the lens.

In June of 1986, Porsche installed approximately 115 seats of replaceable headlamps, manufactured by Robert Bosch, on its 1987 model 928S–4. These headlamps do not comply with S4.1.1.36(a) (2) and (3) of Standard No. 108 because they lack the dimensions for the aiming pads. Porsche also received 35 sets of noncompliant headlamps as spare parts, of which approximately 23 sets were sold. The remaining 12 sets were returned to Robert Bosch.

Porsche supported its petition with the following:

1. The Porsche 928S–4 uses headlamps which are oriented vertically and there is no tendency for any aerodynamic inclination. Any experienced mechanic can tell by a physical examination of the headlamp that it does not require aerodynamic positioning.

2. The headlamps without the aiming pad inscription are not likely to be misaimed because these lamps are vertically positioned. Mechanics will aim them in the same way they aim sealed beam headlamps, without pulling out the indexing legs on the aerodynamic headlamp adapters. Therefore these headlamps will be properly aimed even without the dimensions for the aiming pads inscribed on the lens.

3. * * * all Porsche dealers will be advised soon by letter of the dimensions for the aiming pads. A copy of the letter will be submitted to NHTSA when it is prepared.

4. All other required markings are inscribed on the lens.

One comment was received on the petition. Messrs. Clement Kochinke and Louis E. Emery supported it, though recommending that Porsche notify State motor vehicle inspection authorities of the dimensions for the aiming pads to minimize the possibility of confusion at inspection stations.

The agency asked Porsche if it were willing to notify State authorities or owners of the 138 noncompliant vehicles of the correct dimensions and received an affirmative answer. Porsche has in fact written owners and dealers with this information and, in the agency's opinion, this is sufficient to ensure proper aiming of both original and replacement motor vehicle headlamps.

Accordingly, it is hereby found that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: October 30, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87–25531 Filed 11–3–87; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0150

Form Number: 2848 and 2848–D

Type of Review: Revision

Title: Power of Attorney and Declaration of Representative; Tax Information Authorization and Declaration of Representative

Description: Form 2848 is used to authorize someone to act for the respondent in tax matters. It grants all powers that the taxpayer has except signing the return and cashing refund checks. Form 2848–D allows a person to inspect or receive confidential tax information. Data is used to identify representatives/appointees and to ensure that confidential information is not divulged to unauthorized persons.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations

Estimated Burden: 190,780 hours

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Comptroller of the Currency

OMB Number: New

Form Number: None

Type of Review: New Collection

Title: OCC Former Employee Questionnaire

Description: The OCC needs the information generated in the former employee questionnaire to evaluate the reasons for employee attrition. The goal of the program is to reduce attrition. The affected public is former OCC employees.

Respondents: Individuals or households

Estimated Burden: 56 hours

Clearance Officer: Eric Thompson (202) 447–1632, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219

OMB Reviewer: Robert Fishman (202) 395–7340, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 87–25479 Filed 11–3–87; 8:45 am]

BILLING CODE 4810–25–M

VOL 52 ISS 213 NO 4 1987 UMI

Sunshine Act Meetings

Federal Register
Vol. 52, No. 213
Wednesday, November 4, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COPYRIGHT ROYALTY TRIBUNAL:

TIME AND DATE: Thursday, Novembr 12, 1987, 2 00 p.m.

PLACE: 1111 20th Street, NW. Suite 450, Washington, DC 20036.

STATUS: Closed pursuant to a vote taken October 29, 1987.

MATTERS TO BE CONSIDERED: Formal rulemaking in the 1987 public broadcasting rate adjustment proceeding.

CONTACT PERSON FOR MORE INFORMATION: Robert Cassler, General Counsel, Copyright royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036, 202-653-5175.

Dated: October 30, 1987.

J.C. Argetsinger,
Chairman

[FR Doc. 87-25567 Filed 10-30-87; 8:44 pm]
BILLING CODE 1410-09-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 30, 1987.

TIME AND DATE: 10:00 a.m., Thursday, November 5, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission will also consider and act upon the following:

3. *Helen Mining Company*, Docket No. PENN 86-94-R, etc. (Issues include consideration of a motion by the Secretary of Labor to strike a portion of Helen Mining Company's brief.)

It was determined by a unanimous vote of Commissioners that this item be included in the meeting of November 5 and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 87-25630 Filed 11-2-87; 1:07 pm]
BILLING CODE 6725-01-M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Friday, November 6, 1987 at 10:00 a.m.

PLACE: Room 117, 701 E Street NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. 731-TA-371 (Final) (Fabric and Expanded Neoprene Laminate from Taiwan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,
Secretary.

October 23, 1987.

[FR Doc. 87-25578 Filed 11-2-87; 9:51 am]
BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Monday, November 9, 1987 at 2:00 p.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. 731-TA-354 (Final) (Stainless Steel Pipes and Tubes from Sweden)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,
Secretary.

October 23, 1987.

[FR Doc. 87-25579 Filed 11-2-87 9:51 am]
BILLING CODE 7020-02-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, November 10, 1987.

PLACE: Board Room (Room 812A), Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Revised Safety Study—Emergency Medical Service Helicopter Operations.
2. Railroad Accident Report: Derailment of Amtrak Passenger Train No. 8 Operating on the Soo Line Railroad, Fall River, Wisconsin, November 9, 1986.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Bea Hardesty,
Federal Register Liaison Officer.

October 30, 1987.

[FR Doc. 25571 Filed 10-30-87; 4:45 pm]
BILLING CODE 7533-01-M

Corrections

Federal Register
Vol. 52, No. 213
Wednesday, November 4, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-ANE-22; Amendment 39-5732]

Airworthiness Directives; Teledyne Continental Motors

Correction

In rule document 87-22723 beginning on page 36754 in the issue of Thursday, October 1, 1987, make the following correction:

§ 39.13 [Corrected]

On page 36755, in the third column, in the table, in the left hand column, "New" should read "Rebuilt".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 87-AWP-17]

Alteration and Establishment of Restricted Areas; Yuma, AZ

Correction

In rule document 87-24111 beginning on page 38752 in the issue of Monday, October 19, 1987, make the following correction:

§ 73.23 [Corrected]

On page 38752, in the third column, in the amendment for § 73.23, under R-2306A, in the seventh line, "33˚52'30"" should read "32˚52'30"".

BILLING CODE 1505-01-D

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federal register

Wednesday
November 4, 1987

Part II

Office of Management and Budget

Budget Deferrals; Notice

VOL 52 ISS 213 NO 4 1987 UMI

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To The Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report six deferrals of budget authority totaling $96,285,288.

The deferrals affect programs in the Departments of Energy, Health and Human Services, and Justice.

The details of these deferrals are contained in the attached report.

Ronald Reagan

The White House.
October 29, 1987.

CONTENTS OF SPECIAL MESSAGE

(In thousands of dollars)

Deferral No.	Item	Budget authority
	Department of Energy Power Marketing Administration	
D88-14	Alaska Power Administration, Operation and maintenance.	120
D88-15	Southeastern Power Administration, Operation and maintenance.	2,000
D88-16	Southwestern Power Administration, Operation and maintenance.	6,000
D88-17	Western Area Power Administration, Construction, rehabilitation, operation and maintenance.	774
	Department of Health and Human Services	
D88-18	Office of Assistant Secretary for Health: Scientific activities overseas (special foreign currency).	2,391
	Department of Justice	
D88-19	Office of Justice Program: Crime victims fund.	85,000
	Total, deferrals	96,285

SUMMARY OF SPECIAL MESSAGES FOR FY 1988

(In thousands of dollars)

	Rescissions	Deferrals
Second special message:		
New items		96,285
Revisions to previous special messages		
Effects of second special message		96,285
Amounts from previous special messages that are changed by this message (changes noted above)		
Subtotal, rescissions and deferrals		96,285
Amounts from previous special messages that are not changed by this message		1,776,738
Total amount proposed to date in all special messages		1,873,023

BILLING CODE 3110-01-M

Deferral No: D88-14

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy
Bureau:
Power Marketing Administration
Appropriation title and symbol:
Alaska Power Administration, Operation and maintenance 1/
89X0304

OMB identification code:
89-0304-0-1-271

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $_____
(P.L. _____)
Other budgetary resources.. 630,000

Total budgetary resources.. 630,000

Amount to be deferred:
Part of year..... $_____
Entire year..... 120,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds the activities of the Alaska Power Administration (APA), an agency that operates and sells power from two hydroelectric projects located in Alaska. The law requires APA to deliver power to its customers at the lowest cost consistent with sound business practice. Further, the law requires APA to recover all costs from its customers, thus mandating that APA carefully examine proposed costs to avoid unnecessary spending. In 1987, appropriated funds were in excess of the levels needed for procurements because several procurements were made at a lower cost than originally assumed. Consequently, the level of unobligated funds carried into 1988 was higher than previously planned. There currently is no plan to use these funds in 1988, although the funds will be released later this year if a significant, unplanned need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1987 (D87-9).

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Deferral No: D88-15

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy
Bureau:
Power Marketing Administration
Appropriation title and symbol:
Southeastern Power Administration, Operation and maintenance
89X0302
OMB identification code:
89-0302-0-1-271
Grant program: [ ] Yes [X] No
Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $_____ (P.L._____)
Other budgetary resources.. 2,100,000
Total budgetary resources.. 2,100,000
Amount to be deferred:
Part of year..... $_____
Entire year..... 2,000,000
Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____
Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds the marketing activities of the Southeastern Power Administration (SEPA), an agency that sells wholesale hydroelectric power produced at Corps of Engineers dams in 10 southeastern states. The law requires SEPA to deliver power to its customers at the lowest cost consistent with sound business practice. Further, the law requires SEPA to recover all costs from its customers, thus mandating that SEPA carefully examine proposed costs to avoid unnecessary spending. In 1987, appropriations were in excess of amounts required to purchase power and pay non-Federal utilities to deliver it because these costs were lower than the level assumed previously. As a result, the level of unobligated funds carried into 1988 for purchasing power was higher than previously assumed. There currently is no plan to use these funds in 1988, although the funds will be released later this year if a significant, unplanned need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D88-16

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy
Bureau:
Power Marketing Administration
Appropriation title and symbol:
Southwestern Power Administration, Operation and maintenance 1/
89X0303
OMB identification code:
89-0303-0-1-271
Grant program: [ ] Yes [X] No
Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $_____ (P.L._____)
Other budgetary resources.. 26,006,000
Total budgetary resources.. 26,006,000
Amount to be deferred:
Part of year..... $_____
Entire year..... 6,000,000
Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____
Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds the activities of the Southwestern Power Administration (SWPA), an agency that markets wholesale hydroelectric power produced at Corps of Engineers dams in six southwestern states. SWPA activities also include construction, operation and maintenance of approximately 1,660 miles of transmission lines over which power is distributed to customers. The law requires SWPA to deliver power to its customers at the lowest cost consistent with sound business practice. Further, the law requires SWPA to recover all costs from its customers, thus mandating that SWPA carefully examine proposed costs to avoid unnecessary spending. In 1987, available funds were in excess of amounts required to purchase power and pay non-Federal utilities to deliver it because higher rainfall resulted in higher power generation from the Federal dams. As a result, the level of unobligated funds carried into 1988 for purchasing power was higher than assumed when the 1988 Budget was prepared. There currently is no plan to use these funds in 1988, although the funds will be made available if a significant, unplanned need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1987 (D87-10A).

BEST COPY AVAILABLE

Deferral No: D88-17

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy
Bureau:
Power Marketing Administration
Appropriation title and symbol:
Western Area Power Administration, Construction, rehabilitation, operation and maintenance 1/
89X5068

OMB identification code:
89-5068-0-2-271

Grant program: [ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $_____
(P.L._____)
Other budgetary resources... 128,815,000
Total budgetary resources... 128,815,000

Amount to be deferred:
Part of year..... $_____
Entire year..... 774,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds the activities of the Western Area Power Administration (WAPA), an agency that markets wholesale hydroelectric power produced at projects principally operated by the Bureau of Reclamation and the Corps of Engineers in 15 western states. WAPA activities also include construction, operation and maintenance of approximately 16,000 miles of transmission lines over which power is distributed to customers. The law requires WAPA to deliver power to its customers at the lowest cost consistent with sound business practice. Further, the law requires WAPA to recover all costs from its customers, thus mandating that WAPA carefully examine proposed costs to avoid unnecessary spending. In 1987, available construction funds were in excess of amounts required due to contract slippage. As a result, the level of unobligated funds carried into 1988 was higher than assumed when the 1988 Budget was prepared. There currently is no plan to use these funds in 1988, although the funds will be made available if a significant, unplanned need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1987 (D87-29).

Deferral No: D88-18

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Health and Human Services
Bureau: Office of Assistant Secretary for Health
Appropriation title and symbol:
Scientific activities overseas (special foreign currency) 1/
75X1102

OMB identification code:
75-1102-0-1-552

Grant program: [ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $_____
(P.L._____)
Other budgetary resources.. 4,791,288
Total budgetary resources.. 4,791,288

Amount to be deferred:
Part of year..... $_____
Entire year..... 2,391,288

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: The Scientific activities overseas program is funded with appropriations which consist of excess foreign currencies owned by the United States. The currencies of Burma and Poland held by the Treasury have been designated as excess to normal U.S. needs in 1988. Funds for this program, which remain available until expended, are used for scientific research projects in those countries.

The amount of funds to be obligated during 1988 and the amount to be deferred for the entire year were determined after a careful review of the scientific merit of project proposals in the countries for which excess currency is available. The research projects in those countries that will contribute toward meeting U.S. scientific needs have been selected for funding in 1988. The amount being deferred is excess to current program requirements and is being reserved for contingencies under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1987 (D87-11).

Deferral No: D88-19

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department Justice Bureau: Office of Justice Programs Appropriation title and symbol: Crime victims fund 1/ 15X5041 OMB identification code: 15-5041-0-2-754 Grant program: [X] Yes [ ] No	New budget authority..... $ 85,000,000 (P.L. 98-473) Other budgetary resources... 84,733,000 Total budgetary resources... 169,733,000 Amount to be deferred: Part of year..... $ _____ Entire year..... 85,000,000 Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other _____
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: This appropriation is a special fund which is credited with Federal criminal fines, forfeited appearance bonds, and penalties not to exceed $110 million each fiscal year. From these funds, grants are provided to states for crime victim compensation programs and crime victim assistance programs. Each state receives a small amount fixed by law plus additional amounts based on actual program performance. The carryover from 1987 will be obligated early in 1988. The estimated 1988 collections of $85 million are deferred and will be disbursed early in 1989. This allows the Office of Justice Programs to know precisely how much money is available for award and avoid overobligating or underobligating fund collections. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1987 (D87-13).

[FR Doc. 87-25530 Filed 11-3-87; 8:45 am]
BILLING CODE 3110-01-C

federal register

Wednesday
November 4, 1987

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 611
Foreign Fishing; Fee Schedule for Vessels in Exclusive Economic Zone; Proposed Rule

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 71030-7230]

Foreign Fishing, Fee Schedule for Vessels in Exclusive Economic Zone

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA proposes in 1988 foreign fee schedule for foreign vessels fishing in the exclusive economic zone (EEZ). Under this fee schedule, owners or operators of foreign vessels would pay $354 per fishing permit application and 10.98 percent of the FY 1987 Magnuson Fishery Conservation and Management Act (Magnuson Act) costs. Vessels of any fishing nations meeting the criteria of Pub. L. 99-272 would be required to pay an additional incremental amount of 50.31 percent of the base fees. Additionally, the surcharge for the Fishing Vessels and Gear Damage Compensation Fund is increased to 15 percent of the foreign fees. Comments are requested on this fee schedule. This action complies with section 204(b)(10) of the Magnuson Act.

DATE: Comments must be received on or before December 4, 1987.

ADDRESS: Send comments to: Fees and Permits Branch, F/TS21, National Marine Fisheries Service, Washington, DC 20235. Mark envelopes "Foreign Fees."

Copies of the draft regulatory impact review (RIR) and a detailed breakdown of NMFS costs are available at this address.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, 202-673-5310.

SUPPLEMENTARY INFORMATION: NOAA proposes a schedule of permit application and poundge fees for fishing during 1988 by foreign vessels in the EEZ. The new schedule would target collections of about $20.5 million from foreign fishing in 1988 with an additional amount of $12.1 million in collections possible under provisions of Pub. L. 99-272. These amounts are determined as described below. NOAA has consulted with the Coast Guard and the Department of State (DOS) on this proposal. The Department of State agrees with its publication for public comments.

NOAA is publishing the proposed 1988 fee schedule as a single unit containing both foreign poundage and permit application fees. Readers are advised, however, that the final fees may be published separately should there be delays in adopting final poundage or final permit application fees.

Background

Subparagraph 204(b)(10)(B) of the Magnuson Act, as amended, requires the Secretary of Commerce to impose fees on the owners or operators of foreign fishing vessels for which permits are issued "at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of [the Magnuson] Act during * * * fiscal year [1987] the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the exclusive economic zone during [1986] bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during [1986]." [16 U.S.C. 1824(b)(10)(B)].

However, if the Secretary of Commerce, in consultation with the Secretary of State, finds a fishing nation to be "harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary," or "failing to take sufficient action to benefit the conservation and development of United States fisheries," subparagraph 204(b)(10)(C) applies. Subparagraph 204(b)(10)(C) requires the Secretary to impose fees for that nation which bear to the ratio of the fish harvested by foreign vessels in the EEZ to the aggregate quantity of fish harvested by both foreign and domestic vessels in the EEZ *only*. Removing the quantity of U.S. harvested fish caught in the territorial waters from the formula increases the ratio and thereby the fees that the nation must pay.

Fees have been collected for foreign fishing since 1977 under annual schedules set forth at 50 CFR 611.22. Fees collected under these schedules were $43.4 million from 1977 through 1980, and $182.2 million from 1981 through 1985. The increase in fees since 1981 stems from the current Magnuson Act requirement to recover at least costs attributed to foreign fishing. A decrease in fees collected occurred in 1986 as the result of large reductions in foreign fishing. Fees collected in 1986 were $31.1 million and another reduction is expected in 1987.

Foreign fees are assessed for the whole weight of fish harvested (poundage fees) and for processing foreign fishing applications (permit application fees). The foreign fee target to be sought from both fees and proposed herein for 1988 is $20.496 million—less than the $40.6 million foreign fee collection target in 1987. The foreign fee target amount is determined by applying the 1986 ratio of the foreign catch in the EEZ to the total catch in the EEZ and territorial waters, 10.98 percent, against the total Magnuson Act costs for fiscal year (FY) 1987, $186.668 million. The ratio of the poundage fee collection target to the estimated value of the 1988 foreign harvest of all species (as discussed later) determines the rate at which fees are assessed by species. The species fees proposed for 1988 and listed in the table of the regulatory text at § 611.22 are a uniform percentage of the exvessel value. Readers should refer to 51 FR 36589 (October 14, 1986) for a more detailed discussion of the background and methodology of the foreign fee schedule.

FY 1987 Costs for Purposes of the Magnuson Act

The Federal Government's costs of carrying out provisions of the Magnuson Act in FY 1987 were calculated by using the general estimating techniques that were used to estimate costs for fee schedules since 1982 (see 46 FR 55729, Nov. 12, 1981) together with improvements made in the 1986 fee schedule (50 FR 41533, Oct. 11, 1985).

All NMFS units submit documentation of the planned use of funding allocations. "Operations plans," which include a narrative description of activities and the amounts budgeted for labor, travel, contracts, etc., are analyzed to identify the costs of performing functions directed toward provisions of the Magnuson Act, without regard to legislative authorizations for certain activities predating the Magnuson Act. Documentation is available at the above address.

The total FY 1987 NMFS cost was determined to be $81.235 million. The NMFS FY 1987 costs are 2.71 percent above its actual FY 1986 costs of $79.095 million. Other NOAA and Department of Commerce Magnuson Act costs are $10.971 million or one percent above FY 1986 costs. The FY 1987 cost data for establishing the 1988 fee target are shown in Table 1, with comparative data from FY 1985 and FY 1986 for all Federal agencies incurring Magnuson Act costs.

The Department of State estimates its FY 1987 costs at $299,600, the same level as in FY 1985 and 1986.

The Coast Guard's costs for fisheries enforcement activities in FY 1987 were determined using the methods employed in former years and include indirect program support costs. The Coast Guard's FY 1987 costs of $94.162 million

are up 2.64 percent from actual Coast Guard costs in FY 1986, but 16.27 percent below the FY 1986 estimates of $112.459 million used for the 1987 fee schedule. This change in FY 1986 costs reflects a temporary suspension of enforcement operations in 1986.

The estimated total cost for carrying out the provisions of the Magnuson Act in FY 1987 in $186.668 million. This total is proposed to be adopted for the calculation of the foreign fishing fee target in 1988.

BILLING CODE 3510-22-M

TABLE 1. DETERMINATION OF FISCAL YEAR 1987 AGENCY COSTS FOR PURPOSES OF THE MAGNUSON ACT AND COMPARISONS WITH FISCAL YEAR 1985 AND 1986 COSTS

THOUSAND DOLLARS

DEPARTMENT/AGENCY/ LINE OFFICE	FY85 COST	FY86 DIFF	FY86 COST (1)	FY87 DIFF	FY87 COST	FY87 + (-) %
DOC - SUPPORT TOTAL	177	0	177	23	200	12.99
DOC - NOAA - ADMIN	284	20	304	65	369	21.38
DOC - NOAA - NESDIS	276	11	287	(42)	245	(14.63)
DOC - NOAA - RASCS	190	(15)	175	10	185	5.71
DOC - NOAA - SEA GRANT	763	(30)	733	64	797	8.73
DOC - NOAA - SHIPS	10,093	(918)	9,175	0	9,175	0.00
TOTAL	11,606	(932)	10,674	97	10,771	0.91
DOC - NMFS - HDQS	15,307	263	15,570	(1,368)	14,202	(8.79)
DOC - NMFS - F/NEC	11,730	233	11,963	(224)	11,739	(1.87)
DOC - NMFS - F/SEC	12,178	661	12,839	144	12,983	1.12
DOC - NMFS - F/SWC	6,161	(188)	5,973	641	6,614	10.73
DOC - NMFS - F/NWC	18,055	167	18,222	328	18,550	1.80
DOC - NMFS - F/NER	4,770	378	5,148	(432)	4,716	(8.39)
DOC - NMFS - F/SER	3,209	(159)	3,050	2,312	5,362	75.80
DOC - NMFS - F/SWR	2,574	(370)	2,204	80	2,284	3.63
DOC - NMFS - F/NWR	2,517	(198)	2,319	(442)	1,877	(19.06)
DOC - NMFS - F/AKR	1,944	(137)	1,807	1,101	2,908	60.93
TOTAL	78,445	550	79,095	2,140	81,235	2.71
DOC - ALL AGENCY TOTAL	90,228	(282)	89,946	2,260	92,206	2.51
DOS - OES/OFA TOTAL	300	0	300	0	300	0.00
DOT - CG (2) TOTAL	132,314	(40,572)	91,742	2,420	94,162	2.64
GRAND TOTAL	222,842	(40,854)	181,988	4,680	186,668	2.57

(1) FY86 GRAND TOTAL REVISED (FIGURE PREVIOUSLY REPORTED AT 51 FR 36570 WAS $202,705K).
(2) COAST GUARD NOTES THAT ITS ACCOUNTING SYSTEM INDICATES THAT $37,249K IS A MORE ACCURATE ESTIMATE OF THE FY87 DIRECT COSTS FOR FOREIGN ENFORCEMENT THAN COSTS DETERMINED BY THE RATIO OF FOREIGN CATCH TO TOTAL CATCH. THE TABLE ABOVE INCLUDES BOTH DIRECT AND INDIRECT COSTS.

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Ratios of the 1986 Foreign Catch to Total Catch

Principles applied since enactment of Pub. L. 96–561 for estimating the ratio of the foreign catch to the total catch in the EEZ and territorial waters are employed for the 1986 ratio. The 1986 catch data are the most current official data now available for the year preceding preparation of this fee schedule. Some comments on prior fee schedules have been critical of the statistical ratios used to determine the fee schedule target. They have claimed that the ratios do not reflect the foreign share of the total catch and projections should be used to determine that share. NOAA has responded to the comments in prior schedules, but continues to invite further comments on its methods. Readers interested in more details should refer to the discussion on the statistics for setting fees contained in 50 FR 41533. The ratio used for the 1988 fee schedule is 10.98 percent. Table 2(A) lists data used for this ratio.

In addition to the above, subparagraph 204(b) (10) (C) requires that a higher level of fees be established for each fiscal year for nations found to be harvesting anadromous species of U.S. origin at levels unacceptable to the Secretary or not taking actions to benefit the conservation and development of United States fisheries. That level is determined by the ratio of the foreign catch to the total catch in the EEZ only. Table 2(B) shows the 1986 catches in the EEZ and appropriate adjustments of the tuna and mollusk catches. The ratio of catches so determined shows that 17.43 percent of the 1986 catch in the EEZ was taken by foreign vessels. That ratio was 35.05 percent in the prior year. Nations falling under one or both of the above criteria ("high fee nations") in calendar year 1988 will pay against 17.43 percent of total Magnuson Act costs or pay an incremental amount equal to 59.31 percent of their poundage fees in addition to the poundage fees proposed in this schedule for their catches in 1988.

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TABLE 2. ESTIMATED RATIOS OF FOREIGN CATCH TO TOTAL CATCH, 1986

(A) INCLUDING TERRITORIAL WATERS	(MT)	(B) EXCLUDING TERRITORIAL WATERS	(MT)
U.S. COMMERCIAL CATCH (1)	4,260,039	U.S. COMMERCIAL CATCH (1)	4,260,039
EXCLUSIONS:		EXCLUSIONS:	
INTERNATIONAL WATERS	246,442	INTERNATIONAL WATERS	246,442
TUNA (0 - 200 MILES)	14,949	TUNA (3 - 200 MILES)	14,681
FRESHWATER (INCL. G. LAKES ALEWIVES)	65,338	ALL CATCH INSIDE 3 MILES (2)	1,592,079
U.S. COMMERCIAL CATCH LESS EXCLUSIONS	3,933,310	U.S. COMMERCIAL CATCH LESS EXCLUSIONS	2,406,837
ADDITIONS:		ADDITIONS:	
CORRECTION FOR MOLLUSKS (3)	628,470	CORRECTION FOR MOLLUSKS (3)	302,362
RECREATIONAL CATCH (4)	210,481	RECREATIONAL CATCH (4)	78,306
TOTAL U.S. CATCH	4,772,261	TOTAL U.S. CATCH	2,787,505
FOREIGN CATCH (5)	588,353	FOREIGN CATCH (5)	588,353
TOTAL CATCH	5,360,614	TOTAL CATCH	3,375,858
RATIO INCLUDING TERRITORIAL WATERS.....:	10.98	RATIO EXCLUDING TERRITORIAL WATERS.....:	17.43

(1) THIS FIGURE AND ALL FOLLOWING FIGURES FOR U.S. COMMERCIAL CATCH FROM PAGES 8 - 11 OF "FISHERIES OF THE UNITED STATES, 1986" (CALCULATED IN POUNDS AND CONVERTED TO METRIC TONS). FIGURES MAY NOT ADD DUE TO ROUNDING.
(2) EXCEPT FOR TEXAS AND WEST COAST OF FLORIDA, WHERE BOUNDARY LINE IS NINE NAUTICAL MILES FROM SHORE. ALSO EXCLUDES ANY WATERS BEYOND THREE NAUTICAL MILES FROM SHORE CONSIDERED TO BE INTERNAL (E.G., AREAS OF PUGET SOUND).
(3) ADDITION OF MOLLUSK SHELLS (U.S. STATISTICS FOR INTERNAL USE INCLUDE ONLY EDIBLE MEAT WEIGHT, WHEREAS INTERNATIONAL STANDARD INCLUDES SHELL WEIGHTS).
(4) BASED ON 1986 DATA FOR ATLANTIC, GULF AND PACIFIC; 1981 DATA FOR WESTERN PACIFIC; 1979 DATA FOR CARIBBEAN. INCLUDES CATCH TYPES A AND B1 AND ASSUMES AVERAGE WEIGHT OF B1 IS SIMILAR TO A.
(5) FROM PAGE 30, "FISHERIES OF THE UNITED STATES, 1986."

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The 1988 Foreign Fishing Fee Collection Target

Section 204(b)(10)(B) of the Magnuson Act requires that foreign fishing vessel owners or operators pay at least the amount calculated from the ratio of the foreign catch to the total catch in the EEZ and territorial waters. Therefore, the fees will be based on a target of at least 10.98 percent of the total Magnuson Act costs ($186.668 million calculated in Table 1) in 1988. That target is $20.496 million as shown below.

Fee target (1988) = ($186.668 million) × (0.1098) = $20.496 million.

If all nations in 1988 were found to be "high fee" nations, $32.536 million would be the total fee target. A similar calculation uses the ratio of the catches in the EEZ, 17.43 percent, to calculate that amount.

High fee amount (1988) = ($186.668) × (0.1743) = $32.536 million.

Approximately $194,800 is expected to be received for 1988 permit application fees (see below). The application fees are subtracted from $20.496 million to arrive at the amount to be collected for the foreign catch by poundage fees, $20.301 million or $32.341 million under the "high fees." The 1988 proposed poundage fee target is $20.299 million lower than the $40.600 million target in 1986, and the "high fee" amount is $38.523 million less than the "high fee" target in 1987. These changes reflect the reductions in the Coast Guard's estimated costs in FY 87 and the major reduction in foreign catches in 1986.

Permit Application Fees

NOAA determines foreign fishing permit application fees annually by estimating the costs of processing an application during that fee year (45 FR 82267, Dec. 15, 1980). The estimated costs used to develop the proposed 1988 permit application fee are shown in Table 3.

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TABLE 3. ESTIMATED COSTS ASSOCIATED WITH PROCESSING 1988 FOREIGN FISHING PERMIT APPLICATIONS

DEPARTMENT/CATEGORY	DOLLARS
DOC - COMPUTER	20,000
DOC - PRINTING (APPLICATIONS/PERMITS)	200
DOC - PRINTING (FEDERAL REGISTER)	10,900
DOC - SALARIES/BENEFITS	123,700
DOC - TOTAL	154,800
DOS - COMPUTER	4,000
DOS - DUPLICATING/MAILING	1,700
DOS - SALARIES/BENEFITS	32,500
DOS - TRAVEL	1,800
DOS - TOTAL	40,000
GRAND TOTAL	194,800

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The total estimated cost of processing each permit application in 1988 is $354. The total cost is apportioned to each application by estimating that 550 applications will be received in 1988 and then rounding the average unit cost to $354 per application (see below). Applicants for 1988 permits should pay this amount at the time of making application pending a final rule. NOAA will bill for any additional permit application fees or credit to future fees any differences in the amounts paid if the final permit application fee is different from the fee proposed. The increase in the permit application fee from $184 per application in 1987 results from a decrease in the expected number of applications for directed fishing and an increase in costs of processing joint venture applications.

Proposed Species Fees

NOAA collects foreign fees mainly through tonnage fees for the fish caught by foreign vessels. These are the poundage fees. The fee per ton for a species is based on an estimate of "exvessel value" of that species, that is, the value to fishermen on delivering the catch to the first buyer.

On June 16, 1987, NMFS requested information on current foreign exvessel values from representatives of foreign nations fishing in the EEZ. A list of exvessel values for setting fees for 1988 was prepared using the information furnished by respondents and data held by NMFS.

The method used to determine appropriate exvessel values for the 1988 fee schedule is similar to the method adopted since the 1985 schedule. NOAA continues to hold the view that prices paid to U.S. joint venture fishermen are perhaps different from the values of fish to foreign fishing companies for the reasons stated in the 1985 fee schedule, see response to Comment 3.b at 50 FR 460 (Jan. 4, 1985). Joint venture prices for different species in a fishery complex may be useful, in some instances, for establishing relative values between fish species which make up that complex or when other information is lacking. Methods used for establishing 1988 exvessel values in the main depend on foreign price information and other data held by NMFS. In a greater number of cases than in prior years, joint venture prices were used to establish a dollar value because other information was unavailable. Joint venture prices are first adjusted if appropriate to include consideration of the fees which would be paid if a foreign vessel harvested the fish. Despite projections of zero catches of many species in 1988, exvessel values are proposed for all the species listed in former schedules. This will preserve consistency in NOAA's methods and obviate the need to amend the 1988 fee schedule should predictions concerning foreign fishing change when 1988 specifications are completed. Values by fishery were determined as follows and are listed in Table 4 with comparative data for 1987.

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TABLE 4. COMPARISON OF 1987 FINAL AND 1988 PROPOSED EXVESSEL VALUES PER METRIC TON

SPECIES	FISHERY	1987 FINAL EXVESSEL VALUE ($)	1988 PROPOSED EXVESSEL VALUE ($)	1988 ($) INCREASE/ DECREASE	1988 (%) INCREASE/ DECREASE
ALASKA POLLOCK	BSA/GOA	172	214	42	24.42
ATKA MACKEREL	BSA/GOA	237	267	30	12.66
PACIFIC COD	BSA/GOA	287	324	37	12.89
FLATFISH	BSA/GOA	183	187	4	2.19
PACIFIC OCEAN PERCH	BSA/GOA	391	441	50	12.79
OTHER ROCKFISH	BSA/GOA	651	734	83	12.75
PACIFIC SQUID	BSA/GOA	140	169	29	20.71
OTHER SPECIES	BSA/GOA	213	240	27	12.68
SABLEFISH	BSA	419	473	54	12.89
SNAILS	BSA	256	289	33	12.89
SABLEFISH	GOA	796	898	102	12.81
JACK MACKEREL	WOC	510	573	63	12.35
FLATFISH	WOC	651	713	62	9.52
PACIFIC OCEAN PERCH	WOC	604	721	117	19.37
OTHER ROCKFISH	WOC	686	756	70	10.20
SABLEFISH	WOC	810	935	125	15.43
PACIFIC WHITING	WOC	122	176	54	44.26
OTHER SPECIES	WOC	725	915	190	26.21
BUTTERFISH	NWA	618	618	0	0.00
RED HAKE	NWA	369	369	0	0.00
SILVER HAKE	NWA	393	393	0	0.00
RIVER HERRING	NWA	139	139	0	0.00
ATLANTIC MACKEREL	NWA	139	154	15	10.79
SQUID, ILLEX	NWA	390	234	(156)	(40.00)
SQUID, LOLIGO	NWA	662	553	(109)	(16.47)
OTHER SPECIES	NWA	268	268	0	0.00
ATLANTIC SHARKS	ABS	423	423	0	0.00
PACIFIC BILLFISH	PBS	1,985	1,985	0	0.00
DOLPHIN FISH	PBS	5,515	5,515	0	0.00
STRIPED MARLIN	PBS	1,854	1,854	0	0.00
PACIFIC SHARKS	PBS	1,103	1,103	0	0.00
PACIFIC SWORDFISH	PBS	2,337	2,337	0	0.00
WAHOO	PBS	2,206	2,206	0	0.00
SEAMOUNT GROUNDFISH	SMT	397	397	0	0.00
CORAL ($:KILOGRAM)	WPC	206	206	0	0.00

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The Alaska Groundfish Fisheries

Representatives of Korean fishing interests provided average exvessel values by species by month for Alaska groundfish landed in Korean ports. The People's Republic of China (PRC) provided frozen block prices for pollock and yellowfin sole. Poland provided an Alaska pollock price (and a price for Pacific whiting also). The Japan Fisheries Association (JFA) provided data on fresh and frozen fish landings for the Kushiro Wholesale Market. Price data for some species for which JFA provided data in former years, such as yellowfin sole, were not provided this year. The information used covered the period April 1986 through March 1987. Additionally, Japanese market information published in the Foreign Fishery Information Release, appended to the NMFS Terminal Island Market News Report, was used to establish the exvessel value of Alaska pollock. Alaska pollock was used as the index for Alaska groundfish prices. The frozen pollock surimi block prices on the Tokyo Central Wholesale Market (TCWM) were reduced to exvessel values under the assumptions concerning product recovery, profit, and value added described in NOAA's proposed fee schedule for 1985 (49 FR 40615, Oct. 17, 1984). Prices of frozen surimi blocks in early 1987 were adopted as the source data for the exvessel values. Surimi block prices of $1.42 to $1.40 per pound were reduced to a proposed exvessel value of $214/mt.

Exvessel values for all the other Alaska groundfish species were derived from the ratios of frozen block prices on the Kushiro market to a theoretical frozen Alaska pollock block price in that market. These ratios were multiplied by the exvessel value estimated for pollock to determine exvessel values for each species. The resulting species values were adopted for the fee schedule and compared with the data provided by the Republic of Korea (ROK) and the PRC. The ROK data were within 10 percent of the adopted values; the PRC data for headed and gutted pollock are within expected ranges. Poland's pollock price after accounting for costs and product recovery is within 12 percent of the adopted value.

In selecting a flatfish price, NOAA reviewed estimated catch summary data compiled by the Foreign Fishing Observer Program of the Northwest and Alaska Fisheries Center to project the species composition of the 1988 flatfish category. The adopted exessel value for flatfish of $187/mt represents a weighted price based on the 1986 composition and species price ratios to pollock, where available.

The Pacific Groundfish Fishery

Data on exvessel or frozen block values of Pacific whiting in foreign markets are again sparse, because markets for whiting are mainly in eastern Europe and prices are State controlled. Price information from Poland suggests an increase in the exvessel value, however, from $122/mt in 1987 to $176/mt in 1988. The combined pollock and whiting price provided by Poland is within 3 percent of the mean of prices for pollock and whiting in this schedule.

The exvessel values proposed for the other species taken in the Pacific groundfish foreign trawl fisheries under the incidental catch provisions of the Pacific Groundfish Fishery Management Plan are domestic prices and taken from the Pacific Fishery Management Council's *Preliminary Port Group Report: Commercial Groundfish, estimated prices per pound for 1987 for all areas.* Exvessel values for all groundfish again increase significantly over the prior year's values. Use of domestic pricing does not significantly affect this foreign fishery because incidental catch constitutes less than 0.05 percent of the Pacific whiting catch. The selected exvessel values for these incidental species are shown in Table 4.

Northwest Atlantic Ocean Fisheries

Representatives of foreign nations fishing in the Northwest Atlantic Ocean (NWA) fisheries did not provide price information for the schedule. Therefore, available prices in the *European Fish Price Report* published by the Northeast Regional Office, NMFS, were reduced for product recovery and adopted for this fee schedule. Proposed 1988 values for the Northwest Atlantic Ocean fisheries are shown in Table 4.

Western Pacific Fisheries

NOAA has not received any information to cause a revision of the exvessel values adopted in the final schedule since 1986. Therefore, NOAA proposes that the same values be used in 1988 (see Table 4).

Summary of Proposed 1988 Species Fees

The species fee per ton is derived by calculating the ratio of the poundage fee collection target to the estimated total exvessel value of the foreign catch in 1988 to determine the poundage fee assessment rate and then multiplying that rate by the exvessel value adopted for that species.

The total value of the foreign catch is calculated by multiplying the exvessel value proposed for each species by the projected catch of that species in 1988. Catch projections were provided by NMFS Regional Offices based on current understandings of the TALFF's which may be available in 1988. The total value of the 1988 foreign catch is the sum of the values of the catches of all species. Table 5 shows the data used for these calculations and lists the entire set of proposed 1988 species fees.

The ratio of the poundage fee collection target ($20.301 million) to the estimated total exvessel value of the 1988 foreign catch ($29.931 million) results in a 1988 poundage fee assesment rate of 67.83 percent of the exvessel value in 1988.

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TABLE 5. ESTIMATED 1988 FOREIGN CATCH/VALUE WITH RECOVERED COSTS OF $ 20,301,000

SPECIES	FISHERY	PROPOSED EXVESSEL VALUE ($)	ESTIMATED FOREIGN CATCH (MT)	ESTIMATED FOREIGN CATCH VALUE ($)	PROPOSED SPECIES FEE ($)	RECOVERED COSTS ($)
ALASKA POLLOCK	BSA/GOA	214	540	115,560	145.15	78,379
ATKA MACKEREL	BSA/GOA	267	1	267	181.09	181
PACIFIC COD	BSA/GOA	324	30,000	9,720,000	219.75	6,592,604
FLATFISH	BSA/GOA	187	105	19,635	126.83	13,317
PACIFIC OCEAN PERCH	BSA/GOA	441	1	441	299.11	299
OTHER ROCKFISH	BSA/GOA	734	1	734	497.84	498
PACIFIC SQUID	BSA/GOA	169	1	169	114.62	115
OTHER SPECIES	BSA/GOA	240	1,200	288,000	162.78	195,336
SABLEFISH	BSA	473	3	1,419	320.81	962
SNAILS	BSA	289	600	173,400	196.01	117,609
SABLEFISH	GOA	898	0	0	609.07	0
JACK MACKEREL	WOC	573	1,500	859,500	388.64	582,957
FLATFISH	WOC	713	50	35,650	483.59	24,180
PACIFIC OCEAN PERCH	WOC	721	31	22,351	489.02	15,160
OTHER ROCKFISH	WOC	756	369	278,964	512.76	189,208
SABLEFISH	WOC	935	86	80,410	634.17	54,538
PACIFIC WHITING	WOC	176	50,000	8,800,000	119.37	5,968,613
OTHER SPECIES	WOC	915	250	228,750	620.60	155,150
BUTTERFISH	NWA	618	8	4,944	419.16	3,353
RED HAKE	NWA	369	0	0	250.27	0
SILVER HAKE	NWA	393	26	10,218	266.55	6,930
RIVER HERRING	NWA	139	96	13,344	94.28	9,051
ATLANTIC MACKEREL	NWA	154	60,000	9,240,000	104.45	6,267,043
SQUID, ILLEX	NWA	234	0	0	158.71	0
SQUID, LOLIGO	NWA	553	5	3,318	375.07	2,250
OTHER SPECIES	NWA	268	128	34,304	181.77	23,267
ATLANTIC SHARKS	ABS	423	0	0	286.90	0
PACIFIC BILLFISH	PBS	1,985	0	0	1,346.33	0
DOLPHIN FISH	PBS	5,515	0	0	3,740.56	0
STRIPED MARLIN	PBS	1,854	0	0	1,257.48	0
PACIFIC SHARKS	PBS	1,103	0	0	748.11	0
PACIFIC SWORDFISH	PBS	2,337	0	0	1,585.07	0
WAHOO	PBS	2,206	0	0	1,496.22	0
SEAMOUNT GROUNDFISH	SMT	397	0	0	269.27	0
CORAL ($:KILOGRAM)	WPC	206	0	0	139.72	0
TOTALS			145,002	29,931,378		20,301,000

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The proposed 1988 poundage fee assessment rate of 67.83 percent is a major increase when compared to the final 1987 rate of 47.61 percent, and is 1.42 times the rate for 1987. The increase manifests the distribution of foreign fishing costs to a rapidly diminishing set of foreign users of the resource. In 1985, in anticipation of large declines in foreign fishing, the Administration proposed an amendment of § 204(b)(10) to provide greater flexibility in setting the level of foreign fees. The amendment was not enacted, however. NOAA also considered whether fees in addition to permit application fees should be assessed for fish processing in the EEZ. It was not possible to predict the effects of such fees on U.S. fishermen since specific information needed to analyze costs and benefits was lacking.

The average exvessel value in 1987 was $191/mt; the 1988 average is $206/mt. This increase in the average exvessel value reflects relative stability of the Pacific cod fishery when compared to reductions in the other Alaska groundfish fisheries and a general increase in exvessel values of the other fish expected to be allocated in 1988.

The "higher fee" assessment rate as determined by this rule is 108.05 percent of the total exvessel value of the foreign catch ($32.341 million/$29.931 million). The Magnuson Act (at 16 U.S.C. 1824(b)(10)(F)(ii)) requires that additional fees collected as a result of the "higher fee" criteria be deposited in the general fund of the U.S. Treasury. NOAA has elected to collect the additional fees as an incremental amount of the poundage fees rather than publish a separate fee table based on fees assessed at 108.05 percent of exvessel values. No additional amounts will be added to the permit application fees. In practice, NOAA will bill countries meeting one or both of the criteria at the lower fee rate, but add an incremental amount as a percentage of the total poundage fee bill. The amount of 59.31 percent (or $12.040 million/$20.301 million × 100) of the lower fees for the tonnage caught will be added to bills for these countries and be identified as the amount to be paid to the general fund of the U.S. Treasury.

Consistent with the reasons given above, NOAA proposes to amend section 611.22 of the foreign fishing regulations by this action as required by the fee provisions of 16 U.S.C. 1824(b)(10).

Surcharge

The Assistant Administrator for Fisheries, NOAA, has determined that the Fishing Vessel and Gear Damage Compensation Fund established by the Fishermen's Protective Act [22 U.S.C. 1980(10)(f)] will require additional capital to pay claims in 1988 and future years. Capitalization of the fund is derived from a surcharge on the foreign fishing fees imposed under section 204(b)(10) of the Magnuson Act. NOAA proposes to increase the surcharge to 15 percent in 1988. Therefore, a surcharge of 15 percent is proposed by this notice, and would amend regulations governing the surcharge at 50 CFR 611.22(d). NOAA reserves the right to modify the surcharge at a later date if circumstances change.

Section 10 of the Fishermen's Protective Act requires an annual surcharge. Outlays from the fund authorized by section 10 have recently exceeded income. In view of the diminishing potential for foreign fishing fees, failure to surcharge would deplete this fund's capital account sooner than otherwise necessary. Projections indicate that a 15 percent surcharge will extend this fund's capital solvency by six years.

Classification

NOAA has prepared a regulatory impact review (RIR) that discusses the economic consequences and impacts of the proposed fee schedule and its alternatives. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the proposed schedule does not constitute a major rule under E.O. 12291. The RIR demonstrates that the proposed fee schedule complies with the requirements of section 2 of E.O. 12291.

The General Counsel for the Department of Commerce has certified that the proposed fee schedule if adopted will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*. This certification has been forwarded to the Chief Counsel for Advocacy of the Small Business Administration. Because the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities, a regulatory flexibility analysis is not required, and has not been prepared.

NOAA Directive 02–10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq*.). Under those procedures, programmatic functions with no potential for significant environmental impacts are generally excluded from NEPA requirements.

The proposed fee schedule has no direct impact on the fishery resources in the EEZ. At the most, a fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; however, the proposed schedule meets the criterion that fees should minimize disruption of traditional fishing patterns on target species. The environmental impact of harvesting the TALFF is described for each fishery management plan, and no further environmental assessment is necessary.

This proposed rule has no information collection provisions for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq*.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: October 30, 1987.

Carmen J. Blondin

Special Associate for Trade, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons above, 50 CFR Part 611 is proposed to be amended as follows:

1. The authority citation for Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq*., 16 U.S.C. 971 *et seq*., 22 U.S.C. 1971 *et seq*., and 16 U.S.C. 1361 *et seq*.

2. Section 611.22 (a), (b)(1) including Table 1, (c), and (d) are revised as follows:

§ 611.22 Fee schedule for foreign fishing.

(a) *Permit application fees.* Each vessel permit application submitted under § 611.3 must be accompanied by a fee of $354 per vessel, plus the surcharge, if required under paragraph (d) of this section, rounded to the nearest dollar. At the time the application is submitted to the Department of State, a check for the fees, drawn on a U.S. bank, made out to "Department of Commerce, NOAA," must be sent to the Division Chief, Trade Services Division, F/TS21, National Marine Fisheries Service, Washington, DC 20235. The permit fee payment must be accompanied by a list of the vessels for which the payment is made.

(b) *Poundage fees*—(1) *Rates.* If a nation chooses to accept an allocation, poundage fees must be paid at the rate specified in Table 1, plus the surcharge required by paragraph (d) of this section.

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TABLE 1.—SPECIES AND POUNDAGE FEES

(Dollars per metric ton, unless otherwise noted)

Species	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish	419.16
2. Hake, red	250.27
3. Hake, silver	266.55
4. Herring, river	94.26
5. Mackerel, Atlantic	104.45
6. Other groundfish	181.77
7. Squid, *Illex*	158.71
8. Squid, *Loligo*	375.07
Atlantic and Gulf fisheries:	
9. Shark, Atlantic	286.90
10. Shrimp, royal red	(1)
Alaska fisheries:	
11. Pollock, Alaska	145.15
12. Cod, Pacific	219.75
13. Pacific ocean perch	299.11
14. Rockfish, other	497.84
15. Mackerel, Atka	181.09
16. Squid, Pacific	114.62
17. Flounders	126.83
18. Sablefish (Gulf of Alaska)	609.70
19. Sablefish (Bering Sea and Aleutian Islands)	320.81
20. Groundfish, other	162.78
21. Snails	196.01
Pacific fisheries:	
22. Whiting, Pacific	119.37
23. Sablefish	634.17
24. Pacific ocean perch	469.02
25. Rockfish, other	512.76
26. Flounders	453.59
27. Mackerel, jack	388.64
28. Groundfish, other	620.80
Western Pacific fisheries:	
29. Coral [2]	139.72
30. Dolphin fish	3,740.56
31. Wahoo	1,496.22
32. Sharks	748.11
33. Marlin, striped	1,257.46
34. Billfish	1,346.33
35. Swordfish	1,585.07

[1] Reserved.
[2] Dollars per kilogram.

. . . . .

(c) *Incremental amount.* An additional incremental amount will be added to the poundage fee Bill for Collection for fish harvested by a nation during the first quarter of the next fiscal year following notification under paragraph (10)(C) of section 204(b) of the Magnuson Act (16 U.S.C. 1824(b)(1)(C)). This incremental amount will be added to all subsequent quarterly bills until the quarter specified when the Assistant Administrator notifies that nation that it has taken appropriate corrective action. The incremental amount in 1988 will be 50.31 percent of the total poundage fee in each quarter during which this provision applies.

(d) *Surcharges.* The owner or operator of each foreign vessel who accepts and pays permit application or poundage fees under paragraphs (a) or (b) of this section must also pay a surcharge. The Assistant Administrator may reduce or waive the surcharge if it is determined that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator also may increase the surcharge during the year to a maximum level of 20 percent, if needed, to maintain capitalization of the fund. The Assistant Administrator will require payment of a surcharge of 15 percent on 1988 fees.

[FR Doc. 87-25568 Filed 11-3-87; 8:45 am]
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WHO: The Office of the Federal Register.

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2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: November 20, at 9 a.m.
WHERE: National Archives and Records Administration, Room 410, 8th and Pennsylvania Avenue NW., Washington, DC.
RESERVATIONS: Robert D. Fox, 202-523-5239.

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1260 and 1261

Freedom of Information Reform Act of 1986; Implementation of Uniform Fee Schedule

AGENCY: Office of the Special Counsel, Merit Systems Protection Board.

ACTION: Final regulations.

SUMMARY: On September 23, 1987, the Office of the Special Counsel proposed regulations under the authority of sections 1803 and 1804(b)(1) of Pub. L. 99-570, 100 Stat. 5101, 5102, 5103 (October 27, 1986), to implement the fee schedule provisions of the Freedom of Information Reform Act of 1986. At the same time, the Office of the Special Counsel proposed to amend its Freedom of Information Act and Privacy Act regulations to reflect a zip code change. 52 FR 35722. The comment period for these proposed regulations closed on October 20, 1987. No comments were received. Accordingly, the regulations published today are effective upon publication.

EFFECTIVE DATE: November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Henry Darnell Lewis, (202) or FTS 653-5982.

SUPPLEMENTARY INFORMATION: The Freedom of Information Reform Act of 1986, Pub. L. 99-570, sections 1801-1804, 100 Stat. 5101-03 (1986), establishes a new fee structure under the FOIA. It includes limitations on the assessment of fees for all requesters and for particular categories of requesters, and a revised fee waiver standard. The FOIA Reform Act also authorizes agencies to impose new record "review" charges in order to cover the actual cost of complying with requests made by commercial requesters. Section 1803 of the Reform Act requires agencies to promulgate regulations, consistent with Office of Management and Budget uniform fee schedule guidelines, specifying their new schedules of fees. On March 27, 1987, OMB issued its Uniform Freedom of Information Act Fee Schedule, and on April 2, 1987, the Department of Justice issued fee waiver policy guidance to all federal agencies. The Office of Special Counsel is now implementing revised Freedom of Information/Privacy Act regulations to reflect these changes. These final regulations are identical to the proposed regulations published on September 23, 1987. The only alterations concern the list of subjects.

List of Subjects

5 CFR Part 1260

Public information.

5 CFR Part 1261

Privacy.

Mary F. Wiseman,
Special Counsel.

Dated: October 27, 1987.

5 CFR Parts 1260 and 1261 are amended as follows:

PART 1260—[AMENDED]

1. The authority citation for Part 1260 continues to read as follows:

Authority: 5 U.S.C. 552.

2. Section 1260.1 is revised to read as follows:

§ 1260.1 Public list.

A public list of certain noncriminal whistleblower allegations and Special Counsel findings of violations of law, rule, or regulation, together with reports and certifications by heads of agencies, pursuant to 5 U.S.C. 1206 (b)(3) and (c), is available to the public between 8:30 a.m. and 5:00 p.m. weekdays (except legal holidays) in the Office of the Special Counsel, 1120 Vermont Avenue, NW., Washington, DC 20005.

3. Section 1260.4 is revised to read as follows:

§ 1260.4 Service charge for information.

(a) *Categories of requesters.* There are four categories of requesters:

(1) *Commercial use requesters.* These requesters seek information for themselves or on behalf of someone else for a use or purpose that furthers commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. A requester will not be presumed to be a "commercial use requester" merely by submitting a request on corporate letterhead without further explanation of the use to which he plans to put the requested information. Similarly, a request submitted on the letterhead of a nonprofit organization without further explanation will not be presumed to be for a noncommercial purpose. The Office of the Special Counsel will seek clarification from the requester where there is a reasonable doubt as to the intended use of the information.

(2) *Educational and noncommercial scientific institution requesters.* (i) An "educational institution" requester is associated with a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, or an institution of vocational or professional education, that operates a program or programs of scholarly research, and seeks the information for a scholarly or scientific research goal of the institution, rather than for an individual goal.

(ii) A "noncommercial scientific institution" requester is associated with an institution that is not operated on a "commercial" basis (as that term is defined by paragraph (a)(1) of this section), and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(3) *News media requesters.* These requesters actively gather news for entities that are organized and operated to publish or broadcast news to the public. Freelance journalists may be news media requesters if they can demonstrate a solid basis for expecting publication through a news organization (such as by producing a publication contract or citing their past publication records), even though not actually employed by it. "News" means information about current events or information that would be of current interest to the public. News media "entities" include, but are not limited to, television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public.

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(4) All other requesters.

(b) *Free search time and partially free copying.* Educational and noncommercial scientific institution requesters and news media requesters who are requesting records for noncommercial use are entitled to free search time and free copying for the first 100 pages.

(c) *Partially free search time and partially free copying.* Requesters who are not commercial use requesters, educational or noncommercial scientific institution requesters, or news media requesters are "all other requesters", and are entitled to two hours of free search time and free copying for the first 100 pages. Requests from record subjects for records about themselves filed in a system of records will continue to be treated under the fee provisions of the Privacy Act, which permits the assessment of fees only for copying.

(d) *Waiver or reduction of fees.* (1) The Associate Special Counsel for Investigation, the Assistant Special Counsel for Prosecution, the Associate Special Counsel for Prosecution, the Deputy Special Counsel, and the Special Counsel may authorize waiver or reduction of fees that could otherwise be assessed if disclosure of the information requested:

(i) Is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and

(ii) Is not primarily in the commercial interest of the requester.

(2) Satisfaction of paragraph (d)(1)(i) of this section will be determined by all of the following:

(i) Whether the subject of the requested records concerns "the operations or activities of the Government." The requested records concern identifiable operations or activities of the Government, and the connection between the records and the operations or activities is direct and clear, not remote or attenuated;

(ii) Whether disclosure is "likely to contribute" to an understanding of Government operations or activities. An analysis of the substantive content of the releasable portions of the requested records reveals meaningfully informative information on the operations or activities of the Government that is not already in the public domain in duplicative or substantially identical form;

(iii) Whether disclosure will contribute to "public understanding." Considering the identity of the requester and his qualifications to make use of the information, disclosure will contribute to the understanding of the public at large, and not to the individual understanding of the requester or a narrow segment of interested persons; and

(iv) Whether the disclosure is likely to contribute "significantly" to public understanding of Government operations or activities. By an objective standard, the disclosure is likely to enhance the general public's understanding of the subject matter in question more than minimally.

(3) Satisfaction of paragraph (d)(1)(ii) of this section will be determined by both of the following:

(i) Whether the requester has a commercial interest to be furthered by the disclosure. The requester does not seek to further a commercial, trade, or profit interest, as those terms are commonly understood; and

(ii) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, compared to the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester." If the requester has a commercial interest, that interest is not greater than the public interest to be served by disclosure of the requested records.

(e) *Fees to be charged.* (1) Requests for records are subject to the following fees:

(i) *Commercial use requesters.* For search, review, and copying: Photocopies per page, $0.25. Manual record search, $2.50 per quarter hour if conducted by a clerical employee; $5.00 per quarter hour if conducted by a professional or managerial employee. Search fees may be assessed even if the records in question are not located or if the records located are determined to be exempt from disclosure.

(ii) *Educational and noncommercial scientific institution requesters, news media requesters.* For copying only: Photocopies per page, $0.25, excluding the first 100 pages.

(iii) All other requesters. For search and copying only: Photocopies per page (excluding the first 100 pages), $0.25. Manual record search (excluding the first two hours), $2.50 per quarter hour if conducted by a clerical employee; $5.00 per quarter hour if conducted by a professional or managerial employee.

(2) *Method of search.*

(i) Any "search", which includes all time spent looking for material that is responsive to a request, will be done in the most efficient and least expensive manner in order to minimize costs for both the agency and the requester.

(ii) For searches made by computer, costs will be assessed when the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent equals the equivalent dollar amount of two hours of salary of the person performing the search.

(3) *Review charges.* Only commercial use requesters will be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. These charges will be assessed only for initial review (i.e., the review undertaken when first analyzing the applicability of a specific exemption to a particular record or portion of record), and not for review at the administrative appeal level of an exemption already applied. However, charges will be assessed for a second review of records or portions of records withheld in full under an exemption which is subsequently determined not to apply in order to determine the applicability of other exemptions not previously considered. Review charges shall not include costs incurred in resolving issues of law or policy that may be raised in the course of processing a request.

(4) *Copying.* A "page" of copying refers to a paper copy of standard size, normally 8½" x 11" or 11" x 14". However, copies may also take the form of microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others.

(5) *Nonassessment of fees.* No fees will be assessed to any requester, including commercial use requesters, if the cost of routine collection and processing of the fee would be equal to or greater than the fee itself. To make this determination, the Office will consider the administrative costs of receiving and recording a requester's remittance and processing the fee for deposit.

(f) *Other charges.* Complying with requests for special services, such as certification of records as true copies and sending records by special methods (e.g., express mail) is entirely at the discretion of the Office. Since neither the Freedom of Information Act nor its fee structure covers these kinds of services, the Office will assess fees to recover the full costs of providing these services should the Office elect to provide them.

(g) *Aggregating requests.* If the Office of Special Counsel reasonably believes that a requester or a group of requesters acting in concert is filing a series of requests for the purpose of evading the assessment of fees, the Office may aggregate the requests and assess fees accordingly. One element to be considered in determining reasonable belief is the time period within which the requests are filed. Multiple requests of this type filed within a 30 day period may be presumed to have been made to avoid fees. In no case will the Office aggregate requests on unrelated subjects from one requester.

(h) *Advance notice of fees.* If it is likely that fees will exceed $25, the requester will first be notified of the estimated amount, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. The notice will offer the requester the opportunity to confer with personnel of the Office of the Special Counsel with the object of reformulating the request to meet his or her needs at a lower cost.

(i) *Payments.* Payment of fees shall be made by check or money order payable to the United States Treasury.

(j) *Advance payments.* A requester is not required to make an advance payment unless:

(1) The Office estimates or determines that the requester may be required to pay fees in excess of $250, in which case the requester will be notified of the estimated cost. The requester must then furnish satisfactory assurance of full payment if the requester has a history of prompt payment of Freedom of Information Act fees. If the requester has no history of payment, then the requester may be required to furnish an advance payment up to the full estimated cost; or

(2) The requester has previously failed to pay a fee assessed in a timely fashion (i.e. within 30 days of the date of billing), in which case the requester may be required to—

(i) Pay the full amount owed plus any applicable interest as provided in paragraph (i) of this section, or prove payment of the alleged amount in arrears, and

(ii) Make an advance payment of the full amount of the estimated cost before a new or pending request will be processed.

(k) *Effect of nonpayment.* When the Office acts under either paragraph (j)(2)(i) or (j)(2)(ii) of this section, the administrative time limits prescribed in subsection (a)(6) of the Freedom of Information Act will begin only after the fee payments described above have been received.

(l) *Interest charges.* Interest may be charged to any requester who fails to pay fees assessed within 30 days of the date of billing. Interest will be assessed on the 31st day following the day on which the bill for fees was sent, and will be calculated at the rate prescribed in 31 U.S.C. 3717. Receipt of fees, even if not processed, will stay the accrual of interest.

(m) *Collections.* If the Office deems it appropriate in order to encourage repayment of fees assessed in accordance with these regulations, the Office will use the procedures authorized by the Debt Collection Act of 1982 (Pub. L. 97–365), including disclosure to consumer reporting agencies and use of collection agencies.

4. Section 1260.5 is revised to read as follows:

§ 1260.5 Appeals.

Any denial, in whole or in part, of a request for records of the Office of the Special Counsel shall advise the requester of his right to appeal the denial to the Special Counsel or his designee. The requester shall submit his appeal in writing within 30 days of the denial. The appeal shall be addressed to the Special Counsel at 1120 Vermont Avenue, NW., Washington, DC 20005. Except in unusual circumstances the Special Counsel or his designee shall make a determination on the appeal within 20 working days after it is received. When a request is denied on appeal, the requester shall be advised of his right to seek judicial review.

PART 1261—[AMENDED]

5. The authority citation for part 1261 continues to read as follows:

Authority: 5 U.S.C. 552a.

6. Paragraph (a) of § 1261.2 is revised to read as follows:

§ 1261.2 Access to records and identification.

(a) Individuals may request access to records pertaining to them that are maintained as described in § 1261.1 by addressing an inquiry to the Office of the Special Counsel either by mail or by appearing in person at the offices of the Special Counsel at 1120 Vermont Avenue, NW., Washington, DC 20005, during business hours on a regular business day. Requests in writing should be clearly and prominently marked "Privacy Act Request". Requests for copies of records shall be subject to duplication fees set forth in § 1260.4 of this subchapter.

* * * * *

[FR Doc. 87–25574 Filed 11–4–87; 8:45 am]

BILLING CODE 7405–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 59

Importation of Egg Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the regulations for the mandatory inspection of eggs and egg products by adding The Netherlands to the list of countries from which egg products are eligible to be imported into the United States. The egg products inspection system of The Netherlands is acceptable pursuant to the Egg Products Inspection Act (EPIA) and the regulations thereunder. Approved plants in The Netherlands are eligible to ship egg products to the United States.

EFFECTIVE DATE: December 7, 1987.

FOR FURTHER INFORMATION CONTACT: Howard M. Magwire, Assistant Chief, Grading Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Post Office Box 96456, Washington, DC 20090–6456 (202/447–3272).

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This final rule has been reviewed for cost effectiveness under U.S. Department of Agriculture (USDA) Secretary's procedures established in Departmental Regulation 1512–1 implementing Executive Order 12291. The rule adds The Netherlands as a country from which egg products are eligible to be imported into the United States. However, it is estimated that only a small volume of egg products in comparison with domestic production will be imported annually.

Effect on Small Entities

The Administrator of the Agricultural Marketing Service (AMS) has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the amount of egg products estimated to be imported would represent a relatively small volume compared to domestic production, based on fiscal year 1986 data.

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Background

Section 17 of the EPIA (21 U.S.C. 1046) prohibits the importation into the United States of egg products, unless they are processed under an approved continuous inspection system of the foreign government and are labeled and packaged in accordance with the standards of the Act and regulations issued thereunder. The regulations addressing imported egg products are contained in 7 CFR Part 59. In these regulations, the Administrator has established procedures by which foreign countries desiring to export egg products to the United States may become eligible to do so.

Section 59.910 of the egg products inspection regulations (7 CFR 59.910) provides that an egg products inspection system maintained by a foreign country, with respect to plants preparing products in that country for export to the United States, must ensure compliance of such plants and their egg products with requirements meeting the applicable provisions of the EPIA and the regulations that are applied to official plants in the United States and their egg products.

Before eligibility is granted, a complete evaluation of the country's inspection system is made by USDA personnel. This evaluation consists of two processes—document reviews and onsite reviews of system operations. The document review process involves a review of the laws, regulations, and other written materials used by the country to operate the inspection program. Each point of the country's laws, regulations, and other material is compared with U.S. requirements.

If the document review proves to be satisfactory, onsite reviews are scheduled to evaluate applicable aspects of the country's program. When all requirements of the EPIA and regulations thereunder are satisfied, the country is considered eligible to export products to the United States.

The Netherlands—Review Results

After reviewing all of the documents submitted by The Netherlands and evaluating the findings of the onsite reviews, the egg products inspection system of The Netherlands has been judged by AMS to be adequate to assure, with respect to plants within The Netherlands preparing product for export to the United States, compliance with requirements applicable to official plants within the United States which prepare egg products.

Proposal

A proposed revision was published in the **Federal Register** (52 FR 17763) on May 12, 1987, to provide for the eligibility of egg products produced in certain approved Dutch plants to be imported into the United States.

Accordingly, AMS is amending § 59.910 of the egg products inspection regulations (7 CFR 59.910(b)) to add The Netherlands to the list of countries from which egg products may be eligible for import into the United States.

Discussion of Comments

A notice of proposed rulemaking was published in the **Federal Register** (52 FR 17763) on May 12, 1987. The proposed rule comment period was to close on July 13, 1987, but was extended to August 12, 1987. The extension notice published in the **Federal Register** (52 FR 27562) on July 22, 1987, was based on a request from an industry organization for additional time to evaluate the proposed rule and make comments. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to AMS.

AMS received 18 letters on the proposal within the allotted time period. Letters were received from industry members, trade associations, the military, State governments, and both Houses of Congress. The following is a discussion of issues raised by those commentors and the Agency's response to each.

Comment: One commenter supported the proposal provided that a sufficient number of onsite reviews (at least two), involving several plants, were conducted annually by USDA to ensure continued compliance with applicable provisions of EPIA.

Response: Current regulations provide that onsite reviews may be conducted as often as necessary to ensure the continued compliance of the foreign inspection system with applicable provisions of the EPIA and regulations issued thereunder. This provides the Agency with the flexibility to conduct as many onsite reviews as it deems necessary. This does not mean, however, that the Agency plans to conduct a specific number of annual reviews because the Agency reserves the right to allocate its inspection resources in the most cost-effective manner possible in order to maintain compliance.

Comment: Several commenters argued that the proposed revision would enable Dutch egg products plants to operate a dual inspection system, processing product for both the Dutch domestic market and export to the United States. Also, they believed this arrangement would greatly complicate USDA's ability to reasonably assure that all production ultimately for export is actually being inspected under the prescribed set of rules and regulations.

Response: Under the EPIA, egg products produced for export to this country must comply with the standards and requirements of the EPIA and its regulations. Moreover, plants listed as eligible for export to the United States must maintain a single standard of inspection and sanitation regardless of whether they are producing egg products for domestic or export markets. Thus, facility requirements, the inspection system, sanitation, and other controls that are not readily changeable must remain in place at all times while a plant is listed to ship product to the United States. Additionally, the Dutch Government has set forth specific control procedures to ensure the proper segregation of product intended for export to the United States. Product produced for this country will be processed separately from domestic product. Dutch officials will advise us prior to production of the dates eligible product will be processed, enabling our representative currently in The Hague to monitor these procedures if we deem this necessary.

Comment: A number of commenters expressed opposition over concerns that can be grouped under the broad category of unfair trade issues. These include Dutch subsidies to their egg industry, other European Economic Community (EEC) countries shipping subsidized surplus eggs to The Netherlands, and denial of U.S. access to Dutch egg products markets.

Response: The Agency appreciates the commenters concerns about alleged unfair trade practices; however, this matter is beyond the scope of this revision and beyond the authority of the EPIA. The Agency has no authority to base its eligibility determination on factors other than the country's laws, regulations, and information about public health controls.

Regarding the shipment of U.S. egg products to The Netherlands, the Dutch Agricultural Attache has confirmed that The Netherlands has no restrictions for egg products from the United States. However, products from the United States would have to comply with the Dutch requirements concerning composition, labeling, and food hygiene in accordance with Dutch Food Law as well as be subject to EEC basic and variable levies.

Comment: One commenter state that the proposed approval would allow additional eggs to enter into the U.S. marketing channels. Further, this action would have a negative impact on the U.S. egg industry by depressing prices.

Response: This comment which concerns the domestic shell egg market is not pertinent to the Agency's review of the foreign inspection system. The price of shell eggs in the domestic market is an issue outside of the authority of the EPIA and cannot be a factor considered by the Agency in determining if a foreign government's inspection system meets the applicable provisions of the EPIA and regulations.

Comment: A few commenters stated that the proposed approval would be another burden for the U.S. egg products industry, consumers, and taxpayers. It would require additional inspection and surveillance to guarantee that imported egg products meet the requirements applicable to official plants in the United States.

Response: The EPIA is the legislative authority authorizing USDA to administer the mandatory egg products inspection program. Under this authority, USDA is required to make any necessary inspections of domestic and approved foreign egg products inspection systems to ensure that the health and welfare of consumers are protected and that eggs and egg products used by them are wholesome, otherwise not adulterated, and properly labeled and packaged.

Comment: A few commenters argued that the Dutch egg industry follows manufacturing practices inferior to the United States and the proposed rule does not propose adequate measures to ensure that the imported products are of a high enough quality.

Response: The Agency evaluated the domestic inspection system of The Netherlands and its procedures and controls for inspection of egg products destined for export to this country and controls that are not readily changeable which must remain in place. In that regard, AMS based its eligibility determination on a two-step process involving document reviews and onsite reviews of system operations. The document review involved a review of the laws, regulations, and other written material used by the foreign country to operate its U.S. export inspection program. Each point of the country's laws, regulations, and other material was compared with U.S. requirements. Next, onsite reviews were conducted to evaluate applicable aspects of the country's program. After reviewing all the documents submitted by The Netherlands and evaluating the findings of the onsite reviews, the Agency has determined that the Dutch U.S. export egg products inspection system meets applicable egg products inspection standards and requirements that apply to official plants in the United States.

Comments: A few commenters supported the proposed approval because they believed it would: open up trading opportunities with The Netherlands, provide a stimulus to increase the sale of U.S. products to EEC countries, or give U.S. firms access to Dutch products which were previously unavailable to them.

Response: Issues, such as free trade and the availability of new products, are beyond the scope of this proposed revision. The Agency has no authority to base its decision on factors other than technical issues involving the foreign country's inspection system.

Comment: Two commenters noted that since there will not be a USDA inspector or a full-time USDA inspector in the Dutch plants, there will not be a way to ensure that the Dutch egg products exported to the United States will meet the health and quality standards required of U.S. producers and processors. Additionally, one of the commenters expressed the understanding that Dutch plants would be "spot checked" by U.S. meat inspectors which would not be equivalent.

Response: The EPIA does not require that foreign plants be inspected on a full-time basis by a USDA inspector. It provides for approval of an inspection system of a foreign government. The National Government of The Netherlands, through the Ministry of Agriculture and Fisheries, implements and conducts the Dutch egg products inspection program. The Ministry will staff plants approved to export egg products to the United States with a representative(s) of the Dutch Government who will ensure compliance with the applicable provisions of the EPIA and the regulations that apply to official plants in the United States. The Agency, through its review process, has determined that this aspect of the Dutch egg products inspection program complies with the continuous onsite inspection requirement of the EPIA. AMS has confidence that the Dutch inspection system as a whole meets our requirements; is well managed, and operates in a manner that ensures, as does ours, a wholesome finished product. Moreover, periodic inspection of Dutch plants by our personnel currently stationed in The Hague and by personnel stationed in Washington, DC, will provide additional assurances that Dutch plants are in compliance with our requirements on an ongoing basis. While it is true that personnel stationed in The Hague are mainly involved in meat and poultry inspection, they have been provided training and qualified for egg products inspection. This training is judged by AMS to be adequate to ensure proper inspection of approved Dutch egg products plants.

Comment: One commenter alleged that Dutch plants are permitted to process egg liquid from unwashed eggs for domestic production and that it is virtually impossible to clean plant processing equipment on a day-to-day basis in order to remove all traces of the unwashed egg liquid, thereby affecting the wholesomeness of subsequent products produced for export.

Response: Cleaning, sanitizing, and inspection procedures used in Dutch plants eligible for export must meet requirements of the EPIA and regulations thereunder. Based on field experience, the Agency finds these practices adequate to ensure the production of wholesome egg products.

Comment: This commenter also expressed a number of concerns about alleged practices in The Netherlands that would provide an unfair economic advantage to Dutch plants or that raise serious health questions for U.S. consumers. These were that egg liquid from other countries would be available for use in Dutch plants; that European egg producers would use dyes not permitted in the United States to produce a desired yolk color; that certain loss eggs would be used to produce egg products; that lysozyme-reduced egg whites would not be properly labeled; and that "hatchery clears" or incubated eggs would be used to produce egg products. One other commenter argued against the proposed rule because the Dutch import egg liquid from other countries, and producers in many of those countries use dyes which are prohibited in the United States to produce a darker, more desirable yolk color.

Response: The Dutch have submitted and the Agency has approved regulations covering egg products for export to this country that prohibit each of these practices. Moreover, the Agency has reviewed and judged the Dutch inspection system as meeting our requirements. However, the Agency appreciates these concerns and will give them particular attention during onsite inspection visits to The Netherlands.

Paperwork Reduction Act

This rule would not change or require any additional collection of information

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from the public under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35. Existing information collection requirements in 7 CFR Part 59 have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and assigned OMB Control Number 0581-0113.

List of Subjects in 7 CFR Part 59

Shell eggs, Egg products, Mandatory inspection service.

For reasons set out in the preamble and under authority contained in the EPIA (21 U.S.C. 1031-1056), Title 7, Part 59 of the Code of Federal Regulations is amended as set forth below:

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

1. The authority citation of Part 59 continues to read as follows:

Authority: Secs. 2-38 of the Egg Products Inspection Act (84 Stat. 1620-1635; 21 U.S.C. 1031-1056).

§ 59.910 [Amended]

2. Paragraph (b) of § 59.910 (7 CFR 59.910(b)) is amended by adding alphabetically the following country to the list of countries from which egg products are eligible to be imported into the United States: The Netherlands.

Done at Washington, DC, on: October 29, 1987.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 87-25493 Filed 11-4-87; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-16084; File No. S7-20-87]

Distribution of Long-Term Capital Gains by Registered Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule amendment.

SUMMARY: The Commission has amended an existing rule to allow registered investment companies to make an additional distribution of long-term capital gains for the purpose of not incurring a special excise tax. The amendment was adopted because of the effect of tax law changes on certain registered investment companies. The amendment eliminates the need for those companies to obtain exemptive orders to make the desired distributions. The Commission has also adopted technical changes to clarify certain references in the existing rule.

EFFECTIVE DATE: November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Brian M. Kaplowitz, Chief, (202) 272-2048, Office of Regulatory Policy, or Lawrence A. Friend, Chief Accountant, (202) 272-2106, Office of Disclosure Review, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today has amended rule 19b-1 (17 CFR 270.19b-1) under the Investment Company Act of 1940 ("Act") (15 U.S.C. 80a-1 et seq.). The rule generally prohibits a registered investment company from distributing long-term capital gains more frequently than once with respect to any taxable year. The amendment, which the Commission proposed on June 5, 1987 (Investment Company Act Release No. 15771) ("Proposing Release"),[1] allows certain investment companies to make one additional distribution of long-term capital gains for each taxable year, if needed to avoid assessment of an excise tax. At the same time, the Commission has also adopted its proposed technical changes to clarify certain references in the rule.

The background and reasons for the amendment are summarized in this release. The Proposing Release contains a more detailed discussion.

Background

Section 19(b) (15 U.S.C. 80a-19(b)) was adopted as part of the 1970 amendments to the Act.[2] The section prohibits registered investment companies from distributing, in contravention of such rules, regulations or orders as the Commission may prescribe, long-term capital gains more often than once every twelve months.[3] Rule 19b-1 implements section 19(b).[4]

[1] 52 FR 22496 (June 12, 1987).

[2] Investment Company Amendments Act of 1970, Pub. L. 91-547, 11, 84 Stat. 1413, 1422 (1970).

[3] Section 19(b) of the Act provides that:

It shall be unlawful in contravention of such rules, regulations, or orders as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors for any registered investment company to distribute long-term capital gains, as defined in the [Internal Revenue Code], more often than once every twelve months.

[4] Investment Company Act Rel. No. 6634 (Nov. 23, 1971) (36 FR 232 (Dec. 2, 1971)).

The rule prohibits, with minor exceptions, investment companies from distributing more than one long-term capital gains dividend with respect to any taxable year.[5]

Under tax law changes effected by the Tax Reform Act of 1986,[6] the Internal Revenue Code ("Code") (26 U.S.C. 1 *et seq.*) imposes for each calendar year a 4% nondeductible excise tax ("Excise Tax") on any regulated investment company ("RIC") that does not distribute by December 31 to its shareholders at least 90% of its net aggregate short- and long-term capital gains ("Required Distribution") realized for the twelve-month period ended on October 31 of that year.[7] Thus, the Excise Tax, in effect, requires a RIC to make a long-term capital gains distribution by the close of the calendar year.

Since many RICs would also need to make a distribution at the end of their taxable year to receive the favorable tax treatment afforded by Subchapter M of the Code, distributions made to satisfy the Required Distribution could lead to violations of section 19(b) and rule 19b-1.[8] These RICs would need to make two

[5] Paragraph (a) of rule 19b-1 allows a regulated investment company to make a supplemental distribution of up to 10% of the prior distribution. (A regulated investment company, as is relevant here, is any management company registered under the Act, and which, among other things, derives at least 90% of its gross income from securities or currency-related holdings or transactions. I.R.C. section 851.) Further, under paragraph (c) of the rule, an investment company may make a special distribution otherwise prohibited by the rule in the event of "unforeseen circumstances," if it first files a request with the Commission to do so, and the Commission does not deny such request within 15 days after receipt thereof.

[6] Pub. L. 99-514, section 681, 100 Stat. 2294-2297 (1986).

[7] I.R.C. section 4982. A RIC may also be subject to the Excise Tax if it did not make certain other distributions; *e.g.*, the term "required distribution" under the Code includes 97% of a RIC's ordinary income for the calendar year. I.R.C. section 4982(b). The Excise Tax is imposed on the excess of the "required distribution for such calendar year" over the "distributed amount for such calendar year." I.R.C. section 4982(a). "Distributed amount" includes, generally, the dividends paid during the calendar year plus amounts upon which corporate income tax is imposed during such calendar year. I.R.C. section 4982(c).

[8] Under Subchapter M, long-term capital gains earned by a RIC during its taxable year and distributed to investors would not be subject to a corporate tax; however, they would be taxable income to the investor for the year in which they were received. *See generally* I.R.C. sections 561, 852, 855. For undistributed long-term capital gains, the RIC would generally deem the gains distributed and pay the applicable tax, with the investor generally receiving a pro rata credit for the amount paid. *Id.*

long-term capital gains distributions with respect to a taxable year in order not to be subject to additional tax, while section 19(b) and the rule generally permit only one.

Discussion

1. Summary of Comments

The Commission received five comment letters on the proposed amendment.[9] All of the commentators supported allowing the additional distribution. Two commentators believed, however, that the specifics of the proposal should be changed. They were concerned that the amendment would not permit a RIC to make an additional distribution of long-term capital gains that was in excess of the amount required to satisfy the Required Distribution. In addition, one of these commentators believed that the proposal was ambiguous with respect to the timing of the additional distribution, and that the amendment would impair a RIC's ability to distribute fully all realized capital gains. Finally, that commentator also believed that the condition requiring an explanation of the reason for the additional distribution is unnecessary.

The commentator that raised most of the questions concerning the proposal suggested an alternative approach under which a RIC would be permitted, unconditionally, and for any purpose, to make two distributions of long-term capital gains with respect to its fiscal year. This approach would also permit the RIC to make a distribution supplemental to the first two ("Spillover Distribution") to be based on realized, rather than distributed, gains.[10]

2. Response to the Comments

The amendment was not intended to limit the amount of the additional distribution. Consequently, the amendment's text has been changed to make clear that the only requirement is that the purpose of the distribution, in whole or in part, be to avoid imposition of any Excise Tax.[11] Thus, a RIC may distribute, as a single distribution, more than 90% of its long-term capital gains realized during a twelve-month period ended October 31.

Further, the amendment would not, as asserted by one commentator, prevent a RIC whose fiscal year ends after October 31, *e.g.*, on December 31, 1987, from distributing gains realized during November and December 1987. The amendment does not prevent such gains from being included either in the dividend representing the Required Distribution or in a separate fiscal year-end dividend distribution. The amendment permits an "additional" distribution of long-term capital gains, *i.e., in addition to* the one otherwise permitted by rule 19b-1 (for example, in addition to the distribution of November and December 1987 gains); the proposal was not phrased in terms of permitting only a "subsequent" distribution. Nevertheless, the amendment has been modified to remove this ambiguity.

Also, contrary to this commentator, the amendment would not preclude a RIC whose fiscal year ends near October 31, *e.g.*, on September 30, 1987, from distributing October 1987 gains either together with the 1987 Required Distribution or with the distribution for the fiscal year ended September 30, 1987, or as a separate distribution.[12] As indicated earlier, a distribution need not be limited to the precise amount of the Required Distribution to use the amended rule. Note also that the October 1987 distribution would be the first distribution with respect to the RIC's fiscal year ending September 30, 1988, and would, therefore, not be prohibited by rule 19b-1. The RIC, however, would have to be confident that its fiscal 1988 year-end distribution would satisfy the 1988 Required Distribution because that year-end distribution would be the second distribution covering fiscal 1988. Using the commentator's example, if it turns out that the RIC's October 1988 gains are so large in proportion to its fiscal 1988 gains that gains during its fiscal year (October 1, 1987, through September 30, 1988) do not constitute 90% of gains from November 1, 1987, through October 31, 1988, then the fiscal year 1988 year-end distribution would be a prohibited distribution because it would not satisfy the Required Distribution. One way to avoid this potential problem is for the RIC to distribute October 1987 gains as part of its fiscal 1988 year-end distribution.

The commentator further noted that, under the proposal, a distribution covering the period from November 1 to a particular RIC's fiscal year-end might be considered as the basis upon which a Spillover Distribution would be calculated.[13] Accordingly, paragraph (a) of rule 19b-1 has been modified to make clear that the maximum amount allowable as a Spillover Distribution is to be based on the aggregate of the long-term capital gains distributed for the taxable year rather than on merely the "prior distribution."[14]

The commentator also took issue with the condition to the amendment that requires the reason for the additional distribution to be included in the notice accompanying such distribution. The commentator argued that stating the reason for the distribution in the notice could limit a RIC's flexibility in making further distributions for the same fiscal year, and also could confuse investors because the aggregate dividend distribution would likely include distributions other than that made to satisfy the Required Distribution.

The Commission has concluded that stating the reason for the additional distribution in the accompanying notice is not necessary at this time.[15] Accordingly, the condition requiring an explanation of the reason for the additional distribution has been deleted from the rule.

Finally, the commentator proposed an alternative amendment which does not relate the additional distribution to the

[9] Another comment letter was received subsequent to the close of the comment period. Because that commentator made comments similar to those discussed herein, such comments will not be discussed separately.

[10] *See supra* note 5. *See also infra* note 14 and accompanying text.

[11] It should be noted that an additional distribution made merely for the purpose of reducing, rather than avoiding altogether, the Excise Tax is not permitted by the amended rule. However, should a small miscalculation of the Required Distribution result in the assessment of any Excise Tax, the conditions of the rule will still be met if the purpose of the distribution was complete avoidance of such tax.

[12] For example, if a RIC realized $160 of gain from November 1, 1987, through September 30, 1988, and an additional $20 of gain from October 1, 1988 through October 31, 1988, it could distribute the full $200, even if only $180 (90% × $200) is needed to satisfy the 1988 Required Distribution. Moreover, it could do so even if there had been a prior distribution of the gains for the October 1, 1987, to October 31, 1987, period. Although the $180 dividend would be the second distribution covering fiscal 1988, this distribution would satisfy the 1988 Required Distribution and, therefore, would meet the conditions of the amended rule.

[13] Under this construction, the Spillover Distribution would be limited to 10% of the actual taxable year-end distribution rather than the aggregate of that distribution plus the amount distributed as part of the Required Distribution attributed to the subject taxable year. *See supra* note 5.

[14] Such modification is in keeping with the original purpose of the Spillover Distribution. In the release adopting rule 19b-1, the Commission stated that the exception to the rule allowing a Spillover Distribution was for the purpose of permitting a RIC "to take advantage of the 'Spillover' provisions of the Code under which certain distributions made after the close of a taxable year are considered as made during such year." Investment Company Act Rel. No. 6634 (Nov. 23, 1971) (36 FR 232 (Dec. 2, 1971)). Thus, the suggestion by the commentator that the Spillover Distribution be calculated on gains, rather than distributions, was not adopted.

[15] Section 19(a) of the Act (15 U.S.C. 80a-19(a)), and rule 19a-1 thereunder (17 CFR 270.19a-1), however, would still require distributions by RICs to be accompanied by a notice disclosing the source or sources of each distribution.

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Excise Tax provision. This approach is too broad. The language and history of section 19(b) of the Act reflect an intent to limit an investment company's distributions of long-term capital gains to one with respect to each taxable year. While the Commission has broad exemptive rulemaking authority under the Act, it may not use that authority to override concerns specifically addressed by Congress. However, sections 6(c) and 19(b) do provide flexibility for the Commission to use its authority in unique circumstances not contemplated by Congress during passage of the Act.[10] In this instance, it was the enactment of the Excise Tax provision that gave to link the amendment to that legislation.

Conclusion

The purpose of the amendment is to aid RICs to avoid unnecessary taxation. The amendment allows RICs the flexibility to make decisions regarding certain tax consequences of distributing or not distributing long-term capital gains without the necessity of seeking exemptive relief from the Commission. Further, the Commission has modified the existing rule to clarify any ambiguity as to the timing or amount of distributions and the calculation of the maximum amount of a Spillover Distribution, and has adopted the technical corrections to the existing rule that were set forth in the Proposing Release.

Regulatory Flexibility Act Analysis

A summary of the Initial Regulatory Flexibility Analysis, prepared in accordance with 5 U.S.C. 603, regarding the proposed amendment to rule 19b–1 was published in the Proposing Release. No comments were received on that analysis. The Commission has prepared a Final Regulatory Flexibility Act Analysis, prepared in accordance with 5 U.S.C. 604, a copy of which may be obtained by contacting Brian M. Kaplowitz, Esq., Mail Stop 5–2, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

Paperwork Reduction Act

The Office of Management and Budget approved the amendment to rule 19b–1 on July 31, 1987.

[10] As is relevant here, section 6(c) of the Act provides that the Commission may grant an exemption from the provisions of the Act or any rule thereunder, "if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this [Act]."

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Amendments to Rule

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended as shown.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 270 is amended by adding the following citation:

Authority: Secs. 38, 40, 54, Stat. 841, 842; 15 U.S.C. 80a–37, 80c–89; The Investment Company Act of 1940, as amended, 15 U.S.C. 80a–1 et seq.; unless otherwise noted.

* * * Section 270.19b–1 is also issued under secs. 6(c) (15 U.S.C. 80a–6(c)), 19 (a) and (b) (15 U.S.C 80a–19 (a) and (b)), and 38(a) (15 U.S.C. 80a–37(a)).

2. By amending § 270.19b–1 by revising paragraphs (a) and (c)(1)(iii), and adding a new paragraph (f) as follows:

§ 270.19b–1 Frequency of distribution of capital gains.

(a) No registered investment company which is a "regulated investment company" as defined in section 851 of the Internal Revenue Code of 1986 ("Code") shall distribute more than one capital gain dividend ("distribution"), as defined in section 852(b)(3)(C) of the Code, with respect to any one taxable year of the company, other than a distribution otherwise permitted by this rule or made pursuant to section 855 of the Code which is supplemental to the prior distribution with respect to the same taxable year of the company and which does not exceed 10% of the aggregate amount distributed for such taxable year.

* * * * *

(c) * * *

(1) * * *

(iii) The sale of an eligible trust security to maintain qualification of the Trust as a "regulated investment company" under section 851 of the Code,

* * * * *

(f) A registered investment company may make one additional distribution of long-term capital gains, as defined in the Code, with respect to any one taxable year of the company, which distribution is made, in whole or in part, for the purpose of not incurring any tax under section 4982 of the Code. Such additional distribution may be made prior or subsequent to any distribution otherwise permitted by paragraph (a) of this section.

By the Commission.

Jonathan G. Katz,

Secretary.

October 29, 1987.

[FR Doc. 87–25557 Filed 11–4–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 86C–0455]

MICA; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of September 11, 1987, for the final rule that amended the color additive regulations to provide for the safe use of mica in dentifrices that are drugs as well as cosmetics. FDA also changed the fineness specification for mica to permit a larger average particle size distribution.

EFFECTIVE DATE: September 11, 1987.

FOR FURTHER INFORMATION CONTACT: JoAnn Ziyad, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 11, 1987 (52 FR 29664), FDA amended the color additive regulations to provide for the safe use of mica in dentifrices that are drugs as well as cosmetics and also changed the fineness specification for mica to permit a larger average particle size distribution.

FDA gave interested persons until September 10, 1987, to file objections or requests for a hearing on this final rule. The agency received no objections or requests for a hearing. Therefore, FDA concludes that the final rule published in the **Federal Register** of August 11, 1987, should be confirmed.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the August 11, 1987, final rule. Accordingly, the amendments to § 73.1496 (a)(1), (b), and (c) became effective September 11, 1987.

Dated: October 30, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–25562 Filed 11–4–87; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 184

[Docket No. 86G–0066]

Substances Affirmed as Generally Recognized as Safe; Glyceryl Behenate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that glyceryl behenate is generally recognized as safe (GRAS) for use as a formulation aid in excipient mixtures used in food prepared as tablets.

EFFECTIVE DATE: November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Center for Food Safety and Applied Nutrition, (HFF–334), 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: In accordance with § 170.35 (21 CFR 170.35), Gattefosse Etablissements, 36 Chemin de Genas, Saint Priest, France, submitted a petition (GRASP 6G0308) requesting that glyceryl behenate be affirmed as GRAS for use as an excipient in food prepared as tablets.

FDA published a notice of filing of this petition in the **Federal Register** of June 4, 1986 (51 FR 20354), advising that any comments should be submitted to the Dockets Management Branch (HFC–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. No comments were received in response to this notice.

Glyceryl behenate has no history of food use prior to 1958.

Identity

Glyceryl behenate is a mixture of glyceryl esters (glycerides) of commercial behenic acid. It contains primarily diglycerides (47 to 59 percent) but also triglycerides (26 to 38 percent) and a smaller amount of monoglycerides (10 to 20 percent). Glyceryl behenate is similar in composition to the emulsifying agent mono- and diglycerides of edible fats and oils, or edible fat-forming acids (mono- and diglycerides), which is listed as GRAS in § 182.4505 (21 CFR 182.4505). However, glyceryl behenate contains a higher proportion of triglycerides than does mono- and diglycerides and also contains behenic acid as its primary fatty acid. Behenic acid is not commonly found in traditional edible fats and oils, although it is found in fully hydrogenated rapeseed oil, whose use is affirmed as GRAS in § 184.1555.

The notice of filing in this proceeding used the name "glyceryl behenate" to represent the material that is the subject of the petition. The agency has considered this name to be appropriate primarily for simplicity, although the material is actually not a single chemical substance.

Manufacturing Process

Glyceryl behenate is manufactured by heating a mixture of glycerin and behenic acid (a saturated C_{22} fatty acid). The reaction can proceed with or without the use of a solvent and catalysts. Nevertheless, solvents and catalysts, such as those currently used in the manufacture of fatty acid derivatives, may be used in the manufacture of this ingredient.

Commercial behenic acid, which is one of the raw materials for manufacture of glyceryl behenate, is produced from hydrogenated rapeseed oil and has the approximate composition of 88 percent behenic acid, 10 percent arachidic acid and oleic acid, and 2 percent fatty acids with a higher carbon number than C_{22} (such as lignoceric acid). It may also contain a trace amount of erucic acid but at a level of less than 1 percent.

Technical Effects and Use Levels

The proposed use of the substance is as a component of excipient mixtures used in foods prepared as tablets. The technical properties of the additive in excipient formulations are similar to those of other fatty acid glycerides. Fatty acid glycerides, in general, are excellent lubricants, have good binding effect, have good flowing potency, eliminate any cleavage problem, and are totally inert toward active ingredients.

The petitioner stated that the normal use level of the substance will be 1 to 4 percent of total tablet weight, but that in some special cases, such as in sustained release formulations, the use level may be 10 to 20 percent. The petition contains no information that would clearly demonstrate the existence of a technological self-limiting use level.

Estimated Daily Intake

The petitioner stated that the typical dosage of vitamin pills is one or two tablets per day, but that individuals taking different vitamins in separate pills may take as many as six tablets per day.

FDA sponsored a telephone survey of vitamin/mineral supplement use in 1980 (Stewart et al., *Journal of the American Dietetic Association,* pp. 1585–1590, December 1985). This survey, although not a definitive survey of vitamin/mineral supplement use, provides the best data available for estimating potential consumption of glyceryl behenate. The survey estimated that 40 percent of U.S. consumers over 16 years of age ingest at least one supplement per day, and that the median intake of these users is one supplement per day. Using the middle value of the range of glyceryl behenate content for tablets, which is 10 percent, and using the median intake of one supplement having a typical table weight of 600 milligrams (mg) per day, the agency estimates that the likely chronic, daily intake for glyceryl behenate would be 60 mg per person per day.

In its safety review of glyceryl behenate, the agency's major concern was the potential increase in consumption of behenic acid that would result from the petitioned use of glyceryl behenate. Because 60 mg of glyceryl behenate contain about 46 mg of behenic acid, the estimated daily intake for behenic acid from this use would be 46 mg per person per day.

Safety Information

The petition cited the GRAS status of fully hydrogenated rapeseed oil (21 CFR 184.1555(a)) and superglycerinated fully hydrogenated rapeseed oil (21 CFR 184.1555(b)), and the data supporting the GRAS status of these ingredients (previously submitted in GRAS petition 4G0036), to support the safety and GRAS status of glyceryl behenate. Included in this data was a 90-day subchronic study in rats of fully hydrogenated rapeseed oil, which supported a daily intake of 189 mg of behenic acid per person after applying a 1,000-fold safety factor. This figure is significantly higher than the estimated daily intake for behenic acid (46 mg per person per day), as stated above, from the petitioned use of glyceryl behenate.

Fully hydrogenated rapeseed oil is a triglyceride, while superglycerinated fully hydrogenated rapeseed oil and glyceryl behenate are mixtures of mono-di-, and triglycerides. Both fully hydrogenated rapeseed oil and superglycerinated fully hydrogenated rapeseed oil have the same fatty acid composition, which is a mixture of saturated fatty acids (from C_{16} to C_{24}),

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with behenic acid accounting for about 42 percent.

Although the percentages of fatty acids in these two oils are different from that in glyceryl behenate, the types of fatty acids in the three oils are the same because they are all derived from fully hydrogenated rapeseed oil. The only difference among these oils is in the relative proportions of the fatty acids. Furthermore, because superglycerinated fully hydrogenated rapeseed oil and glyceryl behenate have similar percentage distributions of mono-, di-, and triglycerides, they have similar physical properties. Based on the similarity between glyceryl behenate and fully hydrogenated rapeseed oil and superglycerinated fully hydrogenated rapeseed oil and on its review of the information in GRAS petition 4G0036, FDA concludes that the information that supports the GRAS status of the use of the latter two substances can be relied upon in deciding whether the petitioned use of glyceryl behenate is GRAS.

Conclusions

The agency has evaluated all the information in the petition along with other available information that relates to the petitioned use of glyceryl behenate and has reached the following conclusions:

1. Glyceryl behenate is not GRAS based upon history of common use in food.

2. Glyceryl behenate is safe for use in tablets based on FDA's evaluation of information on the manufacturing process, the chemical composition, the estimated consumer exposure, and the toxicity of glyceryl behenate, fully hydrogenated rapeseed oil, and superglycerinated fully hydrogenated rapeseed oil.

3. Glyceryl behenate is GRAS based on scientific procedures. Glyceryl behenate is as safe as fully hydrogenated rapeseed oil and superglycerinated fully hydrogenated rapeseed oil. As noted above, glyceryl behenate has a similar percentage distribution of mono-, di-, and triglycerides as that in superglycerinated fully hydrogenated rapeseed oil and is composed of glycerides of the same fatty acids as those found in fully hydrogenated rapeseed oil and superglycerinated fully hydrogenated rapeseed oil. FDA affirmed that the use of the latter two oils is GRAS on the basis of scientific procedures (42 FR 46335 September 23, 1977). FDA is affirming that the use of glyceryl behenate as a formulation aid is GRAS on the basis of this material's similarity in composition to these oils.

4. Like other fatty acid glycerides, glyceryl behenate is effective for use in excipient formulations.

5. The material affirmed as GRAS is food-grade glyceryl behenate conforming to the identity and specifications set forth in the regulation below.

Therefore, the agency is affirming that when done in accordance with good manufacturing conditions, the use of glyceryl behenate as a formulation aid in excipient formulations for tablets is GRAS under § 184.1(b)(1). The agency is including the technical effect and food use in the regulation to make clear that the affirmation of the GRAS status of this material is based on the evaluation of limited uses.

Environmental Effects

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Economic Effects

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this rule would have on small entities including small businesses and has determined that the effect of this final rule is to provide a new use for glyceryl behenate. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, the economic effects of this rule have been analyzed, and FDA has determined that the rule is not a major rule as defined by that order. A copy of the threshold assessment supporting this determination is on file with the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 184

Food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 184 is amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR Part 184 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10, 5.61.

2. Part 184 is amended by adding new § 184.1328 to read as follows:

§ 184.1328 Glyceryl behenate.

(a) Glyceryl behenate is a mixture of glyceryl esters of behenic acid made from glycerin and behenic acid (a saturated C_{22} fatty acid). The mixture contains predominantly glyceryl dibehenate.

(b) The ingredient meets the following specifications:

(1) 10 to 20 percent monoglyceride, 47 to 59 percent diglyceride, 28 to 38 percent triglyceride, not more than 1 percent free glycerin, and not more than 2.5 percent free fatty acids.

(2) Behenic acid. Between 80 and 90 percent of the total fatty acid content.

(3) Acid value. Not more than 4.

(4) Saponification value. Between 145 and 165.

(5) Iodine number. Not more than 3.

(6) Heavy metals (as Pb). Not more than 10 parts per million.

(c) In accordance with § 184.1(b)(1) of this chapter, the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient is generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a formulation aid, as defined in § 170.3(o)(14) of this chapter.

(2) The ingredient is used in excipient formulations for use in tablets at levels not to exceed good manufacturing practice.

Dated: October 30, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-25583 Filed 11-4-87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 430, 436, and 442

[Docket No. 87N-0317]

Antibiotic Drugs; Cefuroxime Axetil Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new dosage form of cefuroxime, cefuroxime axetil tablets. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective November 5, 1987; comments, notice of participation, and request for hearing by December 7, 1987; data, information, and analyses to justify a hearing by January 4, 1988.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFN–815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new dosage form of cefuroxime, cefuroxime axetil tablets. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in 21 CFR Parts 430, 436, and 442 to provide for the inclusion of accepted standards for the product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The final rule, therefore, is effective November 5, 1987. However, interested persons may on or before December 7, 1987, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before December 7, 1987, a written notice of participation and request for hearing, and (2) on or before January 4, 1988, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed in the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 436

Antibiotics.

21 CFR Part 442

Antibiotics.

Therefore under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 430, 436, and 442 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR Part 430 continues to read as follows:

Authority: Secs. 507, 701(a), 59 Stat. 463 as amended, 52 Stat. 1055 (21 U.S.C. 357, 371(a)); 21 CFR 5.10.

2. Part 430 is amended in § 430.5 by adding new paragraphs (a)(91) and (b)(93) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(91) *Cefuroxime axetil.* The term "cefuroxime axetil master standard" means a specific lot of cefuroxime axetil that is designated by the Commissioner as the standard of comparison in determining the potency of the cefuroxime axetil working standard.

(b) * * *

(93) *Cefuroxime axetil.* The term "cefuroxime axetil working standard" means a specific lot of a homogeneous preparation of cefuroxime axetil.

3. In § 430.6 by adding new paragraph (b)(93) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * * *

(b) * * *

(93) *Cefuroxime axetil.* The term "microgram" applied to cefuroxime axetil means the cefuroxime activity (potency) contained in 1.246 micrograms of the cefuroxime axetil master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

4. The authority citation for 21 CFR Part 436 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

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5. Part 463 is amended in § 436.215 by alphabetically inserting a new item into the table in paragraph (b) and by adding new paragraph (c)(9) to read as follows:

§ 1436.215 Dissolution test.

* * * * *

(b) * * *

Dosage form	Dissolution medium	Rotation rate [1]	Sampling time(s)	Apparatus
*	*	*	*	*
Cefuroxime axetil tablets.	900 mL 0.07*N* hydrochloric acid.	55	15 min. and 45 min.	2
*	*	*	*	*

[1] Rotation rate of basket or paddle stirring element (revolutions per minute)

(c) * * *

(9) *Cefuroxime axetil*—(i) *Preparation of working standard solution.* Accurately weight approximately 60 milligrams of cefuroxime axetil working standard into a suitable-sized volumetric flask. Dissolve in 5 milliliters of methanol and dilute to volume with 0.07*N* hydrochloric acid. Further dilute with 0.07*N* hydrochloric acid to obtain a known concentration equivalent to 0.01 to 0.02 milligram of cefuroxime activity per milliliter.

(ii) *Preparation of sample solution.* Filter the sample through a 0.45-micrometer filter and dilute an accurately measured portion of the filtrate with sufficient 0.07*N* hydrochloric acid to obtain a concentration equivalent to 0.01 to 0.02 milligram of cefuroxime activity per milliliter (estimated).

(iii) *Procedure.* Using a suitable spectrophotometer and 0.07*N* hydrochloric acid as the blank, determine the absorbance of each standard and sample solution at the absorbance peak at approximately 278 nanometers. Determine the exact position of the absorption peak for the particular instrument used.

(iv) *Calculation.* Determine the total amount of cefuroxime activity dissolved as follows:

$$T = \frac{A_u \times c \times d \times 900}{A_s}$$

where:

T = Total milligrams of cefuroxime activity dissolved;

A_u = Absorbance of sample;

c = Cefuroxime activity of working standard solution in milligrams per milliliter;

d = Dilution factor of sample filtrate; and

A_s = Absorbance of standard.

6. By adding a new § 436.217 to read as follows:

§ 436.217 Film-coat rupture test.

(a) *Immersion fluid.* Dilute 6.0 milliliters of hydrochloric acid to 1,000 milliliters with water. During the performance of the test maintain the immersion fluid at a temperature of 37±0.5 °C by using a thermostatically controlled water bath.

(b) *Immersion vessel.* Use a suitable vessel, such as a 1-liter beaker.

(c) *Operation.* Add 780 milliliters of immersion fluid to the immersion vessel.

(d) *Procedure.* Drop a tablet into the immersion fluid and record the time for the tablet coat to rupture. Repeat the test with a further 19 tablets, testing not more than 10 tablets with a given volume of immersion fluid.

(e) *Evaluation.* The tablets pass the film-coat rupture test if the mean coat rupture time does not exceed 20 seconds and not more than 2 tablets have a coat rupture time exceeding 40 seconds.

PART 442—CEPHA ANTIBIOTIC DRUGS

7. The authority citation for 21 CFR Part 442 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

8. Part 442 is amended by adding a new § 442.19 to read as follows:

§ 442.19 Cefuroxime axetial.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefuroxime axetil is an amorphous mixture of the diastereo-isomers of 5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid, 3-[[(aminocarbonyl)oxy]methyl]-7-[[2-furanyl(methoxyimino)acetyl]amino]-8-oxo-, 1-(acetyloxy)ethyl ester, [6*R*-[6 *alpha*, 7 *beta* (*Z*)]]-. It is so purified and dried that:

(i) Its potency is not less than 745 micrograms and not more than 875 micrograms of cefuroxime per milligram on an anhydrous basis. The ratio of isomer A to total isomer content is not less than 0.46 and not more than 0.55.

(ii) Its moisture content is not more than 1.5 percent.

(iii) It is amorphous and not crystalline.

(iv) It passes the identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Request for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for cefuroxime potency, isomer A ratio, moisture, crystallinity, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 278 nanometers, a 25-centimeter by 4.6-millimeter column packed with methyl silane bonded silica 5 micrometers in particle size, a flow rate of 1 milliliter per minute, and a known injection volume of 10 microliters. Reagents, working standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Reagents*—(A) *0.2M Ammonium phosphate solution.* Transfer 23.0 grams ammonium dihydrogen phosphate to a 1-liter volumetric flask. Dissolve and dilute to volume with distilled water. Mix well.

(B) *Mobile phase.* Transfer 380 milliliters of methanol to a 1-liter volumetric flask and dilute to volume with 0.2*M* ammonium phosphate solution.

(C) *Internal standard solution.* Prepare a solution containing 5.4 milligrams of acetanilide per milliliter in methanol.

(D) *System suitability test solution.* Mix 10.0 milliliters of a solution containing 1.2 milligrams of cefuroxime axetil working standard per milliliter in methanol with 5.0 milliliters of internal standard solution, 2.0 milliliters of a solution containing 0.3 milligram of an authentic sample of (*RS*)-1-acetoxyethyl (6*R*, 7*R*)-3-carbamoyloxymethyl-7-[(2*Z*)-2-(fur-2-yl)-2-methyoxy-iminoacetamindo]ceph-2-em-4-carboxylate (delta-2 isomers of cefuroxime axetil) per milliliter in methanol and 1.8 milliliters of methanol. Dilute to 50 milliliters with 0.2*M* ammonium phosphate solution.

(ii) *Preparation of working standard and sample solutions*—(A) *Working standard solution.* Dissolve approximately 30 milligrams of the cefuroxime axetil working standard, accurately weighed, in methanol and dilute to 25 milliliters with methanol. Immediately transfer 10.0 milliliters of the working standard solution to a 50-milliliter volumetric flask. Add 5.0 milliliters of internal standard solution and 3.8 milliliters of methanol, and dilute to volume with 0.2*M* ammonium phosphate soluton to obtain a solution containing 0.2 milligram of cefuroxime activity per milliliter. Store the solution under refrigeration no more than 8 hours.

(B) *Sample solution.* Dissolve approximately 30 milligrams of the sample, accurately weighed, in methanol and dilute to 25 milliliters with methanol. Immediately transfer 10.0 milliliters of the sample solution to a 50-milliliter volumetric flask. Add 5.0 milliliters of internal standard solution and 3.8 milliliters of methanol, and dilute to volume with 0.2*M* ammonium phosphate solution to obtain a solution containing 0.2 milligram of cefuroxime activity per milliliter (estimated). Store the solution under refrigeration no more than 8 hours.

(iii) *System suitability requirements*—(A) *Tailing factor.* The tailing factor (*T*) is satisfactory for isomer A if it is not more than 1.5 at 5 percent of peak height.

(B) *Efficiency of the column.* The efficiency of the column (*n*) is satisfactory for isomer A if it is greater than 3,000 theoretical plates.

(C) *Resolution.* The resolution (*R*) between isomer A and isomer B of cefuroxime axetil is satisfactory if it is not less than 1.5 and the resolution (*R*) between isomer A and the delta-2 isomers of cefuroxime axetil is satisfactory if it is not less than 1.5.

(D) *Coefficent of variation.* The coefficient of variation (S_R in percent) of five replicate injections is satisfactory if it is not more than 2.0 percent. If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter. Alternate chromatographic conditions are acceptable provided reproducibility and resolution are comparable to the system. However, the sample preparation described in paragraph (b)(1)(ii)(B) of this section should not be changed.

(iv) *Calculations*—(A) Calculate the micrograms of cefuroxime per milligram of sample as follows:

$$\frac{\text{Micrograms of cefuroxime per milligram}}{\text{Peak area of the isomer A peak + peak area of the isomer B peak}} = \frac{R_u \times P_s \times 100}{R_s \times C_u \times (100 - m)}$$

where:

R_u = Sum of the peak height of the cefuroxime axetil sample isomer A and isomer B peaks/Peak height of the internal standard;

R_s = Sum of the peak heights of the cefuroxime axetil working standard isomer A and isomer B peaks/Peak height of the internal standard;

P_s = Cefuroxime activity in the cefuroxime axetil working standard solution in micrograms per milliliter;

C_u = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(B) Calculate the ratio of isomer A to total isomer content as follows:

$$\text{Ratio of isomer A to isomer content} = \frac{\text{Peak height of the isomer A peak}}{\text{Peak height of the isomer A peak}}$$

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter, using the titration procedure described in paragraph (e)(1) of that section.

(3) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter, except that the particles do not reveal the phenomena of birefringence and extinction positions on revolving the microscope stage.

(4) *Identity.* Proceed as directed in § 436.211 of this chapter, using the mineral oil mull prepared as described in paragraph (b)(2) of that section.

9. By adding new § 422.119 to read as follows:

§ 442.119 Cefuroxime axetil tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefuroxime axetil tablets are composed of cefuroxime axetil and one or more suitable and harmless diluents, binders, lubricants, and colorings. Each tablet contains 125 milligrams, 250 milligrams, or 500 milligrams of cefuroxime activity. Its potency is satisfactory if it is not less than 90 percent and not more than 110 percent of the number of milligrams of cefuroxime activity that it is represented to contain. Its moisture content is not more than 2.0 percent at the time of certification and not more than 6.0 percent at the time of expiry. It passes the dissolution test. It passes the film-coat rupture test. It passes the identity test. The cefuroxime axetil used conforms to the standards prescribed by § 442.19(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The cefuroxime axetil used in making the batch for potency, isomer A ratio, moisture, crystallinity, and identity.

(B) The batch for potency, moisture, dissolution, film-coat rupture, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(A) The cefuroxime axetil used in making the batch: 10 packages, each containing approximately 500 milligrams.

(B) The batch: A minimum of 100 tablets.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 442.19(b)(1). Working standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Preparation of working standard and sample solutions*—(A) *Working standard solution.* Dissolve approximately 30 milligrams of the cefuroxime axetil working standard, accurately weighed, in methanol and dilute to 25 milliliters. Transfer 10.0 milliliters of the working standard solution to a 50-milliliter volumetric flask. Add 5.0 milliliters of internal standard solution, 3.8 milliliters of methanol, and dilute to volume with 0.2*M* ammonium phosphate solution to obtain a stock solution containing 0.24 milligram of cefuroxime axetil per milliliter. Store the stock solution under refrigeration no more than 8 hours.

(B) *Sample solution.* Grind a representative number of tablets in a mortar and pestle. Immediately swirl the ground tablets in a volumetric flask containing methanol and shake for 10 minutes to dissolve the ground cefuroxime axetil. Dilute with methanol to give a stock solution of convenient concentration. Filter the stock solution. Transfer 5.0 milliliters of filtrate to a 50-milliliter volumetric flask. Add 5.0 milliliters of internal standard solution and 8.8 milliliters of methanol. Dilute to volume with 0.2*M* ammonium phosphate solution. Store in a refrigerator and use within 8 hours.

(ii) *System suitability requirements*—(A) *Tailing factor.* The tailing factor (*T*) is satisfactory for isomer A if it is not more than 1.5 at 5 percent of peak height.

(B) *Efficiency of the column.* The efficiency of the column (*n*) is satisfactory for isomer A if it is greater than 3,000 theoretical plates.

(C) *Resolution.* The resolution (*R*) between isomer A and isomer B of cefuroxime axetil is satisfactory if it is not less than 1.5 and the resolution (*R*) between isomer A and the delta-2 isomers of cefuroxime axetil is satisfactory if it is not less than 1.5.

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(D) *Coefficient of variation.* The coefficient of variation (S_R in percent) of five replicate injections is not more than 2.0 percent. If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter. Alternate chromatographic conditions are acceptable provided reproducibility and resolution are comparable to the system. However, the sample preparation described in paragraph (b)(1)(i)(B) of this section should not be changed.

(iii) *Calculation.* Calculate the cefuroxime content as follows:

$$\text{Milligrams of cefuroxime per tablet} = \frac{R_u \times X \times d}{R_s \times n}$$

where:

R_u = Sum of peak heights of the cefuroxime axetil sample isomer A and isomer B peaks/Peak height of the internal standard;

R_s = Sum of the peak heights of the cefuroxime axetil working standard isomer A and isomer B peaks/Peak height of the internal standard;

P_s = Potency of the cefuroxime axetil working standard in milligrams of cefuroxime activity per milliliter;

d = Dilution factor of the sample; and

n = Number of tablets in the sample assayed.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter, using the titration procedure described in paragraph (e)(1) of that section.

(3) *Dissolution.* Proceed as directed in § 436.215 of this chapter. The quantity Q (the amount of cefuroxime activity dissolved) is 60 percent at 15 minutes and 75 percent at 45 minutes.

(4) *Film-coat rupture test.* Proceed as directed in § 436.217 of this chapter.

(5) *Identity.* The high-performance liquid chromatogram of the sample solution determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the cefuroxime axetil working standard solution.

Dated: October 29, 1987.

Sammie R. Young,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 87-25584 Filed 11-4-87; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3287-2]

Standards of Performance for New Stationary Sources; Grain Elevators and Stationary Gas Turbines; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This notice clarifies the applicability dates for the standards of performance for grain elevators (Subpart DD of 40 CFR Part 60, published in the Federal Register August 3, 1978), and stationary gas turbines (Subpart GG of 40 CFR Part 60, published in the Federal Register September 10, 1979). The applicability dates were inadvertently omitted from these subparts.

EFFECTIVE DATE: November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Doug Bell or Amanda Aldridge, Standards Development Branch, ESED (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5568 or (919) 541–5288.

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 60

Air pollution control.

Date: October 28, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

1. The authority citation for Part 60 continues to read as follows:

Authority: Sections 101, 111, 114, 301(a), Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7601(a)).

2. By revising paragraph (b) of § 60.300 of Subpart DD—*Standards of Performance for Grain Elevators* to read as follows:

§ 60.300 Applicability and designation of affected facility.

* * * * *

(b) Any facility under paragraph (a) of this section which commences construction, modification, or reconstruction after August 3, 1978, is subject to the requirements of this part.

3. In Subpart GG—*Standards of Performance for Stationary Gas Turbines*, § 60.330 is revised (existing paragraph is designated as paragraph (a) and revised, and new paragraph (b) is added) as follows:

§ 60.330 Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to the following affected facilities: All stationary gas turbines with a heat input at peak load equal to or greater than 10.7 gigajoules per hour, based on the lower heating value of the fuel fired.

(b) Any facility under paragraph (a) of this section which commences construction, modification, or reconstruction after October 3, 1977, is subject to the requirements of this part except as provided in paragraphs (e) and (j) of § 60.332.

[FR Doc. 87-25539 Filed 11-4-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 403

[FRL-3287-1]

General Pretreatment Regulation for Existing and New Sources; Removal Credits

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On April 30, 1986, the United States Court of Appeals for the Third Circuit invalidated certain portions of the amendments to the removal credits regulation promulgated on August 3, 1984 (49 FR 31212). *Natural Resources Defense Council, Inc.* v. *EPA*, 790 F.2d 289 (3d Cir. 1986). The effect of that decision on the removal credits rule was to leave in effect the previously promulgated versions of the 1984 regulatory provisions invalidated by the court. The purpose of today's action is to amend the removal credit regulation so that it properly reflects the effect of the court's decision.

DATE: This regulation shall become effective November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Craig Jakubowica, Permits Division (EN–336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475–9533.

SUPPLEMENTARY INFORMATION: On August 3, 1984, EPA promulgated amendments to the removal credits regulation, 40 CFR 403.7 (49 FR 31212). These amendments modified in part the previous version of § 403.7 that EPA promulgated on January 28, 1981 (46 FR 9404). The 1981 regulation was upheld by the U.S. Court of Appeals for the Third Circuit. *National Association of Metal Finishers* v. *EPA*, 719 F.2d 624, 646–50 (3rd. Cir. 1984).

On April 30, 1986, the Third Circuit held three provisions of the 1984 amendments to be invalid. *NRDC* v. *EPA, supra.* Further, the Court held that EPA may not authorize removal credits in the absence of a more comprehensive set of sludge regulations under Section 405 of the Act.

The effect of the Third Circuit's invalidation of three provisions of the removal credits amendments is to leave in effect the 1981 versions of those three provisions. Thus, the current status of the removal credits regulation is:

(1) Portions of the 1984 amendments not invalidated by the Third Circuit remain in effect, and

(2) The 1981 versions of the three invalidated regulatory provisions are in effect.

Since the currently published version of 40 CFR 403.7 (1986) does not accurately reflect the current status of the removal credits regulation in the wake of the Third Circuit's decision, EPA is publishing today the revised versions of the three provisions that correspond to the current regulatory status as outlined above. Specifically, today's rule:

(1) Replaces the 1984 "consistent removal" provision (§ 403.7(b)) with the previous 1981 version (formerly § 403.7 (a)(2) and (b)(2)), now contained in § 403.7(b);

(2) Reinserts the 1981 definition of "Overflow" and the "compensation for overflow" provisions that had been deleted in the 1984 amendments (formerly § 403.7 (a)(3) and (b)(3), respectively), now contained in § 403.7(h); and

(3) Replaces the 1984 "modification on withdrawal of removal credits" provision (§ 403.7(f)(4)) with the previous 1981 version (formerly § 403.7(f)(5)), now contained in § 403.7(f)(4). The 1981 version of § 403.7(f)(4) is itself revised to delete references to "significant contribution", which was previously held illegal by the Third Circuit in *NAMF* v. *EPA*, supra, 719 F.2d at 638–41.

EPA is publishing these rules in final form. There is no need to solicit public comment on this rule, as it does not modify the current status of the removal credits regulation. Rather, it merely codifies the regulations currently in effect as the result of the Third Circuit's decision. For the same reasons, this regulation is effective immediately upon publication in the Federal Register.

Promulgation of this rule does not in itself entitle EPA to authorize removal credits. EPA must still comply with the Third Circuit's ruling requiring a more comprehensive set of sludge regulations under section 405 of the Act as a precondition for granting removal credits. EPA is working to comply with that ruling and will be proposing an extensive set of sludge guidelines under the authority of section 405(d). Note that section 406(e) of the Water Quality Act of 1987 provides that the Third Circuit decision as to sludge was stayed, but only until August 31, 1987, with respect to:

(1) Publicly owned treatment works (POTWs), the owner or operator of which received removal credits authority before February 4, 1987; and

(2) POTWs, the owner or operator of which submitted an application for removal credits authority which was pending on February 4, 1987, and was approved before August 31, 1987.

Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. Today's action does not satisfy any of the criteria specified in section 1(b) of the Executive Order. Therefore, it is not a major rulemaking. This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Regulatory Flexibility Analysis

Today's action announces the current status of the removal credits regulation. Accordingly, I hereby certify, pursuant to 5 U.S.C. 605(b), that this action will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 30501 *et seq.*, EPA must submit a copy of any rule that contains a collection of information requirement to the Director of the Office of Management and Budget for review and approval. This action contains no additional information collection requirements, and therefore the Paperwork Reduction Act is not applicable.

List of Subjects in 40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: October 28, 1987.

A. James Barnes,

Acting Administrator.

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES

For the reasons set out in the preamble, 40 CFR Part 403 is amended as follows:

1. The authority citation for Part 403 continues to read as follows:

Authority: Sec. 54(c) of the Clean Water Act of 1977 (Pub. L. 95–217); sections 204(b)(1)(C); 208(b)(2)(C)(iii); 301(b)(1)(A)(ii); 301(b)(2)(A)(ii); (301)(b)(2)(C); 301(h)(5); 301(i)(2); 304(e); 304(g); 307; 308; 309; 402(b); 405 and 501(e) of the Federal Water Pollution Control Act (Pub. L. 92–500), as amended by the Clean Water Act of 1977.

2. Section 403.7 is amended by revising paragraphs (b) and (f)(4) and by adding paragraph (h) to read as follows:

§ 403.7 Removal credits.

* * * * *

(b) *Establishment of Removal Credits; Demonstration of Consistent Removal.* (1) *Definition of Consistent Removal.* "Consistent Removal" shall mean the average of the lowest 50 percent of the removal measured according to paragraph (b)(2) of this section. All sample data obtained for the measured pollutant during the time period prescribed in paragraph (b)(2) of this section must be reported and used in computing Consistent Removal. If a substance is measurable in the influent but not in the effluent, the effluent level may be assumed to be the limit of measurement, and those data may be used by the POTW at its discretion and subject to approval by the Approval Authority. If the substance is not measurable in the influent, the date may not be used. Where the number of samples with concentrations equal to or above the limit of measurement is between 8 and 12, the average of the lowest 6 removals shall be used. If there are less than 8 samples with concentrations equal to or above the limit of measurement, the Approval Authority may approve alternate means for demonstrating Consistent Removal. The term "measurement" refers to the ability of the analytical method or protocol to quantify as well as identify the presence of the substance in question.

(2) *Consistent Removal Data.* Influent and effluent operational data demonstrating Consistent Removal or other information, as provided for in paragraph (b)(1) of this section, which demonstrates Consistent Removal of the

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pollutants for which discharge limit revisions are proposed. This data shall meet the following requirements:

(i) *Representative Data; Seasonal.* The data shall be representative of yearly and seasonal conditions to which the POTW is subjected for each pollutant for which a discharge limit revision is proposed.

(ii) *Representative Data; Quality and Quantity.* The data shall be representative of the quality and quantity of normal effluent and influent flow if such data can be obtained. If such data are unobtainable, alternate data or information may be presented for approval to demonstrate Consistent Removal as provided for in paragraph (b)(1) of this section.

(iii) *Sampling Procedures: Composite.* (A) The influent and effluent operational data shall be obtained through 24-hour flow-proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. For discrete sampling, at least 12 aliquots shall be composited. Discrete sampling may be flow-proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites must be flow-proportional to each stream flow at time of collection of influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

(B)(1) Twelve samples shall be taken at approximately equal intervals throughout one full year. Sampling must be evenly distributed over the days of the week so as to include no-workdays as well as workdays. If the Approval Authority determines that this schedule will not be most representative of the actual operation of the POTW Treatment Plant, an alternative sampling schedule will be approved.

(2) In addition, upon the Approval Authority's concurrence, a POTW may utilize an historical data base amassed prior to the effective date of this section provide that such data otherwise meet the requirements of this paragraph. In order for the historical data base to be approved it must present a statistically valid description of daily, weekly and seasonal sewage treatment plant loadings and performance for at least one year.

(C) Effluent sample collection need not be delayed to compensate for hydraulic detention unless the POTW elects to include detention time compensation or unless the Approval Authority requires detention time compensation. The Approval Authority may require that each effluent sample be taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual POTW operation. The detention period is to be based on a 24-hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year.

(iv) *Sampling Procedures: Grab.* Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one detention period. The detention period is to be based on a 24-hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes.

(v) *Analytical methods.* The sampling referred to in paragraphs (b)(2) (i) through (iv) of this section and an analysis of these samples shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.

(vi) *Calculation of removal.* All data acquired under the provisions of this section must be submitted to the Approval Authority. Removal for a specific pollutant shall be determined either, for each sample, by measuring the difference between the concentrations of the pollutant in the influent and effluent of the POTW and expressing the difference as a percent of the influent concentration, or, where such data cannot be obtained, Removal may be demonstrated using other data or procedures subject to concurrence by the Approval Authority as provided for in paragraph (b)(1) of this section.

* * * * *

(f) * * *

(4) *Modification or withdrawal of removal credits.*—(i) *Notice of POTW.* The Approval Authority shall notify the POTW if, on the basis of pollutant removal capability reports received pursuant to paragraph (f)(3) of this section or other relevant information available to it, the Approval Authority determines:

(A) That one or more of the discharge limit revisions made by the POTW, of the POTW itself, no longer meets the requirements of this section, or

(B) That such discharge limit revisions are causing a violation of any conditions or limits contained in the POTW's NPDES Permit.

(ii) *Corrective action.* If appropriate corrective action is not taken within a reasonable time, not to exceed 60 days unless the POTW or the affected Industrial Users demonstrate that a longer time period is reasonably necessary to undertake the appropriate corrective action, the Approval Authority shall either withdraw such discharge limits or require modifications in the revised discharge limits.

(iii) *Public notice of withdrawal or modification.* The Approval Authority shall not withdraw or modify revised discharge limits unless it shall first have notified the POTW and all Industrial Users to whom revised discharge limits have been applied, and made public, in writing, the reasons for such withdrawal or modification, and an opportunity is provided for a hearing. Following such notice and withdrawal or modification, all Industrial Users to whom revised discharge limits had been applied, shall be subject to the modified discharge limits or the discharge limits prescribed in the applicable categorical Pretreatment Standards, as appropriate, and shall achieve compliance with such limits within a reasonable time (not to exceed the period of time prescribed in the applicable categorical Pretreatment Standard(s) as may be specified by the Approval Authority.

* * * * *

(h) *Compensation for overflow.* "Overflow" means the intentional or unintentional diversion of flow from the POTW before the POTW Treatment Plant. POTWs which at least once annually Overflow untreated wastewater to receiving waters may claims Consistent Removal of a pollutant only by complying with either paragraph (h)(1) of (h)(2) or this section. However, this subsection shall not apply where Industrial User(s) can demonstrate that Overflow does not occur between the Industrial User(s) and the POTW Treatment Plant:

(1) The Industrial User provides containment or otherwise ceases or reduces Discharges from the regulated processes which contain the pollutant for which an allowance is requested during all circumstances in which an Overflow event can reasonably be expected to occur at the POTW or at a sewer to which the Industrial User is connected. Discharges must cease or be reduced, or pretreatment must be increased, to the extent necessary to compensate for the removal not being provided by the POTW. Allowances under this provision will only be granted where the POTW submits to the Approval Authority evidence that:

(i) All Industrial Users to which the POTW proposes to apply this provision have demonstrated the ability to contain or otherwise cease or reduce, during circumstances in which an Overflow event can reasonably be expected to occur, Discharges from the regulated processes which contain pollutants for which an allowance is requested;

(ii) The POTW has identified circumstances in which an Overflow event can reasonably be expected to occur, and has a notification or other viable plan to insure that Industrial Users will learn of an impending Overflow in sufficient time to contain, cease or reduce Discharging to prevent untreated Overflows from occurring. The POTW must also demonstrate that it will monitor and verify the data required in paragraph (b)(1)(iii) of this section, to insure that Industrial Users are containing, ceasing or reducing operations during POTW System Overflow; and

(iii) All Industrial Users to which the POTW proposes to apply this provision have demonstrated the ability and commitment to collect and make available, upon request by the POTW, State Director or EPA Regional Administrator, daily flow reports or other data sufficient to demonstrate that all Discharges from regulated processes containing the pollutant for which the allowance is requested were contained, reduced or otherwise ceased, as appropriate, during all circumstances in which an Overflow event was reasonably expected to occur; or

(2)(i) The Consistent Removal claimed is reduced pursuant to the following equation:

$$r_c = r_m \frac{8760 - Z}{8760}$$

Where:

r_m = POTW's Consistent Removal rate for that pollutant as established under paragraphs (a)(1) and (b)(2) of this section

r_c = removal corrected by the Overflow factor

Z = hours per year that Overflow occurred between the Industrial User(s) and the POTW Treatment Plant, the hours either to be shown in the POTW's current NPDES permit application or the hours, as demonstrated by verifiable techniques, that a particular Industrial User's Discharge Overflows between the Industrial User and the POTW Treatment Plant; and

(ii) After July 1, 1983, Consistent Removal may be claimed only where efforts to correct the conditions resulting in untreated Discharges by the POTW are underway in accordance with the policy and procedures set forth in "PRM 75–34" or "Program Guidance Memorandum–61" (same document) published on December 16, 1975, by EPA Office of Water Program Operations (WH–546). (See Appendix A.) Revisions to discharge limits in categorical Pretreatment Standards may not be made where efforts have not been committed to by the POTW to minimize pollution from Overflows. At minimum, by July 1, 1983, the POTW must have completed the analysis required by PRM 75–34 and be making an effort to implement the plan.

(iii) If, by July 1, 1983, a POTW has begun the PRM 75–34 analysis but due to circumstances beyond its control has not completed it, Consistent Removal, subject to the approval of the Approval Authority, may continue to be claimed according to the formula in paragraph (h)(2)(i) of this section as long as the POTW acts in a timely fashion to complete the analysis and makes an effort to implement the non-structural cost-effective measures identified by the analysis; and so long as the POTW has expressed its willingness to apply, after completing the analysis, for a construction grant necessary to implement any other cost-effective Overflow controls identified in the analysis should Federal funds become available, so applies for such funds, and proceeds with the required construction in an expeditious manner. In addition, Consistent Removal may, subject to the approval of the Approval Authority, continue to be claimed according to the formula in paragraph (h)(2)(i) of this section where the POTW has completed and the Approval Authority has accepted the analysis required by PRM 75–34 and the POTW has requested inclusion in its NPDES permit of an acceptable compliance schedule providing for timely implementation of cost-effective measures identified in the analysis. (In considering what is timely implementation, the Approval Authority shall consider the availability of funds, cost of control measures, and seriousness of the water quality problem.)

[FR Doc. 87–25655 Filed 11–4–87; 8:45 am]
BILLING CODE 8560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 87–305]

Establishment of an Office of Public Affairs and an Office of Legislative Affairs

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action reorganizes the Office of Congressional and Public Affairs into two independent offices: the Office of Public Affairs and the Office of Legislative Affairs.

EFFECTIVE DATE: October 13, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Walker Feaster, telephone: 202–632–3906.

SUPPLEMENTARY INFORMATION:

Adopted: September 22, 1987.

Released: October 27, 1987.

1. By this Order, the Commission amends its rules to reorganize the Office of Congressional and Public Affairs (OCPA) into two independent offices: the Office of Public Affairs (OPA) and the Office of Legislative Affairs (OLA).

2. The Commission's communication and liaison activities with the public, news media and the Congress were consolidated into one office in 1985. This reorganization was designed to create an integrated structure for disseminating the Commission's policies to these organizations and groups and to reflect an increasing commitment by the Commission to coordinate telecommunications policy with the Congress.[1] Experience with this

[1] Order Establishing the Office of Congressional and Public Affairs, 50 FR 2985 (January 23, 1985).

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management structure indicates that it is not necessary to consolidate public and congressional relations in one office to achieve optimum management efficiencies. These functions are, to a large extent, autonomous and require the full time attention of management personnel.

3. The consolidation of the Commission's congressional liaison functions within a division of OCPA has improved the Commission's coordination with the Congress. This reorganization takes that decision one step further by creating an independent office devoted exclusively to congressional liaison. The Commission expects that this reorganization will improve both its public and congressional affair operations by allowing management and staff to focus efforts in these areas at a time when public, news media, and congressional liaison activities have increased.

4. Because these amendments concern only matters of agency organization and procedure, compliance with the notice and comment procedure of the Administrative Procedure Act is not required.[1] Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act, 5 U.S.C. 603 and 604, does not apply.

5. Accordingly, it is hereby ordered that, pursuant to authority contained in sections 4(i) and 5(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 155(b), Part 0 of the Commission's rules are amended as set forth below. These rules and regulations are effective October 13, 1987.

List of Subjects in 47 CFR Part 0

Organization, functions.

Rules Changes

Part 0 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303 unless otherwise noted. Implement 5 U.S.C. 552, unless otherwise noted.

2. 47 CFR 0.5 is amended by revising paragraph (a)(13), adding paragraph (a)(14), revising paragraph (b)(7) and adding paragraph (b)(8).

[1] 5 U.S.C. 553(b)(A).

§ 0.5 General description of Commission organization and operations.

(a) * * *

(13) Office of Public Affairs.

(14) Office of Legislative Affairs.

(b) * * *

(7) *Office of Public Affairs.* The Office of Public Affairs has primary responsibility for the Commission's News Media and Consumer Assistance and Small Business programs. The major purposes of these programs are to inform the public of the Commission's regulatory requirements, to facilitate public participation in the Commission's decisionmaking processes, and to apprise the public of Commission policies promoting minority participation in telecommunications.

(8) *Office of Legislative Affairs.* The Office of Legislative Affairs has primary responsibility to implement the Commission's legislative programs. The major purposes of these programs are to inform the Congress of the Commission's regulatory decisions, respond to congressional inquiries, and provide or respond to proposals for changes in existing law as it affects the Commission or its processes.

* * * * *

4. 47 CFR 0.15 is amended by revising the undesignated center heading, introductory paragraph and removing paragraph (j) to read as follows:

Office of Public Affairs

§ 0.15 Functions of the Office.

The Office of Public Affairs is directly responsible to the Commission. The Office has the following duties and responsibilities:

* * * * *

5. 47 CFR 0.16 is revised to read as follows:

§ 0.16 Units in the Office.

The Office of Public Affairs is comprised of the following units:

(a) Immediate Office of the Director.

(b) Consumer Assistance and Small Business Division.

(c) News Media Division.

6. A new undesignated center heading and § 0.17 is added to read as follows:

Office of Legislative Affairs

§ 0.17 Functions of the Office.

The Office of Legislative Affairs is directly responsible to the Commission. The Office has the following duties and responsibilities:

(a) Advise and make recommendations to the Commission with respect to legislation proposed by members of Congress or the Executive Branch and coordinate the preparation of Commission views thereon for submission to Congress or the Executive Branch.

(b) Coordinate with the Office of General Counsel responses to Congressional or Executive Branch inquiries as to the local ramifications of Commission policies, regulations, rules, and statutory interpretations.

(c) Assist the Office of the Managing Director in preparation of the annual report to Congress, the Commission budget and appropriations legislation to Congress; assist the Office of Public Affairs in preparation of the Commission's Annual Report.

(d) Assist the Chairman and Commissioners in preparation for, and the coordination of their appearances before the Committees of Congress.

(e) Coordinate the annual Commission legislative program.

(f) Coordinate Commission and staff responses to inquiries by individual members of Congress, congressional committees and staffs.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-25621 Filed 11-4-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-350; RM-5340]

Radio Broadcasting Services; McCall, ID

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 266C1 to McCall, Idaho, at the request of Dean C. Hagerman, as proposed by the *Notice*. Additionally, Channel 294A is allotted to McCall in response to the interest demonstrated by the comments of Charles Edward Jordon, for a second allotment to that community. With this action, this proceeding is terminated.

DATES: Effective December 14, 1987; the window period for filing applications will open on December 15, 1987, and close on January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-350, adopted October 7, 1987, and released October 28, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended in the entry for McCall, Idaho, by adding Channels 266C1 and 294A.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25624 Filed 11-4-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-512; RM-5363, RM-5562]

Radio Broadcasting Services; Monterey, TN, and Monticello, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 295C2 for Channel 296A at Monterey, Tennessee, and modifies the construction permit of Station WRJT(FM) to specify operation on the new frequency, at the request of First Media of Monterey, Inc., as that community's first wide coverage area FM station. In addition, at the request of Robert L. Bertram, we are allocating Channel 228A to Monticello, Kentucky, as that community's second FM service. The Monterey substitution requires a site restriction of 14.1 kilometers (9.3 miles) east of the city. We denied a request from Faye S. Anderson, the permittee of Station WBLG(FM), Channel 296A, Smiths Grove, Kentucky, to substitute Channel 294C2 for Channel 296A at Smiths Grove, at a preferred site. With this action, this proceeding is terminated.

DATES: Effective December 10, 1987. The window period for filing applications on Channel 228A at Monticello, Kentucky, will open on December 11, 1987, and close on January 12, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-512, adopted September 30, 1987, and released October 27, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Tennessee, by adding Channel 295C2 and removing Channel 296A for Monterey and under Kentucky, by adding Channel 228A for Monticello.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-25619 Filed 11-4-87; 8:45 am]

BILLING CODE 6712-01-M

VETERANS ADMINISTRATION

48 CFR Parts 815 and 849

Procurement by Negotiation, Termination of Contracts

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: The Veterans Administration (VA) is revising the VA Acquisition Regulation (VAAR) to provide for the contracting officer to request audits for cost and pricing data and settlement proposals directly from the cognizant audit agency. This revision will streamline the VA process for obtaining required audit services, thereby compressing the acquisition cycle.

EFFECTIVE DATE: December 7, 1987.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg, Policy and Interagency Service (91A), Office of Procurement and Supply, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2334.

SUPPLEMENTARY INFORMATION:

I. Executive Order 12291

Pursuant to the memorandum from the Director, Office of Management and Budget, to the Administrator, Office of Information and Regulatory Affairs, dated December 13, 1984, this final rule is exempt from sections 3 and 4 of Executive Order 12291.

II. Regulatory Flexibility Act (RFA)

Because this final rule does not come within the term "rule" as defined in the RFA (5 U.S.C. 601(2)), it is not subject to the requirements of that Act. In any case, this change, in itself, will not have a significant economic impact on a substantial number of small entities because the VAAR subpart will primarily implement the regulations set forth in FAR Subpart 8.4.

III. Paperwork Reduction Act

This final rule requires no additional information collection or recordkeeping requirement upon the public.

List of Subjects in 48 CFR Parts 815 and 849

Government procurement.

Approved: October 28, 1987.

Thomas K. Turnage,

Administrator.

In 48 CFR Chapter 8, Parts 815 and 849 are amended as set forth below:

1. The authority citation for Parts 815 and 849 continues to read as follows:

Authority: 38 U.S.C. 210 and 40 U.S.C. 486(c).

PARTS 815 AND 849—[AMENDED]

2. In 48 CFR Parts 815 and 849, all references to "Office of Construction" are revised to read "Office of Facilities."

815.805-5 [Amended]

3. In subsection 815.805-5 the last sentence in paragraph (a) is revised and paragraph (b) is amended by removing the word "proposal" and inserting in its place the word "proposals" to read as follows:

815.805-5 Field pricing support.

(a) * * * Contracting officers located at VA medical centers, the marketing center and supply depots are to request audits directly from the cognizant audit agencies. The Marketing Center will obtain a block of audit control numbers from the Office of the Inspector General (53C). Contracting officers located at VA medical centers and the supply depots, if appropriate, will request an audit

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control number from the Director, Office of Procurement and Supply (93D).

* * * * *

4. In subsection 849.107, the last two sentences are revised to read as follows:

849.107 Audit of prime contract settlement proposals and subcontract settlements.

* * * All other contracting officers located in the VA Central Office and the Office of General Counsel will send requests for audit to the Assistant Inspector General for Policy, Planning and Resources (53C) to request audits directly from the cognizant agencies. Audit control numbers may be obtained verbally from the Director, Office of Procurement and Supply (93D).

[FR Doc. 87-25635 Filed 11-4-87; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-14; Notice 51]

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for reconsideration.

SUMMARY: Standard No. 208, *Occupant Crash Protection,* provides for the phased-in implementation of an automatic restraint requirement for the front outboard seats in passenger cars. This phase-in began on September 1, 1986, with full implementation scheduled for September 1, 1989. To encourage the development of a variety of automatic restraint systems, the standard provides that a manufacturer that installs a non-belt automatic restraint system, such as an air bag system, for the driver's position and a manual lap/shoulder belt at the front right passenger's position will receive credit for producing one automatic restraint-equipped car (a "one car credit") during the phase-in period. The Standard also provides that if two-thirds of the population of the United States were covered by effective safety belt use laws, which meet certain minimum requirements, by April 1, 1989, the requirements for passenger cars to be equipped with automatic restraints will no longer apply.

On March 30, 1987, NHTSA published a rule extending the one car credit beyond the phase-in period. This rule provides that, until September 1, 1993, a vehicle can comply with Standard No. 208 if it is equipped with a non-belt automatic restraint system at the driver's position and a *dynamically-tested* manual lap/shoulder belt at the front right passenger's position. By extending the one car credit with this rule, the agency allowed the necessary time for the orderly development and production of passenger cars with full-front air bag systems, protecting both the driver and the right front passenger.

A petition for reconsideration of this rule was filed on April 29, 1987, by the Public Citizen Litigation Group (PCLG). That petition alleged that there was insufficient evidence in the record to support the extension of the one car credit, that NHTSA failed to consider the decrease in passenger protection that would result from extension of the one car credit, that the agency failed to consider an issue raised by one commenter, and that the manufacturer's promises to install air bag systems are unenforceable. After evaluating this petition, NHTSA has concluded that the petitioner misunderstood much of the rule and that the petition presents no reasons to revise the previously published rule. The petition is therefore denied.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, NRM-12, NHTSA, Room 5320, 400 Seventh Street SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION:

Background Prior to March 30, 1987 Final Rule

On July 11, 1984 (49 FR 28962), the Department of Transportation announced its decision on occupant crash protection. The decision provided for the phased-in implementation of an automatic restraint requirement for the front outboard seats in passenger cars, beginning on September 1, 1986, with full implementation to take place on September 1, 1989. The requirements of this decision could be met by using any automatic occupant protection technology if the technology selected resulted in the vehicle complying with the requirements of Standard No. 208. That is, vehicle manufacturers could choose to use automatic detachable or nondetachable belts, air bags, passive interiors, or any other systems that would provide the necessary level of occupant protection.

The Department explained its reasoning for not mandating or prohibiting any particular automatic restraint systems as follows:

> By issuing a performance standard rather than mandating the specific use of one device such as airbags or prohibiting the use of specific devices such as nondetachable belts, the Department believes that it will provide sufficient latitude for industry to develop the most effective systems. The ability to offer alternative devices should enable the manufacturers to overcome any concerns about public acceptability by permitting some public choice. If there is concern, for example, about the comfort or convenience of automatic belts, the manufacturers have the option of providing airbags or passive interiors. For those who remain concerned about the cost of airbags, automatic belts provide an alternative. This approach also has the advantage of not discouraging the development of other technologies. For example, the development of passive interiors can be continued and offered as an alternative to those who have objections to automatic belts and airbags. 49 FR 28967; July 17, 1984.

Although manufacturers were free to use any automatic restraint system that complied with the performance requirements of Standard No. 208, the Department wanted to encourage the development of innovative automatic restraint systems. Hence, the July 1984 decision also provided that, during the phase-in period from September 1986 to September 1989, manufacturers that installed a non-belt automatic restraint system, such as an air bag system or passive interiors, for the driver, and any type of automatic restraint system for the right front passenger, would receive credit for producing 1.5 automatic restraint-equipped vehicles. The 1.5 vehicle credit was amended on August 30, 1985 (50 FR 35233) by adding a provision that each vehicle equipped with a non-belt automatic restraint system for the driver and a manual belt system for the right front passenger would receive a one car credit during the phase-in period. The agency stated in that rule its belief that this one-car credit "will encourage the introduction of non-belt technologies into passenger cars earlier than would otherwise occur." 50 FR 35235.

In the August 30, 1985 rule, the agency explained its decision to amend the credit provision for non-belt automatic technology at the driver's position as follows:

> Increasing public awareness of the benefits of a variety of automatic protection techniques is one of the primary objectives of the phase-in and credit provisions. Achieving this objective will depend, therefore, on the availability of an adequate number of cars equipped with non-belt protection of the driver's side. 50 FR 35235.

To encourage earlier introduction of alternative automatic restraint technologies, wider public availability of such technologies, and more effective marketing of such technologies, the agency adopted the one car credit provision.

The March 30, 1987 Final Rule

Ford Motor Company filed a petition for rulemaking with NHTSA, asking the agency to extend the one car credit for driver-only non-belt automatic restraint systems after September 1, 1989. In response to this petition and in accordance with the agency's long-held belief that it should encourage the introduction of non-belt automatic restraint technologies, NHTSA proposed to amend Standard No. 208 on November 25, 1986 (51 FR 42598). This notice proposed to extend until September 1, 1993, the one car credit for vehicles equipped with driver-only non-belt automatic restraint systems. To provide safety belt-wearing passengers in the front seat of vehicles receiving the one car credit with the same level of protection as a passenger in the front seat of vehicles with automatic belt restraint systems, the notice proposed that vehicles receiving the one car credit would be subject to special provisions for the manual belts at the right front passenger's position. That is, a test dummy at that seating position, when restrained by the manual lap/shoulder belt, would have to meet the injury criteria specified in section S6 of Standard No. 208 during the 30 mph barrier test.

This proposed rulemaking was necessary to avoid discouraging manufacturers efforts to offer non-belt automatic restraints in their new passenger cars. The two primary reasons NHTSA believed vehicle manufacturers might be discouraged from pursuing efforts to install non-belt automatic restraints in vehicles were the risks faced by the manufacturers and limits on their engineering resources. The risk that passenger-side air bags or other non-belt automatic restraints could not be designed, tested, and installed in a manufacturer's vehicles by the 1990 model year would force those manufacturers that were considering the installation of non-belt automatic restraint systems in their 1990 model year vehicles to engineer two different passenger-side automatic restraint systems. The first restraint system would be the non-belt automatic restraint system, almost all of which require additional time to resolve technical issues for the passenger side. The alternative restraint system, that would have to be pursued in case the technical issues associated with passenger-side air bags were not resolved in time to be incorporated in 1990 model year vehicles, was an automatic belt system. It was the agency's judgment that manufacturers were unlikely to pursue this dual engineering effort for automatic restraints, given the costs and staff time that would be involved. Hence, most manufacturers would have complied with Standard No. 208 by using their engineering resources to develop automatic belt systems. This result would be contrary to the Department's oft-stated goal of encouraging the availability of the more innovative and technically complex non-belt automatic restraint systems.

Additionally, those manufacturers that were not considering the use of non-belt automatic restraint systems to comply with Standard No. 208 could now consider complying with the standard by means of a driver/side air bag. These manufacturers would know that they would be permitted additional time to develop and test the far more complex passenger-side air bag system in those vehicles. Both Chrysler and Volvo stated in their comments to this proposal that they were now planning to install driver side air bags in most of their 1990 cars if the one car credit were extended; 52 FR 10096, March 30, 1987.

By reducing the risks and use of engineering resources that manufacturers would face if the technical difficulties associated with passenger-side air bag systems were not fully resolved by September 1, 1989, the agency concluded that it was giving manufacturers an incentive to produce more vehicles with driver-side air bag systems. The agency believed that this incentive would lead to *more* vehicles being sold with driver-side air bag systems that would otherwise have been the case. The incentive would also further the Department's goal of facilitating the widespread availability of automatic restraint systems, so that the public would become familiar with the operation and benefits of those systems, particularly the more innovative automatic restraint systems.

After carefully considering all comments on this proposed extension of the one car credit, the agency published a final rule adopting the proposal on March 30, 1987 (52 FR 10096). The preamble to that rule stated:

> The information provided by vehicle manufacturers and automatic restraint system suppliers, which is discussed in detail below, shows that adoption of a limited extension will promote the widespread introduction of non-belt automatic restraint systems, such as air bags, for both the driver and passenger. The information provided by commenters shows that there are a number of technical issues that still need to be resolved before widespread installation of passenger-side air bag systems will occur. In addition, there is a need for suppliers to increase their production capabilities for both driver and passenger air bag systems. The limited extension adopted today will provide the additional time to resolve those technical and supply issues. 52 FR 10098.

The Petition for Reconsideration

On April 29, 1987, the Public Citizen Litigation Group (PCLG), which did not offer any comments on the proposed rule, filed a petition for reconsideration of this final rule, on behalf of Public Citizen, the Center for Auto Safety, the United States Public Interest Research Group, Motor Voters, and the Public Interest Research Groups of California, Florida, Massachusetts, Missouri, and New York. This petition raises a number of issues discussed in detail below, none of which establish any basis for altering the public final rule.

The first assertion in PCLG's petition is that the leadtime until September 1, 1993 is excessive. The petition states that vehicle manufacturers received five years worth of leadtime from the date the July 11, 1984 rule was published until September 1, 1989, when all cars are required to be equipped with automatic restraints at the front outboard seating positions. The petition then alleges that the March, 1987 final rule gives an additional four years of leadtime for those manufacturers to develop passenger-side airbags, and concludes that "there simply is no sound justification for allowing what amounts to an unprecedented nine-year leadtime for manufacturers electing to comply with this safety standard by installing air bags."

These statements by PCLG suggest a possible misunderstanding of Standard No. 208 and the March, 1987 final rule. Standard No. 208 does *not* require manufacturers to install air bags, or any other particular type of automatic restraint system. Instead, the manufacturer is free to choose any automatic restraint system that complies with the performance requirements of Standard No. 208. The March, 1987 final rule did *not* change the fundamental requirement of Standard No. 208 that *all* new passenger cars must have automatic restraint systems by September 1, 1989. If a manufacturer chooses to comply with the standard by means of an automatic belt system in its passenger cars, it must provide automatic belts at both front outboard seating positions in all of those cars manufactured on or after September 1, 1989.

The extension of the one car credit set forth in the March, 1987 final rule

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applies only to those vehicles in which the manufacturer chooses to provide non-belt automatic protection for the driver's position. For all such vehicles manufactured on or after September 1, 1989, a non-belt automatic restraint system, e.g., air bags, must be installed at the driver's position. Since almost three-fourths of front seat fatalities consist of drivers, this rule ensures that drivers in cars that receive the one car credit will have the protection of non-belt automatic restraints as of September 1, 1989.

Thus, the only issue posed by this assertion of the petitioner is whether the agency was justified in its decision to allow a four year extension for vehicles to comply with the full requirements of Standard No. 208 by means of non-belt automatic restraints for the right front passenger's position. The agency believes that the record amply supports its decision. The Insurance Institute for Highway Safety (IIHS) perhaps summed this issue up most clearly in its comment on the proposal, when it said:

> Air bags aren't modular components that can simply be tacked on a wide range of car models. Each individual model with an air bag system requires a separate engineering development and crash testing program. It wouldn't be responsible to pace the phase-in of air bags ahead of these constraints. NHTSA Docket No. 74-14-N48-016; December 24, 1986.

In response to the Department's 1984 decision on automatic restraints, most manufacturers planned to comply with the requirements of Standard No. 208 by using automatic belt systems. Since they had no plans to use air bags to comply with Standard No. 208, these manufacturers had no reason to give high priority to the necessary engineering development and crash testing programs for their models to be equipped with air bags. The question the agency had to consider, then, in response to the Ford petition was for how long the one car credit should be extended to encourage the manufacturers to reexamine their choice of automatic restraints to be installed in their cars and to use more non-belt automatic restraint systems.

The technology for driver-side air bags is at a reasonably advanced stage of development at this time. Moreover, there are few technical issues yet to be resolved, because the location of the air bag, the distance to the driver, and the position of the driver remain nearly constant from model to model. Since there were no significant technical or engineering problems to be resolved with respect to driver's side air bags, the final rule did not allow any additional time for manufacturers to use air bags on the driver's side to comply with Standard No. 208.

This is emphatically not the case with respect to passenger-side air bags, however. The Breed Corporation, an air bag supplier, summarized these problems as follows:

> However, passenger side inflators will have to have substantially different capacities depending on the particular car model. Timing on the passenger side inflator is particularly crucial because the volume to be filled by the bag is substantially larger than on the driver side. The passenger must be captured by the air bag before he obtains a substantial velocity relative to the dashboard. This may require a very energetic inflator which has the potential of injuring an out-of-position occupant. Certain technologies offer hope for alleviating this problem, such as the aspirated air bag. To our knowledge, this technology has not been fully developed at this time, and therefore, it may not be desirable to mandate passenger side air bags (especially in large vehicles) at this time. NHTSA Docket No. 74-14-N48-006; December 18, 1986.

Breed estimated later in its comment that from one to two years leadtime would be necessary to resolve these technical issues. Breed also estimated that an additional two years would be needed after a particular air bag design was chosen in order for the supplier to get necessary tooling and provide production components for particular vehicle models. Accordingly, Breed concluded this section of its comment with the statement, "Since we believe that from one to two years are required to finalize the passenger side air bag design, a minimum leadtime of from two to four years would be required to have passenger side air bag models available in production quantities."

PCLG seized on this last quoted sentence, and alleged that NHTSA had extended the one car credit beyond even the far end of the estimate provided by Breed. However, PCLG misread the comment, which addressed only the leadtime necessary for *air bag suppliers* to make passenger side air bags available in production quantities. After the technical problems that currently exist for passenger side air bags are resolved, those vehicle manufacturers that choose to offer passenger side air bags in passenger cars must perform the engineering, design modifications, and crash testing that were described in the IIHS comment quoted above. The preliminary regulatory evaluation prepared for this rule reiterated the leadtime estimates for passenger side air bag installation that were prepared for the July, 1984 final rule. Those estimates were that 36–48 months of leadtime were needed for passenger side air bags, with 48–60 months necessary for small cars. The longer leadtime estimates for small cars were based on the fact that less development work has been done for those vehicles. *See* pages III–6 and III–7 of the July, 1984 Final Regulatory Impact Assessment accompanying Secretary Dole's Decision on Standard No. 208.

Based on the statements in its petition, the agency believes that PCLG was confused about the differing standards for determining the leadtime appropriate for *requiring* vehicle manufacturers to take an action, as opposed to an extension aimed at *encouraging* manufacturers to take an action. If this rule had dealt with a required action under Standard No. 208, the agency would have estimated the *minimum* period of time that is reasonable and necessary to permit manufacturers to certify that all subject vehicles comply with the new requirement. Based on previous estimates, the *minimum* leadtime necessary would have likely resulted in an effective date in either 1991 of 1992 (48 to 60 months after the 1987 final rule).

However, this extension of the one car credit did not present the agency with a leadtime decision for a *requirement*. Standard No. 208 only requires that cars be equipped with automatic restraints. It does *not* require manufacturers to use air bags or any other particular type of automatic restraint system. Instead, the manufacturers are free to choose the particular type of automatic restraint systems that will be installed in their cars in compliance with Standard No. 208.

The question of how much leadtime was necessary to *encourage* manufacturers to install air bags is very different from the question of how much leadtime should be allowed to comply with a new requirement, because the agency is not seeking to estimate the *minimum* period of time needed to take this step. For example, if the one car credit provisions were extended for only the *minimum* period of time necessary to install passenger side air bags, manufacturers would be forced to immediately make a choice of whether to commence a program to install air bags in their cars or whether to use a different type of automatic restraint system to comply with Standard No. 208. Given the unresolved technical issues associated with passenger side air bags at this time and the risks imposed on manufacturers by too short a time frame (double engineering effort, as discussed above), the agency concluded few, if any, manufacturers that had not already chosen to begin a program to comply

with Standard No. 208 by using air bags would reexamine their choice if the extension had been set for only the *minimum* period of time estimated necessary. Similarly, a minimum extension might force manufacturers that have already initiated air bag programs to abandon those programs if unforeseen difficulties arise. To wit, if it takes longer than one or two years to resolve the technical issues associated with passenger side air bags, or if a manufacturer encounters some difficulty modifying a vehicle's design to incorporate passenger side air bags, an extension of the one car credit for the *minimum* period currently estimated as necessary to complete air bag programs would put the manufacturer in the same position as manufacturers were with respect to the 1989 date before the extension of the one car credit, and would likely result in the majority of cars being equipped with automatic belts. Because of this, NHTSA determined that an extension for the *minimum* necessary period would have failed to achieve its purpose of *encouraging* manufacturers to install air bags in their cars. To ensure that the extention of the one car credit would *not* fail to achieve its purpose, NHTSA had to add some period of time in addition to the minimum.

When deciding the period for which the one car credit should be extended, the agency sought to balance the goals of minimizing the risk of noncompliance for manufacturers that plan to use passenger side air bag technology and the goal of limiting the one car credit to the time necessary for manufactures to complete the development and installation of passenger side air bag systems. Too short a leadtime would have put the manufacturers in the same position as they were with respect to the September 1, 1989 date of passenger side air bags, and would have resulted in the overwhelming majority of passenger cars using automatic belts to comply with Standard No. 208. On the other hand, allowing an indefinite extension of the one car credit would reduce manufacturers' incentives to install passenger side air bags in their cars as soon as possible. After a full consideration of these facts, the agency determined that an appropriate balance would be achieved if the one car credit were extended until 1993, one to two years after the minimum leadtime that would be needed. The agency believes this period of leadtime is thoroughly justified by the available evidence, and rejects the petitioner's assertions to the contrary.

As a part of this argument, PCLG also asserted that the agency "failed to respond to the evidence presented by the Center for Auto Safety (CFAS) demonstrating that the technology for passenger side air bags currently exists." The "evidence" to which PCLG refers were simply assertions by CFAS that passenger side air bags must be available for today's vehicles, because the technology was available for late 60's and early 70's passenger cars. If the underlying assumption that the technologies involves were comparable, the assertion would be correct. The assumption is, however, inaccurate with respect to both vehicle and air bag technology.

In the case of vehicles, the passenger cars of the early 70's generally had longitudinally mounted front engines with rear wheel drive and full frames for structural support. Passenger cars of the late 80's will generally be powered by transversely-mounted front or mid-engines with front wheel drive, and will rely on body shell rigidity instead of full frames for structural strength. Further, the passenger cars of the late 80's will have significantly lower vehicle weights than comparable cars of the early 70's These differences account for significantly different crash pulses, and require significantly different methods of managing crash energy to protect occupants.

In the case of passenger side air bags, a hybrid inflator system was used for the early 70's consisting of compressed gas augmented with chemical gas generators. Technological advances now permit current designs to use a single gas generator to inflate the bag. In the early 70's two stages of air bag initiation were programmed into the passenger side system. The "low level" initiation occurred at a barrier-equivalent speed of 10–18 mph, using only part of the entire gas supply system to inflate the air bag. At speeds above 18 mph, a second stage gas generator was ignited to provide increased restraint capability at the higher impact speeds. However, these early passenger side air bags caused concerns about overly aggressive air bag deployment. Manufacturers of current air bags are trying to develop a single stage generator that can avoid these problems. Finally, the early 70's passenger side air bag systems weighed about 20 to 30 pounds. Because of vehicle manufacturers' vehicle weight concerns, current passenger air bag systems may weigh less than 7 pounds. These technical differences in passenger side air bag systems reflect real differences in the safety performance, economics, and practicability of the air bag systems of the early 70's and current air bag systems.

NHTSA did not fail to consider the CFAS suggestion that manufacturers could simply transfer the air bag technology from early 70's vehicles to current vehicles. Instead, the agency concluded that the CFAS suggestion was based on false technical premises and faulty engineering judgment, and explained this is the preamble to the final rule; *see* 52 FR 10101.

The second issue raised in the PCLG petition was that there was no evidence in the record regarding supplier capabilities. PCLG asserted that this was significant, because "the entire underlying premise for the final rule is that air bag *supplies* are incapable of producing and supplying air bags in time for manufacturers to meet the original 1989 deadline for compliance with Standard 208" (emphasis in original). As discussed at length in the preamble to the final rule and above, this was *not* the underlying premise for the final rule. The reasons for extending the one car credit were to permit the necessary time for resolution of the outstanding technical problems associated with passenger side air bags, to allow manufacturers time to make the necessary engineering and design modifications to incorporate passenger side air bags into their new passenger cars, *and* to allow time for air bag suppliers to increase their production capabilities for both driver and passenger air bag systems. PCLG's assertion that supplier capability was the "entire underlying premise" is not supported by any fair reading of the preamble to the final rule.

Perhaps because of its misunderstanding of the significance accorded to supplier capabilities in the decision to extend the one car credit. PCLG asserted that the agency had not done enough to obtain information on the subject of supplier capabilities. Instead of relying on supplier comments on this subject. PCLG argued that the agency should have exercised its discretionary authority to issue special orders to air bag suppliers to gather better information on this subject. The agency saw no reason for it to even consider using its discretion to issue special orders to air bag suppliers in connection with this rule. First, the issue of supplier capabilities was not as significant as PCLG believed. Second, most suppliers commented on the proposed rule. Since they had voluntarily provided information, there was no need to seek to compel them to provide that information. Third,

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according to their comments, most vehicle manufacturers had not made final decisions on their automatic restraint plans for vehicles produced after September 1, 1989. Hence, they would not have submitted orders to potential air bag suppliers. The responses to any special orders to current air bag suppliers in these circumstances would have been of very little use to the agency. While information could have been gathered on current overall capacity and potential start-up time if orders for significant amounts of air bags were received, new companies could always enter the market and increase supplier capacity. Thus, the responses to special orders to air bag suppliers would *still* not allow the agency to be substantially more certain of a forecast of the air bag industry's manufacturing capacity by the 1990 model year.

PCLG's third assertion was that NHTSA failed to consider the decrease in passenger protection that may result from its extension of the one car credit. PCLG stated in its petition: "In determining that the amendment to Standard 208 will increase overall protection for drivers, and thereby reduce fatalities because it will ensure that employment of more air bags rather than automatic belts on the driver side, NHTSA failed to evaluate the other side of this equation, i.e., the number of cars that will not have full front seat passive protection, now that the compliance date for the passenger side has been extended four years." Apparently, PCLG believes that the agency's examination of the safety effects of extending the one car credit covered only the driver, and ignored the passenger position completely. This belief is manifestly incorrect.

In both the preliminary and final regulatory evaluations, the agency followed the same practice it has always followed when evaluating the safety effects of particular restraint systems in connection with Standard No. 208. That is, the safety effects for *all* front seat occupants, including the driver and passengers, are analyzed for each type of restraint system being considered in the evaluation. Hence, pages 3 through 9 of the final regulatory evaluation compare the benefits (in terms of net front seat occupant lives saved) of various front seat restraint system combinations. The evaluation shows that safety belt usage in cars equipped with automatic belts must exceed 60 percent before the benefits of front seat automatic belts would equal the benefits of a driver air bag system and manual lap/shoulder belts for the right front passenger. That same evaluation shows that automatic belt usage would have to be greater than 75 percent to exceed the benefits of a driver and passenger side air bag system. Contrary to PCLG's assertion, all estimates in both the preliminary and final regulatory evaluation included an assessment of the safety effects for both drivers and passengers in the front seat having manual belt systems. After considering these data, the agency concluded that a temporary extension of the one car credit would not have an adverse safety effect.

PCLG's fourth assertion was that NHTSA failed to consider a phase-in requirement for non-belt automatic restraints on the passenger side, as suggested by the Center for Auto Safety (CFAS) in its comments on the proposed rulemaking. This assertion was made notwithstanding the following discussion in the preamble to the final rule:

> NHTSA does not believe it is necessary to adopt a new phase-in requirement for passenger side non-belt systems and, as discussed in detail below, does not believe the one car credit should be limited to cars equipped with air bags. The information provided by the vehicle manufacturers and suppliers indicates that those manufacturers that plan to introduce passenger side non-belt systems have already begun the initial stages of the design work. The commitment of the financial and engineering resources to the necessary design and development work and the production of manufacturing facilities will serve as a sufficient incentive for manufacturers to ensure that the final products resulting from those efforts will be placed in cars as quickly as possible. 52 FR 10101.

The agency believes that it fully considered the CFAS comment, but decided that there was no need to adopt it. The extension of the one car credit affects only vehicles that are equipped with non-belt automatic restraint systems at the driver's position. Vehicle manufacturers have stated that air bags are the only type of non-belt automatic restraint system that could be installed in production vehicles during the timeframe addressed in this rule. Hence, the one car credit will affect only vehicles that have air bags installed at the driver's position. To install driver side air bags in vehicles by September 1, 1989, a vehicle manufacturer must have made a substantial investment in those air bag systems, both in terms of capital and engineering resources.

A manufacturer that is seeking to comply with Standard No. 208 by installing air bags on the passenger side must make an additional substantial investment of capital and engineering resources in this program. If a manufacturer is able to introduce passenger side air bags into production before September 1, 1993, it has strong incentives to do so. First, the manufacturer gets no "payoff" on its investment in the passenger side air bag program until it installs passenger side air bags in some production vehicles. Second, early installation of some passenger side air bag systems in some cars would give the manufacturer some experience with those systems before they were installed in all cars that had received the credit. This experience would allow the manufacturers to make any necessary adjustments. Therefore, the agency concluded that there was no need for further incentives for manufacturers to install passenger side air bag systems as quickly as possible.

PCLG then suggested that NHTSA's failure to adopt CFAS suggested phase-in was "entirely inconsistent with the way the agency has dealt with Standard 208 over the last sixteen years." The Department has *not* automatically specified a phase-in period for every amendment on Standard No. 208. When it was dealing with new requirements applicable to all passenger cars, the Department has exercised its discretion to specify a phase-in period for those requirements. In all cases where the Department mandated a phase-in requirement, however, it had concluded that the vehicle manufacturers needed the further incentive of a phase-in requirement to make automatic restraints available in some vehicles sold to the public sooner than if automatic restraints were made available only when they could be installed in all cars.

With respect to this final rule, the agency concluded that it was *not* dealing with a situation where the affected manufacturers might have a reason for delaying the installation of an automatic restraint system. To repeat, the only manufacturers affected by this extension will be those that have chosen to comply with the requirements of Standard No. 208 by installing driver side air bags in some of their cars. Those manufacturers could have complied with Standard No. 208 with a lesser investment by installing automatic belt systems in those cars. Having chosen to make the significant investments required to develop and install air bag systems in its cars, the manufacturer would not appear to need any further incentive to introduce passenger side air bag systems into its cars as soon as possible, as explained above. Since there was no need for a phase-in period, NHTSA did not specify one. PCLG did not explain why it believes it is inconsistent for the Department to require a phase-in period only when the need for a phase-in has been established, and the agency does not believe its decision with respect to the one car credit was inconsistent with past Departmental decisions on Standard No. 208.

PCLG's final assertion was that the manufacturers' promises to use driver side air bags are unenforceable. PCLG stated that the agency's justification for extending the one car credit "is premised on nothing more than a 'promise' by Ford and the other companies that they will, in fact, employ air bags for the driver side of their cars." This statement is simply false. Standard No. 208 requires that all cars manufactured between September 1, 1989 and September 1, 1992 must have a non-belt automatic restraint system installed on the driver side, if the car has a manual lap/shoulder belt at the right front passenger position. This is a requirement of the standard, not simply a promise by the manufacturer.

PCLG's statement that NHTSA will have no recourse under the final rule to force the installation of air bags is correct, but irrelevant. Standard No. 208 does not now require, nor has it ever required, manufacturers to install air bags in their cars. Instead, Standard No. 208 is a performance standard, and any restraint system that provides the specified performance may be used to comply with the standard. Thus, if some or all of the vehicle manufacturers that are currently planning to install driver side air bags in their 1990 model year cars should change their plans and install automatic belts instead, those manufacturers would not have "tricked" the agency. They would simply be exercising an option they have always had for complying with Standard No. 208.

If a manufacturer chooses to install an automatic belt at the driver's position, Standard No. 208 requires that vehicle also to have an automatic restraint system for the right front passenger. The one car credit applies only to vehicles in which the manufacturer has chosen to install a non-belt automatic restraint system on the driver side. The one car credit was adopted to promote the widespread introduction of non-belt automatic restraint systems, and the currently available information suggests that the rule has increased the likelihood of achieving this objective.

NHTSA has concluded that the PCLG petition has not suggested any reasonable basis for amending the previously published final rule extending the one car credit. The petition is, therefore, denied.

Authority: 15. U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

Issued on November 2, 1987.

Diane K. Steed,

Administrator.

[FR Doc. 87-25676 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 70101-7001]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure and request for comments.

SUMMARY: NOAA announces closure of the fishery for sablefish caught with trawl gear off the coasts of Washington, Oregon, and California, and seeks public comment on this action. This closure is authorized under the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP) and the 1987 fishing restrictions which prohibit retention or landings of sablefish by trawl gear when the quota for that gear type is reached. The Director, Northwest Region, NMFS (Regional Director) has determined that the 1987 trawl quota of 6,200 metric tons (mt) for sablefish will be reached by November 4, 1987. This closure is intended to avoid overfishing a species which is fully utilized.

DATES: This closure is effective from 0001 hours Pacific Standard Time (PST), November 4, 1987, until 2400 hours PST, December 31, 1987, unless modified, superseded, or rescinded. Comments will be accepted until November 20, 1987.

ADDRESSES: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: William L. Robinson, 206-526-6140; or Rodney R. McInnis, 213-514-6199.

SUPPLEMENTARY INFORMATION: Under the regulations implementing the FMP at § 663.22(a)(3), the fishing restrictions imposed at the beginning of 1987 allocate the sablefish optimum yield (OY) quota of 12,000 mt, 52 percent (6,200 mt) to trawl gear and 46 percent (5,800 mt) to fixed (nontrawl) gear, and provide for additional fishing restrictions, if needed, to avoid reaching the trawl quota prior to the end of the fishing year. When the quota for either gear type is reached, retention of landings of sablefish by that gear type must be prohibited as provided for in §§ 663.21(b) and 663.23. If the overall OY for sablefish is reached, further landings of sablefish by all gear types must be prohibited until January 1, 1988 (52 FR 790, January 9, 1987).

On October 2, 1987, a trip limit was imposed on trawl-caught sablefish of 6,000 pounds or 20 percent of all legal fish on board (round weights), whichever is greater, to slow landings and delay attainment of the trawl quota (52 FR 37466, October 7, 1987). On October 22, 1987, the fixed gear fishery for sablefish was closed due to attainment of the 5,800 mt fixed gear quota (52 FR 41304, October 27, 1987).

Based on the best available information as of October 26, 1987, and in cooperation with the Washington Department of Fisheries, the Oregon Department of Fish and Wildlife, the California Department of Fish and Game, and the Pacific Fishery Management Council (Council), the Regional Director determined that the 6,200 mt quota for sablefish caught with trawl gear will be reached by November 4, 1987. Accordingly, closure of the trawl fishery for sablefish is effective at 0001 hours PST on November 4, 1987. Washington, Oregon, and California will close state ocean waters at the same time.

This action is automatic and non-discretionary and modifies previous restrictions for sablefish caught with trawl gear (52 FR 790, January 9, 1987; 52 FR 11473, April 9, 1987; 52 FR 37466, October 7, 1987).

Secretarial Action

For the reasons stated above, the Secretary of Commerce announces that:

(1) It is unlawful for any person to retain or land sablefish caught with trawl gear.

(2) Trawl gear includes bottom trawls, roller or bobbin trawls, pelagic trawls, and shrimp trawls.

(3) This restriction applies to all sablefish caught with trawl gear in ocean waters (0-200 nautical miles) offshore of Washington, Oregon, and California. All sablefish caught with trawl gear that are possessed 0-200 nautical miles offshore of, or landed in, Washington, Oregon, or California are presumed to have been taken and retained 0-200 nautical miles offshore of

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Washington, Oregon, or California, unless otherwise demonstrated by the person in possession of those fish.

(4) The fixed gear (nontrawl) fishery has taken its 5,800 mt quota and was prohibited from taking and retaining, or landing, sablefish on October 22, 1987 (52 FR 41304, October 22, 1987). Consequently, the 12,000 mt OY for sablefish has now been reached, and no sablefish may be taken and retained, or landed, by any gear type until January 1, 1988.

Classification

The determination to prohibit further trawl landings of sablefish is based on the most recent data available. The aggregate data upon which this action is based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours until the end of the comment period.

This action is taken under §§ 663.22(a)(3) and 663.23 and the notice at 52 FR 790, January 9, 1987, and is in compliance with Executive Order 12291. The action is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Because of the immediate need to prohibit further trawl landings of sablefish and thereby prevent inequitable and excessive harvest that could otherwise result, the Secretary finds that advance notice and public comment on this closure are impracticable and not in the public interest, and that no delay should occur in its effective date. The public was notified at the Council's September 1987 meeting that trawl landings of sablefish could reach the quota for that gear type before the end of the year. The public had the opportunity to comment at meetings of the Groundfish Select Group, Groundfish Management Team, and Council in August, September, and October 1987. Public comments also will be accepted for 15 days after publication of this notice in the **Federal Register**. The Secretary therefore finds good cause to waive the 30-day delayed effectiveness provision of § 663.23(c).

List of Subjects in 50 CFR Part 663

Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: November 2, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-25809 Filed 11-2-87; 4:11 pm]

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Proposed Rules

Federal Register
Vol. 52, No. 214
Thursday, November 5, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 70872-7172]

BE-12, Benchmark Survey of Foreign Direct Investment in the United States—1987

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 4(b) of the International Investment and Trade in Services Survey Act (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108, as amended) requires that a benchmark survey of foreign direct investment in the United States be conducted covering 1987 and every fifth year thereafter. These proposed rules will revise 15 CFR 806.17 to set forth the reporting requirements for the survey covering 1987 and to delete the rules now in § 806.17, which were for the last benchmark survey covering 1980. They will also amend 15 CFR 806.15 to change the year of coverage of this next benchmark survey from 1985, as was specified in the original legislation authorizing the survey, to 1987, as now specified by amendment to that legislation (see Pub. L. 97-33 and Pub. L. 97-70).

DATE: Comments on the proposed rules will receive consideration if submitted in writing on or before December 21, 1987.

ADDRESS: Comments may be mailed to the Office of the Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand delivered to Room 607, Tower Building, 1401 K Street, NW., Washington, DC 20005. Comments received will be available for public inspection in Room 607, Tower Building, between 8:00 a.m. and 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Acting Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523-0659.

SUPPLEMENTARY INFORMATION: These proposed rules set forth the reporting requirements for the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—1987. This survey is to be conducted by the Bureau of Economic Analysis, U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act, hereinafter, "the Act." Section 4(b) of the Act, as amended, requires that "With respect to foreign direct investment in the United States, the President shall conduct a benchmark survey covering year 1980, a benchmark survey covering year 1987, and benchmark surveys covering every fifth year thereafter . . . In conducting surveys pursuant to this subsection, the President shall, among other things and to the extent he determines necessary and feasible—

(1) Identify the location, nature, and magnitude of, and changes in the total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) Obtain (A) information on the balance sheet of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as necessary and feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade, including trade in both goods and services, between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) Collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) Obtain information on tax payments by parents and affiliates by country; and

(5) Determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons."

The responsibility for conducting benchmark surveys of foreign direct investment in the United States has been delegated to the Secretary of Commerce, who has redelegated it to the Bureau of Economic Analysis (BEA).

The benchmark surveys are BEA's censuses, intended to cover the universe of foreign direct investment in the United States in value terms. Foreign direct investment in the United States is defined as the ownership or control, directly or indirectly, by one foreign person of 10 percent or more of the voting securities of an incorporated U.S. business enterprise or an equivalent interest in an unincorporated U.S. business enterprise, including a branch.

The purpose of the benchmark survey is to obtain data on the amount, types, and financial and operating characteristics of foreign direct investment in the United States. The data from the survey will be used to measure the economic significance of such investment and to analyze its effects on the U.S. economy. They will also be used in formulating, and assessing the impact of, U.S. policy on foreign direct investment. They will provide benchmarks for deriving current universe estimates of direct investment from sample data collected in other BEA surveys in nonbenchmark years. In particular, they will serve as benchmarks for the quarterly direct investment estimates included in the U.S. international transactions and gross national product accounts, and for annual estimates of the foreign direct investment position in the United States and of the operations of the U.S. affiliates of foreign companies.

The benchmark surveys are also the most comprehensive of BEA's surveys in terms of subject matter in order that they obtain the detailed information on foreign direct investment needed for policy purposes. As specified in the Act, policy areas of particular interest include, among other things, trade in both goods and services, employment and employee compensation, taxes, and technology.

As proposed, the survey will consist of an Instruction Booklet; a Form BE-12(X), which is to be used to determine the reporting status of those to whom the survey packet is sent; a Form BE-12(LF), a long form for reporting by

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nonbank U.S. affiliates with assets, sales, or net income of more than $20 million; and a Form BE–12(SF), a short form for reporting by U.S. affiliates with $20 million or less of assets, sales, or net income, and by U.S. affiliates that are banks. Although the survey is intended to cover the universe of foreign direct investment in the United States, in order to minimize the reporting burden, U.S. affiliates are exempt from reporting on Form BE–12(LF) and Form BE–12(SF) if their assets, sales, and net income are $1 million or less.

Primarily to minimize the reporting burden on respondents, BEA is proposing a number of major changes between the 1980 and 1987 benchmark surveys. Proposed changes in the reporting requirements for the survey, which require revisions in the rules, are:

1. Introduction of the BE–12(SF), the short form for reporting by U.S. affiliates with $20 million or less of assets, sales, or net income, and by U.S. affiliates that are banks. In the 1980 benchmark survey, in contrast, smaller nonbank affiliates had to report on the 1980 equivalent of the long form. Thus, the short form will significantly reduce the reporting burden for these smaller affiliates and for the survey as a whole. The short form will also be utilized by banks, whereas there was a separate form for banks in 1980.

2. Introduction of the BE–12(X), Determination of Reporting Status. This form would replace the exemption claim form used in the 1980 survey. It allows companies to determine if they must file the long form or the short form or if they are exempt for filing altogether. This form will be placed first in the survey packet and should give reporters a quick, easy way to determine their reporting status at the outset. The proposed rules to revise 15 CFR 806.17 would implement the above changes in reporting requirements for the survey.

Other changes in the content of the survey forms and in the instructions to the forms, which do not require changes in the rules, are also being proposed by BEA. In making these changes, consideration was given to comments from the business community and from interagency data users. BEA held a meeting on July 21, 1987, with a Task Force of the Business Council on the Reduction of Paperwork to discuss their comments on an earlier draft of the survey. In addition, BEA sent a draft of the survey to interagency users of the data for their input. Some of the major changes since the 1980 benchmark survey include:

1. Elimination on Form BE–12(LF) of the detail on number of production workers, their hours worked, and wages and salaries, by industry, for companies with manufacturing activities.

2. Elimination on Form BE–12(LF) of the detail on merchandise exports and imports by whose product the goods are, and reduction in the detail on imports by intended use to one type of use instead of four. In addition, the level below which reporters do not need to disaggregate exports and imports by country was raised from $100,000 to $500,000.

3. In the disaggregation of data by State on the BE–12(LF), elimination of the data for wages and salaries and acres of land owned by use, and reduction from eight columns to five in the detail on the gross book value of property, plant, and equipment by use.

4. Elimination of data for the close of the prior year in the section on the composition of external finances.

5. Addition of data on the number of manufacturing employees by State, a disaggregation of sales into the portion that is goods and the portion that is services, and a question on whether there is foreign government ownership of 5 percent or more in a U.S. affiliate.

6. Revision of the section of the Instruction Booklet on the use of estimates in reporting, so as to identify specific areas where BEA recognizes estimates may be necessary because precise data are not normally maintained in companies' accounting records. Also, revision of the certification on the forms themselves to clearly indicate that such estimates are acceptable to BEA.

Other items are being dropped, combined, modified, or added, and some instructions are being revised, primarily for clarification purposes.

In designing the proposed survey forms, BEA attempted to weigh the needs of data users for the information against the need to minimize the reporting burden on respondents. BEA feels that, in the proposed survey, an appropriate balance has been struck. However, in its discussions with respondents and data users, certain data areas were of particular concern. Respondents considered these data areas to be "soft" because the information is of a type, or at a level of detail, not normally maintained in their accounting records. They indicated that to provide this information would impose an undue burden on them and that the accuracy of the resulting data would be questionable. They also questioned whether the need for the information for U.S. Government policy purposes justified the burden and asked that BEA consider further reductions in these areas.

The Government users of the data, in contrast, indicated that these data areas were ones in which there is considerable U.S. Government policy interest. They felt that detailed information in these areas is essential and that the policy need for the information outweighs the reporting burden. They asked that no further reductions in these areas be made and that BEA consider re-inserting some detail that it has omitted from the proposed survey.

The data areas of particular concern are:

(1) Data on U.S. merchandise exports and imports of U.S. affiliates by product, by country of origin or destination, by whose product the goods are, and, for imports, by intended use. BEA has proposed to retain the detail by product and by country of origin or destination collected in the 1980 benchmark survey, but to eliminate the detail by whose product the goods are and reduce the detail on imports by intended use to one type of use instead of four.

2. Data on sales of goods and services disaggregated by industry of sales, by whether the sales are of goods or of services, and, for services sales, detail by transactor. BEA has proposed to retain the data collected in the 1980 benchmark survey on sales by industry of sales. Based on needs expressed by policy agencies engaged in conducting U.S. negotiations on trade in services, BEA has proposed to add detail on the portion of sales that is goods and the portion that is services and, for services sales, to add detail on the portion of such sales that is to U.S. persons, to foreign parents, to foreign affiliates of the U.S. affiliate, and to other foreign persons.

3. Data by State. As indicated earlier, BEA has proposed to eliminate State detail for wages and salaries and for acres of land owned by use. It has proposed that the State detail on the gross book value of property, plant, and equipment by use be reduced from eight columns to five; the result would be improved data on real estate but less detail on other industries. BEA has proposed to add State detail for employment in manufacturing.

4. Data on employment, wages and salaries, and hours worked, of production workers in manufacturing by industry of sales. BEA has proposed to eliminate the detail by industry of sales for these items.

BEA would particularly welcome further public comment on these data areas. Data users should indicate, as specifically as possible, the level of detail needed for policy purposes and the uses to which the data will be put. Respondents should indicate, as specifically as possible, the problems they would encounter in providing the information and the cost involved.

A copy of the proposed survey may be obtained from: Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523–0659.

In addition to revising 15 CFR 806.17 to set forth the reporting requirements for the 1987 benchmark survey, these proposed rules would also amend 15 CFR 806.15 to change the year of coverage of this next benchmark survey from 1985 to 1987. The original legislation authorizing the survey required that a benchmark survey be conducted at least once every 5 years. Because a benchmark survey covering 1980 was conducted, the original legislation would have implied that the next survey cover 1985. However, amendments to the original legislation made in 1981 (see Pub. L. 97–33 and Pub. L. 97–70) now require the conduct of "a benchmark survey covering year 1980, a benchmark survey covering year 1987, and benchmark surveys covering every fifth year thereafter." The postponement of this next survey from 1985 to 1987 was done in order to place it on the same 5-year cycle as the Census Bureau's economic censuses. As a consequence, it will be possible to link the enterprise data reported to BEA in its benchmark surveys, and the establishment data reported to the Census Bureau in its economic census, for those U.S. companies that are in the foreign direct investment universe.

Executive Order 12291

BEA has determined that this proposed rule is not "major" as defined in E.O. 12291 because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

This proposed rule contains a collection of information requirement subject to the Paperwork Reduction Act. The collection of information is necessary to secure data on the amount, types, and financial and operating characteristics of foreign direct investment in the United States for use in measuring the economic significance of, and formulating U.S. Government policy on, such investment. A request has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Comments from the public on this collection of information requirement should be addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20530, Attention: Desk Officer for the Department of Commerce.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to preparation of an initial regulatory flexibility analysis are not applicable to this proposed rulemaking because it will not have a significant economic impact on a substantial number of small entities. Most small businesses are not foreign owned, and most that are will be excluded from reporting on Form BE–12 (LF) and Form BE–12 (SF) by the $1 million exemption level below which reporting on these forms is not required. Also, under these proposed rules, companies with assets, sales, or net income above $1 million, but not above $20 million, would report on the much more abbreviated BE–12 (SF), rather than on the BE–12 (LF). This provision will significantly reduce the burden on smaller businesses.

Accordingly, the General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the proposed rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, Foreign investment in the United States, Reporting requirements.

Dated: August 17, 1987.

Allan H. Young,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to revise 15 CFR Part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and E.O. 11961, as amended.

§ 806.15 [Amended]

2. Section 805.15(j)(1) is amended by deleting "at least once every five years" and inserting in its place "in 1980, 1987, and every fifth year thereafter."

3. Section 805.15(i) is amended by deleting "at least once every five years" and inserting in its place "in 1980, 1987, and every fifth year thereafter."

4. Section 806.17 is revised by deleting the existing rules contained therein and substituting the following:

§ 806.17 Rules and regulations for BE–12, Benchmark Survey of Foreign Direct Investment in the United States—1987.

A BE–12, Benchmark Survey of Foreign Direct Investment in the United States will be conducted covering 1987. All legal authorities, provisions, definitions, and requirements contained in §§ 806.1 through 806.13 and § 806.15(a) through (g) are applicable to this survey. Specific additional rules and regulations for the BE–12 survey are given below.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE–12 Benchmark Survey of Foreign Direct Investment in the United States—1987, contained herein, whether or not they are contacted by BEA. Also, a person, or their agent, contacted by BEA concerning their being subject to reporting, either by sending them a report form or by written inquiry, must respond in writing pursuant to § 806.4. This may be accomplished by completing and returning Form BE–12(X) within 30 days of its receipt and, if applicable, by completing and returning Form BE–12(LF) or Form BE–12(SF) by May 31, 1988.

(b) *Who must report.* A BE–12 report is required for each U.S. affiliate, i.e., for each U.S. business enterprise in which a foreign person owned or controlled, directly or indirectly, 10 percent of more of the voting securities if an incorporated U.S. business enterprise, or an equivalent interest if an unincorporated U.S. business enterprise, at the end of the business enterprise's 1987 fiscal year. A report is required even though the foreign person's equity interest in the U.S. business enterprise may have been established or acquired during the reporting period. Beneficial, not record, ownership is the basis of the reporting criteria.

(c) *Forms to be filed.* (1) Form BE–12(X)—Benchmark Survey of Foreign Direct Investment in the United States—1987, Determination of Reporting Status, must be completed and filed within 30 days of its receipt by each U.S. business enterprise that was a U.S. affiliate of a

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foreign person at the end of its 1987 fiscal year and that is not fully consolidated, or in the case of real estate investments, aggregated on a Form BE–12(X) of another U.S. affiliate. Also, a person, or their agent, contacted by BEA concerning their being subject to reporting, either by sending them a report form or by written inquiry, must respond by completing and returning Form BE–12(X) within 30 days of its reciept, even if the person does not meet the requirements for reporting on Form BE–12(LF) or BE–12(SF), as contained in § 806.17(c)(2) and (3) of this section.

(2) Form BE–12(LF)—Benchmark Survey of Foreign Direct Investment in the United States—1987 (Long Form) must be completed and filed by May 31, 1988, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 1987 fiscal year, if:

(i) It is *not* a bank or bank holding company, and

(ii) On a fully consolidated, or, in the case of real estate investment, an aggregated basis, one or more of the following three items for the U.S. affiliate (not the foreign parent's share) exceeded $20 million (positive or negative) at the end of, or for, its 1987 fiscal year:

(A) Total assets (do not net out liabilities)

(B) Sales or gross operating revenues, excluding sales taxes, or

(C) Net income after provision for U.S. income taxes.

(3) Form BE–12(SF)—Benchmark Survey of Foreign Direct Investment in the United States—1987 (Short Form) must be completed and filed by May 31, 1988, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 1987 fiscal year, if:

(i) On a fully consolidated, or, in the case of real estate investments, an aggregated basis, one or more of the following three items for the U.S. affiliate (not the foreign parent's share) exceeded $1 million (positive or negative), but no one item exceeded $20 million (positive or negative) at the end of, or for, its 1987 fiscal year:

(A) Total assets (do not net out liabilities)

(B) Sales or gross operating revenues, excluding sales taxes, or

(C) Net income after provision for U.S. income tax, or if:

(ii) The U.S. affiliate *is* a bank or a bank holding company, and one or more of the following three items for the U.S. affiliate (not the foreign parent's share) exceeded $1 million (positive or negative) at the end of, or for, its 1987 fiscal year:

(A) Total assets (do not net out liabilities)

(B) Sales or gross operating revenues, excluding sales taxes, or

(C) Net income after provision for U.S. income taxes.

(d) *Aggregation of real estate investments.* All real estate investments of a foreign person must be aggregated for the purpose of applying the reporting criteria. A single report form must be filed to report the aggregate holdings, unless permission has been received from BEA to do otherwise. Those holdings not aggregated must be reported separately.

(e) *Exemption.* (1) A U.S. affiliate as consolidated, or aggregated in the case of real estate investments, is not required to file a Form BE–12(LF) or Form BE–12(SF) if each of the following three items for the U.S. affiliate (not the foreign parent's share) did not exceed $1 million (positive or negative) at the end of, or for, its 1987 fiscal year:

(i) Total assets (do not net out liabilities)

(ii) Sales or gross operating revenues, excluding sales taxes, and

(iii) Net income after provision for U.S. income taxes.

(2) If a U.S. business enterprise is a U.S. affiliate but is not required to file a completed Form BE–12(LF) or Form BE–12(SF) because it falls below the exemption level, then it must complete and file a Form BE–12(X) with item 3 marked and the information requested in item 3 filled in.

(f) *Due date.* A fully completed and certified Form BE–12(LF) or Form BE–12(SF) is due to be filed with BEA not later than May 31, 1988. In addition, Form BE–12(X) must be completed (including the certification) and filed within 30 days of the date is was received.

[FR Doc. 87–25665 Filed 11–4–87; 8:45 am]
BILLING CODE 3510–06–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1615

Enforcement of Nondiscrimination on the Basis of Handicap in Equal Employment Opportunity Commission Programs

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Equal Employment Opportunity Commission. It sets forth standards for what constitutes discrimination on the basis of mental or physical handicap, provides a definition for individual with handicaps and qualified individual with handicaps and establishes a complaint mechanism for resolving allegations of discrimination.

DATES: To be assured of consideration, comments must be in writing and must be received on or before December 7, 1987. Comments should refer to specific sections in the regulation.

ADDRESSES: Comments should be sent to: Cynthia Matthews, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 2401 "E" Street, NW., Washington, DC 20507.

Comments received will be available for public inspection and copying at the Commission's second floor library at 2401 "E" Street, NW., Washington, DC between the hours of 9:00 am and 5:30 pm Monday through Friday. Copies of this notice are available on tape for those with impaired vision. They may be obtained from Janet Dorsey, Handicap Program Manager, Rm. 302, Equal Employment Opportunity Commission, 2401 "E" Street, NW., Washington, DC 20507 (202) 634–6280; TDD (202) 634–7057.

FOR FURTHER INFORMATION CONTACT: Irene L. Hill, Assistant Legal Counsel for Coordination, at (202) 634) 634–7581. EEOC's TDD number is (202) 634–7057.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this proposed rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the Equal Employment Opportunity Commission. As amended by the Rehabilitation, Comprehensive Services, and Development Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95–602, 92 Stat. 2982), and the Rehabilitation Act Amendments of 1986 (Pub. L. 99–506, 100 Stat. 1810), section 504 of the Rehabilitation Act of 1973 states that:

No otherwise qualified individual with handicaps in the United States. * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency

shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

(29 U.S.C. 794)

The substantive nondiscrimination obligations of the Commission, as set forth in this proposed rule, are identical, or the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. *See* 28 CFR Part 41 (section 504 coordination regulation for federally assisted programs). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal Government should have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *Id.;* 124 Cong. Rec. 13,697 (remarks of Rep. Brademas); *Id.* at 38,552 (remarks of Rep. Sarasin).

There are, however, some language differences between this proposed rule and the Federal government's section 504 regulations for federally assisted programs. These changes are based on the Supreme Court's decision in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), and the subsequent circuit court desisions interpreting Davis and section 504 See *Dopico* v. *Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association* v. *Lewis*, 655 F.2d 1272 (D.C. Cir. 1981) *(APTA); see* also *Rhode Island Handicapped Action Committee* v. *Rhode Island Public Transit Authority*, 718 F.2d 490 (1st Cir. 1983)

These language differences are also supported by the recent decision of the Supreme Court in *Alexander* v. *Choate*, 469 U.S. 287 (1985), where the Court held that the regulations for federally assisted programs did not require a recipient to modify its duration limitation on Medicaid coverage of inpatient hospital care for handicapped persons. Clarifying its *Davis* decision, the Court explained that section 504 requires only "reasonable" modifications, *Id.* at 300, and explicitly noted that "[t]he regulations implementing section 504 for federally assisted programs are consistent with the view that reasonable adjustments in the nature of the benefit offered must at times be made to assure meaningful access" (*Id.*, n. 21) (emphasis added).

Incorporation of these changes, therefore, makes this regulation implementing section 504 for federally conducted programs consistent with the Federal Government's regulations implementing section 504 for federally assisted programs as they have been interpreted by the Supreme Court. Many of these federally assisted regulations were issued prior to the interpretations of section 504 by the courts: The Supreme Court in *Davis*, subsequent lower court cases interpreting *Davis*, and the Supreme Court in *Alexander;* therefore their language does not reflect the interpretation on section 504 provided by the Supreme Court and by the various circuit courts. Of course these federally assisted regulations must be interpreted to reflect the holdings of the Federal judiciary. Hence the Commission believes that there are not significant differences between this proposed rule for federally conducted programs and the Federal Government's interpretation of section 504 regulations for federally assisted programs.

This regulation has been reviewed by the Department of Justice. It is an adaptation of a prototype prepared by the Department of Justice under Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p. 298) and distributed to Executive agencies. It has also been reviewed by the Commission under Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206).

It is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp., p. 127) and, therefore, a regulatory impact analysis has not been prepared.

This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act (5 U.S.C. 601–612).

Section by Section Analysis

Section 1615.101 Purpose.

Section 101 states the purpose of the proposed rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Development Disabilities Amendments of 1978, which amended section 504 of the Rhabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

Section 1615.102 Application.

The proposed regulation applies to all programs or activities conducted by the Commission. Under this section, a federally conducted program or activity is, in simple terms, anything the Commission does. Aside from employment, there are two major categories of federally conducted programs or activities covered by this regulation: Those involving general public contact as part of ongoing agency operations and those directly administered by the Commission for program beneficiaries and participants. Activities in the first part include communication with the public (telephone contacts, office walk-ins, or interviews) and the public's use of the Commission's facilities. Activities in the second category include programs that provide Federal services or benefits.

Section 1615.103 Definitions.

"Assistant Attorney General." "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids." "Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicitly only by § 1615.160(a)(1), they may also be necessary to meet other requirements of the regulation.

"Commission." For purposes of this regulation "Commission" means the Equal Employment Opportunity Commission.

"Complete complaint." The definition of "complete complaint" enables the Commission to determine the beginning of its obligation to investigate a complaint (*see* § 1615.170(g)). The definition is necessary because the 180 day period for the Commission's investigation begins when it receives a complete complaint.

"Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs 29 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted to clarify its coverage. The phrase, "or interest in such property," is deleted because the term "facility," as used in this regulation, refers to structures and not to intangible property rights. It should, however, be noted that the regulation applies to all programs and activities conducted by the Commission regardless of whether the facility in which they are conducted is owned, leased, or used on some other

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basis by the Commission. The term "facility" is used in §§ 1615.149, 1615.150 and 1615.170(f).

"Individual with handicaps" The definition of "individual with handicaps" is identical to the definition of "handicapped person" appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31). Although section 103(d) of the Rehabilitation Act Amendments of 1986 changed the statutory term "handicapped individual" to "individual with handicaps," the legislative history of this amendment indicates that no substantive change was intended. Thus, although the term has been changed in this regulation to be consistent with the statute as amended, the definition is unchanged. In particular, although the term as revised refers to "handicaps" in the plural, it does not exclude persons who have only one handicap.

"Qualified individual with handicaps." The definition of "qualified individual with handicaps" is a revised version of the definition of "qualified handicapped person" appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Paragraph (1) deviates from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified individual with handicaps" with regard to any program (except employment) under which a person is required to perform services or to achieve a level of accomplishment. In such programs a qualified individual with handicaps is one who can achieve the purpose of the program without modifications in the program that the agency can demonstrate would result in a fundamental alteration in its nature. This definition reflects the decision of the Supreme Court in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979). In that case, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives." *Id.* at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways," *Id.* at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore concluded that the school was not required by section 504 to make such modifications that would result in "a fundamental alteration in the nature of the program." *Id.* at 410.

We have incorporated the Court's language in the definition of "qualified individual with handicaps" in order to make clear that such a person must be able to participate in the program offered by the Commission. The Commission is required to make modifications in order to enable an applicant with handicaps to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could benefit or obtain results from some other program that the Commission does not offer. Although the revised definition allows exclusion of some individual with handicaps people form some programs, it requires that an individual with handicaps who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

The definition of "qualified individual with handicaps" also has been revised to make it clear that the Commission has the burden of demonstrating that a proposed modification would constitute a fundamental alteration in the nature of its program or activity. Furthermore, in demonstrating that a modification would result in such an alteration, the Commission must follow the procedures established in § 1615.150(a)(2) and § 1615.160(d), which was discussed below, for demonstrating that an action would result in undue financial and administrative burdens. That is, the decision must be made by the Chairman of the Commission or his or her designee in writing after consideration of all resources available for the program or activity and must be accompanied by an explanation of the reasons for the decision. If the Chairman determines that an action would result in a fundamental alteration, the Commission must consider options that would enable the individual with handicaps to achieve the purpose of the program but would not result in such an alteration.

For programs or activities that do not fall under the first paragraph, paragraph (2) adopts the existing definition of "qualified handicapped person" with respect to services (28 CFR 41.32(b)) in the coordination regulation for programs receiving Federal financial assistance. Under this definition, an individual with handicaps is a handicapped person who meets the essential eligibility requirements for participation in the program or activity.

"Qualified individual with handicaps" is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § 1615.140. Nothing in this part changes existing regulations applicable to employment.

"Section 504." This definition makes clear that, as used in this regulation, "section 504" applies only to programs or activities conducted by the Commission and not to programs or activities to which it provides Federal financial assistance.

Section 1615.110 Self-evaluation.

The Commission shall conduct a self-evaluation of its compliance with section 504 within one year of the effective date of this regulation. The self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.5(b)(2)). Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with individuals with handicaps that promotes both effective and efficient implementation of section 504.

Individuals and groups with information to offer the agency concerning its self-evaluation study may contact Janet Dorsey, Handicap Program Manager, Equal Employment Opportunity Commission, 2401 "E" Street, NW., Washington, DC 20507, (202) 634–6260, TDD (202) 634–7057.

Section 1615.111 Notice.

Section 1615.111 requires the Commission to disseminate sufficient information to employes, applicants, participants, beneficiaries, and other interested persons to apprise them of rights and protections afforded by section 504 and this regulation. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the Commission's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section 1615.130 General prohibitions against discrimination.

Section 1615.,130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs

or activities receiving Federal financial assistance (28 CFR 41.51).

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § 1615.130 establish the general principles for analyzing whether any particular action of the Commission violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. Whenever the Commission has violated a provision in any of the subsequent sections, it has also violated one of the general prohibitions found in § 1615.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits the denial of equal opportunities for individuals with handicaps to participate in or benefit from Commission programs as well as overt denial of equal treatment of individuals with handicaps. The agency may not refuse to provide an individual with handicaps with an equal opportunity to participate in or benefit from its programs simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (*e.g.*, epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Exclusion of an individual with handicaps from a program or activity based on stereotyped characterizations of persons with his or her handicap is prohibited. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligiblity requirements for participation in the activity in question.

Section 504, however, prohibits more than just exclusionary practices. As the Supreme Court recognized in *Alexander*, in enacting section 504, Congress intended to reach some conduct, such as the maintenance of architectural barriers, that have a discriminatory effect upon individuals with handicaps. 464 U.S., at 297. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to an individual with handicaps be as effective as that afforded to others. The later sections on program accessibility (§§ 1615.150–1615.151) and communications (§ 1615.160) are specific applications of this principle.

Paragraph (d) mandates that the Commission administer its programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps. Paragraph (b)(1)(iv) permits the agency to develop separate or different aids, benefits, or services only when necessary to provide individuals with handicaps with an equal opportunity to participate in or benefit from the agency's programs or activities. Paragraph (b)(1)(iv) requires that different or separate aids, benefits or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, paragraph (b)(2) provides that a qualified individual with handicaps still has the right to choose to participate in the program that is not designed to accommodate individuals with handicaps.

Paragraph (b)(1)(v) prohibits the Commission from denying a qualified individual with handicaps the opportunity to participate as a member of a planning or advisory board.

Paragraph (b)(1)(vi) prohibits the Commission from limiting a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Paragraph (b)(3) prohibits the Commission from utilizing criteria or methods of administration that deny individuals with handicaps access to the agency's programs or activities. The phrase "criteria or methods of administration" refers to official written agency policies and the actual practices of the agency. This paragraph prohibits explicit denials of opportunities to benefit from Commission programs due to handicap. It also prohibits nonessential policies and practices that are neutral on their face, but that operate to deny individuals with handicaps an effective opportunity to participate.

Paragraph (b)(4) specifically applies the prohibition enunciated in § 1615.130(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the Commission. Paragraph (b)(4) does not apply to construction of additional buildings at an existing site.

Paragraph (b)(5) prohibits the Commission, in the selection of procurement contractors, from using criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

Paragraph (c) provides that programs conducted pursuant to a Federal statute or Executive order that are designed to benefit only individuals with handicaps or a given class of individuals with handicaps may be limited to those individuals.

Section 1615.140 Employment.

Section 1615.140 prohibits discrimination on the basis of handicap in employment. Courts have held that section 504, as amended in 1978, covers the employment practices of Executive agencies. *Gardner* v. *Morris*, 752 F.2d 1271, 1277 (8th Cir. 1985); *Smith* v. *U.S. Postal Service*, 742 F.2d 257, 259–260 (6th Cir. 1984); *Prewitt* v. *U.S. Postal Service*, 662 F.2d 292, 302–04 (5th Cir. 1961). *Contra McGuiness* v. *U.S. Postal Service*, 744 F.2d 1318, 1320–21 (7th Cir. 1984); *Boyd* v. *U.S. Postal Service*, 752 F.2d 410, 413–14 (9th Cir. 1985).

Courts uniformly have held that in order to give effect to section 501 of the Rehabilitation Act, which covers Federal employment, the administrative procedures of section 501 must be followed in processing complaints of employment discrimination under section 504. *Smith*, 742 F.2d at 262; *Prewitt*, 662 F.2d at 304. Accordingly, § 1615.140 (Employment) of this rule adopts the definitions, requirements and procedures of section 501 as established in regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613. In addition to this section, § 1615.170(b) (Compliance Procedures) of this regulation specifies that the Commission will use the existing EEOC procedures to resolve allegations of employment discrimination. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206). Under this authority, the EEOC establishes governmentwide standards on nondiscrimination in employment on the basis of handicap.

Section 1615.149 Program accessibility: Discrimination prohibited.

Section 1615.149 states the general nondiscrimination principle underlying the program accessibility requirements of §§ 1615.150 and 1615.151.

Section 1615.150 Program accessibility: Existing facilities.

This regulation adopts the program accessibility concept found in the

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existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.57), with certain modifications. Thus, § 1615.150 requires that the agency's program or activity, when viewed in its entirety, be readily accessible to and usable by individuals with handicaps. However, § 1615.150, unlike 28 CFR 41.56–41.57, places explicit limits on the agency's obligation to ensure program accessibility (§ 1615.150(a)(2)). The regulation also makes clear that the Commission is not necessarily required to make each of its existing facilities accessible (§ 1615.150(a)(1)).

Paragraph (a)(2) generally codifies case law that defines the scope of the Commission's obligation to ensure program accessibility. This paragraph provides that in meeting the program accessibility requirements the Commission is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. A similar limitation is provided in § 1615.160(d). This provision is based on the Supreme Court's holding in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since Davis, Circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504. *See, e.g., Dopico* v. *Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association* v. *Lewis (APTA)*, 655 F.2d 1272 (D.C. Cir. 1981). Thus, in *APTA* the United States Court of Appeals for the District of Columbia Circuit applied the *Davis* language and invalidated the section 504 regulations of the Department of Transportation. The court in *APTA* noted "that at some point a transit system's refusal to take modest, affirmative steps to accommodate handicapped persons might well violate section 504. But DOT's rules do not mandate only modest expenditures. The regulations require extensive modifications of existing systems and impose extremely heavy financial burdens on local transit authorities." 655 F.2d at 1278.

In *Dopico* the United States Court of Appeals for the Second Circuit looked at the potential expenditure of $6 million of New York City's total federal capital and operating subsidy for mass transit of $490 million for 1980 and concluded that "[w]hile this is a considerable sum of money, it is not 'massive' either in absolute terms or relative to the City's total receipt of mass transportation * * *." 687 F.2d at 650.

Paragraph (a)(2) and § 1615.160(d) are also supported by *Alexander*. *Alexander* involved a challenge to the State of Tennessee's reduction of inpatient hospital care coverage under Medicaid from 20 to 14 days per year. Plaintiffs argued that this reduction violated section 504 because it had an adverse impact on handicapped persons. The Court assumed without deciding that section 504 reaches at least some conduct that has an unjustifiable disparate impact on handicapped people, but held that the reduction was not "the sort of disparate impact" discrimination prohibited by section 504 or its implementing regulation (*Id.* at 299).

Relying on *Davis*, the Court said that section 504 guarantees qualified individuals with handicaps "meaningful access to the benefits that the grantee offers" (*id.* at *301*) and that "reasonable adjustments in the nature of the benefit being offered must at times be made to assure meaningful access." (*Id.*, n.21) (emphasis added). However, section 504 does not require " 'changes,' 'adjustments,' or 'modifications' to existing programs that would be 'substantial' * * * or that would constitute 'fundamental alteration(s) in the nature of a program' ". (*Id.*, n.20) (citations omitted).

Paragraph (a)(2) supports the position, based on *Davis* and the earlier, lower court decisions, that in some situations, certain modifications for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the modifications is not discriminatory. Thus failure to include such an "undue burden" provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation.

This paragraph, however, does not establish an absolute defense; it does not relieve the Commission of all obligations to individuals with handicaps. Although the Commission is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that individuals with handicaps receive the benefits and services of the federally conducted program or activity.

It is our view that compliance with § 1615.150(a) would in most cases not result in undue financial and administrative burdens on the Commission. In determining whether financial and administrative burdens are undue, all Commission resources available for use in the funding and operation of the conducted program or activity are to be considered. The burden of proving that compliance with § 1615.150(a) would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the Commission. The decision that compliance would result in such alteration or burdens must be made by the Chairman of the Commission and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the Chairman's decision or failure to make a decision may file a complaint under the compliance procedures established in § 1615.170. Finally, even if there is a determination that making a program accessible will fundamentally alter the nature of the program, or will result in undue financial and administrative burdens, the Commission must still take action, short of that outer limit, that will open participation in the Commission program to disabled persons to the fullest extent possible.

Paragraph (b)*(1)* sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the Commission shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of individuals with handicaps. Structural changes in existing facilities are required only when there is no other feasible way to make the Commission's program accessible. The Commission may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the Commission must make any necessary structural changes in facilities as soon as practicable, but in no event later than

three years after the effective date of this regulation.

Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days.

Section 1615.151 Program accessibility: New construction and alterations.

Overlapping coverage exists with respect to new construction and alterations under section 504, section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792) and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section 1615.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the Commission shall be designed, constructed, or altered to be readily accessible to and usable by individuals with handicaps in accordance with 41 CFR 101.19.600 to 101.19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). We believe that it is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the Commission after the effective date of this regulation are not required by the regulation to meet accessibility standards simply by virtue of being leased. They are subject, however, to the program accessibility standard for existing facilities in § 1615.150. To the extent the buildings are newly constructed or altered, they must also meet the new construction and alteration requirements of § 1615.151.

Federal practice under section 504 has always treated newly leased buildings as subject to the existing facility program accessibility standard. Unlike the construction of new buildings where architectural barriers can be avoided at little or no cost, the application of new construction standards to an existing building being leased raises the same prospect of retrofitting buildings as the use of an existing Federal facility, and the Commission believes the same program accessibility standard should apply to both owned and leased existing buildings.

In *Rose v. United States Postal Service*, 774 F.2d 1355 (9th Cir. 1985) the Ninth circuit held that the Architectural Barriers Act requires accessibility at the time of lease. The Rose court did not address the issue of whether section 504 likewise requires accessibility as a condition of the lease, and the case was remanded to the District Court for, among other things, consideration of that issue. The Commission may provide more specific guidance on section 504 requirements for leased buildings after the litigation is completed.

Section 1615.160 Communications.

Section 1615.160 requires the Commission to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants, and members of the public. These steps shall include procedures for determining when auxiliary aids are necessary under § 1615.160(a)(1) to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, the Commission's program or activity. They shall also include an opportunity for individuals with handicaps to request the auxiliary aids of their choice. This expressed choice shall be given primary consideration by the Commission (§ 1615.160(a)(1)(i)). The Commission shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 1615.160(d). That paragraph limits the obligation of the Commission to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it (*see supra*, preamble § 1615.150(a)(2)). Unless not required by § 1615.160(d), the Commission shall provide auxiliary aids at no cost to the individual with handicaps.

The discussion under § 1615.150, Program accessibility: Existing facilities, regarding the determination of undue financial and administrative burdens also applies to this section and should be referred to for a complete understanding of the Commission's obligation to comply with § 1615.160.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly where the hearing-impaired applicant or participant is not skilled in spoken or written language. Then, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the Commission intends to make clear to the public (1) the communications services it offers to afford individuals with handicaps an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the Commission's preferences regarding auxiliary aids if it can demonstrate that several different modes are effective.

The Commission shall ensure effective communication with vision-impaired and hearing-impaired persons involved in hearings conducted by the Commission. Auxiliary aids must be afforded where necessary to ensure effective communication at the proceedings. If sign language interpreters are necessary, the Commission may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the Commission need not provide devices of a personal nature (§ 1615.160(a)(1)(ii)). For example, the Commission need not provide eye glasses or hearing aids to applicants or participants in its programs. Similarly, the regulation does not require the Commission to provide wheelchairs to persons with mobility impairments. Readers will be provided if necessary, to make program materials accessible. Readers will not be available for reading nonprogram materials.

Paragraph (b) requires the Commission to provide information to individuals with handicaps concerning accessible services, activities, and facilities. Paragraph (c) requires the Commission to provide signs at inaccessible facilities that direct users to locations with information about accessible facilities.

Section 1615.170 Compliance procedures.

Paragraph (a) specifies that paragraphs (c) through (l) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the Commission will process employment complaints according to procedures established in its existing regulations (29 CFR Part 1613) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

Paragraph (c) designates the official responsible for coordinating the implementation of § 1615.170.

Paragraph (d) requries complainants to file section 504 complaints within 180 days of the alleged discriminatory act unless they show good cause for a delay in filing. One hundred and eighty days is a time period that the Commission has recommended that other agencies could

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use in setting up complaint procedures. It is also consistent with the time period for filing charges pursuant to Title VII of the Civil Rights Act of 1964, as amended, and the Age Discrimination in Employment Act of 1967, as amened (in areas without a state or local deferral Commission).

The Commission is required to accept and investigate all complete complaints (§ 1615.170(d)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal government (§ 1615.170(e)).

Paragraph (f) requires the Commission to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act or section 502 was designed, constructed, or altered in a manner that does not provide ready access to and use by individuals with handicaps.

Paragraph (g) requires the Commission to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal (§ 1615.17)(g)). One appeal within the Commission shall be provided (§ 1615.170(i)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance (§ 1615.170(i)).

Paragraph (l) permits the Commission to delegate its authority for investigating complaints to other Federal agencies or to contract for such investigations with non-Federal entities. However, the statutory obligation of the Commission to make a final determination of compliance or noncompliance may not be delegated.

List of Subjects in 29 CFR Part 1615

Blind, Buildings, Civil rights, Deaf, Equal employment opportunity, Federal buildings and facilities, Government employees, Handicapped.

Signed at Washington, DC this 22nd day of Oct., 1987.

For the Commission.

Clarence Thomas,

Chairman.

For the reasons set forth in the preamble, Chapter 14, Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

Part 1615 is added to read as follows:

PART 1615—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sec.

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§ 1615.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service. (These regulations are to be interpreted so as to implement the congressional intent to require Federal agencies to live up to the same nondiscrimination obligations with respect to qualified handicapped persons as are imposed on recipients of Federal financial assistance under 29 U.S.C. 794 and its implementing regulations, 28 CFR Part 41. The regulations incorporate the substantive and procedural requirements of sections 501 and 505 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791 and 794a, and implementing regulations at 29 CFR Part 1613, to apply to complaints of discrimination in Federal employment under section 504 of the Rehabilitation Act of 1973, as amended 29 U.S.C. 794.)

§ 1615.102 Application.

This part applies to all programs or activities conducted by the Commission.

§ 1615.103 Definitions.

For purposes of this part, the term—

"Assistant Attorney General" means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Commission. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

"Commission" means the Equal Employment Opportunity Commission.

"Complete complaint" means a written statement that contains the complainant's name and address and describes the Commission's actions in sufficient detail to inform the Commission of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, is possible) the alleged victims of discrimination.

"Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

"Individual with handicaps" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystraphy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or had been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having such an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the agency as having an impairment.

"Qualified individual with handicaps" means—

(1) With respect to any Commission program or activity (except employment) under which a person is required to perform services or to achieve a level of accomplishment, an individual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the Commission can demonstrate would result in a fundamental alteration in its nature. (In determining whether a modification would result in fundamental alteration in the nature of a program, the Commission shall apply the procedures set forth in § 1615.150(b)(2).)

(2) With respect to any other program or activity except employment an individual with handicaps who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(3) "Qualified individual with handicaps" is defined for purposes of employment in 29 CFR 1613.702(f) which is made applicable to this part by § 1615.140.

"Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617), the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602, 92 Stat. 2955) and the Rehabilitation Act Amendments of 1986 (Pub. L. 99–506, 100 Stat. 1810). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

§§ 1615.104–1615.109 [Reserved]

§ 1615.110 Self-evaluation.

(a) The Commission shall, within one year of the effective date of this part, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the Commission shall proceed to make the necessary modifications.

(b) The Commission shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the self evaluation process by submitting comments (both oral and written).

(c) The Commission shall, for at least three years following completion of the evaluation required under paragraph (a) of this section, maintain on file and make available for public inspection—

(1) A description of areas examined and any problems identified; and

(2) A description of any modifications made.

§ 1615.111 Notice.

The Commission shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the Commission, and make such information available to them in such manner as the Chairman of the Commission finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

§§ 1615.112–1615.129 [Reserved]

§ 1615.130 General prohibitions against discrimination.

(a) No qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Commission.

(b)(1) The Commission, in providing any aid, benefit, or service, may not directly or through contractual, certifying, or other arrangements, on the basis of handicap—

(i) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with handicaps with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to individuals with handicaps or any class of individuals with handicaps than is provided to others unless such action is necessary to provide qualified individuals with handicaps with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with handicaps the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The Commission may not deny a qualified individual with handicaps the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The Commission may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified individuals with handicaps to discrimination on the basis of handicaps; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(4) The Commission may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the Commission; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a

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program or activity with respect to individuals with handicaps.

(5) The Commission, in the selection of procurement contractors, may not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to individuals with handicaps or the exclusion of a specific class of individuals with handicaps from a program limited by Federal statute or Executive order to a different class of individuals with handicaps is not prohibited by this part.

(d) The Commission shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

§§ 1615.134–1615.139 [Reserved]

§ 1615.140 Employment.

No qualified individual with handicaps shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the Commission. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by this Commission in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§ 1615.141–1615.148 [Reserved]

§ 1615.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in §§ 1615.150 and 1615.151, no qualified individual with handicaps shall, because the Commission's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Commission.

§ 1615.150 Program accessibility: Existing facilities.

(a) *General.* The Commission shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not—

(1) Necessarily require the Commission to make each of its existing facilities accessible to and usable by individuals with handicaps;

(2) Require the Commission to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where Commission personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Commission has the burden of proving that compliance with section 150(a) would result in such alterations or burdens. The decision that compliance would result in such alteration burdens must be made by the Chairman of the Commission after considering all Commission resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such alteration such burdens, the Commission shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity.

(b) *Methods.* The Commission may comply with the requirements of this section through such means as redesign of equipment, reassignments of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its program or activities readily accessible to and usable by individuals with handicaps. The Commission is not required to make structural changes in the existing facilities where other methods are effective in achieving compliance with this section. The Commission, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 through 4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the Commission shall give priority to those methods that offer programs and activities to qualified individuals with handicaps in the most integrated setting appropriate.

(c) *Time period for compliance.* The Commission shall comply with the obligations established under this section within sixty days after the effective date of this part except that where structural changes in facilities are undertaken, such changes shall be made within three years after the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the Commission shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The Commission shall provide an opportunity to interested persons, including individuals with handicaps and organizations representing individuals with handicaps, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the Commission's facilities that limit the accessibility of its progams or activities to individuals with handicaps;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period;

(4) Indicate the official responsible for implementation of the plan; and

§ 1615.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the Commission shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151 through 4157), as established in 41 CFR Subpart 101–19.6, apply to buildings covered by this section.

§§ 1615.152–1615.159 [Reserved]

§ 1615.160 Communications.

(a) The Commission shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The Commission shall furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, program or activity conducted by the Commission.

(i) In determining what type of auxiliary aid is necessary, the Commission shall give primary consideration to the requests of the individual with handicaps.

(ii) The Commission need not provide individually prescribed devices, readers for personal use or study, or other devices of personal future.

(2) Where the Commission communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used.

(b) The Commission shall ensure that interested persons, including persons with impaired vision or heating, can obtain information as to the existence and location of accessible services, activities and facilities.

(c) The Commission shall provide signs at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the Commission to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where Commission personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Commission has the burden of proving that compliance with section 160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Chairman of the Commission after considering all Commission resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the Commission shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

§§ 1615.161–1615.169 [Reserved]

§ 1615.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the Commission.

(b) The Commission shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by EEOC in 29 CFR Part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) Responsibility for implementation and operation of this section shall be vested in the Director, Equal Employment Opportunity Staff.

(d) The Commission shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed with the Director, Equal Employment Opportunity Staff, 2401 "E" Street, NW., Washington, DC 20507, within one hundred and eighty calendar days of the alleged act of discrimination. A complaint shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received in the Office of the Director. The Commission shall extend the time period for filing a complaint upon a showing of good cause. For example, the Commission shall extend this time limit if a complainant shows that he or she was not notified of the time limits and was not otherwise aware of them, or that he or she was prevented by circumstances beyond his or her control from submitting the matter within the time limits. A technically incomplete complaint shall be deemed timely if the complainant cures any defect upon request.

(e) If the Commission receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The Commission shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 through 4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by individuals with handicaps.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the Commission shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed with the Chairman of the Commission by the complainant within ninety calendar days of receipt from the Commission of the letter required by § 1615.170(g). The Commission shall extend this time for good cause when a complainant shows that he or she was not notified of the prescribed time limit and was not otherwise aware of it or that circumstances beyond his or her control prevented the filing of an appeal within the prescribed time limit. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Chairman, 2401 "E" Street, NW., Washington, DC 20507. It should be clearly marked "Appeal of section 504 decision" and should contain specific objections explaining why the person believes the initial decision was factually or legally wrong. Attached to the appeal letter should be a copy of the initial decision being appealed.

(i) Timely appeals shall be decided by the Chairman of the Commission unless the Commission determines that an appeal raises a policy issue which should be addressed by the full Commission. The full Commission shall then decide such appeals.

(j) The Commission shall notify the complainant of the results of the appeal within sixty days of the receipt of the request. If the Commission determines that it needs additional information from the complainant, it shall have sixty days from the date it receives the additional information to make its determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The Commission may delegate its authority for conducting complaint investigations to other Federal agencies, or may contract with non-Federal entities to conduct such investigations except that the authority for making the final determinations may not be delegated.

§§ 1615.171–1615.999 [Reserved]

[FR Doc. 87–25596 Filed 11–4–87; 8:45 am]
BILLING CODE 6570–06–M

VOL 52 ISS 214 NO 5 1987 UMI

DEPARTMENT OF EDUCATION

34 CFR Parts 674, 675, 676, and 682

National Direct Student Loan Program, College Work-Study Program, Supplemental Educational Opportunity Grant Program, and Guaranteed Student Loan Program

AGENCY: Department of Education.

ACTION: Withdrawal of notices of proposed rulemaking.

SUMMARY: The Secretary of Education withdraws a notice of proposed rulemaking (NPRM) for the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs (the Campus-Based Programs) and an NPRM for the Guaranteed Student Loan Program (GSLP). No final regulations will be issued based on these NPRMs. The Secretary takes this action to inform the public that development of the regulations described in the NPRMs is no longer being considered.

DATE: The NPRMs are withdrawn effective November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Campus-Based Programs: Margaret Henry, Campus-Based Policy Section, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4018, ROB-3), Washington, DC 20202. Telephone: (202) 732-4490 Guaranteed Student Loan Program: Larry Oxendine, Acting Chief, Guaranteed Student Loan Program, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4310, ROB-3), Washington, DC 20202. Telephone: (202) 732-4242.

SUPPLEMENTARY INFORMATION: In the NPRM published for the Campus-Based Programs on September 26, 1983 (48 FR 44054), it was proposed that participating institutions treat Veteran's Educational Assistance Program (VEAP) benefits in the same manner a Bureau of Indian Affairs education grants when awarding financial aid under the affected programs. The Secretary proposed this treatment of VEAP benefits as an incentive for persons to enlist in the Armed Services.

On the basis of the comments received on the NPRM and the revised treatment of VEAP benefits under the Uniform Methodology for the 1984-85 and subsequent award years, and under Part F of the Higher Education Amendments of 1986, Pub. L. 99-498, the Secretary withdraws the NPRM. The proposed rules will not be issued as final regulations.

The NPRM published on February 8 1985 (50 FR 5539) for the GSLP concerned provisions affecting Authorities issuing tax-exempt obligations in order to secure funds to make, purchase, or provide financing for loans under the GSLP and PLUS Program. Certain provisions in these proposed regulations were superseded by statutory amendments in the Higher Education Amendments of 1986, Pub. L. 99-498, enacted October 17, 1986, and will not be issued as final regulations. Other provisions may be included in future notices of proposed rulemaking.

(Catalog of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; College Work-Study Program, 84-033; National Direct Student Loan Program, 84-038; Guaranteed Student Loan Program, 84-032)

Dated: November 2, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87-25672 Filed 11-4-87; 8:45 am]

BILLING CODE 4000-01-M

LEGAL SERVICES CORPORATION

45 CFR Part 1607

Governing Bodies

AGENCY: Legal Services Corporation.

ACTION: Proposed regulation; extension of comment period.

SUMMARY: On October 19, 1987, proposed revisions to Part 1607, the Legal Services Corporation's ("LSC") regulations prescribing the requirements for recipient governing bodies, were published in the **Federal Register** at 52 FR 38900. Because of public request, the comment deadline of November 18, 1987, will be extended to December 10, 1987, in order to allow relevant bar associations and other organizations interested in submitting comments to consult their membership and governing bodies. Further, as a matter of discretion, LSC will accept and consider comments submitted within a reasonable time after the December 10, 1987 deadline but before its December 17-18, 1987 Board of Directors' meeting.

In view of requests to extend the comment period, and considering the proposed rule's provision requiring an implementation date of September 30, 1988 or, with waiver, December 31, 1988, LSC particularly invites comments on the feasibility of affected organizations' meeting the proposed implementation deadline if the comment period is further extended.

Although the comment deadline has been enlarged until December 10th, the Operations and Regulations Committee of the LSC Board may commence consideration of the proposed changes and entertain public comment at its November 19, 1987 meeting in Philadelphia, Pennsylvania. However, no final committee action will be taken at that time.

DATES: Comments on proposed regulations are to be submitted on or before December 10, 1987.

ADDRESSES: Comments should be mailed to the Office of the General Counsel, Legal Services Corporation, 400 Virginia Avenue, SW., Washington, DC 20024-2751, (202) 863-1823.

FOR FURTHER INFORMATION CONTACT: Timothy B. Shea, General Counsel, Legal Services Corporation, 400 Virginia Avenue, SW., Washington, DC 20024-2751, (202) 863-1823.

Timothy B. Shea,

General Counsel.

[FR Doc. 87-25683 Filed 11-4-87; 8:45 am]

BILLING CODE 6820-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-110; RM-4776]

Radio Broadcasting Services; Willcox, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of proposal.

SUMMARY: This document denies a petition filed by Rex K. Jensen, licensee of Station KWCX-FM (Channel 252A), Willcox, AZ, which requested the substitution of Class C Channel 300 for Channel 252A and modification of his license accordingly, based on the Mexican Government's failure to concur in the proposal. With this action, this proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order*, MM Docket No. 85-110, adopted October 7, 1987, and released October 28, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25618 Filed 11-4-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-472, RM-5946]

Radio Broadcasting Services; Cedar Key, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by BayMedia, Inc. which proposes to allot Channel 274A to Cedar Key, Florida, as a first FM service.

DATES: Comments must be filed on or before December 21, 1987, and reply comments on or before January 5, 1988.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultants, as follows: Heidi P. Sanchez, Fly, Shoebruk, Gaguine, Boros, and Braun 1211 Connecticut Avenue, NW., Washington, DC 20554 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, MM Docket No. 87-472, adopted October 7, 1987, and released October 29, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25611 Filed 11-4-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-473, RM-5954]

Radio Broadcasting Services; Sylvester, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Thomas W. Lawhorne, Sr., proposing to allot Channel 291A to Sylvester, Georgia, as a second FM service.

DATES: Comments must be filed on or before December 21, 1987, and reply comments on or before January 5, 1988.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Bruce A. Eisen, Kaye, Scholer, Fierman, Hays and Handler, 1575 Eye Street, NW., Washington, DC 20005, (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-473, adopted October 7, 1987, and released October 29, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25609 Filed 11-4-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-471, RM-5920]

Radio Broadcasting Services; Lynnville, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Illinois Bible Study Group which proposes to allot Chennel 296A to Lynnville, Illinois, as a first FM service.

DATES: Comments must be filed on or before December 21, 1987, and reply comments on or before January 5, 1988.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Allan G. Moskowitz, Kaye, Scholer, Fierman, Hays and Handler, 1575 Eye Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-471, adopted October 7, 1987, and released October 29, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC

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Dockets Branch (Room 230), 1919 M Street, NW; Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW; Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibilty Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rule governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25608 Filed 11–4–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–475, RM–5905]

Radio Broadcasting Services; Broken Arrow, OK and Coffeyville, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by KCMA, Inc. proposing the substitution of Channel 221C2 Channel 221A at Broken Arrow, OK, and the modification of its license for Station KCMA(FM) to specify operation on the higher powered channel and the substitution of Channel 255A for Channel 221A at Coffeyville, KS, and the modification of Station KQQF(FM)'s license to specify the new Class A allotment. Channel 221C2 can be allocated to Broken Arrow in compliance with the Commission's minimum distance separation requirements with a site restriction of 19.7 kilometers (12.4 miles) west to avoid a short-spacing to Station KKEG, Channel 221A, Fayetteville, Arkansas. Channel 255A can be allocated to Coffeyville in compliance with the Commission's minimum distance separation requirements and used at Station KQQF(FM)'s present transmitter site. In accordance with § 1.420 of the Commission's Rules, petitioner will not be required to demonstrate the availability of an additional equivalent channel at Broken Arrow for use by other interested parties and the Commission will not accept competing expressions of interest in use of the channel there. Petitioner is requested to furnish a study concerning the preclusive effect on Channels 220C1 and 220C if Channel 221C2 is allocated to Broken Arrow. An *Order to Show Cause* is directed to FM 92, Inc., licensee of Station KQQF(FM), Coffeyville, and to Midwest Broadcasting Company, Inc., proposed assignor of Station KQQF(FM), seeking its consent to the modification of its license to specify Channel 255A.

DATES: Comments must be filed on or before December 21, 1987, and reply comments on or before January 5, 1988.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filling comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Neal J. Friedman, Esq., Pepper & Corazzini, 1776 K Street, NW., Suite 200, Washington, DC 20006 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–475, adopted October 7, 1987, and released October 29, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW.; Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25610 Filed 11–4–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–468, RM–6009]

Radio Broadcasting Services; Easton, MD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Clark Broadcasting Company, proposing the substitution of FM Channel 244B1 for Channel 244A at Easton, Maryland, and modification of the license of Station WCEI–FM, to specify operation on Channel 244B1.

DATES: Comments must be filed on or before December 21, 1987, and reply comments on or before January 5, 1988.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Daniel F. Van Horn, Arent, Fox, Kintner, Plotkin & Kahn, 1050 Connecticut Avenue, NW., Washington, DC 20036–5339 (Counsel for Clark Broadcasting Company)

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–468, adopted October 7, 1987, and released October 28, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is

no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.1415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25615 Filed 11–4–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–474, RM–5855, RM–5878, RM–5915]

Radio Broadcasting Services; Springdale, AR and Aurora, Carthage and Willard, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on three petitions for rule making seeking modification of facilities in the states of Arkansas and Missouri, as follows: (1) *Springdale, AR*—seeks to substitute Channel 285C2 for Channel 285A. This proposal also seeks to substitute Channel 250A for Channel 285A at Carthage, MO (RM–5855); (2) *Carthage, MO*—seeks to substitute Channel 286C2 for Channel 285A (RM–5878); (3) *Aurora, MO*—seeks to substitute Channel 263C2 for Channel 261A. This proposal also seeks to substitute Channel 286C2 for Channel 263A at Willard, MO, to accommodate petitioner's modification plans (RM–5919).

DATES: Comments must be filed on or before December 21, 1987, and reply comments on or before January 5, 1988.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows:

David G. Rozelle, Esq., Fletcher, Heald & Hildreth, 1225 Connecticut Ave., NW., Suite 400, Washington, DC 20036, (Counsel for Moran Broadcasting Company)

Richard J. Hayes, Esq., 1359 Black Meadow Road, Greenwood Plantation, Spotsylvania, VA 22553, (Counsel for Carthage Broadcasting Co., Inc.)

Dale Hendrix, Aurora Broadcasting, Inc., 128 S. Jefferson, Aurora, MO 65605

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–474, adopted October 7, 1987, and released October 29, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

The three mutually-exclusive petitions were filed by (1) Moran Broadcasting Company ("MBC"), licensee of Station KCIZ(FM) (Channel 285A), Springdale, AR, requesting the substitution of Channel 285C2 for Channel 285A and modification of its license to specify operation on Channel 285C2, as that community's first wide coverage area FM service. This proposal can be accommodated at a restricted transmitter site 27.3 kilometers northwest of Springdale. This proposal also seeks to substitute Channel 250A for Channel 285A at Carthage, MO. (2) Carthage Broadcasting Company ("CBC"), licensee of Station KRGK(FM) (Channel 285A), requesting the substitution of Channel 286C2 for Channel 285A and modification of its license to specify operation on Channel 286C2, as that community's first expanded coverage area FM station. Channel 286C2 can be accommodated at Carthage with a site restriction 4.4 kilometers north of the community. (3) Aurora Broadcasting, Inc., ("ABI") licensee of Station KELE(FM) (Channel 261A), requesting the substitution of Channel 263C2 for Channel 261A and modification of its license to specify operation on the higher powered frequency, to provide that community with its first wide coverage area FM station. Channel 263C2 can be allotted to Aurora with a site restriction 20.9 kilometers northwest of the community. Additionally, petitioner seeks to substitute Channel 286C2 for Channel 263A at Willard, which could provide that community with the opportunity to receive its first expanded coverage capability. Channel 286C2 can be allotted to Willard at a restricted site 11.0 kilometers west.

This *Notice* invites comments from all proponents and requests further showings to demonstrate a preference among the respective upgrade proposals. Since all proponents seek to increase their existing service (or potential service), as represented by the modification requests, they will be considered under our existing allotment priorities. Therefore, petitioners are requested to provide comparison studies to reflect potential service to any currently unserved or underserved areas within their proposed primary service areas, as well as other public interested matters.

We are provisionally proposing allotments at all communities pending an evaluation of the comments and showings received.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25607 Filed 11–4–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–467, RM–5959]

Radio Broadcasting Services; Ennis, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Big M Broadcast Associates, requesting the allocation of FM Channel 254C2 to Ennis, Montana, as that community's first FM broadcast service.

DATES: Comments must be filed on or before December 21, 1987, and reply comments on or before January 5, 1988.

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ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: C. Howard McDonald, President, Big M Broadcast Associates, P.O. Box 710, Ennis, Montana 59729.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–467, adopted October 7, 1987, and released October 26, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25614 Filed 11–4–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–469, RM–5976]

Radio Broadcasting Services; Kirksville, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Admiral Broadcasting Corporation, proposing the substitution of FM Channel 229C2 for Channel 228A at Kirksville, Missouri, and modification of the license of Station KTUF (FM), to specify operation on Channel 229C2.

DATES: Comments must be filed on or before December 21, 1987, and reply comments on or before January 5, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David D. Oxenford, Fisher, Wayland, Cooper & Leader, 1255—23rd Street NW., Suite 800, Washington, DC 20037. (Counsel for Admiral Broadcasting Corporation).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–469, adopted October 7, 1987, and released October 28, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25616 Filed 11–4–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–470, RM–5980]

Radio Broadcasting Services; Marlette, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by D. J. Fox, requesting the allocation of FM Channel 223A to Marlette, Michigan, as that community's first FM broadcast service. There is a site restriction 9.4 kilometers southeast of the community and Canadian concurrence is required for the allotment of Channel 223A at Marlette.

DATES: Comments must be filed on or before December 21, 1987, and reply comments on or before January 5, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: D. J. Box, P.O. Box 10223, Lansing, Michigan 48901–0223.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–470, adopted October 7, 1987, and released October 28, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25617 Filed 11–4–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–469, RM–5485; 5781]

Radio Broadcasting Services; Hilton Head Island and Bluffton, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests further comments on a petition filed by Jesse N. Williams to substitute Channel 291C2 for Channel 288A at Hilton Head Island, SC, and modification of its permit for a new station to specify the higher powered frequency. The Commission also requests comments on a counterproposal filed by Hilton Head Broadcasting Corp. to (1) substitute Channel 291C2 for Channel 292A at Hilton Head Island, SC, and modification of its license for Station WHHR to substitute the higher powered channel and (2) substitute Channel 300C2 for Channel 288A at Hilton Head Island and modify Williams' permit to specify the higher powered channel. In addition, this document proposes the substitution of Channel 295C2 for Channel 296A at Bluffton, South Carolina, and the modification of the construction permit of Station WOLW, as sought by the permittee, Dohara Associates. The Commission does not proposed to modify either of the Hilton Head Island stations to Channel 300A absent a statement by either party agreeing to such modification. Since the modification of either Hilton Head Island station to specify Channel 300C2 represents a non-adjacent channel upgrade, competing expressions of interest in use of the channel will be accepted. Should such statements be received, the Commission will consider the allocation of Channel 300C2 to Hilton Head as its third local FM service and refuse to modify either of the Class A stations. Channels 291C2 and 300A or 300C2 can be allocated to Hilton Head Island in compliance with the Commission's minimum distance separation requirements and used at the transmitter site jointly used by Williams and Hilton Head Broadcasting Corp. Channel 295C2 can be allocated to Bluffton and used at Station WOLW's transmitter site in compliance with the Commission's minimum distance separation requirements if Channel 292A is deleted from Hilton Head.

DATES: Comments must be filed on or before December 21, 1987, and reply comments on or before January 5, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jerrold Miller, Esq., Miller & Fields, P.C., P.O. Box 33003, Washington, DC 20033 (Counsel to Williams); Mark J. Prak, Esq., Tharrington, Smith & Hargrove, 209 Fayetteville Street Mall, P.O. Box 1151, Raleigh, North Carolina (Counsel to Hilton Head Broadcasting Corp.); and Howard W. Simcox, Jr., Esq., Borsari & Paxson, 2100 M Street NW., Suite 610, Washington, DC 20037 (Counsel to Dohara Associates).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rule Making, MM Docket No. 86–469, adopted September 28, 1987, and released October 28, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25613 Filed 11–4–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 80

[PR Docket No. 87–275]

Maritime Radio Services; Amendment to Designate VHF Marine Channel 13 for Bridge-to-Bridge Communications on the Great Lakes

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order extending time.

SUMMARY: The Order extends the reply comment period in PR Docket No. 87–275 (52 FR 33610, September 4, 1987) from October 28, 1987 to November 9, 1987 in response to a request from the U.S. Coast Guard. This extension will allow the U.S. Coast Guard to prepare more meaningful reply comments.

DATE: Reply comments are extended to November 9, 1987.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR INFORMATION CONTACT: James Shaffer, Federal Communications Commission, Washington, DC 20554 (202) 632–7197.

SUPPLEMENTARY INFORMATION: List of Subjects in 47 CFR Part 80 Bridge-to-bridge, Canada, Great Lakes.

Order

Adopted: October 28, 1987.
Released: October 29, 1987.
By the Acting Chief, Private Radio Bureau.

1. The U.S. Coast Guard has requested that the Chief, Private Radio Bureau extend the time for filing comments and reply comments eight working days.

2. The U.S. Coast Guard indicates that the purpose of the extension is to coordinate with its Canadian counterparts and the Saint Lawrence Seaway Development Corporation to prepare more meaningful reply comments.

3. We find that the public interest will be served by granting the brief extension of time requested in order to permit full and thorough preparation of comments of interested parties. In view of the above and pursuant to the authority contained in § 0.331 of the Commission's Rules, the U.S. Coast Guard's request for extension of time is

granted. The date for filing reply comments in this proceeding is extended to November 9, 1987.

Federal Communications Commission.

Ralph A. Haller,

Acting Chief, Private Radio Bureau.

[FR Doc. 87-25612 Filed 11-4-87; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1150

[Ex Parte No. 392 (Sub-No. 1)]

Class Exemption for the Acquisition and Operation of Rail Lines Under 49 U.S.C. 10901

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; extension of time and establishment of comment reply date.

SUMMARY: The Commission recently reopened this proceeding published on October 6, 1987 at 52 FR 37350 and sought comments on whether these rules allow sufficient opportunity for public review of certain transactions. Comments were due November 5, 1987. The requests by certain parties for a 2-week extension of the due date is granted in part and the Association of American Railroads request that there be an opportunity for reply to the comments filed is granted.

Comments will be available in the Commission's docket file room (Room 1221). The Commission will compile a service list, and replies must be served on all parties on that list. The due date for comments is extended 1 week.

DATES: Comments are due November 12, 1987 and replies are due December 7, 1987.

ADDRESSES: Replies must be served on commenting parties, and an original and 10 copies sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245, [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

List of Subjects in 49 CFR Part 1150

Administrative practice and procedure, Railroads.

Authority: 49 U.S.C. 10321, 10505, and 10901; and 5 U.S.C. 553.

Decided: October 30, 1987.

By the Commission, Heather J. Gradison, Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 87-25664 Filed 11-4-87; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 52, No. 214

Thursday, November 5, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Doc. No. 4741S]

Privacy Act; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revision of Privacy Act System of Records.

SUMMARY: Notice is hereby given that the United States Department of Agriculture (USDA) is revising one of its Systems of Records maintained by the Federal Crop Insurance Corporation (FCIS), titled "USDA/FCIC-1—Accounts receivable, USDA/FCIC." This action is necessary in order to: (1) Provide for the implementation of the provisions of 31 U.S.C. 3720A, the authority under which Federal agencies refer delinquent debts to the Department of the Treasury for collection by offset against tax refunds owed to named persons; and (2) refer information regarding indebtedness to the Defense Manpower Data Center (DMDC), Department of Defense, for use in a computer match to assist in colleciton of debts by salary offset as provided by the Debt Collection Act of 1982 (Pub. L. 97-365).

Implementation of tax refund offset and salary offset initiatives is essential for effective Federal debt collection and the integrity of Federal programs. This notice is intended to provide FCIC with the means for effective money management and debt collection by amending the appropriate sections of the system notice.

DATE: This notice will be adopted without further publication in the **Federal Register** on December 7, 1987, unless modified by a subsequent notice to incorporate comments received from the public. Comments must be received by the contact person listed below on or before December 7, 1987, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Ralph F. Satterfield, Federal Crop Insurance Corporation, Room 4606, South Building, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 382-9714.

SUPPLEMENTARY INFORMATION: The purpose of this revision is to amend the routine uses contained in USDA/FCIC-1—Accounts Receivable, to provide for (1) referral of information regarding policyholder indebtedness to the Department of the Treasury for collection by offset against tax refunds owed to named persons under the authority established in 31 U.S.C. 3720A; and (2) referral of information to Defense Manpower Data Center, Department of Defense for use in computer matches to assist in collection of indebtedness by salary offset.

The provisions of 31 U.S.C. 3720A establish a tax refund offset program by which agencies can request that tax refunds of persons indebted to it be reduced by the amount of the debt with the amount offset being paid instead to the creditor agency. The Department of Agriculture is participating in this program.

Because prior collection efforts have failed, it has been determined that a listing of those insureds who continue to owe past-due legally enforceable debts to the Department of Agriculture will be referred to the Internal Revenue Service for offset of the debt against any tax refund due.

FCIC, along with other Federal agencies, plans to participate in a computer matching program utilizing the system of records entitled "USDA/FCIC-1—Accounts Receivable, USDA/FCIC." Information from this system will be computer matched against Federal agency payroll files to identify delinquent debtors who are current or former Federal employees.

The Debt Collection Act authorizes an offset of a Federal employee's salary to satisfy debts owed to the Government. The computer match to be conducted by DMDC will assist FCIC in collecting debts owed to it by Federal employees. The proposed routine use is compatible with the purpose of USDA/FCIC-1 to maintain information on individuals indebted to FCIC to ensure efficient collection of those debts.

In accordance with requirements of the Debt Collection Act, the creditor agency, FCIC, USDA, will notify the debtor of his/her due process rights with respect to the debt and give the individual the opportunity to resolve the claim through repayment of the debt on an installation basis before salary offset is initiated.

The computer matches will be conducted in accordance with OMB's revised Supplemental Guidelines for Conducting Computer Matching Programs (47 FR 21656, May 19, 1982). The USDA has signed an agreement with the matching agency requiring that the information disclosed by USDA under this computer matching program be used only for making computer matches and compiling statistical data about the results of any match. The parties have agreed to safeguard the information provided from unauthorized disclosure.

Accordingly, notice is hereby given that USDA amends its System of Records maintained by the Federal Crop Insurance Corporation (FCIC) titled "USDA/FCIC-1—Accounts Receivable, USDA/FCIC", to read in its entirety as set forth below.

Signed at Washington, DC, on October 28, 1987.

Richard E. Lyng,

Secretary.

USDA/FCIC-1

SYSTEM NAME:

Accounts receivable, USDA/FCIC.

SYSTEM LOCATION:

Kansas City Operations Office, Federal Crop Insurance Corporation, 9435 Holmes, Kansas City, Missouri 64131. A copy is also maintained in the applicable Field Operations Office for the State(s), and the Service Office for the county(ies) of the Federal Crop Insurance Corporation, as well as the ASCS County Offices of the United States Department of Agriculture. Addresses of these field offices may be obtained from the Director, Field Operations Division, FCIC, Washington, DC 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are indebted to the Federal Crop Insurance Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

System consists of a master list of indebtedness by county and individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1501-1520; 7 CFR 2.73.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of laws, or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto.

(2) Referral to a court, magistrate or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery.

(3) Disclosures may be made from this system with respect to delinquent debts to a credit reporting agency consistent with the provisions of 31 U.S.C. 3701, 3702, 3711–3720A, and the Federal Claims Collection Standards, 4 CFR 102.2.

(4) Referral of legally enforceable debts to the Department of the Treasury, Internal Revenue Service (IRS) to be offset against any tax refund that may become due the debtor for the tax year in which the referral is made, in accordance with the IRS regulations at 26 CFR 301.6402–6T, Offset of Past-Due Legally Enforceable Debt Against Overpayment, and under the authority contained in 31 U.S.C. 3720A.

(5) Referral to a collection agency, when FCIC determines such referral is appropriate for collecting the debtor's account as provided for in U.S. Government contracts with collection agencies.

(6) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(7) Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or 31 U.S.C. 3701(a)(3)).

(8) Referral of commercial credit information, which is filed in the sytem, to a commercial credit reporting agency for it to make the information publicly available. 7 CFR 3.35.

(9) Referral of information regarding indebtedness to the Defense Manpower Data Center, Department of Defense, for the purpose of conducting computer matching programs to identify and locate individuals receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by the Federal Crop Insurance Corporation in order to collect debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) by voluntary repayment, administrative or salary offset procedures, or by collection agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer printouts, magnetic tape, microfiche, and also in a card index in county ASCS offices.

RETRIEVABILITY:

Records are indexed by State, county, and name of individual.

SAFEGUARDS:

Records are accessible only to authorized personnel and are maintained in offices which are locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are maintained until the indebtedness is paid. Paper records for disposal are delivered to custodial services for disposal as waste paper. Magnetic tape records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Federal Crop Insurance Corporation, USDA, Washington, DC 20250.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records or information as to whether the system contains records pertaining to such individual from the service office. Addresses of locations where records are maintained may be obtained from the Director, Field Operations Division, FCIC, Washington, DC 20250. The request for information should contain (1) Individual's name and address, (2) State(s) and county(ies) where such individual farms, and (3) the individual policy number, if known.

RECORD ACCESS PROCEDURES:

An individual may obtain information as to the procedures for gaining access to a record in the system which pertains to such individual by submitting a written request to the Director, Field Operations Division, FCIC, Washington, DC 20250.

CONTESTING RECORD PROCEDURES:

Same as access procedure.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual debtor.

[FR Doc. 87–25601 Filed 11–4–87; 8:45 am]
BILLING CODE 3410–05–M

State of Wisconsin Private Sewage System Replacement or Rehabilitation Program

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that all state payments under the State of Wisconsin Private Sewage System Replacement or Rehabilitation Program are primarily for the purposes of water conservation and protecting or restoring the environment. This determination is in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The determination permits recipients of these payments to exclude them from gross income to the extent allowed by the Revenue Service (IRS).

FOR FURTHER INFORMATION CONTACT: Director, Bureau of Water Grants, Wisconsin Department of Natural Resources, P.O Box 7921, Madison, Wisconsin 53707, (608) 266–7555; or Director, Land Treatment Program Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013, (202) 382–1870.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, 26 U.S.C. 126, as amended by the Revenue Act of 1978 and the Technical Correction Act of 1979, provides that certain payments made to persons under state conservation programs may be excluded from the recipient's gross income for federal income tax purposes if the Secretary of Agriculture determines that payments are made "primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forests, or providing a habitat for wildlife * * *." The Secretary of Agriculture evaluates these conservation programs on the basis of criteria set forth in 7 CFR Part 14, and makes a "primary purpose" determination for the payments made under each program. Before there may be an exclusion, the Secretary of the Treasury must determine that the payments made to a person under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments.

The State of Wisconsin Private Sewage System Replacement or Rehabilitation Program is authorized under s. 144.245, Wisconsin Statutes. It is funded through annual state appropriations to provide financial assistance to eligible owners of failing private sewage systems to help them rehabilitate or replace their private sewage systems. Cost-share paymens accomplish the purpose of protecting or restoring the environment by eliminating the discharge of sewage to surface water or groundwater resources.

Procedural Matters

The Department of Agriculture has classified this determination as "not major" in accordance with Executive Order 12291 and Secretary's Memorandum No. 1513–1. The Secretary has determined that these program provisions will not result in an annual effect on the economy of $100 million or more; will not cause a major increase in cost to economy of $100 million or more; will not cause a major increase in cost to consumers, individuals, industries, government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investmeat, productivity, innovation, or the ability of United States-based enterprise to compete with foreign-based enterprises in domestic or export markets.

A state of Wisconsin Private Sewage System Replacement or Rehabilitation Program "Primary Purpose Determination for Federal Tax Purposes, Record of Decision," has been prepared and is available upon request from the Director, Land Treatment Program Division, Soil Conservation Service, P.O. Box 2890, Washington, DC 20013; or the Director, Bureau of Water Grants, Wisconsin Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707, (608) 266–7555.

Determination

As required by section 126(b) of the Internal Revenue Code of 1954, as amended, I have examined the authorizing legislation, regulation, and operation procedures of the State of Wisconsin Private Sewage System Replacement or Rehabilitation Program. In accordance with the criteria set out in 7 CFR Part 14, I have determined that all cost-share payments made under this program are primarily for the purpose of water conservation and protecting or restoring the environment.

Subject to further determination by the Secretary of the Treasury, this determination permits payment recipients to exclude from gross income, for federal income tax purposes, all or part of such payments made under the State of Wisconsin Private Sewage System Replacement or Rehabilitation Program.

Signed at Washington, DC, on October 29, 1987.

Richard E. Lyng,

Secretary.

[FR Doc. 87–25600 Filed 11–4–87; 8:45 am]
BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

President's Export Council Executive Committee; Closed Meeting

A meeting of the President's Export Council (PEC) Executive Committee November 23, 1987, 9:30 a.m.–2:00 p.m., Room 4832, Department of Commerce, 14th and Constitution, NW., Washington, DC. The Council's purpose is to advise the President on matters relating to United States export trade.

Agenda: 9:30 a.m.–2:00 p.m. Discussion of matters properly classified under Executive Order 12356, dealing with U.S. trade laws, GATT negotiations, monetary policy, export control issues and other classified issues.

A Notice of Determination to close meetings or portions of meetings of the Council to the public on the basis of 5 U.S.C. 552b(c)(1) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377–4217.

For further information or copies of the minutes contact Laureen Daly, (202) 377–1125, Room 3213, U.S. Department of Commerce, Washington, DC 20230.

Date: October 30, 1987.

Wendy H. Smith,

Director, Preisident's Export Council.

[FR Doc. 87–25585 Filed 11–4–87; 8:45 am]
BILLING CODE 3510–DR–M

National Commission on Dairy Policy; Advisory Committee Meeting

Pursuant to provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting.

Name: National Commission on Dairy Policy.

Time And Place: 8:00 a.m. at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, Virginia.

Status: Open.

Matters to be Considered: On November 16 the Commission will review previous work to identify or review such conclusions as may have been reached. The Commission will review regional variations in production and consumption, including the effect of California milk pricing on milk output. On November 17, the Commission will review economic forecasts of the dairy industry under alternative economic assumptions, and work to arrive at a conclusion with respect to dairy product promotion efforts.

Written Statements May be Filed Before or After the Meeting With: Contact person named below.

Contact Person for More Information: Mr. T. Jeffrey Lyon, Assistant Director, National Commission on Dairy Policy, 1401 New York Ave., NW., Suite 1100, Washington, DC, 20005, (202) 638–6222.

Signed at Washington, DC, this 30th day of October 1987.

David R. Dyer,

Executive Director, National Commission on Dairy Policy.

[FR Doc. 87–25595 Filed 11–4–87; 8:45 am]
BILLING CODE 3410–05–M

National Oceanic and Atmospheric Administration

Receipt of a Petition for Rulemaking; Bering Sea Fishermen's Association

NOAA announces receipt of a petition for rulemaking to enforce provisions of the Magnuson Fishery Conservation and Management Act (Magnuson Act) in international waters of the North Pacific Ocean and Bering Sea.

The Bering Sea Fishermen's Association has petitioned the United States Department of Commerce to adopt a rule prohibiting foreign fishing for anadromous species in the international waters of the North Pacific Ocean and the Bering Sea. The rule submitted by petitioners provides for observer coverage and a permit system, and would define foreign fishing for anadromous species to include fishing by a foreign fishing vessel for squid, pollock, and other nonanadromous species in the international waters of the

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North Pacific Ocean and Bering Sea at times of the year and with gear that can reasonably be expected to result in the taking of anadromous species.

Copies of the petition and the rule suggested by the Bering Sea Fishermen's Association are available and may be obtained by contacting Marilyn F. Luipold, Attorney Advisor, Office of General Counsel, NMFS, Universal South Building, 1825 Connecticut Ave., NW., Rm. 611, Washington, DC 20235, telephone (202) 673–5206. Comments on the need for such a regulation, its objectives, alternative approaches to the issues addressed in the petition, as well as other comments on the petition may be addressed to William E. Evans, Assistant Administrator for Fisheries, NMFS, Universal South Building, Rm. 1011. NOAA is particularly interested in receiving information and comments on the relationship between directed fishing for nonanadromous species and the interception of anadromous species. Comments will be accepted for 60 days and will be considered by the Secretary in determining whether to undertake rulemaking.

Dated: October 30, 1987.

Carmen J. Blondin,

Special Associate for Trade, National Marine Fisheries Service.

[FR Doc. 87–25572 Filed 11–4–87; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Scientific and Statistical Commitee will convene its 41st public meeting, November 12–13, 1987, at 1164 Bishop Street, Room 602, Honolulu, HI (telephone: 808–523–1368), to review and provide comments for the National Marine Fisheries Service's program development plan for ecosystems monitoring and fisheries management; review and recommend to the Western Pacific Council a new conservation standard defined as a "threshold" level at which acceptical biological catch must equal zero, for the revised Code of Federal Regulations, Part 603, guidelines for fishery management plans; review and recommend to the Western Pacific Council guidelines for approving experimental gillnet fishing permit applications in the pelagics fishery; review (and recommend to the Western Pacific Council if necessary), reports on cost and return analysis of the Northwestern Hawaiian Islands (NWHI) lobster fleet and economic analyses of alternative management strategies for the NWHI lobster fishery, and review and recommend to the Western Pacific Council certain management strategies for the Precious Corals Fishery Management Plan.

For more information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: October 29, 1987.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87–25661 Filed 11–4–87; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Intent To Grant Exclusive Patent License; Ocenco Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Ocenco Incorporated of Northbrook, Illinois an exclusive right in the United States to practice the invention embodied in U.S. Patent Application S.N. 6–943,347. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Douglas J. Campion, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87–25588 Filed 11–4–87; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Technology Services, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before December 7, 1987.

ADDRESSES: Written comments should be addressed to the Office of Information and Regualtory Affairs, Attention: Desk Office, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) agency form number (if any); (4) frequency of collection; (5) the affected public; (6) reporting burden; and/or (7) recordkeeping burden; and (8) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: November 2, 1987.

Carlos U. Rice,

Director for Information Technology Services.

Office of Vocational and Adult Education

Type of Review: New
Title: Application for Grants for Adult Education for the Homeless
Agency Form Number: C30–3P
Frequency: Annually
Affected Public: Individuals or households; State or local governments; non-profit institutions
Reporting Burden: Responses: 57; Burden Hours: 570
Recordkeeping: Recordkeepers: 0; Burden Hours: 0

Abstract: This form will be used by State educational agencies to apply for funds under the Stewart B. McKinney Act. The Department uses the information collected to make grant awards.

Office of Elementary and Secondary Education

Type of Review: Extension
Title: Performance Report for the Desegregation of Public Education Program
Agency Form Number: ED 286–2
Frequency: Annually
Affected Public: State or local governments; non-profit institutions
Reporting Burden: Responses: 61; Burden Hours: 122
Recordkeeping: Recordkeepers: 61; Burden Hours: 122

Abstract: This performance report will be submitted by grantees. The Department uses the information collected to monitor grantees compliance with the terms and conditions of grant awards.

Type of Review: Extension
Title: Application under Chapter 2 of the Education Consolidation and Improvement Act
Agency Form Number: ED 1000
Frequency: Every three years
Affected Public: State or local governments
Reporting Burden: Responses: 52; Burden Hours: 1560
Recordkeeping: Recordkeepers: 0; Burden Hours: 0

Abstract: This application will be used by State educational agencies to apply for grants under Chapter 2 of the Education Consolidation and Improvement Act, as amended. The Department uses the information to make grant awards under the Education Consolidation and Improvement Program, Chapter 2.

Type of Review: New
Title: Christa McAullife Fellowship Program
Agency Form Number: A10–13P
Frequency: Annually
Affected Public: Individual or households; State or local governments
Reporting Burden: Responses: 266; Burden Hours: 456
Recordkeeping: Recordkeepers: 0; Burden Hours: 0

Abstract: These recommendation forms will be used by statewide fellowship selection panels in order to participate in the Christa McAullife Fellowship Program. The Department will use the information collected on these forms to make fellowship awards.

[FR Doc. 87–25637 Filed 11–4–87; 8:45 am]

BILLING CODE 4000–01–M

Invitation; Applications for New Awards Under the Bilingual Education; Academic Excellence Program for Fiscal Year 1988 (CFDA No. 84.003G)

Purpose: Provides grants to local educational agencies (LEAs) and institutions of higher education applying jointly with LEAs for projects to disseminate exemplary programs of transitional bilingual education, developmental bilingual education, or special alternative instruction.

Deadline for Transmittal of Applications: February 12, 1988.

Deadline for Intergovernmental Review Comments: April 13, 1988.

Applications Available: November 12, 1987.

Available Funds: $3,500,000.

Estimated Range of Awards: $100,000–$150,000.

Estimated Average Size of Awards: $125,000.

Estimated Number of Awards: 28.

Project Period: 36 Months.

Applicable Regulations: (a) The Bilingual Education: Academic Excellence Program, (34 CFR Part 524), and (b) the Education Department General Administrative Regulations 34 CFR Parts 74, 75, 77, 78, and 79.

Additional Factors: In accordance with 34 CFR 524.32(b), the Secretary—in evaluating applications under the published criteria—distributes an additional 15 points among the factors listed in § 524.32(a) as follows: (1) Historically underserved (6 points); (2) Geographic distribution (6 points); (3) Relative number and proportion of children from low-income families (3 points).

For Applications or Information Contact: Dr. Mary T. Mahony, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue SW. (Room 421, Reporters Building), Washington DC 20202. Telephone: (202) 245–2609.

Program Authority: 20 U.S.C. 3231(a)(4).

Dated: November 2, 1987.

Alicia Coro,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 87–25673 Filed 11–4–87; 8:45 am]

BILLING CODE 4000–01–M

Invitation; Applications for New Awards Under the Law-Related Education Program for Fiscal Year 1988 (CFDA No. 84.123)

Purpose: To provide persons with knowledge and skills pertaining to the law, the legal process, the legal system, and the fundamental principles and values on which these are based.

Deadline for Transmittal of Applications: December 21, 1987.

Deadline for Intergovernmental Review Comments: February 22, 1988.

Applications Available: November 12, 1987.

Available Funds Anticipated: The Department has requested $3 million for this program for fiscal year 1988. However, the actual level of funding is contingent upon final congressional action.

Estimated Range of Awards: $10,000–$500,000.

Estimated Average Size of Aqards: $100,000.

Estimated Number of Awards: 30.

Project Period: 12 months.

Competitive Priority: In accordance with 34 CFR 75.105(c)(2)(ii), the Secretary will give competitive preference to projects that support the institutionalization of existing model law-related education programs in elementary and secondary school classrooms. In addition to the points awarded under selection criteria listed in § 241.31, the Secretary will award up to 10 additional points to applications that address the priority for elementary and secondary school classrooms.

Invitational Priorities: Under 34 CFR 75.105(c)(1), the Secretary also invites applications for (1) projects that provide

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assistance from established law-related education programs to other State and local educational agencies to enable them to institutionalize successful law-related education programs; and (2) to support projects to develop, test, demonstrate, and disseminate new approaches or techniques in law-related education that can be used or adapted and eventually institutionalized by other agencies or institutions.

Applicable Regulations: (a) The Law-Related Education Program Regulations, 34 CFR Part 241, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

For Applications or Information Contact: Alice T. Ford, U.S. Department of Education, 400 Maryland Avenue SW., Room 2065, FOB-6, Washington, DC 20202. Telephone: (202) 732-4358.

Program Authority: 20 U.S.C. 3851.

Dated: November 2, 1987.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 87-25674 Filed 11-4-87; 8:45 am]

BILLING CODE 4000-01-M

Invitation; Applications for New Awards Under the Women's Educational Equity Act Program for Fiscal Year 1988 (CFDA No: 84.083)

Purpose: To promote education equity for women and girls through the development of educational materials and model programs.

Deadline for Transmittal of Applications: February 16, 1988.

Deadline for Intergovernmental Review Comments: April 12, 1988.

Applications Available: December 14, 1987.

Available Funds: It is estimated that approximately $2,900,000 will be available for fiscal year 1988 awards under this competition. However, applicants should note that the Congress has not yet completed action on the fiscal year 1988 appropriation.

Estimated Range of Awards:

Challenge Grants $20,000–$40,000
General Grants $150,000–$200,000

Estimated Number of Awards:

Challenge Grants—15
General Grants—15

Project Period: 12 months.

Priorities: In accordance with 34 CFR 745.22, each year the Secretary selects one or more of the program's five priorities and allocates funds to each selected priority. For fiscal year 1988, the Secretary has selected the priority for model projects to eliminate persistent barriers to educational equity for women in 34 CFR 745.25 and plans to allocate to that category 30% of the funds available for both general and challenge grants. The remaining 70% of the funds will be allocated for "other authorized activities" in 34 CFR 745.20. Applicants may submit applications under either the priorities or other authorized activities. If an applicant submits an application under the priority for model projects to eliminate persistent barriers to educational equity for women, it may not submit that same application for review under the priority for "other authorized activities."

Invitational Priority: Pursuant to 34 CFR 75.105(c)(1), the Secretary particularly invites applications that propose to develop model projects to reduce secondary school dropouts among women and girls. The Secretary notes that a substantial number of women and girls are economically disadvantaged. Many of them have diminished their opportunities for employment and personal success by terminating their education before completing high school. Increasing the number of economically disadvantaged women and girls who succeed in school will help to reverse the trend that has been described as "the feminization of poverty." To promote this goal, the Secretary particularly invites applications that propose to create educational programs designed for economically disadvantaged girls and women who are enrolled in secondary school, or who have discontinued their education, to encourage them to complete their high school education. An application that responds to this invitational priority does not receive any absolute or competitive preference over other applications.

Applicable Regulations: (a) The Women's Eductional Equity Act Program regulations, 34 CFR Part 745, and (b) the Education Department General Administrative Regulations in 34 CFR Parts 74, 75, 77, 78, and 79.

For Applications or Information Contact: Ms. Alice T. Ford, Women's Educational Equity Act Program, U.S. Department of Education, 400 Maryland Avenue SW., Room 2053, FOB-6, Washington, DC 20202. Telephone (202) 732-4351.

Program Authority: 20 U.S.C. 3341-3348.

Dated: October 28, 1987.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 87-25675 Filed 11-4-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER88-55-000]

Filing; Bangor Hydro-Electric Co.

October 30, 1987.

Take notice that on October 23, 1987, Bangor Hydro-Electric Company (Bangor) tendered for filing an initial rate schedule for full requirements firm service to a new customer, Isle au Haut Electric Power Company (Isle au Haut) to be effective on November 23, 1987, or as soon thereafter that the appropriate meter readings can be made. Bangor states that the purpose of this filing is to provide service to Isle au Hunt which will no longer be provided by its previous electric power supplier, Stonington and Deer Isle Power Company.

Bangor states that a copy of this initial rate schedule filing was mailed to Isle au Haut.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 13, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25660 Filed 11-4-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-125-001]

Tariff Filing; Transco Gas Supply Co.

October 30, 1987.

Take notice that Transco Gas Supply Company (Gasco) on October 22, 1987 tendered for filing Second Substitute Seventh Revised Sheet No. 106 to Original Volume No. 2 of its FERC Gas Tariff. The proposed effective date is October 1, 1987.

Gasco states that on August 31, 1987, if filed in Docket No. RP87-125-000 certain tariff sheets which established an Annual Charge Adjustment (ACA) Provision and also established the initial ACA charge of $0.0021 per Mcf of gas purchased.

Gasco states that by order issued September 30, 1987, in RP87-125-000, the Commission accepted Gasco's ACA Provision filed August 31, 1987, subject to Gasco's filing revised tariff sheets in compliance with Order No. 472-B, issued on September 16, 1987, which provided for specific provisions to be inlcuded in the ACA tariff provisions. Gasco also states that the tariff sheet mentioned above is being filed in compliance with such condition.

Gasco states that copies of the filing have been served upon Transco, and for informational purposes, upon each of Transco's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). All such motions or protests should be filed on or before November 6, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25661 Filed 11-4-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-117-001]

Tariff Filing; Transcontinental Gas Pipe Line Corp.

October 30, 1987.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on October 21, 1987 tendered for filing Substitute Second Revised Sheet No. 258 to Second Revised Volume No. 1 of its FERC Gas Tariff. The proposed effective date is October 1, 1987.

Transco states that on August 31, 1987, if filed in Docket No. RP87-117-000 certain tariff sheets which established an Annual Charge Adjustment (ACA) Provision and also established the initial ACA charge of $0.0020 per dt in the commodity portion of Transco's sales and transportation rates.

Transco states that on September 29, 1987, the Commission issued "Order of the Director Accepting Annual Charge Adjustments" in Algonquin Gas Transmission Company, *et al.* in RP87-109-000, *et al.* Such order accepted Transco's ACA Provision filed August 31, 1987 in Docket No. RP87-117-000, subject to certain conditions. One of the conditions is that Transco file revised tariff sheets in compliance with Order No. 472-B, issued on September 16, 1987, which provided for specific provisions to be inlcuded in the ACA tariff provisions. Transco also states that the tariff sheet mentioned above is being filed in compliance with such condition.

Transco states that copies of the filing have been mailed to each of its customers and State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 6, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25662 Filed 11-4-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-100049; FRL-3267-6]

Transfer of Data; Lawrence Johnson & Associates, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted claims for indemnification and disposal of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Lawrence Johnson & Associates, Inc. (LJA) has been awarded a contract to perform work for the EPA Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA. Some of this information may have been claimed to be confidential business information (CBI) by submitters and may be entitled to confidential treatment. Contractor access to FIFRA CBI is authorized by 40 CFR 2.307(h). This action will enable LJA to fulfill the obligations of the contract and serves to notify affected persons.

DATE: LJA will be given access to this information no sooner than November 10, 1987.

FOR FURTHER INFORMATION CONTACT:
By mail:

Catherine S. Grimes, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 212, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-4460).

SUPPLEMENTARY INFORMATION: Under Contract No. 68-02-4290, LJA will assist EPA in processing of claims for indemnification and requests for Federal disposal of stocks of canceled pesticides, such as dinoseb and 2,4,5-T/Silvex. This contract involves no subcontractors.

In accordance with the requirements of 40 CFR 2.301(h)(2), the contract with LJA prohibits use of the information for any purpose other than purpose(s) specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency or affected business; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release. In addition, LJA is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to LJA by EPA for use in connection with this contract will be returned to EPA when LJA has completed its work.

Dated: October 23, 1987.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 87-25656 Filed 11-4-87; 8:45 am]

BILLING CODE 6560-50-M

BEST COPY AVAILABLE

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[FRL-3287-7]

Sole Source Designation of the Newberg Area Aquifer; Snohomish County, WA

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction of final determination.

A notice of determination was printed in the **Federal Register** (52 FR 37215) on October 5, 1987. The first paragraph under the heading "Description of the Newberg Area Aquifer" gave the correct general location and approximate area for the designated sole source aquifer and recharge area. However, that paragraph described the boundaries of the area which was originally petitioned., instead of the larger sole source area that was finally designated. The following is a correct description of the designated sole source aquifer and recharge area boundaries.

The western boundary of the designated sole source area is formed by the Pilchuck River, and comprises the reach that begins at the junction with Dubuque Creek (Section 21, T29N, R6E) and extends northward about six miles to a point about one mile west of the Town of Granite Falls (Section 23, T30N, R6E). North of this reach, the boundary extends to the northeast approximately one mile, to the drainage divide between the Pilchuck River and the South Fork Stillaguamish River—about one-half mile northwest of the Town of Granite Falls (near the center of Section 13, T30N, R6E). The boundary then follows the drainage divide eastward for about one mile, into Section 18, T30N, R7E. From Section 18, the boundary turns southeastward and follows the border between the areas of unconsolidated glacial deposits at the surface (to the west), and a really extensive bedrock (to the east and south). This boundary extends southeast along the east side of Anderson Road (about six miles), then roughly follows Lake Roesiger Road south, part of Carpenter Creek southwest, then Roesiger, Dubuque, and Carlson Roads sequentially further westward. In the southwest corner of the designated sole source area, the boundary extends due west from the most westward bedrock outcrop in Section 23, T29N, R6E, to the Dubuque Creek drainage basin boundary in Section 27. From that point it follows the Dubuque Creek basin boundary northward (less than one mile) to the junction with the Pilchuck River, the point of beginning.

The designated sole source aquifer and recharge area boundaries are depicted in detail on a map contained in the Support Document for the Newberg Area Aquifer, prepared by the EPA Region 10 Office of Ground Water. The document is available to the public for inspection during normal business hours at the EPA Region 10 Library, 1200 Sixth Avenue, Seattle, Washington, or any of the following city libraries: Granite Falls, Washington; Lake Stevens, Washington; Everett, Washington; Marysville, Washington.

FOR FURTHER INFORMATION CONTACT: Jonathan Williams at (206) 442-1541 or FTS 399-1541.

Dated: October 23, 1987.

William A. Mullen,

Chief, Region 10, Office of Ground Water.

[FR Doc. 87-25657 Filed 11-4-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 28, 1987.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service. (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Terry Johnson, Federal Communications Commission, (202) 634-1535. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: None

Title: Proposed § 22.930(b), (f), and (g)—Special Provisions for Alternative Cellular Technologies and Auxiliary Services

Action: New collection

Respondents: Businesses (including small businesses)

Frequency of Response: On occasion

Estimated Annual Burden: 7 Responses; 280 Hours

Needs and Uses: This proposal will allow cellular radio licensees to employ alternative cellular technologies and auxiliary services. To ensure that interference to other cellular systems is not created, the licensees will be required to submit certain technical data, calculations, and documentation to the Commission.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-25604 Filed 11-4-87; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 26, 1987.

The Federal Communications Commission has submitted the following information collection requirement of OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Terry Johnson, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0050

Title: Statement Regarding The Importation of Radio Frequency Devices Capable of Causing Harmful Interference

Form Number: FCC 740

Action: Revision

Respondents: Individuals or households, state or local governments, businesses (including small businesses), and non-profit institutions

Frequency of Response: On occasion

Estimated Annual Burden: 300,000 Responses; 25,200 Hours

Needs and Uses: FCC Form 740 is submitted to the Commission upon importation of a shipment of radio frequency devices, such as transmitters, receivers, walkie talkies, computers, wireless telephones, etc., subject to FCC Rules. The Commission then checks the FCC Laboratory records to ascertain whether FCC equipment authorization is required and if so, whether it has been granted. If it is ultimately determined that such authorization has not been granted, FCC requests U.S. Customs Service to issue redelivery notice to the importer. This is to enforce the FCC import regulations. If the importer does not redeliver the radio frequency devices to Customs, the importer is subject to fines, imposed by the Customs Service. The data is used by FCC staff to ensure that radio frequency devices imported into the U.S. and its custom territory comply with applicable FCC rules and regulations.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-25625 Filed 11-4-87; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee; Meeting November 17 and December 2, 1987

The Technical Subgroup of the Radio Advisory Committee on Radio Broadcasting will meet on Tuesday, November 17 and Wednesday, December 2, 1987 at the McCullough Room of the National Association of Broadcasters, 1771 N Street, NW., Washington, DC. Both meetings will convene at 10 a.m.

At those meetings, the Technical Subgroup will continue its work on the following matters:

—Improvement of the AM radio broadcast service;

—Use of synchronous transmitters;

—Preparation for the 1988 Regional Administrative Radio Conference on the use of the expanded AM band (1605-1705 kHz); and

—Other business.

The Subgroup's meetings are continuing ones, and may be resumed after the above-stated dates at such times and places as may be decided by the participants at those meetings. All meetings of the Technical Subgroup are open to the public. All interested persons are invited to participate in these meetings.

For further information, please call Wilson La Follette at the FCC. His telephone number is (202) 632-5414.

Federal Communications Commission.

William Tricarico,

Secretary.

[FR Doc. 87-25606 Filed 11-4-87; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1687]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

October 30, 1987.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202-857-3800). Oppositions to these petitions must be filed. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Automated Reporting Requirements for Certain Class A and Tier 1. Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules. (CC Docket No. 86-182). Number of petitions received: 9.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-25605 Filed 11-4-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-461, File Nos. BPH-860916 MB et al]

Applications for Consolidated Hearing; A B.C.D. Broadcasting Co. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. A B.C.D. Broadcasting Company	Enfield, CT	BPH-860916MB	87-461
B. Casey Radio Company	Enfield, CT	BPH-860916MC	
C. Sun-Burst Communications	Enfield, CT	BPH-860917MA	
D. DBC Woodside Associates Limited Partnership	Enfield, CT	BPH-860917ME	
E. Robinson Communications Corporation	Enfield, CT	BPH-860917ML	
F. Susan Marie Beth Romaine	Enfield, CT	BPH-860917MM	
G. Manuel and Maria Angelo	Enfield, CT	BPH-860917MN	
H. Eastco Enfield FM Limited Partnership	Enfield, CT	BPH-860918ME	
I. United Broadcasting Corporation	Enfield, CT	BPH-860918MZ	
J. Enfield Associates	Enfield, CT	BPH-860918NE	
K. Enfield Radio Associates, Incorporated	Enfield, CT	BPH-860918NQ	
L. FM Enfield Limited Partnership	Enfield, CT	BPH-860918NM	
M. Broadbrook Communications	Enfield, CT	BPH-860918NR	
N. Enfield Area Radio, Inc.	Enfield, CT	BPH-860918NT	
O. Franklin D. Graham	Enfield, CT	BPH-860918NX	
P. Enfield Broadcasting Company	Enfield, CT	BPH-860918OA	
Q. Airwave Communications, Inc.	Enfield, CT	BPH-860918OG	
R. John A. McMullin	Enfield, CT	BPH-860918OG	
S. Laura B. Goldenberg	Enfield, CT	BPH-860918OJ	
T. Wescon Communications	Enfield, CT	BPH-860918ON	
U. Enfield Broadcasting Company	Enfield, CT	BPH-860918OP	
V. Enfield Broadcasting Limited Partnership	Enfield, CT	BPH-860918OT	
W. Connecticut Broadcasting Limited Partnership	Enfield, CT	BPH-860918OW	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986.

The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicants
1. (See Appendix)	A
2. Financial Qualifications	R
3. Air Hazard	C, D, F, H, K, L, N, P, Q, S, V, W
4. Comparative	All
5. Ultimate	All

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is

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available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

1. (a) To determine, in light of the facts and circumstances surrounding the issue raised in the Bakersfield, California proceeding, MM Docket No. 84–668, whether Burke's proposed facility would have provided the required 3.16 mV/m signal over the entire community of Bakersfield, California, in accordance with 47 CFR 73.315(a).

(b) To determine, in light of the evidence adduced pursuant to the foregoing issue, whether Burke misrepresented facts to, or concealed information from, the Commission.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Burke and thus A (ABCD) possess the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 87–25622 Filed 11–4–87; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 87–402; File Nos. BPH–860515MG et al]

Applications for Consolidated Hearing; Nevada Number One Radio Co. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Nevada Number One Radio Co	Las Vegas, Nevada	BPH–860515MG	87–462
B. Irene Escalante	Las Vegas, Nevada	BPH–860515MD	
C. Walter-Wilson Broadcasters, Limited Partnership	Las Vegas, Nevada	BPH–860515MF	
D. L V Cps, Ltd	Las Vegas, Nevada	BPH–860515MG	
E. Allum & Patton Broadcasting Associates	Las Vegas, Nevada	BPH–860515MH	
F. Las Vegas First Broadcasting Company	Las Vegas, Nevada	BPH–860515MI	
G. Wayne Newton Communications, Inc	Las Vegas, Nevada	BPH–860515MJ	
H. FM Las Vegas Limited Partnership	Las Vegas, Nevada	BPH–860515MK	
I. Palmor Broadcasting Group	Las Vegas, Nevada	BPH–860515ML	
J. Recreation Radio, Inc	Las Vegas, Nevada	BPH–860515MM	
K. B J Broadcasting Limited	Las Vegas, Nevada	BPH–860515MO	
L. Mark Morris	Las Vegas, Nevada	BPH–860515MP	
M. Accretion Broadcasting	Las Vegas, Nevada	BPH–860515MQ	
N. Frances Murrietta, Steve Lehman, Paul Freeman and Harold Wrobel, d/b/a COSTA A COSTA COMMUNICACIONES, a California Limited Partnership	Las Vegas, Nevada	BRH–860515MR	
O. Blackjack Broadcasting Company	Las Vegas, Nevada	BPH–860515NB	
P. Tolyabe Broadcasting Corporation	Las Vegas, Nevada	BPH–860515MN	(Dismissed)

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicants
1. Environmental	E, L
2. (See Appendix)	N
3. Air Hazard	I, M
4. Comparative	A–O
5. Ultimate	A–O

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

1(a) To determine the facts and circumstances of Los Angeles Broadcasting Company's ("LA") filing of a falsely executed amendment to its application under the name of Tate Smith in violation of § 73.3513 of the Commission's rules and regulations.

1(b) To determine whether LA misrepresented and/or was lacking in candor in its disclosures to the Commission, of the corporate shareholders of Ms. Maria Alfaro, Ms. Dolores Gardner and Ms. Frances Murrietta.

1(c) To determine whether LA made misrepresentations and/or was lacking in candor by submitting an amendment which reported the removal of Ms. Maria Alfaro as an officer, director and/or shareholders by January 9, 1985.

1(d) To determine, in light of the facts adduced pursuant to issues (a), (b) and (c) above, whether LA misrepresented facts to, or concealed information from the Commission.

1(e) To determine, in light of the facts adduced pursuant to issues (a), (b) and (c) above, whether LA and hence N (Costas) possess the basic qualifications to be a licensee of the facilities sought here.

[FR Doc. 87–25623 Filed 11–4–87; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No.: FEMA–REP–3–WV–1]

The West Virginia Radiological Emergency Response Plan Site-Specific for the Beaver Valley Power Station; Certification of FEMA Findings and Determination

In accordance with the Federal Emergency Management Agency (FEMA) rule, 44 CFR Part 350, the State of West Virginia formally submitted its plan relating to the Beaver Valley Power Station to the Director of FEMA Region III on September 20, 1983, for FEMA review and approval. On August 13, 1987, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Beaver Valley Power Station, evaluation of the full-participation exercise conducted on November 19, 1986, in accordance with § 350.9 of the FEMA rule, and a public meeting held on July 27, 1983, to discuss the site-specific aspects of the State and local plans around the Beaver Valley Power Station in accordance with § 350.10 of the FEMA rule.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters' staff, I find and determine that the State and local plans and preparedness for the Beaver Valley Power Station are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. On December 27, 1985, the adequacy of the public alert and notification system was verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission/FEMA criteria of NUREG–0654/FEMA–REP–1, Rev. 1, and FEMA–43 "Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants" (now published as FEMA–REP–10).

FEMA will continue to review the status of offsite plans and preparedness associated with the Beaver Valley Power Station in accordance with the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA–REP–3–WV–1.

Dated: October 29, 1987.

For the Federal Emergency Management Agency.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 87–25603 Filed 11–4–87; 8:45 am]

BILLING CODE 6718–01–M

GENERAL SERVICES ADMINISTRATION

Change in Method of Award for Procurement of Copiers

Notice is hereby given that the General Services Administration, Federal Supply Service is contemplating a contracting change in the method of award for copiers having copy speeds ranging from 30 copies per minute (cpm) to 55 cpm (purchase only). These machines, presently included under the purchase category of Multiple Award Schedule FSC Group 36, Part IV, will be included on Single Award Schedule FSC Group 36, Part IV, Section A. The contract period for this schedule is 7–1–88 through 6–30–89.

Agency and industry comments are to be directed to: Nicholas Economou, General Services Administration, Federal Supply Service, Office Equipment Division (FCGE), Room 810, Crystal Mall Bldg. 4, Washington, DC 20406. Copies of proposed Commercial Item Descriptions covering copiers in the 30–55 cpm speed range, may be obtained by calling William Daugherty at (703) 557–5135.

Dated: October 20, 1987.

Nicholas M. Economou,

Director, Office Equipment Division.

[FR Doc. 87–25639 Filed 11–4–87; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Treatment Development and Assessment Research Review Committee, NIMH; Reestablishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776) and the Anti-Drug Abuse Act of 1986 (Pub. L. 99–570, section 501(j)), the Administrator, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), announces the reestablishment, effective November 1, 1987 of the following committee: Treatment Development and Assessment Research Review Committee, NIMH.

The duration of this committee is continuing unless formally determined by the Administrator, ADAMHA, that termination would be in the best public interest.

Date: November 2, 1987.

Donald Ian Macdonald,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 87–25659 Filed 11–4–87; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Community Response to a Cluster of Suicides; Meeting

Time and Date: 8:00 a.m.–5:15 p.m.—November 16, 1987; 8:30 a.m.–3:00 p.m.—November 17, 1987.

Place: Hilton Gateway Hotel, Gateway Center, 810 McCarter Highway at Raymond Boulevard, Newark, New Jersey 07102.

Status: Open to public, limited only by the space available.

Matters To Be Discussed: CDC is convening a public meeting with citizens of various communities, suicide researchers, State health officials, Federal agency representatives, and other interested parties regarding experience to date with the responses of various communities throughout the United States to occurrences of suicide clusters. The purpose of the meeting is to assist CDC in developing recommendations for preventive actions that may be taken by communities when suicide clusters occur.

For Further Information Contact: Stuart T. Brown, M.D., Director, Division of Injury Epidemiology and Control, Center for Environmental Health and Injury Control, CDC, Atlanta, Georgia, 30333. Telephones: FTS: 236–4690, Commercial: (404) 454–4690.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 87–25587 Filed 11–4–87; 8:45 am]

BILLING CODE 4160–18–M

National Institutes of Health

National Cancer Institute (President's Cancer Panel); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, November 20, 1987, at The National Institutes of Health, Building 31, Conference Room 11A–10, Bethesda, MD 20892.

This meeting will be open to the public on November 20 from 9:30 a.m. to 11:30 a.m. Attendance will be limited to space available. Agenda items include reports by the Chairman, President's Cancer Panel, and members of the Executive Committee, National Cancer Institute.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A23, National Institutes of Health, Bethesda, Maryland 20892 (301/496–1148) will provide a roster of the Panel members, and substantive program information upon request.

Dated: October 27, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25629 Filed 11–4–87; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given to amend the notice of the National Cancer Advisory

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Board meeting which was published in the **Federal Register** (52 FR 41326–41327) on October 27, 1987.

The notice is hereby amended to include the meeting of the Subcommittee on Planning and Budget, November 16, immediately following the recess of the National Cancer Advisory Board meeting at approximately 5 p.m. The meeting of the Subcommittee on Planning and Budget will be held in Building 31C, Conference Room 7, Bethesda, Maryland 20892.

The meeting will be open to the public for the discussion of the National Cancer Advisory Board portion of the NIH Director's Biennial Report.

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25630 Filed 11–4–87; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board Subcommittee on Organ Systems Program, National Cancer Institute, December 3, 1987, Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

The entire meeting will be open to the public on December 3, from 8:30 a.m. to 5 p.m. to discuss issues and develop recommendations for the Organ Systems Program. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Andrew Chiarodo, Executive Secretary, Subcommittee on Organ Systems Program, National Cancer Advisory Board, National Cancer Institute, Blair Building, Room 722A, National Institutes of Health, Bethesda, Maryland 20892 (301/427–8818) will furnish substantive program information, upon request.

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25631 Filed 11–4–87; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting, National Digestive Diseases Advisory Board

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on November 23, 1987, from 8:30 a.m. to approximately 5 p.m. at the Crystal Gateway, 1700 Jefferson Davis Highway, Arlington, Virginia 22032. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range digestive diseases plan. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Digestive Diseases Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland, 20852, (301) 496–6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: October 29, 1987.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 87–25632 Filed 11–4–87; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting, National Kidney and Urologic Diseases Advisory Board

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Kidney and Urologic Diseases Advisory Board on November 30 and December 1, 1987, from 8:30 a.m. to approximately 5 p.m. on November 30 and from 8 a.m. to approximately 4 p.m. on December 1, at the Crystal Gateway, 1700 Jefferson Davis Highway, Arlington, Virginia 22032. The meeting, which will be open to the public, is being held to discuss the Board's activities and the development of a long-range plan to combat kidney and urologic diseases. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Kidney and Urologic Diseases Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland, 20852, (303) 496–6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: October 29, 1987.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 87–25633 Filed 11–4–87; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Electric Power Research Institute; Chemical and/or Physical Processes Involved in Reaction of Compressed Air With Minerals

AGENCY: Geological Survey, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that a collaborative effort between the U.S. Geological Survey and the Electric Power Research Institute has been granted to study and describe chemical and/or physical processes involved in the reaction of compressed air with minerals that may lead to a loss of oxygen.

DATES: This action is effective as of September 24, 1987, for a duration of 12 months.

ADDRESSES: Copies of the Memorandum of Agreement are available for inspection upon request at the following location: U.S. Geological Survey, Branch of Geochemistry, Box 25046, MS 973, Denver Federal Center, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Dr. W. Ian Ridley of the U.S. Geological Survey, Branch of Geochemistry, at the address given above; telephone 303/236–1805, (FTS) 776–1805.

Date: October 27, 1987.

Benjamin A. Morgan,

Chief Geologist.

[FR Doc. 87–25640 Filed 11–4–87; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[MT–020–08–4410–02]

Miles City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Miles City District Advisory Council will be held Thursday, December 10, 1987, at 10 a.m. in the Conference Room at the Miles City District Office, Garryowen Road, West of Miles City, Montana 59301. The agenda is as follows:

1. Approve minutes of last meeting
2. Review results of Powder River and Fort Union Regional Coal Team meetings and their impact on the District
3. Coal beneficiation research
4. Update on budget and priorities
5. Status of wild horse program
6. New Business
7. Opportunity for public comment
8. Adjourn.

The meeting is open to the public. The public may make oral statements before the Advisory Council or file written statements for the Council's consideration. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Date: October 26, 1987.

Mat Millenbach,

District Manager.

[FR Doc. 87–25589 Filed 11–4–87; 8:45 am]

BILLING CODE 4310–DN–M

[AA–230–07–4310–87]

Bureau Forms Submitted for OMB Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget, Interior Department Desk Officer, Telephone 202–395–7340, Washington, DC 20503.

Title: Free Use Application Permit

Abstract: This form is used to provide for proper management of material disposal when product sale is not feasible or in the best interest of the Government.

Bureau Form Number: 5510–1

Frequency: One for each permit

Description of Respondents: Settlers, residents, miners and nonprofit groups

Annual Responses: 100

Annual Burden Hours: 8

Bureau clearance officer (alternate): Rick Iovaine, 202–653–8853

Dated: October 19, 1987.

Dean E. Stepanek,

Assistant Director for Land and Renewable Resources.

[FR Doc. 87–25643 Filed 11–4–87; 8:45 am]

BILLING CODE 4310–84–M

[NV–040–08–4321–12]

Public Hearing to Discuss the Routine Use of Helicopters and Motorized Vehicles to Gather Wild Horses

AGENCY: Bureau of Land Management, Interior.

ACTION: Ely District: Public hearing to discuss the use of helicopters and motorized vehicles to gather wild horses during FY 88 and subsequent years.

SUMMARY: In accordance with Pub. L. 92–195, as amended by Pub. L. 94–579 and Pub. L. 95–514, this notice sets forth the public hearing date to discuss the use of helicopters and motorized vehicles to gather wild horses from the Ely District during FY 88 and subsequent years.

The hearing will convene at 2:00 p.m. on Wednesday, January 6, 1988, in the Conference Room of the Ely District BLM Office, Pioche Highway, Ely, Nevada.

The hearing is open to the public. Interested persons may make oral or written statements. Anyone wishing to make oral comments should contact Robert E. Brown, Ely District Wild Horse Specialist, by December 30, 1987. Written statements must be received by this date also.

DATE: January 6, 1988.

ADDRESS: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT: Robert E. Brown, (702) 289–4865.

Dated: October 27, 1987.

Kenneth G. Walker,

District Manager.

[FR Doc. 87–25684 Filed 11–4–87; 8:45 am]

BILLING CODE 4310–HC–M

Medford District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 99–463 that a field trip and meeting of the Bureau of Land Management, Medford District Advisory Council will be held December 11, 1987.

On December 11, the field trip will begin at 8:00 a.m., followed by a meeting in the Oregon Room of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon. The field trip will be to illustrate forest fire damage, rehabilitation and timber salvage. The agenda for the meeting will include:

Discussion of the District's timber protest and appeal procedure, smoke management, FY 1988 budget allocations and planning for the 1990s, a Resource Management Plan workshop.

The field trip and meeting are open to the public. Persons planning to attend the field trip must provide their own transportation. Persons interested in making oral statements during the Council meeting, may do so following conclusion of the Council's other agenda items, or written statements may be submitted for the Council's consideration.

Anyone wishing to make an oral statement at the Council meeting must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by close of business December 10, 1987. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: October 26, 1987.

David A. Jones,

District Manager.

[FR Doc. 87–25645 Filed 11–4–87; 8:45 am]

BILLING CODE 4310–33–M

[CA–940–07–5410–10–ZBJD; CA 20447]

Realty Action; Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; Conveyance of the reserved mineral interests.

SUMMARY: The private lands described in this notice will be examined for suitability for conveyance of the reserved mineral interests pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

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FOR FURTHER INFORMATION CONTACT: Lavonia Silva, California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825 (916) 978–4815.

Serial Number: CA 20447

Mount Diablo Meridian

T. 28 S., R. 33 E.,

Sec. 31, Parcel 1, Portion of W½W½ SE¼, (shown on Parcel Map No. 2815). The area described contains approximately 11.00 acres in Kern County. A specific legal description and Parcel Map No. 2815 are available for inspection at the California State Office in Sacramento.

Mineral Reservations—All

Upon publication of this Notice of Realty Action in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interests; or two years from the date of filing of the application, whichever occurs first.

Dated: October 26, 1987.

Nancy J. Alex,

Chief, Lands Section, Branch of Adjudication and Records.

[FR Doc. 87–25647 Filed 11–4–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–5410–10–ZBJJ; CA 20869]

Realty Action; Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action; Conveyance of the Reserved Mineral Interests.

SUMMARY: The private lands described in this notice will be examined for suitability for conveyance of the reserved mineral interests pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

FOR FURTHER INFORMATION CONTACT: Judy Bowers, California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825, (916) 978–4815.

Serial Number: CA 20869

Mount Diablo Meridian

T. 30 S., R. 34 E.,
Sec. 32, SW¼.
T. 31 S., R. 34 E.,
Sec. 2, lots 1, 2, 3, 5 through 16, inclusive;
Sec. 3, lots 5 through 10, inclusive;
Sec. 4, lots 3 through 10, inclusive;
Sec. 5, lots 1 through 8, inclusive;
Sec. 6, lots 1, 10;
Sec. 10, all.

1,575.93 acres

Upon publication of this Notice of Realty Action in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interests; or two years from the date of filing of the application, whichever occurs first.

Dated: October 26, 1987.

Nancy J. Alex,

Chief, Lands Section, Branch of Adjudication and Records.

[FR Doc. 87–25648 Filed 11–4–87; 8:45 am]

BILLING CODE 4310–40–M

[WY–010–08–4410–08]

Availability of Proposed Washakie Resource Management Plan and Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Wyoming, Interior.

ACTION: Notice of availability of the proposed Washakie Resource Management Plan and Final Environmental Impact Statement.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the proposed Washakie Resource Management Plan and Final Environmental Impact Statement (RMP/EIS), including the proposed Designation of an Area of Critical Environmental Concern (ACEC). The proposed RMP describes the future management direction for 1,234,000 acres of public land and 1,603,000 acres of Federal mineral estate in the Washakie Resource Area, which encompasses portions of Big Horn, Washakie, and Hot Springs counties in the Big Horn Basin of north central Wyoming.

The proposed designation of the Spanish Point Karst Area of Critical Environmental Concern (ACEC) is adddressed in the Proposed RMP. The ACEC is an area of about 11,200 acres of BLM administered public surface and mineral estate within the Trapper, Dry Medicine Lodge, and Medicine Lodge Creek watesheds.

Within the boundaries of the proposed ACEC are lands in the national forest system and privately owned surface. The ACEC designation would pertain to the surface and mineral estate managed by the BLM and to the BLM administered Federal mineral estate under private and national forest system lands. The non-BLM administered surface would not be affected by the designation of the ACEC. BLM's proposed ACEC management prescriptions optimize watershed opportunities over other resource concerns in the area, due to recharge areas for the Madison Acquifer and the existence of regional and nationally important caves. The proposed management prescriptions for the ACEC include closure to mineral leasing, withdrawal from mineral location, and various restrictions on surface disturbing actions and land uses that would affect water quality and recharge of acquifers.

The Draft Washakie RMP/EIS, including the Draft Wilderness Environmental Impact Statement supplement, was made available for public review and comment in November of 1986. Comments received on the Draft RMP/EIS were considered in preparing the proposed RMP/Final EIS. The comments made on the Draft Wilderness EIS will be addressed in the Final Wilderness EIS, which is scheduled to be published late in 1988. All parts of the proposed Resource Management Plan may be protested by parties who participated in the planning process and who have an interest which is or may be adversely affected by the adoption of the plan.

A protest may raise only those issues which were submitted for the record during the planning process.

DATES: Protests on the proposed Plan/Final EIS must be postmarked on or before December 7, 1987.

ADDRESS: Protests on the proposed Plan/Final EIS should be sent to: Director (202), Bureau of Land Management, 18th & C Streets NW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT: Roger D. Inman, Washakie Area Manager, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401, Phone: (307) 347–9871.

SUPPLEMENTARY INFORMATION: The Proposed Washakie Resource Management Plan/Final Environmental Impact Statement has been prepared in an abbreviated format. That is, the alternatives considered in the Draft RMP/EIS, and the environmental effects of those alternatives, have not been reprinted in the Proposed Plan/Final EIS. It is necessary, therefore, to use both the Draft and Final RMP/EIS documents for a complete review of the EIS.

Copies of the draft RMP/EIS and the proposed Plan/Final EIS can be obtained from the Washakie Resource Area Manager at the above address.

The proposed plan is a complete, comprehensive management proposal. It is a refinement of the preferred alternative presented in the draft RMP/EIS. Comments from the public, review by BLM staff, and new information developed since the distribution of the draft have prompted some changes in the preferred alternative. The environmental effects of the proposed plan are not substantively different from those of the preferred alternative.

The proposed plan focuses on the resolution of four key resource management issues that were identified with public involvement early in the planning process. These issues are: (1) Affects on vegetative resources; (2) special designations; (3) affects on water resources; and (4) adequacy of resource accessibility and manageability.

In accordance with the provisions of 36 CFR Part 800, parties who are interested in and who wish to be involved in future activity planning and implementation of management actions that may involve or affect the archaeological and historical resource aspects addressed in the proposed plan, are requested to identify themselves. Through contacting the Worland BLM District Office at the above address, you will be placed on a future contact list.

David J. Walter,

Acting State Director.

October 27, 1987.

[FR Doc. 87–25644 Filed 11–4–87; 8:45 am]

BILLING CODE 4310–22–M

[WY–920–08; 4111–11; W–102285]

Proposed Conversion of Unpatented Oil Placer Mining Claims (Eagle No. 5 and Eagle No. 7) to Noncompetitive Oil and Gas Lease; Wyoming

October 28, 1987.

Pursuant to section 31 and 17(c) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188) as amended by Title IV of the Federal Oil and Gas Royalty Management Act of 1982 (Pub. L. 97–451), a petition for conversion of unpatented oil placer mining claims has been timely filed. The proposed lease has been assigned serial number W–102285. The claims to be converted are the Eagle No. 5 and the Eagle No. 7 unpatented oil placer mining claims located in Hot Springs County, Wyoming. The description of the land is as follows: T. 43 N., R. 92 W., 6th Principal Meridian, Wyoming, Tracts 51 A,B,C,D,G, containing 203.36 acres m/l.

This notice explains the reasons for the proposed conversion of the mining claims to a noncompetitive oil and gas lease. The unpatented oil placer mining claims were validly located prior to February 25, 1920, they are currently producing oil, and they were deemed conclusively abandoned for failure to timely file instruments as required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744). The statutory date of abandonment was December 30, 1985. Texaco Inc., on behalf of itself and others, has petitioned for the conversion.

When issued, the lease will be in the name of Texaco Inc., et al. The lessees have agreed to three special lease terms in addition to the normal lease terms of a noncompetitive oil and gas lease. They include:

1. Standard BLM Stip No. 1, 2a, and 2b.

2. Payment of royalty shall be not less than 12½% on production removed or sold from the unpatented oil placer mining claims including royalty on production since December 30, 1985.

3. Payment of rental of not less than $7 per acre, or fraction of an acre per year, including back rentals accruing from December 30, 1985. Rental is due annually in addition to royalty.

The lessee has paid the required $500 administrative fee and will reimburse the Department for the cost of this **Federal Register** notice. In addition, all back rental and royalty will be paid from December 30, 1985, current to the date the lease is issued.

Royalty from October 1986, current to the date the lease is issued, still needs to be submitted. This will be paid before the lease is issued. Rental is due in addition to royalty at $7 per acre, or fraction thereof, per year.

Since the lessee has met all the requirements for conversion of the unpatented oil placer mining claims as set out in the laws referenced above, the Bureau of Land Management is proposing to issue lease W–102285 effective December 30, 1985.

Patricia J. Wattles,

Acting Chief, Leasing Section.

[FR Doc. 87–25646 Filed 11–4–87; 8:45 am]

BILLING CODE 4310–22–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7340, with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Semiannual Gas Well Test Report, Form MMS–1870

Abstract: Respondents submit Form MMS–1870 to the Minerals

Management Service's Regional Supervisors so they can evaluate the results of well tests to ascertain if reservoirs are being depleted in a manner that will lead to the greatest ultimate recovery of hydrocarbons. The form is designed to present current well data on a semiannual basis to permit the updating of permissible producing rates and provide the basis for estimates of currently remaining recoverable gas reserves.

Bureau Form Number: Form MMS–1870
Frequency: Semiannually
Description of Respondents: Federal oil and gas lessees performing offshore production operations
Annual Responses: 6,000
Annual Burden Hours: 12,000
Bureau Clearance Officer: Dorothy Christopher, (703) 435–6213.

Date: October 9, 1987.

John B. Rigg,
Associate Director for Offshore Minerals Management.

[FR Doc. 87–25590 Filed 11–4–87; 8:45 am]
BILLING CODE 4310-MR-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7340, with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Well Potential Test Report, Form MMS–1868.

Abstract: Respondents submit Form MMS–1868 to the Minerals Management Service's (MMS) Regional Supervisors so MMS can determine the maximum production rate for an oil or gas well.

Bureau Form No.: Form MMS–1868.
Frequency: On occasion.
Description of Respondents: Federal oil and gas lessees performing offshore production operations.
Annual Responses: 4,000.
Annual Burden Hours: 8,000.
Bureau Clearance Officer: Dorothy Christopher, (703) 435–6213.

Date: October 21, 1987.

John B. Rigg.,
Associate Director for Offshore Minerals Management.

[FR Doc. 87–25649 Filed 11–4–87; 8:45 am]
BILLING CODE 4310-MR-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7313, with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Request for Well Maximum Production Rate (MPR), Form MMS–1867.

Abstract: Respondents submit Form MMS–1867 to the Minerals Management Service's (MMS) Regional Supervisors so MMS can determine the well and reservoir involved in a request for a maximum production rate to establish the maximum daily rate at which oil and gas may be produced from a specific well completion.

Bureau Form Number: Form MMS–1867.
Frequency: On occasion.
Description of Respondents: Federal oil and gas lessees performing offshore production operations.
Annual Responses: 4,000.
Annual Burden Hours: 1,000.
Bureau Clearance Officer: Dorothy Christopher, (703) 435–6213.

Date: October 14, 1987.

John B. Rigg,
Associate Director for Offshore Minerals Management.

[FR Doc. 87–25650 Filed 11–4–87; 8:45 am]
BILLING CODE 4310-MR-M

Environmental Document Prepared for Proposed Oil and Gas Operations on the Pacific Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of availability of environmental document prepared for an OCS minerals plan of exploration on the Pacific OCS.

SUMMARY: The MMS, in accordance with Federal regulations (40 CFR 1501.4 and § 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of a NEPA-related Environmental Assessment (EA) and Finding of No Significant Impact (FONSI), prepared by the MMS for the following oil and gas exploration activity proposed on the Pacific OCS.

Activity/Operator
Texaco USA, Inc., Exploration , OCS–P 0512, block 54N, 82W
Location
Three and one-half miles (5.6 km) west-southwest of the coast near Point Conception, California
Date
October 16, 1987

Persons interested in reviewing the environmental document for the proposal listed above or obtaining information about EAs and FONSIs prepared for activities on the Pacific OCS are encouraged to contact the MMS office in the Pacific OCS region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Leasing and Environment, Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Mail Stop 300, Los Angeles, CA, 90017, telephone (213) 894–6775.

SUPPLEMENTARY INFORMATION: The MMS prepares EAs and FONSIs for proposals which relate to exploration for and the development/production of oil and gas resources on the Pacific OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA is used as a basis for determining whether or not aproval of the proposal constitutes major Federal actions that

significantly affect the quality of the human environment in the sense of NEPA 102(2)(c). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public Notice of Availability of environmental documents required under the NEPA regulations.

Date: October 26, 1987.

William E. Grant,
Regional Director.

[FR Doc. 87–25591 Filed 11–4–87; 8:45 am]
BILLING CODE 4310-MR-M

Development Operations Coordination Document; Arco Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Arco Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4009, Block 128, Main Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice Louisiana.

DATE: The subject DOCD was deemed submitted on October 28, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: October 29, 1987.

J. Rogers Pearcy,
Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–25592 Filed 11–4–87; 8:45 am]
BILLING CODE 4310-MR-M

Development Operations Coordination Document; Placid Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Placid Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 6172, Block 232, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore based located at Galveston, Texas and Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on October 28, 1987. Comments must be received on or before November 20, 1987, or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 29, 1987.

J. Rogers Pearcy,
Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–25593 Filed 11–4–87; 8:45 am]
BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–266]

Certain Reclosable Plastic Bags and Tubing; Commission Determination Not To Review Initial Determination Joining Respondents

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination (ID) joining two respondents to the investigation.

SUMMARY: Notice is hereby given that the Commission has determined not to review the ID of the presiding administrative law judge (ALJ) amending the complaint and notice of investigation in the above-captioned investigation to join Keron Industrial Co., Ltd. (Keron), and Daewang International Corp. (Daewang) as respondents.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0375.

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SUPPLEMENTARY INFORMATION: On September 3, 1987, complainant Minigrip, Inc., moved (Motion 266–19) to amend the complaint and notice of investigation to add Keron and Daewang as respondents to the investigation. The ALJ issued an ID granting the motion on October 8, 1987. No petitions for review of the ID nor comments from other Government agencies were received.

Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: October 29, 1987.

[FR Doc. 87–25580 Filed 11–4–87; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket Nos. AB–292 (Sub-No. 1X) and AB–55 (Sub-No. 210X)]

Alabama and Florida Railroad Co.; Discontinuance of Service in Crestview, FL, and Lockhart, AL; and CSX Transportation, Inc.; Abandonment; in Crestview, FL, and Lockhart, AL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the discontinuance of service by The Alabama & Florida Railroad Company over, and the abandonment by CSX Transportation, Inc., of, approximately 27.9 miles of line in Crestview, FL, and Lockhart, AL, subject to standard labor protective conditions.

DATES: This exemption will be effective on December 5, 1987. Petitions to stay must be filed November 20, 1987, and petitions for reconsideration must be filed by November 30, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB–292 (Sub-No. 1X) and Docket No. AB–55 (Sub-No. 210X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representatives:

Deborah A. Phillips, 1350 New York Avenue, NW., Washington, DC 20005–4797

Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. TDD for hearing impaired (202) 275–1721.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: October 26, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Vice Chairman Lamboley concurred in the result.

Noreta R. McGee,

Secretary.

[FR Doc. 87–25516 Filed 11–4–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31138]

KKR Associates; Control Exemption; Jefferson Warrior Railroad Co., Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from prior approval requirements of 49 U.S.C. 11343 the acquisition of control by KKR Associates of the Jefferson Warrior Railroad Company, through its parent Jim Walter Corporation.

DATES: This exemption will be effective on November 2, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

[TDD for hearing impaired: (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: October 30, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87–25628 Filed 11–4–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31141]

Galveston Railway, Inc.; Lease and Operation of Rail Lines of Galveston Wharves; Exemption

Galveston Railway, Inc. (GRI), a noncarrier, has filed a notice of exemption to lease and operate approximately 36 miles of rail line and right-of-way, under agreement with Galveston Wharves (GW), in and around the Port of Galveston, TX. GW is an agency of the City of Galveston, TX. GRI will purchase locomotives, radios, generators, tools and other railroad equipment from GW. After consummation of the purchase and lease agreement, GRI will operate as a rail common carrier, serving shippers located on and off the involved lines in origin, switching, and delivery service, as well as through interchange with other carriers.

Any comments must be filed with the Commission and served on Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 29, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–25797 Filed 11–4–87; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act; Webster and Dudley, Massachusetts

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States v. Town of Webster and United States v. Town of Dudley* has been lodged with the United States District Court for the District of Massachusetts. The consent decree addresses violations by the Town of Webster and the Town of Dudley of the Clean Water Act in regard to their sewerage systems.

The proposed Consent Decree requires the Town of Webster and the Town of Dudley to jointly construct an advanced wastewater treatment facility. It also requires the Town of Webster to submit and implement a staffing plan, to implement organic load equalization, to submit and implement a pretreatment program, and to study alternatives for and select a sewage sludge disposal method for the advanced treatment facility. In addition, the decree provides that the Town of Webster will pay a civil penalty of $25,000 and the Town of Dudley will pay a civil penalty of $12,500.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Town of Webster and United States v. Town of Dudley*, D.J. Ref. 90–5–1–1–2811.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Massachusetts, 1107 John W. McCormack, Post Office and Courthouse, Boston, Massachusetts 02109, and at the Office of Regional Counsel, United States Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Rm. 2203, Boston, Massachusetts 02203. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Ave., NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please refer to *United States v. Town of Webster and United States v. Town of Dudley*, D.J. Reference #90–5–1–1–2811 and enclose a check in the amount of $2.70 (ten cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–25594 Filed 11–4–87; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Challenge III Section) to the National Council on the Arts will be held on November 19, 1987, from 9:15 a.m.–5:30 p.m. in room M0–7 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

October 28, 1987.

[FR Doc. 87–25651 Filed 11–4–87; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No.: 50–254]

Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing; Commonwealth Edison Co.

United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–29 issued to Commonwealth Edison Company (the licensee), for operation of Quad Cities, Unit 1 located in Rock Island County, Illinois.

Pursuant to 10 CFR 50.90, Commonwealth Edison Company (CECo, the licensee) has proposed an amendment of Facility Operating License DPR–29 which would revise certain license conditions and Technical Specifications (TS) in order to provide for Cycle 10 operation of Quad Cities Nuclear Power Station (QCNPS), Unit 1.

The Unit 1 Reload 9/Cycle 10 replacement reactor fuel is of the GE8x8EB extended burnup fuel design, which has some different mechanical and nuclear features than the Cycle 9 fuel. Although this fuel type has not been employed at QCNPS before, Reload 9 is by and large considered a normal reload with no unusual core features or characteristics. The GE8x8EB fuel design described in Topical Report NEDE–24011–P–A, "General Electric Standard Application for Reactor Fuel" (GESTAR II), has been previously reviewed and approved by the NRC for generic applications and extended burnup operations. Utilization of GE8x8EB fuel was recently approved for other non-CECo plants (e.g., Fitzpatrick Peach Bottom, Limerick, and Millstone).

In general, the proposed license amendment would delete certain license conditions and revise the TS to incorporate new Cycle 10 reload fuel operating limits, expand operating domains (including operation with equipment out of service), and change jet pump surveillance core flow evaluation methodology. Proposed TS changes specifically related to the Cycle 10 reload fuel operating limits and analyses include: (a) Revising the maximum allowable Linear Heat Generation Rate (LHGR) to be fuel type specific, and establishing a LHGR limit for the new GE8x8EB reload fuel, (b)

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adding Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) limit curves for the new reload fuel, (c) increasing the Rod Block Monitor (RBM) setpoint, and (d) revising the Minimum Critical Power Ratio (MCPR) limit and associated 20% insertion scram time value. Other TS and license condition changes in this amendment that resulted form analyses performed by GE for CECo to expand the unit operating region, and allow for operation with certain equipment out-of-service include the following: (e) Deletion of existing License Condition requirements for Single Loop Operation (SLO) and incorporation of similar SLO requirements into the TS, (f) change the analyzed operating region to include increased core flow (ICF) and feedwater temperature reduction (FTR), (g) revision of the Automatic Pressure Relief Subsystem TS to require action only when two or more relief valves are inoperable, and (h) deletion of the license operating restriction for coastdown to 40% power and coastdown with off-normal feedwater (FW) heating.

Concurrent with the aforementioned TS changes, several administrative and editorial revisions were proposed for continuity. Furthermore, applicable TS bases and references were updated to reflect new information, fuel type, analyses, computer models, operating domains, and Limiting Conditions of Operation (LCOs).

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 7, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why the intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and the extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportuntiy to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael Miller, Isham, Lincoln, and Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i) through (v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 18, 1987, as supplemented October 13, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC; the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Dated at Bethesda, Maryland, this 30th day of October 1987.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 87–25671 Filed 11–4–87; 8:45 am]

BILLING CODE 7590–01–M

Low-Level Waste Disposal Facility; Availability and Request for Public Comment on a Branch Technical Position Paper Concerning Environmental Monitoring

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of a branch technical position paper which describes the NRC's position on the development and implementation of an acceptable environmental monitoring program adequate to meet the requirements of 10 CFR 61.53. This publication is intended to provide guidance to States and interested parties on environmental monitoring and to meet the requirements of the Low-Level Radioactive Waste Policy Amendments Act of 1986. NRC is requesting public comment on this document to include the interests of affected parties during the development of this document.

DATES: The comment period expires December 15, 1987. Comments received after this date will be considered if it is practical to do so but assurance of consideration cannot be given except as to comment received before this date.

ADDRESSES: Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Monday through Friday. Copies of the branch technical position paper and comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

Copies of the draft branch technical position paper may be obtained by calling R. John Starmer on (301) 427–4088 or by writing to R. John Starmer, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: R. John Starmer, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 427–4450.

SUPPLEMENTARY INFORMATION: To discharge the requirements of the Low-Level Radioactive Waste Policy Amendments Act of 1986, the NRC staff is developing further guidance on environmental monitoring for low-level radioactive waste disposal facilities to meet the requirements of 10 CFR 61.53. The main objective of this paper is to provide to the applicant an approach for developing an acceptable environmental monitoring program. Because future low-level radioactive waste disposal facilities will be sited in areas with varying climatic, geologic, and hydrologic conditions, the staff considers it inappropriate to require specific monitoring activities that will necessarily meet the requirements of the 10 CFR 61.53. Therefore, the paper is nonprescriptive and outlines concepts that should be considered when designing the monitoring program.

NRC staff is requesting comments from interested parties during the development of this position. The staff recognizes that monitoring requirements for humid disposal sites will likely vary from requirements for arid sites, and that the various monitoring programs will have to emphasize surveillance of different release pathways. Therefore, the NRC staff requests that comments focus on suggestions for whether NRC should emphasize or de-emphasize specific pathway monitoring at sites with the expected range of environmental conditions.

In order for comments to be considered for incorporation into the final position paper, they must be docketed before the expiration date. The final branch technical position paper is planned for publication in January 1988.

Dated at Silver Spring, Maryland, this 23rd day of October, 1987.

For The Nuclear Regulatory Commission.

R. John Starmer,

Acting Chief, Technical Branch, Division of Low-Level Waste Management and Decommissioning, NMSS.

[FR Doc. 87–25440 Filed 11–4–87; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Procedures for Giving Notice of Meetings and Actions

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Final policy.

SUMMARY: At a regularly scheduled meeting held in Idaho Falls, Idaho on September 9–10, 1986, the Northwest Power Planning Council adopted the following procedures for giving notice of its meetings and actions.

FOR FURTHER INFORMATION CONTACT: Copies of this notice which includes the procedures may be obtained by contacting Dulcy Mahar, Director of Public Information and Involvement, at Northwest Power Planning Council, 850 SW. Broadway, Suite 1100, Portland, Oregon 97205, or at (503) 222–5161, or (toll-free) 1–800–222–3355 (in Montana, Idaho or Washington) or 1–800–452–2324 (in Oregon).

SUPPLEMENTARY INFORMATION:

Background

A. Meeting Notices

Section 4(a)(4) of the Northwest Power Act requires the Council to observe the federal laws relating to open meetings and advisory committees "to the extent appropriate". Both the open meetings law (5 U.S.C. 552b(e)(3)) and the advisory committee law (5 U.S.C. Appendix 1, 1–4) require that meeting notices be published in the **Federal Register**.

B. Rulemaking Notices

The Northwest Power Act requires that the Council follow the informal hearing process of the federal Administrative Procedure Act in some instances, but does not specifically require that the Council publish rulemaking notices or final rules in the **Federal Register**. Section 9(e)(15) of the Act, however assures that some notice of final actions affecting the power plan or fish progam will appear in the **Federal Register**, since publication in the **Federal Register** starts the 60-day challenge period for such actions.

A proposed policy to establish procedures for giving notice of its meetings and actions was published in the **Federal Register** on June 18, 1987 (52 FR 23224), and public comment was requested. No comments were received by the Council for consideration in approving the final policy. The Council has now adopted a formal policy for giving notice of its meetings and actions.

The adopted procedure is as follows:

Notice Procedures

The Council will use the following procedures for handling the publication of notices for Council meetings, meetings of the Council's advisory committees and the initiation and conclusion of plan and program amendment proceedings.

Meeting Notices

1. Notice of the date, time, and place, of all regularly scheduled Council and advisory committee meetings will appear monthly in *Update!* at least seven days prior to the date of the meeting, together with a notice stating that copies of the meeting agendas are available by calling the Council's toll-free numbers.

2. Together with the meeting notices, *Update!* will inform its readers that the meeting schedule and agendas are subject to change and that persons desiring to confirm meeting dates or to confirm that a particular item will be considered at a meeting should call the Council's toll-free telephone numbers.

3. In the event that a meeting date is moved or canceled or a new meeting is scheduled, and the change in schedule will occur before the next issue of *Update!* will reach the subscribers, notice of the change will be mailed to interested parties. Notice of changes in Council meetings will be mailed at the

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earliest practicable time to all parties who are on the mailing list for Council agendas. Notice of changes in advisory committee meetings will be sent to all parties who are on the mailing list for the advisory committee. If there is no reasonable likelihood that the notice of the change in schedule will reach interested parties by mail prior to the change in schedule, notice will be given by the most practical alternative means.

4. Whenever a new advisory committee is formed, or an existing advisory committee has its charter extended, a notice will appear in the next issue of *Update!* acknowledging the creation or extension of the committee, and stating that those persons who want to be informed of the meeting schedule for the committee should contact the Public Information and Involvement Division.

5. At least once a year, the Council will publish in the **Federal Register** a notice including the names of each of the advisory committees and stating that notices of the meeting schedule for the Council and its advisory committees may be obtained from the Public Information and Involvement Division.

Notice of Plan or Program Amendments

1. At the beginning of each proceeding to amend the Power Plan or Fish and Wildlife Program, the Council will publish in the **Federal Register** a notice containing a summary of the nature of the proposed amendment.

2. Upon adoption of a final amendment, the Council will publish in the **Federal Register** a notice containing a summary of the amendment as adopted.

Public Involvement

1. In addition to the notices described above in the notice procedure, the Council will continue to encourage widespread public involvement in its decision-making process through use of the media and Council publications.

Edward Sheets,

Executive Director.

[FR Doc. 87-25634 Filed 11-4-87; 8:45 am]

BILLING CODE 6820-AB-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information of the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Prior Service Reports.

(2) *Form(s) submitted:* AA-15, AA-2p(R), G-85.

(3) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) *Frequency of use:* On occasion.

(5) *Respondents:* Individuals or households, Businesses or other for-profit.

(6) *Annual responses:* 690.

(7) *Annual reporting hours:* 207.

(8) *Collection description:* Railroad service prior to 1937 which can be used to determine entitlement to and amount of annuity under the RRA is not carried on Board records. The reports obtain verification of such records, or in the absence of such records, obtain information from the applicant to support the claim.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Elaina Norden (202-395-7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 87-25652 Filed 11-4-87; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25077 File No. SR-NYSE-87-39]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc.; Continued Interim Effectiveness of Policy for Reviewing Combinations Among Specialist Units

Pursuant to section 19(b)(1) of the Securities Exchange Act Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 28, 1987, the New York Stock Exchange Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The proposed rule change amends the Exchange's specialist concentration policy by extending its interim effectiveness through December 31, 1987.[1] The Exchange has designated the policy as a Rule of the Board of Directors of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Items IV below and is set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed rule change is to extend the interim effectiveness of the policy through December 31, 1987 in order to afford time for the Exchange to complete preparation of a filing seeking permanent approval. The purpose of the policy is to provide the Exchange with a mechanism for reviewing proposed mergers, acquisitions and other combinations between or among specialist units that may lead to a level of concentration within the specialist community that is detrimental to the Exchange and the quality of its markets.[2]

(2) Statutory Basis

The Basis under the Act for the proposed rule change is section 6(b)(5): the Exchange will be able to monitor tendencies towards concentration in the specialist community and intervene to prevent undue concentration. This serves to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest. The proposed rule change also comports with section 11A(a)(1)(C), which states Congress's finding that fair competition among brokers and dealers serves and fosters the public interest, investor protection and fair and orderly markets.

(B) Self-Regulatory Organization's Statement on Burden on Competition

As more fully described in SR-NYSE-86-37, the Exchange believes that this proposed rule change will not impose any burden on competition and, in fact, creates a mechanism that will help ensure competition among specialist units.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.[3]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act. The Exchange believes there is good cause for accelerated effectiveness of an extension of the policy's interim effectiveness in order to avoid a hiatus in the effectiveness of the policy during the Exchange's preparation of a filing seeking permanent approval. Although no new combinations have been proposed since the policy became effective, the present period of extreme market volatility and year-end tax considerations may prompt proposals.

The Exchange expects to file for permanent approval within the next several weeks. Accelerated effectiveness of this extension will not require the Commission to forego thorough consideration of, and additional public comment on, the request for permanent approval.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the file number in the caption above and should be submitted by November 27, 1987.

V. Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6.

The Commission finds good cause for approving the rule change prior to the thirtieth day after the date of publication of notice thereof in that such approval will provide the Exchange with additional time to prepare a rule filing requesting permanent approval of its concentration policy, while at the same time allowing the pilot to remain in effect without interruption.[4]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referred to above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 29, 1987.

[FR Doc. 87-25597 Filed 11-4-87; 8:45 am]

BILLING CODE 8010-01-M

[1] *See*, Securities Exchange Act Rel. No. 24411 (April 29, 1987), 52 FR 17870 (SR-NYSE-86-37).

[2] *See*, SR-NYSE-86-37 for a detailed explanation of this purpose.

[3] *See, generally*, SR-NYSE-86-37 for comments received from Exchange members and various Exchange Committees during the policy's development.

[4] The Exchange has indicated that it will submit to the Commission a request for permanent approval during the extended pilot period. In filing for permanent approval, we expect the NYSE to discuss any experience the Exchange has had in the application of the policy which may aid the Commission in making its final determination. We also continue to expect the NYSE filing to contain a thorough analysis of the basis for the chosen threshold levels and for the use of a presumption against a combination at the higher level, particularly in light of the capital needs of specialists highlighted during the market volatility experienced during the week of October 19, 1987. In this regard, the Commission notes, that, in considering permanent approval of the Exchange's concentration policy, we will need to carefully examine any impact the concentration policy could have upon the capital needs of NYSE specialist units in light of current volatile market conditions.

[Rel. No. IC-16101; 812-6752]

Application for Exemption; Arcadia BIDCO Corp.

October 30, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Arcadia BIDCO Corporation ("Applicant").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant, organized for the purpose of promoting the economic welfare of the State of Michigan under the Michigan 'BIDCO" Act and subject to the prevasive regulatory scheme of the BIDCO Act, seeks an order exempting it from all provisions of the 1940 Act pursuant to section 6(c).

Filing Date: The application was filed on June 5, 1987, and amended on October 20, 26, and 28, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 19, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Suite 440, Comerica Building, 151 South Rose Street, Kalamazoo, Michigan 49007.

FOR FURTHER INFORMATION CONTACT: Staff Attorney, Carson G. Frailey (202) 272-3015, or Special Counsel Karen L.

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Skidmore (202) 272–3023, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier, who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant, organized under the laws of Michigan in April, 1987, is seeking to be licensed by the Financial Institutions Bureau of the Michigan Department of Commerce ("Bureau") as a "business and industrial development corporation" ("BIDCO") under Act No. 69 of the Michigan Public Acts of 1966 ("BIDCO Act"). The Bureau is the agency that charters and examines, among other institutions, state banks and savings and loan associations in Michigan. The BIDCO Act and Applicant's licensure thereunder are the implementation of a policy of legislative and administrative initiatives for economic development within the State of Michigan. For this purpose, Applicant will engage in debt financing, equity financing and leasing transactions designed to furnish innovative financing to deserving business firms which may not otherwise quality for conventional bank financing. Applicant anticipates it will provide financial and management assistance principally to entities doing business in Michigan.

2. Applicant will have the power to make loans, invest in securities, and own real and personal property and lease the same to other businesses in rendering financial assistance to businesses. Except in limited circumstances, primarily to protect an existing investment, the Applicant is prohibited from controlling another business. Applicant anticipates that the majority of its investments will be in medium term loans, substantially similar to commercial loans. Unlike typical investment companies regulated under the 1940 Act, Applicant's investments in securities will be almost exclusively limited to direct acquisitions from the issuer in transactions not involving any public offering. Other than obligations of the United States, and highly rated debt obligations of publicly-held domestic corporations acquired for temporary investment, Applicant does not propose to acquire any significant investments in securities in public trading markets. Applicant expressly represents that it will not make any investments in the voting securities of any Small Business Investment Company ("SBIC") licensed under the Small Business Investment Act, unless such SBIC limits its investments to those in businesses located primarily in Michigan.

3. Applicant will operate as a for-profit corporation, having a single class of voting common stock issued and outstanding. The authorized capital stock of the Applicant consists of 1,000,000 shares of common stock, par value $1.00. Applicant's shares of common stock are to be distributed initially in two interrelated offerings of BIDCO Common: (1) $3,999,980 pursuant to a limited offering (the "Limited Offering"), and (2) $2,000,000 to the Michigan Strategic Fund ("Strategic Fund"), a government agency of the State of Michigan providing funds for business development. Each of the two offerings will be conditioned upon the grant of a license under the BIDCO Act and the successful completion of the other offering. The offerings are being made pursuant to exemption from registration provided by Regulation D under section 4(2) of the Securities Act of 1933 ("1933 Act"). The Strategic Fund has committed to purchase 200,000 shares of BIDCO Common at $10.00 per share. The shares issued to the strategic Fund will be subject to an agreement detailing certain rights and restrictions, e.g., such shares will be non-voting; non-transferable for six years, and the fund may require the Applicant to repurchase such shares after six years. The shares issued to the Strategic Fund, although subject to those rights and restrictions, will not constitute a separate class of stock under Michigan law.

4. The shares of BIDCO Common offered pursuant to the Limited Offering will be offered primarily to Michigan residents; a small number of shares will be offered to residents of Massachusetts, Nevada and Illinois. Subscribers for its shares in these offerings will be required to represent that they are acquiring the shares for purposes of investment and not for resale. The shares of common stock will be subject to substantial restrictions on transfer, will bear a restrictive legend to that effect, and no public active trading market is expected to develop for such shares absent a distribution registered under the 1933 Act. Applicant will offer 600,000 common shares, $1.00 par value, at a price of $10.00 per share. Holders of the common shares will have one vote for each share held, and will elect all of Applicant's directors.

5. The Limited Offering is being made in conjunction with an offering by Arcadia Financial Corporation (the "Holding Company") of 338,004 shares of its common stock ("HC Common"), pursuant to an agreement between the Applicant and the Holding Company to sell their shares in a package. The Holding Company was incorporated in Michigan in January, 1987 as a bank holding company for the purposes of forming and being the sole shareholder of Arcadia Bank and Arcadia Investment Corporation. Although investors will not be permitted to subscribe separately for shares of the Applicant, or the Holding Company, the shares of Applicant and the Holding Company will, after completion of the offering, be independently transferable (subject to applicable restrictions of Federal and State securities law). Other attributes of the shares, including voting, dividend, and distribution rights, will be wholly separate and distinct. The decision to offer HC Common and BIDCO Common was a marketing decision made by the promoters of Applicant and the Holding Company. The promoters were of the opinion that investment in BIDCO Common was riskier than investment in HC Common and that combining the risk and return of these two investments would make them more appealing to prospective investors, and, therefore, facilitate the raising of capital. The description of the Holding Company's proposed sale of HC Common is included in the application solely to provide a full description of the Applicant. The Applicant is not seeking, nor is the Commission expressing, any comment, opinion, review, or exemptive relief as to either the status of the Holding Company or its offering under the securities laws.

6. Applicant does not have any present intention to make a subsequent public offering of its common stock or other securities, and any subsequent offering of the Applicant's common stock or other securities will be made in compliance with the provisions of the 1933 Act or applicable exemptions therefrom. Applicant represents that in any public offering registered under the 1933 Act it will implement reasonable procedures designed to limit purchasers in such offering, and purchasers in any secondary trading market which might develop, to those who would be deemed to be sophisticated investors who are capable of understanding and assuming the risks involved in a investment in Applicant's securities.

Applicant's Legal Conclusions

1. Applicant may fall within the definition of an investment company in section 3(a) of the 1940 Act because the loans and investments Applicant expects to make will be represented by debt, equity and other securities issued by businesses to which Applicant will render management and financial assistance, and the value of such securities acquired by Applicant may exceed 40% of the value of Applicant's total assets. Applicant anticipates having more than 100 beneficial owners of its common shares, and would, accordingly, not expect to remain excepted by section 3(c)(1) of the 1940 Act from the 1940 Act definition of investment company after closing the initial capitalization private offerings described above.

2. The exemption of Applicant from all provisions of 1940 Act is appropriate in the public interest and consistent with the protection of investors and the purposes and policies of the 1940 Act. Applicant is subject to pervasive regulation by the State of Michigan designed to protect investors in, and lenders to, Applicant, including the Michigan Uniform Securities Act. Such regulation also includes supervisory control by the Bureau under the BIDCO Act of (i) the character, fitness and financial standing of Applicant's directors, officers and controlling persons; (ii) minimum capital requirement; (iii) conflicts of interest; (iv) the acquisition of other businesses; (v) dividend policy; (vi) the redemption of Applicant's shares; (vii) change in control of, or disposition of, Applicant's business; and (viii) financial soundness of the Applicant. In addition, Applicant will be required to file annual, audited financial reports with the Bureau, and may be required to submit other periodic reports. Applicant will also be subject to annual examinations of its business and assets by the Bureau.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–25666 Filed 11–4–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16102; 812–6605]

Application for Exemption; First Investors Natural Resources Fund, Inc., et al.

October 30, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption and approval under the Investment Company Act of 1940 ("1940 Act").

Applicants: First Investors Natural Resources Fund, Inc. ("Natural Resources Funds"), First Investors International Securities Fund, Inc. ("International Fund"), First Investors Corporation ("First Investors"), and First Investors Single Payment and Periodic Payment Plans for the Accumulation of Shares of First Investors Natural Resources Fund, Inc. ("Plan").

Relevant 1940 Act Sections: Approval requested for exchange of shares under sections 11(a) and 11(c); exemption requested under section 17(b) from the provisions of section 17(a) as to sale and purchase of shares; permission for joint transactions under section 17(d) and Rule 17d–1 thereunder; and approval requested under section 26(b) for the substitution of underlying securities of a unit investment trust.

Summary of Application: Applicants seek an order to approve the exchange of the shares of Natural Resources Fund for the shares of International Fund pursuant to an Agreement (as defined herein), to approve the resulting substitution of shares of International Fund for shares of Natural Resources Fund as the underlying investment for the Plan, and to effect certain affiliated transactions in connection therewith.

Filing Dates: The application was filed on January 27, 1987, and amended on October 23, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 19, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC 450 5th Street, NW., Washington, DC 20549. Applicants, 120 Wall Street, New York, New York 10005. Attention: Andrew J. Donohue, Secretary and General Counsel of First Investors Corp.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney, (202) 272–2190 or Brion R. Thompson, Special Counsel, (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Natural Resources Fund and International Fund are open-end, diversified, management investment companies registered under the 1940 Act. The primary investment objective of Natural Resources Fund is to achieve capital appreciation and secondly to earn current income, by investing at least 80% of its assets in companies engaged in or serving the natural resources industry. Natural Resources Fund is also permitted to make foreign investments. The primary investment objective of International Fund is to achieve long term capital appreciation, and secondly to earn current income, by investing in securities of all types issued by companies and government instrumentalities of any nation with generally no more than 35% in securities issued by U.S. companies or U.S. government instrumentalities.

2. First Investors is organized under the laws of the State of New York and is registered as a broker-dealer under the Securities Exchange Act of 1934. First Investors' primary business is as co-underwriter of the First Investors group of mutual funds, which include Natural Resources Fund and International Fund, and as sponsor and underwriter of the Plan and as sponsor, depositor and underwriter for other single payment and periodic payment plans for investment in certain registered investment companies that are members of the First Investors group of mutual funds.

3. The Plan, which was formed on June 11, 1954, is organized as a unit investment trust and is registered as such under the 1940 Act. The Plan provides for long-term investment programs through single payment plans, periodic payment plans and periodic payments plans with insurance for investment in, and accumulation of shares of, Natural Resources Fund. Purchase payments for accounts established under the Plan, net of charges and expenses applicable at the time of purchase, are invested in shares of Natural Resources Fund at the current net asset value of such shares. Holders of the Plan ("Planholders") receive disclosure information required under the 1940 Act about the Plan, as well as about Natural Resources Fund. Planholders are advised of, and have voting privileges at, meetings of Natural Resources Fund. If the voting privilege of a Planholder is not exercised, First Investors (the Plan's sponsor) will advise the Plan's custodian to vote such

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Planholder's shares of Natural Resources Fund in proportion to the shares of those Planholders who did exercise their voting privileges.

4. The Board of Directors of Natural Resources Fund and International Fund have each determined that due to the relatively small size of both funds their continued separate existence is uneconomical for their shareholders and management. The combination of the assets of Natural Resources Fund and International Fund, however, would permit expenses to be spread over a wider asset base and further result in a reduction of certain expenses applicable to both funds. The net effect would be a savings of costs to the combined fund and a reduction in the per share expenses applicable to its shareholders, including those of Natural Resources Fund.

5. On December 18, 1986, Natural Resources Fund and International Fund entered into an Agreement and Plan of Reorganization ("Agreement") which provided for the transfer of substantially all of the assets of Natural Resources Fund to International Fund in exchange for shares of International Fund having the same aggregate net asset value, the distribution of such shares to Natural Resources Fund shareholders, and the subsequent dissolution of Natural Resources Fund. The Board of Directors of International Fund and of Natural Resources Fund each unanimously approved the Agreement as being in the best interests of the respective fund shareholders, after having considered the objectives and policies of each Fund, the assets and liabilities of each fund, the operations of the business and management of the two funds, the prospects of each fund individually and combined, and the fairness to the respective shareholders of each fund as a result of the exchange of shares being done on a net asset value basis. Other factors considered include the following: (a) International Fund's historical performance has been superior to that of Natural Resources Fund; (b) there will be a substantially larger asset base upon integration of the funds resulting in greater portfolio diversification, less risk exposure, and better overall investment performance over a broader range of market conditions; (c) the funds have compatible investment objectives and policies; (d) the consummation of the proposed reorganization will be done on a tax-free basis; (e) the proposed reorganization will allow Natural Resources Fund shareholders to maintain without interruption their investment in a capital appreciation fund managed by the same investment adviser, First Investors Management Company, Inc; and (f) International Fund has available the same range of services currently provided to Natural Resources Fund shareholders which, with the consolidation of the operations of the funds, can be done more efficiently and at less net cost.

6. Although the annual management fee for International Fund (one percent of average daily net assets) is higher than that charged to Natural Resources Fund (.75 percent of average daily net assets), such fee is otherwise reasonable and customary, and is justified by the additional management services necessary for the investment adviser to make informed investment decisions on a global basis for a wide scope of permissible investments, the elimination of a significant portion of brokerage costs and the equal or lower expense ratio expected to result from the integration of the two funds.

7. Further, the Board of Directors of First Investors has determined unanimously that the best course of action for Planholders under the Plan is to provide for a continuity of their long-term investment objectives through the continuance of the Plan via a substitution of the shares of International Fund for the shares of Natural Resources Fund in accordance with the above described Agreement. In determining to approve the substitution, the Board of Directors of First Investors took into account all of the factors considered by the respective Boards of Directors of Natural Resources Fund and International Fund, including the following: (a) The otherwise impossibility of Planholders to continue to invest in securities previously purchased by them; (b) the disadvantage to Planholders if there is a liquidation of Natural Resources Fund and termination of the Plan; (c) the similarity of investment objectives and policies between the funds; (d) if the substitution is permitted, all the Planholders' rights would continue under the Plan without any changes whatsoever; (e) the substitution would be subject to Planholder approval and, therefore, would not be at the discretion of First Investors; (f) the Planholders have adequate votings rights and full disclosure in connection with the proposed reorganization and substitution; (g) there is an underlying exchange of shares in connection with the proposed reorganization and substitution; (h) the substitution would be done on a tax-free basis to Planholder; (i) the differences in which the funds involved seek to achieve their common investment goals and objectives is justified by the fact that the substitution will result in Planholders' investments being in securities that have a greater diversity and better performance record; (j) First Investors will remain as the Plan sponsor; and (k) after the substitution of shares, the only other change to the Plan would be the change of its name to First Investors Single Payment and Periodic Payment Plans for the Accumulation of Shares of First Investors International Securities Fund, Inc., to reflect the substituted securities of International Fund.

8. Natural Resources Fund shareholders and Planholders received adequate disclosure in the form of the then current prospectus of International Fund, and proxy statement for Natural Resources Fund, including a comparison of the two funds, their respective fees and all fees associated with the transaction, so that their vote could be rendered on a fully informed basis after due consideration of all factors. The Agreement was approved by a majority of the shareholders of Natural Resources Fund as well as by a majority of the Planholders. Natural Resources Fund shareholders and the Planholders not in favor of the reorganization have the option of redeeming their shares. Upon consummation of the Agreement, Natural Resources Fund will file an application to terminate its registration as an investment company under the 1940 Act.

9. Each fund has agreed to assume its own expenses in connection with the Agreement and will bear the share expenses of reorganization in proportion to the total net assets of each fund because in the opinion of their Board of Directors, the reasonable expectation of the substantial cost savings and added efficiency to a unified fund will in the long term accrue as a substantial benefit to the shareholders of both funds. All such expenses to be assumed by the funds are customary and appropriate to the transaction in question, and it is anticipated that these fees shall be reasonable in amount and not out of the ordinary. Any expenses and charges involved in the substitution, other than proper transfer taxes and/or charges customarily charged to shareholders by State or local authorities will be borne by First Investors. There are no back end sales loads charged in connection with this investment.

Applicants' Legal Conclusions

1. Applicants believe section 11(b) of the 1940 Act is controlling in this case since a majority of shareholders involved approved the reorganization, and thus, sections 11(a) and 11(c) of the 1940 Act are not applicable. However, to the extent that sections 11(a) and (c) of the 1940 Act are deemed to be applicable because of an exchange of shares between open-end, management investment companies and the shares of a unit investment trust, Applicants request the Commission's approval thereunder.

2. The prohibitions of section 17 of the 1940 Act against transactions by a registered investment company and affiliates thereof, may apply since the transactions in question involve "affiliated persons" as that term is defined in the 1940 Act. However, Applicants believe they are entitled to rely on Rule 17a–8 under the 1940 Act, have complied with the conditions thereof, and, therefore, are entitled to an exemption from section 17(a) of the 1940 Act. Furthermore, Applicants contend that the exchange of shares is not a joint transaction, and as a result, section 17(d) of the 1940 Act is not applicable. Nevertheless, to the extent that the Commission deems Applicant's reliance on Rule 17a–8 of the 1940 Act to be otherwise inappropriate, and further finds section 17(d) of the 1940 Act to be applicable to the reorganization, Applicant requests an order pursuant to section 17(b) of the 1940 Act exempting them from section 17(a), and pursuant to section 17(d) of the 1940 Act and Rule 17d–1 thereunder for permission to effect the proposed reorganization and the resulting exchange of securities.

3. The proposed exchange of shares requires the sponsor (First Investors) of a registered unit investment trust (the Plan) holding the security of a single issuer (Natural Resources Fund) to substitute another security (International Fund). Therefore, Applicants request an order under section 26(b) of the 1940 Act approving such substitution.

4. For the reasons listed above and set forth more fully in the application, Applicants submit that the SEC should issue the order requested under: (i) Sections 11(a) and 11(c) of the 1940 Act since the proposed exchanges are done on the basis of relative net asset values of the investment companies; (ii) section 17(b) of the 1940 Act since the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any party concerned, and the proposed transaction is consisent with the policies of the investment companies involved and with the general purposes of the 1940 Act; (iii) section 17(d) and Rule 17d–1 thereunder since the proposed transaction is consistent with the provisions, policies and purposes of the 1940 Act and the participation of the registered investment companies is on a basis no different from or less advantageous than any other participant; and (iv) section 26(b) of the 1940 Act since the substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25087 Filed 11-4-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–16102; 812–6903]

Application for Exemption the Rodney Square Multi-Manager Fund et al.

October 30, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: The Rodney Square Multi-Manager Fund ("Fund"), Rodney Square Management Corporation ("RSMC"), and Tremont Partners, Inc. ("Tremont").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of section 15(a).

Summary of Application: Applicants seek an order permitting Tremont to serve as investment adviser to the Fund pursuant to an interim contract, approved by the Fund's Board of Trustees, until the next annual meeting of Fund shareholders.

Filing Date: The application was filed on October 16, 1987 and amended on October 30, 1987.

Hearing or Notification Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 19, 1987. Request a hearing in writing, giving the nature of your interest the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, DC 20549. The Fund and RSMC, Rodney Square North, Wilmington, Delaware 19890, and Tremont, 880 Canal Street, Stamford, Connecticut 06902.

FOR FURTHER INFORMATION CONTACT: Cecilia C. Kalish, Staff Attorney (202) 272–3037, or Curtis R. Hilliard, Special Counsel (202) 272–3030 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. The Fund, an open-end, diversified management investment company, currently consists of three separate portfolios. Segments of each portfolio, under the supervision of RSMC, are managed by different portfolio advisers, each manager utilizing its own investment strategies. RSMC provides asset management consulting services and supervision to the Fund. RSMC is a registered investment adviser and currently acts as an investment adviser to two other registered investment companies. Tremont is a registered investment adviser that has provided portfolio adviser evaluation, adviser selection services, and supervisory services to consulting clients since 1984.

2. A consulting agreement ("Former Agreement") between and among Applicants was entered into on January 30, 1987. The Former Agreement required Tremont to advise the Fund on asset allocation and investment objective planning, and to make ongoing recommendations concerning current and potential portfolio managers. For these services, RSMC paid Tremont a fee in respect to each portfolio of the Fund at the annual rate of .10 of 1% of the average daily net asset value of that portfolio. Pursuant to section 15(a)(4) of the Act, the Former Agreement also provided that it would automatically terminate upon "assignment," as defined in the Act.

3. On September 30, 1987, Lynch Corporation ("Lynch") purchased all of the issued and outstanding shares of Tremont's capital stock. As a result of this sale, the Former Agreement was automatically terminated. At a meeting held on October 9, 1987, the Board of Trustees of the Fund, including a majority of members who were not "interested persons" of RSMC or Tremont as that term is defined in section 2(a)(19) of the Act, approved an Interim Consulting Agreement ("Interim Agreement") between and among the

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Fund, RSMC, and Tremont. The Interim Agreement will remain in effect only until the next meeting of Fund shareholders, which the Fund intends to hold wihtin 160 days of the termination of the Former Agreement. If the meeting of Fund shareholders is not held within 160 days of the termination date, Tremont will not thereafter charge the Fund any fees for its services under the Interim Agreement.

4. The terms of the Interim Agreement are substantially identical to those of the Former Agreement. The fee schedule in the Interim Agreement is identical to that of the Former Agreement, except that under the Interim agreement, Tremont will receive only .05 of 1% of net assets in excess of $200 million. All fees earned by Tremont under the Interim Agreement from the date of the order sought in the application will be placed into escrow and released to Tremont only upon ratification of the Interim Agreement by Fund shareholders. If the shareholders fail to ratify the Interim Agreement, all funds in escrow will revert immediately to the Fund. Under the Interim Agreement, Tremont has agreed to bear all costs and fees associated with preparation and filing of the exemptive application, up to the amount of fees it receives under the Interim Agreement.

5. Applicants will not rely on any exemptive order prior to its issuance, as authority for Tremont's serving as investment adviser to the Fund. Further, Tremont will not charge the Fund any fees for its services from the date of the assignment until the earlier of the date of the Commission's exemptive order or approval by the Fund's shareholders of the Interim Agreement.

Applicants' Legal Conclusions

The requested order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act for the following reasons.

1. The Interim Agreement will be identical in all material respects to the Former Agreement, except for the modifications previously described. Furthermore, the sale of Tremont to Lynch did not result in any change in the officers or employees of Tremont. Accordingly, the Fund will receive, during the period of the Interim Agreement, the same investment advisory services, provided in the same manner and at the same price, by the same personnel as it received prior to the sale of Tremont.

2. The Board of the Fund determined that, in its judgment, retention of Tremont as an interim investment adviser, together with the administrative and managerial personnel to be retained by Tremont, is in the best interests of the Fund and its shareholders. The Board also determined that Tremont is qualified to continue providing the advisory and administrative services needed by the Fund. Tremont is familiar with the Fund and its current group of advisers, and is able to provide necessary service at a favorable price to the Fund. The Board also believes it is in the best interests of the Fund and its shareholders to obtain a prompt and orderly resolution of the advisory issue. Prompt resolution will benefit the shareholders of the Fund by avoiding the disruption of services which would result from a lengthy transition period, and will minimize any uncertainties caused by the possible loss of Tremont's advisory services.

3. It has not been practical for the Fund to obtain shareholder approval of a new consulting agreement prior to the sale of Tremont. The timing of the sale transaction was governed largely by the needs and desires of Lynch. Tremont's negotiations with Lynch occurred over a very short period of time, and, accordingly, the Fund had little advance notice of the transaction. As it was consummated, the transaction fell approximately six months prior to the 1988 annual meeting of Fund shareholders. The Interim Agreement has been unanimously approved by the Fund's Board, including all of the disinterested trustees. Furthermore, the terms of the Interim Agreement, including the provisions relating to services to be performed and compensation to be received by Tremont, are no less favorable to the shareholders of the Fund than those of the Former Agreement, which was previously approved by both the initial sole shareholder of the Fund and the Board of Trustees of the Fund, and which has been described to all current Fund shareholders in the Prospectus and Statement of Additional Information.

4. Fees payable to Tremont under the Interim Agreement will be held in escrow, and will be paid over to Tremont only upon ratification of the Interim Agreement by a majority of Fund shareholders. Absent shareholder ratification the money held in escrow will revert to the Fund, and Tremont will relinquish all claims to these fees. Applicants thus believe the shareholders will enjoy the full benefit of the protections afforded by section 15(a) and are not likely to suffer any detriment under the Interim Agreement.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25668 Filed 11-4-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

[Docket 45165]

Seattle/Portland-Japan Service Review Case; Notice Regarding Prehearing Conference

October 30, 1987.

For the parties' benefit, I offer my tentative conclusions based on the prehearing conference submissions.

1. Grant all petitions for leave to intervene and all motions to consolidate applications.

2. Adopt Pan Am's procedural dates, modified to have rebuttal exhibits on February 1, 1988 and to start the hearing on February 9, 1988.

3. Incorporate by notice the testimony and evidence of the previous record.

4. Limit cross-examination by parties who were in the previous case to matter newly introduced in this case. For parties who were not in the previous case, cross-examination of the noticed evidentiary and testimonial matter will be limited to matter and witnesses identified by such parties when they file rebuttal exhibits.

5. Adopt the evidence request changes proposed by American, and grant American's request that United be considered an "incumbent carrier." So, too, should Delta, and whether it is a party or not Delta should provide whatever kind of data that United is asked to provide.

6. Limit direct exhibits [1] to an update of those filed in the previous case.

7. Limit the subject of rebuttal exhibits [1] to direct exhibits filed in this, not the previous, case.

8. Grant the MEC's request that the record contain answers to the questions posed by MEC.

These tentative conclusions are offered to expedite the discussion at the prehearing conference.

Burton S. Kolko,

Administrative Law Judge.

[FR Doc. 87-25058 Filed 11-4-87; 8:45 am]

BILLING CODE 4910-62-M

[1] This limitation would not apply to parties new to this proceeding.

Federal Aviation Administration

Airworthiness Approval of LORAN-C Navigation Systems for Use in the U.S. National Airspace System (NAS) and Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of advisory circular (AC) and request for comment.

SUMMARY: This proposed advisory circular identified as AC-20-121-A, establishes an acceptable means, but not the only means, of obtaining airworthiness approval of a LORAN-C navigation system for use under VFR (visual flight rules) and IFR (instrument flight rules) within the conterminous United States, Alaska, and surrounding U.S. waters. Like all advisory material this advisory circular is not, in itself, mandatory and does not constitute a regulation. It is issued for guidance purposes and to outline one method of compliance with airworthiness requirements. As such, the terms "shall" and "must" used in this advisory circular pertain to an applicant who chooses to follow the method presented. The guidelines provided in this proposed Advisory Circular supersede those of AC 90-45A for LORAN-C navigation equipment.

DATE: Comments must identify the AC file number and be received on or before February 29, 1988.

ADDRESS: Send all comments on the proposed advisory circular to: Federal Aviation Administration, Technical Analysis Branch, AWS-120, Aircraft Engineering Division, Office of Airworthiness, File No. AC-20-121-A, 800 Independence Avenue SW., Washington, DC 20591.

Or Deliver Comments To: Federal Aviation Administration, Room 335, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Nickolus O. Rasch, Technical Analysis Branch, AWS-120, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, Telephone (202) 267-9569.

Comments received on the proposed advisory circular may be examined, before and after the comment closing date at Room 335, FAA Headquarters Building (FOB-10A) 800 Independence Avenue SW., Washington, DC 20591, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to comment on the proposed AC revision listed in this notice by submitting such written data, views, or arguments as they desire to the aforementioned specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final AC.

Background

The proposed revision AC-20-121-A will include information for airworthiness approval of a LORAN-C navigation system for use under VFR (visual flight rules) and IFR (instrument flight rules) within the conterminous United States, Alaska, and surrounding U.S. waters.

Related FARS

Federal Aviation Regulations (FAR) Parts 23, 25, 27, 29, 43, and 91.

Related Reading Materials

a. Federal Aviation Administration/ Technical Standard Order (TSO) C60b, "Area Navigation Equipment Using LORAN-C Inputs."

b. Radio Technical Commission for Aeronautics (RTCA), Document No. RTCA/DO-160B, "Environmental Conditions and Test Procedures for Airborne Equipment," Documents No. RTCA/DO-178A, "Software Considerations in Airborne Systems and Equipment Certification", and Document No. RTCA/DO-194, "Minimum Operational Performance Standards for Airborne Area Navigation Equipment using LORAN-C Inputs."

c. Advisory Circular 90-82, "Random Area Navigation Routes."

d. Advisory Circular 27-1, "Certification of Normal Category Rotorcraft." This document should be referenced to determine if considerations beyond those contained in this advisory circular are necessary when installing a LORAN-C area navigation system in a normal category rotorcraft. If necessary, AC 27-1 will address those items peculiar to rotorcraft installations.

e. Advisory Circular 29-2, "Certification of Transport Category Rotorcraft." This document should be referenced to determine if considerations beyond those contained in this advisory circular are necessary when installing a LORAN-C area navigation system in a transport category rotorcraft. If necessary, AC 29-2 will address those items peculiar to transport category rotorcraft installations.

How to Obtain Copies

A copy of the proposed AC-20-121-A revision may be obtained by contacting the person under "For Further Information Contact." AC-20-121-A references to Technical Standard Order (TSO) C60b, "Airborne Area Navigation Equipment using Multi-Sensor Inputs." Copies of the TSO may be obtained from the Department of Transportation, Federal Aviation Administration, Office of Airworthiness, Aircraft Engineering Division, AWS-100, 800 Independence Avenue SW., Washington, DC 20591.

The proposed AC incorporates Radio Technical Commission for Aeronautics (RTCA), Document No. RTCA/DO-160B, "Environmental Conditions and Test Procedures for Airborne Equipment," Document No. RTCA/DO-178A, "Software Considerations in Airborne Systems and Equipment Certification," and Document No. RTCA/DO-194, "Minimum Operational Performance Standards for Airborne Area Navigation Equipment Using LORAN-C Inputs." Copies may be purchased from the RTCA Secretariat, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC 20005.

Advisory Circular 90-82, "Random Area Navigation Route," copies may be obtained from the Department of Transportation, Subsequent Distribution Unit (M-494-3), Washington, DC 20591.

Advisory Circular 27-1, "Certification of Normal Category Rotorcraft," and Advisory Circular 29-1, "Certification of Transport Category Rotorcraft." Copies may be ordered from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Issued in Washington, DC, on October 28, 1987.

John K. McGrath,

Acting Manager, Aircraft Engineering Division, Office of Airworthiness.

[FR Doc. 87-25596 Filed 11-4-87; 8:45 am]

BILLING CODE 4910-13-M

Airworthiness Approval of OMEGA/ VIF Navigation Systems for Use in the U.S. National Airspace System and Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of advisory circular (AC) and request for comment.

SUMMARY: This proposed advisory circular identified as AC-20-101C, establishes an acceptable means, but not the only means, of obtaining airworthiness approval of an Omega/ VIF navigation system for use under

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VFR (visual flight rules) and IFR (instrument flight rules) within the conterminous United States, Alaska, and surrounding U.S. waters. Like all advisory material, this advisory circular is not, in itself, mandatory and does not constitute a regulation. It is issued for guidance purposes and to outline one method of compliance with airworthiness requirements. As such, the terms "shall" and "must" used in this advisory circular pertain to an applicant who chooses to follow the method presented. The guidelines provided in this proposed Advisory Circular supersede those of AC 90-45A for Omega/VIF navigation equipment.

DATE: Comments must identify the AC file number and be received on or before February 29, 1988.

ADDRESS: Send all comments on the proposed advisory circular to: Federal Aviation Administration, Technical Analysis Branch, AWS-120, Aircraft Engineering Division, Office of Airworthiness, File No. AC-20-101C, 800 Independence Avenue SW., Washington, DC 20591.

or Deliver Comments to: Federal Aviation Administration, Room 335, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Nickolus O. Rasch, Technical Analysis Branch, AWS-120, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267-9569.

Comments received on the proposed advisory circular may be examined, before and after the comment closing date at Room 335, FAA Headquarters Building (FOB-10A) 800 Independence Avenue, SW., Washington, DC 20591, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed AC revision listed in this notice by submitting such written data, views, or arguments as they desire to the aforementioned specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the revised AC.

Background

The proposed revision AC 20-101-C will include information for airworthiness approval of an Omega/VIF navigation system for use under VFR (visual flight rules) and IFR (instrument flight rules) within the conterminous United States, Alaska, and surrounding U.S. waters.

Related FARS

Federal Aviation Regulations (FAR) Parts 23, 25, 27, 29, 43, and 91.

Related Reading Materials

a. Federal Aviation Administration/Technical Standard Order (TSO) C94a, "Omega Receiving Equipment Operating Within the Radio Frequency Range 10.2 to 13.6 kilohertz," and TSO-C120, "Airborne Area Navigation Equipment Using Omega/VIF Inputs."

b. Radio Technical Commission for Aeronautics (RTCA), Document No. RTCA/DO-160B, "Environmental Conditions and Test Procedures for Airborne Equipment," Document No. RTCA/DO-164A, "Airborne Omega Receiving Equipment," Document No. RTCA/DO-178A, "Software Considerations in Airborne Systems and Equipment Certification", and Document No. RTCA/DO-190, "Minimum Operational Performance Standards for Airborne Area Navigation Equipment using Omega/VLF Inputs."

c. Advisory Circular 90-82, "Random Area Navigation Routes."

d. Advisory Circular 27-1, "Certification of Normal Category Rotorcraft." This document should be referenced to determine if considerations beyond those contained in this advisory circular are necessary when installing an Omega/VLF navigation system in a normal category rotorcraft. If necessary, AC 27-1 will address those items peculiar to rotorcraft installations.

e. Advisory Circular 29-2, "Certification of Transport Category Rotorcraft." This document should be referenced to determine if considerations beyond those contained in this advisory circular are necessary when installing an Omega/VLF navigation system in a transport category rotorcraft. If necessary, AC 29-2 will address those items peculiar to rotorcraft installations.

How to Obtain Copies

A copy of the proposed AC-20-101C Revision may be obtained by contacting the person under "For Further Information Contact."

AC-20-101C references to Technical Standard Order (TSO) C120, "Airborne Area Navigation Equipment Using Omega/VLF Inputs" and TSO-C94a, "Omega Receiving Equipment Operating Within the Radio Frequency Range 10.2 to 13.6 kilohertz." Copies of these TSO's may be obtained from the Department of Transportation, Federal Aviation Administration, Office of Airworthiness, Aircraft Engineering Division, AWS-100, 800 Independence Avenue, SW., Washington, DC 20591.

AC-90-82, "Random Area Navigation Routes." Copies may be obtained from the Department of Transportation, Subsequent Distribution Unit (M-49403), Washington, DC 20591.

AC-27-1, "Certification of Normal Category Rotorcraft," and AC-29-2, "Certification of Transport Category Rotorcraft." Copies may be ordered from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Also the proposed AC revision incorporates Radio Technical Commission for Aeronautics (RTCA), Document No. RTCA/DO-160B, "Environmental Conditions and Test Procedures for Airborne Equipment," Document No. RTCA/DO-164A, "Airborne Omega Receiving Equipment," Document No. RTCA/DO-178A, "Software Considerations in Airborne Systems and Equipment Certification," and Document No. RTCA/DO-190, "Minimum Operational Performance Standards for Airborne Area Navigation Equipment using Omega/VLF Inputs." Copies may be purchased from the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005.

Issued in Washington, DC, on October 28, 1987.

John K. McGrath,

Acting Manager, Aircraft Engineering Division, Office of Airworthiness.

[FR Doc. 87-25509 Filed 11-4-87; 8:45 am]

BILLING CODE 4910-13-M

UNITED STATES INFORMATION AGENCY

Radio Engineering Advisory Committee; Meeting

The Radio Engineering Advisory Committee of the United States Information Agency (USIA) will meet in Delano, California, on Tuesday and Wednesday November 17-18, 1987, to discuss current operations and future plans of the Voice of America (VOA). The meeting will be held at the VOA Delano Relay Station, Melcher Road near Garces Highway, Delano, California 93215. The meeting will begin at 3 p.m. on November 17 and will continue through 5 p.m. on November 18. Point of contact for the meeting is Cathy Haynes, telephone (202) 485-4048.

This meeting will include reports from senior members of the VOA management and engineering staff on the progress being made on the overall VOA modernization and enhancement effort. Specific topics of discussion will include the procurement and testing of high frequency broadcasting antennas, the status of site negotiations and major construction projects, and other technical and regulatory issues relating to VA modernization.

This meeting will be closed to the public because issues relating to future site negotiations for VOA relay stations will be discussed throughout the meeting. This meeting will be closed because disclosure of the matters to be discussed is likely to divulge information that is: (A) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and (B) in fact, is properly classified pursuant to such Executive Order (5 U.S.C. 552b(c)(1)).

Charles Z. Wick,

Director.

Date: October 19, 1987.

[FR Doc. 87-25553 Filed 11-4-87; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Agency Form Letter Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The department or staff office issuing the form letter, (2) the title of the form letter, (3) the agency form letter number, if applicable, (4) a description of the need and its use, (5) how often the form letter must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form letter, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form letter and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 7, 1987.

Dated: October 30, 1987.

By direction of the administration.

Frank E. Lalley,

Director, Office of Information Management and Statistics.

Extension

1. Department of Veterans Benefits.
2. School Attendance Report.
3. VA Form Letter 21-674b.
4. This information is used to confirm enrollment by a child for whom a VA Form 21-674, Request for Approval of School Attendance, was recieved prior to the start of the enrollment period.
5. On occasion.
6. Individuals or households.
7. 36,000 responses.
8. 3,000 hours.
9. Not applicable.

Revision

1. Department of Veterans Benefits.
2. Application for Release from Personal Liability to the Government on a Home Loan.
3. VA Form Letter 26-6381.
4. This information is used to make determinations for release of liability and substitutions of entitlement of veteran-sellers to the government on guaranteed, insured and direct loans.
5. On occasion.
6. Individuals or households; and Businesses or other for-profit.
7. 5,677 responses.
8. 946 hours.
9. Not applicable.

[FR Doc. 87-25636 Filed 11-4-87; 8:45 am]

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Sunshine Act Meetings

Federal Register
Vol. 52, No. 214
Thursday, November 5, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., November 10, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 87–25749 Filed 11–3–87; 3:11 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., November 10, 1987.

PLACE: 2033 K Street NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 87–25750 Filed 11–3–87; 3:11 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., November 17, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Application of the Chicago Mercantile Exchange for designation as a contract market in options on Australian Dollars
Application of the Chicago Mercantile Exchange for designation as a contract market in options on Gold futures
Application of the New York Cotton Exchange for designation as a contract market in Five-Year Treasury Note options
Quarterly Objectives, Second Quarter, FY 1988

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 87–25751 Filed 11–3–87; 3:11 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., November 17, 1987.

PLACE: 2033 K Street NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 87–25752 Filed 11–3–87; 3:11 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., November 24, 1987.

PLACE: 2033 K Street, NW, Washington, DC, 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Briefing by the National Futures Association
Application of the Chicago Board of Trade for designation as a contract market in Long-Term U.K. Gilt Futures

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR DOC. 87–25753 Filed 11–3–87; 3:09 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., November 24, 1987.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule enforcement reviews.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR DOC. 87–25754 Filed 11–3–87; 3:09 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., November 24, 1987.

PLACE: 2033 K STREET, NW, WASHINGTON, DC, 8TH FLOOR CONFERENCE ROOM.

STATUS: Closed.

MATTERS TO BE CONSIDERED: ENFORCEMENT MATTERS.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 87–25755 Filed 11–3–87; 3:09 pm]
BILLING CODE 6351–01–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, November 10, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

THE CLOSED MEETING of Tuesday, November 17, 1987, has been cancelled.

THE OPEN MEETING of Thursday, November 19, 1987, has been cancelled.

DATE AND TIME: Thursday, November 12, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Draft Advisory Opinion 1987–28—Harold D. Hammett on behalf of Texas Democratic Party—Federal.
Draft Advisory Opinion 1987–29—Jan W. Baran on behalf of Life Underwriters PAC and the National Association of Life Underwriters.
Routing Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202–376–3155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 87–25740 Filed 11–3–87; 2:39 pm]
BILLING CODE 6715–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of November 9, 1987:

An open meeting will be held on Tuesday, November 10, 1987, at 10:00 a.m., followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, November 10, 1987, at 10:00 a.m., will be:

Consideration of an application filed by David Lerner Associates, Inc., Spirit of America Management Corp. and David Lerner for an order of the Commission under section 9(c) of the Investment Company Act of 1940 permanently exempting them from the provisions of section 9(a) of the Act to allow them to serve or act in certain capacities for Spirit of America Government Fund, Inc., and open-end, diversified, management investment company. For further information, please contact Victor R. Siclari, at (202) 272–2190.

The subject matter of the closed meeting scheduled for Tuesday, November 10, 1987, following the 10:00 a.m. open meeting, will be:

Institution of injunctive actions.
Settlement of injunctive actions.
Settlement of administrative proceeding of an enforcement nature.
Opinions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Alden Adkins at (202) 272–2014.

Jonathan G. Katz,
Secretary.

November 2, 1987.

[FR Doc. 87–25727 Filed 11–3–87; 1:21 pm]
BILLING CODE 8010–01–M

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federal register

Thursday
November 5, 1987

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121 and 135
Fire Protection Requirements for Cargo or Baggage Compartments; Notice of Proposed Rulemaking

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 25430, Notice No. 87-11]

Fire Protection Requirements for Cargo or Baggage Compartments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to upgrade the fire safety standards for cargo or baggage compartments in certain transport category airplanes used in air carrier, air taxi, or commercial service. Ceiling and sidewall liner panels that are not constructed of aluminum or rigid fiberglass and are used in Class C or D compartments greater than 200 cubic feet would have to be replaced with improved panels prior to a specified date. This notice is the result of research and fire testing and is intended to increase airplane fire safety.

DATE: Comments must be received on or before May 3, 1988.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 25430, 800 Independence Avenue SW., Washington, DC 20591, or delivered in duplicate to: Room 915G, 800 Independence Avenue SW., Washington, DC. Comments delivered must be marked Docket No. 25430. Comments may be inspected in Room 915G weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Office of the Regional Counsel (ANM-7), FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments in the information docket may be inspected in the Office of the Regional Counsel, weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gary L. Killion, Manager, Regulations Branch (ANM-112), Transport Standards Staff, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2112.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of proposals contained in this notice are invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments, in duplicate, to the Rules Docket address specified above. All comments will be considered by the Administrator before taking action on the proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25430." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591; or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

During the early post-World War II period, it was recognized that timely detection of a fire by a crewmember while at his station and prompt control of the fire when detected were necessary for protection of the airplane from a fire originating in a cargo or baggage compartment. Because the requirements for detection and extinguishment varied depending on the type and location of the compartment, a classification system was established. Three classes were initially established and defined as follows:

Class A—A compartment in which the presence of a fire would be easily discovered by a crewmember while at his station, and of which all parts are easily accessible in flight. This is typically a small compartment used for crew luggage and located in the cockpit where a fire would be readily detected and extinguished by a crewmember. Due to the small size and location of the compartment, and the relatively brief time required to extinguish a fire, a liner is not needed to protect adjacent structure.

Class B—A compartment with sufficient access in flight to enable a crewmember to effectively reach any part of the compartment with the contents of a hand fire extinguisher and that incorporates a separate, approved smoke or fire detection system to give warning at the pilot or flight engineer station. A Class B compartment is typically much larger than a Class A compartment and can be located in an area remote from the cockpit. Because of the larger size of the compartment and the greater time interval likely to occur before a fire would be controlled, a liner meeting the flame penetration standards of § 25.855 and Part I of Appendix F of Part 25 must be provided to protect adjacent structure. A Class B compartment is typically the large cargo portion of the cabin of a combination passenger and cargo carrying airplane (frequently referred to as a "combi" airplane) or the relatively small baggage compartment located within the pressurized portion of an airplane designed for executive transportation.

Class C—As defined at the time of initial classification, any compartment that did not fall into either Class A or B was a Class C compartment. Class C compartments differ from Class B compartments primarily in that built-in extinguishment systems are required for control of fires in lieu of crewmember accessibility. The volumes of Class C compartments in currently used domestic jet transport airplanes range from 700 to 3,045 cubic feet.

Later, two additional classes were established and defined as follows:

Class D—A compartment in which a fire would be completely contained without endangering the safety of the airplane or the occupants. A Class D compartment is similar to a Class C compartment in that both are located in areas that are not readily accessible to a crewmember. In lieu of providing fire detection and extinguishment, Class D compartments are designed to control a fire by severely restricting the supply of

available oxygen. Because an oxygen-deprived fire might continue to smolder for the duration of the flight, the capability of the liner to resist flame penetration is especially important. The volumes of Class D compartments in transport category airplanes currently used in domestic air carrier service range from approximately 225 to 1,632 cubic feet. Some airplanes designed for executive transportation and used in air taxi service also have relatively small (15-25 cubic feet) Class D baggage compartments located outside the pressurized portion of the cabin.

Class E—A cargo compartment of an airplane used only for the carriage of cargo. In lieu of providing extinguishment, means must be provided to shut off the ventilating airflow to or within a Class E compartment. In addition, procedures, such as depressurizing the airplane, are stipulated to minimize the amount of oxygen available in the event a fire occurs in a Class E compartment.

The FAA recently conducted a series of tests at its Technical Center to investigate the capability of three liner materials to resist flame penetration under conditions representative of actual cargo or baggage compartment fires. The tests were conducted using simulated Classes C and D compartments. Although cargo or baggage is sometimes placed in compartments in preloaded containers, the tests were conducted with bulk-loaded baggage because cargo or baggage is frequently bulk-loaded directly into the compartments in actual service. In conjunction with these tests, the FAA developed a method of testing liner materials utilizing a 2 gallons-per-hour kerosene burner. The materials tested—fiberglass, Kevlar and Nomex—comprise the primary liner materials currently used in domestic jet transport airplanes. Copies of Report No. DOT/FAA/CT-83/44, A Laboratory Test for Evaluating the Fire Containment Characteristics of Aircraft Class D Cargo Compartment Lining Material, dated October 1983, and Report No. DOT/FAA/CT-84/21, Suppression and Control of Class C Cargo Compartment Fires, dated February 1985, have been placed in the Rules Docket. Copies of these reports, which describe the FAA testing, are available for public inspection and are also available for purchase from the National Technical Information Service in Springfield, Virginia 22161.

From these tests, it was found that a fire could rapidly burn through Nomex or Kevlar under representative conditions. In addition to the fire hazards associated with the initial flame penetration, the ability of the compartment to restrict the supply of oxygen in the compartment would be hindered. This, in turn, could result in a fire of increased intensity. As a result of these tests, new type certification standards were adopted for Class C or D cargo or baggage compartments in transport category airplanes (Amendment 25-60; 51 FR 18236; May 16, 1986). The newly adopted standards, which are applicable to airplanes for which application for type certificate is made after June 16, 1986, include new test methods for the ceiling and sidewall liner panels. In addition, the maximum volume of a Class D compartment is limited to 1,000 cubic feet.

Discussion

As discussed above, the test conducted under representative conditions by the FAA Technical Center showed that a fire could rapidly burn through liners constructed of Kevlar or Nomex. Liners constructed of rigid fiberglass (glass fiber reinforced resin), on the other hand, exhibited satisfactory burn-through characteristics. Subsequent tests showed that liners constructed of aluminum were also better in this regard than those of Kevlar or Nomex, although not generally as good as those constructed of rigid fiberglass. Subsequent tests, on the other hand, showed that nonrigid fiberglass construction, such as blankets or battings, was unsatisfactory because the supporting material would burn away rapidly. In the absence of the supporting material, the fiberglass would fall out of place.

Although Amendment 25-60 provides new standards for future transport category airplanes, it does not affect airplanes currently in service nor the airplanes that will be produced under type certificates for which application was made prior to June 16, 1986. Although the majority of the transport category airplanes currently used in U.S. air carrier, air taxi, and commercial service utilize liners constructed of rigid fiberglass for the ceiling and sidewalls of cargo or baggage compartments, certain models use liners constructed of Kevlar or Nomex. In order to preclude the continued use of such materials, this notice proposes to add a new § 121.314 and to amend § 135.169 to require improved standards for the cargo or baggage compartment liners in transport category airplanes used in such service.

Due to the additional burden of retrofitting existing airplanes, the standards proposed in this notice differ somewhat from those provided by Amendment 25-60 for future type designs. As proposed herein, existing installations with liners constructed of rigid fiberglass would be acceptable without further tests. Previously approved installations utilizing aluminum ceiling or sidewall liner panels could also be retained; however, aluminum could not be used to replace other materials. Ceiling and sidewall liner panels constructed of other materials would have to be replaced with panels constructed of fiberglass or with materials tested using the apparatus and procedures recently adopted for Part 25. The acceptance criteria for such materials would be the same as for materials tested for compliance with Part 25.

The term "liner," as used in this context also includes any design features that would affect the capability of the liner to safely contain a fire. The materials of such features would have the fire integrity of the basic material, in the case of rigid fiberglass or aluminum liner panels; or the design features would have to be tested along with the basic panel material unless they have been previously found satisfactory. For example, joints that are constructed with fireproof fasteners and are not subject to gaps caused by distortion need not be tested. On the other hand, the test specimens would include joints constructed with nonfireproof fasteners or joints subject to distortion. Similarly, test specimens would include lamp lenses, if failure of the lenses would allow flames to pass; however, lamps need not be included in the test specimen if the lamp incorporates a fireproof body that would prevent passage of flames.

The proposed standards would not be applicable to compartments with volumes less than 200 cubic feet. The fire hazards associated with relatively small compartments are not as great due to the limited volume of oxygen and amount of combustible materials that would be contained in them. The present liners used in these compartments are, therefore, considered to provide an acceptable level of safety.

Part 135 of this Chapter, which pertains to air taxi operators and commercial operators, incorporates certain provisions of Part 121 by reference insofar as operations with large airplanes are concerned. Section 135.169 would be amended to include new § 121.314 among those sections of Part 121 that are incorporated by reference. The proposed standards would, therefore, also be applicable to those operators when airplanes with compartments larger than 200 cubic feet are used.

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The new standards of Part 25 for future type designs include a maximum volume of 1,000 cubic feet for a Class D compartment. A similar requirement is not proposed in this notice because the redesign and retrofit of airplanes with Class D compartments larger than 1,000 cubic feet would be extremely burdensome.

Compliance with the proposed standards would not be required for transport category airplanes type certificated on or before January 1, 1958, because their advanced age and limited numbers in Part 121 or 135 operation would make compliance impractical from an economic standpoint. That date was selected because the rule would include the Boeing 707 and Douglas DC-8 vintage and later airplanes and exclude older airplanes, such as the Douglas DC-6 or DC-7. It should also be noted that the proposed standards would not apply to airplanes that are not operated under the provisions of Part 121 or 135, such as airplanes used for executive travel under the provisions of Part 125 of this Chapter.

All other transport category airplanes that are operated under the provisions of Part 121 or 135 would have to meet the new standards within two years after the effective date of the amendment. The two year compliance period is intended to allow operators and manufacturers time to select and qualify prospective liner materials and incorporate them with a minimum of disruption to fleet schedules or the assembly lines.

Regulatory Evaluation

The period of this analysis is ten years, beginning in the latter half of 1987, when the proposed rulemaking is expected to become final. The two-year compliance period is expected to expire in 1989. All values are expressed in 1986 dollars. Costs and benefits have been discounted to their present values at the beginning of the analysis period using the 10 percent discount rate prescribed by the Office of Management and Budget (OMB).

The major cost of the proposed rule change would result from the need to retrofit the cargo compartment liners of certain airplane models that do not meet the proposed standards. Another minor cost would result from the additional fuel that would be consumed by these airplanes because of the slight increase in airplane weight necessary to comply with the new standards.

Most transport category airplanes operated under Part 121 or 135 are equipped with cargo or baggage compartment liners that already meet the proposed new standards. These airplanes would not be affected by the proposed rulemaking. The Boeing 757 and 767, Lockheed L-1011, and Saab SF-340 airplanes, on the other hand, have cargo or baggage compartment liners that are made of either Kevlar or Nomex, materials that do not meet the proposed new standards. All liner panels in airplanes of these models would have to be replaced with liner panels that meet the proposed new standards. Certain Boeing 727 and 737 airplanes have cargo or baggage compartment doors with nonrigid fiberglass blanket construction which does not meet the proposed new standards. Similarly, certain portions of the liners in Boeing 747 airplanes are of nonrigid fiberglass construction. Although the rest of the liner material used in 727, 737, and 747 airplanes would be satisfactory, the portions that are of nonrigid fiberglass construction would have to be replaced.

Production of Boeing 727 and Lockheed L-1011 airplanes has been completed; therefore, the only airplanes of these models that would be affected by the proposed rulemaking are those forecast to be in U.S. air carrier service in 1989 when the two-year compliance period is expected to end. The Boeing 747, 757, and 767 airplanes are still in production; however, Boeing has voluntarily begun to install liners that meet the similar, recently adopted Part 25 standards on airplanes of those models. The only airplanes of those models that would be affected by the proposed rulemaking are those delivered before the voluntary installations began (approximately the end of 1988). The Boeing 737 and Saab SF-340 airplanes are still in production also, and it is expected that airplanes of those models produced soon after the anticipated 1987 adoption of the final rule would be equipped with compliant materials. An adjustment to the number of Boeing 737 and Saab SF-340 airplanes that are expected to be operating in 1989 has been made to account for those airplanes produced during the latter part of the two-year compliance period.

Unit costs for retrofitting most airplane models that would be affected by the rule are based upon estimates of complete kits provided by airframe manufacturers to operators of their airplanes. Engineering and certification costs incurred by the airframe manufacturers are, therefore reflected in the cost of these kits. Labor cost estimates are based upon installation of a prefabricated kit. In lieu of purchasing prefabricated kits, operators may elect to fabricate their own replacement panels from sheets of compliant liner materials. In such cases, they would incur lower material costs and higher labor costs, but the total retrofit cost would be equal to or less than the cost of using a kit. (Because only two cargo doors are affected on Boeing 727 and 737 airplanes, it has been assumed that operators of those airplanes would use the latter approach.) A $40 per hour wage rate has been used to estimate installation costs. It is anticipated that the retrofit work would be distributed evenly over the two-year compliance period.

The Boeing 727 and 737 airplanes would not incur any weight penalties because the new cargo door panels would weigh approximately the same as the fiberglass blankets they would replace. The other models affected by the proposed rulemaking would, however, be expected to incur slight weight penalties in complying with the new standard. Although rigid fiberglass would not weigh more than fiberglass blankets, it is expected that operators of Boeing 747 airplanes would retain the fiberglass blankets that are currently used as the compartment liners in some areas and simply install rigid fiberglass directly over the blankets. Rigid fiberglass would weigh slightly more than the Kevlar or Nomex that it would replace in Boeing 757 and 767, Lockheed L-1011 and Saab SF-340 airplanes. Data compiled by the National Aeronautics and Space Administration indicate that each additional pound of weight added to a turbofan-powered transport category airplane results in an average additional fuel consumption of about 15 gallons per year per airplane. At the current jet fuel price of about 60 cents per gallon, each additional pound of weight would cost $9 annually. (Data provided by Saab indicate that the SF-340 would only consume an additional 5 gallons of fuel annually for each additional pound of weight, resulting in an annual weight penalty cost of $3 per pound.) This fuel penalty has been applied only to those airplanes in which compliant liner materials would be installed as a result of this rulemaking action. Airplanes that would be equipped voluntarily have not been included.

The FAA expects that with careful planning most retrofit work could be completed during regularly scheduled maintenance intervals over the two-year period allowed to bring affected airplanes into compliance; however, in some instances it might be necessary to remove an airplane from service for no more than a day. In such cases, there might be some transfer of traffic and revenue among air carriers; however, no appreciable social costs resulting from disrupted travel are expected to be incurred by the public because adequate alternative transportation is available for such a short period.

The FAA has estimated that the total cost of compliance with this proposed regulation would be approximately $14.9 million. These costs have been summarized in Table 1.

TABLE 1.—COMPLIANCE COSTS FOR AIRPLANES SUBJECT TO THE PART 121 CARGO COMPARTMENT LINER RULE [1]

Airplane model	No. of airplanes needing retrofit	Material cost per airplane	Labor cost per airplane	Total model retrofit cost (present value) (million)	Weight penalty per airplane (lbs.)	Total model fuel cost (present value) (million)	Total model compliance cost (present value) (million)
Boeing 757	70	$25,000	$6,400	$2.0	150	$0.6	$2.6
Boeing 767	70	25,000	6,400	2.0	150	.6	2.6
Lockheed L-1011	116	30,000	8,000	4.0	250	1.6	5.6
Saab SF-340	44	[2]	[2]	.4	25	.03	.4
Boeing 747	132	12,000	4,800	2.0	150	1.1	3.1
Boeing 727	900	180	320	.4	0	0	.4
Boeing 737	640	180	320	.3	0	0	.3
Total all affected models				11.1		3.8	14.9

[1] Numbers may not add precisely because of rounding.
[2] Combined material at labor cost for each SF-340 airplane would be $10,000.

The potential benefits of the proposed rule change are the avoided losses of life and property that would have resulted from those airplane fires that may be prevented by the new cargo compartment liner standards. Quantifying these benefits is difficult because most transport airplanes currently in service have liners constructed of fiberglass materials that meet the new standards. Further, of the transport category airplane models currently in service with liner materials that do not meet the proposed flame penetration standards, only one, the Lockheed L-1011, has experienced a catastrophic fire that was possibly related to a cargo or baggage compartment (the specific origin or cause of this fire is the subject of considerable dispute). Although the historic accident record indicates that the probability of a cargo or baggage compartment fire is extremely low, tests conducted by the FAA Technical Center indicated that when such a situation does occur, liners made of certain materials that are currently in use would be ineffective in preventing flames from penetrating the compartment wall and spreading to other portions of the airplane. It is, therefore, necessary that these liner materials be replaced. The potential benefits of preventing one catastrophic fire involving those airplane models subject to the rule change include the prevention of property losses ranging from about $2.6 to $23 million (discounted present value of used airplanes with the loss distributed evenly over the ten-year period), and the avoidance of from 20 to 300 fatalities (based on aircraft capacities and average load factors).

A comparison of the costs and benefits of this proposal indicates that it would be very cost beneficial if only one accident were prevented. Comparing the costs and benefits for each airplane model individually, the compliance costs would be greatly exceeded by the benefit of the avoided airplane property loss alone. No cost would need to be attributed to preventing loss of life. Comparing overall costs and benefits of the proposal, should the only accident prevented involve the smallest airplane subject to the rule change, the Saab SF-340, the cost per fatality avoided would only be approximately $.62 million. (The cost per fatality avoided can be determined by deducting the $2.6 million prevented hull loss benefit value from the overall $14.9 million compliance cost of the proposal, and dividing this difference which gives that portion of the costs attributable the prevention of fatalities, by the average of 20 persons carried aboard the airplane.) If the actual overall compliance costs are as much as 50 percent higher than estimated, the cost per fatality avoided would increase to $.99 million, which is still very acceptable under Department of Transportation guidelines for regulatory actions. Thus, it is expected that very favorable cost/benefit relationships would result from this proposal.

Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules that may have a "significant economic impact on a substantial number of shall entities."

The Part 121 rule change proposed in this notice is not expected to adversely impact small entities. FAA Order 2100.14A, *Regulatory Flexibility Criteria and Guidance* (dated September 16, 1986) classifies an operator of aircraft for hire as a small entity if it owns no more than nine aircraft, and further defines a "substantial number of small entities" as more than one-third of the small entities subject to the proposed rule, but not less than 11. Threshold annualized cost levels for determining significant economic impact have been specified in the order for operators of aircraft for hire. The threshold values (in 1986 dollars) are $92,700 for scheduled operators whose entire fleet has a seating capacity over 60, $51,800 for other scheduled operators, and $3,600 for unscheduled operators.

The FAA has identified a total of 13 small entity air carriers that operate airplane models affected by the proposed rule. All but two of these carriers operate Boeing 727 and 737 airplanes, the least expensive models to bring into compliance with the proposed rule. Should these air carriers operate as many as nine of these airplanes, the largest number allowed to be considered a small entity, then the total retrofit cost would be $4,500, based upon the estimated cost of $500 per airplane for these models. Applying a capital recovery factor to the $4,500 retrofit cost

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yields an annualized cost of approximately $700 for each operator. This is far less than the threshold value of $3,600 prescribed for determining significant economic impact on unscheduled operators. Further, many of these small entity air carriers engage in scheduled operations, which would make them subject to the higher $92,700 threshold value. For these reasons, the rule change proposed in this notice is not expected to result in a significant economic impact on a substantial number of small entities.

International Trade Impact Analysis

The proposed rule change will have little or no impact on trade for either U.S. firms doing business in foreign countries or foreign firms doing business in the United States. The rule change will affect only U.S. air carriers because foreign air carriers are not subject to Part 121. Foreign air carriers would not gain any competitive advantage over the domestic operations of U.S. carriers because they are prohibited from transporting passengers between points within the United States, unless those passengers have originated in or are destined for a foreign country. In international operations, foreign air carriers operating the same airplane models as those U.S. operators affected by the retrofit requirements of the proposal might realize a slight cost advantage; however, the costs of this proposal would be extremely small in comparison to the overall costs of engaging in international air transportation.

Further, it is expected that newly produced units of most, and possibly all, of the affected airplane models would be delivered to both foreign and domestic customers with liner materials that comply with the proposed rule. For these reasons, no appreciable trade impact is expected to result from the proposal.

Conclusion

For the reasons given earlier in the preamble, the FAA has determined that this is not a major regulation as defined in Executive Order 12291. The FAA has determined that this action is significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, it has been certified under the criteria of the Regulatory Flexibility Act that this regulation, at promulgation, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

14 CFR Part 121

Aviation safety, Safety, Air carriers, Air transportation, Aircraft, Airplanes, Cargo, Flammable materials, Hazardous materials, Transportation, Common carriers.

14 CFR Part 135

Aviation safety, Safety, Air carriers, Air transportation, Aircraft, Airplanes, Cargo, Hazardous baggage, Materials, Transportation mail.

The Proposed Amendment

Accordingly, the FAA proposes to amend Parts 121 and 135 of the Federal Aviation Regulations (FAR), 14 CFR Parts 121 and 135, as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for Part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983), 49 CFR 1.47(a).

2. By adding new § 121.314 to read as follows:

§ 121.314 Cargo and baggage compartments.

(a) After (a date two years after the effective date of this amendment), each Class C or D compartment as defined in § 25.857 of Part 25 of this Chapter, greater than 200 cubic feet in volume in a transport category airplane type certificated after January 1, 1958, must have ceiling and sidewall liner panels that are constructed of:

(1) Glass fiber reinforced resin (rigid fiberglass);

(2) Materials that meet the test requirements of Part 25, Appendix F, Part III of this Chapter; or

(3) In the case of liner installations approved prior to (the effective date of this amendment), aluminum.

(b) For compliance with this section, the term "liner" includes any design feature, such as a joint or fastener, that would affect the capability of the liner to safely contain a fire.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

3. The authority citation for Part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421–1431, and 1502, 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983), 49 CFR 1.47(a).

4. By amending § 135.169 by revising paragraph (a) to read as follows:

§ 135.169 Additional airworthiness requirements.

(a) Except for commuter category airplanes, no person may operate a large airplane unless it meets the additional airworthiness requirements of § 121.213 through § 121.283, § 121.307, § 121.312, and § 121.314 of this chapter.

* * * * *

Issued in Seattle, Washington, on October 28, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-25581 Filed 11-4-87; 8:45 am]

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federal register

Thursday
November 5, 1987

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 5
Federal Acquisition Regulation (FAR); Sources Sought Synopsis for Research and Development; Proposed Rule

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 5

Federal Acquisition Regulation (FAR); Sources Sought Synopsis for Research and Development

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are proposing a revision to FAR 5.205 to make optional the synopsizing of advance notices of interest in Research and Development fields, and to clarify the purpose of such notices.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 4, 1988, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 87–42 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The proposed rule does not change the current FAR requirements regarding synopsizing solicitations for R&D requirements. It merely clarifies and makes optional the synopsizing of advance notices of interest in R&D fields. Accordingly, the proposed rule is not a "significant revision" within the meaning of FAR 1.501–1, in that it will not have a significant cost or administrative impact on contractors or offerors. It does, however, represent a change to the FAR for which public comments are welcomed, and, therefore, a proposed rule is being issued.

B. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed rule does not impose any additional recordkeeping or information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 5

Government procurement.

Dated: October 30, 1987.

Roger M. Schwartz,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 5 be amended as set forth below:

PART 5—PUBLICIZING CONTRACT ACTIONS

1. The authority citation for Part 5 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 5.205 is amended by revising paragraph (a) to read as follows:

5.205 Special situations.

(a) *Research and development (R&D) advance notices.* Contracting officers may publish in the CBD advance notices of their interest in potential R&D programs whenever existing solicitation mailing lists do not include a sufficient number of concerns to obtain adequate competition. Advance notices shall not be used where security considerations prohibit such publication. Advance notices will enable potential sources to learn of R&D programs and provide these sources with an opportunity to submit information which will permit evaluation of their capabilities. Potential sources which respond to advance notices shall be added to the appropriate solicitation mailing list for subsequent solicitation. Advance notices shall be titled "Research and Development Sources Sought," cite the appropriate Numbered Note, and include the name and telephone number of the contracting officer or other contracting activity official from whom technical details of the project can be obtained. This will enable sources to submit information for evaluation of their R&D capabilities. Contracting officers shall synopsize all subsequent solicitations for R&D contracts, including those resulting from a previously synopsized advance notice, unless one of the exceptions in 5.202 applies.

* * * * *

[FR Doc. 87–25602 Filed 11–4–87; 8:45 am]

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Part IV

Environmental Protection Agency

40 CFR Parts 414 and 416
Organic Chemicals and Plastics and Synthetic Fibers Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 414 and 416

[FRL 3230-5]

Organic Chemicals and Plastics and Synthetic Fibers Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes effluent limitations guidelines and standards that limit the discharge of pollutants into navigable waters and publicly owned treatment works (POTWs) by existing and new sources in the Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) industrial category. The Clean Water Act and a consent decree require EPA to issue this regulation.

The regulation establishes effluent limitations guidelines attainable by the application of the "best practicable control technology currently available" (BPT) and the "best available technology economically achievable" (BAT), pretreatment standards applicable to existing and new dischargers to POTWs (PSES and PSNS, respectively), and new source performance standards (NSPS) attainable by the application of the "best available demonstrated technology."

DATES: In accordance with 40 CFR Part 23 (50 FR 7268, February 21, 1985), this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time November 19, 1987. These regulations shall become effective December 21, 1987.

The compliance date for PSES is November 5, 1990. The compliance date for NSPS and PSNS is the date the new source begins operation. Deadlines for compliance with BPT and BAT are established in permits.

Under section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be had only by filing a petition for review in the United States Court of Appeals within 120 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: The basis for this regulation is detailed in four major documents. See Section XV—Availability of Technical Information for information on those documents. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (Phone: (703) 487–4600). For additional technical information, contact Mr. Elwood H. Forsht, Industrial Technology Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (Phone: (202) 382–7190). For additional economic information, contact Ms. Kathleen Ehrensberger, Analysis and Evaluation Division (WH–586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (Phone: (202) 382–5397).

On January 11, 1988, the complete public record for this rulemaking, including the Agency's responses to comments received during rulemaking, will be available for review in EPA's Public Information Reference Unit, Room 2404 (Rear) (EPA Library), 401 M Street, SW., Washington, DC. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Elwood H. Forsht at (202) 382–7190.

SUPPLEMENTARY INFORMATION:

Overview

This preamble describes the legal authority, background, the technical and economic bases, and other aspects of the final regulation. The abbreviations, acronyms, and other terms used in the Supplementary Information sections are defined in Appendix A to this notice.

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Appendices

A—Abbreviations, Acronyms, and Other Terms Used in this Notice
B—Toxic Pollutants Excluded From PSES and PSNS Because They Are Sufficiently Controlled by Existing Technologies
C—Toxic Pollutants Not Detected in the Treated Effluents of Direct Dischargers or in Wastewaters from Process Sources
D—Toxic Pollutants (1) Detected in Treated Effluents from a Small Number of Discharge Sources and Uniquely Related to Those Sources, (2) Present Only in Trace Amounts and Neither Causing Nor Likely to Cause Toxic Effects, or (3) Sufficiently Controlled by Existing Technologies
E—Toxic Pollutants That Do Not Pass Through or Interfere With POTWs

I. Legal Authority

This regulation is promulgated under the authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended (33 U.S.C. 1251 *et seq.*)), also referred to as "the Act." It is also promulgated in response to the decree in *Natural Resources Defense Council, Inc* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), *modified* by Orders dated October 20, 1982, August 2, 1983, January 6, 1984, July 5, 1984, January 7, 1985, April 24, 1986, and January 8, 1987.

II. Scope of This Rulemaking

This final regulation establishes effluent limitations guidelines and standards for existing and new organic chemicals, plastics, and synthetic fibers (OCPSF) manufacturing facilities. It applies to process wastewater discharges from these facilities.

For the purposes of this regulation, OCPSF process wastewater discharges are defined as discharges from all establishments or portions of establishments that manufacture products or product groups listed in the applicability sections of this regulation, and are included within the following U.S. Department of Commerce Bureau of the Census Standard Industrial Classification (SIC) major groups:

(1) SIC 2865—Cyclic Crudes and Intermediates, Dyes, and Organic Pigments,

(2) SIC 2869—Industrial Organic Chemicals, not Elsewhere Classified,

(3) SIC 2821—Plastic Materials, Synthetic Resins, and Nonvulcanizable Elastomers,

(4) SIC 2823—Cellulosic Man-Made Fibers, and

(5) SIC 2824—Synthetic Organic Fibers, Except Cellulosic.

The OCPSF regulation does not apply to process wastewater discharges from the manufacture of organic chemical compounds solely by extraction from plant and animal raw materials or by fermentation processes.

The OCPSF regulation covers all OCPSF products or processes whether or not they are located at facilities where the OCPSF covered operations are a minor portion of and ancillary to the primary production activities or a major portion of the activities.

The OCPSF regulation does not apply to discharges from OCPSF product/process operations which are covered by the provisions of other categorical industry effluent limitations guidelines and standards if the wastewater is treated in combination with the non-OCPSF industrial category regulated wastewater. (Some products or product groups are manufactured by different processes and some processes with slight operating condition variations give different products. EPA uses the term "product/process" to mean different variations of the same basic process to manufacture different products as well as to manufacture the same product using different processes.) However, the OCPSF regulation does apply to the product/processes covered by this regulation if the facility reports OCPSF products under SIC codes 2865, 2869, or 2821, and its OCPSF wastewaters are treated in a separate treatment system at the facility or discharged separately to a municipal treatment system.

For example, some vertically integrated petroleum refineries and pharmaceutical manufacturers discharge wastewaters from the production of synthetic organic chemical products that are specifically regulated under the Petrochemical and Integrated Subcategories of the Petroleum Refining Point Source Category (40 CFR Part 419, Subparts C and E) or the Chemical Synthesis Products Subcategory of the Pharmaceuticals Manufacturing Point Source Category (40 CFR Part 439, Subpart C). The principles discussed in the preceding paragraph apply as follows: The process wastewater discharges by petroleum refineries and pharmaceutical manufacturers from production of organic chemical products specifically covered by 40 CFR Part 419 Subparts C and E and Part 439 Subpart C, respectively, that are treated in combination with other petroleum refinery or pharmaceutical manufacturing wastewater, respectively, are not subject to the OCPSF regulation no matter what SIC code they use to report their products. However, if the wastewaters from their OCPSF production are separately discharged to a POTW or treated in a separate treatment system, and they report their products (from these processes) under SIC codes 2865, 2869, or 2821, then discharges from these manufacturing operations are subject to regulation under the OCPSF regulation, regardless of whether the OCPSF products are covered by 40 CFR Part 419, Subparts C and E and Part 439, Subpart C.

Today's OCPSF category regulation applies to plastics molding and forming processes when plastic resin manufacturers mold or form (e.g., extrude and pelletize) crude intermediate plastic material for shipment off-site. This regulation also applies to the extrusion of fibers. Plastics molding and forming processes other than those described above are regulated by the Plastics Molding and Forming effluent guidelines and standards (40 CFR Part 463).

Public comments requested guidance relating to the coverage of OCPSF research and development facilities. Stand-alone OCPSF research and development, pilot plant, technical service, and laboratory bench scale operations are not covered by the OCPSF regulation. However, wastewater from such operations conducted in conjunction with and related to existing OCPSF manufacturing operations at OCPSF facilities is covered by the OCPSF regulation because these operations would most likely generate wastewater with characteristics similar to the commercial manufacturing facility. Research and development, pilot plant, technical service, and laboratory operations which are unrelated to existing OCPSF plant operations, even though conducted on-site, are not covered by the OCPSF regulation because they may generate wastewater with characteristics dissimilar to that from the commercial OCPSF manufacturing facility.

Finally, as described in the following paragraphs, this regulation does not cover certain production that has historically been reported to the Bureau of Census under a non-OCPSF SIC subgroup heading, even if such production could be reported under one of the five SIC code groups covered by today's regulation.

The Settlement Agreement (see Section III.A) requires the Agency to establish regulations for the Organic Chemicals Manufacturing SIC codes 2865 and 2869 and for the Plastics and Synthetic Materials manufacturing SIC code 282. SIC 282 includes the three codes covered by this regulation, 2821, 2823, and 2824, as well as SIC 2822, Synthetic Rubber (Vulcanizable Elastomers), which is covered specifically in the Settlement Agreement by another industrial category, Rubber Manufacturing (40 CFR Part 428). The Agency therefore directed its data collection efforts to those facilities that report manufacturing activities under SIC codes 2821, 2823, 2824, 2865 and 2869. Based on an assessment of this information and the integrated nature of the synthetic organic chemicals, plastics and synthetic fibers industry, the Agency also defined the applicability of the OCPSF regulation by listing the specific products and product groups that provide the technical basis for the regulation.

Since many of these products may be reported under more than one SIC code even though they are often manufactured with the same reaction chemistry or unit operations, the Agency considered extending the applicability of the OCPSF regulation (50 FR 28068; July 17, 1985, or 51 FR 44082; December 8, 1986) to include OCPSF production reported under the following SIC subgroups:

1. SIC 2911058—aromatic hydrocarbons manufactured *from* purchased refinery products,

2. SIC 2911032—aliphatic hydrocarbons manufactured *from* purchased refinery products,

3. SIC 28914—synthetic resin and rubber adhesives (including only those synthetic resins listed under both SIC 28914 and SIC 2821 that are polymerized for use or sale by adhesive manufacturers),

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4. Chemicals and Chemical Preparations, not Elsewhere Classified:
a. SIC 2899508—sizes, all types
b. SIC 2899507—other industrial chemical specialties, including fluxes, plastic wood preparations, and embalming fluids,
5. SIC 2843065—bulk surface active agents, and
6. SIC 3079—miscellaneous plastics products (including only cellophane manufacture from the viscose process).

However, for the reasons discussed below, the Agency has decided not to extend the applicability of the OCPSF regulation to discharges from establishments that manufacture OCPSF products and have, in the past, reported such production under these non-OCPSF SIC subgroups.

The SIC codes are classifications of commercial and industrial establishments by type of activity in which they are engaged. The predominant purpose of the SIC code is to classify the manufacturing industries for the collection of economic data. The product descriptions in SIC codes are often technically ambiguous and also list products that are no longer produced in commercial quantities. For this reason, the Agency proposed to define the applicability of the OCPSF regulation in terms of both SIC codes and specific products and product groups (50 FR 29073, July 17, 1985). Many chemical products may appear under more than one SIC code depending on the manufacturing raw material sources, use in the next stage of the manufacturing process, or type of sale or end use. For example, phenolic, urea, and acrylic resin manufacture may be reported under SIC 28014, Synthetic Resin Adhesives, as well as under SIC 2821, Plastics Materials and Resins. Benzene, toluene, and xylene manufacture may be reported under SIC 2911, Petroleum Refining, or under SIC 2911058, Aromatics, Made from Purchased Refinery Products, as well as SIC 2865, Cyclic Crudes and Intermediates. Likewise, alkylbenzene sulfonic acids and salts manufacture may be reported under SIC 2843065, Bulk Surface Active Agents, which include all amphoteric, anionic, cationic and nonionic bulk surface active agents excluding surface active agents produced or purchased and sold as active ingredients in formulated products, as well as SIC 286, Industrial Organic Chemicals.

Many commenters stated that the Agency's OCPSF technical and economic studies do not contain sufficient information to extend coverage to all facilities reporting OCPSF manufacturing under all of the above SIC subgroups. The Agency agrees in part with these commenters. The OCPSF technical, cost, and economic impact data gathering efforts focused only on those primary and secondary manufacturers that report OCPSF manufacturing activities under the above SIC codes 2821, 2823, 2824, 2865 and 2869. Specific efforts were not directed toward gathering technical and financial data from facilities that report OCPSF manufacturing under SIC subgroups 2911058, 2911632, 28014, 2843065, 2899508, 2899507 and 3079. As a result, EPA lacks cost and economic information from a significant number of plants that report OCPSF manufacturing activities to the Bureau of Census under these latter SIC subgroups. Consequently, the applicability section of the final regulation (§ 414.11) clarifies that the OCPSF regulation does not apply to a plant's OCPSF production that has been reported by the plant in the past under SIC groups 2911058, 2911632, 28014, 2843065, 2899508, 2899507, and 3079.

Approximately 140 of the 940 OCPSF plants that provide the basis for today's regulation reported parts of their OCPSF production under SIC codes 2911058, 2911632, 28014, 2843065, 2899508, and 2899507 as well as SIC codes 2821, 2823, 2824, 2865, and 2869. As a result of the definition of applicability, a smaller portion of plant production than was reported as OCPSF production for these plants will be covered by today's regulation.

The Agency does note, however, that the OCPSF manufacturing processes are essentially identical regardless of how manufacturing facilities may report OCPSF production to the Bureau of Census. Therefore, the OCPSF data base and effluent limitations and standards provide permit issuing authorities with guidance for establishing "Best Professional Judgement" (BPJ) permits for OCPSF production activities to which this regulation does not apply.

Some of the non-OCPSF SIC subgroups were the subject of prior EPA decisions not to establish national regulations for priority pollutants under the terms of Paragraph 8 of the Settlement Agreement. Such action was taken for adhesive and sealant manufacturing (SIC 2891), as well as plastics molding and forming (SIC 3079), paint and ink formulation and printing (which industries were within SIC 2851, 2893, 2711, 2721, 2731 and ten other SIC 27 groups) and soap and detergent manufacturing (SIC 2841). However, it should be noted that in specific instances where a plant in these categories has OCPSF production activities, toxic pollutants may be present in the discharge in amounts that warrant best professional judgement (BPJ) regulatory control. The adhesives and sealants, plastics molding and forming, and paint and ink formulation and printing Paragraph 8 exclusions do not include process wastewater from the secondary manufacture of synthetic resins. Similarly, the soaps and detergents Paragraph 8 exclusion does not include process wastewater from the manufacture of surface active agents (SIC 2843). In these cases, and even in cases where priority pollutants from OCPSF production covered by other categorical standards (e.g., petroleum refining and pharmaceuticals) have been excluded from those regulations under the terms of Paragraph 8 of the Settlement Agreement, BPJ priority pollutant regulation for individual plants having OCPSF production may be appropriate.

III. Background

A. The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (Section 101(a)) To implement the Act, EPA was required to issue effluent limitations guidelines, pretreatment standards, and new source performance standards for industrial dischargers.

In addition to these regulations for industrial categories, EPA was required to promulgate effluent limitations guidelines and standards applicable to discharges of toxic pollutants. The Act included a timetable for issuing these standards. However, EPA was unable to meet many of the deadlines and, as a result, in 1976, it was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" that was approved by the Court. This agreement required EPA to develop a program and adhere to a schedule for controlling 65 "priority" toxic pollutants and classes of pollutants. In carrying out this program, EPA was required to promulgate BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for a variety of major industries, including the OCPSF industry. See *Natural Resources Defense Council, Inc* v. *Train, supra.*

Many of the basic elements of the Settlement Agreement were incorporated into the Clean Water Act of 1977. Like the Agreement, the Act stressed control of toxic pollutants,

including the 65 "priority" toxic pollutants and classes of pollutants.

Under the Act, the EPA is required to establish several different kinds of effluent limitations guidelines and standards. They are summarized briefly below:

1. Best Practicable Control Technology Currently Available (BPT)

BPT effluent limitations guidelines are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the category or subcategory for control of familiar (i.e., conventional) pollutants.

In establishing BPT effluent limitations guidelines, EPA considers the total cost in relation to the effluent reduction benefits, the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies, and non-water quality environmental impacts (including energy requirements). The Agency considers the category-wide or subcategory-wide cost of applying the technology in relation to the effluent reduction benefits.

2. Best Available Technology Economically Achievable (BAT)

BAT effluent limitations guidelines, in general, represent the best existing performance in the category or subcategory. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters.

In establishing BAT, the Agency considers the age of equipment and facilities involved, the processes employed, the engineering aspects of the control technologies, process changes, the cost of achieving such effluent reduction, and non-water quality environmental impacts.

3. Best Conventional Pollutant Control Technology (BCT)

The 1977 Amendments to the Clean Water Act added section 301(b)(2)(E), establishing "best conventional pollutant control technology" (BCT) for the discharge of conventional pollutants from existing industrial point sources. Section 304(a)(4) designated the following as conventional pollutants: BOD, TSS, fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease a conventional pollutant on July 30, 1979 (44 FR 44501).

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. BAT remains in effect for the toxic and nonconventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that the BCT effluent limitations guidelines be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F.2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its discharge of conventional pollutants with the cost to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA has promulgated a methodology for establishing BCT effluent limitations guidelines (51 FR 24974, July 8, 1986).

4. New Source Performance Standards (NSPS)

NSPS are based on the performance of the best available demonstrated technology. New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the most stringent numerical values attainable through the application of best available demonstrated control technology for all pollutants (toxic, conventional and nonconventional).

5. Pretreatment Standards for Existing Sources (PSES)

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTWs). The Clean Water Act requires pretreatment standards for pollutants that pass through POTWs or interfere with POTWs' treatment processes or sludge disposal methods. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based and analogous to the BAT effluent limitations guidelines for removal of toxic pollutants. For the purpose of determining whether to promulgate national category-wide pretreatment standards, EPA generally determines that there is pass through of a pollutant and thus a need for categorical standards if the nation-wide average percentage of a pollutant removed by well-operated POTWs achieving secondary treatment is less than the percent removed by the BAT model treatment system. The General Pretreatment Regulations, which set forth the framework for categorical pretreatment standards, are found at 40 CFR Part 403. (Those regulations contain a definition of pass through that addresses localized rather than national instances of pass through and does not use the percent removal comparison test described above. See 52 FR 1586, January 14, 1987.)

6. Pretreatment Standards for New Sources (PSNS)

Like PSES, PSNS are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of a POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate in their plant the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating NSPS.

B. Overview of the Industry

The OCPSF industry is large and diverse, and many plants in the industry are highly complex. This industry manufactures over 25,000 different organic chemicals, plastics, and synthetic fibers. However, less than half of these products are produced in excess of 1,000 pounds per year. The industry includes approximately 750 facilities whose principal or primary production activities are covered under the OCPSF SIC groups. There are approximately 200 other plants which are secondary producers of OCPSF products, i.e., OCPSF production is ancillary to their primary production activities. (As discussed above in this preamble, this regulation covers OCPSF discharges from secondary producers, with certain exceptions.) Thus the total number of plants to be regulated totally or in part by the OCPSF industry regulation is approximately 1,000. Secondary OCPSF plants may be part of other chemical producing industries such as the petroleum refining, inorganic chemicals, pharmaceuticals, and pesticides industries as well as chemical formulation industries such as the adhesives and sealants, the paint and ink, and the plastics molding and forming industries.

Some plants produce chemicals in large volumes while others produce only small volumes of "specialty" chemicals. Large volume production tends to use continuous processes. Continuous processes are generally more efficient than batch processes in minimizing

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water use and optimizing the consumption of raw materials.

Different products are made by varying the raw materials, the chemical reaction conditions, and the chemical engineering unit processes. The products being manufactured at a single large chemical plant can vary on a weekly or even daily basis. Thus, a single plant may produce simultaneously many different products using a variety of continuous and batch operations and the product mix may change on a weekly or daily basis.

A total of 940 facilities (based on 1982 production) are included in the technical and economic studies used as a basis for this regulation. Approximately 76 percent of these facilities are primary OCPSF manufacturers (over 50 percent of their total plant production involves OCPSF products) and approximately 24 percent of the facilities are secondary OCPSF manufacturers that produce mainly other types of products. An estimated 32 percent of the plants are direct dischargers, about 42 percent discharge indirectly (i.e., to publicly owned treatment works), and the remaining facilities (26 percent) either do not discharge to surface waters or have unknown discharge status. The estimated average daily process wastewater discharge per plant is 1.31 MGD (millions of gallons per day) for direct dischargers and 0.25 MGD for indirect dischargers. The non-discharging plants use dry processes, reuse their wastewater, or dispose of their wastewater by deep well injection, incineration, contract hauling, or by means of evaporation and percolation ponds.

As a result of the wide variety and complexity of raw materials and processes used and of products manufactured in the OCPSF industry, an exceptionally wide variety of pollutants are found in the wastewaters of this industry. They include conventional pollutants (pH, BOD, TSS and oil and grease); an unusually wide variety of toxic priority pollutants (both metals and organic compounds); and a large number of nonconventional pollutants. Many of the toxic and nonconventional pollutants are organic compounds produced by the industry for sale. Others are created by the industry as byproducts of their production operations. EPA focused its attention in today's rulemaking on the conventional pollutants and on the 126 toxic priority pollutants.

Economic data provided in response to "308 survey" questionnaires completed pursuant to Section 308 of the CWA indicate that OCPSF production in 1982 totaled 165 billion pounds and that the quantity shipped was 151 billion pounds. The corresponding value of shipments equaled $59 billion, and employment in the industry totaled 183,000 in 1982. In that same year a total of 455 firms operated the 940 facilities referred to above.

Plant and firm sizes and types vary considerably. Single plant firms are much smaller in terms of total (OCPSF and non-OCPSF) sales, an average of $33 million annually. By contrast, multi-plant firms are much larger with average annual sales totaling $1.39 billion. This relationship holds whether a plant is a primary producer or a secondary producer of OCPSF products.

Certain sectors of the OCPSF industry tend to be more concentrated than others. Cellulosic fiber manufacturers exhibit the most concentration, with all domestic production coming from only six plants. Synthetic fibers manufacturers are the next most concentrated with 40 plants. The organic chemicals and plastics sectors are the least concentrated and the most competitive; both sectors have large numbers of plants and firms with both primary and secondary producers. In addition, most sectors of the OCPSF industry face extensive foreign competition.

International OCPSF trade is an important factor for this industry and the U.S. economy. In 1984, exports of OCPSF products were five percent of all U.S. exports, while OCPSF imports accounted for one percent of all U.S. imports. Both imports and exports of OCPSF products have increased over the last 15 years, particularly for plastic resins and organic chemicals.

While U.S. exports were three times greater than imports in 1984, the trend over the most recent years has been for exports to remain constant or decline, while imports have steadily increased. As expansion in foreign petrochemical production continues, the worldwide market for OCPSF products will continue to become increasingly competitive in all product sectors. Domestic producers of basic commodity chemicals face the greatest problems in terms of foreign competition.

IV. Development of the Final OCPSF Regulation

A. Efforts Leading to the Proposed Rulemaking

1. Earlier Regulatory Efforts

EPA originally promulgated effluent limitations guidelines and standards for the Organic Chemicals Manufacturing industry in two phases. Phase I, covering 40 product/processes, was promulgated on April 25, 1974 (39 FR 14676). Phase II, covering 27 additional product/processes, was promulgated on January 5, 1976 (41 FR 982). The Agency also promulgated effluent limitations guidelines and standards for the Plastics and Synthetic Fibers industry in two phases. Phase I, covering 31 product/processes, was promulgated on April 8, 1974 (39 FR 12502). Phase II, covering eight additional product/processes, was promulgated on January 23, 1975 (40 FR 3716).

These regulations were challenged. On February 10, 1976, the Court in *Union Carbide* v. *Train*, 541 F.2d 1171 (4th Cir. 1976), remanded the Phase I Organic Chemicals regulation. EPA withdrew the Phase II Organic Chemicals regulation on April 1, 1976 (41 FR 13936). However, pursuant to an agreement with the industry petitioners, the regulations for butadiene manufacture were left in place. The Court also remanded the Phase I Plastics and Synthetic Fibers regulations in *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976), and in response EPA withdrew both the Phase I and II Plastics and Synthetic Fibers regulations on August 4, 1976 (41 FR 32567) except for the pH limitations, which had not been addressed in the lawsuit. Consequently, only the regulations covering butadiene manufacture for the Organic Chemicals industry and the pH regulations for the Plastics and Synthetic Fibers industry have been in effect to date. These regulations are superseded by the regulations promulgated today.

In the absence of promulgated, effective effluent limitations guidelines and standards, OCPSF direct dischargers have been issued NPDES permits on a case-by-case basis using best professional judgment (BPJ), as provided in section 402(a)(1) of the CWA.

2. Initiation of Current Rulemaking Efforts

Subsequent to the remand and withdrawal of the above regulations, studies and data gathering were initiated in order to provide a basis for issuing effluent limitations guidelines and standards for this industry. These efforts provided a basis for a March 1983 proposal and July 1985, October 1985, and December 1986 (post-proposal) notices of availability of information. These efforts are described below.

On March 21, 1983, the Agency proposed regulations for the OCPSF categories at 48 FR 11828. The proposed regulations included effluent limitations guidelines based on the application of BPT, BCT, and BAT, along with NSPS and PSES and PSNS. EPA proposed BPT

regulations for four subcategories to control the discharge of conventional pollutants, 5-day biochemical oxygen demand (designated as BOD throughout this notice), total suspended solids (TSS), and pH. EPA also proposed BAT regulations for two subcategories (based on general types of products made), controlling 36 toxic organic and eight toxic metal pollutants in the Not Plastics-Only Subcategory and five toxic organic and five toxic metal pollutants in the Plastics Only Subcategory. The Agency also proposed BCT limitations setting all BCT limitations equal to BPT regulations based on the application of a proposed BCT cost test methodology (see 47 FR 49176). With regard to PSES and PSNS, EPA proposed standards controlling 15 toxic organic pollutants in the Not Plastics-Only Subcategory and two toxic metal pollutants in the Plastics Only Subcategory. For NSPS, EPA proposed to establish limitations based on the proposed BPT limitations for conventional pollutants and on the proposed BAT limitations for toxic pollutants. PSNS was proposed to be equal to PSES.

As part of the proposal, the Agency solicited additional comments and information on 30 specific issues related to the proposed rulemaking (refer to section XIX of the proposal at 48 FR 11850 of March 21, 1983). These issues related to several topics including: (1) The industry generic process basis for the subcategorization scheme, (2) the potential use of post-biological polishing ponds and filters as the technology basis for the BPT total suspended solids limitations, (3) the potential difficulty of meeting BPT limitations due to high or low ambient temperatures, (4) the methodology devised to determine which priority pollutants are likely to be discharged from particular product/processes, (5) the technical and economic achievability of the proposed BAT limitations at individual plants, (6) a workable scheme for not regulating all priority pollutants at all plants, (7) the methodology for excluding certain priority pollutants from PSES, (8) the unit costs and costing models used for developing BPT and BAT costs, (9) the analytical methods utilized to develop the priority pollutant data base, and (10) the economic impact analysis methodology. The Agency also acknowledged the need for more data. In addition to soliciting information, EPA stated its intent to collect additional data.

B. Post Proposal Notices

On July 17, 1985 (50 FR 29068), the Agency published a notice of availability in which numerous changes to the March 1983 proposal were discussed. Most of the changes noticed were a direct result of the comments received on the proposed regulation or due to the new information and data collected after the proposal was published. The changes discussed in this notice included a new approach to BPT subcategorization, changes to the technology bases for BAT, PSES, NSPS and PSNS, with a description of what the revisions in the proposed limitations and standards would be, based on the changes in technology and the new data. EPA presented new estimates of pollutant loadings and discussed revisions to the engineering costing methodology. Options were presented for toxic pollutant monitoring requirements, and a revised methodology for determining economic impacts was discussed.

On October 11, 1985 (50 FR 41528), the Agency extended the comment period for the July 17, 1985 notice (50 FR 29068). The notice also provided corrected estimates of the wastewater pollutant loadings set forth in the July notice and announced the addition of both data analyses and regulatory options to the record. In this notice, the Agency discussed possible controls of air emissions of volatile pollutants, the possibility of editing the BPT data base for TSS performance, and the possibility of accommodating for adverse economic impacts at small facilities. The notice also discussed establishing alternative zinc BAT limits for manufacturers of rayon fibers that use the viscose process and manufacturers of acrylic fibers that use the zinc chloride/solvent process.

On December 8, 1986 (51 FR 44082), the Agency published another notice of availability in which several additional issues for the OCPSF regulation were discussed, including options for alternative BAT limits and PSES for small plants, and a revised BPT subcategorization approach. In conjunction with this new approach to subcategorization, the Agency presented a mathematical equation to model long-term average effluent concentrations of BOD and TSS as a function of the proportion of activity in each subcategory at an individual facility. The coefficients used in this equation were estimated from reported plant data using standard statistical regression methods. The Notice also discussed the possible use in the POTW pass-through analysis of qualitative information which would expand the data base for evaluating the effectiveness of POTW removal. The Notice discussed the possibility of transferring metals treatment effectiveness data based on hydroxide precipitation and sulfide precipitation from metals industries. The Notice also discussed treatment of cyanide in OCPSF wastewater by alkaline chlorination, and the application of package biological or in-plant biological treatment in setting limits for some pollutants. Finally, EPA announced the availability of additional data to characterize the effectiveness of steam stripping technology.

C. Summary of the Data Base Used in the Final Regulations

The data used for the proposal were collected through industry surveys via 1976 and 1977 questionnaires, telephone calls, and sampling visits and are described in the following paragraphs. The data used for the engineering analysis were extracted from the industry responses to the 1976 BPT questionnaire and a subsequent 1977 BAT questionnaire. The data from these questionnaires were computerized and sent to the plants for their review and comments during December 1979 and January 1980. Also, (long-term daily) pollutant raw waste and final effluent data were collected by EPA through on-site sampling visits.

The above questionnaires requested information related to products manufactured, processes used, production rates, age and size of facilities, water consumption, wastewater generation, treatment technologies employed, and influent wastewater and effluent characteristics.

Additionally, some qualitative information was gathered through telephone calls on the generation of wastewater and mode of discharge at 301 plastics manufacturing facilities.

From all these sources of data, the Agency identified 428 plants which make up the 1983 Proposal Summary Data Base. The Proposal Summary Data Base is a corrected and updated version of the original data found in the 1976 and 1977 generated 308 Data Base.

Data on product/processes, plant location and age, production, percent operating capacity, mode of discharge, treatment unit operations, influent and effluent wastewater flow and concentrations, and period of data collection were obtained from the original 1976 and 1977 questionnaires data printouts for each of the plants in the data base. The information on each plant was examined, and the data were modified to reflect any corrections to the original data and to incorporate the plant's responses to the 1979–1980 mailing.

As part of the data collection efforts, the Agency conducted four major

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sampling studies in order to characterize the raw wastewaters and treated wastewaters in the OCPSF industry. These studies are the Screening Study (performed in two phases), Verification Study, Five-Plant Study and Twelve-Plant Study, and are discussed in the following paragraphs.

In 1977 and 1978, EPA performed sampling at 131 plants to determine the presence of priority pollutants (Phase I of the Screening Study). These plants were chosen because they operated product/processes that produce the highest volume organic chemicals, plastics and synthetic fibers. Twenty-four hour composite samples were taken of the raw plant water, effluent from certain product/processes, and wastewater influents and effluents at the plant wastewater treatment facilities. These samples were analyzed for toxic pollutants and conventional pollutants.

In December 1979, samples were collected from an additional 40 plants (Phase II of the Screening Study). These plants manufactured products such as dyes, flame retardants, coal tar distillates, photographic chemicals, flavors, surface active agents, aerosols, petroleum additives, and other low volume specialty chemicals.

Subsequent to this screening effort, EPA conducted more intense sampling at 37 plants with samples collected from the effluents of 147 product/processes manufacturing organic chemicals and 29 product/processes manufacturing plastics or synthetic fibers, as well as from treatment system influents and effluents at selected facilities (Verification Study). This sampling was conducted over a period of three days at each plant (with the exception of one plant which had six days of data), and was performed in order to verify the presence and estimate the concentrations of priority pollutants in discharges from the predominant product/processes in the industry.

The raw wastewater sampling data for the priority pollutants gathered from the 176 product/process wastewater streams in the Verification Study were computerized to become the Master Process File (MPF). These data were used in estimating the pollutants and loadings for the product/processes in the industry for the proposal.

From June 1980 to May 1981, EPA, with cooperation from the Chemical Manufacturers Association (CMA) and five participating chemical plants, performed the EPA/CMA Five-Plant Study to gather longer-term data on biological treatment of certain specific toxic pollutants at organic chemical plants. In addition to effluent data, biological wastewater treatment system influent samples were taken subsequent to in-plant treatment and prior to biological treatment and to any preliminary neutralization and settling, although in some instances following equalization, of each plant's combined waste stream. The five plants were selected because of the specific toxic organic pollutants expected to be generated by plant processes and because they were characterized as having well-designed and well-operated activated sludge treatment systems. Seven to thirty sets of influent and effluent samples (generally 24-hour composites) were collected at each plant over a four- to six-week sampling period. Thus, the toxic pollutant data base which formed the basis of the March 21, 1983 proposal was generated from the OCPSF industry over a period of time from 1977 through part of 1981.

The Agency received numerous comments on the proposed regulation from individuals representing industry, environmental groups, and state and local governments. These comments criticized the data and analyses that were fundamental to the proposed regulation and urged the Agency to reassess its data base and reconsider many aspects of the proposal. Significant comments on the proposal concerned, among other issues: (1) The adequacy of the Agency's data base to cover a diverse industry such as this, (2) the BPT subcategorization scheme (3) the treatment effectiveness data base and editing rules, (4) the compliance cost estimates, and (5) the economic impact methodology. Following a review and analysis of these and other comments, the Agency began a new data gathering effort in order to assure that the OCPSF regulation is based upon information that represents the entire industry and to assess wastewater treatment installed since 1977. The Agency conducted an extensive data gathering program to improve the coverage of all types of OCPSF manufacturers.

This effort involved mailing new "Section 308" survey questionnaires (i.e., under the authority of Section 308 of the Act) to all manufacturers of OCPSF products. In addition to this survey, which covered all known OCPSF manufacturers, EPA also sent a supplemental questionnaire to 84 OCPSF facilities known to have installed selected wastewater treatment unit operations for which EPA sought additional information.

Also included in the 1983 308 survey questionnaire were questions designed to obtain additional cost, economic and financial data. (EPA also obtained economic and financial data from a number of public and private sources.)

The technical data collected through the new 308 survey included data on processes, production levels, raw wastewater characteristics and treatment performance from calendar year 1980, which was selected to reflect normal plant operations at near capacity levels. Economic and financial data were collected for calendar year 1982 to reflect then-current market conditions.

In addition to this new survey, EPA also conducted toxic pollutant sampling at 12 additional OCPSF facilities between March of 1983 and May of 1984. Eight plants were sampled between 14 and 20 days each; three plants between 10 and 12 days; and one plant for one day. The analytical protocol used to measure the volatile organic priority pollutants was Method 1624 (purge and trap followed by isotope dilution GC–MS) while Method 1625 (isotope dilution GC–MS) was used to measure semi-volatile organic priority pollutants. (See 40 CFR Part 136 for a description of these methods.) This new sampling program improved the data base for pollutants already covered by the proposal, expanded the coverage of priority pollutants, and provided an additional basis for estimating wastewater treatment system variability. During the program, EPA sampled influents to and effluents from in-plant controls including steam strippers, chemical precipitation units, and an in-plant activated carbon adsorption unit. The end-of-pipe systems influents and effluents sampled included extended aeration and pure oxygen activated sludge systems, a powdered activated carbon (PAC) biological system, polishing ponds, filtration units, and an activated carbon adsorption unit.

D. Engineering Costing Methodology

The development of effluent limitations guidelines includes identifying technologies available for reducing pollutant loadings, quantifying the reduction of pollutants by a technology or group of technologies, and identifying the costs and economic impacts associated with the application of the technologies or groups of technologies. The results of these analyses form the basis for regulatory options.

To derive costs since proposal, EPA has changed its engineering costing methodology in response to comments and as a result of further analyses and evaluations performed by the Agency.

The costs of the proposed regulation were based on estimates of compliance

costs for model plants, referred to as generalized plant configurations ("GPC's"). The GPC's represent typical combinations of product/processes as reported by plants in the OCPSF industry data base. The product/processes used in GPCs were the 147 organic chemicals product/processes and 29 plastic/synthetic fibers product/processes for which the Master Process File contains data.

The Agency received a number of comments as a result of the proposal pointing out inadequate coverage of the industry using the Agency's methodology, and claiming that EPA had underestimated the cost of compliance because of it. In order to respond to these comments, data on industry's experience in the acquisition and operation of certain technologies were required to revise and/or calibrate predictive cost models. This additional information was obtained from the OCPSF industry using the 1983 308 survey data collection effort, discussed earlier. This specific data collection effort was part of the Supplemental Questionnaire which was sent to 84 selected OCPSF manufacturers, and requested detailed cost information regarding capital and operating costs for specific treatment technologies. A total of 67 questionnaires were completed and returned with useful data and information. The remaining 17 plants did not respond or did not provide useful data and information.

The cost data collected was adjusted to 1982 dollars (if reported as other year dollars) using the Engineering News Record (ENR) index. The reported plant cost data were used, where possible, to derive curves for estimating the cost of acquiring and operating the technologies. Where the data were not sufficient to derive the cost curves, the data were used to check the accuracy of cost curves derived from other sources of information such as equipment vendors.

For the final regulation, the Agency has estimated the total costs of the regulation on a plant-by-plant basis using all available data, i.e., by adding together the estimated individual costs for all the plants. Plants which provided partial responses to questionnaires (primarily secondary producers) were costed on a plant-by-plant basis as well as those which provided full responses. However, the Agency estimated loadings for the partial response plants using data submitted by full response plants and data included in the Master Process File in order to generate plant-by-plant estimates of raw waste characteristics for the partial response plants. A summary of the major aspects of the costing methodology follows. A more detailed description of this methodology is contained in Section VIII of the Development Document.

The final engineering costing methodology was used to develop costs on a plant-specific basis for selected BPT options for BOD and TSS, and for in-plant wastewater stream control of priority toxic pollutants for selected BAT and PSES options.

BPT Costing

Plant-specific BPT costs were developed based on a comparison of the individual plant's current (i.e., 1980) BOD and TSS effluent concentrations (as reported by the plants) and the calculated effluent long-term average concentration targets upon which the BOD and TSS limits in the BPT regulation are based. The treatment system technologies that were costed for each plant depended on that comparison (after adjustment for dilution by non-process wastewater flows). If the current discharge concentrations exceeded the calculated target levels, the Agency determined the additional treatment units or operational upgrades that would be needed to achieve the long-term average target concentration levels and calculated the cost of the treatment. For example, some plants were costed for the addition of clarifiers for improved control of solids in existing systems. Where the required upgrades were substantial, EPA costed full scale activated sludge treatment and/or second stage activated sludge.

BAT Costing

BAT technology in the regulation promulgated today is based upon BPT technology plus appropriate in-plant or end-of-pipe physical/chemical treatment for the removal of individual toxic pollutants. The costing approach thus incorporates in-plant treatment costs.

First, EPA estimated each plant's current level of discharge for each toxic pollutant. These estimates were obtained by using data in the Master Process File and 1983 308 Survey (see Section IV–C above) for the product/processes used by the plant.

Based on the toxic pollutants estimated to be present, the appropriate in-plant treatment technology was selected. For plants using end-of-pipe biological treatment, each pollutant discharged to the end-of-pipe biological system had to be above a certain concentration value before in-plant treatment would be costed. Steam stripping was costed for the removal of volatile organic pollutants; activated carbon was costed for other specific organic pollutants; and multi-stage or package biological treatment was costed for the remaining regulated organic pollutants. Chemical precipitation was costed for metals removal, and cyanide destruction via alkaline chlorination was costed to control total cyanide.

For plants with product/process flows less than 500 gallons per day, only contract hauling was costed. Current zero discharge wastestreams such as wastestreams which were reported to be discharged or disposed of currently via contract hauling, deep well disposal, incineration, or land disposal including surface impoundment use were not included in the BAT cost analysis. Costs associated with RCRA requirements for surface impoundments were included in the baseline costs for certain facilities and are discussed below.

NSPS Costing

EPA used its BPT costing methods to cost entirely new treatment systems for new sources based on model flow sizes for each subcategory. BAT technology costs were used to estimate costs for new sources to control priority pollutant discharges.

PSES Costing

PSES toxic pollutant removal cost estimates were obtained using the same procedures as used in the BAT costing.

RCRA Baseline Costs for Relining of Surface Impoundments

The Hazardous and Solid Waste Amendments enacted in November 1984 (Pub. L. 98–616, November 8, 1984) require that each existing surface impoundment be retrofitted by November 8, 1988 so as to be in compliance with the minimum technology requirements established by the Amendments for land-based treatment, storage and disposal of hazardous wastes. Facilities in the OCPSF Industry were reviewed to determine what costs would be incurred as a result of the 1984 amendments.

Utilizing the RCRA *1986 National Screening Survey of Hazardous Waste Treatment, Storage, Disposal, and Recycling Facilities* ("Screening Survey Data Base"), a total of 48 OCPSF facilities were identified as likely to incur costs as a result of the amendments, and were therefore included in the RCRA costing analysis. After evaluation, these costs were included for 41 of these plants in the baseline economic analysis. The plants selected included plants with surface impoundments that are used for treatment or storage. Costs were estimated to retrofit these

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impoundments with double liners and to install groundwater monitoring wells. This is discussed in more detail in Section VIII of the document entitled "Development Document for Effluent Guidelines, New Source Performance Standards and Pretreatment Standards for the Organic Chemicals, Plastics and Synthetic Fibers Point Source Category."

E. Pollutant Loading Estimate Methodology

This section describes the methodology used to calculate pollutant loading estimates and presents a summary of the results of these calculations for the OCPSF regulated process waste streams. A more detailed description of these efforts is contained in Section VIII of the Development Document.

1. Conventional Pollutant Loadings

BOD and TSS loadings (i.e., pounds of pollutants discharged by direct dischargers) were calculated from the data base on a plant-by-plant basis.

Current (1980) BOD and TSS loadings were calculated by multiplying current BOD and TSS concentration values, as reported by the plants, times the plant's process wastewater flow. For plants for which EPA lacked either BOD or TSS current effluent data, effluent concentrations were estimated using the available reported plant effluent data as a basis.

BPT loadings (i.e., the pounds that would be discharged after compliance with BPT) were calculated by multiplying the BOD and TSS long-term average effluent concentration targets times the plant's process wastewater flow. (The methodology for determining long-term average effluent target values is described in Section VI of this notice.) For plants already achieving the long-term average effluent target for BPT, its current concentration values are used to calculate BPT loadings.

The current (1980) in-place treatment BOD and TSS estimated annual discharge loadings are 61.49 and 99.59 million pounds per year, respectively. The BOD and TSS BPT estimated discharge loadings, based on compliance with today's regulation, are 19.76 and 33.32 million pounds per year, respectively.

2. Toxic Pollutant Loadings

The methodology used to estimate OCPSF industry toxic pollutant loadings uses the data from the Master Process File and the 1983 survey data which incorporates NPDES permit application form data where appropriate and other available toxic pollutant analytical data. The methodology has been used to estimate raw (untreated) and current (1980) toxic pollutant loadings, as well as projected BPT and BAT loadings for direct dischargers and PSES loadings for indirect dischargers, on a plant-by-plant basis.

The current (1980) in-place treatment toxic pollutant annual loadings are estimated to be 1.6 million and 22.6 million pounds for direct and indirect dischargers respectively. The toxic pollutant estimated loadings for direct dischargers after compliance with BAT are 0.49 million pounds, and for indirect dischargers after compliance with PSES are 0.08 million pounds.

At the time of proposal, the Agency overestimated the annual discharges of toxic pollutants. Industry comments objected to these overestimates, argued that toxic pollutant discharges by the OCPSF industry are low, and questioned the need to establish BAT limitations on a wide range of toxic pollutants. These commenters suggested that the Agency rely on the NPDES permit application Form 2C toxic pollutant data for determining toxic pollutant loadings. They maintained that available NPDES permit application Form 2C data constitute the most appropriate and extensive data base for predicting the extent (frequency) of occurrence of priority pollutants in the OCPSF industry. They argued that the Form 2C data submitted by trade association member companies indicate that only a few priority pollutants are detected in treated discharges and concluded that existing treatment systems, installed principally for the control of conventional pollutants, do an excellent job of controlling priority pollutant discharges.

The Agency disagrees with these comments and, for the reasons discussed below, has concluded that although the industry's loadings are lower than estimated at proposal, many OCPSF plants currently discharge significant amounts of toxic pollutants. Thus regulation beyond BPT is warranted.

Since the OCPSF regulations apply to process wastewater only (nonprocess wastewater is regulated by permit writers on a case-by-case basis), the Agency determined the relative contributions of process and nonprocess wastewater at the effluent sample sites using data from the 1983 308 Survey. These data were used to calculate plant-by-plant "dilution factors" for use in adjusting or assessing analytical data at effluent sampling locations. This information was used to determine if reported Section 308 and Form 2C final effluent concentration data could be used to adequately characterize actual process wastewater pollutant concentrations. For example, if a pollutant was reported as 30 ppb at the final effluent sampling location with 1 MGD of process wastewater flow and 9 MGD of noncontaminated nonprocess cooling water flow, then the concentration of the pollutant in the process wastewater was actually 300 ppb. Similarly, if the same plant reported that another pollutant was not detected at the same sampling location and the analytical method threshold level or minimum "detection" level was 10 ppb, then the other pollutant concentration in the process wastewater could be as high as 90 ppb without being detected in the diluted final effluent.

One hundred six plants reported Form 2C toxic pollutant data in the 1983 Section 308 Questionnaire. Of these, 70 plants diluted the process wastewater before the Form 2C effluent sampling point. The following table relates the number of plants with Form 2C data to the range of dilution at the effluent sampling point.

TABLE 1—RANGE OF DILUTION FOR PLANTS WITH FORM 2C DATA

Range of dilution in percent	Number of plants with Form 2C data (percent)
0	36(34)
>0 to 25	20(19)
>25 to 100	23(19)
>100 to 500	17(16)
>500 to 6054	13(12)
Total	106(100)

The Agency was able to identify 13 facilities that reported measured toxic pollutant concentrations of treated process wastewater both before and after dilution with nonprocess wastewater. In general, analyzing the diluted effluents yields underestimated or undetected values for organic toxic pollutants that were measured in the undiluted process wastewater. However, this was not generally the case for cyanide and toxic pollutant metals such as cadmium, chromium, and lead. These compounds are commonly found in cooling water additives that may be utilized to inhibit biological growth or the formation of rust and scale in cooling equipment. The presence of a portion of these metals and cyanide in the diluted effluent seems in many cases to be caused by their presence in nonprocess cooling water. Therefore, the assumption that the nonprocess dilution wastewater is relatively free of toxic pollutants appears true for the organic toxic pollutants but is not necessarily true for cyanide and the toxic metal parameters. Thus, the use of unqualified Form 2C data does not provide an adequate assessment of process wastewater toxic pollutant constituents and concentrations. Using Form 2C data tends to underestimate organic toxic pollutant loadings in process wastewater and may actually overestimate metal toxic pollutant loadings in process wastewater.

V. Summary of the Most Significant Changes From Proposal and Notices

This section describes several of the most significant changes from proposal and subsequent notices to the final rule. Other areas of change and issues are discussed in Sections VI, VIII and X of this preamble, the Development Document, the Economic Impact Analysis, and the record for this rule.

A. BPT

On March 21, 1983, EPA proposed BPT limitations for BOD, TSS and pH for four subcategories of the OCPSF industry (48 FR 11828). These were subcategory 1—Plastics only, subcategory 2—oxidation, subcategory 3—type 1 (which included specified processes other than oxidation), and subcategory 4—other discharges. These subcategories were developed following an analysis of manufacturing processes in use by the OCPSF industry and the BOD loadings associated with them.

Subcategory 1 included discharges resulting from the manufacture of plastics and synthetic fibers only. Subcategory 2 included discharges from the manufacture of organic chemicals only or both organic chemicals and plastics and synthetic fibers that included wastewater from the oxidation process only. This subcategory was further divided into two groups based on flow: A high-water usage group (greater than or equal to 0.2 gallon per pound of total daily production) and a low-water usage group (less than 0.2 gallon per pound of total daily production). Subcategory 3 included discharges resulting from the manufacture of either organic chemicals only or both organic chemicals and plastics and synthetic fibers that included wastewater from Type I chemical processes but not from the oxidation process. Type I processes were listed as peroxidation, acid cleavage, condensation, isomerization, esterification, hydro-acetylation, hydration, alkoxylation, hydrolysis, carbonylation, hydrogenation, and neutralization. Subcategory 4 included all OCPSF discharges not included in subcategories 1–3. Different BOD and TSS daily maximum and maximum monthly average BPT limitations were proposed for each of the subcategories.

Commenters claimed that the proposed subcategorization scheme was unworkable and that it arbitrarily grouped chemical processes into non-homogeneous groups with respect to effluent treatability. They also complained that, under the proposed scheme, minor changes in production or product mix could cause the applicable discharge subcategory to change. Numerous specific comments questioned whether specific product/processes were properly placed within the subcategorization scheme.

Following a review of the comments and analysis of additional BOD and TSS loading and production data, the Agency developed and solicited comment on a new BPT subcategorization scheme consisting of eight product-based subcategories (50 FR 29068; July 17, 1985). In this scheme, plants were classified according to the proportion of their total production volume associated with particular classes of OCPSF products. The eight production-class subcategories and the plant production characteristics associated with them are as follows: (1) Rayon fibers—plants in which rayon fibers production by the viscose-rayon process constitute at least 95 percent of total OCPSF production. (2) Other man-made fibers—plants in which other man-made fiber and organic chemical production constitute at least 95 percent of total OCPSF production. (3) Thermosets—plants in which thermosetting resins constitute at least 95 percent of total OCPSF production and plants in which thermosetting resins plus organic chemicals constitute at least 95 percent of total OCPSF production. (4) Thermoplastics—plants in which thermoplastic materials constitute at least 95 percent of total OCPSF production. (5) Thermoplastics and Organics—plants in which thermoplastic materials and organic chemicals constitute at least 95 percent of total OCPSF production. (6) Commodity Organics—plants in which organic commodity chemicals (those produced nationally at a level exceeding one billion pounds per year) constitute at least 75 percent of organic chemical production and in which plastics production is less than 5 percent of total OCPSF production. (7) Bulk Organics—plants whose production was not classified as either commodity or specialty organics (those produced at a level below 40 million pounds per year) but is at least 95 percent organics, and (8) Specialty Organics—plants in which specialty organic chemical products constitute at least 75 percent of total organic chemical production and in which plastics production is less than 5 percent of total OCPSF production.

This scheme was intended to address the issues raised by commenters on the first proposed subcategorization scheme, and was also based primarily on production characteristics.

Industry commenters argued, however, that even given the revisions in the July 17, 1985 subcategorization scheme, a one or two percent difference in relative production could still place similar plants in different subcategories with significantly different limitations. In addition, it was asserted that some plants could not be placed in any of the subcategories and that there was no mechanism presented to develop limitations for these plants. Industry commenters also commented that the analysis of BOD concentration values ignored the effects of different water use practices and various water conservation efforts by OCPSF plants.

In order to respond to the issues raised concerning the BPT subcategorization, the Agency has modified its July 17, 1985 scheme as follows: The fundamental product-based subcategory classification framework is generally retained with the exception that one subcategory, thermoplastics and organics, is dropped as it is simply a combination of two distinct subcategories under the new scheme. This approach was noticed in the December 8, 1986 notice of availability (51 FR 44082) and is discussed in more detail in section VI of this notice. In the final regulation, BPT limitations for facilities are not based on their assignment to a single subcategory defined in terms of the predominant production at the facility. Instead, limitations for a particular facility are determined explicitly by the proportion of subcategory production at the plant.

This approach parallels the way EPA generally implements its effluent limitations and standards in the sense that it uses proportions of types of activities (categories, subcategories, or process operations) generating wastewaters in what is essentially a building block approach to establish limits for plants with multiple activities, or in this case subcategory processes. The seven product-based subcategories provided for in today's regulation generally cover the following types of products and SIC codes:

(1) Rayon Fiber (Viscose process only).

(2) Other Fibers (SIC 2823, except rayon, and 2824).

(3) Thermoplastics (SIC 28213).

(4) Thermosets (SIC 28214).

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(5) Commodity Organics—organic chemical products produced nationally in amounts greater than or equal to one billion pounds per year (generally SIC 2865 and 2869).

(6) Bulk Organics—organic chemical products produced nationally in amounts less than 1 billion but more than 40 million pounds per year (generally SIC 2865 and 2869).

(7) Specialty Organics—organic chemical products produced nationally in amounts less than or equal to 40 million pounds per year (generally SIC 2865 and 2869).

B. BAT

The Agency proposed in 1983 to establish BAT limits for two subcategories. The "Plastics Only" subcategory consisted of plants that manufacture plastics and synthetic fibers only. Plants in this subcategory tend to discharge significant levels of fewer priority pollutants than plants included in the "Not Plastics-Only" subcategory, all of which result from the manufacture of at least some organic chemicals. The proposed limits thus controlled relatively few priority pollutants in the "Plastics Only" subcategory, and many were proposed to be controlled in the "Not Plastics-Only" subcategory.

The Agency modified its proposed approach in its July 17, 1985 notice of availability (50 FR 29068). The revised approach was to not subcategorize the OCPSF category by product mix for BAT. Since OCPSF plants can economically achieve compliance with the BAT limitations for toxic priority pollutants through some combination of in-plant or end-of-pipe demonstrated technology irrespective of products produced, the BPT product mix subcategorization is not a necessary basis for establishing BAT limitations. In addition, EPA analyzed the costs for compliance and their associated impacts and believes that product mix subcategories do not appear to be necessary for an effective, equitable BAT regulation. EPA recognizes that this requires all direct discharger NPDES permits to limit and to monitor all regulated pollutants, which, if done on a routine and frequent basis, could require large expenditures. Therefore, the Agency intends to provide guidance to permit writers which will instruct them on how to determine which pollutants may only need to be monitored for on a minimum basis, which must be no less frequently than once per year. (Monitoring is discussed further in response to Comment Number 4 in Section X of this preamble.)

The proposed basis in 1983 for BAT limits was in-plant physical/chemical technology and biological treatment for plants that have or need biological treatment and in-plant physical/chemical technology for non-biological treatment plants. After the publication of the proposed regulation on March 21, 1983 (48 FR 11828) the Agency conducted sampling at 12 additional OCPSF plants in order to collect additional data that would characterize the effectiveness of in-plant treatment technologies. This led to the proposal of revised technology bases for BAT published in the notice of availability of July 17, 1985 (50 FR 29068).

At that time, EPA discussed three technology options being considered for controlling toxic priority pollutants at BAT. Option I consisted of biological treatment only. Option II added in-plant control technologies to Option I treatment. These in-plant technologies included steam stripping to remove volatile and semi-volatile (based on analytical methods GC/MS fractions) priority pollutants, activated carbon for various base/neutral priority pollutants, chemical precipitation for metals and alkaline chlorination for cyanide, and possibly in-plant biological treatment for removal of polynuclear aromatic (PNA) priority pollutants. Option III added activated carbon to Option II technology as a final polish to the end-of-pipe biological treatment system.

The technology option selected as a basis for this rule (and discussed in Section VI of this preamble) is in-plant physical/chemical and biological treatment with BPT end-of-pipe treatment. For plants without end-of-pipe biological treatment, a separate set of limitations are provided. In addition, separate zinc limitations are provided for rayon fiber production by the viscose process and acrylic fiber production by the zinc chloride solvent process.

C. PSES

The determination of pollutants for regulation at PSES relies on an analysis of whether pollutants pass through, interfere with, or are otherwise incompatible with POTWs. The Agency has traditionally determined passthrough by comparing the percentage of a pollutant removed by the selected BAT treatment system to the percentage removed by POTW's with good secondary treatment. However, the Agency proposed in 1983 to modify this approach slightly and determine pass through only if the BAT percent removal exceeded the POTW percent removal by at least five percent. The rationale given at the time was that a difference of less than five percent may not reflect real differences in treatment efficiency. Rather, EPA said, they may reflect analytical variability at the concentrations typically found in end-of-pipe biological systems at POTWs and OCPSF plants. In its notice of availability published on July 17, 1985 (50 FR 29068), the Agency announced that it would consider using a percent differential as great as ten percent.

At the same time EPA announced that it was considering regulating some volatile and semivolatile organic toxic pollutants on two additional bases. One was interference based upon potential safety hazards to workers due to volatilization of pollutants in POTWs' headworks. The other was pass through based on the belief that pollutants pass through POTWs by volatilizing in substantial part to the atmosphere from the primary and secondary stages of the biological treatment systems employed by POTWs.

After considering comments and evaluating the different approaches, the Agency announced that it no longer intended to use percent removal differentials but instead intended to compare actual POTW percent removals to actual BAT treatment system percent removal to determine pass-through (December 8, 1986, 51 FR 44082). However, the Agency stated that it would consider conducting the comparison by comparing only POTW and BAT removal efficiencies for comparable influent concentration ranges.

The approach used in selecting pollutants for regulation in the PSES issued today determines pass through by comparing BAT and POTW removals directly (i.e., no percent removal differential is used). However, as will be discussed in greater detail in Section VI, the final data base used to develop these respective removals was modified to assure consistency with the industrial data base used to establish limitations. This was done by using average plant influent and effluent values and, to the extent possible, by using plant removal data only where influent concentrations were equal to or greater than ten times the analytical threshold level (generally ten times 10 ppb, or 100 ppb). In addition, EPA is establishing PSES for three pollutants whose removal by POTWs is accomplished in part by volatilization.

VI. Basis for the Final Regulation

A. BPT

1. BPT Subcategorization and Method for Deriving Limitations

The Agency is designating seven subcategory classifications for the OCPSF category to be used for the purpose of establishing BPT limitations.

In this final subcategorization scheme, facilities are not assigned to a single subcategory based on the predominant production at the facility. While some plants may have production which falls entirely within one of the seven subcategory classifications, most plants have production which is divided among two or more subcategories. To analyze treatment effectiveness for each of the individual subcategories, EPA needed to develop a method for assessing and using the treatability data from the many OCPSF plants whose influents and effluents are comprised of wastewater from two or more subcategory operations. The method EPA used is based on a regression equation that accounts for the pollutant discharges from such multiple subcategory plants in an explicit and straight-forward manner. For setting the limits in the final regulation, the regression equation is used to model long-term average effluent BOD as a function of the proportion of the production of each subcategory at each facility. The coefficients of this equation are estimated from actual plant data using standard statistical regression methods. The equation has a coefficient that corresponds to each of the subcategory classifications listed above. The BPT subcategory long-term average effluent values are determined for each subcategory using the appropriate coefficient.

BPT limitations for each subcategory are based on a combination of long-term average effluent values and variability factors that account for variation in treatment performance about the long term averages. The long term averages are values that a plant should target the design of its treatment system to achieve on an average basis. The variability factors are values that represent the ratio of a large value that would be expected to occur only rarely (on a daily or monthly basis) to the long term average. The purpose of the variability factor is to allow for variation in effluent concentrations about the long-term average. A facility that designs and operates its treatment facility to achieve the long-term average on a consistent basis should be able to comply with the daily and monthly limitations in the course of normal operations.

The BPT long-term average effluent values were developed from a data base comprised of selected plant average values reported to the Agency in the 1983 survey discussed previously. (The basis for selection is presented in A.2, below.) In this survey, plants were to report average annual influent and effluent BOD and TSS along with technical information concerning treatment operation, process flows and subcategory production classifications.

The variability factors were developed from a data base comprised of individual daily measurements on treated effluent BOD and TSS from 21 and 20 of these OCPSF plants, respectively. Daily measurement data are required to determine variability factors and were obtained from plants as part of the 1983 survey supplemental questionnaire and from prior data submittals. In the history of the development of effluent guidelines regulations, it has usually been the case that variability factors are determined from data bases comprised of different sets of plants and, usually, smaller numbers of plants, in comparison to data sets consisting of plant annual averages. This is due to the fact that many plants do not monitor frequently enough for use of their data in analyzing day to day variability or do not have monitoring records for the period being studied (1980, in the case of the OCPSF BPT study), since some plants do not maintain the records of daily values used to report monthly averages for greater than three years. Individual daily pollutant measurements are therefore more difficult to obtain. However, plants in the OCPSF annual average and daily data bases cover the full range of subcategory classifications covered by this regulation.

For the July 17, 1985 Notice, the 1983 survey annual average data were used to determine the effluent BOD and TSS long-term averages for the subcategories presented. Limitations were determined by multiplying the long-term averages for each subcategory by the variability factors determined from the daily measurement data base. In response to comments on the 1985 notice, the Agency proposed a revised approach based on a regression analysis of the 1983 survey annual average data. The basis of the revised approach, presented in the December 8, 1986 Notice, was a mathematical equation that models long-term average effluent BOD as a function of the subcategory characteristics and includes a term that attempted to account for plant OCPSF process wastewater flow. For purposes of the 1986 notice, variability factors were based on a daily measurement data base consisting of data from 23 plants which were unchanged from the 1985 notice. The Agency has retained the regression equation framework to calculate the long-term average subcategory bases for BPT limitations in the final regulation. Comments on the 1986 notice, however, prompted the Agency to reconsider the flow adjustment term. On reanalysis, EPA concluded that inclusion of the flow term was not appropriate and that there was no technical basis in the record to conclude that achievable long-term mean effluent concentrations were significantly affected by water use practices in the industry.

The final variability factors used in conjunction with the long-term means to calculate the limitations are based on the same daily measurement data base as in the previous notices, with the exception that two plants' data previously included have been excluded because measured performance included effects of polishing ponds at these plants and one plant was excluded because it had an average effluent TSS greater than 100 mg/1. Thus, the final variability factors are derived from data obtained from 21 plants for BOD and 20 plants for TSS.

In applying the limitations set forth in the regulation, the permit writer will use what is essentially a building-block approach that takes into consideration applicable subcategory characteristics and the proportion of production quantities within each subcategory at the plant. Production characteristics are reflected explicitly in the plant's limitations through the use of this approach.

2. Data Selection Criteria

The Agency has received two diametrically opposed sets of comments on the proposed data editing criteria used to develop BPT limitations. EPA proposed to select plants for analysis in developing limitations only if the plants achieve at least a 95 percent removal efficiency for BOD or a long term average effluent BOD concentration below 50 mg/1. On one hand, many industry commenters argued that these criteria were too stringent; were based upon data collected after 1977 from plants that had already achieved compliance with BPT permits and thus raised the standard of performance above what it would have been had the regulation been promulgated in a timely manner; and had the effect of excluding from the BPT data base some well-

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designed, well-operated plants. An environmental interest group argued, in contrast, that the criteria were not stringent enough, in that they resulted in the inclusion of the majority of plants in the data base used to develop effluent limitations.

The data collected by EPA for the BPT regulation are indeed, as industry commenters have noted, based largely on post-1977 data. EPA had originally collected data in the early and mid-1970's which reflected OCPSF pollutant control practices at that time. As a result of industry challenges to EPA's ensuing promulgation of BPT (and other) limitations for the OCPSF industry, EPA began a new regulatory development program, which included a new series of data gathering efforts (see Section IV of this preamble). Industry commenters are correct in noting that the data are thus taken to a large extent from OCPSF plants that had already been issued BPT permits that required compliance by July 1977 with BPT limitations established by the permit writers on a case-by-case basis. It is thus fair to conclude that the performance of at least some of these plants was better when EPA collected the data for the new rulemaking effort than it had been in the mid-1970s when the original BPT regulations were promulgated.

EPA does not believe that the use of post-1977 data is improper. First, the Clean Water Act provides for the periodic revision of BPT regulations when appropriate. Thus it is within EPA's authority to write BPT regulations after 1977 and to base them on the best information available at the time. Moreover, it is not unfair to the industry. The final BPT regulations are based on the same technology that was used to effectively control BOD and TSS in the 1970s—biological treatment preceded by appropriate process controls and in-plant treatment to assure effective, consistent control in the biological system, and followed by secondary clarification as necessary to assure adequate control of solids. The resulting effluent limitations are not necessarily more (or less) stringent than they would have been if based on pre-1977 data. Many of the plants that satisfy the final data editing criteria discussed below, and thus are included in the BPT data base, would not have satisfied those criteria in the mid-1970s. The improved performance wrought by the issuance of and compliance with BPT permits in the 1970's has resulted in EPA's ability in 1987 to use data from a large number of plants to develop the BPT limitations. Approximately 72 percent of the plants for which data were obtained pass the final BOD editing criteria (95 percent/40 mg/l for biological only treatment); the editing criteria have excluded other plants that, despite having BPT-type technology in-place, were determined not to meet the performance criteria used to establish the data base for support of BPT limitations. EPA concludes that the use of post-1977 data has resulted in a good quality but not unrealistic BPT data base.

EPA has modified the BOD editing criteria to make them slightly more stringent. However, it must be noted that EPA does not consider the selection of editing criteria to be a strict numerical exercise based upon exclusion of data greater than a median or any other such measure. EPA specifically disagrees with the comment that data reflecting BPT performance must necessarily comprise performance levels better than a median. The criteria represent in numerical terms what is essentially an exercise of the Agency's judgment, informed in part by industry data, as to the general range of performance that should be attained by the range of diverse OCPSF plants operating well-designed biological systems properly. The numerical analyses discussed below should thus be regarded as an analytical tool that assisted EPA in exercising its judgment.

The data to which the criteria have been applied reflect the performance of plants that have been issued BPT permits requiring compliance with BPT permit limits. It is not unreasonable to expect, therefore, that the class of facilities identified as the "best" performers in the industry is considerably larger than it would have been had the data been collected in the mid-1970's. This result is consistent with the purpose and intent of the NPDES program: To require those plants performing below the level of the best performers to improve their performance to the point of being on a par with the best performers. Moreover, it should be noted that while the majority of OCPSF plants pass the initial screening criteria, a majority of OCPSF plants (approximately 70 percent) will nonetheless need to upgrade their treatment systems' performance to comply with the BPT effluent limitations guidelines, based upon the reported effluent data (for 1980), and the long-term average targets for BOD and TSS. The fact that a majority of plants will need to upgrade years after they received their initial BPT permits indicates that the result of the adoption of the data base used to develop the limitations is appropriately judged the best practicable treatment.

The editing criteria were applied to the 1983 "308 survey" data, comprised of annual average BOD and TSS data from plants in the OCPSF industry. The purpose of the editing criteria was to establish a minimum level of treatment performance acceptable for admission of a plant's data into the data base that would be used to determine BPT limitations. First, only data from plants with suitable treatment (i.e., biological treatment) were considered for inclusion in the data base. For these plants, the use of both a percent removal criterion and an average effluent concentration criterion for BOD is appropriate since well operated treatment can achieve either substantial removals or low effluent levels or both. In addition, use of only a percent removal criterion would exclude data from plants that submitted useable data but did not report influent data. The use of an effluent level criterion allowed the use of data from such plants in developing limitations.

Following review of the data base, EPA continues to believe that 95 percent BOD removal is an appropriate editing criterion. Well over half the plants in the 308 survey that reported both influent and effluent BOD achieve better than 95 percent removal. The median removal for these plants is 95.8 percent, which reflects good removal from an engineering point of view.

The Agency also continues to believe that achievement of a specified long-term average effluent BOD concentration is also an acceptable standard of performance to qualify a plant's data for inclusion in the data base for BPT limits. In order to establish a concentration value, i.e., a data selection criterion for the final regulation and respond to various comments, the Agency re-examined the 1983 308 survey data. There are data from a total of 99 direct discharging plants with end-of-pipe biological treatment only (the selected BPT technology, as discussed below) that reported average effluent BOD and a full range of information regarding production at the plant. All of these data were used in the evaluation of the BOD data selection criterion, even in cases of plants that did not report influent values and for which removal efficiencies could therefore not be estimated. The median BOD average effluent for these 99 plants is 29 mg/l. There is no engineering or statistical theory that would support the use of the median effluent concentration as a data selection criterion for developing a regulatory data base. In fact, there are many plants that, in the Agency's best judgment, achieve

excellent treatment and have average effluent values greater than the overall median of 29 mg/l. There are many reasonable explanations for differences in average effluent levels at well operated plants. Differences in plants' BPT permit limitations, coupled with individual plant waste management practices and wastewater treatment system design and operation practices, and the types of products and processes at each plant, contribute to differences in average effluent levels achieved.

To obtain insight into differences in BOD values among different subcategories, the data were divided into subsets two different ways based on subcategory production at each plant. The results of this analysis are summarized in Tables 2A and 2B. The data were assigned by plant in one case into three groupings and in the other into five groupings, and in each case the medians of the average BOD effluent values in each grouping were determined. In the first case plants were assigned as plastics, organics, or mixed and in the second, as fibers/rayon, thermoplastics, thermosets, organics or mixed. All plants considered in the analysis had biological treatment only in place. The assignment of a plant to a group was determined by the predominant production at the plant, that is, whether a plant had 95 percent or more of its production in the group. For instance, if a plant has 95 percent or more plastics production, it was placed in the plastics group. Those plants not containing 95 percent or more of a group production were classified as mixed.

TABLE 2A—MEDIANS FOR THREE GROUPINGS

Groupings	Number of plant averages	Median of plant average effluent BOD (mg/l)
Plastics	30	20.5
Organics	42	42.5
Mixed (all remaining plants)	27	35
All plants	99	29

TABLE 2B—MEDIANS FOR FIVE GROUPINGS

Groupings	Number of plant averages	Median of plant average effluent BOD (mg/l)
Rayon/Fibers	7	14
Thermoplastics	17	18
Thermosets	8	32
Organics	42	42.5
Mixed (all remaining plants)	30	35.5
All plants	99	29

The largest median average effluent BOD for a grouping in both cases is 42.5 mg/l, which suggests that the proposed 50 mg/l data selection criterion is high.

In the absence of a theoretical engineering or statistical solution which would determine what value should be used in a regulatory context, the Agency examined some reasonable alternatives suggested by the results displayed in Tables 2A and 2B. The Agency considered using different editing criteria for different product groups, such as those listed in Table 2B, but decided to use a single criterion to define the final data base.

An important reason for using a single editing criterion for all subcategories is that this facilitates setting an editing criterion for the group of plants that do not fall primarily into a single subcategory. These mixed plants comprise a significant segment of the industry, and it is important that the data base for the regulations include data from this segment. Editing criteria that are subcategory specific cannot be applied to mixed plants. We did, however, examine BOD levels by the groupings used in Tables 2A and 2B to gain insight into what uniform editing criterion would be appropriate.

For the groupings exhibiting relatively high BOD levels, organics and mixed plants, EPA determined that a 40 mg/l BOD edit would be appropriate. This value is between the median for these two groupings. Given the fact that plants with substantial organics production tend to have fairly high influent BOD levels or complex, relatively difficult-to-biodegrade wastewaters, EPA believes that a more stringent edit would not be appropriate for these two groupings. However, EPA believes that a less stringent edit would be inappropriate, since many plants in these groupings meet the 40 mg/l criterion.

The other groupings have median values below 40 mg/l, and EPA examined them closely to determine whether they should be subject to more stringent editing criteria than the organics and mixed groupings. EPA concluded that they should not for the reasons discussed below.

The thermosets groupings contains three plants, whose average effluent BOD levels are approximately 15, 32, and 34 mg/l, respectively. EPA believes all three should be retained in the data base. This is particularly important because a major source of wastewater at the plant with the lowest value is melamine resin production; several other types of resins fall under the thermoset classification. Thus, including all three plants' data provides improved coverage of thermoset operations in the data base. An editing criterion of 30 mg/l arbitrarily excludes data from the two plants whose performance slightly exceeds 30 mg/l and would result in melamine resin production being the predominant thermoset production represented in the data base.

The average BOD effluent values for rayon/fibers and thermoplastics are lower than the average values for thermosets, organics and mixes. The Agency evaluated the effects on long-term average effluent values for these groups by uniformly editing the data base at 30, 35, 40 and 50 mg/l, using the BPT regression approach to calculate each of the subcategory long-term average values. The long-term averages for rayon/fibers and thermoplastics are relatively insensitive to the use of the 30, 35, 40 and 50 mg/l edited data bases. That is, the long-term averages are roughly the same regardless of which of these editing criteria is used.

After considering the effect of the various editing criteria on the different groupings discussed above, EPA has concluded that a 40 mg/l editing criterion for BOD is most appropriate. Moreover, in defining BPT level performance, this criterion results in a data base that provides adequate coverage of the industry.

Thus, data from plants with suitable treatment will be included in the data base for BOD if the plant achieves 95 percent BOD removal or a 40 mg/l long-term average. As a result of these criteria, BOD data from 71 plants are retained in the analysis.

As discussed previously, the Agency also saw a need to edit the data base for TSS performance. The Agency is using two editing criteria for selecting TSS data, both of which must be met. The first criterion is that data must be from a plant that meets one of the BOD editing criteria, i.e., achieves either 95 percent removal of BOD or 40 mg/l. The second is that the average effluent TSS must be 100 mg/l or less. As a result of this edit, TSS data from 61 plants are retained for analysis.

In a well-designed, well-operated biological treatment system, achievable effluent TSS concentration levels are related to achievable effluent BOD levels and, in fact, often are approximately proportional to BOD. This is reflected in the OCPSF data base for those plants that meet the BOD performance editing criteria (provided that they also exhibit proper clarifier performance, as discussed below). By using TSS data only from plants that have good BOD treatment, the Agency is thus establishing an effective initial editing for TSS removal by the biological system. However, as BOD is

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treated through biological treatment, additional TSS may be generated in the form of biological solids. Thus, some plants may need to add post-biological, secondary clarifiers to assure that such biological solids are appropriately treated.

Thus, while the 95/40 BOD editing insures good BOD treatment and a basic level of TSS removal, plants meeting this BOD editing level will not necessarily meet a TSS level suitable for inclusion in the data base used to set TSS limitations. To insure that the TSS data base for setting limitations reflects proper control, EPA proposed in the December 8, 1986 Notice to include only data reflecting a long-term average TSS concentration of less than or equal to 100 mg/l.

The December 1986 Notice requested comment on the use of the 100 mg/l TSS editing criterion and, as an alternative, use of 55 mg/l as the editing criterion for TSS along with setting the TSS limitations based upon the relationship between BOD and TSS. Some commenters criticized both 100 mg/l and 55 mg/l as overly stringent and asserted that such additional TSS editing was unnecessary since the BOD editing was sufficient to assure that TSS was adequately controlled. These comments, while agreeing that there was a relationship between BOD and TSS, also recommended a slightly different methodological approach for analyzing the BOD/TSS relationship.

The Agency disagrees with the commenters who argued in effect that all TSS data from plants that meet the BOD criteria be included in the data base for setting TSS limitations. The Agency has examined the data and has concluded that an additional TSS edit is required at a level of 100 mg/l. Support for this is evident in the reasonably consistent BOD and TSS relationship for plants in the data set that results from the 95/40 BOD edit that have TSS values of 100 mg/l or less. For plants that have TSS values above 100 mg/l, there is a marked change in the pattern of the BOD/TSS relationship. Below 100 mg/l TSS, the pattern in the BOD/TSS data is characterized by a homoscedastic or reasonably constant dispersion pattern along the range of the data. Above the 100 mg/l TSS value, there is a marked spread in the dispersion pattern of the BOD/TSS data. The Agency believes that this change in dispersion (referred to as heteroscedastic) reflects insufficient control of TSS in some of the treatment systems. The Agency has concluded that the 100 mg/l TSS editing criterion provides a reasonable measure of the additional control on TSS required in good biological treatment systems that have met one of the BOD editing criteria.

The Agency considered the more stringent TSS editing criterion of 60 mg/l, rather than 100 mg/l. The Agency's analysis demonstrated that this is not appropriate. Most fundamentally, this criterion would result in the exclusion of plants that EPA believes are well-designed and well-operated plants. Moreover, the relationship between BOD and TSS is well defined for plants with TSS less than 100 mg/l and BOD meeting the 95/40 criteria.

The Agency gave serious consideration to the statistical method recommended by a commenter for the analysis of the BOD/TSS relationship. The commenter recommended a linear regression relationship between the untransformed (not converted to logarithms) BOD and TSS data. The Agency has retained the use of a linear regression relationship between the natural logarithms of the BOD and TSS data. The logarithmic approach is similar to that recommended by the commenter but resulted in a somewhat better fit to the data.

The Agency also considered in response to comments an editing criterion based on secondary clarifier design criteria, i.e., clarifier overflow rates and solids loadings rates. While the Agency agrees that using these design criteria, if available, may have provided an appropriate editing criterion, very little data were supplied by industry in response to the Agency's request for data regarding these design criteria or are otherwise contained in the record.

3. Technology Selection

The Agency developed three technology options for consideration in developing BPT limitations. Option I consists of biological treatment, which usually involves either activated sludge or aerated lagoons, followed by clarification (and preceded by appropriate process controls and in-plant treatment to assure that the biological system may be operated optimally). Many direct discharge facilities in the OCPSF industry have installed this kind of treatment.

Option II consists of Option I technology with the addition of a polishing pond to follow biological treatment.

Option III includes multimedia filtration as an alternative technology (in lieu of Option II ponds) to achieve TSS control beyond Option I biological treatment.

EPA has selected Option I, biological treatment with clarification, as the technology basis for BPT limitations controlling BOD and TSS for the OCPSF industry. (This option has previously been referred to simply as "biological treatment." However, a properly designed biological treatment system includes "secondary clarification", which usually consists of a clarifier following the biological treatment step. EPA's costing methodology for BPT Option I includes the installation of secondary clarifiers for plants needing significantly improved TSS control.)

There were 70 plants identified in the OCPSF 1983 Section 308 survey that rely exclusively upon end-of-pipe physical/chemical treatment. Forty-one of these plants reported effluent BOD and 45 plants reported effluent TSS values. Some of these plants have such low levels of BOD that they will only have to upgrade their treatment to meet the TSS limits. Some of the other plants which reported BOD values were achieving low concentrations by dilution with nonprocess waters; for these plants the BOD concentrations were adjusted to take into account this dilution. Based upon this evaluation, plants which did not meet the long-term average target for BOD (approximately 71 percent of these plants) were determined (for costing) either to have sufficient BOD in their OCPSF process wastewaters to support biological treatment or to have flows small enough (less than 500 gallons per day) to be contract hauled. In addition, costs were included for these plants to upgrade treatment of TSS where necessary as part of installing biological treatment and clarification, to provide chemically assisted clarification, for algae control at existing ponds, or for contract hauling. The cost of compliance with the TSS limitations for plants without biological treatment are based upon the performance of clarifiers, using the data from biological treatment plants' secondary clarifier performance.

Option I technology is in place at 156 of 304 direct discharging plants in the OCPSF industry data base. Seventy-one of those plants are included in the Option I data base used to develop the BPT limitations for BOD, since their treatment passes the 95/40 BOD editing criteria; and 61 of the 71 plants are included in the data base to develop TSS limitations since their effluent TSS long-term average is less than 100 mg/l. Twenty-three of these facilities have reported actual long-term averages less than or equal to their respective Option I, subcategory-proportioned (based on

1980 production) long-term average concentration levels.

The Agency estimates that BPT Option I would cost the OCPSF direct discharge plants $215.8 million in capital investment and $76.6 million annually and remove 41.7 million lb/yr of BOD and 66.3 million lb/yr of TSS in addition to current removals. EPA has concluded that the costs of compliance with BPT are justified by the pounds of pollutants that will be removed by such compliance.

EPA has rejected Options II and III because they are not clearly demonstrated to enhance the treatment of OCPSF discharges beyond the levels achieved by the Option I requirements and because they do not currently appear to be used by a representative portion of the industry.

Theoretically, a polishing pond should accomplish additional removal of TSS and perhaps some removal of insoluble BOD. However, as discussed below, the data available to the Agency do not clearly demonstrate the effectiveness of polishing ponds following effective biological treatment with clarification. The Agency identified 18 plants that reported using polishing ponds and also met the earlier editing criteria for BOD of 95 percent removal or 50 mg/l or less and TSS of 100 mg/l or less. (All but one of the 18 also meet the final editing criteria of 95 percent removal or 40 mg/l for BOD and meeting BOD criteria plus 100 mg/l for TSS.) For reasons discussed below, EPA does not believe that the data support any firm estimate of incremental pollutant removals and incremental costs for Option II.

EPA notes first that only 17 plants in the industry have polishing ponds and meet the 95/40 BOD editing criteria. Even if ponds were demonstrated to be an effective treatment option for this industry, which they are not, the data base for BPT Option II limitations would necessarily be very small relative to the large number of BPT subcategories, and therefore, would provide far less coverage of subcategories in the industry than the Option I data base.

In examining the data from the 18 plants originally placed in the Option II data base (using the 95/50 criteria), EPA noted that they yielded concentrations that were not much lower than Option I concentrations. Option II plants averaged only 2 mg/l BOD and 8 mg/l TSS lower than Option I plants. Because these increments seemed rather small, EPA performed a statistical analysis to compare the averages for the two data bases. The results of the analysis did not provide evidence of a significant difference between the two data sets. These results led EPA to question the validity of the Option II data as an expression of a true incremental control option and to reexamine the sources of the data.

In the July 17, 1985 notice, EPA discussed its belief that plants using polishing ponds in the OCPSF industry have done so not to add another treatment step after effective Option I-level biological treatment but rather to improve upon substandard biological treatment. As noted above, the Option II data base showed little incremental removal over Option I. Subsequent to the December 8, 1986 Notice, EPA reexamined all available engineering information on plants with polishing ponds, including treatment plant schematics provided by these facilities in response to 308 questionnaires. This examination revealed that seven of the 18 original Option II facilities are using their polishing ponds as secondary clarifiers (i.e., in lieu of effective secondary clarification typically included in an Option I biological system), another six facilities use their ponds to control or equalize unusual releases or combine treated wastewater from their biological systems with other wastewaters at the final pond stage, and one facility uses its pond as a reaeration basin prior to discharge.

This reanalysis confirms the hypothesis that, in most cases, plants that have installed polishing ponds have done so to improve the substandard treatment afforded by their biological systems. In general, if the plant's biological treatment system were well-designed and well-operated, polishing ponds would not have been installed. For example, some plants, where land is readily available, use polishing ponds to achieve some of the BOD removal that would otherwise be achieved by activated sludge treatment because this BOD removal is accomplished more economically at these plants by polishing ponds. In summary, almost no plants have installed ponds to achieve additional removal of BOD and TSS beyond that achieved by well-operated, well-designed biological treatment with clarification.

Further, EPA believes that there would be significant problems connected with the installation and operation of polishing ponds added to biological treatment (Option II) at some OCPSF facilities. Due to the size of polishing ponds (they are often significantly larger than activated sludge systems), land availability is a barrier to installation at a number of plants. In addition, algae growth in warm climates interferes with the operation of the polishing ponds by creating high suspended solids levels. (Algae growth can be controlled by the addition of copper sulfate.) Consequently, the Agency has concluded that Option II (polishing ponds added to good biological treatment) is not sufficiently demonstrated or practicable as a basis for BPT limitations for the OCPSF industry.

EPA has evaluated Option III (good biological treatment plus multimedia filtration) technology to determine if this option can achieve, in a practicable manner, additional conventional pollutant removal beyond that achievable by well-designed, well-operated biological treatment with secondary clarification.

Forty-five plants identified filtration as an in place technology in the 1983 308 survey. Of these, 30 submitted data (BOD or TSS); however, only 28 could be evaluated for both BOD and TSS performance. Eleven plants had biological treatment (usually with secondary clarification) followed by filtration and passed the 95/40 BOD and 100 TSS editing criteria. Because only 11 plants in the OCPSF data base use this Option III technology and comply with the editing criteria, this option would require EPA to regulate all seven subcategories based upon a very small data set.

The median effluent TSS concentration value for these 11 plants is 32 mg/l. If three additional plants were included in this data base because they use Option I treatment plus either ponds or activated carbon followed by filters, the resulting median TSS value would be 34 mg/l. These results, when compared to the performance of clarification only following biological treatment (median value of 30 mg/l) clearly show that the efficiency of filtration following good biological treatment and clarification is not demonstrated for this industry. Moreover, on the average, OCPSF plants with more than Option I treatment in EPA's data base (biological treatment plus filtration) have not demonstrated substantial BOD removal beyond that achievable by Option I treatment alone. The median BOD concentration value for these plants in 19 mg/l compared to a median value of 23 mg/l BOD for those plants with Option I technology in place and meeting the 95/40 BOD editing criteria.

Like Option II, then, the results of this analysis of Option III data do not provide evidence of a significant difference in performance between plants with good biological treatment alone compared to those with biological treatment plus filtration. The data do not support any firm estimate either of

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incremental pollutant removal benefits or of incremental costs for Option III technology.

One commenter suggested that, in light of the apparent poor incremental performance of filters in the OCPSF industry, EPA should transfer data from non-OCPSF filtration operations, specifically from domestic sewage treatment. EPA also possesses some filtration data from certain industries other than the OCPSF industry. However, EPA believes that it would be inappropriate to use non-OCPSF wastewater data to set the OCPSF BPT limitations.

The OCPSF industry filtration data do not indicate any substantial TSS or BOD removal beyond that achieved by Option I technology. This fact indicates that differences in the biological solids in the OCPSF industry may be responsible for the lack of filtration effectiveness. For example, if the OCPSF biological floc (solids) were to break into smaller-sized or colloidal particles, they could pass through the filter substantially untreated. While EPA cannot be certain whether this occurs, the data indicate that filters are not as effective in removing OCPSF wastewater solids as they may be for domestic sewage or certain other industry wastewater solids. EPA does not believe that the appropriateness of transferring data from these other wastewaters to the OCPSF industry is demonstrated.

Finally, it should be noted that polishing ponds and filters have rarely been selected by EPA as a BPT technology for any industry. Moreover, filtration has in the vast majority of cases been expressly rejected even at BAT as yielding minimal incremental removals at relatively high cost. Thus to the extent that the commenter wishes EPA to transfer filtration data from other industries, it must be recognized that filtration data has, with very few exceptions (i.e., to remove certain toxic pollutants at BAT), not been considered sufficient to justify the use of filters for BPT and even for BAT. Of course, where solids that contain toxic pollutants may remain after BPT Option I treatment, those pollutants are specifically required to be reduced to the level required by the more stringent BAT regulations promulgated today.

Thus, in summary, EPA has rejected Options II and III because they are not currently demonstrated to be effective technologies for additional control of OCPSF discharges that have already been treated by Option I technology, good biological treatment. Moreover, it should be noted that the Agency generally has refrained from basing BPT limitations on series of end-of-pipe technologies (as distinct from in-plant treatment and preliminary end-of-pipe treatment such as equalization and neutralization necessary for good end-of-pipe treatment). EPA believes that effective biological treatment including clarification, rather than alternatives whose effectiveness and practicability have not been sufficiently documented, is the appropriate basis for BPT limitations in the OCPSF industry.

B. BCT

EPA is not promulgating BCT regulations as part of this regulation.

C. BAT

1. BAT Subcategorization

The Agency is promulgating BAT limitations for two subcategories. These subcategories are largely determined by raw waste characteristics. The end-of-pipe biological treatment subcategory includes plants which have or will install biological treatment to comply with BPT limits. The non-end-of-pipe biological treatment subcategory includes plants which either generate such low levels of BOD that they do not need biological treatment or choose to use physical/chemical treatment alone to comply with the BPT limitations for BOD. The Agency has concluded that, within each subcategory, all plants can treat priority pollutants to the levels established for that subcategory.

Different limits are being established for these two subcategories. Biological treatment is an integral part of the model BAT treatment technology for the end-of-pipe biological treatment subcategory; it achieves incremental removals of some priority pollutants beyond the removals achieved by in-plant treatment without end-of-pipe biological treatment. In addition, the Agency is establishing two different limitations for the pollutant zinc. One is based on data collected from rayon manufacture using the viscose process and acrylic fibers manufacture using the zinc chloride/solvent process. This limitation applies only to those plants that use the viscose process to manufacture rayon and the zinc chloride/solvent process to manufacture acrylic fibers. The other zinc limitation is based on the performance of chemical precipitation technology used in the metal finishing point source category, and applies to all plants other than those described above.

The Agency is issuing BAT limits for 63 priority pollutants for facilities with end-of-pipe biological treatment, including 57 organic priority pollutants, five metal priority pollutants and cyanide. For facilities without end-of-pipe biological treatment, BAT limits are being issued for 59 priority pollutants, including 53 organic priority pollutants, five metal priority pollutants and cyanide. (See Section 5 below for discussion of the pollutant selection).

2. Technology Selection

As noted in Section V, the Agency developed three technology options for end-of-pipe BAT effluent limitations. (The Agency decided not to promulgate any supplemental in-plant BAT limitations to control volatile pollutants for reasons discussed in Section X of this preamble.)

Option I. This option would establish concentration-based BAT effluent limitations for priority pollutants based on using BPT-level biological treatment as described above for dischargers using end-of-pipe biological treatment. For plants not using end-of-pipe biological treatment, the Option I treatment is in-plant controls, consisting of physical/chemical treatment and in-plant biological treatment to achieve the same toxic pollutant limits as are achieved by end-of-pipe biological treatment at BPT.

Option II. This option would establish concentration-based BAT effluent limitations based on the performance of the end-of-pipe treatment component required to meet BPT limitations (biological treatment for the end-of-pipe biological treatment subcategory and physical/chemical treatment for the non-end-of-pipe biological treatment subcategory) plus in-plant control technologies which would remove priority pollutants from waste streams from particular processes prior to discharge to the end-of-pipe treatment system. Two variations of Option II were considered, based upon differing in-plant control technologies used to treat selected priority pollutants including several polynuclear aromatic hydrocarbons, several phthalate esters and phenol. The selected in-plant technologies which form the sole basis of the limitations for the non-end-of-pipe biological treatment plants and a partial basis for plants using end-of-pipe biological treatment, include steam stripping to remove volatile priority pollutants, activated carbon adsorption for various base/neutral priority pollutants, chemical precipitation for metals, alkaline chlorination for cyanide, and in-plant biological treatment (Option IIB) for removal of selected priority pollutants including polynuclear aromatic hydrocarbons, phthalate esters, and phenol. After considering the application of activated carbon adsorption systems (Option IIA)

to remove these latter pollutants, EPA selected in-plant biological treatment (Option IIB) for costing on the basis of available data demonstrating that the effluent levels achieved by dedicated biological systems treating waste streams from segregated processes result in levels equivalent to those achieved by activated carbon adsorption technology and that the in-plant biological treatment is less costly.

The estimated incremental cost of compliance with this option (Option IIB) over BPT is $360.8 in capital investment and $230.4 in annualized costs (1986 dollars). This option is estimated to remove a total of 1.1 million lb/yr of priority pollutants beyond removals by the BPT technology.

Option III. Option III adds activated carbon adsorption to the end-of-pipe treatment to follow biological treatment or physical/chemical treatment in addition to the Option II level of in-plant controls.

Option I technology is capable of treating some toxic priority pollutants to some extent; however, it does not represent the best available technology. In particular, the effectiveness of biological treatment for removing metal pollutants and volatile organic pollutants is limited. Its effectiveness for other pollutants as well is often less than what the Option II technologies can achieve. The Agency has identified many plants that combine various types of in-plant treatment with end-of-pipe biological treatment. Therefore, EPA has decided to reject Option I.

Option III (addition of end-of-pipe carbon adsorption) achieves further reduction in concentrations of some pollutants after Option II, particularly for organic pollutants that are less biodegradable. The capital investment cost associated with activated carbon adsorption systems that are large enough to treat the volume of water discharged from end-of-pipe treatment is very high, $1.2 billion, and the annualized cost is $831.9 million (1986 dollars). These incremental costs would be expected to cause very substantial incremental impacts, including 26 plant closures, and 16 product line closures resulting in a loss of 6475 jobs. In addition, 44 plants would incur other significant impacts. Given the exceptionally high costs and significant economic impacts associated with Option III, EPA has decided not to adopt Option III as the basis for BAT regulation.

The Agency has selected Option II as the basis for BAT limits for both subcategories. EPA has determined that Option II is the best available technology economically achievable for all plants except for a subset of small plants. As discussed immediately below, for plants whose annual OCPSF production is less than or equal to five million pounds, EPA has concluded that Option II is not economically achievable. For these plants, EPA has set BAT equal to BPT.

3. Economic Impacts; Alternative Requirements for Small Plants

EPA has determined that Option II is not economically achievable for a class of small plants, namely those whose annual OCPSF production is less than or equal to five million pounds. Therefore, EPA has set BAT equal to BPT for plants whose annual OCPSF production is less than or equal to five million pounds.

For this group of small producers, the costs of meeting BAT limitations applicable to all other direct dischargers would be an additional $6.2 million annually beyond the cost of complying with BPT. The 19 plants in this group would be heavily and disproportionately impacted by being required to meet the BAT requirements established for all other direct dischargers. One half (9) of these 19 plants are projected to experience a full plant or production line closure, and almost 80 percent (15) of them would incur significant adverse impacts as defined in Section VIII of this preamble. This contrasts with an overall closure rate of seven percent and total significant impact rate of 13 percent for direct dischargers as a whole. The projected closures for the group of small plants are estimated to result in the loss of 162 jobs. The incremental (over BPT) amount of toxic pollutants that would have been removed by these 19 plants is 818 pounds (0.07 percent of the toxic discharges being removed from all directs). EPA has thus determined, based upon the costs and resulting heavy and disproportionate economic impacts incurred by the 19 plants in this sector, and in light of the small increase in their discharges occasioned by this action and the fact that they will be required to meet BPT control levels, to set BAT equal to BPT for this group.

EPA also considered setting BAT equal to BPT for direct dischargers with production levels higher than five million pounds per year. However, EPA determined that the impacts for other production groups, such as plants producing ten million pounds or less and plants producing 15 million pounds or less per year are not nearly so disproportionate as for those in the five-million pound or less group, and that the BAT limitations were not economically unachievable for these groups. To exempt plants in these groups would relieve from full compliance with BAT an increasingly large number of non-impacted plants and would substantially increase the amount of uncontrolled toxic discharges.

EPA also considered restricting relief to small production plants owned by small businesses. EPA rejected this approach because it could not differentiate clearly between the economic impacts that would be experienced by small production plants owned by large businesses and small production plants owned by small businesses. (This issue is discussed in greater detail in Section VIII F of this preamble.)

4. Technology and Data Selection Criteria for Toxic Pollutant Groups

The BAT limits are based on priority pollutant data from both OCPSF and other industrial plants with BAT model treatment technologies in-place. (See Section IV for data gathering efforts in the OCPSF industry.) In selecting plants and product/processes for use in developing the data base for BAT limitations, EPA gave priority to product/processes involving the manufacture of either priority pollutants or high volume chemicals derived from priority pollutants. In each stage of its BAT data base development, the Agency has attempted to obtain data from OCPSF plants representing BAT performance to provide as complete coverage as possible for the priority pollutants discharged by the OCPSF industry. The Agency used information collected in all surveys as a basis for identifying representative plants to be sampled (in the 12 plant study), as is discussed in Section IV of this preamble.

The current BAT data base for organic priority pollutants and the toxic metal zinc (for certain rayon and acrylic fibers producers) contains data which adequately represent the performance of wastewater treatment technology employed by the OCPSF industry. As discussed below, data for toxic metals (including zinc from producers other than those mentioned above) and cyanide have been transferred from another industry data base.

The OCPSF Verification Study emphasized data collection which described raw process wastewater and effluents from the principal treatment configurations (i.e., preliminary in plant treatment and biological treatment for combined plant wastewaters). In cooperation with CMA and participating OCPSF plants, EPA next conducted the EPA/CMA Five-Plant Study to assess the effectiveness of biological treatment in removing certain organic priority pollutants. Finally, the Agency carried

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out the Twelve-Plant Study designed to provide additional data on certain nonbiological treatment technologies, such as steam stripping and activated carbon adsorption. Site visits were conducted at these plants prior to sampling to assure that they had well operated biological treatment systems, and to assess what in-plant treatment technologies these plants employed and how they were being operated and maintained. This study was also designed to obtain supplemental long-term performance data for selected biological and physical/chemical treatment technologies.

The following criteria were used to assure that data used for setting limitations were analytically reliable, reflective of good treatment, and adequate to characterize variability:

- The analytical method must be EPA approved;
- There must be data for both the influent and effluent from the treatment system;
- The average influent concentration of a pollutant must be at least ten times the minimum (analytical threshold) level (in most cases 10 ppb); and
- Data for each pollutant must have been obtained from one or more plants with at least three days of both influent and effluent data.

Additional editing was performed to ensure that the quality of treatment represented by the data was BAT-level treatment. Detailed descriptions of how the editing was done are contained in the record for this rule and summarized in Section VII of the Development Document. As detailed previously and discussed further in Section X of this preamble, the data covers a broad spectrum of industry production and thus may be properly applied to all OCPSF plants.

a. *Volatiles Limits.* The Agency is basing its BAT limitations and costs for volatile pollutants on in-plant steam stripping technology alone for plants without end-of-pipe biological treatment. For all volatiles limited in the end-of-pipe biological treatment subcategory except 1,1-Dichloroethane, the combination of steam stripping and end-of-pipe biological treatment are used for limitations (and costing). The data used to derive these limits for the end-of-pipe biological treatment subcategory were taken from plants which exhibited good volatile pollutant reduction across the entire treatment system. For the end-of-pipe biological treatment subcategory the limitations (and costs) are based on the removals achieved by steam stripping alone for one pollutant (1,1-Dichloroethane), since the data for this pollutant demonstrated a treated effluent from the steam stripper at the lowest possible level (a long-term average steam stripping effluent level at the analytical threshold level of 10 ppb) and no data were available from the end-of-pipe biological treatment for this pollutant. To establish limits for the non-end-of-pipe biological treatment subcategory, the Agency used steam stripping data for volatile organic pollutants collected from plants that either did not have end-of-pipe biological treatment or provided data on the separate performance of the in-plant steam stripping treatment technology.

Steam stripping technology employs superheated steam to remove volatile pollutants of varying solubility in wastewater. The technology specifically involves passing superheated steam through a preheated wastewater stream column packed with heat resistant packing materials or metal trays in counter-current fashion. Stripping of the organic volatiles constituents of the wastewater stream occurs because the organic volatiles tend to vaporize into the steam until their concentrations in the vapor and liquid phases (within the stripper) are in equilibrium. The height of the column and the amount of packing material and/or the number of metal trays along with steam pressure in the column generally determine the amounts of volatiles that can be removed and the effluent pollutant levels that can be attained by the stripper. After the volatile pollutants are extracted from the wastewater into the super heated steam, the steam is condensed to form two layers of generally immiscible liquids, the aqueous and volatile layers. The aqueous layer is generally recycled back to the steam stripper influent feed stream because it may still contain low levels of the volatiles. The volatile layer may be recycled to the process from which it came, incinerated on-site, or contract hauled (for incineration, reclaiming, or further treatment off-site) depending on the specific plant's requirements.

Steam stripping is an energy intensive technology in which heat energy is required to both preheat the wastewater and to generate the super heated steam needed to extract the volatiles from wastewater. In addition, some waste streams may require pretreatment such as solids removal, e.g. filtration, prior to stripping because accumulation of solids within the column will prevent efficient contact between the steam and wastewater phases. Periodic cleaning of the column and its packing materials or trays is a necessary part of routine steam stripper maintenance to assure that low effluent levels are consistently achieved.

Steam strippers are designed to remove individual volatile pollutants based on a ratio (Henry's Law Constant) of their aqueous solubility (tendency to stay in solution) to vapor pressure (tendency to volatilize). The column height, amount of packing or number of trays, the operating steam pressure, and temperature of the heated feed (wastewater) are varied according to the strippability (using Henry's Law Constant) of the volatile pollutants to be stripped. Volatiles with lower Henry's Law Constants require greater column height, more trays or packing material, greater steam pressure and temperature, more frequent cleaning and generally more careful operation than do volatiles with higher strippability. Although the degree to which a compound is stripped can depend to some extent upon the wastewater matrix, the basis for the design and operation of steam strippers is such that matrix differences are taken into account for the volatile compounds the Agency has evaluated.

Data on the performance of steam stripper control technology for volatile organic compounds that formed the basis of the July 17, 1985 Notice proposed approach for controlling volatile organic pollutants were obtained for twelve (12) organic volatile priority pollutants from four plants that used steam stripping technology for waste streams from four processes. The July 17, 1985 notice considered regulating the volatile priority pollutants according to steam strippability using Henry's Law Constant. The pollutants were separated into three classes with high, medium and low stripping potential based on their Henry's Law Constants.

Additional steam stripper data were obtained from industry as a part of comments submitted or as a follow up to comments on this proposed approach. The Agency surveyed (by telephone) commenters' plants for any steam stripping data they had to support their comments. The Agency also requested (by telephone) other plants that, based on the type of product/processes employed, might have steam strippers in-place to provide any existing data demonstrating performance of steam stripping. The data were reviewed in detail and edited to assure that only data representing BAT-level design and operation were retained for purposes of developing limitations. The final data base used to develop BAT limitations consisted of performance results from 7 steam strippers at 5 plants for 15 volatile organic pollutants. EPA believes that the data for these plants provide an

adequate basis to set limitations for the industry.

These data were first sorted by process waste stream stripped for each of the compounds in the high and medium strippability groups. (The low strippability pollutants were determined to require types of treatment other than steam stripping, i.e., carbon adsorption or in-plant biological treatment. See Section 4.d. below.)

A further sort of the strippability data was made taking into account the process wastewater matrix. This review confirmed that process wastewater matrices in this industry generally do not preclude compliance with the concentration levels established in today's regulations.

However, EPA has determined that one product/process (production of methyl chloride from methanol by hydrochlorination) does produce an exceptionally corrosive wastewater whose matrix adversely affects the average performance of the packed tower type of steam stripper for which the data was submitted. Therefore, EPA is excluding the submitted steam stripping data from that product/process from the calculation of BAT and PSES limitations for the volatile pollutants.

The final regulations establish limitations for 28 volatile pollutants. For 15 of these pollutants, the limitations are based directly on data representing the actual control of these pollutants by treatment systems operating in the OCPSF industry. EPA calculated a separate limitation for each of these pollutants. For some of these pollutants the available effluent data consisted of measurements so low that very few exceeded the analytical threshold level (10 ppb, the minimum level for most pollutants); see Section X, comment 7. Since variability factors could not be calculated directly for these pollutants, EPA transferred variability factors from related pollutants.

For 13 other volatile pollutants, EPA lacked sufficient data to calculate limitations directly from data relating to these pollutants. Instead, EPA concluded that these pollutants may be treated to levels equivalent, based upon Henry's Law Constants, to those achieved for the 15 pollutants for which there were data. Dividing the 15 pollutants into "high" and "medium" strippability subgroups, EPA developed a long-term average and variability factors for each subgroup and applied these to the 13 pollutants for which data were lacking (six pollutants in the high subgroup and seven in the medium subgroup). The long-term average for each subgroup was determined by the highest of the long-term averages within the comparable "high" or "medium" subgroup of the 15 pollutants for which the Agency had data. This approach tends to be somewhat conservative but in the Agency's judgement not unreasonable in light of the uncertainty that would be associated with achieving a lower long-term average for the pollutants for which data are unavailable. The high strippability long-term average thus derived is 64.5 μg/l, while the medium strippability long-term average is slightly higher 64.7 μg/l.

While it may appear anomalous that the high strippable subgroup yields a just slightly lower long-term average effluent concentration, EPA believes that this is not the case. First, in the context of the maximum levels entering the steam strippers within the two subgroups (12,000 μg/l to over 23 million μg/l), the difference between these two long-term averages is negligible and essentially reflects the same level of long-term control from an engineering viewpoint. Second, the "high" and "medium" strippable compounds behave comparably in steam strippers, in the sense that roughly the same low effluent levels can be achieved with properly designed and operated steam strippers. In other words, it is possible to mitigate small differences in theoretical strippability among compounds in these groups with different design and operating techniques. The small differences in long-term average performance seen in the data reflect, in EPA's judgment, not real differences in strippability among pollutants but rather the difference in steam stripper operations among the plants from which the data was taken. Indeed, one could reasonably collapse the two subgroups into one group and develop a single long-term average for the 13 pollutants for which EPA lacks data. While such an approach might be technically defensible, EPA decided it would be most reasonable to retain the distinction between "high" and "medium" subgroups, which remains a valid and important distinction for the purpose of developing variability factors, as discussed below.

The "high" and "medium" subgroup variability factors were derived by using the average of the variability factors developed for each of the pollutants in the subgroups. The variability factor for the maximum daily limitation for the "high" strippability subgroup was 5.884, and for the "medium" subgroup was 12.286. The variability data in general confirmed the engineering hypothesis that medium strippability pollutants may have higher variabilities due to their greater sensitivity, on a short-term basis, to fluctuations in steam temperature and pressure and other factors.

EPA used an average variability factor for two reasons. First, EPA believes the average variability factor to be reasonable and achievable through vigilant control of those factors that produce variability, particularly in light of the fact that the variability factor values are fairly high. Second, since limitations are derived by multiplying the long-term average times the variability factor, and since the long-term averages were based upon the highest of the long-term averages in each pollutant subgroup, the use of the largest variability factor calculated from the available data would have resulted in limitations that would be too high to effect meaningful treatment. EPA believes that the final limitations set forth in the regulation, based upon conservatively high long-term averages and upon average variability factors yield achievable effluent limitations appropriate to represent best available design and operation of treatment technology for a wide range of product/process wastewater matrices. These average values are used to calculate limitations for the 13 volatile organic pollutants for plants that do not use end-of-pipe biological treatment and for PSES.

b. *Cyanide Limitations.* The final regulation contains concentration-based effluent limitations for total cyanide from process waste streams covered by the regulation. The selected technology basis for controlling the discharge of cyanide is chemical oxidation by the alkaline chlorination method. This technology is demonstrated in the OCPSF industry and is widely used in the metal finishing industry. This method involves the oxidation of free cyanide to carbon dioxide and nitrogen using chlorine gas in an alkaline solution at generally elevated temperatures. Ozone can also be used to oxidize free cyanide. The chemical oxidation equipment often consists of an equalization tank followed by two reaction tanks, although the reaction can be carried out in a single tank. Generally, a several-fold excess of chlorine and caustic plus elevated temperatures are necessary to drive the oxidation reaction to completion, that is, to the production of carbon dioxide and nitrogen.

Eleven direct and indirect discharge plants use cyanide destruction, including some plants that reported the use of alkaline chlorination. However, performance data on cyanide destruction are not available from the OCPSF industry. Nonetheless,

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performance data on cyanide destruction by alkaline chlorination in the metal finishing industry are available, and EPA indicated in its December 8, 1986 Notice that it was considering using the performance data for cyanide destruction from the metal finishing industry to develop cyanide limitations and standards. Public comments on this notice suggested that EPA should transfer cyanide destruction performance data from the pharmaceutical manufacturing industry rather than from the metal finishing industry because of the similarity in wastewater characteristics shared by the OCPSF and pharmaceutical industrial categories. EPA has evaluated cyanide destruction in the pharmaceutical industry and has rejected transfer of performance data from that industry for use in the development of OCPSF cyanide limitations because the cyanide destruction performance data from the pharmaceutical industry are from a cyanide hydrolysis system which utilizes high temperatures and pressures to hydrolyze free cyanide, and this particular type of cyanide destruction technology has not yet been demonstrated to be effective on OCPSF cyanide-bearing wastewater. EPA is not aware of any OCPSF plants using hydrolysis treatment for cyanide. In contrast, cyanide destruction, of which alkaline chlorination is a common type, is used by some OCPSF plants. EPA believes that the cyanide destruction by alkaline chlorination data from the metal finishing industry is more appropriate for transfer to the OCPSF industry since this technology is used on cyanide waste streams in the OCPSF industry.

Another significant issue raised concerning the use of alkaline chlorination technology in the OCPSF industry was the contention that while this technology may effectively reduce concentrations of free cyanide in OCPSF wastewaters, it cannot reduce concentrations of metal-complexed cyanides. Commenters have stated that the limitations and standards should be for amenable cyanide only. EPA has evaluated the expected amount of cyanide complexing due to the presence of certain transition metals (nickel, copper, and cobalt) in OCPSF cyanide bearing waste streams, and has concluded that there are no combinations of cobalt and cyanide and only a few (6) product/process waste streams that would contain combinations of either copper and cyanide (four sources) or nickel and cyanide (two sources). For these product/process sources, a potential for cyanide complexing is present. However, no data has been submitted to demonstrate that the actual levels of complexing interfere with the ability of these or other plants to meet the total cyanide limitations. Thus, EPA believes that limitations controlling total cyanide are appropriate for all dischargers subject to this regulation. A detailed writeup identifying the sources of cyanide and the six product/processes with a potential for complex formation with nickel and copper is contained in Section V of the Development Document.

Limitations are based upon the transfer of data on alkaline chlorination (chemical oxidation) technology from the metal finishing industry data base. These limitations apply only to the cyanide-bearing waste streams; thus only cyanide-bearing process wastewater flow should be used by permit writers to convert the concentration-based cyanide limitations into mass-based permit limitations. Cyanide-bearing waste streams are listed in Appendix A to the regulation or may be identified by the permit writer.

c. *Metals Limitations.* The final rule contains concentration-based effluent limitations for chromium, copper, lead, nickel and zinc. The limitations are to be applied only to the flows discharged from metal-bearing process wastewaters (defined in the regulation and discussed below). Separate zinc limitations have been established for rayon manufacturers using the viscose process and acrylic fibers manufacturers using the zinc chloride/solvent process.

The proposed regulations and the July 1985 notice both set forth end-of-pipe concentration limitations for nine metals. The limits were based on end-of-pipe effluent data taken at plants using biological systems preceded in some cases by in-plant treatment for which neither raw waste nor in-plant treatment effluent metals data were available. For plants that do not use biological treatment, EPA solicited comment in the December 1986 notice on establishing limitations based upon the use of hydroxide precipitation data from several metals industries. For OCPSF wastestreams with complexed metals, EPA indicated that it was considering the use of sulfide precipitation to achieve the same limitations.

Industry commenters strongly criticized several aspects of EPA's proposed approach. First, they argued that most priority pollutant metals are not present in significant quantities in OCPSF wastewaters. They criticized the data base upon which EPA had estimated loadings for these pollutants. They argued that to the extent that EPA found metals in OCPSF wastewaters, these pollutants resulted not from OCPSF processes, many of which do not use metals, but rather from non-process wastewaters (e.g., zinc and chromium used as corrosion inhibitors and often contained in cooling water blowdown) or due to their presence in intake waters. The commenters concluded that EPA should regulate only those metals present in OCPSF process wastewaters as a result of the process use of the metals, applying the limits to those wastewaters only.

To address these comments, EPA has conducted a detailed analysis of the process wastewater sources of metals in the OCPSF industry. In response to criticism that EPA has relied too heavily on limited Master Process File metals data, EPA painstakingly reviewed the responses to the latest (1983) Section 308 survey to examine which metals were used as catalysts in particular OCPSF product/processes or were for other reasons likely to be present in the effluent from these processes. When necessary, EPA contacted plant personnel for additional information. The results of EPA's analysis, together with supporting documentation, are set forth in the rulemaking record and summarized in Section V of the Development Document.

Based upon this analysis, EPA has concluded that chromium, copper, lead, nickel and zinc are discharged from OCPSF process wastewaters at frequencies and levels that warrant national control. However, EPA agrees with the commenters that many OCPSF wastewaters do not contain these pollutants or contain them only at insignificant levels. At most plants, process wastewater flows containing these metals constitute only a small percentage of the total plant OCPSF process wastewater flow. As a result, end-of-pipe data obtained by EPA often do not reflect treatment but rather reflect the dilution of metal-bearing process wastewater by nonmetal-bearing wastewater. Thus, these data are not suitable for the purpose of setting effluent limitations reflecting the use of best available technology. Therefore, EPA has concluded, consistent with the industry comments, to focus its regulations on metal-bearing process wastewaters only.

The approach taken in the final regulation is to establish concentration-based limitations that apply only to metal-bearing process wastewaters (similar to the cyanide limitations). The permit writer will establish a mass limitation by summing the flows of metal-bearing wastewaters and multiplying them by the concentration limitation. Compliance could be monitored in-plant or, after accounting for dilution by nonmetal-bearing process wastewater and nonprocess wastewaters, at the outfall. (Of course, the permit writer may on a case-by-case basis provide additional discharge allowances for metals in non-OCPSF process or other wastewaters where they are present at significant levels. When BAT limits have not been established, these allowances must be based upon the permit writer's best professional judgment of BAT as well). This approach is similar to that taken by EPA in other industry effluent limitations guidelines. (See 40 CFR Parts 433 and 439 for monitoring requirements related to their cyanide limitations).

EPA has listed the product/processes considered to have metal-bearing process wastewater in Appendix A of the regulation. This list is based on EPA's careful review of data in the record. However, EPA recognizes that at some sites process wastewaters not listed in Appendix A may contain significant levels of metals. In such cases, the NPDES program regulations authorize the permit writer to provide an allowance for these additional wastewaters, using the concentration limitations set forth in the regulation.

The concentration limitations are based upon the use of hydroxide precipitation technology, which is the standard metals technology that forms the basis for virtually all of EPA's BAT metals limitations for metal-bearing wastewaters. Because very little OCPSF data on the effectiveness of hydroxide precipitation technology is available, EPA has decided to transfer data for this technology from the Metal Finishing Industry. A comparison of the metals raw waste data from metal finishing plants with the validated product/process OCPSF raw waste data indicates that the concentrations of the metals of concern in the OCPSF industry are within the range of concentrations found at metal finishing plants. Also, the metal finishing wastewater matrices contain organic compounds which are used as cleaning solvents and plating bath additives. Some of these compounds serve as complexing agents and their presence is reflected in the metal finishing industry data base. This data base also contains hydroxide precipitation performance results from plants with waste streams from certain operations (electroless plating, immersion plating, and printed board circuit board manufacturing) containing complexing agents. This is important because the data base reflects both treatment of waste streams containing complexing agents and segregating these waste streams prior to treatment.

The transfer of technology and limitations from the Metal Finishing Industry category is further supported by the principle of precipitation. Given sufficient retention time and the proper pH (which is achieved by the addition of hydroxide, frequently in the form of lime), and barring the binding up of metals in strong organic complexes (see discussion below), a metal exceeding its solubility level in water can be removed to a particular level—that is, the effluent can be treated to a level approaching its solubility level for each constituent metal. This is a physical/chemical phenomenon which is relatively independent of the type of wastewater, barring the presence of strong complexing agents.

Some product/processes do have wastewaters that contain organic compounds which bind up the metals in stable complexes which are not amenable to optimal settling through the use of lime. EPA asked for comment in the December 1986 notice on the use of sulfide precipitation in these situations. Industry commenters argued that the effectiveness of this technology has not been demonstrated for highly stable, metallo-organic chemicals. EPA agrees. Strongly complexed priority pollutant metals are used or created, for instance, in the manufacture of metal complexed dyestuffs (metallized dyes) or metallized organic pigments. The most common priority pollutant metals found in these products are trivalent chromium and copper. The degree of complexing of these metals may vary among different product/processes. Consequently, each plant may need to use a different set of unique technologies to remove these metals. Thus metals limits are not set by this regulation, and must be established by permit writers on a case-by-case basis, for certain product/processes containing complexed metals. These product/processes are listed in Appendix B to the regulation.

The list in Appendix B has been compiled based upon an analysis contained in the rulemaking record. EPA has concluded that all other metal-bearing process wastewaters (whether listed in Appendix A to the regulation or established as metal-bearing by a permit writer) can be treated using hydroxide precipitation to the levels set forth in the regulation.

Finally, EPA has established a separate zinc limitation for rayon manufacturers using the viscose process and acrylic fibers manufacturers using the zinc chloride/solvent process. Process wastewaters from the rayon/viscose and acrylic/zinc chloride/solvent processes contain zinc at levels that are typically a hundred times the levels in other OCPSF wastewaters. EPA has collected data assessing the performance of chemical precipitation with lime and clarification in treating zinc in these discharges. The final limitations are based on these data.

d. *Other Organic Pollutants.* The Agency considered two in-plant technologies for the removal of organic pollutants other than those removed by steam stripping. These are activated carbon adsorption and in-plant biological treatment.

Activated carbon adsorption is a proven technology primarily used for the removal of organic chemical contaminants from individual process waste streams. The carbon has a very large surface area per unit mass and removes pollutants through adsorption and physical separation mechanisms. In addition to removal of most organic chemicals, activated carbon achieves limited removal of other pollutants such as BOD and metals. Carbon used in a fixed column, as opposed to being directly applied in a granular or powdered form to a waste stream, may also act as a filtration unit.

Eighteen OCPSF plants in the data base for this regulation are known to use activated carbon as an in-plant treatment technology. Although performance data for a specific individual in-plant carbon adsorption unit prior to biological treatment were not available, the Agency collected performance data during the 12-plant study from an in-plant (dedicated) carbon adsorption unit following steam stripping at an OCPSF facility for which the carbon adsorption unit treated a process-waste stream prior to discharge. This plant manufactures only inter-related products whose similar wastestreams are combined and sent to a physical/chemical treatment system consisting of steam stripping followed by activated carbon. The toxic pollutants associated with these waste streams are removed by either steam stripping or activated carbon, or a combination of them.

The Agency has decided to use these available performance data from the end-of-pipe carbon adsorption unit as the basis for establishing BAT limits for four pollutants (2-nitrophenol, 4-nitrophenol, 2-4-dinitrophenol and 4,6-dinitro-o-cresol) and for the combination of steam stripping and activated carbon adsorption for nitrobenzene. These data

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show very good removals for the carbon adsorption unit of 4,6-dinitro-o-cresol, 2-nitrophenol and 4-nitrophenol. However, the data indicate that for 2,4-dinitrophenol and nitrobenzene, the carbon adsorption unit is experiencing competitive adsorption phenomena. This condition exists when a matrix contains adsorbable compounds in solution which are being selectively adsorbed, and desorbed. The data from the plant sampled by EPA and from another carbon adsorption unit for nitrobenzene at a plant which submitted data yield effluent limitations that are higher when compared to the other organic pollutant effluent limitations in this regulation. EPA believes that these are the limitations, based upon currently available data, that are generally achievable across the industry. Nonetheless, even this level of demonstrated treatment gives significant removals for these compounds. (Current discharge levels of 150,000 pounds annually for these two pollutants would be reduced to less than 10,000 pounds annually after BAT and PSES.) Therefore, limitations for 2,4-dinitrophenol and nitrobenzene are based upon the data available. Further work to identify additional technologies or use of carbon adsorption units in series for removal of these compounds will need to be conducted to determine whether removal of these compounds can be improved.

In-plant biological treatment is an effective and less costly alternative to carbon adsorption for control of certain toxic organic pollutants, especially those which are effectively absorbed into the sludge and are relatively biodegradable. In-plant biological treatment may require a longer detention time and certain species of acclimated biomass to be effective as compared to end-of-pipe biological treatment that is predominantly designed to treat BOD. EPA has determined that in-plant biological treatment with an acclimated biomass is as effective as activated carbon adsorption for removing priority pollutants such as polynuclear aromatics hydrocarbons, phthalate esters, acrylonitrile, phenol, and 2,4-dimethylphenol. EPA has thus selected this treatment for BAT control of these pollutants.

In-plant biological treatment is demonstrated at 33 plants in the OCPSF data base. Three plants' data were available for use in developing BAT limitations for the above pollutants based upon the performance of in-plant biological treatment. The performance data for in-plant biological treatment were taken from plants that treat major sources of polynuclear aromatic hydrocarbons, phthalate esters, acrylonitrile, phenol, and 2,4-dimethylphenol in dedicated biological treatment systems (i.e., with a minimum amount of dilution with other process wastewaters). The Agency has determined that these data are appropriate for use in characterizing the performance of in-plant biological treatment based upon the waste stream characteristics of the influent to the treatment systems. For the pollutants which have limits derived from this in-plant treatment technology data base, the limitations for the non-end-of-pipe biological treatment subcategory are more stringent than for the end-of-pipe biological treatment subcategory. Both biological treatment systems (end-of-pipe and the dedicated systems used for the in-plant biological treatment basis) remove these pollutants from the waste stream in most cases to levels at or below the analytical minimum level. However, available data indicate that the variability of the larger end-of-pipe biological systems in the data base is greater. This may be explained by the fact that the larger end-of-pipe systems receive commingled waste streams with a larger number of organic pollutants, and thus may be more susceptible to daily fluctuations in performance.

The Agency is also relying on the ability of end-of-pipe biological treatment to achieve some additional pollutant removal beyond carbon adsorption and in-plant biological treatment except in the case of 4,6-dinitro-o-cresol. For this pollutant only the in-plant activated carbon technology is used as a basis in both BAT subcategories. Thus, BAT limitations are lower for several pollutants regulated by the end-of-pipe biological treatment subcategory than are the limitations for the same pollutants regulated by the non-end-of-pipe biological treatment subcategory.

5. Pollutant Selection

In developing the OCPSF regulation, priority toxic pollutants of concern were identified through analytical programs to detect and quantify them in the raw wastewaters discharged from the product/process lines which were most important or most common in the industry. The initial work in determining the chemical constituents present in the process wastewaters began in 1977. EPA did not attempt to identify or quantify pollutants other than the priority toxic and conventional pollutants. The initial effort included screening process wastewaters for the presence of compounds on the priority pollutant list of compounds or classes of compounds covered by the NRDC Consent Decree.

Over the next several years data were gathered to further identify and quantify pollutants being discharged from specific processes and in combined discharges from facilities with multiple processes.

The final BAT OCPSF regulation for the end-of-pipe biological treatment subcategory sets limitations for the 63 toxic pollutants set forth in Subpart I of the regulation. Regulating such a large number of toxic pollutants is unprecedented in the effluent guidelines rulemaking program, reflecting the fact that many of the organic toxic pollutants are directly manufactured by OCPSF facilities as well as used as raw materials or generated as byproducts in industry processes. There are one metal priority pollutant (antimony) and three organic priority pollutants (2,4,6-trichlorophenol and 3,3'-dichlorobenzidine and dioxin) for which the Agency does not have sufficient data to regulate or excludes them in the end-of-pipe biological treatment subcategory.

The data base for the non-end-of-pipe biological treatment subcategory limitations (set forth in Subpart J) includes data from biological end-of-pipe subcategory plants if samples of the influent and effluent of the in-plant treatment were collected. Even with these data, there are eight priority pollutants for which the Agency does not have sufficient data to set limitations in the non-end-of-pipe biological treatment subcategory. For these 8 pollutants (2-chlorophenol, 2,4-dichlorophenol, 2,4-dinitrotoluene, and 2,6-dinitrotoluene and the four identified in the preceding paragraph), the Agency is not setting limits. Limitations for these pollutants are being reserved pending availability of additional information concerning their removal by in-plant physical/chemical treatment systems. Thus, the Subpart J limitations cover 59 toxic pollutants.

Readers should note that even though nonconventional pollutants and certain toxic pollutants are not directly limited by this regulation, they will nonetheless be indirectly controlled in many cases by the technologies used to comply with the promulgated limitations if they are present in treatable concentrations. While the degree of such indirect control will vary, in some cases unregulated pollutants will be substantially reduced by the operation of technologies installed to comply with limitations for related regulated pollutants.

In the final rule, EPA has decided that each discharger in a subcategory will be

subject to the effluent limitations for all pollutants regulated for that subcategory. Once a pollutant is regulated in the OCPSF regulation, it must also be limited in the NPDES permit issued to direct dischargers. See Sections 301 and 304 of the Act; see also 40 CFR 122.44(a). EPA recognizes that guidance on appropriate monitoring requirements for OCPSF plants would be useful, particularly to assure that monitoring will not be needlessly required for pollutants that are not likely to be discharged at a plant. EPA intends to publish guidance on OCPSF monitoring in the near future. This guidance will address the issues of compliance monitoring in general, of initially determining which pollutants should be subject only to infrequent monitoring based on a conclusion that they are unlikely to be discharged, and of determining the appropriate flow upon which to base mass permit requirements. This issue is addressed in more detail in Section X of this notice.

D. NSPS

EPA is promulgating new source performance standards that reflect use of the best available demonstrated technology for all new direct discharging sources. NSPS are established for conventional pollutants (BOD, TSS, and pH) on the basis of BPT model treatment technology. Priority pollutant limits are based on BAT model treatment technology. The standards are equivalent to the BPT and BAT limitations.

The Agency considered the same technology options as were discussed previously for BPT and BAT. BPT Options II and III were rejected because they are not adequately demonstrated in the OCPSF category. BAT Option I was rejected as the basis for priority pollutant limits for the same reason it was rejected for BAT, because it is not the best available demonstrated technology. BAT Option III was rejected because of its high cost and the relatively small incremental removal it would achieve, and because it is not well demonstrated as an end-of-pipe technology, either with or without end-of-pipe biological treatment technology.

The Agency is issuing conventional pollutant new source standards for the same seven subcategories for which BPT limits were established. These standards are equivalent to the limits established for BPT.

Priority pollutant new source performance standards are applied to new sources according to the same subcategorization scheme used in setting BAT limitations. The set of standards in the end-of-pipe biological treatment subcategory will apply to new sources that use biological treatment in order to comply with BOD and TSS standards. Standards are established for 63 priority pollutants. The subcategory for sources that do not use end-of-pipe biological treatment apply to new sources that will generate such low levels of BOD that they do not need end-of-pipe biological treatment or choose physical/chemical controls to comply with the BOD standard. These facilities will have priority pollutant standards for 59 priority pollutants which are based on the application of the in-plant control technologies with or without end-of-pipe physical/chemical treatment. In all cases the standards are equivalent to the limits established for BAT. The Agency has determined that NSPS will not cause a barrier to entry for any new source OCPSF plants.

E. PSES

PSES are applicable to indirect dischargers and are generally analogous to BAT limitations applicable to direct dischargers. The Agency is promulgating PSES for 47 priority pollutants which are determined to pass through POTWs. The standards apply to all existing indirect discharging OCPSF plants. EPA determines which pollutants to regulate in PSES on the basis of whether or not they pass through, interfere with, or are otherwise incompatible with the operation of POTWs (including interference with sludge practices).

1. Pass-Through Evaluation; Pollutants Selected for Regulation

The principal means by which the Agency evaluates pollutant pass through, and the general methodology used for this regulation, is to compare the pollutant percentage removed by well-operated POTWs with secondary treatment with the percentage removed by BAT technology.

As discussed previously in Sections IV and V of this notice, EPA proposed to determine that pass through occurs only if BAT technology removes at least five percent more than a well-operated POTW removes. In the July 17, 1985 notice EPA stated that it was considering modification of the pass through comparison to use a ten percent instead of a five percent removal differential. Finally, in the December 8, 1986 notice EPA announced that it would not use either a five or ten percent differential in making its pass through determinations. The Agency also stated that it was considering conducting the comparisons of removal using influent pollutant values from comparable influent concentration ranges for the industrial wastewater treatment system and the POTW.

EPA has decided not to use a five or ten percent removal differential for determining pollutants to regulate in PSES in the final rule. Some commenters have urged that due to analytical variability, data showing BAT performance slightly better than that of POTWs may not reflect a real difference in removal efficiency and may lead to unnecessary imposition of PSES requirements. Another commenter argued to the contrary that analytical variability, if any, can work in the opposite direction, i.e., data showing that POTWs perform as well or better than BAT may also be erroneous and lead to an inappropriate decision not to establish PSES for a pollutant. EPA has concluded that the most reasonable approach is to accept the available data as the best information on the relative percent removals achievable by industrial plants that employ BAT technology and by POTWs, and to perform BAT/POTW comparisons directly on the basis of differences in removal. Such an approach is unbiased in that it does not favor either over-regulation or under-regulation in determining which pollutants are regulated at PSES.

Other commenters urged EPA to use a five or ten percent differential to address the problem of low POTW effluent concentrations which may mask the full extent of POTW treatment. EPA noted in the proposal that in addition to analytical variability, a differential might be used because POTW influent concentrations are typically much lower than industry treatment system influent concentrations and many POTW effluent concentrations are below the analytical threshold level. When below this threshold, the effluent values are reported as being at the analytical threshold or "detection limit" (more precisely, the "minimum level" established in 40 CFR Part 136), which overestimates the effluent concentration and underestimates the percent removed. It is not possible in such situations to determine to what level below the detection limit the POTWs are actually treating the pollutants and thus it is not possible to determine the extent to which POTW removals are underestimated and to determine the effect, if any, on the outcome of a pass-through comparison. Thus, it is uncertain whether a compensating differential would be appropriate. Moreover, a five or ten percent differential could result in a determination of no pass-through where pass-through was occurring. It should be

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noted that to allow even a few of the pollutants to go unregulated based upon the five percent differential may be significant in terms of the number of pounds of toxic pollutants discharged to receiving waters. Finally, the problem discussed by the commenters will be greatly mitigated by changes in the data editing criteria.

EPA has modified the criteria under which the data for conducting the pass-through comparison test were selected. In previous analyses, EPA used individual daily pairs and plant average pairs of influent and effluent data when influent concentrations exceeded 20 μg/l. For pollutants with low influent concentrations, i.e., not much higher than 20 μg/l, the effluent concentrations were consistently at or below the method detection limit (or, more precisely, the "minimum level" established in 40 CFR Part 136) and thus could not be quantified by using the applicable method. The conservative approach of adopting the "detection limit" or the analytical threshold as the effluent value for such measurements has the effect of underestimating the POTW's percent removal, perhaps greatly underestimating the removal. In many cases, in fact, both POTW and BAT treatment systems with relatively low influent concentrations yielded effluent measurements below detection, and the resulting percent removals were not true measures of treatment effectiveness, but rather were functions of influent concentrations. The percent removal comparison thus had the effect of determining pass through in some cases solely because the POTW had a lower pollutant influent concentration, rather than basing the determination on demonstrated differences in treatability. The POTW might be achieving as high a percent removal as the BAT level technology, but there was no basis for determining whether this was so or not.

A second concern with the 20 μg/l influent criterion was its inconsistency with the criteria used to select industrial data for assessing treatability and calculating BAT effluent limitations. One of EPA's criteria for selecting data to set BAT effluent limitations for direct dischargers is that the influent data for that plant must exceed ten times the pollutant's analytical threshold. (See Section X comment and response number 7 for a discussion of analytical thresholds.) When an influent concentration is below this level, effluent concentrations below the pollutant's analytical threshold often may be achieved using less than BAT-level treatment. The editing criterion helps to insure that BAT effluent limitations generally reflect the technical capability of BAT level treatment rather than low influent concentrations.

Consistent with the BAT data editing approach and the available POTW pollutant data above 100 ppb or "ten times the detection limit", EPA has also used the "ten times detection limit" criterion for pollutants in BAT-level industrial and POTW influents for purposes of selecting the data used to perform pass through comparisons for the final regulation for all of the pollutants for which such data are available. For most (24) of the pollutants which pass through, EPA has used data from the POTW data base with an influent concentration average greater than ten times the pollutant's detection limit. For 16 pollutants for which adequate POTW data are unavailable using the "ten times" approach, the pass through analysis uses data which remain after applying a 20 ppb editing criterion because no influent data above 100 ppb or "ten times the detection limit" exist for these pollutants.

EPA has also modified its approach to calculating plants' percent removals for purposes of comparing BAT-level industrial plant and POTW removals. EPA's earlier approach was to calculate a facility's percent removals by calculating daily removal estimates based on influent and effluent measurements taken on the same day, and then averaging these removals. We have concluded that this method of using daily removal estimates was inappropriate. First, many OCPSF biological systems have retention times exceeding one day's duration. Thus, comparison of influent and effluent samples taken on the same day is not a good indication of removal. Second, even if the retention time is shorter than a full day, any sampled influent, after mixture and dispersal within the biological system, cannot be traced to a particular sample leaving the system. In fact, in the typical biological treatment system, a portion of the biological solids are recirculated within the system, which further complicates the evaluation of removals based on comparison of daily influent and effluent samples. Third, due to the low concentrations frequently found in both OCPSF and POTW biological systems, small daily changes in pollutant concentrations result in larger changes in removal efficiency estimates; these changes are misleading in that they do not necessarily reflect significant variation in the system's operation. Therefore, EPA has modified its approach to calculate a plant's removal efficiency using the arithmetic averages of all influent samples and effluent samples.

EPA recognizes that it has used daily removal estimates in pass-through analyses for other industries. Since the primary pollutants of concern in these other industries (usually metals) were generally removed much more efficiently by BAT-level technology than by POTWs, the mode of analysis was not crucial to the determination of pass through. For the OCPSF industry, the BAT and POTW removal efficiencies for particular pollutants are frequently rather close to one another, and EPA has considered its approach more carefully. This consideration has led to the change in approach described above for this industry. The approach of using influent and effluent averages in removal estimates rather than averaging daily removal estimates is in fact consistent with EPA's approach for establishing percent removal requirements in certain other CWA regulations. (See 40 CFR Part 439 and 40 CFR 133.102).

Moreover, EPA disagrees with the commenter who argues that *NRDC* vs. *EPA*, 790 F.2d 289 (3rd Cir. 1986), compels the use of daily removal estimates in performing generalized BAT–POTW comparisons for purposes of deciding whether pollutants generally pass through so as to require PSES on a national basis. EPA believes that Congress did not require EPA to use a technically flawed comparison of BAT and POTW performance.

Some commenters argued that EPA should not find pass through and should not promulgate PSES for a pollutant when POTW removals are very high (e.g., 85 percent or higher), or when POTWs are specifically designed to treat industrial wastewaters efficiently. EPA does not accept these arguments. EPA is using the same criterion for pass-through in the OCPSF industry that it has used for many years to set PSES for other industries: whether POTW treatment efficiency is as great as BAT level industrial treatment efficiency. If BAT level treatment in industrial plants generally is more effective than POTW removal, a pollutant will be regulated in PSES. Section 307(b) of the Act provides that a particular POTW's removal of pollutants may be considered and that limitations for particular industrial users of POTWs may be revised if the POTW can demonstrate a consistent removal of pollutants in question and meet other requirements relating to sludge quality. The removal credits may be granted consistent with the removal efficiencies of individual POTWs on a case-by-case basis. See *Cerro Copper Products Co. and Village of Sauget* v. *Ruckelshaus*, 762 F.2d 1060 (7th Cir. 1985). Moreover, EPA notes that no commenter provided adequate information on any particular POTW's removal of all the toxic pollutants found by EPA to generally pass through to form a basis for separate consideration (e.g., by subcategorization) of any POTW.

Another area in which the final regulation differs from the proposal concerns those pollutants for which EPA lacks sufficient field sampling data to perform the pass-through comparison. Despite the fact that EPA sampled 50 POTWs in addition to conducting the many OCPSF industry sampling efforts discussed in Section IV of this preamble, there are 3 pollutants that are regulated at BAT for which EPA lacks sufficient POTW treatment data to perform a pass-through analysis. These are in addition to the 8 pollutants discussed previously under BAT for which EPA lacks sufficient OCPSF industry treatment data to establish BAT limits. Another 3 pollutants listed in Appendix B, for which there are insufficient POTW treatment data, are excluded from regulation since industrial treatment data indicates that they are sufficiently controlled by existing industrial treatment technologies.

In the 1983 proposal, EPA adopted the approach of assuming pass through in the absence of data to the contrary. Some industrial commenters objected to this approach, arguing that section 307(b) authorizes EPA to promulgate pretreatment standards only for pollutants that pass through or interfere with the POTW, and that EPA is thus required to affirmatively find pass through or interference as a precondition to promulgating pretreatment standards. An environmental group argued to the contrary that EPA has an obligation to require pretreatment if there may be pass through or interference and that in the absence of adequate data, pass through must be assumed.

In subsequent notices, EPA requested comment on an alternative approach of using pilot and bench scale data in the absence of full-scale data to determine POTW removal rates, and to use those data for the comparative analysis. EPA made the alternative pilot and bench-scale data available for comment. After considering public comments on this approach and on the data to be used, EPA has decided in the final rule to use data based upon pilot and bench scale performance when adequate full scale data are lacking. The alternative data were used for 7 pollutants, and 4 of these were found to pass through.

EPA disagrees with the comment that EPA must assume pass through in the absence of full scale data to the contrary. Section 307(b) of the Act requires EPA to promulgate pretreatment standards "for those pollutants which are determined not to be susceptible to treatment by (the POTW) or which would interfere with the operation of such treatment works." Thus at least one reasonable interpretation of the statute is that EPA must make a determination of pass through or interference prior to promulgating pretreatment standards, rather than to assume pass through. In any event, the statute does not prohibit the use of pilot/bench-scale data when they are the best available data. Certainly, EPA has a preference for full-scale data and has expended considerable resources to obtain such data. However, to address remaining field data gaps, EPA believes that it is appropriate to use the best alternative information available.

Some industry commenters objected that the alternative data are of lesser quality than the full-scale data and have a larger range of potential error than the full-scale data. EPA acknowledges that this may be so; that is why EPA has relied upon full-scale data whenever available. However, EPA believes that the pilot/bench-scale data used here are of good technical quality and sufficient for use in the comparative analysis and may thus be used in the absence of adequate full scale data. Further, EPA does not agree that the use of a five or ten percent differential to compare BAT and POTW removal efficiencies is compelled when using pilot/bench-scale data. As discussed previously, any analytical inaccuracy in the data, regardless of the type of data used, can be in either direction.

The final pass through issue concerns three volatile pollutants (hexachlorobenzene, hexachloroethane, and hexachlorobutadiene) which are regulated at BAT based on technology and data transfer from other volatile pollutants that are treated by steam stripping technology. These pollutants are also regarded as passing through the POTW due to a determination of potential volatilization. Their "removal" from POTW wastewater includes some emissions of the pollutants to air rather than removal through treatment. This volatilization occurs in POTW sewer systems, equalization and other tanks, and secondary treatment systems. Therefore, EPA has established PSES for these pollutants.

EPA's decision is supported by the Conference Report which accompanied the Water Quality Act of 1987. The report states, with respect to conducting removal credit determinations:

"The purpose of removal credits under section 307(b)(1) is to allow reduced pretreatment requirements on the basis of treatment consistently achieved by the particular publicly owned treatment works. Dispersion into the air of toxic volatile organic chemicals does not constitute treatment of these pollutants. Consequently, removal credits cannot be issued for such pollutants on the basis of their emission from treatment works."

The basis for removal credits is analogous in some aspects to the basis for the pass through analysis. Essential to both is the calculation of POTW percent removal, the former on a local level and the latter on a national level. It was Congress' clear intent that POTW air emissions not be considered "removal" for purposes of relaxing pretreatment standards through removal credits, which strongly implies that such emissions should not be considered as POTW "removal" in calculating POTW removal efficiencies in conducting pass-through comparisons. (For the reasons discussed in Section X of this preamble, EPA is not establishing in-plant PSES for volatiles; thus, while steam stripping is the technology basis for controlling volatile pollutants, and the costs of steam stripping are taken into account in the regulatory decisions, some air emissions by indirect dischargers may occur before discharge to POTWs. Nevertheless, EPA believes that many plants will use steam stripping technology to comply with PSES for volatile pollutants and that this will result in substantial reductions in volatile emissions from indirect discharging OCPSF plants. PSES is thus an important step to controlling these emissions.)

EPA also considered regulating volatile pollutants on the basis of interference with POTWs in that they have the potential to threaten the health and safety of POTW workers. While there is some information in the record to support this basis, it is limited. Therefore, EPA is not relying on this basis, but notes that the information tends to support the decision made on grounds of pass through.

Similarly, EPA is not relying on interference with POTW sludge use and disposal options as a basis for determining to set pretreatment standards for particular pollutants. First, EPA's current sludge criteria are very limited. Second, POTWs' choices of

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disposal options for sludge are site-specific. It was thus not feasible at this time to base nationally applicable selection of pollutants for PSES regulation on current impact of discharges of specific pollutants to POTWs by OCPSF facilities on POTWs' sludge disposal practices.

2. Technology Selection

Indirect dischargers generate wastewaters with the same pollutant characteristics as direct discharging plants; therefore the same technology options as were discussed previously for BAT are appropriate for consideration as the basis for PSES. The Agency is promulgating PSES for all indirect dischargers on the same technology basis as that adopted for the BAT non-end-of-pipe biological treatment subcategory. EPA is not including end-of-pipe biological treatment (i.e., biological treatment after application of in-plant treatment and before discharge to the POTW) in the final PSES model technology based on the following considerations. As a matter of treatment theory, end-of-pipe biological pretreatment may be largely redundant to the biological treatment provided by the POTW. The primary function of biological treatment is to reduce BOD loadings, whether at the OCPSF plant or at the POTW. Of course, an OCPSF system may be more acclimated to the types of wastes discharged by the OCPSF plant than is the POTW. However, this distinction is of limited importance once the OCPSF wastewaters are pretreated by BAT-level in-plant physical/chemical treatment.

The data indicate that biological pretreatment following in-plant treatment comprised in the model technology for the BAT and PSES regulation results in very modest incremental removals of priority toxic pollutants. This can be seen by comparing the BAT limitations for plants with and without end-of-pipe biological treatment. Since both sets of limitations are quite low for virtually all pollutants, the total incremental pounds of toxic pollutants removed by adding end-of-pipe biological treatment to in-plant treatment for all indirect dischargers would be less than 13,000 pounds. (The actual number of pounds removed would be less because, among other things, biological treatment could not be effectively used by a number of indirect dischargers with low BOD. They would thus in any event be subject only to limitations equivalent to BAT limits without end-of-pipe biological treatment.) The cost of achieving these removals would be $20.6 million annually. Moreover, this option would result in the closure of two additional plants, with 371 incremental job losses. Based upon a combination of these factors (relatively small incremental removals, high cost, economic impacts, and redundancy of treatment equipment), EPA is not promulgating PSES based upon end-of-pipe biological treatment.

In addition, while information is limited, EPA believes that at least some indirect dischargers located in urban areas may lack sufficient land to install end-of-pipe treatment. (Indirect dischargers tend to have more limited access to land than direct dischargers, although this is not always the case.)

Although EPA has rejected the option of adding end-of-pipe biological treatment, it should be recognized that EPA is using in-plant biological treatment as part of its model technology for the treatment of certain nonvolatile pollutants in particular waste streams. Specifically, for such pollutants, EPA has in some cases used in-plant biological treatment systems as an alternative to in-plant activated carbon adsorption for some absorbable and biodegradable organic pollutants. Thus EPA has in fact used biological treatment as part of PSES model treatment technology where appropriate.

3. Economic Impact

EPA has determined that the PSES promulgated today are economically achievable for OCPSF indirect dischargers as a whole. Moreover, EPA has decided not to exempt any sector of small plants from PSES. Consequently, all indirect dischargers must comply with PSES. For a detailed description of EPA's economic impact methodology and analysis, and small plant impact analysis, see Section VIII of this preamble.

The projected capital and annualized costs are $291.5 and $204.3 million respectively, with an estimated closure rate for all indirect discharging plants of 14 percent (52 product lines and plants out of the 362 plants for which sufficient information exists for costing). Projected job losses associated with these projected closures total 2,190. An additional 17 percent of the indirect plants will incur significant profitability reduction or cost-to-sales impacts. While these impacts are significant, the Agency does not believe they constitute economic unachievability for the indirect discharging segment of the OCPSF industry. Eighty-six percent of the indirect discharger segment of the industry will not suffer either plant or product line closures, and 69 percent of the indirect discharging plants will not be significantly impacted under any measure. A very large number of pounds of toxic pollutants (22.5 million pounds) will be removed by PSES from discharges to POTWs. EPA has therefore concluded that promulgation of PSES as described above is warranted for OCPSF indirect dischargers.

EPA considered exempting certain small plants from PSES, focusing particularly on the sector of plants producing less than or equal to five million pounds of products annually. These plants are projected to incur a closure rate of 28 percent (27 out of 105 plants) and other significant impacts of about 38 percent. Eight hundred twenty-three jobs in this sector would be lost due to the projected closures.

The closure rate of 28 percent for these small plants is higher than the 14 percent rate projected for indirect dischargers overall; however, this impact is not as severely disproportionate as was the impact exhibited by small direct discharging plants compared to all direct dischargers. Although the significant impacts other than closure show a clearer disproportion for the small indirect dischargers, they too are not so great as to clearly define this class of small plants as different in kind from the rest of the indirect dischargers. Indeed, in particular, plants that produce less than five million pounds annually do not suffer impacts at a significantly higher rate than plants that produce less than 10 or 15 million pounds annually.

Also, plants producing five million pounds or less of OCPSF product currently discharge about 2.54 million pounds of toxic pollutants to POTWs annually. Compliance with PSES by these plants would result in toxic pollutant removals of 2.53 million pounds annually. (For plants that produce less than 10 or 15 million pounds, compliance with PSES would result in pollutant removals of 4.87 million or 5.42 million pounds, respectively.) Although POTWs may remove a substantial portion of the pollutants discharged into receiving waters, the discharges that could be avoided by compliance with PSES would still be significant (about 1.0, 1.4, or 1.6 million pounds for production cutoff levels at 5, 10, or 15 million pounds produced, respectively).

The Agency considered a potential exemption for the smaller class of indirect discharging plants with annual production equal to or less than one million pounds. This group of plants is projected to experience a closure rate of 33 percent (14 plant and product line closures) and a total significant impact rate of 81 percent. The projected employment loss is 161. Although the total significant impact percentage is very high, the disproportion of closures between this group of small indirect dischargers and all indirect dischargers (33 versus 14 percent) is considerably less than the disproportion in the case of small direct dischargers given less stringent BAT limitations and all direct dischargers (47 versus 7 percent). Moreover, the exemption of these plants would result in the failure to remove a very large amount of toxic pollutants—at least 315 thousand pounds and perhaps as many as 805 thousand pounds—from indirect dischargers. Accordingly, EPA has decided not to establish a PSES exemption for this class of plants.

EPA considered a variety of less stringent technology options to determine whether it would be possible to afford substantial relief to some indirect dischargers while at the same time obtaining significant levels of pollutant reductions. For example, EPA considered the options of regulating only metals, or only metals and cyanide, and of reducing monitoring frequency. None of these options reduced projected closures or other impacts substantially. Thus the only real alternative to imposing full PSES requirements is a total exemption.

EPA believes that an exemption for small indirect dischargers is not compelled by the fact that a segment of small direct dischargers have received some regulatory relief in the form of a less stringent level of regulation. Small direct dischargers have since the mid-1970s been regulated by NPDES permits and will continue to be subject to BPT limitations, thereby assuring that most toxic pollutants will be removed from their wastewaters. In contrast, most indirect dischargers have to this day failed to install any pretreatment, thereby resulting in 22.6 million pounds of toxic pollutants being discharged into POTWs by all indirect dischargers annually; approximately 2.5 million pounds (11 percent) are discharged to POTWs by small indirect dischargers producing five million pounds or less of OCPSF products.

EPA has thus determined not to exempt small plants from PSES or to establish less stringent PSES for them. While the impacts on small plants are significant, they are in the Agency's opinion neither so high nor so disproportionate as to justify an exemption, especially in light of the continued discharge of substantial amounts of toxic pollutants that an exemption would permit.

4. PSES Compliance Deadline

EPA has established a three-year deadline for compliance with PSES. Design and construction of systems adequate for compliance with PSES will be a substantial undertaking for many indirect OCPSF dischargers, due to the technical complexity of the tasks of characterizing various plant wastewaters, assessing various treatment combinations, and installing different treatment units for particular product/processes and particular pollutants. Thus, EPA believes that a full three-year compliance period is appropriate.

F. PSNS

Just as PSES and BAT are to be based on comparable treatment, PSNS is generally analogous to NSPS. EPA is not including end-of-pipe biological treatment in its PSNS model treatment technology, for the same reasons discussed above with respect to PSES. The Agency is promulgating PSNS on the same technology basis as PSES and issuing standards for 47 priority pollutants that have been determined to pass through or otherwise interfere with the operation of POTWs. The Agency has determined that PSNS will not cause a barrier to entry for new source OCPSF plants.

VII. Pollutants Not Regulated

Paragraph 8 of the modified Settlement Agreement, approved by the District Court for the District of Columbia on March 9, 1979 (12 ERC 1833) contains provisions authorizing the exclusion from regulation, in certain instances, of priority pollutants and industry subcategories.

Paragraph 8(a)(iii) of the modified Settlement Agreement allows the Administrator to exclude from regulation priority pollutants not detected by Section 304(h) analytical methods or other state-of-the-art methods. The 28 priority pollutants not detected in the OCPSF plant or product/process effluents, and excluded from this regulation for this reason are listed in Appendix C of this notice. One additional priority pollutant (dioxin) was not detected at levels of detection being used at the time of the sampling work. This level of detection was 3×10^{-7} grams/liter which is five orders of magnitude higher than the detection limits of the analytical method presently being used to study dioxin (TCDD) in industrial wastewater discharges. Thus, dioxin is being reserved rather than excluded from regulation.

Paragraph 8(a)(iii) also allows exclusion of pollutants that are: (1) Detected in the effluent from a small number of sources and uniquely related to those sources; (2) present in only trace amounts not causing nor likely to cause toxic effects; (3) sufficiently controlled by existing technologies upon which are based other effluent limitations guidelines and standards; or (4) present in amounts too small to be effectively controlled by technologies known to the Administrator. Ninety-seven different priority pollutants were found in OCPSF plants product/process wastewater discharges during the numerous sampling programs. Twenty of these pollutants were found at treatable levels only in a small number of instances. In those instances, these levels were attributable to manufacturing activities that are uniquely related to the plants sampled. (Another 8 priority pollutants were found only in trace amounts which neither cause nor are likely to cause toxic effects.) Another 3 priority pollutants were found to be sufficiently controlled by existing technologies (in addition to the 3 listed in Appendix B) for PSES and PSNS only. These 31 pollutants are listed in Appendix D to this notice along with the particular reason for excluding them from regulation.

Paragraph 8(b) of the Settlement Agreement authorizes the Administrator to exclude from nationally applicable pretreatment standards a subcategory or category if (i) 95 percent or more of all point sources in the subcategory introduce into POTWs only pollutants that are susceptible to treatment by the POTW and which do not interfere with, do not pass through, or are not otherwise incompatible with such treatment work, or (ii) the toxicity and amount of incompatible pollutants (taken together) introduced by such point sources into POTWs is so insignificant as not to justify developing a national pretreatment regulation. Since indirect dischargers generate wastewaters with the same pollutant characteristics as direct discharge plants, EPA has reviewed available data from direct and indirect dischargers and is excluding the same 59 priority pollutants listed in Appendices C and D from nationally applicable pretreatment standards. Appendix E lists six additional pollutants that are regulated at BAT but not regulated at PSES because they do not pass-through or interfere with POTWs.

As noted in Section VI of this preamble, certain specific OCPSF process wastewaters contain certain

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metals in complexed forms that are unique to those sources and for which appropriate treatment must be determined on a plant-specific basis. The metals and waste streams involved are listed in Appendix B to the OCPSF regulations and are excluded from regulation by § 414.11(*l*), pursuant to paragraph 8(a)(iii) of the Settlement Agreement.

VIII. Economic Considerations

A. Cost and Economic Impact

EPA's economic impact assessment is set forth in the report entitled "Economic Impact Analysis of Effluent Limitations and Standards for the Organic Chemicals, Plastics, and Synthetic Fibers Industry." This report presents the investment and annualized compliance costs for the plants covered by the OCPSF regulation. The report also estimates the probable economic effect of compliance costs in terms of plant and product line closures, employment changes, profitability impacts, and regulatory costs as a percent of sales. Local community impacts and international trade effects are also presented. A separate Regulatory Flexibility Analysis detailing the small business impacts has been conducted and is included in the Economic Impact Analysis for this industry.

EPA has identified 654 facilities that will incur costs as a result of this regulation. The costs of implementing the regulations are estimated on a plant-by-plant basis for all of the facilities that discharge wastewater. Of the facilities, 289 are direct dischargers and 365 are indirect dischargers. Total investment costs for BPT, BAT, and PSES are projected to be $855.4 million with annualized costs of $505.1 million, including depreciation and interest. These costs are in 1986 dollars and are based on the determination that plants will build on existing treatment. These costs reflect setting of BAT equal to BPT for the small production plants.

The number of plants costed is greater than the number of plants in the economic impact analysis because the production and shipment information needed for the analysis was not provided by a few companies despite follow-up requests after the 1983 308 survey questionnaires were submitted. For BPT, 214 plants are costed but the impact analysis includes only 209 of these facilities. For BAT, 289 plants are costed; the impact analysis covers 283. For PSES, 365 plants are costed; the impact analysis covers 362.

The Agency recognizes that its data base, which represents conditions in 1982, may not exactly reflect current conditions in the industry today and that plants may have changed product/process lines, or even gone out of business since the data were collected. Despite the fact that the technical and economic data are several years old and thus inevitably do not precisely match the present status of particular plants, EPA believes that the data provide a sound and reasonable basis for assessing the overall ability of the industry to achieve compliance with the regulations. The purpose of the impact analysis is to characterize the impact of these regulations for the industry as a whole and for major groupings within the industry. EPA does not believe that changes within the industry during the past few years significantly modify the technical, cost or economic conclusions underlying the regulation. However, where appropriate, the cost and impact analyses have considered recent trends affecting the industry.

B. Economic Methodology

The Economic Impact Analysis (EIA) uses three primary impact measures: closure, profitability and cost-to-sales. The values are estimated for almost all OCPSF plants (see above) using a combination of section 308 survey data and secondary sources, such as Dun & Bradstreet financial records, plus plant specific compliance costs developed by the Agency. The closure analysis uses a net present value approach which compares cash flow to salvage value. A closure is projected if the salvage value exceeds the present value of cash flow. Plant closure is projected when a plant's OCPSF employment is greater than 80 percent of total plant employment; product line closure is projected when a plant's OCPSF employment is less than or equal to 80 percent of plant employment.

The profitability impact measure indicates the extent to which OCPSF compliance costs affect plant profitability. A significant impact is counted if the compliance costs reduce the plant profits to the lowest decile value for all plants in a particular three digit SIC code.

The cost-to-sales impact measure compares compliance costs to plant sales, with a significant impact counted if the ratio exceeds five percent.

C. Significant Changes in the Economic Impact Methodology

There have been a number of substantive revisions to the economic analysis methodology and data base as a result of comments received on the December 1986 notice of availability. Key comments and methodological changes are summarized below.

Commenters stated that EPA used an inadequate financial data base for its economic analysis for facilities in the size group exceeding $10 million in sales. Based on the evaluation of this set of comments, the financial data base used to calculate discounted cash flow and liquidation values for OCPSF plants in the impact analysis was changed from FIN/STAT to Dun & Bradstreet. The previously used FIN/STAT data base, which covered the period 1976–1981, itself consisted of Dun & Bradstreet data and was developed by the Small Business Administration. The change to Dun & Bradstreet data both increased the total size of the entire data base used (from 61 plants to 190 plants) and increased the number of plants in the "greater than $10 million sales" category from 4 to 73.

Another set of comments stated that EPA used outdated financial data. By using the Dun & Bradstreet data, EPA has updated its financial information to cover the time period 1981 to 1986. (The FIN/STAT data covered the period 1976–1981).

Another set of comments stated that EPA's use of a single financial ratio for plants within a size grouping does not take into account plant-to-plant variability. EPA adopted an improved method for estimating cash flow and salvage value that takes into account plant-to-plant variability. Instead of using median financial ratios to relate these quantities to sales for arbitrary size groups within the industry, the Agency developed regression equations to relate each quantity to plant specific sales. The regression estimates use the full range of the data (now expanded to better characterize the full range of sales in the industry) and do not result in arbitrary gaps or jumps introduced by the previous method. The overall effect of the change in methodology has been to provide a better description of the consequences of the Agency's regulation.

One commenter stated that EPA's intended use of a profitability measure which identifies a significant impact as occurring if plant profitability falls by 25 percent is inappropriate because it does not consider the precompliance profit context. The definition of what constitutes a significant profit impact was changed from a profit decrease of 25 percent or more to any case where the compliance costs reduce plant profits to the lowest decile (10 percent) in a particular three digit SIC code. Since all plants in EPA's OCPSF economic data base are above the lowest SIC decile prior to incurring compliance costs, this measure effectively identifies significant reductions in precompliance profitability resulting from the regulation.

Another set of comments stated EPA must revise its analysis to reflect changes in the new tax code enacted in 1986. The tax rates used in the final analysis reflect the new tax code enacted in 1986. The major changes reflect deletion of the investment tax credit and the reduction of the impact of compliance costs as an expense item.

D. Baseline Analysis

The baseline economic analysis evaluates each plant's financial operating condition prior to incurring compliance costs for this regulation. This analysis also takes into account certain estimated costs associated with other significant regulations which are not yet promulgated or provided for in annual operating expenses. Baseline costs include RCRA costs for relining surface impoundments that treat, store, and dispose of hazardous wastes. An estimated 41 plants are projected to incur RCRA costs in the baseline. Capital and annualized RCRA costs for these facilities total $25.2 and $8.8 million, respectively (1986 dollars). Other RCRA costs as well as Superfund requirements are assumed to be incorporated in annual operating costs because the financial data used reflect a time period (from 1981 to 1986) after these requirements became effective.

There are no significant economic impacts projected as a result of the baseline costs; therefore, all plants analyzed in the baseline are included in subsequent analyses. Had closures been projected to occur they would have reduced projected impacts from these regulations. The baseline RCRA costs are carried forward into subsequent analyses and are included in the preregulatory costs of a plant.

E. Economic Results

BPT

The capital and annualized costs of complying with the BPT limitations are $215.8 and $76.6 million, respectively, and affect 214 plants. No plant or product line closures are projected; 8 of the 209 direct discharging plants analyzed experience significant profitability or cost-to-sales impacts. Seventy-eight plants are expected not to incur incremental BPT costs or impacts. No job losses are expected to occur as a result of BPT.

BAT

The incremental capital and annualized costs of complying with BAT limitations are $348.1 and $224.2 million, respectively. Estimated plant and product line closures total 11, representing four percent of the 283 plants analyzed. Significant profitability and cost-to-sales impacts occur at an additional 11 plants resulting in a total of 22 significantly impacted plants or 8 percent of the direct discharging plants. Job losses totalling 1,197 are expected to occur as a result of the plant and product line closures. This employment loss represents 0.7 percent of OCPSF total employment. (These costs and impact results reflect the setting of BAT equal to BPT for plants producing five million pounds or less per year of production.)

PSES

For PSES, the total capital and annualized costs of compliance are $291.5 and $204.3 million, respectively. Estimated plant and product line closures total 52, representing 14.4 percent of the 362 plants analyzed. Significant profitability and cost-to-sales impacts are estimated to occur at an additional 63 plants resulting in a total significantly impacted universe of 115 or 31.8 percent of the indirect discharging plants. Job losses totalling 2,190 are expected to occur as a result of the plant and product line closures. This employment loss represents 1.2 percent of the OCPSF total employment.

PSNS and NSPS

For the control of toxic pollutants, the treatment options selected for direct and indirect discharging new sources are identical to those selected for existing sources except that no exemption will be provided for new direct discharging small plants.

For the control of conventional pollutants in NSPS, EPA has adopted the same technology bases as for BPT.

Planned new OCPSF plant construction in the U.S. over the time period 1986 to 1991 is estimated to be only 4.5 percent of total planned OCPSF construction worldwide. Most of this new construction will be in the form of renovation work or upgrading of existing product lines rather than construction of completely new plants. When new construction does occur, the capital costs of the regulation are estimated to represent between two and four percent of the costs of constructing a new plant. These cost increases are low and are not expected to be a barrier to entry.

F. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* Pub. L. 96–354) requires EPA to assess whether its regulations create a disproportionate effect on small businesses. In assessing the disproportionate effect for purposes of complying with the Regulatory Flexibility Act, EPA had to decide whether its analysis of impacts on small businesses would address all small plants or only those small plants operated by small firms. This issue arose because the OCPSF analysis is a plant specific analysis. In previous economic analyses the impacts were modeled, and the Agency did not have the ability to differentiate its assessment of disproportionate effect by ownership. The Agency had the ability to consider that distinction in developing this guideline. If the Agency did not take ownership into account in its definition of small businesses and treats all small plants as small businesses, the Agency would be consistent with previous approaches. If, however, a distinction is made between small single plant operations and small plants owned by large corporate entities, the Agency would be inconsistent with previous definitions of small businesses—definitions which were developed, necessarily, in the absence of knowledge of ownership.

The Agency presented this issue in the December 1986 Federal Register notice and solicited comment on whether small OCPSF plants owned by large companies are effectively run as small businesses—i.e., do companies tend to view individual plants as profit centers and decide on their continued operation based mainly on the plant's financial performance, or are plants more typically operated in the context of a firm's overall plan to satisfy product markets? The implication is that if small plants are run independently as profit centers, they should be included in the small business analysis along with single plant small businesses when the disproportionate effect of the regulation is assessed.

The Agency conducted an extensive analysis to address the issue of whether large companies could be anticipated, for a variety of reasons, to continue to operate a facility projected to be a closure in our Economic Impact Analysis. This could occur because firms which are vertically integrated require the output of all the plants in the corporate organization to fill its product lines. Among other reasons for maintaining unprofitable or marginal plants are the desire to remain in a

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given product or geographic market, or the belief that the plant's product(s) will ultimately prove worth retaining.

Industry comments supported the notion that small plants are generally treated as independent financial units and that parent companies will usually not keep small plants open, especially in the long run, if they are unprofitable. Our analysis of the industry shows that small plants tend to experience about the same level of impacts, regardless of ownership, in the long run. This result occurs despite the fact that in our closure analysis the weighted average cost of capital assigned to plants owned by medium and large sized firms was from one to two percentage points lower than the weighted average cost of capital assigned to small single plant firms.

To understand better the incidence of impacts in relation to ownership, impacts on small plants (both direct and indirect discharging plants) were evaluated based both on plant production alone and on plant production in combination with aggregate company sales. The former approach captures impacts at small plants without regard to ownership. The latter approach captures impacts occurring at small plants owned by small firms. We evaluated all plants with production levels of <5 million pounds, <10 million pounds, and <15 million pounds (annual OCPSF production) irrespective of size of the firm owning the plant. We also evaluated production and parent company sales combinations of <5 million pounds and <20 million of sales and <10 million pounds and <$20 million of sales.

1. Results of Small Plant Analysis for Direct Dischargers

Under BAT, the analysis shows that, in the absence of the reduced requirements for plants producing five million pounds per year or less of product, provided for in the final rule, the impact of the regulation would be fairly similar with respect to plants with annual production less than or equal to 5 million pounds and plants with both annual production less than or equal to 5 million pounds and parent company sales less than $20 million annually. At these plants, significant impacts would occur at between 60 and 80 percent of the plants. This level of impact would be much greater than that experienced by direct discharging plants overall. The overall significant impact level for direct dischargers is 13 percent before special provision for plants with annual production less than or equal to five million pounds.

2. Results of Small Plant Analysis for Indirect Dischargers

Under PSES, the impact of the regulation is also very similar for plants with annual production less than or equal to five million pounds and plants with annual production less than or equal to five million pounds and parent company sales less than $20 million annually. Impacts occur at approximately 62 percent of the plants; impacts for all indirect dischargers are approximately 31 percent.

A complete description of the small plant analysis and its results is presented in the Economic Impact Analysis.

G. Cost Effectiveness Analysis

EPA has conducted an analysis of the incremental cost per pound equivalent for removal of the pollutants controlled by the OCPSF regulation. A pound-equivalent is calculated by multiplying the number of pounds of a pollutant by the toxic weighting factor for that pollutant. The weighting factors give relatively more weight to more highly toxic pollutants. Thus, for a given expenditure and pounds of pollutants removed, the cost per pound-equivalent removed would be lower when more highly toxic pollutants are removed than if less toxic pollutants are removed.

The cost effectiveness methodology used in this analysis, unlike that for previous effluent guidelines, takes into account reduction of air emissions of volatile organic chemicals expected to result from use of the model technology (specifically steam stripping) upon which the water discharge limitations and standards are based. Reductions in air emissions of these pollutants is counted in computing the cost-effectiveness of the regulation since the treatment technologies costed for the regulation reduce these emissions. (To the extent that some plants use less expensive treatment than steam stripping that results in greater-than-projected air emissions, the predicted reduction of air emissions is an overestimate. Correspondingly, the predicted costs and economic impacts would be overestimated as well.) The toxic weighting factors used take into account the toxicity and carcinogenicity of these chemicals and their effects on humans through inhalation.

The cost effectiveness values for the selected BAT and PSES options are $5 and $34 per pound-equivalent, respectively.

H. SBA Loans

The Agency continues to encourage small concerns to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) the Pollution Control Finance Guarantee Program, (2) the Section 503 Program and (3) the Regular Business Loan Program (Section 7(a)). Eligibility for SBA programs varies by industry.

For further information and specifics on the Pollution Control Finance Guarantee Program, contact the U.S. Small Business Administration, Office of Pollution Control Financing, 1441 L Street, NW., Washington, DC 20416, (202) 653–2546.

The Section 503 Program, as amended in July 1980, allows long-term loans to small and medium size businesses. These loans are made by SBA-approved local development companies.

Through SBA's Regular Business Loan Program (Section 7(a)), loans made available by commercial banks are guaranteed by SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Business Loan (Section 7(a)) and Section 503 Programs, contact the appropriate district or local SBA office. The coordinator at EPA Headquarters is Ms. Karen V. Brown, Small Business Ombudsman (A–149C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; (703) 557–1936.

I. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses (RIAs) of major regulations. Major regulations are those that impose an annual cost to the economy of $100 million or more, or meet other criteria. Implementation of the promulgated regulation for the Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) Industry has been projected to cost over $100 million annually and thus is considered a major regulation. In compliance with E.O. 12291, EPA has prepared an RIA which consists of a benefit-cost analysis and a water quality analysis. The benefit-cost analysis compares the costs of the regulation with its benefits. The aggregate benefits, both monetizable and non-monetizable, exceed or are at least reasonably commensurate with costs.

Benefits were grouped into three categories: (1) Non-quantified and non-monetized benefits; (2) quantified and non-monetized benefits and (3) quantified and monetized benefits.

The non-quantified and non-monetized benefits that were identified include: (1) Protecting and restoring the integrity of aquatic ecosystems (The EPA comparative risk project ranked

point source discharges as a relatively high risk to aquatic ecosystems); (2) reducing the potential health risks to swimmers from dermal exposure to surface waters containing pollutants from OCPSF discharges; (3) reducing the potential health risks to persons eating more than average amounts of fish contaminated with OCPSF-discharged pollutants; and (4) reducing the potential health risks to persons drinking contaminated drinking water from groundwater sources impacted by surface waters containing OCPSF discharges.

One benefit could be quantified but not monetized. With current treatment at OCPSF facilities forty-seven thousand people are estimated to be exposed through inhalation to volatile organic compound (VOC) priority pollutants above long term intake levels recommended by EPA and may experience health effects other than cancer. The OCPSF regulation would reduce these effects.

The monetized national water quality benefits that result from the implementation of BPT and BAT are estimated to range from $178–$330 million (1982 dollars) annually. These benefits are based on estimates of increased uses or improvements in recreational fishing and boating, commercial fishing, diversionary uses (i.e., irrigation) and intrinsic (non-use benefits). When estimates of health (cancer reduction) and environmental (smog protection) benefits that result from the reduction of air emissions are added, benefits estimated range from roughly $189–$393 million (1982 dollars).

The annualized costs to direct dischargers in the OCPSF industry of moving to BAT are estimated to be $270 million (in 1982 dollars).

There were many limitations in estimating the benefits: (1) The national water quality benefits were based on an assumed linear relationship between total pollutant loadings and benefits attributed to cleanup of surface waters in the U.S. (2) The environmental impacts of toxics on aquatic ecosystems are not well understood and the benefits of reducing toxics are likely to be underestimated in the monetized national water quality benefits. (3) Uncertainty exists regarding the magnitude of the intermedia transfer of both priority pollutant VOCs and nonpriority VOC pollutants from OCPSF direct discharge wastestreams to the air. Priority pollutant emission estimates range from 7,000 MT/yr to 20,600 MT/yr. Nonpriority VOC pollutant emission estimates from direct discharge plants range from 9,100 MT/yr to 36,600 MT/yr. (4) The air emissions and thus exposures to pollutants could be underestimated by not considering volatilization between point of product/process wastestream generation and point of influent into industrial treatment facilities.

In addition to the benefits analysis above, a water quality analysis was performed, which consisted of three studies. The first projected water quality impacts for 170 direct discharging OCPSF facilities discharging into 134 stream segments across the country. EPA's published water quality criteria for priority pollutants are used to assess water quality impacts. The analysis projected that under existing conditions 32 percent of the 134 receiving stream segments exceed water quality criteria. A total of 30 pollutants are projected to exceed instream criteria using a criterion for the carcinogens that is based on a 10^{-6} individual risk. Twenty-nine percent of the receiving stream segments are projected to exceed water quality criteria with the implementation of BAT treatment levels in this regulation. A total of 24 pollutants are projected to exceed instream criteria at BAT.

The second study evaluated the effects of 94 indirect discharging OCPSF facilities which discharge to 57 POTWs. At current loadings, treatment works inhibition and/or sludge contamination are projected to occur at 8 of the 57 POTWs as a result of five of the 22 pollutants which have inhibition/sludge contamination values. The implementation of PSES removes inhibition problems for all but one pollutant at one POTW and sludge contamination problems for all but one pollutant at one POTW. The POTW inhibition and sludge values used in this analysis are in general not regulatory values. They are based upon engineering or health-related guidance or guidelines published by EPA and FDA. Thus EPA is not basing its regulatory approach for PSES upon a finding that some pollutants interfere with POTWs by impairing their treatment effectiveness or causing them to violate applicable sludge limits for their chosen disposal methods. Rather, the PSES are based upon a determination of pass through as explained earlier in the preamble. However, the analysis does help indicate the potential benefits for POTW operation and sludge disposal that may result from compliance with PSES.

Also, the effects of POTW wastewater discharges of 56 priority pollutants on receiving streams were evaluated for 56 indirect discharging OCPSF facilities, which discharge to 42 POTWs on 41 stream segments. For these 41 segments, projected instream concentrations for each pollutant were compared to EPA water quality criteria. Instream concentrations are projected to exceed criteria in five of the stream segments under current conditions. A total of 14 priority pollutants are projected to exceed instream criteria using a criterion for carcinogens based on 10^{-6} individual risk. Priority pollutant instream concentrations after implementation of PSES are projected to exceed criteria in one receiving stream segment for two pollutants.

The third water quality study evaluated three stream segments in detail (Houston Ship Channel, Kanawha River and Lower Delaware River). Monetizable water quality benefits were calculated for these streams and compared to expected BAT costs for OCPSF direct discharging facilities. Comparison of benefits with BAT costs show disparate results across the sites. The Kanawha River results indicate that the estimated annual water quality benefits ($0.1 to $2.7 million) are commensurate with the annualized costs ($1.5 million). The Delaware River results indicate that the estimated annual water quality benefits ($2.1–$9.1 million) are significant but are less than the annualized costs of $18.7 million. The Houston Ship Channel monetized annual water quality benefits (<$1.0 million) are substantially less than annualized costs ($8.8 million), due largely to the commercial shipping usage of the Channel, which precludes many of the benefits evaluated. The monetized water quality benefits were based on estimates of increased use or improvements in recreational fishing and boating, commercial fishing and intrinsic (non-use) benefits. Health risks from the ingestion of contaminated fish tissue were also assessed in the three case studies, and for the Delaware River reductions in drinking water health risks were considered. (The Delaware River case study was the only case study where active drinking water intakes were present in the vicinity of OCPSF dischargers.) Due to the difficulty in extrapolating the results of these case studies to a national scale covering all regulated plants in the OCPSF industry and all impacted receiving waters, the monetized national water quality benefits assessment (described above) was employed.

IX. Non-Water Quality Environmental Impacts

The elimination or reduction of one form of pollution may create or aggravate other environmental problems. Therefore, sections 304(b) and 306 of the Act require EPA to consider

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the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of these regulations on air pollution, solid waste generation, and energy consumption.

The following are the non-water quality environmental impacts associated with this regulation:

A. *Air Pollution*

The effect of BPT, if viewed alone, would likely be a moderate increase in emissions of volatile organic compounds, and thus in air pollution in the immediate vicinity of some OCPSF industry plants. This would be the result of plants installing or upgrading the performance of aerated lagoons, activated sludge basins and equalization basins and thus more effectively driving off volatile organic compounds. This effect will be more than offset, we believe, by the effect of compliance efforts to meet BAT, because we expect many plants to comply with the BAT limits by installing in-process controls that effectively remove volatile organic compounds before they reach the end-of-pipe controls. These in-process controls would be accompanied by effective air pollution controls. Thus, we expect a net decrease in both air loadings and in concentrations of volatile organic compounds in the treated effluents from and BAT combined, and we expect similar effects as a result of PSES as well. A description of these loadings are contained in previous (Section IV) portions of this preamble. In addition, Section X (commenter issues section) of this preamble contains more discussion on the volatile pollutants.

B. *Solid Waste*

EPA has considered the effect these regulations would have on the production of solid waste, including hazardous waste defined under Section 3001 of the Resource Conservation and Recovery Act (RCRA). EPA estimates that increases in total solid waste, including hazardous waste, resulting from the OCPSF regulation will be insignificant compared to current levels.

C. *Energy Requirements*

EPA estimates that the attainment of BPT, BAT, NSPS, PSES and PSNS will increase energy consumption by a small increment over present industry use.

Further details are set forth in Section VIII of the Development Document.

X. Public Participation and Summary of Responses to Major Comments

Public participation in the development of the OCPSF effluent limitation guidelines and standards has been extensive. Throughout the development of this regulation, EPA has made numerous documents available to the public for comment and has held meetings for the purpose of providing information and receiving information and views from many individuals and organizations.

Prior to publication of the proposed regulation on March 21, 1983, EPA made publicly available a variety of major documents. These included EPA's Guidelines Establishing Test Procedures for the Analysis of Pollutants at 40 CFR Part 136 which detailed analytical methods to be used by EPA to analyze samples of OCPSF industry wastewaters, and a Background Document consisting of three volumes and appendices, providing much of the technical and costing foundation for EPA's subsequent regulatory proposal. EPA also discussed its data and methodology at various meetings and workshops with interested members of the public, enabling them to submit detailed comments on this information prior to the publication of the proposal. Thus in the proposal, EPA was able to take the unusual step of publishing responses to 51 preproposal public comments. See 48 FR 11653–61 (March 21, 1983).

The public comment period for the proposal, set originally for three months, was extended to provide for a total of four and a half months for comment. A total of 756 technical comments, totalling approximately 2000 pages, were submitted by industry, government, environmental and other groups and individuals. Partly in response to these comments and partly to incorporate supplemental data (as urged by many commenters), EPA modified its data base, methodologies and regulatory approaches and discussed these changes in a Notice of Availability and request for comments on July 17, 1985 (50 FR 29068). EPA followed this shortly with an additional Notice of Availability on October 11, 1985 (50 FR 41528) in which EPA made extensive additional documentation available to the public to enable fully informed comment on the modifications. The total comment period for the two notices was five and a half months. In response, EPA received over 1,100 technical comments from 72 members of the public.

Finally, on December 8, 1986 (51 FR 44082), EPA published yet another notice discussing several issues and proposed modifications to the previously discussed approaches. EPA provided a 2-month comment period, and received as a result 103 technical comments from 37 members of the public.

Throughout this rulemaking, EPA has not only welcomed the submission of comments but also solicited data that could be used to supplement, correct, or fill gaps in EPA's data base. Where adequately documented data of sufficient quality were submitted, EPA used the data along with other data it had collected. EPA believes that it has made all reasonable efforts to obtain public input on this rule.

Included in the record for this rule is a large response to comments document. The sheer volume of comments precludes the publication of EPA's responses to all of them in this preamble. EPA has discussed and responded to many comments earlier in this preamble. Set forth below are responses to some additional significant comments. Other comments are responded to in the separate response to comments document mentioned above. Finally, the various data compilations, editing and other information contained in the record for this rule address (and in some instances were obtained or acquired specifically for the purpose of addressing) the public comments.

1. Percent Removal vs. Concentration-Based BPT Limitations

Comment: A number of industry commenters have stated that the Agency should base BPT limitations on a combination of percent reduction and maximum concentration limitations to control the discharge of BOD from OCPSF facilities.

(A plant's BPT TSS limitation would be some multiple of its percent reduction derived BOD limit). The commenters favored an average percent reduction limitation of 95 percent for some dischargers coupled with a maximum long-term concentration level of 50 mg/l for others. High raw waste load plants (those having average raw waste concentrations over 1000 mg/l) would have to achieve a 95 percent BOD reduction from raw waste levels while low raw waste load plants (those below 1000 mg/l) would have to meet a 50 mg/l concentration limit. The commenters maintained that the imposition of concentration limitations on all discharges including those with high raw waste loads, inhibits water conservation efforts and unfairly discriminates against plants which engage in water conservation practices. They also maintained that percent reduction limitations would better

reflect the inherent variability of OCPSF process operations than would concentration limitations.

Response: Effluent limitations guidelines can be in the form of percent reduction, concentration, or production based mass limitations. Selection of an appropriate approach is within EPA's discretion and is based upon its judgement as to which is most appropriate for a particular industry and data set. Thus for example, limitations can be based solely on the performance of applicable treatment systems or on treatment system performance and production. When the available production data for a category can be correlated with pollutant discharges, EPA can develop mass limitations based on both treatment system performance and production. This approach, however, is not appropriate for the OCPSF category because of the large number of different products involved, the constantly changing nature of the product mix, and the lack of any established strong correlation between production type and pollutant discharge. Thus for the OCPSF BPT regulation, EPA has promulgated concentration-based limitations rather than mass-based limitations.

EPA also prefers concentration-based limitations over percent-reduction limitations for this industry. EPA believes that percent reduction limitations would allow plants with high raw waste loads to discharge very high concentrations of BOD on a long-term average basis. Yet the data collected by EPA demonstrates that even high raw waste loads can be reduced to low concentrations through the use of BPT technology. Concentration limitations describe the limits of performance of this technology better than percent removal requirements do.

For example, a plant with an average raw waste BOD concentration of 2,000 mg/l would be allowed by a 95 percent reduction requirement to discharge a long-term average concentration of BOD of 100 mg/l (after applying a variability factor, the actual daily limit would be substantially higher). Such concentrations are unacceptably high; this is indicated by the fact that some OCPSF plants with average raw waste BOD concentrations greater than 2,000 mg/l achieve long-term average BOD effluent concentrations of less than 100 mg/l.

Percent-reduction limitations also discourage the efficient operation of biological treatment systems. From an engineering point of view, optimally designed systems are designed to meet target BOD levels, not a specific percent reduction in BOD. That is how systems are generally designed and costed by wastewater engineering firms.

The Agency does not agree with the assertion that concentration limitations discourage water conservation. The Agency notes that commenters did not support this assertion with quantitative or qualitative data demonstrating how and to what extent water conservation is practiced and how such practices would be impacted by concentration limitations. The comment ignores the fact that water conservation is often practiced for a variety of sound reasons of efficiency and economy, and that wastewater treatment costs themselves may be substantially reduced by reducing the flow which must be treated. The resulting cost savings may outweigh any increased cost that arguably results from being required to treat the more concentrated stream to meet an effluent concentration limitation. The record before the Agency does not demonstrate that the concentration limitations will discourage water conservation.

Commenters contend that percent-reduction limitations would accommodate variations in BOD loading caused by process changes better than concentration limits do. The commenters' insistence that percent reduction limitations are more accommodative to process changes ignores the fact that most plants have equalization basins on the front end of treatment systems for the expreas purpose of dampening surges in raw waste BOD due to process events (spills, etc.) and changes. The effect of these basins is to smooth out BOD loadings. The remaining variability has been accommodated by the variability factor developed by EPA for the BOD concentration limitations. In developing percent reduction limitations, there is a danger that the variability due to process changes may be over-compensated for and that the resulting limitations could be met by poorly operated plants.

Percent reduction limitations might penalize plants which utilize in-plant methods to treat raw waste BOD. The reduction in raw waste BOD achieved in-plant could only be measured if all the individual product/process effluents were analyzed prior to in-plant treatment on a regular basis, a practical impossibility for some plants and an unwarranted burden for many others. As a result, it would be very difficult to credit these plants with in-plant removal.

Finally, the development of percent reduction limitations requires that influent as well as effluent data descriptive of treatment technology performance be available, whereas concentration limitations require only that effluent data be available. In the case of the OCPSF categories, considerably less influent than effluent data are available. The Agency believes that in order to establish percent reduction limitations for a category or subcategory, the influent data should be comparable to the effluent data in quantity and quality and should provide as much coverage of the category as the effluent data. This would be necessary to correctly reflect the variability of production operations and treatment performance within the category. Moreover, if EPA were to develop percent reduction limitations using the available BPT data base, the resulting limitations would be less representative of the OCPSF categories because many plants employing numerous product/processes would be deleted from the limitation development data base due to lack of daily raw waste data. This consideration also argues in favor of issuing the concentration approach, for which more data is available.

2. The Effect of Temperature in Achieving BPT Permit Limits

Comment: EPA has incorrectly evaluated the effect of temperature on biological treatment plants and has concluded that it is not important in the context of effluent limitations guidelines. One element of this incorrect analysis was EPA's deletion of nine plants from the data base simply because they had summer/winter NPDES permits. This step is arbitrary and virtually assures that the effect of temperature will not be considered in the estimation of effluent variability. Also, the commenter argued that a number of plants in the 308 data base showed statistically significant temperature effects.

Response: EPA has studied the effects of temperature variations on biological treatment system performance in the OCPSF industry. In warm climates, the Agency believes that warmer than average temperatures do not have any significant effect on biological treatment efficiency or variability. However, algae blooms can be a wastewater treatment problem in ponds located in warm climates. Nonetheless, polishing ponds are not part of the technology basis for BPT limitations. Also, EPA was not able to associate algae bloom problems with any elements of biological treatment (aerated lagoons, clarification, equalization, basins, etc.). Consequently, EPA believes that algae growth problems in warm climates are not relevant to the final BPT regulations.

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In order to evaluate winter performance of biological treatment systems, EPA has analyzed BOD removal efficiency, BOD effluent, and operational changes for 21 plants located in various parts of the country and reporting daily data. These analyses indicate that there is a slight reduction in average BOD removal efficiency and a small increase in average effluent BOD during January and February for some plants. However, many plants were able to maintain a BOD removal efficiency of 95 percent or greater and effluent BOD concentrations characteristic of good operation during the entire year. The analysis also suggests that the plants with lower efficiencies are affected as much by inefficient operating practices as by winter temperature considerations. Indeed, plants in colder climates, with the widest annual temperature fluctuation, generally achieved more consistent year-round performance than plants in middle latitudes. A discussion of inefficient operating practices used by some plants as well as practices employed by plants achieving superior all year performance may be found in Section VII of the Development Document. The adoption of practices used by plants with higher winter efficiencies should result in improved winter efficiency.

EPA has determined that temperature effects can be mitigated by operational and technological changes, so that compliance with BPT limitations using biological treatment is possible for all OCPSF plants with well-designed and well-operated biological systems. Section VII of the final development document contains a thorough discussion of summer/winter effects and how individual OCPSF plants have dealt with this problem. In addition, EPA has developed costs for plants which need to upgrade their winter-time biological treatment operation to comply with final BPT limitations.

Regarding the deletion of nine summer/winter plant's data from the data base, the Agency notes that because these plants were subject to meeting two different sets of permit limits, they had no incentive to attempt to achieve uniform limitations throughout the year. Not surprisingly, then, the daily data from these plants exhibit a two-tier pattern. These data can be characterized by two means, and the variability of these data over a 12 month period is fundamentally different from the data from plants required to meet only one set of permit limits. Consequently, the data generated during these periods is not representative of well-operated biological treatment, which as noted above is capable of uniform treatment throughout the year as demonstrated by a number of plants. Another problem with daily data from these plants is that during certain periods of the spring and fall, these plants may be able to operate their treatment plants at less than full efficiency because they are required to meet the less stringent set of permit limits.

In summary, the Agency believes that it has accounted adequately for the effect of temperature changes on biological treatment performance in its variability analysis by including in the variability data base a number of plants from climates with significant temperature variation. The inclusion of data from plants with summer/winter permits would result in an overestimate of the variability of biological treatment operations in the OCPSF categories.

3. Representativeness of the Data Base Used to Establish BAT Effluent Guidelines

Comment: Industry commenters claimed that the Agency's BAT data base was not adequate to represent wastewater treatability across the wide variety of product/process effluents discharged by the OCPSF industry.

Response: EPA has determined that the data base supporting the OCPSF regulations is representative of OCPSF industry wastewaters, treatment technologies, processes, and products. EPA conducted four major sampling programs during the development of BAT limitations. In total, 186 plants were sampled in the Agency's screening, verification, 5-plant and 12-plant studies. After editing the data base so that only good quality data (i.e., having adequate Quality Assurance/Quality Control) representing BAT treatment were used, the edited BAT data base contains sampling data for 36 OCPSF plants (including industry supplied data) representing 232 product/processes. These 36 plants account for approximately 26 percent of production volume and 24 percent of the process wastewater flow of the entire industry. The types of product/processes utilized by these 36 plants represent approximately 13 percent of the types of OCPSF product/processes in use. Since the products manufactured by these facilities are manufactured at other OCPSF facilities, the data obtained from these plants represent even greater percentages of total industry production and flow. Thus, about 66 percent of OCPSF industry production (in total pounds) is represented and about 57 percent of the OCPSF industry wastewater is accounted for by the products and processes utilized by the 36 plants in the data base. Products that could be manufactured by the 232 product/processes utilized at the 36 plants account for 84 percent of industry production and 78 percent of process wastewater.

It is estimated that the OCPSF industry manufactures more than 20,000 individual products; however, overall production is concentrated in a limited number of high-volume chemicals. Excluding consideration of plastics, resins, and synthetic fibers, EPA has identified 36 organic chemicals that are manufactured in quantities greater than one billion pounds per year. These chemicals are referred to as commodity chemicals. Two hundred eighteen organic chemicals are manufactured in quantities between 40 million and one billion pounds per year. These chemicals are referred to as bulk chemicals. Together, these 254 chemicals account for approximately 91 percent of total annual production volume of organic chemicals as reported in the 308 questionnaire data base for the OCPSF industry. By sampling OCPSF plants which manufacture many of these high-volume chemicals, as well as other types of OCPSF plants, EPA has, in fact, gathered sampling data which is representative of production in the entire industry.

In addition to their general coverage of major industry product/processes and products, the BAT sampling programs have focused on OCPSF plants, product/processes and products known or believed to be associated with priority pollutant discharges. EPA evaluated the 176 product/processes sampled during the screening sampling effort in order to determine predictability of priority pollutant occurrence based on product/process chemistry. The Agency determined that priority pollutants could appear in waste streams of plants utilizing various product/processes if priority pollutants were involved as reactants, products, by-products, catalysts, or reagent contaminants in these product/processes. The information obtained from the review of the screening plant sampling was used by EPA to select plants for its later sampling efforts that would represent as much as possible priority pollutant discharge in the OCPSF industry. In selecting plants and product/processes for sampling during the Verification Study, EPA gave priority to product/processes involving the manufacture of either priority pollutant or high-volume chemicals derived from priority pollutants. Similarly, EPA selected

plants for sampling during the EPA/CMA Five-Plant Study and the subsequent Twelve Plant Study based in part upon the known or suspected presence of certain priority pollutants at significant concentrations in plant wastewaters. As a result, the existing BAT data base adequately represents priority pollutant discharges by the entire OCPSF industry.

The current BAT data base also provides broad coverage of the major wastewater treatment technologies employed by the OCPSF industry. The Verification Study emphasized data collection on raw process wastewaters and the principal treatment configurations (i.e., preliminary treatment and biological treatment) for combined plant wastewaters. The EPA/CMA Five-Plant Study was designed to assess the effectiveness of biological treatment in removing organic priority pollutants. The final phase of the sampling program, the Twelve Plant Study, provided additional data on many nonbiological treatment technologies, including in-plant controls and end-of-pipe treatment technologies, and supplemental long-term performance data for other treatment technologies.

In developing its BAT data base, EPA did not sample wastewaters and treatment systems for all plants in the OCPSF industry. The considerable expense associated with the sampling of toxic pollutants, especially organic pollutants, has imposed practical constraints on the scope of OCPSF sampling programs. Resource concerns also reflect the need for rigorous quality assurance/quality control procedures (e.g., blank samples, duplicate samples, etc.) at each stage of sampling/analysis to ensure the highest possible quality for sampling data. These procedures significantly increase the cost of sampling and analysis. As a result, the OCPSF sampling program has been designed with the intention of collecting the greatest possible quantity of data without sacrificing data quality.

Due to its concern that the earlier versions of the BAT data base may not adequately address the variety of priority pollutant loadings in OCPSF industry wastewaters, EPA has at each stage in the rulemaking solicted additional data on the presence, concentrations, and treatability of priority pollutants in OCPSF plant wastewaters. Valid data (as determined by editing and quality assurance rules) submitted by industry were incorporated in the BAT data base and utilized in the calculation of BAT effluent limitations. During the OCPSF rulemaking efforts, each affected OCPSF plant or industry segment had the opportunity to comment and submit sampling data which it believed should be added to the data base considered by EPA.

Finally, it should be noted that the number of plants from which data are used to develop BAT limitations is necessarily limited by the fact that a large portion of the industry does not currently have well-designed, well-operated BAT treatment in place. Since BAT must be based upon the best available technology in the industry, the data must inevitably be limited to only the best performers in the industry.

4. Establishment of Effluent Limitations and Monitoring Requirements in NPDES Permits for OCPSF Facilities

Comment: Some commenters have argued that a plant should be subject to limitations only for those pollutants that it discharges at significant levels. They argue that the imposition of limits will inevitably result in compliance monitoring for pollutants that are not present in the discharge, and that this imposes unnecessary costs. In the July 17, 1985 Notice, EPA sought to address this concern by proposing a monitoring scheme whereby monitoring for pollutants could be drastically reduced if preliminary monitoring and other information indicated that the pollutants would not be discharged at significant levels.

The July 17, 1985 proposal of a monitoring scheme provoked substantial comments from both sides of the issue. Some argued that the scheme required more initial monitoring than was necessary to determine whether pollutants were likely to be present in the discharge during the permit term. Many of these commenters also argued that EPA's test for determining which pollutants would require more frequent monitoring was too stringent (i.e., too inclusive). In contrast, one commenter argued that the test did not adequately account for discharge variability and thus would result in the incorrect conclusion that certain pollutants were not likely to be discharged (were not "pollutants of concern") when in fact they would be discharged at levels and frequencies that warrant frequent compliance monitoring.

Response: The final OCPSF regulations regulate 63 toxic pollutants at BAT and 47 toxic pollutants for PSES. Regulating such a large number of the toxic priority pollutants is unprecedented in the effluent guidelines rulemaking program, reflecting the fact that many of the organic toxic pollutants are directly manufactured by OCPSF facilities as well as used as raw materials or generated as byproducts in industry processes.

As discussed elsewhere EPA has determined that the OCPSF industry should not be subcategorized based on product mix for the BAT regulation because the pollutants are treatable to comparable levels for a wide variety of plants within the industry. (See Section IV of the Development Document.) However, EPA is promulgating BAT limitations for two subcategories which are largely determined by raw waste characteristics (see Section VI.C.1. of this notice). Nevertheless, most OCPSF plants routinely discharge only a limited subset (e.g., 5–15) of the pollutants regulated at BAT. Thus, in the case of a typical plant in the industry, the regulations impose limitations for many pollutants that are not in fact discharged by the plant.

In the final regulation, EPA has decided that each discharger in a subcategory will be subject to the effluent limitations for all pollutants regulated for that subcategory. First, EPA recognizes the difficulty in guaranteeing that a plant will never during the permit term discharge a pollutant regulated for the applicable subcategory. Many factors do cause changes in the nature of OCPSF plant wastewater discharges, such as process changes, raw material changes, and product line changes, as well as more subtle factors that may result in changes in the wastewater matrix. Inserting a limitation in a plant's permit for a pollutant not generally expected (based on initial information) to be discharged assures that in fact the plant will be vigilant not to introduce the pollutant into its discharge without adequate treatment. Second, the limitations on these pollutants are fair, since in the event that a plant does discharge such a pollutant, EPA has determined that each of the regulated pollutants can be successfully treated by OCPSF dischargers by the use of the best available technology economically achievable.

Once a pollutant is regulated in the OCPSF regulation for dischargers in a particular subcategory, it must also be limited in the NPDES permit issued to any discharger in that subcategory. See Sections 301 and 304 of the Act; see also 40 CFR 122.44(a). The question remains, however, as to how much monitoring will be required for the various pollutants regulated by the permit.

EPA believes that industry's concern that OCPSF dischargers not be required to expend unnecessary resources to monitor for non-existent pollutants is

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legitimate. While dischargers will normally monitor frequently for at least some toxic pollutants that are expected to be discharged, their monitoring costs would increase if other toxic pollutants were also to be monitored frequently. Whether the cost increase would be significant would depend on several factors, including whether the plant used GC/CD or GC/MS methods (which in turn depends on the number of organic pollutants discharged by the plant) and whether the additional pollutants were members of the same class of compounds as the pollutants that would be monitored in any event. The incremental cost of monitoring using Methods 1624 and 1625 for organics and atomic adsorption for metals could range from $295 for one organic compound and one metal to $1,350 for a scan of all regulated organic and metal priority pollutants. Thus it certainly is desirable to minimize unnecessary monitoring. However, as discussed above and in the July 17, 1985 notice, there is legitimate concern that pollutants may be discharged even if some initial information (e.g., a permit application) suggests that they are not currently discharged.

After considering the comments submitted on both sides of the issue raised by the July 17, 1985 notice, EPA has decided that the appropriate monitoring scheme for plants in this industry, as in other industries for which EPA has promulgated effluent limitations guidelines and standards in the past, is best determined on a case-by-case basis. EPA has generally refrained from setting inflexible monitoring requirements in effluent guideline regulations for other industries, and the NPDES permit regulations have similarly been written to allow the permit writer to establish in the permit (subject to all the procedural and substantive safeguards afforded by the NPDES permit procedures of 40 CFR Parts 122 and 124 and by the judicial review provision of section 509(b) of the Act) a set of monitoring requirements that are appropriately tailored to the plant. See 40 CFR 122.44(i) and 122.48.

The NPDES regulations set forth monitoring and reporting requirements for NPDES dischargers. Section 122.48 requires that each permit specify requirements regarding monitoring type, intervals and frequency sufficient to yield data which are representative of the monitored activity. Section 122.44(i) adds that the monitoring results must be reported with a frequency depending on the nature and effect of the discharge, but in no case less than once per year. Sections 122.41, 122.44 and 122.48 contain numerous other requirements concerning monitoring and reporting.

However, the NPDES regulations do not establish more specific requirements as to the frequency of monitoring that should be required. The frequency with which compliance monitoring should be performed will normally depend upon a variety of factors. One factor, of course, is the level at which particular pollutants are likely to be discharged in the event that the plant fails to treat its effluent adequately. This level would depend on production-, process- and raw material-related factors, as discussed above and elsewhere in the record for this regulation. Other factors relevant to setting monitoring requirements include the size of the plant, the size of the plant's flow, the nature and sensitivity of standards applicable to the receiving water, and other site-specific factors. Permit writers have throughout the history of the NPDES permit program made judgments as to the appropriate monitoring frequencies for particular plants, based upon these site-specific considerations. EPA believes that this approach remains the most appropriate for the OCPSF industry as it has been for all other industries.

EPA recognizes that specific guidance on appropriate monitoring requirements for OCPSF plants would be useful, particularly to assure that monitoring not be needlessly required for pollutants that are not discharged at a plant. One noteworthy factor is the monitoring scheme assumed by EPA for purposes of estimating the costs of complying with the OCPSF regulation. EPA has assumed that all plants would monitor their toxic pollutants four times per month. In addition, EPA has assumed that three of the four analyses would include only those toxic pollutants expected to be present at levels of regulatory concern. However, the fourth monthly analysis included all regulated toxic pollutants.

In assessing wastewater data as part of the analysis for developing appropriate monitoring frequencies for toxic pollutants, permit writers should take special care to account for the effects of dilution, which may indicate the absence of pollutants which in fact may be discharged. For example, as mentioned earlier in this preamble, an indication on a Form 2C permit application that a pollutant is absent or is present only at very low concentrations may reflect dilution and may fail to reveal that the pollutant is genuinely associated with and discharged from particular plant processes in significant amounts and thus needs to be monitored frequently. Thus, permit writers should obtain in-plant, pre-dilution data when necessary to properly characterize the wastewater for purposes of establishing monitoring requirements.

To address issues of particular concern, EPA intends to publish guidance on OCPSF monitoring in the near future.

This guidance will address both the issues of compliance monitoring generally and of initially determining which pollutants should be subject only to infrequent monitoring based on a conclusion that they are unlikely to be discharged.

5. Air Emissions of Volatile Pollutants

Comment: In the July 17, 1985 **Federal Register** notice (50 FR at 29083), EPA discussed its concerns about the "substantial impacts that may result from volatile air emissions at OCPSF biological treatment plants." EPA stated that available information strongly indicated that biological treatment systems fail to treat substantial portions of volatile and semi-volatile pollutants but rather transfer them to the air. In light of this information, EPA stated that it was seriously considering promulgating, in addition to the end-of-pipe effluent limitations, an additional set of in-plant, pre-biological limitations for a set of 20 volatile and semi-volatile pollutants. EPA stated that if it promulgated in-plant limitations, they would be applied prior to any biological treatment system, and control authorities would require compliance monitoring prior to the biological system. However, EPA acknowledged that even this approach might not result in a significant reduction of air emissions. This might occur, EPA said, if sources choose to use in-plant control techniques other than steam stripping which meet the BAT limitations but do not result in any significant reduction of air emissions. Therefore, EPA noted that if warranted, EPA may use Clean Air Act ("CAA") authority to address volatile air emissions.

In the subsequent October 11, 1985 **Federal Register** notice (50 FR at 41529), EPA extended its discussion of the OCPSF volatile air emissions issue. EPA re-emphasized that setting pre-biological limitations, while serving to discourage the substitution of air stripping for treatment, would not absolutely preclude air stripping. For example, some facilities use air strippers, or achieve some degree of air stripping in equalization basins and other devices, prior to biological treatment. EPA reiterated that it was therefore considering addressing this problem through the Clean Air Act. However, EPA also stated that it would consider three additional options for addressing the problem under the Clean Water Act.

The first option was to require that the in-plant limitations apply at a point prior to any unit or process that is capable of transferring significant quantities of pollutants to the air. Alternatively, a certain level of emissions (e.g., the air stripping of 20 percent or more of the pollutants in question) might be designated as significant, resulting in applying the limits prior to the point where such emissions occur.

The second option was to specify in the regulation that technologies that involve significant levels of air stripping are not BAT because they result in significant adverse non-water quality (air) impacts. This would have been accomplished by listing particular technologies or specifying numerical criteria for determining significant levels of air emissions.

The third option was to specify technologies, such as steam stripping with recovery, that must be employed to remove volatile organic pollutants. EPA acknowledged that the Agency has historically disfavored specifying technologies and has relied exclusively upon effluent limitations and standards reflecting the selected model technologies to achieve particular control levels. Indeed, EPA noted that Congress intended that numerical criteria be the method generally used to set standards. However, since the CWA does not explicitly forbid the specification of technology, and given the extraordinary situation where numerical limitations alone may be incapable of assuring the use of the best available technology from an overall environmental perspective, EPA believed that this option may be legally acceptable.

EPA stated that it would continue to explore both the legal issues and the practical difficulties presented by the above options and invited comment on them. EPA received many comments in response, which are summarized below.

Commenters disagreed widely as to EPA's legal authority to promulgate in-plant limits to control emissions of volatile air pollutants as part of this regulation under the CWA. One commenter argued that EPA is legally required to establish in-plant limitations for OCPSF plants. The commenter did not cite any statutory authority that directly authorizes controls on air emissions under the CWA. However, the commenter argued that control measures and practices are not the "best", as required by the statute, if they allow substantial air emissions while alternative technologies are available which do not result in such emissions. The commenter pointed out that section 304(b) of the Clean Water Act includes "non-water quality environmental impact" as one of the factors to be taken into account in promulgating effluent limitations. In this regard, the commenter cited legislative history accompanying this provision to the effect that water pollution controls should not result in overall environmental degradation.

In contrast, numerous other commenters argued that EPA lacks authority to set limitations under the CWA that are designed to control air emissions. Moreover, these commenters argued, the CAA is the statutory vehicle chosen by Congress for regulating air emissions, and EPA should confine itself to acting under the CAA, if any action is warranted. (Several commenters noted that the Resource Conservation and Recovery Act (RCRA) is an appropriate regulatory vehicle for addressing at least some air emissions related to some OCPSF dischargers managing hazardous wastes.) These commenters noted that the CWA does not contain any provisions explicitly authorizing the specification of technology, the direct limitation of air emissions, or the establishment of in-plant limitations for the purpose of controlling air emissions. Some commenters argued further that in-plant limitations were beyond EPA's statutory authority, which, they asserted, authorizes only the limitation of discharges, i.e., the addition of pollutants to waters of the United States. Some of these commenters argued further that the statutory requirement that nonwater quality environmental factors be considered is: (1) Intended to preclude effluent limitations that result in net adverse environmental impacts but not to authorize specific limitations for the purpose of controlling air emissions, and (2) intended to address primarily adverse energy impacts.

Many industry commenters disagreed with the Agency's preliminary assessment that the air emissions from OCPSF plants constituted a significant environmental problem. They argued that while the Agency's preliminary assessment was that eight million pounds of pollutants are emitted annually from OCPSF biological treatment systems, this figure is minute as compared with total VOC (volatile organic compounds) emissions nationwide. Moreover, they argued that most OCPSF plant emissions are very small and in any event are insignificant in that they do not result in significant increases in ozone levels in the ambient air. These commenters also argued that EPA overestimated the total volatile pollutants emitted to the air noting that EPA's estimates were based upon estimated relative rates of biodegradation and volatilization.

Industry commenters also argued that EPA had incorrectly calculated the costs incurred to meet the in-plant limits. In particular, they asserted that significant energy costs would be incurred to generate the required steam and that steam generation would itself result in air emissions from boilers, with associated control costs.

Finally, industry commenters argued that the in-plant limitations would have the effect of denying plants the opportunity to use biological treatment to treat their organic pollutants, since they would require that dischargers meet limits prior to the point where the wastewaters entered the biological treatment plant.

Response: To address this multimedia issue, EPA held many meetings among the various EPA offices that implement statutory programs that may have some relevance to the issue of air emissions from OCPSF wastewater treatment facilities. After considering the broad variety of technical, policy, and legal issues involved, EPA has decided that the issue of volatile air emissions from OCPSF facilities is best addressed under laws that specifically direct EPA to control air emissions. The primary statutes providing such directions are the CAA and, in the case of facilities managing hazardous waste, RCRA. (The Toxic Substances Control Act may also be used to control air emissions where EPA determines that it would be in the public interest to use this authority.)

As a preliminary matter, the nature of the volatile emissions from OCPSF wastewater treatment systems must be understood. In the absence of any wastewater treatment, OCPSF facilities would discharge wastewaters containing volatile and semi-volatile organic pollutants into the receiving waters or into POTWs, without removal of these pollutants. These pollutants would be contained initially in the receiving waters or the POTWs, but a significant percentage of them would ultimately volatilize from the receiving waters or POTWs into the atmosphere. Because most direct discharging OCPSF plants in fact already have wastewater treatment facilities, most of these volatile pollutants are not discharged and volatilized downstream, but rather are taken out of the wastewater prior to discharge through biodegradation, recovery, accumulation in sludge, or

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volatilization. While the volatilization from existing wastewater treatment systems may tend to concentrate residual volatile pollutants near the plant, it would be offset by the BPT and BAT regulations' combined effect. Efforts to comply with BPT and BAT regulations are expected to enhance the performance of the existing wastewater treatment facilities. It appears likely that they will generally cause a net decrease in air emissions. In many cases they will result in the increased use of technologies such as steam stripping that will lessen air emissions. At worst, they will fail to address an existing air pollution problem.

The issue before the Agency, then, is not so much whether the Agency should address an air pollution problem that is created through the promulgation of OCPSF wastewater treatment requirements. Rather, the principal issue is whether, in setting CWA requirements to limit the discharge of volatile organic pollutants in wastewaters, EPA should simultaneously use CWA authority to restrict the air emissions of these pollutants as well. As discussed below, EPA has decided that it would be most appropriate to address the air emissions issue directly by using the statutory authorities designed explicitly for this purpose, rather than to attempt indirect regulation through the Clean Water Act.

The legal and practical difficulties associated with attempting to regulate air emissions under the Clean Water Act are considerable. First, the statute provides no explicit authority for specifying technology, such as steam stripping, to control wastewater discharges. Rather, the statute calls for regulation that establishes effluent limitations and standards (with certain exceptions, such as best management practice (BMP) requirements under section 304(e) of the CWA), rather than specific management requirements. Indeed, the legislative history of the Act indicates that Congress did not want EPA to specify technology but rather wanted EPA to allow dischargers to select the means by which they would comply with effluent limitations. See, e.g., 1972 Legislative History at 311, 794–95 and at 1477.

Setting in-plant limitations to address air emissions has its own set of problems under the CWA. Neither the statute nor its legislative history provides explicit authority or a sense of Congress that EPA should directly control air emissions through effluent limitations promulgated under the CWA. The CWA clearly gives EPA authority to consider potential adverse nonwater quality environmental impacts before promulgating effluent limitations. However, the legislative history and case law examining this section 304(b) factor focus on the need to avoid the creation of significant adverse nonwater quality effects, or to consider the costs of mitigating such effects, rather than making it clear that the CWA could be used as statutory authority for controlling these nonwater quality effects. See, e.g., 1972 Legis. Hist. at 232 and 268–69, and 1977 Legis. Hist. at 412. See also, *Weyerhaeuser Co.* v. *Costle*, 590 F.2d 1011, 1044–53 (D.C. Cir. 1978); *American Paper Institute* v. *Train*, 543 F.2d 328, 339–40 (3rd Cir. 1976); *C&H Sugar Co.* v. *EPA*, 553 F.2d 280, 289–90 (2d Cir. 1977); *FMC Corp.* v. *Train* 539 F.2d 973, 979 (4th Cir. 1976); *Kennecott Copper* v. *EPA*, 612 F.2d 1232, 1246 (10th Cir. 1979) (cases upholding regulations in which EPA considered nonwater quality impacts and in some cases suggested means of mitigating those impacts); *AISI* v. *EPA*, 968 F.2d 284, 308 (3rd Cir. 1977); *Hooker Chemicals and Plastics Corp.* v. *Train*, 537 F.2d 620, 638 (2nd Cir. 1976) (cases remanding regulation where EPA gave no consideration at all to nonwater quality impacts). Indeed, the legislative history indicates that the section 304(b) requirement to consider non-water quality effects was designed to assure that EPA's internal structure and personnel attitudes were sensitized to the existence of such effects to assure that the net results of all of EPA's programs enhanced the environment and to temper effluent limitations, if necessary to prevent such effects. See *Weyerhaeuser, supra*, 590 F.2d at 1044–53. In the present case, this requirement has in fact had the effect of focusing the Agency as a whole on the issue of OCPSF air emissions. As discussed below, EPA is currently collecting data and considering regulations under a variety of legal authorities to address OCPSF air emissions.

Thus, while it is not clear that EPA is precluded from promulgating in-plant limits to control air emissions under the CWA, such action is not required and indeed is not explicitly authorized by the CWA. This points toward our conclusion that it is most appropriate to use the legal authorities that are more directly applicable and more clearly suited to the problem at hand, such as the Clean Air Act.

Another potential problem in using in-plant limits under the CWA is that it is inconsistent with the general approach taken by EPA under the CWA of determining compliance with effluent limitations at the end of pipe or, at least, at the point at which no more process wastewater treatment occurs. This approach is, as industry commenters have noted, consistent with the general statutory scheme of controlling discharges from point sources. EPA certainly is empowered to monitor internal waste streams. See, e.g., *Mobil Oil Corp.* v. *EPA*, 716 F.2d 1187 (7th Cir. 1983) (EPA may monitor internal waste streams to gain information as to which pollutants are being discharged and to better assess a plant's treatment efficiency). Moreover, EPA may establish limits on internal waste streams when end-of-pipe limits are impractical or infeasible, such as where the final discharge point is inaccessible (e.g., under 10 meters of water), so diluted as to make monitoring inpracticable, or subject to interferences that render detection and quantification inpracticable. See 40 CFR 122.45(h). However, EPA has never to date established in-plant limits for the purpose of addressing air emissions. The legal issues raised by such a regulatory approach are difficult and need not be reached given the fact that Congress has provided EPA with broad authority to regulate air emissions directly under other statutes.

The CAA and RCRA provide a broad array of regulatory tools to address the wide variety of air emissions. Clean Air Act regulatory programs include State Implementation Plans (SIPs) to implement National Ambient Air Quality Standards (NAAQS), National Emission Standards for Hazardous Air Pollutants (NESHAPS), and New Source Performance Standards (NSPS). In addition, two major different permit programs have been established to deal with new sources, one in areas that have obtained compliance with NAAQS (Prevention of Significant Deterioration-PSD) and the other in non-attainment areas. The CAA contains a variety of other authorities not discussed here.

RCRA also provides explicit, direct authority to regulate air emissions from hazardous waste treatment, storage and disposal (TSD) facilities. For example, section 3004(n) requires EPA to promulgate regulations for the monitoring and control of air emissions at TSD facilities as may be necessary to protect human health and the environment.

EPA believes that the use of authorities other than the CWA to address air emissions from OCPSF wastewater is preferable for several reasons. First and foremost, as noted above, statutes such as the CAA and RCRA specifically authorize and require EPA to regulate air emissions; the CWA does not. Second, these other authorities provide for a more direct and effective means of controlling air emissions than does the CWA. Even under a broad reading of the CWA, EPA would be limited to indirectly controlling the air emissions through in-plant wastewater discharge limits, giving rise to some of the practical implementation problems discussed in the July and October 1985 notice. The CAA and RCRA, in contrast, clearly authorize the direct control of the emission itself. Third, because the CAA and to some extent the RCRA authorities provide broad authorization to regulate a wide variety of emission sources, they provide a better context for regulatory activity than does the CWA.

While multimedia issues are clearly raised in this rulemaking, they are similarly inherent in many other Agency regulations, including previously promulgated effluent guidelines. The decision not to use CWA authority to control air emissions here is consistent with longstanding Agency practice to regulate adverse effects in media other than the one being directly addressed through applying statutory authorities expressly established to address those other media. For example, EPA has consistently recognized that wastewater treatment often produces residues that may present environmental problems in other media unless properly controlled (e.g., hazardous sludges). EPA has not regulated disposal in these other media under the CWA but rather has regulated disposal under other directly applicable statutory authorities (e.g., RCRA). In promulgating this and other effluent guidelines, EPA has considered the associated costs of disposing of wastewater treatment residues in compliance with applicable requirements.

It is important to reemphasize that EPA has based the effluent limitations for volatile pollutants on the use of steam stripping with product recovery or destruction rather than on techniques that would allow air emissions, and has developed the compliance costs for this regulation based on the use of this more expensive treatment technology. This is based on the Agency's conclusion, taking into account the air emission aspects of wastewater treatment, that steam stripping with product recovery or destruction better represents the use of "best available technology." To the extent that some OCPSF plants choose to comply with the effluent limitations by using techniques that result in some air emissions (whether through volatilization from biological treatment or through prior air stripping), EPA's estimated costs and economic impacts will be overstated. However, EPA highly recommends that plants incorporate steam stripping with product recovery or destruction into their wastewater treatment systems at this time, to limit air emissions presently and in order to avoid costly retrofit requirements that may be subsequently imposed under the CAA, RCRA or other appropriate statute. EPA's current activities assessing this issue in detail, which will form the basis for subsequent regulatory activity, are summarized below.

Extensive efforts are underway to evaluate and regulate volatile organic pollutant emissions from wastewater in the organic chemicals, plastics, and synthetic fibers industry. Volatile organic compounds (VOCs) emitted from wastewater at OCPSF plants can pose air pollution problems by directly causing human health effects and/or by contributing to the formation of ozone, which then adversely affects human health and the environment. Pollutants emitted from OCPSF wastewater which directly cause human health effects include two organic compounds which are listed as hazardous air pollutants under section 112 of the Clean Air Act (vinyl chloride and benzene) and eight organics for which EPA has published a notice stating an intent to list them as hazardous air pollutants (methylene chloride, ethylene dichloride, ethylene oxide, butadiene, carbon tetrachloride, trichloroethylene, chloroform, and perchloroethylene). Organic compounds which contribute to ozone formation are referred to as volatile organic compounds, and include most organic compounds except for those specifically exempted through a series of notices which have appeared in the Federal Register. Also, the EPA currently is examining certain chemicals that may be contained in volatile organic compound emissions and their role as potential depleters of stratospheric ozone. Stratospheric ozone depletion may result in increased cases of skin cancer in humans and significant environmental effects as well. The Agency is continuing to study stratospheric ozone depletion and its environmental and health risk impacts. The reduction in VOC emissions from OCPSF wastewaters may also reduce emissions of potential ozone depleters, thus assisting in the protection of stratospheric ozone.

Volatile organic compounds are emitted from wastewater beginning at the point where the wastewater first contacts air. Thus, air pollutants from wastewater may be of concern immediately as the wastewater is discharged from the process unit. Emissions occur from sewers, junction boxes, screens, settling basins, equalization basins, biological treatment systems, air or steam strippers lacking product recovery and any other units where the wastewater is in contact with the air. In addition, those pollutants not emitted near the point of discharge may volatilize subsequently from the receiving waters.

In an effort being led by EPA's Office of Air and Radiation, EPA is evaluating the magnitude of the VOC emissions from OCPSF plants primarily by reviewing data already collected under the Clean Water and Clean Air Acts, but is also collecting additional data specifically for this purpose. Data on the organic content of wastewater can be used to estimate emissions. Data collected under the authority of section 308 of the Clean Water Act on the priority pollutant concentrations in wastewater are being reviewed along with sampling data obtained by EPA to support the OCPSF effluent guidelines. Analysis of these data indicates that for purposes of developing air emission controls that information on the volatile organic content of individual wastewater streams at the point of discharge from the process units is limited. It is important to realize that these data were designed to measure wastewater treatment effectiveness and thus focus mostly on the concentrations of priority pollutants in the wastewater in the influent and effluent of wastewater treatment systems. Further, due to the potential for emissions between the point of discharge from a process and the influent to end-of-pipe treatment systems, as well as the likelihood of organic emissions other than priority pollutants, the data underestimate air emissions.

In an attempt to improve the basis for estimating emissions, EPA sent questionnaires to nine OCPSF companies in July 1986 requesting that they submit existing data or provide estimates of the organic content in the wastewater at the process unit discharge. Data were requested for both volatile organics and for the specific organic pollutants referred to earlier which have been listed or are being considered for listing under section 112 of the Clean Air Act. (These are referred to as hazardous air pollutants and potentially hazardous air pollutants, respectively. Other pollutants may also become listed or considered for listing as hazardous air pollutants as better health effects data become available in the future.) Responses to this request contained data for the hazardous or potentially hazardous air pollutants, but

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for the most part the quantities of VOCs and priority pollutants in the discharges were estimated or not provided.

The responses indicated that the VOC content would probably be at least ten times greater than that of the CWA priority pollutants. If this is the case, the VOC emissions based on a ten-fold increase in the air loadings derived from the section 308 data would amount to 70,000 metric tons/year. The EPA considers emissions of 70,000 tons/year of VOC from an emission source category to be significant, especially since approximately 50 percent of the OCPSF wastewater VOC emissions occur in areas where the National Ambient Air Quality Standard for ozone is not being attained (non-attainment areas). In addition, preliminary estimates indicate that risk and incidence of adverse effects resulting from potentially hazardous air pollutants emitted at OCPSF wastewater treatment facilities are significant.

The responses to the July 1986 data request also indicate that the majority of the emissions are due to a small percentage of the wastewater streams. This suggests that sizable emission reductions can be obtained through treatment of a relatively small percentage of OCPSF plant wastewaters. As a result, the EPA has initiated a program to identify wastewater streams that contain relatively high concentrations of VOCs and to determine the cost of removing the VOCs. The EPA believes that emission controls will be most effective from both an environmental and cost standpoint if applied at the point of maximum VOC concentration. This will generally be at the process unit discharge. Air pollution controls can be used at this point to reduce emissions from wastewater line junctions, open troughs, and other possible emission points in the collection system and from all downstream treatment and processing points. Since treatment costs are directly related to the amount of wastewater, VOC removal is most cost effective if performed prior to being mixed with other wastewaters that contain little or no VOCs. This information will be incorporated into a technical document which can then be used for standards development.

The EPA is presently evaluating whether the Clean Air Act, Resource Conservation and Recovery Act or a combination of these and perhaps other statutes should be used as a basis for regulating emissions from wastewater. RCRA requires the regulation of air emissions at treatment, storage, and disposal facilities, but has several statutory and regulatory exemptions which affect wastewater. As noted above, potential Clean Air Act authorities to employ include section 111 (New Source Performance Standards), Section 112 (National Emission Standards for Hazardous Air Pollutants), and/or State Implementation Plans and State regulations based on control technique guidance issued by EPA. While EPA is evaluating which regulatory authority or authorities to use for control of emissions from wastewater, additional efforts to collect data and develop air sampling procedures (which are the same regardless of regulatory authority) are proceeding.

It should be noted that in the interim, while EPA is proceeding with regulatory development, OCPSF wastewater treatment systems may be subject to new source review under the Clean Air Act. This may be required where new systems are installed to attain the effluent limitations and standards being promulgated in this **Federal Register** notice. These systems may be required to install air pollution control technology to meet best available control technology (BACT) requirements in ozone attainment areas and/or lowest achievable emission reduction (LAER) requirements in ozone nonattainment areas. Information currently being gathered by EPA to support regulatory development could be used by States in making these determinations.

Finally, readers should note that, consistent with the above discussion, EPA has already begun to regulate air emissions of VOC from wastewater systems. On May 4, 1987, EPA published proposed new source performance standards under section 111 of the Clean Air Act to limit emissions of VOC from new, modified, and reconstructed refinery wastewater systems (52 FR 16334). The proposed standards require the refinery wastewater systems to use the "best demonstrated technology", as that term is defined in the Clean Air Act, to reduce volatile organic emissions.

8. Use of Different Analytical Methods

Comment: Some commenters have stated that the various analytical methods used by EPA to generate the data used to develop the limitations are varied and not comparable. For example the methods used include a variety of GC/CD methods and GC/MS procedures.

Response: EPA acknowledges that a variety of methods have been used to develop the limitations. There are several reasons for this. First, different methods are more appropriate or more cost-effective in different wastewater matrices. For example, GC/CD may be cheaper for a wastewater with only a few priority pollutants belonging to the same class of compounds, while GC/MS is cheaper for analyzing for a wide range of compounds. Second, analytical methods for organic compounds have been evolving and improving throughout the period of the OCPSF rulemaking. As available procedures were refined, EPA took advantage of these refinements. Third, EPA was unable to promulgate standard methods for most of these compounds (in a separate rulemaking) in 40 CFR Part 136 until after some of the data used to develop the OCPSF limits were collected.

It is not possible to directly compare and contrast these various methods in the sense of determining a numerical relationship of data generated by one method to that of another. Each method used by EPA to generate the data being used has represented EPA's judgement as to the best method to use at the time for the given purpose of data development in light of the evolving state of the art. Data collected by procedures deemed inadequate were subsequently dropped from the data base. EPA believes that it is most appropriate to treat all the data retained after editing as equally appropriate for use in establishing the limitations. Dischargers by using the technologies upon which the limitations are based, should be able to demonstrate compliance with these limitations using the Part 136 analytical methods.

7. Definition of Analytical Levels of Detection and Their Use in Rulemaking

Comment: A number of commenters were critical of the manner in which EPA dealt with analytical levels of detection and low pollutant concentrations. Many commenters expressed the view that the 1985 proposal established limits below what the commenters term the "limit of quantification" (LOQ). Many commenters also stated that the limits proposed by EPA are at, near, or below the "Method Detection Limit" (MDL), the "limit of detection" (LOD), or the "detection limit." Commenters cited journal articles from "Analytical Chemistry," 52, December 1980, p. 2243; "Analytical Chemistry" 55, December 1983, page 2217 and "Spectrachem" Acta. B, 33B, 1978, page 242.

Response: The Agency's position is that the definitions of MDL, LOD and LOQ cited by commenters contain a number of ambiguities that make their use in rulemaking problematic. The exception is the definition of MDL

provided by EPA (40 CFR Part 136). The other definitions do not provide explicit step by step procedures including computational formulae that are sufficiently specific that a reader can follow and obtain a result. At various points in the other definitions the reader must make assumptions and interpretations that can be translated into operational steps to obtain a result.

In approaching development of analytical methods to be used for regulation of the OCPSF and other industries, EPA sought a means by which low concentrations of organic pollutants in wastewaters could be reliably measured, and sought to avoid the ambiguities associated with the definitions of LOQ, LOD, and detection limit.

For recent measurements of organic pollutants in this industry, EPA used isotope dilution GC/MS Methods 1624 and 1625 (40 CFR Part 136; 49 FR 43234). These methods specify the exact levels at which the instrument must be calibrated (see Section 7 "Calibration" in either method), and specify the "Minimum Level" at which the entire analytical system must give recognizable signals for the pollutant and acceptable calibration points. (See the footnotes to table 2 of Method 1624 and to tables 3 and 4 of Method 1625).) These Minimum Levels are specified in the methods and are not statistically based, nor are they the same as the LOD as one commenter suggests. These minimum levels are based on EPA's experience with pollutant levels that can be measured with near 100 percent certainty in every laboratory EPA employs using these methods.

The minimum levels are pollutant specific and are different for different pollutants. Of the pollutants listed in Methods 1624 and 1625, approximately 22 percent have Minimum Levels of greater than 10 μg/l; the remaining approximately 78 percent have Minimum Levels of 10 μg/l. (Note, however, that the MDL for these pollutants is generally much lower than the Minimum Levels.)

EPA recognizes that it has used in some of its programs an analytical approach related to the LOQ, called PQL ("practical quantification level"), which is generally some multiple of the MDL. This is done, for example in the recently promulgated drinking water standards ("maximum contaminant levels") for volatile organic chemicals (52 FR 25690, July 8, 1987). That regulation established PQLs generally at levels of 5 μg/l, which is in fact lower than the minimum levels established for the corresponding pollutants under the Part 136 regulations. (They are generally to be used for cleaner water matrices than OCPSF wastewaters).) Similarly, EPA has published PQLs as part of its recently revised hazardous waste groundwater monitoring regulations (52 FR 25942; July 9, 1987). However, the PQLs in that regulation have not undergone as extensive a validation procedure as the Part 136 methods, and they are not to be used for any regulatory purpose; they were published primarily to provide guidance to analytical laboratories. (Moreover, these PQLs are based upon analytical procedures that do not reflect the state of the art as fully as the Part 136 methods do.)

In using the minimum level approach for developing the OCPSF effluent guidelines, EPA has used the approach established in the analytical procedures which it has promulgated in Part 136 and which are described above. The promulgated Part 136 methods are required to be used by NPDES permittees; thus it is the use of the Part 136 method's approach to Minimum Levels that is relevant in evaluating whether particular concentrations can be monitored for and thus may appropriately be established as regulatory limits. Moreover, it is notable that, in any event, the limitations and standards established in this rule compare favorably with a variety of analytical detection/quantification definitions. No effluent limitation is less than the minimum level that can be measured reliably with isotope dilution methods; similarly, the limitations are above the MDL for every pollutant in every method and are above the LOQ for at least one method alternate to the isotope dilution methods. Therefore, the Agency concludes that pollutants can be reliably measured at the promulgated levels.

8. Complex Matrices

Comment: Industry commented that the analytical measurement at low levels is highly matrix dependent; i.e., interferences in the sample from other pollutants and other substances can preclude measurement of pollutant levels at the promulgated effluent limits. One commenter submitted data that purport to show that the analytical methods EPA uses will not permit accurate measurement of the effluent limits EPA has set because of the complex matrices. Other commenters state that the proposed effluent limits are too low for measurement in complex wastewaters and that the methods were developed using reagent water and not wastewater matrices.

Finally, one commenter states that EPA has not demonstrated that its methods would prevent nonregulated compounds from coeluting with regulated compounds during the analysis of a complex OCPSF industry wastewater.

Response: EPA agrees that matrix interferences can make measurement difficult for a few of the pollutants at the 10 μg/L level in a few effluents, but not in many. EPA has found that well-designed, well-operated treatment systems that include in-plant treatment (e.g., steam stripping; precipitation) followed by biological treatment reduce the matrix effects so that the sample behaves in the analysis process in nearly the same way as does reagent water, so that matrix interferences do not present a problem. The limitations and standards that EPA is promulgating today are based on well-designed and well-operated treatment system performance.

For dischargers who do not use end-of-pipe biological treatment, matrix interferences are also not likely to be a problem. Effluent limitations below 50 ppb are established primarily for two types of groups, volatile pollutants treated by steam stripping and organic pollutants treated by in-plant biological treatment. In both cases, the limitations are based upon data that demonstrate that the pollutants have been and thus can be measured at the regulatory levels. If situations remain in particular wastewaters where such measurement is difficult, the pollutants can be monitored at the effluent from the in-plant steam stripper or biological treatment unit. In such a case, significant problems from matrix interferences are unlikely.

To establish an effluent limit for daily maximum or monthly average, the data used are in most cases below the effluent limit because the limit allows for the variability of the data about the average of the data (generally referred to as the long-term average). For analytical results reported below the Minimum Level (i.e., the level that EPA can reliably measure consistent with the 40 CFR Part 136 methods), the effluent data was set at the Minimum Level, thus assuring that the effluent limitations would not be based upon values below a level that can be measured reliably. EPA has used its analytical methods to measure pollutant levels, in the presence of a wide variety of sample matrices, and EPA's data establish that these measurements can be made.

EPA acknowledges that a portion of its Part 136 analytical method development was conducted using reagent water. As industry commenters correctly point out, every wastewater

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sample from every plant in every industry is different. EPA must, however, use samples and analytical measurements as the fundamental mechanism for obtaining information used in the Agency's rulemaking. EPA's analytical methods were developed not only for regulating the OCPSF industry, but for all industries discharging pollutants into wastewater. As a partial solution to this problem, EPA used reagent water as a reference sample matrix, because reagent water can be made reliably and reproducibly in analytical laboratories and is therefore globally available. EPA also tested treated wastewaters in developing its methods, and found that its methods produced results nearly indistinguishable from results produced with reagent water, as stated above. Further, EPA uses reagent water as a reference matrix in nearly all of its methods, and measures deviations from the results produced with reagent water as an indicator of method performance (e.g., see section 8 of Methods 601–613, 624–625, and 1624–1625).

In addition to providing analytical methods that permit measurement of pollutants at or below the effluent limitations and standards that EPA is today promulgating, EPA has provided flexibility in its analytical methods to further deal with complex matrix problems that may arise. This flexibility is permitted in two forms. First, a permittee may apply to the Administrator for use of an alternate test procedure under 40 CFR 136.4 and 136.5. As of January 21, 1987, more than 600 applications for an alternate test procedure have been made. Second, use of alternate chromatographic columns and other minor changes to the methods are considered within the scope of the methods, provided that the quality assurance criteria in the methods are met.

EPA cannot develop a generic method that would prevent every non-regulated compound from interfering (coeluting) with every regulated compound, because of the sheer number of chemical compounds. (More than 8,000,000 have been registered with the Chemical Abstracts Service.) Rather, as noted above, EPA has provided flexibility in its methods, in terms of alternate methods, cleanup procedures, and the use of selective detectors. EPA also permits the user of its methods to improve the separations or lower the cost of measurements provided that the quality control requirements of the method are met. This flexibility allows laboratory chemists to apply their expertise in developing and using wastewater-specific techniques that are appropriate to addressing the specific co-eluting compounds for that wastewater.

EPA disagrees with the commenter that provided the results of a survey of detection limits in commercial analytical laboratories. This survey purports to show that laboratories cannot detect the pollutants at the effluent limits EPA has proposed, because of complex matrix problems. The values reported in this survey are estimates, based on unsupported judgements, and are not measured values. As indicated in a footnote to the table of data, the results are "based on a potential need for a tenfold dilution of wastewater samples." EPA assumes no need for such dilution, and has set effluent limits on the basis of pollutant levels actually measured, not on estimates.

In Methods 1624 and 1625, EPA has made provisions for dilution of "untreated effluents and other samples". These provisions were made so that the Agency could determine the efficiency of various treatment systems in removing the toxic organic pollutants. This efficiency is determined by measuring the influent to, and the effluent from, the treatment system. The influents to treatment contain higher concentrations and a greater variety of pollutants at measurable levels than the effluents, and the methods permit dilution of these influents to permit reliable measurement of the pollutant concentrations. EPA has not promulgated influent limits. EPA regulates effluents and has reliably measured pollutant concentrations in effluents without the need for dilution.

9. EPA Should Modify Its Approach to Determining Compliance

Comment: Some commenters have argued that the effluent limitations and standards do not reflect the entire range of variability that can be expected from well-designed, well-operated facilities. They recommend that some relief should be provided to facilities in the form of higher limits or a formal policy that allows periodic exceedances of the limits.

Response: The issue raised here by commenters is not unique to the OCPSF regulation. It has in fact been raised in comments on many other effluent guideline rulemakings and in NPDES permit proceedings. Moreover, it has been the subject of numerous lawsuits in various United States Courts of Appeals. Because the issue is really a generic Clean Water Act regulatory issue addressed by NPDES regulations rather than a specific OCPSF issue, EPA's response is outlined only briefly below. However, a detailed response is set forth in the Response to Comments document for this rulemaking.

Historically, in the face of comments by industries similar to those raised here by the OCPSF industry, EPA has not modified its basic conceptual approach to setting effluent limitations, but rather has provided explicitly in the NPDES regulations that demonstration of a treatment system upset in compliance with certain criteria and procedures shall constitute an affirmative defense to an enforcement action. See the discussion below in Section XII of this preamble and the cases cited therein. EPA's approach in this regard is consistent with all judicial decisions on this issue to date.

EPA has decided here to act consistently with its historical practice. The final limitations and standards have not been made less stringent to allow dischargers increased latitude. EPA believes that the current limits, developed by multiplying long-term averages by variability factors, adequately allow for discharge variability and should be achieved consistently by OCPSF dischargers.

Many techniques exist for minimizing waste stream variability, including frequent inspection and repair of equipment and the use of back-up systems; operator training and performance evaluations; management control; careful communication and coordination among production and wastewater treatment personnel; spill diversion and holding systems; equalization basins to make effluent flow and quality more uniform; and quality assurance/quality control (QA/QC) to minimize analytical variability. The use of these techniques should result in compliance at all times, apart from instances of upsets.

EPA believes that the suggestions offered by the commenters have serious drawbacks. Raising permit limits to allow increased variability would inevitably result in less vigilant day-to-day wastewater treatment and, on average, increased discharges of pollutants. This is directly contrary to the Congressional intent that dischargers consistently employ the best available technology economically achievable. Similarly, an enforcement policy that allows periodic exceedances of limits (a policy which would be generic and outside the scope of this OCPSF rulemaking) would be fraught with the potential for mischief. First, it could result in periodically excessive discharges. Second, it could result in time-consuming fact-finding disputes in enforcement cases as to the nature, extent and frequencies of each alleged violation rather than the swift, factually simplified enforcement action envisioned by Congress.

10. Alternate BAT Limits or Pretreatment Standards for Small Plants

Comment: EPA lacks statutory authority to create alternative BAT limits or PSES for small plants even if they suffer greater economic impact than larger plants.

Response: EPA agrees with the comment that the Regulatory Flexibility Act does not provide independent authority for the fashioning of alternative BAT or PSES standards for small plants. The alternative BAT requirements promulgated today, i.e., BAT equals BPT for direct discharging plants with annual production of five million pounds or less, have been established solely under the authority of the Clean Water Act.

In its effluent guidelines program, EPA has often considered disproportionate small plant impacts and, where appropriate, fashioned alternative requirements or outright exemptions for small plants. For example, the electroplating pretreatment standards contained less stringent requirements for all electroplaters with flows less than 10,000 gallons per day. The Court in *National Association of Metal Finishers* v. *EPA*, 719 F.2d 624 (3rd Cir. 1983), noted this relaxed requirement with approval in the course of upholding EPA's regulation against an industry challenge that the regulation as a whole was not economically achievable.

The Act clearly requires EPA to consider economic impacts in setting BAT limitations. BAT means "best available technology *economically achievable*" (emphasis added). (CWA section 301(b)(2)(H)) Where economic impacts are significant, EPA is not only authorized but compelled to consider them.

The commenter argues that economic achievability can be considered only on an industry category-wide basis, not on a subcategory basis. EPA disagrees. EPA typically has considered a broad range of factors as bases for segmenting an industry for regulatory purposes. Section 304(b) of the Act authorizes the EPA Administrator to consider a variety of enumerated technical factors (mostly relevant to the "best available technology" aspect of the BAT definition), plus "such other factors as the Administrator deems appropriate." As mentioned previously, the Administrator has deemed it appropriate in many effluent guidelines regulations to consider plant size as a factor in considering segmentation/subcategorization, among other things to better take into account both technology availability and economic achievability. Where a particular size-based segment of the industry is so impacted by regulation as to bring into question whether the regulation is economically achievable for that segment, EPA may consider economic achievability in setting limitations for that segment. Nothing in the statute or legislative history precludes EPA from considering such a factor in establishing the regulations.

The commenter argues that while the Act provides for consideration of economic impacts upon an industry as a whole, certain statutory provisions and the Act's legislative history indicate that if a regulation is economically achievable for the industry as a whole, particular plants may not be exempt based upon their particular inability to comply. EPA agrees and notes that Congress clearly expected that some plants would be unable to comply and would be forced to close. (Indeed in this rulemaking, EPA projects closures as a result of compliance with BAT as well as with PSES.) However, EPA believes that this expectation extended only to the effect of requirements on particular plants; it did not imply a prohibition on taking adverse economic impact into account in defining and segmenting entire classes of plants. In fashioning alternative requirements for a segment of small direct dischargers, EPA has considered the fact that about half of the plants in that segment are projected to close and most of the remaining plants in the segment would suffer other significant economic impacts, while for the rest of the direct dischargers, the impacts are quite low. This strongly supports the conclusion that the class of small plants is significantly different from the larger plants because of their size and therefore appropriate to be treated as a separate group for regulatory purposes. Statutory provisions such as section 301 (c) and (n) limiting the consideration of economic factors in issuing permits to individual dischargers are irrelevant to the question of appropriate bases for segmenting industrial groups for regulations.

XI. Best Management Practices (BMPs)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" (BMPs), described under Legal Authority and Background, above. EPA is not promulgating BMPs for the OCPSF category at this time.

XII. Upset and Bypass Provisions

A recurring issue is whether industry limitations and standards should include provisions that authorize noncompliance during "upsets" or "bypasses." An upset, sometimes called an "excursion," is unintentional noncompliance beyond the reasonable control of the permittee. EPA believes that upset provisions are appropriate because upsets will sometimes occur, despite proper operation of industrial processes and pollution control equipment. Because technology-based limitations can require only what technology can achieve, many claim that liability for upsets is improper. When confronted with this issue, courts have been divided on the questions of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977), with *Weyerhaeuser* v. *Costle, supra* and *Corn Refiners Association, et al.* v. *Costle*, 594 F.2d 1223 (8th Cir. 1979). See also *Sierra Club* v. *Union Oil Co.*, 813 F.2d 1480 (9th Cir. 1987), *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976), *CPC International, Inc.* v. *Train*, 540 F.2d 1320 (8th Cir. 1976), and *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

An upset, as noted above, is an unintentional episode during which effluent limits are exceeded; a bypass, however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. EPA has, in the past, included bypass provisions in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits and has promulgated permit regulations that include upset and bypass permit provisions. See 40 CFR 122.41. The upset provision establishes an upset as an affirmative defense to prosecution for violation of, among other requirements, technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the OCPSF industry will be entitled to upset and bypass provisions in NPDES permits, this regulation does not address these issues. Upset and Bypass provisions are also contained in the General Pretreatment regulation, 40 CFR Parts 125 and 403.

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XIII. Variances and Modifications

Once the OCPSF regulation is in effect, the numerical effluent limitations for the appropriate subcategory must be applied in all Federal and State NPDES permits thereafter issued to OCPSF direct dischargers. The pretreatment standards are directly applicable to indirect dischargers and become effective as discussed in § 414.12 of the regulation.

For the BPT effluent limitations, the only exception to the limitations contained in the regulation is EPA's "fundamentally different factors" variance. See *E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. However, the economic ability of the individual operator to meet the compliance cost for BPT standards is not a consideration for granting a variance. See *National Crushed Stone Association* v. *EPA*, 449 U.S. 64 (1980). Although this variance clause was originally set forth in EPA's 1973–1976 categorical industry regulations, it is now included in the general NPDES regulations and will not be included in the OCPSF or other specific industry regulations. See 40 CFR Part 125, Subpart D.

The BAT limitations in this regulation also are subject to EPA's "fundamentally different factors" variance. However, section 306 of the Water Quality Act of 1987 added a new section 301(n) to the Act which somewhat limits the availability of FDF variances from BAT effluent limitations guidelines. An FDF application must be based solely on information and supporting data submitted to EPA during the rulemaking establishing the limitations that discussed the fundamentally different factors, or on information and supporting data that the applicant did not have a reasonable opportunity to submit during the rulemaking. The alternative requirement must be no less stringent than justified by the fundamental difference and must not result in markedly more adverse non-water quality environmental impacts than those considered by EPA in establishing the guideline.

Indirect dischargers subject to PSES are also eligible for the "fundamentally different factors" variance. See 40 CFR 403.13. They are subject to essentially the same new statutory provisions for FDF variances as discussed above for BAT.

Readers should note that EPA has not yet amended its FDF variance regulation to conform to the provisions of the Water Quality Act of 1987. The regulation promulgated today refers to the existing regulatory sections. However, EPA recognizes that the new section 301(n) of the Act overrides the existing FDF regulation to the extent of any inconsistency, and EPA does intend to modify the FDF regulation to conform to the new statutory requirements.

Indirect dischargers subject to PSES and PSNS are eligible for credits for toxic pollutants removed by a POTW. See section 307(b) of the CWA and 40 CFR 403.7. The removal credits regulation was remanded to EPA in *Natural Resources Defense Council* v. *EPA*, 790 F.2d 289 (3rd Cir. 1986). The court held that some of the means by which EPA considered local POTW removal efficiencies were not sufficiently stringent and that credits for POTW removals may not be authorized until comprehensive regulations for the use and disposal of sludge are promulgated under section 405(d) of the CWA. However, it should be noted that pretreatment standards for the OCPSF industry, like other categorical pretreatment standards, have been promulgated based upon the assumptions that indirect dischargers will be required to comply with the standards without removal credits, and thus that they are subject to the full costs of complying with PSES.

XIV. Implementation of Limitations and Standards

A. Flow Basis

The limitations promulgated today are concentration-based and thus do not regulate flow. The permit writer must use a reasonable estimate of process wastewater flows and the concentration limitations to develop mass limitations for the NPDES permit. Process wastewater discharge is defined in the regulation (40 CFR 401.11) to include wastewaters resulting from manufacture of OCPSF products that come in direct contact with raw materials, intermediate products, or final products, and surface runoff from the immediate process area that has the potential to become contaminated. Noncontact cooling waters, utility wastewaters, general site surface runoff, ground waters, and other nonprocess waters generated on site are specifically excluded from the definition of process wastewater discharges. In cases where the process wastewater flow claimed by industry may be excessive, the permit writer may develop a more appropriate process wastewater flow for use in computing the mass effluent or internal plant limitations. The following items should be considered in developing the more appropriate process wastewater flow:

1. A review of the component flows to insure that the claimed flows are, in fact, process wastewater flows as defined by the regulation;

2. A review of plant operations to insure that sound water conservation practices are being followed. Examples are: minimization of process water uses; cascading or countercurrent washes or rinses, where possible; reuse or recycle of intermediate process waters or treated wastewaters at the process area and in wastewater treatment operations (pump seals, equipment and area washdowns, etc.).

3. A review of barometric condenser use at the process level. Often, barometric condensers will generate relatively large volumes of water contaminated at low levels. Replacement of barometric condensers with surface condensers can reduce wastewater volumes significantly and result in collection of condensates that may be returned to the process.

The final NPDES permit limitations will be the sum of the mass effluent limitations derived as described above and any mass effluent limitations developed on a case-by-case basis using best professional judgment by the permit writer to take into account nonprocess wastewater discharges.

B. Relationship to NPDES Permits

The BPT and BAT limitations and NSPS in this regulation will be applied to individual OCPSF plants through NPDES permits issued by EPA or approved state agencies under section 402 of the Act. As discussed in the preceding section of this preamble, these limitations must be applied in all new, modified and reissued Federal and State NPDES permits except to the extent that variances are expressly authorized. Other aspects of the interaction between these limitations and NPDES permits are discussed below.

One subject that has received different judicial rulings is the scope of NPDES permit proceedings when effluent limitations and standards do not exist. Under current EPA regulations, States and EPA regions that issue NPDES permits before regulations are promulgated must establish effluent limitations on a case-by-case basis. This regulation provides a technical and legal base for new or modified or reissued permits.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit-issuing authorities. EPA has developed the limitations and standards in this regulation to cover typical facilities in the OCPSF point source category. In specific cases, the NPDES permitting authority may have to establish permit limits on toxic or nonconventional pollutants that are not covered by this regulation. The promulgation of this regulation will not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit the pollutant on a case-by-case basis when such action conforms with the purposes of the Act. In addition, to the extent that State water quality standards or other provisions of State or Federal law require limits on pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), the permit-issuing authority must apply those limitations.

A second topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which were considered in developing this regulation. The Agency emphasizes that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. *Sierra Club* v. *Train*, 557 F.2d 485 (5th Cir. 1977). EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts.

C. Indirect Dischargers

For indirect dischargers, PSES and PSNS are implemented under National Pretreatment Program procedures outlined in 40 CFR Part 403. The brief glossary below may be of assistance in resolving questions about the operation of that program.

A "request for category determination" is a written request, submitted by an indirect discharger or its POTW, for a determination of which categorical pretreatment standard applies to the indirect discharger. This assists the indirect discharger in knowing which PSES or PSNS limits it will be required to meet. See 40 CFR 403.6(a).

A request for "fundamentally different factors variance" is a mechanism by which a categorical pretreatment standard may be adjusted, making it more or less stringent, on a case-by-case basis. If an indirect discharger, a POTW, or any interested person believes that factors relating to a specific indirect discharger are fundamentally different from those factors considered during development of the relevant categorical pretreatment standard and that the existence of those factors justifies a different discharge limit from that specified in the categorical standard, then they may submit a request to EPA for such a variance. See the discussion above in Section XIII of this preamble. See 40 CFR 403.13.

A "baseline monitoring report" is the first report an indirect discharger must file following promulgation of an applicable standard. The baseline report includes: An identification of the indirect discharger; a description of its operations; a report on the flows of regulated streams and the results of sampling analyses to determine levels of regulated pollutants in those streams; a statement of the discharger's compliance or noncompliance with the standard; and a description of any additional steps required to achieve compliance. See 40 CFR 403.12(b).

A "report on compliance" is required of each indirect discharger within 90 days following the date for compliance with an applicable categorical pretreatment standard. The report must indicate the concentration of all regulated pollutants in the facility's regulated process wastestreams; the average and maximum daily flows of the regulated streams; and a statement of whether compliance is consistently being achieved, and if not, what additional operation and maintenance and/or pretreatment is necessary to achieve compliance. See 40 CFR 403.12(d).

A "periodic compliance report" is a report on continuing compliance with all applicable categorical pretreatment standards. It is submitted twice per year (June and December) by indirect dischargers subject to the standards. The report must provide the concentrations of the regulated pollutants in its discharge to the POTW; the average and maximum daily flow rates of the facility; the methods used by the indirect discharger to sample and analyze the data; and a certification that these methods conform to the methods outlined in the regulations. See 40 CFR 403.12(e).

XV. Availability of Technical Information

The basis for this regulation is detailed in four major documents each of which in turn is supported by additional information and analyses in the record. Analytical methods are discussed in "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants." EPA's technical foundation for the regulations is detailed in the "Development Document for Effluent Guidelines, New Source Performance Standards, and Pretreatment Standards for the Organic Chemicals, Plastics and Synthetic Fibers Point Source Category." The Agency's economic analysis is presented in the "Economic Impact Analysis Report for the Effluent Guidelines and Standards for the Organic Chemicals, Plastics and Synthetic Fibers Industry." A detailed response to the public comments received on the proposed regulation and subsequent notices is presented in a report entitled "Responses to Public Comments on the Proposed Organic Chemicals, Plastics and Synthetic Fibers Effluent Limitations Guidelines and Standards." Copies of the technical document and economic document may be obtained from the National Technical Information Service, Springfield, Virginia 22161, (703) 487–4600. Additional information concerning the economic impact analysis may be obtained from Ms. Kathleen Ehrensberger, Economic Analysis Branch (WH–586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 or by calling (202) 382–5397. Technical information may be obtained from Mr. Elwood H. Forsht, Industrial Technology Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 or by calling (202) 382–7190.

XVI. Office of Management and Budget (OMB) Review

This regulation and the Regulatory Impact Analysis were submitted to the Office of Management and Budget for review as required by Executive Order 12291. The regulation does not contain any information collection requirements. There are information collection requirements associated with the general pretreatment requirements and permit requirements. These information collection requirements have been approved by OMB.

List of Subjects

40 CFR Part 414

Organic chemicals manufacturing, Plastics manufacturing, Synthetic fibers manufacturing, Water pollution control, Water treatment and disposal.

40 CFR Part 416

Plastics materials and synthetics, Waste treatment and disposal, Water pollution control.

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Dated: October 2, 1987.

Lee M. Thomas,

Administrator.

Appendices

Appendix A—Abbreviations, Acronymns, and Other Terms Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology under section 304(b)(4) of the Act.

BOD—For the purposes of this notice, BOD refers to 5-day biochemical oxygen demand.

BMP—Best management practices under section 304(e) of the Act.

BPT—The best practicable control technology currently available under section 304(b)(1) of the Act.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977 (Pub. L. 95–217) and Water Quality Act of 1987 (Pub. L. 100–4) (33 U.S.C. 1251 *et seq.*).

Direct Discharger—A facility which discharges or may discharge pollutants into waters of the United States.

Indirect Discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works.

NPDES Permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act.

NSPS—New source performance standards under section 306 of the Act.

POTW—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges under section 307(b) of the Act.

PSNS—Pretreatment standards for new sources of indirect discharges under sections 307 (b) and (c) of the Act.

RCRA—Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94–580) and as further amended (42 U.S.C. 6901 *et seq*).

Appendix B—Toxic Pollutants Excluded from PSES and PSNS Because They Are Sufficiently Controlled by Existing Technologies

2,4-Dinitrophenol
Benzo(k)fluoranthene
Acenaphthylene

Appendix C—Toxic Pollutants Not Detected in the Treated Effluents of Direct Dischargers or in Wastewaters from Process Sources

Hexachlorocyclopentadiene
N-Nitrosodimethylamine
Aldrin
Dieldrin
Chlordane
4,4'-DDT
4,4'-DDE
4,4'-DDD
alpha-Endosulfan
beta-Endosulfan
Endosulfansulfate
Endrin
Endrin aldehyde
Heptachlor
Heptachlor epoxide
alpha-BHC
beta-BHC
gamma-BHC
delta-BHC
Toxaphene
PCB–1242 (Arochlor 1242)
PCB–1254 (Arochlor 1254)
PCB–1221 (Arochlor 1221)
PCB–1232 (Arochlor 1232)
PCB–1248 (Arochlor 1248)
PCB–1260 (Arochlor 1260)
PCB–1016 (Arochlor 1016)
Asbestos

Appendix D—Toxic Pollutants (1) Detected in Treated Effluents From a Small Number of Discharge Sources and Uniquely Related to Those Sources, (2) Present Only in Trace Amounts and Neither Causing Nor Likely to Cause Toxic Effects, or (3) Sufficiently Controlled by Existing Technologies

Acrolein (1)
Benzidine (1)
Bis (2-chloroethyl)ether (2)
2-Chloroethyl vinyl ether (1)
2-Chloronaphthalene (1)
Parachlorometa cresol (1)
4-Chlorophenyl phenyl ether (1)
4-Bromophenyl phenyl ether (1)
1,2-Diphenylhydrazine (1)
Bis (2-chloroethoxy) methane (1)
Methylbromide (1)
Bromoform (2)
Dichlorobromomethane (2)
Chlorodibromomethane (2)
N-Nitrosodiphenylamine (1)
N-Nitrosodi-n-propylamine (1)
Pentachlorophenol (2)
Butyl benzyl phthalate (1)
Di-n-octyl phthalate (2)
Arsenic (1)
Beryllium (1)
Cadmium (1)
Mercury (1)
Selenium (1)
Silver (1)
Thallium (1)
Benzo(ghi)perylene (3)
Dibenzo(a,h) anthracene (3)
Indeno(1,2,3-c,d)pyrene (3)
Isophorone (2)
1,1,2,2-Tetrachloroethane (2)

Appendix E—Toxic Pollutants That Do Not Pass Through or Interfere With POTWs

Benzo(a) anthracene
Benzo(a) pyrene
Chrysene
Chromium
Copper
Nickel

For the reasons set out in the preamble, 40 CFR Part 414 and 416 are amended as set forth below.

1. 40 CFR Part 414 is revised to read as follows:

PART 414—ORGANIC CHEMICALS, PLASTICS, AND SYNTHETIC FIBERS

Subpart A—General

Sec.

414.10 General definitions.
414.11 Applicability.
414.12 Compliance date for Pretreatment Standards for Existing Sources (PSES).

Subpart B—Rayon Fibers

414.20 Applicability; description of the rayon fibers subcategory.
414.21 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
414.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
414.23 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
414.24 New source performance standards (NSPS).
414.25 Pretreatment standards for existing sources (PSES).
414.26 Pretreatment standards for new sources (PSNS).

Subpart C—Other Fibers

414.30 Applicability; description of the other fibers subcategory.
414.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
414.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
414.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
414.34 New source performance standards (NSPS).
414.35 Pretreatment standards for existing sources (PSES).

414.36 Pretreatment standards for new sources (PSNS).

Subpart D—Thermoplastic Resins

414.40 Applicability; description of the thermoplastics resins subcategory.
414.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
414.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
414.43 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
414.44 New source performance standards (NSPS).
414.45 Pretreatment standards for existing sources (PSES).
414.46 Pretreatment standards for new sources (PSNS).

Subpart E—Thermosetting Resins

414.50 Applicability; description of the thermosetting resins subcategory.
414.51 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
414.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
414.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
414.54 New source performance standards (NSPS).
414.55 Pretreatment standards for existing sources (PSES).
414.56 Pretreatment standards for new sources (PSNS).

Subpart F—Commodity Organic Chemicals

414.60 Applicability; description of the commodity organic chemicals subcategory.
414.61 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
414.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
414.63 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
414.64 New source performance standards (NSPS).
414.65 Pretreatment standards for existing sources (PSES).
414.66 Pretreatment standards for new sources (PSNS).

Subpart G—Bulk Organic Chemicals

414.70 Applicability; description of the bulk organic chemicals subcategory.
414.71 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
414.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
414.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
414.74 New source performance standards (NSPS).
414.75 Pretreatment standards for existing sources (PSES).
414.76 Pretreatment standards for new sources (PSNS).

Subpart H—Specialty Organic Chemicals

414.80 Applicability; description of the specialty organic chemicals subcategory.
414.81 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
414.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
414.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
414.84 New source performance standards (NSPS).
414.85 Pretreatment standards for existing sources (PSES).
414.86 Pretreatment standards for new sources (PSNS).

Subpart I—Direct Discharge Point Sources That Use End-of-Pipe Biological Treatment

414.90 Applicability; description of the subcategory of direct discharge point sources that use end-of-pipe biological treatment.
414.91 Toxic pollutant effluent limitations and standards for direct discharge point sources that use end-of-pipe biological treatment.

Subpart J—Direct Discharge Point Sources That Do Not Use End-of-Pipe Biological Treatment

414.100 Applicability; description of the subcategory of direct discharge point sources that do not use end-of-pipe biological treatment.
414.101 Toxic pollutant effluent limitations and standards for direct discharge point sources that do not use end-of-pipe biological treatment.

Appendix A—Non-Complexed Metal-Bearing Waste Streams and Cyanide-Bearing Waste Streams

Appendix B—Complexed-Metal Bearing Waste Streams

Authority: Sections 301, 304, 306, 307, and 501, Pub. L. 92-500, 86 Stat. 816, Pub. L. 95-217, 91 Stat. 156, Pub. L. 100-4, 101 Stat. 7 (33 U.S.C. 1311, 1314, 1316, 1317, and 1361).

Subpart A—General

§ 414.10 General definitions.

As used in this part:

(a) Except as provided in this regulation, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this part.

(b) "Pretreatment control authority" means:

(1) The POTW if the POTW's submission for its pretreatment program has been approved in accordance with the requirements of 40 CFR 403.11, or

(2) The Approval Authority if the submission has not been approved.

(c) "Priority pollutants" means the toxic pollutants listed in 40 CFR 401.15.

§ 414.11 Applicability.

(a) The provisions of this part are applicable to process wastewater discharges from all establishments or portions of establishments that manufacture the organic chemicals, plastics, and synthetic fibers (OCPSF) products or product groups covered by Subparts B through H of this regulation and are included within the following U.S. Department of Commerce Bureau of the Census Standard Industrial Classification (SIC) major groups:

(1) SIC 2821—Plastic Materials, Synthetic Resins, and Nonvulcanizable Elastomers,

(2) SIC 2823—Cellulosic Man-Made Fibers,

(3) SIC 2824—Synthetic Organic Fibers, Except Cellulosic,

(4) SIC 2865—Cyclic Crudes and Intermediates, Dyes, and Organic Pigments,

(5) SIC 2869—Industrial Organic Chemicals, Not Elsewhere Classified.

(b) The provisions of this part are applicable to wastewater discharges from OCPSF research and development, pilot plant, technical service and laboratory bench scale operations if such operations are conducted in conjunction with and related to existing OCPSF manufacturing activities at the plant site.

(c) Notwithstanding paragraph (a) of this section, the provisions of this part are not applicable to discharges resulting from the manufacture of

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OCPSF products if the products are included in the following SIC subgroups and have in the past been reported by the establishment under these subgroups and not under the SIC groups listed in paragraph (a) of this section:

(1) SIC 2843065—bulk surface active agents;

(2) SIC 28914—synthetic resin and rubber adhesives;

(3) Chemicals and Chemical Preparations, not Elsewhere Classified:

(i) SIC 2899568—sizes, all types

(ii) SIC 2899597—other industrial chemical specialties, including fluxes, plastic wood preparations, and embalming fluids;

(4) SIC 2911058—aromatic hydrocarbons manufactured from purchased refinery products; and

(5) SIC 2911632—aliphatic hydrocarbons manufactured from purchased refinery products.

(d) Notwithstanding paragraph (a) of this section, the provisions of this part are not applicable to any discharges for which a different set of previously promulgated effluent limitations guidelines and standards in this subchapter apply, unless the facility reports OCPSF products under SIC codes 2865, 2869, or 2821, and the facility's OCPSF wastewaters are treated in a separate treatment system or discharged separately to a publicly owned treatment works.

(e) The provisions of this part do not apply to any process wastewater discharges from the manufacture of organic chemical compounds solely by extraction from plant and animal raw materials or by fermentation processes.

(f) Discharges of chromium, copper, lead, nickel, and zinc in "complexed metal-bearing waste streams," listed in Appendix B of this part, are not subject to the requirements of this part.

§ 414.12 Compliance date for Pretreatment Standards for Existing Sources (PSES).

All dischargers subject to PSES in this part must comply with the standards by no later than three years after date of promulgation in the Federal Register.

Subpart B—Rayon Fibers

§ 414.20 Applicability; description of the rayon fibers subcategory.

The provisions of this subpart are applicable to process wastewater discharges resulting from the manufacture of rayon fiber by the viscose process only.

§ 414.21 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

Effluent characteristics	BPT effluent limitations [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	64	24
TSS	130	40
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 414.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) The Agency has determined that for existing point sources whose total OCPSF production defined by § 414.11 is less than or equal to five (5) million pounds of OCPSF products per year, the BPT level of treatment is the best available technology economically achievable. Accordingly, the Agency is not promulgating more stringent BAT limitations for these point sources.

(b) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part.

(c) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part.

§ 414.24 New source performance standards (NSPS).

(a) Any new source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

(b) Any new source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

Effluent characteristics	NSPS [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	64	24
TSS	130	40
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.25 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

(b) In the case of lead, zinc, and total cyanide the discharge quantity (mass) shall be determined by multiplying the concentrations listed in the following table for the metal pollutants times the flow from metal-bearing waste streams for metals and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metals or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and

(2) That the combination of such streams, prior to treatment, with the Appendix A waste streams would result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Effluent characteristics	Pretreatment standards [1]	
	Maximum for any one day	Maximum for monthly average
Acenaphthene	47	19
Benzene	134	57
Carbon Tetrachloride	360	142
Chlorobenzene	360	142
1,2,4-Trichlorobenzene	794	196
Hexachlorobenzene	794	196
1,2-Dichloroethane	574	180
1,1,1-Trichloroethane	59	22
Hexachloroethane	794	196
1,1-Dichloroethane	59	22
1,1,2-Trichloroethane	127	32
Chloroethane	295	110
Chloroform	325	111
1,2-Dichlorobenzene	794	196
1,3-Dichlorobenzene	360	142
1,4-Dichlorobenzene	360	142
1,1-Dichloroethylene	60	22
1,2-Trans-dichloroethylene	66	25
1,2-Dichloropropane	794	196
1,3-Dichloropropylene	794	196
2,4-Dimethylphenol	47	19
Ethylbenzene	360	142
Fluoranthene	54	22
Methylene Chloride	170	36
Methyl Chloride	295	110
Hexachlorobutadiene	360	142
Naphthalene	47	19
Nitrobenzene	6,402	2,237
2-Nitrophenol	231	65
4-Nitrophenol	576	162
4,6-Dinitro-o-cresol	277	78
Phenol	47	19
Bis(2-ethylhexyl) phthalate	258	95
Di-n-butyl phthalate	43	20
Diethyl phthalate	113	46
Dimethyl phthalate	47	19
Anthracene	47	19
Fluorene	47	19
Phenanthrene	47	19
Pyrene	48	20
Tetrachloroethylene	164	52
Toluene	74	28
Trichloroethylene	69	26
Vinyl Chloride	172	97
Total Cyanide	1,200	420
Total Lead	690	320
Total Zinc [2]	2,610	1,050

[1] All units are micrograms per liter.
[2] Total Zinc for Rayon Fiber Manufacture that uses the viscose process is 6,796 µg/l and 3,325 µg/l for maximum for any one day and maximum for monthly average, respectively.

§ 414.26 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7 any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed above in § 414.25.

(b) In the case of lead, zinc, and total cyanide the discharge quantity (mass) shall be determined by multiplying the concentrations listed above in § 414.25 for the metal pollutants times the flow from metal-bearing waste streams and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and

(2) That the combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Subpart C—Other Fibers

§ 414.30 Applicability; description of the other fibers subcategory.

The provisions of this subpart are applicable to the process wastewater discharges resulting from the manufacture of the following SIC 2823 cellulosic man-made fibers and fiber groups, except Rayon, and SIC 2824 synthetic organic fibers and fiber groups. Product groups are indicated with an asterisk (*).

*Acrylic Fibers (85% Polyacrylonitrile)
*Cellulose Acetate Fibers
*Fluorocarbon (Teflon) Fibers
*Modacrylic Fibers
*Nylon 6 Fibers
Nylon 6 Monofilament
*Nylon 66 Fibers
Nylon 66 Monofilament
*Polyamide Fibers (Quiana)
*Polyaramid (Kevlar) Resin-Fibers
*Polyaramid (Nomex) Resin-Fibers
*Polyester Fibers
*Polyethylene Fibers
*Polypropylene Fibers
*Polyurethane Fibers (Spandex)

§ 414.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the (mass) quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

Effluent characteristics	BPT effluent limitations [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	48	18
TSS	115	36
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 414.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) The Agency has determined that for existing point sources whose total OCPSF production defined by § 414.11 is less than or equal to five (5) million pounds of OCPSF products per year, the BPT level of treatment is the best available technology economically achievable. Accordingly, the Agency is not promulgating more stringent BAT limitations for these point sources.

(b) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part.

(c) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part.

§ 414.34 New source performance standards (NSPS).

(a) Any new source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part,

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and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

(b) Any new source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part, and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

Effluent characteristics	NSPS [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	48	16
TSS	115	36
pH	(*)	(*)

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.35 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

(b) In the case of lead, zinc, and total cyanide the discharge quantity (mass) shall be determined by multiplying the concentrations listed in the following table for the metals pollutants times the flow from metal-bearing waste streams for metals and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Effluent characteristics	Pretreatment standards [1]	
	Maximum for any one day	Maximum for monthly average
Acenaphthene	47	19
Benzene	134	57
Carbon Tetrachloride	380	142
Chlorobenzene	380	142
1,2,4-Trichlorobenzene	794	198
Hexachlorobenzene	794	198
1,2-Dichloroethane	574	180
1,1,1-Trichloroethane	59	22
Hexachloroethane	794	198
1,1-Dichloroethane	59	22
1,1,2-Trichloroethane	127	32
Chloroethane	295	110
Chloroform	325	111
1,2-Dichlorobenzene	794	198
1,3-Dichlorobenzene	380	142
1,4-Dichlorobenzene	380	142
1,1-Dichloroethylene	60	22
1,2-trans-Dichloroethylene	66	25
1,2-Dichloropropane	794	198
1,3-Dichloropropylene	794	198
2,4-Dimethylphenol	47	19
Ethylbenzene	380	142
Fluoranthene	54	22
Methylene Chloride	170	36
Methyl Chloride	295	110
Hexachlorobutadiene	380	142
Naphthalene	47	19
Nitrobenzene	6,402	2,237
2-Nitrophenol	231	65
4-Nitrophenol	576	162
4,6-Dinitro-o-cresol	277	76
Phenol	47	19
Bis(2-ethylhexyl) phthalate	258	95
Di-n-butyl phthalate	43	20
Diethyl phthalate	113	46
Dimethyl phthalate	47	19
Anthracene	47	19
Fluorene	47	19
Phenanthrene	47	19
Pyrene	48	20
Tetrachloroethylene	164	52
Toluene	74	28
Trichloroethylene	69	26
Vinyl Chloride	172	97
Total Cyanide	1,200	420
Total Lead	690	320
Total Zinc [2]	2,610	1,050

[1] All units are micrograms per liter.
[2] Total zinc for the manufacture of acrylic fibers using the zinc chloride/solvent process is 6,796 µg/l and 3,325 µg/l for maximum for any one day and maximum for monthly average, respectively.

§ 414.36 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7 any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed above in § 414.35.

(b) In the case of lead, zinc, and total cyanide the discharge quantity (mass) shall be determined by multiplying the concentrations listed above in § 414.35 for the metal pollutants times the flow from metal-bearing waste streams and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Subpart D—Thermoplastic Resins

§ 414.40 Applicability; description of the thermoplastic resins subcategory.

The provisions of this subpart are applicable to the process wastewater discharges resulting from the manufacture of the following SIC 28213 thermoplastic resins and thermoplastic resin groups. Product groups are indicated with an asterisk (*).

*Abietic Acid—Derivatives
*ABS Resins
*ABS-SAN Resins
*Acrylate-Methacrylate Latexes
*Acrylic Latex
*Acrylic Resins
*Cellulose Acetate Butyrates
Cellulose Acetate Resin
*Cellulose Acetates
*Cellulose Acetates Propionates
Cellulose Nitrate
Cellulose Sponge
*Ethylene-Methacrylic Acid Copolymers
*Ethylene-Vinyl Acetate Copolymers
*Fatty Acid Resins
*Fluorocarbon Polymers
Nylon 11 Resin
*Nylon 6—66 Copolymers
*Nylon 6—Nylon 11 Blends
Nylon 6 Resin
Nylon 612 Resin
Nylon 66 Resin
*Nylons
*Petroleum Hydrocarbon Resins
*Polyvinyl Pyrrolidone—Copolymers
*Poly(Alpha)Olefins
Polyacrylic Acid
*Polyamides
*Polyarylamides
Polybutadiene
*Polybutenes
Polybutenyl Succinic Anhydride
*Polycarbonates
*Polyester Resins
*Polyester Resins, Polybutylene Terephthalate
*Polyester Resins, Polyoxybenzoate
Polyethylene
*Polyethylene—Ethyl Acrylate Resins
*Polyethylene—Polyvinyl Acetate Copolymers
Polyethylene Resin (HDPE)
Polyethylene Resin (LPDE)
Polyethylene Resin, Scrap
Polyethylene Resin, Wax (Low M.W.)
Polyethylene Resin, Latex
Polyethylene Resins
*Polyethylene Resins, Compounded
*Polyethylene, Chlorinated
*Polyimides
*Polypropylene Resins
Polystyrene (Crystal)
Polystyrene (Crystal) Modified
*Polystyrene—Copolymers
*Polystyrene—Acrylic Latexes
Polystyrene Impact Resins
Polystyrene Latex
Polystyrene, Expandable
Polystyrene, Expanded
*Polysulfone Resins
Polyvinyl Acetate
*Polyvinyl Acetate—PVC Copolymers
*Polyvinyl Acetate Copolymers
*Polyvinyl Acetate Resins
Polyvinyl Alcohol Resin
Polyvinyl Chloride
Polyvinyl Chloride, Chlorinated
*Polyvinyl Ether-Maleic Anhydride
*Polyvinyl Formal Resins
*Polyvinylacetate—Methacrylic Copolymers
*Polyvinylacetate Acrylic Copolymers
*Polyvinylacetate-2-Ethylhexylacrylate Copolymers
Polyvinylidene Chloride
*Polyvinylidene Chloride Copolymers
*Polyvinylidene-Vinyl Chloride Resins
*PVC Copolymers, Acrylates (Latex)
*PVC Copolymers, Ethylene-Vinyl Chloride
*Rosin Derivative Resins
*Rosin Modified Resins
*Rosin Resins
*SAN Resins
*Silicones: Silicone Resins
*Silicones: Silicone Rubbers
*Styrene Maleic Anhydride Resins
Styrene Polymeric Residue
*Styrene-Acrylic Copolymer Resins
*Styrene-Acrylonitrile-Acrylates Copolymers
*Styrene-Butadiene Resins
*Styrene-Butadiene Resins (<50% Butadiene)
*Styrene-Butadiene Resins (latex)
*Styrene-Divinyl Benzene Resins (Ion Exchange)
*Styrene-Methacrylate Terpolymer Resins
*Styrene-Methyl Methacrylate Copolymers
*Styrene, Butadiene, Vinyl Toluene Terpolymers
*Sulfonated Styrene-Maleic Anhydride Resins
*Unsaturated Polyester Resins
*Vinyl Toluene Resins
*Vinyl Toluene-Acrylate Resins
*Vinyl Toluene-Butadiene Resins
*Vinyl Toluene-Methacrylate Resins
*Vinylacetate-N-Butylacrylate Copolymers

§ 414.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

Effluent characteristics	BPT Effluent Limitations [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	64	24
TSS	130	40
pH	(*)	(*)

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 414.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) The Agency has determined that for existing point sources whose total OCPSF production defined by § 414.11 is less than or equal to five (5) million pounds of OCPSF products per year, the BPT level of treatment is the best available technology economically achievable. Accordingly, the Agency is not promulgating more stringent BAT limitations for these point sources.

(b) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part.

(c) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part.

§ 414.44 New source performance standards (NSPS).

(a) Any new source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part, and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

(b) Any new source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part, and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

Effluent characteristics	NSPS [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	64	24
TSS	130	40
pH	(*)	(*)

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.45 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

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(b) In the case of lead, zinc, and total cyanide the discharge quantity (mass) shall be determined by multiplying the concentrations listed in the following table for the metal pollutants times the flow from metal-bearing waste streams for metals and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Effluent characteristics	Pretreatment standards [1]	
	Maximum for any one day	Maximum for monthly average
Acenaphthene	47	19
Benzene	134	57
Carbon Tetrachloride	380	142
Chlorobenzene	380	142
1,2,4-Trichlorobenzene	794	196
Hexachlorobenzene	794	196
1,2-Dichloroethane	574	180
1,1,1-Trichloroethane	59	22
Hexachloroethane	794	196
1,1-Dichloroethane	59	22
1,1,2-Trichloroethane	127	32
Chloroethane	295	110
Chloroform	325	111
1,2-Dichlorobenzene	794	196
1,3-Dichlorobenzene	380	142
1,4-Dichlorobenzene	380	142
1,1-Dichloroethylene	60	22
1,2-trans-Dichloroethylene	66	25
1,2-Dichloropropane	794	196
1,3-Dichloropropylene	794	196
2,4-Dimethylphenol	47	19
Ethylbenzene	380	142
Fluoranthene	54	22
Methylene Chloride	170	36
Methyl Chloride	295	110
Hexachlorobutadiene	380	142
Naphthalene	47	19
Nitrobenzene	6,402	2,237
2-Nitrophenol	231	65
4-Nitrophenol	576	162
4,6-Dinitro-o-cresol	277	78
Phenol	47	19
Bis(2-ethylhexyl) phthalate	258	95
Di-n-butyl phthalate	43	20
Diethyl phthalate	113	46
Dimethyl phthalate	47	19
Anthracene	47	19
Fluorene	47	19
Phenanthrene	47	19
Pyrene	48	20
Tetrachloroethylene	164	52
Toluene	74	28
Trichloroethylene	69	26
Vinyl Chloride	172	97
Total Cyanide	1,200	420
Total Lead	690	320
Total Zinc	2,610	1,050

[1] All units are micrograms per liter.

§ 414.46 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7 any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed above in § 414.45.

(b) In the case of lead, zinc, and total cyanide the discharge quantity (mass) shall be determined by multiplying the concentrations listed above in § 414.45 for the metal pollutants times the flow from metal-bearing waste streams for metals and times the flow from the cyanide-bearing waste streams for total cyanide. The metal bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

§ 414.51 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

Effluent characteristics	BPT effluent limitations [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	163	61
TSS	216	67
pH	(2)	(2)

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Subpart E—Thermosetting Resins

§ 414.50 Applicability; description of the thermosetting resins subcategory.

The provisions of this subpart are applicable to the process wastewater discharges resulting from the manufacture of the following SIC 28214 thermosetting resins and thermosetting resin groups. Product groups are indicated with an asterisk (*).

*Alkyd Resins
Dicyanodiamide Resin
*Epoxy Resins
*Fumaric Acid Polyesters
*Furan Resins
Glyoxal-Urea Formaldehyde Textile Resin
*Ketone-Formaldehyde Resins
*Melamine Resins
*Phenolic Resins
*Polyacetal Resins
Polyacrylamide
*Polyurethane Prepolymers
*Polyurethane Resins
*Urea Formaldehyde Resins
*Urea Resins

§ 414.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 414.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) The Agency has determined that for existing point sources whose total OCPSF production defined by § 414.11 is less than or equal to five (5) million pounds of OCPSF products per year, the BPT level of treatment is the best available technology economically achievable. Accordingly, the Agency is not promulgating more stringent BAT limitations for these point sources.

(b) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part.

(c) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part.

§ 414.54 New source performance standards (NSPS).

(a) Any new source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part, and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

(b) Any new source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part, and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

Effluent characteristics	NSPS [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	163	61
TSS	216	67
pH	(2)	(2)

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.55 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

(b) In the case of lead, zinc, and total cyanide the discharge quantity (mass) shall be determined by multiplying the concentrations listed in the following table for the metal pollutants times the flow from metal-bearing waste streams for metals and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Effluent characteristics	Pretreatment standards [1]	
	Maximum for any one day	Maximum for monthly average
Acenaphthene	47	19
Benzene	134	57
Carbon Tetrachloride	380	142
Chlorobenzene	380	142
1,2,4-Trichlorobenzene	794	196
Hexachlorobenzene	794	196
1,2-Dichloroethane	574	180
1,1,1-Trichloroethane	59	22
Hexachloroethane	794	196
1,1-Dichloroethane	59	22
1,1,2-Trichloroethane	127	32
Chloroethane	295	110
Chloroform	325	111
1,2-Dichlorobenzene	794	196
1,3-Dichlorobenzene	380	142
1,4-Dichlorobenzene	380	142
1,1-Dichloroethylene	60	22
1,2-Trans-Dichloroethylene	66	25
1,2-Dichloropropane	794	196
1,3-Dichloropropylene	794	196
2,4-Dimethylphenol	47	19
Ethylbenzene	380	142
Fluoranthene	54	22
Methylene Chloride	170	36
Methyl Chloride	295	110
Hexachlorobutadiene	380	142
Naphthalene	47	19
Nitrobenzene	6,402	2,237
2-Nitrophenol	231	65
4-Nitrophenol	576	162
4,6-Dinitro-o-cresol	277	78
Phenol	47	19
Bis(2-ethylhexyl) phthalate	258	95
Di-n-butyl phthalate	43	20
Diethyl phthalate	113	46
Dimethyl phthalate	47	19
Anthracene	47	19
Fluorene	47	19
Phenanthrene	47	19
Pyrene	48	20
Tetrachloroethylene	164	52
Toluene	74	28
Trichloroethylene	69	26
Vinyl Chloride	172	97
Total Cyanide	1,200	420
Total Lead	690	320
Total Zinc	2,610	1,050

[1] All units are micrograms per liter.

§ 414.56 Pretreatment Standards for New Sources (PSNS).

(a) Except as provided in 40 CFR 403.7 any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed above in § 414.55.

(b) In the case of lead, zinc, and total cyanide the discharge quantity (mass) shall be determined by multiplying the concentrations listed above in § 414.55 for the metal pollutants times the flow from metal-bearing waste streams for metals and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

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(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Subpart F—Commodity Organic Chemicals

§ 414.60 Applicability; description of the commodity organic chemicals subcategory.

The provisions of this subpart are applicable to the process wastewater discharges resulting from the manufacture of the following SIC 2865 and 2869 commodity organic chemicals and commodity organic chemical groups. Product groups are indicated with an asterisk (*).

(a) Aliphatic Organic Chemicals

Acetaldehyde
Acetic Acid
Acetic Anhydride
Acetone
Acrylonitrile
Adipic Acid
*Butylenes (Butenes)
Cyclohexane
Ethanol
Ethylene
Ethylene Glycol
Ethylene Oxide
Formaldehyde
Isopropanol
Methanol
Polyoxypropylene Glycol
Propylene
Propylene Oxide
Vinyl Acetate
1,2-Dichloroethane
1,3-Butadiene

(b) Aromatic Organic Chemicals

Benzene
Cumene
Dimethyl Terephthalate
Ethylbenzene
m-Xylene (impure)
p-Xylene
Phenol
*Pitch Tar Residues
*Pyrolysis Gasolines
Styrene
Terephthalic Acid
Toluene
*Xylenes, Mixed
o-Xylene

(c). Halogenated Organic Chemicals

Vinyl Chloride

§ 414.61 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

Effluent characteristics	BPT Effluent limitations [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	80	30
TSS	149	46
pH	(2)	(2)

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 414.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) The Agency has determined that for existing point sources whose total OCPSF production defined by § 414.11 is less than or equal to five (5) million pounds of OCPSF products per year, the BPT level of treatment is the best available technology economically achievable. Accordingly, the Agency is not promulgating more stringent BAT limitations for these point sources.

(b) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part.

(c) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part.

§ 414.64 New source performance standards (NSPS)

(a) Any new source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part, and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

(b) Any new source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part, and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

Effluent characteristics	NSPS [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	80	30
TSS	149	46
pH	(2)	(2)

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.65 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations listed in the following table for the metal pollutants times the flow from metal-bearing waste streams for metals and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Effluent characteristics	Pretreatment standards [1]	
	Maximum for any one day	Maximum for monthly average
Acenaphthene	47	19
Benzene	134	57
Carbon Tetrachloride	380	142
Chlorobenzene	380	142
1,2,4-Trichlorobenzene	794	196
Hexachlorobenzene	794	196
1,2-Dichloroethane	574	180
1,1,1-Trichloroethane	59	22
Hexachloroethane	794	196
1,1-Dichloroethane	59	22
1,1,2-Trichloroethane	127	32
Chloroethane	295	110
Chloroform	325	111
1,2-Dichlorobenzene	794	196
1,3-Dichlorobenzene	380	142
1,4-Dichlorobenzene	380	142
1,1-Dichloroethylene	60	22
1,2-trans-Dichloroethylene	66	25
1,2-Dichloropropane	794	196
1,3-Dichloropropylene	794	196
2,4-Dimethylphenol	47	19
Ethylbenzene	380	142
Fluoranthene	54	22
Methylene Chloride	170	36
Methyl Chloride	295	110
Hexachlorobutadiene	380	142
Naphthalene	47	19
Nitrobenzene	6,402	2,237
2-Nitrophenol	231	65
4-Nitrophenol	576	162
4,6-Dinitro-o-cresol	277	78
Phenol	47	19
Bis(2-ethylhexyl) phthalate	258	85
Di-n-butyl phthalate	43	20
Diethyl phthalate	113	46
Dimethyl phthalate	47	19
Anthracene	47	19
Fluorene	47	19
Phenanthrene	47	19
Pyrene	48	20
Tetrachloroethylene	164	52
Toluene	74	26
Trichloroethylene	69	26
Vinyl Chloride	172	97
Total Cyanide	1,200	420
Total Lead	690	320
Total Zinc	2,610	1,050

[1] All units are micrograms per liter.

§ 414.66 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7 any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed above in § 414.65.

(b) In the case of lead, zinc, and total cyanide, the discharge quantity (mass) shall be determined by multiplying the concentrations listed above in § 414.65 for the metal pollutants times the flow from metal-bearing waste streams for metals and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this Part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Subpart G—Bulk Organic Chemicals

§ 414.70 Applicability; description of the bulk organic chemicals subcategory.

The provisions of this subpart are applicable to the process wastewater discharges resulting from the manufacture of the following SIC 2865 and 2869 bulk organic chemicals and bulk organic chemical groups. Product groups are indicated with an asterisk (*).

(a) Aliphatic Organic Chemicals

*Acetic Acid Esters
*Acetic Acid Salts
Acetone Cyanohydrin
Acetylene
Acrylic Acid
*Acrylic Acid Esters
*Alkoxy Alkanols
*Alkylates
*Alpha-Olefins
Butane (all forms)
*C-4 Hydrocarbons (Unsaturated)
Calcium Stearate
Caprolactam
Carboxymethyl Cellulose
Cellulose Acetate Butyrates
*Cellulose Ethers
Citric Acid
Cumene Hydroperoxide
Cyclohexanol
Cyclohexanol, Cyclohexanone (Mixed)
Cyclohexanone
Cyclohexene
*C12–C18 Primary Alcohols
*C5 Concentrates
*C9 Concentrates
Decanol
Diacetone Alcohol
*Dicarboxylic Acids—Salts
Diethyl Ether
Diethylene Glycol
Diethylene Glycol Diethyl Ether
Diethylene Glycol Dimethyl Ether
Diethylene Glycol Monoethyl Ether
Diethylene Glycol Monomethyl Ether
*Dimer Acids
Dioxane
Ethane
Ethylene Glycol Monophenyl Ether
*Ethoxylates, Misc.
Ethylene Glycol Dimethyl Ether
Ethylene Glycol Monobutyl Ether
Ethylene Glycol Monoethyl Ether
Ethylene Glycol Monomethyl Ether
*Fatty Acids
Glycerine (Synthetic)
Glyoxal
Hexane
*Hexanes and Other C6 Hydrocarbons
Isobutanol
Isobutylene
Isobutyraldehyde
Isophorone
Isophthalic Acid
Isoprene
Isopropyl Acetate
Ligninsulfonic Acid, Calcium Salt
Maleic Anhydride
Methacrylic Acid
*Methacrylic Acid Esters
Methane
Methyl Ethyl Ketone
Methyl Methacrylate
Methyl Tert-Butyl Ether
Methylisobutyl Ketone
*n-Alkanes
n-Butyl Alcohol
n-Butylacetate
n-Butyraldehyde
n-Butyric Acid
n-Butyric Anhydride
*n-Paraffins
n-Propyl Acetate
n-Propyl Alcohol
Nitrilotriacetic Acid
Nylon Salt
Oxalic Acid
*Oxo Aldehydes—Alcohols
Pentaerythritol
Pentane
*Pentenes
*Petroleum Sulfonates
Pine Oil
Polyoxybutylene Glycol
Polyoxyethylene Glycol
Propane
Propionaldehyde
Propionic Acid
Propylene Glycol
Sec-Butyl Alcohol
Sodium Formate
Sorbitol
Stearic Acid, Calcium Salt (Wax)
Tert-Butyl Alcohol
1-Butene

1-Pentene
1,4-Butanediol
Isobutyl Acetate
2-Butene (Cis and Trans)
2-Ethyl Hexanol
2-Ethylbutyraldehyde
2,2,4-Trimethyl-1,3-Pentanediol

(b) Amine and Amide Organic Chemicals

2,4-Diaminotoluene
*Alkyl Amines
Aniline
Caprolactam, Aqueous Concentrate
Diethanolamine
Diphenylamine
*Ethanolamines
Ethylamine
Ethylenediamine
Ethylenediaminetetracetic Acid
*Fatty Amines
Hexamethylene Diamine
Isopropylamine
m-Toluidine
Melamine
Melamine Crystal
*Methylamines
Methylene Dianiline
n-Butylamine
N,N-Diethylaniline
N,N-Dimethylformamide
*Nitroanilines
Polymeric Methylene Dianiline
Sec-Butylamine
Tert-Butylamine
Toluenediamine (Mixture)
*Toluidines
o-Phenylenediamine
2,6-Dimethylaniline
4-(N-Hydroxyethylethylamino)-2-Hydroxyethyl Analine
4,4'-Methylenebis (N,N'-dimethyl)-aniline
4,4'Methylenedianiline

(c) Aromatic Organic Chemicals

Alpha-Methylstyrene
*Alkyl Benzenes
*Alkyl Phenols
*Alkylbenzene Sulfonic Acids, Salts
Aminobenzoic Acid (Meta and Para)
Aspirin
Beta-Naphthalene Sulfonic Acid
Benzenedisulfonic Acid
Benzoic Acid
Bis(2-Ethylhexyl)Phthalate
Bisphenol A
BTX-Benzene, Toluene, Xylene (Mixed)
Butyl Octyl Phthalate
Coal Tar
*Coal Tar Products (Misc.)
Creosote
*Cresols, Mixed
Cyanuric Acid
*Cyclic Aromatic Sulfonates
Dibutyl Phthalate
Diisobutyl Phthalate
Diisodecyl Phthalate
Diisooctyl Phthalate
Dimethyl Phthalate
Dinitrotoluene (Mixed)
Ditridecyl Phthalate
m-Cresol
Metanilic Acid
Methylenediphenyldiisocyanate
Naphthalene
*Naphthas, Solvent
Nitrobenzene
Nitrotoluene
Nonylphenol
p-Cresol
Phthalic Acid
Phthalic Anhydride
*Tars—Pitches
Tert-Butylphenol
*Toluene Diisocyanates (Mixture)
Trimellitic Acid
o-Cresol
1-Tetralol, 1-Tetralone Mix
2,4-Dinitrotoluene
2,6-Dinitrotoluene

(d) Halogenated Organic Chemicals

1,4-Phenylenediamine Dihydrochloride
Allyl Chloride
Benzyl Chloride
Carbon Tetrachloride
*Chlorinated Paraffins, 35–64 PCT, Chlorine
Chlorobenzene
*Chlorobenzenes (Mixed)
Chlorodifluoroethane
Chloroform
*Chloromethanes
2-Chloro-5-Methylphenol (6-chloro-m-cresol)
*Chlorophenols
Chloroprene
Cyanogen Chloride
Cyanuric Chloride
Dichloropropane
Epichlorohydrin
Ethyl Chloride
*Fluorocarbons (Freons)
Methyl Chloride
Methylene Chloride
Pentachlorophenol
Phosgene
Tetrachloroethylene
Trichloroethylene
Trichlorofluoromethane
Vinylidene Chloride
1,1-Dichloroethane
1,1,1-Trichloroethane
2,4-Dichlorophenol

(e) Other Organic Chemicals

Adiponitrile
Carbon Disulfide
Dithiophosphates, Sodium Salt
Fatty Nitriles
*Organo-Tin Compounds
*Phosphate Esters
Tetraethyl Lead
Tetramethyl Lead
*Urethane Prepolymers
*Waxes, Emulsions—Dispersions

§ 414.71 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

Effluent characteristics	BPT Effluent limitations [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	92	34
TSS	159	49
pH	(2)	(2)

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 414.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) The Agency has determined that for existing point sources whose total OCPSF production defined by § 414.11 is less than or equal to five (5) million pounds of OCPSF products per year, the BPT level of treatment is the best available technology economically achievable. Accordingly, the Agency is not promulgating more stringent BAT limitations for these point sources.

(b) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part.

(c) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part.

§ 414.74 New source performance standards (NSPS)

(a) Any new source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part.

and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

(b) Any new source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part, and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

Effluent characteristics	NSPS [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	92	34
TSS	159	49
pH	(2)	(2)

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.75 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

(b) In the case of lead, zinc, and total cyanide, the discharge quantity (mass) shall be determined by multiplying the concentrations listed in the following table for the metal pollutants times the flow from metal-bearing waste streams for metals and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Effluent characteristics	Pretreatment standards [1]	
	Maximum for any one day	Maximum for monthly average
Acenaphthene	47	19
Benzene	134	57
Carbon Tetrachloride	380	142
Chlorobenzene	380	142
1,2,4-Trichlorobenzene	794	196
Hexachlorobenzene	794	196
1,2-Dichloroethane	574	180
1,1,1-Trichloroethane	59	22
Hexachloroethane	794	196
1,1-Dichloroethane	59	22
1,1,2-Trichloroethane	127	32
Chloroethane	295	110
Chloroform	325	111
1,2-Dichlorobenzene	794	196
1,3-Dichlorobenzene	380	142
1,4-Dichlorobenzene	380	142
1,1-Dichloroethylene	60	22
1,2-trans-Dichloroethylene	66	25
1,2-Dichloropropane	794	196
1,3-Dichloropropylene	794	196
2,4-Dimethylphenol	47	19
Ethylbenzene	380	142
Fluoranthene	54	22
Methylene Chloride	170	36
Methyl Chloride	295	110
Hexachlorobutadiene	380	142
Napthalene	47	19
Nitrobenzene	6,402	2,237
2-Nitrophenol	231	65
4-Nitrophenol	576	162
4,6-Dinitro-o-cresol	277	78
Phenol	47	19
Bis(2-ethylhexyl) phthalate	258	95
Di-n-butyl phthalate	43	20
Diethyl phthalate	113	48
Dimethyl phthalate	47	19
Anthracene	47	19
Fluorene	47	19
Phenanthrene	47	19
Pyrene	48	20
Tetrachloroethylene	164	52
Toluene	74	28
Trichloroethylene	69	26
Vinyl Chloride	172	97
Total Cyanide	1,200	420
Total Lead	690	320
Total Zinc	2,610	1,050

[1] All units are micrograms per liter.

§ 414.76 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7 any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed above in § 414.75.

(b) In the case of lead, zinc, and total cyanide the discharge quantity (mass) shall be determined by multiplying the concentrations listed above in §414.75 for the metal pollutants times the flow from metal-bearing waste streams for metals and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Subpart H—Specialty Organic Chemicals

§ 414.80 Applicability; description of the specialty organic chemicals subcategory.

The provisions of this subpart are applicable to the process wastewater discharges resulting from the manufacture of all SIC 2865 and 2869 organic chemicals and organic chemical groups which are not defined as commodity or bulk organic chemicals in § 414.60 and § 414.70, respectively.

§ 414.81 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

Effluent characteristics	BPT effluent limitations [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	120	45
TSS	183	57

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Effluent characteristics	BPT effluent limitations [1]	
	Maximum for any one day	Maximum for monthly average
pH	[2]	[2]

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 414.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) The Agency has determined that for existing point sources whose total OCPSF production defined by § 414.11 is less than or equal to five (5) million pounds of OCPSF products per year, the BPT level of treatment is the best available technology economically achievable. Accordingly, the Agency is not promulgating more stringent BAT limitations for these point sources.

(b) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part.

(c) Except as provided in paragraph (a) of this section and in 40 CFR 125.30 through 125.32, any existing point source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part.

§ 414.84 New source performance standards (NSPS).

(a) Any new source that uses end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.91 of this part, and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

(b) Any new source that does not use end-of-pipe biological treatment and is subject to this subpart must achieve discharges in accordance with § 414.101 of this part, and also must not exceed the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

Effluent characteristics	NSPS [1]	
	Maximum for any one day	Maximum for monthly average
BOD5	120	45
TSS	183	57
pH	[2]	[2]

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.85 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

(b) In the case of lead, zinc, and total cyanide the discharge quantity (mass) shall be determined by multiplying the concentrations listed in the following table for the metal pollutants times the flow from metal-bearing waste streams for metals and times the flow from the cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this Part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Effluent characteristics	Pretreatment standards [1]	
	Maximum for any one day	Maximum for monthly average
Acenaphthene	47	19
Benzene	134	57
Carbon Tetrachloride	380	142
Chlorobenzene	380	142
1,2,4-Trichlorobenzene	794	196
Hexachlorobenzene	794	196
1,2-Dichloroethane	574	180
1,1,1-Trichloroethane	59	22
Hexachloroethane	794	196
1,1-Dichloroethane	59	22
1,1,2-Trichloroethane	127	32
Chloroethane	295	110
Chloroform	325	111
1,2-Dichlorobenzene	794	196
1,3-Dichlorobenzene	380	142
1,4-Dichlorobenzene	380	142
1,1-Dichloroethylene	60	22
1,2-trans-Dichloroethylene	66	25
1,2-Dichloropropane	794	196
1,3-Dichloropropylene	794	196
2,4-Dimethylphenol	47	19
Ethylbenzene	380	142
Fluoranthene	54	22
Methylene Chloride	170	39
Methyl Chloride	295	110
Hexachlorobutadiene	380	142
Naphthalene	47	19
Nitrobenzene	6,402	2,237
2-Nitrophenol	231	65
4-Nitrophenol	576	162
4,6-Dinitro-o-cresol	277	78
Phenol	47	19
Bis(2-ethylhexyl) phthalate	258	95
Di-n-butyl phthalate	43	20
Diethyl phthalate	113	46
Dimethyl phthalate	47	19
Anthracene	47	19
Fluorene	47	19
Phenanthrene	47	19
Pyrene	48	20
Tetrachloroethylene	164	52
Toluene	74	28
Trichloroethylene	69	26
Vinyl Chloride	172	97
Total Cyanide	1,200	420
Total Lead	690	320
Total Zinc	2,610	1,050

[1] All units are micrograms per liter.

§ 414.86 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7 any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentration listed above in § 414.85.

(b) In the case of lead, zinc, and total cyanide, the discharge quantity (mass) shall be determined by multiplying the concentrations listed above in § 414.85 for the metal pollutants times the flow from metal-bearing waste streams for metals and times the flow from cyanide-bearing waste streams for total cyanide. The metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the control authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Effluent characteristics	Effluent limitations BAT and NSPS [1]	
	Maximum for any one day	Maximum for monthly average
Acenaphthene	59	22
Acrylonitrile	242	96
Benzene	136	37
Carbon Tetrachloride	38	18
Chlorobenzene	28	15
1,2,4-Trichlorobenzene	140	68
Hexachlorobenzene	28	15
1,2-Dichloroethane	211	68
1,1,1-Trichloroethane	54	21
Hexachloroethane	54	21
1,2-Dichloroethane	59	22
1,1,1-Trichloroethane	54	21
Chloroethane	268	104
Chloroform	46	21
2-Chlorophenol	98	31
1,2-Dichlorobenzene	163	77
1,3-Dichlorobenzene	44	31
1,4-Dichlorobenzene	28	15
1,1-Dichloroethylene	25	18
1,2-trans-Dichloroethylene	54	21
2,4-Dichlorophenol	112	39
1,2-Dichloropropane	230	153
1,3-Dichloropropylene	44	29
2,4-Dimethylphenol	36	18
2,4-Dinitrotoluene	285	113
2,6-Dinitrotoluene	641	255
Ethylbenzene	108	32
Fluoranthene	68	25
Bis(2-Chloroisopropyl) ether	757	301
Methylene Chloride	89	40
Methyl Chloride	190	86
Hexachlorobutadiene	49	20
Naphthalene	59	22
Nitrobenzene	68	27
2-Nitrophenol	69	41
4-Nitrophenol	124	72
2,4-Dinitrophenol	123	71
4,6-Dinitro-o-cresol	277	78
Phenol	26	15
Bis(2-ethylhexyl) phthalate	279	103
Di-n-butyl phthalate	57	27
Diethyl phthalate	203	81
Dimethyl phthalate	47	19
Benzo(a)anthracene	59	22
Benzo(a)pyrene	61	23
3,4-Benzofluoranthene	61	23
Benzo(k)fluoranthene	59	22
Chrysene	59	22
Acenaphthylene	59	22
Anthracene	59	22
Fluorene	59	22
Phenanthrene	59	22
Pyrene	67	25
Tetrachloroethylene	56	22
Toluene	80	28
Trichloroethylene	54	21
Vinyl Chloride	268	104
Total Chromium	2,770	1,110
Total Copper	3,380	1,450
Total Cyanide	1,200	420
Total Lead	690	320
Total Nickel	3,980	1,690
Total Zinc [2]	2,610	1,050

[1] All units are micrograms per liter.
[2] Total Zinc for Rayon Fiber Manufacture that uses the viscose process and Acrylic Fiber Manufacture that uses the zinc chloride/solvent process is 6,796 µg/l and 3,325 µg/l for maximum for any one day and maximum for monthly average, respectively.

Subpart I—Direct Discharge Point Sources That Use End-of-Pipe Biological Treatment

§ 414.90 Applicability; description of the subcategory of direct discharge point sources that use end-of-pipe biological treatment.

The provisions of this subpart are applicable to the process wastewater discharges resulting from the manufacture of the OCPSF products and product groups defined by § 414.11 from any point source that uses end-of-pipe biological treatment or installs end-of-pipe biological treatment to comply with BPT effluent limitations.

§ 414.91 Toxic pollutant effluent limitations and standards for direct discharge point sources that use end-of-pipe biological treatment.

(a) Any point source subject to this subpart must achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

(b) In the case of chromium, copper, lead, nickel, zinc, and total cyanide, the discharge quantity (mass) shall be determined by multiplying the concentrations listed in the following table for these pollutants times the flow from metal-bearing waste streams for the metals and times the flow from cyanide-bearing waste streams for total cyanide. Metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the permitting authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and that

(2) The combination of such streams, prior to treatment, with the Appendix A waste streams will result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Subpart J—Direct Discharge Point Sources That Do Not Use End-of-Pipe Biological Treatment

§ 414.100 Applicability; description of the subcategory of direct discharge point sources that do not use end-of-pipe biological treatment.

The provisions of this subpart are applicable to the process wastewater discharges resulting from the manufacture of the OCPSF products and product groups defined by § 414.11 from any point source that does not use end-of-pipe biological treatment and does not install end-of-pipe biological treatment to comply with BPT effluent limitations.

§ 414.101 Toxic pollutant effluent limitations and standards for direct discharge point sources that do not use end-of-pipe biological treatment.

(a) Any point source subject to this subpart must achieve discharges not exceeding the quantity (mass) determined by multiplying the process wastewater flow subject to this subpart times the concentrations in the following table.

(b) In the case of chromium, copper, lead, nickel, zinc, and total cyanide, the discharge quantity (mass) shall be determined by multiplying the concentrations listed in the following table for these pollutants times the flow

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from metal-bearing waste streams for the metals and times the cyanide-bearing waste streams for total cyanide. Metal-bearing waste streams and cyanide-bearing waste streams are defined as those waste streams listed in Appendix A of this part, plus any additional process wastewater streams identified by the permitting authority on a case-by-case basis as metal or cyanide bearing based upon a determination—

(1) That such streams contain significant amounts of the pollutants identified above and

(2) That the combination of such streams, prior to treatment, with the Appendix A waste streams would result in substantial reduction of these pollutants.

This determination must be based upon a review of relevant engineering, production, and sampling and analysis information.

Effluent characteristics	BAT effluent limitations and NSPS [1]	
	Maximum for any one day	Maximum for monthly average
Acenaphthene	47	19
Acrylonitrile	232	84
Benzene	134	57
Carbon Tetrachloride	380	142
Chlorobenzene	380	142
1,2,4-Trichlorobenzene	794	196
Hexachlorobenzene	794	196
1,2-Dichloroethane	574	100
1,1,1-Trichloroethane	59	22
Hexachloroethane	794	196
1,1-Dichloroethane	59	22
1,1,2-Trichloroethane	127	32
Chloroethene	295	110
Chloroform	325	111
1,2-Dichlorobenzene	794	196
1,3-Dichlorobenzene	380	142
1,4-Dichlorobenzene	380	142
1,1-Dichloroethylene	60	22
1,2-trans-Dichloroethylene	66	25
1,2-Dichloropropane	794	196
1,3-Dichloropropylene	794	196
2,4-Dimethylphenol	47	19
Ethylbenzene	380	142
Fluoranthene	54	22
Bis(2-chloroisopropyl)ether	794	196
Methylene Chloride	170	38
Methyl Chloride	295	110
Hexachlorobutadiene	380	142
Naphthalene	47	19
Nitrobenzene	6,402	2,237
2-Nitrophenol	231	65
4-Nitrophenol	576	162
2,4-Dinitrophenol	4,291	1,207
4,6-Dinitro-o-cresol	277	78
Phenol	47	19
Bis(2-ethylhexyl)phthalate	258	95
Di-n-butyl phthalate	43	20
Diethyl phthalate	113	46
Dimethyl phthalate	47	19
Benzo(a)anthracene	47	19
Benzo(a)pyrene	48	20
3,4-Benzofluoranthene	48	20
Benzo(k)fluoranthene	47	19
Chrysene	47	19
Acenaphthylene	47	19
Anthracene	47	19
Fluorene	47	19
Phenanthrene	47	19
Pyrene	48	20
Tetrachloroethylene	164	52
Toluene	74	28
Trichloroethylene	69	26
Vinyl Chloride	172	97
Total Chromium	2,770	1,110
Total Copper	3,380	1,450
Total Cyanide	1,200	420
Total Lead	690	320
Total Nickel	3,980	1,690
Total Zinc [2]	2,610	1,050

[1] All units are micrograms per liter.

[2] Total Zinc for Rayon Fiber Manufacture that uses the viscose process and Acrylic Fibers Manufacture that uses the zinc chloride/solvent process is 6,796 μg/l and 3,325 μg/l for maximum for any one day and maximum for monthly average, respectively.

Appendix A to Part 416—Non-Complexed Metal-Bearing Waste Streams and Cyanide-Bearing Waste Streams

Chromium

Methylhydroabietate/Esterification of hydroabietic acid (rosin) with methanol
Acrylic acid/Oxidation of propylene via acrolein
N-butyl alcohol/Hydrogenation of n-Butyraldehyde, Oxo process
Cyclohexanone/From phenol via cyclohexanol by hydrogenation-dehydrogenation
Fatty amines/Hydrogenation of fatty nitriles (batch)
Helioptropin/Oxidation of isosafrole, chromium catalyst
Isobutanol/Hydrogenation of isobutyraldehyde, Oxo process
Cyclohexyl Mercaptan/Cyclohexanol + Hydrogen sulfide
Ethyl Mercaptan/Ethanol + Hydrogen sulfide
Methanol/H.P. Synthesis from natural gas via synthetic gas
Oxo Alcohols, C7–C11/Carbonation & hydrogenation of C6–C10 Olefins
Polyoxypropylene diamine/Polypropylene glycol + Ammonia
n-Propyl alcohol/Hydrogenation of propionaldehyde, Oxo process
SAN resin/Suspension polymerization
Styrene/Dehydrogenation of ethylbenzene
Styrene/Dehydration of methyl benzyl alcohol (coproduct of propylene oxide)
1-Tetralol, 1-Tetralone mix/Oxidation of tetralin (1,2,3,4-Tetrahydronaphthalene)
3,3,3-Trifluoropropene/Catalyzed hydrogen fluoride exchange with chlorinated propane
Vinyl toluene/Dehydrogenation (thermal) of ethyltoluene

Copper

Methylhydroabietate/Esterification of hydroabietic acid (rosin) with methanol
Acetaldehyde/Oxidation of ethylene with cupric chloride catalyst
Acetic acid/Catalytic oxidation of butane
Acetone/Dehydrogenation of isopropanol
Acrylamide/Catalytic hydration of acrylonitrile
Acrylic acid/Oxidation of propylene via acrolein
Acrylonitrile/Propylene ammoxidation
Adipic acid/Oxidation of cyclohexanol-cyclohexanone mixture
Adipic acid/Oxidation of cyclohexane via cyclohexanol-cyclohexanone mixture
Allynitrile/Allychloride + sodium cyanide
Aniline/Hydrogenation of nitrobenzene
Benzofurans, 2,3-Dihydro-2,2-dimethyl-7-benzofuranol/ from o-Nitrophenol + Methallyl chloride
n-Butyl alcohol/Hydrogenation of n-Butyraldehyde, Oxo process
1,4-Butanediol/Hydrogenation of 1,4-butynediol
Butryolactone/Dehydrogenation of 1,4-butanediol
Caprolactam/From cyclohexane via cyclohexanone and its oxime
Lilian (hydroxydihydrocitronellal)/Hydration and oxidation of citronellol
1,2-Dichloroethane/Oxyhydrochlorination of ethylene
Dialkyldithiocarbamates, metal salts/ Dialkylamines + carbon disulfide
2-Ethylhexanol/from n-Butyraldehyde by Aldo condensation and hydrogenation
Fatty amines/Hydrogenation of fatty nitriles (batch)
Geraniol/B-Myrcene + Hydrogen chloride, esterification of geranyl chloride, hydrolysis of geranyl acetate
Furfuryl alcohol/Hydrogenation of furfural
Geraniol (Citral)/Oxidation of geraniol (copper catalyst)
Glyoxal/Oxidation of ethylene glycol
Isobutanol/Hydrogenation of isobutyraldehyde, Oxo process
Isopropanol/Catalytic hydrogenation of acetone
2-Mercaptobenzothiazoles, copper salt/2-Mercaptobenzothiazole + copper salt
Methanol/High pressure synthesis from natural gas via synthetic gas
Methanol/Low pressure synthesis from natural gas via synthetic gas
Methyl ethyl ketone/Dehydrogenation of sec-Butanol
Oxo alcohols, C7–C11/Carbonation & hydrogenation of C6–C10 olefins
Phenol/Liquid phase oxidation of benzoic acid

Polyoxyalkylene amines/Polyoxyalkylene glycol + ammonia
Polyphenylene oxide/Solution polymerization of 2,6-xylenol by oxidative coupling (cuprous salt catalyst)
Polyoxypropylene diamine/Polypropylene glycol + Ammonia
Quinaldine (dye intermediate)/Skraup reaction of aniline + crotonaldehyde
Silicones, silicone fluids/Hydrolysis and condensation of chlorosilanes
Silicones, silicone rubbers/Hydrolysis and condensation of chlorosilanes
Silicones, silicone specialties (grease, dispersion agents, defoamers & other products)
Silicones: Silicone resins/Hydrolysis & condensation of methyl, phenyl & vinyl chlorosilanes
Silicones: Silicone fluids/Hydrolysis of chlorosilanes to acyclic & cyclic organosiloxanes
Styrene/Dehydration of a-Methylbenzyl alcohol (coproduct of propylene oxide)
Tetrachloroethylene (perchloroethylene)/ Oxyhydrochlorination of tetrachloroethane
Tris(anilino)s-triazine/Cyanuric chloride + aniline + caganex
Trichloroethylene/Oxyhydrochlorination of tetrachloroethane
Unsaturated polyester resin/Reaction of maleic anhydride + phthalic anhydride + propylene glycol polyester with styrene or methyl methacrylate

Lead

Alkyd resin/Condensation polymerization
Alkyd resins/Condensation polymerization of phthalic anhydride + glycerin + vegetable oil esters
Anti-knock fuel additive/Blending purchased tetraethyl lead & tetramethyl lead additives
Dialkydithiocarbamates, metal salts/ Dialkylamines + carbon disulfide
Thiuram (dimethyldithiocarbamate) hexasulfide/Dimethyldithiocarbamate + sulfur
Triphenylmethane dyes (methyl violet)/ Condensation of Formaldehyde + N-Methylaniline + N,N-dimethylaniline, oxidation of reaction product
4,4'-Bis-(N,N-dimethylaniline) carbinol, Michler's hydrol/Oxidation of 4,4'-Methylene-bis(N,N-dimethylaniline) with lead oxide
Naphthenic acid salts
Stearic acid, metal salts/Neutralization with a metallic base
Tetraethyl lead/Alkyl halide + sodium-lead alloy
Tetramethyl lead/Alkyl halide + sodium-lead alloy

Nickel

Acetates, 7,11-Hexadecadien-1-ol (gossyplure)/Coupling reactions, low pressure hydrogenation, esterification
Acetates, 9-dodecen-1-ol (pheromone)/ Coupling reactions, low pressure hydrogenation, esterification
Acrylic acid/oxidation of propylene via acrolein
Acrylonitrile/Propylene ammoxidation
n-Alkanes/Hydrogenation of C6-C22 alpha olefins (ethylene oligomers)
Adiponitrile/Direct cyanation of butadiene
Alkyl amines/Amination of alcohols
4-Aminoacetanilide/Hydrogenation of 4-Nitroacetanilide
BTX/Hydrogenation of olefins (cyclohexenes)
Terphenyls, hydrogenated/Nickel catalyst, hydrogenation of terphenyl
Bisphenol-A, hydrogenated (Bisocyclohexanol-A)/Hydrogenation of Bisphenol-A
Butadiene (1,3)/Extractive distillation of C-4 pyrolyzates
n-Butanol/Hydrogenation of n-Butyraldehyde, Oxo process
1,3-Butylene glycol/Hydrogenation of acetaldol
1,4-Butanediol/Hydrogenation of 1,4-butynediol
Butylenes (mixed)/Distillation pf C4 pyrolyzates
4-Chloro-2-aminophenol/Hydrogenation of 4-Chloro-2-nitrophenol
Lilial (hydroxydihydrocitronellal)/Hydration and oxidation of citronellol
Cycloparaffins/Catalytic hydrogenation of aromatics in kerosene solvent
Cyclohexanol/Hydrogenation of phenol, distillation
Cyclohexanone/From phenol via cyclohexanol by hydrogenation-dehydrogenation
Dialkyldithiocarbamates, metal salts/ Dialkylamines + carbon disulfide
Ethylamine/Reductive amination of ethanol
Ethylamines (mono, di, tri)/Reductive amination (ammonia + hydrogen) of ethanol
Isoeugenol, high E trans/Separation of mixed cis & trans isoeugenols
3-Ethylhexanol/from n-Butyraldehyde by Aldol condensation and hydrogenation
Fatty acids, hydrogenated/tallow & coco acids + Hydrogen
Fatty amines/Hydrogenation of fatty nitriles (batch)
Fatty amines/Hydrogenation of tallow & coco nitriles
Glyoxal-urea formaldehyde textile resin/ condensation to N-bis(hydroxymethyl) urea & N,N'-(dihydroxyethyl) urea
11-hexadecenal/Coupling rxns, low pressure hydrogenation
Hexahydrophthalic anhydride/Condensation of butadiene & maleic anhydride (Diels-Alder reaction) + hydrogenation
Isobutanol/Hydrogenation of isobutyraldehyde, Oxo process
Diisobutyl amine/Ammonolysis of isobutanol
Isopropyl amines (mono, di)/Reductive amination (Ammonia + Hydrogen) of isopropanol
Linalool/Pyrolysis of 2-Pinanol
Methanol/High pressure synthesis from natural gas via synthetic gas
Methanol/Low pressure sythesis from natural gas via synthetic gas
Methanol/Butane oxidation
Tris-(hydroxymethyl) methyl amine/ Hydrogenation of tris(hydroxymethyl) nitromethane
N-Methyl morpholine/Morpholine + Methanol
N-Ethyl morpholine/Morpholine + Ethanol
2-Methyl-7,8-epoxy octadecane/Coupling reactions, low pressure hydrogenation, epoxidation
Alpha-Olefins/Ethylene oligomer, & Zeigler Cat.
Petroleum hydrocarbon resins, hydrogenated/Hydrogenation of petroleum hydrocarbon resin products
Pinane/Hydrogenation of A-Pinene
2-Pinanol/Reduction of pinane hydroperoxide
Bis-(p-Octylphenol) sulfide, Nickel salt/p-Octylphenol + sulfur chloride (S2C12), neutralize with Nickel base
Piperazine/Reductive amination of ethanol amine (ammonia & hydrogenation, metal catalyst)
N,N-Dimethylpiperazine/Condensation piperazine + formaldehyde, hydrogenation
Polyoxylalkylene amines/Polyoxyalkylene glycol + Ammonia
Polyoxypropylene diamine/Polypropylene glycol + Ammonia
2-Amino-2-methyl-1-propanol/Hydrogenation of 2-Nitro 2-methyl-1-propanol
3-Methoxypropyl amine/Reductive amination of acrylamide with methanol & hydrogen
N-Propylamine/Reductive ammination (ammonia + hydrogen) of n-propanol
Sorbitol/Hydrogenation of sugars
Sulfolane/Condensation butadiene + sulfur dioxide, Hydrogenation
Thionocarbamates, N-Ethyl-o-isopropyl/ Isopropyl xanthate + Ethylamine
Toluene diamine (mixture)/Catalytic hydrogenation of dinitrotoluene
Methylated urea-formaldehyde resins (textile)/Methylation of urea-formaldehyde adduct
Methylated urea-formaldehyde glyoxal (textile resin)/Reaction of methylated urea-formaldehyde + glyoxal

Zinc

Methylhydroabietate, diels-alder adducts/ Derivatives of abietic esters from rosin
Acrylic resins/Emulsion or solution polymerization to coatings
Acrylic resins (latex)/Emulsion polymerization of acrylonitrile with polybutadiene
Acrylic fibers (85% polyacrylonitrile) by solution polymerization/Wet spinning
Alkyd Resins/Condensation polymerization of phthalic anhydride + glycerin + vegetable oil esters
Benzene/By-product of styrene by ethylbenzene dehydrogenation
Benzene/By-product of vinyl toluene (from ethyltoluene)
n-butyl alcohol/Hydrogenation of n-Butyraldehyde, Oxo process
Coumarin (benz-a-pyrone)/Salicylaldehyde, Oxo process
Cycloparaffins/Catalytic hydrogenation of aromatics in kerosene solvent
Dithiocarbamates, zinc salt/Reaction of zinc oxide + Sodium dithiocarbamates
Dialkyldithiocarbamates, metal salts/ Diskylamines + Carbon disulfide
Dithiocarbamates, metal salts/ Dithiocarbamic acid + metal oxide
Thiuram (dimethyldithiocarbamate) hexasulfide/Dimethyldithiocarbamate + sulfur
Fluorescent brighteners/Coumarin based
Ethyl acetate/Redox reaction (Tachenko) of acetaldehyde
Ethylbenzene/Benzene alkylation in liquid phase

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Ethylbenzyl chloride/Chloromethylation (Hydrogen chloride + formaldehyde, zinc chloride) of ethylbenzene
2-Ethyl hexanol/Aldol condensation-hydrogenation of n-Butyraldehyde
Glyoxal-urea formaldehyde textile resin/Condensation to N-bis (hydroxymethyl) ureas + N,N'-(Dihydroxyethyl) ureas
Isobutanol/Hydrogenation of isobutyraldehyde, Oxo process
Isopropanol/Catalytic hydrogenation of acetone
Methallylidene diacetate/Condensation of 2-Methypropenal + acetic anhydride
Methanol/Low pressure sythesis from natural gas via synthetic gas
Methyl chloride/Hydrochlorination of methanol
Methylethyl ketone/Dehydrogenation of sec-Butanol
Naphthenic acid salts
Nylon
Nylon 6 & 66 copolymers/Polycondensation of Nylon salt + Caprolatam
Nylon 6 fiber/Extrusion (melt spinning)
Oxo alcohols, C12-C15/Hydroformylation & hydrogenation of C11-C14 olefins
Phenolic urethan resins/Phenol + excess formaldehyde + Methylene aniline diisocyanate
Polystyrene (crystal) modified/Polystyrene + sulfonation, chloromethylation and/or amination
Rayon/Viscose process
SAN resin/Emulsion polymerization
Silicones: Silicone rubbers/Hydrolysis and condensation of chlorosilanes
Silicones: Silicone specialties (grease, dispersion agents, defoamers & other products)
Silicones: Silicone resins/Hydrolysis & condensation of methyl, phenyl & vinyl chlorosilanes
Silicones: Silicone fluids/Hydrolysis of chlorosilanes to acyclic & cyclic organosiloxanes
Stearic acid, metal salts/Neutralization with a metallic base
Styrene/Dehydrogenation of ethylbenzene
Styrene-butadiene resin/Emulsion polymerization
Vinyl acetate/Reduction of acetylene + acetic acid
Vinyl toluene/Dehydrogenation (thermal) of ethyltoluene
Xylenes, mixed/By-product vinyl toluene (from ethyltoluene)

Cyanide

Acetone cyanohydrin/Acetone + Hydrogen cyanide
Acetonitrile/By-product of acrylonitrile from propylene by ammoxidation
Acrylic resins/Solution polymerization
Acrylic fiber (85% acrylonitrile)/Suspension polymerization, and wet spinning
Acrylic fiber (85% acrylonitrile)/Solution polymerization, and wet spinning
Acrylonitrile/Ammoxidation of propylene
Adiponitrile/Butadiene + Hydrogen cyanide (direct cyanation)
Allylnitrile/Allyl chloride + Sodium cyanide
Dimethoxybenzaldehyde/Hydroquinone dimethyl ether + Hydrogen cyanide, hydrolysis
Benzyl cyanide/Benzyl chloride + Sodium cyanide
Coal tar products/Distillation of coal tar condensate
Cyanoacetic acid/Chloracetic acid + sodium cyanide
Cyanuric chloride/Catalyzed trimerization of cyanogen chloride
Vat dyes, Indigo paste as Vat Blue 1/Sodamide + potassium N-Phenylglycine, fused with caustic/N-phenylglycine + Aniline + Formaldehyde + Sodium bisulfite, sodium cyanide, hydrolysis with potassium hydroxide
Disperse dyes, Azo and Vat
Ethylenediamine tetraacetic acid/Ethylenediamine + Formaldehyde + Sodium cyanide
Diethylenetriamine pentaacetic acid/Diethylenetriamine + Formaldehyde + Sodium cyanide
N,N'-bis(o-Acetamidophenol)ethylenediamine, ferric complex/ Salicyladehyde + Ethylenediamine + Hydrogen cyanide, hydrolysis to amide
Diethylenetriamine pentaacetic acid, pentasodium salt/Diethylenetriamine pentaacetic acide + caustic
Ethylenediamine tetraacetic acid, metal salts/Ethylenediamine tetraacetic acid + metal bases
Hydroxyethyl ethylenediamine triacetic acid, trisodium salt/ Ethylenediamine + Ethylene oxide + Formaldehyde + Sodium cyanide, hydrolysis
Hexamethylene diisocyanate/Hexamethylene diamine (1,6-Diaminohexane) + phosgene
5,5-Dimethyl hyantoin/Acetone + ammonia + carbon dioxide + hydrogen cyanide
Hydrogen cyanide/By-product of acrylonitrile by ammoxidation of propylene
Iminodiacetic acid/Hexamethylene tetraamine + Hydrogen cyanide, hydrolysis of iminoacetonitrile salt
Methionine/Acrolein + Methyl mercaptan, with hydrogen cyanide and ammonium carbonate
Methylene Diphenylisocyanate (MDI)/Phosgenation of methylene dianiline from Aniline + Formaldehyde
Nitrilotriacetic acid/Hexamethylene tetraamine + Hydrogen cyanide, hydrolysis of nitrilotriacetonitrile salt
Picolines, mixed/Condensation of acetaldehyde + formaldehyde + ammonia
Organic pigments, Azo/Diazotization of aniline cogener, coupling to B-Napthol
Polyurethane resins/Diisocyanate + Polyoxyalkylene glycol
Polyurethane fibers (Spandex)/Polyoxyalkylene glycol + Tolylene diisocyanate + dialkylamine
Pyrimidines, 2-isopropyl-4-methoxy-/Isobutyronitrile + methanol, ammonia and methylacetoacetate (ring closure)
Pyridine (synthetic)/Condensation of acetaldehyde + ammonia + formaldehyde
Cyanopyridine/Ammoxidation of picoline
Sarcosine (N-Methyl glycine), sodium salt/Hexamethylene tetraamine + Sodium cyanide, hydrolysis
Thiophene acetic acid/Chloromethylation (Hydrogen chloride + Formaldehyde) + Sodium cyanide, hydrolysis
Tolylene diisocyanate (isomeric mixture)/Tolylene diamines + Phosgene
Tris(anilino)S-triazine/Cyanuric chloride + Aniline and its cogeners
Triethylorthoformate/Ethanol + Hydrogen cyanide
Trimethylorthoformate/Methanol + Hydrogen cyanide

Appendix B to Part 414—Complexed Metal-Bearing Waste Streams

Chromium

Azo dye intermediates/Substituted diazonium salts + coupling compounds
Vat dyes/Mixing purchased dyestuffs (Anthraquinones, polycyclic Quinones and Indigoids)
Acid dyes
Azo dyes, metallized/Azo dye + metal acetate
Acid dyes, Azo (including metallized)
Organic pigments, miscellaneous lakes and toners

Copper

Disperse dyes
Vat dyes/Mixing purchased dyestuffs (Anthraquinones, polycyclic Quinones and Indigoids)
Acid dyes
Direct dyes
Vat dyes
Sulfur dyes
Disperse dye coupler/N-substitution of 2-Amino-4-acetamidoanisole
Azo dyes, metallized/Azo dye + metal acetate
Direct dyes, Azo
Disperse dyes, Azo and Vat
Organic pigment Green 7/Copper phthalocyanine
Organic pigments
Organic pigments/Phthalocyanine pigments
Organic pigments/Copper phthalocyanine (Blue Crude)
Organic pigments, miscellaneous lakes and toners

Lead

Organic pigments, Quinacridines
Organic pigments, Thioindigoids

Nickel

Azo dyes, metallized/Azo dye + metal acetate

Zinc

Organic pigments/Azo pigments by diazotization and coupling

PART 416—[REMOVED]

2. 40 CFR is amended by removing Part 416.

[FR Doc. 87-23568 Filed 11-4-87; 8:45 am]
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November 5, 1987

Part V

Department of the Interior

Bureau of Land Management

43 CFR Parts 5460 and 5470
Sales Administration; Contract Modification—Extension—Assignment; Interim Final Rulemaking

VOL 52 ISS 214 NO 5 1987 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-230-07-6310-02]

43 CFR Parts 5460 and 5470

Sales Administration; Contract Modification—Extension—Assignment

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rulemaking.

SUMMARY: This interim final rulemaking would amend provisions of the existing regulations in 43 CFR Parts 5460—Sales Administration, and 5470—Contract Modification—Extension—Assignment. The Department of the Interior has determined that it is necessary to amend the existing regulations concerning the extension of time for cutting and removing contract timber in limited circumstances and conditions resulting from fires and other natural disasters.

EFFECTIVE DATE: November 5, 1987. Comments on this interim final rulemaking will be accepted until January 4, 1988. Comments received or postmarked after this date may not be considered in the decisionmaking process on the final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Department of the Interior, 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Dave Estola (503) 231–6873 or Gary Ryan (202) 653–8864.

SUPPLEMENTARY INFORMATION: Disastrous fires in August and September, 1987, in southwestern Oregon damaged a volume of timber exceeding, in preliminary field estimates, a third of a billion board feet. Planning for the salvage of as much of the value of this damaged timber as possible disclosed a problem that would tend to prevent the public from receiving full value for the timber.

Timber purchasers will bid on salvage timber only if they have personnel and equipment available during the period required without interfering with other contract commitments. This means that purchasers with active Federal timber contracts are less likely to be able to bid on the salvage timber unless there is a reasonable opportunity to postpone their other commitments without suffering economic hardship. Also, increasing the pool of possible bidders will increase the likelihood that there will be sufficient purchasers to absorb the large volumes of timber associated with events of the magnitude of the fires of 1987.

The present regulations at 43 CFR 5463.2 allow contracts to be extended for 1 year for reasons other than market fluctuations, and for additional 1-year periods upon written request. However, the present regulations at 43 CFR 5473.1 require that in all cases extensions shall not be granted without a reappraisal of the timber that is subject to the contract being extended. While 43 CFR 5473.4–1(b) provides that reappraisals shall not reduce the purchase price below the original contract price, there are no exceptions that would prevent the purchase price from increasing upon extension, regardless of the circumstances of or reasons for the extension, even if it were for the convenience or benefit of the public.

This prospect of an increase with no countervailing possibility of a decrease upon reappraisal would discourage any potential bidder holding a contract for green timber from seeking an extension on that contract in order to have an opportunity to bid on and harvest less valuable salvage timber. This would reduce the pool of potential bidders and in turn likely reduce the bids received on the salvage timber. Also, the costs of reappraising the timber subject to an extension would be added to the costs to the public of the entire transaction, if contract holders requiring extensions joined the bidding.

Therefore, in order to broaden the opportunity to bid on salvage timber when extraordinary damage is caused by fire, whether natural or man-caused, or other disaster, § 5473.4–1(b) is being amended to allow waiver by the appropriate State Director, Bureau of Land Management, of the reappraisal requirement for timber sale contract extensions in such cases. This rulemaking does not affect the reappraisal requirement for extension requests arising from other circumstances.

This interim final rulemaking also amends § 5463.2 to allow extensions for periods sufficient to allow orderly completion of the salvage contracts, again only to accommodate harvest of salvage timber.

This rulemaking is being published on an interim final basis in the public interest, effective upon publication rather than 30 days after publication, in order to allow the Bureau of Land Management to apply it to the current emergency situation caused by the extensive fires of the summer of 1987. Public comments are being solicited, which will be considered preparatory to publishing final regulations on this subject. Such regulations will be applied in all subsequent situations caused by natural or other disasters.

The Department of the Interior finds that an opportunity for public comment before this rulemaking becomes effective is unnecessary and contrary to the public interest. Several species of the fire-damaged timber must be harvested within 1 year of the incidence of the damage or be lost. While it is possible to harvest this timber within the time constraints under the current regulations, the requirement that existing contracts be reappraised upon extension, regardless of the reason, will reduce the field of bidders on the salvage timber to the extent that bids may be reduced significantly.

It is true that by allowing the State Director to waive reappraisal upon contract extension in the event of a natural or other disaster, the Government would be permitting the waiver of contractual rights provided for under the current regulations. However, the public would be receiving valuable consideration for the potential losses in revenue caused by failure to reappraise, in view of the desirability of having the fire-damaged timber removed as expeditiously as possible for as great an economic return as possible.

The principal authors of this proposed rulemaking are Dave Estola, Oregon State Office, and Gary Ryan, Division of Forestry, Washington Office, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The Bureau of Land Management sells timber valued at approximately $100 million annually, but this rulemaking would affect only a minimal proportion of those sales, and not every year. The last incident to occur to which this proposed procedure would have been an appropriate response was 25 years ago. Also, all purchasers would be affected equally, regardless of size.

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects

43 CFR Part 5460

Forest and forest products, Government contracts, Public lands.

43 CFR Part 5470

Forest and forest products, Government contracts, Public lands, Reporting and recordkeeping requirements.

Under the authority of section 5 of the Act of August 28, 1937 (43 U.S.C. 1181e), and the Act of July 31, 1947, as amended (30 U.S.C. 601 *et seq.*), Chapter II of Title 43 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 5460—[AMENDED]

1. The authority citation continues to read as follows:

Authority: Sec. 5, 50 Stat. 875, 61 Stat. 681, as amended, 69 Stat. 367; 43 U.S.C. 1181e, 30 U.S.C. 601 *et seq.*

2. Section 5463.2 is amended by designating the present section as paragraph (a) and adding a new paragraph (b) to read:

§ 5463.2 Extension of time.

* * * * *

(b) Upon written request of the purchaser, the State Director may extend a contract to harvest green timber to allow that purchaser to harvest as salvage from Federal lands timber that has been damaged by fire or other natural or man-made disaster. The duration of the extension shall not exceed that necessary to meet the salvage objectives.

PART 5470—[AMENDED]

1. The authority citation continues to read as follows:

Authority: Sec. 5, 50 Stat. 875, 61 Stat. 681, as amended, 69 Stat. 367; 43 U.S.C. 1181e, 30 U.S.C. 601 *et seq.*, unless otherwise noted.

2. Section 5473.1 is revised to read:

§ 5473.1 Application.

Written requests for extension shall be received prior to the expiration of the time for cutting or removal. No extension may be granted without reappraisal as provided in § 5473.4–1 of this title, except for an extension granted under § 5463.2(b) of this title to allow the purchaser to harvest salvage timber damaged by fire or other disaster. Reappraisal may be waived for an extension granted under § 5463.2(b) of this title only in a decision approved by the appropriate State Director, Bureau of Land Management.

J. Steven Griles,

Assistant Secretary of the Interior.

October 7, 1987.

[FR Doc. 87–25663 Filed 11–4–87; 8:45 am]

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Part VI

Department of State

Bureau of Consular Affairs

22 CFR Parts 40, 41 and 42

Visas; Regulations and Documentation Pertaining to Both Nonimmigrants and Immigrants Under the Immigration and Nationality Act; Final Rule

VOL 52 ISS 214 NO 5 1987 UMI

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Parts 40, 41 and 42

[109.865]

Visas; Regulations and Documentation Pertaining to Both Nonimmigrants and Immigrants Under the Immigration and Nationality Act

AGENCY: Bureau of Consular Affairs, State.

ACTION: Final Rule.

SUMMARY: This rule reorganizes the Department's present regulations which have been set forth in Part 41 and Part 42 of Title 22. This reorganization is intended to facilitate consular operations by placing the regulations in a more logical sequence. The reorganization of the regulations includes transfer of certain portions to a new Part 40 and a renumbering of those portions retained in Parts 41 and 42. In addition, grammatical and stylistic changes have been made for purposes of clarity and uniformity of usage, as well as to remove gender-specific usages. This change is being published as a Final Rule, without Notice and Comment, since no substantive changes are made by this publication.

EFFECTIVE DATE: November 29, 1987.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, or Guida Evans-Magher, Consular Officer, Washington, DC 20520, (202) 663-1204 or 663-1206.

SUPPLEMENTARY INFORMATION: The Department's visa regulations under the Immigration and Nationality Act (Act) were originally promulgated in 1953 as Parts 40, 41, and 42 of Title 22, Code of Federal Regulations. In 1959 and 1960 they were extensively edited, reorganized, and republished as Parts 41 and 42 only, and, although frequently amended, have existed in that form since that time.

Several years ago the Department undertook a detailed study of the organization of the Department's Visa Manual (Volume 9—VISAS, Foreign Affairs Manual). The Visa Manual contains not only the visa regulations, but also both interpretive information and procedural instructions. Although it is available to the public, it is intended principally as a substantive and procedural guide for consular officers in their administration of the Act generally and in the processing and adjudication of individual visa applications. The study concluded that the Visa Manual was too long, that it was not organized in a way most efficient for consular officers and that it contained many obsolete usages and obscure locations. The study also concluded, however, that the principle of subdividing the Manual according to sections of the regulations should be retained.

Taken together, these conclusions have necessitated an editorial revision, reorganization and republication of the visa regulations. In order to avoid confusion, it was decided that any substantive changes would be published separately, either before or after the publication of the reorganized regulations. Thus, there are no substantive changes included in this publication.

The most significant features of the reorganization are—

1. The creation of a new Part 40 to include regulatory provisions of general applicability, thus eliminating publication of duplicate regulations;
2. The reorganization of Part 41 (nonimmigrants) to group the regulations into subdivisions dealing with similar classifications; and
3. The renumbering of Parts 41 and 42 because of the first two changes.

New Part 40 contains two general subparts—the first containing regulatory definitions and certain other general matters, the second containing the regulations relating to ineligibility to receive visas and the reliefs from ineligibility. All of these materials were included in Parts 41 and/or 42 in the former regulations.

New Part 41 has been reorganized to group the regulations relating to the nonimmigrant classifications into subparts containing related classifications.

New Part 42 has been retained in substantially the same organization as previously, except for those changes required by transfers of material to New Part 40.

The sections of both Parts 41 and 42 have been renumbered.

Two noteworthy procedural changes in Part 41 relate first to the elimination of the distinction between invalidation and revocation of nonimmigrant visas and, secondly, to the elimination of the term "revalidation" of visas. As a result of the changes, a visa can be revoked regardless of whether the basis for ineligibility arose before or after issuance of the visa since the concepts of "revocation" and "invalidation" have been merged.

The use of the term "revalidation" to denote a second (or later) visa issued in the same category has been discontinued. There was no substantive distinction between the issuance and the revalidation of a visa. There appeared to be no need to maintain the distinction. All former revalidations abroad will be treated as visa issuances under the terms of the regulations in § 41.113. What have been termed revalidations in the United States will be treated as reissuances in accordance with the authority in § 41.111(b).

The exemption from the labor certification requirement of the Act formerly set forth in § 42.91(a)(14) for female fiancees seeking nonpreference visas has been eliminated because it contained discrimination based on sex. A gender-neutral exemption from § 212(a)(14) of the Act has been explicitly set forth in § 41.81(c) which requires fiance(e)s generally to meet the eligibility standards for an immigrant visa.

Changes contained in this rule which were made for administrative reasons only involve: The elimination of the term "revalidation" of nonimmigrant visas; the merging of the concepts of invalidation and revocation of nonimmigrant visas; the explication in § 41.81 (Fiance(e) of U.S. Citizen) of the exemption from the labor certification requirement of the Act for aliens otherwise eligible for an immigrant visa and, thus, a nonimmigrant visa under section 101(a)(15)(K).

In view of the extensive reorganization of Parts 41 and 42 and as an additional aid, Tables which show the restructuring of Title 22, Parts 40, 41 and 42 appear at the end of this preamble. The information in the Tables should be of assistance to persons using the visa regulations.

The changes in the final rule relate to a reorganization and compilation of Departmental regulations, and to the consolidation of substantive rules which have previously been subject to the standard rulemaking process. Additionally, since these amendments deal solely with agency organization, procedure and practice, compliance with the provisions of the Administrative Procedure Act (APA) relative to notice and comment, is not applicable in this instance and further public comment would under the circumstances be both unduly burdensome and unnecessary within the meaning of 5 U.S.C. 553(b) (A) and (B).

This publication is also exempt, under the provisions of section 1(a)(3) of E.O. 12291, from giving notice of a proposed rulemaking and from a delayed effective date because the regulations relate to agency organization and management.

In addition, this rule does not fall within the provisions of section 1(b) of E.O. 12291 or within the criteria of the Regulatory Flexibility Act since it is not expected to have an annual effect on the economy of $100 million or more, nor is it expected to have a significant impact on a substantial number of small entities.

List of Subjects in 22 CFR Parts 40, 41 and 42

Aliens, Immigration, Passport and visas.

Key reorganization tables are herein provided as a guide for the aid of users of the regulations in Title 22 CFR Chapter 1, Subchapter E—Visas, Parts 40, 41 and 42. Sections of Part 40 are listed in the first column of the Derivation Table, in numerical order, with the source section or sections in the former regulations listed in the second column. The Redesignation Tables are provided for sections of Parts 41 and 42 which have been rearranged and renumbered.

DERIVATION TABLE

[Part 40—General Provisions]

New section	Old section
40.1—Definitions	42.1 (in part); 41.1 (in part).
40.2—Documentation of Nationals.	41.3; 42.3
40.3—Entry Into Areas Under U.S. Administration.	41.145; 42.145
40.4—Furnishing Records and Information from Visa Files for court proceedings.	41.150; 42.150
40.5—(Unassigned)	None.
40.6—Basis for Refusal.	41.90; 42.90
40.7—Grounds of Ineligibility.	
40.7(a)—Ineligibility under INA 212(a).	41.91(a); 42.91(a)
40.7(b)—Failure of application to comply with INA.	41.91(c); 42.91(b)
40.7(c)—Former exchange visitors.	41.91(d); 42.91(c)
40.7(d)—Alien entitled to A, E or G NIV classification.	42.91(d)
40.8—Waiver for ineligible nonimmigrant under INA 212(d)(3)(A).	41.95

REDESIGNATION TABLE

[Part 41—Nonimmigrant Visas]

Old section	New section
41.1	40.1; 41.21; 41.24; 41.26; 41.27; 41.101; 41.104
41.3	40.2
41.5	41.1
41.6	41.2
41.7	41.3
41.10	41.11
41.12	41.12
41.13	41.107
41.14	Deleted.
41.20	41.22
41.21	41.22
41.22	41.22
41.25	41.31
41.30	41.71
41.31	41.71
41.32	41.23
41.35	41.41
41.36	41.3
41.40	41.51
41.41	41.51
41.45	41.61
41.50	41.24
41.55	41.53
41.60	41.52
41.65	41.62
41.66	41.81
41.67	41.54
41.68	41.81
41.70	41.25
41.90	40.6
41.91	40.7
41.95	40.8
41.100	41.101
41.102	41.26
41.104	41.27
41.110	41.101
41.111	41.105
41.112	41.104
41.113	41.106
41.114	41.102
41.115	41.103
41.116	41.103; 41.105
41.117	41.103
41.120	41.111
41.121	41.107
41.122	41.112
41.123	41.107
41.124	41.113
41.125(f)	41.112
41.125(a)–(e), (g), (h)	Deleted.
41.126	41.114
41.127	41.42
41.128	41.32
41.129	41.33
41.130	41.121
41.132	41.42
41.134	41.122
41.145	40.3
41.150	40.4

REDESIGNATION TABLE

[Part 42—Immigrant Visas]

Old section	New section
42.1	40.1
42.3	40.2
42.5	42.1
42.6	42.2
42.12	42.11
42.20	42.12; 42.21
42.21	42.21
42.22	Deleted.
42.23	42.22
42.24	42.23
42.25	42.24
42.26	42.25
42.27	Repealed.
42.28	42.27
42.30	42.31
42.31	42.31
42.32	42.33
42.33	42.31
42.34	42.31
42.35	42.34
42.36	42.35
42.37	42.26
42.40	42.41
42.41	42.42
42.42	42.42
42.43	42.43
42.50	42.12
42.51	42.12
42.52	42.12
42.53	42.12
42.54	42.12
42.55	42.12
42.60	42.51
42.61	42.52
42.62	42.53
42.63	42.54
42.64	42.55
42.65	42.83
42.90	40.6
42.91	40.7
42.95	42.22
42.100	42.52
42.110	42.61
42.111	42.65
42.112	42.64
42.113	42.66
42.114	42.62
42.115	42.63
42.116	42.67
42.117	42.62; 42.67
42.118	42.68
42.120	42.71
42.121	42.71
42.122	42.72
42.124	42.73
42.125	42.74
42.130	42.81
42.134	42.82
42.140	42.61
42.145	40.3
42.150	40.4

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In view of the foregoing, Title 22, Chapter I, Subchapter E-Visas of the Code of Federal Regulations is amended by adding Part 40 and revising Part 41 and Part 42 as follows:

1. Part 40 is added to read as follows:

PART 40—REGULATIONS PERTAINING TO BOTH NONIMMIGRANTS AND IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Subpart A—General Provisions

Sec.

40.1 Definitions.
40.2 Documentation of nationals.
40.3 Entry into areas under U.S. administration.
40.4 Furnishing records and information from visa files for court proceedings.

Subpart B—Ineligibility

40.6 Basis for refusal.
40.7 Grounds of ineligibility.
40.8 Waiver for ineligible nonimmigrant under INA 212(d)(3)(A).

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), Pub. L. 95-105, 91 Stat. 847.

Subpart A—General Provisions

§ 40.1 Definitions.

The following definitions supplement definitions contained in the Immigration and Nationality Act (INA). As used in these regulations, the term:

(a) "Accompanying" or "accompanied by" means not only an alien in the physical company of a principal alien but also an alien who is issued an immigrant visa within 4 months of either the date of issuance of a visa to, or the date of adjustment of status in the United States of, the principal alien, or the date on which the principal alien personally appears and registers before a consular officer abroad to confer alternate foreign state chargeability or immigrant status upon a spouse or child. An "accompanying" relative may not precede the principal alien to the United States.

(b) "Act" means the Immigration and Nationality Act (or INA), as amended.

(c) "Competent officer," as used in INA 101(a)(26), means a "consular officer" as defined in INA 101(a)(9).

(d) "Consular officer," as used in INA 101(a)(9), includes commissioned consular officers and the Director of the Visa Office of the Department and such other officers as the Director may designate for the purpose of issuing nonimmigrant visas only, but does not include a consular agent, an attache or an assistant attache. The assignment by the Department of any Foreign Service Officer to a diplomatic or consular office abroad in a position administratively designated as requiring, solely, partially, or principally, the performance of consular functions, and the initiation of a request for a consular commission, constitutes designation of the officer as a "consular officer" within the meaning of INA 101(a)(9).

(e) "Department" means the Department of State of the United States of America.

(f) "Dependent area" means a colony or other competent or dependent area overseas from the governing foreign state, natives of which are subject to the limitation prescribed by INA 202(c).

(g) "Documentarily qualified" means that the alien has reported that all the documents specified by the consular officer as sufficient to meet the requirements of INA 222(b) have been obtained, and that necessary clearance procedures of the consular office have been completed. This term shall be used only with respect to the alien's qualification to apply formally for an immigrant visa; it bears no connotation that the alien is eligible to receive a visa.

(h) "Entitled to immigrant classification" means that the alien:

(1) Is the beneficiary of an approved petition granting immediate relative or preference status;

(2) Has satisfied the consular officer as to entitlement to special immigrant status under INA 101(a)(27); or

(3) Has obtained an individual labor certification, or is within one of the professional or occupational groups listed in Schedule A of the Department of Labor regulations, or is within one of the classes described in § 40.7(a)(14) (iii) and is therefore not within the purview of INA 212(a)(14).

(i) With respect to alternate chargeability pursuant to INA 202(b), the term "foreign state" is not restricted to those areas to which the numerical limitation prescribed by INA 202(a) applies but includes dependent areas, as defined in this section.

(j) "INA" means the Immigration and Nationality Act, as amended.

(k) "INS" means the Immigration and Naturalization Service.

(l) "Not subject to numerical limitation" means that the alien is entitled to immigrant status as an immediate relative within the meaning of INA 201(b), or as a special immigrant within the meaning of INA 101(a)(27), unless specifically subject to a limitation other than under INA 201(a).

(m) "Parent," "father," and "mother," as defined in INA 101(b) (2), are terms which are not changed in meaning if the child becomes 21 years of age or marries.

(n) "Port of entry" means a port or place designated by the Commissioner of Immigration and Naturalization at which an alien may apply to INS for admission into the United States.

(o) "Principal alien" means an alien from whom another alien derives a privilege or status under the law or regulations.

(p) "Regulation" means a rule which is established under the provisions of INA 104(a) and is duly published in the Federal Register.

(q) "Son" or "daughter" includes only a person who would have qualified as a "child" under INA 101(b)(1) if the person were under 21 and unmarried.

(r) "Western Hemisphere" means North America (including Central America), South America and the islands immediately adjacent thereto including the places named in INA 101(b)(5).

§ 40.2 Documentation of nationals.

(a) *Nationals of the United States.* A national of the United States shall not be issued a visa or other documentation as an alien for entry into the United States.

(b) *Former nationals of the United States.* A former national of the United States who seeks to enter the United States must comply with the documentary requirements applicable to aliens under the INA.

§ 40.3 Entry into areas under U.S. administration.

An immigrant or nonimmigrant seeking to enter an area which is under U.S. administration but which is not within the "United States", as defined in INA 101(a)(38), is not required by the INA to be documented with a visa unless the authority contained in INA 215 has been invoked.

§ 40.4 Furnishing records and information from visa files for court proceedings.

Upon recept of a request for information from a visa file or record for use in court proceedings, as contemplated in INA 222(f), the consular officer must, prior to the release of the information, submit the request together with a full report to the Department.

Subpart B—Ineligibility

§ 40.6 Basis for refusal.

A visa can be refused only upon a ground specifically set out in the law or implementing regulations. The term "reason to believe," as used in INA 221(g), shall be considered to require a determination based upon facts or circumstances which would lead a reasonable person to conclude that the applicant is ineligible to receive a visa as provided in INA and as implemented by the regulations. Consideration shall be given to any evidence submitted indicating that the ground for a prior refusal of a visa may no longer exist. The burden of proof is upon the applicant to establish eligibility to receive a visa under INA 212 or any other provision of law or regulation.

§ 40.7 Grounds of ineligibility.

(a) *Aliens ineligible under INA 212(a).* Determinations relating to ineligibility of aliens under INA 212(a) shall be governed by the following:

(1)-(6) *Medical grounds of ineligibility*—(i) *Decision on eligibility based on findings of medical doctor.* A finding of a panel physician designated by the post in whose jurisdiction the examination is performed pursuant to INA 212(a)(1) through (6), shall be binding on the consular officer, except that the officer may refer a panel physician finding in an individual case to USPHS for review.

(ii) *Waivers of ineligibility for certain immigrants.* The provisions of INA 212(g) shall apply to an immigrant alien ineligible under INA 212(a)(1) or (3) or afflicted with tuberculosis in any form who is the spouse, unmarried son or daughter, the minor unmarried lawfully adopted child, or the parent of a U.S. citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa.

(7) *Physical defect affecting alien's ability to earn a living.* A consular officer may issue a visa to an alien who is within the purview of INA 212(a)(7) upon receipt of a notice from INS of the giving of a bond or undertaking in accordance with INA 213 and INA 221(g)(3), if the consular officer is satisfied that the giving of such bond or undertaking removes the likelihood that the alien might become a public charge within the meaning of INA 212(a)(15) and the alien is otherwise eligible to receive a visa.

(8) *Pauper, professional beggar, or vagrant.* The provisions of INA 212(a)(8) shall apply only in the case of an alien who is at the time of visa application a pauper, professional beggar, or vagrant.

(9) *Crime involving moral turpitude*—(i) *Acts must constitute a crime under criminal law of jurisdiction where they occurred.* A determination that a crime involves moral turpitude shall be based upon the moral standards generally prevailing in the United States. Before a finding of ineligibility under INA 212(a)(9) may be made because of an admission of the commission of acts which constitute the essential elements of a crime involving moral turpitude, it must first be established that the acts constitute a crime under the criminal law of the jurisdiction where they occurred.

(ii) *Conviction for crime committed when under age 18.* An alien shall not be ineligible to receive a visa under INA 212(a)(9) by reason of any offense committed prior to the alien's fifteenth birthday. Nor shall an alien be ineligible to receive a visa under INA 212(a)(9) by reason of any offense committed between the alien's fifteenth and eighteenth birthdays unless such alien was tried and convicted as an adult for a felony involving violence as defined in section 1(1) and section 16 of Title 18 of the United States Code. An alien tried and convicted as an adult for a violent felony offense, as so defined, committed after having attained the age of fifteen years, shall be subject to the provisions of INA 212(a)(9) regardless of whether at that time juvenile courts existed within the jurisdiction of the convictions.

(iii) *Two or more crimes committed while under age 18.* An alien convicted of a crime involving moral turpitude or admitting the commission of acts which constitute the essential elements of such a crime and who has committed an additional crime involving moral turpitude is ineligible under INA 212(a)(9), even though the crimes were committed while the alien was under the age of 18 years.

(iv) *Waiver of ineligibility—INA 212(h).* If an immigrant visa applicant is ineligible under INA 212(a)(9) but has the requisite family relationship to seek the benefits of INA 212(h), the consular officer shall advise the alien of the procedure for applying to INS for relief under that section. A visa may not be issued to the alien until the consular officer has received notification from INS of the approval of the alien's application under INA 212(h).

(v) *Conviction in absentia.* A conviction *in absentia* of a crime involving moral turpitude does not constitute a conviction within the meaning of INA 212(a)(9).

(vi) *Effect of pardon by appropriate U.S. authorities/foreign States.* An alien shall not be considered ineligible under INA 212(a)(9) by reason of a conviction of a crime involving moral turpitude for which a full and unconditional pardon has been granted by the President of the United States, by the Governor of a State of the United States, by the former High Commissioner for Germany acting pursuant to Executive Order 10062, or by the United States Ambassador to the Federal Republic of Germany acting pursuant to Executive Order 10608. A legislative pardon or a pardon, amnesty, expungement of penal record or any other act of clemency granted by a foreign state shall not serve to remove a ground of ineligibility under INA 212(a)(9).

(vii) *Political offenses.* The term "purely political offense", as used in INA 212(a)(9), includes offenses that resulted in convictions obviously based on fabricated charges or predicated upon repressive measures against racial, religious, or political minorities.

(10) *Conviction of two or more offenses*—(i) *Waiver of ineligibility—INA 212(h).* If an immigrant visa applicant is ineligible under INA 212(a)(10) but has the requisite family relationship to seek the benefits of INA 212(h), the consular officer shall inform the alien of the procedure for applying to INS for relief under that section. A visa may not be issued to the alien until the consular officer has received notification from INS of the approval of the alien's application under INA 212(h).

(ii) *Conviction(s) for crime(s) committed under age 18.* An alien shall not be ineligible to receive a visa under INA 212(a)(10) by reason of any offense committed prior to the alien's fifteenth birthday. Nor shall an alien be ineligible under INA 212(a)(10) by reason of any offense committed between the alien's fifteenth and eighteenth birthdays unless such alien was tried and convicted as an adult for a felony involving violence as defined in section 1(1) and section 16 of Title 18 of the United States Code. An alien, tried and convicted as an adult for a violent felony offense, as so defined, committed after having attained the age of fifteen years, and who has also been convicted of at least one other such offense or any other offense committed as an adult, shall be subject to the provisions of INA 212(a)(10) regardless of whether at that time juvenile courts existed within the jurisdiction of the conviction.

(iii) *Conviction in absentia.* A conviction *in absentia* shall not constitute a conviction within the meaning of INA 212(a)(10).

(iv) *Effect of pardon by appropriate U.S. authorities/foreign States.* An alien shall not be considered ineligible under INA 212(a)(10) by reason in part of having been convicted of an offense for which a full and unconditional pardon has been granted by the President of the United States, by the Governor of a State of the United States, by the former High Commissioner for Germany acting pursuant to Executive Order 10062, or by the United States Ambassador to the Federal Republic of Germany acting pursuant to Executive Order 10608. A legislative pardon or a pardon, amnesty, expungement of penal record or any other act of clemency granted by a foreign state shall not serve to remove a ground of ineligibility under INA 212(a)(10).

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(v) *Political offense.* The term "purely political offense", as used in INA 212(a)(10), includes offenses that resulted in convictions obviously based on fabricated charges or predicated upon repressive measures against racial, religious, or political minorities.

(vi) *Suspended sentence.* A sentence to confinement that has been suspended by a court of competent jurisdiction is not one which has been "actually imposed" within the meaning of INA 212(a)(10).

(11) *Polygamy—(i) Nonimmigrants not subject to INA 212(a)(11).* A nonimmigrant visa applicant is exempted from the provisions of INA 212(a)(11) by INA 212(d)(1).

(ii) *Immigrant must personally be a polygamist.* An immigrant visa applicant who is a member of a religious organization which tolerates polygamy is not ineligible under INA 212(a)(11) unless the alien is personally a polygamist, or practices or advocates the practice of polygamy.

(12) *Prostitution, procuring, and related activities—(i) Prostitute defined.* The term "prostitute" means a person given to promiscuous sexual intercourse for hire. A finding that an alien has "engaged" in prostitution must be based on elements of continuity and regularity, indicating a pattern of behavior or deliberate course of conduct entered into primarily for financial gain or for other considerations of material value as distinguished from the commission of casual or isolated acts.

(ii) *Former prostitute ineligible.* The fact that an alien may have ceased to engage in prostitution shall not serve to remove the existing ground of ineligibility under INA 212(a)(12).

(iii) *Where prostitution not illegal.* A person who comes under one or more of the categories of persons described in INA 212(a)(12) is ineligible to receive a visa under that section even if the acts engaged in are not prohibited under the laws of the foreign country where the acts occurred.

(iv) *Waiver of ineligibility—INA 212(h).* If an alien applying for an immigrant visa is ineligible under INA 212(a)(12) but qualifies for the benefits of INA 212(h) the consular officer shall inform the alien of the procedure for applying to INS for relief under that provision of law. A visa may not be issued to the alien until the consular officer has received notification from INS of the approval of the alien's application under INA 212(h).

(13) *Immoral sexual act.* An alien shall not be ineligible under INA 212(a)(13), unless the alien's primary purpose in coming to the United States is to engage in an immoral sexual act.

(14) *Aliens entering the United States to perform skilled or unskilled labor—(i) INA 212(a)(14) applies only to certain immigrant aliens.* INA 212(a)(14) applicable only to immigrant aliens described in INA 203(a)(3), (6), or (7) who are seeking to enter for the purpose of engaging in gainful employment. It does not apply to nonimmigrant aliens or to immigrant aliens described in INA 101(a)(27)(A) through (I), 201(b) or 203(a)(1), (2), (4), or (5).

(ii) *Determination of need for alien's labor skills.* An alien within one of the classes described in INA 203(a)(3), (6), or (7), who seeks to enter the United States for the purpose of engaging in gainful employment, is ineligible under INA 212(a)(14) to receive a visa unless the Secretary of Labor has certified to the Attorney General and the Secretary of State, that—

(A) There are not sufficient workers in the United States who are able, willing, qualified, (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts) and available at the time of application for a visa and at the place to which the alien is destined to perform such skilled or unskilled labor, and

(B) The employment of such alien will not adversely affect the wages and working conditions of the workers in the United States similarly employed.

(iii) *Labor certification not required in certain cases.* The following persons are not considered to be within the purview of INA 212(a)(14) and do not require a labor certification:

(A) An alien who establishes to the satisfaction of the consular officer that the alien does not intend to seek employment;

(B) A spouse or child accompanying or following to join an alien spouse or parent who either has a labor certification or is a nondependent alien not requiring such certification; or

(C) An alien who establishes by documentary evidence that the purpose of admission is to engage in an enterprise in which the alien:

(1) Has invested, or is actively in the process of investing, capital totaling at least $100,000;

(2) Will be a principal manager of the enterprise; and

(3) Will employ at least one person in the United States who is a citizen or an alien lawfully admitted for permanent residence, exclusive of the principal alien and the spouse and children of such principal alien.

(iv) *Western Hemisphere aliens registered prior to January 1, 1977.* Notwithstanding the provisions of paragraphs (a)(14)(i) and (ii) of this section, an alien who is within the purview of 22 CFR 42.53(c) is deemed to have met the requirements of INA 212(a)(14) for the purpose of applying for an immigrant visa, if the status, relationship, or other qualification which formed the basis for the alien's original registration as an intending immigrant still exists when the alien applies for a visa. If such status, relationship, or other qualification no longer exists, the alien must again become entitled to nonpreference immigrant classification.

(15) *Public charge—(i) Basis for determination of ineligibility.* Any determination that an alien is ineligible under INA 212(a)(15) must be predicated upon circumstances indicating that the alien will probably become a public charge after admission.

(ii) *Posting of bond.* A consular officer may issue a visa to an alien who is within the purview of INA 212(a)(15) upon receipt of notice from INS of the giving of a bond or undertaking in accordance with INA 213 and INS 221(g), provided the officer is satisfied that the giving of such bond or undertaking removes the likelihood that the alien might become a public charge within the meaning of this section of the law and that the alien is otherwise eligible in all respects.

(iii) *Prearranged employment.* An immigrant visa applicant relying on an offer of prearranged employment to establish eligibility under INA 212(a)(15), other than an offer of employment certified by the Department of Labor pursuant to INA 212(a)(14), must establish the offer of employment by a document that confirms the essential elements of the employment offer. Any document presented to confirm the employment offer must be sworn and subscribed to before a notary public by the employer or an authorized employee or agent of the employer. The signer's printed name and position or other relationship with the employer must accompany the Signature.

(iv) *Significance of income poverty guidelines.* An immigrant visa applicant relying solely on personal income to establish eligibility under INA 212(a)(15), who does not demonstrate an annual income above the income poverty guidelines published by the Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, and who is without other adequate financial resources, shall be presumed ineligible under INA 212(a)(15).

(16)–(17) *Alien deported—(i) Aliens excluded and deported under INA 212(a)(16).* An alien who was excluded

and deported from the United States under INA 212(a)(16) may not be issued a visa within 1 year from the date of deportation unless the alien has obtained permission from INS to reapply for admission.

(ii) *Aliens arrested and deported or removed from the United States under INA 212(a)(17).* An alien who was arrested and deported from the United States or who was removed from the United States as stated in INA 212(a)(17) shall not be issued a visa unless the alien has remained outside the United States for at least five successive years following the last deportation or removal or has obtained permission from the Immigration and Naturalization Service to reapply for admission to the United States.

(18) *Stowaways.* INA 212(a)(18) is not applicable at the time of visa application.

(19) *Fraud and misrepresentation—(i) Fraud and misrepresentation and INA 212(a)(19) applicability to certain refugees.* An alien who seeks to procure, or has sought to procure, or has procured a visa, other documentation, or entry into the United States or other benefit provided under the Act by fraud or willfully misrepresenting a material fact at any time shall be ineligible under INA 212(a)(19); provided, that the provisions of this paragraph are not applicable if the fraud or misrepresentation was committed by an alien at the time the alien sought entry into a country other than the United States or obtained travel documents as a bona fide refugee and the refugee was in fear of being repatriated to a former homeland if the facts were disclosed in connection with an application for a visa to enter the United States; provided further, that the fraud or misrepresentation was not committed by such refugee for the purpose of evading the quota or numerical restrictions of the U.S. immigration laws, or investigation of the alien's record at the place of former residence or elsewhere in connection with an application for a visa.

(ii) *Misrepresentation in application under Displaced Persons Act or Refugee Relief Act.* Subject to the conditions stated in paragraph (a)(19)(i) of this section, an alien who is found by the consular officer to have made a willful misrepresentation within the meaning of section 10 of the Displaced Persons Act of 1948, as amended, for the purpose of gaining admission into the United States as an eligible displaced person, or to have made material misrepresentation within the meaning of section 11(e) of the Refugee Relief Act of 1953, as amended, for the purpose of gaining admission into the United States as an alien eligible thereunder, shall be considered ineligible under the provisions of INA 212(a)(19).

(iii) *Waiver of ineligibility—INA 212(i).* If an alien applying for an immigrant visa is ineligible under INA 212(a)(19) but qualifies to seek the benefits of INA 212(i), the consular officer shall advise the alien of the procedure for applying to INS for relief under that provision of law. A visa may not be issued to the alien until the consular officer has received notification from INS of the approval of the alien's application under INA 212(i).

(20) *Immigrant documentary requirements.* INA 212(a)(20) is not applicable at time of visa application. (For waiver of documentary requirements for immigrants see 22 CFR 42.1 and 42.2.)

(21) *Noncompliance with INA 203.* INA 212(a)(21) is not applicable at time of visa application.

(22) *Alien who is ineligible for U.S. citizenship or who departed to avoid service in the Armed Forces—(i) Applicability to nonimmigrants.* An alien is ineligible for a nonimmigrant visa under INA 212(a)(22) *only* if, having had at the time other than nonimmigrant status, the alien departed from or remained outside the United States between September 8, 1939 and September 24, 1978 to avoid or evade training or service in the U.S. Armed Forces.

(ii) *Applicability to immigrants.* An alien shall be ineligible to receive an immigrant visa under INA 212(a)(22) if the alien either is ineligible to citizenship or departed from or remained outside the United States between September 8, 1939 and September 24, 1978, to avoid or evade training or service in the United States Armed Forces.

(23) *Controlled substance violators—(i) Date of conviction not pertinent.* An alien shall be ineligible under INA 212(a)(23) irrespective of whether the conviction for a violation of or for conspiracy to violate any law or regulation relating to a controlled substance, as defined in the Controlled Substance Act (21 U.S.C. 802), occurred before, on, or after October 27, 1986.

(ii) *Waiver under INA 212(h).* If an immigrant visa applicant is ineligible under INA 212(a)(23) for possession of 30 grams or less of marijuana but has the requisite family relationship to seek the benefits of INA 212(h), the consular officer shall inform the alien of the procedure for applying to INS for relief under that section. A visa may not be issued to the alien until the consular officer has received notification from INS of the approval of the alien's application under INA 212(h).

(24) (INA 212(a)(24) was repealed by the Act of November 14, 1986 (Pub. L. 99-653) [Reserved].)

(25) *Illiterates.* INA 212(a)(25) is not applicable to nonimmigrants or the following classes or immigrants:

(i) *Permanent residents.* An alien who has been lawfully admitted for permanent residence and is returning from a temporary visit abroad;

(ii) *Certain children.* An alien who is not over 16 years of age;

(iii) *Persons physically incapacitated.* An alien who is physically incapable of reading;

(iv) *Certain relatives.* An alien who is the parent, grandparent, spouse, son or daughter of an alien independently eligible to receive a visa, or of an alien lawfully admitted for permanent residence, or of a U.S. citizen, if accompanying such eligible alien or accompanying or coming to join such citizen or lawfully admitted alien in the United States; or

(v) *Certain persecutees.* An alien who seeks admission to the United States to avoid religious persecution in the country of the alien's last permanent residence whether such persecution is evidenced by overt acts or by laws or governmental regulations that discriminate against the alien or any group to which the alien belongs because of religious faith.

(26) *Nonimmigrant documentary requirements.* A passport which is valid indefinitely for the return of the bearer to the country whose government issued such passport shall be deemed to have the required minimum period of validity as specified in INA 212(a)(26).

(27) *Prejudicial activity.* [Reserved]

(28) *Affiliates and members of proscribed organizations—(i) Definition of "affiliate".* The term "affiliate," as used in INA 212(a)(28)(C) and (I), means an organization which is related to, or identified with, a proscribed association or party, including any section, subsidiary, branch, or subdivision thereof, in such close association as to evidence an adherence to or a furtherance of the purposes and objectives of such association or party, or as to indicate a working alliance to bring fruition the purposes and objectives of the proscribed association or party. An organization which gives, loans, or promises support, money, or other thing of value for any purpose to any proscribed association or party is presumed to be an "affiliate" of such association or party, but nothing contained in this paragraph shall be

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construed as an exclusive definition of the term "affiliate."

(ii) *Service in Armed Forces.* Service, whether voluntary or not, in the armed forces of any country shall not be regarded, of itself, as constituting or establishing an alien's membership in, or affiliation with, any proscribed party or organization, and shall not, of itself, constitute a ground of ineligibility to receive a visa.

(iii) *Voluntary service in a political capacity.* Voluntary service in a political capacity shall constitute affiliation with the political party or organization in power at the time of such service.

(iv) *Voluntary membership after age 16.* If an alien continues or continued membership in or affiliation with a proscribed organization on or after reaching 16 years of age, only the alien's activities after reaching that age shall be pertinent to a determination of whether the continuation of membership or affiliation is or was voluntary.

(v) *"Operation of law" defined.* The term "operation of law", as used in INA 212(a)(28)(I)(i), includes any case wherein the alien automatically, and without personal acquiescence, automatically became a member of or affiliated with a proscribed party or organization by official act, proclamation, order, edict, or decree.

(vi) *Membership in organization advocating totalitarian dictatorship in U.S.* In accordance with the definition of "totalitarian party" contained in INA 101(a)(37), a former or present voluntary member of, or an alien who was, or is, voluntarily affiliated with a noncommunist party, organization, or group, or of any section, subsidiary, branch, affiliate or subdivision thereof, which during the time of its existence did not or does not advocate the establishment in the United States of a totalitarian dictatorship, is not considered ineligible under INA 212(a)(28)(C) to receive a visa, unless the alien is known or believed by the consular officer to advocate, or to have advocated, personally, the establishment in the United States of a totalitarian dictatorship within the meaning of INA 212(a)(28)(D).

(vii) *"Actively opposed" explained.* The words "actively opposed," as used in INA 212(a)(28)(I)(ii), shall be considered as embracing speeches, writings, and other overt or covert activities in opposition to the doctrine, program, principles, and ideology of the party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof, of which the alien was formerly a voluntary member.

(29) *Espionage, sabotage, or other subversive activities.* [Reserved]

(30) *Alien accompanying excludable alien.* INA 212(a)(30) is not applicable at time of visa application.

(31) *Alien who aided illegal entrant.* [Reserved]

(32) *Foreign medical graduates.* INA 212(a)(32) is not applicable to nonimmigrant aliens and is applicable only to immigrant aliens in the classes described in INA 203(a) (3), (6), and (7) (other than those who come within such classes by virtue of INA 203(a)(8)).

(33) *Certain former Nazis.* [Reserved]

(b) *Failure of application to comply with INA.*—(1) *Refusal under INA 221(g).* The consular officer shall refuse an alien's visa application under INA 221(g)(2) as failing to comply with the provisions of INA or the implementing regulations if:

(i) The applicant fails to furnish information as required by law or regulations;

(ii) The application contains a false or incorrect statement other than one which would constitute a ground of ineligibility under INA 212(a)(19);

(iii) The application is not supported by the documents required by law or regulations;

(iv) The applicant refuses to be fingerprinted as required by law or regulations;

(v) The necessary fee is not paid for such application or for the issuance of the immigrant visa;

(vi) The alien fails to swear to, or affirm, the application before the consular officer; or

(vii) The application otherwise fails to meet specific requirements of law or regulations for reasons for which the alien is responsible.

(2) *Reconsideration of refusals.* A refusal of a visa application under paragraph (b)(1) of this section does not bar reconsideration of the application upon compliance by the applicant with the requirements of INA and the implementing regulations or consideration of a subsequent application submitted by the same applicant.

(c) *Certain former exchange visitors.* An alien who was admitted into the United States as an exchange visitor, or who acquired such status after admission, and who is within the purview of INA 212(e) as amended by the Act of April 7, 1970, (84 Stat. 116) and by the Act of October 12, 1976, (90 Stat. 2301), is not eligible to apply for or receive an immigrant visa or a nonimmigrant visa under INA 101(a)(15)(H), (K), or (L), notwithstanding the approval of a petition on the alien's behalf, unless:

(1) It has been established that the alien has resided and has been physically present in the country of the alien's nationality or last residence for an aggregate of at least 2 years following the termination of the alien's exchange visitor status as required by INA 212(e), or

(2) The foreign residence requirement of INA 212(e) has been waived by the Attorney General in the alien's behalf.

(d) *Alien entitled to A, E, or C nonimmigrant classification.* An alien entitled to nonimmigrant classification under INA 101(a)(15) (A), (E) or (G) who is applying for an immigrant visa and who intends to continue the activities required for such nonimmigrant classification in the United States is not eligible to receive an immigrant visa until the alien executes a written waiver of all rights, privileges, exemptions and immunities, which would accrue by reason of such occupational status.

§ 40.8 Waiver for ineligible nonimmigrant under INA 212(d)(3)(A).

(a) *Report or recommendation submitted to Department.* Except as provided in paragraph (b) of this section, consular officers may, upon their own initiative, and shall, upon the request of the Secretary of State or upon the request of the alien, submit a report to the Department for possible transmission to the Attorney General pursuant to the provisions of INA 212(d)(3)(A) in the case of an alien who is classifiable as a nonimmigrant but who is known or believed by the consular officer to be ineligible to receive a nonimmigrant visa under the provisions of INA 212(a), other than for § 40.7(a) (27), (29), and (33).

(b) *Delegated approval authority.*—(1) *Consular officers.* A consular officer may, in certain categories defined by the Secretary of State, approve on behalf of the Attorney General a recommendation by a consular officer, other than the approving officer, that the temporary admission of an alien ineligible to receive a visa solely under section 212(a)(28)(C) of the Act be authorized under the provisions of section 212(d)(3)(A) of the Act;

(2) *Designated INS officers abroad.* A consular officer may, in certain categories defined by the Secretary of State, recommend directly to designated INS officers that the temporary admission of an alien ineligible to receive a visa, other than an alien described in paragraph (b)(1) of this section, be authorized under INA 212(d)(3)(A).

(c) *Attorney General may impose conditions.* When the Attorney General authorizes the temporary admission of an ineligible alien as a nonimmigrant

and the consular officer is so informed, the consular officer may proceed with the issuance of a nonimmigrant visa to the alien, subject to the conditions, if any, imposed by the Attorney General.

2. Part 41 is revised to read as follows:

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Subpart A—Passport and Visas Not Required for Certain Nonimmigrants

Sec.

41.1 Exemption by law or treaty from passport and visa requirements.
41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.
41.3 Waiver by joint action of consular and immigration officers of passport and/or visa requirements.

Subpart B—Classification of Nonimmigrants

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Subpart C—Foreign Government Officials

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Subpart E—Crewman and Crew-List Visas

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41.81 Fiance(e) of a U.S. citizen.

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Subpart K—Issuance of Nonimmigrant Visa

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Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), Pub. L. 95-105, 91 Stat. 847.

Subpart A—Passport and Visas Not Required for Certain Nonimmigrants

§ 41.1 Exemption by law or treaty from passport and visa requirements.

Nonimmigrants in the following categories are exempt from the passport and visa requirements of INA 212(a)(26):

(a) *Alien members of the U.S. Armed Forces.* An alien member of the U.S. Armed Forces in uniform or bearing proper military identification, who has not been lawfully admitted for permanent residence coming to the United States under official orders or permit of such Armed Forces. (Sec. 284, 66 Stat. 232; 8 U.S.C. 1354.)

(b) *American Indians born in Canada.* An American Indian born in Canada, having at least 50 per centum of blood of the American Indian race (Sec. 289, 66 Stat. 234; 8 U.S.C. 1359.)

(c) *Aliens entering from Guam, Puerto Rico, or the Virgin Islands.* An alien departing from Guam, Puerto Rico, or the Virgin Islands of the United States, and seeking to enter the continental United States or any other place under the jurisdiction of the United States (Sec. 212, 66 Stat. 188; 8 U.S.C. 1182.)

(d) *Armed Services personnel of a NATO member.* Personnel belonging to the armed services of a government which is a Party to the North Atlantic Treaty and which has ratified the Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces, signed at London on June 19, 1951, and entering the United States under Article III of that Agreement pursuant to an individual or collective movement order issued by an appropriate agency of the sending state or of NATO (TIAS 2846; 4 U.S.T. 1792.)

(e) *Armed Services personnel attached to a NATO headquarters in the United States.* Personnel attached to a NATO Headquarters in the United States set up pursuant to the North Atlantic Treaty, belonging to the armed services of a government which is a Party to the Treaty and entering the United States in connection with their official duties under the provisions of the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty (TIAS 2978; 5 U.S.T. 875.)

(f) *Aliens entering pursuant to International Boundary and Water Commission Treaty.* All personnel employed either directly or indirectly on the construction, operation, or maintenance of works in the United States undertaken in accordance with the treaty concluded on February 3, 1944, between the United States and Mexico regarding the functions of the International Boundary and Water Commission, and entering the United States temporarily in connection with such employment (59 Stat. 1252; TS 994.)

§ 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.

Pursuant to the authority of the Secretary of State and the Attorney General under INA 212(d)(4), the passport and/or visa requirements of INA 212(a)(26) are waived as specified below for the following categories of nonimmigrants:

(a) *Canadian nationals.* A passport is not required except after a visit outside the Western Hemisphere. A visa is not required.

(b) *Aliens resident in Canada or Bermuda having a common nationality with nationals of Canada or with British subjects in Bermuda.* A passport is not required except after a visit outside the Western Hemisphere. A visa is not required.

(c) *Bahamian nationals and British subjects resident in the Bahamas.* A passport is required. A visa is not required if, prior to the embarkation of such an alien for the United States on a vessel or aircraft, the examining U.S. immigration officer at Freeport or Nassau determines that the individual is clearly and beyond a doubt entitled to admission.

(d) *British subjects resident in the Cayman Islands or in the Turks and Caicos Islands.* A passport is required. A visa is not required if the alien arrives directly from the Cayman Islands or the Turks and Caicos Islands and presents a current certificate from the Clerk of Court of the Cayman Islands or the Turks and Caicos Islands indicating no criminal record.

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(e) *British, French, and Netherlands nationals and nationals of certain adjacent islands of the Caribbean which are independent countries.* A passport is required. A visa is not required of a British, French or Netherlands national, or of a national of Antigua, Barbados, Grenada, Jamaica, or Trinidad and Tobago, who has residence in British, French, or Netherlands territory located in the adjacent islands of the Caribbean area, or has residence in Antigua, Barbados, Grenada, Jamaica, or Trinidad and Tobago, if the alien:

(1) Is proceeding to the United States as an agricultural worker; or

(2) Is the beneficiary of a valid, unexpired, indefinite certification granted by the Department of Labor for employment in the Virgin Islands of the United States and is proceeding thereto for employment, or is the spouse or child of such an alien accompanying or following to join the alien.

(f) *Nationals and residents of the British Virgin Islands proceeding to the Virgin Islands of the United States.* A passport is required. A visa is not required of a national of the British Virgin Islands who resides therein and is proceeding to the Virgin Islands of the United States.

(g) *Mexican nationals.* (1) A visa and a passport are not required of a Mexican national in possession of a border crossing identification card and applying for admission as a temporary visitor for business or pleasure from contiguous territory.

(2) A visa is not required of a Mexican national possessing a border crossing identification card and applying for admission to the United States as a temporary visitor for business or pleasure or in transit from noncontiguous territory.

(3) A visa is not required of a Mexican national employed as a crew member on an aircraft belonging to a Mexican company authorized to engage in commercial transportation into the United States.

(4) A visa is not required of a Mexican national bearing a Mexican diplomatic or official passport who is a military or civilian official of the Federal Government of Mexico entering the United States for a stay of up to 6 months for any purpose other than on assignment as a permanent employee to an office of the Mexican Federal Government in the United States. A visa is also not required of the official's spouse or any of the official's dependent family members under 19 years of age who hold diplomatic or official passports and are in the actual company of the official at the time of entry. This waiver does not apply to the spouse or any of the official's family members classifiable under INA 101(a)(15) (F) or (M).

(h) *Natives and residents of the Trust Territory of the Pacific Islands.* A visa and a passport are not required of a native and resident of the Trust Territory of the Pacific Islands who has proceeded in direct and continuous transit from the Trust Territory to the United States.

(i) *Aliens in immediate transit without visa (TWOV).* A passport and visa are not required of an alien in immediate and continuous transit through the United States in accordance with the terms of an agreement entered into between the carrier and INS on Form I–426, Immediate and Continuous Transit Agreement Between a Transportation Line and United States of America, pursuant to INA 238(d) to ensure transit through and departure from the United States en route to a specified foreign country. The alien must be in possession of travel documentation establishing identity, nationality, and ability to enter a country other than the United States. This waiver of visa and passport requirement is not available to an alien who is a citizen of Afghanistan, Bangladesh, Cuba, India, Iran, Iraq, Libya, Pakistan or Sri Lanka. This waiver of visa and passport requirements is also not available to an alien who is a citizen of North Korea ("Socialist Peoples' Republic of Korea") or Vietnam ("Socialist Republic of Vietnam"), and is a resident of one of the said countries. It is, on a basis of reciprocity, available to a national of Albania, Bulgaria, Czechoslovakia, Estonia, the German Democratic Republic, Hungary, Latvia, Lithuania, Mongolian People's Republic, People's Republic of China, Poland, Romania, or the Union of Soviet Socialist Republic, resident in one of those countries, only if he is transiting the United States by aircraft of a transportation line signatory to an agreement with the Immigration and Naturalization Service on Form I–426 on a direct through flight which will depart directly to a foreign place from the port of arrival.

(j) *Individual cases of unforeseen emergencies.* A visa and passport are not required of an alien if, either prior to the alien's embarkation abroad or upon arrival at a port of entry, the responsible INS district director in charge of the port of entry concludes, with the concurrence of the Director of the Visa Office, that the alien was unable to obtain the required documents because of an unforeseen emergency.

(k) *Fiance(e) of a U.S. citizen.* Notwithstanding the provisions of paragraphs (a) through (h) of this section, a visa is required of an alien described in such paragraphs who is classified, or who seeks classification, under INA 101(a)(15)(K).

§41.3 Waiver by joint action of consular and immigration officers of passport and/or visa requirements.

Under the authority of INA 212(d)(4), the documentary requirements of INA 212(a)(26) may be waived for any alien in whose case the consular officer serving the port or place of embarkation is satisfied after consultation with, and concurrence by, the appropriate immigration officer, that the case falls within any of the following categories:

(a) *Residents of foreign contiguous territory; visa and passport waiver.* An alien residing in foreign contiguous territory who does not qualify for any waiver provided in § 41.1 and is a member of a visiting group or excursion proceeding to the United States under circumstances which make it impractical to procure a passport and visa in a timely manner.

(b) *Aliens for whom passport extension facilities are unavailable; passport waiver.* An alien whose passport is not valid for the period prescribed in INA 212(a)(26) and who is embarking for the United States at a port or place remote from any establishment at which the passport could be revalidated.

(c) *Aliens precluded from obtaining passport extensions by foreign government restrictions; passport waiver.* An alien whose passport is not valid for the period prescribed in INA 212(a)(26) and whose government, as a matter of policy, does not revalidate passports more than 6 months prior to expiration or until the passport expires.

(d) *Emergent circumstances; visa waiver.* An alien well and favorably known at the consulat office, who was previously issued a nonimmigrant visa which has expired, and who is proceeding directly to the United States under emergent circumstances which preclude the timely issuance of a visa.

(e) *Members of armed forces of foreign countries; visa and passport waiver.* An alien on active duty in the armed forces of a foreign country and a member of a group of such armed forces traveling to the United States, on behalf of the alien's government or the United Nations, under advance arrangements made with the appropriate military authorities of the United States. The waiver does not apply to a citizen or resident of Albania, Bulgaria, Cuba, Czechoslovakia, Estonia, German Democratic Republic, Hungary, Latvia, Lithuania, Mongolian People's Republic, North Korea (Democratic People's Republic of Korea), Vietnam (Socialist Republic of Vietnam), People's Republic of China, Poland, Romania, or the Union of Soviet Socialist Republics.

(f) *Landed immigrants in Canada; passport waiver.* An alien applying for a visa at a consular office in Canada:

(1) Who is a landed immigrant in Canada;

(2) Whose port and date of expected arrival in the United States are known; and

(3) Who is proceeding to the United States under emergent circumstances which preclude the timely procurement of a passport or Canadian certificate of identity.

(g) *Authorization to individual consular office; visa and/or passport waiver.* An alien within the district of a consular office which has been authorized by the Department, because of unusual circumstances prevailing in that district, to join with immigration officers abroad in waivers of documentary requirements in specific categories of cases, and whose case falls within one of those categories.

Subpart B—Classification of Nonimmigrants.

§41.11 Entitlement to nonimmigrant status.

(a) *Presumption of immigrant status and burden of proof.* An applicant for a nonimmigrant visa shall be presumed to be an immigrant until the consular officer is satisfied that the applicant is entitled to a nonimmigrant status described in INA 101(a)(15) or otherwise established by law or treaty. The burden of proof is upon the applicant to establish entitlement for nonimmigrant status and the type of nonimmigrant visa for which application is made.

(b) *Aliens unable to establish nonimmigrant status.* (1) A nonimmigrant visa shall not be issued to an alien who has failed to overcome the presumption of immigrant status established by INA 214(b). An alien shall be considered to have established bona fide nonimmigrant status only if the consular officer is satisfied that his case falls within one of the nonimmigrant categories described in INA 101(a)(15) or otherwise established by law or treaty.

(2) In a borderline case in which an alien appears to be otherwise entitled to receive a visa under INA 101(a)(15)(B) or (F) but the consular officer concludes that the maintenance of the alien's status or the departure of the alien from the United States as required is not fully assured, a visa may nevertheless be issued upon the posting of a bond with the Attorney General under terms and conditions prescribed by the consular officer.

§41.12 Classification symbols.

A visa issued to a nonimmigrant alien within one of the classes described in this section shall bear an appropriate visa symbol to show the classification of the alien. The symbol shall be inserted in the space provided in the visa stamp. The following visa symbols shall be used:

Class	Section of law or treaty creation	Visa symbol
Ambassador, public, minister, career, diplomatic or consular officer, and members of immediate family	101(a)(15)(A)(i)	A–1
Other foreign government official or employee, and members of immediate family	101(a)(15)(A)(ii)	A–2
Attendant, servant, or personal employee of A–1 and A–2 classes, and members of immediate family	101(a)(15)(A)(iii)	A–3
Temporary visitor for business	101(a)(15)(B)	B–1
Temporary visitor for pleasure	101(a)(15)(B)	B–2
Temporary visitor for business and pleasure	101(a)(15)(B)	B–1 and B–2
Alien in transit	101(a)(15)(C)	C–1
Alien in transit to United Nations Headquarters District under 11(3), (4), or (5) of the Headquarters Agreement with the United Nations	101(a)(15)(C)	C–2
Foreign government official, members of immediate family, attendant, servant, or personal employee, in transit	212(d)(8)	C–3
Crew member (ship or aircraft crew)	101(a)(15)(D)	D
Treaty trader, spouse and children	101(a)(15)(E)(i)	E–1
Treaty investor, spouse and children	101(a)(15)(E)(ii)	E–2
Student (academic or language training program)	101(a)(15)(F)(i)	F–1
Spouse and children of alien classified F–1	101(a)(15)(F)(ii)	F–2
Principal resident representative of recognized foreign member government to international organization, representative's staff, and members of immediate family	101(a)(15)(G)(i)	G–1
Other representative of recognized foreign member government to international organization, and members of immediate family	101(a)(15)(G)(ii)	G–2
Representative of nonrecognized or nonmember foreign government to international organization, and members of immediate family	101(a)(15)(G)(iii)	G–3
International organization officer or employee, and members of immediate family	101(a)(15)(G)(iv)	G–4
Attendant, servant, or personal employee of G–1, G–2, G–3, and G–4 classes, and members of immediate family	101(a)(15)(G)(v)	G–5
Temporary worker of distinguished merit and ability	101(a)(15)(H)(i)	H–1
Temporary worker performing agricultural services unavailable in the United States	101(a)(15)(H)(ii)(a)	H–2(A)
Temporary worker performing other services unavailable in the United States	101(a)(15)(H)(ii)(b)	H–2(B)
Trainee	101(a)(15)(H)(iii)	H–3
Spouse and children of alien classified H–1, H–2, or H–3	101(a)(15)(H)	H–4
Representative of foreign information media, spouse and children	101(a)(15)(I)	I
Exchange visitor	101(a)(15)(J)	J–1
Spouse and children of alien classified J–1	101(a)(15)(J)	J–2
Fiance (e) of U.S. citizen	101(a)(15)(K)	K–1
Children of alien classified K–1	101(a)(15)(K)	K–2
Intracompany transferee (executive, managerial, and specialized personnel continuing employment with international firm or corporation)	101(a)(15)(L)	L–1
Spouse and children of alien classified L–1	101(a)(15)(L)	L–2
Student (vocational or other recognized nonacademic)	101(a)(15)(M)(i)	M–1
Spouse and children of alien classified M–1	101(a)(15)(M)(ii)	M–2
The parent of an alien child classified SK–3 under section 101(a)(27)(I)(i)	101(a)(15)(N); 100 Stat. 3359	N–8
The child of parent classified N–8 or of alien classified SK–1; SK–2; SK–4 under section 101(a)(27)(I)(ii),(iii), or (iv)	101(a)(15)(N); 100 Stat. 3359	N–9
Principal permanent representative of Member State to NATO (including any of its subsidiary bodies) resident in the United States and resident members of permanent representative's official staff; Secretary General, Deputy Secretary General, Assistant Secretaries General and Executive Secretary of NATO; other permanent NATO officials of similar rank; and members of immediate family.	Art. 12, 5 UST 1094, Art. 20, 5 UST 1098	NATO–1
Other representatives of Member States to NATO (including any of its subsidiary bodies) including representatives, advisers and technical experts of delegations, and members of immediate family; dependents of member of a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement or in accordance with the provisions of the Protocol on the Status of International Military Headquarters; members of such a force if issued visas.	Art. 13, 5 UST 1094, Art. 1, 4 UST 1794, Art. 3, 4 UST 1796	NATO–2
Official clerical staff accompanying a representative of Member State to NATO (including any of its subsidiary bodies) and members of immediate family.	Art. 14, 5 UST 1096	NATO–3
Officials of NATO (other than those classifiable under NATO–1) and members of immediate family	Art. 18, 5 UST 1098	NATO–4
Experts, other than NATO officials classifiable under the symbol NATO–4, employed on missions on behalf of NATO and their dependents	Art. 21, 5 UST 1100	NATO–5
Members of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement; members of a civilian component attached to or employed by an Allied Headquarters under the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty; and their dependents.	Art. 1, 4 UST 1794, Art. 3, 5 UST 877	NATO–6

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Class	Section of law or treaty citation	Visa symbol
Attendant, servant, or personal employee of NATO–1, NATO–2, NATO–3, NATO–4, NATO–5, and NATO–6 classes, and members of immediate family	Art. 18-20, 5 UST	NATO–7

Subpart C—Foreign Government Officials

§ 41.21 General.

(a) *Definitions.* In addition to pertinent INA definitions, the following definitions are applicable:

(1) "*Accredited,*" as used in INA 101(a)(15)(A), 101(a)(15)(G), and 212(d)(8), means an alien holding an official position, other than an honorary official position, with a government or international organization and possessing a travel document or other evidence of intention to enter or transit the United States to transact official business for that government or international organization.

(2) "*Attendants,*" as used in INA 101(a)(15)(A)(iii), 101(a)(15)(G)(v), and 212(d)(8), and in the definition of the NATO–7 visa symbol, means aliens paid from the public funds of a foreign government or from the funds of an international organization, accompanying or following to join the principal alien to whom a duty or service is owed.

(3) "*Immediate family,*" as used in INA 101(a)(15)(A), 101(a)(15)(G), and 212(d)(8), and in classification under the NATO–1 through NATO–6 visa symbols, means the spouse and unmarried sons and daughters, whether by blood or adoption, who are not members of some other household, and who will reside regularly in the household of the principal alien. "Immediate family" also includes any other close relatives of the principal alien or spouse who:

(i) Are relatives of the principal alien or spouse by blood, marriage, or adoption;

(ii) Are not members of some other household;

(iii) Will reside regularly in the household of the principal alien;

(iv) Are recognized as dependents by the sending Government as demonstrated by eligibility for rights and benefits, such as the issuance of a diplomatic or official passport and travel and other allowances, which would be granted to the spouse and children of the principal alien; and

(v) Are individually authorized by the Department.

(4) "*Servants*" *and "personal employees,*" as used in INA 101(a)(15)(A)(iii), 101(a)(15)(G)(v), and 212(d)(8), and in classification under the NATO–7 visa symbol, means aliens employed in a domestic or personal capacity by a principal alien, who are paid from the private funds of the principal alien and seek to enter the United States solely for the purpose of such employment.

(b) *Exception to passport validity requirement for aliens in certain A, G, and NATO classes.* A nonimmigrant alien for whom the passport requirement of INA 212(a)(26) has not been waived and who is within one of the classes:

(1) Described in INA 101(a)(15)(A)(i) and (ii); or

(2) Described in INA 101(a)(15)(G)(i), (ii), (iii), and (iv); or

(3) NATO–1, NATO–2, NATO–3, NATO–4, or NATO–6 may present a passport which is valid only for a sufficient period to enable the alien to apply for admission at a port of entry prior to its expiration.

(c) *Exception to passport validity requirement for foreign government officials in transit.* An alien classified C–3 under INA 212(d)(8) needs to present only a valid unexpired visa and a travel document which is valid for entry into a foreign country for at least 30 days from the date of application for admission into the United States.

(d) *Grounds for refusal of visas applicable to certain A, C, G, and NATO classes.* (1) An A–1 or A–2 visa may not be issued to an alien the Department has determined to be persona non grata.

(2) Only the provisions of INA 212(a) cited below apply to the indicated classes of nonimmigrants:

(i) Class A–1: INA 212(a)(27) in accordance with a directive of the President and the issuance of appropriate rules and regulations;

(ii) Class A–2: INA 212(a)(26)(A), (27), (28), and (29);

(iii) Class C–2: INA 212(a)(26)(A), (27), (28), and (29);

(iv) Class C–3: INA 212(a)(26(A), (27) and (29);

(v) Class G–1: INA 212(a)(27);

(vi) Class G–2, G–3, and G–4: INA 212(a) (27) and (29);

(vii) Class NATO–1: INA 212(a) (27);

(viii) Classes NATO–2, NATO–3, NATO–4 and NATO–6: INA 212(a)(27) and (29).

(3) An alien within class A–3 or G–5 is subject to all grounds of refusal specified in INA 212, which are applicable to nonimmigrants in general, except for those specified in INA 212(a)(28).

§ 41.22 Officials of foreign governments.

(a) *Criteria for classification of foreign government officials.* (1) An alien is classifiable A–1 or A–2 under INA 101(a)(15)(A) (i) or (ii) if the principal alien:

(i) Has been accredited by a foreign government recognized de jure by the United States;

(ii) Intends to engage solely in official activities for that foreign government while in the United States; and

(iii) Has been accepted by the President, the Secretary of State, or a consular officer acting on behalf of the Secretary of State.

(2) A member of the immediate family of a principal alien is classifiable A–1 or A–2 under INA 101(a)(15)(A) (i) or (ii) if the principal alien is so classified.

(b) *Classification under INA 101(a)(15)(A).* An alien entitled to classification under INA 101(a)(15)(A) shall be classified under this section even if eligible for another nonimmigrant classification.

(c) *Classification of attendants, servants, and personal employees.* An alien is classifiable as a nonimmigrant under INA 101(a)(15)(A)(iii) if the consular officer is satisfied that the alien qualifies under those provisions.

(d) *Referral to the Department of special cases concerning principal alien applicants.* In any case in which there is uncertainty about the applicability of these regulations to a principal alien applicant requesting such nonimmigrant status, the matter shall be immediately referred to the Department for consideration as to whether acceptance of accreditation will be granted.

(e) *Change of classification to that of a foreign government official.* In the case of an alien in the United States seeking a change of nonimmigrant classification under INA 248 to a classification under INA 101(a)(15)(A) (i) or (ii), the question of acceptance of accreditation is determined by the Department.

(f) *Termination of status.* The Department may, in its discretion, cease to recognize as entitled to classification under INA 101(a)(15)(A) (i) or (ii) any alien who has nonimmigrant status under that provision.

(g) *Classification of foreign government official.* A foreign government official or employee seeking to enter the United States temporarily other than as a representative or employee of a foreign government is not classifiable under the provisions of INA 101(a)(15)(A).

(h) *Courier and acting courier on official business.*—(1) *Courier of career.* An alien regularly and professionally employed as a courier by the government of the country to which the alien owes allegiance is classifiable as a nonimmigrant under INA 101(a)(15)(A)(i), if the alien is proceeding to the United States on official business for that government.

(2) *Official acting as courier.* An alien not regularly and professionally employed as a courier by the government of the country to which the alien owes allegiance is classifiable as a nonimmigrant under INA 101(a)(15)(A)(ii), if the alien is holding an official position and is proceeding to the United States as a courier on official business for that government.

(3) *Nonofficial serving as courier.* An alien serving as a courier but not regularly and professionally employed as such who holds no official position with, or is not a national of, the country whose government the alien is serving, shall be classified as a nonimmigrant under INA 101(a)(15)(B).

(i) *Official of foreign government not recognized by the United States.* An official of a foreign government not recognized de jure by the United States, who is proceeding to or through the United States on an official mission or to an international organization shall be classified as a nonimmigrant under INA 101(a)(15) (B), (C), or (G)(iii).

§ 41.23 Accredited officials in transit.

An accredited official of a foreign government intending to proceed in immediate and continuous transit through the United States on official business for that government is entitled to the benefits of INA 212(d)(8) if that government grants similar privileges to officials of the United States, and is classifiable C–3 under the provisions of INA 101(a)(15)(C). Members of the immediate family, attendants, servants, or personal employees of such an official receive the same classification as the principal alien.

§ 41.24 International organization aliens.

(a) *Definition of international organization.* "International organization," means any public international organization which has been designated by the President by Executive Order as entitled to enjoy the privileges, exemptions, and immunities provided for in the International Organizations Immunities Act. (59 Stat. 669)

(b) *Aliens coming to international organizations.* (1) An alien is classifiable under INA 101(a)(15)(G) if the consular officer is satisfied that the alien is within one of the classes described in that section and seeks to enter or transit the United States in pursuance of official duties. If the purpose of the entry or transit is other than pursuance of official duties, the alien is not classifiable under INA 101(a)(15)(G).

(2) An alien applying for a visa under the provisions of INA 101(a)(15)(G) may not be refused solely on the grounds that the applicant is not a national of the country whose government the applicant represents.

(3) An alien seeking to enter the United States as a foreign government representative to an international organization, who is also proceeding to the United States on official business as a foreign government official within the meaning of INA 101(a)(15)(A), shall be issued a visa under that section, if otherwise qualified.

(4) An alien not classifiable under INA 101(a)(15)(A) but entitled to classification under INA 101(a)(15)(G) shall be classified under the latter section, even if also eligible for another nonimmigrant classification.

§ 41.25 NATO representatives, officials, and employees.

(a) *Classification.* An alien shall be classified under the symbol NATO–1, NATO–2, NATO–3, NATO–4, or NATO–5 if the consular officer is satisfied that the alien is seeking admission to the United States under the applicable provision of the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff, or is a member of the immediate family of an alien classified NATO–1 through NATO–5. (See § 41.12 for classes of aliens entitled to classification under each symbol.)

(b) *Armed services personnel.* Armed services personnel entering the United States in accordance with the provisions of the Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces or in accordance with the provisions of the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty may enter the United States under the appropriate treaty waiver of documentary requirements contained in § 41.1 (d) or (e). If a visa is issued it is classifiable under the NATO–2 symbol.

(c) *Dependents of armed services personnel.* Dependents of armed services personnel referred to in paragraph (b) of this section shall be classified under the symbol NATO–2.

(d) *Members of civilian components and dependents.* Alien members of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, and dependents, or alien members of a civilian component attached to or employed by an Allied Headquarters under the Protocol on the Status of International Military Headquarters, and dependents shall be classified under the symbol NATO–6.

(e) *Attendant, servant, or personal employee of an alien classified NATO–1 through NATO–6.* An alien attendant, servant, or personal employee of an alien classified NATO–1 through NATO–6, and any member of the immediate family of such attendant, servant, or personal employee, shall be classified under the symbol NATO–7.

§ 41.26 Diplomatic visas.

(a) *Definitions.* (1) "Diplomatic passport" means a national passport bearing that title and issued by a competent authority of a foreign government.

(2) "Diplomatic visa" means any nonimmigrant visa, regardless of classification, which bears that title and is issued in accordance with the regulations of this section.

(3) "Equivalent of a diplomatic passport" means a national passport, issued by a competent authority of a foreign government which does not issue diplomatic passports to its career diplomatic and consular officers, indicating the career diplomatic or consular status of the bearer.

(b) *Place of application.* With the exception of certain aliens in the United States issued nonimmigrant visas by the Department under the provisions of § 41.111(b), application for a diplomatic visa shall be made at a diplomatic mission or at a consular office authorized to issue diplomatic visas, regardless of the nationality or residence of the applicant.

(c) *Classes of aliens eligible to receive diplomatic visas.* (1) A nonimmigrant alien who is in possession of a diplomatic passport or its equivalent shall, if otherwise qualified, be eligible to receive a diplomatic visa irrespective of the classification of the visa under § 41.12 if within one of the following categories:

(i) Heads of states and their alternates;

(ii) Members of a reigning royal family;

(iii) Governors-general, governors, high commissioners, and similar high

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administrative or executive officers of a territorial unit, and their alternates;
(iv) Cabinet ministers and their assistants holding executive or administrative positions not inferior to that of the head of a departmental division, and their alternates;
(v) Presiding officers of chambers of national legislative bodies;
(vi) Justices of the highest national court of a foreign country;
(vii) Ambassadors, public ministers, other officers of the diplomatic service and consular officers of career;
(viii) Military officers holding a rank not inferior to that of a brigadier general in the United States Army or Air Force and Naval officers holding a rank not inferior to that of a rear admiral in the United States Navy;
(ix) Military, naval, air and other attaché and assistant attaché assigned to a foreign diplomatic mission;
(x) Officers of foreign-government delegations to international organizations so designated by Executive Order;
(xi) Officers of foreign-government delegations to, and officers of, international bodies of an official nature, other than international organizations so designated by Executive Order;
(xii) Officers of a diplomatic mission of a temporary character proceeding to or through the United States in the performance of their official duties;
(xiii) Officers of foreign-government delegations proceeding to or from a specific international conference of an official nature;
(xiv) Members of the immediate family of a principal alien who is within one of the classes described in paragraphs (a) to (k) inclusive, of this section;
(xv) Members of the immediate family accompanying or following to join the principal alien who is within one of the classes described in paragraphs (c)(1)(xii) and (c)(1)(xiii) of this section;
(xvi) Diplomatic couriers proceeding to or through the United States in the performance of their official duties.
(2) Aliens Classifiable G–4, who are otherwise qualified, are eligible to receive a diplomatic visa if accompanying these officers:
(i) The Secretary General of the United Nations;
(ii) An Under Secretary General of the United Nations;
(iii) An Assistant Secretary General of the United Nations;
(iv) The Administrator or the Deputy Administrator of the United Nations Development Program;
(v) An Assistant Administrator of the United Nations Development Program;
(vi) The Executive Director of the:
(A) United Nation's Children's Fund;
(B) United Nations Institute for Training and Research;
(C) United Nations Industrial Development Organization;
(vii) The Executive Secretary of the:
(A) United Nations Economic Commission for Africa;
(B) United Nations Economic Commission for Asia and the Far East;
(C) United Nations Economic Commission for Latin America;
(D) United Nations Economic Commission for Europe;
(viii) The Secretary General of the United Nations Conference on Trade and Development;
(ix) The Director General of the Latin American Institute for Economic and Social Planning;
(x) The United Nations High Commissioner for Refugees;
(xi) The United Nations Commissioner for Technical Co-operation;
(xii) The Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East;
(xiii) The spouse or child of any nonimmigrant alien listed in paragraph (c)(2)(i) through (c)(2)(xii) of this section.
(3) Other individual aliens or classes of aliens are eligible to receive diplomatic visas upon authorization of the Department, the Chief of a U.S. Diplomatic Mission, the Deputy Chief of Mission, the Counselor for Consular Affairs or the principal officer of a consular post not under the jurisdiction of a diplomatic mission.

§ 41.27 Official visas.

(a) *Definition.* "Official visas" means any nonimmigrant visa, regardless of classification, which bears that title and is issued in accordance with these regulations.
(b) *Place of application.* Official visas are ordinarily issued only when application is made in the consular district of the applicant's residence. When directed by the Department, or in the discretion of the consular officer, official visas may be issued when application is made in a consular district in which the alien is physically present but does not reside. Certain aliens in the United States may be issued official visas by the Department under the provisions of § 41.111(b).
(c) *Classes of aliens eligible to receive official visas.* (1) A nonimmigrant within one of the following categories who is not eligible to receive a diplomatic visa shall, if otherwise qualified, be eligible to receive an official visa irrespective of classification of the visa under § 41.12:
(i) Aliens within a class described in § 41.26(c)(2) who are ineligible to receive a diplomatic visa because they are not in possession of a diplomatic passport or its equivalent;
(ii) Aliens classifiable under INA 101(a)(15)(A);
(iii) Aliens, other than those described in 22 CFR 41.26(c)(3) who are classifiable under INA 101(a)(15)(G), except those classifiable under INA 101(a)(15)(G)(iii) unless the government of which the alien is an accredited representative is recognized *de jure* by the United States;
(iv) Aliens classifiable under INA 101(a)(15)(C) as nonimmigrants described in INA 212(d)(8);
(v) Members and members-elect of national legislative bodies;
(vi) Justices of the lesser national and the highest state courts of a foreign country;
(vii) Officers and employees of national legislative bodies proceeding to or through the United States in the performance of their official duties;
(viii) Clerical and custodial employees attached to foreign-government delegations to, and employees of, international bodies of an official nature, other than international organizations so designated by Executive Order, proceeding to or through the United States in the performance of their official duties;
(ix) Clerical and custodial employees attached to a diplomatic mission of a temporary character proceeding to or through the United States in the performance of their official duties;
(x) Clerical and custodial employees attached to foreign-government delegations proceeding to or from a specific international conference of an official nature;
(xi) Officers and employees of foreign governments recognized *de jure* by the United States who are stationed in foreign contiguous territories or adjacent islands;
(xii) Members of the immediate family, attendants, servants and personal employees of, when accompanying or following to join, a principal alien who is within one of the classes referred to or described in paragraphs (a) through (k) inclusive of this section;
(xiii) Attendants, servants and personal employees accompanying or following to join a principal alien who is within one of the classes referred to or described in paragraphs (a) through (m) inclusive of § 41.26(c)(2).
(2) Other individual aliens or classes of aliens are eligible to receive official visas upon the authorization of the Department, the Chief of a U.S. Diplomatic Mission, the Deputy Chief of Mission, the Counselor for Consular Affairs, or the principal officer of a consular post not under the jurisdiction of a diplomatic mission.

Subpart D—Temporary Visitors

§ 41.31 Temporary visitors for business or pleasure.

(a) *Classification.* An alien is classifiable as a nonimmigrant visitor of business (B–1) or pleasure (B–2) if the consular officer is satisfied that the alien qualifies under the provisions of INA 101(a)(15)(B), and that:
(1) The alien intends to leave the United States at the end of the temporary stay (consular officers are authorized, if departure of the alien as required by law does not seem fully assured, to require the posting of a bond with the Attorney General in a sufficient sum to ensure that at the end of the temporary visit, or upon failure to maintain temporary visitor status, or any status subsequently acquired under INA 248, the alien will depart from the United States);
(2) The alien has permission to enter a foreign country at the end of the temporary stay; and
(3) Adequate financial arrangements have been made to enable the alien to carry out the purpose of the visit to and departure from the United States.
(b) *Definitions.* (1) The term "business," as used in INA 101(a)(15)(B), refers to conventions, conferences, consultations and other legitimate activities of a commercial or professional nature. It does not include local employment or labor for hire. For the purposes of this section building or construction work, whether on-site or in plant, shall be deemed to constitute purely local employment or labor for hire; provided that the supervision or training of others engaged in building or construction work (but not the actual performance of any such building or construction work) shall not be deemed to constitute purely local employment or labor for hire if the alien is otherwise qualified as a B–1 nonimmigrant. An alien seeking to enter as a nonimmigrant for employment or labor pursuant to a contract or other prearrangement is required to qualify under the provisions of § 41.53. An alien of distinguished merit and ability seeking to enter the United States temporarily with the idea of performing temporary services of an exceptional nature requiring such merit and ability, but having no contract or other prearranged employment, may be classified as a nonimmigrant temporary visitor for business.
(2) The term "pleasure," as used in INA 101(a)(15)(B), refers to legitimate activities of a recreational character, including tourism, amusement, visits with friends or relatives, rest, medical treatment, and activities of a fraternal, social, or service nature.

§ 41.32 Nonresident alien Mexican border crossing identification cards; combined border crossing identification cards and B-1/B-2 visitor visa.

(a) *Border crossing identification cards (BCC)*—(1) *Posts authorized to issue.* Consular officers assigned to consular offices in Ciudad Juarez, Hermosillo, Nuevo Laredo, Matamoros, and Tijuana may issue a nonresident alien border crossing identification card (BCC), as that term is defined in INA 101(a)(6), to a nonimmigrant alien who:
(i) Is a citizen and resident of Mexico; and
(ii) Is a temporary visitor who, if applying for a B–1 or B–2 visitor visa for business or pleasure, would be eligible to receive such visa.
(2) *Procedures for application.* A citizen of Mexico shall apply for a BCC on Form OF-156, Nonimmigrant Visa Application. The application shall be supported by:
(i) Evidence of Mexican citizenship and residence;
(ii) A valid or expired Mexican Federal passport or a valid Mexican identity document (Form FM13); and
(iii) One photograph (1–½-inches square), if the alien is 16 years of age or older. Each applicant shall appear in person before a consular officer and be interviewed regarding eligibility for a temporary visitor visa, unless personal appearance is waived by the officer.
(3) *Issuance and format.* A Mexican BCC shall consist of a stamp placed in the alien's valid or expired Mexican Federal passport or valid Mexican identity document by a consular officer stationed at one of the posts designated in paragraph (a)(1) of this section. The stamps shall be numbered serially by each consular office beginning with the number "1" on October 1 of each year. They must be in the format prescribed by the Department and contain the following data:
(i) Post symbol;
(ii) Number of the card;
(iii) Title and location of the issuing office;
(iv) Date of issuance;
(v) Name(s) of the person(s) to whom issued; and
(vi) Signature and title of the issuing officer.
(b) *Combined border crossing identification cards and B–1/B–2 visitor visas (B–1/B–2—BCC)*—(1)—Posts authorized to issue. Consular officers assigned to any consular office in Mexico may issue a nonresident alien border crossing identification card, as that term is defined in INA 101(a)(6), in combination with a B–1/B–2 nonimmigrant visitor vias (B–1/B–2—BCC, to a nonimmigrant alien who:
(i) Is a citizen of Mexico;
(ii) Seeks to enter the United States as a temporary visitor for business or pleasure as defined in INA 101(a)(15)(B) for periods of stay not exceeding 6 months; and
(iii) Is otherwise eligible to receive a B–1 or B–2 temporary visitor visa or is the beneficiary of a waiver under INA 212(d)(3)(A) of a ground of ineligibility, which is valid for multiple applications for admission into the United States and for an indefinite period of time and which contains no restrictions as to extensions of temporary stay or itinerary.
(2) *Procedure for application.* Application for a B–1/B–2—BCC may be made by a Mexican applicant at any U.S. consular office in Mexico on Form OF–156. The application shall be supported by:
(i) Evidence of Mexican citizenship and residence;
(ii) A valid Mexican Federal passport; and
(iii) One photograph (1–½-inches square), if 16 years of age or older. Each applicant shall appear in person before a consular officer to be interviewed regarding eligibility for a visitor visa, unless personal appearance is waived by the consular officer.
(3) *Issuance and format.* A Mexican B–1/B–2—BCC shall consist of a numbered stamp placed in the alien's valid Mexican Federal passport by a consular officer in Mexico. The stamps shall be numbered serially by each consular office beginning with the number "1" on October 1 of each year. They must be in the format prescribed by the Department and contain the following data:
(i) Post symbol;
(ii) Number of the card;
(iii) Title and location of the issuing office;
(iv) Date of issuance;
(v) Indicia "Mexican Border Crossing Identification Card and B–1/B–2 Nonimmigrant Visa";
(vi) Name(s) of the person(s) to whom issued;
(vii) Caption "Valid indefinitely for multiple applications for admission to the United States as a temporary visitor for business or pleasure" in the middle portion of the stamp; and

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(viii) Signature and title of the issuing officer.

(c) *Validity.* A Mexican BCC or B-1/B-2—BCC, issued pursuant to the provisions of this section, is valid until revoked. A BCC previously issued by a consular officer in Mexico on Form I-186, Nonresident Alien Mexican Border Crossing Card, or Form I-586, Nonresident Alien Border Crossing Card, is valid until revoked or voided, regardless of any expiration date on the card.

(d) *Revocation.* A Mexican BCC or B-1/B-2—BCC may be revoked under the provisions of § 41.122. Upon revocation, the consular or immigration officer shall cancel the card by writing or stamping the word "Canceled" plainly acoss the face of the card stamp and shall indicate the location of the consular or immigration office where the card was revoked.

(e) *Voidance of Mexican border crossing cards issued in Mexico on form I-186 or form I-586.* A consular officer in Mexico may declare void, without notice, a BCC previously issued in Mexico on Form I-186 or Form I-586, upon a finding that the holder is ineligible to receive a nonimmigrant visas. The card must be surrendered immediately upon voidance.

(f) *Replacement.* When a Mexican BCC or B-1/B-2—BCC issued under the provisions of this section has been lost, mutilated, or destroyed, the person to whom such card was issued may apply for a new card as provided in this section. A nonresident alien whose BCC previously issued on Form I-186 or Form I-586 by a consular officer in Mexico, has been lost, mutiliated, or destroyed, may apply for a B-1/B-2—BCC at any consular office in Mexico, provided the alien qualifies under paragraph (b) of this section.

§ 41.32 Nonresident alien Canadian border crossing identification card (BCC).

(a) *Aliens eligible to apply.* A consular officer assigned to a consular office in Canada may issue a nonresident alien border crossing identification care (BCC), as that term is defined in INA 101(a)(6), to a nonimmigration alien who:

(1) Has been admitted to Canada for permanent residence as a landed immigrant;

(2) Seeks to enter the United States from Canada, or will seek to enter the United States from Mexico and will not have visited any countries other than Mexico and the United States since departing Canada, only as a temporary visitor for business or pleasure as defined in INA 101(a)(15)(B) for periods of stay not exceeding 6 months; and

(3) Is otherwise eligible to receive a temporary visitor visa or is the beneficiary of a waiver under INA 212(d)(3)(A) of a ground of ineligibility, which is valid for multiple applications for admission into the United States and for an indefinite period of time and which contains no restrictions as to extensions of temporary stay or itinerary.

(b) *Procedure for application.* Application for a Canadian BCC shall be made on Form OF-156, Nonimmigrant Visa Application. The application shall be supported by:

(1) Evidence of the applicant's landed immigrant status in Canada;

(2) A valid or expired passport or other travel document showing origin, identity, and nationality, if any; and

(3) One photograph (1⅛ inches square), if the applicant is 16 years of age or over. Each applicant must appear in person before a consular officer and be interviewed regarding eligibility for a visitor visa unless personal appearance is waived by the consular officer.

(c) *Issuance and format of border crossing identification card.* A Canadian BCC shall consist of a stamp placed in the alien's passport or other travel document by a consular officer in Canada. The stamps shall be numbered serially by each consular office beginning with the number "1" on October 1 of each year. They shall be in the format prescribed by the Department and contain the following data:

(1) Post symbol;

(2) Number of the card;

(3) Title and location of the issuing office;

(4) Date of issuance;

(5) Name(s) of the person(s) to whom issued; and

(6) Signature and title of the issuing officer.

(d) *Validity of Canadian BCC.* A Canadian BCC, issued pursuant to the provisions of this section, is valid until revoked.

(e) *Revocation of Canadian BCC.* (1) A Canadian BCC shall be revoked by a consular officer if information is developed indicating that the holder is ineligible to receive a nonimmigrant visa, or by a District Director of the Immigration and Naturalization Service if it is found that the alien has violated the conditions of admission into the United States.

(2) In canceling such a card the consular or immigration officer shall write or stamp the word "Canceled" plainly across the face of the card stamp, indicate the location of the consular or immigration office where the card was revoked and follow the procedures of § 41.122.

Subpart E—Crewman and Crew-List Visas

§ 41.41 Crewman.

(a) *Alien classifiable as crewman.* An alien shall be classifiable as a nonimmigrant crewman upon establishing to the satisfaction of the consular officer the qualifications prescribed by INA 101(a)(15)(D) provided that the alien has permission to enter some foreign country after a temporary landing in the United States.

(b) *Alien not classifiable as crewman.* An alien employed on board a vessel or aircraft in a capacity not required for normal operation and service, or an alien employed or listed as a regular member of the crew in excess of the number normally required, shall not be classified as a crewman.

§ 41.42 Crew-List visas.

(a) *Definition.* A crew-list visa is a nonimmigrant visa issued on a manifest of crewmen of a vessel or aircraft and includes all aliens listed in the manifest unless otherwise stated. It constitutes a valid nonimmigrant visa within the meaning of INA 212(a)(26)(B).

(b) *Application.* (1) A list of all alien crewmen serving on a vessel or aircraft proceeding to the United States and not in possession of a valid individual D visa or INS Form I-151 or Form I-551, Alien Registration Receipt Card, shall be submitted in duplicate to a consular officer on INS Form I-418, Passenger List-Crew List, or other prescribed forms. The duplicate copy of Form I-418 must show in column (4) the date, city, and country of birth of each person listed and in column (5) the place of issuance and the issuing authority of the passport held by that person. For aircraft crewmen, the manifest issued by the International Civil Aviation Organization (ICAO) or Customs Form 7507, General Declaration, may be used in lieu of Form I-418 if there is adequate space for the list of names.

(2) The formal application for a crew-list visa is the crew list together with any other information the consular officer finds necessary to determine eligibility. No other application form is required.

(3) The crew list submitted should contain in alphabetical order the names of those alien crew members to be considered for inclusion in a crew-list visa. If the list is not alphabetical, the consular officer may require a separate alphabetical listing if this will not unduly delay the departure of the vessel or aircraft.

(4) If a vessel or aircraft destined to the United States will not call at a port or place where there is a consular office, the crew list can be submitted for visaing to a consular office at the place nearest the vessel's port of call.

(c) *Fee.* A fee in an amount determined by the Schedule of Fees for Consular Services shall be charged for a crew-list visa except that no fee shall be charged in the case of an American vessel or aircraft.

(d) *Validity.* A crew-list visa is valid for a period of 6 months from the date of issuance and for a single application for admission into the United States.

(e) *Procedure in issuing.* (1) In issuing a crew-list visa the regular nonimmigrant visa stamp as prescribed in § 41.113(d) shall be placed on the last page of the manifest immediately following the last name listed.

(2) The symbol D shall be inserted in the space provided in the visa stamp.

(3) The name of the vessel or identifying data regarding the aircraft shall be entered in the space provided for the name of the visa recipient.

(4) The signature and title of the consular officer shall be recorded on the visa. The post impression seal shall be affixed on the visa stamp if the visa has been stamped by a rubber handstamp.

(5) When a crew-list visa is issued, the consular officer delivers the original of the document to the master of the vessel or captain of the aircraft or to an authorized agent for presentation to the immigration officer at the first port of arrival in the U.S. The dated duplicate copy is retained for the consular files.

(f) *Supplemental crew-list visas.* (1) A supplemental crew-list visa shall be issued at the consular office at which the crew-list visa was issued or at another consular office to cover any crewman signed on after the issuance of the crew-list visa and not in possession of a valid individual D visa.

(2) If the crewman is substituted for another member previously included in the visa, the substitution shall be indicated in the supplemental crew list presented for visaing.

(g) *Exclusion from and refusal of, crew-list visas—(1) Exclusion from crew-list visas.* If there is reason to believe that a crew list submitted for visaing contains the name of any person who is not a bona fide crewman or who is otherwise ineligible to receive an individual D visa under INA 101(a)(15)(D), the consular officer shall exclude any such person from the visa by listing the name of each excluded crew member below the visa stamp. An excluded crew member's name may not be stricken from the crew list.

(2) *Refusal of crew-list visa.* A crew-list visa shall be refused if all aliens listed thereon are found by the consular officer not to be bona fide crewmen or otherwise ineligible to receive individual visas as crew members. In any case where a crew-list visa is refused, a full report shall be forwarded to reach the Department before the arrival of the vessel or aircraft at the first port of entry. In any case of refusal the original crew list shall be returned to the master, aircraft captain, or authorized agent, and the duplicate shall be filed in the consular office.

Subpart F—Business and Media Visas

§ 41.51 Treaty trader or investor.

(a) *Treaty trader.* An alien is classifiable as a nonimmigrant treaty trader (E-1) if the consular officer is satisfied that the alien qualifies under the provisions of INA 101(a)(15)(E)(i) and that the alien:

(1) Will be in the United States solely to carry on trade of a substantial nature, which is international in scope, either on the alien's behalf or as an agent of a foreign person or organization engaged in trade, principally between the United States and the foreign state of which the alien is a national, consideration being given to any conditions in the country of which the alien is a national which may affect the alien's ability to carry on such substantial trade; and

(2) Intends to depart from the United States upon the termination of E-1 status.

(b) *Treaty investor.* An alien is classifiable as a nonimmigrant treaty investor (E-2) if the consular officer is satisfied that the alien qualifies under the provisions of INA 101(a)(15)(E)(ii) and that the alien:

(1) Has invested or is actively in the process of investing a substantial amount of capital in a bona fide enterprise in the United States, as distinct from a relatively small amount of capital in a marginal enterprise solely for the purpose of earning a living; and

(2) Intends to depart from the United States upon the termination of E-2 status.

(c) *Employee of treaty trader or investor.* An alien employee of a treaty trader may be classified E-1 and an alien employee of a treaty investor may be classified E-2 if the employee is or will be engaged in duties of an executive or supervisory character, or, if employed in a minor capacity, the employee has special qualifications that make the services to be rendered essential to the efficient operation of the enterprise. The employer must be:

(1) A person having the nationality of the treaty country, who is maintaining the status of treaty trader or investor if in the United States; or

(2) An organization at least 50 percent owned by persons having the nationality of the treaty country who are maintaining nonimmigrant treaty trader or investor status if residing in the United States.

(d) *Spouse and children of treaty alien.* The spouse and children of a treaty alien accompanying or following to join the treaty alien are entitled to the same classification as the principal alien. The nationality of a spouse or child of a treaty alien is not material to the classification of the spouse or child under the provisions of INA 101(a)(15)(E).

(e) *Representatives of foreign information media.* Representatives of foreign information media shall first be considered for possible classification as nonimmigrants under the provisions of INA 101(a)(15)(I), before consideration is given to their possible classification as nonimmigrants under the provisions of INA 101(a)(15)(E) and of this section.

§ 41.52 Information media representative.

(a) *Representative of foreign press, radio, film, or other information media.* An alien is classifiable as a nonimmigrant information media representative if the consular officer is satisfied that the alien qualifies under the provisions of INA 101(a)(15)(I) and is a representative of a foreign press, radio, film, or other information medium having its home office in a foreign country, the government of which grants reciprocity for similar privileges to representatives of such a medium having home offices in the United States.

(b) *Classification when applicant eligible for both I visa and E visa.* An alien who will be engaged in foreign information media activities in the United States and meets the criteria set forth in paragraph (a) of this section shall be classified as a nonimmigrant under INA 101(a)(15)(I) even if the alien may also be classifiable as a nonimmigrant under the provisions of INA 101(a)(15)(E).

(c) *Spouse and children of information media representative.* The spouse or child of an information media representative is classifiable under INA 101(a)(15)(I) if accompanying or following to join the principal alien.

§ 41.53 Temporary workers and trainees.

(a) *Requirements for H classification; visa validity.* An alien shall be classifiable under the provisions of INA 101(a)(15)(H) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

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(2) The consular officer has received a petition approved by INS to accord such classification or an official notification of the approval thereof; or

(3) The alien shall have presented to the consular officer official confirmation of the approval by INS of the petition to accord the alien such classification or of the extension by INS of the period of authorized stay in such classification; or

(4) The consular officer is satisfied the alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien. The period of validity of a visa issued on the above basis must not exceed the period indicated in the petition, notification, or confirmation required in paragraph (a)(2) of (3) of this section. The approval of a petition by INS does not establish that the alien is eligible to receive a nonimmigrant visa.

(b) *Alien not entitled to H classification.* The consular officer must suspend action on the alien's application and submit a report to the approving INS office if the consular officer knows or has reason to believe that an alien applying for a visa under INA 101(a)(15)(H) is not qualified to perform the services or to undertake the training specified in the employer's petition.

(c) *"Trainee" defined.* The term "trainee," as used in INA 101(a)(15)(H)(iii), means a nonimmigrant alien who seeks to enter the United States temporarily at the invitation of an individual, organization, firm, or other trainer for the purpose of receiving instruction in any field of endeavor (other than graduate medical education or training), including agriculture, commerce, communication, finance, government, transportation, and the professions as well as in a purely industrial establishment.

(d) *Former exchange visitor.* Former exchange visitors who are subject to the 2-year residence requirement of INA 212(e) are ineligible to apply for visas under INA 101(a)(15)(H) until they have fulfilled the residence requirement or obtained a waiver of the requirement.

§ 41.54 Intracompany transferees (executives, managers, and specialists).

(a) *Requirements for L classification; visa validity.* An alien shall be classifiable under the provisions of INA 101(a)(15)(L) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

(2) The consular officer has received an individual petition approved by INS under INA 214(c) to accord such classification to the alien or an official notification of the approval thereof; or

(3) The alien shall have presented to the consular officer official confirmation of approval by INS of an individual petition according such classification to the alien or confirmation of the alien's authorized stay in such classification; or

(4) The alien shall have presented to the consular officer an approved blanket petition or a notification of approval listing only those intracompany relationships and positions which were found to qualify under INA 101(a)(15)(L); or

(5) The alien shall have presented to the consular officer a blanket petition to accord such classification to qualified aliens who are being transferred to managerial or executive positions identified in the approved blanket petition; or

(6) The alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien.

The period of validity of a visa issued on the above basis must not exceed the period indicated in the petition, notification, or confirmation required in paragraphs (a) (2), (3), (4) or (5) of this section. The approval of a petition by INS does not establish that the alien is eligible to receive a nonimmigrant visa.

(b) *Ineligible alien under individual petition.* The consular officer must suspend action on the alien's application and submit a report to the approving INS office if the consular officer knows or has reason to believe that an alien applying for a visa as the beneficiary of an approved individual petition under INA 101(a)(15)(L) has not been continuously employed for 1 year by the same employer or an affiliate or subsidiary thereof, or has not been employed in an executive or managerial capacity, or does not possess specialized knowledge, as specified in the employer's petition.

(c) *Alien not entitled to L-1 classification under blanket petition.* The consular officer shall deny L classification based on a blanket petition if the documentation presented by the alien claiming to be a beneficiary thereof does not establish to the satisfaction of the consular officer that

(1) The alien has been continuously employed by the same employer, an affiliate or subsidiary thereof, for the one year immediately preceding the application for the L visa,

(2) The alien was occupying an executive or managerial position throughout that year, or

(3) The alien is destined to a position identified as executive or managerial in the petition and in an organization listed in the petition.

(d) *Former exchange visitor.* Former exchange visitors who are subject to the 2-year foreign residence requirement of INA 212(e) are ineligible to apply for visas under INA 101(a)(15)(L) until they have fulfilled the residence requirement or obtained a waiver of the requirement.

Subpart G—Students and Exchange Visitors

§ 41.61 Students—academic and nonacademic.

(a) *Definitions*—(1) *"Academic"*, in INA 101(a)(15)(F), refers to an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution, or a language training program.

(2) *"Nonacademic"*, in INA 101(a)(15)(M), refers to an established vocational or other recognized nonacademic institution (other than a language training program).

(b) *Classification.* (1) An alien is classifiable under INA 101(a) (15) (F) (i) of INA 101(a) (15) (M) (i) if the consular officer is satisfied that the alien qualifies under one of those sections, and:

(i) The alien has been accepted for attendance solely for the purpose of pursuing a full course of study in an academic institution approved by the Attorney General for foreign students under INA 101(a) (15) (F) (i) or a nonacademic institution approved under INA 101(a) (15) (M) (i), as evidenced by submission of a Form I-20A-B, Certificate of Eligibility For Nonimmigrant (F-1) Student Status — For Academic and Language Students, or Form I-20M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status—For Vocational Students, properly completed and signed by the alien and a designated school official;

(ii) The alien possesses sufficient funds to cover expenses while in the United States or can satisfy the consular officer that other arrangements have been made to meet those expenses;

(iii) The alien, unless coming to participate exclusively in an English language training program, has sufficient knowledge of the English language to undertake the chosen course of study or training. If the alien's knowledge of English is inadequate, the consular officer may nevertheless find the alien so classifiable if the accepting institution offers English language training, and has accepted the alien expressly for a full course of study in a language with which the alien is familiar, or will enroll the alien in a combination of courses and English instruction which will constitute a full course of study; and

(iv) The alien intends, and will be able, to depart upon termination of student status.

(2) An alien otherwise qualified for classification as a student, who intends to study the English language exclusively, may be classified as a student under INA 101(a) (15) (F) (i) even though no credits are given by the accepting institution for such study. The accepting institution, however, must offer a full course of study in the English language and must accept the alien expressly for such study.

(3) The alien spouse and minor children of an alien who has been or will be issued a visa under INA 101(a) (15) (F) (i) or 101(a) (15) (M) (i) may receive nonimmigrant visas under INA 101(a) (15) (F) (ii) or 101(a) (15) (M) (ii) if the consular officer is satisfied that they will be accompanying or following to join the principal alien; that sufficient funds are available to cover their expenses in the United States; and, that they intend to leave the United States upon the termination of the status of the principal alien.

(c) *Posting of bond.* In borderline cases involving an alien otherwise qualified for classification under INA 101(a) (15) (F), the consular officer is authorized to require the posting of a bond with the Attorney General in a sum sufficient to ensure that the alien will depart upon the conclusion of studies or in the event of failure to maintain student status.

§ 41.62 Exchange visitors.

(a) *J-1 classification.* An alien is classifiable as an exchange visitor if qualified under the provisions of INA 101(a) (15) (J) and the consular officer is satisfied that the alien:

(1) Has been accepted to participate, and intends to participate, in an exchange visitor program designed by the United States Information Agency as evidenced by the presentation of a properly executed Form IAP-66, Certificate of Eligibility for Exchange Visitor (J-1) Status;

(2) Has sufficient funds to cover expenses or has made other arrangements to provide for expenses;

(3) Has sufficient knowledge of the English language to undertake the program for which selected, or, except for an alien coming to participate in a graduate medical education or training program, the sponsoring organization is aware of the language deficiency and has nevertheless indicated willingness to accept the alien; and

(4) Meets the requirements of INA 212(j) if coming to participate in a graduate medical education or training program.

(b) *J-2 Classification.* The spouse or minor child of an alien classified J-1 is classifiable J-2.

(c) *Applicability of INA 212(e).* (1) An alien is subject to the 2-year foreign residence requirement of INA 212(e) if:

(i) The alien's participation in one or more exchange programs was wholly or partially financed, directly or indirectly, by the U.S. Government or by the government of the alien's country of nationality or last residence; or

(ii) At the time of the issuance of an exchange visitor visa and admission to the United States, or, if not required to obtain a nonimmigrant visa, at the time of admission as an exchange visitor, or at the time of acquisition of such status after admission, the alien is a national and resident or, if not a national, a lawful permanent resident (or has status equivalent thereto) of a country which the Director of the United States Information Agency has designated, through publication by public notice in the Federal Register, as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien will engage during the exchange visitor program; or

(iii) The alien acquires exchange visitor status in order to receive graduate medical education or training in the United States.

(2) For the purposes of this paragraph the terms "financed directly" and "financed indirectly" are defined as set forth in section § 514.1 of Chapter V.

(3) The country in which 2 years' residence and physical presence will satisfy the requirements of INA 212(e) in the case of an alien determined to be subject to such requirements is the country of which the alien is a national and resident, or, if not a national, a lawful permanent resident (or has status equivalent thereto).

(4) If an alien is subject to the 2-year foreign residence requirement of INA 212(e), the spouse or child of that alien, accompanying or following to join the alien, is also subject to that requirement if admitted to the United States pursuant to INA 101(a) (15) (J) or if status is acquired pursuant to that section after admission.

(d) *Notification to alien concerning 2-year foreign residence requirement.* Before the consular officer issues an exchange visitor visa, the consular officer must inform the alien whether the alien will be subject to the 2-year residence and physical presence requirement of INA 212(e) if admitted to the United States under INA 101(a) (15) (J) and, if so, the country in which 2 years' residence and physical presence will satisfy the requirement.

Subpart H—Transit Aliens

§ 41.71 Transit aliens.

(a) *Transit aliens—general.* An alien is classifiable as a nonimmigrant transit alien under INA 101(a) (15) (C) if the consular officer is satisfied that the alien:

(1) Intends to pass in immediate and continuous transit through the United States;

(2) Is in possession of a common carrier ticket or other evidence of transportation arrangements to the alien's destination;

(3) Is in possession of sufficient funds to carry out the purpose of the transit journey, or has sufficient funds otherwise available for that purpose; and

(4) Has permission to enter some country other than the United States following the transit through the United States, unless the alien submits satisfactory evidence that such advance permission is not required.

(b) *Certain aliens in transit to United Nations.* An alien within the provisions of paragraph (3), (4), or (5) of section 11 of the Headquarters Agreement with the United Nations, to whom a visa is to be issued for the purpose of applying for admission solely in transit to the United Nations Headquarters District, may upon request or at the direction of the Secretary of State be issued a nonimmigrant visa bearing the symbol C-2. If such a visa is issued, the recipient shall be subject to such restrictions on travel within the United States as may be provided in regulations prescribed by the Attorney General.

Subpart I—Fiance(e) of a U.S. Citizen

§ 41.81 Fiance(e) of a U.S. Citizen.

(a) *Petition requirement.* An alien is classifiable as a nonimmigrant fiance(e) under INA 101(a)(15)(K) if the consular officer is satisfied that the alien is qualified under that provision and the consular officer has received a petition filed by the U.S. citizen to confer nonimmigrant status as a fiance(e) on the alien, which has been approved by the INS under INA 214(d), or a notification of such approval from that Service.

(b) *Certification of legal capacity and intent to marry.* Upon receipt of a petition approved by INS and the alien's sworn statement of ability and intent to conclude a valid marriage with the petitioner within 90 days of arrival in the United States, the consular officer

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shall grant the alien the nonimmigrant status accorded in the petition and shall determine the eligibility of the alien to receive a K–1 visa.

(c) *Eligibility as immigrant required.* The consular officer, insofar as practicable, shall determine the eligibility of an alien to receive a nonimmigrant visa under INA 101(a)(15)(K) as if the alien were an applicant for an immigrant visa. If the consular officer determines that the alien would be eligible, under INA 212 (a) and (e) and in all other respects to receive an immigrant visa, except the alien shall be exempt from the labor certification requirement of INA 212(a)(14), the officer may issue a nonimmigrant visa under this section.

Subpart J—Application for Nonimmigrant Visa

§ 41.101 Place of application.

(a) *Application for regular visa made in consular district of alien's residence or alien's presence.* Unless a consular officer, at the direction of the Department or as a matter of discretion, will accept a visa application from an alien who is not a resident of the consular district but is physically present therein, or the alien is in the United States and entitled to apply for issuance or reissuance of a visa under the provisions of § 41.111(b), an alien seeking a nonimmigrant visa shall apply to a consular in the consular district in which the applicant resides or, if the applicant is a resident of Taiwan, to an officer of the American Institute in Taiwan.

(b) *Regular visa defined.* "Regular visa" means a nonimmigrant visa of any classification which does not bear the title "Diplomatic" or "Official." A nonimmigrant visa is issued as a regular visa unless the alien falls within one of the classes entitled to a diplomatic or an official visa as described in § 41.26(c) or § 41.27(c).

§ 41.102 Personal appearance of applicant.

(a) *Personal appearance required or waived.* Except as otherwise provided in this section, every alien seeking a nonimmigrant visa is required to apply in person before a consular officer. The requirement of personal appearance may be waived by the consular officer in the case of any alien who is:

(1) A child under 14 years of age;

(2) Within a class of nonimmigrants classifiable under the visa symbols A, C–2, C–3, G, or NATO;

(3) An applicant for a diplomatic or official visa;

(4) Within a class of nonimmigrants classifiable under the visa symbols B, C–1, H–1, or I;

(5) Within a class of nonimmigrants classifiable under the visa symbol J–1 who qualifies as a leader in a field of specialized knowledge or skill and also is the recipient of a U.S. Government grant, and such an alien's spouse and children qualifying for J–2 classification;

(6) An aircraft crewman, applying for a nonimmigrant officer visa under the provisions of INA 101(a)(15)(D), if the application is supported by a letter from the employing carrier certifying that the applicant is employed as an aircraft crewman, and the consular officer is satisfied that the personal appearance of the alien is not necessary to determine visa eligibility; or

(7) A nonimmigrant in any category, provided the consular officer determines that a waiver of personal appearance in the individual case is warranted in the national interest or because of unusual circumstances, including hardship to the visa applicant.

(b) *Interview by consular officer.* Except when the requirement of personal appearance has been waived by the consular officer pursuant to paragraph (a) of this section, each applicant for a nonimmigrant visa must be interviewed by a consular officer, who shall determine on the basis of the applicant's representations and the visa application and other relevant documentation (1) the proper nonimmigrant classification, if any, of the alien and (2) the alien's eligibility to receive a visa.

§ 41.103 Filing an application and form OF–156.

(a) *Filing an application*—(1) *Filing of application on form OF–156 required unless waived.* The consular officer may waive submission of an application, under paragraph (a)(3) of this section, for certain aliens for whom personal appearance has been waived under § 41.102. Except for persons for whom such waivers have been granted, every alien seeking a nonimmigrant visa must make application therefor on Form OF–156, Nonimmigrant Visa Application, unless a prior Form OF–156 is readily available at the consular office which can be appropriately amended to bring the application up to date.

(2) *Filing of form OF–156 by alien under 16 or physically incapable.* The application for an alien under 16 years of age or one physically incapable of completing an application may be completed and executed by the alien's parent or guardian, or, if the alien has no parent or guardian, by any person having legal custody of, or a legitimate interest in, the alien.

(3) *Waiver of filing of application.* (i) When personal appearance is waived under § 41.102(a)(2) or (3) the consular officer may also waive the filing of a visa application.

(ii) When personal appearance is waived under § 41.102(a)(7), the consular officer may also waive the filing of a visa application in cases of hardship, emergency, or national interest.

(iii) Even if personal appearance is waived pursuant to any other subparagraph of § 41.102(a), the requirement for filing an application may not be waived.

(b) *Application form*—(1) *Preparation of form OF–156, Nonimmigrant Visa Application.*

(i) The consular officer shall ensure that Form OF–156 is fully and properly completed in accordance with the applicable regulations and instructions.

(ii) If the filing of a visa application is waived by the consular officer, the officer shall prepare a Form OF–156 on behalf of the applicant, using the data available in the passport or other documents which have been submitted.

(2) *Additional information as part of application.* The consular officer may require the submission of additional necessary information or question an alien on any relevant matter whenever the consular officer believes that the information provided in Form OF–156 is inadequate to permit a determination of the alien's eligibility to receive a nonimmigrant visa. Additional statements made by the alien become a part of the visa application. All documents required by the consular officer under the authority of § 41.105(a) are considered papers submitted with the alien's application within the meaning of INA 221(g)(1).

(3) *Signature.* When personal appearance is required, Form OF–156 shall be signed and verified by, or on behalf of, the applicant in the presence of the consular officer. If personal appearance is waived, but the submission of an application form by the alien is not waived, the form shall be signed by the applicant. If the filing of an application form is also waived, the consular officer shall indicate that the application has been waived on the Form OF–156 prepared on behalf of the applicant, as provided in paragraph (b)(1)(ii) of this section. The consular officer, in every instance, shall initial the Form OF–156 over or adjacent to the officer's name and title stamp.

(4) *Registration.* Form OF–156, when duly executed, constitutes the alien's registration record for the purposes of INA 221(b).

§ 41.104 Passport requirements.

(a) *Passports defined.* "Passport" as defined in INA 101(a)(30) is not limited to a national passport or to a single document. A passport may consist of two or more documents which, when considered together, fulfill the requirements of a passport, provided that the documentary evidence of permission to enter a foreign country has been issued by a competent authority and clearly meets the requirements of INA 101(a)(30).

(b) *Passport requirement.* Except for certain persons in the A, C–3, G, and NATO classifications and persons for whom the passport requirement has been waived pursuant to the provisions of INA 212(d)(4), every applicant for a nonimmigrant visa is required to present a passport, as defined above and in INA 101(a)(30), which is valid for the period required by INA 212(a)(26).

(c) *A single passport including more than one person.* The passport requirement for a nonimmigrant visa may be met by the presentation of a passport including more than one person, if such inclusion is authorized under the laws or regulations of the issuing authority and if a photograph of each visa applicant 16 years of age or over has been attached to the passport by the issuing authority.

(d) *Applicants for diplomatic visas.* Every applicant for a diplomatic visa must present a diplomatic passport, or the equivalent thereof, having the period of validity required by INA 212(a)(26), unless such requirement has been waived pursuant to the authority contained in INA 212(d)(4) or unless the case falls within the provisions of § 41.21(b).

§ 41.105 Supporting documents and fingerprinting.

(a) *Supporting documents*— (1) *Authority to require documents.* The consular officer is authorized to require documents considered necessary to establish the alien's eligibility to receive a nonimmigrant visa. All documents and other evidence presented by the alien, including briefs submitted by attorneys or other representatives, shall be considered by the consular officer.

(2) *Unobtainable documents.* If the consular officer is satisfied that a document or record required under the authority of this section is unobtainable, the consular officer may accept satisfactory alternative pertinent evidence. A document or other record shall be considered unobtainable if it cannot be procured without causing the applicant or a member of the applicant's family actual hardship as distinct from normal delay and inconvenience.

(3) *Photographs required or waived.* Except as otherwise provided in this paragraph, every applicant for a nonimmigrant visa must furnish photographs in such numbers as the consular officer may require. The photographs must be a reasonable recent likeness, 1⅛ by 1 1/2 inches in size, unmounted, with no head covering, and showing a full, front-face view of the alien against a light background. The alien must sign (full name) the reverse side of the photographs. The photograph requirement may be waived by the consular officer for any alien who is:

(i) Within a class of nonimmigrants classifiable under the visa symbol A, C–3, G, or NATO; or

(ii) An applicant for a diplomatic or official visa; or

(iii) Under 16 years of age. A notation of any such waiver shall be made on the application in the space provided for the photograph. A new photograph need not be required by the consular officer, if there is readily available at post a photograph submitted with a prior application which reflects a reasonable current likeness of the applicant.

(4) *Police certificates.* A police certificate is a certification by the police or other appropriate authorities stating what, if anything, their records show concerning the alien. An applicant for a nonimmigrant visa is required to present a police certificate if the consular officer has reason to believe that a police or criminal record exists, except that no police certificate is required in the case of an alien who is within a class of nonimmigrants classifiable under visa symbols A–1, A–2, C–3, C–1 through G–4, NATO–1 through NATO–4 or NATO–6.

(b) *Fingerprinting.* The consular officer may require an alien making a preliminary or informal application for a visa to have a set of fingerprints taken on Form AR–4, Alien Registration Fingerprint Chart, if the officer considers this necessary for the purposes of identification and investigation. Consular officers may use the fingerprint card in order to ascertain from the appropriate authorities whether they have information pertinent to the applicant's eligibilty to receive a visa.

§ 41.106 Processing.

Consular officers must ensure that Form OF–156, Nonimmigrant Visa Application, is properly and promptly processed in accordance with the applicable regulations and instructions.

§ 41.107 Visa fees.

(a) *Fees based on reciprocity.* The fees for the issuance of visas, including official visas, to nonimmigrant nationals or stateless residents of each foreign country shall be collected in the amounts prescribed by the Secretary of State unless, on the basis of reciprocity, no fee is chargeable. If practicable, fees will correspond to the total amount of all visa, entry, residence, or other similar fees, taxes or charges assessed or levied against nationals of the United States by the foreign countries of which such nonimmigrants are nationals or stateless residents.

(b) *Fees when more than one alien included in visa.* A single nonimmigrant visa may be issued to include all eligible family members if the spouse and unmarried minor children of a principal alien are included in one passport. Each alien must execute a separate application. The name of each family member shall be inserted in the space provided in the visa stamp. The visa fee to be collected shall equal the total of the fees prescribed by the Secretary of State for each alien included in the visa, unless upon a basis of reciprocity a lesser fee is chargeable.

(c) *Certain aliens exempted from fees.* Upon a basis of reciprocity, or as provided in section 13(a) of the Headquarters Agreement with the United Nations (61 Stat. 716; 22 U.S.C. 287, Note), no fee shall be collected for the issuance of a nonimmigrant visa to an alien who is within a class of nonimmigrants classifiable under the visa symbols A, G, C–2, C–3, or NATO, or who is issued a diplomatic visa.

(d) *Refund of fees.* A fee collected for the issuance of a nonimmigrant visa is refundable only if the principal officer at a post or the officer in charge of a consular section determines that the visa was issued in error or could not be used as a result of action taken by the U.S. Government for which the alien was not responsible and over which the alien had no control.

§ 41.108 Medical examination.

(a) *Requirements for medical examination.* An applicant for a nonimmigrant visa shall be required to take a medical examination if:

(1) The alien is an applicant for a K nonimmigrant visa as a fiance(e) of a U.S. citizen or as the child of such an applicant; or,

(2) The alien is seeking admission for medical treatment and the consular officer considers a medical examination advisable; or,

(3) The consular officer has reason to believe that a medical examination

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might disclose that the alien is medically ineligible to receive a visa.

(b) *Examination by panel physician.* The required examination, which must be carried out in accordance with United States Public Health Service regulations, shall be conducted by a physician selected by the alien from a panel of physicians approved by the consular officer or, if the alien is in the United States, by a medical officer of the United States Public Health Service or by a contract physician from a list of physicians approved by the INS for the examination of INA 245 adjustment of status applicants.

(c) *Panel physician facility requirements.* A consular officer may not include the name of a physician on the panel of physicians referred to in paragraph (b) of this section unless the physician has facilities to perform required serological and X-ray tests or is in a position to refer applicants to a qualified laboratory for such tests.

Subpart K—Issuance of Nonimmigrant Visa

§ 41.111 Authority to issue visa.

(a) *Issuance outside the United States.* Any consular officer is authorized to issue regular and official visas. Diplomatic visas may be issued only by:

(1) A consular officer attached to a U.S. diplomatic mission, if authorized to do so by the Chief of Mission; or

(2) A consular officer assigned to a consular office under the jurisdiction of a diplomatic mission, if so authorized by the Department or the Chief, Deputy Chief, or Counselor for Consular Affairs of that mission, or, if assigned to a consular post not under the jurisdiction of a diplomatic mission, by the principal officer of that post.

(b) *Issuance in the United States in certain cases.* The Director of the Visa Office of the Department and such other officers of the Department as the former may designate are authorized, in their discretion, to issue nonimmigrant visas, including diplomatic visas, to:

(1) Qualified aliens who are currently maintaining status and are properly classifiable in the A, C-2, C-3, G or NATO category and intend to reenter the United States in that status after a temporary absence abroad and who also present evidence that:

(i) They have been lawfully admitted in that status or have, after admission, had their classification changed to that status; and

(ii) Their period of authorized stay in the United States in that status has not expired; and

(2) Other qualified aliens who are currently maintaining satus in an E, H, L or L nonimmigrant category and intend to reentar the United States in that status after a temporary absence abroad and who also present evidence that:

(i) They were previously issued visas at a consular office abroad and admitted to the United States in the status which they are currently maintaining; and

(ii) Their period of authorized admission in that status has not expired.

§ 41.112 Validity of visa.

(a) *Significance of period of volidity of visa.* The period of validity of a nonimmigrant visa is the period during which the alien may use it in making application for admission. The period of visa validity has no relation to the period of time the immigration authorities at a port of entry may authorize the alien to stay in the United States.

(b) *Volidity of visa and number of applications for admission.* (1) Except as provided in paragraph (c) of this section, a nonimmigrant visa shall have the validity prescribed in schedules provided to consular officers by the Department, reflecting insofar as practicable the reciprocal treatment accorded U.S. nationals by the government of the country of which the alien is a national or stateless resident.

(2) Nonimmigrant visas issued pursuant to INA 101(a)(15)(B) may be made valid indefinitely and for unlimited applications for admission for aliens who:

(i) Are nationals of countries that offer reciprocal treatment to U.S. citizens, as determined by the Department;

(ii) Are in possession of a valid passport; and

(iii) Are bona fide visitors and will continue to seek to enter the United States only for such purpose for an indefinite period of time, in the judgment of the consular officer.

(3) An indefinite validity visa is valid for application for admission even if the passport in which the visa is stamped has expired, provided the alien is also in possession of a valid passport issued by the authorities of the country of which the alien is a national.

(c) *Limitation on validity.* If warranted in an individual case, a consular officer may issue a nonimmigrant visa for:

(1) A period of validity that is less than that prescribed on a basis of reciprocity,

(2) A number of applications for admission within the period of the validity of the visa that is less than that prescribed on a bais of reciprocity,

(3) Application for admission at a specified port or at specified ports of entry, or

(4) Use on and after a given date subsequent to the date of issuance.

(d) *Automatic extension of validity at ports of entry.* (1) Provided that the requirements set out in paragraph (d)(2) of this section are fully met, the following provisions apply to nonimmigrant aliens seeking readmission at ports of entry:

(i) The validity of an expired nonimmigrant visa issued under INA 101(a)(15) may be considered to be automatically extended to the date of application for readmission, and

(ii) In cases where the original nonimmigrant classification of an alien has been changed by INS to another nonimmigrant classification, the validity of an expired or unexpired nonimmigrant visa may be considered to be automatically extended to the date of application for readmission, and the visa may be converted as necessary to that changed classification.

(2) The provisions in paragraph (l) of this section are applicable only in the case of a nonimmigrant alien who:

(i) Is in possession of a Form I-94, Arrival-Departure Record, endorsed by INS to show an unexpired period of initial admission or extension of stay, or, in the case of a qualified F or J student or exchange visitor or the accompanying spouse or child of such an alien, is in possession of a current Form I-20, Certificate of Eligibility for Nonimmigrant Student Status, or Form IAP-66, Certificate of Eligibility for Exchange Visitor Status, issued by the school the student has been authorized to attend by INS, or by the sponsor of the exchange program in which the alien has been authorized to participate by INS, and endorsed by the issuing school official or program sponsor to indicate the period of initial admission or extension of stay authorized by INS;

(ii) Is applying for readmission after an absence not exceeding 30 days solely in contiguous territory, or, in the case of a student or exchange visitor or accompanying spouse or child meeting the stipulations of paragraph (s) of this section, after an absence not exceeding 30 days in contiguous territory or adjacent islands other than Cuba;

(iii) Has maintained and intends to resume nonimmigrant status;

(iv) Is applying for readmission within the authorized period of initial admission or extension of stay;

(v) Is in possession of a valid passport; and

(vi) Does not require authorization for admission under INA 212(d)(3).

§ 41.113 Procedures in issuing visas.

(a) *Visa evidenced by stamp placed in the passport.* Except as provided in paragraph (b) of this section, a nonimmigrant visa shall be evidenced by a stamp placed in the alien's passport. The appropriate symbol as prescribed in § 41.12, showing the classification of the alien shall be entered in the visa.

(b) *Cases in which visa not placed in passport.* In the following cases the visa shall be placed on the prescribed Form OF-232, Form for Nonimmigrant Visa Stamp, to which a photograph of the alien shall be attached under seal. In issuing such a visa, a notation shall be made on the Form OF-232 on which the visa is placed specifying the pertinent subparagraph of this paragraph under which the action is taken.

(1) The alien's passport was issued by a government with which the United States does not have formal diplomatic relations, unless the Department has specifically authorized the placing of the visa in such passport;

(2) The alien's passport does not provide sufficient space for the visa stamp;

(3) The passport requirement has been waived; or

(4) In other cases as authorized by the Department.

(c) *Indefinite validity visa.* In no instance may a visa issued pursuant to INA 101(a)(15)(B) and having indefinite validity as provided in § 41.112(b) be placed in any document other than a valid passport.

(d) *Visa stamp.* (1) The nonimmigrant visa shall be in the format designated by the Department and contain the following data:

(i) The number of the visa;

(ii) The location of the issuing office;

(iii) The classification of the visa;

(iv) The date of issuance;

(v) The expiration date or, if an indefinite validity visa is issued on the baisis of reciprocity, the word "indefinitely";

(vi) The number of applications for admission for which it is valid or the word "multiple";

(vii) The name(s) of the person(s) to whom issued, unless the word "Bearer(s)" is used as authorized by paragraph (e)(1) of this section; and

(viii) The signature or facsimile signature of the issuing officer.

(2) The format of a diplomatic visa is the same as a regular nonimmigrant visa, except that it bears the title "DIPLOMATIC".

(3) The format of an official visa is the same as a regular nonimmigrant visa, except that it bears the title "OFFICIAL".

(e) *Insertion of name; petition and derivative status notation.* (1) Except as otherwise provided in this paragraph, the name(s) of the alien(s) to whom a nonimmigrant visa is issued shall be shown on the visa just after the word "to." In visas issued in passports (or in other travel documents meeting the requirements of INA 101(a)(30)) which have been approved by the Department for this purpose, consular officers may insert the word "Bearer(s)" in lieu of the name of the alien and in lieu of the names of accompanying family members who are included in the alien's passport. The procedure for a "Bearer(s)" insert may not be applied in the case of aliens who are the beneficiaries of waivers granted under INA 212(d)(3) or in the issuance of a visa on Form OF-232.

(2) If the visa is being issued upon the basis of a petition approved by the Attorney General, the number of the petition, if any, the period for which the alien's admission has been authorized, and the name of the petitioner shall be noted immediately below the visa.

(3) In the case of an alien who derives status from a principal alien, the name and position of the principal alien shall be written below the lower margin of the visa.

(f) *Period of validity.* If a nonimmigrant visa is issued for an unlimited number of applications for admission within the period of validity, the word "multiple" shall be appropriately placed in the visa. Otherwise the number of permitted applications for admission shall be shown in word form. The date of issuance and the date of expiration of the visa shall be shown at the appropriate places in the visa by day, month and year in that order. The standard three letter abbreviation for the month shall be used in all cases. If a visitor visa is to be made valid for an indefinite period, the word "indefinitely" shall be inserted in the space provided for the expiration date of the visa.

(g) *Restriction to specified port of entry.* If a nonimmigrant visa is valid for admission only at one or more specified ports of entry, the names of those ports shall be entered immediately below the expiration date of the visa, preceded by the word "at."

(h) *Signature.* The signature or facsimile signature of the consular officer issuing the visa shall appear in the visa.

(i) *Delivery of visa and disposition of form OF-156.* In issuing a nonimmigrant visa, the consular officer shall deliver the visaed passport, or the prescribed Form OF-232 which bears the visa, to the alien or, if personal appearance has been waived, to the authorized representative. The executed Form OF-156, Nonimmigrant Visa Application, and any additional evidence furnished by the alien in accordance with § 41.103(b) shall be retained in the consular files.

(j) *Disposition of supporting documents.* Original supporting documents furnished by the alien shall be returned for presentation, if necessary, to immigration authorities at the port of entry and a notation to that effect shall be made on the Form OF-156. Duplicate copies may be retained in the consular files.

(k) *Olympic Games, Pan American Games or other regional games.* Notwithstanding the provisions of paragraph (d) of this section, in the case of an alien who:

(l) Is a participant in the Summer or Winter Olympic Games, the Pan American Games or other regional games under the auspices of the International Olympic Committee, held in the United States; and

(2) Is the holder of an official identity card which has been issued for participation in such Games under the Olympic Rules Bylaws, which includes the signature of a competent authority of the participating government and the assurance of that government's recognition of the card for re-entry by the bearer for an additional period of six months beyond the expiration date of the card, and which otherwise meets the requirements of section 101(a)(3) and 212(a)(26) of the Immigration and Nationality Act, a stamp consisting of:

(i) The imprint of the issuing post's rubber stamp seal; and

(ii) The signature of a consular officer affixed on the identity card shall constitute a multiple entry B-1/B-2 visa valid for the duration of the card, or, in the case of a representative of foreign press, radio, film or other foreign information media, a multiple entry I visa valid for the duration of the card.

§ 41.114 Transfer of visas.

(a) *Conditions for transfer.* Upon the request of the bearer a valid nonimmigrant visa shall be transferred from one travel document to a different travel document which is valid for the required period if the bearer is found eligible to receive such a visa, except in a case in which the travel document containing the original visa has been lost or stolen. A visa may be transferred only if the new passport indicates that the alien's nationality is the same as when the visa was issued.

(b) *Procedure for transfer.* Application for the transfer of a

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nonimmigrant visa from one passport to another shall be made on an appropriate form. The consular officer may waive the personal appearance of the alien. The issuance of a transferred visa shall be evidenced by placing the visa stamp with all of the original data in the alien's passport. The validity of the transferred visa shall be the same as that of the original visa. The transferred visa shall be valid for the number of applications for admission remaining as of the date of the transfer. The word "TRANSFERRED" shall be inserted on the upper margin of the visa stamp.

(c) *Cancellation of visa in old passport.* Unless the passport in which the original visa was issued has been surrendered to the issuing authority, the original visa shall be canceled at the time of its transfer to the new travel document, except, when a visa is transferred for only some of several persons included in the original visa, that visa is not to be canceled but the names of the persons whose visas are transferred are to be stricken from the original visa.

(d) *Fee for transfer.* No fee shall be charged for the transfer of a valid nonimmigrant visa.

Subpart L—Refusals and Revocations

§ 41.121 Refusal of individual visas.

(a) *Grounds for refusal.* Nonimmigrant visa refusals must be based on legal grounds, that is, one or more provisions of INA 212(a) or (e), INA 214(b), or INA 221(g). Certain classes of nonimmigrant aliens are exempted from specific provisions of INA 212(a) under INA 102, INA 212(d)(1), INA 212(d)(2) and, upon a basis of reciprocity, under INA 212(d)(8). When a visa application has been properly completed and executed in accordance with the provisions of INA and the implementing regulations, the consular officer must either issue or refuse the visa.

(b) *Refusal procedure.* If a consular officer knows or has reason to believe that an alien is ineligible to receive a visa on grounds of ineligibility which cannot be overcome by the presentation of additional evidence, the officer shall refuse the visa and, if practicable, shall require a nonimmigrant visa application to be executed before the refusal is recorded. In the case of a visa refusal the consular officer shall inform the applicant of the provision of law or regulations upon which the refusal is based. If the alien fails to execute a visa application after being informed by the consular officer of a ground of ineligibility to receive a nonimmigrant visa, the visa shall be considered refused. The officer shall then insert the pertinent data on the visa application, noting the reasons for the refusal, and the application form shall be filed in the consular office. Upon refusing a nonimmigrant visa, the consular officer shall retain the original or a copy of each document upon which the refusal was based as well as each document indicating a possible ground of ineligibility and may return all other supporting documents supplied by the applicant.

(c) *Review of refusal at consular office.* If the ground(s) of ineligibility upon which the visa was refused cannot be overcome by the presentation of additional evidence, the principal consular officer, or a specifically designated alternate, shall review the case without delay, record the review decision, and sign and date the prescribed form. If the ground(s) of ineligibility may be overcome by the presentation of additional evidence, and the applicant has indicated the intention to submit such evidence, a review of the refusal may be deferred for not more than 120 days. If the principal consular officer or alternate does not concur in the refusal, that officer shall either

(1) Refer the case to the Department for an advisory opinion, or

(2) Assume responsibility for the case by reversing the refusal.

(d) *Review of refusal by Department.* The Department may request a consular officer in a specific case or in specified classes of cases to submit a report if a visa has been refused. The Department will review each report and may furnish an advisory opinion to the consular officer for assistance in considering the case further. If the officer believes that action contrary to an advisory opinion should be taken, the case shall be resubmitted to the Department with an explanation of the proposed action. Rulings of the Department concerning an interpretation of law, as distinguished from an application of the law to the facts, shall be binding upon consular officers.

§ 41.122 Revocation of visas.

(a) *Grounds for revocation by consular officers.* A consular officer is authorized to revoke a nonimmigrant visa issued to an alien if:

(1) The officer finds that the alien was not, or has ceased to be, entitled to the nonimmigrant classification under INA 101(a)(15) specified in the visa or that the alien was at the time the visa was issued, or has since become, ineligible under INA 212(a) to receive a visa;

(2) The visa has been physically removed from the passport in which it was issued prior to the alien's embarkation upon a continuous voyage to the United States; or

(3) For any of the reasons specified in paragraph (h) of this section if the visa has not been revoked by an immigration officer as authorized in that paragraph.

(b) *Notice of proposed revocation.* When consideration is being given to the revocation of a nonimmigrant visa under paragraph (a)(1) or (2) of this section, the consular officer considering that action shall, if practicable, notify the alien to whom the visa was issued of intention to revoke the visa. The alien shall also be given an opportunity to show why the visa should not be revoked and requested to present the travel document in which the visa was originally issued.

(c) *Procedure for physically cancelling visas.* A nonimmigrant visa which is revoked shall be canceled by writing or stamping the word "REVOKED" plainly across the face of the visa. The cancellation shall be dated and signed by the officer taking the action. The failure of the alien to present the visa for cancellation does not affect the validity of action taken to revoke it.

(d) *Notice to carriers.* Notice of revocation shall be given to the master, aircraft captain, agent, owner, charterer, or consignee of the carrier or transportation line on which it is believed the alien intends to travel to the United States, unless the visa has been physically canceled as provided in paragraph (c) of this section.

(e) *Notice to Department.* When a visa is revoked under paragraph (a)(1) or (2) of this section, the consular officer shall promptly submit notice of the revocation, including a full report on the facts in the case, to the Department for transmission to INS. A report is not required if the visa is physically canceled prior to the alien's departure for the United States except in cases involving A, G, C-2, C-3, NATO, diplomatic or official visas.

(f) *Record of action.* Upon revocation of a nonimmigrant visa under paragraph (a)(1) or (2) of this section, the consular officer shall complete for the post files a Certificate of Revocation by Consular Officer which includes a statement of the reasons for the revocation. If the revocation is effected at other than the issuing office, a copy of the Certificate of Revocation shall be sent to that office.

(g) *Reconsideration of revocation.* (1) The consular office shall consider any evidence submitted by the alien or the alien's attorney or representative in connection with a request that the revocation be reconsidered. If the officer finds that the evidence is sufficient to overcome the basis for the revocation, a new visa shall be issued. A memorandum regarding the action taken and the reasons therefor shall be placed in the consular files and appropriate notification shall be made promptly to the carriers concerned, the Department, and the issuing office if notice of revocation has been given in accordance with paragraphs (d), (e), and (f) of this section.

(2) In view of the provisions of § 41.107(d) providing for the refund of fees when a visa has not been used as a result of action by the U.S. Government, a fee shall not be charged in connection with a reinstated visa.

(h) *Revocation of visa by immigration officer.* An immigration officer is authorized to revoke a valid visa by physically canceling it in accordance with the procedure prescribed in paragraph (c) of this section if:

(1) The alien obtains an immigrant visa or an adjustment of status to that of permanent resident;

(2) The alien is ordered excluded from the United States pursuant to INA 235(c) or 236;

(3) The alien is notified pursuant to INA 235(b) by an immigration officer at a port of entry that the alien appears to be inadmissible to the United States and the alien requests and is granted permission to withdraw the application for admission;

(4) A final order of deportation or a final order granting voluntary departure with an alternate order of deportation is entered against the alien pursuant to INS regulations;

(5) The alien has been permitted by INS to depart voluntarily from the United States pursuant to INS regulations;

(6) A waiver of ineligibility pursuant to INA 212(d)(3)(A) on the basis of which the visa was issued to the alien is revoked by INS;

(7) The visa is presented in connection with an application for admission to the United States by a person other than the alien to whom it was issued; or

(8) The visa has been physically removed from the passport in which it was issued.

3. Part 42 is revised to read as follows:

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Subpart A—Visa and Passport Not Required for Certain Immigrants

Sec.
42.1 Aliens not required to obtain immigrant visas.
42.2 Aliens not required to present passports.

Subpart B—Classification and Foreign State Chargeability

42.11 Classification symbols.
42.12 Rules of chargeability.

Subpart C—Immigrants not Subject to the Numerical Limitations of INA 201

42.21 Immediate relatives.
42.22 Returning resident aliens.
42.23 Certain former U.S. citizens.
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Subpart D—Immigrants Subject to Numerical Limitation

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Subpart E—Petitions

42.41 Effect of approved petition.
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Subpart F—Numerical Controls and Priority Dates

42.51 Department control of numerical limitations.
42.52 Post records of visa applications.
42.53 Priority date of individual applicants.
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Subpart G—Application for Immigrant Visas

42.61 Place of application.
42.62 Personal appearance and interview of applicant.
42.63 Application forms and other documentation.
42.64 Passport requirements.
42.65 Supporting documents.
42.66 Medical examination.
42.67 Execution of application, registration, and fingerprinting.
42.68 Informal evaluation of family members if principal applicant precedes them.

Subpart H—Issuance of Immigrant Visas

42.71 Authority to issue visas; visa fees.
42.72 Validity of visas.
42.73 Procedure in issuing visas.
42.74 Issuance of new or replacement visas.

Subpart I—Refusal, Revocation, and Termination of Registration

42.81 Procedure in refusing individual visas.
42.82 Revocation of visas.
42.83 Termination of registration.

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; sec. 109(b)(1), Pub. L. 95-105, 91 Stat. 847.

Subpart A—Visa and Passport Not Required for Certain Immigrants

§ 42.1 Aliens not required to obtain immigrant visas.

An immigrant within any of the following categories is not required to obtain an immigrant visa:

(a) *Aliens lawfully admitted for permanent residence.* An alien who has previously been lawfully admitted for permanent residence and who is not required under the regulations of INS to present a valid immigrant visa upon returning to the United States.

(b) *Alien members of U.S. Armed Forces.* An alien member of the U.S. Armed Forces bearing military identification, who has previously been lawfully admitted for permanent residence and is coming to the United States under official orders or permit of those Armed Forces.

(c) *Aliens entering from Guam, Puerto Rico, or the Virgin Islands.* An alien who has previously been lawfully admitted for permanent residence who seeks to enter the continental United States or any other place under the jurisdiction of the United States directly from Guam, Puerto Rico, or the Virgin Islands of the United States.

(d) *Child born after issuance of visa to accompanying parent.* An alien child born after the issuance of an immigrant visa to an accompanying parent, who will arrive in the United States with the parent, and apply for admission during the period of validity of the visa issued to the parent.

(e) *Child born of a national or lawful permanent resident mother during her temporary visit abroad.* An alien child born during the temporary visit abroad of a mother who is a national or lawful permanent resident of the United States if applying for admission within 2 years of birth and accompanied by either parent applying and eligible for readmission as a permanent resident upon that parent's first return to the United States after the child's birth.

(f) *American Indians born in Canada.* An American Indian born in Canada and having at least 50 per centum of blood of the American Indian race.

§ 42.2 Aliens not required to present passports.

An immigrant within any of the following categories is not required to present a passport in applying for an immigrant visa:

(a) *Certain relatives of U.S. citizens.* An alien who is the spouse, unmarried son or daughter, or parent, of a U.S. citizen, unless the alien is applying for a visa in the country of which the

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applicant is a national and the possession of a passport is required for departure.

(b) *Returning aliens previously lawfully admitted for permanent residence.* An alien previously lawfully admitted for permanent residence who is returning from a temporary visit abroad, unless the alien is applying for a visa in the country of which the applicant is a national and the possession of a passport is required for departure.

(c) *Certain relatives of aliens lawfully admitted for permanent residence.* An alien who is the spouse, unmarried son or daughter, or parent of an alien lawfully admitted for permanent residence, unless the alien is applying for a visa in the country of which the applicant is a national and the possession of a passport is required for departure.

(d) *Aliens qualified to receive third preference visas.* An alien who is eligible to receive a third preference visa, and accompanying spouse and child, unless the alien is applying for a visa in the country of which the applicant is a national and the possession of a passport is required for departure.

(e) *Stateless persons.* An alien who is a stateless person, and accompanying spouse and unmarried son or daughter.

(f) *Nationals of Communist-controlled countries.* An alien who is a national of a Communist-controlled country and who is unable to obtain a passport from the government of that country, and accompanying spouse and unmarried son or daughter.

(g) *Alien members of U.S. Armed Forces.* An alien who is a member of the U.S. Armed Forces.

(h) *Beneficiaries of individual waivers.* (1) An alien who would be within one of the categories described in paragraphs (a) through (d) of this section except that the alien is applying for a visa in a country of which the applicant is a national and possession of a passport is required for departure, in whose case the passport requirement has been waived by the Secretary of State, as evidence by a specific instruction from the Department.

(2) An alien unable to obtain a passport and not within any of the foregoing categories, in whose case the passport requirement imposed by § 42.64(b) or by INS regulations has been waived by the Attorney General and the Secretary of State as evidenced by a specific instruction from the Department.

Subpart B—Classification and Foreign State Chargeability

§ 42.11 Classification symbols.

A visa issued to an immigrant alien within one of the classes described in this section shall bear an appropriate visa symbol to show the classification of the alien.

(a) *Special immigrants.* The following symbols shall be used in cases of aliens who are special immigrants:

Class	Section of law	Visa symbol
Returning resident	101(a)(27)(A)	SB-1
Person who lost U.S. citizenship by marriage	101(a)(27)(B) and 324(a).	SC-1
Person who lost U.S. citizenship by service in foreign armed forces	101(a)(27)(B) and 327.	SC-2
Minister of religion	101(a)(27)(C)	SD-1
Spouse of alien classified SD-1	101(a)(27)(C)	SD-2
Child of alien classified SD-1	101(a)(27)(C)	SD-3
Certain employees or former employees of U.S. Government abroad	101(a)(27)(D)	SE-1
Accompanying spouse of alien classified SE-1	101(a)(27)(D)	SE-2
Accompanying child of alien classified SE-1	101(a)(27)(D)	SE-3
Certain former employees of the Panama Canal Company or Canal Zone Government	101(a)(27)(E)	SF-1
Accompanying spouse or child of alien classified	101(a)(27)(E)	SF-2
Certain former employees of the U.S. Government in the Panama Canal Zone	101(a)(27)(F)	SG-1
Accompanying spouse or child of alien classified SG-1	101(a)(27)(F)	SG-2
Certain former employees of the Panama Canal Company or Canal Zone Government on April 1, 1979	101(a)(27)(G)	SH-1
Accompanying spouse or child of alien classified SH-1	101(a)(27)(G)	SH-2
Certain foreign medical graduates	101(a)(27)(H)	SJ-1
Accompanying spouse or children of alien classified SJ-1	101(a)(27)(H)	SJ-2
Retired officer or employee classified G-4 under section 101(a)(15)(G)(iv)	101(a)(27)(I)(iii); 100 Stat. 3434.	SK-1
Spouse of retired officer or employee classified SK-1	101(a)(27)(I)(iv); 100 Stat. 3434.	SK-2
Unmarried son or daughter of a present or former officer or employee classified G-4 under section 101(a)(15)(G)(iv)	101(a)(27)(I) 100 Stat. 3434.	SK-3
A spouse classified G-4 or N-9 who is the survivor of a deceased officer or employee classified G-4 under section 101(a)(15)(G)(iv)	101 (a)(27)(I)(ii); 100 Stat. 3434.	SK-4

(b) *Immediate relatives.* The following symbols shall be used in cases of aliens who qualify as immediate relatives:

Class	Section of law	Visa symbol
Spouse of U.S. citizen.	201(b)	IR-1
Spouse of U.S. citizen (conditional status).	201(b); 216(a), 100 Stat. 3537.	CR-1
Child of U.S. citizen.	201(b)	IR-2
Child of U.S. citizen (conditional status).	201(b); 216(a), 100 Stat. 3537.	CR-2
Child of U.S. citizen (conditional status).	201(b); 216(a),	CR-2
Orphan adopted abroad by U.S. citizen.	201(b)	IR-3
Orphan to be adopted by U.S. citizen.	201(b)	IR-4
Parent of U.S. citizen.	201(b)	IR-5

(c) *Numerically-restricted immigrants.* The following symbols shall be used in cases of immigrants who are subject to the numerical limitations specified in INA 201(a):

Class	Section of law	Visa symbol
First preference: Unmarried son or daughter of U.S. citizen.	203(a) (1)	P1-1
First preference: Child of alien classified P1-1.	203(a) (8)	P1-2
Second preference: Spouse of alien resident.	203(a) (2)	P2-1
Second preference: Spouse of alien resident (conditional status).	203(a) (2); 216(a), 100 Stat. 3537.	C2-1
Second preference: Unmarried son or daughter of alien resident.	203(a) (2)	P2-2
Second preference: Unmarried son or daughter of alien resident (conditional status).	203(a) (2); 216(a), 100 Stat. 3537.	C2-2
Second preference: Child of alien classified P2-1 or P2-2.	203(a) (8)	P2-3
Second preference: Child of alien classified C2-1 or C2-2 (conditional status).	203(a) (8); 216(a), 100 Stat. 3537.	C2-3
Third preference: Professional or highly skilled immigrant.	203(a) (3)	P3-1
Third preference: Spouse of alien classified P3-1.	203(a) (8)	P3-2
Third preference: Child of alien classified P3-1.	203(a) (8)	P3-3
Fourth preference: Married son or daughter of U.S. citizen.	203(a) (4)	P4-1
Fourth preference: Married son or daughter of U.S. citizen (conditional status).	203(a)(4); 216(a), 100 Stat. 3537.	C4-1
Fourth preference: Spouse of alien classified P4-1.	203(a) (8)	P4-2
Fourth preference: Child of alien classified P4-1.	203(a) (8)	P4-3
Fourth preference: Child of alien classified C4-1 (conditional status).	203(a) (8); 216(a).	C4-3
Fifth preference: Brother or sister of U.S. citizen twenty-one years of age or older.	203(a) (5)	P5-1
Fifth preference: Spouse of alien classified P5-1.	203(a) (8)	P5-2
Fifth preference: Child of alien classified P5-1.	203(a) (8)	P5-3
Sixth preference: Needed skilled or unskilled worker.	203(a) (6)	P6-1
Sixth preference: Spouse of alien classified P6-1.	203)a)(8)	P6-2
Sixth preference: Child of alien classified P6-1:	203(a) (8)	P6-3
Nonpreference immigrant.	203(a) (7)	NP-1

§ 42.12 Rules of chargeability.

(a) *Applicability.* An immigrant shall be charged to the numerical limitation for the foreign state or dependent area of birth, unless—(1) Classifiable as an immediate relative under INA 201(b), or (2) Classifiable as a special immigrant under INA 101(a)(27), or (3) The case falls within one of the exceptions to the general rule of chargeability provided by INA 202(b) and paragraphs (b) through (e) of this section to prevent the separation of families.

(b) *Exception for child.* If necessary to prevent the separation of a child from the alien parent or parents, an immigrant child, including a child born in a dependent area, may be charged to the same foreign state to which a parent is chargeable if the child is accompanying or following to join the parent, in accordance with INA 202(b)(1).

(c) *Exception for spouse.* If necessary to prevent the separation of husband and wife, an immigrant spouse,

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including a spouse born in a dependent area, may be charged to a foreign state to which a spouse is chargeable if accompanying or following to join the spouse, in accordance with INA 202(b)(2).

(d) *Exception for alien born in the United States.* An immigrant who was born in the United States shall be charged to the foreign state of which the immigrant is a citizen or subject. If not a citizen or subject of any country, the alien shall be charged to the foreign state of last residence as determined by the consular officer, in accordance with INA 202(b)(3).

(e) *Exception for alien born in foreign state in which neither parent was born or had residence at time of alien's birth.* An alien who was born in a foreign state, as defined in § 40.1, in which neither parent was born, and in which neither parent had a residence at the time of the applicant's birth, may be charged to the foreign state of either parent as provided in INA 202(b)(4). The parents of such an alien are not considered as having acquired a residence within the meaning of INA 202(b)(4), if, at the time of the alien's birth within the foreign state, the parents were visiting temporarily or were stationed there in connection with the business or profession and under orders or instructions of an employer, principal, or superior authority foreign to such foreign state.

Subpart C—Immigrants not Subject to the Numerical Limitations of INA 201

§ 42.21 Immediate relatives.

An alien who is a spouse or child of a United States citizen, or a parent of a U.S. citizen at least 21 years of age, shall be classified as an immediate relative under INA 201(b) if the consular officer has received from INS an approved Petition to Classify Status of Alien Relative for Issuance of an Immigrant Visa, filed on the alien's behalf by the U.S. citizen and approved in accordance with INA 204 and the officer is satisfied that the alien has the relationship claimed in the petition. An immediate relative shall be documented as such unless the U.S. citizen refuses to file the required petition, or unless the immediate relative is also a special immigrant under INA 101(a)(27) not subject to any numerical limitation.

§ 42.22 Returning resident aliens.

(a) *Requirements for returning resident status.* An alien shall be classifiable as a special immigrant under INA 101(a)(27)(A) if the consular officer is satisfied from the evidence presented that:

(1) The alien has the status of an alien lawfully admitted for permanent residence at the time of departure from the United States;

(2) The alien departed from the United States with the intention of returning and has not abandoned this intention; and

(3) The alien is returning to the United States from a temporary visit abroad and, if the stay abroad was protracted, this was caused by reasons beyond the alien's control and for which the alien was not responsible.

(b) *Documentation needed.* Unless the consular officer has reason to question the legality of the alien's previous admission for permanent residence or the alien's eligibility to receive an immigrant visa, only those records and documents required under INA 222(b) which relate to the period of residence in the United States and the period of the temporary visit abroad shall be required. If any required record or document is unobtainable, the provisions of § 42.65(d) shall apply.

(c) *Relief provisions for certain returning resident aliens under INA 212(c).* The exercise by the Attorney General of discretionary authority under INA 212(c) to grant relief from certain grounds of ineligibility other than those described in INA 212(a)(28), (27), (28), and (29) to certain returning resident aliens shall remove the alien's ineligibility to receive a visa only under the provisions specified in the Attorney General's order.

(d) *Returning resident alien originally admitted under the Act of December 28, 1945.* An alien admitted into the United States under section 1 of the Act of December 28, 1945 ("GI Brides Act") shall not be refused an immigrant visa after a temporary absence abroad solely because of a mental or physical defect or defects that existed at the time of the original admission.

§ 42.23 Certain former U.S. citizens.

(a) *Women expatriates.* An alien woman, regardless of marital status, shall be classifiable as a special immigrant under INA 101(a)(27)(B) if the consular officer is satisfied by appropriate evidence that she was formerly a U.S citizen and that she meets the requirements of INA 324(a).

(b) *Military expatriates.* An alien shall be classifiable as a special immigrant under INA 101(a)(27)(B) if the consular officer is satisfied by appropriate evidence that the alien was formerly a U.S. citizen and that the alien lost citizenship under the circumstances set forth in INA 327.

§ 42.24 Ministers of religion.

(a) *Classification.* (1) An alien minister of religion shall be classifiable as a special immigrant under INA 101(a)(27)(C) if the consular officer concludes from the evidence presented that the alien qualifies under that section.

(2) The spouse or child of a minister of religion classifiable as a special immigrant under this section is also classifiable as a special immigrant under INA 101(a)(27)(C) if accompanying or following to join the principal alien.

(b) *"Minister" defined.* The term "minister," as used in INA 101(a)(27)(C), means a person duly authorized by a recognized religious denomination having a bona fide organization in the United States to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. The term does not include a lay preacher not authorized to perform such duties, and does not include a nun, lay brother, or cantor.

§ 42.25 Certain U.S. Government employees.

An alien is classifiable as a special immigrant under INA 101(a)(27)(D) if the consular officer is satisfied that the alien meets the requirements of that section. An alien may qualify on the basis of employment abroad with one or more agencies of the U.S. Government.

§ 42.26 Panama Canal employees.

An alien who is subject to the numerical limitations specified in section 3201(c) of the Panama Canal Act of 1979, Pub. L. 96–70, is classifiable as a special immigrant under INA 101(a)(27)(E), (F) or (G) if the consular officer is satisfied from the evidence presented that the alien qualifies under any of those three paragraphs and that the alien:

(a) Was an employee of the Panama Canal Company or Canal Zone Government on October 1, 1979, and a resident in the Canal Zone on April 1, 1979, and performed faithful service for at least 1 year; or

(b) Is a Panamanian national who was—(1) Honorably retired from U.S. Government employment in the Canal Zone before October, 1, 1979, following a total of 15 years or more of faithful service, or (2) Employed by the U.S. Government in the Canal Zone with a total of 15 years or more of faithful service on October 1, 1979, and is honorably retired from such service; or

(c) Was an employee of the Panama Canal Company or Canal Zone Government on April 1, 1979, who has performed faithful service for 5 years or more and whose personal safety or the personal safety of whose spouse or children, as a direct result of the Panama Canal Treaty of 1977, is reasonably placed in danger because of the special nature of such employment; or

(d) Is the spouse or child of any alien the consular officer concludes is qualified as a special immigrant under this section and is accompanying the alien to the United States.

§ 42.27 Spouse and children of certain foreign medical graduates.

The accompanying spouse and children of a graduate of a foreign medical school, or of a person qualified to practice medicine in a foreign state, who has adjusted status as a special immigrant under the provisions of INA 101(a)(27)(H), are classifiable as special immigrants under that section if the consular officer is satisfied from evidence presented, or INS has confirmed, that the principal alien has been granted an adjustment of status to that of an alien lawfully admitted for permanent residence.

Subpart D—Immigrants Subject to Numerical Limitation

§ 42.31 Relative preference immigrants.

(a) *Entitlement to status.* An alien shall be classifiable as a preference immigrant under INA 203(a) (1), (2), (4) or (5) if the consular officer has received from INS a Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa approved in accordance with INA 204 to accord the alien such preference status, or official notification of such an approval, and the consular officer is satisfied that the alien has the relationship to the petitioner indicated in the petition. In the case of a petition according an alien status under INA 203(a) (1) or (4) or status as an unmarried son or daughter under INA 203(a)(2), the petitioner must be a "parent" as defined in INA 101(b)(2) and § 40.1. In the case of a petition filed on or after January 1, 1977, to accord an alien status under INA 203(a)(5), the petitioner must be at least twenty-one years of age.

(b) *Entitlement to derivative status.* Pursuant to INA 203(a)(8), and whether or not named in the petition, the child of a first, second, fourth, or fifth preference immigrant or the spouse of a fourth or fifth preference immigrant, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under INA 203(a) (1) through (7), is entitled to derivative status corresponding to the classification of the beneficiary of the petition.

§ 42.32 [Reserved]

§ 42.33 Third preference immigrants.

(a) *Entitlement to status.* An alien shall be classifiable as a third preference immigrant under INA 203(a)(3) if the consular officer has received from INS a Petition to Classify Preference Status of Alien on Basis of Profession or Occupation approved in accordance with INA 204 to accord the alien such preference status, or official notification of such an approval, and the consular officer is satisfied that the alien is within the class described in INA 203(a)(3).

(b) *Entitlement to derivative status.* The spouse or child of the beneficiary of an approved petition according status under INA 203(a)(3) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, be entitled to the same status as the beneficiary of the petition.

§ 42.34 Sixth preference immigrants.

(a) *Entitlement to status.* An alien shall be classifiable as a sixth preference immigrant under INA 203(a)(6) if the consular officer has received from INS a Petition to Classify Preference Status of Alien on Basis of Profession or Occupation approved in accordance with INA 204 to accord the alien such preference status, or official notification of such an approval, and the consular officer is satisfied that the alien is within the class described in INA 203(a)(6).

(b) *Entitlement to derivative status.* The spouse or child of the beneficiary of an approved petition according status under INA 203(a)(6) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, be entitled to the same status as the beneficiary of the petition.

§ 42.35 Nonpreference immigrants.

An alien subject to numerical limitations specified in INA 1201(a) who is not entitled to, or chooses not to apply for, a preference status shall be classified as a nonpreference immigrant under INA 203(a)(7) only if the alien—

(a) Obtains a labor certification pursuant to INA 212(a)(14), or

(b) Establishes to the satisfaction of a consular or immigration officer that the requirement for a labor certification is inapplicable to the alien, as provided in 22 CFR 40.7(a)(14)(iii).

§ 42.36 Administering labor certification provisions of INA 212(a)(14).

If an alien who desires to immigrate to the U.S. seeks information from a consular office concerning the requirements for immigration, the consular officer shall determine whether the alien will require a labor certification in order to qualify for immigration to the United States. The consular officer may require the alien to complete and submit Form OF–222 (Preliminary Questionnaire to Determine Immigrant Status) for this purpose.

Subpart E–Petitions

§ 42.41 Effect of approved petition.

Consular officers are authorized to grant to an alien the immediate relative or preference status accorded in a petition approved in the alien's behalf upon receipt from INS of the approved petition or official notification of its approval. The status shall be granted for the period authorized by law or regulation. The approval of a petition by INS does not relieve the alien of the burden of establishing to the satisfaction of the consular officer that the alien is eligible in all respects to receive a visa.

§ 42.42 Petition for immediate relative or preference status.

The consular officer may not issue a visa to an alien as an immediate relative or preference alien unless the officer has received from INS a petition filed and approved in accordance with INA 204 or official notification of such filing and approval.

§ 42.43 Suspension or termination of action in petition cases.

(a) *Suspension of action.* (1) The consular officer shall suspend action in a petition case and return the petition, with a report of the facts, for reconsideration by INS if the petitioner requests suspension of action, or if the officer knows or has reason to believe that approval of the petition was obtained by fraud, misrepresentation, or other unlawful means, or that the beneficiary is not entitled, for some other reason, to the status approved.

(2) If a third or sixth preference petition is automatically revoked because of the expiration of the beneficiary's labor certification, the consular officer shall suspend action in the case and retain the petition while affording the beneficiary whose labor certification has expired an opportunity to seek revalidation of the labor certification or obtain a new one.

(b) *Termination of action.* (1) The consular officer shall terminate action in a petition case upon receipt from INS of notice of revocation of the petition in accordance with INS regulations.

(2) The consular officer shall terminate action in a petition case

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subject to the provisions of INA 203(e) in accordance with the provisions of § 42.83.

Subpart F—Numerical Controls and Priority Dates

§ 42.51 Department control of numerical limitations.

(a) *Centralized control.* Centralized control of the numerical limitations on immigration specified in INA 201, 202, and 203 is established in the Department. The Department shall limit the number of immigrant visas that may be issued and the number of adjustments of status that may be granted to aliens subject to these numerical limitations to a number:

(1) Not to exceed a total of 72,000 in any of the first three quarters of any fiscal year; and

(2) Not to exceed, in any month of a fiscal year, a total of 27,000 plus any balance remaining from authorizations for preceding months in the same fiscal year.

(b) *Allocation of numbers.* Within the foregoing limitations, the Department shall allocate immigrant visa numbers for use in connection with the issuance of immigrant visas and adjustments of status based on the chronological order of the priority dates of visa applicants reported by consular officers pursuant to § 42.55(b) and of applicants for adjustment of status as reported by officers of INS.

(c) *Recaptured visa numbers.* An immigrant visa number shall be returned to the Department for reallocation within the fiscal year in which the visa was issued when:

(1) An immigrant having an immigrant visa is excluded from the United States and deported;

(2) An immigrant does not apply for admission to the United States before the expiration of the validity of the visa;

(3) An alien having a preference immigrant visa is found not to be a preference immigrant; or

(4) An immigrant visa is revoked pursuant to § 42.82.

(d) *Special immigrants—Panama.* Centralized control of the numerical limitations on immigration specified in section 3201(c) of the Panama Canal Act of 1979 is established in the Department. The Department shall limit the number of special immigrant visas that may be issued and the number of adjustments of status that may be granted to aliens qualifying for visas under INA 101(a)(27)(E), (F), and (G) to a number not to exceed a total of 5,000 in any fiscal year beginning on October 1, 1979. If an immigrant having an immigrant visa issued under INA 101(a)(27)(E), (F) or (G) is excluded from the United States and deported or does not apply for admission to the United States before the expiration of the validity of the visa, or if such a visa is revoked pursuant to § 42.82, the number shall be returned to the Department for reallocation.

§ 42.52 Post records of visa applications.

(a) *Waiting list.* Records of individual visa applicants entitled to an immigrant classification and their priority dates shall be maintained at posts at which immigrant visas are issued. These records shall indicate the chronological and preferential order in which consideration may be given to immigrant visa applications within the several immigrant classifications subject to the numerical limitations specified in INA 201, 202, and 203. Similar records shall be kept for the classes specified in INA 201(b) and 101(a)(27) which are not subject to numerical limitations. The records which pertain to applicants subject to numerical limitations constitute "waiting lists" within the meaning of INA 203.

(b) *Entitlement to immigrant classification.* An alien shall be entitled to immigrant classification if the alien:

(1) Is the beneficiary of an approved petition according immediate relative or preference status,

(2) Has obtained an individual labor certification, or

(3) Has satisfied the consular officer or an INS officer in appropriate cases that the alien:

(i) Is entitled to special immigrant status under INA 101(a)(27),

(ii) Is within one of the professional or occupational groups listed in Schedule A of the Department of Labor regulations, or

(iii) Is within one of the classes described in § 40.7(a)(14)(iii) and therefore not within the purview of INA 212(a)(14).

(c) *Record made when entitlement to immigrant classification is established.* (1) A record that an alien is entitled to an immigrant visa classification shall be made on Form OF–224, Immigrant Visa Control Card, or through the automated system in use at selected posts, whenever the consular officer is satisfied—or receives evidence—that the alien is within the criteria set forth in paragraph (b) of this section.

(2) A separate record shall be made of family members entitled to derivative immigrant status whenever the consular officer determines that a spouse or child is chargeable to a different foreign state or other numerical limitation than the principal alien. The provisions of INA 202(b) are to be applied as appropriate when either the spouse or parent is reached on the waiting list.

(3) A separate record shall be made of a spouse or child entitled to derivative immigrant status whenever the consular officer determines that the principal alien intends to precede the family.

§ 42.53 Priority date of individual applicants.

(a) *Preference applicant.* The priority date of a first, second, fourth or fifth preference visa applicant shall be the filing date of the approved petition that accorded preference. In the case of a third or sixth preference petition the filing date of the petition within the meaning of INA 203(c) shall be determined by the INS in accordance with INS regulations.

(b) *Nonpreference applicant and certain special immigrants.* The priority date of other applicants shall be:

(1) The date that an individual labor certification under INA 212(a)(14) has been granted for the applicant, or

(2) The date of submission to the consular officer, or to INS in appropriate cases, of evidence to establish:

(i) That the applicant is within one of the professional or occupational groups listed by the Department of Labor in Schedule A,

(ii) That circumstances specified in § 40.7(a)(14)(iii) are applicable to the applicant and therefore the applicant is not within the purview of INA 212(a)(14), or

(iii) That the applicant is entitled to classification as a special immigrant under INA 101(27)(E), (F), or (G).

(c) *Former Western Hemisphere applicant with priority date prior to January 1, 1977.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, an alien who prior to January 1, 1977, was subject to the numerical limitation specified in section 21(e) of the Act of October 3, 1965, and who was registered as a Western Hemisphere immigrant with a priority date prior to January 1, 1977, shall retain that priority date as a nonpreference immigrant under INA 203(a)(7) or as a preference immigrant upon approval of a petition according status under INA 203(a)(1)–(6).

(d) *Derivative priority date for spouse or child of principal alien.* Nothwithstanding the provisions of paragraphs (a) and (b) of this section, a spouse or child of an INA 203(a) principal alien acquired prior to the principal alien's admission into the United States shall be entitled to the priority date of the principal alien, whether or not named in the immigrant visa application of the principal alien. A child born of a marriage which existed at the time of an INA 203(a) principal alien's admission to the United States is considered to have been acquired prior to the principal alien's admission.

§ 42.54 Order of consideration.

Consular officers shall request applicants to take the steps necessary to meet the requirements of INA 222(b) in order to apply formally for a visa as follows:

(a) In the chronological order of the priority dates of all applicants within each of the immigrant classifications specified in INA 203(a);

(b) In the order specified in INA 203(b) with regard to all applicants chargeable to the same foreign state or dependent area as specified in INA 202(a) and 202(c); and

(c) In the chronological order of the priority dates of all applicants within the special immigrant classifications specified in INA 101(a)(27)(E), (F), or (G).

§ 42.55 Reports on numbers and priority dates of applications on record.

(a) *Report of immigrant visa applicants subject to numerical limitations.* Consular officers shall report periodically, as the Department may direct, the number and priority dates of all applicants subject to the numerical limitations prescribed in INA 201, 202 and 203 and in section 3201(c) of the Panama Canal Act of 1979 and whose immigrant visa applications have been recorded in accordance with § 42.52(c).

(b) *Documentarily qualified applicants.* Consular officers shall also report periodically, as the Department may direct, the number and priority dates of all applicants described in paragraph (a) of this section who have informed the consular office that they have obtained the documents required under INA 222(b), for whom the necessary clearance procedures have been completed.

Subpart G—Application for Immigrant Visas

§ 42.61 Place of application.

(a) *Alien to apply in consular district of residence.* Under ordinary circumstances, an alien seeking an immigrant visa shall have the case processed in the consular district in which the alien resides. The consular officer shall accept the case of an alien having no residence in the consular district, however, if the alien is physically present and expects to remain therein for the period required for processing the case. An immigrant visa case may, in the discretion of the consular officer, or shall, at the direction of the Department, be accepted from an alien who is neither a resident of, nor physically present in, the consular district. An alien residing temporarily in the United States is considered to be a resident of the consular district of last residence abroad.

(b) *Transfer of immigrant visa cases.* (1) All documents, papers, and other evidence relating to an applicant whose case is pending or has been refused at one post may be transferred to another post at the applicant's request and risk when there is reasonable justification for the transfer and the transferring post has no reason to believe that the alien will be unable to appear at the receiving post.

(2) Any approved petition granting immediate relative or preference status should be included among the documents when a case is transferred from one post to another.

(3) In no case may a visa number be transferred from one post to another. A visa number which cannot be used as a result of the transfer must be returned to the Department immediately.

§ 42.62 Personal appearance and interview of applicant.

(a) *Personal appearance of applicant before consular officer.* Every alien applying for an immigrant visa, including an alien whose application is executed by another person pursuant to § 42.63(a)(3), shall be required to appear personally before a consular officer for the execution of the application or, if in Taiwan, before a designated officer of the American Institute in Taiwan, except that the personal appearance of any child under the age of 14 may be waived at the officer's discretion.

(b) *Interview by consular officer.* Every alien executing an immigrant visa application must be interviewed by a consular officer who shall determine on the basis of the applicant's representations and the visa application and other relevant documentation—

(1) The proper immigrant classification, if any, of the visa applicant, and

(2) The applicant's eligibility to receive a visa.

The officer has the authority to require that the alien answer any question deemed material to these determinations.

§ 42.63 Application forms and other documentation.

(a) *Application forms.*—(1) *Preliminary questionnaire.* The consular officer may require an alien to complete Form OF–222, Preliminary Questionnaire to Determine Immigrant Status, for the purpose of assisting in the determination of the alien's classification and chargeability to numerical limitations.

(2) *Application on Form OF–230 required.* Every alien applying for an immigrant visa must make application on Form OF–230, Application for Immigrant Visa and Alien Registration. This requirement may not be waived.

(3) *Application of alien under 14 or physically incapable.* The application on Form OF–230 for an alien under 14 years of age or one physically incapable of completing an application may be excuted by the alien's parent or guardian, or, if the alien has no parent or guardian, by any person having legal custory of, or a legitimate interest in, the alien.

(b) *Preparation of forms.* The consular officer shall ensure that Form OF–230 and all other forms an alien is required to submit are fully and properly completed in accordance with the applicable regulations and instructions.

(c) *Additional information as part of application.* The officer may require the submission of additional information or question the alien on any relevant matter whenever the officer believes that the information provided in Form OF–230 is inadequate to determine the alien's eligibility to receive an immigrant visa. Additional statements made by the alien become a part of the visa application. All documents required under the authority of § 42.62 are considered papers submitted with the alien's application within the meaning of INA 221(g)(1).

§42.64 Passport requirements.

(a) *Passport defined. "Passport,"* as defined in INA 101(a)(30), is not limited to a national passport or to a single document. A passport may consist of two or more documents which, when considered together, fulfill the requirements of a passport, provided that documentary evidence of permission to enter a foreign country has been issued by a competent authority and clearly meets the requirements of INA 101(a)(30).

(b) *Passport validity requirements.* Except as provided in §42.2, every applicant for an immigrant visa shall present a passport, as defined in INA 101(a)(30), that is valid for at least 60 days beyond the period of validity of the visa. The 60-day additional validity requirement does not apply to an applicant who would be excepted as provided in 22 CFR 42.2 were it not for the fact that the applicant is applying in the country of which the applicant is a national and the possession of a passport is required for departure. Such

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an applicant may be issued a visa valid for 4 months or for such shorter period as will assure its expiration in unison with the passport.

(c) *A single passport including more than one person.* The passport requirement of this section may be met by the presentation of a passport including more than one person, if such inclusion is authorized under the laws or regulations of the issuing authority and if a photograph of each person 16 years of age or over is attached to the passport by the issuing authority.

§ 42.65 Supporting documents.

(a) *Authority to require documents.* The consular officer is authorized to require documents considered necessary to establish the alien's eligibility to receive an immigrant visa. All such documents submitted and other evidence presented by the alien, including briefs submitted by attorneys or other representatives, shall be considered by the officer.

(b) *Basic documents required.* An alien applying for an immigrant visa shall be required to furnish, if obtainable: A copy of a police certificate or certificates; a certified copy of any existing prison record, military record, and record of birth; and a certified copy of all other records or documents which the consular officer considers necessary.

(c) *Definitions.* (1) "Police certificate" means a certification by the police or other appropriate authorities stating what, if anything, their records show concerning the alien. The words "appropriate police authorities," as used in INA 222(b), mean the police authorities of any country, area or locality wherein the alien has had a residence for 6 months or more or any other police authority which maintains central police records. A consular officer may also require a police certificate covering any residence of less than 6 months if the officer has reason to believe that a police record exists in the country, area, or locality concerned.

(2) "Prison record" means an official document containing a report of the applicant's record of confinement and conduct in a penal or correctional institution.

(3) "Military record" means an official document containing a complete record of the applicant's service and conduct while in military service, including any convictions of crime before military tribunals as distinguished from other criminal courts. A certificate of discharge from the military forces or an enrollment book belonging to the applicant shall not be acceptable in lieu of the official military record, unless it shows the alien's complete record while in military service. The applicant may, however, be required to present for inspection such a discharge certificate or enrollment book if deemed necessary by the consular officer to establish the applicant's eligibility to receive a visa.

(4) A "certified copy of an alien's record of birth" means a certificate issued by the official custodian of birth records in the country of birth showing the date and place of birth and the parentage of the alien, based upon the original registration of birth.

(5) "Other records or documents" include any records or documents establishing the applicant's relationship to a spouse or children, if any, and any records or documents pertinent to a determination of the applicant's identity, classification, or any other matter relating to the applicant's visa eligibility.

(d) *Unobtainable documents.* (1) If the consular officer is satisfied, or the catalogue of available documents prepared by the Department indicates, that any document or record required under this section is unobtainable, the officer may permit the immigrant to submit other satisfactory evidence in lieu of such document or record. A document or other record shall be considered unobtainable if it cannot be procured without causing to the applicant or a family member actual hardship as opposed to normal delay and inconvenience.

(2) If the consular officer determines that a supporting document, as described in paragraph (b) of this section, is in fact unobtainable, although the catalogue of available documents shows it is available, the officer shall affix to the visa application a signed statement describing in detail the reasons for considering the record or document unobtainable and for accepting the particular secondary evidence attached to the visa.

(e) *Authenticity of records and documents.* If the consular officer has reason to believe that a required record or document submitted by an applicant is not authentic or has been altered or tampered with in any material manner, the officer shall take such action as may be necessary to determine its authenticity or to ascertain the facts to which the record or document purports to relate.

(f) *Photographs.* Every alien shall furnish color photographs of the number and specifications prescribed by the Department, except that, in countries where facilities for producing color photographs are unavailable as determined by the consular officer, black and white photographs may be substituted.

§ 42.66 Medical examination.

(a) *Medical examination required of all applicants.* Before the issuance of an immigrant visa, the consular officer shall require every alien, regardless of age, to undergo a medical examination in order to determine eligibility to receive a visa.

(b) *Examination by physician from approved panel.* The required examination shall be conducted in accordance with requirements and procedures established by the United States Public Health Service and by a physician selected by the alien from a panel of physicians approved by the consular officer.

(c) *Facilities required for panel physician.* A consular officer shall not include the name of a physician on the panel of physicians referred to in paragraph (b) of this section unless the physician has facilities to perform required serological and X-ray tests or is in a position to refer applicants to a qualified laboratory for such tests.

§ 42.67 Execution of application, registration, and fingerprinting.

(a) *Execution of visa application*—(1) *Application fee.* A fee is prescribed for each application for an immigrant visa. It shall be collected prior to the execution of the application and a receipt shall be issued.

(2) *Oath and signature.* The applicant shall be required to read the Form OF–230, Application for Immigrant Visa and Alien Registration, when it is completed or it shall be read to the alien in the alien's language or the alien otherwise informed of its full contents. Aliens shall be asked whether they are willing to subscribe thereto. If the alien is not willing to subscribe to the application unless changes are made in the information stated therein, the required changes shall be made. The application shall then be then sworn to or affirmed and signed by or on behalf of the applicant before a consular officer, or a designated officer of the American Institute in Taiwan, who shall then sign the application over the officer's title.

(b) *Registration.* Form OF–230, when duly executed, shall constitute the alien's registration record for the purposes of INA 221(b).

(c) *Fingerprinting.* An alien may be required at any time prior to the execution of Form OF–230 to have a set of fingerprints taken on Form AR–4 if such procedure is necessary for purposes of identification or investigation.

§ 42.68 Informal evaluation of family members if principal applicant precedes them.

(a) *Preliminary determination of visa eligibility.* If a principal applicant proposes to precede the family to the United States, the consular officer may arrange for an informal examination of the other members of the principal applicant's family in order to determine whether there exists at that time any mental, physical, or other ground of ineligibility on their part to receive a visa.

(b) *When family member ineligible.* In the event the consular officer finds that any member of such family would be ineligible to receive an immigrant visa, the principal applicant shall be informed and required to acknowledge receipt of this information in writing.

(c) *No guarantee of future eligibility.* A determination in connection with an informal examination that an alien appears to be eligible for a visa carries no assurance that the alien will be issued an immigrant visa in the future. The principal applicant shall be so informed and required to acknowledge receipt of this information in writing. The question of visa eligibility can be determined definitively only at the time the family member applies for a visa.

Subpart H—Issuance of Immigrant Visas

§ 42.71 Authority to issue visas; visa fees.

(a) *Authority to issue visas.* Consular officers are authorized to issue immigrant visas at designated consular offices abroad pursuant to INA 101(a)(16), 221(a), and 224. (Consular offices authorized to issue immigrant visas are listed periodically in Visa Office Bulletins published by the Department of State.) A consular officer assigned to duty in the territory of a country against which the sanctions provided in INA 243(g) have been invoked shall not issue an immigrant visa to an alien who is a national, citizen, subject, or resident of that country, unless the officer has been informed that the sanction has been waived by INS in the case of an individual alien or a specified class of aliens.

(b) *Immigrant visa fees.* Fees are prescribed by the Secretary of State for the execution of an application for, and the issuance of, an immigrant visa. The application fee shall be collected prior to the visa interview and execution of the application. The issuance fee shall be collected after completion of the visa interview and prior to issuance of the visa. A fee receipt shall be issued for such fee. A fee collected for the application for or issuance of an immigrant visa is refundable only if the principal officer at a post or the officer in charge of a consular section determines that the visa was issued in error or could not be used as a result of action by the U.S. Government over which the alien had no control and for which the alien was not responsible.

§ 42.72 Validity of visas.

(a) *Period of validity.* With the exception indicated herein, the period of validity of an immigrant visa shall not exceed 4 months, beginning with the date of issuance. Any visa issued to a child lawfully adopted by a U.S. citizen and spouse while such citizen is serving abroad in the U.S. Armed Forces, is employed abroad by the U.S. Government, or is temporarily abroad on business, however, shall be valid until such time, for a period not to exceed 3 years, as the adoptive citizen parent returns to the United States in the course of that parent's military service, U.S. Government employment, or business.

(b) *Extension of period of validity.* If the visa was originally issued for a period of validity less than the maximum authorized by paragraph (a) of this section, the consular officer may extend the validity of the visa up to but not exceeding the maximum period permitted. If an immigrant applies for an extension at a consular office other than the issuing office, the consular officer shall, unless the officer is satisfied beyond doubt that the alien is eligible for the extension, communicate with the issuing office to determine if there is any objection to an extension. In extending the period of validity, the officer shall make an appropriate notation on the visa of the new expiration date, sign the document with title indicated, and impress the seal of the office thereon.

(c) *No fee for extension of period of validity.* No fee shall be charged for extending the period of validity of an immigrant visa.

(d) *Age and marital status in relation to validity of certain immigrant visas.* In accordance with § 42.64(b), the validity of a visa may not extend beyond a date sixty days prior to the expiration of the passport. The period of validity of a visa issued to an immigrant as a child shall not extend beyond the day immediately proceding the date on which the alien becomes 21 years of age. The consular officer shall warn an alien, when appropriate, that the alien will be admissible as such an immigrant only if unmarried and under 21 years of age at the time of application for admission at a U.S. port of entry. The consular officer shall also warn an alien issued a visa as a first or second preference immigrant as an unmarried son or daughter of a citizen or lawful permanent resident of the United States that the alien will be admissible as such an immigrant only if unmarried at the time of application for admission at a U.S. port of entry.

§ 42.73 Procedure in issuing visas.

(a) *Insertion of data.* In issuing an immigrant visa, the issuing office shall insert the pertinent information in the designated blank spaces provided on Form OF–155A, Immigrant Visa and Alien Registration, in accordance with the instructions contained in this section.

(1) A symbol as specified in § 42.11 shall be used to indicate the classification of the immigrant.

(2) An immigrant visa issued to an alien subject to numerical limitations shall bear a number allocated by the Department. The foreign state or dependent area limitation to which the alien is chargeable shall be entered in the space provided.

(3) No entry need be made in the space provided for foreign state or other applicable area limitation on visas issued to immediate relatives under INA 201(b) or special immigrants under INA 101(a)(27), but such visas may be numbered if a post voluntarily uses a consecutive post numbering system.

(4) The date of issuance and the date of expiration of the visa shall be inserted in the proper places on the visa and show the day, month, and year in that order, with the name of the month spelled out, as in "24 December 1986."

(5) In the event the passport requirement has been waived under § 42.2, a notation shall be inserted in the space provided for the passport number, setting forth the authority (section and paragraph) under which the passport was waived.

(6) A signed photograph shall be attached in the space provided on Form OF–155A by the use of a legend machine, unless specific authorization has been granted by the Department to use the impression seal.

(b) *Documents comprising an immigrant visa.* An immigrant visa consists of Form OF–155A and Form OF–230, Application for Immigrant Visa and Alien Registration, properly executed, and a copy of each document required pursuant to § 42.63.

(c) *Arrangement of visa documentation.* Form OF–155A shall be placed immediately above Form OF–230 and the supporting documents attached thereto. Any document required to be attached to the visa, if furnished to the consular officer by the alien's sponsor or

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other person with a request that the contents not be divulged to the visa applicant, shall be placed in an envelope and sealed with the impression seal of the consular office before being attached to the visa. If an immigrant visa is issued to an alien in possession of a United States reentry permit, valid or expired, the consular officer shall attach the permit to the immigrant visa for disposition by INS at the port of entry. (Documents having no bearing on the alien's qualifications or eligiblity to receive a visa may be returned to the alien or to the person who furnished them.)

(d) *Signature, seal, and issuance of visa.* The consular officer shall sign the visa (Form OF–155A) and impress the seal of the office on it so as to partially cover the photograph and the signature. The immigrant visa shall then be issued by delivery to the immigrant or the immigrant's authorized agent or representative.

§ 42.74 Issuance of new or replacement visas.

(a) *New immigrant visa for an alien not subject to numerical limitation.* An immediate relative under INA 201(b), or a special immigrant under INA 101(a)(27), who establishes that a visa has been lost or mutilated or has expired, or that the alien will be unable to use it during the period of its validity, may be issued a new visa at the same or any other consular office, if the consular officer then finds the alien qualified. The alien must pay anew the statutory application and issuance fees. Prior to issuing a new immigrant visa at a consular office other than the one that issued the original visa, the consular officer must also ascertain whether the original issuing office knows of any reason why a new visa should not be issued.

(b) *Replacement immigrant visa for an alien subject to numerical limitation.* An immigrant documented under INA 203(a) who was or will be unable to use the visa during the period of its validity because of reasons beyond the alien's control and for which the alien is not responsible may be issued a replacement immigrant visa under the original number during the same fiscal year in which the original visa was issued (provided the number has not been returned to the Department), if the consular officer then finds the alien qualified. The alien must pay anew the statutory application and issuance fees. Prior to issuing a replacement immigrant visa at a consular office other than the one that issued the original visa, the consular officer must also ascertain whether the original issuing office knows of any reason why a replacement visa should not be issued. In issuing a visa under this paragraph, the consular officer shall insert the word "REPLACE" on Form OF–155A, Immigrant Visa and Alien Registration, before the word "IMMIGRANT" in the title of the visa.

(c) *Duplicate visas issued within the validity period of the original visa.* If the validity of a visa previously issued has not yet terminated and the original visa has been lost or mutilated, a duplicate visa may be issued containing all of the information appearing on the original visa, including the original issuance and expiration dates. The applicant shall execute a new application and provide copies of the supporting documents submitted in support of the original application. The alien must pay anew the application and issuance fees. In issuing a visa under this paragraph, the consular officer shall insert the word "DUPLICATE" on Form OF–155A before the word "IMMIGRANT" in the title of the visa.

Subpart I—Refusal, Revocation, and Termination of Registration

§ 42.81 Procedure in refusing individual visas.

(a) *Issuance or refusal mandatory.* When a visa application has been properly completed and executed before a consular officer in accordance with the provisions of INA and the implementing regulations, the consular officer shall either issue or refuse the visa. Every refusal shall be in conformance with the provisions of 22 CFR 40.6.

(b) *Refusal procedure.* A consular officer may not refuse an immigrant visa until Form OF–230, Application for Immigrant Visa and Alien Registration, has been executed by the applicant. When an immigrant visa is refused, an appropriate record shall be made in duplicate on a form prescribed by the Department. The form shall be signed and dated by the consular officer. The consular officer shall inform the applicant of the provision of law or implementing regulation on which the refusal is based and of any statutory provisions under which administrative relief is available. Each document related to the refusal shall then be attached to Form OF–230 for retention in the refusal files. Any documents not related to the refusal shall be returned to the applicant. If the grounds of ineligibility may be overcome by the presentation of additional evidence and the applicant indicates an intention to submit such evidence, all documents may, with the consent of the alien, be retained in the consular files for a period not to exceed one year. If the refusal has not been overcome within one year, any documents not relating to the refusal shall be removed from the file and returned to the alien.

(c) *Review of refusal at consular office.* If the grounds of ineligibility upon which the visa was refused cannot be overcome by the presentation of additional evidence, the principal consular officer at a post, or a specifically designated alternate, shall review the case without delay, record the review decision, and sign and date the prescribed form. If the grounds of ineligibility may be overcome by the presentation of additional evidence and the applicant indicates the intention to submit such evidence, a review of the refusal may be deferred. If the principal consular officer or alternate does not concur in the refusal, that officer shall either (1) refer the case to the Department for an advisory opinion, or (2) assume responsibility for final action on the case.

(d) *Review of refusal by Department.* The Department may request a consular officer in an individual case or in specified classes of cases to submit a report if an immigrant visa has been refused. The Department will review each report and may furnish an advisory opinion to the consular officer for assistance in considering the case further. If the officer believes that action contrary to an advisory opinion should be taken, the case shall be resubmitted to the Department with an explanation of the proposed action. Rulings of the Department concerning an interpretation of law, as distinguished from an application of the law to the facts, are binding upon consular officers.

(e) *Reconsideration of refusal.* If a visa is refused, and the applicant within 1 year from the date of refusal adduces further evidence tending to overcome the ground of ineligibility on which the refusal was based, the case shall be reconsidered. In such circumstance, an additional application fee shall not be required.

§ 42.82 Revocation of visas.

(a) *Grounds for revocation.* Consular officers are authorized to revoke an immigrant visa under the following circumstances:

(1) The consular officer knows, or after investigation is satisfied, that the visa was procured by fraud, a willfully false or misleading representation, the willful concealment of a material fact, or other unlawful means;

(2) The consular officer obtains information establishing that the alien was otherwise ineligible to receive the

particular visa at the time it was issued; or

(3) The consular officer obtains information establishing that, subsequent to the issuance of the visa, a ground of ineligibility has arisen in the alien's case.

(b) *Notice of proposed revocation.* The bearer of an immigrant visa which is being considered for revocation shall, if practicable, be notified of the proposed action, given an opportunity to show cause why the visa should not be revoked, and requested to present the visa to the consular office indicated in the notification of proposed cancellation.

(c) *Procedure in revoking visas.* An immigrant visa which is revoked shall be canceled by writing the word "REVOKED" plainly across the face of the visa. The cancellation shall be dated and signed by the consular officer taking the action. The failure of an alien to present the visa for cancellation does not affect the validity of any action taken to revoke it.

(d) *Notice to carriers.* Notice of revocation of a visa shall be given to the master, commanding officer, agent, owner, charterer, or consignee of the carrier or transportation line on which it is believed the alien intends to travel to the United States, unless the visa has been canceled as provided in paragraph (c) of this section.

(e) *Notice to Department.* The consular officer shall promptly submit notice of the revocation, including a full report of the facts in the case, to the Department for transmission to the INS. A report is not required if the visa has been physically canceled prior to the alien's departure for the United States.

(f) *Record of action.* Upon the revocation of an immigrant visa, the consular officer shall make appropriate notation for the post file of the action taken, including a statement of the reasons therefor, and if the revocation of the visa is effected at other than the issuing office, a report of the action taken shall be sent to that office.

(g) *Reconsideration of revocation.* (1) The consular officer shall consider any evidence submitted by the alien or the alien's attorney or representative in connection with a request that the revocation of the visa be reconsidered. If the officer finds that the evidence is sufficient to overcome the basis for the revocation, a new visa shall be issued. A memorandum regarding the action taken and the reasons therefore shall be placed in the consular files and appropriate notification made promptly to the carriers concerned, the Department, and the issuing office if notice of revocation has been given in accordance with paragraphs (d), (e), and (f) of this section.

(2) In view of the provisions of § 42.71(b) providing for the refund of fees when the visa has not been used as a result of action by the U.S. Government, no fees shall be collected in connection with the application for or issuance of such a reinstated visa.

§ 42.83 Termination of registration.

(a) *Termination following failure of applicant to apply for visa.* In accordance with INA 203(e), an alien's registration for an immigrant visa shall be terminated if, within 1 year following the scheduling of an appointment for final interview, the applicant fails to apply for an immigrant visa.

(b) *Termination following visa refusal.* An alien's registration for an immigrant visa shall be terminated if, within 1 year following the refusal of the immigrant visa application under INA 221(g), the alien has failed to present to a consular officer evidence purporting to overcome the basis for refusal.

(c) *Notice of termination.* Upon the termination of registration under paragraph (a) or (b) of this section, the consular officer at the post where the alien is registered shall notify the alien of the termination. The consular officer shall also inform the alien of the right to have the registration reinstated if the alien, before the end of the second year after the missed appointment date if paragraph (a) applies, and before the end of the second year after the INA 221(g) refusal if paragraph (b) applies, establishes to the satisfaction of the consular officer that the failure to apply for an immigrant visa or to present evidence purporting to overcome the ineligibility under INA 221(g) was due to circumstances beyond the alien's control.

(d) *Reinstatement of registration.* If the consular officer is satisfied that an alien, as provided for in paragraph (c) of this section, has established that failure to apply as scheduled for an immigrant visa or to present evidence purporting to overcome ineligibility under INA 221(g) was due to circumstances beyond the alien's control, the consular officer shall reinstate the alien's registration for an immigrant visa. Any petition approved under INA 204(b) which had been automatically revoked as a result of the termination of registration shall be considered to be automatically reinstated if the registration is reinstated.

(e) *Interpretation of "circumstances beyond alien's control".* For the purpose of this section, the term "circumstances beyond the alien's control" includes, but is not limited to, an illness or other physical disability preventing the alien from traveling, a refusal by the authorities of the country of an alien's residence to grant the alien permission to depart as an immigrant, and foreign military service.

Date: October 29, 1987.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 87–25443 Filed 11–4–87; 8:45 am]

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Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 39

Airworthiness Directives; General Electric (GE) CF6-50 and -45 Series Turbofan Engines; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-ANE-30; Amdt. 39-5746]

Airworthiness Directives; General Electric (GE) CF6-50 and -45 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires initial and repetitive inspections of certain high pressure turbine (HPT) impeller spacers installed in GE CF6-50 and -45 series turbofan engines and prevents reinstallation of certain impeller spacers after October 30, 1990. This AD is needed to prevent failure of the HPT Impeller spacer which could result in an uncontained engine failure.

DATES: *Effective* November 5, 1987.

Compliance Schedule—As prescribed in the body of the AD.

Comments for inclusion in the docket must be received on or before November 27, 1987.

Incorporation by Reference—Approved by the Director of the Federal Register as of November 5, 1987.

ADDRESSES: Comments on the amendment may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket Number 87-ANE-30, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: "Docket Number 87-ANE-30".

Comments may be inspected at the New England Region, Office of the Regional Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The applicable service bulletin (SB) may be obtained from General Electric Company, 1 Neumann Way, Cincinnati, Ohio 45215. A copy of the SB is contained in Rules Docket Number 87-ANE-30, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Diane Kirk, Engine Certification Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7062.

SUPPLEMENTARY INFORMATION: The FAA has determined that fatigue cracks attributed to high stress low cycle fatigue (LCF) can originate in the aft flange bolt hole or in the aft face of the aft flange bolt hole on certain GE CF6-50 and -45 impeller spacers. Since 1985, two engine failures have occurred, one of which was uncontained. The failure investigation indicated that the impeller spacer was the most probable cause of the failure and that the origin of the failure emanated from the aft flange bolt hole, although the primary fracture surface could not be identified. In January 1986, the GE CF6-50 and -45 series engines shop manual incorporated requirements for an eddy current inspection of the aft flange bolt hole on the impeller spacer at the next shop visit. Subsequent inspection data indicated that the eddy current inspection procedure was ineffective for inspecting the aft face of the spacer at the aft flange bolt hole. A new eddy current inspection procedure requiring a redesigned probe, which allows inspection of the face of the spacer, was introduced in February 1987. Subsequent inspections of 301 spacer impellers, utilizing the new eddy current inspection procedures, have identified 10 spacers with crack indications, 6 of which were confirmed cracked.

Since this condition is likely to exist or develop in other engines of the same type design, an AD is being issued which requires initial and repetitive inspections of impeller spacers Part Numbers (P/N's) 9045M59P07, P08, P10, P12; 9173M55P01, P02, P03; 9198M92P01 through P10, inclusive; 9190M82P02, P03, 9348M65P01; and 9234M25P01 through P04, inclusive, installed on the GE CF6-50 and -45 series turbofan engines and prevents reinstallation of the affected parts after October 30, 1990.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making the amendment effective in less than 30 days.

Although this action is in the form of a final rule which involves requirements affecting flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above.

All communications received on or before the closing date for comments will be considered by the Director. This rule may be amended in light of comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD and determining whether additional rulemaking is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available for examination in the Rules Docket at the address given above by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 87-ANE-30". The postcard will be date/time stamped and returned to the commenter.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulations, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of the final evaluation if filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT"**.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

General Electric: Applies to General Electric (GE) CF6-50 and-45 series turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent failure of the high pressure turbine (HPT) impeller spacer which may cause an uncontained engine failure, accomplish the following:

(a) Eddy current inspect impeller spacers part numbers (P/N's) 9190M82P02, P03; 9234M25P01 through P04, inclusive; 9348M65P01; 9045M59P07, P08, P10, P12; 9173M55P01, P02, P03; and 9198M92P01 through P10, inclusive, in accordance with GE Service Bulletin (SB) 72-906, dated August 21, 1987, as follows:

(1) For HPT impeller spacers with 9,000 cycles since new (CSN) or greater on the effective date of this AD, inspect at the next shop visit or within 300 cycles in service (CIS) from the effective date of this AD, whichever occurs first.

(2) For HPT impeller spacers with 8,000 CSN or greater but less than 9,000 CSN on the effective date on this AD, inspect at the next shop visit or within 600 CIS from the effective date of this AD, or prior to accumulating 9,300 CSN, whichever occurs first.

(3) For HPT impeller spacers with 7,000 CSN or greater but less than 8,000 CSN on the effective date of this AD, inspect at the next shop visit or within 900 CIS from the effective date of this AD or prior to accumulating 8,600 CSN, whichever occurs first.

(4) For HPT impeller spacers with 6,000 CSN or greater but less than 7,000 CSN on the effective date of this AD, inspect at the next shop visit or within 1,200 CIS from the effective date of this AD or prior to accumulating 7,900 CSN, whichever occurs first.

(5) For HPT impeller spacers with 2,500 CSN or greater but less than 6,000 CSN on the effective date of this AD, inspect at the next shop visit or within 2,000 CIS from the effective date of this AD or prior to accumulating 7,200 CSN, whichever occurs first.

(6) For HPT impeller spacers with less than 2,500 CSN on the effective date of this AD, inspect at the next shop visit or prior to accumulating 4,500 CSN, whichever occurs first.

Note: Eddy current inspections of HPT impeller spacers completed prior to the effective date of this AD in accordance with GE SB 72-906, dated August 21, 1987 or with GE CF6-50/-45 Engine Shop Manual, Chapter 72-53-06, temporary revision 72-0593 are an alternate means of compliance with paragraph (a).

(b) Remove from service, HPT impeller spacers found cracked in accordance with the inspection requirements of paragraph (a) above and replace with a serviceable part.

(c) Reinspect impeller spacers, previously inspected in accordance with paragraph (a) above, at intervals not to exceed 2,500 cycles since last inspection in accordance with GE SB 72-906, dated August 21, 1987. Remove from service, impeller spacers found cracked and replace with a serviceable part.

(d) Remove, after October 30, 1990, impeller spacers listed by P/N's in this AD at the next shop visit or within 2,500 cycles since last inspection, whichever occurs first.

Note: Shop visit is defined as any time the high pressure turbine module is disassembled to a state where the impeller spacer is exposed.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of subtantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region may adjust the compliance times specified in this AD.

General Electric SB 72-906, dated August 21, 1987, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to General Electric, 1 Neumann Way, Cincinnati, Ohio 45215. This document also may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Room 311, Rules Docket Number 87-ANE-30, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

This amendment becomes effective on November 5, 1987.

Issued in Burlington, Massachusetts, on September 29, 1987.

Lawrence C. Sullivan,

Acting Director, New England Region.

[FR Doc. 87-25942 Filed 11-4-87; 11:46 am]

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H.R. 317/Pub. L. 100–149
To amend the Wild and Scenic Rivers Act by designating a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System. (Nov. 2, 1987; 101 Stat. 879; 2 pages) Price: $1.00

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RESERVATIONS: Robert D. Fox, 202-523-5239.

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Presidential Documents

Title 3—

The President

Proclamation 5735 of November 4, 1987

National Tourette Syndrome Awareness Week, 1987

By the President of the United States of America

A Proclamation

Tourette syndrome is a little-understood neurological disorder characterized by compulsive repetitive behaviors. Tic-like grimacing, shoulder-shrugging, sniffing, grunting, and coughing are common symptoms of the disorder; less frequent but perhaps more alarming symptoms include uncontrollable vocalizations, head-banging, and other involuntary self-destructive actions.

An estimated 100,000 Americans have Tourette syndrome to a noticeable degree. Those with tic disorders may number as high as 3.5 million. Symptoms appear in childhood, between the ages of 2 and 16 years, and wax and wane over time but do not seem to become progressively worse. Males are three times more likely to have the disorder than females.

Within the Federal government, the search for answers to why people get Tourette syndrome and what is behind its puzzling symptoms is led by the National Institute of Neurological and Communicative Disorders and Stroke (NINCDS). Research teams at NINCDS and grantee institutions, together with scientific colleagues in the private sector, are tracing and analyzing the suspected genetic basis for the syndrome. Aided by increasingly sophisticated techniques of brain imaging, they are determining the significance in Tourette patients of unusually low amounts of certain brain chemicals, called neurotransmitters, and investigating anatomical structures within the brain that may be affected. They are testing new drugs to control symptoms without causing depression and other serious side effects.

Crucial to the national research effort is the cooperation of patients with Tourette syndrome and their families, especially those allied with the Tourette Syndrome Association, Inc. This voluntary health agency provides advice and encouragement to patients coping not only with exhausting and painful physical problems, but also with the attendant damaging social and emotional problems. Because they cannot predict or control the vocalizations or movements that periodically overtake them, people with Tourette can be easy targets of misunderstanding and rejection. The Tourette Syndrome Association plays an essential role in educating the public about the disorder and about building acceptance and respect for those who refuse to allow the disorder to diminish their lives or restrict their contributions to society.

To further enhance public awareness of Tourette syndrome, the Congress, by Public Law 100–145, has designated the week of November 2 through November 8, 1987, as "National Tourette Syndrome Awareness Week" and authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of November 2 through November 8, 1987, as National Tourette Syndrome Awareness Week. I call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of November, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-23943
Filed 11-4-87; 10:28 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 52, No. 215
Friday, November 6, 1987

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 656]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 656 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period November 6 through November 12, 1987. Such action is needed to balance the supply of fresh navel oranges with the demand for such oranges during the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: Regulation 656 (§ 907.956) is effective for the period November 6 through November 12, 1987.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administrative Branch, F&V, AMS, USDA, Room 2528-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5120.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR Part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order, and approximately 4,065 producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

This action is consistent with the marketing policy for 1987-88 adopted by the Navel Orange Administrative Committee (Committee). The Committee met publicly on November 3, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by an 8 to 2 vote, a quantity of navel oranges deemed advisable to be handled during the specified week. The Committee reports that the market is very good.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of prorate regulations, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared purposes of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR Part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 907.958 is added to read as follows:

§ 907.958 Navel Orange Regulation 656.

The quantity of navel oranges grown in California and Arizona which may be handled during the period November 6, 1987, through November 12, 1987, are established as follows:

(a) District 1: 1,141,504 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: 67,002 cartons;
(d) District 4: Unlimited cartons.

Dated: November 4, 1987.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-25928 Filed 11-5-87; 8:45 am]
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7 CFR Part 910

[Lemon Reg. 586]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 586 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 265,000 cartons during the period November 8 through November 14, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: Regulation 586 (§ 910.886) is effective for the period November 8 through November 14, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987-88. The committee met publicly on November 3, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by an 11 to 1 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is good for large sized lemons, fair but improving for smaller sizes.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 910.886 is added to read as follows:

§ 910.886 Lemon Regulation 586.

The quantity of lemons grown in California and Arizona which may be handled during the period November 8 through November 14, 1987, is established at 265,000 cartons.

Dated: November 4, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-25927 Filed 11-5-87; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Parts 250 and 251

Donation of Foods for Use in United States, Its Territories and Possessions and Areas Under Its Jurisdiction; Temporary Emergency Food Assistance Program for Fiscal Year 1988

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations governing the Temporary Emergency Food Assistance Program (7 CFR Part 251). It incorporates the nondiscretionary provisions of the recently enacted Stewart B. McKinney Homeless Assistance Act, Pub. L. 100-77. These amendments to Part 251 set forth the procedures for States to request additional flour, cornmeal and cheese and extend the program through September 30, 1988. In addition, the regulations governing the Food Distribution Program (7 CFR Part 250) are amended to extend the limitation on distribution fees, as required by Pub. L. 100-77.

EFFECTIVE DATE: This rule is effective November 6, 1987.

FOR FURTHER INFORMATION CONTACT: Susan Proden, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, Park Office Center, Alexandria, Virginia 22302, Telephone (703) 756-3660.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has not been classified major because it does not meet any of the three criteria identified under the Executive Order. Compliance with the provisions in this rule will not have an annual effect on the economy of $100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action has been reviewed with regard to the Regulatory Flexibility Act (5 U.S.C. 601-612). Anna Kondratas, Administrator of the Food and Nutrition Service (FNS), has certified that this action will not have a significant economic impact on a substantial number of small entities.

This rule merely cites provisions of Pub. L. 100-77 which are nondiscretionary in that the provisions are prescribed by law and cannot be affected by public comment. For this reason, the Department has determined, in accordance with 5 U.S.C. 553(b), that a proposed rulemaking and prior public comment are unnecessary and contrary to public interest. Further, since this rulemaking merely reflects statutory provisions, it constitutes an interpretative rule for which notice and public comment are not required under 5 U.S.C. 553. Finally, since the statutory provisions were effective on the date of enactment of Pub. L. 100-77, July 22, 1987, and since the Department is issuing regulations on these matters only to provide an overall view of program policy, the Department has determined, in accordance with 5 U.S.C. 553(d), that good cause exists for making this rule effective prior to 30 days after publication.

The reporting and recordkeeping requirements for Part 251 were approved by OMB under Control Number 0584-0313 and 0584-0341. The recordkeeping and reporting requirements for Part 250 were approved by OMB under Control Number 0584-0007.

This program is listed in the Catalog of Federal Domestic Assistance under 10.568 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V and the final rule related notice published at 49 FR 22675, May 31, 1984).

Legislative Background

Title II, of Pub. L. 98-8, the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) (the "Act"), established the Temporary Emergency Food Assistance Program (TEFAP). The Act authorized the distribution of surplus agricultural commodities acquired through the Commodity Credit Corporation to various outlets for Fiscal Year 1983. It also authorized a $50 million appropriation for the cost of storage and distribution of commodities in that fiscal year.

The Act was subsequently amended, most recently by Pub. L. 100-77, the Stewart B. McKinney Homeless Assistance Act. Section 814 of Pub. L. 100-77 extends TEFAP through September 30, 1988 and section 813 authorizes a $50 million appropriation for State and local costs of storage and distribution of TEFAP commodities in Fiscal Year 1988. In addition, section 812 of Pub. L. 100-77 requires the Secretary, in certain cases, to make available through TEFAP additional quantities of cheese, flour and cornmeal. Cheese made available under this provision in Fiscal Year 1988 may not exceed 14 million pounds.

Regulatory Background

The TEFAP rules have been amended several times. The most current regulatory changes were published on April 16, 1986 (51 FR 12819) and May 13, 1987 (52 FR 17928). Together, these two publications contain the current Part 251 rules for TEFAP.

This final rule amends Part 251 to set procedures for States to request additional amounts of cheese, flour and cornmeal in TEFAP distribution. It also extends the authority for TEFAP through Fiscal Year 1988 in both Parts 250 and 251. The language of the rule changes as follows:

Distribution Fees

Section 250.6(j)(2) has been revised to extend the restriction on distribution charges through September 30, 1988 in accordance with section 814 of Pub. L. 100-77. Sction 250.6(j)(2) prohibits States from assessing recipient agencies fees in excess of the distributing agency's direct costs for storage and transportation minus any amount that the Department provides to the State to pay such costs. This provision applies to storage and transportation costs for commodities which are donated without charge or credit against an entitlement in any of the Department's nutrition programs.

Requests for Additional Commodities

In accordance with section 812 of Pub. L. 100-77, § 251.4 of the regulations has been revised to permit State agencies to request additional amounts of cheese, cornmeal, and flour at the request of the chief executive officer provided the chief executive officer of the State certifies to the Department that: (1) Individuals in the States who are eligible to receive commodities under this Part are not already receiving them under TEFAP or the number of unemployed individuals in the State has increased during the most recent 90-day period for which unemployment statistics are available prior to the date the certification is made; and (2) the distribution of additional amounts of these commodities will not substantially displace the commercial sale of such commodities within the State.

The Department will evaluate each request received and determine whether all conditions have been met prior to release of additional commodities. Additional commodities will be made available in Fiscal Year 1988 to the extent provided in advance in an appropriation Act and subject to the availability of the commodities.

List of Subjects

7 CFR Part 250

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Food processing, Grant programs-social programs, Infants and children, Price support programs, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 251

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Grant programs-social programs, Indians, Infants and children, Price support programs, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

Accordingly, 7 CFR Part 250 and 7 CFR Part 251 are amended as follows:

PART 250—DONATIONS OF FOOD FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

1. The authority citation for Part 250 is revised to read as follows:

Authority: Sec. 32, Pub. L. 74-320, 49 Stat. 744 (7 U.S.C. 612c); Pub. L. 75-165, 50 Stat. 323 (15 U.S.C. 713c); secs. 6, 9, 60 Stat. 231, 233, Pub. L. 79-396, (42 U.S.C. 1775, 1758); sec. 416, Pub. L. 81-439, 63 Stat. 1058 (7 U.S.C. 1431); sec. 402, Pub. L. 91-665, 68 Stat. 843 (22 U.S.C. 1922); sec. 210, Pub. L. 84-540, 70 Stat. 202 (7 U.S.C. 1859); sec. 9, Pub. L. 85-931, 72 Stat. 1792 (7 U.S.C. 1431b); Pub. L. 86-756, 74 Stat. 899 (7 U.S.C. 1431nt); sec. 709, Pub. L. 89-321, 79 Stat. 1212 (7 U.S.C. 1446a-1); sec. 3, Pub. L. 90-302, 82 Stat. 117 (42 U.S.C. 1761); secs. 409, 410, Pub. L. 93-288, 88 Stat. 157 (42 U.S.C. 5179, 5180); sec. 2, Pub. L. 93-326, 88 Stat. 286 (42 U.S.C. 1762a); sec. 16, Pub. L. 94-105, 89 Stat. 522 (42 U.S.C. 1766); sec. 1304a, Pub. L. 95-113, 91 Stat. 980 (7 U.S.C. 612c nt); sec. 311, Pub. L. 95-478, 92 Stat. 1533 (42 U.S.C. 3030a); sec. 10, Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760); sec. 1561, Pub. L. 99-198, 99 Stat. 1589; Pub. L. 100-77, 101 Stat. 536 (7 U.S.C. 612c note); 5 U.S.C. 301, unless otherwise noted.

§ 250-6 [Amended]

2. In § 250.6, paragraph (j)(2) is amended by removing the year "1987" from the first sentence and adding "1988" in its place.

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PART 251—TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM FOR FISCAL YEAR 1988

1. The authority citation for Part 251 is revised to read as follows:

Authority: Pub. L. 98–8, as amended (7 U.S.C. 612c note).

2. In § 251.4, paragraph (d) is amended by adding two new sentences at the end and by adding the OMB control number to the end of the section to read as follows:

251.4 Availability of commodities.

* * * * *

(d) * * * To the extent provided in advance in an appropriation Act and subject to the availability of commodities, in Fiscal Year 1988 State agencies may request cheese, flour, or cornmeal in addition to the State's normal allocation (adjusted by any reallocation) if the chief executive officer of the State certifies to the Department that:

(i) Individuals in the State who are eligible to receive flour, cornmeal and cheese under this part are not already receiving them under this part or the number of unemployed individuals in the State has increased during the most recent 90-day period for which unemployment statistics are available prior to the date the certification is made; and

(ii) The distribution of additional amounts of flour, cornmeal and cheese will not substantially displace the commercial date of such commodities within the State.

Cheese made available under this section shall not exceed 14 million pounds.

* * * * *

(Approved by the Office of Management and Budget under control number 0584–0313 and 0584–0341)

Date: November 2, 1987.

Anna Kondratas

Administrator.

[FR Doc. 87–25746 Filed 11–15–87; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 24

[Docket No. R–87–831; FR–1676]

Debarment, Suspension and Limited Denial of Participation; Contractors and Participants; Announcement of Effective Date

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of announcement of effective date.

SUMMARY: This notice announces the effective date of an interim rule on Debarment, Suspension and Limited Denial of Participation; Contractors and Participants, published October 2, 1987 (52 FR 37112).

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia M. Black, Assistant General Counsel for Inspector General and Administrative Proceedings, Department of Housing and Urban Development, Room 10266, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–7200. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 2, 1987, the Department published an interim rule for FR–1676—Debarment, Suspension and Limited Denial of Participation; Contractors and Participants (52 FR 37112). Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3), the interim rule could not become effective until the first period of 30 calendar days of continuous session of Congress occurring after the rule's publication. Accordingly, HUD stated that it would publish a notice of the effective date of the interim rule following the expiration of the 30-session-day waiting period. HUD also stated that whether or not the statutory waiting period had expired, the rule would not become effective until a separate notice was published in the Federal Register announcing the effective date.

Accordingly, HUD announces that the effective date for Debarment, Suspension and Limited Denial of Participation; Contractors and Participants, published October 2, 1987 (52 FR 37112), Docket No. R–87–831; FR–1676 is November 16, 1987.

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 29, 1987.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 87–25798 Filed 11–5–87; 8:45 am]

BILLING CODE 4210–32–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N–87–1747; FR–2419]

Mortgage Insurance; Changes to Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas; and Corrections.

SUMMARY: This Notice amends the listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by increasing the "high-cost" limits for the Shreveport, Louisiana MSA. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices. This notice also makes two corrections to the August 26, 1987 issue of the Federal Register (52 FR 32128): (1) To the maximum mortgage limits for the Providence, RI PMSA; which erroneously ascribed a mortgage limit of $85,850 to the entire PMSA when in fact it should have been ascribed only to Newport County within that PMSA; and (2) by adding the San Juan, Puerto Rico PMSA to the Caguas, Puerto Rico PMSA and establishing a maximum mortgage limit of $90,000 for a one-family and condominium unit for the San Juan-Caguas, PR CMSA.

EFFECTIVE DATE: November 6, 1987.

FOR FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, Room 9270; telephone (202) 755–6720. For manufactured homes: Christopher Peterson, Director, Office of Manufactured Housing and Regulatory Functions, Room 9158; telephone (202) 755–5210; 451 Seventh Street SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA), 12 U.S.C. (1710–1749), authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured home lots. The NHA, as amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

On October 1, 1986 (51 FR 34861), the Department published its most recent annual complete listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act, and their applicable limits for each area.

This Document

Today's document increases the high-cost mortgage amounts for the Shreveport, Louisiana MSA, and makes two corrections to the maximum mortgage limits published on August 26, 1987 in the Federal Register (52 FR 32126). The first correction is the maximum mortgage limits for the Providence, RI PMSA, which erroneously ascribed a mortgage limit of $85,850 to the entire PMSA when that amount should have been made applicable only to Newport County within that PMSA. The mortgage limits for the other counties in the PMSA were correctly stated. The second correction adds the San Juan, PR PMSA to the Caguas, PR PMSA and establishes a maximum mortgage limit of $90,000 for a one-family and condominium unit for the San Juan-Caguas, PR CMSA.

The increases in maximum amounts for high-cost areas appear in two parts. Part I explains high-cost limits for mortgages insured under Title I of the National Housing Act. Part II lists changes for single family residences insured under section 203(b) or 234(c) of the National Housing Act.

Accordingly, the Department increases certain high-cost maximum amounts and makes corrections to previously published high-cost maximum amounts as set forth below:

1. Increases in certain high-cost amounts.

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. *Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii)*: To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, Caddo Parish, Louisiana has a one-family limit of $83,200. The combination home and lot loan limit for Caddo Parish, Louisiana is $83,200 × .80, or $66,560.

B. *Section 2(b)(1)(E): Lot only (excluding Alaska, Guam and Hawaii)*: To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, Caddo Parish, Louisiana has a one-family limit of $83,200. The lot only loan limit for Caddo Parish, Louisiana is $83,200 × .20, or $16,640.

C. *Section 2(b)(2). Alaska, Guam and Hawaii limits*: The maximum dollar limits for Alaska, Guam and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam and Hawaii are as follows:

1. For manufactured homes: $56,700, (40,500 × 140%).

2. For combination manufactured homes and lots: 75,600. ($54,000 × 140%).

3. For lots only: $18,900. (13,500 × 140%).

II. Title II:

Updating of FHA Sections 203(b), 234(c) and 214 Area Wide Mortgage Limits

REGION VI.—HUD FIELD OFFICE—SHREVEPORT OFFICE

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Caddo Parish	$83,200	$83,700	$113,900	$131,400
Bossier Parish	83,200	93,700	113,900	131,400

2. FR-Doc. 87–19592 appearing in the August 26, 1987, issue of the Federal Register (52 FR 32126) is corrected as follows:

REGION I.—HUD FIELD OFFICE—PROVIDENCE OFFICE

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Providence, RI PMSA:				
Newport County	$85,850	$88,700	$117,500	$135,550
Kent County	83,600	94,150	114,400	132,000
Bristol County	83,600	94,150	114,400	132,000
Washington County	83,600	94,150	114,400	132,000
Providence County	83,600	94,150	114,400	132,000

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REGION II.—HUD FIELD OFFICE—CARIBBEAN OFFICE

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
San Juan, PR PMSA	$90,000	$101,300	$122,650	$142,650
Barceloneta Municipio				
Bayamon Municipio				
Canovanas Municipio				
Carolina Municipio				
Catano Municipio				
Corozal Municipio				
Dorado Municipio				
Fajardo Municipio				
Florida Municipio				
Guaynabo Municipio				
Humacao Municipio				
Juncos Municipio				
Las Piedras Municipio				
Loiza Municipio				
Luquillo Municipio				
Manati Municipio				
Naranjito Municipio				
Rio Grande Municipio				
San Juan Municipio				
Toa Alta Municipio				
Toa Baja Municipio				
Trujillo Alto Municipio				
Vega Alta Municipio				
Vega Baja Municipio				
Caguas, PR PMSA:				
Aguas Buenas Municipio				
Caguas Municipio				
Cayey Municipio				
Cidra Municipio				
Gurabo Municipio				
San Lorenzo Municipio				

Date: October 28, 1987.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 87-25790 Filed 11-5-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 226

[DoD Instruction 4165.65]

Shelter for the Homeless Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense is hereby issuing final rules that implement the DoD Shelter for the Homeless Program authorized by section 2546 of title 10, United States Code. These rules provide specific guidance to the Secretaries of the Military Departments and Installation Commanders as to the actions they may take to provide shelter and incidental services to persons without adequate shelter.

Subsection (a)(1) of the authorizing statute states that "[T]he Secretary of a military department may make military installations under his jurisdiction available for the furnishing of shelter to persons without adequate shelter." This language states clearly that the authority to establish a shelter may be exercised by the Secretary of a Military Department in a discretionary manner. The statute neither imposes an obligation on the Secretary to establish shelters, nor opens military installations to persons without shelter, beyond that which the Secretary deems advisable, taking into account the Department's responsibility to assure the nation's defense.

Additionally, the statute prohibits establishing shelters when the Secretary determines that the establishment of such a shelter will "* * * interfere with military preparedness or ongoing military functions." (10 U.S.C. 2546(c)) The proposed rules were drafted in an attempt to balance the Department's mission of providing for the national defense while accommodating the discretionary authority of the Secretary to provide shelter for persons without adequate shelter on military installations.

EFFECTIVE DATE: October 30, 1987.

FOR FURTHER INFORMATION CONTACT: Steven N. Kleiman, Director, The Homeless Assistance Program, Office of the Deputy Assistant Secretary of Defense (Installations), Room 3D612, The Pentagon, Washington, DC 20301-8000, Telephone: (202) 697-7475.

SUPPLEMENTARY INFORMATION: On May 11, 1987 DoD published proposed rules and requested comments by June 10, 1987. During the public comment period, two written comments were received; in addition, we received numerous phone requests for copies of the proposed rules.

The two written comments received addressed eight major points. Each of these points was considered and are discussed as follows:

1. Both commentators noted that the rules, as drafted, require that a state or local government be involved in the operation and staffing of shelters established under the DoD Shelter for the Homeless Program. While such state or local government may choose to affiliate itself with a charitable organization, the proposed rules do not permit a charitable organization to establish a shelter without the cooperation of the local government.

2. Both commentators proposed that the rules be modified to permit the establishment of a shelter by a charitable organization without the cooperation or approval of the state or local government. The Department declines to adopt this suggestion. The DoD believes that this program can be implemented best when we have the cooperation of a state or local government and such organization works with DoD to provide shelter for the homeless. We believe this to be true for the following reasons:

—The Defense Department must be assured that the operator of the shelter is financially capable of operating a program over an extended period of time and maintaining the facility in the condition in which it was made available. DoD generally makes a considerable investment in renovating and repairing facilities so that shelters can be operated; it would be a considerable waste of federal tax revenues to renovate a building only to have the shelter open without a reasonable expectation that the shelter will operate for an extended period of time. The statute does not provide the authority for DoD to operate a shelter.

—Our installations are adjacent to the local community. If the local community and/or its elected officials do not favor the establishment of a shelter, then, as good neighbors, Defense would not proceed.

—Local laws may well prohibit the operation of a shelter in a particular location. Except in those cases where the land is held by the United States under exclusive federal legislative jurisdiction, the DoD must comply with state and local laws and rules governing shelter operations. We believe a single policy for establishing shelters in a particular locality is in the best interests of the DoD and the local community. Therefore, working with local governmental entities assures that approval is obtained for all local permits that may be required.

2. Both commentators noted that proposed Rule 226.3(f) provided an absolute prohibition on the establishment of shelters in certain designated areas and requested that the prohibition be lifted. The Department sees merit in the comment. Each installation represents a unique opportunity to establish a shelter and our installation commanders are in the best position to determine whether such a shelter can be operated in a manner compatible with the installation's mission. Nevertheless, some guidance should be provided. Accordingly, the proposed rule has been amended to delete the absolute prohibition; instead, the rules identify those areas that we believe merit special consideration.

3. One of the commentators suggested that since Defense has, in the past, permitted buildings with on-going military functions to be used as shelters, that this practice should be continued. The establishment of shelters in buildings that have on-going DoD functions has not worked. For example, our experience with a shelter at the Naval Recruit Center in Lawrence, MA over a three-year period resulted in the on-going military mission being severely hampered. There were numerous disturbances and incidents of vandalism resulting in an adverse impact on Navy recruiting efforts and Navy employee morale.

The vast majority of requests received to date indicate that shelter providers require exclusive use of a building, 24 hours a day, seven days a week. Reserve Centers are, at best, only available a couple of evenings per week and a couple of weekends per month. The establishment of a full-time or part-time shelter under these conditions would continue to interfere with the military mission on those evenings and/or weekends in which training and/or military exercises are being conducted. Nevertheless, should the establishment of a shelter in a building that contains a military mission be deemed by the Installation Commander as to not interfere with that mission, then the Installation Commander has sufficient latitude to recommend the operation of a shelter under this rule.

4. The commentators raised the question as to which individuals involved in the program had the authority to make recommendations about establishing shelters, review such recommendations, approve the recommendations, and decide what services could be provided. After review of the comments we believe the responsibilities are clear. Installation Commanders will receive requests to establish shelters. They will survey their installation and determine if an appropriate facility is available. They will forward the results of the survey and their recommendations to the senior manager of the Military Department appointed by the Secretary. This individual will approve or disapprove the request to establish a shelter under § 226.4(d)(2), or determine what other assistance may be provided.

5. One of the commentators suggested that the DoD establish a timetable to insure that decisions are made as expeditiously as possible. We agree. Accordingly, we have amended proposed § 226.14(d)(2) to insure that this process does not take longer than 30 days.

6. The commentators asked that the Department send notifications to Installation Commanders every six months to remind them that the Department has a Shelter for the Homeless Program. The Shelter Program is an on-going program of the Department similar in nature and scope to any other personnel, financial management, or contract management program. The Department, having once issued rules and operating procedures, does not advise Installation Commanders on a recurring basis of their responsibilities. It is inherent in the role of the Installation Commander that the individual be aware of, and responsible for, all programs of the Department of Defense. Therefore, it would be inappropriate to institute a procedure requiring newsletters and pronouncements about the Shelter for the Homeless Program.

7. One of the commentators noted that there is no guidance contained in the regulations directed at groups or organizations desirous of establishing a shelter for the homeless. Accordingly, we have added a new section that states that individuals wishing to establish a shelter for the homeless program should contact the local Installation Commander. We view our Shelter for the Homeless Program as inherently local in nature. Installation Commanders will not be involved in the operation of the shelter but are responsible for the land and facilities on which the shelters will be established. Such a request by a shelter operator will trigger a survey for available facilities at the base.

8. The Defense Department received a comment recommending that the proposed rules include a section on definitions. It was further suggested that the definitions be narrowly drawn to avoid unnecessary restrictions on the use of the program. We do not believe such definitions are necessary. The Department of Defense maintains military installations for the purpose of maintaining the military preparedness of our military forces. Installation Commanders and the Secretaries of the Military Departments have, as their foremost goal, the proper functioning of our Nation's military forces. Section 2546 of title 10 authorizes the Secretaries of the Military Departments to establish shelters but specifically prohibits them from establishing shelters when the establishment of such a shelter would interfere with military preparedness or on-going military functions. In today's environment, we must give great discretion to a decision maker charged with defending our nation, as to whether establishing shelters would intefere with military preparedness or on-going military functions. Each case, each installation, each request, must be judged on its own merits. The

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Secretaries of the Military Departments and their Installation Commanders make difficult decisions balancing competing interests on a routine basis based on unique facts and circumstances. We cannot define in advance what circumstances may hamper the performance of their prime mission.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because these regulations do not meet any of the threshold criteria for a major rule. Accordingly, a regulatory impact analysis under Executive Order No. 12291 is not required.

Paperwork Reduction Act of 1980

These regulations impose no additional reporting and recordkeeping requirement requiring OMB clearance.

Regulatory Flexibility Act

A regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required because these rules relate to the use of government facilities. Further, we certify that these rules will not have a significant economic impact on a substantial number of small entities because they affect only individuals or entities seeking to establish shelters for the homeless in federal facilities or individuals seeking shelter.

List of Subjects in 32 CFR Part 226

Housing, Military installations.

Accordingly, Title 32 of the Code of Federal Regulations, Chapter I is amended to add Part 226 as follows:

PART 226—SHELTER FOR THE HOMELESS

Sec.
226.1 Purpose.
226.2 Applicability.
226.3 Policy.
226.4 Responsibilities.
226.5 Effective date and implementation.

Authority: 10 U.S.C. 2546.

§ 226.1 Purpose.

This part implements 10 U.S.C. 2546 by establishing Department of Defense policy for the Department of Defense Shelter for the Homeless Program.

§ 226.2 Applicability.

This Part applies to the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and Reserve components), the Unified and Specified Commands, the Defense Agencies, and Department of Defense Field Activities (hereafter referred to collectively as "Department of Defense Components").

§ 226.3 Policy.

(a) By Memorandum for the Secretaries of the Military Departments from the Secretary of Defense dated October 29, 1984, and entitled: "Shelter for the Homeless", the Secretary of Defense stated it is Department of Defense policy that shelters for the homeless may be established on military installations.

(b) The Secretary of a Military Department, or designee, may make military installations under his or her jurisdiction available for the furnishing of shelter to persons without adequate shelter in accordance with 10 U.S.C. 2546 and this part if he or she, or designee, determines that such shelter will not interfere with military preparedness or ongoing military functions.

(c) The Secretary of a Military Department, after determining that a shelter for the homeless may be established on a military installation, shall ensure that the plans for the shelter be developed in cooperation with appropriate State or local governmental entities and charitable organizations. The State or local government entity, either separately or in conjunction with the charitable organization, shall be responsible for operating and staffing any shelter established under the Shelter for the Homeless Program.

(d) Services that may be provided by a Military Department incident to the furnishing of shelter under 10 U.S.C. 2546 are the following:

(1) Utilities.
(2) Bedding.
(3) Security.
(4) Transportation.
(5) Renovation of facilities.
(6) Minor repairs undertaken specifically to make suitable space available for shelter to be provided in accordance with 10 U.S.C. 2546 and this part.
(7) Property liability insurance.

(e) The Military Departments should be especially sensitive to establishing shelters in the following areas:

(1) Family housing areas,
(2) Troop billeting areas,
(3) Service facilities such as commissaries, exchanges, dining facilities, hospitals, clinics, recreation centers, etc.,
(4) Safety arcs formed by firing ranges and impact areas,
(5) Frequently used training areas.

(f) Shelters for the homeless shall normally be established in only those facilities where the homeless will have exclusive use at all times. Shelters for the homeless shall normally not be established in facilities "shared" with military functions.

(g) In addition to providing shelter and incidental services, Department of Defense Components may provide bedding for support of shelters for the homeless that are located on other than Department of Defense real property. Bedding may be provided without reimbursement, but may only be provided to the extent that the provision of such bedding will not interfere with military requirements.

(h) Individuals or entities interested in establishing shelters on military installations shall:

(1) Submit a request to the Installation Commander where the shelter is desired, and

(2) Provide, at a minimum, the following data: The name and address of the organization that will operate the shelter, the name and address of the affiliated state or local governmental entity, numbers of people to be served, type of program, hours of operation, special needs of the people to be served, incidental services required, estimated date when the services are requested, estimate of when services will no longer be necessary, and what security provisions are to be provided (physical security).

§ 226.4 Responsibilities.

(a) The Deputy Assistant Secretary of Defense (Installations) shall:

(1) Administer the Homeless Assistance Program and issue such supplemental guidance as is necessary.

(2) Appoint an individual as Director, The Homeless Assistance Program, who shall be the Department of Defense program manager responsible for monitoring the Shelter for the Homeless program and answering all inquiries.

(b) The Assistance Secretary of Defense (Comptroller) shall provide guidance on the use of Department of Defense funds to finance the items issued in support of the Shelter for the Homeless program.

(c) The Secretaries of the Military Departments shall:

(1) Implement the Shelter for the Homeless program.

(2) Appoint a senior manager to monitor the Shelter for the Homeless program within that Department and to provide any assistance that may be required to the Deputy Assistant Secretary of Defense (Installations). Such official, after consultation with the Director, The Homeless Assistance Program ODASD(I), shall approve or disapprove all requests to establish a Shelter for the Homeless in accordance with 10 U.S.C. 2546 and this Part.

(3) Ensure that upon receipt of a formal request for assistance, as defined in § 226.3(h) of this part, the Military Department concerned provides an appropriate response to the requester within 30 days.

(4) Ensure that each Installation Commander is informed about the Shelter for the Homeless Program and the types of assistance that they may provide as authorized by 10 U.S.C. 2546 and this part.

(d) Department of Defense Installation Commanders shall:

(1) Acknowledge all requests for assistance.

(2) Upon receipt of a request, initiate such action as is necessary to determine the availability of facilities at that installation for use as a shelter for the homeless.

(3) Forward each request, through the chain of command, to the Service Senior Manager with a copy to the DASD(I). The installation Commander's recommendation shall accompany each request.

§ 226.5 Effective date and implementation.

This part is effective October 30, 1987. Forward one copy of implementing documents to the Deputy Assistant Secretary of Defense (Installations) within 60 days.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Dated: November 2, 1987.

[FR Doc. 87-25721 Filed 11-5-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 60, 62, 66, and 100

[CGD 86-031]

United States Aids to Navigation System

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The final rule publishes regulations which makes the United States Aids to Navigation System consistent with the International Association of Lighthouse Authorities (IALA) Maritime Buoyage System. It increases maritime safety and promotes a uniform international aids to navigation system by assuring United States participation in the IALA System. The final rule is required to inform U.S. mariners of the ongoing changes, and to eliminate unnecessary information from the present regulations. Minor changes are made to regulations concerning private aids to navigation and to regulations concerning regattas and marine parades to reflect changes to the U.S. Aids to Navigation System.

EFFECTIVE DATE: December 7, 1987.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade G.R. Wulfkuhle, Office of Navigation (G-NSR-1), U.S. Coast Guard, Room 1416, 2100 Second Street SW., Washington, DC, 20593-0001. (202) 267-0349.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the April 9, 1987 issue of the Federal Register (52 FR 11506-11512). Two comments were received on the NPRM and considered before this rulemaking was published. These comments are discussed below.

Drafting Information

The principal persons involved in drafting this rulemaking are Lieutenant Junior Grade G.R. Wulfkuhle, Project Manager, and Lieutenant S.R. Sylvester, Project Attorney, Office of Chief Counsel.

Background

In 1982, the United States, along with most of the world's other maritime nations, became a party to the agreement which implemented the International Association of Lighthouse Authorities (IALA) Maritime Buoyage System. Called "one of the most outstanding accomplishments in the development of safey of navigation all over the world", the IALA Maritime Buoyage System promotes safety of navigation by establishing a worldwide harmonious buoyage system.

The United States began conversion of the U.S. Aids to Navigation System to harmonize with the IALA Maritime Buoyage System in 1985, and will complete the conversion for all Coast Guard maintained aids by 1989. The U.S. Aids to Navigation System has not changed in substance. It remains primarily a lateral aids to navigation system. The major changes are the introduction of the yellow Special Mark, the replacement of the black and white Midchannel aids by the red and white Safe Water Mark, and the changing of some aids to navigation signals—most notably green marks which replace the older black porthend marks. United States representatives played a major role in the adaptation of the IALA Maritime Buoyage System, and most of the changes were features which the U.S. had considered adopting prior to the IALA agreement. Widespread publicity and public education efforts have resulted in U.S. mariners already becoming familiar with the changes brought forth in the final rule. Those individuals, corporations, municipalities, or states maintaining private aids to navigation are required to bring the aids into conformity at the next scheduled maintenance period not later than December 1993.

Regulatory Evaluation

This rule is considered to be non-major under Executive Order 12291, and non-significant under the DOT regulatory policies and procedures (44 FR 11034 February 26, 1979). The economic impact of this proposed rule has been found to be so minimal that further evaluation is unnecessary. Only very minor requirements or cost burdens are placed on the public. Owners of private aids to navigation, as stated in Part 66 of this Title, will have to comply with the marking schemes cited here. These changes may be timed to coincide with regularly scheduled maintenance; however, they must be made by December 1993, so the economic impact should be negligible. The Coast Guard certifies that this rule has no significant economic impact on a substantial number of small entities. No reporting or record keeping measures are required by this proposal.

Discussion of Comments

One comment suggested that differing conditions on the Great Lakes make green buoys less visible than black buoys. The commenter requested that various shades of green be evaluated for optimal visibility and that, subsequently, different shades be employed in different areas. Extensive use of green buoys has shown that the reduction in detection range has not been a significant problem. This rulemaking does not prescribe a specific shade of green and is fully consistent with past and present Coast Guard evaluations of appropriate green shades.

The second comment suggested that only vessels have port and starboard sides and that it was therefore incorrect to refer to port and starboard sides of channels. This comment may be technically correct; the Coast Guard agrees that these terms have meaning only in relation to the sides of a vessel. But that is precisely how "port" and "starboard" are used in this rulemaking. We believe that it is both clear and consistent with traditional usage to describe, for example, marks which

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should remain off the starboard side of a vessel proceeding in the Conventional Direction of Buoyage as "starboard hand marks" and to say that they indicate the "starboard side" of the channel.

Discussion of Regulation

Numerous nonsubstantive revisions in format and wording were incorporated into the final rule in the interest of clarity and accuracy. Section 62.29 was added to describe the isolated danger mark, an element of the IALA Maritime Buoyage System which has not yet been introduced into the U.S. Aids to Navigation System. Section 62.35 was added to encourage wider use of the Uniform State Waterway Marking System (USWMS) color scheme for mooring buoys. The proposed revision to § 66.01–10 inadvertently omitted the existing prohibition of electric light sources other than tungsten-incandescent. The final rule corrects this oversight. Sections 66.05–1, 66.05–20, and 66.10–1 were rewritten to correctly identify the former "lateral system" as the United States Aids to Navigation system and to clarify the relationship between this system and the USWMS.

List of Subjects

33 CFR Parts 60, 62 and 66

Navigation (water).

33 CFR Part 100

Marine safety, Navigation (water).

For the reasons set out in the preamble, Chapter I, Subchpater C, Parts 60, 62, 66 and 100, Title 33, Code of Federal Regulations are amended as follows: §.

PART 60—[REMOVED AND RESERVED]

1. Part 60 is removed and reserved.
2. Part 62 is revised to read as follows:

PART 62—UNITED STATES AIDS TO NAVIGATION SYSTEM

Subpart A—General

Sec.

62.1 Purpose.
62.3. Definition of terms.
62.5 Marking for marine parades and regattas.

Subpart B—The U.S. Aids to Navigation System

62.21 General.
62.23 Beacons and buoys.
62.25 Lateral marks.
62.27 Safe water marks.
62.29 Isolated danger marks.
62.31 Special marks.
62.33 Information and regulatory marks.
62.35 Mooring buoys.
62.37 Lighthouses.
62.39 Large navigational buoys.
62.41 Ranges.
62.43 Numbers and letters.
62.45 Light characteristics.
62.47 Sound signals.
62.49 Intracoastal Waterway identification.
62.51 Western rivers marking system.
62.53 Racons.

Subpart C—Maritime Radiobeacons

62.55 General.
62.57 Carrier type operation.
62.59 Calibration service.
62.61 Caution.

Subpart D—Public Participation in the Aids to Navigation System

62.63 Recommendations.
62.65 Procedure for reporting defects and discrepancies.

Authority: 14 U.S.C. 85; 33 U.S.C. 1233; 43 U.S.C. 1333(d); 49 CFR 1.46(b).

Subpart A—General

§ 62.1 Purpose.

(a) The Coast Guard administers the U.S. Aids to Navigation System. The system consists of Federal aids to navigation operated by the Coast Guard, aids to navigation operated by the other armed services, and private aids to navigation operated by other persons.

(b) The general characteristics of the U.S. Aids to Navigation System, and the details, policies and procedures employed by the Coast Guard in establishing, maintaining, operating, changing or discontinuing Federal aids to navigation are described in this part. Regulations concerning the marking of wrecks are found in Part 64. Regulations concerning private aids are found in Part 66. Regulations concerning the marking of artificial islands and structures which are erected on or over the seabed and subsoil of the Outer Continental Shelf of the United States or its possessions are found in Part 67. Regulations concerning the marking of bridges are found in Part 118 of this chapter.

(c) The Coast Guard maintains systems of marine aids to navigation consisting of visual, audible, and electronic signals which are designed to assist the prudent mariner in the process of navigation. The aids to navigation system is not intended to identify every shoal or obstruction to navigation which exists in the navigable waters of the United States, but rather provides for reasonable marking of marine features as resources permit. The primary objective of the aids to navigation system is to mark navigable channels and waterways, obstructions adjacent to these waterways, and obstructions in areas of general navigation which may not be anticipated. Other waters, even if navigable, are generally not marked.

§ 62.3 Definition of terms.

Certain terms as used in this subchapter are defined as follows:

(a) *Aid to Navigation.* The term aid to navigation means any device external to a vessel or aircraft intended to assist a navigator to determine position or safe course, or to warn of dangers or obstructions to navigation.

(b) *Commerce.* The term commerce, in addition to general, national and international trade and commerce of the United States, includes trade and travel by seasonal passenger craft (marine and air), yachts, houseboats, fishing boats, motor boats, and other craft, whether or not operated for hire or profit.

(c) *Commandant.* The term Commandant means the Commandant of the Coast Guard.

(d) *District Commander.* The term District Commander means the commander of a Coast Guard District. Coast Guard Districts are listed in Part 3 of this chapter.

(e) *Corps of Engineers.* The term Corps of Engineers means the Corps of Engineers, Department of the Army.

(f) *Person.* The term person imparts both singular or plural, as the case demands, and includes any Federal Agency, State, Territory, possession, or public subdivision thereof, the District of Columbia, and any corporation, company, association, club, or other instrumentality.

(g) *Navigable Waters of the United States.* The term Navigable waters of the United States is defined in § 2.05–25(a) of this part.

§ 62.5 Marking of marine parades and regattas.

(a) The Coast Guard may establish aids to navigation to mark marine parades and regattas which are regulated by the Coast Guard for the purpose of protecting life and property, or to assist in the observance and enforcement of special regulations. For marine parade and regatta regulations, see Part 100 of this chapter.

Subpart B—The U.S. Aids to Navigation System

§ 62.21 General.

(a) The navigable waters of the United States are marked to assist navigation using the U.S. Aids to Navigation System, a system in the process of conforming to the International Association of Lighthouse Authorities (IALA) Maritime Buoyage System. Since the system has not been implemented fully in U.S. waters, descriptions for the characteristics of the old system are added to the text in parentheses as

necessary. Until the conversion is complete, mariners should be familiar with both systems and aware that changes may not be reflected immediately on published charts. The IALA Maritime Buoyage System is followed by most of the world's maritime nations and will improve maritime safety by encouraging conformity in buoyage systems worldwide. IALA buoyage is divided into two regions made up of Region A and Region B. All navigable waters of the United States follow Region B, except U.S possessions west of the International Date Line and south of 10 degrees north latitude, which follow IALA Region A. Lateral aids to navigation in Region A vary from those described throughout this Subpart. Non-lateral aids to navigation are the same as those used in Region B. See section 62.25. Appropriate nautical charts and publications should be consulted to determine whether the Region A or Region B marking schemes are in effect for a given area.

(b) The U.S. Aids to Navigation System is designed for use with nautical charts. Nautical charts portray the physical features of the marine environment, including soundings and other submarine features, landmarks, and other aids necessary for the proper navigation of a vessel. This crucial information cannot be obtained from other sources, even ones such as topographic maps, aeronautical charts, or atlases. The exact meaning of an aid to navigation may not be clear to the mariner unless the appropriate chart is consulted, as the chart illustrates the relationship of the individual aid to navigation to channel limits, obstructions, hazards to navigation, and to the total aids to navigation system.

(c) The navigator should maintain and consult suitable publications and instruments for navigation depending on the vessel's requirements. This shipboard equipment is separate from the aids to navigation system, but is often essential to its use. The following publications are available from the U.S. Government to assist the navigator:

(1) The Light List, published by the Coast Guard and available through the Government Printing Office or authorized sales agents, lists federal and private aids to navigation. It includes all major Federal aids to navigation and those private aids to navigation, which have been deemed to be important to general navigation, and includes a physical description of these aids and their locations.

(2) The United States Coast Pilot, published by the National Ocean Service and available through that agency or authorized nautical chart sales agents, supplements the information shown on nautical charts. Subjects such as local navigation regulations, channel and anchorage peculiarities, dangers, climatalogical data, routes, and port facilities are covered.

(3) Local Notices to Mariners are published by local Coast Guard District Commanders. Persons may be placed on the mailing list to receive local Notices by contacting the Aids to Navigation and Waterway Management Branch of the appropriate Coast Guard District. These notices pass information affecting navigation safety. Changes to aids to navigation, reported dangers, scheduled construction or other disruptions, chart corrections and similar useful marine information is made available through this publication.

(4) The Notice to Mariners is a national publication similar to the Local Notice to Mariners, published by the Defense Mapping Agency, and available by writing: Director, Defense Mapping Agency, Office of Distribution Services, Code IMA, Washington, DC 20315–0010. A letter of justification should be included in the request. This publication provides ocean going vessels significant national and international navigation and safety information.

(5) The mariner should also listen to Coast Guard Broadcast Notices to Mariners. These broadcasts update the Local Notice to Mariners with more timely information. Mariners should monitor VHF–FM channel 16 to locate Coast Guard Marine Information Broadcasts.

(d) The U.S. Aids to Navigation System is primarily a lateral system which employs a simple arrangement of colors, shapes, numbers, and light characteristics to mark the limits of navigable routes. This lateral system is supplemented by nonlateral aids to navigation where appropriate.

(e) Generally, lateral aids to navigation indicate on which side of a vessel an aid to navigation should be passed when the vessel is proceeding in the Conventional Direction of Buoyage. Normally, the Conventional Direction of Buoyage is the direction in which a vessel enters navigable channels from seaward and proceeds towards the head of navigation. In the absence of a route leading from seaward, the Conventional Direction of Buoyage generally follows a clockwise direction around land masses. For example, proceeding southerly along the Atlantic Coast, from Florida to Texas along the Gulf Coast, and northerly along the Pacific Coast are considered as proceeding in the Conventional Direction of Buoyage. In some instances, this direction must be arbitrarily assigned. Where doubt exists, the mariner should consult charts and other nautical publications.

(f) Although aids to navigation are maintained to a reasonable degree of reliability, the rigors of the marine environment and various equipment failures do cause discrepancies on occasion.

(g) The Coast Guard makes reasonable efforts to inform the navigator of known discrepancies, and to correct them within a reasonable period of time, depending upon resources available. Occasionally, a Temporary aid to navigation, which provides different but similar service, is deployed until permanent repairs can be made to the original aid. Notification of such temporary changes is made through the notice to mariners system.

§ 62.23 Beacons and buoys.

(a) Aids to navigation are placed on shore or on marine sites to assist a navigator to determine his position or safe course. They may mark limits of navigable channels, or warn of dangers or obstructions to navigation. The primary components of the U.S. Aids to Navigation System are beacons and buoys.

(b) Beacons are aids to navigation structures which are permanently fixed to the earth's surface. They range from large lighthouses to small, single-pile structures and may be located on land or in the water. Lighted beacons are called lights; unlighted beacons are called daybeacons.

(1) Beacons exhibit a daymark. For small structures these are colored geometric shapes which make an aid to navigation readily visible and easily identifiable against background conditions. Generally, the daymark conveys to the mariner, during daylight hours, the same significance as does the aid's light or reflector at night. The daymark of large lighthouses and towers, however, consists of the structure itself. As a result, these daymarks do not infer lateral significance.

(2) Vessels should not pass beacons close aboard due to the danger of collision with rip-rap or structure foundations, or the obstruction or danger that the aid marks.

(c) Buoys are floating aids to navigation used extensively throughout U.S. waters. They are moored to the seabed by sinkers with chain or other moorings of various lengths.

(1) The daymark of a buoy is the color and shape of the buoy and, if so equipped, of the topmark.

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(i) Can buoys have a cylindrical shape.

(ii) Nun buoys have a tapered, conical shape.

(iii) Pillar buoys have a wide cylindrical base supporting a narrower superstructure. They may be surmounted by colored shapes called topmarks.

(iv) Spherical buoys have a round shape.

(2) Mariners attempting to pass a buoy close aboard risk collision with a yawing buoy, the buoy's mooring, or with the obstruction which the buoy marks.

(3) Mariners should not rely on buoys alone for determining their positions due to factors limiting the reliability. Prudent mariners will use bearings or angles from beacons or other landmarks, soundings, and various methods of electronic navigation. Buoys vary in reliability because:

(i) Buoy positions represented on nautical charts are approximate positions only, due to practical limitations in positioning and maintaining buoys and their sinkers in precise geographical locations.

(ii) Buoy moorings vary in length. The mooring lengths define a "watch circle", and buoys can be expected to move within this circle. Actual watch circles do not coincide with the dots or circles representing them on charts.

(iii) Buoy positions are normally verified during periodic maintenance visits. Between visits, environmental conditions, including atmospheric and sea conditions, and seabed slope and composition, may shift buoys off their charted positions. Also buoys may be dragged off station, sunk, or capsized by a collision with a vessel.

§ 62.25 Lateral marks.

(a) Lateral marks define the port and starboard sides of a route to be followed. They may be either beacons or buoys.

(b) Sidemarks are lateral marks which advise the mariner to stay to one side of the mark. Their most frequent use is to mark the sides of channels; however, they may be used individually to mark obstructions outside of clearly defined channels. Sidemarks are not always placed directly on a channel edge and may be positioned outside the channel as indicated on charts and nautical publications.

(1) Port hand marks indicate the left side of channels when proceeding in the Conventional Direction of Buoyage. Beacons have green square daymarks, while buoys are green (black) can or pillar buoys.

(2) Starboard hand marks indicate the right side of channels when proceeding in the Conventional Direction of Buoyage. Beacons have red triangular daymarks, while buoys are red nun or pillar buoys.

(c) Preferred channel marks indicate channel junctions or bifurcations and may also mark wrecks or obstructions which the mariner, after consulting a chart to ascertain the location of the obstruction relative to the aid, may pass on either side. Preferred channel marks have red and green (black) horizontal bands with the color of the topmost band indicating the preferred channel. If the topmost band is green (black), the mark serves as a port hand mark for vessels following the preferred channel proceeding in the Conventional Direction of Buoyage, and as a starboard hand mark for the other channel. Beacons would have square daymarks, while buoys would be can or pillar buoys. If the topmost band is red, the mark serves as a starboard hand mark for vessels following the preferred channel proceeding in the Conventional Direction of Buoyage, and a port hand mark for the other channel. Beacons would have triangular daymarks, while buoys would be nun or pillar buoys.

(d) The above color schemes apply to IALA Region B. Marks located in the IALA Region A exhibit reversed color significance: port hand marks will be red when following the Conventional Direction of Buoyage, and starboard hand marks will be green. The meaning of daymark and buoy shapes is identical in both regions.

(e) Certain marks on the Intracoastal Waterway may exhibit reversed lateral significance. See § 62.40.

§ 62.27 Safe water marks.

Safe water marks indicate that there is navigable water all around the mark. They are often used to indicate fairways or midchannels, or the seaward end of channels. Safe water marks are colored with red (black) and white vertical stripes. Beacons have an ocagonal daymark; red and white buoys are spherical or display a red spherical topmark.

§ 62.29 Isolated Danger Marks.

Isolated Danger Marks indicate an isolated danger which may be passed on all sides. As these marks are erected or moored on or near dangers, they should not be approached closely without special caution. These marks are colored black with one or more broad horizontal red bands and are equipped with a topmark of two black spheres, one above the other. Isolated Danger Marks will be introduced into the U.S. Aids to Navigation System after all preferred channel marks showing red and black bands have been converted to display red and green bands.

§ 62.31 Special Marks.

Special marks are not primarily intended to assist safe navigation, but to indicate special areas or features referred to in charts or other nautical publications. They may be used, for example, to mark anchorages, cable or pipeline areas, traffic separation schemes, military exercise zones, ocean data acquisition systems, etc. Special marks are colored solid yellow.

§ 62.33 Information and regulatory marks.

Information and Regulatory Marks are used to alert the mariner to various warnings or regulatory matters. These marks have orange geometric shapes against a white background. The meanings associated with the orange shapes are as follows:

(a) A vertical open-faced diamond signifies danger.

(b) A vertical diamond shape having a cross centered within indicates that vessels are excluded from the marked area.

(c) A circular shape indicates that certain operating restrictions are in effect within the marked area.

(d) A square or rectangular shape will contain directions or instructions lettered within the shape.

§ 62.35 Mooring buoys.

Mooring Buoys are white with a blue horizontal band. This distinctive color scheme is recommended to facilitate identification and to avoid confusion with aids to navigation.

§ 62.37 Lighthouses.

Lighthouses are prominent beacons of varying size, color, and appearance employed to mark headlands, landfalls, harbor entrances, channel edges, hazards, and other features. While normally identified by their distinctive appearance, some lighthouses display diamond shaped, checkered daymarks to facilitate recognition.

§ 62.39 Large navigational buoys.

Large Navigational Buoys (LNB's) may be considered floating lighthouses. They generally provide light, sound, and radiobeacon signals, and some are equipped with radar beacons (racons). LNB's are red in color, have a forty foot diameter hull, and a tower approximately forty feet in height.

§ 62.41 Ranges.

Ranges are aids to navigation systems employing dual beacons which, when

the structures appear to be in line, assist the mariner in maintaining a safe course. The appropriate nautical chart must be consulted when using ranges to determine whether the range marks the centerline of the navigable channel and also to ascertain that section of the range may be safety traversed. Ranges are generally, but not always, lighted, and display rectangular daymarks of various colors.

§ 62.43 Numbers and letters.

(a) All solid red and solid green (or black) aids are numbered, with red aids bearing even numbers and green (or black) aids bearing odd numbers. The numbers for each increase in the Conventional Direction of Buoyage. Numbers are kept in approximately sequence on both sides of the channel by omitting numbers where necessary.

(b) Only sidemarks are numbered. However, aids other than those mentioned above may be lettered to assist in their identification, or to indicate their purpose. Sidemarks may carry letters in addition to numbers to identify the first aid to navigation in a waterway, or when new aids to navigation are added to channels with previously completed numerical sequences. Letters on sidemarks will follow alphabetical order from seaward and proceeding toward the Conventional Direction of Buoyage and will be added to numbers as suffixes.

(c) Aids to navigation may be fitted with light-reflecting material to increase their visibility in darkness. The colors of this material may convey the same significance as the aid except that letters and numbers may be white.

(d) Exceptions to the provisions of this section will be found on the Western Rivers System. See §62.51.

(e) The guidelines for the display of numbers and letters on aids to navigation are identical for both Region A and Region B; red aids to navigation display even numbers, and green (or black) aids display odd numbers.

§ 62.45 Light characteristics.

(a) Lights on aids to navigation are differentiated by color and rhythm. Lighthouses and range lights may display distinctive light characteristics to facilitate recognition. No special significance should be attached to the color or rhythm of such lights. Other lighted aids to navigation employ light characteristics to convey additional information.

(b) When proceeding in the Conventional Direction of Buoyage, aids to navigation, if lighted, display light characteristics as follows:

(1) Green (or white) lights mark port (left) sides of channels and locations of wrecks or obstructions which are to be passed by keeping these lights on the port (left) hand of a vessel. Green lights are also used on Preferred Channel Marks where the topmost band is green (or black).

(2) Red (or white) lights mark starboard (right) sides of channels and locations of wrecks or obstructions which are to be passed by keeping these lights on the starboard (right) hand of a vessel. Red lights are also used on Preferred Channel Marks where the topmost band is red.

(3) Certain lights marking the Intracoastal Waterway may display reversed lateral significance. See § 62.49.

(c) Yellow lights have no lateral significance. Except on the Western Rivers, see § 62.51, white lights have no lateral significance. The purpose of aids exhibiting white or yellow lights may be determined by their shape, color, letters or numbers, and the light rhythm employed.

(d) Light rhythms, except as noted in § 62.51 for the Western Rivers, are employed as follows:

(1) Aids with lateral significance display regularly flashing or regularly occulting light rhythms. Ordinarily, flashing lights (frequency not exceeding 30 flashes per minute) will be used.

(2) Preferred Channel Marks display a composite group flashing light rhythm (groups of two flashes followed by one flash).

(3) Safe Water Marks display a white Morse Code "A" rhythm (short-long flash).

(4) Isolated Danger Marks display a white group flashing two.

(5) Special Marks display yellow (or white or amber) lights with fixed or slow flashing rhythm preferred.

(6) Information and Regulatory Marks display white lights of various rhythms.

(7) For situations where lights require a distinct cautionary significance, as at sharp turns, sudden channel constrictions, wrecks, or obstructions, a quick flashing light rhythm (60 flashes per minute) may be used.

(e) Occasionally lights use sectors to mark shoals or warn mariners of other dangers. Lights so equipped show one color from most directions and a different color or colors over definite arcs of the horizon as indicated on the appropriate nautical chart. These sectors provide approximate bearing information since the observer should note a change of color as the boundary between the sectors is crossed. As sector bearings are not precise, they should be considered a warning only and not used to determine exact bearing to the light.

(f) Aids to navigation may be fitted with light-reflecting material to increase their visibility in darkness. Green or red reflective material is used only on marks which, if lighted, would exhibit a light of that color. Yellow reflective material is used on special marks and on Intracoastal Waterway marks. No significance is attached to white reflective material.

§ 62.47 Sound signals.

(a) Often sound signals are located on or adjacent to aids to navigation. When visual signals are obscured, sound signals warn mariners of the proximity of danger.

(1) Sound signals are distinguished by their tone and phase characteristics.

(i) Tones are determined by the devices producing the sound (i.e., diaphones, diaphragm horns, reed horns, sirens, whistles, bells and gongs).

(ii) Phase characteristics are defined by the signal's sound pattern, i.e., the number of blasts and silent periods per minute and their durations. Sound signals emanating from fixed structures generally produce a specific number of blasts and silent periods each minute when operating. Buoy sound signals are generally actuated by the motion of the sea and therefore do not emit a regular signal characteristic.

(2) Where no live watch is maintained, sound signals are normally operated continuously. However, some are equipped with fog detectors which activate sound signals when visibility falls below a predetermined limit.

(b) Mariners should not rely solely on sound signals to determine their positions for the following reasons:

(1) Distance cannot be accurately determined by sound intensity.

(2) Occasionally sound signals may not be heard in areas close to their location.

(3) Signals may not sound in cases where fog exists close to, but not at, the location of the sound signal.

(4) As buoy signals are generally activated by sea motion, they may produce no signals when seas are calm.

(5) As previously noted, buoy positions are not always reliable. Therefore their sound signals cannot be assumed to be emanating from a fixed position.

§ 62.49 Intracoastal Waterway identification.

(a) In addition to the conventional signals, aids to navigation marking the Intracoastal Waterway exhibit unique

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yellow symbols to distinguish them from aids marking other waters.

(1) Yellow triangles indicate that aids to navigation so marked should be passed keeping them on the starboard (right) hand of a vessel, regardless of the aid's number, color, or light color.

(2) Yellow squares indicate that aids to navigation so marked should be passed keeping them on the port (left) hand of a vessel, regardless of the aid's number, color, or light color.

(3) A horizontal yellow band provides no lateral information, but simply identifies aids to navigation as marking the Intracoastal Waterway.

(b) The above guidelines apply for vessels traversing the Intracoastal Waterway in a southerly direction on the Atlantic Coast, in a westerly direction on the Okeechobee Waterway, or in a northerly and westerly direction along the Gulf Coast.

§ 62.51 Western Rivers Marking System.

(a) A variation of the standard U.S. aids to navigation system described above is employed on the Mississippi River and tributaries above Baton Rouge, LA and on certain other rivers which flow toward the Gulf of Mexico.

(b) The Western Rivers System varies from the standard U.S. system as follows:

(1) Buoys are not numbered.

(2) Numbers on beacons do not have odd/even lateral significance but, rather, indicate mileage from a fixed point (normally the river mouth).

(3) Diamond shaped crossing daymarks, solid red or solid green as appropriate, are used instead of triangular or square lateral daymarks where the river channel crosses from one bank to the other.

(4) Lights on green buoys and on beacons with green daymarks show a single flash which may be green or white.

(5) Lights on red buoys and on beacons with red daymarks show a double flash [Group Flashing (2)] which may be red or white.

(6) Isolated danger marks are not used.

§ 62.53 Racons.

(a) Aids to navigation may be enhanced by the use of radar beacons (racons). Racons, when triggered by a radar signal, will transmit a coded reply to the interrogating radar. This reply serves to identify the aid station by exhibiting a series of dots and dashes which appear on the radar display in a line emanating radially from just beyond the echo of the aid station. Although racons may be used on both laterally significant and non-laterally significant aids alike, the racon signal itself is for identification purposes only, and therefore carries no lateral significance.

(b) Racons are also used as bridge marks to mark the best point of passage.

Subpart C—Maritime Radiobeacons

§ 62.55 General.

Maritime radiobeacons operate during specific intervals as published in Coast Guard Light Lists. For station identification, simple characteristics consisting of combinations of dots and dashes are used. The characteristics of marker-beacons are composed of series of dashes for part of a 15 second cycle, which is followed by a silent period to complete the cycle. The transmitted power of maritime radiobeacons is adjusted to provide a useable signal at the service range which meets the operational requirement. Marker-beacons are of low power for local use only. Coast Guard maritime radiobeacons operate within the frequency band 275–335 kilohertz.

§ 62.57 Carrier type operation.

Radiobeacons superimpose the characteristic code on a carrier frequency which is on continuously during the period of transmission. This extends the usefulness of maritime radiobeacons to aircraft and ships employing automatic direction finders.

§ 62.59 Calibration service.

Special calibration radiobeacons, as listed in the current editions of the Coast Guard Light Lists, will broadcast continuously for the purpose of enabling vessels to calibrate their direction finders upon request either to the cognizant District Commander, or, if time does not permit, directly to the calibration station. Signals for requesting calibration service are described in the current editions of the Coast Guard Light Lists. In the case of sequenced radiobeacon stations, continuous transmission for calibration purposes cannot be made without interference resulting with other stations in the same frequency group.

§ 62.61 Caution.

(a) A vessel steering a course for a radiobeacon should observe the same precautions that apply when steering for a light or any other mark.

(b) Distance cannot be accurately determined by radiobeacon signal. Mariners must exercise extreme caution when the aid to navigation which supports the radiobeacon is not visible, and no other means of determining its distance is available.

(c) If the radiobeacon is aboard a Large Navigational Buoy (LNB) or on any marine site, particular care should be exercised to avoid the possibility of collision. In addition, caution should be exercised in using radiobeacons aboard floating aids, because of the possibility that the aid could be off station.

Subpart D—Public Participation in the Aids to Navigation System

§ 62.63 Recommendations.

(a) The public may recommend changes to existing aids to navigation, request new aids or the discontinuation of existing aids, and report aids no longer necessary for maritime safety. These recommendations should be sent to the appropriate District Commander.

(b) Recommendations, requests and reports should be documented with as much information as possible to justify the proposed action. Desirable information includes:

(1) Nature of the vessels which transit the area(s) in the question, including type, displacement, draft, and number of passengers and crew.

(2) Where practicable, the kinds of navigating devices used aboard such vessels (e.g. magnetic or gyro compasses, radio direction finders, radar, loran, and searchlights).

(3) A chartlet or sketch describing the actual or proposed location of the aid(s), and a description of the action requested or recommended.

§ 62.65 Procedure for reporting defects and discrepancies.

(a) Mariners should notify the nearest Coast Guard facility immediately of any observed aids to navigation defects or discrepancies.

(b) The Coast Guard cannot monitor the many thousands of aids in the U.S. Aids to Navigation System simultaneously and continuously. As a result, it is not possible to maintain every aid operating properly and on its charted position at all times. Marine safety will be enhanced if persons finding aids missing, sunk, capsized, damaged, off station, or showing characteristics other than those advertised in the Light List, or other publication, promptly inform the Coast Guard. When making the report to the Coast Guard the mariner should consult the Light List to ensure the correct geographical information is used due to the similarity of names and geographical areas.

(c) Procedures for reporting defects and discrepancies:

(1) *Radio messages* should be prefixed "Coast Guard" and transmitted directly to a Government shore radio station listed in Chapter five, Section 500D of

Radio Navigational Aids Publication, 117A and 117B, for relay to the relevant District Commander.

(2) *Radio-telegraph* communication may be established by using the general call "NCG" on the 500 kilohertz frequency.

(3) *Commercial communications facilities* should be used only when vessels are unable to contact a Government shore radio station. Charges for these messages will be accepted "collect" by the Coast Guard.

PART 66—[AMENDED]

3. The authority citation for Part 66 is revised to read as follows:

Authority: 14 U.S.C. 83, 85.; 43 U.S.C. 1333; 49 CFR 1.46.

4. Section 66.01–10 is revised to read as follows:

§ 66.01–10 Characteristics.

(a) The characteristics of a private aid to navigation shall conform to the United States Aids to Navigation System described in Subpart B of Part 62 of this subchapter, except that only tungsten-incandescent light sources will be approved for electric lights.

(b) Owners of previously authorized, but nonconforming, private aids to navigation must bring such aids to navigation into conformance with the U.S. Aids to Navigation System not later than December 31, 1993.

5. Section 66.05–1 is revised to read as follows:

§ 66.05–1 Purpose.

(a) The purpose of the regulations in this subpart and subpart 66.10 of this part is to prescribe the conditions under which State governments may regulate aids to marine navigation, including regulatory markers, owned by State or local governments or private parties, in navigable waters of the United States not marked with aids by the Federal Government; and to prescribe a uniform system of marine aids to navigation compatible with the United States Aids to Navigation System described in Part 62 of this subchapter.

6. Section 66.05–20 is revised to read as follows:

§ 66.05–20 Coast Guard-State agreements.

(a) The District Commander in whose District a waterway is located may enter into agreements with State Administrators permitting a State to regulate aids to navigation, including regulatory markers, in State waters for private aids to navigation, as, in the opinion of the District Commander, the State is able to do in a manner to improve the safety of navigation. When a waterway is located within the area of jurisdiction of more than one Coast Guard District, the District Commander in whose District the State capital is located shall execute the agreement in behalf of the Coast Guard. All such agreements shall reserve to the District Commander the right to inspect the State aids to navigation without prior notice to the State. They shall stipulate that State aids to navigation will conform to the Uniform State Waterway marking System or to the U.S. Aids to Navigation System and that the State Administrator will modify or remove State aids to navigation without expense to the United States when so directed by the District Commander, subject to the right of appeal on the part of the State Administrator to the Commandant.

(b) A Coast Guard-State agreement shall become effective when both parties have signed the agreements. In lieu of the procedure prescribed in § 66.01–5, the agreement shall constitute blanket approval by the Commandant, of the State aids to navigation, including regulatory markers, established or to be established in State waters for private aids to navigation designated or to be designated by the Commandant.

(c) In addition to the matters set forth in paragraph (a) of this section, Coast Guard-State agreements shall cover the following points, together with such other matters as the parties find it desirable to include:

(1) A description, in sufficient detail for publication in Notices to Mariners, of all aids to navigations under State jurisdiction in navigable waters of the United States in existence prior to the effective date of the agreement which have not been previously approved under procedures of § 66.01–5.

(2) Procedures for use by the State administrator to notify the District Commander of changes made in State aids to navigation, as required by § 66.05–25.

(3) Specification of the marking system to be used, whether the U.S. Aids to Navigation System or the Uniform State Waterway Marking System.

(4) Specification of standards as to minimum size and shape of markers, the use of identifying letters, the use of reflectors or retroreflective materials, and any other similar standards so as to enable Coast Guard inspectors to determine compliance with Statewide standards.

7. Section 66.10–1 is revised to read as follows:

§ 66.10–1 General.

(a) The Uniform State Waterway Marking System (USWMS) was developed to convey to the small vessel operator, in particular, adequate guidance to indicate safe boating channels by indicating the presence of either natural or artificial obstructions or hazards, marking restricted or controlled areas, and providing directions. The USWMS may be used in those navigable waters of the U.S. which have been designated as State waters for private aids to navigation and in those internal waters which are not navigable waters of the U.S.

(b) The U.S. Aids to Navigation System, described in Part 62 of this Subchapter, may be used in all U.S. waters, including those waters under State jurisdiction.

(c) The USWMS consists of:

(1) A system of regulatory markers to indicate to a vessel operator the existence of dangerous areas as well as those which are restricted or controlled, such as speed zones and areas dedicated to a particular use, or to provide general information and directions;

(2) A system of aids to navigation to mark channels and obstructions; and

(3) A distinctive color scheme for mooring buoys.

PART 100—[AMENDED]

8. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

9. Section 100.45 is revised to read as follows:

§ 100.45 Establishment of aids to navigation.

The District Commander will establish and maintain only those aids to navigation necessary to assist in the observance and enforcement of the special regulations issued under the District Commander's authority. These aids to navigation will be in accordance with Part 62 of this chapter. All other aids to navigation incidental to the holding of a regatta or marine parade are private aids to navigation as described in Part 66 of this chapter.

Dated: November 2, 1987.

Martin H. Daniell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 87–25713 Filed 11–5–87; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD7-87-19]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City of Deerfield Beach, the Coast Guard is changing regulations governing the Hillsboro Boulevard (SR 810) bridge at Deerfield Beach by extending the days and hours during which bridge openings are limited. This change is being made because of complaints about highway traffic delays. This action will accommodate the current needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on December 7, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Brodie Rich, telephone (305) 536–4103.

SUPPLEMENTARY INFORMATION: On June 22, 1987, the Coast Guard published proposed rules (52 FR 23472) concerning this amendment. The Commander, Seventh Coast Guard District, also published the proposal as a Public Notice dated June 25, 1987. In each notice, interested persons were given until August 6, 1987, to submit comments.

Drafting Information

The drafters of these regulations are Mr. Brodie Rich, project officer, and Lieutenant Commander S. T. Fuger, Jr., project attorney.

Discussion of Comments

49 comments were received. Fourteen supported the proposal or expressed no objection. Two opposed any change to existing requirements, three wanted 20 minute interval openings each hour, and thirty supported the City of Deerfield Beach's request to open the bridge on the hour and half hour seven days a week, year round. Several commercial users expressed concern for impact on their businesses if openings were changed to every 30 minutes. Some comments expressed concern that draw openings could delay emergency vehicles or that some draw openings are for easily lowered vessel appurtenances. These matters are addressed in 33 CFR 117.31 and 117.11, respectively. Many commenters cited safety issues associated with hazardous currents and increased boat congestion within the limited holding areas near the bridge, should openings be extended to every 30 minutes. The Coast Guard agrees that limiting openings to once every 30 minutes would create potentially unsafe vessel congestion near the bridge. The proposed 15-minute scheduling during the busiest boating months should allow accumulated vehicular traffic to disperse without causing unacceptable delays to waterway traffic. The final is unchanged from the proposed rule published on 22 June 1987.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.261(bb) is revised to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(bb) *Hillsboro Boulevard (SR 810) bridge, mile 1050.0 at Deerfield Beach.* The draw shall open on signal; except that, from October 1 through May 31, from 7 a.m. to 6 p.m., the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

* * * * *

Dated: October 26, 1987.

M. J. O'Brien,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 87–25705 Filed 11–5–87; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7-87-12]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Georgia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Chatham County Engineering Department, the Coast Guard is adding regulations governing the Causton Bluff drawbridge at Savannah by permitting the number of openings to be limited during certain periods. This change is being made because of complaints about highway traffic delays. This action will accommodate the current needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on December 7, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, telephone (305) 536–4103.

SUPPLEMENTARY INFORMATION: On May 21, 1987, the Coast Guard published proposed rules (52 FR 19172) concerning this amendment. The Commander, Seventh Coast Guard District, also published the proposal as a Public Notice dated June 6, 1987. In each notice, interested persons were given until July 6, 1987, to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Comments

Two comments were received. The State of Georiga Office of Planning and Budget had no objection to the proposal. A commercial fishing fleet operator objected stating that a vessel reaching the bridge after 6:30 a.m. would have an hour and twenty-five minute wait, and that traffic could use the route across the new high level fixed bridge at Thunderbolt to avoid a drawbridge opening.

The Coast Guard has carefully considered the comments. An opening at 7 a.m. has been added to the morning closed period to accomodate those commercial fishing vessels not making the 6:30 a.m. opening. Since the available data indicates there were only 67 openings for shrimp boats and non-commercial vessels between 6:30 a.m. and 7 a.m. per year, this provision should not regularly disrupt vehicular traffic. In addition, part of the traffic congestion on the Causton Bluff bridge should be relieved with the recent opening of the alternate route across the Thunderbolt high level fixed bridge. The final regulation is otherwise unchanged from the proposed rule published on May 21, 1987.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.353(b) is revised to read as follows:

§ 117.353 Atlantic Intracoastal Waterway from Savannah River to St. Marys River.

* * * * *

(b) *Causton Bluff, SR 26, mile 579.9 near Causton Bluff.* The draw shall open on signal, except that from 6:30 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m. Monday through Friday, except Federal holidays the draw need open only at 7 a.m., 8 a.m. and 5:30 p.m.

* * * * *

Dated: October 16, 1987

H.B. Thorsen,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 87–25707 Filed 11–5–87; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD5-87-082]

Temporary Drawbridge Operation Regulations; Bridge Across Severn River at Annapolis, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule with request for comments.

SUMMARY: At the request of the Maryland State Highway Administration, the Coast Guard is issuing temporary regulations for the drawbridge across the Severn River, mile 3.0, on MD State Route 450 at Annapolis, Maryland, to restrict bridge openings during morning and evening peak vehicular traffic hours during the reconstruction of the U.S. 50/301 highway bridge across the Severn River, located approximately 1 mile upstream. Public comments on the temporary rule are requested. The temporary rule may be amended based on those comments.

DATES:

Effective Date: This temporary regulation becomes effective on October 26, 1987. It terminates on May 31, 1988.

Date for Comments: Comments must be received on or before November 26, 1987.

ADDRESSES: Comments may be mailed to: Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004. Comments will also be available for inspection and copying at Room 507 of the above address. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, telephone number: (804) 398–6222.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to reduce the highway traffic congestion on the S.R. 450 bridge across the Severn River at Annapolis, Maryland during reconstruction work on the alternate bridge across the Severn River, the U.S. 50/301 bridge located about 1 mile upstream. The Maryland State Highway Administration requested the issuance of these temporary regulations on September 14, 1987.

Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identifying the bridge, and give reasons for concurrence with or any recommended changes in the temporary rule.

The Commander, Fifth Coast Guard District, will evaluate all communications received and determine whether the temporary rule should be changed in light of comments received.

Drafting Information

The drafters of this notice are Ann B. Deaton, Project Officer, and CDR Robert J. Reining, Project Attorney, Fifth Coast Guard District Legal Staff.

Discussion of Temporary Rule

At the request of the Maryland State Highway Administration, the Coast Guard is issuing temporary regulations for the drawbridge across the Severn River, mile 3.0, on S.R. 450 at Annapolis, Maryland, to restrict bridge openings during vehicular rush hours of 7 a.m. to 9 a.m. and 7 p.m. to 6 p.m., Monday through Friday, until the spring of 1988 when reconstruction work on the U.S. 50/301 fixed bridge upstream is scheduled to be completed.

The U.S. 50/301 bridge is currently undergoing reconstruction work and widening to provide additional traffic lanes. U.S. 50/301 handles an average daily traffic volume of 55,000 vehicles. In order to avoid the construction on this bridge, many of those motorists have been using the alternate access to Annapolis by crossing the Severn River on the S.R. 450 drawbridge. With this additional traffic using the S.R. 450 bridge, the current drawbridge schedule of opening on demand is seriously disrupting traffic flow and causing lengthy delays to motorists going to work in Annapolis during the morning rush hours and returning home during the evening rush hours.

The State of Maryland has requested rush-hour opening restrictions to alleviate some of the hardship on motorists until work on the U.S. 50/301 bridge is completed in late spring of 1988, and motorists can return to their normal highway routes. On weekends, and at all times other than the above designated rush hours, the bridge will be required to open on demand. Implementation of this temporary schedule will improve the flow of

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vehicular rush-hour traffic while still providing for the reasonable needs of navigation.

Economic Assessment and Certification

These temporary regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of the temporary regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. The temporary regulations will have no effect on commercial navigation on the Severn River, and no commercial water-dependent activities are expected to be affected.

Since the economic impact of these temporary regulations is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Part 117 of Title 33, Code of Federal Regulations is temporarily amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-01(g).

2. Section 117.572 is temporarily added to read as follows:

§ 117.572 Severn River.

(a) The draw of the S.R. 450 bridge, mile 3.0, at Annapolis shall open on signal, except, from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., Monday through Friday, the draw shall not open for the passage of pleasure vessels.

(b) The draw shall open on signal for public vessels of the United States, State or local vessels used for public safety, commercial vessels, and vessels in distress.

(c) This temporary rule becomes effective on October 26, 1987. It terminates on May 31, 1988.

Dated: October 21, 1987.

R.M. Polant,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 87-25708 Filed 11-5-87; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7-87-25]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, South Carolina

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the South Carolina Department of Highways and Public Transportation, the Coast Guard is adding regulations governing the Wappoo Creek drawbridge at Charleston by permitting the number of openings to be limited during certain periods. This change is being made because of complaints about highway traffic delays. This action will accommodate the current needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on December 7, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, telephone (305) 536-4103.

SUPPLEMENTARY INFORMATION: On July 20, 1987, the Coast Guard published proposed rules (52 FR 27225) concerning this amendment. The Commander, Seventh Coast Guard District, also published the proposal as a Public Notice dated August 3, 1987. In each notice, interested persons were given until September 3, 1987, to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney

Discussion of Comments

Eleven comments were received. Most supported keeping the bridge closed from 6 a.m. to 9:30 a.m. and 3:30 p.m. to 6:30 p.m. Monday through Friday. Seven supported openings on the hour and half hour at all other times on a year round basis.

The Coast Guard has carefully considered the comments. The closed periods for the Wappoo Creek bridge already exceed those of any other drawbridge across the Intracoastal Waterway in the Seventh Coast Guard District. Increasing the closed period to 3 or more hours twice daily would be an unreasonable restriction to Intracoastal Waterway navigation. Available bridge and highway traffic data does support the need for additional restrictions on brdige openings during the "off peak" hours from April 1 to November 30. Comments received, however, presented no additional information to justify these "off peak" hours during the winter months when bridge openings are significantly reduced.

These additional limitations on bridge openings should improve highway traffic flow significantly while allowing mariners reasonable use of the Intracoastal Waterway. The final rule is unchanged from the proposed rule published on July 20, 1987.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs and tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.911(d) is revised to read as follows:

§ 117.911 Atlantic Intracoastal Waterway from Little River to Savannah River.

* * * * *

(d) *SR 171/700 bridge across Wappoo Creek Mile 470.8 at Charleston.* The draw shall open on signal, except that the bridge need not open from 6:30 a.m. to 9 a.m. and 4 p.m. to 6:30 p.m. Monday through Friday, except federal holidays. From April 1 to November 30 from 9 a.m. to 4 p.m. Monday through Friday, except federal holidays, the bridge need not open except on the hour and half-hour. From April 1 to November 30, from 9 a.m. to 7 p.m., Saturdays, Sundays and Federal holidays, the bridge need not open except on the hour and half-hour.

* * * * *

Dated: October 29, 1987.

H.B. Thomas,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 87-25709 Filed 11-5-87; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7-87-46]

Drawbridge Operation Regulations; Oklawaha River, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for the Starkes Ferry (SR 42) bridges, both Main and East Channels at mile 73.0 Oklawaha River, near Weirsdale, Florida, because the bridges have been replaced by a high level fixed span. Notice and public procedure have been omitted from this action due to removal of the bridges concerned.

EFFECTIVE DATE: This rule becomes effective on November 6, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Zonia Reyes, Bridge Administration Specialist, Seventh Coast Guard District, (305) 536-4103.

SUPPLEMENTARY INFORMATION: The draws of the Sharpes Ferry (SR 40) bridge, mile 55.1, Muclan Farms Bridge, mile 63.9 and Moss Bluff, mile 66.0 are not affected by this amendment. This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to drawbridges that no longer exist at mile 73.0.

Consequently, this action is considered to be non-major under Executive order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). Since there is no economic impact a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The drafters of this rule are Ms. Zonia Reyes, Bridge Administration Specialist, Project Officer, and Lieutenant Commander S. T. Fuger, Jr. Project Attorney.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.319(a) is revised to read as follows:

§ 117.319 Oklawaha River.

(a) The draws of the Sharpes Ferry (SR 40) bridge, mile 55.1, and Muclan Farms bridge, mile 63.9, shall open on signal if at least three hours notice is given.

* * * * *

Dated: October 26, 1987.

M.J. O'Brien,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 87-25706 Filed 11-5-87; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 122

[CGD 87-044]

Security Measures; CFR Part Removed

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule removes the regulations requiring merchant vessels to post, when provided by the Coast Guard, CG Form 3526, entitled "Atomic Attack Instructions for Merchant Vessels in Port", in five designated areas of the vessel. This action is taken because the information on the placard is either outdated or provided in other publications required on merchant vessels. This eliminates the burden on the public of maintaining an unnecessary document and reduces Coast Guard operating costs for printing, stocking, distributing and inspecting the document.

EFFECTIVE DATE: November 6, 1987.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Joel R. Whitehead Project Manager, Office of Marine Safety, Security, and Environmental Protection, phone (202) 267-0491.

SUPPLEMENTARY INFORMATION: The Coast Guard received a petition to amend or revoke 33 CFR Part 122. The petitioner complained that the information on CG Form 3256, entitled "Atomic Attack Instructions for Merchant Vessels in Port", is grossly outdated and recommended that the regulation be deleted. Furthermore, the petitioner points out that CG Form 3256 is not normally provided to foreign vessels in U.S. ports. The petitioner recommended that CG Form 3256, which advises ships to maintain a radio guard at the sounding of the Civil Defense Alert Signal, advises ships on procedures to follow for getting underway, and lists procedures for decontamination, personnel protection and ship security, be provided by the Coast Guard to all vessels in U.S. ports, if the form is updated.

The Coast Guard evaluated the petitioner's request and made several findings. First, the regulations in 33 CFR Part 122 require the master of a U.S. ship to post CG Form 3256, when provided by the Coast Guard, in "conspicuous places in the pilothouse, engineroom, and in the seamen's, firemen's, and steward's departments of the vessel." The regulations do not indicate which ships must have the placard nor do the regulations require ships to follow the procedures that are outlined on the placard. The regulations require substantial revision to clarify the applicability, to ensure that the proper procedures are followed and to make the regulations enforceable.

Second, the Coast Guard found that the information covering personnel protection, decontamination and ship security information outlined on CG Form 3256 is outdated and duplicates information contained in other publications. More detailed and up to date information is contained in ATP II Volume II "Allied Naval Control of Shipping Manual Guide to Masters" and Publication 117A, "Radio Navigation Aids" published by Defense Mapping Agency. Merchant vessels are required by MARAD Advisory 85-6 to maintain up to date copies of both publications on board.

There are other areas of outdated information on CG Form 3256. The dispersal procedures outlined on CG Form 3256 are outdated because modern weapon delivery systems make it impractical to evacuate ships from a port after it is learned that atomic attack is imminent. Merchant vessels would normally be ordered to disperse during times of heightened tension, well before the sounding of any civil defense signal.

Finally, the Coast Guard found that the regulations in 33 CFR Part 122 and CG Form 3256 are unnecessary because vessel movement is addressed by other regulations in Title 33. The navigation safety regulations in 33 CFR 160.111 authorize the District Commander or Captain of the Port to order any vessel to operate or anchor in any manner directed if it has been determined that

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such an order is justified in the interest of safety. In the event of an emergency the COTP would order vessels to disperse under this regulation, not 33 CFR Part 122.

In accordance with 5 U.S.C. 553 a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. In this case, notice and public procedure are unnecessary and contrary to the public interest. The existing rule requires vessels to post a placard containing information that is either outdated or duplicative. The regulation does not serve a useful purpose and promulgation of this rulemaking relieves the public of an unnecessary paperwork burden. Therefore, the change should be effectuated as soon as possible.

Regulatory Evaluations

This final rule is considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary under DOT Order 2100.5 of 5 May 1980. Deleting the regulation would eliminate duplicate recordkeeping requirements on the marine industry. The Coast Guard would also recognize a small but significant savings in both manpower and money because it will no longer be necessary to print, stock, distribute and inspect for CG Form 3256.

Regulatory Flexibility Act

Since the impact of this final rule is expected to be minimal, the Coast Guard certifies in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Coast Guard evaluated the recordkeeping requirements of the existing regulations in compliance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Because the information provided on CG Form 3256 is outdated, and the information and recordkeeping requirements of 33 CFR Part 122 are redundant, the Coast Guard decided to delete the regulation and reduce the burden on the public.

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and concluded that preparation of an environmental impact statement is not necessary. This regulatory project is not anticipated to have an adverse impact on the environment. An environmental assessment and a Finding of No Significant Impact have been prepared and may be inspected or copied as indicated under "Addresses".

List of Subjects in 33 CFR Part 122

Civil defense, Vessels.

PART 122—[REMOVED]

For the reasons set out in the preamble, Part 122 of Chapter I, Title 33 Code of Federal Regulations is removed.

Authority: 50 U.S.C. 191, 33 CFR 0.14.

Dated: November 2, 1987.

P.C. Lauridsen,

Captain, U.S. Coast Guard Acting Chief, Office of Marine Safety Security and Environmental Protection.

[FR Doc. 87-25710 Filed 11-5-87; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 162

[CGD 86-066]

York Spit Channel, Chesapeake Bay; Navigation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule deletes the regulation restricting navigation through the York Spit Channel, Chesapeake Bay. This rule is necessary to inform the public and interested parties that navigation restrictions governing this waterway are no longer in effect and are removed from the regulations. The intended effect of this final rule is to update existing regulations.

EFFECTIVE DATE: December 7, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Powers, Navigation Systems Safety Division, Office of Navigation, (202) 267-0415.

SUPPLEMENTARY INFORMATION: The regulations governing Inland Waterway Navigation (IWN) of vessels was transferred for administrative and enforcement purposes to the Coast Guard from the U.S. Army Corps of Engineers by a Memorandum of Understanding signed on May 5, 1977. Discussion between the Coast Guard and local maritime interests questioned the purpose, intent, and present usage/usefulness of the York Spit Channel navigation regulations. This regulation was originally developed to restrict the movement of vessels through a hazardous navigation area during a period when vessel traffic was much greater than traffic levels have been over the past few years. Coast Guard and maritime interests agree the present Inland Navigation Rules provide sufficient guidance to insure navigation safety in the York Spit Channel and surrounding area. The proposal to remove this regulation was published in a Notice of Proposed Rulemaking (NPRM) on May 21, 1987 (52 FR 19173) with a forty-five day comment period. One letter was received in response to the NPRM.

Drafting Information

The principal persons involved in drafting this final rule are Mr. Michael J. Powers, Project Manager, and Mrs. Christena Green, Project Counsel, Office of Chief Counsel.

Discussion of Comments

The one comment received concurred with the removal of the restriction. The comment stated that the regulation was only known by a few people and is disregarded by all. The commenter saw no justifiable reason to preserve the restriction.

Regulatory Evaluation

This final rule is considered to be non-major under Executive Order 12291 and non-significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A Regulatory Impact Analysis under Executive Order 12291 is not required. The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary.

Deleting the York Spit Channel Navigation regulation merely informs vessel operators that they are no longer restricted to entering or departing at the ends of the channel and that administration and enforcement activities associated with this regulation are being terminated. Sufficient guidance to insure navigation safety in the York Spit Channel and surrounding area is provided through the Inland Navigation Rules. It is expected waterborne commerce will continue to use the York Spit Channel for navigation and navigation aids outlining York Spit Channel will remain in place. Since the economic impact is expected to be minimal, the Coast Guard certifies this rule will not have a significant economic impact on a substantial number of small entities.

Reporting and Recordkeeping Requirements

This rule contains no reporting or recordkeeping requirements.

List of Subjects in 33 CFR Part 162

Navigation (water), Vessels.

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

In consideration of the foregoing, Part 162 of Title 33 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 162 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

§ 162.45 [Removed]

2. Section 162.45 is removed.

Dated: October 9, 1987.

Martin H. Daniell,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc. 87-25712 Filed 11-5-87; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Honolulu Regulation 87-03]

Security Zone Regulations; Outer Apra Harbor, Guam, Marianas Islands

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone around the U.S. Navy vessel USS PROTEUS which will be moored at mooring buoy no. 951 located at 13°26'51"N, 144°38'13.8"E in Outer Apra Harbor, Guam, Marianas Islands. The security zone will extend for a distance of 200 yards in all directions from USS PROTEUS. The zone is needed to safeguard USS PROTEUS against destruction from sabotage or other subversive acts, accidents, or other causes of similar nature. Entry into this zone is prohibited unless authorized by Captain of the Port.

DATES: This regulation becomes effective on November 28, 1987. It terminates on December 4, 1987 unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT R.E. Tinker (671) 477-3340, USCG Marianas Section Office, Guam.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM or delaying its effective date would be contrary to the public interest since immediate action is needed to prevent injury to or destruction of the USS PROTEUS.

Drafting Information

The drafters of this regulation are CDR M.W. Mastenbrook, project officer for the Captain of the Port, and LCDR R.W. Bogue, project attorney, Fourteenth Coast Guard District Legal Office.

Discussion of Regulation

The Navy had requested that a security zone be established. The incident requiring this regulation will begin on November 28, 1987 when the USS PROTEUS will moor at mooring buoy no. 951 in Outer Apra Harbor, Guam. Since mooring buoy no. 951 is a Navy maintained mooring buoy, and is located in excess of 500 yards from the main shipping channel, there should be no adverse impact on harbor use due to this security zone. USS PROTEUS will moor at the buoy to undertake routine maintenance work, and the security zone will be terminated when the USS PROTEUS leaves the moorage upon completion of this work. The purpose of this regulation is to protect the USS PROTEUS from injury or destruction from sabatoge, accidents or other subversive acts. This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security Measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart D of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new § 165.T1403 is added to read as follows:

§ 165.T1403 Security Zone: Outer Apra Harbor, Guam.

(a) *Location:* The following area is a security zone: In outer Apra Harbor, Guam, when the USS PROTEUS is moored to mooring buoy no. 951 located at 13°26'51"N, 144°38'13.83"E, a security zone will extend in all directions from the vessel for a distance of 200 yards.

(b) *Effective date:* This regulation becomes effective on November 28, 1987 at 12:01 AM local Guam time. It terminates on December 4, 1987 at 11:59 PM local Guam time unless sooner terminated by the Captain of the Port.

(c) *Regulations:* In accordance with the general regulations in Section 165.33 of this part, entry into the zone is prohibited unless authorized by the Captain of the Port. Section 165.33 also contains other general requirements.

Dated: October 30, 1987.

C.W. Gray,

Captain, U.S. Coast Guard, Captain of the Port, Honolulu, Hawaii.

[FR Doc. 87-25711 Filed 11-5-87; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 4F3070/R922; FRL-3288-5]

Pesticide Tolerance for Fluazifop-Butyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues or resolved isomer of fluazifop, (*R*)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoic acid, both free and conjugated, and of fluazifop-*P*-butyl, butyl(*R*)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate, all expressed as fluazifop, in or on the raw agricultural commodity (RAC) onions (bulb). This regulation to establish maximum permissible levels for residues of the resolved isomer of fluazifop and fluazifop-*P*-butyl, all expressed as fluazifop, in or on onions (bulb) was requested in a petition by ICI Americas, Inc.

EFFECTIVE DATE: Effective on November 6, 1987.

ADDRESS: Written objections, identified by the document control number [PP 4F3070/R922], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By Mail: Richard F. Mountfort, Product Manager (PM) 23, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1830

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of May 23, 1984 (49 FR 21795), which announced that ICI Americas, Inc., Agricultural Chemicals Division, Wilmington, DE 19897, had filed

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pesticide petition 4F3070 with EPA. The petition proposed that a tolerance be established for residues of (±)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoic acid (fluazifop), both free and conjugated, and of (±)-butyl 2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate (fluazifop-butyl), all expressed as fluazifop, in or on the RAC onions at 0.5 part per million (ppm). ICI Americas, Inc., subsequently amended the proposal to specify the resolved isomer of fluazifop, (*R*)-2-[4-[[5-(trifluoromethyl)-2-Pyridinyl]oxy]phenoxy]propanoic acid, and fluazifop-*P*-butyl, butyl(*R*)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate, and onions (bulb).

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The data considered in support of the tolerance include:

1. Plant and animal metabolism studies.

2. A rat oral lethal dose (LD_{50}) with an LD_{50} of 3,300 milligrams (mg) per kilogram (kg) of body weight (bwt).

3. A rabbit subchronic dermal study with a no-observed-effect level (NOEL) of 100 ppm (5 mg/kg/day).

4. a 90-day rat feeding study with a NOEL of 0.5 mg/kg/day.

5. A 90-day dog feeding study with a NOEL of 25 mg/kg/day.

6. A rat teratology study with a teratogenic and maternal toxicity NOEL of 10 mg/kg/day (the teratogenic and maternal toxic level is 200 mg/kg/day (highest dose) with diaphragmatic hernia) and the fetotoxic NOEL of 1 mg/kg/day (Margin of Safety values are based on the developmental toxicity NOEL of 1 mg/kg/day).

7. A rabbit teratology study with no terata at 90 mg/kg/day (highest dose) and a fetotoxic NOEL of 10 mg/kg/day.

8. A two-generation rate reproduction study with a NOEL of 60 ppm (mg/kg/day).

9. A 2-year chronic feeding/oncogenicity study in rats with no-observed-oncogenic potential under conditions of the study up to and including 3.0 mg/kg/day (highest dose) and a systemic toxicity NOEL of 1 mg/kg/day.

10. An 18-month mouse chronic feeding/oncogenicity study with no-observed-oncogenic potential up to an including 3.0 mg/kg/day (highest dose) and a systemic toxicity NOEL of 1.0 mg/kg/day.

11. An Ames test (negative).

12. A rate cytogenetic study (negative).

13. An *in-vitro* transformation assay (negative).

14. An acute delayed neurotoxicity study in hens (negative).

15. A 1-year dog feeding study with a NOEL of 5 mg/kg/day.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 1.0 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.01 mg/kg/bwt/day. The maximum permitted intake for a 60-kg human is calculated to be 0.6 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.00006 mg/day; the current action will increase the TMRC by 0.00021 mg/day (10.3 percent). Published tolerances utilize 10.0 percent of the ADI. The current action will utilize an additional 1.0 percent to utilize a total of 11.0 percent of the ADI.

The nature of the residue of the pesticide is adequately delineated, and an adequate analytical method, high-pressure liquid chromatography using an ultraviolet director, is available in the Pesticide Analytical Manual, Vol. II, for enforcement purposes. Existing tolerances for fluazifop-butyl are adequate to cover secondary residues in meat, milk, poultry, or eggs resulting from this use of the pesticide. There are currently no regulatory actions pending against the pesticide.

Based on the information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 29, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.411 is amended by adding and alphabetically inserting the raw agricultural commodity onions (bulb) to paragraph (c), to read as follows:

§ 180.411 Fluazifop-butyl; tolerance for residues.

* * * * *

(c) * * *

Commodities	Parts per million
* *	* *
Onions (bulb)	0.5

[FR Doc. 87-25732 Filed 11-5-87; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To Determine Astragalus montii (Heliotrope milk-vetch) To Be Threatened Species, With Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the plant *Astragalus montii* (Heliotrope milk-vetch) to be a threatened species and designates critical habitat for a portion of its range under the authority of the Endangered Species Act of 1973, as amended. *Astragalus montii* is known from three populations entirely on public land in the Manti-LaSal National Forest located in Sanpete and Sevier Counties in central Utah. The taxon grows on outcrop barrens formed from a substrate of partially decomposed limestone of the Flagstaff Formation. *Astragalus montii* populations are in an area of active oil and gas exploration associated with the "Overthrust Belt" of the western United States.

Energy exploration and any development could have a seriously negative effect on this taxon if it were not considered early in developmental planning. This rule extends the protection provided by the Endangered Species Act to *A. montii* to ensure that such planning will adequately consider the taxon's conservation.

EFFECTIVE DATE: The effective date of this rule is December 7, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during usual business hours of the Service's Endangered Species Staff, 134 Union Boulevard, 4th floor, Lakewood, Colorado, and 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104.

FOR FURTHER INFORMATION CONTACT: Dr. James L. Miller, at the Lakewood address above (303/234-4600 or FTS 234-2496), or John L. England, at the Salt Lake City address above (801/524-4430 or FTS 588-4430).

SUPPLEMENTARY INFORMATION:

Background

Astragalus montii was first discovered by Mont Lewis and Robert Thompson in July, 1978. Dr. S.L. Welsh recognized it as a species new to science and named it in Lewis' honor in 1978. It has also been recognized as a variety of *Astragalus limnocharis* (Isely, 1983), but the Service considers it to be a distinct species. *Astragalus montii* is a herbaceous perennial of the pea family (Fabaceae) and is ½–2 inches (1–5 centimeters) tall, with pink-purple, white-tipped flowers, and mottled bladdery-inflated pods. *Astragalus montii* is a narrow endemic, restricted to outcrops of limestone barrens of only limited extent at or near timberline on top of the Wasatch Plateau of central Utah.

The Wasatch Plateau is in the Utah Plateaus section of the Intermountain region. Some 40 plant taxa are endemic to the Utah Plateaus, and several of these occur as related pairs of taxa, such as the rare and more northern *A. montii* and its somewhat more plentiful and southern counterpart, *A. limnocharis* (Cronquist *et al.*, 1972, p. 106; Reveal, 1979, p. 65; Isely, 1983). *Silene petersonii* var. *petersonii* is an endemic plant under review for listing that occurs in part in the critical habitat and other range of the Heliotrope milk-vetch.

Astragalus montii is known from three populations, all entirely on public land in the Manti-LaSal National Forest. The best known and smallest population occurs on the western portion of Heliotrope Mountain in Sanpete County. This population on about 57½ acres is divided between two sites approximately ½ mile apart. The larger site, with about 2,000 individuals, occurs on the south side near the top of Heliotrope Mountain and the smaller site, with fewer than 500 individuals, occurs on the north side. The second population also occurs on Heliotrope Mountain (near its confluence with, sometimes considered a part of, Ferron Mountain), about 2 miles east of the previously mentioned population. This population was discovered in the summer of 1983 and consists of about 4,000 individuals on 37 acres. The third population, also of about 4,000 individuals, occurs about 6 miles south of Heliotrope Mountain on White Mountain, in Sevier County. This population was discovered in 1982, and occurs on isolated rocky outcrops scattered within a total of about 290 acres along the rather flat expanse of the mountain top. No other populations have been located.

Populations of *A. montii* are in a general area of active oil and gas exploration associated with the "Overthrust Belt" of the western United States. Oil and gas exploration and development in the area where this species occurs, unless conducted with consideration for this taxon, could have a seriously negative effect on its survival. In November, 1982, the Bureau of Land Management (BLM) issued an oil and gas lease covering the then-proposed critical habitat for the taxon, with a stipulation that endangered and threatened species must be accommodated. An oil and gas lease that includes portions of the other Heliotrope Mountain (Ferron Mountain) population does not contain such a stipulation, but this lease was terminated by the lessee in September of 1984.

On December 15, 1980, the Service published a notice of review for plants in the Federal Register (45 FR 82470–82569) that included *A. montii* as a candidate for listing. On January 13, 1981, the Service published in the Federal Register (46 FR 3187–3191) a rule that proposed *A. montii* to be an endangered species, with critical habitat proposed for the only population then known, on the south side of western Heliotrope Mountain.

Two additional populations and one additional site were discovered in 1982 and 1983 on the limited rocky outcrops to which this species is restricted. The distribution and numbers of plants in the populations have been investigated, and the nature, magnitude, and immediacy of threats facing this taxon have been subsequently reevaluated. On August 25, 1983, the Service published a notice in the Federal Register (48 FR 38860–38861) that reopened the comment period through September 14, 1983, and announced a September 12, 1983, public hearing on the proposal, indicating that the Service then considered the taxon threatened rather than endangered. The taxon is considered threatened rather than endangered because of the change in known distribution and in perceived threats, as explained below.

Summary of Comments and Recommendations

In the January 13, 1981, proposed rule (46 FR 3187) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A letter was sent to the Governor of Utah on February 10, 1981, notifying him of the proposed rule for *A. montii*. In February, 1981, letters were sent to members of Utah's congressional delegation, Federal agencies, local governments and other interested parties notifying them of the proposal and soliciting their comments and suggestions. The proposed rule also announced that a public meeting would be held on February 18, 1981. The meeting was by error scheduled to be held in Nephi, Utah, which is not in the county in which the plant was known to occur. In order to have the meeting take place in the same area in which the proposed critical habitat is located (as the Act then required), the Service announced in the February, 1981, *Endangered Species Technical Bulletin* and planned to announce in the Federal Register that the public meeting would be held in Manti, Utah, on March 18, 1981. However, due to objection to the proposal as discussed below, the Service postponed the public meeting until it could reconcile the concerns of those opposed to the proposed rule. Written comments received during the period January 13, 1981, through April 14, 1981, concerning the proposed rule are discussed below.

Comments were received from the Governor of Utah, Congressman James Hansen, the Forest Service, and Dr. Stanley L. Welsh, of Brigham Young

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University. A total of five written responses were received relating to the proposal. All five objected to the proposal itself or to the scientific and conservation rationale upon which the proposal was based. The Forest Service, in two separate but essentially identical responses, objected to the proposed rule. Its objection was based on the following three reasons: (1) "Listing the plant and designating Critical Habitat would tend to draw attention to it and could lead to its endangerment * * *," (2) "The statements in the Federal Register regarding threats to the plant from domestic sheep and off-road vehicle use in the area are not supported with factual evidence * * *," and (3) "The species is listed as "sensitive" by the Regional Forester and is, therefore, afforded the necessary priority to protect it from threats * * *." Dr. S.L. Welsh's objections were the same as those expressed by the Forest Service in points 1 and 2 above. The Governor's objections were a reiteration of the objections noted above. Congressman Hansen's objections again were the same as those above, plus strongly expressed concern of excessive government regulation and interference that he believed would result from the rule. The Service's reply to these comments follows.

There is no evidence of botanical or horticultural interest in the taxon that would lead one to expect an additional threat to *Astragalus montii* from plant or seed collectors as a result of listing and designating critical habitat. Subsequent field work on *A. montii* has indeed failed to support statements in the proposed rule concerning threats to this taxon from off-road vehicle (ORV) use and livestock grazing and trampling. The Service recognizes the importance and utility of the Forest Service's sensitive species policy in conserving rare species. However, the Service is not authorized to delegate its legal responsibility for the identification of vulnerable species to any other agency. Finally, the Service neither anticipates that planning for *A. montii* will cause irresolvable conflict with oil and gas exploration or development, nor that this final rule will result in excessive regulation.

In the August 28, 1983, Federal Register notice (48 FR 38660) that reopened the comment period through September 14, 1983, and in associated correspondence, all interested parties were again requested to submit factual reports or information that might contribute to the development of a final rule. The same groups notified of the 1981 proposal were contacted and requested to comment. A letter was sent to the Governor of Utah on August 31, 1983, again notifying him of the proposed rule for *A. montii*. In August and September 1983, letters were again sent to members of Utah's congressional delegation, Federal agencies, local governments and other interested parties notifying them of the proposal and soliciting their comments and suggestions. A newspaper notice that invited general public comment was published in the *Manti Messenger* on September 1, 1983. The notice also announced that a public hearing would be held on the proposal in Manti, Utah, on September 12, 1983. All comments received during the period from August 28, 1983, through September 21, 1983, are discussed below, as well as a comment from the Governor received November 4, 1983.

Three written comments were received. The Forest Service, in a comment from the Regional Forester, recommended against officially listing *A. montii* as either threatened or endangered. The Forest Service comment maintained that populations of *A, montii* appear stable under current land management conditions. The Forest Service also expressed confidence that it could direct any threat to *A. montii* away from its habitat. The Governor referred to his March, 1981, comment letter and reaffirmed his objection to listing the taxon. He indicated his belief that grazing is not a threat and that the authority of the Forest Service is sufficient protection from any grazing or ORV threats. He stated that discovery in 1982 of the White Mountain population, which is not threatened by grazing or ORV activity, further supports his recommendation not to list the taxon. He did not mention the eastern Heliotrope Mountain (Ferron Mountain) population or address the threat to the Heliotrope populations from energy exploration or development. Dr. Stanley L. Welsh of Brigham Young University commented on the rarity of *A montii*, its very limited distribution, and its susceptibility to habitat destruction from energy development. He urged protection for this taxon under the Endangered Species Act to ensure its long-term survival. No substantive comments were received at the public meeting held on September 12, 1983, although there was informal discussion on the recently discovered eastern Heliotrope Mountain (Ferron Mountain) population.

The U.S. Fish and Wildlife Service recognizes and values the conservation efforts of the Forest Service in conserving wildlife and plants in general, and *A. montii* in particular. Biological evidence suggests that *Astragalus montii* is vulnerable to localized habitat alteration and, given the potential for further energy exploration in its restricted habitat and the fact that energy exploration is taking place in the vicinity of its proposed critical habitat and elsewhere on Heliotrope Mountain, it fits the criteria of the Act for listing as a threatened species. Since the protective stipulation on the BLM lease that includes the area of critical habitat is restricted to proposed or listed endangered and threatened species, listing is necessary to ensure that the stipulation has effect. It is anticipated that the listing of *A montii* as threatened will not limit any action or land use plan the Forest Service currently has in operation in the area in which this taxon occurs, and listing will carry out the intent of the BLM lease stipulation.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Astragalus montii* should be classified as a threatened species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A taxon may be determined to be an endangered or threatened species due to one or more of the five factors described in that section. These factors and their application to *Astragalus montii* Welsh (Heliotrope milk-vetch) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Astragalus montii* occurs in a general area of active petroleum exploration associated with the "Overthrust Belt" of the western United States, indicating a potential that oil and gas could be found there. Given the very limited distribution of *A. montii*, habitat disturbance as a consequence of oil and gas exploratory drilling or production that did not plan for this taxon could have a seriously negative impact on its survival. On November 1, 1982, the BLM issued an oil and gas lease that includes the area proposed as critical habitat for the taxon, but included a stipulation that could restrict or disallow use of the lease if the exploration or drilling "* * * operation may detrimentally affect an endangered or threatened species * * *." The stipulation indicated that "The Federal surface management

agency [i.e., the Forest Service] is responsible for assuring that the area to be disturbed is examined, prior to undertaking any surface-disturbing activities * * *." Listing *Astragalus montii* is necessary for this stipulation to aid the taxon. Recreational ORV activity in the area is now thought to be uncommon and not harmful to the taxon.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* None known.

C. *Disease or predation.* Limited sheep grazing under a management plan occurs in the habitat of *A. montii*. Actual detrimental impacts to this plant resulting from grazing or associated trampling have not been observed. The plateau tops were more intensely grazed in the past, but Forest Service policy in recent years has reduced grazing in the area to a level believed compatible with conservation of *Astragalus montii*.

D. *The inadequacy of existing regulatory mechanisms.* No State laws or regulations currently protect *A. montii*. The Forest Service has established a national policy, based on the National Forest Management Act, of protecting species that it has designated as "sensitive" (Title 2600, Chapter 2670.3(2); 36 CFR 261.9). The Forest Service has designated *A. montii* as a sensitive species, and as such it is the policy of the Forest Service to provide for its conservation. The Forest Service has developed a management plan for *A. montii* and has initiated inventories and studies to develop necessary conservation for it.

The Endangered Species Act of 1973, as amended, and in particular its interagency cooperation regulations under section 7, will provide the necessary regulatory base to sustain the Forest Service in its national sensitive species policy on behalf of *A. montii*. Listing also is necessary to maintain in effect the BLM lease stipulation for this threatened species on western Heliotrope Mountain, and to require further consideration for the taxon by the BLM in its other lease stipulations. The Act will also add the authority and resources of the U.S. Fish and Wildlife Service in providing for the continued conservation of this taxon as long as it remains listed as threatened.

E. *Other natural or manmade factors affecting its continued existence.* The harshness of the alpine environment (short growing season, intense sunlight, extremely variable temperatures, etc.) contributes to the fragility of the ecosystem of *A. montii*. Disturbances may have catastrophic and as yet unknown long-term consequences to such a narrow endemic occupying these alpine habitats.

The careful assessment of the best scientific and commercial information available, as well as the best assessment of the past, present, and future threats faced by this taxon were considered in determining to make this rule final. Based on this evaluation, the preferred action is to list *Astragalus montii* as a threatened species. Listing as endangered, as proposed, is no longer appropriate, because it has been found to have a somewhat wider distribution and greater number of populations and individuals than had been believed at the time of proposal. It is prudent to designate critical habitat for it, since no threats are anticipated from delineating its location, as discussed above in the response to comments.

Critical Habitat

Critical habitat, as defined by section 3 of the Act and at 50 CFR Part 424 means: (i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrent with the determination that a species is endangered or threatened. Critical habitat is designated for *A. montii* to include the western population on Heliotrope Mountain in Sanpete County, Utah, about 15 miles southeast of Manti on top of the Wasatch Plateau. This area is revised from that proposed, based on field work undertaken in the past few years, and now includes the entire western Heliotrope Mountain population. Acreage is decreased from about 80 to about 65 acres, and the boundaries are redrawn based on most recent knowledge of the species' occurrence in this area. The habitat is characterized by low, barren knolls with very shallow soils derived from partially decomposed white limestone of the Flagstaff Formation. The east Heliotrope (Ferron) Mountain and White Mountain populations were unknown when the proposed rule was published. These additional areas are nevertheless considered necessary habitat for the taxon's survival. These additional areas may be proposed as critical habitat for this plant at some future time Although these additional areas are not being designated as critical habitat at this time, the listing of the Heliotrope milk-vetch provides protection for all individuals of this taxon, whether or not they are within the designated critical habitat.

Section 4(b)(8) requires, for any final regulation that designates critical habitat, a brief description and evaluation of those activities (public and private) that may adversely modify such habitat or may be affected by such designation. Activities within the proposed critical habitat were identified to include grazing of sheep and off-road vehicle touring. However, additional information collected after publication of the proposal indicated that ORV recreation within or in the vicinity of the proposed critical habitat is considered uncommon and is not expected to affect or be affected by the critical habitat designation. Oil and gas leasing, cattle grazing, and hunting also occur within or in the vicinity of the critical habitat. Surface disturbance associated with potential oil and gas exploration or development represents the greatest potential threat to this taxon. The area designated as critical habitat for this plant is one of the locations covered by the BLM lease stipulation already requiring consideration of proposed and listed endangered and threatened species. Designation of the area as critical habitat does not additionally affect the lease stipulation other than to reinforce the importance of the area. Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service has evaluated the designation in light of all information obtained. The proposed critical habitat designation for the Heliotrope milk-vetch consisted of about 80 acres of limestone barrens near the timberline of Heliotrope Mountain. The proposed critical habitat is located on Federal land administered by the Forest Service within the Manti-LaSal National Forest in Sanpete County, Utah. The boundaries of the critical habitat have been adjusted from about 80 acres of Federal land to about 65 acres of Federal land by removing about 52.5 acres of the area originally proposed and adding about 37.5 acres of limestone barrens directly adjacent to the proposed critical habitat. This adjustment is based on an evaluation of additional information about the location of the species and the constituent elements necessary for the conservation of the species. The critical habitat designation in the final rule consists of limestone barrens near the

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timberline within about 65 acres of Federal land on the Heliotrope Mountain in the Manti-LaSal National Forest, Sanpete County, Utah. No significant economic or other impacts are expected to result from the critical habitat designation for the Heliotrope milk-vetch. This conclusion is based on the following: (1) Forest Service's current management of the portion of Manti-LaSal National Forest that contains the proposed critical habitat areas; (2) the absence of the submission of plans of operations for development of oil and gas leases; (3) the unknown potential for oil and gas development within the areas of critical habitat not within known geologic structures, and current oil prices; (4) the remoteness of and unsuitable grazing conditions within the grazing allotments that contain the proposed critical habitat areas; (5) the absence of any known or expected effect on recreational activities; and (6) the unquantifiable benefits that may result from the designation. In addition, no significant impact on the economy or present economic status of Sanpete or Sevier Counties, Utah, is expected as a result of the designation of critical habitat for the Heliotrope milk-vetch. Protective measures for this taxon may require some control over the siting of various features of oil and gas exploration or development. However, due to the very limited extent of the critical habitat of this taxon, it is expected that its designation will have no effect on any exploitation of these possible energy resources.

Available Conservation Measures

Conservation measures provided to species listed as threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by other Federal, State, and private agencies, groups, and individuals. The Act requires that recovery actions be carried out for all listed species; this requirement may assist the Forest Service in carrying out its management plan for *A. montii*. The required protection by Federal agencies and the Act's taking prohibitions are discussed in part below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Possible threats to *Astragalus montii* within the control of the Forest Service and BLM may include oil and gas exploration and energy resource development, grazing, and recreational activities.

Section 9 of the Act and implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any threatened plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it and reduce it to possession from lands under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from trade prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. With respect to *A. montii* it is anticipated that few permits will ever be sought or issued since the taxon is not of commercial interest and is not known in cultivation or common in the wild. Requests for copies of the regulations on plants, and inquiries regarding them, may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

National Environmental Policy Act

The U.S. Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major action under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The entire critical habitat area for the Heliotrope milk-vetch is administered by the Forest Service. Currently, Forest Service management of the critical habitat is apparently compatible with designation of critical habitat. Therefore, no significant economic impacts are expected to result from the critical habitat designation. In addition, no direct costs, enforcement costs, or information collect, or recordkeeping requirements are imposed on small entities by the designation. These determinations are based on a Determination of Effects that is available from the Service's Denver Regional Office Endangered Species Staff (see **ADDRESSES** section above).

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Authors

The primary authors of this final rule are Dr. James L. Miller and Mr. John L. England (see **FOR FURTHER INFORMATION CONTACT** section above).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal

Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend §17.12(h) by adding the following, in alphabetical order under the family Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

(h) * * *

Species: Scientific name	Species: Common name	Historic range	Status	When listed	Critical habitat	Special rules
Fabaceae—Pea family:						
Astragalus montii	Heliotrope milk-vetch	U.S.A. (UT)	T	209	17.96(a)	NA

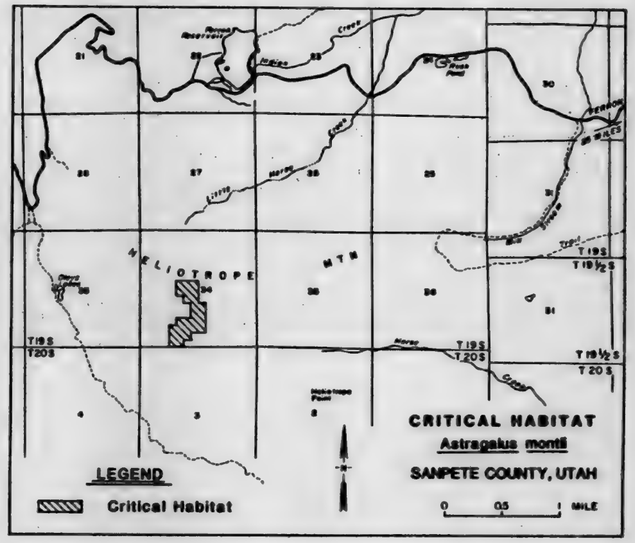
3. Amend §17.96(a) by adding critical habitat *Astragalus montii*, in the same alphabetical order as the species appears in §17.12(h).

§ 17.96 Critical habitat—plants.

(a) * * *

Family Fabaceae: *Astragalus montii* (Heliotrope milk-vetch)

Utah, Sanpete County, western Heliotrope Mountain. T19S R4E, Sec. 34, SE ¼ of SW ¼ of SE ¼ of NW ¼; S ½ of SE ¼ of SE ¼ of NW ¼; NE ¼ of NW ¼ of NE ¼ of SW ¼; NE ¼ of NE ¼ of SW ¼; E ½ of SE ¼ of NE ¼ of SW ¼; NE ¼ of NW ¼ of SE ¼ of SW ¼; S ½ of NW ¼ of SE ¼ of SW ¼; NW ¼ of SE ¼ of SW ¼; N ½ of SW ¼ of SE ¼ of SW ¼; SW ¼ of SW ¼ of SE ¼ of SW ¼; W ½ of SE ¼ of NW ¼ of SE ¼; NW ¼ of NW ¼ of SW ¼ of SE ¼. The primary constituent element is the white limestone barrens of the Flagstaff Formation.



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Dated: September 21, 1987

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-25731 Filed 11-5-87; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Two Florida Lizards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines threatened status pursuant to the Endangered Species Act (Act) of 1973, as amended, for the sand skink (*Neoseps reynoldsi*) and the blue-tailed mole skink (*Eumeces egregius lividus*). Critical habitat is not being determined for these species. A special rule allowing take for certain purposes in accordance with Florida State Law is promulgated. The sand skink is restricted to Marion, Orange, Lake, Polk, and Highlands Counties, Florida; the blue-tailed mole skink is known only from Polk and Highlands Counties. Both skinks are threatened by the conversion of their habitat for agricultural, residential, and commercial purposes. This rule will implement the protection and recovery provisions of the Act for the two lizards.

EFFECTIVE DATE: The effective date of this rule is December 7, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jacksonville Field Office, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

FOR FURTHER INFORMATION CONTACT: David J. Wesley, Field Office Supervisor, at the above address (904/791-2580 or FTS 946-2580).

SUPPLEMENTARY INFORMATION:

Background

The sand skink (*Neoseps reynoldsi*) was described by Stejneger (1910). He established a new genus for this unique lizard, which is adapted to a fossorial (underground) existence. The sand skink is the only North American skink completely specialized for "swimming" through loose sandy soils. The sand skink measures 10-13 centimeters (4-5 inches) in total length and is gray to tan in color. The forelegs are tiny and bear only one toe; the hindlegs are small and have two toes. The tail comprises about half the animal's total length. The sand skink has a wedge-shaped head, a partially countersunk lower jaw, body grooves into which the forelegs can be folded, and small eyes which have transparent windows in the lower lids. These features enable the sand skink to "swim" beneath the surface of loose sand. This lizard is known only from the high sandy ridges of Lake, Marion, Orange, Polk, and Highlands Counties, Florida.

The sand skink has been studied by Cooper (1953), Telford (1959, 1962), Myers and Telford (1965), Campbell and Christman (1982), and Smith (1982). Areas occupied by the lizards are primarily vegetated with sand pine (*Pinus clausa*)—rosemary (*Ceratiola ericoides*) scrub or a longleaf pine (*Pinus palustris*)—turkey oak (*Quercus laevis*) association. The sand skink spends most of its time beneath the soil surface, burrowing to a depth of 5-10 centimeters (2-4 inches) and it feeds on a variety of small arthropods, principally beetle larvae, termites, spiders, and larval antlions. The species appears to be most active from March to May. Mating occurs during this period, and females deposit two elongate eggs, probably under logs or other cover, in early summer. The female remains with the eggs and probably protects or cares for them (broods).

Sand skinks are host to three endemic endoparasites: the flagellate protozoans *Monocercomonas neosepsorum* and *Rigidomastix scincorum*, and an undescribed species of oxyurid nematode, *Thelandros* sp. (Telford 1969).

The blue-tailed mole skink (*Eumeces egregius lividus*) was described by Mount in 1965. The species has a long cylindrical body with small legs. It reaches 9-15 centimeters (3-6 inches) in total length, the body making up less than half this length. The tail is blue in young animals, but may become pinkish with age or if regenerated. The blue-tailed mole skink is known only from Polk and Highlands County, Florida. Like the sand skink, it is found in sand pine-rosemary vegetation, or, less frequently, in longleaf pine-turkey oak communities. Little is known about the life history of the blue-tailed mole skink. Mount (1963) provided life history information based primarily on studies of the closely related peninsular mole skink (*Eumeces egregius onocrepis*). The life history of the blue-tailed mole skink is probably similar to that of the peninsular mole skink. This includes: (1) Mating during fall and winter, (2) clutch sizes ranging from three to seven eggs which are laid underground in the spring, and (3) achievement of sexual maturity during the first year. Mole skinks forage on the surface or up to 5 centimeters (2 inches) underground, and feed principally on cockroaches, spiders, and crickets.

The distribution and availability of moisture seem to be important factors that account for distributional patterns of sand and blue-tailed mole skinks within sand scrub communities. Telford (1959) suggested that food supply and moisture are important factors in the selection of areas by sand skinks within sand scrub communities. He found that skinks did not inhabit substrates where the sand was dry and porous. Rather, skinks were most frequently found in the ecotone between rosemary scrub and palmetto-pine flatwoods where moisture was present beneath surface litter (i.e. bark), and in sand starting at a depth of 2 centimeters (1 inch). Moisture may be important for this lizard to maintain internal body temperatures within a preferred range, as well as to provide a microclimate necessary for egg incubation and an abundant food source.

Christman (1978) noted that blue-tailed mole skinks were not dispersed throughout seemingly suitable habitat, but rather in localized pockets. He also noted that these skinks were often found under surface litter. Considering Telford's (1959) observation of moisture under litter, the uneven distribution of blue-tailed mole skinks, as noted by Christman, may be a function of the nonrandom distribution of surface litter; moisture associated with litter is probably important for thermoregulation, feeding (abundant food resource), and nesting. The Arizona skink (*Eumeces gilberti arizonensis*), a lizard that also inhabits areas with sand substrates, is highly dependent on surface litter for occurrence in riparian habitats within the Sonoran Desert; its distribution is closely tied to the occurrence of surface litter (Jones and Glinski 1985).

Although blue-tail mole skinks can be found together with sand skinks under surface litter, the two species appear to occupy different microhabitats most of the time (see previous discussion). This conclusion is supported by comparing the diets of the two species; sand skinks eat mostly fossorial invertebrates and mole skinks eat mostly surface-dwelling invertebrates. Comparison of these two species' diets also suggest that they do not compete for food.

Sand pine scrub and sandhill areas where the sand skink and blue-tailed mole skink occur are threatened by a variety of factors. These high, well-drained sites are suitable for citrus groves, and residential, commercial, and recreational development. From 1960 to 1978 Florida's citrus production doubled, and most of the increase in acreage of these crops was in southern counties (Fernald 1981). Peroni and Abrahamson (1985) estimated that 64 percent of these xeric upland habitats in the southern Lake Wales Ridge had been converted to improved pasture, cultivation, or housing by 1981. An additional ten percent of the uplands had been moderately disturbed. This trend of land use has continued since 1981, with increased pressure on the citrus industry to move southward down the Florida peninsula following severe freezes during the winters of 1983-1984 and 1984-1985. The Lake Wales ridge includes most of the range of the sand skink, and the entire range of the blue-tailed mole skink.

Because of isolation of the higher portions of the Florida peninsula by higher sea levels at various periods since the Pliocene, considerable plant and animal endemism has occurred. The conversion of these upland areas for agricultural, residential, recreational and commercial purposes in recent times has caused the ranges of many endemic Florida plants and animals to become greatly reduced and fragmented.

Twelve Federally-listed plant species are restricted to Florida's scrub areas: Lakela's mint (*Dicerandra immaculata*), scrub mint (*D. frutescens*), longspurred mint (*D. cornutissima*), four-petal pawpaw (*Asimina tetramera*), pygmy fringe tree (*Chionanthus pygmaeus*), snakeroot (*Eryngium cuneifolium*), Highlands scrub hypericum (*Hypericum cumulicola*), wireweed (*Polygonella basiramia*), scrub plum (*Prunus geniculata*), Carter's mustard (*Warea carteri*), papery whitlow-wort (*Paronychia chartacea*), and the scrub lupine (*Lupinus aridorum*). Also, the Florida scrub jay (*Aphelocoma coerulescens coerulescens*) has been Federally-listed. Numerous other plants and animals of Florida's scrub habitats are candidates for listing.

The sand skink and the blue-tailed mole skink were considered Category 2 candidates for listing in the Service's December 30, 1982 (47 FR 58454), and September 18, 1985 (50 FR 37958), vertebrate review notices. The proposed rule to list both species as threatened was published in the **Federal Register** on January 21, 1987 (52 FR 2242).

Summary of Comments and Recommendations

In the January 21, 1987, proposed rule (52 FR 2242) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices, inviting general public comment, were published in the *Winterhaven News Chief* (February 14, 1987); the *Ocala Star-Banner* (February 17, 1987); the *Sebring News-Sun* (February 15, 1987); the *Leesburg Commercial* (February 17, 1987); and the *Orlando Sentinel* (February 15, 1987). Eight comments were received and are discussed below.

The Florida Game and Fresh Water Fish Commission, the Florida Natural Areas Inventory, and three private individuals supported the proposal. Two zoologists supported the proposal; one included information on another site for both skink species in Polk County. The Society for the Study of Amphibians and Reptiles (The Society) supported the listing of the two skinks, but suggested that, since habitat destruction, not collecting, is the principal threat to these species, designation of critical habitat would enhance their protection. The Society further suggested that a Federal collecting permit should be required for the two skinks, to be consistent with other Federally-listed species. The Society suggested that such consistency would be less cumbersome administratively. *Service response:* As explained under the critical habitat section, the Service continues to believe that there would be no net benefit of critical habitat designation for these species (see "Critical Habitat" section). With respect to collecting permits, the Service does not believe that the special rule delegating this responsibility to the State is inconsistent. Special rules for threatened species are intended to provide for regulatory flexibility. The proposal to delegate this authority was developed in consultation with herpetologists in Florida who have conducted conservation-oriented research on Federally-listed reptiles and amphibians. All concurred that the State permitting system is fully capable of regulating taking of the sand skink and blue-tailed mole skink. The existing rules of the Florida Game and Fresh Water Fish Commission (FGFWFC) (Florida Administrative Code Title 39-27.02) apply strict standards to granting permits, and applications are reviewed rigorously. A Federal permit review would result in administrative duplication of the permit process. It should be pointed out that the FGFWFC already has considerable permitting authority over Federally-listed animals through its Section 6 agreement with the Service, pursuant to the Endangered Species Act.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the sand skink and the blue-tailed mole skink should be classified as threatened species. Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the sand skink (*Neoseps reynoldsi*) and the blue-tailed mole skink (*Eumeces egregius lividus*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The sand skink is known from Marion, Lake, Orange, Polk, and Highlands Counties, Florida. The Florida Natural Areas Inventory has records of 31 sites for this species. The lizard probably also occurs at other sites where suitable habitats remain. These habitats, however, have been reduced to a small amount of their original extent, and destruction of much of the remainder is ongoing or likely in the foreseeable future, particularly at privately owned sites. Some degree of habitat protection occurs for the sand skink at the following seven locations.

1. Ocala National Forest, Marion County—the species is known from several sites, although the distribution is apparently spotty.

2. Lake Louisa State Park, Lake County—less than 50 acres of suitable habitat exists at this site.

3. Tiger Creek Preserve, Polk County—this site, owned by The Nature Conservancy, supports several hundred acres which may be suitable for the sand skink.

4. Archbold Biological Station, Highlands County—this private research institution encompasses about 3,900 acres; about 2,400 acres are xeric habitats inhabited by the sand skink in varying densities (Dr. James N. Layne, pers. comm.).

5. Wekiwa Springs State Park, Orange County—the status of the sand skink here is uncertain, but there may be several hundred acres of xeric habitat suitable for the species.

6. Saddle Blanket Lakes Preserve, Polk County—this site, owned by The Nature Conservancy, includes only 55 acres of

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scrub, but the State of Florida proposes to acquire about 750 additional acres nearby under its Conservation and Recreation Land Program.

7. Bok Tower Nature Preserve, Polk County—Dr. I. Jack Stout (pers. comm.) recently discovered sand skinks (and blue-tailed mole skinks) on about 20 acres of this protected site.

The sand skink is likely to occur at Lake Arbuckle State Park and Wildlife Management Area, Polk County, which includes about 13,500 acres; but only a portion of this is scrub.

The blue-tailed mole skink is restricted to Polk and Highlands Counties, Florida. It occurs at many of the same sites as the sand skink, but north of Polk County it is replaced by the peninsula mole skink (*Eumeces egregius onocrepis*) or by intergrades with that subspecies (Mount 1965, Christman 1970). The Florida Natural Areas Inventory records only 20 sites for this subspecies, but it probably occurs at additional sites where scrub and sandhill habitats remain. Dr. Steve Christman (pers. comm.) has found the blue-tailed mole skink to be much less numerous than the sand skink where the two species coexist in scrub habitats. The total habitat for the blue-tailed mole skink has greatly declined, paralleling the 64 percent decline in xeric habitats of the south Lake Wales ridge documented by Peroni and Abrahamson (1985). Mount (1965) estimated that less than 50,000 acres of habitat for the blue-tailed mole skink remained in the 1960's. According to Peroni and Abrahamson (1985), 23,200 acres of xeric habitats remained in Highlands County in 1981, but not all of this acreage would be expected to support the blue-tailed mole skink. The rate of possible habitat destruction is serious and much of this species' range occurs on private lands. The species is protected on Archbold Biological Station, and is also recorded from Lake Kissimmee State Park, where its status is unknown. The blue-tailed mole skink is also likely to occur on the protected lands mentioned above near Lake Arbuckle, Saddle Blanket Lakes, and Tiger Creek.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Both the sand skink and the blue-tailed mole skink are unique Florida endemics with limited ranges. They are therefore of interest to both amateur reptile collectors and scientific collectors, although there is currently no known serious impact due to collecting.

C. *Diseases or predation.* No threats are known.

D. *The inadequacy of existing regulatory mechanisms.* The sand skink and the blue-tailed mole skink are considered threatened by the Florida Game and Fresh Water Fish Commission (Chapter 39-27, Florida Administrative Code). This legislation prohibits take, except under permit, but does not provide any direct habitat protection to these species. Therefore, the Endangered Species Act of 1973, as amended, would provide additional protection for the blue-tailed mole and sand skinks and their habitat through section 7 (interagency cooperation), as well as through the prohibitions of section 9(a)(1) and provisions of section 4(d) and for recovery planning.

E. *Other natural or manmade factors affecting its continued existence.* Sand pine scrub and longleaf pine communities are both fire dependent. The sand pine is adapted to fire at long (20–50 year) intervals; the peninsular populations of this tree do not shed seeds until the cones are opened by fire. If fire is suppressed in sand pine scrub, succession to xeric hardwood forest eventually occurs. Because of the large expanses of open sand and the slow accumulation of litter in sand pine scrub, fires occur only at infrequent intervals. Longleaf pine communities are dependent on more frequent fires (1–6 year intervals). Lack of fire will result in these communities succeeding to scrub or eventually to hardwoods. Therefore, lack of fire or changes in land use could eventually eliminate the sand skink or blue-tailed mole skink from localities where they currently exist.

Campbell and Christman (1982) studied the reptiles and amphibians occurring in sandhills and scrub. They suggested that this fauna was not associated with particular plant associations but with physical factors, namely, well-drained sands with open areas free of rooted vegetation. They found that the sand skink and mole skink populations in Ocala National Forest (ONF) were most abundant in early successional stages of sand pine scrub. The clear-cutting and even-age stand management of sand pines in ONF appeared to have a similar effect to the natural fire regime typical of sand pine. Although both lizards seem to benefit from the opening and clearing of sand pine communities, it may be important to leave widely scattered surface litter when clear-cutting (see earlier discussion on the importance of litter in the "Background" section).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list the sand skink and the blue-tailed mole skink as threatened species. Neither species is currently in danger of extinction, because both occur on protected lands. Both, however, have already lost substantial portions of their original habitat throughout their ranges and could decline even on the protected areas where they occur. Both species could become endangered over all or a significant portion of their range in the foreseeable future. Therefore, they meet the Act's definition of threatened species. The reasons for not designating critical habitat for these species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the sand skink and blue-tailed mole skink at this time. Although the primary threat to both species is habitat destruction, the number of localities at which each species occurs is limited. Excessive collecting could adversely affect these skinks. Because of its unusual morphology and behavior, the sand skink could be of considerable interest both to amateur reptile collectors and scientific collectors. Taking prohibitions on these species would be difficult to enforce. Publication of critical habitat descriptions would increase the vulnerability of these species and increase enforcement problems. All involved Federal agencies will be notified of the location and importance of protecting these species' habitat. Habitat protection can be adequately addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not be prudent to determine critical habitat for the sand skink and the blue-tailed mole skink at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The sand skink occurs on Ocala National Forest. Present forest management practices (block clearcutting) appears to result in successional changes favorable to the continued existence of the sand skink there (Campbell and Christman 1982). Changes in management practices could result in section 7 consultation between the Forest Service and the Fish and Wildlife Service. This situation already exists, however, because of other Federally-listed species already occurring on Ocala National Forest.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take a listed species, import or export it, ship it in interstate commerce in the course of commercial activity, or sell or offer it for sale in interstate or foreign commerce. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that had been taken illegally. Certain exceptions apply to agents of the Service and State Conservation agencies.

The above discussion generally applies to threatened species of fish or wildlife. However, the Secretary has the discretion under section 4(d) of the Act to issue special regulations for a threatened species that are necessary and advisable for the conservation of the species. The blue-tailed mole and sand skinks are threatened primarily by habitat disturbance or alteration, not by intentional direct taking or by commercialization. Given this fact, and the fact that the State of Florida currently regulates direct taking of these species through the requirement of State collecting permits, the Service has concluded that the State of Florida's collection permit system is more than adequate to protect the species from excessive taking, so long as such taking is limited to educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Endangered Species Act. Therefore, a special rule is promulgated which allows take to occur for the above stated purposes, without the need for a Federal permit, if a State collecting permit is obtained and all other State wildlife conservation laws and regulations are satisfied. Taking of these species for purposes other than those described above, including taking incidental to carrying out otherwise lawful activities, is prohibited except when permitted under 50 CFR 17.23 and 17.32. The special rule will allow for more efficient means of controlling take of these lizards, and thus will enhance their conservation. For these reasons, the Service concludes that this regulation is necessary and advisable for conservation of the blue-tailed mole and sand skinks.

General regulations governing the issuance of permits to carry out otherwise prohibited activities involving threatened wildlife species, under certain circumstances, are set out at 50 CFR 17.22, 17.23, and 17.32.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this final rule is Dr. Michael M. Bentzien (see **ADDRESSES** above).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under

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REPTILES, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

(h) * * *

Species							
Common name	Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Reptiles:							
Skink, blue-tailed mole	*Eumeces egregius lividus*	U.S.A. (FL)	Entire	T	298	NA	17.42(d)
Skink, sand	*Neoseps reynoldsi*	U.S.A. (FL)	Entire	T	298	NA	17.42(d)

3. Amend § 17.42 by adding new paragraph (d), as follows:

§ 17.42 Special rules—reptiles.

(d) Blue-tailed mole skink (*Eumeces egregius lividus*) and sand skink (*Neoseps reynoldsi*). (1) No person shall take these species, except in accordance with applicable State fish and wildlife conservation laws and regulations for educational purposes, scientific purposes, the enhancement or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to taking of these species is also a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatever, any such species taken in violation of applicable State fish and wildlife conservation laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraph (c) (1) through (3) of this section.

(5) Taking of these species for purposes other than those described in paragraph (c)(1) of this section, including taking incidental to carrying out otherwise lawful activities, is prohibited except when permitted under §§ 17.23 and 17.32.

Dated: October 22, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-25667 Filed 11-5-87; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 52, No. 215
Friday, November 6, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Ch. III

[Docket No. 71034-7234]

Request for Comments on Effects of Foreign Policy-Based Export Controls

AGENCY: Export Administration, Commerce.

ACTION: Notice of request for comments on foreign policy-based export controls.

SUMMARY: The Office of Technology and Policy Analysis (OTPA), Export Administration, is reviewing the foreign policy-based export controls in the Export Administration Regulations (15 CFR Parts 368 through 399) to determine whether they should be modified, rescinded or extended. To assist OTPA in making this determination, OTPA is seeking comments on how existing foreign policy-based controls have affected exporters and the general public.

DATE: Comments must be received by December 21, 1987, to assure full consideration in the formulation of export control policies.

ADDRESS: Written comments (six copies) should be sent to Vincent Greenwald, Regulations Branch (Room 1622), Office of Technology and Policy Analysis, Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Joan Sitnik, Country Policy Branch, Office of Technology and Policy Analysis, Export Administration, Telephone: (202) 377-4830.

SUPPLEMENTARY INFORMATION:

Generally, the foreign policy controls maintained by Export Administration relate to the following:

Human rights (§ 376.14), South Africa and Namibia (§ 385.4(a)), Libya (§ 385.7), anti-terrorism (§ 385.4(d)), chemical warfare (§ 385.4(e)), regional stability (§ 376.16), embargoed communist countries (§ 385.1), and truck manufacturing equipment for the Soviet Kama River and ZIL truck plants (§ 385.2(e)).

The licensing policies for these control programs are defined in Parts 376 and 385 of the Export Administration Regulations.

Some of these controls are mandated by statute, while others have been imposed administratively.

On January 20, 1987, the Department submitted a report to Congress extending foreign policy controls for another year (52 FR 2500). All foreign policy export controls in effect as of that date were extended, with the exception of non-strategic oil and gas equipment export controls to the Soviet Union. Subsequently, other foreign policy controls have been established, as outlined below.

On June 18, 1987 (52 FR 23167), the Department published expanded foreign policy (anti-terrorism) controls on exports to Syria. The new controls apply to all national security-controlled goods and technical data, regardless of end-user, and to any aircraft and helicopters, and related parts and components. In addition, the June 18 rule reflects section 509(b) of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986, which amended section 6(j)(1) of the Export Administration Act to require notification to Congress of license applications subject to anti-terrorism controls valued at $1 million or more at least 30 days before approval. Previously, the Congressional notification requirements had been $7 million.

On July 31, 1987 (52 FR 28544), the Department of Commerce published foreign policy export controls on certain types of equipment and related technical data that could be used in the development and production of missiles capable of delivering nuclear weapons. These controls are intended to limit the proliferation of such missiles, to increase regional stability, and to publicly convey the United States firm resolve to address an issue of mounting concern. No new export license requirements were imposed on commodities by the July 31 rule; all the affected commodities had required a license for national security reasons. However, new validated license requirements were imposed for certain technical data.

On July 31, 1987 (52 FR 28550), the Department of Commerce imposed foreign policy controls on the export of certain chemicals to prevent their use in chemical warfare. Five chemicals were controlled to all destinations except 16 industrialized nations, and eight other chemicals were added to those already controlled to Iran, Iraq, and Syria. The regulation restricts access by Iran, Iraq, and Syria to U.S.-origin chemicals for use in chemical warfare, while publicly conveying U.S. opposition to the use of chemical weapons.

On October 1, 1987 (52 FR 36756), the Department of Commerce published foreign policy controls on the export of self-contained underwater breathing apparatus (scuba gear) to Iran. These controls are a response to the threat to the foreign policy and strategic interests of the United States.

Parties submitting comments are asked to be as specific as possible. Respondents, however, are reminded that the Department is soliciting only information that can be used publicly. Confidential business information will not be accepted. Any information so designated will be returned to the commenter.

To assure maximum public participation in the review process, comments on the extension or revision of the existing foreign policy controls are solicited. The Department is particularly interested in the experience of individual exporters in complying with these controls, with emphasis on economic impact and specific instances of business lost to foreign competitors.

All comments received before the close of the comment period will be considered by the Department in developing the 1988 foreign policy report to Congress. The Department considers the following criteria in determining whether to continue or revise U.S. foreign policy export controls:

1. The probability that such controls will achieve the intended foreign policy purpose, in light of the availability from other countries of the goods or technology proposed for such controls, and that the foreign policy purpose cannot be achieved through negotiations or other means;

2. The compatibility of the proposed controls with the foreign policy objectives of the United States and with overall United States policy toward the

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country to which exports are to be subject to the proposed controls;

3. The likelihood that the reaction of other countries to the extension of such export controls by the United States will not render the controls ineffective in achieving the intended foreign policy purpose or be counterproductive to United States foreign policy interests;

4. The detrimental effect of the proposed controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology, or the economic well-being of individual United States companies and their employees and communities does not exceed the benefit to United States foreign policy objectives;

5. The ability of the United States to enforce the proposed controls effectively; and

6. The foreign policy consequences of not extending the export controls.

All comments will become a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are required. If oral comments are received, they must be followed by written memoranda that will be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these comments will be maintained in the Freedom of Information Records Inspection Facility, Room 4104, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at this facility may be obtained from Patricia Mann, Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986); and E.O. 12543 of January 7, 1986, (51 FR 875, January 9, 1986).

Dated: November 3, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87-25761 Filed 11-5-87; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Parts 575 and 576

[Docket No. R-87-1359; FR-2387]

Emergency Shelter Grants Program; Stewart B. McKinney Homeless Assistance Act

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement the Emergency Shelter Grants program established by the Stewart B. McKinney Homeless Assistance Act. The program authorizes HUD to make grants to States, units of general local government, and private nonprofit organizations for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, and for the payment of certain operating expenses and essential social service expenses in connection with emergency shelter for the homeless.

The purpose of the program is to help improve the quality of emergency shelters for the homeless, to make available additional emergency shelters, and to meet the costs of operating emergency shelters and of providing essential social services to homeless individuals, so that these individuals have access not only to safe and sanitary shelter, but also to the supportive services and other types of assistance they need to improve their situations.

DATE: Comments due January 5, 1988.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James R. Brougham, Director, Entitlement Cities Division, Room 7282 Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-5977. For matters relating to Emergency Shelter Grants to States, James N. Forsberg, Director, State and Small Cities Division, Room 7184, telephone (202) 755-6322. Hearing or speech impaired individuals may call HUD's TDD number: (202) 426-0015. (These are not toll-free telephone numbers).

SUPPLEMENTARY INFORMATION:

Background

On July 22, 1987, the President approved the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77) (the "McKinney Act"). Subtitle B of Title IV of the McKinney Act[1] reauthorized (with amendment) the Emergency Shelter Grants program contained in the Homeless Housing Act of 1986.[2]

Section 416(a) of the McKinney Act provided the following guidance on implementing the 1987 ESG program:

(a) *Regulations.* Not later than 60 days after the date of enactment of this Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue requirements based on the initial notice before the expiration of the 12-month period following the date of enactment of this Act. Prior to the issuance of such requirements in final form, the requirements established by the Secretary implementing the provisions of the emergency shelter grants program under the provisions made effective by [the Homeless Housing Act of 1986] shall govern the emergency shelter grants program under this subtitle.

On September 4, 1987, the Department published a Notice in the **Federal Register** (52 FR 33790), announcing the requirements that govern the allocation and use of amounts appropriated for the 1987 ESG program by the Supplemental Appropriations Act, 1987. (Pub. L. 100-

[1] For ease of reference, this rule refers to the Emergency Shelter Grants program authorized by the McKinney Act as the "1987 ESG program."

[2] Sec. 101(g), Pub. L. 99-500 (approved October 18, 1986) Pub. L. 99-591 (approved October 30, 1986), making appropriations as provided for in Part C of Title V of H.R. 5313, 99th Cong., 2d Sess. (1986) (as passed by the House of Representatives and by the Senate), to the extent and in the manner provided for in H. Rep. No. 977, 99th Cong., 2d Sess. (1986). For ease of reference, this rule refers to the Emergency Shelter Grants program established by the Homeless Housing Act 1986 as the "1986 ESG program."

71, approved July 11, 1987). Consistent with section 416(a), the Notice stated:

> Funds authorized under the 1987 program and appropriated under the Supplemental Appropriations Act will be governed by the proposed rule and program requirements for the 1986 ESG program (51 FR 45278, December 17, 1986, adding a new 24 CFR Part 575) and by the modifications discussed in this Notice * * *. When a final rule for the 1986 ESG program becomes effective, that rule and the modifications contained in this Notice will govern the 1987 program.
>
> The Department will implement by notice and comment rulemaking the remainder of the 1987 ESG legislation * * * (52 FR 22790-91).

The 1987 ESG program provisions that were implemented in the September 4 Notice included the requirement for a Comprehensive Homeless Assistance Plan [3] and certain grant allocation and reallocation requirements. On October 19, 1987 (52 FR 38864), the Department published the final rule for the 1986 ESG Program which will govern the 1987 program until a final rule for the 1987 program takes effect. The current proposed rule will codify the entire 1987 program, and will form the basis for the issuance of a final rule to govern the 1987 program.

The 1987 ESG Program

As noted above, the 1987 ESG program is a reauthorization of the 1986 program, with a number of amendments. A discussion of these changes, keyed to the final rule for the 1986 ESG program, follow.

1. Comprehensive Homeless Assistance Plan

Subtitle A of Title IV of the McKinney Act prohibits ESG assistance from being made available to, or within the jurisdiction of, a State, or a metropolitan city or urban county that is eligible to receive an ESG formula allocation,[4] unless the jurisdiction has a HUD-approved Comprehsensive Plan. As of the publication date of this proposed rule, Comprehensive Plans from all of the 50 States and the Commonwealth of Puerto Rico have been received and approved by the Department. On August 14, 1987, the Department published a Notice in the **Federal Register** (52 FR 30628) establishing requirements for the Plan. Among other things, the Notice specifies the jurisdictions that are subject to the Plan's funding prohibition, and describes Subtitle A's effect on the applicants and recipients under each of the programs of Title IV of the Act, including the ESG program. The Notice also specifies (1) the required Plan's content, (2) timing and procedures for the submission of proposed Plans to HUD, (3) HUD's review and approval of Plans, and (4) State or local reviews and reports on progress in carrying out the Plans. All potential grantees and recipients of ESG assistance—both those that may receive amounts directly by formula or reallocation and those that may receive amounts through other grantees or recipients—are encouraged to familiarize themselves with the requirements contained in the August 14, 1987 Notice.

Subpart C of the proposed rule contains the requirements for the Comprehensive Plan. It provides that no grant amounts may be made available for formula allocations or reallocations to States, ESG formula cities or counties, or Territories that do not have an approved Plan. Reallocation amounts may be made available to non-formula units of general local government and to private nonprofit organizations, only if the jurisdiction in which the proposed activities are to be located has an approved Plan. For units of general local government, the State must have an approved Plan. For nonprofits, if the proposed activities are to be located in a formula city or county, the city or county must have the approved Plan; if the proposed activities are to be located outside such a city or county, the State must have the approved Plan.

Subpart C also reiterates the statutory prohibitions against making grant amounts to, or within the jurisdiction of, any State or formula city or county that does not annually (1) review its progress in carrying out its Plan and (2) report the results of its review to HUD. The Subpart also states that HUD will publish Plan requirements in the **Federal Register**, as necessary.

Proposed § 576.51(b)(2)(i) would implement the statutory requirement that applications for ESG assistance have a certification from the official responsible for submitting the Plan for the jurisdiction in which the proposed activities are to be located, that the activities are consistent with the Plan. Proposed § 576.51(c) would establish requirements for further submission of the certification if, at any time after submission of its application, an applicant or grantee (as appropriate) proposes a substantial change in its proposed use of shelter grant funds. Grantees would be barred from obligating, and could not allow State recipients and nonprofit recipients to obligate, grant amounts for the revised proposed use of funds, until HUD accepts the new certification. The Department notes that if the revised proposed use of funds would not be consistent with the applicable HUD-approved Comprehensive Plan, submission of a new certification would require amendment of the Plan. See the August 14, 1987 Notice referred to above for more information on amendments to Comprehensive Plans.

2. "Homeless Person"

Section 576.5 contains the definition of "homeless," as defined in section 103 of the McKinney Act.

3. "Essential services" waiver

Section 414(a)(2)(B) of the McKinney Act prohibits more than 15 percent of any grant amount received by a unit of general local government from being used for "essential services" in connection with emergency shelter for the homeless. A provision new to the 1987 program—section 414(b)—permits HUD to waive the 15 percent limit, if the unit of government "demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources." The Department implemented the substance of this waiver authority for the 1987 ESG program in a Notice published in the **Federal Register** on October 19, 1987 (52 FR 38864). Section 576.21(b) of the proposed rule would implement this authority for the 1987 ESG program regulations.

In considering waiver requests, the Department proposes to use criteria based upon the guidance contained in the Conference Report on section 414(b) (*see* H. Rep. No. 174, 100th Cong., 1st Sess. 76 (1987)). Under this test, the unit of general local government must demonstrate to HUD that:

(1) Activities other than essential services are adequately provided by private or public resources, including an amount equal to 85 percent of each grant amount provided to the unit of government under this part for which waiver is requested; and

(2) The amount that is in excess of 15 percent of each grant amount provided to the unit of government under this part, and which the unit of government proposes to use for essential services, cannot practicably be expended for other activities.

The following example is illustrative. Assume that a unit of general local government has $100,000 in emergency shelter grant amounts and wishes to spend 20 percent of this amount ($20,000) on essential services. The unit of government is free under section 414(a)(2)(B) of the McKinney Act to

[3] The Plan was established by Subtitle A of Title IV of the McKinney Act.

[4] For ease of reference, these cities and counties are referred to as "ESG formula cities and counties."

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spend 15 percent ($15,000) on essential services and thus, this amount is excluded from the waiver determination. To qualify for a waiver for the additional $6,000, the unit of government must demonstrate to HUD that:

(1) Other shelter grant activities are adequately provided from available resources, *including* 85 percent of the grant amount ($85,000); and

(2) The $5,000 cannot practicably be expended for activities other than essential services.

The Department believes that these criteria are responsible to the statutory conditions to waiver, and provide clear guidance to units of general local government seeking waiver relief.

Waiver requests from units of general local government receiving grant amounts from a State would first have to be forwarded to the State. The State would be required promptly to forward all such requests to HUD, together with any recommendations or other comments the State may have. This would give States an opportunity to give HUD the benefit of their views on their recipients' requests for waiver, while ensuring that State recipients' requests will receive full and prompt attention by the Department. HUD intends to rely heavily on the State comments and recommendation in determining whether to grant a waiver under section 414(b) of the McKinney Act.

4. Territories

Section 413(e) of the McKinney Act requires the Department to establish a separate grant allocation formula for the Territories. Territories (included in the definition of "States" by section 411(8)) include the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific. The proposed rule would use a two-step allocation process to make grant amounts available to the Territories.

First, the proposed rule would set aside for *all* Territories an amount equal to 0.2 percent of the total ESG funds available for any fiscal year. This amount is predicated upon an analysis of, and is consistent with, the Territories' historical share of the total amount available for the Community Development Block Grant Program under section 103 of the Housing and Community Development Act of 1974. The Department proposes to use the 0.2 percentage to calculate allocations to the Territories, until such time as a significant shift in the Territories' share under section 103 requires the Department to revise this figure (§ 576.41(e)). Second, a portion of this set-aside would be allocated to *each* Territory, based upon its proportionate share of the total population of all Territories (§ 576.45(a)).

HUD would notify each Territory of the amount of its allocation (§ 576.45(b)). Territories would generally be treated like ESG formula cities and counties for purposes of eligible activities (Subpart B), Comprehensive Homeless Assistance Plans (Subpart C), the award and use of grant amounts (Subpart E), program requirements (Subpart G), and grant administration (Subpart H). Reallocation of grant amounts to Territories is discussed below.

5. Funding Threshold

Section 576.43(b) of the proposed rule would implement section 413(b) of the McKinney Act. This provision changed the allocation threshold for metropolitan cities and urban counties from a flat $30,000 (as provided in the 1986 ESG program), to .05 percent of the amounts appropriated for the program for any fiscal year. The provision of section 413(b), carving out an exception from the allocation threshold for any city that has certain population and other characteristics, would not be codified explicitly in the rule, but would be taken into account in the ESG allocation process.

6. Reallocations

Subpart F of the proposed rule would implement section 413(d) of the McKinney Act. Section 413(d)(1) requires HUD to reallocate any ESG grant amounts that are "unused" or "returned" to HUD. This section is similar to section 322(d) of the 1986 ESG authority.

Sections 413(d) (2) and (3) are new with the McKinney Act. They delineate the rules for reallocating amounts initially provided to ESG formula cities and counties, Territories, and States, if the jurisdiction fails to obtain approval of its Comprehensive Homeless Assistance Plan within 90 days after grant amounts first become available for allocation during any fiscal year.

The following chart shows the reallocation scheme for implementing section 413(d) in Subpart F of the proposed rule. After the chart, the preamble will discuss Subpart F's provisions, and their relation to the McKinney Act and the 1986 final ESG rule.

	Reallocating event	*Reallocation grantee*	*Reallocated amounts not awarded*	*Reallocated amounts awarded, but returned*[1]	*Reallocated amounts awarded, but unused*[2]
§ 576.61	Formula city or county fails to obtain CHAP approval.	State in which city or county located.	Reallocate to formula cities and counties and States and Territories under § 576.63.	Reallocate under 576.67(c).	Reallocate under § 576.67(d).
§ 576.63	State fails to obtain CHAP approval.	First, formula cities and counties in State; and if grant amounts remain, other States and Territories.	Reallocate under § 576.67(d).	Reallocate under § 576.67(c).	Reallocate under § 576.67(d).
§ 576.65	Territory fails to obtain CHAP approval.	Other Territories	Reallocate under § 576.67(d).	Reallocate under § 576.67(c).	Reallocate under § 576.67(d).
§ 576.67(c)(1)(i)	"Returned amounts—State.	First, units of general local government in the State; if grant amounts remain, then other States.	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).

	Reallocating event	*Reallocation grantee*	*Reallocated amounts not awarded*	*Reallocated amounts awarded, but returned*[1]	*Reallocated amounts awarded, but unused*[2]
§ 576.67(c)(1)(ii)	"Returned" amounts—formula cities and counties.	First, units of general local government to carry out homeless activities in city or county; if amounts remain, then the State in which the city or county located; if amounts remain, then units of general local government in the States and if amounts remain, other States.	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).
§ 576.67(c)(2)	Returned amounts—Territories.	First, other Territories; if grants remain, then States.	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d.)
§ 576.67(c)(4)	Returned amounts—reallocation grantees under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d)..	
§ 576.67(d)	"Unused" amounts	Units of general local government, States and private nonprofits.	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).

[1] As provided in § 576.67(f), emergency shelter grant amounts are considered "returned" when they become available for reallocation because a grantee does not execute a grant agreement with HUD for them, *e.g.*, when a grantee for which an allocation is made under § 576.43 fails to meet the application deadlines under § 576.51(a), or has its application disapproved under § 576.53(b) or approved with a reduced grant amount in accordance with § 576.89.

[2] As provided in §§ 576.67(d), grant amounts are considered "unused" when they become available for reallocation by HUD after a grantee has executed a grant agreement with HUD for them: *e.g.*, where (i) a State fails to make its grant amounts available to State recipients within the time period specified in § 576.55(a)(1); (ii) a formula city or county fails to obligate grant amounts within the time specified in § 576.55(b); (iii) a State recaptures grant amounts from a State recipient and makes them available to HUD as provided in § 576.55(c)(2); (iv) grant amounts become available as a result of imposition of a sanction (other than a reduction of grant amounts) under § 576.89 or the close-out of a grant; or (v) a grantee referred to in paragraph (b) of this section fails to obligate grant amounts within the time period specified in its grant agreement.

(a) *Section 576.61.* This provision specifies that amounts originally made available for ESG formula cities and counties would be reallocated to the State in which the city or county is located. This tracks the statutory scheme of section 413(d)(2).

(b) *Section 576.63.* This provision provides that amounts originally made available to a State (including amounts that cannot be reallocated to a State under § 576.61) would be reallocated, first, to ESG formula cities and counties located in the State that demonstrate extraordinary need or large numbers of homeless individuals and, second, if grant amounts remain, to other States and Territories that meet these criteria.

Section 413(d)(2) calls for reallocations "to other States [including Territories] and the cities and counties" that meet the need or numbers of homeless criterion.[5] Consistent with the statute, the proposed rule would make States and Territories eligible for reallocation amounts. The Department, however, proposes two refinements in the statutory scheme: The Department would give a *priority* in reallocating amounts under § 576.63 to ESG formula cities and counties in the State, and would not make reallocations under the section *directly* to any other cities or counties.

The Department believes that this approach is justified on two grounds. First, we believe that grant amounts should, to the maximum extent practicable, be retained in the jurisdiction that originally received the allocation. ESG formula cities and counties in the State are likely to have greater homeless populations than smaller communities, and would be in the best position to ensure that the State's original allocation is used to meet those needs. Second, the Department believes that, in general, grants to units of general local government that are not formula grantees should be administered by the States. Amounts that HUD provides to States are required by the ESG statute to be distributed to units of general local government (including cities and counties) within the State. Thus, while not providing reallocation amounts

[5] Section 413(d)(2) of the McKinney Act specifies that amounts that cannot be reallocated under that section are to be reallocated to "States, counties, and cities that demonstrate extraordinary need or large numbers of homeless individuals * * *." The clear intent of this language is that all reallocation grantees—States, counties, and cities—must meet the need/numbers of homeless criteria.

Section 413(d)(3), however, states that reallocations go "to other States and to cities and counties" that meet the need/numbers of homeless criteria. The literal interpretation of this language subjects *only* cities and counties, but not States, to these criteria.

The Department has reviewed the legislative history of section 413(d), and has found no indication of Congressional intent on this point. We believe, however, that Congress intended reallocations under sections 413(d) (2) and (3) to be made available to the same grantees and in the same circumstance. This follows, we believe, since both provisions deal with precisely the same situation—grant amounts that cannot be provided to a State—and we cannot find any evidence of Congressional intent to provide a different reallocation scheme.

Given the emphasis that the McKinney Act places on need—both in its allocation and reallocation provisions—the Department has determined that section 413(d)(3) should be read as requiring all of its reallocation grantees to be subject to the need/numbers of homeless criteria. Thus, *all* reallocation grantees under both section 413(d)(2) and section 413(d)(3), must demonstrate extraordinary need or large numbers of homeless individuals to receive reallocations under those sections.

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directly to cities and counties, the Department believes that funding them through the State satisfies the statutory directive.

(c) *Section 576.65.* This section provides that amounts originally allocated to a Territory would be reallocated to other Territories that meet the need or numbers of homeless criteria described above. Since the McKinney Act includes Territories in the definition of "State," the reallocation provisions of section 413(d)(2) would apply: Reallocation amounts are to be made available (as noted in previous discussion) to other "States" and to cities and counties.

The Department proposes to reallocate Territory amounts only to other Territories. The Department believes that this approach is consistent with Congressional intent in establishing funding set-aside and special formula allocation provisions for these jurisdictions. Moreover, reallocations to other Territories under § 576.65 would satisfy the statutory requirement that amounts be reallocated to "other States." Any amounts that are not reallocated to the Territories would be available under § 576.67(d) for reallocation to units of general local government (including, as noted above, cities and counties), States, and private nonprofits. The Department believes that this gives adequate attention to the statutory requirement that reallocation grantees under 413(d)(3) include cities and counties.

(d) *Sections 576.61–576.65.* Each of these sections contains the following provisions:

—HUD would give notice to affected grantees of the availability of reallocation amounts.

—To be eligible for reallocation amounts, grantees must (1) execute a grant agreement with HUD to receive ESG amounts for the fiscal year for which the amounts to be reallocated were initially made available; and (2) if necessary, submit an amendment to their application for that fiscal year for the reallocation amounts they wish to receive. The amendment must (to the extent necessary) meet the application requirements for ESG formula grantees, and must be sent to HUD within 30 days after notification of fund availability is given.

—Provisions that govern the formula allocation of grants generally apply to reallocation. These include application review and approval (§ 576.53) and deadlines for using grant amounts (§ 576.55).

(e) *Further allocations.* Each of §§ 567.61–576.65 specifies the use to which amounts that are not reallocated under these sections would be put. Consistent with section 413(d)(2) of the McKinney Act, amounts that cannot be reallocated to the State under § 576.61 would be reallocated under § 576.63. Amounts that are not reallocated under § 576.63 to ESG formula cities and counties, and States and Territories, and amounts that are not reallocated to Territories under § 576.65, would be available for reallocation to units of general local government, States, and private nonprofit organizations under § 576.67(d). Amounts that are allocated under §§ 576.61–576.65, but that are "returned" or "unused," would be reallocated under § 576.67 (c) or (d), as appropriate.

(f) *Section 576.67(c).* This provision would make several changes over its counterpart in the 1986 ESG final rule. The 1986 rule specified that "returned" grant amounts that were initially allocated to a State are to be reallocated, first, to units of general local government in the State and, second, to nonprofits in the State; grant amounts initially allocated to formula cities and counties are to be reallocated, first, for use in the city or county, to units of general local government that are authorized to carry out homeless assistance activities in the city or county and, second, to private nonprofits.

This proposed rule would eliminate private nonprofit organizations from eligibility for reallocations of returned amounts. In their place, the following reallocations for returned amounts are proposed:

—*Section 576.67(c)(1)(i):* Returned State amounts would be reallocated, first, to units of general local government in the State; and if grant amounts remain, to other States.

—*Section 576.67(c)(1)(ii):* Returned ESG formula city or county amounts would be reallocated, first, to units of general local government to carry out homeless assistance activities in the city or county; if amounts remain, then to the State in which the city or county is located; if grant amounts remain, then to units of general local government in the State; and if grant amounts still remain, then to other States.

The Department proposes to substitute States for nonprofits to make § 576.67(c)'s residual grantees comparable to those specified in §§ 576.61 and 576.63. Under this change, States would be residual reallocation grantees in § 576.61, 576.63, 576.67(c)(1)(i), and 576.67(c)(1)(ii). The Department believes that this approach would help bring consistency and clarity to all of Subpart F's provisions for the reallocation of "returned" amounts. In addition, as noted above, the Department believes that States are generally the preferred conduit for distributing grant amounts to units of general local government.

The Department would retain, however, the use of units of general local government as primary reallocation grantees under §§ 576.67(c)(1)(i) and (ii), rather than formula cities and counties under § 576.63 and States under § 576.61. This reflects the fact that § 576.67(c), as well as § 576.67(d), are "backstop" reallocation provisions that the Department believes should have a broad base of governmental eligibility.

The Department proposes to reallocate grant amounts that remain under § 576.67(c)(1)(ii) after State reallocation, to units of general local government in the State and to other States. This is designed to provide a special reallocation system comparable to that discussed above for § 576.63. Reallocations under this provision will enable units of general local government that are cities to carry out homeless assistance activities within the relevant county, for counties to conduct such activities within a city, and for a city to carry out homeless assistance activities within another city. Such arrangements would presuppose the legal authority to conduct such activities within the relevant jurisdiction and may, in appropriate circumstances, require execution of a cooperation agreement to carry out the activities.

With respect to the elimination of private nonprofit organizations from direct funding with returned amounts under § 576.67(c), the Department would note that the proposed rule would retain nonprofits as eligible grantees under § 576.67(d) ("unused" amounts). In addition, nonprofits are eligible to receive grant distribution from ESG formula cities and counties and other units of general local government.

Section 576.67(c) would also be amended to provide that returned amounts from Territories would be reallocated, first, to other Territories and if amounts remain, to States. Use of other Territories as the primary grantees tracks § 576.65; use of States as residual grantees would be consistent with that role for States in §§ 576.61, 576.63, and 576.67(c)(1)(i) and (ii).

Proposed § 576.67(c)(3) would provide that amounts that (1) remain after reallocation under paragraph (c)(1) or (2) are reallocated under that paragraph, but returned, would be reallocated under § 576.67(d). Proposed § 576.67(c)(4) would provide that amounts initially made available to private nonprofits, units of general local government, and States under § 576.67(d) would be reallocated under that provision. These provisions are designed to ensure that all returned reallocation amounts that remain or become available have clear direction for further reallocation.

(g) *Section 576.67(d).* This section, dealing with the reallocation of "unused" amounts, provided under the 1986 ESG program for reallocations to units of general local government and private nonprofit organizations. In this proposed rule, the category of recipients has been expanded to include States. Again, this change reflects the Department's belief that States should be an important part of any mechanism to distribute emergency shelter grant amounts.

7. Other Changes

(a) *State applications.* Section 575.33(a)(2) of the final rule for the 1986 ESG program provides a two-step process for States wishing to receive a formula allocation: A 45-day "election" period, within which the State is to notify HUD of its intention to participate in the program, and a 30-day period (after the 45-day "election") within which to submit an application. The proposed rule would end this two-step approach, and provide that States would be treated the same as other formula grantees: *i.e.*, applications must be submitted within 45 days after the jurisdiction is notified of its grant allocation. This is a minor change, reflecting the Department's commitment to allocating amounts appropriated for the program as rapidly as possible, as well as the Department's believe that States have had two year's funding experience under the program, and no longer need a special time period within which to decide whether to participate in the program.

(b) *Letter to proceed.* Section 575.35(f) of the final rule for the 1986 ESG program permits HUD, upon the request of an ESG formula city or county at any time after the city or county submits its application, to allow the jurisdiction to incur costs for emergency shelter grants activities for later reimbursement when the grant is approved. Section 576.53(f) would extend this provision to State programs, by permitting States to perform HUD's function with respect to State recipients. The Department believes that this change is desirable in order to accord States greater flexibility in the operation of their programs. The proposed rule would also state explicitly the caveat now provided in the grant documents concerning letters to proceed: the jurisdiction's decision to incur costs is entirely at its own risk, and reimbursement from grant funds depends entirely upon whether, and the extent to which, the jurisdiction receives grant amounts.

(c) *Lead-based paint.*—(i) *Scope.* Section 576.79(d) of the rule would establish procedures to eliminate as far as practicable, the immediate hazards of lead-based paint with respect to any building constructed before 1950, for which emergency shelter grant amounts are used and which is intended (or reasonably expected) to provide emergency shelter to children under the age of seven. In addition, specific paragraphs of § 576.79(b) apply to other buildings assisted with emergency shelter grant amounts.

(ii) *Practicability analysis.* Emergency shelter grants are made to ESG formula cities and counties States, and Territories, on the basis of the formula used to determine grant sizes in the Community Development Block Grant (CDBG) Program. States must distribute all their grant allocations to units of general local government in the State; units of general local government may distribute all or part of their grant amounts to private non-profit organizations for use of eligible activities. There are also provisions of reallocation by HUD of specified funds, directly to units of general government, States, Territories, and private non-profit organizations. Activities eligible under the program are:

(1) The renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless;

(2) The provision of essential social services; and

(3) The payment of certain operational costs such as maintenance insurance, utilities, and furnishings.

Under the grant allocation provisions of the McKinney Act, the appropriation in the Supplemental Appropriations Act, 1987 has resulted in allocations to 322 formula cities and counties, the 50 States, the Commonwealth of Puerto Rico, and five Territories. Since States must pass their funds through to local governments, and all local governments, whether receiving their funds directly from HUD or through the State, may distribute all or part of their grant amounts to non-profit entities providing services to the homeless, it is highly likely that several thousand shelters may be assisted with the $50 million currently appropriated. The availability of three categories of eligible activities would dilute the grant amounts likely to involve painted surfaces.

In developing the lead-based paint provisions for this proposed rule, HUD has sought to take into account the limited funds available for physical improvement projects in shelters; the clear intent of the ESG legislation to increase the quality and quantity of shelters; the likely age of buildings that would be made available for use as shelters; the nature of an emergency shelter as a temporary residence; the safety of those using these facilities, especially children; and the reasonably available techniques for eliminating the hazards of lead-based paint poisoning. Based upon our practicability analysis, this rule would (1) limit the required treatment of defective paint surfaces to interior surfaces of an emergency shelter. (Other HUD program regulations, including 24 CFR Part 35, extend coverage to exterior surfaces up to five feet from the floor. However, given the temporary nature of emergency shelters, it is proposed that the immediate hazards of lead-based paint in emergency shelters be limited to interior surface only); (2) limit the required treatment to defective paint surfaces in only those rooms being renovated, rehabilitated, or converted with emergency shelter grant amounts; and (3) not require treatment of chewable surfaces, unless found defective under the circumstances described above.

HUD has also considered various construction cut-off dates during this rulemaking, including 1950 (the date specified in section 302 of the Lead-Based Paint Poisoning Prevention Act and 24 CFR Part 35, Subpart C), 1973 (the date lead-based paint was prohibited in federally assisted construction or rehabilitation) and 1978 (the date residental lead-based paint ceased to be manufactured). A construction cut-off date of 1950 for inspection and abatement requirements is proposed in this rule because most emergency shelters are located in older buildings constructed prior to 1950. The Department invites public comment on alternative construction cut-off dates.

The Department also notes that in those instances where emergency shelter grant amounts are used in conjunction with Community Development Block Grant funds to rehabilitate a project, the more stringent lead-based paint standard (in this case, the CDBG requirements published on February 17, 1987, 52 FR 4878) would apply. HUD invites specific public comment on the practical impact of differing lead-based paint standards between the emergency shelter grants program and the CDBG program, and the likelihood of its causing grantees to shift away from projects involving

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rehabilitation and to focus instead on the other eligible categories of activities under these programs.

Nondiscrimination

Two of the nondiscrimination requirements with which use of emergency shelter grants must comply as provided in § 576.79(a) are Title VIII of the Civil Rights Act of 1968 and Executive Order 11063, which prohibit discrimination in housing on the basis of race, color, religion, sex, or national origin. It may well be that some emergency shelters assisted under this program would not actually be covered under these authorities. The prohibitions against discrimination in Title VIII relate only to a "dwelling", which is defined in section 802(b) of that Act to mean, in part, "any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, or designed or intended for occupancy as, a residence by one or more families * * *" (the word "family" includes a single individual). Judicial interpretations (*e.g., United States* v. *Hughes Memorial Home*, 396 F.Supp. 544 (W.D. Va. 1975)) regarding whether a temporary residence is a "dwelling" within the meaning of Title VIII appear to turn on whether the occupants of a place intend to remain for a substantial period of time or whether the place is rather one of temporary sojourn or transient visit. A similar issue arises under Executive Order 11063, which covers certain "housing and related facilities". Since the operation and usage of emergency shelters may vary greatly across the nation, it seems prudent to deem these authorities generally applicable to shelters assisted under this program.

In any event, under § 576.79(a) all such shelters are subject to the Federal statutory prohibitions against discrimination with respect to race, color, national origin, age, sex and handicap in programs involving Federal financial assistance. Consistent with the statutory intent of Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968, the Department has included in this final rule a requirement at § 576.79(a)(6) that the ESG grantee (or in the case of a State, the State recipient) make known that emergency shelter facilities and services are available to all on a nondiscriminatory basis. Where the procedures that a grantee (or State recipient) intends to use are unlikely to reach persons of any particular race, color, religion, age, sex or national origin who may qualify for the ESG services, the grantee (or recipient) is required to establish additional procedures to ensure that these persons are made aware of the availability of the facilities and services. Grantees (or the State recipient) must also adopt and implement procedures to make available to interested persons information concerning the existence and location of services and facilities which are accessible to handicapped persons.

Environmental Considerations and Site Selection

A fundamental objective of the Emergency Shelter Grants Program is to enable emergency shelter activities to move ahead as quickly as possible. To avoid the delays associated with complying with various environmental authorities, the selection of emergency shelter activities should avoid or minimize adverse impacts on the human environment and environmental resources, and give preference to sites that essentially are free from environmental hazards and adverse conditions. The regulations, therefore, encourage grantees and their recipients to select sites and program activities that will not affect environmental resources and that will not require, or entail the delay of, compliance with environmental authorities listed in § 50.4 of HUD's environmental regulations (24 CFR Part 50; or comparably in § 58.5 of 24 CFR Part 58).

In furtherance of these objectives, § 576.51(b)(3)(i) requires the application to contain an assurance that no assisted renovation, major rehabilitation, or conversion activities will affect specific types of resources, including historic property and floodplains. This assurance also requires that certain activities not be inconsistent with any applicable State's Coastal Zone Management Plan.

However, lest program benefits be denied where no practicable alternatives to sites that would affect particular environmental resources can reasonably be found, § 576.51(b)(3)(ii) provides two exceptions to the policy of assuring impact-avoidance. First, HUD will not require submission of the assurance if HUD finds, based on information from the applicant, that an environmental review previously completed under another HUD program (under 24 CFR Part 50 or 58) applies to the activities for which emergency shelter grant amounts are to be used. If this condition is not present, HUD will also consider an applicant's request for a conditional grant, where the only feasible locations for program activities will result in an effect on cited environmental resources that has not been subject to the required review and thus will require further review under the relevant environmental authorities. A grant conditioned on environmental grounds will be considered only if HUD finds that a meaningful program in fiscal year 1988 can be carried out after the compliance process is completed.

HUD emphasizes that the nature of eligible activities generally will not have significant environmental impact within the meaning of the National Environmental Policy Act of 1969 (NEPA). In addition, the Department is in the process of obtaining the concurrence of the Council of Environmental Quality in HUD's determination that the activities under the Fiscal Year 1987 ESG program are exempt from the requirements of NEPA. However, HUD emphasizes that renovation, major rehabilitation, or conversion activities funded under this part could have potential environmental effects which, unless avoided in particular activities, may require compliance with environmental laws and authorities other than NEPA. Where these authorities apply to a particular activity, compliance with them is HUD's responsibility and must be satisfied before grant amounts may be committed to these activities and before the funded activities may be commenced. Even here, however, by early and careful attention to environmental considerations and by the selection of problem-free sites, applicants can expedite the approval process.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, at the above address.

This rule would not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities, because most statutorily eligible grantees and State recipients are relatively larger cities, urban counties, or States. In addition, the grant amounts to be made available to any ultimate user of a grant are relatively small.

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3502). No person may be subject to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

This rule is listed in the Department's Semiannual Agenda of Regulations published on October 26, 1987 (52 FR 40358) under Executive Order 12291 and the Regulatory Flexibility Act.

A Catalog of Federal Domestic Assistance program number for the Emergency Shelter Grants Program is CFDA No. 14.231.

List of Subjects in 24 CFR Parts 575 and 576

Grant programs—Housing and community development, Emergency shelter grants, Reporting and recordkeeping requirements.

Accordingly, the Department proposes to amend 24 CFR Part 575 and to add a new 24 CFR Part 576, to read as follows:

PART 575—EMERGENCY SHELTER GRANTS PROGRAM: HOMELESS HOUSING ACT OF 1986

1. The Part heading of 24 CFR Part 575 would be revised to read as set forth above.

2. The authority citation for 24 CFR Part 575 would be revised to read as follows:

Authority: Sec. 525(a) of the Homeless Housing Act of 1986 (sec. 101(g), Pub. L. 99–500 (approved October 18, 1986) and Pub. L. 99–591 (approved October 30, 1986), making appropriations as provided for in H.R. 5313, 99th Cong., 2d Sess. (1986) (as passed by the House of Representatives and by the Senate), to the extent and in the manner provided for in H. Rep. No. 977, 99th Cong., 2d Sess. (1986)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

3. In § 575.1 paragraph (a) would be revised to read as follows:

§ 575.1 Applicability and purpose.

(a) *General.* This part implements the Emergency Shelter Grants program contained in the Homeless Housing Act of 1986 (section 101(g), Pub. L. 99–500 (approved October 18, 1986) and Pub. L. 99–591 (approved October 30, 1986), making appropriations as provided for in Part C of Title V of H.R. 5313, 99th Cong., 2d Sess. (1986) (as passed by the House of Representatives and by the Senate), to extent and in the manner provided for in H. Rep. No. 977, 99th Cong., 2d Sess. (1986)). The program authorizes the Secretary of Housing and Urban Development to make grants to States, units of general local government, and private nonprofit organizations, for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, and for the payment of certain operating and social service expenses in connection with emergency shelter for the homeless. The Emergency Shelter Grants program authorized by Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act is contained in 24 CFR Part 576.

* * * * *

4. A new 24 CFR Part 576 would be added to read as follows:

PART 576—EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. McKINNEY HOMELESS ASSISTANCE ACT

Subpart A—General

Sec.
576.1 Applicability and purpose.
576.3 Definitions.
576.5 Waivers.

Subpart B—Eligible Activities

576.21 Eligible and ineligible activities.
576.23 Who may carry out eligible activities.

Subpart C—Comprehensive Homeless Assistance Plan

576.31 Comprehensive Homeless Assistance Plan.

Subpart D—Allocations

576.41 Overall allocation of grant amounts.
576.43 Allocation of grant amounts to States, metropolitan cities, and urban counties.
576.45 Allocation of grant amounts to Territories.

Subpart E—Award and Use of Grant Amounts

576.51 Application requirements.
576.53 Review and approval of applications.
576.55 Deadlines for using grant amounts.

Subpart F—Reallocations

Sec.
576.61 Reallocation of grant amounts; lack of approved Comprehensive Homeless Assistance Plan: formula cities and counties.
576.63 Reallocation of grant amounts; lack of approved Comprehensive Homeless Assistance Plan: States.
576.65 Reallocation of grant amounts; lack of approved Comprehensive Homeless Assistance Plan: Territories.
576.67 Reallocation of grant amounts; returned or unused amounts.

Subpart G—Program Requirements

576.71 Matching funds.
576.73 Use as an emergency shelter.
576.75 Building standards.
576.77 Assistance to the homeless.
576.79 Other Federal requirements.

Subpart H—Grant Administration

576.81 Responsibility for grant administration.
576.83 Method of payment.
576.85 Performance reports.
576.87 Recordkeeping.
576.89 Sanctions.

Appendix to Part 576

Authority: Sec. 416 of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77, approved July 22, 1987); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 576.1 Applicability and purpose.

(a) *General.* This part implements the Emergency Shelter Grants program contained in Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77, approved July 22, 1987). The program authorizes the Secretary of Housing and Urban Development to make grants to States and units of general local government (and to provide nonprofit organizations providing assistance to homeless individuals in the case of grants made with reallocated amounts) for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, and for the payment of certain operating and social service expenses in connection with emergency shelter for the homeless. The Emergency Shelter Grants program authorized by the Homeless Housing Act of 1986 is contained in 24 CFR Part 575.

(b) *Purpose.* The program is designed to help improve the quality of existing emergency shelters for the homeless, to help make available additional emergency shelters, and to help meet the costs of operating emergency shelters and of providing certain essential social services to homeless individuals, so that these persons have access not only to safe and sanitary shelter, but also to the

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supportive services and other kinds of assistance they need to improve their situations.

§ 576.3 Definitions.

Comprehensive Homeless Assistance Plan or *Comprehensive Plan* means the Comprehensive Homeless Assistance Plan established by Subtitle A of Title IV of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77, approved July 22, 1987).

Conversion means a change in the use of a building to an emergency shelter for the homeless under this part, where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building before conversion.

Emergency shelter means any facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless in general or for specific populations of the homeless.

Emergency shelter grant amounts or *grant amounts* mean grant amounts made available under this part.

Formula city or county means a metropolitan city or urban county that is eligible to receive an allocation of grant amounts under § 576.43.

Grantee means the entity that executes a grant agreement with HUD under this part. For purposes of this part, grantee is (a) any State, metropolitan city, or urban county that receives a grant allocation under § 576.43; (b) any Territory that receives a grant allocation under § 576.45; and (c) any State, Territory, unit of general local government, or private nonprofit organization that receives a grant based on a reallocation under Subpart F.

Homeless means:

(a) An individual or family which lacks a fixed, regular, and adequate nighttime residence; or

(b) An individual or family which has a primary nighttime residence that is:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

HUD means the Department of Housing and Urban Development.

Major rehabilitation means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

Metropolitan city means a city that was classified as a metropolitan city under section 102(a)(4) of the Housing and Community Development Act of 1974 for the fiscal year immediately preceding the fiscal year for which emergency shelter grant amounts are made available.

Nonprofit recipient means any private nonprofit organization providing assistance to the homeless, to which a unit of general local government distributes emergency shelter grant amounts.

Obligated means that the grantee or State recipient, as appropriate, has placed orders, awarded contracts, received services, or entered similar transactions that require payment from the grant amount. Grant amounts that are awarded by a written agreement by a unit of general local government to a private nonprofit organization providing assistance to the homeless are obligated.

Private nonprofit organization means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1986 which (a) is exempt from taxation under Subtitle A of the Code; (b) has an accounting system and a voluntary board; and (c) practices nondiscrimination in the provision of assistance.

Rehabilitation means labor, materials, tools, and other costs of improving buildings, including repair directed toward an accumulation of deferred maintenance; replacement of principal fixtures and components of existing buildings; installation of security devices; and improvement through alterations or incidental additions to, or enhancement of, existing buildings, including improvements to increase the efficient use of energy in buildings.

Renovation means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

State means each of the several States and the Commonwealth of Puerto Rico.

Territory means each of the following: The Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

State recipient means any unit of general local government to which a State makes available emergency shelter grant amounts.

Unit of general local government means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

Urban county means a county that was classified as an urban county under section 102(a)(6) of the Housing and Community Development Act of 1974 for the fiscal year immediately preceding the fiscal year for which emergency shelter grant amounts are made available.

Value of the building means the monetary value assigned to a building by an independent real estate appraiser, or as otherwise reasonably established by the grantee or the State recipient.

§ 576.5 Waivers.

The Secretary of HUD may waive any requirement of this part that is not required by law, whenever it is determined that undue hardship will result from applying the requirement, or where application of the requirement would adversely affect the purposes of the Emergency Shelter Grants Program under this part.

Subpart B—Eligible Activities

§ 576.21 Eligible and ineligible activities.

(a) *Eligible activities.* Emergency shelter grant amounts may be used for one or more of the following activities relating to emergency shelter for the homeless.

(1) Renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless.

(2) Provision of essential services, including (but not limited to) services concerned with employment, physical health, mental health, substance abuse, education, or food. Grant amounts provided to a unit of general local government may be used to provide an essential service only if—

(i) The service is (A) a new service or (B) a quantifiable increase in the level of a service above that which the unit of general local government provided during the 12 calendar months immediately before it received the grant amounts; and

(ii) Not more than 15 percent of any grant provided to a unit of general local government, including grant amounts that the unit of general local government distributes to any nonprofit recipient, is used for these services.

(3) Payment of maintenance, operation (including rent, but excluding staff), insurance, utilities, and furnishings.

(b) *Waiver of limit on essential services.* (1) HUD may waive the 15 percent limitation on the use of grant amounts for essential services in paragraph (a)(2)(ii) of this section, if the unit of general local government demonstrates to HUD that:

(i) Activities other than essential services are adequately provided from other private or public resources (including an amount equal to 85 percent of each grant amount provided to the unit of government uner this part for which waiver is requested); and

(ii) The amount that is in excess of 15 percent of each grant amount provided to the unit of government under this part, and which the unit of government proposes to use for essential services, cannot practicably be used for eligible activities other than essential services.

(2) Waiver requests from State recipients under this paragraph (b) must first be sent to the State. The State must promptly send the requests to HUD, together with any comments or recommendations the State may have on them.

(c) *Ineligible activities.* (1) Emergency shelter grant amounts may not be used for activities other than those authorized under paragraphs (a) and (b) of this section. For example, grant amounts may not be used for:

(i) Acquisition or construction of an emergency shelter for the homeless;

(ii) The costs of staff involved in overseeing the operation of the shelter; or

(iii) Rehabilitation services performed by the staff of a grantee or recipient, such as preparation of work specifications, loan processing, or inspections.

(2) Grant amounts may not be used to renovate, rehabilitate, or convert buildings owned by primarily religious organizations or entities, unless the following conditions are met:

(i) The building (or portion thereof) that is to be improved with the grant amounts has been leased to an existing or newly established, wholly secular entity (which may be an entity established by the religious organization);

(ii) The HUD assistance is provided to the lessee (and not the lessor) to make the improvements;

(iii) The leased premises will be used exclusively for secular purposes, and will be available to all persons regardless of religion;

(iv) The lease payments do not exceed the fair market rent for the premises, as they were before the improvements are made;

(v) The portion of the cost of any improvements that also serve a non-leased part of the building will be allocated to, and paid for by, the lessor; and

(vi) The lessor enters into a binding agreement that, unless the lessee, or a qualified successor lessee, retains the use of the leased premises for a wholly secular purpose for at least the useful life of the improvements, the lessor will pay to the lessee an amount equal to the residual value of the improvements.

(vii) The lessee must remit the amount referred to in paragraph (c)(2)(vi) of this section to the original grantee from which the amounts used to renovate, rehabilitate, or convert the building under this paragraph (c)(2) were derived: *e.g.*, if the amounts used under this paragraph initially were made available to a State or to a unit of general local government as a formula allocation (§ 576.43) or a reallocation (Subpart F), the amount that the lessor provides to the lessee must be remitted to the State or unit of general local government, as appropriate. The original grantee may use this amount to further the objectives of this part. If, however, a private nonprofit organization is the lessee as well as the grantee, the organization must remit the amount referred to in paragraph (c)(2)(vi) of this section to HUD.

(viii) The lessee may also enter into a management contract authorizing the lessor religious organization to operate the facility, including the provision of essential services, in carrying out the secular purpose. In such case, the religious organization must agree in the management contract to carry out its contractual responsibilities in a manner free from religious influences pursuant to conditions prescribed by HUD.

§ 576.23 Who may carry out eligible activities.

(a) *Grantees and State recipients.* All grantees (except States) and State recipients may carry out activities with emergency shelter grant amounts. All of a State's formula allocation must be made available to units of general local government in the State, which may include formula cities or counties, whether or not such cities or counties receive grant amounts directly from HUD.

(b) *Nonprofit recipients.* Units of general local government—both grantees and State recipients—may distribute all or part of their grant amounts to nonprofit recipients to be used for emergency shelter grant activities.

Subpart C—Comprehensive Homeless Assistance Plan

§ 576.31 Comprehensive Homeless Assistance Plan.

(a) *Prohibition of assistance.* (1) Grant amounts may be made available to the following jurisdictions, only if they have a HUD-approved Comprehensive Plan:

(i) States, for allocations under § 576.43 and reallocations under §§ 576.61, 576.63, and 576.67.

(ii) Formula cities and counties, for allocations § 576.43 and reallocations under §§ 576.63 and 576.67; and

(iii) Territories, for allocations under § 576.45 and reallocations under §§ 576.65 and 576.67.

(2) Reallocation amounts may be made available under § 576.67 to units of general local government that are not formula cities and counties, and to private nonprofit organizations, only if the jurisdiction in which the proposed activities are to be located has an approved Comprehensive Plan. For units of general local government, the State must have an approved Plan. For nonprofit organizations, if the proposed activities are to be located in a formula city or county, the city or county must have an approved Plan; if the proposed activities are to be located outside such a city or county, the State must have an approved Plan.

(3) Grant amounts may not be made available to, or within the jurisdiction of, any State or formula city or county that does not annually (i) review its progress in carrying out its Comprehensive Plan and (ii) report the results of the review to HUD.

(b) *Notification of Plan requirements.* HUD will publish the requirements that pertain to the Comprehensive Plan (including the progress review and report specified in paragraph (a)(3) of this section and Plan amendments referred to in § 576.53(c)) in the **Federal Register**, as necessary. Prospective grantees should familiarize themselves with these requirements. HUD will also provide notice of the Plan's requirements when HUD notifies prospective grantees of their grant allocations under subpart D or the availability of reallocation amounts under subpart F.

(c) *Reallocations.* Sections 576.61, 576.63, and 576.65 govern the reallocation of grant amounts initially allocated to a State or a formula city or county under § 576.43, or to a Territory under § 576.45, if the jurisdiction does not obtain approval of its Plan within the time periods specified in those sections.

Subpart D—Allocations

§ 576.41 Overall allocation of grant amounts.

(a) *Territories.* HUD will set aside for allocation to the Territories under § 576.45 an amount equal to 0.2 percent of the total amount available for

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emergency shelter grants for any fiscal year.

(b) *States, metropolitan cities, and urban counties.* HUD will allocate the amounts that remain after the set-aside to Territories under paragraph (a) of this section to States, metropolitan cities, and urban counties under § 576.43.

§ 576.43 Allocation of grant amounts to States, metropolitan cities, and urban counties.

(a) *Calculation of allocations.* In determining the amount of the allocation for each State, metropolitan city, and urban county, HUD will provide that the percentage of the total amount available for allocation to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for the prior fiscal year that was allocated to such State, metropolitan city, or urban county.

(b) *Reallocation to State.* Except as otherwise provided by law, if an allocation to a metropolitan city or urban county would be less than .05 percent of the amounts appropriated for this part for any fiscal year, the amount is added to the allocation for the State in which the city or county is located.

(c) *Notification of allocation amount.* HUD will notify in writing each State, metropolitan city, and urban county that is eligible to receive an allocation under this section, of the amount of its allocation.

§ 576.45 Allocation of grant amounts to Territories.

(a) *Each Territory.* HUD will allocate amounts set aside for Territories under § 576.41 to each Territory, based upon its proportionate share of the total population of all Territories.

(b) *Notification of allocation amount.* HUD will notify each Territory of the amount of its allocation under this section.

Subpart E—Award and Use of Grant Amounts

§ 576.51 Application requirements.

(a) *Application deadlines.* To receive grant amounts, a State or formula city or county that elects to receive an emergency shelter grant on the basis of an allocation under § 576.43, and a Territory that elects to receive an emergency shelter grant on the basis of an allocation under § 576.45, must submit an application that meets the requirements of paragraph (b) of this section. The application must be submitted to the responsible HUD field office, no later than 45 days after the date of the notification to the State, city or county, or the Territory, of its grant allocation, as provided by § 576.43(c) or § 576.45(b), respectively.

(b) *Application.* The application must contain:

(1) A Standard Form 424. Item (7) of Standard Form 424 must contain a description of the proposed use of the emergency shelter grant amounts. In the case of a formula city or county, or a Territory, the proposed use must be identified for each of the three categories of eligible activities under §§ 576.21 (a)(1), (a)(2), and (a)(3). In the case of a State, the proposed use must identify (i) how the State intends to implement the requirement in § 576.23(a) that all grant amounts be made available to units of general local government in the State, or (ii) the specific units of general local government in the State that will receive these amounts.

(2) The following certifications and assurances:

(i) A certification by the public official responsible for submitting the Comprehensive Plan for the State, formula city or county, or Territory in which the proposed use of funds described in Standard Form 424 is to be located, that the proposed use is consistent with the Plan.

(ii) A certification that the State, formula city or county, or Territory will provide the matching supplemental funds required by § 576.71. The certification must describe the sources and amounts of the supplemental funds. A State's matching supplemental funds certification is to be submitted with its interim performance report, as provided by § 576.85.

(iii) A certification that the formula city or county, or Territory, will comply, and that the State will ensure that its State recipients comply, with:

(A) The requirements of § 576.73 concerning the continued use of buildings, for which emergency shelter grant amounts are used, as emergency shelter for the homeless;

(B) The building standards requirements of § 576.75; and

(C) The requirements of § 576.77 concerning assistance to the homeless.

(iv) If grant amounts are proposed to be used to provide emergency shelter for the homeless in hotels or motels, or other commerical facilities providing transient housing, a certification from the State, metropolitan city, or urban county that:

(A) The grantee, or State recipient or nonprofit recipient (as appropriate), has executed (or will execute) an agreement with the provider of such housing that comparable living space (in terms of quality), available amenities, and square footage) will be available in the facility for use as emergency shelter for at least the applicable period specified in § 576.73;

(B) Leases negotiated between the grantee, or State recipient or nonprofit recipient (as appropriate), and providers of such housing provide (or will provide) that the living space will be made available at substantially less than the daily rate otherwise charged by the facility; and

(C) The grantee, or State recipient or nonprofit recipient, (as appropriate), has considered using other facilities as emergency shelter, and has determined that use of the facilities referred to in this paragraph (b)(2)(iv) provides the most cost-effective means of providing emergency shelter for the homeless in its jurisdiction.

(v) A certification that the formula city or county, or Territory, will conduct its emergency shelter grant activities under this part, and that the State or unit of general local government (as appropriate) will ensure that State recipients or nonprofit recipients conduct their activities under this part, in conformity with the nondiscrimination and equal opportunity requirements contained in § 576.79(a) and the other requirements of this part and of other applicable Federal law.

(3)(i) An assurance by the State, formula city of county, or Territory that no renovation, major rehabilitation, or conversion activity funded under this part will:

(A) Involve alterations to a property that is listed on the National Register of Historic Places, is located in an historic district or is immediately adjacent to a property that is listed on the Register, or is deemed by the State Historic Preservation Officer to be eligible for listing on the Register;

(B) Take place in any 100-year floodplain designated by map by the Federal Emergency Management Agency; or

(C) Be inconsistent with the State's Coastal Zone Management plan.

(ii) In lieu of the assurance required by paragraph (b)(3)(i) of this section, renovation, major rehabilitation, or conversion of a building may be carried out with emergency shelter grant amounts if:

(A)(*1*) The State, formula city or county, or Territory informs HUD that an environmental review in the area in which the proposed activities are to be located (*i*) was previously completed for the purposes of another HUD program under 24 CFR Part 50 or 58, and (*ii*) addressed properties, activities, and

effects comparable to those proposed for assistance under this part; and (*2*) HUD finds that the prior review applies to the proposed activities; or

(B) The State, formula city or county, or Territory (*1*) determines that the only feasible locations for the assisted activities preclude one or more of the assurances in paragraph (b)(3)(i) of this section, and that paragraph (b)(3)(ii)(A) of this section does not apply, and (*2*) requests a conditional grant in accordance with § 576.53(c)(2).

(4) A certification by the State, formula city or county, or Territory that the submission of the application required by this paragraph (b) is authorized under applicable provisions of law, and that the grantee possesses the legal authority to carry out emergency shelter grant activities in accordance with the provisions of this part.

(c) *Substantial change in proposed use of funds.* (1) If at any time after submission of an application under this section, the applicant or grantee (as applicable) proposes a substantial change in its proposed use of funds, the applicant or grantee must submit to the responsible HUD field office a certification (as required by paragraph (b)(2)(i) of this section) that the revised proposed use of funds in consistent with the applicable Comprehensive Homeless Assistance Plan. The grantee may not obligate, or permit a State recipient or nonprofit recipient to obligate, grant amounts for the revised proposed use of funds until HUD accepts the new certification.

(2) Submission of the certification under this paragraph (c) may require amendment of the applicable Comprehensive Homeless Assistance Plan. Requirements for Plan amendments may be found in the notification that HUD provides for Plans. (See § 576.31(b)).

§ 576.53 Review and approval of applications.

(a) *Time for approval.* An application from a State, formula city or county, or Territory will be processed and approved as expeditiously as possible, and will be deemed approved 30 days after HUD receives it, unless within that period HUD notifies the applicant that the application is not approved.

(b) *Review of applications.* HUD will approve an application, unless it determines that the application:

(1) Was not received or postmarked within the time period specified in § 576.51(a);

(2) Does not contain the items required by § 576.51(b); or

(3) Does not otherwise comply with the requirements of this part or of other Federal law.

(c) *Conditional grant.* HUD may make a conditional grant restricting the obligation and use of emergency shelter grant amounts. Conditional grants may be made;

(1) Where there is substantial evidence that there has been, or there will be, a failure to meet the requirements of this part. In such a case, the reason for the conditional grant, the action necessary to remove the condition, and the deadline for taking those actions will be specified. Failure to satisfy the condition may result in imposition of a sanction under § 576.80 or in any action authorized under any other applicable Federal law.

(2) Where the State, formula city or county, or Territory requests a conditional grant because the only feasible program sites for renovation, major rehabilitation, or conversion activities assisted under this part preclude one or more of the assurances in § 576.51(b)(3)(i), and § 576.51(b)(3)(ii)(A) does not apply. In such a case, HUD must comply with applicable environmental authorities before grant amounts may be committed and assisted activities may be commenced.

(d) *Grant agreement.* The grant will be made by means of a grant agreement executed by HUD and the grantee.

(e) *Reallocation amounts.* Any emergency shelter grant amounts that are returned to HUD because of (1) a failure to meet the application deadline under § 576.51(a) or (2) an application disapproval under paragraph (b) of this section will be reallocated under § 576.67(c).

(f) *Letter to proceed.* (1) Upon request of a formula city or county, or Territory, at any time after submission of an application, HUD may authorize the city, county, or Territory to incur costs at its own risk for reimbursement at such time as the grant may be approved.

(2) At any time after submission of its application, the State may, upon request of a State recipient, authorized the recipient to incur costs at its own risk for reimbursement at such time as the recipient may receive its distribution from the State.

§ 576.55 Deadlines for using grant amounts.

(a) *States and State recipients.* (1) Each State must make available to its State recipients all emergency shelter grant amounts that it was allocated under § 576.43, within 65 days of the date of the grant award by HUD.

(2) Each State recipient must have all its grant amounts obligated within 180 days of the date on which the State made the grant amounts available to it. Funds to be expended by the State recipient itself (not through a third party) for the provision of assistance to the homeless will be considered to have met this timing requirement, if the recipient:

(i) Budgets the funds for a stated eligible activity;

(ii) Makes initial expenditures for the eligible activity within 180 days of the date on which the State made the grant amounts available to the recipient; and

(iii) Expends all funds for the budgeted activity within one year of the date on which the State made the grant amounts available to the recipient.

(b) *Formula cities and counties, and Territories.* Each formula city and county, and each Territory, must have all grant amounts that it was allocated under § 576.43 of § 576.45 obligated by 180 days of the date of the grant award by HUD. Funds to be expended by the formula city or county, or Territory, itself (not through a third party) for the provision of assistance to the homeless will be considered to have met this timing requirement, if the jurisdiction: (1) budgets the funds for a stated eligible activity; (2) makes initial expenditures within 180 days of the date of the grant award by HUD; and (3) expends all funds for the budgeted activity within one year of the date of the grant award by HUD.

(c) *Reallocation amounts.* (1) Any emergency shelter grant amounts that are not made available or obligated within the time periods specified in paragraph (a)(1) (State distributions to State recipients) or (b) (formula city or county or Territory allocation) of this section, respectively, will be reallocated under § 576.67(d).

(2) The State must recapture any grant amounts that a State recipient does not obligate within the time period specified in paragraph (a)(2) (State recipients) of this section. The State, at its option, must make these grant amounts and other amounts returned to the State (except amounts referred to in § 576.21(c)(vi)) available as soon as practicable to other units of general local government for use within the time period specified in paragraph (a)(2) of this section, or to HUD for reallocation under § 576.67(d).

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Subpart F—Reallocations

§ 576.61 Reallocation of grant amounts; lack of approved Comprehensive Homeless Assistance Plan; formula city and counties.

(a) *Applicability.* This section applies where a formula city or county fails to obtain approval of its Comprehensive Plan within 90 days of the date upon which amounts under this part first become available for allocation under § 576.43 in any fiscal year.

(b) *Grantee.* HUD will make available the amounts that a city or county referred to in paragraph (a) of this section would have received to the State in which the city or county is located.

(c) *Notification of fund availability.* The responsible HUD field office will promptly notify the State of the availability of any reallocation amounts under this section.

(d) *Eligibility for reallocation amounts.* In order to receive reallocation amounts under this section, the State must:

(1) Execute a grant agreement with HUD to receive grant amounts allocated to the State under § 576.43 for the fiscal year for which the amounts to be allocated were initially made available.

(2) If necessary, submit an amendment to its application for that fiscal year for the reallocation amounts it wishes to receive. The amendment must (to the extent necessary) meet the requirements of § 576.51(b), and must be submitted to the responsible HUD office no later than 30 days after notification is given to the State under paragraph (c) of this section.

(e) *Review and approval.* (1) Section § 576.53 (except paragraph (e)) governs the review and approval of application amendments under this section.

(2) HUD will endeavor to make grant awards within 30 days of the application amendment deadline, or as soon thereafter as practicable.

(f) *Deadlines for using reallocated grant amounts.* Section 576.55 governs the use of amounts reallocated under this section.

(g) *Amounts that cannot be reallocated.* Any grant amounts that cannot be reallocated to a State under this section will be reallocated to formula cities and counties located in the State and to other States and Territories, as provided by § 576.63. Amounts that are reallocated under this section, but that are returned or unused, will be reallocated under § 576.67.

§ 576.63 Reallocation of grant amounts; lack of approved Comprehensive Homeless Assistance Plan; States.

(a) *Applicability.* This section applies where:

(1) A State fails to obtain approval of its Comprehensive Plan within 90 days of the date upon which amounts under this part first become available for allocation in any fiscal year;
or

(2) Grant amounts cannot be reallocated to a State under § 576.61.

(b) *Grantees.* HUD will reallocate the amounts that a State referred to in paragraph (a) of this section would have received, first, to formula cities and counties located in the State that demonstrate extraordinary need or large numbers of homeless individuals and if grant amounts remain, then to other States and Territories that meet this criterion.

(c) *Notification of fund availability.* HUD will make reallocations under this section by direct notification or Federal Register Notice that will set forth the terms and conditions under which grant amounts under this section are to be reallocated and grant awards made.

(d) *Eligibility for reallocation amounts.* In order to receive reallocation amounts under this section, the formula city or county, or State or Territory, must:

(1) Execute a grant agreement with HUD to receive grant amounts allocated under § 576.43 or § 576.45 (as appropriate) for the fiscal year for which the amounts to be reallocated were initially made available.

(2) Submit an amendment to its application for that fiscal year for the reallocation amounts it wishes to receive. The amendment must meet—

(i) To the extent necessary, the requirements of § 576.51(b) and

(ii) Such additional requirements as HUD may specify in the notification under paragraph (c) of this section. The amendment must be submitted to the responsible HUD field office no later than 30 days after such notification is given.

(e) *Review and approval.* (1) Section 576.53 (except paragraph (e)), and such additional requirements as HUD may specify in the notification under paragraph (c) of this section, govern the review and approval of application amendments under this section. HUD will rank the amendments and make grant awards under this section on the basis of the following factors:

(i) The nature and extent of the unmet homeless need within the jurisdiction in which the grant amounts will be used;

(ii) The extent to which the proposed activities address this need; and

(iii) The ability of the grantee to carry out the proposed activities promptly.

(2) HUD will endeavor to make grant awards within 30 days of the application amendment deadline, or as soon thereafter as practicable.

(f) *Grant amounts.* HUD may make a grant award for less than the amount applied for or for fewer than all of the activities identified in the application amendment, based on competing demand for grant amounts and the extent to which the respective activities address the needs of the homeless.

(g) *Deadlines for using reallocated grant amounts.* Section 576.55 governs the use of amounts reallocated under this section.

(h) *Amounts that are not reallocated.* Any grant amounts that are not reallocated under this section, or that are reallocated, but are unused, will be reallocated under § 576.67(d). Any amounts that are reallocated, but are returned, will be reallocated under § 576.67(c).

§ 576.65 Reallocation of grant amounts; lack of approved Comprehensive Homeless Assistance Plan; Territories.

(a) *Applicability.* This section applies where a Territory fails to obtain approval of its Comprehensive Plan within 90 days of the date upon which amounts under this part first become available for allocation in any fiscal year.

(b) *Grantees.* HUD will make available the amounts that a Territory referred to in paragraph (a) of this section would have received to other Territories that demonstrate extraordinary need or large numbers of homeless individuals.

(c) *Notification of fund availability.* The responsible HUD field office will promptly notify each Territory of the availability of any reallocation amounts under this section, and will indicate the terms and conditions under which such amounts are to be made available and grant awards made.

(d) *Eligibility for reallocation amounts.* In order to receive allocation amounts under this section, the Territory must:

(1) Execute a grant agreement with HUD to receive grant amounts allocated under § 576.45 for the fiscal year for which the amounts to be reallocated were initially made available.

(2) If necessary, submit an amendment to its application for that fiscal year for the reallocation amounts it wishes to receive. The amendment must meet (i) to the extent necessary, the requirements of § 576.51(b) and (ii) such additional requirements as HUD may specify in the notification under paragraph (c) of this section. The amendment must be submitted to the responsible HUD field office no later than 30 days after such notification is given.

(e) *Review and approval.* (1) Section 576.53 (except paragraph (e)) governs the review and approval of application amendments under this section. HUD will rank the amendments and make grant awards under this section on the basis of the following factors:

(i) The nature and extent of the unmet homeless need within the jurisdiction in which the grant amounts will be used;

(ii) The extent to which the proposed activities address this need; and

(iii) The ability of the grantee to carry out the proposed activities promptly.

(2) HUD will endeavor to make grant awards within 30 days of the application amendment deadline, or as soon thereafter as practicable.

(f) *Grant amounts.* HUD may make a grant award for less than the amount applied for or for fewer than all of the activities identified in the application amendment, based on competing demand for grant amounts and the extent to which the respective activities address the needs of the homeless.

(g) *Deadlines for using reallocated grant amounts.* Section 576.55 governs the use of amounts reallocated under this section.

(h) *Amounts that are not reallocated.* Any grant amounts that are not reallocated under this section, or that are reallocated, but are unused, will be reallocated under § 576.67(d). Amounts that are allocated, but are returned, will be reallocated under § 576.67(c).

§ 576.67 Reallocation of grant amounts; returned or unused amounts.

(a) *General.* From time to time, HUD will reallocate emergency shelter grant amounts that are returned or unused, as those terms are defined in paragraph (f) of this section. HUD will make reallocations under this section by direct notification or Federal Register Notice that will set forth the terms and conditions under which the grant amounts are to be reallocated and grant awards are to be made.

(b) *FEMA boards.* HUD may use State and local boards established under the Emergency Food and Shelter Program administered by the Federal Emergency Management Agency, as a resource to identify potential applicants for reallocated grant amounts.

(c) *Reallocation—returned grant amounts.* (1) States and formula cities and counties. HUD will endeavor to reallocate returned emergency shelter grant amounts that were initially allocated under § 576.43 to a State or a formula city or county, for use within the same jurisdiction. Reallocation of these grant amounts is subject to the following requirements:

(i) Returned grant amounts that were allocated to a State will be made available (A) first, to units of general local government within the State and (B) if grant amounts remain, then to other States.

(ii) Returned grant amounts that were allocated to a formula city or county will be made available (A) first, for use in the city or county, to units of general local government that are authorized under applicable law to carry out activities serving the homeless in the jurisdiction; (B) if grant amounts remain, then to the State in which the city or county is located; (C) if grant amounts remain, to units of general local government in the State; and (D) if grant amounts remain, to other States.

(2) Territories. Returned grant amounts that were allocated to a Territory will be made available (i) first, to other Territories and (ii) if grant amounts remain, then to States.

(3) Further reallocation: States, formula cities and counties, and Territories. Any grant amounts that (i) remain after applying the preceding provisions of this paragraph (c), or (ii) are returned to HUD after realloction under such provisions, will be further reallocated under paragraph (d) of this section.

(4) Other grantees. Returned grant amounts that were initially made available to private nonprofit organizations, units of general local government and States under paragraph (d) of this section will be made available under that paragraph.

(5) The responsible HUD field office will announce the availability of returned grant amounts. The announcement will establish deadlines for submitting applications, and will set out other terms and conditions relating to grant awards, consistent with this part. The announcement will specify the application documents to be submitted, which include (i) a Standard Form 424; (ii) certifications required at § 576.51(b)(2)(iv); and (iii) other certifications and assurance similar to those required from a formula city or county, or a Territory, under §§ 576.51(b)(2), (3) and (4), as appropriate.

(6) The responsible HUD field office may establish maximum grant amounts, considering the grant amounts available, and will rank the applications using the criteria in paragraph (e) of this section.

(7) HUD may make a grant award for less than the amount applied for or for fewer than all of the activities identified in the application, based on competing demands for grant amounts and the extent to which the respective activities address the needs of the homeless.

(8) HUD will endeavor to make grant awards within 30 days of the application deadline or as soon thereafter as practicable.

(d) *Reallocation—unused grant amounts.* Unused grant amounts will be available, in HUD's discretion, for reallocation from time to time to:

(1) Units of general local government and States demonstrating extraordinary need or large numbers of homeless individuals; and

(2) Private nonprofit organizations providing assistance to the homeless.

(e) *Selection criteria.* HUD will award grants under paragraphs (c) and (d) of this section based on consideration of the following criteria:

(1) The nature and extent of the unmet homeless need within the jurisdiction in which the grant amounts will be used;

(2) The extend to which the proposed activities address this need; and

(3) The ability of the grantee to carry out the proposed activities promptly.

(f) *When grant amounts are returned or unused.* (1) For purposes of this section, emergency shelter grant amounts are considered "returned" when they become available for reallocation because a grantee does not execute a grant agreement with HUD for them, *e.g.*, when a grantee for which an allocation is made under § 576.43 or § 576.45 fails to meet the application deadlines under § 576.51(a), or has its application disapproved under § 576.53(b), or approved with a reduced grant amount in accordance with § 576.69.

(2) For purposes of this section, emergency shelter grant amounts are considered "unused" when they become available for reallocation by HUD after a grantee has executed a grant agreement with HUD for them: *e.g.*, where—

(i) A State fails to make its grant amounts available to State recipients within the time period specified in § 576.55(a)(1);

(ii) A formula city or county fails to obligate grant amounts within the time specified in § 576.55(b);

(iii) A State recaptures grant amounts from a State recipient and makes them available to HUD as provided in § 576.55(c)(2);

(iv) Grant amounts become available as a result of imposition of a sanction (other than a reduction of grant amounts) under § 576.89 or the close-out of a grant; or

(v) A grantee referred to in paragraph (b) of this section fails to obligate grant

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amounts within the time period specified in its grant agreement.

Amounts that remain after reallocation under § 576.63, § 576.65, or § 576.67(c) are considered unused for purposes of this section.

Subpart G—Program Requirements

§ 576.71 Matching funds.

(a) *General.* Each grantee must supplement its emergency shelter grant amounts with an equal amount of funds from sources other than under this part. These funds must be provided after the date of the grant award to the grantee. Funds used to match a previous emergency shelter grant award may not be used to match a subsequent grant award under this part. A grantee may comply with this requirement by providing the supplemental funds itself, or through supplemental funds or voluntary efforts provided by any State recipient or nonprofit recipient (as appropriate).

(b) *Calculating the matching amount.* In calculating the amount of supplemental funds, there may be included the value of any donated material or building; the value of any lease on a building; any salary paid to staff of the grantee or to any State recipient or nonprofit recipient (as appropriate) in carrying out the emergency shelter program; and the time and services contributed by volunteers to carry out the emergency shelter program, determined at the rate of $5 per hour. For purposes of this paragraph (b), the grantee will determine the value of any donated material or building, or any lease, using any method reasonably calculated to establish a fair market value.

§ 576.73 Use as an emergency shelter.

(a) *General.* Any building for which emergency shelter grant amounts are used for one or more of the eligible activities described in §§ 576.21(a) (1) and (3) must be maintained as a shelter for the homeless for not less than a three-year period, or for not less than a 10-year period, if the grant amounts are used for major rehabilitation or conversion of the building. Using emergency shelter grant amounts for eligible activities described in § 576.21(a)(2) does not trigger either the three- and 10-year period.

(b) *Calculating the applicable period.* The three- and 10-year periods referred to in paragraph (a) of this section begin to run:

(1) In the case of a building that was not operated as an emergency shelter for the homeless before receipt of grant amounts under this part, on the date of initial occupancy as an emergency shelter for the homeless.

(2) In the case of a building that was operated as an emergency shelter before receipt of grant amounts under this part, on the date that grant amounts are first obligated for the shelter.

§ 576.75 Building standards.

Any building for which emergency shelter grant amounts are used for renovation, conversion, or major rehabilitation must meet local government safety and sanitation standards.

§ 576.77 Assistance to the homeless.

Homeless individuals and families must be given assistance in obtaining:

(a) Appropriate supportive services, including permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(b) Other Federal, State, local, and private assistance available for such individuals.

§ 576.79 Other Federal requirements.

Use of emergency shelter grant amounts must comply with the following additional requirements:

(a) *Nondiscrimination and Equal Opportunity.* (1) The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601–19 and implementing regulations; Executive Order 11063 and implementing regulations at 24 CFR Part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4) and implementing regulations issued at 24 CFR Part 1;

(2) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(3) The requirements of Executive Order 11246 and the regulations issued under the Order at 41 CFR Chapter 60;

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (see § 570.607(b) of this Chapter);

(5) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, the grantee must make efforts to encourage the use of minority and women's business enterprises in connection with activities funded under this part; and

(6) The requirement that the grantee (or in the case of States, the State recipient) make known that use of the facilities and services is available to all on a nondiscriminatory basis. Where the procedures that a grantee or recipient intends to use to make known the availability of such facilities and services are unlikely to reach persons of any particular race, color, religion, sex, age or national origin who may qualify for them, the recipient or garntee must establish additional procedures that will ensure that these persons are made aware of the facilities and services. Grantees and recipients must also adopt and implement procedures to make available to interested persons information concerning the existence and location of services and facilities that are accessible to handicapped persons.

(b) *Applicability of OMB Circulars.* The policies, guidelines, and requirements of OMB Circular Nos. A–87 and A–102, as they relate to the acceptance and use of emergency shelter grant amounts by States and units of general local government, and Nos. A–110 and A–122 as they relate to the acceptance and use of emergency shelter grant amounts by private nonprofit organizations.[1]

(c) *Uniform Federal Accessibility Standards.* For major rehabilitation or conversion, the Uniform Federal Accessibility Standards at 24 CFR Part 40, Appendix A.

(d) *Lead-based paint.* (1) Purpose. The purpose of this paragraph (d) is to implement the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, with respect to the Emergency Shelter Grants program under this part. HUD has promulgated requirements for the elimination of lead-based paint hazards in HUD-associated housing at 24 CFR Part 35, Subpart C. This paragraph (d) is promulgated under the authority of 24 CFR 35.24(b)(4) and supersedes, with respect to all housing to which it applies, the requirements prescribed by Subpart C of 24 CFR Part 35.

(2) Applicability. This paragraph (d) applies to any buildings for which emergency shelter grant amounts are used, that were constructed before 1950 and are intended, or reasonably can be expected, to provide emergency shelter to children under the age of seven. In addition, paragraph (d)(4) of this section applies to any other shelter constructed before 1978 for which emergency shelter grant amounts are used, whether or not such shelter is intended, or could

[1] The referenced OMB Circulars are available at the Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

reasonably be expected, to provide emergency shelter to children under the age of seven; and paragraph (d)(5) of this section applies to all buildings assisted with emergency shelter grant amounts.

(3) Inspection and abatement requirement. The grantee (or in the case of a State, the State recipient) shall inspect each room in an emergency shelter that is being renovated, rehabilitated or converted with emergency shelter grant funds. Treatment must be provided for defective paint surfaces in all such rooms, i.e., all painted surfaces that are cracking, scaling, chipping, peeling, or loose. Treatment must be performed before final inspection and approval of the work. At a minimum, treatment of the defective paint surfaces must consist of covering or removal of the painted surface. Covering may be accomplished by such means as adding a layer of gypsum wallboard or a fiberglass cloth barrier to the wall surface. Depending on the wall condition, wallpaper (which is permanently attached and not easily strippable) may be used. Covering or replacing trim surfaces is also permitted. Paint removal may be accomplished by such methods as scraping, heat treatment (infra-red or coil type heat guns) or chemicals. Machine sanding and use of propane torches are not permitted. Washing and repainting without thorough removal or covering does not constitute adequate treatment. The grantee (or in the case of States, the State recipient) must take appropriate action to protect the shelter occupants from hazards associated with abatement procedures.

(4) Notification of hazards of lead-based paint poisoning. The grantee must post a notice in a prominent area in any pre-1978 emergency shelter assisted with emergency shelter grant amounts which states:

(i) That the property may contain lead-based paint;

(ii) The hazards of lead-based paint;

(iii) The symptoms and treatment of lead-based paint poisoning;

(iv) The precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards);

(v) The advisability and availability of blood lead level screening for children under seven years of age; and

(vi) That in the event lead-based paint is found on the property, appropriate abatement procedures can be undertaken.

(5) Prohibition against the use of lead-based paint. Section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4631(b)) prohibits applying lead-based paint to any building assisted with emergency shelter grant amounts.

(6) Compliance with other program requirements, Federal, State, and local laws. To the extent that assistance under this part is used in conjunction with other HUD program assistance which has lead-based paint requirements, the more stringent requirements prevail. Nothing in this paragraph (d) is intended to relieve any grantee subject to this paragraph of any responsibility for compliance with other Federal, State, or local laws, ordinances, codes or regulations governing lead-based paint.

(e) *Conflicts of interest.* In addition to conflicts of interest requirements in OMB Circulars A–102 and A–110, no person (1) who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, State recipient, or nonprofit recipient (or of any designated public agency) that receives emergency shelter grant amounts and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or (2) who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family business ties, during his or her tenure, or for one year thereafter. (3) HUD may grant an exception to this exclusion as provided in §§ 570.611 (d) and (e) of this chapter.

(f) *Use of debarred, suspended, or ineligible contractors.* The provisions of 24 CFR Part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(g) *Flood insurance.* No site proposed on which renovation, major rehabilitation, or conversion of a building is to be assisted under this part, other than by grant amounts allocated to States under § 576.43, may be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless (1) the community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 CFR Parts 59 through 79) or (2) less than a year has passed since FEMA notification regarding such hazards, and the grantee will ensure that flood insurance on the structure is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C 4001 *et seq.*).

(h) *Coastal Barriers.* In accordance with the Coastal Barrier Resources Act, 16 U.S.C. 3501, no financial assistance under this part may be made available within the Coastal Barrier Resources System.

(i) *Audit.* The financial management system used by a State or unit of general local government that is a grantee or State recipient must provide for audits in accordance with 24 CFR Part 44. A private nonprofit organization is subject to the audit requirements of OMB Circular A–110.

(j) *Intergovernmental review.* The requirements of Executive Order 12372 and the regulations issued under the order at 25 CFR Part 52, to the extent provided by Federal Register notice in accordance with 24 CFR 52.3.

(k) *Conformance with HUD environmental standards.* The grantee or recipient must conform to environmental criteria and standards established at 24 CFR Part 51 relating to noise abatement and control and physical siting of HUD-assisted projects.

Subpart H—Grant Administration

§ 576.81 Responsibility for grant administration.

Grantees are responsible for ensuring that emergency shelter grant amounts are administered in accordance with the requirements of this part and other applicable laws. In the case of States making grant amounts available to State recipients, and in the case of units of general local government distributing grant amounts to nonprofit recipients, the States and the units of local government are responsible for ensuring that their respective recipients carry out the recipients' emergency shelter grant programs in compliance with all applicable requirements.

§ 576.83 Method of payment.

Payments are made to a grantee upon its request, and may include a working capital advance for 30 days' cash needs or an advance of $5,000, whichever is greater. Thereafter, the grantee will be reimbursed for the amount of its actual cash disbursement needs. If a grantee requests a working capital advance, it must base the request on a realistic, firm estimate of the amounts required to be disbursed over the 30-day period in payment of eligible activity costs. Payments with respect to grants of $120,000, or more, will be made by letter

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of credit, if the grantee meets the requirements of OMB Circular A-102.

§ 576.85 Performance reports.

(a) *Interim performance report*—(1) *Timing of report.* (i) A formula city or county, or Territory, must submit its interim performance report to HUD no later than 30 days after the end of the 180-day period allowed for the obligation of grant amounts under § 576.55(b), or 30 days after the date when all grant amounts are obligated, whichever comes first.

(ii) A State must submit its interim performance report not later than 90 days from the date of the State's distribution of funds to its State recipients; except that where the responsible field office grants a State an extension of the 65-day deadline for obligating its grant funds under § 576.55(a)(1) a corresponding extension for filing of the interim report will automatically be granted.

(iii) A grantee referred to the § 576.67, Reallocation of funds, must submit its interim performance report to HUD within the period specified in its grant agreement.

(2) *Report content.* (i) In the case of a grantee other than a State, the interim performance report must contain information on the amount of funds obligated for each of the three categories of eligible activities described in §§ 576.21(a) (1), (2), and (3).

(ii) A State interim performance report must provide this information for each State recipient.

(3) *Matching funds certification.* A State must submit with its interim performance report the matching funds certification required by § 576.51(b)(2)(ii).

(b) *Annual performance report.* (1) *Report content.* A grantee other than a State must provide HUD with an annual performance report on the obligation and expenditure of funds for each of the three categories of eligible activities described in §§ 576.21(a) (1), (2), and (3). A State must provide this informtion for each State recipient.

(2) *Timing of report.* The initial annual performance report is required for the period ending December 31 following the submission of the interim report, and is due not later than 30 says after December 31. A grantee must continue to submit this report annually until all emergency shelter grant amounts are reported as expended.

§ 576.87 Recordkeeping.

Each grantee and State recipient must maintain records necessary to document compliance with the povisions of this part.

§ 576.89 Sanctions.

(a) *HUD sanctions.* If HUD determines that a grantee is not complying with the requirements of this Part or of other applicable Federal law, HUD may (in addition to any remedies that may otherwise be available) take any of the following sanctions, as appropriate:

(1) Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;

(2) Condition a future grant;

(3) Direct the grantee to stop the incurring of costs with grant amounts;

(4) Require that some or all of the grant amounts be remitted to HUD;

(5) Reduce the level of funds the grantee would otherwise be entitled to receive; or

(6) Elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance.

(b) *State sanctions.* If a State determines that a State recipient is not complying with the requirements of this Part or other applicable Federal laws, the State must take appropriate actions, which may include the actions described in paragraph (a) of this section. Any grant amounts that become available to a State as a result of a sanction under this section must, at the option of the State, be made available (as soon as practicable) to other units of general local government located in the State for use within the time period specified in § 576.55(a)(2), or to HUD for reallocation under § 576.67(d).

(c) *Reallocations.* Any grant amounts that become available to HUD as a result of the imposition of a sanction under this section will be reallocated under § 576.67(d).

Date: October 30, 1987.

Jack R. Stokvis,

General Deputy Assistant Secretry for Community Planning and Development.

APPENDIX TO PART 576

	Reallocating event	Reallocation grantee	Reallocated amounts not awarded	Reallocated amounts awarded, but returned [1]	Reallocated amounts awarded but unused [2]
§ 576.61	Formula city or county fails to obtain CHAP approval.	State in which city or county located.	Reallocate to formula cities and counties and States and Territories under § 576.63.	Reallocate under § 576.67(c).	Reallocate under § 576.67(d).
§ 576.63	State fails to obtain CHAP approval.	First, formula cities and counties in State; and if grant amounts remain, other States and Territories.	Reallocate under § 576.67(d).	Reallocate under § 576.67(c).	Reallocate under § 576.67(d).
§ 576.65	Territory fails to obtain CHAP approval.	Other Territories	Reallocate under § 576.67(d).	Reallocate under § 576.67(c).	Reallocate under § 576.67(d).
§ 576.67(c)(1)(i)	"Returned" amounts—State.	First, units of general local government in the State; if grant amounts remain, then other States.	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d)

APPENDIX TO PART 576—Continued

	Reallocating event	Reallocation grantee	Reallocated amounts not awarded	Reallocated amounts awarded, but returned [1]	Reallocated amounts awarded but unused [2]
§ 576.67(c)(1)(ii)	"Returned" amounts—formula cities and counties.	First, units of general local government to carry out homeless activities in city or county; if amounts remain, then the State is which the city or county located; if amounts remain, then units of general local government in the State and if amounts remain, other States.	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).
§ 576.67(c)(2)	Returned amounts—Territories.	First, other Territories; if grants remain, then States.	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).
§ 576.67(c)(4)	Returned amounts—reallocation grantees under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).	Reallocate under § 576.67(d).
§ 576.67(d)	"Unused" amounts	Units of general local government, States and private nonprofits.	Reallocate under § 576.67(d).	Reallocate under § 576.66(d).	Reallocate under § 576.67(d).

[1] As provided in § 576.67(f), emergency shelter grant amounts are considered "returned" when they become available for reallocation because a grantee does not execute a grant agreement with HUD for them, *e.g.*, when a grantee for which an allocation is made under § 576.43 fails to meet the application deadlines under § 576.51(a), or has its application disapproved under § 576.53(b) or approved with a reduced grant amount in accordance with § 576.89.

[2] As provided in §§ 576.67(d), grant amounts are considered "unused" when they become available for reallocation by HUD after a grantee has executed a grant agreement with HUD for them: *e.g.*, where (i) a State fails to make its grant amounts available to State recipients within the time period specified in § 576.55(a)(1); (ii) a formula city or county fails to obligate grant amounts within the time specified in § 576.55(b); (iii) a State recaptures grant amounts from a State recipient and makes them available to HUD as provided in § 576.55(c)(2); (iv) grant amounts become available as a result of imposition of a sanction (other than a reduction of grant amounts) under § 576.89 or the close-out of a grant; or (v) a grantee referred to in paragraph (b) of this section fails to obligate grant amounts within the time period specified in its agreement.

[FR Doc. 87-25682 Filed 11-5-87; 8:45 am]
BILLING CODE 4210-29-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[LR-168-86 and LR-37-87]

Capitalization and Inclusion in Inventory of Certain Costs; Practical Capacity; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to accounting for costs incurred in producing property and acquiring property for resale. Changes to the applicable tax law were made by the Tax Reform Act of 1986.

DATES: The public hearing will be held on Monday, December 7, 1987, beginning at 10:00 a.m. Outlines of oral comments must be delivered on or mailed by Friday, November 27, 1987.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-168-86 and LR-37-87) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Marcia K. Evans of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 803 of the Tax Reform Act of 1986 (Pub. L. 99-514), 100 Stat. 2085.

On March 30, 1987, proposed and temporary regulations (T.D. 8131) interpreting section 263A of the Internal Revenue Code of 1986 were published in the **Federal Register** (52 FR 10118, 10052).

On August 7, 1987, additional proposed and temporary regulations (T.D. 8148) interpreting section 263A were published in the **Federal Register** (52 FR 29391, 29375).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have

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submitted comments within the time prescribed in the notices of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Friday, November 27, 1987, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

Donald E. Osteen,

Director, Legislation and Regulations Division.

[FR Doc. 87-25949 Filed 11-5-87; 11:04 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CCGD5-87-037]

Anchorage Ground; Baltimore Harbor, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to amend the boundaries of Anchorages 2, 3, and 6 in Baltimore Harbor. These changes are requested by the Maryland Port Administration to assist navigation into Dundalk Marine Terminal and Seagirt Marine Terminal.

DATE: Comments must be received on or before December 21, 1987.

ADDRESSES: Comments should be mailed to Commander(oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, VA 23704-5004. The comments and other materials referenced in this notice will be available for inspection and copying at 431 Crawford Street, Portsmouth, VA, Room 508. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. John Walters (804) 398-6230.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice and the specific section of the proposal to which their comments apply, and give reasons for each comment. The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process.

Drafting Information

The drafters of this notice are Mr. John R. Walters, Project Officer and CDR Robert J. Reining, Project Attorney, Fifth Coast Guard District.

Discussion of Proposed Regulations

The Maryland Port Administration applied for and received Department of the Army authority to dredge access channels and maneuvering space at Dundalk and Seagirt Marine Terminals. U. S. Army Corps of Engineers Public Notice NABOP RW 87-0005-5 announced dredging plans which impacted upon Anchorages 2 and 3. The access channel to Seagirt Marine Terminal would subtract 100 feet from the eastern edge of Anchorage 3. Maryland Port Administration recommended that the western boundary of Anchorage 3 be moved 100 feet into Anchorage 2 as a compensatory offset. This regulation would also alter the western edge of Anchorage 2, moving the edge 225 feet to the east. The access channel to Dundalk Marine Terminal has reduced the size of Anchorage 6 due to the channel alignment, which crosses the western corner. The Maryland Port Administration has consulted with docking pilots and the Association of Maryland Pilots in the channel design. Both Organizations state that the change to the anchorage will not have an operational nor economic impact.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The Association of Maryland Pilots has indicated that the proposed change in boundaries will not affect the capacity of the anchorages. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 417, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05.1(g).

2. In § 110.158, paragraphs (a) (2), (3), and (6) are revised to read as follows:

§ 110.158 Baltimore Harbor, MD.

(a) * * *

(2) *Anchorage No. 2, general anchorage.* In the Patapsco River, 2,000 yards southeast of Lazaretto Point beginning at latitude 39 15'01.43" N., longitude 76 33'43.39" W.; thence southeast to latitude 39 14'49.00" N., longitude 76 33'30.37" W.; thence northeast to latitude 39 14'58.49" N., longitude 76 33'15.63" W.; thence southeast to latitude 39 14'40.5" N., longitude 76 32'57" W.; thence northeast to latitude 39 14'50" N., longitude 76 32'41.5" W.; thence northwest to latitude 39 15'17.2" N., longitude 76 33'10.0" W.; thence northwest to latitude 39 15'18.95" N., longitude 76 33'15.46" W.; thence west to latitude 39 15'18.90" N., longitude 76 33'25.63" W.; thence southwest to latitude 39 15'08.17" N., longitude 76 33'38.79" W., thence southwest to point of beginning. This is a general anchorage for ships with drafts of less than 24 feet. No vessel may remain in this anchorage for more than 72 hours without a written permit from the Captain of the Port.

(3) *Anchorage No. 3, general anchorage.* In the Patapsco River 3,000 yards southeast of Lazaretto Point beginning at latitude 39 14'49.09" N, longitude 76 33'30.37" W; thence southeast to latitude 39 14'14.70" N, 76 32'54.10" W; thence northeast to latitude 39 14'24.10" N, longitude 76 32'39.36" W; thence northwest to latitude 39 14'58.40" N, longitude 76 33'15.63" W; thence southwest to point of beginning. This is a general anchorage for deep draft vessels only (drafts greater than 24 feet). No vessel may remain in this anchorage for more than 72 hours without a written permit from the Captain of the Port.

* * * * *

(6) *Anchorage No. 6, general anchorage.* In the Patapsco River approximately 2,000 yards west of Sollers Point beginning at latitude 39 13'42.58" N, longitude 76 32'20.24" W thence southeast to latitude 39 13'20" N., longitude 76 31'56" W., thence northeast to latitude 39 13'34" N., longitude 76 31'33.5" W., thence northwest to latitude 39 14'02" N., longitude 76 32'02.9" W., thence southwest to latitude 39 13'50.5" N., longitude 76 32'20" W., thence south to point of beginning. No vessel with a draft of more than 20 feet may use this general anchorage. No vessel may remain in this anchorage for more than 72 hours without a written permit from the Captain of the Port.

* * * * *

Dated: October 28, 1987.

A.D. Breed,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 87-25714 Filed 11-5-87; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD7 87-35]

Security Zone; Port Canaveral Harbor, Cape Canaveral, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is considering the establishment of Security Zones in the East (TRIDENT) Basin at Cape Canaveral Air Force Base, and the Middle Basin adjacent to the Navy wharf at Cape Canaveral Air Force Base, Port Canaveral Harbor, Florida, to protect naval facilities and vessels moored thereto from destruction, loss or injury from sabotage or other subversive acts, accidents or similar causes. The U.S. Navy has reason to believe that sufficient threat exists to justify establishment of these security zones.

DATES: Comments must be received on or before December 31, 1987.

ADDRESSES: Comments should be mailed to USCG Marine Safety Office, 2831 Talleyrand Avenue, Jacksonville, Florida 32206. The comments and other materials referenced in this notice will be available for inspection and copying at the USCG Marine Safety Office at the above address. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H. Henderson, c/o Commanding Officer, USCG Marine Safety Office, Tel: (904) 791-2648.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (87-36) and the specific section of the proposal to which their comments apply, and give reasons for each comment. The regulation may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Lieutenant (junior grade) K.L. Rhodes, project officer for the Captain of the Port, and Lieutenant Commander S.T. Fuger, Jr., project attorney, Seventh Coast Guard District Legal Office.

Discussion of Proposed Regulations

In view of heightened national emphasis on physical security, it is considered critical for the Naval Ordnance Test Unit to effect measures to increase the security posture of U.S. Navy critical assets located at Port Canaveral, Florida. The Commanding Officer, Naval Ordnance Test Unit, has requested by letter that the Coast Guard establish the Security Zones described below, in the vicinity of, and waters adjacent to, the Navy wharves in Port Canaveral Harbor, to enhance security against waterborne threats. The activities to be conducted at these locations are normal naval activities, and are not anticipated to change when the Security Zones are established. The intent of the Security Zones is to prohibit civilian small boat traffic from entering the described areas while providing unrestricted access to those military and maritime vessels authorized by competent military authority. This regulation is issued pursuant to 50 U.S.C. 191, as set out in the authority citation for all of Part 165.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11-034, February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary, as the proposed zones do not impinge upon the ship channel, nor is there likely to be any significant impact upon recreational boating, or on recreational or commercial fishing.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. A new § 165.705 is added to read as follows:

§ 165.705—Port Canaveral Harbor, Cape Canaveral, Florida.

(a) Security Zone A—East (TRIDENT) Basin, Port Canaveral Harbor, at Cape Canaveral Air Force Station, Brevard County, Florida. From the west side of the access channel at latitude 28° 24' 30" N, longitude 080° 35' 36" W, to include the entire basin.

(b) Security Zone B—Middle Basin, Port Canaveral Harbor, adjacent to the Navy wharf at Cape Canaveral Air Force Station, Brevard County, Florida. The waters of Port Canaveral Harbor within a line circumscribing the water approaches to the Navy wharf along the northeasterly edge of the Port Canaveral Harbor turning basin at a distance of 200 feet from all portions of the wharf including the dolphins located 200 feet off the northwest end and 75 feet of the southeast end of the wharf.

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(c) Entrance into these zones by vessels other than vessels owned or leased by the United States is prohibited without permission of the Captain of the Port, Jacksonville, FL.

(d) The general regulations governing security zones contained in 33 CFR 165.33 apply.

Dated: October 20, 1987.

R.J. O'Pezio,

Captain, U.S. Coast Guard, Captain of the Port Jacksonville, Florida.

[FR Doc. 87-25715 Filed 11-5-87; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

34 CFR Parts 602 and 603

Secretary's Procedures and Criteria for Recognition of Accrediting Agencies

AGENCY: Department of Education.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On September 8, 1987, the Department of Education published in the **Federal Register** a notice of proposed rulemaking (NPRM) related to procedures and criteria for recognition of accrediting agencies, which provided for a comment period ending October 23, 1987 (52 FR 33908–33913).

In response to numerous requests, the Secretary extends the comment period for all provisions of the NPRM to December 4, 1987.

DATES: The comment period for all provisions of the September 8, 1987, NPRM (52 FR 33908–33913) is extended until December 4, 1987.

ADDRESSES: All comments concerning the proposed regulations should be addressed to Kenneth Whitehead, Deputy Assistant Secretary for Higher Education Programs, Office of Postsecondary Education, U.S. Department of Education (Room 3082, ROB–3), 400 Maryland Avenue, SW., Washington, DC 20202. Telephone (202) 245–9759.

FOR FURTHER INFORMATION CONTACT: James B. Williams, telephone number (202) 245–9759.

Dated: November 3, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87-25684 Filed 11-5-87; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 4E3100/P434; FRL-3288-4]

Pesticide Tolerance for Fluazifop-Butyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the herbicide fluazifop-butyl in or on the raw agricultural commodity sweet potatoes. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments, identified by the document control number [PP 4E3100/P434], must be received on or before December 7, 1987.

ADDRESSES: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Donald R. Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 716H, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–1806.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 4E3100 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Stations of Florida, North Carolina, and Louisiana.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide (R)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy] propanoic acid (fluazifop), both free and conjugated and of butyl[R)-2[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy] propanoate (fluazifop-P-butyl), all expressed as fluazifop, in or on the raw agricultural commodity sweet potatoes at 0.5 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 2-year chronic feeding/oncogenicity study in rats which was negative for oncogenic potential under the conditions of the study at 3.0 milligrams (mg) per kilogram (kg) of body weight (bw) per day (equivalent to 60 ppm highest dose tested) and a systemic no-observed-effect level (NOEL) of 1 mg/kg/day.

2. A 90-day rat feeding study with a NOEL of 0.5 mg/kg/day (equivalent to 10 ppm).

3. A 90-day dog feeding study with a NOEL of 25 mg/kg/day (equivalent to 1,000 ppm).

4. A rat oral lethal dose LD50 of 3,300 mg/kg.

5. A rat teratology study with a teratogenic and maternal toxicity NOEL of 10 mg/kg/day (equivalent to 200 ppm) and a NOEL for fetotoxicity of 1 mg/kg/day.

6. A rabbit teratology study with no teratogenic effect at 90 mg/kg/day (highest dose tested) and a NOEL for fetotoxicity of 10 mg/kg/day (equivalent to 330 ppm).

7. A two-generation rat reproduction study with a NOEL of 1 mg/kg/day.

8. A 1-year dog feeding study with a NOEL of 5 mg/kg/day.

9. An 18-month mouse chronic feeding/oncogenicity study with no observed oncogenic potential under conditions of the study at 3.0 mg/kg/day (highest dose tested) and a NOEL for systemic toxicity of 1.0 mg/kg/day (equivalent to 7 ppm).

10. An Ames test (negative), a rat cytogenetic study (negative), and an in-vitro transformation assay (negative).

11. An acute delayed neurotoxicity study in hens (negative).

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 1.0 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.01 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.6 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.00100 mg/kg/day; the current action will increase the TMRC by 0.00005 mg/kg/day (4.76 percent). Published tolerances utilize 10.0 percent of the ADI; the current action will utilize an additional 0.5 percent.

The nature of the residues is adequately understood, and an adequate analytical method, high-pressure liquid chromatography using an ultraviolet detector, is available in Pesticide Analytical Manual, Volume II (PAM–II), for enforcement purposes.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.411 would protect the public health. No secondary residues in meat, milk, poultry, or eggs are expected since neither sweet potatoes nor sweet potato vines are considered livestock feed commodities.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 4E3100/P434]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 28, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.411(c) is amended by adding and alphabetically inserting the raw agricultural commodity sweet potatoes, to read as follows:

§ 180.411 Fluazifop-butyl; tolerances for residues.

* * * * *

(c) * * *

Commodity	Parts per million
* * * * *	
Sweet potatoes	0.5

[FR Doc. 87-25733 Filed 11-5-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E3425/P431; FRL-3288-3]

Pesticide Tolerance for N-(Mercaptomethyl) Phthalimide S-(O,O-Dimethyl Phosphorodithioate)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the sum of the residues of the insecticide *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) (referred to in this document as phosmet) and its oxygen analog in or on the raw agricultural commodity pistachios. The proposed regulation was proposed in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATES: Comments, identified by the document control number [PP 6E3425/P431], must be received on or before December 7, 1987.

ADDRESSES:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: room 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald R. Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: room 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–1806.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 6E3425 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for cholinesterase-inhibiting residues of the insecticide phosmet and its oxygen analog *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorothioate) in or

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on the raw agricultural commodity pistachios at 0.1 part per million (ppm).

The petitioner proposed that use of phosmet on pistachios be limited to California based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registation Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought.

The toxicological data considered in support of the proposed tolerance include:

1. A 2-year oncogenic study in Charles River strain of albino rats with dosage levels of 0, 20, 40, and 400 ppm (equivalent to 1, 2, and 20 milligrams (mg/kilogram (kg)/day)) was negative for oncogenic effects under the conditions of the study. This study is considered inadequate (supplementary data) for the evaluation of oncogenic potential since the number of animals sacrificed at the end of the study was too small to fully evaluate tumor response. The rat study does, however, demonstrate a NOEL for systemic effects at 2 mg/kg/day (a slight decrease in body weight gain and moderate liver cell vacuolation in male rats).

3. A three-generation reproduction study in rats with a NOEL for reproductive effects at 80 ppm (highest dose tested).

4. Phosmet was negative for mutagenic effects in all tests, except when tested in *S. typhimurium* strain TA-100 without metabolic activation. No mutagenicity studies were performed in mammalian cells in culture.

5. A 2-year oncogenicity study in B6C3F1 mice with dosage levels of 5, 25, and 100 ppm (equivalent to 0.75, 3.75, and 15 mg/kg of body weight/day)) demonstrated an increase in hepatocellular adenomas (also reflected as an increase in the incidence of adenomas/carcinomas combined) at the highest dose level tested (100 ppm) in male mice. There was also evidence for hyperplasia in male mice. The results of the interim sacrifice indicates that the liver tumors occurred in male mice with reduced latency. No significant increase in carcinomas occurred, however, indicating that there was no clear trend of progressing to malignancy. Phosmet also produced positive trends for adenomas, carcinomas, and both tumor types combined in female mice, but none of these tumors were significantly elevated at the highest dose level tested, and there was no hyperplasia and no indication that the tumors occurred with a reduced latency period.

The Agency has concluded that the data constitutes limited evidence of oncogenicity and has tentatively classified phosmet as a Category C carcinogen (possible human carcinogen), pending the submission and evaluation of a repeat 2-year oncogenicity study in rats and additional mutagenicity studies. In accordance with the "Guidelines for Carcinogen Risk Assessment," published in the **Federal Register** of September 24, 1986 (51 FR 33992), the Agency has decided not to develop a quantitative estimation of the oncogenic potential of phosmet until the requested studies are submitted and evaluated in conjunction with the mouse oncogenicity study.

The acceptable daily intake (ADI), based on the 2-year feeding study (rats) with a NOEL of 2.0 mg/kg/day and using a 100-fold safety factor, is calculated to be 0.02 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.2 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet of a 60-kg human is calculated to be 1.179 mg/day; the current action will increase the TMRC by 0.000045 mg/day (0.004 percent). Published tolerances utilize 98.275 percent of the ADI; the current action will utilize an additional 0.004 percent. The Agency concludes that the amount of phosmet added to the diet from the proposed use will not significantly increase dietary exposure. Thus the tolerance established by this proposed rule is considered to pose a negligible increment in risk.

The nature of the residues for the proposed use on pistachios is adequately understood. The residues of concern consist of the parent compound phosmet and its oxygen analog. An adequate analytical method, gas chromatography, is available in FDA's *Pesticide Analytical Manual*, Volume II (PAM II), Method III, for enforcement purposes. There is no expectation of secondary residues in meat and milk since pistachios are not considered an animal feed commodity. There are currently no actions pending against the continued registration of this chemical. Since the ADI is now established based on systemic effects, it is no longer appropriate to express the tolerance in terms of cholinesterase-inhibiting residues. The tolerance regulation under 40 CFR 180.261 will, therefore, be revised to express phosmet tolerances in terms of "the sum of the residue for *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog."

Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments should bear a notation indicating the document control number, [PP 6E3425/P431]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: October 28, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.261 is amended by designating the current text and list of tolerances as paragraph (a), by revising the introductory text of designated paragraph (a), and by adding new paragraph (b), to read as follows:

§ 180.261 N-(Mercaptomethyl) phthalimide S-(O,O-dimethyl phosphorodithioate) and its oxygen analog; tolerances for residues.

(a) Tolerances are established for the sum of the residue for the insecticide *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorothioate) in or on the following raw agricultural commodities:

* * * * *

(b) Tolerances with regional registration, as defined in § 180.1(n), are established for the sum of the residue for the insecticide *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorothioate) in or on the following raw agricultural commodity:

Commodity	Parts per million
Pistachios	0.1

[FR Doc. 87-25734 Filed 11-5-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6812]

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 52 FR 22801 on June 16, 1987. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the City of Vidalia, Toombs and Montgomery Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Managment Agency, Washington, DC 20472, (202) 646-2751.

SUPPLEMENTARY INFORMATION: The Federal Emergency Managment Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selcted locations in the City of Vidalia, previously published at 52 FR 22801 on June 16, 1987, in accordance with section 110 of the Flood Disaster Protction Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed based (100-year) flood elevations for selected locatations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	# Depth in feet above ground. ^Elevation in feet (NGVD)
Rocky Creek:	
About 1.3 miles downstream of Norfolk Southern Railway	^ 186
Just downstream of the Norfolk Southern Railway	^ 196
Just upstream of the Norfolk Southern Railway	^ 207
About 1.0 miles upstream of Adams Street	^ 215
Rocky Creek Tributary No. 1:	
About 2,000 feet downstream of North Maple Drive	^ 207
Just upstream of Meadows Lane	^ 248
Rocky Creek Tributary No. 1A:	
At mouth	^ 213
Just upstream of Harris Industrial Boulevard	^ 220
Rocky Creek Tributary No. 2:	
About 450 feet downstream of Clydette Boulevard	^ 197
Just downstream of dam	^ 242
About 1,800 feet upstream of dam	^ 253
Rocky Creek Tributary No. 3:	
At mouth	^ 207
Just downstream of CSX railroad	^ 256
Just upstream of CSX railroad	^ 264
Rocky Creek Tributary No. 3A:	
At mouth	^ 228
Just downstream of Seventh Street	^ 235
Just upstream of Seventh Street	^ 240
Rocky Creek Tributary No. 4:	
At mouth	^ 207
Just downstream of Dam No. 1	^ 234
About 1,300 feet upstream of Dam No. 1	^ 244
Little Rocky Creek Tributary:	
Just upstream of Ezra Taylor Road	^ 223
Just downstream of dam	^ 245
About 1,450 feet upstream of dam	^ 252
Swift Creek:	
About 1.0 mile downstream of Old Swainsboro Road	^ 178
About 3,000 feet upstream of Cadillac Drive	^ 189
Swift Creek Tributary No. 1:	
About 2,650 feet downstream of Noth Loop Road	^ 191
Just downstream of dam	^ 216
Just upstream of dam	^ 225
Just upstream of Georgia Street	^ 266
Swift Creek Tributary No. 1A:	
At mouth	^ 202
Just downstream of North Street	^ 243
Just upstream of North Street	^ 249
About 600 feet upstream of North Street	^ 249
Swift Creek Tributary No. 2:	
About 300 feet upstream of Thompson Pond Road	^ 198
About 1,750 feet upstream of Thompson Pond Road	^ 204

Issued: November 2, 1987.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 87-25716 Filed 11-5-87; 8:45 am]

BILLING CODE 6718-03-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1157

Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Rule)—Appropriateness of Requiring Affected Applicants To Submit Standard Form Applications to Programs Primarily Serving Other Types of Applicants

AGENCY: National Endowment for the Arts.

ACTION: Notice of request for public comment.

SUMMARY: The revised OMB Cir A-102 and its accompanying Common Rule would require state and local government appliants to utilize standard application forms for all discretionary federal grant programs. While state and local government are generally eligible to apply to programs of the National Endowment for the Arts, the majority of Endowment programs are oriented toward nonprofit organizations and have application forms specifically designed for the Agency's program review and grant decision-making requirements. Therefore, the Arts Endowment believes that it is in the public interest to require all applicants to a program specifically designed to assist nonprofit organizations to submit only the same application forms.

DATE: Comments must be received on or before December 7, 1987.

ADDRESS: Send comments to: Grants Office, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Room 204, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Baden, Grants Officer, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Room 204, Washington, DC 20506; (202-682-5403).

SUPPLEMENTARY INFORMATION:

Background

In the **Federal Register** on Tuesday, June 9, 1987 (52 FR 21848), 23 federal agencies published a proposed common rule on Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, to implement OMB's proposed revision of

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Circular A-102. This proposed rule would require all state and local governments to utilize standard application forms when applying for assistance to any discretionary federal program—regardless of whether the primary purpose of the program was to provide assistance to state and local governments.

Agency Programs

The National Endowment for the Arts administers programs which have been specifically designed to assist state and local government entities such as its State Programs, Local Programs and Arts in Education Program. However, the majority of the Endowment's programs have not been specifically designed to assist state and local governental applicants, although state and local governments are, generally, eligible recipients. These programs, Dance, Design, Expansion Arts, Folk Arts, Inter-Arts, Literature, Media Arts, Museums, Music, Opera-Musical Theater, Theater, Visual Arts and Advancement, in fact, have been designed primarily to assist nonprofit organizations subject to the provisions of OMB Circular A-110. (Certain of these programs also provide direct support to individuals.)

The guidelines and application forms developed for A-110 programs request sufficient and specific information to enable the Endowment to detemine which projects/activities should be supported. This determination involves review by peer panels, the National Council on the Arts, and the Chairperson of the Endowment. Consistency in format and presentation of all applications is a necessary element in assuring evenhandedness of that review process.

The A-110 programs receive approximately 16,000 applications annually from individuals and organizations. This constitutes approximately 94% of the total applications received by the Endowment. Of these 16,000 applications, less than 4% were from applicants subject to the provisions of OMB Circular A-102 and the proposed common rule.

Under the proposed common rule, A-102 organizations would be required to use the standard forms when applying to these programs. However, the standard forms do not contain all program specific information necessary for appropriate view of these applications. Therefore, A-102 organizations would have to submit the program applications as well as the standard from applications or risk being at a disadvantage in the application evaluation process.

Agency Recommendation

It is the Endowment's recommendation that applicants to any Endowment program not specifically established to assist state and local government entities and wherein the majority of applicants are subject to the provisions of OMB Circular A-110 be required to utilize the application forms specifically developed for these programs and not the standard application forms required of those applicants subject to the provisions of OMB Circular A-102 and the proposed rule.

It is our contention that requiring the program specific forms in lieu of the standard forms would not place any new burdens on applicants. In fact, such a policy should reduce the burdens upon applicants since they are generally familiar with Endowment program specific forms. Further, it is our contention that requiring both the standard forms and the program specific forms (both of which would be necessary) would place an undue burden solely on applicants subject to the provisions of OMB Circular A-102.

The National Endowment for the Arts seeks public comment on its recommendation.

Cynthia Rand,

Director, Information Management Division, National Endowment for the Arts.

[FR Doc. 87-25805 Filed 11-5-87; 8:45 am]

BILLING CODE 7537-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 7

[OST Docket No. 43466, Notice No. 87-22]

Public Availability of Information; Freedom of Information Act

AGENCY: Office of the Secretary, DOT.

ACTION: Supplemental notice of proposed rulemaking and request for comments.

SUMMARY: The Department of Transportation is proposing to revise Subpart I and certain Appendices to its regulations implementing the Freedom of Information Act [49 CFR Part 7]. The Freedom of Information Reform Act of 1986 [Pub. L. 99-570, Sections 1801-1804], enacted October 27, 1986, requires each agency to promulgate by April 25, 1987 new regulations specifying its schedule of fees applicable to the processing of requests under the Freedom of Information Act and establishing its procedures and guidelines for determining when such fees should be waived or reduced. The proposed changes to the Department's regulations are intended to comply with the statutory changes.

DATE: Comments must be received by December 7, 1987.

ADDRESSES: Comments should be addressed to the Docket Clerk, OST Docket No. 43466, Office of the General Counsel, C-55, U.S. Department of Transportation, Washington, DC 20590. Comments are available for public examination in the Docket Section, 400 Seventh Street SW., Room 4107, Washington, DC, Monday through Friday, from 9:00 a.m. to 5:00 p.m. e.t. Persons wishing to have receipt of their comments acknowledged must send a stamped, self-addressed postcard with their comments. The Docket Clerk will return these postcards when the comments are docketed.

FOR FURTHER INFORMATION CONTACT: Rebecca H. Lima, Chief, Freedom of Information Act Division, Office of the Assistant Secretary for Public Affairs, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, 202-366-4542.

SUPPLEMENTARY INFORMATION: The Department of Transportation issued a Notice of Proposed Rulemaking (NPRM) on October 17, 1985 [50 FR 42049] seeking public comments concerning numerous proposed revisions to its existing regulations in 49 CFR Part 7. These regulations, implementing the Freedom of Information Act (FOIA), were last revised in 1975 [40 FR 7915; February 24, 1975]. While public comments concerning these proposed revisions were still under consideration by the Department, Congress enacted The Freedom of Information Reform Act of 1986 (the Act). The Act contains specific requirements which make it necessary to include changes in our proposed revision of Part 7 that were not contemplated when the October 17, 1985 NPRM was published. This supplemental NPRM is being published to give the public an opportunity to comment concerning the additional changes to our proposed regulation necessitated by the Act. We expect to publish a final version of Subpart I befored the rest of revised Part 7.

Under the Act, the Director of the Office of Management and Budget (OMB) is required to promulgate, pursuant to notice and receipt of public comment, guidelines which provide for a uniform schedule of FOIA fees for all agencies. Each agency is then required to promulgate by April 25, 1987 regulations, pursuant to notice and receipt of public comment, which are based on the OMB guidelines and which set forth the schedule of fees to be used by the agency and establish procedures and guidelines for determining when such fees should be waived or reduced. In addition, the Department of Justice (DOJ) has furnished guidance to agencies on the 1986 amendment to FOIA's fee waiver provisions.

Based on the OMB guidelines, which were promulgated on March 27 [52 FR 10011], with an effective date of April 27, 1987, the Department is proposing revisions to Subpart I and certain of the Appendices to 49 CFR Part 7.

Proposed § 7.91 would revise the general information concerning fees to clarify the scope and application of Subpart I and to add terms defined by the OMB guidelines and define a new term "hourly rate" as used in Subpart I.

Proposed § 7.93 contains revisions designed to insure the public is aware that under some conditions search fees or review charges may be charged even if no records are located or even if records located are not released because they are determined to be exempt. Proposed changes would also make it clear that advance payment of fees may not be required except under specific conditions that are set forth in the proposed regulations. Advance notice to a requester would be required if fees are likely to be more than $25. The proposed notice would include information about how to contact Department officials who may be able to assist the requester in reformulating the request with a view toward meeting the requester's needs at a lower cost.

Additional provisions in proposed § 7.93 would make it clear that the Department will charge interest on fees when bills are not paid within 30 days. The proposed changes also point out that the Department will, as permitted by federal debt collection laws, impose handling charges and penalties when fees due are not paid in a timely manner, and will, in appropriate cases, use other authorized methods to encourage payment of overdue amounts.

Finally, proposed § 7.93 would make it clear that the Department will not make any charge for processing any FOIA request if the fees that would be payable by the requester are less than $10, the cost to the Department of processing the fee. However, if the Department has reason to believe that requester or group of related requesters has submitted a number of smaller requests, rather than one large one to avoid this threshold, the requests will be treated as one request for this purpose.

Proposed § 7.95 would establish a schedule of standard fees designed to enable the Department to recover the full allowable direct costs incurred in processing an FOIA request. Search charges and review charges would be based on the actual direct salary costs for employees who perform the activities. Salary costs would consist of the actual hourly pay of the employee plus 16 percent to cover the costs of benefits. Search costs for a computer search would be based on the actual cost of operating the central processing unit used and the salary costs of the operating/programming personnel used.

Under the proposed standard fee schedule, a flat rate of $0.10 per standard page would apply to standard reproduction by photocopy or similar methods. However, the standard fees that would be charged by the Department for duplication of records by any other method would be the actual direct costs incurred, including salary costs for time spent by those who must prepare the duplicates.

Proposed § 7.97 sets forth circumstances under which the Department must charge a reduced fee or not charge any fee, depending on the type of requester and the use for which the records are requested. These limitations on the charging of fees are specified by the Act, and the proposed regulations are in accord with the implementing guidelines promulgated by OMB.

The final portion of proposed § 7.97 sets forth the conditions, established by the Act, which, if satisfied, require a reduction or waiver of the fees that would otherwise be charged. The proposed section also includes factors the Department would use in determining whether the statutory conditions requiring a waiver or reduction of fees have been met.

Sections 7.99, 7.101 and 7.103 provide information about how the Department would process requests for transcripts of proceedings or for copyrighted materials and information about alternative sources of information outside the Department.

Since some of the existing Appendices to 49 CFR Part 7 and some of the Appendices as published in the NPRM of October 17, 1985 include information about fees that is in conflict with Subpart I as it is now being proposed, the Department is proposing changes to the Appendices to remove any conflict with proposed Subpart I. The proposed change to Appendix B would also provide information reflecting a recent reorganization of the U.S. Coast Guard that resulted in consolidation of some facilities.

The proposed changes in Subpart I and certain Appendices to 49 CFR Part 7 are necessary to comply with statutory changes, and final regulations are required to be promulgated as quickly as possible. For that reason, the Department has developed this separate NPRM seeking public comments relative only to proposed changes to Subpart I and certain Appendices. However, consideration of all public comments received in response to the more comprehensive NPRM published on October 17, 1985 will continue, and final regulations revising all of 49 CFR Part 7 will be promulgated in the near future. In the meantime, any public comments concerning proposed changes to Subpart I or any of the Appendices that were received in response to the October 17, 1985 NPRM will be reviewed along with any new comments received in response to this NPRM before a final rule concerning Subpart I and the Appendices is published.

The Department has a statutory deadline of April 25, 1987 to publish final regulations concerning standard fee schedules and fee waiver guidelines. Since the OMB guidelines that were required to be used in developing the standard fee schedule were not published until March 27, 1987, we are not able to allow an extended period for public comment concerning our proposed changes and also wait 30 days after publication before having the final regulations be effective. Therefore, we are providing 30 days for public comment, and will make the final regulations effective immediately upon publication. We believe this is appropriate under the circumstances and is necessary in order for the Department to substantially comply with the statutory deadline for promulgation of final regulations while providing the public meaningful opportunity for comment.

The Department has determined that this proposed rule is not a major rule under Executive Order 12291. However, this proposed rule is significant under the Department's Regulatory Policies and Procedures [44 FR 11034, February 26, 1979] since it concerns a matter in which there is a substantial public interest or controversy. The Department has also determined that the expected economic impact of the proposal is so minimal that a full regulatory evaluation is unwarranted. For this reason, I certify that, under the criteria of the Regulatory Flexibility Act [5 U.S.C. 601, et. seq.], this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Although proposed changes to existing

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requirements would increase the fees associated with furnishing records under the Freedom of Information Act, the expected cost to small entities that request such records will not be significant. Such costs would be significant only in rare circumstances where Departmental personnel must search for, collect, and provide copies of a voluminous amount of records demanded in a particular Freedom of Information Act request. Any such cost increases would in part at least be balanced by the provisions making information available to certain categories of requesters free or at a reduced charge.

List of Subjects in 49 CFR Part 7

Freedom of Information, Administrative practice and procedure Records.

Issued in Washington, DC on October 30, 1987.

Jim Burnley,

Deputy Secretary of Transportation.

In consideration of the foregoing, it is proposed to amend 49 CFR as follows:

PART 7—PUBLIC AVAILABILITY OF INFORMATION

1. The authority citation for Part 7 continues to read as follows:

Authority: 5 U.S.C. 552; Pub. L. 93–502, 88 Stat. 1565; 31 U.S.C. 430; 49 U.S.C. 1657.

2. Subpart I consisting of §§ 7.91 through 7.103 is revised to read as follows:

Subpart I—Fees

Sec.
7.91 General.
7.93 Payment of fees.
7.95 Fee schedule.
7.97 Services performed without charge or at a reduced charge.
7.99 Transcripts.
7.101 Copyrighted material.
7.103 Alternate sources of information.

Subpart I—Fees

§ 7.91 General.

(a) This subpart prescribes fees for services performed for the public under Subparts E and F of this part by the Department.

(b) All terms defined by the Freedom of Information Act apply to this subpart, and the term "hourly rate" means the actual hourly base pay for a civilian employee or, for members of the Coast Guard, the equivalent hourly pay rate computed using a 40 hour week and the member's normal basic pay and allowances.

(c) This subpart applies to all employees of the Department, including those of non-appropriated fund activities of the United States Coast Guard and the Maritime Administration.

(d) This subpart does not apply to any special study, special statistical compilation, table, or other record requested under 49 U.S.C. 329(c). The fee for the performance of such a service is the actual cost of the work involved in compiling the record. All such fees received by the Department in payment of the cost of such work are deposited in a separate account administered under the direction of the Secretary, and may be used for the ordinary expenses incidental to providing the information.

(e) This subpart does not apply to requests from record subjects for records about themselves filed in Departmental systems of records. Fees for such requests are to be determined in accordance with the Privacy Act of 1974.

§ 7.93 Payment of fees.

(a) The fees prescribed in this subpart may be paid by check, draft, or money order, payable to the Treasury of the United States. However, in the case of the Saint Lawrence Seaway Development Corporation, all fees resulting from a request to that operating element shall be made payable to the Saint Lawrence Seaway Development Corporation.

(b) Charges may be assessed by the Department for time spent searching for requested records even if the search fails to locate the records or the records located are determined to be exempt from disclosure. In addition, if records are requested for commercial use, the Department may assess a fee for time spent reviewing any responsive records located to determine whether they are exempt from disclosure.

(c) When it is estimated that the search charges, review charges, duplication fees or any combination of fees that could be charged to the requester will likely exceed $25, the requester shall be notified of the estimated amount of the fees, unless the requester has indicated in advance his or her willingness to pay fees as high as those anticipated. The notice shall also inform the requester how to consult with appropriate Departmental officials with the object of reformulating the request to meet his or her needs at a lower cost.

(d) Payment of fees may be required by the Department prior to actual duplication or delivery of any releasable records to a requester. However, advance payment of fees, i.e., payment before work is commenced or continued on a request, may not be required unless:

(1) Allowable charges that a requester may be required to pay are likely to exceed $250; or

(2) The requester has failed to pay within 30 days of the billing date fees charged for a previous FOIA request.

(e) When paragraph (d)(1) of this section applies, the requester shall be notified of the likely cost and, where he or she has a history of prompt payment of FOIA fees, requested to furnish satisfactory assurance of full payment. Where no history of payment exists, the requester may be required to make advance payment of any amount up to the full estimated charges.

(f) When paragraph (d)(2) of this section applies, the requester shall be required to demonstrate that the fee has, in fact, been paid or to pay the full amount owed, including any applicable interest, late handling charges and penalty charges as discussed below. The requester shall also be required to make an advance payment of the full amount of the estimated fee before processing of a new request or continuation of a pending request is begun.

(g) The Department will assess interest on an unpaid bill starting on the 31st day following the day on which the notice of the amount due is first mailed to the requester. Interest will accrue from the date of the notice of amount due and will be at the rate prescribed in section 3717 of Title 31, U.S.C. Receipt by the Department of a payment for the full amount of the fees owed within 30 calendar days after the date of the initial billing will stay the accrual of interest, even if the payment has not been processed.

(h) If payment of fees charged is not received within 30 calendar days after the date the initial notice of the amount due is first mailed to the requester, an administrative charge will be assessed by the Department to cover the cost of processing and handling the delinquent claim. In addition, a penalty charge will be applied with respect to any principal amount of a debt that is more than 90 days past due. Where appropriate, other steps permitted by federal debt collection statutes, including disclosure to consumer reporting agencies and use of collection agencies, will be utilized by the Department to encourage payment of amounts overdue.

(i) In any instance where the Department reasonably believes that a requester or a group of requesters acting in concert is attempting to break down a single FOIA request into a series of requests for the sole purpose of evading the payment of otherwise applicable fees, the Department will aggregate the

requests and determine the applicable fees on the basis of the aggregation.

(j) Notwithstanding any other provision of this subpart, when the total amount of fees that could be charged for a particular request (or aggregation of requests) under Subpart F, after taking into account all services which must be provided at no charge or at a reduced charge, is less than $10.00 the Department will not make any charge for fees.

§ 7.95 Fee schedule.

(a) The standard fee for a manual search to locate a record requested under Subpart F of this part, including making it available for inspection, will be determined by multiplying each searcher's hourly rate plus 16 percent by the time spent conducting the search.

(b) The standard fee for a computer search for a record requested under Subpart F of this part is the actual cost. This includes the cost of operating the central processing unit (CPU) for the time directly attributable to searching for records responsive to a FOIA request and the operator/programmer salary (hourly rate plus 16 percent) costs apportionable to the search.

(c) The standard fee for review of records requested under Subpart F of this part is the reviewer's hourly rate plus 16 percent multiplied by the time he or she spent determining whether the requested records are exempt from mandatory disclosure.

(d) The standard fee for duplication of a record requested under Subpart F of this part is determined as follows:

(1) Per copy of each page (not larger than 8½ X 14 inches) reproduced by photocopy or similar methods (includes costs of personnel and equipment), $0.10.

(2) Per copy prepared by computer, such as tapes or printout. Actual costs, including operator time.

(3) Per copy prepared by any other method of duplication. Actual direct cost of production.

(e) Depending upon the category of requester, and the use for which the records are requested, in some cases the fees computed in accordance with the above standard fee schedule must either be reduced or not changed, as prescribed by other provisions of this subpart.

(f) The following special services not required by the FOIA may be made available upon request at the stated fees:

(1) Certified copies of documents:

(i) With Department of Transportation or operating element seal (where authorized), $4.00.

(ii) True copy, without seal, $2.00.

§ 7.97 Services performed without charge or at a reduced charge.

(a) No fee is to be charged to any requester making a request under Subpart F for the first two hours of search time unless the records are requested for commercial use. For purposes of this subpart, when a computer search is required two hours of search time will be considered spent when the hourly cost of operating the central processing unit used to perform the search added to the computer operator's salary costs (hourly rate plus 16 per cent) equals two hours of the computer operator's salary costs (hourly rate plus 16 percent).

(b) No fee is to be charged for any time spent searching for a record requested under Subpart F if the records are not for commercial use and the requester is a representative of the news media, an education institution whose purpose is scholarly research, or a non-commercial scientific institution whose purpose is scientific research.

(c) No fee is to be charged for duplication of the first 100 pages (standard paper, not larger than 8½ X 14 inches) of records provided to any requester in response to a request under Subpart F unless the records are requested for commercial use.

(d) No fee is to be charged to any requester for review of a record requested under Subpart F to determine whether it is exempt from disclosure unless the records are requested for commercial use. A review charge may not be charged except with respect to an initial review to determine the applicability of a particular exemption to a particular record or portion of a record. A review charge may not be assessed for review at the administrative appeal level. When records or portions of records withheld in full under an exemption which is subsequently determined not to apply are reviewed again to determine the applicability of other exemptions not previously considered, this is considered an initial review for purposes of assessing a review charge.

(e) A waiver of reduction of the fees that would otherwise be applicable to a particular request is a discretionary determination on the part of the official(s) having initial denial authority. Documents will be furnished without charge or at a reduced charge if the Assistant Secretary for Public Affairs, or his or her designee, or official(s) having initial denial authority, as the case may be, determine that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(f) Factors to be considered by officials of the Department authorized to determine whether a waiver or reduction of fees will be granted include:

(1) Whether the subject matter of the requested records concerns the operations or activities of the Federal government;

(2) Whether the disclosure is likely to contribute to an understanding of Federal government operations or activities;

(3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons;

(4) Whether the contribution to public understanding of Federal government operations or activities will be significant;

(5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and

(6) Whether the magnitude of any identified commercial interest of the requester is sufficiently large in comparison with the public interest in disclosure that disclosure is primarily in the commercial interest of the requester.

§ 7.99 Transcripts.

Transcripts of hearings or oral arguments are available for inspection. Where transcripts are prepared by a nongovernmental contractor, and the contract permits the Department to handle the reproduction of further copies, Subpart I applies. Where the contract for transcription services reserves the sales privilege to the reporting service, any duplicate copies must be purchased directly from the reporting service.

§ 7.101 Copyrighted material.

Unless approval is secured from the copyright holder, the Department will not reproduce or otherwise disseminate a copy of a copyrighted work to a requester under the FOIA. However, the Department will make arrangements to enable a requester to review the copyrighted work at a Departmental facility.

§ 7.103 Alternative sources of information.

In the interest of making documents of general interest publicly available at as low a cost as possible, alternative sources shall be arranged whenever possible. In appropriate instances, material that is published and offered for sale may be obtained from the

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Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; the U.S. Department of Commerce's National Technical Information Service (NTIS), Springfield, Virginia 22151; or the National Audio-Visual Center, National Archives and Records Administration, Capital Heights, MD 20743–3701.

3. In Part 7, Appendices A through H are revised, and Appendices I and J are added to read as follows:

Appendix A—Office of the Secretary

1. *General.* This appendix describes the location and hours of operation of the document inspection facility of the Office of the Secretary (OST); the kinds of records that are available for public inspection and copying at the facility; and the procedures by which members of the public may make requests for records.

2. *Document inspection facilities.* The document inspection facility for records of the Office of the Secretary other than those required to be filed in connection with docketed aviation matters is maintained by the Office of the Assistant Secretary for Public Affairs, Suite 9421 of the Headquarters Building, located at 400 Seventh Street SW., Washington, DC 20590. This facility is open to the public from 9:00 a.m. to 5:00 p.m. e.t., Monday through Friday, except legal public holidays and other special closings. The document inspection facility for documents required to be filed in connection with docketed aviation matters is maintained by the Documentary Services Division, Office of the General Counsel, Suite 4107 of the Headquarters Building. This facility is open to the public from 9:00 a.m. to 5:00 p.m. e.t., Monday through Friday, except legal public holidays and other special closings.

3. *Records available through the document inspection facilities.* The following records are available through the document inspection facilities:

(a) Any material issued by the Office of the Secretary and published in the **Federal Register**, including regulations.

(b) Final opinions (including concurring or dissenting opinions) and orders made in the adjudication of cases and issued by the Office of the Secretary.

(c) Any policy or interpretation issued by the Office of the Secretary, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(d) Any administrative staff manual or instruction to staff, issued by the Office of the Secretary, that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(e) Formal pleadings filed in connection with docketed aviation proceedings, including applications, complaints, motions, petitions, answers, comments and replies.

(f) *DOT orders.* DOT orders that are issued by the Department and used primarily to promulgate internal DOT policy, instructions, and general guidance.

(g) *DOT notices.* DOT notices that are issued by the Department and contain short-term instructions or information that is scheduled to remain in effect for fewer than 90 days or for a predetermined period of time normally not to exceed one year.

(h) *OST orders.* OST orders that are issued by the Office of the Secretary (OST) and used primarily to promulgate internal OST policy, instructions, and general guidance.

(i) *OST notices.* OST notices that are issued by the Office of the Secretary and contain short-term instructions or information which is expected to remain in effect for fewer than 90 days or for a predetermined period of time normally not to exceed one year.

4. *Requests for records under Subpart F of this part.* Each person desiring to inspect an OST record, or to obtain a copy thereof, should submit a written request to the Assistant Secretary for Public Affairs, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. If it is unknown where in DOT the record(s) sought may be found, the request may be submitted to the Assistant Secretary for Public Affairs, who will ensure the appropriate processing.

5. *The official having authority to make determinations on requests,* pursuant to the Freedom of Information Act, is limited to the Assistant Secretary for Public Affairs or his or her designee.

6. *Reconsideration of determinations not to disclose records and to deny fee waivers.* Any person who has been notified that a record or part of a record that has been requested cannot be disclosed or that a request for a fee waiver or reduction cannot be granted, either in whole or in part, may appeal, in writing, to the General Counsel, U.S. Department of Transportation, for reconsideration of that request. The decision of the General Counsel is administratively final.

Appendix B—United States Coast Guard

1. *General.* This appendix describes the document inspection facilities of the U.S. Coast Guard, the kinds of records that are available for public inspection and copying at those facilities, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facilities.* The document inspection facilities are located at the offices of the Commandant and District Commanders. The address for each of these facilities is set forth below. They are open during the hours specified. The States or regions within the jurisdiction of each District are also provided.

Commandant (G–CMA), U.S. Coast Guard, Washington, DC 20593. The facility is located at Coast Guard Headquarters, Management Analysis Division, 2100 Second Street SW., Washington, DC 20593. 7:00 a.m.–3:30 p.m. e.t.

Commander, First Coast Guard District, Coast Guard Building, 408 Atlantic Building, Boston, MA 02210. 8:00 .am.–4:30 p.m. e.t. (Maine, Massachusetts, Connecticut, New Hampshire, Rhode Island, Vermont, New Jersey (northeastern), and New York (eastern)).

Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, MO 63103. 8:45 a.m.–5:15 p.m. c.t. (Alabama (northern), Arkansas, Colorado, Illinois (parts), Indiana (parts), Iowa, Kansas, Kentucky, Minnesota (parts), Mississippi (northern), Missouri, Nebraska, North Dakota, Ohio (parts), Oklahoma, Pennsylvania (western), South Dakota, Tennessee, West Virginia, Wisconsin (western), and Wyoming)).

Commander, Fifth Coast Guard District, Federal Office Building, 431 Crawford Street, Portsmouth, Virginia 23705. 8:00 a.m.–4:30 p.m. e.t. (Maryland, North Carolina, Virginia, New Jersey (southwestern), Delaware, Pennsylvania (eastern), and the District of Columbia).

Commander, Seventh Coast Guard District, Federal Building, Room 1018, 51 SW First Avenue, Miami, FL 33130. 8:00 a.m.–4:30 p.m. e.t. (Florida (parts), Georgia (parts), South Carolina, and Puerto Rico)).

Commander, Eighth Coast Guard District, 500 Camp Street, New Orleans, LA 70130. 7:45 a.m.–4:15 p.m. c.t. (Alabama (parts), Florida (northeastern), Georgia (southeastern), Louisiana, Mississippi (parts), New Mexico, and Texas)).

Commander, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, OH 44100. 7:30 a.m.–4:00 p.m. e.t. (Illinois (northeastern), Indiana (northern), Michigan, Minnesota (northern), New York (northwestern), Ohio (northern), Pennsylvania (northeastern), Wisconsin (eastern)).

Commander, Eleventh Coast Guard District, 400 Oceangate Boulevard, Long Beach, CA 90882. 8:00 a.m.–4:30 p.m. p.t. (Arizona, California, Nevada, and Utah)

Commander, Thirteenth Coast Guard District, Federal Building, Room 3590, 915 Second Avenue, Seattle, WA 98174. 7:45 a.m.–4:15 p.m. p.t. (Idaho, Montana, Oregon, and Washington)

Commander, Fourteenth Coast Guard District, 300 Ala Moana Boulevard, Honolulu, HI 96850. 6:30 a.m.–3:00 p.m. Hawaii-Aleutian Standard Time. (Hawaii)

Commander, Seventeenth Coast Guard District, Federal Building, 709 West 9th Street, Post Office Box 3–5000, Juneau, AK 99802. 8:00 a.m.–4:00 p.m. Alaska Time. (Alaska)

3. *Records available at document inspection facilities.*

(a) The following records are available at any U.S. Coast Guard document inspection facility:

(1) Final opinions and orders made in the adjudication of cases by the Commandant, U.S. Coast Guard.

(2) U.S. Coast Guard numbered publications that affect any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(b) Opinions and orders of administrative law judges are available at the document inspection facility of the Office of the Commandant and the district in which the administrative law judge is located.

(c) Policies and interpretations issued within the U.S. Coast Guard (including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation) are available at the document inspection facility of the Office of the Commandant.

(d) An index of the records located at each facilities maintained at the facility.

(e) The records and the index may be inspected at the facility, without charge. Copies of records may be obtained upon payment of the fee prescribed in Subpart I of this part.

4. *Requests for records under Subpart F of this part.* Each person desiring to inspect a record, or obtain a copy thereof, should submit the request in writing to the U.S. Coast Guard office at which such record is located. The addresses of the Commandant and District Commanders are listed in section 2 of this Appendix. If the office at which the record is located is unknown, the request may be submitted to the Office of the Commandant at the address listed in section 2 of this Appendix. The following gives illustrations of types of records and specifies where requests for such records are appropriately addressed:

(a) Examples of records for which requests may properly be made to either the Office of the Commandant, U.S. Coast Guard or office of the appropriate District Commander include the following:

(1) Marine Casualty investigative records.

(2) Records of certificates and licenses issued.

(3) Merchant vessel inspection records.

(4) Records of merchant vessel documentation and recording of sales and other dispositions.

(5) Records of U.S. Coast Guard property and contracts.

(b) Examples of records for which requests may properly be made only to the Office of the Commandant, U.S. Coast Guard, include the following:

(1) Central files of merchant seamen.

(2) Merchant vessel shipping articles.

(3) Merchant vessel equipment approvals.

(4) Merchant Marine Council proceedings.

(5) Great Lakes pilotage records.

(6) Central files of U.S. Coast Guard personnel.

(7) U.S. Coast Guard courts-martial records.

(8) U.S. Coast Guard vessel and shore station log books more than one year old on January 1 of the year in which the request is made.

(c) Examples of records for which requests may properly be made only to the appropriate District Commander include the following:

(1) Navigation and vessel inspection penalty action records.

(2) Search and rescue reports.

(3) Coast Guard vessel and shore station log books for the current calendar year and the calendar year immediately proceeding the current year.

(4) Port safety and waterfront facility records.

(5) Aids to navigation records.

(6) Merchant vessel logbooks.

(7) Shipyard and factory inspectin records.

5. *Officials having initial authority to deny requests.* The following officials have authority to make initial determinations to deny requests for records:

(a) Field commanders.

(1) Commander, Atlantic Area.

(2) Commander, Pacific Area.

(3) Commander, First Coast Guard District.

(4) Commander, Second Coast Guard District.

(5) Commander, Fifth Coast Guard District.

(6) Commander, Seventh Coast Guard District.

(7) Commander, Eighth Coast Guard District.

(8) Commander, Ninth Coast Guard District.

(9) Commander, Eleventh Coast Guard District.

(10) Commander, Thirteenth Coast Guard District.

(11) Commander, Fourteenth Coast Guard District.

(12) Commander, Seventeenth Coast Guard District.

(13) Commander, Maintenance and Logistics Command Atlantic.

(14) Commander, Maintenance and Logistics Command Pacific.

(15) Superintendent, U.S. Coast Guard Academy.

(16) Commanding Officer, Coast Guard Yard.

(17) Commanding Officer, Coast Guard Training Center Cape May.

(18) Commanding Officer, Coast Guard Reserve Training Center.

(19) Commanding Officer, Coast Guard Pay and Personnel Center.

(b) Headquarters officials concerning records within their office.

(1) Chief, Plans and Evaluation Division (for records located within the office of the Commandant, Chief of Staff, special staff divisions or when a request involves records located in two or more offices).

(2) Chief, Office of Acquisition.

(3) Chief, Office of Boating, Public and Consumer Affairs.

(4) Chief, Office of Comptroller.

(5) Chief, Office of Civil Rights.

(6) Chief, Office of Health Services.

(7) Chief, General Law Division (for records in the office of the Chief Counsel).

(8) Chief, Office of Marine Safety, Security and Environmental Protection.

(9) Chief, Office of Navigation.

(10) Chief, Office of Operations.

(11) Chief, Office of Personnel.

(12) Chief, Office of Readiness and Reserve.

(13) Chief, Office of Command, Control and Communications.

6. *Reconsideration of determinations not to disclose records and to deny fee waivers.* Any person who has been notified that a record or part of a record that has been requested will not be disclosed, or that a request for the waiver or reduction of a processing fee has been denied, may apply, in writing, to the Commandant (G–CMA), U.S. Coast Guard for reconsideration of that determination. The decision of the Commandant or his or her designee is administratively final.

Appendix C—Federal Aviation Administration

1. *General.* This appendix describes the document inspection facilities of the Federal Aviation Administration (FAA), the kinds of records that are available for public inspection and copying at those facilities, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facilities.* Document inspection facilities are maintained at FAA Headquarters, each FAA regional office, the Aeronautical Center, and the FAA Technical Center. The document inspection facility for the European Office is located at FAA Headquarters. These facilities are open to the public during local times specified inthe following listings. The States within the jurisdictional area of each FAA Regional Office are also listed in parentheses.

FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. 8:30 a.m.–5:00 p.m. e.t.

Alaska Region, 701 C Street, Box 14, Anchorage, AK 99513. 7:30 a.m.–4:00 p.m. Alaska Time (Alaska).

Central Region, 601 East 12th Street, Kansas City, Missouri 64106. 7:30 a.m.–4:00 p.m. c.t. (Iowa, Kansas, Missouri, and Nebraska).

Eastern Region, Fitzgerald Federal Bldg., JFK International Airport, Jamaica, NY 11430. 8:00 a.m.–4:30 p.m. e.t. (District of Columbia, Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and West Virginia).

Great Lakes Region, O'Hare Lake Office Center, 2300 East Devon Street, Des Plaines, Ill. 60018. 7:30–4:00 p.m. c.t. (Illinois, Indiana, Michigan, Minnesota, North Dakota, Ohio, South Dakota, and Wisconsin).

New England Region, 12 New England Executive Park, Burlington, MA (Mailing Address: Post Office Box 510, Burlington, MA 01803). 8:00 a.m.–4:30 p.m. e.t. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont).

Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, WA 98168. 7:30 a.m.–4:00 p.m. p.t. (Colorado, Idaho, Montana, Oregon, Utah, Washington, and Wyoming)

Southern Region, 3400 Norman Berry Drive, East Point, GA (Mailing Address: Post Office Box 20636, Atlanta, GA 30320). 8:00 a.m.–4:30 p.m. e.t. (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico and Virgin Islands).

Southwest Region, 4400 Blue Mound Road, Fort Worth, TX (Mailing Address: Post Office Box 1689, Fort Worth, TX 76101). 8:00 a.m.–4:30 p.m. c.t. (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).

Western Pacific Region, 15000 Aviation Boulevard, Hawthorne, CA (Mailing Address: Post Office Box 92007, World-Way Postal Center, Los Angeles, CA 90009). 7:30 a.m.–4:00 a.m. p.t. (Arizona, California, Hawaii, and Nevada).

Mike Monroney Aeronautical Center, 6500 South MacArthur Boulevard (Mailing

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Address: Post Office Box 25082), Oklahoma City, OK 73125. 8:00 a.m.–4:30 p.m. c.t.
FAA Technical Center, Atlantic City Airport, Atlantic City, NJ 08405. 8:00 a.m.–4:30 p.m. e.t.

3. Records available at document inspection facilities.

(a) The following records under Subpart E of this part are available at FAA document inspection facilities:

(1) Final opinions and order made in the adjudication of cases by the Administrator, FAA, or his/her designee.

(2) Policies and interpretations, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation. All such policies and interpretations made by the Administrator, Deputy Administrator, Associate Administrators, directors, and heads of offices are available at the FAA Headquarters document inspection facility; only those policies and interpretations made by the Administrator, Deputy Administrator, and the regional or center director concerned are available at regional and center document inspection facilities.

(3) Any administrative staff manual or instruction to staff that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public. Such documents are available at the inspection facility of the organizational unit which has issued them.

(b) An index of the records located at each document inspection facility is maintained at that facility.

(c) The records and the index may be inspected, without charge, at the facility. Copies of records may be obtained upon payment of the fee prescribed in Subpart I of this part.

4. *Requests for reasonably described records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, should submit a request in writing to the Assistant Administrator for Public Affairs, FAA Headquarters, or the director of the region or center in which it is located. The addresses of FAA Headquarters and the Regions and Centers are listed in paragraph 2 of this Appendix. If the location of the record is not known, the request may be submitted to the Assistant Administrator for Public Affairs, FAA Headquarters. The following list gives illustrations of types of records and where they might be located:

(a) Records pertaining to the issue, amendment, suspension or revocation of certificates, permits, authorizations, and approvals, such as:

(1) Airman certificates and ratings for pilots, flight instructors, flight navigators, flight engineers, aircraft dispatchers, mechanics, repairmen, air traffic control operators, and parachute riggers and ground instructor certificates are maintained at the Mike Monroney Aeronautical Center.

(2) Aircraft registration certificates and airworthiness certificates are maintained at the Aeronautical Center.

(3) Aircraft type certificates and production certificates are maintained at the regional office within which the issuance was made.

(4) Ferry permits and special flight authorizations are maintained at the district office of the region within which the issuance was made.

(5) Air carrier operating certificates, commercial operator certificates, agricultural aircraft operator certificates, repair station certificates, parachute loft certificates, pilot school certificates, and mechanic school certificates are maintained at the district office of the region within which the certification was taken.

(b) Records of designations of representatives of the Administrator are located at FAA Headquarters.

(c) Records relating to Federal-aid airport grants are located at the regional office within which the grant was made.

(d) Records of approvals of navigational facilities under Federal Aviation Regulations (FAR) Part 171 are located at the regional office within which the approval was issued.

(e) Records relating to civil penalty actions and seizure of aircraft are located at the regional office within which the action was taken.

5. *Reconsideration of determinations not to disclose records and to deny fee waivers.* Any person who is denied a fee waiver or reduction, or who has been notified that a record that has been requested will not be disclosed, may apply, in writing, to the Assistant Administrator for Public Affairs, FAA Headquarters, for reconsideration of that request. Application for reconsideration must be made within 30 days from receipt of denial, and must follow the procedures and requirements set forth in Subpart H. For all purposes, including that of judicial review, the decision of the Assistant Administrator for Public Affairs is administratively final.

Appendix D—Federal Highway Administration

1. *General.* This apendix describes the location and hours of operation of the document inspection facilities of the Federal Highway Administration (FHWA); the kinds of records that are available for public inspection and copying at these facilities; and the procedures by which members of the public may make requests for records.

2. *Document inspection facilities.* Document inspection facilities are maintained at the Federal Highway Administration Headquarters, each regional office, and each division office. These facilities are open to the public during regular working hours, which are included parenthetically after each address below. Written requests for information should be sent to the appropriate office and the envelope in which the request is sent must be prominently marked with the letters "FOIA."

Washington Headquarters

FOIA Program Officer (HMS–10), Federal Highway Administration, 400 Seventh Street, SW., Room 4428, Washington, DC 20590. 7:45 a.m.–4:15 p.m. e.t.

Regional Offices

Regional Federal Highway Administrator, Region 1, Federal Highway Administration, Clinton Avenue and North Pearl Street, Room 719, Albany, NY 12207. 7:30 a.m.–4:00 p.m. e.t. (New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, Puerto Rico, Virgin Islands)

Regional Federal Highway Administrator, Region 3, Federal Highway Administration, 31 Hopkins Plaza, Room 1633, Baltimore, MD 21201. 7:45 a.m.–4:15 p.m. e.t. (Maryland, Virginia, Delaware, District of Columbia, Pennsylvania, West Virginia)

Regional Federal Highway Administrator, Region 4, Federal Administration, 1720 Peachtree Road, N.W., Suite 200, Atlanta, GA 30367. 7:45 a.m.–4:15 p.m. e.t. (Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, North Carolina, South Carolina)

Regional Federal Highway Administrator, Region 5, Federal Highway Administration, 18209 Dixie Highway, Homewood, IL 60430–2294. 7:30 a.m.–4:15 p.m. c.t. (Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota)

Regional Federal Highway Administrator, Region 6, Federal Highway Administration, 819 Taylor Street, Fort Worth, TX 76102. 8:00 a.m.–4:30 p.m. c.t. (Texas, Louisiana, Arkansas, Oklahoma, New Mexico)

Regional Federal Highway Administrator, Region 7, Federal Highway Administration, 6301 Rockhill Road, P.O. Box 419715, Kansas City, MO 64141. 7:30 a.m.–4:15 p.m. c.t. (Missouri, Iowa, Kansas, Nebraska)

Regional Federal Highway Administrator, Region 8, Federal Highway Administration, 555 Zang Street, Room 400, Lakewood, CO 80228. 7:45 a.m.–4:15 p.m. m.t. (Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota)

Regional Federal Highway Administrator, Region 9, Federal Highway Administration, 211 Main Street, Room 1100, San Francisco, CA 94105. 7:45 a.m.–4:15 p.m. p.t. (California, Arizona, Nevada, Hawaii, American Samoa, Guam)

Regional Federal Highway Administrator, Region 10, Federal Highway Administration, Mohawk Building, Room 312, 708 SW Third Street, Portland, OR 97204. 7:00 a.m.–5:00 p.m. p.t. (Oregon, Idaho, Washington, Alaska)

Division Offices

Alabama, 441 High Street, Montgomery, AL 36104–4684. 7:45 a.m.–4:30 p.m. c.t.

Alaska, Federal Building, 709 West Ninth Street, RH851, P.O. Box 21648, Juneau, AK 99802–1648. 7:30 a.m.–5:00 p.m. Alaska Time.

Arizona, 3500 North Central Avenue, Suite 201, Phoenix, AZ 85012. 8:00 a.m.–4:30 p.m. m.t.

Arkansas, Room 3128, Federal Office Building, 700 West Capitol Avenue, Little Rock, AR 72201–3298. 7:45 a.m.–4:30 p.m. c.t.

California, Federal Building, Second Floor, 801 I Street, Sacramento, CA 95814. 7:45 a.m.–4:30 p.m. p.t.

Colorado, 555 Zang Street, Room 250, Lakewood, CO 80228. 7:45 a.m.–4:15 p.m. m.t.

Connecticut, Abraham A. Ribicoff Federal Building, 450 Main Street, Room 635, Hartford, CT 06103. 7:30 a.m.–4:00 p.m. e.t.

Delaware, Federal Office Building, Room 2102, 300 South New Street, Dover, DE 19901–6726. 7:45 a.m.–4:15 p.m. e.t.

District of Columbia, Nassif Building, Room 6320, 400 Seventh Street, SW., Washington, DC 20590. 7:30 a.m.–4:00 p.m. e.t

Florida, 227 North Bronough Street, Room 2015, Tallahassee, FL 32301. 7:30 a.m.–4:00 p.m. e.t.

Georgia, Suite 300, 1720 Peachtree Road, NW., Atlanta, GA 30367. 7:00 a.m.–4:00 p.m. e.t.

Hawaii, Prince Jonah Kuhio Kalanianaole Federal Building, 300 Alu Moana Boulevard, Room 3203, Honolulu, HI 96850. (Duty Hours) 7:30 a.m.–4:00 p.m. h.s.t.

Idaho, 3010 W. State Street, Boise, ID 83703. 7:30 a.m.–4:30 p.m. m.t.

Illinois, 320 West Washington Street, Room 700, Springfield, IL 62701. 7:30 a.m.–4:15 p.m. c.t.

Indiana, 757 N. Pennsylvania Street, Room 254, Indianapolis, IN 46204. 7:30 a.m.–4:00 p.m. e.s.t.

Iowa, 105 Sixth Street, Ames, IA 50010. 7:45 a.m.–4:30 p.m. c.t.

Kansas, 444 SE Quincy Street, Room 240, Topeka, KA 66683. 7:45 a.m.–4:15 p.m. c.t.

Kentucky, John C. Watts Federal Building and U.S. Courthouse, 330 West Broadway, Frankfort, KY 40602. 8:00 a.m.–4:45 p.m. e.t.

Louisiana, Federal Building, Room 239, 750 Florida Street, Baton Rouge, LA 70801. 7:30 a.m.–4:00 a.m. c.t.

Maine, Edmund S. Muskie Federal Building, U.S. Post Office, Room 614, 40 Western Avenue, Augusta, ME 04330. 7:30 a.m.–4:00 p.m. e.t.

Maryland, The Rotunda, Suite 220, 711 West 40th Street, Baltimore, MD 21211. 7:45 a.m.–4:15 p.m. e.t.

Massachusetts, Transportation Systems Center, 55 Broadway, 10th Floor, Cambridge, MA 02142. 7:45 a.m.–4:15 p.m. e.t.

Michigan, Federal Building, 315 West Allegan Street, P.O. Box 10147, Room 211, Lansing, MI 48901. 8:00 a.m.–4:45 p.m. e.t.

Minnesota, Metro Square Building, Suite 490, Seventh & Robert Streets, St. Paul, MN 55101. 7:30 a.m.–4:00 p.m. c.t.

Mississippi, 666 North Street, Suite 105, Jackson, MS 39202. 7:45 a.m.–4:15 p.m. c.t.

Missouri, 209 Adams Street, Jefferson City, MO 65102. 7:45 a.m.–4:15 p.m. c.t.

Montana, Federal Office Building, 301 South Park, Drawer 10056, Helena, MT 59626–0056. 7:30 a.m.–4:00 p.m. m.t.

Nebraska, Federal Building, Room 487, 100 Centennial Mall North, Lincoln, NE 68508. 7:45 a.m.–4:15 p.m. c.t.

Nevada, 1535 Hot Springs Road, Suite 100, Carson City, NV 89701–0602. 7:45 a.m.–4:30 p.m. p.t.

New Hampshire, Federal Building, 55 Pleasant Street, Room 219, Concord, NH 03301. 7:30 a.m.–4:00 p.m. e.s.t.

New Jersey, Suburban Square Building, 25 Scotch Road, Second Floor, Trenton, NJ 08628–2505. 8:00 a.m.–4:30 p.m. e.t.

New Mexico, 117 U.S. Court House, Post Office Box 1088, Santa Fe, NM 87504. 7:30 a.m.–4:00 p.m. m.t.

New York, Leo W. O'Brien Federal Building, Ninth Floor, Clinton Avenue and North Pearl Street, Albany, NY 12207. 7:30 a.m.–4:00 p.m. e.t.

North Carolina, 310 New Bern Avenue, P.O. Box 26806, Raleigh, NC 27611. 7:45 a.m.–4:15 p.m. e.t.

North Dakota, Federal Building, P.O. Box 1755, Bismarck, ND 58502. 7:45 a.m. – 4:30 p.m. c.t.

Ohio, 200 North High Street, Room 328, Columbus, OH 43215 7:30 a.m. – 4:15 p.m. e.t.

Oklahoma, Federal Office Building, Room 454, 200 NW. Fifth Street, Oklahoma City, OK 73102. 8:00 a.m. – 4:30 p.m. c.t.

Oregon, The Equitable Center, Suite 100, 530 Center Street, NE., Salem, OR 97301. 7:45 a.m. – 4:30 p.m. p.t.

Pennsylvania, 228 Walnut Street, Harrisburg, PA 17108. 8:00 a.m. – 4:30 p.m. e.t.

Puerto Rico, Office Number 150, U.S. Courthouse and Federal Building, Carlos Chardon Street, Hato Rey, PR 00918. 7:30 a.m. – 4:00 p.m. a.s.t.

Rhode Island, 380 Westminster Mall, Fifth Floor, Providence, RI 02903. 7:45 a.m. – 4.15 p.m. e.t.

South Carolina, Strom Thurmond Federal Building, 1835 Assembly Street, Suite 758, Columbia, SC 29201. 8:15 a.m. – 4:45 p.m. e.t.

South Dakota, P.O. Box 700, Federal Office Building, Pierre, SD 57501. 8:00 a.m. – 4:30 p.m. c.t.

Tennessee, Federal Building, U.S. Courthouse, 801 Broadway, Room A–926, Nashville, TN 37203. 8:00 a.m. – 4:30 p.m. c.t.

Texas, Room 826, Federal Office Building, 300 East Eighth Street, Austin, TX 78701. 7:30 a.m. – 4:15 p.m. c.t.

Utah, Federal Building, 124 South State Street, Salt Lake City, UT 84111. 7:45 a.m. – 4:30 p.m. m.t.

Vermont, Federal Building, Montpelier, VT 05602. 7:30 a.m. – 4:00 p.m. e.t.

Virgina, Federal Building, Tenth Floor, 400 North Eighth Street, Richmond, VA 23240. 7:45 a.m. – 4:15 p.m. e.t.

Virgin Islands, U.S. Federal Building and Courthouse, Room 281, Charlotte Amalie, St. Thomas, Virgin Islands 00801. 8:30–12:30 a.s.t.

Washington, Evergreen Plaza, 711 South Capitol Way, Suite 501, Olympia WA 98501. 7:30 a.m. – 4:30 p.m. p.t.

West Virginia, 550 Eagan Street, Suite 300, Charleston, WV 25301. 8:00 a.m. – 4:30 p.m. e.t.

Wisconsin, 4502 Vernon Boulevard, Madison, WI 53705–4905. 7:30 a.m. – 4:15 p.m. c.t.

Wyoming, 916 Evans Avenue, P.O. Box 1127, Cheyenne, WY 82003. 7:45 a.m. – 4:30 p.m. m.t.

Direct Federal Divisions

Division Engineer, Eastern Direct Federal Division, 1000 North Glebe Road, Arlington, VA 22201. 7:45 a.m. – 4:15 p.m. e.t.

Division Engineer, Central Direct Federal Division, 555 Zang Street, P.O. Box 25246, Denver, CO 80225. 7:45 a.m. – 4:15 p.m. m.t.

Division Engineer, Western Direct Federal Division, 610 East Fifth Street, Vancouver, WA 98661. 8:00 a.m. – 4:30 p.m. p.t.

3. *Records available through document inspection facilities.*

(a) The following records are available through the FHWA Headquarters document inspection facility:

(1) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued by the Federal Highway Administration;

(2) Any policy or interpretation issued by the Federal Highway Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(b) The following records are available through all Federal Highway Administration document inspection facilities:

(1) *FHWA orders.* These orders are issued by the Federal Highway Administration and used primarily to promulgate internal policy, instructions, and general guidance.

(2) *FHWA notices.* These notices are issued by the Federal Highway Administration and contain short term instructions or information which is expected to remain in effect for a predetermined period of time normally not to exceed one year.

(3) *FHWA bulletins.* These bulletins are issued by the Federal Highway Administration and are used to promulgate one time announcements or transmit reports, publications, and other similar material.

(4) *FHWA/NHTSA orders.* These are orders issued jointly by the Federal Highway Administration and the National Highway Traffic Safety Administration and contain policies, procedures, and information pertaining to the joint administration of the State and Community Highway Safety Programs.

(5) *Technical advisories.* These contain permanent or long-lasting detailed techniques or technical material that is advisory in nature.

(6) *FHWA manuals.* These manuals are issued by the Federal Highway Administration and contain detailed procedures relating to policies and program responsibilities. They include the following:

(i) Federal-Aid Highway Program Manual. This Manual contains policies, procedures, standards, and guides relating to the administration of the Federal Aid Highway Program and the Direct Federal Construction Program.

(ii) Administrative Manual. (Internal FHWA)

(iii) Labor Compliance Manual.

(iv) Civil Rights-Equal Opportunity Manual.

(v) Highway Planning Program Manual (Vol. 1).

(vi) Motor Carrier Safety Operations Manual.

(vii) Highway Safety Program Manual.

(viii) Manual on Uniform Traffic Control Devices.

(ix) Right of Way Operations Manual.

(x) FP–79 Construction Manual.

These Manuals contain details of compliance programs, accident investigations, enforcement programs, and interpretations.

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(7) *Highway Safety Standards.* These highway related standards, issued by the Federal Highway Administration, apply to the aspect of State highway safety programs for which responsibility resides in the Federal Highway Administration under the Highway Safety Act of 1966 and delegations of authority by the Secretary of Transportation.

(8) Motor Carrier Safety Administrative Rulings.

(9) Motor Carrier Safety Waivers From Regulations.

(10) Indices for the above records.

4. *Requests for records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, should submit a request, in writing to the Federal Highway Administration FOIA Program Office at the address listed in paragraph 2 above. Each request is subject to the appropriate fee prescribed in Subpart I of this part.

5. *Determinations not to disclose records.* The FOIA Program Officer in Washington Headquarters is the only official authorized to deny requests for the disclosure of records for any Federal Highway Administration element, both headquarters and field.

6. *Reconsideration of determinations not to disclose records and to deny fee waivers.* Any person who had been notified that a record or any part of a record that has been requested will not be disclosed, and any person who has been denied a fee waiver or reduction, may apply, in writing, to the Associate Administrator for Administration, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590 for reconsideration of the request. The decision of the Associate Administrator for Administration is administratively final.

Appendix E—Federal Railroad Administration

1. *General.* This appendix describes the document inspection facility of the Federal Railroad Administration, the kinds of records that are available for public inspection and copying at that facility, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facility.* The document inspection facility is maintained by the Executive Director of the Federal Railroad Administration, Room 8212, 400 Seventh Street, SW., Washington, DC 20590. This facility is open to the public 8:30 a.m. to 5:00 p.m. e.t. Monday through Friday, except for legal public holidays and other special closings.

3. *Records available at the document inspection facility.* The following records are maintained at the document inspection facility:

(a) Any material issued by the Federal Railroad Administration and published in the **Federal Register**, including regulations.

(b) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued by the Federal Railroad Administration. Included are opinions and orders issued under the Safety Appliance Act, Hours of Service Act, Locomotive Inspection Act, Accident Reports Act, and the Federal Railroad Safety Act of 1970.

(c) Any policy or interpretation issued within the Federal Railroad Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(d) Subject to § 7.41(a)(3) of this part, any administrative staff manual or instruction to staff, issued by the Federal Railroad Administration, that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(e) Public notice of pending administrative actions.

(f) Office of Safety Annual Report.

(g) Accident/Incident Bulletin.

(h) Rail-Highway Grade-Crossing Bulletin.

(i) Summary of accidents investigated by the Federal Railroad Administration.

(j) Certain railroad employee fatalities investigated by the Federal Railroad Administration.

(k) Subject to § 7.60 of this part, documents related to loans, loan guarantees, or grant programs conducted by the Federal Railroad Administration.

(l) An index to the material described in (a) through (d). The records and the index may be inspected at the facility without charge. Copies of records may be obtained upon payment of fees prescribed in Subpart I of this part.

4. *Requests for identifiable records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, should submit a request in writing to the Executive Director, Federal Railroad Administration, Room 8212, 400 Seventh Street, SW., Washington, DC 20590. Each request should be accompanied by a signed authorization to conduct the search and agreement to pay any costs incurred. Requester will be notified when it is estimated that the fee will likely exceed $25. Prepayment may be required before delivery is made.

5. *Reconsideration of determination not to disclose records and to deny fee waivers.* Any person who has been given a determination that the records that have been requested will not be disclosed, and any person who has been denied a fee waiver or reduction, may apply, in writing, to the Federal Railroad Administrator, 400 Seventh Street, SW., Washington, DC 20590, for reconsideration of the request. For all purposes, including that of judicial review, the decision of the Administrator is administratively final.

Appendix F—National Highway Traffic Safety Administration

1. *General.* This appendix describes the document inspection facilities of the National Highway Traffic Safety Administration (NHTSA), the kinds of records that are available for inspection and copying at these facilities, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facilities.* Document inspection facilities are maintained for NHTSA Headquarters and each NHTSA regional office. Unless otherwise noted, these facilities, which are located at the following addresses, are open to the public from 7:45 a.m. to 4:15 p.m. local time, Monday through Friday, except Federal holidays and other special closings.

Washington Headquarters

National Highway Traffic Safety Administration, Technical Reference Division, Room 5108, 400 Seventh Street, SW., Washington, DC 20590. Hours of operation are 8:00 a.m. to 4:00 p.m. e.t.

National Highway Traffic Safety Administration, Technical Reference Division, Docket Section Room 5109, 400 Seventh Street, SW., Washington, DC 20590. (Material covered by paragraph 3(a)(8) of this Appendix only). Hours of operation are 8:00 a.m. to 4:00 p.m. e.t.

National Highway Traffic Safety Administration, Office of Management and Data Systems (OMDS), Room 5238, 400 Seventh Street, SW., Washington, DC 20590. (Material covered by paragraphs 3(a)(9) and (10) of this Appendix only). Hours of operation are 8:00 a.m. to 4:00 p.m. e.t.

Regional Offices

Region I—Regional Administrator, NHTSA, Transportation Systems Center, Kendall Square, Code 903, Cambridge, MA 02142. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)

Region II—Regional Administrator, NHTSA, 222 Mamaroneck Avenue, Suite 204, White Plains, New York 10605. (New York, New Jersey, Puerto Rico, and Virgin Islands)

Region III—Regional Administrator, NHTSA, Airport Plaza Building, 793 Elkridge Landing Road, Room D–203, Linthicum, MD 21090. Hours of operation are 8:00 a.m. to 4:30 p.m. e.t. (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia)

Region IV—Regional Administrator, NHTSA, Suite 501, 1720 Peachtree Road, NW., Atlanta, GA 30309. (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee)

Region V—Regional Administrator, NHTSA, 18209 Dixie Highway, Homewood, IL 60430. Hours of operation are 8:00 a.m. to 4:30 p.m. c.t. (Illinois, Indiana, Michigan, Ohio, Minnesota and Wisconsin)

Region VI—Regional Administrator, NHTSA, Room 8A38, 819 Taylor Street, Fort Worth, TX 76102. Hours of operation are 8:00 a.m. to 4:30 p.m. c.t. (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas)

Region VII—Regional Administrator, NHTSA, P.O. Box 412515, Kansas City, MO 64141. (Iowa, Kansas, Missouri, and Nebraska)

Region VIII—Regional Administrator, NHTSA, 555 Zang Street, Fourth Floor, Denver, CO 80228. (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming)

Region IX—Regional Administrator, NHTSA, 211 Main Street, Suite 1000, San Francisco, CA 94105. (American Samoa, Arizona, California, Guam, Hawaii, and Nevada)

Region X—Regional Administrator, NHTSA, 3140 Jackson Federal Building, Seattle, Washington 98174. Hours of operation are 8:00 a.m. to 4:30 p.m. p.t. (Alaska, Idaho, Oregon, and Washington)

3. *Records available at document inspection facilities.*

(a) Certain documents not in the custody of the document inspection facility (for example, current defect investigations) may be reviewed there, but only if they are requested in advance. The following records are available at the NHTSA Headquarters document inspection facility:

(1) Final opinions and orders made in the adjudication of cases and issued by the National Highway Traffic Safety Administration.

(2) NHTSA test reports that assess manufacturer's compliance with Federal Motor Vehicle Safety Standards.

(3) Investigative reports concerning compliance with standards and possible safety-related defects.

(4) Summaries and detailed reports of motor vehicle recall campaigns.

(5) Consumers' complaint letters regarding motor vehicles.

(6) Contractors' technical reports documenting the results of research performed for NHTSA pursuant to contract.

(7) Multidisciplinary case studies on the causes of selected motor vehicle accidents.

(8) Rulemaking actions including comments and informal interpretations and opinions concerning provisions of the National Traffic and Motor Vehicle Safety Act of 1966, the Motor Vehicle Information and Cost Savings Act and the Highway Safety Act and regulations and standards issued thereunder which have been given to members of the public by National Highway Traffic Safety Administration officials.

(9) *NHTSA orders.* These orders are issued by the National Highway Traffic Safety Administration and contain policy, instructions, and general procedures.

(10) *NHTSA notices.* These notices are issued by the National Highway Traffic Safety Administration and transmit one-time or short-term announcements or temporary directives (1 year or less).

(b) The following records are available at all NHTSA document inspection facilities:

(1) *Motor vehicle safety standards.* These standards, issued by the National Highway Traffic Safety Administration, apply to new motor vehicles and equipment thereon.

(2) *Highway safety standards.* These standards, issued by the National Highway Traffic Safety Administration, apply to State highway safety programs.

(3) *State highway programs.* Reports on State highway programs presenting the proposed implementation of Federal Highway Standards on an annual and long-range basis. These reports are available at the NHTSA Headquarters document inspection facility and the appropriate Regional Administrator's Office.

4. *Requests for records under Subpart F of this part.* Persons wishing to inspect a record, or to obtain a copy thereof, should submit a request in writing to the NHTSA facility in which such record is located. If the records are located at Washington Headquarters, requests should be sent to Director, Executive Secretariat, NHTSA, Room 5221, 400 Seventh Street, SW., Washington, DC 20590. If the records are located in a regional office, requests should be sent to the appropriate inspection facility.

5. *Reconsideration of determinations not to disclose records and to deny fee waivers.* Any person to whom a record is not made available within a reasonable time after a request, any person who has been notified that a record which has been requested will not be disclosed, and any person who has been denied a fee waiver or reduction, may apply, in writing, to the Associate Administrator for Administration, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, for reconsideration of the request. The decision of the Associate Administrator for Administration is administratively final.

6. The fee for a search for a record or records identified by class or subject is pursuant to § 7.95 of this part.

Appendix G—Urban Mass Transportation Administration

1. *General.* This appendix describes the document inspection facilities of the Urban Mass Transportation Administration (UMTA), the kind of records that are available for public inspection and copying at these facilities, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facilities.* Document inspection facilities are maintained at the Urban Mass Transportation Administration Headquarters and each UMTA regional office. These facilities are open to the public at the prescribed times and locations:

Washington Headquarters

Urban Mass Transportation Administration, Office of Public Affairs, Room 9314, 400 Seventh Street, SW., Washington, DC 20590. (Working hours—8:30 a.m.–5:00 p.m. e.t.).

Regional Offices

Region I—Regional Administrator, UMTA, Transportation Systems Center, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142. 8:30 a.m.–5:00 p.m. e.t. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont).

Region II—Regional Administrator, UMTA, 26 Federal Plaza, Suite 14–110, New York, NY 10278. 8:30 a.m.–5:00 p.m. e.t. (New Jersey and New York)

Region III—Regional Administrator, UMTA, 841 Chestnut Street, Suite 714, Philadelphia, PA 19107. 8:00 a.m.–5:00 p.m. e.t. (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia)

Region IV—Regional Administrator, UMTA, 1720 Peachtree Road, NW., Suite 400, Atlanta, GA 30309. 8:30 a.m.–5:00 p.m. e.t. (Alabama, Flordia, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee)

Region V—Regional Administrator, UMTA, 300 S. Wacker Drive, Suite 1720, Chicago, IL 60606. 8:30 a.m–5:00 p.m. c.t. (Illinois, Indiana, Michigan, Ohio, and Wisconsin)

Region VI—Regional Administrator, UMTA, 819 Taylor Street, Suite 9A32, Ft. Worth, TX 76102. 8:00 a.m.–5:00 p.m. c.t. (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas)

Region VII—Regional Administrator, UMTA, 6301 Rockhill Road, Suite 100, Kansas City, MO 64131. 8:00 a.m.–5:00 p.m. c.t. (Iowa, Kanasa, Missouri, and Nebraska)

Region VIII—Regional Administrator, UMTA, 1050 17th Street, Suite 1822 Prudential Plaza, Denver, CO 80265. 8:30 a.m.–5:00 p.m. m.t. (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming)

Region IX—Regional Administrator, UMTA, 211 Main Street, Room 1160, San Francisco, CA 94105. 8:30 a.m.–5:00 p.m. p.t. (Nevada, California, Arizona, Hawaii, and Guam)

Region X—Regional Administrator, UMTA, 915 Second Avenue, Suite 3142, Seattle, WA 98174. 8:00 a.m.–4:30 p.m. p.t. (Alaska, Idaho, Oregon, and Washington)

3. *Records available at the document inspection facilities.* The following records are located at the document inspection facilities:

(a) Final opinions (including concurring or dissenting opinions) and orders made in the adjudication of cases and issued by the Office of the Secretary.

(b) Any policy or interpretation issued by the Urban Mass Transportation Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(c) Any administrative staff manual or instruction to staff, issued by the Urban Mass Transportation Administration that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(d) An index to, and copies of, the internal and external directives of the Urban Mass Transportation Administration. The records and the index may be inspected without charge. Copies of records may be obtained upon payment of the fee prescribed in Subpart I of this part.

(e) Any proposed or final regulation issued by the Urban Mass Transporation Administration and any docket materials regarding these regulations. Public dockets for rulemakings are kept by the Docket Clerk, Room 9223, and are available for public inspection and copying.

4. *Requests for identifiable records under Subpart F of this part.* Each person desiring to inspect a record or to obtain a copy thereof, should submit the request in writing to the Director of Public Affairs, Urban Mass Transporation Administration, Room 9314, Department of Transportation Building (Nassif Building), 400 Seventh Street, SW., Washington, DC 20590. Each request should be accompanied by a signed authorization to conduct the search and agreement to pay any costs incurred, as provided in 49 CFR Part 7. The requester may stipulate a maximum fee

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which he or she will pay. Prepayment may be required if authorized by 49 CFR Part 7.

5. *Reconsideration of determinations not to disclose records and to deny fee waivers.* Any person who has been notified that a record requested by that person will not be disclosed, and any person who has been denied a fee waiver or reduction, may apply, in writing, to the Executive Director, Urban Mass Transporation Administration, Room 9328 of the Department of Transportation Building (Nassif Building), 400 Seventh Street, SW., Washington, DC 20590, for reconsideration of the request. The decision of the Executive Director is administratively final.

Appendix H—Saint Lawrence Seaway Development Corporation

1. *General.* This appendix describes the document inspection facility of the Saint Lawrence Seaway Development Corporation, the kinds of records that are available for public inspection and copying at that facility, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facility.* The document inspection facility of the Saint Lawrence Seaway Development Corporation is maintained at its operations headquarters building in Massena, New York. This facility is open to the public during regular working hours (8:00 a.m. to 4:30 p.m. e.t.).

3. *Records available at the document inspection facility.* The following records are maintained at the document inspection facility:

(a) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued by the Saint Lawrence Seaway Development Corporation.

(b) Any policy or interpretation issued by the Saint Lawrence Seaway Development Corporation, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(c) Any administrative staff manual or instruction to staff, issued by the Saint Lawrence Seaway Development Corporation, that affects any member of the public, including the prescribing of any standard, procedure or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(d) An index to the material described in (a) through (c). The records and the index may be inspected at the facility without charge. Copies of records may be obtained upon payment of fee prescribed in Subpart I of this part.

4. *Requests for identifiable records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof should submit a request in writing to the Comptroller, Office of Finance/Administration, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662.

5. Any person who has been notified that a record will not be disclosed; and any person who has been notified that his or her request for a fee waiver, in whole or in part, cannot be granted, may apply, in writing, to the Administrator, Saint Lawrence Seaway Development Corporation, Post Office Box 44090, Washington, DC 20026–4090, for reconsideration of the request. The decision of the Administrator is administratively final.

Appendix I—Maritime Administration

1. *General.* This appendix describes the location and hours of operation of the document inspection facility of the Maritime Administration (MARAD), the kinds of records that are available for public inspection and copying at the facility, and the procedures by which members of the public may make requests for reasonably described records.

2. *Document inspection facility.* The document inspection facility for MARAD is maintained in Room 7300 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, DC 20590. The facility is open to the public between 9:30 a.m. and 4:30 p.m. eastern time, Monday through Friday, except legal public holidays and other special closings.

3. *Records available at the document inspection facility.* The following records are maintained at the document inspection facility:

(a) Any material issued by MARAD and published in the Federal Register, including regulations, for the most recent five years.

(b) Opinions, decisions, and orders of the Martime Administrator/MARAD and of the Maritime Subsidy Board (including concurrences and dissents, if any).

(c) Any policy or interpretation issued by MARAD, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(d) Any administrative staff manual or instruction to staff, issued by MARAD, that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public as described in Subpart E of this part.

(e) An index of the records described in (b) through (d).

4. *Requests for reasonably described records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, should submit a request in writing to the Freedom of Information Officer, Maritime Administration, Room 7300, 400 Seventh Street, SW., Washington, DC 20590. Each request should be accompanied by a signed authorization to conduct the search and agreement to pay any costs incurred. Prepayment may be required before delivery is made. The requester may stipulate a maximum fee which he or she will pay.

5. The official having authority to make determinations on requests, pursuant to the Freedom of Information Act, is the Freedom of Information Officer or an appropriate designee.

6. *Appeal of determination not to disclose records and/or waive fees.* Any person who has been notified that a record or part of a record that has been requested will not be disclosed, or that a request for a fee waiver or reduction cannot be granted, either in whole or in part, may appeal, in writing to the Maritime Administrator, Maritime Administration, Room 7206, 400 Seventh Street, SW., Washington, DC. 20590. The decision of the Maritime Administrator is administratively final.

Appendix J—Research and Special Programs Administration

1. *General.* This appendix describes the document inspection facilities of the Research and Special Programs Administration (RSPA), the kinds of records that are available for inspection and copying at three facilities, and the procedures by which members of the public may make requests for reasonably described records.

2. *Document inspection facilities.* Document inspection facilities are maintained at the RSPA Headquarters Office, the Office of Hazardous Materials Transportation (OHMT), the Office of Pipeline Safety (OPS), the Office of Aviation Information Management (OAIM), and the Transportation Systems Center (TSC) and Cambridge, Massachusetts. These facilities are open to the public from 9:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays, at the following locations:

RSPA Headquarters: Freedom of Information Officer, Research and Special Programs Administration, Room 8405, 400 Seventh Street, SW., Washington, DC 20590.

Office of Hazardous Materials Transportation, DHM-60, Room 8424, 400 Seventh Street, SW., Washington, DC 20590.

Office of Pipeline Safety, DPS-1, Room 8417, 400 Seventh Street, SW., Washington, DC 20590.

Office of Aviation Information Management: Chief of Data Services Branch, Data Requirements and Public Reports Division, Room 4201, 400 Seventh Street, SW., Washington, DC 20590.

Transportation Systems Center: Public Information Officer, Transportation Systems Center, 55 Broadway, Kendall Square, Cambridge, MA 02142.

3. *Records available through document inspection facilities.*

(a) The following records are available through the RSPA Headquarters document inspection facility:

(1) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued by the Research and Special Programs Administration.

(2) Any policy or interpretation issued by the Research and Special Programs Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(3) Any administrative staff manual or instruction to staff, issued by the Research and Special Programs Administration, that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(4) *RSPA orders.* RSPA orders are issued by the Research and Special Programs Administration and are used primarily to promulgate internal RSPA policy, instrucitons, and general guidance.

(5) *RSPA notices.* RSPA notices are issued by the Research and Special Programs Administration and contain short-term instructions or information which is expected to remain in effect for less than 90 days or for a predetermined period of time normally not to exceed one year.

(6) Indices to the material described in (1) through (5).

(b) The following records are available through the Materials Transportation Bureau document inspection facility:

(1) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued by the Materials Transportation Bureau.

(2) Any policy or interpretation issued by the Research and Special Programs Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(3) Any administrative staff manual or instruction to staff, issued by the Materials Transportation Bureau, that affects any member of the public including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(4) *RSPA orders.* RSPA orders are issued by the Research and Special Programs Administration and are used primarily to promulgate internal RSPA policy, instrucitons, and general guidance.

(5) *RSPA notices.* RSPA notices are issued by the Research and Special Programs Administration and contain short-term instructions or information which is expected to remain in effect for less than 90 days or for a predetermined period of time normally not to exceed one year.

(6) Indices to the material described in (1) through (5).

(b) The following records are available through the Materials Transportation Bureau document inspection facility:

(1) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued by the Materials Transportation Bureau.

(2) Any policy or interpretation issued by the Research and Special Programs Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(3) Any administrative staff manual or instruction to staff, issued by the Materials Transportation Bureau, that affects any member of the public including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(4) Indices to the material described in (1) through (3).

(c) The following records are available through the Data Services Branch of the Office of Aviation Information Management's inspection facility:

(1) Air Carrier Forms 41, 183, 217, 251, 291, 298–R, 298C, ICAO Supplemental Reports and ER–586 and Origination and Destination outputs which are maintained as a data base and reference source.

(d) The following records are available through the Transportation Systems Center document inspection facility:

(1) *RSPA orders.* (Described in paragraph (a)(4) above).

(2) *RSPA notices.* (Described in paragraph (a)(5) above).

(3) *TSC orders.* TSC orders are issued by the Transportation Systems Center and are used primarily to promulgate internal TSC policy, instructions, and general guidance.

(4) *TSC notices.* TSC notices are issued by the Transportation Systems Center and contain short-term instructions or information which is expected to remain in effect for less than 90 days or for a predetermined period of time normally not to exceed one year.

(5) Indices to the material described in (1) through (4).

(e) The records and the indexes may be inspected at each facility without charge. A prepayment of fees may be required before copies of records may be obtained, as described in Subpart I this part.

4. *Requests for records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, should submit a request in writing to the appropriate RSPA document inspection facility as identified in paragraph 2 of this Appendix. Should that facility not have custody of the record, it will forward the request to the appropriate office. If the location of the record is not known, the request should be submitted to the Freedom of Information Officer, RSPA Headquarters, and that official will forward the request to the appropriate office. Each request should be accompanied by a signed authorization to conduct the search and agreement to pay any costs incurred. Prepayment may be required before delivery is made. The requester may stipulate a maximum fee which he or she will pay.

5. *Reconsideration of determination not to disclose records and to deny fee waivers.* Any person who has been given a determination that a requested record or any part thereof will not be disclosed, and any person who has been denied a fee waiver or reduction, may apply, in writing, to the Research and Special Programs Administrator, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, for a reconsideration of the request. For all purposes, including that of judicial review, the decision of the Administrator is administratively final.

[FR Doc. 87–25756 Filed 11–5–87; 8:45 am]
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Notices

Federal Register
Vol. 52, No. 215
Friday, November 6, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Temporary Emergency Food Assistance Program; Availability of Commodities, Fiscal Year 1988

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the availability of commodities for donation under the Temporary Emergency Food Assistance Program (TEFAP) authorized by the Temporary Emergency Food Assistance Act fo 1983 (Title II of Pub. L. 98–8, as amended). For Fiscal Year 1988, the Department of Agriculture will continue to make cheese, butter, nonfat dry milk, honey, rice, flour, and cornmeal available to State agencies that request them for distribution to eligible recipients through TEFAP. The Department of Agriculture expects donations of butter, flour, and cornmeal to be made throughout the fiscal year. Donations of cheese, nonfat dry milk, honey, and rice may not be made for the last two quarters of the fiscal year, April 1, 1988 through September 30, 1988.

FOR FURTHER INFORMATION CONTACT: Susan Proden, Chief, Program Administration Branch, Food Distribution Division, Park Office Center, Alexandria, Virginia, 22302, Telephone (703) 756–3660.

EFFECTIVE DATE: October 1, 1987.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512. It has been classified as "nonmajor" because it meets none of the three criteria in the Executive Order for classification as a major rule. The action will not have an annual effect on the economy of $100 million or more; it will not cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovative, or on the ability of United States-based enterprises to compete with foreign-based enterprises or export markets.

This action is not a rule as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq) and thus is exempt from the provisions of that Act. The purpose of the action is to notify States, Congess, and the general public of the types and quantities of foods to be made available through TEFAP for household distribution during Fiscal Year 1988.

This action imposes no new reporting or record keeping provisions that are subject to Office of Management and Budget review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–20).

The Secretary of Agriculture estimates the following commodities and amounts will be made available for distribution through TEFAP during Fiscal Year 1988: cheese, 210 million pounds; butter 72 million pounds; nonfat dry milk 48 million pounds; honey, 48 million pounds; rice, 90 million pounds; flour, 144 million pounds; and cornmeal, 48 million pounds. The amounts of cheese, nonfat dry milk, honey, and rice estimated to be available are approximately one-half the amounts made available in Fiscal Year 1987. The Department plans to make cheese, nonfat dry milk, honey, and rice available to State agencies through March 1988 at the current monthly distribution rates of 35 million pounds for cheese, 8 million pounds for nonfat dry milk, 8 million pounds for honey, and 15 million pounds for rice. The Department will advise State agencies and the public if additional supplies of cheese, nonfat dry milk, honey, and rice become available for distribution through TEFAP.

The foods are being offered under the provisions of the Temporary Emergency Food Assistance Act of 1983 (Title II of Pub. L. 98–9, as amended). The actual types and quantities of commodities made available by the Department may differ from the above estimates. The food made available under this notice shall be targeted to needy persons, including unemployed and low-income persons.

Background and Need for Action

Donations of commodities were administratively initiated in 1981 as part of efforts to reduce vast stores of commodities. Also, the donations responded to Congressional and public concern over the costs to taxpayers of storing huge quantities of food, while, at a time of high unemployment, there were persons in need of food assistance beyond the levels provided through traditional food programs. TEFAP was codified in 1983 with the amount of commodities available for distribution limited to the amount of commodities determined by the Secretary to be in excess of the quantities needed to carry out other programs, including Commodity Credit Corporation (CCC) sales obligations, and domestic and foreign food assistance programs.

Since 1983, the government-owned supplies of cheese, nonfat dry milk, honey, and rice have been sufficient to meet sales and domestic and foreign assistance obligations with excess commodities available for distribution through TEFAP. However, based on recent estimates of production and market conditions, the Department anticipates that the amount of excess cheese, nonfat dry milk, honey, and rice available for distribution through TEFAP in Fiscal Year 1988 will be about one-half of the amount made available in Fiscal Year 1987. Many factors are involved in developing the estimate of excess commodities available to TEFAP. In fact, since the estimates were made, the Department has acquired more dairy stocks than had been anticipated. Therefore, it is possible that additional amounts of these commodities may become available.

(Catalog of Federal Domestic Assistance No. 10.568)

Dated: November 2, 1987.

Anna Kondratas,

Administrator.

[FR Doc. 87–25745 Filed 11–5–87; 8:45 am]
BILLING CODE 3410-30-M

Forest Service

National Forest Timber Sales; Control of Skewed Bidding

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy.

SUMMARY: The Forest Service published a proposed policy to control skewed bidding on National Forest System timber sales January 30, 1987, at 52 FR 3027. On may 15, 1987, at 52 FR 18390 that policy was withdrawn. After consideration of comments received on the previous proposal, the Forest Service hereby gives notice of a revised skewed bidding policy that will protect both the purchaser and the government from the adverse effects of the speculative practice of skewed bidding.

DATE: Comments must be received in writing by January 5, 1988.

ADDRESS: Interested persons may send written comments to F. Dale Robertson, Chief (2400), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Questions about this notice should be addressed to Milo Larson, Timber Management Staff (202) 475–3754.

SUPPLEMENTARY INFORMATION: Timber is sold from the National Forest System to private purchasers through competitive bidding. Timber sales often include more than one species or groups of species of similar value. In these sales prospective purchasers offer bids by species. The high bid for a sale is determined by adding the totals for the price bid for each species multiplied by the estimated timber volume of that species. The sale is awarded to the qualified bidder whose cumulative bid has the highest total value.

Skewed bidding occurs when an unusually high bid is placed on a timber species that represents a minor proportion of the total sale volume, thus allowing the bidder to offer lower bid rates on high volume timber species. Usually high bids on low volume or low value species are speculative in nature and can be harmful to either the purchaser or the government.

The volume estimates by the Forest Service are only estimates and are subject to verification by the timber purchasers. These estimates for individual species have less statistical reliability than do the volume estimates for the total sale. The reliability is usually poorest for those species in a timber sale representing the lowest volumes or highest incidence of defect. Even small inaccuracies can have major financial impact when the bid is skewed. If more and the estimated volume of a skewed bid species is present, the purchaser must pay disproportionately more than if less, the government receives much less than it should, because the purchaser is paying lower rates on the remaining high volume species.

Also, an unsuccessful bidder who submitted an unskewed bid may have actually offered the higher bid based on the actual timber volume which is often measured after it is sold and cut. That bidder was, in effect unfairly denied the sale, and the Government does not receive the highest value for the sale.

Skewed bidding on National Forest timber sales has been the subject of a General Accounting Office Review (GAO/RCED–83–87). This proposal is in partial response to the recommendations of that review.

Skewed bidding varies in importance in different market areas depending on species values, the use of three measurement sales and the competitive position of purchasers within them.

Proposal: The proposed policy would recognize the need for timber purchasers to pay different rates for individual species according to their particular manufacturing or marketing capabilities, but it would prevent disproportionately high bids on any one species or group of species, thereby protecting both the Government and the purchasers when estimates of low volume species prove inaccurate. The policy gives the Regional Foresters flexibility to apply the policy in the market areas where it is most needed.

The proposed policy, which would be incorporated in the Forest Service Manual, Chapter 2430, and the Sale Preparation Handbook, FSH 2409.18, would provide the following direction to Forest Service line officers and timber sale contracting personnel:

On those National Forests or in specific market areas where the Regional Forester has determined that skewed bidding has occurred or is likely to occur because of species mix, intensely competitive bidding, highly variable defect, difficulty of accurate volume estimation, or other factors, the following policy shall apply to advertising timber sales:

The bid premium (the amount bid above the advertised rates set by the Forest Service for a timber sale) shall be bid for the volume of the timber sale as a whole. A purchaser can elect to assign the bid premium by species or species groups after successfully bidding for the sale but must do so prior to contract execution. Contracting Officers shall only accept purchaser assignments of bid premium that fall within the following guidelines:

1. The assigned rate for a species or species group cannot be less than the advertised rate.

2. The assigned bid premium for a species or species group cannot be more than twice the average bid premium for the sale as a whole.

3. The average of the bid premiums assigned, weighted by the volume of species or groups, must total to within $0.01 of the average bid premium for the sale.

If the purchaser does not elect to assign the bid premium to species or group prior to contract execution, the Contracting Officer shall assign the average bid premium to each species or group.

The following exhibit illustrates how these guidelines would apply to a representative sale.

EXAMPLE

	Species			
	Douglas-fir	White pine	White fir and other	Total
Volume Advertised Rate.	5MMBF $20/MBF.	4MMBF $60/MBF.	1MMBF $10/MBF.	10MMBF $430,000
Bid for Sale	xxxx	xxxx	xxxx	530,000
Total Bid Premium.	xxxx	xxxx	xxxx	100,000
Average Bid Premium.	xxxx	xxxx	xxxx	10.00/MBF
($100,000/10MMBF = $10.00/MBF)				
Maximum rate.	$40/MBF.	$100/MBF.	$30/MBF.	xxxx
(includes $20.00 (10.00 × 2) maximum assignable bid premium)				

ALTERNATIVE ASSIGNMENT OF BID RATES FOR THE EXAMPLE SALE

	Rates			Total bid premium
Purchaser is Douglas-fir Mill.	$40/MBF.	$80/MBF.	$10/MBF.	$100,000
Purchaser is White Pine Mill.	20/MBF.	100/MBF.	30/MBF.	100,000
Purchaser defers to Contracting Officer.	30/MBF.	90/MBF.	20/MBF.	100,000

Calculations

Douglas-fir Mill—
$20.00 max. assignable bid premium assigned to D.fir adv. rate of $20.00=$40/mbf rate.
$20.00×5mmbf D.fir volume=$100,000 total bid premium. $100,000 divided by 10mmbf sale volume=$10.00/mbf average bid premium.

White Pine Mill—
$20.00 max. assigned to W.pine=$100/mbf rate ($20.00×4mmbf white pine volume=$80,000) and $20.00 max. assigned to W.fir=$30/mbf ($20.00×1mmbf=$20,000). $80,000+$20,000=$100,000 divided by 10mmbf sale volume=$10.00/mbf average bid premium.

Contracting Officer—
Assign average bid premium to each species ($10.00×5mmbf+$10.00×4mmbf+$10.00×1mmbf=$100,000, divided by 10mmbf=$10.00 average bid premium.

In addition to the proposed direction, the agency will incorporate the bid assignment language in the standard

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timber sale prospectus used for the timber sales where the proposed policy would be applied.

Impacts: The Chief of the Forest Service has determined that this policy does not meet the definition of a major rule as set forth in Executive Order 12291. The proposed policy will not have an annual effect on the economy of $100 million or more; will not result in major increases in costs for consumers, individual industries, Federal, State or local Government agencies or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, and the ability of United States-based industries to compete with foreign-based enterprises in domestic or export markets.

The Chief of the Forest Service has also determined that this policy will not have significant economic impacts on a substantial number of small entities. The policy should help small and large entities by making the bid process fair to both.

Based on both experience and environmental analysis, this proposed policy will have no significant effect on the human environment, individually or cumulatively. Therefore it is categorically excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4).

This proposal would not require any public reporting or recordkeeping.

Date: October 9, 1987.

George M. Leonard,

Associate Chief.

[FR Doc. 87-25720 Filed 11-5-87; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-402]

Certain Dried Heavy Salted Codfish From Canada; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 6, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain dried heavy salted codfish from Canada. The review covers three producers and/or exporters of this merchandise to the United States and the period July 3, 1985 through June 30, 1986.

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner, Codfish Corporation. Based on our analysis of the comments received and correction of clerical errors, we have changed the margins from those presented in the preliminary results.

EFFECTIVE DATE: November 6, 1987.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5289/5255.

SUPPLEMENTARY INFORMATION:

Background

On July 6, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 25280) the preliminary results of its administrative review of the antidumping duty order on certain dried heavy salted codfish from Canada (50 FR 27836, July 8, 1985). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are shipments of certain dried heavy salted codfish, including soft-dried codfish, from Canada, currently classifiable under item 111.2200 of the Tariff Schedules of the United States Annotated.

This product is currently classifiable under HS items 0305.51.00 and 0305.30.60. The term "certain dried heavy salted codfish" covers dried heavy salted codfish, whole or processed by removal of heads, fins, viscera, scales, vertebral columns, or any combination thereof, but not otherwise processed, and not in airtight containers. The review covers three exporters of this merchandise to the United States and the period July 3, 1985 through June 30, 1986.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from the petitioner, Codfish Corporation.

Comment 1: The petitioner objects to the Department's preliminary cash deposit rate of zero percent for new shippers. It contends that this rate conflicts with the requirements of § 353.53a(d)(2) of the Commerce Regulations. These regulations provide that the government shall continue to collect cash deposits previously established for companies that are not covered in a current review. The petitioner contends that the proper rate is the rate established by the order for all other manufacturers and-or exporters.

The petitioner also states that the preliminary zero cash deposit rate for new companies will prompt numerous small companies located in Nova Scotia already covered by the order to form a "new" company to avoid paying any cash deposit. Then there would be no incentive for these companies to request an administrative review, leaving no effective mechanism to prevent evasion of the order.

Department's Position: Although the Department has changed from zero to 1.86 percent the cash deposit rate for new exporters in these final results, we disagree in principle with petitioner's argument. The regulation cited requires that we continue to collect cash deposits on merchandise from exporters not covered by a review. Accordingly, we stated that for any shipments from the remaining known manufacturers and/or exporters not covered in this review, whether or not specifically identified in the original order, a cash deposit shall be required at the rates published in the antidumping duty order (50 FR 20819, July 8, 1985).

We disagree that this regulation requires us to apply the 1985 "all other" rate to new shippers. The requirement to continue to collect the same rate of deposit refers only to those shippers who were subject to a previously established rate or who previously entered the merchandise at the "all other" rate of deposit.

Our practice is to give new shippers the highest current rate for firms with shipments we reviewed. Section 751(a) of the Tariff Act allows a petitioner not satisfied with the rate for new exporters to request a review of future shipments of this merchandise. Therefore, if the highest current rate for reviewed firms is not representative of a new exporter's dumping margin, the rate can be adjusted based on the review.

Comment 2: The petitioner contends that the Department conducted an inadequate verification of the cost of production portion of the information submitted by Canadian Saltfish Corporation ("Saltfish"). The verification of that portion was limited to verifying the costs of the physical differences claimed in the response. The scope of the verification did not extend to the costing process or to the issue of sales below cost. The petitioner contends, therefore, that the Department must resort to the best information available pursuant to section 776 of the Tariff Act (19 U.S.C. 1677e), which requires that the Department verify all information in this final results of administrative review.

Department's Position: We disagree. The Department was not required to conduct a verification in this first administrative review. Section 776(a)(3)(B) of the Tariff Act (19 U.S.C. 1677e(a)(3)(B)) provides that verification is required only when "no verification was made * * * during the two immediately preceding reviews and determinations." Though not required to verify, the Department agreed to verify the areas of the cost of production that the petitioner alleged to be unreliable—Selling, General and Administrative expenses (SG&A) and the use of other income from salt sales to reduce cost of production.

Moreover, the Department is not required to audit every figure reported in the response. The process of verification usually involves spot-checking and cross-checking of the information which the Department selects for emphasis in analyzing each specific response prior to verification. We verified all of the elements of costs, including material, labor, and SG&A, and found them to be substantially accurate.

In any event, the Department may resort to the use of the best information available pursuant to Section 776(b) of the Act only when a party "refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation * * *". Saltfish provided the Department with the information requested and the opportunity to verify that information in a cooperative manner. The use of the best information otherwise available is not justified in this case.

Comment 3: The petitioner asserts that in comparing Saltfish's third-country selling prices to its cost of production the Department erred by failing to eliminate from the calculations all of the sales below cost when those sales constituted more than 10 percent of the total sales in the such or similar category.

The petitioner also alleges that in one product category more than 90 percent of that category was sold below the cost of production, and, therefore, none of the third-country sales in that category should be used as a basis of foreign market value.

Department's Position: We agree. We have eliminated these sales below cost from the calculation of weighted-average foreign market prices and have used constructed value for the one product category with insufficient sales above cost.

Comment 4: The petitioner argues that the Department made price-to-price comparisons on sales that were not contemporaneous.

Department's Position: When there were no contemporaneous sales of identical merchandise, we made comparisons to contemporaneous sales of similar merchandise, making appropriate adjustments for differences in the merchandise.

Comment 5: The petitioner argues that there were computer errors in the calculation of the foreign market value of one product category and in the adjustment for credit expenses.

Department's Position: We agree and have corrected the calculations accordingly.

Comment 6: The petitioner contends that the Department erred in allowing the adjustment claimed by Pecheries Malbaie for differences in merchandise based on the differences in U.S. sales prices. In addition, the petitioner contends that the Department erred in making these adjustments for physical differences because Pecheries Malbaie invoiced merchandise as choice grade which contained a mixture of standard and choice grades. Moreover, the petitioner contends that the respondent has not substantiated the claimed adjustment for the differences in the merchandise sold in the two markets.

Department's Position: We agree. We have not allowed this difference in merchandise adjustment and have recalculated our results accordingly.

Final Results of the Review

As a result of the comments received and correction of clerical errors, we have revised our preliminary results for Canadian Saltfish Corporation and Pecheries Malbaie, and we determine that the following weighted-average margins exist for the period July 8, 1985 through June 30, 1986:

Manufacturer/exporter	Margin (percent)
Canadian Saltfish Corp	0.12
Pecheries Malbaie	1.86
D.A. Wayret & Sons Ltd	0

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may very from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. Since the margin for Canadian Saltfish Corporation is less than 0.5 percent and therefore *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties for that firm.

For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after June 30, 1986 and who is unrelated to any reviewed firm, or any previously reviewed firm, a cash deposit of 1.86 percent shall be required. For any shipments from the remaining known manufacturers and/or exporters not covered in this review, including all other manufacturers and/or exporters who entered their first shipments during this review period, a cash deposit shall be required at the rates published in the antidumping duty order (50 FR 20819, July 8, 1985). These deposit requirements are effective for all shipments of Canadian certain dried heavy salted codfish entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Date: October 30, 1987.

Joseph Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 87-25759 Filed 11-5-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-702]

Extension of the Deadline Date for the Final Countervailing Duty Determination and Postponement of the Public Hearing: Certain Electrical Conductor Aluminum Redraw Rod from Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: Based upon the request of the petitioner in this investigation, we are extending the deadline date for the final determination in this investigation to correspond to the date of the final determination in the antidumping duty investigation of the same product

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pursuant to section 705(a)(1) of the Tariff Act of 1930, (the Act) as amended, [19 U.S.C. 1671d(a)(1)]. These final determinations are now due not later than March 7, 1988. Pursuant to its obligations under the Subsidies Code, the Department will terminate the suspension of liquidation in this investigation 120 days after the date of publication of the preliminary countervailing duty determination. In addition, we are postponing the hearing date originally scheduled for this investigation.

EFFECTIVE DATE: November 6, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–3174 or 377–2438.

SUPPLEMENTARY INFORMATION: On October 7, 1987, we issued the preliminary affirmative countervailing duty determination pertaining to this case (52 FR 38113, October 14, 1987). On October 9, 1987, in accordance with section 705(a)(1) of this Act, as amended, we received a request from the petitioner, Southwire Company, to extend the deadline date for the final countervailing duty determination to correspond to the date of the final determination in the antidumping duty investigation of the same product of Venezuela. Accordingly, we are granting an extension of the deadline date for the final determination in this investigation from December 21, 1987 to not later than March 7, 1988.

To comply with the requirements of Article 5, paragraph 3 of the Subsidies Code, the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in this investigation on February 12, 1988, which is 120 days from the date of publication of the preliminary determination in this case. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters on or after February 12, 1988. The suspension of liquidation will not be resumed unless and until the Department publishes a countervailing duty order in this case. We will also direct the U.S. Customs Service to hold any entries suspended between October 14, 1987 through February 11, 1988, until the conclusion of this investigation.

In addition, due to the extension of the final determination in this investigation, we have postponed the date of the public hearing originally scheduled for November 2, 1987. I will be rescheduled if a request for a public hearing is received by the Deparment not later than November 18, 1987. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B–099, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of the business proprietary version and five copies of the public version of the pre-hearing briefs must be submitted to the Assistant Secretary seven days prior to the hearing date. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final detemination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 705(a)(1) or the Act.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

November 2, 1987.

[FR Doc. 87–25700 Filed 11–5–87; 8:45 am]

BILLING CODE 3510–DS–M

President's Export Council; Foreign Trade Practices and Negotiations Subcommittee and the Trade Expansion Subcommittee; Open Meeting

A joint meeting of the President's Export Council Subcommittee on Foreign Trade Practices and Negotiations and Subcommittee on Trade Expansion will be held November 24, 1987, 9:30 a.m.–11:30 a.m. and 1:00 p.m.–3:30 p.m. in Salon G of the J.W. Marriott, 1331 Pennsylvania Avenue, NW., Washington, DC. The Council's purpose is to advise the President on matters relating to U.S. export trade.

Open Session: Panel discussions on agriculture in the GATT.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact Sylvia Lino (202) 377–1125.

Dated: November 2, 1987.

Wendy H. Smith,

Director, President's Export Council.

[FR Doc. 87–25695 Filed 11–5–87; 8:45 am]

BILLING CODE 3510–DR–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987; Proposed Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions and Deletion to Procurement List.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1987 commodities and a service produced or provided by workshops for the blind or other severely handicapped.

Comments Must Be Received on or Before: December 7, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1987, November 3, 1986 (51 FR 39945).

Commodities

Side Rack, Vehicle
2510–00–860–0517

Clamp, Loop
5340–00–104–5060
5340–00–500–0403
5340–00–254–5025

Fixture, Lighting, Industrial
6210–00–688–4929

Pad, Desk, Paperboard
7520–00–224–7238

Service

Janitorial Service, Bonneville Power Administration, 710 NE Hassalo Street, 5804 NE Hassalo Street, 5840 NE Hassalo Street, Portland, Oregon

Deletion

It is proposed to delete the following commodity from Procurement List 1987, November 3, 1986 (51 FR 39945):

Headband, Ground Troop, Helmet Liner
8470–00–153–6671
(Mechanicsburg, Pennsylvania and Richmond, Virginia depots)

C.W. Fletcher,

Executive Director.

[FR Doc. 87–25747 Filed 11–5–87; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1987; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1987 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: December 7, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On August 28, 1987 the Committee for Purchase for the Blind and Other Severely Handicapped published a notice (52 FR 32581) of proposed addition to Procurement List 1987, November 3, 1986 (51 FR 39945).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity listed.

c. The action will result in authorizing small entities to produce the commodity procured by the Government.

Accordingly, the following commodity is hereby added to Procurement List 1987:

Commodity

Buckle, Belt
8315–00–506–8278

C. W. Fletcher,

Executive Director.

[FR Doc. 87–25748 Filed 11–5–87; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information; Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact for whom a copy of the information proposal may be obtained.

Extension

Application and Agreement for Establishment of a Junior Reserve Officers' Corps Unit; DA Form 3126 (OMB No. 0702–0021).

The DA Form 3126 is used as an application and contract between the U.S. Government and secondary level schools who would like to establish a new Army Junior ROTC unit.

State or local governments and non-profit institutions.

Responses: 65.

Burden Hours: 65.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Ms. Pearl Rascoe-Harrison, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Ms. Angela R. Petrarca, SAIS–ADR, Room 1C838, The Pentagon, Washington, DC 20310–0107, telephone (202) 694–0754.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 2, 1987.

[FR Doc. 87–25723 Filed 11–5–87; 8:45 am]

BILLING CODE 3810–01–M

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: Wednesday, 16 December 1987, 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20340–1328 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on tactical intelligence information handling systems.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 2, 1987.

[FR Doc. 87–25722 Filed 11–5–87; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Organization of the Joint Chiefs of Staff; Joint Strategic Target Planning Staff (JSTPS), Scientific Advisory Group; Closed Meeting

AGENCY: Joint Strategic Target Planning Staff, DoD.

ACTION: Change in date of closed meeting.

SUMMARY: The meeting scheduled for 18 and 19 November 1987, announced in the **Federal Register** on October 23, 1987, has been changed to November 17 and 18 November 1987. All other information remains unchanged.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 3, 1987.

[FR Doc. 87–25789 Filed 11–5–87; 8:45 am]

BILLING CODE 3810–01–M

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Defense Science Board Task Force on B-1B Defensive Avionics; Cancellation of Meeting

ACTION: Cancellation of meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on B-1B Defensive Avionics for October 27-28, 1987 as published in the **Federal Register** (Vol. 52, No. 197, Page 38000-38001, Tuesday, October 13, 1987, FR Doc 87-23644.) has been cancelled.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 2, 1987.

[FR Doc. 87-25719 Filed 11-5-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Military System Applications of Superconductors

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Military System Applications of Superconductors will meet in closed session on January 7-8, February 24-25, March 17-18, and April 14-15, 1988 at the Defense Advanced Research Projects Agency, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will enumerate and evaluate military system applications that may be enabled by the recent progress in high temperature superconductors.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly these meeings will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 2, 1987.

[FR Doc. 87-25720 Filed 11-5-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; Austria

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Austria concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to the carried out under the above-mentioned agreements involves approval of the following retransfer:

RTD/EU(AT)-20, for the retransfer of 494 fuel elements containing approximately 91,450 kilograms of uranium enriched to 1.94 percent in the isotope uranium-235 from Zwentendorf, Austria to Hanau, the Federal Republic of Germany for disassembly and recovery of contained uranium.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: October 26, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-25677 Filed 11-5-87; 8:45 am]

BILLING CODE 6450-01-D

Proposed Subsequent Arrangement; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" pursuant to general license issued by the U.S. Nuclear Regulatory Commission.

The subsequent arrangement to be carried out under the above-mentioned general license involves approval of the following sale:

Contract Number S-CA-403, for the sale of 10 milligrams of uranium-236 for use for uranium-thorium dating of stalagmites by mass spectrometry by the Department of Geography, McMaster University, Ontario, Canada.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: October 26, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-25678 Filed 11-5-87; 8:45 am]

BILLING CODE 6450-01-D

Proposed Subsequent Arrangement; South Carolina

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement."

The subsequent arrangement involves the shipment, to U.S. Department of Energy Facilities at the Savannah River Plant in South Carolina, from a research reactor in Taiwan, of irradiated fuel rods containing approximately 60,000 kilograms of natural uranium for reprocessing and storage of recovered nuclear materials. The fuel rods will be off loaded at a U.S. port and transported over land to the DOE facilities.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: October 26, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-25679 Filed 11-5-87; 8:45 am]

BILLING CODE 6450-01-D

Proposed Subsequent Arrangement; Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement"

under the Agreement for Cooperation between the Government of the United States of America and the Government of Switzerland concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Norway concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer:

RTD/NO(SD)-3, for the retransfer of 33,421 kilograms of heavy water from Switzerland to Norway for upgrading. It is planned to subsequently return the heavy water to Switzerland, for use in the European Organization for Nuclear Research (CERN).

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: October 22, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-25680 Filed 11-5-87; 8:45 am]

BILLING CODE 6450-01-D

Economic Regulatory Administration

[ERA Docket No. 87-30-NG]

Dome Petroleum Corp.; Order Extending Blanket Authorization To Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order extending blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued to Dome Petroleum Corporation (Dome Corp.) an order extending for two years blanket authorization to import Canadian natural gas for sale in the domestic spot market. The order issued in ERA Docket No. 87-30-NG authorizes Dome Corp. to import up to 200 Bcf of gas during the period December 2, 1987, through December 1, 1989.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-76, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 30, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25783 Filed 11-5-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-60-NG]

Natural Gas Pipeline Co. of America; Order Extending Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order extending authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order extending authorization for Natural Gas Pipeline Company of America (Natural) to import up to 75,000 Mcf of Canadian natural gas per day. The order issued in ERA Docket No. 86-60-NG would extend Natural's authority to import gas from ProGas Limited for the term October 31, 1987, through October 31, 1994.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 30, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25784 Filed 11-5-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-51-NG]

Standard Gas Marketing Co.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on September 24, 1987, of an application filed by Standard Gas Marketing Company (Standard Gas) for blanket authorization to import natural gas from Canada for resale to purchasers in the United States on a short-term or spot basis, and to import gas as agent for other purchasers. Authorization is requested to import up to 50 Bcf of Canadian natural gas during a two-year period commencing on the date of first delivery. Standard Gas is a Delaware Corporation with an office in Houston, Texas. It is a wholly owned subsidiary of the Sohio Petroleum Company which in turn is a wholly-owned subsidiary of The British Petroleum Company p.l.c.

The specific terms of each short-term or spot sale will be the product of negotiation between Standard Gas and U.S. purchasers, and will be responsive to current market conditions for natural gas.

Standard Gas intends to use existing transmission systems and will not require the construction of new or separate facilities to import Canadian natural gas.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than December 7, 1987.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8233

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., (202) 586-6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts

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that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RC-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.d.t., December 7, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used and necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, and oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party request additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Standard Gas' application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 30, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25787 Filed 11-5-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-37-NG]

Texas Eastern Transmission Corp.; Order Extending Authorization to Import Natural Gas From Canada and Authorization Spot Sales

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting extension of authorization to import natural gas from Canada, and providing for spot sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order extending the present authorization of Texas Eastern Transmission Corporation (Texas Eastern) to import up to 75,000 Mcf of natural gas per day from Canada from November 1, 1987, through October 31, 2000. The order amends Texas Eastern's existing authorization for the importation originally granted by DOE/ERA Opinion and Order No. 32 and previously amended by DOE/ERA Opinion and Order No. 112. The authorization is based on a new gas sales contract between Texas Eastern and its Canadian supplier, ProGas Limited (ProGas) which supersedes all prior sales agreements, and a new Texas Eastern/ProGas special marketing agreement.

Within the limits of the import authorization granted of up to 75,000 Mcf per day, the order also authorizes Texas Eastern to import natural gas which, if not needed to meet system supply contract demand, may be released for sale by ProGas' and/or Texas Eastern's U.S. marketer to third parties in the spot market pursuant to the Texas Eastern/ProGas special marketing agreement. The duration of Texas Eastern's authority for spot market sales has been restricted to two years from the date of first delivery to conform with the ERA's policy on such blanket authorizations.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, October 30, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25786 Filed 11-5-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-46-NG]

Williams Gas Marketing Co.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Williams Gas Marketing Company (Williams), blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 87-46-NG authorizes Williams to import up to 200 Bcf over a two-year period.

A copy of this order is available for inspection and copying in the Natural Gsas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 596-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, November 3, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25785 Filed 11-5-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-556-000, et al.]

Arkansas Power & Light Co., et al.; Electric Rate and Corporate Regulation Filings

November 2, 1987.

Take notice that the following filings have been made with the Commission:

1. Arkansas Power & Light Company

[Docket No. ER87-556-000]

Take notice that on September 11, 1987, Arkansas Power & Light Company tendered for filing a name change in its updated Rate Schedules M33 and M33A filed July 31, 1987. The schedules included reference to Middle South Energy, Inc. (MSE). Due to a corporate name change which took effect July 28, 1986, Middle South Energy, Inc. (MSE) became System Energy Resources, Inc. (SERI).

Copies of the modified schedules have been sent to the wholesale customers affected by the filing and the Public Service Commission of Arkansas, Louisiana, Missouri and Tennessee.

Comment Date: November 16, 1987, in accordance with Standard Paragraph E at the end of this document.

2. Bangor Hydro-Electric Company

[Docket No. ER88-56-000]

Take notice that on October 26, 1987, Bangor Hydro-Electric Company (Bangor) tendered for filing a correction to its October 23, 1987 filing which included an initial rate schedule for service to Isle au Haut. Bangor states that the demand charge and determination of demand provisions of that initial rate schedule misstated the minimum demand charges. The monthly minimum demand charge should be $218.75 and the minimum billing demand should be 25 kilowatts.

Comment Date: November 16, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Gulf States Utilities Company

[Docket Nos. ER86-558-002, EL86-48-000, and EL87-3-000]

Take notice that on October 27, 1987, Gulf States Utilities Company tendered for filing pursuant to Commission letter dated July 22, 1987 its Compliance Report which includes a summary of the total refund, including interest, which resulted from the acceptance by your Commission of the executed Settlement Agreement in Docket Nos. ER86-558-002, EL86-48-000, and EL87-3-000 filed on March 20, 1987.

Gulf States Utilities Company states that refunds were made to all affected customers by check delivered on August 11, 1987, with the exception of the Town of Kaplan.

Copies of the filing were served upon each person designated on the official service list in this proceeding.

Comment Date: November 16, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Company

[Docket No. ER88-58-000]

Take notice that on October 28, 1987, Pacific Gas and Electric Company (PG&E) tendered for filing proposed changes to certain rates, terms, and conditions concerning those services rendered by PG&E under settlement agreements between PG&E and the City and County of San Francisco (CCSF) FERC No. 53, the City of Santa Clara (CSC) FERC No. 85, Shelter Cover Resort Improvement District #1 (RID #1) FERC No. 90, Port of Oakland (Port) FERC No. 95, and CP National (CPN) FERC No. R-2.

The Settlement Agreement with each customer embodies the agreement between PG&E and the customer regarding the procedure and mechanism designed to recover amounts due PG&E from the customer, and amounts due the customer from PG&E, as a result of rate changes based on certain California Public Utilities Commission (CPUC) and Federal Energy Regulatory Commission decisions.

Copies of this filing were served upon CCSF, CSC, RID #1, Port, and CPN and the Public Utilities Commission of the State of California.

Comment Date: November 16, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Vermont Electric Power Company, Inc.

[Docket No. ER88-57-000]

Take notice that on October 26, 1987, Vermont Electric Power Company, Inc. (VELCO) tendered for filing an amendment to Supplement No. 2 to the rate schedule filed by VELCO on July 31, 1985 in Docket No. ER85-657-000. That rate schedule provides for the transmission of power and associated energy recently acquired by Vermont from the New York Power Authority. The amendment to Supplement No. 2 noticed herein extends the rate schedule to the transmission of up to 10,000 Kilowatts of power purchased by Vermont from Ontario Hydro under a contract to commence November 1, 1987.

VELCO proposes that the Amendment to Supplement No. 2 become effective on November 1, 1987. VELCO requests waiver of the Commission's regulations to allow the Amendment to become effective as of that date. If waiver is granted, VELCO states that there will be no effect upon customers under VELCO's other rate schedules.

VELCO states that it has served the filing upon the Vermont Public Service Board and Vermont Department of Public Service.

Comment Date: November 16, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Power & Light Company

[Docket Nos. ER87-435-001, ER87-554-000]

Take notice that on October 28, 1987, Wisconsin Power & Light Company tendered for filing pursuant to Commission Order issued September 28, 1987 a compliance report.

This filing consists of:

1. Revised tariffs which reflect the synchronization of fuel clause revenues with the fuel expenses;

2. A worksheet calculating the adjustment to Tier I present revenues as the result of fuel clause synchronization; and

3. A summary of the revenue effect, by customer, of synchronization.

Copies of the filing were served upon each person designated on the official service list in this proceeding.

Comment Date: November 16, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25777 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. CI87-896-000, et al]

Kimbell Oil Company of Texas, et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates [1]

November 3, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 18, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to inervene or a protest in accordance with the requirements of the Commission's Rules or Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI87-896-000, B, Sept. 10, 1987 [1].	Kimbell Oil Company of Texas, c/o Godfey & Decker, 3200 Continental Plaza, Fort Worth, Texas 76102-5304.	Northern Natural Gas Company, Division of Enron Corp., Upper Morrow Field, Hansford County, Texas.	([2])	
CI87-892-000, B, Sept. 8, 1987.	Tom Brown, Inc., P.O. Box 2608, Midland, Texas 79702-2608.	Williston Basin Interstate Pipeline Co., Pavillion Field, Fremont County, Wyoming.	([3])	
CI87-893-000, B, Sept. 8, 1987.	.....do.....	.....do.....	([3])	
CI88-47-000, B, Oct. 22, 1987.	Vernon E. Faulconer, c/o David L. Smelley, Hargrove, Guyton, Ramey and Barlow, P.O. Box B, Shreveport, La. 71161-0010.	Natural Gas Pipeline Company of America, Archie Campbell No. 1 well, Sec. 1-T1N-R19ECM, Hardesty Field (Camrick Gas Area), Texas County, Oklahoma.	([4])	
CI88-56-000, B, Oct. 9, 1987.	Kenneth W. Cory, c/o Pat Chesnut, 6565 West Loop South—Suite 780, Bellaire, Texas 77401.	ANR Pipeline Company, Hieronymus #1 and Van Dorn #1, Harper County, Oklahoma..	([5])	
CI84-478-001, CI84-480-001, CI84-481-001, D, Oct. 26, 1987.	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Williams Natural Gas Co., Rodman Plant, Garfield County, Oklahoma.	([6])	
CI88-61-000 (CI66-1215), B, Oct. 26, 1987.	.....do.....	Natural Gas Pipeline Company of America, Smith Perryton Field, Ochiltree County, Texas.	([7])	
CI88-62-000, (G-10778), B, Oct. 26, 1987.	.....do.....	Panhandle Eastern Pipeline Company, Keyes Field, Cimarron County, Oklahoma.	([8])	
CI62-1111-003, D, Oct. 26, 1987.	.....do.....	ANR Pipeline Company, Laverne Field, Harper County, Oklahoma.	([9])	
G-5377-000, D, Oct. 26, 1987.	Texaco Producing Inc., P.O. Box 52332, Houston, Texas 77052.	El Paso Natural Gas Company, West Dollarhide Field, Lea County, New Mexico.	([10])	
CI68-943-000, D, Oct. 26, 1987.	.....do.....	.....do.....	([10])	
CI83-64-002, D, Oct. 26, 1987.	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Transcontinental Gas Pipe Line Corp., OCS-G-3741 C-3 Well, Galveston Block 393 Field, Offshore Texas.	([11])	
CI86-548-001, D, Oct. 26, 1987.	.....do.....	Consolidated Gas Transmission Corporation, R. Mills #1, France #3 and Gregory-Mitchell #1 Wells, Grampian Field, Pennsylvania.	([12])	
CI86-549-002, D, Oct. 26, 1987.	.....do.....	Consolidated Gas Transfusion Corp, L.L. Manley Well #3, Clearfield, County, Pennsylvania.	([13])	
CI88-52-000, (G-2896), B, Oct. 23, 1987.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Panhandle Eastern Pipeline Company, West Panhandle Field, Moore County, Texas.	([14])	
CI88-49-000, F, Oct. 22, 1987.	Exxon Corporation, P.O. Box 2180, Houston, Texas 77252-2180.	Richard Fester Pipeline Co., Hartzog Draw Unit, Campbell County, Wyoming.	([15])	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI88-51-000, B, Oct. 23, 1987.	E.G. Pence, *et al.*—Nutter #4	Consolidated Gas Transmission Corporation, Triplett Field, Roane County, West Virginia.	([16])	
CI88-63-000, B, Oct. 26, 1987.	Petroleum Development Corporation	Consolidated Gas Transmission Corporation, Glade Run Field, Harrison County, West Virginia. Tennessee Gas Pipeline Company, a Division of Tenneco Inc..	([17])	
CI88-45-000, (CI75-479), B, Oct. 21, 1987.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252.	West Cameron Block 135, Offshore Louisiana.	([18])	
CI81-201-002, D, Oct. 26, 1987.	Diamond Shamrock Offshore Partners Limited Partnership, LTV Center—Suite 1400, 2001 Ross Avenue, Dallas, Texas 75201-2916.	Trunkline Gas Company, Block 377, Eugene Island Area, Offshore (Federal) Louisiana.	([19])	
CI87-939-000, B, Oct. 28, 1987.	VRK Operating Company, Inc., 4100 International Plaza Tower II, #624, Fort Worth, Texas 76109.	Williams Natural Gas Company, West Panhandle Field, Sections 242 and 243, Block B-2, Carson County, Texas.	([20])	
CI88-46-000, (CI61-1111), B, Oct. 22, 1987.	Pennzoil Company, P.O. Box 2967, Houston, Texas 77252-2967.	Transcontinental Gas Pipe Line Corp., Eugene Island Block 116, Block 128 Field, Offshore Louisiana.	([21])	
CI88-65-000, (CI65-749), B, Oct. 27, 1987.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	Williams Natural Gas Company, Basin Dakota Field, Rio Arriba County, New Mexico.	([22])	
G-13263-001, D, Oct. 27, 1987.	.....do.....	El Paso Natural Gas Company, Corsby-Devonian Field, Lea County, New Mexico.	([23])	

[1] Additional information received October 8, 1987.

[2] Notice of this application was previously published in the FEDERAL REGISTEER on September 24, 1986 (52 FR 35943). By letter dated October 6, 1987. Applicant requested three-year pregranted abandonment authorization.

[3] Applicant requests permanent abandonment of its sale of gas to Williston Basin. Applicant and Williston Basin have entered into an excess gas release agreement. Applicant also requests three-year limited-term pregranted abandonment. Deliverability is approximately 3,770 Mcf/d. The gas is NGPA section 104 1973-1974 biennium (41%) and section 106(a) (59%) gas.

[4] Applicant requests permanent abandonment of its sale of gas to Natural. The contract expired by its own terms in March 1986, and purchaser terminated the contract effective March 1, 1987. Applicant also requests pregranted abandonment for a period of three years for sales of released gas in interstate Commerce under its small producer certificate issued in Docket No. CS74-147. Deliverability is approximately 120 Mcf/d. The gas is NGPA section 108 gas.

[5] Applicant requests limited-term abandonment with pregranted abandonment of the released volumes for a period of two years. The current purchaser cannot purchase due to market constraints. Estimated deliverability is 450 Mcf/d. The gas is NGPA section 106(a) gas.

[6] Request from Williams Natural Gas Company to abandon dead wells in order for them to recover their above-ground facilities to prevent any accidents.

[7] No active leases remaining under Rate Schedule No. 700.

[8] Property sold 5-1-87, to Cities Service Oil & Gas Corporation.

[9] Sun assigned its interest in Property No. 615662, McClung #1 to Herbert D. Ashpaugh.

[10] Assignment of a part of Texaco Producing Inc.'s interest to Bill Fenn and Joe Fenn.

[11] The well OCS-G-3741 C-3 has been plugged and abandoned since May 1987, due to depletion.

[12] Wells were plugged and abandoned.

[13] The L.L. Manley #3 well has been plugged and abandoned.

[14] ARCO assigned certain acreage to Lyco Panhandle 1985 Limited Partnership and Lyco/MM Limited Partnership effective 3-1-86. Effective 10-1-86, ARCO assigned its remaining interest in lease numbers 42-341-000130-001, 42-341-00063-001 and 42-341-000063-002 to Keisling Farms Inc.

[15] By assignment dated 3-25-87 and effective 1-1-87, Exxon acquired certain acreage in the Hartzog Draw Unit, Campbell County, Wyoming, covered by Hancock Enterprises Small Producer Certificate in Docket No. CS76-965.

[16] Low volume.

[17] Wells no longer have sufficient pressure to produce economic gas volumes against CGT line pressure. Applicant wishes to sell to a local low pressure intrastate system.

[18] The lease covering West Cameron Block 135 expired on 10-1-87, 90 days after cessation of production from the West Cameron Block 135 A-5 Well.

[19] The available supply of natural gas from Block 377, Eugene Island Area is depleted to the extent that the continuance of service is unwarranted. The production of gas from Block 377, Eugene Island Area has ceased; the wells on such Block have been plugged and the leases have been released.

[20] The well pressure is too low to produce into Williams' pipeline. Williams will not allow compression equipment to be placed on the wells for aid in overcoming line pressure. Applicant states that the gas is NGPA section 108 gas.

[21] Production has ceased, reserves are depleted, and wells are currently being plugged.

[22] By assignment effective 3-1-86, ARCO assigned its interest in certain acreage to Amoco Production Company.

[23] By assignment effective 1-27-87, ARCO assigned its interest in certain acreage to Bill Fenn and Joe Fenn.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 87-25776 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. CI88-50-000]

Anadarko Petroleum Corp.; Application

November 3, 1987.

Take notice that on October 23, 1987, Anadarko Petroleum Corporation (Applicant), of P.O. Box 1330, Houston, Texas 77251-1330, filed an application pursuant to 18 CFR 154.92(d), 154.94, and 157.23 *et seq.*, for a Certificate of Public Convenience and Necessity for authorization to continue sales of natural gas previously authorized by the Commission to be sold by various Parties, all as more fully shown on the attached Appendix. The sales were previously made by various parties under Small Producer Certificates in Docket Nos. CS71-158 and CS72-178 issued to Union National Bank of Wichita, Executor of the Estate of Walter F. Kuhn, deceased and The Stevens Oil and Gas Company, respectively.

By assignments effective October 1, 1985 and January 1, 1986, Applicant acquired certain interests in the wells listed on the attached Appendix all located in Kansas.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represent at the hearing.

Lois D. Cashell,

Acting Secretary.

Appendix

Purchaser	Location	Contract date (No.)
Colorado Interstate Gas Company.	Devlin 1-19 and 2-19 Wells, Finney County, KS.	5-19-80 (No. 1)
Do	Watkins A-1 Well, Haskell County, KS.	2-18-60 (No. 2)
Greeley Gas Company.	Curtis 1-A and 2-24 Wells, Stevens County, KS.	2-2-60 (No. 3)

Appendix—Continued

Purchaser	Location	Contract date (No.)
Do	Burnett 1-18 Well, Kearney County, KS.	11-19-55 (No. 4)
Do	Linder 1-5 Well, Kearney County, KS.	11-18-55 (No. 5)
Northern Natural Gas Company, Williams Natural Gas Company.	Young 1-17 Well, Seward County, KS.	8-23-48 (No. 6)
	Various Wells, Haskell, Kearney and Stanton Counties, KS.	8-20-50 (No. 7)
Panhandle Eastern Pipe Line Company.	Williams A-1, Beavers A-1, Eby A-1 and Morris 1-29 Wells, Stevens County, KS.	9-1-59 (No. 8)
Do	Various Wells, Morton and Stevens Counties, KS.	9-1-59 (No. 9)
Do	Do	9-1-59 (No. 10)
Panhandle Eastern Pipe Line Company.	Laierer 1-27 and Walker 1-24 Wells, Grant County, KS.	3-11-60 (No. 11)
Do	McGammon 1-12 Well, Morton County, KS.	8-20-60 (No. 12)
Do	Various Wells, Stevens and Morton Counties, KS.	12-8-60 (No. 13)
Do	Browne 1 and Breck 1 Wells, Seward County, KS.	12-19-60 (No. 14)
Do	Turner B-1, 1-19 and 3-19 and E.P. Lewis B-1 Wells, Morton County, KS.	11-1-57 (No. 15)

[FR Doc. 87-25770 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES88-7-000]

Baltimore Gas and Electric Co.; Application

November 3, 1987.

Take notice that on October 20, 1987, Baltimore Gas and Electric Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, to issue not more than $425 million of short-term unsecured promissory notes and commercial paper with a final maturity no later than December 31, 1989.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 25, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell

Acting Secretary.

[FR Doc. 87-25771 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI88-59-000]

Conoco, Inc., et al.; Petition for Declaratory Order and Request for Expedited Consideration

November 3, 1987.

Take notice that on October 20, 1987, Conoco, Inc. (Conoco), Cities Service Oil and Gas Corporation (Cities), Texaco, Inc. (Texaco) and AGIP Petroleum Company (AGIP) filed with the Federal Energy Regulatory Commission (Commission) pursuant to § 385.207 of the Commission's regulations (Rule 207), a petition for a declaratory order. The petitioners wish the Commission to issue a declaratory order disclaiming Commission jurisdiction over certain natural gas facilities to be constructed in federal waters on the Outer Continental Shelf (OCS), Offshore Louisiana. Petitioners assert that the proposed pipelines are gathering facilities under section 1(b) of the Natural Gas Act (NGA), and therefore exempt from the certificate requirements of section 7(c) of the NGA. Further, petitioners request that this petition be given expedited consideration.

Petitioners state that, together with certain other producers, they are working interest owners in a fifteen block unit in the Green Canyon area. Petitioners aver that utilization of the unit, referred to as the Green Canyon 184 Unit (Unit), has been approved by the Minerals Management Service of the Department of the Interior. Petitioners propose to finance and construct a system that initially will be used to flow gas from platforms located on Green Canyon Blocks 52 and 184. Subsequent production from Green Canyon Blocks 10, 11, 141, 185 and 228 would flow through lateral lines to facilities proposed to move gas from Blocks 52 and 184. All of the gas from the Unit, and other gas volumes that may be gathered from outside the Unit, would be delivered to an interconnection with an interstate pipeline in federal offshore waters no more than twenty-three miles from the northern end of the Unit. Petitioners state that the identity of the interstate pipeline to which interconnection will be made is currently unknown inasmuch as negotiations are ongoing with several different pipelines to purchase and/or transport the gas.

The petitioners contend that the system will be comprised of various diameter pipe of different lengths. In this regard, petitioners state that the diameter of pipe on the Unit will range in diameter between and sixteen inches. Different segments of pipe will vary in length between less than one hundred yards to as much as twenty-three miles.

Petitioners state that compression will occur on each platform in the Unit. Initially, the gas stream will be comprised entirely of casinghead gas. Casinghead gas is removed from the oil stream by lowering the pressure of the oil stream to a point that the gas flashes out of solution. The resulting low pressure of the gas must be increased to allow it to enter interstate pipeline facilities. Petitioners assert that such compression has previously been held by the Commission to be a production-related activity.

In addition to the compression of gas on each platform, mechanical separation and dehydration of the gas, as well as metering, will be conducted on each platform. Processing of the entire gas stream will be conducted at onshore processing facilities.

Finally, petitioners request expedited consideration of their petition. In this regard, petitioners state that the proposed system will utilize new technology, which will require consideration lead time for planning and acquisition of materials. Petitioners state that resolution of the jurisdictional status of the facilities will therefore directly affect the timing of the project. Additionally, petitioners state that a delay in resolving the jurisdictional status of the proposed gas facilities will adversely affect the production of oil on the Unit, which currently is expected to have a substantially greater value than gas production.

Any person desiring to be heard or to protest this declaratory order should file a motion to intervene or protest in accordance with Rules 241 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, within 30 days after publication of this notice in the **Federal Register**. All protests will be considered by the Commisson but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intevene in accordance with Rule 214. Copies of the petition filed in this proceeding are on file with the Commission and are available for public inspection.

Lois D. Cashell

Acting Secretary.

[FR Doc. 87-25772 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES88-9-000]

Consumers Power Co.; Application

November 3, 1987.

Take notice that on October 27, 1987, Consumers Power Company filed an application pursuant to section 204 of the Federal Power Act seeking authority to issue and sell, or guarantee up to $800,000,000 in secured and/or unsecured short-term debt including but not limited to, notes, drafts, debentures and commercial paper. The issuance, sale or guarantee of the secured and/or unsecured short-term debt would be from time to time, during the period January 2, 1988 through December 31, 1988, with maturities of 364 days or less.

Any person desiring to be heard or to protest said filing should file a motion to intervne or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 25, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a part must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25780 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-50-000]

Florida Power & Light Co.; Filing

November 3, 1987.

Take notice that on October 29, 1987, Florida Power & Light Company (FPL) tendered for filing a Stipulation and Agreement executed between FPL and its transmission service customers consisting of Florida Power Corporation, Tampa Electric Company, Jacksonville Electric Authority, Sebring Utilities Commission, Kissimmee Utility Authority and the municipal electric utilities of the Cities of Gainesville (Gainesville Regional Utilities), Lakeland, St. Cloud and Tallahassee, Florida (Transmission Customers). FPL states that the Stipulation and Agreement is intended to comply with the Commission's Order No. 475 in Docket No. RM87-4 with respect to the effects of the lower marginal federal income tax rate under the Tax Reform Act of 1986.

FPL proposes revised long term transmission service rates (service provided with a duration of more than seven days) to be effective on October 1, 1987. FPL has submitted with this filing amendments to each of the transmission service agreements pursuant to which FPL provides transmission service to these Transmission Customers.

FPL states that the filed Stipulation and Agreement represents an overall compromise in order to satisfy FERC Order 475 in Docket No. FM87-4, which order encourages settlement agreements which take into account the impact of the reduction in the federal corporate marginal income tax rate.

FPL states that copies of the filing were served upon the Transmission Customers and upon the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 17, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25778 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-45-000]

Inter-City Minnesota Pipelines, Limited, Inc.; Annual Purchased Gas Adjustment Filing

November 3, 1987.

Please take notice that on October 23, 1987, Inter-City Minnesota Pipelines Ltd. Inc. (Inter-City), tendered for filing Thirtieth Revised Sheet No. 4, Sixth Revised Sheet No. 61 to original Volume

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No. 1 of Inter-City's FERC Gas Tariff. Inter-City also tendered Fifth Revised Sheet Nos. 11 and 12 to Original Volume No. 2 of its Gas Tariff. Inter-City has requested an effective date of November 1, 1987 for the rates set out therein.

In its application Inter-City states that this filing represents Inter-City's annual PGA reconciliation. The proposed tariff sheets also effect the income tax reduction required by its settlement in Docket No. RP85-152 and creates a two-part rate for its Western Zone reflective of two-part billings for gas purchased in that zone.

Inter-City states that on September 4, 1986, it requested a waiver of the filing date and 30-day notice period for this filing; Inter-City states that it is aware of no other waiver of the Commission's regulations that would be required to effect this tariff change but requests such waivers as the Commission may deem necessary to that end.

The company states that a copy of its application has been served on all customers of Inter-City and on the Minnesota Public Service Commission.

Any person desiring to be heard or to make any protest with reference to said PGA filing should on or before November 10, 1987 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25773 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI88-53-000]

LOUTEX Energy Inc.; Application

November 3, 1987.

Take notice that on October 23, 1987, LOUTEX Energy Inc. (LOUTEX), 334 Carondelet Street, 4th Floor, New Orleans, LA 70130 filed in this proceeding an application pursuant to Sections 4 and 7 of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting blanket certificate authorization for (1) self-implementing sales for resale of certain natural gas in interstate commerce, without market restriction by LOUTEX; (2) self-implementing sales of certain natural gas by others to LOUTEX for resale in interstate commerce, without market restriction; and (3) self-implementing sales for resale of certain natural gas in interstate commerce, without market restriction, by producers through LOUTEX acting as their agent. LOUTEX also seeks pre-granted abandonment of all sales for resale for which sales certificate authority is sought herein.

LOUTEX states that the purpose of its application is to enable LOUTEX to make sales in interstate commerce for resale of gas which is available for sale to new markets, but is still subject to the certificate and abandonment provisions of the Natural Gas Act. Finally, LOUTEX requests that the Commission declare in its order issuing the authorizations that the Commission's NGA jurisdiction over the activities and operations of LOUTEX is limited to the transactions for which authorization is sought in the Application.

Any person desiring to be heard or to make any protest with reference to said filing should on or before November 17, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any conference or hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25765 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-59-000]

Mississippi Power Co.; Filing

November 3, 1987.

Take notice that on October 29, 1987, Mississippi Power Company (MPC) tendered for filing a rate change relating to federal corporate income tax rate for public utilities.

The subject rate change will reduce MPC's demand charge to MPC's four wholesale customers by $.57 per kw.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 17, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25779 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-514-001 and Docket No. CI88-57-000]

Mobil Oil Exploration & Producing Southeast Inc. et al.; Application

November 3, 1987.

Take notice that on October 26, 1987, Mobil Oil Exploration & Producing Southeast Inc. (MOEPSI), petitioned for amendment to its existing blanket limited term certificate, and Mobil Producing Texas & New Mexico Inc. (MPTM) and Mobil Exploration and Producing North America Inc. (MEPNA), filed an application for limited-term blanket authorization, both seeking to sell on the open market natural gas produced from Applicant's interest in any gas reserves not previously committed to a sale for resale in interstate commerce. Applicants also request an order for pregranted abandonment of any sales made pursuant to the authority above. Applicants additionally request waiver of any filing and reporting requirements which may be inconsistent with the authority sought under the above application, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

In the application, Applicants allege that they have been unable to enter into any long-term contracts for the sale of natural gas from their interest in the uncommitted gas reserves. This gas qualifies as NGPA Section 102(d) or 109 gas.

MOEPSI requests that its limited-term blanket certificate with pregranted abandonment for a specific source of uncommitted gas issued in Docket No. CI86-514 be amended to include any source of uncommitted gas effective for a term of one term. MPTM and MEPNA request issuance of a blanket certificate with pregranted abandonment for the sale of their uncommitted gas. Applicants state that the gas in question would be sold in the market at competitive, market-sensitive prices, not to exceed the applicable maximum lawful price. Waiver of filing and reporting requirements inconsistent with this limited-term authority and pregranted abandonment is sought in order to make sales possible under said authority. Applicants assert the application is consistent with prior precedents, with the Commission's goals as enunciated in Order No. 436 et al., and is in the public interest.

Any person desiring to be heard or protest said application should on or before November 18, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25766 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI88-58-000 and CI88-67-000]

Newmont Oil Co.; Application for Permanent Abandonment and Blanket Limited-Term Certificate of Public Convenience and Necessity With Pregranted Abandonment

November 3, 1987.

Take notice that on October 26, 1987, Newmont Oil Company (Newmont), 600 Jefferson, 9th Floor, Houston, Texas, 77002, filed applications pursuant to sections 4 and 7 of the Natural Gas Act (NGA) and the provisions of 18 CFR Parts 154 and 157 and 18 CFR 2.77 (a)(2) seeking (i) permanent abandonment in Docket No CI88-67-000 of its sales of gas to Sea Robin Pipeline Company (Sea Robin) from E. Cameron Block 231, Offshore Louisiana, and (ii) a blanket limited-term certificate of public convenience and necessity in Docket No. CI88-58-000 authorizing the sale for resale in interstate commerce of the released gas with pregranted abandonment for a term from January 1, 1988, through December 31, 1990, as more fully described in the applications which are on file with the Commission and open for public inspection.

In support of its applications Newmont states that Sea Robin and Newmont have entered into an Agreement of Settlement and Release effective September 22, 1987. Such agreement provides for a one time single lump sum payment for prior year's take-or-pay, access by Newmont to Sea Robin's pipeline system at certain rates agreed to by Newmont and Sea Robin and cancellation of the subject July 1, 1977, contract. Newmont's share of production from the block is 3,320 Mcf/day. The gas is NGPA section 104 post 1974 gas (50%) and 102(d) gas (50%).

Certain sales proposed to be made by Newmont will not involve a dedication of reserves but will be based on periodic nominations, either by purchasers or by Newmont. The sales volumes, prices, purchasers, delivery points, and supply source will vary. Newmont proposes to sell and deliver to various short-term and spot gas purchasers all or a portion of the gas Newmont determines is available for sale at terms acceptable to Newmont for a particular time frame. Newmont will not be obligated to sell gas pursuant to any nomination or proposed nomination until the exact volumes, terms and conditions, and prices are agreed to by Newmont and a purchaser. The actual contract between Newmont and the short-term and spot gas purchaser may be for all or any portion of the quantity which was set out in the nomination or proposed nomination. Further, Newmont proposes to make sales on a best efforts basis where the price and term are agreed upon but there is no requirement on the purchaser or Newmont to sell a specific volume.

Newmont requests that its applications be considerd on an expedited basis under procedures established by Order No. 436, Docket No. RM85-1-000, at 18 CFR 2.77.[1] Newmont also requests waiver of certain of the Commission's regulations, including those in Part 154 relating to the filing and maintenance of rate schedules.

Since Newmont has requested that its applications be considered on an expedited basis, all as more fully described in the applications which are on file with the Commission and open to public inspection, any person desiring to be heard or to make any protest with reference to said applications should on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to be proceedings. Any person wishing to become a party to the proceedings herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Newmont to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25761, Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[1] The United States Court of Appeals for the District of Columbia vacated the Commission's Order No. 436 on June 23, 1987. In vacating Order No. 436, the Court rejected challenges to the Commission's statement of policy in § 2.77 of its Regulations. Section 2.77 states that the Commission will consider on an expedited basis applications for certificate and abandonment authority where the producers assert they are subject to substantially reduced takes without payment or where the parties have entered into a take-or-pay buy-out pursuant to § 2.76.

[Docket No. CI87-902-000]

Petroleum Square Marketing Inc., Application

November 3, 1987.

Take notice that on October 21 1987, Petroleum Square Marketing, Inc. (Applicant), of P.O. Box 7665, Shreveport, Louisiana 71137-7665 filed an application pursuant to sections 4 and 7 of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's regulations for a Certificate of Public Convenience and Necessity authorizing purchases and sales of natural gas in interstate commerce and for pregranted abandonment of all sales for which certificate authority is sought. Applicant also requests waiver of the Commission's regulations under Parts 154 and 271. Applicant is seeking such authorizations for gas released under permanent or limited term abandonment authorizations, gas released pursuant to Order Nos. 451 and 451-A and other natural gas subject to the Commission's jurisdiction which is not required by

certificate to be delivered to another purchaser.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25767 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

EXHIBIT A.—RESPONDENT NAME & CODE: SAMSON RESOURCES COMPANY 016599

Docket Nos.	Rate schedule No.	Purchaser name	NGA base rate	Applicable NGPA rate	Effective date of rate establishment
1. CI 62-1251-006	527	Arkla	.976	.976	April, 1987.
2. CI 75-429	562	Arkla	1.694	1.694	March, 1987.
3. CI 62-1251	527	Arkla	.975	.975	March, 1987.
4. CI 73-55-000	716	Arkla	.328	.328	April, 1987.

Location of sale in order of above:

1. Wilburton Field, Latimer County, Oklahoma.
2. Kinta Field, Latimer County, Oklahoma.
3. Kinta Field, Haskell County, Oklahoma.
4. West Wilburton Field, Pittsburg County, Oklahoma.

Date of Contract in order of above:

1. December 28, 1984.
2. December 28, 1984.
3. December 28, 1984.
4. June 7, 1972.

Effective date of transfer of ownership in order of above:

1. April 1, 1987.
2. March 1, 1987.
3. March 1, 1987.
4. April 1, 1987.

[FR Doc. 87-25766 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI62-1251-010, et al.]

Samson Resources Co.; Application

November 3, 1987.

Take notice that on October 20, 1987, Samson Resources Company (Applicant), of Two West Second Street, Tulsa, Oklahoma 74103, filed an application, pursuant to section 7(c) of the Natural Gas Act and § 157.23 *et seq.*, of the Federal Energy Regulatory Commission's regulations for a Certificate of Public Convenience and Necessity as successorin-interest to Sun Exploration & Production Company authorizing Applicant to continue to render service previously authorized by the Commission under Sun Exploration & Production Company's certificates of public convenience and necessity issued in the dockets listed on attached Exhibit "A". Samson Resources Company also requests redesignation of the related rate schedules previously held by Sun Exploration & Production Company as the rate schedules of Samson Resources Company. This application is on file with the Commission and open to public inspection.

Effective March 1, 1987 and April 1, 1987, Sun Exploration & Production Company assigned its interest in certain properties to Samson Resources Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[Docket No. RP87-107-001]

Texas Gas Transmission Corp.; Filing of Revised Tariff Sheets

November 3, 1987.

Take notice that on October 23, 1987, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Substitute First Revised Sheet Nos. 117 and 118 to its FERC Gas Tariff, Original Volume No. 1, and Substitute First Revised Sheet No. 440, Fifth Revised Sheet No. 559, Second Revised Sheet No. 559, Third Revised Sheet No. 591, and Second Revised Sheet No. 1008 to its FPC Gas Tariff, Original Volume No. 2.

Texas Gas states that the revised tariff sheets are being filed to make the necessary adjustments to section 25.1 of the General Terms and Conditions of Texas Gas's tariff to reflect the conforming amendments to § 154.38(d)(6) of the Commission's Regulations arising out of Order No. 472-B issued September 16, 1987 [52 FR 36013 (September 25, 1987) 40 FERC Para. 62,393], and also as directed by the "Order of the Director Accepting Annual Charge Adjustments" in Algonquin Gas Transmission Company, *et al.*, in Docket No. RP87-109, *et al.*, issued September 29, 1987.

Copies of the letter of transmittal are being served on Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 10, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a part must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25774 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI82-404-003 et al.]

TXP Operating Co.; Application

November 3, 1987.

Take notice that on October 23, 1987, TXP Operating Company (TXPO) of P.O. Box 1396, Houston, Texas 77251, filed an application pursuant to section 7 of the Natural Gas Act and § 157.23 *et seq.* of the Federal Energy Regulatory Commission's regulations for a Certificate of Public Convenience and Necessity as successor-in-interest to Shell Offshore Inc. (Shell), to render natural gas service previously authorized by the Commission from the properties covered by Shell's certificates of public convenience and necessity issued in the dockets listed on attached Exhibit "A". TXPO also requests redesignation of the related rate schedules previously held by Shell and that TXPO be substituted for Shell in any proceedings related to the dockets listed on the attached Exhibit "A" pending before the Commission. This application is on file with the Commission and open to public inspection.

Effective as of November 1, 1986, Shell Offshore Inc. assigned its interest in certain properties to TXP Operating Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Exhibit A

Field/State	Rate schedule No.	Certificate docket No.	Purchaser
East Cameron Block 336, Offshore, LA.	83	CI82-404	Texas Eastern Transmission Corp.
Vermilion Block 316, Offshore, LA.	86	CI83-33	Transcontinental Gas Pipe Line Corp.

[FR Doc. 87-25769 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-91-002]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 3, 1987.

Take notice that Williams Natural Gas Company (WNG) on October 22, 1987, tendered for filing Alternate Substitute Second Revised Sheet No. 6, Alternate First Revised Sheet No. 90 and Revised First Revised Sheet No. 91 to its FERC Gas Tariff, Original Volume No. 1. These tariff sheets are being filed to supplement the compliance filing made October 8, 1987 in Docket No. RP87-91-000.

WNG requests that if WNG is allowed to remove the incremental pricing provision from its tariff in Docket No. TA88-1-43, that the Commission accept Alternate Substitute Second Revised Sheet No. 6, Alternate First Revised Sheet No. 90 and Revised First Revised Sheet No. 91 to be effective October 1, 1987 in lieu of Substitute Second Revised Sheet No. 6 and Revised Original Sheet No. 97. Alternate First Revised Sheet No. 90 renumbers the ACA provision to Article 24 in the event the incremental pricing provision is removed. Alternate Substitute Second Revised Sheet No. 6 changes the Article number for FERC Annual Charge Adjustment from 25 to 24. Revised First Revised Sheet No. 91 removes incremental pricing language from the tariff.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 10, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25775 Filed 11-5-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3288-2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 19, 1987 through October 23, 1987 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 24, 1987 (52 FR 13749).

Draft EISs

ERP No. D-FHW-E40708-NC, Rating EC2, NC-90 Replacement, NC-90 at Taylorsville to I-40 at Statesville, Funding, 404 Permit, Alexander and Tredell Counties, NC. SUMMARY: EPA is concerned with predicted noise impacts and the absence of proposed mitigation. Reconsideration of noise abatement was therefore recommended. Additional review of possible wetland areas was also requested.

Final EISs

ERP No. F-OSM-E01009-TN, North Chickamauga Creek Watershed, Designation of Land Unsuitable for Surface Coal Mining Operations,

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Hamilton County, TN. **SUMMARY:** EPA continues to have environmental objections to the finding of the EIS that the petition area not be designated as unsuitable for surface coal mining. EPA recommended that this decision be reconsidered by OSM.

Dated: November 3, 1987.

Barbara Bassuener,

Acting Director, Office of Federal Activities.

[FR Doc. 87-25792 Filed 11-5-87; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3288-1]

Environmental Impact Statements Filed October 26 Through October 30, 1987; Availability

Responsible Agency

Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 870382, Final, COE, TN, Mill Creek Basin Flood Damage Reduction Plan, Mill and Sevenmile Creeks, Dry Dam Construction, Implementation, Davidson and Williamson Counties, Due: December 7, 1987, Contact: Patricia Coffey (615) 736-5068.

EIS No. 870383, final COE, TX, Trinity River and Tributaries Flood Plain Development Project, Implementation, Issuance of Permits, Dallas, Denton and Tarrant Counties, Due: December 11, 1987, Contact: Rebecca Griffith (817) 334-2095.

EIS No. 870384, Draft, FHW, VA, VA-664 Construction, US 58 Interchange at Bowers Hill in the City of Chesapeake to US 17 in the City of Suffolk, Funding, section 10 and 404 Permit, Due: December 21, 1987, Contact: James Tumlin (804) 771-2371.

EIS No. 870385, Final, COE, LA, Lake Pontchartrain and Lake Maurepas Clam Shell Dredging, 10-Year Permit Renewal, section 10 and 404 Permit, Livingston, Jefferson and St. Charles Parishes, Due: December 7, 1987, Contact: Laura Swilley (504) 862-2272.

EIS No. 870386, Final, COE, LA, Atchafalaya, East Cote Blanche and Four League Bays, Oyster Shell Dredging Operation, section 10 and 404 Permit, Iberia, St. Mary, Terrebonne and Vermilion Parishes. Due: December 7, 1987, Contact: Laura Swilley (504) 862-2272.

EIS No. 870387, Final, AFS, AZ, Apache-Sitgreaves National Forest, Land and Resource Management Plan, Implementation, Apache, Coconino, Greenlee and Navajo Counties, Due: December 7, 1987, Contact: Nick McDonough (602) 333-4301.

EIS No. 870388, Draft, AFS, NC, TN, Nolichucky Gore Segment, Wild and Scenic River Study, Eligibility and Suitability, National Wild and Scenic Rivers System, Nondesignation or Designation, Nolichucky River, Pisgah National Forest, Mitchell and Yancey Counties, NC and Cherokee National Forest, Unicol County, TN, Due: January 28, 1987, Contact: David Hammond (704) 257-4253.

EIS No. 870389, Final, AFS, MT, Helena National Forest, Noxious Weed Control Program, Implementation, Broadwater, Lewis and Clark, Jefferson, Meagher and Powell Counties, Due: December 7, 1987, Contact: W. John Padden (406) 449-5201.

Amended Notice

EIS No. 870365, Draft, BLM, OR, Brothers/La Pine Planning Area, Resource Management Plan, Due: January 15, 1987, Published FR 10-23-87—Review period extended.

Dated: November 3, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87-25791 Filed 11-6-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59838; FRL-3286-7]

Toxic Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). In the *Federal Register* of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of sixteen such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 88-17—November 5, 1987.

Y 88-18 and 88-19—November 8, 1987.

Y 88-20, 88-21, 88-22, 88-23 and 88-24—November 9, 1987.

Y 88-25, 88-26, 88-27, 88-28, 88-29, 88-30 and 88-31—November 10, 1987.

Y 88-32—November 11, 1987.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: the following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 88-17

Manufacturer. Confidential.
Chemical. (G) Modified acrylate terpolymer.
Use/Production. (G) Thickner for aqueous mixtures and nondispersive use. Prod. range: Confidential.

Y 88-18

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Industrial and commercial medium oil alkyd resin for use in architectural coatings. Prod. range: 228,000 to 1,295,676 kg/yr.

Y 88-19

Manufacturer. Confidential.
Chemical. (G) Polyester.
Use/Production. (G) Polyester used in the textile industry. Prod. range: Confidential.

Y 88-20

Manufacturer. Confidential.
Chemical. (G) Acrylate copolymer.
Use/Production. (G) Binder for unlike structures. Prod. range: Confidential.

Y 88-21

Manufacturer. Milliken Chemical.
Chemical. (G) Substituted phenylpolyoxyalkylene.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Y 88-22

Manufacturer. Milliken Chemical.
Chemical. (G) Substituted phenylpolyoxyalkylene.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Y 88-23

Manufacturer. Confidential.
Chemical. (G) Trisubstituted naphthol-azo-carbocyclepolyoxyalkylene.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Y 88-24

Manufacturer. Milliken Chemical.
Chemical. (G) Disubstituted naphthol-azo-carbocyclepolyoxyalkylene.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Y 88-25

Manufacturer. Federal Register Confidential.
Chemical. (G) Alkyd copolymer resin.
Use/Production. (S) Industrial and commercial use in fast dry coatings. Prod. range: 222,273 to 500,000 kg/yr.

Y 88-26

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Industrial plasticizing resin for nitrocellulose. Prod. range: 8,440 to 16,880 kg/yr.

Y 88-27

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Vehicle for making printing ink. Prod. range: 2,500 to 5,000 kg/yr.

Y 88-28

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Consumer a plasticizing resin used to make polyester resin and/or nitrocellulose lacquer more flexible. Prod. range: 15,100 to 30,200 kg/yr.

Y 88-29

Manufacturer. Confidential.
Chemical. (G) Styrene acrylic solution.
Use/Production. (G) Industrial maintenance coatings. Prod. range: Confidential.

Y 88-30

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Industrial for modifying nitrocellulose resins. Prod. range: 6,291 to 16,582 kg/yr.

Y 88-31

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Industrial vehicle for making printing ink. Prod. range: 4,420 to 8,840 kg/yr.

Y 88-32

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Industrial and commerical water reducible alky resin used in architecural paints and varnishes. Prod. range: 90,000 to 150,000 kg/yr.

Date: October 28, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87-25384 Filed 11-5-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51699; FRL-3286-6]

Toxic Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for secton 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-eight such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 88-96, 88-97, 88-98, 88-99 and 88-100—January 13, 1988.

P 88-101, 88-102, 88-103, 88-104, 88-105, 88-106, 88-107, 88-108, 88-109, 88-110, 88-111, 88-112, 88-113 and 88-114—January 16, 1988.

P 88-115, 88-116, 88-117, 88-118, 88-119, 88-120, 88-121, and 88-122—January 17, 1988.

P 88-123, 88-124, 88-125, 88-126 and 88-127—January 18, 1988.

P 88-128, 88-129, 88-130, 88-131, 88-132 and 88-133—January 19, 1988.

Written comments by:

P 88-96, 88-97, 88-98, 88-99 and 88-100—December 14, 1987.

P 88-101, 88-102, 88-103, 88-104, 88-105, 88-106, 88-107, 88-108, 88-109, 88-110, 88-111, 88-112, 88-113 and 88-114—December 17, 1987.

P 88-115, 88-116, 88-117, 88-118, 88-119, 88-120, 87-121 and 88-122—December 18, 1987.

P 88-123, 88-124, 88-125, 88-126 and 88-127—December 19, 1987.

P 88-128, 88-129, 88-130, 88-131, 88-132 and 88-133—December 20, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS-51699]" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M Street SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Contol Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, room E-611, 401 M Street SW., Washington, D.C. 20460 (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the PMNs received by EPA. The complete non-confidential PMNs are available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 88-96

Manufacturer. Confidential.
Chemical. (G) Modified acrylate terpolymer.
Use/Production. (G) Thickner for aqueous mixtures non-dispersive use. Prod. range: Confidential.

P 88-97

Manufacturer. Alox Corporation.
Chemical (G) Aliphatic ester.
Use/Production. (S) Industrial, commercial and consumer multi purpose rust preventive. Prod range: Confidential.

P 88-98

Manufacturer. Confidential.
Chemical. (G) Polyamide-olefin graft copolymer.
Use/Production. (G) Low modulus polyamide. Prod. range: Confidential.

P 88-99

Manufacturer. Polymer Industries Incorporated.
Chemical. (S) Adipic acid, 1,4 butane diol, neopentyl glycol, dibromoneopentyl glycol and tetrabutyl titanate.
Use/Production. (S) Commercial reactive polyol in urethane blends. Prod. range: 909,091 to 1,363,636 kg/yr.

P 88-100

Manufacturer. Alco Chemical Corporation.
Chemical. (G) Sodium ployacrylate acrylate copolymer salt and venylic copolymer.
Use/Production. (G) Thickening compound for aqueous system. Prod. range: Confidential.

P 88-101

Manufacturer. Milliken Chemical.
Chemical. (G) Ether substituted polyoxypropylene.

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Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 86–102

Manufacturer. Milliken Chemical.
Chemical. (G) Aminated ether substituted polyoxy propylene.
Use/Production. (G) Chemical intermediate—destructive use. Prod. range: Confidential.

P 86–103

Manufacturer. Milliken Chemical.
Chemical. (G) Chromophore substituted polyoxypropylene.
Use/Production. (G) Colorant. Prod. range: Confidential.

P 86–104

Manufacturer. Polymer Industries Incorporated.
Chemical. (S) Adipic acid, polyethylene terephthalate, dipropylene glycol, pentaerythritol and tetrabutyl titanate.
Use/Production. (S) Reactive polyol in urethane blends. Prod. range: 909,091 kg/yr.

P 86–105

Manufacturer. Polymer Industries Incorporated.
Chemical. (S) Adipic acid, triethylene glycol tetraethylene glycol and tetrabutyl titanate.
Use/Production. (S) Commercial reactive polyol in urethane blends. Prod. range: 909,092 kg/yr.

P 86–106

Manufacturer. Confidential.
Chemical. (G) Alkyd resin intermediate.
Use/Production. (G) Reactive intermediate. Prod. range: Confidential.

P 86–107

Manufacturer. Confidential.
Chemical. (G) A Copolymer alkyd resin.
Use/Production. (G) A copolymer alkyd resin to be used in an open, non-dispersive manner. Prod. range: Confidential.

P 86–108

Importer. Shin-Etsu Silicones of America, Incorporated.
Chemical. (G) Modified organo silicone.
Use/Import. (S) Industrial varnish for heat resistant paint and electrical insulation or moisture-proof coating. Import range: 2,000 to 3,000 kg/yr.

P 86–109

Importer. Shin-Etsu Silicones of America, Incorporated.
Chemical. (G) Organosiloxane.
Use/Import. (S) Industrial ingredient for silicone rubber compounds. Import range: 300 to 800 kg/yr.

P 86–110

Importer. Shin-Etsu Silicones of America, Incorporated.
Chemical. (G) Acyloxy modified organopolysiloxane.
Use/Import. (S) Industrial ingredient for silicone resin. Import range: 100 to 500 kg/yr.

P 86–111

Importer. Shin-Etsu Silicones of America, Incorporated.
Chemical. (G) Organopolysiloxane.
Use/Import. (S) Industrial textile finishing agents, additives for plastics or resins and coating. Import range: 1,000 to 2,000 kg/yr.

P 86–112

Importer. Shin-Etsu Silicones of America, Incorporated.
Chemical. (G) Organopolysiloxane.
Use/Import. (S) Industrial ingredients for silicone rubber compounds. Import range: 300 to 800 kg/yr.

P 86–113

Importer. Shin-Etsu Silicones of America, Incorporated.
Chemical. (S) Dimethyl cyclosiloxane, methylvinyl cyclosiloxane and hexavinyl disiloxane.
Use/Import. (S) Industrial ingredient for silicone coating agents and silicone rubber compounds. Import range: 2,000 to 5,000 kg/yr.

P 86–114

Importer. Shin-Etsu Silicones of America, Incorporated.
Chemical. (S) Dimethyl cyclosiloxane, 1,1,3,3-tetramethyl-1,3-bis(3-aminopropyl)disiloxane.
Use/Import. (S) Industrial textile finishing agents, additive for plastics and resins or rubbers. Import range: 300 to 500 kg/yr.

P 86–115

Importer. Hoechst Celanese Corporation.
Chemical. (G) Perfluoroalkenyltrialkylammonium salt.
Use/Import. (G) Emusifier for textile chemical. Import range: Confidential.
Toxicity Data. Acute oral: > 2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; LC_{50} 96 hr (Zebra fish): > 500 mg/1.

P 86–116

Manufacturer. Confidential.
Chemical. (G) Aliphatic alicyclic polyester.
Use/Production. (G) Industrial chemical intermediate. Prod. range: 35,000 to 70,000 kg/yr.

P 86–117

Manufacturer. Confidential.
Chemical. (G) Modified aliphatic alicyclic polyester.
Use/Production. (G) Industrial specialty polymer material. Prod. range: 36,000 to 72,000 kg/yr.

P 86–118

Manufacturer. Confidential.
Chemical. (G) Modified polyester polymer.
Use/Production. (G) Industrial chemical intermediate. Prod. range: 35,000 to 70,000 kg/yr.

P 86–119

Manufacturer. Confidential.
Chemical. (G) Carbopolycyclic methyl ammoniumpolycycle chloride.
Use/Production. (G) Industrial additive for oil well treatment chemical (contained use). Prod. range: Confidential.

P 86–120

Manufacturer. Confidential.
Chemical. (G) Modified alicyclic aliphatic polyester.
Use/Production. (G) Speciality polymeric material. Prod. range: 36,000 to 72,000 kg/yr.

P 86–121

Manufacturer. Confidential.
Chemical. (S) Styrene modified soybean oil, linseed oil, glycerine, chlorendic and anhydride alkyd resin.
Use/Production. (S) Industrial, commercial and consumer component of a coating to be applied to various articles of commerce. Prod. range: 400,000 to 800,000 kg/yr.

P 86–122

Importer. Confidential.
Chemical. (G) Alkalibusulfite polymer with an alkylaldehyde and a substituted phenol.
Use/Import. (S) Leather tanning agent. Import range: Confidential.

P 86–123

Manufacturer. The Dow Chemical Company.
Chemical. (G) Reactive polymeric surfactant.
Use/Production. (G) Industrial membrane manufacture. Prod. range: Confidential.

P 86–124

Manufacturer. Confidential.
Chemical. (G) Alkyl substituted cyclic amine.

Use/Production. (G) Chlorine extender. Prod. range: Confidential.

P 86–125

Importer. Confidential.
Chemical. (S) Polyethylene glycol, bisphenol A, dipropoxylated bisphenol A, epoxy resin, adipic acid and tetrahydrophthatic anhydride.
Use/Import. (G) Industrial open, non-dispersive use. Import range: Confidential.

P 86–126

Importer. Confidential.
Chemical. (S) Neopentyl glycol, 1,6-hexanediol 1,4 butane diol polymer of propylene and ethylene oxide adipic acid isophorone diisocyante and hydrazin.
Use/Import. (G) Industrial open, non-dispersive use. Import range: Confidential.

P 86–127

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylate methacrylate.
Use/Production. (G) Industrial polymer having a dispersive use. Prod. range: 50,000 to 500,000 kg/yr.

P 86–128

Manufacturer. Confidential.
Chemical. (S) 4-Chloro-3-nitrobenzaldehyde.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: 300 to 2,300 kg/yr.

P 86–129

Manufacturer. Confidential.
Chemical. (G) Substituted phenylamino substituted carbopolycycle sulfonic acid, salt.
Use/Production. (G) Industrial open, non-dispersive use. Prod range: Confidential.

P 86–130

Manufacturer. Confidential.
Chemical. (G) Disubstituted triazinylamino sulfophenyl substituted heteromonocyclic disubstituted benzenesulfonic acid.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 86–131

Importer. Confidential.
Chemical. (G) Salt of poly hydroxy styrene with tertiary aromatic amine.
Use/Import. (G) Industrial adhesive curing catalyst. Import range: Confidential.
Toxicity Data. Acute oral: <5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

P 86–132

Importer. Shin-Etsu Silicones of America, Incorporated.
Chemical. (S) Ethenyl tris[(1-methylethenyl)]silane.
Use/Import. (S) Industrial crosslinking agent for one component silicone RTV rubber compounds. Import range: 100 to 1,000 kg/yr.
Toxicity Data. Acute oral: <20 mg/kg.

P 86–133

Importer. Shin-Etsu Silicones of America, Incorporated.
Chemical. (S) Tris[(1-methylethenyl)oxy]phenyl silane.
Use/Import. (S) Industrial crosslinking agent for one-component silicone RTV rubber. Import range: 100 to 1,000 kg/yr.
Toxicity Data. Acute oral: 5 mg/kg; Ames test: Non-mutagenic.

Date October 26, 1987.

Denise Devoe,
Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87–25385 Filed 11–5–87; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–51700; FRL–3288–6]

Toxic Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-eight such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 88–134, 88–135, 88–136, 88–137, 88–138, 88–139, 88–140, 88–141 and 88–142—January 20, 1988.
P 88–143, 88–144, 88–145, 88–146, 88–147, 88–148, 88–149, 88–150, 88–151, 88–152 and 88–153—January 23, 1988.
P 88–154, 88–155, 88–156, 88–157, 88–158, 88–159, 88–160, 88–161, 88–162, 88–163 and 88–164—January 24, 1988.
P 88–165 and 88–166—January 25, 1988.
P 88–167, 88–168, 88–169, 88–170 and 88–171—January 26, 1988.

Written comments by:

P 88–134, 88–135, 88–136, 88–137, 88–138, 88–139, 88–140, 88–141 and 88–142—December 21, 1987.
P 88–143, 88–144, 88–145, 88–146, 88–147, 88–148, 88–149, 88–150, 88–151, 88–152 and 88–153—December 24, 1987.
P 88–154, 88–155, 88–156, 88–157, 88–158, 88–159, 88–160, 88–161, 88–162, 88–163 and 88–164—December 25, 1987.
P 88–165 and 88–166—December 26, 1987.
P 88–167, 88–168, 88–169, 88–170 and 88–171—December 27, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS–51700]" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Rm. L–100, 401 M Street, SW., Washington, DC 20460, (202) 554–1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the PMNs received by EPA. The complete non-confidential PMNs are available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 88–134

Manufacturer. Confidential.
Chemical. (G) Acrylate polymer.
Use/Production. (G) Flocculant for use in water treatment. Prod. range: Confidential.

P 88–135

Manufacturer. Allied-Signal Incorporated.
Chemical. (G) Graft copolymer of polyamide and saponified PVA.
Use/Production. (G) A component of a polymer mixture designed to impart improved barrier characteristics in plastics formulation. Prod. range: Confidential.

P 88–136

Manufacturer. Confidential.
Chemical. (G) Methacrylic monomer.
Use/Production. (G) Monomer to be used in the production of high molecular. Prod. range: Confidential.

P 88–137

Manufacturer. Confidential.
Chemical. (G) Metacrylic monomer.

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Use/Production. (G) Monomer to be used in the production of high molecular. Prod. range: Confidential.

P 88-138

Manufacturer. Confidential.
Chemical. (G) Methacrylate polymer.
Use/Production. (G) Flocculant for use in water treatment. Prod. range: Confidential.

P 88-139

Manufacturer. Confidential.
Chemical. (G) Polymer rubber copolymer.
Use/Production. (G) Multi-use flexible polyamide. Prod. range: Confidential.

P 88-140

Manufacturer. Confidential.
Chemical. (G) Aliphatic aromatic polyester.
T3Use/Production. (G) Industrial paint polymeric component. Prod. range: 5,000 to 25,000 kg/yr.

P-88-141

Manufacturer. The Minnesota Mining and Manufacturing Company.
Chemical. (G) Perfluoroalkylsulfonamide salt.
T3Use/Production. (G) Industrial additive. Prod. range: Confidential.

P 88-142

Manufacturer. Confidential.
Chemical. (G) Polyamide rubber copolymer.
T3Use/Production. (G) Multi-use flexible polyamide. Prod. range: Confidential.

P 88-143

Importer. Confidential.
Chemical. (S) Benzoic acid, 2-mercapto, methyl ester.
T3Use/Import. (S) Consumer fragrance ingredient. Import range: Confidential.

T3Toxicity Data. Acute oral: 759 mg/kg; Irritation: Skin—No-irritant, Eye—Non-irritant; Ames test: Non-mutagenic.

P 88-144

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
T3Use/Production. (S) Industrial a high solids alkyd resin used in industrial coatings. Prod. range: 160,000 to 235,000 kg/yr.

P 88-145

Importer. Dia Nippon Printing Company, Ltd.
Chemical. (G) Indophenol derivative.
T3Use/Import. (S) Consumer dye for hear transfer recording material. Import range: 20 to 100 kg/yr.

T3Toxicity Data: Male: 2.19 g/kg. Female: >5.00 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Mutagenic.

P 88-146

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
T3Use/Production. (S) Industrial and commercial high solids industrial baking alkyd. Prod. range: 152,138 to 250,000 kg/yr.

P 88-147

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Acrylic polymer.
T3Use/Production. (G) Industrial and commercial open, non-dispersive use. Prod. range: Confidential.

P 88-148

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G)— Acrylic polymer.
T3Use/Production. (G) Industrial and commercial open, non-dispersive use. Prod. range: Confidential.

P 88-149

Manufacturer. Alcolac Incorporated.
Chemical. (S) Poly[oxy-1,2-ethanediyl], alpha-(2-methyl-1-oxo-2-propenyl)-omega-(docosyl).
T3Use/Production. (G) Associative thickeners. Prod. range: Confidential.

P 88-150

Manufacturer. The Dow Chemical Company.
Chemical. (G) Hydroxylated resin.
T3Use/Production. (S) Commerical coatings. Prod. range: Confidential.

P 88-151

Manufacturer. The Dow Chemical Company.
Chemical. (G) Hydroxylated resin.
T3Use/Production. (S) Commerical coatings. Prod. range: Confidential.

P 88-152

Importer. Shin-Etsu Silicones of America, Incorporated.
Chemical. (S) Siloxanes, vinyl, partially hydrolyzed, methoxy terminated.
T3Use/Import. (S) Industrial crosslinking agent for silicone rubber. Import range: 300 to 600 kg/yr.

P 88-153

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Aromatic phosphonate.
T3Use/Production. (G) Lubricant additive. Prod. range: Confidential.

P 88-154

Manufacturer. Rohm and Haas Company.
Chemical. (G) Modified acrylic polymer.
T3Use/Production. (G) Polymeric processing aids in contained use. Prod. range: Confidential.
T3Toxicity Data: Acute oral: > 5 g/kg; Acute dermal: > 5 g/kg; Irritation: Skin-Non-irritant.

P 88-155

Manufacturer. Hanna Chemical Coating Corporation.
Chemical. (G) Saturated polyester.
T3Use/Production. (G) Industrial and commercial polyester vehicle for use in pigmented synthetic coatings. Prod. range: 65,000 to 140,000 kg/yr.

P 88-156

Manufacturer. Confidential.
Chemical. (G) Methacrylic acid, polymer with dioxoheteromonocycle and expoxide.
T3Use/Production. (G) Molding resin-open, non-dispersive use. Prod. range: Confidential.

P 88-157

Manufacturer. Confidential.
Chemical. (G) Methacrylic acid, polymer with dioxoheteromonocycle and epoxide.
T3Use/Production. (G) Molding resin—open, non-dispersive use. Prod. range: Confidential.

P 88-158

Manufacturer. Confidential.
Chemical. (G) Cycloalkenyl substituted alkyl alkanol.
Use/Production. (G) Functional products fragrance and fine fragrance component. Prod. range: Confidential.
Toxicity Data. Actute oral: 3.6 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—Slight irritant, Eye—Non-irritant; Ames test: Non-mutagenic.

P 88-159

Manufacturer. Hack Company.
Chemical. (S) Propionic acid, lithium salt (1:1).
Use/Production. (S) Industrial Buffer solution for chloride analyzer. Prod range: 500 to 500 kg/yr.

P 88-160

Manufacturer. Hack Company.
Chemical. (S) Maleic acid, dilithium salt.
Use/Production. (S) Industrial buffer solution for chloride analyzer. Prod range: 1,200 to 1,200 kg/yr.

P 88-161

Manufacturer. Hack Company.
Chemical. (S) Maleic acid, monolithium salt.
Use/Production. (S) Industrial buffer solution for chloride analyzer. Prod range: 1,200 to 1,200 kg/yr.

P 88-162

Manufacturer. Confidential.
Chemical. (G) Polyestermide resin.
Use/Production. (G) Intermediate for electrical insulation coating. Prod range: Confidential.

P 88-163

Manufacturer. Confidential.
Chemical. (G) Polyestermide resin.
Use/Production. (G) Intrermediate for electrical insulation coatings. Prod range: Confidential.

P 88-164

Manufacturer. PPG Industries, Incorporated.
Chemical. (G) Aliphatic polyamino alcohol.
Use/Production. (G) Industrial coating component with a dispersive use. Prod range: 5,000 to 400,000 kg/yr.

P 88-165

Manufacturer. Confidential.
Chemical. (G) Chlorinated alkyd resin.
Use/Production. (S) Industrial alkyd resin for use in fire retardant coatings. Prod range: 236,978 kg/yr.

P 88-166

Manufacturer. Confidential.
Chemical. (G) Chlorinated alkyd resin.
Use/Production. (S) Industrial alkyd resin for use in fire retardant coatings. Prod range: 947,913 to 947,913 kg/yr.

P 88-167

Manufacturer. SCM Glidco Organics.
Chemical. (S) Terpenoids-pinanol pyrolysis and isomerization to linalool by products consists mostly of plinols, transpinanol, linalool, pinocampheol, fenchol and lesser amounts of other terpenoids.
Use/Production. (S) Industrial, commercial and consumer solvent and raw material for perfume compound. Prod range: 2,010,000 to 3,000,000 kg/yr.

P 88-168

Manufacturer. SCM Glidco Organics.
Chemical. (S) Terpenesand terpenoids-linalool isomerization by-products consists of alpha-pinene, dihydromycene, camphene, beta-pinene, myrcene, limonene and other terpene hydrocarbons in the hydrocarbon fraction.
Use/Production. (S) Industrial, commercial and consumer solvent. Prod. range: Confidential.

P 88-169

Manufacturer. Confidential.
Chemical. (G) Calcium and strontium salt of the azo dye.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 88-170

Manufacturer. Confidential.
Chemical. (G) Calcium and strontium salt of the azo dye.
Use/Production. (G) Calcium and strontium salt of the azo dye. Prod. range: Confidential.

P 88-171

Importer. MTC America, Incorporated.
Chemical. (S) Styrene with methyl methacrylate, iso-butyl acrylate, 2-hydroxyethyl methacrylate and glycidyl methacrylate.
Use/Production. (S) Industrial powder coating. Prod. range: Confidential.

Date: November 2, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87-25736 Filed 11-5-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59939; FRL-3288-7]

Toxic Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984 (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of five such PMNs and provides the summary.

DATES: Close of Review Period:
Y 88-33—November 12, 1987.
Y 88-34 and 88-35—November 15, 1987.
Y 88-36—November 16, 1987.
Y 88-37—November 13, 1987.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the exemption received by EPA. The complete non-confidential documents are available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 88-33

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Consumer a water reducible alkyd resin for use in architectural coatings. Prod. range: 44,127 to 44,127 kg/yr.

Y 88-34

Manufacturer. Emery Chemicals.
Chemical. (S) Adipic acid, phthalic anhydride ethylene glycol and isooctanol.
Use/Production. (S) Industrial plasticizer for polyvinyl chloride resin. Prod. range: 100,000 to 500,000 kg/yr.

Y 88-35

Manufacturer. Reichhold Chemical Incorporated.
Chemical. (G) Rosin modified alkyd.
Use/Production. (S) Industrial nitrocellulose based lacquers and coatings. Prod. range: Confidential.

Y 88-36

Manufacturer. Confidential.
Chemical. (S) Alkyd resin and polyester resin.
Use/Production. (S) Polymer is used as a component in a protective coating (paint) that is intended for use on metal substrates. Prod. range: 7143 kg/yr.

Y 88-37

Manufacturer. Confidential.
Chemical. (G) Bodied vegetable oil.
Use/Production. (S) Industrial and commercial vehicle for making printing inks. Prod. range: 50,000 to 80,000 kg/yr.

Date: November 2, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87-25737 Filed 11-5-87; 8:45 am]

BILLING CODE 6560-50-M

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FEDERAL MARITIME COMMISSION

Agreements filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-003705-004

Title: Long Beach Preferential Assignment Agreement.
Parties:
City of Long Beach
Cooper Stevedoring Co., Inc. (Cooper).
Synopsis: The proposed agreement extends the term of the basic agreement, as amended, from October 31, 1987 through December 31, 1987 and for additional periods, in one or more segments if the assigned premises are available for use by Cooper, but not beyond December 31, 1988.

Agreement No.: 224-003945A-004

Title: Port of Oakland Terminal Agreement.
Parties:
Port of Oakland
Maersk Line Pacific, Ltd.
Synopsis: The proposed agreement extends the original term of the basic agreement for an additional two months to terminate 12-31-87.

Agreement No.: 224-003945-009

Title: Port of Oakland terminal Agreement.
Parties:
Port of Oakland
Maersk Line Pacific, Ltd.
Synopsis: The proposed agreement extends the original term of the basic agreement for an additional two months to terminate 12-31-87.

Agreement No.: 224-003996-001

Title: Puerto Rico Ports Authority Terminal Agreement.
Parties:
Puerto Rico Ports Authority (PRPA)
Molino's Puerto Rico, Inc. (Molino's)
Synopsis: The proposed agreement provides for an extension of five additional years, beginning on December 15, 1986 and ending December 14, 1991, to Agreement No. T-3996.

Agreement No.: 224-010825A-001

Title: Los Angeles Terminal Agreement.
Parties:
City of Los Angeles (LA)
Evergreen Marine Corporation (Evergreen)
Synopsis: Under the proposed agreement LA makes a temporary substitution of Crane 209-10 for Crane 209-12.

Agreement No.: 224-010975-001

Title: Maryland Port Administration Terminal Agreement.
Parties:
Maryland Port Administration
Ceres Corporation
Synopsis: The proposed agreement provides that unless otherwise provided in the terms of the Agreement and Lease, the terms and provisions of the Maryland Port Administration Terminal Services Tariff No. 10 and its successor terminal service tariffs shall govern the Agreement and Lease.

Agreement No.: 224-200055

Title: Port of Maryland Terminal Agreement.
Parties:
Maryland Port Administration
Meehan Overseas Terminals of Cambridge, Ltd. (Meehan)
Synopsis: The proposed agreement authorizes the lease of 7.5 acres of property and improvements at Cambridge Marine Terminal in Cambridge, MD. to Meehan for the berthing of its vessels for loading, discharging and storage of cargoes and for operations supplemental thereto. The agreement and lease is for a period of three years, with two extensions of three years at the option of Meehan.

Agreement No.: 224-200057

Title: Port of Tampa Terminal Agreement.
Parties:
Tampa Port Authority
Garrison Stevedoring, Inc. (Garrison)
Synopsis: The proposed agreement authorizes the lease of approximately ten acres of waterfront property in Hillsborough County, Florida for use by Garrison in connection with its stevedoring and terminal operations. The term of this agreement is for a period of two years, commencing November 1, 1987 through October 31, 1989.

Agreement No.: 224-200058

Title: Maryland Port Administration Agreement.
Parties:
Maryland Port Administration (MPA)
Toyota Motor Sales (Toyota)
Synopsis: The proposed agreement provides for Toyota to lease from MPA portions of the former Maryland Ship Building and Drydock site in Baltimore for use as a vehicle receiving and processing facility.

By Order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary.

Dated: November 3, 1987.

[FR Doc. 87-25743 Filed 11-5-87; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

November 2, 1987.

Background

Notice is hereby given of final approval of a proposed information collection by the Board of Governors of the Federal Reserve System under OMB delegated authority as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public). This information collection was approved by the Board on October 28, 1987 in connection with approval of an amendment to Regulation H specifying the conditions for amortization of losses on qualified agricultural loans, as provided under the Competitive Equality Banking Act of 1987 ("the Act"). The regulation was approved as a final rule with an effective date of November 9, 1987, to comply with the requirement in the Act that an implementing rule be in place within 90 days of the effective date of the Act. Although the rule and the accompanying reporting requirements are approved under expedited procedures in view of the statutory deadline, a comment period is being provided.

DATES: Comments regarding this information collection must be received on or before November 23, 1987.

ADDRESSES: Comments, which should refer to the OMB Docket number, should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT:

Rhoger H. Pugh, Manager, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202-452-5883)

Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202-452-3822)

OMB Desk Officer—Robert Fishman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, (202-395-7340)

Approval Under OMB Delegated Authority of the Implementation of the Following Report

Report title: Report by Banks Proposing to Amortize Losses on Qualified Agricultural Loans
Agency form number: FR 4020
OMB Docket number: 7100-0226
Frequency: on occasion
Reporters: U.S. commercial banks
Annual reporting hours: 136
Small businesses are affected.
General description of report: This report is authorized by law (Pub. L. 100-86; 12 U.S.C. 321 *et seq.*). Individual respondent data may be given confidential treatment (5 U.S.C. 552 (b)(4) and (b)(8)).

This report specifies the information required to establish a bank's eligibility to amortize losses on qualified agricultural loans as authorized by the Competitive Equality Banking Act of 1987. The information is requested in the form of a proposal from the bank documenting its eligibility, providing details of the loans on which the bank proposes to amortize losses, outlining a capital restoration plan, and providing other necessary information.

Board of Governors of the Federal Reserve System, November 2, 1987.
William W. Wiles,
Secretary of the Board.

[FR Doc. 87-25700 Filed 11-5-87; 8:45 am]
BILLING CODE 6210-01-M

Agency Forms Under Review

November 2, 1987.

Background

Notice is hereby given of the submission of proposed information collection(s) to the Office of Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (Title 44 U.S.C. Chapter 35) and under OMB regulations on Controlling Paperwork Burdens on the Public (5 CFR Part 1320). A copy of the proposed information collection(s) and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the OMB desk officer listed in the notice. OMB's usual practice is not to take any action on a proposed information collection until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

FOR FURTHER INFORMATION CONTACT:
Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 0551, (202-452-3822)
OMB Desk Officer—Robert Fishman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, (202-395-7340)

Request for OMB approval to revise the following report:
Report title: Reports of Condition and Income
Agency form number: FFIEC 031-034
OMB Docket number: 7100-0036
Frequency: Quarterly
Reporters: State member banks
Annual reporting hours: 149,178
Small businesses are affected.
General description of report: This information collection is mandatory (12 U.S.C. 324) and is given partial confidential treatment.

State member banks are required to file detailed schedules of assets, liabilities, and capital accounts in the form of a condition report and summary statement; detailed schedule of operating income and expense, sources and disposition of income, and changes in equity capital in the form of an income statement; and a variety of supporting schedules. Data are used for supervisory and monetary policy purposes. The proposed revisions for December 1987 consist of the addition of items of Schedules RC & RC-M on the FFIEC 034 to collect information on amortization of agricultural loans as provided under the Competitive Equality Banking Act of 1987. The proposed revisions for March 1988 consist of a format change substituting nine specific questions in place of the current free-form questions on Schedules RI-E of all reports, to permit electronic entry.

Board of Governors of the Federal Reserve System, November 2, 1987.
William W. Wiles,
Secretary of the Board.

[FR Doc. 87-25701 Filed 11-5-87; 8:45 am]
BILLING CODE 6210-01-M

American Interstate Bancorporation, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than November 27, 1987.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American Interstate Bancorporation, Inc.*, Omaha, Nebraska; to acquire 96 percent of the voting shares of The First National Bank of Paullina, Paullina, Iowa.

Board of Governors of the Federal Reserve System, November 2, 1987.
James McAfee,
Associate Secretary of the Board.

[FR Doc. 87-25696 Filed 11-5-87; 8:45 am]
BILLING CODE 6210-01-M

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Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies; Donald D. Crader

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 20, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Donald D. Crader and Nancee Y. Crader*, Marble Hill, Missouri; to acquire an additional 13.33 percent of the voting shares of Exlanco, Inc., Sikeston, Missouri, and thereby indirectly acquire Security Bank of Bollinger County, Lutesville, Missouri.

Board of Governors of the Federal Reserve System, November 2, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25697 Filed 11-5-87; 8:45 am]

BILLING CODE 6210-01-M

First Colonial Bankshares Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Colonial Bankshares Corporation*, Chicago, Illinois; to engage *de novo* through its subsidiary, First Colonial Trust Company, Pak Park, Illinois, in trust company activities pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 2, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25698 Filed 11-5-87; 8:45 am]

BILLING CODE 6210-01-M

Fleet Financial Group, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) (2) or (f) of the Board's Regulation Y (12 CFR 225.23(a) (2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island; to acquire Fleet Real Estate Funding Corp., Columbia, South Carolina, and thereby engage in mortgage origination and servicing activities pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 2, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25699 Filed 11-5-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 23, 1987.

Office of the Secretary

(Call Reports Clearance Officer on 202-245-0509 for copies of package)

1. Report of Capitalized Non-Expendable Equipment—0990-0081—This form is submitted by contractors when requesting reimbursement of costs incurred in the purchase of fabrication of capitalized nonexpendable equipment, or for reporting of inventory upon contract completion. The information is used by the Department to monitor and assure control of capitalized nonexpendable equipment. Respondents: State or local governments, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations. Number of Respondents: 3,600; Frequency of Response: Occasionally; Estimated Annual Burden: 900 hours.

2. Recordkeeping Requirements for Government-owned/Contractor Held Property—0990-0015—The recordkeeping requirements established by the Department for Government owned/contractor held property are necessary for HHS to monitor Government property as required by the Federal Property and Administrative Services Act of 1949. Respondents: State or local governments, Businesses or other for-profit, Non-profit organizations, Small businesses or organizations. Number of Respondents: 4,500; Frequency of Response: Recordkeeping; Estimated Annual Burden: 450 hours.

3. Federal Cash Transaction Report—0990-0078—This report, the Department's computerized version of the SF 272 is submitted by recipients of HHS grant awards who are paid through the Payment Management System. The Department uses the information to monitor advances and obtain disbursement information consistent with cash management principles established by OMB and Treasury. Respondents: State or local governments, Businesses or other for-profit, Non-profit institutions. Number of Respondents: 9,000; Frequency of Response: Quarterly; Estimated Annual Burden: 144,000 hours.

4. Request for Advance or Reimbursement—0990-0059—This form, the Department's computerized version of the SF-270 is used by grant recipients to request funds from HHS. Respondents: State or local governments, Businesses or other for-profit, Non-profit institutions. Number of Respondents: 6,997; Frequency of Response: Occasionally; Estimated Annual Burden: 20,991 hours.

Desk Officer: Shanna Koss.

Health Care Financing Administration

(Call Reports Clearance Officer on 301-594-1238 for copies of package)

1. Post Certification Revisit Report—0938-0044—This form provides a uniform formal depicting action accomplished and used as a follow-up to detect deficiencies reported on form HCFA-2567. Information from this form is used to make decisions concerning certification of health care facilities participating in Medicare. Respondents: State or local governments. Number of Respondents: 30,000; Frequency of Response: Annually; Estimated Annual Burden; 2,500 hours.

2. Fire Safety Survey Report Forms—0938-0242—These forms are used by the State agency to record data collected in order to determine compliance with individual conditions during fire safety surveys and report it to the Federal government. Respondents: State or local governments. Number of Respondents: 53; Frequency of Response: Annually; Estimated Annual Burden: 20,637 hours.

3. Information Collection Requirements Contained in 42 CFR 405.1202, 1221, 1223, 1228 and Conditions of Participation for Home Health Agencies—0938-0365—Home Health Agencies participating in Medicare are required to maintain this information in order to show compliance with published health and safety standards. Respondents: Businesses or other for-profit, Small businesses or organizations. Number of Respondents: 5,850; Frequency of Response: Annually; Estimated Annual Burden: 189,950 hours.

4. Hospital Survey Report Form—0938-0382—This survey form is an instrument used by the State agency to record data collected in order to determine compliance with the revised conditions of participation and report it to the Federal government. Respondents: State or local governments. Number of Respondents: 53; Frequency of Response: Annually; Estimated Annual Burden: 4,617 hours.

OMB Desk Officer: Allison Herron

Public Health Services

(call Reports Clearance Officer on 202-245-2100 for copies of package)

Health Resources Services Administration

1. Uncompensated Services Reporting and Recordkeeping—0915-0077—Health Care Facilities which have received funds under Titles VI and XVI of the PHS Act are required to provide prescribed amounts of care to persons unable to pay and to submit to the Secretary data and information which reasonably demonstrates compliance with this requirement. Individuals denied such care have a right to appeal that denial to the Secretary. Respondents: Individuals or households, State or local governments, Non-profit institutions. Number of Respondents: 4,041; Frequency of Response: Occasionally; Estimated Annual Burden: 1,649,946 hours.

2. HRSA Noncompeting Training Grant Application—0915-0061—Approval is requested to use the HRSA Continuation Training Grant Application for HSRA training grants and cooperative agreements to apply for noncompeting continuation awards. Respondents: State or local governments, Non-profit institutions. Number of Respondents: 680; Frequency of Response: Occasionally; Estimated Annual Burden: 17,170 hours.

Food and Drug Administration

1. Allocation of Color Additives—NEW—The regulation concerning presentation of data about the specific provisionally and permanently listed uses of color additives requests information which the Secretary will base (1) the determination of which use or uses of the additive shall remain or be listed, (2) allocation of allowable safe tolerance of additive. Respondents: Businesses or other for-profit, Small businesses or organizations. Number of Respondents: 230; Frequency of Response: Occasionally; Estimated Annual Burden: 230 hours.

2. Request for Certification of an Insulin Batch—0910-0181—Analytical data prerequisite for batch certification without which the batch cannot legally be distributed. Program is mandated by statute and is self-supporting through fees. Respondents: Businesses or other for-profit. Number of Respondents: 3; Frequency of Response: Occasionally; Estimated Annual Burden: 533 hours.

OMB Desk Officer: Shanna Koss

As mentioned above, copies of the information collection clearance packages can be obtained by calling the Reports Clearance Officer, on one of the following numbers: OS: 202-245-0509; HCFA: 301-594-1238; PHS: 202-245-2100.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, Attn.: (Name of OMB desk officer).

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Date: November 2, 1987.

Raffie Shahrigian,

Acting Deputy Assistant Secretary, Administrative and Management Services.

[FR Doc. 87-25741 Filed 11-5-87; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 87F-0332]

Filing of Food Additive Petition; Ausimont USA, Inc.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ausimont USA, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethylene/chlorotrifluoroethylene copolymer in repeated use articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B4040) has been filed by Ausimont USA, Inc., Fluoropolymer Division, P.O. Box 2332 R, Morristown, NJ 07960, proposing that § 177.1380 *Fluorocarbon resins* (21 CFR 177.1380) be amended to provide for the safe use of ethylene/chlorotrifluoroethylene copolymer in repeat use articles intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 29, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-25689 Filed 11-5-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87F-0326]

Filing of Food Additive Petition; Ciba-Geigy Corp.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3,3'-[(2,5-dimethyl-1,4-phenylene)bis[imino(1-acetyl-2-oxo-2,1-ethanediyl)azo]]bis[4-chlor-*N*-(5-chloro-2-methylphenyl)-benzamide] as a colorant for polymers intended to contact food.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION:

Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B4033) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.3297 *Colorants for polymers* (21 CFR 178.3297) be amended to provide for the safe use of 3,3'-[(2,5-dimethyl-1,4-phenylene)bis[imino(1-acetyl-2-oxo-2,1-ethanediyl)azo]]bis[4-chloro/*N*-(5-chloro-2-methylphenyl)-benzamide] as a colorant for polymers intended to contact food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 23, 1987.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-25690 Filed 11-5-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87F-0331]

Filing of Food Additive Petition; Mitsui Toatsu Chemicals, Inc.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Mitsui Toatsu Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of bis(p-ethylbenzylidene) sorbitol for use as a clarifying agent in propylene homopolymer and copolymer articles intended for contact with food.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786 (21 U.S.C. 348(b) (5))), notice is given that a petition (FAP 7B4042) has been filed by Mitsui Toatsu Chemicals, Inc., 140 East 45th St., New York, NY 10017, proposing that § 178.3295 *Clarifying agents for polymers* (21 CFR 178.3295) be amended to provide for the safe use of bis(p-ethylbenzylidene) sorbitol for use as a clarifying agent in propylene homopolymer and copolymer articles intended for contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 23, 1987.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-25691 Filed 11-5-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87F-0338]

Filing of Food Additive Petition; PQ Corp.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administraion (FDA) is announcing that the PQ Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of zeolite A in the manufacture of paper and paperboard for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B4030) has been filed by PQ Corp., P.O. Box 258, Lafayette Hill, PA 19444, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of zeolite A in the manufacture of paper and paperboard for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 29, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-25692 Filed 11-5-87; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of Portions of a California State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on December 8, 1987 in San Francisco, California to reconsider our decision to disapprove portions of California State Plan Amendment 85-19.

Closing Date: Requests to participate in the hearing as a party must be received by the Docket Clerk November 23, 1987.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION:

This notice announces an administrative hearing to reconsider our decision to disapprove portions of a California State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that information in a notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether California SPA 85-19, portions of which relate to the methods and standards proposed for determining whether an individual's resources are within program limits, violates section 1902(a)(10)(A) and 1902(a)(10)(C)(i)(III) of the Social Security Act.

In general, the Medicaid statute requires States to use the eligibility rules of the Supplemental Security Income (SSI) program in determining Medicaid eligibility of all aged, blind and disabled individuals and to use the rules of the Aid to Families with Dependent Children (AFDC) program in determining Medicaid eligibility of AFDC-related individuals (sections 1902(a)(10)(A) and 1902(a)(10)(C)(i)(III) of the Act. The only applicable exception to this requirement with regard to California's SPA 85-19 is that section 2373(c) of the Deficit Reduction Act of 1984 (DEFRA) and the recently enacted Medicare and Medicaid Patient and Program Protection Act of 1987 provide that where a State used more liberal eligibility criteria than the cash assistance program in determining eligibility for individuals under its medically needy program, and three specified optional categorically needy groups, HCFA can take no adverse action against the State in the form of disallowances, penalties, quality control errors, etc., during a period beginning October 1, 1981 and ending February 17, 1989. This is known as the DEFRA moratorium.

On August 18, 1987 Pub. L 100-93 amended the moratorium established by section 2373(c) the Deficit Reduction Act of 1984. Among othe things, the amendment makes clear that the moratorium affords protection to State plan amendments (whether or not approved) as well as existing approved State plans. The moratorium is limited to the medically needy and the optional categorically needy groups described in sections 1902(a)(10)(A)(ii)(IV), (V), and (VI). It also applies only to provisions which do not make *any individual* ineligible who would be eligibile except for that provision. Thus, provisions which are more restrictive in any respect than the cash assistance rules are not protected. However, the moratorium does not preclude HHS from disapproving State plan submittals which do not satisfy the requirements of the Medicaid statute, but prevents HHS from penalizing States for adhering to the terms of the material protected by the moratorium. Thus, although certain portions of California's amendment may be covered under a amended moratorium, the disapproval of these provisions remains proper. The State may, however, implement those provisions the Secretary determines to be covered by the moratorium during the period in which the moratorium remains in effect. The Secretary will be issuing instructions advising States of procedures for submitting moratorium issues.

In SPA 85-19, California submitted a Supplement 4 to Attachment 2.6A of its State plan. Supplement 4 sets forth the various exemptions from counting items as resources the State proposed to use in determining eligibility for the medically needy. Most of Supplement 4 was approved, however several items were not because they are either more liberal or more restrictive than allowed under the SSI program. A discussion of the specific items which were not approved follows.

Item (a)(1)(C) of Supplement 4

This item of SPA 85-19 proposes to inlcude as a principal place of residence, and therefore not countable as a resource, property in which the individual's spouse, minor child, or dependent relative continue to reside during the individual's absence. SSI policy property in which a spouse or dependent relative resides to be considered the principal place of residence, but specifically provides that such property will be the principal place of residence only if the individual is absent because he or she is institutionalized. HCFA has determined California's proposal is thus more liberal than SSI policy because it considers the property in question to be the individual's principal place of residence regardless of the reason for his or her absence.

Item (a)(1)(C) of Supplement 4 is protected by the amended DEFRA moratorium. However, because it

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contains material which is more liberal than SSI policy it violates section 1902(a)(10)(C)(i)(III) of the Act and must be disapproved, although California may comply with the terms of this portion of its amendment during the moratorium period.

Item (a)(1)(D) of Supplement 4

This item proposes to include under the principal place of residence property in which the individual once lived, is now absent from, to which the individual does not intend to return, and for which a bona fide effort for sale is being made. Under SSI, when an absent individual no longer intends to return home, the home ceases to be the principal place of residence and is instead considered to be a countable resource. SSI then determined the current market value of the property and counts the value as a resource in determining eligibility. HCFA has determine the California proposal is thus more liberal than SSI in that California proposes to include in the definition of principal place or residence (and thus exclude as a countable resource) property which would be counted under SSI policy, i.e., property which the individual is trying to sell.

Item (a)(1)(D) of Supplement 4 is protected by the amended DEFRA moratorium. However, because it contains material which is more liberal than SSI policy, it violates section 1902(a)(10)(C)(i)(III) of the Act and must be disapproved, although California may comply with the terms of this portion of its amendment during the moratorium period.

Item (a)(1)(F) of Supplement 4

This item proposes to include as the principal place of residence property in which the individual once lived, is now absent from, and does not intend to return to, but which is inhabited by any sibling or adult child of the individual who resided in the property for at least 1 year prior to the date the individual entered a skilled nursing facility or intermediate care facility. Under SSI, property from which an individual is absent and to which he or she does not intend to return can be excluded only where the individual is institutionalized and a *dependent* relative resides in the home. HCFA has determine California's proposal is thus more liberal than SSI because there is no requirement that the relative be dependent.

Item (a)(1)(F) of Supplement 4 is protected by the amended DEFRA moratorium. However, because it contains material which, as California admits, is more liberal than SSI policy it violates section 1902(a)(10)(C)(i)(III) of the Act and must be disapproved, although the State may comply with the terms of this portion of its amendment during the moratorium period.

Item (b)(2)(d) of Supplement 4

This item provides that burial reserves which meet the conditions specified in public assistance regulations will be excluded as resources. The applicable regulations provide that burial reserves will be excluded if they are valued at less than $1,000. This can be either more liberal or more restrictive than SSI policy, depending on individual circumstances. Under some circumstances, SSI will exclude burial reserves up to a value of $1,500. In such cases, the $1,000 maximum value proposed would be more restrictive than SSI. On the other hand, SSI diminishes the $1,500 burial reserve by the face value of life insurance with a total face value of less than $1,500 and by amounts in irrevocable trusts or other arrangements available to meet burial expenses. The proposed $1,000 exclusion could, therefore, be more liberal in situations where SSI policy would operate to lower the $1,500 exclusion to less than $1,000. The State has indicated that it is in the process of revising its regulations to conform with SSI policy. However, to date that revision apparently has not been completed. In the absence of revised State regulations, California's policy can be either more restrictive or more liberal than SSI policy. HCFA has determined this is contrary to the requirements of section 1902(a)(10)(C)(i)(III) of the Act. This item is not protected by the DEFRA moratorium since it is in some respects more restrictive than SSI rules.

Item (b)(2)(m) of Supplement 4

This item excludes all burial insurance from being counted as a resource. SSI policy limits this exclusion to burial insurance policies which can only be used to pay the burial expenses of the insured. Therefore, HCFA has determined California's policy is more liberal than SSI's. California has indicated that it is considering a change in this policy to bring it into conformance with SSI policy. However, to date no action has been taken of which HCFA is aware. HCFA has determined this item is more liberal than SSI which is contrary to the requirements of section 1902(a)(10)(C)(i)(III) of the Act. Item (b)(2)(m) of supplement 4 is protected by the amended DEFRA moratorium and although it must be disapproved California may comply with the terms of this portion of its amendment during the moratorium period.

Item (b)(2)(f) of Supplement 4

This item provides for the exclusion of wedding and engagement rings, heirlooms, clothing, household furnishing and equipment. SSI policy limits the exclusion of wedding and engagement rings to one of each. In addition, SSI policy limits the exclusion of other personal and household goods to a maximum value of $2,000. Since California's policy does not include these limits, HCFA has determined it is more liberal than SSI policy and is contrary to the requirements of section 1902(a)(10)(C)(i)(III) of the Act. Item (b)(2)(f) of Supplement 4 is protected by the amended DEFRA moratorium and although it must be disapproved, California may comply with the terms of this portion of its amendment during the moratorium period.

Item (b)(2)(j) of Supplement 4

This item provides for exclusion of all business property, equipment and inventory, which is necessary for an approved plan of self support, if earning 6 percent a year. SSI policy also requires that the equity value of this property not exceed $6,000.

California's policy includes no such limit. Thus, HCFA has determined it is more liberal than SSI policy and is contrary to the requirements of section 1902(a)(10)(C)(i)(III) of the Act. Item (b)(2)(j) of Supplement 4 is protected by the amended DEFRA moratorium and although it must be disapproved, California may comply with the terms of this amendment during the moratorium period.

The notice to California announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

Kenneth W. Kizer, M.D., M.P.H.
Director, California State Department of Health Services, 714 P Street, Room 1253, Sacramento, California 95814

Dear Dr. Kizer: This is to advise you that your request for reconsideration of the decision to disapprove portions of California SPA 85-19 was received on October 2, 1987. California SPA 85-19 relates to the methods and standards the State applies in determining whether an individual's resources are within program limits.

There are two issues in this matter. The first issue is whether the disapproved portions of the amendment are more liberal (and in one instance also more restrictive) than the rules used by the relevant cash assistance programs for purposes of meeting the requirements of sections 1902(a)(10)(A) and 1902(a)(C)(i)(III) of the Social Security Act. The second issue is whether the moratorium imposed by section 2373(c) of the Deficit Reduction Act of 1984 as amended by section 9 of Public Law No. 100-93 requires the approval of those portions of California's amendment which were disapproved.

I am scheduling a hearing on your request to be held on December 8, 1987 at 10:00 a.m. in the 21st Floor Conference Room, 100 Van Ness Avenue, San Francisco, California. If this date if not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594-8261.

Sincerely,

William L. Roper, M.D.,
Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: October 30, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 87-25762 Filed 11-5-87; 8:45 am]

BILLING CODE 4120-03-M

Office of Human Development Services

Federal Council on the Aging; Meeting

Agency Holding the Meeting: Federal Council on the Aging.

Time and Date: Meeting begins at 9:30 a.m. and ends at 5:00 p.m. on Wednesday, November 18, 1987 and begins at 9:30 a.m. and ends at 3:00 p.m. on Thursday, November 19, 1987.

Place: On Wednesday, November 18 from 9:30 to 3:00 p.m., Congressional Hearing Room H 128, Capitol, and from 3:30 to 5:00 p.m., Boardroom 106, The Capitol Hill Hotel, 200 C Street, SE., Washington, DC 20003. On Thursday, November 19, from 9:30 to 12 Noon in a Congressional Hearing Room to be announced. All other meetings will be held in the Boardroom 106, The Capitol Hill Hotel, 200 C Street, SE., Washington, DC 20003.

Status: Meeting is open to the public.

Contact Person: Pete Conroy, Room 4545, Wilbur J. Cohen North Building, 330 Independence Avenue, SW., Washington, DC 20201; Phone 245-2451.

The Federal Council on the Aging was established by the 1973 Amendemnts to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-453, 5 U.S.C. App. 1, Section 10, 1976) that the Council will hold a meeting on November 18 and 19, 1987, from 9:30 a.m.-5:00 p.m. and from 9:30 am-3:00 p.m. respectively. On November 18, the morning session will be held in Congressional Hearing Room H 128, The Capitol, and moved to Boardroom 108, The Capitol Hill Hotel, in the afternoon. On November 19 the meeting will be held in a Congressional Hearing Room to be announced.

The agenda will include: Meeting with Members of Congress involved in authorizing or overseeing legislation involving older Americans. A forum on *The Impact of the AIDS Problem on the Elderly*. Presentations will include: *Effect on Social Security Programs* by David A. Rust, Associate Commissioner, Office of Disability and Actuaries from SSA; *Epidemic/Pandemic Numbers Projected* by Dr. Robert E. Windom, Assistant Secretary for Health, PHS; *Effects on Health Insurance Rates and Coverage* by Gina Grage, Research & Policy Development, Health Insurance Association of America; *Ramifications on Health Care Matters-Government View* by Dr. William Winkenwerder, Special Assistant to the Administrator, HCFA; *Private and Foundation Efforts to Address the Problem* by Foundation for AIDS Research; and *Managment, Legal, Personnel Implications on Health Care Industry* by Susan Harris, General Counsel, AHCA. A presentation by York E. Onnen, Director, Program Development, The President's Council on Physical Fitness and Sports, and a status report by Commissioner on Aging, Carol Fraser Fisk. In addition, a substantial amount of time will be devoted to FCoA committee meetings and reports.

Dated: October 30, 1987.

Ingrid Azvedo,

Chairperson, Federal Council on the Aging.

[FR Doc. 87-25742 Filed 11-5-87; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Oil and Gas Lease; Alaska

ACTION: Notice of sale.

SUMMARY: The purpose of this notice is to announce that a Competitive Protective Oil and Gas Lease Sale No. 881 will be held on December 10, 1987. The lands are within the Kuparuk River Unit, North Slope Borough, Alaska, and are offered for lease under the authority of 43 U.S.C. 1457, (40 Op. Atty. Gen. 41).

FOR FURTHER INFORMATION CONTACT: Kay F. Kletka, 907-271-3791, Bureau of Land Management, 701 C Street, Box 13, Anchorage, AK 99513.

SUPPLEMENTARY INFORMATION: Notice is hereby given that at 10 a.m. on December 10, 1987, certain lands within the Kuparuk River Unit, North Slope Borough, Alaska, will be offered by sealed bid to the qualified bidder submitting the highest acceptable bonus bid in a competitive protective oil and gas least sale.

Sealed bids must be mailed or delivered in person to the Bureau of Land Management, Alaska State Office, and received no later than close of business, December 9, 1987, A.S.T.

A detailed statement of the terms and conditions of the lease offering and how and where to submit bids may be purchased at a cost of $10 from the BLM at the address shown above.

Joseph A. Dygas,

Acting Deputy State Director of Mineral Resources.

Dated: October 30, 1987.

[FR Doc. 87-25694 Filed 11-5-87; 8:45 am]

BILLING CODE 4310-JA-M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice of Proposed Contractual Actions Pending Through December 1987 Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), and to § 426.20 of the rules and regulations published in the Federal Register December 6, 1983, Vol. 48, page 54785, the Bureau of Reclamation will publish notice of proposed or amendatory repayment contract actions or any contract for the delivery of irrigation water in newspapers of general circulation in the affected area at least 60 days prior to contract execution. The Bureau of Reclamation announcements of irrigation contract actions will be published in newspapers of general circulation in the areas determined by the Bureau of Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums,

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or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the **Federal Register** February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of all proposed contractual actions in each of the six Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during October, November, or December of 1987. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer, and other information pertaining to a specific contract proposal, may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Individual notices of intent to negotiate, and other appropriate announcements, are made in the **Federal Register** for those actions found to have widespread public interest. When this is the case, the date of publication is given.

Acronym Definitions Used Herein:
(FR) Federal Register
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CAP) Central Arizona Project
(CUP) Central Utah Project
(CVP) Central Valley Project
(P–SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act
(BCP) Boulder Canyon Project

Pacific Northwest Region: Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, Idaho 83724, telephone (208) 554–1160.

1. Cascade Reservoir Water Users, Boise Project, Idaho: Repayment contracts for irrigation and M&I: 59,721 acre-feet of stored water in Cascade Reservoir.

2. Brewster Flat ID, Chief Joseph Dam Project, Washington: Amendatory repayment contract; land reclassification of approximately 360 acres to irrigable; repayment obligation to increase accordingly.

3. Individual Irrigators, M&I, and miscellaneous water users, Pacific Northwest Region, Idaho, Oregon, and Washington: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

4. Rogue River Basin water users, Rogue River Basin Project, Oregon: Water service contracts; $5 per acre-foot or $50 minimum per annum, terms up to 40 years.

5. Willamette Basin water users, Willamette Basin Project, Oregon: Water service contracts; $1.50 per acre-foot or $50 minimum per annum, terms up to 40 years.

6. IDs and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub.L. 97–293).

7. Fifty-six Palisades Reservoir Spaceholders, Minidoka Project, Idaho-Wyoming: Contract amendments to extend term for which contract water may be subleased to other parties.

8. South Columbia Basin ID, Columbia Basin Project, Washington: Supplemental repayment contract for Irrigation Block 24; 1,892 irrigable acres.

9. City of Cle Elum, Yakima Project, Washington: Amendatory or replacement M&I water service contract; 2,200 acre-feet (1,350 gallons per minute) annually for a term of up to 40 years.

10. Three IDs, Flathead Indian Irrigation Project: Repayment of costs associated with rehabilitation of irrigation facilities.

11. Baker Valley ID, Baker Project, Oregon: Irrigation water service contracts on a surplus interruptible basis to serve up to 13,000 acres; sale of excess capacity in Mason Reservoir (Phillips Lake) for a term of up to 40 years.

12. Crooked River Project, Oregon: Repayment of water service contracts with several individuals for a total of approximately 1,100 acre-feet of project water; contract terms up to 40 years for the purpose of supplying water under the project water right held by the United States.

13. Various Projects PN Region: R&B contracts for replacement of needle valves at storage dams.

14. Palisades Water Users Inc., Minidoka-Palisades Projects: Repayment contract for an additional 500 acre-feet of storage in Palisades Reservoir.

15. Willow Creek Project, Oregon: Repayment of water service contracts for a total of up to 3,500 acre-feet of storage space in Willow Creek Reservoir.

Mid-Pacific Region: Bureau of Reclamation (Federal Office Building), 2800 Cottage Way, Sacramento, California 95825, telephone (916) 460–5030.

1. Colusa Drain Mutual Water Company, CVP, California: Water right settlement contract: FR notice published July 25, 1979, Vol. 44, page 43535.

2. Tuolumne Regional Water District, CVP, California: Water service contract, up to 9,000 acre-feet from New Melones Reservoir.

3. Calaveras County Water District, CVP, California: Water service contract; 400 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

4. Individual irrigators, M&I, and miscellaneous water users, Mid-Pacific Region, California, Oregon, and Nevada: Temporary (interim) water service contracts for available project water for irrigation, M&I or fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; Temporary Warren Act contracts to wheel nonproject water through project facilities for terms up to 1 year; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

5. Friant-Kern Canal Contractors, Friant-Kern Unit, CVP, California: Renewal of existing long-term water service contracts with numerous contractors on the Friant-Kern Canal whose contracts expire 1989–1995. Water quantities in existing contracts range from 1,200 to 175,440 acre-feet.

6. South San Joaquin ID and Oakdale ID, CVP, California: Operating agreement for conjunctive operation of New Melones Dam and Reservoir on the Stanislaus River; FR notice published June 6, 1979, Vol. 44, page 32483.

7. San Luis Water District, CVP, California: Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

8. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

9. State of California, CVP, California: Contract(s) for, (1) sale of interim water to the Department of Water Resources for use by the State Water Project Contractors, and (2) acquisition of conveyance capacity in the California Aqueduct for use by the CVP, as contemplated in the Coordinated Operations Agreement.

10. Madera ID, Madera Canal, CVP, California: Warren Act contract to convey and/or store nonproject Soquel water through project facilities.

11. County of Tulare, CVP, California: Amendatory water service contract, to provide an additional 1,908 acre-feet and reallocate 400 acre-feet of water from the Ducor ID for a total increase of 2,308 acre-feet.

12. Panoche Water District, CVP, California: Amendatory water service contract providing for change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

13. Shasta Dam Area Public Utilities District, CVP, California: Renewal of M&I water supply contract. Less than 6,000 acre-feet.

14. U.S. Fish and Wildlife Service, CVP, California: Long-term contract for water supply for Federal refuge in Grasslands area of California.

15. City of Redding, CVP, California: Amendatory M&I water supply contract.

16. Washoe County Water Conservation District, Truckee Storage Project, Nevada: Repayment contract for the replacement of two needle valves at Boca Dam.

17. Placer County Water Agency, CVP, California: Amend existing water right and water service contract to include current water rates, standard contract language and diversion of Project water at other than the Auburn Dam site.

18. Glide Water District, CVP, California: Amendatory Public Law 84–130 repayment contract.

Upper Colorado Region: Bureau of Reclamation, P.O. Box 11568 (125 South State Street), Salt Lake City, Utah 84147, telephone (801) 598–7652.

1. Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(a) The Benevolent and Protective Order of the Elks, Lodge No. 1747, Farmington, New Mexico: Navajo Reservoir water service contract; 20 acre-feet per year for municipal use; contract term for 40 years from execution.

(b) Sunterra Gas Processing Company (formerly Southern Union Gas Company): Navajo Reservoir water service contract; 50 acre-feet per year for industrial use; contract term for 40 years from execution.

2. Revised Hydrological Determination: A hydrologic determination was last made for the Upper Colorado River in December 1984 with the principal conclusion that the Upper Basin could support a depletion level of at least 5.8 million acre-feet. Upon the request of the Secretary of the New Mexico Interstate Stream Commission, a review of water availability in the Upper Basin has been undertaken with regard to the water supply available for use in New Mexico.

3. La Plata Conservancy District, Animas-La Plata Project, New Mexico: Repayment contract; 9,900 acre-feet per year for irrigation. Contract terms consistent with binding cost sharing agreement, dated June 30, 1986.

4. San Juan Water Commission, Animas-La Plata Project, New Mexico: M&I repayment contract; 30,800 acre-feet per year. Contract terms consistent with binding cost sharing agreement, dated June 30, 1986.

5. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado: Repayment contract for 26,500 acre-feet per year for M&I use and 2,600 acre-feet per year for irrigation use in Phase One and 3,300 acre-feet in Phase Two. Contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement, in principle.

6. Ute Mountain Ute Trib, Animas-La Plata Project, Colorado and New Mexico: Repayment contract; 6,000 acre-feet per year for M&I use in Colorado; 26,400 acre-feet per year for irrigation use in Colorado; 900 acre-feet per year for irrigation use in New Mexico. Contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

7. Navajo Indian Tribe, Animas-La Plata Project, New Mexico: Repayment contract; 7,600 acre-feet per year for M&I use.

8. Grand Valley Water Users Association, Orchard Mesa ID, Grand Valley Project, Colorado: Contract to continue O&M of Grand Valley powerplant.

9. Ute Mountain Ute Indian Tribe, Dolores Project, Colorado: Agreement for 1,000 acre-feet per year for M&I use and 22,900 acre-feet per year for irrigation.

10. Emery County Water Conservancy District, Utah Power and Light, Emery County Project Utah: New repayment contract with Utah Power and Light for the purchase of approximately 2,600 acre-feet of project water; amendatory contract with Emery County Water Conservancy District relieving it of its repayment obligation for the 2,600 acre-feet of project water.

11. Currant Creek Irrigation Company, Central Utah Water Conservancy District, Bonneville Unit, CUP, Utah: Option, Operation, Maintenance and Exchange Agreement, which will allow the United States a perpetual use of Mona Dam and Reservoir, the right to exchange the irrigation company's water with project water, and to modify the company's existing canal.

12. Three separate contracts with (1) Tri-County Water Conservancy District, (2) Menoken Water Company and (3) Chipeta Water Company, Lower Gunnison Basin Unit, Colorado: Provides for funding, construction, modification, O&M of each entity's domestic water system.

13. Uintah Water Conservation District, Jensen Unit, CUP, Utah: Amendatory repayment contract to reduce M&I water supply and corresponding repayment obligation.

Lower Colorado Region: Bureau of Reclamation, P.O. Box 427 (Nevada Highway and Park Street), Boulder City, Nevada 89005, telephone (702) 588–5435.

1. Amendment to Contract No. 176r–696 between the Bureau of Reclamation and the Department of the Army to increase the maximum amount of water delivered to the Yuma Proving Grounds from 55 acre-feet to 975 acre-feet, pursuant to the recommendation of the Arizona Department of Water Resources.

2. Agricultural and M&I water users, CAP, Arizona: Water service subcontracts; a certain percent of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

3. Southern Arizona Water Rights Settlement Act; sale of up to 28,200 acre-feet per year of municipal effluent to the city of Tucson, Arizona.

4. Contracts with five agricultural entities located near the Colorado River, BCP, Arizona: Water service contracts for up to 1,920 acre-feet per year total.

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5. Gila River Indian Community, CAP, Arizona: Water service contract; contract for delivery of up to 173,100 acre-feet per year.

6. Sunset Mobile Home Park, BCP, Arizona: Amendatory M&I water service contract for delivery of 30 acre-feet of water per year, pursuant to the recommendation of Arizona Department of Water Resources.

7. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

8. Indian and non-Indian agricultural and M&I water users, CAP, Arizona: Contracts for repayment of Federal expenditures for construction of distribution systems.

9. Water delivery contracts, BCP, Arizona: For a yet undetermined amount of Colorado River water for M&I use on State-owned land.

10. Contract with BCP, Arizona: For a yet undetermined amount of Colorado River water for agricultural use and related purposes on State-owned land.

11. Contract with five individual holders of miscellaneous present perfected rights to Colorado River water totaling 66 acre-feet, pursuant to the January 9, 1979, Supplemental Decree of the United States Supreme Court in *Arizona* v. *California* (439 U.S. 419).

12. AK–Chin Indian Community, Maricopa, Arizona: Repayment contract for $1.6 million SRPA escalation loan.

13. Contracts for delivery of surplus water from the Colorado River, when available, with Emilio Soto and Sons, for 1,836 acre-feet per year; Kennedy Livestock, for 480 acre-feet per year.

14. Ramona Municipal Water District, Ramona, California: Repayment contract for $6.8 million SRPA escalation loan.

15. Central Arizona Water Conservation District, CAP, Arizona: Amendatory contract; to increase the district's CAP repayment ceiling and to update other provisions of the contract.

16. Maricopa-Stanfield and Central Arizona IDDs, CAP, Arizona: Contract to establish a Santa Rosa Canal administrative committee and to transfer O&M of the canal to Maricopa-Stanfield, CAP, Arizona.

17. Imperial ID and/or the Coachella Valley Water District, BCP, California: Providing for exchange of up to 10,000 acre-feet of water per year from a well field to be constructed adjacent to the All-American Canal for an equivalent amount of Colorado River water and for O&M of the well field, Lower Colorado Water Supply Project, California.

18. Lower Colorado Water Supply Project, California: Water service and repayment contracts with nonagricultural users in California for consumptive use of up to 10,000 acre-feet of Colorado River water per year in exchange for an equivalent amount of water to be pumped into the All-American Canal from a well field to be constructed adjacent to the canal.

19. Havasu Water, BCP, Arizona: M&I water service contract for delivery of 993 acre-feet of water per year, pursuant to the recommendation of the Arizona Department of water Resources.

20. M&B Investment Company, BCP, Arizona: M&I water service for development of a motor home resort in amounts of up to 1,309 acre-feet of water per yer, pursuant to the recommendation of the Arizona Department of Water Resources.

21. Golden Shores Water Conservation District, BCP Arizona: M&I water service for lands within the district and adjacent areas for delivery of up to 2000 acre-feet of Colorado River water per year pursuant to the recommendation of the Arizona Department of Water Resources.

22. Hutchison Present Perfected Rights contract amendment to reflect the transfer of part of the right to Winterhaven, California, Supreme Court Decree in *Arizona* vs. *California* and BCP.

23. Winterhaven Present Perfected Rights contract for portion of Hutchison Present Perfected Rights transfer to Winterhaven, Supreme Court Decree in *Arizona* v. *California* and BCP.

24. Yuma County and Yuma County Water User's Association, Arizona: Contract for construction, operation, maintenance, and replacement of 10 additional drainage wells in the Yuma Valley, Colorado River Front Work and Levee System, Arizona.

Southwest Region: Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler, Amarillo, Texas 79101, telephone (806) 735–5430.

1. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract for remedial work.

2. Vermejo Conservancy District, Vermejo Project, New Mexico: Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Public Law 98–550.

3. Hidalgo County ID No. 1, Lower Rio Grande Valley, Texas: Supplemental SRPA loan contract for approximately $13,205,000. The contracting process is dependent upon final approval of the supplemental loan report.

4. ID's and similar water user entities: Amendatory repayment and water service contracts; Purpose is to conform with the Reclamation Reform Act of 1982 (P.L. 97–293).

5. Rio Grande Water Conservation District, Alamosa, Colorado: Contrac' for the district to be the vender of the Closed Basin Division, San Luis Valley Project, surplus water if available.

6. Carlsbad ID, Carlsbad Project, New Mexico; Repayment contract for the costs incurred by the United States for replacing the needle valves at Fort Sumner Dam.

7. Conejos Water Conservancy District, San Luis Valley Project, Colorado: Amendatory contract to place OM&R costs on a variable basis commensurate with the availability of project water.

8. Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma: Contract for the repayment of costs incurred by the United States for the construction of the Sulphur, Oklahoma, pipeline and pumping plant (if constructed).

9. Town of Bernalillo, New Mexico, San Juan-Chama Project, Colorado-New Mexico—Negotiate a repayment contract with the town of Bernalillo for a municipal water supply of 400 acre-feet of water from the San Juan-Chama Project in New Mexico.

10. Department of Energy, San Juan-Chama Project, Colorado-New Mexico: Amendatory contract to increase the ceiling on the operation, maintenance, and replacement charges that may be paid by the Department of Energy in any one year.

Missouri Basin Region: Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone (406) 585–6413.

1. Individual irrigators, M&I, and miscellaneous water users, Missouri Basin Region, Montana, Wyoming, North Dakota, South Dakota, Colorado, Kansas, and Nebraska: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Nokota Company, Lake Sakakawea, P–SMBP, North Dakota: Industrial water service contract; up to 16,800 acre-feet of water annually; FR notice published May 5, 1982, Vol. 47, Page 19472.

3. Fort Shaw ID, Sun River Project, Montana: R&B loan repayment contract; up to $1.5 million.

4. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

5. Oahe Unit, P–SMBP, South Dakota: Cancellation of master contract and participating and security contracts in accordance with Pub. L. 97–293 with South Dakota Board of Water and Natural Resources and Spink County and West Brown ID.

6. Owl Creek ID, Owl Creek Unit, P–SMBP, Wyoming: Amendatory water service contract to reflect water supply benefits being received from Anchor Reservoir.

7. Almena ID No. 5, Almena Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1988.

8. Webster Id No. 4, Webster Unit, P–SMBP, Kansas: Deferment of repayment obligation for 1988.

9. Green Mountain Reservoir, Colorado-Big Thompson Project: Water service contract; proposed contract negotiations for sale of water from the marketable yield to water users within the Colorado River Basin of Western Colorado.

10. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Water service contract; second proposed contract negotiations for sale of water from the regulatory capacity of Ruedi Reservoir.

11. Lower South Platte Water Conservancy District, Central Colorado Water Conservancy District, and the Colorado Water Resources and Power Development Authority, Narrows Unit, P–SMBP, Colorado; water service contracts for repayment of costs and cost sharing agreement.

12. Fryingpan-Arkansas Project, Colorado: East Slope Storage system consisting of Pueblo Reservoir, Twin Lakes, and Turquoise Reservoir; Contract negotiations for temporary and long-term storage and exchange contracts.

13. Cedar Bluff ID No. 6 and the State of Kansas, Cedar Bluff Unit, P–SMBP, Kansas: Repayment contract: Negotiate contract with the State of Kansas for use of all or part of the conservation pool of Cedar Bluff Reservoir for recreation, and fish and wildlife purposes for payment of the irrigation district's cost obligation. Amend the Cedar Bluff ID's contract to relieve it of all contract obligations.

14. Department of Natural Resources and Conservation, SRPA, Montana: Grant and loan contrct for rehabilitation of Middle Creek Dam to meet required safety criteria and to increase reservoir storage capacity by 2,334 acre-feet which will be utilized for irrigation and municipal purposes.

15. Garrison Diversion Unit, P–SMBP, North Dakota: Repayment contract; Renegotiation of the master repayment contract with Garrison Diversion Conservancy District to bring the terms in line with the Garrison Diversion Unit Reformulation Act of 1986. Negotiation of repayment contracts with irrigators and M&I users.

16. Southeastern Colorado Water Conservancy District: Amendatory contract to conform to the contract repayment provision to revised State statutes concerning the District's tax levy authority.

17. Gray Goose ID, Gray Goose Unit, P–SMBP, South Dakota: Contrct negotiations to integrate Gray Goose ID into the P–SMBP as authorized pursuant to section 1120 of the Water Resource Development Act January 21, 1986 (Pub. L. 99–662).

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

(2) Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(3) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(4) Written comments on a proposed contract or contract action must be submitted to the appropriate Bureau of Reclamation officials at locations and within the time limits set forth in the advance public notices.

(5) All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

(6) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

(7) In the event modifications are made in the form of proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the 60-day comment period is necessary.

Factors which shall be considered in making such a determination shall include, but are not limited to: (i) The significance of the impacts(s) of the modification and (ii) the public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Date: November 2, 1987.

C. Dale Duvall,

Commissioner of Reclamation.

[FR Doc. 87–25744 Filed 11–5–87; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

San Antonio Missions National Historical Park; Revision of Park Boundaries

Section 201(b) of the Act of November 10, 1978 (92 Stat. 3636, 16 U.S.C. 410ee), provides for the establishment of San Antonio Missions National Historical Park, and authorizes the United States to acquire, by donation, purchase with donated or appropriated funds, or exchange:

(1) Lands and interests therein at Mission Nuestra Senora de la Purisima Concepcion de Acuna (herein referred to as Mission Concepcion), which the Secretary of the Interior determines are necessary or desirable to provide for public access, interpretation, and protection;

(2) The Espada Acequia, the section of approximately 5 miles along the west side of and parallel to the San Antonio River, including the laterals; and,

(3) The San Juan Acequia, on the east side of the San Antonio River. An easement was donated to the United States of America, on June 17, 1982, which included the lands and waters comprising the San Juan Acequia.

Therefore, notice is hereby given that, in accordance with the Act of November 10, 1978, the boundaries of the San Antonio Missions National Historical Park are revised to include:

(1) The entire site of the original compound of Mission Concepcion, and delete a small portion for the City of San Antonio's realignment of Mission Road, at the intersection of Mission Road and Mitchell Street;

(2) Approximately 5 miles of the Espada Acequia along the west side of and parallel to the San Antonio River; and,

(3) The entire San Juan Acequia, as shown on a map entitled "Boundary Map, San Antonio Missions National Historical Park," Drawing No. 472/80,060, dated June 1, 1987. This map is on file and available for inspection in

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the office of the National Park Service, Department of the Interior; the Office of the Southwest Region, National Park Service; and the Office of the Superintendent, San Antonio Missions National Historical Park.

Dated: October 16, 1987.

Donald Paul Hodel,

Secretary of the Interior.

[FR Doc. 87-25783 Filed 11-5-87; 8:45 am]

BILLING CODE 4310-70-M

Intention To Negotiate Concession Contract; Lang Seafood Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Lang Seafood, Inc., authorizing it to continue to provide passenger ferry service for the public within Cumberland Island National Seashore for a period of five (5) years from January 1, 1988, through December 31, 1992.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1987, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated. Interested parties should contact the Regional Director, Southeast Region, 75 Spring Street, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

C.W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 87-25782 Filed 11-5-87; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Availability of Final Environmental Assessment and Finding of No Significant Impact

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of Availability of Final Environmental Assessment and Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR Parts 1500–1508); and the U.S. Section's Operational Procedures for Implementing section 102 of the National Environmental Policy Act (NEPA), published in the **Federal Register** September 2, 1981 (46 FR 44083), the U.S. Section hereby gives notice that the Final Environmental Assessment and Finding of No Significant Impact for the proposed action to construct a facility in Smuggler Gulch on the international boundary at Baja California, Mexico and San Diego County, California to capture fugitive sewage flows from the City of Tijuana, Mexico are available. A finding of no significant impact dated September 1, 1987 provided a thirty (30) day comment period before making the finding final. The Notice was published in the **Federal Register** on September 11, 1987 (52 FR 34429).

FOR FURTHER INFORMATION CONTACT: Mr. M. R. Ybarra, U.S. Section Secretary, International Boundary and Water Commission, United States and Mexico; United States Section; The Commons, C-310; 4171 North Mesa; El Paso, Texas 79902. Telephone: (915) 534-6698, FTS 570-6698.

SUPPLEMENTARY INFORMATION:

Proposed Action

The action proposed is that the Government of the United States join with the Government of Mexico, through the International Boundary and Water Commission (Commission), to construct, operate and maintian a surface flow collection facility in Smuggler Gulch on the international boundary. The proposed project is designed to capture fugitive sewage spills from Tijuana flowing through this canyon into the Tijuana River flood plain on the United States side of the international boundary and to return the fugitive flows to the Tijuana sewage system.

The proposed action fulfills, for Smuggler Gulch, resolution number 9 in Commission Minute Number 270 (April 30, 1985), where Mexico agrees to accept in its treatment and disposal system uncontrolled sewage captured in the United States. The U.S. Section adopted in April 1985 a finding of no significant impact based on a final environmental assessment for this agreement to solve the border sanitation problem in the Tijuana-San Diego area. The IBWC interceptor system was placed in operation for this same purpose on three drains east of Smuggler Gulch following a finding of no significant impact based on a final environmental assessment in September 1985.

Alternatives Considered

Two alternatives were considered:

The Proposed Action Alternative provides for construction of a diversion dike and sediment settling pond located within Mexico and a pump station with about 2,000 linear feet of 12-inch steel pipeline along and parallel to the international boundary within the United States.

The proposed facility is planned to capture up to four (4) million gallons per day of fugitive sewage flows from Smuggler Gulch. Solids and sediment will settle out in Mexico prior to being pumped along the United States side to a location atop Spooner's Mesa where the capture flows will be returned to the Tijuana sewage system in Mexico.

The No Action Alternative will result in no anticipated change in existing conditions. Fugitive flows of raw sewage will continue to enter the lower Tijuana River Valley from Smuggler Gulch. Because the present situation is unacceptable and will only worsen if nothing is done, the "no action" alternative has been rejected.

Availability

Single copies of the Final Environmental Assessment and Finding of No Significant Impact may be obtained by request at the above address.

Date: October 28, 1987.

Suzette Zaboroski,

Staff Counsel.

[FR Doc. 87-25800 Filed 11-5-87; 8:45 am]

BILLING CODE 4710-03-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31134]

Railroad Operations; North Carolina & Virginia Railroad Co.; Acquisition and Operation Exemption, Delford, NC, Rail Lines

The North Carolina & Virginia Railroad Company (NC&V) has filed a notice of exemption to purchase and operate approximately 53.1 miles of railroad extending between Boykins, VA (M.P. SAB 54.3) and Kelford, NC (M.P. SAB 84.3), and between Kelford, NC (M.P. AB 162.6) and Tunis, NC (M.P. AB 185.7). The line will be acquired from CSX Transportation, Inc. (CSX). The agreement betweeen NC&V and CSX is to be consummated on or about October 30, 1987.

This transaction will also involve the issuance of securities by NC&V, which will be a Class III carrier. The issuance of these securities will be an exempt transaction under 49 CFR 1175.1.

A transaction relating to the control of NC&V is the subject of a notice of exemption filed concurrently in Finance Docket No. 31135, *Railtex, Inc.—Continuance in Control Exemption—North Carolina & Virginia Railroad Company, Austin Railroad Company, Inc., and San Diego & Imperial Valley Railroad Company.* Any comments must be filed with the Commission and served on Mark M. Levin, of Weiner, McCaffrey, Brodsky & Kaplan, P.C., 1350 New York Avenue, NW., Suite 800, Washington, DC 20005-4797, and Dave Hemphill, CSX Transportation, Inc., 500 Water St., Jacksonville, FL 32202.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 19, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-25421 Filed 11-5-87; 8:45 am]

BILLING CODE 7035-01-M

North Carolina & Virginia Railroad Company—Acquisition and Operation Exemption—Kelford, NC, Rail Lines. There, NC&V seeks an exemption to purchase and operate a 53.1-mile line of railroad between Boykins, VA, and Kelford, NC, and between Kelford, NC, and Tunis, NC. The line will be purchased from CSX Transportation, Inc. (CSX).

Railtex indicates that: (1) The railroads will not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a class I carrier. Therefore, this transaction involves the continuance in control of a non-connecting carrier, and is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock. Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).[1]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 19, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR DOC. 87-25420 Filed 11-5-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-No. 104X)]

Railroad Services; Chesapeake and Ohio Railway Co.; Abandonment Exemption; Somerset County, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by The Chesapeake and Ohio Railway Company of 11.90 miles of rail line extending between Summit and Gray in Somerset County, PA, subject to standard labor protective conditions.

DATES: This exemption will be effective on December 6, 1987. Petitions to stay must be filed by November 23, 1987. Petitions for reconsideration must be filed by December 1, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-18 (Sub-No. 104X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: R. Lyle Key, Jr., 500 Water Street, Jacksonville, FL 32202

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: October 29, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioner Sterrett, Andre, and Simmons. Commissioner Simmons dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 87-25738 Filed 11-5-87; 8:45 am]

BILLING CODE 7035-01-M

[1] The Railway Labor Executives' Association has requested the imposition of labor protective conditions. Because this transactin falls within the scope of 49 U.S.C. 11343, such conditions have been imposed routinely.

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Certifications Under The Federal Unemployment Tax Act For 1987

On October 31, 1987, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 et seq., thereby enabling employers who make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. The letter and the certifications are printed below.

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Dated: October 31, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

October 31, 1987

The Honorable James A. Baker, III
Secretary of the Treasury, Washington, DC 20220

Dear Jim: Transmitted herewith are an original and one copy of the certifications of the States and their unemployment compensation laws for the 12-month period ending October 31, 1987. One is required with respect to normal Federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986, and the other is required with respect to additional tax credit by Section 3303 of the Code.

The certification pursuant to Section 3304 lists all 53 jurisdictions. The certification pursuant to Section 3303 omits Puerto Rico because the unemployment compensation law of this jurisdiction contains no experience rating provisions and permits no reduced rates of contributions.

Very truly yours,

William E. Brock.

Enclosures.

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1986

In accordance with the provisions of section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending on October 31, 1987, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

State	
Alabama	Nebraska
Alaska	Nevada
Arizona	New Hampshire
Arkansas	New Jersey
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	North Dakota
District of Columbia	Ohio
Florida	Oklahoma
Georgia	Oregon
Hawaii	Pennsylvania
Idaho	Puerto Rico
Illinois	Rhode Island
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Utah
Maine	Vermont
Maryland	Virginia
Massachusetts	Virgin Islands
Michigan	Washington
Minnesota	West Virginia
Mississippi	Wisconsin
Missouri	Wyoming
Montana	

This certification is for the maximum normal credit allowable under section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 1987.

William E. Brock,

Secretary of Labor.

Certification of State Unemployment Compensation Laws To The Secretary of The Treasury Pursuant To Section 3303(b)(1) of The Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 1987.

State	
Alabama	Montana
Alaska	Nebraska
Arizona	Nevada
Arkansas	New Hampshire
California	New Jersey
Colorado	New Mexico
Connecticut	New York
Delaware	North Carolina
District of Columbia	North Dakota
Florida	Ohio
Georgia	Oklahoma
Hawaii	Oregon
Idaho	Pennsylvania
Illinois	Rhode Island
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Utah
Maine	Vermont
Maryland	Virginia
Massachusetts	Virgin Islands
Michigan	Washington
Minnesota	West Virginia
Mississippi	Wisconsin
Missouri	Wyoming

This certification is for the maximum additional credit allowable under section 3302(b) of the Code.

Signed at Washington, DC, on October 31, 1987.

William E. Brock,

Secretary of Labor.

[FR Doc. 87-25794 Filed 11-5-87; 8:45am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

None:

Volume II

Illinois:
IL87-1 (Jan. 2, 1987) ..... p. 71.
Kansas:
KS87-6 (Jan. 2, 1987) ..... p. 350.
Minnesota:
MN87-5 (Jan. 2, 1987) ..... pp. 532,538.
MN87-7 (Jan. 2, 1987) ..... pp. 542-547, pp. 553, 555, p. 560.
MN87-8 (Jan. 2, 1987) ..... pp. 562-567, p. 572.
Texas:
TX87-10 (Jan. 2, 1987) ..... p. 947.

Volume III

Arizona:
AZ87-2 (Jan. 2, 1987) ..... p. 17, pp. 23-24.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 30th day of October 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-25627 Filed 11-5-87; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

Approval of Wyoming State Standards

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the Federal Register (39 FR 15394) of the approval of the Wyoming Plan and adoption of Subpart BB to Part 1952 containing the decision.

The Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee coordination.

2. Publication in newspapers of general/major circulation with a 45-day waiting period for public comment and hearings.

3. Adoption by the Wyoming Health and Safety Commission. Derricks, 51 FR 34560, September 29, 1986; 29 CFR 1910.217, Mechanical Power Presses, 51 FR 34560, September 29, 1986; 29 CFR 1910.218, Forging Machines, 51 FR 34560, September 29, 1986; 29 CFR 1910.252, Welding, Cutting, and Brazing, 51 FR 34560, September 29, 1986; 29 CFR 1910.440, Commercial Diving Operations, 51 FR 34560, September 29, 1986.

The above adoptions of Federal standards have been incorporated in the State Plan, and are contained in the Wyoming Occupational Health and Safety Rules and Regulations for General Industry, as required by Wyoming Statute 1977, section 27-11-105(a)(viii).

State standards for 29 CFR 1910.19: Special Provisions for Air Contaminants, 29 CFR 1910.1025: Lead; and 29 CFR 1910.1047: Ethylene Oxide were adopted by the Health and Safety Commission of Wyoming on November 14, 1986 (effective December 19, 1986 for 1910.1025 and 1910.1047, and effective January 13, 1987 for 1910.19). State standards for 29 CFR 1910.68: Manlifts, 29 CFR 1910.106: Flammable and Combustible Liquids; 29 CFR 1910.157, Portable Fire Extinguishers; 29 CFR 1910.179: Overhead and Gantry Cranes; 29 CFR 1910.180: Crawler, Locomotive, and Truck Cranes; 29 CFR 1910.181: Derricks; 29 CFR 1910.217: Mechanical Power Presses; 29 CFR 1910.218: Forging Machines; 29 CFR 1910.252, Welding, Cutting, and Brazing; 29 CFR 1910.440: Commerical Diving Operations were all adopted by the Health and Safety Commission of Wyoming on January 30, 1987 (effective March 10, 1987), pursuant to Wyoming Statue 1977, section 27-11-105. These State standards are substantially identical to the Federal standard actions, except for the following minor differences: (a) Paragraph numbering; (b) minor wordage appropriate to the Wyoming statutes.

2. *Decision.* Having reviewed the State submissions in comparison with Federal standards, it has been determined that the State standards are substantially identical to the Federal standards, and are accordingly approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1576, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; the Occupational Health and Safety Department, 604 East 25th Street, Cheyenne, Wyoming 82002; and the Office of State Programs, Room N-3700, 200 Constitution Avenue NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any

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other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

4. Review and approval by the Governor.

5. Filing with Secretary of State and designation of an effective date.

OSHA regulations (29 CFR 1953.22 and 23) require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register**, and within 30 days for emergency temporary standards. Although adopted State standards or revisions to standards must be submitted for OSHA's review and approval under procedures set forth in Part 1953, they are enforceable by the state prior to federal review and approval. By letter dated July 16, 1987, from Donald D. Owsley, Administrator, Wyoming Occupational Health and Safety Division, to Byron R. Chadwick, OSHA Regional Administrator, the State submitted rules and regulations in response to Federal OSHA's General Industry Standards (29 CFR 1910.19: Special Provisions for Air Contaminants, 51 FR 22733, June 20, 1986; 29 CFR 1910.68: Manlifts, 51 FR 34560, September 29, 1986; 29 CFR 1910.1025: Lead, 47 FR 51117, November 12, 1982; 29 CFR 1910.1047. Ethylene Oxide, 51 FR 25053, July 10, 1986; 29 CFR 1910.106: Flammable and Combustible Liquids, 51 FR 34560, September 29, 1986; 29 CFR 1910.157, Portable Fire Extinguishers, 51 FR 34560, September 29, 1986; 29 CFR 1910.179, Overhead and Gantry Cranes, 51 FR 34560, September 29, 1986; 29 CFR 1910.180, Crawler, Locomotive, and Truck Cranes, 51 FR 34560, September 29, 1986; 29 CFR 1910.181.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective November 6, 1987.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Denver, Colorado, this 7th Day of August, 1987.

Harry C. Borchelt,

Acting Regional Administrator.

[FR Doc. 87-25553 Filed 11-5-87; 8:45 am]

BILLING CODE 4510-29-M

Pension and Welfare Benefits Administration

[Application No. D-7019]

Proposed Exemption for Certain Transactions

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code). The proposed exemption would permit the direction of securities brokerage transactions by Alliance Capital Management Corporation (Alliance), on behalf of employee benefit plans for which it acts as investment manager and fiduciary (within the meaning of section 3(21) of the Act), to independent broker-dealers who have arrangements with an affiliate of Alliance, the Pershing Division (Pershing) of Donaldson, Lufkin and Jenrette Securities Corporation (DLJ Securities), to execute, clear and/or settle transactions for such independent broker-dealers.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, within the time period set forth below. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth below.

DATES: Written comments and requests for a public hearing must be received by the Department within 45 days from the date of publication of this proposed exemption in the **Federal Register.**

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, Attention: Application No. D-7019. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Sandra Bollhoefer of the Department, telephone (202) 523-7901. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(E) and (F). The proposed exemption was requested in an application filed by Alliance pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Summary of Facts and Representations

1. Alliance, a wholly-owned subsidiary of Equitable Investment Corporation (Equitable), is an investment adviser registered under the Investment Advisers Act of 1940 which manages on a discretionary and non-discretionary basis approximately 30 billion dollars in assets for, among others, employee pension benefit plans.

2. DLJ Securities, a broker-dealer registered under the Securities Exchange Act of 1934 and an investment adviser registered under the Investment Advisers Act of 1940, is a wholly-owned subsidiary of Donaldson, Lufkin and Jenrette, Inc., which, in turn, is a wholly-owned subsidiary of Equitable. Pershing, a division of DLJ Securities, is engaged almost entirely in providing execution, clearance, settlement and other transactional services to over 100 correspondent securities firms located throughout the country. None of the correspondents for which Pershing performs these services is an affiliate of Alliance or DLJ Securities.

3. As part of its investment management activities, Alliance directs brokerage for its managed accounts to various broker-dealers in return for research services provided to Alliance by those firms. Some of the firms (the Pershing Correspondents) have entered into correspondent relationships with Pershing on an omnibus account [1] basis under which Pershing performs execution, clearance and settlement functions for those firms. Under those arrangements, a Pershing Correspondent is free to effect all or any portion of such functions either itself or through an entity other than Pershing. In the usual case, however, a Pershing Correspondent submits substantially all of its transactions to Pershing for the performance of one or more of those functions. The applicant represents that its selection of a broker-dealer (1) in order to obtain research services in connection with its performance of investment management functions for employee benefit plans, or (2) to effect transactions on behalf of such plans for which it acts as investment manager, is made in either case without refence to whether the broker-dealer is a Pershing Correspondent.

4. The submission of brokerage transactions by Alliance to Pershing Correspondents, which are then executed by the Correspondent or, in some instances, executed, cleared and/or settled through Pershing, will in those instances result in commissions being paid, in part, to the Pershing Correspondent and, in part, to Pershing. The application represents that the receipt of compensation by Pershing from Pershing Correspondents is not the result of any arrangement or agreement between Alliance and the Pershing Correspondent, but, rather, results from the independent selection by the Correspondent of Pershing to provide certain services in connection with the transaction.

5. Alliance does not know whether a particular transaction directed to a Pershing Correspondent will be executed, cleared and/or settled by Pershing. In addition, because of the arrangements Pershing has with its correspondents, Pershing is unable to identify Alliance's customer accounts on behalf of which Alliance has directed trades to Pershing Correspondents. For these reasons, and because the commission retained by Pershing that is attributable to a given transaction depends, among other things, upon the value of the transaction submitted to Pershing by the correspondent in question, Alliance is unable to determine precisely the extent to which the compensation Pershing receives is attributable to trades directed to Pershing Correspondents on behalf of an Alliance managed account.

6. The direction of plan brokerage transactions to Pershing Correspondents results in a sporadic, indirect use of Pershing for a small percentage of the transaction completion services employed in administering the plans. The annual amount of commissions directed by Alliance to Pershing Correspondents does not presently and will not in the future exceed 7 percent of the total annual commission business directed by Alliance to all brokers and dealers.[2] These transactions currently are being effected in compliance with the exemption provided by Prohibited Transaction Exemption (Class) 79-1 (PTE 79-1) [3] and Prohibited Transaction Exemption (Individual) 82-40 (PTE 82-40).[4] The conditions contained in PTE 79-1 and PTE 82-40, which modified certain of the PTE 79-1 requirements applicable to Alliance's direction of plan brokerage transactions through Pershing Correspondence, are in the opinion of Alliance unduly burdensome when compared to the informative value of the reports required thereunder. Similarly, the reports required by PTE 86-128,[5]

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[1] An "omnibus account" is an arrangement pursuant to which the correspondent carries its customers' accounts and issues its own confirmations. Customarily, the correspondent maintains one account with Pershing in the correspondent's name through which the correspondent submits all of its omnibus trades to Pershing for execution, clearing and settlement. As a result, under an omnibus arrangement, Pershing does not know the identity of its correspondent's customers or persons exercising investment discretion over the customers' accounts.

[2] Pursuant to section 11(a)(1) of the Securities Exchange Act of 1934 and Rule 23a2-2(T) thereunder (17 CFR 240.11a2-2(T)), a member of a national securities exchange may clear and settle (but not execute) transactions on its exchange for an account with respect to which it or an associated person exercises investment discretion. However, by letter dated June 6, 1986, the Office of the Chief Counsel of the Securities and Exchange Commission informed Alliance that the sanctions which might otherwise be imposed under section 11(a) or Rule 11a2-2(T) will not be imposed with regard to the execution by Pershing of transactions directed to Pershing Correspondents by Alliance in its capacity as investment manager as long as the conditions provided in the letter are met. One of the conditions so provided is a 7 percent limitation on the amount of commission business directed by Alliance to Pershing Correspondents.

[3] PTE 79-1, published at 44 FR 5968 (January 30, 1979), allowed persons who serve as fiduciaries for employee benefit plans to effect securities transactions for those plans upon complying with a number of specific requirements, contained in the exemption, which were designed to protect the interests of plan participants and beneficiaries. This exemption was replaced by PTE 86-128 (51 FR 41686, November 18, 1986), more fully described below.

[4] PTE 82-40 (47 FR 9666, March 5, 1982) modified certain requirements of PTE 79-1 with respect to transactions effected by Pershing for correspondent brokers to which Alliance submitted trades on behalf of its managed accounts. In general, this exemption permits a revised reporting schedule on the basis of the number of securities transactions directed to Pershing Correspondents by Alliance during the applicable period provided that the following conditions are met:

(1) There is no arrangement or understanding between Alliance and the Pershing Correspondent that part or all of such clearing and settlement functions will be directed to Pershing;

(2) Neither Alliance nor any affiliate of Alliance is a trustee or administrator of the plan or an employer of any employee covered by the plan;

(3) The direction of brokerage to the Pershing Correspondent is made by Alliance pursuant to a written authorization executed by a fiduciary of the plan who is independent of Alliance;

(4) Such written authorization is terminable by the plan, without penalty to the plan, on not more than 60 days' notice, and shall continue in effect for more than one year only if such continuance is authorized in writing, at least annually, by a plan fiduciary who is independent of Alliance;

(5) No such authorization is made or renewed unless Alliance furnishes the authorizing plan fiduciary with any reasonably available information that Alliance reasonably believes to be necessary to determine whether such authorization should be made or renewed and any other reasonably available information regarding the matter that the authorizing fiduciary may reasonably request.

The Reports required under PTE 82-40 must be made:

(1) Not later than 45 days following the end of any consecutive three (3) month period during which 25% or more of the total dollar amount of brokerage incurred by the plan in connection with transactions initiated by Alliance is directed to Pershing Correspondents;

(2) Not later than 45 days following the end of any consecutive six (6) month period in which 20% or more of the total dollar amount of brokerage incurred by the plan in connection with transactions initiated by Alliance is directed to Pershing Correspondents;

(3) Within 45 days following the end of each calendar year, notwithstanding the foregoing.

(No report otherwise required to be furnished pursuant to PTE 79-1 as modified by PTE 82-40 is required to be furnished for any period during which Pershing receives no compensation in connection with transactions to which this exemption applies.)

[5] PTE 86-128 allows persons who serve as fiduciaries for employee benefit plans to effect or execute securities transactions under certain circumstances. The exemption also allows sponsors of pooled separate accounts and other pooled investment funds to use their affiliates to effect or execute securities transactions for such accounts when certain conditions are met. The exemption replaces Prohibited Transaction Exemption 79-1 and Prohibited Transaction Exemption 84-46, effective June 1, 1987.

This exemption provides relief similar to that provided by PTE 79-1 and PTE 84-46, from the restrictions of section 406(b) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code. The exemption conditions the effecting or executing of securities transactions on behalf of a plan by a plan fiduciary upon the fiduciary's complying with a number of specific requirements designed to protect the interests of plan participants and beneficiaries. The exemption is generally available to fiduciaries with respect to employee benefit plans, except when a person is a fiduciary with respect to a plan by reason of being a plan trustee (other than a non-discretionary trustee), plan

Continued

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which replaced PTE 79-1, would result in considerable expense and would be of little benefit to plan fiduciaries, according to Alliance's representations, because those periods in which little or no compensation is received by Pershing as a result of transactions effected by Alliance on behalf of plans greatly outnumber those periods in which Pershing receives any significant compensation as a result of such transactions.

Notice to Interested Persons

Notice will be given by Alliance to a fiduciary, independent of Alliance, with respect to each plan for which Alliance acts as a fiduciary as of the date of publication of this notice in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform the independent fiduciaries of their right to comment and to request a hearing within the time period set forth in the notice of proposed exemption.

administrator or sponsoring employer. The exemption is also available for pooled investment funds in which plans invest, with certain restrictions applicable to those funds in which plans covering employees of the manager invest.

The exemption requires, among other things, that a person engaging in a covered transaction must receive written authorization, executed in advance, from a fiduciary independent of such person. Thereafter, the authorized person must notify the plan at least annually that the authorization is terminable at will and without penalty by the plan. Such notice must include both a statement to the effect that failure to terminate the authorization will result in its continuation and a form on which to effect such a termination.

Persons effecting or executing securities transactions on behalf of plans pursuant to this exemption must disclose periodically certain information to the authorizing plan fiduciary. The exemption provides that a person engaging in covered transactions must furnish the authorizing fiduciary with either (1) confirmation slips containing the information described in Rule 10b-10 (17 CFR 240.10b-10) under the Securities Exchange Act of 1934 ("1934 Act"), 15 U.S.C. 78a *et seq.*, or (2) quarterly reports. The quarterly reports are compilations of the information that would have been provided by the confirmation slips and, specifically, must disclose the total of all charges incurred by the plan in connection with covered transactions during the reporting period, and the portion thereof that the authorized person has paid to others in connection with covered transactions. Annual reports are required of all persons engaging in covered transactions. The annual reports summarize the information required by the confirmation slips and, in addition, provide information regarding portfolio turnover and the use of brokerage commissions to pay for investment research services.

The exemption gives the authorizing fiduciary the right to request and receive any reasonably available information necessary to such fiduciary to determine whether the authorization should be made. In addition, the exemption places a corresponding duty on the authorized person to furnish the authorizing fiduciary with any additional information reasonably necessary and available to make this determination.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plans involved and of their participants and beneficiaries, and protective of the rights of the participants and beneficiaries of such plans; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the exemption set forth below under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, effective on or after the date of publication of the final exemption in the **Federal Register**, the restrictions of section 406(b) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(E) and (F) shall not apply to the direction of securities transactions, initiated by Alliance Capital Management Corporation, an affiliate of Donaldson, Lufkin and Jenrette Securities Corporation (DLJ Securities), on behalf of an employee benefit plan in Alliance's capacity as a fiduciary for such plan, to a securities broker or dealer (Pershing Correspondent) who is not an affiliate of DLJ Securities and who has a correspondent relationship with the Pershing Division of DLJ Securities on an omnibus account basis, and where such securities transactions are executed, cleared and/or settled by Pershing, provided that the conditions set forth below are met:

(a) There is no arrangement or understanding between Alliance and the Pershing Correspondents that all or part of the execution, clearance and settlement functions relating to such transactions will be directed to Pershing.

(b) Neither Alliance nor any affiliate of Alliance is a trustee or administrator of any of the plans or an employer of any employees covered by any of the plans.

(c) Prior to transmitting plan transactions to a Pershing Correspondent and on an annual basis thereafter, Alliance will disclose to an independent fiduciary of each plan whose assets are involved in the transaction information necessary to enable the fiduciaries to judge the appropriateness of transactions effected on behalf of their plans through Pershing Correspondents and to determine whether such activities should be discontinued. These disclosures will include statements describing: (1) The existence of the correspondent relationships and the nature of the affiliation between Alliance and Pershing; (2) the possibility that transactions may be directed to Pershing Correspondents and that part of the commissions paid to the correspondents may be retained by Pershing as a correspondent fee; and (3) the use of brokerage commissions to pay for investment research services.

(d) Alliance will furnish a report to an independent fiduciary of each plan at least once per year. Such report will be furnished within 45 days following the end of the period to which it relates and will contain the following information: (1) The total of all transaction-related charges incurred by the plan during the period covered by the report in connection with transactions to which this proposed exemption applies; (2) the total of all transaction-related charges incurred by the plan during the period covered by the report in connection with all other brokerage transactions; (3) rates for all transaction-related charges

incurred by the plan during the period covered by the report for transactions to which this proposed exemption applies; and (4) rates for all transaction-related charges incurred by the plan for all other brokerage transactions.

Signed at Washington, DC, this 22nd day of October, 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87-25803 Filed 11-5-87; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 87-87; Exemption Application No. D-6605 et al.]

Grant of Individual Exemptions; Classic Autos, Ltd. Pension Plan & Trust, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Classic Autos, Ltd. Pension Plan and Trust (the Plan), Located in Milford, MI

[Prohibited Transaction Exemption 87-87; Exemption Application No. D-6605]

Exemption

The sanctions resulting from the application of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective May 18, 1982, to the post contribution to the Plan, on May 18, 1982, of the vendor's interests (the Interests) in two land contracts by Classic Autos, Ltd. (the Employer), provided that the Interests were valued at no more than their fair market value as of the date of the contribution.[1]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 25, 1987 at 52 FR 32082.

For Further Information Contact: David Lorie of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Masonry Vacation Trust Fund (the Vacation Plan) and Masonry Industry Apprenticeship and Journeyman Training Fund (the Training Plan), Located in Portland, OR

[Prohibited Transaction Exemption 87-88; Exemption Application Nos. D-7016 and D-7023, respectively]

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply to the proposed transfer by the Vacation Plan to the Training Plan of $10,000 from certain residual assets that are held by the Vacation Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 25, 1987 at 52 FR 32083.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Simkins Industries, Inc. Master Trust (the Trust) Located in New Haven, CT

[Prohibited Transaction Exemption 87-89; Exemption Application No. D-7072]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the proposed loans (the Loans) by the Trust, for a period of five years, to Simkins Industries, Inc. (the Employer); and (2) the proposed guarantee of the Loans by the Employer, provided the terms of the transactions are at least as favorable to the Trust as those obtainable in arm's length transactions with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 17, 1987 at 52 FR 27087.

Written Comments

The Department received two written comments to the notice of proposed exemption (one of which was subsequently withdrawn) and no requests for a public hearing. The remaining commentator objected to the proposed exemption, but did not raise any specific or substantive issues regarding the subject transactions. Thus, after consideration of the entire record, the Department has determined to grant the proposed exemption.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Victor J. Tofany, M.D., P.C. Employee Retirement Plan and Trust (the Plan), Located in Rochester, NY

[Prohibited Transaction Exemption 87-100; Exemption Application No. D-7174]

Exemption

The sanctions resulting from the application of section 4975 of the Code,

[1] Since William Saunders is the sole shareholder of the Employer and is the sole Plan participant, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

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by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) by the Plan of a certain parcel of unimproved real property to Victor J. Tofany, M.D., a disqualified person with respect to the Plan; provided that the terms and conditions of the Sale are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 25, 1987 at 52 FR 32064.

For Further Information Contact: Mrs. Betsy Scott of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Minor Agency Retirement Plan (the Plan) Located in Charlotte, NC

[Prohibited Transaction Exemption 87-101; Exemption Application No. D-7212]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective August 24, 1987, to the sale for cash by the Plan of a 44.8% interest (the Interest) in a limited real estate partnership of which all the other partners are disqualified persons with respect to the Plan to the sole shareholder of the Plan sponsor, provided that the price paid be the fair market value of the Interest on the date of sale or the price originally paid by the Plan for the Interest, whichever is greater.

Effective Date: August 24, 1987.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 23, 1987 at 52 FR 35775.

For Further Information Contact: Mr. Joseph Roberts III of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provsions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 3rd day of November, 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87-25802 Filed 11-5-87; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-7066 et al.]

Proposed Exemptions; Garrison Company Employees Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408 (a) of the Act and/or section 4975 (c) (2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Garrison Company Employees Profit Sharing Plan (the Plan), Located in Farmington Hills, Michigan

[Application No. D-7066]

Proposed Exemption

The Department is considering granting an exemption under the

authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of sections 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan of improved real property (the Property) to KRG Investments, a party in interest with respect to the Plan, and to the transfer of an outstanding lease and mortgage on the Property to KRG Investments, provided KRG Investments pays no less than fair market value for the Property at the time of sale.

Summary of Facts and Representations

1. The Garrison Company (Garrison) is a Michigan corporation engaged in the business of contructing industrial and commerical buildings on a contract basis. The Plan is a profit sharing plan having three participants and total assets of $1,502,250 as of April 30, 1987. The three Plan participants are also officers and shareholders of Garrison as well as trustees of the Plan.

2. The Plan acquired the Property in December 1974 from an unrelated party. The purchase price of the Property was $156,982, financed in part through a mortgage in the principal amount of $120,000 with an interest rate of 8½ percent per annum. The mortgage lender is unrelated on the Plan and the monthly payment of principal and interest on the mortgage is $1,041. As of April 1987, the unpaid balance remaining on the mortgage was approximately $63,000. The Property consists of a single story industrial building and an adjacent parking area located in Livonia, Michigan.

3. The Property was subject to a lease at the time of its acquisition by the Plan. The Property is leased to RCA Service Company (RCA Service), a division of RCA Corporation, as a shop for the service and repair of televisions, radios, air conditioners and other appliances. RCA Service is unrelated to the Plan and to Garrison. The termination date of the lease is July 31, 1988, with an option to extend for an additional five-year period ending July 31, 1993. The monthly rental payment is presently $1,390. The Plan as lessor is responsible for maintenance of the premises. RCA Service as lessee is responsible for any real estate taxes and assessments with respect to the Property. Rent for the option period beginning on July 31, 1988, is to be increased based on a cost of living factor by an amount not to exceed 20 percent of the base rent. The applicant obtained an appraisal on the Property from Gary R. Glotzhober (Glotzhober), a representative of the realty firm of Hanzl, Kepic & Van Lokeren, Inc, in Troy, Michigan. The applicant represents that Glotzhober is independent of both the Plan and Garrison. Glotzhober placed the fair market value of the Property as of September 17, 1987, at $195,000, taking into consideration the present and anticipated leases as well as comparable market values in the general area.

4. The ongoing lease payments on the Property have become below fair market rent and the trustees feel that this investment no longer promotes the purposes of the Plan. Accordingly, the trustees propose to sell the Property to KRG Investments, a Michigan partnership which consists of the three current Plan participants. KRG Investments will pay no less than fair market value for the Property at the time of sale. KRG Investments will pay cash for the Plan's equity in the Property, as determined at the time of sale, and will assume the outstanding lease and mortgage on the Property. The Plan will pay no commissions or fees in connection with the transaction. The proceeds of the sale will be reinvested in assets which should produce more appreciation and income for the Plan.

5. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) The sale of the Property will be entirely for cash and the Plan will pay no commissions or fees in connection with the sale; (2) KRG Investments will pay no less than fair market value for the Property based on an independent appraisal; (3) the transaction will relieve the Plan of having to make any further payments on the outstanding mortgage on the Property; and (4) the proceeds of the sale will be reinvested in assets which should produce more appreciation and income for the Plan.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Centre Radiology, P.A. Profit Sharing Plan (the P/S Plan) and the Centre Radiology, P.A. Money Purchase Pension Plan (the M/P Plan; collectively, the Plans), Located in Cumberland, Maryland

[Application No. D-7200]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the proposed loan of $525,000 (the Loan) by the individually directed accounts of Drs. Emmett W. Cox, Daniel F. Jackson, and Robert F. Miller (the Accounts) in the Plans to Radeq, Inc. (Radeq), a party in interest with respect to the Plans; and (2) the personal guarantees of the Loan by the common stockholders of Radeq, some of whom are parties in interest with respect to the Plans, provided that the terms of the Loan are no less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party.

Sumary of Facts and Representations

1. The P/S Plan is a profit sharing plan which, as of March 31, 1987, had ten participants and total assets of $2,879,600. The M/P Plan is a money purchase pension plan which, as of March 31, 1987, had ten participants and total assets of $419,186. The trustees of the Plans are Drs. Emmett W. Cox (Dr. Cox), Daniel F. Jackson (Dr. Jackson), Robert F. Miller (Dr. Miller), and John P. Light (collectively, the Trustees). The Plans are individual account plans which allow each participant to select the investments for his or her own account. The applicant states that the Accounts had total assets of $2,027,823 as of March 31, 1987. Dr. Cox had $598,657 in his Account in the P/S Plan and $96,998 in his Account in the M/P Plan, Dr. Jackson had $554,362 in his Account in the P/S Plan and $71,565 in his Account in the M/P Plan, and Dr. Miller had $801,964 in his Account in the P/S Plan and $111,076 in his Account in the M/P Plan.

2. Dr. Cox, Dr. Jackson and Dr. Miller each own 25% of the stock of Centre Radiology, P.A. (the Employer), the sponsor of the Plans. The Employer is engaged in the practice of radiology and maintains its principal place of business at Winifred and Williams Road, Cumberland, Maryland.

Drs. Cox, Jackson, and Miller (the Participants) wish to have their Accounts make the Loan to Radeq for the purpose of purchasing certain radiology equipment (the Equipment). The Equipment is a high performance, superconductive magnetic resonance imaging system with a magnetic field

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strength of 0.5 Tesla. The Equipment was originally purchased by Fondun Imaging Center in Texas (the Center), an unrelated party, in early 1986. The Equipment was in operation for only a few months before the Center declared bankruptcy. The Equipment was shipped back to the manufacturer for complete rebuilding. The Equipment will be owned and operated by Radeq, a Maryland corporation owned entirely by the radiologists of two separate hospitals. The Participants each own, in their individual capacity, a 16.7% interest in Radeq.

3. The Loan will enable Radeq to provide long term financing for the Equipment. The Loan will be for a term of ten years with an interest rate of 2% over the prime rate for loans of this type in the local marketplace (i.e. prime at First National Bank of Maryland + 2%), adjusted annually. The Loan will provide for monthly payments of principal and interest from the Loan's inception. The Trustees will have a perfected security interest under the Uniform Commercial Code in the Equipment. No other lenders will have a security interest in the Equipment. In addition, the Loan will be jointly and severally guaranteed by the common stockholders of Radeq. The applicant states that the stockholders of Radeq have a combined net worth which greatly exceeds the amount of the Loan. Finally, the Equipment will be insured against casualty loss with the Trustees designated as the loss payee of such insurance.

By letter dated August 7, 1987, Mr. Jerry R. Womack, Senior Vice President of First National Bank of Maryland in Cumberland, Maryland (the Bank), states that the Bank would consider making a loan to Radeq, with the Equipment as collateral, under the same terms as will exist for the Loan.

4. The applicant represents that the estimated total assets in the Accounts at the time of the transaction, as a result of additional contributions, will be $2,503,000. Dr. Cox will have approximately $656,000 in his Account in the P/S Plan and approximately $125,000 in his Account in the M/P Plan, Dr. Jackson will have approximately $809,000 in his Account in the P/S Plan and approximately $97,000 in his Account in the M/P Plan, and Dr. Miller will have approximately $876,000 in his Account in the P/S Plan and approximately $130,000 in his Account in the M/P Plan. The proceeds for the Loan will be derived equally from each Participant's Account in both Plans. Thus, the Participants will each provide a total of $175,000 for the Loan from the assets of their Accounts. The applicant states that the amount contributed by each of the Accounts for the Loan will be less than 25% of the total assets for each Account at the time the transaction is entered into.

5. The Equipment was appraised on August 26, 1987 by Anthony A. Pinardi (Mr. Pinardi), Vice President of Adam Biomedical Research, Inc., as having a fair market value of $993,620. Mr. Pinardi represents that he is a qualified, independent appraiser, whose expertise is primarily in the used/remanufactured equipment industry. Mr. Pinardi states that the appraisal represents an estimated value of the price which the Equipment would bring on the current remanufactured market in the United States and is based on recent sales of units similar to the Equipment. Mr. Pinardi states further that the total cost of the Equipment, if purchased new, would be $1,369,000. Therefore, Mr. Pinardi estimates that the value for the Equipment on the current used market would be approximately 24% lower than the price of the Equipment if purchased new.

6. The Participants' represent that the proposed transaction is in the best interest of the Accounts because the Loan will provide the Accounts with a secure investment which will yield a high rate of return. The appraised value of the Equipment currently represents approximately 169% of the amount of the Loan. The applicant states that the Participants will ensure that the value of the Equipment will remain at least 175% of the outstanding principal on the Loan throughout the duration of the Loan. The applicant states further that additional property will be used to secure the Loan if such property becomes necessary to maintain the appropriate ratio between the value of the collateral and the amount due on the Loan.

7. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) The Loan will be secured by a prefected security interest in collateral which has an appraised market value which is 180% of the amount of the Loan; (b) the Accounts will receive a fair market rate of return on the Loan which is commensurate with the prevailing rate for similar loans offered in the area; (c) the Participants believe that the Loan, as an investment, is in the best interests of the Accounts; and (d) the amount contributed by each of the Accounts for the Loan will represent less than 25% of the total assets of each Account at the time of the transaction.

Notice to Interested Persons: Because the Participants are the only participants in the Plans to be affected by the proposed transaction, it has been determined that there is no need to distributed the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days from the date of publication of this proposed exemption in the Federal Register.

For Further Information Contact: Mr. E. F. Williams of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiarires;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 3rd day of November, 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87-25804 Filed 11-5-87; 8:45 am]

BILLING CODE 4510-29-M

Employment Standards Administration

Office of Worker's Compensation Programs; Report on Computer Matching Project Involving Certain Beneficiaries Under Black Lung Benefits Act (BLBA)

Summary

The Department of Labor, Employment Standards Administration, Office of Workers' Compensation Programs (OWCP) announces a computer match to be performed by the West Virginia Department of Human Services (WVDHS) of Department of Labor (DOL) black lung beneficiary data and West Virginia Medicaid data. The match will be made under written agreement. The purpose of the data exchange is to identify those DOL black lung beneficiaries who live in West Virginia, in order that the WVDHS can determine which black lung beneficiaries have been recipients of West Virginia Medicaid benefits. It is the responsibility of the State Agency administering the Medicaid program to pursue all liable third party resources prior to the utilization of Medicaid funds for payment of medical services. With the information obtained from this data exchange the WVDHS will be able to identify potentially liable third party payors of medical expenses.

a. *Authority:* Title IV of the Federal Mine Safety and Health Act, 30 U.S.C. 901, et seq., and Title XIX of the Social Security Act, 42 U.S.C. 301, et seq.

b. *Description of Match:* The OWCP will send the WVDHS an extract from the DOL Black Lung Benefit Master File of all DOL black lung beneficiaries with a West Virginia address. The WVDHS will match the DOL black lung beneficiaries living in West Virginia with the WVDHS's records of recipients of West Virginia Medicaid benefits. When a match occurs, the black lung extract data on that individual will be reviewed by the WVDHS to determine whether there is potential third party liability. The WVDHS will be able to seek reimbursement, if it is found that a third party should have paid for medical expenses that were paid by Medicaid in West Virginia. Potential third party payors of these expenses include the Black Lung Disability Trust Fund and Responsible Coal Mine Operators/Insurance Carriers.

c. *Description of Federal Records To Be Matched:* DOL/ESA-7 Office of Workers' Compensation Programs, Black Lung Benefit Payments File (47 FR 30378, July 13, 1982; as amended in 48 FR 5824, February 8, 1983; and 50 FR 5144, February 6, 1985) will be the source of the Federal black lung data extract. Among the items contained in the DOL source data extract will be: Miner Social Security number and birth date, payee name and address, payee monthly benefit amount, date and amount of last check.

d. *Period of Match:* The first match should begin on or about December 1, 1987, and recur annually. Follow-up procedures may extend through the calendar year.

e. *Security:* The personal privacy of individuals identified is protected by strict compliance with the Privacy Act (Pub. L. 93-579) and OMB Circular A-130. Information from the match will be used only for official purposes and will not be released to the public.

The extract files will be used and accessed only for the purposes previously agreed upon. Extract files will not be used to obtain information for any purpose concerning individuals who are not included in the match. Extract files will not be duplicated or disseminated within or outside the matching or source agency, unless agreed upon in writing by both agencies. The WVDHS will use the data supplied in a manner prescribed by law and will maintain proper safeguards to prevent unauthorized release or use of all data contained in the source extract and the extract of matches.

Access to working spaces and claim file storage areas in the WVDHS offices is restricted to West Virginia State employees. File areas are locked after normal duty hours and the offices are protected from outside access by security personnel. Strict control measures are enforced to ensure that access to and disclosure of extract files is limited to a need-to-know basis.

f. *Disposition of Records:* The OWCP source data extract will remain the property of the OWCP and will be destroyed by the WVDHS upon receipt of the following year's source data extract from the OWCP. The extract of matches will become the joint property of the WVDHS and the OWCP, and will be kept by the WVDHS so long as the administrative audit is active. The extract of matches will be destroyed by the WVDHS upon receipt of the following year's source data extract from the OWCP.

Signed at Washington, DC, this 30th day of October 1987.

Lawrence W. Rogers,

Director, Office of Workers' Compensation Programs.

[FR Doc. 87-25795 Filed 11-5-87; 8:45 am]

BILLING CODE 4510-27-M

Office of Worker's Compensation Programs; Report on Computer Matching Project Involving Certain Beneficiaries Under Federal Employe's Compensation Act

Summary

The Department of Labor, Employment Standards Administration, Office of Workers' Compensation Programs (OWCP), announces a computer match, to be performed by the State of New Jersey, of the names and Social Security Numbers (SSN's) of certain beneficiaries who are in receipt of compensation benefits for total disability under the Federal Employees' Compensation Act (FECA), and the wage report records maintained by the New Jersey Department of Labor, The match will be conducted on behalf of the Office of Workers' Compensation Program by the U.S. Department of Labor's Office of Inspector General. The purpose of the match is to determine whether any of these beneficiaries have earned wages in the State of New Jersey without having reported them to OWCP as required under the FECA.

a. *Authority:* The Federal Employees' Compensation Act (FECA) 5 U.S.C. 8101, et seq.

b. *Description of the Match:* Among its responsibilities in the administration of the FECA, the OWCP must ensure that benefit payments are proper and that fraud and abuse are prevented. Computer matching is an efficient and unobtrusive method of determining whether beneficiaries are appropriately receiving total disability benefits under the FECA.

The matching effort will compare the automated data records of FECA beneficiaries who are receiving compensation benefits for total disability and who have addresses in New York, New Jersey, Pennsylvania, Delaware, Puerto Rico, Maryland or Florida, with the wage report records maintained by the New Jersey Department of Labor, in order to determine whether any of those beneficiaries had earnings which were not reported to OWCP while they were

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receiving total disability compensation payments.

The Office of Workers' Compensation Programs, through DOL's Office of Inspector General (OIG), will provide a computer tape containing the selected beneficiaries; name, address, SSN, date of birth, OWCP claim number and owning district office code to the New Jersey Department of Labor. The State of New Jersey will match its state wage report file against this tape. For the resultant matches, the State of New Jersey will provide DOL's OIG an output tape which contains the wage and employer date contained in its Matched Employee File. The OIG, in conjunction with the OWCP, will validate and edit the State data against the case files in the OWCP system of records. After editing and validation, OWCP/OIG will determine which cases shall be further processed or investigated to ascertain whether the individual actually had earnings which should have been reported to OWCP. Action will be taken to ensure that benefits are not being paid in those cases in which there is no entitlement. Certain findings may be submitted to the Department of Justice, through the U.S. Department of Labor's Office of Inspector General, for prosecution. The State of New Jersey will not use the material from the match for any purpose. The sole beneficiary of the match will be the Office of Workers' Compensation Programs.

c. *Description of the Federal Records to be Matched:* The OWCP system of records to be matched has been published as DOL/ESA–13, 47 FR 134, pages 30382–30383, July 13, 1982, as amended in 48 FR 27, page 5826, February 8, 1983, and as amended in 50 FR 25, pages 5144–5145, February 6, 1985. The disclosure of information from this system of records for this matching program is authorized by routine use "b".

d. *Period of the Match:* The anticipated starting date of the match is on or about November 9, 1987. Follow-up processing will take approximately six months.

e. *Security:* The personal privacy of individuals identified on the tapes will be protected by strict compliance with the privacy Act (Pub. L. 93–579) and OMB Circular A–108. Information from the match will be used only for official purposes, and will not be released to the public. To ensure compliance with Pub. L. 93–579, the Office of Inspector General will maintain physical costody of the source data, except during the period the match is actually being run, and of the State of New Jersey's matching product. All automated source and match data will be passwords protected while resident on the State of New Jersey's computer; all tape and paper listings of the source and match information will be stored in a locked file, cabinet or room when not in use. No source materials or information contained therein or any matching information will be duplicated or disseminated within or without the New Jersey Department of Labor, and personnel of that agency will have access to the material or password only for the purpose of directly furthering the matching program. The source information supplied by OWCP and any information resulting from the match will be returned by the State of New Jersey directly to the Office of Inspector General. It is understood that the source material remains the property of the Office of Workers' Compensation Programs.

f. *Disposition of the Records:* As indicated above, all records sent to the State of New Jersey, as well as records of matches, will be returned to the Office of Workers' Compensation Programs, through the U.S. Department of Labor's Office of Inspector General, which is conducting the match on behalf of the OWCP. The information provided as a result of the match will be edited and validated, using the information contained in DOL/ESA–13. Where there is a question of the entitlement of a matched beneficiary to receive compensation at all, or at a particular level, the case will be set for investigation. No payment will be discontinued solely because a beneficiary's name appears as a match. The original source material will be destroyed or expunged following the match. Records of matches which are further processed or investigated will be made part of the case file of the beneficiary along with the results of the investigation.

g. *For Further Information Contact:* Thomas M. Markey, Associate Director for Federal Employees' Compensation, Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Room S–3229, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone (202) 523–7552.

h. *Other Comments:* This match is being performed solely for the purposes of the Office of Workers' Compensation Programs by the State of New Jersey, without any use of the information by them. The actual amount of compensation being received by the OWCP beneficiaries will not be included in the source material furnished to the State.

Signed at Washington, DC, this 28 day of October 1987.

Richard Staufenberger,

Deputy Director, Office of Workers' Compensation Program.

[FR Doc. 87–25798 Filed 11–5–87; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATE: Requests for copies must be received in writing on or before December 21, 1987. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what

happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Air Force (N1–AFU–86–63). Records concerning the Internal Controls Program (annual departmentwide reports are permanent).
2. Department of the Air Force (N1–AFU–87–16). Records relating to environment planning and management.
3. Department of the Air Force (N1–AFU–87–41). Facilitative records pertaining to radio frequency management.
4. Department of the Air Force (N1–AFU–87–40). Records relating to ADP systems software.
5. Department of the Air Force (N1–AFU–87–36). Records relating to polygraph examinations.
6. Department of the Army, Information Systems Command, Office Systems Management Branch (N1–AU–87–20). Records relating to the implementation of approved Information Management Plans.
7. Department of the Army (N1–336–87–5). Facilitative and routine records of Army Sub-Areas (overall policy documentation is permanent).
8. Army and Air Force Exchange Service (N1–334–87–2). Records relating to administrative support of legal, financial, contract, and internal management activities.
9. Department of Agriculture, Forest Service, Cooperative Fire Protection (N1–95–86–4). Routine administrative files created in the course of disbursing of aid to state forest fire protection programs.
10. Department of Agriculture, Forest Service, Cooperative Forestry Staff (N1–95–87–8). General correspondence for cost-sharing conservation programs.
11. Department of Agriculture, Forest Service, Range Management Staff (N1–95–87–12). General correspondence on establishing a uniform framework for classifying ecosystems.
12. Department of Agriculture, Forest Service, Office of Forest Fire and Atmospheric Science Research Staff (N1–95–87–14). General correspondence on administration of research.
13. Department of Commerce, Office of the Secretary (N1–40–87–8). Records of J. C. Dockeray, consultant and advisor on fiscal policy, 1948–61.
14. Department of Health and Human Services, Office of Human Development Services (N1–439–88–1). Construction Grant Case Files relating to the State-administered Vocational Rehabilitation and Developmental Disabilities Program.
15. Department of the Interior, United States Geological Survey (N1–57–87–2). Records relating to regulatory activities, labor management relations, and appointment of contracting officers.
16. Department of Justice, Community Relations Service (N1–378–87–2). Electronic and hardcopy records relating to a management information system for regional case files.
17. Department of Justice, Federal Bureau of Investigation (N1–65–87–17). Negative name check requests.
18. National Archives and Records Administration (N2–77–87–1). Accessioned records of the U.S. Army Cold Regions Research and Engineering Laboratory, consisting of unusable motion picture films, 1947–63.
19. National Archives and Records Administration, Office of Records Administration (N1–GRS–88–2). Addition to General Records Schedule 1, Civilian Personnel Records, for records relating to claims for health benefits from former spouses.
20. National Archives and Records Administration, Office of Records Administration (N1–GRS–88–1). New item for records relating to waivers of claims to be added to General Records Schedule 6, Accountable Officers' Accounts Records.
21. National Archives and Records Administration, Special Archives Division (N2–151–88–1). Accessioned films of the International Trade Administration consisting of duplicate subjects, incomplete subjects, outs, trims, workprints, and cuts.
22. Occupational Health and Safety Review Commission (N1–455–87–1). Various administrative records, including publications, photographs, Commissioners' meeting records, subject correspondence files, and case tracking records.
23. Tennessee Valley Authority, Office of the General Counsel (NC1–142–85–13). Records from the central files relating to administrative or routine legal matters (records appraised as archival will be scheduled for transfer to the National Archives).

Dated: October 30, 1987.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 87–25801 Filed 11–5–87; 8:45 am]

BILLING CODE 7515–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–20132, License No. 35–21272–01 EA 87–204]

Tracer Profiles, Inc., Order Suspending License (Effective Immediately) and Order to Show Cause

I

Tracer Profiles, Inc. (the licensee) 100 N. Rockwell, Building 84, Oklahoma City, Oklahoma 73126, is the holder of Byproduct Material License No. 35–21272–01 issued by the Nuclear Regulatory Commission (the Commission/NRC) pursuant to 10 CFR Part 30. The license authorizes the use of byproduct material for the conduct of oil and gas well tracer studies and is due to expire on February 28, 1988. The license specifies that licensed material shall be used by or under the supervision and in the physical presence of James M. Gibson (President), Jack T. Carter, Jr. (Vice President), Barney P. O'Toole, Alexander A. Palmer, Milton Rose, or Kevin J. Palmer.

II

On March 5–6, 1987, an NRC inspection was conducted at Tracer Profiles, Inc., Oklahoma City, Oklahoma. During the inspection violations of NRC requirements were identified. On March 26, 1987, an enforcement conference was conducted with Mr. Jack T. Carter, Jr. to discuss the violations. Mr. Carter was the sole licensee representative at the enforcement conference. Mr. Carter explained that he and Mr. Gibson were

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currently the only employees of Tracer Profiles, Inc. Prior to and following the enforcement conference, the licensee agreed to specific corrective actions as enumerated in Confirmatory Action Letters (CALs) dated March 13 and April 22, 1987.

The specific corrective actions that the licensee agreed to consisted of the following:

1. Obtaining the services of a consultant who is trained and experienced in the radiation protection aspects of tracer use in oil/gas wells. Submit the name and qualifications of the consultant to the Region IV office and the date of first visit to the Tracer Profiles, Inc. facility within one month of receipt of the April 22, 1987 letter.

2. Engaging this consultant to audit operations, review procedures and license requirements, develop management controls to ensure compliance with license requirements, and prepare a report of findings, which would be forwarded to NRC Region IV within 20 days of the completion of the audit.

3. Engaging this consultant to perform a follow up audit within 6 months of the first audit and report findings, which would be forwarded to NRC Region IV within 20 days of the completion of the audit.

4. Obtaining calibrated radiation survey instrumentation before undertaking any operations involving radioactive materials.

5. Submitting to Region IV, for approval, supplemental information regarding procedures for storage of radioactive materials at the facility.

6. Upon receipt of each new shipment of radioactive material, surveying the radioactive materials storage area to verify that levels of radiation in unrestricted areas, as specified in 10 CFR 20.105, were not exceeded. Results of this survey are to be recorded.

7. Submitting the results of wipe samples taken after vacating the former address of 8236 SW., 5th Street, Oklahoma City, Oklahoma.

8. Surveying and decontaminating equipment as required by operating procedures.

9. Obtaining records of missing personnel monitoring reports not available at the time of inspection and maintaining them for NRC inspection.

Subsequently, a Notice of Violation (NOV) was issued on June 8, 1987. In the NOV, the violations were categorized in the aggregate as a Severity Level III problem. A civil penalty, which is generally proposed for a Severity Level III problem, was not proposed because of the licensee's good enforcement history and the licensee's agreement to implement the above-described extensive corrective actions.

The NOV specified that the licensee was to reply to the NRC within 30 days of the date of the letter transmitting the NOV.

The licensee failed to respond to the CALs and NOV. Following numerous unsuccessful attempts to contact the licensee by telephoned, the NRC Region IV wrote to the licensee on July 16, 1987. On July 20, 1987, Mr. Gibson telephone the NRC Region IV office and advised that he was unaware of Mr. Carter's whereabouts and his commitments to the NRC and the subsequent NOV. Mr. Gibson did, however, agree to take actions to resolve the matter. In a subsequent telephone conversation on July 23, 1987, Mr. Gibson committed to the following actions:

1. To personally take control of the licensed program and to safeguard any radioactive material in the possession of Tracer Profiles, Inc. This was to include the securing of licensed material in locked storage until such time as NRC approves resumption of operations with sources.

2. To personally supervise any work conducted under the license.

3. To respond to the NOV within 20 days of receipt of the letter transmitting the commitments.

4. Within 20 days of receipt of the letter transmitting the commitments, to initiate the actions described in the CAL of April 22, 1987 concerning the use of a consultant to audit the program within the time frames specified.

5. To amend the license to name Mr. Gibson, rather than Mr. Carter, as the Radiation Safety Officer.

These actions were formalized in a CAL dated July 31, 1987.

To date, Mr. Gibson has failed to respond to the July 31, 1987 CAL. Moreover, the licensee has vacated its offices and apparently moved to a new and unknown location, which is unauthorized if radioactive material is possessed.

III

The licensee's failure to fulfill commitments made to the NRC demonstrates an untrustworthiness and unwillingness to comply with the NRC regulatory requirements which cannot be tolerated. Therefore, I lack the requisite reasonable assurance that the licensee will comply with Commission requirements in the future. I have determined that the public health, safety, and interest require that License No. 35–21272–01 be suspended, effective immediately, as described below.

IV

Accordingly, pursuant to sections 81, 161(b), 161(i) and 182, of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, *It Is Hereby Ordered, Effective Immediately, That:*

A. License No. 35–21272–01 is suspended pending further Order and the licensee shall cease and desist from any use of byproduct material in its possession.

B. The licensee shall place all byproduct material in its possession in locked storage and notify the NRC Region IV office of compliance in writing within 20 days of the date of this Order.

C. The licensee shall show cause why License No. 35–21272–01 should not be revoked.

The Regional Administrator, Region IV may relax or rescind any of the above provisions for good cause shown by the licensee.

V

Pursuant to 10 CFR 2.202(b), the licensee may show cause why this Order should not have been issued by filing a written answer under oath or affirmation within 20 days of the date of issuance of this Order, setting forth the matters of fact and law on which the licensee relies. The licensee may answer this Order, as provided in 10 CFR 2.202(d), by consenting to the provisions specified in Section IV above. Upon failure of the licensee to file an answer within the specified time, the Deputy Executive Director for Regional Operations may issue without further notice an Order revoking License No. 35–21272–01 and requiring transfer of all materials possessed under License No. 3521272–01 to an individual authorized to possess such material.

The licensee or any other person who has an interest adversely affected by this Order may request a hearing on this Order within 20 days of the date of its issuance. Any answer to this Order or request for hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Enforcement, Office of General Counsel at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). An answer to this Order or a request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 30th day of October 1987.

For The Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

[FR Doc. 87–25793 Filed 11–5–87; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–25091; File Nos. SR–Amex–87–28; SR–CBOE–87–51; SR–PSE–87–27; and SR–PHLX–87–39]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Chicago Board Options Exchange, Inc.; Pacific Stock Exchange, Inc.; and Philadelphia Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] the American ("Amex"), Pacific ("PSE"), and Philadelphia ("Phlx") Stock Exchange, and the Chicago Board Options Exchange, Inc. ("CBOE") ("Exchanges") have filed with the Securities and Exchange Commission ("Commission") proposed rule changes to amend their rules to raise the customer margin requirement applicable to broad-based market index options.

On September 28, 1985,[3] the Commission approved proposed rule changes filed by the Amex, CBOE, PSE, Phlx, the New York Stock Exchange, Inc. ("NYSE"), and the National Association of Securities Dealers, Inc. ("NASD") (collectively, the self-regulatory organizations ("SROs")) to establish a uniform premium-based customer margin system for short options positions.[4] Under this uniform marin system, the SROs' rules[5] calculate margin requirements by use of a formula applicable to all options products. The formula calls for the deposit and maintenance of margin equal to 100% of the current option premium value plus a fixed percentage of the underlying product value with an adjustment for out-of-the-money options, with a minimum of 100% of the current option premium value plus a fixed lesser percentage of the current value of the underlying product. The percentage requirement varies with the options product. The percentages were developed by relating option margin to the annualized price volatility of the underlying security to provide for initial margin that would cover the underlying product's historical volatility over a seven-day period with a 95% confidence level. The SROs' current margin requirements for each short put or call on a broad-based market index is 100% of the current premium plus 5% of the current index value times the index multiplier, less any out-of-the-money amount, with a minimum of 100% of the current premium plus 2% of the current index value times the index multiplier.

In view of the recent increased volatility in the stock markets, and because current margin requirements are based upon historical levels of volatility that are no longer valid under current market conditions, the Exchanges have proposed to raise the margin requirement applicable to broad-based market index options. The new margin requirements are intended to provide investors and member firms with sufficient financial protection commensurate with increased market volatility. Under the proposal, the margin requirement for broad-based market index options will be increased to 100% of the current premium plus 10% of the current index value, less any out-of-the-money amount, with a minimum of 100% of the current premium plus 5% of the current index value. For positions established prior to the implementation of the new margin requirement, member organizations may, at their discretion, apply the former maintenance requirement.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6(b)(5),[6] which provides, in pertinent part, that the rules of the Exchanges must be designed to protect investors and the public interest. The increased margin requirements for broad-based market indexes will provide more financial protection to the securities industry at a time of increased market volatility. The current low margin levels are based on historical volatility levels which are no longer valid in light of the events of the past two weeks. Hence, at a minimum, higher margin levels are needed to ensure the financial stability of member firms. At this time the SROs have determined to raise the initial margin level for broad-based index options to 10%. While the Commission believes this action is necessary as an interim step in assuring the adequacy of margin levels in light of the market events of the past two weeks, the Commission reserves judgement on whether the premium plus 10% level is sufficient as a permanent standard. At a minimum, the SROs will have to recalculate their volatility equations. Perhaps more importantly, the Commission currently is undertaking a study of the market events of the week of October 19, 1987. One aspect of the study will concern the effect of margin levels on derivative index products on the recent market volatility. Until the study is finished, the Commission reserves judgement both on the level of margin set by the proposed rule changes as well as the method of determining adequate margin.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the proposal in the Federal Register. In light of the increased stock market volatility and its effect on margin adequacy, the four Exchanges want to require member organizations to implement the new margin requirements no later than the opening of business on Monday, November 2, 1987 for positions established on or after that date. In addition, the four exchanges have proposed substantially identical rule changes in order to coordinate the increased margin requirements on broad-based stock index contracts.[7]

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b–4 (1988).

[3] Securities Exchange Act Release No. 22409 (September 26, 1985), 50 FR 40633.

[4] A short position is the number of outstanding option contracts of a given series of options with respect to which a person is obligated as a writer (seller).

[5] Amex Rule 462, CBOE Rule 24.11; NASD Rules, Article III, Sec. 30, Appendix A, Sec. 4; NYSE Rule 431; PSE Rule XX1, Sec. 10, Phlx Rule 722.

[6] 15 U.S.C. 78f(b)(5)(1982).

[7] The NYSE will implement an identical margin increase on an emergency basis pursuant to NYSE Rule 431. The Commission expects the NYSE to submit a filing to effectuate the change for more than an emergency period.

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the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organizations. All submissions should refer to the file numbers in the caption above and should be submitted by November 21, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule changes are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

Dated: November 21, 1987.

[FR Doc. 87-25790 Filed 11-5-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25078; File No. SR-PSE-87-25]

Self-Regulatory Organizations; Proposed Rule Change by Pacific Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1)("Act"), notice is hereby given that on September 30, 1987, the Pacific Stock Exchange, Inc. ("PSE") or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the Schedule of Rates and Charges published by the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") the Exchange will waive the transaction charges for all orders sent to the floor, and all Order Book charges, for trades executed in two dually-listed options: Microsoft Corporation and Mentor Corporation. These charges will be waived from September 21, 1987 through December 30, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The waiver of Order Book and transaction charges in these classes of options traded on over-the-counter ("OTC") stocks is a competitive response to Securities and Exchange Commission Release No. 34-22026, which permits the multiple trading of OTC options. Although the Exchange believes that its market Makers will provide excellent markets in these options, the Exchange is of the opinion that a waiver of certain fees is necessary to remain on a competitive footing with other option exchanges. This waiver of Order Book and transaction fees will encourage decisions regarding where to trade given options to be made on the basis of the strength of the marketplace.

The proposed rule change is consistent with section 6(b)(5) of the Securities Exchange Act of 1934, in that it will increase competition and the quality of markets.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that a waiver of certain transaction and Book fees will increase competition between marketplaces.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by, November 27, 1987.

It Is Therefore Ordered, pursuant to section 19(b)(3) of the Act that the proposed rule change referenced above be, and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 30, 1987.

[FR Doc. 87-25728 Filed 11-5-87; 8:45 am]

BILLING CODE 8010-01-M

[8] 15 U.S.C. 78s(b)(2) (1982)

[9] 17 CFR 200.30-3(a)(12) (1988).

[Rel. No. IC-16104; 812-6889]

Societe Centrale de l'Union des Assurances de Paris; Application

November 2, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Societe Centrale de l'Union des Assurances de Paris.

Relevant 1940 Act Section: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: The Applicant seeks an order exempting it from all provisions of the 1940 Act so that it may issue and sell in the United States equity securities, either directly or in the form of American Depository Shares, evidenced by American Depository Receipts. In addition, the Applicant seeks such an exemptive order so that it also may issue and sell in the United States debt securities, either publicly or privately, and commercial paper.

Filing Date: The application was filed on October 6, 1987, and an amendment was filed on November 2, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 23, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant: c/o Edward Bransilver, Esq., at Shearman & Sterling, Fourth Floor, 1001 30th Street NW., Washington, DC 20007, (202) 337-6200.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Special Counsel (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application: The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. The Applicant is a holding company of the UAP Group (the "UAP Group"), the largest insurance group in France and the seventh largest insurance group in Europe. The main business of the Applicant's principal underwriting companies, UAP Vie ("UAP Life") and UAP Incendie Accidents ("UAP Fire and General") and their operating subsidiaries, is insurance. In addition, the Applicant engages in the business of real estate as well as in banking and related financial services. For the year ending December 31, 1986, the UAP Group had consolidated gross premium income of nearly $6 billion and consolidated earnings of $343 million. Total assets of the UAP Group amounted to over $18 billion in 1986.[1] Applicant's own assets amounted to over $1,041 million of which $382 million or 36.6% consisted of investments in equity securities and $36 million or 3.5% consisted of loans. The remaining 59.9% of Applicant's assets were attributed to investments in the operating subsidiaries (43.5%), cash (13.9%) and investments in real estate 2.5%).

2. In addition to UAP Life and UAP Fire and General, the UAP Group includes Banque Worms, a wholly-owned commercial bank, and other financial companies as well as foreign affiliates and reinsurance companies within and outside of France.

3. The French government, which presently owns 85.3% of the shares of the Applicant, is planning to sell its shares pursuant to its privatization program. The privatization of the Applicant is tentatively scheduled for November 25, 1987.

4. The Applicant is subject to extensive government regulation as an insurance company in France. Rules and regulations governing the operation of French insurance companies range from licensing requirements and rate controls to regular reporting and minimum reserve requirements.

5. The Applicant has an insurance presence in the United States through Rockleigh, a Delaware holding company whose three subsidiaries are engaged in the reinsurance business in the State of New York. The subsidiaries are directly regulated by insurance authorities in that state with the primary focus being to assure the solvency of the insurers. In addition, Applicant is subject to New York State regulation as part of an insurance holding system.

6. In order to have continued access to United States sources of funds, Applicant seeks, in addition to the private placement of its shares by the French government in the context of Applicant's privatization, the ability to sell in the United States its equity securities either publicly or privately, and either directly or in the form of American depositary shares evidenced by American depositary receipts, and its debt securities, either publicly or by private placement, and commercial paper. The term equity securities as used in connection with the future offerings described herein and more fully set forth in the application shall include any class or type of equity security which Applicant may at the time be authorized to issue under French law or which Applicant may make available to its shareholders through a rights offering. All of the undertakings set forth herein and in the application with respect to future offerings or equity securities shall apply to any such offerings.

7. Should the Applicant make a public offering of its debt or equity securities in the United States, such offering would be registered under the Securities Act of 1933 (the "1933 Act"). In addition, the Applicant would become subject to and would comply with the reporting requirements applicable to foreign issuers under the Securities Exchange Act of 1934. Although the Applicant would offer its debt or equity securities to the general public, it has been advised by its investment bankers that the market for such securities would be largely institutional. In connection with the offering, the Applicant would comply with the prospectus disclosure and delivery requirements of the 1933 Act. The Applicant would ensure that any offering, including the private placement to be made in connection with the French privatization program, of its debt or equity securities or commercial paper in the United States under circumstances not requiring registration under the 1933 Act would meet the prevailing standards for an exemption from registration under the 1933 Act.

8. Any commercial paper sold by Applicant in the United States in reliance upon the order sought by the application would be prime quality commercial paper notes (the "notes") in bearer form and in denominations of at least $100,000. Such notes would rank *pari passu* among themselves, senior to

[1] Amounts stated in U.S. dollars ($) have been converted from French Francs (FF) at the rate of exchange of $1 = 6.455 FF, the median of the buy and sell rates for the U.S. dollar on the Paris Stock Exchange on December 31, 1986. On September 18, 1987 this median rate was 6.06 FF.

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Applicant's ordinary shares and equally with other unsubordinated unsecured obligations of Applicant. The notes would be issued and sold through one or more United States commercial paper dealers which would reoffer the notes as principals to investors or persons normally purchasing commercial paper notes, without advertisement or offer for sale to the general public. Applicant undertakes that each such dealer would provide each offeree of notes with a memorandum at least as comprehensive as those customarily prepared in connection with offers and sales in the United States of prime grade commercial paper of United States issuers. Applicant would not issue and sell notes without obtaining an opinion of its United States counsel that, under the circumstances of an offering, the notes would be entitled to a section 3(a)(3) exemption. Applicant does not request SEC review or approval of its U.S. counsel's opinion regarding the availability of the exemption and the SEC expresses no opinion as to the availability of the exemption.

Applicant's Undertakings

1. Applicant undertakes that any prospectus or memorandum relating to an offering of the type described above and in the application would contain a description of the business of Applicant. It would also contain Applicant's most recently published financial statements audited by a firm of independent public accountants of recognized international standing; and such prospectus or memorandum would disclose any material differences between the accounting principles applied in the preparation of such financial statements and United States generally accepted accounting principles applicable to United States insurance companies. Such financial statements would be updated promptly to reflect material changes in the financial condition of Applicant.

2. Applicant undertakes that any future issues of debt securities and commercial paper in the United States shall have received prior to issuance one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that Applicant's United States counsel shall have certified that such rating has been received, provided, however, that no such rating need be obtained with respect to any such issue if, in the opinion of Applicant's United States counsel (after taking into consideration the doctrine of integration referred to in Rule 502 under the 1933 Act and various releases and no-action letters made public by the Commission), an exemption from registration is available under Section 4 of the 1933 Act.

3. Applicant undertakes that in the event of an offering in the United States of debt securities and commercial paper denominated in a currency other than United States dollars, Applicant will set forth in the prospectus or memorandum relating to such offering (i) the rate of exchange between the currency in which the securities are denominated and United States dollars as of a recent date and (ii) appropriate disclosure of the risks to investors regarding the potential for exchange rate fluctuations.

4. Applicant undertakes to submit expressly to the jurisdiction of the federal and New York State courts sitting in the City of New York for the purpose of any suit, action or proceeding arising out of any offering conducted in reliance upon any order granted pursuant to its application or in connection with the debt or equity securities or commercial paper distributed thereby. The Applicant further undertakes that in connection with any such offering it will appoint an agent to accept any process which may be served in an action based on any such offering and instituted in any State or Federal Court by the holder of such securities. Such submission to jurisdiction and appointment of an agent for service of process will be irrevocable for as long as any of the Applicant's securities issued in reliance upon any order granted pursuant to its application remain outstanding in the United States. Such submission to jurisdiction and appointment of agent for service of process will not affect the right of any holder of such securities to bring suit in any court having jurisdiction over the Applicant by virtue of the offer and sale of the securities or otherwise. The agent for service of process will not be a trustee for the holders of securities or have any responsibilities or duties to act for such holders.

5. Applicant undertakes with regard to public offerings of debt or equity securities that are not issued in the United States or sold to U.S. persons in primary offerings (but where, because of factors such as the development of a secondary market in the securities, there is a reasonable possibility that such debt or equity securities could be offered in the United States or to U.S. persons), that Applicant will adopt agreements and procedures reasonably designed to prevent such securities from being offered or sold in the United States or to U.S. persons (except as U.S. counsel may then advise is permissible).

6. As noted above, the Applicant has an insurance presence in the United States through Rockleigh, a Delaware holding company of three subsidiaries in the State of New York. Applicant is also subject to state regulation as part of an insurance holding system. The Applicant represents that it has no present intention to curtail its insurance operations in the United States so as to cease to be regulated as an insurance company in the United States. If, however, such operations are curtailed in the future with the result that the Applicant is no longer regulated as an insurance company in the United States, the Applicant agrees that it will continue to comply with the undertakings concerning the Applicant's submission to jurisdiction and appointment of an agent for service of process, as set forth in paragraph 4 above, until such time as there will be no holder in the United States of the Applicant's debt or equity securities or commercial paper issued in reliance upon any order made pursuant to the application. The Applicant will issue debt or equity securities or commercial paper in the United States only so long as the Applicant is supervised and examined by French government authorities having the power of supervision over insurance companies in France and, in respect of its U.S. insurance operations, by state authorities in the United States having the power of supervision over insurance companies in the United States. Applicant represents that it has no present intention to curtail its insurance operations in France so as to cease to be subject to insurance regulation in France.

7. Applicant consents to any SEC order granting the application being expressly conditioned upon its compliance with the undertakings and representations summarized above, including under the heading "Applicant's Representations", and more fully set forth in its application.

Applicant's Legal Analysis

The requested order is both necessary and appropriate in the public interest. Approval of the application would further the goal of the French privatization program to return major sectors of the French economy to private ownership by enhancing the ability of French companies to raise capital abroad. Approval would make Applicant's debt or equity securities or commercial paper available to the general investing public, as well as to institutional and sophisticated investors, subject to the protections of the U.S. laws. The requested order is consistent with the protection of investors. The Applicant is subject to a comprehensive scheme of regulation both in France and the United States. The requested order is consistent with the purposes of the 1940 Act because regulation of institutions similar to the Applicant was not within the intent of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25729 Filed 11-5-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500-1]

Order of Trading Suspension; Transworld Network Corp.

October 29, 1987.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information relating to the securities of Transworld Network Corporation, formerly known as Monvert Financial Corp., (Transworld Network), a Nevada corporation headquartered in Kissimmee, Florida, and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things: the management of Transworld Network; control of Transworld Network; the beneficial ownership of its securities; its financial condition; its acquisitions; its principal shareholders; and, other matters. If further appears that three individuals, who were previously officers and directors according to the filings made by Transworld Network with the Commission pursuant to section 15(d) of the Securities Exchange Act of 1934, have denied having any involvement with the company. The Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Transworld Network.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that over-the-counter trading in the securities of Transworld Network is suspended, for the period commencing at 2:00 p.m. (EST) on October 29, 1987, and terminating at 12:01 a.m. (EST) November 9, 1987.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25730 Filed 11-5-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

[87-29]

Aviation Proceedings; Agreements Filed During the Week Ending October 30, 1987

The following agreements were Filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be Filed within 21 days of date of filing.

Docket No. 45244

Parties: Members of International Air Transport Association
Date Filed: October 26, 1987
Subject: Passenger Agency Conference—Australia
Proposed Effective Date: November 15, 1987

Docket No. 45245

Parties: Members of International Air Transport Association
Date Filed: October 26, 1987
Subject: Cargo Rates—Ex Nigeria
Proposed Effective Date: November 1, 1987

Docket No. 45246

Parties: Members of International Air Transport Association
Date Filed: October 26, 1987
Subject: Mid-Atlantic Cargo Rates
Proposed Effective Date: November 1, 1987 and April 1, 1988

Docket No. 45250

Parties: Members of International Air Transport Association
Date Filed: October 27, 1987
Subject: So. Atlantic—Europe Passenger Resolutions
Proposed Effective Date: December 1, 1987/January 1, 1988

Docket No. 45251

Parties: Members of International Air Transport Association
Date Filed: October 29, 1987
Subject: Europe—Southeast Asia Fares
Proposed Effective Date: April 1, 1988

Docket No. 45259

Parties: Members of International Air Transport Association
Date Filed: October 30, 1987
Subject: North/Central Pacific Passenger Fares
Proposed Effective Date: December 1, 1987 and April 1, 1988

Docket No. 45260

Parties: Members of International Air Transport Association
Date Filed: October 30, 1987
Subject: Interline Baggage Tag
Proposed Effective Date: December 1, 1987

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-25757 Filed 11-5-87; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed During the Week Ending October 30, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procudures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45247

Date Filed: October 26, 1987
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 23, 1987.
Description: Application of Time Air Inc., pursuant to section 402 of the Act and Subpart Q of the Regulations, applies for issuance of a foreign air carrier permit, to authorize it to engage in foreign scheduled air transportation of persons, property and mail between Great Falls, Montana and Calgary/Lethbridge, Alberta.

Docket No. 45249

Date Filed: October 27, 1987
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 24, 1987.
Description: Application of Trans World Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, applies for an amendment of its certificate of public convenience and necessity for Route 147 authorizing it to provide air transportation services between a point to points in the United States and Oslo, Norway, as well as local traffic rights between Oslo, on the one hand, and Stockholm, Sweden, and Copenhagen, Denmark, on the other.

Docket No. 45255

Date Filed: October 29, 1987
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 27, 1987.
Description: Application of Florida National Airlines, Inc. pursuant to section 401(d)(1) of the Act and Subpart Q of the Regulations requests a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation and for a fitness determination.

Docket No. 45258

Date Filed: October 30, 1987
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: November 27, 1987.

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Description: Application of Air Atonabee Limited d/b/a City Express, pursuant to section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit authorizing scheduled air transportation between Montreal (Mirabel International Airport), Quebec, Canada and Newark, New Jersey, United States.

Phyllis T. Kaylor,

Chief, Documentary Services, Division.

[FR Doc. 87-25758 Filed 11-5-87; 8:45 am]

BILLING CODE 4910-13-M

Saint Lawrence Seaway Development Corporation

Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 10:00 a.m., December 3, 1987, at the Corporation's Administration Headquarters, Room 5424, 400 Seventh St. SW., Washington, DC. The agenda for this meeting will be as follows: Opening Remarks, Consideration of Minutes of Past Meeting; Review of Programs; Business, Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than November 25, 1987, Joan C. Hall, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590; 202/366-0116.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC on October 30, 1987.

Joan C. Hall,

Advisory Board Liaison.

[FR Doc. 87-25693 Filed 11-5-87; 8:45 am]

BILLING CODE 4910-61-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 215
Friday, November 6, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMISSION ON CIVIL RIGHTS

November 3, 1987.

PLACE: 1121 Vermont Avenue, NW., Room 512 Washington, DC 20425.

DATE AND TIME: Friday, November 13, 1987, 9:00 a.m.-5:00 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of September and October Meetings
III. Staff Director's Report for September and October
  A. Status of Earmarks
  B. Personnel Report
  C. Activity Report
IV. Project Proposals for FY 88
V. SAC Rechartering
VI. Discussion by SAC Chairs

PERSON TO CONTACT FOR FURTHER INFORMATION: John Eastman, Press and Communications Division, (202) 376-8105.

William H. Gillers,

Solicitor, 376-8514.

[FR Doc. 87-25808 Filed 11-4-87; 8:50 am]

BILLING CODE 6335-01-M

FARM CREDIT ADMINISTRATION

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on November 10, 1987, from 9:30 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary to the Farm Credit Administration Board, 1501, Farm Credit Drive, McLean, Virginia 22102-5090 (703-883-4003).

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). The matter to be considered at the meeting is:

1. Final Regulations Covering Regulatory Accounting Practices, 12 CFR 624.

Dated: November 4, 1987.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 87-25914 Filed 11-4-87; 4:01 pm]

BILLING CODE 4705-01-M

FEDERAL ENERGY REGULATORY COMMISSION

November 3, 1987.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B:

TIME AND DATE: November 10, 1987, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Acting Secretary (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 689th Meeting—November 10, 1987—Regular Meeting (10:00 a.m.)

CAP-1.
  Project No. 96-011, Pacific Gas & Electric Company
CAP-2.
  Project No. 405-022, Philadelphia Electric Power Company and The Susquehanna Power Company
CAP-3.
  Project No. 3400-004, Potter Township, Pennsylvania
CAP-5.
  Project Nos. 8160-010 and 002, Dale L. R. Lucas, Alternate Energy Resources, Inc.
CAP-6.
  Project No. 9167-007, Pennsylvania Hydroelectric Development Corporation
CAP-7.
  Project No. 10336-001, Longhill Associates
CAP-8.
  Project No. 10341-003, Gen Irrigation District
  Project No. 10342-001, City of Tacoma, Washington
CAP-9.
  Project No. 10366-001, Skykomish River Hydro
CAP-10.
  Project No. 3180-015, Rock Creek Limited Partnership
CAP-11.
  Omitted
CAP-12.
  Project No. 8924-001, Northeast Hydrodevelopment Corporation
CAP-13.
  Docket No. EL86-32-001, Eastern Band of Cherokee Indians
CAP-14.
  Docket No. ER87-614-000, The Washington Water Power Company
CAP-15.
  Docket No. ER85-705-006, Boston Edison Company
CAP-16.
  Docket No. EL87-21-002, Yankee Atomic Electric Company
  Docket No. EL87-22-002, Vermont Yankee Nuclear Power Corporation
  Docket No. EL87-23-002, Connecticut Yankee Atomic Power Company
CAP-17
  Docket No. ER87-366-002, New England Hydro Transmission Corporation, New England Hydro Transmission Electric Company, New England Power Company, Boston Edison Company and Public Service Company of New Hampshire
CAP-18.
  Docket No. ER86-108-002, Idaho Power Company
  Docket Nos. ER86-570-000 and 001 The Washington Water Power Company
CAP-19.
  Docket Nos. ER-87-010, 011 and 012, Alamit. Company
CAP-20.
  Docket No. No. ER87-360-001, Connecticut Yankee Atomic Power Company
CAP-21.
  Omitted
CAP-22.
  Docket No. EL87-58-000, Cities of Newark, New Castle, Seaford and Milford, Delaware and the Towns of Smyrna, Clayton, Middletown and Lewes, Delaware V. Delmarva Power & Light Company
CAP-23.
  Docket No. QF87-320-000, Overland Energy Corporation
CAP-24.
  Docket No. QF87-64-001, StarMark Energy Systems, Inc.

Consent Miscellaneous Agenda

CAM-1.
  Docket No. FA87-71-000, Cambridge Electric Light Comapny
CAM-2.
  Docket No. RM83-39-000, List of Units of Property for Use in Accounting for Additions and Retirements of Reactor Plant Equipment
CAM-3.

Docket No. RM87-29-000, State Corporation Commission of the State of Kansas

CAM-4.
Docket No. GP87-11-001, ANR Pipeline Company v. Conoco, Inc.

CAM-5.
Docket No. GP83-35-001, Southern Natural Gas Company

CAM-6.
Docket No. GP87-59-000, Department of Interior, Bureau of Indian Affairs, Osage Agency

CAM-7.
Omitted

CAM-8.
Docket No. GP87-24-000, Pensylvania Department of Environmental Resources, Bureau of Oil and Gas Management, NGPA Section 102, Fox Oil & Gas, Inc., Earl Buterbaugh No. 2 Well, FERC No. JD84-12150, Anthony Bernecky No. 1 Well, FERC No. JD84-12966

CAM-9.
Docket No. RO87-4-000, Texaco Inc.

CAM-10.
Docket Nos. RM87-3-019 and 020, Annual Charges Under the Omnibus Budget Reconciliation Act of 1986

CAM-11.
Docket No. RM85-6-000, Waiver of the Water Quality Certification Requirements of Section 401(a)(1) of the Clean Water Act

Consent Gas Agenda

CAG-1.
Docket Nos. RP87-70-003, RP82-124-008 and CP86-275-005, East Tennessee Natural Gas Company

CAG-2.
Docket No. RP87-89-001, Northwest Alaskan Pipeline Company

CAG-3.
Docket No. RP87-95-002, Panhandle Eastern Pipeline Company

CAG-4.
Docket No. RP87-103-001, Panhandle Eastern Pipeline Company

CAG-5.
Docket No. RP87-103-002, Panhandle Eastern Pipeline Company

CAG-6.
Docket No. RP87-134-001, ANR Pipeline Company

CAG-7.
Docket No. TA87-2-2-002, East Tennessee Natural Gas Company

CAG-8.
Docket No. TA85-3-29-028, Transcontinental Gas Pipeline Corporation

CAG-9.
Docket No. TA87-3-16-003, National Fuel Gas Supply Corporation

CAG-10.
Docket No. TA87-4-17-006, Texas Eastern Transmission Corporation

CAG-11.
Omitted

CAG-12.
Docket No. RP84-53-004, Ozark Gas Transmission System

CAG-13.
Docket Nos. RP85-175-006 through 012, Transwestern Pipeline Company

CAG-14.
Omitted

CAG-15.
Docket Nos. CP86-582-002, 004 through 013, 015, RP86-162-003 through 012, 014, RP85-150-009 through 013 and RP86-97-010 through 017, Natural Gas Pipeline Company of America

CAG-16.
Docket No. RP87-85-000, Florida Gas Transmission Company

CAG-17.
Docket No. RP82-80-028, ANR Pipeline Company

CAG-18.
Docket No. RP86-35-005, Great Lakes Gas Transmission Company

CAG-19.
Docket Nos. TA85-2-48-000, TA86-1-48-000, TA86-3-48-000, RP87-1-48-000 and TA87-3-48-000, ANR Pipeline Company

CAG-20.
Docket No. RP87-63-000, Western Gas Interstate Company

CAG-21.
Docket Nos. ST87-2931-000, ST87-2932-000, ST87-2933-000, ST87-2934-000, ST87-2935-000, ST87-2936-000 and ST87-2937-000, Lear Gas Transmission Company

CAG-22.
Docket No. G-3244-001, Cabot Corporation
Docket Nos. CI87-885-000 and CI87-886-000, Cities Service Oil and Gas Corporation

CAG-23.
Docket Nos. CI86-418-000 and CI86-424-000, El Paso Natural Gas Company

CAG-24.
Docket No. CI87-707-000, Ensource Inc.

CAG-25.
Docket No. CI87-500-000, Champlin Petroleum Company

CAG-26.
Docket Nos. CP87-259-001 and 002, Northwest Pipeline Corporation

CAG-27.
Docket Nos. CP87-386-003 and CP87-406-002, Florida Gas Transmission Company

CAG-28.
Docket Nos. CP86-395-007 and 008, Northern Border Pipeline Company

CAG-29.
Docket Nos. CP87-332-001, CP87-333-001 and CP87-334-001, Trunkline Gas Company

CAG-30.
Docket No. CP86-725-001, United Gas Pipe Line Company and Trunkline Gas Company

CAG-31.
Docket No. CP87-225-001, South Jersey Gas Company, Complainant v. SunOlin Chemical Company, Respondent

CAG-32.
Docket No. CP87-299-002, Northern Natural Gas Company, Division of Enron Corporation

CAG-33.
Docket No. CP87-141-001, Colorado Interstate Gas Company

CAG-34.
Docket No. CP83-140-005, K N Energy, Inc.

CAG-35.
Docket Nos. CP86-275-001, 002 and 003, East Tennessee Natural Gas Company

CAG-36.
Docket No. CP87-328-000, Northwest Pipeline Corporation

CAG-37.
Docket No. CP87-176-000, Panhandle Eastern Pipe Line Company and National Helium Corporation

CAG-38.
Docket No. CP87-138-000, Southern Natural Gas Company

CAG-39.
Docket No. CP87-216-000, Lone Star Gathering Company

I. Licensed Project Matters

P-1.
Project Nos. 3258-002, 3583-001, 3741-001, 3742-001 and Docket No. EL85-19-102, Joseph M. Keating
Project No. 6156-003, Morris M. Zack and Milton M. Zack. Applications for license for projects located in the Owens River Basin, California; orders complete the cluster Impact Assessment Procedure for the Basin.

P-2.
Project No. 6186-001, Camille E. Held, Walton B. Held, A.W. Stuart Trust, W. Titus Nelson and Dale E. Grenoble. Applications for license for projects located in the Owens River Basin, California; orders complete the cluster Impact Assessment Procedure for the Basin.

P-3.
Project No. 4569-002, John L. Symons. Applications for license for projects located in the Owens River Basin, California; orders complete the cluster Impact Assessment Procedure for the Basin.

II. Electric Rate Matters

ER-1.
Docket No. ER81-177-002, Southern California Edison Company. Opinion and order determining just and reasonable rates.

Miscellaneous Agenda

M-1.
Reserved

M-2.
Reserved

M-3.
Docket No. RM87-16-000, Abandonment of Sales and Purchases of Natural Gas Under Expired, Terminated or Modified Contracts. Final Rule.

I. Pipeline Rate Matters

RP-1.
Docket No. RP85-122-000, Colorado Interstate Gas Company. Whether to approve an initial decision involving issues concerning minimum bill, rate design, imputed volumes, transportation rate, and cost of service.

RP-2.
Docket No. RP85-125-000, Distrigas of Massachusetts Corporation. Whether to approve an initial decision involving issues concerning minimum bill, rate design, cost allocation, and cost of service.

II. Producer Matters

CI-1.
Docket Nos. CI77-337-002 and G-14227-001, Union Texas Petroleum Corporation. Opinion No. 274-A and order on rehearing.

CI-2.
Docket No. CI84-10-008, Pelmont Oil Corporation and Essex Offshore, Inc. Order on remand.

III. Pipeline Certificate Matters

CP-1.
Docket Nos. CP86-462-000 and CP86-494-000, Morgine Pipeline Company.
Docket No. CP86-683-000, Natural Gas Pipeline Company of America. Request for 7(C) authorization by an interstate pipeline to transport gas on behalf of an LDC and request for optional certificate to construct facilities and transport gas.

CP-2.
Docket No. CP87-13-000, Brooklyn Union Gas Company v. Distrigas of Massachusetts Corporation.
Docket No. CP87-30-000, Boston Gas Company v. Distrigas of Massachusetts and Distrigas Corporation. Complaint demanding modification of a certificate to sell gas.

CP-3.
Docket Nos. CP84-348-005, 006 and 007, Mississippi River Transmission Corporation
Docket No. CP84-183-004, Transcontinental Gas Pipe Line Corporation
Docket Nos. CI86-307-002, 003, CI86-688-002, 003, CI86-689-001 and 002, Sea Robin Pipeline Company. Rehearing of order authorizing pipeline to cease purchasing from producer.

CP-4.
Docket Nos. RP86-116-007, 008, CP86-585-003 and 004, Panhandle Eastern Pipe Line Company. Rehearing of order denying request for blanket certificate and terminating rate schedule.

CP-5.
Docket Nos. RP86-116-013, CP86-301-004 and CP86-317-005, Panhandle Eastern Pipe Line Company. Order on contested settlement regarding refunds due under pipeline tariff.

Lois D. Cashell,
Acting Secretary
[FR Doc. 87-25879 Filed 11-4-87; 2:40 pm]
BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, November 12, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: November 4, 1987.

James McAfee,
Associate Secretary of the Board.
[FR Doc. 87-25917 Filed 11-4-87; 4:01 pm]
BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 42060, November 2, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Approximately 10:30 a.m., Thursday, November 5, 1987, following a recess at the conclusion of the open meeting.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Preliminary consideration of testimony on banking issues.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: November 5, 1987.

James McAfee
Associate Secretary of the Board.
[FR Doc. 87-25876 Filed 11-4-87; 2:40 pm]
BILLING CODE 6210-01-M

INTERNATIONAL BROADCASTING BOARD

TIME AND DATE: 9:00 A.M. November 20, 1987.

PLACE: Madison Hotel, Board Room, 15th & M Streets, Washington, DC

STATUS: Closed, pursuant to 5 U.S.C. 552(b)(c)(1) 22 CFR 1302.4 (c) and (h) of the Board's rules (42 FR 9388, March 12, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Bruce D. Porter, Executive Director, Board for International Broadcasting, Suite 400, 1201 Connecticut Avenue, NW., Washington, DC 20036.

Bruce D. Porter,
Executive Director.
[FR Doc. 87-25837 Filed 11-4-87; 11:07 am]
BILLING CODE 8155-01-M

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Corrections

Federal Register
Vol. 52, No. 215
Friday, November 6, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1030

[Docket No. AO-361-A25]

Milk in the Chicago Regional Marketing Area; Order Amending Order

Correction

In rule document 87-24557 beginning on page 39611 in the issue of Friday, October 23, 1987, make the following correction:

§ 1030.55 [Corrected]

On page 39613, in the first column, in § 1030.55(b), in the third line, "(or plants) and" should read "(or plants) an".

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

Department of the Navy

Chief of Naval Operations; Executive Panel Advisory Committee; Closed Meeting

Correction

In notice document 87-24781 appearing on page 41319 in the issue of Tuesday, October 27, 1987, make the following correction:

In the first column, in the first paragraph, after "material" insert "critical".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[PP 7H5532/R91; FRL-3282-9]

Pesticide Tolerances for Metalaxyl; Certain Food and Feed Commodities

Correction

In rule document 87-24941 beginning on page 41417 in the issue of Wednesday, October 28, 1987, make the following correction:

§ 193.277 [Corrected]

On page 41418, in the second column, in § 193.277(d), in the sixth line, "methylphenyl" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51697; FRL-3280-5]

Certain Chemicals Premanufacture Notices

Correction

In notice document 87-24577 beginning on page 39704 in the issue of Friday, October 23, 1987, make the following corrections:

1. On page 39705, in the second column, under **P 88-6**, in the fourth line, "*Use/Import*" should read "*Use/Production*".

2. On page 39706, in the second column, under **P 88-32**, in the third line, "Pentaerythritol" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59836; FRL-3280-4]

Certain Chemicals Premanufacture Notices

Correction

In notice document 87-24576 appearing on page 39704 in the issue of Friday, October 23, 1987, make the following correction:

In the first column, under **SUMMARY**, in the 12th line, "48 FR 1722" should read "48 FR 21722".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59250A; FRL-3284-2]

Toxic and Hazardous Substances; Certain Chemicals; Approval of Test Marketing Exemptions

Correction

In notice document 87-25041 beginning on page 41623 in the issue of Thursday, October 29, 1987, make the following correction:

On page 41624, in the first column, under *T87-32*, in the second line, "September 29, 1987" should read "September 19, 1987".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 86F-0294]

Indirect Food Additives; Polymers

Correction

In rule document 87-24523 beginning on page 39635 in the issue of Friday, October 23, 1987, make the following correction:

§ 177.1500 [Corrected]

On page 39636, in § 177.1500(b), in the table, under "Specific gravity", remove "6/12".

BILLING CODE 1505-01-D

LEGAL SERVICES CORPORATION

45 CFR Part 1607

Governing Bodies

Correction

In proposed rule document 87-24271 beginning on page 38900 in the issue of Monday, October 19, 1987, make the following corrections:

1. On page 38901, in the second column, in the second complete paragraph, in the 22nd line, "was" should read "has".

§ 1607.3 [Corrected]

2. On page 38902, in the first column, in § 1607.3(c), in the 19th line, after "association" insert a comma.

§ 1607.7 [Corrected]

3. On the same page, in the third column, in § 1607.7, in the first paragraph designated "(a)", in the fifth line, after "body" insert a semi-colon.

4. On the same page, in the same column, in § 1607.7, the second paragraph designated "(a)" is correctly designated "(e)".

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872, 873, and 890

Federal Employees Group Life Insurance and Health Benefits Programs; Coverage After Retirement Under FERS

Correction

In rule document 87-24359 beginning on page 39493 in the issue of Thursday, October 22, 1987, make the following correction:

On page 39493, in the first column, under **DATES**, in the first and second lines, "January 1, 1988" should read "January 1, 1987".

BILLING CODE 1505-01-D

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federal register

Friday
November 6, 1987

Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171 Through 179
Performance-Oriented Packaging Standards; Proposed Rulemaking

BEST COPY AVAILABLE

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 through 179

[Docket No. HM-181, Notice No. 87-4]

Performance-Oriented Packaging Standards; Miscellaneous Proposals; Corrections and Supplemental Proposals

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); corrections and supplemental proposals.

SUMMARY: This document revises the notice of proposed rulemaking (NPRM) regarding performance-oriented packaging published on May 5, 1987 (52 FR 16482) to provide supplements and corrections to the proposals contained therein. In the May 5 publication, the Research and Special Programs Administration (RSPA) indicated that because of the magnitude of the proposals contained in the notice, it was inevitable that errors and omissions would come to light subsequent to publication and that a supplementary NPRM would be issued as soon as possible. The supplements and corrections contained in this notice address errors and omissions which have been brought to RSPA's attention since publication of the May 5 NPRM.

DATE: Comments must be received on or before February 26, 1988.

ADDRESSES: Address comments to: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Branch is located in Room 8426, Nassif Building, 400 Seventh Street SW., Washington, DC 20590, telephone number (202) 366-5046. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edward T. Mazzullo, Standards Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366-4488.

SUPPLEMENTARY INFORMATION:

I. General Discussion

This document supplements and corrects Docket HM-181, Notice No. 87-4, published on May 5, 1987 (52 FR 16482). The changes made in this document are generally based on errors and omissions pointed out to RSPA from the publication of the NPRM through August 1, 1987, but also involve supplemental proposals. The preamble discussion contained in the following paragraphs is addressed to the changes made to the May 5 NPRM. This discussion concerns some of the major issues addressed, and a section by section review of the changes. To aid the reader, the corrected regulatory text is republished in its entirety. An itemized listing of changes made in this document is available from the RSPA upon request. A lengthy discussion of the background to this rule is contained in the May 5 NPRM, including its history, a list of major features and a comprehensive section by section review of the proposals. Interested readers should refer to the May 5 NPRM (pages 52 FR 16482 through 16491) for this detailed background information.

Provisions for Tank Cars

On January 27, 1984, RSPA published a final rule (49 FR 3468) under Docket HM-175, entitled "Specifications for Railroad Tank Cars Used to Transport Hazardous Materials". In the preamble to that final rule, it was noted that FRA and RSPA would continue to evaluate the need for new rules for tank car tanks used for hazardous materials. Since publication of the final rule, FRA and RSPA have evaluated information from various sources including, but not limited to research studies and National Transportation Safety Board recommendations. Based upon an evaluation of this information, the May 5 NPRM under Docket HM-181 proposed new tank car standards for certain materials which are toxic by inhalation. The notice also proposed to specify thermal protection, head protection and larger safety valves for certain materials which would be reclassified as flammable gases under the proposed hazard class definitions. The notice further proposed improved outage requirements for certain materials and a new requirement for the inerting of tank car tank shipments of acetaldehyde.

In comments to the docket, it was pointed out to RSPA that there were inconsistencies between some of the bulk special provisions in § 172.101 and specific packaging sections in Part 173, that some of the proposed authorizations for use of tank cars were inappropriate for the materials to be packaged, and that certain tank cars would be rendered obsolete by the proposals. In this document, changes are made to correct inconsistencies and errors relating to authorizations for use of tank cars. Also, "grandfather" provisions are added to permit use of certain currently-authorized tank cars, in those instances where such continued usage is not believed to be detrimental to safety.

It should be noted that RSPA and FRA will continue to evaluate the need for new rules (over and above the proposals contained in the May 5 NPRM and this document) relating to the rail transportation of hazardous materials. For example, the FRA is sponsoring research on thermal and head protection requirements for aluminum tank cars and innovative head protection concepts for all tank cars used for hazardous materials, which may lead to future rulemaking action.

Materials Which Are Toxic By Inhalation

The provisions which were proposed in the May 5 NPRM for determining hazard classes and packing groups for materials which are toxic by inhalation did not specifically address mixtures and did not include limit tests for determining packing groups. To facilitate these determinations without requiring extensive animal testing, a new paragraph is added to § 173.133 to provide two methods of evaluating mixtures for inhalation toxicity. The first method provides for the numerical estimation of the LC_{50} of a mixture when the concentrations of its individual constituents are known. The second method allows the use of simplified threshold tests with animals when the data are unavailable to conduct the numerical estimation.

One of the most significant proposals in the notice concerns the designation of certain gases and liquids as poisonous (toxic) by inhalation for purposes of hazard communication (i.e., they must be identified on shipping papers and packages as an "Inhalation Hazard") and in some instances, for purposes of packaging. Division 2.3 gases (Packing Groups I, II and III) and Division 6.1, Packing Group I, poisons which are inhalation toxic were made subject to these additional requirements. These materials were identified by Special Provision 10 appearing in Column 7 of the § 172.101 Table in the May 5 NPRM, and appear in the following list:

Acetone cyanohydrin
Acrolein, inhibited
Acrylonitrile, inhibited
Allyl alcohol

Allylamine
Ammonia anhydrous
Arsenic trichloride
Arsine
Boron trichloride
Boron trifluoride
Bromine
Bromine chloride
Bromine pentafluoride
Bromine trifluoride
Bromoacetone
sec-Butyl chloroformate
n-Butyl isocyanate
tert-Butyl isocyanate
Carbon dioxide and ethylene oxide mixtures
Carbon monoxide, cryogenic
Carbon monoxide gas
Carbon monoxide and hydrogen mixture
Carbonyl fluoride
Carbonyl sulfide
Chlorine
Chlorine pentafluoride
Chlorine trifluoride
Chloroacetic acid
Chloro acetonitrile
Chloroacetophenone, liquid
Chloropicrin
Chloropicrin/Methyl bromide
Chloropicrin/Methyl chloride
Chloropicrin mixtures, n.o.s.
Chloropivaloyl chloride
Coal gas
Compressed or liquefied gases, flammable, toxic, n.o.s.
Compressed or liquefied gases, toxic, n.o.s.
Crotonaldehyde, stabilized
Cyanogen, liquified
Cyanogen bromide
Cyanogen chloride
Cyclohexyl isocyanate
Diborane
Dichlorodifluoromethane and ethylene oxide mixture
Dichlorosilane
3,5 Dichloro-2,4,6 trifluoropyridine
Dimethylamine, anhydrous
Dimethyldichlorosilane
Dimethyl hydrazine, unsymmetrical
Dimethyl hydrazine, symmetrical
Di-n-amylamine
Di-(n-bulyl) amine
Dimethyl phosphorochloridothioate
Diphenylchloroarsine
Epichlorohydrin
Ethyl chloride
Ethyl chloroformate
Ethyl chlorothioformate
Ethyl dichloroarsine
Ethylene chlorohydrin
Ethylene dibromide
Ethyleneimine
Ethylene oxide
Ethyl fluoride
Ethyl isocyanate
Ethyltrichlorosilane
Fluorine, gas
Furan
Gas identification kit
Germane
Hexaethyltetraphosphate and compressed gas mixtures
Hexafluoroacetone
Hydrogen bromide, anhydrous
Hydrogen chloride, anhydrous
Hydrogen chloride, refrigerated liquid
Hydrogen cyanide, anhydrous
Hydrogen selenide, anhydrous
Hydrogen sulfide, liquefied
Insecticide gases, toxic, n.o.s.
Iron pentacarbonyl
Isopropyl chloroformate
Methacrylonitrile, inhibited
Methoxymethyl isocyanate
Methylamine, anhydrous
Methyl bromide
Methyl bromide and ethylene dibromide mixtures, liquid
Methyl chloride
Methyl chloroformate
Methyl chloromethyl ether
Methyl chlorosilane
Methyl dichloroarsine
Methyl dichlorosilane
Methylene isocyanate
Methyl hydrazine
Methyl isocyanate
Methyl isothiocyanate
Methyl mercaptan
Methyl orthosilicate
Methylphosphonic dichloride
Methylphophonous dichloride
Methyltrichlorosilane
Nickel carbonyl
Nitric acid, fuming
Nitric oxide
Nitric oxide and nitrogen tetroxide mixtures
Nitrogen dioxide, liquefied
Nitrogen trifluoride
Nitrogen trioxide
Nitrosyl chloride
Nitrous oxide, compressed
Nitrous oxide, refrigerated
tert-Octyl mercaptan
Organic phosphate mixed with compressed gas
Oxygen difluoride
Parathion and compressed gas mixture
Perchloro methylmercaptan
Perchloryl fluoride
Phenyl carbylamine chloride
Phenyldichloroarsine
Phenyl isocyanate
Phenyl mercaptan
Phenyl trichlorosilane
Phosgene
Phosphine
Phosphorus oxychloride
Phosphorus pentafluoride
Phosphorus trichloride
n-Propyl chloroformate
Selenium hexafluoride
Silicon tetrafluoride
Stibine
Sulfur dioxide, liquefied
Sulfur tetrafluoride
Sulfuryl fluoride
Tear gas devices (>2% tear gas substances)
Tellerium hexafluoride
Tetraethyldithiopyrophosphate and gases
Tetraethyl lead, liquid
Tetraethyl pyrophosphate and compressed gas mixture
Thia-4 pentanal
Thiophosgene
Titanium tetrachloride
Trimethyl chlorosilane
Trimethoxy silane
Tungsten hexafluoride
Xylyl bromide

Based on further review and evaluation of available data, RSPA believes that a number of these materials are incorrectly designated as toxic by inhalation and that certain other materials should be designated as being toxic by inhalation. In addition, there are a number of materials for which data are insufficient to make a conclusive determination. These categories of materials are set forth as follows:

Materials for which Special Provision 10 is added in this notice:

Allyl chloroformate
n-Butyl chloroformate
Chloroacetone, stabilized
Chloroacetophenone, solid
Chloroformates (not all mixtures)
Diketene
Dimethyl thiophosphoryl chloride
Diphenylamine chloroarsine
Ethyl phosphonothioic dichloride, anhydrous
Hexachlorocyclopentadiene
Nitric acid, with more than 70% nitric acid
Pentaborane
Sulfur chloride (mono)
Sulfur trioxide
Tetranitromethane
Thionyl chloride

Materials for which Special Provision 10 is removed from the § 172.101 Table in this notice:

Di-n-amylamine
Di-(n-butyl) amine
Epichlorohydrin
Ethyl chloride
Ethyltrichlorosilane
Furan
Methacrylonitrile, inhibited
Tetraethyl lead, liquid
Thia-4-pentanal

Materials which remain in the § 172.101 lable designated, by Specia1 Provision 10, as toxic by inhalation for which data are inconclusive:

Acrylonitrile, inhibited
Dimethyldichlorosilane
Methyl dichlorosilane

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Methyl trichlorosilane
Phenyl trichlorosilane
Trimethyl chlorosilane

Materials which may be toxic by inhalation but are not designated as such by Special Provision 10 in the § 172.101 Table:

Chloropicrin mixtures, n.o.s.
Chlorosulfonic acid
Cumyl hydroperoxide
Ethyl phosphonous dichloride
Hydrazine
Hydrobromic acid, greater than 49% concentration
Isophorone diisocyanate
Methyl fluoride
Methyl parathion
Nitrocresol
Phosphorous pentachloride
Phosphorous pentoxide
Pivaloyl chloride
Propyl trichlorosilane
Sulfuric acid, fuming
Sulfuryl chloride
Tetraethyl dithiopyrophosphate
Thionyl chloride
Tributyl amine
Trimelhyl acetyl chloride
Vanadium oxytrichloride

RSPA is considering further rulemaking action under Docket HM–198 to address issues involving inhalation toxic materials, such as classification, test criteria and packing group criteria. However, RSPA requests comments in this docket addressed to the toxicity of specific materials and other issues involving toxicity by inhalation.

Section 172.101 Table

The preamble to the § 172.101 Table is revised to be consistent with the changes made under Docket HM–145F for hazardous substances. Also, it is proposed, in paragraph (c)(10) of § 172.101, to adopt criteria contained in the UN Recommendations for selection of shipping names for mixtures and solutions.

With the exception of "n.o.s." entries, all entries for hazardous substances in the ORM–E hazard class (89) are removed from the Table. Approximately 50 names for hazardous substances in classes other than ORM–E are also removed. Exclusive of the ORM–E entries, approximately 490 entries in the § 172.101 Table are revised. The Table presented in the May 5 NPRM was based on the 1984 edition of the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). The vast majority of changes (257) to the Table consist of updating shipping names (additions, deletions and revisions) and aircraft quantity limitations (revisions) to be consistent with both the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations), fourth revised edition, and the 1987–1988 edition of the ICAO Technical Instructions. Consistency with the ICAO Technical Instructions is not maintained for poisonous materials in Packing Group I and gases which are toxic by inhalation for which RSPA proposes that they not be permitted for transport aboard aircraft. A series of "n.o.s." entries (i.e., "not otherwise specified") is added to address inhalation toxic liquids which are not specifically named (e.g., "Poisonous liquids, n.o.s., *inhalation hazard, Packing Group I, Zone A"),* to correct a deficiency in the May 5 NPRM. Other changes include corrections of typographical and spelling errors (114) and revisions and additions of shipping descriptions to eliminate errors and omissions (72). A listing of the specific changes is available from RSPA upon request.

Columns 10A, 10B and 10C contain stowage requirements for hazardous materials aboard vessels. Although not presented in the regulatory text of this document, RSPA proposes to eliminate these requirements and in their place to require compliance with stowage requirements contained in the International Maritime Dangerous Goods Code (IMDG Code). This would simplify the § 172.101 Table and recognizes RSPA's belief that, as a practical matter, compliance with the IMDG Code is necessary for shipments by vessel at present. Comments addressed to this proposal are requested.

Labeling and Placarding

The May 5 NPRM is modified to include provisions for the Class 9 label which were recently added to the UN Recommendations and to include requirements for multiple labeling based on the UN Recommendations. It is proposed to not require placards for Division 6.1, Packing Group III (i.e., "KEEP AWAY FROM FOOD") because placards for this class serve little, if any, useful purpose from the standpoint of emergency response. Also, no placards are proposed for Class 9.

Section 172.510 is modified to require display of POISON or POISON GAS placards on square backgrounds on rail cars for those materials in Division 2.3 or 6.1 which meet Packing Group I criteria for inhalation toxicity. As originally proposed, all packing groups within Division 2.3 would require the square background and Division 6.1 materials which are toxic by inhalation (some of which are currently Poison A materials) would not require the square background. RSPA does not believe that Packing Group II or III materials warrant the same restrictive handling provisions as now apply to Poison A materials, whereas Packing Group I materials (both liquids and gases) do.

Participation in International Standards-Setting Organizations

As discussed in the May 5 NPRM, the RSPA participates in the activities of a number of organizations which promulgate international standards involving the transportation of hazardous materials: the United Nations Committee of Experts on the Transport of Dangerous Goods, and its subsidiary bodies, the Group of Experts on Explosives and the Group of Rapporteurs; the International Maritime Organization; the Dangerous Goods Panel of the International Civil Aviation Organization; the Economic Commission for Europe Group of Experts on the Transport of Dangerous Goods; and, the International Atomic Energy Agency. In the past, RSPA has apprised the public of its involvement in international activities through periodic public meetings, announced in the **Federal Register**, in which RSPA representatives provide briefings on the international activities. In many instances, RSPA representatives are supported at international meetings by industry experts in specific areas such as explosives and organic peroxides, and work with representatives of the regulated industry in developing policies and proposals. Further, the Hazardous Materials Advisory Council (HMAC), a non-profit organization having membership from all segments of industry involved in hazardous materials transportation, holds formal observer status at U.N. meetings. HMAC has a special committee which devotes itself to international issues and RSPA has actively participated in its meetings. However, some members of the industry have commented that there is a need for more industry participation in the development of proposals by RSPA for presentation at the international meetings and in the evaluation of proposals developed by other participants in the international meetings. Comments addressed to this issue are requested. For example, when RSPA personnel participate in a HMAC meeting, it must be open to non-HMAC members during such participation. On that basis, is it necessary that RSPA resources be expended to establish a new forum for discussion of international issues?

II. Review by Sections

The following review by sections addresses only the corrections and supplements to the May 5 NPRM. For a comprehensive review by sections, interested persons should refer to the preamble of the May 5 NPRM (pages 52 FR 18401 through 18510).

Part 171; General Information, Regulations and Definitions.

Section 171.7. In § 171.7, the table of material incorporated by reference in paragraph (c) is revised to correct typographical errors in nine of the entries.

Section 171.8. In § 171.8, the definitions for "Composite packaging", "UN standard packaging", and "Water reactive material" are revised to correct typographical errors.

Section 171.11. In § 171.11, paragraph (c) is revised to require compliance with 49 CFR requirements, rather than the ICAO Technical Instructions, for materials which are toxic by inhalation.

Section 171.12. In § 171.12, paragraph (b) is revised to clarify application of provisions of the IMDG Code. Compliance with 49 CFR requirements, rather than the IMDG Code, would be required for materials which are toxic by inhalation. Acceptance of packagings conforming to the IMDG Code, rather than to specific 49 CFR packaging requirements, would be limited to non-bulk packagings only.

Part 172; Hazardous Materials Table, Special Provisions and Hazardous Materials Communications and Regulations.

Section 172.101. In the preamble to the § 172.101 Table, paragraph (b) is revised to remove the letter "E" as a symbol in Column 1 of the Table; paragraphs (b)(2) and (b)(6) are revised to include reference to hazardous substances and hazardous wastes, rather than to the "E" symbol; and subparagraph (b)(4) is removed. Subparagraph (c)(9) is revised to include reference to the Appendix to the § 172.101 Table which designates hazardous substances under CERCLA. Subparagraph (c)(10) is revised to implement provisions from the UN Recommendations for determining the proper shipping names for mixtures and solutions. Subparagraph (c)(12)(ii) is revised by adding the words "and packing group" after the words "hazard class" in the first sentence.

In the § 172.101 Table, changes are made to remove the "E" symbol, RQ designations, and obsolete shipping names for hazardous substances. As previously discussed, over 400 entries are revised to align the Table more closely with the UN Recommendations and the ICAO Technical Instructions, and to correct errors and omissions.

Section 172.102. In § 172.102, Special Provisions in subparagraphs (c)(1), (c)(2), (c)(3), (c)(5) and (e)(7)(ii) would be revised to correct errors and omissions and eliminate inconsistencies. Substantive changes include the addition of Special Provisions 12 and 13, for inhalation toxic materials, exclusion of multi-unit tank car tanks from Special Provision B14, concerning insulation of tanks, and revision of Special Provisions B30 through B32 to "grandfather" certain currently used tank cars for materials which meet Division 2.3 criteria. Special Provisions B42 through B53 are added to address discrepancies in the original proposal.

Section 172.313. In § 172.313, the word "outer" is added between the words "plastic" and "packaging" to clarify that requirements to mark "POISON" on plastic packagings do not apply to inner receptacles such as liners.

Section 172.330. In § 172.330, subparagraph (a)(2) is revised to clarify that shipping name markings on multi-unit tank car tanks need only be two inches high. Paragraph (f) would be removed to eliminate an obsolete labeling provision.

Section 172.400. In § 172.400, the table in paragraph (b) is changed to add the CLASS 9 label.

Section 172.400a. In § 172.400a, subparagraph (a)(8) would be added to read "A package containing Division 1.4, Compatibility Group S, material" to provide a labeling exception for Division 1.4S materials.

Section 172.402. Paragraph (a) of § 172.402 is revised to propose labeling for multiple hazards which is consistent with Chapter 13 of the UN Recommendations.

Section 172.446. A new § 172.446 is added to adopt a CLASS 9 label for miscellaneous hazardous materials, for consistency with the UN Recommendations.

Section 172.504. In § 172.504, paragraph (e), the entries for "Division 1.3" are moved from Table 2 to Table 1 to require placarding for any quantity of Division 1.3 materials, consistent with existing provisions for Class B explosives. It is proposed not to require placarding for Division 6.1, Packing Group III, materials; therefore, in Table 2 the placard name for "Division 6.1 (PGIII)" is changed from "KEEP AWAY FROM FOOD" to "(None)". The entry in Table 2 for Class 7 "Radioactive Yellow-III label" is removed, as these materials are subject to Table 1 placarding requirements. A new subparagraph (f)(6) would be added to § 172.504 to provide a placarding exception for Division 1.4S explosives.

Section 172.510. Paragraph (a) of § 172.510 is revised to require that placards be displayed on square backgrounds on rail cars transporting Explosives 1.1 and 1.2 materials and Packing Group I materials which are toxic by inhalation. The May 5 notice did not address Division 6.1 materials that are toxic by inhalation and required the square background for all packing groups of Division 2.3 materials.

Section 172.519. In § 172.519, subparagraph (a)(3) is amended to change "200 pounds" to read "175 pounds", and to add the phrase "(waterproofing materials included)" at the end of the paragraph, for consistency with changes promulgated under Docket HM–166U (52 FR 13034) on April 20, 1987.

Section 172.547. In § 172.547, paragraph (b) is revised to change the size of the letters in the word "SPONTANEOUSLY" from "33mm (1.3 inches)" to read "25.4mm (1.0 inches)" to eliminate a problem with regard to size of lettering on the SPONTANEOUSLY COMBUSTIBLE placard.

Section 172.553. § 172.553 is removed, since it is proposed not to prescribe a placard for Division 6.1, Packing Group III, materials.

Part 173; Shippers, General Requirements for Shipments and Packagings.

Section 173.2a. In § 173.2a, paragraph (c), the precedence of hazard table is amended to correct a typographical error (for row 3 I and column 8 I(1), the entry "8" is changed to "3"); for consistency with the UN Recommendations with regard to classifying pesticides which are both flammable and poisonous (a footnote is added to require that pesticides which meet both Class 3, Packing Group III, and Division 6.1, Packing Group III, be classed in Division 6.1); and to reflect new criteria in the UN Recommendations for assigning packing groups to Class 4 materials.

Section 173.12. In § 173.12, paragraph (c), on reuse of packagings for waste materials, is revised to clarify that the provisions of § 173.28 do not apply.

Section 173.24. In paragraph (b)(1), the phrase "Except as otherwise provided" is added to clarify that there are instances, such as when vented packages are authorized, when releases of hazardous materials to the environment are permitted.

Section 173.24a. In § 173.24a, subparagraph (c)(iii), the spelling of the word "receptacles" is corrected.

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Section 173.24b. Paragraph (b)(3) is revised to require five percent outage only for Division 6.1, Packing Group I, liquids, rather than for all inhalation toxic liquids regardless of packing group. It is believed to be unnecessarily restrictive to require this amount of outage for Division 6.1, Packing Groups II and III, materials which are toxic by inhalation.

Paragraph (d) is added to prohibit the use of tank cars equipped with heating coils for Division 2.3 and Division 6.1, Packing Group I, materials toxic by inhalation, for safety reasons.

Section 173.27. In § 173.27, paragraph (a) would be revised by adding the phrase "containing Class 4, 5, or 8 materials" to eliminate a major difference between proposed provisions for air shipments and the ICAO Technical Instructions. Subparagraph (c)(3)(ii) is amended to change "178.504(a)(5)" to read "178.503(a)(5)".

Section 173.28. In § 173.28, subparagraph (a)(2) is revised to require that the leakproofness test for reuse of packagings be conducted using an internal air pressure of at least 7.0 pounds. This proposal addresses concerns expressed by members of industry concerning the inadequacy of test pressures in the UN Recommendations. RSPA believes that the increased test pressure may be necessary to detect leaks in used packagings which may contain residues of their previous contents. RSPA is not convinced that pressures higher than those proposed in § 178.604 are necessary for detecting leaks in new packagings and requests comments on this issue.

Section 173.31. In § 173.31, provisions for retest of tank cars currently contained in Footnote v of Retest Table 1 in paragraph (c) are relocated to subparagraph (a)(13). Paragraph (a)(12) is revised to require reclosing pressure relief devices on tank cars used for Class 2 gases and Classes 3, 4, and Division 6.1 liquids, with the exception of Packing Group III of Division 6.1.

Section 173.32. In § 173.32, in paragraph (a), " Kpa" is corrected to "kPa".

Section 173.115. In paragraph (c)(2), reference to LC50 criteria in §173.132 is added.

Section 173.120. In paragraph (a)(1)(i), the section reference "§ 173.300" is corrected to read "§ 173.115".

Section 173.124. In paragraph (a), the definition for "flammable solid" is revised for consistency with the UN Recommendations. Paragraph (d) is added to recognize new criteria which will appear in Chapter 14 of the UN Recommendations for evaluating materials for inclusion in Class 4. These criteria are available from the RSPA upon request.

Section 173.125. This section is revised to recognize new criteria which will appear in Chapter 14 of the UN Recommendations for determining packing groups for Class 4 materials. These criteria are available from the RSPA upon request.

Section 173.128. Paragraph (c) is added to recognize new criteria, which will appear in Chapter 14 of the UN Recommendations, for evaluating materials for inclusion in Class 5. These criteria are available from the RSPA upon request.

Section 173.132. In Figure 1 of paragraph (a), the graph is revised editorially by changing the word "Class" to "Division" and by deleting the symbols which appear at the right extreme of the horizontal axis. In paragraph (a)(3)(ii), the first occurrence of the word "not" is in error and is removed. In paragraph (b)(3), reference is included to criteria in § 173.133(b) for LC_{50} determinations for mixtures and for limit tests.

Section 173.133. Paragraph (b) is added to provide alternatives to testing for inhalation toxicity for mixtures and solutions (subparagraph (b)(1)) and to provide simplified threshold toxicity tests (i.e., limit tests) when the LC_{50} of mixtures is to be determined through testing (subparagraph (b)(2)).

Section 173.137. This section is revised to correct the format and to clarify that the three packing groups for Class 8 are mutually exclusive.

Section 173.150. In § 173.150, in the first sentence in paragraph (b), "Class 8" is corrected to read "Class 3". In subparagraph (f)(3)(vii), "173.21," is inserted between "173.1," and "173.24". Also, paragraph (e) is revised to provide an exception from the regulations for aqueous solutions of alcohol containing at least 50 percent water, similar to the exception provided at present in § 173.115(b)(2)(ii). The exception was unintentionally omitted in the May 5 NPRM.

Section 173.154. Paragraph (d) is revised to provide an exception for materials which are corrosive only to steel, when transported in bulk packagings, similar to the exception provided at present in § 173.245(b). The exception was unintentionally omitted in the May 5 NPRM.

Section 173.158. In § 173.158, at the end of subparagraph (f)(2), the number "1" in front of paragraph (g) is removed and paragraph (g) is moved to the left margin, to correct a format error.

Section 173.159. In § 173.159, subparagraph (g)(1) is amended to change the word "nor" to read "with not" in the first sentence, to correct an editorial error.

Section 173.164. In § 173.164, subparagraph (a)(3) is amended to change the symbol for kilograms from "Kg" to "kg", in the last sentence. The introductory text of paragraph (a) is revised to clarify that the specified packaging, at the Packing Group I performance level, is only required for transportation by aircraft. Paragraph (c) is added to provide packagings, at the Packing Group III performance level, for transportation in other modes and paragraph (d) is added to provide an exception for quantities of mercury of less than one pound (i.e., less than a reportable quantity) when transported by motor vehicle or rail car.

Section 173.181. In § 173.181, subparagraph (c)(1) is revised to change the word "incombustible" to read "noncombustible".

Section 173.185. In § 173.185, subparagraph (i)(5) is amended to change the word "packagers" to read "packagings".

Section 173.186. In § 173.186, paragraph (c) is amended to change the word "matdrials" to read "materials", and, in paragraph (e) in the first sentence, the word "packag ings" is amended to read "packagings".

Section 173.192. In § 173.192, paragraph (a) is revised to authorize use of Specification 3D and 33 cylinders, as are currently authorized.

Section 173.195. In § 173.195, paragraph (a)(2) is revised to authorize use of Specification 3A480 cylinders and paragraph (b) is revised to permit use of alternate means of testing for leakage, other than with picrate paper, without the need for approval.

Section 173.196. In § 173.196, subparagraph (c)(2)(ii) is amended to change the word "packagings(s)" to read "packagings", in the second and third sentences.

Section 173.213. In § 173.213, paragraph (b) is amended to change the identification code for a plastic jerrican from "3112" to "3H2".

Section 173.216. In § 173.216, subparagraph (d)(2) is amended to change the word "cosignor" to read "consignor".

Section 173.225. The Organic Peroxides Table in paragraph (b)(4) is updated to include organic peroxides with identification numbers UN3058 through UN3061.

Section 173.226. In § 173.226, subparagraph (c)(2) is amended to change the phrase "back-off of" to read "back-off or", in the fourth sentence.

Section 173.227. In § 173.227, subparagraph (b)(3)(ii) is amended to change the phrase "drum is" to read "drum is—", at the end of the sentence.

Section 173.228. In § 173.228, paragraph (a) is amended to change the section citation "§ 172:101" to read "§ 172.101", in the first sentence.

Section 173.230. In § 173.230, paragraph (a) is amended to change the section cite "§ 473.306" to read "§ 173.306".

Subpart F of Part 173. In Subpart F of Part 173, the term "tank cars" is revised to read "tank car tanks" wherever it appears, and the term "110 tank car tanks" is revised to read "110 multi-unit tank car tanks" wherever it appears, in order to use more precise terminology.

Section 173.240. In § 173.240, paragraph (c) is revised to change the section title from "*Portable tanks and bins*" to read "*Portable tanks, bins and other bulk packagings.*" and to authorize non-specification bulk packagings other than portable tanks and bins, such as flexible bulk containers.

Section 173.241. In § 173.241, paragraph (c) is amended by deleting the word "metal", in order to allow use of non-metallic (e.g., polyethylene) portable tanks for certain low hazard materials, and by adding a sentence to the paragraph to specify valves and minimum design pressures for DOT 57 portable tanks used for the transport by water of Class 3, Packing Group II, materials, consistent with existing provisions for water transport.

Section 173.242. In paragraph (a), AAR 206W and 211W tank cars are removed from the list of authorized tank cars, to correct an error. In paragraph (c), a sentence is added to specify valves and minimum design pressures for DOT 57 portable tanks used for the transport by water of Class 3, Packing Group II, materials, consistent with existing provisions.

Section 173.245. Upon further consideration by the RSPA and FRA, paragraph (a) is revised to remove the authorization for use of DOT 105S500W and 112S500W tank cars for Division 2.3 gases and to add authorization to use DOT 112T500 tank cars. Also, a requirement is added that tank car appurtenances, dome fittings, safety devices, loading and handling procedures, etc., be approved. This is similar to existing approval provisions for Poison A materials.

Section 173.248. In § 173.248, paragraph (a) and the introductory text preceding it are revised to authorize certain tank cars that are currently authorized for ethylene oxide. Paragraph (b) is removed and reserved to remove authorizations for use of cargo tanks. These changes are based on further consideration by the RSPA and FRA.

Section 173.306. In paragraph (h)(1) the spelling of the word "COMPLY" is corrected.

Section 173.314. This section is substantially revised to implement bulk packaging provisions for tank cars consistent with proposed packaging provisions in other sections. Paragraph (a) is revised to correct an erroneous section reference. Paragraph (b) is revised to require all single unit tank cars carrying flammable or poisonous gases or hydrogen fluoride to be marked with the name of contents. Paragraph (c) is revised to correct section references for preparing compressed gases for shipment. The table in paragraph (c) is revised to include requirements for head protection, thermal protection, and larger safety valves for certain materials; to remove from the table those commodities that do not have specific outage or tank test pressure requirements, to remove notes rendered obsolete by other proposed changes, and to revise certain notes. Paragraphs (d) and (f) are removed since those provisions would be contained in §§ 173.24b and 173.31. New paragraph (i) is added to incorporate the provisions of § 179.102–11(a).

Section 173.322. Paragraph (d) is added to authorize specification cylinders as a packaging for ethyl chloride.

Section 173.323. In § 173.323, subparagraphs (b)(1), in the first sentence, and (b)(2), in the second sentence, are revised to change the word "incombustible" to read "noncombustible".

Part 178; Specifications For Packagings.

Section 178.0–3. In § 178.0–3, subparagraph (a)(3) is amended to change the word "permancy" to read "permanency".

Section 178.502. In § 178.502, subparagraph (a)(1)(ii) is amended to change the word "barrell" to read "barrel".

Section 178.503. In § 178.503, in subparagraph (d)(1) the UN symbol which was missing from the May 5 NPRM is added; also, in subparagraphs (d)(2)(i) and (d)(2)(ii) the examples of markings are revised for clarity.

Section 178.516. In § 178.516, paragraph (b)(3) is revised for clarity.

Section 178.521. In § 178.521 subparagraph (b)(2) is amended to change the words "waterresistant" to read "water resistant", in the first sentence.

Section 178.523. In § 178.523, subparagraph (b)(2)(x) is amended to change the words "highdensity" to read "high density", in the second sentence.

Section 178.601. In § 178.601, a sentence would be added between the second and third sentences in paragraph (c) to clarify that the chemical compatibility test for plastic packagings need not be repeated during periodic retesting. In the second sentence, the word "compatibility" is corrected.

Section 178.602. In § 178.602, paragraph (g) is revised to clarify that the chemical compatibility test for plastic packagings need not be repeated during periodic retesting.

Section 178.608. § 178.608 is revised for clarity. As proposed, each hazardous material for which a packaging is intended for use would have to be compatibility tested in that package. In those instances where packages are intended for use for many products, this may impose an onerous burden on the packaging manufacturer. Comments are requested with regard to alternatives to testing each hazardous material for which a packaging is intended for use.

Part 179; Specifications for Tank Cars.

Section 179.101–1. The section reference, "§ 179.100–18" is corrected to read "§ 179.100–4".

Section 179.102. The proposal to remove this section in its entirety is withdrawn in order to retain some of the commodity specific requirements which appear in the section.

Section 179.105. In paragraph (c), "ethylene oxide" is changed to "a Division 2.3 material" to provide the option, for poisonous gases, of using increased insulation in conjunction with smaller valves.

III. Administrative Notices

Executive Order 12291

The effect of this rule, as proposed, does not meet criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule, but is a significant rule under the regulatory procedures of the Department of Transportation (44 FR 11034). This proposed rule does not require a Regulatory Impact Analysis, or an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). A regulatory evaluation and flexibility analysis is available for review in the Docket.

Impact on Small Entities

Based on limited information concerning size and nature of entities likely affected by this proposed rule, I certify this proposal will not, if promulgated, have a significant economic impact on a substantial

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number of small entities. This certification is subject to modification as a result of a review of comments received in response to this proposal. A preliminary regulatory flexibility analysis is available for review in the docket.

Paperwork Reduction Act

Information collection requirements contained in this proposal are being submitted for approval to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects

49 CFR Part 171

Hazardous material transportation, Definitions.

49 CFR Part 172

Hazardous materials transportation, Markings, Labels, Placards, Packaging.

49 CFR Part 173

Hazardous materials transportation, Packaging.

49 CFR Part 174

Hazardous materials transportation, Rail carriers.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers.

49 CFR Part 177

Hazardous materials transportation, Motor carriers.

49 CFR Part 178

Hazardous materials transportation, Packaging specifications and standards.

49 CFR Part 179

Hazardous materials transportation, Tank cars.

In consideration of the foregoing, 49 CFR Parts 171 through 179 would be amended as follows:

PART 171—GENERAL INFORMATION REGULATIONS AND DEFINITIONS

1. The authority citation for Part 171 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806; 49 CFR Part 1.

§ 171.3 [Amended]

1a. In § 171.3, paragraph (e) preceding Note 1 would be removed.

2. In § 171.7, paragraph (d) would be removed and paragraph (c) would be revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * * *

(c) *Table of material incorporated by reference.* The following Table sets forth material incorporated by reference. It gives the name and address of the organization from which the material is available, the name of the material, and the section(s) of this subchapter, other than § 171.7, in which the matter is referenced.

Source and name of material	49 CFR reference
The Aluminum Association, 420 Lexington Avenue, New York, NY 10017:	
Aluminum Standards and Data, 1970-71, December 1969	178.65-5.
Aluminum Standards and Data, Sixth Edition, 1979	
Aluminum Standards and Data, Seventh Edition, June 1982	
American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018:	
ANSI B9.1-64, Safety Code for Mechanical Refrigeration, 1964 Edition	173.306.
ANSI B 16.5-77 Steel Pipe Flanges, Flanged Fittings	178.34.
ANSI N14.1-71 Packaging of Uranium Hexafluoride for Transport, 1982 Edition	173.417.
American Society of Mechanical Engineers, United Engineering Center, 354 47th Street, New York, NY 10017:	
ASME Code, Section VIII (Division 1) and IX of1977 Edition of American Society of Mechanical Engineers Boiler and Pressure Code Addenda through December 31, 1979.	173.32; 173.33; 173.306; 173.315; 177.814; 178.245; 178.251; 178.255; 178.337; 178.338; 178.340; 178.342; 178.343; 179.400.
ASME Code, Section V (FR Nonedestructive Examination, 1977	173.33.
ASME Code, Section IX (FR Welding and Brazing Qualification 77 and Addendum 79)	178.245; 178.340; 178.270; 178.337; 178.338.
American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103:	
Noncurrent ASTM Standards are available from: Engineering Societies Library, 354 E. 47th Street, New York, NY 10017.	
ASTM A 20-81 Standard Specification for General Requirements for Steel Plates for Pressure Vessels, Revision C, 1982.	178.337.
ASTM A 47-68 Malleable Iron Castings	179.200.
ASTM A 53-69a Welded and Seamless Steel Pipe	179.12-2.
ASTM A 178-70 Electric Resistance Welded Carbon Steel Boiler Tubes	179.12.
ASTM A 192-69 Seamless Carbon Steel Boiler Tubes for High Pressure Service	179.12.
ASTM A 211-75 Standard Specification for Spiral-Welded Steel or Iron Pipe App.B	192.113; Part 192; 195.106.
ASTM A 240-82 Standard Specification for Heat-Resisting Chromium and Chromium-Nickel Stainless Steel Plate, Sheet and Strip for Fusion-Welded Unfired Pressure Vessels, Revision A.	173.57; 178.100; 179.200; 179.201; 179.220; 178.400.
ASTM A 242-81 Standard Specification for High-Strength Low-Alloy Structural Steel, 1982	179.100.
ASTM A 262-68 Recommended Practices for Detecting Susceptibility to Intergranular Attack in Stainless Steels.	179.200.
ASTM A 269-69 Seamless and Welded Austenitic Stainless Steel Tubing for General Service	179.12.
ASTM A 285-78 Pressure Vessel Plates, Carbon Steel, Low and Intermediate-Tensile Strength	179.100; 179.200; 179.220; 179.300.
ASTM A 300-58 Steel Plates for Pressure Vessels for Service at Low Temperatures	178.337.
ASTM A 300-68 Notch Toughness Requirements for Normalized Steel Pressure Plates for Pressure Vessels.	179.102.
ASTM A 302-78 Pressure Vessel Plates, Alloy Steel, Manganese-Molybdenum and Manganese-Molybendum Nickel.	179.100; 179.200; 179.220.
ASTM A 312-70a Seamless and Welded Austenitic Stainless Steel Pipe	179.12.

Source and name of material	49 CFR reference
ASTM A 333-67 Seamless and Welded Steel Pipe for Low-Temperature Service	178.45.
ASTM A 370-77 Standard Methods and Definition for Mechanical Testing of Steel Products, 1982	179.102.
ASTM A 388-67 Ultrasonic Testing and Inspection of Heavy Steel Forging	178.45.
ASTM A 441-81 Standard Specification for High-Strength Low-Alloy Structural Manganese Vanadium Steel.	178.338.
ASTM A 514-81 Standard Specification for High-Yield Strength Quenched and Tempered Alloy Steel Plate, Suitable for Welding.	178.338.
ASTM A 515-69 Carbon Steel Plates for Pressure Vessels for Intermediate and Higher Temperature Service.	179.100; 179.200; 179.220; 179.300.
ASTM A 516-79b Standard Specification for Pressure Vessel Plates, Carbon Steel, for Moderate and Lower-Temperature Service, 1982 Edition.	178.337; 178.100; 179.102; 179.200; 179.220.
ASTM A 537-80 Standard Specification for Pressure Vessel Plates, Heat-Treated, Carbon-Manganese-Silicon Steel, 1982 Edition.	179.100.
ASTM A 572-82 Standard Specification for High-Strength Low-Alloy Columbium-Vanadium Steels of Structural Quality, 1982 Edition.	178.338; 179.100.
ASTM A 586-81 Standard Specification for High-Strength Low-Alloy Structural Steel with 50 Ksi Minimum Yield Point to 4 in. Thick.	179.100; 178.338.
ASTM A 606-75 Standard Specification for Steel Sheet and Strip Hot-Rolled and Cold-Rolled, High-Strength, Low-Alloy, with Improved Atmospheric Corrosion Resistance, 1975 (Reapproved 1981).	178.338.
ASTM A 612-7a High Strength Steel Plates for Pressure Vessels for Moderate and Lower-Temperature Service.	178.337.
ASTM A 633-79a Standard Specification for Normalized High-Strength Low-Alloy Structural Steel, 1979 Edition.	178.338.
ASTM A 715-81 Standard Specification for Steel Sheet and Strip, Hot-Rolled, High-Strength, Low-Alloy, with Improved Formability, 1981.	178.338.
ASTM B 90-69 Magnesium Alloy Sheet and Plate	178.251.
ASTM B 161-70 Nickel Seamless Pipe and Tube, 1970	179.12.
ASTM B 162-69 Nickel Plate, Sheet, and Strip	179.200.
ASTM B 209-69 Aluminum Alloy Sheet and Plate	178.340; 179.100; 179.200; 179.220.
ASTM B 210-70 Aluminum Alloy Drawn Stainless Tables (FR B210-68(78))	179.12.
ASTM B 221-76 Aluminum Alloy Extruded Bars, Rods, Shapes and Tubes	179.12.
ASTM B 241-69 Standard Specification for Aluminum-Alloy Seamless Pipe and Seamless Extruded Tube.	179.12.
ASTM B 557-81 Tension Testing Wrought and Cast Aluminum and Magnesium-Alloy Products, 1979	178.251.
ASTM B 580-79 Standard Specification for Anodic Oxide Coatings on Aluminum, 1979	173.316; 173.318.
ASTM C 148-77 Standard Methods of Polariscopic examination of Glass Containers, 1977	178.17.
ASTM D 56-79 Standard Method of Test for Flash Point by Tag Closed Tester	173.120.
ASTM D 88-56 (Reapproved 80) Standard Method for Test of Saybolt Viscosity	173.120.
ASTM D 93-80 Standard Method of Test for Flash Point by Pensky Martens Closed Tester	173.120.
ASTM D 323-58, 68 Vapor Pressure of Petroleum Products (Reid Methods)	173.119; 173.300.
ASTM D 1838-64 Copper Strip Corrosion by Liquefied Petroleum (LP) Gases	173.315.
ASTM D 2161-79 Conversion of Kinematic Viscosity to Saybolt Universal Viscosity or to Saybolt Furol Viscosity.	173.120.
ASTM D 3243-73T Flash Point of Aviation Turbine Fuels by Setaflash Closed Tester	173.120.
ASTM D 3278-78 Flash Point of Liquids by Setaflash Closed Tester	173.120.
ASTM E 8-69 Tension Testing of Metallic Materials	178.45.
ASTM E 8-81 Tension Testing of Metallic Materials	178.36; 178.37; 178.38; 178.39; 178.40; 178.41; 178.43; 178.44; 178.48; 178.49; 178.50; 178.51; 178.52; 178.53; 178.54; 178.55; 178.56; 178.57; 178.58; 178.59; 178.60; 178.61; 178.68; 178.251.
ASTM E 23-60 Notched Bar Impact Testing of Metallic Materials	178.57; 179.400.
ASTM E 112-63 Estimating the Average Grain Size of Metals	Part 178, App. A.
ASTM E 290-77 Semi-Guided Bend Test for Ductility of Metallic Materials	
ASTM E 487-74 Constant Temperature Stability of Chemical Materials	173.21.
ASTM E 681-79 Standard Test Method for Limits of Flammability of Chemicals	173.115.
ASTM G 26-70 Standard Recommended Practice for Operating Light-and-Water Exposure Apparatus (Xenon-Arc-Type) for Exposure of Nonmetallic Materials, 1970.	172.407; 172.519.
Association of American Railroads, 59 East Van Buren Street, Chicago, IL 60605:	
AAR Catalog Nos. F70BHT; F71BHT; F72BHT; F73BHT; F79BHT	179.14.
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AAR Catalog Nos. F70CHT; F70CHTE; F73AHT; F73AHTE; F79CHT; F79CHTE	179.14.
AAR Catalog Nos. SE67BTH; SE67BTHE; SE68BTH; SE68BTHE; SF79CHT; SF79CHTE	179.14.
AAR Catalog Nos. SE60CHT; SE60CHTE; SE67BHT; SE67BHTE; SE68BHT; SE68BHTE	179.50.
AAR Catalog Nos. SE70CHT; SE70CHTE; SE79CHT; SE70CHTE	179.105.
AAR Specification for Design Fabrication and Construction of Freight Cars; September 1, 1964	179.100.
AAR Specification for Tank Cars, Specification M-1002, 1981	173.31.
AAR Specification for Tank Cars, September 1985, Exclusive of (1) pp. 28-80, AAR, Part 179, changes to DOT regulations proposed by AAR Committee of Tank Cars, and (2) DOT Regulations in Effect, October 1985.	179.6; 179.12; 179.100; 179.101; 179.102; 179.103; 179.105; 179.200; 179.201; 179.220; 179.300; 179.400.

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AWWA Standard C207-55, Steel Pipe Flanges, 1955	173.360.
Bureau of Explosives, 1920 L Street NW., Washington, DC 20036:	
Closed Drum Apparatus (Test)	173.300.
Impact Apparatus (Test), January 24, 1961	173.53; 173.64; 173.65; 173.114.
Open Drum Apparatus (Test)	173.300.
Fetterley's Formula (The Determination of the Relief Dimensions for Safety Valves on Containers in which Liquefied gas is charged and when the exterior surface of the container is exposed to a temperature of 1,200 °F.).	173.315.
Flame Projection Test, 1958	173.300.
Pamphlet No. 6, Illustrating Methods for Loading and Bracing Carload and Less Than Carload Shipments of Explosives and Other Dangerous Articles, 1962.	174.101; 174.200; 174.112; 174.115.
Pamphlets 6A (includes Appendix No. 1, October 1944 and Appendix 2, December 1945), Illustrating Methods for Loading and Bracing Carload and Less Than Carload Shipments of Loaded Projectiles, Loaded Bombs, etc., 1943.	174.101; 174.200.
Pamphlet 6C, Illustrating Methods for Loading and Bracing Trailers and Less-Than Trailer Shipments of Explosives and Other Dangerous Articles Via Trailer-on-Flatcar(TOFC) or Container-on-Flatcar (COFC), September 1968.	174.55; 174.63; 174.101; 174.112; 174.115.
Pamphlets 1 & 2, Emergency Handling of Hazardous Materials in Surface Transportation; June 1973	177.861.
Canadian Transport Commission, 275 Slater Street, Ottawa, Ontario K1A 0N9: Canadian Transport Commission Regulations; 1974	171.12a; 172.401; 172.502; 174.11.
Chlorine Institute, Inc., 342 Madison Avenue, New York, NY 10017:	
Type 1/½ JQ 225, Dwg. H5-1970, October 7, 1968; or Type 1½ JQ 225, Dwg. H50155, Revision A, April 26, 1969.	173.315.
Standards for Angle Valves, and Dwg. 104-4, May 5, 1958 or Dwg. 104-5, September 1, 1972	173.33.
Standards for Excess Flow Valves, Dwg. 101-4, and 106-3, May 16, 1969, Dwg. 101-6, and 106-5, September 1, 1973.	173.33.
Standards for Housing and Manway covers for Steel Cargo Tanks Manufactured on or before December 31, 1974, Dwg. 177-1, November 7, 1962 or Dwg. 173-2, September 11, 1971; Tanks manufactured after January 1, 1975, Dwg. 137-2, (9/1/71).	173.337.
Compressed Gas Association, Inc., 1235 Jefferson Davis Highway, Arlington, VA 22202:	
CGA Pamphlet C-3, Standards for Welding and Brazing on Thin Walled Containers, 1975	178.47; 178.51; 178.54; 178.56; 178.57; 178.58; 178.60; 178.61; 178.68.
CGA Pamphlet C-6, Standards for Visual Inspection of Compressed Gas Cylinders, 1975	173.31; 173.34; 173.126.
CGA Pamphlet C-7, A Guide for the Preparation of Precautionary Markings for Compressed Gas Containers, Appendix A, May 15, 1972, and Addenda January 1976.	172.400.
CGA Pamphlet C-8, Standard for Requalification of DOT-3HT Cylinder Design, 1979	173.34.
CGA Pamphlet C-12, Qualification Procedure for Acetylene Cylinder Design, 1979	173.34; 173.303.
CGA Pamphlet C-14, Procedures for Fire Testing of DOT Cylinder Pressure Relief Device Systems, 1979.	173.34.
CGA Pamphlet G-2.2, Tentative Standard Method for Determining Minimum of 0.2% Water in Anhydrous Ammonia, 1975.	173.315.
CGA Pamphlet G-4.1, Cleaning Equipment for Oxygen Service, 1977	178.338.
CGA Pamphlet S-1.1, Pressure Relief Device Standards Part 1—Cylinders for Compressed Gasses, 1979.	173.34.
CGA Pamphlets S-1.2, Safety Relief Device Standards Part 2—and Portable Tanks for Compressed Gasses, 1980.	173.315; 173.318.
CGA Technical Bulletin TB-2, Guidelines for Inspection and Repair of MC-330 and MC-331 Cargo Tanks, 1975.	173.33.
Department of Defense (DOD), 2461 Eisenhower Avenue, Alexandria, VA: DOD TB 700-2, Explosives Hazard Classification Procedures	173.86.
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USDC, USDOE Materials and Equipment Specification No. SP, Revision 1 and Supplement Fire Resistant Phenolic Foam.	178.356.
USAEC, ORO 651—Uranium Hexafluoride Handling Procedures and Container Criteria, Revision 3, 1972.	173.417; 178.356; 178.358.
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NIOSH Registry—of Toxic Effects of Chemical Substances, 1978 (Available from the Superintendent of Documents (GPO))S.	172.203.
Department of Transportation (USDOT), 400 Seventh St., SW., Washington, DC 20590: Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials [51 FR 5968 February 18, 1986] Effective March 20, 1986, HMT-166T	177.825.
Fertilizer Institute, 1015 18th Street, Washington, DC 10036:	
Definitions and Test Procedures for Ammonium Nitrate Fertilizer (Revised May 7, 1971) January 16, 1973.	174.510.
General Services Administration, Specification Office, Rm. 6662, 7th and D Street SW., Washington, DC 20407:	
Federal Specification RR-C-901b, General 1-3	173.304; 173.302.

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Institute of Makers of Explosives, 420 Lexington Avenue, New York, NY 10017: IME Safety Library Publication No. 22 (IME Standard 22), Recommendation for the Safe Transportation of Detonators in a Vehicle with Certain Other Explosive Materials, January 1, 1965	177.835.
International Atomic Energy Agency (IAEA), Wagramerstrasse 5, P.O. Box 100, A-1400, Vienna, Austria: Also available from: Unipub Incorporated, P.O. Box 433, New York, NY 10016:	
IAEA, Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6, 1973, Revised Edition (as amended).	171.12; 173.417.
International Civil Aviation Organization (ICAO), P.O. Box 400, Place de l'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2:	
ICAO Technical Instructions available from: INTEREG, International Regulations, Publishing and Distribution Organization, P.O. Box 60105, Chicago, IL 60660:	
Technical Instructions for the Safe Transport of Dangerous Goods by Air, DOC 9284-AN/905 (1986) [50 FR 49394, December 2, 1985].	171.11; 172.401.
International Maritime Organization (IMO), 4 Albert Embankment, London, SE17SR, United Kingdom or New York Nautical Instrument & Service Corporation, 140 W. Broadway, New York, NY 10013:	
International Maritime Dangerous Goods Codes, Volumes I, II, III, IV, 1977, and Amendments 14-76, 15-77, and 16-78, 17-79, 19-80, 20-82, 21-83 and 22-84 thereto.	171.12; 172.102; 172.401; 172.407; 176.5; 176.11; 176.27; 176.30.
International Organization for Standardization, Case Postale 56, CH-1211, Geneve 20, Switzerland: Also available from: ANSI, 1430 Broadway, New York, NY 10018:	
ISO 82-197(e) Steel Tensile Testing, 1974	178.270-3.
ISO-2431-72	173.121.
ISO R780-1968	172.312.
National Association of Corrosion Engineers, 1440 South Creek, Houston, TX 77084:	
NACE Standard TM-01-69, Test Method Laboratory Corrosion Testing of Metals for the Process Industries, 1969.	173.500.
National Bureau of Standards, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22151:	
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National Fire Protection Association, Batterymarch Park, Quincy, MA 02269:	
NFPA Pamphlet No. 58—Standard for the Storage and Handling of Liquefied Petroleum Gasses, 1979	173.315.
National Motor Freight Traffic Association, Inc., Agent, 1616 P Street, NW., Washington, DC 20036:	
National Motor Freight Classification NMF 100-1, 1982	177.841.
Nuclear Regulatory Commission, 1717 H Street NW., Washington, DC 20555:	
(USNRC) 10 CFR Part 71, Packaging of Radioactive Material for Transport and Transportation of Radioactive Materials Under Certain Conditions.	173.417.
Society of Plastics Industries, Inc., Organic Peroxide Producers Safety Division, 355 Lexington Avenue, New York, NY 10017: Self Accelerating Decomposition Temperature Test, 1972	173.21.
Transport Canada, TDG Canadian Government Publishing Center, Supply and Services, Canada, Ottawa K1A 0S9:	
Transport of Dangerous Goods Regulations, as of July 1, 1985, incorporating Registration Numbers SOR/85-77, SOR85/585 and SOR/85-609.	171.12a; 172.401; 172.502.
Uniform Classification Committee, 222 South Riverside Plaza, Chicago, IL 60606:	
Uniform Freight Classification (UFC), Rule 40, Section 5	173.620.
Uniform Freight Classification (UFC), Rule 41, Sections 2 and 3	173.620.
United Nations, United Nations Sales Section, New York, NY 10017: UN Recommendations for the Transport of Dangerous Goods, Fourth Revised Edition (1986)	172.401; 172.407; 172.519.

. . . . .

3. In § 171.8, the following definitions and abbreviations would be added, revised, or deleted, as indicated, in appropriate alphabetical order:

§ 171.8 Definitions and abbreviations.

Add:

"Bag" means a flexible packaging made of paper, plastic film, textiles, woven material or other similar materials.

"Box" means a packaging with complete rectangular or polygonal faces, made of metal, wood, plywood, reconstituted wood, fiberboard, plastic, or other suitable material.

"Bulk packaging" means a packaging, including a transport vehicle—

(1) Having an internal volume greater than 450 liters (118.9 gallons) as a receptacle for a liquid,

(2) Having a capacity greater than 400 kilograms (881.8 pounds) as a receptacle for a solid, or

(3) Having a water capacity greater than 453.6 kilograms (1,000.0 pounds) as a receptacle for a gas.

"Class" means hazard class. See "hazard class".

"Class 1" See § 173.50.
"Class 2" See § 173.115.
"Class 3" See § 173.120.
"Class 4" See § 173.124.
"Class 5" See § 173.128.
"Class 6" See § 173.132.
"Class 7" See § 173.403.
"Class 8" See § 173.136.
"Class 9" See § 173.140.

"Closure" means a device which closes an opening in a receptacle.

"Combination packaging" means a combination of packagings consisting of one or more inner packagings secured in a non-bulk outer packaging. It does not include a composite packaging.

"Composite packaging" means a packaging consisting of an outer packaging and an inner receptacle, so constructed that the inner receptacle and the outer packaging form an integral packaging. Once assembled it remains thereafter an integrated single unit; it is filled, stored, shipped and emptied as such.

"Crate" means an outer packaging with incomplete surfaces.

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"Domestic transportation" means transportation between places within the United States other than through a foreign country.

"Dangerous when wet material" See § 173.124.

"Division" means a subdivision of a hazard class.

"Drum" means a flat-ended or convex-ended cylindrical packaging made of metal, fiberboard, plastic, plywood, or other suitable materials. This definition also includes packagings of other shapes made of metal or plastic (e.g., round taper-necked packagings or pail-shaped packagings) but does not include cylinders, jerricans, wooden barrels or bulk packagings.

"Hazard class" means the category of hazard assigned to a hazardous material under the defining criteria of Part 173 of this subchapter and the provisions of the § 172.101 Table.

"Infectious substance" See § 173.134.

"Inner packaging" means a receptacle which requires an outer packaging in order to perform its containment function.

"Inner receptacle" means a receptacle which requires an outer packaging in order to perform its containment function.

"International transportation" means transportation —

(1) Between any place in the United States and any place in a foreign country;

(2) Between places in the United States through a foreign country; or

(3) Between places in one or more foreign countries through the United States.

"Jerrican" means a metal or plastic packaging of rectangular or polygonal cross-section.

"kg" means kilogram.

"kPa" means kilopascal.

"L" means liter.

"Manufacturer" means a person who applies to a packaging a DOT specification marking or a United Nations mark (see § 178.503).

"Maximum capacity" means the maximum inner volume of receptacles or packagings.

"Maximum net mass" means the maximum net mass of contents in a single packaging or, as used in Subpart M of Part 178, the maximum combined mass of inner packagings and the contents thereof.

"mL" means milliliter.

"Non-bulk packaging" means a packaging—

(1) Having an internal volume of 450 liters (118.9 gallons) or less as a receptacle for a liquid,

(2) Having a capacity of 400 kilograms (881.8 pounds) or less as a receptacle for a solid, or

(3) Having a water capacity of 453.6 kilograms (1000.0 pounds) or less as a receptacle for a gas.

"n.o.s. entry" means a shipping description from the § 172.101 Table which includes the abbreviation "n.o.s."

"Outer packaging" means the outermost enclosure of a composite or combination packaging together with any absorbent materials, cushioning and any other components necessary to contain and protect inner receptacles or inner packagings.

"Pa" means pascal.

"Packing group" means a grouping according to the degree of danger presented by hazardous materials. Packing Group I indicates great danger; Packing Group II, medium danger; Packing Group III, minor danger. See § 172.101(f).

"Poisonous materials" See § 173.132.

"Primary hazard" means the hazard class of a material, as assigned in the § 172.101 Table.

"Receptacle" means a containment vessel for receiving and holding materials, including any means of closing.

"Specification packaging" means a packaging conforming to one of the specifications or standards for packagings in Part 178 or Part 179 of this subchapter.

"Strong outer (or outside) packaging" means a packaging which meets or exceeds the performance requirements of § 173.24 of this subchapter applicable to non-specification packagings, either as a single packaging or as the outer packaging of a combination packaging.

"Subsidiary hazard" means a hazard of a material other than the primary hazard. See "primary hazard".

"Table in § 172.101" or "§ 172.101 Table" means the Hazardous Materials Table in § 172.101 of this subchapter.

"UN" means United Nations.

"UN standard packaging" means a specification packaging conforming to the requirements in Subparts L and M of Part 178.

"Wooden barrel" means a packaging made of natural wood, of round cross-section, having convex walls, consisting of staves and heads and fitted with hoops.

(Revise:)

"Bottle" means a receptacle having a neck of relatively smaller cross section than the body and an opening capable of holding a closure for retention of the contents.

"Cargo aircraft only" means an aircraft that is used to transport cargo and is not engaged in carrying passengers. For purposes of this subchapter, the terms "cargo aircraft only", "cargo-only aircraft" and "cargo aircraft" have the same meaning.

"Combustible liquid" See § 173.120.

"Compressed gas" See § 173.115.

"Corrosive material" See § 173.136.

"Etiologic agent" See § 173.134.

"Flammable gas" See § 173.115

"Flammable liquid" See § 173.120.

"Flammable solid" See § 173.124.

"Flash point" means the minimum temperature at which a substance gives off flammable vapors which, in contact with sparks or flame, will ignite. (For criteria, see § 173.121.)

"Gross weight" or "Gross mass" means the weight of a packaging plus the weight of its contents.

"Limited quantity" when specified as such in a section applicable to a particular material, means the maximum amount of a hazardous material for which there is a specific labeling and packaging exception.

"Magnetic material" See § 173.21(d).

"Marking" means descriptive name, identification number, instructions, cautions, weight, specification, or UN marks, or combinations thereof, required by this subchapter on outer packagings of hazardous materials.

"Name of contents" means the proper shipping name as specified in § 172.101.

"Net weight", "Net mass", or "Net quantity" means the mass or volume of hazardous material contained in a package, excluding the weight or volume of any packaging material, except in the case of explosive devices where the net weight is the weight of the finished device excluding packagings. See also "maximum net mass".

"Organic peroxide" See § 173.128.

"ORM" means other regulated material. See § 173.144.

"Oxidizer" See § 173.128.

"Package" means the complete product of the packing operation, consisting of the packaging and its contents as prepared for transport. For radioactive materials, see § 173.403 of this subchapter.

"Packaging" means a receptacle and any other components or materials necessary for the receptacle to perform its containment function and to ensure compliance with the minimum packing requirements of this subchapter. For radioactive materials, see § 173.403 of this subchapter.

"Pyrophoric liquid" See § 173.124(b).

"Spontaneously combustible material" See § 173.124(b).

"Water reactive material" see "Dangerous when wet material, § 173.124(c)."

Remove:

NRC
Outside container
Poison A
Poison B
Pyrophoric solid
STC

4. The title and text of § 171.10 would be revised to read as follows:

§ 171.10 Hazardous materials in bulk on board vessels or barges.

Except for transportation in bulk packagings (as defined in § 171.8 of this part), the requirements of this subchapter do not apply to the bulk carriage of hazardous materials by vessel or barge. See 46 CFR Subchapters D, I, O and N for requirements applicable to bulk carriage by vessel or barge.

§ 171.11 [Amended]

5. In § 171.11, paragraphs (d)(4)(i) and (d)(4)(ii) would be removed, paragraphs (d)(4)(iii) and (d)(4)(iv) would be redesignated as (d)(4)(i) and (d)(4)(ii), respectively, and paragraph (c) would be revised to read as follows:

§ 171.11 Use of ICAO Technical Instructions.

* * * * *

(c) Is not a forbidden material or package according to § 173.21 or Column 3 of the § 172.101 Table and does not meet the definition for Division 2.3 (§ 173.115(c) of this subchapter) or Division 6.1, Packing Group I, for inhalation toxicity (§§ 173.132(a)(3) and 173.133(a) of this subchapter).

* * * * *

6. In § 171.12, paragraphs (c), (d) and (f) would be removed, paragraph (e) would be redesignated as paragraph (c) and paragraph (b) would be revised to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(b) *IMDG Code.* The IMDG Code sets forth descriptions, classifications, packagings, labeling and vessel stowage requirements. Notwithstanding the provisions of this subchapter, a material which is packaged, marked, classed, labeled, placarded, described, stowed and segregated in accordance with the IMDG Code, and otherwise conforms to the requirements of this section, may be offered and accepted for transportation and transported within the United States. The following conditions and limitations apply:

(1) The provisions of this paragraph apply only to materials in international transportation or in domestic transportation, a portion of which involves transportation by vessel.

(2) Bulk packagings must conform to the requirements of this subchapter.

(3) A material may not be transported under the provisions of this paragraph if it is—

(i) A forbidden material or package according to § 173.21 or Column 3 of the § 172.101 Table;

(ii) A Class 1 explosive other than Division 1.4;

(iii) A Division 2.3 material or Division 6.1, Packing Group I, inhalation toxic material;

(iv) A Class 7 material.

(4) The provisions of this paragraph do not apply to materials designated as hazardous materials under this subchapter that are not subject to the requirements of the IMDG Code.

(5) A number of materials listed in the IMDG Code may not be subject to the requirements of this subchapter. The provisions of this subchapter do not apply to materials listed in the IMDG Code which are not designated as hazardous materials under this subchapter.

(6) When a hazardous material is also a hazardous waste as defined in this subchapter—

(i) The word "Waste" must precede the proper shipping name on shipping papers and packages; and

(ii) The requirements of § 172.205 with respect to hazardous waste manifests are applicable.

(7) When a hazardous material is also a hazardous substance as defined in this subchapter, the requirements of §§ 172.203(c) and 172.324 are applicable.

(8) When a hazardous material is poisonous, the requirements of § 172.203(k) are applicable.

* * * * *

§ 171.12a [Amended]

7. Section 171.12a would be amended as follows:

a. In paragraph (a) introductory text, the reference to "paragraph (b)" is changed to "paragraphs (b) and (g)";

b. In paragraph (d), the introductory phrase preceding the word "specification" is changed to read "Except as specified in paragraph (g) of this section and § 173.301(i) of this subchapter,"

c. In paragraph (e) the reference to "paragraph a" is changed to read "paragraphs (a) and (g)".

8. In § 171.12a, the introductory text of paragraph (b)(2) would be revised and paragraph (g) would be added, as follows:

§ 171.12a Canadian shipments and packagings.

* * * * *

(b) * * *

(2) A material or article meeting the definition for Class 1 (explosives) according to this subchapter, except that, notwithstanding the requirements of Part 172 of this subchapter—

* * * * *

(g) Tank cars used under the provisions of this section must conform to the following requirements:

(1) Each class CTC–105, 112, and 114 tank car shall be equipped with a coupler vertical restraint system in accordance with § 179.14 of this subchapter.

(2) After December 31, 1987, each tank car which does not conform to a DOT specification shall be equipped with a coupler vertical restraint system in accordance with § 179.14 of this subchapter.

§ 171.14 [Removed]

9. Section 171.14 would be removed.

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

10. The authority citation for Part 172 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1, unless otherwise noted.

11. In Part 172, §§ 172.101 and 172.102 would be revised as follows:

Subpart B—Table of Hazardous Materials and Special Provisions

§ 172.101 Purpose and use of hazardous materials table.

(a) The Hazardous Materials Table (Table) in this section designates the materials listed therein as hazardous materials for the purpose of transportation of those materials. For each listed material, the Table identifies the hazard class or specifies that the material is forbidden in transportation, and gives the proper shipping name or directs the user to the preferred proper shipping name. In addition, the Table specifies or references requirements in this subchapter pertaining to labeling, packaging, quantity limits aboard aircraft and stowage of hazardous materials aboard vessels.

(b) *Column 1: Symbols.* Column 1 of the Table contains five symbols ("+","A","D","I", and "W"), as follows:

(1) The plus (+) fixes the proper shipping name and the hazard class for that entry without regard to whether the material meets the definition of that class. An alternate proper shipping name and hazard class may be authorized by the Director, OHMT.

(2) The letter "A" restricts the application of requirements of this

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subchapter to materials offered or intended for transportation by aircraft, unless the material is a hazardous substance or a hazardous waste.

(3) The letter "D" identifies proper shipping names which are appropriate for describing materials for domestic transportation but may be inappropriate for international transportation under the provisions of international regulations (e.g., IMO, ICAO). Except for hazardous substances or hazardous wastes classed as ORM–E materials, an alternate proper shipping name may be selected when international transportation is involved.

(4) [Reserved]

(5) The letter "I" identifies proper shipping names which are appropriate for describing materials in international transportation. An alternate proper shipping name may be selected when only domestic transportation is involved.

(6) The letter "W" restricts the application of requirements of this subchapter to materials offered or intended for transportation by vessel, unless the material is a hazardous substance or a hazardous waste.

(c) *Column 2: Hazardous materials descriptions and proper shipping names.* Column 2 lists the hazardous materials descriptions and proper shipping names of materials designated as hazardous materials. Modification of a proper shipping name may otherwise be required or authorized by this section. Proper shipping names are limited to those shown in Roman type (not italics).

(1) Proper shipping names may be used in the singular or plural and in either capital or lower case letters.

(2) Punctuation marks and words in italics are not part of the proper shipping name but may be used in addition to the proper shipping name. The word "or" in italics indicates that any terms in the sequence may be used as the proper shipping name as appropriate.

(3) The abbreviation "n.o.i." or "n.o.i.b.n." may be used interchangeably with "n.o.s.".

(4) Except for hazardous wastes, when qualifying words are used as part of the proper shipping name, their sequence in the package markings and shipping paper description is optional. However, the entry in the Table reflects the preferred sequence.

(5) Except for a material classed as an organic peroxide, when one entry references another entry by use of the word "*see*", if both names are in roman type, either name may be used as the proper shipping name (e.g., Ethyl alcohol. *See* Ethanol). However, the referenced entry is preferred. For a material classed as an organic peroxide, the technical name shall be used as the proper shipping name. An organic peroxide formulation that is not listed by its technical name, shall be described as "organic peroxide, mixture", "Organic peroxide, sample, n.o.s.", or "organic peroxide, trial quantities, n.o.s.", as appropriate.

(6) When a proper shipping name includes a concentration range as part of the shipping description, the actual concentration, if it is within the range stated, may be used in place of the concentration range. For example, an aqueous solution of hydrogen peroxide containing 30 percent peroxide may be described as "Hydrogen peroxide, aqueous solution *with not less than 20 percent but not more than 40 percent hydrogen peroxide*" or "Hydrogen peroxide, aqueous solution *with 30 percent hydrogen peroxide*".

(7) Use of the prefix "mono" is optional in any shipping name when appropriate. Thus, Iodine monochloride may be used interchangeably with Iodine chloride. In "Glycerol alpha-monochlorohydrin" the term "mono" is considered a prefix to the term "chlorohydrin" and may be deleted.

(8) *Hazardous substances.* The Appendix to this section lists materials which are listed or designated as hazardous substances under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Proper shipping names for hazardous substances (see the appendix to this section and § 171.8 of this subchapter) shall be determined as follows:

(i) If the hazardous substance appears in the Table by technical name, then the technical name is the proper shipping name.

(ii) If the hazardous substance does not appear in the Table and is not a forbidden material, then an appropriate generic shipping name shall be selected corresponding to the hazard class of the material as determined by the defining criteria of this subchapter (see §§ 173.2 and 173.2a of this subchapter). For example, a hazardous substance which is listed in the appendix but not in the Table and which meets the definition of a flammable liquid might be described as "Flammable liquid, n.o.s." or other appropriate shipping name corresponding to the flammable liquid hazard class.

(9) If the word "waste" is not included in the hazardous material description in Column 2 of the table, the proper shipping name for a hazardous waste (as defined in § 171.8 of this subchapter shall include the word "Waste" preceding the proper shipping name of the material. For example: Waste acetone.

(10) *Mixtures and solutions.* (i) A mixture or solution comprised of a hazardous material identified in the Table by technical name and non-hazardous material shall be described using the proper shipping name of the hazardous material and the qualifying word "mixture" or "solution", as appropriate, unless—

(A) The packaging specified in Column 8 is inappropriate to the physical state of the material;

(B) The shipping description indicates that the proper shipping name applies only to the pure or technically pure hazardous material;

(C) The hazard class or packing group of the mixture or solution is different from that specified for the entry; or

(D) There is a significant change in the measures to be taken in emergencies.

(ii) If one or more of the conditions specified in paragraphs (i)(A), (i)(B), (i)(C), and (i)(D) of paragraph (c)(10) of this section are satisfied, then a proper shipping name shall be selected as prescribed in paragraph (c)(12)(ii) of this section.

(11) Except for a material subject to or prohibited by § 173.21, 173.51, 173.86(d), 173.86(e)(1) or 173.114a(g)(2) of this subchapter, a material for which the hazard class is uncertain and must be determined by testing or a material that is a hazardous waste may be assigned a tentative shipping name, hazard class and identification number, based on the shipper's tentative determination according to—

(i) Defining criteria in this subchapter;

(ii) The hazard precedence prescribed in § 173.2a of this subchapter; and

(iii) The shipper's knowledge of the material.

(12) Except when the proper shipping name in the Table is preceded by a plus (+)—

(i) If it is specifically determined that a material meets the definition of a hazard class other than the class shown in association with the proper shipping name, the material shall be described by an appropriate proper shipping name listed in association with the correct class for the material.

(ii) If an appropriate technical name is not shown in the Table, selection of a proper shipping name shall be made from the generic descriptions or "n.o.s." entries corresponding to the specific hazard class and packing group of the material. The name that most appropriately describes the material shall be used; e.g., an alcohol not listed by its technical name in the Table shall

be described as "Alcohol, n.o.s." rather than "Flammable liquid, n.o.s.". Some mixtures may be more appropriately described according to their application, such as "Coating solution" or "Extracts, flavoring, liquid", rather than by an "n.o.s." entry, such as "Flammable liquid, n.o.s." It should be noted, however, that an n.o.s. entry as a proper shipping name may not provide sufficient information for shipping papers and package markings. Under the provisions of Subparts C and D of this part, the technical name of the constituent which makes the product a hazardous material may be required in association with the proper shipping name.

(iii) If a material meets the definition of more than one hazard class, and is not identified in the Table by a specific description or a dual hazard "n.o.s." entry (e.g., "Flammable liquid, corrosive, n.o.s."), the hazard class of the material shall be determined by using the precedence specified in § 173.2a of this subchapter, and an appropriate shipping description shall be selected as described in paragraph (c)(12)(ii) of this section.

(iv) If it is specifically determined that a material is not a forbidden material and does not meet the definition of any hazard class, the material is not a hazardous material.

(13) When the proper shipping name in the Table is preceded by the letter "D", the hazardous material may be described by an "n.o.s." entry or generic proper shipping name in place of the more specific technical name. However, the technical name of the hazardous material shall be entered in association with the proper shipping name, when appropriate, as for a hazardous substance.

(d) *Column 3: Hazard class.* Column 3 contains a designation of the hazard class or division corresponding to each proper shipping name, or the word "Forbidden".

(1) A material for which the entry in this column is "Forbidden" may not be offered for transportation or transported. This prohibition does not apply if the material is diluted, stabilized or incorporated in a device and it is classed in accordance with the definitions of hazardous materials contained in Part 173 of this subchapter.

(2) When a reevaluation of test data or new data indicates a need to modify the "Forbidden" designation or the hazard class or packing group specified for a material specifically identified in the table, this data should be submitted to the Director, OHMT.

(3) A basic description of each hazard class and the section reference for class definitions appear in § 173.2 of this subchapter.

(e) *Column 4: Identification number.* Column 4 lists the identification number assigned to each proper shipping name. Those preceded by the letters "UN" are associated with proper shipping names considered appropriate for international transportation as well as domestic transportation. Those preceded by the letters "NA" are associated with proper shipping names not recognized for international transportation, except to and from Canada. Identification numbers in the "NA9000" series are associated with proper shipping names not appropriately covered by international hazardous materials (dangerous goods) transportation standards, or not appropriately addressed by international transportation standards for emergency response information purposes, except for transportation between the United States and Canada.

(f) *Column 5: Packing group.* Column 5 specifies the packing group(s) assignment for a material conforming to the associated hazard class and proper shipping name. Classes 1 and 7 and Divisions 2.1 and 2.2 of Class 2 do not have packing groups. Packing groups I, II and III indicate the degree of danger presented by the material is either great, medium or minor, respectively. If more than one packing group is indicated for an entry, the packing group for the hazardous material is determined using the criteria for assignment of packing groups specified in Subpart D of Part 173. When a reevaluation of test data or new data indicates a need to modify the specified packing group(s), the data should be submitted to the Director, OHMT.

(g) *Column 6: Labels.* Column 6 specifies the hazard warning label(s) required for a package filled with a material conforming to the associated hazard class and proper shipping name, unless the package is otherwise excepted from labeling by provisions in Subpart D of Part 172, or Part 173 of this subchapter. The first label shown for each entry is indicative of the primary hazard of the material, additional labels are indicative of subsidiary hazards. Provisions in § 172.402 may require that a label other than that specified in Column 6 be affixed to the package in addition to that specified in Column 6.

(h) *Column 7: Special provisions.* Column 7 specifies codes for special provisions applicable to hazardous materials. When Column 7 refers to a special provision for a hazardous material, the meaning and requirements of that special provision are as set forth in § 172.102.

(i) *Column 8: Packaging authorizations.* Columns 8a, 8b and 8c specify the applicable sections for exceptions, non-bulk packaging requirements and bulk packaging requirements, respectively, in Part 173 of this subchapter. Columns 8a, 8b and 8c are completed in a manner which indicates that "§ 173." precedes the designated numerical entry. For example, the entry "202" in column 8b associated with the proper shipping name "Gasoline" indicates that for this material conformance to non-bulk packaging requirements prescribed in § 173.202 of this subchapter is required. When packaging requirements are specified, they are in addition to the standard requirements for all packagings prescribed in § 173.24 of this subchapter and any other applicable requirements in Subparts A and B of Part 173 of this subchapter.

(1) *Exceptions.* Column 8a contains exceptions from some of the requirements of this subchapter. The referenced exceptions are in addition to those specified in Subpart A of Part 173 and elsewhere in this subchapter. A "None" in this column means no packaging exceptions are authorized, except as may be provided by special provisions in Column 7.

(2) *Non-bulk packaging.* Column 8b references the section in Part 173 of this subchapter which prescribes packaging requirements for non-bulk packagings. A "None" in this column means non-bulk packagings are not authorized, except as may be provided by special provisions in Column 7. Each reference in this column to a material which is a hazardous waste or a hazardous substance, and whose proper shipping name is preceded in Column 1 of the Table by the letter "A" or "W", is modified to include "§ 173.204" on those occasions when the material is offered for transportation or transported by a mode in which its transportation is not otherwise subject to requirements of this subchapter.

(3) *Bulk packaging.* Column 8c specifies the section in Part 173 of this subchapter which prescribes packaging requirements for bulk packagings other than IM portable tanks. A "None" in this column means bulk packagings are not authorized, except as may be provided by special provisions in Column 7. Authorizations for use of IM portable tanks are set forth in Column 7.

(j) *Column 9: Quantity limitations.* Columns 9a and 9b specify the maximum quantities that may be offered for transportation in one package by passenger-carrying aircraft or rail car

(Column 9a) or by cargo aircraft only (Column 9b), subject to the following:

(1) "Forbidden" means the material may not be offered for transportation or transported in the applicable mode of transport.

(2) The quantity limitation is "net" except where otherwise specified, such as for "Consumer commodity" which specifies "65 lbs. gross."

(3) When articles or devices are specifically listed by name, the net quantity limitation applies to the entire article or device (less packaging and packaging materials) rather than only to its hazardous components.

(4) A package offered or intended for transportation by aircraft and which is filled with a material forbidden on passenger-carrying aircraft but permitted on cargo aircraft only, or which exceeds the maximum net quantity authorized on passenger-carrying aircraft, shall be labeled with the CARGO AIRCRAFT ONLY label specified in § 172.448 of this part.

(k) *Column 10: Vessel stowage requirements.* Columns 10a (Cargo vessel) and 10b (Passenger vessel) specify the authorized stowage locations on board vessels. Column 10c (Other stowage provisions) specifies codes for stowage requirements for specific hazardous materials. The meaning of each code in Column 10c is set forth in § 176.84 of this subchapter. Section 176.63 of this subchapter sets forth the physical requirements for each of the authorized locations listed in columns 10a and 10b. (For bulk transportation by vessel, see 46 CFR Parts 30 to 40, 70, 98, 148, 151, 153 and 154.) The authorized stowage locations specified in Columns 10a and 10b are defined as follows:

(1) "1" means the material shall be stowed "on deck."

(2) "2" means the material must be stowed "under deck."

(3) "3" means the material must be stowed "under deck away from heat."

(4) "1,2" means the material may be stowed "on deck" or "under deck." However, "under deck" stowage should be used, if available.

(5) "1,3" means the material may be stowed "on deck" or "under deck away from heat." However, "under deck away from heat" stowage should be used, if available.

(6) "4" means the material may be transported on a passenger vessel in only the quantity specified in column 9a of the Table, and is subject to the stowage requirements specified for a cargo vessel for the same material.

(7) "5" means the material is forbidden and may not be offered for transportation or transported by vessel.

(8) "6" means the material shall be transported in a magazine subject to the requirements of §§ 176.135 through 176.144 of this subchapter.

(l) *Changes to the Table.* (1) Unless specifically stated otherwise in the amendment or the "Effective date" entry in its preamble, if any entry in this Table is changed by an amendment to this subchapter—

(i) Such a change does not apply to the shipment of any package filled prior to the effective date of the amendment; and

(ii) Stocks of preprinted shipping papers and package markings may be continued in use, in the manner previously authorized, until depleted or for a one-year period, subsequent to the effective date of the amendment, whichever is less.

(2) A shipping description or any associated entry which is listed in the § 172.101 Table may be altered, if the alteration is approved by the Director, OHMT.

(3) A shipping description or any associated entry which is listed in the current edition of the IMDG Code but is not listed in the § 172.101 Table may be used as if it were listed in the Table, if approved by the Director, OHMT.

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Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Accelierene, see p-Nitrosodimethylaniline													
	Accumulators, electric, see Batteries, wet etc.													
D	Accumulators, pressurized, pneumatic *or* hydraulic (*containing non-flammable gas*).	2.2	NA1956		NONFLAMMABLE GAS.		306	306	None	No limit	No limit	1,2	1,2	
	Acetal	3	UN1088	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	5	12
	Acetaldehyde	3	UN1089	I	FLAMMABLE LIQUID.	B16, N1, N15, T20, T26, T29.	None	201	243	Forbidden	30 L	1,3	5	12
A	Acetaldehyde ammonia	9	UN1841	III	CLASS 9		155	204	241	200 kg	200 kg	1,2	1,2	34
	Acetaldehyde oxime	3	UN2332	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	
	Acetic acid, glacial *or* Acetic acid solution, *more than 80 per cent acid, by weight.*	8	UN2789	II	CORROSIVE	B2, N1, N11, N26, N35, T8.	154	202	242	1 L	30 L	1,3	1,3	21
	Acetic acid solution, *more than 10 per cent but not more than 80 per cent acid, by weight.*	8	UN2790	II	CORROSIVE	B2, N1, N11, N26, N35, T8.	154	202	242	1 L	30 L	1,2	1,2	
	Acetic anhydride	8	UN1715	II	CORROSIVE	B2, N1, N11, N26, N35, T8.	154	202	242	1 L	30 L	1,3	1,3	21, 40, 77
	Acetone	3	UN1090	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	
	Acetone cyanohydrin	6.1	UN1541	I	POISON	B14, B32, N1, N16, N34, 10.	None	227	244	Forbidden	Forbidden	1	5	25, 26, 27, 40, 95
	Acetone oils	3	UN1091	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
	Acetonitrile, see Methyl cyanide													
	Acetyl acetone peroxide (3,5-Dimethyl-3,5-dihydroxydioxolane-1,2), *not more than 40 per cent in solution and not more than 9% by weight active oxygen.*	5.2	UN2080	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Acetyl acetone peroxide, (3,5-dimethyl-3,5-dihydroxydioxonale-1,2), *not more than 32% as a paste with not less than 44% solvent, not less than 9% water and not less than 11% inert solid.*	5.2	UN3061	II	ORGANIC PEROXIDE.		None	225	None	5 kg	10 kg	1	5	2

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Acetyl acetone peroxide with more than 9% by weight active oxygen.	Forbidden												
	Acetyl benzoyl peroxide, *not more than 45 per cent in solution.*	5.2	UN2081	II	ORGANIC PEROXIDE.		None	225	None	5 L	10 L	1	5	12, 40
	Acetyl benzoyl peroxide, solid, or more than 40% in solution.	Forbidden												
	Acetyl bromide	8	UN1716	II	CORROSIVE	B2, T12, T26.	154	202	242	1 L	30 L	1	1	80, 40
	Acetyl chloride	3	UN1717	II	FLAMMABLE LIQUID, CORROSIVE.	N1, N11, N16, N26, N34, T16, T26.	None	202	243	1 L	5 L	1,3	1	40
	Acetyl cyclohexanesulfonyl peroxide, more than 82 per cent wetted with less than 12 per cent water.	Forbidden												
	Acetyl cyclohexanesulfonyl peroxide, *not more than 32 per cent in solution.*	5.2	UN2083	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Acetyl cyclohexanesulfonyl peroxide, *not more than 82 per cent, wetted with not less than 12 per cent water.*	5.2	UN2082	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Acetylene, dissolved	2.1	UN1001		FLAMMABLE GAS.		None	303	None	Forbidden	15 kg	1	1	25, 40, 57, 93
	Acetylene (liquefied)	Forbidden												
	Acetylene silver nitrate	Forbidden												
	Acetylene tetrabromide, see Tetrabromoethane.													
	Acetyl iodide	8	UN1898	II	CORROSIVE	B2, T9	154	202	242	1 L	30 L	1	1	8, 40
	Acetyl methyl carbinol	3	UN2621	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Acetyl peroxide, *see* Diacetyl peroxide, *etc.*													
	Acid butyl phosphate, see Butyl acid phosphate.													
D	Acid, liquid, n.o.s.	8	JA1760	II	CORROSIVE	B2	154	202	242	1 L	5 L	1,2	1	
	Acid, sludge, *see* Sludge acid													
	Acridine	6.1	UN2713	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1	34
	Acrolein dimer, stabilized	3	UN2607	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Acrolein, inhibited	3	UN1092	I	FLAMMABLE LIQUID, POISON.	10, B12, B14, B30, B42, B43.	None	226	244	Forbidden	Forbidden	1,3	5	12, 40
	Acrylamide	6.1	UN2074	III	KEEP AWAY FROM FOOD.	T8	153	213	240	100 kg	200 kg	1,2	1,2	12, 25, 34

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Acrylic acid, inhibited	8	UN2218	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1	1	8, 12, 21, 25, 40
	Acrylonitrile, inhibited	3	UN1093	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	5	12, 40
	Actuating cartridge, explosive, see Cartridges, power device.													
	Adhesives, *containing flammable liquid*	3	UN1133	II	FLAMMABLE LIQUID.	T7, T30	150	173	242	5 L	60 L	1,3	1	12
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	173	242	60 L	220 L	1,3	1,3	12
	Adiponitrile	6.1	UN2205	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	25, 34
	Aerosols, corrosive, n.o.s., *each not exceeding 1L capacity.*	2.2	UN1950		NONFLAMMABLE GAS, CORROSIVE.		None	302, 304, 305	None	75 kg	150 kg	1,3	1,3	40, 48, 85
	Aerosols, flammable, n.o.s. (*each not exceeding 1 L capacity*).	2.1	UN1950		FLAMMABLE GAS.		306	302, 304, 305	None	75 kg	150 kg	1,3	1,3	40, 48, 85
	Aerosols, non-flammable, n.o.s. (*each not exceeding 1 L capacity*).	2.2	UN1950		NONFLAMMABLE GAS.		306, 307	302, 304, 305	None	75 kg	150 kg	1,3	1,3	48, 85
	Aerosols, poison, n.o.s., *each not exceeding 1L capacity.*	2.3	UN1950	II	POISON GAS	10	None	302, 304, 305	None	Forbidden	Forbidden	1,3	1,3	40, 48, 85
	Air, compressed	2.2	UN1002		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
	Aircraft evacuation slides, *see* Life rafts, *etc.*													
D	Aircraft hydraulic power unit fuel tank (*containing a mixture of anhydrous hydrazine and monomethyl hydrazine*) (*M86 fuel*).	3	NA9302	I	FLAMMABLE LIQUID, POISON, CORROSIVE.		None	172	None	Forbidden	42 L	1,3	5	
	Aircraft survival kits, *see* Life rafts, *etc.*													
	Aircraft thrust device *to assist take-off*	4.1	UN2791	II	FLAMMABLE SOLID.		None	180	None	Forbidden	250 kg	1,3	5	
	Air, refrigerated liquid, *low pressure or pressurized.*	2.2	UN1003		NONFLAMMABLE GAS, OXIDIZER.		320	316	318, 319	Forbidden	150 kg	1,3	1,3	55, 51, 85
	Air, refrigerated liquid, *non-pressurized*	2.2	UN1003		NONFLAMMABLE GAS, OXIDIZER.		320	316	318, 319	Forbidden	Forbidden	1,3	1,3	85
	Alcoholic beverages	3	UN3065	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60	220 L	1,3	1,3	
	Alcohols, n.o.s	3	UN1987	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	12
				III	FLAMMABLE LIQUID.	T7, T30	150	203	242	60 L	220 L	1,3	1,3	12

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Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Alcohols, toxic, n.o.s.	3	UN1986	II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	12, 40
	Aldehydes, n.o.s.	3	UN1989	I	FLAMMABLE LIQUID.	T8, T31	None	201	243	1 L	30 L	1,3	1	12
				II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	12
				III	FLAMMABLE LIQUID.	T7, T30	150	203	242	60 L	220 L	1,3	1,3	12
	Aldehydes, toxic, n.o.s.	3	UN1988	II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	5	12, 40
	Aldol	6.1	UN2839	II	POISON.	T8	None	202	243	5 L	60 L	1,3	1,3	12, 25, 95
D	Aldrin, *liquid*	6.1	NA2762	II	POISON.		None	202	243	5 L	60 L	1,3	1,3	
D	Aldrin, *solid*	6.1	NA2761	II	POISON.		None	212	242	25 kg	100 kg	1,2	1,2	95
	Alkali metal alloys, liquid	4.3	UN1421	I	DANGEROUS WHEN WET.	A2, N1, N15, N34.	None	201	244	Forbidden	1 L	1	5	
	Alkali metal amalgams, n.o.s., *liquid*	4.3	UN1389	I	DANGEROUS WHEN WET.	A2, N1, N15, N34.	None	201	244	Forbidden	1 L	1,3	1,3	
	Alkali metal amalgams, n.o.s., *solid*	4.3	UN1389	I	DANGEROUS WHEN WET.	A2, N1, N15, N34.	None	211	242	Forbidden	15 kg	1,3	1,3	
	Alkali metal amides, n.o.s.	4.3	UN1390	II	DANGEROUS WHEN WET.	A19, A20, N2, N11, N26.	None	212	241	15 kg	50 kg	1,3	5	40
	Alkali metal dispersions, n.o.s. *or* Alkali earth metal dispersions, n.o.s.	4.3	UN1391	I	DANGEROUS WHEN WET.	A2, N1, N15, N34.	None	201	244	Forbidden	1 L	1	5	
	Alkaline corrosive liquids, n.o.s., see Caustic alkali liquids, n.o.s.													
	Alkaline earth metal alloys, n.o.s.	4.3	UN1393	II	DANGEROUS WHEN WET.	A19	None	212	241	15 kg	50 kg	1,3	5	
	Alkaline earth metal amalgams, n.o.s.	4.3	UN1392	I	DANGEROUS WHEN WET.	A19, N34	None	211	242	Forbidden	15 kg	1,3	1,3	
	Alkaloids, n.o.s., *or* Alkaloid salts, n.o.s., *poisonous liquid.*	6.1	UN1544	I	POISON.		None	201	243	1 L	30 L	1,2	1,2	95
				II	POISON.		None	202	243	5 L	60 L	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	
	Alkaloids, n.o.s., *or* Alkaloid salts, n.o.s., *poisonous solid.*	6.1	UN1544	I	POISON.		None	211	242	5 kg	50 kg	1,2	1,2	
				II	POISON.		None	212	242	25 kg	100 kg	1,2	1,2	
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Alkylamines, n.o.s. *or* Polyalkylamines, n.o.s., *corrosive, flammable.*	8	UN2734	I	CORROSIVE, FLAMMABLE LIQUID.	N1, N11, N34, T8, T31.	None	201	243	0.5 L	2.5 L	1,3	1,3	22
				II	CORROSIVE, FLAMMABLE LIQUID.	T8, T31	None	202	243	1 L	30 L	1,3	1,3	22
	Alkylamines, n.o.s. *or* Polyalkylamines, n.o.s., *flammable, corrosive.*	3	UN2733	I	FLAMMABLE LIQUID, CORROSIVE.	T42	None	201	243	0.5 L	2.5 L	1,3	1	40
				II	FLAMMABLE LIQUID, CORROSIVE.	T8, T31	None	202	243	1 L	5 L	1,3	1	40
				III	FLAMMABLE LIQUID, CORROSIVE.	B1, T8, T31.	None	203	242	5 L	60 L	1,3	1,3	
	Alkylamines, n.o.s, *or* Polyalkylamines, n.o.s., *corrosive.*	8	UN2735	I	CORROSIVE	B4, N1, N11, N34, T42.	None	201	242	0.5 L	2.5 L	1,2	1	
				II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	
				III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
	Alkyl, Aryl *or* Toluene sulfonic acid, liquid, *with more than 5 per cent free sulfuric acid.*	8	UN2584	II	CORROSIVE	B2, T8, T27.	154	202	242	1 L	30 L	1,2	1	9
	Alkyl, Aryl *or* Toluene sulfonic acid, liquid, *with not more than 5 per cent free sulfuric acid.*	8	UN2586	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1	9
	Alkyl, Aryl *or* Toluene sulfonic acid, solid, *with more than 5 per cent free sulfuric acid.*	8	UN2583	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Alkyl, Aryl *or* Toluene sulfonic acid, solid, *with not more than 5 per cent free sulfuric acid.*	8	UN2585	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Alkyl phenols, n.o.s. (*including C2-C8 homologues*) *liquid.*	6.1	UN2430	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Alkyl phenols, n.o.s. (*including C2-C8 homologues*) *solid.*	6.1	UN2430	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Allethrin, see Pesticides, liquid, toxic, n.o.s.													
	Allyl acetate	3	UN2333	II	FLAMMABLE LIQUID, POISON.	T8	None	202	243	1 L	60 L	1,3	5	12, 40, 94
	Allyl alcohol	3	UN1098	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	5	40
	Allylamine	3	UN2334	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	5	12, 40
	Allyl bromide	3	UN1099	I	FLAMMABLE LIQUID, POISON.	T18	None	201	243	Forbidden	30 L	1,3	5	40

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or rail car (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Allyl chloride	3	UN1100	I	FLAMMABLE LIQUID, POISON.	T18, T26	None	201	243	Forbidden	30 L	1,3	5	12, 40
	Allyl chlorocarbonate, see Allyl chloroformate.													
	Allyl chloroformate	8	UN1722	I	CORROSIVE, POISON.	10, B14, B32, N1, N34, N41.	None	227	244	Forbidden	Forbidden	1	5	21, 40, 77, 95
	Allyl ethyl ether	3	UN2335	II	FLAMMABLE LIQUID, POISON.	T8	None	202	243	1 L	60 L	1,3	5	12, 40
	Allyl formate	3	UN2336	I	FLAMMABLE LIQUID, POISON.	T18, T26	None	201	243	Forbidden	30 L	1,3	5	12, 40
	Allyl glycidyl ether	3	UN2219	III	FLAMMABLE LIQUID.	B1, T7	150	203	242	60 L	220 L	1,3	1,3	
	Allyl iodide	3	UN1723	I	FLAMMABLE LIQUID, CORROSIVE.	N1, N11, N34, T18.	None	201	243	0.5 L	2.5 L	1,3	5	40
	Allyl isothiocyanate, inhibited	6.1	UN1545	II	POISON	N1, N15, N16, N17, N26, T17.	None	202	243	Forbidden	60 L	1	5	21, 25, 40, 95
	Allyltrichlorosilane, stabilized	8	UN1724	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	21, 40, 77
	Aluminum alkyl halides	4.2	UN3052	I	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	B9, B11, B14, T28, T29, T40.	None	181	244	Forbidden	Forbidden	1	5	
	Aluminum alkyls	4.2	UN3051	I	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	B9, B11, B14, T28, T29, T40.	None	181	244	Forbidden	Forbidden	1	5	
	Aluminum borohydride *or* Aluminum borohydride in devices.	4.2	UN2870	I	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	B11	None	181	244	Forbidden	Forbidden	1	5	
	Aluminum bromide, anhydrous	8	UN1725	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Aluminum bromide, solution	8	UN2580	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
	Aluminum carbide	4.3	UN1394	II	DANGEROUS WHEN WET.	A20, N34, N41.	None	212	242	15 kg	50 kg	1,3	1,3	
	Aluminum chloride, anhydrous	8	UN1726	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	40
	Aluminum chloride, solution	8	UN2581	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
	Aluminum dross, wet or hot	Forbidden												
	Aluminum ferrosilicon powder	4.3	UN1395	II	DANGEROUS WHEN WET, POISON.	A19	None	212	242	15 kg	50 kg	1,3	1,3	40
	Aluminum hydride	4.3	UN2463	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	
	Aluminum nitrate	5.1	UN1438	III	KXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Aluminum phosphate solution, see Corrosive liquids, n.o.s.													
	Aluminum phosphide	4.3	UN1397	I	DANGEROUS WHEN WET, POISON.	A19, N2	None	211	242	Forbidden	15 kg	1,3	5	40, 85
	Aluminum phosphide pesticides	6.1	UN3048	I	POISON	N2	None	211	242	Forbidden	15 kg	1,2	1,2	85
	Aluminum powder, coated, *not less than 20 per cent aluminum powder, particle size less than 250 microns.*	4.1	UN1309	II	FLAMMABLE SOLID.		151	212	240	15 kg	50 kg	1,3	1,3	13, 39
	Aluminum powder, uncoated	4.3	UN1396	II	DANGEROUS WHEN WET.	A19, A20	None	212	240	15 kg	50 kg	1,3	1,3	39
	Aluminum resinate	4.1	UN2715	III	FLAMMABLE SOLID.		151	213	240	25 kg	100 kg	1,3	1,3	
	Aluminum silicon powder, uncoated	4.3	UN1398	III	DANGEROUS WHEN WET.	A1, A19	None	213	241	25 kg	100 kg	1,3	1,3	40
	Amatols, see Explosives, blasting, type B													
	2-Amino-4-chlorophenol	6.1	UN2673	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	85
	2-Amino-5-diethylaminopentane	6.1	UN2946	III	KEEP AWAY FROM FOOD.	T1	153	203	240	60 L	220 L	1,2	1,2	34
	2-(2-Aminoethoxy) ethanol	8	UN3055	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,2	1,2	
	N-Aminoethylpiperazine	8	UN2815	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,3	1,3	12
	Aminophenols (*o-,m-,p-*)	6.1	UN2512	III	KEEP AWAY FROM FOOD.	T1	153	213	240	100 kg	200 kg	1,2	1,2	34
	Aminopropyldiethanolamine, see Alkylamines, n.o.s.													
	n-Aminopropylmorpholine, see Alkylamines, n.o.s.													
	Aminopyridines (*o-,m-,p-*)	6.1	UN2671	II	POISON	T7	None	212	242	25 kg	100 kg	1,3	1	12, 40, 95
	Ammonia, anhydrous, liquefied	2.3	UN1005	III	POISON GAS	10	None	304	314, 315	Forbidden	Forbidden	1,2	5	40, 57
	Ammonia solutions, *density (specific gravity) between 0.880 and 0.957 at 15 degrees C in water, with more than 10 per cent but not more than 35 percent ammonia.*	8	UN2672	III	CORROSIVE	T14	154	203	241	5 L	60 L	1,2	1,2	40, 85

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ammonia solutions, *density (specific gravity) less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia.*	2.2	UN1005		NONFLAMMABLE GAS.	B13	306	304	314, 315	Forbidden	25 kg	1,3	5	40, 57, 85, 95
	Ammonia solutions, *density (specific gravity) less than 0.880 at 15 degrees C in water, with more than 35 per cent but not more than 50 per cent ammonia.*	2.2	UN2073		NONFLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	5	40, 57, 85
	Ammonium arsenate	6.1	UN1546	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	27, 95
	Ammonium azide	Forbidden												
	Ammonium bifluoride, solid, see Ammonium hydrogen fluoride, solid.													
	Ammonium bifluoride solution, see Ammonium hydrogen fluoride, solution.													
	Ammonium bromate	Forbidden												
	Ammonium chlorate	Forbidden												
	Ammonium dichromate (*ammonium bichromate*) *solid.*	5.1	UN1439	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	34
D	Ammonium dichromate (*ammonium bichromate*) *solution.*	5.1	UN1439	II	OXIDIZER		152	202	241	5 L	60 L	1,2	1,2	
	Ammonium dinitro-o-cresolate	6.1	UN1843	II	POISON	T6	None	212	242	25 kg	100 kg	1,2	1	36, 65, 66, 77
	Ammonium fluoride	6.1	UN2505	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Ammonium fluorosilicate	6.1	UN2854	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Ammonium fulminate	Forbidden												
	Ammonium hydrogen fluoride, solid	8	UN1727	II	CORROSIVE	N34	154	212	240	15 kg	50 kg	1,2	1,2	26, 40
	Ammonium hydrogen fluoride, solution	8	UN2817	II	CORROSIVE, POISON.	N34, T15	None	202	243	1 L	30 L	1,2	1,2	40
	Ammonium hydrogen sulfate	8	UN2506	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	27, 40
	Ammonium hydrosulfide, solution, see Ammonium sulfide solution.													
D	Ammonium hydroxide, *see* Ammonia solutions, *etc.*.													
	Ammonium metavanadate	6.1	UN2859	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Ammonium nitrate fertilizers, n.o.s.	5.1	UN2072	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,3	1,3	31, 48, 59, 60
	Ammonium nitrate fertilizers: *uniform non-segregating mixtures of ammonium nitrate/ ammonium sulfate, with more than 45 per cent but not more than 70 per cent ammonium nitrate and not more than 0.4 per cent of total combustible material.*	5.1	UN2069	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 59, 60

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§172.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ammonium nitrate fertilizers: *uniform non-segregating mixtures of ammonium nitrate with added matter which is inorganic and chemically inert towards ammonium nitrite, with not less than 90 per cent ammonium nitrate and not more than 0.2 per cent combustible material (including organic material calculated as carbon), or with more than 70 per cent but less than 90 per cent ammonium nitrate and not more than 0.4 per cent total combustible material.*	5.1	UN2067	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 59, 60
	Ammonium nitrate fertilizers: *uniform non-segregating mixtures of ammonium nitrate with calcium carbonate and/or dolomite, with more than 80 per cent but less than 90 per cent ammonium nitrate and not more than 0.4 per cent total combustible material.*	5.1	UN2068	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 59, 60
	Ammonium nitrate fertilizers: *uniform non-segregating mixtures of nitrogen/phosphate or nitrogen/potash types or complete fertilizers of nitrogen/phosphate/potash type, with more than 70 per cent but less than 90 per cent ammonium nitrate and not more than 0.4 per cent total combustible material.*	5.1	UN2070	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 59, 60
AW	Ammonium nitrate fertilizers: *uniform non-segregating mixtures of nitrogen/phosphate or nitrogen/potash types or complete fertilizers of nitrogen/ phosphate/ potash type, with not more than 70 per cent ammonium nitrate and not more than 0.4 per cent total added combustible material or with not more than 45 per cent ammonium nitrate with unrestricted combustible material.*	9	UN2071	III	CLASS 9		155	213	240	200 kg	200 kg	1,2	1,2	
D	Ammonium nitrate fertilizers *with not more than 0.2 percent carbon; which meet the definition in the Fertilizer Institute publication 'Definition and Test Procedures for Ammonium Nitrate Fertilizer', dated May 8, 1971.*	5.1	NA1942	III	KXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 50
	Ammonium nitrate fertilizer: *which is more liable to explode than ammonium nitrate with 0.2 per cent combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance.*	1.1D	UN0223											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ammonium nitrate, liquid (*hot concentrated solution*).	5.1	UN2426	II	OXIDIZER	B5, B17, T25.	None	None	243	Forbidden	Forbidden	5	5	
	Ammonium nitrate, *with more than 0.2 per cent combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance.*	1.1D	UN0222											
	Ammonium nitrate, *with not more than 0.2 per cent combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance.*	5.1	UN1942	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,3	1,3	31, 48, 59, 60
	Ammonium nitrite	Forbidden												
	Ammonium perchlorate	5.1	UN1442	II	OXIDIZER	N13, N34	152	212	240	5 kg	25 kg	1,2	5	46
	Ammonium perchlorate	1.1D	UN0402											
	Ammonium permanganate, see Permanganates, inorganic, n.o.s.													
	Ammonium persulfate	5.1	UN1444	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Ammonium picrate, *dry or wetted with less than 10 per cent water, by weight.*	1.1D	UN0004											
	Ammonium picrate, wetted *with not less than 10 per cent water, by weight.*	4.1	UN1310	I	FLAMMABLE SOLID.	A2, N15, N34, N41.	None	211	None	0.5 kg	0.5 kg	1	5	36
	Ammonium polysulfide, solution	8	UN2818	II	CORROSIVE, POISON.	T14	None	202	243	1 L	30 L	1,3	1	12, 26, 40
	Ammonium polyvanadate	6.1	UN2861	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Ammonium silicofluoride, see Ammonium fluorosilicate.													
	Ammonium sulfide solution	8	UN2683	II	CORROSIVE, POISON, FLAMMABLE LIQUID.	T14	None	202	243	1 L	30 L	1,3	1	12, 22, 49
	Ammunition, blank, see Cartridges for weapons, blank.													
	Ammunition, illuminating *with or without burster, expelling charge or propelling charge.*	1.2G	UN0171											
	Ammunition, illuminating *with or without burster, expelling charge or propelling charge.*	1.3G	UN0254											
	Ammunition, illuminating *with or without burster, expelling charge or propelling charge.*	1.4G	UN0297											
	Ammunition, incendiary *liquid or gel, with burster, expelling charge or propelling charge.*	1.3J	UN0247											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ammunition, incendiary (*other than water-activated ammunition*), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge.	1.2G	UN0009											
	Ammunition, incendiary (*other than water-activated ammunition*), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge.	1.3G	UN0010											
	Ammunition, incendiary (*other than water-activated ammunition*), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge.	1.4G	UN0300											
	Ammunition, incendiary (water-activated contrivances) with burster, expelling charge or propelling charge, see Contrivances, water-activated, etc..													
	Ammunition, incendiary, white phosphorus, *with burster, expelling charge or propelling charge.*	1.2H	UN0243											
	Ammunition, incendiary, white phosphorus, *with burster, expelling charge or propelling charge.*	1.3H	UN0244											
	Ammunition, practice	1.4G	UN0362											
	Ammunition, proof	1.4G	UN0363											
	Ammunition, rocket, see Warheads, rocket etc..													
	Ammunition, SA (small arms), see Cartridges for weapons, etc.,													
	Ammunition, smoke (*other than water-activated ammunition*), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge.	1.3G	UN0016											
	Ammunition, smoke (*other than water-activated ammunition*), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge.	1.4G	UN0303											
	Ammunition, smoke (*other than water-activated ammunition*), without white phosphorus or phosphides with or without burster, expelling charge or propelling charge.	1.2G	UN0015											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ammunition, smoke (water-activated contrivances), white phosphorus, with burster, expelling charge or propelling charge, see Contrivances, water-activated, *etc. (UN 0248).*													
	Ammunition, smoke (water-activated contrivances), without white phosphorus or phosphides, with burster, expelling charge or propelling charge, see Contrivances, water-activated, *etc. (UN 0249).*													
	Ammunition, smoke, white phosphorus *(other than water-activated ammunition), with burster, expelling charge or propelling charge.*	1.3H	UN0246											
	Ammunition smoke, white phosphorus *(other than water-activated ammunition), with burster, expelling charge or propelling charge.*	1.2H	UN0245											
	Ammunition, sporting, see Cartridges for weapons, *etc. (UN 0012; 0328; 0339).*													
	Ammunition, tear-producing, non-explosive, *without burster or expelling charge, non-fuzed.*	6.1	UN2017	II	POISON, CORROSIVE.		None	212	None	Forbidden	50 kg	1,2	5	13, 20, 40, 95
	Ammunition, tear-producing *with burster, expelling charge or propelling charge.*	1.2G	UN0018											
	Ammunition, tear-producing *with burster, expelling charge or propelling charge.*	1.3G	UN0019											
	Ammunition, tear-producing *with burster, expelling charge or propelling charge.*	1.4G	UN0301											
	Ammunition, toxic, nonexplosive, *without burster or expelling charge, non-fuzed.*	6.1	UN2016	II	POISON		None	212	None	Forbidden	100 kg	1,2	5	13, 40, 95
	Ammunition, toxic *(other than water-activated ammunition), with burster, expelling charge or propelling charge.*	1.2K	UN0020											
	Ammunition, toxic *(other than water-activated ammunition), with burster, expelling charge or propelling charge.*	1.3K	UN0021											
	Ammunition, toxic (water-activated contrivances), with burster, expelling charge or propelling charge, see Contrivances, water-activated, *etc.*													
	Amorces, see Caps, toy													
	Amyl acetates	3	UN1104	III	FLAMMABLE LIQUID.	T1	150	203	241	60 L	220 L	1,3	1	
	Amyl acid phosphate	8	UN2819	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	
	Amyl alcohols	3	UN1105	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B2, T1	150	203	242	60 L	220 L	1,3	1,3	

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Amylamine	3	UN1106	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Amyl butyrates	3	UN2620	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Amyl chloride	3	UN1107	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	n-Amylene	3	UN1108	I	FLAMMABLE LIQUID.	T14	150	201	243	1 L	30 L	1,3	5	12
	Amyl formates	3	UN1109	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	tert - Amyl hydroperoxide *not more than 88% in solution with not less than 6% water.*	5.2	UN3067	I	ORGANIC PEROXIDE.		None	225	None	1 L	5 L	1	5	
	Amyl mercaptan	3	UN1111	II	FLAMMABLE LIQUID.	N1, N15, T8.	None	202	242	5 L	60 L	1,3	1	
	Amyl methyl ketone	3	UN1110	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Amyl nitrate	3	UN1112	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Amyl nitrite	3	UN1113	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12, 40
	tert-Amylperoxybenzoate, *not more than 92 per cent in solution.*	5.2	UN3044	II	ORGANIC PEROXIDE.		None	225	None	5 L	10 L	1	5	12, 40
	tert-Amyl peroxy-2-ethylhexanoate, *technically pure.*	5.2	UN2898	II	ORGANIC PEROXIDE.		152	225	None	Forbidden	Forbidden	1	5	2, 40
	tert-Amyl peroxyneodecanoate, *not more than 75 per cent with phlegmatizer.*	5.2	UN2891	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	tert-Amyl peroxypivalate, *not more than 77 per cent in solution.*	5.2	UN2857	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Amyltrichlorosilane	8	UN1728	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40, 77
	Anhydrous hydrofluoric acid, see Hydrogen fluoride, anhydrous.													
	Aniline	6.1	UN1547	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	26, 40, 44, 95
	Aniline hydrochloride	6.1	UN1548	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	27, 34
	Aniline oil, see Aniline													
	Anisidines *liquid*	6.1	UN2431	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	34
	Anisidines *solid*	6.1	UN2431	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Anisole	3	UN2222	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,2	1,2	
	Anisoyl chloride	8	UN1729	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1	1	8, 13, 40

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Anti-freeze liquid, see Flammable liquids, n.o.s.													
	Antimonous chloride, see Antimony trichloride.													
	Antimony compounds, inorganic, n.o.s., *liquid.*	6.1	UN1549	I	POISON		None	201	243	1 L	30 L	1,2	1,2	95
				II	POISON		None	202	243	5 L	60 L	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	203	240	60 L	220 L	1,2	1,2	34
	Antimony compounds, inorganic, n.o.s., *solid.*	6.1	UN1549	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Antimony lactate	6.1	UN1550	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Antimony pentachloride, liquid	8	UN1730	II	CORROSIVE	B2, T8, T26.	None	202	242	1 L	30 L	1	1	8, 13, 40
	Antimony pentachloride, solution	8	UN1731	II	CORROSIVE	B2, T8, T27.	154	202	242	1 L	30 L	1	1	8, 40
	Antimony pentafluoride	8	UN1732	II	CORROSIVE, POISON.	N1, N3, N11, N16, N29, N35, T12, T28.	None	202	243	Forbidden	30 L	1	5	40
	Antimony potassium tartrate	6.1	UN1551	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Antimony powder	6.1	UN2871	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Antimony sulfide and a chlorate, mixtures of.	Forbidden												
	Antimony sulfide, solid, see Antimony compounds, inorganic, n.o.s.													
D	Antimony tribromide, solid	8	NA1549	II	CORROSIVE		154	212	240	25 kg	100 kg	1,2	1,2	
D	Antimony tribromide, solution	8	NA1549	II	CORROSIVE	B2	154	202	242	1 L	30 L	1	1	
	Antimony trichloride, *liquid*	8	UN1733	II	CORROSIVE	B2	154	202	242	1 L	30 L	1	1	
	Antimony trichloride, *solid*	8	UN1733	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	40
D	Antimony trifluoride, solid	8	NA1549	II	CORROSIVE		154	212	240	25 kg	25 kg	1,2	1,2	
D	Antimony trifluoride solution	8	NA1549	II	CORROSIVE	B2	154	202	242	1 L	30 L	1	1	
	Aqua ammonia, see Ammonia solution, etc.													
	Argon, compressed	2.2	UN1006		NONFLAMMABLE GAS.		306	302	314, 315	75 kg	150 kg	1,3	1,3	85
	Argon, refrigerated liquid (*cryogenic liquid*)	2.2	UN1951		NONFLAMMABLE GAS.		320	316	318	50 kg	500 kg	1,3	1	85
	Arsenic	6.1	UN1558	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Arsenic acid, liquid	6.1	UN1553	I	POISON	T18, T27	None	201	243	1 L	30 L	1,2	1,2	95
	Arsenic acid, solid	6.1	UN1554	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Arsenical dust	6.1	UN1562	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Arsenical pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2760	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Arsenical pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2993	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	21, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	241	60 L	220 L	1,2	1,2	21, 34
	Arsenical pesticides, liquid, toxic, n.o.s.	6.1	UN2994	I	POISON	T42	None	201	243	1 L	30 L	1	1	95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34
	Arsenical pesticides, solid, toxic, n.o.s.	6.1	UN2759	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Arsenic bromide	6.1	UN1555	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	12, 40, 95
	Arsenic chloride, see Arsenic trichloride													
	Arsenic compounds, liquid, n.o.s., *including: Arsenates, n.o.s; Arsenites, n.o.s.; Arsenic sulfides, n.o.s.; Organic compounds of arsenic, n.o.s.; and Arsenic mixtures, n.o.s.*	6.1	UN1556	I	POISON		None	201	243	1 L	30 L	1,2	1	40, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1	34, 40
	Arsenic compounds, solid, n.o.s., *including. Arsenates, n.o.s.; Arsenites, n.o.s.; Arsenic sulfides, n.o.s.; Organic compounds of arsenic, n.o.s.; and Arsenic mixtures, n.o.s.*	6.1	UN1557	I	POISON		None	211	242	5 kg	50 kg	1,2	1	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Arsenic pentoxide	6.1	UN1559	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
D	Arsenic sulfide	6.1	NA1557	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Arsenic sulfide and a chlorate, mixtures of	Forbidden												
	Arsenic trichloride	6.1	UN1560	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	40, 95
	Arsenic trioxide	6.1	UN1561	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
D	Arsenic trisulfide	6.1	NA1557	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Arsenic, white, solid, see Arsenic trioxide													

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	Arsenious acid, solid, see Arsenic trioxide													
	Arsenious and mercuric iodide solution, see Arsenic compounds, liquid, n.o.s.													
	Arsine	2.3	UN2188	I	POISON GAS, FLAMMABLE GAS.	10	None	192	245	Forbidden	Forbidden	1	5	40, 95
	Articles, explosive, n.o.s.	1.4S	UN0349											
	Articles, explosive, n.o.s.	1.4B	UN0350											
	Articles, explosive, n.o.s.	1.4C	UN0351											
	Articles, explosive, n.o.s.	1.4D	UN0352											
	Articles, explosive, n.o.s.	1.4G	UN0353											
	Articles, explosive, n.o.s.	1.1L	UN0354											
	Articles, explosive, n.o.s.	1.2L	UN0355											
	Articles, explosive, n.o.s.	1.3L	UN0356											
	Articles, pyrophoric	1.2L	UN0380											
	Articles, pyrotechnic *for technical purposes*	1.1G	UN0428											
	Articles, pyrotechnic *for technical purposes*	1.2G	UN0429											
	Articles, pyrotechnic *for technical purposes*	1.3G	UN0430											
	Articles, pyrotechnic *for technical purposes*	1.4G	UN0431											
	Articles, pyrotechnic *for technical purposes*	1.4S	UN0432											
	Asbestos, blue—(*crocidolite*) *or* brown *amosite, mysonite*).	9	UN2212	II	CLASS 9		155	216	240	Forbidden	Forbidden	1,2	1,2	
	Asbestos, white (*chrysolite, actinolite, anthophyllite, tremolite*).	9	UN2590	III	CLASS 9		155	216	240	200 kg	200 kg	1,2	1,2	
	Ascaridole (*organic peroxide*)	Forbidden												
D	Asphalt, *at or above its flashpoint*	3	NA1999	III	None		150	203	242	Forbidden	Forbidden	1	5	
D	Asphalt, cut back, *see* Tars, liquid, *etc.*													
	Auto alarms, see Alarm devices, explosive													
	Automobile, motorcycle, tractor, or other self-propelled vehicle, engine, or other mechanical apparatus. See Vehicles, self-propelled.													
	Azaurolic acid (*salt of*) (*dry*)	Forbidden												
	Azidodithiocarbonic acid	Forbidden												
	Azidoethyl nitrate	Forbidden												
	Azido guanidine picrate (*dry*)	Forbidden												
	5-Azido-1-hydroxy tetrazole	Forbidden												
	Azido hydroxy tetrazole (*mercury and silver salts*).	Forbidden												
	3-Azido-1,2-Propylene glycol dinitrate	Forbidden												
D	Azinphos methyl *liquid*	6.1	NA2783	II	POISON		None	202	243	1 L	30 L	1,2	1,2	
D	Azinphos methyl *solid*	6.1	NA2783	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	1-Aziridinyl phosphine oxide-(tris), see Tri-(1-aziridinyl) phosphine oxide, solution.													
	2,2'-Azodi-(2,4-dimethyl-4-methoxyvaleronitrile).	4.1	UN2955	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	2
	2,2'-Azodi-(2,4 dimethylvaleronitrile)	4.1	UN2953	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	2
	1,1'-Azodi-(hexahydrobenzonitrile)	4.1	UN2954	II	FLAMMABLE SOLID.		None	214	None	15 kg	50 kg	1,3	5	25
	Azodiisobutyronitrile	4.1	UN2952	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	2
	2,2'-Azodi (2-methyl-butyronitrile)	4.1	UN3030	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	2, 52, 53
	Azotetrazole (dry)	Forbidden												
	Bags, having contained sodium nitrate, empty, unwashed.	4.1	UN1359	III	FLAMMABLE SOLID.		None	204	246	Forbidden	100 kg	1,3	5	
	Barium	4.3	UN1400	II	DANGEROUS WHEN WET.	A19	None	212	241	15 kg	50 kg	1,3	5	
	Barium alloys	4.3	UN1399	II	DANGEROUS WHEN WET.	A19	None	212	241	15 kg	50 kg	1,3	5	
	Barium alloys, pyrophoric	4.2	UN1854	II	SPONTANEOUSLY COMBUSTIBLE.		None	181	None	Forbidden	Forbidden	1	5	
	Barium azide, *dry or wetted with less than 50 per cent water, by weight.*	1.1A	UN0224											
	Barium azide, wetted *with not less than 50 per cent water, by weight.*	4.1	UN1571	I	FLAMMABLE SOLID, POISON.	A2	None	182	None	Forbidden	0.5 kg	1	5	36
	Barium bromate	5.1	UN2719	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,2	1,2	34, 46, 56
	Barium chlorate	5.1	UN1445	II	OXIDIZER, POISON.	N13, N34, T8.	None	212	242	5 kg	25 kg	1,2	1,2	46, 56, 95
	Barium compounds, n.o.s., *except Barium sulfate.*	6.1	UN1564	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Barium cyanide	6.1	UN1565	I	POISON	N74, N75	None	211	242	5 kg	50 kg	1,2	1,2	26, 40, 95
	Barium hypochlorite *with more than 22 per cent available chlorine.*	5.1	UN2741	II	OXIDIZER	N13, N26, N34.	152	212	None	5 kg	25 kg	1,2	1,2	34
	Barium nitrate	5.1	UN1446	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,2	1,2	95
	Barium oxide	6.1	UN1884	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Barium perchlorate	5.1	UN1447	II	OXIDIZER, POISON.	T8	None	212	242	5 kg	25 kg	1,2	1,2	46, 95

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					Poison									
	Barium permanganate	5.1	UN1448	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,2	1,2	56, 69, 95
	Barium peroxide	5.1	UN1449	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,2	1,2	13, 95
	Barium selenate, *see* Selenates *or* Selenites.													
	Barium selenite, *see* Selenates *or* Selenites.													
	Batteries, dry, containing potassium hydroxide solid, *electric storage*.	8	UN3028	III	CORROSIVE		159	159	None	25 kg gross.	230 kg gross.	1,2	1,2	
	Batteries, wet, filled with acid, *electric storage*.	8	UN2794	III	CORROSIVE		159	159	None	25 kg gross.	No limit	1,2	1,2	
	Batteries, wet, filled with alkali, *electric storage*.	8	UN2795	III	CORROSIVE		159	159	None	25 kg gross.	No limit	1,2	1,2	
AW	Batteries, wet, non-spillable, *electric storage*.	8	UN2800	III	CORROSIVE		159	159	None	No Limit	No Limit	1,2	1,2	
	Battery fluid, acid	8	UN2796	II	CORROSIVE	B2, B15, N1, N6, N26, N34, T9, T27.	154	202	242	1 L	30 L	1,2	1	33
	Battery fluid, alkali	8	UN2797	II	CORROSIVE	B2, N6, T8.	154	202	242	1 L	30 L	1,2	1,2	
	Battery lithium type, see Lithium batteries													
	Benzene	3	UN1114	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Benzene diazonium chloride (dry)	Forbidden												
	Benzene diazonium nitrate (dry)	Forbidden												
	Benzene-1,3-disulfohydrazide, *not more than 52 per cent as a paste*.	4.1	UN2971	II	FLAMMABLE SOLID.		None	214	None	15 kg	50 kg	1,3	1,3	12, 25, 48, 52, 53, 85
	Benzene phosphorus dichloride, see Phenyl phosphorus dichloride.													
	Benzene phosphorus thiodichloride, see Phenyl phosphorus thiodichloride.													
	Benzene sulfohydrazide	4.1	UN2970	II	FLAMMABLE SOLID.		None	214	None	15 kg	50 kg	1,3	1,3	12, 25, 48, 52, 53, 85
	Benzene sulfonyl chloride	8	UN2225	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	40
	Benzenethiol, see Phenyl mercaptan													
	Benzene triozonide	Forbidden												
	Benzidine	6.1	UN1885	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Benzoic derivative pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2770	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Benzoic derivative pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3003	I	POISON	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON	T18	None	202	243	5 L	60 L	1,2	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	T18	153	203	241	60 L	220 L	1,2	1,2	21, 34, 40
	Benzoic derivative pesticides, liquid, toxic, n.o.s.	6.1	UN3004	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	242	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	40, 34
	Benzoic derivative pesticides, solid, toxic, n.o.s.	6.1	UN2769	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		155	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Benzol, see Benzene.													
	Benzonitrile	6.1	UN2224	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	26, 40, 95
	Benzoquinone	6.1	UN2587	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Benzotrichloride	8	UN2226	II	CORROSIVE	B2, T15	154	202	242	1 L	30 L	1,2	1,2	40
	Benzotrifluoride	3	UN2338	II	FLAMMABLE LIQUID.	T2	150	202	242	5 L	60 L	1,3	1	40
	Benzoxidiazoles (dry)	Forbidden												
	Benzoyl azide	Forbidden												
	Benzoyl chloride	8	UN1736	II	CORROSIVE	B2, T9, T26.	154	202	242	1 L	30 L	1	1	8, 40
	Benzoyl peroxide, see Dibenzoyl peroxide, etc.													
	Benzyl bromide	6.1	UN1737	II	POISON, CORROSIVE.	N1, N26, N33, N34, T12, T26.	None	202	243	1 L	30 L	1	5	40
	Benzyl chloride *stabilized*	6.1	UN1738	II	POISON, CORROSIVE.	B41, N1, N26, N33, T12, T26.	None	202	243	1 L	30 L	1	5	13, 20, 40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Benzyl chloride-*unstabilized*	6.1	UN1738	II	POISON, CORROSIVE.	B8, B11, N1, N26, N33, N34, T12, T26.	None	202	243	1 L	30 L	1	5	13, 20
	Benzyl chloroformate	8	UN1739	I	CORROSIVE	B4, N1, N11, N34, N41, T18, T26.	None	201	242	Forbidden	2.5 L	1	5	40
	Benzyl dimethylamine	8	UN2619	II	CORROSIVE	B2, T1	154	202	242	1 L	30 L	1,3	1,3	21, 40, 48
	4-(Benzyl(ethyl)amino)-3-ethoxybenzenediazonium zinc chloride.	4.1	UN3037	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	2
	Benzylidene chloride	6.1	UN1886	II	POISON	T8	None	202	243	5 L	60 L	1	5	40, 95
	Benzyl iodide	6.1	UN2653	II	POISON	T8	None	202	243	5 L	60 L	1,3	1	12, 40, 95
	4-(Benzyl(methyl)amino)3-ethoxybenzenediazonium zinc chloride.	4.1	UN3038	II	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	2
	Beryllium compounds, n.o.s.	6.1	UN1566	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Beryllium nitrate	5.1	UN2464	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,3	1,3	12, 48, 95
	Beryllium, powder	6.1	UN1567	II	POISON, FLAMMABLE SOLID.		None	212	242	15 kg	50 kg	1,2	1,2	24, 95
	Bifluorides, n.o.s., *solid*	8	UN1740	II	CORROSIVE	N3, N34	None	212	240	15 kg	50 kg	1,2	1,2	25, 26, 40
	Bifluorides, n.o.s., *solution*	8	UN1740	II	CORROSIVE	N3, N34	None	202	243	1 L	30 L	1,2	1,2	25, 26, 40
	Biphenyl triozonide	Forbidden												
	Bipyridilium pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2782	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Bipyridilium pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3015	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,3	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	242	60 L	220 L	1,3	1,3	21, 34, 40
	Bipyridilium pesticides, liquid, toxic, n.o.s.	6.1	UN3016	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Bipyridilium pesticides, solid, toxic, n.o.s.	6.1	UN2781	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	bis (Aminopropyl) piperazine, see Corrosive liquid, n.o.s.													
	Bisulfites, inorganic, aqueous solutions, n.o.s.	8	UN2693	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	8, 40, 49
	Black powder (Gunpowder), compressed *or* Black powder (Gunpowder), in pellets.	1.1D	UN0028											
	Black powder (Gunpowder), *granular or as a meal.*	1.1D	UN0027											
	Blasting agent, n.o.s., see Explosives, blasting.													
	Blasting cap assemblies, see Detonator assemblies, non-electric, *for blasting.*													
	Blasting caps, electric, see Detonators, electric *for blasting.*													
	Blasting caps, non-electric, see Detonators, non-electric, *for blasting.*													
	Bleaching powder, see Calcium hypochlorite mixtures, *etc.*													
	Bombs, photo-flash	1.1F	UN0037											
	Bombs, photo-flash	1.1D	UN0038											
	Bombs, photo-flash	1.2G	UN0039											
	Bombs, photo-flash	1.3G	UN0299											
	Bombs, smoke, non-explosive, *with corrosive liquid, without initiating device.*	8	UN2028	II	CORROSIVE		None	160	None	Forbidden	50 kg	1,2	5	40
	Bombs, *with bursting charge*	1.1F	UN0033											
	Bombs, *with bursting charge*	1.1D	UN0034											
	Bombs, *with bursting charge*	1.2D	UN0035											
	Bombs, *with bursting charge*	1.2F	UN0291											
	Bombs with flammable liquid, *with bursting charge.*	1.1J	UN0399											
	Bombs with flammable liquid, *with bursting charge.*	1.2J	UN0400											
	Boosters, with detonator	1.1B	UN0225											
	Boosters, with detonator	1.2B	UN0268											
	Boosters, *without detonator*	1.1D	UN0042											
	Boosters, *without detonator*	1.2D	UN0283											
	Borate and chlorate mixtures, see Chlorate and borate mixtures.													
	Borneol	4.1	UN1312	III	FLAMMABLE SOLID.	A1		213	240	25 kg	100 kg	1,3	1,3	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Boron tribromide	8	UN2692	I	CORROSIVE AND POISON.	N1, N11, N26, N34, T18, T27.	None	201	243	Forbidden	2.5 L	1	1	12, 34
	Boron trichloride	2.3	UN1741	II	POISON GAS, CORROSIVE.	10, B14, B33.	None	304	244	Forbidden	Forbidden	1,3	5	25, 34, 40, 85
	Boron trifluoride	2.3	UN1008	II	POISON GAS	B14, B31, 10.	None	302	245	Forbidden	Forbidden	1	5	40, 95
	Boron trifluoride acetic acid complex	8	UN1742	II	CORROSIVE	B2, B6, T9, T27.	154	202	242	1 L	30 L	1,2	1,2	
	Boron trifluoride diethyl etherate	8	UN2604	I	CORROSIVE, FLAMMABLE LIQUID.	A19, T8, T26.	None	202	243	0.5 L	2.5 L	1	5	40
	Boron trifluoride dihydrate	8	UN2851	II	CORROSIVE	T9, T27	154	212	240	15 kg	50 kg	1,3	1	12, 40
	Boron trifluoride dimethyl etherate	4.3	UN2965	II	DANGEROUS WHEN WET, CORROSIVE, FLAMMABLE LIQUID.	A19, T8, T26.	None	202	243	1 L	5 L	1	5	
	Boron trifluoride propionic acid complex	8	UN1743	II	CORROSIVE	B2, T9, T27.	154	202	242	1 L	30 L	1,2	1,2	
	Box toe gum, see Nitrocellulose													
	Brake fluid, *hydraulic*	3	UN1118	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Bromates, inorganic, n.o.s.	5.1	UN1450	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Bromine *or* Bromine solutions	8	UN1744	I	CORROSIVE, POISON.	10, B12 N1, N11, N34, T18, T41.	None	227	249	Forbidden	Forbidden	1	5	12
	Bromine azide	Forbidden												
	Bromine chloride	2.3	UN2901	I	POISON GAS, CORROSIVE, OXIDIZER.	B12, B14, B31, 10.	None	304	244	Forbidden	Forbidden	1	5	31, 40, 95
	Bromine pentafluoride	5.1	UN1745	I	OXIDIZER, POISON, CORROSIVE.	B14, B30, 10.	None	226	244	Forbidden	Forbidden	1	5	13, 25, 40, 95
	Bromine trifluoride	5.1	UN1746	I	OXIDIZER, POISON, CORROSIVE.	B14, B32, 10.	None	226	244	Forbidden	Forbidden	1	5	13, 25, 40, 95
	Bromoacetic acid, *solid*	8	UN1938	II	CORROSIVE	N26, N34, T9.	154	212	240	15 kg	50 kg	1,2	1,2	
	Bromoacetic acid, *solution*	8	UN1938	II	CORROSIVE	B2, T9	154	202	242	1 L	30 L	1,2	1,2	13

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Bromoacetone	6.1	UN1569	I	POISON	B14, B30, 10.	None	193	244	Forbidden	Forbidden	1	5	21, 40, 95
	Bromoacetyl bromide	8	UN2513	II	CORROSIVE	B2, T9, T26.	154	202	242	1 L	30 L	1	1	8
	Bromobenzene	3	UN2514	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Bromobenzyl cyanides, *liquid*	6.1	UN1694	I	POISON	T18	None	201	243	Forbidden	30 L	1	5	12, 40, 95
	Bromobenzyl cyanides, *solid*	6.1	UN1694	I	POISON	T18	None	211	241	Forbidden	50 kg	1	5	12, 40
	2-Bromobutane	3	UN2339	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	40
	Bromochloromethane	6.1	UN1887	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	4-Bromo-1,2-dinitrobenzene	Forbidden												
	2-Bromoethyl ethyl ether	3	UN2340	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Bromoform	6.1	UN2515	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,3	1,3	12, 34, 40
	1-Bromo-3-methylbutane	3	UN2341	III	FLAMMABLE LIQUID.	T7, T30	150	203	242	60 L	220 L	1,3	1,3	
	Bromomethylpropanes	3	UN2342	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	1-Bromo-3-nitrobenzene (unstable at 56 deg C).	Forbidden												
	2-Bromopentane	3	UN2343	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	2-Bromopropane	3	UN2344	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	40
	3-Bromopropyne	3	UN2345	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Bromosilane	Forbidden												
	Bromotoluene-alpha, see Benzyl bromide													
	Bromotrifluoroethylene	2.1	UN2419		FLAMMABLE GAS.	B13	None	304	244	Forbidden	150 kg	1,3	5	40, 85
	Bromotrifluoromethane (*R-13B1 or H-1301*)	2.1	UN1009		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Brucine	6.1	UN1570	I	POISON		None	212	242	5 kg	50 kg	1,2	1,2	95
	Bursters, *explosive*	1.1D	UN0043											
	Butadienes, inhibited	2.1	UN1010		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Butane *or* Butane mixtures *see also* Petroleum gases, liquefied.	2.1	UN1011		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Butane, butane mixtures and mixtures having similar properties in cartridges each not exceeding 500 grams, see Receptacles, etc..													

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Butanedione	3	UN2346	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	1,2,4-Butanetriol trinitrate	Forbidden												
	Butanols	3	UN1120	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	tert-Butoxycarbonyl azide	Forbidden												
	Butoxyl	3	UN2708	III	FLAMMABLE LIQUID.	T1	150	203	241	60 L	220 L	1,3	1,3	
	Butyl acetates	3	UN1123	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	202	241	60 L	220 L	1,3	1,3	
	Butyl acid phosphate	8	UN1718	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	
	Butylacrylate	3	UN2348	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	202	241	60 L	220 L	1,3	1,3	
	Butyl alcohols, see Butanols													
	n-Butylamine	3	UN1125	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	N-Butylaniline	6.1	UN2738	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Butyl benzenes	3	UN2709	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	n-Butyl bromide	3	UN1126	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	n-Butyl chloride, see Chlorobutanes													
	sec-Butylchloroformate	6.1	NA2743	I	POISON, CORROSIVE.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	1,3	12, 40, 95
	n-Butylchloroformate	6.1	UN2743	I	POISON, CORROSIVE.	10, T18	None	201	243	Forbidden	Forbidden	1,3	1,3	12, 13, 21, 25, 40, 95
	tert-Butyl cumyl peroxide, *technically pure*	5.2	UN2091	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	tert-Butylcyclohexylchloroformate	6.1	UN2747	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,3	1,3	12, 13, 25, 34
	n-Butyl-4,4-di-(tertbutylperoxy) valerate, *not more than 52 per cent with inert solid.*	5.2	UN2141	II	ORGANIC PEROXIDE.		None	225	None	5 kg	10 kg	1	5	12, 40
	n-Butyl-4,4-di-(tertbutylperoxy) valerate, *technically pure.*	5.2	UN2140	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Butylene	2.1	UN1012		FLAMMABLE GAS.		None	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	1,2-Butylene oxide, stabilized	3	UN3022	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Butyl ethers, see Dibutyl ethers													

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Butyl ethyl ether, see Ethyl butyl ether													
	n-Butyl formate	3	UN1128	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	tert-Butyl hydroperoxide, more than 90 per cent with water.	Forbidden												
	tert-Butyl hydroperoxide, *more than 72 per cent but not more than 90 per cent with water.*	5.2	UN2084	I	ORGANIC PEROXIDE.		None	225	None	1 L	5 L	1	5	12, 40
	tert-Butyl hydroperoxide, *not more than 80 per cent in di-tert-butyl peroxide, or* tert-Butyl hydroperoxide, *not more than 80 per cent in di-tert-butyl peroxide and solvent or* tert-Butyl hydroperoxide, *not more than 80 per cent in solvent.*	5.2	UN2092	I	ORGANIC PEROXIDE, FLAMMABLE LIQUID.		None	225	None	1 L	5 L	1	5	12, 40
	tert-Butyl hydroperoxide, *not more than 72 per cent with water.*	5.2	UN2093	I	ORGANIC PEROXIDE.	T9, T37	None	225	None	1 L	5 L	1	5	12, 40
	N,n-Butyl imidazole	6.1	UN2690	II	POISON	T6	None	202	243	5 L	60 L	1,2	1,2	40, 95
	tert-Butyl isocyanate	3	UN2484	I	FLAMMABLE LIQUID, POISON.	10, B14, B30, N26.	None	227	244	Forbidden	Forbidden	1	5	12, 40, 48
	n-Butyl isocyanate	3	UN2485	I	FLAMMABLE LIQUID, POISON.	10, B14, B30, N26.	None	227	244	Forbidden	Forbidden	1	5	12, 40, 48
	Butyl mercaptan	3	UN2347	II	FLAMMABLE LIQUID.	N1, N15, T8.	150	202	242	5 L	60 L	1,3	1	
	n-Butyl methacrylate	3	UN2227	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Butyl methyl ether	3	UN2350	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	tert-Butyl monoperoxymaleate, *not more than 55 per cent as a paste.*	5.2	UN2101	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	tert-Butyl monoperoxymaleate, *not more than 55 per cent in solution.*	5.2	UN2100	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	tert-Butyl monoperoxymaleate, *technically pure.*	5.2	UN2099	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	tert-Butyl monoperoxyphthalate, *technically pure.*	5.2	UN2105	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Butyl nitrites	3	UN2351	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	tert-Butyl peroxyacetate, more than 76 per cent in solution.	Forbidden												
	tert-Butyl peroxyacetate, *not more than 76 per cent in solution.*	5.2	UN2095	II	ORGANIC PEROXIDE.		152	225	None	Forbidden	Forbidden	1	5	12, 40
	tert-Butyl peroxyacetate, *not more than 52 per cent in solution.*	5.2	UN2096	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	tert-Butyl peroxybenzoate, *not more than 50 per cent with inert inorganic solid.*	5.2	UN2890	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	tert-Butyl peroxybenzoate, *not more than 75 per cent in solution.*	5.2	UN2098	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	tert-Butyl peroxybenzoate, *technically pure* or tert-Butyl peroxybenzoate, *more than 75 per cent in solution.*	5.2	UN2097	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	tert-Butyl peroxycrotonate, *not more than 78 per cent in solution.*	5.2	UN2183	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	n-Butyl peroxydicarbonate, see Di-n-butyl peroxidicarbonate, *etc.*.													
	tert-Butyl peroxydiethylacetate, *not more than 33 per cent,* with tert-Butyl peroxybenzoate, *not more than 33 per cent, and solvent.*	5.2	UN2551	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	tert-Butyl peroxydiethylacetate, *technically pure.*	5.2	UN2144	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	tert-Butyl peroxy-2-ethylhexanoate, *not more than 30 per cent* with 2,2-Di(tert-butyl-peroxy) butane, *not more than 35 per cent, with not less than 35 per cent phlegmatizer.*	5.2	UN2686	II	ORGANIC PEROXIDE.		152	225	None	Forbidden	Forbidden	1	5	2, 40
	tert-Butyl peroxy-2-ethylhexanoate, *not more than 50 per cent with phlegmatizer.*	5.2	UN2688	II	ORGANIC PEROXIDE.		152	225	None	Forbidden	Forbidden	1	5	2, 40
	tert-Butyl peroxy-2-ethylhexanoate, *not more than 12 per cent* with 2,2-Di-(tert-butyl-peroxy) butane, *not more than 14 per cent, with not less than 14 per cent phlegmatizer and 60 per cent inert organic solid.*	5.2	UN2687	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	tert-Butyl peroxy-2-ethylhexanoate, *technically pure.*	5.2	UN2143	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	tert-Butyl peroxyisobutyrate, *more than 52 per cent but not more than 77 per cent in solution.*	5.2	UN2142	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	tert-Butyl peroxyisobutyrate, more than 77 per cent in solution.	Forbidden												
	tert-Butyl peroxyisobutyrate, *not more than 52 per cent in solution.*	5.2	UN2562	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	tert-Butylperoxy isopropyl carbonate, *technically pure.*	5.2	UN2103	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	tert-Butyl peroxyneodecanoate, *not more than 77 per cent in solution.*	5.2	UN2177	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	tert-Butyl peroxyneodecanoate, *technically pure.*	5.2	UN2594	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	3-tert-Butylperoxy-3-phenylphthalide, *technically pure.*	5.2	UN2598	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	tert-Butyl peroxypivalate, *not more than 77 per cent in solution.*	5.2	UN2110	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	tert-Butyl peroxypivalate, *not more than 72 per cent in solution.*	5.2	UN3047	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	tert-Butylperoxy stearyl carbonate, *technically pure.*	5.2	UN3062	II	ORGANIC PEROXIDE.		None	225	None	5 kg	10 kg	1	5	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	tert-Butyl peroxy-3,5,5-trimethylhexanoate, *technically pure.*	5.2	UN2104	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Butylphenols, liquid	6.1	UN2228	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	Butylphenols, solid	6.1	UN2229	III	KEEP AWAY FROM FOOD.	T7, T36	153	213	240	100 kg	200 kg	1,2	1,2	34
	Butyl phosphoric acid, see Butyl acid phosphate.													
	Butylpropionate	3	UN1914	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	
	Butyl toluenes	6.1	UN2667	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	22, 25, 34
	Butyltrichlorosilane	8	UN1747	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	21, 40, 77
	5-tert-Butyl-2,4,6-trinitro-m-xylene (Musk xylene).	4.1	UN2956	III	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	12, 25, 48
	Butyl vinyl ether, inhibited	3	UN2352	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	40
	1,4-Butynediol	6.1	UN2716	III	FLAMMABLE SOLID.	A1	None	213	240	100 kg	200 kg	1,2	1	52, 53, 67, 70
	Butyraldehyde	3	UN1129	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Butyraldoxime	3	UN2840	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Butyric acid	8	UN2820	III	CORROSIVE	T1	154	203	241	5 L	60 L	1,3	1,3	12
	Butyric anhydride	8	UN2739	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,2	1,2	
	Butyronitrile	3	UN2411	II	FLAMMABLE LIQUID, POISON.	T14	None	202	243	1 L	60 L	1,3	5	12, 40
	Butyryl chloride	3	UN2353	II	FLAMMABLE LIQUID, CORROSIVE.	T9, T26	None	202	243	1 L	5 L	1	1	13, 25, 40
	Cabazide	Forbidden												
	Cacodylic acid	6.1	UN1572	II	POISON		None	212	242	25 kg	100 kg	1,2	5	26, 95
	Cadmium compounds, *except Cadmium selenide and Cadmium sulfide.*	6.1	UN2570	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Calcium *or* Calcium alloys	4.3	UN1401	II	DANGEROUS WHEN WET.		None	212	241	15 kg	50 kg	1,3	5	
	Calcium arsenate	6.1	UN1573	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Calcium arsenate and calcium arsenite, mixtures, solid.	6.1	UN1574	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
D	Calcium arsenite, solid	6.1	NA1574	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Calcium bisulfite solution, see Bisulfites, inorganic, aqueous solutions, n.o.s.													
	Calcium carbide	4.3	UN1402	II	DANGEROUS WHEN WET.	A1, N2, N34.	None	212	241	15 kg	50 kg	1,3	1,3	32
	Calcium chlorate	5.1	UN1452	II	OXIDIZER	B10, N16, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Calcium chlorate solution	5.1	UN2429	II	OXIDIZER	A2, N34, N41, T8.	152	202	242	1 L	5 L	1,2	1	46, 56
	Calcium chlorite	5.1	UN1453	II	OXIDIZER	B10, N13, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Calcium cyanamide *with more than 0.1 per cent of calcium carbide.*	4.3	UN1403	III	DANGEROUS WHEN WET.	A1, A19	None	213	241	25 kg	100 kg	1,3	1,3	
	Calcium cyanide	6.1	UN1575	I	POISON	N79, N80	None	211	242	5 kg	50 kg	1,2	1,2	26, 40, 95
	Calcium dithionite *or* Calcium hydrosulfite	4.2	UN1923	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20	None	212	241	15 kg	50 kg	1,3	5	13
	Calcium hydride	4.3	UN1404	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	
	Calcium hydrosulfite, *see* Calcium dithionite.													
	Calcium hypochlorite, dry *or* Calcium hypochlorite mixtures *with more than 39 per cent available chlorine (8.8 per cent available oxygen).*	5.1	UN1748	II	OXIDIZER	N13, N26, N34.	152	212	None	5 kg	25 kg	1,3	5	48, 56
	Calcium hypochlorite, hydrated *or* Calcium hypochlorite, hydrated mixtures, *with not less than 5.5 per cent but not more than 10 per cent water.*	5.1	UN2880	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	50
	Calcium hypochlorite mixtures, dry, *with more than 10 per cent but not more than 39 per cent available chlorine.*	5.1	UN2208	III	OXIDIZER	A1, A29, N34.	152	213	240	25 kg	100 kg	1,2	1,2	
	Calcium manganese silicon	4.3	UN2844	III	DANGEROUS WHEN WET.	A1, A19	None	213	241	25 kg	100 kg	1,3	1,3	
	Calcium nitrate	5.1	UN1454	III	OXIDIZER	T2	152	213	240	25 kg	100 kg	1,2	1,2	
	Calcium oxide	8	UN1910	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Calcium perchlorate	5.1	UN1455	II	OXIDIZER	B10, T8	152	212	240	5 kg	25 kg	1,2	1,2	46
	Calcium permanganate	5.1	UN1456	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	56, 69
	Calcium peroxide	5.1	UN1457	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	13
	Calcium phosphide	4.3	UN1360	I	DANGEROUS WHEN WET.	A19, N2	None	211	242	Forbidden	15 kg	1,2	5	40, 85
	Calcium, pyrophoric *or* Calcium alloys, pyrophoric.	4.2	UN1855	II	SPONTANEOUSLY COMBUSTIBLE.		None	187	None	Forbidden	Forbidden	1	5	
	Calcium resinate	4.1	UN1313	III	FLAMMABLE SOLID.	A1, A19		213	240	25 kg	100 kg	1,3	1,3	
	Calcium resinate, fused	4.1	UN1314	III	FLAMMABLE SOLID.	A1, A19		213	240	25 kg	100 kg	1,3	1,3	

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Calcium selenate, *see* Selenates *or* selenites.													
	Calcium silicide	4.3	UN1405	II	DANGEROUS WHEN WET.	A19	None	212	241	15 kg	50 kg	1,3	1,3	
	Calcium silicon	4.3	UN1406	III	DANGEROUS WHEN WET.	A1, A19	None	213	241	25 kg	100 kg	1,3	1,3	
	Camphor oil	3	UN1130	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Camphor, *synthetic*	4.1	UN2717	III	FLAMMABLE SOLID.	A1		213	240	25 kg	100 kg	1,3	1,3	
	Cannon primers, see Primers, tubular													
	Caproic acid	8	UN2829	III	CORROSIVE	T1	154	203	241	5 L	60 L	1,2	1,2	
	Caproyl peroxide, see n-Octanoyl peroxide.													
	Caps, blasting, see Detonators, *etc.*													
	Caps, toy (*Amorces*)	1.4S												
	Carbamate pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2758	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Carbamate pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2991	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	242	60 L	220 L	1,2	1,2	21, 34, 40
	Carbamate pesticides, liquid, toxic, n.o.s.	6.1	UN2992	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Carbamate pesticides, solid, toxic, n.o.s.	6.1	UN2757	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Carbolic acid, see Phenol, solid *or* Phenol, molten.													
	Carbolic acid solutions, see Phenol solutions.													
I	Carbon, activated	4.2	UN1362	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	12
I	Carbon, *animal or vegetable origin*	4.2	UN1361	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	12

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Carbon bisulfide, see Carbon disulfide													
	Carbon dioxide	2.2	UN1013		NONFLAMMABLE GAS.	B15	306	302, 304	244	75 kg	150 kg	1,3	1,3	85
	Carbon dioxide and ethylene oxide mixtures *with more than 6 per cent ethylene oxide.*	2.3	UN1041	III	POISON GAS, FLAMMABLE GAS.	B13, B14, B33, 10.	306	304	244	Forbidden	Forbidden	1,3	1	40, 85, 95
	Carbon dioxide and ethylene oxide mixtures *with not more than 6 per cent ethylene oxide.*	2.2	UN1952		NONFLAMMABLE GAS.	B13	None	304	244	75 kg	150 kg	1,3	1	85
	Carbon dioxide and nitrous oxide mixtures	2.2	UN1015		NONFLAMMABLE GAS.	B13	306	304	244	75 kg	150 kg	1,3	1,3	85
	Carbon dioxide and oxygen mixtures	2.2	UN1014		NONFLAMMABLE GAS.	B13	306	304	244	75 kg	150 kg	1,3	1,3	85
	Carbon dioxide, refrigerated liquid	2.2	UN2187		NONFLAMMABLE GAS.	B43	306	None	314, 315	50 kg	500 kg	1,3	1,3	85
AW	Carbon dioxide, solid (Dry ice)	9	UN1845	III	CLASS 9	B12	217	217	240	200 kg	200 kg	1	1	40
	Carbon disulfide	3	UN1131	I	FLAMMABLE LIQUID, POISON.	B16, T18, T26, T29.	None	201	243	Forbidden	Forbidden	1	5	12, 18, 40
	Carbon monoxide	2.3	UN1016	III	POISON GAS, FLAMMABLE GAS.	B13, B14, B33, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 95
	Carbon monoxide and hydrogen mixture	2.3	UN2600	III	POISON GAS, FLAMMABLE GAS.	B13, B14, B33, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 95
D	Carbon monoxide, cryogenic liquid	2.3	NA9202	III	POISON GAS, FLAMMABLE GAS.	10	None	316	318	Forbidden	Forbidden	1	5	
	Carbon tetrabromide	6.1	UN2516	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	25, 34
	Carbon tetrachloride	6.1	UN1846	II	POISON	N36, T8	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Carbonyl chloride, see Phosgene													
	Carbonyl fluoride	2.3	UN2417	I	POISON GAS	B13, B14, B31, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 95
	Carbonyl sulfide	2.3	UN2204	II	POISON GAS, FLAMMABLE GAS.	B13, B14, B31, 10.	None	304	244	Forbidden	Forbidden	1	5	40, 95
	Cartridge cases, empty primed, see Cases, cartridge, empty, with primer.													
	Cartridges, actuating, for aircraft ejector seat catapult, fire extinguisher, canopy removal or apparatus, see Cartridges, power device.													
	Cartridges, explosive, see Charges, demolition.													
	Cartridges, flash	1.1G	UN0049											
	Cartridges, flash	1.3G	UN0050											
	Cartridges for weapons, blank	1.1C	UN0326											
	Cartridges for weapons, blank	1.3C	UN0327											
	Cartridges for weapons, blank	1.4C	UN0338											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Cartridges for weapons, blank	1.2C	UN0413											
	Cartridges for weapons, blank (Cartridges, safety, blank).	1.4S	UN0014											
	Cartridges for weapons (Cartridges, safety), *other than blank*.	1.4S	UN0012											
	Cartridges for weapons, inert projectile	1.2C	UN0328											
	Cartridges for weapons, inert projectile	1.4C	UN0339											
	Cartridges for weapons, inert projectile	1.3C	UN0417											
	Cartridges for weapons, *with bursting charge*.	1.1F	UN0005											
	Cartridges for weapons, *with bursting charge*.	1.2F	UN0007											
	Cartridges for weapons, *with bursting charge*.	1.4F	UN0348											
	Cartridges for weapons, *with bursting charge*.	1.4E	UN0412											
	Cartridges for weapons, *with bursting charge (projectiles with propelling charge)*.	1.1E	UN0006											
	Cartridges for weapons, *with bursting charge (projectiles with propelling charge)*.	1.2E	UN0321											
	Cartridges, oil well	1.3C	UN0277											
	Cartridges, oil well	1.4C	UN0278											
	Cartridges, power device	1.2C	UN0275											
	Cartridges, power device	1.4C	UN0276											
	Cartridges, power device	1.2C	UN0381											
	Cartridges, power device (Cartridges, safety).	1.4S	UN0323											
	Cartridges, safety, *see* Cartridges for weapons, *other than blank or* Cartridges, power device (*UN 0323*).													
	Cartridges, safety, blank, *see* Cartridges for weapons, blank (*UN 0014*).													
	Cartridges, signal	1.3G	UN0054											
	Cartridges, signal	1.4G	UN0312											
	Cartridges, signal	1.4S	UN0405											
	Cartridges, sporting, see Cartridges for weapons, *other than blank*.													
	Cartridges, starter, jet engine, see Cartridges, power device.													
	Cased, cartridge, empty with primer	1.4S	UN0055											
	Cases, cartridges, empty with primer	1.4C	UN0379											
	Cases, combustible, empty, without primer	1.3	UN0447											
	Cases, combustible, empty, without primer	1.4	UN0446											
	Casinghead gasoline see Natural gasoline													
AW	Castor beans *or* Castor meal *or* Castor pomace *or* Castor flake.	9	UN2969	II	CLASS 9		155	204	240	No limit	No limit	1,2	5	34, 40, 44
	Caustic alkali liquids, n.o.s.	8	UN1719	II	CORROSIVE	B2, T14	154	202	242	1 L	30 L	1,2	1,2	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Caustic potash, see Potassium hydroxide *etc.*.													
	Caustic soda, (etc.) see Sodium hydroxide *etc.*.													
	Celluloid, *in blocks, rods, rolls, sheets, tubes, etc. (except scrap)*.	4.1	UN2000	III	FLAMMABLE SOLID.		None	213	240	25 kg	100 kg	1,3	1,3	
	Celluloid, scrap	4.2	UN2002	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1	5	
	Cement, see Adhesives containing flammable liquid.													
	Cerium, crude	4.1	UN1333	II	FLAMMABLE SOLID.	N34	None	212	240	15 kg	50 kg	1,3	5	65, 74
	Cerium, crude, *compact form*	4.1	UN1333	III	FLAMMABLE SOLID.	A1	None	213	240	25 kg	100 kg	1,3	1,3	65, 74
	Cesium	4.3	UN1407	I	DANGEROUS WHEN WET.	A19, A22, N34.	None	211	242	Forbidden	15 kg	1	5	
	Cesium hydroxide	8	UN2682	II	CORROSIVE			154	212	240	15 kg	50 kg	1,2	1,2
	Cesium hydroxide solution	8	UN2681	II	CORROSIVE	B2, T8		154	202	242	1 L	30 L	1,2	1,2
	Cesium nitrate	5.1	UN1451	III	OXIDIZER	A1, A29		152	213	240	25 kg	100 kg	1,2	1,2
D	Charcoal *briquettes, shell, screenings, wood, etc.*.	4.2	NA1361	III	FLAMMABLE SOLID.	B10		151	213	240	25 kg	100 kg	1,3	1,3
D	Charged well casing jet perforating gun (*total explosive contents in guns 20 pounds or more per motor vehicle*).	1.1D	NA0059											
D	Charged well casing jet perforating gun (*total explosive contents in guns not exceeding 20 pounds per motor vehicle or special offshore down hole tool pellet*).	1.4D	NA0440											
	Charges, demolition	1.1D	UN0048											
	Charges, depth	1.1D	UN0056											
	Charges, expelling, explosive, for fire extinguishers, see Cartridges, power device.													
	Charges, explosive, commercial *without detonator*.	1.1D	UN0442											
	Charges, explosive, commercial *without detonator*.	1.2D	UN0443											
	Charges, explosive, commercial *without detonator*.	1.4D	UN0444											
	Charges, explosive, commercial *without detonator*.	1.4S	UN0445											
	Charges, propelling for cannon	1.2C	UN0414											
	Charges, propelling, for cannon	1.3C	UN0242											
	Charges, propelling, for cannon	1.1C	UN0279											
	Charges, propelling, for rocket motors	1.1C	UN0271											
	Charges, propelling, for rocket motors	1.3C	UN0272											
	Charges, propelling, for rocket motors	1.2C	UN0415											
	Charges, propelling, for rocket motors, *composite mixture*.	1.1C	UN0273											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Charges, propelling, for rocket motors, *composite mixture.*	1.3C	UN0274											
	Charges, propelling, for rocket motors, *composite mixture.*	1.2C	UN0416											
	Charges, shaped, commercial *without detonator.*	1.2D	UN0439											
	Charges, shaped, commercial *without detonator.*	1.4D	UN0440											
	Charges, shaped, commercial *without detonator.*	1.4S	UN0441											
	Charges, shaped, commercial *without detonator.*	1.2D	UN0439											
	Charges, shaped, commercial, *without detonator.*	1.1D	UN0059											
	Charges, shaped, flexible, linear, *metal clad.*	1.4D	UN0237											
	Charges, shaped, flexible, linear, *metal clad.*	1.1D	UN0288											
	Charges, supplementary explosive	1.1D	UN0060											
D	Chemical kit	8	NA1760	II	CORROSIVE		154	161	None	1 L	1 L	1,3	1,3	
	Chemical kits (*must be classified and labelled according to the hazard class of the constituent(s)*).													
	Chloroacetophenone (*CN*), *solid*	6.1	UN1697	II	POISON	10, N1, N12, N16, N17, N32, N33, N34.	None	212	None	Forbidden	100 kg	1	5	12, 40, 95
	Chloral, anhydrous, inhibited	6.1	UN2075	II	POISON	T14	None	212	243	25 kg	100 kg	1	5	40, 95
	Chlorate and borate mixtures	5.1	UN1458	II	OXIDIZER	B10, N13, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Chlorate and magnesium chloride mixtures	5.1	UN1459	II	OXIDIZER	B10, N13, N34, T8.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Chlorate of potash, see Potassium chlorate													
	Chlorate of soda, see Sodium chlorate													
	Chlorates, inorganic, n.o.s.	5.1	UN1461	II	OXIDIZER	B10, N13, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Chloric acid solution, *with not more than 10 per cent chloric acid.*	5.1	UN2626	I	OXIDIZER	T25	None	229	243	Forbidden	Forbidden	1	5	46, 56
	Chloride of phosphorus, see Phosphorus trichloride.													
	Chloride of sulfur, see Sulfur chloride													
	Chlorinated lime, see Calcium hypochlorite mixtures, *etc.*.													
	Chlorine	2.3	UN1017	I	POISON GAS	10, B14,	None	304	314, 315	Forbidden	Forbidden	1	5	40, 51, 55, 62, 68, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Chlorine azide	Forbidden												
D	Chlorine dioxide hydrate, frozen	5.1	NA9191	II	OXIDIZER, POISON.		None	229	None	Forbidden	Forbidden	5	5	
	Chlorine dioxide (not hydrate)	Forbidden												
	Chlorine pentafluoride	2.3	UN2548	I	POISON GAS, OXIDIZER, CORROSIVE.	10	None	304	245	Forbidden	Forbidden	1	5	31, 40, 95
	Chlorine trifluoride	2.3	UN1749	I	POISON GAS, OXIDIZER, CORROSIVE.	10, B7	None	304	245	Forbidden	Forbidden	1,3	5	34, 40, 95
	Chlorites, inorganic, n.o.s.	5.1	UN1462	II	OXIDIZER	N26, N34, T8.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Chloroacetaldehyde	6.1	UN2232	II	POISON	T17	None	202	243	5 L	60 L	1	5	40, 95
	Chloroacetic acid, liquid	8	UN1750	I	CORROSIVE, POISON.	B9, B14, B32, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	40
	Chloroacetic acid, solid	8	UN1751	II	CORROSIVE	N1, N26, N34.	None	212	242	15 kg	50 kg	1,2	1,2	40
	Chloroacetone, stabilized	6.1	UN1695	I	POISON	10, B14, B30, N12, N32, N34.	None	227	244	Forbidden	Forbidden	1	5	40, 95
	Chloroacetone (unstabilized)	Forbidden												
	Chloroacetonitrile	6.1	UN2668	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	1,3	12, 21, 25, 26, 40, 95
	Chloroacetophenone (*CN*), *liquid*	6.1	UN1697	I	POISON	B14, B30, N1, N12, N16, N17, N32, N33, 10.	None	226	244	Forbidden	Forbidden	1	5	12, 40, 95
	Chloroacetyl chloride	8	UN1752	II	CORROSIVE	B2, B8, N1, N11, N26, N34, T9, T26.	None	202	242	Forbidden	Forbidden	1	5	40
	Chloroanilines, liquid	6.1	UN2019	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
	Chloroanilines, solid	6.1	UN2018	II	POISON	T14, T38	None	212	242	25 kg	100 kg	1,2	1,2	95

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Chloroanisidines	6.1	UN2233	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Chlorobenzene	3	UN1134	III	FLAMMABLE LIQUID.	T1	150	203	241	60 L	220 L	1,3	1	
	Chlorobenzol, see Chlorobenzene													
	Chlorobenzotrifluorides	3	UN2234	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	40
	p-Chlorobenzoyl peroxide, *see* Di-4-chlorobenzoyl peroxide, *etc.*.													
	Chlorobenzylchlorides	6.1	UN2235	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	34
	1-Chloro-3-bromopropane	6.1	UN2688	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	34
	Chlorobutanes	3	UN1127	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Chlorocresols (*liquids*)	6.1	UN2669	II	POISON	T8	None	202	243	5 L	60 L	1,3	1,3	12, 95
	Chlorocresols (*solid*)	6.1	UN2669	II	POISON		None	212	242	25 kg	100 kg	1,3	1,3	12, 40, 95
	3-Chloro-4-diethylaminobenzenediazonium zinc chloride.	4.1	UN3033	II	FLAMMABLE SOLID.		None	214	None	15 kg	50 kg	1	1	25
	Chlorodifluorobromomethane	2.2	UN1974		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	1-Chloro-1,1-difluoroethane, see Chlorodifluoroethanes.													
	Chlorodifluoroethanes *or* Difluorochloroethanes.	2.1	UN2517		FLAMMABLE GAS.	B51	306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Chlorodifluoromethane (*R-22*)	2.2	UN1018		NONFLAMMABLE GAS.	B51	306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Chlorodifluoromethane and chloropentafluoroethane mixture *with fixed boiling point, with approximately 49 per cent chlorodifluoromethane.*	2.2	UN1973		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Chlorodinitrobenzene	6.1	UN1577	II	POISON	T14	None	212	242	25 kg	100 kg	1,2	1,2	95
	Chloroform	6.1	UN1888	II	POISON	N36, T14	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Chloroformates, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2742	II	POISON, CORROSIVE, FLAMMABLE LIQUID.		None	202	243	1 L	30 L	1,3	1,3	12, 13, 22, 25, 40, 95
	Chloromethylchloroformate	6.1	UN2745	II	POISON, CORROSIVE.	T18	None	202	243	1 L	30 L	1,3	1,3	12, 13, 23, 25, 40, 95
	Chloromethyl ethyl ether	3	UN2354	II	FLAMMABLE LIQUID, POISON.	T8	None	202	243	1 L	60 L	1,3	5	12, 40
	3-Chloro-4-methylphenylisocyanate	6.1	UN2236	II	POISON		None	202	243	5 L	60 L	1,2	1,2	25, 40, 95
	Chloronitroanilines	6.1	UN2237	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Chloronitrobenzene, *ortho, liquid*	6.1	UN1578	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
	Chloronitrobenzenes *meta or para, solid*	6.1	UN1578	II	POISON	T14	None	212	242	25 kg	100 kg	1,2	1,2	95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Chloronitrotoluenes, *liquid*	6.1	UN2433	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Chloronitrotoluenes, *solid*	6.1	UN2433	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Chloropentafluoroethane (*R-115*)	2.2	UN1020		NONFLAMMABLE GAS.	B51	306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	3-Chloroperoxybenzoic acid, *not more than 86 per cent with 3-chlorobenzoic acid.*	5.2	UN2755	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	3-Chloroperoxybenzoic acid, *not more than 57 per cent with water and 3-Chlorobenzoic acid.*	5.2	UN3081	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Chlorophenates, liquid	8	UN2904	III	CORROSIVE		154	203	241	5 L	60 L	1,2	1,2	
	Chlorophenates, solid	8	UN2905	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Chlorophenols, liquid	6.1	UN2021	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	Chlorophenols, solid	6.1	UN2020	III	KEEP AWAY FROM FOOD.	T7	153	213	240	100 kg	200 kg	1,2	1,2	34
	Chlorophenyl trichlorosilane	8	UN1753	II	CORROSIVE	B2, B6, N16, N25, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Chloropicrin	6.1	UN1580	I	POISON	10, B7, B14, B32, B46.	None	227	244	Forbidden	Forbidden	1	5	40, 95
	Chloropicrin and methyl bromide mixtures	2.3	UN1581	I	POISON GAS	B13, B14, B31, 10.	None	193	244	Forbidden	Forbidden	1	5	25, 40, 95
	Chloropicrin and methyl chloride mixtures	2.3	UN1582	I	POISON GAS	B13, B14, B31, 10.	None	193	244	Forbidden	Forbidden	1	5	25, 40, 95
	Chloropicrin mixture, flammable (pressure not exceeding 14.7 psia at 115 degrees F flash point below 100 deg F) see Poisonous liquids, flammable, n.o.s.													
	Chloropicrin mixtures, n.o.s.	6.1	UN1583	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	1	40, 95
				II	POISON		None	201	243	Forbidden	Forbidden	1	1	40, 95
	Chloropivaloyl chloride	6.1	NA2810	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1	20, 40, 95
	Chloroplatinic acid, solid	8	UN2507	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Chloroprene, inhibited	3	UN1991	I	FLAMMABLE HIQUID, POISON.	T15	None	201	243	Forbidden	30 L	1,3	1	12, 40
	Chloroprene, uninhibited	Forbidden												
	2-Chloropropane	3	UN2356	I	FLAMMABLE LIQUID.	N15, N36, T14.	150	201	243	1 L	30 L	1,3	5	12
	3-Chloropropanol-1	6.1	UN2849	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	34

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	2-Chloropropene	3	UN2456	I	FLAMMABLE LIQUID.	N1, N15, N36, T14.	150	201	243	1 L	30 L	1,3	5	12
	alpha-Chloropropionic acid	8	UN2511	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	8
	2-Chloropyridine	6.1	UN2822	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Chlorosilanes, n.o.s.	8	UN2987	II	CORROSIVE	B2	154	202	242	1 L	30 L	1	1	40, 77
	Chlorosilanes, n.o.s., *flash point less than 23 degrees C.*	3	UN2985	I	FLAMMABLE LIQUID, CORROSIVE.		None	201	243	0.5 L	2.5 L	1,3	5	40
	Chlorosilanes, n.o.s., *flash point not less than 23 degrees C.*	8	UN2986	II	CORROSIVE, FLAMMABLE LIQUID.		None	202	243	1 L	30 L	1	1	23, 40
	Chlorosilanes, n.o.s., *which in contact with water emit flammable gas.*	4.3	UN2988	I	DANGEROUS WHEN WET, FLAMMABLE LIQUID, CORROSIVE.	A2	None	201	244	Forbidden	1 L	1	5	40
	Chlorosulfonic acid (*with or without sulfur trioxide*).	8	UN1754	I	CORROSIVE	B4, N1, N11, N35, T12, T27.	None	201	242	.5 L	2.5 L	1	1	80, 33, 40
	Chlorotetrafluoroethane (*R-124*)	2.2	UN1021		NONFLAMMABLE GAS.	B51	306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Chlorotoluenes	3	UN2238	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	4-Chloro-o-toluidine hydrochloride	6.1	UN1579	III	KEEP AWAY FROM FOOD.		153	213	241	100 kg	200 kg	1,2	1,2	34
	Chlorotoluidines *liquid*	6.1	UN2239	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	Chlorotoluidines *solid*	6.1	UN2239	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Chlorotrifluoroethane	2.2	UN1983		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Chlorotrifluoromethane (*R-13*)	2.2	UN1022		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Chlorotrifluoromethane and trifluoromethane azeotropic mixture *with approximately 60 per cent chlorotrifluoromethane.*	2.2	UN2599		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
D	Chromic acid, solid	5.1	NA1463	II	OXIDIZER, CORROSIVE.	B10	None	212	240	5 kg	25 kg	1,2	1,2	
	Chromic acid solution	8	UN1755	II	CORROSIVE	B2, T9, T27.	154	202	242	1 L	30 L	1	1	40
	Chromic anhydride, see Chromium trioxide, anhydrous.													
	Chromic fluoride, solid	8	UN1756	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Chromic fluoride, solution	8	UN1757	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	
	Chromium nitrate	5.1	UN2720	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Chromium oxychloride	8	UN1758	I	CORROSIVE	B4, N1, N11, N26, N34, T12, T26.	None	201	242	0.5 L	2.5 L	1	1	80, 40
	Chromium trioxide, anhydrous	5.1	UN1463	II	OXIDIZER, CORROSIVE.	B10	None	212	240	5 kg	25 kg	1,2	1,2	34, 65
	Chromosulfuric acid	8	UN2240	I	CORROSIVE	B4, B6, N1, N11, N26, N34, T12, T27.	None	201	242	0.5 L	2.5 L	1,2	1	80, 9, 40
	Chromyl chloride, see Chromium oxychloride.													
	Cigar and cigarette lighter fluid, see Lighter fluids.													
	Cigar and cigarette lighters, charged with fuel, see Lighters for cigars, cigarettes, etc..													
	Cigarettes, self-lighting	4.1	UN1867	III	FLAMMABLE SOLID.		None	213	None	Forbidden	Forbidden	1,3	1,3	13
	Coal briquettes, hot	Forbidden												
	Coal gas	2.3	UN1023	II	POISON GAS, FLAMMABLE GAS.	B38, 10	None	302	245	Forbidden	Forbidden	1	5	40, 95
	Coal tar distillates, flammable	3	UN1136	I	FLAMMABLE LIQUID.	T8	150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Coal tar dye, corrosive, liquid, n.o.s., see Dyes, n.o.s. *or* Dye intermediates, n.o.s., *corrosive.*													
	Coating solution	3	UN1139	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Cobalt naphthenates, powder	4.1	UN2001	III	FLAMMABLE SOLID.	A19	151	213	240	25 kg	100 kg	1,3	1,3	
	Cobalt resinate, precipitated	4.1	UN1318	III	FLAMMABLE SOLID.	A1, A19	151	213	240	25 kg	100 kg	1,3	1,3	
	Cocculus	6.1	UN1584	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Coke, hot	Forbidden												
	Collodion, see Nitrocellulose etc.													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
D	Combustible liquid, n.o.s.	3	NA1993	III	None		150	203	241	60 L	220 L	1,3	1,3	
	Components, explosive train, n.o.s.	1.2B	UN0382											
	Components, explosive train, n.o.s.	1.4B	UN0383											
	Components, explosive train, n.o.s.	1.4S	UN0384											
	Composition B, see Hexolite, *etc.*													
	Compounds, cleaning liquid, corrosive, see Corrosive liquids, n.o.s.													
	Compounds, cleaning liquid, flammable, see Flammable liquid preparations, *etc.*.													
	Compressed *or* Liquefied gases, flammable, n.o.s.	2.1	UN1954		FLAMMABLE GAS.	B13	306	302, 304, 305	244	Forbidden	150 kg	1	5	40
	Compressed *or* Liquefied gases, flammable, toxic, n.o.s. *LC50 less than or equal to 1000 ppm.*	2.3	UN1953	I	POISON GAS, FLAMMABLE GAS.	10	None	302, 304, 305	245	Forbidden	Forbidden	1	5	40, 95
	Compressed *or* Liquefied gases, n.o.s.	2.2	UN1956		NONFLAMMABLE GAS.	B13	306, 307	302, 304, 305	244	75 kg	150 kg	1,3	1,3	85
	Compressed *or* Liquefied gases, toxic, n.o.s. *LC50 less than or equal to 200 ppm.*	2.3	UN1955	I	POISON GAS	10	None	302, 304, 305	245	Forbidden	Forbidden	1	5	40, 95
	Compressed *or* liquefied gases, flammable, toxic, n.o.s. *LC50 over 1000 up to 5000 ppm.*	2.3	UN1953	II	POISON GAS, FLAMMABLE GAS.	B14, B38, 10.	None	302, 304, 305	244	Forbidden	Forbidden	1	5	40
	Compressed *or* liquefied gases, toxic, n.o.s. *LC50 over 200 up to 5000 ppm.*	2.3	UN1955	II	POISON GAS	B14, B35, 10.	None	302, 304, 305	244	Forbidden	Forbidden	1	5	40
D	Consumer commodity	ORM-D	None	III	None		156, 306	156, 306	None	65 lb gross	65 lb gross	1,2	1,2	
	Contrivances, water-activated, *with burster, expelling charge or propelling charge.*	1.2L	UN0248											
	Contrivances, water-activated, *with burster, expelling charge or propelling charge.*	1.3L	UN0249											
	Copper acetoarsenite	6.1	UN1585	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Copper acetylide	Forbidden												
	Copper amine azide	Forbidden												
	Copper arsenite	6.1	UN1586	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Copper based pesticides, liquid, flammable, toxic n.o.s., *flash point less than 23 degrees C.*	3	UN2776	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	1	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Copper based pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C*	6.1	UN3009	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	21, 40, 95
				III	KEEP AWAY FROM FOOD, FLAMMABLE LIQUID.	B1	153	203	241	60 L	220 L	1,2	1,2	21, 34, 40
	Copper based pesticides, liquid, toxic, n.o.s.	6.1	UN3010	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Copper based pesticides, solid, toxic, n.o.s.	6.1	UN2775	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Copper chlorate	5.1	UN2721	II	OXIDIZER	A1, B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Copper chloride	8	UN2802	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Copper cyanide	6.1	UN1587	II	POISON		None	204	242	25 kg	100 kg	1,2	1,2	26, 95
	Copper selenate, see Selenates *or* Selenites.													
	Copper selenite, see Selenates *or* Selenites.													
	Copper tetramine nitrate	Forbidden												
AW	Copra	4.2	UN1363	III	None		None	213	241	Forbidden	Forbidden	1,3	1,3	13, 19
	Cord, detonating, *flexible*	1.1D	UN0065											
	Cord, detonating, *flexible*	1.4D	UN0289											
	Cordeau detonant fuse, see Cord (Fuse), detonating, *etc.*; Cord, detonating, *flexible*.													
	Cord (Fuse), detonating, *metal clad*	1.2D	UN0102											
	Cord (Fuse), detonating, *metal clad*	1.1D	UN0290											
	Cord (Fuse), detonating, mild effect *metal clad*.	1.4D	UN0104											
	Cord, igniter	1.4G	UN0066											
	Cordite, see Powder, smokeless													
	Corrosive liquids, flammable, n.o.s.	8	UN2920	I	CORROSIVE, FLAMMABLE LIQUID.	B4, N1, N11, N34, T42.	None	201	243	0.5 L	2.5 L	1	1	12, 21, 25
				II	CORROSIVE, FLAMMABLE LIQUID.	B2, T15, T26.	None	202	243	1 L	30 L	1	1	12, 21, 25
	Corrosive liquids, n.o.s.	8	UN1760	I	CORROSIVE	B4, N1, N11, N26, N34, T42.	None	201	242	0.5 L	2.5 L	1,2	1	40
				II	CORROSIVE	B2, T14	154	202	242	1 L	30 L	1,2	1	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				III	CORROSIVE	T7	154	203	240	5 L	60 L	1,2	1,2	40
	Corrosive liquids, poisonous, n.o.s.	8	UN2922	I	CORROSIVE, POISON.	N1, N11, N34.	None	201	243	0.5 L	2.5 L	1,2	1	40
				II	CORROSIVE, POISON.		None	202	243	1 L	30 L	1,2	1,2	40
				III	CORROSIVE		154	203	241	5 L	60 L	1,2	1,2	40
	Corrosive solids, flammable, n.o.s.	8	UN2921	I	CORROSIVE, FLAMMABLE SOLID.		None	211	242	1 kg	25 kg	1,3	1	12, 25
				II	CORROSIVE, FLAMMABLE SOLID.		None	212	242	15 kg	50 kg	1,3	1	12, 25
	Corrosive solids, n.o.s.	8	UN1759	I	CORROSIVE		None	211	240	1 kg	25 kg	1,2	1	
				II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
				III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Corrosive solids, oxidizing, n.o.s.	8	UN3084	I	CORROSIVE, OXIDIZER.		None	211	240	1 kg	25 kg	1,2	1	
				II	CORROSIVE, OXIDIZER.		None	212	240	15 kg	50 kg	1,2	1	
	Corrosive solids, poisonous, n.o.s.	8	UN2923	I	CORROSIVE, POISON.		None	211	242	1 kg	25 kg	1,2	1	13, 40
				II	CORROSIVE, POISON.		None	212	240	15 kg	50 kg	1,2	1	40
				III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1	40
DW	Cotton	9	NA1365	III	CLASS 9		155	None	240	No limit	No limit	1,2	1,2	
I	Cotton waste, oily	4.2	UN1364	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	None	Forbidden	Forbidden	1,3	1,3	13, 54, 64
AIW	Cotton, wet	4.2	UN1365	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	13
	Coumarin derivative pesticides, liquid, flammable, toxic, n.o.s./*flashpoint less than 23 deg C.*	3	UN3024	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Coumarin derivative pesticides, liquid, toxic, flammable, n.o.s. *flashpoint not less than 23 deg C.*	6.1	UN3025	I	POISON, FLAMMABLE LIQUID.		None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.		None	202	243	5 L	60 L	1,2	1	21, 40, 95
				III	KEEP AWAY FROM FOOD, FLAMMABLE LIQUID.	B1	153	203	241	60 L	220 L	1,2	1,2	21, 34, 40

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173 ***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or rail car (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Coumarin derivative pesticides, liquid, toxic, *l.o.s..	6.1	UN3026	I	POISON		None	201	243	1 L	30 L	1	1	40, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34, 40
	Coumarin derivative pesticides, solid, toxic, n.o.s.	6.1	UN3027	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
D	Creosote, coal tar	3	NA1993	III	FLAMMABLE LIQUID.		150	203	241	60 L	220 L	1,3	1,3	
	Cresols (*o*-,*m*-,*p*-)	6.1	UN2076	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	95
	Cresylic acid	6.1	UN2022	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	
	Crotonaldehyde, stabilized	3	UN1143	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	1	
	Crotonic acid, *liquid*	8	UN2823	III	CORROSIVE		154	203	240	5 L	60 L	1,3	1,3	12
	Crotonic acid, *solid*	8	UN2823	III	CORROSIVE		154	213	240	25 kg	100 kg	1,3	1,3	12
	Crotonylene	3	UN1144	I	FLAMMABLE LIQUID.	T20	150	201	243	1 L	30 L	1,3	5	12
	Cumene hydroperoxide, *see* Cumyl hydroperoxide.													
	Cumyl hydroperoxide (Cumene hydroperoxide), *technically pure*.	5.2	UN2116	I	ORGANIC PEROXIDE.	B17, B22, T25.	None	225	243	1 L	5 L	1	5	12, 40
	Cumyl peroxyneodecanoate, *not more than 77 per cent in solution.*	5.2	UN2963	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Cumyl peroxypivalate, *not more than 77 per cent in solution.*	5.2	UN2964	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Cupriethylenediamine solution	8	UN1761	II	CORROSIVE, POISON.	T8, T26	154	202	243	1 L	30 L	1,2	1,2	
	Cutters, cable, explosive	1.4S	UN0070											
	Cyanide or cyanide mixtures, dry, see Cyanides, inorganic, n.o.s..													
	Cyanides, inorganic, n.o.s.	6.1	UN1588	I	POISON	N74, N75	None	211	242	5 kg	50 kg	1,2	1,2	26, 95
				II	POISON	N74, N75	None	212	242	25 kg	100 kg	1,2	1,2	26, 95
	Cyanide solutions	6.1	UN1935	I	POISON	B37, T18, T26.	None	201	243	1 L	30 L	1,2	1,2	26, 40, 95
				II	POISON	T18, T26	None	202	243	5 L	60 L	1,2	1,2	26, 40
				III	KEEP AWAY FROM FOOD.	T18, T26	153	203	241	60 L	220 L	1,2	1,2	26, 40
	Cyanogen bromide	6.1	UN1889	I	POISON, CORROSIVE.	B14, B30, N2, N11, 10.	None	211	244	Forbidden	Forbidden	1	5	20, 25, 40, 95
	Cyanogen chloride	2.3	UN1589	I	POISON GAS, FLAMMABLE GAS.	10	None	192	245	Forbidden	Forbidden	1	5	40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Cyanogen, liquefied	2.3	UN1025	I	POISON GAS, FLAMMABLE GAS.	10	None	192	245	Forbidden	Forbidden	1	5	34, 40
	Cyanuric chloride	8	UN2670	III	CORROSIVE		None	213	240	25 kg	100 kg	1,3	1,3	12, 40
	Cyanuric triazide	Forbidden												
	Cyclobutane	2.1	UN2601		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Cyclobutylchloroformate	6.1	UN2744	II	POISON, CORROSIVE.	T18	None	202	243	1 L	30 L	1,3	1,3	12, 13, 23, 25, 40, 95
	1,5,9-Cyclododecatriene	6.1	UN2518	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	5	34, 40
	Cycloheptane	3	UN2241	II	FLAMMABLE LIQUID.	T1	None	202	242	5 L	60 L	1,3	1	40
	Cycloheptatriene	3	UN2603	II	FLAMMABLE LIQUID, POISON.	T14	None	202	243	1 L	60 L	1,3	5	12, 40
	Cycloheptene	3	UN2242	II	FLAMMABLE LIQUID.	T7	150	202	241	5 L	60 L	1,3	1	
	Cyclohexane	3	UN1145	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	Cyclohexanone	3	UN1915	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Cyclohexanone peroxide(s) (*1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide, technically pure, or 1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide and Di-(1-hydroxy cyclohexyl) peroxide mixtures*), *more than 90 per cent with water with not more than 9 percent available oxygen.*	5.2	UN2117	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Cyclohexanone peroxide(s) (*1-Hydroxy-1')hydroperoxy dicyclohexyl peroxide, technically pure, or 1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide and Di-(1-hydroxy cyclohexyl) peroxide mixtures*), *not more than 90 per cent with water with not more than 9 percent available oxygen.*	5.2	UN2119	I	ORGANIC PEROXIDE.		None	225	None	1 kg	5 kg	1	5	12, 40
	Cyclohexanone peroxide(s), *not more than 72 per cent as a paste with not more than 9 per cent available oxygen.*	5.2	UN2696	II	ORGANIC PEROXIDE.		152	225	None	1 kg	5 kg	1	5	12, 40
	Cyclohexanone peroxide(s), *not more than 72 per cent in solution with not more than 9 per cent available oxygen.*	5.2	UN2118	I	ORGANIC PEROXIDE.		None	225	None	1 kg	5 kg	1	5	12, 40
	Cyclohexene	3	UN2256	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	12

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Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Cyclohexenyltrichlorosilane	8	UN1762	II	CORROSIVE	B2, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Cyclohexyl acetate	3	UN2243	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Cyclohexylamine	8	UN2357	II	CORROSIVE, FLAMMABLE LIQUID.	T8, T26	None	202	243	1 L	30 L	1,3	1,3	
	Cyclohexyl isocyanate	6.1	UN2488	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	5	21, 25, 40, 95
	Cyclohexyl mercaptan	3	UN3054	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Cyclohexyltrichlorosilane	8	UN1763	II	CORROSIVE	B2, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Cyclonite, *see* Cyclotrimethylenetrinitramine, *etc.*.													
	Cyclooctadiene phosphines, *see* 9-Phosphabicyclononanes.													
	Cyclooctadienes	3	UN2520	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Cyclooctatetraene	3	UN2358	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Cyclopentane	3	UN1146	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	5	12
	Cyclopentane, methyl, see Methyl cyclopentane.													
	Cyclopentanol	3	UN2244	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Cyclopentanone	3	UN2245	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Cyclopentene	3	UN2246	II	FLAMMABLE LIQUID.	T13	150	202	242	5 L	60 L	1,3	5	12
	Cyclopropane, liquified	2.1	UN1027		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	1	40, 85
	Cyclotetramethylene tetranitramine (dry or unphlegmatized) (HMX).	Forbidden												
	Cyclotetramethylenetetranitramine (HMX; Octogen), wetted *with not less than 15 per cent water, by weight, or* Cyclotetramethylenetetranitramine (HMX; Octogen) desensitized *with not less than 10 per cent phlegmatizer, by weight.*	1.1D	UN0226											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Cyclotrimethylenetrinitramine (Cyclonite; Hexogen; RDX), and Cyclotetramethylenetetranitramine (HMX; Octogen) mixtures, wetted *with not less than 15 per cent water, by weight, or* Cyclotrimethylenetrinitramine (Cyclonite; Hexogen; RDX) and Cyclotetramethylenetetranitramine (HMX; Octogen) mixtures desensitized *with not less than 10 per cent phlegmatizer, by weight.*	1.1D	UN0391											
	Cyclotrimethylenetrinitramine (Cyclonite; Hexogen; RDX) wetted *with not less than 15 per cent water, by weight, or* Cyclotrimethylenetrinitramine (Cyclonite; Hexogen; RDX) desensitized *with not less than 10 per cent phlegmatizer, by weight.*	1.1D	UN0072											
	Cymenes	3	UN2046	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Decaborane	4.1	UN1868	II	FLAMMABLE SOLID, POISON.	A19, A20	None	212	None	Forbidden	50 kg	1,3	1,3	
	Decahydronaphthalene	3	UN1147	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	40
	n-Decane	3	UN2247	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Decanoyl peroxide, *see* Didecanoyl peroxide, *technically pure.*													
	Deflagrating metal salts of aromatic nitroderivatives, n.o.s.	1.3C	UN0132											
	Delay electric igniter, see Igniters													
D	Denatured alcohol	3	NA1986	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1	150	203	242	60 L	220 L	1,3	1,3	
	Depth charges, see Charges, depth													
	Detonating relays, see Detonators, *etc.*													
	Detonator assemblies, non-electric *for blasting.*	1.1B	UN0360											
	Detonator assemblies, non-electric, *for blasting.*	1.4B	UN0361											
	Detonators, electric, *for blasting*	1.1B	UN0030											
	Detonators, electric, *for blasting*	1.4B	UN0255											
	Detonators for ammunition	1.1B	UN0073											
	Detonators for ammunition	1.2B	UN0364											
	Detonators for ammunition	1.4B	UN0365											
	Detonators for ammunition	1.4S	UN0366											
	Detonators, non-electric, *for blasting*	1.1B	UN0029											
	Detonators, non-electric, *for blasting*	1.4B	UN0267											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Deuterium	2.1	UN1957		FLAMMABLE GAS.	B13	306	302	244	Forbidden	150 kg	1,3	5	40, 85
	Diacetone alcohol	3	UN1148	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Diacetone alcohol peroxides, more than 57% in solution with more than 9% hydrogen peroxide, less than 26% diacetone alcohol and less than 9% water; total active oxygen content more than 9% by weight.	Forbidden												
	Diacetone alcohol peroxides, *not more than 57 per cent in solution with not more than 9 per cent hydrogen peroxide, not less than 26 per cent diacetone alcohol and not less than 9 per cent water, total active oxygen content not more than 9 per cent.*	5.2	UN2163	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Diacetyl, see Butanedione													
	Diacetyl peroxide (Acetyl peroxide), *not more than 27 per cent in solution (dimethyl phthalate or other approved phlegmatizer).*	5.2	UN2084	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Diacetyl peroxide, solid, or more than 25% in solution.	Forbidden												
	Diallylamine	3	UN2359	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Diallylether	3	UN2360	II	FLAMMABLE LIQUID, POISON.	N12, T8	None	202	243	1 L	60 L	1,3	5	12, 40
	4,4'-Diaminodiphenyl methane	6.1	UN2651	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Di-n-amylamine	6.1	UN2841	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1	1,3	12, 40, 95
	p-Diazidobenzene	Forbidden												
	1,2-Diazidoethane	Forbidden												
	1,1'-Diazoaminonaphthalene	Forbidden												
	Diazoaminotetrazole (dry)	Forbidden												
	Diazodinitrophenol (dry)	Forbidden												
	Diazodinitrophenol, wetted *with not less than 40 per cent water, by weight, or mixture of alcohol and water.*	1.1A	UN0074											
	Diazodiphenylmethane	Forbidden												

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	2-Diazo-1-naphthol-4-sulpho-chloride	4.1	UN3042	II	FLAMMABLE SOLID.		None	212	None	Forbidden	Forbidden	1	5	25
	2-Diazo-1-naphthol-5-sulpho-chloride	4.1	UN3043	II	FLAMMABLE SOLID.		None	212	None	Forbidden	Forbidden	1	5	25
	Diazonium nitrates (dry)	Forbidden												
	Diazonium perchlorates (dry)	Forbidden												
	1,3-Diazopropane	Forbidden												
	Dibenzoyl peroxide (Benzoyl peroxide), *more than 77 per cent but less than 95 per cent with water.*	5.2	UN2088	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Dibenzoyl peroxide (Benzoyl peroxide), *not less than 30 per cent but not more than 52 per cent with inert solid.*	5.2	UN2089	II	ORGANIC PEROXIDE.		152	225	None	10 kg	25 kg	1	5	12, 40
	Dibenzoyl peroxide (Benzoyl peroxide), *not more than 72 per cent as a paste.*	5.2	UN2087	II	ORGANIC PEROXIDE.		152	225	None	10 kg	25 kg	1	5	12, 40
	Dibenzoyl peroxide (Benzoyl peroxide),*not more than 77 per cent with water.*	5.2	UN2090	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Dibenzoyl peroxide (Benzoyl peroxide), *technically pure, or* Dibenzoyl peroxide (Benzoyl peroxide), *more than 52 per cent with inert solid.*	5.2	UN2085	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Dibenzyldichlorosilane	8	UN2434	II	CORROSIVE	B2, T8, T26.	154	202	242	1 L	30 L	1	1	40
	Dibenzyl peroxydicarbonate, more than 87 per cent with water.	Forbidden												
	Dibenzyl peroxydicarbonate, *not more than 87 per cent with water.*	5.2	UN2149	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Diborane	2.3	UN1911	I	POISON GAS, FLAMMABLE GAS.	10	None	302	245	Forbidden	Forbidden	1	5	40, 57, 74, 95
D	Diborane mixtures	2.3	NA1911	I	POISON GAS, FLAMMABLE GAS.	B35, 10	None	302	245	Forbidden	Forbidden	1	5	40, 57, 74, 95
	Dibromoacetylene	Forbidden												
	Dibromobenzene	3	UN2711	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	1,2-Dibromobutan-3-one	6.1	UN2648	II	POISON	T7	None	202	243	5 L	60 L	1,2	1	40, 95
	Dibromochloropropane	6.1	UN2872	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
A	Dibromodifluoromethane	9	UN1941	III	CLASS 9	T13	155	203	241	100 L	220 L	1,2	1,2	25, 34
	1,2-Dibromoethane, see Ethylene dibromide.													
	Dibromomethane	6.1	UN2664	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Di-(n-butyl)amine	8	UN2248	II	CORROSIVE, FLAMMABLE LIQUID.		None	202	243	1 L	30 L	1,2	1,2	21
	Dibutylaminoethanol	6.1	UN2873	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	34
	Di-(4-tert-butylcyclohexyl) peroxydicarbonate, *not more than 42 per cent, stable dispersion, in water.*	5.2	UN2894	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Di-(4-tert-butylcyclohexyl) peroxydicarbonate, *technically pure.*	5.2	UN2154	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2,40
	Dibutyl ethers	3	UN1149	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Di-tert-butyl peroxide (tert-Butyl-peroxide), *technically pure.*	5.2	UN2102	II	ORGANIC PEROXIDE, FLAMMABLE LIQUID.		152	225	None	1 L	5 L	1	5	12, 40
	2,2-Di-(tert-butylperoxy) butane, more than 55 per cent in solution.	Forbidden												
	2,2-Di-(tert-butylperoxy) butane, *not more than 55 per cent in solution.*	5.2	UN2111	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	1,1-Di-(tert-butylperoxy) cyclohexane, *not more than 40 per cent with inert inorganic solid with not less than 13 per cent in phlegmatizer.*	5.2	UN2885	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	1,1-Di-(tert-butylperoxy) cyclohexane, *not more than 50 per cent with phlegmatizer.*	5.2	UN2897	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	1,1-Di-(tertbutyl peroxy) cyclohexane *not more than 27% in solution with not less than 36% diluent type A and not less than 36% diluent type B.*	5.2	UN3069	II	ORGANIC PEROXIDE.		None	225	None	5 L	10 L	1	5	2
	1,1-Di-(tert-butylperoxy) cyclohexane, *not more than 77 per cent in solution.*	5.2	UN2160	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	1,1-Di-(tert-butylperoxy) cyclohexane, *technically pure.*	5.2	UN2179	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Di-n-butyl peroxydicarbonate, more than 52 per cent in solution.	Forbidden												
	Di-n-butyl peroxydicarbonate, *not more than 52 per cent in solution.*	5.2	UN2169	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Di-n-butyl peroxydicarbonate, *not more than 27 per cent in solution.*	5.2	UN2170	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Di-sec-butyl peroxydicarbonate, *not more than 52 per cent in solution.*	5.2	UN2151	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Di-sec-butyl peroxydicarbonate, *technically pure.*	5.2	UN2150	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	1,4-Di-(2-*tert*-butylperoxyisopropyl) benzene, *technically pure or more than 40 percent with inert solid or* 1,3-Di-(2-*tert*-butylperoxyisopropyl)benzene and 1,3-Di-(2-*tert*-butylperoxyisopropyl) benzene mixtures, *technically pure or more than 40 percent with inert solid*..	5.2	UN2112	II	ORGANIC PEROXIDE.		152	225	None	10 kg	25 kg	1	5	12, 40
	Di-(tert-butylperoxy) phthalate, more than 55 per cent in solution.	Forbidden												
	Di-(tert-butylperoxy) phthalate, *not more than 55 per cent as a paste.*	5.2	UN2108	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Di-(tert-butylperoxy) phthalate, *not more than 55 per cent in solution.*	5.2	UN2107	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Di-(tert-butylperoxy) phthalate, *technically pure.*	5.2	UN2106	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	2,2-Di-(tert-butylperoxy) propane, *not more than 40 per cent with inorganic inert solid with not less than 13 per cent phlegmatizer.*	5.2	UN2884	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	2,2-Di-(tert-butylperoxy) propane, *not more than 50 per cent with phlegmatizer.*	5.2	UN2883	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	1,1-Di-(tert-butylperoxy)3,3,5-trimethyl cyclohexane, *not more than 57 per cent in solvent.*	5.2	UN2146	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	1,1-Di-(tert-butylperoxy)3,3,5-trimethyl cyclohexane, *not more than 58 per cent with inert solid.*	5.2	UN2147	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	1,1-Di-(tert-butylperoxy)3,3,5-trimethyl cyclohexane, *technically pure.*	5.2	UN2145	II	ORGANIC PEROXIDE.		152	225	None	Forbidden	Forbidden	1	5	12, 40
	Dicetyl peroxydicarbonate, *not more than 42 per cent stable dispersion, in water.*	5.2	UN2895	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Dicetyl peroxydicarbonate, *technically pure*...	5.2	UN2164	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	N,N'-Dichlorazodicarbonamidine (salts of) (dry).	Forbidden												
	Dichloroacetic acid	8	UN1764	II	CORROSIVE	B2, N1, N11, N26, N34, T9, T27.	154	202	242	1 L	30 L	1,2	1,2	
	1,3-Dichloroacetone	6.1	UN2649	II	POISON		None	212	243	25 kg	100 kg	1,3	1	12, 40, 95
	Dichloroacetyl chloride	8	UN1765	II	CORROSIVE	B2, B6, N1, N11, N26, N34, T8, T26.	154	202	242	1 L	30 L	1	5	40
	Dichloroacetylene	Forbidden												

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Dichloroanilines	6.1	UN1590	II	POISON	T14	None	202	242	5 L	60 L	1,2	1,2	26, 40, 95
	o-Dichlorobenzene	6.1	UN1591	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	p-Dichlorobenzene	6.1	UN1592	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Di-4-chlorobenzoyl peroxide (p-Chlorobenzoyl peroxide), *not more than 52 per cent as a paste.*	5.2	UN2114	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Di-4-chlorobenzoyl peroxide (p-Chlorobenzoyl peroxide), *not more than 52 per cent in solution.*	5.2	UN2115	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Di-4-chlorobenzoyl peroxide (p-Chlorobenzoyl peroxide), *not more than 75 per cent with water.*	5.2	UN2113	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
D	Dichlorobutene	8	NA2920	I	CORROSIVE, FLAMMABLE LIQUID.		None	201	243	0.5 L	2.5 L	1,2	1	
	Dichlorodifluoromethane (*R-12*)	2.2	UN1028		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Dichlorodifluoromethane and difluoroethane azeotropic mixture (*R500*) *with approximately 74 per cent dichlorodifluoromethane.*	2.2	UN2602		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Dichlorodifluoromethane and ethylene oxide mixture, *with not more than 12% ethylene oxide.*	2.3	UN3070	III	POISON GAS, FLAMMABLE GAS.	B14, B33, 10.	None	304	244	Forbidden	Forbidden	1	5	40
	Dichlorodimethyl ether, symmetrical	6.1	UN2249	I	POISON	T25	None	201	243	Forbidden	Forbidden	1	5	23, 40, 95
	1,1-Dichloroethane	3	UN2362	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	40
	1,2-Dichloroethane, see Ethylene dichloride.													
	Dichloroethylene	3	UN1150	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	1	
	Dichloroethyl ether	6.1	UN1916	II	PKISON	N33, N34, T8.	None	202	243	5 L	60 L	1,2	1,2	95
	Dichloroethyl sulfide	Forbidden												
	Dichlorofluoromethane	2.2	UN1029		NONFLAMMABLE GAS.	B51	306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	Dichloroisocyanuric acid, dry *or* Dichloroisocyanuric acid salts.	5.1	UN2465	II	OXIDIZER	B10, 28	152	212	240	5 kg	25 kg	1,2	1,2	
	Dichloroisopropyl ether	6.1	UN2490	II	POISON	T8	None	202	243	5 L	60 L	1,2	1	95
	Dichloromethane	6.1	UN1593	III	KEEP AWAY FROM FOOD.	N36, T13	153	203	241	60 L	220 L	1,2	1,2	25, 34
	1,1-Dichloro-1-nitroethane	6.1	UN2650	II	POISON	T8	None	202	243	5 L	60 L	1,3	1,3	12, 40, 95

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Dichloropentanes	3	UN1152	III	FLAMMABLE LIQUID.	B1, T1	150	202	241	60 L	220 L	1,3	1,3	
	Dichlorophenyl isocyanates	6.1	UN2250	II	POISON		None	212	242	25 kg	100 kg	1,3	1,3	25, 40, 95
	Dichlorophenyltrichlorosilane	8	UN1766	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Dichloropropane, see Propylene dichloride													
	1,3-Dichloropropanol-2	6.1	UN2750	II	POISON	T8	None	202	243	5 L	60 L	1,3	1,3	12, 40, 95
	Dichloropropene	3	UN2047	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	
	Dichloropropene and propylene dichloride mixture, see Propylene dichloride.													
	Dichlorosilane	2.3	UN2189	II	POISON GAS, FLAMMABLE GAS.	B13, B14, B31, 10.	None	304	244	Forbidden	Forbidden	1	5	40, 95
	Dichlorotetrafluoroethane	2.2	UN1958		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
	3,5 Dichloro-2,4,6 trifluoropyridine	6.1	NA2810	I	POISON	B14, B32, 10.		227	244	Forbidden	Forbidden	1	1,3	40, 95
	Dichlorovinylchloroarsine	Forbidden												
	Dicumyl peroxide, *technically pure, or* Dicumyl peroxide *with inert solid.*	5.2	UN2121	II	ORGANIC PEROXIDE.	B9, B20	152	225	243	10 kg	25 kg	1	5	12, 40
	Dicycloheptadiene *see* Norbornadiene													
	Dicyclohexylamine	8	UN2565	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
	Dicyclohexylammonium nitrite	6.1	UN2687	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Dicyclohexyl peroxydicarbonate, *not more than 91 per cent with water.*	5.2	UN2153	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Dicyclohexyl peroxydicarbonate, *technically pure.*	5.2	UN2152	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Dicyclopentadiene	3	UN2048	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Didecanoyl peroxide, *technically pure*	5.2	UN2120	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	2,2-Di-(4,4-di-tert-butylperoxycyclohexyl) propane, more than 42 per cent with inert solid.	Forbidden												
	2,2-Di-(4,4-di-tert-butylperoxycyclohexyl) propane, *not more than 42 per cent with inert solid.*	5.2	UN2168	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Di-2,4-dichlorobenzoyl peroxide, more than 75 per cent with water.	Forbidden												
	Di-2,4-dichlorobenzoyl peroxide, *not more than 52 per cent as a paste.*	5.2	UN2138	II	ORGANIC PEROXIDE.		152	225	None	10 kg	25 kg	1	5	12, 40

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Di-2,4-dichlorobenzoyl peroxide, *not more than 52 per cent in solution.*	5.2	UN2139	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Di-2,4-dichlorobenzoyl peroxide, *not more than 75 per cent with watr.*	5.2	UN2137	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	1,2-Di-(dimethylamino) ethane	3	UN2372	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Didymium nitrate	5.1	UN1465	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	
D	Dieldrin	6.1	NA2761	II	POISON		None	212	242	0.5 kg	5 kg	1,2	1,2	
D	Diesel fuel	3	NA1202	III	None		150	203	241	60 L	220 L	1,3	1,3	
	Diethanol nitrosamine dinitrate (dry)	Forbidden												
	Diethoxymethane	3	UN2373	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	2,5-Diethoxy-4-morpholinobenzenediazonium zinc chloride.	4.1	UN3036	II	FLAMMABLE SOLID.		None	212	None	15 kg	50 kg	1	5	25
	3,3-Diethoxypropene	3	UN2374	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Diethylamine	3	UN1154	II	FLAMMABLE LIQUID.	N34, T8	150	202	242	5 L	60 L	1,3	5	12, 40
	Diethylaminoethanol	3	UN2686	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
AW	Diethylaminopropylamine	8	UN2684	III	CORROSIVE, FLAMMABLE LIQUID.	B1, B2, T8.	154	203	243	5 L	60 L	1,2	1,2	
	N,N-Diethyl aniline	6.1	UN2432	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	34
	Diethylbenzene	3	UN2049	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	40
	Diethyl carbonate	3	UN2366	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Diethyl cellosolve, see Ethylene glycol diethyl ether.													
	Diethyldichlorosilane	8	UN1767	II	CORROSIVE, FLAMMABLE LIQUID.	B6, N16, N26, N34, T8, T26.	None	202	243	Forbidden	30 L	1	1	21, 40, 77
	Diethylene glycol dinitrate	Forbidden												
	Diethylene glycol dinitrate, desensitized *with not less than 25 percent non-volatile water-insoluble phlegmatizer, by weight.*	1.1D	UN0075											
	Diethylenetriamine	8	UN2079	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	26, 32, 40, 71
	Diethyl ether	3	UN1155	I	FLAMMABLE LIQUID.	T21	150	201	243	1 L	30 L	1,3	5	12, 40
	N,N-Diethylethylene diamine	8	UN2685	II	CORROSIVE, FLAMMABLE LIQUID.	T8	None	202	243	1 L	30 L	1,3	1,3	12, 21

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Diethylgold bromide	Forbidden												
	Di-2-ethylhexyl peroxydicarbonate, *not more than 77 per cent in solution.*	5.2	UN2123	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Di-2-ethylhexyl peroxydicarbonate, *not more than 32 per cent, stable dispersion in water.*	5.2	UN2960	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Di-2-ethylhexyl peroxydicarbonate, *technically pure.*	5.2	UN2122	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Di-2-ethylhexyl phosphoric acid, see Di-isooctyl acid phosphate.													
	Diethyl ketone	3	UN1156	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Diethyl peroxydicarbonate, more than 27 per cent in solution.	Forbidden												
	Diethyl peroxydicarbonate, *not more than 27 per cent in solution.*	5.2	UN2175	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Diethyl sulfate	6.1	UN1594	II	POISON	T14	None	202	243	5 L	60 L	1	1	95
	Diethyl sulfide	3	UN2375	II	FLAMMABLE LIQUID, POISON.	T14	None	202	243	1 L	60 L	1,3	5	12, 13, 95
	Diethylthiophosphoryl chloride	8	UN2751	II	CORROSIVE	B2, T8	None	202	242	1 L	30 L	1	5	12, 21, 40
	Diethylzinc	4.2	UN1366	I	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	B11, T28, T40.	None	181	244	Forbidden	Forbidden	1	5	18
	Difluorochloroethanes, *see* Chlorodifluoroethanes.													
	Difluoroethane (*R-152a*)	2.1	UN1030		FLAMMABLE GAS.	B51	306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	1,1-Difluoroethylene	2.1	UN1959		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Difluorophosphoric acid, anhydrous	8	UN1768	II	CORROSIVE	B2, N5, N11, N16, N26, N34, T9, T27.	None	202	242	1 L	30 L	1,2	1,2	40
	2,2-Dihydroperoxy propane, *not more than 25 per cent with inert organic solid.*	5.2	UN2178	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	2,3-Dihydropyran	3	UN2376	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Di-(1-hydroxycyclohexyl) peroxide, *technically pure.*	5.2	UN2148	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	1,8-Dihydroxy-2,4,5,7-tetranitroanthraquinone (chrysamminic acid).	Forbidden												

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or rail car	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4) *	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Di-(1-hydroxytetrazole) (dry)	Forbidden												
	Diodoacetylene	Forbidden												
	Diisobutylamine	3	UN2361	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Diisobutylene, isomeric compounds	3	UN2050	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Diisobutyl ketone	3	UN1157	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Diisobutyryl peroxide, *not more than 52 per cent in solution.*	5.2	UN2182	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Diisooctyl acid phosphate	8	UN1902	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	
	Diisopropylamine	3	UN1158	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Diisopropylbenzene hydroperoxide, *see* Isopropylcumyl hydroperoxide, *etc.*.													
	Diisopropyl ether	3	UN1159	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12, 40
	Diisopropyl peroxydicarbonate *or* Isopropyl peroxydicarbonate, *technically pure.*	5.2	UN2133	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Diisopropyl peroxydicarbonate *or* Isopropyl peroxydicarbonate, *not more than 52 per cent in solution.*	5.2	UN2134	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Diisotridecyl peroxydicarbonate, *technically pure.*	5.2	UN2889	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Diketene, inhibited	3	UN2521	I	FLAMMABLE HIQUID, PKISON.	10, B14, B32.	None	227	244	Forbidden	Forbidden	1	5	21, 40, 95
	Dilauroyl peroxide (Lauroyl peroxide), *not more than 42 per cent, stable dispersion, in water.*	5.2	UN2893	II	ORGANIC PEROXIDE.		152	225	None	10 L	25 L	1	5	12, 40
	Dilauroyl peroxide (Lauroyl peroxide), *technically pure.*	5.2	UN2124	II	ORGANIC PEROXIDE.		152	225	None	10 kg	25 kg	1	5	12, 40
	1,1-Dimethoxyethane	3	UN2377	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	12
	1,2-Dimethoxyethane	3	UN2252	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Dimethylamine, anhydrous	2.3	UN1032	II	POISON GAS, FLAMMABLE GAS.	B14, B33, 10.	None	304	314, 315	Forbidden	Forbidden	1,3	5	40, 85
	Dimethylamine solution	3	UN1160	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	12
	2-Dimethylaiinoacetonitrile	3	UN2378	II	FLAMMABLE LIQUID(POISON.	T8	None	202	243	1 L	60 L	1,3	1	40
	4-Dimethylamino-6-(2-dimethylaminoethoxy) toluene-2-diazonium zinc chloride.	4.1	UN3039	II	FLAMMABLE SOLID.		None	212	None	Forbidden	Forbidden	1	5	2
	Dimethylaminoethyl methacrylate	6.1	UN2522	II	POISON	T8	None	202	243	5 L	60 L	1,2	1	40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	N,N-Dimethylaniline	6.1	UN2253	II	POISON	T8	None	202	243	5 L	60 L	1,3	1,3	95
	Di-(2-methylbenzoyl) peroxide, *not more than 85 per cent with water.*	5.2	UN2593	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	2,3-Dimethylbutane	3	UN2457	II	FLAMMABLE LIQUID.	T13	150	202	242	5 L	60 L	1,3	5	12
	1,3-Dimethylbutylamine	3	UN2379	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Dimethylcarbamoyl chloride	8	UN2262	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	40
	Dimethyl carbonate	3	UN1161	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Dimethyl chlorothiophosphate, see Corrosive liquid, poisonous, n.o.s.													
	Dimethylcyclohexanes	3	UN2263	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Dimethylcyclohexylamine	8	UN2264	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,3	1,3	12, 21, 40
	2,5-Dimethyl-2,5-di-(benzoylperoxy) hexane, *not more than 82 per cent with inert solid.*	5.2	UN2173	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	2,5-Dimethyl-2,5-di-(benzoylperoxy) hexane, *not more than 82 per cent with water.*	5.2	UN2959	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	2,5-Dimethyl-2,5-di-(benzoylperoxy) hexane, *technically pure.*	5.2	UN2172	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	2,5-Dimethyl-2,5-di(tert-butylperoxy) hexane, *not more than 52 per cent with inert solid.*	5.2	UN2156	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	2,5-Dimethyl-2,5-di-3 (tert-butylperoxy) hexane, *technically pure.*	5.2	UN2155	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	2,5-Dimethyl-2,5-di(tert-butylperoxy) hexyne-3, *not more than 52 per cent with inert solid.*	5.2	UN2159	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	2,5-Dimethyl-2,5-di(tert-butylperoxy)*technically pure.*	5.2	UN2158	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Dimethyldichlorosilane	3	UN1162	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	1	40
	Dimethyldiethoxysilane	3	UN2380	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	2,5-Dimethyl-2,5-di(2-ethylhexanoylperoxy) hexane, *technically pure.*	5.2	UN2157	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	2,5-Dimethyl-2,5-dihydroperoxy hexane *or* Dimethylhexane dihydroperoxide, *not more than 82 per cent with water.*	5.2	UN2174	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	2,5-Dimethyl-2,5-dihydroperoxy hexane, more than 82 per cent with water.	Forbidden												
	Dimethyldioxanes	3	UN2707	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	.....	.....	.....	III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Dimethyl disulfide	3	UN2381	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	2,5-Dimethyl-2,5-di-(5,5-trimethyl hexanoyl-peroxy)-hexane, *or*2,5-Dimethyl-2,5-di(isononanoylperoxy)-hexane *not more than 77% in solution*.	5.2	UN3060	II	ORGANIC PEROXIDE.	.....	None	225	None	5 L	10 L	1	5	
	Dimethylethanolamine	3	UN2051	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	
	Dimethyl ether	2.1	UN1033	.....	FLAMMABLE GAS.	.....	306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	N,N-Dimethylformamide	3	UN2265	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Dimethylhexane dihydroperoxide, see 2,5-Dimethyl2,5-dihydroperoxy hexane, *etc.*.	.....	.....	.....										
	Dimethylhydrazine, symmetrical	3	UN2382	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B32, N15, N26, 10.	None	227	244	Forbidden	Forbidden	1,3	5	12, 40, 85
	Dimethylhydrazine, unsymmetrical	3	UN1163	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B32, N15, N26, 10.	None	227	244	Forbidden	Forbidden	1,3	5	40, 61, 74, 95
D	Dimethyl phosphorochloridothioate	6.1	NA2927	I	POISON, CORROSIVE.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1	20, 95
	2,2-Dimethylpropane *other than pentane or isopentane.*	2.1	UN2044	.....	FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	1	40, 85
	Dimethyl-N-propylamine	3	UN2266	II	FLAMMABLE LIQUID, CORROSIVE.	T14, T26	None	202	243	1 L	5 L	1,3	1	40
	Dimethyl sulfate	6.1	UN1595	I	POISON, CORROSIVE.	T18, T26	None	201	243	Forbidden	30 L	1	5	40, 95
	Dimethyl sulfide	3	UN1164	I	FLAMMABLE LIQUID.	T14	None	201	243	1 L	30 L	1,3	5	12
	Dimethyl thiophosphoryl chloride	8	UN2267	I	CORROSIVE, POISON.	10, B14, B32.	None	227	244	Forbidden	Forbidden	1	5	20, 40, 85, 95
	Dimethylzinc	4.2	UN1370	I	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	B11, B16, T28, T29, T40.	None	181	244	Forbidden	Forbidden	1	5	18
	Dimyristyl peroxydicarbonate, *not more than 24 per cent, stable dispersion, in water.*	5.2	UN2892	II	ORGANIC PEROXIDE.	.....	None	225	None	Forbidden	Forbidden	1	5	2, 40
	Dimyristyl peroxydicarbonate, *technically pure.*	5.2	UN2595	II	ORGANIC PEROXIDE.	.....	None	225	None	Forbidden	Forbidden	1	5	2, 40
	Di-(1-naphthoyl) peroxide	Forbidden	.....											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Dinitroanilines	6.1	UN1596	II	POISON	T14	None	212	242	25 kg	100 kg	1,2	1,2	95
	Dinitrobenzenes, *liquid*	6.1	UN1597	II	POISON	T14, 11	None	202	243	5 L	60 L	1,2	1,2	95
	Dinitrobenzenes, *solid*	6.1	UN1597	II	POISON	11	None	212	242	25 kg	100 kg	1,2	1,2	95
	Dinitrochlorobenzene, see Chlorodinitrobenzene.													
	Dinitro-o-cresol, *solid*	6.1	UN1598	II	POISON	T14	None	212	242	25 kg	100 kg	1,2	1,2	95
	Dinitro-o-cresol, *solution*	6.1	UN1598	II	POISON	T144	None	202	243	5 L	60 L	1,2	1,2	95
	Dinitro-7,8-dimethylglycoluril (dry)	Forbidden												
	1,3-Dinitro-5,5-dimethyl hydantoin	Forbidden												
	1,3-Dinitro-4,5-dinitrosobenzene	Forbidden												
	1,2-Dinitroethane	Forbidden												
	1,1-Dinitroethane (dry)	Forbidden												
	Dinitroglycoluril	Forbidden												
	Dinitromethane	Forbidden												
	Dinitrophenolates (*alkali metals*), *dry or wetted with less than 15 per cent water, by weight.*	1.3C	UN0077											
	Dinitrophenolates, wetted *with not less than 15 per cent water, by weight.*	4.1	UN1321	I	FLAMMABLE SOLID, POISON.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1,3	5	36
	Dinitrophenol, *dry or wetted with less than 15 per cent water, by weight.*	1.1D	UN0076											
	Dinitrophenol solutions	6.1	UN1599	II	POISON	T8	None	202	243	5 L	60 L	1,2	5	23, 36, 95
	Dinitrophenol, wetted *with not less than 15 per cent water, by weight.*	4.1	UN1320	I	FLAMMABLE SOLID, POISON.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1,3	5	36, 47
	Dinitropropylene glycol	Forbidden												
	Dinitroresorcinol, *dry or wetted with less than 15 per cent water, by weight.*	1.1D	UN0078											
	4,6-Dinitroresorcinol (heavy metal salts of) (dry).	Forbidden												
	2,4-Dinitroresorcinol (heavy metal salts of) (dry).	Forbidden												
	Dinitroresorcinol, wetted *with not less than 15 per cent water, by weight.*	4.1	UN1322	I	FLAMMABLE SOLID.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1,3	5	36
	3,5-Dinitrosalicylic acid (lead salt) (dry)	Forbidden												

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Dinitrosobenzene	1.3C	UN0406											
	Dinitrosobenzylamidine and salts of (dry)	Forbidden												
	N,N'-Dinitroso-N,N'-dimethyl terephthalamide *not more than 72% as a paste.*	4.1	UN2973	II	FLAMMABLE SOLID.		None	212	None	Forbidden	Forbidden	1	5	12, 25, 48, 52, 53
	N,N'-Dinitrosopentamethylenetetramine *not more than 82% with phlegmatizer.*	4.1	UN2972	II	FLAMMABLE SOLID.		None	212	None	Forbidden	Forbidden	1	5	12, 25, 48, 52, 53
	2,2-Dinitrostilbene	Forbidden												
	1,4-Dinitro-1,1,4,4-tetramethylolbutanetetranitrate (dry).	Forbidden												
	Dinitrotoluenes, *liquid*	6.1	UN2038	II	POISON	T14, T38	None	202	243	5 L	60 L	1,2	1,2	
				III	KEEP AWAY FROM FOOD.	T14, T38	153	203	241	60 L	220 L	1,2	1,2	
	Dinitrotoluenes, *molten*	6.1	UN1600	II	POISON	T14, T38	None	202	243	Forbidden	Forbidden	1,2	1,2	95
	Dinitrotoluenes, *solid*	6.1	UN2038	II	POISON	T8, T38	None	212	242	25 kg	100 kg	1,2	1,2	95
	2,4-Dinitro-1,3,5-trimethylbenzene	Forbidden												
	Di-(beta-nitroxyethyl) ammonium nitrate	Forbidden												
	a,a'-Di-(nitroxy) methylether	Forbidden												
	1,9-Dinitroxy pentamethylene-2,4, 6,8-tetramine (dry).	Forbidden												
	Di-n-nonanoyl peroxide, *technically pure*	5.2	UN2130	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Di-n-octanoyl peroxide, *technically pure*	5.2	UN2129	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Dioxane	3	UN1165	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Dioxolane	3	UN1166	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Dipentene	3	UN2052	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	
	Diperoxy azelaic acid *not more than 27 per cent with not less than 13 per cent azelaic acid and not less than 53 per cent sodium sulfate.*	5.2	UN2958	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Diperoxy dodecane diacid, *not more than 42% with not less than 56% sodium sulfate.*	5.2	UN3063	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2
	Di-(2 Phenoxyethyl)-peroxy dicarbonate, *not more than 85% with water.*	5.2	UN3059	II	ORGANIC PEROXIDE.		None	225	None	5 kg	10 kg	1	5	2
	Di-(2 phenoxyethyl)-peroxy dicarbonate, *technically pure.*	5.2	UN3058	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2
	Diphenylamine chloroarsine (*DM*)	6.1	UN1698	I	POISON	10	None	227	None	Forbidden	Forbidden	1	5	40, 95

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Diphenylchloroarsine	6.1	UN1699	I	POISON	B14, B32, N2, N33, N34, 10.	None	211	244	Forbidden	Forbidden	1	5	40, 95
	Diphenyldichlorosilane	8	UN1769	II	CORROSIVE	B2, N16, N26, N34, T8, T26.	None	202	244	Forbidden	30 L	1	1	40
	Diphenylmethane-4,4'diisocyanate	6.1	UN2489	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	34, 48
	Diphenylmethyl bromide	8	UN1770	II	CORROSIVE		154	212	240	15 kg	50 kg	1	5	40
	Diphenyloxide-4,4'disulfohydrazide	4.1	UN2951	II	FLAMMABLE SOLID.		None	212	None	15 kg	50 kg	1,3	1	12, 25, 48, 52, 53, 85
	Dipicrylamine, *see* Hexanitrodiphenylamine													
	Dipicryl sulfide, *dry or wetted with less than 10 per cent water, by weight.*	1.1D	UN0401											
	Dipicryl sulfide, wetted *with not less than 10 per cent water, by weight.*	4.1	UN2852	I	FLAMMABLE SOLID.	A2, N15, N34, N41.	None	211	None	Forbidden	0.5 kg	1	5	
	Dipropionyl peroxide *or* Propionyl peroxide, *not more than 28 per cent in solution.*	5.2	UN2132	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Dipropionyl peroxide, more than 28 per cent in solution.	Forbidden												
	Dipropylamine	3	UN2383	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	4-Dipropylaminobenzenediazonium zinc chloride.	4.1	UN3034	II	FLAMMABLE SOLID.		None	212	None	15 kg	50 kg	1	5	25
	Dipropyl ether	3	UN2384	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	5	12
	Dipropylketone	3	UN2710	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Di-n-propyl peroxydicarbonate, *technically pure.*	5.2	UN2176	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Disinfectants, corrosive liquid, n.o.s.	8	UN1903	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
				III	CORROSIVE		154	203	241	5 L	60 L	1,2	1,2	
	Disinfectants, n.o.s. *poisonous liquid*	6.1	UN1601	I	POISON		None	201	243	1 L	30 L	1,2	1	40, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34, 40
	Disinfectants, n.o.s. *poisonous solid*	6.1	UN1601	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Dispersant gas, see Compressed *or* liquefied gases, *etc.*													
	Distearyl peroxydicarbonate, *not more than 85 per cent with stearyl alcohol.*	5.2	UN2592	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Disuccinic acid peroxide *or* Succinic acid peroxide, *technically pure.*	5.2	UN2135	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Disuccinic acid peroxide, *not more than 72 per cent, wetted with water.*	5.2	UN2962	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Dithiocarbamate pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23deg C.*	3	UN2772	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Dithiocarbamate pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23deg C.*	6.1	UN3005	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,3	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1	21, 34, 40
	Dithiocarbamate pesticides, liquid, toxic, n.o.s.	6.1	UN3006	I	POISON		None	201	243	1 L	30 L	1	1	40, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34, 40
	Dithiocarbamate pesticides, solid, toxic, n.o.s.	5.1	UN2771	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Di-(3,5,5-trimethyl-1,2-dioxolanyl-3) peroxide, *not more than 50 per cent as a paste, with phlegmatizer.*	5.2	UN2597	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	2, 40
	Di-(3,5,5-trimethylhexanoyl) peroxide, *in solution, or* Di-(3,5,5-trimethylhexanoyl) peroxide, *technically pure.*	5.2	UN2128	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Divinyl ether, inhibited	3	UN1167	II	FLAMMABLE LIQUID.	N15, T14	None	202	241	5 L	60 L	1,3	5	12, 40
D	Dodecylbenzenesulfonic acid	8	NA2584	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
	Dodecyltrichlorosilane	8	UN1771	II	CORROSIVE	B2, B6, N16, N25, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Driers, paint *or* varnish, liquid, n.o.s.	3	UN1168	II	FLAMMABLE LIQUID.	T8, T31	150	173	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	173	242	60 L	220 L	1,3	1,3	
	Driers, paint *or* varnish, solid, n.o.s.	4.1	UN1371	III	FLAMMABLE SOLID.	A1, A19, B16.	151	213	242	25 kg	100 kg	1,3	1,3	
	Dry ice, *see* Carbon dioxide, solid													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Dyes, n.o.s. *or* Dye intermediates, n.o.s., *corrosive liquid.*	8	UN2801	II	CORROSIVE	B2, T14, 11.	154	202	242	1 L	30 L	1,2	1,2	23
				III	CORROSIVE	T14, 11	154	203	241	5 L	60 L	1,2	1,2	23
	Dyes, n.o.s. *or* Dye intermediates, n.o.s. *poisonous liquid.*	6.1	UN1602	I	POISON		None	201	243	1 L	30 L	1,2	1	23, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1,2	23, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220	1,2	1,2	34
	Dyes, n.o.s. *or* Dye intermediates, n.o.s. *poisonous solid.*	6.1	UN1602	I	POISON		None	211	242	5 kg	50 kg	1,2	1	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				II	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Dyes, n.o.s. *or* Dye intermediates, n.o.s. *corrosive solid.*	8	UN2801	II	CORROSIVE	11	154	212	242	15 kg	50 kg	1,2	1,2	
				III	CORROSIVE	11	154	213	240	25 kg	100 kg	1,2	1,2	
	Dynamite, see Explosive, blasting, type A													
	EDTA. *See* Ethylenediaminetetraacetic acid.													
	Electrolyte (acid or alkali) for batteries, see Battery fluid, acid *or* Battery fluid, alkali.													
	Engines, internal combustion, *see* Vehicle, self-propelled.													
	Engine starting fluid, *with flammable gas*	2.1	UN1950		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Epibromohydrin	6.1	UN2558	I	POISON		None	201	243	Forbidden	Forbidden	1	5	23, 25, 40, 95
	Epichlorohydrin	6.1	UN2023	II	POISON		None	202	243	5 L	60 L	1,2	1,2	23, 40, 95
	1,2-Epoxy-3-ethoxypropane	3	UN2752	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Etching acid, liquid, n.o.s. , see Hydrofluoric acid, solution.													
	Ethane, compressed	2.1	UN1035		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
D	Ethane-Propane mixture, refrigerated liquid	2.1	NA1961		FLAMMABLE GAS.	B13	None	316	244	Forbidden	Forbidden	1	5	40
	Ethane, refrigerated liquid	2.1	UN1961		FLAMMABLE GAS.	B13	None	316	244	Forbidden	Forbidden	1	5	40
	Ethanolamine *or* Ethanolamine solutions	8	UN2491	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	
	Ethanol amine dinitrate	Forbidden												
	Ethanol (Ethyl alcohol) *or* Ethanol (Ethyl alcohol) solutions.	3	UN1170	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ether, see Diethyl ether													
	Ethyl acetate	3	UN1173	II	FLAMMABLE LIQUID.	T2	150	202	242	5 L	60 L	1,3	1	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or rail car	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ethyl acetylene, inhibited	2.1	UN2452		FLAMMABLE GAS.	B13	None	304	244	Forbidden	150 kg	1	5	40
	Ethyl acrylate, inhibited	3	UN1917	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Ethyl alcohol, *see* Ethanol													
	Ethyl aldehyde, see Acetaldehyde													
	Ethylamine	2.1	UN1036		FLAMMABLE GAS.	B13	None	321	244	Forbidden	Forbidden	1,3	5	40, 85
	Ethylamine, aqueous solution *with not less than 50 per cent but not more than 70 per cent ethylamine.*	3	UN2270	II	FLAMMABLE LIQUID.	N15, T14	150	202	242	5 L	60 L	1,3	5	12, 40
	Ethyl amyl ketone	3	UN2271	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	N-Ethylaniline	6.1	UN2272	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	26, 34
	2-Ethylaniline	6.1	UN2273	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	26, 34
	Ethylbenzene	3	UN1175	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	N-Ethyl-N-benzylaniline	6.1	UN2274	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	34
	N-Ethylbenzyltoluidines	6.1	UN2753	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,3	1,3	12, 34
	Ethyl borate	3	UN1176	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Ethyl bromide	6.1	UN1891	II	POISON	T17	None	202	243	5 L	60 L	1,3	1	40, 48, 95
	Ethyl bromoacetate	6.1	UN1603	II	POISON	T14	None	202	243	Forbidden	Forbidden	1	5	23, 40, 95
	2-Ethylbutanol	3	UN2275	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethylbutyl acetate	3	UN1177	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethyl butyl ether	3	UN1179	II	FLAMMABLE LIQUID.	B1, T1	150	202	242	5 L	60 L	1,3	1	
	2-Ethylbutyraldehyde	3	UN1178	II	FLAMMABLE LIQUID.	B1, T1	150	202	242	5 L	60 L	1,3	1	
	Ethyl butyrate	3	UN1180	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1,3	
	Ethyl chloride	2.1	UN1037	I	FLAMMABLE GAS.	B13	None	322	244	Forbidden	150 kg	1,3	5	40, 85
	Ethyl chloroacetate	6.1	UN1181	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	23, 40, 48, 95
	Ethyl chloroformate	3	UN1182	I	FLAMMABLE LIQUID, POISON, CORROSIVE	B14, B32, N1, N11, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1,3	5	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ethyl-2-chloropropionate	3	UN2935	III	FLAMMABLE LIQUID.	B1	150	203	242	60 L	220 L	1,3	1,3	
	Ethyl chlorothioformate	8	UN2826	I	CORROSIVE	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	1,3	21, 40, 95
	Ethyl crotonate	3	UN1862	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Ethyl cyanoacetate	6.1	UN2666	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	26, 34
	Ethyl-3,3-di-(tert-butylperoxy) butyrate, *not more than 50 per cent with inert inorganic solid.*	5.2	UN2598	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	Ethyl-3,3-di-(tert-butylperoxy) butyrate, *not more than 77 per cent in solution.*	5.2	UN2185	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	Ethyl-3,3-di-(tert-butylperoxy) *technically pure.*	5.2	UN2184	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Ethyldichloroarsine	6.1	UN1892	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	5	40, 95
	Ethyldichlorosilane	4.3	UN1183	I	DANGEROUS WHEN WET, CORROSIVE, FLAMMABLE LIQUID.	A2, N1, N15, N26, N34, T18, T26.	None	201	244	Forbidden	1 L	1	1	40
	Ethylene chlorohydrin	6.1	UN1135	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	23, 40, 48, 95
	Ethylene, compressed	2.1	UN1962		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Ethylenediamine	8	UN1604	II	CORROSIVE, FLAMMABLE LIQUID.	T14	154	202	243	1 L	30 L	1,3	1,3	21, 40
	Ethylene diamine diperchlorate	Forbidden												
	Ethylene dibromide	6.1	UN1605	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	40, 95
	Ethylene dibromide and methyl bromide liquid mixtures, see Methyl bromide and ethylene dibromide, liquid mixtures.													
	Ethylene dichloride	3	UN1184	II	FLAMMABLE LIQUID, POISON.	T14	None	202	243	1 L	60 L	1,3	1	
	Ethylene glycol diethyl ether	3	UN1153	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethylene glycol dinitrate	Forbidden												
	Ethylene glycol monobutyl ether	6.1	UN2369	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,3	1,3	22, 25, 40, 34
	Ethylene glycol monoethyl ether	3	UN1171	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethylene glycol monoethyl ether acetate	3	UN1172	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	

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Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ethylene glycol monomethyl ether	3	UN1188	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethylene glycol monomethyl ether acetate	3	UN1189	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethyleneimine, inhibited	6.1	UN1185	I	POISON, FLAMMABLE LIQUID.	B14, B32, N16, N17, N25, N32, 10.	None	227	244	Forbidden	Forbidden	1,3	1	
	Ethylene oxide and carbon dioxide mixtures, see Carbon dioxide and ethylene oxide mixtures, *etc.*													
	Ethylene oxide and propylene oxide mixtures, *not more than 30 per cent ethylene oxide.*	3	UN2983	I	FLAMMABLE LIQUID, POISON.	N4, N15, N34, N40.	None	201	243	Forbidden	30 L	1,3	5	12, 40
	Ethylene oxide, *pure or with nitrogen*	2.3	UN1040	II	POISON GAS, FLAMMABLE GAS.	10	None	323	248	Forbidden	Forbidden	1,3	1	40, 85, 95
	Ethylene, refrigerated liquid (*cryogenic liquid*).	2.1	UN1038		FLAMMABLE GAS.		None	316	318, 319	Forbidden	Forbidden	1	5	40, 85
	Ethyl ether, *see* Diethyl ether													
	Ethyl fluoride	2.3	UN2453	II	POISON GAS	B13, B33, 10.	None	304	244	Forbidden	Forbidden	1,3	5	40, 85
	Ethyl formate	3	UN1190	II	FLAMMABLE LIQUID	T8	150	202	242	5 L	60 L	1,3	5	12
	Ethylhexaldehyde, see Octyl aldehydes *etc.*													
	2-Ethylhexylamine	8	UN2276	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,3	1,3	21
	2-Ethylhexylchloroformate	6.1	UN2748	II	POISON, CORROSIVE.		None	202	243	1 L	30 L	1,3	1,3	12, 13, 23, 25, 40, 95
	Ethyl hydroperoxide	Forbidden												
	Ethyl isobutyrate	3	UN2385	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1	
	Ethyl isocyanate	3	UN2481	I	FLAMMABLE LIQUID, POISON.	B13, B14, B30, N15, N26, 10.	None	226	244	Forbidden	Forbidden	1	5	12, 40, 48
	Ethyl lactate	3	UN1192	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ethyl mercaptan	3	UN2363	I	FLAMMABLE LIQUID.		None	202	243	Forbidden	30 L	1,3	5	12, 13, 34, 35, 40
	Ethyl methacrylate	3	UN2277	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Ethyl methyl ether	2.1	UN1039		FLAMMABLE GAS.	B13	None	324	244	Forbidden	150 kg	1,3	1	25, 40, 85

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Ethyl methyl ketone *or* Methyl ethyl ketone	3	UN1193	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
D	Ethyl nitrate (*nitric ether*)	3	NA1993	II	FLAMMABLE LIQUID.		150	202	None	Forbidden	Forbidden	1,3	1	
	Ethyl nitrite solutions	3	UN1194	I	FLAMMABLE LIQUID, POISON.		None	201	None	Forbidden	Forbidden	1,3	5	12, 40
	Ethyl orthoformate	3	UN2524	III	FLAMMABLE LIQUID.		150	203	242	60 L	220 L	1,3	1,3	
	Ethyl oxalate	6.1	UN2525	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Ethyl perchlorate	Forbidden												
	Ethylphenyldichlorosilane	8	UN2435	II	CORROSIVE	B2, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	
	Ethyl phosphonothioic dichloride, anhydrous, see Poisonous liquids, corrosive, n.o.s., *inhalation hazard, Packing Group I, Zone B.*													
	Ethyl phosphonous dichloride, anhydrous, see Pyrophoric liquids, n.o.s.													
	Ethyl phosphorodichloridate, see Corrosive liquid, n.o.s.													
	1-Ethyl piperidine	3	UN2386	II	FLAMMABLE LIQUID	T8	150	202	242	5 L	60 L	1,3	1	
	Ethyl propionate	3	UN1195	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Ethyl propyl ether	3	UN2615	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	Ethyl silicate, see Tetraethyl silicate													
	Ethylsulfuric acid	8	UN2571	II	CORROSIVE	B2, T9, T27	154	202	242	1 L	30 L	1,2	1	14
	N-Ethyltoluidines	6.1	UN2754	II	POISON	T14	None	202	243	5 L	60 L	1,3	1,3	12, 22, 25, 95
	Ethyltrichlorosilane	3	UN1196	I	FLAMMABLE LIQUID, CORROSIVE.	N26, N34	None	201	243	Forbidden	2.5 L	1,3	1	
D	Etiologic agent, n.o.s.(*see also* Infectious substances, *etc.*).	6.2	NA2814		ETIOLOGIC AGENT.		196	196	None	50 ml or 50 g.	4 L or 4 kg	5	5	
	Explosive articles, see Articles, explosive													
	Explosive, blasting, type A	1.1D	UN0081											
	Explosive, blasting, type B	1.1D	UN0082											
	Explosive, blasting, type B	1.5D	UN0331											
	Explosive, blasting, type C	1.1D	UN0083											
	Explosive, blasting, type D	1.1D	UN0084											
	Explosive, blasting, type E	1.1D	UN0241											
	Explosive, blasting, type E	1.5D	UN0332											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Explosive, forbidden. See Sec. 173.51	Forbidden												
	Explosives, slurry, see Explosive, blasting, type E.													
	Explosive substances, see Substances, explosive.													
	Explosives, water gels, see Explosive, blasting, type E.													
	Extracts, aromatic, liquid	3	UN1169	I	FLAMMABLE LIQUID.	T7 T30	150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	T7, T30	150	203	242	60 L	220 L	1,3	1,3	
	Extracts, flavouring, liquid	3	UN1197	I	FLAMMABLE LIQUID.	T7, T30	150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID	T7, T30	150	203	242	60 L	220 L	1,3	1,3	
	Fabric with animal or vegetable oil. See Fibers or fabrics, etc.,													
	Ferric arsenate	6.1	UN1606	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Ferric arsenite	6.1	UN1607	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Ferric chloride	8	UN1773	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Ferric chloride, solution	8	UN2582	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
	Ferric nitrate	5.1	UN1466	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Ferrocerium	4.1	UN1323	II	FLAMMABLE SOLID.	A19	151	212	240	15 kg	50 kg	1,3	1,3	
	Ferrosilicon, with 30 percent or more but less than 90 percent silicon.	4.3	UN1408	III	DANGEROUS WHEN WET. KEEP AWAY FROM FOOD.	A1, A19	None	213	242	25 kg	100 kg	1,3	1,3	13, 40, 85
	Ferrous arsenate	6.1	UN1608	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
D	Ferrous chloride, solid	8	NA1759	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
D	Ferrous chloride, solution	8	NA1760	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
	Ferrous metal borings, shavings, turnings *or* cuttings *in a form liable to self-heating.*	4.2	UN2793	III	SPONTANEOUSLY COMBUSTIBLE.	A1, A19	None	213	241	25 kg	100 kg	1,2	1,2	
	Fertilizer ammoniating solution *with free ammonia.*	2.2	UN1043		NONFLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 65
AIW	Fibers *or* Fabrics, animal *or* vegetable, n.o.s. *with animal or vegetable oil.*	4.2	UN1373	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	
	Films, nitrocellulose base, from which gelatine has been removed; film scrap, see Celluloid scrap.													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Films, nitrocellulose base, *gelatine coated (except scrap)*.	4.1	UN1324	III	FLAMMABLE SOLID.		None	183	None	25 kg	100 kg	1	5	98
	Fire extinguisher charges, *corrosive liquid*	8	UN1774	II	CORROSIVE	N15, N34, N41.	154	202	None	1 L	30 L	1,2	1,2	
	Fire extinguisher charges, expelling, explosive, see Cartridges, power device.													
	Fire extinguishers *with compressed or liquefied gas.*	2.2	UN1044		NONFLAMMABLE GAS.		306	306	None	75 kg	150 kg	1,3	1,3	85
	Firelighters, solid *with flammable liquid*	4.1	UN2623	II	FLAMMABLE SOLID.	A19	None	212	None	15 kg	50 kg	1,3	1,3	
				III	FLAMMABLE SOLID.	A1, A19	None	213	None	25 kg	100 kg	1,3	1,3	
	Fireworks, type A	1.1G	UN0333											
	Fireworks, type B	1.2G	UN0334											
	Fireworks, type C	1.3G	UN0335											
	Fireworks, type D	1.4G	UN0336											
	Fireworks, type D	1.4S	UN0337											
	Fish meal *or* fish scrap, unstabilized	4.2	UN1374	II	SPONTANEOUSLY COMBUSTIBLE.	A1, A19	None	212	241	15 kg	50 kg	1,3	1,3	
ADW	Fish meal *or* fish scrap containing 6% to 12% water.	9	NA9300	III	CLASS 9	A1	155	213	241	No limit	No limit	1,2	1,2	
	Fissile radioactive materials, see Radioactive material, fissile, n.o.s..													
	Flammable compressed gas, see Compressed *or* Liquefied gas, flammable, *etc.*.													
	Flammable compressed gas (small receptacles not fitted with a dispersion device, not refillable), see Receptacles, *etc.*.													
	Flammable gas in lighters, *see* Lighters for cigars *or* cigarettes, *with flammable gas.*													
	Flammable liquids, corrosive, n.o.s.	3	UN2924	I	FLAMMABLE LIQUID, CORROSIVE.	T42	None	201	243	0.5 L	2.5 L	1,3	5	40
				II	FLAMMABLE LIQUID, CORROSIVE.	T15, T26	None	202	243	1 L	5 L	1,3	1	40
				III	FLAMMABLE LIQUID, CORROSIVE.	B1, T15, T26.	150	203	242	5 L	60 L	1,3	1,3	40
	Flammable liquids, n.o.s.	3	UN1993	I	FLAMMABLE LIQUID.	T42	150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Flammable liquids, poisonous, n.o.s.	3	UN1992	I	FLAMMABLE LIQUID, POISON.	B38, T42	None	201	243	Forbidden	30 L	1,3	5	40
				II	FLAMMABLE LIQUID, POISON.	T18	None	202	243	1 L	60 L	1,3	1	40
				III	FLAMMABLE LIQUID, KEEP AWAY FROM FOOD.	B1, T18	150	203	242	60 L	220 L	1,3	1,3	40
	Flammable solids, corrosive, n.o.s.	4.1	UN2925	I	FLAMMABLE SOLID, CORROSIVE.	A19	None	211	242	1 kg	15 kg	1	5	40, 74
				II	FLAMMABLE SOLID, CORROSIVE.		None	212	242	15 kg	50 kg	1	5	40, 74
				III	FLAMMABLE SOLID, CORROSIVE.	A1	151	213	242	25 kg	100 kg	1	5	
	Flammable solids, n.o.s.	4.1	UN1325	II	FLAMMABLE SOLID.		151	212	240	15 kg	50 kg	1,3	1	
				III	FLAMMABLE SOLID.		151	213	240	25 kg	100 kg	1,3	1	
	Flammable solids, poisonous, n.o.s.	4.1	UN2926	I	FLAMMABLE SOLID, POISON.	A19	None	211	242	1 kg	15 kg	1,3	5	
				II	FLAMMABLE SOLID, POISON.		None	212	242	15 kg	50 kg	1,3	1	
				III	FLAMMABLE SOLID, KEEP AWAY FROM FOOD.	A1	151	213	242	25 kg	100 kg	1,3	1	
	Flares, aerial	1.3G	UN0093											
	Flares, aerial	1.4G	UN0403											
	Flares, aerial	1.4S	UN0404											
	Flares, aerial	1.1G	UN0420											
	Flares, aerial	1.2G	UN0421											
	Flares, airplane, see Flares, aerial													
	Flares, signal, see Cartridges, signal													
	Flares, surface (*other than water activated contrivances*).	1.1G	UN0418											
	Flares, surface (*other than water activated contrivances*).	1.2G	UN0419											
	Flares, surface (*other than water-activated contrivances*).	1.3G	UN0092											
	Flares, water-activated, see Contrivances, water-activated, *etc.*.													
	Flash powder, in units, see Photo-flash powder, in units.													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Flue dusts, poisonous, see Arsenical dust													
	Fluoboric acid	8	UN1775	II	CORROSIVE	B2, B15, N3, N11, N26, N34, T15, T27.	154	202	242	1 L	30 L	1,2	1,2	
	Fluoric acid, see Hydrofluoric acid, solution, *etc.*													
	Fluorine, compressed	2.3	UN1045	I	POISON GAS, OXIDIZER.	10	None	302	245	Forbidden	Forbidden	1	5	40, 43, 95
	Fluoroacetic acid	6.1	UN2642	I	POISON		None	211	242	1 kg	15 kg	1,3	1,3	12, 95
	Fluoroanilines	6.1	UN2941	III	KEEP AWAY FROM FOOD.	T6	153	203	241	60 L	220 L	1,2	1,2	23, 34
	Fluorobenzene	3	UN2387	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Fluorophosphoric acid anhydrous	8	UN1776	II	CORROSIVE	B2, N3, N11, N25, N34, T9, T27.	None	202	242	1 L	30 L	1,2	1,2	
	Fluorosilicates, n.o.s.	6.1	UN2856	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Fluorosilicic acid	8	UN1778	II	CORROSIVE	B2, B15, N3, N11, N26, N34, T12, T27.	None	202	242	1 L	30 L	1,2	1,2	
	Fluorosulfonic acid	8	UN1777	I	CORROSIVE	B41, B4, B6, N1, N3, N11, N26, N35, T12, T27.	None	201	242	0.5 L	2.5 L	1	5	33, 40
	Fluorotoluenes	3	UN2388	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
				III	FLAMMABLE LIQUID.	B1, T8	150	202	242	60 L	220 L	1,3	1,3	
	Forbidden materials. See 173.21	Forbidden												
	Formaldehyde, solutions, *flammable*	3	UN1198	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	40
				III	FLAMMABLE LIQUID.	B1, T8	150	203	242	60 L	220 L	1,3	1,3	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or rail car	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Formaldehyde, solutions(*flashpoint greater than 60.5 degrees C*).	9	UN2209	III	CLASS 9	T1	155	204	240	100 L	220 L	1,2	1,2	34
	Formalin, see Formaldehyde, solutions													
	Formic acid	8	UN1779	II	CORROSIVE	B2, B12, B28, T8.	154	202	242	1 L	30 L	1,2	1,2	40
	Fracturing devices, explosive, *for oil wells*	1.1D	UN0099											
	Fuel, aviation, turbine engine	3	UN1863	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
D	Fuel oil(*No. 1, 2, 4, 5 or 6*)	3	NA1202	III	None		150	203	241	60 L	220 L	1,3	1,3	
	Fuel, pyrophoric, n.o.s.	4.2	UN1375	I	SPONTANEOUSLY COMBUSTIBLE.	B11	None	181	244	Forbidden	Forbidden	1	5	18
	Fulminate of mercury (dry)	Forbidden												
	Fulminate of mercury, wet, see Mercury fulminate, *etc.*													
	Fulminating gold	Forbidden												
	Fulminating mercury	Forbidden												
	Fulminating platinum	Forbidden												
	Fulminating silver	Forbidden												
	Fulminic acid	Forbidden												
	Fumaryl chloride	8	UN1780	II	CORROSIVE	B2, T8, T26.	154	202	242	1 L	30 L	1	1	80, 40
	Furan	3	UN2389	I	FLAMMABLE LIQUID.		None	201	242	1 L	30 L	1	1,3	
	Furfural	3	UN1199	III	FLAMMABLE LIQUID.	T1	150	203	241	60 L	220 L	1,3	1,3	
	Furfuryl alcohol	6.1	UN2874	III	KEEP AWAY FROM FOOD.	T2	153	203	240	60 L	220 L	1,2	1,2	34, 74
	Furfurylamine	3	UN2526	III	FLAMMABLE LIQUID.	T1	150	203	241	60 L	220 L	1,3	1,3	
	Fuse, detonating, *metal clad, see* Cord, detonating, *metal clad.*													
	Fuse, detonating, mild effect, *metal clad, see* Cord, detonating, mild effect, *metal clad.*													
D	Fusee (*railway or highway*)	4.1	NA1325	II	FLAMMABLE SOLID.		None	184	None	15 kg	50 kg	1,3	1	
	Fuse, igniter *tubular metal clad*	1.4G	UN0103											
	Fuse, instantaneous, non-detonating	1.3G	UN0101											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(5) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Fusel oil	3	UN1201	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Fuse, safety	1.4S	UN0105											
	Fuses, tracer, see Tracers for ammunition													
	Fuses, combination, percussion and time, see Fuzes, detonating (*UN 0257, 0367*); Fuzes, igniting (UN 0317, 0368).													
	Fuzes, detonating	1.1B	UN0106											
	Fuzes, detonating	1.2B	UN0107											
	Fuzes, detonating	1.4B	UN0257											
	Fuzes, detonating	1.4S	UN0367											
	Fuzes, detonating, *with protective features*	1.1D	UN0408											
	Fuzes, detonating, *with protective features*	1.2D	UN0409											
	Fuzes, detonating, *with protective features*	1.4D	UN0410											
	Fuzes, igniting	1.3G	UN0316											
	Fuzes, igniting	1.4G	UN0317											
	Fuzes, igniting	1.4S	UN0368											
	Galactsan trinitrate	Forbidden												
	Gallium	8	UN2803	I	CORROSIVE		None	162	240	20 kg	20 kg	1,3	1	26, 48
	Gas drips, *hydrocarbon*	3	UN1864	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Gas generator assemblies (aircraft), *containing a non-flammable non-toxic gas and a propellant cartridge.*	2.2			NONFLAMMABLE GAS.		None	335	None	75 kg	150 kg	1,3	1,3	
D	Gas identification set	2.3	NA9035	II	POISON GAS	10	None	194	None	Forbidden	Forbidden	1	5	
D	Gas identification set	6.1	NA9035	I	POISON		None	194	None	Forbidden	Forbidden	1,2	5	
D	Gasohol (*gasoline mixed with ethyl alcohol, max. 20% alcohol*).	3	NA1203	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	5	12
	Gas oil	3	UN1202	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Gasoline	3	UN1203	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	Gasoline, casinghead, see Natural gasoline													
	Gelatine, blasting, see Explosive, blasting, type A.													
	Gelatine dynamites, see Explosive, blasting, type A.													
	Germane	2.3	UN2192	I	POISON GAS, FLAMMABLE GAS.	10	None	192	245	Forbidden	Forbidden	1	5	40, 95
	Glycerol-1,3-dinitrate	Forbidden												
	Glycerol gluconate trinitrate	Forbidden												

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Glycerol lactate trinitrate	Forbidden												
	Glycerol alpha-monochlorohydrin	6.1	UN2689	III	KEEP AWAY FROM FOOD.	T2	153	203	241	60 L	220 L	1,2	1,2	34
	Glyceryl trinitrate, see Nitroglycerin, *etc.*													
	Glycidaldehyde	3	UN2622	II	FLAMMABLE LIQUID, POISON.	T8	150	202	243	1 L	60 L	1,3	1,3	40
	Grenades, *hand or rifle, with bursting charge.*	1.1D	UN0284											
	Grenades, *hand or rifle, with bursting charge.*	1.2D	UN0285											
	Grenades, *hand or rifle, with bursting charge.*	1.1F	UN0292											
	Grenades, *hand or rifle, with bursting charge.*	1.2F	UN0293											
	Grenades, illuminating, see Ammunition, illuminating, *etc.*.													
	Grenades practice	1.4G	UN0452											
	Grenades, practice, *hand or rifle*	1.4S	UN0110											
	Grenades, practice, *hand or rifle*	1.3G	UN0318											
	Grenades, practice, *hand or rifle*	1.2G	UN0372											
	Grenades, smoke, see Ammunition, smoke, *etc.*.													
	Guanidine nitrate	5.1	UN1467	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	73
	Guanyl nitrosaminoguanylidene hydrazine (dry).	Forbidden												
	Guanyl nitrosaminoguanylidene hydrazine, *wetted with not less than 30 per cent water, by weight.*	1.1A	UN0113											
	Guanyl nitrosaminoguanyltetrazene (dry)	Forbidden												
	Guanyl nitrosaminoguanyltetrazene (Tetrazene), *wetted with not less than 30 per cent water by weight, or mixture of alcohol and water.*	1.1A	UN0114											
	Gunpowder, compressed *or* Gunpowder in pellets, *see* Black powder (*UN 0028*).													
	Gunpowder, *granular or as a meal, see* Black powder (*UN 0027*).													
D	Guthion. *See* Azinphos methyl													
	Gutta percha solution	3	UN1205	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Hafnium powder, dry (*a*) *mechanically produced, particle size between 3 and 53 microns;* (*b*) *chemically produced, particle size between 10 and 840 microns.*	4.2	UN2545	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N34.	None	212	241	15 kg	50 kg	1	5	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or rail car	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Hafnium powder, wetted *with not less than 25 per cent water (a visible excess of water must be present) (a) mechanically produced, particle size less than 53 microns; (b) chemically produced, particle size less than 840 microns.*	4.1	UN1326	II	FLAMMABLE SOLID.	A19, A20, N11, N34.	None	212	241	15 kg	50 kg	1,3	5	
	Halogenated irritating liquids, n.o.s.	6.1	UN1610	I	POISON	T42	None	201	243	Forbidden	Forbidden	1	5	23, 40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1	5	23, 40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	202	241	60 L	220 L	1	5	23, 34, 40
	Hand signal device, see Signal devices, hand.													
D	Hazardous substance, liquid, n.o.s., *or* ORM-E, liquid, n.o.s.	ORM-E	NA9188	III	None		156	203	241	No limit	No limit	1,2	1,2	
D	Hazardous substance, solid, n.o.s., *or* ORM-E, solid, n.o.s.	ORM-E	NA9188	III	None		156	213	240	No limit	No limit	1,2	1,2	
D	Hazardous waste, liquid, n.o.s.	ORM-E	NA9189	III	None		156	203	241	No limit	o limit	1,2	1,2	
D	Hazardous waste, solid, n.o.s.	ORM-E	NA9189	III	None		156	213	240	No limit	No limit	1,2	1,2	
	Helium, compressed	2.2	UN1046		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
	Helium-oxygen mixture, see Rare gases and oxygen mixtures.													
	Helium, refrigerated liquid (*cryogenic liquid*)	2.2	UN1963		NONFLAMMABLE GAS.		320	316	318	50 kg	500 kg	1,3	1	85
	n-Heptaldehyde	3	UN3056	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,2	1	
	Heptanes	3	UN1206	II	FLAMMABLE LIQUID.	T2	150	202	242	5 L	60 L	1,3	1	
	n-Heptene	3	UN2278	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Hexachloroacetone	6.1	UN2661	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	12, 34, 40
	Hexachlorobenzene	6.1	UN2729	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Hexachlorobutadiene	6.1	UN2279	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	Hexachlorocyclopentadiene	6.1	UN2646	I	POISON	10, B14, B32.	None	227	244	Forbidden	Forbidden	1	5	40, 95
	Hexachlorophene	6.1	UN2875	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Hexadecyltrichlorosilane	8	UN1781	II	CORROSIVE	B2, B6, N28, N34, T8.	None	202	242	Forbidden	30 L	1	1	40
	Hexadiene	3	UN2458	II	FLAMMABLE LIQUID.	T7	None	202	242	5 L	60 L	1,3	5	12
	Hexaethyl tetraphosphate and compressed gas mixtures.	2.3	UN1612	I	POISON GAS	B14, B31, 10.	None	334	244	Forbidden	Forbidden	1	5	40, 95

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Hexaethyl tetraphosphate, *liquid*	6.1	UN1611	I	POISON	A4	None	201	243	1 L	30 L	1,2	5	40, 95
				II	POISON	N76	None	202	243	5 L	60 L	1,2	5	40, 95
				III	KEEP AWAY FROM FOOD.	N77	None	203	241	60 L	220 L	1,2	5	34, 40
	Hexaethyl tetraphosphate mixture, see Organophosphorous pesticide *etc.*													
	Hexaethyl tetraphosphate, *solid*	6.1	UN1611	I	POISON		None	211	242	Forbidden	15 kg	1,2	5	95
				II	POISON	N76	None	212	242	25 kg	100 kg	1,2	5	95
				III	KEEP AWAY FROM FOOD.	N77	153	213	240	100 kg	200 kg	1,2	5	34
	Hexafluoroacetone	2.3	UN2420	I	POISON GAS	B14, B31, 10.	None	304	244	Forbidden	Forbidden	1	5	40, 95
	Hexafluoroacetone hydrate	6.1	UN2552	II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95
	Hexafluoroethane	2.2	UN2193		NONFLAMMABLE GAS.	B13	306	304	244	75 kg	150 kg	1,3	1,3	85
	Hexafluorophosphoric acid	8	UN1782	II	CORROSIVE	B2, N3, N11, N26, N34, T9, T27.	None	202	242	1 L	30 L	1,2	1,2	
	Hexafluoropropylene	2.2	UN1858		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
D	Hexafluoropropylene oxide	2.2	NA1956		NONFLAMMABLE GAS.	B13	306	304	244, 314	75 kg	150 kg	1,3	1,3	85
	Hexaldehyde	3	UN1207	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Hexamethylenediamine, solid	8	UN2280	III	CORROSIVE		154	213	242	25 kg	100 kg	1,3	1,3	12
	Hexamethylenediamine solution	8	UN1783	II	CORROSIVE, POISON.	T8	None	202	243	1 L	30 L	1,2	1,2	
	Hexamethylenediisocyanate	6.1	UN2281	II	POISON	T14	None	202	243	5 L	60 L	1,2	1	13, 40, 95
	Hexamethyleneimine	3	UN2493	II	FLAMMABLE LIQUID, CORROSIVE.	T8	None	202	243	1 L	5 L	1,3	1	40
	Hexamethylene triperoxide diamine (dry)	Forbidden												
	Hexamethylol benzene hexanitrate	Forbidden												
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxacyclononane, *not more than 52 per cent in solution.*	5.2	UN2167	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxacyclononane, *not more than 52 per cent with inert solid.*	5.2	UN2166	II	ORGANIC PEROXIDE.		152	225	None	5 kg	10 kg	1	5	12, 40
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxacyclononane, *technically pure.*	5.2	UN2165	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Hexamine	4.1	UN1328	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Hexanes	3	UN1208	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or rail car	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Hexanitrooxy benzene	Forbidden												
	2,2',4,4',6,6'-Hexanitro-3,3'-dihydroxyazobenzene (dry).	Forbidden												
	2,2',3',4,4',6-Hexanitrodiphenylamine	Forbidden												
	Hexanitrodiphenylamine (Dipicrylamine; Hexyl).	1.1D	UN0079											
	2,3',4,4',6,6'-Hexanitrodiphenylether	Forbidden												
	N,N'-(hexanitrodiphenyl) ethylene dinitramine (dry).	Forbidden												
	Hexanitrodiphenyl urea	Forbidden												
	Hexanitroethane	Forbidden												
	Hexanitrooxanilide	Forbidden												
	Hexanitrostilbene	1.1D	UN0392											
	Hexanoic acid, see Corrosive liquid, n.o.s.													
	Hexanols	3	UN2282	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Hexanonal, cast	1.1D	UN0393											
	1-Hexene	3	UN2370	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
	Hexogen, *see* Cyclotrimethylenetrinitramine, etc.													
	Hexolite, *dry or wetted a less than 15 per cent water, by weight.*	1.1D	UN0118											
	Hexyl, *see* Hexanitrodiphenylamine													
	Hexyltrichlorosilane	8	UN1784	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	High explosives, see individual explosives' entries.													
	HMX, *see* Cyclotetramethylene-tetranitramine, etc.													
	Hydrazine, *anhydrous or* Hydrazine aqueous solutions *with more than 64 per cent hydrazine, by weight.*	8	UN2029	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B16, B17, B24, N1, N11, N20, N35, T25.	None	201	243	Forbidden	2.5 L	1	5	40
	Hydrazine azide	Forbidden												
	Hydrazine chlorate	Forbidden												

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or rail car	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Hydrazine dicarbonic acid diazide	Forbidden												
	Hydrazine hydrate *or* Hydrazine aqueous solutions, *with not more than 64 per cent hydrazine, by weight.*	8	UN2030	II	CORROSIVE, POISON.	B16, B17, B24, T15.	None	202	243	Forbidden	30 L	1	5	40, 42, 82
	Hydrazine perchlorate	Forbidden												
	Hydrazine selenate	Forbidden												
	Hydrides, metal, n.o.s.	4.3	UN1409	I	DANGEROUS WHEN WET.	A19, N34	None	211	242	Forbidden	15 kg	1	5	22
	Hydriodic acid, anhydrous, see Hydrogen iodide, anhydrous.													
	Hydriodic acid, solution	8	UN1787	II	CORROSIVE	B2, N1, N11, N16, N34, N41, T9, T27.	154	202	242	1 L	30 L	1	1	8
	Hydrobromic acid, anhydrous, see Hydrogen bromide, anhydrous.													
	Hydrobromic acid solution, *more than 49 per cent strength.*	8	UN1786	I	CORROSIVE	B4, B15, N1, N11, N16, N34, N41.	None	201	242	Forbidden	Forbidden	1	1	83, 33
	Hydrobromic acid solution, *not more than 49 per cent strength.*	8	UN1788	II	CORROSIVE	B2, B15, N1, N11, N16, N34, N41.	154	202	242	1 L	30 L	1	1	
	Hydrocarbon gases, compressed, n.o.s. *or* Hydrocarbon gases mixtures, compressed, n.o.s.	2.1	UN1964		FLAMMABLE GAS.	B13	306	302	244	Forbidden	150 kg	1,3	1	40, 85
	Hydrocarbon gases, liquefied, n.o.s. *or* Hydrocarbon gases mixtures, liquefied, n.o.s.	2.1	UN1965		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	1	40, 85
	Hydrochloric acid, anhydrous, see Hydrogen chloride, anhydrous.													
	Hydrochloric acid, solution	8	UN1789	II	CORROSIVE	B2, B8, B15, N1, N11, N34, N41, T9, T27.	154	202	242	1 L	30 L	1	1	83, 33
	Hydrocyanic acid, anhydrous, see Hydrogen cyanide.													

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	Hydrocyanic acid, aqueous solutions*less than 5% HCN.*	6.1	UN1613	II	POISON	B12, T18, T26.	None	195	243	Forbidden	5 L	1	5	40
	Hydrocyanic acid, aqueous solutions*not more than 20% HCN.*	6.1	UN1613	I	POISON	B12, B14, B32, 10.	None	195	244	Forbidden	Forbidden	1	5	40, 85
	Hydrocyanic acid, liquefied, see Hydrogen cyanide, *etc.*.													
	Hydrofluoric acid and Sulfuric acid mixtures	8	UN1786	I	CORROSIVE, POISON.	B15, B29, N5, N11, N26, N34, T18, T27.	None	201	243	Forbidden	2.5 L	1	5	33, 40
	Hydrofluoric acid, anhydrous, see Hydrogen fluoride, anhydrous.													
	Hydrofluoric acid, solution, *more than 60 per cent strength.*	8	UN1790	I	CORROSIVE, POISON.	B4, B12, B15, B29, N5, N11, N26, N34, T18, T27.	None	201	243	0.5 L	2.5 L	1	5	12
	Hydrofluoric acid, solution, *not more than 60 per cent strength.*	8	UN1790	II	CORROSIVE, POISON.	B12, B15, N5, N11, N26, N34, T18, T27.	None	202	243	1 L	30 L	1	5	12
	Hydrofluoraboric acid, see Fluoboric acid													
	Hydrofluorosilicic acid, see Fluorosilicic acid.													
	Hydrogen and Methane mixtures, compressed.	2.1	UN2034		FLAMMABLE GAS.	B13	306	302	244	Forbidden	150 kg	1,3	5	40, 85
	Hydrogen bromide, anhydrous	2.3	UN1048	II	POISON GAS, CORROSIVE.	B12, B14, B33, 10.	None	304	244	Forbidden	Forbidden	1	5	40, 95
	Hydrogen chloride, anhydrous	2.3	UN1050	II	POISON GAS, CORROSIVE.	B12, B34, 10.	None	304	244	Forbidden	Forbidden	1	5	34, 40, 95
	Hydrogen chloride, refrigerated liquid	2.3	UN2186	II	POISON GAS, CORROSIVE.	10, B6, B43.	None	None	314, 315	Forbidden	Forbidden	1,3	4	40
	Hydrogen, compressed	2.1	UN1049		FLAMMABLE GAS.	B13	306	302	244	Forbidden	150 kg	1,3	5	40, 57, 85
	Hydrogen cyanide, anhydrous, stabilized	6.1	UN1051	I	POISON, FLAMMABLE LIQUID.	10, B12, B14, B30.	None	195	245	Forbidden	Forbidden	1	5	21, 25, 40, 95
	Hydrogen cyanide, anhydrous, stabilized, *absorbed in a porous inert material.*	6.1	UN1614	I	POISON	B12	None	195	243	Forbidden	Forbidden	1	5	25, 40, 95

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Hydrogen cyanide, unstabilized	Forbidden												
	Hydrogen fluoride, anhydrous	8	UN1052	I	CORROSIVE, POISON.	B12, T24, T27.	None	163	243	Forbidden	Forbidden	1	5	40
	Hydrogen iodide, anhydrous	2.2	UN2197		NONFLAMMABLE GAS, CORROSIVE.	B13	306	304	244	Forbidden	Forbidden	1	5	40, 85
	Hydrogen iodide solution, see Hydriodic acid, solution.													
	Hydrogen peroxide, aqueous solutions *with more than 40 per cent but not more than 60 per cent hydrogen peroxide (stabilized as necessary).*	5.1	UN2014	II	OXIDIZER, CORROSIVE.	B12, B17, B28, N1, N11, N41, T14.	None	202	243	Forbidden	Forbidden	1	5	25, 46, 75
	Hydrogen peroxide, aqueous solutions *with not less than 20 per cent but not more than 40 per cent hydrogen peroxide (stabilized as necessary).*	5.1	UN2014	II	OXIDIZER, CORROSIVE.	A2, B12, B17, B28, N1, N11, N41, T14.	None	202	243	1 L	5 L	1	5	25, 46, 75
	Hydrogen peroxide, aqueous solutions *with not less than 8 per cent but less than 20 per cent hydrogen peroxide (stabilized as necessary).*	5.1	UN2984	III	OXIDIZER	A1, N41, 17.	152	203	241	2.5 L	30 L	1,2	1	25, 46, 75
	Hydrogen peroxide, stabilized *or* Hydrogen peroxide aqueous solutions, stabilized *with more than 60 per cent hydrogen peroxide.*	5.1	UN2015	I	OXIDIZER, CORROSIVE.	B12, B17, B28, N1, N11, N41, T15.	None	201	243	Forbidden	Forbidden	1	5	25, 46, 75
	Hydrogen, refrigerated liquid (*cryogenic liquid*).	2.1	UN1966		FLAMMABLE GAS.		None	316	318, 319	Forbidden	Forbidden	5	5	40, 85
	Hydrogen selenide, anhydrous	2.3	UN2202	I	POISON GAS, FLAMMABLE GAS.	10	None	192	245	Forbidden	Forbidden	1	5	40, 95
	Hydrogen sulfate, see Sulfuric acid													
	Hydrogen sulfide, liquefied	2.3	UN1053	I	POISON GAS, FLAMMABLE GAS.	10	None	304	314	Forbidden	Forbidden	1	5	34, 40, 95
	Hydroquinone	6.1	UN2662	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Hydrosilicofluoric acid, see Fluorosilicic acid.													
	3-(2-Hydroxyethoxy)-4-pyrrolidin-1-ylbenzenediazonium zinc chloride.	4.1	UN3035	II	FLAMMABLE SOLID.		None	214	240	Forbidden	Forbidden	1	5	2
	Hydroxyl amine iodide	Forbidden												
AW	Hydroxylamine sulfate	8	UN2865	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Hypochlorite solutions *with more than 5 per cent but less than 16 per cent available chlorine.*	8	UN1791	III	CORROSIVE	N34, T7	154	203	241	5 L	60 L	1,2	1	
	Hypochlorite solutions *with not less than .16 per cent available chlorine.*	8	UN1791	II	CORROSIVE	B2, B15, B37, N26, N34, T7.	154	202	242	1 L	30 L	1,2	1	
	Hyponitrous acid	Forbidden												
	Igniter for aircraft thrust device *for assisted take-off.*	4.1	UN2792	II	FLAMMABLE SOLID.		None	160	None	Forbidden	50 kg	1,3	5	
	Igniter fuse, metal clad, see Fuse, igniter, tubular, metal clad.													
	Igniters	1.1G	UN0121											
	Igniters	1.2G	UN0314											
	Igniters	1.3G	UN0315											
	Igniters *Iminobispropylamine, see* 3,3-Iminodipropylamine.	1.4G	UN0325											
	3,3'-Iminodipropylamine	8	UN2269	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	
1	Infectious substances, affecting animals *only* (*See also* Etiologic agent, n.o.s.).	6.2	UN2900		INFECTIOUS SUBSTANCE.		196	196	None	50 ml or 50 g.	4 L or 4 kg	5	5	
1	Infectious substances, affecting humans (*See also* Etiologic agent, n.o.s.).	6.2	UN2814		INFECTIOUS SUBSTANCE.		196	196	None	50 ml or 50 g.	4 L or 4 kg	5	5	
	Inflammable, see Flammable													
	Initiating explosives (dry)	Forbidden												
	Ink, *printer's, flammable*	3	UN1210	II	FLAMMABLE LIQUID.	T7, T30,	150	173	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	173	242	60 L	220 L	1,3	1,3	
	Inositol hexanitrate (dry)	Forbidden												
	Insecticide gases, n.o.s.	2.2	UN1968		NONFLAMMABLE GAS.	B13	306	304	344	75 kg	150 kg	1,3	1,3	85
	Insecticide gases, toxic, n.o.s.	2.3	UN1967	I	POISON GAS	10	None	193, 334	245	Forbidden	Forbidden	1	5	25, 40, 95
	Inulin trinitrate (dry)	Forbidden												
	Iodine azide (dry)	Forbidden												
	Iodine monochloride	8	UN1792	II	CORROSIVE	B6, N16, N34, N41, T8, T26.	None	202	242	Forbidden	50 kg	1	5	40
	Iodine pentafluoride	5.1	UN2495	I	OXIDIZER, POISON.		None	205	243	Forbidden	2.5 L	1	5	13, 40
	2-Iodobutane	3	UN2390	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Iodomethylpropanes	3	UN2391	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Iodopropanes	3	UN2392	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
				III	FLAMMABLE LIQUID.		150	203	241	60 L	220 L	1,2	1,2	
	Iodoxy compounds (dry)	Forbidden												
	Iridium nitratopentamine iridium nitrate	Forbidden												
	Iron chloride, see Ferric chloride													
	Iron oxide, spent, *or* Iron sponge, spent (*obtained from coal gas purification*).	4.2	UN1376	III	SPONTANEOUSLY COMBUSTIBLE.	B15	None	213	240	Forbidden	Forbidden	1,3	5	
	Iron pentacarbonyl	6.1	UN1994	I	POISON, FLAMMABLE LIQUID.	B14, B30, 10.	None	192	244	Forbidden	Forbidden	1	5	21, 25, 40, 95
	Iron sesquichloride, see Ferric chloride													
	Irritating agents, see Tear gas substances, etc.													
	Isobutane *or* Isobutane mixtures *see also* Petroleum gases, liquified.	2.1	UN1969		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Isobutanol *or* Isobutyl alcohol	3	UN1212	III	FLAMMABLE LIQUID.	T1	150	203	241	60 L	220 L	1,3	1	
	Isobutyl acetate	3	UN1213	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isobutyl acrylate	3	UN2527	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Isobutyl alcohol, *see* Isobutanol													
	Isobutyl aldehyde, *see* Isobutyraldehyde													
	Isobutylamine	3	UN1214	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Isobutylene *see also* Petroleum gases, liquified.	2.1	UN1055		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Isobutyl formate	3	UN2393	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isobutyl isobutyrate	3	UN2528	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Isobutyl isocyanate	3	UN2486	II	FLAMMABLE LIQUID, POISON.	T9	None	202	243	1 L	60 L	1	5	12, 40, 48
	Isobutyl methacrylate	3	UN2283	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Isobutyl propionate	3	UN2394	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	
	Isobutyraldehyde *or* Isobutyl aldehyde	3	UN2045	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12, 40
	Isobutyric acid	3	UN2529	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Isobutyric anhydride	3	UN2530	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Isobutyronitrile	3	UN2284	II	FLAMMABLE LIQUID, POISON.	T17	None	202	243	1 L	60 L	1,3	5	12, 40
	Isobutyryl chloride	3	UN2395	II	FLAMMABLE LIQUID, CORROSIVE.	T9, T26	None	202	243	1 L	5 L	1	1	13, 25, 40
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s. *boiling point not less than 300deg C.*	6.1	UN2207	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34, 48
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s., *flash point more than 60.5deg C and boiling point less than 300deg C.*	6.1	UN2206	II	POISON.	T15	None	202	243	5 L	60 L	1,3	1	25, 40, 95
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s., *flash point not less than 23deg C but not more than 60.5deg C and boiling point less than 300deg C.*	6.1	UN2206	II	POISON, FLAMMABLE LIQUID.	T15	None	202	243	5 L	60 L	1,3	1	22, 25, 40, 95
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s., *flash point less than 23deg C.*	3	UN2478	I	FLAMMABLE LIQUID, POISON.	B40, N1, N26.	None	201	243	Forbidden	Forbidden	1	5	12, 40, 48
				II	FLAMMABLE LIQUID, POISON.	N1, N26	None	202	243	1 L	60 L	1	5	12, 40, 48
	Isocyanatobenzotrifluorides	6.1	UN2285	II	POISON.	T14	None	202	243	5 L	60 L	1,2	1	25, 40, 95
	Isoheptene	3	UN2287	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	5	12
	Isohexene	3	UN2288	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	5	12
	Isononanoyl peroxide, see Di-(3,3,5-trimethylhexanoyl) peroxide.													
	Isooctane, see Octanes													
	Isooctene	3	UN1216	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Isopentane, *see* n-Pentane													
	Isopentanoic acid, see Corrosive liquids, n.o.s.													
	Isopentenes	3	UN2371	I	FLAMMABLE LIQUID.	N15, T20	150	201	243	1 L	30 L	1,3	5	12
AW	Isophoronediamine	8	UN2289	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,2	1,2	8
	Isophoronediisocyanate	6.1	UN2290	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1	34, 40
	Isoprene, inhibited	3	UN1218	I	FLAMMABLE LIQUID.	T20	150	201	243	1 L	30 L	1,3	5	12
	Isopropanol *or* Isopropyl alcohol	3	UN1219	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isopropenyl acetate	3	UN2403	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Isopropenyl benzene	3	UN2303	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Isopropyl acetate	3	UN1220	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isopropyl acid phosphate	8	UN1793	III	CORROSIVE	T7	154	213	240	25 kg	100 kg	1,2	1,2	
	Isopropyl alcohol, *see* Isopropanol													
	Isopropylamine	3	UN1221	I	FLAMMABLE LIQUID.	T20	None	201	243	1 L	30 L	1,3	5	12, 40
	Isopropylbenzene	3	UN1918	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	
	Isopropyl butyrate	3	UN2405	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	
	Isopropyl chloroacetate	3	UN2947	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Isopropyl chloroformate	3	UN2407	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	1	40
	Isopropyl-2-chloropropionate	3	UN2934	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Isopropylcumyl hydroperoxide *or* Diisopropylbenzene hydroperoxide, *not more than 72 per cent in solution.*	5.2	UN2171	I	ORGANIC PEROXIDE.	B21, T25	None	225	243	1 L	5 L	1	5	12, 40
	Isopropylcumyl hydroperoxide, more than 72 per cent in solution.	Forbidden												
	Isopropyl isobutyrate	3	UN2406	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isopropyl isocyanate	3	UN2483	I	FLAMMABLE LIQUID, POISON.	N15, N26, T18, T26.	None	201	243	Forbidden	30 L	1	5	12, 40
	Isopropyl mercaptan, see Propanethiols													
	Isopropyl nitrate	3	UN1222	II	FLAMMABLE LIQUID.	T25	150	202	None	5 L	60 L	1,3	1	
	Isopropyl peroxydicarbonate, *see* Diisopropyl peroxydicarbonate, *etc.*.													
	Isopropyl phosphoric acid, see Isopropyl acid phosphate.													
	Isopropyl propionate	3	UN2409	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Isosorbide dinitrate mixture *with not less than 60 per cent lactose, mannose, starch or calcium hydrogen phosphate.*	4.1	UN2907	II	FLAMMABLE SOLID.		None	212	None	15 kg	50 kg	1,3	5	
	Isothiocyanic acid	Forbidden												
	Jet fuel, see Fuel aviation, turbine engine													
	Jet perforating guns, charged *oil well, without detonator.*	1.1D	UN0124											
	Jet perforators, see Charges, shaped, commercial.													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Jet tappers, without detonator, see Charges, shaped commercial, etc..													
	Jet thrust igniters, for rocket motors or Jato, see Igniters.													
	Jet thrust unit (Jato), see Rocket motors													
	Kerosene	3	UN1223	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Ketones, liquid, n.o.s.	3	UN1224	II	FLAMMABLE LIQUID.	T8, T30	150	202	242	5 L	60 L	1,3	1	12
				III	FLAMMABLE LIQUID.	B1, T7, T31.	150	203	242	60 L	220 L	1,3	1,3	
	Krypton, compressed	2.2	UN1056		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
	Krypton, refrigerated liquid	2.2	UN1970		NONFLAMMABLE GAS.	B13	320		244	50 kg	500 kg	1,3	1,3	85
D	Lacquer base, *or* Lacquer chips, dry	4.1	NA2557	II	FLAMMABLE SOLID.	A19, N16	151	212	240	1 kg	15 kg	1	1	
	Lacquer base or lacquer chips, nitrocellulose, dry, see Nitrocellulose, *etc. (UN 2557).*													
	Lacquer base or lacquer chips, plastic, wet with alcohol or solvent, see Nitrocellulose *(UN 2059, 2060, 2555, 2556) or* Paint *etc. (UN1263).*													
	Lauroyl peroxide, *see* Dilauroyl peroxide													
	Lead acetate	6.1	UN1616	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Lead arsenates	6.1	UN1617	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Lead arsenites	6.1	UN1618	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Lead azide (dry)	Forbidden												
	Lead azide, wetted *with not less than 20 per cent water, by weight, or mixture of alcohol and water.*	1.1A	UN0129											
	Lead compounds, soluble, n.o.s.	6.1	UN2291	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Lead cyanide	6.1	UN1620	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	26, 95
	Lead dioxide	5.1	UN1872	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	34
	Lead dross, see Lead sulphate, *with more than 3% free acid.*													
	Lead nitrate	5.1	UN1469	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,2	1,2	95
	Lead nitroresorcinate (dry)	Forbidden												
	Lead perchlorate	5.1	UN1470	II	OXIDIZER, POISON.	T8	None	212	242	5 kg	25 kg	1,2	1,2	46, 95
	Lead peroxide, see Lead dioxide													

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Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or rail car	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Lead phosphite, dibasic	4.1	UN2989	II	FLAMMABLE SOLID.		None	212	240	5 kg	25 kg	1,3	1	34
	Lead picrate (dry)	Forbidden												
	Lead styphnate (dry)	Forbidden												
	Lead styphnate (Lead trinitroresorcinate), wetted *with not less than 20 per cent water, by weight (or mixture of alcohol and water).*	1.1A	UN0130											
	Lead sulfate *with more than 3 per cent free acid.*	8	UN1794	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
D	Lead sulfide	6.1	NA2291	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	
	Lead trinitroresorcinate, *see* Lead styphnate, *etc.*.													
	Life-saving appliances, not self inflating *containing hazardous materials as equipment.*	9	UN3072		CLASS 9			219	None	No limit	No limit	1,2	1,2	
	Life-saving appliances, self inflating	9	UN2990		CLASS 9			219	None	No limit	No limit	1,2	1,2	
	Lighter replacement cartridges containing liquefied petroleum gases (and similar devices, each not exceeding 65 grams), see Lighters for cigars, cigarettes, *etc. with flammable gas.*													
	Lighters for cigars, cigarettes, *etc. with flammable gas; or* Flammable gas in lighters.	2.1	UN1057		FLAMMABLE GAS.	21	None	308	None	1 kg	15 kg	1	1	40
D	Lighters for cigars, cigarettes, *etc., with lighter fluids.*	3	NA1226	II	FLAMMABLE LIQUID.	N72	150	202	None	Forbidden	Forbidden	1,3	1	12
	Lighters, fuse	1.4S	UN0131											
	Lime, unslaked, see Calcium oxide													
	Liquefied gases, *non-flammable charged with nitrogen, carbon dioxide or air.*	2.2	UN1058		NONFLAMMABLE GAS.	B13	306	304	244	75 kg	150 kg	1,3	1,3	85
	Liquefied hydrocarbon gas, see Hydrocarbon gases, liquefied, n.o.s., *etc.*.													
	Liquefied natural gas, see Methane, *etc. (UN 1972).*													
	Liquefied petroleum gas *see* Petroleum gases, liquefied.													
	Lithium	4.3	UN1415	II	DANGEROUS WHEN WET.	A19, N16, N26, N34, N45, 22.	None	212	None	Forbidden	50 kg	1	5	
	Lithium acetylide ethylenediamine complex, see Substances which in contact with water emit flammable gases.													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Lithium alkyls	4.2	UN2445	I	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	B11, T28, T40.	None	181	244	Forbidden	Forbidden	1	5	
	Lithium aluminum hydride	4.3	UN1410	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1	5	
	Lithium aluminum hydride, ethereal	4.3	UN1411	I	DANGEROUS WHEN WET, FLAMMABLE LIQUID.	A2, N1, N16, N34, N40.	None	201	244	Forbidden	1 L	1	5	40
	Lithium amide	4.3	UN1412	II	DANGEROUS WHEN WET.		None	212	None	15 kg	50 kg	1	5	
D	Lithium batteries	4.3	NA1415	II	DANGEROUS WHEN WET.		None	185	None	Forbidden	35 kg	1,3	5	
	Lithium borohydride	4.3	UN1413	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	
	Lithium ferrosilicon	4.3	UN2830	II	DANGEROUS WHEN WET.	A19	None	212	241	15 kg	50 kg	1,3	5	
	Lithium hydride	4.3	UN1414	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1	5	
	Lithium hydride, fused solid	4.3	UN2805	II	DANGEROUS WHEN WET.	A19, A20, N2.	None	212	241	15 kg	50 kg	1	5	
	Lithium hydroxide, monohydrate	8	UN2680	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Lithium hydroxide, solution	8	UN2679	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	96
	Lithium hypochlorite, dry *or* Lithium hypochlorite mixtures.	5.1	UN1471	II	OXIDIZER	N13, N34	152	212	None	5 kg	25 kg	1,2	1,2	
	Lithium in cartridges, see Lithium													
	Lithium nitrate	5.1	UN2722	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	
	Lithium nitride	4.3	UN2806	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	
	Lithium peroxide	5.1	UN1472	II	OXIDIZER	N13, N34	152	212	None	5 kg	25 kg	1,2	1,2	13
	Lithium silicon	4.3	UN1417	II	DANGEROUS WHEN WET.	A19, A20	None	212	241	15 kg	50 kg	1,3	1,3	
	LNG, see Methane etc. (*UN 1972*)													
	London Purple	6.1	UN1621	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	LPG, see Petroleum gases, liquefied													
	Lye, see Sodium hydroxide, solutions													
	Magnesium *or* Magnesium alloys *with more than 50 per cent magnesium in pellets, turnings or ribbons.*	4.1	UN1869	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	39
	Magnesium alkyls	4.2	UN3053	I	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	B11, T28, T29, T42.	None	181	244	Forbidden	Forbidden	1	5	18
	Magnesium aluminum phosphide	4.3	UN1419	I	DANGEROUS WHEN WET.	A19, N34	None	211	242	Forbidden	15 kg	1,3	5	40, 85

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Magnesium arsenate	6.1	UN1622	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Magnesium bisulfite solution, *see* Bisulfites, inorganic aqueous solutions, n.o.s.													
	Magnesium bromate	5.1	UN1473	II	OXIDIZER	A1	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Magnesium chlorate	5.1	UN2723	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Magnesium diamide	4.2	UN2004	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N2.	None	212	241	15 kg	50 kg	1	1	
	Magnesium diphenyl	4.2	UN2005	I	SPONTANEOUSLY COMBUSTIBLE.		None	211	244	Forbidden	Forbidden	1	1	
	Magnesium dross, wet or hot	Forbidden												
	Magnesium fluorosilicate	6.1	UN2853	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Magnesium granules, coated, *particle size not less than 149 microns.*	4.3	UN2950	III	DANGEROUS WHEN WET.	A1, A19	None	213	None	25 kg	100 kg	1,3	1,3	
	Magnesium hydride	4.3	UN2010	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1	5	
	Magnesium nitrate	5.1	UN1474	III	OXIDIZER	A1, T2	152	213	240	25 kg	100 kg	1,2	1,2	
	Magnesium perchlorate	5.1	UN1475	II	OXIDIZER	B10, T8	152	212	240	5 kg	25 kg	1,2	1,2	46
	Magnesium peroxide	5.1	UN1476	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	13
	Magnesium phosphide	4.3	UN2011	I	DANGEROUS WHEN WET, POISON.	A19	None	211	None	Forbidden	15 kg	1,3	5	85
	Magnesium, powder *or* Magnesium alloys, powder.	4.3	UN1418	II	DANGEROUS WHEN WET, SPONTANEOUSLY COMBUSTIBLE.	A19	None	212	241	15 kg	50 kg	1,3	1,3	39
	Magnesium scrap, see Magnesium, *etc. (UN 1869).*													
	Magnesium silicide	4.3	UN2624	II	DANGEROUS WHEN WET.	A19, A20	None	212	241	15 kg	50 kg	1,3	1	
	Magnetized material. See 173.21													
D	Maleic acid	8	NA2215	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Maleic anhydride	8	UN2215	III	CORROSIVE	T7, T38	154	213	240	25 kg	100 kg	1,2	1,2	34, 40
	Malononitrile	6.1	UN2647	II	POISON		None	212	240	25 kg	100 kg	1,3	1,3	12, 95
	Maneb *or* Maneb preparations, *stabilized against self-heating.*	4.3	UN2968	III	DANGEROUS WHEN WET.	A1, A19	None	213	240	25 kg	100 kg	1,3	1	34
	Maneb *or* Maneb preparations *with not less than 60 per cent maneb.*	4.2	UN2210	III	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	A1, A19	None	213	240	25 kg	100 kg	1,3	1,3	12, 13, 34
	Manganese nitrate	5.1	UN2724	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Manganese resinate	4.1	UN1330	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Mannitan tetranitrate	Forbidden												
	Mannitol hexanitrate (dry)	Forbidden												
	Mannitol hexanitrate (Nitromannite), wetted *with not less than 40 per cent water, by weight or mixture of alcohol and water.*	1.1D	UN0133											
	Matches, block, see Matches, 'strike anywhere'.													
	Matches, fusee	4.1	UN2254	III	FLAMMABLE SOLID.		186	186	None	Forbidden	Forbidden	1,3	1,3	
	Matches, safety (*book, card or strike on box*).	4.1	UN1944	III	FLAMMABLE SOLID.		186	186	None	25 kg	100 kg	1,3	1,3	
	Matches, 'strike anywhere'	4.1	UN1331	III	FLAMMABLE SOLID.		186	186	None	Forbidden	Forbidden	1,3	1	
	Matches, wax, 'Vesta'	4.1	UN1945	III	FLAMMABLE SOLID.		186	186	None	25 kg	100 kg	1,3	1	
	Matting acid, see Sulfuric acid													
	Medicines, *corrosive, liquid,* n.o.s.	8	UN1851	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
				III	CORROSIVE		154	203	241	5 L	60	1,2	1,2	
	Medicines, *corrosive, solid,* n.o.s.	8	UN1851	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
				III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Medicines, *flammable, liquid,* n.o.s.	3	UN1851	I	FLAMMABLE LIQUID.		150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1	150	203	242	60 L	220 L	1,3	1,3	
	Medicines, *flammable, solid,* n.o.s.	4.1	UN1851	II	FLAMMABLE SOLID.		151	212	240	15 kg	50 kg	1,3	1,3	
	Medicines, *oxidizing substance, solid,* n.o.s.	5.1	UN1851	II	OXIDIZER	B10	152	212	240	5 kg	25 kg			
	Medicines, *poisonous, liquid,* n.o.s.	6.1	UN1851	I	POISON		153	201	243	1 L	30 L	1,2	1	95
				II	POISON		153	202	243	5 L	60 L	1,2	1	95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1	34
	Medicines, *poisonous, solid,* n.o.s.	6.1	UN1851	I	POISON		153	211	242	5 kg	50 kg	1,2	1	95
				II	POISON		153	212	242	25 kg	100 kg	1,2	1	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1	34
	Memtetrahydrophthalic anhydride, see Corrosive liquids, n.o.s.													
	p-Menthane hydroperoxide, *see* p-Menthyl hydroperoxide, *technically pure.*													
	p-Menthyl hydroperoxide, *technically pure*	5.2	UN2125	I	ORGANIC PEROXIDE.	B21, T9, T35.	None	225	243	1 L	5 L	1	5	12, 40
	Mercaptans, liquid n.o.s. *or* Mercaptan mixtures, liquid, n.o.s., *flash point not less than 23deg C.*	6.1	UN3071	I	POISON, FLAMMABLE LIQUID.	B40, T42	None	202	243	1 L	30 L	1,3	1	21

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,3	1	21
				III	KEEP AWAY FROM FOOD, FLAMMABLE LIQUID.	T14	None	202	241	60 L	220 L	1,3	1,3	
	Mercaptans, liquid, n.o.s. *or* Mercaptan mixtures, liquid, n.o.s..	3	UN1228	II	FLAMMABLE LIQUID, POISON.	N16, T14	None	202	243	Forbidden	60 L	1,3	5	12
	5-Mercapto-tetrazol-1-acetic acid	1.4C	UN0448											
	Mercuric arsenate	6.1	UN1623	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercuric chloride	6.1	UN1624	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercuric compounds, see Mercury compounds, etc..													
	Mercuric nitrate	6.1	UN1625	II	POISON	N73	None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercuric potassium cyanide	6.1	UN1626	I	POISON	N74, N75	None	211	242	5 kg	50 kg	1,2	1,2	26, 95
	Mercuric sulfate	6.1	UN1645	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercuric sulfocyanate, see Mercury thiocyanate.													
	Mercurol, see Mercury nucleate													
	Mercurous azide	Forbidden												
	Mercurous compounds, see Mercury compounds, etc..													
	Mercurous nitrate	6.1	UN1627	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercurous sulfate	6.1	UN1628	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury	8	UN2809	III	CORROSIVE		154	154	240	2.5 L	2.5 L	1,2	1	40, 97
	Mercury acetate	6.1	UN1629	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury acetylide	Forbidden												
	Mercury ammonium chloride	6.1	UN1630	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury based pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23deg C.*	3	UN2778	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Mercury based pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23deg C.*	6.1	UN3011	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	202	241	60 L	220 L	1,2	1	34, 40
	Mercury based pesticides, liquid, toxic, n.o.s..	6.1	UN3012	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Mercury based pesticides, solid, toxic, n.o.s.	6.1	UN2777	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POSION		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Mercury benzoate	6.1	UN1631	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury bisulfate	6.1	UN1633	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury bromides	6.1	UN1634	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury compounds, liquid, n.o.s.	6.1	UN2024	I	POISON		None	201	243	1 L	30 L	1,2	1	40, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1	34, 40
	Mercury compounds, solid, n.o.s.	6.1	UN2025	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
A	*Mercury contained in manufactured articles*	8	UN2809	I	CORROSIVE		None	164	None	No limit	No limit	1,2	1	40
	Mercury cyanide	6.1	UN1636	II	POISON	N74, N75	None	212	242	25 kg	100 kg	1,2	1,2	26, 95
	Mercury fulminate, wetted with not less than 20 per cent water, or mixture of alcohol and water, by weight.	1.1A	UN0135											
	Mercury gluconate	6.1	UN1637	II	POISON		None	212	242	25 kg	100 kg	a82	1,2	95
	Mercury iodide aquabasic ammonobasic (iodide of Million's base).	Forbidden												
	Mercury iodide, *solid*	6.1	UN1638	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury iodide, *solution*	6.1	UN1638	II	POISON		None	202	243	5 L	60 L	1,2	1,2	95
	Mercury nitride	Forbidden												
	Mercury nucleate	6.1	UN1639	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury oleate	6.1	UN1640	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury oxide	6.1	UN1641	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury oxycyanide	Forbidden												
	Mercury oxycyanide, desensitized	6.1	UN1642	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	26, 95
	Mercury potassium iodide	6.1	UN1643	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury salicylate	6.1	UN1644	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mercury thiocyanate	6.1	UN1646	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Mesityl oxide	3	UN1229	III	FLAMMABLE LIQUID.	B1, T1	None	203	242	60 L	220 L	1,3	1	
	Metal alkyl halides, n.o.s.	4.2	UN3049	I	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	B11	None	181	244	Forbidden	Forbidden	1	5	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Metal alkyl hydrides, n.o.s.	4.2	UN3050	I	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	B11	None	181	244	Forbidden	Forbidden	1	5	
	Metal alkyls, n.o.s.	4.2	UN2003	I	SPONTANEOUSLY COMBUSTIBLE, DANGEROUS WHEN WET.	B11	None	181	244	Forbidden	Forbidden	1	5	
D	Metal alkyl, solution, n.o.s.	3	NA9195	II	FLAMMABLE LIQUID.		150	202	242	1 L	4 L	1,3	1	
	Metaldehyde	4.1	UN1332	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Metal salts of methyl nitramine (dry)	Forbidden												
	Methacrylaldehyde	3	UN2396	II	FLAMMABLE LIQUID, POISON.	T6	None	202	243	1 L	60 L	1,3	5	12, 40
	Methacrylic acid, inhibited	8	UN2531	III	CORROSIVE	T8	154	203	241	5 L	60 L	1,3	1,3	8, 12
	Methacrylonitrile, inhibited	6.1	UN3079	I	POISON, FLAMMABLE LIQUID.		None	201	243	Forbidden	Forbidden	1,3	1	21
	Methallyl alcohol	3	UN2614	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Methane and hydrogen, mixtures, see Hydrogen and methane, mixtures, *etc.*.													
	Methane, compressed *or* Natural gas, compressed (*with high methane content*).	2.1	UN1971		FLAMMABLE GAS.	B13	306	302	244	Forbidden	150 kg	1,3	5	40, 85
	Methane, refrigerated liquid *or* Natural gas, refrigerated liquid (*with high methane content*) (*cryogenic liquid*).	2.1	UN1972		FLAMMABLE GAS.		None	316	318, 319	Forbidden	Forbidden	1	5	40
	Methanol *or* Methyl alcohol	3	UN1230	II	FLAMMABLE LIQUID, POISON.	T8	None	202	243	1 L	60 L	1,3	1	40
	Methazoic acid	Forbidden												
	Methoxymethyl isocyanate	3	UN2605	I	FLAMMABLE LIQUID, POISON.	B14, B30, 10.	None	226	244	Forbidden	Forbidden	1	5	12, 40, 48
	4-Methoxy-4-methylpentan-2-one	3	UN2293	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Methyl acetate	3	UN1231	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Methyl acetone	3	UN1232	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Methyl acetylene and propadiene mixtures, stabilized.	2.1	UN1060		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Methyl acrylate, inhibited	3	UN1919	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,2	1	40
	Methylal	3	UN1234	II	FLAMMABLE LIQUID.	T14	None	202	242	Forbidden	60 L	1,3	5	12
	Methyl alcohol, *see* Methanol													
	Methyl allyl chloride	3	UN2554	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12, 40
	Methylamine, anhydrous	2.3	UN1061	II	POISON GAS, FLAMMABLE GAS.	B33, 10	None	304	314, 315	Forbidden	Forbidden	1,3	5	40
	Methylamine, aqueous solution	3	UN1235	II	FLAMMABLE LIQUID.	B1, T8	150	202	242	5 L	60 L	1,3	5	12, 41
	Methylamine dinitramine and dry salts thereof.	Forbidden												
	Methylamine nitroform	Forbidden												
	Methylamine perchlorate (dry)	Forbidden												
	Methylamyl acetate	3	UN1233	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Methyl amyl ketone, see Amyl methyl ketone.													
	N-Methylaniline	6.1	UN2294	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	95
	Methyl benzoate	6.1	UN2938	III	KEEP AWAY FROM FOOD.	T1	153	203	240	60 L	220 L	1,2	1,2	
	alpha-Methylbenzyl alcohol	6.1	UN2937	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	
	Methyl bromide	2.3	UN1062	I	POISON GAS	B13, B14, B31, 10.	None	193	244	Forbidden	Forbidden	1,3	5	40, 81, 85, 95
	Methyl bromide and chloropicrin mixtures with more than 2 per cent chloropicrin, see Chloropicrin and methyl bromide mixtures.													
	Methyl bromide and chloropicrin mixtures with not more than 2 per cent chloropicrin, see Methyl bromide.													
	Methyl bromide and ethylene dibromide mixtures, liquid.	6.1	UN1647	I	POISON	B13, B14, B32, N65, 10.	None	227	244	Forbidden	Forbidden	1	1	40, 95
	Methyl bromoacetate	6.1	UN2643	II	POISON	T8	None	202	243	5 L	60 L	1	5	12, 40, 95
	3-Methyl butan-2-one	3	UN2397	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	3-Methyl-1-butene	3	UN2561	I	FLAMMABLE LIQUID.	T20	None	201	243	1 L	30 L	1,3	5	
	2-Methyl-1-butene	3	UN2459	I	FLAMMABLE LIQUID.	T14	None	201	243	1 L	30 L	1,3	5	12, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	2-Methyl-2-butene	3	UN2460	II	FLAMMABLE LIQUID.	T14	None	202	242	5 L	60 L	1,3	5	12
	N-Methylbutylamine	3	UN2945	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Methyl-tert-butylether	3	UN2398	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	1	12
	Methyl butyrate	3	UN1237	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Methyl chloride	2.3	UN1063	II	POISON GAS, FLAMMABLE GAS.	10, B13, B14.	None	304	314, 315	Forbidden	Forbidden	1,3	5	40, 85, 95
	Methyl chloride and chloropicrin mixtures, see Chloropicrin and methyl chloride mixtures.													
	Methyl chloride and methylene chloride mixture.	2.1	UN1912		FLAMMABLE GAS.	B13, B38	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Methyl chloroacetate	6.1	UN2295	II	POISON	T11	None	202	243	5 L	60 L	1,3	1,3	95
	Methyl chlorocarbonate, see Methyl chloroformate.													
	Methyl chloroform, see 1,1,1-Trichloroethane.													
	Methyl chloroformate	3	UN1238	I	FLAMMABLE LIQUID. POISON. CORROSIVE.	B6, B14, B32, N1, N11, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1,3	5	40
	Methylchloromethyl ether	3	UN1239	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	5	12, 40
	Methyl-2-chloropropionate	3	UN2933	III	FLAMMABLE LIQUID.	B1, T7	150	203	242	60 L	220 L	1,3	1,3	
	Methyl chlorosilane	2.3	UN2534	I	FLAMMABLE GAS, POISON GAS.	A2, B14, B30, NI, N15, N26, N34, 10.	None	226	244	Forbidden	Forbidden	1,3	1	40
	Methyl cyanide	3	UN1648	II	FLAMMABLE LIQUID, POISON.	T14	None	202	243	1 L	60 L	1,3	1	40
	Methyl cyclohexane	3	UN2296	II	FLAMMABLE LIQUID.	B1, T1	150	202	242	5 L	60 L	1,3	1	
	Methyl cyclohexanols, *flash point not more than 60.5 degrees C.*	3	UN2617	III	FLAMMABLE LIQUID.	B1, T2	150	203	242	60 L	220 L	1,3	1,3	
	Methyl cyclohexanone	3	UN2297	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Methylcyclohexanone peroxide(s) *not more than 67 per cent in solution with not more than 9 per cent available oxygen.*	5.2	UN3046	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 19, 25, 40
	Methyl cyclopentane	3	UN2298	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Methyl dichloroacetate	6.1	UN2299	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	34, 40
D	Methyldichloroarsine	2.3	NA1556	II	POISON GAS	B14, B32, 10.	None	192	244	Forbidden	Forbidden	1	5	40, 95
	Methyldichlorosilane	4.3	UN1242	I	DANGEROUS WHEN WET, CORROSIVE, POISON, FLAMMABLE LIQUID.	A2, B6, B14, B32, N1, N15, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1	5	21, 40, 49, 91
	Methylene chloride, see Dichloromethane													
	Methylene glycol dinitrate	Forbidden												
D	Methylene isocyanate	6.1	NA2929	I	POISON, FLAMMABLE LIQUID.	B14, B30, 10.	None	226	244	Forbidden	Forbidden	L2	1	
	Methyl ethyl ether see Ethyl methyl ether													
	Methyl ethyl ketone, *see* Ethyl methyl ketone.													
	Methyl ethyl ketone peroxide, in solution with more than 9 per cent by weight active oxygen.	Forbidden												
	Methyl ethyl ketone peroxide(s), *not more than 40% in diiso-butylnylonate, with not more than 8.2% available oxygen.*	5.2	UN3066	I	ORGANIC PEROXIDE.		None	255	None	1 L	5 L	1	5	
	Methyl ethyl ketone peroxide(s), *not more than 60 per cent in solution and not more than 9 per cent by weight active oxygen.*	5.2	UN2127	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Methyl ethyl ketone peroxide(s), *not more than 50 per cent in solution and not more than 9 per cent by weight active oxygen.*	5.2	UN2550	I	ORGANIC PEROXIDE.		None	225	None	1 L	5 L	1	5	12, 40
	2-Methyl-5-ethyl pyridine	6.1	UN2300	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Methyl fluoride	2.1	UN2454		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Methyl formate	3	UN1243	I	FLAMMABLE LIQUID.	T20	150	201	243	1 L	30 L	1,3	5	12
	2-Methylfuran	3	UN2301	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	5	12
	a-Methylglucoside tetranitrate	Forbidden												

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	a-Methylglycerol trinitrate	Forbidden												
	5-Methylhexan-2-one	3	UN2302	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Methylhydrazine	3	UN1244	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B32, N15, N34, 10.	None	227	244	Forbidden	Forbidden	1,3	5	49
	Methyl iodide	6.1	UN2644	II	POISON	T14	None	202	243	5 L	60 L	1,3	1,3	12, 40, 95
	Methyl isobutyl carbinol	3	UN2053	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Methyl isobutyl ketone	3	UN1245	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Methyl isobutyl ketone peroxide, in solution with more than 9 per cent by weight active oxygen.	Forbidden												
	Methyl isobutyl ketone peroxide(s), *not more than 9 percent by weight active oxygen and not more than 62 per cent with phlegmatizer, or with 30 percent methal isobutyl ketone and 20 percent phlegmatizer.*	5.2	UN2126	I	ORGANIC PEROXIDE.		None	225	None	1 L	5 L	1	5	12, 40
	Methyl isocyanate *or* Methyl isocyanate solutions.	3	UN2480	I	FLAMMABLE LIQUID, POISON.	B14, B30, N15, N26, 10.	None	226	244	Forbidden	Forbidden	1	5	12, 40, 48
	Methyl isopropenyl ketone, inhibited	3	UN1246	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Methyl isothiocyanate	3	UN2477	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	1,3	12, 40, 48, 95
	Methyl isovalerate	3	UN2400	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Methyl magnesium bromide, in ethyl ether	4.2	UN1928	I	SPONTANEOUSLY COMBUSTIBLE.	N15	None	201	243	Forbidden	Forbidden	1	5	
	Methyl mercaptan	2.3	UN1064	I	POISON GAS, FLAMMABLE GAS.	10, B7, B14, B31.	None	304	314, 315	Forbidden	Forbidden	1,3	1	40, 85, 95
	Methyl methacrylate monomer, inhibited	3	UN1247	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40
	Methylmorpholine	3	UN2535	II	FLAMMABLE LIQUID, CORROSIVE.	B6, T8	None	202	243	1 L	5 L	1,3	1	40
	Methyl nitramine (dry),	Forbidden												
	Methyl nitrite	Forbidden												

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or rail car	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Methyl norbornene dicarboxylic anhydride, see Corrosive liquids, n.o.s.													
	Methyl orthosilicate	3	UN2606	I	FLAMMABLE LIQUID, POISON.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,3	5	12, 40
D	Methyl parathion *liquid*	6.1	NA2783	II	POISON	N76	None	202	243	Forbidden	1 L	1,3	1,3	
D	Methyl parathion *solid*	6.1	NA2783	II	POISON	N77	None	212	242	25 kg	100 kg	1,2	1,2	
	Methylpentadiene	3	UN2461	II	FLAMMABLE LIQUID.	T7	150	202	241	5 L	60 L	1,3	5	12
	Methylpentanes, see Hexanes													
	2-Methylpentan-2-ol	3	UN2560	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	
	Methylphenyldichlorosilane	8	UN2437	II	CORROSIVE	T8, T26	154	202	242	1 L	30 L	1	1	13, 40
D	Methyl phosphonic dichloride	8	NA9206	I	CORROSIVE, POISON.	B8, B25, B32, N1, N15, N34, N43, 10.	None	227	244	Forbidden	Forbidden	1	1	
	Methyl phosphonothioic dichloride, anhydrous, see Corrosive liquid, n.o.s.													
D	Methyl phosphonous dichloride, *pyrophoric liquid.*	6.1	NA2845	I	POISON, SPONTANEOUSLY COMBUSTIBLE, CORROSIVE.	B8, B14, B16, B32, 10.	None	181	244	Forbidden	Forbidden	1	5	18
	Methyl picric acid (heavy metal salts of)	Forbidden												
	1-Methylpiperidine	3	UN2399	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Methyl propionate	3	UN1248	II	FLAMMABLE LIQUID.	T2	150	202	242	5 L	60 L	1,3	1	
	Methyl propyl ether	3	UN2612	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	5	12, 40
	Methyl propyl ketone	3	UN1249	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Methyl sulfate, see Dimethyl sulfate													
	Methyl sulfide, see Dimethyl sulfide													
	Methyltetrahydrofuran	3	UN2536	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Methyl trichloroacetate	6.1	UN2533	III	KEEP AWAY FROM FOOD.	T1	153	203	241	60 L	220 L	1,2	1,2	34
	Methyltrichlorosilane	3	UN1250	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B6, B14, B32, N29, N34, 10.	None	227	244	Forbidden	Forbidden	1,3	1	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Methyl trimethylol methane trinitrate	Forbidden												
	alpha-Methyl valeraldehyde	3	UN2367	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Methyl vinyl ketone	3	UN1251	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Mine rescue equipment containing carbon dioxide, see Carbon dioxide.													
	Mines *with bursting charge*	1.1F	UN0136											
	Mines *with bursting charge*	1.1D	UN0137											
	Mines *with bursting charge*	1.2D	UN0138											
	Mines *with bursting charge*	1.2F	UN0294											
	Mixed acid, see Nitrating acid, mixtures													
	Molybdenum pentachloride	8	UN2508	III	CORROSIVE	T8, T26	154	213	240	25 kg	100 kg	1	1	6, 40
	Monochloroacetone (unstabilized)	Forbidden												
	Monochloroethylene, see Vinyl chloride													
	Monoethanolamine, see Ethanolamine													
	Monoethylamine, see Ethylamine													
	Morpholine	3	UN2054	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	
	Morpholine, aqueous, mixture, see Corrosive liquid, n.o.s..													
	Motorcycles, see Vehicles, self-propelled													
	Motor fuel anti-knock mixtures	6.1	UN1649	I	POISON, FLAMMABLE LIQUID.	B9, B11, B12, B43, T25, T39.	None	201	244	Forbidden	30 L	1	5	22, 40, 95
	Motor spirit, *see* Gasoline													
	Motor vehicle, see Vehicles, self-propelled													
	Muriatic acid, see Hydrochloric acid solution.													
	Musk xylene, *see* 5-tert-Butyl2,4,6-trinitro-m-xylene.													
	Naphtha	3	UN2553	I	FLAMMABLE LIQUID.	T8, T31	150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Naphthalene, crude *or* refined	4.1	UN1334	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Naphthalene diazonide	Forbidden												
	Naphthalene, molten	4.1	UN2304	III	FLAMMABLE SOLID.	A1, T8, T38.	151	213	241	25 kg	100 kg	1	1	
	Naphtha, *petroleum*	3	UN1255	I	FLAMMABLE LIQUID.	T8	150	201	243	1 L	30 L	1,3	5	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T8	150	203	242	60 L	220 L	1,3	1,3	
Naphtha, *solvent*		3	UN1256	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
alpha-Naphthylamine		6.1	UN2077	III	KEEP AWAY FROM FOOD.	T7	153	213	240	100 kg	200 kg	1,2	1,2	34
beta-Naphthylamine		6.1	UN1650	II	POISON	T12, T26	None	212	242	25 kg	100 kg	1,2	1,2	95
Naphthyl aminoperchlorate		Forbidden												
Naphthylthioures		6.1	UN1651	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
Naphthylures		6.1	UN1652	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
Natural gases (with high methane content), see Methane, *etc. (UN 1971, 1972).*														
Natural gasoline		3	UN1257	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12
Neohexane, see Hexanes														
Neon, compressed		2.2	UN1065		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
Neon, refrigerated liquid (*cryogenic liquid*)		2.2	UN1913		NONFLAMMABLE GAS.	B13	320	320	244	50 kg	500 kg	1,3	1	85
New explosive or explosive device. See 173.51 and 173.86.														
Nickel carbonyl		6.1	UN1259	I	POISON, FLAMMABLE LIQUID.		None	196	None	Forbidden	Forbidden	1	5	18, 21, 40, 95
Nickel catalyst, dry		4.2	UN2881	I	SPONTANEOUSLY COMBUSTIBLE.	N15, N34	None	211	None	Forbidden	Forbidden	1,3	1	
Nickel catalyst, wetted *with not less than 40 per cent water or other suitable liquid, by weight, finely divided, activated or spent.*		4.2	UN1378	II	SPONTANEOUSLY COMBUSTIBLE.	A2, N2, N15, N34.	None	212	None	Forbidden	50 kg	1,3	1	
Nickel cyanide		6.1	UN1653	II	POISON	N74, N75	None	212	242	25 kg	100 kg	1,2	1,2	28, 95
Nickel nitrate		5.1	UN2725	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	
Nickel nitrite		5.1	UN2726	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	34, 56, 58
Nickel picrate		Forbidden												
Nicotine		6.1	UN1654	II	POISON		None	202	243	5 L	60 L	1,2	1	95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
Nicotine compounds, n.o.s. *or* Nicotine preparations, n.o.s. *liquid.*		6.1	UN1655	I	POISON		None	201	243	1 L	30 L	1,2	1,2	95
				II	POISON		None	202	243	5 L	60 L	1,2	1,2	95

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packagings (8B)	Bulk packagings (8C)	(9) Quantity limitations Passenger aircraft or rail car (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Nicotine compounds, n.o.s. *or* Nicotine preparations, n.o.s. *solid.*	6.1	UN1655	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Nicotine hydrochloride *or* Nicotine hydrochloride solution.	6.1	UN1656	II	POISON		None	202	243	5 L	60 L	1,2	1,2	95
	Nicotine salicylate	6.1	UN1657	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Nicotine sulfate, solid	6.1	UN1658	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Nicotine sulfate, solution	6.1	UN1658	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
	Nicotine tartrate	6.1	UN1659	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Nitrated paper (unstable)	Forbidden												
	Nitrates, inorganic, n.o.s.	5.1	UN1477	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46
	Nitrates of diazonium compounds	Forbidden												
	Nitrating acid mixtures, spent *with more than 50 per cent nitric acid.*	8	UN1826	I	CORROSIVE, OXIDIZER.	B28, T12, T27.	None	158	243	Forbidden	2.5 L	1	5	33, 40
	Nitrating acid mixtures spent *with not more than 50 per cent nitric acid.*	8	UN1826	II	CORROSIVE	B2, B28, T12, T27.	None	158	242	Forbidden	30 L	1	5	33, 40
	Nitrating acid mixtures *with more than 50 per cent nitric acid.*	8	UN1796	I	CORROSIVE, OXIDIZER.	B28, T12, T27.	None	158	243	Forbidden	2.5 L	1	5	33, 40
	Nitrating acid mixtures *with not more than 50 per cent nitric acid.*	8	UN1796	II	CORROSIVE	B2, B28, T12, T27.	None	158	242	Forbidden	30 L	1	5	33, 40
	Nitric acid, *other than red fuming, with more than 70 per cent nitric acid.*	8	UN2031	I	CORROSIVE	10, B12, B14, B32, B53.	None	158	244	Forbidden	Forbidden	1	5	33, 37, 38, 63
	Nitric acid, *other than red fuming, with not more than 70 per cent nitric acid.*	8	UN2031	II	CORROSIVE	B2, B12, B17, B28, T9, T27.	None	158	242	Forbidden	30 L	1	5	33, 37, 38, 63
	Nitric acid, red fuming	8	UN2032	I	CORROSIVE, OXIDIZER, POISON.	B17, B28, B30, 10.	None	158	244	Forbidden	Forbidden	1	5	33, 37, 38, 40, 63
	Nitric ether. See Ethyl nitrate													
	Nitric oxide	2.3	UN1660	I	POISON GAS	10, B7, B12, B14, B31, B37, B45, B46, B50.	None	337	244	Forbidden	Forbidden	1	5	40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Nitric oxide and nitrogen tetroxide mixtures	2.3	UN1975	I	POISON GAS, OXIDIZER.	10, B7, B12, B14, B45, B46.	None	337	245	Forbidden	Forbidden	1	5	40, 43, 95
	Nitrites, inoganic, n.o.s.	5.1	UN2627	II	OXIDIZER	A33	152	212	None	5 kg	25 kg	1,2	1,2	34, 46, 56, 58
	N-Nitroaniline	Forbidden												
	Nitroanilines (*o*-,*m*-,*p*-)	6.1	UN1661	II	POISON	T14	None	212	242	25 kg	100 kg	1,2	1,2	95
	Nitroanisole, *liquid*	6.1	UN2730	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,3	1,3	12, 34
	Nitroanisole, *solid*	6.1	UN2730	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Nitrobenzene	6.1	UN1662	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	40, 95
	m-Nitrobenzene diazonium perchlorate	Forbidden												
	Nitrobenzenesulfonic acid	8	UN2305	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Nitrobenzol, see Nitrobenzene													
	5-Nitrobenzotriazol	1.1D	UN0385											
	Nitrobenzotrifluorides	6.1	UN2306	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Nitrobromobenzene, *liquid*	6.1	UN2732	III	KEEP AWAY FROM FOOD.	T8, T38	153	203	241	60 L	220 L	1,3	1,3	12, 95
	Nitrobromobenzene, *solid*	6.1	UN2732	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Nitrocellulose, *dry or wetted with less than 25 per cent water (or alcohol), by weight.*	1.1D	UN0340											
	Nitrocellulose, plasticized *with not less than 18 per cent plasticizing substance, by weight.*	1.3C	UN0343											
	Nitrocellulose, solution, flammable *with not more than 12.6 per cent nitrogen, by weight, and not more than 55 per cent nitrocellulose, flash point less than 23 degrees C.*	3	UN2059	II	FLAMMABLE LIQUID.	A32, T9	150	202	242	5 L	60 L	1,3	1	
	Nitrocellulose, solution, flammable *with not more than 12.6 per cent nitrogen, by weight, and not more than 55 per cent nitrocellulose, flash point not less than 23 degrees C but not more than 60.5 degrees C.*	3	UN2060	II	FLAMMABLE LIQUID.	A32, T9	150	202	242	5 L	60 L	1,3	1	
	Nitrocellulose, *unmodified or plasticized with less than 18 per cent plasticizing substance, by weight.*	1.1D	UN0341											
	Nitrocellulose, wetted *with not less than 25 per cent alcohol, by weight.*	1.3C	UN0342											
	Nitrocellulose with alcohol, *not less than 25 per cent alcohol by weight, and not more than 12.6 per cent nitrogen, by dry weight.*	4.1	UN2556	II	FLAMMABLE SOLID.		151	212	None	1 kg	15 kg	1	5	25

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Nitrocellulose, with plasticizing substance, *not less than 18 per cent, plasticizing substance, by weight, and not more than 12.6 per cent nitrogen, by dry weight.*	4.1	UN2557	II	FLAMMABLE SOLID.		151	212	None	1 kg	15 kg	1	5	25
	Nitrocellulose with water, *not less than 25 per cent water, by weight.*	4.1	UN2555	II	FLAMMABLE SOLID.		151	212	None	15 kg	50 kg	1,3	5	25
	Nitrochlorobenzene, see Chloronitrobenzenes.													
	3-Nitro-4-chlorobenzotrifluoride	6.1	UN2307	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Nitrocresols	6.1	UN2446	III	KEEP AWAY FROM FOODS.		153	213	240	100 kg	200 kg	1,2	1,2	34
	6-Nitro-4-diazotoluene-3-sulfonic acid (dry)	Forbidden												
	Jitroethane	3	UN2842	III	FLAMMABLE LIQUID.	T8	150	203	242	60 L	220 L	1,3	1,3	
	Nitroethylene polymer	Forbidden												
	Nitroethyl nitrate	Forbidden												
	Nitrogen, compressed	2.2	UN1066		NONFLAMMABLE GAS.		306	302	314, 315	75 kg	150 kg	1,3	1,3	85
	Nitrogen dioxide, liquefied	2.3	UN1067	I	POISON GAS, OXIDIZER.	10, B7, B12, B45, B46.	None	336	245	Forbidden	Forbidden	1	5	40, 43, 95
	Nitrogen fertilizer solution, see Fertilizer ammoniating solution *etc.*.													
	Nitrogen, mixtures with rare gases, see Rare gases and nitrogen mixtures.													
	Nitrogen peroxide, see Nitrogen dioxide, liquified.													
	Nitrogen, refrigerated liquid (*cryogenic liquid*).	2.2	UN1977		NONFLAMMABLE GAS.		320	316	318	50 kg	500 kg	1,3	1,3	85
	Nitrogen tetroxide, see Nitrogen dioxide, liquefied.													
	Nitrogen tetroxide and nitric oxide mixtures, see Nitric oxide and nitrogen tetroxide mixtures.													
	Nitrogen trichloride	Forbidden												
	Nitrogen trifluoride	2.3	UN2451	III	POISON GAS	B13, B14, B34, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 43, 95
	Nitrogen triiodide	Forbidden												
	Nitrogen triiodide monoamine	Forbidden												
	Nitrogen trioxide	2.3	UN2421	I	POISON GAS, OXIDIZER.	B13, 10	None	336	245	Forbidden	Forbidden	1	5	31, 40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Nitroglycerin, desensitized *with not less than 40 per cent non-volatile water insoluble phlegmatizer, by weight.*	1.1D	UN0143											
	Nitroglycerin (Glyceryl trinitrate) solution in alcohol *with not more than 1 per cent nitroglycerin.*	3	UN1204	II	FLAMMABLE LIQUID.	N34, T25	None	202	None	5 L	60 L	1,3	1	
	Nitroglycerin, liquid, not desensitized	Forbidden												
	Nitroglycerin, solution in alcohol, *with more than 1% but not greater than 5% nitroglycerin.*	3	UN3064	II	FLAMMABLE LIQUID.		None	202	None	Forbidden	5 L			
	Nitroglycerin, spirit of, *with more than 1 per cent but not more than 10 per cent nitroglycerin in solution in alcohol.*	1.1D	UN0144											
	Nitroguanidine nitrate	Forbidden												
	Nitroguanidine (Picrite), *dry or wetted with less than 20 per cent water, by weight.*	1.1D	UN0282											
	Nitroguanidine (Picrite), wetted *with not less than 20 per cent water, by weight.*	4.1	UN1336	I	FLAMMABLE SOLID.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1,3	5	
	1-Nitrohydantoin	Forbidden												
	Nitrohydrochloric acid	8	UN1798	I	CORROSIVE	B4, N1, N15, N34, N41, T18, T27.	None	201	242	Forbidden	2.5 L	1	5	33, 40
	Nitro isobutane triol trinitrate	Forbidden												
	Nitromannite (dry)	Forbidden												
	Nitromannite, wetted, *see* Mannitol hexanitrate, *etc.*													
	Nitromethane	3	UN1261	II	FLAMMABLE LIQUID.	T25	150	202	None	Forbidden	60 L	1,3	1,3	
	N-Nitro-N-methylglycolamide nitrate	Forbidden												
	2-Nitro-2-methylpropanol nitrate	Forbidden												
	Nitromuriatic acid, see Nitrohydrochloric acid.													
	Nitronaphthalene	4.1	UN2538	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Nitrophenols (*o*-,*m*-,*p*-)	6.1	UN1663	III	KEEP AWAY FROM FOOD.	T8, T38	153	213	240	100 kg	200 kg	1,2	1,2	34
	m-Nitrophenyldinitro methane	Forbidden												

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	(8) Packaging authorizations (§173.***) Non-bulk packaging	(8) Packaging authorizations (§173.***) Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	(9) Quantity limitations Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	(10) Vessel stowage requirements Passenger vessel	(10) Vessel stowage requirements Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Nitropropanes	3	UN2608	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	p-Nitrosodimethylaniline	4.2	UN1369	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N34.	None	212	241	15 kg	50 kg	1,3	5	34
	Nitrostarch, dry or wetted with less than 20 per cent water, by weight.	1.1D	UN0146											
	Nitrostarch, wetted with not less than 20 per cent water, by weight.	4.1	UN1337	I	FLAMMABLE SOLID.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1	5	
	Nitrosugars (dry)	Forbidden												
	Nitrosyl chloride	2.3	UN1069	II	POISON GAS, CORROSIVE.	10	None	304	245	Forbidden	Forbidden	1	5	40, 95
	Nitrosylsulfuric acid	8	UN2308	II	CORROSIVE	B2, N1, N11, N26, N34, T9, T27.	154	202	242	1 L	30 L	1	5	40, 43
	Nitrotoluenes, *liquid, o-*	6.1	UN1664	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
	Nitrotoluenes, *solid m- or p-*	6.1	UN1664	II	POISON	T14	None	212	242	25 kg	100 kg	1,2	1,2	95
	Nitrotoluidines (mono)	6.1	UN2660	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Nitro urea	1.1D	UN0147											
	Nitrous oxide and carbon dioxide mixtures, see Carbon dioxide and nitrous oxide mixtures.													
	Nitrous oxide, compressed	2.3	UN1070	II	POISON GAS, OXIDIZER.	B13, B33, 10.	None	304	244	Forbidden	Forbidden	1,3	1,3	40, 85
	Nitrous oxide, refrigerated liquid	2.3	UN2201	II	POISON GAS, OXIDIZER.	B6, B14, B33, 10.	None	316	314, 315	Forbidden	Forbidden	1,3	1	40, 85
	Nitroxylenes (*o-,m-,p-*)	6.1	UN1665	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
	Nitroxylol, see Nitroxylenes													
	Nonanes	3	UN1920	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	
	Nonflammable gas, n.o.s., see Compressed or Liquefied gases, *e tc. (UN 1955, 1956).*													
	Nonliquefied gases, see Compressed gases, *etc.*													
	Nonliquefied hydrocarbon gas, see Hydrocarbon gases, compressed, n.o.s..													
	Nonyltrichlorosilane	8	UN1799	II	CORROSIVE	B2, B6, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	2,5 Norbornadiene	3	UN2251	II	FLAMMABLE LIQUID.		150	202	241	5 L	60 L	1	5	12

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Nordhausen acid, see Sulfuric acid, fuming													
	Octadecyltrichlorosilane	8	UN1800	II	CORROSIVE	B2, B6, N26, N34, T8.	None	202	242	Forbidden	30 L	1	1	40
	Octadiene	3	UN2309	II	FLAMMABLE LIQUID.	B1, T1	150	202	242	5 L	60 L	1,3	1,3	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	1,7-Octadine-3,5-diyne-1,8-dimethoxy-9-octadecynoic acid.	Forbidden												
	Octafluorobut-2-ene	2.2	UN2422		NONFLAMMABLE GAS.	B13	None	304	244	75 kg	150 kg	1,3	1,3	85
	Octafluorocyclobutane	2.2	UN1976		NONFLAMMABLE GAS.	B13	None	304	244	75 kg	150 kg	1,3	1,3	85
	Octafluoropropane	2.2	UN2424		NONFLAMMABLE GAS.	B13	None	304	244	75 kg	150 kg	1,3	1,3	85
	Octanes	3	UN1262	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	n-Octanoyl peroxide, *see* Di-n-octanoyl peroxide, *technically pure.*													
	Octogen, *see* Cyclotetramethylene tetranitramine, etc..													
	Octol, *see* Octolite, *etc.*													
	Octolite (Octol), *dry or wetted with less than 15 per cent water, by weight.*	1.1D	UN0266											
	Octyl aldehydes, *flammable*	3	UN1191	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	tert-Octylmercaptan	6.1	UN3023	I	POISON, FLAMMABLE LIQUID.	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1,2	1,2	21, 40
	Octyltrichlorosilane	8	UN1801	II	CORROSIVE	B2, B6, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	40
	Oil gas	2.1	UN1071		FLAMMABLE GAS.	B13	None	304	244	Forbidden	150 kg	1	5	40
	Oleum, see Sulfuric acid, fuming													
	Organic peroxides, mixtures	5.2	UN2756	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Organic peroxides, samples, n.o.s.	5.2	UN2255	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Organic peroxides, trial quantities, n.o.s.	5.2	UN2899	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
D	Organic phosphate, Organic phosphate compound, *or* Organic phosphorus compound; mixed with compressed gas.	2.3	NA1955	I	POISON GAS	10	None	334	None	Forbidden	Forbidden	1	5	40, 95
	Organochlorine pesticides liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2762	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	

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Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packagings (8B)	Bulk packagings (8C)	(9) Quantity limitations Passenger aircraft or rail car (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Organochlorine pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2995	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	242	60 L	220 L	1,2	1,2	23, 34, 40
	Organochlorine pesticides, liquid, toxic, n.o.s..	6.1	UN2996	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	242	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Organochlorine pesticides, solid toxic n.o.s.	6.1	UN2761	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Organophosphorus pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2784	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Organophosphorus pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3017	I	POISON, FLAMMABLE LIQUID.	N76, T42	None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.	N76, T14	None	202	243	5 L	60 L	1,3	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, N76, T14.	153	203	242	60 L	220 L	1,3	1,3	23, 34, 40
	Organophosphorus pesticides, liquid, toxic, n.o.s..	6.1	UN3018	I	POISON	N76, T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	N76, T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	N76, T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Organophosphorus pesticides, solid, toxic, n.o.s..	6.1	UN2783	I	POISON	N77	None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON	N77	None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.	N77	153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Organotin compounds, n.o.s. *liquid*	6.1	UN2788	I	POISON	N1, N16, N33, N34.	None	201	243	1 L	30 L	1,2	1	40, 95
				II	POISON	N1, N16, N33, N34.	None	202	243	5 L	60 L	1,2	1	40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1	34, 40
	Organotin compounds, n.o.s. *solid*	6.1	UN2788	I	POISON	A2, A5, N1.	None	211	242	5 kg	50 kg	1,2	1	40, 95
				II	POISON	A1, N1	None	212	242	25 kg	100 kg	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	A29	153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Organotin pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23deg C.*	3	UN2787	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Organotin pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23deg C.*	6.1	UN3019	I	POISON, FLAMMABLE LIQUID.		None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.		None	202	243	5 L	60 L	1,2	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	23, 34, 40
	Organotin pesticides, liquid, toxic, n.o.s.	6.1	UN3020	I	POISON		None	201	243	1 L	30 L	1	1	40, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34, 40
	Organotin pesticides, solid, toxic, n.o.s.	6.1	UN2786	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	ORM-E, liquid *or* solid, n.o.s. *See* Hazardous substance, liquid, n.o.s. *or* Hazardous substance, solid, n.o.s.													
	Orthonitroaniline, see Nitroanilines *etc.*													
	Osmium tetroxide	6.1	UN2471	I	POISON	N2, N33, N34.	None	211	242	5 kg	50 kg	1,2	1	40, 95
AD	Other regulated substances, *n.o.s., liquid*	9	None	III	CLASS 9		155	203	241	No limit	No limit	1,2	1,2	
AD	Other regulated substances, *n.o.s., solid*	9	None	III	CLASS 9		155	213	240	No limit	No limit	1,2	1,2	
	Oxalates, *water soluble*	6.1	UN2449	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
D	Oxidizing substances, liquid, corrosive, n.o.s.	5.1	NA9193	II	OXIDIZER, CORROSIVE.	B2	None	202	243	Forbidden	1 L	1	5	
	Oxidizing substances, liquid, poisonous, n.o.s.	5.1	NA9199	II	OXIDIZER, POISON.		None	202	243	Forbidden	1 L	1	5	
	Oxidizing substances, n.o.s. *liquid*	5.1	UN1479	I	OXIDIZER	A2	None	201	None	Forbidden	Forbidden	1	5	40, 46, 56
				II	OXIDIZER	A2	152	202	242	1 L	5 L	1,2	1,2	40, 46, 56
				III	OXIDIZER	A2	152	203	240	5 L	60 L	1,2	1,2	40, 46, 56
	Oxidizing substances, n.o.s. *solid*	5.1	UN1479	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Oxidizing substances, solid, corrosive, n.o.s.	5.1	UN3085,	I	OXIDIZER, CORROSIVE.	B10	None	211	242	1 kg	15 kg	1	4	
				II	OXIDIZER, CORROSIVE.	B10	None	212	240	5 kg	25 kg	1	4	
				III	OXIDIZER, CORROSIVE.	B10	152	213	240	25 kg	100 kg	1	4	
	Oxidizing substances, solid poisonous, n.o.s.	5.1	UN3087	I	OXIDIZER, POISON.	B10	None	211	242	1 kg	15 kg	1,2	4	
				II	OXIDIZER, POISON.	B10	None	212	240	5 kg	25 kg	1,2	4	
				III	OXIDIZER, KEEP AWAY FROM FOOD.	B10	152	213	240	25 kg	100 kg	1,2	4	
	Oxygen and carbon dioxide mixtures, see Carbon dioxide and oxygen mixtures.													
	Oxygen, compressed	2.2	UN1072		NONFLAMMABLE GAS, OXIDIZER.		306	302	314, 315	75 kg	150 kg	1,3	1,3	85
	Oxygen difluoride	2.3	UN2190	I	POISON GAS	10	None	304	245	Forbidden	Forbidden	1	5	13, 40
	Oxygen, mixtures with rare gases, see Rare gases and oxygen mixtures.													
	Oxygen, refrigerated liquid (*cryogenic liquid*)	2.2	UN1073		NONFLAMMABLE GAS, OXIDIZER.		320	316	318	Forbidden	Forbidden	1	5	5
	Paint *or* Paint related material	3	UN1263	I	FLAMMABLE LIQUID.		150	201	243	1 L	30 L	1,3	5	
				II	FLAMMABLE LIQUID.	B52, T7, T30.	150	173	242	5 L	60 L	1,2	1	
				III	FLAMMABLE LIQUID.	B52, T7, T30.	150	173	241	60 L	220 L	1,3	5	
	Paint *or* Paint related material	8	UN3066	II	CORROSIVE	B2, N71, T7.	154	202	242	1 L	30 L	1,2	1,2	
				III	CORROSIVE	B52, N71, T7.	154	203	241	5 L	60 L	1,2	1,2	
	Paint driers, see Driers, paint *or* varnish, etc.													
	Paper, unsaturated oil treated *incompletely dried (includes carbon paper)*	4.2	UN1379	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1,3	1,3	
	Paraformaldehyde	4.1	UN2213	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Paraldehyde	3	UN1264	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	
	Paranitroaniline, solid, see Nitroanilines etc.													
D	Parathion	6.1	NA2783	I	POISON		None	201	243	Forbidden	1 L	1,3	1,3	
				II	POISON		None	202	243	Forbidden	5 L	1,3	1,3	
D	Parathion and compressed gas mixture	2.3	NA1967	I	POISON GAS	B14, B31, 10.	None	334	244	Forbidden	Forbidden	1,3	5	40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Paris green, solid, see Copper acetoarsenite.													
D	PCB. *See* Polychlorinated biphenyls													
	Pelargonyl peroxide, *see* Di-n-nonanoyl peroxide, *technically pure.*													
	Pentaborane	4.2	UN1380	I	SPONTANEOUSLY COMBUSTIBLE. POISON.	10	None	205	246	Forbidden	Forbidden	1	5	
	Pentachloroethane	6.1	UN1669	II	POISON		None	202	243	5 L	60 L	1,2	1,2	40, 95
	Pentaerythrite tetranitrate (dry)	Forbidden												
	Pentaerythrite tetranitrate (Pentaerythritol tetranitrate; PETN) wetted *with not less than 25 per cent water, by weight, or* Pentaerythrite tetranitrate (Pentaerythritol tetranitrate ; PETN) desensitized *with not less than 15 per cent phlegmatizer by weight.*	1.1.D	UN0150											
	Pentaerythrite tetranitrate (PETN) *with not less than 7 per cent wax by weight.*	1.1D	UN0411											
	Pentaerythritol tetranitrate, *see* Pentaerythrite tetranitrate, *etc.*													
	Pentamethylheptane	3	UN2286	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Pentan-2,4-dione	3	UN2310	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	n-Pentane *or* Isopentane	3	UN1265	I	FLAMMABLE LIQUID.	T20	150	201	243	1 L	30 L	1,3	5	12
	Pentanitroaniline (dry)	Forbidden												
	1-Pentol	8	UN2705	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1	35
	Pentolite, *dry or wetted with less than 15 per cent water, by weight.*	1.1D	UN0151	II										
	Perchlorates, inorganic, n.o.s.	5.1	UN1481	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Perchloric acid *more than 50 per cent but not more than 72 per cent acid, by weight.*	5.1	UN1873	I	OXIDIZER, CORROSIVE.	A2, N1, N34, N41, T8, T27.	None	201	243	Forbidden	2.5 L	1	5	
	Perchloric acid, more than 72 per cent acid by weight.	Forbidden												
	Perchloric acid *not more than 50 per cent acid by weight.*	8	UN1802	II	CORROSIVE, OXIDIZER.	N15, N34, N41, T9.	None	202	243	Forbidden	30 L	1	1	37
	Perchloroethylene, see Tetrachloroethylene.													

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Perchloromethylmercaptan	6.1	UN1670	I	POISON	B14, B25, B32, N1, N15, N17, N28, N34, 10.	None	227	244	Forbidden	Forbidden	1	5	40, 95
	Perchloryl fluoride	2.3	UN2083	II	POISON GAS, OXIDIZER.	10, B12, B14, B33.	None	302	244	Forbidden	Forbidden	1	5	40, 43, 95
	Percussion caps, see Primers, cap type													
	Perfluoro-2-butene, see Octafluorobut-2-ene.													
	Perfumery products *with flammable solvents.*	3	UN1266	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	15 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Permanganates, inorganic, n.o.s.	5.1	UN1482	II	OXIDIZER	A30, B10	152	212	240	5 kg	25 kg	1,2	1,2	56, 69
	Peroxides, inoganic, n.o.s.	5.1	UN1483	II	OXIDIZER	A20, B10, N26, N34.	None	212	240	5 kg	25 kg	1,2	1	13, 46
	Peroxyacetic acid, more than 43 per cent and with more than 6 per cent hydrogen peroxide.	Forbidden												
	Peroxyacetic acid, *not more than 16 per cent in a mixture with at least 39 per cent water, at least 15 per cent acetic acid, not more than 24 per cent hydrogen peroxide, with stabilizer.*	5.2	UN3045	I	ORGANIC PEROXIDE, CORROSIVE.		None	225	None	1 L	5 L	1	5	12, 40
	Peroxyacetic acid *not more than 43 percent in a mixture with at least 5 percent water, at least 35 percent acetic acid, not more than 6 percent hydrogen peroxide with stabilizer.*	5.2	UN2131	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	12, 40
	Pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN3021	I	FLAMMABLE LIQUID, POISON.	B5	None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID; POISON.		None	202	243	1 L	60 L	1,3	1	
	Pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2903	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	242	60 L	220 L	1,2	1,2	23, 34, 40
	Pesticides, liquid, toxic, n.o.s.	6.1	UN2902	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Pesticides, solid, toxic, n.o.s.	6.1	UN2588	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	PETN, *see* Pentaerythrite tetranitrate													
	PETN/TNT, *see* Pentolite, *etc.*													
	Petrol, *see* Gasoline													
	Petroleum crude oil	3	UN1267	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	5	12
				III	FLAMMABLE LIQUID.	B1, T8, T31.	150	203	242	60 L	220 L	1,3	1,3	12
	Petroleum distillates, n.o.s.	3	UN1268	I	FLAMMABLE LIQUID.	T42	150	201	243	1 L	30 L	1,3	5	12
				II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	5	12
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	12
	Petroleum ether, see Petroleum spirit													
	Petroleum gases, liquefied	2.1	UN1075		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Petroleum naphtha, see Naphtha, *petroleum.*													
	Petroleum oil	3	UN1270	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	5	12
				III	FLAMMABLE LIQUID.	B1, T8, T31.	150	203	242	60 L	220 L	1,3	1,3	12
	Petroleum spirit	3	UN1271	I	FLAMMABLE LIQUID.	T8	150	201	243	1 L	30 L	1,3	5	12
				II	FLAMMABLE LIQUID.	B1, T8	150	202	242	5 L	60 L	1,3	1	12
				III	FLAMMABLE LIQUID.	T8	150	202	241	60 L	220 L	1,2	1,2	
	Phenacyl bromide	6.1	UN2645	II	POISON		None	212	242	25 kg	100 kg	1,3	1	12, 40, 95
	Phenetidines	6.1	UN2311	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	Phenol, molten	6.1	UN2312	II	POISON	B14, T8, T38.	None	202	243	Forbidden	Forbidden	1	1	40, 95
	Phenol, solid	6.1	UN1671	II	POISON	N78, T14	None	212	240	25 kg	100 kg	1,2	1,2	95
	Phenol solutions	6.1	UN2821	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.	T14	153	203	242	60 L	220 L	1,2	1,2	34
	Phenolsulfonic acid, liquid	8	UN1803	II	CORROSIVE	B2, N16, N34, N41, T8.	154	202	242	1 L	30 L	1,2	1	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Phenoxy pesticides, liquid, flammable, toxic n.o.s., *flash point less than 23 degrees C.*	3	UN2766	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Phenoxy pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN2999	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	242	60 L	220 L	1,2	1,2	23, 34, 40
	Phenoxy pesticides, liquid, toxic, n.o.s.	6.1	UN3000	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Phenoxy pesticides, solid, toxic, n.o.s.	6.1	UN2765	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Phenylacetonitrile, liquid	6.1	UN2470	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1,2	26, 34
	Phenylacetyl chloride	8	UN2577	II	CORROSIVE	B2, T8, T26.	154	202	242	1 L	30 L	1	1	40
	Phenylcarbylamine chloride	6.1	UN1672	I	POISON	B14, B32, 10.	None	227	244	Forbidden	Forbidden	1	5	40, 95
	Phenylchloroformate	6.1	UN2746	II	POISON, CORROSIVE.	T12	None	202	243	1 L	30 L	1,3	1,3	12, 13, 23, 25, 40, 95
D	Phenyldichloroarsine	6.1	NA1556	I	POISON	B3, B14, B30, 10.	None	226	244	Forbidden	Forbidden	1	5	
	m-Phenylene diaminediperchlorate (dry)	Forbidden												
	Phenylenediamines (*o-,m-,p-*)	6.1	UN1673	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Phenylhydrazine	6.1	UN2572	II	POISON		None	202	243	5 L	60 L	1,2	1,2	40, 95
	Phenyl isocyanate	6.1	UN2487	I	POISON	10, B14, B30, N1, N33, N34.	None	227	244	Forbidden	Forbidden	1	1,3	21, 25, 40, 95
	Phenyl mercaptan	6.1	UN2337	I	POISON, FLAMMABLE LIQUID.	10, B14, B32.	None	227	244	Forbidden	Forbidden	1	1,3	21, 40, 95
	Phenylmercuric acetate	6.1	UN1674	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Phenylmercuric compounds, n.o.s.	6.1	UN2026	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Phenylmercuric hydroxide	6.1	UN1894	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Phenylmercuric nitrate	6.1	UN1895	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Phenyl phosphorus dichloride	8	UN2799	II	CORROSIVE	B2, B15, T8, T26.	154	202	242	Forbidden	30 L	1,2	1	40
	Phenyl phosphorus thiodichloride	8	UN2799	II	CORROSIVE	B2, B15, T8, T26.	154	202	242	Forbidden	30 L	1,2	1	40
	Phenyltrichlorosilane	8	UN1804	I	CORROSIVE, POISON.	B6, B14, B32, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1	1	
	Phenyl urea pesticides, liquid, flammable, toxic, n.o.s.; *flash point less than 23 degrees C.*	3	UN2768	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Phenyl urea pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3001	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	242	60 L	220 L	1,2	1,2	23, 34, 40
	Phenyl urea pesticides, liquid, toxic, n.o.s.	6.1	UN3002	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Phenyl urea pesticides, solid, toxic, n.o.s.	6.1	UN2767	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Phosgene	2.3	UN1076	I	POISON GAS, CORROSIVE.	10, B7, B45, B46.	None	192	245	Forbidden	Forbidden	1	5	40, 95
	9-Phosphabicyclononanes (Cyclo-octadiene phosphines).	4.2	UN2940	II	SPONTANEOUSLY COMBUSTIBLE.	A19	None	212	241	15 kg	50 kg	1,3	1,3	
	Phosphine	2.3	UN2199	I	POISON GAS, FLAMMABLE GAS.	B7, 10	None	192	245	Forbidden	Forbidden	1	5	40, 95
	Phosphoric acid	8	UN1805	III	CORROSIVE	N26, N34, T7.	154	203	241	5 L	60 L	1,2	1,2	
	Phosphoric acid triethyleneimine, see Tri-(1-aziridyl) phosphine oxide, solution.													

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Phosphoric anhydride, see Phosphorus pentoxide.													
	Phosphorous acid, ortho	8	UN2834	III	CORROSIVE	T7	154	213	240	25 kg	100 kg	1,3	1,3	48
	Phosphorus, amorphous	4.1	UN1338	III	FLAMMABLE SOLID.	A1, A19, B12, B26.	None	213	243	25 kg	100 kg	1,3	1,3	
	Phosphorus bromide, see Phosphorus tribromide.													
	Phosphorus chloride, see Phosphorus trichloride.													
	Phosphorus heptasulfide, *free from yellow and white phosphorus.*	4.1	UN1339	II	FLAMMABLE SOLID.	A20, B10, N34.	None	212	240	15 kg	50 kg	1,3	1	74
	Phosphorus oxybromide	8	UN1939	II	CORROSIVE	B8, B10, N15, N34, N41.	None	212	240	Forbidden	50 kg	1	1	12, 40
	Phosphorus oxybromide, molten	8	UN2576	II	CORROSIVE	B2, B8, N15, N34, N41, T8, T27, T38.	None	202	242	Forbidden	Forbidden	1	1	40
	Phosphorus oxychloride	8	UN1810	I	CORROSIVE, POISON.	10, B8, B14, B32, N26, N34.	None	227	244	Forbidden	Forbidden	1	1	8, 40
	Phosphorus pentabromide	8	UN2691	II	CORROSIVE	B10, N26, N34.	154	202	240	Forbidden	50 kg	1,3	1	12, 40
	Phosphorus pentachloride	8	UN1806	II	CORROSIVE	B10, N26, N34.	None	202	240	Forbidden	50 kg	1	1	40
	Phosphorus pentafluoride	2.3	UN2198	I	POISON GAS	B13, 10	None	302	245	Forbidden	Forbidden	1	5	40, 95
	Phosphorus pentasulfide, *free from yellow and white phosphorus.*	4.3	UN1340	II	DANGEROUS WHEN WET, FLAMMABLE SOLID.	A20, B10, N34.	None	212	241	15 kg	50 kg	1,3	1,3	74
	Phosphorus pentoxide	8	UN1807	II	CORROSIVE	B10, N26, N34.	154	212	240	15 kg	50 kg	1,2	1,2	9
	Phosphorus sesquisulfide, *free from yellow and white phosphorus.*	4.1	UN1341	II	FLAMMABLE SOLID.	A20, B10, N34.	None	212	240	15 kg	50 kg	1,3	1	74
	Phosphorus tribromide	8	UN1808	II	CORROSIVE	B2, B25, N1, N11, N26, N34, T8.	None	202	242	Forbidden	30 L	1	1	8, 40

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Phosphorus trichloride	8	UN1809	I	CORROSIVE, POISON.	10, B6, B14, B32, N1, N26, N34.	None	227	244	Forbidden	Forbidden	1	1	8, 40
	Phosphorus trioxide	8	UN2578	III	CORROSIVE		154	213	241	25 kg	100 kg	1,3	1,3	12
	Phosphorus trisulfide, *free from yellow and white phosphorus.*	4.1	UN1343	II	FLAMMABLE SOLID.	A20, B10, N34.	None	212	240	15 kg	50 kg	1,3	1	74
	Phosphorus, white *or* yellow dry *or* under water *or* in solution.	4.2	UN1381	I	SPONTANEOUSLY COMBUSTIBLE, POISON.	A19, B12, B26, N1, N15, N34, T15, T26, T33.	None	188	243	Forbidden	Forbidden	1,3	5	
	Phosphorus white, molten	4.2	UN2447	I	SPONTANEOUSLY COMBUSTIBLE, POISON.	A19, B12, B26, N1, N15, N34, T15, T26, T29.	None	188	243	Forbidden	Forbidden	1	5	
	Phosphorus (white or red) and a chlorate, mixtures of.	Forbidden												
	Phosphoryl chloride, see Phosphorus oxychloride.													
	Photo-flash powder, *in units*	1.1G	UN0094											
	Photo-flash powder, *in units*	1.2G	UN0086											
	Photo-flash powder, *in units*	1.3G	UN0305											
	Phthalic anhydride	8	UN2214	III	CORROSIVE	T7, T38	154	213	240	25 kg	100 kg	1,2	1,2	34
	Phthalimide derivative pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2774	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Phthalimide derivative pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3007	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	23, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	23, 40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	242	60 L	220 L	1,2	1,2	23, 34, 40
	Phthalimide derivative pesticides, liquid, toxic, n.o.s.	6.1	UN3008	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Phthalimide derivative pesticides, solid, toxic, n.o.s..	6.1	UN2779	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Picolines	3	UN2313	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	40
	Picric acid, *see* Trinitrophenol, *etc.*													
D	Picric acid, wet, with not less than 10% water.	4.1	NA1344	I	FLAMMABLE SOLID.	A19, A20, N34(N41.	None	211	None	Forbidden	Forbidden	1	5	
	Picrite, *see* Nitroguanidine, *etc.*													
	Picryl chloride, *see* Trinitrochlorobenzene													
	Pinane hydroperoxide, *see* Pinanyl hydroperoxide(*technically pure.*													
	Pinanyl hydroperoxide *or* Pinane hydroperoxide, *technically pure.*	5.2	UN2162	I	ORGANIC PEROXIDE.	B19, T25	None	225	243	1 L	5 L	1	5	12, 40
	Pindone *liquid*	6.1	UN2472	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Pindone *solid*	6.1	UN2472	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	alpha-Pinene	3	UN2368	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Pine oil	3	UN1272	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Piperazine	8	UN2579	III	CORROSIVE	T7	154	213	240	25 kg	100 kg	1,3	1,3	12
	Piperidine	3	UN2401	II	FLAMMABLE LIQUID.	T2	150	202	242	5 L	60 L	1,3	1	13
	Pivaloyl chloride, see Trimethyl acetyl chloride.													
	Plastic moulding material *in dough, sheet or extruded rope form.*	9		III	CLASS 9		155	213	None	100 kg	200 kg	1,2	1,2	
	Plastics, nitrocellulose based, spontaneously combustible, n.o.s..	4.2	UN2006	III	SPONTANEOUSLY COMBUSTIBLE.		None	213	None	Forbidden	Forbidden	1	1	
	Plastic solvent, n.o.s., see Flammable liquids, n.o.s..													
	Poisonous gases, n.o.s., see Compressed *or* liquefied gases, flammable *or* toxic, n.o.s..													
	Poisonous liquids, corrosive, n.o.s.	6.1	UN2927	I	POISON, CORROSIVE.	B38, T42	None	201	243	0.5 L	2.5 L	1,2	1	20, 40, 95
				II	POISON, CORROSIVE.		None	202	243	1 L	30 L	1,2	1	20, 40, 95
	Poisonous liquids, corrosive, n.o.s., *inhalation hazard, Packing Group I, Zone A.*	6.1	UN2927	I	POISON, CORROSIVE.	10, B14, B30.	None	226	245	Forbidden	Forbidden	1	5	20, 40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Poisonous liquids, corrosive, n.o.s., *inhalation hazard, Packing Group I, Zone B.*	6.1	UN2927	I	POISON, CORROSIVE.	10, B14, B32.	None	227	244	Forbidden	Forbidden	1	5	20, 40, 95
	Poisonous liquids, flammable, n.o.s.	6.1	UN2929	I	POISON, FLAMMABLE LIQUID.	B38, B40, T42.	None	201	243	1 L	30 L	1,2	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T15	None	202	243	5 L	60 L	1,2	1	21, 40, 95
	Poisonous liquids, flammable, n.o.s., *inhalation hazard, Packing Group I, Zone A.*	6.1	UN2929	I	POISON, FLAMMABLE.	10, B14, B30.	None	226	245	Forbidden	Forbidden	1	5	20, 40, 95
	Poisonous liquids, flammable, n.o.s., *inhalation hazard, Packing Group I, Zone B.*	6.1	UN2929	I	POISON, FLAMMABLE.	10, B14, B32.	None	227	244	Forbidden	Forbidden	1	5	20, 40, 95
	Poisonous liquids, n.o.s.	6.1	UN2810	I	POISON	B38, B40, T42.	None	201	243	1 L	30 L	1,2	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1	34, 40
	Poisonous liquids, n.o.s., *inhalation hazard, Packing Group I, Zone A.*	6.1	UN2810	I	POISON	10, B14, B30.	None	226	245	Forbidden	Forbidden	1	5	20, 40, 95
	Poisonous liquids, n.o.s., *inhalation hazard, Packing Group I, Zone B.*	6.1	UN2810	I	POISON	10, B14, B32.	None	227	244	Forbidden	Forbidden	1	5	20, 40, 95
	Poisonous solids, corrosive, n.o.s.	6.1	UN2926	I	POISON, CORROSIVE.		None	211	242	1 kg	25 kg	1,2	1	20, 40, 95
				II	POISON, CORROSIVE.		None	212	242	15 kg	50 kg	1,2	1	20, 40, 95
	Poisonous solids, flammable, n.o.s.	6.1	UN2930	I	POISON, FLAMMABLE SOLID.		None	211	242	1 kg	15 kg	1,2	1	24, 40, 95
				II	POISON, FLAMMABLE SOLID.		None	212	242	15 kg	50 kg	1,2	1	24, 40, 95
	Poisonous solids, n.o.s.	6.1	UN2811	I	POISON		None	211	242	5 kg	50 kg	1,2	1	95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1	34
	Poisonous solids, oxidizing, n.o.s.	6.1	UN3086	I	POISON, OXIDIZER.		None	211	242	1 kg	15 kg	1,2	1	40, 89, 95
				II	POISON, OXIDIZER.		None	212	242	15 kg	50 kg	1,2	1	40, 89, 95
	Polyalkylamines, n.o.s., *see* Alkylamines, *etc.*.													
AW	Polychlorinated biphenyls	9	UN2315	II	CLASS 9	B10	155	202	240	100 L	220 L	1,2	1,2	34
D	Polyester resin kits	5.2	NA2255	II	ORGANIC PEROXIDE.	66	None	225	246	5 kg	5 kg	1	5	
	Polystyrene beads, expandable, *evolving flammable vapor.*	9	UN2211	III	CLASS 9		221	221	240	100 kg	200 kg	1,2	1,2	34

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Potassium	4.3	UN2257	II	DANGEROUS WHEN WET.	A19, A20, B27, N6, N34, T15, T26.	None	212	244	Forbidden	50 kg	1	5	
	Potassium arsenate	6.1	UN1677	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Potassium arsenite	6.1	UN1678	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Potassium bifluoride, *solid*	8	UN1811	II	CORROSIVE, POISON.	N3, N34, T8.	154	212	242	15 kg	50 kg	1,3	1,3	25, 26, 40
	Potassium bifluoride solution, see Corrosive liquid, n.o.s..													
	Potassium bifluoride, *solution*	8	UN1811	II	CORROSIVE, POISON.	N3, N34, T8.	154	202	242	1 L	30 L	1,3	1,3	25, 26, 40
	Potassium bisulfite solution, *see* Bisulfites, inoganic, aqueous solutions, n.o.s..													
	Potassium borohydride	4.3	UN1870	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	
	Potassium bromate	5.1	UN1484	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Potassium carbonyl	Forbidden												
	Potassium chlorate	5.1	UN1485	II	OXIDIZER	B10, N13, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Potassium chlorate mixed with mineral oil, see Explosive, blasting, type C.													
	Potassium chlorate, solution	5.1	UN2427	II	OXIDIZER	A2, T8	152	202	241	1 L	5 L	1,2	1	46, 56
	Potassium cuprocyanide	6.1	UN1679	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	26, 95
	Potassium cyanide	6.1	UN1680	I	POISON	N74, N75, T8, T26.	None	211	242	5 kg	50 kg	1,2	1,2	26, 95
	Potassium dichloro isocyanurate. See Oxidizer, n.o.s..													
	Potassium dithionite *or* Potassium hydrosulfite.	4.2	UN1929	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N2.	None	212	241	15 kg	50 kg	1,3	5	13
	Potassium fluoride	6.1	UN1812	III	KEEP AWAY FROM FOOD.	T8	153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Potassium fluoroacetate	6.1	UN2628	I	POISON		None	211	242	5 kg	50 kg	1,2	5	95
	Potassium fluorosilicate	6.1	UN2655	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Potassium hydrate, see Potassium hydroxide, solid.													
	Potassium hydrogen fluoride, see Potassium bifluoride.													
	Potassium hydrogen fluoride solution, see Corrosive liquid, n.o.s..													
	Potassium hydrogen sulfate	8	UN2509	II	CORROSIVE	N26, N34	154	212	240	15 kg	50 kg	1,2	1,2	27
	Potassium hydrosulfite, *see* Potassium dithionite.													

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Potassium hydroxide, liquid, see Potassium hydroxide solution.													
	Potassium hydroxide, solid	8	UN1813	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Potassium hydroxide, solution	8	UN1814	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	
	Potassium hypochlorite, solution, see Hypochlorite solutions, *etc.*.													
	Potassium, metal alloys	4.3	UN1420	II	DANGEROUS WHEN WET.	A19, A20, B27, N16.	None	212	244	Forbidden	50 kg	1	5	
	Potassium metal, liquid alloy, see Alkali metal alloys, liquid.													
	Potassium metavanadate	6.1	UN2864	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Potassium monoxide	8	UN2033	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Potassium nitrate	5.1	UN1486	III	OXIDIZER	A1, A29	152	212	240	25 kg	100 kg	1,2	1,2	
	Potassium nitrate and sodium nitrite mixtures.	5.1	UN1487	II	OXIDIZER	B10, B12	152	212	240	5 kg	25 kg	1,2	1,2	34, 56, 58
	Potassium nitrite	5.1	UN1488	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	34, 56, 58
	Potassium perchlorate	5.1	UN1489	II	OXIDIZER	B10, T8	152	212	240	5 kg	25 kg	1,2	1,2	46
	Potassium permanganate	5.1	UN1490	II	OXIDIZER	B10, B12	152	212	240	5 kg	25 kg	1,2	1,2	56, 69
	Potassium peroxide	5.1	UN1491	I	OXIDIZER	A20, N16, N34.	None	211	None	Forbidden	15 kg	1,2	1,2	13
	Potassium persulfate	5.1	UN1492	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Potassium phosphide	4.3	UN2012	I	DANGEROUS WHEN WET, POISON.	A19	None	211	None	Forbidden	15 kg	1,2	5	40, 85
	Potassium salts of aromatic nitro-derivatives, *explosive-*.	1.3C	UN0158											
	Potassium selenate, *see* Selenates *or* Selenites.													
	Potassium selenite, *see* Selenates *or* Selenites.													
	Potassium sodium alloys	4.3	UN1422	I	DANGEROUS WHEN WET.	A19, B27, N34, T15, T26.	None	211	244	Forbidden	15 kg	1	5	
	Potassium sulfide, anhydrous *or* Potassium sulfide *with less than 30 per cent water of crystallization.*	4.2	UN1382	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, B16, N34.	None	212	241	15 kg	50 kg	1,3	1,3	52
	Potassium sulfide, hydrated *with not less than 30 per cent water of crystallization.*	8	UN1847	II	CORROSIVE	B10	154	212	240	15 kg	50 kg	1,2	1,2	26
	Potassium superoxide	5.1	UN2466	I	OXIDIZER	A20	None	211	None	Forbidden	15 kg	1,2	1	13, 31
	Powder cake (Powder paste) wetted *with not less than 35 per cent water, by weight.*	1.3C	UN0159											
	Powder cake, wetted *with not less than 17 per cent alcohol by weight.*	1.1C	UN0433											
	Powder paste, *see* Powder cake, *etc.*													
	Powder, smokeless	1.1C	UN0160											

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	Powder, smokeless	1.3C	UN0161											
	Power device, explosive, see Cartridges, power device.													
	Primers, cap type	1.4S	UN0044											
	Primers, cap type	1.1B	UN0377											
	Primers, cap type	1.4B	UN0378											
	Primers, small arms, see Primers, cap type													
	Primers, tubular	1.3G	UN0319											
	Primers, tubular	1.4G	UN0320											
	Primers, tubular	1.4S	UN0376											
	Projectiles, illuminating, see Ammunition, illuminating, *etc.*													
	Projectiles, *inert with tracer*	1.4S	UN0345											
	Projectiles, *inert, with tracer*	1.3G	UN0424											
	Projectiles, *inert, with tracer*	1.4G	UN0425											
	Projectiles, *with burster or expelling charge*	1.2D	UN0346											
	Projectiles, *with burster or expelling charge*	1.4D	UN0347											
	Projectiles, *with burster or expelling charge*	1.2F	UN0426											
	Projectiles, *with burster or expelling charge*	1.4F	UN0427											
	Projectiles, *with burster or expelling charge*	1.2G	UN0434											
	Projectiles, *with burster or expelling charge*	1.4G	UN0435											
	Projectiles, *with bursting charge*	1.1F	UN0167											
	Projectiles, *with bursting charge*	1.1D	UN0168											
	Projectiles, *with bursting charge*	1.2D	UN0169											
	Projectiles, *with bursting charge*	1.2F	UN0324											
	Projectiles, *with bursting charge*	1.4D	UN0344											
	Propadiene, inhibited	2.1	UN2200		FLAMMABLE GAS.	B13	None	304	244	Forbidden	150 kg	1	5	40
	Propadiene mixed with methyl acetylene, see Methyl acetylene and propadiene mixtures, stabilized.													
	Propane *see also* Petroleum gases, liquified.	2.1	UN1978		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Propanethiols	3	UN2402	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	5	12, 13, 34, 35, 40
	n-Propanol	3	UN1274	II	FLAMMABLE LIQUID.	B1, T1	150	202	242	5 L	60 L	1,3	1	
D	Propargyl alcohol	3	NA1986	II	FLAMMABLE LIQUID, POISON.		None	202	243	Forbidden	1 L	1,3	1	
	Propionaldehyde	3	UN1275	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	1	12
	Propionic acid	8	UN1848	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,3	1,3	22, 76, 77
	Propionic anhydride	8	UN2496	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,2	1,2	8
	Propionitrile	3	UN2404	II	FLAMMABLE LIQUID, POISON.	B14	None	201	243	Forbidden	60 L	1,3	5	12, 40, 94

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Propionyl chloride	3	UN1815	II	FLAMMABLE LIQUID, CORROSIVE.	T8, T26	None	202	243	1 L	5 L	1,3	1	40
	Propionyl peroxide, *see* Dipropionyl peroxide, *etc.*.													
	n-Propyl acetate	3	UN1276	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Propyl alcohol, *see* Propanol													
	Propylamine	3	UN1277	II	FLAMMABLE LIQUID.	N34, T14	None	202	242	5 L	60 L	1,3	5	12, 40
	n- Propyl benzene	3	UN2364	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	
	Propyl chloride	3	UN1278	II	FLAMMABLE LIQUID.	N34, T14	None	202	242	Forbidden	60 L	1,3	5	12
	n-Propyl chloroformate	6.1	UN2740	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B6, B14, B32, N1, N11, N26, N34, 10.	None	227	244	Forbidden	Forbidden	1,3	5	21, 40, 95
	Propylene chlorohydrin	6.1	UN2611	II	POISON	T9	None	202	243	5 L	60 L	1,3	1,3	12, 21, 25, 40, 95
	1,2-Propylenediamine	8	UN2258	II	CORROSIVE	N1, N11, N34, T8.	None	202	243	1 L	30 L	1,3	1,3	40
	Propylene dichloride	3	UN1279	II	FLAMMABLE LIQUID.	N36, T1	150	202	242	5 L	60 L	1,3	1	
	Propyleneimine, inhibited	3	UN1921	I	FLAMMABLE LIQUID.	N1, N15, N34, T25.	None	201	243	1 L	30 L	1,3	5	40
	Propylene oxide	3	UN1280	I	FLAMMABLE LIQUID.	N1, N15, N34, T20, T29.	None	201	243	1 L	30 L	1,3	5	12
	Propylene *see also* Petroleum gases, liquified.	2.1	UN1077		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Propylene tetramer	3	UN2850	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Propyl formates	3	UN1281	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	n-Propyl isocyanate	3	UN2482	I	FLAMMABLE LIQUID, POISON.	N15, N26, T18, T26.	None	201	243	Forbidden	30 L	1	5	12, 40, 48
	Propyl mercaptan, see Propanethiols													
	n-Propyl nitrate	3	UN1865	II	FLAMMABLE LIQUID.	T25	150	202	None	5 L	60 L	1,3	1	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or rail car	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Propyltrichlorosilane	8	UN1816	II	CORROSIVE	B2, B6, N16, N26, N34, T8, T26.	None	202	242	Forbidden	30 L	1	1	13, 21, 78
	Prussic acid, see Hydrogen cyanide													
	Pyridine	3	UN1282	II	FLAMMABLE LIQUID, POISON.	T8	None	202	243	1 L	60 L	1,3	1	40
	Pyridine perchlorate	Forbidden												
	Pyrophoric *or* Pyroforic liquids, n.o.s.	4.2	UN2845	I	SPONTANEOUSLY COMBUSTIBLE.	B11	None	181	244	Forbidden	Forbidden	1	5	18
	Pyrophoric *or* Pyroforic solids, n.o.s.	4.2	UN2846	I	SPONTANEOUSLY COMBUSTIBLE.		None	187	242	Forbidden	Forbidden	1	1	
				II	SPONTANEOUSLY COMBUSTIBLE.		None	187	241	Forbidden	Forbidde	1	1	
				III	SPONTANEOUSLY COMBUSTIBLE.		None	187	241	Forbidden	Forbidden	1	1	
	Pyrophoric metals, n.o.s., *or* Pyrophoric alloys, n.o.s.	4.2	UN1383	I	SPONTANEOUSLY COMBUSTIBLE.	B11	None	187	242	Forbidden	Forbidden	1	5	
	Pyrosulfuryl chloride	8	UN1817	II	CORROSIVE	B2, T9, T27.	154	202	242	1 L	30 L	1	1	8, 40
	Pyroxylin solution or solvent, see Nitrocellulose.													
	Pyrrolidine	3	UN1922	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	40
	Quebrachitol pentanitrate	Forbidden												
	Quicklime, see Calcium oxide													
	Quinoline	6.1	UN2656	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,3	1,3	12, 22, 25, 34
	R 12, see Dichlorodifluoromethane													
	R 12B1, see Chlorodifluorobromomethane													
	R 13, see Chlorotrifluoromethane													
	R 13B1, see Bromotrifluoromethane													
	R 14, see Tetrafluoromethane													
	R 21, see Dichlorofluoromethane													
	R 22, see Chlorodifluoromethane													
	R 114, see Dichlorotetrafluoroethane													

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	R 115, see Chloropentafluoroethane													
	R 116, see Hexafluoroethane													
	R 124, see Chlorotetrafluoroethane													
	R 133a, see Chlorotrifluoroethane													
	R 152a, see Difluoroethane													
	R 500, see Dichlorodifluoromethane and difluorethane, *etc.*.													
	R 502, see Chlorodifluoromethane and chloropentafluoroethane mixture, *etc.*.													
	R 503, see Chlorotrifluoromethane and trifluoromethane, *etc.*.													
	Radioactive material, excepted package-articles manufactured from natural *or* depleted uranium *or* natural thorium.	7	UN2910		None		421-1, 424	421-1, 424	None			1,2	1,2	
	Radioactive material, excepted package-empty packaging.	7	UN2910		EMPTY		427	427	427			1,2	1,2	
	Radioactive material, excepted package-instruments *or* articles.	7	UN2910		None		421-1, 422	421-1, 422	None					
	Radioactive material, excepted package-limited quantity of material.	7	UN2910		None		421, 421-1	421, 421-1	None			1,2	1,2	
	Radioactive material, fissile, n.o.s., *Class I, II, or III*.	7	UN2918		RADIOACTIVE		453	417	None			1,2	1,2	
	Radioactive material, low specific activity *LSA*, n.o.s..	7	UN2912		RADIOACTIVE		421, 422, 424	425	425			1,2	1,2	
	Radioactive material, n.o.s.	7	UN2982		RADIOACTIVE		421, 422, 424	415, 416	None			1,2	1,2	
	Radioactive material, special form, n.o.s.	7	UN2974		RADIOACTIVE		421, 422	415, 416	None			1,2	1,2	
	Railway torpedo, see Signals, railway track, explosive.													
	Rare gases and nitrogen mixtures	2.2	UN1981		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	65
	Rare gases and oxygen mixtures	2.2	UN1980		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	65
	Rare gases, mixtures (*e.g. Argon; Helium; Krypton; Neon; Xenon*).	2.2	UN1979		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	65
	RC 318, see Octafluorocyclobutane													
	RDX, see Cyclotrimethylene trinitramine, etc..													
	Receptacles, small with flammable gas *without a dispersion device, not refillable*.	2.1	UN2037		FLAMMABLE GAS.		306	304	None	1 kg	15 kg	1	1	40
	Red phosphorus, see Phosphorus, amorphous.													
	Refrigerant gases, n.o.s. (*e.g. non-flammable halocarbons*).	2.2	UN1078		NONFLAMMABLE GAS.	B51	306	304	314, 315	75 kg	150 kg	1,3	1,3	65

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
D	Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s..	2.1	NA1954		FLAMMABLE GAS.	B51	306	304	314, 315	Forbidden	150 kg	1	1	40
D	Refrigerating machine	3	NA1993	III	FLAMMABLE LIQUID.		174	174	None	10 L	10 L	1,3	1	
D	Refrigerating machines, *containing flammable, non-poisonous, liquefied gas.*	2.1	NA1954		FLAMMABLE GAS.		306	306	306	Forbidden	Forbidden	1	1	40
	Refrigerating machines, *containing nonflammable, non-poisonous, liquefied gas.*	2.2	UN2857		NONFLAMMABLE GAS.		306, 307	306	306, 307	Forbidden	Forbidden	1,3	1,3	85
	Release devices, explosive	1.4S	UN0173											
	Resin solution, *flammable*	3	UN1866	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1,3	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
I	Resin solution, poisonous	6.1	UN1866	I	POISON		None	201	243	1 L	30 L	1,2	1,2	23, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1,2	23, 95
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	23, 34
	Resorcinol	6.1	UN2876	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Rifle grenade, see Grenades, *hand or rifle, etc.*.													
	Rifle powder, see Powder, smokeless (*UN 0160*).													
	Rivets, explosive	1.4S	UN0174											
	Road asphalt or tar liquid, see Tars, liquid, *etc.*.													
	Rocket motors	1.3C	UN0186											
	Rocket motors	1.1C	UN0280											
	Rocket motors	1.2C	UN0281											
	Rocket motors, liquid fueled	1.2J	UN0395											
	Rocket motors, liquid fueled	1.3J	UN0396											
	Rocket motors *with hypergolic liquids, with or without an expelling charge.*	1.3L	UN0250											
	Rocket motors *with hypergolic liquids, with or without an expelling charge.*	1.2L	UN0322											
	Rockets, line throwing	1.4G	UN0453											
	Rockets, line-throwing	1.2G	UN0238											
	Rockets, line-throwing	1.3G	UN0240											
	Rockets, liquid fueled *with bursting charge*	1.2J	UN0398											
	Rockets, liquid-fueled *with bursting charge*	1.1J	UN0397											
	Rockets, *with bursting charge*	1.1F	UN0180											
	Rockets, *with bursting charge*	1.1E	UN0181											
	Rockets, *with bursting charge*	1.2E	UN0182											
	Rockets, *with bursting charge*	1.2F	UN0295											
	Rockets, *with expelling charge*	1.2C	UN0436											
	Rockets, *with expelling charge*	1.3C	UN0437											
	Rockets, *with expelling charge*	1.4C	UN0438											
	Rockets, *with inert head*	1.3C	UN0183											
	Rodenticides, n.o.s.(*liquid*)	6.1	UN1681	I	POISON		None	201	243	1 L	30 L	1	1	40, 95
				II	POISON		None	202	243	5 L	60 L	1,2	1	40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34, 40
	Rodenticides, n.o.s. (*solid*)	6.1	UN1689	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Rosin oil	3	UN1286	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,2	1,2	
	Rubber solution	3	UN1287	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Rubidium	4.3	UN1423	I	DANGEROUS WHEN WET.	A19, N26, N34, N45, 22.	None	211	242	Forbidden	15 kg	1	5	
	Rubidium hydroxide	8	UN2678	II	CORROSIVE	T8	154	212	240	15 kg	50 kg	1,2	1,2	
	Rubidium hydroxide solution	8	UN2677	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
	Safety fuse, see Fuse, safety													
	Safety squibs, see Squibs, *etc.*													
	Samples, explosive, *other than initiating explosives.*		UN0190											
	Sand acid, see Fluorosilicic acid													
I	Seed cake *with more than 1.5 per cent oil and not more than 11 per cent moisture.*	4.2	UN1386	III	None		None	213	241	Forbidden	Forbidden	1,3	5	
I	Seed cake *with not more than 1.5 per cent oil and not more than 11 per cent moisture.*	4.2	UN2217	III	None		None	213	241	Forbidden	Forbidden	1,3	1,3	
	Selenates *or* Selenites	6.1	UN2630	I	POISON		None	211	242	5 kg	50 kg	1,2	5	95
	Selenic acid	8	UN1905	I	CORROSIVE	N34	None	211	240	Forbidden	25 kg	1,2	1,2	
	Selenites, *see* Selenates *or* Selenites													
	Selenium disulfide	6.1	UN2657	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Selenium hexafluoride	2.3	UN2194	I	POISON GAS	10	None	302	245	Forbidden	Forbidden	1	5	40, 95
	Selenium nitride	Forbidden												
D	Selenium oxide	6.1	NA2811	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	
	Selenium oxychloride	8	UN2879	I	CORROSIVE, POISON.	N1, N11, N26, N34, T12, T27.	None	201	243	0.5 L	2.5 L	1,2	5	40
	Selenium powder	6.1	UN2658	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Self-heating substances, solid, n.o.s.	4.2	UN3088	II	SPONTANEOUSLY COMBUSTIBLE.		None	212	241	Forbidden	Forbidden	1	5	

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Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations: Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements: Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
				III	SPONTANEOUSLY COMBUSTIBLE.		None	213	241	Forbidden	Forbidden	1	5	
	Self-propelled vehicle, see Vehicles, self-propelled.													
	Self-reactive substances (*aliphatic azo-compounds, aromatic sulphoh ydrazides, N-nitroso compounds, diazonium salts*) Sample, n.o.s..	4.1	UN3031	I	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	
	Self-reactive substances (*aliphatic azo-compounds, aromatic sulphohydrazides, n-nitroso compounds, diazonium salts*), Trial quantities, n.o.s..	4.1	UN3032	I	FLAMMABLE SOLID.		None	214	None	Forbidden	Forbidden	1	5	
	Shale oil	3	UN1288	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,2	1,2	
	Shaped charges, commercial, see Charges, shaped, commercial.													
	Shaped charges (commercial) containing more than 8 ounces of explosives.	Forbidden												
	Signal devices, hand	1.4G	UN0191											
	Signal devices, hand	1.4S	UN0373											
	Signals, highway, see Signal devices, hand; Fireworks, type D.													
	Signals, railway track, explosive	1.1G	UN0192											
	Signals, railway track, explosive	1.4S	UN0193											
	Signals, ship distress (*other than water-activated contrivances*).	1.1G	UN0194											
	Signals, ship distress (*other than water-activated contrivances*).	1.3G	UN0195											
	Signals, ship distress, wateractivated, see Contrivances, water-activated, *etc.*.													
	Signals, smoke *with explosive sound unit*	1.1G	UN0196											
	Signals, smoke *with explosive sound unit*	1.2G	UN0313											
	Signals, smoke *without explosive sound unit.*	1.4G	UN0197											
	Silane	2.1	UN2203		FLAMMABLE GAS.		None	302	None	Forbidden	Forbidden	1	5	25, 40, 74
	Silicofluoric acid, see Fluorosilicic acid													
	Silicon chloride, see Silicon tetrachloride													
	Silicon powder, amorphous	4.1	UN1346	III	FLAMMABLE SOLID.	A1	None	213	240	25 kg	100 kg	1,3	1,3	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Silicon tetrachloride	8	UN1818	II	CORROSIVE	B2, B6, N1, N11, N34, N41, T18, T28, T29.	154	202	242	1 L	30 L	1	1	8, 40
	Silicon tetrafluoride	2.3	UN1859	III	POISON GAS, CORROSIVE.	B13, B14, B34, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 95
	Silver acetylide (dry)	Forbidden												
	Silver arsenite	6.1	UN1683	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Silver azide (dry)	Forbidden												
	Silver chlorite (dry)	Forbidden												
	Silver cyanide	6.1	UN1684	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	26, 40, 95
	Silver fulminate (dry)	Forbidden												
	Silver nitrate	5.1	UN1493	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	34
	Silver oxalate (dry)	Forbidden												
	Silver picrate (dry)	Forbidden												
	Silver picrate, wetted *with not less than 30 per cent water, by weight.*	4.1	UN1347	I	FLAMMABLE SOLID.		None	211	None	Forbidden	Forbidden	1	5	
	Sludge, acid	8	UN1906	II	CORROSIVE	B2, N1, N26, N34, T9, T14, T27.	None	202	242	Forbidden	30 L	1,2	1	14, 33
D	Small arms ammunition	ORM-D	None	III	None		None	230	None	65 lb gross	65 lb gross	1,2	1,2	
D	Smokeless powder for small arms (*100 pounds or less*).	4.1	NA1325	I	FLAMMABLE SOLID.		None	171	None	Forbidden	Forbidden			
	Soda lime *with more than 4 per cent sodium hydroxide.*	8	UN1907	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Sodium	4.3	UN1428	II	DANGEROUS WHEN WET.	A19, A20, B22, N2, N16, N26, N34, T15, T29.	None	212	243	Forbidden	50 kg	1	5	
	Sodium aluminate, solid	8	UN2812	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Sodium aluminate, solution	8	UN1819	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Sodium aluminum hydride	4.3	UN2835	II	DANGEROUS WHEN WET.	A19, A20, N2.	None	212	242	Forbidden	50 kg	1	5	
	Sodium ammonium vanadate	6.1	UN2863	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
	Sodium arsanilate	6.1	UN2473	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Sodium arsenate	6.1	UN1685	II	POISON		None	212	240	25 kg	100 kg	1,2	1,2	95
	Sodium arsenite, aqueous solutions	6.1	UN1686	II	POISON	T15	None	202	243	5 L	60 L	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.	T15	153	203	241	60 L	220 L	1,2	1,2	34
	Sodium arsenite, solid	6.1	UN2027	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Sodium azide	6.1	UN1687	II	POISON	B28	None	212	242	25 kg	100 kg	1,2	1,2	36, 52, 95
	Sodium bifluoride, see Sodium hydrogen fluoride.													
	Sodium bisulfate, solid or solution, see Sodium hydrogen sulfate, solid *or* solution.													
	Sodium bisulfite, solid or solution, see Sodium hydrogen sulfite, solid *or* solution.													
	Sodium borohydride	4.3	UN1426	I	DANGEROUS WHEN WET.		None	211	242	Forbidden	15 kg	1,3	5	
	Sodium bromate	5.1	UN1494	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Sodium cacodylate	6.1	UN1688	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	26, 95
	Sodium chlorate	5.1	UN1495	II	OXIDIZER	B10, N13, N34, T8.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Sodium chlorate mixed with dinitrotoluene, see Explosive blasting, type C.													
	Sodium chlorate, solution	5.1	UN2428	II	OXIDIZER	A2, B6, T8.	152	202	241	1 L	5 L	1,2	1	46, 56
	Sodium chlorite	5.1	UN1496	II	OXIDIZER	B10, N13, N34, T8.	None	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Sodium chlorite solution *with more than 5 per cent available chlorine.*	8	UN1908	II	CORROSIVE	B2, N1, N11, N25, N26, N34.	154	202	242	1 L	30 L	1,2	1	
	Sodium chloroacetate	6.1	UN2659	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,3	1,3	12, 13, 34
	Sodium cuprocyanide, solid	6.1	UN2316	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	26, 40, 95
	Sodium cuprocyanide, solution	6.1	UN2317	I	POISON	T8, T26	None	201	243	1 L	30 L	1,2	1	40, 52, 95
	Sodium cyanide	6.1	UN1689	I	POISON	N74, N75, T18, T26.	None	211	242	5 kg	50 kg	1,2	1,2	26, 95
	Sodium 2-diazo-1-naphthol-4-sulphonate	4.1	UN3040	II	FLAMMABLE SOLID.		None	214	None	15 kg	50 kg	1	5	25

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or rail car	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Sodium 2-diazo-1-naphthol-5-sulphonate	4.1	UN3041	II	FLAMMABLE SOLID.		None	214	None	15 kg	50 kg	1	5	25
	Sodium dichloroisocyanurate or *Sodium dichloro-s-trizinetrione, see* Dichloroisocyanuric acid etc.													
	Sodium dinitro-o-cresolate, *dry or wetted with less than 15 per cent water, by weight.*	1.3C	UN0234											
	Sodium dinitro-o-cresolate, wetted *with not less than 15 per cent water, by weight.*	4.1	UN1348	I	FLAMMABLE SOLID, POISON.	A19, A20, N2, N34, N41.	None	211	None	1 kg	15 kg	1	5	36
	Sodium dithiojite *or* Sodiui hydrosulfite	4.2	UN1384	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20	None	212	241	15 kg	50 kg	1,3	1,3	13
	Sodium fluoride	6.1	UN1690	III	KEEP AWAY FROM FOOD.	T8	153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Sodium fluoroacetate	6.1	UN2629	I	POISON		None	211	242	5 kg	50 kg	1,2	5	40, 95
	Sodium fluorosilicate	6.1	UN2674	III	KEEP AWAY FROM FKOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Sodium hydrate, see Sodium hydroxide													
	Sodium hydride	4.3	UN1427	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1	5	
	Sodium hydrogen fluoride, *solid*	8	UN2439	II	CORROSIVE	N3, N34	154	212	240	15 kg	50 kg	1,3	1,3	12, 25, 26, 40
	Sodium hydrogen fluoride, *solution*	8	UN2439	II	CORROSIVE	N3, N34	154	202	242	1 L	30 L	1,2	1,2	12, 25, 26, 40
	Sodium hydrogen sulfate, solid	8	UN1821	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Sodium hydrogen sulfate, solution	8	UN2837	II	CORROSIVE	B2, N26, N34, T8, T26.	154	202	242	1 L	30 L	1,2	1,2	
D	Sodium hydrosulfide, solution	8	NA2922	II	CORROSIVE	B2	154	202	242	1 L	30 L	1,2	1,2	
	Sodium hydrosulfide, *with less than 25 per cent water of crystallization.*	4.2	UN2318	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N26.	None	212	241	15 kg	50 kg	1,3	1,3	
	Sodium hydrosulfide *with not less than 25 per cent water of crystallization.*	8	UN2949	II	CORROSIVE	N26	154	212	240	15 kg	50 kg	1,2	1,2	25
	Sodium hydrosulfite, *see* Sodium dithionite													
	Sodium hydroxide, solid	8	UN1823	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Sodium hydroxide solution	8	UN1824	II	CORROSIVE	B2, N34, T6.	154	202	242	1 L	30 L	1,2	1,2	
	Sodium hypochlorite, solution, see Hypochlorite solutions.													
	Sodium metal, liquid alloy, see Alkali metal alloys, liquid.													
	Sodium methylate	4.3	UN1431	II	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	1	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Sodium methylate solutions *in alcohol*	3	UN1289	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	202	242	60 L	220 L	1,3	1,3	
	Sodium monoxide	8	UN1825	II	CORROSIVE		154	212	240	15 kg	50 kg	1,2	1,2	
	Sodium nitrate	5.1	UN1498	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Sodium nitrate and potassium nitrate mixtures.	5.1	UN1499	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Sodium nitrite	5.1	UN1500	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	34, 56, 58
	Sodium pentachlorophenate	6.1	UN2567	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
	Sodium percarbonates	5.1	UN2467	III	OXIDIZER	A1, A29, 27.	152	213	240	25 kg	100 kg	1,2	1,2	13
	Sodium perchlorate	5.1	UN1502	II	OXIDIZER	B10, T8	152	212	240	5 kg	25 kg	1,2	1,2	46
	Sodium permanganate	5.1	UN1503	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	56, 69
	Sodium peroxide	5.1	UN1504	I	OXIDIZER	A20, N16, N34.	None	211	None	Forbidden	15 kg	1,2	1	13, 31, 45, 46
	Sodium persulfate	5.1	UN1505	III	OXIDIZER	A1	152	213	240	25 kg	100 kg	1,2	1,2	
	Sodium phenolate, solid	8	UN2497	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Sodium phosphide	4.3	UN1432	I	DANGEROUS WHEN WET, SPONTANEOUSLY COMBUSTIBLE, POISON.	A19	None	211	None	Forbidden	15 kg	1,3	5	40, 85
	Sodium picramate, *dry or wetted with less than 20 per cent water, by weight.*	1.3C	UN0235											
	Sodium picramate, wetted *with not less than 20 per cent water, by weight.*	4.1	UN1349	I	FLAMMABLE SOLID.	A19, N2, N34, N41.	None	211	None	Forbidden	15 kg	1,3	5	35
	Sodium picryl peroxide	Forbidden												
	Sodium potassium alloys, see Potassium sodium alloys.													
	Sodium salts of aromatic nitro-derivatives, n.o.s., *explosive.*	1.3C	UN0203											
	Sodium selenate, see Selenates *or* Selenites.													
D	Sodium selenite	6.1	NA2630	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	
	Sodium sulfide, anhydrous *or* Sodium sulfide *with less than 30 per cent water of crystallization.*	4.2	UN1385	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N34.	None	212	241	15 kg	50 kg	1,3	1,3	52
	Sodium sulfide, hydrated *with not less than 30 per cent water.*	8	UN1849	II	CORROSIVE	T8	154	212	240	15 kg	50 kg	1,2	1,2	26
	Sodium superoxide	5.1	UN2547	I	OXIDIZER	A20, N34	None	211	None	Forbidden	15 kg	1,2	5	13, 31, 45, 46
	Sodium tetranitride	Forbidden												
	Sounding devices, explosive	1.2F	UN0204											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Sounding devices, explosive	1.1F	UN0296											
	Sounding devices, explosive	1.1E	UN0374											
	Sounding devices, explosive	1.2E	UN0375											
	Spirits of salt, see Hydrochloric acid													
	Squibs	1.4B	UN0422											
	Squibs	1.4G	UN0423											
	Squibs, *including electric squibs and safety squibs.*	1.4S	UN0206											
	Stannic chloride, anhydrous	8	UN1827	II	CORROSIVE	B2, T8, T26.	154	202	242	1 L	30 L	1	1	8
	Stannic chloride, pentahydrate	8	UN2440	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Stannic phosphides	4.3	UN1433	I	DANGEROUS WHEN WET.	A19	None	211	242	Forbidden	15 kg	1,3	5	85
	Steel swarf, *see* Ferrous metal borings, etc..													
	Stibine	2.3	UN2676	I	POISON GAS, FLAMMABLE GAS.	10	None	304	245	Forbidden	Forbidden	1	5	40
	Storage batteries, wet, see Batteries, *wet etc.*.													
	Strontium arsenite	6.1	UN1691	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Strontium chlorate	5.1	UN1506	II	OXIDIZER	A1, B10, N13, N34, T8.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Strontium nitrate	5.1	UN1507	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	
	Strontium perchlorate	5.1	UN1508	II	OXIDIZER	B10, T8	152	212	240	5 kg	25 kg	1,2	1,2	46
	Strontium peroxide	5.1	UN1509	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	13
	Strontium phosphide	4.3	UN2013	I	DANGEROUS WHEN WET, POISON.	A19	None	211	None	Forbidden	15 kg	1,3	5	40, 85
	Strychnine *or* Strychnine salts	6.1	UN1692	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
	Styphnic acid, *see* Trinitroresorcinol, *etc.*													
	Styrene monomer, inhibited	3	UN2055	III	FLAMMABLE LIQUID.	T1	150	203	202	60 L	220 L	1,3	1	
	Substances, explosive, n.o.s.	1.1L	UN0357											
	Substances, explosive, n.o.s.	1.2L	UN0358											
	Substances, explosive, n.o.s.	1.3L	UN0359											
	Substances which in contact with water emit flammable gases, n.o.s. *liquid.*	4.3	UN2813	I	DANGEROUS WHEN WET.	A2, A19	None	201	244	Forbidden	1 L	1,3	5	40
I	Substances which in contact with water emit flammable gases, n.o.s., *solid.*	4.3	UN2813	I	DANGEROUS WHEN WET.		None	211	242	Forbidden	15 kg	1,3	5	
	Substituted nitrophenol pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 degrees C.*	3	UN2780	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Substituted nitrophenol pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23 degrees C.*	6.1	UN3013	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	B1, T14	153	203	242	60 L	220 L	1,2	1,2	21, 34, 40
	Substituted nitrophenol pesticides, liquid, toxic, n.o.s.	6.1	UN3014	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Substituted nitrophenol pesticides, solid, toxic, n.o.s.	6.1	UN2779	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Succinic acid peroxide, *see* Disuccinic acid peroxide.													
	Sucrose octanitrate (dry)	Forbidden												
	Sulfamic acid	8	UN2967	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	Sulfur	4.1	UN1350	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	19, 74
	Sulfur and chlorate, loose mixtures of	Forbidden												
	Sulfur chloride (mono)	8	UN1828	I	CORROSIVE, POISON.	10, B6, B14, B32, N26, N35.	None	227	244	Forbidden	Forbidden	1	5	8
	Sulfur chlorides (*other than mono*)	8	UN1828	I	CORROSIVE	B4, B6, N1, N26, N35, T18, T27.	None	201	242	Forbidden	2.5 L	1	1	8
	Sulfur dichloride, see Sulfur chlorides													
	Sulfur dioxide, liquefied	2.3	UN1079	II	POISON GAS	10, B14	None	304	314, 315	Forbidden	Forbidden	1,3	5	40, 85, 95
	Sulfur dioxide solution, see Sulfurous acid													
	Sulfuretted hydrogen, see Hydrogen sulfide, liquefied.													
	Sulfur hexafluoride	2.2	UN1080		NONFLAMMABLE GAS.	B13	306	304	244	75 kg	150 kg	1,3	1,3	85
	Sulfuric acid, fuming	8	UN1831	I	CORROSIVE, POISON.	N1, N11, N26, N34.	None	201	243	Forbidden	2.5 L	1,2	1	14, 33, 38, 40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Sulfuric acid *over 65.25% concentration*	8	UN1830	II	CORROSIVE	B2, N1, N26, N34, T9, T27.	None	202	242	1 L	30 L	1,2	1	33, 38, 83
	Sulfuric acid, spent *over 65.25% concentration.*	8	UN1832	II	CORROSIVE	B2, N1, N26, N34, T9, T27.	None	202	242	Forbidden	30 L	1,2	1	
	Sulfuric acid, spent *up to 65.25% concentration.*	8	UN1832	II	CORROSIVE	B2, N1, N26, N34, T9, T27.	None	202	242	Forbidden	30 L	1,2	1	14, 33, 38
	Sulfuric acid *up to 65.25% concentration*	8	UN1830	II	CORROSIVE	B2, B15, N1, N26, N34, T9, T27.	154	202	242	1 L	30 L	1,2	1	14, 33, 38
	Sulfuric and hydrofluoric acid mixtures, *see* Hydrofluoric and sulfuric acid mixtures.													
	Sulfuric anhydride, see Sulfur trioxide, inhibited.													
	Sulfur, molten	4.1	UN2448	III	FLAMMABLE SOLID.	T9, T38	None	213	241	Forbidden	Forbidden	1	1	74
	Sulfurous acid	8	UN1833	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1	40
	Sulfur tetrafluoride	2.3	UN2418	I	POISON GAS	10	None	302	245	Forbidden	Forbidden	1	5	40, 95
	Sulfur trioxide, inhibited	8	UN1829	I	CORROSIVE, POISON.	10, B12, B14, B29, B32, N16, N26, N34.	None	227	244	Forbidden	Forbidden	1	5	9, 13, 28
D	Sulfur trioxide, uninhibited	8	NA1829	I	CORROSIVE, POISON.	10, B12, B14, B32, B49, N16, N26, N34.	None	227	244	Forbidden	Forbidden	1	5	9, 38, 40
	Sulfuryl chloride	8	UN1834	I	CORROSIVE	B4, B6, N1, N11, N26, N34, T18, T27.	None	201	242	0.5 L	2.5 L	1	1	8, 40
	Sulfuryl fluoride	2.3	UN2191	III	POISON GAS	B34, 10	None	304	314, 315	Forbidden	Forbidden	1,3	5	40, 86, 95
	Tars, liquid *including road asphalt and oils, bitumen and cut backs.*	3	UN1999	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
				III	FLAMMABLE LIQUID.	T7, T30	150	203	242	60 L	220 L	1,3	1,3	
	Tear gas candles	6.1	UN1700	II	POISON. FLAMMABLE SOLID.		None	340	None	Forbidden	50 kg	1	5	24, 40, 95
	Tear gas cartridges, see Ammunition, tear-producing, *etc.*.													
D	Tear gas devices *with more than 2 per cent tear gas substances, by mass.*	2.3	NA1693	II	POISON GAS	10	None	340	None	Forbidden	Forbidden	1	5	40, 95
	Tear gas devices, with not more than 2 per cent tear gas substances, by mass, see Aerosols, *etc.*.													
	Tear gas grenades, see Tear gas candles													
	Tear gas substances, n.o.s., liquid	6.1	UN1693	II	POISON		None	202	None	Forbidden	5 L	1	5	40, 95
	Tear gas substances, n.o.s., solid	6.1	UN1693	II	POISON		None	212	None	Forbidden	25 kg	1	5	95
	Tellurium hexafluoride	2.3	UN2195	II	POISON GAS	B14, B31, 10.	None	302	244	Forbidden	Forbidden	1	5	40, 85, 95
	Terpene hydrocarbons, n.o.s.	3	UN2319	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Terpinolene	3	UN2541	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	Tetrazido benzene quinone	Forbidden												
	Tetrabromoethane	6.1	UN2504	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	Tetrachloroethane	6.1	UN1702	II	POISON	N36	None	202	243	5 L	60 L	1,2	1,2	40, 95
	Tetrachloroethylene	6.1	UN1897	III	KEEP AWAY FROM FOOD.	N36	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Tetraethylammonium perchlorate (dry)	Forbidden												
	Tetraethyl dithiopyrophosphate and gases in solution *or* Tetraethyl dithiopyrophosphate and gases mixtures *LC50 less than or equal to 200 ppm.*	2.3	UN1703	II	POISON GAS	10	None	334	245	Forbidden	Forbidden	1	5	40, 85, 95
	Tetraethyl dithiopyrophosphate and gases in solution *or* tetraethyl dithiopyrophosphate and gas mixtures *LC50 over 200 up to 500 ppm.*	2.3	UN1703	II	POISON GAS	B14, B40, 10.	None	334	244	Forbidden	Forbidden	1	5	40
	Tetraethyl dithiopyrophosphate, dry or mixture.	6.1	UN1704	I	POISON	49	None	211	242	5 kg	50 kg	1	5	95
				II	POISON	49	None	212	242	25 kg	100 kg	1	5	95
				III	KEEP AWAY FROM FOOD.	49	153	213	240	100 kg	200 kg	1	5	34
	Tetraethyl dithiopyrophosphate, liquid or mixture.	6.1	UN1704	I	POISON	N76	None	201	243	1 L	30 L	1	5	40, 95
				II	POISON	N76	None	202	243	5 L	60 L	1	5	40, 95
				III	KEEP AWAY FROM FOOD.	N76	None	203	241	60 L	220 L	1	5	34, 40
	Tetraethylenepentamine	8	UN2320	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,2	1,2	8
D	Tetraethyl lead, liquid	6.1	NA1649	I	POISON	B14, B32	None	201	None	Forbidden	Forbidden	1	5	40, 95

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							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Tetraethyl pyrophosphate and compressed gas mixtures *LC50 less than or equal to 200 ppm.*	2.3	UN1705	II	POISON GAS	10	None	334	245	Forbidden	Forbidden	1	5	40, 85, 95
	Tetraethyl pyrophosphate and compressed gas mixtures) *LC50 over 200 ppm up to 5000 ppm.*	2.3	UN1705	II	POISON GAS	B14, B40, 10.	None	334	244	Forbidden	Forbidden	1	5	40
D	Tetraethyl pyrophosphate, (*liquid*)	6.1	NA2783	I	POISON		None	201	243	Forbidden	1 L	1,3	5	
D	Tetraethyl pyrophosphate (*solid*)	6.1	NA2783	I	POISON	N77	None	211	242	Forbidden	50 kg	1,3	5	
	Tetraethyl silicate	3	UN1292	III	FLAMMABLE LIQUID.	T1	150	203	241	60 L	220 L	1,3	1	
	Tetrafluoroethylene, inhibited	2.1	UN1081		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	5	40, 85
	Tetrafluoromethane	2.2	UN1982		NONFLAMMABLE GAS.	B13	None	302	244	75 kg	150 kg	1,3	1,3	85
	1,2,3,6-Tetrahydrobenzaldehyde	3	UN2498	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Tetrahydrofuran	3	UN2056	II	FLAMMABLE LIQUID.	T8	None	202	242	5 L	60 L	1,3	5	12
	Tetrahydrofurfurylamine	3	UN2943	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Tetrahydronaphthyl hydroperoxide *or* Tetralin hydroperoxide, *pure.*	5.2	UN2136	I	ORGANIC PEROXIDE.		None	225	None	1 kg	5 kg	1	5	12, 40
	Tetrahydrophthalic anhydrides *with more than 0.05 percent of maleic anhydride.*	8	UN2698	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	
	1,2,3,6-Tetrahydropyridine	3	UN2410	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	40
	Tetrahydrothiophene	3	UN2412	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Tetralin hydroperoxide, *see* Tetrahydronaphthyl hydroperoxide.													
	Tetramethylammonium hydroxide	8	UN1835	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1,2	
	1,1,3,3-Tetramethylbutyl hydroperoxide, *technically pure.*	5.2	UN2160	II	ORGANIC PEROXIDE.		152	225	None	5 L	10 L	1	5	12, 40
	1,1,3,3-Tetramethylbutyl peroxy-2-ethylhexanoate, *technically pure.*	5.2	UN2161	I	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Tetramethylene diperoxide dicarbamide	Forbidden												
	Tetramethylsilane	3	UN2749	I	FLAMMABLE LIQUID.	T21, T26	None	201	243	Forbidden	30 L	1	5	12, 25
	Tetranitroaniline	1.1D	UN0207											
	Tetranitro diglycerin	Forbidden												
	Tetranitromethane	5.1	UN1510	I	OXIDIZER, POISON.	10	None	227	None	Forbidden	Forbidden	1	5	40, 66, 92, 95
	2,3,4,6-Tetranitrophenol	Forbidden												
	2,3,4,6-Tetranitrophenyl methyl nitramine	Forbidden												
	2,3,4,6-Tetranitrophenylnitramine	Forbidden												

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Tetranitroresorcinol (dry)	Forbidden												
	2,3,5,6-Tetranitroso-1,4-dinitrobenzene	Forbidden												
	2,3,5,6-Tetranitroso nitrobenzene (dry)	Forbidden												
	Tetrapropylorthotitanate	3	UN2413	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1,3	
	Tetrazene, *see* Guanyl nitrosaminoguanyltetrazene.													
	Tetrazine (dry)	Forbidden												
	Tetrazol-1-acetic acid	1.4C	UN0407											
	Tetrazolyl azide (dry)	Forbidden												
	Tetryl, *see* Trinitrophenylmethyl nitramine													
	Thallium chlorate	5.1	UN2573	II	OXIDIZER, POISON.		None	212	242	5 kg	25 kg	1,2	1,2	46, 56, 95
	Thallium compounds, n.o.s.	6.1	UN1707	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34
	Thallium nitrate	6.1	UN2727	II	POISON, OXIDIZER.		None	212	242	5 kg	25 kg	1,2	1,2	89, 95
D	Thallium sulfate, solid	6.1	NA1707	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	
	Thia-4-pentanal	6.1	UN2785	III	KEEP AWAY FROM FOOD.	12	153	203	241	60 L	220 L	1, 2	1	34, 40
	Thioacetic acid	3	UN2436	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Thiocarbonylchloride, see Thiophosgene													
	Thioglycol	6.1	UN2966	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	95
	Thioglycolic acid	8	UN1940	II	CORROSIVE	B2, N26, N34.	154	202	242	1 L	30 L	1,2	1,2	9
	Thiolactic acid	6.1	UN2936	II	POISON	T8	None	212	242	25 kg	100 kg	1,2	1,2	95
	Thionyl chloride	8	UN1836	I	CORROSIVE, POISON.	10, B14, B32, N1, N11, N34, N35.	None	227	244	Forbidden	Forbidden	1	5	8, 40, 95
	Thiophene	3	UN2414	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Thiophosgene	6.1	UN2474	I	POISON	B14, B32, N26, N33, N34, 10.	None	227	244	Forbidden	Forbidden	1,2	1	26, 40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Thiophosphoryl chloride	8	UN1837	II	CORROSIVE	B2, B8, B25, N1, N26, N34, T12.	None	202	242	Forbidden	30 L	1	1	60, 40
	Thorium metal, pyrophoric	7	UN2975		RADIOACTIVE, SPONTANEOUSLY COMBUSTIBLE.		None	418	None	Forbidden	Forbidden	1,2	1,2	
	Thorium nitrate, solid	7	UN2976		RADIOACTIVE, OXIDIZER.		None	419	None	Forbidden	15 kg	1,2	1,2	
	Tin chloride, fuming, see Stannic chloride, anhydrous.													
	Tinctures, medicinal	3	UN1293	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	241	60 L	220 L	1,3	1,3	
	Tinning flux, see Zinc chloride													
	Tin perchloride or Tin tetrachloride, see Stannic chloride, anhydrous.													
	Titanium hydride	4.1	UN1871	II	FLAMMABLE SOLID.	A19, A20, N34.	None	212	241	15 kg	50 kg	1,3	5	
	Titanium powder, dry (*a*) *mechanically produced, particle size between 3 and 53 microns;* (*b*) *chemically produced, particle size between 10 and 840 microns.*	4.2	UN2546	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N5, N34.	None	212	241	15 kg	50 kg	1	5	
	Titanium powder, wetted *with not less than 25 per cent water (a visible excess of water must be present)* (*a*) *mechanically produced, particle size less than 53 microns;* (*b*) *chemically produced, particle size less than 840 microns.*	4.1	UN1352	II	FLAMMABLE SOLID.	A19, A20, B10, N34.	None	212	240	15 kg	50 kg	1,3	5	
	Titanium sponge granules *or* Titanium sponge powders.	4.1	UN2878	III	FLAMMABLE SOLID.	A1	None	213	240	25 kg	100 kg	1	5	
D	Titanium sulfate solution	8	NA1760	II	CORROSIVE	B2, B15	None	213	242	1 L	30 L	1,2	1,2	
	Titanium tetrachloride	8	UN1838	I	CORROSIVE, POISON.	10, B7, B14, B32, B41, N1, N11, N34, N41.	None	227	244	Forbidden	Forbidden	1	1	8, 40
	Titanium trichloride mixtures	8	UN2869	II	CORROSIVE	N26, N34	154	212	240	15 kg	50 kg	1,2	1,2	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Titanium trichloride, pyrophoric *or* Titanium trichloride mixtures, pyrophoric.	4.2	UN2441	II	SPONTANEOUSLY COMBUSTIBLE, CORROSIVE.	A19, A20, N2, N28, N34.	None	212	244	15 kg	50 kg	1,3	1,3	
	TNT, *see* Trinitrotoluene, *etc.*													
	TNT mixed with aluminum, see Tritonal													
	Toe puffs, *nitrocellulose base*	4.1	UN1353	III	FLAMMABLE SOLID.	A1	None	213	240	25 kg	100 kg	1	5	
	Toluene	3	UN1294	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Toluene diisocyanate	6.1	UN2078	II	POISON	T14	None	202	243	5 L	60 L	1,2	1	22, 25, 40, 95
	Toluene sulfonic acid, *see* Alkyl, Aryl *or* Toluene sulfonic acid *etc.*													
	Toluidines, *liquid*	6.1	UN1708	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	26, 95
	Toluidines, *solid*	6.1	UN1708	II	POISON		None	212	241	25 kg	100 kg	1,2	1,2	95
	2,4-Toluylenediamine	6.1	UN1709	III	KEEP AWAY FROM FOOD.	T7	153	213	240	100 kg	200 kg	1,2	1,2	34
	Torpedoes, liquid fuelled, *with inert head*	1.3J	UN0450											
	Torpedoes, liquid fuelled, *with or without bursting charge.*	1.1J	UN0449											
	Torpedoes *with bursting charge*	1.1E	UN0329											
	Torpedoes *with bursting charge*	1.1F	UN0330											
	Torpedoes *with bursting charge*	1.1D	UN0451											
	Tracers for ammunition	1.3G	UN0212											
	Tracers for ammunition	1.4G	UN0306											
	Tractors, see Vehicles, self propelled													
	Triallylamine	3	UN2610	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1	40
	Triallyl borate	6.1	UN2609	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,3	1,3	12, 13, 22, 25, 34
	Triazine pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23deg C.*	3	UN2764	I	FLAMMABLE LIQUID, POISON.		None	201	243	Forbidden	30 L	1,3	5	
				II	FLAMMABLE LIQUID, POISON.		None	202	243	1 L	60 L	1,3	1	
	Triazine pesticides, liquid, toxic, flammable, n.o.s., *flash point not less than 23deg C.*	6.1	UN2997	I	POISON, FLAMMABLE LIQUID.	T42	None	201	243	1 L	30 L	1	1	21, 40, 95
				II	POISON, FLAMMABLE LIQUID.	T14	None	202	243	5 L	60 L	1,2	1	21, 40, 95
				III	KEEP AWAY FROM FOOD.	T14	153	203	242	60 L	220 L	1,2	1,2	21, 40, 34
	Triazine pesticides, liquid, toxic, n.o.s.	6.1	UN2998	I	POISON	T42	None	201	243	1 L	30 L	1	1	40, 95
				II	POISON	T14	None	202	243	5 L	60 L	1,2	1	40, 95

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
				III	KEEP AWAY FROM FOOD.	T14	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Triazine pesticides, solid, toxic, n.o.s.	6.1	UN2763	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	40, 95
				II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	40, 95
				III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	34, 40
	Tri-(1-aziridinyl)phosphine oxide, solution	6.1	UN2501	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	95
	Tributylamine	8	UN2542	III	CORROSIVE	T1	None	203	241	5 L	60 L	1,2	1,2	
	Trichloroacetic acid	8	UN1839	II	CORROSIVE	N26, N34	154	212	240	15 kg	50 kg	1,2	1,2	
	Trichloroacetic acid, solution	8	UN2564	II	CORROSIVE	B2, N1, N11, N26, N34, T8.	154	202	242	1 L	30 L	1,2	1	8
	Trichloroacetyl chloride	8	UN2442	II	CORROSIVE	B2, N1, N16, N17, N26, N34, T9, T26.	None	202	242	Forbidden	Forbidden	1	5	40
	Trichlorobenzenes, liquid	6.1	UN2321	III	KEEP AWAY FROM FOOD.	T7	153	203	241	60 L	220 L	1,2	1,2	34
	Trichlorobutene	6.1	UN2322	II	POISON	T8	None	202	243	5 L	60 L	1,2	1,2	25, 40, B5
	1,1,1-Trichloroethane	6.1	UN2831	III	KEEP AWAY FROM FOOD.	N36, T7	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Trichloroethylene	6.1	UN1710	III	KEEP AWAY FROM FOOD.	N36, T1	153	203	241	60 L	220 L	1,2	1,2	34, 40
	Trichloroisocyanuric acid, dry	5.1	UN2468	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	13, 25, 72
	Trichloromethyl perchlorate	Forbidden												
	Trichlorosilane	4.3	UN1295	I	DANGEROUS WHEN WET, FLAMMABLE LIQUID, CORROSIVE.	N16, N26, N34, T24, T26.	None	201	244	Forbidden	Forbidden	1	5	40
D	(mono-(Trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry (*containing over 39% available chlorine*).	5.1	NA2468	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,3	1,3	
	Trichloro-s-triazinetrione dry, containing over 39% available chlorine, see Trichloroisocyanuric acid, dry.													
	Tricresyl phosphate *with more than 3 per cent ortho isomer.*	6.1	UN2574	II	POISON	N1, N16, N33, N34, T8.	None	202	243	5 L	60 L	1,2	1,2	95
	Triethylamine	3	UN1296	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	40

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Triethylene tetramine	8	UN2259	II	CORROSIVE	B2, T8	154	202	242	1 L	30 L	1,2	1	26, 40, 71
	Triethyl phosphite	3	UN2323	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	52
	Trifluoroacetic acid	8	UN2699	I	CORROSIVE	B4, N1, N3, N11, N26, N34, T18, T27.	None	201	242	0.5 L	2.5 L	1,3	1	12, 38, 40
	Trifluoroacetylchloride	2.3	UN3057	II	POISON GAS	10, B13, B33.	None	304	244	Forbidden	Forbidden	1,3	1,3	40, 85
	Trifluorochloroethylene, inhibited	2.1	UN1082		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Trifluoroethane, compressed	2.1	UN2035		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	1	40, 85
	Trifluoromethane	2.2	UN1984		NONFLAMMABLE GAS.		306	304	314, 315	75 kg	150 kg	1,3	1,3	85
D	Trifluoromethane and chlorotrifluoromethane mixture (*constant boiling mixture*) (*R-503*). *See* Refrigerant gas, n.o.s.													
	3-Trifluoromethylaniline	6.1	UN2948	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	40, 95
	2-Trifluoromethylaniline	6.1	UN2942	III	KEEP AWAY FROM FOOD.		153	203	241	60 L	220 L	1,2	1,2	34
	Triformoxime trinitrate	Forbidden												
	Triisobutylene	3	UN2324	II	FLAMMABLE LIQUID.	T7, T30	150	203	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	
	Triisocyanatoisocyanurate of isophoronediisocyanate, solution, *70 per cent, by weight.*	3	UN2908	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Triisopropyl borate	3	UN2616	II	FLAMMABLE LIQUID.	T8, T31	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T8, T31.	150	202	242	60 L	220 L	1,3	1,3	
D	Trimethoxysilane	6.1	NA1992	I	POISON, FLAMMABLE LIQUID.	B3, B14, B32.	None	201	244	Forbidden	Forbidden	1,3	5	12
	Trimethyl acetyl chloride	8	UN2438	II	CORROSIVE, FLAMMABLE LIQUID.	B2, B6, N1, N11, N26, N34, T8, T26.	None	202	243	1 L	30 L	1	5	21, 25, 40
	Trimethylamine, anhydrous	2.1	UN1083		FLAMMABLE GAS.		306	304	314, 315	Forbidden	150 kg	1	5	40, 85

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Trimethylamine, aqueous solutions *not more than 50 per cent trimethylamine by weight.*	3	UN1297	II	FLAMMABLE LIQUID.	T42	150	202	242	5 L	60 L	1,3	1	40, 41
				III	FLAMMABLE LIQUID.	B1, T14	150	203	242	60 L	220 L	1,3	1,3	40, 41
	1,3,5-Trimethylbenzene (mesitylene)	3	UN2325	III	FLAMMABLE LIQUID, POISON.	B14	None	201	243	60 L	220 L	1,3	1,3	
	Trimethyl borate	3	UN2416	II	FLAMMABLE LIQUID.	T14	150	202	242	5 L	60 L	1,3	1	
	Trimethylchlorosilane	3	UN1298	I	FLAMMABLE LIQUID, POISON, CORROSIVE.	B14, B30, N1, N26, N34, 10.	None	226	244	Forbidden	Forbidden	1,3	5	
	Trimethylcyclohexylamine	8	UN2325	III	CORROSIVE	T2	154	203	241	5 L	60 L	1,2	1,2	8
	Trimethylene glycol diperchlorate	Forbidden												
	Trimethylhexamethylenediamines	8	UN2327	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	8
	Trimethylhexamethylenediisocyanate	6.1	UN2328	III	KEEP AWAY FROM FOOD.	T8	153	203	241	60 L	220 L	1,2	1	34
	Trimethylol nitromethane trinitrate	Forbidden												
	2,4,4-Trimethylpentyl-2-peroxy phenoxy acetate, *not more than 37 per cent in solution.*	5.2	UN2961	II	ORGANIC PEROXIDE.		None	225	None	Forbidden	Forbidden	1	5	20, 40
	Trimethyl phosphite	3	UN2329	III	FLAMMABLE LIQUID.	T1	150	203	242	60 L	220 L	1,3	1,3	
	1,3,5-Trimethyl-2,4,6-trinitrobenzene	Forbidden												
	Trinitroacetic acid	Forbidden												
	Trinitroacetonitrile	Forbidden												
	Trinitroamine cobalt	Forbidden												
	Trinitroaniline	1.1D	UN0153											
	Trinitroanisole	1.1D	UN0213											
	Trinitrobenzene, *dry or wetted with less than 30 per cent water, by weight.*	1.1D	UN0214											
	Trinitrobenzenesulfonic acid	1.1L	UN0386											
	Trinitrobenzene, *wetted with not less than 30 per cent water, by weight.*	4.1	UN1354	I	FLAMMABLE SOLID.	A2, A19, N2, N34, N41.	None	211	None	0.5 kg	0.5 kg	1	5	36
	Trinitrobenzoic acid, *dry or wetted with less than 30 per cent water, by weight.*	1.1D	UN0215											

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	Trinitrobenzoic acid, wetted *with not less than 30 per cent water, by weight.*	4.1	UN1355	I	FLAMMABLE SOLID.	A2, A19, N2, N34, N41.	None	211	None	0.5 kg	0.5 kg	1,3	5	36
	Trinitrochlorobenzene	1.1D	UN0155											
	Trinitro-m-cresol	1.1D	UN0216											
	2,4,6-Trinitro-1,3-diazobenzene	Forbidden												
	Trinitroethanol	Forbidden												
	Trinitroethylnitrate	Forbidden												
	Trinitrofluorenone	1.1D	UN0387											
	Trinitromethane	Forbidden												
	1,3,5-Trinitronaphthalene	Forbidden												
	Trinitronaphthalene	1.1D	UN0217											
	Trinitrophenetole	1.1D	UN0218											
	Trinitrophenol (Picric acid), *dry or wetted with less than 30 per cent water, by weight.*	1.1D	UN0154											
	Trinitrophenol, wetted *with not less than 30 per cent water, by weight.*	4.1	UN1344	I	FLAMMABLE SOLID.	A19, N2, N34, N41.	None	211	None	1 kg	15 kg	1	5	36
	2,4,6-Trinitrophenyl guanidine (dry)	Forbidden												
	Trinitrophenylmethylnitramine (Tetryl)	1.1D	UN0208											
	2,4,6-Trinitrophenyl nitramine	Forbidden												
	2,4,6-Trinitrophenyl trimethylol methyl nitramine trinitrate (dry).	Forbidden												
	Trinitroresorcinol (Styphnic acid), *dry or wetted with less than 20 per cent water, by weight, or mixture of alcohol and water.*	1.1D	UN0219											
	Trinitroresorcinol (Styphnic acid), wetted *with not less than 20 per cent water, by weight, or mixture of alcohol and water.*	1.1D	UN0394											
	2,4,6-Trinitroso-3-methyl nitraminoanisole	Forbidden												
	Trinitrotetramine cobalt nitrate	Forbidden												
	Trinitrotoluene (TNT) and Trinitrobenzene mixtures *or* Trinitrotoluene (TNT) and Hexanitrostilbene mixtures.	1.1D	UN0388											
	Trinitrotoluene (TNT), *dry or wetted with less than 30 per cent water, by weight.*	1.1D	UN0209											
	Trinitrotoluene (TNT) mixtures containing Trinitrobenzene and Hexanitrostilbene.	1.1D	UN0389											

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Trinitrotoluene (TNT), wetted *with not less than 30 per cent water, by weight.*	4.1	UN1356	I	FLAMMABLE SOLID.	A2, A19, N2, N34, N41.	None	211	None	0.5 kg	0.5 kg	1,3	5	36
	2,4,6-Trinitro-1,3,5-triazido benzene (dry)	Forbidden												
	Tri-(b-nitroxyethyl) ammonium nitrate	Forbidden												
	Tripropylamine	3	UN2260	II	FLAMMABLE LIQUID, CORROSIVE.	T6	None	202	243	1 L	5 L	1,3	1	40
	Tripropylene	3	UN2057	II	FLAMMABLE LIQUID.		150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.		150	203	242	60 L	220 L	1,3	1,3	
	Tris, bis-difluoroamino diethoxy propane (TVOPA).	Forbidden												
	Tritonal	1.1D	UN0390											
	Tungsten hexafluoride	2.3	UN2196	I	POISON GAS	B14, B31, 10.	None	338	244	Forbidden	Forbidden	1	5	40, 85, 95
	Turpentine	3	UN1299	III	FLAMMABLE LIQUID.	B1	150	203	242	60 L	220 L	1,3	1,3	
I	Turpentine substitute	3	UN1300	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Undecane	3	UN2330	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Uranium hexafluoride, fissile (*containing more than 1% U-235*).	7	UN2977		RADIOACTIVE, CORROSIVE.		453	417	None			1,2	1,2	
	Uranium hexafluoride, *fissile excepted or non-fissile.*	7	UN2978		RADIOACTIVE, CORROSIVE.		421	425	425					
	Uranium metal, pyrophoric	7	UN2979		RADIOACTIVE, SPONTANEOUSLY COMBUSTIBLE.		None	418	None			1,2	1,2	
	Uranyl nitrate hexahydrate solution	7	UN2980		RADIOACTIVE, CORROSIVE.		421, 425	415, 416, 417	None			1,2	1,2	
	Uranyl nitrate, solid	7	UN2981		RADIOACTIVE, OXIDIZER.		None	419	None	Forbidden	15 kg	1,2	1,2	
	Urea hydrogen peroxide	5.1	UN1511	III	OXIDIZER	A1, A29, N26.	152	213	240	25 kg	100 kg	1,2	1,2	13, 25
	Urea nitrate, *dry or wetted with less than 20 per cent water, by weight.*	1.1D	UN0220											
	Urea nitrate, wetted *with not less than 20 per cent water, by weight.*	4.1	UN1357	I	FLAMMABLE SOLID.	A19, N2, N34, N41.	None	211	None	1 kg	15 kg	1,3	1,3	

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class (3)	Identification numbers (4)	Packing group (5)	Labels (6)	Special provisions (7)	(8) Packaging authorizations (§173.***) Exceptions (8A)	Non-bulk packaging (8B)	Bulk packaging (8C)	(9) Quantity limitations Passenger aircraft or railcar (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Cargo vessel (10A)	Passenger vessel (10B)	Other stowage provisions (10C)
	Urea peroxide, see Urea hydrogen peroxide.													
	Valeraldehyde	3	UN2058	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
	Valeric acid, see Corrosive liquids, n.o.s.													
	Valeryl chloride	8	UN2502	II	CORROSIVE	B2, N1, N11, N26, N34, T8.	154	202	242	1 L	30 L	1	1	40
	Vanadium oxytrichloride	8	UN2443	II	CORROSIVE	B2, B16, N1, N11, N16, N26, N34, T8, T26.	154	202	242	Forbidden	30 L	1	1	8, 40
	Vanadium pentoxide, *nonfused form*	6.1	UN2862	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Vanadium tetrachloride	8	UN2444	I	CORROSIVE	B4, N1, N11, N25, N34, T8, T26.	None	201	242	Forbidden	2.5 L	1	1	80, 40
AW	Vanadium trichloride	8	UN2475	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	40
	Vanadium trioxide, *nonfused form*	6.1	UN2860	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Vanadyl sulfate	6.1	UN2931	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Vehicles, self-propelled *including internal combustion engines or other apparatus containing an internal combustion engine or electric storage battery(see also* Wheel chair, electric).	9	None	III	CLASS 9		220	220	None	No limit	No limit	1,2	1,2	
	Very signal cartridge, see Cartridges, signal.													
	Vinyl acetate, inhibited	3	UN1301	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	
	Vinyl bromide, inhibited	2.1	UN1085		FLAMMABLE GAS.	B13	306	304	244	Forbidden	150 kg	1,3	1	40, 85
	Vinyl butyrate, inhibited	3	UN2838	II	FLAMMABLE LIQUID.	T7	150	202	242	5 L	60 L	1,3	1	
	Vinyl chloride, inhibited	2.1	UN1086		FLAMMABLE GAS.	B44	306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Vinyl chloroacetate	6.1	UN2589	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	21, 95
	Vinyl ethyl ether, inhibited	3	UN1302	I	FLAMMABLE LIQUID.	N1, N15, T14.	None	201	243	1 L	30 L	1,3	5	12
	Vinyl fluoride, inhibited	2.1	UN1860		FLAMMABLE GAS.	B43	306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Vinylidene chloride, inhibited	3	UN1303	I	FLAMMABLE LIQUID.	T23, T29	150	201	243	1 L	30 L	1,3	5	12
	Vinyl isobutyl ether, inhibited	3	UN1304	II	FLAMMABLE LIQUID.	T8	150	202	242	5 L	60 L	1,3	1	

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Vinyl methyl ether, inhibited	2.1	UN1087		FLAMMABLE GAS.	B44	306	304	314, 315	Forbidden	150 kg	1,3	1	40, 85
	Vinyl nitrate polymer	Forbidden												
	Vinyl pyridenes, inhibited	6.1	UN3073	II	POISON, FLAMMABLE LIQUID.	T8	None	212	243	5 L	60 L	1,3	1,3	
				III	KEEP AWAY FROM FOOD.	T8	153	213	241	60 L	220 L	1,3	1,3	
	Vinyl toluene, inhibited *mixed isomers*	3	UN2618	III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Vinyltrichlorosilane	3	UN1305	I	FLAMMABLE LIQUID, CORROSIVE.	B6, N1, N26, N34, T14, T26.	None	201	243	Forbidden	2.5 L	1,3	1	40
	Warheads, rocket *with burster or expelling charge.*	1.4D	UN0370											
	Warheads, rocket *with burster or expelling charge.*	1.4F	UN0371											
	Warheads, rocket *with bursting charge*	1.1D	UN0286											
	Warheads, rocket *with bursting charge*	1.2D	UN0287											
	Warheads, rocket *with bursting charge*	1.1F	UN0369											
	Warheads, torpedo *with bursting charge*	1.1D	UN0221											
	Water reactive substances, n.o.s., see Substances which in contact with water, *etc.*													
A	Wheel chair, electric (*spillable or non-spillable type batteries*).	9	None	III	CLASS 9		222	222	None	No limit	No limit	1,2	1,2	
	White acid, see Hydrofluoric acid mixtures													
	Wood preservatives, liquid	3	UN1306	II	FLAMMABLE LIQUID.	T7, T30	150	202	242	5 L	60 L	1,3	1	40
				III	FLAMMABLE LIQUID.	B1, T7, T30.	150	203	242	60 L	220 L	1,3	1,3	40
	Xenon	2.2	UN2036		NONFLAMMABLE GAS.	B13	306	302	244	75 kg	150 kg	1,3	1,3	85
	Xenon, refrigerated liquid	2.2	UN2591		NONFLAMMABLE GAS.		320	316	318	50 kg	500 kg	1,3	1	85
	Xylenes	3	UN1307	II	FLAMMABLE LIQUID.	T1	150	202	242	5 L	60 L	1,3	1	
				III	FLAMMABLE LIQUID.	B1, T1	150	203	242	60 L	220 L	1,3	1,3	
	Xylenols	6.1	UN2261	II	POISON	T8	None	212	243	25 kg	100 kg	1,2	1,2	40, 95
	Xylidines	6.1	UN1711	II	POISON	T14	None	202	243	5 L	60 L	1,2	1,2	26, 95
	Xylyl bromide	6.1	UN1701	I	POISON	B14, B30, N1, N11, N26, N33, 10.	None	226	244	Forbidden	Forbidden	1	5	40, 95

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Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***) Exceptions	Non-bulk packaging	Bulk packaging	(9) Quantity limitations Passenger aircraft or railcar	Cargo aircraft only	(10) Vessel stowage requirements Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	p-Xylyl diazide	Forbidden												
	Zinc ammonium nitrite	5.1	UN1512	II	OXIDIZER	B10	None	212	240	5 kg	25 kg	1,3	5	
	Zinc arsenate *or* Zinc arsenite *or* Zinc arsenate and Zinc arsenite mixtures	6.1	UN1712	II	POISON		None	212	242	25 kg	100 kg	1,2	1,2	95
	Zinc ashes	4.3	UN1435	III	DANGEROUS WHEN WET.	A1, A19	None	213	241	25 kg	100 kg	1,3	1,3	
	Zinc bisulfite solution *see* Bisulfites, inorganic aqueous solutions, n.o.s.													
	Zinc bromate	5.1	UN2469	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	46, 56
	Zinc chlorate	5.1	UN1513	II	OXIDIZER	B10, N13, N34.	152	212	240	5 kg	25 kg	1,2	1,2	46, 56
	Zinc chloride, anhydrous	8	UN2331	III	CORROSIVE		None	213	240	25 kg	100 kg	1,2	1,2	
	Zinc chloride, solution	8	UN1840	III	CORROSIVE	T7	154	203	241	5 L	60 L	1,2	1,2	
	Zinc cyanide	6.1	UN1713	I	POISON		None	211	242	5 kg	50 kg	1,2	1,2	26, 95
	Zinc dithionite *or* Zinc hydrosulfite	9	UN1931	III	CLASS 9		155	204	240	100 kg	200 kg	1,2	1,2	13, 26
	Zinc ethyl, see Diethylzinc													
	Zinc fluorosilicate	6.1	UN2855	III	KEEP AWAY FROM FOOD.		153	213	240	100 kg	200 kg	1,2	1,2	26, 34
	Zinc hydrosulfite, *see* Zinc dithionite													
	Zinc muriate solution, see Zinc chloride, solution.													
	Zinc nitrate	5.1	UN1514	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	
	Zinc permanganate	5.1	UN1515	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	56, 69
	Zinc peroxide	5.1	UN1516	II	OXIDIZER	B10	152	212	240	5 kg	25 kg	1,2	1,2	13
	Zinc phosphide	4.3	UN1714	I	DANGEROUS WHEN WET, POISON.	A19	None	211	None	Forbidden	15 kg	1,3	5	85
	Zinc powder *or* Zinc dust	4.3	UN1436	II	DANGEROUS WHEN WET, SPONTANEOUSLY COMBUSTIBLE.	A19	None	212	242	15 kg	50 kg	1,3	1,3	
	Zinc resinate	4.1	UN2714	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Zinc selenate, *see* Selenates *or* Selenites													
	Zinc selenite, *see* Selenates *or* Selenites													
	Zinc silicofluoride, see Zinc fluorosilicate													
	Zirconium, dry, *coiled wire, finished metal sheets, strip (thinner than 254 microns but not thinner than 18 microns).*	4.1	UN2858	III	FLAMMABLE SOLID.	A1	151	213	240	25 kg	100 kg	1,3	1,3	
	Zirconium, dry, *finished sheets, strip or coiled wire.*	4.2	UN2009	III	SPONTANEOUSLY COMBUSTIBLE.	A1, A19	None	213	240	25 kg	100 kg	1	5	
	Zirconium hydride	4.1	UN1437	II	FLAMMABLE SOLID.	A19, A20, N34.	None	212	240	15 kg	50 kg	1,3	5	
	Zirconium nitrate	5.1	UN2728	III	OXIDIZER	A1, A29	152	213	240	25 kg	100 kg	1,2	1,2	25

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class	Identification numbers	Packing group	Labels	Special provisions	(8) Packaging authorizations (§173.***)			(9) Quantity limitations		(10) Vessel stowage requirements		
							Exceptions	Non-bulk packaging	Bulk packaging	Passenger aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other stowage provisions
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)	(10C)
	Zirconium picramate, *dry or wetted with less than 20 per cent water, by weight.*	1.3C	UN0236											
	Zirconium picramate, wetted *with not less than 20 per cent water, by weight.*	4.1	UN1517	I	FLAMMABLE SOLID.	N34, N41	None	211	None	1 kg	15 kg	1	5	36
	Zirconium powder, dry (*a*) *mechanically produced, particle size between 3 and 53 microns;* (*b*) *chemically produced, particle size between 10 and 840 microns.*	4.2	UN2008	II	SPONTANEOUSLY COMBUSTIBLE.	A19, A20, N5, N34.	None	212	241	15 kg	50 kg	1	5	
	Zirconium powder, wetted *with not less than 25 per cent water (a visible excess of water must be present)* (*a*) *mechanically produced, particle size less than 53 microns;* (*b*) *chemically produced, particle size less than 840 microns.*	4.1	UN1358	II	FLAMMABLE SOLID.	A19, A20, N34.	None	212	241	15 kg	50 kg	1,3	5	
	Zirconium scrap	4.2	UN1932	III	SPONTANEOUSLY COMBUSTIBLE.	B10, N34	None	213	240	Forbidden	Forbidden	1	5	
D	Zirconium sulfate	8	NA9163	III	CORROSIVE	N34	None	213	240	50 kg	No limit	1,2	1,2	
	Zirconium suspended in a liquid	3	UN1308	II	FLAMMABLE LIQUID.		None	202	242	Forbidden	60 L	1	5	12
	Zirconium tetrachloride	8	UN2503	III	CORROSIVE		154	213	240	25 kg	100 kg	1,2	1,2	

§ 172.102 Special provisions.

(a) *General.* When Column 7 of the § 172.101 Table refers to a special provision for a hazardous material, the meaning and requirements of that provision are as set forth in this section. When a special provision specifies packagings or packaging requirements, they are in addition to the standard requirements for all packagings prescribed in § 173.24 of this subchapter and any other applicable packaging requirements in Subparts A and B of Part 173 of this subchapter.

(b) *Description of codes for special provisions.* Special provisions may contain packaging provisions, prohibitions, exceptions from requirements for particular quantities or forms of materials and requirements or prohibitions applicable to specific modes of transportation, as follows:

(1) A code consisting only of numbers (for example, "11") is multi-modal in application and may apply to bulk and non-bulk packagings.

(2) A code containing the letter "A" refers to a special provision which applies only to transportation by aircraft.

(3) A code containing the letter "B" refers to a special provision which applies only to bulk packaging requirements. Unless otherwise provided in this subchapter, these special provisions do not apply to IM portable tanks.

(4) A code containing the letter "H" refers to a special provision which applies only to transportation by highway.

(5) A code containing the letter "N" refers to a special provision which applies only to non-bulk packaging requirements.

(6) A code containing the letter "R" refers to a special provision which applies only to transportation by rail.

(7) A code containing the letter "T" refers to a special provision which applies only to transportation in IM portable tanks.

(8) A code containing the letter "W" refers to a special provision which applies only to transportation by water.

(c) *Tables of special provisions.* The following tables list, and set forth the requirements of, the special provisions referred to in Column 7 of the § 172.101 Table.

(1) *Numeric provisions.* These provisions are multi-modal and apply to bulk and non-bulk packagings:

Code	Special provisions
10	Packagings shall be marked "INHALATION HAZARD" in accordance with Subpart D of Part 172.
11	The hazardous material must be packaged as either a liquid or a solid, as appropriate, depending on its physical form at 55 °C (131 °F) at atmospheric pressure.
12	Manufacturing impurities may cause this material to be toxic by inhalation. If toxic by inhalation, the shipping description, Poisonous liquids, n.o.s., *Inhalation Hazard*, must be used.
13	For materials which meet the criteria for inhalation toxicity in § 173.133 of this subchapter at the Packing Group I level, the proper shipping name is "Poisonous liquids, corrosive, n.o.s., *Inhalation hazard, Packing Group I, Zone B.*"
17	Aqueous solutions of hydrogen peroxide containing less than 8 percent hydrogen peroxide are not subject to the requirements of this subchapter.
22	If the hazardous material is in dispersion in organic liquid, the organic liquid must have a flash point above 50 °C (122 °F).
27	Sodium carbonate peroxyhydrate is considered non-hazardous.
28	The dihydrated sodium salt of dichloroisocyanuric acid is not subject to the requirements of this subchapter.
31	Materials which have undergone sufficient heat treatment to render them nonhazardous are not subject to the requirements of this subchapter.
33	Ammonium nitrites and mixtures of an inorganic nitrite with an ammonium salt are prohibited.
42	Fish meal or fish scrap may not be offered for transportation if the temperature of the material exceeds 49 °C (120.2 °F).
66	The organic peroxide included in a polyester resin kit must be specifically listed in the § 172.101 Table and be permitted for transportation.

(2) *"A" codes.* These provisions apply only to transportation by aircraft:

Code	Special provisions
A1	Single packagings are not permitted on passenger aircraft.
A2	Single packagings are not permitted on aircraft.
A4	Liquids having an inhalation toxicity of Packing Group I are not permitted on aircraft.
A6	Solids having an inhalation toxicity of Packing Group I are not permitted on passenger aircraft and may not exceed a maximum net quantity per package of 15 kg (33.1 pounds) on cargo aircraft.
A19	Combination packagings consisting of outer fiber drums or plywood drums, with inner plastic packagings, are not authorized for transportation by aircraft.
A20	Plastic bags as liner receptacles of combination packagings are not authorized for transportation by aircraft.
A29	Combination packagings consisting of outer expanded plastic boxes with inner plastic bags are not authorized for transportation by aircraft.
A30	Ammonium permanganate is not authorized for transportation on aircraft.
A33	Ammonium nitrites and mixtures of an inorganic nitrite with an ammonium salt are prohibited.

(3) "B" codes. These provisions apply only to bulk packagings:

Code	Special provisions
B1	If the material has a flash point at or above 100°F (37.8°C) and below 200°F (93.3°C), then the bulk packaging requirements of § 173.241 of this subchapter are applicable. If the material has a flash point of less than 100°F, then the bulk packaging requirements of § 173.242 of this subchapter are applicable.
B2	MC 306 cargo tanks, DOT 57 portable tanks, and riveted tank car tanks are not authorized.
B4	Riveted tank car tanks, AAR 205 tank car tanks, MC 306 cargo tanks, and DOT 57 portable tanks are not authorized.
B5	Lading temperature may not exceed 240°F (115.6°C). Only the following bulk packagings are authorized for ammonium nitrate solutions with 15 percent or more water: DOT 103 ALW, 111A60 ALW tank car tanks and MC 307 and MC 312 cargo tanks with at least 35 psig (172.4 kPa) design pressure. The packaging shall be designed for a working temperature of at least 250°F (121.1°C). Transportation by vessel is not authorized.
B6	Packagings shall be made of steel.
B7	Safety relief devices are not authorized on multi-unit tank car tanks. Openings for safety relief devices shall be plugged or blank flanged.
B8	Packagings shall be made of nickel, stainless steel, or steel with nickel, stainless steel, lead or other suitable corrosion resistant metallic lining.
B9	Bottom outlets are not authorized.
B10	Packagings must be leak tight.
B11	Tank car tanks must have a test pressure of at least 300 psi (2,068.5 kPa). Cargo and portable tanks must have a design pressure of at least 175 psig (1,206.8 kPa). Pressure relief devices on any tank must be set to function at 175 psig (1,206.8 kPa).
B12	Tank car tanks shall be marked with the name of the lading in accordance with the requirements of § 172.330.
B13	For compressed gases, §§ 173.314 and 173.315 of this subchapter specify additional requirements.
B14	Each tank, except a multi-unit tank car tank, shall be insulated by completely covering it with at least 100 millimeters (3.94 inches) of cork or other suitable insulation material of sufficient thickness that the overall thermal conductance is not more than 0.080 Btu per hour per square foot per degree Fahrenheit differential.
B15	Packagings shall be protected with non-metallic linings impervious to the lading unless the tanks conform to the provisions of § 178.343–2(c) of this subchapter.
B16	The lading shall be completely covered with an inert gas.
B17	Packagings shall be made of aluminum.
B18	Open steel hoppers or bins are authorized.
B19	The hazardous material may not exceed 45% concentration in a non-volatile solvent.
B20	The hazardous material may not exceed 50% concentration in a non-volatile solvent.
B21	The hazardous material may not exceed 80% concentration in a non-volatile solvent.
B22	The hazardous material may not exceed 90% concentration in a non-volatile solvent.
B23	Tanks shall be made of steel that is rubber lined or unlined. Unlined tanks shall be passivated before being placed in service. If unlined tanks are washed out with water, they shall be repassivated prior to return to service. Lading in unlined tanks must be inhibited so that the corrosive effect on steel is not greater than that of hydrofluoric acid of 65% concentration.
B24	Molybdenum content of stainless steel may not exceed 0.5%.
B25	Packagings shall be made from monel or nickel or monel lined or nickel lined steel.
B26	Tanks shall be insulated. Insulation must be at least 4 inches (101.6mm) except that insulation thickness may be reduced to 2 inches (50.8 mm) over exterior heater coils. Interior heating coils are not authorized. The lading shall be immersed in water or blanketed with an inert gas and loaded at a temperature not exceeding 140°F (60°C). After unloading, the tank shall be filled to its entire capacity with an inert gas or with water having a temperature not exceeding 140°F (60°C). Before a tank car tank is offered for return movement, it shall be placarded with "FLAMMABLE SOLID-RESIDUE" placards as described in § 172.525. When lading is immersed in water, tanks may not have bottom outlets.
B27	Tanks must have a service pressure of 150 psig (1,034.3 kPa). Tank car tanks must have a test pressure rating of 200 psi (1,379 kPa). Lading shall be blanketed at all times with a dry inert gas at a pressure not to exceed 15 psig (103.4 kPa).
B28	Packagings shall be made of stainless steel.
B29	When the lading is transported in a molten state, tanks may be equipped with heating coils except that interior heating coils are prohibited. Standpipe heaters for tank cars are permitted.
B30	MC 330 and MC 331 cargo tanks and DOT 51 portable tanks shall be made of stainless steel except that steel other than stainless steel may be used in accordance with the provisions of § 173.24b(c). Thickness of stainless steel for tank shell and heads for cargo tanks and portable tanks must be the greater of 0.250 inch (6.35 mm) or the thickness required for a tank with a design pressure at least equal to 1.5 times the vapor pressure of the lading at 115°F (46.1°C). Notwithstanding the provisions of § 173.244(a) of this subchapter, only the following tank car tanks are authorized: DOT 105J500W tank car tanks and DOT Class 106 and 110 multi-unit tank car tanks; DOT 105S300W tank car tanks built before April 1, 1989; and DOT 105A500W tank car tanks built before April 1,1989 and equipped with at least 10 inches (25.4 cm) of polyurethane foam insulation or with a thermal protection system meeting the requirements of § 179.105–4 of this subchapter.
B31	MC 330 and MC 331 cargo tanks and DOT 51 portable tanks shall be made of stainless steel except that steel other than stainless steel may be used in accordance with the provisions of § 173.24b(c). Thickness of stainless steel for tank shell and heads for cargo tanks and portable tanks must be the greater of 0.300 inch (7.62 mm) or the thickness required for a tank with a design pressure at least equal to 1.5 times the vapor pressure of the lading at 115°F (46.1°C). Bottom outlets are not authorized on tank car tanks. Notwithstanding the provisions of §§ 173.243(a) and 173.244(a) of this subchapter, only the following tank car tanks are authorized: DOT 105J300W, 112J340W, 112T340W and 114T340W tank car tanks; DOT Class 106 and 110 multi-unit tank car tanks; DOT 105A300W tank car tanks built before April 1, 1986; and, only for materials which do not meet the definition for a flammable gas (see § 173.115(a) of the subchapter), DOT 105J300ALW tank car tanks.
B32	MC 330 and MC 331 cargo tanks and DOT 51 portable tanks shall be made of stainless steel except that steel other than stainless steel may be used in accordance with the provisions of § 173.24b(c). Thickness of stainless steel for tank shell and heads for cargo tanks and portable tanks must be the greater of 0.250 inch (6.35 mm) or the thickness required for a tank with a design pressure at least equal to 1.3 times the vapor pressure of the lading at 115°F (46.1°C). Bottom outlets are not authorized on tank car tanks. Notwithstanding the provisions of §§ 173.243(a) and 173.244(a) of this subchapter, only the following tank car tanks are authorized: DOT 105J300W, 112J340W, 112T340W, 114J340W, and 105J300ALW tank car tanks; DOT Class 106 and 110 multi-unit tank car tanks; DOT 105A100W and 111A100W4 tank car tanks built before April 1, 1989; and DOT 111A100W1 and 111A100W2 that are insulated in accordance with § 179.200–4 of this subchapter, are equipped with safety relief valves in accordance with § 179.200–18 of this subchapter and were built before April 1, 1988.
B33	MC 330 or MC 331 cargo tanks and DOT 51 portable tanks shall be made of stainless steel except that steel other than stainless steel may be used in accordance with the provisions of § 173.24b(c). Thickness of stainless steel for tank shell and heads for cargo tanks and portable tanks must be the greater of 0.250 inch (6.35 mm) or the thickness required for a tank with a design pressure at least equal to 1.2 times the vapor pressure of the lading at 115°F (46.1°C). Bottom outlets are not authorized on tank car tanks. Notwithstanding the provisions of §§ 173.243(a) and 173.244(a) of this subchapter, only the following tank car tanks are authorized: DOT 105J300W, 112J340W, 112T340W, 114J340W, and 114T340W tank car tanks; DOT Class 106 and 110 multi-unit tanks; DOT 105A200W tank cars built before April 1, 1989; and, only for materials which do not meet the definition for a flammable gas (see § 173.115(a) of the subchapter), DOT 105J200ALW tank car tanks.
B34	MC 330 or MC 331 cargo tanks and DOT 51 portable tanks shall be made of stainless steel with a design pressure at least equal to 1.1 times the vapor pressure of the lading at 115°F (46.1°C). Steel other than stainless steel may be used in accordance with the provisions of § 173.24b(c).
B35	If LC50 is more than 200 ppm but not more than 1000 ppm, Note B31 applies. If LC50 is more than 1000 ppm but not more than 3000 ppm, Special Provision B33 applies. If LC50 is more than 3000 ppm but not more than 5000 ppm, Note B34 applies.
B36	Only DOT 105J500W tank car tanks or DOT Class 106 or 110 tank car tanks are authorized.
B37	The amount of nitric oxide charged into any tank car tank may not exceed 200 psig (1,379 kPa) at 70 F (21.1°C). The amount of nitric oxide charged into cargo or portable tanks may not exceed 200 psig (1,379 kPa) at 70°F (21.1°C) or 0.56 times tank design pressure (MAWP) whichever is less.
B38	If LC50 is more than 1000 ppm but not more than 3000 ppm, Note B31 applies. If LC50 is more than 3000 ppm but not more than 5000 ppm, Special Provision B32 applies.
B39	Mixtures with flashpoints less than 23°C (73.4°F) must bear FLAMMABLE placards as prescribed in Subpart F of Part 172.
B40	For liquid materials which are toxic by inhalation (see § 173.133(a)(2) of this subchapter), if LC50 is 200 ppm or less, Note B30 applies; if LC50 is more than 200 ppm but not more than 1000 ppm, Special Provision B32 applies.
B41	Notwithstanding the periodic retest intervals specified in Retest Table 1 of 173.31 of this subchapter, the retest interval for safety relief valves on each single-unit tank car tank is 2 years and the retest interval on the tank and interior heater systems, if any, is as follows: a. For a tank 10 years old or newer, 5 years; b. For a tank older than 10 years but not older than 22 years, 3 years; and c. For a tank older than 22 years, 1 year.
B42	Each DOT 106A, 105S and 105J tank car tank shall be stenciled DOT105A200W, DOT105S200W, or DOT 105J200W, respectively. Each tank car tank shall be equipped with a safety relief valve with a start-to-discharge pressure of 150 psig (1,034.3 kPa).
B43	For single unit tank car tanks built after June 30, 1982, tank anchor to tank shell fillet welds must be examined by a suitable non-destructive testing method to ensure that welds are free from cracks or other detrimental defects.
B44	All parts of valves and safety relief devices in contact with lading must be of a material which will not cause formation of acetylides.
B45	Safety relief valves must be equipped with stainless steel or platinum frangible discs approved by the AAR Committee on Tank Cars.
B46	The detachable protective housing for the loading and unloading valves of multi-unit tank car tanks must withstand tank test pressure and must be approved by the Director, OHMT.
B49	Tanks equipped with interior heater coils are not authorized. Single unit tank car tanks must have a safety relief valve set at no more than 225 psig (1551 kPa).
B50	Each valve outlet of a multi-unit tank car tank must be sealed by a threaded solid plug or a threaded cap with inert luting or gasket material. Valves must be of stainless steel and the caps, plugs, and valve seats must be of a material that will not be deteriorated by contact with the lading.
B51	Tank car tanks must be marked "DISPERSANT GAS" or "REFRIGERANT GAS" or with the proper shipping name.
B52	Notwithstanding the provisions of § 173.24b of this subchapter, non-reclosing pressure relief devices are authorized on DOT 57 portable tanks.
B53	Packagings shall be made of either aluminum or stainless steel.

(4) *"H" codes.* These provisions apply only to transportation by highway:

(Reserved.)

(5) *"N" codes.* These provisions apply only to non-bulk packagings:

Code	Special provisions
N1	For combination packagings, if glass inner packagings (including ampoules) are used, they must be packed with absorbent material in tightly closed metal receptacles before packing in outer packagings.
N2	For combination packagings, if glass inner packagings (including ampoules) are used, they must be packed with cushioning material in tightly closed metal receptacles before packing in outer packagings.
N3	Glass inner packagings are permitted in combination or composite packagings only if the hazardous material is free from hydrofluoric acid.
N4	For combination or composite packagings, glass inner packagings, other than ampoules, are not permitted.
N5	Glass materials of construction are not authorized for any part of a packaging which is normally in contact with the hazardous material.
N6	Battery fluid packaged with electric storage batteries, wet or dry, must conform to the packaging provisions of § 173.158, paragraphs (g) or (h), of this subchapter.
N11	For combination packagings, if plastic inner packagings are used, they must be packed in tightly closed metal receptacles before packing in outer packagings.
N12	Plastic packagings are not authorized.
N13	For combination packagings, if plastic bags are used, they must be packed in tightly closed metal receptacles before packing in outer packagings.
N14	Only plastic bags are permitted as inner packagings for combination packagings.
N15	Plastic materials of construction are not authorized for any part of a packaging which is normally in contact with the hazardous material.
N16	Plastic single packagings are not authorized.
N17	Plastic composite packagings are not authorized
N25	Steel single packagings are not authorized.
N26	Steel packagings must be corrosion-resistant or have protection against corrosion.
N32	Aluminum materials of construction are not authorized for single packagings.
N33	Aluminum drums are not authorized.
N34	Aluminum materials of construction are not authorized for any part of a packaging which is normally in contact with the hazardous material.
N35	When aluminum or aluminum alloy materials of construction are used, they must be resistant to corrosion.
N36	Aluminum or aluminum alloy materials of construction are permitted only for halogenated hydrocarbons that will not react with aluminum.
N40	For combination packagings, when metal inner packagings are permitted, only specification cylinders constructed of metals which are compatible with the hazardous material may be used.
N41	Metal (other than aluminum) materials of construction are not authorized for any part of a packaging which is normally in contact with the hazardous material.
N42	Metal (other than aluminum) materials of construction are not authorized for single packagings.
N43	Metal drums are permitted as single packagings only if constructed of nickel or monel.
N44	Only metal packagings are authorized.
N45	For combination packagings, only copper cartridges are permitted as inner packagings when the hazardous material is not in dispersion.
N55	For combination packagings, fiber drums (1G) only are permitted as outer packagings.
N65	Outage must be sufficient to prevent cylinders or spheres from becoming liquid full at 55 C (130°F). The vacant space (outage) may be charged with a nonflammable nonliquefied compressed gas if the pressure in the cylinder or sphere at 55°C (130°F) does not exceed 125% of the marked service pressure.
N70	For combination packagings, only plywood boxes (4D) and fiberboard boxes (4G) are permitted as outer packagings.
N71	Combination packagings consisting of inner glass packagings of not over 1.0 liter (1.06 quarts) capacity each or inner metal packagings of not over 5.0 liters (5.28 quarts) capacity each, placed in strong outer packagings, are authorized. Packagings are not subject to the requirements of Part 178 of this subchapter.
N72	Packagings must be examined by the Bureau of Explosives and approved by the Director, OHMT.
N73	Packagings consisting of outer wooden or fiberboard boxes with inner glass, metal or other strong containers; metal or fiber drums; kegs or barrels; or strong metal cans are authorized and need not conform to the requirements of Part 178 of this subchapter.

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Code	Special provisions
N74	Packages consisting of tightly closed inner containers of glass, earthenware, metal or polyethylene, capacity not over 0.5 kg (1.1 pounds) securely cushioned and packed in outer wooden barrels or wooden or fiberboard boxes, not over 15 kg (33.1 pounds) net weight, are authorized and need not conform to the requirements of Part 178 of this subchapter.
N75	Packages consisting of tightly closed inner packagings of glass, earthenware or metal, securely cushioned and packed in outer wooden barrels or wooden or fiberboard boxes, capacity not over 2.5 kg (5.51 pounds) net weight, are authorized and need not conform to the requirements of Part 178 of this subchapter.
N76	For materials of not more than 25 percent active ingredient by weight, packages consisting of inner metal packagings not greater than 250 mL (8.5 fluid ounces) capacity each, packed in strong outer packagings together with sufficient absorbent material to completely absorb the liquid contents are authorized and need not conform to the requirements of Part 178 of this subchapter.
N77	For materials of not more than two percent active ingredients by weight, packagings need not conform to the requirements of Part 178 of this subchapter, if liquid contents are absorbed in an inert material.
N78	Packages consisting of inner glass, earthenware, or polyethylene or other nontriagile plastic bottles or jars not over 0.5 kg (1.1 pounds) capacity each, or metal cans not over five pounds capacity each, packed in outer wooden boxes, barrels or kegs, or fiberboard boxes are authorized and need not conform to the requirements of Part 178 of this subchapter. Net weight of contents in fiberboard boxes may not exceed 66 pounds (29.5 kg). Net weight of contents in wooden boxes, barrels or kegs may not exceed 100 pounds (45.4 kg).
N79	Packages consisting of tightly closed metal inner packagings not over 0.5 kg (1.1 pounds) capacity each, packed in outer wooden or fiberboard boxes, or wooden barrels, are authorized and need not conform to the requirements of Part 178 of this subchapter. Net weight of contents may not exceed 15 kg (33.1 pounds).
N80	Packages consisting of one inner metal can, not over 2.5 kg (5.51 pounds) capacity, packed in an outer wooden or fiberboard box, or a wooden barrel, are authorized and need not conform to the requirements of Part 178 of this subchapter.

(6) *"R" codes.* These provisions apply only to transportation by rail:
(Reserved)

(7) *"T" codes.* These provisions apply only to transportation in IM portable tanks. They are divided into two groupings, one of which appears as the IM Tank Table in paragraph (c)(7)(i) of this section, and the second of which imposes specific requirements and appears in paragraph (c)(7)(ii) of this section.

(i) *IM Tank Table.* Column 1 lists the code for the special provisions as specified in Column 7 of the § 172.101 Table. Column 2 specifies the IM tank type, either IM 101 (§§ 178.270 and 178.271 of this subchapter) or IM 102 (§§ 178.270 and 178.272 of this subchapter). Column 3 specifies the minimum test pressure, in bars (1 bar=14.5 psig), at which the periodic hydrostatic testing required by § 173.32b of this subchapter must be conducted. Column 4 specifies either the section referenced for requirements for bottom openings or "Prohibited", which means bottom openings are prohibited. Column 5 specifies the section reference for requirements applicable to pressure relief devices.

IM TANK TABLE

Code (1)	IM tank type (2)	Minimum test pressure (bars) (3)	Bottom outlets (4)	Pressure relief devices (5)
T1	102	1.5	§ 173.32c(g)(1)	§ 178.270–11(a)(1),(2).
T2	102	1.5	§ 173.32c(g)(2)	§ 178.270–11(a)(1),(2).
T7	101	2.65	§ 173.32c(g)(1)	§ 178.270–11(a)(1),(2).
T8	101	2.65	§ 173.32c(g)(2)	§ 178.270–11(a)(1),(2).
T9	101	2.65	Prohibited	§ 178.270–11(a)(1),(2).
T11	101	2.65	§ 173.32c(g)(2)	§ 178.270–11(a)(3).
T12	101	2.65	Prohibited	§ 178.270–11(a)(3).
T13	101	4	§ 173.32c(g)(1)	§ 178.270–11(a)(1),(2).
T14	101	4	§ 173.32c(g)(2)	§ 178.270–11(a)(1),(2).
T15	101	4	Prohibited	§ 178.270–11(a)(1),(2).
T16	101	4	§ 173.32c(g)(1)	§ 178.270–11(a)(3).
T17	101	4	§ 173.32c(g)(2)	§ 178.270–11(a)(3).
T18	101	4	Prohibited	§ 178.270–11(a)(3).
T20	101	6	§ 173.32c(g)(2)	§ 178.270–11(a)(1),(2).
T21	101	6	Prohibited	§ 178.270–11(a)(1),(2).
T23	101	6	§ 173.32c(g)(2)	§ 178.270–11(a)(3).
T24	101	6	Prohibited	§ 178.270–11(a)(3).
T28	101	10	Prohibited	§ 178.270–11(a)(1),(2).
T39	101	10	Prohibited	§ 178.270–11(a)(3).

(ii) *IM Tank special provisions.* These provisions apply only to transportation in IM portable tanks:

Code	Special provisions
T25	This hazardous material is not permitted for transport in IM portable tanks.
T26	Each tank must have a minimum shell thickness of 6.35mm (0.250 inch) mild steel.
T27	Each tank must have a minimum shell thickness of 8.0mm (0.315 inch) mild steel.
T29	The lading shall be completely covered with nitrogen or an inert gas.
T30	IM 102 portable tanks without bottom openings authorized for a hazardous material with a flash point of 32°F (0°C) or greater and a vapor pressure not greater than 9.5 psia (65.5 kPa) at 150°F (65.6°C).
T31	IM 102 portable tanks without bottom openings or with bottom openings conforming to § 173.32c(g)(2) of this subchapter are authorized for a hazardous material with a flash point of 32°F (0°C) or greater and a vapor pressure not greater than 9.5 psia (65.5 kPa) at 150°F (65.6°C).
T32	Each tank must have a minimum shell thickness of 10.0mm (0.394 inch) mild steel with at least 5.0mm (0.197 inch) lead lining.
T33	Dry phosphorus is not permitted. For transport in a molten state, the tank shall be insulated in accordance with Note T36. Air shall be eliminated from the interior of the tank. The tank may be heated, however, interior heating coils are prohibited.
T35	Each tank shall be equipped with reclosing (spring loaded) pressure relief valves set to discharge at pressures determined according to the pressure characteristics of the organic peroxide lading.
T36	Each tank shall be equipped with pressure relief devices with sufficient venting capacity to prevent the tank from bursting.
T37	Tert-butyl hydroperoxide may not exceed 65% concentration in water, unless otherwise approved by the Director, OHMT. Each tank shall be made of aluminum of at least 99.5% purity, stainless steel or carbon steel. The material of construction must be compatible with the lading. The tank shall be equipped with pressure relief devices impervious to the lading. Aluminum tanks and carbon steel tanks shall be insulated in accordance with Note T38.
T38	Each tank shall be thermally insulated by completely covering it with at least 100 millimeters (3.94 inches) of cork or other suitable insulation material of sufficient thickness that the overall thermal conductance is not more than 0.080 Btu per hour per square foot per degree Fahrenheit differential.
T40	Each tank must have a minimum shell thickness of 10.0mm (0.394 inch) mild steel.
T41	Each tank must have a minimum shell thickness of 12.0mm (0.472 inch) mild steel.
T42	Transport in IM portable tanks is permitted only under conditions approved by the Director, OHMT

(8) *"W" codes.* These provisions apply only to transportation by water:

Code	Special provisions
W41	When offered for transportation by water, this material must be packaged in bales and be securely and tightly bound with rope, wire or similar means.

Subpart C—Shipping Papers

12. In § 172.200, paragraph (b) would be revised to read as follows:

§ 172.200 Applicability.

* * * * *

(b) This subpart does not apply to any material, other than a hazardous substance or waste, that is:

(1) Regulated only by air, water, or both (as indicated by the letter "A" or "W", or both, in Column 1 of the § 172.101 Table) when offered for transportation or transported in another mode of transport; or

(2) An ORM–D material, unless it is offered or intended for transportation, or transported, by aircraft.

§ 172.201 [Amended]

13. In § 172.201, in paragraph (a)(3), the word "subpart" would be changed to "subchapter" and paragraphs (a)(4)(i) and (a)(4)(ii) would be removed.

14. In § 172.202, paragraphs (a), (b), (c) and (d) would be revised and paragraph (f) would be added to read as follows:

§ 172.202 Description of hazardous material on shipping papers.

(a) The shipping description of a hazardous material on the shipping paper must include:

(1) The proper shipping name prescribed for the material in Column 2 of the § 172.101 Table;

(2) The hazard class prescribed for the material as shown in Column 3 of the § 172.101 Table:

(i) For Class 3, the description "Combustible liquid" must appear in parentheses immediately following the hazard class if the material is classed, under § 173.120(b) of this subchapter, as a combustible liquid.

(ii) Class names, IMO class and division numbers or subsidiary hazard classes may be entered in parentheses following the numerical hazard class;

(3) The identification number prescribed for the material as shown in Column 4 of the § 172.101 Table;

(4) The packing group, if any, prescribed for the material in Column 5 of the § 172.101 Table preceded by the letters "PG"; and

(5) Except for empty packagings, the total quantity (by weight, volume or as otherwise appropriate) of the hazardous material covered by the description.

(b) Except as provided in this subpart, the basic description specified in paragraphs (a) (1), (2), (3) and (4) of this section must be shown in sequence with no additional information interspersed. For example: "Gasoline, 3, UN1203, PG II".

(c) The total quantity of the material covered by one description must appear before or after, or both before and after, the description required and authorized by this subpart. The type of packaging and destination marks may be entered in any appropriate manner before or after the basic description. Abbreviations may be used to express units of measurement and types of packagings.

(d) Technical and chemical group names may be entered in parentheses between the proper shipping name and hazard class. An appropriate modifier, such as "contains" or "containing," may be used. For example: "Flammable liquids, n.o.s. (contains Xylene and Benzene), 3, UN1993, PG II".

* * * * *

(f) *Technical names.* If the material is described by an n.o.s. entry in the § 172.101 Table, the technical name of the material shall be entered in parentheses immediately following the proper shipping name. For example, "Corrosive liquids, n.o.s. (Caprylyl chloride), 8, UN1760, PG II". If the material is a mixture of two or more hazardous materials, the names of at least two components most predominately contributing to the hazard or hazards of the mixture shall be entered in parentheses. For example, "Flammable liquids, corrosive, n.o.s. (Methyl alcohol, Potassium hydroxide), 3, UN2924, PG II". The provisions of this paragraph do not apply:

(1) If the n.o.s. description for the material (other than a mixture of hazardous materials of different classes meeting the definitions of more than one hazard class) contains the name of the chemical element or group which is primarily responsible for the material being included in the hazard class indicated. For example: "Mercury compounds, solid, n.o.s., 6.1, UN2025, PG II".

(2) If the n.o.s. description for the material (which is a mixture of hazardous materials of different classes meeting the definition of more than one hazard class) contains the name of the chemical element or group responsible for the material meeting the definition of one of these classes. In such cases, only the technical name of the component that is not appropriately identified in the n.o.s description shall be entered in parentheses. For example: "Carbamate pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23 °C* (contains Xylene), 3(6.1), UN2758, PG II".

15. In § 172.203, paragraphs (i)(3) and (l) would be removed and paragraphs (c), (i)(2), (j) and (k)(4) would be revised to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(c) *Hazardous substances.* (1) If the proper shipping name for a material that is a hazardous substance does not identify the constituents making it a hazardous substance, the name or names of such hazardous substance constituents as shown in the § 172.101 Table shall be entered in association with the basic description.

(2) The letters "RQ" shall be entered on the shipping paper either before or after, or both before and after, the basic description required by § 172.202 for each hazardous substance (see definition in § 171.8). For example: "RQ, Allyl alcohol, 3, UN1098, PG I"; or "Benzonitrile, 6.1, UN2224, PG II, RQ".

* * * * *

(i) * * *

(2) The entry "skin corrosive only" must be included in association with the basic description to authorize "under deck" stowage for Corrosive liquids, n.o.s. and Corrosive solids, n.o.s. that meet only the corrosion to skin criteria of § 173.136(a) of this subchapter.

(j) *Dangerous when wet material.* The words "Dangerous when wet" shall be entered on the shipping paper in association with the basic description for a material which meets the definition of a dangerous when wet material in § 173.124(c) of this subchapter.

(k) * * *

(4) For Division 2.3 materials and for materials which meet the definition for Division 6.1, Packing Group I, and which

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are toxic by inhalation under the criteria specified in § 173.133(a)(2) of this subchapter, the words "Poison-Inhalation Hazard" shall be entered on the shipping paper in association with the shipping description. However, the word "Poison" need not be repeated if it otherwise appears in the shipping description.

Subpart D—Marking

16. Section 172.301 would be revised to read as follows:

§ 172.301 General marking requirements for non-bulk packagings.

(a) *Proper shipping name and identification number.* Except as otherwise provided by this subchapter, each person who offers for transportation a hazardous material in a non-bulk packaging shall mark the package with the proper shipping name and identification number (preceded by "UN" or "NA" as appropriate) for the material as shown in the § 172.101 Table. The proper shipping name for a hazardous waste (as defined in § 171.8 of this subchapter) is not required to include the word "waste" if the package bears the EPA marking prescribed by 40 CFR 262.32.

(b) *Technical names.* (1) In addition to the marking required by paragraph (a) of this section, a package containing a hazardous material, which is described by an n.o.s. entry in the § 172.101 Table, must be marked with the technical name of the material, in parentheses immediately following (or below) the proper shipping name. For example: "Corrosive liquids, n.o.s. (Caprylyl chloride), UN1760".

(2) If the material is a mixture of two or more hazardous materials, the names of at least two components most predominately contributing to the hazard or hazards of the mixture shall be entered in parentheses. For example: "Flammable liquids, corrosive, n.o.s. (Methanol, Potassium hydroxide), UN2924".

(3) The provisions of this paragraph do not apply:

(i) If the "n.o.s." description for the material (other than a mixture of hazardous materials of different classes meeting the definition of more than one hazard class) contains the name of the chemical element or group which is primarily responsible for the material being included in the hazard class indicated. For example: "Mercury compounds, solid, n.o.s., UN2025".

(ii) If the "n.o.s." description for the material (which is a mixture of hazardous materials of different classes meeting the definition of more than one hazard class) contains the name of the chemical element or group responsible for the material meeting the definition of one of these classes. In such cases, only the technical name of the component that is not appropriately identified in the "n.o.s." description is required to be entered in parentheses. For example: "Carbamate pesticides, liquid, flammable, toxic, n.o.s. (Xylene), UN2758".

(c) *Exemption packagings.* The outside of each package authorized by an exemption must be plainly and durably marked "DOT-E" followed by the exemption number assigned.

(d) *Previously marked packagings.* A package which has been previously marked as required for the material it contains and on which the marking remains legible, need not be remarked. (For empty packagings, see § 173.29 of this subchapter.)

(e) *Marking exceptions.* Identification numbers are not required on packages which contain only the following materials:

(1) Limited quantities as defined in § 171.8 of this subchapter;

(2) ORM-D materials.

17. Section 172.302 would be revised to read as follows:

§ 172.302 General marking requirements for bulk packagings.

(a) *Identification numbers.* Except as otherwise provided in this subpart, no person may offer for transportation or transport a hazardous material in a bulk packaging unless the packaging is marked as required by § 172.332 with the identification number specified for the material in the § 172.101 Table—

(1) On each side and each end, if the packaging has a capacity of 1,000 gallons (3,785.4 liters) or more, or

(2) On two opposing sides, if the packaging has a capacity of less than 1,000 gallons (3,785.4 liters).

(b) *Size of markings.* Except as otherwise provided, markings required by this subpart on bulk packagings must have a width of at least 6.0mm (0.24 inch) and a height of—

(1) 100mm (3.9 inches) for rail cars;

(2) 75mm (3.0 inches) for cargo tanks, and

(3) 50mm (2.0 inches) for other bulk packages.

(c) *Exemption packagings.* The outside of each bulk package used under the terms of an exemption must be plainly and durably marked "DOT-E" followed by the exemption number assigned.

(d) *Technical names.* Each bulk packaging marked with a proper shipping name which contains the term "n.o.s.", must be marked with the technical name of the hazardous material, in the manner prescribed in § 172.301(b).

(e) Each bulk packaging marked with a proper shipping name, common name or identification number as required by this subpart must remain marked when it is emptied unless it is—

(1) Sufficiently cleaned of residue and purged of vapors to remove any potential hazard; or

(2) Refilled, with a material requiring different markings or no markings, to such an extent that any residue remaining in the packaging is no longer hazardous.

(f) Specific requirements for marking portable tanks, cargo tanks, tank cars and multi-unit tank car tanks are prescribed in §§ 172.326, 172.328 and 172.330.

18. A new § 172.303 would be added to read as follows:

§ 172.303 Prohibited marking.

(a) No person may offer for transportation or transport a package which is marked with the proper shipping name or identification number of a hazardous material unless the package contains the identified hazardous material or its residue.

(b) This section does not apply to transportation of a package (or packaging) in a transport vehicle or freight container if the package (or packaging) is not visible during transportation and is loaded by the shipper and unloaded by the shipper or consignee.

19. Section 172.306 would be revised to read as follows:

§ 172.306 Consignee's or consignor's name and address.

Each person who offers for transportation a hazardous material in a non-bulk package shall mark that package with the name and address of the consignor or consignee except when the package is—

(a) Transported by highway only and will not be transferred from one motor carrier to another; or

(b) Part of a carload lot, truckload lot or freight container load, and the entire contents of the rail car, truck or freight container are shipped from one consignor to one consignee.

20. In § 172.308, paragraph (a)(3) would be added to read as follows:

§ 172.308 Authorized abbreviations.

(a) * * *

(3) Abbreviations which appear as authorized descriptions in Column 2 of the § 172.101 Table are authorized. For example, "PCB", "2, 4-D", etc.

21. Section 172.312 would be revised to read as follows:

§ 172.312 Liquid hazardous materials in non-bulk packagings.

(a) Except as provided in this section, each non-bulk package having inner packagings containing liquid hazardous materials must be:

(1) Packed with closures upward, and

(2) Legibly marked with package orientation markings as specified in ISO Standard R780–1968 on two opposite vertical sides of the package with the arrows pointing in the correct upright direction.

(b) Except as otherwise prescribed in Part 173 of this subchapter, cylinders of liquefied compressed gas are not required to be marked "THIS SIDE UP" or "THIS END UP."

(c) Arrows for purposes other than indicating proper package orientation may not be displayed on a package containing a liquid hazardous material.

(d) Except when offered or intended for transportation by aircraft, packages containing flammable liquids in inner packagings of one liter or less prepared in accordance with § 173.150 (b) or (c) of this subchapter are excepted from the requirements of paragraph (a) of this section.

(e) When offered or intended for transportation by aircraft, packages containing flammable liquids in inner packagings of one liter or less prepared in accordance with § 173.150 (b) or (c) of this subchapter are excepted from the requirements of paragraph (a) of this section when packed with sufficient absorption material between the inner and outer packagings to completely absorb the liquid contents.

22. A new § 172.313 would be added to read as follows:

§ 172.313 Poisonous hazardous materials.

(a) For Division 2.3 materials and for poisonous liquids subject to the "Poison-Inhalation Hazard" shipping paper description of § 172.203(k)(4), the package containing the material shall be marked "Inhalation Hazard" in association with the required label(s) or placard(s). (See § 172.302(b) for size of markings on bulk packages.) Bulk packagings must be marked on two opposing sides.

(b) Each non-bulk plastic outer packaging used as a single or composite packaging for materials meeting the definition of Division 6.1 (in § 173.132 of this subchapter) shall be permanently marked, by embossment or other durable means, with the word "POISON" in letters at least 6.3mm (0.25 inch) in height. Additional text or symbols related to hazard warning may be included in the marking. The marking shall be located within 150mm (5.9 inches) of the closure of the packaging.

23. In § 172.316, paragraph (a) and the beginning of the first sentence in paragraph (c) preceding the word "certification" would be revised to read as follows:

§ 172.316 Packagings containing material classed as ORM-D or ORM-E.

(a) Each non-bulk packaging containing a material classed as ORM-D or ORM-E must be marked on at least one side or end with the appropriate ORM designation immediately following or below the proper shipping name of the material. The appropriate ORM designation must be placed within a rectangle that is approximately 6.3mm (0.25 inch) larger on each side than the designation. The appropriate designation for each ORM must be:

(1) ORM-D-AIR for an ORM-D that is prepared for air shipment and packaged in accordance with the provisions of § 173.27 of this subchapter.

(2) ORM-D for an ORM-D other than as described in paragraph (a)(1) of this section.

(3) ORM-E for an ORM-E.

* * * * *

(c) The marking ORM-D or ORM-E is the * * *.

24. Section 172.324 would be revised to read as follows:

§ 172.324 Hazardous substances in non-bulk packagings.

(a) If the proper shipping name for a material that is a hazardous substance does not identify the constituents making it a hazardous substance, the name or names of the hazardous substance constituents as shown in the § 172.101 Table shall be entered in association with the proper shipping name on each non-bulk packaging.

(b) The letters "RQ" shall be displayed in association with the proper shipping name on a non-bulk packaging that contains a hazardous substance.

25. Section 172.326 would be revised to read as follows:

§ 172.326 Portable tanks.

(a) *Shipping name.* No person may offer for transportation or transport a portable tank containing a hazardous material unless it is legibly marked on two opposing sides with the proper shipping name specified for the material in § 172.101.

(b) [Reserved]

(c) *Owner's name.* The name of the owner or of the lessee, if applicable, must be displayed on a portable tank that contains a hazardous material.

(d) If the identification number marking required by § 172.302(a) is not visible, a transport vehicle or freight container used to transport a portable tank must be marked on each side and each end as required by § 172.332 with the identification number specified for the material in the § 172.101 Table.

26. Section 172.328 would be revised to read as follows:

§ 172.328 Cargo tanks.

(a) *Providing and affixing identification numbers.* Unless a cargo tank is already marked with the identification numbers required by this subpart, the identification numbers must be provided or affixed as follows:

(1) A person who offers a motor carrier a hazardous material for transportation in a cargo tank shall provide the motor carrier the identification numbers on placards or shall affix orange panels containing the required identification numbers, prior to or at the time the material is offered for transportation.

(2) A person who offers a cargo tank containing a hazardous material for transportation shall affix the required identification numbers on panels or placards prior to or at the time the cargo tank is offered for transportation.

(b) [Reserved]

(c) *Required markings; Gases.* Except for certain nurse tanks which must be marked as specified in § 173.315(m) of this subchapter, each cargo tank transporting a Class 2 material subject to this subchapter must be marked, in lettering no less than 50mm (1.97 inches), on each side and each end with—

(1) The proper shipping name specified for the gas in the § 172.101 Table, or

(2) An appropriate common name for the material such as "Refrigerant Gas".

(d) *QT/NQT markings.* Each MC 330 and MC 331 cargo tank must be marked near the specification plate, in letters no less than 50mm (1.97 inches) in height, with—

(1) "QT", if the cargo tank is constructed of quenched and tempered steel, or

(2) "NQT", if the cargo tank is constructed of other than quenched and tempered steel.

27. In § 172.330, the phrase "or § 172.102 (when authorized)" would be removed from paragraphs (c)(2) and (e), the phrase "or § 172.102" would be

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removed from paragraph (c)(1), paragraph (f) would be removed and paragraphs (a) and (b) would be revised to read as follows:

§ 172.330 Tank cars and multi-unit tank car tanks.

(a) *Shipping name.* No person may offer for transportation or transport a hazardous material—

(1) In a tank car unless the tank car is marked on each side, when required by § 172.102 or Part 173 of this subchapter, with the proper shipping name specified for the material in the § 172.101 Table or with a common name authorized in this subchapter for the material such as "Refrigerant Gas".

(2) In a multi-unit tank car tank, unless the tank is marked on two opposing sides, in letters and numerals no less than 50mm (2.0 inches) high, with the proper shipping name specified for the material in the § 172.101 Table or with a common name authorized for the material in this subchapter.

(b) A motor vehicle or rail car used to transport a multi-unit tank car tank containing a hazardous material must be marked on each side and each end, as required by § 172.332, with the identification number specified for the material in the § 172.101 Table.

• • • • • •

28. In § 172.332, paragraph (c)(3) would be revised to read as follows:

§ 172.332 Identification number markings.

• • • • • •

(c) • • •

(3) An identification number may be displayed only on a placard corresponding to the primary hazard class of the hazardous material.

• • • • • •

§ 172.334 [Amended]

29. In § 172.334 the phrase "POISON GAS", would be removed from paragraph (a), and the phrase "or § 172.102 (when authorized)" would be removed from paragraph (b).

Subpart E—Labeling

30. Section 172.400 would be revised to read as follows:

§ 172.400 General labeling requirements.

(a) Each person who offers for transportation or transports a hazardous material in any of the following packages or containment devices, shall label the package or containment device with labels specified for the material in the § 172.101 Table and in this subpart:

(1) A non-bulk package;

(2) A portable tank of less than 1000 gallons (3,785.4 liters) capacity;

(3) A DOT Specification 106 or 110 multi-unit tank car tank; and

(4) An overpack, freight container or unit load device, of no greater than 640 cubic feet (18.1 cubic meters) capacity, which contains a package for which labels are required.

(b) Labeling is required for a hazardous material which meets one or more hazard class definitions, in accordance with Column 6 of the § 172.101 Table and the following table:

Hazard class division reference (§)	Label name	Label design or section
1.1	EXPLOSIVE 1.1	172.411
1.2	EXPLOSIVE 1.2	172.411
1.3	EXPLOSIVE 1.3	172.411
1.4	EXPLOSIVE 1.4	172.411
1.5	EXPLOSIVE 1.5	172.411
2.1	FLAMMABLE GAS	172.417
2.2	NON-FLAMMABLE GAS	172.419
2.3	POISON GAS	172.416
3 (flammable liquid)	FLAMMABLE LIQUID	172.419
3 (combustible liquid)	(none)	
4.1	FLAMMABLE SOLID	172.420
4.2	SPONTANEOUSLY COMBUSTIBLE	172.422
4.3	DANGEROUS WHEN WET	172.423
5.1	OXIDIZER	172.426
5.2	ORGANIC PEROXIDE	172.427
6.1 (Packing Groups I and II)	POISON	172.430
6.1 (Packing Group III)	KEEP AWAY FROM FOOD	172.431
6.2 (international)	INFECTIOUS SUBSTANCE	172.432
6.2 (domestic)	ETIOLOGIC AGENT	172.444
7 (see § 172.403)	RADIOACTIVE WHITE-I	172.436
7	RADIOACTIVE YELLOW-II	172.438
7	RADIOACTIVE YELLOW-III	172.440
7 (empty packages, see § 173.427)	EMPTY	172.450
8	CORROSIVE	172.442
9	CLASS 9	172.448
ORM-D	(None)	
ORM-E	(None)	

30. A new § 172.400a would be added to read as follows:

§ 172.400a Exceptions from labeling.

(a) Notwithstanding the provisions of § 172.400, a label is not required on—

(1) A cylinder containing a compressed gas that is—

(i) Not poisonous;

(ii) Carried by a private or contract motor carrier;

(iii) Not overpacked; and

(iv) Durably and legibly marked in accordance with CGA Pamphlet C–7, Appendix A.

(2) A package or unit of military explosives (including ammunition) shipped by or on behalf of the DOD when in—

(i) Freight containerload, carload or truckload shipments, if loaded and unloaded by the shipper or DOD; or

(ii) Unitized or palletized break-bulk shipments by cargo vessel under charter to DOD if at least one required label is displayed on each unitized or palletized load.

(3) A package containing a hazardous material other than ammunition that is—

(i) Loaded and unloaded under the supervision of DOD personnel, and

(ii) Escorted by DOD personnel in a separate vehicle.

(4) A compressed gas cylinder permanently mounted in or on a transport vehicle.

(5) A freight container, an aircraft unit load device or a portable tank, which—

(i) Is placarded in accordance with Subpart F of this part, or

(ii) Conforms to paragraph (a)(3) or (b)(3) of § 172.512.

(6) An overpack or unit load device in or on which each different required label on packages of hazardous materials is visible.

(7) A package of low specific activity radioactive material, when transported under § 173.425(b) of this subchapter.

(8) A package containing Division 1.4, Compatibility Group S, material.

(b) Notwithstanding the provisions of § 172.402 of this subpart, a subsidiary hazard label corresponding to Class 3, Packing Group III or Class 8, Packing Group III (that is, a FLAMMABLE or CORROSIVE label, respectively) is not required to be displayed on a package containing a multiple hazard material, unless the package is offered or intended for transportation by aircraft or vessel.

(c) Certain exceptions to labeling requirements are provided for small quantities and limited quantities in applicable sections in Part 173 of this subchapter.

§ 172.401 [Amended]

32. In § 172.401, paragraph (d) would be removed.

33. Section 172.402 would be revised to read as follows:

§ 172.402 Additional labeling requirements.

(a) *Subsidiary hazard labels.* Notwithstanding the subsidiary labels specified in Column 6 of the § 172.101 Table, each package containing a material, other than a Class 2 material, meeting the definition of more than one hazard class shall be labeled with subsidiary hazard labels in accordance with the following table:

SUBSIDIARY HAZARD LABELS

Subsidiary hazard level (packing group)	Subsidiary hazard (class or division)						
	3	4.1	4.2	4.3	5.1	6.1	8
I	X	X	X	X	X	X	X
II	X	X	X	X	X	X	X
III	(1)	(2)	X	X	(3)	(4)	(3)

X Required for all modes.
[1] Required for transport by vessel only.
[2] Required for transport by aircraft only.
[3] Not required.

(b) *CARGO AIRCRAFT ONLY label.* Each person who offers for transportation or transports by aircraft a package containing a hazardous material which is authorized on cargo aircraft only shall label the package with a CARGO AIRCRAFT ONLY label specified in § 172.448.

34. Section 172.405 would be revised to read as follows:

§ 172.405 Authorized label modifications.

(a) For Classes 2, 3, 4, 5, 6, or 8, text indicating a hazard (for example FLAMMABLE LIQUID) is not required on a label when—

(1) The label otherwise conforms to the provisions of this subpart, and

(2) The hazard class or division number is displayed in the lower corner of a label corresponding to the primary hazard class of the material.

(b) Except as provided in paragraph (a) of this section, class and division numbers are not required on labels for Classes 2, 3, 4, 5, 6, 7, or 8. Class and division numbers should not be displayed on subsidiary hazard labels.

35. Section 172.406 would be revised to read as follows:

§ 172.406 Placement of labels.

(a) *General.* (1) Except as provided in paragraphs (b) and (e) of this section, each label required by this subpart must—

(i) Be printed on or affixed to a surface (other than the bottom) of the package or containment device containing the hazardous material; and

(ii) Be located on the same surface of the package as the proper shipping name marking, if the package dimensions are adequate.

(2) Except as provided in paragraph (e) of this section, duplicate labeling is not required on a package or containment device (such as to satisfy redundant labeling requirements).

(b) *Exceptions.* A label may be printed on or placed on a securely affixed tag, or may be affixed by other suitable means to:

(1) A package that contains no radioactive material and which has dimensions less than those of the required label;

(2) A compressed gas cylinder; and

(3) A package which has such an irregular surface that a label cannot be satisfactorily affixed.

(c) *Placement of multiple labels.* When primary and subsidiary hazard labels are required, they must be displayed next to each other. Placement conforms to this requirement if labels are within 150 mm (5.9 inches) of one another.

(d) Each label must be printed on or affixed to a background of contrasting color, or must have a dotted or solid line outer border.

(e) *Duplicate labeling.* When labeling is required, duplicate labels must be displayed on at least two sides or two ends (other than the bottom) of—

(1) Each non-bulk package or overpack having a volume of 64 cubic feet (1.8 cubic meters) or more;

(2) Each non-bulk package containing a radioactive material;

(3) Each DOT 106 or 110 multi-unit tank car tank. Labels must be displayed on each end;

(4) Each portable tank of less than 1000 gallons (3,785.4 liters) capacity; and

(5) Each freight container or aircraft unit load device having a volume of 64 cubic feet (1.8 cubic meters) or more, but less than 640 cubic feet (18.1 cubic meters). One of each required label must be displayed on or near the closure.

(f) *Obscured labels.* A label must be clearly visible and may not be obscured by markings or attachments.

36. Section 172.407 would be revised to read as follows:

§ 172.407 Label specifications.

(a) *Durability.* Each label, whether printed on or affixed to a package, must be durable and weather resistant. A label on a package must be able to withstand, without deterioration or a substantial change in color, a 30-day exposure to conditions incident to transportation that reasonably could be expected to be encountered by the labeled package.

(b) *Design.* (1) Except for size and color, the printing, inner border, and symbol on each label must be as shown in §§ 172.411 through 172.448, as appropriate.

(2) The dotted line border shown on each label is not part of the label specification, except when used as an alternative for the solid line outer border to meet the requirements of § 172.406(d).

(c) *Size.* (1) Each diamond (square-on-point) label prescribed in this subpart must be at least 100 mm (3.9 inches) on each side with each side having a solid line inner border 5.0 to 6.3 mm (0.20 to 0.25 inches) from the edge.

(2) The CARGO AIRCRAFT ONLY label must be a rectangle measuring at least 110 mm (4.3 inches) in height by 120 mm (4.7 inches) in width. The word "DANGER" must be shown in letters measuring at least 12.7 mm (0.5 inches) in height.

(3) Except as otherwise provided in this subpart, the hazard class number, or division number, as appropriate, must be at least 6.3 mm (0.25 inches) and not greater than 12.7 mm (0.5 inches).

(4) When text indicating a hazard is displayed on a label, the label name must be shown in letters measuring at least 7.6mm (0.30 inches) in height except that—

(i) For a SPONTANEOUSLY COMBUSTIBLE or DANGEROUS WHEN WET label, respectively, the words "Spontaneously" and "When Wet" must be shown in letters measuring at least 5.1mm (0.2 inches) in height.

(ii) For a KEEP AWAY FROM FOOD label, the word "HARMFUL" must be shown in letters measuring at least 7.6 mm (0.3 inches) in height.

(5) The symbol on each label must be proportionate in size to that shown in the appropriate section of this subpart.

(d) *Color.* (1) The background color on each label must be as prescribed in §§ 172.411 through 172.448, as appropriate.

(2) The symbol, text, numbers, and border must be shown in black on a label except that—

(i) White may be used on a label with a one color background of green, red or blue; and

(ii) White must be used for the text and class number for the CORROSIVE label.

(3) Black and any color on a label must be able to withstand, without substantial change, a 72-hour fadeometer test (for a description of equipment designed for this purpose, see ASTM G 23–69 (1975) or G 26–70).

(4) A color on a label, upon visual examination, must fall within the color tolerances displayed on the appropriate Label and Placard Color Tolerance Chart.

(i) A set of six charts, dated January 1973, for comparison with labels and placards surfaced with paint, lacquer, enamel, plastic or other opaque coatings, or ink, may be purchased from the Office of Hazardous Materials Transportation, U.S. Department of Transportation, Washington, DC 20590, for $5.50.

(ii) A set of six charts, dated January 1974, for comparison with labels and placards surfaced with ink, may be similarly purchased for $12.50.

(iii) Both sets of charts may be inspected in Room 8426, Nassif Building, 400 7th Street SW., Washington, DC 20590, or any of the offices of the Federal Highway Administration listed at 49 CFR 390.40.

(iv) The technical specifications for each chart are set forth in Appendix A to this part.

(5) The specified label color must extend to the edge of the label in the area designated on each label except the CORROSIVE, RADIOACTIVE YELLOW-II AND RADIOACTIVE YELLOW-III labels on which the color must extend only to the inner border.

(e) *Form identification.* A label may contain form identification information, including the name of its maker, provided that information is printed outside the solid line inner border in no larger than 10-point type.

(f) *Exceptions.* A label conforming to specifications in the UN Recommendations may be used in place of a corresponding label which conforms to the requirements of this subpart.

37. Section 172.411 would be revised to read as follows:

§ 172.411 EXPLOSIVE 1.1, 1.2, 1.3, 1.4 and 1.5 labels.

(a) Except for size and color, the EXPLOSIVE 1.1, EXPLOSIVE 1.2 and EXPLOSIVE 1.3 labels must be as follows:

(b) In addition to complying with § 172.407, the background color on the EXPLOSIVE 1.1, EXPLOSIVE 1.2 and EXPLOSIVE 1.3 labels must be orange. The "**" shall be replaced with the appropriate division number and compatibility group. The compatibility group letter must be the same size as the division number and must be shown as a capitalized Roman letter.

(c) Except for size and color, the EXPLOSIVE 1.4 and EXPLOSIVE 1.5 labels must be as follows:

EXPLOSIVE 1.4:

EXPLOSIVE 1.5:

(d) In addition to complying with § 172.407, the background color on the EXPLOSIVE 1.4 and EXPLOSIVE 1.5 labels must be orange. The "*" shall be replaced with the appropriate compatibility group. The compatibility group letter must be shown as a capitalized Roman letter measuring at least 12.7mm (0.5 inch) in height. Division numerals must measure at least 30mm (1.2 inch) in height and at least 5mm (0.2 inches) in width.

38. Section 172.415 would be revised to read as follows:

§ 172.415 NON-FLAMMABLE GAS label.

(a) Except for size and color, the NON-FLAMMABLE GAS label must be as follows:

(b) In addition to complying with § 172.407, the background color on the NON-FLAMMABLE GAS label must be green.

39. Section 172.416 would be revised to read as follows:

§ 172.416 POISON GAS label.

(a) Except for size and color, the POISON GAS label must be as follows:

(b) In addition to complying with § 172.407, the background color on the POISON GAS label must be white.

40. Section 172.417 would be revised to read as follows:

§ 172.417 FLAMMABLE GAS label.

(a) Except for size and color, the FLAMMABLE GAS label must be as follows:

(b) In addition to complying with § 172.407, the background color on the FLAMMABLE GAS label must be red.

41. Section 172.419 would be revised to read as follows:

§ 172.419 FLAMMABLE LIQUID label.

(a) Except for size and color the FLAMMABLE LIQUID label must be as follows:

(b) In addition to complying with § 172.407, the background color on the FLAMMABLE LIQUID label must be red.

42. Section 172.420 would be revised to read as follows:

§ 172.420 FLAMMABLE SOLID label.

(a) Except for size and color, the FLAMMABLE SOLID label must be as follows:

(b) In addition to complying with § 172.407, the background on the FLAMMABLE SOLID label must be white with vertical red stripes equally spaced on each side of a red stripe placed in the center of the label. The red vertical stripes must be spaced so that, visually, they appear equal in width to the white spaces between them. The symbol (flame) and text (when used) must be overprinted. The text "FLAMMABLE SOLID" may be placed in a white rectangle.

43. Section 172.422 would be revised to read as follows:

§ 172.422 SPONTANEOUSLY COMBUSTIBLE label.

(a) Except for size and color, the SPONTANEOUSLY COMBUSTIBLE label must be as follows:

(b) In addition to complying with § 172.407, the background color on the lower half of the SPONTANEOUSLY COMBUSTIBLE label must be red and the upper half must be white.

44. Section 172.423 would be revised to read as follows:

§ 172.423 DANGEROUS WHEN WET label.

(a) Except for size and color, the DANGEROUS WHEN WET label must be as follows:

(b) In addition to complying with § 172.407, the background color on the DANGEROUS WHEN WET label must be blue.

45. Section 172.426 would be revised as follows:

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§ 172.426 OXIDIZER label.

(a) Except for size and color, the OXIDIZER label must be as follows:

(b) In addition to complying with § 172.407, the background color on the OXIDIZER label must be yellow.

46. Section 172.427 would be revised to read as follows:

§ 172.427 ORGANIC PEROXIDE label.

(a) Except for size and color, the ORGANIC PEROXIDE label must be as follows:

(b) In addition to complying with § 172.407, the background color on the ORGANIC PEROXIDE label must be yellow.

47. Section 172.430 would be revised as follows:

§ 172.430 POISON label.

(a) Except for size and color, the POISON label must be as follows:

(b) In addition to complying with § 172.407, the background on the POISON label must be white.

48. A new § 172.431 would be added to read as follows:

§ 172.431 KEEP AWAY FROM FOOD label.

(a) Except for size and color, the KEEP AWAY FROM FOOD label must be as follows:

(b) In addition to complying with § 172.407, the background on the KEEP AWAY FROM FOOD label must be white.

49. Section 172.432 would be revised to read as follows:

§ 172.432 INFECTIOUS SUBSTANCE label.

(a) Except for size and color, the INFECTIOUS SUBSTANCE label must be as follows:

(b) In addition to complying with § 172.407, the background on the INFECTIOUS SUBSTANCE label must be white.

50. Section 172.436 would be revised to read as follows:

§ 172.436 RADIOACTIVE WHITE-I label.

(a) Except for size and color, the RADIOACTIVE WHITE-I label must be as follows:

(b) In addition to complying with § 172.407, the background on the RADIOACTIVE WHITE-I label must be white. The printing and symbol must be black, except for the "I" which must be red.

51. Section 172.438 would be revised to read as follows:

§ 172.438 RADIOACTIVE YELLOW-II label.

(a) Except for size and color, the RADIOACTIVE YELLOW-II must be as follows:

(b) In addition to complying with § 172.407, the background color on the RADIOACTIVE YELLOW-II label must be yellow in the top half and white in the lower half. The printing and symbol must be black, except for the "II" which must be red.

52. Section 172.440 would be revised to read as follows:

§ 172.440 RADIOACTIVE YELLOW-III label.

(a) Except for size and color, the RADIOACTIVE YELLOW-III label must be as follows:

(b) In addition to compying with § 172.407, the background color on the RADIOACTIVE YELLOW-III label must be yellow in the top half and white in the lower half. The printing and symbol must be black, except for the "III" which must be red.

53. Section 172.442 would be revised to read as follows:

§ 172.442 CORROSIVE label.

(a) Except for size and color, the CORROSIVE label must be as follows:

(b) In addition to complying with § 172.407, the background color on the CORROSIVE label must be white in the top half and black in the lower half.

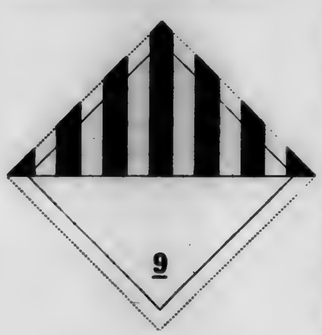
§ 172.444 [Amended]

54. In § 172.444, paragraphs (b) and (c) would be removed.

55. Section 172.446 would be added to read as follows:

§ 172.446 CLASS 9 label.

(a) Except for size and color, the CLASS 9 (miscellaneous hazardous materials) label must be as follows:



(b) In addition to complying with § 172.407, the background on the CLASS 9 label must be white with seven black vertical stripes on the top half. The black vertical stripes must be spaced, so that, visually, they appear equal in width to the six white spaces between them. The lower half of the label must be white with the class number 9 underlined and centered at the bottom.

56. Section 172.448 would be revised to read as follows:

§ 172.448 CARGO AIRCRAFT ONLY label.

(a) Except for size and color, the CARGO AIRCRAFT ONLY label must be as follows:

(b) The CARGO AIRCRAFT ONLY label must be black on an orange background.

Subpart F—Placarding

57. Section 172.500 would be revised to read as follows:

§ 172.500 Applicability of placarding requirements.

(a) Each person who offers for transportation or transports any hazardous material subject to this subchapter shall comply with the applicable placarding requirements of this subpart.

(b) This subpart does not apply to—

(1) Infectious substances;

(2) Hazardous materials classed as ORM–D or E or Class 9;

(3) Hazardous materials authorized by this subchapter to be offered for transportation as Limited Quantities when identified as such on shipping papers in accordance with § 172.203(b);

(4) Hazardous materials which are packaged as small quantities under the provisions of § 173.4 of this subchapter; and

(5) Combustible liquids in non-bulk packagings.

58. Section 172.502 would be revised to read as follows:

§ 172.502 Prohibited and permissive placarding.

(a) *Prohibited placarding.* Except as provided in paragraph (c) of this section, no person may affix or display on a bulk packaging, freight container, unit load device, motor vehicle or rail car any placard described in this subpart unless—

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(1) The material being offered or transported is a hazardous material, and

(2) The placard represents a hazard of the hazardous material being offered or transported.

(b) No person may affix or display any sign or other device on a bulk packaging, freight container, unit load device, motor vehicle or rail car, that by its color, design, shape or content could be confused with any placard prescribed in this subpart.

(c) *Exceptions.* The restrictions in paragraphs (a) and (b) of this section do not apply to a bulk packaging, freight container, unit load device, motor vehicle or rail car which is placarded in conformance with the TDG Regulations, the IMDG Code or the UN Recommendations.

(d) The restrictions of paragraph (b) of this section do not apply to the display of an identification number on a white square-on-point configuration in accordance with § 172.336(b).

(e) *Permissive placarding.* Placards may be displayed for a hazardous material in accordance with this subpart even when not required if—

(1) The material and placards conform to the requirements of paragraph (a) of this section, and

(2) Neither an identification number, hazard class nor division number is displayed on a placard corresponding to a subsidiary hazard of the hazardous material.

59. Section 172.504 would be revised to read as follows:

§ 172.504 General placarding requirements.

(a) *General.* Except as otherwise provided in this subchapter, each bulk packaging, freight container, unit load device, motor vehicle or rail car containing any quantity of a hazardous material must be placarded on each side and each end with the type of placards specified in Tables 1 and 2 of this section and in accordance with other placarding requirements of this subpart, including the specifications for the placards named in the tables and described in detail in §§ 172.519 through 172.556.

(b) *DANGEROUS placard.* A freight container, unit load device, motor vehicle or rail car which contains non-bulk packagings with two or more categories of hazardous materials that require different placards specified in Table 2 may be placarded with DANGEROUS placards instead of the separate placarding specified for each of the materials in Table 2. However, when 5,000 pounds (2,267.9 Kg) or more of one category of material is loaded therein at one loading facility, the placard specified in Table 2 for that category must be applied.

(c) *Exception for less than 1,000 pounds.* For non-bulk packagings, when the gross weight of all hazardous materials covered by Table 2 is less than 1000 pounds (453.6 Kg), no placard is required on a freight container, unit load device, motor vehicle, or rail car for the Table 2 materials. This paragraph does not apply to transportation by aircraft or vessel, or to transport vehicles, freight containers and unit load devices subject to § 172.505.

(d) *Exception for empty non-bulk packages.* A non-bulk packaging that contains only the residue of a hazardous material covered by Table 2 of paragraph (e) of this section need not be included in determining placarding requirements.

(e) *Placarding tables.* Placards are specified for hazardous materials in accordance with the following tables:

TABLE 1

Category of material (hazard class or division number and additional description, as appropriate)	Placard name	Placard design section reference(s)
1.1	EXPLOSIVES 1.1	172.522
1.2	EXPLOSIVES 1.2	172.522
1.3	EXPLOSIVES 1.3	172.522
2.3 (poisonous gas)	POISON GAS	172.540
4.3	DANGEROUS WHEN WET.	172.548
6.1 (PG I inhalation hazard only).	POISON	172.554
7 (Radioactive Yellow III label only).	RADIOACTIVE	172.556

TABLE 2

Category of material (hazard class or division number and additional description, as appropriate)	Placard name	Placard design section reference (s)
1.4	EXPLOSIVES 1.4	172.523
1.5	EXPLOSIVES 1.5	172.524
2.1 (flammable gas)	FLAMMABLE GAS	172.532
2.2 (nonflammable gas)	NON-FLAMMABLE GAS.	172.528
3 (flammable liquid)	FLAMMABLE	172.542
3 (combustible liquid)	COMBUSTIBLE	172.544
4.1	FLAMMABLE SOLID	172.546
4.2	SPONTANEOUSLY COMBUSTIBLE.	172.547
5.1	OXIDIZER	172.550
5.2	ORGANIC PEROXIDE	172.552
6.1 (PG I or II, other than PG I inhalation hazard).	POISON	172.554
6.1 (PG III)	(None)	
6.2	(None)	
8	CORROSIVE	172.558
9	(None)	
ORM-D	(None)	
ORM-E	(None)	

(f) *Additional placarding exceptions.*

(1) An EXPLOSIVES 1.2 placard is not required for Division 1.2 explosives on a motor vehicle, rail car, freight container or unit load device which contains Division 1.1 explosives, and is placarded with EXPLOSIVES 1.1 placards, as required.

(2) A FLAMMABLE placard may be used in place of a COMBUSTIBLE placard on a cargo tank, a portable tank or a compartmented tank car which contains both flammable and combustible liquids.

(3) A NON-FLAMMABLE GAS placard is not required on a motor vehicle which contains non-flammable gas if the motor vehicle also contains flammable gas and it is placarded with FLAMMABLE GAS placards, as required.

(4) An EXPLOSIVES 1.4, 1.5 or OXIDIZER placard is not required for Division 1.4, 1.5 or 5.1 materials on a freight container, unit load device, motor vehicle or rail car which also contains Division 1.1 or 1.2 explosives and is placarded with EXPLOSIVES 1.1 or 1.2 placards, as required.

(5) For transportation by motor vehicle or rail car only, an OXIDIZER placard is not required for Division 5.1 materials on a motor vehicle, rail car or freight container which also contains Division 1.5 explosives and is placarded with EXPLOSIVES 1.5 placards, as required.

(6) An EXPLOSIVES 1.4 placard is not required for Division 1.4, Compatibility Group S, materials.

60. Section 172.505 would be revised to read as follows:

§ 172.505 Multiple placarding.

(a) Each transport vehicle, portable tank, freight container or unit load device that contains a poisonous material subject to the "Poison-Inhalation Hazard" shipping description of § 172.203(k)(4) shall be placarded with POISON or POISON GAS placards, as appropriate, on each side and each end, in addition to the placards required by § 172.504. This requirement does not apply to non-bulk packages having primary receptacles of one liter (1.06 quarts) or less. Duplication of the POISON or POISON GAS placard is not required.

(b) Each transport vehicle, portable tank or freight container that contains 1,000 pounds (453.6 kg) or more gross weight of fissile or low specific activity uranium hexafluoride shall be placarded with RADIOACTIVE and CORROSIVE placards on each side and each end.

(c) Each transport vehicle, portable tank, freight container or unit load device that contains a material which has a subsidiary hazard of being dangerous when wet, as defined in § 173.124, shall be placarded with DANGEROUS WHEN WET placards, on each side and each end, in addition to the placards required by § 172.504.

§ 172.508 [Amended]

61. In paragraph (a) of § 172.508, the phrase "§§ 172.502 and 172.504 as these sections pertain to placarding the rail car" would be revised to read "this subpart."

62. In § 172.510 paragraph (b) would be removed and reserved and paragraph (a) would be revised to read as follows:

§ 172.510 Special placarding provisions: Rail.

(a) *Square background required.* (1) Each EXPLOSIVES 1.1 and EXPLOSIVES 1.2 placard affixed to a rail car must be placed on a square background as described in § 172.527.

(2) Each POISON, POISON-RESIDUE, POISON GAS, AND POISON GAS-RESIDUE placard affixed to a rail car containing a material which meets Division 2.3 or 6.1, Packing Group I, criteria for inhalation toxicity (see § 173.133 of this subchapter) must be placed on a square background as described in § 172.527.

(b) [Reserved]

* * * * *

§ 172.512 [Amended]

63. In § 172.512 the following changes would be made:

a. In paragraph (a)(1), the section reference "§ 172.504(c)(1)" would be revised to read "§ 172.504(c)".

b. In paragraph (a)(2), the phrase "paragraphs (c)(1) and (c)(2)" would be revised to read "paragraph (c)".

c. In paragraphs (b)(1) and (b)(2), the section references "§ 172.406(e)(3)" and "§ 172.406(e)", respectively, would be revised to read "Subpart E of this part, including § 172.406(e)."

64. Section 172.514 would be revised to read as follows:

§ 172.514 Bulk packagings other than tank cars.

(a) Each person who offers for transportation a bulk packaging, other than a tank car, which contains a hazardous material shall affix the placards specified for the material in §§ 172.504 and 172.505. However, a portable tank having a capacity of less than 1,000 gallons (3,785.4 liters)—

(1) May be placarded on only two opposite sides; or

(2) May be labeled instead of placarded, in accordance with Subpart E of this part.

(b) Each bulk packaging, other than a tank car, that is required to be placarded when it contains a hazardous material, must remain placarded when it is emptied, unless it is—

(1) Sufficiently cleaned of residue and purged of vapors to remove any potential hazard; or

(2) Refilled, with a material requiring different placards or no placards, to such an extent that any residue remaining in the packaging is no longer hazardous.

65. In § 172.516, the introductory text of paragraph (c) would be revised and subparagraph (c)(7) would be added to read as follows:

§ 172.516 Visibility and display of placards.

* * * * *

(c) Each placard on a transport vehicle, bulk packaging, freight container or aircraft unit load device must—

* * * * *

(7) Be affixed to a background of contrasting color, or must have a dotted or solid line outer border which contrasts with the background color.

* * * * *

66. Section 172.519 would be revised to read as follows:

§ 172.519 General specifications for placards.

(a) *Strength and durability.* Placards must conform to the following:

(1) A placard may be made of any plastic, metal or other material capable of withstanding, without deterioration or a substantial reduction in effectiveness, a 30-day exposure to open weather conditions.

(2) Each placard must be able to pass a 60 p.s.i. Mullen test.

(3) A placard made of tagboard must be at least equal to that designated commercially as white tagboard. Tagboard must have a weight of at least 175 pounds (90.7 kg) per ream of 24 by 36-inch (61.0 by 91.4 cm) sheets, waterproofing materials included.

(4) Reflective or retroreflective materials may be used on a placard if the prescribed colors, strength and durability are maintained.

(b) *Design.* (1) Except as provided in § 172.332, each placard must be as described in this subpart, and except for size and color, the printing, inner border and symbol must be as shown in §§ 172.521 through 172.556, as appropriate.

(2) The dotted line border shown on each placard is not part of the placard specification. However, a dotted or solid line outer border may be used when needed to indicate the full size of a placard that is part of a larger format or is on a background of a non-contrasting color.

(3) For Classes 2, 3, 4, 5, 6 or 8, text indicating a hazard (for example, "FLAMMABLE") is not required.

(4) For a placard corresponding to the primary hazard class of a material, the hazard class or division number must be displayed in the lower corner of the placard. However, no hazard class or division number may be displayed on a placard corresponding to a subsidiary hazard of the material.

(c) *Size.* (1) Each placard prescribed in this subpart must measure 273mm (10.75 inches) on each side and must have a solid line inner border 12.7mm (0.5 inches) from each edge.

(2) Except as otherwise provided in this subpart, the hazard class or division number, as appropriate, must be shown in numerals measuring at least 41.0mm (1.62 inches) in height.

(3) Except as otherwise provided in this subpart, when text indicating a hazard is displayed on a placard, the printing must be in letters measuring at least 45.0mm (1.77 inches) in height.

(d) *Color.* (1) The background color, symbol, text, numerals and inner border on a placard must be as specified in §§ 172.521 through 172.556, as appropriate.

(2) Black and any color on a placard must be able to withstand, without substantial change—

(i) A 72-hour fadeometer test (for a description of equipment designed for this purpose, see ASTM G 23–69 (1975) or ASTM G 26–70); and

(ii) A 30-day exposure to open weather.

(3) Upon visual examination, a color on a placard must fall within the color tolerances displayed on the appropriate Office of Hazardous Materials Label and Placard Color Tolerance Chart (see § 172.407(d)(4)).

(4) The placard color must extend to the inner border and may extend to the edge of the placard in the area designated on each placard except the color on the CORROSIVE and RADIOACTIVE placards (black and yellow, respectively) must extend only to the inner border.

(e) *Form identification.* A placard may contain form identification infor-mation, including the name of its maker, provided that information is printed outside of the solid line inner border in no larger than 10-point type.

(f) *Exceptions.* A placard conforming to specifications in the UN Recommendations or the TDG Regulations may be used in place of a corresponding placard which conforms to the requirements of this subpart.

67. Section 172.522 would be revised to read as follows:

§ 172.522 EXPLOSIVES 1.1, EXPLOSIVES 1.2 and EXPLOSIVES 1.3 placards.

(a) Except for size and color, the EXPLOSIVES 1.1, EXPLOSIVES 1.2 and

EXPLOSIVES 1.3 placards must be as follows:

(b) In addition to complying with § 172.519, the background color on the EXPLOSIVES 1.1, EXPLOSIVES 1.2 and EXPLOSIVES 1.3 placards must be orange. The "*" shall be replaced with the appropriate division number. The symbol, text, numerals and inner border must be black.

68. Section 172.523 would be revised to read as follows:

§ 172.523 EXPLOSIVES 1.4 placard.

(a) Except for size and color, the EXPLOSIVES 1.4 placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the EXPLOSIVES 1.4 placard must be orange. The division numeral, 1.4, must measure at least 63.5mm (2.5 inches) in height. The text, numerals and inner border must be black.

69. Section 172.524 would be revised to read as follows:

§ 172.524 EXPLOSIVES 1.5 placard.

(a) Except for size and color, the EXPLOSIVES 1.5 placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the EXPLOSIVES 1.5 placard must be orange. The division numeral, 1.5, must measure at least 63.5mm (2.5 inches) in height. The text, numerals and inner border must be black.

70. Section 172.528 would be revised to read as follows:

§ 172.528 NON-FLAMMABLE GAS placard.

(a) Except for size and color, the NON-FLAMMABLE GAS placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the NON-FLAMMABLE GAS placard must be green. The letters in both words must be at least 38.1mm (1.5 inches) high. The symbol, text, class number and inner border must be white.

§ 172.530 [Removed]

71. Section 172.530 would be removed.

72. Section 172.532 would be revised to read as follows:

§ 172.532 FLAMMABLE GAS placard.

(a) Except for size and color, the FLAMMABLE GAS placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the FLAMMABLE GAS placard must be red. The symbol, text, class number and inner border must be white.

§ 172.536 [Removed]

73. Section 172.536 would be removed.

74. Section 172.540 would be revised to read as follows:

§ 172.540 POISON GAS placard.

(a) Except for size and color, the POISON GAS placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the

POISON GAS placard must be white. The symbol, text, class number and inner border must be black.

75. Section 172.542 would be revised to read as follows:

§ 172.542 FLAMMABLE placard.

(a) Except for size and color, the FLAMMABLE placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the FLAMMABLE placard must be red. The symbol, text, class number and inner border must be white.

(c) The word "GASOLINE" may be used in place of the word "FLAMMABLE" on a placard that is displayed on a cargo tank or a portable tank being used to transport gasoline by highway. The word "GASOLINE" must be shown in white.

76. Section 172.544 would be revised to read as follows:

§ 172.544 COMBUSTIBLE placard.

(a) Except for size and color, the COMBUSTIBLE placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the COMBUSTIBLE placard must be red. The symbol, text, class number and inner border must be white. On a COMBUSTIBLE placard with a white bottom as prescribed by § 172.332(c)(4), the class number must be red or black.

(c) The words "FUEL OIL" may be used in place of the word "COMBUSTIBLE" on a placard that is displayed on a cargo tank or portable tank being used to transport by highway, fuel oil that is not classed as a flammable liquid. The words "FUEL OIL" must be shown in white.

77. Section 172.546 would be revised to read as follows:

§ 172.546 FLAMMABLE SOLID placard.

(a) Except for size and color, the FLAMMABLE SOLID placard must be as follows:

(b) In addition to complying with § 172.519, the background on the FLAMMABLE SOLID placard must be white with seven vertical red stripes. The stripes must be equally spaced, with one red stripe placed in the center of the label. Each red stripe and each white space between two red stripes must be 25.4mm (1.0 inches) wide. The letters in the word "SOLID" must be at least 38.1mm (1.5 inches) high. The symbol, text, class number and inner border must be black.

78. A new § 172.547 would be added to read as follows:

§ 172.547 SPONTANEOUSLY COMBUSTIBLE placard.

(a) Except for size and color, the SPONTANEOUSLY COMBUSTIBLE placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the SPONTANEOUSLY COMBUSTIBLE placard must be red in the lower half and white in upper half. The letters in the word "SPONTANEOUSLY" must be at least 25.0 mm (0.98 inches) high. The symbol, text, class number and inner border must be black.

79. Section 172.548 would be revised to read as follows:

§ 172.548 DANGEROUS WHEN WET placard.

(a) Except for size and color, the DANGEROUS WHEN WET placard must be as follows:

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(b) In addition to complying with § 172.519, the background color on the DANGEROUS WHEN WET placard must be blue. The letters in the words "WHEN WET" must be at least 25.4mm (1.0 inches) high. The symbol, text, class number and inner border must be white.

80. Section 172.550 would be revised to read as follows:

§ 172.550 OXIDIZER placard.

(a) Except for size and color, the OXIDIZER placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the OXIDIZER placard must be yellow. The symbol, text, division number and inner border must be black.

81. Section 172.552 would be revised to read as follows:

§ 172.552 ORGANIC PEROXIDE placard.

(a) Except for size and color, the ORGANIC PEROXIDE placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the ORGANIC PEROXIDE placard must be yellow. The symbol, text, division number and inner border must be black.

82. Section 172.554 would be revised to read as follows:

§ 172.554 POISON placard.

(a) Except for size and color, the POISON placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the POISON placard must be white. The symbol, text, class number and inner border must be black.

83. Section 172.556 would be revised to read as follows:

§ 172.556 RADIOACTIVE placard.

(a) Except for size and color, the RADIOACTIVE placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the RADIOACTIVE placard must be white in the lower portion with a yellow triangle in the upper portion. The base of the yellow triangle must be 29.6mm ±5mm (1.13 inches ±0.20 inches) above the placard horizontal center line. The symbol, text, class number and inner border must be black.

84. Section 172.558 would be revised to read as follows:

§ 172.558 CORROSIVE placard.

(a) Except for size and color, the CORROSIVE placard must be as follows:

(b) In addition to complying with § 172.519, the background color on the CORROSIVE placard must be black in the lower portion with a white triangle in the upper portion. The base of the white triangle must be 38.1mm ±5mm (1.5 inches) above the placard horizontal center line. The text and class number must be white. The symbol and inner border must be black.

Appendix B—[Reserved]

85. Appendix B to Part 172 would be removed and reserved.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

86. The authority citation for Part 173 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

87. In § 173.1, paragraph (d) would be added as follows:

§ 173.1 Purpose and scope.

* * * * *

(d) In general, the Hazardous Materials Regulations (HMR) contained in this subchapter are based on the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods and are consistent with international regulations issued by the International Civil Aviation Organization and the International Maritime Organization. However, the HMR are not consistent in all respects with the UN Recommendations, the ICAO Technical Instructions or the IMDG Code, and compliance with the HMR will not guarantee acceptance by regulatory bodies outside of the United States.

88. Section 173.2 would be revised as follows:

§ 173.2 Hazardous materials classes and index to hazard class definitions.

The hazard class of a hazardous material is indicated either by its class (or division) number, its class name, or by the letters "ORM-D" or "ORM-E". The following table lists class numbers, division numbers, class or division names and those sections of this subchapter which contain definitions for classifying hazardous materials, including forbidden materials.

Class number	Division number (if any)	Name of class or division	49 CFR reference for definitions
None		Forbidden materials	173.21
None		Forbidden explosives	173.53
1	1.1	Explosives (with a mass explosion hazard).	173.50
1	1.2	Explosives (with a projection hazard).	173.50
1	1.3	Explosives (with predominately a fire hazard).	173.50
1	1.4	Explosives (with no significant blast hazard).	173.50
1	1.5	Very insensitive explosives; blasting agents.	173.50
2	2.1	Flammable gas	173.115
2	2.2	Non-flammable compressed gas.	173.115
2	2.3	Poisonous gas	173.115
3		Flammable and combustible liquids.	173.120
4	4.1	Flammable solids	173.124
4	4.2	Spontaneously combustible materials.	173.124
4	4.3	Dangerous when wet materials.	173.124
5	5.1	Oxidizers	173.128
5	5.2	Organic peroxides	173.128
6	6.1	Poisonous materials	173.132
6	6.1	Infusing materials	173.281
6	6.2	Etiologic or infectious substances.	173.134
7		Radioactive materials	173.403
8		Corrosive materials	173.136
9		Miscellaneous hazardous materials.	173.140
None		Other regulated materials: ORM-D and ORM-E.	173.144

89. Section 173.2a would be added to read as follows:

§ 173.2a Classification of a material having more than one hazard.

(a) *Materials not subject to precedence of hazard ranking.* (1) A material with more than one hazard which is specifically identified and classed in the § 172.101 Table is not subject to the precedence of hazard ranking of this section (unless that material does not pose the hazard of the class assigned in the § 172.101 Table, and is not preceded, in Column 1 of the Table, with a "+" symbol).

(2) *Class 1.* An explosive shall be classed and approved in accordance with Subpart C of this part.

(3) *Division 5.2.* A material meeting the definition in § 173.128 for organic peroxide shall be classed in Division 5.2.

(4) *Division 6.2.* A material meeting the definition in § 173.134 for etiologic agent shall be classed in Division 6.2.

(5) *Class 7-limited quantities.* A limited quantity radioactive material that meets the definitions for more than one hazard class shall be classed in accordance with § 173.421–2.

(b) *Precedence of hazard.* Except as otherwise provided in this section, a material meeting the definitions for more than one hazard class as defined in this part shall be classed according to the highest applicable hazard class of the following hazard classes, which are listed in descending order of hazard:

(1) Class 7 (radioactive materials, except limited quantities).

(2) Division 2.3 (poisonous gases).

(3) Division 2.1 (flammable gases).

(4) Division 2.2 (nonflammable gases).

(5) Class 3 (flammable liquids and combustible liquids) or 8 (corrosive materials) or Division 4.1 (flammable solids), 4.2 (spontaneously combustible materials), 4.3 (dangerous when wet materials), 5.1 (oxidizers) or 6.1 (poisonous liquids or solids). Materials meeting more than one of these hazards shall be assigned a hazard class in accordance with paragraph (c) of this section.

(6) Class 9 (miscellaneous hazardous materials).

(7) ORM-E (hazardous wastes and hazardous substances).

(c) *Precedence of hazard table.* A material meeting the definitions for more than one hazard class for Classes 3 and 8 and Divisions 4.1, 4.2, 4.3, 5.1 and 6.1 shall be assigned a hazard class based on the following table:

PRECEDENCE OF HAZARD TABLE

[Hazard Class and Packing Group]

Hazard Class and packing group	4.2	4.3	5.1 * I	5.1 * II	5.1 * III	6.1 I(i)	6.1 I(d)	6.1 I(o)	6.1 II	6.1 III	8 I(i)	8 I(s)	8 II(i)	8 II(s)	8 III(i)	8 III(s)
3 I			3	3	3	6.1	3	3	3	3	3	(1)	3	(1)	3	(1)
3 II			3	3	3	6.1	3	3	3	3	8	(1)	3	(1)	3	(1)
3 III			3	3	3	6.1	6.1	6.1	6.1	(2)3	8	(1)	8	(1)	3	(1)
4.1 I *	4.2	4.3	4.1	4.1	4.1	6.1	6.1	4.1	4.1	4.1	(1)	4.1	(1)	4.1	(1)	4.1
4.1 II **	4.2	4.3	4.1	4.1	4.1	6.1	6.1	6.1	4.1	4.1	(1)	4.1	(1)	4.1	(1)	4.1
4.1 III **	4.2	4.3	4.1	4.1	4.1	6.1	6.1	6.1	6.1	4.1	(1)	8	(1)	8	(1)	4.1
4.2 I		4.2	4.2	4.2	4.2	6.1	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2
4.2 II		4.2	4.2	4.2	4.2	6.1	6.1	4.2	4.2	4.2	4.2	8	4.2	4.2	4.2	4.2
4.2 III		4.3	5.1	5.1	4.2	6.1	6.1	6.1	6.1	4.2	8	8	8	8	4.2	4.2
4.3 I			5.1	4.3	4.3	6.1	6.1	4.3	4.3	4.3	4.3	4.3	4.3	4.3	4.3	4.3
4.3 II			5.1	4.3	4.3	6.1	6.1	4.3	4.3	4.3	8	8	4.3	4.3	4.3	4.3

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PRECEDENCE OF HAZARD TABLE—Continued

[Hazard Class and Packing Group]

Hazard Class and packing group	4.2	4.3	5.1 * I	5.1 * II	5.1 * III	6.1 I(i)	6.1 I(d)	6.1 I(o)	6.1 II	6.1 III	8 I(i)	8 I(a)	8 II(i)	8 II(s)	8 III(i)	8 III(s)
4.3 III			5.1	5.1	4.3	6.1	6.1	6.1	6.1	4.3	8	8	8	8	4.3	4.3
5.1 I *						6.1	6.1	5.1	5.1	5.1	5.1	5.1	5.1	5.1	5.1	5.1
5.1 II *						6.1	6.1	5.1	5.1	5.1	8	8	5.1	5.1	5.1	5.1
5.1 III *						6.1	6.1	6.1	6.1	5.1	8	8	8	8	5.1	5.1
6.1 I(i)											6.1	6.1	6.1	6.1	6.1	6.1
6.1 I(d)											8	6.1	6.1	6.1	6.1	6.1
6.1 I(o)											8	6.1	6.1	6.1	6.1	6.1
6.1 II(i)											8	6.1	6.1	6.1	6.1	6.1
6.1 II(d)											8	6.1	8	6.1	6.1	6.1
6.1 II(o)											8	8	8	6.1	6.1	6.1
6.1 III											8	8	8	8	8	8

(i) Inhalation Toxicity
(d) Dermal Toxicity
(o) Oral Toxicity
(l) Liquid
(s) Solid

[1] An impossible combination.

[2] For pesticides only, 6.1.

* There are no established criteria for determining packing groups for liquids in Division 5.1. Degree of hazard for these materials should be assessed by analogy with similar materials identified in the § 172.101 Table, allocating the materials to Packing Group I (high hazard), Packing Group II (medium hazard) or Packing Group III (low hazard).

** Materials in Division 4.1 other than self-reactive materials and water wetted explosives.

90. Section 173.3 would be revised to read as follows:

§ 173.3 Packaging and exceptions.

(a) The packaging of hazardous materials for transportation by air, highway, rail, or water must be as specified in this part. Methods of manufacture, packing, and storage of hazardous materials, that affect safety in transportation, must be open to inspection by a duly authorized representative of the initial carrier or of the Department. Methods of manufacture and related functions necessary for completion of a DOT specification or UN standard packaging must be open to inspection by a representative of the Department.

(b) The regulations setting forth packaging requirements for a specific material apply to all modes of transportation unless otherwise stated, or unless exceptions from packaging requirements are authorized.

(c) *Salvage drums.* Packages of hazardous materials that are damaged or found leaking and hazardous materials that have spilled or leaked may be placed in a metal or plastic removable head salvage drum that is compatible with the lading and shipped for repackaging or disposal under the following conditions:

(1) The drum must be a UN 1A2, 1B2, 1N2 or 1H2 drum marked for the performance standard commensurate with the packing group of the material it is to contain. Maximum capacity of the drum may not exceed 450 liters (118.88 gallons).

(2) Each drum shall be provided when necessary with sufficient cushioning and absorption material to prevent excessive movement of the damaged package and to absorb all free liquid. All cushioning and absorbent material used in the drum must be compatible with the hazardous material.

(3) Each drum shall be marked with the proper shipping name of the material inside the defective packaging and the name and address of the consignee. In addition, the drum shall be marked "Salvage Drum".

(4) Each drum shall be labeled as prescribed for the respective material.

(5) The shipper shall prepare shipping papers in accordance with Subpart C of Part 172 of this subchapter.

(6) The overpack requirement of § 173.25 does not apply to drums used in accordance with this paragraph.

91. Section 173.3a would be revised to read as follows:

§ 173.3a Poisonous liquids which are toxic by inhalation.

Notwithstanding the requirements of Part 172 and Part 173 of this subchapter, any hazardous material that meets the definition of Class 6, Division 6.1, Packing Group I, for inhalation toxicity (See §§ 173.132 and 173.133) shall be packaged in non-bulk packagings in accordance with § 173.226 or § 173.227, as appropriate, or in bulk packagings in accordance with § 173.244 and shall be described on shipping papers, marked, labeled, and placarded in accordance with §§ 172.203(k)(4), 172.313(a), 172.402(a)(5) and 172.505(a), of this subchapter respectively.

92. Section 173.4 would be revised to read as follows:

§ 173.4 Exceptions for small quantities.

(a) Small quantities of Class 3, Division 4.1, Division 5.1, Division 5.2, Class 8, and Division 6.1 materials, and Class 7 materials that also meet the definition of one or more of these hazard classes, are not subject to any other requirements of this subchapter if:

(1) The maximum quantity of material per inner receptacle is limited to:

(i) Thirty (30) milliliters for authorized liquids, other than Division 6.1, Packing Group I, materials;

(ii) Thirty (30) grams for authorized solids, other than Division 6.1, Packing Group I, materials;

(iii) One (1) gram for authorized materials classed as Division 6.1, Packing Group I; and

(iv) An activity level not exceeding that specified in §§ 173.421, 173.422 or 173.424, as appropriate, for a package containing a Class 7 material.

(2) With the exception of temperature sensing devices, each inner receptacle:

(i) Is not liquid-full at 55 °C (131 °F), and

(ii) Is constructed of plastic having a minimum thickness of no less than 0.006-inch (0.2 millimeters), or earthenware, glass, or metal;

(3) Each inner receptacle with a removable closure has its closure held securely in place with wire, tape, or other positive means;

(4) Unless equivalent cushioning and absorbent material surrounds the inside packaging, each inner receptacle is securely packed in an inside packaging with cushioning and absorbent material that:

(i) Will not react chemically with the material, and

(ii) Is capable of absorbing the entire contents (if a liquid) of the receptacle;

(5) The inside packaging is securely packed in a strong outside packaging;

(6) The completed package, as demonstrated by prototype testing, is capable of sustaining—

(i) Each of the following free drops made from a height of 1.8 meters (5.91 feet) directly onto a solid unyielding surface without breakage or leakage from any inner receptacle and without a substantial reduction in the effectiveness of the package:

(A) One drop flat on bottom;

(B) One drop flat on top;

(C) One drop flat on the long side;

(D) One drop flat on the short side; and

(E) One drop on a corner at the junction of three intersecting edges; and

(ii) A compressive load in pounds, determined by multiplying by two the maximum horizontal cross section of the package (in square inches) in the position in which it would normally be transported, without a substantial reduction in effectiveness; the load shall be applied continuously during a period of 24 hours, uniformly against the top and bottom of the package which is in the position in which it is intended to be normally transported.

Note.—Each of the above tests may be performed on a different, but identical, package; i.e., all tests need not be performed on the same package.

(7) Placement of the material in the package or packing different materials in the package does not result in a violation of § 173.21;

(8) The gross weight of the completed package does not exceed 65 pounds (29.5 kg);

(9) The shipper certifies conformance with this section by marking the outside of the package with the statement: "This package conforms to conditions and limitations specified in 49 CFR 173.4";

(10) The package is not opened or otherwise altered until it is no longer in commerce; and

(11) The package, unless specifically approved by the Director, OHMT, does not contain a material assigned any of the following identification numbers associated with the hazardous materials description in the § 172.101 Table:

1092	1491	2929
1131	1504	2813
1259	1749	2845
1380	1798	2924
1397	1831	2925
1419	1873	9191
1422	2691	9193
1432	2832	
1433	2495	

(b) A package containing a Class 7 material also must conform with the requirements of § 173.421 (a) through (e), or § 173.422 (a) through (f), as appropriate. After May 2, 1987, a package containing a Class 7 material may not be offered for transportation aboard a passenger-carrying aircraft unless that material is intended for use in, or incident to, research, medical diagnosis or treatment.

§ 173.5 [Amended]

93. In § 173.5, quantity references would be revised as follows:

a. In paragraph (a)(2), the reference to "1 gallon" would be changed to "4 liters (4.2 quarts)" and the reference to "25 pounds" would be changed to "15 kg (33.1 pounds)".

b. In paragraph (a)(3) the reference to "100 pounds" would be changed to "50 kg (110.2 pounds)".

c. In paragraph (b) the reference to "55 gallons" would be changed to "220 L (58.1 gallons)".

§ 173.6 [Removed]

94. Section 173.6 would be removed.

§ 173.7 [Amended]

95. In § 173.7, in paragraphs (b) and (d), the word "radioactive" would be changed to "Class 7".

96. Section 173.9 would be revised as follows:

§ 173.9 Cars, truck bodies or trailers containing lading which has been fumigated or treated with Class 3, Division 2.1, 2.3, or 6.1 materials.

(a) Delivery for transportation by railcarrier of any rail car, freight container, truck body, or trailer containing lading which has been fumigated or treated with Class 3 or Division 2.1 materials is prohibited until 48 hours have elapsed after such fumigation or treatment, or until the railcar, freight container, truck body or trailer has been ventilated so as to remove any danger of fire or explosion due to the presence of flammable vapors.

(b) Any railcar, freight container, truck body or trailer containing lading which has been fumigated or treated with Division 6.1 or Division 2.3 materials, such as carbolic acid, liquid or solid, chlorpicrin, hydrocyanic acid, methyl bromide, etc., must be placarded on each door or near thereto with the FUMIGANT placard prescribed in paragraph (c) of this section.

(c) *FUMIGANT placard.* The FUMIGANT placard must consist of red letters on a white background which is at least 25 cm (9.8 inches) wide and 20 cm (7.9 inches) high. It must contain the name of the fumigant and other text as follows:

DANGER

The lading of this car has been
FUMIGATED or
TREATED
with

(Name of poisonous liquid, solid, or gas)

BEFORE UNLOADING, open both doors and DO NOT ENTER until car is free of gas. REMOVE ALL POISONOUS MATERIAL before release of empty car.

(d) See § 174.615 of this subchapter for requirements for cleaning fumigated cars.

§ 173.10 [Amended]

97. In § 173.10, terms would be revised as follows:

a. In paragraph (a) the term "flammable gas" would be changed to "Division 2.1 material" and the term "flammable liquid" would be changed to "Class 3 material".

b. In paragraph (b) the term "compressed gas" would be changed to "Class 2 material".

c. In paragraph (e), the phrase "Flammable liquids and flammable gases" would be changed to "Class 3 and Division 2.1 materials."

98. Section 173.12 would be revised to read as follows:

§ 173.12 Exceptions for shipment of waste materials.

(a) *Open head drums.* If a hazardous material that is a hazardous waste is required by this subchapter to be shipped in a closed head drum (i.e., a drum with a 7.0 cm (2.75 inches) or less bung opening) and the hazardous waste contains solids or semisolids that make its placement in a closed head drum impracticable, an equivalent (except for closure) open head drum may be used for the hazardous waste.

(b) *"Lab packs".* Waste materials classed as Class or Division 3, 4.1, 4.2, 4.3, 5.1, 6.1, 8, 9 or ORM–E are excepted

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from the specification packaging requirements of this subchapter if packaged in combination packagings in accordance with this paragraph and transported for disposal or recovery by private or contract motor carrier by highway only. In addition, a generic description from the § 172.101 Table may be used in place of specific chemical names, when two or more chemically compatible waste materials in the same hazard class are packaged in the same outside packaging. Additional packaging requirements are as follows:

(1) The outer packaging must be a 1A2 or 1B2 metal drum, a 1D plywood drum, a 1G fiber drum or a 1H2 plastic drum;

(2) The inner packagings must be either glass not exceeding 4 liters (4.2 quarts) rated capacity or metal or plastic not exceeding 20 liters (21.1 quarts) rated capacity;

(3) Each outer packaging may contain only one class of hazardous material;

(4) Inner packagings containing liquid must be surrounded by a chemically compatible absorbent material in sufficient quantity to absorb the total liquid contents;

(5) Gross weight of the complete package may not exceed 205 kg (451.9 lbs); and

(6) Materials meeting the definition of Division 6.1, Packing Group I, or Division 4.2, Packing Group I, may not be packaged or described under the provisions of this paragraph.

(c) *Reuse of packagings.* A previously used packaging may be reused for the shipment of hazardous waste to designated facilities, not subject to the reconditioning and reuse provisions contained in § 173.28 and Part 178 of this subchapter, under the following conditions:

(1) Except as authorized by this paragraph, the waste must be packaged in accordance with this part and offered for transportation in accordance with the requirements of this subchapter.

(2) Transportation is performed by highway only.

(3) A package is not offered for transportation less than 24 hours after it is finally closed for transportation, and each package is inspected for leakage and is found to be free from leaks immediately prior to being offered for transportation.

(4) Each package is loaded by the shipper and unloaded by the consignee, unless the motor carrier is a private or contract carrier.

(5) The packaging may be used only once under this paragraph and may not be used again for shipment of hazardous materials except in accordance with § 173.28.

Subpart B—Preparation of Hazardous Materials for Transportation

99. Section 173.21 would be revised as follows:

§ 173.21 Forbidden materials and packages.

Unless otherwise provided in this subchapter, the offering for transportation or transportation of the following is forbidden:

(a) Materials that are designated "Forbidden" in Column 3 of the § 172.101 Table.

(b) Forbidden explosives as defined in § 173.51 of this part.

(c) Electrical devices which are likely to create sparks or generate a dangerous quantity of heat, unless packaged in a manner which precludes such an occurrence.

(d) For carriage by aircraft, any package which has a magnetic field of more than 0.00525 gauss measured at 15 feet (4.6 meters) from any surface of the package.

(e) A material in the same packaging, freight container, or overpack with another material, the mixing of which is likely to cause a dangerous evolution of heat, flammable or poisonous gases or vapors, or to produce corrosive materials.

(f) A package containing a material which is likely to decompose or polymerize at a temperature of 130 °F (54.4 °C) or less with an evolution of a dangerous quantity of heat or gas unless stabilized or inhibited in a manner that will preclude such evolution, subject to the following:

(1) For organic peroxides, the decomposition temperature of 130 °F (54.4 °C) does not apply if the controlled temperature requirements specified in Chapter 11 of the UN Recommendations are applied to determine when refrigeration is required, and refrigeration is approved as required by paragraph (f)(3) of this section.

(2) The determination of whether a material is forbidden under this paragraph may be made by using the Self Accelerating Decomposition Temperature (SADT) Test published by the Organic Peroxide Producers Safety Division (OPPSD).

(3) Refrigeration may be used as a means of stabilization only when approved by the Director, OHMT. For status of approvals previously issued by the Bureau of Explosives, see § 171.19 of this subchapter.

(g) Packages which give off a flammable gas or vapor, released from a material not otherwise subject to this subchapter, likely to create a flammable mixture with air in a transport vehicle.

(h) Packages containing materials (other than those classed as explosive) which will detonate in a fire.

(1) For purposes of this paragraph, "detonate" means an explosion in which the shock wave travels through the material at a speed greater than the speed of sound.

(2) When tests are required to evaluate the performance of a package under the provisions of this paragraph, the testing must be done or approved by one of the agencies specified in § 173.86.

(i) Except as noted in paragraph (i)(1) of this section, a package containing a cigarette lighter, or other similar device, equipped with an ignition element and containing fuel.

(1) A cigarette lighter or similar device subject to this paragraph may be shipped if the design of the device and its packaging has been examined by the Bureau of Explosives and specifically approved by the Director, OHMT. The examination of cigarette lighters and similar devices containing gaseous fuel will include scrutiny for compliance with § 173.308 of this part. For the status of approvals previously issued by the Bureau of Explosives, see § 171.19 of this subchapter.

100. In § 173.23, paragraph (a) would be revised as follows:

§ 173.23 Previously authorized packaging.

(a) When the regulations specify a packaging with a specification marking prefix of "DOT," a packaging marked prior to January 1, 1970, with the prefix of "ICC" may be used in its place if the packaging otherwise conforms to applicable specification requirements.

* * * * *

101. Section 173.24 would be revised as follows:

§ 173.24 General requirements for packagings and packages.

(a) *Applicability.* Except as otherwise provided in this subchapter, the provisions of this section apply to—

(1) Bulk and non-bulk packagings;

(2) New packagings and packagings which are reused; and

(3) Specification and non-specification packagings.

(b) Each package used for the shipment of hazardous materials under this subchapter shall be designed, constructed, maintained, filled, its contents so limited, and closed, so that under conditions normally incident to transportation—

(1) Except as otherwise provided in this subchapter, there will be no release of hazardous materials to the environment;

(2) The effectiveness of the packaging will not be significantly reduced; and

(3) There will be no mixture of gases or vapors in the package which could, through any credible spontaneous increase of heat or pressure, significantly reduce the effectiveness of the packaging.

(c) *Authorized packagings.* A packaging is authorized for a hazardous material only if—

(1) The packaging is prescribed or permitted for the hazardous material in a packaging section specified for that material in Column 8 of the § 172.101 Table and conforms to applicable requirements in the special provisions of Column 7 of the § 172.101 Table and, for specification packagings (including UN standard packagings), the specification requirements in Parts 178 and 179 of this subchapter; or

(2) The packaging is permitted under and conforms to provisions contained in §§ 171.11, 171.12, 171.12a, 173.3, 173.4, 173.5, 173.6, 173.7, or 176.11 of this subchapter.

(d) *DOT specification and UN standard packagings.* For DOT specification packagings (including UN standard packagings), conformance to the applicable specifications in Parts 178 and 179 of this subchapter is required in all details. For performance-oriented packagings covered by Subpart L of Part 178 of this subchapter, each packaging must be capable of meeting the performance test requirements specified in Subpart M of Part 178 of this subchapter for the applicable packing group shown in Column 5 of the § 172.101 Table.

(e) *Compatibility.* (1) Even though certain packagings are specified in this Part, it is, nevertheless, the responsibility of the person offering a hazardous material for transportation to ensure that such packagings are compatible with their lading. This particularly applies to corrosivity, permeability, softening, premature aging and embrittlement.

(2) Packaging materials and contents must be such that there will be no significant chemical or galvanic reaction between the materials and contents of the package.

(3) *Plastic packagings and receptacles.* (i) Plastic used in packagings and receptacles must be of a type compatible with the lading and may not be permeable to an extent that a hazardous condition is likely to occur during transportation, handling or refilling.

(ii) Each plastic packaging or receptacle which is used for liquid hazardous materials must be capable of withstanding without failure the procedure specified in Appendix B of this part ("Procedure for Testing Chemical Compatibility and Rate of Permeation in Plastic Packagings and Receptacles"). The maximum rate of permeation of hazardous lading through or into the plastic packaging or receptacles may not exceed 0.5 percent for materials meeting the definition of a Division 6.1 material according to § 173.132 and 2.0 percent for other hazardous materials, when subjected to a temperature no lower than—

(A) 18 °C (64 °F) for 180 days in accordance with Test Method 1;

(B) 50 °C (122 °F) for 28 days in accordance with Test Method 2; or

(C) 60 °C (140 °F) for 14 days in accordance with Test Method 3.

(iii) Alternative procedures or rates of permeation are permitted if they yield a level of safety equivalent to or greater than that provided by paragraph (e)(3)(ii) of this section and are specifically approved by the Director, OHMT.

(4) *Mixed contents.* (i) Hazardous materials may not be packed or mixed together in the same outer packaging with other hazardous or nonhazardous materials if such materials are capable of reacting dangerously with each other and causing—

(A) Combustion or dangerous evolution of heat;

(B) Evolution of flammable, poisonous or asphyxiant gases;

(C) Formation of corrosive materials; or

(D) Formation of unstable materials.

(f) *Closures.* (1) Closures on packagings shall be so designed and closed that under conditions (including the effects of temperature and vibration) normally incident to transportation—

(i) Except as provided in paragraph (g) of this section, there is no release of hazardous materials to the environment from the opening to which the closure is applied; and

(ii) The closure is secure and leakproof.

(2) Except as otherwise provided in this subchapter, a closure (including gaskets or other closure components, if any) used on a specification packaging must conform to all applicable requirements of the specification.

(g) *Venting.* Venting of packagings, to reduce internal pressure which may develop by the evolution of gas from the contents, is permitted only when—

(1) Transportation by aircraft is not involved;

(2) Except as otherwise provided in this subchapter, the evolved gases are not toxic, flammable or asphyxiant gases;

(3) The packaging is designed so as to preclude a significant release of hazardous materials from the receptacle; and

(4) For shipments in bulk packagings, venting is authorized for the specific hazardous material by a special provision in the § 172.101 Table or by the applicable bulk packaging specification in Part 178 of this subchapter.

(h) *Outage and filling limits—(1) General.* When filling packagings and receptacles for liquids, sufficient ullage (outage) must be left to ensure that neither leakage nor permanent distortion of the packaging or receptacle will occur as a result of an expansion of the liquid caused by temperatures likely to be encountered during transportation. Liquids must not completely fill a receptacle at a temperature of 55 °C (131 °F) or less.

(2) *Compressed gases and cryogenic liquids.* Filling limits for compressed gases and cryogenic liquids are specified in §§ 173.301 through 173.306 for cylinders and §§ 173.314 through 173.319 for bulk packagings.

(i) *Air transportation.* Packages offered or intended for transportation by aircraft must conform to the general requirements for transportation by aircraft in § 173.27.

102. Section 173.24a would be added, as follows:

§ 173.24a Additional general requirements for non-bulk packagings and packages.

(a) *Packaging design—(1) Closures.* A closure device must be so designed that it is unlikely that it can be incorrectly or incompletely closed, and must be such that it may be checked easily to determine that it is completely closed. Except as provided in § 172.312 of this subchapter, a combination packaging containing liquid hazardous materials must be packed so that closures on inner receptacles are upright.

(2) *Friction.* The nature and thickness of the outer packaging must be such that friction during transportation is not likely to generate an amount of heat sufficient to alter dangerously the chemical stability of the contents.

(3) *Securing and cushioning.* Inner packagings of combination packagings must be so packed, secured and cushioned to prevent their breakage or leakage and to control their movement within the outer packaging under conditions normally incident to transportation. Cushioning material must not be capable of reacting dangerously with the contents of the inner packagings.

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(4) *Metallic devices.* Nails, staples and other metallic devices shall not protrude into the interior of the outer packaging in such a manner as to be likely to damage inner packagings or receptacles.

(5) *Vibration.* Each non-bulk package must be capable of withstanding, without rupture or leakage, the vibration test procedure specified in Appendix C of this Part ("Procedure for Base Level Vibration Testing").

(b) *Non-bulk packaging filling limits.* (1) A single or composite non-bulk packaging may be filled with a liquid hazardous material only when the specific gravity of the material does not exceed that marked on the packaging, or a specific gravity of 1.2 if not marked.

(2) A single or composite non-bulk packaging may not be filled with a solid hazardous material to a gross mass greater than the maximum gross mass marked on the packaging.

(3) Packagings tested as prescribed in § 178.605 of this subchapter and marked with the hydrostatic test pressure as prescribed in § 178.503(a)(5) of this subchapter may be used for liquids only when the vapor pressure of the liquid conforms to one of the following:

(i) The vapor pressure must be such that the total pressure in the packaging (i.e., the vapor pressure of the liquid plus the partial pressure of air or other inert gases, less 100 kPa (14.5 psi)) at 55 °C (131 °F), determined on the basis of a maximum degree of filling in accordance with subparagraph (1) of this paragraph and a filling temperature of 15 °C (59 °F), will not exceed two-thirds of the marked test pressure;

(ii) The vapor pressure at 50 °C (122 °F) must be less than four-sevenths of the sum of the marked test pressure plus 100 kPa (14.5 psi); or

(iii) The vapor pressure at 55 °C (131 °F) must be less than two-thirds of the sum of the marked test pressure plus 100 kPa (14.5 psi).

(c) *Mixed contents.* (1) An outer non-bulk packaging may contain more than one hazardous material only when—

(i) The inner and outer packaging used for each hazardous material conforms to the relevant packaging sections of this part applicable to each of the hazardous materials;

(ii) The package as prepared for shipment meets the performance tests prescribed in Part 178 for the packing group indicating the highest order of hazard for the hazardous materials contained in the package;

(iii) Corrosive materials in bottles are further packed in securely closed inner receptacles before packing in outer packagings; and

(iv) For transportation by aircraft, the total net quantity does not exceed the lowest permitted maximum net quantity per package as shown in Column 9a or 9b, as appropriate, of the § 172.101 Table. The permitted maximum net quantity must be calculated in kilograms if a package contains both a liquid and a solid.

(2) A packaging containing inner packagings of Division 6.2 materials may not contain other hazardous materials, except dry ice.

103. Section 173.24b would be added, as follows:

§ 173.24b Additional general requirements for bulk packagings and packages.

(a) *Pressure relief devices on bulk packagings.* Except when installed in series with a pressure relief valve, a non-reclosing pressure relief device may not be used on a bulk packaging containing a hazardous material that is flammable or poisonous or both.

(b) *Outage and filling limits*—(1) *Tank car and multi-unit tank car tank filling limits.* (i) Hazardous materials may not be loaded into the dome of a tank car.

(ii) If the dome of the tank car does not provide sufficient outage, then vacant space must be left in the shell to make up the required outage.

(iii) Liquids must be so loaded in tank cars and multi-unit tank car tanks that the outage is at least one percent of the total capacity of the tank and dome at the reference temperature of 115 °F (46.1 °C) for uninsulated tanks and 105 °F (40.6 °C) for insulated tanks. Tanks must not be liquid full at 131 °F (55 °C).

(2) *Cargo tank and portable tank filling limits.* The outage in a cargo tank, portable tank, or compartment thereof must be at least one percent of the total capacity of the tank or compartment at the reference temperature of 115 °F (46.1 °C) for uninsulated tanks and 105 °F (40.6 °C) for insulated tanks. Tanks must not be liquid full at 131 °F (55 °C).

(3) *Bulk packagings for liquids toxic by inhalation.* For a liquid which meets the definition for Division 6.1, Packing Group I, based on inhalation toxicity, the outage in a bulk packaging must be at least five percent of the total capacity of the tank or compartment at the reference temperature of 115 °F (46 °C) for uninsulated tanks and 105 °F (40.6 °C) for insulated tanks.

(c) *Equivalent steel.* Where the regulations permit steel other than stainless steel to be used in place of a specified stainless steel (for example, as in § 172.102 of this subchapter, special provision B30), the minimum thickness for the steel must be obtained from one of the following formulas, as appropriate: Formula for metric units:

$$e_1 = (10e_2/Rm_1 A_1)^{1/2}$$

Formula for non-metric units:

$$e_1 = (112.3e_2/Rm_1 A_1)^{1/2}$$

where:

e_2 = Required thickness of the reference stainless steel in millimeters or inches, for metric units or non-metric units, respectively;

e_1 = Equivalent thickness of the non-stainless steel in millimeters or inches, for metric units or non-metric units, respectively;

Rm_1 = Specified minimum tensile strength of the non-stainless steel (from the appropriate specification in Part 178 of this subchapter) in deka-newtons per square millimeter or pounds per square inch, for metric units or non-metric units, respectively;

A_1 = Specified minimum percentage elongation of the non-stainless steel (from the appropriate specification in Part 178 of this subchapter) multiplied by 100 (for example, 20% times 100 equals 20).

(d) *Heating coils.* Tank car tanks used for materials meeting the definition for Division 2.3 or for Division 6.1, Packing Group I, based on inhalation toxicity, may not be equipped with interior or exterior heating coils.

104. In § 173.25, paragraph (b) would be removed, paragraph (a)(3) would be revised and paragraph (a)(5) would be added as follows:

§ 173.25 Authorized packages and overpacks.

(a) * * *

(3) Each package subject to the orientation marking requirements of § 172.312 of this subchapter is packed in the overpack with its filling holes up and the overpack is marked with package orientation marking arrows on two opposite vertical sides of the overpack with the arrows pointing in the correct direction of orientation.

* * * * *

(5) Packages containing corrosive or oxidizing materials in Packing Group I may not be overpacked with any other materials.

* * * * *

105. Section 173.26 would be revised as follows:

Section 173.26 Quantity limitations.

When quantity limitations do not appear in the packaging requirements of this subchapter, the permitted gross weight or capacity authorized for a packaging is as shown in the packaging specification or standard in Part 178 or 179, as applicable, of this subchapter.

106. Section 173.27 would be revised as follows:

§ 173.27 General requirements for transportation by aircraft.

(a) The requirements of this section are in addition to the requirements in § 173.24 and apply to packages offered or intended for transportation by aircraft. Notwithstanding any Packing Group III performance level specified in Column 5 of the § 172.101 Table, the required performance level for packages containing Class 4, 5, or 8 materials, when offered or intended for transportation by aircraft, is at the Packing Group II performance level, unless otherwise excepted from performance requirements in Subpart E of this part.

(b) *Packages authorized on board aircraft.* (1) When Column 9a of the § 172.101 Table indicates that a material is "Forbidden", that material may not be offered for transportation or transported by passenger-carrying aircraft.

(2) When Column 9b of the § 172.101 Table indicates that a material is "Forbidden", that material may not be offered for transportation or transported by aircraft.

(3) The maximum quantity of hazardous material in a package that may be offered for transportation or transported by passenger-carrying aircraft or cargo aircraft may not exceed that quantity prescribed for the material in Column 9a or 9b, respectively, of the § 172.101 Table.

(4) A package containing a hazardous material which is authorized on cargo aircraft but not on passenger aircraft must be labeled with the CARGO AIRCRAFT ONLY label required by § 172.402(b) of this subchapter and may not be offered for transportation or transported on passenger-carrying aircraft.

(c) *Pressure requirements.* (1) Packagings must be designed and constructed to prevent leakage that may be caused by changes in altitude and temperature during transportation by aircraft.

(2) Packagings for which retention of liquid is a basic function must be capable of withstanding without leakage the greater of—

(i) An internal pressure which produces a pressure of not less than 75 kPa (10.88 psi) for liquids in Packing Group III of Class 3 or Division 6.1, or 95 kPa (13.8 psi) for other liquids; or

(ii) A pressure related to the vapor pressure of the liquid to be conveyed, determined by one of the following:

(A) The total pressure measured in the receptacle (i.e., the vapor pressure of the material and the partial pressure of air or other inert gases, less 100 kPa (14.5 psi)) at 55 °C (131 °F), multiplied by a safety factor of 1.5; determined on the basis of a filling temperature of 15 °C (59 °F) and a degree of filling such that the receptacle is not completely liquid full at a temperature of 55 °C (131 °F) or less;

(B) 1.75 times the vapor pressure at 50 °C (122 °F) less 100 kPa (14.5 psi); or

(C) 1.5 times the vapor pressure at 55 °C (131°) less 100 kPa (14.5 psi).

(3) Notwithstanding the provisions of subparagraph (2) of this paragraph—

(i) Hazardous materials may be contained in an inner packaging which does not itself meet the pressure requirement provided that the inner packaging is packed within a supplementary packaging which does meet the pressure requirement and other applicable packaging requirements of this subchapter.

(ii) Packagings which are subject to the hydrostatic pressure test and marking requirements of §§ 178.605 and 178.503 through (a)(5), respectively, of this subchapter must have a marked test pressure of not less than 250 kPa (36.3 psi) for liquids in Packing Group I, 80 kPa (11.6 psi) for liquids in Packing Group III of Class 3 or Division 6.1, and 100 kPa (14.5 psi) for other liquids.

(d) *Closures.* Stoppers, corks or other such friction-type closures must be held securely, tightly and effectively in place by positive means.

(e) *Absorbent materials.* Except as otherwise provided in this subchapter, liquids in Packing Group I or II of Class 3, 4, 5, 6, or 8, when in glass or earthenware inner packagings, must be packaged using material capable of absorbing and not likely to react dangerously with the liquid. Absorbent material is not required if the inner packagings are so protected that breakage of them and leakage of their contents from the outer packaging is not likely to occur under normal conditions of transportation and is not required for packagings containing liquids in Packing Group III for transport on cargo aircraft only. Where absorbent material is required and an outer packaging is not liquid-tight, a means of containing the liquid in the event of leakage must be used in the form of a leakproof liner, plastic bag or other equally efficient means of containment. Where absorbent material is required, the quantity and disposition of it in each outer packaging must be as follows:

(1) For packagings containing liquids in Packing Group I for transport on passenger-carrying aircraft, each packaging must contain sufficient absorbent material to absorb the contents of all inner packagings containing such liquids;

(2) For packagings containing liquids in Packing Group I for transport on cargo aircraft only and packagings containing liquids in Packing Group II for transport on passenger aircraft, each package must contain sufficient absorbent material to absorb the contents of any one of the inner packagings containing such liquids and, where they are of different sizes and quantities, sufficient absorbent material to absorb the contents of the inner packaging containing the greatest quantity of liquid.

(f) *Combination packagings.* Unless otherwise specified in this Part, or in § 171.11 of this subchapter, when combination packagings are offered for transportation by aircraft, inner packagings must conform to the quantity limitations set forth in Table 1 for transport on passenger-carrying aircraft and Table 2 for transport on cargo aircraft only, as follows:

TABLE 1.—MAXIMUM NET CAPACITY OF INNER PACKAGINGS FOR TRANSPORTATION ON PASSENGER-CARRYING AIRCRAFT

Maximum net quantity per package from column 9a of the § 172.101 table	Maximum authorized net capacity of inner packagings	
	Glass, earthenware or fiber inner packagings	Metal or plastic inner packagings
Liquids:		
Not greater than 0.5L	0.5L	0.5L.
Greater than 0.5L, not greater than 1L	0.5L	1L.
Greater than 1L, not greater than 5L	1L	5L.
Greater than 5L, not greater than 60L	2.5L	10L.
Greater than 60L, not greater than 220L	5L	25L.
Greater than 220L	No limit	No limit.
Solids:		
Not greater than 5 kg	0.5 kg	1 kg.
Greater than 5 kg, not greater than 25 kg.	1 kg	2.5 kg.
Greater than 25 kg, not greater than 200 kg.	5 kg	10 kg.
Greater than 200 kg	No limit	No limit.

TABLE 2.—MAXIMUM NET CAPACITY OF INNER PACKAGINGS FOR TRANSPORTATION ON CARGO AIRCRAFT ONLY

Maximum net quantity per package from column 9b of the § 172.101 Table	Maximum authorized net capacity of inner packagings	
	Glass, earthenware or fiber inner packagings	Metal or plastic inner packagings
Liquids:		
Not greater than 2.5L	1L	1L.
Greater than 2.5L, not greater than 30L	2.5L	2.5L.
Greater than 30L, not greater than 60L	5L	10L.
Greater than 60L, not greater than 220L	5L	25L.
Greater than 220L	No limit	No limit.
Solids:		
Not greater than 15 kg	1 kg	2.5 kg.
Greater than 15 kg, not greater than 50 kg.	2.5 kg	5 g.
Greater than 50 kg, not greater than 200 kg.	5 kg	10 kg.

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TABLE 2.—MAXIMUM NET CAPACITY OF INNER PACKAGINGS FOR TRANSPORTATION ON CARGO AIRCRAFT ONLY—Continued

Maximum net quantity per package from column 9b of the § 172.101 Table	Maximum authorized net capacity of inner packagings	
	Glass, earthenware or fiber inner packagings	Metal or plastic inner packagings
Greater than 200 kg	No limit	No limit

(g) *Cylinders.* For any cylinder containing hazardous materials and incorporating valves, sufficient protection must be provided to prevent operation of and damage to, the valves during transportation, by one of the following methods:

(1) By equipping each cylinder with securely attached valve caps or protective headrings; or

(2) By boxing or crating the cylinder.

(h) *Tank cars and cargo tanks.* Tank cars and cargo tanks containing hazardous materials may not be transported aboard aircraft.

107. Section 173.28 would be revised as follows:

§ 173.28 Reuse, reconditioning and remanufacture of packagings.

(a) *Reuse.* Packagings and receptacles used more than once must be in such condition, including closure devices and cushioning materials, that they conform in all respects to the prescribed requirements of this subchapter, including the following provisions and limitations:

(1) Before reuse, each packaging must be inspected and must not be reused unless free from rupture, corrosion, other damage or incompatible residue;

(2) Before reuse, packagings subject to the leakproofness test with air prescribed in § 178.604 shall be—

(i) Retested using an internal air pressure (gauge) of at least 48 kilopascals (7.0 pounds); and

(ii) Marked as required by paragraph (b) of this section and § 178.503(c) of this subchapter;

(3) Packagings made of paper, plastic film, textile or fiberboard are not authorized for reuse; and

(4) Metal and plastic drums, jerricans and the metal or plastic outer packagings of composite packagings are authorized for reuse only when they are marked in millimeters with the minimum thickness of the packaging material and conform to the following minimum construction criteria:

Marked, or rated, capacity (net mass) not over	Minimum thickness of packaging material	
	Metal drum or jerrican	Plastic drum or jerrican
20L (20 kg)	0.6 mm (0.024 in.)	1.2 mm (0.047 in.)
40L (40 kg)	0.7 mm (0.028 in.)	1.8 mm (0.071 in.)
120L (120 kg)	0.9 mm (0.035 in.)	2.2 mm (0.087 in.)
220L (220 kg)	1.0 mm (0.039 in.)	2.2 mm (0.087 in.)
450L (400 kg)	1.8 mm (0.071 in.)	5.0 mm (0.197 in.)

(5) Plastic inner packagings of composite packagings must have a minimum thickness of 1.5mm (0.059 inch).

(b) *Reconditioning.* For the purpose of this subchapter, reconditioning is the repair, replacement of non-integral packaging components (such as removable gaskets, closure devices, cushioning material, etc.) or leakproofness testing of non-bulk packagings, other than cylinders. A person who reconditions a packaging manufactured under the provisions of Subpart L of Part 178 of this subchapter, shall mark that packaging as required by § 178.503(c) of this subchapter. The marking is the certification of the reconditioner that the packaging conforms to the standard for which it is marked and that all functions performed by the reconditioner which are prescribed by this subchapter have been performed in compliance with this subchapter.

(c) *Remanufacture.* For the purpose of this subchapter, remanufacture is the conversion of a non-specification, non-bulk packaging to a DOT specification or UN standard, the conversion of a packaging meeting one specification or standard to another specification or standard (for example, conversion of 1A1 non-removable head drums to 1A2 removable head drums) or the replacement of integral structural packaging components (such as non-removable heads on drums). A person who remanufactures a non-bulk packaging to conform to a specification or standard in Part 178 of this subchapter is subject to the requirements of Part 178 as a manufacturer.

108. Section 173.29 would be revised as follows:

§ 173.29 Empty packagings.

(a) Except as otherwise provided in this section, an empty packaging containing only the residue of a hazardous material shall be offered for transportation and transported in the same manner as when it previously contained a greater quantity of that hazardous material.

(b) Notwithstanding the requirements of paragraph (a) of this section, an empty packaging is not subject to any other requirements of this subchapter if it conforms to the following provisions:

(1) Any hazardous material shipping name and identification number markings, and any hazard warning labels or placards are removed or obliterated. This provision does not apply to transportation in a transport vehicle or a freight container if the packaging is not visible during transportation and the packaging is loaded by the shipper and unloaded by the shipper or consignee;

(2) The packaging—

(i) Is unused; or

(ii) Is sufficiently cleaned of residue and purged of vapors to remove any potential hazard; or

(iii) Is refilled with a material which is not hazardous to such an extent that any residue remaining in the packaging no longer poses a hazard; or

(iv) Contains only the residue of—

(A) A Class 9 or ORM–D material; or

(B) An ORM–E material which no longer meets the definition in § 171.8 of this subchapter for either a hazardous substance or a hazardous waste; or

(C) A nonflammable gas with no subsidiary hazard at a pressure less than 40 psia; (275.8 kPa) at 70 °F (21 °C); and

(3) Any material contained in the packaging does not meet the definitions in § 171.8 of this subchapter for either a hazardous substance or a hazardous waste.

(c) A non-bulk packaging containing only the residue of a hazardous material covered by Table 2 of § 172.504 of this subchapter—

(1) Does not have to be included in determining the applicability of the placarding requirements of Subpart F of Part 172 of this subchapter; and

(2) Is not subject to the shipping paper requirements of this subchapter when collected and transported by a contract or private carrier for reconditioning, remanufacture or reuse.

(d) Notwithstanding the stowage requirements in Columns 10a and 10b of the § 172.101 Table for transportation by vessel, an empty drum or cylinder may be stowed on deck or under deck.

(e) Specific provisions for describing an empty packaging on a shipping paper appear in § 172.203(e) of this subchapter.

(f) An empty tank car must conform to the placarding requirements specified in § 172.510(c) of this subchapter.

109. In § 173.31, in paragraph (a)(1) the words "dangerous articles" would be revised to read "hazardous materials" and in paragraph (c), footnote * would be removed from Retest Table 1 and from the footnotes following the table. In addition, paragraphs (a)(5), (a)(6), (a)(7), (a)(8), (a)(9), and (a)(10) would be revised and paragraphs (a)(11) through (a)(13) would be added, as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

(a) * * *

(5) Each DOT specification tank car shall be equipped with a coupler vertical restraint system in accordance with § 179.14 of this subchapter.

(6) After December 31, 1987, each non-specification tank car shall be equipped with a coupler vertical restraint system in accordance with § 179.14 of this subchapter.

(7) Pressure relief devices on tank car tanks must be of a type and design approved by the AAR Committee on Tank Cars and be made of metal not subject to deterioration by the lading.

(8) A Specification DOT–106A or 110A multi-unit tank car tank may be offered for transportation aboard a passenger vessel only as authorized in § 173.32(a)(4).

(9) Lading temperature must be within the tank design temperature range.

(10) Tank test pressure must be equal to or greater than the greatest of the following:

(i) 160 percent of the sum of lading vapor pressure at the reference temperature of 46.1 °C (115 °F) for uninsulated tanks or 40.6 °C (105 °F) for insulated tanks plus static head plus gas padding pressure in the ullage space or dome of tank;

(ii) 133 percent of the maximum loading or unloading pressure, whichever is greater; or

(iii) The minimum pressure prescribed by the specification in Part 179 of this subchapter or for the specific hazardous material in the applicable packaging section in Subpart F or G of this part.

(11) Air pressure may not be used to load or unload any lading which may create an enriched mixture within the flammability range of the lading in the vapor space of the tank.

(12) Unless otherwise specifically provided for in this subchapter, tank car tanks used for materials meeting the definition for Division 6.1 liquids, Packing Group I or II, Class 2 gases, or Class 3 or 4 liquids must be equipped with reclosing pressure relief devices having adequately sized venting capacity.

(13) For tanks used to transport materials with a primary or secondary hazard of Class 8 which are to be reused for Class 2 materials, both tank and pressure relief valves shall be retested prior to loading with the Class 2 material.

* * * * *

110. In § 173.32 paragraph (a)(6) and paragraphs (q) through (u) would be added as follows:

§ 173.32 Qualification, maintenance and use of portable tanks.

(a) * * *

(6) A DOT 51 portable tank may be used where DOT 56 or DOT 57 type portable tanks or DOT 60 portable tanks are authorized. A DOT 60 portable tank may be used where DOT 56 or DOT 57 type portable tanks are authorized. A higher integrity tank used instead of a specified portable tank must meet the same design profile; e.g., a DOT 51 portable tank must be lined, if used instead of a lined DOT 60 portable tank.

* * * * * *

(q) *Loading requirements.* A portable tank may not be loaded with a hazardous material that—

(1) Has a lading density exceeding the tank's design maximum density, or

(2) Is warmer or colder than the tank's design temperature range.

(r) Tank design pressure must be equal to or greater than the greatest of the following:

(1) 120 percent of the sum of lading vapor pressure plus static head plus gas padding pressure in the ullage space or dome of tank;

(2) The maximum loading or unloading pressure, whichever is greater; or

(3) The pressure prescribed for the specific hazardous material in Subpart F or G of this part, or in Part 172, as applicable.

(s) Where a DOT 60 or marine portable tank is authorized, minimum tank design pressure is 25 psi (172.4 kPa) for any liquid lading that meets more than one hazard class definition, unless otherwise specified.

(t) Air pressure may not be used to load or unload any lading which may create an enriched mixture within the flammability range of the lading in the vapor space of the tank.

(u) A portable tank in service for a Class 3 or 4 material, or Division 6.1 liquid, must be equipped with a reclosing pressure relief valve having adequately-sized venting capacity.

111. In § 173.32c, paragraphs (a), (b), (g)(2) and (o) would be revised to read as follows:

§ 173.32c Use of Specification IM portable tanks.

(a) No person may offer a hazardous material for transportation in an IM portable tank except as authorized by this subchapter.

(b) Except as otherwise provided in this subpart, an IM portable tank may not be used for the transportation of a hazardous material unless it meets the requirements of this subchapter.

* * * * * *

(g) * * *

(2) When this paragraph is specified for a hazardous material by the IM Tank Table in § 172.102 of this subchapter, each filling or discharge connection located below the normal liquid level of the tank, or compartment thereof, has three serially-mounted closures consisting of an internal discharge valve capable of being closed from a location remote from the valve itself, an external valve, and a bolted blank flange or other suitable, liquid-tight closure on the outlet side of the external valve.

* * * * * *

(o) An IM 101 tank may be used whenever an IM 102 tank is authorized provided it meets the requirements for pressure relief devices, bottom outlets and any other special provisions specified for the IM 102 tank in § 172.102 of this subchapter.

§ 173.32d [Removed]

112. Section 173.32d would be removed.

113. In 173.33, paragraphs (l) through (q) would be added, as follows:

§ 173.33 Qualification, maintenance and use of cargo tanks.

* * * * * *

(l) A cargo tank may not be loaded with a hazardous material that:

(1) Has a density exceeding the tank's design maximum density; or

(2) Is warmer or colder than the tank design temperature range.

(m) Tank design pressure must be equal to or greater than the greatest of the following:

(1) 120 percent of the sum of lading vapor pressure plus static head plus gas padding pressure in the ullage space or dome of tank;

(2) The maximum loading or unloading pressure, whichever is greater; or

(3) The pressure prescribed in Subpart F or G of this part, for the specific hazardous material as applicable, including—

(i) For compressed gases and certain refrigerated liquids, the pressure prescribed in § 173.315; and

(ii) For cryogenic liquids, the pressure prescribed in § 173.318.

(n) An MC 331 type cargo tank may be used where MC 306, MC 307 or MC 312 type cargo tanks are authorized. An MC 307 or MC 312 type cargo tank may be used where MC 306 type cargo tanks are authorized. A higher integrity tank used in lieu of a specified tank must meet the

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same design profile (for example, an MC 331 cargo tank must be lined if used in place of a lined MC 312 cargo tank.)

(o) Unless otherwise specified, where MC 307 and MC 312 cargo tanks are authorized, minimum tank design pressure is 25 psi (172.4 kPa) for any liquid lading that meets more than one hazard class definition.

(p) Air pressure may not be used to load or unload any lading which may create an enriched mixture within the flammability range of the lading in the vapor space of the tank. (See § 173.33(b)(3).)

(q) A cargo tank in service for a Class 3 or 4 material or Division 6.1 liquid must be equipped with a reclosing pressure relief valve having adequately-sized venting capacity. (See § 173.33(d)(1) and (2).)

114. A new § 173.40 would be added, to read as follows:

§ 173.40 General packaging requirements for poisonous materials required to be packaged in cylinders.

When this section is referenced in the packaging section for a hazardous material elsewhere in this part, the following requirements are applicable to cylinders used for that material:

(a) *Authorized cylinders.* A cylinder must conform to one of the specifications for cylinders in Subpart C of Part 178 of this subchapter, except that Specification 8, 8AL and 39 cylinders are not authorized.

(b) *Outage and pressure requirements.* The pressure of the hazardous material at 55 °C (131 °F) must not exceed the service pressure of the cylinder. Sufficient outage shall be provided so that the cylinder will not be liquid full at 55 °C (131 °F).

(c) *Closures.* Each cylinder must be closed with a plug or valve conforming to the following:

(1) Each plug or valve must have a taper-threaded connection directly to the cylinder and be capable of withstanding the test pressure of the cylinder;

(2) Each valve must be of the packless type with non-perforated diaphragm, except that for corrosive materials, a valve may be of the packed type provided the assembly is made gas-tight by means of a seal cap with gasketed joint attached to the valve body or the cylinder to prevent loss of material through or past the packing;

(3) Each valve outlet must be sealed by a threaded cap or threaded solid plug, and

(4) Cylinder, valves, plugs, outlet caps, luting and gaskets must be compatible with each other and with the lading.

(d) *Additional protection.* Additional protection requirements for thin-walled cylinders and for cylinders equipped with valves are as follows:

(1) Each cylinder which has a wall thickness at any point of less than 2.03 mm (0.080 inch) and each cylinder which does not have fitted valve protection must be overpacked in a 4C1, 4D, 4F, 4G, 4H1 or 4H2 box. The box must conform to overpack provisions in § 173.25. Box and valve protection must be of sufficient strength to protect all parts of the cylinder and valve, if any, from deformation and breakage resulting from a drop of 2.0 meters (6.56 ft) or more onto a concrete floor, impacting at an orientation most likely to cause damage.

(2) Each cylinder equipped with a valve, if not overpacked in a box in accordance with paragraph (d)(1) of this section, must be equipped with a protective cap or other means of valve protection sufficient to protect the valve from deformation and breakage resulting from a drop of 2.0 meters (6.56 ft) or more onto a concrete floor, impacting at an orientation most likely to cause damage.

(e) *Interconnection.* Cylinders may not be interconnected.

115. In Part 173, Subparts D, E and F would be revised as follows:

Subpart D—Definitions, Classification, Packing Group Assignments and Exceptions for Hazardous Materials Other Than Class 1 and Class 7

Sec.

173.115 Class 2, Divisions 2.1, 2.2, and 2.3—Definitions.
173.116 Class 2—Assignment of Packing Group.
173.120 Class 3—Definitions.
173.121 Class 3—Assignment of Packing Group.
173.124 Class 4, Divisions 4.1, 4.2 and 4.3—Definitions.
173.125 Class 4, Assignment of Packing Group.
173.128 Class 5, Divisions 5.1 and 5.2—Definitions.
173.129 Class 5—Assignment of Packing Group.
173.132 Class 6, Division 6.1—Definitions.
173.133 Division 6.1—Assignment of Packing Group.
173.134 Class 6, Division 6.2—Definitions.
173.136 Class 8—Definitions.
173.137 Class 8—Assignment of Packing Group.
173.140 Class 9—Definitions.
173.141 Class 9—Assignment of Packing Group.
173.144 Other Regulated Materials (ORM)—Definitions.
173.145 Other Regulated Materials—Assignment of Packing Group.
173.150 Exceptions for Class 3 (flammable and combustible liquids).
173.151 Exceptions for Division 4.1 (flammable solids).
173.152 Exceptions for Division 5.1 (oxidizers) and Division 5.2 (organic peroxides).
173.153 Exceptions for Division 6.1 (poisonous materials).
173.154 Exceptions for Class 8 (corrosive materials).
173.155 Exceptions for Class 9 (miscellaneous hazardous materials).
173.156 Exceptions for ORM materials.

Subpart E—Non-bulk Packaging for Hazardous Materials Other Than Class 1 and Class 7

173.158 Nitric acid.
173.159 Batteries, wet.
173.160 Bombs, smoke, non-explosive (corrosive).
173.161 Chemical kits.
173.162 Gallium.
173.163 Hydrogen fluoride.
173.164 Mercury (metallic and articles containing mercury).
173.171 Smokeless powder for small arms.
173.172 Aircraft hydraulic power unit fuel tank.
173.173 Paint, paint-related material, adhesives and ink.
173.174 Refrigerating machines.
173.180 Aircraft thrust devices.
173.181 Pyrophoric materials (liquids).
173.182 Barium oxide—50 percent or more water wet.
173.183 Nitrocellulose base film.
173.184 Highway or rail fusee.
173.185 Lithium batteries and cells.
173.186 Matches.
173.187 Pyrophoric solids, metals or alloys, n.o.s.
173.188 White or yellow phosphorus.
173.192 Packaging for certain Packing Group I poisonous materials.
173.193 Bromoacetone, methyl bromide, chloropicrin and methyl bromide or methyl chloride mixtures, etc.
173.194 Gas identification sets.
173.195 Hydrocyanic acid, liquid (prussic acid) and hydrocyanic acid liquefied.
173.196 Infectious substances (etiologic agents).
173.198 Nickel carbonyl.
173.201 Non-bulk packagings for liquid hazardous materials in Packing Group I.
173.202 Non-bulk packagings for liquid hazardous materials in Packing Group II.
173.203 Non-bulk packagings for liquid hazardous materials in Packing Group III.
173.204 Non-bulk, non-specification packagings for certain hazardous materials.
173.205 Specification cylinders for liquid hazardous materials.
173.211 Non-bulk packagings for solid hazardous materials in Packing Group I.
173.212 Non-bulk packagings for solid hazardous materials in Packing Group II.
173.213 Non-bulk packagings for solid hazardous materials in Packing Group III
173.214 Packagings which require approval by the Director, OHMT.
173.216 Asbestos, blue or white.
173.217 Carbon dioxide, solid (dry ice).
173.218 Fish meal or fish scrap.
173.219 Life rafts, aircraft survival kits, etc.
173.220 Internal combustion engines, self-propelled vehicles, and mechanical equipment containing internal combustion engines or wet batteries.
173.221 Polystyrene beads, expandable.
173.222 Wheelchairs equipped with wet electric storage batteries.
173.225 Packagings for organic peroxides.
173.226 Liquids toxic by inhalation, Division 6.1, Packing Group I, Zone A.
173.227 Liquids toxic by inhalation, Division 6.1, Packing Group I, Zone B.
173.228 Bromine pentafluoride or bromine trifluoride.
173.229 Chloric acid solution or chlorine dioxide hydrate, frozen.
173.230 Non-bulk packagings for ORM-D materials.

Subpart F—Bulk Packaging for Hazardous Materials Other Than Classes 1 and 7

173.240 Bulk packaging for certain flammable solids (Division 4.1), solid oxidizers (Division 5.1), corrosive solids (Class 8) and other similar low hazard materials.
173.241 Bulk packaging for certain combustible liquids (Class 3), flammable solids (Divisions 4.2 and 4.3), and other similar hazardous materials.
173.242 Bulk packagings for certain medium hazard liquids and solids, including solids with dual hazards.
173.243 Bulk packaging for certain high hazard liquids and dual hazard liquids which pose a moderate hazard.
173.243 Bulk packaging for certain pyrophoric liquids (Division 4.2), poisonous liquids with inhalation hazards (Division 6.1) and gases (Class 2).
173.245 Bulk packaging for extremely hazardous materials such as poisonous gases (Division 2.3).
173.248 Ethylene oxide.
173.249 Bromine.

Subpart D—Definitions, Classification, Packing Group Assignments and Exceptions for Hazardous Materials Other Than Class 1 and Class 7.

§ 173.115 Class 2, Divisions 2.1, 2.2, and 2.3—Definitions.

(a) *Division 2.1 (Flammable gas).* (1) For the purpose of this subchapter, a "flammable gas" (Division 2.1) means any material which is a gas at 20 °C (68 °F) or less and 1 atmosphere (atm) of pressure (a material which has a boiling point of 20 °C (68 °F) or less at 1 atm) which—

(i) Is ignitable at 1 atm when in a mixture of 13% or less by volume with air; or

(ii) Has a flammable range at 1 atm with air of at least 12% regardless of the lower limit.

(2) The limits specified in paragraph (a)(1) of this section shall be determined at 1 atmosphere of pressure and a temperature of 20 °C (68 °F) in accordance with ASTM E681–79 Standard Test Method for Limits of Flammability of Chemicals.

(b) *Division 2.2 (non-flammable compressed gas—including compressed gas, liquefied gas, pressurized cryogenic gas and compressed gas in solution).* For the purpose of this subchapter, a "non-flammable compressed gas" (Division 2.2) means any material (or mixture) which—

(1) Exerts in the packaging a pressure of 40 psia (275.8 kPa) at 21.1 °C (70 °F) or, regardless of the pressure at 21.1 °C (70 °F), exerts in the container a pressure of 104 psia (717.1 kPa) at 54.4 °C (130 °F); and

(2) Does not meet the definition of Division 2.1 or 2.3.

(c) *Division 2.3 (Poisonous gas).* For the purpose of this subchapter, "poisonous gas" (Division 2.3) means a material which is a gas at 20 °C (68 °F) or less and one atmosphere of pressure (a material which has a boiling point of 20 °C (68 °F) or less at 1 atmosphere and which—

(1) Is known to be so toxic to humans as to pose a hazard to health during transportation, or

(2) In the absence of adequate data on human toxicity, is presumed to be toxic to humans because when tested on laboratory animals it has an LC50 less than 5000 ppm (see § 173.132(b)(3)).

(d) *Non-liquefied compressed gas.* A "non-liquefied compressed gas" means a gas, other than in solution, which in a packaging under the charged pressure is entirely gaseous at a temperature of 20 °C (68 °F).

(e) *Liquefied compressed gas.* A "liquefied compressed gas" means a gas which in a packaging under the charged pressure, is partially liquid at a temperature of 20 °C (68 °F).

(f) *Compressed gas in solution.* A "compressed gas in solution" is a non-liquefied compressed gas which is dissolved in a solvent.

(g) *Cryogenic liquid.* A "cryogenic liquid" means a refrigerated liquefied gas having a boiling point colder than −130 °F (−90 °C) at one atmosphere, absolute. A material meeting this definition is subject to requirements of this subchapter without regard to whether it meets the definition of a non-flammable compressed gas in paragraph (b) of this section. Each cryogenic liquid is partially described as "(* * *, refrigerated liquid (cryogenic liquid))" in the § 172.101 Table.

(h) *Flammable range.* The term "flammable range" means the difference between the minimum and maximum volume percentages of the material in air that forms a flammable mixture.

(i) *Service pressure.* The term "service pressure" means the authorized pressure marking on the packaging. For example, for a cylinder marked "DOT 3A1800", the service pressure is 1800 psig.

(j) *Refrigerant gas or Dispersant gas.* The terms "Refrigerant gas" or "Dispersant gas" apply to all nonpoisonous refrigerant gases, dispersant gases (fluorocarbons) listed in §§ 172.101, 173.304(a)(2), 173.314(c), 173.315(a)(1) and 173.315(h), and mixtures thereof, or any other compressed gas meeting one of the following:

(1) A nonflammable mixture containing not less than 50% fluorocarbon content, having a vapor pressure not exceeding 260 psig (1792.7 kPa) at 130 °F (54.4 °C).

(2) A flammable mixture containing not less than 50% fluorocarbon content, not over 40% by weight of a flammable component, having a vapor pressure not exceeding 260 psig (1792 kPa) at 130 °F (54.4 °C).

§ 173.116 Class 2—Assignment of Packing Group.

(a) The packing group of a Class 2, Division 2.3 material is assigned in Column 5 of the § 172.101 Table. There are no packing groups for Divisions 2.1 and 2.2. When the § 172.101 Table provides more than one packing group for a Division 2.3 material, or indicates that the packing group be determined on the basis of the grouping criteria for Division 2.3, the packing group shall be determined by applying the following criteria:

Packing group	Inhalation toxicity
IA	LC50 less than or equal to 200 ppm
IB	LC50 greater than 200 ppm and less than or equal to 1000 ppm
II	LC50 greater than 1000 ppm and less than or equal to 3000 ppm
III	LC50 greater than 3000 ppm or less than or equal to 5000 ppm

(b) The criteria specified in paragraph (a) of this section are represented graphically in § 173.133, Figure 1.

§ 173.120 Class 3—Definitions.

(a) *Flammable liquid.* (1) For the purpose of this subchapter, a "flammable liquid" (Class 3) means any liquid having a flash point of not more than 60.5 °C (141 °F) with the following exceptions:

(i) Any liquid meeting one of the definitions specified in § 173.115 of this part.

(ii) Any mixture having one or more components with a flash point greater than 60.5 °C (141 °F) or higher, that

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makes up at least 99 percent of the total volume of the mixture.

(2) For the purposes of this subchapter, a distilled spirit of 140 proof or lower is considered to have a flash point no lower than 23 °C (73 °F).

(b) *Combustible liquid.* (1) For the purpose of this subchapter, a "combustible liquid" (Class 3) means—

(i) Any liquid that does not meet the definition of any other hazard class specified in this subchapter and has a flash point above 60.5 °C (141 °F) and below 93.3 °C (200 °F); or

(ii) Any material that does not meet the definition of any other hazard class specified in this subchapter, has a flash point of 93.3 °C (200 °F) or greater and is offered for transportation or transported as a liquid at a temperature at or above its flash point.

(2) If a material has a flash point at or above 93.3 °C (200 °F) and does not meet the definition of a combustible liquid or any other hazard class, then it is not subject to the requirements of this subchapter.

(3) Except when offered or intended for transportation by vessel or aircraft, a flammable liquid with a flash point at or above 38 °C (100 °F) that does not meet the definition of any other hazard class may be reclassed as a combustible liquid.

(c) *Flash point.* (1) "Flash point" means the minimum temperature at which a liquid gives off vapor within a test vessel in sufficient concentration to form an ignitable mixture with air near the surface of the liquid. It shall be determined as follows:

(i) For a homogeneous, single-phase, liquid having a viscosity less than 45 S.U.S. at 38 °C (100 °F) that does not form a surface film while under test, one of the following test procedures shall be used:

(A) Standard Method of Test for Flash Point by Tag Closed Tester (ASTM D56–79); or

(B) Standard Methods of Test for Flash Point of Liquids by Setaflash Closed Tester (ASTM D3278–78).

(ii) For a liquid other than one meeting all of the criteria of paragraph (c)(1)(i) of this section, one of the following test procedures shall be used:

(A) Standard Method of Test for Flash Point by Pensky-Martens Closed Tester (ASTM D93–80). For cutback asphalt, use Method B of ASTM 93–80 or alternate tests authorized in this standard; or

(B) Standard Methods of Test for Flash Point of Liquids by Setaflash Closed Tester (ASTM D3278–78).

(2) For a liquid that is a mixture of compounds that have different volatility and flash points, its flash point shall be determined as specified in paragraph (c)(1) of this section, on the material in the form in which it is to be shipped. If it is determined by this test that the flash point is higher than 20 °F (−6.7 °C) a second test shall be made as follows: A portion of the mixture shall be placed in an open beaker (or similar container) of such dimensions that the height of the liquid can be adjusted so that the ratio of the volume of the liquid to the exposed surface area is 6 to 1. The liquid shall be allowed to evaporate under ambient pressure and temperature (20 to 25 °C) for a period of 4 hours or until 10 percent by volume has evaporated, whichever comes first. A flash point is then run on a portion of the liquid remaining in the evaporation container and the lower of the two flash points shall be the flash point of the material.

(3) For flash point determinations by Setaflash closed tester, the glass syringe specified need not be used as the method of measurement of the test sample if a minimum quantity of 2 milliliters is assured in the test cup.

(d) If experience or other data indicate that the hazard of a material is greater or less than indicated by the criteria specified in paragraphs (a) and (b) of this section, the Director, OHMT, may revise the classification or make the material subject or not subject to the requirements of Parts 170–189 of this subchapter:

§ 173.121 Class 3—Assignment of Packing Group.

(a) The packing group of a Class 3 material is as assigned in Column 5 of the § 172.101 Table. When the § 172.101 Table provides more than one packing group for a hazardous material, or indicates that the packing group is to be determined on the basis of the grouping criteria for Class 3, the packing group shall be determined by applying the following criteria:

Packing group	Flash point (closed-cup)	Initial boiling point
I		<35 °C (95 °F)
II	<23 °C (73 °F)	>35 °C (95 °F)
III	>23 °C, <60.5 °C (141 °F)	>35 °C (95 °F)

(b) *Criteria for inclusion of viscous Class 3 materials in Packing Group III.*

(1) Viscous Class 3 materials in Packing Group II with a flash point of less than 23 °C (73 °F) may be grouped in Packing Group III provided that—

(i) Less than 3 percent of the clear solvent layer separates in the solvent separation test;

(ii) The mixture contains not more than 5 percent of substances in Packing Group I or II of Division 6.1 or Class 8, or not more than 5 percent of substances in Packing Group I of Class 3 requiring a POISON or CORROSIVE subsidiary label;

(iii) The capacity of the packaging is not more than 30 L (7.9 gallons); and

(iv) The viscosity and flash point are in accordance with the following table:

Flowtime in seconds		Flash point in degrees C
4 mm Cup	8 mm Cup	
Over 20		Over 17.
Over 60		Over 10.
Over 100		Over −5.
Over 160		Over −1.
Over 220	Over 17	Over −5.
	Over 40	No lower limit.

(2) The methods by which the tests referred to in paragraph (b)(1) shall be performed are as follows:

(i) *Viscosity Test.* The flowtime in seconds is determined at 23 °C (73 °F) using the ISO Standard cup with a 4.0 millimeters (0.16 inches) jet (ISO–2431–72). Where the flowtime exceeds 200 seconds, a second test is carried out using the ISO standard cup but modified to take a jet of 8 millimeters (0.31 inches) diameter.

(ii) *Solvent Separation Test.* This test is carried out at 23 °C (73 °F) using a 100.0 milliliters (3.38 ounces) measuring cylinder of the stoppered type of approximately 25.0 centimeters (9.84 inches) total height and of a uniform internal diameter of approximately 30 millimeters (1.18 inches) over the calibrated section. The sample should be stirred to obtain a uniform consistency, and poured in up to the 100 milliliter mark. The stopper should be inserted and the cylinder left standing undisturbed for 24 hours. After 24 hours, the height of the upper separated layer should be measured and the percentage of this layer as compared with the total height of the sample calculated.

§ 173.124 Class 4, Divisions 4.1, 4.2 and 4.3—Definitions.

(a) *Division 4.1 (Flammable solid).* For the purpose of this subchapter, "flammable solid" (Division 4.1) means any solid material, other than one in Class 1, which, under the conditions normally incident to transportation, is readily combustible, or may cause or contribute to fire through friction. This division includes wetted explosives, self-reactive materials, readily combustible solids and solids which may cause or contribute to a fire through friction.

(b) *Division 4.2 (Spontaneously combustible material).* For the purpose of this subchapter, "spontaneously combustible material" (Division 4.2) means a material which is likely to heat spontaneously under conditions normally incident to transportation, or to heat up in contact with air and being then likely to catch fire. This class includes pyrophoric liquids. A "pyrophoric liquid" means a liquid that ignites spontaneously in dry or moist air at or below 54.5 °C (130.1 °F).

(c) *Division 4.3 (Dangerous when wet materials).* For the purpose of this subchapter, "dangerous when wet material" (Division 4.3) means a material that, by interaction with water, is liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.

(d) Criteria for evaluating materials for inclusion in Class 4 are set forth in Chapter 14 of the UN Recommendations.

§ 173.125 Class 4—Assignment of Packing Group.

The packing group of Class 4 materials shall be as assigned in Column 5 of the § 172.101 table. Criteria for assignment of packing groups are set forth in Chapter 14 of the UN Recommendations.

§ 173.128 Class 5, Divisions 5.1 and 5.2—Definitions.

(a) *Division 5.1 (Oxidizer).* For the purpose of this subchapter, "oxidizer" (Division 5.1) means a material such as a chlorate, permanganate, inorganic peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter.

(b) *Division 5.2 (Organic peroxide).* For the purpose of this subchapter "organic peroxide" (Division 5.2) means an organic compound containing the bivalent –O–O– structure and which may be considered a derivative of hydrogen peroxide where one or more of the hydrogen atoms have been replaced by organic radicals unless:

(1) The material meets the definition of an explosive as prescribed in Subpart C of this part, in which case it must be classed as an explosive,

(2) The material is forbidden to be offered for transportation according to § 172.101 or § 173.21 of this subchapter,

(3) It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide, or

(4) The Director, OHMT, has determined that the material does not present a hazard in transportation.

(c) Criteria for evaluating materials for inclusion in Class 5 are set forth in Chapter 11 of the UN Recommendations.

§ 173.129 Class 5—Assignment of Packing Group.

The packing group of a Class 5 material shall be as assigned in Column 5 of the § 172.101 Table.

§ 173.132 Class 6, Division 6.1—Definitions.

(a) For the purpose of this subchapter, "poisonous materials" (Division 6.1) means a material, other than a gas, which is known to be so toxic to humans as to afford a hazard to health during transportation, or which, in the absence of adequate data on human toxicity, is presumed to be toxic to humans because it falls within any one of the following categories when tested on laboratory animals:

(1) *Oral Toxicity.* A liquid with an LD_{50} for acute oral toxicity of not more than 500 mg/kg or a solid with an LD_{50} for acute oral toxicity of not more than 200 mg/kg.

(2) *Dermal Toxicity.* A material with an LD_{50} for acute dermal toxicity of not more than 1000 mg/kg.

(3) *Inhalation Toxicity.* (i) A dust or mist with an LC_{50} for acute toxicity on inhalation of not more than 10 mg/L; or

(ii) A material with a saturated vapor concentration in air at 20 °C (68 °F) of more than one-fifth of the LC_{50} for acute toxicity on inhalation of vapors and with an LC_{50} for acute toxicity on inhalation of vapors of not more than 5000 ml/m³.

(b) For the purposes of this subchapter—

(1) LD_{50} for acute toxicity means that dose of the material administered which is most likely to cause death within 14 days in half of both male and female young adult albino rats. The number of animals tested must be sufficient to give a statistically significant result and be in conformity with good pharmacological practices. The result is expressed in mg/kg body mass.

(2) LD_{50} for acute dermal toxicity means that dose of the material which, administered by continuous contact for 24 hours with the bare skin of an albino rabbit, is most likely to cause death within 14 days in half of the animals tested. The number of animals tested must be sufficient to give a statistically significant result and be in conformity with good pharmacological practices. The result is expressed in mg/kg body mass.

(3) LC_{50} for acute toxicity on inhalation means that concentration of vapor, mist, or dust which, administered by continuous inhalation for one hour to both male and female young adult albino rats, is most likely to cause death within 14 days in half of the animals tested. If the material is administered to the animals as a dust or mist, more than 90 percent of the particles available for inhalation in the test must have a diameter of 10 microns or less if it is reasonably foreseeable that such concentrations could be encountered by a human during transport. The result is expressed in mg/L of air for dusts and mists or in mL/m³ of air (parts per million) for vapors. See § 173.133(b) for LC_{50} determination for mixtures and for limit tests.

(i) When provisions of this subchapter require the use of the LC_{50} for acute toxicity on inhalation of dusts and mists based on a one-hour exposure and such data is not available, the LC_{50} for acute toxicity on inhalation based on a four-hour exposure may be multiplied by four and the product substituted for the one-hour LC_{50} for acute toxicity on inhalation.

(ii) When the provisions of this subchapter require the use of the LC_{50} for acute toxicity on inhalation of vapors based on a one-hour exposure and such data is not available, the LC_{50} for acute toxicity on inhalation based on a four-hour exposure may be multiplied by two and the product substituted for the one-hour LC_{50} for acute toxicity on inhalation.

(c) The foregoing categories shall not apply if the Director, OHMT has determined that the physical characteristics of the material or its probable hazards to humans as shown by documented experience indicate that the material will not cause serious sickness or death.

§ 173.133 Division 6.1—Assignment of Packing Group.

(a) The packing group of Division 6.1 materials shall be as assigned in Column 5 of the § 172.101 Table. When the § 172.101 Table provides more than one packing group for a hazardous material, the packing group shall be determined by applying the following criteria:

(1) The packing group assignment for routes of administration other than inhalation of vapors shall be in accordance with the following table:

Packing group	Oral toxicity LD_{50} (mg/kg)	Dermal toxicity LD_{50} (mg/kg)	Inhalation toxicity by dusts and mists LC_{50} (mg/L)
I	≤15	≤40	≤0.5
II	>5, ≤50	>40, ≤1200	>0.5, ≤2
III	solids: >50, ≤200. liquids: >50, ≤500.	>200, ≤1000	>2, ≤10

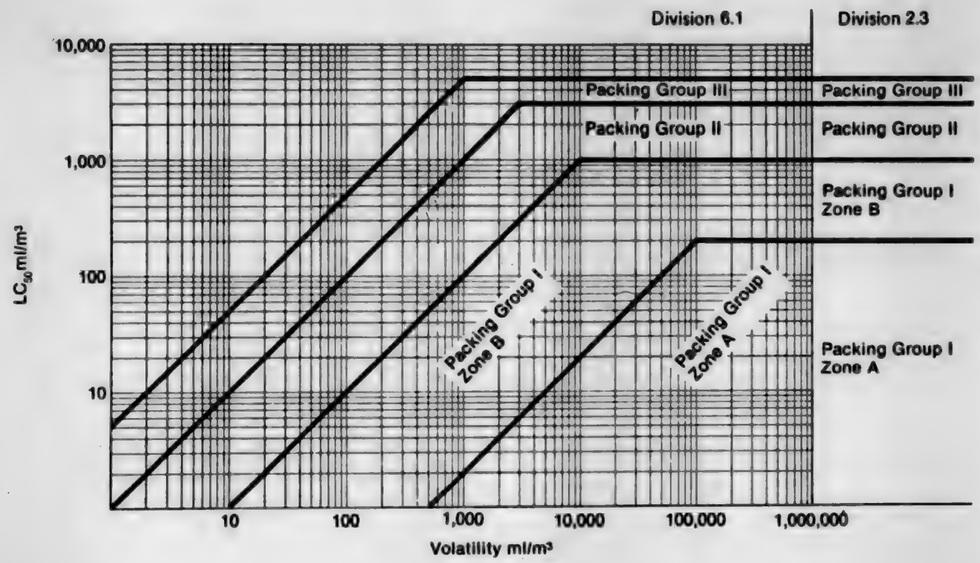
(2) The packing group assignment based on inhalation of vapors shall be in accordance with the following table:

Packing group	Vapor concentration and toxicity
I, Zone A	V >500 LC_{50} and LC_{50} <200 mL/M³.
I, Zone B	V >10 LC_{50}; LC_{50} <1000 mL/m³; and the criteria for Packing Group I, Zone A are not met.
II	V >LC_{50}; LC_{50} <3000 mL/m³; and the criteria for Packing Group I are not met.
III	V >.2 LC_{50}; LC_{50} <5000 mL/m³; and the criteria for Packing Groups I and II are not met.

Note.—V is the saturated vapor concentration in air of the material in mL/m³ at 20 °C and standard atmospheric pressure.

These criteria are represented graphically in Figure 1:

Figure 1
Inhalation Toxicity: Packing Group Borderlines



(3) When the packing group determined by applying these criteria is different for two or more (oral, dermal or inhalation) routes of administration, the packing group assigned to the material shall be that indicated for the highest degree of toxicity for any of the routes of administration.

(4) Notwithstanding the provisions of this paragraph, the packing group of a tear gas substance is as assigned in Column 5 of the § 172.101 Table.

(b) The packaging groups for Division 6.1 mixtures that are poisonous (toxic) by inhalation may be determined by one of the following methods:

(1) Where LC_{50} data is available on each of the poisonous (toxic) substances comprising the mixture—

(i) The LC_{50} of the mixture is estimated using the formula:

$$LC50\ (\text{mixture}) = \frac{1}{\sum_{i=1}^{n} \frac{f_i}{LC50_i}}$$

where:
f_i = mole fraction of the i^{th} component substance of the liquid

LC_{50_i} = mean lethal concentration of the i^{th} component substance in ml/m³

(ii) The volatility of each component substance is estimated using the formula:

$$V_i = P_i \times \frac{10^6}{760}\ ml/m^3$$

where:
P_i = partial pressure of the i^{th} component substance in mmHg at 20 °C and one atmosphere pressure

(iii) The ratio of the volatility to the LC_{50} is calculated using the formula:

$$R = \sum_{i=1}^{n} \frac{V_i}{LC50_i}$$

(iv) Using the calculated values LC_{50} (mixture) and R, the packaging group for the mixture is determined:

Packaging group	Ratio of volatility and LC_{50}
I, Zone A	R ≥500 and LC_{50} (mixture) <200 ml/m³.
I, Zone B	R ≥10 and LC_{50} (mixture) <1000 ml/m³; and the criteria for Packing Group I, Zone A, are not met.
II	R ≥1 and LC_{50} (mixture) <3000 ml/m³; and the criteria for Packing Group I are not met.
III	R ≥⅛ and LC_{50} (mixture) <5000 ml/m³; and the criteria for Packing Groups I and II are not met.

(2) In the absence of LC_{50} data on the poisonous (toxic) constituent substances, the mixture may be assigned a packaging group based on the following simplified threshold toxicity tests. When these threshold tests are used, the most restrictive packaging group must be determined and used for the transportation of the mixture.

(i) A mixture is assigned to Packaging Group I, Zone A only if both the following criteria are met:

(A) A sample of the liquid mixture is vaporized and diluted with air to create a test atmosphere of 200 ml/m³ vaporized mixture in air. Ten albino rats (five male and five female) are exposed to the test atmosphere for one hour and observed for fourteen days. If five or more of the animals die within the fourteen day observation period, the mixture is presumed to have an LC_{50} equal to or less than 200 ml/m³.

(B) A sample of the vapor in equilibrium with the liquid mixture is diluted with 499 equal volumes of air to form a test atmosphere. Ten albino rats (five male and five female) are exposed to the test atmosphere for one hour and observed for fourteen days. If five or more of the animals die within the fourteen day observation period, the mixture is presumed to have a volatility equal to or greater than 500 times the mixture LC_{50}.

(ii) A mixture is assigned to Packaging Group I, Zone B only if both the following criteria are met, and the mixture does not meet the criteria for Packaging Group I, Zone A:

(A) A sample of the liquid mixture is vaporized and diluted with air to create a test atmosphere of 1000 ml/m³ vaporized mixture in air. Ten albino rats (five male and five female) are exposed to the test atmosphere for one hour and observed for fourteen days. If five or more of the animals die within the fourteen day observation period, the mixture is presumed to have an LC_{50} equal to or less than 1000 ml/m³.

(B) A sample of the vapor in equilibrium with the liquid mixture is diluted with 9 equal volumes of air to form a test atmosphere. Ten albino rats (five male and five female) are exposed to the test atmosphere for one hour and observed for fourteen days. If five or more of the animals die within the fourteen day observation period, the mixture is presumed to have a volatility equal to or greater than 10 times the mixture LC_{50}.

(iii) A mixture is assigned to Packaging Group II only if both the following criteria are met, and the mixture does not meet the criteria for Packaging Group I (Zone A or B):

(A) A sample of the liquid mixture is vaporized and diluted with air to create a test atmosphere of 3000 ml/m³ vaporized mixture in air. Ten albino rats (five male and five female) are exposed to the test atmosphere for one hour and observed for fourteen days. If five or more of the animals die within the fourteen day observation period, the mixture is presumed to have an LC_{50} equal to or less than 3000 ml/m³.

(B) A sample of the vapor in equilibrium with the liquid mixture is used to form a test atmosphere. Ten albino rats (five male and five female) are exposed to the test atmosphere for one hour and observed for fourteen days. If five or more of the animals die within the fourteen day observation period, the mixture is presumed to have a volatility equal to or greater than the mixture LC_{50}.

(iv) A mixture is assigned to Packaging Group III only if both the following criteria are met, and the mixture does not meet the criteria for Packaging Groups I (Zone A or B) or II:

(A) A sample of the liquid mixture is vaporized and diluted with air to create a test atmosphere of 5000 ml/m³ vaporized mixture in air. Ten albino rats (five male and five female) are exposed to the test atmosphere for one hour and observed for fourteen days. If five or more of the animals die within the fourteen day observation period, the mixture is presumed to have an LC_{50} equal to or less than 5000 ml/m³.

(B) The vapor pressure of the liquid mixture is measured and if the vapor pressure is equal to or greater than 1000 ml/m³, the mixture is presumed to have a volatility equal to or greater than ⅕ the mixture LC_{50}.

§ 173.134 Class 6, Division 6.2—Definitions.

(a) For the purpose of this subchapter—

(1) An "infectious substance" (Division 6.2) means a viable microorganism, or its toxin, which causes or may cause human disease, and is limited to those agents listed in 42 CFR 72.3 of the regulations of the Department of Health and Human Services. The terms "infectious substance" and "etiologic agent" are synonymous.

(2) A "diagnostic specimen" means any human or animal material including, but not limited to, excreta, secreta, blood, and its components, tissue, and tissue fluids, being shipped for purposes of diagnosis.

(3) A "biological product" means a material prepared and manufactured in accordance with the provisions of 9 CFR Part 102 (Licensed veterinary biological products), 21 CFR Part 601 (Licensing), 21 CFR 312.1 (Conditions for exemption of new drugs for investigational use), 9 CFR Part 103 (Biological products for experimental treatment of animals), or 21 CFR 312.9 (New drugs for investigational use in laboratory research animals or in vitro tests), and which in accordance with these provisions, may be shipped in interstate commerce.

(b) The requirements of this subpart supplement the requirements of the Department of Health and Human Services contained in 42 CFR Part 72.

(c) Packing groups are not assigned to Division 6.2 materials.

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§ 173.136 Class 8—Definitions.

(a) For the purpose of this subchapter, "corrosive material" (Class 8) means a liquid or solid that causes visible destruction or irreversible alterations in human skin tissue at the site of contact, or a liquid that has a severe corrosion rate on steel or aluminum, in accordance with the following criteria:

(1) A material is considered to be destructive or to cause irreversible alteration in human skin tissue if, when tested on the intact skin of an albino rabbit by the technique described in Appendix A to this part, the structure of the tissue at the site of contact is destroyed or changed irreversibly after an exposure period of 4 hours or less.

(2) A liquid is considered to have a severe corrosion rate if its corrosion rate exceeds 6.25mm (0.246 inches) a year on steel (SAE 1020) or aluminum (nonclad 7075–T6) at a test temperature of 55 °C (131 °F). An acceptable test is described in NACE Standard TM–01–69.

(b) If human experience or other data indicate that the hazard of a material is greater or less than indicated by the results of the tests specified in paragraph (a) of this section, the Department may revise its classification or make the material subject to the requirements of this subchapter.

§ 173.137 Class 8—Assignment of Packing Group.

The packing group of Class 8 material is as indicated in Column 5 of the § 172.101 Table. When the § 172.101 Table provides more than one packing group for a hazardous material, the packing group shall be determined by applying the following criteria:

(a) *Packing Group I.* Substances that cause visible necrosis of the skin tissue at the site of contact when tested on the intact skin of an animal for a period of not more than 3 minutes.

(b) *Packing Group II.* Substances, other than those meeting Packing Group I criteria, that cause visible necrosis of the skin tissue at the site of contact when tested on the intact skin of an animal for a period of not more than 60 minutes.

(c) *Packing Group III.* Substances, other than those meeting Packing Group I or II criteria—

(1) That cause visible necrosis of the skin tissue at the site of contact when tested on the intact skin of an animal for a period of not more than 4 hours; or

(2) Which have a corrosion rate on steel or aluminum surfaces exceeding 6.25 mm (0.246 inches) a year at a test temperature of 55 °C (131 °F).

§ 173.140 Class 9—Definitions.

(a) For the purpose of this subchapter, "miscellaneous hazardous material" (Class 9) means a material which presents a hazard during transport, but which is not included in any other hazard class. Included in this class is any material which has an anesthetic, noxious or other similar property which could cause extreme annoyance or discomfort to a flight crew member so as to prevent the correct performance of assigned duties.

§ 173.141 Class 9—Assignment of Packing Group.

The packing group of a Class 9 material is as indicated in Column 5 of the § 172.101 Table.

§ 173.144 Other Regulated Materials (ORM)—Definitions.

(a) For the purpose of this subchapter, "ORM–D material" means a material such as a consumer commodity which, though otherwise subject to the regulations of this subchapter, presents a limited hazard during transportation due to its form, quantity and packaging. It must be a material for which exceptions are provided in the § 172.101 Table. Each ORM–D material or category of ORM–D material is listed in the § 172.101 Table.

(b) For the purpose of this subchapter, "ORM–E material" means a material that is not included in any other hazard class, but is subject to the requirements of this subchapter because it meets the definition in § 171.8 of this subchapter for a hazardous substance or a hazardous waste.

§ 173.145 Other Regulated Materials—Assignment of Packing Group.

(a) The packing group of an ORM–E material is as indicated in Column 5 of the § 172.101 Table.

(b) Packing groups are not assigned to ORM–D materials.

§ 173.150 Exceptions for Class 3 (flammable and combustible liquids).

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table of this subchapter and the material does not meet the definition of another hazard class.

(b) *Limited quantities.* Limited quantities of flammable liquids (Class 3) are excepted from labeling, unless offered or intended for transportation by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of limited quantities are not subject to Subpart F (Placarding) of Part 172 of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For flammable liquids in Packing Group I, inner packagings not over 0.5 liter (0.53 quart) net capacity each, packed in strong outer packagings;

(2) For flammable liquids in Packing Group II, inner packagings not over 1.0 liters (1.06 quarts) net capacity each, packed in strong outer packaging; and

(3) For flammable liquids in Packing Group III, inner packagings not over 4.0 liters (1.06 gallons) net capacity each, packed in strong outer packagings.

(c) *Consumer commodities.* A limited quantity which conforms to the provisions of paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed as ORM–D material. In addition to the exceptions provided by paragraph (b), shipments of ORM–D materials are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft, and are eligible for the exceptions provided in § 173.156.

(d) *Alcoholic beverages.* Alcoholic beverages (wine and distilled spirits as defined in 27 CFR 4.10 and 5.11) in packagings of four liters or less are not subject to the requirements of this subchapter.

(e) *Aqueous solutions of alcohol.* An aqueous solution containing 24 percent or less alcohol by volume and no other hazardous material—

(1) May be reclassed as a combustible liquid; and

(2) Is not subject to the requirements of this subchapter if it contains no less than 50 percent water.

(f) *Combustible liquids.* (1) Except for transportation by vessel or aircraft, a flammable liquid with a flash point at or above 38 °C (100 °F) may be reclassed as a combustible liquid.

(2) Unless otherwise stated for a specific material, the requirements in this subchapter do not apply to a material classed as a combustible liquid in a non-bulk packaging unless the combustible liquid is a hazardous substance or a hazardous waste.

(3) A combustible liquid that is a hazardous substance or a hazardous waste, in a non-bulk packaging, and a combustible liquid in a bulk packaging is not subject to the requirements of this subchapter except those pertaining to:

(i) Shipping papers, waybills, switching orders, and hazardous waste manifests;

(ii) Marking of packages;

(iii) Display of identification numbers on bulk packages;

(iv) Placarding of bulk packagings;

(v) Carriage aboard aircraft and vessels (for packaging requirements for transport by vessel see § 176.340 of this subchapter);

(vi) Reporting incidents as prescribed by §§ 171.15, 171.16, and 171.17 of this subchapter;

(vii) Packaging requirements of Subpart B of this part; and

(viii) The requirements of §§ 173.1, 173.21, 173.24, 173.24a, 173.24b, 174.1, 177.804, 177.817, and 177.834 of this subchapter.

(4) A combustible liquid that is not a hazardous substance or a hazardous waste is not subject to the requirements of this subchapter if it is a mixture of one or more components that—

(i) Have a flash point at or above 93.30 °C (200 °F),

(ii) Comprise at least 99 percent of the volume of the mixture, and

(iii) Is not offered for transportation or transported as a liquid at a temperature at or above its flash point.

§ 173.151 Exceptions for Division 4.1 (flammable solids).

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table of this subchapter.

(b) *Limited quantities of Division 4.1 flammable solids.* Limited quantities of flammable solids (Division 4.1) in Packing Groups II and III are excepted from labeling, unless offered or intended for transportation by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of limited quantities are not subject to Subpart F of Part 172 (Placarding) of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For flammable solids in Packing Group II, inner packagings not over 1.0 kilogram (2.20 pounds) net capacity each, packed in strong outer packagings; and

(2) For flammable solids in Packing Group III, inner packagings not over 5.0 kilograms (11.02 pounds) net capacity each, packed in strong outer packagings.

(c) *Consumer commodities.* A limited quantity which conforms to the provisions of paragraph (b) of this section, and charcoal briquettes in packagings not exceeding 30 kilograms (66.1 pounds) gross weight, may be renamed "Consumer commodity" and reclassed as ORM–D material, if the material is a "consumer commodity" as defined in § 171.8 of this subchapter. In addition to the exceptions provided by paragraph (b) of this section, shipments are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft, and are eligible for the exceptions provided in § 173.156.

§ 173.152 Exceptions for Division 5.1 (oxidizers) and Division 5.2 (organic peroxides).

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table of this subchapter.

(b) *Limited quantities.* Limited quantities of oxidizers (Division 5.1) and organic peroxides (Division 5.2) in Packing Groups II and III are excepted from labeling, unless offered or intended for transportation by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of these limited quantities are not subject to Subpart F of Part 172 (Placarding) of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For oxidizers in Packing Group II, inner packagings not over 1.0 liter (1.06 quarts) net capacity each for liquids or not over 1.0 kilogram (2.20 pounds) net capacity each for solids, packed in strong outer packagings.

(2) For oxidizers in Packing Group III, inner packagings not over 4.0 L (1.06 gallons) net capacity each for liquids or not over 5.0 kilograms (11.02 pounds) net capacity each for solids, packed in strong outer packagings.

(3) For organic peroxides in Packing Groups II and III, inner packagings not over 30 milliliters (1.0 ounce) net capacity for liquids or 30 grams (1.1 ounces) net capacity for solids, packed in strong outer packagings.

(c) *Consumer commodities.* A limited quantity which conforms to the provisions of paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed as ORM–D material. In addition to the exceptions provided by paragraph (b), shipments are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft, and are eligible for the exceptions provided in § 173.156.

§ 173.153 Exceptions for Division 6.1 (poisonous materials).

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table of this subchapter.

(b) *Limited quantities of Division 6.1 materials.* Limited quantities of poisonous materials (Division 6.1) in Packing Group III are excepted from the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of these limited quantities are not subject to Subpart F of Part 172 (Placarding) of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For poisonous liquids, inner packagings not over 4.0 liters (1.06 gallons) net capacity each, packed in strong outer packagings; and

(2) For poisonous solids, inner packagings not over 5.0 kilograms (11.02 pounds) net capacity each, packed in strong outer packagings.

(c) *Consumer commodities.* The following provisions apply to consumer commodities:

(1) A limited quantity which conforms to the provisions of paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed as ORM–D material.

(2) A poisonous material which is a drug or medicine and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed as ORM–D material if packaged in a combination packaging not exceeding 30 kilograms (66.1 pounds) with inner packagings not over 250 milliliters (8.5 ounces) net capacity for liquids or 250 grams (8.8 ounces) net capacity for solids packed in strong outer packagings. Each package must conform to the packaging requirements of Subpart B of this part.

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(3) Packages of ORM–D material are excepted from the specification packaging requirements of this subchapter and from the labeling requirements of Subpart E of Part 172. Shipments of ORM–D material are eligible for the exceptions provided in § 173.156 and in paragraph (b) of this section and are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft.

§ 173.154 Exceptions for Class 8 (corrosive materials).

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table of this subchapter.

(b) *Limited quantities.* Limited quantities of corrosive materials (Class 8) in Packing Groups II and III are excepted from labeling, unless offered or intended for transportation by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of these limited quantities are not subject to Subpart F (Placarding) of Part 172 of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For corrosive materials in Packing Group II, in inner packagings not over 1.0 liters (1.06 quarts) net capacity each for liquids or not over 1.0 kilograms (2.2 pounds) net capacity each for solids, packed in strong outer packagings.

(2) For corrosive materials in Packing Group III, in inner packagings not over 4.0 liters (1.06 gallons) net capacity each for liquids or not over 5.0 kilograms (11.02 pounds) net capacity each for solids, packed in strong outer packagings.

(c) *Consumer commodities.* A limited quantity which conforms to the provisions of paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter may be renamed "Consumer commodity" and reclassed as ORM–D material. In addition to the exceptions provided by paragraph (b) of this section, shipments of ORM–D materials are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft, and are eligible for the exceptions provided in § 173.156.

(d) *Materials corrosive to aluminum or steel only.* Except for a hazardous substance or a hazardous waste, a material classed as a Class 8, Packing Group III, material solely because of its corrosive effect—

(1) On aluminum is not subject to any other requirements of this subchapter when transported by motor vehicle or rail car in a packaging constructed of materials that will not react dangerously with or be degraded by the corrosive material;

(2) On steel is not subject to any other requirements of this subchapter when transported by motor vehicle or rail car in a bulk packaging constructed of materials that will not react dangerously with or be degraded by the corrosive material.

§ 173.155 Exceptions for Class 9 (miscellaneous hazardous materials).

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table of this subchapter.

(b) *Limited quantities.* Limited quantities of miscellaneous hazardous materials (Class 9) are excepted from the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. In addition, shipments of these limited quantities are not subject to Subpart F (Placarding) of Part 172 of this subchapter. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For liquids, inner packagings not over 4.0 liters (1.06 gallons) net capacity each, packed in strong outer packagings.

(2) For solids, inner packagings not over 5.0 kilograms (11.02 pounds) net capacity each, packed in strong outer packagings.

(c) *Consumer commodities.* A limited quantity which conforms to the provisions of paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed as ORM–D material. In addition to the exceptions provided by paragraph (b), shipments of ORM–D materials are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft, and are eligible for the exceptions provided in § 173.156.

§ 173.156 Exceptions for ORM materials.

(a) *General.* Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 Table or in a packaging section in this part.

(b) *ORM–D.* Packagings for ORM–D materials are specified according to hazard class in §§ 173.150 through 173.155 and in § 173.306. In addition to other exceptions specified for ORM–D materials in this part, strong outer packagings as specified in this part and the marking requirements specified in § 172.316 of this subchapter are not required for materials classed as ORM–D when unitized in cages, carts or similar overpacks and when transported by a private or contract motor carrier from a distribution center to a retail outlet.

(c) *ORM–E.* Limited quantities of ORM–E materials are excepted from the specification packaging requirements of this subchapter when packaged according to this paragraph. Each package must conform to the packaging requirements of Subpart B of this part and may not exceed 30 kilograms (66.1 pounds) gross weight. The following combination packagings are authorized:

(1) For liquids, inner packagings not over 4.0 liters (1.06 gallons) net capacity each, packed in strong outer packagings; and

(2) For solids, inner packagings not over 5.0 kilograms (11.02 pounds) net capacity each, packed in strong outer packagings.

Subpart E—Non-Bulk Packaging for Hazardous Materials Other Than Class 1 and Class 7

§ 173.158 Nitric Acid.

(a) Nitric acid exceeding 40 percent concentration may not be packaged with any other material.

(b) Nitric acid in any concentration which does not contain sulfuric acid or hydrochloric acid as impurities, when offered for transportation by rail, highway, or water shall be packaged in specification containers as follows:

(1) 1A1 stainless steel drums are authorized, subject to the following limitations:

(i) Stainless steel used in drums must conform to the following thicknesses:

Nominal (marked) capacity (in liters) of 1A1 drum	Minimum thickness (in millimeters) of stainless steel
55	0.9
115	1.2
210	1.5
450	2.0

(ii) Drums weighing less than 85 percent of their original tare weight may not be used.

(iii) Type 304 or other grades of equivalent corrosion-resistant steels in the as-welded condition are permissible for nitric acid concentrations up to and including 78 percent.

(iv) For all concentrations of nitric acid, the following are permissible:

(A) Type 304 heat-treated (quenched in water at 1900°F.), or

(B) Stabilized Type 347 in the as-welded condition, or

(C) Stabilized Type 347 stress-relieved (1550–1650°F), or

(D) Stabilized Type 347 heat-treated (quenched in water at 1900°F), or

(E) Other grades of equivalent corrosion resistance.

(v) All parts of drum exposed to lading must be capable of withstanding the corrosive effect of nitric acid to the extent that 65 percent boiling nitric acid does not penetrate the metal more than 0.0381 mm (0.0015 inch) per month. (ASTM A 262 may be used for a suitable corrosion test procedure.)

(vi) In addition to marking required by § 178.503 of this subchapter, the following marks, in lettering of at least ½ inch (12.7 mm) height, must be placed on drums used to transport nitric acid:

(A) The type of steel used in body and head sheets as identified by American Iron and Steel Institute type number, and, in addition, the letters HT following the steel designation on containers subject to stress relieving or heat treatment during manufacture.

(B) The thickness in millimeters of metal in thinnest part. When the thickness of metal in the body differs from that in the head, both must be indicated with slanting line between and with the gauge of the body indicated first.

(C) Original tare weight in kilograms, preceded by the letters "TW."

An example of the markings required by paragraph (b)(1)(vi) (A), (B), and (C) of this section "304HT/1.9/2.7/TW55."

(2) 4H1 expanded plastics outer packagings with glass inner receptacles of not greater than 2.5 liters (2.64 quarts) capacity each. No more than four 2.5 liter inner receptacles may be packed in one outer packaging.

(c) Nitric acid of 80 percent or greater concentration which does not contain sulfuric acid or hydrochloric acid as impurities, when offered for transportation by rail, highway, or water may be packaged in 1B1 aluminum drums.

(d) Nitric acid of 90 percent or greater concentration, when offered for transportation by rail, highway, or water may be packaged in 4C1, 4C2, 4D or 4F wooden boxes with inner packagings consisting of glass bottles further individually overpacked in tightly closed metal packagings. Glass bottles must be of 2.5 liters (2.64 quarts) or less capacity and cushioned within the metal packagings.

(e) Nitric acid of less than 90 percent concentration, when offered for transportation by rail, highway, or water may be packaged in 4C1, 4C2, 4D or 4F wooden boxes with inside glass packagings of not over 2.5 liters (2.64 quarts) capacity each.

(f) Nitric acid of 70 percent or less concentration, when offered for transportation by rail, highway, or water, may be packaged as follows:

(1) In composite packagings 6PA1, 6PA2, 6PB1, 6PB2, 6PC, 6PD1, 6PH1, or 6PH2.

(2) In 4H1 expanded plastic boxes with inner glass packagings of not over 2.5 liters (2.64 quarts) each.

(g) Nitric acid of more than 70 percent concentration, when offered for transportation by cargo aircraft only, must be packaged in combination packagings with 1A2, 1B2, 1D, 1G, 1H2, 3H2, 4C1, 4C2, 4D, 4F or 4G outer packagings with glass or earthenware inner packagings of not over 1 liter (2.11 pints) or glass ampoules of not over 0.5 liter (1.06 pints).

(h) Nitric acid of less than 70 percent concentration, when offered for transportation in cargo aircraft only must be packaged in combination packagings with 1A2, 1B2, 1D, 1G, 1H2, 3H2, 4C1, 4C2, 4D, 4F or 4G outer packagings with inner packagings of—

(1) Glass or earthenware not over 2.5 liter (2.64 quarts) capacity;

(2) Plastic not over 2.5 liter (2.64 quarts) capacity; or

(3) Glass ampoule not over 0.5 liter (1.06 pints) capacity.

§ 173.159 Batteries, wet.

(a) Electric storage batteries, containing electrolyte acid or alkaline corrosive battery fluid, must be completely protected so that short circuits will be prevented; they may not be packed with other materials except as provided in §§ 173.220 and 173.222 of this part and paragraphs (h) and (i) of this section.

(b) The following specification packagings are authorized for batteries packed without other materials:

(1) 4C1, 4C2, 4D, or 4F wooden boxes.

(2) 4G fiberboard boxes.

(c) The following non-specification packagings are authorized for batteries packed without other articles:

(1) Electric storage batteries protected against short circuits and firmly secured to skids or pallets capable of withstanding the shocks normally incident to transportation, are authorized for transportation by rail, highway, or water. The height of the completed unit must not exceed 1½ times the width of the skid or pallet. The unit must be capable of withstanding, without damage, a superimposed weight equal to two times the weight of the unit or, if the weight of the unit exceeds 2,000 pounds (907.2 kg), a superimposed weight of 4,000 pounds (1814.4 kg). Battery terminals must not be relied upon to support any part of the superimposed weight.

(2) Electric storage batteries weighing 500 pounds (226.8 kg) or more, consisting of carriers' equipment, may be shipped by rail when mounted on suitable skids and protected against short circuits. Such shipments must not be offered in interchange service.

(3) One to three batteries not over 25 pounds (11.3 kg) each packed in outer boxes. The maximum authorized gross weight is 75 pounds (34.0 kg).

(4) Not more than four batteries not over 15 pounds (6.8 kg) each, packed in strong outer fiberboard or wooden boxes. Batteries must be securely cushioned and packed to prevent short circuits. The maximum authorized gross weight is 65 pounds (29.5 kg).

(5) Not more than five batteries not over 10 pounds (4.5 kg) each, packed in strong outer fiberboard or wooden boxes. Batteries must be securely cushioned and packed to prevent short circuits. The maximum authorized gross weight is 65 pounds (29.5 kg).

(6) Single batteries not exceeding 75 pounds (34.0 kg) each, packed in 5-sided slipcovers or in completely closed fiberboard boxes. Slipcovers and boxes must be of solid or double-faced corrugated fiberboard of at least 200 pounds (9.07 kg) Mullen test strength. The slipcover or fiberboard box must fit snugly and provide inside top clearance of at least ½ inch (1.27 cm) above battery terminals and filler caps with reinforcement in place. Assembled for shipment, the bottom edges of the slipcover must come to within one inch (2.54 cm) of the bottom of the battery. The completed package (battery and box or slipcover) must be capable of withstanding a top-to-bottom compression test of at least 500 pounds (226.8 kg) without damage to battery terminals, cell covers or filler caps.

(d) Nonspillable wet electric storage batteries capable of withstanding the following two tests without leakage of battery fluid are excepted from all other requirements of this subchapter when

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protected against short circuits and securely packaged:

(1) *Vibration test.* The battery must be rigidly clamped to the platform of a vibration machine and a simple harmonic motion having an amplitude of 0.8 mm (0.03 inch), with a 1.6 mm (0.06 mm) maximum total excursion must be applied. The frequency must be varied at the rate of 1 Hz/min between the limits of 10 Hz to 55 Hz. The entire range of frequencies and return must be traversed in 95 ± 5 minutes for each mounting position (direction of vibrator) of the battery. The battery must be tested in three mutually perpendicular positions (to include testing with fill openings and vents, if any, in an inverted position) for equal time periods.

(2) *Pressure differential test.* Following the vibration test, the battery must be stored for six hours at 24 °C ± 4 °C (75.2 °F ± 7.2 °F) while subjected to a pressure differential of at least 88 kPa (12.8 psi). The battery must be tested in three mutually perpendicular positions (to include testing with fill openings and vents, if any, in an inverted position) for at least six hours in each position.

(e) Electric storage batteries containing electrolyte or corrosive battery fluid are not subject to the requirements of this subchapter for carriage by highway or rail if all of the following requirements are met:

(1) No other hazardous materials may be transported in the same vehicle.

(2) The batteries must be loaded or braced so as to prevent damage and short circuits in transit.

(3) Any other material loaded in the same vehicle must be blocked, braced, or otherwise secured to prevent contact with or damage to the batteries, and

(4) The transport vehicle may not carry material shipped by any person other than the shipper of the batteries.

(f) Electric storage batteries, containing electrolyte or corrosive battery fluid in a coil from which it is injected into the battery cells by a gas generator and initiator assembled with the battery, and which are nonspillable under the criteria of paragraph (d) of this section, are excepted from other requirements of this subchapter when examined by the Bureau of Explosives and approved by the Director, OHMT.

(g) Electrolyte, acid, or alkaline corrosive battery fluid, packed with storage batteries wet or dry, must be packed in one of the following specification packagings:

(1) In 4C1, 4C2, 4D, or 4F wooden boxes with inner receptacles of glass, not over 4.0 liters (1.06 gallons) each with not over 8.0 liters (2.11 gallons) total in each outside container. Inside containers must be well-cushioned and separated from batteries by a strong solid wooden partition. The completed package must conform to Packing Group III requirements.

(2) Electrolyte, acid, or alkaline corrosive battery fluid included with storage batteries and filling kits may be packed in strong plywood or wooden boxes when shipments are made by, for, or to the Departments of the Army, Navy, or Air Force of the United States. Packagings must conform to military specifications. The electrolyte, acid, or alkaline corrosive battery fluid must be packed in polyethylene bottles of not over 1.0 liter (1.06 quarts) capacity each; Not more than 24 bottles, securely separated from storage batteries and kits, may be shipped in each package.

(3) In 4G fiberboard boxes with not more than 12 inside packagings of polyethylene or other material resistant to the lading, each not over 2.0 liters (2.11 quarts) capacity each. Completed packages must conform to Packing Group III requirements. Inner packagings must be adequately separated from the storage battery. The maximum authorized gross weight is 65 pounds (29.5 kg). These packages are not authorized for transportation by aircraft.

(h) Dry storage batteries or battery charger devices may be packaged in 4G fiberboard boxes with inner receptacles containing battery fluid. Completed packagings must conform to Packing Group III requirements. Not more than 12 inner receptacles may be packed in one outer box. The maximum authorized gross weight is 75 pounds (34.0 kg).

§ 173.160 Bombs, smoke, non-explosive (corrosive).

Bombs, smoke, non-explosive, may be shipped provided they are without ignition elements, bursting charges, detonating fuses or other explosive components. They must be packaged in wooden (4C1, 4C2), plywood (4D) or reconstituted wood (4F) boxes, or plywood drums (1D), which meet Packing Group II requirements.

§ 173.161 Chemical kits.

(a) Except as otherwise provided, chemical kits must be packed, marked, and labeled as prescribed by this subchapter for the specific corrosive materials contained therein.

(b) Chemical kits containing limited quantities of corrosive liquids in inner receptacles of not over 6 fluid ounces (177.4 mL) capacity each are excepted from labeling (except when offered for transportation by air) and the specification packaging requirements of this subchapter if all of the following requirements are met:

(1) The kit may contain only corrosive liquids for which packaging exceptions are provided in the § 172.101 table.

(2) The kit must be a strong wooden or metal outer packaging, or must be packed in a strong wooden or metal packaging.

(3) The corrosive liquids must be cushioned with sufficient absorbent material to completely absorb the contents of the individual containers, and must be protected from damage by other materials in the kit.

(4) The contents of the kit must be of a nature and packed so there will be no possibility of the mixture of contents causing dangerous evolution of heat or gas.

In addition, these shipments are not subject to Subpart F of Part 172 of this subchapter (Placarding), to Part 174 (Carriage by rail) of this subchapter except § 174.24 (Shipping papers) and to Part 177 (Carriage by highway) of this subchapter except § 177.817 (Shipping papers).

(c) Except as provided in paragraph (b) of this section, chemical kits must be packed in 4G fiberboard boxes with inner glass receptacles of not over one liter (1.06 quart) capacity each, securely cushioned and separated from other inside containers. The contents of the kit must be of such a nature and so packed that there will be no possibility of the mixture of contents causing dangerous evolution of heat or gas.

§ 173.162 Gallium.

Gallium metal must be packaged in packagings intended to contain liquids consisting of semi-rigid plastic inner packagings of not more than 2.5 kg (5.51 pounds) net capacity each, individually enclosed in a sealed leak-tight bag of strong puncture-resistant material. The sealed bags must be packed in wooden (4C1, 4C2), plywood (4D), reconstituted wood (4F), fiberboard (4G) or plastic (4H1, 4H2) boxes or in fiber (1G) or steel (1A2) drums, which are lined with leak-tight, puncture-resistant material. Bags and liner material must be chemically resistant to gallium. If it is desired to maintain the gallium in a completely solid state, the above packaging may be overpacked in a strong, water-resistant outer packaging which contains dry ice or other means of refrigeration. If a refrigerant is used, all of the above materials used in the packaging of gallium must be chemically and physically resistant to the refrigerant and must have impact resistance at the low temperatures of the refrigerant employed. If dry ice is used, the outer packaging must permit the release of carbon dioxide gas. Completed

packaging must meet Packing Group I requirements for transportation by aircraft and Packing Group III requirements for transportation by vessel.

§ 173.163 Hydrogen fluoride.

Hydrogen fluoride (hydrofluoric acid, anhydrous) must be shipped in Specification 3, 3A, 3AA, 3B, 3C, 3E, 4, 4A, 25, or 38 cylinders; or Specification 4B, 4BA, 4BW or 4C cylinders, if they are not brazed. Filling density must not exceed 85 percent of the water weight capacity of the cylinder. Cylinders used exclusively in this service may, in lieu of the periodic hydrostatic retest required by § 173.34(e), be given a complete external visual inspection as described in CGA Pamphlet C–6, at the time such periodic retest becomes due. Such inspections shall be made on cylinders cleaned to bare metal. The results shall be recorded on a data sheet, completed copies of which shall be kept as prescribed in § 173.34(e)(5). Items which must be checked and recorded on these data sheets are: Date of inspection (month and year); DOT specification number; cylinder identification (registered symbol and serial number, date of manufacture, and if needed for adequate identification, ownership symbol); tare weight; physical condition (record specifically any leakage, corrosion, gouges, dents or digs in shell or heads, broken or damaged footring or protective ring or fire damage); disposition of cylinders (returned to service, to cylinder manufacturer for repairs, or scrapped). A cylinder which passes the inspection prescribed shall have the data recorded in the manner presently prescribed for the recording of the retest date except that an "E" is to follow the date (month and year) indicating requalification by the external inspection method. Cylinders removed from this service for any reason must be rendered unfit for any other regulated service.

§ 173.164 Mercury (metallic and articles containing mercury).

(a) For transportation by aircraft, mercury shall be packaged in packagings which meet the requirements of Part 178 at the Packing Group I performance level, as follows:

(1) In earthenware or glass or suitable plastic inner packagings of not more than 250 mL (8.5 ounces) capacity each, packed in steel drums (1A2), steel jerricans (3A2), wooden (4C1, 4C2), plywood (4D), fiberboard (4G) or reconstituted wood (4F) boxes, plywood drums (1D) or fiber drums (1G) with sufficient cushioning material to prevent breakage. Either the inner packagings or the outer packagings must have inner linings or bags of strong leakproof and puncture-resistant material impervious to mercury, completely surrounding the contents, which will prevent the escape of mercury from the package irrespective of its position.

(2) Iron or steel 'quicksilver flasks' packaged in steel drums (1A2), steel jerricans (3A2), wooden (4C1, 4C2), plywood (4D), fiberboard (4G) or reconstituted wood (4F) boxes, plywood drums (1D) or fiber drums (1G) with leakproof linings as in subparagraph (1) of this paragraph.

(3) In welded steel bottles with inner vaulted bottoms as single packagings. The closure must be a bolt with a conical thread, and the opening must not exceed 20 mm (0.8 inches). The maximum net mass must not exceed 35 kg (77.2 pounds).

(b) Manufactured articles or apparatuses containing mercury are excepted from the specification packaging requirements of this subchapter, when packaged as follows:

(1) Manufactured articles or apparatuses of which metallic mercury is a component part, such as manometers, pumps, thermometers, switches, etc. (for electron tubes, mercury vapor tubes and similar tubes, see paragraph (b)(2) of this section), must be in strong outer packagings, having sealed inner liners or bags of strong leakproof and puncture-resistant material impervious to mercury, which will prevent the escape of mercury from the package irrespective of its position. Mercury switches and relays are excepted from these requirements, if they are of the totally enclosed leakproof type in sealed metal or plastic units. Thermometers, switches and relays, each containing a total quantity of not more than 15 g (0.5 ounces) of mercury, are also excepted if installed as an integral part of a machine or apparatus and so fitted that shock of impact damage, leading to leakage of mercury, is unlikely to occur under conditions normally incident to transport;

(2) Electron tubes, mercury vapor tubes and similar tubes must be packaged as follows:

(i) Tubes which are packed in strong outer packagings with all seams and joints sealed with self-adhesive, pressure-sensitive tape which will prevent the escape of mercury from the package, are authorized up to a total net quantity of 450 g (15.9 ounces) of mercury per package;

(ii) Tubes with more than 450 g (15.9 ounces) of mercury are authorized only when packed in strong outer packagings, having sealed inner liners or bags of strong leakproof and puncture-resistant material impervious to mercury which will prevent escape of mercury from the package irrespective of its position;

(iii) Tubes which do not contain more than 5 g (0.2 ounce) of mercury each and which are packed in the manufacturer's original packagings, are authorized up to a total net quantity of 30 g (1.1 ounces) of mercury per package;

(iv) Tubes which are completely jacketed in sealed leakproof metal cases are authorized in the manufacturer's original packagings;

(3) For electron tubes, mercury vapor tubes, and similar tubes, the shipper must indicate the quantity of mercury on the shipping paper.

(4) Mercurial barometers conforming to paragraph (b)(1) of this section, which are loaded and unloaded from an aircraft under the supervision of, and accompanied in flight by, a National Weather Service official or similar United States agency official, are excepted from any other requirements of this subchapter.

(c) For transportation by other than aircraft, mercury shall be packaged—

(1) In any packaging which meets the requirements of Part 178 at the Packing Group III performance level; or

(2) In non-specification reusable metal packagings.

(d) Except for a hazardous substance or a hazardous waste or for transportation by aircraft or vessel, packages containing less than 1.0 pound (0.45 kg) net weight of mercury are not subject to the requirements of this subchapter.

§ 173.171 Smokeless powder for small arms.

Smokeless powder for small arms may be classed as a flammable solid, for transportation by highway and rail only, subject to the following conditions:

(a) The smokeless powder must be examined for this classification by the Bureau of Explosives and approved by the Director, OHMT;

(b) The total quantity of smokeless powder in one railcar or motor vehicle may not exceed 100 pounds (45.4 kg) net mass; and

(c) Only combination packagings with inner packagings not exceeding 8 pounds (3.6 kg) net mass are authorized. Inner packagings must be arranged and protected so as to prevent simultaneous ignition of the contents. The complete package must be a type examined by the Bureau of Explosives and approved by the Director, OHMT.

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§ 173.172 Aircraft hydraulic power unit fuel tank.

(a) Aircraft hydraulic power unit fuel tanks containing a mixture of anhydrous hydrazine and monomethyl hydrazine (M86 fuel) and designed for installation as complete units in aircraft are excepted from the specification packaging requirements of this subchapter when they conform to either of the following conditions:

(1) The unit must consist of an aluminum pressure vessel made from tubing and having welded heads. Primary containment of the fuel within this vessel must consist of a welded aluminum bladder having a maximum internal volume of 46L (12.2 gallons). The outer vessel must have a minimum design gauge pressure of 1,275 kPa (184.9 psi) and a minimum burst gauge pressure of 2,755 kPa (399.48 psi). Each vessel must be leak-checked during manufacture and before shipment and must be found leakproof. The complete inner unit must be securely packed in non-combustible cushioning material, such as vermiculite, in a strong outer tightly closed metal packaging which will adequately protect all fittings. Maximum quantity of fuel per unit and package is 42L (11.1 gallons); or

(2) The unit must consist of an aluminum pressure vessel. Primary containment of the fuel within this vessel must consist of a welded hermetically sealed fuel compartment with an elastomeric bladder having a maximum internal volume of 46L (12.2 gallons). The pressure vessel must have a minimum design gauge pressure of 5,170 kPa (749.8 psi). Each vessel must be leak-checked during manufacture and before shipment and must be securely packed in non-combustible cushioning material, such as vermiculite, in a strong outer tightly closed metal packaging which will adequately protect all fittings. Maximum quantity of fuel per unit and package is 42L (11.1 gallons).

§ 173.173 Paint, paint-related material, adhesives, and ink.

(a) Except as otherwise provided in this part, the description "Paint" is the proper shipping name for paint, lacquer, enamel, stain, shellac, varnish, liquid aluminum, liquid bronze, liquid gold, liquid wood filler, and liquid lacquer base. The description "Paint-related material" is the proper shipping name for a paint thinning, reducing or removing compound. However, if a more specific description is listed in the § 172.101 Table of this subchapter, that description must be used.

(b) Paint, paint-related material, adhesives, and ink must be packaged as follows:

(1) As prescribed in § 173.202 of this part if it is a Packing Group II material or § 173.203 of this part if it is a Packing Group III material.

(2) In inner glass packagings of not over one liter capacity each or inner metal packagings of not over 5 liters each, packed in a strong outer packaging. Packages must conform to the packaging requirements of Subpart B of this part but need not conform to the requirements of Part 178 of this subchapter.

§ 173.174 Refrigerating machines.

A refrigerating machine assembled for shipment and containing 15 pounds (6.8 kg) or less of a flammable liquid for its operation in a strong, tight receptacle is excepted from labeling (except when offered for transportation by air) and the specification packaging requirements of this subchapter. In addition, shipments are not subject to Subpart F of Part 172 of this subchapter (Placarding), to Part 174 of this subchapter (Carriage by rail) except § 174.24 (Shipping papers) and to Part 177 (Carriage by highway) of this subchapter except § 177.817 (Shipping papers).

§ 173.180 Aircraft thrust devices.

(a) Aircraft thrust devices for assisted take-off and their igniters must be of a type examined by the Bureau of Explosives and approved by the Director, OHMT. They must be properly marked and must be shipped in an inoperable condition, and must be packaged as authorized in paragraph (b) of this section.

(b) Devices must be packed in outer wooden (4C1, 4C2), plywood (4D) or reconstituted wood (4F) boxes with one of the following inner packaging provisions:

(1) Aircraft thrust devices only;

(2) Igniters for aircraft thrust devices only packed in sealed metal inner packagings; or,

(3) Aircraft thrust devices together with igniters in same outer packaging provided igniters are packed separately. Igniters must be packed in strong inner packagings and then in separate sealed metal packagings.

§ 173.181 Pyrophoric materials (liquids).

When the § 172.101 Table specifies that a hazardous material be packaged under this section, only the following non-bulk packagings are authorized:

(a) Specification steel or nickel cylinders prescribed for any compressed gas except acetylene having a minimum design pressure of 175 psi (1206.6 kPa). Cylinders with valves must be:

(1) Equipped with steel valve protection caps or collars, unless overpacked; or

(2) Overpacked in a wooden box (4C1, 4C2, 4D or 4F); fiberboard box (4G), or plastic box (4H1 or 4H2). Cylinders must be secured to prevent movement in the box and, when shipped, must be so loaded that pressure relief devices remain in the vapor space of the cylinder. (See §§ 173.34(d)(7), 174.300(d) and 177.837(d) of this subchapter.)

(b) Wooden boxes (4C1, 4C2, 4D or 4F) or fiberboard boxes (4G) enclosing not more than four strong, tight metal cans with inner receptacles of glass or metal, not over one liter (1.06 quarts) capacity each, having positive screwcap closures adequately gasketed. Inner packagings must be cushioned on all sides with dry, absorbent, incombustible material in a quantity sufficient to absorb the entire contents. The strong, tight metal cans must be closed by positive means, not by friction.

(c) Steel drums (1A2) not exceeding 220 liters (58.1 gallons) capacity each with inner metal cans not over 4.0 liters (1.06 gallons) capacity each, constructed of not less than 28 gauge (0.0149 inch (0.3785 mm) nominal thickness) electro-coated tin plate closed by positive means, not friction.

(1) Inner packagings must have no opening exceeding 25 mm (1.0 inches) diameter and must be surrounded with noncombustible cushioning material.

(2) Net quantity of pyrophoric liquids may not exceed two-thirds of the rated capacity of the outer drum. For example, a 220 liter (58.1 gallon) outer drum may contain no more than 147 liters (38.8 gallons) of pyrophoric liquids.

(3) Each layer of inner containers must be separated by a tin plate separator in addition to cushioning material.

§ 173.182 Barium azide—50 percent or more water wet.

Barium azide—50 percent or more water wet, must be packed in wooden boxes (4C1, 4C2, 4D, or 4F) or fiber drums (1G) with inner glass packagings not over 0.5 kg (1.1 pounds) capacity each. Packagings must have rubber stoppers wire tied for securement. If shipment is to take place at a time freezing weather is anticipated, a suitable antifreeze solution must be used to prevent freezing. Each packaging must conform to the requirements of Part 178 of this subchapter at the Packing Group I performance level.

§ 173.183 Nitrocellulose base film.

Films, nitrocellulose base, must be packaged in packagings conforming to the requirements of Part 178 of this subchapter at the Packing Group III performance level, as follows:

(a) In steel drums (1A2), aluminum drums (1B2), steel jerricans (3A2), wooden (4C1, 4C2), plywood (4D) or reconstituted wood (4F) boxes or plywood drums (1D) with each reel in a tightly closed metal can or strong cardboard or fiberboard inner packaging with cover held in place by adhesive tape or paper; or

(b) In fiberboard (4G) boxes or fiber drums (1G) with a single tightly closed metal can or strong cardboard or fiberboard inner packaging with cover held in place by adhesive tape or paper; authorized only for not over 600 m (1968.5 ft.) of film.

§ 173.184 Highway or rail fusee.

(a) A fusee is a device designed to burn at a controlled rate and to produce visual effects for signaling purposes. The composition of the fusee must be such that the fusee will not ignite spontaneously or undergo marked decomposition when subjected to a temperature of 75 °C (167 °F) for 48 consecutive hours.

(b) Fusees (highway and railway) must be packaged in steel drums (1A2), steel jerricans (3A2), wooden (4C1, 4C2), plywood (4D) or reconstituted wood (4F) boxes or in fiberboard boxes (4G), plywood (1D) or fiber (1G) drums. If the fusees are equipped with spikes, packagings must have reinforced ends to prevent penetration of spikes through the outer packagings; packages must be capable of passing drop test requirements (§ 178.603 of this subchapter), including at least one drop with spike in a downward position, and other requirements of Part 178 of this subchapter, at the Packing Group II performance level.

§ 173.185 Lithium batteries and cells.

(a) Except as provided in paragraphs (i) and (j) of this section, lithium cells and batteries, containing only metallic lithium and vanadium pentoxide, manganese dioxide, monofluorographite, sulfur dioxide, lithium bromide salts, acetonitrile, propylene carbonate, thionyl chloride, sulphuryl chloride, chlorine poly-carbon monofluoride, lithium tetrachloroaluminate, lithium perchlorate, or lithium tetrafluoroborate, are authorized for transportation when packaged in accordance with paragraphs (b) through (g) and tested in accordance with paragraph (h) of this section. Other types of lithium cells, batteries, and devices containing lithium batteries, must be transported by methods approved by the Director, OHMT.

(b) No cell may contain more than 12 grams (0.42 ounces) of lithium or lithium alloy.

(c) Each cell and battery must be equipped with an effective means of preventing external short circuits.

(d) Each cell and battery must incorporate a safety venting device or be designed in a manner that will preclude a violent rupture when subject to an incident in transportation, such as a dead short.

(e) Batteries containing cells or series of cells connected in parallel must be equipped with diodes to prevent reverse current flow.

(f) Except as provided in paragraph (j) of this section, cells or batteries may not be offered for transportation or transported if any cell has been discharged to the extent that the open circuit voltage is less than two volts or is less than ⅔ of the voltage of the fully charged cell whichever is less.

(g) Lithium cells and batteries must be packaged in packagings conforming to the requirements of Part 178 of this subchapter at the Packing Group II performance level, as follows:

(1) In strong inner fiberboard packagings containing not more than 500 grams (1.10 pounds) of lithium per inner packaging.

(2) For shipment by water, rail or highway, inner packagings must be packed within a wooden box (4C1, 4C2, 4D, or 4F), fiberboard box (4G), fiber drum (1G), or metal drum (1A2 or 1B2).

(3) For shipment by cargo-only aircraft, the inner packaging must be packed in a steel drum (1A2) with a gas tight gasket. The maximum gross weight of the package must not exceed 35 kg (77.18 pounds).

(4) When the outer packaging is a metal drum, inner packagings must be separated from each other and from the outer packaging by at least 25 mm (one inch) of non-combustible cushioning material.

(h) Lithium batteries and cells must be tested as follows:

(1) The cell or battery must be subjected to a thermal stability test at 75 °C (167.0 °F) for 48 hours and must show no evidence of distortion, leakage or internal heating. This test must be performed on at least 10 cells and 1 battery of each type taken from each week's production, or as otherwise approved by the Director, OHMT.

(2) Under application of a direct short, the cell or battery must be rendered inert, preferably without venting (through the use of internal fusing devices). If venting does occur, an open flame must be applied to the venting fumes to prove that an explosive condition does not exist. This test must be performed on at least 3 cells and 1 battery of each type taken from each week's production, or as otherwise approved by the Director, OHMT.

(3) Cells containing no more than 12 grams of lithium metal and also containing lithium molybdenum disulfide and lithium hexafluoroarsenate or vanadium pentoxide, polycarbonmonofluoride, manganese dioxide, titanium disulfide, thionyl chloride and lithium tetrachloroaluminate, lithium tetrafluorobonate or acetonitrile and sulfur dioxide, or thionyl chloride/bromine complex or sulfuryl chloride and chlorine which are hermetically sealed, and batteries constructed of such cells, are excepted from the tests in paragraphs (h) (1) and (2) of this section, and the requirement to use a 1A2 steel drum for transportation by cargo aircraft only as an outer packaging provided that:

(i) The outer packaging conforms to paragraph (g)(2) of this section; and

(ii) Prior to the first shipment, 10 cells or 4 batteries of each type to be offered for transportation, or as otherwise approved by the Director, OHMT, must be tested as follows, without showing any evidence of out-gassing, leakage, loss of weight or distortion:

(A) The cells or batteries must be stored for 6 hours at an absolute pressure of 11.6 kPa (1.68 psi) and a temperature of 24 °C±4 °C; (75.2 °F±7.2 °F);

(B) The cells or batteries must then be subjected to the thermal stability test at 75 °C (167 °F) for 48 hours as required in paragraph (h)(1) of this section;

(C) The cells or batteries must be rigidly clamped to the platform of a vibration machine. A simple harmonic motion having an amplitude of 0.8 mm (1.6 mm maximum total excursion) must be applied. The frequency must be varied at the rate of 1 Hz/min between the limits of 10 Hz to 55 Hz. The entire range of frequencies and return must be traversed in 95±5 minutes for each of three mutually perpendicular mounting positions of the battery and two perpendicular positions of the cells. One of the directions of vibration must be perpendicular to the terminal face of the battery or cell. Open circuit voltage must be observed for 30 seconds during the last quarter of each vibration period. Periodic retesting is not required;

(D) The battery must be secured to a shock testing machine by means of a rigid mount which will support all mounting surfaces of the battery. Each battery must be subjected to a total of three shocks of equal magnitude. The shocks must be applied in each of three

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mutually perpendicular directions. Each shock must be applied in a direction normal to a face of the battery. For each shock, the battery must be accelerated in such a manner that during the first 3 milliseconds the minimum average acceleration is 75 g (where g is the local acceleration due to gravity). The peak acceleration must be between 125 g and 175 g.

(i) Lithium batteries comprised of one or more cells are not subject to the requirements of this subchapter, if they meet the following requirements:

(1) Each cell may contain no more than 0.5 gram of lithium or lithium alloy.

(2) Each battery may contain an aggregate quantity of no more than 1 gram of lithium or lithium alloy.

(3) Each cell must be hermetically sealed.

(4) Cells must be separated so as to prevent short circuits.

(5) Batteries must be packed in strong outer packagings except when installed in electronic devices.

(6) If a battery contains more than 0.5 gram of lithium or lithium alloy, it may not contain a liquid or gas that is a hazardous material according to this subchapter unless the liquid or gas, if free, would be completely absorbed or neutralized by other materials in the battery.

(j) Lithium batteries, for disposal, comprised of one or more cells, may be offered for transportation to a permitted storage facility and disposal site by motor vehicle only, if the battery—

(1) When new, contained not more than 12.0 grams (0.42 ounce) of lithium per cell;

(2) Is equipped with an effective means of preventing external short circuits; and

(3) Is packed in a strong outer packaging conforming to the requirements of §§ 173.24 and 173.24a. The packaging need not conform to Part 178 performance requirements.

§ 173.186 Matches.

(a) Matches must be of a type which will not ignite spontaneously or undergo marked decomposition when subjected for 8 consecutive hours to a temperature of 93.3 °C (200 °F).

(b) *Definitions.* (1) "Fusee matches" are matches the heads of which are prepared with a friction sensitive igniter composition and a pyrotechnic composition which burns with little or no flame, but with intense heat.

(2) "Safety matches" are matches combined with or attached to the box, book or card that can be ignited by friction only on a prepared surface.

(3) "Strike anywhere" matches are matches that can be ignited by friction on a solid surface.

(4) "Wax 'Vesta' matches" are matches that can be ignited by friction either on a prepared surface or on a solid surface.

(c) Safety matches and wax "Vesta" matches must be tightly packed in securely closed inner packagings to prevent accidental ignition under conditions normally incident to transportation, and further packed in outer fiberboard, wooden, or other equivalent-type packagings. These matches in outer packagings not exceeding 50 pounds (22.7 kg) gross weight are not subject to any other requirement (except marking) of this subchapter. These matches may be packed in the same outer packaging with materials not subject to this subchapter.

(d) Strike anywhere matches may not be packed in the same outer packaging with any material other than safety matches or wax "Vesta" matches, which must be packed in separate inner packagings.

(e) Packagings. Strike anywhere matches must be tightly packed in securely closed chipboard, fiberboard, wooden, or metal inner packagings to prevent accidental ignition under conditions normally incident to transportation. Each inner packaging may contain no more than 700 strike anywhere matches and must be packed in outer steel drums (1A2), aluminum drums (1B2), steel jerricans (3A2), wooden (4C1, 4C2), plywood (4D), reconstituted wood (4F) or fiberboard (4G) boxes, plywood (1D) or fiber (1G) drums. Gross weight of fiberboard boxes (4G) must not exceed 60 pounds (27.2 kg). Gross weight of other outer packagings must not exceed 100 pounds (45.4 kg).

§ 173.187 Pyrophoric solids, metals or alloys, n.o.s.

Packings for pyrophoric solids, metals, or alloys, n.o.s. must conform to the requirements of Part 178 of this subchapter at the packing group performance level specified in the § 172.101 Table. These materials must be packaged as follows:

(a) In wooden boxes (4C1, 4C2, 4D, or 4F) with inner metal receptacles which have a positive (not friction) means of closure and contain not more than 15 kilograms (33.1 pounds) each.

(b) In steel drums (1A1 or 1A2) with a gross mass not exceeding 150 kg (330.7 pounds) per drum.

(c) In fiberboard boxes (4G) with inner metal receptacles which have a positive (not friction) means of closure and contain not more than 7.5 kilograms (16.53 pounds) each.

(d) In fiber drums (1G) with inner metal receptacles which have a positive (not friction) means of closure and contain not more than 15 kilograms (33.1 pounds) each.

(e) In plywood drums (1D) with inner metal receptacles which have a positive (not friction) means of closure and contain not more than 15 kilograms (33.1 pounds) each.

§ 173.188 White or yellow phosphorus.

Phosphorus, white or yellow, when offered for transportation by rail, highway, or water, must be packaged in water or dry in packagings conforming to the requirements of Part 178 of this subchapter at the Packing Group I performance level, as follows:

(a) When placed in water, it must be packaged in specification packagings as follows:

(1) Wooden boxes (4C1, 4C2, 4D, or 4F) with:

(i) Inner hermetically sealed (soldered) metal cans, enclosed in other hermetically sealed (soldered) metal cans, or

(ii) Inner water-tight metal cans containing not over 0.5 kg (1.0 pounds) of phosphorus with screw-top closures.

(2) Metal drums (1A1 or 1A2), not over 115 liters (30.4 gallons) capacity each.

(b) When dry, it must be cast solid and stripped in packagings as follows:

(1) Metal drums (1A2) not over 115 liters (30.4 gallons) capacity each.

(2) In projectiles or bombs when shipped by, for, or to the Departments of the Army, Navy, or Air Force of the United States Government, without bursting elements.

§ 173.192 Packaging for certain Packing Group I poisonous materials.

When § 172.101 of this subchapter specifies that a poisonous material be packaged under this section, only specification cylinders are authorized, as follows:

(a) Specification 3A1800, 3AA1800, 3AL1800, 3D, 3E1800, or 33 cylinders, under the following conditions:

(1) Specification 3A, 3AA and 3AL cylinders may not exceed 125 pounds (56.7 kg) water capacity (nominal).

(2) Specification 3D and 33 cylinders may not exceed 280 pounds (127 kg) water capacity (nominal).

(3) Specification 3AL cylinders containing arsine or phosphine may only be transported by highway and rail.

(b) Packagings must conform to the requirements of § 173.40 of this part.

(c) For cylinders used for phosgene, the filling density may not exceed 125 percent and a cylinder may not contain more than 150 pounds (68.0 kg) of phosgene.

§ 173.193 Bromoacetone, methyl bromide, chloropicrin and methyl bromide or methyl chloride mixtures, etc.

(a) Bromoacetone must be packaged as follows in wooden boxes (4C1, 4C2, 4D or 4F) with inner glass receptacles or tubes in hermetically sealed metal receptacles in corrugated fiberboard cartons. Bottles must not contain over 500 grams (1.1 pounds) of liquid each and be cushioned in cans with at least 1/2 inch (12.7 mm) of absorbent material. Total amount of liquid in outer box must not exceed 11 kg (24.3 pounds). Packagings must conform to the requirements of Part 178 of this subchapter at the Packing Group I performance level.

(b) Bromoacetone, methyl bromide, chloropicrin and methyl bromide mixtures, chloropicrin and methyl chloride mixtures, and chloropicrin mixtures charged with non-flammable, non-liquefied compressed gas must be packed in Specification 3A, 3AA, 3B, 3C, 3E, 4A, 4B, 4BA, 4BW, or 4C cylinders having not over 250 pounds (113.4 kg) water capacity (nominal).

(c) Cylinders must conform to § 173.40.

§ 173.194 Gas identification sets.

Gas identification sets containing poisonous material must be packaged in packagings conforming to the requirements of Part 178 of this subchapter at the Packing Group I performance level, as follows:

(a) In glass inner receptacles, hermetically sealed, of not over 40 milliliters (1.35 fluid ounces) each. Each glass inner receptacle must in turn be placed in a sealed fiberboard receptacle, cushioned with absorbent material. Not more than 12 fiberboard receptacles must in turn be placed in a fiberboard box (4G). No more than four boxes, well-cushioned, must in turn be placed in a steel cylinder. The cylinder must have a wall thickness of at least 3.7 mm (0.146 inch) and must have a hermetically sealed steel closure.

(b) When the poisonous material is adsorbed in a medium such as activated charcoal or silical gel, gas identification sets may be shipped as follows:

(1) If the poisonous material does not exceed 5 milliliters (0.17 fluid ounce) if a liquid or 5 grams (0.18 ounce) if a solid, it may be packed in glass inner receptacles of not over 120 milliliters (4.1 fluid ounce) each. Each glass receptacle, cushioned with absorbent material must be packed in a hermetically sealed metal can of not less than 0.30 mm (0.0120 inch) wall thickness. Metal cans, surrounded on all sides by at least 25 mm (1 inch) of dry sawdust, must be packed in 4C1, 4C2, 4D or 4F wooden boxes. Not more than 100 milliliters (3.38 fluid ounces) or 100 grams (3.53 ounces) of poisonous materials may be packed in one outer wooden box.

(2) If the poisonous material does not exceed 5 milliliters (0.17 fluid ounce) if a liquid or 20 grams (0.7 ounce) if a solid, it may be packed in glass inner receptacles with screw-top closures of not less than 60 milliliters (2.02 fluid ounces), hermetically sealed. Twelve bottles containing poisonous material, not to exceed 100 milliliters, or grams, or both, may be placed in a plastic carrying case, each glass receptacle surrounded by absorbent cushioning and each separated from the other by sponge rubber partitions. The plastic carrying case must be placed in a tightly fitting fiberboard box which in turn must be placed in a tightly fitting 4C1, 4C2, 4D or 4F wooden box.

§ 173.195 Hydrocyanic acid, liquid (prussic acid) and hydrocyanic acid liquefied.

(a) Hydrocyanic acid, liquid (prussic acid) and hydrocyanic acid liquefied, must be packed in specification cylinders as follows:

(1) As prescribed in § 173.192, or

(2) Specification 3A480, 3A480X, 3AA480, or 3AL1800 metal cylinders of not over 126.08 kg (278 pounds) water capacity (nominal). Shipments in 3AL cylinders are authorized only when transported by highway and rail.

(b) Cylinders may not be charged with more than 0.27 kg (0.6 pound) of liquid per 0.45 kg (1 pound) water capacity of cylinder. Each filled cylinder must be tested for leakage before shipment and must show absolutely no leakage; this test must consist in passing a piece of Guignard's sodium picrate paper over the closure of the cylinder, without the protection cap attached, to detect any escape of hydrocyanic acid from the cylinder. Other equally efficient test methods may be used in place of sodium picrate paper.

(c) Packagings for hydrocyanic acid must conform to § 173.40.

§ 173.196 Infectious substances (etiologic agents).

(a) Authorized packagings and components are as follows:

(1) Inner packagings comprising:

(i) A watertight primary receptacle;

(ii) A watertight secondary packaging; and

(iii) An absorbent material must be placed between the primary receptacle and the secondary packaging. If multiple-primary receptacles are placed in a single secondary packaging they must be wrapped individually to ensure that contact between them is prevented. The absorbent material, such as cotton wool, must be sufficient to absorb the entire contents of all primary receptacles.

(2) An outer packaging which is capable of withstanding the specification performance tests found in § 173.465 or § 173.466. Packages consigned as freight must be at least 100 mm (3.94 inches) in the smallest over all external dimension.

(b) For all packages containing infectious substances, an itemized list of contents must be enclosed between the secondary packaging and the outer packaging.

(c) Although exceptional cases, such as whole organs, may require special packaging, the great majority of infectious substances can and must be packaged according to the following guidelines.

(1) *Lypholized substances.* Primary receptacles include flame-sealed glass ampoules or rubber-stopped glass vials fitted with metal seals.

(2) *Liquid or solid substances.* (i) *Substances shipped at ambient temperatures or higher.* Primary receptacles include those of glass, metal or plastic. Positive means of ensuring a leakproof seal, such as heat seal, skirted stopper or metal crimp seal must be provided. If screw caps are used, they must be reinforced with adhesive tape.

(ii) *Substances shipped refrigerated or frozen (ice, pre-frozen packs, dry ice).* Primary receptacles closed by screw caps must not be used. Ice or dry ice must be placed outside the secondary packagings. Interior supports must be provided to secure the secondary packagings in the original position after the ice or dry ice has dissipated. If ice is used, the packaging must be leakproof. If dry ice is used, the outer packaging must permit the release of carbon dioxide gas.

(iii) *Substances shipped in liquid nitrogen.* Primary receptacles must be heat-sealed. Plastic capable of withstanding very low temperatures must be used instead of glass receptacles. Secondary packaging must also withstand very low temperatures and in most cases will need to be fitted over individual primary receptacles. Requirements for shipment of liquid nitrogen must also be observed.

(d) Whatever the intended temperature of shipment, the primary receptacle and secondary packaging used for infectious substances must be capable of withstanding, without

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leakage, an internal pressure which produces a pressure differential of not less than 95 kPa (13.8 psi) and temperatures in the range of −40 °C to +55 °C (−40 °F to +131 °F).

(e) The requirements of this section supplement the requirements of the Department of Health and Human Services contained in 42 CFR Part 72.

(f) Exceptions. The following substances are not subject to any requirements of this subchapter if the items as packaged do not contain any material otherwise subject to the requirements of this subchapter.

(1) Diagnostic specimens.

(2) Biological products.

(3) Cultures of etiologic agents of 50 milliliters (1.67 fluid ounces) or less total quantity in one outside package.

§ 173.198 Nickel carbonyl.

(a) Nickel carbonyl must be packed in specification steel or nickel cylinders as prescribed for any compressed gas except acetylene. A cylinder used exclusively for nickel carbonyl may be given a complete external visual inspection in lieu of the interior hydrostatic pressure test required by § 173.34(e). Visual inspection must be in accordance with CGA Pamphlet C-6.

(b) Packagings for nickel carbonyl must conform to § 173.40.

§ 173.201 Non-bulk packagings for liquid hazardous materials in Packing Group I.

(a) When § 172.101 of this subchapter specifies that a liquid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its transportation. Each packaging must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I performance level, and to the requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer Packagings

Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H1
Solid plastic box: 4H2

Inner Packagings

Glass or earthenware receptacles
Plastic receptacles
Metal receptacles
Glass ampoules

(c) Except for transportation by passenger aircraft, the following single packagings are authorized:

Steel drum: 1A1 or 1A2
Aluminum drum: 1B1 or 1B2
Metal drum other than steel or aluminum: 1N1 or 1N2
Plastic drum: 1H1 or 1H2
Steel jerrican: 3A1 or 3A2
Plastic jerrican: 3H1 or 3H2
Plastic receptacle in steel, aluminum, fiber or plastic drum: 6HA1, 6HB1, 6HG1, 6HH
Plastic receptacle in steel, aluminum, wooden, plywood or fiberboard box: 6HA2, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum or fiber drum: 6PA1, 6PB1 or 6PG1
Glass, porcelain or stoneware in steel, aluminum, wooden or fiberboard box: 6PA2, 6PB2, 6PC or 6PG2
Glass, porcelain or stoneware in solid or expanded plastic packaging: 6PH1 or 6PH2
Plastic receptacle in plywood drum: 6HD1
Glass, porcelain or stoneware in plywood drum or wickerwork hamper: 6PD1 or 6PD2
Cylinders, specification, as prescribed for any compressed gas, except for Specifications 8 and 3HT

§ 173.202 Non-bulk packagings for liquid hazardous materials in Packing Group II.

(a) When § 172.101 of this subchapter specifies that a liquid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its transportation. Each packaging must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I or II performance level (unless otherwise excepted), and to the particular requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer Packagings

Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H1
Solid plastic box: 4H2

Inner Packagings

Glass or earthenware receptacles
Plastic receptacles
Metal receptacles
Glass ampoules

(c) Except for transportation by passenger aircraft, the following single packagings are authorized:

Steel drum: 1A1 or 1A2
Aluminum drum: 1B1 or 1B2
Metal drum other than steel or aluminum: 1N1 or 1N2
Plastic drum: 1H1 or 1H2
Wooden barrel: 2C1
Steel jerrican: 3A1 or 3A2
Plastic jerrican: 3H1 or 3H2
Plastic receptacle in steel, aluminum, fiber or plastic drum: 6HA1, 6HB1, 6HG1 or 6HH
Plastic receptacle in steel, aluminum, wooden, plywood or fiberboard box: 6HA2, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum or fiber drum: 6PA1, 6PB1 or 6PG1
Glass, porcelain or stoneware in steel, aluminum, wooden or fiberboard box: 6PA2, 6PB2, 6PC or 6PG2
Glass, porcelain or stoneware in solid or expanded plastic packaging: 6PH1 or 6PH2
Plastic receptacle in plywood drum: 6HD1
Glass, porcelain or stoneware in plywood drum or wickerwork hamper: 6PD1 or 6PD2
Cylinders, specification, as prescribed for any compressed gas, except for Specifications 8 and 3HT

§ 173.203 Non-bulk packagings for liquid hazardous materials in Packing Group III.

(a) When § 172.101 of this subchapter specifies that a liquid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its transportation. Each packaging must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I, II or III performance level, and to the requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer Packagings

Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H1
Solid plastic box: 4H2

Inner Packagings

Glass or earthenware receptacles
Plastic receptacles
Metal receptacles
Glass ampoules

(c) The following single packagings are authorized:

Steel drum: 1A1 or 1A2
Aluminum drum: 1B1 or 1B2
Metal drum other than steel or aluminum: 1N1
Plastic drum: 1H1 or 1H2
Wooden barrel: 2C1
Steel jerrican: 3A1 or 3A2
Plastic jerrican: 3H1 or 3H2
Plastic receptacle in steel, aluminum, fiber or plastic drum: 6HA1, 6HB1, 6HG1 or 6HH
Plastic receptacle in steel, aluminum, wooden, plywood or fiberboard box: 6HA2, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum or fiber drum: 6PA1, 6PB1 or 6PC1
Glass, porcelain or stoneware in steel, aluminum, wooden or fiberboard box: 6PA2, 6PB2, 6PC or 6PG2
Glass, porcelain or stoneware in solid or expanded plastic packaging: 6PH1 or 6PH2
Plastic receptacle in plywood drum: 6HD1
Glass, porcelain or stoneware in plywood drum or wickerwork hamper: 6PD1 or 6PD2
Cylinders, as prescribed for any compressed gas, except for Specifications 8 and 3HT

§ 173.204 Non-bulk non-specification packagings for certain hazardous materials.

When § 172.101 of this subchapter specifies that a liquid or solid hazardous material be packaged under this section, any appropriate non-bulk packaging which conforms to the general packaging requirements of Subpart B of Part 173 may be used for its transportation. Packagings need not conform to the requirements of Part 178 of this subchapter.

§ 173.205 Specification cylinders for liquid hazardous materials.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, any specification cylinder, except those specified for acetylene, is authorized. Cylinders used for poisonous materials (Division 6.1 or 2.3) must conform to the requirements of § 173.40.

§ 173.211 Non-bulk packagings for solid hazardous materials in Packing Group I.

(a) When § 172.101 of this subchapter specifies that a solid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its transportation. Each package must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I performance level, and to the requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer Packagings

Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H1
Solid plastic box: 4H2

Inner Packagings

Glass or earthenware receptacles
Plastic receptacles
Metal receptacles
Glass ampoules

(c) Except for transportation by passenger aircraft, the following single packagings are authorized:

Steel drum: 1A1 or 1A2
Aluminum drum: 1B1 or 1B2
Metal drum other than steel or aluminum: 1N1 or 1N2
Plastic drum: 1H1 or 1H2
Steel jerrican: 3A1 or 3A2
Plastic jerrican: 3H1 or 3H2
Steel box with liner: 4A2
Aluminum box with liner: 4B2
Natural wood box, sift proof: 4C2
Plastic receptacle in steel, aluminum, plywood, fiber or plastic drum: 6HA2, 6HB1, 6HD1, 6HG1 or 6HH
Plastic receptacle in steel, aluminum, wooden, plywood or fiberboard box: 6HA1, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum, plywood or fiber drum: 6PA1, 6PB1, 6PD1 or 6PG1
Glass, porcelain or stoneware in steel, aluminum, wooden or fiberboard box: 6PA2, 6PB2, 6PC, or 6PG2
Glass, porcelain or stoneware in expanded or solid plastic packaging: 6PH1 or 6PH2

§ 173.212 Non-bulk packagings for solid hazardous materials in Packing Group II.

(a) When § 172.101 of this subchapter specifies that a solid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its transportation. Each package must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I or II performance level, and to the requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer Packagings

Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H1
Solid plastic box: 4H2
Bag, woven plastic: 5H1, 5H2 or 5H3
Bag, textile: 5L1, 5L2 or 5L3
Bag, paper, multiwall, water resistant: 5M2
Plastic receptacle in steel, aluminum, plywood, fiber or plastic drum: 6HA1, 6HB1, 6HD1, 6HG1 or 6HH
Plastic receptacle in steel, aluminum, wood, plywood or fiberboard box: 6HA2, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum, plywood or fiber drum: 6PA1, 6PB1, 6PD1 or 6PG1
Glass, porcelain or stoneware in steel, aluminum, wooden fiberboard box: 6PA2, 6PB2, 6PC or 6PG2
Glass, porcelain or stoneware in expanded or solid plastic packaging: 6PH1 or 6PH2

§ 173.213 Non-bulk packagings for solid hazardous materials in Packing Group III.

(a) When § 172.101 of this subchapter specifies that a solid hazardous material be packaged under this section, only non-bulk packagings prescribed in this section may be used for its transportation. Each package must conform to the general packaging requirements of Subpart B of Part 173, to the requirements of Part 178 at the Packing Group I, II or III performance level, and to the requirements of the

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special provisions of Column 7 of the § 172.101 Table.

(b) The following combination packagings are authorized:

Outer Packagings

Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Solid plastic box: 4H2

Inner Packagings

Glass or earthenware receptacles
Plastic receptacles
Metal receptacles
Glass ampoules

(c) The following single packagings are authorized:

Steel drum: 1A1 or 1A2
Aluminum drum: 1B1 or 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H1 or 1H2
Metal drum other than steel or aluminum: 1N1 or 1N2
Wooden barrel: 2C1 or 2C2
Steel jerrican: 3A1 or 3A2
Plastic jerrican: 3H1 or 3H2
Steel box with liner: 4A2
Steel box: 4B1
Aluminum box with liner: 4B2
Natural wood box: 4C1
Natural wood box, sift proof: 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H2
Solid plastic box: 4H2
Bag, woven plastic: 5H1, 5H2 or 5H3
Bag, textile: 5L1, 5L2 or 5L3
Bag, paper, multiwall, water resistant: 5M2
Plastic receptacle in steel, aluminum, plywood, fiber or plastic drum: 6HA1, 6HB1, 6HD1, 6HG1 or 6HH
Plastic receptacle in steel, aluminum, wood, plywood or fiberboard box: 6HA2, 6HB2, 6HC, 6HD2 or 6HG2
Glass, porcelain or stoneware in steel, aluminum, plywood or fiber drum: 6PA1, 6PB1, 6PD1 or 6PG1
Glass, porcelain or stoneware in steel, aluminum, wood or fiberboard box: 6PA2, 6PB2, 6PC or 6PG2
Glass, porcelain or stoneware in expanded or solid plastic packaging: 6PH1 or 6PH2

§ 173.214 Packagings which require approval by the Director, OHMT.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, packagings and method of shipment must be approved by the Director, OHMT, prior to the first shipment.

§ 173.216 Asbestos, blue or white.

(a) Asbestos, blue or white, includes each of the following hydrated mineral silicates: Chrysolite, crocidolite, amosite, anthophyllite asbestos, tremolite asbestos, actinolite asbestos, and every product containing any of these materials.

(b) Commercial asbestos is any material or product containing asbestos that has commercial value because of its asbestos content.

(c) Asbestos which is immersed or fixed in a natural or artificial binder material (such as cement, plastic, asphalt, resins or mineral ore), waste asbestos, and manufactured products containing asbestos or any materials or products whose commercial value is not dependent on their asbestos content, are not subject to the requirements of this subchapter.

(d) Packagings for commercial asbestos must conform to the general packaging requirements of Subpart B of this part but need not conform to the requirements of Part 178 of this subchapter. Commercial asbestos must be offered for transportation and transported in—

(1) Rigid, leaktight packagings, such as metal or fiber drums, portable tanks, hopper-type rail cars, or hopper-type motor vehicles;

(2) Bags or other non-rigid packagings in closed freight containers, motor vehicles, or rail cars that are loaded by and for the exclusive use of the consignor and unloaded by the consignee;

(3) Bags or other non-rigid packagings which are dust-and sift-proof. When transported by other than private carrier by highway, such packagings containing asbestos must be palletized and unitized by methods such as shrink-wrapping in plastic film or wrapping in fiberboard secured by strapping. Pallets need not be used during transportation by vessel for loads with slings that are unitized by methods such as shrink-wrapping, if the slings adequately and evenly support the loads and the unitizing method prevents shifting of the bags or other non-rigid packagings during conditions normally incident to transportation; or

(4) Bags or other non-rigid packagings which are dust-and sift-proof in strong outside fiberboard or wooden boxes.

§ 173.217 Carbon dioxide, solid (dry ice).

(a) Carbon dioxide, solid (dry ice), when offered for transportation by aircraft or water, must be packed in packagings designed and constructed to permit the release of carbon dioxide gas to prevent a build-up of pressure that could rupture the packagings. Packagings must conform to the general packaging requirements of Subpart B of this part but need not conform to the requirements of Part 178 of this subchapter. For each shipment by air exceeding five pounds per package, advance arrangements between the shipper and each carrier must be made.

(b) Railroad cars and motor vehicles containing solid carbon dioxide, when accepted for transportation on board ocean vessels, must be conspicuously marked on two sides "WARNING CO_2 SOLID (DRY ICE)."

(c) Other packagings, when accepted for transportation on board ocean vessels, must be marked "CARBON DIOXIDE, SOLID—DO NOT STOW BELOW DECKS."

(d) Not more than 200 kg (440.9 lbs) of solid carbon dioxide may be transported in any one cargo compartment or bin on any aircraft except by specific and special arrangement between the shipper and the aircraft operator.

(e) Carbon dioxide, solid (dry ice) is excepted from the shipping paper and certification requirements of this subchapter if the requirements of paragraphs (a) and (d) of this section are complied with and the package is marked "Carbon dioxide, solid" or "Dry ice" and marked with an indication that the material being refrigerated is used for diagnostic or treatment purposes (e.g., frozen medical specimens).

§ 173.218 Fish meal or fish scrap.

(a) Except as provided in paragraph (b) of this section, fish meal or fish scrap, containing at least 6 percent but not more than 12 percent water, is authorized for transportation by water only when packaged as follows:

(1) Burlap (jute) bag;
(2) Multi-wall paper bag;
(3) Polyethylene-lined burlap or paper bag;
(4) Cargo tank;
(5) Portable tank;
(6) Rail car; or
(7) Freight container.

(b) Fish meal or fish scrap may not be offered for transportation if the temperature of the material exceeds 49 °C (120.2 °F).

(c) When fish scrap or fish meal is offered for transportation by vessel in bulk in freight containers, the fish meal must contain at least 100 PPM of anti-oxident (ethoxyquin) at the time of shipment.

§ 173.219 Life rafts, aircraft survival kits, etc.

(a) A life raft or aircraft survival kit or aircraft evacuation slide containing small quantities of hazardous materials which are required as part of the life-saving appliance must conform to the requirements of this section. Packagings are excepted from the specification packaging requirements of this subchapter.

(b) Hazardous materials must be packaged as follows:

(1) Non-flammable compressed gases must be packaged in cylinders in accordance with the requirements of this subchapter;

(2) Smoke and illumination signal flares must be in plastic or fiberboard receptacles;

(3) Strike-anywhere matches must be cushioned to prevent movement or friction in a cylindrical metal or composition receptacle with a screw-type closure;

(4) Flammable liquids must be in strong inner packagings in a repair kit; and

(5) Limited quantities of other hazardous materials are permitted if packaged in accordance with the requirements of this subchapter.

(c) Materials not subject to the requirements of this subchapter which are an integral part of the life-saving appliance must be packaged in a strong fiberglass kit case which is overpacked in a waterproof fiberboard packaging, or be packaged in other strong outer packagings.

§ 173.220 Internal combustion engines, self-propelled vehicles, and mechanical equipment containing internal combustion engines or wet batteries.

(a) *Applicability.* An internal combustion engine, self-propelled vehicle, or mechanized equipment is subject to the requirements of this subchapter when transported as cargo on a transport vehicle if—

(1) The engine or fuel tank contains a flammable liquid or gaseous fuel;

(2) It is equipped with a wet electric storage battery other than a non-spillable battery; or

(3) It contains other hazardous materials subject to the requirements of this subchapter.

(b) *Flammable liquid fuel.* Except as provided in this paragraph, flammable liquid fuel tanks must be completely drained and securely closed. Up to 500 milliliters (16.9 ounces) of fuel may be left in engine components and fuel lines provided the lines are securely closed to prevent leakage of fuel. Fuel may remain in engines and tanks installed in self-propelled vehicles and mechanical equipment under the following conditions:

(1) For transportation by motor vehicle or rail car, the fuel tanks must be securely closed.

(2) For transportation by vessel, the shipment must conform to § 176.905 of this subchapter; and

(3) For transportation by aircraft, the shipment must conform to § 175.305 of this subchapter.

(c) *Wet batteries.* Wet batteries must either be installed, securely fastened in an upright position, and protected against short circuits and leakage or be removed and packaged separately under § 173.159. In addition—

(1) For transportation by vessel, the shipment must conform to § 176.905 of this subchapter; and

(2) For transportation by passenger-carrying aircraft, a wheelchair equipped with a wet battery must conform to § 173.222.

(d) *Truck bodies or trailers on flat cars.* Truck bodies or trailers with automatic heating or refrigerating equipment of the flammable liquid type may be shipped with fuel tanks filled and equipment operating or inoperative, when used for the transportation of other freight and loaded on flat cars as part of a joint rail and highway movement, provided the equipment and fuel supply conform to the requirements of § 177.834(1) and are of a type examined by the Bureau of Explosives and approved by the Director, OHMT.

(e) *Gases.* Compressed gas tanks and cylinders, containing gases, which are component parts of vehicles or mechanical equipment must conform to § 173.306.

(f) *Other hazardous materials.* Other hazardous materials must be packaged and transported in accordance with the requirements of this subchapter.

(g) *Exceptions.* Except as provided in paragraph (f) of this section, shipments made under the provisions of this section—

(1) Are not subject to any other requirements of this subchapter, for transportation by motor vehicle or rail car; and

(2) Are not subject to the requirements of Subparts D, E, and F (marking, labeling, and placarding, respectively) of Part 172 of this subchapter, for transportation by vessel or aircraft.

§ 173.221 Polystyrene beads, expandable.

Polystyrene beads or granules, expandable, impregnated with flammable gas or liquid as a blowing agent and plastic moulding materials in dough, sheet or extruded rope form must be packed in wooden (4C1 or 4C2), plywood (4D), fiberboard (4G) or reconstituted wood (4F) boxes with sealed inner plastic liners, plywood drums (1D), fiber drums (1G) with sealed inner plastic liner or in metal (1A1, 1A2, 1B1 or 1B2) packagings.

§ 173.222 Wheelchairs equipped with wet electric storage batteries.

(a) For transportation by highway, rail, water, or cargo aircraft only, wheelchairs equipped with wet electric storage batteries must conform to the provisions in § 173.220(c) of this part.

(b) For transportation by passenger-carrying aircraft, wheelchairs equipped with wet electric storage batteries are not subject to requirements of this subchapter other than the following:

(1) Wheelchairs equipped with non-spillable batteries as defined in § 173.159(d) of this subchapter may be shipped as checked luggage provided the battery is disconnected, the battery terminals are insulated to prevent accidental short circuits, and the battery is securely attached to the wheelchair.

(2) Wheelchairs equipped with spillable batteries may be shipped as checked baggage, provided that the wheelchair can be loaded, stowed, secured, and unloaded while always in an upright position. The battery must be disconnected, the terminals insulated to prevent accidental short circuits, and the battery securely attached to the wheelchair. The pilot-in-command must be advised, either orally or in writing, prior to departure, of the location of the wheelchair aboard the aircraft. If the wheelchair cannot be loaded, stowed, secured and unloaded always in an upright position, the battery must be removed and the wheelchair may then be carried without restriction. The removed battery must be carried in strong, rigid, outside packagings as follows:

(i) Outside packagings must be leaktight, impervious to battery fluid loaded aboard the aircraft in accordance with the required orientation markings and be protected against upset by being secured to pallets or by being secured in cargo compartments using appropriate means (other than by bracing with freight or baggage) such as by use of restraining straps, brackets or holders;

(ii) Batteries must be protected against short circuits, secured upright in their outside packagings, and surrounded by compatible absorbent material sufficient to absorb their total liquid contents; and

(iii) Outside packagings must be marked to indicate proper orientation, and with the words "Battery, wet, with wheelchair", and be labeled with a CORROSIVE label.

§ 173.225 Packagings for organic peroxides.

(a) When the § 172.101 Table specifies that an organic peroxide be packaged

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under this section, only non-bulk packagings which conform to the provisions of this section may be used for its transportation. Organic peroxides which require temperature control for stabilization are subject to the provisions of § 173.21(f) of this part.

(b) Organic peroxides table. (1) The first column of the table gives the identification numbers for organic peroxides as specified in Column 4 of the § 172.101 Table.

(2) The second column gives the packing group as specified in Column 5 of the § 172.101 Table. Each packaging used for an organic peroxide must be capable of meeting the test requirements of Subpart M of Part 178 at the specified level of performance.

(3) The third column specifies the packaging method or methods which must be used to pack an organic peroxide. The table of packaging methods in paragraph (c) of this section defines the packaging methods.

(4) The fourth column indicates, by the letters "TC", that an organic peroxide may require temperature control for stabilization. See § 173.21(f) of this part for provisions applicable to such materials.

ORGANIC PEROXIDES TABLE

Identification number (UN or NA) (1)	Packing group (2)	Packaging methods (3)	Temperature control (4)
2080	II	P1a, P8	
2081	II	P1a, P8	
2082	I	P1f, P13b	TC
2083	II	P1b, P2d, P8	TC
2084	I	P1b, P8	
2085	I	P1g, P1h, P13a, P14	
2087	II	P1a, P2c, P3b, P6a, P16, P20a, P20b, P30	
2088	I	P1d, P13b	
2089	II	P1a, P3b, P6a, P20b, P20d	
2090	II	P1b, P2f, P6b	
2091	II	P1a, P2c, P8, P10, P22a, P25b	
2092	I	P1a, P8, P10, P22a, P24	
2093	I	P1a, P8, P10, P22a, P24	
2094	I	P1a, P8, P10, P22a	
2095	II	P1c, P8	
2096	II	P1a, P2d, P8	
2097	II	P1a, P8, P13b, P18	
2098	II	P1a, P2c, P8, P10, P22a, P25b	
2099	II	P15	
2100	II	P1a, P8	
2101	II	P1a, P2a, P3b, P6a, P8, P16, P20c, P20d, P22a, P25b, P30	
2102	II	P1a, P2c, P8, P22b, P25b	
2103	II	P1e, P13b	
2104	II	P1a, P2d, P8	
2105	II	P1f, P3b, P6a, P20c, P20d, P21	
2106	II	P1a, P8	
2107	II	P1a, P2c, P8, P22a, P25b	
2108	II	P1a, P2c, P3b, P6a, P16, P20c, P20d, P22a, P25b	
2110	II	P1b, P8TC 2111 II P1a, P2d, P8	
2112	II	P1a, P3b, P6a, P20c, P20d, P24	
2113	II	P1b, P2f, P6b	
2114	II	P1a, P2c, P3b, P6a, P16, P20c, P20d	
2115	II	P1b, P2d, P8	
2116	I	P1a, P2c, P8, P22b, P25b	
2117	I	P1c, P12, P13b	
2118	I	P1a, P2c, P3b, P6a, P8, P16, P20b, P20d, P22a, P25b	
2119	I	P1b, P2d, P8	
2120	II	P1a, P2c, P3b, P6a, P17, P20b, P24, P25a	TC
2121	II	P1a, P2a, P24	
2122	II	P1b	TC
2123	II	P1b, P2d, P8	TC
2124	II	P1a, P3b, P6a, P13a, P14, P20b	
2125	I	P1a, P2c, P8, P22b, P25c	
2126	I	P1a, P2d, P8	
2127	I	P1a, P8	
2128	II	P1b, P2d, P8, P18, P24, P25a	TC
2129	II	P1a, P2c, P3b, P6a, P24, P25a	TC
2130	II	P1a, P2c, P3b, P6a	TC
2131	I	P1c, P3a	
2132	II	P1b, P2d, P8, P24, P25a	TC
2133	II	P1h, P7, P9, P13b	
2134	II	P1b, P2d, P8	
2135	II	P1d, P13b, P14, P15	
2136	II	P1a, P2c, P22a, P25b	

ORGANIC PEROXIDES TABLE—Continued

Identification number (UN or NA) (1)	Packing group (2)	Packaging methods (3)	Temperature control (4)
2137	II	P1b, P6b	
2138	II	P1a, P2c, P3b, P6a, P16, P20b, P20d, P30	
2139	II	P1b, P2d, P8	
2140	II	P1e, P8, P18	
2141	II	P16	
2142	II	P1e, P18	TC
2143	II	P1b, P8, P18	TC
2144	II	P1e	
2145	II	P1e, P18	
2146	II	P1a, P8	
2147	II	P1a	
2148	II	P1a, P3b, P6a, P14, P20c, P20d	
2149	I	P1f, P14, P20d	TC
2150	I	P1d	TC
2151	II	P1b	TC
2152	I	P1d, P14, P20d	TC
2153	I	P1b	TC
2154	II	P1a, P3b, P6a, P20c, P20d	TC
2155	II	P1a, P8, P18	
2156	II	P1a	
2157	II	P1b, P18	
2158	II	P1a, P18	
2159	II	P1a	
2160	II	P1e	
2161	I	P1e, P18	
2162	I	P1a, P2c, P8, P22b, P24, P25c	
2163	I	P1b	TC
2164	II	P1a, P2c	TC
2165	I	P1d	
2166	II	P1d	
2167	II	P1a, P8	
2168	II	P1a	
2169	II	P1b	TC
2170	II	P1b, P8, P24, P25a	
2171	I	P1a, P2c, P8, P22b, P25c	
2172	II	P1d, P3b, P6a, P20c, P20d, P21	
2173	II	P1d, P3b, P6a, P20c, P20d, P21	
2174	I	P1d, P12	
2175	II	P1b	TC
2176	I	P1d	TC
2177	II	P1e	
2178	II P20d		
2179	II	P1e	
2180	II	P1e	
2182	II	P1f	TC
2183	II	P2d, P8, P9	
2184	II	P1e, P8	
2185	II	P1e, P8	
2255	I	P1i	
2550	I	P1a, P8	
2551	II	P1b, P2d, P8	
2562	II	P1e, P18	
2592	II	P1a	
2593	I	P1b	TC
2594	II	P1e	
2595	II	P1a	TC
2596	II	P1a	
2597	II	P1e	TC
2598	II	P1a	
2755	II	P28	
2756	I	P1a, P30	
2883	II	P1a	
2884	II	P1a	
2885	II	P1a	
2886	II	P1a	
2887	II	P1a	
2888	II	P1a	TC

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ORGANIC PEROXIDES TABLE—Continued

Identification number (UN or NA) (1)	Packing group (2)	Packaging methods (3)	Temperature control (4)
2889	II	P1e	
2890	II	P1b, P2f, P6b	
2891	II	P1e	TC
2892	II	P1a, P20a, P24	TC
2893	II	P1a, P20a, P24	TC
2894	II	P1a, P20a, P24	TC
2895	II	P1a, P20a, P24	TC
2896	II	P1a, P2c, P3b, P6a, P16, P22a, P25b, P30	
2897	II	P1a	
2898	II	P1e	TC
2899	I	P1a, P30	TC
2957	II	P1e	
2958	II	P1a	
2959	II	P1c	
2960	II	P1a	TC
2961	II	P1a	TC
2962	I	P1a, P13b, P14, P15	TC
2963	II	P1b, P3b	TC
2964	II	P1e	TC
3044	II	P1a	
3045	I	P1a, P2a, P24	
3046	I	P1a	
3047	II	P1b, P2d, P8	TC
3058	II	P1h, P13a	
3059	II	P14	
3060	II	P1e, P20d	
3061	II	P1a	
3062	II	P1a	
3063	II	P1a	TC
3067	I	P1a, P24	
3068	I	P1a, P24	
3069	II	P1a, P24	
3074	II	P1b, P1e	
3075	I	P1a, P8	
3081	I	P1a, P8	

(c) Table of packaging methods. (1) The first column lists in alphanumeric sequence, the packaging methods for organic peroxides.

(2) The second column specifies the maximum net contents permitted in each inner packaging or receptacle. If no combination packagings are authorized, this column is blank.

(3) The third column specifies the maximum net contents permitted in an outer packaging, including a single, combination or composite packaging.

(4) The fourth column specifies inner packagings which are permitted for use, when applicable. If no combination packagings are authorized, this column is blank.

(5) The fifth column specifies outer packagings which are permitted for use. If inner packagings are specified in the fourth column, then the packaging specified in the fifth column must be used as the outer packaging of a combination packaging; otherwise, it may be used as a single packaging.

(6) The sixth column specifies composite packagings which are permitted for use, when applicable. If no composite packagings are authorized, this column is blank.

(7) The *Table of Packaging Methods* is as follows:

Packaging method (1)	Maximum net contents of each inner packaging or receptacle (2)	Maximum net contents of outer packaging (3)	Description of packagings: Inner packagings (4)	Outer packagings (5)	Composite packagings (6)
P1a	50 kg	50 kg	Plastic bottles, jars, bags or boxes	4G or 1G or 1D or 4C1	6HC or 6HD1 or 6HG1 or 6GH2
P1b	25 kg	50 kg			
P1c	10 kg	50 kg			
P1d	5 kg	50 kg			
P1e	25 kg	25 kg			
P1f	6 kg	25 kg			
P1g	5 kg	5 kg			

Packaging method (1)	Maximum net contents of each inner packaging or receptacle (2)	Maximum net contents of outer packaging (3)	Description of packagings: Inner packagings (4)	Outer packagings (5)	Composite packagings (6)
P1h	1 kg	10 kg			
P1l	500 g	1 kg			
P2a	100 kg	100 kg			
P2c	50 kg	50 kg	Plastic bottles, jars, bags or boxes	1A2 or 1B2 or 4A1 or 4B1	6HA1 or 6HA2 (steel box only) or 6HB1 or 6HB2 (aluminum box only)
P2d	25 kg	50 kg			
P2f	10 kg	50 kg			
P3a		60 kg			
P3b		30 kg			6HA2, (steel crate only) or 6HB2 (aluminum crate only) or 6HD1 or 6HG1
P6a	10 kg	60 kg	Metal Cans, or glass bottles in metal cans, or plastic bags in metal cans, or plastic bottles in metal cans.	4G or 1G or 1D or 4C1	
P6b	10 kg	50 kg			
P7	3 kg	12 kg	Aluminum bottles or jars with plastic closures.	4G or 1G or 1D or 4C1	
P8	2 L	50 L	Glass bottles	1G or 4G or 1G or 1D or 4C1	
P9	7.5 L	7.5 L	Glass or earthenware bottles; or metal cans.	4G or 1G or 1D or 4C1	6PC or 6PD1 or 6PG1 or 6PG2
P10	0.5 L	50 L	Glass bottles	1A2 or 1B2 or 4A1 or 4B1	
P12	1 kg	50 kg	Waxed fiberboard boxes	4G or 1G or 1D or 4C1	
P13a	500 g	25 kg			
P13b	500 g	14 kg	Plastic boxes or bottles	4C1, compartmented	
P14	500 g	25 kg	Paper bags with inner ply of plastic	4G with fire-retardant liner and partitions of fire-retardant corrugated fiberboard.	
P15	500 g	500 g	Paper bag with inner ply of plastic, packed singly.	4G	
P16	250 g	50 kg	Metal or plastic flexible tubes	4G or 4D	
P17	500 g	500 g	Fiber jar with sealed cap closure, packed singly.	4C1	
P18	500 ml	500 ml	Plastic bottle, packed singly	4G	
P20a		200 kg		1G with plastic liner or internal coating of polyethylene.	6HG1
P20b		100 kg			
P20c		50 kg			
P20d		30 kg			
P21		50 kg		1D with plastic liner	6HD1
P22a		50 kg			(1A1) or (1A2)
P22b		220 L			
P24		220 L		1A1 with plastic liner or 1A2 with plastic liner.	
P25a		200 kg			
P25b		50 kg		1B1 or 1B2	

Packaging method (1)	Maximum net contents of each inner packaging or receptacle (2)	Maximum net contents of outer packaging (3)	Description of packagings: Inner packagings (4)	Outer packagings (5)	Composite packagings (6)
P25c		220 L			
P26	500 g	2 kg	Plastic bag individually packed in round cardboard carton of 2 litres capacity. Four cartons per package.	4G or 1G	
P30		25 kg		1H1 or 1H2	

§ 173.226 Liquids toxic by inhalation, Division 6.1, Packing Group I, Zone A.

Division 6.1, Packing Group I, materials that are toxic by inhalation and that fall within the boundaries of Zone A in the graph found in § 173.133 shall be packed in non-bulk packagings in accordance with the following paragraphs:

(a) In specification cylinders, as authorized in § 173.40.

(b) In 1A1, 1B1 or 1N1 drums further packed in a 1A2 or 1H2 drum. Both inner and outer drums must conform to the performance test requirements of Subpart M of Part 178 of this subchapter at the Packing Group I performance level. The outer drum must have a minimum thickness of 1.50 mm (0.059 inches) for a 1A2 outer drum or 6.30 mm (0.248 inches) for a 1H2 outer drum. Capacity of the inner drum may not exceed 220 L (58.1 gallons). In addition, the inner drum must—

(1) Be capable of satisfactorily withstanding the hydrostatic pressure test in § 178.605 of this subchapter at a test pressure of 550 kPa (79.8 psig);

(2) Satisfactorily withstand the leakproofness test in § 178.604 of this subchapter using an internal air pressure of at least twice the vapor pressure at 55 °C (131 °F) of the material to be packaged;

(3) Have screw closures that are—

(i) Closed and tightened to a torque prescribed by the closure manufacturer, using a device that is capable of measuring torque;

(ii) Physically held in place by any means capable of preventing back-off or loosening of the closure by impact or vibration during transportation; and

(iii) Provided with a cap seal that is properly applied in accordance with the cap seal manufacturer's recommendations and is capable of withstanding an internal pressure of at least 100 kPa (14.5 psig).

(4) Have a minimum thickness as follows:

(i) If the capacity of the inner drum is less than or equal to 120 L (31.7 gallons), the minimum thickness of the inner drum is—

(A) For a 1A1 or 1N1 drum, 1.3 mm (0.051 inches); and

(B) For a 1B1 drum, 3.9 mm (0.154 inches).

(ii) If the capacity of the inner drum is greater than 120 L (31.7 gallons), the thickness of the inner drum is—

(A) For a 1A1 or 1N1 drum, 1.7 mm (0.067 inches); and

(B) For a 1B1 drum, 4.7 mm (0.185 inches); and

(5) Be isolated from the outer drum by a shock-mitigating, non-reactive material. There must be a minimum of 5.0 cm (1.97 inches of cushioning material around the body of the inner drum, and at least 7.6 cm (2.99 inches) on the top and bottom, between the inner and outer drum.

(c) In combination packagings, consisting of an inner packaging system and an outer packaging, as follows:

(1) *Outer packagings:*

Steel drum: 1A2
Aluminum drum: 1B2
Plywood drum: 1D
Fiber drum: 1G
Plastic drum: 1H2
Wooden barrel: 2C2
Steel jerrican: 3A2
Plastic jerrican: 3H2
Steel box: 4A1 or 4A2
Aluminum box: 4B1 or 4B2
Natural wood box: 4C1 or 4C2
Plywood box: 4D
Reconstituted wood box: 4F
Fiberboard box: 4G
Expanded plastic box: 4H2
Solid plastic box: 4H2

(2) *Inner packaging system.* The inner packaging system consists of two packagings: an impact resistant receptacle of glass, earthenware, plastic or metal securely cushioned with a non-reactive, absorbent material and packed within a leak-tight packaging of metal or plastic. This combination packaging in turn is packed within the outer packaging. Capacity of each inner receptacle may not exceed 4 L (1.06 gallons). An inner receptacle that has a closure must have a screw type closure which is physically held in place by any means capable of preventing back-off or loosening of the closure by impact or vibration during transportation. Both the inner packaging system and the outer packaging must conform to the performance test requirements of Subpart M of Part 178 of this subchapter, at the Packaging Group I performance level. The inner packaging system must meet these tests *without the benefit of the outer packaging.* The total amount of liquid contained in the outer packaging may not exceed 16 L (4.24 gallons).

§ 173.227 Liquids toxic by inhalation, Division 6.1, Packing Group I, Zone B.

Division 6.1, Packing Group I, materials that are toxic by inhalation and that fall within the boundaries of Zone B in the graph found in § 173.133 shall be packed in non-bulk packagings which conform to the performance test requirements of Subpart M of Part 178 of this subchapter, at the Packing Group I performance level. The following packagings are authorized:

(a) In packagings as authorized in § 173.226; or

(b) In 1A1, 1B1, or 1N1 drums further packed in a 1A2 or 1H2 drum. Both the inner and outer drums must conform to the performance test requirements of Subpart M of Part 178 of this subchapter at the Packing Group I performance level. The outer drum must have a minimum thickness of 1.50 mm (0.059 inches) for a 1A2 outer drum or 6.30 mm (0.248 inches) for a 1H2 outer drum. In addition, the inner drum must—

(1) Satisfactorily withstand the leakproofness test in § 178.604 of this subchapter using an internal air pressure of at least two times the vapor pressure at 55 °C (131 °F) of the material to be packaged;

(2) Have screw closures that are—

(i) Closed and tightened to a torque prescribed by the closure manufacturer.

using a device that is capable of measuring torque;

(ii) Physically held in place by any means capable of preventing back-off or loosening of the closure by impact or vibration during transportation; and

(iii) Provided with a cap seal that is properly applied in accordance with the cap seal manufacturer's recommendations and is capable of withstanding an internal pressure of at least 100 kPa (14.5 psig).

(3) Have a minimum thickness as follows:

(i) If the capacity of the inner drum is less than or equal to 120 L (31.7 gallons), the minimum thickness of the inner drum is—

(A) For a 1A1 drum, 1.3 mm (0.051 inches); and

(B) For a 1B1 drum, 3.9 mm (0.154 inches).

(ii) If the capacity of the inner drum is greater than 120 L (31.7 gallons), the thickness of the inner drum is—

(A) For a 1A1 or 1N1 drum, 1.7 mm (0.067 inches); and

(B) For a 1B1 drum, 4.7 mm (0.185 inches); and

(4) Be isolated from the outer drum by a shock-mitigating, non-reactive material. There must be a minimum of 5.0 cm (1.97 inches) of cushioning material around the body of the inner drum, and at least 7.6 cm (2.99 inches) on the top and bottom, between the inner and outer drum; and

(5) Have a capacity not greater than 220L (58.1 gallons).

(c) 1A1, 1B1 or 1N1 drums described in paragraph (b) of this section may be used without being further packed in a 1A2 or 1H2 drum if the shipper loads the material, blocks and braces the drums within the transport vehicle and seals the transport vehicle used. Drums may not be stacked (double decked) within the transport vehicle. Shipments must be from one origin to one destination only without any intermediate pickup or delivery.

§ 173.228 Bromine pentafluoride or bromine trifluoride.

(a) When the § 172.101 Table specifies that a hazardous material be packaged under this section, only non-bulk packagings prescribed in paragraph (b) of this section are authorized for its transportation. Each packaging must conform to the general packaging requirements of Subpart B of this part, to the specification requirements of Part 178 and to the requirements of the special provisions of Column 7 of the § 172.101 Table.

(b) Specification 3A150, 3AA150, 3B240, 3BN150, 4B240, 4BA240, 4BW240 and 3E1800 cylinders are authorized. Each valve outlet must be sealed by a threaded cap or threaded plug. Cylinder valves must be protected as specified for corrosive gases in § 173.301(g). No cylinder may be equipped with any pressure relief device. Specification 3E1800 cylinders must be packaged in accordance with the requirements of § 173.301(k).

§ 173.229 Chloric acid solution or chlorine dioxide hydrate, frozen.

(a) When the § 172.101 Table specifies that a hazardous material be packaged in accordance with this section, only 4G fiberboard boxes, with inner packagings of polyethylene or other suitable material, are authorized. Fiberboard boxes must be reinforced and insulated and sufficient dry ice must be used to maintain the hydrate or acid in a frozen state during transportation. Each packaging must conform to the general packaging requirements of Subpart B of Part 173, and to the requirements of Part 178 at the Packing Group I performance level. Shipments are authorized by private or contract carrier by motor vehicle only.

§ 173.230 Non-bulk packagings for ORM-D materials.

(a) General. Exceptions in the following paragraphs are permitted only if this section, or § 173.306 of this part, is referenced for the specific hazardous material in the § 172.101 Table of this subchapter.

(b) Small arms ammunition. (1) Small arms ammunition which has been classed as a Class C explosive may be reclassed and offered for transportation as ORM–D material when packaged in accordance with paragraph (b)(2) of this section. Shipments are excepted from the requirements of Subparts E (Labeling) and F (Placarding) of Part 172 of this subchapter. Small arms ammunition that may be shipped as ORM–D material is limited to:

(i) Ammunition for rifle, pistol or shotgun;

(ii) Ammunition with inert projectiles or blank ammunition;

(iii) Ammunition having no tear gas, incendiary, or detonating explosive projectiles; and

(iv) Ammunition not exceeding 50 caliber (½ inch) for rifle or pistol cartridges or 8 gauge for shotshells.

(2) Packaging for small arms ammunition as ORM–D material must be as follows:

(i) Ammunition must be packed in inside boxes, or in partitions which fit snugly in the outside packaging, or in metal clips;

(ii) Primers must be protected from accidental initiation;

(iii) Inside boxes, partitions or metal clips must be packed in securely closed strong outside packagings; and

(iv) Maximum gross weight is limited to 65 (29.5 kg) pounds per package.

(c) Compressed gases. A compressed gas which conforms to the provisions of paragraphs (a)(1), (a)(3) except (a)(3)(vi), or (b) except (b)(1)(iii) of § 173.306 of this subchapter and is a "Consumer commodity" as defined in § 171.8 of this subchapter may be renamed "Consumer commodity" and reclassed as ORM–D material. Each completed package must conform to the requirements of Subpart B of this part and may not exceed 65 pounds (29.5 kg) gross weight. Shipments are excepted from the requirements of Subparts E (Labeling) and F (Placarding).

(d) Other consumer commodity exceptions are provided for Class (or Division) 3, 4.1, 5.1, 5.2, 6.2, 8 or 9 materials, if the § 172.101 Table entry for the specific material refers to, and the material meets the provisions in §§ 173.150, 173.151, 173.152, 173.153, 173.154 or 173.155, as appropriate.

Subpart F—Bulk Packaging for Hazardous Materials Other Than Classes 1 and 7

§ 173.240 Bulk packaging for certain flammable solids (Division 4.1), solid oxidizers (Division 5.1), corrosive solids (Class 8) and other similar low hazard materials.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) *Rail cars:* DOT Class 103, 104, 105, 107A, 108, 111, 112, 113, 114 and 115 tank car tanks; Class 106 and 110 multi-unit tank car tanks; AAR Class 203W, 206W and 211W tank car tanks; and metal non-DOT specification, sift proof tank car tanks and sift proof closed cars.

(b) *Motor vehicles:* Specification MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, MC 312, MC 330, MC 331 and MC 338 cargo tank motor vehicles; metal non-DOT specification, sift proof cargo tank motor vehicles; and sift proof closed vehicles.

(c) *Portable tanks, bins and other bulk packagings:* DOT 51, 52, 53, 56, 57 and 60 portable tanks; marine portable tanks conforming to 46 CFR 64; and sift proof non-DOT specification portable tanks, closed bins and other bulk packagings.

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§ 173.241 Bulk packaging for certain combustible liquids (Class 3), flammable solids (Divisions 4.2 and 4.3), and other similar hazardous materials.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) *Rail cars:* DOT Class 103, 104, 105, 107A, 109, 111, 112, 113, 114 and 115 tank car tanks; Class 106 and 110 multi-unit tank car tanks; AAR Class 203W, 206W and 211W tank car tanks.

(b) *Cargo tanks:* DOT specification MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, MC 312, MC 330, MC 331 and MC 338 cargo tank motor vehicles; and metal non-DOT specification cargo tank motor vehicles suitable for transport of liquids.

(c) *Portable tanks:* DOT 51, 52, 53, 56, 57 and 60 portable tanks; marine portable tanks conforming to 46 CFR Part 64; and non-DOT specification portable tanks suitable for transport of liquids. DOT 57 portable tanks used for the transportation by vessel of Class 3, Packing Group II, materials must conform to the following:

(1) Each tank must have a minimum design pressure of 9 psig (62.1 kPa) and be equipped in accordance with § 178.253–4 of this subchapter, except that frangible devices are not authorized; and

(2) No pressure relief device may open at less than 5 psig (34.5 kPa).

§ 173.242 Bulk packaging for certain medium hazard liquids and solids, including solids with dual hazards.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) *Rail cars:* DOT Class 103, 104, 105, 107A, 109, 111, 112, 113, 114 or 115 tank car tanks; Class 106 or 110 multi-unit tank car tanks; AAR Class 203W tank car tanks.

(b) *Cargo tanks:* Specification MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, MC 312, MC 330, MC 331 and MC 338 cargo tank motor vehicles.

(c) *Portable tanks:* DOT 51, 52, 53, 56, 57 and 60 portable tanks; and marine portable tanks conforming to 46 CFR 64.

DOT 57 portable tanks used for the transportation by vessel of Class 3, Packing Group II, materials must conform to the following:

(1) Each tank must have a minimum design pressure of 9 psig (62.1 kPa) and be equipped in accordance with § 178.253–4 of this subchapter, except that frangible devices are not authorized; and

(2) No pressure relief device may open at less than 5 psig (34.5 kPa).

§ 173.243 Bulk packaging for certain high hazard liquids and dual hazard liquids which pose a moderate hazard.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) *Rail cars:* DOT Class 103, 104, 105, 107A, 109, 111, 112, 113, 114, and 115 tank car tanks; and Class 106 and 110 multi-unit tank car tanks. Gauging devices are required on DOT 103, 104 and 111 tank car tanks. Riveted tank car tanks are not authorized.

(b) *Cargo tanks:* Specification MC 304, MC 307, MC 330, MC 331, and MC 338 cargo tank motor vehicles; and MC 310, MC 311 or MC 312 cargo tank motor vehicles with tank design pressure of at least 25 psig (172.4 kPa).

(c) *Portable tanks:* DOT 51 portable tanks; and DOT 60 and marine portable tanks conforming to 46 CFR 64 with design pressure of at least 25 psig (172.4 kPa).

§ 173.244 Bulk packaging for certain pyrophoric liquids (Division 4.2), poisonous liquids with inhalation hazards (Division 6.1) and gases (Class 2).

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) DOT Classes 105, 107A, 109, 112, 113, and 114 tank car tanks; and Class 106 and 110 multi-unit tank car tanks. Riveted tank car tanks are not authorized.

(b) Specification MC 330, MC 331 and MC 338 cargo tank motor vehicles.

(c) DOT 51 portable tanks.

§ 173.245 Bulk packaging for extremely hazardous materials such as poisonous gases (Division 2.3).

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) DOT 105J500W, 112J500W and 112T500W tank car tanks; and DOT Class 106 and 110 multi-unit tank car tanks. Written procedures covering details of tank car appurtenances, dome fittings, and safety devices, and marking, loading, handling, inspection and testing practices, must be approved by the Director, OHMT, before any single unit tank car tank is offered for transportation.

(b) Cargo tank motor vehicles and portable tanks, when approved by the Director, OHMT.

§ 173.248 Ethylene oxide.

(a) When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of this part, the special provisions specified in Column 7 of the § 172.101 Table, and paragraphs (b) through (g) of this section:

(1) *Tank cars.* DOT 105J100W tank car tanks; DOT 105A100W or 111A100W4 tank car tanks built before September 1, 1981 and having a water capacity not exceeding 18,500 gallons (70,030.1 liters); and DOT 111J100W4 tank car tanks built before March 2, 1984.

(2) *Cargo tanks.* Specification MC 330 and MC 331 cargo tank motor vehicles.

(3) *Portable tanks.* DOT 51 portable tanks.

(b) The pressure relief devices must be set to function at 75 psig (517.1 Kpa). Portable tanks fitted with non-reclosing devices made and in use prior to December 31, 1987, may continue to be used in ethylene oxide service.

(c) Outage must be sufficient to prevent the tank from becoming liquid full at 105 °F (40.6 °C). Consideration must be given to the lading temperature and solubility of inert gas padding in ethylene oxide as well as the partial pressure exerted by the gas padding.

(d) Each tank, loaded or empty, must be padded with dry nitrogen or other suitable inert gas of sufficient quantity to render the vapor pressure of the tank nonflammable up to 105 °F (40.6 °C). The gas used for padding must be free of impurities which may cause the ethylene oxide to polymerize, decompose or undergo other violent chemical reaction.

(e) Copper, silver, mercury, magnesium or their alloys may not be used in any part of the tank or appurtenances that are normally in contact with the lading.

(f) Neoprene, natural rubber and asbestos gaskets are prohibited. All packing and gaskets must be made of materials which do not react with or lower the autoignition temperature of the lading.

(g) Each tank must be insulated with cork (at least 4 inches (10.2cm) thick), or mineral wool, fiberglass or other suitable insulation material of sufficient thickness so that the thermal conductance at 60 °F (15.6 °C) is not more than 0.075 Btu per hour per square foot per degree F. temperature differential. Portable tanks made and in use prior to December 31, 1987 equipped with fusible plugs instead of a safety relief valve or frangible disc, must have sufficient insulation so that the tank as filled for shipment will not rupture in a fire. The insulation on portable tanks or cargo tank motor vehicles must be protected with a steel jacket at least 0.100 inch (2.54mm) thick, or as required by the specification.

§ 173.249 Bromine.

When § 172.101 of this subchapter specifies that a hazardous material be packaged under this section, only the following bulk packagings are authorized, subject to the requirements of Subparts A and B of Part 173 of this subchapter and the special provisions specified in Column 7 of the § 172.101 Table.

(a) DOT Class 105A300W or 105A500W tank cars. Class 105A500W tank cars may be equipped with manway cover plates, pressure relief valves, vent valves, and loading/unloading valves that are required on Class 105A–300W tank cars. Tank cars must conform with paragraphs (d) through (f) of this section.

(b) Specification MC 310, MC 311, MC 312 cargo tank motor vehicles conforming with paragraphs (d) through (f) of this section.

(c) Specification IM 101 intermodal portable tanks conforming with paragraphs (d) through (f) of this section.

(d) The tank must be made from nickel-clad or lead-lined steel plate. Nickel cladding or lead lining must be on the inside of the tank. Nickel cladding must comprise at least 20 percent of the required minimum total thickness. Nickel cladding must conform to ASTM Specification B 162–69. Lead lining must be at least 0.1875 inch (4.7625mm) thick. All tank equipment and appurtenances in contact with the lading must be lined or made from metal not subject to deterioration by contact with lading.

(e) Maximum filling density is 300 percent of the tank's water capacity. Minimum filling density is 287 percent of the tank's water capacity. Maximum water capacity is 9,262 kilograms (20,400 pounds) for DOT 105A300W tank cars. Maximum quantity of lading in DOT 105A300W tank cars is 27,240 kilograms (60,000 pounds). Maximum water capacity is 16,980 kilograms (37,400 pounds) for DOT 105A500W tank cars and DOT 105A500W tank cars equipped as described in paragraph (a) of this section. Maximum quantity of lading in DOT 105A500W tank cars is 49,940 kilograms (110,000 pounds).

(f) Tank shell and head thickness for cargo tank motor vehicles and portable tanks must be at least 0.375 inch (9.525mm) excluding lead lining.

116. The title to Subpart G would be revised to read as follows:

Subpart G—Gases; Preparation and Packaging

§ 173.300 [Removed]

117. Section 173.300 would be removed.

118. In § 173.306, the phrase "Subpart N of this part" would be revised to read "paragraph (h) of this section" in the last sentence of paragraph (a)(1), and the introductory text of paragraph (a)(3) and the last sentence of the introductory text of paragraph (b) and paragraph (h) would be added to read as follows:

§ 173.306 Limited quantities of compressed gases.

* * * * *

(h) A limited quantity which conforms to the provisions of subparagraph (a)(1) or (a)(3) or paragraph (b) of this section and is a "consumer commodity" as defined in § 171.8 of this subchapter, may be renamed "consumer commodity" and reclassed as ORM–D material. In addition to the exceptions provided by paragraphs (a) and (b) of this section—

(1) Outside packagings are not required to be marked "INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS";

(2) Shipments of ORM–D materials are not subject to the shipping paper requirements of Subpart C of Part 172, unless offered or intended for transportation by aircraft; and

(3) Strong outer packagings as specified in this section and the marking requirements specified in § 172.312 are not required for ORM–D materials when unitized in cages, carts or similar overpacks and when shipped by a private or contract motor carrier from a distribution center to a retail outlet.

§ 173.308 [Amended]

119. In paragraph (a) of § 173.306, the section reference "§ 173.21(e)" would be changed to "§ 173.21(i)".

120. In § 173.314, paragraphs (d) and (f) would be removed and reserved, paragraph (a) and paragraphs (b) (5) and (6) would be revised, the introductory text in paragraph (c) preceding the table would be revised, and paragraph (i) would be added to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

(a) *Definitions.* For definitions of compressed gases, see § 173.115.

(b) * * *

(5) Except as otherwise provided in this subchapter and except for DOT Class 106A and 110A multi-unit tank car tanks, each tank car which contains a Division 2.1 or 2.3 material or hydrogen fluoride must be marked with the name of contents as prescribed in § 172.330 of this subchapter.

(6) For single unit tank car tanks, built after December 30, 1971, which are loaded with a material which meets the definition for Division 2.1, gaskets for manway covers and for mounting of fittings must be made of heat resistance materials approved by the AAR Tank Car Committee.

(c) *Authorized gases, filling densities and tank cars.* A compressed gas offered for transportation in a tank car (for cryogenic liquids, see § 173.319) must be prepared in accordance with the applicable provisions of paragraphs (b) through (h) of this section, §§ 172.101, 173.10, 173.24b, and 173.31 of this subchapter, and the following table:

* * *

* * * * * *

(d) [Reserved]

* * * * * *

(f) [Reserved]

* * * * * *

(i) Tank car tanks used for liquefied petroleum gas, butadiene, anhydrous ammonia, methylacetylene-propadiene, stabilized, chlorodifluoromethane, or vinyl chloride may, as an alternate, conform with the following special requirements:

(1) Safety relief valves may be set to the following pressures, provided the total valve discharge capacity is sufficient to prevent building up pressure in the tank in excess of 90 percent of the tank test pressure:

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Safety relief valves, p.s.i.	DOT specifications		
	105A300W	112A340W, 114A340W	112A400W, 114A400W
Start-to-discharge pressure	247.5	280.5	330
Start-to-discharge tolerance	+7.5	+8.4	+10
Vapor tight pressure (minimum)	196	224	264
Flow rating pressure	270	306	360

(2) Gaskets for manway covers and for mounting of fittings must be made of heat resistance materials approved by the AAR Tank Car Committee.

121. In the table which appears in paragraph (c) of § 173.314 and the notes following it, the following changes are proposed:

a. The following entries and associated information are removed: Ammonia solution, Butadiene (all entries), Chlorodifluoroethane, Chlorodifluoromethane, Chloropentafluoroethane, Chlorotetrafluoroethane, Chlorotrifluoromethane, Crude nitrogen fertilizer solution (all entries), Dichlorodifluoromethane, Difluoroethane, Dimethylamine, Dimethyl ether, Fertilizer ammoniating solution (all entries), Hexafluoropropylene, Hexafluoropropylene oxide, Liquid hydrocarbon gas (all entries), Liquefied petroleum gas (all entries), Methylacetylene-propadiene, Methyl chloridemethylene chloride mixture, Methylamine, Nitrogen fertilizer solution (all entries), Refrigerant gas (all entries), Trifluorochloroethylene, Trimethylamine, Vinyl chloride, and Vinyl methyl ether.

b. For Anhydrous ammonia, "Note 15" is changed to "Note 21" in both places it appears.

c. For Chlorine, "Note 12" is changed to "Notes 12 and 30".

d. For Hydrogen chloride, "Note 17" is changed to "Notes 17 and 30".

e. For Nitrous oxide, "Note 6" is changed to "Notes 6 and 30".

f. For Sulfur dioxide, "Note 30" is added after "DOT–105A200–W".

g. The following entry is added: Column 1: "Flammable gases, not specifically provided for"; Column 2: "Note 21"; Column 3: "DOT Classes 106A and 110, Note 7. DOT Classes 105A, 112J, 112T, 114J, and 114T, Notes 4 and 23. DOT–111A100W4, Notes 4 and 23."

h. The following entry is added: Column 1: "Non-flammable gases, not specifically provided for"; Column 2: "Note 21"; Column 3: "DOT Classes 106A and 110, Note 25. DOT Classes 105A, 109A, 112A, and 114A; DOT–111A100W4.

i. Notes 9, 14, 15, 16, 19, 22, 26, and 29 are removed.

j. Note 20 is revised to read as follows: "The gas pressure at 130 °F in any uninsulated DOT Class 107A tank may not exceed seven-tenths of the marked test pressure of the tank, except that a tank may be charged with helium to a pressure 10 percent in excess of the marked maximum gas pressure at 130 °F of each tank."

k. Note 21 is revised to read as follows: "See paragraph (b)(1) of § 173.24b of this subchapter."

l. Note 30 is added to read as follows: "Each specification 105 tank car built after March 31, 1989, must conform to DOT Class 105J requirements."

122. In § 173.315, paragraph (a)(2) would be added to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tanks.

(a) * * *

(2) Other gases not listed by name in the above table shall be shipped in portable tanks or cargo tanks subject to the following conditions:

(i) Minimum packaging design pressure must not be less than—

(A) For a non-flammable and non-toxic gas lading, (Division 2.2), the vapor pressure at the reference temperature of the lading.

(B) For a gas which is toxic or flammable, (Division 2.1 or 2.3), or both, the vapor pressure at the reference temperature of the lading plus one percent or 25 psig (172.4 kPa), whichever is less, for each additional hazard.

(ii) Maximum permitted filling density may not exceed that specified in paragraph (c) of this section.

* * * * *

123. In Subpart G, §§ 173.321, 173.322, 173.323, 173.324, 173.335, 173.338, and 173.340 would be added, and §§ 173.334, 173.336 and 173.337 would be revised to read as follows:

§ 173.321 Ethylamine.

Ethylamine must be packaged as follows:

(a) In 1A1 drums which meet Packing Group I performance level requirements.

(b) In specification cylinders as prescribed for any compressed gas except acetylene.

§ 173.322 Ethyl chloride.

Ethyl chloride must be packaged in single or combination non-bulk packagings which meet Packing Group I performance level requirements, as follows:

(a) In 4C1, 4C2, 4D or 4F wooden boxes with glass, earthenware, or metal inner receptacles not over 500 grams (1.1 pounds) capacity each.

(b) In 4G fiberboard boxes with glass, earthenware, or metal inner receptacles not over 500 grams (1.1 pounds) capacity each. Outer packagings may not exceed 30 kilograms (66.2 pounds) gross weight.

(c) In 1A1 drums of not over 100 liters (37.9 gallons) capacity each.

(d) In specification cylinders as prescribed for any compressed gas except acetylene.

§ 173.323 Ethylene oxide.

(a) For packaging ethylene oxide in non-bulk packagings, copper, silver mercury and their alloys shall not be used in any part of a packaging, valve, or other packaging appurtenance if that part is normally in contact with ethylene oxide liquid or vapor. All packaging and gaskets must be constructed of materials which do not react spontaneously with or lower the autoignition temperature of ethylene oxide.

(b) Ethylene oxide must be packaged as follows:

(1) In 4G fiberboard boxes with one inner glass ampoule or vial of no more than 100 grams (3.5 ounces) capacity cushioned with noncombustible material. The completed package must be capable of passing Packing Group I performance tests.

(2) In 4G fiberboard boxes constructed with top and bottom pads and perimeter liner. Inner packagings must be aluminum receptacles of no more than 135 grams (4.8 ounces) capacity cushioned with incombustible material. No more than 12 receptacles allowed in one box and no more than 10 boxes may be overpacked under the provisions of § 173.25 of this Part. Each completed package must be capable of passing Packing Group I performance tests.

(3) In 4C1, 4C2, 4D or 4F wooden boxes or 4G fiberboard boxes with inner metal receptacles of no more than 340 grams (12 ounces) capacity. The metal receptacle must be capable of withstanding no less than a 180 psig (1241.1 kPa) burst pressure. No more than 12 receptacles may be packed in one box and each receptacle may not be liquid full below 180 °F (82.2 °C). Each inner receptacle must be insulated and equipped with a relief device of the fusible plug type with yield temperature of 157 °F to 170 °F (69.4 °C to 76.7 °C). The capacity of relief device and insulation must be such that the charged receptacle will not explode when tested by CGA Pamphlet C–14 method or other equivalent method. Each completed package must be capable of passing Packing Group I performance tests.

(4) In specification cylinders, as authorized for any compressed gas except acetylene. Cylinders must be seamless or welded steel (not brazed) with a nominal capacity of no more than 30 gallons (113.6 L) and may not be liquid full below 180 °F (82.2 °C). Cylinders over 3.79 liters (1 gallon) capacity must be equipped with eductor tubes and be insulated. Before each refilling, each cylinder must be tested for leakage at no less than 15 psig (103.4 kPa) pressure. In addition, each cylinder must be equipped with a fusible type relief device with yield temperature of 157 °F to 170 °F (69.4 °C to 76.7 °C). The capacity of the relief device and the effectiveness of the insulation must be such that the charged cylinder will not explode when tested by CGA Pamphlet C–14 method or other equivalent method.

(5) In 1A1 steel drums of no more than 61 gallons (230.9 L) and meeting Packing Group I performance standards. The drum must be lagged, of all welded construction with the inner shell having a minimum thickness of 2.0 mm (0.0787 inches) and the outer shell having a minimum thickness of 2.6 mm (0.1024 inches). Drums must be capable of withstanding a hydrostatic test pressure of 100 psig (689.5 kPa). Lagging must be of sufficient thickness so that the drum will not rupture when exposed to fire when filled with ethylene oxide and equipped with the required pressure relief device. The drum may not be liquid full below 185 °F (85 °C), and must be marked "THIS END UP" on the top head. Before each refilling, each drum must be tested for leakage at no less than 15 psig (103.4 kPa) pressure. Each drum must be equipped with a fusible type relief device with yield temperature of 157 °F to 170 °F (69.4 °C to 76.7 °C), and the capacity of the relief device must be such that the filled drum will not explode when tested by the method described in CGA Pamphlet C–14 or other equivalent method.

§ 173.324 Ethyl methyl ether.

Ethyl methyl ether must be packed as follows:

(a) In specification cylinders, as authorized for any compressed gas except acetylene; or

(b) In packagings as specified in § 173.201 which meet Packing Group I performance level requirements.

§ 173.334 Organic phosphates mixed with compressed gas.

Hexaethyl tetraphosphate, parathion, tetraethyl dithio pyrophosphate, tetraethyl pyrophosphate, or other Division 6.1 organic phosphates (including a compound or mixture), may be mixed with a compressed gas which must be nonflammable. This mixture must not contain more than 20 percent by weight of organic phosphate and must be packaged in specification 3A240, 3AA240, 3B240, 4A240, 4B240, 4BA240, or 4BW240 cylinders meeting the following requirements.

(a) Each cylinder may be charged with not more than 5 kg (11.0 pounds) of the mixture, to a maximum filling density of not more than 80 percent of the water capacity;

(b) Each cylinder must be charged in compliance with § 173.301 (e) and (f);

(c) No cylinder may be equipped with an eduction tube or a fusible plug;

(d) No cylinder may be equipped with any valve unless the valve is a type approved by the Director, OHMT;

(e) Cylinders must be overpacked in a box so arranged to protect each valve or other closing device from damage. Except as provided in paragraph (f) of this section, no more than four cylinders may be packed in a box. Each box with its closing device protection must be sufficiently strong to protect all parts of each inside cylinder from deformation or breakage if the completed package were dropped 1.8 meters (5.91 feet) onto solid concrete, impacting at the weakest point.

(f) Cylinders may be packed in strong wooden boxes with valves or other closing devices protected from injury, with not more than twelve cylinders in one outside wooden box. An outer fiberboard box may be used when not more than four such cylinders are to be shipped in one packaging. Valves must be adequately protected. Box and valve protection must be of strength sufficient to protect all parts of inner packagings and valves from deformation or breakage resulting from a drop of at least 1.8 meters (5.91 feet) onto a concrete floor, impacting at the weakest point.

§ 173.335 Gas generator assemblies.

Gas generator assemblies (aircraft) containing liquefied nonflammable, non-toxic gas and a solid propellant cartridge shall be packaged as follows:

(a) The gas shall be packaged in specification steel cylinders authorized for any compressed gas except acetylene not exceeding 10.5 L (2.77 gallons) internal volume and having a minimum design burst pressure of 19,700 kPa (2,857 psi);

(b) Fittings must be protected against damage under conditions normally incident to transport, any trigger shall be fitted with a safety locking pin, and a non-propulsive plug shall be installed on the discharge tube; and

(c) Each complete unit must be individually and tightly packed to prevent movement in wooden boxes (4C1 or 4C2), plywood boxes (4D), reconstituted wood boxes (4F), fiberboard boxes (4G), or plastic boxes, (4H1 and 4H2) of Packing Group II performance level, or in the original manufacturer's transit box.

§ 173.336 Nitrogen dioxide, liquid; nitrogen peroxide, liquid; and nitrogen tetroxide, liquid.

Nitrogen dioxide, liquid, nitrogen peroxide, liquid, and nitrogen tetroxide, liquid must be packed in specification cylinders as follows:

(a) As prescribed in § 173.192.

(b) Specification 3A480, 3AA480, 3AL1800, or 3E1800 metal cylinders, with valves removed, are authorized. Each valve opening must be closed by means of a solid metal plug with tapered thread properly luted to prevent leakages; valve protection cap must be used and be at least 4.76 mm (0.187 inches) thick gas-tight, with 4.76 mm (0.187 inches) faced seat for gasket and with United States standard form thread. Shipments in 3AL cylinders are authorized only when transported by highway or rail. Each cylinder must be cleaned in compliance with the requirements of Federal Specification RR–C–901b, paragraphs 3.7.2 and 3.8.2. Cleaning agents equivalent to those specified in RR–C–901b may be used; however, any cleaning agent must not be capable of reacting with oxygen. One cylinder selected at random from a group of 200 or less cleaned at the same time must be tested for oil contamination in accordance with Specification RR–C901b paragraph 4.4.2.3 and meet the standard of cleanliness specified.

§ 173.337 Nitric oxide.

Nitric oxide must be packed in Specification 3A1800, 3AA1800, 3E1800, or 3AL1800 cylinders charged to a pressure of not more than 5,170 kPa (749.7 psi) at 21.1 °C (70 °F). Cylinders must be equipped with a valve of stainless steel and valve seat of material which will not be deteriorated by contact with nitric oxide or nitrogen dioxide. Cylinders or valves may not be equipped with pressure relief devices of any type. Valve outlets must be sealed by a solid threaded cap or plug and an inert gasketing material. In addition—

(a) Specification 3E1800 cylinders must be overpacked in strong wooden boxes of such design as to protect valves from injury or accidental functioning under conditions incident to transportation. Each overpack must conform to § 173.25.

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(b) Specification 3A, 3AA, and 3AL cylinders must have their valves protected by metal caps or other equally protective guards securely attached to the cylinders and be of sufficient strength to protect the valves from injury during transit, or by overpacking in strong wooden boxes of such design as to protect valves from injury or accidental functioning under conditions incident to transportation. Each overpack must conform to § 173.25. Shipments in 3AL cylinders are authorized only when transported by highway or rail.

(c) Each cylinder must be cleaned in compliance with the requirements of Federal Specification RR–C–901b, paragraphs 3.7.2 and 3.8.2. Cleaning agents equivalent to those specified in RR–C–901b may be used; however, any cleaning agent must not be capable of reacting with oxygen. One cylinder selected at random from a group of 200 or less cleaned at the same time must be tested for oil contamination in accordance with Specification RR–C–901b paragraph 4.4.2.3 and meet the standard of cleanliness specified.

§ 173.338 Tungsten hexafluoride.

Tungsten hexafluoride must be packed in specification 3A, 3AA, 3BN, or 3E (§§ 178.36, 178.37, 178.39, 178.42 of this subchapter) cylinders. Cylinders shall be equipped with a valve protection cap or be packed in a strong outside container complying with the provisions of § 173.40. Outlets of any valves must be capped or plugged. As an alternative, the cylinder opening may be closed by the use of a metal plug. Specification 3E cylinders must be shipped in an overpack that complies with the provisions of § 173.40.

§ 173.340 Tear gas devices.

(a) Packagings for tear gas devices must be approved prior to first shipment by the Director, OHMT.

(b) Tear gas devices may not be assembled with or packed in the same packaging with mechanically or manually operated firing, igniting, bursting, or other functioning elements unless of a type and design approved by the Director, OHMT.

(c) Tear gas grenades, tear gas candles, and similar devices must be packaged in packagings conforming to the requirements of Part 178 of this subchapter at the Packing Group II performance level, as follows:

(1) In UN 4C1, 4C2, 4D, or 4F metal-strapped wooden boxes. Functioning elements not assembled in grenades or devices must be in a separate compartment of these boxes, or in inner or separate outer boxes, UN 4C1 4C2, 4D, or 4F, and must be so packed and cushioned that they may not come in contact with each other or with the walls of the box during transportation. Not more than 50 tear gas devices and 50 functioning elements shall be packed in one box and the gross weight of the outer box may not exceed 35 kilograms (77.2 pounds).

(2) In a UN 1A2 metal drum. Functioning elements must be packed in a separate inner packaging or compartment. Not more than 24 tear gas devices and 24 functioning elements shall be packed in one outer drum and the gross weight of the drum may not exceed 35 kg. (77.2 pounds).

(3) In a UN 4G fiberboard box with inside tear gas devices meeting Specifications 2P or 2Q. Each inside packaging must be placed in fiberboard tubes fitted with metal ends or a fiber box with suitable padding. Not more than 30 inner packagings shall be packed in one outer box and the gross weight of the outer box may not exceed 16 kg (35.3 pounds).

(4) In other packagings of a type or design which is approved by the Director, OHMT.

(d) Tear gas devices may be shipped completely assembled when offered by or consigned to the U.S. Department of Defense, provided the functioning elements are so packed that they cannot accidently function. Outer packagings must be UN 4C1, 4C2, 4D, or 4F metal-strapped wooden boxes.

Subpart H—[Removed]

124. Subpart H would be removed and reserved.

Subpart I—Radioactive Materials

§ 173.416 [Amended]

125. In § 173.416, the reference "§ 178.34" would be revised to read "§ 178.360" in paragraphs (e) and (g), the reference "§ 178.104" would be revised to read "§ 178.354" in paragraph (d), the reference "§ 178.194" would be revised to read "§ 178.362" in paragraphs (e) and (f), and the reference "§ 178.195" would be revised to read "§ 178.364" in paragraph (g).

126. In § 173.417, the reference "§ 178.34" would be revised to read "§ 178.360" in paragraphs (b)(1) and (b)(2); the reference "§ 178.103" or "§ 178.103–5(a)", as appropriate, would be revised to read "§ 178.352" in paragraphs (a)(1), (a)(6)(iii) and (b)(1); the reference "§ 178.104" would be revised to read "§ 178.354" in paragraphs (a)(2) and (b)(2); the references "§ 178.120" and "§ 178.121" would be revised to read "§ 178.356" and "§ 178.358", respectively, in paragraphs (a)(8) and (b)(5); and the introductory text of paragraph (a)(6) would be revised to read as follows:

§ 173.417 Authorized packaging—fissile materials.

(a) * * *

(6) A 55-gallon 1A2 steel drum, subject to the following conditions:

* * * * *

127. Subparts J, K, L, M, N, and O would be removed.

Subparts J Through O—[Reserved]

Appendix B—[Amended]

128. In Appendix B:

(1) The title would be amended by changing the word "POLYETHYLENE" to "PLASTIC".

(2) In the first and second paragraphs, the word "polyethylene" would be revised to read "plastic" wherever it appears.

(3) In the second sentence of the first paragraph, the section reference "§ 173.24(d)(3)" would be revised to read "§ 173.24(e)(3)(iii)".

(4) In paragraph (6), the phrase "a height of 1.2 meters (3.94 feet) on to solid concrete" would be revised to read "a height determined in accordance with § 178.603(d) of this subchapter onto a rigid non-resilient, flat and horizontal surface."

129. Appendix C would be added, as follows:

Appendix C—Procedure for Base Level Vibration Testing

Base level vibration testing shall be conducted as follows:

1. Three sample packagings, selected at random, shall be filled and closed as for shipment. A non-hazardous material may be used in place of the hazardous material if it has essentially the same physical characteristics.

2. The three packages shall be placed on a vibrating platform that has a vertical double-amplitude (peak-to-peak displacement) of one inch. The packages should be constrained horizontally to prevent them from falling off the platform, but shall be left free to move vertically, bounce and rotate.

3. The test shall be performed for one hour at a frequency that causes the package to be raised from the vibrating platform to such a degree that a piece of material of approximately 1/16-inch (1.6 mm) thickness (such as steel strapping or paperboard) can be passed between the bottom of any package and the platform.

4. Immediately following the period of vibration, each package shall be removed from the platform, turned on its side and observed for any evidence of leakage.

5. Rupture or leakage from any of the packages constitutes failure of the test.

PART 176—CARRIAGE BY VESSEL

130. The authority citation for Part 176 would be revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808(b), 1808; 49 CFR Part 1.

131. Paragraph (d) of § 176.5 would be revised as follows:

§ 176.5 Application to vessels.

* * * * *

(d) Except for transportation in bulk packagings (as defined in § 171.8 of this subchapter), the bulk carriage of hazardous materials by water is governed by 46 CFR Subchapters D, I, O and N.

* * * * *

132. In § 176.83, paragraph (c)(6) would be added as follows:

§ 176.83 Segregation requirements for cargo vessels and passenger vessels.

* * * * *

(c) * * *

(6) *Clear of living quarters.* "Clear of living quarters" means that the hazardous material must be located so that in the event of release of the material, leakage or vapors will not penetrate accommodations, machinery spaces or other work areas by means of entrances or other openings in bulkheads or ventilation ducts.

* * * * *

133. Section 176.84 would be added as follows:

§ 176.84 Other requirements for stowage and segregation for cargo vessels and passenger vessels.

(a) *General.* When Column 10c of the § 172.101 Table refers to a numbered stowage provision for water shipments, the meaning and requirements of that provision are as set forth in this section. Terms in quotation marks are defined in § 176.83.

(b) *Table of provisions:*

Code	Provisions
1	(Reserved)
2	Temperature controlled material.
3	Do not stow with high explosives.
4	(Reserved)
5	(Reserved)
6	Emergency temperature material.
7	(Reserved)
8	Glass carboys not permitted on passenger vessels.
9	Glass carboys not permitted under deck.
10	Glass bottles not permitted under deck.
11	Keep away from heat and open flame.
12	Keep cool.
13	Keep dry.
14	Metal drums only permitted under deck.
15	May be stowed in portable magazine or metal locker.
16	No other cargo may be stowed in the same hold with this material.
17	(Reserved)
18	Prohibited on any vessel carrying explosives (except explosives in Division 1.4, Compatibility group S).
19	Protect from sparks and open flames.
20	Segregation same as for corrosives.
21	Segregation same as for flammable liquids.
22	Segregation same as for flammable liquids if flash-point below 61 °C (141 °F).
23	Segregation same as for flammable liquids if flash-point between 23 °C (73 °F) and 61 °C (141 °F).
24	Segregation same as for flammable solids.
25	Shade from radiant heat.
26	Stow "away from" acids.
27	Stow "away from" alkaline compounds.
28	(Reserved)
29	Stow "away from" ammonium compounds.
30	Stow "away from" animal or vegetable oils.
31	Stow "away from" combustible materials.
32	Stow "away from" copper, its alloys and its salts.
33	Stow "away from" fluorides.
34	Stow "away from" foodstuffs.
35	Stow "away from" all odor-absorbing cargo.
36	Stow "away from" heavy metals and their compounds.
37	Stow "away from" hydrazine.
38	Stow "away from" all other peroxides.
39	Stow "away from" liquid halogenated hydrocarbons.
40	Stow "class of living quarters".
41	Stow "away from" mercury and its compounds.
42	Stow "away from" nitric acids and perchloric acids not exceeding 50% acid by weight.
43	Stow "away from" organic materials.
44	Stow "away from" oxidizers.
45	Stow "away from" permanganates.
46	Stow "away from" powdered metals.
47	Stow "away from" sodium compounds.
48	Stow "away from" sources of heat.
49	Stow "away from" corrosives.
50	Stow "away from" sources of heat where temperatures in excess of 55 °C (131 °F) for a period of 24 hours or more will be encountered.
51	Stow "separated from" acetylene.
52	Stow "separated from" acids.
53	Stow "separated from" alkaline compounds.
54	Stow "separated from" animal or vegetable oils.
55	Stow "separated from" ammonia.
56	Stow "separated from" ammonium compounds.
57	Stow "separated from" chlorine.
58	Stow "separated from" cyanides.
59	Stow "separated from" combustible materials.
60	Stow "separated from" chlorates, chlorites, hypochlorites, nitrites, perchlorates, permanganates, and metallic powders.
61	Stow "separated from" corrosive materials.
62	Stow "separated from" diborane.
63	Stow "separated from" diethylene triamine.
64	Stow "separated from" explosives.
65	Stow "separated from" flammable substances.
66	Stow "separated from" flammable solids.
67	Stow "separated from" halides.
68	Stow "separated from" hydrogen.
69	Stow "separated from" hydrogen peroxide.
70	Stow "separated from" mercury salts.
71	Stow "separated from" nitric acid.
72	Stow "separated from" nitrogen compounds.
73	Stow "separated from" nitrogen compounds and chlorates.
74	Stow "separated from" oxidizers.
75	Stow "separated from" permanganates.
76	Stow "separated by a complete compartment or hold from" organic peroxides.
77	Stow "separated longitudinally by a complete compartment or hold from" explosives.
78	Stow "separated longitudinally by an intervening complete compartment or hold from" explosives.
79	The maximum net quantity in one package for this material shipped aboard a passenger vessel is limited to 50 pounds (22.7 kg).
80	Toy torpedoes must not be packed with other special fireworks.
81	Under deck stowage permitted only if an indicating substance such as chloropicrin has been added.
82	Under deck stowage is permitted only if containing not more than 36% by weight of hydrazine.
83	(Reserved)
84	Under deck stowage must be in well-ventilated space.
85	Under deck stowage must be in mechanically ventilated space.
86	Stow "separated by a complete compartment or hold from" explosives Class 1.3.
87	Stow "separated from" explosives except Class 1.4.
88	Stow "separated by a complete compartment or hold from" explosives except Class 1.4.
89	Segregation same as for oxidizers.
90	Stow "separated from" radioactive materials.
91	Stow "separated from" flammable solids.
92	Stow "separated from" powdered materials.
93	Stow not accessible to unauthorized persons on passenger vessels.
94	Plastic jerricans and plastic drums not permitted under deck.
95	Stow "separated from" foodstuffs.
96	Glass carboys not permitted under deck or passenger vessels.
97	Stow "away from" acides.
98	Stow "away from" all flammable materials.
99	Only new metal drums permitted on passenger vessels.

PART 178—[AMENDED]

134. The authority citation for Part 178 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR Part 1, unless otherwise noted.

135. The title to Part 178 would be revised to read:

PART 178—SPECIFICATIONS FOR PACKAGINGS

136. Section 178.0–2 would be revised to read as follows:

§ 178.0–2 Applicability and manufacturers' responsibility.

(a) Applicability. Any person who performs a function prescribed in this part shall perform that function in accordance with this part.

(b) Specification markings. When this part requires that a packaging be marked with a DOT specification or UN standard marking (for example, DOT–3AL 1800–1234–XY, UN 1A1/Y1.4/150/85) compliance with that requirement is the responsibility of the manufacturer (see § 171.8 of this subchapter for definition of "manufacturer") of the packaging. Except as otherwise provided in this section, marking of the packaging by the manufacturer with the appropriate DOT or UN markings is the certification by the manufacturer that—

(1) All requirements of the DOT specification or the UN standard, including performance tests, are met; and

(2) All functions performed by the manufacturer conform to requirements specified in this part.

(c) General requirements for packagings. Manufacturers of packagings shall comply with general requirements for packagings prescribed in Subpart B of Part 173 (particularly, § 173.24) of this subchapter to the extent that those requirements apply to the design, construction and suitability for use of the specification or standard to which the packaging is manufactured.

(d) Notification. Except as specifically provided in § 178.337–16 and 178.340–10, the manufacturer of a packaging shall inform in writing each person to whom that packaging is transferred of all requirements of this part not met at the

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time of transfer, and all actions which need to be taken for the packaging to conform to the requirements of this part. This notice must also include the type and dimensions of any closures needed to satisfy performance test requirements. Copies of these written statements shall be retained by the manufacturer for at least one year from date of issuance and must be open to inspection by a representative of the Department.

(e) Except as provided in paragraph (d) of this section, packagings which do not conform to the applicable specifications or standards in this part may not be marked to indicate such conformance.

137. Section 178.0–3 would be revised to read as follows:

§ 178.0–3 Marking of packagings.

(a) Each packaging manufactured to a DOT specification or a UN standard shall be marked as follows:

(1) In an unobstructed area, with letters, and numerals identifying the standards or specification (e.g. UN 1A1, DOT 4B240ET, etc.).

(2) With the name and address or symbol of the person making the mark. Symbols, if used, must be registered with the Director, OHMT.

(3) The markings must be stamped, embossed, burned, printed or otherwise marked on the packaging to provide adequate accessibility, permanency, contrast, and legibility so as to be readily apparent and understood.

(4) Unless otherwise specified, letters and numerals must be at least 12.0mm (0.47 inches) in height except that for packagings of less than or equal to 30 liters (7.9 gallons) capacity for liquids or 30 kilograms (66.1 pounds) capacity for solids the height must be at least 6.0mm (0.24 inches).

(b) Packagings may be marked with the United Nations symbol and packaging identification code as provided in this subchapter, in the ICAO Technical Instructions or in Annex 1 to the IMDG Code, provided the person applying these marks has established that the packaging conforms to the applicable provisions of this subchapter, the ICAO Technical Instructions or Annex 1 to the IMDG Code, respectively.

(1) If an indication of the State in whose territory the specified tests have been carried out, or of the State authorizing the allocation of the mark, is required, the letters "USA" shall be used.

(2) If an indication of the name of the manufacturer or other identification of the packaging as specified by the competent authority is required, the name and address or symbol of the person making the mark shall be entered. Symbols, if used, must be registered with the Director, OHMT. Duplicate symbols are not authorized.

(3) Packagings manufactured to UN standards in accordance with this subchapter shall be marked as prescribed in § 178.503.

Subpart A—[Removed and Reserved]

138. Subpart A of Part 178 would be removed and reserved.

Subpart B—[Amended]

139. In Subpart B, § 178.34 would be redesignated as § 178.360 and moved to Subpart K. With the exception of §§ 178.33 and 178.33a, the remaining sections in Subpart B would be removed.

140. The title of § 178.33 would be revised to read as follows:

§ 178.33 Specification 2P; inner nonrefillable metal receptacles.

* * * * *

141. The title to § 178.33a would be revised to read as follows:

§ 178.33a Specification 2Q; inner nonrefillable metal receptacles.

* * * * *

Subpart D—[Amended]

142. In Subpart D, §§ 178.103 through 178.103–6, 178.104 through 178.104–5, 178.120 through 178.120–5 and 178.121 through 178.121–4 would be moved to Subpart K and be redesignated as §§ 178.352 through 178.352–6, 178.354 through 178.354–5, 178.356 through 178.356–5 and 178.358 through 178.358–4, respectively. Then Subpart D would be removed and reserved.

Subpart E—[Amended]

143. In Subpart E, §§ 178.194 through 178.194–7 and 178.195 through 178.195–6 would be moved to Subpart K and be redesignated as §§ 178.362 through 178.362–7 and 178.364 through 178.364–6 respectively. Then Subpart E would be removed and reserved.

Subparts F and G—[Removed and Reserved]

144. Subparts F and G would be removed and reserved.

Subpart H—Specifications for Portable Tanks

145. In § 178.270–11, paragraphs (c) (1) and (2) would be revised to read as follows:

§ 178.270–11 Pressure and vacuum relief devices.

* * * * *

(c) *Pressure settings of relief devices.*

(1) *Primary pressure relief devices.* The primary relief device required by paragraph (a) of this section must be set to function in the range of—

(i) No less than 67 percent and no greater than 83 percent of test pressure for tanks hydrostatically tested under § 178.270–13(a) at a pressure below 66 psig (455.1 kPa). Spring-loaded pressure relief valves must close after discharge at a pressure not less than 80 percent of start-to-discharge pressure.

(ii) No less than 67 percent and no greater than 74 percent of test pressure for tanks hydrostatically tested under § 178.270–13(a) at a pressure of 66 psig (455.1 kPa) or higher. Spring-loaded pressure relief valves must close after discharge at a pressure not less than 90 percent of start to discharge pressure.

(2) *Emergency pressure relief devices.* Each frangible disc, other than one used as a primary relief device in accordance with paragraph (b)(2) of this section, must be designed to burst at a pressure greater than 83 percent of and less than or equal to tank hydrostatic test pressure. Each spring-loaded pressure relief valve used as an emergency pressure relief device must be set to operate at no less than 83 percent of hydrostatic test pressure and be fully open at test pressure.

* * * * *

146. The title to Subpart K would be revised to read as follows:

Subpart K—Specifications for Packagings for Radioactive Materials

147. A new Subpart L would be added to read as follows:

Subpart L—Non-bulk Performance-oriented Packaging Standards

Sec.

178.500 Purpose, scope and definitions.
178.502 Identification codes for packagings.
178.503 Marking of packagings.
178.504 Standards for steel drums.
178.505 Standards for aluminum drums.
178.506 Standards for metal drums other than steel or aluminum.
178.507 Standards for plywood drums.
178.508 Standards for fiber drums.
178.509 Standards for plastic drums and jerricans.
178.510 Standards for wooden barrels.
178.511 Standards for steel jerricans.
178.512 Standards for steel or aluminum boxes.
178.513 Standards for boxes of natural wood.
178.514 Standards for plywood boxes.
178.515 Standards for reconstituted wood boxes.
178.516 Standards for fiberboard boxes.
178.517 Standards for plastic boxes.
178.518 Standards for woven plastic bags.
178.519 Standards for plastic film bags.
178.520 Standards for textile bags.
178.521 Standards for paper bags.
178.522 Standards for composite packagings with inner plastic receptacles.
178.523 Standards for composite packagings with inner glass, porcelain, or stoneware receptacles.

Subpart L—Non-bulk Performance-oriented Packaging Standards

§ 178.500 Purpose, scope and definitions.

(a) This subpart prescribes certain requirements for non-bulk packagings for hazardous materials. Standards for these packagings are based on the UN Recommendations.

(b) Terms used in this subpart are defined in § 171.8 of this subchapter.

§ 178.502 Identification codes for packagings.

(a) Identification codes for designating types of packagings consist of the following:

(1) A numeral indicating the type of packaging, as follows:
(i) "1" means a drum.
(ii) "2" means a wooden barrel.
(iii) "3" means a jerrican.
(iv) "4" means a box.
(v) "5" means a bag.
(vi) "6" means a composite packaging.
(vii) "7" means a pressure receptacle.

(2) A capital letter indicating the material of construction, as follows:
(i) "A" means steel (all types and surface treatments).
(ii) "B" means aluminum.
(iii) "C" means natural wood.
(iv) "D" means plywood.
(v) "F" means reconstituted wood.
(vi) "G" means fiberboard.
(vii) "H" means plastic.
(viii) "L" means textile.
(ix) "M" means paper, multiwall.
(x) "N" means metal (other than steel or aluminum).
(xi) "P" means glass, porcelain or stoneware.

(3) A numeral indicating the category of packaging within the type to which the packaging belongs. For example, for steel drums ("1A"), "1" indicates a non-removable head drum (i.e., "1A1") and "2" indicates a removable head drum (i.e., "1A2").

(b) For composite packagings, two capital letters are used in sequence in the second position of the code, the first indicating the material of the inner receptacle and the second, that of the outer packaging. For example, a plastic receptacle in a steel drum is designated "6HA1".

(c) For combination packagings, only the code number for the outer packaging is used.

(d) Identification codes are set forth in the standards for packagings in §§ 178.504 through 178.523.

§ 178.503 Marking of packagings.

(a) The manufacturer shall mark every package that is required to conform to a UN standard of this subpart in a durable and clearly visible manner, with the following information and in the sequence presented:

(1) The United Nations symbol as illustrated in paragraph (d) of this section (for metal receptacles, the letters UN may be applied in place of the symbol);

(2) A packaging identification code designating the type of packaging, the material of construction and, when appropriate, the category of packaging under §§ 178.504 through 178.523 within the type to which the packaging belongs;

(3) A letter identifying the performance standard under which the packaging has been successfully tested, as follows:
(i) X—for packagings meeting Packing Group I, II and III tests;
(ii) Y—for packagings meeting Packing Group II and III tests; or
(iii) Z—for packagings only meeting Packing Group III tests;

(4) A designation of the specific gravity or mass for which the packaging has been tested, as follows:
(i) For packaging without inner packagings intended to contain liquids (except viscous liquids), the designation shall be the specific gravity rounded down to the first decimal but may be omitted when the specific gravity does not exceed 1.2; and
(ii) For packagings intended to contain viscous liquids, solids, or inner packagings, the designation must be the maximum gross mass in kilograms;

(5) Either a letter "S" designating that the packaging is intended only for the transport of solids or inner packagings, or the test pressure in kilopascals rounded off to the nearest 10 kilopascals of the hydrostatic pressure test that the packaging has successfully passed;

(6) The last two digits of the year of manufacture. Packagings of types 1H and 3H shall also be marked with the month of manufacture in any appropriate manner; this may be marked on the packaging in a different place from the remainder of the markings;

(7) The letters "USA" (indicating that the packaging was marked pursuant to the provisions of this subchapter);

(8) The name and address or symbol of the person applying the marks required by this section. Symbols, if used, must be registered in advance with the Director, OHMT;

(9) For metal or plastic drums or jerricans intended for reuse the minimum thickness of the packaging material, expressed in millimeters and abbreviated "mm", and

(10) For drums intended as packagings for nitric acid, the tare weight in kilograms preceded by the letters TW.

(b) For a reusable packaging likely to undergo a reconditioning process, the markings required in paragraphs (a)(1) through (a)(6) and (a)(9) of this section shall be applied in a permanent manner (e.g., by embossment) able to withstand the reconditioning process. For a packaging with a removable head, the markings may not be applied to the removable head.

(c) If a package is reconditioned, it shall be marked by the reconditioner near the marks required in paragraphs (a) (1) through (6) of this section with the following additional information:

(1) The name of the country in which the reconditioning was performed (in the United States, use the letters "USA";

(2) The name and address or symbol of the reconditioner. Symbols, if used, shall be registered in advance with the Director, OHMT);

(3) The month and last two digits of the year of reconditioning;

(4) The letter "R"; and

(5) For every packaging successfully passing a leakproofness test, the additional letter "L".

(d) The following are examples of symbols and required markings:

(1) The United Nations symbol is:

(2) Examples of markings for a new packaging are as follows:

(i) For a fiberboard box designed to contain an inner receptacle:

UN 4G/Y145/S/83
USA/RA

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(as in § 178.503(a)(1) through (a)(8)).
(ii) For a steel drum designed to contain liquids:
UN 1A1/Y1.4/150/83
USA/VL824
1MM
(as in § 178.503(a)(1) through (a)(9)).
(iii) For a steel drum to transport solids, viscous liquids or inner packagings:
UN 1A2/Y150/S/83
USA/VL825
(as in § 178.503(a)(1) through (a)(8)).
(3) Examples of markings for reconditioned packagings are as follows:
UN 1A1/Y1.4/150/83
USA/VL824 1mm
USA/RB/10–85RL
(as in § 178.503(c)(1), (2), (3) and (4)).

§ 178.504 Standards for steel drums.

(a) The following are identification codes for steel drums:
(1) 1A1 for a non-removable head steel drum; and,
(2) 1A2 for a removable head steel drum.
(b) Construction requirements for steel drums are as follows:
(1) Body and heads shall be constructed of steel sheet of suitable type and adequate thickness in relation to the capacity and intended use of the drum.
(2) Body seams shall be welded on drums designed to contain more than 40 liters (10.6 gallons) of liquids. Body seams shall be mechanically seamed or welded on drums intended to contain only solids or 40 liters (10.6 gallons) or less of liquids.
(3) Chimes shall be mechanically seamed or welded. Separate reinforcing rings may be applied.
(4) The body of a drum of a capacity greater that 60 liters (15.9 gallons) must, in general, have at least two expanded rolling hoops, or alternatively, at least two separate rolling hoops. If there are separate rolling hoops, they shall be fitted tightly on the body and so secured that they cannot shift. Rolling hoops may not be spot welded.
(5) Openings for filling, emptying and venting in the bodies or heads of non-removable head (1A1) drums may not exceed 7.0 centimeters (2.76 inches) in diameter. Drums with larger openings are considered to be of the removable head type (1A2). Closures for openings in the bodies and heads of drums shall be so designed and applied that they will remain secure and leakproof under normal conditions of transport. Closure flanges shall be mechanically seamed or welded in place. Gaskets or other sealing elements shall be used with closures unless the closure is inherently leakproof.
(6) Closure devices for removable head drums shall be so designed and applied that they will remain secure and drums will remain leakproof under normal conditions of transport. Gaskets or other sealing elements shall be used with all removable heads.
(7) If materials used for body, heads, closures, and fittings are not in themselves compatible with the contents to be transported, suitable internal protective coatings or treatments shall be applied. These coatings or treatments shall retain their protective properties under normal conditions of transport.
(8) Maximum capacity of drum: 450 liters (118.9 gallons).
(9) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.505 Standards for aluminum drums.

(a) The following are the identification codes for aluminum drums:
(1) 1B1 for a non-removable head aluminum drum; and
(2) 1B2 for a removable head aluminum drum.
(b) Construction requirements for aluminum drums are as follows:
(1) Body and heads shall be constructed of aluminum at least 99 percent pure or an aluminum base alloy. Material shall be of suitable type and adequate thickness in relation to the capacity and the intended use of the drum.
(2) All seams shall be welded. Chime seams, if any, shall be reinforced by the application of separate reinforcing rings.
(3) The body of a drum of a capacity greater than 60 liters (15.9 gallons) must, in general, have at least two expanded rolling hoops, or alternatively, at least two separate rolling hoops. If there are separate rolling hoops, the hoops shall be fitted tightly on the body and so secured that they cannot shift. Rolling hoops shall not be spot welded.
(4) Openings for filling, emptying, or venting in the bodies or heads of non-removable head (1B1) drums may not exceed 7.0 centimeters (2.76 inches) in diameter. Drums with larger openings are considered to be of the removable head type (1B2). Closures for openings in the bodies and heads of drums shall be so designed and applied that they will remain secure and leakproof under normal conditions of transport. Closure flanges shall be welded in place so that the weld provides a leakproof seam. Gaskets or other sealing elements shall be used with closures unless the closure is inherently leakproof.
(5) Closure devices for removable head drums shall be so designed and applied that they remain secure and drums remain leakproof under normal conditions of transport. Gaskets or other sealing elements shall be used with all removable heads.
(6) Maximum capacity of drum: 450 liters (118.9 gallons).
(7) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.506 Standards for metal drums other than steel or aluminum.

(a) The following are the identification codes for metal drums other than steel or aluminum:
(1) 1N1 for a non-removable head metal drum.
(2) 1N2 for a removable head metal drum.
(b) Construction requirements for metal drums other than steel or aluminum are as follows:
(1) Body and heads shall be constructed of metal (other than steel or aluminum) of suitable type and adequate thickness in relation to the capacity and the intended use of the drum.
(2) All seams shall be welded. Chime seams, if any, shall be reinforced by the application of separate reinforcing rings.
(3) The body of a drum of a capacity greater than 60 liters (15.85 gallons) must, in general, have at least two expanded rolling hoops, or alternatively, at least two separate rolling hoops. If there are separate rolling hoops, the hoops shall be fitted tightly on the body and so secured that they cannot shift. Rolling hoops shall not be spot welded.
(4) Openings for filling, emptying, or venting in the bodies or heads of non-removable head (1N1) drums may not exceed 7.0 centimeters (2.76 inches) in diameter. Drums with larger openings are considered to be of the removable head type (1N2). Closures for openings in the bodies and heads of drums shall be so designed and applied that they will remain secure and leakproof under normal conditions of transport. Closure flanges shall be welded in place so that the weld provides a leakproof seam. Gaskets or other sealing elements shall be used with closures unless the closure is inherently leakproof.
(5) Closure devices for removable head drums shall be so designed and applied that they remain secure and drums remain leakproof under normal conditions of transport. Gaskets or other sealing elements shall be used with all removable heads.
(6) Maximum capacity of drum: 450 liters (118.9 gallons).
(7) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.507 Standards for plywood drums.

(a) The identification code for a plywood drum is 1D.

(b) Construction requirements for plywood drums are as follows:
(1) The wood used must be well-seasoned, commercially dry and free from any defect likely to lessen the effectiveness of the drum for the purpose intended. A material other than plywood may be used for the manufacture of the heads, if it is of strength and durability at least equivalent to the plywood.
(2) At least two-ply plywood shall be used for the body and at least three-ply plywood for the heads; the plies shall be firmly glued together, with their grains crosswise.
(3) The body and heads of the drum and their joints must be of a design appropriate to the capacity of the drum and its intended use.
(4) In order to prevent sifting of the contents, lids shall be lined with kraft paper or some other equivalent material which shall be securely fastened to the lid and extend to the outside along its full circumference.
(5) Maximum capacity of drum: 250 liters (66.0 gallons).
(6) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.508 Standards for fiber drums.

(a) The identification code for a fiber drum is 1G.
(b) Construction requirements for fiber drums are as follows:
(1) The body of the drum shall be constructed of multiple plies of heavy paper or fiberboard (without corrugations) firmly glued or laminated together and may include one or more protective layers of bitumen, waxed kraft paper, metal foil, plastic material, or similar materials.
(2) Heads must be of natural wood, fiberboard, metal, plywood or plastic material and may include one or more protective layers of bitumen, waxed kraft paper, metal foil, plastic material, or similar material.
(3) The body and heads of the drum and their joints must be of a design appropriate to the capacity and intended use of the drum.
(4) The assembled packaging must be sufficiently water-resistant so as not to delaminate under normal conditions of transport.
(5) Maximum capacity of drum: 450 liters (118.9 gallons).
(6) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.509 Standards for plastic drums and jerricans.

(a) The following are identification codes for plastic drums and jerricans:
(1) 1H1 for a non-removable head plastic drum;
(2) 1H2 for a removable head plastic drum;
(3) 3H1 for a non-removable head jerrican; and
(4) 3H2 for a removable head jerrican.
(b) Construction requirements for plastic drums and jerricans are as follows:
(1) The packaging shall be manufactured from suitable plastic material and be of adequate strength in relation to its capacity and intended use. No used material other than production residues or regrind from the same manufacturing process may be used. The packaging must be adequately resistant to aging and to degradation caused either by the substance contained or by ultra-violet radiation. Any permeation of the substance contained must not constitute a danger under normal conditions of transport.
(2) If protection against ultra-violet radiation is required, it shall be provided by the addition of carbon black or other suitable pigments or inhibitors. These additives must be compatible with the contents and remain effective throughout the life of the packaging. Where use is made of carbon black, pigments or inhibitors other than those used in the manufacture of the design type, retesting may be waived if the carbon black content does not exceed 2 percent by mass or if the pigment content does not exceed 3 percent by mass; the content of inhibitors of ultra-violet radiation is not limited.
(3) Additives serving purposes other than protection against ultra-violet radiation may be included in the composition of the plastic material provided they do not adversely affect the chemical and physical properties of the packaging material.
(4) The wall thickness at every point of the packaging must be appropriate to its capacity and its intended use, taking into account the stresses to which each point is liable to be exposed.
(5) Openings for filling, emptying and venting in the bodies or heads of non-removable head (1H1) drums and jerricans (3H1) may not exceed 7.0 centimeters (2.76 inches) in diameter. Drums and jerricans with larger openings are considered to be of the removable head type (1H2 and 3H2). Closures for openings in the bodies or heads of drums and jerricans shall be so designed and applied that they remain secure and leakproof under normal conditions of transport. Gaskets or other sealing elements shall be used with closures unless the closure is inherently leakproof.
(6) Closure devices for removable head drums and jerricans shall be so designed and applied that they remain secure and leakproof under normal conditions of transport. Gaskets shall be used with all removable heads unless the drum or jerrican design is such that when the removable head is properly secured, the drum or jerrican is inherently leakproof.
(7) Maximum capacity of drums and jerricans: 1H1, 1H2: 450 liters (118.9 gallons); 3H1, 3H2: 60 liters (15.9 gallons).
(8) Maximum net mass: 1H1, 1H2: 400 kg (881.8 pounds); 3H1, 3H2: 120 kg (264.6 pounds).

§ 178.510 Standards for wooden barrels.

(a) The following are identification codes for wooden barrels:
(1) 2C1 for a bung type wooden barrel; and
(2) 2C2 for a slack type (removable head) wooden barrel.
(b) Construction requirements for wooden barrels are as follows:
(1) The wood used must be of good quality, straight-grained, well-seasoned and free from knots, bark, rotten wood, sapwood or other defects likely to lessen the effectiveness of the barrel for the purpose intended.
(2) The body and heads must be of a design appropriate to the capacity and intended use of the barrel.
(3) Staves and heads shall be sawn or cleft with the grain so that no annual ring extends over more than half the thickness of a stave or head.
(4) Barrel hoops must be of steel or iron of good quality. The hoops of 2C2 barrels may be of a suitable hardwood.
(5) For wooden barrels 2C1, the diameter of the bung-hole may not exceed half the width of the stave in which it is placed.
(6) For wooden barrels 2C2, heads must fit tightly into crozes.
(7) Maximum capacity of barrel: 250 liters (66.0 gallons)
(8) Maximum net mass: 400 kilograms (881.8 pounds)

§ 178.511 Standards for steel jerricans.

(a) The following are identification codes for steel jerricans:
(1) 3A1 for a non-removable head jerrican; and
(2) 3A2 for a removable head jerrican.
(b) Construction requirements for steel jerricans are as follows:
(1) Body and heads shall be constructed of steel sheet of suitable type and adequate thickness in relation to the capacity of the jerrican and intended use.
(2) Chimes of all jerricans shall be mechanically seamed or welded. Body seams of jerricans intended to carry

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more than 40 liters (10.6 gallons) of liquid shall be welded. Body seams of jerricans intended to carry 40 liters (10.6 gallons) or less shall be mechanically seamed or welded.

(3) Openings in jerricans (3A1) may not exceed 7.0 centimeters (2.76 inches) in diameter. Jerricans with larger openings are considered to be of the removable head type. Closures shall be so designed that they remain secure and leakproof under normal conditions of transport. Gaskets or other sealing elements shall be used with closures, unless the closure is inherently leakproof.

(4) If materials used for body, heads, closures and fittings are not in themselves compatible with the contents to be transported, suitable internal protective coatings or treatments shall be applied. These coatings or treatments must retain their protective properties under normal conditions of transport.

(5) Maximum capacity of jerrican: 60 liters (15.9 gallons).

(6) Maximum net mass: 120 kilograms (264.6 pounds).

§ 178.512 Standards for steel or aluminum boxes.

(a) The following are identification codes for steel or aluminum boxes:

(1) 4A1 for an unlined and uncoated steel box;

(2) 4A2 for a steel box with inner liner or coating;

(3) 4B1 for an unlined and uncoated aluminum box; and

(4) 4B2 for an aluminum box with inner liner or coating.

(b) Construction requirements for steel or aluminum boxes are as follows:

(1) The strength of the metal and the construction of the box must be appropriate to the capacity and intended use of the box.

(2) Boxes 4A2 and 4B2 shall be lined with fiberboard or felt packing pieces, as required, or shall have an inner liner or coating of suitable material. If a double seamed metal liner is used, steps shall be taken to prevent the ingress of substances, particularly explosives, into the recesses of the seams.

(3) Closures may be of any suitable type, and must remain secure under normal conditions of transport.

(4) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.513 Standards for boxes of natural wood.

(a) The following are the identification codes for boxes of natural wood:

(1) 4C1 for an ordinary box; and

(2) 4C2 for a box with sift-proof walls.

(b) Construction requirements for boxes of natural wood are as follows:

(1) The wood used must be well-seasoned, commercially dry and free from defects that would materially lessen the strength of any part of the box. The strength of the material used and the method of construction must be appropriate to the capacity and intended use of the box. The tops and bottoms may be made of water-resistant reconstituted wood such as hard board, particle board or other suitable type.

(2) Each part of the 4C2 box must be one piece or equivalent. Parts are considered equivalent to one piece when one of the following methods of glued assembly is used: Linderman joint, tongue and groove joint, ship lap or rabbet joint, or butt joint with at least two corrugated metal fasteners at each joint.

(3) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.514 Standards for plywood boxes.

(a) The identification code for a plywood box is 4D.

(b) Construction requirements for plywood boxes are as follows:

(1) Plywood used must be at least 3 ply. It shall be made from well-seasoned rotary cut, sliced or sawn veneer, commercially dry and free from defects that would materially lessen the strength of the box. The strength of the material used and the method of construction must be appropriate to the capacity and intended use of the box. All adjacent plies shall be glued with water-resistant adhesive. Other suitable materials may be used together with plywood in the construction of boxes. Boxes shall be nailed or secured to corner posts or ends or assembled with other equally suitable devices.

(2) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.515 Standards for reconstituted wood boxes.

(a) The identification code for a reconstituted wood box is 4F.

(b) Construction requirements for reconstituted wood boxes are as follows:

(1) The walls of boxes shall be made of water-resistant, reconstituted wood such as hardboard, particle board, or other suitable type. The strength of the material used and the method of construction must be appropriate to the capacity of the boxes and their intended use.

(2) Other parts of the box may be made of other suitable materials.

(3) Boxes shall be securely assembled by means of suitable devices.

(4) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.516 Standards for fiberboard boxes.

(a) The identification code for a fiberboard box is 4G.

(b) Construction requirements for fiberboard boxes are as follows:

(1) Strong, solid or double-faced corrugated fiberboard (single or multiwall) shall be used, appropriate to the capacity and intended use of the box. The water resistance of the outer surface must be such that the increase in mass, as determined in a test carried out over a period of 30 minutes by the Cobb method of determining water absorption, is not greater than 155 grams per square meter (0.0316 pounds per square foot)—see ISO International Standard 535–1976 (E). It must have proper bending qualities. Fiberboard shall be cut, creased without scoring, and slotted so as to permit assembly without cracking, surface breaks, or undue bending. The fluting of corrugated fiberboard shall be firmly glued to the facings.

(2) The ends of boxes may have a wooden frame or be entirely of wood. Reinforcements of wooden battens may be used.

(3) *Manufacturing joints.* (i) Manufacturing joints in the bodies of boxes shall be—

(A) Taped;

(B) Lapped and glued; or

(C) Lapped and stitched with metal staples.

(ii) Lapped joints shall have an appropriate overlap.

(iii) Where closing is effected by gluing or taping, a water resistant adhesive shall be used.

(4) Boxes shall be designed so as to provide a snug fit to the contents.

(5) Maximum net mass: 400 kilograms (881.8 pounds).

§ 178.517 Standards for plastic boxes.

(a) The following are identification codes for plastic boxes:

(1) 4H1 for an expanded plastic box; and

(2) 4H2 for a solid plastic box.

(b) Construction requirements for plastic boxes are as follows:

(1) The box shall be manufactured from suitable plastic material and be of adequate strength in relation to its capacity and intended use. The box must be adequately resistant to ageing and to degradation caused either by the substance contained or by ultra-violet radiation.

(2) An expanded plastic box must consist of two parts made of a moulded expanded plastic material: A bottom section containing cavities for the inner receptacles, and a top section covering and interlocking with the bottom

section. The top and bottom sections shall be so designed that the inner receptacles fit snugly. The closure cap for any inner receptacle may not be in contact with the inside of the top section of the box.

(3) For transportation, an expanded plastic box shall be closed with a self-adhesive tape having sufficient tensile strength to prevent the box from opening. The adhesive tape must be weather resistant and its adhesive compatible with the expanded plastic material of the box. Other closing devices at least equally effective may be used.

(4) For solid plastic boxes, protection against ultra-violet radiation, if required, shall be provided by the addition of carbon black or other suitable pigments or inhibitors. These additives must be compatible with the contents and remain effective throughout the life of the box. Where use is made of carbon black pigment or inhibitors other than those used in the manufacture of the tested design type, retesting may be waived if the carbon black content does not exceed 2 percent by mass or if the pigment content does not exceed 3 percent by mass; the content of inhibitors of ultra-violet radiation is not limited.

(5) Additives serving purposes other than protection against ultra-violet radiation may be included in the composition of the plastic material if they do not adversely affect the material of the box. Addition of these additives does not change the design type.

(6) Solid plastic boxes must have closure devices made of a suitable material of adequate strength and so designed as to prevent the box from unintentional opening.

(7) Maximum net mass 4H1: 60 kg (132.3 pounds); 4H2: 400 kg (881.8 pounds).

§ 178.518 Standards for woven plastic bags.

(a) The following are identification codes for woven plastic bags:

(1) 5H1 for an unlined or non-coated woven plastic bag;

(2) 5H2 for a sift proof woven plastic bag; and

(3) 5H3 for a water-resistant woven plastic bag.

(b) Construction requirements for woven plastic fabric bags are as follows:

(1) Bags shall be made from stretched tapes or monofilaments of a suitable plastic material. The strength of the material used and the construction of the bag must be appropriate to the capacity and intended use of the bag.

(2) If the fabric is woven flat, the bags shall be made by sewing or some other method ensuring closure of the bottom and one side. If the fabric is tubular, the bag shall be closed by sewing, weaving, or some other equally strong method of closure.

(3) Bags, sift-proof, 5H2 shall be made sift-proof by appropriate means such as use of paper or a plastic film bonded to the inner surface of the bag or one or more separate inner liners made of paper or plastic material.

(4) Bags, water-resistant, 5H3: To prevent the entry of moisture, the bag shall be made waterproof by appropriate means, such as separate inner liners of water-resistant paper (e.g., waxed kraft paper, double-tarred kraft paper or plastic-coated kraft paper), or plastic film bonded to the inner or outer surface of the bag, or one or more inner plastic liners.

(5) Maximum net mass: 50 kilograms (110.2 pounds).

§ 178.519 Standards for plastic film bags.

(a) The identification code for a plastic film bag is 5H4.

(b) Construction requirements for plastic film bags are as follows:

(1) Bags shall be made of a suitable plastic material. The strength of the material used and the construction of the bag must be appropriate to the capacity and the intended use of the bag. Joints and closures must be capable of withstanding pressures and impacts liable to occur under normal conditions of transportation.

(2) Maximum net mass: 50 kilograms (110.2 pounds).

§ 178.520 Standards for textile bags.

(a) The following are identification codes for textile bags:

(1) 5L1 for an unlined or non-coated textile bag;

(2) 5L2 for a sift-proof textile bag; and

(3) 5L3 for a water-resistant textile bag.

(b) Construction requirements for textile bags are as follows:

(1) The textiles used must be of good quality. The strength of the fabric and the construction of the bag must be appropriate to the capacity and intended use of the bag.

(2) Bags, sift-proof, 5L2: The bag shall be made sift-proof, by appropriate means, such as by the use of paper bonded to the inner surface of the bag by a water-resistant adhesive such as bitumen, plastic film bonded to the inner surface of the bag, or one or more inner liners made of paper or plastic material.

(3) Bags, water-resistant, 5L3: To prevent entry of moisture, the bag shall be made waterproof by appropriate means, such as by the use of separate inner liners of water-resistant paper (e.g., waxed kraft, paper, tarred paper, or plastic-coated kraft paper), or plastic film bonded to the inner surface of the bag, or one or more inner liners made of plastic material.

(4) Maximum net mass: 50 kilograms (110.2 pounds).

§ 178.521 Standards for paper bags.

(a) The following are identification codes for paper bags:

(1) 5M1 for a multiwall paper bag; and

(2) 5M2 for a multiwall water-resistant paper bag.

(b) Construction requirements for paper bags are as follows:

(1) Bags shall be made of a suitable kraft paper, or of an equivalent paper with at least three plies. The strength of the paper and the construction of the bag must be appropriate to the capacity and intended use of the bag. Seams and closures must be sift-proof.

(2) Paper bags 5M2: To prevent the entry of moisture, a bag of four plies or more shall be made waterproof by the use of either a water-resistant ply as one of the two outermost plies or a water-resistant barrier made of a suitable protective material between the two outermost plies. A 5M2 bag of three plies shall be made waterproof by the use of a water-resistant ply as the outermost ply. When there is danger of the lading reacting with moisture, or when it is packed damp, a water-resistant ply or barrier shall be placed next to the substance. Seams and closures must be waterproof.

(3) Maximum net mass: 50 kilograms (110.2 pounds).

§ 178.522 Standards for composite packagings with inner plastic receptacles.

(a) The following are the identification codes for composite packagings with inner plastic receptacles:

(1) 6HA1 for a plastic receptacle within a protective steel drum;

(2) 6HA2 for a plastic receptacle within a protective steel crate or box;

(3) 6HB1 for a plastic receptacle within a protective aluminum drum;

(4) 6HB2 for a plastic receptacle within a protective aluminum crate or box;

(5) 6HC for a plastic receptacle within a protective wooden box;

(6) 6HD1 for a plastic receptacle within a protective plywood drum;

(7) 6HD2 for a plastic receptacle within a protective plywood box;

(8) 6HG1 for a plastic receptacle within a protective fiber drum;

(9) 6HG2 for a plastic receptacle within a protective fiberboard box; and

(10) 6HH for a plastic receptacle within a protective plastic drum.

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(b) Construction requirements for composite packagings with inner receptacles of plastic are as follows:

(1) Inner receptacles shall be constructed under the applicable construction requirements prescribed in § 178.509(b) (1) through (7).

(2) The inner plastic receptacle must fit snugly inside the outer packaging which must be free of any projections which may abrade the plastic material.

(3) Outer packagings shall be constructed as follows:

(i) 6HA1 or 6HB1: Protective packaging must conform to the requirements for steel drums in § 178.504(b), or aluminum drums in § 178.505(b).

(ii) 6HA2 or 6HB2: Protective packagings with steel or aluminum crate must conform to the requirements for steel or aluminum boxes found in § 178.512(b).

(iii) 6HC: Protective packaging must conform to the requirements for wooden boxes in § 178.513(b).

(iv) 6HD1: Protective packaging must conform to the requirements for plywood drums, in § 178.507(b).

(v) 6HD2: Protective packaging must conform to the requirements of plywood boxes, in § 178.514(b).

(vi) 6HG1: Protective packaging must conform to the requirements for fiber drums, in § 178.508(b).

(vii) 6HG2: Protective packaging must conform to the requirements for fiberboard boxes, in § 178.516(b).

(viii) 6HH: Protective packaging must conform to the requirements for plastic drums, § 178.509(b).

(4) Maximum capacity of inner receptacles is as follows: 6HA1, 6HB1, 6HD1, 6HG1, 6HH—250 liters (66.0 gallons); 6HA2, 6HB2, 6HC, 6HD2, 6HG2—60 liters (15.9 gallons).

(5) Maximum net mass is as follows: 6HA1, 6HB1, 6HD1, 6HG1, 6HH—400 kg (881.8 pounds); 6HB2, 6HC, 6HD2, 6HG2—75 kg (165.4 pounds).

§ 178.523 Standards for composite packagings with inner glass, porcelain, or stoneware receptacles.

(a) The following are identification codes for composite packagings with inner receptacles of glass, porcelain, or stoneware:

(1) 6PA1 for glass, porcelain or stoneware receptacles within a protective steel drum;

(2) 6PA2 for glass, porcelain or stoneware receptacles within a protective steel crate or box;

(3) 6PB1 for glass, porcelain or stoneware receptacles within a protective aluminum drum;

(4) 6PB2 for glass, porcelain, or stoneware receptacles within a protective aluminum crate or box;

(5) 6PC for glass, porcelain, or stoneware receptacles within a protective wooden box;

(6) 6PD1 for glass, porcelain or stoneware receptacles within a protective plywood drum;

(7) 6PD2 for glass, porcelain, or stoneware receptacles within a protective wickerwork hamper;

(8) 6PG1 for glass, porcelain or stoneware receptacles within a protective fiber drum;

(9) 6PG2 for glass, porcelain, or stoneware receptacles within a protective fiberboard box;

(10) 6PH1 for glass, porcelain or stoneware receptacles within a protective expanded plastic packaging; and

(11) 6PH2 for glass, porcelain, or stoneware receptacles within a protective solid plastic packaging.

(b) Construction requirements for composite packagings with inner receptacles of glass, porcelain, or stoneware are as follows:

(1) Inner receptacles must conform to the following requirements:

(i) Receptacles must be of suitable form (cylindrical or pear-shaped), be made of good quality materials free from any defect that could impair their strength, and be firmly secured in the outer packaging.

(ii) Any part of a closure likely to come into contact with the contents of the receptacle must be resistant to those contents. Closures shall be fitted so as to be leakproof and secured to prevent any loosening during transportation. Vented closures must conform to § 173.24(f) of this subchapter.

(2) Protective packagings must conform to the following requirements:

(i) For receptacles with protective steel drum 6PA1, the drum must comply with § 178.504(b). However, the removable lid required for this type of packaging may be in the form of a cap.

(ii) For receptacles with protective packaging of steel crate or steel box 6PA2, the protective packaging must conform to the following:

(A) Section 178.512(b);

(B) In the case of cylindrical receptacles, the protective packaging shall, when upright, rise above the receptacle and its closure; and

(C) If the protective crate surrounds a pear-shaped receptacle and is of matching shape, the protective packaging shall be fitted with a protective cover (cap).

(iii) For receptacles with protective aluminum drum 6PB1, the requirements of § 178.505(b) apply to the protective packaging.

(iv) For receptacles with protective aluminum box or crate 6PB2, the requirements of § 178.512(b) apply to the protective packaging.

(v) For receptacles with protective wooden box 6PC, the requirements of § 178.513(b) apply to the protective packaging.

(vi) For receptacles with protective plywood drum 6PD1, the requirements of § 178.507(b) apply to the protective packaging.

(vii) For receptacles with protective wickerwork hamper 6PD2, the wickerwork hamper shall be properly made with material of good quality. The hamper shall be fitted with a protective cover (cap) so as to prevent damage to the receptacle.

(viii) For receptacles with protective fiber drum 6PG1, the drum must conform to the requirements of § 178.508(b).

(ix) For receptacles with protective fiberboard box 6PG2, the requirements of § 178.516(b) apply to the protective packaging.

(x) For receptacles with protective solid plastic or expanded plastic packaging 6PH1 or 6PH2, the requirements of § 178.517(b) apply to the protective packaging. Solid protective plastic packaging shall be manufactured from high-density polyethylene or from some other comparable plastic material. The removable lid required for this type of packaging may be a cap.

(3) Quantity limitations are as follows:

(i) Maximum net capacity for packagings for liquids: 60 liters (15.9 gallons).

(ii) Maximum net mass for packagings for solids: 75 kilograms (165.4 pounds).

148. A new Subpart M would be added to read as follows:

Subpart M—Testing of Non-bulk Packagings and Packages

Sec.

178.600 Purpose and scope.
178.601 General requirements.
178.602 Preparation of packagings and packages for testing.
178.603 Drop test.
178.604 Leakproofness test.
178.605 Hydrostatic pressure test.
178.606 Stacking test.
178.607 Cooperage test for bung-type wooden barrels.
178.608 Chemical compatibility test for plastic receptacles.

Subpart M—Testing of Non-Bulk Packagings and Packages

§ 178.600 Purpose and scope.

This subpart prescribes certain testing requirements for performance-oriented packagings identified in Subpart L of this part.

§ 178.601 General requirements.

(a) The test procedures prescribed in this subpart are intended to ensure that packages containing hazardous materials can withstand normal conditions of transportation and are considered minimum requirements. Each packaging shall be so manufactured and assembled as to be capable of successfully passing the prescribed tests and of conforming to the requirements of § 173.24 of this subchapter at all times while in transportation.

(b) It is the responsibility of the packaging manufacturer and the shipper, to the extent that assembly functions including final closure are performed by the latter, to assure that each package is capable of passing the prescribed tests.

(c) The packaging manufacturer shall achieve successful test results for each new or different packaging at the start of production of that packaging and at intervals established by the manufacturer of sufficient frequency to ensure that all packagings are capable of passing the prescribed tests. With the exception of the chemical compatibility test for plastic receptacles (§178.608 of this subchapter) production tests must be conducted at least once in each 12 month period. The chemical compatibility test must be conducted only at the start of production. For the purpose of this subpart, a different packaging is one that differs from a previously produced packaging in structural design, size, material of construction, wall thickness or manner of construction but does not include —

(1) A packaging which differs only in reduced design height (The cross-sectional shape and area must remain the same.);

(2) A packaging which differs only in surface treatment;

(3) A combination packaging which differs only in that the outer packaging has been successfully tested with different inner packagings (A variety of such different inner packagings may be assembled in this outer packaging without further testing); or

(4) A plastic packaging which differs only with regard to additives which conform to § 178.509(b)(3) or § 178.517(b) (4) or (5).

(d) The manufacturer shall conduct the tests prescribed in this subpart using random samples of production packagings, in the numbers specified in the appropriate test section. In addition, the leakproofness test shall be performed on every new packaging by the manufacturer or reconditioned packaging by the shipper or reconditioner, to which it applies.

(e) The Director, OHMT, may approve the selective testing of packagings that differ only in minor respects from a tested type, including packagings containing a lesser number or smaller sizes of inner packagings or with inner packagings of lower net mass; and packings such as drums, bags, and boxes which are produced with small reductions in external dimension.

(f) Notwithstanding the retest intervals specified in paragraph (c) of this section, the Director, OHMT, may at any time require proof, through testing in accordance with this subpart, that packagings meet the requirements of this subpart. As required by the Director, OHMT, the manufacturer shall either—

(1) Conduct performance tests in accordance with this subpart; or

(2) Supply packagings, in quantities sufficient to conduct tests in accordance with this subpart, to the Director, OHMT, or a designated representative.

(g) If an inner treatment or coating of a packaging is required for safety reasons, the manufacturer shall design the packaging so that the treatment or coating retains its protective properties even after withstanding the tests prescribed by this subpart.

(h) The manufacturer shall keep records of test results for at least one year and make them available for inspection by a representative of the Department upon request.

§ 178.602 Preparation of packagings and packages for testing.

(a) Tests shall be carried out on packagings and packages as prepared for transportation, including inner receptacles in the case of combination packagings.

(b) For the drop and stacking test, inner and single-unit receptacles shall be filled to not less than 95 percent of their capacity in the case of solids and not less than 98 percent in the case of liquids. The materials to be transported in the packagings may be replaced by non-hazardous materials, except for chemical compatibility testing or where this would invalidate the results of the tests.

(c) If the materials to be transported are replaced for test purposes by non-hazardous materials, the materials used must be of the same or higher specific gravity as the materials to be carried and their other physical properties (grain, size, viscosity) which might influence the results of the required tests must correspond as closely as possible to those of the hazardous materials to be transported.

(d) Paper or fiberboard packagings shall be conditioned for at least 24 hours in an atmosphere maintained—

(1) At 50 percent ±2 percent relative humidity, and at a temperature of 23 °C±2 °C (73 °F±4 °F); or

(2) At 65 percent ±2 percent relative humidity, and at a temperature of 20 °C±2 °C (68 °F±4 °F), or 27 °C±2 °C (80 °F±4 °F); or

(3) For testing at periodic intervals only (i.e., other than initial design qualification testing), at ambient conditions.

(e) Each packaging shall be closed in preparation for testing in the same manner as if prepared for actual shipment. All closures shall be installed using proper techniques and torques.

(f) Bung-type barrels made of natural wood shall be left filled with water for at least 24 hours before the tests.

(g) Except as provided in § 173.24(e)(3)(iii) of this subchapter, the chemical compatibility test provided in § 178.608 shall be performed on test samples used for the drop, stacking, hydrostatic pressure and leakproofness tests, before the conduct of the latter tests, at the start of production of each new or different packaging where plastic comes in contact with liquid hazardous material.

§ 178.603 Drop Test.

(a) The number of drops required and the packages' orientation are as follows:

Packaging	No. of test	Drop orientation samples
Steel drums, Aluminum drums, Metal drums (other than steel or aluminum), Steel jerricans, Plywood drums, Wooden barrels, Fibre drums, Plastics drums and jerricans, Composite packagings which are in the shape of a drum.	Six (three for each drop)	First drop (using three samples): The package must strike the target diagonally on the chime or, if the packaging has no chime, on each drop) a circumferential seam or an edge. Second drop (using the other three samples): The package must strike the target on the weakest part not tested by the first drop, for example a closure or, for some cylindrical drums, the welded longitudinal seam of the drum body.
Boxes of natural wood, Plywood boxes, Reconstituted wood boxes, Fiberboard boxes, Plastic boxes, Steel or aluminum boxes, Composite packagings which are in the shape of a box.	Five (one for each drop)	First drop: Flat on the bottom (using the first sample). Second drop: Flat on the top (using the second sample). Third drop: Flat on the long side (using the third sample). Fourth drop: Flat on the short side (using the fourth sample). Fifth drop: On a corner (using the fifth sample).

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Packaging	No. of test	Drop orientation samples
Bags—single-ply with a side seam	Three—(three drops per bag)	First drop: Flat on a wide face (using all three samples). Second drop: Flat on a narrow face (using all three samples). Third drop: On an end of the bag (using all three samples).
Bag—single-ply without a side seam, or multi-ply	Three (two drops per bag)	First drop: Flat on a wideface (using all three samples). Second drop: On an end of the bag (using all three samples).

(b) Special preparation of test samples for the drop test. Testing of plastic drums, jerricans, and boxes, composite packagings with inner plastic receptacles, and of combination packagings with inner plastic receptacles, other than expanded plastic boxes and bags, shall be carried out when the temperature of the test sample and its contents has been reduced to −18 °C (0 °F) or lower. Test liquids shall be kept in the liquid state, if necessary, by the addition of anti-freeze.

(c) Target. The target must be a rigid, non-resilient, flat and horizontal surface.

(d) Drop height. Drop heights, measured as the vertical distance from the target to the lowest point on the package, are determined as follows:

(1) For solids and liquids, if the test is performed with the solid or liquid to be transported or with a non-hazardous material having essentially the same physical characteristic, the drop height is determined according to Packing Group, as follows:

(i) Packing Group I: 1.8 meters (5.91 feet).

(ii) Packing Group II: 1.2 meters (3.94 feet).

(iii) Packing Group III: 0.8 meters (2.62 feet).

(2) For liquids, if the test is performed with water—

(i) Where the materials to be carried have a specific gravity not exceeding 1.2, drop height is determined according to Packing Group, as follows:

(A) Packing Group I: 1.8 meters (5.91 feet).

(B) Packing Group II: 1.2 meters (3.94 feet).

(C) Packing Group III: 0.8 meters (2.62 feet).

(ii) Where the materials to be transported have a specific gravity exceeding 1.2, the drop height shall be calculated on the basis of the specific gravity (SG) of the material to be carried, rounded up to the first decimal, as follows:

(A) Packing Group I: SG X 1.5 meters (4.92 feet).

(B) Packing Group II: SG X 1.0 meter (3.28 feet).

(C) Packing Group III: SG X 0.67 meters (2.25 feet).

(e) Criteria for passing the test. A package is considered to successfully pass the drop tests if for each sample tested —

(1) For receptacles containing liquid, each receptacle does not leak when equilibrium has been reached between the internal and external pressures;

(2) For removable head drums for solids, the entire contents are retained by an inner packaging (e.g., a plastic bag) even if the closure on the top head of the drum is no longer sift-proof;

(3) For a bag, neither the outermost ply nor an outer packaging exhibits any damage likely to adversely affect safety during transport;

(4) For a composite or combination packaging, there is no damage to the outer packaging likely to adversely affect safety during transport, and there is no leakage of the filling substance from the inner packaging;

(5) For a drum, jerrican or bag, any discharge from a closure is slight and ceases immediately after impact with no further leakage; and

(6) For packagings for explosives, no rupture of the packaging occurs.

§ 178.604 Leakproofness test.

(a) *General.* The leakproofness test shall be performed with compressed air or other suitable gases on all packagings intended to contain liquids; however, this test is not required for inner packagings of combination packagings.

(b) *Number of packagings to be tested*—(1) *Production testing.* All packagings subject to the provisions of this section shall be tested and must pass the leakproofness test:

(i) Before they are first used in transportation; and

(ii) Prior to reuse, when authorized for reuse by § 173.28 of this subchapter.

(2) *Design qualification testing.* Three samples of each different packaging shall be tested and must pass the leakproofness test.

(c) *Special preparation.* (1) For design qualification testing, packagings must be tested with closures in place. For production testing, packagings need not have their closures in place.

(2) For testing with closures in place, vented closures shall either be replaced by similar non-vented closures or the vent shall be sealed.

(d) *Test method.* The packaging shall be restrained under water while an internal air pressure is applied; the method of restraint must not affect the results of the test. The test must be conducted for a period of time sufficient to pressurize the interior of the packaging to the specified air pressure and to determine if there is leakage of air from the packaging. Other methods, at least equally effective, may be used, if approved by the Director, OHMT.

(e) *Pressure applied.* An internal air pressure (gauge) must be applied to the packaging as indicated for the following packing groups:

(1) Packing Group I: Not less than 30 kilopascals (4.4 psi).

(2) Packing Group II: Not less than 20 kilopascals (2.9 psi).

(3) Packing Group III: Not less than 20 kilopascals (2.9 psi).

(f) *Criteria for passing the test.* A packaging passes the test if there is no leakage of air from the packaging.

§ 178.605 Hydrostatic pressure test.

(a) *Packagings to be tested.* The hydrostatic pressure test shall be performed on samples of all metal, plastic, and composite packagings intended to contain liquids. This test is also required for inner packagings of combination packagings intended for transportation by aircraft.

(b) *Number of test samples.* Three test samples are required for each different packaging.

(c) *Special preparation of receptacles for testings.* Vented closures shall either be replaced by similar non-vented closures or the vent shall be sealed.

(d) *Test method and pressure to be applied.* Metal packagings and composite packagings other than plastic (e.g., glass, porcelain or stoneware), including their closures, shall be subjected to the test pressure for 5 minutes. Plastic packagings and composite packagings (plastic material), including their closures, shall be subjected to the test pressure for 30 minutes. This pressure is the one to be marked as required in § 178.503(a)(5). The receptacles shall be supported in a manner that does not invalidate the test. The test pressure shall be applied continuously and evenly and it shall be kept constant throughout the test period. The hydraulic pressure (gauge) applied, taken at the top of the receptacle, and determined by any one of the following methods shall be:

(1) Not less than the total gauge pressure measured in the packaging (i.e., the vapor pressure of the filling material and the partial pressure of the air or other inert gas minus 100 kilopascals (14.5 psi) at 55 °C (131 °F) and multiplied by a safety factor of 1.5. This total gauge pressure shall be determined on the basis of a maximum degree of filling in accordance with § 173.24a(b)(3) of this subchapter and a filling temperature of 15 °C (59 °F);

(2) Not less than 1.75 times the vapor pressure at 50 °C (122 °F) of the material to be transported minus 100 kilopascals (14.5 psi) but with a minimum test pressure of 100 kilopascals (14.5 psi); or

(3) Not less than 1.5 times the vapor pressure at 55 °C (131 °F) of the material to be transported minus 100 kilopascals (14.5 psi), but with a minimum test pressure of 100 kilopascals (14.5 psi).

Packagings intended to contain hazardous materials of Packing Group I shall be tested to a minimum test pressure of 250 kilopascals (36.3 psi).

(e) *Pressure test requirements for air transport.* Additional pressure test requirements for air transport, contained in § 173.27(c) of this subchapter, may exceed the pressure test required by paragraph (d) of this section.

(f) *Criteria for passing the test.* A package passes the hydrostatic test if, for each test sample, there is no leakage of liquid from the package.

§ 178.606 Stacking test.

(a) *General.* All packages other than bags shall be subjected to a stacking test.

(b) *Number of test samples.* Three test samples are required for each different packaging.

(c) *Test method.* The test sample shall be subjected to a force applied to the top surface of the test sample equivalent to the total weight of identical packages which might be stacked on it during transport. The minimum height of the stack, including the test sample, must be 3.0 meters (9.84 ft.). The duration of the test must be 24 hours, except that plastic drums, jerricans, and composite packaging 6HH, intended for liquids, shall be subjected to the stacking test for a period of 28 days at a temperature of not less than 40 °C (104 °F). Alternative test methods which yield equivalent results may be used if approved by the Director, OHMT.

(d) *Criteria for passing the test.* No test sample may leak. In composite packagings or combination packagings, there must be no leakage of the filling substance from the inner receptacle, or inner packaging. No test sample may show any deterioration which could adversely affect transport safety or any distortion likely to reduce its strength or cause instability in stacks of packages. Stacking stability is considered sufficient when, after the stacking test, and, in the case of plastic receptacles after cooling to ambient temperature, two receptacles of the same type filled with water placed on each test sample maintain their positions for one hour.

§ 178.607 Cooperage test for bung-type wooden barrels.

(a) *Number of samples.* One barrel is required for each different packaging.

(b) *Method of testing.* Remove all hoops above the bilge of an empty barrel at least two days old.

(c) *Criteria for passing the test.* A packaging passes the cooperage test only if the diameter of the cross-section of the upper part of the barrel does not increase by more than 10 percent.

§ 178.608 Chemical compatibility test for plastic receptacles.

(a) This chemical compatibility test shall be performed on samples of all packagings where plastic comes in contact with liquid hazardous materials.

(b) Test samples required for conduct of the tests specified in §§ 178.603, 178.604, 178.605 and 178.606 must withstand without failure the procedure (excluding item 6) specified in Appendix B of Part 173 of this subchapter, entitled "Procedure for Testing Chemical Compatibility and Rate of Permeation in Polyethylene Packagings and Receptacles.

(c) The chemical compatibility test shall be performed using the specific hazardous material for which the packaging is intended;

(d) In addition to the test requirements of this section, all hazardous materials ladings packaged in plastic packagings and receptacles must conform to the compatibility requirements of § 173.24 of this subchapter.

PART 179—SPECIFICATIONS FOR TANK CARS

149. The authority citation for Part 179 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR Part 1, unless otherwise noted.

150. Section 179.14 would be revised to read as follows:

§ 179.14 Coupler vertical restraint system.

(a) *Performance standard.* Each tank car shall be equipped with couplers capable of sustaining, without disengagement or material failure, vertical loads of at least 200,000 pounds (90,718.5 kg) applied in upward and downward directions in combination with buff loads of 2,000 pounds (907.2 kg), when coupled to cars equipped with couplers that do have this vertical restraint capability, and cars equipped with couplers, that do not have this vertical restraint capability.

(b) *Test verification and approval.* Except as provided in paragraph (d) of this section, compliance with the requirements of paragraph (a) of this section shall be achieved by verification testing of the coupler vertical restraint system in accordance with paragraph (c) of this section, and approval of the Federal Railroad Administrator.

(c) *Coupler vertical restraint tests.* A coupler vertical restraint system shall be tested under the following conditions:

(1) The test coupler shall be tested with a mating coupler (or simulated coupler) having only frictional vertical force resistance at the mating interface; or a mating coupler (or simulated coupler) having the capabilities described in paragraph (a) of this section.

(2) The testing apparatus shall simulate the vertical coupler performance at the mating interface and may not interfere with coupler failure or otherwise inhibit failure due to force applications and reactions.

(3) The test shall be conducted as follows:

(i) A minimum of 200,000 pounds (90,718.5 kg) vertical downward load shall be applied continuously for at least five minutes to the test coupler head simultaneously with the application of a nominal 2,000-pound (907.2 kg) buff load;

(ii) The procedures prescribed in paragraph (c)(3)(i) of this section shall be repeated with a minimum vertical upward load of 200,000 pounds (90,718.5 kg); and

(iii) A minimum of three consecutive successful tests shall be performed for each load combination prescribed in paragraphs (c)(3) (i) and (ii) of this section. A test is successful when a vertical disengagement or material failure does not occur during any of the prescribed load combinations.

(d) *Listing of approved couplers.* The following classes of couplers have been approved by the Federal Railroad Administrator and need not be verified by the testing requirements of paragraph (c) of this section:

(1) E top bottom shelf couplers designated by the Association of American Railroads' Catalog Nos. SE60CHT, SE60CHTE, SE67BHT SE67BHTE, SE68BHT or SE68BHTE; and

(2) F top shelf couplers designated by the Association of American Railroads' Catalog Nos. SF70CHT, SF70CHTE, SF73AHT, SF73AHTE, SF79CHT or SF79CHTE.

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§ 179.101-1 [Amended]

151. In § 179.101-1, the table of individual specification requirements would be amended as follows:

a. The column for DOT Specification 112A400F is deleted.

b. The "Insulation" requirement entry for 112A200W, 112A340W, 112A400W, 112A500W, 114A340W, and 114A400W is changed from "[4] None" to "[4, 13] Optional".

c. Footnote 13 is added to read: "[13] Tank cars equipped with insulation per § 179.100-4 of this subchapter may be stenciled "EQUIPPED WITH INSULATION PER 49 CFR 179.100-4".

d. The DOT specification entry "112A400W [12]" is revised to read "112A400W [11, 12]".

§ 179.102 [Amended]

152. In § 179.102, the following changes would be made:

a. §§ 179.102-3, 179.102-5, 179.102-6, 179.102-7, 179.102-8, 179.102-9, 179-102-10, 179.102-11, 179.102-12, 179.102-13, 179.102-14, 179.102-16 and 179.102-20 are removed.

b. In § 179.102-1, paragraphs (a)(2) through (a)(6) are removed.

c. In § 179.102-2, paragraphs (a) (1), (2), and (3) are removed and paragraph (a)(4) is redesignated as (a)(1).

d. In § 179.102-4, paragraphs (a) and (l) are removed and reserved.

e. In § 179.102-17, in paragraph (a), "DOT-105A600W" is changed to "DOT-105J600W" and paragraph (m) is removed.

§ 179.105 [Amended]

153. The title to § 179.105 would be revised to read as follows:

§ 179.105 Special requirements for Specification 105S, 105J, 111J, 112S, 112J, 112T, 114S, 114J and 114T tank cars.

154. Section 179.105-1 would be revised to read as follows:

§ 179.105-1 General.

(a) In addition to the requirements of this section, each Specification 105S, 105J, 111J, 111J, 112S, 112J, 112T, 114S, 114J and 114T tank car must meet the applicable requirements of § 179.100, 179.101, 179.103, and 179.104.

(b) Notwithstanding the provisions of §§ 179.3, 179.4 and 179.6, AAR approval is not required for changes in or additions to tank cars necessary to comply with this section.

(c) Each Specification 105S, 105J, 111J, 112S, 112J, 112T, 114S, 114J, and 114T tank car shall be equipped with a tank head puncture resistance system that meets the requirements of § 179.105-5.

(d) Each Specification 105J, 111J, 112J, 112T, 114J, and 114T tank car shall be equipped with:

(1) A thermal protection system that meets the requirements of § 179.105-4; and

(2) A safety valve that meets the requirements of § 179.105-7.

§§ 179.105-2 and 179.105-3 [Reserved]

155. Sections 179.105-2 and 179.105-3 would be removed and reserved.

§ 179.105-4 [Amended]

156. In paragraph (a) of § 179.105-4, the phrase "Each specification 112T, 112J, 114T, and 114J tank car" would be changed to read "Each Specification 105J, 111J, 112J, 112T, 114J, and 114T tank car".

§ 179.105-6 [Reserved]

157. Section 179.105-6 would be removed and reserved. 158. In paragraph (a) of § 179.105-7, the phrase "each 112 and 114 tank car" would be changed to read "each Specification 105J, 111J, 112J, 112T, 114J, and 114T tank car" and paragraph (c) would be revised to read as follows:

§ 179.105-7 Safety relief valves.

* * * * *

(c) Notwithstanding the provisions of § 179.100-15, § 179.200-18 or paragraph (a) of this section, the relieving or discharge capacity of the safety relief valve on a tank car tank used to transport a Division 2.3 material may be calculated in accordance with the formula prescribed in Section A8.01 of Appendix A of the AAR Specifications for Tank Cars applicable to compressed gases in insulated tanks if—

(1) The tank is equipped with a thermal protection system in accordance with § 179.105-4;

(2) In all of three consecutive simulation pool fire tests required by paragraph (d) of § 179.105-4, none of the thermocouples on the uninsulated side of the steel plate indicates a plate temperature in excess of 550 °F; and

(3) For tanks used for ethylene oxide, the valve capacity is at least 1100 scfm (31.1 cubic meters per minute) at 85 psig (586.1 kPa).

* * * * *

159. In § 179.105-8, paragraphs (d) and (e) would be added to read as follows:

§ 179.105-8 Stenciling.

* * * * *

(d) Each Specification 105 tank car that is equipped as prescribed in § 179.105-1(c) shall be stenciled with the letter "S" substituted for the letter "A" in the specification marking.

(e) Each Specification 105 tank car that is equipped as prescribed in § 179.105-1(d) shall be stenciled with the letter "J" substituted for the letter "A" in the specification marking.

§§ 179.106 through 179.106-4 [Removed and Reserved]

160. Sections 179.106 through 179.106-4 would be removed.

§§ 179.202 through 179.202-22 [Removed and Reserved]

161. Sections 179.202 through 179.202-22 would be removed and reserved.

§ 179.203 [Amended]

162. In § 179.203, paragraphs (c) and (d) would be removed from § 179.203-1 and paragraph (a)(1) would be removed from § 179.203-2.

§ 179.302 [Removed and Reserved]

163. Section 179.302 would be removed and reserved.

Issued in Washington, DC, on October 29, 1987 under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 87-25495 Filed 11-2-87; 3:39 pm]

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federal register

Friday
November 6, 1987

Part III

Department of Labor

Occupational Safety and Health Administration

Workplace Drug Abuse Assistance Program Grants; Notice

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Workplace Drug Abuse Assistance Program Grants

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of grant program.

SUMMARY: The Occupational Safety and Health Administration is implementing a new national grant program to collect information on efforts to assist employees and to demonstrate effective approaches for employee assistance with drug abuse in the workplace. This notice describes the scope and objectives of the grant program, and provides information about obtaining a grant application. Applications should not be submitted without first obtaining the detailed grant application mentioned later in the notice.

Authority for this program may be found in section 4303 of the Anti-Drug Abuse Act of 1986.

DATE: Application packages must be received by January 8, 1988.

ADDRESSES: Grant applications must be submitted to the OSHA Regional Office for the state in which the applicant is located. A complete listing of Regional Offices can be found in the addendum at the end of the supplementary information section of this notice.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Program Description

The workplace drug abuse assistance program will provide one-year grants for research and demonstration on efforts to assist employees with drug abuse in the workplace. Grant recipients will demonstrate effectiveness through:

1. Identification of programs and approaches which best inform and/or assist employees concerning workplace drug abuse;
2. Descriptions of identified programs which will enable employers, employees and other interested parties to replicate program components; and
3. Provision of materials and documentation needed to implement model programs and model approaches to workplace drug abuse.

Each grant will target a defined group of employees by occupation, industry, union membership, or other clearly identifiable criteria.

Grant activities may include the following:

1. Research to identify existing drug abuse assistance programs and to identify programs or program elements which have been effective in assisting employees.

2. Developing model programs for informing and/or assisting employees with drug abuse in the workplace. These programs should be based upon research conducted by the grant recipient. A model program will consist of documentation which provides step-by-step instructions on implementing such a program and may include training and educational materials. (No more than ten percent (10%) of the total grant funds should be used for developing training and educational materials.) As part of the development of model programs, grant recipients may conduct demonstration programs to test their findings and materials. Demonstration programs are limited in scope to outreach, education of employees and establishing mechanisms for employee assistance activities. Grant funds may not be used to provide counseling and other rehabilitation services.

All grant recipients are required to provide a minimum of twenty-five percent (25%) of the total program budget from non-Federal funds.

This grant program will be administered in compliance with 41 CFR Part 29-70, OMB Circular A-110, and OMB Circulars A-21 or A-122 (whichever is applicable to the recipient organization) as they relate to functions such as the use of funds; the operation of programs; the maintenance of records, books, accounts, and other documents; and financial and program reporting to OSHA.

Eligible Applicants

Any nonprofit organization is eligible to apply for a grant. Applicants will be required to submit a copy of their current tax exemption from the Internal Revenue Service (IRS) or other documentary evidence of their nonprofit status.

Review Procedures and Criteria

Applications for grants solicited in this announcement will be evaluated on a competitive basis by the Assistant Secretary of Labor for Occupational Safety and Health with assistance and advice from the Assistant Secretary of Labor for Policy.

The following factors, which are not ranked in order of importance, will be considered in evaluating grant applications.

1. Program

a. The identification of a clearly defined target group.

b. The responsiveness of the proposed program to the scope of this announcement.

c. Evidence of the applicant's previous experience with programs and/or services for the target group.

d. Evidence of the applicant's ability to begin program activities within four (4) weeks of grant award.

e. The technical and professional expertise and training of present or proposed program staff as presented in resumes, minimum qualifications for hiring, and position descriptions.

f. Evidence of the applicant's prior research projects and/or model progams related to the workplace.

2. Administrative

a. Evidence of the applicant organization's nonprofit status.

b. The managerial expertise of the applicant, as evidenced by the variety and complexity of current and/or recent programs it has administered.

c. The financial management capability of the applicant, as evidenced by a recent report from an independent audit firm or a recent report from another independent organization qualified to render judgment concerning the soundness of the applicant's financial practices. In the absence of such reports, the applicant may provide information which demonstrates that it is capable of meeting the financial management standards set forth in 41 CFR Part 29-70, section 207-2.

3. Budget

a. The reasonableness of the budget in relation to the proposed program activities.

b. Activities for the development of materials and programs total ten percent (10%) or less of the budget.

c. The proposed non-Federal share is at least twenty-five percent (25%) of the total budget.

In addition to the preceding factors, the Assistant Secretary will consider other factors, such as occupational and industrial areas covered and geographic mix of the proposals selected for funding.

Application Procedures

Those organizations meeting the eligibility requirements which are interested in conducting a workplace drug abuse assistance program may request a grant application package from the OSHA Regional Administrator for the state in which the organization is located. A list of the names, addresses, and geographic areas of responsibility of the Regional Administrators is in the addendum to this notice.

All applications must be received in the applicable OSHA Regional Office no later than 5 p.m. local time, January 8, 1988.

Following review and selection, the Assistant Secretary will notify in writing those organizations selected as potential grant recipients. An applicant whose proposal is not selected will also be notified in writing to that effect. Notice of selection as a potential grant recipient will not constitute approval of the grant application as submitted. Prior to actual grant award, representatives of the potential grant recipient and OSHA will enter into negotiations concerning such items as program components, funding levels, and administrative systems. If negotiations do not result in an acceptable grant within six (6) weeks of initial notification, the Assistant Secretary reserves the right to terminate the negotiation and decline to fund the proposal.

Signed at Washington, DC, this 2nd day of November, 1987.

John A. Pendergrass,

Assistant Secretary of Labor.

Addendum

Region I

Regional Administrator, U.S. Department of Labor—OSHA, 16-18 North Street, 1 Dock Square Building, 4th Floor, Boston, Massachusetts 02109

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Region II

Regional Administrator, U.S. Department of Labor—OSHA, 201 Varick Street, Room 670, New York, New York 10014

New Jersey, New York, Puerto Rico, Virgin Islands

Region III

Regional Administrator, U.S. Department of Labor—OSHA, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Region IV

Regional Administrator, U.S. Department of Labor—OSHA, 1375 Peachtree Street, NE, Suite 587, Atlanta, Georgia 30367

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Region V

Regional Administrator, U.S. Department of Labor—OSHA, 230 South Dearborn Street, Room 3244, Chicago, Illinois 60604

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Region VI

Regional Administrator, U.S. Department of Labor—OSHA, 525 Griffin Street, Room 602, Dallas, Texas 75202

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Region VII

Regional Administrator, U.S. Department of Labor—OSHA, 911 Walnut Street, Room 400, Kansas City, Missouri 64106

Iowa, Kansas, Missouri, Nebraska

Region VIII

Regional Administrator, U.S. Department of Labor—OSHA, Federal Building, Room 1554, 1961 Stout Street, Denver, Colorado 80294

Colorado, Montana, North Dakota, South Dakota, Wyoming

Region IX

Regional Administrator, U.S. Department of Labor—OSHA, 71 Stevenson, Street, 4th Floor, San Francisco, California, 94105

American Samoa, Arizona, California, Guam, Hawaii, Nevada, Trust Territory of the Pacific Islands

Region X

Regional Administrator, U.S. Department of Labor—OSHA, Federal Office Building, Room 6003, 909 First Avenue, Seattle, Washington 98174

Alaska, Idaho, Oregon, Washington

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Part IV

Department of the Interior

Bureau of Indian Affairs
Office of Hearings and Appeals

25 CFR Part 2
43 CFR Part 4
Department Hearings and Appeals Procedures; Proposed Rules

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 2

Appeals From Administrative Actions

September 22, 1987.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is proposing to revise its rules governing the appeals process which is used for requesting review of actions by BIA officials which adversely affect an appellant. These changes are being made to facilitate and expedite the total appeal process.

DATE: Public comments must be received on or before January 5, 1988.

ADDRESS: Mail or hand deliver comments to: Anne Bolton, Management Analyst, Division of Personnel, Bureau of Indian Affairs, Room 320, Interior South, 1951 Constitution NW., Washington, DC 20245.

FOR FURTHER INFORMATION CONTACT: Anne Bolton, Management Research & Evaluation, Bureau of Indian Affairs, Room 334, S. Interior, Department of the Interior, Washington, DC 20245, telephone number: (202) 343–4689.

SUPPLEMENTARY INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8. The policy of the Department is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding the proposed rule to the location identified in the address section of this preamble.

The proposed revision is published as previously titled, Appeals from Administrative Actions. This revision will eliminate Central Office action on most of the appeals which originate in the field. Appeals will be sent directly to the Interior Board of Indian Appeals from the field.

When the Board of Indian Appeals finds that an issue in an appeal was decided by the Bureau of Indian Affairs in the exercise of discretionary authority, it will not adjudicate the issue, but will dismiss the appeal as to that issue or refer the issue to the Assistant Secretary—Indian Affairs, pursuant to the Board's regulations in 43 CFR 4.330(b)(2) and 4.337(b). The Assistant Secretary—Indian Affairs will also have an opportunity to decide to issue a decision in any appeal, prior to the Board's acquisition of jurisdiction over the appeal.

In addition, these regulations will clarify procedures and stipulate timeframes for Bureau action.

A proposed revision of the regulations governing appeals to the Interior Board of Indian Appeals, 43 CFR 4.310–4.340, immediately follows this proposal.

In accordance with Office of Management and Budget regulations in 5 CFR 1320.3(c), approval of information collections contained in this regulation is not required.

The primary author of this document is Anne Bolton, Management Analyst, Division of Personnel, Bureau of Indian Affairs, Room 320, Interior South, 5951 Constitution Ave. NW., Washington, DC 20245, telephone number (202) 343–4689.

This rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969. The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. These revised regulations do not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1982). These regulations will affect only administrative appeals from decisions by certain BIA officials. They will not have an impact on small entities as defined in the Act.

List of Subjects in 25 CFR Part 2

Administrative practice and procedure.

For the reasons set forth in the preamble, the Bureau of Indian Affairs proposes to revise Title 25, Chapter 1, Subchapter A of the Code of Federal Regulations as follows:

PART 2—APPEALS FROM ADMINISTRATIVE DECISIONS

Sec.

2.1 Information collection requirements.
2.2 Definitions.
2.3 Applicability.
2.4 Officials who may decide appeals.
2.5 Appeal bond.
2.6 Finality of decisions.
2.7 Notice of administrative action.
2.8 Appeal from a decision unreasonably delayed.
2.9 Notice of an appeal.
2.10 Statement of reasons.
2.11 Statement of interested party.
2.12 Service of appeal documents.
2.13 Filing documents.
2.14 Record address.
2.15 Computation of time.
2.16 Extensions of time.
2.17 Summary dismissal.
2.18 Consolidation of appeals.
2.19 Action by Area Directors and Education Programs Officials on appeal.
2.20 Action by the Assistant Secretary—Indian Affairs on appeal.
2.21 Scope of review.

Authority: R.S. 463, 465; 5 U.S.C. 301, 25 U.S.C. 2, 9.

§ 2.1 Information collection requirements.

In accordance with Office of Management and Budget Regulations in 5 CFR 1320.3(c), approval of information collections contained in this regulation is not required.

§ 2.2 Definitions.

"Appeal" means a written request for review of an action by an official of the Bureau of Indian Affairs that is claimed to adversely affect the interested party making the request.

"Appellant" means any interested party who files an appeal under this part.

"Interested party" means any person whose interests could be adversely affected by a decision in the appeal.

"Legal holiday" means a Federal holiday as designated by the President or the Congress of the United States.

"Notice of appeal" means the written document sent to the official designated in this part, indicating that a decision is being appealed.

"Person" includes any Indian or non-Indian individual, corporation, tribe or other organization.

"Statement of reasons" means a written document submitted by the appellant explaining why the decision is being appealed.

§ 2.3 Applicability.

(a) Except as provided in paragraph (b) of this section, this Part applies to all appeals from decisions by officials of the Bureau of Indian Affairs by persons who are or will be adversely affected by such decisions.

(b) This part does not apply if any other regulation or Federal statute provides a different administrative appeal procedure applicable to a specific type of decision.

§ 2.4 Officials who may decide appeals.

The following officials may decide appeals:

(a) An Area Director, if the subject of appeal is a decision by a person under the authority of that Area Director.

(b) An Area Education Programs Administrator, Agency Superintendent for Education, President of a Post-Secondary School, or the Deputy to the Assistant Secretary/Director—Indian Affairs (Indian Education Programs), if the appeal is from a decision by an Office of Indian Education Programs (OIEP) official under their jurisdiction.

(c) The Assistant Secretary—Indian Affairs pursuant to the provisions of § 2.20 of this part.

(d) The Interior Board of Indian Appeals, pursuant to the provisions of 43 CFR Part 4, Subpart D, if the appeal is from a decision made by an Area Director, or the Deputy to the Assistant Secretary/ Director—Indian Affairs (Indian Education Programs).

§ 2.5 Appeal bond.

(a) If a person believes that he/she may suffer a measurable and substantial financial loss as a direct result of the delay caused by an appeal, that person may request that the official before whom the appeal is pending require the posting of a reasonable bond by the appellant adequate to protect against that financial loss.

(b) A person requesting that a bond be posted bears the burden of proving the likelihood that he/she may suffer a measurable and substantial financial loss as a direct result of the delay caused by the appeal.

(c) In those cases in which the official before whom an appeal is pending determines that a bond is necessary to protect the financial interests of an Indian or Indian tribe, that official may require the posting of a bond on his/her own initiative.

§ 2.6 Finality of decisions.

(a) Decisions of the Assistant Secretary—Indian Affairs are final for the Department and effective immediately unless the Assistant Secretary—Indian Affairs provides otherwise.

(b) No decision, which at the time of its rendition is subject to appeal to a superior authority in the Department, shall be considered final so as to constitute Departmental action subject to judicial review under 5 U.S.C. 704, unless the official to whom the appeal is made rules that public safety, safety of trust resources, or other public exigency requires that the decision be made effective immediately.

§ 2.7 Notice of administrative action.

(a) The official making a decision shall give all interested parties written notice of the decision by personal delivery or mail.

(b) Failure to give written notice shall not affect the validity of the decision, but the time to file a notice of appeal regarding such a decision shall not begin to run until effective notice has been given.

(c) All decisions for which there is a right to appeal shall so state and shall state the time allowed for filing a notice of appeal, and the title and address of the official to whom an appeal may be made.

§ 2.8 Appeal from a decision unreasonably delayed.

(a) A person or persons whose interests are impaired, or whose ability to protect such interests is impeded by the failure of an official to act on a request to the official, can make the official's inaction the subject of appeal, as follows:

(1) Request in writing that the official take the action originally asked of him/her;

(2) Describe the interest affected by the official's inaction, including a description of the loss, impairment or impediment to such interest caused by the official's inaction;

(3) State that, unless the official involved either takes action on the merits of the written request within 10 days of receipt of such request by the official (within 5 days for student appeals pertaining to expulsion or suspension), or establishes a date by which action will be taken, an appeal shall be filed in accordance with this part.

(b) The official receiving a request as specified in paragraph (a) of this section, must either make a decision on the merits of the initial request within 10 days from receipt of the request for a decision (within 5 days for student appeals pertaining to expulsion or suspension), or establish a reasonable later date by which the decision shall be made. If an official establishes a date by which a requested decision shall be made, this date shall be the date by which failure to make a decision shall be appealable under this part. If the official, within the 10-day (or 5-day) period specified in paragraph (a) of this section, neither makes a decision on the merits of the initial request nor establishes a later date by which a decision shall be made, the official's inaction shall be appealable to the next official in the process established in this part.

§ 2.9 Notice of an appeal.

(a) An appellant must file a written notice of appeal in the office of the official whose decision is being appealed. The appellant must also send a copy of the notice of appeal to the official who will decide the appeal and to known interested parties. The notice of appeal must be filed in the office of the official whose decision is being appealed within 30 days of personal delivery or mailing of the notice of administrative action described in § 2.7 (if a student is appealing an expulsion or suspension, the appeal must be filed within 10 days). No extension of time shall be granted for filing a notice of appeal. Notices of appeal not filed in the specified time shall not be considered, and the decision involved shall be considered final for the Department and effective immediately.

(b) The notice of appeal shall:

(1) Include name, address and phone number of appellant.

(2) Be clearly labeled or titled with the words "NOTICE OF APPEAL."

(3) Have on the face of any envelope in which the notice is mailed or delivered, in addition to the address, the clearly visible words "NOTICE OF APPEAL."

(4) Contain a statement of the decision being appealed that is sufficient to permit identification of the decision.

(5) If possible, attach either a copy of the notice of administrative action received under § 2.7, or a copy of the appellant's request for action under § 2.8 when an official has failed to make a decision.

(6) Certify that copies of the notice of appeal have been served on interested parties, as prescribed in § 2.12(a).

§ 2.10 Statement of reasons.

(a) A statement of reasons explains why the appellant believes that the decision being appealed is in error and should be accompanied by or otherwise incorporate all supporting documentation.

(b) The statement of reasons may be filed with the notice of appeal.

(c) If the statement of reasons is not filed with the notice of appeal, the appellant shall file a separate statement of reasons in the office of the official whose decision is being appealed within 30 days after the notice of appeal was filed in that office.

(d) The statement of reasons whether filed with the notice of appeal or filed separately should:

(1) Be clearly labeled "STATEMENT OF REASONS".

(2) Have on the face of any envelope in which the statement of reasons is mailed or delivered, in addition to the address, the clearly visible words "STATEMENT OF REASONS."

§ 2.11 Statement of interested party.

(a) Any interested party wishing to participate in an appeal proceeding should file a written answer responding to the appellant's notice of appeal and statement of reasons. An answer should

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describe the party's interest in the appeal, explain how the decision on appeal may impair or otherwise affect that interest or the party's ability to protect that interest, and state the party's position or response in any manner the party deems appropriate.

(b) All answers must be filed within 30 days after receipt of the statement of reasons by the person filing an answer.

(c) An answer and any supporting documents shall be filed in the office of the official before whom the appeal is pending as specified in § 2.13.

(d) An answer should:

(1) Be clearly labelled or titled with the words "STATEMENT OF INTERESTED PARTY,"

(2) Have on the face of any envelope in which the answer is mailed or delivered, in addition to the address, the clearly visible words "STATEMENT OF INTERESTED PARTY," and

(3) Contain a statement of the decision being appealed that is sufficient to permit identification of the decision.

§ 2.12 Service of appeal documents.

(a) All persons filing documents in an appeal must serve copies of those documents on other interested parties known to the person making the filing. A person serving a document either by mail or personal delivery must, at the time of filing the document, also file a written statement certifying service on each interested party, showing the document involved, the name and address of the party served, and the date of service.

(b) If an appeal is filed with the Interior Board of Indian Appeals, a copy of the Notice of Appeal shall also be sent to the Assistant Secretary—Indian Affairs.

(c) If the appellant is an Indian or Indian tribe not represented by counsel, the official with whom the appeal is filed (i.e., official making the decision being appealed) shall, in the manner prescribed in this section, personally or by mail serve a copy of all appeal documents on the official who will decide the appeal and on each interested party known to the official making such service.

(d) Service of any document under this part shall be by personal delivery or by mail to the record address as specified in § 2.14. Service on a tribe shall be to the principal or designated tribal official or to the governing body.

(e) In all cases where a party is represented by an attorney in an appeal, service of any document on the attorney is service on the party represented. Where a party is represented by more than one attorney, service on any one attorney is sufficient. The certificate of service on an attorney shall include the name of the party whom the attorney represents and indicate that service was made on the attorney, representing that party.

(f) When an official deciding an appeal determines that there has not been service of a document affecting a person's interest, the official shall either serve the document on the person or direct the appropriate legal counsel to serve the document on the person and allow the person an opportunity to respond.

§ 2.13 Filing documents.

(a) An appeal document is properly filed with an official of the Bureau of Indian Affairs:

(1) By mail when received in the facility officially designated for receipt of mail addressed to the official, or

(2) By personal delivery during regular business hours to the person designated to receive mail in the immediate office of the official.

(b) Bureau of Indian Affairs offices receiving a misdirected appeal document shall forward the document to the proper office promptly. If a person delivers an appeal document to the wrong office or mails an appeal document to an incorrect address, no extension of time should be allowed because of the time necessary for a Bureau office to redirect the document to the correct address.

(c) Notwithstanding any other provision of this section, an official deciding an appeal shall allow late filing of a misdirected document where the official finds that the misdirection is the fault of the government.

§ 2.14 Record address.

(a) Every interested party who files a document in connection with an appeal shall, when he/she files the document, also indicate his/her address. Thereafter, any change of address shall be promptly reported to the official with whom the previous address was filed. The most current address on file under this subsection shall be deemed the proper address for all purposes under this Part.

(b) The successors in interest of a party shall also promptly inform the official specified in paragraph (a) of this section of their interest in the appeal and their address.

(c) An appellant or interested party failing to file an address or change of address as specified in this section may not object to lack of notice or service attributable to his/her failure to indicate a new address.

§ 2.15 Computation of time.

In computing any period of time prescribed or allowed in this Part, calendar days shall be used. Computation shall not include the day on which a decision being appealed was made, service or notice was received, a document was filed, or other event occurred causing time to begin to run. Computation shall include the last day of the period, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

§ 2.16 Extensions of time.

An official to whom an appeal is made may, upon a showing of good cause by a party and with notice to all other parties, extend the period for filing or serving any document; *provided*, however, that no extension will be granted for filing a notice of appeal under § 2.9 of this part or serve by itself to extend any period specified by law or regulation other than in this Part.

§ 2.17 Summary dismissal.

Appeals under this Part may be subject to summary dismissal for the following causes:

(a) If a statement of reasons for the appeal is not filed as required by this part.

(b) If the appeal documents do not state an issue on which a decision can be made on appeal.

(c) If the appellant has been required to post a bond and fails to do so.

§ 2.18 Consolidation of appeals.

Separate proceedings pending before one official under this part and involving common questions of law or fact may be consolidated by the official conducting such proceedings, pursuant to a motion by any party or on the initiative of the official.

§ 2.19 Action by Area Directors and Education Programs Officials on appeal.

(a) Education Programs Officials shall render written decisions within 5 days after receipt of the appeal in which a student is appealing an expulsion or a suspension. Area Directors, Area Education Programs Administrators, Agency Superintendents for Education, Presidents of Post-Secondary Schools and the Deputy to the Assistant Secretary/Director Indian Affairs (Indian Education Programs) shall render written decisions in all other cases appealed to them within 60 days after all time for pleadings (including all extensions granted) has expired, shall include in the decision a statement that the decision may be appealed, identify the official to whom it may be appealed, and indicate the appeal procedures.

(b) A copy of the decision shall be sent to the appellant and each known interested party by certified or registered mail, return receipt requested. Such receipts shall become a permanent part of the record.

§ 2.20 Action by the Assistant Secretary—Indian Affairs on appeal.

(a) When a decision is appealed to the Interior Board of Indian Appeals, a copy of the notice of appeal shall be sent to the Assistant Secretary—Indian Affairs.

(b) The notice of appeal sent to the Interior Board of Indian Appeals shall certify that a copy has been sent to the Assistant Secretary—Indian Affairs.

(c) In accordance with the provisions of § 4.332(b) of Title 43 of the Code of Federal Regulations, a notice of appeal to the Board of Indian Appeals shall not be effective until 20 days after receipt by the Board, during which time the Assistant Secretary—Indian Affairs shall have authority to decide to issue a decision in the appeal. If the Assistant Secretary—Indian Affairs decides to issue the decision in an appeal, he/she notifies the Board of Indian Appeals, the deciding official, the appellant, and interested parties within 15 days of his/her receipt of a copy of the notice of appeal. Upon receipt of the notification, the Board of Indian Appeals shall transfer the appeal to the Assistant Secretary—Indian Affairs. The decision shall be signed by the Assistant Secretary—Indian Affairs within 60 days after all time for pleadings (including all extensions granted) has expired, and shall be final for the Department and immediately effective unless the Assistant Secretary—Indian Affairs provides otherwise.

(d) A copy of the decision shall be served on the appellant and each known interested party by certified or registered mail, return receipt requested. Such receipts shall become a permanent part of the record.

(e) If the Assistant Secretary—Indian Affairs does not make a decision within 60 days after all time for pleadings (including all extensions granted) has expired, any party may move the Board of Indian Appeals to assume jurisdiction. A motion for Board decision under this section shall invest the Board with jurisdiction as of the date the motion was received by the Board.

(f) When the Board of Indian Appeals, in accordance with 43 CFR 4.337(b), refers an appeal containing one or more discretionary issues to the Assistant Secretary—Indian Affairs for further consideration, the Assistant Secretary—Indian Affairs shall take action on the appeal consistent with the procedures in this section.

§ 2.21 Scope of review.

(a) When a decision has been appealed, any information available to the reviewing official may be used in reaching a decision, whether part of the record or not.

(b) Where the official deciding an appeal takes into account information not in the record, the official shall include in the record a description of the information used, and the source of the information. Interested parties shall be informed of the information and shall be given an opportunity to respond.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 87-25641 Filed 11-5-87; 8:45 am]

BILLING CODE 4310-02-M

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Proposed rule.

SUMMARY: This office proposes to amend its regulations governing appeals to the Board of Indian Appeals, in order to ensure compatibility between those regulations and regulations of the Bureau of Indian Affairs. These proposed amendments incorporate substantive amendments to several specific regulations.

DATE: Public comments must be received on or before January 5, 1988.

ADDRESS: Mail or hand deliver comments to: Kathryn Lynn, Administrative Judge, Board of Indian Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Kathryn Lynn (703) 235-3816.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs is proposing revisions to its appeal regulations in 25 CFR Part 2. Because this office's regulations in 43 CFR Part 4, Subpart D, were written in conjunction with the Bureau's regulations in 25 CFR part 2, changes to the Bureau's regulations result in discrepancies with the regulations of this office. The amendments proposed here are needed to ensure compatibility between the two sets of regulations.

In addition, this office had previously identified certain specific regulations in 43 CFR Part 4, Subpart D, that needed amendment. In the process of reviewing its regulations in regard to the amendment of 25 CFR Part 2, other regulations needing amendment were identified. All of these changes are proposed in this document.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the fact that the amendments concern Departmental appeals procedures only.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3051 *et seq.*

The Department of the Interior has determined that the rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, *as amended* [42 U.S.C. 4321-4347).

This rule was written by Kathryn Lynn, Administrative Judge, Office of Hearings and Appeals.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure, Indians.

Dated: September 29, 1987.

Paul T. Baird,

Director.

43 CFR Part 4 is proposed to be amended as follows:

PART 4—[AMENDED]

1. The authority citation for Part 4, continues to read as follows:

Authority: R.S. 2478, as amended, 43 U.S.C. sec. 1201, unless otherwise noted.

2. 43 CFR 4.1(b)(2) is proposed to be revised to read as follows:

§ 4.1 Scope of authority; applicable regulations.

* * * * *

(b) * * *

(2) *Board of Indian Appeals.* The Board decides finally for the Department appeals to the head of the Department pertaining to:

(i) Administrative actions of officials of the Bureau of Indian Affairs, issued under 25 CFR Chapter I, except as limited in 25 CFR Chapter I or § 4.330 of this part, and

(ii) Orders and decisions of administrative law judges in Indian

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probate matters other than those involving estates of the Five Civilized Tribes of Indians and Osage Indian wills.

The Board also decides such other matters pertaining to Indians as are referred to it by the Secretary, the Director of the Office of Hearings and Appeals, or the Assistant Secretary—Indian Affairs for exercise of review authority of the Secretary. Special regulations applicable to proceedings before the Board are contained in Subpart D of this part.

* * * * *

3. 43 CFR Part 4, in Subpart D, §§ 4.310–4.340 are proposed to be revised to read as follows:

General Rules Applicable to Proceedings on Appeal Before the Interior Board of Indian Appeals

§ 4.310 Documents.

(a) *Filing.* The effective date for filing a notice of appeal or other document with the Board during the course of an appeal is the date of mailing or the date of personal delivery, except that a motion for the Board to assume jurisdiction over an appeal under 25 CFR 2.20(e) shall be effective the date it is received by the Board.

(b) *Service.* Notices of appeal and pleadings shall be served on all parties in interest in any proceeding before the Interior Board of Indian Appeals by the party filing the notice or pleading with the Board. Service shall be accomplished upon personal delivery or mailing.

(c) *Computation of time for filing and service.* Except as otherwise provided by law, in computing any period of time prescribed for filing and serving a document, the day upon which the decision or document to be appealed or answered was served or the day of any other event after which a designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, Federal legal holiday, or other nonbusiness day, in which event the period runs until the end of the next day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays, and other nonbusiness days shall be excluded in the computation.

(d) *Extensions of time.* (1) The time for filing or serving any document except a notice of appeal may be extended by the Board.

(2) A request to the Board for an extension of time must be filed within the time originally allowed for filing.

(3) For good cause the Board may grant an extension of time on its own initiative.

(e) *Retention of documents.* All documents received in evidence at a hearing or submitted for the record in any proceeding before the Board will be retained with the official record of the proceeding. The Board, in its discretion, may permit the withdrawal of original documents while a case is pending or after a decision becomes final upon conditions as required by the Board.

§ 4.311 Briefs on appeal.

(a) The appellant may file an opening brief within 30 days after receipt of the notice of docketing. Appellant shall serve copies of the opening brief upon all interested parties or counsel and file a certificate with the Board showing service upon the named parties. Opposing parties or counsel shall have 30 days from receipt of appellant's brief to file answer briefs, copies of which shall be served upon the appellant or counsel and all other parties in interest. A certificate showing service of the answer brief upon all parties or counsel shall be attached to the answer filed with the Board.

(b) Appellant may reply to an answering brief within 15 days from its receipt. A certificate showing service of the reply brief upon all parties or counsel shall be attached to the reply filed with the Board. Except by special permission of the Board, no other briefs will be allowed on appeal.

(c) The Bureau of Indian Affairs shall be considered an interested party in any proceeding before the Board. The Board may request that the Bureau submit a brief in any case before the Board.

(d) An original only of each document should be filed with the Board.

(e) The Board may also specify a date on or before which a brief is due. Unless expedited briefing has been granted, such date shall not be less than the appropriate period of time established in this section.

§ 4.312 Decisions.

Decisions of the Board will be made in writing and will set forth findings of fact and conclusions of law. The decision may adopt, modify, reverse or set aside any proposed finding, conclusion or order of an administrative law judge. Distribution of decisions shall be made by the Board to all parties concerned. Unless otherwise stated in the decision, rulings by the Board are final for the Department and shall be given immediate effect.

§ 4.313 Amicus Curiae; intervention; joinder motions.

(a) Any interested person or Indian tribe desiring to intervene or to join other parties or to appear as amicus curiae or to obtain an order in an appeal before the Board shall apply in writing to the Board stating the grounds for the action sought. Permission to intervene, to join parties, to appear, or for other relief, may be granted for purposes and subject to limitations established by the Board. This section shall be liberally construed.

(b) Motions to intervene, to appear as amicus curiae, to join additional parties, or to obtain an order in an appeal pending before the Board shall be served in the same manner as appeal briefs.

§ 4.314 Exhaustion of administrative remedies.

(a) No decision of an administrative law judge or an official of the Bureau of Indian Affairs, which at the time of its rendition is subject to appeal to the Board, shall be considered final so as to constitute agency action subject to judicial review under 5 U.S.C. 704, unless made effective pending decision on appeal by order of the Board.

(b) No further appeal will lie within the Department from a decision of the Board.

(c) The filing of a petition for reconsideration is not required to exhaust administrative remedies.

§ 4.315 Reconsideration.

(a) Reconsideration of a decision of the Board will be granted only in extraordinary circumstances. Any party to the decision may petition for reconsideration. The petition must be filed with the Board within 30 days from the date of the decision and shall contain a detailed statement of the reasons why reconsideration should be granted.

(b) A party may file only one petition for reconsideration.

(c) The filing of a petition shall not stay the effect of any decision or order and shall not affect the finality of any decision or order for purposes of judicial review, unless so ordered by the Board.

§ 4.316 Remands from courts.

Whenever any matter is remanded from any court to the Board for further proceedings, the Board will either remand the matter to an administrative law judge or to the Bureau of Indian Affairs, or to the extent the court's directive and time limitations will permit, the parties shall be allowed an opportunity to submit to the Board a report recommending procedures for it to follow to comply with the court's order. The Board will enter special orders governing matters on remand.

§ 4.317 Standards of conduct.

(a) *Inquiries about cases.* All inquiries with respect to any matter pending before the Board shall be made to the Chief Administrative Judge of the Board or the administrative judge assigned the matter.

(b) *Disqualification.* An administrative judge may withdraw from a case in accordance with standards found in the recognized canons of judicial ethics if the judge deems such action appropriate. If, prior to a decision of the Board, a party files an affidavit of personal bias or disqualification with substantiating facts, and the administrative judge concerned does not withdraw, the Director of the Office of Hearings and Appeals shall determine the matter of disqualification.

§ 4.318 Scope of review.

An appeal shall be limited to those issues which were before the administrative law judge upon the petition for rehearing, reopening, or regarding tribal purchase of interests, or before the official of the Bureau of Indian Affairs on review. However, except as specifically limited in this part or in Title 25 of the Code of Federal Regulations, the Board shall not be limited in its scope of review and may exercise the inherent authority of the Secretary to correct a manifest injustice or error where appropriate.

Appeals to the Board of Indian Appeals in Probate Matters

§ 4.320 Who may appeal.

A party in interest shall have a right of appeal to the Board of Indian Appeals from an order of an administrative law judge on a petition for rehearing, a petition for reopening, or regarding tribal purchase of interests in a deceased Indian's trust estate.

(a) *Notice of Appeal.* Within 60 days from the date of the decision, an appellant shall file a written notice of appeal signed by appellant, appellant's attorney, or other qualified representative as provided in 43 CFR 1.3, with the Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. A statement of the errors of fact and law upon which the appeal is based shall be included in either the notice of appeal or in any brief filed. The notice of appeal shall include the names and addresses of parties served.

(b) *Service of copies of notice of appeal.* The appellant shall personally deliver or mail the original notice of appeal to the Board of Indian Appeals. A copy shall be served upon the administrative law judge whose decision is appealed as well as all interested parties. The notice of appeal filed with the Board shall certify that service was made as required by this section.

(c) *Action by administrative law judge; record inspection.* The administrative law judge, upon receiving a copy of the notice of appeal, shall notify the Superintendent concerned to return the duplicate record filed under §§ 4.236(b) and 4.241(d), or under § 4.242(f) of this part, to the land titles and records office designated under § 4.236(b) of this part. The duplicate record shall be conformed to the original by the land titles and records office and shall thereafter be available for inspection either at the land titles and records office or at the office of the Superintendent.

§ 4.321 Notice of transmittal of record on appeal.

The original record on appeal shall be forwarded by the land titles and records office to the Board by certified mail. Any objection to the record as constituted shall be filed with the Board within 15 days of receipt of the notice of docketing issued under § 4.332 of this part.

§ 4.322 Docketing.

The appeal shall be docketed by the Board upon receipt of the administrative record from the land titles and records office. All interested parties as shown by the record on appeal shall be notified of the docketing. The docketing notice shall specify the time within which briefs may be filed and shall cite the procedural regulations governing the appeal.

§ 4.323 Disposition of the record.

Subsequent to a decision of the Board, other than remands, the record filed with the Board and all documents added during the appeal proceedings, including the Board's decision, shall be forwarded by the Board to the land titles and records office designated under § 4.236(b) of this part. Upon receipt of the record by the land titles and records office, the duplicate record required by § 4.320(c) of this part shall be conformed to the original and forwarded to the Superintendent concerned.

Appeals to the Board of Indian Appeals From Administrative Actions of Officials of the Bureau of Indian Affairs: Administrative Review in Other Indian Matters Not Relating to Probate Proceedings

§ 4.330 Scope.

(a) The definitions set forth in 25 CFR 2.2 apply also to these special rules. These regulations apply to the practice and procedure for: (1) Appeal to the Board of Indian Appeals from administrative actions or decisions of officials of the Bureau of Indian Affairs issued under regulations in 25 CFR Chapter 1, and (2) administrative review by the Board of Indian Appeals of other matters pertaining to Indians which are referred to it for exercise of review authority of the Secretary or the Assistant Secretary—Indian Affairs.

(b) Except as otherwise permitted by the Secretary or the Assistant Secretary—Indian Affairs by special delegation or request, the Board shall not adjudicate:

(1) Tribal enrollment disputes;

(2) matters decided by the Bureau of Indian Affairs through exercise of its discretionary authority; or

(3) appeals from decisions pertaining to final recommendations or actions by officials of the Minerals Management Service, unless the decision is based on an interpretation of Federal Indian law (decisions not so based which arise from determinations of the Mineral Management Service, are appealable to the Interior Board of Land Appeals in accordance with 43 CFR 4.410).

§ 4.331 Who may appeal.

Any interested party affected by a final administrative action or decision of an official of the Bureau of Indian Affairs issued under regulations in Title 25 of the Code of Federal Regulations may appeal to the Board of Indian Appeals, except—

(a) To the extent that decisions which are subject to appeal to a higher official within the Bureau of Indian Affairs must first be appealed to that official;

(b) Where the decision has been approved in writing by the Secretary or Assistant Secretary—Indian Affairs prior to promulgation; or

(c) Where otherwise provided by law or regulation.

§ 4.332 Appeal to the Board; how taken; mandatory time for filing; preparation assistance; requirement for bond.

(a) A notice of appeal shall be in writing, signed by the appellant or by his attorney of record or other qualified representative as provided by 43 CFR 1.3, and filed with the Board of Indian

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Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia, 22203, within 30 days after mailing or personal delivery of the decision. A copy of the notice of appeal shall simultaneously be filed with the Assistant Secretary—Indian Affairs. As required by § 4.333 of this part, the notice of appeal sent to the Board shall certify that a copy has been sent to the Assistant Secretary—Indian Affairs. A notice of appeal not timely filed shall be dismissed for lack of jurisdiction. A notice of appeal shall include:

(1) A full identification of the case;

(2) A statement of the reasons for the appeal and of the relief sought; and

(3) The names and addresses of all additional interested parties, Indian tribes, tribal corporations, or groups having rights or privileges which may be affected by a change in the decision, whether or not they participated as interested parties in the earlier proceedings.

(b) In accordance with 25 CFR 2.20(c), a notice of appeal shall not be effective for 20 days from receipt by the Board, during which time the Assistant Secretary—Indian Affairs may decide to render the decision on appeal. If the Assistant Secretary—Indian Affairs properly notifies the Board that he has decided to review the appeal, any documents concerning the case filed with the Board shall be transmitted to the Assistant Secretary—Indian Affairs.

(c) When the appellant is an Indian or Indian tribe not represented by counsel, the official who issued the decision appealed shall, upon request of the appellant, render such assistance as is appropriate in the preparation of the appeal.

(d) At any time during the pendency of an appeal, an appropriate bond may be required to protect the interest of any Indian, Indian tribe, or other parties involved.

§ 4.333 Service of notice of appeal.

(a) On or before the date of filing of the notice of appeal the appellant shall serve a copy of the notice upon each known interested party, upon the official of the Bureau of Indian Affairs from whose decision the appeal is taken, and upon the Assistant Secretary—Indian Affairs. The notice of appeal filed with the Board shall certify that service was made as required by this section and shall show the names and addresses of all parties served. If the appellant is an Indian or an Indian tribe not represented by counsel, the appellant may request the official of the Bureau whose decision is appealed to assist in service of copies of the notice of appeal and any supporting documents.

(b) The notice of appeal will be considered to have been served upon the date of personal service or mailing.

§ 4.334 Extensions of time.

Requests for extensions of time to file documents may be granted upon a showing of good cause, except for the time fixed for filing a notice of appeal which, as specified in § 4.332 of this part, may not be extended.

§ 4.335 Preparation and transmittal of record by official of the Bureau of Indian Affairs.

(a) Within 20 days after receipt of a notice of appeal, or upon notice from the Board, the official of the Bureau of Indian Affairs whose decision is appealed shall assemble and transmit the record to the Board. The record on appeal shall include, without limitation, copies of transcripts of testimony taken; all original documents, petitions, or applications by which the proceeding was initiated; all supplemental documents which set forth claims of interested parties; and all documents upon which all previous decisions were based.

(b) The administrative record shall include a Table of Contents noting, at a minimum, inclusion of the following:

(1) The decision appealed from;

(2) The notice of appeal or copy thereof; and

(3) Certification that the record contains all information and documents utilized by the deciding official in rendering the decision appealed.

(c) If the deciding official receives notification that the Assistant Secretary—Indian Affairs has decided to review the appeal before the administrative record is transmitted to the Board, the administrative record should be fowarded to the Assistant Secretary—Indian Affairs rather than to the Board.

§ 4.336 Docketing.

An appeal shall be assigned a docket number by the Board 20 days after receipt of the notice of appeal unless the Board has been properly notified that the Assistant Secretary—Indian Affairs has assumed jurisdiction over the appeal. A notice of docketing shall be sent to all interested parties as shown by the record on appeal upon receipt of the administrative record. Any objection to the record as constituted shall be filed with the Board within 15 days of receipt of the notice of docketing. The docketing notice shall specify the time within which briefs shall be filed, cite the procedural regulations governing the appeal and include a copy of the Table of Contents furnished by the deciding official.

§ 4.337 Action by the Board.

(a) The Board may make a final decision, or where the record indicates a need for further inquiry to resolve a genuine issue of material fact, the Board may require a hearing. All hearings shall be conducted by an administrative law judge of the Office of Hearings and Appeals. The Board may, in its discretion, grant oral argument before the Board.

(b) Where the Board finds that one or more issues involved in an appeal or a matter referred to it were decided by the Bureau of Indian Affairs based upon the exercise of discretionary authority committed to the Bureau, and the Board has not otherwise been permitted to adjudicate the issue(s) pursuant to § 4.330(b) of this part, the Board shall dismiss the appeal as to the issue(s) or refer the issue(s) to the Assistant Secretary—Indian Affairs for further consideration.

§ 4.338 Submission by administrative law judge of proposed findings, conclusions and recommended decision.

(a) When an evidentiary hearing pursuant to § 4.337(a) of this part is concluded, the administrative law judge shall recommend findings of fact and conclusions of law, stating the reasons for such recommendations. A copy of the recommended decision shall be sent to each party to the proceeding, the Bureau official involved, and the Board. Simultaneously, the entire record of the proceedings, including the transcript of the hearing before the administrative law judge, shall be forwarded to the Board.

(b) The administrative law judge shall advise the parties at the conclusion of the recommended decision of their right to file exceptions or other comments regarding the recommended decision with the Board in accordance with § 4.339 of this part.

§ 4.339 Exceptions or comments regarding recommended decision by administrative law judge.

Within 30 days after receipt of the recommended decision of the administrative law judge, any party may file exceptions to or other comments on the decision with the Board.

§ 4.340 Disposition of the record.

Subsequent to a decision by the Board, the record filed with the Board and all documents added during the appeal proceedings, including the Board's decision, shall be forwarded to the official of the Bureau of Indian Affairs whose decision was appealed for proper disposition in accordance with rules and regulations concerning treatment of Federal records.

[FR Doc. 87-25642 filed 11-5-87; 8:45 am]
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Part V

Department of Transportation

Research and Special Programs Administration

McGil Specialized Carriers, Inc.; Application for Inconsistency Ruling; Public Notice and Invitation to Comment

VOL 52 ISS 215 NO 6 1987 UMI

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. IRA-41]

McGil Specialized Carriers, Inc.; Application for Inconsistency Ruling

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: McGil Specialized Carriers, Inc. (McGil) has applied for an administrative ruling determining whether a certain provision of the City of San Antonio (Texas) Code, adopting the 1979 Edition of the Uniform Fire Code, is, to a limited extent, inconsistent with the Hazardous Materials Regulations (HMR) issued under the Hazardous Materials Transportation Act (HMTA), and, therefore, preempted under section 112(a) of the HMTA.

DATES: Comments received on or before December 31, 1987, and rebuttal comments received on or before February 19, 1988, will be considered before an administrative ruling is issued by the Director of the Office of Hazardous Materials Transportation. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and any comment received may be reviewed in the Dockets Branch, Research and Special Programs Administration, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC 20590. Comments and rebuttal comments on the application may be submitted to the Dockets Branch at the above address, and should include the Docket Number, IRA-41. Three copies are requested. A copy of each comment and rebuttal comment must also be sent to Grant R. Brooker, Esq., Corporate Counsel, McGil Specialized Carriers, Inc., P.O. Box 6426-A, Marietta, Georgia 30065 and to Elizabeth Viesca, Esq., Assistant City Attorney, City of San Antonio, 214 W. Mueva St., San Antonio, TX 78207, and that fact certified to at the time comment is submitted to the Dockets Branch. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Mr. Brooker and Ms. Viesca at the addresses specified in the **Federal Register**.")

FOR FURTHER INFORMATION CONTACT: Edward H. Bonekemper, III, Office of the Chief Counsel, Research and Special Programs Administration, 400 7th Street, SW., Washington, DC 20590, telephone 202-366-4401.

SUPPLEMENTARY INFORMATION:

1. Background

The HMTA (49 App. U.S.C. 1801 et seq.) at section 112(a) (49 App. U.S.C. 1811(a)) expressly preempts "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement" of the HMTA or the HMR issued thereunder.

Procedural regulations implementing section 112(a) of the HMTA and providing for the issuance of inconsistency rulings are codified at 49 CFR 107.201 through 107.211. An inconsistency ruling is an advisory administrative opinion as to the relationship between a state or political subdivision requirement and a requirement of the HMTA or HMR. Section 107.209(c) sets forth the following factors which are considered in determining whether a state or local is inconsistent:

(1) Whether compliance with both the state or local requirement and the HMTA or HMR is possible (the "dual compliance" test); and

(2) The extent to which the state or local requirement is an obstacle to the accomplishment and execution of the HMTA and the HMR (the "obstacle" test).

2. The Application for Inconsistency Ruling

On September 2, 1987, McGil Specialized Carriers, Inc., (McGil) filed an application for an administrative ruling seeking a determination that a certain provision of the City of San Antonio (Texas) Code, adopting the 1979 Edition of the Uniform Fire Code, is, to a limited extent, inconsistent with the HMR. McGil contends that Section 11-31 of the San Antonio Code, entitled "Adoption of the Uniform Fire Code," is inconsistent with the HMR to the extent that it adopts Article 77, Section 302(j) of the 1979 Edition of the Uniform Code.

McGil contends that, on June 4, 1987, San Antonio cited one of McGil's drivers for failure to display an "Explosives" sign on a motor vehicle in violation of Article 77, Section 302(j) of the Uniform Fire Code.The vehicle was transporting a shipment of two skids of "CLS Launchers" and two boxes of "Electric Squibb Class C Explosives" from Sunnyvale, California to Titusville, Florida. The vehicle did not have an "Explosives" placard affixed to it, which, McGil alleges, would have been in violation of the HMR.

McGil asserts that Section 77.302(j) of the Uniform Fire Code is unduly vague. Section 77.302(j) provides as follows:

> Vehicles transporting explosives shall display explosives signs on both sides, front and rear conforming to the requirements of the Vehicle Code.

McGil alleges that the term "Vehicle Code" is defined neither in the Uniform Fire Code nor in the local ordinance of the City of San Antonio. McGil further claims that there is no provision which qualifies the language of this section to make it consistent with the HMR.

McGil states that the authors of the Uniform Fire Code are considering a proposal by the Institute of Makers of Explosives to change several provisions relating to explosive materials so that they will consistent with the HMR. McGil states that this proposal would change Section 77.302(j) to read:

> Vehicles transporting explosives shall display all placards, lettering or numbering required by the United States Department of Transportation.

McGil contends that Section 77.302(j) conflicts with the HMR. It asserts that the pertinent sections of the HMR (49 CFR) with which there is an inconsistency are, and characterizes them, as follows:

(1) Section 172.504, Table 1 requires that "Explosives A" and "Explosives B" placards be displayed when materials classified under this Table are transported.

(2) Section 172.504, Table 2 requires that "Dangerous" placards be displayed for Class C explosives.

(3) Section 172.504(c) provides that no placard is required when the gross weight of all hazardous materials covered by Table 2 is less than 1,000 pounds.

(4) Section 172.502(a)(2) prohibits the display of any placard other than one which represents a hazard of the hazardous material being transported.

McGil also seeks comparison with §§ 172.519 et seq., 172.521, 172.522, and 172.523. In summary, McGil contends that if "Explosives" signs required by the San Antonio Code provision and the Uniform Fire Code had been displayed, it would have been in violation of these Federal regulations prohibiting such placarding. It urges a finding of inconsistency under both the "dual compliance" and "obstacle" tests.

3. Public Comment

Comments should be restricted to the issue of whether Section 11-31 of the City of San Antonio Code is inconsistent with the HMR to the extent that it adopts Article 77, section 302(j) of the 1979 Edition of the Uniform Fire Code. Persons intending to comment on the application should examine the complete application in the RSPA Dockets Branch, and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201-107.211).

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

Issued in Washington, DC, on October 30, 1987.

[FR Doc. 87-25716 Filed 11-5-87 8:45 am]

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Part VI

Department of Agriculture

Forest Service

36 CFR Part 223
Sale and Disposal of National Forest Timber; Proposed Rule and Notice

VOL 52 ISS 215 NO 6 1987 UMI

DEPARTMENT OF AGRICULTURE

36 CFR Part 223

Sale and Disposal of National Forest Timber, Periodic Payments, Downpayments and Market-Related Contract Term Additions

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule addresses requirements of the Federal Timber Contract Payment Modification Act and forest products market conditions. Specifically the rule would implement periodic payment requirements of the Act, clarify implementation of downpayment requirements, and permit additions to a timber sale contract term in response to adverse market conditions. The primary intent of the proposals is to encourage orderly harvest of national forest timber sales.

DATE: Comments must be received by January 5, 1988.

ADDRESS: Send written comments to F. Dale Robertson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

The public may inspect all written submissions made pursuant to this notice during regular business hours in the Office of the Director, Timber Management Staff, Room 3207, South Agriculture Building, 12th and Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: David M. Spores, Timber Management Staff, (202) 447-4051.

SUPPLEMENTARY INFORMATION: Section 2(d) of the Federal Timber Contract Payment Modification Act of October 16, 1984, (98 Stat. 2213; 16 U.S.C. 618(d)) requires that "[i]n any contract for the sale of timber from the national forests, the Secretary of Agriculture shall require a cash downpayment at the time the contract is executed and periodic payments to be made over the remaining period of the contract."

The Department of Agriculture published a proposed rule in the **Federal Register** of January 17, 1985, (50 FR 2591) to implement these payment requirements as well as to implement the bid monitoring provisions of the Act. One hundred and two respondents commented on the proposed rule. Comments were received from timber sale purchasers (72 percent), trade associations (12 percent), private citizens (8 percent), and Forest Service employees (8 percent). About half of the respondents were from the northwest.

About one-third of the respondents opposed the changes in both the downpayment and periodic payments procedures. Many of the respondents were concerned about the implications of making periodic payments. The proposed rule called for annual payments to encourage operation of the sale and to ensure timely payments for the timber, even if the sale is not being operated.

Many respondents stated that annual payments would require purchasers to operate each sale yearly, which would increase production costs and increase environmental damage. Many others commented that periodic payments would add to the complexity of buying and operating sales and disrupt orderly harvest schedules. These respondents felt the annual payments would increase the difficulty of scheduling operations to take advantage of sensitive markets. Other respondents said that yearly payments would eliminate some timber sale bidders, especially small businesses.

Most respondents believe that allowing a purchaser to pool sales to meet the periodic payments requirement is necessary. Many requested a mechanism to defer periodic payments during extremely poor market conditions. Other suggestions included delaying periodic payments while a purchaser logs timber sales in urgent need of harvesting, such as those with insect infestations, and only requiring one periodic payment per sale that would equal 25 percent of the total bid value, and that would be due before the last year of the sale. One person suggested that the annual payment be based on timber volume, rather than total value.

After analyzing the public comments, the Department of Agriculture published a final rule on October 11, 1985 (50 FR 41496), implementing only those provisions of the Federal Timber Contract Payment Modification Act (FTCPMA) that require: (1) Purchasers to make a downpayment for the sale of national forest timber (36 CFR 223.49); and (2) the Secretary of Agriculture to monitor bidding patterns on timber sale contracts and to take action to discourage speculative bidding (36 CFR 223.51). The rule also required a midpoint payment on sales with contract periods exceeding 1-year (36 CFR 223.50).

In publishing this final rule, the Department also stated that a proposed rule implementing periodic payments in timber sale contracts, as required by the Act, would be published in the near future, after reviewing all existing timber sale procedures and analyzing them in conjunction with the various new requirements that have been established to implement the FTCPMA. The Agency has completed that review and is now preparing to eliminate the midpoint payment requirement, 36 CFR 223.50, and to establish, in lieu thereof, procedures for periodic payments as well as new rules for adding to the length of contract terms in response to adverse conditions in the timber market. In addition, the Forest Service is proposing to make clarifying amendments to the downpayment requirement (36 CFR 223.49) in order to minimize possible inconsistencies in the implementation of that requirement.

Proposed Clarifying Amendments to the Downpayment Requirement

1. The definition of "bid ratio" would be revised to clarify that the bid ratio is at least 1.0, and the definition of "average bid ratio" would be the volume weighted average of bid ratios on each national forest (36 CFR 223.49(a)(2)).

2. The amount of the downpayment would be the result of the calculations as now described in 36 CFR 223.49(c), rounded up to the nearest $100.

3. On national forests where either the volume weighted average bid ratio during the past fiscal year or the bid ratio on a significant number of timber sales, has exceeded 1.6, and the volume weighted average bid premium on those sales was at least $25 per thousand board feet or equivalent, the Forest Service would use the advertised value of a sale and the bid premium (36 CFR 223.49(c)(1)) to calculate downpayment for sales.

4. In calculating bid ratios and bid premiums for the downpayment requirement, the Forest Service would not use the portion of the bid premium that is equivalent to the amount of ineffective purchaser credit that existed at the time of advertisement of the sale: however, this reduction would not permit a downpayment to be below 10 percent of the total bid value for each sale (36 CFR 223.49(c)(1)).

Proposed Periodic Payment Requirements

Under the proposal, each timber sale of more than 1 year in duration would require at least one periodic payment.

Unless the Chief of the Forest Service authorizes an alternative periodic payment schedule prior to advertisement of a timber sale, or a periodic payment date is affected by a contract term adjustment or market-related contract term addition, a contract's periodic payment dates would be established as follows:

The Forest Service proposes that a contract's periodic payment dates would normally be set at the end of a calendar quarter following the normal operating season. The normal operating season of a sale is that period of the year when a purchaser could usually expect to operate the sale without encountering adverse weather conditions or other operational impediments. For example, if a contract's normal operating season was between October 1 and April 15, each June 30 within the contract's period would be a periodic payment date. If the last day of the calendar quarter which includes the end of the final normal operating season is after a contract's termination date, the last periodic payment date would be moved forward so that it would be on the termination date. If a contract requires construction of a specified road, and there isn't a significant volume of timber available before the road is constructed, the contract's first periodic payment date would be after the road completion date specified in the contract. Regional Foresters would direct how Forest Service personnel would determine when a significant volume of timber was available. The determination would be made prior to advertisement of a timber sale. The direction would be issued in the Forest Service Directives System. If the road completion date in the contract was changed because of a contract term adjustment, the Forest Service would recalculate the periodic payment schedule, based on the new completion date.

The maximum amount of periodic payment to be collected would be based upon the total contract value. The total contract value of a contract without stumpage rate adjustment is the same as the total bid value, which is the product of the advertised volume of the sale times the rates bid by the purchaser. The total contract value of a sale with stumpage rate adjustment is the product of the advertised volume of the sale and the current contract rates as of the periodic payment date. Because the current contract rates for a stumpage rate adjustment sale may be different as of one periodic payment date from what they were on another periodic payment date, total contract value of a sale, and, therefore, the maximum amount of periodic payment to be collected, may vary during the life of a sale.

Unless the Chief of the Forest Service authorizes an alternative periodic payment schedule prior to advertisement of a timber sale, or a periodic payment is affected by a contract term adjustment or market-related contract term addition, the Forest Service would calculate the amount of each periodic payment based on the amount or normal operating season for each periodic payment period. For instance, if a contract term included 2.5 normal operating seasons, and the first periodic payment period included the equivalent of 0.5 normal operating seasons, the first periodic payment would be 20 percent (0.5/2.5) of the sale's present bid worth. A periodic payment period is the available contract time before the first periodic payment date of a contract, or the available contract time between two consecutive periodic payment dates, whichever is applicable. Contract time is available if it is within the normal operating season and it is long enough for an average purchaser to log a significant volume of timber. Regional Foresters would direct how Forest Service personnel would determine when a period of time was long enough for an average purchaser to log a significant volume of timber.

As of each periodic payment date, the Forest Service would compare the purchaser's deposits for timber charges with the sum of the periodic payments required to have been made by that date. If the purchaser's deposits were less than the sum of the periodic payments, the purchaser would have to make a payment which would equal the difference between the deposits and the sum of the periodic payments. If the purchaser's deposits equaled or exceeded the sum of the scheduled payments, an additional payment would not be needed. The Forest Service would reduce the amount of a periodic payment due if the payment would result in the purchaser's credit balance for timber charges exceeding the current contract value.

The Forest Service proposes that if a purchaser has qualified for a contract term adjustment, upon the purchaser's written request, the Forest Service would recalculate the contract's periodic payment schedule based on the adjusted termination date and the amount of the normal operating season lost for the causes that resulted in the contract term adjustment.

Following are examples of how periodic payments would be calculated under this proposal for three different timber sale situations:

Example 1—Periodic Payments:

Date of timber sale award: August 1, 1987

Termination Date: March 31, 1990

Normal Operating Season: April 15–November 30 (7½ months)

Total contract value: $2,000,000

Situation A:

No stumpage rate adjustment.

No specified road construction.

(i) Periodic payment dates: December 31, 1987, December 31, 1988, and December 31, 1989

(ii) Amount of available time:

Periodic payment period	Number of normal operating seasons	Amount of available time (percent)
8/1/87–12/31/87	[1] 0.6	23
1/1/88–12/31/88	1.0	38
1/1/89–12/31/89	1.0	39
Total	2.6	100

[1] 4 months/7½ months = 0.6 normal operating seasons.

(iii) *Periodic Payment Schedule:*

Periodic payment date	Periodic payment value (Percentage of total contract value) (percent)	Projected periodic payment amount (dollars)
12/31/87	23	460,000
12/31/88	38	760,000
12/31/89	39	780,000
Total	100	2,000,000

Situation B

Same conditions as Situation A, except that the purchaser qualified for 1 month of contract term adjustment during 1988.

Adjusted termination date: May 15, 1990.

(i) Periodic payment dates: December 31, 1987, December 31, 1988, and December 31, 1988, and April 15, 1990.

(ii) Amount of allowable time:

Periodic payment period	Number of normal operating seasons	Amount of available time (percent)
8/1/87–12/31/87	[1] 0.6	23
8/1/88–12/31/88	[2] 10.9	35
8/1/89–12/31/89	11.0	38
1/1/90–05/15/90	[3] 0.1	4
Total	2.6	100

[1] 4 month/7½ months = 0.6 normal operating seasons.

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[2] 6⅛ month/7⅛ months=0.9 normal operating seasons.
[3] 1 month/7⅛ months=0.1 normal operating season.

(iii) *Periodic Payment Schedule:*

Periodic payment date	Periodic Payment value (Percentage of total contract value) (percent)	Projected periodic payment amount (dollars)
12/31/87	23	460,000
12/31/88	35	700,000
12/31/89	38	760,000
05/15/90	4	80,000
Total	100	2,000,000

Situation C:

Stumpage rate adjustment included in contract: specified road construction included in contract:

(i) Road completion date: October 31, 1987

(ii) A significant volume of timber is not available before completion of the road.

(iii) Amount deposited for timber charges as of December 31, 1988: $1,400,000.

(iv) Value of timber cut December 31, 1989: $1,800,000

(v) Amount deposited for timber charges December 31, 1989: $1,900,000

(vi) Estimated current contract value December 31, 1989: $500,000

(vii) Periodic payment dates: December 31, 1987, December 31, 1988, and December 31, 1989

(viii) Amount of available time:

Periodic payment date	Number of normal operating seasons	Amount of available time (percent)
08/1/87–12/31/87	[1] 0.6	[2] 0
01/1/88–12/31/88	1.0	50
01/1/89–12/31/89	1.0	50
Total	2.6	100

[1] 4 months 7⅛ months=0.6 normal operating seasons.
[2] The time between the road completion date (October 31, 1987) and the end of the normal operating season (November 30, 1987) was determined not to be long enough for an average purchaser to log a significant volume of timber.

(ix) *Periodic Payment Schedule:*

Periodic payment date	Periodic payment value (Percentage of total contract value) (percent)	Projected periodic payment amount (dollars)
12/31/87	0	0
12/31/88	50	1,000,000
12/31/89	50	1,000,000
Total	100	2,000,000

(x) *Total Contract Value:*
December 31, 1987: $2,200,000
December 31, 1988: $2,500,000
December 31, 1989: $2,400,000

(xi) *Change of Projected Periodic Payment Due to Stumpage Rate Adjustment:*
Change=Present Bid Worth/Original Bid Worth
December 31, 1987 Change=$2,200,000/$2,000,000=1.10
December 31, 1988 Change=$2,500,000/$2,000,000=1.25
December 31, 1989 Change=$2,400,000/$2,000,000=1.20

(xii) *Calculation of Periodic Payments:* [1]

Periodic payment date	Projected periodic payment (dollars)	Change	((2)×(3)) Periodic payment (dollars)
(1)	(2)	(3)	(4)
12/31/87	0	1.10	0
12/31/88	1,000,000	1.25	1,250,000
12/31/89	1,000,000	1.20	1,200,000
Total	2,000,000	N/A	2,450,000

As of December 31, 1988, the amount deposited for timber charges ($1,400,000) exceeded the sum of the required periodic payments ($1,250,000). The purchaser's December 31, 1988, periodic payment would be zero.

The Forest Service would reduce the December 31, 1989, periodic payment so that its payment would not result in credit balance for timber charges that exceeded the remaining current contract value. As of December 31, 1989, the credit balance for timber charges was $100,000 ($1,900,000–$1,800,000). The remaining current contract value was $500,000. Therefore, the December 31, 1989, periodic payment would be $400,000 ($500,000–$100,000).

[1] Because of stumpage rate adjustment, a total contract value cannot be determined until after the periodic payment date to which it applies. Therefore, the amount of the scheduled payment cannot be calculated until after that date. In real life, this table could not have been completed prior to December 31, 1989.

Proposed Periodic Payment Schedule Offset

The Forest Service believes that a purchaser should have some periodic payment flexibility. If such flexibility were not available, a purchaser would have but three periodic payment options. The first option would be to buy only enough timber to meet the purchaser's immediate needs. This hand-to-mouth option could lead to shutdowns if a purchaser couldn't buy a sale when the timber was needed. This option could also complicate a purchaser's financing arrangements and ability to get required bonding. This latter factor would be particularly hard on small businesses.

The second option would be for a purchaser to move operations annually between timber sales in order to "use-up" each year's periodic payments. This annual movement of operations to each sale in a purchaser's portfolio could increase operating costs, with an attendant decrease in receipts to the Government. The additional equipment movement also increases the risk of environmental damage on the sale areas.

The third option would be for a purchaser to make periodic payments on each contract, but only operate on enough sales to meet the purchaser's timber needs for the year. This could result in cash flow problems for timber sale purchasers.

The Agency believes that the proposed periodic payment schedule offset procedures overcome the problems associated with these three options, and that they comply with the periodic payment requirements of the FTCPMA.

The Forest Service proposes that a purchaser could reduce a periodic payment on a contract by increased payment on one or more other contracts. The purchaser would list the contracts to be affected by offsets on a periodic payment table. The contracts covered in a single table would have to be within a single tributary area as defined in 36 CFR 223.160, but they would not necessarily have to be on the same national forest.

A periodic payment table would consist of two parts. The first part would be a list of the contracts involved and their periodic payment requirements. The second part would be a list of the same contracts with revised periodic payment requirements.

The following conditions would apply to any periodic payment revisions:

(1) All of a contract's periodic payment requirements as listed in the contract must be met as of the contract's last periodic payment date.

(2) A contract's periodic payment requirements may not be revised to the extent that a revised projected periodic payment amount exceeds the contract's current contract value as of the applicable periodic payment date.

(3) The cumulative total of the revised periodic payment requirements for the contracts listed in the table must equal or exceed the cumulative total of the original periodic payment requirements on all periodic payment dates.

(4) Changes to the periodic payment table, including adding or deleting contracts, could be made if the changes were completed prior to the periodic payment dates affected by the changes, and the revised requirements complied with conditions (1), (2), and (3).

The tables would be prepared in the form of a contract modification which when approved would constitute modification of each contract listed. Failure to timely make a revised periodic payment would be a breach of the contract involved.

As an example, here is how a periodic payment table would work. While the revised periodic payments for some sales are later than the starting requirements, the periodic payments on other contracts are accelerated. As shown in Example 2, the revised total cumulative periodic payment requirements on any periodic payments date equal or exceed the starting cumulative periodic payment requirements for that date.

Example 2—Periodic Payment Table:

I—STARTING TABLE

Sale name	Projected periodic payment due ($)							
	12/31/87	03/31/88	12/31/88	03/31/89	12/31/89	12/31/90	12/31/91	Total
One	5,000		10,000		10,000			25,000
Two		40,000		80,000				120,000
Three	20,000		50,000		50,000	50,000	50,000	220,000
Four			30,000		30,000	30,000		90,000
Five	10,000		10,000		10,000			30,000
Six	50,000		100,000		100,000	100,000		350,000
Seven			400,000		400,000	400,000	400,000	1,600,000
Eight		10,000						10,000
Total	85,000	50,000	600,000	80,000	600,000	580,000	450,000	2,445,000
Cumulative: Total	85,000	135,000	735,000	815,000	1,415,000	1,995,000	2,445,000	

II—REVISED TABLE

Name	12/31/87	03/31/88	12/31/88	03/31/89	12/31/89	12/31/90	12/31/91	Total
One	25,000							25,000
Two				120,000				120,000
Three						180,000	40,000	220,000
Four			50,000		40,000			90,000
Five	30,000							30,000
Six	70,000		150,000		130,000			350,000
Seven			400,000		390,000	400,000	410,000	1,600,000
Eight		10,000						10,000
Total	125,000	10,000	600,000	120,000	560,000	580,000	450,000	2,445,000
Cumulative: Total	125,000	135,000	735,000	855,000	1,415,000	1,995,000	2,445,000	

The Starting Table is the list of contracts the purchaser included in the offset program. It shows the annual periodic payment requirements for each contract. The revised table shows how these requirements could be revised under this proposal. For instance, the starting and revised requirements for Sales Three and Six are shown as follows:

Sale three

Date	Starting amount ($)	Revised amount ($)
12/31/87	20,000	0
12/31/88	50,000	0
12/31/89	50,000	0
12/31/90	50,000	180,000
12/31/91	50,000	40,000
Total	220,000	220,000

Sale six

Date	Starting amount ($)	Revised amount ($)
12/31/87	50,000	70,000
12/31/88	100,000	150,000
12/31/89	100,000	130,000
12/31/90	100,000	0
12/31/91		
	350,000	350,000

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Proposed Market-Related Contract Term Additions

When there is a drastic reduction in wood product prices after contract award or after the road construction completion date if the contract requires construction of specified roads, the Forest Service also proposes to permit contract term additions to those contracts with periodic payment requirements. Experience has shown the market declines necessary to cause a market-related contract term addition generally coincide with national economic recessions and are indicative of substantial economic dislocation in the wood products industry. Such economic distress broadly affects community stability, the ability of the industry to supply construction lumber and other products for public use, and threatens the maintenance of plant capacity necessary to meet the future needs of the nation for wood products from domestic sources. Accordingly, in order to insure the retention of a viable, established industry capable of supplying the wood fiber needs of the public for housing and other products, the Chief of Forest Service, has determined that the drastic reduction in wood product prices sufficient to trigger a market-related contract term addition would constitute a contract extension in the substantial overriding public interest as set forth in 36 CFR 223.115(b)). The Agency would use producer price indices prepared by the Department of Labor, Bureau of Labor Statistics, to determine whether a drastic reduction in wood product prices has occurred. The following indices would be used:

Forest service region	Bureau of labor statistics producer price index	Commodity code
Northern (1)	Other Softwood, Dressed	081103
Rocky Mountain (2)	Other Softwood, Dressed	081103
Southwestern (3)	Other Softwood, Dressed	081103
Intermountain (4)	Other Softwood, Dressed	081103
Pacific Southwest (5)	Other Softwood, Dressed	081103
Pacific Northwest (6):		
Westside	Douglas Fir, Dressed	081101
Eastside	Other Softwood, Dressed	081103
Southern (8):		
Primarily Hardwood NF's	Hardwood Lumber	0812
Primarily Softwood NF's	Southern Pine, Dressed	081102
Eastern (9):		
Primarily Hardwood NF's	Harwood Lumber	0812
Primarily Softwood NF's	Other Softwood, Dressed	081103
Alaska (10)	Other Softwood, Dressed	081103

Regional Foresters for those Regions with more than one producer price index would determine the index to be used for each national forest.

Each producer price index would be adjusted to a constant dollar base through division by the Bureau of Labor Statistics-All Commodities-Producer Price Index, Commodity Code 00000000.

The Forest Service would conclude that a drastic reduction in wood product prices has occurred where, for 2 or more consecutive calendar quarters after contract award, or road completion date if the contract requires construction of specified roads, the applicable adjusted index is less than 80 percent of the average of such index for the 4 highest of the 8 calendar quarters, immediately prior to the qualifying quarter.

If, within the contract period, or period between the road completion date and the termination date if the contract requires construction of specified roads, there are 2 consecutive qualifying quarters, upon the purchaser's written request, the Forest Service would add 1 year to the contract's term; and for each additional consecutive qualifying quarter the Forest Service would add an additional 3 months to the contract's term.

No more than twice the original contract length or 3 years, whichever is shorter, would be added to any contract's term by market-related contract term addition. A market-related contract term addition that would result in a contract period that exceeded 10 years would not be implemented.

If a contract includes timber that is subject to rapid deterioration, for example, some salvage timber or it is necessary for another reason to require that included timber be removed early in the contract period, the Forest Service designates special cutting areas on the sale area map. In those cases, the contract specifies a early removal date for the applicable timber. In addition, other contract provisions, such as those applying to timber cut during road construction, may specify when the timber must be removed.

If the designated timber is not removed by the contractual removal date, significant damage could occur to national forest resources. The Forest Service proposes, in order to minimize these damages, that a market-related contract term addition not delay any contractual dates for the removal of timber other than the contract termination date.

Where a contract is lengthened as a result of market conditions, the subsequent periodic payment dates of the contract would be delayed 1 year for each 12 months added to the contract's term; however, no periodic payment would be delayed beyond a contract's revised termination date.

Producer price indices from 1947 through 1987 were analyzed to see when the proposed market-related contract term additions could have occurred during that period. The qualifying periods were as follows:

Index	Qualifying periods
Other Softwood, Dressed.	4th Qtr. 1969–4th Qtr. 1970, 3rd Qtr. 1974–4th Qtr. 1975, 2nd Qtr. 1980–1st Qtr. 1981.
Douglas Fir, Dressed.	All 1970, 4th Qtr. 1974–1st Qtr. 1975, 2nd Qtr. 1980–4th Qtr. 1982.
Southern Pine, Dressed.	3rd Qtr. 1974–4th Qtr. 1975, 2nd Qtr. 1980–3rd Qtr. 1981.
Hardwood Lumber.	4th Qtr. 1974–1st Qtr. 1976, 3rd Qtr. 1980–1st Qtr. 1981.

The example that follows illustrates how the market-related contract term adjustment would work and how it would affect required periodic payments:

Example 3—Market-Related Contracts Term Additions:

Contract Award Date: April 2, 1995
Termination Date: March 31, 1999
Normal Operating Season: May 15–November 15
Road Completion Date: November 15, 1995
Total contract value: $1,000,000
No stumpage rate adjustment
Maximum amount of Periodic Payment: $1,000,000

(i) Periodic payment dates: December 31, 1996, December 31, 1997, and December 31, 1998.

(ii) Amount of available time:

Periodic payment period	Number of normal operating seasons	Amount of available time (percent)
01/01/96–12/31/96	1.0	33
01/01/97–12/31/97	1.0	33
01/01/98–12/31/98	1.0	34
Total	3.0	100

(iii) Periodic Payment Schedule:

Periodic payment date	Periodic payment value (percent)	Projected periodic payment amount (percent)
12/31/96	33	330,000
12/31/97	33	330,000
12/31/98	34	340,000
Total	100	1,000,000

(iv) Adjusted Hardwood Lumber Index 0812

Calendar year	Quarter	Adjusted index	Highest 4 qtrs of previous 8 qtrs	Average highest 4 qtrs	80 percent average	Qualified
1993	2	120	NA	—	—	—
1993	3	130	NA	—	—	—
1993	4	100	NA	—	—	—
1994	1	90	NA	—	—	—
1994	2	110	NA	—	—	—
1994	3	120	NA	—	—	—
1994	4	130	NA	—	—	—
1995	1	140	NA	—	—	—
1995	2	150	140,130,130,120	130	104	NA.
1995	3	100	150,140,130,130	138	110	NA.
1995	4	110	150,140,130,120	135	108	No.
1996	1	90	150,140,130,120	135	108	Yes.
1996	2	120	150,140,130,120	135	108	No.
1996	3	130	150,140,130,120	135	108	No.
1996	4	100	150,140,130,130	138	110	Yes.
1997	1	90	150,140,130,120	135	108	Yes.
1997	2	100	150,130,120,110	128	102	Yes.
1997	3	90	120,130,110,100	115	92	Yes.
1997	4	110	120,130,110,100	115	92	No.
1998	1	110	120,130,110,100	115	92	No.
1998	2	120	120,130,110,110	118	94	No.
1998	3	130	130,120,110,110	118	94	No.
1998	4	120	130,120,110,110	118	94	No.
1999	1	140	130,120,120,110	120	96	No.

After the road completion date, November 15, 1995, the adjusted hardwood lumber index was lower than 80 percent of the highest 4 quarters of the immediately preceding 8 quarters during the following quarters:

Year	Quarter
1996	1
1996	4
1997	1
1997	2
1997	3

The contract qualified for a market-related contract term addition of 1 year at the end of the first quarter of 1997.

The contract qualified for a total of 1 year, 3 months of market-related contract term addition at the end of the second quarter of 1997 because 3 consecutive quarters after the road completion date were less than 80 percent of the average of the highest 4 quarters of the previous 8 quarters. The contract qualified for another 3 months of market-related contract term addition at the end of the third quarter of 1997 because 4 consecutive quarters after the road completion date were less than 80 percent of the average of the 4 highest quarters of the previous 8 quarters.

The December 31, 1997, and the December 31, 1998, periodic payments would have been delayed 1 year each and the contract termination date would have been changed to March 31, 2000, after the first market-related contract term addition. The December 31, 1997, and December 31, 1998, periodic payments would not have been delayed further, although the contract termination date would have been changed to June 30, 2000, after the second market-related contract term addition and changed to September 30, 2000, after the third market-related contract term addition.

After the first market-related contract term addition, the periodic payment schedule would have been as follows:

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Periodic payments date	Periodic payment value (percent)	Projected payment amount (percent)
12/31/96	33	330,000
12/31/97	Delayed	0
12/31/98	33	330,000
12/31/99	34	340,000
Total	100	1,000,000

The proposed changes in down payments and the proposed changes in periodic payments as illustrated in the foregoing examples would be codified by revising § 223.49 and § 223.50 and by adding a new section on market-related contract term additions, § 223.52.

The Forest Service is proposing corollary changes to other existing timber sale provisions through revision of the Forest Service Manual. A notice explaining the proposed policy and a request for comments immediately follows this rule document. These changes combined with the proposed periodic payments requirement and market-related contract term revisions will encourage timely harvest of national forest timber sales while providing a purchaser flexibility to respond to changing market conditions.

Regulatory Impact

This action has been reviewed pursuant to Executive Order 12291; the Department of Agriculture has determined that this regulation is not a major rule. It implements the requirement of the FTCPMA requiring the Secretary of Agriculture to provide for downpayments and periodic payments for Forest Service timber sale contracts.

While this rule would change when certain purchasers would pay for the timber, the rule would not change the amount of money the purchasers would pay for their sales. This rule, exclusive of the statutory requirements, would not have an annual effect on the economy of $100 million or more and would not result in a major increase in costs for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions. The rule also would not result in significant adverse effects on competition, employment, investment, productivity, innovation, and the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The proposed rule should strengthen the United States forest products industry by implementing Congressional direction to deter speculation on Forest Service timber sales and, thereby, should help to preserve the structure of industry and the employment generated by it.

After analysis of the alternatives, the Assistant Secretary for Natural Resources and Environment has determined that this proposed rule with the proposed Forest Service Manual changes would not have a significant economic impact on a substantial number of small entities. The periodic payments are required by statute and will not affect those small entities who harvest their national forest timber sales in a timely manner.

Based on both past experience and environmental analysis, this proposed rule will have no significant effect on the human environment, individually or cumulatively. Therefore, it is determined to be categorically excluded from documentation in either an Environmental Assessment or an Environmental Impact Statement (40 CFR 1508.4). Furthermore, the proposed rule with the proposed Forest Service Manual changes will not result in additional procedures or paperwork or other information collection not already required by law and approved for use. Therefore, 44 U.S.C. 3507 is not applicable.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, national forests, reporting and recordkeeping requirements, Timber.

Therefore, for the reasons set forth above, Part 223 of Chapter II of Title 36 of the Code of Federal Regulations is proposed to be amended as follows:

PART 223—[AMENDED]

1. The authority citation for Part 223 continues to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 616; unless otherwise noted.

2. Revise § 223.49, Downpayment, in its entirety to read as follows:

§ 223.49 Downpayment.

(a) The terms listed in this paragraph have the following meaning:

(1) *Total bid value* is the sum of the products obtained by multiplying the rate the purchaser bid for each species by the estimated volume for that species.

(2) *Bid ratio* is the result of dividing the total bid value, minus the amount of the ineffective purchaser credit at the time of advertisement of the sale, by the total advertised value of the sale, or it is 1.0, whichever is larger. *Average bid ratio* is the volume weighted average of the bid ratios of timber sales on a national forest.

(3) *Ineffective purchaser credit* is that portion of the credit earned pursuant to a specific Forest Service timber sale contract for construction of specified roads, or as otherwise provided in such contract, that exceeds the current contract value, minus base rate value as defined in that contract.

(4) *Bid premium* is the amount a purchaser bids in excess of the advertised value.

(b) Timber sale contracts shall include provisions that require purchasers to make a downpayment in cash or by application of earned effective purchaser credit at the time a timber sale contract is executed.

(c) The minimum downpayment shall be the equivalent of 10 percent of the total bid value of each sale, rounded to the next $100, except in those areas where the Chief of the Forest Service determines that it is necessary to increase the amount of the downpayment in order to deter speculation.

(1) On national forests where either the volume weighted average bid ratio during the last fiscal year or the bid ratio on a significant number of timber sales, has exceeded 1.6; and the volume weighted average bid premium on those sales was at least $25 per thousand board feet or equivalent, the amount of downpayment will be equal to 10 percent of the advertised value, plus 20 percent of the bid premium, rounded to the next $100. The Chief of the Forest Service may increase this amount if necessary to deter speculation. In calculating bid ratios and bid premiums for the downpayment requirement, the Forest Service will not use the portion of the bid premium that offsets ineffective purchaser credit that existed at the time of advertisement of the sale; however, this reduction will not permit a downpayment to be below 10 percent of the total bid value for the sale.

(2) To determine the amount of the downpayment due on a sale where the timber is measured in units other than board feet, the Forest Service shall convert the measure to board feet, using appropriate conversion factors with any necessary adjustments.

(d) On scaled sales, a purchaser cannot apply the amount deposited as a downpayment to cover other obligations due on that sale until 25 percent of the advertised timber volume has been scaled and paid for. On tree measurement sales, a purchaser cannot apply the amount deposited as a downpayment to cover other obligations due on that sale until 25 percent of the advertised timber volume is shown on the timber sale statement of account to have been cut, removed, and paid for.

3. Revise § 223.50 to read as follows:

§ 223.50 Periodic payments.

(a) The terms listed in this paragraph have the following meaning:

(1) *Current contract value* is the value of timber as specified and defined in a timber sale contract.

(2) *Normal operating season* is that period specified in the timber sale contract when a purchaser could usually expect to operate the sale without encountering adverse weather conditions or other operation impediments.

(3) *Periodic payment date* is a date specified in a timber sale contract upon which the Forest Service will compare the amount deposited by the timber sale purchaser for timber charges with the sum of the periodic payments required as of that date in the contract.

(4) *Stumpage rate adjustment* is a process authorized in most Forest Service timber sale contracts in the western national forests which permits the price paid for timber under the contract to fluctuate, within stated limits, in response to established market indicators.

(5) *Total contract value* is the product of the advertised timber volume, by species, included in a sale, and the current contract rates, as specified and defined in the contract, as of a periodic payment date.

(b) Each timber sale contract of more than 1 year in duration shall provide for periodic payments. The sum of the scheduled periodic payments under each contract shall be based upon the total contract value of the contract. The contract shall authorize the Contracting Officer to reduce the amount of a periodic payment due if the payment would result in a credit balance for timber charges that exceeds the current contract value.

(c) Unless altered pursuant to 36 CFR 223.46 or 36 CFR 223.52, periodic payments shall either be proportional over the life of the contract or proportional over the period of time between the road completion date specified in the contract and the termination date of the contract, whichever the Forest Service determines as applicable, with periodic payment dates ordinarily on the last day of the calendar quarter which contains the end of a normal operating season. If the last day of the calendar quarter which contains the end of a normal operating season is after the contract's termination date, the periodic payment that would have been determined as of that date shall be determined as of the termination date of the contract.

(d) Upon a purchaser's written request, if the road completion date has been changed as a result of a contract term adjustment, or if the contract has qualified for a contract term adjustment, the Forest Service shall recalculate the periodic payment requirements for the remainder of the contract period.

(e) A contract extension pursuant to 36 CFR 223.115 other than as authorized by 36 CFR 223.52 shall not affect the periodic payment requirements of a contract.

(f) The Chief of the Forest Service may authorize Contracting Officers to establish, prior to timber sale advertisement, alternative periodic payment schedules to provide additional incentives for harvest early in the contract period for salvage or other types of timber sales, where another periodic payment schedule would better meet sale objectives.

(g) Except as provided elsewhere in this section, neither the purchaser of a timber sale contract nor the Forest Service shall modify a periodic payment schedule once such schedule is included in the timber sale contract.

(h) Contracts may permit purchasers to make positive and negative periodic payment schedule offsets. Any such changes shall be effectuated by contract modification by adding a periodic payment table to each contract to which an offset will be applied. The cumulative total of the revised periodic payment requirements shall equal or exceed the cumulative total of the original periodic payment requirements on all periodic payment dates listed in such table.

4. Add a new § 223.52 to read as follows:

§ 223.52 Market-related term additions.

(a) Timber sale contracts which contain periodic payment requirements shall provide for addition of time to the contract term if, after any road completion date specified in the contract, adverse forest products market conditions result in a drastic reduction in wood product prices.

(b) The Forest Service will use producer price indices as prepared by the Department of Labor, Bureau of Labor Statistics, to determine whether a drastic reduction in wood product prices has occurred. The Agency will adjust each applicable index to a constant dollar base, and conclude that drastic reduction in wood product prices has occurred when, for 2 or more consecutive quarters after contract award, or road completion date if the contract requires construction of specified roads, the applicable adjusted index is less than 80 percent of the average of such adjusted index for the 4 highest of the 8 calendar quarters immediately prior to the qualifying quarter. The Regional Forester will determine which producer price index the Agency shall use on each national forest in that region.

(c) If, within the contract period or the period between the road completion date and the termination date if the contract requires construction of specified roads, there are 2 consecutive qualifying quarters, upon the purchaser's written request, the Forest Service will add 1 year to the contract's term; and for each additional consecutive qualifying quarter the Forest Service will add an additional 3 months to the contract's term.

(d) No more than twice the original contract length or 3 years, whichever is less, shall be added to a contract's term by market-related contract term addition.

(e) Where a contract is lengthened as a result of market conditions, the subsequent periodic payment dates of the contract will be delayed 1 year for each 12 months added to the contract's term; however, no periodic payment will be delayed beyond a contract's revised termination date. In no event will the revised contract term exceed 10 years.

George S. Dunlop,

Assistant Secretary, Natural Resources and Environment.

Date: October 14, 1987.

[FR Doc. 87-25724 Filed 11-5-87; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

Modification of Timber Sale Policy

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy.

SUMMARY: Implementation of the Federal Timber Contract Payment Modification Act's downpayment and periodic payment requirements renders some existing timber sale procedures superfluous. The Forest Service proposes to modify or eliminate these duplicative processes.

DATES: Comments must be received by January 5, 1988.

ADDRESSES: Send written comments to R. Max Peterson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington DC 20013.

FOR FURTHER INFORMATION CONTACT: David M. Spores, Timber Management Staff, (202) 447–4051.

The public may inspect all written submissions made pursuant to this notice during regular business hours in the office of the Director, Timber Management Staff, Room 3207, South Agriculture Building, 12th and Independence Avenue SW., Washington, DC.

SUPPLEMENTARY INFORMATION: On April 15, 1982, the Forest Service implemented revised procedures governing national forest timber sales (47 FR 16178–16182). The purpose of those new procedures was to encourage a regular flow of products manufactured from national forest timber, encourage purchasers to harvest timber early in the timber sale contract period, and to help ensure financial responsibility of bidders.

Subsequently, the Congress enacted the Federal Timber Contract Payment Modification Act. The downpayment and periodic payments required by this statute provide incentives for operating a timber sale early in the contract period. The act also discourages purchasers from speculative bidding, that is of bidding with the intent of holding timber until late in the contract period in anticipation of increases in market prices. Implementation of the down payment and periodic payment requirements will render some of the existing procedures for sale of national forest timber superfluous. Accordingly, the Forest Service now proposes to modify some existing timber sale procedures and eliminate others.

The downpayment requirement of the act as implemented by 36 CFR 223.49 mandates that a timber sale purchaser make a downpayment upon contract execution. Recent experience has shown that operations on a sale after contract execution may be delayed by order of a court or by the Forest Service due to administrative reviews (36 CFR 211.18), bid protests (4 CFR 21), litigation, or other disputes initiated by parties other than the timber sale purchaser or the Forest Service. In such situations, the purchaser does not have an opportunity to complete the contract to the point that the downpayment amount is available for use against other timber sale charges. The delay can create severe cash flow problems for the purchaser. The downpayment is ineffective in encouraging prompt timber harvest during these delays.

The Forest Service proposes that if, before harvest of a timber sale has been completed to the point that the amount deposited as a downpayment under 36 CFR 223.49 is available for use against other charges on the sale, an administrative review, bid protest, litigation, or similar dispute not initiated by the purchaser or the Forest Service delays sale operations by 30 or more days, the purchaser may replace all or part of the amount deposited as a downpayment with a payment guarantee acceptable to the Forest Service. The purchaser would have to replace the payment guarantee with cash or effective purchaser credit within 30 days of reversal of the referenced order causing the delay, unless the reversal was issued within 30 days of the end of, or after the end of a normal operating season as defined in the contract. In such a case, the purchaser would have to replace the payment guarantee with cash or effective purchaser credit prior to the start of the contract's next normal operating season. This policy would only apply in those situations where operations on a sale were delayed by order of a court or by the Forest Service.

The Forest Service also plans to eliminate the timber sale discounting procedure implemented in 1982 on a test basis on some national forests in western Washington and Oregon and northern California (47 FR 16161). Use of discount procedures in conjunction with periodic payments in the same timber sale contract would be redundant and unnecessarily complicated. Therefore, the Forest Service proposes to stop the discount procedure test once periodic payments are implemented.

A midpoint payment process for timber sales of more than 3 years' duration was established April 15, 1982, (47 FR 16161). On October 11, 1985 (50 FR 41500) the Forest Service issued a final rule, 36 CFR 223.50, that replaced the 1982 midpoint payment process and requires a midpoint payment on a national forest timber sale with 1-year or more between the bid date and termination date. The periodic payment procedures will make a midpoint payment process unnecessary. Therefore, the Forest Service does not plan to reinstate the 1982 midpoint payment process in contracts bid after implementation of periodic payments.

Comments received from the public on these proposed policy changes will be analyzed and considered in developing a final policy. The final policy will be issued as direction to Forest Service employees through Title 2400-Timber Management of the Forest Service Manual. Notice of adoption of the final policy will also be made in the **Federal Register**.

Date: September 30, 1987.

George M. Leonard,

Associate Chief.

[FR Doc. 87–25725 Filed 11–5–87; 8:45 am]

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federal register

Friday
November 6, 1987

Part VII

Environmental Protection Agency

40 CFR Part 27

Program Fraud Civil Remedies; Proposed Rule

BEST COPY AVAILABLE

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 27

FRL-3233-9

Program Fraud Civil Remedies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to adopt regulations implementing the Program Fraud Civil Remedies Act of 1986. This Act authorizes certain federal agencies, including EPA, through administrative procedures, to impose civil penalties and assessments against any person who makes a false claim or statement to EPA.

DATE: Comments must be received on or before December 7, 1987.

ADDRESSES: Written comments may be mailed to the Office of the General Counsel, Inspector General Division, U.S. Environmental Protection Agency, 401 M Street SW., LE-132I, Washington, DC 20460, or delivered to that office in Room 1023, West Tower, at the same address. Copies of all written comments will be available for inspection in Room 1023, West Tower, at the above address, between 9:00 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Marla Diamond, Esq., Office of General Counsel, Inspector General Division, U.S. Environmental Protection Agency, 401 M Street, SW. (LE-132I), Washington, DC 20460, Telephone: (202) 475-6660.

SUPPLEMENTARY INFORMATION: The Program Fraud Civil Remedies Act (the Act), Pub. L. No. 99-509, was enacted on October 21, 1986, as sections 6103-6104 of the Omnibus Budget Reconciliation Act of 1986, to be codified at 31 U.S.C. 3801-3812. The Act establishes a new administrative remedy against persons who submit false claims or written statements to the Environmental Protection Agency, as well as certain other federal agencies. This remedy is in addition to any criminal, civil or administrative remedies presently available to EPA by statute, regulation, contract or other procedure. In general, any person who submits a claim, not in excess of $150,000, or a written statement to EPA, knowing or with reason to know that it is false, fictitious, or fraudulent, is liable for a penalty of up to $5,000 per claim or statement, and for an assessment of up to double the amount falsely claimed.

The Act requires each affected federal agency to promulgate rules and regulations to implement the provisions of the Act. The Senate Governmental Affairs Committee stated in its report on the Act that it "expects that the regulations would be substantially uniform throughout government." S. Rep. No. 99-212, 99th Cong., 1st Sess. 12 (1986). To promote this uniformity throughout government, the President's Council on Integrity and Efficiency distributed a draft model regulation to its members requesting comments. An inter-agency workgroup, including a representative from EPA, reviewed the comments and revised the draft regulation. On March 6, 1987, the Chairman of the Council distributed the final model regulation. On September 18, 1987, the Vice Chairman of the Council distributed changes to the model regulation in response to public comments on proposed rules published by other agencies. EPA proposes to adopt the model regulation, as amended, with certain procedural modifications.

The Act vests authority to investigate false claims and written statements with the agency's investigating official. The investigating official has the power to subpoena documents and other information not otherwise reasonably available. If the investigating official concludes that an action is warranted, he submits a report of investigation to the reviewing official.

The reviewing official, who must be independent of the investigating official, reviews the report of investigation to determine whether there is adequate evidence to believe that the person investigated is liable under the Act. If so, the reviewing official notifies the Department of Justice, in writing, of his intent to issue a complaint. The Attorney General, or designated Assistant Attorney General, has 90 days to approve or disapprove the issuance of a complaint.

If the Attorney General, or his designate, approves the issuance of a complaint, the reviewing official serves the complaint on the defendant. The defendant has 30 days from receipt of the complaint to request a hearing by filing an answer. The reviewing official forwards the complaint and the answer to a presiding officer.

The presiding officer serves a notice of hearing on the defendant, supervises discovery, rules on motions, conducts the hearing, and issues an initial decision. The initial decision must contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed. Any defendant who is found to be liable for any penalties or assessments may appeal the initial decision to the authority head.

The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment. If the authority head determines that the defendant is liable for any penalties or assessments, the defendant may obtain judicial review of that decision in an appropriate United States District Court.

EPA's proposed rule provides for the Inspector General or his designee to act as the investigating official (as required by the Act), the General Counsel or his designee to act as the reviewing official, an administrative law judge to act as the presiding officer (also required by the Act), and the Administrator or a judicial officer to act as the authority head.

Executive Order 12291

EPA has determined that this rule is not a major rule for the purposes of Executive Order 12291. It does not have an annual effect on the economy of $100 million or more; it will not cause a major increase in costs or prices for consumers or others; and it will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, a regulatory impact analysis has not been prepared.

Regulatory Flexibility Analysis

We have determined that the regulation would not have a significant impact on a substantial number of small business entities and, therefore, we have not prepared a regulatory flexibility analysis in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 601-611. While some of the penalties and assessments imposed by EPA could have an impact on small businesses and other small entities, we do not believe that a substantial number of these small entities will be significantly affected by this regulation.

Paperwork Reduction Act of 1980

We have determined that this regulation does not contain any specific information collection or recordkeeping requirements as defined by the Paperwork Reduction Act of 1980.

Public Comments

EPA invites public comments on these proposed regulations. Although we will not be able to respond to these comments individually, all comments will be considered in preparing the final rule. Specific significant comments will be addressed in the preamble to the final rule.

List of Subjects in 40 CFR Part 27

Administrative practice and procedure, Assessments, False claims, False statements, Penalties.

Date: November 2, 1987.

A. James Barnes,

Acting Administrator.

For the reasons set out in the Preamble, Title 40, Chapter I, Subchapter A of the Code of Federal Regulations is proposed to be amended as follows:

In Title 40 of the Code of Federal Regulations, a new Part 27, Program Fraud Civil Remedies, is added to read as follows:

PART 27—PROGRAM FRAUD CIVIL REMEDIES

Sec.

27.1 Basis and purpose.
27.2 Definitions.
27.3 Basis for civil penalties and assessments.
27.4 Investigation.
27.5 Review by the reviewing official.
27.6 Prerequisites for issuing a complaint.
27.7 Complaint.
27.8 Service of complaint.
27.9 Answer.
27.10 Default upon failure to file an answer.
27.11 Referral of complaint and answer to the presiding officer.
27.12 Notice of hearing.
27.13 Parties to the hearing.
27.14 Separation of functions.
27.15 Ex parte contacts.
27.16 Disqualification of the reviewing official or presiding officer.
27.17 Rights of parties.
27.18 Authority of the presiding officer.
27.19 Prehearing conferences.
27.20 Disclosure of documents.
27.21 Discovery.
27.22 Exchange of witness lists, statements, and exhibits.
27.23 Subpoenas for attendance at hearing.
27.24 Protective order.
27.25 Fees.
27.26 Form, filing and service of papers.
27.27 Computation of time.
27.28 Motions.
27.29 Sanctions.
27.30 The hearing and burden of proof.
27.31 Determining the amount of penalties and assessments.
27.32 Location of hearing.
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Authority: 31 U.S.C. 3809.

§ 27.1 Basis and purpose.

(a) *Basis.* This Part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. No. 99-509, sections 6101-6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801-3812. 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part—

(1) Establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to the Environmental Protection Agency, and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 27.2 Definitions.

Administrative Law Judge means an administrative law judge in the Authority appointed pursuant to 5 U.S.C. 3105 or detailed to the Authority pursuant to 5 U.S.C. 3344.

Administrator means the Administrator of the United States Environmental Protection Agency.

Authority means the United States Environmental Protection Agency.

Authority head means the Administrator or his delegate.

Benefit means, in the context of "statement," anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

Claim means any request, demand, or submission—

(a) Made to the Authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from the Authority or to a party to a contract with the Authority—

(1) For property or services if the United States—

(i) Provided such property or services;

(ii) Provided any portion of the funds for the purchase of such property or services; or

(iii) Will reimburse such recipient or party for the purchase of such property or services; or

(2) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(i) Provided any portion of the money requested or demanded; or

(ii) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(c) Made the Authority which has the effect of decreasing an obligation to pay or account for property, services, or money.

Complaint means the administrative complaint served by the reviewing official on the defendant under § 27.7.

Defendant means any person alleged in a complaint under § 27.7 to be liable for a civil penalty or assessment under § 27.3.

Government means the United States Government.

Hearing Clerk means the Hearing Clerk, A-110, United States Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Individual means a natural person.

Initial decision means the written decision of the presiding officer required by § 27.10 or § 27.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

Investigating official means the Inspector General of the United States Environmental Protection Agency or an officer or employee of the Office of Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

Judicial officer means an attorney who is a permanent or temporary employee of the Authority or some other Federal agency designated by the Administrator to serve as judicial officer and who may perform other duties within the Authority but shall not be employed by any program office directly associated with the type of violation at issue in the proceeding.

Knows or has reason to know means that a person, with respect to a claim or statement—

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(b) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(c) Acts in reckless disregard of the truth or falsity of the claim or statement.

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Makes, wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, *making* or *made*, shall likewise include the corresponding forms of such terms.

Person means any individual, partnership, corporation, association, or private organization, and includes the plural of those terms.

Presiding officer means the administrative law judge designated by the Chief administrative law judge to serve as presiding officer.

Representative means an attorney who is a member in good standing of the bar of any State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico, or other representative who must conform to the standards of conduct and ethics required of practitioners before the courts of the United States.

Reviewing official means the General Counsel of the Authority or his designee who is—

(a) Not subject to supervision by, or required to report to, the investigating official;

(b) Not employed in the organizational unit of the Authority in which the investigating official is employed; and

(c) Serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

Statement means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(a) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(b) With respect to (including relating to eligibility for)—

(1) A contract with, or a bid or proposal for a contract with; or

(2) A grant, loan, or benefit from, the Authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

§ 27.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed,

shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such claim.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the Authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of the Authority, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section, shall also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1). Such assessment shall be in lieu of damages sustained by the Government because of such claim.

(b) *Statements.* (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement,

shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to the Authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such Authority.

(c) No proof of specific intend to defraud is required to establish liability under this section.

(d) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held liable for a civil penalty under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

§ 27.4 Investigation.

(a) If the investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(a) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued and shall identify the records or documents sought;

(2) The investigating official may designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available and the reasons therefor, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section shall preclude or limit an investigating official's discretion to defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

§ 27.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 27.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 27.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 27.7.

(b) Such notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 27.3 of this part;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments.

§ 27.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 27.7 only if—

(1) The Department of Justice approves the issuance of a complaint in written statement described in 31 U.S.C. 3803(b)(1), and

(2) In the case of allegations of liability under § 27.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 27.3(a) does not exceed $150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (*e.g.*, grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person, claims that are unrelated or were not submitted simultaneously, regardless of the amount of money, or the value of property or services, demanded or requested.

§ 27.7 Complaint.

(a) On or after the date the Department of justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 27.8.

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal as provided in § 27.10.

(c) At the same time the reviewing official serves the complaint, he or she shall serve the defendant with a copy of these regulations.

§ 27.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of civil Procedure. Service is complete upon receipt.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual serving the complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt; or

(3) Written acknowledgment of receipt by the defendant or his or her representative.

§ 27.9 Answer.

(a) The defendant may request a hearing by filling an answer with the reviewing official within 30 days of service of the complaint. An answer shall be deemed to be a request for hearing.

(b) In the anwer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(c) If the defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided, the defendant may, before the expiration of 30 days from service of the complaint, file with the reviewing official a general answer denying liability and requesting a hearing, and a request for an extension of time within which to file an answer meeting the requirements of paragraph (b) of this section. The reviewing official shall file promptly with the hearing clerk the complaint, the general answer denying liability, and the request for an extension of time as provided in § 27.11. Upon assignment to a presiding officer, the presiding officer may, for good cause shown, grant the defendant up to 30 additional days within which to file an answer meeting the requirements of paragraph (b) of this section.

§ 27.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 27.9(a), the reviewing official may file the complaint with the hearing clerk as provided in § 27.11.

(b) Upon assignment of the complaint to a presiding officer, the presiding officer shall promptly serve on defendant in the manner prescribed in § 27.8, a notice that an initial decision will be issued under this section.

(c) The presiding officer shall assume the facts alleged in the complaint to be true, and, if such facts establish liability under § 27.3, the presiding officer shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion seeking to reopen on the grounds

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that extraordinary circumstances prevented the defendant from filing an answer, the initial decision shall be stayed pending the presiding officer's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the presiding officer shall withdraw the initial decision in paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the presiding officer denying a defendant's motion under paragraph (e) of this section, is not subject to reconsideration under § 27.38.

(h) The defendant may appeal to the authority head the decision denying a motion to reopen by filing a notice of appeal within 15 days after the presiding officer denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the authority head decides the issue.

(i) If the defendant files a timely notice of appeal, the presiding officer shall forward the record of the proceeding to the authority head.

(j) The authority head shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the presiding officer.

(k) If the authority head decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the authority head shall remand the case to the presiding officer with instructions to grant the defendant an opportunity to answer.

(l) If the authority head decides that the defendant's failure to file a timely answer is not excused, the authority head shall reinstate the initial decision of the presiding officer, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

§ 27.11 Referral of complaint and answer to the presiding officer.

(a) Upon receipt of an answer, the reviewing official shall file the complaint and answer with the hearing clerk.

(b) The hearing clerk shall forward the complaint and answer to the Chief administrative law judge who shall assign himself or herself or another administrative law judge as presiding officer. The presiding officer shall then obtain the complaint and answer from the Chief administrative law judge and notify the parties of his or her assignment.

§ 27.12 Notice of hearing.

(a) When the presiding officer obtains the complaint and answer, the presiding officer shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 27.8. At the same time, the presiding officer shall send a copy of such notice to the representative for the Government.

(b) Such notice shall include—

(1) The date, time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the Government and of the defendant, if any; and

(6) Such other matters as the presiding officer deems appropriate.

(c) The presiding officer shall issue the notice of hearing at least twenty (20) days prior to the date set for the hearing.

§ 27.13 Parties to the hearing.

(a) The parties to the hearing shall be the defendant and the Authority.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 27.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the Authority who takes part in investigating, preparing, or presenting a particular case, may not, in such case or a factually related case—

(1) Participate in the hearing as the presiding officer;

(2) Participate or advise in the initial decision or the review of the initial decision by the authority head, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) Neither the presiding officer nor judicial officer shall be responsible to, or subject to the supervision or direction of the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Government may be employed anywhere in the authority, including in the offices of either the investigating official or the reviewing official.

§ 27.15 Ex parte contacts.

No party or person (except employees of the presiding officer's office) shall communicate in any way with the presiding officer on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 27.16 Disqualification of the reviewing official or presiding officer.

(a) A reviewing official or presiding officer in a particular case may disqualify himself or herself at any time.

(b) A party may file a motion for disqualification of a reviewing official or presiding officer with the hearing clerk. Such motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) Such motion and affidavit shall be filed within 15 days of the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affidavit, the presiding officer shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the presiding officer determines that the reviewing official is disqualified because the reviewing official could not have made an impartial determination pursuant to § 27.5(a), the presiding officer shall dismiss the complaint without prejudice.

(2) If the presiding officer disqualifies himself or herself, the case shall be reassigned promptly to another presiding officer.

(3) If the presiding officer denies a motion to disqualify, the authority head may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

§ 27.17 Rights of parties.

Except as otherwise limited by this Part, all parties may—

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the presiding officer;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the presiding officer; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

§ 27.18 Authority of the presiding officer.

(a) The presiding officer shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The presiding officer has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the presiding officer under this Part.

(c) The presiding officer does not have the authority to find Federal statutes or regulations invalid.

§ 27.19 Prehearing conferences.

(a) The presiding officer may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the presiding officer shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The presiding officer may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations and admissions of fact as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The presiding officer may issue an order containing all matters agreed upon by the parties or ordered by the presiding officer at a prehearing conference.

§ 27.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 27.4(b) are based, unless such documents are subject to a privilege under Federal law. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 27.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed following the filing of an answer pursuant to § 27.9.

§ 27.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 27.22 and 27.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the presiding officer. The presiding officer shall regulate the timing of discovery.

(d) *Motions for discovery.* (1) A party seeking discovery may file a motion which shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 27.24.

(3) The presiding officer may grant a motion for discovery only if he finds that the discovery sought—

(i) Is necessary for the expenditures, fair, and reasonable consideration of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The presiding officer may grant discovery subject to a protective order under § 27.24.

(e) *Depositions.* (1) If a motion for deposition is granted, the presiding officer shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 27.8.

(3) The deponent may file a motion to quash the subpoena or a motion for a

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protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

§ 27.22 Exchange of witness lists, statements and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the presiding officer, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 27.33(b). At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the presiding officer, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the presiding officer shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the presiding officer finds good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the presiding officer, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 27.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the presiding officer issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the presiding officer for good cause shown. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 27.8. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party of the individual to whom the subpoena is directed may file a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

§ 27.24 Protective order.

(a) A party or a prospective witness or dependent may file a motion for a protective order with respect to discovery sought by a party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the presiding officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the presiding officer;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the presiding officer;

(8) That a trade secret or other confidential research, development, or commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the presiding officer.

§ 27.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the Authority, a check for witness fees and mileage need not accompany the subpoena.

§ 27.26 Form, filing and service of papers.

(a) *Form.* (1) Documents filed with the hearing clerk shall include an original and two copies.

(2) The first page of every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the hearing clerk, and a designation of the paper (*e.g.*, motion to quash subpoena).

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of, the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the hearing clerk shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document, other than those required to be served as prescribed in § 27.8, shall be made by delivering a copy or by placing a copy of the document in the United States mail, postage prepaid and addressed, to the party's last known address. When a party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

§ 27.27 Computation of time.

(a) In computing any period of time under this Part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal government shall be excluded from the computation.

(c) When a document has been served or issued by placing it in the mail, an additional five days will be added to the time permitted for any response.

§ 27.28 Motions.

(a) Any application to the presiding officer for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with hearing clerk and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The presiding officer may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the presiding officer, any party may file a response to such motion.

(d) The presiding officer may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The presiding officer shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 27.29 Sanctions.

(a) The presiding officer may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the presiding officer may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this Part commenced by service of a notice of hearing, the presiding officer may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The presiding officer may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

§ 27.30 The hearing and burden of proof.

(a) The presiding officer shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 27.3 and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The Authority shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the presiding officer for good cause shown.

§ 27.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the presiding officer and the authority head, upon appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the presiding officer and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct (*i.e.*, the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulents claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed a civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the presiding officer or the authority head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 27.32 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

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(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place as may be agreed upon by the defendant and the presiding officer.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the presiding officer.

§ 27.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the presiding officer, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last know address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 27.22(a).

(c) The presiding officer shall excercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to—

(1) Make the interrogation and presentation effective for the ascertainment of the truth, (2) Avoid needless consumption of time, and (3) Protect witnesses from harassment or undue embarrassment.

(d) The presiding officer shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the diacretion of the presiding officer, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the presiding officer, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the presiding officer shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party appearing for the entity *pro se* or designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

§ 27.34 Evidence.

(a) The presiding officer shall determine the admissibility of evidence.

(b) Except as provided in this Part, the presiding officer shall not be bound by the Federal Rules of Evidence. However, the presiding officer may apply the Federal Rules of Evidence when appropriate, *e.g.*, to exclude unreliable evidence.

(c) The presiding officer shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by consideration of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The presiding officer shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the presiding officer pursuant to § 27.24.

§ 27.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the hearing clerk at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the presiding officer and the authority head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the presiding officer pursuant to § 27.24.

§ 27.36 Post-hearing briefs.

The presiding officer may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The presiding officer shall fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The presiding officer may permit the parties to file responsive briefs.

§ 27.37 Initial decision.

(a) The presiding officer shall issue an initial decision based only on the record. The decision shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 27.3;

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 27.31.

(c) The presiding officer shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and responsive briefs (if permitted) has expired. The presiding officer shall at the same time serve all parties with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration or a notice of appeal. If the presiding officer fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the presiding officer is timely appealed to the authority head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued by the presiding officer.

§ 27.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt will be presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the presiding officer.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The presiding officer may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) If the presiding officer denies a motion for reconsideration, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after the presiding officer denies the motion, unless the initial decision is timely appealed to the authority head in accordance with § 27.39.

(g) If the presiding officer issues a revised initial decision, that decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the authority head in accordance with § 27.39.

§ 27.39 Appeal to authority head.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the hearing clerk in accordance with this section.

(b)(1) A notice of appeal may be filed at any time within 30 days after the presiding officer issues an initial decision. However, if another party files a motion for reconsideration under § 27.38, consideration of the appeal shall be stayed automatically pending resolution of the motion for reconsideration.

(2) If a motion for reconsideration is timely filed, a notice of appeal may be filed within 30 days after the presiding officer denies the motion or issues a revised initial decision, whichever applies.

(3) The authority head may extend the initial 30 day period for an additional 30 days if the defendant files a request for an extension within the initial 30 day period and shows good cause.

(c) If the defendant files a timely notice of appeal, and the time for filing motions for reconsideration under § 27.38 has expired, the presiding officer shall forward the record of the proceeding to the authority head.

(d) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the authority head.

(g) There is no right to appeal any interlocutory ruling by the presiding officer.

(h) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the presiding officer unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the authority head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the presiding officer for consideration of such additional evidence.

(j) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the presiding officer in any initial decision.

(k) The authority head shall promptly serve each party to the appeal with a copy of the decision of the authority head and a statement describing the right of any person determined to be liable for a civil penalty or assessment to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this Part and within 60 days after the date on which the authority head serves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under § 27.3 is final and is not subject to judicial review.

§ 27.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this Part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 27.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 27.42 Judicial review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties or assessments under this Part and specifies the procedures for such review.

§ 27.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this Part and specify the procedures for such actions.

§ 27.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 27.42 or § 27.43, or any amount agreed upon in a compromise or settlement under § 27.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this section against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 27.45 Deposit in Treasury of United States.

All amounts collected pursuant to this Part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 27.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this Part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the presiding officer issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle a case under this Part at any time after the date on which the presiding officer issues an initial decision, except during the pendency of any review under § 27.42 or during the pendency of any action to

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collect penalties and assessments under § 27.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this Part during the pendency of any review under § 27.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 27.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 27.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 27.10(b) shall be deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

§ 27.48 Delegated functions.

The Administrator may delegate to a judicial officer, all or part of his authority to act in a given proceeding. This delegation does not prevent the judicial officer from referring any matter to the Administrator when appropriate.

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H.R. 799/Pub. L. 100–150

To designate a segment of the Kings River in California as a wild and scenic river, and for other purposes. (Nov. 3, 1987; 101 Stat. 881; 3 pages) Price: $1.00

H.R. 2893/Pub. L. 100–151

To reauthorize the Fishermen's Protective Act. (Nov. 3, 1987; 101 Stat. 884; 1 page) Price: $1.00

H.R. 3325/Pub. L. 100–152

To designate the segment of Corridor V in the State of Alabama as the Robert E. (Bob) Jones, Jr. Highway. (Nov. 3, 1987; 101 Stat. 885; 1 page) Price: $1.00

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For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: November 20, at 9 a.m.
WHERE: National Archives and Records Administration,
Room 410, 8th and Pennsylvania Avenue NW., Washington, DC.
RESERVATIONS: Robert D. Fox, 202-523-5239.

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Presidential Documents

Title 3—

The President

Proclamation 5736 of November 5, 1987

To Establish a Special Limited Global Import Quota for Upland Cotton

By the President of the United States of America

A Proclamation

1. Section 103A(o)(1) of the Agricultural Act of 1949, as added by section 501 of the Food Security Act of 1985 (7 U.S.C. 1444–1(o)(1)), provides that whenever the Secretary of Agriculture determines that the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9), hereinafter referred to as "Strict Low Middling cotton," in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in such markets for the preceding 36 months, notwithstanding any other provision of law, the President shall immediately establish and proclaim a special limited global import quota for upland cotton. The amount of such quota, if no special quota has been established under that section during the previous 12 months, is to be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available and is to remain in effect for a 90-day period.

2. The Secretary of Agriculture has informed me that he has determined that the average price of Strict Low Middling cotton in the designated spot markets for the month of August 1987 has exceeded 130 percent of the average price of such cotton in such markets for the preceding 36 months. The Secretary's determination was based upon the following data:

(a) The average price of Strict Low Middling cotton in the designated spot markets for the month of August 1987 was 75.89 cents per pound.

(b) The average price of Strict Low Middling cotton in the designated spot markets for the 36 months preceding the month of August 1987 was 57.89 cents per pound.

3. Twenty-one days of domestic mill consumption of upland cotton, which is any variety of the Gossypium hirsutum species of cotton, at the seasonally adjusted rate of the most recent 3 months for which data are available is 303,894,717 pounds.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by the Constitution and statutes of the United States of America, including section 103A(o)(1) of the Agricultural Act of 1949, as added by section 501 of the Food Security Act of 1985, and in order to establish a special 90-day limited global import quota for 303,894,717 pounds of upland cotton, do hereby proclaim as follows:

Part 3 of the Appendix to the Tariff Schedules of the United States is hereby modified by inserting in numerical sequence the following temporary provision:

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Item	Article	Quota quantity (in pounds)
955.07	Notwithstanding any other quantitative limitations on the importation of cotton, upland cotton, if accompanied by an original certificate of an official of a government agency of the country in which the cotton was produced attesting to the fact that cotton is a variety of Gossypium hirsutum species of cotton, may be entered during the 90-day period November 6, 1987, through February 3, 1988, . .	303,894,717 pounds".

The provisions of this Proclamation shall become effective on the day following the date of signature. The amendment made by this Proclamation to the Tariff Schedules of the United States shall expire on February 28, 1988.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of November, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-26053
Filed 11-6-87; 10:25 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5737 of November 5, 1987

National Community Education Day, 1987

By the President of the United States of America

A Proclamation

National Community Education Day reminds us that schools and colleges are institutions strongly woven into the fabric of our cities and towns and that they should command the sustained interest of the citizenry. Public education is a community project, and the lifelong mission of education involves everyone in the community.

Many areas do use community resources in education. Parents and other citizens examine their schools and determine how they can contribute to learning. Businesses and industries become aware of what local educational institutions are offering students and consider how they can contribute their own resources and practical skills to enhance learning and provide educational opportunities for learners of all ages and educational backgrounds. Through outreach, receptiveness, and cooperation, our communities can and do become more firmly interwoven with our schools in a commitment to better education for all generations.

The Congress, by Public Law 100-103, has designated November 17, 1987, as "National Community Education Day" and authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim November 17, 1987, as National Community Education Day. I invite parents, educators, students, State and local officials, and all Americans to take part in activities that recognize and show appreciation for the role of community resources in education.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of November, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-26054
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Presidential Documents

Executive Order 12614 of November 5, 1987

Presidential Task Force on Market Mechanisms

By the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

Section 1. *Establishment of Task Force.* (a) There is hereby established the Presidential Task Force on Market Mechanisms. The Task Force shall be composed of five persons appointed by the President.

(b) The President shall designate a chairman from among the members of the Task Force.

Sec. 2. *Purpose and Functions.* (a) The Task Force shall review relevant analyses of the current and long-term financial condition of the Nation's securities markets; identify problems that may threaten the short-term liquidity or long-term solvency of such markets; analyze potential solutions to such problems that will both assure the continued smooth functioning of free, fair, and competitive securities markets and maintain investor confidence in such markets; and provide appropriate recommendations to the President, to the Secretary of the Treasury, and to the Chairman of the Board of Governors of the Federal Reserve System.

(b) The Task Force shall submit its recommendations within 60 days from the date hereof.

Sec. 3. *Administration.* (a) The heads of Executive departments, agencies, and independent instrumentalities shall, to the extent permitted by law, provide the Task Force such information as it may require for the purpose of carrying out its functions.

(b) Members of the Task Force shall serve without any additional compensation for their work on the Task Force. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service, to the extent funds are available therefor.

(c) The Task Force shall have a staff headed by an Executive Director. To the extent permitted by law and subject to the availability of funds therefor, the Executive Office of the President and the Department of the Treasury shall provide the Task Force with such administrative services, funds, facilities, staff, and other support service as may be necessary for the performance of its functions.

Sec. 4. *Termination of Task Force.* The Task Force shall terminate 30 days after submitting its report.

Ronald Reagan

THE WHITE HOUSE,
November 5, 1987.

[FR Doc. 87-26055
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement; Service Credit

AGENCY: Office of Personnel Management.

ACTION: Final rules.

SUMMARY: The Office of Personnel Management (OPM) is issuing final rules implementing changes in the law granting service credit under the Civil Service Retirement System (CSRS). Rules concerning service credit under the Federal Employees Retirement System were published separately. These rules establish procedures to allow some Federal employees and Members to receive retirement credit for certain service with the Cadet Nurse Corps during World War II; with nonappropriated fund instrumentalities after June 18, 1952, but before January 1, 1966; and with the National Guard as a technician before January 1, 1969.

EFFECTIVE DATE: December 9, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia A. Rochester, (202) 632–4682.

SUPPLEMENTARY INFORMATION: On February 6, 1987, we published (at 52 FR 3785) interim procedures allowing service credit for certain Cadet Nurse Corps, nonappropriated fund, and National Guard technician service. Interested parties were given until April 7, 1987, to submit comments.

We received two comments. In addition to a number of clarifying editorial changes, we made the following changes based on the suggestions in the comments. First, we amended each section to indicate that deposits for these periods of service will be computed (including interest) as specified in sections 8334(e) (2) and (3) of title 5, United States Code. Secondly, we added language in §§ 831.304 and 831.306 clarifying the fact that deposits for service as a Cadet nurse and a National Guard technician must be completed through the individual's employing agency before the individual is separated for retirement purposes. The "deemed" deposit provisions which normally apply in computing the "alternative form of annuity" will not apply to these two types of service credit deposits. Thirdly, we added language to § 831.305 to indicate the nonappropriated fund (NAF) positions creditable under CSRS and that service with an NAF instrumentality may not be used to obtain both CSRS retirement benefits and NAF retirement benefits. The law intended only to allow credit for such service where no credit had previously been given toward a retirement plan benefit.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this rule will not have a significant economic impact on a substantial number of small entities because it will only affect retirement payments to retired Government employees, spouses, and former spouses.

List of Subjects in 5 CFR Part 831

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM is amending 5 CFR Part 831 as follows:

PART 831—RETIREMENT

Subpart C—Credit for Service

1. The authority citation for Subpart C of Part 831 continues to read as follows:

Authority: 5 U.S.C. 8347.

2. In Subpart C, §§ 831.304, 831.305, and 831.306 are revised to read as follows:

§ 831.304 Service with the Cadet Nurse Corps during World War II.

(a) *Definitions and special usages.* In this section—(1) "Basic pay" is computed at the rate of $15 per month for the first 9 months of study; $20 per month for the 10th through the 21st month of study; and $30 per month for any month in excess of 21.

(2) "Cadet Nurse Corps service" means any student or graduate nurse training, in a non-Federal institution, as a participant in a plan approved under section 2 of the Act of June 15, 1943 (57 Stat. 153).

(3) "CSRS" means the Civil Service Retirement System.

(b) *Conditions for creditability.* As provided by Pub. L. 99–638, an individual who performed service with the Cadet Nurse Corps is entitled to credit under CSRS if—

(1) The service as a participant in the Corps totaled 2 years or more;

(2) The individual submits an application for service credit to OPM no later than January 10, 1988;

(3) The individual is employed by the Federal Government in a position subject to CSRS at the time he or she applies to OPM for service credit; and

(4) The individual makes a deposit for the service before separating from the Federal Government for retirement purposes. Contrary to the policy "deeming" the deposit to be made for alternative annuity computation purposes, these deposits must be physically in the possession of the individual's employing agency before his or her separation for retirement purposes.

(c) *Processing the application for service credit.* Upon receiving an application requesting credit for service with the Cadet Nurse Corps, OPM will determine whether all conditions for creditability have been met, compute the deposit (including any interest) as specified by sections 8334(e) (2) and (3) of title 5, United States Code, based upon the appropriate percentage of basic pay that would have been deducted from the individual's pay at the time the service was performed, and advise the agency and the employee of the total amount of the deposit due.

(d) *Agency collection and submission of deposit.* (1) The individual's employing agency must establish a deposit account showing the total amount due and a payment schedule

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(unless deposit is made in one lump sum), and record the date and amount of each payment.

(2) If the individual cannot make payment in one lump sum, the employing agency must accept installment payments (by allotments or otherwise). However, the employing agency is not required to accept individual checks in amounts less than $50.

(3) If the employee dies before completing the deposit, the surviving spouse may elect to complete the payment to the employing agency in one lump sum; however, the surviving spouse will not be able to initiate an application for such service credit.

(4) Payments received by the employing agency must be remitted to OPM immediately for deposit to the Civil Service Retirement and Disability Fund.

(5) Once the employee's deposit has been paid in full or closed out, the employing agency must submit the documentation pertaining to the deposit to OPM in accordance with published instructions.

§ 831.305 Service with a nonappropriated fund instrumentality after June 18, 1952, but before January 1, 1966.

(a) *Definitions and special usages.* In this section—(1) Service in a "nonappropriated fund instrumentality" is any service performed by an employee that involved conducting arts and crafts, drama, music, library, service (i.e., recreation) club, youth activities, sports or recreation programs (including any outdoor recreation programs) for personnel of the armed forces. Service is not creditable if it was performed in programs other than those specifically named in this subsection.

(2) "Certification by the head of a nonappropriated fund instrumentality" can also be certification by the National Personnel Records Center or by an official of another Federal agency having possession of records that will verify an individual's service.

(3) "CSRS" means the Civil Service Retirement System.

(b) *Conditions for creditability.* Pursuant to Pub. L. 99-638 and provided the same period of service has not been used to obtain annuity payable from a nonappropriated fund retirement plan, an individual who performed service in a nonappropriated fund instrumentality is entitled to credit under CSRS if—

(1) The service was performed after June 18, 1952, but before January 1, 1966; and

(2) The individual was employed in a position subject to CSRS on November 9, 1986.

(c) *Deposit for service is not necessary.* It is not necessary for an individual to make a deposit for service performed with a nonappropriated fund instrumentality to receive credit for such service. However, if the individual does not elect to make a deposit, his or her annuity is reduced by 10 percent of the amount that should have been deposited for the period of service (including any interest) as specified by sections 8334(e) (2) and (3) of title 5, United States Code. When an employee elects an alternative annuity and also elects to make the deposit, OPM will deem the deposit to be made for purposes of conputing the alternative annuity.

§ 831.306 Service as a National Guard technician before January 1, 1969.

(a) *Definitions.* In this section—(1) "Service as a National Guard technician" is service performed under section 709 of title 32, United States Code (or under a prior corresponding provision of law) before January 1, 1969.

(2) "CSRS" means the Civil Service Retirement System.

(b) *Conditions for creditability.* Pursuant to Pub. L. 99-661, an individual who performs service as a National Guard technician during the period prior to January 1, 1969, is entitled to credit under CSRS if—

(1) The individual submits an application for service credit to OPM no later than January 14, 1988;

(2) The individual is employed by the Federal Government in a position subject to CSRS (but not as a reemployed annuitant) on the date he or she applies to OPM for service credit; and

(3) The individual makes a deposit for the service before separating from the Federal Government for retirement purposes. Contrary to the policy "deeming" the deposit to be made for alternate annuity computation purposes, these deposits must be physically in the possession of the individual's employing agency before his or her separation for retirement purposes.

(c) *Processing the application for service credit.* Upon receiving an application requesting credit for service as a National Guard technician, OPM will determine whether all conditions for creditability have been met, compute the deposit (including interest) as specified by sections 8334(e) (2) and (3) of title 5, United States Code, based on the appropriate percentage of basic pay that would have been deducted from the individual's pay at the time the service was performed, and advise the agency and the employee of the amount of the deposit due.

(d) *Agency collection and submission of deposit.* (1) The individual's employing agency must establish a deposit account showing the total amount due and a payment schedule (unless deposit is made in one lump sum), and record the date and amount of each payment.

(2) If the individual cannot make payment in one lump sum, the employing agency must accept installment payments (by allotments or otherwise). However, the employing agency is not required to accept individual checks in amounts less than $50.

(3) If the employee dies before completing the deposit, the surviving spouse may elect to complete the payment in one lump sum; however, the surviving spouse will not be able to initiate an application for such credit.

(4) Payments received by the employing agency must be remitted to OPM immediately for deposit to the Civil Service Retirement and Disability Fund.

(5) Once the employee's deposit has been paid in full or closed out, the employing agency must submit the documentation pertaining to the deposit to OPM in accordance with instructions published in the Federal Personnel Manual.

[FR Doc. 87-25822 Filed 11-6-87; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 87-146]

Mediterranean Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that removed a quarantine on portions of Dade County, Florida, and removed restrictions on the interstate movement of regulated articles from the quarantined areas. The quarantine had been imposed to prevent the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States. We have determined that the Mediterranean fruit fly has been eradicated from these areas in Dade County, Florida, and the quarantine is no longer necessary.

EFFECTIVE DATE: December 9, 1987.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 611, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on July 22, 1987 (52 FR 27528-27529, Docket No. 87-080) and effective on July 17, 1987, we removed a quarantine on portions of Dade County, Florida, that had been imposed because of the Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), and removed restrictions on the interstate movement of regulated articles from the quarantined portions of Dade County.

We solicited comments on the interim rule for 60 days, ending September 21, 1987. No comments were received. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule". Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and budget has waived its review process required by Executive Order 12291.

This amendment removes restrictions on the interstate movement of regulated articles from portions of Dade County, Florida. Very little commercial activity in the previously quarantined area is affected by this rule.

Specifically, the quarantined area was comprised of private residences and small shops. The small entities that may be affected by this regulation consist of approximately 70 nurseries, 40 retail stores, 90 Street vendors and open fruit stands, and 20 premises with orchards and vegetable plots (ranging in size from ¼ acre to ten acres). However, these small entities sell regulated articles primarily for local, intrastate, not interstate, movement. Also, many of the retail shops and nurseries sell other items in addition to the regulated articles so that the effect, if any, that this regulation will have on these entities appears to be minimal. Further, the number of affected entities mentioned above is small compared with the thousands of small entities that move these articles interstate from other states.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Mediterranean fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Authority: U.S.C. 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR Part 301 and that was published in the **Federal Register** on July 22, 1987 (52 FR 27528-27529).

Done in Washington, DC, this 4th day of November 1987.

Donald Houston

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87-25929 Filed 11-6-87; 8:45 am]
BILLING CODE 3410-34-M

7 CFR Part 301

[Docket No. 87-129]

Oriental Fruit Fly

AGENCY: Animal and Plant Health Inspection Service,

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that quarantined portions of Los Angeles and Orange Counties in California because of the Oriental fruit fly and restricted the interstate movement of regulated articles from the quarantined areas. The interim rule was necessary on an emergency basis to prevent the artifical spread of the Oriental fruit fly into noninfested areas of the United States.

EFFECTIVE DATE: December 9, 1987. The incorporation of certain publications listed in the regulations was approved by this Director of the Federal Register on July 22, 1987.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 611, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on July 22, 1987 (52 FR 27529-27536, Docket Number 87-095) and effective July 17, 1987, we quarantined portions of Los Angeles and Orange Counties in California because of the Oriental fruit fly and restricted the interstate movement of regulated articles from the quarantined areas.

We solicited comments on the interim rule for 60 days, ending September 21, 1987. We received no comments. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information complied by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the quarantined area, fewer than 60 small entities may be affected. These include commercial growers of tomatoes and cucumbers, no more than 9 outdoor or mobile fruit stands, 38 nurseries and 2 community gardens.

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Except for the nurseries, most of the sales by these entities are local, intrastate, and would not be affected by the quarantine. Impact on the nurseries will be minimized by use of the authorized soil treatment, which is effective immediately after application. The two chief products of commercial growers in the regulated areas, tomatoes and cucumbers, may be moved immediately following methyl bromide treatment of the articles, which takes only a few hours. The malathion bait spray treatment authorized for premises, which takes 21 to 30 days and is applied during the growing period, should not delay harvest and shipment.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Oriental fruit fly.

PART 301—DOMESTIC QUARANTINE NOTICES

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162, and 167; 7 CFR 2.17, 2.51, and 371.2(c).

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR Part 301 and that was published in the **Federal Register** on July 22, 1987 (52 FR 27529–27536).

Done at Washington, DC, this 4th day of November, 1987.

Donald Houston,

Administrator Animal and Plant Health Inspection Service.

[FR Doc. 87–25930 Filed 11–6–87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 274a

[INS 1046–87]

Control of Employment of Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule amends the regulations at 8 CFR 274a.6, defining procedures for state employment agencies in verifying the identity and employment eligibility of individuals and certifying verifications to employers. Participation by state employment agencies in the employment eligibility verification system is authorized by section 274A(a)(5) of the Immigration and Nationality Act (the Act), as amended by the Immigration Reform and Control Act of 1986 (IRCA). Final rules at 8 CFR 274a.6, implementing section 274A(a)(5) of the Act, were published in the **Federal Register** on May 1, 1987, 52 FR 16221–16228, and became effective on June 1, 1987. This interim rule is predicated upon recommendations in response to those final rules from the United States Employment Service (USES), the Interstate Conference of Employment Security Agencies (ICESA), its constituent organizations, and interested parties. This interim rule revises 8 CFR 274a.6 by: (1) Distinguishing between the verification and certification processes; (2) requiring direct transmittal of a certification from a state employment agency to an employer; (3) requiring certification issuance relating only to an individual who is actually hired by the employer to which referred by the state employment agency; (4) requiring the state employment agency to issue a certification so that it will be received by the employer within 21 business days of the date that the referred individual is hired; (5) permitting a job order or other appropriate referral form issued by the state employment agency, or an employer's record of a telephonic referral, to serve as evidence of the employer's compliance with the verification requirements during the 21 business-day period following the date that the individual is hired; (6) enabling a participating state employment agency to elect not to conduct the verification process or issue a certification relating to an agency-referred individual hired by an employer for a period of employment not exceeding three days in duration; (7) redefining the contents of the certification; (8) revising guidelines for record retention by state employment agencies; (9) specifying employment verification requirements in the case of an individual who was previously referred and certified by a state employment agency; (10) delineating employment verification requirements relating to the rehiring of an individual by an employer, who was previously certified to the same employer; and (11) deleting reference to the liability of state employment agencies under the penalty provisions of sections 274A(e) and 274A(f) of the Act, and 8 CFR 274a.10. Prompt establishment of the requirements and procedures contained in this interim rule is necessary to ensure that Service operations are conducted in a manner consistent with the public interest, and to effect Congressional intent and the objectives of the law. For these reasons, this rule is published as an interim rule with a request for comments.

DATE: Interim final rule effective November 9, 1987; comments must be submitted on or before January 8, 1988.

ADDRESS: Written comments must be submitted in triplicate and mailed to: Investigations Division, Immigration and Naturalization Service, 425 I Street, NW., Room 2207, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Walter D. Cadman, Deputy Assistant Commissioner, Investigations Division, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone (202) 633–2997.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1986, the President signed into law the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99–603. This legislation is the most comprehensive reform of the nation's immigration laws in 35 years. IRCA created prohibitions against knowingly employing aliens who are not authorized to work in the United States, established employment verification requirements, provided for enhanced enforcement measures, instituted a program for legalization of qualifying aliens, and effected new antidiscrimination provisions for unfair immigration-related employment practices.

Section 101 of IRCA added section 274A to the Immigration and Nationality Act (the Act). This section renders it unlawful for a person or other entity, after November 6, 1986, to hire, or to recruit or refer for a fee for employment, an individual knowing that he or she is not authorized by law to work in the United States. Section 274A of the Act also prohibits a person or entity from continuing to employ an individual, hired after November 6, 1986, knowing that he or she is or has become unauthorized to work in the United States. To control unlawful employment, the statute imposes a graduated scale of civil penalties on those who violate these provisions. Employers who engage in a pattern or practice of violations are subject to criminal penalties.

Additionally, section 274A(b) of the Act, and its augmenting regulations at 8 CFR 274a.2, define an employment eligibility verification system which requires an employer to verify the identity and employment eligibility of all individuals hired after November 6, 1986. Recruiters and referrers for a fee must verify all persons recruited or referred after May 31, 1987, if the person is hired by the employer to which referred. Verification procedures require an employer, recruiter, or referrer to examine a document or combination of documents presented by the newly hired or referred individual evidencing identity and employment eligibility. Recordation of the verification is made by the employer, recruiter, or referrer on the Employment Eligibility Verification Form, I–9. The individual must attest on Form I–9 that he or she is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized by law to work in the United States. The employer, recruiter, or referrer must attest on Form I–9 that he or she has verified the identity and employment eligibility of the individual through an examination of the document or documents presented by the individual. The statute further requires the employer to retain the Form I–9 for three years after the date that the individual is hired, or for one year after the employee is terminated, whichever period of time is longer. Regulations require a recruiter or referrer to retain a Form I–9 for a period of three years after the date that the individual is hired by the entity to which referred. Employers, recruiters, and referrers must make the form available for inspection by officers of the Service or the Department of Labor. The statute imposes civil money penalties for failure of the employer, recruiter, or referrer to comply with the verification requirements.

Authority

Section 274A(a)(5) of the Act permits a state employment agency to elect to verify through document examination the identity and employment eligibility of individuals referred to employers by the agency, and to provide to employers documentation certifying the verifications. An employer in receipt of a state agency certification need not conduct an examination of documentation evidencing the individual's identity and employment eligibility and need not complete a Form I–9 with respect to that individual. Pursuant to statute, if an employer retains the state employment agency certification for the length of time required for retention of a Form I–9 and makes the certification available to officers of the Service or the Department of Labor, the employer is deemed to have complied with the requirements of the employment verification system. This interim rule amends regulations at 8 CFR 274a.6 which specify verification and certification procedures for state employment agencies.

Regulatory History

The Service's efforts to promulgate rules implementing the employer provisions of IRCA were initiated immediately after the enactment of the law. The potential for significant involvement in the verification process by state employment agencies was recognized by Service officials early in the rulemaking process. Rules implementing section 274A(a)(5) of the Act needed to be drafted in a manner that would enable and encourage participation in the verification process by as many state employment agencies as possible. Service officials were cognizant of differences among the various state employment agency systems. Because participating agencies would need to maintain records of verification and issue certificates of verification, the most significant of these differences involved record-keeping capabilities and the extent and nature of record-keeping automation. To the extent possible, rules pertaining to section 274A(a)(5) of the Act needed to accommodate and address these differences.

Also, it became evident that participation by some state employment agencies would be contingent upon requirements imposed by final rules implementing and further defining verification procedures mandated at section 274A(b) of the Act. Because they would generally apply to participating state employment agencies, Service officials realized that the requirements would constitute factors in the decision to participate by officials of some state employment agencies. A possible need to amend final regulations at 8 CFR 274a.6, implementing section 274A(a)(5) of the Act, was envisioned by Service officials in the rulemaking process, and was stated in the preamble to the final regulations.

On January 20, 1987, the Service published a notice in the **Federal Register**, 52 FR 2115, to solicit comments from the public and other interested parties concerning draft rules implementing the employer provisions of IRCA. Interested parties were provided with preliminary working drafts of regulations for review and comment. The working draft included proposed state employment agency verification procedures predicated upon the use of the Form I–9 as the certification document. Comments received in response to the preliminary working draft revealed that additional regulatory development was needed in order to draft rules defining procedures that would be more conducive to state employment agency operations while addressing Service concerns relating to certification document integrity.

For this reason, in its proposed rules published for comment in the **Federal Register**, 52 FR 8762–8767, on March 19, 1987, the Service stated its desire for additional information concerning this matter. At 8 CFR 274a.6, the section designated for state employment agency verification and certification procedures, the Service stated the following:

> The Service desires to develop guidelines relating to [the] role of state employment agencies in the issuance of certificates pursuant to section 274A(a)(5) of the Act, and requests the suggestions and comments of the public on this matter. A prime concern of the Service is the prevention of counterfeiting or misuse of such certificates while limiting the burden on state agencies in their issuance.

In response to this solicitation, the Service received a number of written and verbal comments from the United States Employment Service (USES) and the Interstate Conference of Employment Security Agencies (ICESA), the recognized organization representing state employment agencies. Comments were also received from the employment agencies of several states and other interested parties. Service officials also attended several meetings with representatives of state employment agencies. Based upon these comments and communications, it was apparent that final rules pertaining to state employment agency verification and certification would probably need to be amended. However, because the Act required publication of effective rules by June 1, 1987, and because it was deemed in the public interest, Service officials decided to proceed with the publication of final rules pertaining to state employment agencies and to advise the public in the preamble to the rules of the

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potential need for amendment. Rules at 8 CFR 274a.6 were published in the **Federal Register**, 52 FR 16221–16228, on May 1, 1987, in conjunction with final rules implementing the employer provisions of IRCA. In the preamble to the rules the Service stated the following:

> The rule provides for procedures relating to verification by a state employment agency. These procedures were developed on the basis of discussions with state employment agencies. INS also attended several open forums at which state employment agencies were well represented. INS anticipates that future modifications to this rule will be forthcoming in order to further develop standardized certification forms and procedures for all state agencies which choose to exercise the option to issue certifications which is granted them under the statute.

Throughout the rulemaking process, the Service has been in consultation with USES and ICESA. Since the publication of final rules on May 1, 1987, the Service has continued the mutual dialogue with ICESA and its constituent organizations for the purpose of revising the regulations to permit participation in the verification process by as many state employment agencies as possible and to minimize their burden in issuing certificates of verification.

Interim Rule

This rule, which is published as an interim rule with an immediate effective date and a 60-day comment period, incorporates revisions recommended by ICESA. This rule revises final regulations at 8 CFR 274a.6, published in the **Federal Register**, 52 FR 16221, on May 1, 1987, by:

1. Distinguishing between the verification and certification processes;
2. Requiring direct transmittal of a certification from a state employment agency to an employer;
3. Requiring certification issuance relating only to an individual who is actually hired by the employer to which referred by the state employment agency;
4. Requiring the state employment agency to issue a certification so that it will be received by the employer within 21 business days of the date that the referred individual is hired;
5. Permitting a job order or other appropriate referral form issued by the state employment agency, or an employer's record of a telephonic referral, to serve as evidence of the employer's compliance with the verification requirements during the 21 business-day period following the date that the individual is hired;
6. Enabling a participating state employment agency to elect not to conduct the verification process or issue a certification relating to an agency-referred individual hired by an employer for a period of employment not exceeding three days in duration;
7. Redefining the contents of the certification to include:
   (a) A date of issuance;
   (b) The name and birth date of the referred individual;
   (c) An identification of the position or type of employment to which the individual was referred and a job order number assigned to the position;
   (d) An identification of the document or documents presented by the referred individual for verification purposes and the corresponding number(s) of the document(s);
8. Redefining the contents of the certification to eliminate the requirement that it contain the embossed seal of the state employment agency;
9. Requiring the individual to sign the certification in the presence of the employer upon receipt of the certification;
10. Requiring the certification to contain a statement that counterfeiting, falsification, unauthorized issuance or alteration of the certification constitutes a violation of federal law pursuant to Title 18, U.S.C. 1546;
11. Permitting a state employment agency to retain a Form I–9 used in the verification process either in its original form, on microfilm or microfiche;
12. Permitting a state employment agency to retain the certification in a manner determined by the agency that will enable the retrieval of the information contained on the original certification for comparison with the relating Form I–9;
13. Specifying employment verification requirements in the case of an individual who was previously referred and certified by a state employment agency; and
14. Delineating employment verification requirements relating to the rehiring of an individual by an employer, who was previously certified to the same employer.
15. Deleting reference to the liability of state employment agencies under the penalty provisions of sections 274A(e) and 274A(f) of the Act, and 8 CFR 274a.10.

Justification for Interim Rule

The Immigration and Naturalization Service is invoking the "good cause" exception to the notice of proposed rulemaking requirement of 5 U.S.C. 553(b). The justification for waiving notice of proposed rulemaking is as follows: Notice of this rule and relevant public procedure would be contrary to the public interest. This rule is necessary in order to ensure maximum participation as intended by Congress in the verification system by state employment agencies, to ameliorate procedural difficulties in some state employment agency systems occasioned by the requirements of the current rule, and to enhance the security and integrity of the employment verification system.

At a meeting held at the Service's Central Office on June 19, 1987, representatives of USES, ICESA, and other parties advised Service officials to promulgate an interim rule effective upon publication with a comment period. ICESA and state officials at the meeting stressed the need for expeditious publication of the interim rule to enable a number of state employment agencies to respond to public and constituent interest by participating in the verification system. Therefore, the Service believes the public interest is served by invoking the "good cause" exception to the notice of proposed rulemaking and the 30-day effective date requirements of 5 U.S.C. 553 (b) and (d), and by implementing this rule effective immediately with a 60-day comment period.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization Service certifies that this rule will not have significant impact on a substantial number of small entities.

This rule is not a major rule as defined within the meaning of section 1(b) of EO 12291.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget, under the provisions of the Paperwork Reduction Act, under control number 1115–0136.

List of Subjects in 8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment.

For the reasons set out in the preamble, INS amends Chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

1. The authority citation for Part 274a is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324A.

2. Section 274a.6 is revised to read as follows:

§ 274a.6 State employment agencies.

(a) *General.* Pursuant to sections 274A(a)(5) and 274A(b) of the Act, a state employment agency as defined in § 274a.1 of this part may, but is not required to, verify identity and employment eligibility of individuals referred for employment by the agency. However, should a state employment agency choose to do so, it must:

(1) Complete the verification process in accordance with the requirements of § 274a.2(b) of this part *provided* that the individual may not present receipts in lieu of documents in order to complete the verification process as otherwise permitted by § 274a.2(b)(1)(vi) of this part; and

(2) Complete the verification process prior to referral for all individuals for whom a certification is required to be issued pursuant to paragraph (c) of this section.

(b) *Compliance with the provisions of section 274A of the Act.* A state employment agency which chooses to verify employment eligibility of individuals pursuant to § 274a.2(b) of this part shall comply with all provisions of section 274A of the Act and the regulations issued thereunder.

(c) *State employment agency certification.* (1) A state employment agency which chooses to verify employment eligibility pursuant to paragraph (a) of this section shall issue to an employer who hires an individual referred for employment by the agency, a certification as set forth in paragraph (d) of this section. The certification shall be transmitted by the state employment agency directly to the employer, personally by an agency official, or by mail, so that it will be received by the employer within 21 business days of the date that the referred individual is hired. In no case shall the certification be transmitted to the employer from the state employment agency by the individual referred. During this period:

(i) The job order or other appropriate referral form issued by the state employment agency to the employer, on behalf of the individual who is referred and hired, shall serve as evidence, with respect to that individual, of the employer's compliance with the provisions of section 274A(a)(1)(B) of the Act and the regulations issued thereunder.

(ii) In the case of a telephonically authorized job referral by the state employment agency to the employer, an appropriate annotation by the employer shall be made and shall serve as evidence of the job order. The employer should retain the document containing the annotation where the employer retains Forms I–9.

(2) Job orders or other referrals, including telephonic authorizations, which are used as evidence of compliance pursuant to paragraph (c)(1)(i) of this section shall contain:

(i) The name of the referred individual;

(ii) The date of the referral;

(iii) The job order number or other applicable identifying number relating to the referral;

(iv) The name and title of the referring state employment agency official; and

(v) The telephone number and address of the state employment agency.

(3) A state employment agency shall not be required to verify employment eligibility or to issue a certification to an employer to whom the agency referred an individual if the individual is hired for a period of employment not to exceed 3 days in duration. Should a state agency choose to verify employment eligibility and to issue a certification to an employer relating to an individual who is hired for a period of employment not to exceed 3 days in duration, it must verify employment eligibility and issue certifications relating to *all* such individuals. Should a state employment agency choose not to verify employment eligibility or issue certifications to employers who hire, for a period not to exceed 3 days in duration, agency-referred individuals, the agency shall notify employers that, as a matter of policy, it does not perform verifications for individuals hired for that length of time, and that the employers must complete the identity and employment eligibility requirements pursuant to § 274a.2(b) of this part. Such notification may be incorporated into the job order or other referral form utilized by the state employment agency as appropriate.

(4) An employer to whom a state employment agency issues a certification relating to an individual referred by the agency and hired by the employer, shall be deemed to have complied with the verification requirements of § 274a.2(b) of this part provided that the employer:

(i) Reviews the identifying information contained in the certification to ensure that it pertains to the individual hired;

(ii) Observes the signing of the certification by the individual at the time of its receipt by the employer as provided for in paragraph (d)(13) of this section;

(iii) Complies with the provisions of § 274a.2(b)(1)(vii) of this part by either:

(A) Updating the state employment agency certification in lieu of Form I–9, upon expiration of the employment authorization date, if any, which was noted on the certification issued by the state employment agency pursuant to paragraph (d)(11) of this section; or

(B) By no longer employing an individual upon expiration of his or her employment authorization date noted on the certification;

(iv) Retains the certification in the same manner prescribed for Form I–9 in § 274a.2(b)(2) of this part, to wit, three years after the date of the hire or one year after the date the individual's employment is terminated, whichever is later; and

(v) Makes it available for inspection to officers of the Service or the Department of Labor, pursuant to the provisions of section 274A(b)(3) of the Act, and § 274a.2(b)(2) of this part.

(5) Failure by an employer to comply with the provisions of paragraph (c)(4)(iii) of this section shall constitute a violation of section 274A(a)(2) of the Act and shall subject the employer to the penalties contained in section 274A(e)(4) of the Act, and § 274a.10 of this part.

(d) *Standards for state employment agency certifications.* All certifications issued by a state employment agency pursuant to paragraph (c) of this section shall conform to the following standards. They must:

(1) Be issued on official agency letterhead;

(2) Be signed by an appropriately designated official of the agency;

(3) Bear a date of issuance;

(4) Contain the employer's name and address;

(5) State the name and date of birth of the individual referred;

(6) Identify the position or type of employment for which the individual is referred;

(7) Bear a job order number relating to the position or type of employment for which the individual is referred;

(8) Identify the document or documents presented by the individual to the state employment agency for the purposes of identity and employment eligibility verification;

(9) State the identifying number or numbers of the document or documents described in paragraph (d)(8) of this section;

(10) Certify that the agency has complied with the requirements of section 274A(b) of the Act concerning verification of the identity and employment eligibility of the individual referred, and has determined that, to the best of the agency's knowledge, the individual is authorized to work in the United States;

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(11) Clearly state any restrictions, conditions, expiration dates or other limitations which relate to the individual's employment eligibility in the United States, or contain an affirmative statement that the employment authorization of the referred individual is not restricted;

(12) State that the employer is not required to verify the individual's identity or employment eligibility, but must retain the certification in lieu of Form I–9;

(13) Contain a space or a line for the signature of the referred individual, requiring the individual under penalty of perjury to sign his or her name before the employer at the time of receipt of the certification by the employer; and

(14) State that counterfeiting, falsification, unauthorized issuance or alteration of the certification constitutes a violation of federal law pursuant to Title 18, U.S.C 1546.

(e) *Retention of Form I–9 by state employment agencies.* A Form I–9 utilized by a state employment agency in verifying the identity and employment eligibility of an individual pursuant to § 274a.2(b) of this part must be retained by a state employment agency for a period of three years from the date that the individual was last referred by the agency and hired by an employer. A state employment agency may retain a Form I–9 either in its original form, or on microfilm or microfiche.

(f) *Retention of state employment agency certifications.* A certification issued by a state employment agency pursuant to this section shall be retained:

(1) By a state employment agency, for a period of three years from the date that the individual was last referred by the agency and hired by an employer, and in a manner to be determined by the agency which will enable the prompt retrieval of the information contained on the original certification for comparison with the relating Form I–9;

(2) By the employer, in the original form, and in the same manner and location as the employer has designated for retention of Forms I–9, and for the period of time provided in paragraph (c)(4)(iv) of this section.

(g) *State employment agency verification requirements in the case of an individual who was previously referred and certified.* When a state employment agency refers an individual for whom the verification requirements have been previously complied with and a Form I–9 completed, the agency shall inspect the previously completed Form I–9:

(1) If, upon inspection of the Form, the agency determines that the Form I–9 pertains to the individual and that the individual remains authorized to be employed in the United States, no additional verification need be conducted and no new Form I–9 need be completed prior to issuance of a new certification *provided* that the individual is referred by the agency within 3 years of the execution of the initial Form I–9.

(2) If, upon inspection of the Form, the agency determines that the Form I–9 pertains to the individual but that the individual does not appear to be authorized to be employed in the United States based on restrictions, expiration dates or other conditions annotated on the Form I–9, the agency shall not issue a certification unless the agency follows the updating procedures pursuant to § 274a.2(b)(1)(vii) of this part; otherwise the individual may no longer be referred for employment by the state employment agency.

(3) For the purposes of retention of the Form I–9 by a state employment agency pursuant to paragraph (e) of this section, for an individual previously referred and certified, the state employment agency shall retain the Form for a period of 3 years from the date that the individual is last referred and hired.

(h) *Employer verification requirements in the case of an individual who was previously referred and certified.* When an employer rehires an individual for whom the verification and certification requirements have been previously complied with by a state employment agency, the employer shall inspect the previously issued certification.

(1) If, upon inspection of the certification, the employer determines that the certification pertains to the individual and that the individual remains authorized to be employed in the United States, no additional verification need be conducted and no new Form I–9 or certification need be completed *provided* that the individual is rehired by the employer within 3 years of the issuance of the initial certification, and that the employer follows the same procedures for the certification which pertain to Form I–9, as specified in § 274a.2(c)(1)(i) of this part.

(2) If, upon inspection of the certification, the employer determines that the certification pertains to the individual but that the certification reflects restrictions, expiration dates or other conditions which indicate that the individual no longer appears authorized to be employed in the United States, the employer shall verify that the individual remains authorized to be employed and shall follow the updating procedures for the certification which pertain to Form I–9, as specified in § 274a.2(c)(1)(ii) of this part; otherwise the individual may no longer be employed.

(3) For the purposes of retention of the certification by an employer pursuant to this paragraph for an individual previously referred and certified by a state employment agency and rehired by the employer, the employer shall retain the certification for a period of 3 years after the date that the individual is last hired, or one year after the date the individual's employment is terminated, whichever is later.

Date: September 21, 1987.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 87–25824 Filed 11–6–87; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–ASW–30; Amdt. 39–5754]

Airworthiness Directives; Sikorsky Model S–76A/B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the removal of certain electrical door locking actuators on Sikorsky Model S–76A/B helicopters. The AD is needed to prevent the passenger doors from jamming in the locked position and prohibiting passenger emergency egress.

DATES: *Effective date:* December 10, 1987.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 10, 1987.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Sikorsky Aircraft, 6900 Main Street, Stratford, Connecticut 06601–1381.

A copy of the service bulletin is contained in the Rules Docket, Office of the Regional Counsel, Federal Aviation Administration, Fort Worth, Texas 76193–0007.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Federal Aviation Administration, ANE–153, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7103.

SUPPLEMENTARY INFORMATION: Several cases of malfunctioning electrical door locking actuators on Sikorsky S–76A/B helicopters have been reported. With an actuator jammed in the locked position, the door cannot be opened and passenger emergency egress is prohibited. Since this condition may develop on other helicopters of the same type design, an AD is being issued which requires removal of certain electrical door locking actuators to prevent the door locks from jamming in the locked position.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Sikorsky Aircraft Division: Applies to all Sikorsky Model S–76A/B helicopters, certificated in all categories, equipped with electrical door locking actuators installed in accordance with Sikorsky Drawing 76068–20016 using actuator P/N 22020256 in left and right passenger doors.

Compliance is required within the next 25 hours' time in service after the effective date of this AD unless already accomplished.

To prevent the passenger door locks from jamming in the locked position due to a malfunctioning electrical door locking actuator, accomplish the following:

(a) Remove electrical door locking actuators, P/N 22020256, in accordance with Sikorsky Alert Sevice Bulletin (ASB) No. 76–52–10A, dated August 27, 1987.

Note.—Some of the actuators may not be identified with this P/N 22020256; however, as an alternate means of identifying these actuators, a housing/casting, P/N 20220307, appears on these units identifying them as GM actuators P/N 22020256.

(b) Upon request, with substantiating data, an alternate means of compliance which provides an equivalent level of safety or adjustment in the compliance time may be used when approved by the Manager, Boston Aircraft Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

These procedures shall be accomplished in accordance with Sikorsky ASB No. 76–52–10A, Revision A, dated August 27, 1987. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a)(1) and 1 CFR Part 51. Copies may be obtained from Sikorsky Aircraft, 6900 Main Street, Stratford, Connecticut 06601–1381. Copies may be inspected at the Office of the Regional Counsel, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, or at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington DC.

This amendment becomes effective on December 10, 1987.

Issued in Fort Worth, Texas, on October 7, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87–25853 Filed 11–6–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 86–AGL–2]

Alteration of Federal Airways V–7 and V–510

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Federal Airways V–7 and V–510 to provide for more efficient north/south and east/west traffic flows primarily in the states of Wisconsin and Illinois. The first action realigns V–7 between Green Bay, WI, and Petty Intersection to improve the north/south flow. The second action deletes a portion of V–510 between Nodine, MN, and Lone Rock, WI, and extends V–510 from Nodine to Muskegon, MI, to improve east/west traffic flows.

EFFECTIVE DATE: 0901 UTC, January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On November 4, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V–7 between Green Bay, WI, and Petty Intersection and delete a portion of V–510 from Nodine, MN, to Lone Rock, WI, and extend V–510 between Nodine and Muskegon, MI (51 FR 40036). Southern Wisconsin has historically exhibited a heavy use of north/south routings. Since 1980 routings oriented along east/west paths have increased dramatically in the area bounded by the cities of Madison, Milwaukee and Muskegon on the south and Eau Claire, Wausau, Green Bay and Traverse City on the north and this action improves traffic flow in the area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes and a change to the alignment of V–510 by removing a segment between Dells and Oshkosh, WI, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters Federal Airways V–7 and V–510 to provide for more efficient north/south and east/west traffic flows primarily in the states of Wisconsin and Illinois. The

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first action realigns V–7 between Green Bay, WI, and Petty Intersection to improve the north/south flow. The second action deletes a portion of V–510 between Nodine, MN, and Lone Rock, WI, and extends V–510 from Nodine to Muskegon, MI, to improve east/west traffic flows.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–7 [Amended]

By removing the words "INT Chicago Heights 358° and Green Bay WI, 166° radials;" and substituting the words "INT Chicago Heights 358° and Falls, WI, 170° radials; Falls;"

V–510 [Amended]

By removing the words "Nodine, Lone Rock. From Muskegon, MI;" and substituting the words "Nodine; Dells, WI From Oshkosh, WI; Falls, WI; INT Falls 134° and Muskegon, MI, 298° radials; Muskegon;"

Issued in Washington, DC, on October 30, 1987.

Sbalomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–25851 Filed 11–6–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 75

[Airspace Docket No. 87–AWA–6]

Alteration of Jet Routes; Expanded East Coast Plan, Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of Jet Routes J–174 and J–209 located in the vicinity of New York. These jet routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is a part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On July 8, 1987, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of Jet Routes J–174, J–190, J–191, J–193, J–208, J–209, J–211 and J–221 located in the vicinity of New York (52 FR 25607). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities. Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 75 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and an environmental assessment was not required. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed. However, in consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that the action should be delayed pending the outcome of the studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion.

Due to technical and administrative problems, J–174 and J–209 were removed from the docket and will be implemented at this time. Jet Routes J–190, J–193, J–211 and J–221 were published in the Federal Register and will be effective November 19, 1987. Implementation of Jet Routes J–191 and J–208 will be considered at a later date. With respect to J–209, the segment from Greenwood, SC, to Tar River, NC, is being published. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the descriptions of J–174 and J–209 which were published in the notice and are located in the vicinity of New York. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While eight jet routes were included in the notice and four to be implemented effective November 19, 1987, J–174 and J–209 were removed from the docket and are being implemented at this time. This amendment is a part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J–174 [Amended]

By removing the words "Wilmington, NC;" and substituting the words "Wilmington, NC; Dixon NDB, NC;"

J–209 [Revised]

From Greenwood, SC; Raleigh-Durham, NC; Tar River, NC; Norfolk, VA; INT Norfolk 023° and Salisbury, MD, 199° radials; to Salisbury.

Issued in Washington, DC, on October 30, 1987.

Sbalomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–25852 Filed 11–6–87; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 86F–0333]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of alkyl(C_{12}-C_{20})methacrylate-methacrylic acid copolymers as stabilizers in the manufacture of paper and paperboard for use in contact with food. This action responds to a petition filed by Allied Colloids, Inc.

DATES: Effective November 9, 1987; objections by December 9, 1987.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 22, 1986 (51 FR 30128), FDA announced that a petition (FAP 6B3911) had been filed by Allied Colloids, Inc., 2301 Wilroy Rd., Suffolk, VA 23434, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of alkyl(C_{12}–C_{20}) methacrylate-methacrylic acid copolymers as stabilizers in the manufacture of paper and paperboard for use in contact with food.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency

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will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before December 9, 1987, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR Part 176 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 176.170(a)(5) is amended by alphabetically inserting a new item in the list of substances to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * *	* * *
Alkyl(C_{12}–C_{18})methacrylate-methacrylic acid copolymers (CAS Reg. No. 27401–08–5).	For use only as stabilizers employed prior to the sheet-forming operation in the manufacture of paper and paperboard.
* * *	* * *

Dated: October 29, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–25833 Filed 11–6–87; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 178

[Docket No. 84F–0085]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of didodecyl-1,4-dihydro-2,6-dimethyl-3,5-pyridinedicarboxylate as a stabilizer in vinyl chloride polymers intended for use in contact with food. This action responds to a petition filed by M&T Chemicals, Inc.

DATES: Effective November 9, 1987; objections by December 9, 1987.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF–335), 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of April 28, 1984 (49 FR 18043), FDA announced that a petition (FAP 4B3780) had been filed by M&T Chemicals, Inc., P.O. Box 1104, Rahway, NJ 07065, proposing that the food additive regulations be amended to provide for the safe use of didodecyl-1,4-dihydro-2,6-dimethyl-3,5-pyridinedicarboxylate as a stabilizer for polyvinyl chloride and/or vinyl chloride copolymers intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive is safe, and that the regulations should be amended in 21 CFR 178.2010(b) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before December 9, 1987, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director and Deputy Director of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.2010 is amended in paragraph (b) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * *
Didodecyl-1,4-dihydro-2,6-dimethyl-3,5-pyridinedicarboxylate (CAS Reg. No. 36265–41–5).	For use only at levels not to exceed 0.3 percent by weight in rigid vinyl chloride polymer articles modified in accordance with § 178.3780 that contact food, under conditions of use E, F, and G described in Table 2 of § 178.170 of this chapter.
* * *	* * *

Dated: October 28, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–25832 Filed 11–6–87; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Tioxidazole Paste

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering Corp. providing for the use of tioxidazole paste as an anthelmintic in horses.

EFFECTIVE DATE: November 9, 1987

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Schering Corp., 2000 Galloping Hill Rd., Kenilworth, NJ 07033, filed NADA 138–902, which provides for the oral administration of tioxidazole paste to horses. Tioxidazole paste is indicated for the removal of certain mature large strongyles, mature ascarids, mature and immature pinworms, and mature small strongyles. The NADA is approved and new 21 CFR 520.2473b is added to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. By adding a new § 520.2473b to read as follows:

§ 520.2473b Tioxidazole paste.

(a) *Specifications.* Each plastic syringe contains 6.25 grams of tioxidazole.

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) *Conditions of use.*—(1) *Horses*—(i) *Amount.* 5 milligrams of tioxidazole per pound of body weight as a single dose.

(ii) *Indications for use.* Removal of mature large strongyles *(Strongylus edentatus, S. equinus,* and *S. vulgaris),* mature ascarids *(Parascaris equorum),* mature and immature (4th larval stage) pinworms *(Oxyuris equi),* and mature small strongyles *(Triodontophorus* spp.).

(iii) *Limitations.* Administer orally by inserting the nozzle of the syringe through the space between front and back teeth and deposit the required dose on the base of the tongue. Before dosing, make sure the horse's mouth contains no feed. Not for use in horses intended for food. The reproductive safety of tioxidazole in breeding animals has not been determined. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. It is recommended that this drug be administered with caution to sick or debilitated horses.

(2) *[Reserved]*

Dated: October 30, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87–25895 Filed 11–6–87; 8:45 am]

BILLING CODE 4160–01–M

21 CFR PART 546

Tetracycline Antibiotic Drugs for Animal Use; Tetracycline Hydrochloride and Novobiocin Sodium Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the

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Upjohn Co. providing for the use of a higher strength combination drug product for treating certain upper respiratory infections in large dogs.

EFFECTIVE DATE: November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed supplemental NADA 55–076 providing for oral use of a higher strength combination drug product containing tetracycline and novobiocin (Albaplex® Tablets, 3x) to treat certain respiratory infections of larger dogs. The product was first approved for certification on October 11, 1977. The supplement provides for use of a 3x tablet, 180 milligrams of tetracycline hydrochloride and 180 milligrams of novobiocin sodium, for veterinary prescription use for dogs at the currently approved dose equivalent to one tablet for each 18 pounds of body weight, given every 12 hours for at least 48 hours after signs of infection have disappeared, treatment not to exceed 10 days. The product is used for treatment of acute or chronic upper respiratory infections such as tonsilitis, bronchitis, and tracheobronchitis when caused by pathogens susceptible to novobiocin and/or tetracycline such as *Staphylococcus* spp. and *E. coli*. The supplement is approved and 21 CFR 546.180h is amended to reflect the approval.

Approval of this supplement is an administrative action that does not affect safety and effectiveness data upon which approval of the original NADA relies. The firm elected to submit, in accordance with the freedom of information provisions of 21 CFR Part 20 and 21 CFR 514.11(e)(2)(ii), a summary of information providing the basis of approval of this supplement. This summary is available for public inspection in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 546

Animal drugs, Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Veterinary Medicine, Part 546 is amended as follows:

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR Part 546 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 546.180h [Amended]

2. Section 546.180h *Tetracycline hydrochloride and sodium novobiocin tablets* is amended in paragraph (a)(1) in the second sentence by changing the period to a comma and by adding "or 180 milligrams of tetracycline hydrochloride and 180 milligrams of novobiocin.", and in paragraph (c)(4)(i) by revising the parenthetical phrase "(1 tablet for each 6 pounds)" to read "(1 single strength tablet for each 6 pounds or 1 triple strength tablet for each 18 pounds)".

Dated: November 3, 1987.

Richard A. Carnevale,

Acting Associate Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 87–25898 Filed 11–6–87; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 546

Tetracycline Antibiotic Drugs for Animal Use; Tetracycline Hydrochloride, Novobiocin Sodium, and Prednisolone Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co., providing for use of a higher strength combination drug product for treating certain upper respiratory infections in large dogs.

EFFECTIVE DATE: November 9, 1987

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed supplemental NADA 65–090 providing for oral use of a higher strength combination drug product containing tetracycline, novobiocin, and prednisolone (Delta Albaplex® Tablets, 3x) to treat certain respiratory infections of larger dogs. The product was first approved for certification on May 3, 1963. The supplement provides for use of a 3x tablet, 180 milligrams (mg) of tetracycline hydrochloride, 180 mg of novobiocin sodium, and 4.5 mg of prednisolone for veterinary prescription use for dogs at the currently approved dose equivalent to 1 tablet for each 18 pounds of body weight, given every 12 hours for 48 hours. The product is used for treatment of acute or chronic upper respiratory conditions (i.e., tonsilitis, bronchitis, and tracheobronchitis) when necessary to initially reduce the severity of clinical signs and when caused by pathogens susceptible to novobiocin and tetracycline such as *Staphylococcus* spp. and *Escherichia coli*. The supplement is approved and 21 CFR 546.180 is amended in paragraph (a)(1) by adding the phrase "or 180 milligrams of tetracycline hydrochloride, 180 milligrams of novobiocin, and 4.5 milligrams of prednisolone" at the end of the second sentence; and in paragraph (c)(4)(i) by revising the parenthetical phrase in the first sentence "(1 tablet for each 6 pounds)" to read "(1 single strength tablet for each 6 pounds or 1 triple-strength tablet for each 18 pounds)," to reflect the approval.

Approval of this supplement is an administrative action which does not affect safety and effectiveness data upon which approval of the original NADA relies. The firm elected to submit, in accordance with the freedom of information provisions of 21 CFR Part 20 and 21 CFR 514.11(e)(2)(ii), a summary of information providing the basis of approval of this supplement. This summary is available for public inspection in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 546

Animal drugs, Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to

the Director, Center for Veterinary Medicine, Part 546 is amended as follows:

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR Part 546 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 546.180i [Amended]

2. Section 546.180i *Tetracycline hydrochloride, sodium novobiocin, and prednisolone tablets* is amended in paragraph (a)(1) by adding the phrase "or 180 milligrams of tetracycline hydrochloride, 180 milligrams of novobiocin, and 4.5 milligrams of prednisolone" at the end of the second sentence, and in paragraph (c)(4)(i) by revising the parenthetical phrase in the first sentence "(1 tablet for each 6 pounds)" to read "(1 single-strength tablet for each 6 pounds or 1 triple-strength tablet for each 18 pounds)".

Dated: November 3, 1987.

Richard A. Carnevale,

Acting Associate Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 87–25899 Filed 11–6–87; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 556 and 558

Animal Drugs, Feeds, and Related Products; Decoquinate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Center for Veterinary Medicine (CVM) of the Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Rhone-Poulenc, Inc., providing for the use of decoquinate in the feed of young goats for the prevention of coccidiosis. The regulations are also amended to establish a tolerance for drug residues in edible goat tissues.

EFFECTIVE DATE: November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Rhone-Poulenc, Inc., P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852, filed supplemental NADA 39–417 providing for the use of Type A articles containing decoquinate for making Type C feed indicated for the prevention of coccidiosis caused by *Eimeria christenseni* and *Eimeria ninakohlyakimovae* in young goats. The drug is currently approved for use in the prevention of coccidiosis in broiler chickens and cattle. The supplemental NADA incorporates an environmental assessment concerning possible impacts at the site of use of the animal feed. The assessment is contained in Public Master File 5012, for which a notice of availability published in the Federal Register of February 18, 1987 (52 FR 4968).

The supplemental NADA is approved and 21 CFR 556.170 and 558.195(d) are amended to reflect the approval and to establish a tolerance for residues of decoquinate in edible goat tissues. The basis of the approval is discussed in the freedom of information summary. Portions of the table in 21 CFR 558.195(d) are also amended for the purpose of making certain editorial revisions.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in two environmental assessments, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

List of Subjects

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Veterinary Medicine, Parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR Part 556 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 556.170 is amended by revising it to read as follows:

§ 556.170 Decoquinate.

Tolerances for residues of decoquinate in food are established as follows in uncooked edible tissues of chickens, cattle, and goats at 2 parts per million in tissues other than skeletal muscle and 1 part per million in skeletal muscle.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.195 [Amended]

4. Section 558.195 *Decoquinate* is amended in paragraph (d) in the table, as follows:

a. Under the "Indications for use" column, by changing the phrase "as an aid in the prevention of" to read "for the prevention of" wherever it appears in that table column; under the "Limitations" column, at the entry for "22.7 mg per 100 lb of body weight per day (0.5 mg per kilogram)." change "Feed for at least 28 days during periods of coccidiosis or when it is likely to be a hazard." to "Feed for at least 28 days during periods of exposure to coccidiosis or when it is likely to be a hazard."; under the "Sponsor" column, at the entry for "22.7 mg per 100 lb of body weight per day (0.5 mg per kilogram).", add drug labeler code "011526."

b. By adding a new entry at the end of the table to read as follows:

§ 558.195 Decoquinate.

* * * * *

(d) * * *

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Drug name in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
13.6 (0.00149 pct).		Young goats: for the prevention of coccidiosis caused by *Eimeria christenseni* and *E. ninakohlyakimovae*.	Feed at a rate to provide 22.7 mg per 100 lbs of body weight per day (0.5 mg per kilogram); do not feed to breeding animals or goats producing milk for food; feed for at least 28 days during periods of exposure to coccidiosis or when it is likely to be a hazard.	011526

Dated: October 30, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-25897 Filed 11-6-87; 8:45 am]

BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 3

Determination of Continued Eligibility

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: The Veterans Administration (VA) has amended its adjudication regulations to include broader authority to require beneficiaries to certify, when requested, the continued existence of any or all eligibility factors which established entitlement to benefits being paid. This authority is needed to limit and/or prevent overpayments in cases where entitlement no longer exists. These regulatory amendments provide additional authority for the VA to protect against waste, fraud and abuse in benefit programs without adversely affecting beneficiaries who are entitled to the payments they receive.

EFFECTIVE DATE: These regulatory amendments are effective December 9, 1987.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Chief, Regulations Staff, Compensation and Pension Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: On page 2559 of the **Federal Register** of January 23, 1987, the VA published proposed regulations on determination of continued eligibility. Interested persons were invited to submit comments, suggestions, or objections by February 23, 1987. Two comments were received.

One commentor suggested that the authority granted by the amendment is broader than that which is required to serve the purpose, and that the change condones the tendency to make requests for certification on a more frequent basis than necessary. It is contemplated that the authority provided by this amendment will permit periodic requests for information necessary to determine continued eligibility when a need to do so is identified. We believe that information gained through the experience of accumulated data will determine how often certifications of continued eligibility should be requested.

The commentor also suggested that we should specify the types of certification that will be acceptable so as to avoid the potential for expense to claimants. The types suggested included a questionnaire form provided by the VA to the recipient on the anniversary date of the award of the applicable benefit, a statement provided by the recipient to the VA using a Statement in Support of Claim, VA Form 21-4138, or letter statement by the recipient, attested to by one witness. While we agree in general with the suggested forms of certification, we believe that specification of the types of such certification is a procedural rather than a regulatory matter.

Another commentor pointed out that in § 3.158, there are provisions for restoring entitlement from the date of filing a new claim when evidence requested for the purpose of determining continued entitlement is not provided within one year from the date of request therefor, and that our proposed amendment appears to conflict with that section. The intent of our proposed amendment is to provide for the resumption of benefits on the basis of the facts found only in instances of periodic requests for certification of continued eligibility and not in the case of specific requests for evidence in individual claims. To resolve this apparent conflict, we have made a minor revision in § 3.158 which allows for the periodic request for certification of continued eligibility under § 3.652 to be exempt from abandoned claim rules. We have also revised the heading of § 3.652 to indicate that that section applies to the "periodic" certification of continued eligibility.

Based upon further review of our proposed rule, we have also determined that additional notice should be afforded claimants whose benefits may be subject to reduction or termination because of failure to furnish the requested certification. We have revised our amendment to provide notice of a proposed reduction or termination of benefits when the required certification is not received within 60 days from the date of request therefor. If the certification is not received within the 60-day period of notice, the proposed reduction or termination of benefits will be put into effect. We have also added two cross references to indicate that Employment Questionnaire(s), VA Form 21-4140, and eligibility verification reports (EVRs) are subject to the provisions of §§ 3.501(f) and 3.661 respectively.

The proposed amendment as modified herein is adopted. We appreciate the suggestions and support received in connection with this rule change.

The Administrator hereby certifies that these final regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Therefore, pursuant to 5 U.S.C. 605(b), these final regulatory amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is that these final regulatory amendments impose no regulatory burdens on small entities, and only claimants for VA benefits will be directly affected.

In accordance with Executive Order 12291, Federal Regulation, the VA has determined that these final regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance Program numbers for these final regulatory amendments are 64.104, 64.105, 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans, Veterans Administration.

Approved: October 1, 1987.

Thomas K. Turnage,

Administrator.

38 CFR Part 3, Adjudication, is amended as follows:

PART 3—[AMENDED]

1. In § 3.158, the first sentence of paragraph (a) and the cross-reference at the end of the section have been revised and an authority citation is added at the end of paragraph (a) to read as follows:

§ 3.158 Abandoned claims.

(a) *General.* Except as provided in § 3.652 of this part, where evidence requested in connection with an original claim, a claim for increase or to reopen or for the purpose of determining continued entitlement is not furnished within 1 year after the date of request, the claim will be considered abandoned.

* * * * *

(Authority: 38 U.S.C. 210(c))

* * * * *

Cross-References: Periodic certification of continued eligibility. See § 3.652. Failure to report for VA examination. See § 3.655. Disappearance of veteran. See § 3.656.

2. In § 3.500, paragraph (v) is revised to read as follows:

§ 3.500 General.

* * * * *

(v) *Failure to furnish evidence of continued eligibility.* See § 3.652 (a) and (b).

3. Section 3.652 is revised to read as follows:

§ 3.652 Periodic certification of continued eligibility.

Except as otherwise provided:

(a) Individuals to whom benefits are being paid are required to certify, when requested, that any or all of the eligibility factors which established entitlement to the benefit being paid continue to exist. The beneficiary will be advised at the time of the request that the certification must be furnished within 60 days from the date of the request therefor and that failure to do so will result in the reduction or termination of benefits.

(1) If the certification is not received within 60 days from the date of the request, the eligibility factor(s) for which certification was requested will be considered to have ceased to exist as of the end of the month in which it was last shown by the evidence of record to have existed. For purposes of this paragraph, the effective date of reduction or termination of benefits will be in accordance with §§ 3.500 through 3.504 as in effect on the date the eligibility factor(s) is considered to have ceased to exist. The claimant will be advised of the proposed reduction or termination of benefits and the date the proposed action will be effective. An additional 60 days from the date of notice of the proposed action will be provided for the claimant to respond.

(2) If the certification is not received within the additional 60 day period, the proposed reduction or termination of benefits will be put into effect.

(b) When the required certification is received, benefits will be adjusted, if necessary, in accordance with the facts found.

(Authority: 38 U.S.C. 210(c))

Cross-References: Employment Questionnaire, failure to return. See § 3.501(f). Income and Net Worth Questionnaires. See § 3.661.

[FR Doc. 87-25807 Filed 11-6-87; 8:45 am]

BILLING CODE 8320-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-7

[FPMR Temp. Reg. A-30, Supp. 1]

Request for Waivers

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement extends to January 31, 1988, the expiration date of FPMR Temporary Regulation A-30.

DATES: *Effective date:* October 1, 1987.
Expiration date: January 31, 1988.

FOR FURTHER INFORMATION CONTACT: Mrs. Phyllis M. Hickman, Travel and Transportation Management Division on (703) 557-1261.

SUPPLEMENTARY INFORMATION: GSA has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-7

Government property management.

(Sec. 205(c) 63 Stat. 390; (40 U.S.C. 486(c))

In 41 CFR Ch. 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

October 19, 1987

Federal Property Management Regulations [Temporary Regulation A-30; Supplement 1]

To: Heads of Federal agencies

Subject: Use of contract airline/rail passenger service between selected cities/airports

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A-30.

2. *Effective date.* This regulation is effective October 1, 1987.

3. *Expiration date.* This supplement expires January 31, 1988, unless sooner canceled or revised.

4. *Explanation of change.* The expiration date in par. 3 of FPMR Temporary Regulation A-30 is revised to January 31, 1988.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87-25828 Filed 11-6-87; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435 and 436

[BERC-304-F]

Medicaid Program; Coverage of Qualified Pregnant Women and Children and Newborn Children

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the Medicaid regulations to add two mandatory eligibility groups of individuals for Medicaid coverage: (1) Qualified pregnant women and certain children under age 5; and (2) newborn children of Medicaid-eligible women The amendments conform the regulations to certain provisions of the Deficit Reduction Act of 1984 and the Consolidated Omnibus Budget Reconciliation Act of 1985. The amendments also make a technical change to conform the language of the regulations to a provision of another previously enacted law.

EFFECTIVE DATES: These regulations are effective on December 9, 1987. The statutory effective dates for the individual provisions of the legislation are specified in the regulation text or elsewhere in this preamble.

FOR FURTHER INFORMATION CONTACT: Richard Strauss, 301-594-6529.

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SUPPLEMENTARY INFORMATION:

General Background

Title XIX of the Social Security Act (the Act) provides authority for States to establish Medicaid programs to provide medical assistance to needy individuals. Section 1902(a)(10) of the Act describes the groups of individuals to whom medical assistance may be provided under two broad classifications: The categorically needy (section 1902(a)(10)(A)) and the medically needy (section 1902(a)(10)(C)). The categorically needy classification is further divided into two subgroups: The mandatory categorically needy which, generally, States with Medicaid programs must cover (section 1902(a)(10)(A)(i)); and the optionally categorically needy which States, at their option, may cover (section 1902(a)(10)(A)(ii)). Coverage of the medically needy group is also at States' option.

The mandatory categorically needy group generally includes needy individuals who are receiving, or deemed to be receiving, cash payments under the cash assistance programs under the Act. These individuals include, for example, those receiving aid to families with dependent children (AFDC) under an approved State plan (title IV–A) and supplemental security income (SSI) or mandatory State supplements (title XVI). With the exception of several recently enacted groups, the optionally categorically needy group includes needy individuals who share financial (i.e., income and resource) and categorical (e.g., age, blindness, or disability) requirements and characteristics with the cash assistance recipients but are not eligible as mandatory categorically needy for various reasons. For example, individuals who are not actually receiving cash assistance are not required to be covered as mandatory categorically needy even if they would be eligible for cash assistance if they applied. However, States may choose to cover these individuals as optional categorically needy.

The medically needy group includes individuals who meet the relevant nonfinancial eligibility requirements of the cash assistance programs but who have income and resources that exceed allowable income and resource eligibility levels. In States that provide Medicaid to the medically needy, individuals with excess income may become Medicaid eligible if they incur medical expenses equal to the amount by which their income exceeds the medically needy income level. This process is ca led "spending down." States with medically needy programs must cover pregnant women and children under 18 if these individuals are eligible as mandatory or optionally categorically needy, except that they have excess income and resources.

Before enactment of the Deficit Reduction Act (DRA), Pub. L. 98–369, on July 18, 1984, needy individuals covered as mandatory categorically needy under the provisions of section 1902(a)(10)(A)(i)(I) of the Act included (1) pregnant women who, at State option, receive AFDC in the last 4 months of pregnancy under the provisions of section 406(b) of the Social Security Act; and (2) pregnant women who, at State option, are deemed AFDC recipients if they would be eligible for AFDC cash payments if the child had been born and was living with the mother in the month of payment and the pregnancy had been medically verified under the provisions of section 406(g)(2) of the Act. At State option, pregnant women who met only the income and resource requirements of the State's approved AFDC plan could be covered by the State as optional categorically needy. In States with medically needy programs, needy individuals covered as medically needy included pregnant women and children under 18 if they would be eligible as mandatory or optionally categorically needy except that they have excess income and resources under section 1902(a)(10)(C)(ii) of the Act. In addition, needy individuals included, at State option, children under the ages of 21, 20, 19, or 18, or reasonable classifications of these children, who met AFDC income and resources requirements but who did not meet other categorical requirements for AFDC eligibility, such as parental deprivation (section 1902(a)(10)(A)(ii) of the Act). (These children are referred to as "Ribicoff children.") States could not use an age limit lower than 18 years in setting up reasonable classifications.

The Deficit Reduction Act amended several provisions of the Social Security Act relating to the eligibility groups under which pregnant women and children under 5 and newborn children could be covered. Sections 2361 and 2362 of DRA established a separate mandatory eligibility group of qualified pregnant women to encompass among others the previous two groups of individuals covered as categorically needy: a mandatory eligibility group of children under 5 whose coverage was to be phased in over a 5-year period; and a mandatory eligibility group of newborn children of Medicaid-eligible women. After the enactment of DRA, the eligibility groups of qualified pregnant women and children under 5 were further amended by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Pub. L. 99–272, enacted on April 7, 1986. Section 9501 of COBRA expanded the mandatory eligibility group of qualified pregnant women by adding women who previously could be covered as optional categorically needy because they met only the income and resource requirements of the State's approved AFDC plan. COBRA also allows States to cover children under age 5 without having to wait for the 5 years provided in the phase-in period (section 9511). The next two sections of this document discuss in detail the DRA and COBRA provisions.

(Note: COBRA contained other provisions relating to Medicaid eligibility groups and coverage of services. These provisions are not included in this document. We plan to issue a separate notice of proposed rulemaking to incorporate these provisions in the regulations along with the eligibility and coverage provisions of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509, enacted on October 21, 1986. Many of the provisions are self-implementing and, therefore, are in effect even though regulations have not been issued.)

On November 21, 1985, we published in the **Federal Register** (50 FR 48102) a proposed rule to incorporate the Medicaid eligibility requirements for the groups of qualified pregnant women and children under 5 and the group of newborn children that were included in the provisions of sections 2361 and 2362 of DRA. (COBRA, which modified the requirements for these groups added by DRA, was not enacted until after issuance of the proposed rule.) A summary of the public comments we received on the November 21 notice of proposed rulemaking and our responses, including a discussion of any changes made in the regulations as a result of those comments, is presented later in this document.

Revised Eligibility Groups of Pregnant Women

Section 2361 of DRA amended section 1902(a)(10)(A)(i) of the Social Security Act to require States to provide Medicaid coverage to certain qualified pregnant women as a distinct mandatory categorically needy eligibility group. Section 2361 deleted the categorically needy eligibility group of pregnant women who were deemed AFDC recipients under section 406(g)(2) of the Act and replaced it with this mandatory group of qualified pregnant women. Section 2361 of DRA added a new section 1905(n)(1) to the Act that defines a qualified pregnant woman for

the mandatory eligibility group as one whose pregnancy has been medically verified and who (A) if the child had been born to her and was living with her in the month of payment, would be eligible for an AFDC cash payment, or would be eligible for an AFDC cash payment if coverage under the State's AFDC plan included an unemployed parents program, or (B) is a member of a family that would be eligible for AFDC if the State's AFDC plan included an unemployed parents program.

Section 9501(a) of COBRA expanded the definition of a qualified pregnant woman under section 1905(n)(1) of the Act that was established by DRA by adding a paragraph (C) which requires coverage of a pregnant woman who otherwise meets the income and resource requirements of the State's approved AFDC plan. This group of pregnant women, which now is a mandatory categorically needy group, previously could have been covered under the optional categorically needy group. Under this COBRA provision, a State is required to provide Medicaid to any pregnant women who meets the AFDC income and resource requirements, regardless of family structure. A pregnant woman who meets these AFDC financial criteria is eligible for Medicaid regardless of whether the woman is a single parent, whether the woman is a first time pregnant woman, whether the State has an unemployed parents program, or whether the principal breadwinner in the family is unemployed.

Medicaid eligibility of qualified pregnant women under the provisions of section 1905(n)(1) (A) and (B) of the Act, as added by DRA, applies as of October 1, 1984. Eligibility of qualified pregnant women under section 1905(n)(1)(C), as added by COBRA, applies as of July 1, 1986. These statutory provisions are effective without regard to whether or not final regulations to carry out the statutory amendments have been published unless, as determined by the Secretary, State legislation other than legislation appropriating funds is needed for the State Medicaid plan to meet the requirements. In order for the Secretary to determine if State legislation is required, a State must submit to the appropriate Regional Administrator for HCFA a detailed written opinion from the State's attorney general explaining why State legislation is required or a clear opinion from a court of competent jurisdiction. If the Secretary determines that State legislation is needed, these statutory provisions apply the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after July 18, 1984 in the case of the DRA provision, and after April 7, 1986 in the case of the COBRA provision.

As a result of DRA and COBRA, section 1905(n)(1) of the Act now has a three-part definition of a qualified pregnant woman. The definition of a qualified pregnant woman under section 1905(n)(1)(A) of the Act specifically requires States to treat the woman as if the unborn child were born and actually living with her. Thus, for example, under this provision Medicaid eligibility may be provided to pregnant women who may have no other children in their care (such as first-time pregnant women) or pregnant women whose only children living with them receive SSI. The definition of a qualified pregnant woman under section 1905(n)(1)(B) of the Act does not specifically refer to treating the woman as if her unborn child were born and living with her. However, it overlaps with eligibility under provision (A) and includes the assertion that a pregnant woman is to be covered under Medicaid if she is a member of a family that could be covered if the State had an AFDC-unemployed parents (AFDC–UP) program. For example, a pregnant woman under the age of 18 who is living with both of her unemployed parents could be covered under provision (B). The definition of a qualified pregnant woman under section 1905(n)(1)(C) of the Act also does not specify treatment of the woman as if her unborn child were born and living with her. Rather, it provides mandatory Medicaid eligibility for pregnant women who need only meet the income and resource requirements of the State's approved AFDC plan (that is, they are not required to meet the nonfinancial eligibility requirements of the program such as dependency).

As stated earlier, the statutory language under provisions (B) and (C) of section 1905(n)(1) of the Act does not specify that the eligibility of the pregnant woman is to be determined under AFDC or AFDC–UP criteria under the assumption that the child is born and living with her. However, as referred to in the Congressional Committee Report that accompanied COBRA (H.R. Rept. No. 265, Part I, 99th Cong., 1st Sess. 57 (1985)), the State is to assume for Medicaid purposes that the child is actually born and living with the mother in determining eligibility of pregnant women under all three provisions of section 1905(n)(1) of the Act, as amended by both DRA and COBRA. Consequently, for purposes of determining Medicaid eligibility only, the unborn child's needs (or children's needs, where it is medically verified that there is more than one fetus) would be included in determining eligibility. Thus, the pregnant woman, the unborn child (or children), and other family members as would be included in determining the relevant number of members of the budget unit under AFDC must be included in determining the financial eligibility of the pregnant woman. For example, a pregnant woman and her working husband would be treated as an assistance unit of three. We note that AFDC only covers children under age 18, or in some instances under age 19. Because section 1905(n)(1)(C) uses the phrase "otherwise meets the requirements of" the AFDC program, we believe the family budget unit would not include the pregnant woman's siblings or siblings of the unborn child where the siblings are over age 17 (or over age 18 in certain instances) in determining Medicaid eligibility of the qualified pregnant woman. Thus, we consider that the term "otherwise" denotes that the pregnant woman be treated as though she were in a dependency situation for purposes of applying the AFDC financial criteria, even if that is not actually the case.

In determining whether a pregnant woman would be eligible under the provisions of section 1905(n)(1) (A) and (B) of the Act, State Medicaid agencies must apply all applicable financial and nonfinancial eligibility criteria of the State's approved AFDC plan. The financial eligibility criteria include methodologies and standards for the treatment of income and resources. The nonfinancial eligibility criteria include relevant categorical requirements, such as deprivation of parental support or care and unemployment factors. In determining whether a woman would be eligible under the provisions of section 1905(n)(1)(C) of the Act, State Medicaid agencies must apply only the financial eligibility criteria of the State's approved AFDC plan.

In relation to eligibility criteria under an unemployed parents program, all States, regardless of whether they have an unemployed parents program in their AFDC State plans, must use applicable AFDC–UP criteria in determining Medicaid eligibility for qualified pregnant women. A State that has an unemployed parents program in its AFDC plan must use the relevant standards and methodologies of that program in determining Medicaid eligibility for a pregnant woman in situations where unemployment is involved. However, a State without an unemployed parents program in its

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AFDC plan (that may not be familiar with requirements of the AFDC-UP program) will need to develop appropriate unemployed parents program requirements in conjunction with its State AFDC agency and the HCFA regional office.

Qualified pregnant women, as defined under the provisions of section 1905(n)(1) of the Act, are required to be covered as mandatory categorically needy by States. In addition, as indicated earlier, States with medically needy programs must cover all pregnant women who, except for income and resources, would be eligible as categorically needy.

Therefore, pregnant women who are ineligible as categorically needy qualified pregnant women because of excess income or resources must be tested against the State's medically needy income and resource requirements to determine medically needy eligibility.

We have amended the Medicaid regulations by removing the eligibility group of pregnant women deemed to be receiving AFDC under §§ 435.115(c) and 436.114(c) and by adding qualified pregnant women as a specific eligibility group for mandatory categorically needy coverage under new §§ 435.116 and 436.120. We have defined qualified pregnant women in the regulations as they are defined under the three provisions in section 1905(n)(1) (A), (B), and (C) of the Act.

The existing regulations at §§ 435.301(b)(1)(i) and 436.301(b)(1)(i) already provide for medically needy coverage of pregnant women who, except for income and resources, would be eligible for Medicaid as categorically needy. No further change in the regulation language is needed to conform the existing regulations to the DRA and COBRA provisions for coverage of pregnant women as medically needy.

Children Under Age 5

As stated earlier, before enactment of DRA and COBRA, States could cover as an optional categorically needy group children under the age of 21 (or, at State option, under age 20, 19, or 18), or reasonable classifications of these children, who meet AFDC income and resource requirements but who did not meet other categorical program requirements for AFDC eligibility such as parental deprivation (section 1902(a)(10)(A)(ii) of the Act). ("Ribicoff children".) In setting up reasonable classifications of these children, States could not use an age limit lower than 18 years.

Section 2361 of DRA added a new mandatory Medicaid eligibility group of qualified children under 5. Under section 2361 of DRA, qualified children under 5 were defined under a new section 1905(n)(2) of the Act as those who are under 5 years of age, who are born after September 30, 1983, and who meet the income and resource requirements of the State's approved AFDC plan. Because States with medically needy programs are required to cover all children under 18 who, except for income and resources, would be eligible as mandatory categorically needy, this group of children under 5 who, except for income and resources, would be eligible as mandatory categorically needy also must be covered as medically needy. Because the DRA provision required States to cover only children born after September 30, 1983, States had to phase in coverage under this new group. States could not cover all children under age 5 under this provision—that is, under DRA they were precluded from covering any children born before October 1, 1983 under this group.

Section 9511 of COBRA further revised section 1905(n)(2) of the Act to redefine qualified children as children under 5 years of age born after September 30, 1983, or born *at an earlier date designated by the State.* Thus, rather than phasing in qualified children over a 5-year period as was the case under the DRA provision, effective April 1, 1986, States may cover all children under age 5 as categorically needy and, if the State has a medically needy program, as medically needy.

The provision on coverage of qualified children under 5 under DRA applies as of October 1, 1984, and under COBRA, as of April 1, 1986, without regard to whether or not final regulations to carry out the statutory amendments have been published by that date (unless State legislation, other than legislation appropriating funds, is needed). (The requirement for submittal of appropriate materials to verify that State legislation is needed is discussed earlier in this document under the section on Revised Eligibility Groups of Pregnant Women.)

The DRA provision was included in the November 21, 1985 NPRM; the COBRA provision was enacted later and consequently was not. However, because of the relevance of the COBRA amendment to the basic DRA provision to allow States the option of coverage of children under 5 earlier rather than phasing them in, we believe it is appropriate to include it in this document so that the regulations reflect the full option available to States. Our justification for waiving notice of rulemaking procedures is explained later in this document.

From the period of October 1, 1984 through March 30, 1986, under section 2361 of DRA States were required to phase in coverage of qualified children under age 5: In fiscal year 1985 (October 1, 1984 September 30, 1985) only children under age 2 could be covered under this provision. From October 1, 1985 through March 31, 1986, only children under age 3 could be covered. Under section 9512 of COBRA, effective April 1, 1986, States may cover all qualified children under age 5, phase in coverage at a more accelerated rate than was required under DRA, or continue to phase in coverage of these children as allowed under the DRA provision. If a State elects to continue to phase in coverage, it must include all qualified children under 5 under its plan by September 30, 1988. If a State chooses to accelerate the phase in of qualified children under 5 or elects to provide coverage to all of these children born earlier than September 30, 1983, it must also expand medically needy coverage because of the requirement for coverage as medically needy of all children under 18 who, except for income and resources, would be eligible as mandatory categorically needy.

The group of children under 5 under section 1905(n)(2) are not required to meet other categorical nonfinancial eligibility requirements of the AFDC plan such as parental deprivation.

As stated earlier, under section 1902(a)(10)(A)(ii) of the Act, States may cover, as optional categorically needy, children under age 21 (or, at State option, under 20, 19, or 18) or reasonable classifications of children who meet the income and resource requirements of the approved AFDC State plan (Ribicoff children). The mandatory coverage of qualified children under 5 does not alter this optional coverage group. States still may not impose eligibility limitations on their optional categorically needy coverage group of children under age 21 (or 20, 19, or 18) that are based on age. The Conference Committee report for DRA (H.R. Rept. No. 861, 98th Cong., 2d sess., 1359–1360 (1984)) reiterated that States may not impose eligibility limitations on the optional group of Ribicoff children based on age—that is, for children under the age of 18, age may not be used as a reasonable classification. States may continue to establish reasonable categories permitted under current regulations, such as children in foster care homes, children in subsidized adoptions, or children in intermediate care facilities for purposes of optional coverage.

We have amended the Medicaid regulations by specifying the new eligibility group of qualified children under age 5 for mandatory categorically needy coverage under new §§ 435.116(c) and 436.120(c), using the definition specified in the statute. We also have revised §§ 435.301(b)(1)(ii) and 436.301(b)(1)(ii) to require States that have medically needy programs to provide medically needy eligibility for individuals under age 18 who, except for income and resources, would be eligible for Medicaid as mandatory categorically needy. This provides, among other things, for coverage of the medically needy counterparts of the qualified children under age 5 since the qualified children are a mandatory categorically needy group.

Newborn Children

Before passage of DRA, some State Medicaid programs may not have established application procedures that provided for automatic Medicaid coverage of a newborn child born to a Medicaid-eligible woman. As a result, there may have been some delays in providing immediate Medicaid coverage to newborn children.

Section 2362 of DRA established a specific requirement for Medicaid eligibility for certain newborn children. Section 2362 amended section 1902(e) of the Social Security Act to provide that a child born on or after October 1, 1984, to a woman eligible for and receiving Medicaid on the date of the child's birth is deemed to have filed an application and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains eligible and the child is a member of the woman's household. The requirement for coverage of newborn children applies to children born on or after October 1, 1984.

The newborn child's eligibility under section 2362 of DRA is connected to the mother's eligibility. Therefore, if the mother is eligible as categorically needy, the newborn child is categorically needy. If the mother is eligible as medically needy, the newborn child is medically needy.

Section 2362 specifies that the newborn child remains eligible for up to one year as long as the mother remains eligible. We interpret this to mean that there must be continuous eligibility during the 1-year period—that is, if the mother loses eligibility or there is a break in her eligibility, the newborn would no longer be deemed eligible for Medicaid under the provisions of section 2362. Failure of the mother to meet or continue to meet or comply with any of the eligibility requirements would result in loss of her eligibility which, in turn, would result in loss of the newborn child's eligibility.

In addition, section 2362 ties the newborn child's eligibility to the child being a "member of the woman's household." In determining what constitutes a child being a member of the woman's household, States must apply the requirements of the cash assistance program related to the mother's eligibility (that is, for AFDC-related mothers, the AFDC rules for determining whether the child is living with a specified relative—in this case, the mother—are found in regulations at 45 CFR 233.90(c)(1)(v); and for SSI-related mothers, the SSI definition of household is found in regulations at 20 CFR 416.1132(a). Related rules are also found at 20 CFR 416.1149(a) and 416.1167(a).

We have conformed the Medicaid regulations to the statute by adding a provision for coverage of newborn children as a categorically needy eligibility group under new §§ 435.117 and 436.124. We also have added under §§ 435.301(b)(1)(iii) and 436.301(b)(1)(iii) provisions to require States that cover the medically needy to provide eligibility to the counterparts of these newborn children. We made these changes because section 1902(e)(4) of the Act mandates Medicaid eligibility of the newborn child if the mother was eligible and received Medicaid on the date of the child's birth. That eligibility continues for a period of one year as long as the child is a member of the woman's household and the woman remains eligible for assistance. Because the statute does not specify the type of eligibility to be afforded the child, but focuses on the mother's eligibility, these regulations make the child medically needy if the mother is medically needy.

Technical Changes

In publishing regulations to implement the provisions of the Omnibus Reconciliation Act of 1981 (OBRA), Pub. L. 97–35, on September 30, 1981 (46 FR 47984), we inadvertently omitted language in the regulations to provide for coverage, as a mandatory categorically needy group, of individuals whose AFDC payments have been reduced to zero because of the recoupment of an overpayment. Section 2318 of OBRA provided under section 402(a)(22)(A) of the Act that these individuals are deemed recipients of AFDC. (This omission was pointed out in public comments that we received on the regulations issued as a result of OBRA.) Therefore, we are making a technical change to the regulations to conform them to the statute by adding new §§ 435.115(d) and 436.114(d) to provide for categorically needy coverage of this group as deemed AFDC recipients.

We also are making some technical changes in the "Basis" section of the regulations to incorporate references to laws relating to State plan requirements and eligibility requirements that already are incorporated in the regulations. These references are included in a new section 1920 of the Act added by COBRA. (Note: Section 1920 of the Act was redesignated as section 1921 of the Act by the section 9407 of the Omnibus Budget Reconciliation Act of 1986.)

Summary of Public Comments and Departmental Responses

We received correspondence from 14 sources on the proposed rule published in the **Federal Register** on November 21, 1985. A summary of those public comments and our responses follow:

Qualified Pregnant Women

Comment: A number of commenters objected to the provision requiring inclusion of the needs of the unborn child when determining eligibility for the pregnant woman. They believed that budgeting for the Medicaid qualified pregnant woman should parallel the provisions of the AFDC program which, as characterized by the commenters, does not budget for the needs of the unborn child in determining AFDC eligibility.

Response: Although the AFDC statute, section 406(g)(1) of the Act, specifically precludes the counting of the needs of an unborn child in determining the amount of the AFDC payment for a pregnant woman, the Medicaid statute does not contain a similar provision. The Medicaid statute, section 1905(n)(1)(A) of the Act as amended by section 2361 of DRA, defines a qualified pregnant woman for purposes of Medicaid as someone who would be eligible for AFDC "if her child had been born and was living with her in the month such aid would be paid * * *." Thus, the Medicaid statute, independent of the AFDC statute, requires that the eligibility determination for a qualified pregnant woman include the needs of the unborn child. Therefore, we have retained the provision in the final regulations to count the needs of the unborn child in determining Medicaid eligibility.

Comment: A number of commenters objected to including the needs of an unborn child in determining Medicaid eligibility of a pregnant woman in situations where the pregnant woman plans to place the child in adoption after

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the birth. They also objected to counting the needs of more than one child in situations where the pregnant women is expecting multiple births.

Response: Section 1905(n)(1)(A) of the Act clearly requires taking into account the needs of an unborn child before the actual birth as if the child were born and living with the mother. These requirements apply regardless of whether or not the child will actually live with the mother after the birth. Even if the pregnant woman plans to place the child in adoption at birth, the needs of the unborn child must still be taken into account in determining the pregnant woman's Medicaid eligibility. In the case of expected multiple births, the eligibility determination must be based on the composition of the family unit as it would be if the children were born and living with the mother. Therefore, the needs of each unborn child that is medically verified must be taken into account in determining eligibility.

Comment: Section 1905(n)(1)(A) defines a qualified pregnant woman as one who would be eligible for AFDC if her child were born and living with her (or would be eligible if the State had an unemployed parents program). Section 1905(n)(1)(B) defines a qualified pregnant woman as one who is a member of a family that would be eligible for AFDC if the State had an unemployed parents program. In the NPRM, we indicated that these two provisions were redundant and invited comments on this point. A number of commenters believed there is a distinction between the two requirements relating to a qualified pregnant woman. The commenters agree that the two provisions might be redundant. However, they recommended that the two statutory provisions be retained in the regulations for reasons of caution and until the provision has been in practice and further experience gathered in determining whether certain categories of pregnant women are eligible under one provision but not the other.

Response: We agree with the commenters. Although the distinction between the two requirements is not clear, inasmuch as the statute requires both provisions to be applied, we have retained them in the final regulations. (We also have added to the regulations the third group of qualified pregnant women under section 1905(n)(1)(C) of the Act, as added by section 9501(a) of COBRA—pregnant women who meet only the income and resource requirements of the State's approved AFDC plan.) If experience indicates that changes are necessary, we will reconsider whether a revision of the regulation is appropriate.

Comment: One commenter suggested that although medical verification of pregnancy is required, it is not necessary in all cases to verify the date of conception and the expected due date. Rather, the commenters stated that it would be less confusing to require verification of pregnancy only for the months that Medicaid coverage is requested, including the 3-month retroactive eligibility period.

Response: We agree that it is not always necessary to verify the date of conception, for example, where the date of conception is more than 3 months before the month of application. We also agree with the premise of the commenter that it is only necessary that pregnancy be verified for the months that the woman is applying for Medicaid benefits on the basis of pregnancy. However, we do not believe that the regulation needs to specify these details. We believe it is sufficient to indicate in the regulation, as we have done, that pregnancy as a basis of eligibility must be medically verified. However, we will take into account the commenter's concerns in issuing any clarifying policy instructions on this point.

Comment: One commenter suggested that the definition of "qualified pregnant woman" precludes Medicaid eligibility for those pregnant women who are precluded from eligibility under the AFDC program. The commenter suggested that the regulations be revised to allow flexibility for inclusion of pregnant women whose eligibility is precluded under the AFDC program.

Response: The definition of qualified pregnant women as added by DRA limited mandatory Medicaid coverage of pregnant women to those who meet AFDC financial and nonfinancial conditions of eligibility. However, States had the option to cover as optional categorically needy pregnant women who met the financial eligibility requirements but not the nonfinancial conditions of eligibility requirements of the State's approved AFDC plan.

After issuance of the proposed rule, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) was enacted which contained a provision that expanded the definition of qualified pregnant women under section 1905(n)(1). The expanded definition now mandates coverage of pregnant women who need only meet the income and resource requirements of the State's approved AFDC plan (and not nonfinancial requirements of the AFDC or AFDC-UP program such as dependency). Accordingly, the optional group cited is now a mandatory group.

Coverage of Children Under 5

Comment: Two commenters disagreed with the provision in the proposed rule that provided for a phase-in of coverage of the mandated eligibility group of all children under age 5. They suggested that the language of the Conference Report accompanying section 2361 of DRA would permit States to cover all individuals under the age of 5 as a reasonable classification under the optional coverage group of children under age 21 (or, at State option, under age 20, 19, or 18) or reasonable classifications of such individuals (Ribicoff children).

Response: The law was recently amended to eliminate the requirement for phased-in coverage. Section 9511 of the COBRA amended section 1905(n)(2) of the Act to permit States the option of providing Medicaid currently to all qualified children under age 5 rather than phasing in coverage as was required under DRA. This amendment is effective April 7, 1986. However, States may elect to continue to phase-in coverage as required before COBRA. The statutory language in section 1905(n)(2) of the Act clearly defines a qualified child as "a child who is under 5 years of age, who was born after September 30, 1983 * * *." Thus, a child who is under age 5 who was born on or before September 30, 1983 is precluded from coverage as a qualified child unless the State elects to act under the authority added by COBRA. If the State does not elect coverage at an earlier specified date, the provisions of section 2361 of DRA that children under 5 must be phased in apply—that is, it will only be as of October 1, 1988 that all children who are under the age of 5 will be covered as qualified children.

We disagree with the commenters suggestion that States may cover all children under 5 now as a reasonable classification based on age of the optional group of individuals under age 21 (or, at State option, 20, 19, or 18). The Conference Report for DRA indicates that "this amendment (section 2361) does not alter the current requirement that States may not impose coverage limitations based on age (except they must cover the children under 5 as specified)." Thus, the conferees confirmed HCFA's policy before enactment of DRA that age could not be used as a basis for a reasonable classification for Ribicoff children.

The only exception to coverage of the optional Ribicoff children is the statutorily mandated coverage of qualified children under 5 as provided under section 1905(n)(2) of the Act. The Congress did not amend in any way the statute related to other Ribicoff children at sections 1902(a)(10)(A)(ii) and 1905(a)(i) of the Act

Comment: One commenter suggested that the difference in the eligibility requirements for qualified pregnant women and children be clarified in the final regulations. The commenter noted that with respect to a qualified pregnant woman, the regulation refers to "would be eligible or deemed eligible for an AFDC cash payment on the basis of the income and resource requirements of the approved AFDC plan," while with respect to a qualified child the regulation refers to "meet the income and resource requirements of the State's approved AFDC plan." The commenter asks for clarification as to whether these two phrases have the same meaning.

Response: We believe that the phrase "meet the income and resource requirements of the State's approved AFDC plan" relating to the qualified child should be read to mean that the qualified child would be eligible for an AFDC cash payment based on the income and resource requirements of the AFDC program, as is the case for the qualified pregnant woman. We have revised the regulations relating to the qualified pregnant woman (§§ 435.116 and 436.120) to remove the words "or deemed eligible" and to refer to income and resource requirements that would be met if dependency requirements were met.

Comment: One commenter suggested that the regulation for coverage of children under the age of 5 be clarified with respect to whether it applies only to children living in a two-parent household.

Response: Although the Conference Committee Report accompanying section 2361 of DRA refers to two-parent families because those children under age 5 in one-parent families will usually be eligible for Medicaid by virtue of eligibility for and receipt of AFDC, we believe the reference is merely providing an illustration and the provision is not meant to be restricted to two parent families. The language of the statute does not specifically limit the coverage of children under 5 to only those in two-parent families: Therefore, we are not revising the regulation.

Comment: One commenter suggested that § 435.301(b)(1)(ii) be revised to make clear that a parallel group of children under age 5 as covered under section 2361 must also be covered as medically needy. The commenter suggested that since States with medically needy programs must cover as medically needy all individuals under the age of 18 who, except for their income and resources, would be covered as mandatory categorically needy individuals, the group of children under 5 also are mandatory categorically needy and are under age 18, and therefore, should be covered as medically needy.

Response: We agree with the commenter. Section 137(b)(9) of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) amended section 1902(a)(10)(C)(ii)(I) of the Act to require States with medically needy programs to cover as medically needy all individuals under the age of 18 (instead of age 21) who, except for their income and resources, would be covered as mandatory categorically needy individuals. This includes the group of individuals under age 5 covered under section 2361 of DRA. Although we notified the general public of the TEFRA provision in a general notice in the **Federal Register** (47 FR 57775, December 28, 1982), the existing §§ 435.301(b)(1)(ii) and 436.301(b)(1)(ii) do not reflect the current age requirement under section 1902(a)(10)(C)(ii)(I) of the Act. Therefore, we are revising §§ 435.301(b)(1)(ii) and 436.301(b)(1)(ii) to reflect the current statutory requirement for medically needy coverage of those children under 18 who, except for income and resources, would be mandatory categorically needy.

Comment: One commenter suggested that the regulations relating to coverage of qualified children under age 5 (§§ 435.116(c) and 436.120(c)) include a cross-reference to other general Medicaid requirements, for example, citizenship, alienage, residency, etc.

Response: We disagree with the commenter. Existing Medicaid regulations at 42 CFR Part 435, Subpart E and Part 436, Subpart E, contain general eligibility requirements applicable to all Medicaid applicants and recipients, except to the extent inconsistent with specific regulations. We see no reason to single out the regulations covering the group of qualified children under age 5 from among the regulations on the other Medicaid eligibility groups to add a cross-reference to these general requirements. Furthermore, §§ 435.400 and 436.400 clearly indicate that the general requirements apply to all categorically needy and medically needy individuals.

Newborn Children

Comment: One commenter objected to the requirement that newborn children be made eligible under section 2362 of DRA even where the newborn child would be otherwise ineligible. The commenter expressed the belief that Congress did not intend to provide automatic eligibility to those newborn children who are ineligible despite the fact of their mother's continuing eligibility. Rather, the commenter believes that section 2362 was enacted in order to address administrative problems related to lengthy and formal application procedures for newborn children that result in delayed coverage of the child.

Response: The Medicaid statute, section 1902(e)(4) of the Act as amended by section 2362 of DRA, is very clear in mandating continued eligibility for the newborn for one year so long as the mother was eligible for and receiving Medicaid on the date of the child's birth, continues to be eligible, and lives in the same household with the child. The statute does not provide for any exceptions to these requirements as suggested by the commenter.

Comment: One commenter suggested that if it was HCFA's intent in implementing the newborn child provision to continue eligibility for one year as long as the child remains in the household with a *specified relative* other than the mother, the regulation should be clarified to make this point.

Response: The intent of the regulation is for eligibility of the newborn child to continue for one year only if the child is in the same household as the mother as specified in the Act. Thus, if the newborn child lives in the same household with a specified relative other than the mother, the provisions of section 2362 do not apply.

We believe there is some confusion on the part of the commenter. In the preamble to the proposed regulations (page 48104), we indicated that "in determining what constitutes a child being a member of the woman's household, States should apply the methodologies of the cash assistance program related to the mother's eligibility (that is, for AFDC related mothers, the AFDC rules on living with a *specified relative* under regulations at 45 CFR 233.90(c)(1)(v) * * *" (Emphasis added). This reference to specified relative was only intended to refer to the rules for determining what household a child lives in and was not meant to imply that eligibility under section 2362 of DRA extends to situations where the child lives in the household of relatives other than the mother. The regulation text is clear that the provision applies only with respect to a child who lives in the mother's household. Therefore, we are not making changes to the regulation text.

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Comment: One commenter recommended that we not require newborn children covered under section 2362 of DRA to be covered as medically needy.

Response: We believe there is some confusion of the commenter with respect to coverage of the newborn child as categorically or medically needy. Under section 2362 of DRA, the newborn child's eligibility is connected, that is, contingent upon, the mother's eligibility. In that context, we believe that the newborn's eligibility category is the same as that of the mother. Thus, if the mother is medically needy, the newborn child will be considered medically needy; and if the mother is categorically needy, the newborn child will be considered categorically needy. In States without a medically needy program, it would not be possible for the newborn child to be covered as medically needy under section 2362 of DRA.

Comment: One commenter suggested that the regulation be clarified as to the categorical relatedness of the newborn child covered under section 2362 of DRA—for example, if the child's mother is AFDC- or SSI-related, should the newborn be AFDC- or SSI-related, respectively?

Response: Section 2362 of DRA created a new category of eligible individuals that does not have the same categorical relationship to the Medicaid program as do other eligibility groups. Newborn children covered under section 2362 of DRA are not eligible based on any categorical relationship to the Medicaid program, but rather are eligible based strictly on the mother's Medicaid eligibility status. Thus, whether or not the newborn child is blind, disabled, or AFDC-related is irrelevant. What is determinative is whether or not the mother is and continues to be Medicaid eligible. We do not believe the regulation needs to be specific as to the newborn child's categorical relationship.

Waiver of Rulemaking Procedure

Consistent with the Administrative Procedure Act, we usually issue a notice of proposed rulemaking and provide the public with an opportunity to comment on proposed changes to our regulations unless we find good cause to waive this public notice and comment procedure.

The two provisions of COBRA relating to expanded eligibility of qualified pregnant women and elimination of the requirement for phase-in coverage of children under 5 that are included in these final regulations (§§ 435.116 (a)(3) and (c)(1) and 436.120 (a)(3) and (c)(1)) were not previously issued as a notice of proposed rulemaking. We do not believe that any useful purpose would be served by delaying their issuance to obtain public comment and that such a delay would not be in the best interest of the public. The provisions are self-implementing and are effective regardless of whether or not regulations are issued. The description in the statute of the third grouping of qualified pregnant women (those who meet the income and resource requirements of the AFDC program) is clear and does not require interpretation for implementation. The elimination of the phase-in of coverage of children under 5 is optional with the State. The regulatory text changes to conform the regulations to these COBRA provisions basically restate the language of the statute. The regulation change for the OBRA provision on the additional deemed eligibility group (§§ 435.115(d) and 436.114(d)) also merely conform the regulation language to statutory language and is a requirement that has been in effect since OBRA was enacted. Amending the regulations to include the DRA changes governing eligibility of pregnant women and children, without at the same time reflecting the self-implementing changes made by COBRA, could lead to confusion on the part of States and the public over the current requirements. Moreover, the delay in this regulation which would be necessitated by waiting to issue a notice of proposed rulemaking on the related COBRA changes could contribute to the present uncertainty of States obligations in implementing the DRA changes. Accordingly, we have concluded that issuance of the related COBRA changes as a proposed rule at this time would be unnecessary and contrary to the public interest. Therefore, we find good cause to waive the notice of proposed rulemaking procedure.

Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulation that is likely to meet criteria for a "major rule." A major rule is one that would result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, we prepare and publish a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) for any regulation that will have a significant impact on a substantial number of small entities. A small entity is a small business, a nonprofit enterprise, or a government jurisdiction (such as a county or township) with a population of less than 50,000.

As we stated in the proposed rule, the regulatory amendments related to DRA were changes to conform the regulations to legislative provisions, and did not necessitate either a regulatory impact analysis or a regulatory flexibility analysis. The provisions of this final rule that are related to COBRA and OBRA are also conforming changes. The expenditures under the provisions of the regulations are required by the laws and not by the regulations and will be incurred regardless of the promulgation of regulations.

These regulations, in themselves, do not meet any of the criteria for a major rule. In addition, they primarily affect States and individuals, which are not considered small entities for purposes of the RFA. Therefore, we have determined, and the Secretary certifies, that these regulations will not have a significant impact on a substantial number of small entities. Therefore, we have not prepared a regulatory flexibility analysis.

Paperwork Reduction Act of 1980 (Pub. L. 96-511)

These regulations do not impose information collection requirements. Consequently, they do not need to be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs-health, Medicaid, Supplemental Security Income (SSI).

42 CFR Part 436

Aid to Families with Dependent Children, Grant programs-health, Guam, Medicaid, Puerto Rico, Supplemental Security Income (SSI), Virgin Islands.

42 CFR Chapter IV is amended as set forth below:

A. Part 435 is amended as follows:

PART 435—ELIGIBILITY IN THE STATES, THE DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

1. The authority citation for Part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents is amended by adding a new undesignated center heading and new §§ 435.116 and 435.117 immediately after existing § 435.115 under Subpart B, to read as follows:

PART 435—ELIGIBILITY IN THE STATES, THE DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

Sec.

* * * * *

Subpart B—Mandatory Coverage of the Categorically Needy

* * * * *

Mandatory Coverage of Pregnant Women, Children Under 5, and Newborn Children

435.116 Qualified pregnant women and children.

435.117 Newborn children.

* * * * *

3. Section 435.3 is revised to read as follows:

§ 435.3 Basis.

(a) This part implements the following sections of the Act and public laws which state eligibility requirements and standards.

402(a)(22) Eligibility of deemed recipients of AFDC who receive zero payments because of recoupment of overpayments.
402(a)(37) Eligibility of individuals who lose AFDC eligibility due to increased earnings.
414(g) Eligibility of certain individuals participating in work supplementation programs.
1619(b) Benefits for blind individuals or those with disabling impairments whose income equals or exceeds a specific SSI limit.
1902(a)(8) Opportunity to apply; assistance must be furnished promptly.
1902(a)(10) Required and optional groups.
1902(a)(12) Determination of blindness.
1902(a)(17) Standards for determining eligibility; flexibility in the application of income eligibility standards.
1902(a)(19) Safeguards for simplicity of administration and best interests of recipients.
1902(a)(34) Three-month retroactive eligibility.
1902(a) (second paragraph after (44)) Eligibility despite increased monthly insurance benefits under title II.
1902(b) Prohibited conditions for eligibility: Age requirement of more that 65 years; State residence requirements excluding individuals who reside in the state; and Citizenship requirement excluding United States citizens.
1902(e) Four-month continued eligibility for families ineligible because of increased hours or income from employment.
1902(e)(2) Minimum eligibility period for recipient enrolled in an HMO.
1902(e)(4) Eligibility of newborn children of Medicaid eligible women.
1902(f) State option to restrict Medicaid eligibility for aged, blind, or disabled individuals to those who would have been eligible under State plan in effect in January 1972.
1902(j) Medicaid program in American Samoa.
1903(f) Income limitations for medically needy and individuals covered by State supplement eligibility requirements.
1905(a) (clause following (18)) Prohibitions against providing Medicaid to certain institutionalized individuals.
1905(a) (second sentence) Definition of essential person.
1905(a)(i)-(viii) List of eligible individuals.
1905(d)(2) Definition of resident of an intermediate care facility for the mentally retarded.
1905(j) Definition of State supplementary payment.
1905(k) Eligibility of essential spouses of eligible individuals.
1905(n) Definition of qualified pregnant woman and child.
1915(c) Home or community-based services.
412(e)(5) of Immigration and Nationality Act—Eligibility of certain refugees.
Pub. L. 93-66, section 230. Deemed eligibility of certain essential persons.
Pub. L. 93-66, section 231 Deemed eligibility of certain persons in medical institutions.
Pub. L. 93-66, section 232 Deemed eligibility of certain blind and disabled medically indigent persons.
Pub. L. 93-233, section 13(c) Deemed eligibility of certain individuals receiving mandatory State supplementary payments.
Pub. L. 94-566, section 503 Deemed eligibility of certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits.
Pub. L. 96-272, section 310(b)(1) Continued eligibility of certain recipients of Veterans Administration pensions.

(b) This part implements the following other provisions of the Act or public laws that establish additional State plan requirements:

1616 Requirement for operation of certain State supplementation programs.
Pub. L. 93-66, section 212(a) Required mandatory minimum State supplementation of SSI benefits programs.

4. Section 435.115 is amended by removing paragraph (c), redesignating paragraph (d) as paragraph (c), and adding a new paragraph (d) to read as follows:

§ 435.115 Individuals deemed to be receiving AFDC.

* * * * *

(d) The State must deem to be receiving AFDC those individuals who are denied AFDC payments from the title IV-A State agency solely because that agency is recovering an overpayment.

5. In Subpart B, a new undesignated center heading and new §§ 435.116 and 435.117 are added immediately after § 435.115 to read as follows:

Mandatory Coverage of Pregnant Women, Children Under 5, and Newborn Children

§ 435.116 Qualified pregnant women and children.

(a) The agency must provide Medicaid to a pregnant woman whose pregnancy has been medically verified and who—

(1) Would be eligible for an AFDC cash payment (or would be eligible for an AFDC cash payment if coverage under the State's AFDC plan included an AFDC-unemployed parents program) if her child had been born and was living with her in the month of payment;

(2) Is a member of a family that would be eligible for an AFDC cash payment if the State's AFDC plan included an AFDC-unemployed parents program; or

(3) Meets the income and resource requirements of the State's approved AFDC plan. In determining whether the woman meets the AFDC income and resource requirements, the unborn child or children are considered members of the household, and the woman's family is treated as though deprivation exists.

(b) The provisions of paragraphs (a) (1) and (2) of this section are effective October 1, 1984. The provisions of paragraph (a)(3) of this section are effective July 1, 1986.

(c) The agency must provide Medicaid to children who meet all of the following criteria:

(1) They are born after September 30, 1983 or, at State option, effective no earlier than April 1, 1986, an earlier designated date;

(2) They are under 5 years of age; and

(3) They meet the income and resource requirements of the State's approved AFDC plan.

§ 435.117 Newborn children.

(a) The agency must provide categorically needy Medicaid eligibility to a child born to a woman who is

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eligible as categorically needy and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible as categorically needy for one year so long as the woman remains eligible as categorically needy and the child is a member of the woman's household. If the mother's basis of eligibility changes to medically needy, the child is eligible as medically needy under § 435.301(b)(1)(iii).

(b) The requirements under paragraph (a) of this section apply to children born on or after October 1, 1984.

6. In § 435.301, paragraph (b) introductory text is republished and paragraph (b)(1) is revised to read as follows:

§ 435.301 General rules.

* * * * *

(b) If the agency chooses this option, the following provisions apply:

(1) The agency must provide Medicaid to the following individuals who meet the requirements of paragraph (a) of this section:

(i) All pregnant women during the course of their pregnancy who, except for income and resources, would be eligible for Medicaid as mandatory or optional categorically needy under subparts B or C of this part;

(ii) All individuals under 18 years of age who, except for income and resources, would be eligible for Medicaid as mandatory categorically needy under subpart B of this part;

(iii) All newborn children born on or after October 1, 1984, to a woman who is eligible as medically needy and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible as medically needy for one year so long as the woman remains eligible and the child is a member of the woman's household. If the woman's basis of eligibility changes to categorically needy, the child is eligible as categorically needy under § 435.119. The woman is considered to remain eligible if she meets the spend-down requirements in any consecutive budget period following the birth of the child.

* * * * *

B. Part 436 is amended as follows:

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

1. The authority citation for Part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. The table of contents is amended by adding new §§ 436.120 and 436.124 under Subpart B to read as follows:

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

Sec.

* * * * *

Subpart B—Mandatory Coverage of the Categorically Needy

* * * * *

436.120 Qualified pregnant women and children.
436.124 Newborn children.

* * * * *

3. Section 436.2 is revised to read as follows:

§ 436.2 Basis.

This part implements the following sections of the Act and public laws which state requirements and standards for eligibility:

402(a)(22) Eligibility of deemed recipients of AFDC who receive zero payments because of recoupment of overpayments.
402(a)(37) Eligibility of individuals who lose AFDC eligibility due to increased earnings.
414(g) Eligibility of certain individuals participating in work supplementation programs.
1902(a)(8) Opportunity to apply; assistance must be furnished promptly.
1902(a)(10) Required and optional groups.
1902(a)(12) Determination of blindness.
1902(a)(10) Out-of-State care for State residents.
1902(a)(17) Standards for determining eligibility; flexibility in the application of income eligibility standards.
1902(a)(19) Safeguards for simplicity of administration and best interests of recipients.
1902(a)(34) Three-month retroactive eligibility.
1902(a)(a) (third paragraph after (37)) Eligibility despite increased monthly insurance benefits under title II.
1902(b) Prohibited conditions for eligibility: Age requirements of more than 65 years; State residence requirements excluding individuals who reside in the State; and Citizenship requirement excluding United States citizens.
1902(e) Four-month continued eligibility for families ineligible because of increased hours or income from employment.
1902(e)(2) Minimum eligibility period for recipients enrolled in HMO.
1902(e)(4) Eligibility of newborn children of Medicaid-eligible women.
1905(a) (i)-(viii) List of eligible individuals.
1905(a) (clause following (18)) Prohibitions against providing Medicaid to certain institutionalized individuals.
1905(a) (second sentence) Definition of essential person.
1905(d)(2) Definition of resident of an intermediate care facility for the mentally retarded.
1905(n) Definition of qualified pregnant woman and child.
1915(c) Home or community based services.
412(e)(5) Of Immigration and Nationality Act Eligibility of certain refugees.
Pub. L. 93-66, section 230 Deemed eligibility of certain essential persons.
Pub. L. 93-66, section 231 Deemed eligibility of certain persons in medical institutions.
Pub. L. 93-66, section 232 Deemed eligibility of certain blind and disabled medically indigent persons.
Pub. L. 93-272, section 310(b)(1) Continued eligibility of certain recipients of Veterans' Administration pensions.

4. Section 436.114 is amended by removing paragraph (c), redesignating paragraph (d) as paragraph (c), and adding a new paragraph (d) to read as follows:

§ 436.114 Individuals deemed to be receiving AFDC.

* * * * *

(d) The State must deem to be receiving AFDC those individuals who are denied AFDC payments from the title IV–A State agency solely because that agency to recovering an overpayment.

5. New §§ 436.120 and 436.124 are added to Subpart B to read as follows:

§ 436.120 Qualified pregnant women and children.

(a) The Medicaid agency must provide Medicaid to a pregnant woman whose pregnancy has been medically verified and who—

(1) Would be eligible for an AFDC cash payment (or would be eligible for an AFDC cash payment if coverage under the State's AFDC plan included the AFDC-unemployed parents program) if her child had been born and was living with her in the month of payment;

(2) Is a member of a family that would be eligible for an AFDC cash payment if the State's AFDC plan included an AFDC-unemployed parents program; or

(3) Meets the income and resource requirements of the State's approved AFDC plan. In determining whether the woman meets the AFDC income and resource requirements, the unborn child or children are considered members of the household, and the woman's family is treated as though deprivation exists.

(b) The provisions of paragraphs (a) (1) and (2) of this section are effective October 1, 1984. The provisions of paragraph (a)(3) of this section are effective July 1, 1986.

(c) The agency must provide Medicaid to children who meet all of the following criteria:

(1) They are born after September 30, 1983 or, at State option, effective no earlier than April 1, 1986, an earlier designated date;

(2) They are under 5 years of age; and

(3) They meet the income and resource requirements of the State's approved AFDC plan.

§ 436.124 Newborn children.

(a) The Medicaid agency must provide categorically needy Medicaid eligibility to a child born to a woman who is eligible for and receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible as categorically needy for one year so long as the woman remains eligible and the child is a member of the woman's household. If the mother's basis of eligibility changes to medically needy, the child is eligible as medically needy under § 436.301(b)(1)(iii)

(b) The requirements under paragraph (a) of this section apply to children born on or after October 1, 1984.

6. In § 436.301, paragraph (b) introductory text is republished and paragraph (b)(1) is revised to read as follows:

§ 436.301 General rules.

* * * * *

(b) If the agency chooses this option, the following provisions apply:

(1) The agency must provide Medicaid to the following individuals who meet the requirements of paragraph (a) of this section:

(i) All pregnant women during the course of their pregnancy who, except for income and resources, would be eligible for Medicaid as mandatory or optional categorically needy under subparts B and C of this part;

(ii) All individuals under 18 years of age who, except for income and resources, would be eligible for Medicaid as mandatory categorically needy under subpart B of this part;

(iii) All newborn children born on or after October 1, 1984, to a woman who is eligible as medically needy and receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible as categorically needy for one year so long as the woman remains eligible and the child is a member of the woman's household. If the woman's basis of eligibility changes to categorically needy, the child is eligible as categorically needy under § 436.124. The woman is considered to remain eligible if she meets the spend-down requirements in any consecutive budget period following the birth of the child.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714—Medical Assistance Program)

Dated: April 16, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: August 3, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-25763 Filed 11-6-87; 8:45 am]

BILLING CODE 4120-01-M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 612

Freedom of Information Act

AGENCY: National Science Foundation.

ACTION: Final rule.

SUMMARY: The National Science Foundation amends its Freedom of Information Act regulations as follows. These changes are intended to reflect the Congressional amendments passed in 1986 and to present a uniform schedule of FOIA fees, fee guidelines, and fee waivers. Comments were received and are addressed below.

DATE: The amendments are effective November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Ellen Schoolmaster, FOIA Officer, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Phone: 202–357–9498.

SUPPLEMENTARY INFORMATION: NSF issued a notice of proposed rule making on May 5, 1987, and invited comments. Commenters requested simpler and less restrictive fee waiver regulations so as to be, in their view, truer to Congressional intent. There were also requests that the fee waiver standards proposed by the Department of Justice be rejected as inconsistent with Congressional intent and that NSF should adopt a "more efficient and practical" approach. There was a request that NSF delete the specific tests referred to in the Department of Justice's policy guidance and incorporate fee waiver regulations which the commenters felt to be consistent with the intent of the new amendments. Other comments requested that NSF reexamine and change its definition of "representative of the news media" which it was alleged could require the agency to make editorial determinations in deciding whether a requester is entitled to the benefits of being placed in that category. Comments were also received requesting that NSF reexamine and delete the requirement that the agency determine whether a requester is entitled to waiver of fees because of the material requested (i.e., information about current events or of current interest to the public) rather than because the requester is a representative of the news media.

In response to the comments received, the NSF intends to broadly interpret the fee waiver portions of the new amendments to the FOIA. Many of these same comments were received and addressed by the Office of Management and Budget, and NSF is in agreement with that agency's responses and their regulations relating to rates to be charged and on definitions generally. The NSF expects to be guided by the intent of the Congress, as it is discerned by the Justice Department and as it may be found by the Courts. There is no reason to believe that the regulations would result in the types of extreme applications that the commenters fear. The fact remains that the Justice Department would legally represent this agency in the event of a suit and, therefore, NSF will abide by the standards set in the guidance the Justice Department issues.

Conforming changes are also made to the exemptive provisions relating to law enforcement records, 5 U.S.C. 552(b)(7).

As the amendments do not impose any recordkeeping or information collection requirements, the Paperwork Reduction Act does not apply. Also, the requirements of the Regulatory Flexibility Act are inapplicable as the amendments do not have a substantial economic impact on a significant number of small entities.

List of Subjects in 45 CFR Part 612

Freedom of information.

For the reasons set out in the preamble, Part 612 of Title 45 of the Code of Federal Regulations is amended as follows:

PART 612—[AMENDED]

1. The authority citation for Part 612 is revised to read as follows:

Authority: 5 U.S.C. 552, as amended.

§ 612.6 [Removed and Reserved]

(a) * * *

2. By removing and reserving § 612.6.

3. By revising § 612.8(a)(7) to read as set forth below.

§ 612.8 [Amended]

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings,

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(ii) Would deprive a person or a right to a fair trial or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis,

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

* * * * *

4. By adding §§ 612.9, 612.10, 612.11, 612.12 and 612.13 to read as set forth below.

§ 612.9 Fees to be charged—definitions.

For the purpose of these Guidelines:

(a) All the terms defined in the Freedom of Information Act apply.

(b) A "statute specifically providing for setting the level of fees for particular types of records" (5 U.S.C. 552(a)(4)(A)(vi)) means any statute that specifically requires a government agency, such as the Government Printing Office (GPO) or the National Technical Information Service (NTIS), to set the level of fees for particular types of records, in order to:

(1) Serve both the general public and private sector organizations by conveniently making available government information;

(2) Ensure that groups and individuals pay the cost of publications and other services which are for their special use so that these costs are not borne by the general taxpaying public;

(3) Operate an information dissemination activity on a self-sustaining basis to the maximum extent possible; or

(4) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating government information. Statutes, such as the User Fee Statute, which only provide a general discussion of fees without explicitly requiring that an agency set and collect fees for particular documents do not supersede the Freedom of Information Act under section (a)(4)(A)(vi) of that statute.

(c) The term "direct costs" means those expenditures which an agency actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(d) The term "search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. NSF shall ensure that searching for material is done in the most efficient and least expensive manner so as to minimize costs for both the agency and the requester. For example, NSF shall not engage in line-by-line search when merely duplicating an entire document would prove the less expensive and quicker method of complying with a request. "Search" should be distinguished, moreover, from "review" of material in order to determine whether the material is exempt from disclosure (see paragraph (f) of this section). Searches may be done manually or by computer using existing programming.

(e) The term "duplication" refers to the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others. The copy provided must be in a form that is reasonably usable by requesters.

(f) The term "review" refers to the process of examining documents located in response to a request that is for a commercial use (see paragraph (g) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(g) The term " 'commercial use' request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, NSF shall determine the use to which a requester will put the documents requested. Moreover, where NSF has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, NSF shall seek additional clarification before assigning the request to a specific category.

(h) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(i) The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (g) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(j) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but NSF may also look to the past publication record of a requester in making this determination.

§ 612.10 Fees to be charged—general.

NSF shall charge fees that recoup the full allowable direct costs they incur. Moreover, NSF shall use the most efficient and least costly methods to comply with requests for documents made under the FOIA. NSF will contract with private sector services to locate, reproduce and disseminate records in response to FOIA requests when that is the most efficient and least costly method. When doing so, however, NSF shall ensure that the ultimate cost to the requester is no greater than it would be if NSF itself had performed these tasks. In no case will NSF contract out responsibilities which the FOIA provides that it alone may discharge, such as determining the applicability of an exemption, or determining whether to waive or reduce fees. In addition, NSF shall ensure that when documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs (see definition in § 612.9(b), such as the NTIS, they inform requesters of the steps necessary to obtain records from those sources.

(a) *Manual searches for records.* Whenever feasible, NSF shall charge at the salary rate(s) (i.e. basic pay plus 16 percent) of the employee(s) making the search. However, where a homogeneous class of personnel is used exclusively (e.g., all administrative/clerical, or all professional/executive), NSF may establish an average rate for the range of grades typically involved. Thus, for each one-quarter hour after the first quarter hour, for search of a record by clerical personnel, $1.25. For nonroutine, nonclerical search by professional personnel, for example, where the task of determining which records fall within a request and search requires professional or managerial time, the charge is $3.75 for each one-quarter hour spent in excess of the first quarter hour.

(b) *Computer searches for records.* NSF shall charge at the actual direct cost of providing the service. This will include the cost of operating the central processing unit (CPU) for that portion of operating time that is directly attributable to searching for records responsive to a FOIA request and operator/programmer salary apportionable to the search. When NSF can establish a reasonable agency-wide average rate for CPU operating costs and operator/programmer salaries involved in FOIA searches, the Foundation will do so and charge accordingly.

(c) *Review of records.* Only requesters who are seeking documents for commercial use may be charged for time NSF spends reviewing records to determine whether they are exempt from mandatory disclosure. It should be noted that charges may be assessed only for the *initial* review; i.e., the review undertaken the first time NSF analyzes the applicability of a specific exemption to a particular record or portion of a record. NSF may not charge for review at the administrative appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review would be properly assessable. Where a single class of reviewers is typically involved in the review process, NSF may establish a reasonable agency-wide average and charge accordingly.

(d) *Duplication of records.* NSF shall establish an average agency-wide, per-page charge for paper copy reproduction of documents. This charge shall represent the reasonable direct costs of making such copies, taking into account the salary of the operators as well as the cost of the reproduction machinery. For copies prepared by computer, such as tapes or printouts, NSF shall charge the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction or duplication, NSF shall charge the actual direct costs of producing the document(s). For photocopies of documents, $0.10 per copy per page will be charged. In practice, if NSF estimates that duplication charges are likely to exceed $25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(e) *Other charges.* It should be noted that complying with requests for special services such as those listed below is entirely at the discretion of NSF. Neither the FOIA nor its fee structure cover these kinds of services. NSF shall recover the full costs of providing services such as those enumerated below to the extent that it elects to provide them:

(1) Certifying that records are true copies;

(2) Sending records by special methods such as express mail.

(f) *Restrictions on assessing fees.* With the exception of requesters seeking documents for a commercial use, section (4)(A)(iv) of the Freedom of Information Act, as amended, requires NSF to provide the first 100 pages of duplication and the first two hours of search time without charge. Moreover, this section prohibits NSF from charging fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. These provisions work together, so that except for commercial use requesters, NSF would not begin to assess fees until after they had provided the free search and reproduction. For example, for a request that involved two hours and ten minutes of search time and resulted in 105 pages of documents, NSF will determine the cost of only 10 minutes of search time and only five pages of reproduction. If this cost was equal to or less that the cost to the agency of billing the requester and processing the fee collected, no charges would result.

The elements to be considered in determining the "cost of collecting a fee," are the administrative costs to the NSF of receiving and recording a requester's remittance, and processing the fee for deposit in the Treasury Department's special account (or the NSF's account if the agency is permitted to retain the fee). The per-transaction cost to the Treasury to handle such remittances is negligible and shall not be considered in the NSF's determination. For purposes of these restrictions on assessment of fees, the word "pages" refers to paper copies of a standard agency size which will normally be "8½ x 11" or "11 by 14." Thus, requesters would not be entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or 100 pages of computer printout, however, might meet the terms of the restriction. Similarly, the term "search time" in this context has as its basis *manual search.* To apply this term to searches made by computer, NSF shall determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, i.e., the operator, NSF shall begin assessing charges for computer search.

§ 612.11 Fees to be charged—categories of requesters.

There are four categories of FOIA requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each of these categories:

(a) *Commercial use requesters.* When a request for documents for commercial use is received, NSF shall assess charges which recover the full direct

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cost of searching for, reviewing for release, and duplicating the records sought. Requesters must reasonably describe the records sought. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents. NSF may recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records (see paragraph (b) of this section.

(b) *Educational and non-commercial scientific institution requesters.* NSF shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research. Requesters must reasonably describe the records sought.

(c) *Requesters who are representatives of the news media.* NSF shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category a requester must meet the criteria in § 612.6 i j of this part, and his other request must not be made for a commercial use. In reference to this class of requester, a request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use. Requesters must reasonably describe the records sought.

(d) *All other requesters.* NSF shall charge requesters who do not fit into any of the categories above fees which recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. Moreover, requests from record subjects for records about themselves filed in NSF's systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction. Requesters must reasonably describe the records sought.

§ 612.12 Administrative actions to improve assessment and collection of fees.

NSF shall ensure that procedures for assessing and collecting fees are applied consistently and uniformly by all components. To do so, NSF amends its FOIA regulations to conform to the provisions of this Fee Schedule and Guidelines, especially including the following elements:

(a) Charging Interest—Notice and Rate. NSF may begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the billing was sent. NSF shall ensure that their accounting procedures are adequate to properly credit a requester who has remitted the full amount within the time period. The fact that the fee has been received by the agency, even if not processed, will suffice to stay the accrual of interest. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C. and will accrue from the date of the billing.

(b) Charges for Unsuccessful Search. NSF may assess charges for time spent searching, even if NSF fails to locate the records or if records located are determined to be exempt from disclosure. In practice, if NSF estimates that search charges are likely to exceed $25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer the requester the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(c) Aggregating Requests. Except for requests that are for a commercial use, NSF shall not charge for the first two hours of search time or for the first 100 pages of reproduction. However, a requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When NSF reasonably believes that a requester or, on rare occasions, a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, NSF may aggregate any such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period in which the requests have occurred. For example, it would be reasonable to presume that multiple requests of this type made within a relatively short period had been made to avoid fees. For requests made over a longer period, however, such a presumption becomes harder to sustain and NSF should have a basis for determining that aggregation is warranted in such cases.

(d) Advance Payments. NSF shall not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) The NSF estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. Then, NSF should notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion (i.e. within 30 days of the date of the billing), NSF may require the requester to pay the full amount owed plus any applicable interest as provided above or demonstrate that he has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the NSF begins to process a new request or a pending request from that requester.

(e) When NSF acts under paragraphs (d) (1) or (2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after NSF has received fee payments described above.

§ 612.13 Waivers or reductions.

(a) Employees of the National Science Foundation are encouraged to waive fees whenever the statutory fee waiver standard is met. However, employees are expected to respect the balance drawn in the statute, safeguarding federal funds by granting waivers or reductions only where it is determined that the following statutory standard is satisfied:

Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(b) NSF will employ the following six factors in determining when FOIA fees should be waived or reduced:

(1) The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government";

(2) The informative value of the information to be disclosed: whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(3) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to "public understanding";

(4) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

(5) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(6) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

(c) NSF will use U.S. Department of Justice policy guidance in applying the foregoing factors.

Dated: October 23, 1987.

Erich Bloch,

Director.

[FR Doc. 87-25784 Filed 11-6-87; 8:45 am]

BILLING CODE 7555-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 86-423; FCC 87-318]

Petition for Modification; Terminal Equipment Line Power To Operate Continuity of Output Functions

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: The Commission has amended § 68.318(b) of the rules to eliminate as of December 18, 1989 the requirement that telephone companies provide line power to operate continuity of output functions in terminal equipment connected to 1.544 Mbps service. In addition, as of that date, terminal equipment connecting to 1.544 Mbps service is no longer required to contain continuity of output functions. The Commission stated that these requirements were eliminated because they had not been shown to be necessary for protection to the telephone network.

EFFECTIVE DATE: December 18, 1987.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Domestic Facilities Division, Common Carrier Bureau, (202) 634-1832.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted October 8, 1987, and released October 23, 1987, CC Docket 86-423 eliminating the requirements of § 68.318(b) as of December 18, 1989.

The full text of the Commission's decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Commission Decision

The Commission has eliminated as of December 18, 1989 the requirements in § 68.318 that (1) telephone companies provide line power to operate continuity of output functions in terminal connected to 1.544 Mbps digital service and (2) such terminal equipment contain continuity of output capability. Prior to December 18, 1989 these requirements remain in effect except that for 1.544 Mbps circuits placed in service after February 18, 1988, telephone companies are not required to provide line power. After December 18, 1989, the Commission stated that telephone companies will be permitted to require for an additional three years that terminal equipment contain continuity of output capability. In addition, the Commission provided that effective December 18, 1987 terminal equipment may be registered that does not accept power for continuity of output functions from the telephone line, *i.e.*, equipment that relies exclusively on power from the customer's premises. The Commission also stated that it would permit registration of terminal equipment intended for connection to 1.544 Mbps service as of December 18, 1988 that does not have continuity of output capability, but that such equipment could not be connected until December 18, 1989. The Commission stated that the reason for eliminating the requirements of § 68.318(b) was that it had been shown on the record of this proceeding that those requirements were necessary for protection to the telephone network.

Ordering Clauses

1. Accordingly, *It Is Ordered*, pursuant to sections 1, 4, 201–205, 215, 220, 313, 309(e)–(h) and 412 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 215, 218, 220, 313, 309(e)–(h), and 412, and 5 U.S.C. 553, That Part 68 of the Commission's Rules, 47 CFR Part 68 is amended as set forth below effective December 18, 1987.

1.1. *It Is Further Ordered*, That carriers subject to the Commission's jurisdiction under section 201–205 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 201–205, currently providing 1.544 Mbps service notify customers of such service within sixty days from the effective date of this decision that carriers will no longer be required to provide line power for such service in accordance with the dates established herein.

1.2. *It Is Further Ordered*, That the Secretary shall cause a summary of this decision to be printed in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

List of Subjects in 47 CFR Part 68

Communications common carriers, Communications equipment, Telephone.

Part 68 of the Commission's Rules and Regulations (Chapter I of Title 47 of the Code of Federal Regulations, Part 68) is amended as follows:

PART 68—[AMENDED]

1. The authority citation for Part 68 Subpart D continues to read as follows:

Authority: Secs. 4, 5, 303, 48 Stat. 1066, 1068, 1082, as amended (47 U.S.C. 154, 155, 303).

2. Section 68.318 is amended to revise paragraph (b) to read as follows:

§ 68.318 Additional Limitations.

* * * * *

(b) Registered terminal equipment connecting to 1.544 Mbps digital service.

(1) Until December 18, 1989, terminal equipment connecting to 1.544 Mbps service shall contain circuitry that assures continuity of output signal. This equipment shall assure that either the outgoing signal meets the minimum pulse density requirement below or one of the specified keep alive signals is transmitted. Power to operate this equipment may come from the line or premises power. Line powered functioning shall be achieved as follows: A direct current connection shall be provided between the simplexes of the transmit and receive pairs. The line power to operate the equipment which assures continuity of the output signal shall be derived from the direct current connection between the simplexes of the transmit and receive pairs. For circuits placed in service prior to February 18,

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1988, the telephone company will drive 60 mA through this connection from a constant current source. With 60 mA between the transmit and receive pairs, the voltage drop between the transmit pairs shall not exceed 67 volts. The minimum acceptable average pulse density is 0.125. The maximum acceptable length of a continuous sequence of "zeros" is 80 pulse positions. The keep alive signal inserted when the pulse density drops to low shall be one of the following:

(i) *Type 1 Keep Alive Signal.* This signal is a consecutive sequence of all "ones".

(ii) *Type 2 Keep Alive Signal.* This signal is a sequence of 193-bit frames consisting of a framing bit plus 192-bit sequence of consecutive "ones". The framing bit executes the following repetitive pattern every 12 frames:

100011011100

(ii) *Type 3 Keep Alive Signal.* This signal sequence is the regenerated received signal connected to the transmit port through a loopback circuit.

(2) For circuits placed in service on or after February 18, 1988, and for all circuits as of December 18, 1989 whenever such circuits were placed in service, the telephone company is not required to provide line power to operate continuity of output functions in terminal equipment connecting to 1.544 Mbps service. As of December 18, 1989 such terminal equipment is not required to contain continuity of output capability, provided, however, that telephone companies by tariff may require that such equipment contain the continuity of output capability described in this paragraph up to December 18, 1992. Applications for registration of terminal equipment for connection to 1.544 Mbps service which does not contain continuity of output capability shall be accepted as of December 18, 1988, but eligibility for connection to 1.544 Mbps service shall be governed by this paragraph.

[FR Doc. 87-25809 Filed 11-6-87; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-11; FCC 87-337]

Call Sign Assignments for Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The action taken herein addresses several rules regarding call sign assignments for broadcast stations. First, the Commission is modifying its rules to permit non-commonly owned broadcast stations in different services to be assigned the same basic call sign provided that the call sign applicant obtains consent from the station or stations already assigned the desired call sign. This change will provide additional flexibility in assignment of conforming call signs while maintaining adequate safeguards to avoid certain types of problems within the broadcast industry. Second, the Commission is modifying its first-come-first-served policy for call sign assignments to provide an exception to permit call sign exchanges between licensees or transfers of a station to another frequency within a given market. This will allow licensees in these situations to avoid risking the loss of a long established call sign. Finally, the Commission is retaining the geographical restriction on the assignment of call letters beginning with the letters K and W.

EFFECTIVE DATE: December 14, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Scott Roberts, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in MM Docket No. 87-11, adopted October 20, 1987, and released October 30, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3000, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of the Report and Order

1. On February 4, 1987, the Commission adopted a *Notice of Proposed Rule making* (*Notice*), 52 FR 7627, to consider changes to its broadcast call sign rules. In the *Notice*, the Commission proposed: (1) To eliminate the restrictions on the use of conforming call signs by stations that are not commonly owned, but require a station wishing to use a call sign already assigned to another station within the same market to obtain consent from that other station; (2) to modify the first-come-first-served rule to allow stations tranferring to another frequency in the same market to retain their call signs; and (3) to eliminate the K, W first letter geographic restriction altogether. These proposals are discussed in order.

2. The first issue concerns the assignment of conforming basic call signs. The current rules provide that identical basic call signs can be assigned only to commonly-controlled stations in different broadcast services. This rule was intended to prevent public confusion and to prohibit one broadcaster from trading on the goodwill of another. In considering this rule, the Commission recognizes that there may still be potential problems of misidentification associated with the use of common call signs by non-common owners that could pose difficulties within the broadcast industry. However, the Commission also finds that an absolute ban on such usage is not necessary. Based on the experiences of past actions in this area, it is plain that there are situations where use of conforming call signs by non-common owners would not have disruptive effects on broadcast markets. The Commission concludes that the potential problems with the use of the same call signs can be avoided by requiring a call sign applicant to obtain the permission of any other station(s) that may already be using the desired call sign. In this regard, economic incentives appear adequate to direct individual stations to avoid any undesirable uses of conforming call signs. Accordingly, the Commission modifies its rules herein to permit assignment of the same basic call sign to stations in different services that are not commonly owned, subject to the requirement that an applicant for a conforming call sign obtain, and submit with its application, written permission from any other station(s) that may already be assigned the desired call sign. In view of the fact that broadcast stations sell time and participate in program supply and other markets on a national basis, call sign applicants will be required to obtain permission from any other station in the country using the desired call sign.

3. The second issue concerns the first-come-first-served policy for call sign assignments. Under the current procedures, a licensee seeking a new call sign requests the call sign change and at the same time must relinquish its existing call sign. The relinquished call sign is not available until the effective date of the call sign change, at which time it can be assigned to the first applicant requesting it. The rules do not provide an exception for call sign exchanges or transfers to other frequencies by stations within a given market to avoid risking the loss of a long-established call sign. The Commission notes that staff has permitted exceptions to the first-come-first-served policy in the case of call sign swaps between commonly-owned stations in the same city and where a broadcaster transferred operations, staff and format to a new frequency in the same market. On this basis, the Commission modifies its rules to authorize these exceptions on a routine basis, thus eliminating the need to justify such transfers on an ad hoc basis.

4. The third and final issue concerns the geographical restriction on the assignment of call letters beginning with the letters K and W. Currently, the rules require that call signs east of the Mississippi River begin with the letter W, and those west of the Mississippi River begin with the letter K. Upon examination of the record, the Commission believes that there is benefit in maintaining the traditional radio conventions embodied in the K and W assignments. The Commission also notes that there is no shortage of call signs that would warrant an elimination of the east, west restriction on the assignment of K and W. In view of these considerations, the Commission retains the geographic restriction on the assignment of K and W as the first letter of call signs.

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the rules adopted herein will not have a significant impact on licensees because the new rules are not burdensome. On the other hand, they should provide increased options for all licensees seeking new or modified call signs.

6. The rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burdens on the public. Implementation of these new/modified requirements and burdens will be subject to approval by the Office of Management and Budget as prescribed by the Act.

7. Accordingly, it is ordered that under the authority contained in section 4(i) and 303 of the Communications Act of 1934, as amended, Part 73 of the Commission's Rules and Regulations are amended as set forth below. These rules and regulations are effective December 14, 1987.

8. It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcast services.

Rule Changes

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. Section 73.3550 is amended by revising paragraph (d), amending paragraph (h) by adding a note, revising paragraph (i), and adding a new paragraph (n) to read as follows:

§ 73.3550 Requests for new or modified call sign assignments.

* * * * *

(d) Where an application is granted by the FCC for transfer or assignment of the construction permit or license of a station whose existing call sign conforms to that of a commonly owned station not part of the transaction, the licensee shall, within 30 days after consummation, request a different call sign or submit a statement of written consent to retain the conforming call sign from the existing owner and the licensee of any other station that may be using the station's call sign. In such cases, should a suitable application or proper consent statement not be submitted within that period of time, the FCC will, on its own motion, select an appropriate call sign and effect the change in call sign assignment.

* * * * *

(h) * * *

Note.—The provisions of paragraph (h) of this section shall not apply to a licensee requesting a transfer to another frequency where the existing and new facilities serve substantially the same area (i.e. where at least one of the stations serves both communities of license).

(i) Stations in different broadcast services which are under common control may request that their call signs be conformed by the assignment of the same basic call sign if that call sign is not being used by a non-commonly owned station. For the purposes of this paragraph, 50% or greater common ownership shall constitute a prima facie showing of common control.

* * * * *

(n) Where a requested call sign, without the "–FM" or "–TV" suffix, would conform to the call sign of any other non-commonly owned station(s) operating in a different service, the applicant must obtain and submit with the application for the call sign the written consent of the licensee(s) of such station(s).

Federal Communications Commission.

William J. Tricarico,

Secretary.

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Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 8; (Doc. No. 4625S)]

General Crop Insurance Regulations; Canning and Processing Bean Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new subpart, 7 CFR 401.118 to be known as the Canning and Processing Bean Endorsement. The intended effect of this rule is to add crop insurance protection on canning and fresh beans grown under contract as an endorsement to the General Crop Insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than December 9, 1987, to be sure of consideration.

ADDRESS: Written comments, data, and opinions on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as July 1, 1992.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.118, the Canning and Processing Bean Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring fresh beans grown under contract with a processor for canning and processing.

In adding the new Canning and Processing Bean Endorsement to 7 CFR Part 401 as outlined below, FCIC herewith highlights some of the important provisions in the policy for insuring beans as follows:

1. *Section 1*—Allow fresh lima beans to be insurable as canning and processing beans. Require a processor contract to be in effect before beans are insurable under this endorsement. Provide that the actuarial table contain provisions for insurance coverage on beans planted in consecutive years in those counties where yearly crop rotation because of soil organisms and root diseases is not a requirement.

2. *Section 2*—Specify that beans not timely harvested will be insured only if the harvesting equipment cannot get on the unit due to adverse weather.

3. *Section 7*—Allow the actuarial table to designate production to count. This is applicable in areas where seive sizes are used to determine production.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the Federal Register. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Canning and processing bean endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, in the following instances:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 508, 516, Pub. L. 74-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1508, 1516).

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.118, Canning and Processing Bean Endorsement, proposed to be effective for the 1988 and succeeding crop years, to read as follows:

§ 401.118 Canning and Processing Bean Endorsement

The provisions of the Canning and Processing Bean Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation Canning and Processing Bean Endorsement

1. Insured crop and acreage.

a. The crop insured will be beans (including fresh lima beans) which are planted for harvest as canning or processing beans.

b. In addition to the beans not insurable in section 2 of the general crop insurance policy, we do not insure any beans;

(1) Not grown under a contract with a canner, processor or broker or excluded from the canner, processor or broker contract for, or during, the crop year (The contract must be executed and effective before you report your acreage);

(2) Planted for the fresh market; or

(3) Planted to snap beans, lima beans, green peas, mint, rye, soybeans, or sunflowers the previous crop year unless otherwise provided for by the actuarial table.

c. An instrument in the form of a "lease" under which you retain control of the acreage on which the insured beans are grown and which provides for delivery under certain conditions and at a stipulated price will, for the purpose of this endorsement, be treated as a contract under which you have a share in the beans.

2. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

b. In addition to the causes not insured against in section 1 of the general crop insurance policy, we will not insure against any loss of production due to the crop not being timely harvested unless such delay in harvesting is solely and directly due to adverse weather conditions which preclude harvesting equipment from entering into and moving about the unit.

3. Annual Premium.

The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

4. Insurance Period.

In addition to the provisions in section 7 of the general crop insurance policy, the date by which bean acreage should have been harvested is added as one of the dates, the earliest of which is used to designate the end of the insurance period. The calendar date for the end of the insurance period is the applicable date of the year in which the beans are normally harvested, as follows:

New York—Snap Beans.....September 30.
All other States—Snap Beans....September 20.
All States—Lima Beans.....October 5.

5. Unit Division.

Bean acreage by type (snap or lima) that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay and additional premium if required by the actuarial table and if for each proposed unit you maintain written, verifiable records of planted acreage and harvested production for at least the previous crop year and either

a. Acreage planted to the insured beans is located in separate, legally identifiable sections or, in the absence of section descriptions, the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the sections or ASCS Farm Serial Numbers are clearly identified and the insured acreage can be easily determined; and

(2) The beans are planted in such a manner that the planting pattern does not continue into the adjacent section or ASCS Farm Serial Number; or

b. The acreage planted to the insured beans is located in a single section or ASCS Farm Serial Number and consists of acreage on which both an irrigated and nonirrigated practice are carried out, provided:

(1) Beans planted on irrigated acreage do not continue into nonirrigated acreage in the same rows or planting pattern (Nonirrigated corners of a center pivot irrigation system planted to insurable beans are part of the irrigated unit. Production on the total unit, both irrigated and non-irrigated, will be combined to determine the yield for the purpose of determining the guarantee for the unit); and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good irrigated and nonirrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined.

6. Notice of damage or loss.

In addition to the notices required in section 8 of the general crop insurance policy if you are going to claim an indemnity on any unit which is not to be harvested or on which harvest has been discontinued, you must give us notice not later than 48 hours:

(1) after the time harvest would normally start; or

(2) after discontinuance of harvest.

a. For the purposes of section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for indemnity.

a. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total bean production (tons) to be counted;

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

b. The total production (tons) to be counted for a unit will include all harvested and appraised production.

(1) The tons of harvested production will be either the total net tons delivered to the processor or broker for which payment was received, as shown on the processor or broker settlement sheet, or shall be determined by dividing the dollar amount received from the processor or broker by the contract price for the sieve size or grade factor designated by the actuarial table.

(2) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good bean farming practices;

(b) Not less than the guarantee for any acreage which is abandoned, put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Appraised production on unharvested acreage;

(d) If any acreage is not timely harvested, the production to count will be the greater of:

(i) That designated by the actuarial table;

(ii) The appraised production; or

(iii) The dollar amount received from the processor divided by the processor's base contract price per ton.

(e) Appraised production on insured acreage for which we have given written consent to be put to another use unless such acreage is:

(i) Not put to another use before harvest of beans becomes general in the county and is reappraised by us;

(ii) Further damaged by an insured cause and is reappraised by us; or.

(iii) Harvested.

8. Cancellation and termination dates.

The cancellation and termination date for all states is April 15.

9. Contract changes.

The date by which contract changes will be available in your service office is December 31 preceding the cancellation date.

10. Meaning of terms.

a. "Harvest" means the mechanical picking of bean pods from the vines for the purpose of delivery to the canner or processor.

Done in Washington, DC., on November 4, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-25916 Filed 11-6-87; 8:45 am]

BILLING CODE 3410-08-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Organization; Director Compensation

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

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SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), publishes for comment a proposed amendment to the director compensation regulation at 12 CFR 611.1020.

The FCA published the final regulation on this subject on September 25, 1987, to become effective upon the expiration of 30 days after publication during which either or both Houses of Congress are in session. Notice of the effective date will be published. In the course of reviewing this final regulation, the Board determined that an amendment to it should be proposed for public comment.

DATE: Written comments are due on or before January 8, 1988.

ADDRESS: Submit any comments in writing (in triplicate) to Anne E. Dewey, Acting General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

FOR FURTHER INFORMATION CONTACT: Joanne P. Ongman, Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: On September 25, 1987, the FCA published a final regulation (52 FR 36012) relating to the compensation of members of Farm Credit System (System) district boards, 12 CFR 611.1020. In the course of reviewing this final regulation, the FCA Board perceived a need for an amendment to it. Specifically, the Board proposes to amend 12 CFR 611.1020 to add a new paragraph (d). This new paragraph ensures the rights of shareholders to obtain a copy of the district board policy regarding compensation of district directors required under 12 CFR 611.1020(b) and also to inspect and copy the supporting records required to be maintained under 12 CFR 611.1020(c).

The Board believes that the proposed amendment carries out the objectives of the Farm Credit Act of 1971, 12 U.S.C. 2001 et seq. (1971 Act), as amended. One of the purposes of the 1971 Act was to encourage borrower/shareholder participation in the management of System institutions. The Farm Credit Amendments Act of 1985, Pub. L. 99–205, expressly authorized the FCA to regulate disclosure of financial information to shareholders. Disclosure of a district board's director compensation policy and the supporting records will promote shareholder participation in System institution affairs by providing shareholders with information helpful in evaluating the performance of fiduciary duties by directors. Such disclosure could lead to more efficient operations by making directors more directly accountable to shareholders for their actions

List of Subjects in 12 CFR Part 611

Accounting, Agriculture, Archives and records, Banks, Banking, Credit, Government securities, Investments, Organization and functions (Government agencies), Rural areas.

For the reasons stated in the preamble, Part 611 of Chapter VI, Title 12, of the Code of Federal Regulations is proposed to be amended as follows:

PART 611—ORGANIZATION

1. The authority citation for Part 611 continues to read as follows:

Authority: 12 U.S.C. 2031, 2061, 2162, 2183, 2216–2216k, 2243, 2244, 2250, 2252.

Subpart F—General Rules for the Districts

2. Section 611.1020 is amended by adding a new paragraph (d) to read as follows:

§ 611.1020 Compensation of district board members.

* * * * *

(d) Each district board shall ensure that a shareholder shall have a right to inspect a copy of the policy and the records required to be maintained by this section. Upon written request to the institution, a copy of the policy and records related to director compensation will be furnished to a shareholder. The institution may require payment of the ordinary and reasonable copying costs.

October 7, 1987.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 87–24861 Filed 11–6–87; 8:45 am]

BILLING CODE 6705–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2640 and 2642

Allocating Unfunded Vested Benefits Following the Merger of Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation is proposing rules for determining the unfunded vested benefits allocable to an employer that withdraws from a multiemployer pension plan after the plan has merged with another plan. This action is needed to meet the requirement of the Employee Retirement Income Security Act that the PBGC prescribe rules governing this allocation. The effect of this regulation, when adopted, will be to provide guidance to multiemployer plans on how to allocate unfunded vested benefits following the merger of multiemployer plans.

DATES: Comments must be submitted on or before January 8, 1988.

ADDRESSES: Comments should be submitted to Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006. Written comments will be available for public inspection at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: John Carter Foster, Attorney, Regulations Division, Corporate Policy and Regulations Department, (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202–778–8850 (202–778–8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

An employer that withdraws from a multiemployer pension plan is generally liable for a portion of the plan's unfunded vested benefits. The first step in computing this liability is to determine the employer's allocable share of the plan's unfunded vested benefits in accordance with section 4211 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA" or "the Act"). Section 4211 provides four alternative allocation methods for computing this share: The presumptive method, the modified presumptive method, the rolling-5 method, and the direct attribution method. Because these methods may be difficult to apply to employer withdrawals following a merger of multiemployer plans, paragraph (f) of section 4211 mandates that the Pension Benefit Guaranty Corporation ("the PBGC") prescribe rules for the allocation of unfunded vested benefits to employers that withdraw after a merger of multiemployer plans:

> In the case of a withdrawal following a merger of multiemployer plans, [the allocation rules of section 4211] shall be applied in accordance with regulations prescribed by the corporation; except that, if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, the determination [of the amount of unfunded vested benefits allocable to the employer] shall be made as if each of the multiemployer plans had remained separate plans.

29 U.S.C 1391(f).

This notice of proposed rulemaking prescribes adjustments to the section 4211 allocation rules that the PBGC believes will provide a merged plan with adequate flexibility to adopt an allocation method well-suited to its particular facts and circumstances, while at the same time ensuring that the allocation method used by the merged plan is consistent with the underlying purposes of and the aggregate results achieved by the statutory allocation methods.

The Proposed Regulation—Overview

A merger of multiemployer plans may involve plans using different allocation methods and having significant differences in size of assets, liabilities and levels of funding. Merging plans may also have different plan establishment dates and plan years. Plan sponsors need flexibility to deal with these differences, not only to protect participants and beneficiaries from the effects of employer withdrawals, but also to provide equitable treatment to both the employers in the merging plans and the employers joining the plan after the merger. Some plans may want to insulate employers from the pre-merger liability of the other plan and to provide for the sharing among all employers only of post-merger liabilities. In other situations, plans may want to pool all liabilities and have each employer share in those liabilities.

The proposed regulation generally follows the first approach, while giving plans the option to adopt rules embodying the second approach. That is, the proposed regulation prescribes modifications to the statutory presumptive, modified presumptive and rolling-5 methods (§§ 2642.22, 2642.23 and 2642.24, respectively) under which an employer's liability for a withdrawal from a merged plan is comprised of its allocable share of its prior plan's unfunded vested benefits as of the end of the plan year preceding the merger plus its allocable share of the merged plan's unfunded vested benefits. (Since the statutory direct attribution method essentially achieves this same result, there are no modifications needed (§ 2642.25)). The proposed regulation (§ 2642.26) also permits plans to adopt, with the PBGC's approval, modifications of the allocation methods in §§ 2642.22–2642.24 that have the effect, among other things, of making all employers share both the pre-merger and post-merger liabilities.

Like the statutory allocation rules, the proposed regulation includes a presumptive allocation method (§ 2642.22). The PBGC anticipates that most plans will agree on a post-merger allocation method before effecting a merger, so that rules and data will be in place to enable the merged plan to assess liability expeditiously and to advise employers of the effect that the merger will have on their potential withdrawal liability. However, there may be situations in which plans do not agree on a method, or in which the method adopted is not approved by the PBGC. Absent a presumptive allocation method, in these situations there would be uncertainty and disputes over what method applies to post-merger withdrawals.

Finally, the proposed regulation addresses withdrawals that occur before the end of the first plan year beginning after the merger (§ 2642.27). It interprets the phrase in section 4211(f) "determined as if each plan had remained a separate plan" and prescribes how to compute liability for withdrawals that occur after the merger, but before the end of the first plan year beginning after the merger. Clarification of these issues is needed in order to provide guidance on the computation of liability for withdrawals just after the merger and also to establish the initial starting point for computing liability for later withdrawals.

Definitions

In order to shorten some of the more wordy and cumbersome phrases that would otherwise be repeated throughout this regulation, the PBGC is proposing to add some new terms to the existing definitions applicable to Part 2642 (29 CFR 2640.4). The most significant of these new terms is "initial plan year", which would be used in lieu of the statutory term "first plan year beginning after the merger". "Initial plan year" is defined as the first complete plan year of the merged plan.

Presumptive Method

Under the statutory presumptive method, a withdrawing employer's liability consists of three elements. The first element is the unfunded vested benefits under the plan for the last plan year ending before September 26, 1980 ("the plan's pre-1980 liability"). The second element is the change in unfunded vested benefits for each plan year ending on or after September 26, 1980, in which the employer was obligated to contribute under the plan. The third element is a share of the liabilities that become uncollectible in each of those plan years as a result of the insolvency of previously withdrawn employers or as a result of statutory provisions that relieve withdrawn employers of all or a portion of their withdrawal liability (e.g., the *deminimis* rule of section 4209).

The withdrawing employer's share of each element of liability is based on the proportion of its contributions to the plan to total plan contributions during the five plan years preceding the plan year in which the element arose. In determining the employer's share of the plan's pre-1980 liability, the plan's pre-1980 liability is multiplied by a fraction ("the pre-1980 fraction"), the numerator of which is the employer's total required contributions to the plan for the five plan years ending before September 26, 1980, and the denominator of which is the total contributions received from all employers for the same period (excluding contributions of employers that withdrew before September 26, 1980). The employer's shares of the annual change in unfunded vested benefits and of amounts that become uncollectible during plan years ending after September 26, 1980 are determined by a similar fraction using the contributions over a five-plan-year period ("the annual fraction").

Finally, the statutory presumptive method amortizes unfunded vested benefits over a 20-year period. Specifically, the balance in each element mentioned above is reduced by five percent of the original amount in each year following its initial accrual.

The proposed presumptive rule set forth in § 2642.22 parallels the statutory presumptive method. Under this rule, the amount of unfunded vested benefits allocable to an employer for a post-merger withdrawal is the sum of three elements: (1) The employer's share of liabilities as of the end of the initial plan year; (2) the employer's share of post-initial plan year liabilities; and (3) the employer's share of reallocated amounts (§ 2642.22(a)). Like the statutory presumptive method, each of these elements is amortized at a rate of five percent per year and the post-initial year liabilities are computed annually. Also like the statutory presumptive method, if the sum of these elements is a negative amount, the employer's allocable share is zero.

Under § 2642.22(b), the first element is computed as of the end of the initial plan year. Ignoring the five percent annual amortization, this element is comprised of two amounts: (1) The unfunded vested benefits that would have been allocable to the employer if the employer had withdrawn on the first day of the initial plan year; and (2) the

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employer's share of the initial year unfunded vested benefits minus the sum of the former amounts for employers who had not withdrawn as of the end of the initial year ("the residual unfunded vested benefits"). The merged plan determines the first amount by simply using the prior plan's allocation method (§ 2642.22(b)(1)).

However, the second amount, the residual unfunded vested benefits, is slightly more difficult to determine since there is no contribution history from which to create a fraction for apportioning an employer's share of these liabilities. The PBGC believes that the most equitable way to apportion these liabilities is to use the same ratio as the employer's share of its prior plan's liabilities bears to the total liabilities of the merged plan. Thus, the employer's share of the residual unfunded vested benefits would equal that amount multiplied by a fraction, the numerator of which is the employer's allocable share of the unfunded vested benefits brought to the merged plan by its prior plan, and the denominator of which is the sum of the allocable shares of unfunded vested benefits as of the end of the prior plan year for all employers that had not withdrawn as of the end of the initial plan year (§ 2642.22(b)(2)).

The computation of the second element of liability, the annual changes, also parallels the statutory presumptive method, with two modifications. In general, the effect of § 2642.22(c) is to substitute the phrase, "the initial plan year," for the phrases "September 25, 1980," and "last plan year ending before September 26, 1980," throughout the statutory rules for computing annual change amounts. Specifically, the following substitutions are needed:

(1) In section 4211(b)(2)(A) of the Act, substitute, "the initial plan year", for "September 25, 1980";

(2) In subparagraph (I) of section 4211(b)(2)(B)(ii) of the Act, substitute, "the initial plan year", for, "the last plan year ending before September 26, 1980";

(3) In subparagraph (II) of section 4211(b)(2)(B)(ii) of the Act, substitute "the' initial plan year", for "September 25, 1980"; and

(4) In section 4211(b)(2)(D) of the Act, substitute, "the initial plan year", for "the last plan year ending before September 26, 1980".

As noted above, § 2642.22 (c) does contain two minor changes from the statutory rule. First, unlike under the statutory presumptive method, computation of the annual change amounts must separate out amounts attributable to outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year. This adjustment is not needed under the statutory rule because no outstanding claims for withdrawal liability existed prior to September 26, 1980. Thus, § 2642.22(c)(1) provides that a plan's unfunded vested benefits as of the end of a plan year are reduced by "the value as of the end of such year of all outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year." The inclusion of unfunded vested benefits that have already been allocated to withdrawn employers is thereby avoided.

The second minor change involves the fraction used for apportioning an employer's share of the annual changes. Under the statutory method, this fraction is based on a five-year contribution history of employers. Obviously, however, these data do not exist in the first years immediately following a merger. Therefore, the PBGC proposes in § 2642.22(c)(2) that the allocation of annual change amounts for the first four plan years after a merger be based on the last five complete plan years of the merged and prior plans. (This change also applies to the third element, discussed below, because the same problem of an insufficient number of plan years to construct the statutory fraction arises there, as well.)

The third element of the statutory presumptive method and of the post-merger presumptive method of proposed § 2642.22 is an employer's share of the reallocated amounts. However, the definition of the reallocated amounts under the statutory rule (section 4211(b)(4)(B)) needs to be narrowed for the purposes of the regulation in order to reflect the modification discussed above in the computation of the annual change amounts. Specifically, under § 2642.22(d)(1) the reallocated amounts are limited to those amounts that arise in connection with withdrawals after the initial plan year.

An example illustrates why this limitation is needed. Suppose an employer withdrew before the initial plan year, and the merged plan carries the employer's obligation to pay withdrawal liability as an outstanding claim. In calculating the annual changes in unfunded vested benefits, the plan would reduce the initial and subsequent plan year unfunded vested benefits by the amount of the claim. If the employer then goes into bankruptcy without paying its withdrawal liability, its allocable share of the plan's unfunded vested benefits would re-enter subsequent computations in two places: In the annual change computation, where the claim would no longer be a reduction from the unfunded vested benefits; and in the computation of reallocated amounts, where it would be an uncollectible amount. To avoid this double-counting, the proposed rule limits the reallocation of unfunded vested benefits to those amounts that arise in connection with withdrawals after the end of the initial plan year.

Modified Presumptive Method

The first alternative allocation method prescribed in the proposed regulation (§ 2642.23) is similar to the statutorV modified presumptive method in section 4211(c)(2) of ERISA. Under the statutory modified presumptive method, liability is comprised of two elements. The first element, the pre-1980 liability, is the same as under the statutory presumptive method (although here it is amortized over 15, rather than 20, years) and is allocated to employers using the same pre-1980 fraction as under the presumptive method. The second element is the aggregate change in unfunded vested benefits from the date for determining the pre-1980 liability (the last day of the last plan year ending before September 26, 1980) to the end of the plan year preceding withdrawal, less outstanding claims for withdrawal liability that can reasonably be expected to be collected. The employer's share of this post-1980 liability is determined using a fraction ("the post-1980 fraction"), the numerator of which is the employer's total required contributions for the five plan years preceding the employer's withdrawal, and the denominator of which includes the contributions made by all employers for the same period (excluding the contributions of employers that withdrew during that period).

The principal differences in the regulation from the statutory modified presumptive method are that § 2642.23 uses the initial plan year in lieu of the last plan year ending prior to September 26, 1980 and separately allocates an employer's share of its prior plan's unfunded vested benefits in determining that employer's share of the initial plan year liabilities. Thus, the pre-1980 element of liability under this method is computed in the same way as the first element under the proposed presumptive method, discussed above. The only difference is that the balance is amortized over fifteen years, as in the statutory modified presumptive method (§ 2642.23(b)).

The second element of liability (§ 2642.23(c)), too, is very much like the statutory modified presumptive method, except for the allocation fraction used. As discussed previously, with respect to the regulatory presumptive method, some adjustment must be made to the post-1980 fraction for the plan years immediately following a merger when the merged plan does not have a five-year contribution history. Therefore, § 2642.23(c)(2) of the regulation provides for the same sort of adjustment as under § 2642.22(c)(2), basing the allocation fraction on the contributions for the last five full plan years under the merged plan and, when necessary, the prior plans.

Rolling-5 Method

The second alternative allocation method in the proposed regulation (§ 2642.24) is, in essence, an amalgam of the statutory rolling-5 method in section 4211(c)(3) and the modified presumptive method in § 2642.23. Under the statutory rolling-5 method, a share of the plan's unfunded vested benefits as of the end of the plan year preceding a withdrawal is allocated to the employer using the same post-1980 fraction (*i.e.*, five-year contribution history) as under the statutory modified presumptive method. The plan's pre-1980 liabilities are not separately allocated to pre-1980 employers under this method.

Under proposed § 2642.24, liability would be based on the same two elements used in § 2642.23, pre-merger and post-merger unfunded vested benefits, and an employer's share of these amounts would be determined using the same allocation fractions. However, unlike under the proposed modified presumptive method, the first element of the liability (*i.e.*, liabilities as of the end of the initial plan year), as well as the second element, are amortized over five years, rather than fifteen years (§ 2642.24(b)).

Absent a plan amendment adopting another allocation method, this proposed alternative would serve as the presumptive method for computing withdrawal liability for plans, and their successors, described in section 404(c) of the Internal Revenue Code.

Direct Attribution Method

The remaining statutory alternative allocation method is the direct attribution method in section 4211(c)(4). Since this method bases liability, in part, on the unfunded vested benefits attributable to a withdrawing employer's employees, it will generally preserve pre-merger accrued liabilities without any adjustments. Therefore, the PBGC proposes no specific tailoring of this rule to fit the post-merger period. Under proposed § 2642.25, a plan may simply adopt the statutory direct attribution method.

Modifications to the Allocation Methods

In order to provide merged plans with the maximum flexibility to adopt allocation methods well suited to the facts and circumstances of a particular plan, the PBGC proposes to permit such plans to adopt any of the statutory allocation methods and the modifications thereto set forth in Subpart B of this part. Any such amendment must be made in accordance with the rules in Subpart B. In addition, the PBGC is proposing, in § 2642.26, other standard modifications to the allocation methods prescribed in §§ 2642.22 through 2642.24 that merged plans may also adopt without the PBGC's approval.

Under the first modification in proposed § 2642.26(b), a plan may choose to disregard employers' allocable shares of their prior plan's liabilities. A plan may, instead, restart all computations from the end of the initial plan year. The effect of this modification is that all employers in a merged plan share in both the pre- and post-merger liabilities. This modification can be used under the presumptive, modified presumptive and rolling-5 methods (§§ 2642.22 through 2642.24)).

Under § 2642.26(c) a plan using any of the allocation methods, other than the direct attribution method, may change the amortization schedules used under the method. To avoid restarting a twenty year amortization schedule, a plan using the presumptive method in § 2642.22 can replace, pursuant to paragraph (c)(1), the five percent annual amortization of initial liabilities with one that continues the amortization rate of the prior plans. Paragraph (c)(2) of § 2642.26 permits a plan using either the modified presumptive or rolling-5 method in § 2642.23 or § 2642.24 to adopt a amortization schedule faster than fifteen years (for plans using § 2642.23), or slower than five years (for plans using § 2642.24).

Paragraph (d) of § 2642.26 merely provides a plan sponsor with different methods of computing the allocation fraction for determining an employer's share of the initial liabilities, *i.e.*, the liability under § 2642.22(b), § 2642.23(b) or § 2642.24(b). These variations permit the use of contribution-based fractions, rather than fractions based on the employer's share of liability under the prior plan.

Withdrawals During the Initial Plan Year

Section 4211(f) shows a Congressional concern that a merger of multiemployer plans not drastically change the liability of an employer that withdraws a short time after the merger. Thus, section 4211(f) provides, in pertinent part:

> • • • if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, the determination [of the amount of unfunded vested benefits allocable to the employer] shall be made as if each of the multiemployer plans had remained separate plans.

Therefore, proposed § 2642.27 provides that a merged plan shall allocate unfunded vested benefits to an employer withdrawing during the initial plan year using that employer's prior plan's allocation method.

Section 4211(f) does not, however, address the question of the date as of which the merged plan does this allocation. That is, if the prior plan's plan year did not end on the day preceding the first day of the initial plan year, then as of what date are the plan's unfunded vested benefits allocated to the employer that withdraws during the initial plan year? Requiring that this allocation be done as of the end of the prior plan's last plan year before the withdrawal could have the effect of requiring a merged plan to continue to maintain separate records for each of the prior plans for some period after the merger. While some plans may be willing to do this, the PBGC does not believe it should require all merged plans to incur this expense. Therefore, the PBGC proposes that when a withdrawal occurs after a merger, and before the end of the initial plan year, the plan sponsor shall use the allocation method of the withdrawing employer's prior plan and shall allocate that plan's unfunded vested benefits as if the day before the date of the merger were the end of the last plan year prior to the withdrawal. This rule will normally be less costly to implement, because the plan sponsor should have assembled data on the prior plans liabilities and assets as of that date in preparation for the merger. Moreover, this rule will result in like treatment of all employers that withdraw during the initial plan year, regardless of when they withdraw.

Section 4211(f) is silent as to the method of allocation when a withdrawal occurs after a merger but before "the first plan year beginning after the merger" (*i.e.*, the initial plan year). If, for example, two plans merge in the middle of what will be the merged plan's plan year, rather than at the start of the merged plan's plan year, a gap would exist between the date of merger and the beginning of the initial plan year. The PBGC finds no reason to treat withdrawals during this gap any differently than withdrawals occurring

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during the initial plan year. Accordingly, § 2642.27 applies to withdrawals from the date of the merger until the end of the initial plan year.

The PBGC specifically invites suggestions from interested parties of other possible methods for dealing with withdrawals that occur before the end of the initial plan year.

Finally, a question may arise as to when the initial plan year begins when two plans having the same plan year merge effective on the first day of their plan years (*e.g.*, two calendar year plans merge effective January 1, 1988). Although not specifically mentioned in this proposed regulation, the PBGC believes that the initial plan year in this situation should begin on the date of the merger, the first day of the new plan year. This assumption is probably consistent with the plan sponsors' intentions and avoids having the merged plan subject to the special rule under proposed § 2642.27 for two years after the merger.

E.O. 12291 and the Regulatory Flexibility Act

The PBGC has determined that this proposed regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This conclusion is based on the fact that this regulation merely provides optional rules for allocating liabilities under merged multiemployer plans; plans are not prevented from adopting an allocation method that was permitted in the absence of this regulation. This regulation neither creates nor imposes new liabilities.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that this proposed regulation will not have a significant economic impact on a substantial number of small entities. There will be no significant economic impact because small plans (traditionally viewed as plans with fewer that 100 participants) represent only 14% of all multiemployer plans covered by the PBGC (346 out of 2485) and less than .04% of all small plans (346 out of 84,288). Further, the number of plans actually involved in mergers is quite low (15 in FY 1986). For the above reasons, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

Comments

Interested parties are invited to submit comments on this proposed regulation. Comments should be addressed to: Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006. Written comments will be available for public inspection at the Corporate Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m. Each comment should include the name and address of the person submitting the comment, identify this proposed regulation, and give reasons for any recommendation. This proposal may be changed in light of the comments received.

List of Subjects in 29 CFR Parts 2640 and 2642

Employee benefit plans, Pensions, and Pension insurance.

In consideration of the foregoing, it is the hereby proposed to amend Subchapter F of Chapter XXVI of Title 29, Code of Federal Regulations, as follows:

PART 2640—[AMENDED]

1. The authority citation for Part 2640 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

2. Section 2640.4 is revised to read as follows:

§ 2640.4 Allocating unfunded vested benefits.

For purposes of Part 2642—

"Initial plan year" means a merged plan's first complete plan year that begins after the establishment of the merged plan.

"Initial plan year unfunded vested benefits" means the unfunded vested benefits as of the close of the initial plan year, less the value as of the end of the initial plan year of all outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year.

"Merged plan" means a plan that is the result of the merger of two or more multiemployer plans.

"Merger" means the combining of two or more multiemployer plans into one multiemployer plan.

"Post-1980 fraction" means the fraction described in section 4211 (c)(2)(C)(ii) or (c)(3)(B) of the Act.

"Pre-1980 fraction" means the fraction described in section 4211 (b)(3)(B) or (c)(2)(B)(ii) of the Act.

"Prior plan" means the plan in which an employer participated immediately before that plan became a part of the merged plan.

"Unfunded vested benefits" means an amount by which the value of nonforfeitable benefits under the plan exceeds the value of the assets of the plan.

"Withdrawing employer" means the employer for whom withdrawal liability is being calculated under section 4201 of the Act.

"Withdrawn employer" means an employer who, prior to the withdrawing employer, has discontinued contributions to the plan or covered operations under the plan and whose obligation to contribute has not been assumed by a successor employer within the meaning of section 4204 of the Act. A temporary suspension of contributions, including a suspension described in section 4218(2) of the Act, is not considered a discontinuance of contributions.

PART 2642—[AMENDED]

3. The authority citation for Part 2642 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3), and 1391(c)(1), (c)(2)(D), (c)(5)(A), (c)(5)(B), (c)(5)(D), and (f) (1982 & Supp. III 1985).

4. Section 2642.1 is amended by revising paragraph (a) to read as follows:

§ 2642.1 Purpose and scope.

(a) *Purpose.* Section 4211 of the Act provides four methods for allocating unfunded vested benefits to employers that withdraw from a multiemployer plan: The presumptive method (section 4211(b)); the modified presumptive method (section 4211(c)(2)); the rolling-5 method (section 4211(c)(3)); and the direct attribution method (section 4211(c)(4)). With the minor exceptions covered in § 2642.2, a plan determines the amount of unfunded vested benefits allocable to a withdrawing employer in accordance with the presumptive method, unless the plan is amended to adopt an alternative allocation method. Generally, the PBGC must approve the adoption of an alternative allocation method. On September 25, 1984, 49 FR 37666, the PBGC granted a class approval of all plan amendments adopting one of the statutory alternative allocation methods. Subpart C of this regulation sets forth the criteria and procedures for PBGC approval of non-statutory alternative allocation methods. Section 4211(c)(5) of the Act also permits certain modifications to the statutory allocation methods. The PBGC is to prescribe these modifications in a regulation, and plans may adopt them without PBGC approval. Subpart B of this regulation contains the permissible modifications to the statutory methods. Plans may adopt other modifications subject to PBGC approval under Subpart C. Finally, under section 4211(f) of the Act, the PBGC is required to prescribe rules governing the application of the statutory allocation methods or modified methods by plans following the merger of multiemployer plans. Subpart D sets forth alternative allocation methods to be used by merged plans. In addition, such plans may adopt any of the allocation methods or modifications described under Subparts B and C in accordance with the rules under Subparts B and C.

* * * * *

5. Part 2642 is amended by adding a new Subpart D to read as follows:

Subpart D—Allocation Methods for Merged Multiemployer Plans

Sec.

2642.21 Allocation of unfunded vested benefits following the merger of plans.
2642.22 Presumptive method for withdrawals after the initial plan year.
2642.23 Modified presumptive method for withdrawals after the initial plan year.
2642.24 Rolling-5 method for withdrawals after the initial plan year.
2642.25 Direct attribution method for withdrawals after the initial plan year.
2642.26 Modifications to the determination of initial liabilities, the amortization of initial liabilities, and the allocation fraction.
2642.27 Allocating unfunded vested benefits for withdrawals before the end of the initial plan year.

Subpart D—Allocation Methods for Merged Multiemployer Plans

§ 2642.21 Allocation of unfunded vested benefits following the merger of plans.

(a) *General rule.* Except as provided in paragraphs (b) through (d) of this section, when two or more multiemployer plans merge, the merged plan shall adopt one of the statutory allocation methods, in accordance with Subpart B of this part, or one of the allocation methods prescribed in §§ 2642.22 through 2642.25, and the method adopted shall apply to all employer withdrawals occurring after the initial plan year. Alternatively, a merged plan may adopt its own allocation method in accordance with Subpart C of this part. If a merged plan fails to adopt an allocation method pursuant to this subpart or Subpart B or C, it shall use the presumptive allocation method prescribed in § 2642.22. In addition, a merged plan may adopt any of the modifications prescribed in § 2642.26 or in Subpart B of this part.

(b) *Construction plans.* Except as provided in the next sentence, a merged plan that primarily covers employees in the building and construction industry shall use the presumptive allocation method prescribed in § 2642.22. However, the plan may, with respect to employers that are not construction industry employers within the meaning of section 4203(b)(1)(A) of the Act, adopt, by amendment, one of the alternative methods prescribed in §§ 2642.23 through 2642.25 or any other allocation method. Any such amendment shall be adopted in accordance with Subpart C of this part. A construction plan may, without the PBGC's approval, adopt by amendment any of the modifications set forth in § 2642.26 or any of the modifications to the statutory presumptive method set forth in § 2642.6.

(c) *Section 404(c) plans.* A merged plan that is a continuation of a plan described in section 404(c) of the Internal Revenue Code (a plan established before January 1, 1954, as a result of agreement between employee representatives and the United States during a period of government operation, under seizure powers, of a major part of the productive facilities of an industry) shall use the rolling-5 allocation method prescribed in § 2642.24, unless the plan, by amendment, adopts an alternative method. The plan may adopt one of the statutory allocation methods or one of the allocation methods set forth in §§ 2642.22 through 2642.25 without PBGC approval; adoption of any other allocation method is subject to PBGC approval under Subpart C of this part. The plan may, without the PBGC's approval, adopt by amendment any of the modifications set forth in § 2642.26 or in Subpart B of this part.

(d) *Withdrawals before the end of the initial plan year.* For employer withdrawals after the effective date of a merger and prior to the end of the initial plan year, the amount of unfunded vested benefits allocable to a withdrawing employer shall be determined in accordance with § 2642.27.

§ 2642.22 Presumptive method for withdrawals after the initial plan year.

(a) *General rule.* Under this section, the amount of unfunded vested benefits allocable to an employer that withdraws from a merged plan after the initial plan year is the sum (but not less than zero) of—

(1) The employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits, as determined under paragraph (b) of this section;

(2) The employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after the initial plan year, as determined under paragraph (c) of this section; and

(3) The employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits (if any) as determined under paragraph (d) of this section.

(b) *Share of initial plan year unfunded vested benefits.* An employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits is the sum of the employer's share of its prior plan's liabilities (determined under paragraph (b)(1) of this section) and the employer's share of the adjusted initial plan year unfunded vested benefits (determined under paragraph (b)(2) of this section), with such sum reduced by five percent of the original amount for each plan year subsequent to the initial plan year.

(1) *Share of prior plan liabilities.* An employer's share of its prior plan's liabilities is the amount of unfunded vested benefits that would have been allocable to the employer if it had withdrawn on the first day of the initial plan year, determined as if each plan had remained separate plans.

(2) *Share of adjusted initial plan year unfunded vested benefits.* An employer's share of the adjusted initial plan year unfunded vested benefits equals the plan's initial plan year unfunded vested benefits, less the amount that would be determined under paragraph (b)(1) of this section for each employer that had not withdrawn as of the end of the initial plan year, multiplied by a fraction—

(i) The numerator of which is the amount determined under paragraph (b)(1) of this section; and

(ii) The denominator of which is the sum of the amounts that would be determined under paragraph (b)(1) of this section for each employer that had not withdrawn as of the end of the initial plan year.

(c) *Share of annual changes.* An employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for the plan years ending after the end of the initial plan year is the sum of the employer's proportional shares (determined under paragraph (c)(2) of this section) of the unamortized amount of the change in unfunded vested benefits (determined under paragraph

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(c)(1) of this section) for each plan year in which the employer has an obligation to contribute under the plan ending after the initial plan year and before the plan year in which the employer withdraws.

(1) *Change in plan's unfunded vested benefits.* The change in a plan's unfunded vested benefits for a plan year is the amount by which the unfunded vested benefits at the end of a plan year, less the value as of the end of such year of all outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year, exceed the sum of the unamortized amount of the initial plan year unfunded vested benefits (determined under paragraph (c)(1)(i) of this section) and the unamortized amounts of the change in unfunded vested benefits for each plan year ending after the initial plan year and preceding the plan year for which the change is determined (determined under paragraph (c)(1)(ii) of this section).

(i) *Unamortized amount of initial plan year unfunded vested benefits.* The unamortized amount of the initial plan year unfunded vested benefits is the amount of those benefits reduced by five percent of the original amount for each succeeding plan year.

(ii) *Unamortized amount of the change.* The unamortized amount of the change in a plan's unfunded vested benefits with respect to a plan year is the change in unfunded vested benefits for the plan year, reduced by five percent of such change for each succeeding plan year.

(2) *Employer's proportional share.* An employer's proportional share of the amount determined under paragraph (c)(1) of this section is computed by multiplying that amount by a fraction—

(i) The numerator of which is the total amount required to be contributed under the plan (or under the employer's prior plan) by the employer for the plan year in which the change arose and the four preceding full plan years; and

(ii) The denominator of which is the total amount contributed under the plan (or under each employer's prior plan) for the plan year in which the change arose and the four preceding full plan years by all employers that had an obligation to contribute under the plan for the plan year in which such change arose, reduced by any amount contributed by an employer that withdrew from the plan in the year in which the change arose.

(d) *Share of reallocated amounts.* An employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits, if any, is the sum of the employer's proportional shares (determined under paragraph (d)(2) of this section) of the unamortized amount of the reallocated unfunded vested benefits (determined under paragraph (d)(1) of this section) for each plan year ending before the plan year in which the employer withdrew from the plan.

(1) *Unamortized amount of reallocated unfunded vested benefits.* The unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the sum of the amounts described in paragraphs (d)(1)(i), (d)(1)(ii), and (d)(1)(iii) of this section for the plan year, reduced by five percent of such sum for each succeeding plan year.

(i) *Uncollectible amounts.* Amounts included as reallocable under this paragraph are those that the plan sponsor determines in that plan year to be uncollectible for reasons arising out of cases or proceedings under Title 11, United States Code or similar proceedings, with respect to an employer that withdrew after the close of the initial plan year.

(ii) *Relief amounts.* Amounts included as reallocable under this paragraph are those that the plan sponsor determines in that plan year will not be assessed as a result of the operation of sections 4209, 4219(c)(1)(B), or 4225 of the Act with respect to an employer against which withdrawal liability has been assessed after the initial plan year.

(iii) *Other amounts.* Amounts included as reallocable under this paragraph are those that the plan sponsor determines in that plan year to be uncollectible or unassessable for other reasons under standards not inconsistent with regulations prescribed by the PBGC.

(2) *Employer's proportional share.* An employer's proportional share of the amount of the reallocated unfunded vested benefits with respect to a plan year is computed by multiplying the unamortized amount of the reallocated unfunded vested benefits (as of the end of the year preceding the plan year in which the employer withdraws) by the allocation fraction described in paragraph (c)(2) of this section for the same plan year.

§ 2642.23 Modified presumptive method for withdrawals after the initial plan year.

(a) *General rule.* Under this section, the amount of unfunded voted benefits allocable to an employer that withdraws from a merged plan after the initial plan year is the sum of the employer's proportional share, if any, of the unmortized amount of the plan's initial plan year unfunded vested benefits (determined under paragraph (b) of this section) and the employer's proportional share of the unamortized amount of the unfunded vested benefits arising after the initial plan year (determined under paragraph (c) of this section).

(b) *Share of initial plan year unfunded vested benefits.* An employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits is the sum of the employer's share of its prior plan's liabilities, as determined under § 2642.22(b)(1), and the employer's share of the adjusted initial plan year unfunded vested benefits, as determined under § 2642.22(b)(2), with such sum reduced as if it were being fully amortized in level annual installments over fifteen years beginning with the first plan year after the initial plan year.

(c) *Share of unfunded vested benefits arising after the initial plan year.* An employer's proportional share of the amount of the plan's unfunded vested benefits arising after the initial plan year is the employer's proportional share (determined under paragraph (c)(2) of this section) of the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, reduced by the amount of the plan's unfunded vested benefits as of the close of the initial plan year, (determined under paragraph (c)(1) of this section).

(1) *Amount of unfunded vested benefits.* The plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws shall be reduced by the sum of—

(i) The value as of that date of all outstanding claims for withdrawal liability that can reasonably be expected to be collected, with respect to employers that withdrew before that plan year; and

(ii) The sum of the amounts that would be allocable under paragraph (b) of this section to all employers that have an obligation to contribute in the plan year preceding the plan year in which the employer withdraws and that also had an obligation to contribute in the first plan year ending after the initial plan year.

(2) *Employer's proportional share.* An employer's proportional share of the amount determined under paragraph (c)(1) of this section is computed by multiplying that amount by a fraction—

(i) The numerator of which is the total amount required to be contributed under the plan (or under the employer's prior plan) by the employer for the last five full plan years ending before the date on which the employer withdraws; and

(ii) The denominator of which is the total amount contributed under the plan (or under each employer's prior plan) by all employers for the last five full plan years ending before the date on which the employer withdraws, increased by the amount of any employer contributions owed with respect to earlier periods that were collected in those plan years, and decreased by any amount contributed by an employer that withdrew from the plan (or prior plan) during those plan years.

§ 2642.24 Rolling-5 method for withdrawals after the initial plan year.

(a) *General rule.* Under this section, the amount of unfunded vested benefits allocable to an employer that withdraws from a merged plan after the initial plan year is the sum of the employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits (determined under paragraph (b) of this section) and the employer's proportional share of the unamortized amount of the unfunded vested benefits arising after the initial plan year (determined under paragraph (c) of this section).

(b) *Share of initial plan year unfunded vested benefits.* An employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits is the sum of the employer's share of its prior plan's liabilities, as determined under § 2642.22(b)(1), and the employer's share of the adjusted initial plan year unfunded vested benefits, as determined under § 2642.22(b)(2), with such sum reduced as if it were being fully amortized in level annual installments over five years beginning with the first plan year after the initial plan year.

(c) *Share of unfunded vested benefits arising after the initial plan year.* An employer's proportional share of the amount of the plan's unfunded vested benefits arising after the initial plan year is the employer's proportional share determined under § 2642.23(c).

§ 2642.25 Direct attribution method for withdrawals after the initial plan year.

The allocation method under this section is the allocation method described in section 4211(c)(4) of the Act.

§ 2642.26 Modifications to the determination of initial liabilities, the amortization of initial liabilities, and the allocation fraction.

(a) *General rule.* A plan using any of the allocation methods described in §§ 2642.22 through 2542.24 may, by plan amendment and without PBGC approval, adopt any of the modifications described in this section.

(b) *Restarting initial liabilities.* A plan may be amended to allocate the initial plan year unfunded vested benefits under § 2642.22(b), § 2642.23(b), or § 2642.24(b) without separately allocating to employers the liabilities attributable to their participation under their prior plans. An amendment under this paragraph must include an allocation fraction under paragraph (d) of this section for determining the employer's proportional share of the total unfunded benefits as of the close of the initial plan year.

(c) *Amortizing initial liabilities.* A plan may by amendment modify the amortization of initial liabilities in either of the following ways:

(1) If two or more plans that use the presumptive allocation method of section 4211(b) of the Act merge, the merged plan may adjust the amortization of initial liabilities under § 2642.22(b) to amortize those unfunded vested benefits over the remaining length of the prior plans' amortization schedules.

(2) A plan that has adopted the allocation method under § 2642.23 or § 2642.24 may adjust the amortization of initial liabilities under § 2642.23(b) or § 2642.24(b) to amortize those unfunded vested benefits in level annual installments over any period of at least five and not more than fifteen years.

(d) *Changing the allocation fraction.* A plan may by amendment replace the allocation fraction under § 2642.22(b), § 2642.23(b), or § 2642.24(b) with any of the following contribution-based fractions—

(1) A fraction, the numerator of which is the total amount required to be contributed under the merged and prior plans by the withdrawing employer in the 60-month period ending on the last day of the initial plan year, and the denominator of which is the sum for that period of the contributions made by all employers that had not withdrawn as of the end of the initial plan year;

(2) A fraction, the numerator of which is the total amount required to be contributed by the withdrawing employer for the initial plan year and the four preceding full plan years of its prior plan, and the denominator of which is the sum of all contributions made over that period by employers that had not withdrawn as of the end of the initial plan year; or

(3) A fraction, the numerator of which is the total amount required to be contributed to the plan by the withdrawing employer since the effective date of the merger, and the denominator of which is the sum of all contributions made over that period by employers that had not withdrawn as of the end of the initial plan year.

§ 2642.27 Allocating unfunded vested benefits for withdrawals before the end of the initial plan year.

If an employer withdraws after the effective date of a merger and before the end of the initial plan year, the amount of unfunded vested benefits allocable to the employer shall be determined as if each of the plans had remained separate plans. In making this determination, the plan sponsor shall use the allocation method of the withdrawing employer's prior plan and shall compute the employer's allocable share of that plans's unfunded vested benefits as if the day before the effective date of the merger were the end of the last plan year prior to the withdrawal

Issued at Washington, DC, on this 30th day of October 1987

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87-25686 Filed 11-6-87; 8:45 am]

BILLING CODE 7708-01-M

POSTAL SERVICE

39 CFR Part 111

Carrier Route Presort Information Mandatory Updates

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This rule proposes to change the frequency of required updating of address information for mailing at carrier route presort rates from two times a year to four times a year. The purpose of this change is to lessen the use of incorrect addresses which cause costly extra handlings of the mail.

DATES: Comments must be received on or before December 9, 1987.

ADDRESS: Written comments should be directed to Paul Bakshi, Office of Address Information Systems, Delivery Services Department, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, DC 20260-7230.

Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m. Monday through Friday, in the Office of Address Information Systems, Delivery Services Department, Room 7417, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, DC 20260-7230.

FOR FURTHER INFORMATION CONTACT: Paul Bakshi, (202) 268-3520.

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SUPPLEMENTARY INFORMATION: From the inception of the carrier route presort program in 1979, mailers choosing to mail at reduced carrier route rates have been required to obtain and use semiannual updates of the carrier route addressing information contained in the Postal Service's Carrier Route Information System (CRIS). These updates are produced on February 15 and July 15 each year. Mailers are given two and one-half months to update their lists. Use of this CRIS updated information is mandatory on May 1, and October 1 respectively.

PRESENT SEMIANNUAL UPDATE SCHEDULES

Issuance date	Mandatory use date	Period covered
February 15	May 1	February 15 to September 30 (7½ months.)
July 15	October 1	July 15 to April 30 (10½ months.)

In addition to the semiannual updates, monthly change information is also available to mailers. The use of monthly change information is not mandatory and only a limited number of customers currently have chosen to receive monthly change information.

Of the approximately 3.2 million records in the CRIS file, over a million were updated in 1986. This translates to about 100,000 changes per month to the CRIS file. Due to this dynamic nature of the information in the CRIS file, the Postal Service has concluded that the period covered by each mandatory update is too long. Because the February 15 CRIS issuance covers 7½ months and July 15 covers 10½ months, mailers are using outdated information for long periods. This use is a major contributor to the incorrectly prepared carrier route present volume. Incorrectly prepared mail pieces require rehandling which is costly to the Postal Service and liable to be reflected in future carrier route presort rates. Increasing the frequency of CRIS mandatory updates and their use by the mailers is expected to sharply decrease the CRIS rehandling volume.

The Postal Service and the mailing industry have been working together to determine the optimum number of mandatory CRIS updates. After polling its members, the Mailer's Technical Advisory Committee (MTAC) has recommended that the Postal Service increase the mandatory updates frequency to four times per year. The Postal Service has decided to endorse this recommendation.

Because each increase in the frequency of updates is expected to increase mailers' processing costs, the Postal Service believes that updates more frequently than quarterly are not appropriate at this time.

Based on the use of more frequently updated CRIS scheme information, mailers are expected to realize the following benefits:

—Qualify more mail volume for presort discounts based on the use of new street information
—Enhance timeliness of delivery based on the use of up-to-date carrier route numbers and 5-digit ZIP codes for addresses which have changed
—More stable rates because of less rehandling volume

The following chart lists the proposed CRIS update issuance dates, mandatory use dates and the period covered by each update.

PROPOSED QUARTERLY UPDATE SCHEDULE

Issuance date	Mandatory use date	Period covered
January 15	April 1	January 15 to June 30 (5½ months.)
April 15	July 1	April 15 to September 30 (5½ months.)
July 15	October 1	July 15 to December 31 (5½ months.)
October 15	January 1	October 15 to March 31 (5½ months.)

The implementation of the revised schedule will not begin before January 1988.

Accordingly, this proposal amends Domestic Mail Manual, section 323.2 (First-Class Mail), 468.2b(1) (Second-Class Mail), 622.11e(1) (Third-Class Mail) and 763.21 (Bound Printed Matter) to specify the new mandatory update schedule. Sections 622.11e(2) and 763.22 are also amended to make conforming changes.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed amendments to the Domestic Mail Manual, which is incorporated by reference in the code of Federal Regulations. See 39 CFR 111.1.

List of subjects in 39 CFR Part 111 Postal Service.

PART 111—[AMENDED]

1. The authority citation in 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a): 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

PART 323—PRESORTED FIRST-CLASS MAIL

2. In 323.2 revise the sixth sentence to read as follows: "Mailers must incorporate CRIS changes in their mailings within 75 days of the effective date (January 15, April 15, July 15 and October 15) of the quarterly updates."

PART 468—SPECIAL PREPARATION REQUIREMENTS OR OPTIONS FOR PRESORT-LEVEL DISCOUNT-RATED PIECES (LEVELS B, C, H, I AND K)

3. In 468.2 revise the first two sentences of b.(1) to read as follows: "Mailers are responsible for makeup of mail to carrier routes according to the latest quarterly Postal Service scheme. Mailers must incorporate Carrier Route Information System (CRIS) changes in their mailings within 75 days of the effective date (January 15, April 15, July 15 and October 15) of the quarterly updates."

PART 622—THIRD-CLASS BULK MAIL

4. In 622.11e(1), revise the first two sentences to read as follows: "Mailers are responsible for the proper makeup of mail to carrier routes according to the latest quarterly Postal Service scheme. Mailers must incorporate Carrier Route Information System (CRIS) changes in their mailings within 75 days of the effective date (January 15, April 15, July 15 and October 15) of the quarterly updates."

5. In 622.11e(2)(b), in the heading change the word "Semiannual" to "Quarterly"; in the last sentence change the word "semiannual: To "quarterly"; and revise the second sentence to read as follows: "Hard-copy form is not available from the Postal Service on a regional, state or national basis."

6. In 622.11e(2)(c), in the heading change the word "Semiannual" to "Quarterly"; and in the last sentence change the word "semiannual" to "quarterly".

7. Revise 622.11e(2)(d) to read as follows:

(d) *CRIS Quarterly Updates and Monthly Scheme Tape Changes.* CRIS scheme information in machine-sensible form on magnetic tapes is available for one more states or for the entire United States. There are also monthly updates available on tape.

8. In 622.11e(2)(e), delete the words "except July".

9. In the Note following 622.11e(2)(e), revise the introductory sentence to read as follows: "Note: In any CRIS scheme tape request, the mailer must specify which of the following magnetic tape characteristics are required:", and delete the characteristic in the Note labeled "(iv)".

PART 763—CARRIER ROUTE BOUND PRINTED MATTER

10. Revise 763.2 to read as follows:

763.2 Current Scheme

.21 Proper Makeup. See 622.11e(1).

.22 Obtaining Schemes. See 622.11e(2).

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division, Law Department.

[FR Doc. 87–25893 Filed 11–6–87; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–478, RM–5619]

Television Broadcasting Services; Roseburg, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by KMTR, Inc., licensee of Station KMTR–TV, Channel 16, Eugene, Oregon, requesting the allocation of TV Channel 36 to Roseburg, Oregon, as the community's second television allotment. Channel 36 can be allocated to Roseburg in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. However, should the Commission ultimately decide that the channel allotment would be in the public interest, the filing of construction permit applications may be delayed pursuant to the *Order* in RM–5811 instituting a freeze on the filing of such applications for any vacant channel within 175 miles of Portland, Oregon. Roseburg is located 164 miles south of Portland. Therefore, if petitioner expresses an intent to specify a site at least 11 miles south of Roseburg, this allotment may not be affected by the freeze on applications in the Portland area.

DATES: Comments must be filed on or before December 24, 1987, and reply comments on or before January 8, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John Crigler, Haley, Bader & Potts, 2000 M Street, NW., Suite 600, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–478, adopted October 7, 1987, and released November 2, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time of a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocation Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25820 Filed 11–6–87; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[No. 37321 (Sub-No. 2)]

Revision of Tariff Regulations; Computer Determination of Mileages

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rule.

SUMMARY: In an earlier proceeding, No. 37321 (Sub-No. 1), published at 52 FR 39536, the Commission adopted a revised rule which allowed motor common carriers to file electronic distance determination systems. In that proceeding a railroad expressed an interest in filing such a system and, therefore, the Commission is proposing to further amend 49 CFR Part 1312 to allow all carriers to file electronic distance determination systems in lieu of printed distance guides. The rule revision will allow for the filing of computer programs that provide distances to be used in connection with carriers' tariffs of mileage rates. The Commission has found that the revision would insure that all tariff users would have the right to access or retrieve information as filed, thus satisfying the requirements of 49 U.S.C. 10761 and 10762.

DATE: The comments are due by December 9, 1987.

ADDRESS: An original and fifteen copies of comments should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Herzig (202) 275–6887 or Charles Langyher (202) 275–7739, (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy, write to Office of the Secretary, Rm. 2215, Interstate Commerce Commission Bldg., Washington, DC 20423, or call (202) 275–7428 (assistance for the hearing impaired is available through TDD services (202–275–1721) or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters.

List of Subjects in 49 CFR Part 1312

Motor carriers, Railroads.

This action will not significantly affect the quality of the human environment or energy conservation.

Decided: November 2, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS

1. The authority citation for 49 CFR Part 1312 would continue to read as follows:

Authority: 49 U.S.C. 10321 and 10762; 5 U.S.C. 553.

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2. Section 1312.30 is proposed to be amended by revising paragraph (c)(5) to read as follows:

§ 1312.30 Distance rates.

* * * * *

(c) * * *

(5) Distance guides shall provide distance tables or combinations of tables and maps. Tables shall provide specific distances between a substantial number of the points and be shown as having precedence over the distances determined by the use of maps. Each guide shall provide rules stating its application. The rules shall include a means for determining distances between all locations within the territorial coverage of the guide, regardless of whether all the locations are shown in the guide or whether distances are shown between all locations. If distances between certain points or areas are to be determined only through a certain gateway or intercharge point, those points or areas and the gateway or interchange point shall be identified. Distance guides filed in "paper" format may exceed the maximum size limitations imposed by § 1312.3 but may not exceed 14½ by 17½ inches in size. Carriers may file automated distance determination systems which are linked by reference in abbreviated distance guides or rate tariffs to computer stored information provided the following conditions are met:

(i) Carriers or their tariff publishing agents shall make arrangements with the Commission for the receipt, storage and use of the systems through existing Commission technology and facilities.

(ii) In the event that a system is not compatible with Commission technology, the necessary implementing equipment and programs shall be placed on file with the Commission for use by Commission personnel and the public at no cost.

(iii) Proposed changes in the systems shall be given notice and reflect the nature of the change, as required by 49 U.S.C. 10762(c)(3) and § 1312.4(e) and § 1312.17(f). However, if an electronic distance determination system is not inherently capable of giving notice and symbolization of changes within the program, then printed tariff amendments to the distance guides or rate tariffs will be required. The amendments shall show the currently effective provisions as well as the proposed changes thereto.

(iv) The distance guides or rate tariffs shall provide all the information necessary to access and utilize the systems.

* * * * *

[FR Doc. 87-25858 Filed 11-6-87; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 52, No. 216
Monday, November 9, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Public Meeting; Committee on Adjudication

ACTION: Committee on Adjudication; notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Adjudication of the Administrative Conference of the United States. The committee has scheduled this meeting to discuss draft recommendations on The Social Security disability appeals process, based upon two studies conducted for the Conferences. The studies are by Professor Allen Shoenberger on state-level initial determinations and reconsiderations, and by Professors Charles Koch and David Koplow on the role of the Social Security Appeals Council. The draft recommendations are published at 52 FR 41366 (October 27, 1987). Comments are requested by November 13, 1987. Copies of the consultants' reports may be obtained form the contact person named in this notice.

Date: Thursday, November 19, 1987 at 1 p.m.

Location: Administrative Conference of the United States, 2120 L street NW., Suite 500, Washington, DC 20037.

Public Participation: Committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statement at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

For Further Information Contact: Deborah Ross, Staff Attorney, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., SUITE 500, Washington, DC 20037. Telephone: (202) 254-7020.

Jeffrey S. Lubbers,
Research Director.
November 4, 1987.

[FR Doc. 87-25932 Filed 11-6-87; 8:45 am]
BILLING CODE 6110-01-M

Public Meeting; Committee on Administration

ACTION: Committee on Administration: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Administration of the Administrative Conference of the United States. The Committee has scheduled this meeting to discuss (1) A draft report by Elden Crowell and Charles Pou on government contract dispute resolution and draft recommendations on potential uses of ADR for government contract disputes, (2) draft recommendations on offset disputes under the Debt Collection Act; and (3) other business pending before the Committee. The draft recommendations are published at 52 FR 41998 (November 2, 1987). Copies of the consultants' reports may be obtained from the contact person named in this notice.

Date: Wednesday, November 25, 1987 at 9:30 a.m..

Location: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington DC 20037.

Public Participation: Committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The Committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the Committee before, during, or after the meeting. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT: Charles Pou, Jr., Staff Attorney, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: (202) 254-7020.

Jeffrey S. Lubbers,
Research Director.
November 5, 1987.

[FR Doc. 87-25931 Filed 11-6-87; 8:45 am]
BILLING CODE 6110-01-M

Rulemaking Committee; Change; Date of Public Meeting

ACTION: Committee on Rulemaking; Notice of Change of Public Meeting Date.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a change of meeting date of the Committee on Rulemaking of the Administrative Conference of the United States. The committee was scheduled to meet on Friday, November 13, 1987 at 9:30 a.m. to continue its discussion of a proposed recommendation on OSHA regulation (see 52 FR 38492, October 16, 1987). Due to unforseen conflicts, the meeting is rescheduled as follows:

DATE: Monday, November 16, 1987, at 9:30 a.m.

LOCATION: Library of the Administrative Conference, 2120 L Street, NW., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael W. Bowers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone: (202) 254-7065.

Dated: November 5, 1987.

Jeffrey S. Lubbers,
Research Director.

[FR Doc. 87-25945 Filed 11-6-87; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

National Advisory Committee on Futures and Options Trading; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the National Advisory Committee on Futures and Options Trading will be held on November 23,

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1987, from 2:00 p.m.–5:00 p.m. in room 5066–S of the Department of Agriculture South Building, 14th Street and Independence Avenue SW., Washington, DC 20250 and on November 24, 1987, from 8:00 a.m.–3:00 p.m. in room 104–A of the Department of Agriculture Administration Building, 12th Street and Jefferson Drive, SW., Washington, DC 20250.

This meeting will be open to the public on November 23, 1987, from 2:00 p.m.–5:00 p.m. and on November 24, 1987, from 8:00 a.m.–3:00 p.m. Members of the public may participate as time permits and file statements with the Committee before or after the meeting. Discussion will focus on the formulation of a pilot program under which producers in at least 40 counties may elect to participate in the trading of feed grains, wheat, soybeans, and cotton on a futures market or options market in a manner designed to protect and maximize the return on agricultural commodities of their own production. Actual county designation for pilot program participation will be the first item addressed, followed by discussion on pilot program operating procedures.

Questions regarding further information with reference to this meeting or the filing of public statements should be directed to Dr. William C. Bailey, Pilot Program Executive Secretary, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013, or call 202/447–7583.

Date: November 3, 1987.

Milton Hertz,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 87–25855 Filed 11–6–87; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Availability; Columbia River Gorge National Scenic Area, White Salmon and Klickitat Wild and Scenic River Corridor Boundaries, Klickitat County, WA

The Columbia River Gorge National Scenic Area Act of November 17, 1986, designated the Lower White Salmon River, Washington, as a National Scenic River and the Lower Klickitat River, Washington, as a National Recreation River, both to be administered by the Secretary of Agriculture. The USDA Forest Service has delineated river corridor boundaries for the White Salmon and the Klickitat Rivers as required by the Wild and Scenic Rivers Act, as amended. Detailed boundaries establish the areas that will be addressed in Wild and Scenic River Management Plans for these rivers.

River boundaries have been prepared and are available for review after November 17, 1987, at the following offices: USDA Forest Service, Recreation, South Building, 12th and Independence Avenue SW., Washington, DC 20250; Pacific Northwest Regional Office, 319 SW. Pine, Portland, OR 97208; Columbia River Gorge National Scenic Area, 902 Wasco Avenue, Sutie 200, Hood River, Oregon 97031; Gifford Pinchot National Forest, 500 W. 12th Street, Vancouver, Washington 98660; and the Mt. Adams Ranger District, Trout Lake, Washington 98650.

Additional information may be obtained by contacting Katherine Jesch, Scenic Area Planner, 902 Wasco Avenue, Hood River, Oregon 97031, telephone (503) 386–2333.

Arthur W. DuFault,

National Scenic Area Manager.

[FR Doc. 87–25880 Filed 11–6–87; 8:45 am]

BILLING CODE 3410–11–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 10:00 to 1:00, on Wednesday, November 18, 1987, to take place in Department of Transportation (DOT) Conference Room 2230, 400 Seventh Street, SW., Washington, DC.

Items on the Agenda: U.S. Postal Service Presentation; Status Report on U.S. Postal Service Negotiations; Briefing on the Veterans Administration management study; Personnel Allocation; Funding Priorities for FY 1989; Reports to Congress; and Briefing on Status of Disabled in Action Litigation. The meeting will go into closed session for Board members only upon completion of the above agenda items.

DATE: Wednesday, November 18, 1987–10:00 am–1:00 pm.

ADDRESS: Department of Transportation Conference Room 2230, 400 Seventh Street SW., Washington, DC.

Committees of the ATBCB will meet on Monday and Tuesday, November 16 and 17, 1987, also in DOT Conference Room 2230, 400 Seventh Street SW.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Communications Manager, (202) 245–1591 (voice or TDD).

Margaret Milner,

Executive Director.

[FR Doc. 87–25882 Filed 11–6–87; 8:45 am]

BILLING CODE 6820–BP–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1987 Census of Agriculture—Nonrespondent Sample Survey
Form Number: Agency—87–A–46; OMB—NA
Type of Request: New collection
Burden: 20,000 respondents; 4,000 reporting hours
Needs and Uses: This nonrespondent sample survey will be used to provide state estimates of the number of farms included in the mail list nonresponse universe for the 1987 Census of Agriculture. The estimate will be used to account for census nonrespondent farm operations in State and county statistics
Affected Public: Individuals or households and farms
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: 1987 Census of Agriculture—Coverage Evaluation
Form Number: Agency—87–A90; OMB—NA
Type of Request: New collection
Burden: 14,000 respondents; 5,840 reporting hours
Needs and Uses: This coverage evaluation program provides an independent check on census results, as well as pertinent information for census data users on coverage of the census and data limitations. The coverage evaluation program aids the Census Bureau in identifying procedures associated with coverage errors that can provide the basis for improvements in the census mail data collection and processing
Affected Public: Individuals or households and farms

Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: Apparel Surveys
Form Number: Agency—MA–23E, MA–23F, MA–23G, and MA–23H; OMB—NA
Type of Request: New collection
Burden: 3,857 respondents; 5,784 reporting hours
Needs and Uses: These surveys are needed to provide the U.S. Government with current apparel production data. These data are used to monitor the effect of imports on the domestic apparel production industry. The users of these data will by Government agencies, business firms, trade associations, and research consulting organizations
Affected Public: Business or for-profit institutions
Frequency: Annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Francine Picoult, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: November 3, 1987.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 87–25839 Filed 11–6–87; 8:45 am]

BILLING CODE 3510–07–M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Carpets and Rugs
Form Number: Agency—MQ–22Q; OMB—0607–0559
Type of Request: Reinstatement of a previously approved collection
Burden: 70 respondents; 140 reporting hours
Needs and Uses: This survey is conducted to provide the U.S. Government with information on domestic output in the textile industry. The data is used to monitor trade agreements with foreign countries
Affected Public: Businesses or other for-profit institutions
Frequency: Quarterly
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: Broadwoven Fabrics (Gray)
Form Number: Agency—MQ–22T; OMB—NA
Type of Request: Reinstatement of a previously approved collection
Burden: 431 respondents; 1,724 reporting hours
Needs and Uses: This survey is conducted to provided the U.S. Government with information on the domestic production of broadwoven fabrics. The data is used to monitor textile agreements with foreign countries
Affected Public: Businesses or other for-profit institutions
Frequency: Quarterly
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Francine Picoult, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: November 3, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–25840 Filed 11–6–87; 8:45 am]

BILLING CODE 3510–07–M

Bureau of the Census

Annual Wholesale Trade; Determination

In accordance with Title 13, United States Code, sections 131, 182, 224, and 225, I have determined the Census Bureau needs to collect data covering year-end inventories, annual sales, and purchases to provide a sound statistical basis for the formation of policy by various governmental agencies. These data also apply to a variety of public and business needs. This annual survey is a continuation of similar wholesale trade surveys conducted each year since 1978. It provides on a comparable classification basis annual sales and purchases for 1987 and inventories for 1986 and 1987. These data are not available publicly on a timely basis from nongovernmental or other governmental sources.

The Census Bureau will require selected firms operating merchant wholesale establishments in the United States (with sales size determining the probability of selection) to report in the 1987 Annual Wholesale Trade Survey. We will furnish report forms to the firms covered by this survey and will require their submission within 20 days after receipt. The sample will provide, with measurable reliability, statistics on the subjects specified above.

We will provide copies of the forms upon written request to the Director, Bureau of the Census, Washington, DC 20233.

I have directed, therefore, that an annual survey be conducted for the purpose of collecting these data.

Dated: November 3, 1987.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 87–25886 Filed 11–6–87; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.53a or § 355.10 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than December 31, 1987, interested parties may request

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administrative review of the following orders, findings, or suspended investigations, with anniversary dates in December for the following periods:

	Period
Antidumping Duty Proceeding:	
Drycleaning Machinery from the Federal Republic of Germany	11/01/86-10/31/87
Barbed Wire & Barbless Fencing from Argentina	11/01/86-10/31/87
Rectangular Pipes & Tubes from Singapore	11/13/86-10/31/87
Choline Chloride from Canada	11/01/86-10/31/87
Bicycle Speedometers from Japan	11/01/86-10/31/87
Carbon Steel Wire Rods from Argentina	11/01/86-10/31/87
Titanium Sponge from Japan	11/01/86-10/31/87
Countervailing Duty Proceeding:	
Oil Country Tubular Goods from Argentina	01/01/86-12/31/86
Deformed Steel Concrete Reinforcing Bars from Peru	01/01/86-12/31/86
Certain Textiles and Textile Products from Agrentina	01/01/86-12/31/86
Suspended Investigation:	
Certain Small Motors from Japan	11/01/86-10/31/87
Certain Refrigeration Compressors from the Republic of Singapore	01/01/86-12/31/86
Sodium Gluconate from the European Community	01/01/86-12/31/86

Seven copies of the request should be submitted to the Acting Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

The Department will publish in the Federal Register a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by December 31, 1987.

If the Department does not receive by December 31, 1987, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Dated: October 29, 1987.

[FR Doc. 87-25006 Filed 11-6-87; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application #87-00011.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to Calcined Petroleum Coke, Inc. ("CPC"). This notice summerizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: John E. Stiner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Calcined petroleum coke.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

To engage in Export Trade in the Export Markets, CPC is certified to:

1. Negotiate and enter into agreements with any or all U.S. producers of calcined petroleum coke to be their exclusive export sales agent whereby:

(a) CPC will serve as each producer's exclusive export sales agent for an initial period of two years, subject thereafter to renewal annually by mutual agreement;

(b) CPC will purchase calined petroleum coke as principal from each producer for resale in the Export Markets. CPC shall negotiate the quantity and price for CPC's purchase with each producer individually and independently of CPC's negotiations or agreements with any other producer;

(c) Each producer will agree to not export, either directly or through any other export sales agent, and to not sell for export any calcined petroleum coke other than that which CPC purchases;

(d) As consideration for the producer's agreement not to export or sell for export calcined petroleum coke except through CPC, CPC will pay each producer, for the initial two-year contract period only, an amount based on the producer's capacity to export calcined petroleum coke in excess of CPC's export requirements. The capacity to export will be calculated solely from historical data published by the Department of Commerce that exists as of the date of this certificate. CPC will negotiate the amount of this payment, which shall remain fixed for the period of the contract, with each producer individually and independently of CPC's negotiations or agreements with any other producer, and the producer shall retain absolute discretion to produce calcined petroleum coke for domestic sales.

2. Set prices and other terms for export sales of, and sell in the Export Markets, the calcined petroleum coke purchased from U.S. producers.

3. Negotiate on its own behalf with carriers and conference lines for the most advantageous rates for the shipment to the Export Markets of the calcined petroleum coke purchased from U.S. producers.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Date: November 5, 1987.

John E. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 87-25825 Filed 11-6-87; 8:45 am]

BILLING CODE 3510-DR-M

Short-Supply Review on Certain Steel Plate; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangement on Certain Steel Products, with respect to certain abrasion-resistant steel plate.

DATE: Comments must be submitted on or before November 19, 1987.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the US steel industry will be unable to meet demand in the USA for a particular product (incuding substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products * * *."

We have received a short-supply request for certain normalized abrasion-resistant steel plate, carbon minimum of 0.23 percent, nickel of 2.2 percent and more, chromium minimum of 1.8 percent, and molybedum minimum of 0.2 percent. It ranges from ¼ to 1½ inches in thickness, 60 to 96 inches in width, 144 to 240 inches in length, has minimum brinell hardness of 420 and average of 450, tensile strength minimum of 200,000 psi, and is used in the manufacture of wearing plate for mines, chutes, excavators, and other related applications.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than November 19, 1987. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce at the above address.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

October 30, 1987.

[FR Doc. 87-25005 Filed 11-6-87; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

November 3, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 9, 1987. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343-6582. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Category 342/642 during the twelve-month period which began on May 27, 1987 and extends through May 26, 1988, in excess of the designated limit.

Background

On June 12, 1987 a notice was published in the Federal Register (52 FR 22517) announcing that the Government of the United States had requested consultations with Turkey concerning exports to the United States of cotton and man-made fiber skirts in Category 342/642, produced or manufactured in Turkey and exported to the United States.

The United States has decided, inasmuch as consulations have been held with the Government of Turkey but no mutually satisfactory solution has yet been reached concerning this category, to control imports of cotton and man-made fiber textile products in Category 342/642, produced or manufactured in Turkey and exported during the twelve-month period which began on May 27, 1987 and extends through May 26, 1988.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Turkey further notice will be published in the Federal Register.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924, December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the Federal Register.

Donald R. Foote,

Acting Chairman, Committee for the Implementation on Textile Agreements.

November 3, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 9, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Category 342/642, produced or manufactured in Turkey and exported during the twelve/month period which began on May 27, 1987 and extends through May 26, 1988, in excess of 119,550 dozen.[1]

Textile products in Category 342/642 which have been exported to the United states prior to May 27, 1987 shall not be subject to this directive.

[1] The limit has not been adjusted to account for any imports exported after May 26, 1987.

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Textile products in Category 342/642 which have been released from the custody of the U.S. Customs Service under the provision of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

Also effective on November 9, 1987, you are directed to charge, for the import period May 27, 1987 through August 31, 1987, 77,198 dozen, of which 69,936 dozen are in Category 342 and 7,260 dozen are in Category 642.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25838 Filed 11-6-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

Finding of No Significant Impact (FONSI); Remedial Action at the Mexican Hat Uranium Mill Tailings Site; Mexican Hat, UT

AGENCY: U.S. Department of Energy.

ACTION: Finding of no significant impact (FONSI).

SUMMARY: The U.S. Department of Energy (DOE) has prepared an environmental assessment (EA) (DOE/EA-0332) on the proposed remedial action at the inactive uranium milling site in Mexican Hat, Utah. Based on the analyses in the EA, DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*).

Background

On November 8, 1978, the Uranium Mill Tailings Radiation Control Act (UMTRCA), Public Law 95-604 (Pub. L. 95-604), was enacted in order to address a Congressional finding that uranium mill tailings located at inactive processing sites may pose potential health hazards to the general public. On November 8, 1979, DOE designated 24 inactive processing sites for remedial action under Title I of the UMTRCA, including the inactive mill tailings site at Mexican Hat (44 FR 74892).

The UMTRCA charges the U.S. Environmental Protection Agency (EPA) with the responsibility for promulgating remedial action standards for inactive mill sites. The purpose of these standards is to protect the public health and safety and the environment from radiological and nonradiological hazards associated with residual radioactive materials at the sites. The final standards (40 CFR Part 192) were published on January 5, 1983, and became effective on March 7, 1983. On September 3, 1985, the United States Tenth Circuit Court of Appeals set aside the EPA water protection standards 40 CFR 192.20(a) (2)-(3), and the EPA has not yet reissued these standards.

Under UMTRCA, all remedial actions must be selected and performed with the concurrence of the Nuclear Regulatory Commission (NRC). The DOE has proposed to continue to apply the general standards, and NRC has concurred in this plan noting that its concurrence is conditioned on further review against EPA's final groundwater protection standards. When EPA issues revised standards, DOE will review its decision about groundwater protection and will make every reasonable effort to ensure that water resources are adequately protected.

Also under UMTRCA, the DOE and the Navajo Nation entered into a cooperative agreement, effective October 7, 1983, for remedial action at the Mexican Hat designated site. Under the agreement, the Navajo Nation must concur with the remedial action plan to be developed for the site. The DOE will provide 100 percent of the engineering and construction costs.

Project Description

The Mexican Hat mill tailings site is on the Navajo Reservation in southeastern Utah, in San Juan County. The Navajo community of Halchita and the town of Mexican Hat are 0.5 mile southwest and two miles northeast, respectively, of the site. The site, as designated by the DOE, is at 37 degrees 7 minutes 54 second North Latitude and 109 degrees 52 minutes 30 seconds West Longitude.

The mill was constructed and operated from 1957 to 1963, by Texas-Zinc Minerals Corporation. Atlas Corporation purchased the mill in 1963, and operated it until it was closed in 1965. Much of the ore processed at the site came from the White Canyon area of Utah and contained a considerable amount of copper sulfide and other minerals. The ground ore was treated by froth flotation, and the flotation concentrates and tailings were acid leached separately to recover both copper and uranium products. During its operation, the mill processed 2.2 million tone of ore and produced 5700 tons of uranium concentrate. In addition to the milling operation, a sulfuric acid plant was operated at the site until 1970.

The total designated site covers 235 acres. This includes the upper and lower tailings piles, the concrete pad for the mill buildings, and several associated buildings and structures (e.g., scale house, office buildings, and tanks).

The upper tailings pile covers 24 acres with an average thickness of 20 feet; the lower pile covers 45 acres with an average thickness of 21 feet. Together, the two piles contain 2,458,000 cubic yards of tailings. Neither of the piles has been stabilized. Containment dikes that were constructed have eroded away in several places, and there is evidence of extensive wind and water erosion despite the hard crust that has formed a few inches thick on the surface of the tailings.

Dispersion of the tailings by wind and water erosion has contaminated 162 acres of land adjacent to the tailings piles and outside the designated site boundary. Another 19 acres within the designated site have been contaminated by activities around the mill buildings and in the former ore storage area. The total volume of contaminated materials, including the tailings and underlying soils, is estimated to be 2,654,000 cubic yards.

The Navajo Tribal Utility Authority operates a small electrical substation and the Halchita sewage system (three lagoons) at the site. Access to the site is not restricted, but the Navajo Environmental Protection Administration has discouraged any activity at the site since 1970.

Proposed Action

The proposed action for the Mexican Hat tailings site is to stabilize the tailings piles within the existing tailings site. All of the tailings and contaminated materials, including the mill building, other structures, and the upper tailings pile, would be consolidated into a single pile at the lower pile site and covered with compacted earthen materials to inhibit radon emanation, water infiltration, and plant root penetration. A rock erosion protection barrier would be placed over the pile to inhibit water and wind erosion and discourage animal and human intrusion. Various other erosion control measures would be taken to assure the long-term stability of the stabilized tailings pile. The consolidated tailings and contaminated materials would have maximum sideslopes of 20 percent (five horizontal to one vertical), and the top would slope

two percent minimum downward to the northwest.

The stabilized tailings pile would occupy an area of 68 acres situated entirely within the designated site boundary. The entire disposal area after remedial action would cover 84 acres. After remedial action, disturbed areas surrounding the stabilized tailings pile would be restored to a condition compatible with the surrounding terrain by recontouring to promote surface-water drainage and revegetating as required for erosion control. Approximately 151 acres of the present site would be released for any use consistent with local land use controls following the completion of remedial action.

No Action

The no action alternative was also assessed in the Mexican Hat EA.

Finding

The DOE has considered the concerns expressed during public meetings and cooperating agency reviews about the environmental and health impacts from the proposed remedial action. In general, concerns relate to the impacts based on the design of the stabilized pile, impacts from radiation released during remedial action, impacts on the surface water, impacts on groundwater, and impacts on air quality.

The EA discusses the environmental impacts resulting from the proposed remedial action and identifies mitigation measures that will be implemented to assure that these effects are not significant. The Finding of No Significant Impact (FONSI) for stabilization in place at the Mexican Hat site is based on the following findings which are supported by the information and analyses in the EA:

- Radiation release—The increased radiation exposure above background levels to the general population during the remedial action will be extremely low. The estimated excess health effects were projected to be 0.01 additional cancer deaths due to radiation from the tailings during the remedial action period.

The no action alternative would result in 0.01 total estimated excess health effects per year. This number is not directly comparable to the total estimated excess health effects mentioned above for the general public because the health effects estimated for the proposed action are for the duration of tailings disturbance and account for increased radon levels due to tailings disturbance. In addition, the total estimated excess health effects for the no action alternative do not consider factors such as dispersion or unauthorized removal and use of the tailings which lead to greater excess health effects than those calculated.

The DOE will closely monitor the release of radon and particulates during the remedial action. The release of radon and contaminated particulates will be reduced by dampening the contaminated material with water or chemical dust suppressants and by using trucks with tight-fitting tailgates and covers when the material is to be moved. Drainage controls and waste-water retention ponds will be constructed to prevent contaminated water from leaving the site.

Human exposure to residual radioactive material will be reduced further by restricting access, by providing worker training programs, and by the use of necessary monitoring and protective equipment by the remedial action workers.

On this basis, it was determined that the radiation impacts from the proposed action are insignificant.

- Air quality—The estimated combustion emissions from construction equipment will not exceed Federal primary or secondary standards for carbon monoxide, hydrocarbons, nitrogen oxides, sulfur dioxide, and total suspended particulates (TSP).

Fugitive dust emissions (maximum 24-hour concentration) estimated through the use of a computer simulation model indicated that activities at the site and along the transportation route would exceed the secondary TSP standard. However, the modeling used is conservative and overpredicts potential impacts. The parameters that would tend to overpredict impacts are the assumption of light winds blowing persistently from a single direction for six consecutive hours, the assumption of stable meteorological conditions during the same six-hour period, the assumption of maximum equipment emissions and average wind erosion emissions under the meteorological scenario assumed above, and the assumption of the wind blowing perpendicular to the haul roads. On this basis, it was determined that the air quality impacts of the proposed action will be temporary and will not be significant.

- Surface water—During remedial action, surface runoff as a result of the cleanup and consolidation of the tailings and contaminated material would be minimal because the remedial action design includes the construction of drainage and erosion controls. This includes waste-water retention ponds constructed during site preparation to prevent the discharge of contaminated water from the site. The contaminated water would be retained for evaporation or use in the compaction of the tailings and contaminated materials, and any sediments from the ponds would be consolidated with the tailings during the final reshaping of the tailings pile.

After remedial action, surface runoff created by excessive precipitation would not cause erosion of the stabilized tailings pile and transport of contaminants into local surface waters because several erosion control features were incorporated into the remedial action design. The sideslopes of the pile would be limited to five horizontal to one vertical (20 percent), and the top of the pile would be gently sloped (two percent minimum). These shallow slopes would promote drainage from the pile with nonerosive flow velocities. The rock erosion protection barrier placed on the top and sideslopes of the pile is designed to withstand erosive forces of the most severe precipitation event possible, the Probable Maximum Precipitation (PMP). On this basis, it was determined that surface water quality would not be impacted during remedial action and that surface water erosion of the stabilized pile would not occur after remedial action.

- Groundwater quality—The proposed remedial action would reduce the amount of precipitation which percolates or seeps through the pile. The stabilized pile would be covered with low-permeability materials which would present a barrier to infiltration. In addition, the pile would be sloped so that precipitation would run off instead of collecting in depressions. Therefore, stabilization in place would reduce the long-term amount of groundwater contamination produced by the pile.

Also, with this decrease in the generation and migration of seepage contamination from the tailings pile, the natural discharge of the existing groundwater at the seeps in Gypsum Creek would eventually reduce the concentrations of contaminants toward background levels. Furthermore, the naturally low-flow rate of groundwater promotes physical and chemical attenuation mechanisms which would hasten the reduction of contaminant concentrations.

When the EPA issues revisions to the water protection standards (40 CFR 192.20(a)(2)-(3)) that were remanded by the U.S. Tenth Circuit Court of Appeals, the DOE will re-evaluate the groundwater issues at the Mexican Hat site to assure that revised standards are met. Performing remedial action to stabilize the tailings prior to the EPA issuing new standards will not affect the

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measures that are ultimately required to meet the revised EPA water protection standards. The DOE has characterized the conditions at the Mexican Hat site and does not anticipate that any substantial changes to the remedial action would be necessary. However, after the EPA reissues the water protection standards, the DOE will determine the need for institutional controls, aquifer restoration, or other controls and will take appropriate action to comply with the reissued standards.

There is no record of past groundwater use in the area of the tailings site and there are no current users of groundwater in the area.

Based on the above, it was determined that impacts on groundwater resources would not be significant.

• There are no floodplains, wetlands, threatened or endangered species, or archaeological resources in the area that would be affected by the remedial action.

In summary, based on the analyses in the EA, the DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (423 U.S.C. 4321 *et seq.*). Therefore, the preparation of an EIS is not required.

Single Copies of the EA are Available From: James R. Anderson, UMTRA Project Manager, U.S. Department of Energy, UMTRA Project Office, 5301 Central Avenue, N.E., Suite 1720, Albuquerque, New Mexico 87108, (505) 844-3941.

For Further Information, Contact: Carol Borgstrom, Acting Director, Office of NEPA Project Assistance, Office of the Assistant Secretary for Environment, Safety and Health, Room 3E-080, Forrestal Building, Washington, DC 20585, (202) 586-4600.

Issued at Washington, DC, September 18, 1987.

Mary L. Walker,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 87-25848 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-M

Availability of Environmental Assessment and Finding of No Significant Impact; Remedial Action at the Mexican Hat Uranium Mill Tailings Site, Mexican Hat, UT

AGENCY: Department of Energy (DOE).

ACTION: Notice of availability of Environmental Assessment (EA) and Finding of No Significant Impact (FONSI).

SUMMARY: The DOE has published an Environmental Assessment of Remedial Action at the Mexican Hat Uranium Mill Tailings Site, Mexican Hat, Utah (DOE-EA-0332), for the proposed remedial action on residual radioactive materials at the inactive mill site. On the basis of the analysis in the EA, the DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and has issued a FONSI which appears immediately following this notice. The EA is available for public review.

Background

The uranium mill tailings were produced from processing uranium ore for sale to the Atomic Energy Commission, a predecessor of the DOE, by the Texas-Zinc Minerals Corporation, which built and operated the mill from 1957-1963. In 1963, the mill was sold to Atlas Corporation, which operated it until it closed in 1965. The tailings remaining from the operations now rest in two piles, one upper and one lower, covering, in total, approximately 69 acres and averaging 21 feet in depth.

In 1978, the U.S. Congress passed the Uranium Mill Tailings Radiation Control Act, Public Law 95-604. In this Act, the Congress found that uranium mill tailings may pose a potential radiation health hazard. It authorized the DOE to carry out remedial action at each site in cooperation with other Federal agencies and with the states or Indian tribes affected by the action. It gave to the Nuclear Regulatory Commission (NRC) responsibility for consulting with the DOE over a range of subjects concerning conduct of remedial action, for concurring with the selected remedial action and with any cooperative agreement with a state or Indian tribe, and for licensing the maintenance of each tailings disposal site after the remedial action is completed. In addition, the Environmental Protection Agency (EPA) was given the responsibility to set standards to protect public health, safety, and the environment at the disposal sites.

In accordance with Pub. L. 95-604, the DOE designated 24 sites for remedial action. One of these sites is the inactive processing site near Mexican Hat, Utah. The EPA issued standards (40 CFR Part 192) for remedial actions at inactive uranium processing sites on January 5, 1983 (48 FR 590).

Scope of the EA:

The EA evaluates the no-action alternative and the proposed alternative for minimizing the potential public health hazards associated with the Mexican Hat site. The proposed action is to consolidate all the tailings and contaminated material including the mill building and other structures, into a single pile located and at the existing lower pile site. The impacts of these alternatives are assessed in terms of effects on radiation levels, health effects, air quality, soils and mineral resources, surface water and groundwater resources, ecosystems, land use, sound levels, scenic and cultural resources, populations and employment, economic structures, and transportation networks.

Availability of the EA and FONSI:

Copies of the EA and FONSI have been distributed to Federal, State, Tribal and local agencies and to organizations and individuals known to be interested in the Mexican Hat remedial action project. Additional copies may be obtained from the Project Manager, Uranium Mill Tailings Remedial Action Project Office, U.S. Department of Energy, 5301 Central Avenue, NE., Suite 1720, Albuquerque, New Mexico, 87108. (505) 844-3941.

Copies of the EA and FONSI are available for public inspection at the following locations:

College of Eastern Utah/San Juan Campus, 639 W. 100 South, Blanding, UT 84511

Crownpoint Community Library, c/o Lioness Club, Crownpoint, NM 87313

Southern Utah State College, Library, Cedar City, UT 84720

Navajo Community College, Shiprock Branch Library, Shiprock, NM 87420

Freedom of Information Reading Room, Room 1E-190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

San Juan County Library, 80 N. Main, Monticello, UT 84535

Brigham Young University Library, 1368 HBLL, Provo, UT 84602

Utah State University Library, 2159 South 300 West, Salt Lake City, UT 84115

University of Utah, Marriott Library, Salt Lake City, UT 84112

Library, Oak Ridge Operations Office, Federal Building, Oak Ridge, TN 37830

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, NM 87115

San Francisco Operations Office, U.S. Department of Energy Library, 1333 Broadway, Oakland, CA 94612

U.S. Department of Energy, Grand Junction Library, P.O. Box 2567, Grand Junction, CO 81502

Library, Chicago Operations Office, 9800 South Class Avenue, Argonne, IL 60439

Library, Richland Operations Office, Federal Building, Richland, WA 99352

Library, Savannah River Operations, Savannah River Plant, Aiken, SC 29801

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, NV 89114

Library, Idaho Operations Office, 550 Second Street, Idaho Falls, ID 83401

William R. Voigt, Jr.

Director, Office of Remedial Action and Waste Technology, Office of Nuclear Energy.

[FR Doc. 87-25845 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. PP-86]

Application by Washington Water Power Co. for Presidential Permit

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application by Washington Water Power Company for a Presidential Permit to construct an international electrical interconnection.

SUMMARY: The Washington Water Power Company (WWP) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a Presidential permit to construct, connect, operate and maintain electric transmission facilities at the international border between the United States and Canada. Specifically, WWP seeks to construct a double-circuit alternating current (ac) transmission line with a design voltage of 230 kilovolts (kV) from the U.S.-Canadian border to a planned substation to be located in the vicinity of Spokane, Washington.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Como, Department of Energy, Economic Regulatory Administration (RG-22), 1000 Independence Avenue SW., Washington, DC 20585, (202) 585-5935.

Lise Courtney M. Howe, Department of Energy, Office of General Counsel (GC-41), 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2900.

SUPPLEMENTARY INFORMATION: On October 15, 1987, the Washington Water Power Company filed an application with the ERA for a Presidential permit pursuant to Executive Order 10485, as amended by Executive Order 12038, to construct, operate, maintain and connect a double-circuit 230 kV, overhead transmission line which will cross the U.S. international border near the city of Trail, British Columbia, and the town of Northport, Washington, to the planned Marshall substation located in the vicinity of Spokane, Washington. The length of the proposed line is approximately 118 miles (from the international boundary to Marshall substation) and would require all new rights-of-way. The two circuits will be capable of transmitting 800 to 1,200 megawatts (MW) of firm capacity to the Pacific Northwest.

The purpose of the proposed transmission line, according to the applicant, is to provide the customers of WWP and the Pacific Northwest Region with a future economic source of power supply. The application notes the need for additional supplies of peaking power for both WWP and the Northwest Region as early as 1993 and projects additional power needs of up to 210 MW and 550 MW respectively by the year 2000.

Any person desiring to be heard or to protest this application for a Presidential permit should file a petition to intervene or protest with the Economic Regulatory Administration, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with § 385.211 or § 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed on or before December 9, 1987. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application will be made available, upon request, for public inspection and copying at the Department of Energy's Freedom of Information Room, Room IE-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC from 8:00 a.m. to 4:00 p.m. Monday through Friday.

Issued in Washington, DC, on November 3, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25847 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-41-NG]

Goetz Oil Corp.; Order Granting Blanket Authorization To Import Natural Gas; Correction

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Correction.

SUMMARY: The **Federal Register** notice of the Order issued in this docket published 52 FR 39681, October 23, 1987, inadvertently identified Goetz Oil Corporation as Goetz Oil Company. Anywhere the **Federal Register** notice reads Goetz Oil Company should be changed to read Goetz Oil Corporation.

Issued in Washington, DC, October 30, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25702 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-D

[ERA Docket No. 87-57-NG]

Northridge Petroleum Marketing U.S., Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on October 9, 1987, of an application filed by Northridge Petroleum Marketing U.S., Inc. (Northridge) to extend for two years its existing two-year blanket authorization to import up to 100 Bcf of Canadian natural gas granted by the ERA in DOE/ERA Opinion and Order No. 88 (Order No. 88) issued September 4, 1987. The authorization will expire December 4, 1987. Northridge requests approval to increase its import to 200 Bcf for short-term or spot market sales for an additional two years to December 4, 1989. Northridge is a wholly-owned subsidiary of Northridge Petroleum Marketing, Inc, a Canadian corporation, and is registered in the State of Colorado operating as a natural gas marketing company. The gas would be imported from various Canadian suppliers by Northridge either for its own account or as agent for others. The application identifies the Mid-Atlantic and Midwestern United States as the geographic areas which Northridge anticipates will be its principal marketing areas. Northridge proposes to

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continue its presently required practice of submitting to the ERA, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported gas have been made during the quarter and, if so providing the details of each transaction. Northridge's prior quarterly reports filed with the ERA indicate that approximately 3.8 Bcf of natural gas was imported under Order No. 88 through June 30, 1987. Northridge intends to use existing transmission systems that do not require the construction of significant new facilities or any new border crossing facilities that may be authorized in separate proceedings to effect delivery of the imported natural gas.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than, December 9, 1987.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9622.

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION:

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room. GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.s.t., December 9, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference or a trial-type hearing. A request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Northridge's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 30, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25703 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-D

[ERA Docket No. 87-29-NG]

Vector Energy (U.S.A.) Inc.; Order Granting Blanket Authorization To Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Vector Energy (U.S.A.) Inc. (Vector) blanket authorization to import natural gas. The order issued in ERA Docket No. 87-29-NG authorizes Vector to import up to 150 Bcf of natural gas over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 27, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25704 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-D

Federal Energy Regulatory Commission

[Docket No. GP87-63-000]

Cobra Oil & Gas Corp. v. Northern Natural Gas Co.; Complaint Regarding Production-Related Costs

November 4, 1987.

On July 20, 1987, Cobra Oil & Gas Corporation (Cobra) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. On September 14, 1987, Cobra filed additional data in support of its complaint. Cobra requests the Board to issue an order finding that Cobra's claim is a valid claim, and finding that the provisions of the April 22, 1983, letter agreement and earlier verbal agreement do not bar Cobra from receiving the amounts invoiced.

Under Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Northern must file an answer to Cobra's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Northern shall file its answer with the Commission not later than 15 days after publication of this notice in the **Federal Register.**

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such motions or protests should be filed not later than 15 days after publication of this notice in the **Federal Register.** Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25871 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-613-000]

Green Mountain Power Corp.; Filing

November 4, 1987.

Take notice that on October 13, 1987, Green Mountain Power Corporation (Green Mountain) tendered for filing revisions to Revised Exhibit B filed on September 1, 1987. The revisions to Exhibit B filed on September 1, 1987 were intended to implement the change in the rate of return adopted by the Vermont Public Service Board. Green Mountain states that the revisions inadvertently reflected the rate of return on common equity rather than the overall rate of return. Therefore, Green Mountain states that the corrected rate of return is 12.063%.

Green Mountain requests waiver of the Commission's regulations to the extent necessary to permit the Revised Exhibit B to become effective on March 1, 1987 in accordance with its original request.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 9, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25872 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-13-000]

James River Corp. of Nevada v. Northwest Pipeline Corp.; Complaint

November 4, 1987.

Take notice that on October 14, 1987, James River Corporation of Nevada ("James River"), One Bush Street, San Francisco, CA 94104, filed a complaint and request for initiation of investigation and immediate relief in Docket No. RP88-13-000, pursuant to Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206), alleging the actions of Northwest Pipeline Corporation ("Northwest") in refusing to provide transportation service to James River are unduly discriminatory. James River also alleges that Northwest's actions in refusing to transport for James River and other customers and end-users in the states of Oregon, Washington and Idaho have significant anticompetitive effects which can be remedied by the Commission ordering Northwest to provide transportation to James River and, on a non-discriminatory basis, to any other persons seeking such service.

James River contends that Northwest has engaged in a discriminatory course of conduct in violation of sections 4 and 5 of the Natural Gas Act ("NGA"). James River asserts that Northwest has followed and is following a transportation policy which limits transportation to 10 percent of a distributor's system supply and constitutes a wholesale refusal to transport in displacement of its own sales. Second, James River contends that Northwest transports for some shippers under the Schedule T-6 rate approved by the Commission, but insists that other shippers transport under Rate Schedule T-5. It states that Northwest's refusal to transport under the Schedule T-6 rate effectively denies James River and others any transportation because the Commission has consistently ruled that Northwest must provide on-system interruptible transportation at the Schedule T-6 rate. Third, James River claims that Northwest has processed certificate applications under section 7(c) of the NGA, expeditiously for some shippers but in a dilatory fashion for others. Finally, James River asserts that Northwest offers firm transportation to off-system customers in Kern County, California, on terms that it has never offered to its captive on-system customers in the Pacific Northwest.

James River states that Northwest's unduly discriminatory conduct merits especially close scrutiny because it perpetuates and strengthens Northwest's overwhelming economic power in the Pacific Northwest natural gas market. James River notes that Northwest is the only pipline capable of providing transportation services to the vast majority of end-users and distributors in that region, and contends that the anticompetitive impact of Northwest's discrimination is far-reaching. James River alleges that

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Northwest is controlling the market for sale of natural gas by excluding potential competitors, coercing customers seeking gas transportation from Northwest to buy gas from Northwest as well, and that Northwest is denying customers and potential competitors access to an essential gas transmission facility.

Specifically, James River requests that the Commission:

(1) Institute an investigation, pursuant to section 14(a) of the NGA and sections lb.7 and lb.8 of the Commission's Rules of Practice and Procedure, and:

(a) Shorten the response time to its complaint to seven (7) days;

(b) Establish a framework for expedited discovery; and

(c) Conduct public hearings as appropriate under Rule 206;

(2) Pending the outcome of the investigation, issue an interim order pursuant to sections 4, 5, 7 and 16 of the NGA, requiring Northwest to transport gas for James River; and

(3) At the conclusion of such investigation and hearing, issue an order:

(a) Requiring the continuance of transportation to James River and permitting transportation for all other persons requesting such service; and

(b) Granting such other relief as the Commission may deem necessary and appropriate pursuant to sections 4, 5, 7 and 16 of the NGA.

Any person desiring to become a party to this proceeding should, on or before December 4, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25869 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-48-000]

Pan Eastern Exploration Co.; Petition for Adjustment

Issued: November 4, 1987.

Take notice that on May 29, 1987, Pan Eastern Exploration Company (Pan Eastern) filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), requesting a waiver of its refund obligation to Panhandle Eastern Corporation (Panhandle) resulting from the collection of the NGPA section 108 stripper well price for gas sold from the Eagley 1-2 well, located in the Hugoton field, Morton County, Kansas, during the period October 1, 1981 through December 31, 1983. The gas from the well otherwise qualified for the section 104 flowing gas price.

Pan Eastern asserts that the subject well was eligible for a continuing qualification stripper well determination, based on seasonal fluctuations, for the October 1980 through September 1981 production period, but that Panhandle, its agent for making regulatory filings pursuant to 1973 Management Service Operating Agreement, failed to file an application for such determination within the time specified by § 271.805 of the Commission's regulations. Panhandle states that such failure caused the well to be ineligible for the above-mentioned determination.

Pan Eastern contends that because of the 1973 Agreement, it would be inequitable to require it to make refunds since Pan Eastern was unable to determine whether the proper documents had been filed with the appropriate regulatory agency. Moreover, Pan Eastern states that if relief is denied, its out-of-pocket loss will result in special hardship and an unfair distribution of burdens.

The procedures applicable to the conduct of this proceeding are in Rules 1101-1117 (Subpart K) of the Commission's rules of practice and procedure. Any person desiring to participate in the proceeding must file a motion to intervene under Rule 1105. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25876 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA85-49-001]

Public Service Company of New Mexico; Order Establishing Hearing Procedures

Issued November 4, 1987.

Before Commissioners: Martha O. Hesse, Chairman, Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On July 29, 1987, the Commission issued a letter order noting Public Service Company of New Mexico (PSCNM) disagreemnt with certain items contained in staff's audit report of PSCNM's books and records (40 FERC ¶ 61,123). The disagreement relates to PSCNM's capitalization of an allowance for funds used during construction (AFUDC) on property classified as plant held for future use and the accounting for the cost of rebuilding scrubber equipment at the San Juan generating station allocable to FERC jurisdictional rates.

PSCNM was requested to advise the Commission whether it would agree to the disposition of the issues under the shortened procedures provided by § 41.3 of the Commission's regulations. 18 CFR 41.3 (1987). On August 24, 1986, PSCNM responded that it did not consent to the shortened procedures. Instead, PSCNM requested that the matters be set for hearing pursuant to § 41.7 of the Commission's regulations.

Section 41.7 of the regulations provides that the proceeding will be assigned for hearing in case consent to the shortened procedures is not given. Accordingly, the Commission will set these matters for hearing.

Any interested person seeking to participate in this docket shall file a protest or a motion to intervene pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) no later than 15 days after the date of publication of this order in the **Federal Register.**

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act, the provisions of the Federal Power Act, particularly section 301 thereof, and pursuant to the Commission's Rules of Practice and Procedure (18 CFR, Chapter I), a public hearing shall be held concerning the appropriateness of PSCNM's accounting practices as discussed above and as more fully set forth in our July 29, 1987, letter order.

(B) A Presiding Adminstrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. The Presiding Judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25874 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-23-000]

Santa Fe Energy Co. v. Mountain Fuel Resources, Inc.; Complaint Regarding Production-Related Costs

November 4, 1987.

On April 4, 1986, Santa Fe Energy Company (Santa Fe) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. Santa Fe requests the Production-Related Costs Board (Board) to find that Mountain Fuel Resources, Inc. (Resources) is in violation of 18 CFR 271.1104 by refusing to reimburse Santa Fe for production-related costs incurred under its contract with Resources. Santa Fe states that the contract, dated January 19, 1977, contains an area rate clause and, therefore, evidences Resources' agreement to compensate Santa Fe for the cost of delivering gas to Resources' system. Santa Fe further states it has submitted a complete and accurate description of gathering charges in the amount of $310,126.58, which amount Resources refuses to pay.

Santa Fe's contract with Resources requires Santa Fe to deliver gas to Resources' master meter on its eight-inch line serving the Canyon Creek Field, Sweetwater County, Wyoming. The field facilities and gathering lines which feed into Resources' eight-inch line were constructed and maintained by the working interest owners in the Canyon Creek Unit. Since Santa Fe has a 30% working interest in the Canyon Creek Unit below the base of the Wasatch Formation, Santa Fe paid its proportionate 30% share of the costs of the gathering system. According to Santa Fe, Resources, as the other working interest owner in the field (and not as the purchaser of the gas), paid the remaining 70% of the cost of the field gathering lines (on March 30, 1984, Resources assigned its rights as a working interest owner to its wholly owned subsidiary, Wexpro Company).

Santa Fe's complaint includes a November 20, 1985, letter from Resources which alleges that Sante Fe is not entitled to the Order No. 94-A delivery allowance since: (a) Santa Fe has not borne the entire production-related cost; (b) Santa Fe is limited to a one-cent gathering allowance by the terms of the agreement; and (c) Resources' predecessor, Mountain Fuel Supply Company, did not intend that Santa Fe would receive more than a one-cent allowance. The letter also indicates that Resources may not believe that the contract contains in area rate clause.

Santa Fe requests the Board to issue an order finding that Resources is in violation of the Commission's rules and ordering Resources to pay Santa Fe $310,126.58 representing gathering allowances due Sante Fe for gas sales during the period July 25, 1980 through December 31, 1985.

Under Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Resources must file an answer to Santa Fe's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Resources shall file its answer with the Commission not later than 15 days after publication of this notice in the **Federal Register.** In addition to any other arguments and defenses against Santa Fe's claim, Resources should address whether the contract contains an area rate clause.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such motions or protests should be filed not later than 15 days after publication of this notice in the **Federal Register.** Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25872 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI88-42-000 and CI88-43-000]

Sonat Exploration Co.; Applications for Abandonment Authorization and for Blanket Limited-Term Certificate with Pregranted Abandonment

November 4, 1987.

Take notice that on October 16, 1987, as supplemented on October 29, 1987, Sonat Exploration Company (Applicant), 5599 San Felipe, P.O. Box 1513, Houston, Texas 77251-1513, filed applications pursuant to sections 7(b) and 7(c) of the Natural Gas Act and §§ 157.23 and 157.30 of the Commission's Regulations thereunder, requesting (1) permanent abandonment of its sale to Sea Robin Pipeline Company (Sea Robin) of gas produced from East Cameron Block 231, Ship Shoal Block 222, and Ship Shoal Block 225, offshore Louisiana and (2) a three-year blanket limited-term certificate with pregranted abandonment in order to make sales in the spot market.

Applicant received certificates of public convenience and necessity in Docket Nos. CI77-509, CI69-232 and CI72-773 for sales of natural gas to Sea Robin pursuant to respective contracts dated May 12, 1977, August 26, 1968, and April 27, 1972, on file with the Commission as Sonat Exploration Company FERC Gas Rate Schedule Nos. 2, 14 and 15.

In support of its applications Applicant states that Sea Robin no longer has need for the gas. Sea Robin's past and current pruchases of gas, according to Applicant, have been and will continue to remain at levels significantly less than the deliverability of the wells. Applicant and Sea Robin terminated their contracts effective July 1, 1987. Deliverability is approximately 20 Mcf/d. The gas in NGPA section 104 gas (43%) and 102(d) gas (57%).

Any person desiring to be heard or to make any protest with reference to said applications should, on or before November 19, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to the

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proceedings herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25877 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-14-000]

South Carolina Pipeline Corp. v. Southern Natural Gas Co.; Complaint

November 4, 1987.

Take notice that on October 22, 1987, South Carolina Pipeline Corporation (South Carolina), P.O. Box 6317, Columbia, South Carolina 29260, filed a complaint and request for injunctive relief and for expeditious procedures in the captioned proceeding, stating that Southern Natural Gas Company (Southern) is making payments under certain gas contracts which violate sections 4 and 5 of the Natural Gas Act and section 601 of the Natural Gas Policy Act of 1978. South Carolina also requests that the Commission exercise its enforcement powers under section 20 of the Natural Gas Act and section 504(b) of the Natural Gas Policy Act of 1978 to seek an injunction, in the United States District Court for the District of Columbia, to prohibit Southern from making excessive payments under those gas contracts. A portion of the complaint which described the contracts, as well as the actual contracts were filed under seal pursuant to a 1983 protective agreement in *Southern Natural Gas Company*, Docket No. TA81-2-7-000, *et al.*

South Carolina states that Southern purchases gas from Pursue Energy Corporation, Grace Petroleum Corporation and 3300 Corporation in the Thomasville Field in Rankin County, Mississippi. South Carolina states that according to Southern's PGA filing in Docket No. TA88-1-7-000, the gas purchased is deep, high-cost gas qualifying under section 107(c)(1) of the NGPA and the current price for gas under the Thomasville Field contracts is $8.08 per MMBTu. South Carolina states that Southern's customers will be required to pay over $32,000,000 per year for gas from the Thomasville Field.

South Carolina requests that the Commission act on an expedited basis to issue a final decision by November 1, 1988. South Carolina requests that a hearing be convened, in which it would seek a reduction in the price payable under the Thomasville Field contracts, to the lesser of Southern's WACOG recalculated without the volumes from the Thomasville Field, or the price of No. 6 fuel oil. South Carolina also asks that the record in *Southern Natural Gas Company*, Docket No. RP88-63-000 and RP86-114-000 be incorporated, stating that such evidence is material and relevant to Southern's gas acquisition practices during the relevant time periods.

Finally, as noted earlier, South Carolina requests that the Commission seek injunctive relief in the United States District Court for the District of Columbia prohibiting Southern from making payments under the Thomasville Field contracts which are in excess of the lesser of Southern's WACOG as calculated without the Thomasville Field volumes, or the price of No. 6 fuel oil, pending a final Commission decision. South Carolina states that such immediate injunctive relief is necessary to prevent irreparable harm to Southern's customers.

As provided in Rule 213, 18 CFR 385.213 (1987), Southern, as respondent to the complaint, must make an answer to the complaint, unless the Commission orders otherwise. Failure to answer a complaint will cause the respondent to be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Southern shall file its answer within 30 days of the date of issuance of this notice.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before December 4, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25870 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-513-000

Tenngasco Gas Supply Co., et al. v. Southland Royalty Co., et al., Proposed Stipulation and Agreement in Partial Settlement of Proceedings

November 3, 1987.

Take notice that Southland Royalty Company, Exxon Corporation, Mobil Producing Texas & New Mexico Inc., The Penn Group, the Wright Group, the Markey Estate, the Markey Group (hereinafter collectively "Southland, *et al.*"), HT Gathering Company, Houston Pipe Line Company, Intratex Gas Company, Tenngasco Gas Supply Company, Southern California Gas Company, Pacific Gas and Electric Company, Southwest Gas Corporation, and the Enforcement Staff of the Federal Energy Regulatory Commission (hereinafter the "Sponsoring Parties") on October 23, 1987 filed with the Federal Energy Regulatory Commission ("Commission") an offer of settlement and a Stipulation and Agreement in Partial Settlement of Proceedings ("Stipulation") in the captioned docket.

The captioned proceeding was initiated by a Complaint filed June 18, 1985 by HT Gathering Company, Tenngasco Gas Supply Company, Houston Pipe Line Company's predecessor, Houston Natural Gas Corporation, and Intratex Gas Company. The Complainants alleged that some or all of the gas sold intrastate to HT Gathering by Southland, *et al.*, from July 14, 1975 and thereafter, from the Waddell Ranch, Crane County, Texas may have been dedicated to El Paso Natural Gas Company in interstate commerce. The Sponsoring Parties have negotiated a settlement which resolves all issues in the captioned proceeding as among themselves. The Stipulation is supported by the Sponsoring Parties and the People of the State of California and the Public Utilities Commission of the State of California. El Paso Natural Gas Company ("El Paso") and Chevron U.S.A. Inc., do not oppose this Stipulation. The Stipulation does not apply to Chevron U.S.A. Inc.

The Stipulation resolves as against the Sponsoring Parties, and their officers, directors, employees, agents or representatives, all claims which were or could be raised in the captioned docket, including issues relating to the production, gathering, processing, treating, conditioning, purchase, sale, resale, transfer, delivery and/or exchange, accounting and allocation, or failure to engage in such activities, and the prices or other consideration received for such activities, of gas described in the Stipulation from July 14, 1975 forward, due to the activities described in the Stipulation.

According to the Stipulation, Southland, *et al.* shall make refunds to El Paso for distribution by El Paso to both its jurisdictional and non-jurisdictional customers. The method of calculating the amount of refunds to all of El Paso's customers is set forth in the Stipulation. The Stipulation expressly provides that receipt of refunds by these customers will forclose all claims regarding the matters described in the Stipulation.

The Stipulation delineates how certain of the Southland, *et al.* gas will be made available to El Paso and what Southland, *et al.* gas may be sold to any purchaser(s). In addition, the Stipulation shall constitute appropriate and sufficient request for certificate, abandonment, and all other necessary authorizations and waivers, including but not limited to authorizations under the NGA and waiver of §§ 157.18 and 157.23, *et seq.* of the Commission's Regulations. Commission approval of the Stipulation shall constitute the grant of all such authorizations and waivers. The Stipulation specifies that no violation of any statute is deemed to have occurred and no penalty has been imposed.

The Stipulation provides the procedure for making refunds, suspends the hearing in the proceeding, and specifies the effect any subsequent determination in the proceeding may have concerning matters subject to the Stipulation. The Sponsoring Parties also have requested that the Commission grant such waivers and special permissions with respect to the requirements of the Commission's regulations as are necessary to effectuate the Stipulation.

The description of the Stipulation contained herein is not exhaustive. The Stipulation and related documents are available and on file with the Commission, and can be reviewed by any interested person.

The sponsoring Parties requested that the Presiding Administrative Law Judge certify the Stipulation promptly to the Commission, as reflected by his order issued October 26, 1987. Furthermore, waiver of Rule 602(f)(2) has been granted to the extent that all comments should be filed directly with the Commission.

Any person not a party and desiring to be heard or to protest the offer of settlement should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washingotn, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions should be filed on or before November 9, 1987.

Any person filing comments should address such comments directly to the Commission. Initial comments should be filed on or before November 9, 1987 and reply comments on or before November 16, 1987. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25875 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Intent to Prepare an Environmental Impact Statement and Floodplain/Wetlands Assessment for the Blue River-Summit Transmission Line Project, Summit County, CO

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western), will prepare an environmental impact statement (EIS) for their proposal to rebuild the existing 115 kilovolt (kV) transmission line that runs from the Blue River Substation to the Summit Substation in Summit County, Colorado. The line is proposed for rebuilding because it is in a deteriorated condition and lacks overhead lighting protection. These conditions have contributed to problems with reliability. Rebuilding the line will increase reliability, safety, and power carrying capacity. The existing line crosses the Blue River several times, and a floodplains assessment will be prepared to assess potential impacts from any proposed actions that may occur in the floodplain.

DATES: Dates and locations of public meetings and hearings will be announced in the **Federal Register** and local newspapers as they are scheduled.

ADDRESSES: Comments or information concerning this proposed action should be sent to: Mr. Mark N. Silverman, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, 5555 East County Road 26, Loveland, CO 80539.

FOR FURTHER INFORMATION CONTACT: William Melander, Environmental Manager, at the above address or telephone (303) 224-7231.

SUPPLEMENTARY INFORMATION: In accordance with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA), 40 CFR Parts 1500-1508, Western will prepare an EIS for the proposed rebuild of the existing 115-kV Blue River-Summit Transmission Line in Summit County, Colorado. In accordance with DOE guidelines for compliance with floodplain/wetlands environmental review requirements, 10 CFR Part 1022, Western will prepare a floodplain/wetlands assessment that will assess potential impacts on the Blue River and nearby streams or wetlands from proposed construction alternatives. It is expected that the rebuilt line will span the floodplain and wetlands.

Western proposes to rebuild approximately 14 miles of the Blue River-Summit 115-kV Transmission Line between the Blue River Substation and the Town of Silverthorne, Colorado. The existing line was built in 1938 and has exceeded its service life and is in a deteriorated condition. The line lacks overhead ground wire lightning protection, is subject to high power losses because of its small conductor, and does not provide for additional capacity for future load growth in the area. The line is an essential load serving line in the area and also will serve a future substation in Silverthorne that is proposed to be constructed by the Public Service Company of Colorado.

Summit County officials requested that Western consider moving the line off of the existing route where feasible. The county considers the Blue River Valley a scenic corridor. Western began preparation of an environmental assessment for the proposed project and considered routing and other alternatives to the project. Public controversy over land use and visual impacts associated with new transmission line routes and the existing route indicated that an EIS should be prepared. In addition to the location alternatives for the transmission line, Western will consider the no-action alternative, systems alternatives, and

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alternative technologies such as undergrounding.

Issued in Golden, Colorado, October 30, 1987.

William H. Clagett,

Administrator.

[FR Doc. 87-25849 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-M

Wetland Determination for the Arminto-Casper (Casper-Waltman) 69/115-KV Transmission Line, Thermopolis-Alcova-Casper Transmission Line Project, WY

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of comment period.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western) proposes to install at least six transmission line structures within a wetland associated with Ten Mile Draw near Casper, Wyoming, as part of the Arminto-Casper 69/115-kilovolt (kV) Transmission Line Project. To minimize the effects to the wetland, Western will limit construction activities to the winter or dry seasons, and restore any damaged wetland areas.

In accordance with § 1022.14 of the DOE Procedures for Floodplain/Wetlands Review (44 FR 12598), Western will allow 15 days for public and agency comment following the publication of the Public Notice before taking any action.

DATE: Comments must be submitted on or before November 24, 1987.

ADDRESS: Comments should be addressed to: Mr. Mark N. Silverman, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539.

FOR FURTHER INFORMATION CONTACT: Bill Melander, 303-490-7231.

SUPPLEMENTARY INFORMATION: On March 1, 1985, Western issued a record of decision (ROD) for the construction, operation, and maintenance of the Thermopolis-Alcova-Casper Transmission Line Project (Project), Wyoming. The ROD addressed the reconstruction of the existing Arminto-Casper 69-kV Transmission Line on most of its existing right-of-way (ROW). The Arminto-Casper rebuild was addressed as an element of the Project in the environmental impact statement (EIS) prepared for the Project DOE/EIS-0101).

Because of unforeseen land use conflicts with the Arminto-Casper rebuild, Western proposed to reroute a segment of the Arminto-Casper differently than addressed in the EIS. Western initiated an environmental analysis for the reroute, and found that a portion of the reroute traversed an area mapped as wetland by the U.S. Geological Survey. The mapped area is along Ten Mile Draw, west of Casper, Wyoming, in Section 36, Township 34 North, Range 81 West, about 1.5 miles southwest of the Natrona County International Airport. To verify the status of the wetland, Western initiated consultation with the Fish and Wildlife Service (FWS), U.S. Department of the Interior on July 21, 1987. The FWS indicated that the area does have wetlands that merit protection under Executive Order 11990 in a letter dated August 20, 1987, and further recommended that transmission line construction within the wetland be confined to the dry season or winter.

The rerouted portion of the transmission line will traverse about 4,000 feet of the wetland area, necessitating the installation of at least six H-frame, wood-pole structures within the wetland. Western did not pursue moving the transmission line to avoid the wetland because of extensive existing and proposed agricultural, residential, and industrial development in the vicinity south of the wetland. Western has adopted FWS recommendations and will limit construction activities during the dry periods or to a period in the winter when the ground is sufficiently frozen to support construction and structure erection equipment. In addition, Western will restore any wetland area damaged by construction activities.

In accordance with § 1022.14 of the DOE Procedures for Floodplain/Wetlands Review, Western has informed interested Federal, State, and local agencies and persons known to be interested in the proposed wetland action. Following the publication of the Public Notice in the **Federal Register**, Western will allow 15 days for further public and agency comment. At the close of the public comment period, Western will reevaluate the practicability of alternatives to the proposed wetland action and the mitigating measures, taking into account all substantive comments received. Western will take no action prior to 15 days after publication of this Public Notice in the **Federal Register**.

Issued in Golden, Colorado, October 30, 1987.

William H. Clagett,

Administrator.

[FR Doc. 87-25846 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3288-8]

Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to Star-Kist Samoa, Inc. (EPA Project Number AS 86-01)

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on May 19, 1987 the Environmental Protection Agency issued a PSD permit under EPA's federal regulations 40 CFR 52.21 to Star-Kist Samoa, Inc. The PSD permit grants approval to construct a can end making facility to be located in the village of Onua on the Island of Tutuila, American-Samoa. The permit limits the applicant to 500 million can ends per year with a low VOC solvent coating of 500 grams/liter.

The permit is subject to certain conditions, including an allowable emission rate as follows: Ozone (VOC)-51.5 lbs/hr.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address request to: Linda Barajas (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8221, FTS 454-8221.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include the use of low solvent coating.

Dated: October 29, 1987.

Kenneth Bigos,

Acting Director, Air Management Division, Region 9.

[FR Doc. 87-25001 Filed 11-6-87; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-3287-9]

Financial Assistance Program Eligible for Review Under 40 CFR Part 29 and Subject to Section 204 of the Demonstration Cities and Metropolitan Development Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability and review.

SUMMARY: Pursuant to the Water Quality Act Amendments of 1987, Pub. L. No. 100-4, the Environmental Protection Agency (EPA) is announcing the availability of a new financial assistance program, CFDA No. 66.460—Nonpoint Source Reservation under section 205(j)(5) of the Clean Water Act. This program will support the development of State Nonpoint Source (NPS) Management Programs as required by section 319 of the Clean Water Act. The Act requires that States, within 18 months of the date of enactment of the Water Quality Act Amendments (February 4, 1987), develop a comprehensive nonpoint source Assessment Report and Management Program. Upon completion and EPA approval of the Assessment Report and Management Program, section 205(j)(5) funds as well as section 319 funds, are authorized for use in implementing the Management Program and for updating the existing Assessment Report and Management Program.

Funds available include section 205(j)(5) funds under the FY 1987 Supplemental Appropriation and those included in the President's proposed budget for FY 1988, subject to Congressional appropriation. Due to the recent availability of the FY 1987 Supplemental Appropriation (July 1987), many States prepared and submitted grant applications prior to the end of FY 1987.

FOR FURTHER INFORMATION CONTACT: Carl F. Myers, Chief, Nonpoint Sources Branch (WH-585), U.S. EPA—Headquarters, 401 M Street SW., Washington, DC 20460.

For Regional Office Program and Pre-Application Assistance Contact:

Bart Hague, NPS Coordinator, U.S. EPA—Region I, JFK Federal Building, Room 813, Boston, Mass. 02203
Rick Balla, NPS Coordinator, U.S. EPA—Region II, 26 Federal Plaza, New York, NY 10278
Andrew Uricheck, NPS Coordinator, U.S. EPA—Region III, Curtis Bldng., 6th & Walnut Sts., Philadelphia, PA 19106
Bo Crum, NPS Coordinator, U.S. EPA—Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365
Tom Davenport, NPS Coordinator, U.S. EPA—Region V, 230 South Dearborn Street, Chicago, Illinois 60604
Russell Bowen, NPS Coordinator, U.S. EPA—Region VI, 1445 Ross Avenue, Dallas, Texas 75202
Bob Steiert, NPS Coordinator, U.S. EPA—Region VII, 726 Minnesota Avenue, Kansas City, KS 66101
Roger Dean, NPS Coordinator, U.S. EPA—Region VIII, One Denver Place, 999 18th Street, Denver, Colorado 80202-2413
Wendell Smith, NPS Coordinator, U.S. EPA—Region IX, 215 Fremont Street, San Francisco, California 94105
Elbert Moore, NPS Coordinator, U.S. EPA—Region X, 1200 6th Avenue, Seattle, Washington 98101

SUPPLEMENTAL INFORMATION: Section 205(j)(5) funds are reserved for "the purpose of carrying out section 319" of the Act. The reserve is an annual set-aside of 1% of each State's construction grant allotment or $100,000, whichever is greater. These funds are available for developing and updating a State's Nonpoint Assessment Report and Management Program. Under section 319 of the Act, as amended, these funds are also available for implementing the recommendations and programs contained in an approved Management Program.

Grant applications must include work programs which specify (in accordance with the Administrator's Policy on Performance Based Assistance, dated May 31, 1985) how these funds will be used and coordinated with other Federal and State supported nonpoint source program activities. Work programs must specify tasks/outputs, schedules and person years of effort for all activities supported under this program. Further information regarding grant application procedures and requirements is available from EPA's Regional Assistance Administration Units. Detailed program guidance is available from the above contacts.

In the development phase of this program, two major documents are required—a nonpoint source Assessment Report and a Management Program. The *Assessment Report* describes the nature, extent and effect of nonpoint source water pollution, the causes of such pollution and the programs and methods used for their control. States are encouraged to use their 1988 section 305(b) Reports (due April 1988) to meet the requirements of the Assessment Report. Final Assessment Reports are due no later than August 4, 1988. The *State Management Program* (also required by August 4, 1988) includes an overview of the State's current NPS program as well as a description of what the State intends to implement and accomplish over the next four fiscal years, e.g., identification of best management practices, schedules for program implementation, certification of existing authorities, listing of additional authorities required, etc.

Section 205(j)(5) funds may be used for implementing a State's nonpoint source Management Program, *if* a State has an approved Assessment Report and Management Program. Funds used for implementation, however, require a State matching contribution (40 percent) and a maintenance-of-effort (MOE). Eligible activities include regulatory or nonregulatory programs for enforcement, technical assistance, financial assistance, education, training, etc.

This program is eligible for intergovernmental review under Executive Order 12372 and is subject to the review requirements of section 204 of the Demonstration Cities and Metropolitan Development Act. States must notify the following office in writing within thirty days of this publication whether their State's official E.O. 12372 process will review applications in this program: Grants Policy and Procedures Branch, Grants Administration Division (PM-216F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Applicants must contact their State's Single Point of Contact (SPOC) for intergovernmental review as early as possible to find out if section 205(j)(5) grant applications are subject to the State's official E.O. 12372 review process and what material must be submitted to the SPOC for review. In addition, applications including projects within a metropolitan area must be sent to the areawide/regional/local planning agency designated to perform metropolitan or regional planning for the area for their review.

SPOCs and other reviewers should send their comments concerning applications to the appropriate EPA Regional Offices, no later than sixty days after receipt of an application/other required material for review.

Dated: October 30, 1987.

Edmund M. Notzon,

Director, Criteria and Standards Division.

[FR Doc. 87-25902 Filed 11-06-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3289-3]

Science Advisory Board, Environmental Health Committee, Halogenated Organics Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a four-day meeting of the Science Advisory Board's Halogenated Organics Subcommittee of the Environmental Health Committee will be held on November 19-20, 1987 at the Georgetown Facility of the National Academy of Sciences located at 2001 Wisconsin Avenue, Washington, DC 20007. The meeting will be in Conference Room #110 on November 19th and in Conference Room #120 on November 20th. The meeting will begin

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at 9:00 a.m. on November 19 and adjourn no later than 4:00 p.m. on November 20.

The Halogenated Organics Subcommittee of the Environmental Health Committee will review the health criteria documents for PCBs, 1,2-dichloropropane and cis- and trans-dichloroethylene.

An agenda for the meeting is available from Ms. Reneé Butler, Staff Secretary, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, Washington, DC, 20460, (202) 382-2552. The health criteria documents are available from the Health Effects Branch, Office of Drinking Water, USEPA, Washington, DC, 20460, (202) 382-7571.

The meeting will be open to the public. Any member of the public wishing to attend, obtain information or otherwise participate in these meetings must contact Dr. C. Richard Cothern, Executive Secretary, Environmental Health Committee by telephone at (202) 382-2552 or by mail to: Science Advisory Board (A-101-F), 401 M Street SW., Washington, DC, 20460 no later than c.o.b. on November 13, 1987.

Terry E. Yosie,

Director, Science Advisory Board.

Date: October 30, 1987.

[FR Doc. 87-25903 Filed 11-6-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3269-2]

Proposed Issuance of National Pollutant Discharge Elimination System (NPDES) Permits to Discharge to Waters of the United States and State Determination of Consistency With the Alaska Coastal Zone Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Revised public notice expiration dates for public notice No. AKG284100 (Beaufort Sea II).

SUMMARY: This notice extends the public comment period for the Beaufort Sea II permit published in the Federal Register on September 30, 1987 (52 FR 36617). The public comment period for the permit has been extended 30 days. Persons wishing to provide comments on the draft permit must ensure that EPA, Region 10, receives the comments by 4 p.m. on December 9, 1987.

Dates for tentatively-scheduled public hearings on this draft permit will not be affected by the comment period extensions.

Public Comment Period: Original Public Notice Expiration Date: November 9, 1987, Revised Public Notice Expiration Date: December 9, 1987.

FOR FURTHER INFORMATION CONTACT: Duane Karna, Telephone No. (206) 442-1413, Ocean Programs Section, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

Date: November 3, 1987.

Robert S. Burd,

Director, Water Division.

[FR Doc. 87-25904 Filed 11-6-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. W-27]

Window Notice for the Filing of FM Broadcast Applications

Release: October 28, 1987.

Notice is hereby given that applications for vacant FM broadcast allotment listed below may be submitted for filing during the period beginning October 28, 1987 and ending December 3, 1987 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

CHANNEL—269 A	
Orange Beach	AL
Dermott	AR
Avenal	CA
Watertown	FL
Ashburn	GA
Bicknell	IN
Eminence	KY
Hawesville	KY
Eden Prairie	MN
Springfield	MN
Elizabethtown	NC
Marysville	OH
Portage	PA
Rockwood	TN
Raymondville	TX
Salem	WV

CHANNEL—230 A	
Alexandria	LA

CHANNEL—289 C1	
Yakima	WA

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-25810 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-476]

Applications for Consolidated Hearing; Ford F.M., Inc. and Casey Broadcast Group, Inc.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM docket No.
A. Ford F.M., Inc.; Casey, IL	BPH-860224MN	87-476
B. Casey Broadcast Group, Inc.; Casey, IL	BPH-860317NS	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone (202) 857-3800.)

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-25812 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-490]

Applications for Consolidated Hearing; G&D Communications, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city and State	File No.	MM Docket No.
A. G&D Communications, Inc., Pans, Texas.	BPCT-860203LI	87-490
B. Janis Sheree Blair d/b/a The Yellow Rose of Texas, Pans, Texas.	BPCT-621216IM	
C. Fredrick Gimm d/b/a Mountlake Productions, Ltd., Pans, Texas.	BPCT-870331LU	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A,B,C
2. Contingent Environmental, B,C
3. Comparative, A,B,C
4. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copy during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commisson's duplicating contractor, International Transcription Services, Inc., 2100 M. Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief Video Services Division, Mass Media Bureau.

[FR Doc. 87-25813 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-489]

Applications for Consolidated Hearing; Garcia Communications, et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city, and State	File No.	MM Docket No.
A. Garcia Communications, Porterville, CA	BPCT-870331K9	87-489
B. Arthur C. Kralowec, Porterville, CA	BPCT-870526KK	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

Air hazard, A, B
Comparative, A, B
Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW, Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-25815 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-477]

Applications for Consolidated Proceeding; Kingsley H. Murphy Jr., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Kingsley H. Murphy, Jr., New Prague, MN.	BPH-860508MG	87-477
B. New Prague Broadcasting Company, New Prague, MN.	BPH-860507MD	
C. Joanna Kalyvas, New Prague, MN.	BPH-860507MF	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicants

1. Air Hazard, A, B
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW, Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-25815 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket NO. 87-492]

Applications for Consolidated Hearing; Walter Gray Gilbert, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Walter Gray Gilbert, Indianola, MS.	BPH-860114NB	87-492
B. Minority Broadcasting Corporation, Indianola, MS.	BPH-860122ML	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

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Issue Heading Applicant(s)

1. Comparative, A, B, C
2. Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-25817 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-466]

Applications for Consolidated Hearing; Running Rhodes, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Running Rhodes, Inc., Harbor Springs, MI.	BPH-850613MB	87-466
B. Patricia Ann Mason, Harbor Springs, MI.	BPH-850710MH	
C. Harbor Springs Radio, Limited, Harbor Springs, MI.	BPH-850712NJ	(dismissed)

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-25818 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-468]

Applications for Consolidated Hearing; Sharon S. Smith et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city, and State	File No.	MM Docket No.
A. Sharon S. Smith, Destin, FL	BPCT-870330KY	87-468
B. William F. Parrish, Jr., Destin, FL	BPCT-870331PT	
C. Philip A. Campolo d/b/a Airwave Media, Ltd., Destin, FL	BPCT-8703315K	
D. Emerald Coast Broadcasting, Destin, FL	BPCT-870610KQ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicant(s)

1. Air hazard A, C, D
2. Qualifications, C
3. Comparative, A, B, C, D
4. Ultimate, A, B, C, D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in a Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC. 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87-25819 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

FEMA Advisory Board Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, announcement is made of the following FEMA Advisory Board meeting:

Name: Federal Emergency Management Agency Advisory Board.

Dates of Meeting:

November 30, 1987, 1:00 p.m. to 4:00 p.m.
December 1, 1987, 9:00 a.m. to 12:30 p.m.

Place: Federal Emergency Management Agency, Emergency Information and Coordination Center, 500 C Street SW., Washington, DC 20472.

Purpose: FEMA executives will provide reports on the Agency's budget and personnel. The status of a review of civil defense programs will be provided an discussed. Program development concepts for the protection of national infrastructure assets will be discussed. A session on the future work agenda for the Board and Board Panels will be conducted. Discussions will include classified information. The Director has determined that the Board meeting should be closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. 11, (1982)), because discussions will involve information that is specifically authorized to be kept "Secret" in the interest of national defense and is properly classified pursuant to the Executive Order.

Robert H. Morris,

Deputy Director.

[FR Doc. 87-25856 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010390-015.

Title: United States Atlantic & Gulf/Ecuador Steamship Conference.

Parties:

Crowley Caribbean Transport, Inc.
Lykes Bros. Steamship Co., Inc.
Ecuadorian Line, Inc.

Synopsis: The proposed amendment would restate the agreement and would permit the parties to offer alternative port service to or from any port listed in the conference tariff. It would also permit the parties to exercise independent action on the level of compensation paid to an ocean frieght forwarder who is also a customs broker.

Agreement No.: 232-011155.

Title: Wallenius/NYK/MOSK Space Charter and Cooperative Working Agreement.

Parties:

Wallenius Line (Wallenius)
Nippon Yusen Kaisha (NYK)
Mitsui O.S.K. Lines, Ltd. (MOSK)

Synopsis: The proposed agreement would permit Wallenius to charter space aboard vehicle carrier vessels owned or chartered by NYK and MOSK in the trade from the United Kingdom and Atlantic, Baltic and North Sea ports of Europe to United States Atlantic, Gulf and Pacific ports, including Alaska, Hawaii and Puerto Rico, including shipments to, from or between inland points via such ports. It would also permit the parties to agree upon the capacity and scheduling of the vessels to be utilized.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: November 4, 1987.

[FR Doc. 87-25913 Filed 11-6-87; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 1998
Name: Kopak Inc.
Address: P.O. Box 660092, Miami Springs, FL 33266-0092
Date Revoked: September 29, 1987
Reason: Surrendered license voluntarily.

License Number: 732
Name: Universal Transport Corporation
Address: 70 West 36th St., New York, NY 10018
Date Revoked: October 1, 1987
Reason: Failed to maintain a valid surety bond.

License Number: 3026
Name: LCL International Packaging, Inc.
Address: 630 Glover Street, Detroit, Michigan 48214
Date Revoked: October 12, 1987
Reason: Failed to maintain a valid surety bond.

License Number: 3024
Name: S.A. Chiarella dba S.A. Chiarella Forwarding Co.
Address: 1233 Nadina, San Mateo, CA 94402
Date Revoked: October 14, 1987
Reason: Failed to maintain valid surety bond.

License Number: 2426
Name: Shigehiro Uchida dba Jupiter Forwarding Co.
Address: 4650 S. Eastern Ave., City of Commerce, CA 90080
Date Revoked: October 17, 1987
Reason: Failed to maintain valid surety bond.

License Number: 2559
Name: Transhansa Projects, Inc.
Address: 21 West Street, Suite 2306, NY 10006
Date Revoked: October 18, 1987
Reason: Failed to maintain a valid surety bond.

License Number: 88
Name: W.L. Richeson & Sons, Inc.
Address: 442 Canal Street, P.O. Box 50248, New Orleans, LA 70150
Date Revoked: October 20, 1987
Reason: Failed to maintain a valid surety bond.

Robert G. Drew,

Director, Bureau of Domestic Regulation.

[FR Doc. 87-25911 Filed 11-6-87; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants

Notice is given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC. 20573.

Gladys R. Fernandez dba Glad Freight Int'l., 3351 SW 141 Ave., Miami, FL 33175

Transit Cargo Corporation, 6282 N.W. 14th Street, Miami, FL 33126
Officers: Eduardo Del Pozo, Jr., President, Rene Bailon, Vice President

Florida Worldwide Citrus Products Group, Inc., 2004 6th Avenue, West, Bradenton, FL 34205
Officers: Martin O' Brien, President, Jan Soudyn, Vice President

Montgomery & Montgomery, 230 North Michigan Ave., Chicago, ILL 60601
Officers: Charles W. Montgomery, President, Clementine Montgomery, Vice President

Gerard Michael Arzillo dba Rapid Air, Forwarding, 6966 N.W. 12th Street, Miami, FL 33126

Transway Airfreight Cargo Inc., 2205 N.W. 70th Avenue, Miami, FL 33122.
Officers: Frank Jimenez, President, Lilo Casado, Vice President

Rafael Eduardo Iniguez, 1222 E. Imperial Ave., El Segundo, CA 90245
Officers: Alberto Planas, President, Rafael E. Iniguez, Vice President, Zoila Planas, Secretary

Sam (Shih Yuan) Chang dba Allgreen Worldwide, Express Corporation, 523 Thomas Drive, Bensenville, IL 60106
Officers: Sam Chang, President, Mei Chang, Vice President, Julie Chang, Treasury

Ronald Ray Hodge dba F.H. Kaysing Co. of Wichita, 3000 W. Kellog, Suite #304, Wichita, KS 67213

Troy Abercrombie dba Freight International Services, Ltd., 4702 Lucerne Valley Road, Lilburn, GA 30247
Officers: Troy Lee Abercrombie, President, Marcus Troy Abercrombie, Vice President

Laura DeGroot dba United Global Services, Inc., 1303 Meade Lane, Arlington Heights, IL 60004
Officer: Laura DeGroot, President & Director

Mouttet, Michael Roland dba Michael R Mouttet, 10790 N. Kendall Drive, Apt. #C-25, Miami, Florida 33176

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By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: November 4, 1987.

[FR Doc. 87-25912 Filed 11-6-87; 8:45 am]

BILLING CODE 6730-01-M

Intent To Cancel Inactive Tariffs

The domestic offshore commerce files of the Federal Maritime Commission contain numerous tariffs filed on behalf of firms which appear to be inactive or no longer operating as common carriers. For the purpose of this notice, a carrier has been deemed to be inactive or no longer operating if it has met the following criteria: (1) Failure of the carrier to respond to a letter, mailed to its last known address, inquiring as to the status of its tariffs, or such letter being returned as undeliverable by the United States Postal Service; and (2) failure of the carrier to amend its tariffs during the proceeding twelve months.

Inactive tariffs reflect inaccurate information and serve no useful purpose. Accordingly, in the absence of a showing of good cause why such action should not be taken, the Commission proposes to cancel all the tariffs of the companies included on the attached list.

Now, therefore it is ordered, That the carriers included on the attached list advise the Federal Maritime Commission's Director, Bureau of Domestic Regulation at 1100 L Street, NW., Washington, DC 20573, in writing, within 30 days after the publication of this Order in the **Federal Register**, of any reason why the Commission should not cancel their respective tariffs;

It is further ordered, That a copy of this Order be sent by certified mail to the last known address of the carriers listed in the attachment;

It is further ordered, That the tariffs of all carriers named in the attached list who fail, within the time allotted, to provide good cause for maintaining these tariffs in an active status will be cancelled;

It is further ordered, That this notice be published in the Federal Register.

This Order is issued pursuant to authority delegated to the Director, Bureau of Domestic Regulation by Section 9.04 of Commission Order No. 1 (Revised) dated November 12, 1981.

Robert G. Drew,

Director, Bureau of Domestic Regulation.

Federal Maritime Commission, Bureau of Domestic Regulation, Office of Carrier Tariffs and Service Contract Operations

Inactive Tariffs

Acronym: **AFI Worldwide Forwarders**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 335 Valencia Street
City: San Francisco
State: Ca 94103
Country: United States of America
Name Number: 000148

Acronym: **American Kings, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1412 N.W. 82nd Avenue
City: Miami
State: FL 33126
Country: United States of America
Name Number: 006768

Acronym: **American Marine Lines Co., Inc.**
DBA: NA.
Person Types: Ocean common carrier (vessel operating)
Street: 11 Broadway, Suite 1715
City: New York
State: NY 10004
Country: United States of America
Name Number: 000232

Acronym: **American Vanpac Carriers, Inc.**
DBA: NA.
Person Types: Ocean freight forwarder (independent) non-vessel-operating common carrier
Street: 2114 Macdonald Avenue
City: Richmond
State: CA 94801
Country: United States of America
Name Number: 000245

Acronym: **Americargo International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier ocean freight forwarder (independent)
Street: 830 Supreme Dr.
City: Bensenville
State: IL 60106
Country: United States of America
Name Number: 000244

Acronym: **Arrowpac, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 2600 Penhorn Avenue and State Hwy 3
City: North Bergen
State: NJ 07047
Country: United States of America
Name Number: 000274

Acronym: **Aurora International Forwarding, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier ocean freight forwarder (independent)
Street: 5060 Shawline Dr
City: San Diego
State: CA 92111
Country: United States of America
Name Number: 000317

Acronym: **Bekins International Lines, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 820 East D Street
City: Wilmington
State: CA 90744
Country: United States of America
Name Number: 000358

Acronym: **Bekins Wide World**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 820 East D Street
City: Wilmington
State: CA 90744
Country: United States of America
Name Number: 000359

Acronym: **Bestway Ocean Express Transport, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 515 River Road
City: Clifton
State: NJ 07014
Country: United States of America
Name Number: 000374

Acronym: **Calif., Hawaii & Samoa Trans. Company, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: Suite 911, 1441 Kapioloni Blvd.
City: Honolulu
State: HI 96814
Country: United States of America
Name Number: 000665

Acronym: **California Manufacturers Freight Association**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 610 South Main Street, Suite 624
City: Los Angeles
State: CA 90014
Country: United States of America
Name Number: 000668

Acronym: **Cambridge International Incorporated**
DBA: NA.

Person Types: Non-vessel-operating common carrier
Street: 355 West Carob
City: Compton
State: CA 90220
Country: United States of America
Name Number: 001810

Acronym: **Cargomatic Express, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 8440 S.W. 107 Avenue, #104
City: Miami
State: Fl 33173
Country: United States of America
Name Number: 006825

Acronym: **Caribbean Bulk Services, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: G.P.O. Box 4611
City: San Juan
State: 00936
Country: United States of America
Name Number: 000704

Acronym: **Caribbean Express Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 7573 Barrio Obrero Station
City: Santurce
State: PR 00916
Country: United States of America
Name Number: 002604

Acronym: **Caribbean Trailer Transport Corporation**
DBA: NA.
Person Types: Ocean common carrier (vessel operating)
Street: BOX 8619
City: St Thomas
State: 00801
Country: U.S. Virgin Islands
Name Number: 000713

Acronym: **Central Alaska Marine Lines, Inc.**
DBA: NA.
Person Types: Ocean common carrier (vessel operating)
Street: 745 S. Orchard
City: Seattle
State: WA 98108
Country: United States of America
Name Number: 000732

Acronym: **Centurion Consolidation Company**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 96-1407 Waihona Place
City: Pearl City
State: HI 96782
Country: United States of America
Name Number: 000733

Acronym: **Century Marine, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 142-82 Rockaway Boulevard
City: Jamaica
State: NY 11434
Country: United States of America
Name Number: 000742

Acronym: **Combined Hawaiian Express**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 3689 Bandini Blvd.
City: Los Angeles
State: CA 90023
Country: United States of America
Name Number: 000773

Acronym: **Container Marine Transport Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 50 Oak Street
City: East Rutherford
State: NJ 07073
Country: United States of America
Name Number: 000814

Acronym: **Container Moving International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 5060 Shawline drive
City: San Diego
State: CA 92111
Country: United States of America
Name Number: 000815

Acronym: **Continental Forwarders, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 350 Broadway
City: New York
State: NY 10013
Country: United States of America
Name Number: 000818

Acronym: **Coral Freight Consolidators of Guam**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 26 15th Street
City: San Diego
State: CA 92101
Country: United States of America
Name Number: 002605

Acronym: **Crescent City Marine Ways & Dry Dock Co., Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: Suite 1480 700 N.E. Multnomah St.
City: Portland
State: OR 97232
Country: United States of America
Name Number: 000839

Acronym: **Crossroads Freight Systems, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1801 Hunter St.
City: Los Angeles
State: CA 90021
Country: United States of America
Name Number: 000843

Acronym: **Dansk Steamship Lines**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1 World Trade Center
City: Port of Sacramento, West Sacramento
State: CA 95691
Country: United States of America
Name Number: 000912

Acronym: **Dean Forwarding Company, Inc.**
DBA: D.F. Container Lines Dean Worldwide
Person Types: Non-vessel-operating common carrier Ocean freight forwarder (independent)
Street: 5252 Argosy drive P.O. Box 1412
City: Huntington Beach
State: CA 92649
Country: United States of America
Name Number: 000920

Acronym: **Dewitt Freight Forwarding**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 82476
City: San Diego
State: CA 92138
Country: United States of America
Name Number: 000932

Acronym: **Durion Freight Lines, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: Universal American 1860 Ala Moana Blvd, Suite 706
City: Honolulu
State: HI 96815
Country: United States of America
Name Number: 005701

Acronym: **Eastern Forwarding International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 7450
City: Baltimore
State: MD 21227
Country: United States of America
Name Number: 001223

Acronym: **Express Forwarding and Storage Co., Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 19 Rector Street
City: New York

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State: NY 10006
Country: United States of America
Name Number: 001270
Acronym: **General Transpac Systems**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 100 California Street
City: San Francisco
State: CA 94111
Country: United States of America
Name Number: 006831
Acronym: **Global Maine, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 999, Route 25
City: Middle Island
State: NY 11953
Country: United States of America
Name Number: 002606
Acronym: **Hawaiian-Pacific Freight Forwarding**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 900
City: Long Beach
State: CA 90801
Country: United States of America
Name Number: 002600
Acronym: **Higa Fast Pac, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1460 Park Avenue
City: Emeryville
State: CA 94608
Country: United States of America
Name Number: 001441
Acronym: **Home-Pack Transport, Inc.**
DBA: NA.
Person Types: Ocean freight forwarder (independent) Non-vessel-operating common carrier
Street: 57–48 49th St
City: Maspeth
State: NY 11378
Country: United States of America
Name Number: 001446
Acronym: **Imperial Van Lines International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 2805 Columbia Street
City: Torrance
State: CA 90503
Country: United States of America
Name Number: 001325
Acronym: **Imperial Van Lines, Inc. of California**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 2805 Columbia Street
City: Torrance
State: CA 90503
Country: United States of America
Name Number: 006838
Acronym: **Inter-American Moving Services, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 3601 N.W. 55th Street
City: Miami
State: FL 33142
Country: United States of America
Name Number: 002770
Acronym: **International Export Packers, Inc.**
DBA: NA.
Person Types: Ocean freight forwarder (independent) Non-vessel-operating common carrier
Street: 4600 Eisenhower Avenue
City: Alexandria
State: VA 22304
Country: United States of America
Name Number: 001361
Acronym: **Island Freight Lines**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 707
City: Orange
State: CA 92666
Country: United States of America
Name Number: 006839
Acronym: **Ivaran Lines**
DBA: Ivaran Agencies, Inc.
Person Types: Ocean common carrier (vessel operating)
Street: One Exchange Plaza
City: New York
State: NY 10006
Country: United States of America
Name Number: 005940
Acronym: **Ivory Forwarding, Inc.**
DBA: NA
Person Types: Non-vessel-operating common carrier
Street: 5601 Corporate Way
City: West Palm Beach
State: FL 33407
Country: United States of America
Name Number: 001394
Acronym: **Jenson Associates Inc.**
DBA: NA
Person Types: Non-vessel-operating common carrier
Street: 353 South Santa Fe Ave.
City: Los Angeles
State: CA 90013
Country: United States of America
Name Number: 001411
Acronym: **Karevan, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 230 West Warner Ave.
City: Santa Ana
State: CA 92705
Country: United States of America
Name Number: 001464
Acronym: **Kingpak, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 18298
City: Wichita
State: KS 67218
Country: United States of America
Name Number: 006843
Acronym: **La Rosta Del Monte Express, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 5132 N.W. 17th Avenue
City: Miami
State: FL 33142
Country: United States of America
Name Number: 001588
Acronym: **Maritime Company of the Pacific**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1441 Kapiolani Blvd., Suite 905–A
City: Honolulu
State: HI 96814
Country: United States of America
Name Number: 001671
Acronym: **Medina Shipping Co., Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 720 Broadway
City: Newark
State: NJ 07104
Country: United States of America
Name Number: 001698
Acronym: **Mercantile Freight Service, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 2280 Alahao Place
City: Honolulu
State: HI 96819
Country: United States of America
Name Number: 001703
Acronym: **Merchants International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 623 South Pickett Street
City: Alexandria
State: VA 22304
Country: United States of America
Name Number: 001704
Acronym: **Mercury International Forwarders Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 820 East "D" Street
City: Wilmington

State: CA 90744
Country: United States of America
Name Number: 001616
Acronym: **Merit Container Express, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 2712
City: Trenton
State: NJ 08607
Country: United States of America
Name Number: 001707
Acronym: **Meteoro Express, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 522412
City: Miami
State: FL 33152
Country: United States of America
Name Number: 001716
Acronym: **Mighal International Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 361 Swift Avenue
City: South San Francisco
State: CA 94080
Country: United States of America
Name Number: 001723
Acronym: **Milne International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 6689 Owens Drive
City: Pleasanton
State: CA 94566
Country: United States of America
Name Number: 001725
Acronym: **Monti Moving & Storage, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 925 Bergen Street
City: Brooklyn
State: NY 11238
Country: United States of America
Name Number: 001735
Acronym: **Movers' & Warehousemen's Assoc. of Am., Inc.**
DBA: NA.
Person Types: Foreign Conference Agreement
Street: 1001 North Highland Street
City: Arlington
State: VA 22201
Country: United States of America
Name Number: 003014
Acronym: **Mudanza Boulevard & Storage, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1494 Southern Boulevard
City: Bronx
State: NY 10460
Country: United States of America
Name Number: 001742
Acronym: **Mundanzas Sierra Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1708 Summit Avenue
City: Union City
State: NJ 07097
Country: United States of America
Name Number: 001743
Acronym: **Nauru Pacific Line**
DBA: NA.
Person Types: Controlled Carrier
Street: 80 Collins Street
City: Melbourne, Victoria
State:
Country: Australia
Name Number: 001503
Acronym: **Negron Moving Express**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 537 Court Street
City: Brooklyn
State: NY 11231
Country: United States of America
Name Number: 001534
Acronym: **P.R.V.I. Consolidators Corp.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 515 Gardner Ave.
City: Brooklyn
State: NY 11222
Country: United States of America
Name Number: 000962
Acronym: **Pacific Marine Lines, Inc.**
DBA: NA.
Person Types: Ocean Common Carrier (Vessel Operating)
Street: Pier 40
City: Honolulu
State: HI 96819
Country: United States of America
Name Number: 006854
Acronym: **Pan American Express Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 2612 W. Division Street
City: Chicago
State: IL 60622
Country: United States of America
Name Number: 000985
Acronym: **Perfect Pak Company**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 2722 Eastlake Avenue East, Suite 220
City: Seattle
State: WA 98102
Country: United States of America
Name Number: 001006
Acronym: **Poppy Food Company**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 814 East Temple
City: Los Angeles
State: CA 90012
Country: United States of America
Name Number: 001028
Acronym: **Puerto Rico Express, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 4099, Garden Station
City: Bayanion
State: PR 00620
Country: United States of America
Name Number: 002599
Acronym: **Puget Sound Freight Lines**
DBA: NA.
Person Types: Ocean Common Carrier (Vessel Operating)
Street: P.O. Box 24526
City: Seattle
State: WA 98124
Country: United States of America
Name Number: 001044
Acronym: **Pyramid International Forwarding, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 479 South Airport Boulevard
City: South San Francisco
State: CA 94080
Country: United States of America
Name Number: 001045
Acronym: **Rainbow Express Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 3980
City: Carolina
State: PR 00630
Country: United States of America
Name Number: 000856
Acronym: **Reliance Forwarding Corporation**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 67 Kings Highway
City: Maple Shade
State: NJ 08052
Country: United States of America
Name Number: 000867
Acronym: **Republic Shipping Line**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 330 Biscayne Blvd., Suite 1002
City: Miami
State: FL 33132
Country: United States of America
Name Number: 000869
Acronym: **Richardson Forwarding Co.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 992 E. Artesia Boulevard

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City: Long Beach
State: CA 90805
Country: United States of America
Name Number: 000874
Acronym: **Rivergate Shipping, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 1117 Pinero Avenue
City: Puerto Nuevo, San Juan
State: PR 00920
Country: United States of America
Name Number: 006857
Acronym: **Robert Harbin**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 2177
City: Upland
State: CA 91786
Country: United States of America
Name Number: 001574
Acronym: **Royal Hawaiian Forwarding**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 14300 East 183rd Street
City: La Palma
State: CA 90623
Country: United States of America
Name Number: 000885
Acronym: **Sail Puerto Rico**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 6821 Fulton St.
City: Houston
State: TX 77022
Country: United States of America
Name Number: 001049
Acronym: **San Lorenzo Express Corporation**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 2556 W. Fullerton Avenue
City: Chicago
State: IL 60647
Country: United States of America
Name Number: 001069
Acronym: **Sause Bros. Ocean Towing Co., Inc.**
DBA: NA.
Person Types: Ocean Common Carrier (Vessel Operating)
Street: 1480 Lloyd Building, 700 N.E. Multnomah Street
City: Portland
State: OR 97232
Country: United States of America
Name Number: 001076
Acronym: **Sea Fast Shipping, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 1825 Sharon Place
City: San Marino
State: CA 91108
Country: United States of America
Name Number: 001092
Acronym: **Sea Trailers Express, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 4715 N.W. 72nd Ave.
City: Miami
State: FL 33166
Country: United States of America
Name Number: 001137
Acronym: **Seafreight Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 720 Tonnelle Avenue
City: Jersey City
State: NJ 07307
Country: United States of America
Name Number: 001106
Acronym: **Security Forwarders, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 26 Third Street
City: San Francisco
State: CA 94103
Country: United States of America
Name Number: 001128
Acronym: **Senko Container Line**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 45 John Street, Suite 605
City: New York
State: NY 10038
Country: United States of America
Name Number: 001129
Acronym: **Star Freight**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 1299 Old Bayshore Highway, Suite 117
City: Burlingame
State: CA 94010
Country: United States of America
Name Number: 001181
Acronym: **Star Line, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 1441 Kapiolani Blvd., Suite 209
City: Honolulu
State: HI 96814
Country: United States of America
Name Number: 001183
Acronym: **Storage & Consolidators, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 10130, Caparra Heights Station
City: Rio Piedras
State: PR 00922
Country: United States of America
Name Number: 001192
Acronym: **Thru-Container International, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: One Park Way Drive P.O. Box 1147
City: Hammond
State: LA 70404
Country: United States of America
Name Number: 006862
Acronym: **Town International Forwarding, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 14607
City: Austin
State: TX 78761
Country: United States of America
Name Number: 000544
Acronym: **Trans-Caribbean Moving & Shipping Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 4466 Park Avenue
City: Bronx
State: NY 10457
Country: United States of America
Name Number: 002233
Acronym: **Transcaribbean Consolidated Transport, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 2500–83rd St.—Bldg. 10B
City: North Bergen
State: NJ 07047
Country: United States of America
Name Number: 000574
Acronym: **Transconex, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 524037
City: Miami
State: FL 23152
Country: United States of America
Name Number: 006861
Acronym: **Tucor Services Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 640 Sacramento St.
City: San Francisco
State: CA 94119
Country: United States of America
Name Number: 000630
Acronym: **West India Industries, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 1314 Texas Avenue
City: Houston
State: TX 77002
Country: United States of America
Name Number: 000098
Acronym: **World Wide Forwarding, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 455 Lenox Square
City: Jacksonville
State: FL 32205
Country: United States of America
Name Number: 000128
Acronym: **Worldwide Transport Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 63–69 Hook Road
City: Bayonne
State: NJ 07002
Country: United States of America
Name Number: 000129
Acronym: **Y. Higa Enterprises, Ltd.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 2150 Nimitz Avenue
City: Honolulu
State: HI 96810
Country: United States of America
Name Number: 000133.

[FR Doc. 87–25717 Filed 11–6–87; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Fleet Financial Group, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 USC 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island; to acquire Fleet Real Estate Funding Corp., Columbia, South Carolina, and thereby engage in mortgage origination and servicing activities pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 4, 1987.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 87–25864 Filed 11–6–87; 8:45 am]
BILLING CODE 6210–01–M

Henning Bancshares, Inc., et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1987.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Henning Bancshares, Inc.*, Henning, Minnesota; to engage *de novo* in making and servicing mortgage, consumer finance, and commercial loans pursuant to § 225.25(b)(1) of the Board's Regulation Y. This activity will be conducted in the City of Henning, Minnesota, and the surrounding area within an approximately 20 mile radius.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Brookwood, Inc.*, Columbia, Missouri; to engage directly in lending activities pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 4, 1987.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 87–25865 Filed 11–6–87; 8:45 am]
BILLING CODE 6210–01–M

Jon R. Lindeman; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

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The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 24, 1987.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Jon R. Lindeman,* Albert Lea, Minnesota; to acquire 75 percent, and Dorothy R. Lindeman, Glencoe, Minnesota, to acquire 25 percent of the voting shares of Keewatin Bancorporation, Inc, Keewatin, Minnesota, and thereby indirectly acquire First National Bank of Keewatin, Keewatin, Minnesota.

Board of Governors of the Federal Reserve System, November 4, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25866 Filed 11-6-87; 8:45 am]

BILLING CODE 6210-01-M

National Bancshares of Waupun, Inc. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 27, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *National Bancshares of Waupun, Inc.,* Waupun, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Waupun, Waupun, Wisconsin.

2. *NCB Corp.,* Culver, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of NorCen Bank, Culver, Indiana.

3. *S. & H Holdings, Inc.,* Iroquois, Illinois; to acquire 51 percent of the voting shares of Central Bank, Ashkum, Illinois.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Heartland Bancshares, Inc.,* Fairway, Kansas; to become a bank holding company by acquiring 98 percent of the voting shares of Turner Bancshares Inc., Kansas City, Kansas, and thereby indirectly acquire Kaw Valley Bank & Trust Company, Kansas City, Kansas.

2. *Security Corporation,* Duncan, Oklahoma; to acquire 24.97 percent of the voting shares of American National Bank of Duncan, Duncan, Oklahoma. Comments on this application must be received by November 24, 1987.

Board of Governors of the Federal Reserve System, November 4, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25867 Filed 11-6-87; 8:45 am]

BILLING CODE 6210-01-M

Thomas Drilling Co.; Formation of, Acquisition by, or Merger of Bank Holding Companies, and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 24, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Thomas Drilling Company,* Duncan, Oklahoma; to become a bank holding company by acquiring 47.2 percent of the voting shares of American National Bank of Duncan, Duncan, Oklahoma; 32.26 percent of the voting shares of Exchange Financial Corporation, Ardmore, Oklahoma, and thereby indirectly acquire Exchange National Bank and Trust Co., Ardmore, Oklahoma; and 20.1 percent of the voting shares of Charter Bancshares, Inc., Oklahoma City, Oklahoma, and thereby indirectly acquire Charter National Bank, Oklahoma City, Oklahoma.

In connection with this application, Applicant also proposes to engage *de novo* in making and servicing loans and other extensions of credit pursuant to § 225.25(b)(1) of the Board's Regulation Y. This activity will be conducted in the State of Oklahoma.

Board of Governors of the Federal Reserve System, November 4, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25868 Filed 11-6-87; 8:45 am]

BILLING CODE 6201-01-M

FEDERAL TRADE COMMISSION

Trade Regulation, Premerger Notification; Information Collection Requirement; Fluid Milk Processing Industry

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501-3518, for clearance of the Dairy Merger Reporting Program.

SUMMARY: The FTC intends to require advance notification of certain types of dairy mergers that may raise antitrust concerns. Report forms that must be filed with the agency before covered transactions are consummated will permit antitrust review at a time when effective remedial measures may be taken, where necessary.

The FTC required reports on mergers and acquisitions by fluid milk processors from 1974 through 1981 to assist the Commission in carrying out its law enforcement responsibilities under section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act. Following a review of the program and opportunity for public comment, the FTS has decided to reinstate the program with changes that will reduce its reporting burden. These changes should reduce the number of reportable mergers and acquisitions and will reduce the amount of information required concerning each reported transaction.

Under the special reporting authority of section 6 of the Federal Trade Commission Act, 15 U.S.C. 46, the Commission intends to require that companies processing more than 300 million pounds of Class I milk annually to report any acquisition of covered facilities that are within 250 miles of the acquirer's facilities or of a company that had product sales or production of 50 million pounds or more in any of the preceding three years (excluding home delivery in each case). Transactions that are reportable under the Hart-Scott-Rodino Act will be exempt from any requirements under the Dairy Merger Reporting Program.

The Supporting Statement submitted to OMB for this request estimates the reporting burden of this program to be 1000 hours or less. Based on information supplied by industry members in 1982, it appears that the time required to complete the forms varies from 15 to 90 hours, or about 40 hours on average. Based on previous experience with the program and the 1982 comments, no more than ten reports per year are expected. This figure has been rounded up to ensure that the estimate is not understated.

DATE: Comments on this application may be submitted on or before December 9, 1987.

ADDRESS: Send comments to Don Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503. Copies of this application may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Patricia Bremer, Attorney, Bureau of Competition, Federal Trade Commission, Washington, DC 20580, (202) 326-2828.

James E. McCarty,

Acting General Counsel.

[FR Doc. 87-25844 Filed 11-6-87; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; General Instrument Corp. et al

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 09/01/87 AND 09/15/87

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
(1) Robert L. Parker, General Instrument Corporation, Optoelectronics Division of General Instrument Corp.	87-2241	09/01/87
(2) W. Galen Weston, Pentair, Inc., Port Huron Paper Corporation	87-2128	09/02/87
(3) Outlet Communications, Inc., Metropolitan Broadcasting Corporation, Metropolitan Broadcasting Corporation	87-2251	09/02/87
(4) Gulf & Western Inc., Household International, Inc., Household Finance Corporation, II	87-2254	09/02/87
(5) Smith Industries Public Limited Company, Lear Siegler Holdings Corp., Lear Siegler Instrument and Avionic Systems Corp	87-2043	09/03/87
(6) Brierley Investments Limited, Quaker State Corporation, Quaker State Corporation	87-2115	09/03/87
(7) Les Entreprises de J. Armand Bombardier Ltee, Thyssen Aktiengesellschaft, The Budd Company and Transit America, Inc.	87-2157	09/03/87
(8) J.M. Huber Corporation, Handechy Industries, Inc., Handechy Industries, Inc	87-2184	09/03/87
(9) Meshulam Riklis, Eli Lilly and Company, Eli Lilly and Company	87-2200	09/03/87
(10) Combustion Engineering, Inc., Metallgesellschaft AG, Metallgesellschaft AG	87-2215	09/03/87
(11) Garden State Newspapers, Inc., The Anderson Walters Trust, The Johnstown Tribune Publishing Company	87-2226	09/03/87
(12) LEP Group plc, Profit Systems Inc., Profit Systems Inc	87-2239	09/03/87
(13) John Labatt Limited, Sundor Group Inc., Latrobe Brewing Company/Beverage Imports, Inc	87-2243	09/03/87
(14) Ametek, Inc., Tex-Tech Holdings, Inc., Tex-Tech Holdings, Inc	87-2258	09/03/87
(15) McCown De Leeuw & Co., Boise Cascade Corporation, Boise Cascade Corporation	87-2263	09/03/87
(16) The Clayton Dubilier Private Equity Fund II Ltd. Partn, Donald R. Brattain, Barefoot Grass Lawn Service, Inc., Delphi Lawn, Inc	87-2266	09/03/87
(17) Tandy Corporation, Citicorp, Citibank (Maryland), N.A	87-2281	09/03/87
(18) Subaru of America, Inc., Automotive Imports, Inc., d/b/a Subaru Inter-Mountain, Automotive Imports, Inc., d/b/a Subaru Inter-Mountain	87-2283	09/03/87
(19) William Collins PLC, The News Corporation Limited, Harper Holdings Corporation	87-2284	09/03/87
(20) John M. Herbert III, Allied-Signal Inc., Combustion Power Co. & GWF Power Systems Co., Inc	87-2285	09/03/87
(21) CRH PLC, William H. Lane, Big River Industries, Inc., Bayou Ash, Inc., Big River	87-2290	09/03/87
(22) Atari Corporation, Wilfred Schwartz, The Federated Group, Inc	87-2295	09/03/87
(23) Fletcher Challenge Limited, George S. Schuchart, Wright Schuchart, Inc	87-2298	09/03/87
(24) Pilkington Brothers plc, Ronald O. Perelman, eight subsidiaries	87-2095	09/04/87
(25) David H. Murdock, Allegheny International Allegheny International	87-2159	09/04/87
(26) Olympia & York Developments Limited, Santa Fe Southern Pacific Corporation, Santa Fe Southern Pacific Corporation	87-2209	09/04/87
(27) Jacobs Engineering Group, Inc., Santa Fe Southern Pacific Corporation, Robert E. McKee, Inc	87-2257	09/04/87
(28) HealthEast, American Healthcare Management, Inc., American Healthcare Management, Inc	87-2272	09/04/87
(29) Roxboro Investments (1976) Ltd., H.H. Robertson Company, H.H. Robertson Company	87-2234	09/08/87

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TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 09/01/87 AND 09/15/87—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
(30) James W Wilson, Jr., Grand Metropolitan Public Limited Company, Diversified Products Corp., Diversified Products, Ltd	87-2258	09/08/87
(31) First Executive Corporation, Medco Containment Services, Inc., Medco Containment Services, Inc	87-2311	09/08/87
(32) Martin J. Wygod, Medco Containment Services, Inc., Medco Containment Services, Inc	87-2312	09/08/87
(33) Snyder Oil Partners L.P., Conquest Exploration Company, Thomasville Properties	87-2185	09/08/87
(34) Chicago Pacific Corporation, The Gunlocke Company, The Gunlocke Company	87-2195	09/09/87
(35) PaineWebber Income Properties Eight Ltd. Partnership, Marriott Corporation, Marriott Suites Hotel	87-2278	09/09/87
(36) The General Electric Company, p.l.c., Lear Siegler Holdings Corp., Lear Siegler Astronics & Developmental Sciences Corps	87-2214	09/10/87
(37) PACCAR Inc., Norcliffe Company, Norcliffe Company	87-2291	09/10/87
(38) Ralph J. Robert, Heritage Communications, Inc., Rollins Cablevision of Philadelphia, Inc	87-2168	09/11/87
(39) Cablevision Systems Corporation (Charles F. Dolan, UPE), Adams-Russell Co., Inc., Adams-Russell Co., Inc	87-2187	09/11/87
(40) BASF Aktiengesellschaft, Borden, Inc., Borden, Inc	87-2219	09/11/87
(41) Brierley Investments Limited, Triton Energy Corporation, Triton Energy Corporation	87-2250	09/11/87
(42) Alan Evelyn Clore, Rorer Group Inc., Rorer Group Inc	87-2255	09/11/87
(43) Foote, Cone & Belding Communications, Inc., Measured Marketing Services, Inc., Krupp/Taylor USA	87-2273	09/11/87
(44) Measured Marketing Services, Inc., Foote, Cone & Belding Communications, Inc., Krupp/Taylor FCB, Inc	87-2274	09/11/87
(45) Saratoga Partners, L.P., Daniel Floeck, Sr., Hi-Lo Auto Supply Companies, Inc	87-2283	09/11/87
(46) John A. Kaneb, Astroline Corporation, Astroline Corporation	87-2288	09/11/87
(47) Bechtel Investments Inc., Cost Plus, Inc., Cost Plus, Inc	87-2300	09/11/87
(48) The Northwestern Mutual Life Insurance Company, Pierce Manufacturing Inc., Pierce Manufacturing Inc	87-2302	09/11/87
(49) The Marcade Group, Inc., Europe Craft Imports, Inc., Europe Craft Imports, Inc	87-2319	09/11/87
(50) Servico, Inc., Aluminum Company of America, Wilpen, Inc	87-2293	09/13/87
(51) British & Commonwealth Holdings, PLC, Mercantile House Holdings plc, Mercantile House Holdings plc	87-2047	09/14/87
(52) Hawley Group Limited, ADT, Inc., ADT, Inc	87-2221	09/14/87
(53) General Motors Corporation, M/A-Com, Inc., M/A-Com Telecommunications, Inc	87-2230	09/14/87
(54) Hawley Group Limited, ADT, Inc., ADT, Inc	87-2238	09/14/87
(55) Wolseley plc, Shapco Inc., Familian Corp	87-2242	09/14/87
(56) Cookson Group plc, Boruch B. Fruerjaer, Polycled Laminates, Inc	87-2271	09/14/87
(57) SmithKline Beckman Corporation, National Patent Development Corporation, International Hydron Corporation	87-2277	09/14/87
(58) Richard J. Howling, National Medical Enterprises, Inc., National Medical Enterprises, Inc	87-2282	09/14/87
(59) South Timbers Limited Partnership, Royal Dutch Petroleum Company, Shell Oil Company	87-2317	09/14/87

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 09/01/87 AND 09/15/87—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
(60) Centex Corporation, Crosland Homes, Inc., Crosland Homes, Inc	87-2343	09/14/87
(61) West Timbers Limited Partnership, Royal Dutch Petroleum Company, Shell Oil Company	87-2350	09/14/87
(62) The Henley Group, Inc., Ral Corporation, Ral Corporation	87-2229	09/15/87
(63) Borden, Inc., Laura Scudder's, Inc., Laura Scudder's, Inc	87-2249	09/15/87
(64) Philips Industries, Inc., Dearborn Fabricating and Engineering Corporation, Dearborn Fabricating and Engineering Corporation	87-2327	09/15/87
(65) Lowe Howard-Spink & Bell plc, GDL Inc., GDL Inc	87-2340	09/15/87

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87–25643 Filed 11–6–87; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F–0183]

Ciba–Geigy Corp.; Amended Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a food additive petition filed by Ciba-Geigy Corp. to provide for the safe use of tris (2, 4-di-*tert*-butylphenyl) phosphite as an antioxidant and stabilizer in poly (methylpentene) for use in contact with food. The previous filing notice is being amended to specify use of the additive in 4-methylpentene-1 copolymers instead of poly (methylpentene).

FOR FURTHER INFORMATION CONTACT:
Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 2, 1987 (52 FR 25075), FDA published a notice that a petition (FAP 7B3999) had been filed by Ciba-Geigy Corp. proposing that 21 CFR 178.2010 *Antioxidants and/or stabilizers for polymers* be amended to provide for the safe use of tris (2, 4-di-*tert*-butylphenyl)phosphite as an antioxidant and thermal stabilizer in poly(methylpentene) intended to contact food. Subsequently, Ciba-Geigy amended the petition to provide for expanded use of tris(2, 4-di-*tert*-butylphenyl)phosphite as an antioxidant and stabilizer only in 4-methylpentene-1 copolymers complying with 21 CFR 177.1520(c), item 3.3. The expanded uses include an increased use level and increased temperature of use (including microwave use).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c)

Dated: October 28, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–25634 Filed 11–6–87; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 87F–0319]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and drug Administration (FDA) is announcing that the Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3,3'-[(2,5-dimethyl-1,4-phenylene)bis[iminocarbonyl(2-hydroxy-3,1-naphthalenediyl)azo]]bis[4-methylbenzoic acid],bis(2-chloroethyl) ester as a colorant for food-contact polymers.

FOR FURTHER INFORMATION CONTACT:
Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B4026) has been filed by the Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.3297 *Colorants for polymers* (21 CFR 178.3297) be amended to provide for the safe use of 3,3'-[(2,5-dimethyl-1,4-phenylene)bis[iminocarbonyl(2-hydroxy-3,1-naphthalenediyl)azo]]bis[4-methylbenzoic acid], bis(2-chloroethyl) ester as a colorant for food-contact polymers.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 20, 1987.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–25635 Filed 11–6–87; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86N–0398]

International Drug Scheduling; Convention of Psychotropic Substances; Barbiturate Substances, Stimulant Substances, Certain Non-Barbiturate Sedatives

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing interested persons with the opportunity to submit written comments and to request an informal public meeting concerning recommendations by the World Health Organization (WHO) to impose international manufacturing and distributing restrictions, pursuant to international treaties, on certain drug substances. The comments received in response to this notice and/or public meeting will be considered in preparing the U.S. position on these proposals for a meeting of the Commission on Narcotic Drugs (CND) in Vienna, Austria, in February 1988. This notice is issued pursuant to the Controlled Substances Act (CSA) (21 U.S.C. 811 et seq.).

DATE: Comments by December 9, 1987.

ADDRESS: Written comments and requests for a public meeting to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
Nicholas P. Reuter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION:

I. Background

The United States is a party to the 1971 Convention on Psychotropic Substances (the Convention). Article 2 of the Convention provides that if WHO has information about the substance which in its opinion may require international control or change in such control, it shall so notify the Secretary-General of the United Nations and provide the Secretary-General with information in support of its opinion. Section 201(d)(2)(A) of the CSA (21 U.S.C. 811(d)(2)(A)) provides that when the United States is notified under Article 2 of the Psychotropic Convention that the CND proposes to decide to add a drug or other substance to one of the schedules of the Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State must transmit the notice to the Secretary of Health and Human Services (HHS). The Secretary of HHS must then publish the notice in the **Federal Register** and provide opportunity for interested persons to submit comments to assist HHS in preparing scientific and medical reconsiderations concerning the international scheduling of the drug or substance.

A. Non-Barbiturate Sedatives

By note NAR/CL.7/1985 of December 5, 1985, the Secretary-General of the United Nations requested data and information concerning the abuse potential, actual abuse, and medical usefulness of 25 non-barbiturate, sedative drug substances. In the **Federal Register** of March 5, 1986 (51 FR 7639), FDA requested interested persons to submit data and information to be considered in the preparation of a U.S. response to the United Nations request. This information was used by a WHO review group to select substances for further evaluation. Accordingly, the WHO interview group prepared comprehensive reports on six substances: acecarbromal, carbromal, chlomethiozole, chlorhexadol, methylpentynol, and triclofos. The Expert Committee on Drug Dependence (ECDD), the WHO body responsible for scheduling recommendations, used these reports to evaluate the need for the international control of these substances. The 24th session of the ECDD, which met April 9 through 16, 1987, decided not to recommend scheduling any of the six substances at that time. Thus, the United States is not required to take any further action on these substances.

B. Secobarbital

Secobarbital is a barbiturate drug substance which is currently controlled under schedule III of the Convention on Psychotropic Substances. In 1986, the Secretary-General of the United Nations notified the Secretary of HHS (see NAR/CL.9/1986, DND 411/1(2) WHO/ECDD 24, dated August 15, 1986) that WHO was evaluating a proposal under Article 2, paragraph 1 of the Psychotropic Convention, to transfer secobarbital from schedule III to schedule II of the Convention. This proposal was initiated by a request from the United States Government dated May 29, 1986. As required by the CSA (21 U.S.C. 811(d)(2)(A)), a notice was published in the **Federal Register** of October 27, 1986 (51 FR 37960) that provided an opportunity for interested parties to submit information to be considered by WHO in evaluating the proposal. The United States used the information received as a result of the **Federal Register** notice, and other material, to prepare a scientific and medical package. The United States forwarded the package to WHO. A copy of the information the United States provided is on file in the Dockets Management Branch (address above), under Docket No. 86N–0398.

The 24th ECDD considered the information available and recommended that secobarbital be transferred from schedule III to schedule II of the Psychotropic Convention. The full text of the notification from the Secretary-General of the United Nations is provided below in section II of this notice. Section 201(d)(2)(B) of the CSA (21 U.S.C. 811(d)(2)(B)) requires the Secretary of HHS, after receiving a notification proposing scheduling to publish a notice in the **Federal Register**, to provide the opportunity for interested parties to submit information and comments on the proposed scheduling action.

C. Methamphetamine Racemate

Methamphetamine racemate refers to a racemic (50:50) mixture of the optical isomers dextro-(+) and levo-(−) methamphetamine. The individual optical isomers of methamphetamine, (+)-methamphetamine, and (−)-methamphetamine- are specifically controlled under schedule II of the Convention. However, methamphetamine racemate is not specifically scheduled under the Convention. As the notification points out, the ECDD has recommended the specific scheduling of methamphetamine racemate to avoid possible

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misinterpretation. (Note: Pursuant to 21 CFR 1308.12(d), methamphetamine, its salts, isomers, and salts of its isomers, are controlled under schedule II of the CSA.)

II. United Nations Notifications

The formal United Nations notifications which identify the two drug substances and explain the basis for the recommendations are reproduced below.

A. Notification on Secobarbital

Reference:
NAR/CL.11/1987
DND 411/1(2) WHO ECDD 24

The Secretary-General of the United Nations presents his compliments to the Secretary of State of the United States of America and has the honour to refer to his note NAR/CL.9/1986 of 15 August 1986 by which he informed the Government of a notification received from the Government of the United States of America pursuant to article 2, paragraph 1, of the Convention on Psychotropic Substances, to the effect that 5-allyl-5-(1-methylbutyl) barbituric acid (hereinafter referred to as secobarbital), which is presently in Schedule III of the Convention, should be transferred from that Schedule to Schedule II of the same Convention.

The Secretary-General also transmitted a copy of that notification to the World Health Organization, in accordance with the provisions of article 2, paragraph 2, of the Convention, for consideration by the Twenty-fourth WHO Expert Committee on Drug Dependence (24th ECDD) in April 1987.

The 24th ECDD examined the notification in question and recommended to the Director-General of WHO that secobarbital should be transferred from Schedule III to Schedule II of the convention on Psychotropic Substances.

In accordance with the provisions of article 2, paragraphs 1 and 4, of the Convention, the World Health Organization has notified the Secretary-General by note dated 22 May 1987 that it is of the opinion that secobarbital should be transferred from Schedule III to Schedule II of the Convention.

The Secretary-General hereby transmits the text of that notification as annex I to the present note, pursuant to article 2, paragraph 2, of the Convention.

The Director-General of the World Health Organization, in connection with this notification, has also submitted advance excerpts from the report of the 24th ECDD which reviewed this substance, *inter alia*, with a view to its possible rescheduling. Relevant excerpts from that report are hereby transmitted as annex II.

In accordance with the provisions of article 2, paragraph 2, of the Convention on Psychotropic Substances, the notifications from Government of the United States and from the World Health Organization will be brought to the attention of the Commission on Narcotic Drugs at its next session in February 1988. Any action or decision taken by the Commission with respect to this notification, pursuant to article 2, paragraph 5, of the Convention, will be notified to States Parties in due course. Article 2, paragraph 5, reads as follows:

The Commission, taking into account the communication from the World Health Organization, whose assessments shall be determinative as to medical and scientific matters, and bearing in mind the economic, social, legal, administrative and other factors it may consider relevant, may add the substance to Schedule I, II, III or IV. The Commission may seek further information from the World Health Organization or from other appropriate sources.

In order to assist the Commission in reaching a decision, it would be appreciated if any economic, social, legal, administrative or other factors the Government may consider relevant to the question of the possible rescheduling of secobarbital could be communicated to the Secretary-General, c/o the Division of Narcotic Drugs, P.O. Box 500, A–1400 Vienna, Austria, by 10 November 1987.

23 July 1987
NAR/CL.11/1987

Annex I

Note dated 22 May 1987 addressed to the Secretary-General by the Director-General of the World Health Organization

The Director-General of the World Health Organization presents his compliments to the Secretary-General of the United Nations and, with reference to his note NAR/CL.9/1986 dated 15 August 1986, has the honour to inform him that the World Health Organization, in conformity with Article 2, paragraph 6 of the Convention on Psychotropic Substances, 1971, has reviewed information pertaining to 5-allyl-5-(1-methylbutyl) barbituric acid, and referred to as secobarbital (INN).

Secobarbital is currently in Schedule III of the Convention on Psychotropic Substances, 1971. Recent evidence indicates a dramatic increase in the illicit traffic of secobarbital as compared to the other barbiturates in Schedule III. This, coupled with the current low therapeutic usefulness of the drug has prompted the Twenty-fourth WHO Expert Group Committee on Drug Dependence to recommend the rescheduling of secobarbital.

Therefore, the World Health Organization recommends that secobarbital be changed from Schedule III to Schedule II of the Convention on Psychotropic Substances, 1971.

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Annex II

Summary of the Recommendations arising out of the 24th Expert Committee on Drug Dependence

The 24th ECDD met at headquarters between 9–16 April 1987. Since the report of this meeting will be published in due course of time in T.R. Series, this paper gives details of the recommendations made to the Director-General of WHO.

[. . . .]

Secobarbital

A notification (NAR/CL.9/1986, DND 411/1(2), WHO/ECDD 24) from the Government of the United States concerning the rescheduling of secobarbital has been transmitted to the Director-General of the World Health Organization pursuant to article 2, paragraph 2 of the Convention on Psychotropic Substances.

Secobarbital is an intermediate acting sedative-hypnotic barbiturate with a high potential for abuse and a high level of actual abuse with demonstrated adverse effects on public health and social well being. The substance is currently controlled under the Convention on Psychotropic Substances, 1971 in Schedule III along with amobarbital, cyclobarbital and pentobarbital, three other intermediate acting sedative-hypnotic barbiturates. Since the original scheduling, the therapeutic usefulness of these drugs has remarkably declined and they have been replaced by more effective drugs. The Committee regards the current therapeutic usefulness of these drugs as low. Recent information from the Secretary-General of the United Nations and Interpol on the international illicit traffic of secobarbital indicate that there has been an increasing problem in several countries with the substance as compared to the other controlled barbiturates. For instance, INTERPOL reports the following seizure patterns:

DOSAGE UNITS

	Secobarbital	Pentobarbital	Amobarbital
1983	1,136,647	60	169
1984	1,718,565	66	20
1985	4,350,304	70	[1] 3,630,019
1986 [2]	1,197,133	116,707	0

[1] This represents seizures of Binoctal and Noctadiol which are preparations which contain both secobarbital and amobarbital. These figures are also contained in those listed under secobarbital.
[2] Preliminary statistics from 36 reporting members.

The problem is particularly acute in Africa and the Near and Middle East.

In addition, the United States reports a large illicit traffic in secobarbital being sold as methaqualone.

Recommendation

There is good evidence from controlled studies in animals and man that secobarbital produces both physical and psychological dependence of a severe nature. There is evidence for a high incidence of actual abuse with attendant public health and social problems. The therapeutic usefulness of the drug is low.

There is evidence of a high and increasing illicit traffic with secobarbital as compared with other barbiturates already controlled in Schedule III of the Convention on Psychotropic Substances. Thus, the Committee recommends that secobarbital be moved from Schedule III to Schedule II of the Convention. The additional control measures associated with this change should permit a more effective control of the illicit traffic with secobarbital.

B. Notification on Methamphetamine Racemate

Reference:
NAR/CL.13/1987
DND 411/1(2) WHO ECDD 24

The Secretary-General of the United Nations presents his compliments to the Secretary of State of the United States of America and has the honour to inform the Government that the World Health Organization, pursuant to article 2, paragraphs 1 and 4, of the Convention on Psychotropic Substances, has notified the Secretary-General by note dated 15 June 1987 that it is of the opinion that (+)–*N, alpha*-dimethylphenetylamine (hereinafter referred to as metamfetamine racemate) should be specifically included in Schedule II of that Convention. The need for such specific inclusion arises from possibly divergent interpretations as to its present control status, if any, under the Convention.

In accordance with the provisions of article 2, paragraph 2, of the Convention, the Secretary-General hereby transmits the text of this notification as annex I to the present note.

The Director-General of the World Health Organization, in connection with this notification, has also submitted advance excerpts from the report of the Twenty-fourth WHO Expert Committee on Drug Dependence (9–16) April 1987) which reviewed, *inter alia*, the status of metamfetamine racemate under the 1971 Convention. The excerpts from that report are hereby transmitted as annex II.

In accordance with the provisions of article 2, paragraph 2, of the Convention on Psychotropic Substances, the notification from the World Health Organization will be brought to the attention of the Commission on Narcotic Drugs at its next session in February 1988. Any action or decision taken by the Commission with respect to this notification, pursuant to article 2, paragraph 5, of the Convention, will be notified to States Parties in due course. Article 2, paragraph 5, reads as follows:

The Commission, taking into account the communication from the World Health Organization, whose assessments shall be determinative as to medical and scientific matters, and bearing in mind the economic, social, legal, administrative and other factors it may consider relevant, may add the substance to Schedule I, II, III or IV. The Commission may seek further information from the World Health Organization or from other appropriate sources.

In order to assist the Commission in reaching a decision, it would be appreciated if any economic, social, legal, administrative or other factors the Government may consider relevant to the question of the possible scheduling of metamfetamine racemate could be communicated to the Secretary-General, c/o the Division of Narcotic Drugs, P.O. Box 500, A–1400 Vienna, Austria, by 10 November 1987.

Annex I

Note dated 15 June 1987 addressed to the Secretary-General by the Director-General of the World Health Organization

The Director-General of the World Health Organization presents his compliments to the Secretary-General of the United Nations and has the honour to inform him that the World Health Organization, in conformity with Article 2, paragraphs 1 and 4 of the Convention on Psychotropic Substances, 1971, has reviewed information pertaining to *(+)-N, alpha*-dimethylphenethylamine, and referred to as metamfetamine racemate.

Metamfetamine racemate meets the criteria of Article 2, paragraph 4(a) of the Convention, and there is sufficient evidence that the substance is, or is likely to be abused so as to constitute a public health and social problem warranting placing it under international control.

Therefore, the World Health Organization recommends that metamfetamine racemate be added to Schedule II of the Convention on Psychotropic Substances, 1971.

Annex II

Summary of the Recommendations arising out of the 24th Expert Committee on Drug Dependence

The 24th ECDD met at headquarters between 9–16 April 1987. Since the report of this meeting will be published in due course of time in T.R. Series, this paper gives details of the recommendations made to the Director-General of WHO.

[. . . . .]

Metamfetamine

The Fourth PPWG (WHO/MNH/PAD/87.2) requested the advice of the ECDD on the status of the racemate of metamfetamine under the Convention on Psychotropic Substances, 1971. The drafters of the Convention placed Amphetamine ((+)-2-amino-1-phenylpropane) and Dexamphetamine ((+)-2-amino-1-phenylpropane) in Schedule II of the 1971 Convention. Thus both the racemate and (+)-isomer were controlled. Subsequently the (−)-isomer was also placed under control. It should be noted that the INN name Amphetamine is defined as the racemate and Dextroamphetamine as the (+)-isomer. On the other hand, the earlier INN name Metamphetamine is defined as the (+)-isomer and the racemate was not specifically named in the schedules. Subsequentlyk, the (−)-isomer of metamfetamine was also controlled. This leaves the control status of the racemate open to possible misinterpretation.

Recommendations

On the basis of the foregoing discussions, the Committee recommends that racemic metamfetamine (+)-N, *alpha*-

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dimethylphenethylamine be specifically controlled under Schedule II of the Convention on Psychotropic Substances, 1971. The Committee would like to point out that WHO convened a group of experts to discuss chemical and pharmacological specifications of substances for control under the International Conventions. Their report (MNH/PAD/86.13) clearly delineates procedures for the future handling of isomers. The Expert Committee recommends that these procedures be initiated in all future reviews of substances being considered for control under the international conventions.

III. Discussion

Although WHO has made specific scheduling recommendations for each of the drug substances, the CND is not obliged to follow the WHO recommendations. Options available to the CND include: (1) Acceptance of the WHO recommendations; (2) acceptance of the recommendations to control but control the drug substance in a schedule other than that recommended; or (3) reject the recommendations entirely.

The substances recommended for control under the Conventions, (secobarbital and methamphetamine racemate) are controlled under Schedule II of the CSA. Secobarbital is marketed in the United States; methamphetamine racemate is not. The proposed international drug scheduling actions, if adopted by the CND, will result in no greater degree of control of these substances than current domestic controls. FDA received no specific comments in response to the October 27, 1986, **Federal Register** (51 FR 37980) notice on secobarbital.

FDA, on behalf of the Secretary of HHS, invites interested persons to submit comments on the WHO notice concerning these two drug substances. FDA, in cooperation with the National Institute on Drug Abuse, will consider the comments on behalf of HHS in evaluating the WHO recommendations. Then, pursuant to Section 811(d)(2)(B) HHS will recommend to the Secretary of State what position the United States should taken when voting on the recommendations at the CND meeting in February 1988.

IV. Submission of Comments and Opportunity for Public Meeting

Interested persons may, on or before December 9, 1987, submit to the Dockets Management Branch (address above) written comments regarding this notice. FDA does not plan to hold a public meeting unless requested to do so. If any person believes that, in addition to its written comments, a public meeting would contribute to the development of the U.S. position on any of these two substances, a request for a public meeting and the reasons for such a request should be sent to Nicholas P. Reuter, Office of Health Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, on or before November 24, 1987. The short time period for the submission of comments and requests for a public meeting is needed to assure that DHHS may, in a timely fashion, carry out the required action and be responsive to WHO. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 4, 1987.

George R. White,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-25942 Filed 11-5-87; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: **Philadelphia District Office,** chaired by Loren Y. Johnson, District Director. The topics to be discussed are health claims on food labels and a general update on current FDA activities.

DATE: Monday, November 23, 1987, 12 m. to 3 p.m.

ADDRESS: Federal Bldg., Rm. 2214-18, 1000 Liberty Ave., Pittsburgh, PA 15222.

FOR FURTHER INFORMATION CONTACT: Theresa Young, Consumer Affairs Officer, Food and Drug Administration, U.S. Customhouse, Room 900, 2nd and Chestnut Street, Philadelphia, PA 19106, 215-597-0837.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 2, 1987.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-25836 Filed 11-6-87; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of an Oklahoma State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on December 9, 1987 in Dallas, Texas to reconsider our decision to partially disapprove Oklahoma State Plan Amendment 86-20.

Closing Date: Requests to participate in the hearing as a party must be received by the Docket Clerk on or before November 24, 1987.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to partially disapprove an Oklahoma State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether the portion of Oklahoma SPA 86-20 which relates to how the State counts burial contracts as resources when determining Medicaid eligiblity of the aged, blind, and disabled for Medicaid satisfies requirements of section 1902(f) of the Social Security Act. If it does not meet the requirements of section 1902(f) the State would be subject to the requirements of 1902(a)(10)(A)(i)(II) and 1902()(10)(C)(i)(III) of the Act.

In general, the Medicaid statute requires States to use the eligibility criteria of the Supplemental Security Income (SSI) program in determining Medicaid eligiblity of aged, blind, and disabled individuals and to use the rules of the Aid to Families with Dependent Children (AFDC) program in determining Medicaid eligibility of AFDC-related individuals. (Sections 1902(a)(10(A) and 1902(a)(10)(C)(i)(III) of the Act.) The law also permits States to apply rules affecting aged, blind, and disabled persons that are more restrictive than SSI but no more restrictive that the rules employed under the State's approved January 1, 1972 medical assistance plan. (Section 1902(f) of the Act.) States electing to use more restrictive rules than employed under the SSI program may use rules no more liberal than those used by the SSI program and no more restrictive than those applied under the State's January 1, 1972 Medicaid plan. (See section 1902(f) of the Act and 42 CFR 435.121.)

In SPA 86-20, Oklahoma proposed, as Supplement 5 to Attachment 2.6-A, that "When an applicant elects to make an irrevocable contract or applies for assistance on or after July 1, 1986, the amount of any combination of an irrevocable contract, revocable prepaid burial contract/trust and the face value of life insurance policies in excess of $6,000 will render the individual ineligible for Medicaid."

Under SSI policy, a resource is property or an interest in real property or personal property which the individual owns and which is available for disposition. If an individual cannot dispose of the property, it is not a resource. If the individual's access to property is restricted, it is not a resource. As such, funds held in irrevocable burial contracts are generally not considered resources for SSI purposes.

Oklahoma's proposal would permit a maximum exclusion of $6,000 for an irrevocable contract. Since this is more restrictive than SSI policy, the State was asked to establish that it is not more restrictive than the policy in the State's 1972 State plan. In its response, the State indicated that irrevocable contracts for prepaid funeral benefits were first addressed in State law in 1980, and policy on such contracts was implemented by the State effective September 1, 1980. Because this response did not describe the treatment of funds held in irrevocable burial contracts under the State's January 1, 1972 State plan, we were unable to conclude that the amendment was not more restrictive than the 1972 rules. In its September 25, 1987 letter requesting reconsideration, Oklahoma claims that under its 1972 plan these funds would have been counted as income since there was no exemption for them. If the State can substantiate this claim, the disapproved portion of the amendment would be approvable.

The notice to Oklahoma announcing an administrative hearing to reconsider our partial disapproval of its State plan amendment reads as follows:

Mr. Robert Fulton,

Director, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, Oklahoma 73125

Dear Mr. Fulton: This is to advise you that your request for reconsideration of the decision to disapprove Oklahoma State Plan Amendment 86-20 was received on October 5, 1987.

Part of Oklahoma SPA 86-20 relates to how the State counts burial contracts as resources when determining eligibility for Medicaid. You have requested a reconsideration of whether this portion of the plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations. The issue to be considered at the hearing is whether the State's proposed policy is more restrictive than SSI policy, and if it is more restrictive, whether the proposed policy is not more restrictive than the policy in the State's 1972 plan as required by section 1902(f) of the Social Security Act and Federal regulations at 42 CFR 435.121.

I am scheduling a hearing on your request to be held on December 9, 1987 at 10:00 a.m., Room 1915, 12 Main Tower Building, Dallas, Texas. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594-8261.

Sincerely,

William L. Roper, M.D.

Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: November 3, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 87-25910 Filed 11-6-87; 8:45 am]

BILLING CODE 4120-03-M

Health Resources and Services Administration

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending December 31, 1987

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

A. Section 60.13(a)(4) of the program's implementing regulations (42 CFR Part 60, previously 45 CFR Part 126) provides that the Secretary will announce the interst rate in effect on a quarterly basis.

The Secretary announces that for the period ending December 31, 1987, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 9% percent. Using the regulatory formula (45 CFR 126.13(a) (2) and (3)) in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (6.27 percent), and rounding the result (9.77 percent) upward to the nearest ⅛ percent (9⅞ percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending December 31, 1987, is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 9⅛ percent for the quarter ending March 31, 1987; 9¼ percent for the quarter ending June 30, 1987; and 9½ percent for the quarter ending September 30, 1987.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 9⅞ percent. Using the regulatory formula (42 CFR 60.13(a)(3)) in effect for that time period, the Secretary computes the maximum interst rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding

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quarter (6.27 percent); adding 3.50 percent (9.77 percent); and rounding that figure to the next higher one-eighth of 1 percent (9⅞ percent).

3. For fixed rate loans executed during the period of October 1, 1987 through December 31, 1987, and for variable rate loans executed on or after October 22, 1985, the interest rate is 9⅞ percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99–129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a)(2) and (3)) with the statutory change of 3 percent (42 CFR 60.13(a)(1)), the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (6.27 percent); adding 3.0 percent (9.27 percent) and rounding that figure to the next higher one-eighth of 1 percent (9⅞ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: November 3, 1987.

David M. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 87–25804 Filed 11–6–87; 8:45 am]

BILLING CODE 4160–16

National Institutes of Health

Division of Research Resources; Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Minority Biomedical Research Support Subcommittee (MBRSS) of the General Research Support Review Committee (GRSRC), Division of Research Resources (DRR), November 19–20, 1987, Judicial Suite, Hyatt Regency-Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

This meeting will be open to the public on November 20, from 1:30 p.m. to adjournment to discuss policy matters relating to the Minority Biomedical Research Support Program (MBRSP). Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 19, from 8:30 a.m. to 5 p.m. and on November 20, 8:30 a.m. to 12:30 p.m. for the review, discussion, and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Office, Division of Research Resources, National Institutes of Health, Building 31, Room 5B10, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting, and a roster of the committee members upon request. Dr. Lawrence J. Alfred, Executive Secretary, (301) 496–4390, will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.375, Minority Biomedical Research Support, National Institutes of Health).

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25033 Filed 11–6–87; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Cancer Center Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Center Support Review Committee, National Cancer Institute, National Institutes of Health, December 4, 1987, Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland 20814.

This meeting will be open to the public on December 4, from 10 a.m. to 3:30 p.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 4, from 8:30 a.m. to 10 a.m. for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. John Abrell, Executive Secretary, Cancer Center Support Review Committee, National Cancer Institute, Westwood Building, Room 834, National Institutes of Health, Bethesda, Maryland 20892 (301/496–9767) will furnish substantive program information, upon request.

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25034 Filed 11–6–87; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung and Blood Institute; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, December 7 and 8, 1987, National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7N214, Bethesda, Maryland 20892.

This meeting will be open to the public from 9 a.m. to 4 p.m. December 7 and from 9:30 a.m. to 12 noon on December 8 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 552b(c)(6), Title 5 U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 12 noon to adjournment December 8 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Executive Secretary and Director, Division of Intramural Research, NHLBI, NIH, Building 10, Room 7N214, phone (301) 496–2116.

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25036 Filed 11–6–87; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on December 3–4, 1987, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on December 3 from 8 a.m. to approximately 10 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 3 from approximately 10 a.m. until adjournment on December 4 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Peter Spooner, Executive Secretary, Heart, Lung, and Blood Research Review Committee A, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health)

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25037 Filed 11–6–87; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Heart, Lung, and Blood Research Review Committee B; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, on December 3, 1987, in Building 31, Conference Room 9.

This meeting will be open to the public on December 3 from 8 a.m. to approximately 10 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately 10 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25935 Filed 11–6–87; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FES 87–56]

Availability of Final Environmental Impact Statement; Selawik National Wildlife Refuge; Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a final environmental impact statement for the proposed Comprehensive Conservation Plan, Wilderness Review, and Wild River Plan for Selawik National Wildlife Refuge, Alaska.

SUMMARY: The U.S. Fish and Wildlife Service has prepared a Final Comprehensive Conservation Plan, Environmental Impact Statement, Wilderness Review, and Wild River Plan (Plan) for the Selawik National Wildlife Refuge, Alaska, pursuant to sections 304(g)(1), 1008, and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (Alaska Lands Act); section 3(d) of the Wilderness Act of 1964; and section 102(2)(C) of the National Environmental Policy Act of 1969. The Plan describes three alternatives for managing the refuge as well as the environmental consequences of implementing each alternative. In the document the suitability of all federal lands in the refuge, not previously designated as wilderness lands, is reviewed for possible wilderness designation and inclusion in the National Wilderness Preservation System.

DATE: A Record of Decision will be issued no sooner than December 24, 1987.

FOR FURTHER INFORMATION CONTACT: William Knauer, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786–3399.

SUPPLEMENTARY INFORMATION: A summary of the Plan has been prepared and will be sent to all persons and organizations who participated in any part of the planning process, such as scoping meetings, workshops, or in other types of communication with the planning team. Copies of the complete Plan will be sent to federal and state agencies, regional and village Native corporations, local governments, and other organizations and individuals who have already requested copies. A limited number of copies of both documents are available upon request from Mr. Knauer.

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Copies of the complete Plan are available at the office of the Regional Director, at the above address; at the Selawik National Wildlife Refuge Office, P.O. Box 270, Kotzebue, Alaska 99572; and for review, at the following locations:

U.S. Fish and Wildlife Service, Division of Refuge Management, U.S. Department of the Interior Bldg., 18th & C Streets NW., Washington, DC 20240
U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 NE. Multnomah Street, Suite 1692, Portland, OR 97232
U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 Gold Avenue SW., Room 1306, Albuquerque, NM 87103
U.S. Fish and Wildlife Service, Refuges and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111
U.S. Fish and Wildlife Service, Refuges and Wildlife, Richard B. Russell Federal Building, 75 Spring Street, Atlanta, GA 30303
U.S. Fish and Wildlife Service, Refuges and Wildlife, One Gateway Center, Suite 70, Newton Corner, MA 02158
U.S. Fish and Wildlife Service, Refuges and Wildlife, 134 Union Blvd., Lakewood, CO 80225

Date: October 30, 1987.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 87-25808 Filed 11-6-87; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[UT-050-08-4410-08]

Richfield District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Richfield, Utah, Interior.

ACTION: District Advisory Council Meeting.

SUMMARY: The Richfield District Advisory Council will hold a meeting on December 2, 1987, at 9:00 a.m. in the BLM District Office, 150 East 900 North, Richfield, Utah. A field trip on December 3 to the Annabella burn and the Fremont Narrows is tenative, depending on the weather.

Agenda for the meeting will be:

1. FY 1988 Annual Work Plan.
2. Update on the Planning Program.
3. Volunteer Program for FY 87 Summary.
4. Grazing Privileges in Capitol Reef National Park.
5. Endangered Species.
6. Weed Program.

The meeting is open to the public and interested persons may make oral statements to the Council between 2 p.m. and 3 p.m. or file written comments for the councils consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

Donald L. Pendleton,

District Manager.

October 30, 1987.

[FR Doc. 87-25827 Filed 11-6-87; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7313, with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Request for Reservoir MER, Form MMS-1866.

Abstract: Respondents submit Form MMS-1866 to the Minerals Management Service's (MMS) Regional Supervisors so MMS can determine whether a lessee has correctly classified an oil or gas reservoir and whether the reservoir maximum efficient rate (MER) requested by the lessee is valid.

Bureau Form Number: Form MMS-1866.

Frequency: On occasion.

Description of Respondents: Federal oil and gas lessees performing offshore production operations.

Annual Responses: 600.

Annual Burden Hours: 600.

Bureau Clearance Officer: Dorothy Christopher, (703) 435-6213.

Date: October 20, 1987

John B. Rigg,

Associate Director for Offshore Minerals Management

[FR DOc. 87-25828 Filed 11-6-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention to Negotiate Concession Permit; Cosby Stables, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession permit with Cosby Stables, Inc., authorizing it to continue to provide saddle horse livery and guide services for the public at Great Smoky Mountains National Park, Tennessee for a period of four (4) years from January 1, 1988, through December 31, 1991.

This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1987, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, Atlanta, Georgia, for information as to the requirements of the proposed permit.

C.W. Ogle,

Acting Regional Director, Southeast Region.

Date: October 16, 1987.

[FR Doc. 87-25900 Filed 11-6-87; 8:45 am]

BILLING CODE 4310-70-M

Congaree Swamp National Monument, SC; Hearing and Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of wilderness hearing/public meeting.

SUMMARY: Notice is hereby given in accordance with section 3 of an Act of September 3, 1984 (Wilderness Act, Pub. L. 88-577) that a public hearing will be held at the following location and time for the purpose of receiving comments on the suitability of lands within Congaree Swamp National Monument for designation as wilderness.

Also, as part of the National Park Service's program for public participation in planning, comments on an Environmental Assessment for the General Management Plan/Wilderness Suitability Study for Congaree Swamp National Monument prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the establishing legislation for Congaree Swamp National Monument (section 5 of Pub. L. 94-545 dated October 18, 1976) will be received at this public hearing.

The purpose of the General Management Plan/Wilderness Suitability Study/Environmental Assessment is to identify:

The lands and interests in lands adjacent or related to the monument which are deemed necessary or desirable for the purpose of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of the Act and the estimated costs thereof;

The number of visitors and types of public use within the monument which can be accommodated in accordance with the protection of its resources;

The location and estimated cost of facilities deemed necessary to accommodate such visitors and uses;

The suitability or nonsuitability of any area within the monument for preservation as wilderness; and

The environmental consequences of the proposal and alternatives.

The findings of the Wilderness Suitability Study indicate that the majority of the monument is suitable for wilderness designation and that other portions are suitable for potential wilderness designation, according to the criteria and intent of the Wilderness Act of 1964.

DATE: The Wilderness Hearing/Public Meeting will be held on December 10, 1987 at 7 p.m.

ADDRESS: The hearing will be held at: Cafeteria, Lower Richland High School, Columbia, South Carolina, (located on Sumter Highway at Highways 76/378, approximately 5 miles east of the Veterans Hospital).

FOR FURTHER INFORMATION CONTACT: A limited number of copies of the assessment are available upon request from:

Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, Commercial (404) 331-5465, FTS 242-5465

Superintendent, Congaree Swamp National Monument, P.O. Box 11920, Columbia, South Carolina, Commercial (803) 765-5571, FTS 677-5571

SUPPLEMENTARY INFORMATION: Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearings, provided they notify the Hearing Officer in care of the Superintendent, Congaree Swamp National Monument, by December 7, 1987, of their desire to appear. Those not wishing to appear in person may submit written statements on the Wilderness Suitability Study and the Environmental Assessment to the Hearing Officer for inclusion in the official record which will be held open for written statements until January 11, 1988.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement that may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials presented at the hearing shall be subject to a determination by the Hearing Officer that they are appropriate for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the preliminary Wilderness Study and the Environmental Assessment by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governor of the State or his representative.
(2) Members of Congress.
(3) Members of the State Legislature.
(4) Official representatives of the county in which the park is located.
(5) Officials of other Federal Agencies or public bodies.
(6) Organizations in alphabetical order.
(7) Individuals in alphabetical order.
(8) Others not giving advance notice, to the extent there is remaining time.

Date: November 2, 1987.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 87-25808 Filed 11-6-87; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

November 4, 1987.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The name and telephone number of the Department's Clearance Officer from whom a copy of the form and/or supporting documentation is available; (2) the office, board or division of the Department of Justice issuing the form or administering the collection; (3) the title of the form/collection; (4) the agency form number, if any; (5) how often the report must be filled out or the information is to be collected; (6) who will be asked or required to respond, as well as a brief abstract; (7) an estimate of the total number of respondents; (8) an estimate of the total public burden hours associated with the collection; (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies; and, (10) the name and telephone number of the person or office responsible for the OMB review. Comments and/or questions regarding the item(s) contained in this notice should be directed to the OMB reviewer listed at the end of each entry *AND* to the Department's Clearance Officer. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should so advise the OMB reviewer *AND* the Department's Clearance Officer of your intent as early as possible.

The Department of Justice Clearance Officer is: Larry E. Miesse and can be reached on (202) 633-4312.

New Collections

(1) Larry E. Miesse, (202) 633-4312.

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(2) Immigration and Naturalization Service, Department of Justice.
(3) Immigration User Fee.
(4) No form number.
(5) Quarterly with an annual report.
(6) Businesses or other for-profit. The information requested from commercial airlines, cruise lines and tour operators is generally required by Pub. L. 99–591 and is necessary for monitoring, follow-up and audit of user fee submissions. No form is required, only data basic to collection, payment and remittance of fees.
(7) 625 annual responses, .25 hours burden per response.
(8) 157 estimated public burden hours with estimated 1,250 burden hours for recordkeeping for a total public burden of 1,407 hours.
(9) Not applicable under 3504(h).
(10) Robert Fishman, (202) 395–7340.

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

(1) Larry E. Miesse, (202) 633–4312.
(2) National Institute of Justice, Office of Justice Programs, Department of Justice.
(3) A Network of Knowledge: Directory of Criminal Justice Information Sources Survey Form.
(4) No form number.
(5) Biennially.
(6) Non-profit institutions, Federal agencies or employees. This publication lists criminal justice information providers, including a description of each agency, its area(s) of interest, user restrictions, and contact information. The data collection is to maintain current information.
(7) 200 annual responses, .10 hours burden per response.
(8) 20 estimated total public burden hours.
(9) Not applicable under 3504(h).
(10) Robert Fishman, (202) 395–7340.

Revision of a Currently Approved Collection

(1) Larry E. Miesse, (202) 633–4312.
(2) Bureau of Justice Statistics, Office of Justice Programs, Department of Justice.
(3) National Crime Survey (NCS) Test.
(4) NCS–1(X), NCS–2(X), NCS–3(X), NCS–500.
(5) Quarterly (for test).
(6) Individuals or households. The National Crime Survey is a program for gathering, analyzing, publishing and disseminating statistics on the kind and amount of crime committed against households and individuals throughout the United States. Respondents include persons 12 years or older living in 1,000 households in various locations throughout the country.
(7) 4,000 annual responses, .375 burden hours per response.
(8) 1,500 estimated total public burden hours.
(9) Not applicable under 3504(h).
(10) Robert Fishman, (202) 395–7340.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Larry E. Miesse, (202) 633–4312.
(2) Criminal Division, Department of Justice.
(3) Foreign Agents Registration Program.
(4) (a) Registration Statement of Individuals (Foreign Agents).
(b) Short Form Registration Statement of Individuals (Foreign Agents)
(c) Exhibit A to Registration Statement (Foreign Agents).
(d) Exhibit B to Registration Statement (Foreign Agents).
(e) Supplemental Registration of Individuals (Foreign Agents).
(f) Amendment to Registration or Supplemental Registration Reports (Foreign Agents).
(g) Dissemination Report (Transmittal of Political Propaganda).
(5) (a), (b), (c), (d), (f), and (g) are on occasion, (e) is semiannually.
(6) Individuals or households. Businesses or other for-profit, non-profit institutions, small businesses or organizations. This program and its associated form are required by the provisions of 22 U.S.C. § 611 *et seq.* and filings are maintained in the public office of the Registration Unit, Internal Security Section, Criminal Division, where they are available for public review.
(7) (a) 100 annual respondents at 1.5 burden hours each.
(b) 350 annual respondents at .429 burden hours each.
(c) 75 annual respondents at .49 burden hours each.
(d) 75 annual respondents at .33 burden hours each.
(e) 2,400 annual respondents at 1.375 burden hours each.
(f) 200 annual respondents at 1.5 burden hours each.
(g) 3,600 annual respondents at .5 burden hours each.
(8) (a) 150 hours annual burden.
(b) 150 hours annual burden.
(c) 38 hours annual burden.
(d) 25 hours annual burden.
(e) 3,300 hours annual burden.
(f) 300 hours annual burden.
(g) 1,800 hours annual burden.
(9) Not applicable under 3504(h).
(10) Robert Fishman, (202) 395–7340.

Larry E. Miesse,
Department Clearance Officer, Department of Justice.
[FR Doc. 87–25919 Filed 11–6–87; 8:45 am]
BILLING CODE 4410–10–M

Lodging of Consent Decree; Buckeye Products Corp.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on October 26, 1987, a proposed consent decree in *United States* v. *Buckeye Products Corporation*, Civil Action No. 86–C–80–187–AA, was lodged with the United States District Court for the Eastern District of Michigan. The proposed consent decree resolves a judicial enforcement action brought by the United States against Buckeye Products Corporation for violations of the Resource Conservation and Recovery Act.

The proposed consent decree requires the Buckeye Products Corporation to cease all treatment, storage, or disposal of hazardous waste into or on any land treatment or disposal unit located at the Buckeye facility in Adrian, Michigan. In addition, Buckeye Products Corporation is required to fully implement its Environmental Protection Agency approved Groundwater Assessment Plan and its Environmental Protection Agency approved Closure Plan. The proposed decree also requires Buckeye Products Corporation to pay a civil penalty of $82,950.

The proposed consent decree may be examined at the office of the United States Attorney, 231 West Lafayette, Detroit, Michigan and at the office of Regional Counsel, Environmental Protection Agency, 111 W. Jackson Boulevard, Chicago, Illinois.

Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.40 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

Roger J. Marzulla,
Acting Assistant Attorney General, Land and Natural Resources Division.
[FR Doc. 87–25829 Filed 11–16–87; 8:45 am]
BILLING CODE 4410–01–M

Lodging of Consent Decree; Hudson Refining, Co., Inc. and Hudson Oil Company, Inc.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on October 13, 1987, a proposed Final Consent Decree in *United States* v. *Hudson Refining Co., Inc. and Hudson Oil Company, Inc.*, Civil Action No. CV–84–2027–A, was lodged with the United States District Court for the Western District of Oklahoma. The complaint in this action was brought on August 8, 1984, seeking civil penalties and injunctive relief for violations of the Resource Conservation and Recovery Act and the Oklahoma Rules and Regulations for Industrial Waste management. In May 1987, a partial consent decree was entered in this case, which required Hudson to pay a civil penalty for past violations and to conduct a facility-wide investigation for potential releases of hazardous wastes or hazardous constituents from the company's petroleum refinery in Cushing, Oklahoma. This proposed Final Consent Decree specifies the corrective action measures to be undertaken by Hudson to remediate the facility.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Final Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Hudson Refining Co., Inc. and Hudson Oil Co., Inc.*, D.J. No. 90–7–1–262.

The proposed Final Consent Decree may be examined at the office of the United States Attorney, Room 4434, United States Courthouse, Oklahoma City, Oklahoma; at the Environmental Protection Agency, Region VI, Office of Regional Counsel, 13th Floor, 1445 Ross Ave., Dallas, Texas; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Tenth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Final Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $6.70 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Roger J. Marzulla
Acting Assistant Attorney General, Land and Natural Resources Division.
[FR Doc. 87–25830 Filed 11–6–87; 8:45 am]
BILLING CODE 4410–01–M

Lodging of Consent Decree; Lithographic Industries

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on October 27, 1987, a proposed consent decree in *United States* v. *Lithographic Industries*, Civil Action No. 86–C–8173, was lodged with the United States District Court for the Northern District of Illinois. The proposed consent decree resolves a judicial enforcement action brought by the United States against Lithographic Industries for violations of the Clean Air Act.

The proposed consent decree requires Lithographic Industries to permanently shut down its five paper coating operations at its plant located in Broadview, Illinois. The decree allows Lithographic to construct and operate a new paper coating line provided Lithographic obtains the necessary permits from the State of Illinois and operates the new paper coating line pursuant to strict operating limits set forth in the Decree and in compliance with the Clean Air Act. The proposed decree also requires Lithographic Industries to pay a civil penalty of $20,000.

The proposed consent decree may be examined at the office of the United States Attorney, 219 South Dearborn Street, Chicago, Illinois and at the office of Regional Counsel, Environmental Protection Agency, 111 West Jackson Boulevard, Chicago, Illinois.

Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Roger J. Marzulla,
Acting Assistant Attorney General, Land and Natural Resources Division.
[FR Doc. 87–25831 Filed 11–6–87; 8:45 am]
BILLING CODE 4410–01–M

Antitrust Division

Proposed Final Judgment and Competitive Impact Statement; Standard Tallow Corp. et al.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed final judgment, stipulation, and competitive impact statement have been filed with the United States District Court for the Southern District of New York in *United States* v. *Standard Tallow, et al.*, 85–Civ. 2062. The complaint in this case alleged that the four defendant corporations and their co-conspirators engaged in a combination and conspiracy to fix prices and allocate offers to sell and contracts for the sale of drummed tallow supplied to the Government of Egypt and financed by the Agency for International Development. The proposed final judgment would enjoin the defendants from entering into or maintaining, any agreement, understanding, combination, or conspiracy with any competitor to fix the price or other terms or conditions or to allocate offers to sell or contracts for the sale of tallow. The proposed final judgment further would enjoin the defendants from communicating or exchanging with any competitors any information regarding prospective offers to supply tallow in transactions financed by the federal government prior to announcement of the winning bid by the person to whom they were tendered.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to P. Terry Lubeck, Chief, Litigation II Section, Room 10–437, Antitrust Division, U.S. Department of Justice, 555 4th Street NW., Judiciary Center Building, Washington, DC 20001.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

United States District Court Southern District of New York

United States of America, Plaintiff, v. *The Standard Tallow Corp.; Pasternak, Baum & Co., Inc.; Gersony-Strauss Commodities Co., Inc.; and Acme-Hardesty Co., Inc.*, Defendants.

[Civil No.: 85–Civ. 2062]

Filed: October 27, 1987.

Stipulation and Order Regarding Proposed Final Judgment

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

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1. The undersigned parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any of the undersigned parties or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any of the undersigned parties or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the undersigned defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any of the undersigned parties in this or any other proceeding.

For Plaintiff United States of America.
Charles F. Rule,
Assistant Attorney General.
Joseph H. Widmar,
P. Terry Lubeck,
Mark C. Schechter,
Attorneys, Department of Justice.
Carolyn G. Mark,
Attorney, Department of Justice, Antitrust Division, Washington, DC 20001, (202) 724-7981.

For Defendant the Standard Tallow Corporation:
Lowenstein, Sandler, Brochin, Kohl, Fisher, Boylan & Meaner
Theodore V. Wells, Jr.,
65 Livingston Avenue, Roseland, NJ 07068, (201) 992-8700.

For Defendant Pasternak, Baum & Co., Inc.
Fried, Frank, Harris, Shriver & Jacobson
Victor S. Friedman,
One New York Plaza, New York, New York 10004, (212) 820-8000.

For Defendant Gersony-Strauss Commodities Co., Inc.
Grand & Ostrow
Paul R. Grand,
641 Lexington Avenue, New York, New York 10022, (212) 832-3611.

For Defendant Acme-Hardesty Co., Inc.
Jones, Day, Reavis & Pogue
Walter Sterling Surrey,
655 15th Street, NW., Washington, DC 20005, (202) 879-7600.

United States District Court Southern District of New York

United States of America, Plaintiff, v. *The Standard Tallow Corp.; Pasternak, Baum & Co., Inc.; Gersony-Strauss Commodities Co., Inc.; and Acme-Hardesty Co., Inc.*, Defendants.

(Civil No.: 85-Civ. 2062)

Filed: October 27, 1987.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on March 15, 1985, and plaintiff, by agreement with the defendants, having dismissed Counts Two, Three, and Four of the complaint, and plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or any admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act, 15 U.S.C. 1.

II

As used herein the term:

(A) "Person" means any individual, partnership, corporation, firm, association, or other business or legal entity.

(B) "Tallow" means the processed fat derived from inedible slaughterhouse by-products, from fat trimmings collected from butchers and institutions such as restaurants and hotels, and from dead animals.

(C) "U.S. government" means any department, division, agency, branch, or instrumentality of the United States, including, but not limited to, the Agency for International Development.

III

This Final Judgment applies to each defendant and to its respective officers, directors, employees, and agents, solely in their capacity as such officers, directors, employees, and agents, and to its subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service, service under Section V hereof, or otherwise. This Final Judgment shall not apply to: (a) Lawful transactions or communications solely between a defendant and any of its directors, officers, employees, or agents, when acting in such capacity, or any of its subsidiaries, parent companies, or companies fifty percent (50%) or more owned by any such parent, or (b) conduct (other than conduct related to the supply or sale of tallow to be financed in whole or in part through grants or loans by the U.S. government) excluded by the operation of 15 U.S.C. 6a from the application of 15 U.S.C. 1-7.

IV

(A) Defendants The Standard Tallow Corp. and Acme-Hardesty Co., Inc. each are enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, enforcing, or furthering, or attempting to enter into, adhere to, maintain, enforce, or further, any combination, conspiracy, agreement, understanding, or concert of action with each other or any competitor to:

(1) Raise, fix, maintain, or establish any price, commission, or other term or condition for the supply or sale of tallow to any third person, including but not limited to the supply or sale of tallow to be financed in whole or in part through grants or loans by the U.S. government;

(2) submit any collusive or rigged offer or bid to supply or sell tallow, including but not limited to the supply or sale of tallow to be financed in whole or in part through grants or loans by the U.S. government;

(3) allocate customers or markets, or divide offers or contracts for the supply or sale of tallow, including but not limited to the supply or sale of tallow to be financed in whole or in part through grants or loans by the U.S. government.

(B) Defendants The Standard Tallow Corp. and Acme-Hardesty Co., Inc. each are enjoined and restrained from directly communicating or exchanging with each other or any competitor any term or condition of sale (including, but not limited to, any actual or proposed price, price change, discount, or quantity) at which tallow is to be offered or sold in a transaction financed in whole or in part through grants or loans by the U.S. government, prior to announcement of the offer or bid by the person to whom the offer or bid was tendered.

(C) Defendants Gersony-Strauss Commodities Co., Inc. and Pasternak, Baum & Co., Inc. each are enjoined and restrained from knowingly participating in or submitting any collusive or rigged offer or bid to supply or sell tallow, including but not limited to the supply or

sale of tallow to be financed in whole or in part through grants or loans by the U.S. government.

V

For the duration of this Final Judgment, each defendant shall:

(A) Within sixty (60) days after the entry of this Final Judgment, and annually thereafter, furnish a copy of same to each of its officers and directors, and to each of its employees and agents who arranges for or is engaged in the sale of tallow, or has responsibility for or authority over the pricing or selling of tallow.

(B) Furnish a copy of this Final Judgment to each successor to any person described in paragraph V(A) within sixty (60) days after such successor assumes such position with the defendant.

(C) Attach to each copy of this Final Judgment furnished pursuant to paragraphs V(A) or V(B) a written directive summarizing the terms and requirements of this Final Judgment. Such written directive shall state that it is the policy and the intent of the defendant to comply with the terms and requirements of this Final Judgment and the antitrust laws, shall describe the consequences, including possible civil or criminal penalties, to the defendant and its officers, directors, employees, and agents of a failure to comply with this Final Judgment, and shall include (1) an instruction that any of its officers, directors, employees, or agents who fail to comply with this Final Judgment may be subject to disciplinary action to be determined by the defendant, and (2) advise that the defendant's legal advisors are available at all reasonable times to confer regarding any compliance question or problem.

(D) Obtain annually from each person to whom the defendant furnishes a copy of this Final Judgment and such written directive pursuant to paragraphs V(A) or V(B), a signed certificate in the following form:

> I hereby state that: (1) I have received both a copy of the Final Judgment in *United States* v. *Standard Tallow Corp., et al.*, and a written directive setting forth the Company policy regarding compliance with such Final Judgment; (2) I have read and understand such Final Judgment and written directive; (3) I have been informed and understand that failure to comply with the Company policy and that Final Judgment may result in appropriate disciplinary measures as determined by the Company which may include dismissal; and (4) I have been informed and understand that failure to comply with the Final Judgment may result in conviction for contempt of court, and that violation of the antitrust laws may constitute a felony and could result in imprisonment of fine.

VI

For the duration of this Final Judgment, each defendant shall file with the plaintiff, on or before each anniversary date of the entry of this Final Judgment, a sworn statement, by a responsible official designated by the defendant to perform such duties, setting forth all steps the defendant has taken during the preceding year to discharge its obligations under Sections IV and V. This statement shall be accompanied by copies of all directives issued by the defendant during the prior year with respect to compliances with the antitrust laws and with this Final Judgment and copies of all signed certificates required by paragraph V(D).

VII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant made to its principal office, be permitted:

(1) Access during office hours of the defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, employees, and agents of the defendant, which may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to a defendant's principal office, such defendant shall submit written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party or to divulging such material under the Freedom of Information Act, 5 U.S.C. 552.

VIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance with it, and for the punishment of any violation of it.

IX

This Final Judgment shall be in effect for a period of ten (10) years from the date of its entry by this Court.

X

Entry of this Final Judgment is in the public interest.

United States District Judge.

United States District Court, Southern District of New York

United States of America, Plaintiff, v. *The Standard Tallow Corp.; Pasternak, Baum & Co., Inc.; Gersony-Strauss Commodities Co., Inc.;* and *Acme-Hardesty Co., Inc.*, Defendants.

[Civil No.: 85-Civ. 2062]

Filed: 10/27/87

Competitive Impact Statement

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), the United States hereby submits this Competitive Impact Statement relating to the proposed final judgment submitted for entry in this proceeding. The proposed final judgment, if entered by the Court, would terminate this action as to all defendants.

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I

Nature and Purpose of the Proceeding

On March 15, 1985, the United States filed a four-count complaint to obtain injunctive and compensatory relief. The complaint, which alleged violations of section 1 of the Sherman Act, 15 U.S.C. 1, the False Claims Act, 31 U.S.C. 3729–3721, and the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151–2429a–1, also sought relief for unjust enrichment at common law. The complaint alleges that, beginning in November 1975 and continuing until April 1982, defendants and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate and foreign trade and commerce, the substantial terms of which were:

(a) To fix the price at which defendants offered to supply AID-financed drummed tallow to Egypt;

(b) To allocate among themselves the quantity of AID-financed drummed tallow that each would offer and supply to Egypt; and

(c) To submit rigged, collusive, and non-competitive bids in connection with AID-financed sales of drummed tallow to Egypt.

Count One of the complaint seeks injunctive relief under the antitrust laws to prevent the recurrence of the alleged anticompetitive activities, and the proposed final judgement provides injunctive relief against such activities by the defendants.

Counts Two, Three, and Four of the complaint, seeking money damages and forfeitures for alleged overcharges suffered by the United States as a result of the alleged conspiracy, have been settled and compromised by the United States and the defendants in the amount of $500,000 plus interest without adjudication of any issue of fact or law.

Entry by the Court of the proposed final judgment will terminate the remaining portions of this civil action against the defendants, except insofar as the Court will retain jurisdiction over the matter for possible further proceedings which may be required to interpret, modify, or enforce the judgment, or to punish alleged violations of any of the provisions of the judgment.

II

Nature of the Alleged Violation

During the period of the conspiracy alleged in the complaint, defendants The Standard Tallow Corp. (hereinafter "Standard") and Acme-Hardesty Co., Inc. (hereinafter "Acme-Hardesty") were drummers of tallow. Tallow is a type of fat rendered from animal fat, bone and other animal parts. Drummed tallow is tallow packaged in 55-gallon steel drums. Defendants Pasternak, Baum & Co., Inc. (hereinafter "Pasternak") and Gersony-Strauss Commodities Co., Inc. (hereinafter "Gersony-Strauss") are brokers whose role is to bring parties together for the purpose of arranging sales of commodities, including tallow.

As part of its foreign policy since 1975, the United States has made funds available through grants and low-interest loans to the Arab Republic of Egypt (hereinafter "Egypt") for the procurement of commodities, including tallow. Egypt procures tallow through a competitive bidding process. Defendants Standard and Acme-Hardesty, through brokers Pasternak and Gersony-Strauss, have offered to supply and supplied drummed tallow to Egypt.

The government would have been prepared to offer proof at trail, among other things, that beginning in November 1975, representatives of defendants Standard and Acme-Hardesty and a co-conspirator agreed to offer to supply all the drummed tallow sought by Egypt at a uniform price and to divide equally any awards made to them or their brokers, defendants Pasternak and Gersony-Strauss. Defendants Standard, Acme-Hardesty, and a co-conspirator, in concert with the defendant brokers, arrived at a single offering price that the defendant brokers would offer to Egypt on behalf of Standard, Acme-Hardesty, and a co-conspirator. With the knowledge of both broker defendants, Standard, Acme-Hardesty, and a co-conspirator agreed to allocate their offers to supply drummed tallow to Egypt between Gersony-Strauss and Pasternak in fixed proportions. Many of the sales of these drummed tallow sales to Egypt were financed by AID. The government would have been prepared to offer proof that this conspiracy continued until April 1982.

According to the complaint, the alleged conspiracy had the following effects:

(1) Prices of AID-financed drummed tallow supplied to Egypt were fixed, maintained, and established at artificial and non-competitive levels;

(2) Competition for AID-financed sales of drummed tallow to Egypt was restrained, suppressed, and eliminated; and

(3) The United States was denied the benefits of free and open competition on AID-financed sales of drummed tallow to Egypt.

III

Explanation of the Proposed Final Judgment

The United States and the settling defendants have stipulated that the proposed final judgment, which is in a form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The stipulation between the parties provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed final judgment by the Court is conditioned upon a determination by the Court that the judgment is in the public interest. Once entered by the Court, the judgment will be in effect for ten years.

The proposed final judgment will prohibit the defendants from making, furthering, or participating in any agreement to fix the price or other terms of sale of tallow to any third person. The defendants also will be prohibited from submitting rigged bids to sell or supply tallow. Also forbidden will be any agreement or participation in any agreement by the defendants to allocate contracts or markets for tallow. The proposed judgment will cover sales of tallow financed in whole or in part through grants or loans by the United States.

Furthermore, the judgment will prohibit the defendants Standard and Acme-Hardesty from communicating to another person prospective prices or quantities for transactions financed by the federal government, before such prices or other terms are announced by the person receiving the bid.

For the purpose of notifying all necessary employees regarding the prohibitions of the judgement, the defendants will be required, within 60 days, to serve a copy of the judgment on each of their directors and officers, and upon each of their employees or agents who are involved in the pricing or selling of tallow. If new employees are hired in these positions in the future, the defendants also will be required to serve a copy of the judgment on these new employees. The defendants will be required to obtain and keep records showing that these corporate personnel have received, read, and understood the judgment. The judgment will apply not only to each defendant corporation but also to their respective officers, directors, employees, and agents who have actual notice of the judgment.

Requiring the defendants to give such notice to their responsible personnel ensures that the relevant personnel know what activities are prohibited and know that they can be prosecuted for criminal contempt if they disregard the provisions of the judgment.

Under the proposed judgment, for ten years the Department of Justice will be given access to the files and records of each of the defendants in order to examine such records for compliance or noncompliance with the judgment. The Department also will be permitted to interview employees of the defendants to determine whether defendants are complying with the judgment.

The relief encompassed in the proposed final judgment is designed to prevent a recurrence of any of the activities alleged in the complaint. The prohibitory language of the judgment will ensure that all pricing decisions on sales of tallow, including transactions financed by the federal government, are made independently by the individual competitors.

Accordingly, it is the view of the Department of Justice that disposition of Count One without additional litigation is appropriate in view of the fact that the proposed judgment includes the form and scope of relief equal to that which might be obtained after a full hearing on the issues at a trail.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and a reasonable attorney's fee. Entry of the proposed final judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action. Under section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a), the proposed final judgment may not be used as *prima facie* evidence in any subsequent private antitrust action brought against any of the settling defendants because it is a consent judgment entered before any testimony has been taken.

V

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to P. Terry Lubeck, Chief, Litigation II Section, Room 10–437, Antitrust Division, Department of Justice, 555 4th Street, NW., Washington, DC 20001 within the 60-day period provided by the Act. The comments and the government's responses to them will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of the judgment is necessary in the public interest. The proposed judgment itself provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification or enforcement of the judgment.

VI

Alternatives to the Proposed Consent Judgment

It is the opinion of the Department that litigation is not a more desirable alternative than the entry of the proposed final judgment because the proposed final judgment will prevent recurrence of the conduct forming the basis for the Complaint and contains virtually all the relief which was requested in the Complaint.

VII

Other Materials

No materials and documents of the type described in section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), were considered in formulating this proposed judgment.

Respectfully submitted,

Carolyn G. Mark,

Attorney, Department of Justice, Antitrust Division, 555 4th Street, NW., Washington, DC 20001.

[FR Doc. 87–25860 Filed 11–6–87; 8:45 am]

BILLING CODE 4410–01–M

Proposed Termination of Final Judgment; Studiengesellschaft Kohle, m.b.H., et al.

Notice is hereby given that, Stauffer Chemical Company, Hercules, Inc., and Texas Alkyls, Inc., have filed with the United States District Court for the District of Columbia a motion to terminate the final judgment in *United States v. Studiengesellschaft Kohle, m.b.H., et al.*, Civil No. 1255–70; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the judgment, but has reserved the right to withdraw its consent pending receipt of public comments. The complaint in this case (filed on April 24, 1970) alleged that the defendants had combined and conspired in unreasonable restraint of trade in aluminum trialkyls and monopolized the sale of aluminum trialkyls.

The judgment (entered on December 12, 1977) enjoined the companies from entering into or enforcing any agreement which would limit the sale of a product for which there was lawful authorization to use a patented process or machine, from interfering with the sale or use of unpatented aluminum alkyls (which includes aluminum trialkyls, aluminum halides, and alky aluminum hydrides), and from entering into any agreement whereby any person acquires an exclusive right to sell unpatented products made by a patented process or machine. The companies were also required to grant patent licenses to certain applicants, and to license technology regarding aluminum trialkyls to all applicants not currently in the business of manufacturing and selling aluminum trialkyls. Lastly, the decree prohibited the companies from opposing the United States' intervention in or modification of the judgment in *Ethyl Corp. v. Hercules Powder Co.*, 232 F. Supp. 453 (D. Del. 1964).

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the complaint and final judgment, the defendants' motion papers, the stipulation containing the Government's consent, the Department's memorandum, and all further papers filed with the court in connection with this motion will be available for inspection at Room 3233, Antitrust Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone: 202–633–2481), and at the office of the Clerk of the United States District Court for the District of Columbia, 3rd & Constitution Avenue NW., Room 1825, Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the judgment to the Department. Such comments must be received within the sixty-day period established by court order, and will be filed with the court. Comments should

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be addressed to John W. Clark, Chief, Professions and Intellectual Property Section, Antitrust Division, United States Department of Justice, 555 Fourth Street, NW., Washington, DC 20001 (telephone: 202–724–7425).

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 87–25859 Filed 11–6–87; 8:45 am]

BILLING CODE 4410–01–M

National Cooperative Research Act of 1984; Corporation for Open Systems International

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et seq. ("the Act"), the Corporation for Open Systems International ("COS") has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission on October 5, 1987 disclosing a change in the membership of COS. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On May 14, 1986, COS filed it original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 11, 1986, 51 FR 21260. On August 6, 1986, September 30, 1986, January 2, 1987, March 24, 1987, June 12, 1987, July 18, 1987, and July 24, 1987, COS filed additional written notifications. The Department published notices in the **Federal Register** in response to these additional notifications on September 4, 1986 (51 FR 31735), October 28, 1986 (51 FR 39434), February 13, 1987 (52 FR 4671), April 24, 1987 (52 FR 13769), July 21, 1987 (52 FR 27473), respectively.

On July 31, 1987, Morgan Guaranty Trust Company became a party to COS; on August 27, 1987, the United States Army Information Systems became a party to COS; and on August 31, 1987, ITT Corporation withdrew as a member of COS.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87–25861 Filed 11–6–87; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket No. 87–91]

NASA Advisory Council (NAC) Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, NASA announces a forthcoming meeting of the NASA Advisory Council, Informal Space Life Sciences Committee.

DATE AND TIME: November 20, 1987, 9 a.m. to 5 p.m. and November 21, 1987, 9 a.m. to 3:30 p.m.

ADDRESS: Science Applications International Corporation, NADA Building, 8400 Westpark Drive, McLean, VA 22102.

FOR FURTHER INFORMATION CONTACT: Dr. James H. Bredt, Code EBR, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1525).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Space Life Sciences Committee was established to formulate a comprehensive strategic plan for space life sciences, identify essential efforts with appropriately phased objectives, and define efficient implementing strategies to pursue these goals. The Committee, chaired by Dr. Frederick C. Robbins, has 18 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants).

Type of Meeting: Open.

Agenda

November 20, 1987

9 a.m.—Opening Remarks.
9:15 a.m.—Review Draft of Final Report.
5 p.m.—Adjourn.

November 21, 1987

9 a.m.—Review Draft of Final Report.
3:30 p.m.—Adjourn.

November 2, 1987.

Frank P. Sutherland, Jr.,

Director, Personnel Policy and Work Force Effectiveness Division.

[FR Doc. 87–25862 Filed 11–6–87; 8:45 am]

BILLING CODE 7510–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–25079; File No. SR–AMEX–87–27]

American Stock Exchange, Inc.; Listing Guidelines for Foreign Currency and Index Warrants, and Rules Applicable to Index Warrants

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 16, 1987, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend section 106 of the Amex *Company Guide* to provide listing guidelines applicable to foreign currency and index warrants; to amend Rule 411 to apply the options suitability standards in Rule 923 to recommendations regarding index warrants; and to amend Rule 421 to require that discretionary orders in index warrants be approved and initialled on the day entered by a Senior Registered Options Principal or a Registered Options Principal.

The text of the proposed rule change is available at the Office of the Secretary, American Stock Exchange, Inc. and at the Commission.

II. Self-Regulatory Organizaton's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

(i) Listing guidelines. The Exchange is proposing to amend section 106 of the Amex *Company Guide* to provide listing guidelines to permit the listing of index warrants, which will be unsecured obligations of their issuer, and subject to cash settlement in U.S. dollars during a term of one to five years from date of issuance. The index warrants would be based on established major market indices, both domestic and foreign.

In Securities Exchange Act Release No. 24555 (June 12, 1987), the Commission approved the listing of warrants on foreign currencies. The proposed amendments to section 106 also codify the guidelines that are currently applicable to warrants on foreign currencies.

Index warrants would be eligible for listing whether structured as American style options (*i.e.*, exercisable throughout their life) or European style options (*i.e.*, exercisable only on their expiration date). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant which has been structured to act as a "put option" would receive payment in U.S. dollars to the extent that the index has declined below a pre-stated cash settlement value. Conversely, holders of warrants structured to resemble a "call option" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would be worthless.

The listing of warrants would be considered on a case by case basis. Since the warrants would represent unsecured obligations of the issuer, only warrants issued by companies that exceed the Exchange's financial listing criteria (section 101 of the *Company Guide*) and that have assets in excess of $100 million would be considered eligible for listing. The Exchange proposes to require a minimum public distribution of 1,000,000 warrants together with a minimum of 400 public holders, and an aggregate market value of $4,000,000.

(ii) *Suitability standards.* The Exchange is proposing to amend Rule 411 (Duty to Know and Approve Customers) by adding Commentary .02 to apply the options suitability standard in Rule 923 to recommendations regarding index warrants.

The Exchange proposes to recommend that index warrants be sold only to options-approved accounts. However, whether or not the customer's account has been approved for options trading, the options suitability standard in Rule 923 will be applicable to recommended transactions involving index warrants. This would require that the member or member organization have reasonable grounds to believe the transaction is suitable for the customer, and have a reasonable basis for believing that the customer could evaluate and financially bear the risks of the recommended transaction.

Proposed Commentary .01 to Rule 411 would formalize existing procedures relating to listed currency warrants as specified in the membership circulars issued by the Exchange relating to the warrants—namely, that the Exchange recommends that currency warrants be sold to options-approved accounts, and that, if an account is not so approved, a careful determination be made that currency warrants are suitable for the customer. In contrast to requirements for recommended transactions in index warrants, Rule 923 options suitability requirements would not be applied to currency warrants.

(iii) *Discretionary accounts.* Index warrant transactions in discretionary accounts would also be subject to an additional requirement similar to procedures under Rule 924 regarding options transactions in discretionary accounts. Proposed Commentary .02 to Rule 421 would require a Senior Registered Options Principal or a Registered Options Principal to approve and initial a discretionary order in index warrants on the day entered.

(iv) *Risk disclosure.* Following the procedure adopted for currency warrants, the Exchange proposes to distribute a Circular to the Membership calling attention to specific risks associated with warrants on domestic and foreign indices (*see* Exhibit B). The Circular to the Membership relating to specific index warrants to be listed would emphasize the importance of warrant investors being given an explanation of the special characteristics and risks of the warrants and would specify the suitability standard under proposed Commentary .02 to rule 411, as well as Rule 923.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants and Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 30, 1987.

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For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 30, 1987.

American Stock Exchange, Inc.

Circular to the Membership

The following securities of _____ Corporation have been approved for Exchange listing and will commence trading at a date to be announced.

- _____ Principal Amount of _____% Notes due _____.
- _____ (one to five)- year cash settled _____ Index Warrants expiring _____.

The above securities are being offered separately, and not as a unit, under a common prospectus. Each security will trade independently of the other with the following ticker symbols:

- *XYZ* for the Notes, and *XYZ.WS* for the Warrants.

The _____ Index Warrants have several unique characteristics and can be expected to fluctuate in value due to a number of interrelated factors, including, but not limited to, variations in the _____ Index and [for foreign indices] in the exchange rate between the _____ and the U.S. Dollar. Therefore, it is important that Warrant investors be afforded an explanation of the special characteristics and risks attendant to trading thereof.

The Exchange recommends that Index Warrants be sold only to investors whose accounts have been approved for options trading pursuant to the rules regarding standardized options trading. However the Exchange emphasizes that the requirements under Amex Rule 923 (Options Suitability) shall apply with respect to recommendations in index warrants, *whether or not the customer's account has been approved for options trading.* Under Rule 923(a), a person making the recommendation must have reasonable grounds to believe that the entire recommended transaction is not unsuitable for the customer on the basis of information furnished by such customer's investment objectives, financial situation and needs, and any other information known by the person making the recommendation. Under Rule 923(b), the person making the recommendation must have a reasonable basis for believing, at the time of making such recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended transaction.

Any questions regarding this matter should be directed to _____ at 300-_____.

[FR Doc. 87-25921 Filed 11-6-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25084; File No. SR-MSRB-87-13]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Disclosures in Connection With New Issues

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 5, 1987, the Municipal Securities Rulemaking Board ("Board") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would provide an objective definition of "underwriting period" for sold underwritings for purposes of rule G-32 on disclosures in connection with new issues. The proposed amendment would define the underwriting period for sold underwritings to begin upon the first submission of an order for the issue or the purchase of the issue from the issuer by the underwriter, whichever first occurs. It would define the underwriting period to end when both of the following two conditions are met: (i) The issuer delivers the securities to the underwriter; and (ii) the underwriter no longer retains an unsold balance of the securities or 21 calendar days elapse after the first submission of an order to the underwriter, whichever first occurs.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Rule G-32 requires all dealers selling new issue municipal securities during the underwriting period to deliver a copy of the official statement for the issue, if one will be prepared, to each customer no later than settlement with the customer. The underwriting period is defined to begin with the first submission to a syndicate of an order for the purchase of the securities or the purchase of such securities from the issuer, whichever first occurs. The underwriting period is defined to end when the issuer delivers the securities to the syndicate or the syndicate no longer retains an unsold balance of the securities, whichever last occurs. This definition is designed to ensure that a sufficient number of investors receive new issue disclosures. The Board previously has interpreted rule G-32 to apply to new issue securities distributed by a sole underwriter ("sole underwritings") not withstanding the use of the term "syndicate" in the definition of underwriting period and has stated that the number of underwriters is irrelevant to the purposes of the rule. The definition of underwriting period for syndicated underwritings, however, is not appropriate for sole underwritings because a sole underwriter may retain portions of an issue in its inventory long after the delivery of the issue by the issuer and completion of the initial reoffering.

The proposed rule change would address this problem by providing objective criteria to determine the underwriting period in sole underwritings. The definition in the proposed rule change is consistent with the definition used for syndicated underwritings, with the addition of a 21-day limitation on the underwriting period in cases in which the issuer has delivered the issue and the underwriter continues to retain an unsold balance. This objective definition would allow dealers to determine their obligations under rule G-32 more easily and would facilitate enforcement of the rule by enforcement agencies.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule will not impose any burden on competition because it applies equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

In March 1987, the Board published an exposure draft of the proposed rule change and received three comments from the following:

Lex Jolley & Co., Inc. ("Lex Jolley")

Merrill Lynch Capital Markets ("Merrill Lynch")

The Municipal Securities Committee of the National Association of Securities Dealers (the "NASD Committee").

The two commentators who addressed the substance of the proposed rule change generally supported it. One commentator suggested that the underwriting period for sole and syndicated underwritings and five business days following the "initial street settlement date" to make it easier for dealers that are not underwriters to determine when the underwriting period ends. The Board believes that the proposed rule change and the definition of underwriting period for syndicated underwritings currently in rule G-32 provide adequate objective criteria for dealers to determine their obligations under rule G-32. The Board notes that the proposed rule change is consistent with the requirement for syndicate underwritings, which the Board previously has examined and concluded to be an appropriate time period for new issue disclosure obligations. Another commentator suggested replacing the 21-day period in the proposed rule change with a 30-day period. The Board believes that the 21-day period provides the appropriate balance between the disclosure objectives of rule G-32 and the burdens on dealers to comply with the rule.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 30, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 2, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25922 Filed 11-6-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25086; File No. SR-NASD-87-46]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Limitation of the Hours of Trading of the NASDAQ System and Requirement of Certain Member Firms to Open on Saturday

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 27, 1987, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change interprets Article VII, section 1(a)(2) of the NASD By-Laws to enable the NASD to limit the hours of trading of the National Association of Securities Dealers Automated Quotation ("NASDAQ") System and to require certain member firms to open on Saturday.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This proposed rule change constitutes an interpretation of Article VII, section 1(a)(2) of the NASD By-Laws. The NASD has determined that in order to protect investors and the public interest in an environment of extraordinary high volume in the marketplace, it is necessary to close the NASDAQ System for purposes of accepting quotations or orders for execution in SOES as of 2:00 p.m. Eastern time on October 23, 26, and 27. In addition, the NASD is requiring that NASD member firms effecting transactions in OTC equity securities have appropriate personnel present at the member's offices on Saturday, October 24, 1987, from 10:00 a.m. until 4:00 p.m. Eastern time.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. Any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–87–46 and should be submitted by November 30, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: November 3, 1987.

[FR Doc. 87–25823 Filed 11–6–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25063; File No. SR–NASD–87–51]

Self-Regulatory Organizations; Order Approving on Accelerated Basis Proposed Rule Change; National Association of Securities Dealers, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 29, 1987, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this order to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD hereby files a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to extend the pilot program for NASDAQ Workstation Service through November 30, 1987. All other aspects of the current pilot program, as approved by the Commission on July 27, 1987, will remain unchanged during this brief extension.[1] Absent this extension, the pilot program will expire on November 1, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NASDAQ Workstation Service commenced with the Commission's issuance of an order authorizing a pilot program from July 31 to October 1, 1987.[2] During this interval, participating NASDAQ market makers (*i.e.*, NASDAQ Level 3 subscribers) have utilized the service, at no charge, in order to familiarize themselves with its features. Based on that experience, participants will have objective information to apply in deciding whether to continue NASDAQ Workstation Service after the pilot period. The purpose of this a rule proposal is to obtain Commission approval of an extension of the pilot program through November 30, 1987. This extension is needed to assure continuity of Workstation Service while the Commission deliberates such matters as permanent status, subscriber fees, and expanded access proposed in File No. SR–NASD–87–36. Accordingly, the Association urges prompt Commission approval of this filing to assure service continuity and to facilitate an orderly transition of the Workstation Service from pilot to permanent status no later than December 1, 1987.

The only modification posed in this filing is an extension of the Workstation Service pilot program from October 31, to November 30, 1987 (inclusive). The NASD cites section 11A and 15A of the Act as providing the statutory basis for this extension. Subsections (A)–(D) of section 11A(a)(1) contain a series of Congressional findings respecting the goals of a national market system. Enhancing market efficiency through application of advanced data processing and communications technologies is the recurrent theme of these provisions. The NASDAQ Workstation Service combines powerful PC's with specialized software developed by NASDAQ, Inc. to provide state-of-the-art data management capabilities to all interested subscribers. In particular, the NASDAQ Workstations market monitoring and display capabilities were designed to increase the oprational efficiency of subscribing market makers, to increase their competitiveness, and to contribute to the liquidity of the NASDAQ market. Extension of the pilot program will permit participating market makers to utilize NASDAQ market data more effectively and also facilitate an orderly introduction of the service to other subscribers at the pilot's conclusion. Such results are fully consistent with the policy goals articulated under section 11A(a)(1) of the Act.

The Association also relies on section 15A(b)(6) of the Act in support of this proposal. Section 15A(b)(6) requires, *inter alia*, that the Association's rules promote just and equitable principles of trade, facilitate securities transactions, perfect the mechanism of a free and open market and a national market system, and generally protect investors and the public interest. Extending the NASDAQ Workstation pilot enables participating market makers to access the advanced data management features under actual trading conditions. Such access means opportunities for subscribers to utilize NASDAQ market data more efficiently in making trading decisions. Continued monitoring of this experience is vital to facilitate an orderly introduction of the Workstation Service to other interested subscribers. Moreover, the requested extension will provide some additional market makers with an opportunity to test the service, at no cost, before deciding whether to elect it on a paying basis. The NASD submits that access to the NASDAQ Workstation Service, via an extension of the pilot program, will ultimately serve to facilitate securities transactions.

[1] *See* Securities Exchange Act Release No. 24740 (July 27, 1987), approving File No. SR–NASD–87–29. On September 25, 1987, the NASD submitted File No. SR–NASD–87–36 to establish the NASDAQ Workstation Service on a permanent basis and to set the applicable subscriber fees. That filing is still pending with the Commission.

[2] Securities Exchange Act Release No. 24740, *supra* note 1. Subsequently, the pilot program was extended through October 31, 1987 with the Commission's issuance of Securities Exchange Act Release No. 25009 (October 9, 1987).

advance the policy goals underlying a national market system, and generally protect investors and the public interest. Therefore, the NASD posits that Commission approval of the instant filing is fully justified under the above-cited elements of Section 15A(b)(6).

B. Self-Regulatory Organization's Statement on Burden on Competition

The instant proposal does not involve the imposition of any competitive burden. This conclusion is supported by several factors. First, subscription to the NASDAQ Workstation Service will be voluntary and open to each participant on the same terms. At the conclusion of the extended pilot program, a firm's decision to elect the new service will be based upon an assessment of its costs and benefits relative to accessing the desired level of NASDAQ service via the Harris standard terminal or the NQDS service from independent vendors. (The relevant costs are set forth in File No. SR–NASD–87–36 which is pending with the Commission.) Second, the NASD will continue to make available the Harris terminal equipment. The NASD expects that many firms opting for NASDAQ Workstation Service will continue to use some of their existing harris terminals. Third, the modifications embodied in this filing to not create a competitive burden *vis-a-vis* vendors of securitied market information. Extending the pilot period will not impair any vendor's ability to access NASDAQ market makers' quotes (*i.e.*, the NQDS service) or NASDAQ-NMS last sale reports via high speed data feeds. Fourth, it must be emphasized that the NASDAQ Workstation Service was principally designed to provide sophisticated data management capabilities to NASDAQ market makers. Such capabilities promote greater efficiency in market makers' routine activities and thereby enhance the quality of the NASDAQ marketplace. Provision of NASDAQ Workstation Service closely parallels an exchange's upgrading of systems that support market making on a physical trading floor. Consequently, an extended pilot program for NASDAQ Workstation Service does not pose a competitive impact upon vendors servicing a much broader range of end users.

It is believed, therefore, that no competitive burden will result from the Commission's approval of this filing.

C. Self-Regulatory Organization's Statement on Comments On the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

The NASD requests the Commission to find good cause for approving the proposed rule change prior to the 35th day after its publication in the *Federal Register*, and in any event, by October 31, 1987. Absent such approval, the pilot program for NASDAQ Workstation Service will terminate as of November 1, 1987. Accelerated approval is necessary and appropriate for a variety of reasons including (i) continuity of service to existing participants in the pilot program until subscriber fees are set; (ii) allowing additional market makers, who had volunteered earlier, to participate in the pilot; (iii) allowing additional opportunities for testing Workstation terminals under actual and varied trading conditions; (iv) allowing pilot progam participants, as well as the Association's technical staff, further opportunity to evaluate the operation of Workstation terminals and related software; and (v) to promote an orderly transition of NASDAQ Workstation Service to permanent status. For these reasons, the NASD urges that the Commission find good cause to grant accelerated approval of this proposed rule change no later than October 31, 1987.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. Specifically, accelerated approval will allow continuity of Workstation Service to existing participants and allow some additional market makers to participate for the extended pilot period. These participants will benefit by gaining experience with the Workstation Service under actual trading conditions before deciding to subscribe on a paying basis. Similarly, the NASD's technical staff will have a further opportunity to evaluate operation of the Workstation terminals and related software in order to address any unforeseen problems. This monitoring process should assure an orderly transition to permanent status at a future date. Likewise, the proposed extension will allow continuation of the pilot program while the Commission considers the fees and permanent status proposed in File No. SR–NASD–87–36. The Commission recognizes that without accelerated approval, authorization of the NASDAQ Workstation Service pilot program will terminate on November 1, 1987. Based on the foregoing, the Commission finds good cause for granting accelerated approval of this rule change proposal in accord with section 19(b)(2)(B) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 30, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: November 2, 1987.

[FR Doc. 87–25924 Filed 11–6–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

November 3, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 threunder, for unlisted trading privileges in the following securities:

PNC Financial Corp.

Common Stock, $5.00 Par Value (File No. 7–0897)

The Vons Companies, Inc.

Common Stock, $.10 Par Value (File No. 7–0898)

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These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 25, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz

Secretary.

[FR Doc. 87-25925 Filed 11-6-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-17339]

Application and Opportunity for Hearing, Marine Midland Banks, Inc.

November 3, 1987.

Notice is hereby given that Marine Midland Banks, Inc. a Delaware corporation (the "Company"), has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Chemical Bank ("Chemical") under the indenture set forth below, which has been qualified under the Act, and the trusteeship of Chemical under an indenture dated as of April 1, 1987 is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chemical.

Section 310(b) of the Act provides, *inter alia*, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor.

In support of its application, the Company states as follows:

(1) Chemical Bank currently is acting as trustee under two indentures in which the Applicant is the obligor: (a) Indenture, dated March 1, 1987 (the "March Indenture"), which involved the issuance of $125,000,000 principal amount of 8-5/8% Subordinated Capital Notes Due 1997 (the "8-5/8% Notes"), and (b) Indenture, dated as of April 1, 1987 (the "April Indenture"), which involved the issuance of $100,000,000 Floating Rate Subordinated Capital Notes Due 1999 (the "Floating Rate Notes").

(2) The March Indenture was filed as an Exhibit to Applicant's Securities Act of 1933 and has been qualified under the Trust Indenture Act of 1939. The Floating Rate Notes have not been registered under the Securities Act of 1933 and the April Indenture has not been qualified under the Trust Indenture Act of 1939 because the Floating Rate Notes were offered and sold under circumstances reasonably designed to preclude distribution within, or to nationals of the United States. The 8-5/8% Notes and the Floating Rate Notes rank *pari passu* with each other.

(3) The Applicant is not in default in any respect under either the April Indenture or the March Indenture or under any other existing indenture.

(4) The obligations of the Company under the April Indenture and the March Indenture are wholly unsecured and, aside from differences among these two Indentures as to matters relating to United States taxation, and differences in form between the April Indenture and the March Indenture, the terms of said indentures are substantially similar.

Such differences as exist between the March Indenture and the April Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chemical from acting as Trustee under either of said indentures.

(5) Applicant has waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document (File No. 22-17339) on file in the offices of the Commission at the Public Reference Section, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person may not later than November 29, 1987 request in writing that a hearing be held on the matter, stating the nature of his interest, the reasons for such request, and the issues of law and fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25926 Filed 11-6-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IX Advisory Council; Public Meeting; Fresno, CA

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of Fresno, will hold a public meeting at 9:00 a.m. on Tuesday, November 24, 1987, at the Fresno District Office, 2202 Monterey Street, Suit 108, Fresno, California to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Peter J. Bergin, District Director, U.S. Small Business Administration, 2202 Monterey Street, Suit 108, Fresno, California 93721, (209) 487-5791.

Jean M. Nowak,

Director, Office of Advisory Councils.

November 2, 1987.

[FR Doc. 87-25686 Filed 11-6-87; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council; Public Meeting; Boise, ID

The Small Business Administration Region X Advisory Council, located in the geographical area of Boise, Idaho, will hold a public meeting at 9:30 a.m., Tuesday, November 24, 1987, at the Owyhee Plaza "Ambassador Room" 1109 Main Street, Boise, Idaho, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Joseph G. Knoppes, District Director, U.S. Small Business Administration, 1020 Main Street, Suite 290, Boise, Idaho, (208) 334-9841.

Jean M. Nowak,

Director, Office of Advisory Council.

November 2, 1987.

[FR Doc. 87-25689 Filed 11-6-87; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting; Concord, NH

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Concord, New Hampshire, will hold a public meeting at 10:00 a.m. on Wednesday, December 2, 1987, in the James Cleveland Federal Building, Room B-16, 55 Pleasant Street, Concord, New Hampshire, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call William K. Phillips, District Director, U.S. Small Business Administration, P.O. Box 1257, 55 Pleasant Street, Concord, New Hampshire 03301, (603) 225-1400.

Jean M. Nowak,

Director, Office of Advisory Council.

November 2, 1987.

[FR Doc. 87-25690 Filed 11-6-87; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council; Public Meeting; Hato Rey, PR

The Small Business Administration Region II Advisory Council located in the geographical area of Hato Rey, Puerto Rico, will hold a public meeting at 9:00 a.m., Tuesday, November 24, 1987, at Room 691, Federal Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico, to discuss such matters as may be presented by members, staff of the Small Business Administration or others attending.

For further information, write or call Wilfred Benitez Robles, District Director, Small Business Administration, Federal Building, Room 691, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918-(809) 753-4002.

Jean M. Nowak,

Director, Office of Advisory Councils.

November 2, 1987.

[FR Doc. 87-25691 Filed 11-6-87; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council; Public Meeting; Richmond, VA

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Richmond, Virginia, will hold a public meeting from 1:00 p.m. to 4:30 p.m. on Monday, November 30, 1987, and from 8:30 a.m. on December 1 until 12:00 Noon, at the Holiday Inn Conference Center Koger Center South, 1021 Koger Center Blvd., Richmond, Virginia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For Further information, write or call Catherine S. Marschall, District Director, U.S. Small Business Administration, P.O. Box 10126, Federal Building, Richmond, Virginia 23240 (804) 771-2741.

Jean M. Nowak,

Director, Office of Advisory Councils.

November 1, 1987.

[FR Doc. 87-25692 Filed 11-6-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 1039]

Fishermen's Protective Act Procedures; Fee

ACTION: Notice of fees for the agreement year from October 1, 1987 through September 30, 1988.

SUMMARY: Section 7 of the Fishermen's Protective Act of 1967, as amended, requires fees from participating vessel owners for deposit into the Fishermen's Guaranty Fund. These fees fund a program which compensates fishing vessel owners for certain losses they have incurred when their vessels have been seized by foreign nations. This notice establishes the fee for the present agreement year (October 1, 1987 through September 30, 1988) at $22 per gross vessel ton. This fee is payable in two equal installments, the first due on November 15, 1987, and the second due on March 15, 1988. Vessels fishing pursuant to an international agreement to which the United States government is a party will not be obligated to pay the second installment of $11 per gross vessel ton in order to maintain coverage for the entire 1988 fiscal year, provided they confine their fishing activities to the area covered by such international agreement.

EFFECTIVE DATE: October 1, 1987-September 30, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. H. Stetson Tinkham, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520, Telephone number (202) 647-2009.

SUPPLEMENTARY INFORMATION: The Fishermen's Guaranty Fund, under section 7 of the Fishermen's Protective Act (22 U.S.C. 1971-1980), (the "Act"), compensates U.S. fishing vessel owners who have entered into guaranty agreements for certain losses caused by a foreign country's seizure or detention of a U.S. fishing vessel based on claims to jurisdiction not recognized by the United States or exercised in a manner inconsistent with international law as recognized by the United States. Pre-existing agreements are required. The initial fee of $22 per gross vessel ton established for the present agreement year (October 1, 1987 through September 30, 1988) is predicated on several factors.

First, it is logical to set a fee at a level which will encourage participation and therefore raise the largest amount of revenue. Recent experience would indicate that a fee in excess of $30 has the effect of decreasing participation in the program. In 1986, when the fee was set at $30, there were only 28 agreement holders and not all of these paid the full fee. The previous year when the year was set at $16, there were 87 agreement holders. Because of the timing of the transfer of the Fund from the Department of Commerce to the Department of State (the transfer was not fully implemented until the middle of Fiscal Year 1987) and because of a legal challenge to the 1986 fee structure, only 22 boats participated in the 1987 program. In this regard, 1987 was not a typical year. Discussions with vessel owners reflect the increased participation in the Fund will occur in 1988.

Second, it is the Department of State's understanding that the ten year average disbursement for the Fund is less than $1.25 million annually. While in recent years there has been a noticeable increase in the amount of the individual claims made, and thus in recent years (last 5 years) the average of $1.25 million annually, it is believed that the demands on the Fund are cyclical in nature. For example, despite a high level of demand against the Fund in FY 1986, there were no claims filed against the Fund in FY 1987. Additionally, the Memorandum Decision in M/V BRENDA JOLENE *et al.* v. United States of America (Justice Enright, March 23, 1987) indicates that the amount of the fee should be based on a percentage of what the U.S. Government seeks in appropriations for

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the Fund rather than based solely on what the demands against the Fund are anticipated to be. Nevertheless, expected demands against the Fund may be considered in determining the amount of the appropriations the Department will seek. The vessel owner fee may comprise from 100 percent down to 33 percent of this amount. Finally, the Department of State assumes that the eventual entry into force of the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America (Treaty) will dramatically reduce the risk of seizures in that part of the Pacific Ocean, (historically very costly to the Fund.) This potential reduction of demands against the Fund should be considered. If it is assumed during FY 1988 that 30 vessels would participate at a fee level of $22 and 30 different vessels at a fee level of $11 (the approximate number of vessels fishing in both the Eastern and Western Pacific, respectively), the amount of total fee income could range up to approximately $990,000. It is probably unrealistic to assume that all the vessels will participate, therefore, the expected fee income estimate has been reduced by ⅓ for a total expected fee income of $660,000. The Department intends to seek a supplemental budget appropriation of $660,000 in order to comply with the decision in the BRENDA JOLENE case. Thus, the anticipated total from fees and appropriations if $1,320,000. This figure is within the range of average annual demands on the Fund.

Fees are established by publication of notices in the **Federal Register**. Agreement holders for the fiscal year, October 1, 1986 through September 30, 1987, may renew their agreements by sending in a signed guaranty agreement form and the first installment of the fee now being set. U.S. fishing vessel operators who did not participate last year may send in signed application for agreement forms, a signed guaranty agreement (page one left blank), a U.S. Coast Guard form CG–1330, "Certificate of Ownership of Vessel," along with the first installment of this year's fee, in order to enter into guaranty agreements for the Fiscal Year 1988.

Program fees for the present agreement year (October 1, 1987 through September 30, 1988) are hereby established at $22 per gross vessel ton. Upon entry into force of an international agreement to which the United States is a party, vessels fishing pursuant to such agreement will not be obligated to pay the second installment in order to maintain coverage for all of FY 1988, provided those vessels confine their fishing to the area(s) encompassed by the international agreement. There may be a fee increase during Fiscal Year 1988. Presently, however, there are no plans to increase the fee.

The fee is due on the date this notice is published in the **Federal Register**, but is optionally payable in two equal installments, the first due no later than November 15, 1987, and the second due no later than March 15, 1988. In the event of a late fee payment, program coverage will commence one day after the postmark date of the fee payment. No seizure whose first proximate event occurred after September 30, 1987, but before one day after the postmark date of fee payment, will be eligible for compensation.

For the purpose of this notice, postmark means the date and time at which the U.S. Postal Service cancels postage. Certified mail is encouraged. If fees are delivered by uncertified mail or by any means other than U.S. Mail, the actual date and time of receipt will be substituted for what otherwise would have been the postmark date.

Classification

This action is taken under the authority of 22 U.S.C. 1977, complies with Executive Order 12291, and is not subject to the requirements of the Regulatory Flexibility Act. It does not contain any collection of information requirement, as defined in the Paperwork Reduction Act.

As a "matter relating to Agency • • • contracts," this notice is exempt for the notice, comment, and delayed effectiveness provisions of the Administrative Procedure Act. This means analysis under the Regulatory Flexibility Act is not required.

For the Secretary of State.

Date: October 30, 1987.

Richard J. Smith,

Acting Assistant Secretary for Oceans and International Environmental and Scientific Affairs.

[FR Doc. 87–25854 Filed 11–6–87; 8:45 am]

BILLING CODE 4710–09–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Suspension of Some Sanctions; Japan Semiconductor Case

SUMMARY: Pursuant to authority delegated by the President in Proclamation No. 5631 of April 17, 1987, the United States Trade Representative hereby suspends the increased duties on imports of certain power hand tools, 18- and 19-inch color televisions, and low performance 16-bit desktop computers the product of Japan because of Japan's improved compliance with its obligations under the U.S.-Japan Arrangement concerning Trade in Semiconductor Products. The remaining increased duties imposed by Proclamation No. 5631 continue in effect.

EFFECTIVE DATE: 12:01 a.m. November 10, 1987.

FOR FURTHER INFORMATION CONTACT: Jim Gradoville, (202) 395–3476 (for technical and policy information); John Kingery, (202) 395–6800 (for legal issues).

SUPPLEMENTARY INFORMATION: On April 17, 1987, the President determined, under section 301 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2411, that the Government of Japan had not implemented or enforced major provisions of the Arrangement concerning Trade in Semiconductor Products ("Arrangement"), signed September 2, 1986, and that this was inconsistent with the provisions of, or otherwise denied benefits to the United States under, the Arrangement; and was unjustifiable and unreasonable, and constituted a burden or restriction on U.S. commerce (52 FR 13419).

In response, the President proclaimed increases in customs duties to a level of 100 percent *ad valorem* on certain products of Japan and, accordingly, by Proclamation No. 5631 raised duties on specified products of Japan (52 FR 13412). The President also proclaimed in part: "The United States Trade Representative is authorized to suspend, modify, or terminate the increased duties imposed by this Proclamation upon publication in the **Federal Register** of his determination that such action is in the interest of the United States."

On June 15, 1987, I determined to suspend the increased customs duties on 20-inch televisions the product of Japan, based upon Japan's improved compliance with some obligations under the Arrangement (52 FR 22693). Specifically, based upon monitoring by the Department of Commerce of the Arrangement's implementation, we determined that, although the access of foreign-based companies to Japan's semiconductor market had not improved and Japanese EPROMs (erasable programmable read only memory semiconductor chips) apparently were still being sold at unfairly low prices, the prices of Japanese DRAMs (dynamic random access memory semiconductor chips) had increased, reducing (but not eliminating) the unfairly low pricing of semiconductors exported from Japan. On this basis I determined that suspension of the increased duties on

20-inch color televisions the product of Japan was in the interest of the United States.

Based upon the U.S. Government's continued monitoring of the Government of Japan's compliance with the Arrangement, we have determined that Japan is now fully in compliance with its obligations under the Arrangement with respect to preventing "dumping" of semiconductors; the Government of Japan has been monitoring costs and export prices of semiconductor products exported from Japan, and encouraging Japanese semiconductor producers to conform to antidumping principles. The prices of EPROMs and DRAMs have increased and are no longer being sold at unfairly low prices. As a result of these price increases eliminating the unfairly low pricing, I have determined that it is in the interest of the United States to suspend the increased duties imposed by Proclamation No. 5631 on certain power hand tools, 18- and 19-inch color televisions, and low performance 16-bit desktop computers the product of Japan. Consequently, I hereby suspend the increased duties imposed by Proclamation No. 5631 on certain power hand tools, 18- and 19-inch color televisions, and low performance 16-bit desktop computers the product of Japan. The sanctions which have been suspended will be reimposed should third-country dumping recur. The Tariff Schedules of the United States are modified to reflect the suspension as set forth in the Annex hereto.

Also based on the U.S. Government's monitoring of the Government of Japan's compliance with the Arrangement, we have determined that the Government of Japan has not fully implemented other major obligations under the Arrangement. Although the Government of Japan has taken some steps toward satisfying these obligations, the access of foreign-based companies to Japan's semiconductor market has not improved, and remains unequal to that enjoyed by Japanese firms. As a result, we have determined that it is in the interest of the United States to continue in effect the increased duties on laptop computers, certain power hand tools and certain desktop computers.

This determination shall be published in the **Federal Register**.

Alan Woods,

Deputy United States Trade Representative.

Annex

(a) Part 2B of the Appendix to the Tariff Schedules of the United States is modified by deleting items 945.84 and 945.85, and by inserting the following new items in numerical sequence in lieu thereof, with the article descriptions at the first level of indentation:

	"Automatic data processing machines, of the type of which the constituent units are separately housed, whether finished or unfinished, which incorporate a microprocessor-based calculating mechanism, are capable of handling data words of at least 16-bits off the microprocessor, designed for use while affixed to or placed on a table, desk, or similar place:	
945.89	Having a microprocessor-based calculating mechanism capable of directly handling memory of over 8 million bits (provided for in item 676.15, part 4G, schedule 6), 100% ad val.	No change.
945.90	Having a microprocessor-based calculating mechanism capable of directly handling memory of not over 8 million bits (provided for in item 676.15, part 4G, schedule 6), 100 % ad val.	No change.
	Rotary drills, not battery powered, with a chuck capacity of 1/2 inch or more; electropneumatic rotary and percussion hammers; and grinders, sanders, and polishers (except angle grinders, sanders, and polishers, belt sanders, and orbital and straight-line sanders), the foregoing which are hand-directed or -controlled tools with self-contained electric motor:	
945.91	Electropneumatic rotary and percussion hammers (provided for in item 683.20, part 5, schedule 6), 100% ad val.	No change."
945.92	Other (provided for in item 683.20, part 5, schedule 6), 100% ad val.	No change."

(b) The increased duties imposed under items 945.87, 945.90 and 945.92 are suspended.

[FR Doc. 87–25938 Filed 11–6–87; 8:45 am]

BILLING CODE 3190–01

DEPARTMENT OF THE TREASURY

Rechartering of the Advisory Committee to the National Center for State and Local Law Enforcement Training

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, as amended), and with the approval of the Secretary of the Treasury, announces the rechartering of the following advisory committee:

Title: The Advisory Committee to the National Center for State and Local Law Enforcement Training.

The primary purpose of the advisory committee is to provide a forum for discussion and interchange between a broad cross-section of representatives from the law enforcement community and related training institutions on training issues and needs. Considering that there are over 40,000 individual police departments throughout the country, the advice emanating from this exchange is very important to the Director of the Federal Law Enforcement Training Center (FLETC) and the Director of the National Center for State and Local Law Enforcement Training at FLETC (National Center). The committee's advice is critical to ensuring that programs developed and offered by the National Center are meeting the unique and specialized needs of the State and local law enforcement community and enhancing the networking between Federal, State, and local agencies. This networking is essential to an efficient and effective overall system.

Although FLETC representatives participate in the training committee activities of the major policy membership associations, no forum exists which provides the broad representation required to meet the needs of the National Center. The uniqueness of the programs requires an appropriately selected and specifically dedicated group.

The committee advises the Director of the FLETC and the Director of the National Center for State and Local Law Enforcement Training on policy formulation, training needs, curriculum and course content, student admission and evaluation. There is no question that the committee input has been very instrumental in the success enjoyed to this point. Resources have been committed only to those programs which meet special needs of the State and local law enforcement community. All programs have been well attended, and critiques and evaluations are quite positive.

The committee does not duplicate functions being performed within Treasury or elsewhere in the Federal Government.

Accordingly, I hereby determine, pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, as amended, that continuation of the Advisory Committee to the National Center for State and Local Law Enforcement Training for a two-year period, beginning November 5, 1987, is in the public interest.

Dated: November 3, 1987.

John F. W. Rogers,

Assistant Secretary of the Treasury (Management).

[FR Doc. 87–25907 Filed 11–6–87; 8:45 am]

BILLING CODE 4810–25–M

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Customs Service

[T.D. 87-136]

Recordation of Trade Name; "Two's Company"

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of recordation.

SUMMARY: On August 3, 1987, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "TWO'S COMPANY" was published in the Federal Register (52 FR 28774). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than October 3, 1987. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "TWO'S COMPANY" is recorded as the trade name used by Two's Company, a corporation organized under the laws of the State of New York, located at 33 Bertel Avenue, Mount Vernon, New York 10550. The trade name is used in connection with the following merchandise manufactured in Japan, Hong Kong and Taiwan: Acrylic and glass vases; stirrers; glass picture frames; glass products; floral accessories; commercial flowers containers; Christmas ornaments; silver and silver plated products; napkin rings and vinyl products.

DATE: November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5765)

Dated: November 3, 1987.

Jerry Laderberg,

Acting Chief, Entry, Licensing and Restricted Merchandise Branch.

[FR Doc. 87-25920 Filed 11-6-87; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

The United States Advisory Commission on Public Diplomacy will conduct a meeting in Room 600, 301 4th Street, SW. on November 17 from 11:00 a.m. to 12:30 p.m.

The meeting will be closed to the public because it will involve a discussion of classified information relating to USIA's planning for a U.S.-Soviet Summit, foreign public opinion, and the INF agreement. (5 U.S.C. 552b(c)(1))

Please call Gloria Kalamets, (202) 485-2468 for further information.

Marvin Stone,

Acting Director.

Dated: November 3, 1987.

[FR Doc. 87-25983 Filed 11-6-87; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register

Vol. 52, No. 216

Monday, November 9, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Correction of Sunshine Act Notice

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on October 30, 1987 (52 FR 41799) of the regular meeting of the Farm Credit Administration Board (Board) scheduled to be held on Tuesday, November 3, 1987. This notice is to revise the agenda for that meeting to include an additional item in the closed portion.

DATE AND TIME: The meeting was held at the offices of the Farm Credit Administration in McLean, Virginia, on November 3, 1987, from 10:00 a.m. until such time as the Board concluded its business.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary of the Farm Credit Administration Board, 1501 Farm Credit Drive McLean, Virginia 22102-5090, (703) 883-4003.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of the meeting of the Board were open to the public (limited space available), and parts of the meeting were closed to the public. The agenda for Tuesday, November 3, is revised to include the following item:

1. Litigative Matters.[1]

Dated: November 4, 1987.

David A. Hill,

Secretary, Farm Credit Administration.

[FR Doc. 87-25915 Filed 11-5-87; 8:52 am]

BILLING CODE 6705-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, November 4, 1987.

PLACE: Room 532, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of letter from American Optometric Association concerning oral presentations on Eyeglasses II rulemaking proceeding.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326-2179, Recorded Message: (202) 326-2711.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 87-25939 Filed 11-5-87; 9:18 am]

BILLING CODE 6750-01-M

[1] Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c)(10).

SECURITIES AND EXCHANGE COMMISSION:

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 42174 November 3, 1987].

STATUS: Closed meeting.

PLACE: 450 5th Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, October 29, 1987.

CHANGES IN THE MEETING: Additional item.

The following additional item was considered at a closed meeting on Tuesday, November 3, 1987, at 12:00 noon.

Legislative matter relating to enforcement program.

Commissioner Fleischman, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Judith Axe at (202) 272-2092.

Jonathan G. Katz,

Secretary.

November 4, 1987

[FR Doc. 87-25979 Filed 11-5-87; 2:08 pm]

BILLING CODE 8010-01-M

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Corrections

Federal Register
Vol. 52, No. 216
Monday, November 9, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. G-6355-001, et al.]

Conoco, Inc., et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates

Correction

In notice document 87-23863 beginning on page 38262 in the issue of Thursday, October 15, 1987, make the following correction:

On page 38263, in the table, in the first column, in the first line, the docket number should read "C187-905-000".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER88-16-000, et al.]

Georgia Power Co. et al.; Electric Rate and Corporate Regulations Filings

Correction

In notice document 87-24412 beginning on page 39266 in the issue of Wednesday, October 21, 1987, make the following correction:

On page 39269, in the first column, the seventh line should read "[Docket No. EC88-2-000]".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 209 (Rev. 3)]

Delegation of Authority

Correction

In notice document 87-23565 appearing on page 39765 in the issue of Friday, October 23, 1987, make the following correction:

In the first column, under SUMMARY, in the 10th line, "partnership of" should read "partnership or".

BILLING CODE 1505-01-D

federal register

Monday
November 9, 1987

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Standards for Approval of an Automatic Takeoff Thrust Control System (ATTCS); Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 24048, Amendment No. 25-62]

Standards for Approval of an Automatic Takeoff Thrust Control System (ATTCS)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment provides new airplane and equipment airworthiness standards for the installation of an automatic takeoff thrust control system (ATTCS) on Part 25 transport category airplanes. As the current regulations do not provide airworthiness standards for this novel and unusual system, special conditions have been developed and issued to provide appropriate standards for installation of the system. This amendment eliminates the need for special conditions.

EFFECTIVE DATE: December 9, 1987.

FOR FURTHER INFORMATION CONTACT: James Walker, Transport Standards Staff, ANM-110, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2116.

SUPPLEMENTARY INFORMATION:

Background

Initial development of ATTCS special conditions began in the latter part of 1976. At that time, several airplane manufacturers were known to be interested in such a system or had made application for approval of such a system.

With an ATTCS installed, takeoffs would normally be made with all-engine thrust set at less than the maximum certificated takeoff thrust approved for the airplane. The ATTCS actuates in the event of an engine failure during takeoff to automatically apply maximum takeoff thrust to the remaining operating engine(s). An airplane with such a system installed would have a number of novel and unusual design features that are not presently addressed by the regulations. As such, §§ 21.16 and 21.101 of Part 21 require that special conditions be developed and compliance with the special conditions be demonstrated. Special conditions were, therefore, developed for each applicant requesting approval of an ATTCS installation to cover the change in the airplane type design. Note that the term "thrust" is used throughout the discussion even though the normal nomenclature for turbojet is thrust and for turbopropeller is power. No distinction is made in the discussion and "thrust" is used for both.

In November 1977 proposed special conditions for an ATTCS for any two or three engine turbine-powered transport category airplane were developed and sent to interested aviation groups and various foreign civil aviation authorities for review and comment. Comments were reviewed, and the special conditions were revised and sent out for comment in May 1978 and again in November 1978. Cooperating with the FAA in this development were the Aerospace Industries Association of America (AIA), Air Transport Association of America (ATA), Airline Pilots Association (ALPA), Allied Pilots Association (APA), Rolls Royce (RR), Hawker Siddeley Aviation, Ltd. (HS), British Civil Aviation Authority (CAA), civil aviation authorities of Australia and Japan, the French Technical Commission Navigation (FTCN), the French civil aviation authorities, Lockheed, Boeing, McDonnell Douglas, and Rockwell International. As a result of this effort, essentially identical special conditions were issued to all applicants.

The requirements adopted by this amendment incorporate into Part 25 the substance of the special conditions that have been developed and issued to date. Future applicants who wish to install an ATTCS system will have appropriate rules for designing their systems without the need to go through the special condition development process. As in the special conditions, the amendment herein specifies limits on the maximum thrust increment which can be applied to the operating engines by the ATTCS system; prescribes ATTCS system reliability; requires system status monitoring; requires provisions for manual selection of the maximum takeoff thrust approved for the airplane; prohibits approval of the ATTCS system design if the automatic or manual application of maximum takeoff thrust would result in exceeding engine operating limits; and requires an independent engine failure warning indication if the inherent operating characteristics of the airplane do not provide a clear warning to the crew.

In addition, a "critical time interval" definition is included to provide a uniform and acceptable basis for probability calculations.

The basis for this amendment is the special conditions developed for the Boeing 727 and Douglas DC-9 ATTCS designs. The ATTCS installed and approved on those airplane models involved a relatively simple electromechanical system integrated with the engines hydromechanical fuel control unit and was designed to increase the thrust a fixed amount. The system was designed to increase thrust only and no other systems or functions beyond the ATTCS could be interfaced with the ATTCS uptrim function nor could the ATTCS be adversely affected if other systems malfunctioned or failed.

Since certification of the original ATTCS however, a number of others have been approved which were required to comply with the same special conditions issued for the earlier ATTCS designs. Some of the more recent ATTCS configurations installed on some of the latest model turbofan and turbopropeller airplanes have been considerably more complex than the ATTCS approved for the Boeing 727 airplane. These systems interface with the latest designed engine electronic fuel control units (ECU) which use microprocessors and digital computers. The electronic controls command fuel flows for a range of thrust from about 50 percent to full rated thrust in some installations and facilitates the ATTCS 10 percent increment which can be a software program within the basic electronic fuel control configuration. Additionally, these electrical or electronic engine controls interface with and are integrated with, in some installations, other critical or essential engine and airplane systems such as autofeathering, autothrottles and in some instances reverser thrust control systems and surge, stall and overspeed protection.

These interfaces and integrated features make the ECU complex in design and difficult to evaluate in light of the performance and other pertinent design criteria used to find compliance with the special conditions and the applicable airworthiness regulations. However, the FAA considers the ATTCS installation an optional appliance, and it is not an item necessary for the basic airplane certification. Therefore, the FAA policy on ATTCS is that regardless of whether the airplane is ATTCS equipped or not, the airplane must be found to comply with the applicable regulations on its own merits and where an ATTCS is installed and integrated the basic airplane airworthiness must not be compromised by the ATTCS installation, and the ATTCS must comply with the requirements of the proposed amendment. This means that the isolation, separation and fail safe concepts in §§ 25.901 and 25.903 must be satisfied regardless of the depth or complexity of the integrated electrical or electronic fuel controls and other critical or essential airplane systems. The FAA considers the fail-safe means, for these ATTCS applications, to be a fail-fixed condition, in that the design of the ECUs would not cause a downtrim or reduce installed engine thrust by a significant amount.

Discussion of Comments

Notice of proposed rulemaking (NPRM) No. 84-4 was published in the Federal Register on April 27, 1984 (49 FR 18240), for public comment. Notice No. 84-4A was published on July 20, 1984 (49 FR 29410), to allow additional time in which to comment. The following discussion summarizes the comments received from the public, industry and foreign authorities and manufacturers.

One commenter disagrees that the proposed regulations provide a level of safety equivalent to that provided by the applicable regulations for airplanes not having an ATTCS installed, as stated in the NPRM preamble. The commenter further states that the ATTCS is an optional system not required for safety purposes and is installed for economic reasons and if it does not function when needed, a lower level of safety could result under certain circumstances than if it were not installed. The commenter feels the installation of an ATTCS should comply with § 25.1309 and be approved in conjunction with the procedures of Advisory Circular (AC) 25.1309-1, System Design Analysis. The commenter believes system failure of the ATTCS should be shown to be extremely improbable to provide the same level of safety under all conditions as if the system were not installed.

This amendment provides equivalent safety since a combined failure of the ATTCS and an engine during the critical time interval must be extremely improbable and the failure of the ATTCS to insert thrust during this critical time interval must be improbable. Under the provisions of this amendment, which are consistent with § 25.1309, it must be extremely improbable that an ATTCS-equipped airplane would fail to meet Part 25 performance flight path requirements below 400 feet. Even in the event of a combined ATTCS failure and loss of one engine, which is extremely improbable, the airplane would be able to continue flight and land since the limit on initial takeoff thrust levels provide assurance that sufficient pilot reaction time will be available to advance the thrust. This limit would prevent penetration of the Part 25 net flight path above 400 feet and would assure that the limiting initial takeoff thrust assures a positive climb gradient.

The same commenter states that the reliability criteria of the ATTCS should be based on the categorical assumption of engine failure like many other system design requirements of Part 25. The reliability criteria imposed on the ATTCS is consistent with the requirements of § 25.1309 and is based on an assumed engine failure during the critical time interval which is required in this amendment.

The same commenter requests that the proposed standards prohibit performance credit for ATTCS when a "reduced takeoff" thrust procedure is used. The FAA has not approved ATTCS credit with "reduced thrust" operations for the several ATTCS installations approved to date by the special conditions. This amendment makes clear that such credit is not approved by restricting the initial takeoff thrust at the beginning of the takeoff (or at the same point normally used to establish the takeoff thrust for non-ATTCS operations) to not less than 90 percent of the maximum takeoff thrust available for the airplane under the existing ambient day conditions.

The same commenter requests that procedures be adopted to prohibit performance credit to increase takeoff gross weight when the system is used on contaminated runways. The FAA does not agree. The provisions of the amendment and of Part 25 regarding accelerate-stop criteria are the same, with the exception that the thrust increase in the interval between engine failure and V_1 due to ATTCS operation must be included in the accelerate-stop distance.

Another request from the same commenter recommends a maximum crosswind be specified so that directional control would not be jeopardized by operation of the system. As part of the original or an amended type certificate (TC), the Airplane Flight Manual (AFM) contains a statement of the maximum crosswind as determined by the ground handling characteristic requirements in the current regulations. In addition, all minimum control speeds are based upon the ATTCS operating as intended so the level of safety provided by Part 25 is maintained.

One commenter expresses concern about § 25.904 being sufficiently flexible to allow future flight management systems and performance management systems to be expanded to manage the takeoff functions an ATTCS now performs. A system designed to perform ATTCS and other functions during the takeoff would be acceptable if it can be shown to comply with both the requirements of this amendment and the requirements for those other functions.

The same commenter recommends that the FAA devise a more objective criterion than the "arbitrary" 10 percent limit. The commenter believes the proposed paragraphs I25.4 (b) and (c) may be sufficient by themselves.

In the special conditions, the FAA adopted the value based on a review of the impact that "reduced thrust" operations had on runway-critical takeoffs. A 10 percent value was determined to be a straightforward and acceptable decrement from a safety standpoint in limiting both runway critical takeoffs and degradation of all-engine climb performance factors that are not addressed by paragraphs I25.4 (b) and (c).

Several commenters recommend expanding the scope of the proposed standards to include such additional maneuvers as: (1) Takeoffs using reduced and derated thrust, (2) thrust reductions during initial climb, and (3) approach climb performance and go-around maneuvers.

The FAA has not restricted ATTCS operations where airplane performance is based on an approved "derate" rating which has corresponding engine and airplane limits approved for use under all weight, altitude and temperature (WAT) conditions. However, the FAA has not allowed the reduced thrust (assumed temperature or weight decrement method) operations to be combined with ATTCS because the resulting flight procedures would increase the pilot workload by creating an infinite number of initial all-engine and engine-failed thrust settings. The increased workload could lead to performance computation errors, and create confusion for the crews workload during a critical high workload engine failure situation. Operationally, noise abatement procedures have already created another set of thrust settings which must be monitored and set. The combination would substantially increase exposure to performance limiting conditions, and this clearly would not be equivalent to current regulations, which are based on a single thrust setting for takeoff. In regard to ATTCS credit for approach climb and go-around maneuvers, current regulations preclude a higher thrust for the approach climb (§ 25.121(d)) than for the landing climb (§ 25.119). The workload required for the flightcrew to monitor and select from multiple in-flight thrust settings in the event of an engine failure during a critical point in the approach, landing, or go-around operation is excessive. Therefore, the

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FAA does not agree that the scope of the amendment should be changed to include the use of ATTCS for anything except the takeoff phase.

Several comments suggest changing the word "gross" to "actual" in the definition of the "Critical Time Interval" (paragraph 125.2(b)) and in the illustration depicting the definition.

The FAA concurs since the use of "gross" has apparently created some confusion and the meaning is evidently misleading both in the text and in the illustration. Since the word "gross" does not appear in the referenced regulation § 25.115, the word "gross" has been changed to "actual" in both the textual definition (paragraph 125.2(b)) and the illustration. The word "actual" is used in § 25.115(b), although the procedures to determine the actual flight path are defined by § 25.111.

Two commenters request paragraph 125.3(b) be revised by deleting the phrase, "without requiring any action by the crew to increase thrust or power." One commenter thinks the phrase is misleading because several requirements of Part 25 must be met at the maximum takeoff thrust irrespective of whether action by the crew is necessary to obtain such thrust. The other commenter states all the design and flight requirements must be met with the maximum power attained after ATTCS advance occurs and accelerate-stop distances, all engine takeoff, etc., must be accomplished with the power actually available. The phrase "without requiring any action by the crew * * *" was originally inserted into the previous special conditions for the purpose of emphasizing that the ATTCS must automatically function to insert the thrust increment if an engine fails during the critical time portion of the takeoff. The ATTCS is required to perform automatically without pilot assistance to demonstrate compliance and to be consistent with the requirements of § 25.111(c)(4). The inclusion of this requirement in the rule makes it clear that the system design must not require any pilot action in order to achieve a level of safety that would otherwise be required by Part 25. Amendment 25-54 adopted October 14, 1980, amended § 25.111(c)(4) by specifying that no change in thrust requiring pilot action could be necessary until the airplane is 400 feet above the surface. Since that section applies also to airplanes equipped with an ATTCS, the requirement could be deleted as being redundant, but it is retained to emphasize the automatic feature required in all ATTCS systems presented for approval.

One commenter feels the critical time interval (CTI) definition should be changed to read as follows: "The critical time interval is defined as the time from V_{EF} (engine failure airspeed) to the time at which the airplane is not less than 400 feet height above the takeoff surface in the minimum performance takeoff path determined by § 25.111, with ATTCS operative." The justification given for this comment is that this would result in an increase in the CTI and reflect the requirements of § 25.111, which state that the critical engine is made inoperative at V_{EF}. Therefore, any failure of the ATTCS to operate at that point or later will result in a lower takeoff path than required up to the 400 foot point.

The FAA does not concur. The CTI was defined in terms of V_1 (takeoff decision speed) because engine failure speed V_{EF} does not apply to an all-engine takeoff which is used in determining the interval. The additional one second delay prior to V_1 was added to approximate the time interval between V_{EF} and V_1. No further change in severity of the rule is warranted.

Three commenters propose changes to paragraph 125.2(c), the definition of "takeoff thrust" or "takeoff power." One comment relates to the commenters proposal, discussed above, to permit broader basic application of ATTCS to reduced thrust takeoffs and approach and landing maneuvers. As discussed above, the FAA denies the request for expansion of the application of an ATTCS to which this comment relates. Two commenters state that the definition is misleading and erroneous. The definition of "takeoff thrust" or "takeoff power" does not, as previously believed, add significantly to the substance of the regulation. The FAA agrees that in light of the comments received the definition as stated may be misleading and therefore, in the interest of clarity paragraph 125.2(c), has been deleted. Minor changes in other sections where the terms "takeoff thrust" or "takeoff power" are used will be made to clarify their usage.

A number of commenters believe the FAA reliability requirements for an ATTCS and the combined engine/ATTCS system failure probability are excessively conservative and do not match the probabilities with the consequences of the failures. The FAA does not agree. The previous special conditions and this amendment to Part 25 were developed using the principles in § 25.1309 because this was considered the most appropriate method of dealing with complex systems. This amendment evolved from the concepts of § 25.1309 which, in part, state that airplane systems must be designed so that the occurrence of any failure condition that would prevent continued safe flight and landing is extremely improbable and that the occurrence of any other failure conditions which would reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions is improbable. Also considered in the development of the previous special conditions, which are also the foundation of this amendment, were the establishment of safety equivalency and the requirement of § 25.111(c)(4). Thus, in order to provide a level of safety equivalent to that provided by the current regulations, which preclude credit for pilot actions to change thrust below 400 feet, the probability of the concurrent existence of a combined engine/ATTCS failure must be extremely improbable during the critical time interval. If penetration of the actual flight path which is used to determine obstacle clearance margins is extremely improbable, then the probability of penetrating the net flight path will be the same as that provided by current regulations. A high degree of reliability is necessary for the ATTCS itself. If a reliable system is not provided, confidence in the system would be eroded and crews would be reluctant to use the system, thereby negating the advantages provided through the use of the ATTCS. It was decided that the system's probability of failure to insert takeoff thrust or takeoff power, during the critical time interval, should be improbable and the probability of an ATTCS failure causing a thrust reduction, during the critical time interval, should be extremely improbable. As a practical matter, this requirement is not considered overly severe because of the relatively short time period involved in the specified critical time interval. The reliability is also tied to the requirement that the initial takeoff thrust will be limited to 90 percent of the maximum approved takeoff thrust which essentially assures the airplane will remain airborne without immediate crew action. If this assurance were not provided, a higher level of system reliability would be necessary.

Several commenters express concern about the meaning and intent of a new proposed requirement dealing with the loss of thrust during the critical time interval. Other comments state that the purpose of paragraphs 125.3 (a)(3) and (b)(3) was unclear. The FAA agrees that the proposal was not entirely clear as presented in the NPRM. In consideration of the various comments paragraph

125.3(a)(3) of the requirement has been revised to clarify the intent.

After evaluating the several comments in regard to the alternate airplane performance and ATTCS reliability requirements in proposed paragraph 125.3(b), the FAA has decided not to adopt that option in this amendment for the following reasons: (1) Deleting the "(b)" option is not considered a significant change since no previous applicant elected to show compliance with these alternate airplane performance and reliability requirements, (2) the "(b)" option does not properly apply to the older vintage airplanes, and (3) section 21.101 provides the flexibility to prescribe any necessary standards for future applications on previously certificated airplanes. Deletion of paragraph 125.3(b) has also resulted in renumbering other paragraphs.

Proposed paragraph 125.3(a)(3) which is incorporated in this final rule as paragraph 125.3(a)(2) required that inadvertent thrust reductions during critical time interval must be shown to be extremely improbable. The purpose of the additional requirement of proposed paragraph 125.3(a)(3), which has not been incorporated in the previous special conditions, is to address those designs that may want to use the electro-mechanical or servomechanism feature of an engine control system (autothrottles, for instance) to perform the thrust insertion function. The ATTCS currently approved have features that are integral with the engine fuel control for increasing thrust. These features are inherently not susceptible to faults which might cut off all fuel to the engines or retard the thrust. On systems which use autothrottle servo-mechanisms or the like to perform the thrust insertion, obviously, a fault of this nature is unacceptable and would likely result in a catastrophe if fuel were cut or thrust reduced a significant amount. Therefore, this failure condition must be shown to be extremely improbable for all ATTCS designs. "Significant loss or reduction in thrust or power" means an engine thrust loss that is more than two percent of the initially set total approved takeoff thrust for the airplane at existing ambient conditions. The FAA recognizes that an ATTCS system using an integrated autothrottle/servo-mechanism design or similar type of design will inherently have a degree of mechanical tolerance in the rigging of a mechanical designed type and that each engine's thrust control mechanism and system rigging will not be identical to the other engines' control rigging due to various factors in the maintenance, design, and environmental effects. The allowance of such a decrement is reasonable in consideration of the failure consequences and time duration of the critical stage during the takeoff.

Several commenters reviewed the alternate performance and reliability requirements outlined in paragraph 125.3(b) and have similar views to those presented for paragraph 125.3(a). One commenter suggests the paragraph be deleted entirely as being so unduly complex as to nearly nullify the benefits of ATTCS. Another commenter states the paragraph should be modified to delete the specific numerical reliability requirement since this is not appropriate in a regulation and would likely establish a precedent. The commenter states it does not seem justified to ask for the same low probability of failure in paragraphs 125.3 (a) and (b) for the same failure case and at the same time ask for extra safety margins. For the reasons stated earlier, the FAA has decided not to adopt the alternate airplane performance and ATTCS reliability requirements in this amendment. Therefore, comments concerning that option are no longer relevant and do not require discussion in this preamble.

Several commenters suggest clarifications in paragraphs 125.3(b) (5), (6) and (7). One commenter suggests the paragraph (paragraph 125.3(b)(5)) clarify that the ATTCS operative V_R is maintained and that reduced V_{LOF} and V_2 speeds are acceptable for the unlikely combination failure. These comments have become moot for the reasons stated earlier. Another comment was to change "gross" to "actual" in paragraphs 125.3(b) (6)(i) and (7)(ii). This comment is no longer relevant for the reasons stated earlier.

One commenter questioned the requirements of paragraphs 125.3 (b)6 and (b)(7) and the relationship of the two paragraphs. This comment is no longer relevant for the reasons stated earlier.

Several commenters believe that the limitation on the amount of allowable thrust reduction in paragraph 125.4(a) is arbitrary; that it treats two engine airplanes differently and unevenly from three and four engine airplanes; that it is a crude and somewhat indirect method to ensure that the all-engine performance is not significantly degraded and that a minimum level of performance is available in the event of a combined engine and ATTCS failure; that it restricts and penalizes the performance of certain engine installations; and that it increases operating costs and engine maintenance by not permitting "reduced thrust" takeoffs without increasing safety benefits significantly. The FAA does not agree. The specification of a probability of failure requirement without defining a minimum performance level based on the initial thrust setting is inadequate to assure retention of the level of safety now provided by the regulations. Part 25 engine-out climb requirements not only define a level of safety for the engine-out condition but also define the all-engine performance level consisting of the engine-out requirement plus the added performance provided by the additional operating engine(s). Permitting ATTCS equipped airplanes to operate without a minimum performance level defined in terms of the initial takeoff thrust achieved and verified by the flightcrew early in the takeoff run would ignore the fact that the all-engine level of safety is defined by the existing engine-out requirement. Infringing on this relationship would violate the intent of the regulations. The 90 percent limitation is appropriate and lends itself to a simple, straightforward method for assuring a safe all-engine takeoff in lieu of a more complex performance procedure.

One commenter suggests a revision to paragraph 125.5(b)(1) which would make this paragraph consistent with a previous suggestion which proposed expanding the scope of the amendment. The FAA previously stated that the change was not appropriate and the commenter has presented no new information to alter that determination.

Two commenters disagree with the requirements of paragraph 125.5(b)(2) which require that the means used or allowed to be used to increase thrust, i.e., an override, must be located on or forward of the thrust levers. They disagree this location is necessarily optimum. One commenter believes the objective should be to locate the switch, or means to override, so it is readily accessible and in close proximity to the hand on the thrust levers, preferably close enough so that the hand need not be removed to actuate the switch. The FAA selected the location of the override means as the most practical and convenient under the emergency circumstances likely to exist at the time it is needed. This location is also consistent with the requirements of § 25.777 (a), (b), and (c). The main factors favoring the location "on, or forward" of the thrust lever are the normally forward eye scan pattern and line of vision of the pilot during the takeoff, and the convenience of operation provided in the event the pilot must move his hand from the thrust

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levers to use the override means. Generally, the levers are positioned full forward and the instrument panel is near enough so the panel can be used advantageously to mount the override means. With proper design, this also allows the pilot to actuate the device quickly and makes it unnecessary, in some designs, for the pilot to move his hand from the levers. Locations aft of the levers were deemed unacceptable since these locations were not as convenient for operation and did not fulfill the intent of § 25.777.

One commenter suggests deleting "before takeoff" in paragraph 125.5(b)3, which would make the language consistent with another suggestion to expand the scope for using the ATTCS. This suggestion was previously addressed and denied; therefore, the suggestion to delete "before takeoff" is not adopted.

The commenter also suggests changing "verify" to "indicate" in paragraph 125.5(b)(3). A means to verify prior to takeoff that the ATTCS is available when and if needed is considered an important part of the overall system requirements. However, the need for a more specific means of indication is not necessary. The current verification means permits the intent to be accomplished without adding more cockpit "indicators." Reliability is closely related to, although not identical to, probability of availability. Having such means to assure system availability prior to takeoff will inherently minimize the possible inadvertent takeoff with the ATTCS inoperative. This requirement is different from paragraph 125.6(a) which requires an indication that the armed or ready mode of operation has been selected.

One commenter states it is not clear that a means to deactivate the system is necessary or desirable in all instances and recommends the requirement of paragraph 125.5(b)(4) be deleted. The FAA does not agree. A means to deactivate the system is necessary to permit crews to revert to normal procedures in the event of erratic system operation, if ATTCS inoperative takeoffs are made, or if operations using "reduced thrust" procedures (based on the assumed temperature methods), for instance, are scheduled.

One commenter states the requirements for flight characteristics associated with the engine failure are delineated in Part 25 and must be met with or without ATTCS and, therefore, recommends paragraph 125.6(b) be deleted. The intent of this requirement is to provide a warning for the crew that an engine has failed and if the airplane does not yaw, for instance, or provide some other attention getting flight characteristic, then some other warning means must be available to the pilot to advise him of the engine failure and the need to ensure ATTCS power insertion has been achieved on the operating engine(s).

In addition to the changes discussed above, this final rule incorporates a number of clarifying and editorial changes.

Regulatory Evaluation

As discussed above, special conditions have been issued to several applicants to amend or supplement type certificates held on Part 25 airplanes to permit certification with an ATTCS installed. Such special conditions were granted under authority of the Administrator in accordance with § 21.16 because of the novel or unusual design features associated with the installation of this automated system. The ATTCS design features are no longer deemed to be novel or unusual since the standards for their approval are being incorporated directly into Part 25.

In bringing the requirements of the special conditions into Part 25, the FAA is codifying essentially the same optional certification requirements which have been imposed in the last several years. Because the ATTCS airworthiness standards adopted herein will apply only to applicants seeking certification of designs incorporating an ATTCS, and because such systems are optional and not otherwise required for certification, there is no new requirement established by this amendment and no economic impact results from it.

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to ensure, among other things, that small entities are not disproportionately affected by government regulations. The RFA requires agencies specially to review rules which may have a "significant economic impact on a substantial number of small entities." The regulatory evaluation indicated that there is no economic impact associated with the final rule.

Conclusion

For the reasons discussed earlier, the FAA has determined that this document involves a regulation which is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and is not major as defined in Executive Order 12291, and the FAA certifies that this regulation will not have a significant economic impact on a substantial number of small entities since few, if any, small entities are affected.

List of Subjects in 14 CFR Part 25

Aviation safety, Aircraft, Air transportation, Safety, Tires.

Adoption of the Amendment

Accordingly, Part 25 of the Federal Aviation Regulations (FAR) (14 CFR Part 25) is amended as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983). 49 CFR 1.47(a).

2. By adding a new § 25.904 to read as follows:

§ 25.904 Automatic takeoff thrust control system (ATTCS).

Each applicant seeking approval for installation of an engine power control system that automatically resets the power or thrust on the operating engine(s) when any engine fails during the takeoff must comply with the requirements of Appendix I of this part.

3. By adding a new Appendix I to Part 25 to read as follows:

Appendix I to Part 25—Installation of an Automatic Takeoff Thrust Control System (ATTCS).

125.1 *General.*

(a) This appendix specifies additional requirements for installation of an engine power control system that automatically resets thrust or power on operating engine(s) in the event of any one engine failure during takeoff.

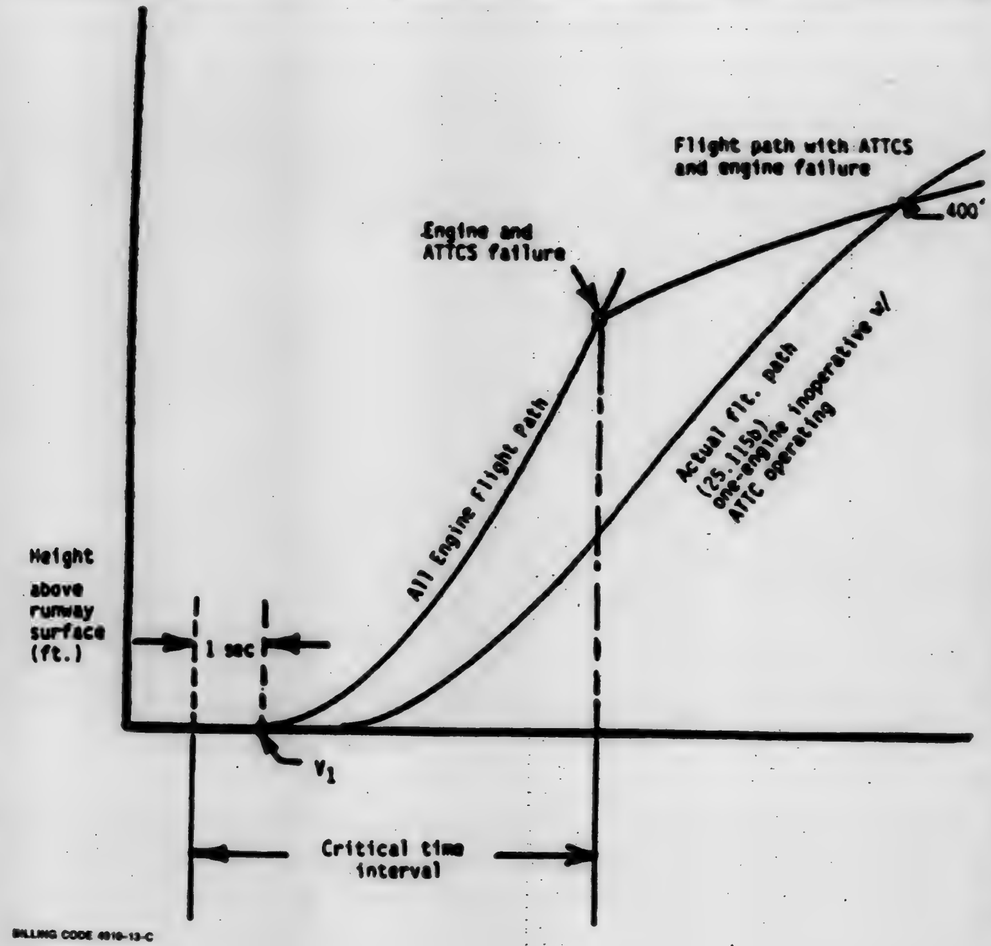
(b) With the ATTCS and associated systems functioning normally as designed, all applicable requirements of Part 25, except as provided in this appendix, must be met without requiring any action by the crew to increase thrust or power.

125.2 *Definitions.*

(a) *Automatic Takeoff Thrust Control System (ATTCS).* An ATTCS is defined as the entire automatic system used on takeoff, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers or increase engine power by other means on operating engines to achieve scheduled thrust or power increases, and furnish cockpit information on system operation.

(b) *Critical Time Interval.* When conducting an ATTCS takeoff, the critical time interval is between V_1 minus 1 second and a point on the minimum performance, all-engine flight path where, assuming a simultaneous occurrence of an engine and ATTCS failure, the resulting minimum flight path thereafter intersects the Part 25 required actual flight path at no less than 400 feet above the takeoff surface. This time interval is shown in the following illustration:

BILLING CODE 4910-13-M



BILLING CODE 4910-13-C

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I25.3 *Performance and System Reliability Requirements.*

The applicant must comply with the performance and ATTCS reliability requirements as follows:

(a) An ATTCS failure or a combination of failures in the ATTCS during the critical time interval:

(1) Shall not prevent the insertion of the *maximum approved takeoff* thrust or power, or must be shown to be an improbable event.

(2) Shall not result in a significant loss or reduction in thrust or power, or must be shown to be an extremely improbable event.

(b) The concurrent existence of an ATTCS failure and an engine failure during the critical time interval must be shown to be extremely improbable.

(c) All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATTCS system functioning.

I25.4 *Thrust Setting.*

The initial takeoff thrust or power setting on each engine at the beginning of the takeoff roll may not be less than any of the following:

(a) Ninety (90) percent of the thrust or power set by the ATTCS (the maximum takeoff thrust or power approved for the airplane under existing ambient conditions);

(b) That required to permit normal operation of all safety-related systems and equipment dependent upon engine thrust or power lever position; or

(c) That shown to be free of hazardous engine response characteristics when thrust or power is advanced from the initial takeoff thrust or power to the maximum approved takeoff thrust or power.

I25.5 *Powerplant Controls.*

(a) In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATTCS, including associated systems, may cause the failure of any powerplant function necessary for safety.

(b) The ATTCS must be designed to:

(1) Apply thrust or power on the operating engine(s), following any one engine failure during takeoff, to achieve the maximum approved takeoff thrust or power without exceeding engine operating limits;

(2) Permit manual decrease or increase in thrust or power up to the maximum takeoff thrust or power approved for the airplane under existing conditions through the use of the power lever. For airplanes equipped with limiters that automatically prevent engine operating limits from being exceeded under existing ambient conditions, other means may be used to increase the thrust or power in the event of an ATTCS failure provided the means is located on or forward of the power levers; is easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers; and meets the requirements of § 25.777 (a), (b), and (c);

(3) Provide a means to verify to the flightcrew before takeoff that the ATTCS is in a condition to operate; and

(4) Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

I25.6 *Powerplant Instruments.*

In addition to the requirements of § 25.1305:

(a) A means must be provided to indicate when the ATTCS is in the armed or ready condition; and

(b) If the inherent flight characteristics of the airplane do not provide adequate warning that an engine has failed, a warning system that is independent of the ATTCS must be provided to give the pilot a clear warning of any engine failure during takeoff.

Issued in Washington, DC, on November 4, 1987.

T. Allan McArtor,

Administrator.

[FR Doc. 87-25841 Filed 11-6-87; 8:45 am]

BILLING CODE 4910-13-M

federal register

Monday
November 9, 1987

Part III

Department of Agriculture

Cooperative State Research Service

Competitive Research Grants Program for Fiscal Year 1988; Solicitation of Applications; Individual Awards: Recent Doctoral Graduates; Notice

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DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Competitive Research Grants Program for Fiscal Year 1988; Solicitation of Applications; Individual Awards: Recent Doctoral Graduates

This notice supplements and expands the reference to individuals who have recently received a doctoral degree found in the Notice of the Competitive Research Grants Program for Fiscal Year 1988; Solicitation of Applications for the Competitive Research Grants Program, found at 52 FR 29482–29486 (August 7, 1987), to encourage specifically recently trained scientists to submit proposals under that solicitation. Such scientists are encouraged to submit a proposal on a topic and in a research environment of their choice. The topic and the research environment chosen must fall within the guidelines and under the regulations set forth in Part IV in the **Federal Register** on August 7, 1987. The research proposals of recently graduated scientists will be in competition with proposals submitted by other eligible recipients in the same research area. The deadlines for submission of proposals for research grant awards are the same as those published in the **Federal Register** on August 7, 1987 for each of the program areas.

Purpose

The purpose of this notice is to encourage specifically scientists that meet the following criteria to apply for a Competitive Research Grant:

(1) Have earned the doctoral degree in a biological science, physical science or engineering after January 1, 1985, or will have earned this degree not later than June 7, 1988;

(2) Is a United States citizen;

(3) Have made prior arrangements for research with a scientific adviser at the institution where the research is to be done;

(4) Have interests in research that fall within the program areas described in the **Federal Register**, August 7, 1987, notice; and

(5) Have obtained commitments from a State agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization or corporation for the conduct of the research. Proposals to do research at non-United States organizations will not be considered for support.

Many recently graduated scientists may be discouraged from submitting proposals for competitive research grants because of a perception that established scientists at established institutions are favored for such grants. The purpose of this notice is to encourage such recently graduated scientists to enter the competition. While the qualifications of the principal investigator(s) and the institutional experience are two factors that are considered in awarding grants, such factors can be overcome. USDA encourages recently graduated scientists to make arrangements for research with a scientific adviser at an appropriate institution and then to submit a timely competitive research grants proposal detailing both the scientific aspects of the proposal and the arrangements made for conducting such research.

Evaluation and Selection of Individuals

The evaluation of applicants will be based on the criteria set forth at 7 CFR 3200.15, including the scientific merit of the proposal, the objectives and approach of the research, and the human and physical resources. Applicants' qualifications will be evaluated by a panel of research scientists, with representatives of various appropriate disciplines.

Application Procedures and Materials

To be eligible for consideration, an application must be complete. Local reproductions of all forms are acceptable. Applicants must:

(1) Submit, in a single package, one original and 14 copies of the proposal. The proposals shall follow the directions contained in 7 CFR 3200.4 (b)-(d). See the "Research Grant Application Kit" for additional information. The proposals must include a completed Form CSRS–661. Submission of the details of any arrangement with a scientific advisor may help in the evaluation of your proposal.

(2) Submit the materials in an envelope or package, postmarked no later than the appropriate deadline date listed for the program area in which the proposal falls. If complete applications are not postmarked by this date, the documents received will be returned to the senders.

Deadline Dates

Postmark dates	Peer review panels/ program areas	Contacts
Nov. 2, 1987	7.0 Human Requirements for Nutrients	475–5034
Do.	10.0 Molecular and Cellular Mechanisms of Animal Growth and Development	475–3398
Do.	2.0 Plant Genetic Mechanisms and Plant Molecular Biology	475–5042
Nov. 9, 1987	4.0 Photosynthesis	475–5030
Do.	1.2 Entomology/Nematology	475–5114
Dec. 7, 1987	1.1 Plant Pathology/Weed Science	475–4871
Jan. 6, 1988	5.0 Molecular and Cellular Mechanisms of Plant Growth and Development	475–5042
Do.	6.0 Genetic and Molecular Mechanisms Controlling Plant Responses to Physical and Environmental Stresses	475–4871
Jan. 25, 1988	8.0 Animal Science (Reproductive Physiology)	475–5034
Feb. 8, 1988	3.0 Biological Nitrogen Fixation and Metabolism	475–5030
Do.	9.0 Animal Molecular Biology	475–3398

Completed applications and supporting materials are to be sent to: Competitive Research Grants Program, c/o Grants Administrative Management, U.S. Department of Agriculture, Room 005, J.S. Morrill Building, 15th and Independence Avenue., SW., Washington, DC 20251–2200.

Done at Washington, D.C this 2nd day of November 1987.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 87–25857 Filed 11–6–87; 8:45 am]

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Part IV

Environmental Protection Agency

Toxic Substances; Premanufacture Notices; Monthly Status Report for June 1987

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ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53098; FRH-3283-1]

Premanufacture Notices; Monthly Status Report for June 1987

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption requests pending before the Agejcy and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for June 1987.

Nonconfidential portions of the PMNs and exemption requests may be seen in the Public Reading Room NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday thru Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53098]" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M Street, SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during June; (b) PMNs received previously and still under review at the end of June; (c) PMNs for which the notice review period has ended during June; (d) chemical substances for which EPA has received a notice of commencement to manufacture during June; and (e) PMNs for which the review period has been suspended. Therefore, the June 1987 PMN Status Report is being published.

Dated: October 21, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notices Monthly Status Report June 1987

I. 184 Premanufacture Notices and Exemption Requests Received During the Month

PMN No.	
P 87-1189	P 87-1257
P 87-1190	P 87-1258
P 87-1191	P 87-1259
P 87-1192	P 87-1260
P 87-1193	P 87-1261
P 87-1194	P 87-1262
P 87-1195	P 87-1263
P 87-1196	P 87-1264
P 87-1197	P 87-1265
P 87-1198	P 87-1266
P 87-1199	P 87-1267
P 87-1200	P 87-1268
P 87-1201	P 87-1269
P 87-1202	P 87-1270
P 87-1203	P 87-1271
P 87-1204	P 87-1272
P 87-1205	P 87-1273
P 87-1206	P 87-1274
P 87-1207	P 87-1275
P 87-1208	P 87-1276
P 87-1209	P 87-1277
P 87-1210	P 87-1278
P 87-1211	P 87-1279
P 87-1212	P 87-1280
P 87-1213	P 87-1281
P 87-1214	P 87-1282
P 87-1215	P 87-1283
P 87-1216	P 87-1284
P 87-1217	P 87-1285
P 87-1218	P 87-1286
P 87-1219	P 87-1287
P 87-1220	P 87-1288
P 87-1221	P 87-1289
P 87-1222	P 87-1290
P 87-1223	P 87-1291
P 87-1224	P 87-1292
P 87-1225	P 87-1293
P 87-1226	P 87-1294
P 87-1227	P 87-1295
P 87-1228	P 87-1296
P 87-1229	P 87-1297
P 87-1230	P 87-1298
P 87-1231	P 87-1299
P 87-1232	P 87-1300
P 87-1233	P 87-1301
P 87-1234	P 87-1302
P 87-1235	P 87-1303
P 87-1236	P 87-1304
P 87-1237	P 87-1305
P 87-1238	P 87-1306
P 87-1239	P 87-1307
P 87-1240	P 87-1308
P 87-1241	P 87-1309
P 87-1242	P 87-1310
P 87-1243	P 87-1311
P 87-1244	P 87-1312
P 87-1245	P 87-1313
P 87-1246	P 87-1314
P 87-1247	P 87-1315
P 87-1248	P 87-1316
P 87-1249	P 87-1317
P 87-1250	P 87-1318
P 87-1251	P 87-1319
P 87-1252	P 87-1320
P 87-1253	P 87-1321
P 87-1254	P 87-1322
P 87-1255	P 87-1323
P 87-1256	P 87-1324
P 87-1325	P 87-1349
P 87-1326	P 87-1350
P 87-1327	Y 87-159
P 87-1328	Y 87-160
P 87-1329	Y 87-161
P 87-1330	Y 87-162
P 87-1331	Y 87-163
P 87-1332	Y 87-164
P 87-1333	Y 87-165
P 87-1334	Y 87-166
P 87-1335	Y 87-167
P 87-1336	Y 87-168
P 87-1337	Y 87-169
P 87-1338	Y 87-170
P 87-1339	Y 87-171
P 87-1340	Y 87-172
P 87-1341	Y 87-173
P 87-1342	Y 87-174
P 87-1343	Y 87-175
P 87-1344	Y 87-176
P 87-1345	Y 87-177
P 87-1346	Y 87-178
P 87-1347	Y 87-179
P 87-1348	Y 87-180

II. 149 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	
P 87-1054	P 87-1107
P 87-1055	P 87-1108
P 87-1056	P 87-1109
P 87-1057	P 87-1110
P 87-1058	P 87-1111
P 87-1059	P 87-1112
P 87-1060	P 87-1113
P 87-1061	P 87-1114
P 87-1062	P 87-1115
P 87-1063	P 87-1116
P 87-1064	P 87-1117
P 87-1065	P 87-1118
P 87-1066	P 87-1119
P 87-1067	P 87-1120
P 87-1068	P 87-1121
P 87-1069	P 87-1122
P 87-1070	P 87-1123
P 87-1071	P 87-1124
P 87-1072	P 87-1125
P 87-1073	P 87-1126
P 87-1074	P 87-1127
P 87-1075	P 87-1128
P 87-1076	P 87-1129
P 87-1077	P 87-1130
P 87-1078	P 87-1131
P 87-1079	P 87-1132
P 87-1080	P 87-1133
P 87-1081	P 87-1134
P 87-1082	P 87-1135
P 87-1083	P 87-1136
P 87-1084	P 87-1137
P 87-1085	P 87-1138
P 87-1086	P 87-1139
P 87-1087	P 87-1140
P 87-1088	P 87-1141
P 87-1089	P 87-1142
P 87-1090	P 87-1143
P 87-1091	P 87-1144
P 87-1092	P 87-1145
P 87-1093	P 87-1146
P 87-1094	P 87-1147
P 87-1095	P 87-1148
P 87-1096	P 87-1149
P 87-1097	P 87-1150
P 87-1098	P 87-1151
P 87-1099	P 87-1152
P 87-1100	P 87-1153
P 87-1101	P 87-1154
P 87-1102	P 87-1155
P 87-1103	P 87-1156
P 87-1104	P 87-1157
P 87-1105	P 87-1158
P 87-1106	P 87-1159

PMN No.	
P 87-1160	P 87-1182
P 87-1161	P 87-1183
P 87-1162	P 87-1184
P 87-1163	P 87-1185
P 87-1164	P 87-1186
P 87-1165	P 87-1187
P 87-1166	P 87-1188
P 87-1167	Y 87-145
P 87-1168	Y 87-146
P 87-1169	Y 87-147
P 87-1170	Y 87-148
P 87-1171	Y 87-149
P 87-1172	Y 87-150
P 87-1173	Y 87-151
P 87-1174	Y 87-152
P 87-1175	Y 87-153
P 87-1176	Y 87-154
P 87-1177	Y 87-155
P 87-1178	Y 87-156
P 87-1179	Y 87-157
P 87-1180	Y 87-158
P 87-1181	

III. 192 Premanufacture Notices and Exemption Requests for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.					
P 87-735	P 87-743	P 87-751	P 87-795	P 87-839	P 87-853
P 87-736	P 87-744	P 87-752	P 87-796	P 87-840	P 87-854
P 87-737	P 87-745	P 87-753	P 87-797	P 87-841	P 87-855
P 87-738	P 87-746	P 87-754	P 87-798	P 87-842	P 87-856
P 87-739	P 87-747	P 87-755	P 87-799	P 87-843	P 87-857
P 87-740	P 87-748	P 87-756	P 87-800	P 87-844	P 87-858
P 87-741	P 87-749	P 87-757	P 87-801	P 87-845	P 87-859
P 87-742	P 87-750	P 87-758	P 87-802	P 87-846	P 87-860
		P 87-759	P 87-803	P 87-847	P 87-861
		P 87-760	P 87-804	P 87-848	P 87-862
		P 87-761	P 87-805	P 87-849	P 87-863
		P 87-762	P 87-806	P 87-850	P 87-864
		P 87-763	P 87-807	P 87-851	P 87-865
		P 87-764	P 87-808	P 87-852	P 87-866
		P 87-765	P 87-809	P 87-853	P 87-867
		P 87-766	P 87-810	P 87-854	P 87-868
		P 87-767	P 87-811	P 87-855	P 87-869
		P 87-768	P 87-812	P 87-856	P 87-900
		P 87-769	P 87-813	P 87-857	P 87-901
		P 87-770	P 87-814	P 87-858	P 87-902
		P 87-771	P 87-815	P 87-859	P 87-903
		P 87-772	P 87-816	P 87-860	P 87-904
		P 87-773	P 87-817	P 87-861	P 87-905
		P 87-774	P 87-818	P 87-862	P 87-906
		P 87-775	P 87-819	P 87-863	P 87-907
		P 87-776	P 87-820	P 87-864	P 87-908
		P 87-777	P 87-821	P 87-865	P 87-909
		P 87-778	P 87-822	P 87-866	P 87-910
		P 87-779	P 87-823	P 87-867	P 87-911
		P 87-780	P 87-824	P 87-868	P 87-912
		P 87-781	P 87-825	P 87-869	P 87-913
		P 87-782	P 87-826	P 87-870	P 87-914
		P 87-783	P 87-827	P 87-871	P 87-915
		P 87-784	P 87-828	P 87-872	P 87-916
		P 87-785	P 87-829	P 87-873	P 87-917
		P 87-786	P 87-830	P 87-874	P 87-918
		P 87-787	P 87-831	P 87-875	P 87-919
		P 87-788	P 87-832	P 87-876	P 87-920
		P 87-789	P 87-833	P 87-877	Y 87-159
		P 87-790	P 87-834	P 87-878	Y 87-160
		P 87-791	P 87-835	P 87-879	Y 87-161
		P 87-792	P 87-836	P 87-880	Y 87-162
		P 87-793	P 87-837	P 87-881	Y 87-163
		P 87-794	P 87-838	P 87-882	Y 87-164

IV. 26 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Identity/generic name	Date of commencement
P 81-198	N-vinyl; L-N-methylacetamide, maleic acid, diisooctyl ester	May 12, 1987.
P 81-448	Generic name: Epoxy modified phenolic resin	May 26, 1987.
P 83-1249	Generic name: Copolymer of alkyl methacrylates and vinyl mono-heterocycle	May 23, 1984.
P 85-3	Generic name: Perfluoroalkyl acrylate copolymer latex	Mar. 11, 1986.
P 86-216	Generic name: Polyurethane prepolymer	Feb. 26, 1986.
P 86-386	Generic name: Polyurethane prepolymer	May 5, 1987.
P 86-895	Generic name: Reaction product of polysubstituted alkanes	Aug. 12, 1986.
P 86-1029	Generic name: Aromatic terpene phenol resin	Feb. 5, 1987.
P 86-1267	Generic name: Poly(oxyalkylene)polyol	May 8, 1987.
P 86-1447	Generic name: Hydroxyl-terminated polyester polyol	May 8, 1987.
P 86-1620	2-Ethylhexyl-cyclohexene	Apr. 27, 1987.
P 86-1694	Generic name: Cyanine dye derived from nitrogen heterocycles	May 5, 1987.
P 86-1707	Generic name: Diallyl, dihydroxyalkyl quarternary sulfate salt	Apr. 28, 1987.
P 87-93	Generic name: Alkylene diol alkyl ether	Mar. 13, 1987.
P 87-317	Generic name: Isoindoline yellow	May 12, 1987.
P 87-362	Trichloromethylsilane	Apr. 2, 1987.
P 87-471	Generic name: Substituted cyeneacetic acid	June 2, 1987.
P 87-535	Generic name: Vinyl silicone resin	May 4, 1987.
P 87-536	Generic name: Ethoxylated sulfonated polycarboxylate	May 29, 1987.
P 87-601	Generic name: Aromatic polymeric polyester	May 8, 1987.
P 87-650	Generic name: Sulfonated polyacrylate, sodium salt	May 27, 1987.
P 87-710	Generic name: Amine salt, aqueous solution	June 1, 1987.
P 87-712	Generic name: Oleophilic functional zirconaluminate chloride hydroxide polymer	May 27, 1987.
V 87-115	Generic name: Aliphatic polyether urethane	Mar. 24, 1987.
V 87-118	Generic name: Polyurethane	Apr. 15, 1987.
V 87-132	Generic name: Saturated polyester resin	Apr. 15, 1987.
V 87-133	Generic name: Water reducible alkyd resin	Apr. 15, 1987.

V. 20 Premanufacture Notices for Which the Period Has Been Suspended

PMN No.					
P 87-304	P 87-639	P 87-752	P 87-794	P 87-895	P 87-930
P 87-547	P 87-736	P 87-760	P 87-796	P 87-898	P 87-1225
P 87-549	P 87-739	P 87-770	P 87-828		
		P 87-786	P 87-844		
		P 87-787	P 87-931		

[FR Doc. 87-24944 Filed 11-6-87; 8:45 am]

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Monday
November 9, 1987

Part V

Department of Energy

10 CFR Part 1015
Collection of Claims Owed the United States; Notice of Proposed Rulemaking

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DEPARTMENT OF ENERGY

10 CFR Part 1015

Collection of Claims Owed the United States

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Justice and the General Accounting Office have jointly issued amended Federal Claims Collection Standards (4 CFR Parts 101 through 105) which reflect changes to the Federal Claims Collection Act of 1966 (31 U.S.C. 3701–3719) made by the passage of the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1754). The preamble to the amended Federal Claims Collection Standards instructs individual agencies to adopt their own regulations as to detailed procedures in furtherance of the Federal Claims Collection Standards. Additionally, the Debt Collection Act of 1982 directs, as reflected in the Federal Claims Collection Standards, that each agency must prescribe regulations on collecting by salary and administrative offset and that each agency may prescribe regulations identifying circumstances appropriate to waive collection of interest and charges in conformity with the Federal Claims Collection Standards.

DATE: All comments must be in writing, and received on or before December 9, 1987.

ADDRESS: Send comments to: Elizabeth E. Smedley, Controller, Department of Energy, (Mail Stop MA–3, 4A–139), 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Carl W. Guidice, Office of the Controller, 202–586–4860 (FTS 896–4860).

SUPPLEMENTARY INFORMATION: This proposed rule provides procedures for the Department of Energy (DOE) to collect, compromise, or terminate collection action on all claims owed to the United States arising from activities under DOE jurisdiction. The rule amends Chapter X of Title 10 of the Code of Federal Regulations by adding a new Part 1015. It implements the Federal Claims Collection Act (31 U.S.C. 3701–3719) as amended by the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1754). It incorporates the regulations published jointly by the General Accounting Office and the Department of Justice (4 CFR Parts 101–105).

This proposed rule sets forth procedures by which DOE:

(a) Will collect claims owed to the United States;

(b) Will determine and collect interest and other charges on those claims;

(c) Will compromise claims; and

(d) Will refer unpaid claims for litigation.

Executive Order 12291

This rule has been reviewed in accordance with Executive Order 12291. The rule is not classified as a major rule because it does not meet the criteria for major rules established by that Order.

Regulatory Flexibility Act Certification

This rule will not have a significant impact on a substantial number of small entities (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

No additional information and recordkeeping requirements are imposed by this rule.

National Environmental Policy Act

Promulgation of this rule would not represent a major Federal action with significant environmental impact. Therefore, preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) is not required.

Public Comments

Interested persons are invited to participate by submitting data, views, or arguments with respect to the proposed amendment set forth in this notice. Comments should be submitted to Elizabeth E. Smedley, Controller, at the address shown in the beginning of this notice. The envelope and documents submitted should be identified with the designation "Collection of Claims Owed the United States." All written comments received on or before the date specified in the beginning of this notice will be carefully assessed and fully considered prior to publication of the proposed amendment as a final rule.

Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy, as well as one copy from which the information claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination. This procedure is set forth in 10 CFR 1004.11, 44 FR 1908, January 8, 1979.

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law and that the proposed rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Therefore, pursuant to section 501(c) (42 U.S.C. 7191(c)) of the DOE Organization Act (Pub. L. 95–91; 42 U.S.C. 7101 *et seq.*), the Department does not plan to hold a public hearing on this proposed rule.

List of Subjects in 10 CFR Part 1015

Disclosures and referrals, Credit reports, Claims.

In consideration of the foregoing, the Department of Energy hereby proposes to amend Chapter X of Title 10 of the Code of Federal Regulations by adding a new Part 1015 as set forth below.

Issued in Washington, DC, October 30, 1987.

Lawrence F. Davenport,

Assistant Secretary, Management and Administration.

Part 1015 is proposed to be added to 10 CFR Chapter X to read as follows:

PART 1015—COLLECTION OF CLAIMS OWED THE UNITED STATES

Sec.

1015.1 Purpose.
1015.2 Applicability.
1015.3 Demand for payment.
1015.4 Interest, administrative charges, and penalty charges.
1015.5 Responsibility for collection.
1015.6 Collection by administrative offset.
1015.7 Settlement of claims.
1015.8 Referral for litigation.
1015.9 Disclosure to consumer reporting agencies and referral to collection agencies.
1015.10 Credit report.

Authority: 31 U.S.C. 3701–3719; Pub. L. 97–365, 96 Stat. 1754.

§ 1015.1 Purpose.

This part establishes procedures for the Department of Energy (DOE) to collect, compromise, or terminate collection action on claims of the United States for money or property arising from activities under DOE jurisdiction. It specifies the agency procedures and the rights of the debtor applicable to claims for the payment of debts owed to the United States. It incorporates, as appropriate, the Federal Claims Collection Standards (4 CFR Parts 101 through 105). It sets forth procedures by which DOE:

(a) Will collect claims owed to the United States;

(b) Will determine and collect interest and other charges on those claims;

(c) Will compromise claims; and

(d) Will refer unpaid claims for litigation.

§ 1015.2 Applicability.

(a) This part applies to all claims due the United States under the Federal Claims Collection Act, as amended by the Debt Collection Act (31 U.S.C. 3701–3719), arising from activities under the jurisdiction of DOE unless such claims are otherwise subject to applicable laws or regulations. For purposes of this part, claims include, but are not limited to, amounts due the United States from fees, loans, loan guarantees, overpayments, fines, civil penalties, damages, interest, sale of products and services, and other sources. The failure of DOE to include in this part any provision of the Federal Claims Collection Standards does not prevent DOE from applying the provision. The failure of DOE to comply with any provision of this part or of the Federal Claims Collection Standards shall not be available as a defense to any debtor in terms of affecting the merits of the underlying indebtedness.

(b) All claims due from DOE employees will be collected in accordance with DOE 2200.2, Collection From Employees for Indebtedness to the United States, or successor internal directives. DOE 2200.2 provides for hearings as required under 5 U.S.C. 5514 and 4 CFR Part 102.

(c) Claims arising from the audit of transportation accounts pursuant to 31 U.S.C. 3726 shall be determined, collected, compromised, terminated, or settled in accordance with regulations published under the authority of 31 U.S.C. 3726 (see 41 CFR Parts 101 through 141, administered by the Director, Office of Transportation Audits, General Services Administration) and are otherwise excepted from these regulations.

(d)(1) Claims arising out of acquisition contracts, subcontracts, and purchase orders which are subject to the Federal Acquisition Regulation Systems, including the Federal Acquisition Regulation, 48 CFR Subpart 32.6, and the Department of Energy Acquisition Regulations, 48 CFR Subpart 932.6, shall be determined or settled in accordance with those regulations.

(2) Claims arising out of financial assistance instruments (e.g., grants, subgrants, contracts under grants, cooperative agreements, and contracts under cooperative agreements) and loans and loan guarantees shall be determined or settled in accordance with internal DOE directives. Relevant provisions currently are set forth primarily at 10 CFR 600.26 and 10 CFR 600.112(f).

§ 1015.3 Demand for payment.

(a) A total of three progressively stronger written demands at not more than approximately 30-day intervals will normally be made unless a response or other information indicates that a further demand would be futile or unnecessary. When necessary to protect the Government's interest, written demand may be preceded by other appropriate actions under the Federal Claims Collection Standards, including immediate offset, as provided in paragraph (d)(2) of this section, and/or referral for litigation.

(b) The initial written demand for payment should inform the debtor of the following:

(1) The basis for the claim;

(2) The amount of the claim;

(3) Any right to a review of the claim within DOE;

(4) The date by which DOE expects full payment and after which the account is considered delinquent (this is the due date and is normally not more than 30 days from the date the written initial demand was either mailed, hand-delivered, or otherwise transmitted);

(5) The provision for interest, penalties, and administrative charges in accordance with 31 U.S.C. 3717, if payment is not received by the due date (see § 1015.4 for details regarding interest, administrative charges, and penalty charges); and

(6) The DOE's intent to utilize any applicable collection actions made available by the Debt Collection Act of 1982 and the Federal Claims Collection Standards. When determined necessary to protect the Government's interest, DOE may initiate any of the actions available under the referenced Act and/or Standards. These actions may include, but are not limited to, immediate referral for litigation, administrative offset (as provided in paragraph (d)(2) of this section), reports to credit bureaus, and referrals to collection agencies.

(c) If the debt is not paid by the date specified in the initial written demand, two progressively stronger demands shall be sent to the debtor unless a response or other information indicates that additional written demands would either be futile or unnecessary. These written demands will be timed so as to provide an adequate period of time within which the debtor could be expected to respond. While shorter periods of time are acceptable, intervals of approximately 30 days should be sufficient. Depending on the circumstances of the particular case, the demand letters may state:

(1) The amount of any late payment charge (interest, penalties, and administrative charges) added to the debt;

(2) That the delinquent debt may be reported to a credit reporting agency;

(3) That the debt may be referred to a private collection agency for collection;

(4) That the debt may be collected through administrative offset in accordance with the Federal Claims Collection Standards (4 CFR Part 102); and

(5) That the debt may be referred for litigation.

(d)(1) Before collecting a debt by administrative offset, the debtor shall be advised of the following information either in the initial written demand and/or subsequent written demands, or by separate notice of DOE's intent to collect the debt by administrative offset:

(i) Nature and amount of the debt;

(ii) Payment due date;

(iii) The intent of DOE to collect by administrative offset (in accordance with the Federal Claims Collection Standards (4 CFR Part 102)), including requesting other Federal agencies to help in the offset whenever possible, if the debtor has not made voluntary payment, has not requested a hearing or review of the claim within DOE as set out in paragraph (d)(1)(v) of this section, or has not made arrangements for payment as set out in paragraph (d)(1)(vi) of this section by the payment due date;

(iv) The right of the debtor to inspect and copy the DOE records related to the claim. Any costs associated therewith shall be borne by the debtor. The debtor shall give reasonable notice in advance to DOE of the date upon which it intends to inspect and copy the records involved;

(v) The right of the debtor to a hearing or review of the claim. DOE shall provide the debtor with a reasonable opportunity for an oral hearing when: An applicable statute authorizes or requires DOE to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or the debtor requests reconsideration of the debt and DOE determines that the question of indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity. Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary-type hearing, although DOE will document all significant matters discussed at the

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hearing. This section does not require an oral hearing with respect to debt collection systems in which determinations of indebtedness or waiver rarely involve issues of credibility or veracity and DOE has determined that review of the written record is ordinarily an adequate means to correct prior mistakes. In administering such a system, DOE is not required to sift through all of the requests received in order to accord oral hearings in those few cases which may involve issues of credibility or veracity. In those cases where an oral hearing is not required by this section, DOE will accord the debtor a "paper" hearing, that is, DOE will make its determination on the request for waiver or reconsideration based upon a review of the written record. If the claim is disputed in full or in part, the debtor's written response to the demand must include a request for review of the claim within DOE. If the debtor disputes the claim, the debtor shall explain why the debt is incorrect. The explanation should be supported by affidavits, canceled checks, or other relevant information. The written response must reach DOE by the payment due date. A written response received after the payment due date may be accepted if the debtor can show that the delay was due to circumstances beyond the debtor's control or failure to receive notice of the time limit. The debtor's written response shall state the basis for the dispute. If only part of the claim is disputed, the undisputed portion should be paid by the date stated in the initial demand. DOE shall notify the debtor, within 30 days whenever feasible, whether DOE's determination of the debt has been sustained, amended, or canceled. If DOE either sustains or amends its determination, it shall notify the debtor of its intent to collect by administrative offset unless payment is received within 15 days of the mailing of the notification of its decision; and

(vi) The right of the debtor to offer to make a written agreement to repay the amount of the claim. The acceptance of such an agreement is discretionary with DOE. If the debtor requests a repayment arrangement because a payment of the amount due would create a financial hardship, DOE will assess the debtor's financial condition based on financial statements submitted by the debtor. Dependent upon the evaluation of the financial condition of the debtor, DOE and the debtor may agree to a written installment repayment schedule. The debtor should execute a confess-judgment note which specifies all of the terms of the arrangement. The size and frequency of the installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. Interest, administrative charges, and penalty charges shall be provided for in the note. The debtor shall be provided with a written explanation of the consequences of signing a confess-judgment note. The debtor shall sign a statement acknowledging receipt of the written explanation which shall provide that the statement was read and understood before execution of the note and that the note is being signed knowingly and voluntarily. Some form of objective evidence of these facts will be maintained in DOE's file on the debtor.

(2) In cases in which the procedural requirements specified in this paragraph have previously been provided to the debtor in connection with the same debt under some other statutory or regulatory authority, such as pursuant to a notice of audit disallowance, DOE is not required to duplicate those requirements before taking administrative offset. Furthermore, DOE may effect administrative offset against a payment to be made to a debtor prior to completion of the required procedures if failure to take the offset would substantially prejudice the Government's ability to collect the debt and the time before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset will be promptly followed by completion of those procedures. Amounts recovered by administrative offset found not to be owed to DOE shall be promptly refunded.

(e) At any time during the collection cycle, DOE may take any of the actions authorized under this section or under the Federal Claims Collection Standards. These actions include, but are not limited to, reports to credit bureaus, referrals to collection agencies, termination of contract, debarment, and administrative offset, as authorized in 31 U.S.C. 3701–3719.

§ 1015.4 Interest, administrative charges, and penalty charges.

(a) DOE shall assess interest on unpaid claims at the rate of the current value of funds to the Treasury as prescribed by the Secretary of the Treasury on the date the computation of interest begins unless a higher rate of interest is necessary to protect the interests of the Government. DOE shall assess administrative charges to cover the costs of processing and handling overdue claims. Administrative charges will be assessed concurrent with the interest assessment and will be based on an average of additional costs incurred in processing and handling claims in similar stages of delinquency. DOE shall assess penalty charges of six percent a year on any part of a debt more than 90 days past due. Such assessment will be retroactive to the first day the debt became delinquent. The imposition of interest, administrative charges, and penalty charges is made in accordance with 31 U.S.C. 3717.

(b) Interest will be computed from the date the initial demand is mailed, hand-delivered, or otherwise transmitted to the debtor. If the claim or any portion thereof is paid within 30 days after the date on which interest began to accrue, the associated interest shall be waived. This period for waiver of interest may be extended in individual cases if there is good cause to do so and it is in the public interest. Interest will only be computed on the principal of the claim and the interest rate will remain fixed for the duration of the indebtedness, except where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement. A new rate which reflects at a minimum the current value of funds to the Treasury at the time the new agreement is executed may be set, if applicable, and interest on interest and related charges may be charged where the debtor has defaulted on a previous repayment agreement. Charges which accrued but were not collected under the defaulted agreement shall be added to the principal to be paid under the new repayment schedule.

(c) DOE may waive interest, administrative charges, or penalty charges if it finds that one or more of the following conditions exist:

(1) The debtor is unable to pay any significant sum toward the claim within a reasonable period of time;

(2) Collection of interest, administrative charges, or penalty charges will jeopardize collection of the principal of the claim; or

(3) It is otherwise in the best interests of the United States, including the situation in which an offset or installment payment agreement is in effect.

(d) Exemptions. (1) The provisions of 31 U.S.C. 3717 do not apply:

(i) To debts owed by any State or local government;

(ii) To debts arising under contracts which were executed prior to, and were in effect on (i.e., were not completed as of) October 25, 1982;

(iii) To debts where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits such charges or explicitly fixes

the charges that apply to the debts involved; or

(iv) Debts arising under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States.

(2) DOE may, however, assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

§ 1015.5 Responsibility for collection.

(a) Heads of DOE Headquarters Elements and Field Elements or their designees must immediately notify the appropriate finance office of claims arising from their operations. A claim will be recorded and controlled by the responsible finance office upon receipt of documentation from a competent authority establishing the amount due.

(b) The collection of claims under the control of the finance offices will be aggressively pursued in accordance with the provisions of Part 102 of the Federal Claims Collection Standards (4 CFR Part 102). Whenever feasible, debts owed to the United States, together with interest, administrative charges, and penalty charges, should be collected in full in one lump sum. If the debtor requests installment payments, the finance offices shall be responsible for determining the financial hardship of debtors and, when appropriate, shall arrange installment payment schedules. Claims which cannot be collected directly or by administrative offset shall be written off as administratively uncollectible in accordance with authority delegated to the Heads of DOE Field Elements and the Controller.

(c) The Controller or designee, in consultation with the General Counsel or other designated Counsel at Headquarters, or Heads of DOE Field Elements or designees, in consultation with the Chief Counsels or other designated Counsels in field locations, may compromise or suspend or terminate collection action on referred claims that do not exceed $20,000, exclusive of interest, penalties, and administrative charges, in accordance with the Federal Claims Collection Act and the Federal Claims Collection Standards Parts 103 and 104 (4 CFR Parts 103 and 104).

(d) Recommendations to compromise or suspend or terminate collection action on claims that exceed $20,000, exclusive of interest, penalties, and administrative charges, will be referred to the Department of Justice consistent with paragraph (c) of this section and in accordance with the Federal Claims Collection Act and the Federal Claims Collection Standards. Referrals to the Department of Justice shall be made in accordance with 4 CFR Part 105 of the Federal Claims Collection Standards.

§ 1015.6 Collection by administrative offset.

(a) *Administrative offset.* (1) Whenever feasible and not otherwise prohibited, after a debtor fails to pay the claim, request a review of the claim, or make an arrangement for payment, DOE shall collect claims under this part by means of administrative offset against obligations of the United States to the debtor, pursuant to 31 U.S.C. 3716. In appropriate circumstances, DOE may give due consideration to the debtor's financial condition or whether offset would tend to substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated. For example, under a grant program in which payments are made in advance of the grantee's performance, offset will normally be inappropriate. This concept generally does not apply, however, where payment is in the form of reimbursement. Determination as to whether collection by administrative offset is feasible will be made by DOE on a case-by-case basis, in the exercise of sound discretion. DOE will consider not only whether administrative offset can be accomplished both practically and legally, but also whether offset is best suited to further and protect all of the Government's interests.

(2) DOE will not initiate administrative offset to collect a debt under 31 U.S.C. 3716 more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably be known by the DOE official or officials who were charged with the responsibility to discover and collect such debt.

(3) DOE is not authorized by 31 U.S.C. 3716 to use administrative offset with respect to:

(i) Debts owed by any State or local government;

(ii) Debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States; or

(iii) Any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute.

However, unless otherwise provided for by contract or law, debts or payments which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority.

(4) Salary offsets and offsets against military retired pay are governed by 5 U.S.C. 5514.

(5) Collection by administrative offset of amounts payable from the Civil Service Retirement and Disability Fund will be made pursuant to 31 U.S.C. 3716 and 5 U.S.C. 5705 and regulations thereunder.

(6) Collections made by administrative offset under 31 U.S.C. 3716, shall be in accordance with the procedural requirements set forth in § 1015.3(d) of this part.

(b) *Interagency requests.* (1) Requests to DOE by other Federal agencies for administrative offset should be in writing and forwarded to the Department of Energy, Office of the Controller (MA–3), 1000 Independence Avenue, SW., Washington, DC 20585.

(2) Requests by DOE to other Federal agencies holding funds payable to the debtor should be in writing and forwarded, certified return receipt, as specified by that agency in its regulations. If such rule is not readily available or identifiable, the request should be submitted to that agency's office of legal counsel with a request that it be processed in accordance with their internal procedures.

(3) Requests to DOE should be processed within 30 calendar days of receipt. If such processing is not practical or feasible, notice to extend the time period for another 30 calendar days should be forwarded 10 calendar days prior to the expiration of the first 30-day period.

(4) Requests to or from DOE must be accompanied by a written certification that the debtor owes the debt (including the amount) and that the requesting agency has fully complied with the provisions of 4 CFR 102.3. DOE will cooperate with other agencies in effecting collection unless the offset would be otherwise contrary to law.

(5) If administrative offset cannot be effected through DOE or other known Federal agency accounts payable, then DOE will place a complete stop order against amounts otherwise payable to the debtor by placing the name of that debtor on the Department of the Army "List of Contractors Indebted to the United States." If any amounts are discovered under this procedure, they will be offset against the debt owed to DOE provided that applicable provisions of 4 CFR Parts 101 through 105 have been met and the offset would not otherwise be contrary to law.

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§ 1015.7 Settlement of claims.

(a) In accordance with the provisions of 4 CFR Part 103, DOE officials listed in § 1015.5(c) of this part may settle claims not exceeding $20,000, exclusive of interest, penalties, and administrative charges, by compromise at less than the principal of the claim if:

(1) The debtor shows an inability to pay the full amount within a reasonable time or refuses to pay the claim in full and DOE is unable to enforce collection in full within a reasonable time by enforced collection proceedings;

(2) There is real doubt concerning the Government's ability to prove its case in court for the full amount claimed, either because of the legal issues involved or a bona fide dispute as to the facts;

(3) The amount of the claim does not justify the actual foreseeable cost of collecting the claim; or

(4) A combination of the above reasons.

(b) DOE may suspend or terminate collection action in accordance with the terms and procedures contained in 4 CFR Part 104.

§ 1015.8 Referral for litigation.

Claims on which aggressive collection action has been taken in accordance with 4 CFR Part 102 and which cannot be compromised or on which collection action cannot be suspended or terminated under 4 CFR Parts 103 and 104 will be referred to the General Accounting Office or the Department of Justice, as appropriate, in accordance with the procedures in 4 CFR Part 105.

§ 1015.9 Disclosure to consumer reporting agencies and referral to collection agencies.

DOE may disclose delinquent debts to consumer reporting agencies in accordance with 31 U.S.C. 3711(f) and may refer delinquent debts to debt collection agencies under the revised Federal Claims Collection Standards and other applicable authorities. Information will be disclosed to reporting agencies and referred to collection agencies in accordance with the terms and conditions of agreements entered into between the General Services Administration, DOE, and the reporting and collection agencies. The terms and conditions of such agreements shall specify that all of the rights and protections afforded to the debtor under 31 U.S.C. 3711(f) have been fulfilled.

§ 1015.10 Credit report.

In order to aid DOE in making appropriate determinations as to the collection and compromise of claims; the collection of interest, administrative charges, and penalty charges; the use of administrative offset; the use of other collection methods; and the likelihood of collecting the claim, DOE may institute a credit investigation of the debtor at any time following receipt of knowledge of the claim.

[FR Doc. 87-25850 Filed 11-6-87; 8:45 am]
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federal register

Monday
November 9, 1987

Part VI

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 773

Surface Coal Mining and Reclamation Operations; Requirements for Permits and Permit Processing; Proposed Rule

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 773

Surface Coal Mining and Reclamation Operations; Requirements for Permits and Permit Processing

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the United States Department of the Interior (DOI) proposes to revise the regulatory prohibition on mining without a permit more than eight months after approval of the State or Federal regulatory program. The grace period will be available only to holders of initial regulatory program permits. This amendment responds to a decision rendered in Federal district court. The effect of this change is that any existing mining operation that has neither an initial nor a permanent program permit will have to cease operations and remain shut down until a permanent program permit is issued. This proposal is not intended to affect coal preparation plants separately authorized to operate under 30 CFR 785.21(e).

DATES: *Written comments:* OSMRE will accept written comments on the proposed rule until 4:00 p.m. Eastern time on January 19, 1988.

Public hearings: Upon request, OSMRE will hold a public hearing on the proposed rule in Washington, DC at 9:30 a.m. Eastern time on January 12, 1988. Upon request, OSMRE will also hold public hearings in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee and Washington at times and on dates to be announced prior to the hearings. OSMRE will accept requests for public hearings at this or other locations until 4:00 p.m. Eastern time on December 9, 1987. Individuals wishing to attend but not testify at any hearing should contact the person identified under "**FOR FURTHER INFORMATION CONTACT**" beforehand to verify that the hearing will be held.

ADDRESSES: *Written comments:* Hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L Street, NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131–L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Department of the Interior Auditorium, 18th and C Streets, NW., Washington, DC. The addresses for any hearings to be held in other locations will be announced prior to the hearings.

Requests for public hearings: Submit requests orally or in writing to the person and address specified under "**FOR FURTHER INFORMATION CONTACT.**"

FOR FURTHER INFORMATION CONTACT: Patrick W. Boyd, Branch of Federal and Indian Programs, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240, Telephone: (202)343-4561.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit three copies of their comments (see "**ADDRESSES**"). Comments received after the close of the comment period or delivered to addresses other than those listed above (see "**DATES**") may not necessarily be considered or included in the Administrative Record for the final rule.

Public Hearings

OSMRE will hold public hearings on the proposed rule on request only. The time and date scheduled for the Washington, DC hearing are specified previously in this notice (see "**DATES**" and "**ADDRESSES**"). The times, dates and addresses for any other hearings have not yet been scheduled, but will be announced in the **Federal Register** at least seven days prior to any hearings which are held at these locations.

Any person interested in participating at a hearing at a particular location should inform Mr. Boyd (see "**FOR FURTHER INFORMATION CONTACT**") either orally or in writing of the desired hearing location by 4:00 p.m. Eastern time December 9, 1987. If no one has contacted Mr. Boyd to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons in attendance wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a copy of their testimony. To assist OSMRE in preparing appropriate questions, OSMRE also requests that persons who plan to testify submit to OSMRE at the address previously specified for the submission of written comments (see "**ADDRESSES**") an advance copy of their testimony.

II. Background

Section 502(d) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, prohibits the conduct of surface coal mining operations without a permanent program permit for more than eight months after approval of the State or Federal regulatory program. All operators who expect to continue to operate eight months after the Secretary of the Interior approves a State regulatory program (primacy) or implements a Federal program must submit a permit application to the regulatory authority within two months following primacy or the implementation of a Federal program. In addition, the regulatory authority must process, and grant or deny, permanent program permits within the eight-month period after primacy or the implementation of a Federal program for the operators who wish to continue to operate beyond that period.

However, section 506(a) of SMCRA recognizes the possibility that this task may be unachievable in some States due to workforce limitations and potential administrative delay in permit processing. As a result, that section provides that certain operators may continue to operate under their existing initial program permits after the eight-month period elapses. Operators holding an initial program permit may continue to operate beyond the eight-month period if they have filed an application, within the two-month deadline, for a permanent program permit and no initial administrative decision has been rendered.

On September 18, 1978, OSMRE proposed a rule to implement the section 506(a) exception. See the discussion at 43 FR 41667. The final rule was published on March 13, 1979. See 44 FR 15014 for the discussion and 44 FR 15350 for the rule. The final rule provided that an operator holding an initial program permit could continue operating after

the eight-month period if a timely and complete permanent program permit application had been filed.

On June 25, 1982, OSMRE proposed to revise this rule by providing a second exception to the prohibition on mining without a permit eight months after primacy or the implementation of a Federal program. Under the proposal, in addition to those holding a permit, any person authorized under the initial regulatory program to conduct surface coal mining operations could also continue operations beyond the eight-month period provided certain conditions were met. The purpose of the proposed change was to recognize that some existing operations required to have permits under the permanent regulatory program might not have been required to have permits under the initial regulatory program (47 FR 27694). The final rule, unchanged from the proposed rule, was published on September 28, 1983. Although the rule was adopted unchanged, one commenter did suggest that allowing continued operation of "unpermitted but authorized" mining operations exceeded the requirements of SMCRA. In disagreeing with the commenter, OSMRE stated that it would be "inequitable and contrary to [the intent of SMCRA] to deny some operators the privilege of continuing operations solely because they were not required to have a permit during the initial program." 48 FR 44354.

Subsequently, the regulation was challenged in the U.S. District Court for the District of Columbia. The court concluded that the rule "does not address the plain language of section 506(a) and Congress' express requirement that only permit holders be extended the grace period." It remanded the rule to the Secretary. *In Re: Permanent Surface Mining Regulation Litigation (II)*, No. 79–1144, (D.D.C.) July 15, 1985, Mem. Op. at 133.

III. Discussion of Proposed Rule

Section 506(a) of SMCRA prohibits mining without a permit eight months after the permanent regulatory program has been approved, unless an operator holding an initial program permit has applied for a permanent program permit but an initial administrative decision has not been rendered before the eight-month period expires. OSMRE is proposing to return to the language of the 1979 regulation, deleting the remanded exception for those who were authorized to conduct surface coal mining operations, but who did not have an initial program permit. This action would bring the rule into conformance with the court order.

The proposed rule is not intended to limit the responsibility of operators for the reclamation of surface coal mining operations. Operators must reclaim all operations that were not required to obtain permits under the initial program and that have ceased or will cease operation rather than obtain a permanent program permit. This rule is not intended to affect coal preparation plants for which a separate interim authorization to operate is found in 30 CFR 785.21(e). To avoid confusion, specific reference is made to the coal preparation plant regulations in the proposed rule language.

Subparagraphs (i), (ii) and (iii) under 30 CFR 773.11(b)(2) would remain unchanged. These paragraphs qualify the exception by establishing three requisite conditions. Under the first, the operator must file the permanent program permit application within two months following the effective date of the program. In addition, the regulatory authority must have not yet rendered an initial administrative decision on the application. Also, the surface coal mining operation must be in compliance with all applicable laws, rules, and permit terms and conditions.

IV. Procedural Matters

Effect in Federal Program States and on Indian Lands

The proposed rule would apply through cross-referencing in those States with Federal programs. They include Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947 respectively. The proposed rules also apply through cross-referencing to Indian lands under Federal programs for Indian lands as provided in 30 CFR Part 750. Comments are specifically solicited as to whether unique conditions exist in any of these States or on Indian lands which should be reflected as changes to the national rules or as specific amendments to any or all of the Federal programs or the Indian lands program. OSMRE is currently preparing a proposal to implement a Federal program for the State of California. Comments are also specifically solicited as to whether unique conditions exist in California that should be reflected in the proposed Federal program for that State.

Federal Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

Executive Order 12291 and Regulatory Flexibility Act

The DOI has determined that this document is not a major rule under the criteria of Executive Order 12291 (February 17, 1981) and certifies that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The rule would affect a relatively small number of surface coal mining operations. The rule does not distinguish between small and large entities. The economic effects of the proposed rule are estimated to be minor and no incremental economic effects are anticipated as a result of the rule.

National Environmental Policy Act

OSMRE has prepared a draft environmental assessment (EA), and has made an interim finding that the proposed rule would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). It is anticipated that a finding of no significant impact will be approved for the final rule in accordance with OSMRE procedures under NEPA. The EA is on file in the OSMRE Administrative Record at the address specified previously (see "**ADDRESSES**"). An EA will be completed on the final rule and a finding made on the significance of any resulting impacts prior to promulgation of the final rule.

Author

The principal author of this rule is Patrick W. Boyd, Branch of Federal and Indian Programs, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, Telephone: (202) 343–4561.

List of Subjects in 30 CFR Part 773

Reporting and recordkeeping requirements, Surface mining, Underground mining.

Accordingly, it is proposed to amend 30 CFR Part 773 as set forth below:

Dated: October 16, 1987.

James E. Cason,

Acting Assistant Secretary—Land and Minerals Management.

PART 773—REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

1. The authority citation for Part 773 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, 16 U.S.C. 470 *et seq.*, 16 U.S.C. 1531 *et seq.*, 16 U.S.C.

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661 *et seq.*, 16 U.S.C. 703 *et seq.*, 16 U.S.C. 668a *et seq.*, 16 U.S.C. 449 *et seq.*, 16 U.S.C. 470aa *et seq.*, and Pub. L. 100-34.

2. The introductory language to paragraph (b)(2) of § 773.11 is revised to read as follows:

§ 773.11 Requirements to obtain permits.

(b) * * *

(2) Except for coal preparation plants separately authorized to operate under 30 CFR 785.21(e), a person conducting surface coal mining operations, under a permit issued or amended by the regulatory authority in accordance with the requirements of section 502 of the Act, may conduct such operations beyond the period prescribed in paragraph (a) of this section if—

* * * * *

[FR Doc. 87-25918 Filed 11-6-87; 8:45 am]
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federal register

Monday
November 9, 1987

Part VII

Federal Reserve System

12 CFR Part 226
Truth in Lending; Competitive Equality Banking Act; Limitations on Interest Rates; Final Rule

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FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0613]

Truth in Lending; Competitive Equality Banking Act; Limitations on Interest Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is revising Regulation Z (the regulation that implements the Truth in Lending Act) to implement section 1204 of the Competitive Equality Banking Act of 1987. Section 1204 provides that, effective December 9, 1987, any adjustable rate mortgage loan originated by a creditor must include a limitation on the maximum interest rate that may apply during the term of the loan. The final rule, incorporating the new law into Regulation Z, limits the scope of section 1204 to dwelling-secured consumer credit, that is subject to the Truth in Lending Act and Regulation Z, in which a creditor may make interest rate changes during the term of the credit obligation—whether those changes are tied to an index or formula or are within the creditor's discretion. The rule applies the statutory requirement to both closed-end and open-end credit. As a result, effective December 9, 1987, creditors are required to set a lifetime maximum interest rate on all credit obligations secured by a dwelling that require variable-rate disclosures under Regulation Z, where the interest rate may increase. In addition, creditors offering open-end lines of credit secured by a dwelling in which the creditor has the contractual right to change the interest rate—the periodic rate and corresponding annual percentage rate—on an account are also required to set a lifetime maximum interest rate applicable during the plan. The rule applies only to credit obligations entered into prior to December 9, 1987.

Creditors must specify the lifetime maximum rate of interest that may be imposed on obligations subject to section 1204 in their credit contracts (the instrument signed by the consumer that imposes personal liability). Determination of the maximum rate is within the creditor's discretion. Until October 1, 1988, compliance with section 1204—specifying the maximum interest rate in credit contracts—meets the requirement in Regulation Z that creditors disclose limitations on rate increases as part of the variable rate disclosures for open-end credit plans and closed-end credit transactions.

EFFECTIVE DATE: December 9, 1987.

FOR FURTHER INFORMATION CONTACT: Adrienne D. Hurt, Senior Attorney, Division of Consumer and Community Affairs, at (202) 452-2412 or 452-3867; for the hearing impaired *only*, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

1. Background

On August 10, 1987, the Competitive Equality Banking Act of 1987, Pub. L. 100-86, 101 Stat. 552, was enacted into law. Section 1204 of the act provides that "[a]ny adjustable rate mortgage loan originated by a creditor shall include a limitation on the maximum interest rate that may apply during the term of the mortgage loan." (The law does not set the maximum interest rate.) An adjustable rate mortgage loan is defined in section 1204 as "any loan secured by a lien on a one-to-four family dwelling unit, including a condominium unit, cooperative housing unit, or mobile home, where the loan is made pursuant to an agreement under which the creditor may, from time to time, adjust the rate of interest." Creditors who regularly extend credit for personal, family or household purposes are subject to the statutory requirement.

Section 1204 further provides that failure to comply with the section is to be treated as a violation of the Truth in Lending Act (TILA); it specifically refers to the civil liability and administrative enforcement provisions of the act, sections 130 and 108, respectively. The law directs the Board to prescribe regulations to carry out its purposes. The law will become effective on December 9, 1987.

Given the broad language of section 1204, most of the questions about the law have concerned the scope of its coverage. On September 15, 1987, the Board published for public comment a proposal to amend Regulation Z to incorporate the substance of section 1204 into the regulation (52 FR 34811). The Board proposed to limit the scope of the statute to adjustable (interest) rate, dwelling-secured consumer credit obligations that are subject to the TILA and Regulation Z—both open-end and closed-end credit—entered into prior to December 9, 1987. Therefore, Regulation Z definitions, exemptions, and interpretations would apply to the new rule, where applicable. Under the proposal, creditors would be required to specify a lifetime interest rate cap in their credit contracts.

The Board received approximately 135 public comments on the proposed amendment. A majority of the commenters agreed with the Board's interpretation of the law's general coverage and the Board's proposed rule for implementing the law. Some commenters disagreed with the Board's interpretation that section 1204 applies to open-end dwelling-secured plans that are not variable rate for purposes of TILA disclosures, but in which the creditor has the contractual right to change the terms of the plan, including the right to make interest rate changes. A small number of commenters questioned whether open-end credit should be covered at all. Some commenters urged limiting coverage to principal dwellings or owner-occupied dwellings. Other commenters suggested that more flexible rules be adopted to allow for changes in a maximum interest rate in certain instances during the term of an obligation. Most of the commenters that opposed the proposal did so because they opposed the law itself, not the Board's proposed rule implementing the law.

Following a further analysis of the law, and analysis of the comments, the Board is now adopting a final rule implementing section 1204. The final rule is much the same as the proposal but reflects some minor revisions. Some editorial revisions have been made to the regulatory text to more closely reflect the language of the statute and to provide more clarity. Footnote 50 has been clarified and expanded to cover both open-end and closed-end credit.

This notice provides guidance on a number of questions asked by commenters. (References are made to various sections of Regulation Z (12 CFR Part 226) and corresponding comments on those sections which are contained in the Official Staff Commentary to Regulation Z (12 CFR Part 226, Supp. I).) Much of this guidance will be incorporated into the seventh update to the staff commentary that will be published for comment in early December.

2. The Amendment to Regulation Z

The Board is adopting a rule amending Regulation Z to incorporate the substance of section 1204 into a new § 226.30 in Subpart D of the regulation. In addition, technical amendments are being made to § 226.1 of Regulation Z, in the paragraphs on authority, organization of the regulation, and enforcement and liability.

Section 226.30 limits the statutory requirement that a maximum interest rate be set, to dwelling-secured extensions of consumer credit covered by the TILA and Regulation Z in which a creditor may make interest rate changes. Thus, the rule applies only to consumer credit and not business credit. As a result, an adjustable rate business purpose loan is not subject to § 226.30, even if the loan is secured by a dwelling. (See § 226.3(a), and the commentary to that section; see also § 226.2(a)(19) for the definition of a dwelling)

A. Credit Obligations Subject to § 226.30

Section 226.30 will apply to all closed-end credit transactions and open-end credit plans allowing for interest rate changes during the term of the obligation. As a result, most dwelling-secured extensions of credit for which Regulation Z variable rate disclosures must be given will be subject to § 226.30. (See § 226.6(a)(2)n. 12 and § 226.18(f); see also comment 6(a)(2)–2 and comments 18(f)–1 and 18(f)–6 for definitions and explanations of variable rate obligations and disclosure requirements). Section 226.30 applies to credit sales as well as to loans.

The following are examples of the types of closed-end transactions or open-end plans that are subject to § 226.30:

- Dwelling-secured open-end lines of credit in which the creditor has the contractual right to make interest rate changes during the plan, even if the adjustments apply to new advances only. (See comment 6(a)(2)–2)
- Renegotiable rate mortgage instruments, described in comment 18(f)–6 as a series of short-term loans where upon maturity the creditor is legally obligated to renew the loan. (The legal obligation of the parties to an extension of credit subject to Regulation Z is determined by applicable state or other law. See generally comments 17(c)(1)–1 and 17(c)(1)–(2)
- Multiple advance transactions disclosed as a single transaction, if the interest rate on the advances is unknown at consummation. (See § 226.17(c)(6)(i) and comment 17(c)(6)–1)
- Refinancings as defined in § 226.20(a)—entered into prior to December 9, 1987—of credit obligations that are dwelling-secured and that allow for interest rate changes
- Assumptions—entered into prior to December 9, 1987—of credit obligations that are dwelling-secured and that allow for interest rate changes (See generally discussion of assumptions in section F of this notice)
- Credit obligations allowing for interest rate changes to which a security interest in a dwelling is added on or after December 9, 1987
- Dwelling-secured credit obligations to which a variable rate feature is added on or after December 9, 1987

B. Credit Obligations Not Subject to § 226.30

Section 226.30 does *not* apply to dwelling-secured closed-end transactions and open-end credit plans in which the interest rate may *not* change during the term of the obligation. Therefore, the following types of transactions or plans are *not* subject to § 226.30.

- "Shared-equity" or "shared-appreciation" mortgages as described in comment 18(f)–6
- Fixed-rate multiple advance transactions in which each advance is disclosed as a separate transaction
- Fixed-rate balloon payment mortgages that the creditor may, but does not have a legal obligation to, renew at maturity. (The legal obligation of the parties to an extension of credit subject to Regulation Z is determined by applicable state law or other law.) See generally comments 17(c)(1)–1 and 17(c)(1)–2)

C. Statement of the Cap in Credit Contracts

Creditors will be required to specify in their credit contracts (the instrument signed that creates personal liability) a maximum interest rate (a lifetime cap) that could be imposed on credit obligations. Creditors may comply with the requirement, for example, by attaching an addendum to existing credit contracts, or typing or stamping a provision onto the credit contract, provided that such modifications are deemed part of the legal obligation under applicable state law. Creditors may set the lifetime cap at any amount they choose.

On loans with multiple variable rate features, creditors may establish a maximum interest rate for each variable rate feature or may establish one that will apply to all. For example, in a variable rate loan that has an option to convert to a fixed-rate (which is itself a variable rate feature) a creditor may set a maximum interest rate on each feature (one for the initial variable rate feature and one for the fixed-rate conversion option) or may establish one maximum interest rate applicable to all features.

State law may allow an interest rate after default to be higher than the contract rate; however, the default interest rate may not exceed the maximum interest rate on a credit obligation that is otherwise subject to the requirement of § 226.30.

The maximum interest rate must be stated either as a specified amount or in any other manner that would allow the consumer to easily ascertain, at the time of entering into the obligation, what the lifetime cap will be over the term of the obligation. For example, the following statements would be sufficiently specific:

- The maximum interest rate will not exceed X%.
- The interest rate will never be higher than X percentage points above the initial rate of Y%.
- The maximum interest rate will not exceed X% or the state usury ceiling, whichever is less.

The following statements would not comply with the regulation:

- The interest rate will never be higher than X percentage points over the going market rate.
- The interest rate will never be higher than X percentage points above (a rate to be determined at some future point in time).
- The interest rate will not exceed the state usury ceiling which is currently X%.

The latter example does not mean that a credit may not establish a state usury ceiling as the maximum rate to be imposed on a credit obligation, since choice of a maximum is within the creditor's discretion. The problem with the latter statement is that it suggests that if the state usury ceiling later increases, then the maximum rate imposed on the transaction will increase, without stating what the outer limit of an increase in the rate might be. (See example under permissible statements)

A creditor would be in compliance with § 226.30 by stating the maximum interest rate in terms of a maximum annual percentage rate that may be imposed. Under an open-end credit plan, this would be the corresponding (nominal) annual percentage rate. (See §§ 226.6(a) and 226.7(d))

Under Regulation Z, § 226.19, early TILA disclosures are required for certain closed-end residential mortgage transactions. Although the maximum interest rate set forth in the credit contract under § 226.30 must be stated with certainty, that requirement does not affect the disclosure requirements of § 226.19. Those disclosures may continue to be stated as estimates, where appropriate. (See comment 19(a)–2 and § 226.17(c))

D. Prospective Application

Section 226.30 does not cover credit obligations entered into prior to December 9, 1987. Consequently, new

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advances under open-end credit plans existing prior to December 9, 1987 are not subject to § 226.30. Modifications of agreements entered into prior to December 9, 1987 are not covered by § 226.30; however, if a variable rate feature is added on or after December 9, 1987 to a dwelling-secured credit obligation, the obligation becomes subject to § 226.30. If a security interest in a dwelling is added on or after December 9, 1987, to a credit obligation with a variable rate feature, the obligation becomes subject to § 226.30.

In determining whether an obligation is entered into on or after December 9, 1987, the consumer's *signing* of the instrument that imposes personal liability (which is typically done at closing) governs whether an obligation is subject to the requirement in § 226.30. In some states, the signing of a commitment letter may create a binding obligation, for example, constituting "consummation" as defined in § 226.2(a)(13) which requires TILA disclosures to be given at that time. In this situation, it is still the actual date of the signing of the loan documents that would govern whether the transaction is subject to § 226.30.

E. Changes in the Maximum Interest Rate Cap

One issue raised by several commenters was whether the required interest rate cap on a loan could be changed during the term of the obligation. For example, they asked whether the maximum interest rate could be changed using the change in terms provision of Regulation Z, § 226.9(c), or whether the maximum interest rate could be changed by the creditor if a consumer and a lender agreed to changes in the terms and conditions of the original open-end or closed-end credit obligation.

The law requires that a maximum interest rate be set for the term of a loan. Under the Board's rule, a creditor would not be permitted to increase the maximum interest rate originally set unless the consumer and the creditor entered into a new obligation. Under an open-end plan subject to § 226.30, a creditor cannot raise the maximum interest rate on the plan by use of a change in terms notice. If a creditor were permitted to use a change in terms notice to increase a maximum interest rate that has been imposed on a plan, the creditor would not, in fact, have set a maximum rate on the plan in accordance with § 226.30.

A new maximum interest rate could be set only if there was a refinancing as defined in § 226.20(a) of Regulation Z or an open-end plan was closed and a new one opened. Thus, modifications of an existing agreement that do not constitute a refinancing or a new plan do not allow for a change in the maximum interest rate cap set under the original agreement, even if additional credit is extended. If an open-end plan subject to § 226.30 has a fixed maturity and a creditor renews the plan at maturity, without having a legal obligation to do so, a new maximum interest rate may be set at that time.

F. Assumptions

Under the Board's proposal, the assumption of an obligation subject to the new law would allow for a change in the maximum interest rate if the assumption met the test set forth in § 226.20(b). In § 226.20(b) only assumptions of purchase money residential mortgage transactions, in which a creditor formally assents to an assumption in writing, are considered new transactions for purposes of Truth in Lending disclosure. As several commenters pointed out, when a new obligor is substituted for the original party to a credit obligation, it essentially becomes a new loan. Under the final rule, for purposes of § 226.30, where an obligation subject to § 226.30 is assumed and the original obligor is released from liability, the maximum interest rate set on the obligation may be changed as part of the assumption agreement.

G. Truth in Lending Disclosure of Limitations on Increases

Various proposals providing for comprehensive revisions to Truth in Lending Act requirements for closed-end adjustable rate mortage loan disclosures and open-end home equity lines of credit are currently being considered for Board review. To relieve some of the burden of making multiple changes in TILA disclosures within a short period time—should the Board adopt these proposals—the Board is adopting an interim rule (as footnote 50 to § 226.30). The rule provides that between December 9, 1987 and October 1, 1988 compliance with § 226.30—that is, placing the maximum interest rate cap in the credit contract—will satisfy the Regulation Z requirement, contained in § 226.6(a)(2)n.12 and § 226.18(f)(2), to disclose a limit on rate increases on variable rate closed-end transactions and open-end plans. In other words, no revisions to Truth in Lending disclosure forms to add the limitations on an increase disclosure are required by this amendment to Regulation Z to implement section 1204 of the Competitive Equality Banking Act until October 1, 1988, provided that the requirement in § 226.30 is met.

Transition rules. In some instances the requirement to give TILA disclosures may not be contemporaneous with the date of signing loan documents. In situations in which TILA disclosures are given before December 9, 1987 and the signing may occur on or after December 9, 1987—thus triggering the § 226.30 requirement—the failure to include a maximum interest rate disclosure in TILA disclosures given at the earlier time would not violate the TILA, provided that § 226.30 is complied with—that is, the maximum interest rate is stated in the credit contract. (See generally discussion of prospective application in section D of this notice)

H. Creditor's Right To Terminate and Call a Loan Due Solely Because the Maximum Interest Rate Cap is Reached

In its September proposal, the Board expressed concern about the possibility that a creditor might terminate an open-end plan and call the oustanding balance payable in full—solely because the maximum interest rate cap is reached—could have an adverse effect on consumers. Since Regulation Z does not currently call for disclosure of this particular right to terminate, the Board solicited comment on whether a creditor that reserves this right should be required to specifically disclose this fact.

A majority of the commenters that responded to this particular issue shared the Board's concern about the right and supported disclosure of the right. A few commenters cautioned that highlighting this one right of termination might encourage the practice or, alternatively, might confuse a consumer into thinking that it is the only reason that an account might be called. Although the Board solicited comment on disclosure of the right, a few commenters went further, to say the right itself was undesirable, and indicated their support for its being prohibited. Although the Board believes that disclosure of this matter should be made, it is not now making it mandatory. Rather, the Board has decided to consider the question of such disclosure as part of a comprehensive proposal for new home equity line disclosures under the TILA that the Board will soon be reviewing. This decision is based on the Board's desire to avoid the unnecessary burden of multiple changes in TILA disclosure forms within a short period of time, should the Board decide to propose new home equity line disclosures.

3. Economic Impact Statement

The Board's Division of Research and Statistics has prepared an economic impact statement on the revisions to Regulation Z. A copy of the analysis may be obtained from Publications Services, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-3245.

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Rate Limitations, Truth in lending.

4. Text of the Revisions

Pursuant to authority granted in Title XII, section 1204(b) of the Competitive Equality Banking Act of 1987, Pub. L. No. 100-86, 101 Stat. 552, the Board is amending Regulation Z (12 CFR Part 226) as follows:

PART 226—TRUTH IN LENDING

1. The authority citation for Part 226 is revised to read as follows:

Authority: Sec. 105, Truth in Lending Act, as amended by sec. 605, Pub. L. 96-221, 94 Stat. 170 (15 U.S.C. 1604 et seq.); sec. 1204(c), Competitive Equality Banking Act, Pub. L. 100-86, 101 Stat. 552.

2. Section 226.1 is amended by revising paragraphs (a), (d)(4) and (e) to read as follows:

Subpart A—General

§ 226.1 Authority, purpose, coverage, organization, enforcement and liability.

(a) *Authority.* This regulation, known as Regulation Z, is issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending and Fair Credit Billing Acts, which are contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*). This regulation also implements title XII, section 1204 of the Competitive Equality Banking Act of 1987 (Pub. L. 100-86, 101 Stat. 552). Information-collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB No. 7100-0199.

* * * * *

(d) * * *

(4) Subpart D contains rules on oral disclosures, Spanish language disclosure in Puerto Rico, record retention, effect on state laws, state exemptions, and rate limitations.

* * * * *

(e) *Enforcement and liability.* Section 108 of the act contains the administrative enforcement provisions. Sections 112, 113, 130, 131, and 134 contain provisions relating to liability for failure to comply with the requirements of the act and the regulation. Section 1204(c) of Title XII of the Competitive Equality Banking Act of 1987, Pub. L. No. 100-86, 101 Stat. 552, incorporates by reference administrative enforcement and civil liability provisions of sections 108 and 130 of the act.

* * * * *

3. A new § 226.30 is added to Subpart D to read as follows:

Subpart D—Miscellaneous

§ 226.30 Limitation on rates.

A creditor shall include in any consumer credit contract secured by a dwelling and subject to the act and this regulation the maximum interest rate that may be imposed during the term of the obligation [50] when:

(a) In the case of closed-end credit, the annual percentage rate may increase after consummation, or

(b) In the case of open-end credit, the annual percentage rate may increase during the plan.

By order of the Board of Governors of the Federal Reserve System, dated November 5, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-26049 Filed 11-6-87; 9:16 am]

BILLING CODE 6210-01-M

[50] Compliance with this section will constitute compliance with the disclosure requirements on limitations on increases in footnote 12 to §§ 226.6(a)(2) and 226.18(f)(2) until October 1, 1988.

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Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Memorandum of November 6, 1987

Indonesia and the Generalized System of Preferences

Memorandum for the United States Trade Representative

Pursuant to section 504(c)(3) of the Trade Act of 1974, as amended (the Act) (19 U.S.C. 2464(c)(3)), I am hereby waiving the application of section 504(c) with respect to lawn tennis balls provided for in item 734.85 of the Tariff Schedules of the United States. I have received the advice of the United States International Trade Commission as to any industries in the United States that would likely be adversely affected by such waivers, and I have determined, based on that advice and on the considerations described in sections 501 and 502(c) of the Act, that such a waiver is in the national economic interest of the United States.

This memorandum shall be published in the Federal Register.

Ronald Reagan

THE WHITE HOUSE,
Washington, November 6, 1987.

[FR Doc. 87-26170
Filed 11-6-87; 4:57 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 5738 of November 6, 1987

National Women Veterans Recognition Week, 1987

By the President of the United States of America

A Proclamation

During wartime and peacetime American women in every branch of the Armed Forces have defended our country and our ideals with devotion and distinction. Such service, of course, is neither easy nor without risk. As veterans, these women continue to contribute to our Nation in civilian life. The week in which Veterans Day falls is a most appropriate time to offer women veterans our heartfelt respect and thanks for their part in preserving our freedom and security.

This week we also remember that our gratitude as a Nation must include meeting women veterans' special needs and concerns. With the help of its Advisory Committee on Women Veterans, the Veterans' Administration has sought creative, effective ways to do this. National Women Veterans Recognition Week is a fine time to both redouble our efforts and express our appreciation.

To create greater public awareness and recognition of the many achievements of women veterans, the Congress, by Senate Joint Resolution 171, has designated the week beginning November 8, 1987, as "National Women Veterans Recognition Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning November 8, 1987, as National Women Veterans Recognition Week. I encourage all Americans and government officials at every level to celebrate this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of Nov. in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-26199
Filed 11-9-87; 10:33 am]
Billing code 3195-01-M

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Presidential Documents

Proclamation 5739 of November 6, 1987

National Family Bread Baking Month, 1987

By the President of the United States of America

A Proclamation

Bread, the staff of life, both gives and symbolizes sustenance. Until recent decades the American people baked their bread at home, and today many families enjoy this tradition, not simply for its wholesome nutrition but also for its rich association with the well-being and security of family life.

Baking bread at home provides a nutritious and delicious food and uses many products of American agriculture, such as wheat, rye, corn, dairy products, sugar, eggs, and other ingredients. Besides contributing to the physical needs of the family, baking bread at home can nourish its strength and unity as well, and teach and tell much about American traditions and values.

In recognition of the value of baking bread in the home, the Congress, by Senate Joint Resolution 163, has designated November 1987 as "National Family Bread Baking Month" and authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of November 1987 as National Family Bread Baking Month. I call upon the people of the United States to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of November, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-26198
Filed 11-9-87; 10:32 am]
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of Transportation

7 CFR Part 3305

Organization, Functions, and Availability of Information

AGENCY: Office of Transportation, USDA.

ACTION: Final rule.

SUMMARY: We are amending Chapter 33 of 7 CFR by adding a new Part 3305, captioned "Organization and Functions." This part describes the organization and functions of the Office of Transportation, and provides instructions concerning how to obtain information about the Office. This part is being established pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552).

EFFECTIVE DATE: November 10, 1987.

FOR FURTHER INFORMATION CONTACT: Wesley R. Kriebel, Deputy Administrator for Office of Transportation, USDA, Room 1405 Auditor's Building, 14th and Independence Avenue, SW., Washington, DC 20250. Area Code (202) 653-6000.

SUPPLEMENTARY INFORMATION:

Background

The Office of Transportation is describing its organization and functions, and providing instructions concerning how to obtain information about the Office.

This information is being provided pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552). This Act states, in part, that each agency must describe its central and field organization, and where the public may obtain information about the agency.

Executive Order 12291 and Regulatory Flexibility Act

This rule relates to internal agency management. Therefore, the provisions of Executive Order 12291 and the Regulatory Flexibility Act are not applicable.

Effective Date

Providing information concerning organization, function, and availability of information is a matter related to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register.

Paperwork Reduction Act

This action contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 3305

Organization and Functions, Freedom of Information.

Accordingly, we are establishing Part 3305, Chapter 33, Title 7 of the Code of Federal Regulations as follows:

PART 3305—ORGANIZATION AND FUNCTIONS

Public Information

Sec.

3305.1 Scope.
3305.2 Organization.
3305.3 Functions.
3305.4 Public inspection and copying.
3305.5 Requests for records.
3305.6 Appeals.

Authority: 5 U.S.C. 552.

Public Information

§ 3305.1 Scope.

(a) This regulation describes the organization and functions of the Office of Transportation (Office), and the methods by which the public may obtain information about the Office.

(b) The Office was established as an agency of the U.S. Department of Agriculture (USDA) by Secretary's Memorandum No. 1966, dated December 12, 1978. The Office coordinates broad phases of all Department transportation policies and programs under the following authorities:

(1) Agricultural Adjustment Act of 1938.

(2) Agricultural Marketing Act of 1946.

(3) Agricultural Trade and Assistance Act of 1954.

(4) Rural Development Act of 1972.

(5) International Carriage of Perishable Foodstuffs Act of 1982.

(c) Transportation programs of the USDA are carried out to ensure an efficient domestic and international transportation system for U.S. agricultural products.

§ 3305.2 Organization.

The Office is headed by an Administrator, who is assisted by a Deputy Administrator. The Office has two divisions—Domestic and International—and an Administrative Management Staff. The Administrator reports directly to the Assistant Secretary for Marketing and Inspection Services.

§ 3305.3 Functions.

(a) *Administrator.* Under the direction of the Assistant Secretary for Marketing and Inspection Services, the Administrator formulates, recommends, coordinates, and administers the overall program of the Office. The Administrator is authorized to execute documents, authorize expenditures, and issue rules, regulations, orders, or instructions deemed to be necessary and proper to discharge the functions assigned to the Office.

(b) *Deputy Administrator.* The Deputy Administrator assists the Administrator and, in the absence of the Administrator, serves as the Acting Administrator.

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(c) *Administrative Management Staff.* The staff provides support for Agency management regarding budget, accounting, personnel, and other administrative matters.

(d) *Domestic Division.* The Domestic Division undertakes programs that promote an efficient U.S. transportation system to producers, producer groups, shippers, and rural communities. It provides information and technical assistance to carriers, shippers, government officials, and rural organizations concerning fair and equitable rates, regulatory and legislative matters affecting rural America, and the improvement of rural roads and bridges. The Domestic Division also conducts short-term impact analyses on agricultural transportation issues, trends, and policies.

(e) *International Division.* The International Division develops programs and conducts technical research—often in cooperation with private industry—to find improved methods of moving products to world markets. It provides technical assistance to importers and exporters of agricultural commodities to increase trade and expand U.S. markets. It conducts economic impact studies and publishes reports on proposed maritime legislation and other international agricultural transportation issues.

§ 3305.4 Public inspection and copying.

(a) Under 5 U.S.C. 552(a)(2), certain materials must be made available for public inspection and copying, and a current index of these materials must be published quarterly or otherwise made available. The Office does not maintain any materials within the scope of these requirements.

(b) Available records may be inspected and copied in the Office from 8:30 a.m. to 5:00 p.m., local time, on regular working days. Records may also be obtained by mail. Copies will be provided at applicable rates, unless waived or reduced, in accordance with the Department of Agriculture fee schedule (7 CFR Part 1, Subpart A, Appendix A).

§ 3305.5 Requests for records.

(a) Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3. The Department's regulations at 7 CFR Part 1, Subpart A, as supplemented by the regulations in this part, provide guidance for requesting information from the Office.

(b) Requests for records shall be made in writing to the Deputy Administrator, Office of Transportation, U.S. Department of Agriculture, Washington, DC 20250. This official is authorized to:

(1) Grant or deny requests for Office records;

(2) Make discretionary releases of records when it is determined that the public interest would be better served by disclosing such records than by withholding them; and

(3) Reduce or waive fees.

(c) Requests should be reasonably specific in identifying the record requested and should include the name, address, and telephone number of the requester.

§ 3305.6 Appeals.

Any person whose initial request for records is denied—in whole or in part—may appeal that denial to the Administrator, Office of Transportation, USDA, Washington, DC 20250. The Administrator is the official authorized to make the determination on appeal.

Done at Washington, DC, this 4th day of November, 1987.

Martin F. Fitzpatrick, Jr.,

Administrator, Office of Transportation.

[FR Doc. 87-25940 Filed 11-9-87; 8:45 am]

BILLING CODE 3410-GR-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 324

Agricultural Loan Loss Amortization; Correction

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Interim rule with request for comments; correction.

SUMMARY: This document corrects the OMB control number in § 324.7, as published on page 41969 of the November 2, 1987 **Federal Register** (52 FR 41969).

FOR FURTHER INFORMATION CONTACT: William C. Crothers, (202) 898-6906.

Accordingly:

§ 324.7 [Corrected]

The OMB control number at the end of § 324.7, in the second column of page 41969, is corrected to read "3064-0091."

Dated: November 5, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-25976 Filed 11-9-87; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-23-AD; Amdt. 39-5362]

Airworthiness Directives; Pilatus Britten-Norman LTD, BN-2A Mark III Trislander Series (All Models and Serial Numbers) and BN-2 Islander Series (All Models and Series Numbers) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 86-07-02, Amendment 39-5362 (51 FR 28323; August 7, 1986), applicable to all Pilatus Britten-Norman LTD, BN-2A Mark III Trislander Series (all models and serial numbers) and BN-2 Islander Series (all models and serial numbers) airplanes. This correction is necessary because a portion of the paragraph making reference to certain Britten-Norman Service Bulletins (SBs) in the AD was inadvertently deleted from the text published in the **Federal Register.** Subsequent revision of the SBs have been issued which also are referenced in the AD.

EFFECTIVE DATE: November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. John P. Dow, Sr., FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of AD 86-07-02, Amendment 39-5362 (51 FR 28323; August 7, 1986), applicable to Pilatus Britten-Norman LTD, BN-2A Mark III Trislander Series airplanes, the FAA found that a portion of the paragraph describing the BN-2, and Britten-Norman SB.170 in the body of the AD was inadvertently deleted from the text of the AD. This omission was erroneously interpreted as not including the BN-2 Series Islander airplane from the requirements of AD 86-07-02. The proper information was included in the preamble when the AD was published in the **Federal Register.** In addition, subsequent revision of the Pilatus Britten-Norman LTD, SBs have been published, therefore, action is taken herein to make these corrections. Since this action corrects a deletion from a part of the AD clarifying the reference material and imposes no additional

burden on the public notice and procedure hereon are unnecessary and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By revising and reissuing AD 86-07-02, Amendment 39-5362, (51 FR 28323; August 7, 1986) as follows:

Britten-Norman Limited: Applies to all BN-2A Mark III Trislander Series (all Models and Serial Numbers) and BN-2 Islander Series (all Models and Serial Numbers) airplanes.

Compliance: Required prior to further flight after the effective date of this AD, unless already accomplished within the last 100 hours time-in-service (TIS), and thereafter at intervals not to exceed 100 hours TIS from the last inspection.

To preclude possible failure of the main gear, loss of control and possible catastrophic secondary failures to the airplane, accomplish the following:

(a) Inspect the junction of the torque link lug and upper case for cracks by visual means with 10-power magnifying glass or by dye penetrant.

(b) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where the inspection specified in paragraph (a) above can be accomplished.

(c) If cracked parts are found as a result of the inspection in paragraph (a) of this AD, prior to further flight replace the cracked parts with airworthy units.

(d) If the landing gear is replaced, only equal pairs of the same manufacturer are approved as replacement parts. Mixing of different manufacturer landing gears is not authorized.

(e) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishment of these inspections concurrent with other scheduled maintenance on the airplane.

(f) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Office, AEU-100, Europe, Africa and Middle East, FAA, c/o American Embassy, B-1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Pilatus Britten-Norman LTD, Bembridge, Isle of Wight, England, or the FAA Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Note: While the AD applies to all Pilatus Britten-Norman LTD, BN-2A Mark III Trislander Series and BN-2 Islander Series airplanes landing gear, the following information refers to the Fairey Hydraulics Limited landing gear: CAA-UK Airworthiness Directive No. 005-03-86, uses Pilatus Britten-Norman Campaign Wires BN-2/SB's 170, 173, 173A, and 173B; Pilatus Britten-Norman Mandatory Service Bulletin SB 170, Issue 2, dated April 14, 1986; Pilatus Britten-Norman Service Bulletin SB 173 dated June 2, 1986. Since issuance of CAA-UK AD No. 005-03-86, BN-2/SB.170 Issue 3 Dated July 20, 1987, and BN-2/SB.173 Issue 2 dated March 27, 1987, have also been issued.

This AD became effective on August 13, 1986, to all persons except those to whom it had already been made effective by priority letter from the FAA dated March 28, 1986.

This correction becomes effective on November 9, 1987.

Issued in Kansas City, on October 23, 1987.

Don C. Jacobsen,

Acting Director, Central Region.

[FR Doc. 87-26118 Filed 11-9-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 389

[Docket No. RM87-32-000; Order No. 480]

Requirements of Landowner Notification Under Section 14 of the Electric Consumers Protection Act

November 4, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; Notice of OMB control number.

SUMMARY: On September 30, 1987, the Federal Energy Regulatory Commission issued a final rule (Order No. 480) in Docket No. RM87-32-000, 52 FR 37284 (Oct. 6, 1987). The rule amended the Commission's regulations to conform to the requirement in the Electric Consumers Protection Act that a hydroelectric license applicant notify, by certified mail, affected landowners and government entities of the license application. This notice states that OMB has approved the information collection requirements in Order No. 480.

EFFECTIVE DATE: November 4, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lane, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501-3520 (1982) and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1987), require that OMB approve certain information collection requirements imposed by agency rules. On November 2, 1987, the OMB approved the information collection requirements of 18 CFR 4.32 as amended by this rule under Control Numbers 1902-0058 and 1902-0115. Therefore, the final rule in Docket No. RM87-32-000 is effective November 5, 1987.

The Commission recognizes that applicants may need to notify the same government entities of the license application pursuant to 18 CFR 4.32 and 18 CFR 4.38. However, notification under § 4.32 must be by certified mail while notification under § 4.38 may be by any means. Therefore, while notification by a method other than certified mail may satisfy the requirements of § 4.38 it does not meet the requirements of § 4.32. If an applicant notifies government entities by any means other than certified mail under § 4.38, it must do so again by certified mail in order to meet the requirements of § 4.32. But, if the applicant notifies government entities by certified mail it can meet the requirements of both §§ 4.32 and 4.38.

List of Subjects in 18 CFR Part 389

Reporting and recordkeeping requirements.

Accordingly, Part 389, Chapter I, Title 18, Code of Federal Regulations is amended as set forth below.

Lois D. Cashell,

Acting Secretary.

PART 389—OMB CONTROL NUMBERS FOR COMMISSION INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 389 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982).

§ 389.101 [Amended]

2. The Table of OMB Control Numbers in § 389.101(b) is amended by revising the OMB Control Number Column corresponding to "4.32" in the section column to read "0058, 0073, 0115".

[FR Doc. 87-25027 Filed 11-9-87; 8:45 am]

BILLING CODE 6717-01-M

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 103

[T.D. 87-137]

Customs Regulations Amendment Relating to Availability of Information Compiled For Law Enforcement Purposes

AGENCY: Customs Service, Treasury.

ACTION: Interim regulations.

SUMMARY: This document amends the Customs Regulations on an interim basis to conform the regulations to certain changes made to the Freedom of Information Act by the Freedom of Information Reform Act of 1986. These changes altered the criteria used by Federal agencies to exempt from disclosure, records and information compiled for law enforcement purposes. An agency may now exempt from disclosure investigatory records the production of which "could reasonably be expected" to interfere with law enforcement proceedings. This standard ("could reasonably be expected") represents a lower threshold for withholding records. In addition, an agency can treat records as outside the scope of the FOIA if they pertain to a criminal proceeding or investigation, the subject is unaware of its pendency, and disclosure of the existence of such records could reasonably be expected to interfere with such proceedings.

The change merely conforms the regulations to a statutory change already in effect and, because of its impact on law enforcement, it is in the public interest to make the regulatory change as soon as possible.

EFFECTIVE DATE: November 10, 1987. Written comments must be received on or before January 11, 1988.

ADDRESS: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Customs Service Headquarters, Room 2324, 1301 Constitution Avenue NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Lee H. Kramer, Disclosure Law Branch, (202-566-8681).

SUPPLEMENTARY INFORMATION:

Background

The Anti-Drug Abuse Act of 1986 (Pub. L. 99-570) provides for a wide range of programs and measures to enhance efforts to counteract the problem of drug abuse in the U.S. sections 1801-1804 of title 1, Subtitle N of Pub. L. 99-570, cited as the "Freedom of Information Reform Act of 1986", amended the Freedom of Information Act (FOIA) (5 U.S.C. 552) relative to the availability of information compiled for law enforcement purposes. As amended by section 1802, 5 U.S.C. 552(b)(7) now provides that an agency may exempt from disclosure, investigatory records compiled for law enforcement purposes, the production of which "could reasonably be expected" to interfere with law enforcement proceedings. This standard ("could reasonably be expected") represents a lower threshold for withholding records. As amended, the statute provides that law enforcement records or information may be withheld when: Disclosure could reasonably be expected to interfere with enforcement proceedings; would deprive a person of a right to a fair trial or an impartial adjudication; could reasonably be expected to constitute an unwarranted invasion of personal privacy; could reasonably be expected to disclose the identity of a confidential source; would disclose law enforcement techniques or investigation/prosecution guidelines; or could reasonably be expected to endanger the life or physical safety of any individual. Changes were also made relative to an exemption for certain pending criminal investigations when the subject of the investigation or proceeding is not aware of its pendency and the disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings. These statutory changes require conforming changes to § 103.12, Customs Regulations (19 CFR 103.12), which sets forth the type of U.S. Customs Service records which are exempt from disclosure under 5 U.S.C. 552.

Inapplicability of Public Notice and Delayed Effective Date Provisions

Inasmuch as this amendment merely conforms the regulations to a statutory change already in effect, and because of its positive impact on law enforcement, it is in the public interest to make the regulatory change effective as soon as possible. Accordingly, notice and public procedure are unnecessary pursuant to 5 U.S.C. 553(b)(B), and for the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Executive Order 12291

Because this document will not result in a "major rule" as defined in E.O. 12291, Customs has not prepared a regulatory impact analysis.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Drafting Information

The principal author of this document was Arnold L. Sarasky, Regulations Control Branch, U.S Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 103

Freedom of information.

Amendment To The Regulations

Part 103, Customs Regulations (19 CFR Part 103), is amended as set forth below:

PART 103—AVAILABILITY OF INFORMATION

1. The general authority citation for Part 103 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 19 U.S.C. 66, 1624, 31 U.S.C. 483a.

2. Section 103.12 is amended by revising paragraph (g) and adding new paragraphs (h) and (i), to read as follows:

§ 103.12 Exemptions.

* * * * *

(g) *Certain investigatory records.* Records or information compiled for law enforcement purposes, but only to the extent that the production of such enforcement records or information:

(1) Could reasonably be expected to interfere with enforcement proceedings;

(2) Would deprive a person of a right to a fair trial or an impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(5) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual.

(h) *Certain pending criminal investigation.* Whenever a request is made which involves access to records described in paragraph (g)(1) of this section, and

(1) The investigation or proceeding involves a possible violation of criminal law; and

(2) There is reason to believe that the subject of the investigation or proceeding is not aware of its pendency, and disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, Customs may, during only such times as that circumstance continues, treat the records as not subject to the requirements of this Part.

(i) *Informant records.* Whenever informant records maintained by Customs under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, Customs may treat the records as not subject to the requirements of this Part unless the informant's status as an informant has been officially confirmed.

William von Raab,
Commissioner of Customs.

Approved: October 23, 1987.

Francis A. Keating, II,
Assistant Secretary of Treasury.

[FR Doc. 87-26002 Filed 11-9-87; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF STATE

22 CFR Part 31

[108.867]

Administrative Settlement of Tort Claims and Certain Property Damage Claims

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This publication amends the Department of State's regulations concerning Administrative Settlement of Tort Claims and Certain Property Damage Claims to reflect that, pursuant to a delegation of authority signed by the Secretary of State and a redelegation of authority signed by the Legal Adviser to the Secretary, the Assistant Legal Adviser for International Claims and Investment Disputes is authorized to consider, ascertain, adjust, and determine all claims arising from the above acts, including the denial of all claims, and to compromise and settle such claims in the amount of $2,500 or less. The delegation of authority and redelegation are published elsewhere in this issue.

EFFECTIVE DATE: November 10, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald J. Bettauer, Assistant Legal Adviser for International Claims and Investment Disputes, Department of State, Washington, DC 20520; telephone (202) 632-7810.

SUPPLEMENTARY INFORMATION: The Administrative Settlement of Tort Claims and Certain Property Damage Claims provisions in part establish and provide a procedure for the preparation and submission of claims capable of administrative settlement under the Federal Tort Claims Act (22 U.S.C. 2672), as amended and the Act of August 1, 1956 (5 U.S.C. 170g), and authorize certain officers of the Department of State to consider, ascertain, adjust, determine, compromise and settle such claims. These provisions have been amended to reflect that the Assistant Legal Adviser for International Claims and Investment Disputes is authorized to consider, ascertain, adjust and determine all claims arising from the above acts, including the denial of all claims, and to compromise and settle such claims in the amount of $2,500 or less.

List of Subjects for 22 CFR Part 31

Claims.

Accordingly, 22 CFR Part 31 is amended as follows:

PART 31—[AMENDED]

1. The authority citation for Part 31 continues to read as follows:

Authority: 49 Stat. 906, as amended, sec. 4, 63 Stat. 111, as amended, sec. 2, 70 Stat. 890, sec. 1, 62 Stat. 983, as amended at 80 Stat. 306; 22 U.S.C. 277e, 2658, 2669, 28 U.S.C. 2672; 28 CFR 14.11.

§ 31.2 [Amended]

2. Section 31.2 is amended in the first sentence by replacing the "and" after the "Legal Adviser" with a comma, adding "and the Assistant Legal Adviser" after "the Deputy Legal Advisers", adding "compromise," after "determine," and insert "and except that the Assistant Legal Adviser may only award, compromise or settle claims in the amount of $2,500 or less" before the period.

3. Section 31.3 is amended by adding the following paragraph:

§ 31.3 Definitions.

* * * * *

(j) "Assistant Legal Adviser" means the Assistant Legal Adviser for International Claims and Investment Disputes of the Department of State.

§ 31.4 [Amended]

4. Section 31.4(c) is amended by replacing "the Legal Adviser" with "the Assistant Legal Adviser for International Claims and Investment Disputes, L/CID".

§ 31.6 [Amended]

5. Section 31.6(a) is amended by replacing "the Legal Adviser, Deputy Legal Advisers" with "the Assistant Legal Adviser".

§ 31.8 [Amended]

6. Section 31.8(a) introductory text is amended by replacing "or Deputy Legal Advisers" with ", Deputy Legal Advisers or the Assistant Legal Adviser".

7. Section 31.8(b) is amended by replacing "the Legal Adviser" with "the Assistant Legal Adviser".

8. Section 31.8(c) is amended in the first sentence by replacing "or Deputy Legal Adviser" with ", Deputy Legal Adviser, or the Assistant Legal Adviser".

9. Section 31.8(d) is amended in the first sentence by replacing "or Deputy Legal Adviser" with "Deputy Legal Adviser, or the Assistant Legal Adviser".

Because these changes relate solely to delegations of authority for internal agency management of the claims process, these amendments do not constitute a rulemaking proceeding subject to the requirements of 5 U.S.C. 553.

Abraham D. Sofaer,
Legal Adviser.

Date: October 28, 1987.

[FR Doc. 87-25956 Filed 11-9-87; 8:45 am]

BILLING CODE 4710-08-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1120

Information Availability; Procedures

AGENCY: United States Architectural and Transportation Barriers, Barriers Compliance Board (ATBCB).

ACTION: Interim final rule and request for comments.

SUMMARY: The Architectural and Transportation Barriers Compliance Board is amending its regulation at 36 CFR Part 1120, Information Availability Procedures. These regulations, published in final form in the Federal Register on December 8, 1980 (45 FR 10012), provide information to the public on procedures for obtaining information

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from the Board. The amendments promulgated herein incorporate guidelines issued by the Office of Management and Budget (OMB) on March 27, 1987. (52 FR 10012) As explained in those guidelines, section 1803 of the Freedom of Information Reform Act of 1986 requires each Federal agency to establish by April 25, 1987, within OMB guidelines, a schedule and system for collecting fees to recover certain direct costs associated with responding to Freedom of Information Act (FOIA) requests. The ATBCB is now issuing amendments to incorporate these guidelines regarding standard government-wide definitions and administrative provisions for assessing and collecting FOIA fees. Because preparation and review of this interim final rule has taken longer than anticipated, and in light of the April 25, 1987, effective date of the new fee and fee waiver provisions of the Reform Act, the ATBCB is publishing this rule as an interim final rule which is effective upon publication. In response to the requirement that the regulations implementing such provisions be published for notice and comment, the ATBCB will carefully review the public comments in response to this interim final rule and publish a notice at a future date discussing the comments and amending or confirming, as appropriate, the effectiveness of the rule.

DATES: Effective November 10, 1987. Written comments must be submitted on or before December 10, 1987.

ADDRESS: Written comments should be addressed to the General Counsel, ATBCB, 330 C Street, SW., Room 1010, Washington, DC 20202. Comments received will be available for public inspection at the above address from 9 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mark W. Smith, ATBCB, 330 C Street, SW., Room 1010, Washington, DC 20202, (202) 245–1801 (v/TDD). This is not a toll-free number. This interim final rule is available on cassette at the above address for persons with visual impairments.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 1986, Congress enacted omnibus drug enforcement legislation which included amendments to the Freedom of Information Act (5 U.S.C. 552, as amended; Freedom of Information Reform Act of 1986, Pub. L. 99–570.) The revisions, among other things, required agencies to charge standard reasonable fees for the direct costs they incur in responding to FOIA requests. Further, the amendments required OMB to issue a uniform FOIA fee schedule for all agencies in order to ensure the consistent application of fees government-wide. On March 27, 1987, OMB issued its "Uniform Freedom of Information Act Fee Schedule and Guidelines." (52 FR 10012)

In responding to the statute's directive, OMB interpreted the direct cost provision of the legislation to mean the costs each agency incurs in operating its FOIA program. Therefore, since the costs of operating a FOIA program may vary from agency to agency, OMB determined that it was not feasible to establish a single set of FOIA fees, but rather that it was more appropriate to establish a standard set of criteria upon which agencies could establish individual fee schedules to assess actual charges for FOIA services.

This interim final rule incorporates the standard criteria developed by OMB and establishes a fee schedule for FOIA requests to the ATBCB.

Provisions of the Interim Final Rule

Subpart A, Section 1120.2

This section is amended to incorporate the standard definitions provided in OMB's guidelines. Definitions of the terms "direct costs," "document search," "duplication," and "review," clarify the nature of services to be provided. Definitions of the terms "commercial use requestor," "educational institution and non-commercial scientific institution," and "representative of the news media" provide criteria for classifying requestors.

Subpart D, Section 1120.25

This section is amended to correct an inaccurate reference regarding fee estimates and assurance of payments. In addition, it is amended to revise the dollar amount which establishes (in accordance with the dollar limitation specified in 5 U.S.C. 552) when such estimate/assurance will be required.

Subpart E, Section 1120.51

Changes in this section add a new paragraph (a) which states ATBCB policy with respect to assessing and collecting the full direct costs the agency incurs in responding to FOIA requests. Further, new paragraphs (b) and (c) are added to incorporate OMB guidelines regarding categories of requestors and levels of fees appropriate for each category. Paragraph (b) lists the four categories of requestors— commercial use requestor; educational and non-commercial scientific institution requestor; requestors who are representatives of the news media; and, all other requestors. Paragraph (c) specifies that, except for commercial use requestors, the ATBCB will provide each requestor two hours of search time and the first 100 pages of duplication without charge. Commercial use requestors will be charged the full direct costs of processing the request.

Subpart E, Section 1120.51(c) (1) Through (3)

The revisions found in this section impose a new fee schedule, established in accordance with OMB standard criteria. Accordingly the fees for search and review time, when performed by ATBCB employees, will be computed at the prevailing basic rate of pay (plus 16 percent) of the employee actually performing the work. If other than an ATBCB employee performs the work necessary to respond to an FOIA request, or if the ATBCB incurs expenses due to any other methods employed to respond to the request, the requestor will be charged according to the actual direct charges to the ATBCB. Charges for reproduction of documents would be assessed at a per-page rate for paper copies of the documents requested. All other direct costs of searching for, reviewing and duplicating records will be based on the actual direct cost to the ATBCB of providing such service.

Subpart E, Section 1120.51(b)

Amendments to this section address requirements that (1) agencies provide free of charge to each requestor (other than commercial use requestors) two hours of search time and 100 copies of duplication; and (2) agencies not charge requestors if the cost of collecting and processing the fee is likely to exceed the fee itself. A new paragraph (g) is added to advise requestors that the ATBCB will aggregate requests if there is reason to believe a requestor has broken down a request to avoid fee assessments.

Subpart E, Section 1120.53

This section is amended to advise requestors that the ATBCB will charge interest on overdue payments and will employ the remedies afforded in the Debt Collection Act of 1982 to collect any overdue fees. Requestors are also advised that advance payment or assurance of payment may be required if the amount due is likely to exceed $250.00 (an amount established by Congress). Further, if a requestor fails to make timely payments, the agency may not process further or pending requests until the debt is cleared. ATBCB policy regarding fee waiver requests are also be addressed in these amendments. The policy is revised to state that commercial use requestors may not be approved for fee waivers based solely on the assertion of "in the public interest."

Other Information

The ATBCB has determined, as required by the National Environmental Policy Act of 1969, 42 U.S.C. 4332, that the rule will not have any significant impact on the environment. This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the ATBCB certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Accordingly, 36 CFR Part 1120 is amended as set forth below. By vote of the Board on September 18, 1987.

Thomas E. Harvey,

Chairperson.

Title 36 CFR Part 1120 is amended as follows:

PART 1120—INFORMATION AVAILABILITY: PROCEDURES

1. The authority citation for Part 1120 continues to read as follows:

Authority: 5 U.S.C. 552.

2. Subpart A, § 1120.2 is amended by adding paragraphs (h) through (o) at the end of that section to read as follows:

§ 1120.2 Definitions.

* * * * *

(h) "Direct Costs" means costs to the ATBCB of searching for and duplicating requested documents. However, with respect to commercial use requestors, as defined in paragraph (l) of this section, direct costs shall also include costs associated with review of the requested documents.

(i) "Search" means the time spent looking for material which responds to a request, including line-by-line identification of material within the documents requested.

(j) "Duplication" means the process of making a copy of a document necessary to respond to a request.

(k) "Review" means the process of examining and processing for release any documents located in response to a commercial use request to determine whether any portion of any document located is permitted to be withheld, except that it does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(l) "Commercial Use Requestor" means any person who seeks information for a use or purpose that is related to commerce, trade or profit as these terms are commonly known or have been interpreted by the courts in the context of the Freedom of Information Act.

(m) "Educational Institution" means an accredited institution of higher learning engaged in scholarly research.

(n) "Non-Commercial Scientific Institution" means an independent non-profit institution whose purpose is to conduct scientific research.

(o) "Representative of the News Media" means any representative of established news media outlets; i.e., any organization such as a television or radio station, or a newspaper or magazine of general circulation, or persons working for such organization which regularly publish information for dissemination to the general public whether electronically or in print. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

§ 1120.25 [Amended]

3. Subpart D, § 1120.25 is amended by (1) removing the reference "1120.32(d)," in the last sentence of the section, and substituting the reference "1120.33(d)"; and, (2) removing "$25.00" at the end of the last sentence of the section and inserting "$250.00".

4. Subpart E, § 1120.51 is amended by redesignating paragraph (b) as paragraph (e); by removing paragraphs (e) (1), (3) and (4); by redesignating paragraph (e)(2) as paragraph (e)(3) and paragraphs (e) (5) through (8) as (e) (4) through (7); and by adding new paragraphs (e) (1) and (2) to read as follows:

§ 1120.51 [Amended]

(e) * * *

(1) If the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee;

(2) For any request made by an individual or group of individuals falling into the categories described at § 1120.51(b) (excepting commercial use requests) the first two hours of search time and first 100 pages of duplication;

* * * * *

5. Subpart E, § 1120.51 is amended by redesignating paragraph (c) as paragraph (f) and adding to new paragraph (f) the following phrase after the words "unproductive searches" to read as follows:

"* * * or for searches when records located are determined to be exempt from disclosure"

6. Subpart E, § 1120.51 is further amended by revising paragraph (a) and adding new paragraphs (b), (c), (d) and (g) to read as follows:

§ 1120.51 Charges for services.

(a) It shall be the policy of the ATBCB to comply with requests for documents made under the FOIA using the most efficient and least costly methods available. Requestors will be charged fees, in accordance with the administrative provisions and fee schedule set forth below, for searching for, reviewing (in the case of commercial use requestors only), and duplicating requested records.

(b) Categories of requestors. For the purpose of standard FOIA fee assessment, the four categories of requestors are: Commercial use requestors; educational and non-commercial scientific institution requestors; requestors who are representatives of the news media; and, all other requestors (see § 1120.2 (l) through (o), Definitions).

(c) Levels of fees. Levels of fees prescribed for each category of requestor are as follows:

(1) Commercial use requestors. When the ATBCB receives a request for documents which appears to be a request for commercial use, the Board may assess charges in accordance with the fees schedule set forth below, which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Costs for time spent reviewing records to determine whether they are exempt from mandatory disclosure applies to the initial review only. No fees will be assessed for reviewing records, at the administrative appeal level, of the exemptions already applied.

(2) Educational and non-commercial scientific institution requestors. The ATBCB shall provide documents to requestors in this category for the cost of reproduction alone, in accordance with the fees schedule set forth below, excluding charges for the first 100 pages of reproduced documents.

(i) To be eligible for inclusion in this category, requestors must demonstrate the request is being made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

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(ii) Requestors eligible for free search must reasonably describe the records sought.

(3) Requestors who are representatives of the news media. The ATBCB shall provide documents to requestors in this category for the cost of reproduction alone, in accordance with the fee schedule set forth below, excluding charges for the first 100 pages of reproduced documents.

(4) All other requestors. The ATBCB shall charge requestors who do not fit into any of the categories described above, fees which recover the full direct cost of searching for and reproducing records that are responsive to the request, except that the first two hours of search time and the first 100 pages of reproduction shall be furnished without charge.

(d) Schedule of FOIA fees. (1) Record search (ATBCB employees)—$14.00 per hour.

(2) Document review (ATBCB employees)—$20.00 per hour.

(3) Duplication of documents (paper copy of paper original)—$.20 per page.

* * * * *

(g) Where the ATBCB reasonably believes that a requestor or group of requestors is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the ATBCB shall aggregate any such requests and charge accordingly.

§ 1120.53 [Amended]

7. Section 1120.53 is amended to redesignate paragraph (c) as (e); at the end of the first sentence of that section, insert a phrase to read: "and not the commercial interest of the requestor"; following the first sentence, insert a new sentence to read: "The ATBCB will not consider a request for waiver or reduction of fees, made by a commercial use requestor, based upon the requestor's assertion that disclosure would be in the public interest."; and, in the new third sentence of that paragraph remove the phrase beginning "a representative of the press * * *" to the end of that sentence, and insert in lieu thereof the following phrase to read: "representatives of educational and non-commercial scientific institutions, the news media, or other requestors such as representatives of public interest groups."

8. Subpart E, § 1120.53 is further amended by redesignating paragraph (b) as paragraph (c) and revising it to read as follows and adding a new paragraphs (b) and (d).

* * * * *

(b) Charging interest. The ATBCB may charge interest to those requestors failing to pay fees assessed in accordance with the procedures described in section 1120.51. Interest charges, computed at the rate prescribed in section 3717 of Title 31 U.S.C.A., will be assessed on the full amount billed starting on the 31st day following the day on which the bill was sent.

(c) Advance payment or assurance of payment.

(1) When an ATBCB office determines or estimates that the allowable charges a requestor may be required to pay are likely to exceed $250.00, the ATBCB may require the requestor to make an advance payment or arrangements to pay the entire fee before continuing to process the request. The ATBCB shall promptly inform the requestor (by telephone, if practicable) of the need to make an advance payment or arrangements to pay the fee. That office need not search for, review, duplicate, or disclose records in response to any request by that requestor until he or she pays, or makes acceptable arrangements to pay, the total amount of fees due (or estimated to become due) under this subpart.

(2) Where a requestor has previously failed to pay a fee charged in a timely fashion, the ATBCB may require the requestor to pay the full amount owed, plus any applicable interest, as provided in § 1120.53(b), and to make an advance payment of the full amount of the estimated fee before any new or pending requests will be processed from that requestor.

(3) In those instances described in paragraphs (c) (1) and (2) of this section, the administrative time limits prescribed in § 1120.33(d) will begin only after the ATBCB has received all fee payments due or acceptable arrangements have been made to pay all fee payments due.

(d) Effect of the Debt Collection Act of 1982 (Pub. L. 97–365). Requestors are advised that the ATBCB shall use the authorities of the Debt Collection Act of 1982, including disclosure to consumer reporting agencies and use of collection agencies, where appropriate, to encourage repayment of debts arising from freedom of information act requests.

* * * * *

[FR Doc. 87–25883 Filed 11–6–87; 8:45 am]

BILLING CODE 6820–SF–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL–3286–9]

National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Local Air Agency in Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; delegation of authority.

SUMMARY: Section 112(d) of the Clean Air Act permits EPA to delegate to the states the authority to implement and enforce the standards set out in 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP).

The State of Washington Department of Ecology (WDOE) on August 25, 1987, requested EPA to subdelegate to the Grant County Clean Air Authority (GCCAA) the authority to implement and enforce Subpart M (asbestos) under NESHAP. EPA granted the request on October 21, 1987. GCCAA now has the authority to enforce Subpart M (asbestos) as set forth in 40 CFR Part 61.

EFFECTIVE DATE: October 21, 1987.

ADDRESSES: Material in support of this subdelegation may be examined during normal business hours at the following locations: Air Programs Branch, (10A–87–17), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Armina Nolan, Air Programs Branch, AT–082, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442–1757, FTS: 399–1757.

SUPPLEMENTARY INFORMATION: Pursuant to section 112(d) of the Clean Air Act, as amended, the Regional Administrator of Region 10, EPA, delegated to the State of Washington Department of Ecology (WDOE) on February 28, 1975, the authority to enforce the National Emission Standard for Hazardous Air Pollutants (NESHAP) for asbestos. The delegation was announced in the Federal Register on April 1, 1975 (40 FR 14632).

On August 25, 1987, WDOE requested approval of a subdelegation to the Grant County Clean Air Authority (GCCAA). On October 21, 1987, the Regional Administrator concurred in the following letter:

Andrea Beatty Riniker,
Washington Department of Ecology, PV–11
Olympia, Washington 98504

Dear Ms. Riniker: On August 25, 1987, your Deputy Director, Phillip C. Johnson, requested EPA to subdelegate enforcement of the National Emission Standard for Hazardous Air Pollutants (NESHAP) for asbestos to the Grant County Clean Air Authority. We have reviewed that request and hereby grant the subdelegation.

This subdelegation is subject to the conditions outlined in the original letter of delegation to the state dated February 28, 1975 and published in the Federal Register on April 1, 1975 (40 FR 14632).

A Notice announcing this subdelegation will be published in the Federal Register in the future. The Notice will state, among other things, that effective immediately all reports required pursuant to the federal NESHAP from sources located in the state which were previously sent to DOE will now be sent to the local agency.

Since this delegation is effective immediately, there is no requirement that the state or local agency notify EPA of its acceptance. Unless EPA receives from the state or local agency written notice of objections within ten days of the date of receipt of this letter, the state or local agency will be deemed to have accepted all the terms of the subdelegation.

An advance copy of the Federal Register is enclosed for your information.

Sincerely,

Robie G. Russell,
Regional Administrator.

Enclosure

cc: M. Michael, GCCAA
M. Hoyles, OOO

This Notice hereby notifies the public that a subdelegation of Subpart M (asbestos) under NESHAP to the Grant County Clean Air Authority took place on October 21, 1987.

This Notice is issued under the authority of section 112 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq.).

Lists of Subjects in 40 CFR Part 61

Intergovernmental relations, Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: October 21, 1987.

Robie G. Russell,
Regional Administrator.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 61—[AMENDED]

Subpart A—General Provisions

1. The authority citation for Part 61 continues to read as follows:

Authority: Section 110(c) of the Clean Air Act, as amended (42 U.S.C. 7401–7642).

2. Section 61.04 is amended by adding paragraph (WW)(viii) to read as follows:

§ 61.04 Addresses.

* * * * *

(WW) * * *

(viii) Grant County Clean Air Authority, P.O. Box 37, Ephrata, Washington 98823.

* * * * *

[FR Doc. 87–25899 Filed 11–9–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 18

[General Docket No. 83–806; FCC 87–325]

Technical Standards for RF Lighting Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission affirms that the existing technical standards for RF lighting devices are adequate to deter harmful interference to authorized telecommunication services. The Commission declines to impose additional standards (i.e., radiation limits below 30 MHz) on the operation of RF lighting devices, as it proposed earlier in this proceeding. This action will continue to provide the RF lighting industry with standards and regulations that are flexible enough to accommodate its rapid evolution without increasing the risk of interference to authorized services.

EFFECTIVE DATE: December 17, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Liliane Volcy, Technical Standards Branch, Office of Engineering & Technology, tel: (202) 653–7316 or 653–6288.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, Gen Docket 83–806, FCC 87–325, adopted October 9, 1987, released November 2, 1987.

The full texts of the Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The completer text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street NW., Washington, DC 20037.

Summary of Report and Order

1. By this Report and Order, the Commission affirms that the operation of RF lighting devices should continue to be subject to the standards specified under Part 18 of the FCC Rules concerning ISM equipment. These standards have proven to be effective in deterring harmful interference to authorized telecommunication services from the operation of RF lighting devices. Although the Commission proposed earlier in this proceeding, in addition to the existing technical standards under Part 18 of the Rules, to impose radiation limits below 30 MHz on the operation of RF lighting devices, it finds no pressing need to do so at this time. RF lighting devices have not been a significant source of harmful interference to authorized services. However, in view of the constantly changing RF lighting technology, the Commission will monitor the development of such devices at regular intervals to insure that they continue to operate without causing harmful interference to telecommunication services.

2. Several non-substantive changes to Part 18 of the Rules are being made to give additional information to the public. Section 18.307 is amended to indicate that the conduction limits apply outside the bands specified in § 18.301. The table in § 18.305(a) is amended to indicate that the permissible increase in field strength levels is in terms of the square root of the ratio of the generated power to 500 watts. These changes constitute minor amendments to the rules. Therefore, we find for good cause shown that compliance with the notice and comment procedure of the Administrative Procedure Act is unnecessary. See 5 U.S.C. 553(b)(B).

Ordering Clauses

3. Accordingly, it is ordered that, pursuant to sections 1, 4(i), 302, and 303 of the Communications Act of 1934, as amended, Part 18 is amended as shown below, effective December 17, 1987. It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 18

Business and industry, Household appliances.

Part 18 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT

1. The authority citation for Part 18 continues to read as follows:

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Authority: 47 U.S.C. 4, 301, 302, 303, 304, 307.

§ 18.305 [Amended]

2. In § 18.305, the table in paragraph (b) is amended by removing the words "√power/500" and adding, in their place, the words "√power/500".

3. In § 18.307, the notes are revised to read as follows:

§ 18.307 Conduction limits.

* * * * *

Notes

1. These conduction limits shall apply outside the bands specified in § 18.301.

2. For ultrasonic equipment, compliance with these conduction limits shall preclude the need to show compliance with the field strength limits below 30 MHz unless requested by the Commission.

3. The tighter limits shall apply at the boundary between two frequency ranges.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-25610 Filed 11-9-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-39; RM-5321]

Radio Broadcasting Services; Glen Arbor, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 251A to Glen Arbor, Michigan, as that community's second FM broadcast service. This action is taken in response to a petition filed by Michael Bradford. Concurrence of the Canadian government has been obtained for the allotment of Channel 251A at Glen Arbor. With this action, this proceeding is terminated.

DATES: Effective December 21, 1987. The window period for filing applications will open on December 22, 1987, and close on January 21, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-39, adopted October 16, 1987, and released November 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under Michigan, is amended by adding Channel 251A at Glen Arbor.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25985 Filed 11-9-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-302; RM-5304]

Radio Broadcasting Services; Marshfield, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 284C2 to Marshfield, Missouri, and modifies the license of Station KTOZ(FM) to specify operation on Channel 284C2 instead of Channel 285A. This action is taken in response to a petition filed by Ladco Communications, Inc., licensee of Station KTOZ(FM). With this action, this proceeding is terminated.

EFFECTIVE DATE: December 21, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-302, adopted October 9, 1987, and released November 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended, under Missouri, by deleting Channel 285A at Marshfield and adding Channel 284C2.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocation Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25986 Filed 11-9-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-278; RM-5098 and 5540]

Radio Broadcasting Services; Lebanon and Bolivar, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 300C2 for FM Channel 221A at Lebanon, Missouri and modifies the license of Station KLWT to specify the new channel in response to a petition filed by Lebanon Broadcasting Company. A counterproposal was filed by KYOO Broadcasting Company requesting the substitution of FM Channel 299C2 for Channel 292A at Bolivar, Missouri and modification of its license for Station KYOO to specify the higher class channel.

After comparative evaluation of the communities to determine which could provide a new service to the largest population within the gain areas of the predicted C2 service contours, the Commission concluded that the Lebanon proposal should prevail. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 21, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-278, adopted October 19, 1987, and released November 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended, under Missouri by deleting Channel 221A at Lebanon and adding Channel 300C2.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25991 Filed 11-9-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 61113-7235]

Foreign Fishing; Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the prohibited species catch (PSC) limit for Pacific halibut applicable to joint venture processing (JVP) in the Gulf of Alaska has been caught. Therefore, the Regional Director is prohibiting on November 5, 1987, for the remainder of 1987, further JVP fishing by U.S. vessels with trawl gear other than pelagic trawl gear. This action is necessary to limit the PSC catch of Pacific halibut to the amount that is permissible under Federal regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: This notice is effective at noon, November 5, 1987, Alaska Standard Time (AST), until midnight, Alaska Standard Time, December 31, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

Domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the Gulf of Alaska are managed in accordance with the FMP which was developed by the North Pacific Fishery Management Council (Council) under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and implemented by regulations appearing at 50 CFR 611.92 and Part 672. Target quotas (TQs) for groundfish species in the Gulf of Alaska are established by the FMP. The sum of the TQs for all species must fall within the established OY range for these species of 116,000 to 800,000 metric tons (mt).

TQs are apportioned initially among domestic annual processing (DAP), joint venture processing (JVP), reserves, and total allowable level of foreign fishing (TALFF) for each species under §§ 611.92 and 672.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen typically deliver their catches to foreign processors at sea. The reserves for the Gulf of Alaska are 20 percent of the TQ for each species category and are used to supplement DAP, JVP, or TALFF if needed.

Special consideration is given to the conservation of Pacific halibut, a species important to other U.S. fishermen, and which is taken as bycatch in the groundfish fishery. Although Pacific halibut are managed under authority of the International Pacific Halibut Commission, bycatches in either the DAP or JVP groundfish fishery are controlled through PSC limits established under regulations implementing the FMP. Under § 672.20(f)(1), if the Regional Director determines that the catch of Pacific halibut by U.S. vessels operating in JVP or DAP operations will reach the applicable PSC limit for Pacific halibut, he will publish a notice in the **Federal Register** prohibiting fishing by vessels with trawl gear other than pelagic trawl gear for the rest of the year in the area to which the PSC limits applies. Pelagic trawl gear is defined at § 672.2 as a trawl on which neither the net nor the trawl doors (or other trawl-spreading device) operates in contact with the seabed, and which does not have attached to it any protective device (such as chafing gear, rollers, or bobbins) that would make it suitable for fishing in contact with the seabed.

The current Pacific halibut PSC limit applicable to JVP is 433 metric tons (mt) (52 FR 42114, November 3, 1987). This PSC limit applies to the entire Gulf of Alaska; that is, bycatches of Pacific halibut are permissible throughout the Gulf of Alaska until a total of 433 mt is taken. In 1987, JVP fisheries have been ongoing in the Gulf of Alaska since late August. They have been conducted primarily in the Central Regulatory Area for "other flounders" and in the Western Regulatory Area for pollock. NMFS observers on the foreign processing vessels have reported weekly the amounts of Pacific halibut caught.

On the basis of the reported catch, the Regional Director has determined that the PSC limit applicable to JVP has been caught. Therefore, the Regional Director is prohibiting further JVP fishing with trawl gear other than pelagic trawl gear for the remainder of the 1987 fishing year.

This closure will be effective when this notice is filed for public inspection with the Office of the Federal Register and after it has been publicized for 48 hours through procedures of the Alaska Department of Fish and Game, pursuant to the Cooperative Enforcement Agreement between the Government of the United States and the State of Alaska, dated December 21, 1978.

Classification

Unless this notice takes effect promptly, the Pacific halibut PSC limit applicable to JVP will be exceeded, which would decrease the amount of Pacific halibut available to fishermen who target on this species. NOAA therefore finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed. This action is taken under §§ 611.13 and 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Parts 611 and 672

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 et seq.)

Dated: November 5, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-26025 Filed 11-5-87; 4:13 pm]

BILLING CODE 3510-22-M

VOL 52 ISS 217 NO 10 1987 UMI

Proposed Rules

Federal Register
Vol. 52, No. 217
Tuesday, November 10, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program; Categorical Eligibility and Other Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department proposes to amend the regulations governing the Summer Food Service Program (SFSP) for Fiscal Year 1988 by: (1) Providing automatic (or "categorical") free meal eligibility to children from households receiving food stamps or from "assistance units" receiving Aid to Families with Dependent Children (AFDC) benefits; (2) revising several provisions of the regulations pertaining to sponsors which are school food authorities; (3) clarifying several other portions of the regulations dealing with reimbursable meals; and (4) correcting a number of minor errors which appear in the January 1, 1987 edition of 7 CFR Part 225. The first change is necessary to bring the SFSP into conformance with the categorical eligibility requirements mandated by the School Lunch and Child Nutrition Amendments of 1986. The other changes are intended to reduce administrative burdens on sponsors and State agencies and to clarify various provisions of the SFSP regulations.

DATE: To be assured of consideration, comments must be postmarked on or before December 10, 1987.

ADDRESS: Comments should be addressed to Mr. Lou Pastura, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Room 509, Alexandria, Virginia 22302. All written submissions will be available for public inspection at this location Monday through Friday, 8:30 a.m.-5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Lou Pastura or Mr. James C. O'Donnell at the above address or by telephone at (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has been classified *not major* because it will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Pursuant to this review, Ms. Anna Kondratas, the Administrator of the Food and Nutrition Service, has certified that this proposed rule does not have a significant economic impact on a substantial number of small entities.

No new reporting and recordkeeping requirements are included in this proposed rule, and Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) is therefore not required. This program is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

Background

The SFSP is authorized by section 13 of the National School Lunch Act (42 U.S.C. 1761). Section 13(g) of that Act requires the Department to issue regulations for the program each fiscal year. Comprehensive program regulations were last issued on February 16, 1982 (47 FR 6790); since that time, annual reissuances of the SFSP regulations have incorporated certain provisions manadated by law and other discretionary changes which clarified or modified program requirements. This year's reissuance, which will govern program operations in Fiscal Year 1988, includes one change resulting from new statutory requirements and several discretionary amendments intended to simplify program administration and clarify various portions of existing program regulations.

I. Statutory Change

Section 323 of Pub. L. 99-500 and 99-591, the School Lunch and Child Nutrition Amendments of 1986, mandates changes in the procedures used to apply for free meal benefits under the SFSP and other child nutrition programs. These statutory changes provide categorical eligibility for free meal benefits in the child nutrition programs to children from households receiving food stamps or from "assistance units" receiving AFDC benefits, provided that the State's AFDC standard of eligibility does not exceed 130 percent of the poverty line. Currently, no State's AFDC "need standard" or AFDC payments exceeds 130 percent of poverty. Consequently, AFDC recipiency will automatically qualify children to receive free meal benefits in all States and territories where the SFSP operates. Commenters should be aware of the fact that implementation of the categorical eligibility requirements of Pub. L. 99-500 and 99-591 is nondiscretionary. Comments on these provisions should, therefore, focus on the Department's method of implementing these changes rather than on the substance of the changes.

Under current regulations, applications for program benefits are taken from households by sponsors which are camps and by sponsors with "enrolled sites" (i.e., sites which do not qualify under paragraph (1) of the definition of "areas in which poor economic conditions exist" found in § 225.2). At both camps and enrolled sites, households are requested to complete applications which document household size and income. In camps, children from families meeting the income standards for free or reduced price meals in the National School Lunch Program (NSLP) receive SFSP meal benefits free of charge. At enrolled sites, if at least 50 percent of the childen at the site are from families meeting the income standards for free or reduced price NSLP meals, all children at the site receive SFSP meals free of charge.

Because the law's intent is to provide simplified application procedures for children from households or assistance units receiving food stamps or AFDC benefits, the Department is proposing to require sponsors of camps and enrolled sites to accept abbreviated applications from households on behalf of children who are members of food stamp households or AFDC assistance units. In order to establish these children's eligibility in the simplest manner possible, the Department proposes to require sponsors to accept current food stamp or AFDC case numbers to document a child's eligibility without requiring any additional information concerning other household members or income. Instead of providing information on household size and income as is currently required, households applying on behalf of children who are members of food stamp households or AFDC assistance units would be required only to provide the food stamp or AFDC case number(s) of the child(ren) for whom automatic eligibility is being claimed.

Thus, unlike current eligibility determinations, eligibility for categorically eligible children will be determined separately for each *child* rather than for all of the children within a *household*. This approach is necessary because the definition of a food stamp household or an AFDC assistance unit may differ from the definition of a household in the SFSP.

Two additional points relating to categorical eligibility must be emphasized. First, when a household submits a single application for both categorically eligible children and children who are not categorically eligible, sponsors must ensure that automatic eligibility is not inadvertently extended to children who are not members of a food stamp household or an AFDC assistance unit. In such cases, the child(ren) for whom a case number(s) was listed would be automatically eligible; the eligibility of the other children would be established on the basis of the size and income of the *entire* household, including the categorically eligible children in the size of the household and the value of cash welfare benefits like AFDC in the household's income.

Second, the decision to apply for free meal benefits for a child by providing a food stamp or AFDC case number rests entirely with the applicant household. Thus, households in which some or all of the children are categorically eligible may nevertheless choose not to submit case numbers and may instead choose to establish the child(ren)'s eligibility on the basis of household size and income.

Finally, because the Department is proposing regulatory language which specifies the application requirements for categorically eligible children, it is also necessary to provide greater detail in the regulations on the application requirements for children at camps and enrolled sites who are not categorically eligible. Until now, the practice has been to take SFSP applications in the same manner as free and reduced price applications in the NSLP. However, to prevent confusion, it is now necessary to clarify the requirements in § 225.21 for establishing household eligibility for children who are not automatically eligible for free meals. These requirements do not represent a change in current policy. Rather, they make explicit the elements of a complete application for free and reduced price benefits, which are the same in both the NSLP and the SFSP.

Accordingly, the Department proposes to: (1) Add a new paragraph (d)(3) to § 225.21 which will describe the application requirements for categorically eligible children; (2) add new definitions of "adult", "AFDC assistance unit", "documentation", "family", "food stamp household", "household", and "income standards" to facilitate differentiation between categorically eligible children and other children in the regulatory text; (3) amend § 225.21 (a)-(d) to incorporate references to categorical eligibility; (4) re-organize and amend § 225.21(d) to make explicit that households applying on behalf of children who are not categorically eligible are required to include on the application the names of all household members, the social security number of each adult household member, the income of each household member identified by source, and total household income; and (5) amend § 225.21(d) to require applications to include a statement concerning foster children and to require a statement on the application that deliberate misrepresentation of any information may subject the applicant to prosecution.

II. Discretionary Changes

A. Use of Commodities by Sponsors

Section 13(h) of the National School Lunch Act requires that SFSP sponsors use commodities donated by the Department to the maximum extent practicable. In addition, section 13(h) requires the Department to ensure that these commodities are distributed "only to service institutions that can use commodities efficiently and effectively." Consistent with these mandates, current regulations at § 225.5(a) specify that only self-preparation sponsors and those sponsors contracting for meals with a school or a school district may receive commodities under the program.

It has come to the Department's attention, however, that an additional type of sponsor may be able to utilize commodities in an efficient and effective manner. In some cases, sponsors which are School Food Authorities (SFA sponsors) competitively procure the services of a food service management company (FSMC) on a year-round basis. Thus, the FSMC provides meals to the SFA during the school year under the National School Lunch Program (NSLP) and during the the summer under the SFSP. Under current regulations, this FSMC could receive and use surplus commodities in its preparation of meals for the NSLP, but would be barred from utilizing such commodities in the meals it prepares under the SFSP. Because the SFA and FSMC have demonstrated during the school year that they are capable of efficiently and effectively utilizing commodities, there is no reason to believe that they would be less capable of properly using those commodities during the summer months. Accordingly, the Department is proposing to amend § 225.5(a) to allow SFAs contracting for meals with the same FSMC for both the NSLP and the SFSP to receive commodities under the SFSP.

The Department wishes to emphaize, however, that this proposed change should in no way be construed to modify the requirements for the competitive procurement of FSMC services set forth in §§ 225.16 and 225.17. Thus, SFA sponsors contracting with an FSMC in the SFSP would only be eligible to receive commodities under either of two circumstances: (1) They conducted one competitive FSMC procurement for meal service under both the NSLP and the SFSP; or (2) they conducted two separate competitive procurements for the NSLP and SFSP, both of which were awarded to the same FSMC.

B. Delivery Times at Vended Sites

Current regulations at § 225.20(a)(5) state that, "Meals for each meal service which are not prepared at the food service site shall be delivered within one hour of the beginning of the appropriate meal service unless the site has adequate facilities for holding hot or cold meals within the temperatures required by State or local health regulations." In addition, the regulations at § 225.16(c)(2)(ix) require an FSMC to make a statement, when registering with

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the State, that it understands it will not be paid for meals delivered "outside of the agreed upon delivery time."

It has come to the Department's attention that some FSMCs and sponsors are misinterpreting the "within one hour" wording of § 225.20(a)(5) cited above. These companies have delivered meals one hour *after* the time specified in their contract with the sponsor, and the sponsors have felt that reimbursement could not be denied since the meals had literally been delivered "within one hour of the beginning of the meal service." The Department wishes to clarify that § 225.20(a)(5) is intended to allow for delivery *no more than one hour before* the beginning of the meal service, and is *not* intended to allow delivery later than the beginning of the meal service. Meals delivered after the scheduled beginning of the meal service have been delivered "outside of the agreed upon delivery time" and, therefore, are not eligible for reimbursement under the Program.

Accordingly, the Department proposes to amend § 225.20(a)(5) to clarify that meal deliveries may be *no earlier than* one hour before the meal service and *no later than* the scheduled beginning of the meal service.

C. "Pre-Approval Visits" of Sponsors

Section 225.9(e) sets forth the State agency's responsibilities for monitoring and providing technical assistance to Program sponsors. More specifically, § 225.9(e)(1) sets forth the requirements for conducting "pre-approval visits" of certain types of sponsors, one of which is "sponsors which did not participate in the Program in the prior year."

The Department believes that, under certain circumstances, the conduct of a pre-approval visit at a sponsor which did not participate in the prior year should be left to the State agency's discretion. In many States, the same State agency administers both the NSLP and the SFSP. In addition, many SFAs participate in both the NSLP and the SFSP. The Department believes that, if the State agency has conducted a review of the SFA in the NSLP during the preceding 12 months and that review revealed no significant problems, the State agency is in the best position to determine whether a pre-approval visit of the same SFA needs to be conducted for the SFSP. Therefore, the Department proposes to amend § 225.9(e)(1)(i) to leave to State agency discretion the conduct of pre-approval visits of SFAs which did not participate in the SFSP in the prior year but which were reviewed by that State agency under the NSLP during the preceding 12 months.

D. Meal Reimbursements

The Department also wishes to clarify two issues relating to the reimbursement of meal costs under the program. The first issue pertains to the prohibition on sponsors claiming the cost of some disallowed meals as operating costs which was instituted by the Department in 1986. The second issue pertains to claiming as operating costs the meals served to adults performing necessary food service labor at vended sites (i.e., those adult site staff who serve meals or supervise children at mealtime, and not including adults performing administrative tasks such as monitoring).

Prior to 1986, the regulations at § 225.11(c)(4) gave the State agencies the option to allow sponsors to claim the costs of some disallowed meals as operating costs. This option was removed in the regulations for the Fiscal Year 1986 SFSP, and the language which formerly permitted this practice was deleted from § 225.11(c)(4). The Department has been informed, however, that some sponsors and State agencies remain confused about this matter, in part because language specifically prohibiting the claiming of disallowed meals as operating costs was not inserted into the regulations.

Accordingly, the Department proposes to amend § 225.11(c)(4) by inserting language which specifically prohibits the practice of claiming the costs of disallowed meals under any circumstances. The insertion of this language is intended to clarify current policy, and should not be construed as a substantive change of that policy.

In regard to the second issue, § 225.11(c)(4) specifically allows sponsors to claim as operating costs the meals served to adults performing necessary food service labor. Apparently, some confusion regarding this practice has arisen at vended sites. In accordance with § 225.7(j), State agencies are required to establish for each vended site a maximum number of meals (called a "site cap") which may be claimed at each meal service. Sections 225.19(d) and 225.11(e) explicitly forbid the sponsor from ordering or claiming meals in excess of the site cap, and § 225.16(e)(1) requires the vended sponsor's contract with the FSMC to specify the "site cap" for each meal service at each site.

The Department has learned that some confusion has arisen over claiming the cost of meals served to adult food service workers when these meals would exceed the site cap. Some sponsors or State agencies seem to believe that meals served to adult food service workers may not be claimed as operating costs if the total number of meals served would consequently exceed the site cap. This is an erroneous interpretation of the regulations, albeit an understandable one in light of the very explicit wording regarding the site cap in §§ 225.19(d) and 225.11(e). In fact, the Department intends the site cap to serve as a ceiling for the total number of *children's meals* claimed at the vended site. Any number of children's meals up to the site cap may be claimed, provided that the limitation on the claiming of second meals set forth at § 225.19(d) is not exceeded. Meals served to adults performing necessary food service labor may be claimed as operating costs regardless of whether the total number of meals claimed (i.e., the total number of meals served to children plus meals served to adult food service workers) exceeds the established site cap.

Accordingly, the Department proposes to clarify the procedures for claiming meals served to adult food service workers by amending §§ 225.7(j), 225.11(e), and 225.19(d).

E. Corrections

The Department notes that the codification of the SFSP regulations in the January 1, 1987 edited of 7 CFR Part 225 includes a number of misspellings or minor omissions from previous regulations. These are corrected in the regulatory text which follows without further comment in this preamble.

List of Subjects in 7 CFR Part 225

Food assistance programs, Grant programs—Health, Infants and Children.

Accordingly, the Department is proposing to amend 7 CFR Part 225 as follows:

PART 225—[AMENDED]

1. The authority citation for Part 225 is revised to read as follows:

Authority: Secs. 311, 323 and 326 of the School Lunch and Child Nutrition Amendments of 1986, Pub. L. 99–500 and 99–591, 100 Stat. 1783, 1783–359 to 362 and 3341, 3341–363 to 365; Pub. L. 97–35, secs. 803, 809, 810, and 817(a)–(b), 95 Stat. 357, 524, 527, and 531 (42 U.S.C. 1759a, 1761, 1785, and 1759); Pub. L. 95–499, secs. 203 and 206, 94 Stat. 2599, 2600 and 2601 (42 U.S.C. 1759a and 1761); Pub. L. 95–627, secs. 5(c)–(d), 7(b), and 10(c)(2), 92 Stat. 3603, 3620, 3622, and 3624 (42 U.S.C. 1759a and 1761); Pub. L. 95–166, sec. 2, 91 Stat. 1325 (42 U.S.C. 1761); Pub. L. 91–248, sec. 7, 84 Stat. 207, 211 (42 U.S.C. 1759a); unless otherwise noted.

2. In § 225.2:

a. New definitions of "adult", "AFDC assistance unit", "documentation", "family", "food stamp household", "household", and "income standards" are added in alphabetical order.

b. The second paragraph in the definition of "Areas in which poor economic conditions exist" is revised.

The additions and revision specified above read as follows:

§ 225.2 Definitions.

* * * * *

"Adult" means, for the purposes of the collection of social security numbers as a condition of eligibility for Program meals, any individual 21 years of age or older.

* * * * *

"AFDC assistance unit" means any individual or group of individuals which is currently certified to receive assistance under the Aid to Families with Dependent Children Program in a State where the standard of eligibility for AFDC benefits does not exceed the income standards for free meals under the National School Lunch Program (7 CFR Part 245).

"Areas in which poor economic conditions exist" means * * * (2) An enrollment program in which at least 50 percent of the enrolled children at the site are eligible for free and reduced price school meals as determined by approval of applications in accordance with § 225.21(d) of this Part.

* * * * *

"Documentation" means the completion of the following information on a free and reduced price application: (1) Names of all household members; (2) social security number of each adult household member or an indication that an adult household member does not possess one; (3) household income received by each household member, identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, and social security), and total household income; and (4) the signature of an adult member of the household. Alternatively, "documentation" for a child who is a member of a food stamp household or an AFDC assistance unit means completion of only the following information on a free and reduced price application: The name(s) and appropriate food stamp or AFDC case number(s) for the child(ren) and the signature of an adult member of the household.

"Family" means a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit.

* * * * *

"Food Stamp household" means any individual or group of individuals which is currently certified to receive assistance as a household under the Food Stamp Program.

"Household" means "family", as defined in this Section.

* * * * *

"Income standards" means the family-size and income standards prescribed annually by the Secretary for determining eligibility for free and reduced-price meals under the National School Lunch Program and the School Breakfast Program.

* * * * *

3. In § 225.5, paragraph (a) is revised to read as follows:

§ 225.5 Commodity assistance.

(a) Sponsors eligible to receive commodities under the Program include: Self-preparation sponsors; sponsors which have entered into an agreement with a school or school district for the preparation of meals; and sponsors which are school food authorities and have competitively procured program meals from the same food service management company from which they competitively procured meals for the National School Lunch Program during the last period in which school was in session. The State agency shall make available to these sponsors information on available commodities.

* * * * *

4. In § 225.7:

a. Introductory paragraph (j) is amended by adding to the first sentence the word "children's" between the words "of" and "meals".

b. A new paragraph, (j)(6), is added.

The addition specified above reads as follows:

§ 225.7 State agency responsibilities.

* * * * *

(j) * * *

(6) The total number of meals ordered from the food service management company may exceed the maximum approved level for the site only when the meals exceeding this level are served to adults performing necessary food service labor in accordance with § 225.11(c)(4) of this Part.

* * * * *

§ 225.8 [Amended]

5. In § 225.8:

a. Paragraph (b)(1) is amended by adding the words "or at other times for children" after the word "vacation".

b. Paragraph (b)(7) is amended by removing the word "States" and adding in its place the word "stated".

6. In § 225.9:

a. Paragraph (e)(1)(i) is revised.

b. Paragraph (e)(8) is amended by removing from the fourth sentence the word "sonors" and adding in its place the word "sponsors".

The revision specified above reads as follows:

§ 225.9 Program monitoring and assistance.

* * * * *

(e) * * *

(1) * * *

(i) All applicant sponsors which did not participate in the program in the prior year. However, if a sponsor is a school food authority and has been reviewed by the State agency under the National School Lunch Program during the preceding 12 months, a pre-approval visit may be conducted at the discretion of the State agency;

* * * * *

7. In § 225.11:

a. Paragraph (b)(1)(i) is amended by removing from the second sentence the word "eligile" and adding in its place the word "eligible".

b. Paragraph (c)(1) is amended by removing the word "proceding" and adding in its place the word "preceding".

c. Paragraph (c)(4) is amended by adding a fourth sentence.

d. The first sentence of paragraph (e) is removed and two new sentences are added in its place.

The additions specified above read as follows:

§ 225.11 Program payments.

* * * * *

(c) * * *

(4) * * * Under no circumstances may a sponsor claim the cost of any disallowed meals as operating costs.

* * * * *

(e) The sponsor shall not claim reimbursement for meals served to children at any site in excess of the site's approved level of meal service, if one has been established under § 225.7(j). However, the total number of meals for which operating costs are claimed may exceed the approved level of meal service if the meals exceeding this level were served to adults performing necessary food service labor in accordance with paragraph (c)(4) of this Section. * * *

§ 225.14 [Amended]

8. In § 225.14, paragraph (c) is amended by removing the word "determine" and inserting in its place the word "determines".

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§ 225.16 [Amended]

9. In § 225.16:

a. Paragraph (e)(3) is amended by removing from the first sentence the word "of" and adding in its place the word "or".

b. Paragraph (e)(3) is amended by removing the word "allmw" and adding in its place the word "allow".

§ 225.18 [Amended]

10. In § 225.18, paragraph (c)(1) is amended by removing the word "participant's" and adding in its place the word "participants' ".

11. In § 225.19, paragraph (d) is amended by revising the fourth sentence to read as follows:

§ 225.19 Operational responsibilities of sponsors.

* * * * *

(d) * * * The sponsor shall not order or prepare meals for children at any site in excess of the site's approved level, but may order or prepare meals above the approved level if the meals are to be served to adults performing necessary food service labor in accordance with § 225.11(c)(4). * * *

* * * * *

12. In § 225.20, paragraph (a)(5) is revised to read as follows:

§ 225.20 Meal service requirements.

(a) * * *

(5) Meals which are not prepared at the food service site shall be delivered no earlier than one hour prior to the beginning of the meal service (unless the site has adequate facilities for holding hot or cold meals within the temperatures required by State or local health regulations) and no later than the beginning of the meal service. Food service management companies shall not be paid for meals delivered outside of the time limits specified in this paragraph.

* * * * *

13. In § 225.21:

a. Paragraph (a) is amended by removing the word "applicants" and adding in its place the word "sponsors".

b. Paragraph (b)(2) is revised.

c. Paragraph (c) is amended by revising the third sentence.

d. Paragraph (d) is revised.

The revisions specified above read as follows:

§ 225.21 Free meal policy.

* * * * *

(b) * * *

(2) A description of the method or methods to be used in accepting applications from families for Program meals. Such methods shall ensure that households are permitted to apply on behalf of children who are members of food stamp households or AFDC assistance units using the automatic free meal eligibility procedures described in § 225.21(d).

* * * * *

(c) * * * All media releases issued by camps and other programs not eligible under § 225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall include: The Secretary's family-size and income standards for free and reduced price school meals; a statement that children who are members of food stamp households or AFDC assistance units are automatically eligible to receive free meal benefits at eligible program sites; and a statement that meals are available without regard to race, color, national origin, sex, age, or handicap.

(d) *Application for free meals.* (1) For the purpose of determining eligibility for free meals, camps and other programs not eligible under § 225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall distribute applications for meals to parents or guardians of children enrolled in the program. The application, and any other descriptive material distributed to such persons, shall contain only the family-size and income levels for reduced-price school meal eligibility with an explanation that households with incomes less than or equal to these values would be eligible for free meals. Such forms and descriptive material may not contain the income standards for free meals. In addition, such forms and materials shall state that, if a child is a member of a food stamp household or an AFDC assistance unit, the child is automatically eligible to receive free program meal benefits, subject to completion of the application as described in paragraph (d)(3) of this section.

(2) The application shall contain a request for the following information:

(i) The names of all children for whom application is made;

(ii) the names of all other household members;

(iii) the social security number of all adult household members or an indication that an adult household member does not possess one;

(iv) the total current household income and the income received by each household member identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security, and other cash income received or withdrawn from any other source, including savings, investments, trust accounts, and other resources);

(v) a statement to the effect that "In certain cases, foster children are eligible for free meals regardless of household income. If such children are living with you and you wish to apply for such meals, please contact us.";

(vi) a statement which includes substantially the following information: "Section 9(d) of the National School Lunch Act requires that, unless you provide a food stamp or AFDC case number for your child, you must provide the social security numbers of all adult members of your household in order for your child to be eligible for free meals. Provision of these social security numbers is not mandatory, but failure to provide the numbers will result in a denial of the application for free meals. This notice must be brought to the attention of all household members whose social security numbers are disclosed. The social security numbers may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application. These verification efforts may be carried out through program reviews, audits, and investigations and may include contacting employers to determine income, contacting a food stamp or welfare office to determine current certification for receipt of food stamp or AFDC benefits, contacting the State employment security office to determine the amount of benefits received, and checking the documentation produced by household members to prove the amount of income received. These efforts may result in loss of benefits, administrative claims, or legal action if incorrect information is reported." State agencies and sponsors shall ensure that the notice complies with section 7 of Pub. L. 93-579 (Privacy Act of 1974). If a State or local agency plans to use the social security numbers in a manner not described by this notice, the notice shall be altered to include a description of these uses; and

(vii) the signature of an adult member of the household immediately below a statement that the person signing the application certifies that all information furnished is true and correct; that the application is being made in connection with the receipt of Federal funds; that program officials may verify the information on the application; and that the deliberate misrepresentation of any of the information on the application may subject the applicant to prosecution under applicable State and Federal criminal statutes.

(3) If they so desire, households applying on behalf of children who are members of food stamp households or AFDC assistance units may apply for free meal benefits under this paragraph rather than under the procedures described in paragraph (d)(2) of this section. Households applying on behalf of children who are members of food stamp households or AFDC assistance units shall be required to provide:

(i) The name(s) and food stamp or AFDC case number(s) of the child(ren) for whom automatic free meal eligibility is claimed; and

(ii) the signature of an adult member of the household below the statement described in paragraph (d)(2)(vii) of this section.

In accordance with paragraph (d)(2)(vi) of this section, if a food stamp or AFDC case number is provided, it may be used to verify the current food stamp or ADFC certification for the child(ren) for whom free meal benefits are being claimed. Whenever households apply for benefits for children not receiving food stamp or AFDC benefits, they must apply for those children in accordance with the requirements set forth in paragraph (d)(2) of this section.

§ 225.23 [Amended]

14. In § 225.23:

a. Paragraph (a) is amended by removing the words "33 North Avenue, Burlington, MA 01803" and adding in their place the words "10 Causeway Street, Room 501, Boston MA 02222-1065".

b. Paragraph (b) is amended by removing the words "One Vahlsing Center, Robbinsville, NJ 08691" and adding in their place the words "Mercer Corporate Park, Corporate Boulevard, CN-02150, Trenton, NJ 08650".

c. Paragraph (d) is amended by removing the words "536 Clark Street, Chicago, IL 60605" and adding in their place the words "50 East Washington Street, Chicago, IL 60602".

d. Paragraph (e) is amended by removing the words "Dallas, TX 75202" and adding in their place the words "Dallas, TX 75242".

Date: November 6, 1987.

Anna Kondratas,

Administrator.

[FR Doc. 87-26096 Filed 11-6-87; 1:58 pm]

BILLING CODE 3410-30-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD8-86-12]

Regulated Navigation Area in Houston Ship Channel

AGENCY: Coast Guard, DOT.

ACTION: Correction to cancellation of rulemaking.

SUMMARY: This notice corrects an error in the cancellation of rulemaking that was published in the Federal Register of 8 October 1987, on page 37637 in that notice. The Coast Guard withdrew the proposed rule published in 51 FR 42595, November 25, 1986 to establish a Regulated Navigation Area in the Houston Ship Channel due to the adverse public comment. The wording in the conclusion of the cancellation indicated that the imposition of restrictions on vessels mooring abreast in the Houston Ship Channel is unnecessary. This is not the case, since the Captain of the Port, Houston, Texas will continue to restrict the mooring abreast of vessels in the Houston Ship Channel by means of Captain of the Port orders on a case-by-case basis. The Coast Guard, therefore, amends the cancellation of rulemaking [CGD8-86-12] as published on page 37637 of the Federal Register for 8 October 1987, as follows:

Conclusion: The Coast Guard concludes that the imposition of a regulated navigation area to control vessels mooring abreast in the Houston Ship Channel is unnecessary at this time and, furthermore, not conducive to the facilitation of maritime commerce.

FOR FURTHER INFORMATION CONTACT: LT Edwin M. Stanton, project officer, Commander (merps), Eighth Coast Guard District, Rm. 1341, Hale Boggs Federal Bldg., 500 Camp St., New Orleans, LA 70130-3396, (504) 589-6901.

Dated: October 26, 1987.

J.D. Sipes,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard District

[FR Doc. 87-25982 Filed 11-9-87; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 85-172; FCC 87-327]

Further Sharing of the UHF Television Band by Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order deferring action in proceeding.

SUMMARY: This action grants in part a Petition for Special Relief filed by 58 broadcast organizations, deferring action in this docket until an advisory committee on advanced television (ATV) systems files its interim report and an approprite period is permitted for public comment and for the Commission to consider this information. The petition is denied with regard to a request to reserve a portion of the 12.2-12.7 GHz Direct Broadcast Satellite (DBS) band for possible future ATV use.

FOR FURTHER INFORMATION CONTACT: Julius Knapp, telephone (202) 653-8108 or Rodney Small, telephone (202) 653-8116.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in General Docket 85-172. FCC 87-327, Adopted October 13, 1987, and Released October 21, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Order

1. On May 31, 1985, the Commission adopted a Notice of Proposed Rule Making in this docket (50 FR 25587; June 20, 1987) proposing to reallocate between two and six unassigned UHF television channels in eight large urban areas to the private land mobile radio services (PLMRS). In proposing this sharing arrangement, our goal was to provide an opportunity for greater use of the UHF spectrum for the PLMRS while

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minimizing the impact on broadcast services. The Notice requested comment on a number of matters related to the proposal, including the impact that the proposal might have on alternative uses of the spectrum for broadcast-related services such as advanced television systems. The Notice also proposed flexible spectrum use of channels 50–59 as a supplement to the main proposal.

2. On February 13, 1987, the Association of Maximum Service Telecasters, Inc. (AMST) and 57 other broadcast organizations and companies filed two joint petitions relating to ATV. The first petition ("Petition for Notice of Inquiry") requested the Commission to initiate a proceeding to explore the issues pertaining to the introduction of ATV. The second petition ("Petition for Special Relief") requested the Commission to defer any action on further sharing of the UHF TV band by the PLMRS pending an inquiry on ATV. The petitioners argued that the spectrum proposed for further sharing may be needed to implement ATV. They maintained that the eight areas where further sharing is proposed are the most difficult markets in which to find additional spectrum for ATV. the Petition for Special Relief also requested that the Commission ensure that at least a portion of the 12.2–12.7 GHz Direct Broadcast Satellite band be reserved for possible ATV use by terrestrial broadcasters. The petitioners states that DBS users will not need the entire 500 MHz of spectrum in the 12.2–12.7 GHz band, and that a portion of the band should therefore be reserved for possible terrestrial use.

3. Both petitions were placed on Public Notice by the Commission on March 27, 1987. After receiving comments and replies on the petitions, the Commission on July 16, 1987, adopted a Notice of Inquiry in MM Docket No. 87–268, to solicit information on a broad range of matters related to ATV.

4. We are convinced that there is substantial overlap between our further sharing proposal and possible spectrum options for ATV. Although it might be possible that ATV could be implemented within the existing six megahertz channels, it is clear that this approach would be in the public interest. A prime resource for additional spectrum would be the UHF TV channels proposed for further sharing by the PLMRS. We conclude, therefore, that further sharing cannot be implemented without reducing significantly or eliminating certain of the options for ATV. Nevertheless, we are sensitive to the concerns of the land mobile community that the Commission resolve this matter promptly. We have established an ambitious schedule for addressing the matters raised in the Notice of Inquiry and have established an industry advisory committee on ATV. Accordingly, we will defer action on the further sharing proposal in Gen. Docket No. 85–172 until such time as the Commission receives the initial report of the advisory committee and an appropriate period is permitted for public comment and for the Commission to consider this information. The comments filed in the ATV proceeding will be associated with and considered in the further sharing proceeding.

5. We find that the petitioners' request to reserve a portion of the 12.2–12.7 GHz band for terrestrial ATV presents a different set of issues. DBS is in the early stage of development. The Commission is on record as supporting the promise of this new service, which may itself provide ATV service. We believe that it would be highly disruptive to the DBS service to reduce the available spectrum. In addition, technical barriers to implementation of a terrestrial ATV system in the 12.2–12.7 GHz band raise substantial questions as to whether the band would prove suitable for that purpose. In light of these considerations, we deny the petitioners' request to reserve a portion of the 12.2–12.7 GHz band for ATV use by terrestrial broadcasters.

Ordering Clause

6. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 303(r), and section 553 of the Administrative Procedure Act, 5 U.S.C. § 553.

7. Accordingly, it is ordered, that the petition for Special Relief filed by 58 broadcast organizations and companies is granted to the extent that action in this proceeding will be withheld as discussed above. It is further ordered that the request to reserve spectrum in the 12.2–12.7 GHz band for ATV is denied.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-25821 Filed 11-9-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 36

[CC Docket No. 80-286; FCC 87J-7]

Amendment to Commission's Rules Regarding Central Office Equipment and Cable and Wire Facilities and Establishment

AGENCY: Federal Communications Commission: Federal-State Joint Board.

ACTION: Order inviting comments and request for data.

SUMMARY: This order was issued as part of the continuing review of the separations process by the Federal-State Joint Board. The Joint Board seeks comments and requests data on possible revisions of the Commission's rules regarding the separations procedures applicable to Category 4 Central Office Equipment (COE), Circuit Equipment and Category 3 Cable and Wire Facilities (C&WF), Interexchange C&WF.

DATES: Interested parties may file comments and data as requested in the Order on or before December 23, 1987, and reply comments on or before February 15, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Michael Wilson, Chief, Audits Branch, Accounting and Audits Division, Common Carrier Bureau, Federal Communications Commission, Washington, DC 20554 (202) 632–7600.

Cindy Schonhaut, Special Counsel, Federal-State, Joint Board Matters, Accounting and Audits Division, Common Carrier Bureau, Federal Communications Commission, Washington, DC 20554, (202) 632–7500.

SUPPLEMENTARY INFORMATION: This a summary of the Commission's Order Inviting Comments and Request for Data, CC Docket No. 80–286, FCC 87J–7, adopted September 30, 1987, and released October 15, 1987.

The full text of this Commission decision is available for inspection and copying normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Order Inviting Comments and Request For Data

On September 30, 1987, the Federal-State Joint Board in CC Docket No. 80–286 adopted an Order Inviting Comments and Request for Data (Order) which proposes possible revisions of the Commission's rules regarding the separations procedures applicable to Category 4 Central Office Equipment (COE), Circuit Equipment and Category 3 Cable and Wire Facilities (C&WF), Interexchange C&WF. The Joint Board requests that interested parties submit proposals for revision of the Commission's rules regarding investment in these categories.

2. The Federal Communications Commission instituted CC Docket No. 80–286 in June 1980 for the purpose of reexamining the procedures for separating local exchange plant costs between the state and interstate jurisdictions. In June 1984, the Commission released a Further Notice of Proposed Rulemaking, requesting the Joint Board to undertake a comprehensive review of the separations procedures for all COE and interexchange plant costs and to recommend revisions of those procedures. A First Order Inviting Comments, was released August 6, 1985, and a Second Order Inviting Comments, was released May 7, 1986. In response to comments received from 119 parties and data received from 435 study areas, the Federal-State Joint Board recommended, and the Commission adopted, certain revisions of the separations procedures applicable to Central Office Equipment.

3. Beginning January 1, 1988, under the new Part 36 Separation Manual, the current eight Categories of COE will be consolidated into four categories as follows: (1) The current Category 1 COE will be retained as Category 1 COE, Operator Systems Equipment; (2) the current Categories 2 and 3 COE will be combined into a new category, Category 2 COE, Tandem Switching Equipment; (3) the current Categories 4, 5, 6 and 7 COE will be combined into a new category, Category 3 COE, Local Switching Equipment; and, (4) the current Category 8 COE will be retained as Category 4 COE, Circuit Equipment. The Commission also adopted other revisions of the separations procedures applicable to COE. The Joint Board in CC Docket No. 86–297 adpted a new separations manual to become effective January 1, 1988, which reclassified outside plant as C&WF.

4. In the instant Order the Federal-State Joint Board concluded that, based on the comments submitted by the carriers in response to the *Second Order Inviting Comments*, certain provisions of the Commission's rules regarding circuit equipment and C&WF may warrant revision. The Joint Board requests parties to comment on the appropriate allocation and categorization of circuit equipment and C&WF and to address the extent to which the approaches proposed: (1) Reflect cost causation principles; (2) increase or decrease the existing revenue requirements in the affected jurisdictions; and, (3) can be easily administered. The Joint Board invites interested parties to comment on following issues regarding circuit equipment separations:

(1) Should Category 4.12 COE, Exchange Trunk Circuit Equipment, be consolidated with Category 4.2 COE, Interexchange Circuit Equipment?

(a) If Category 4.12 COE, Exchange Trunk Circuit Equipment, and Category 4.2 COE, Interexchange Circuit Equipment are consolidated, should that category be disaggregated into classes of circuits? If so, on what basis?

(b) If Category 4.12 COE, Exchange Trunk Circuit Equipment, and Category 4.2 COE, Interexchange Circuit Equipment, are consolidated into one category, how should investment included in that category be allocated? Should distance sensitivity be an element of the allocation factor for this category?

(c) If Category 4.12 COE, Exchange Trunk Circuit Equipment, and Category 4.2 COE, Interexchange Circuit Equipment, are consolidated into one category, on what basis should the costs in that category be developed? Should this basis be the average cost per termination applied to the count of terminations as in § 36.126(c)(3)(i)?

(2) How should the Separations Manual treat wideband circuit equipment investment? Is the cost of wideband circuit equipment higher than the cost of nonwideband circuit equipment? If so, should wideband terminations be weighted to reflect these higher costs?

(3) Should the separations procedures applicable to circuit equipment be consistent with those applicable to C&WF?

The Joint Board requests that interested parties address the following issues regarding C&WF:

(1) Should the allocation factor for Category 3 C&WF, Interexchange C&WF, be revised? Should this allocation factor be made consistent with the allocation factor for interexchange circuit equipment? Should this allocation factor include distance sensitive element?

(2) How shuld the costs of Category 3 C&WF, Interexchange C&WF, be developed? Should this development include mileage, as in § 36.156(a)?

The Joint Board requests that parties submit well-supported proposals, that meet the goals of this proceeding, for revision of the Commission's rules regarding the investment in Category 4.12 COE, Exchange Trunk Circuit Equipment, Category 4.2 COE, Interexchange Circuit Equipment, and Category 3 C&WF, Interexchange C&WF. In addition, parties should address any other issues they consider relevent regarding the appropriate allocation and categorization of these categories.

5. The Joint Board also issued a Data Request to provide the Joint Board, the Commission, and interested parties with current and complete data concerning the allocation of costs of Category 4 COE and C&WF. This data will be used in evaluating proposals recommended by the parties. The data request solicits information regarding the investment in and revenue requirement for the various circuit equipment and C&WF categories. The data request also solicits information regarding various allocation factors.

Regulatory Flexibility Act

6. The Joint Board has certified that the Regulatory Flexibility Act is not applicable to the rule changes it is proposing in this proceeding. In accordance with the provisions of Section 605 of the Act, a copy of this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration at the time of publication of a summary of this *Order Inviting Comments and Request for Data* in the Federal Register. As part of the Joint Board's analysis of the proposal described in this *Order Inviting Comments and Request for Data*, however, the Commission will consider the impact of proposals on small telephone companies. *i.e.*, those serving 50,000 or fewer lines.

Paperwork Reduction Act

7. The Commission has analyzed the proposal contained herein with respect to the Paperwork Reduction Act of 1980 and tentatively concluded that it will not, if adopted, impose new or modified information collection requirements on the public. The instant proposal is a general solicitation of comments from the public and as such, does not constitute a collection of information. *See* 5 CFR 1.3207(k)(4). All comments will be considered in this proceeding. Parties need not specifically respond to the data request for their comments to be considered. Therefore, implementation of the proposed requirements will not be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ex Parte Contacts

8. For the purposes of this nonrestricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* presentations are permitted except during the Sunshine Agenda period. The Sunshine Agenda period is the period of time which commences with the release

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of a public notice that a matter has been placed on the Sunshine Agenda and terminates when the Commission (1) releases a final order; (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or, (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first. During the Sunshine Agenda period, no presentations, *ex parte* or otherwise, are permitted unless specifically requested by the Commission, Joint Board member or staff for the clarification or adduction of evidence or the resolution of issues in the proceeding.

In general, an *ex parte* presentation is any presentation directed to the merits or outcome of the proceeding made to decisionmaking personnel which (1) if written, is not served on the parties to the proceeding, or, (2) if oral, is made without advance notice to the parties to the proceeding and without opportunity for them to be present. Any person who submits a written *ex parte* presentation must provide, on the same day it is submitted, a copy of the same to the Commission's Secretary for inclusion in the public record. Any person who makes an oral *ex parte* presentation that presents data or arguments not already reflected in that person's previously-filed written comments, memoranda, or filings in the proceeding must provide, on the day of the oral presentation, a written memorandum to the Secretary (with a copy to the Commissioner, Joint Board member or staff member involved) which summarizes the data and arguments. Each *ex parte* presentation described above must also state, by docket number, the proceeding to which it relates.

For Joint Board actions, special *ex parte* rules apply. For Joint Board actions, all written materials which are not filed in accordance with a pleading cycle established by the Joint Board shall be accomplished by a Petition for Leave to file showing cause why the material should be considered by the Joint Board. The Joint Board will not consider any filing made outside the authorized pleading cycle and received by the Commission less than fifteen days in advance of a Joint Board meeting at which the Joint Board is to consider the subject matter of that filing. Written *ex parte* presentations, as defined by the Commission's rules, need not be accompanied by a Petition for Leave to File and may be received in the discretion of the Joint Board member or staff personnel involved. No written *ex parte* presentations, however, shall be made during the fifteen day period immediately preceding a Joint Board meeting except in response to an inquiry initiated by a member of the Joint Board or its staff.

Authorizing Provisions

This Order Inviting Comments and Request for Data is adopted pursuant to the provisions of sections 4(i) and (j), 201–205, 221(c), 403 and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j), 201–205, 221(c), 403 and 410.

List of Subjects in 47 CFR Part 36

Communications common carriers, Federal-State Joint Board, telephone .

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–25988 Filed 11–9–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–484, RM–5948]

Radio Broadcasting Services; Dennis Port and Harwich Port, MA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Brian Dodge, proposing the allocation of FM Channel 230A to Dennis Port, Massachusetts, as that community's first FM broadcast service. To accommodate the new allotment at Dennis Port, it would be necessary to substitute FM Channel 226A for Channel 228A at Harwich Port, Massachusetts and modify the construction permit for Channel 228A at Harwich Port (BPH 840217AP).

DATE: Comments must be filed on or before December 28, 1987, and reply comments on or before January 12, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Brian Dodge, Harvest Broadcasting Services, Box 105FM, Hinsdale, New Hampshire 03451 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–484, adopted October 16, 1987, and released November 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25989 Filed 11–9–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–483, RM–5995]

Radio Broadcasting Services; Willmar, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Kandi Broadcasting Company, requesting the allocation of FM Channel 291C2 to Willmar, Minnesota, as that community's second FM broadcast service. There is a site restriction 0.7 kilometers northeast of the community.

DATES: Comments must be filed on or before December 28, 1987, and reply comments on or before January 12, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David R. Anderson, Wilmer, Cutler, & Pickering, 2445 M Street NW., Washington, DC 20037–1420.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–483, adopted October 19, 1987, and released November 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25990 Filed 11–9–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–482, RM–5974]

Radio Broadcasting Services; Hartford, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by William A. Wittik, proposing the allotment of Channel 282A to Hartford, Vermont, as that community's first FM service. Canadian concurrence is required.

DATES: Comments must be filed on or before December 28, 1987, and reply comments on or before January 12, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or their counsel or consultant, as follows: William A. Wittik, P.O. Box 437, Wilder, Vermont 05088 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–482, adopted October 7, 1987, and released November 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–25992 Filed 11–9–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–481, RM–6000]

Radio Broadcasting Services; Elkton, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests on a petition by Stonewall Broadcasting Company, permittee for Channel 252A at Elkton, Virginia, proposing the substitution of Channel 253B1 for Channel 252A and modification of its construction permit to reflect the higher class facility. The proposal could provide the community with its first wide area coverage FM station. A site restriction of 10.3 kilometers (6.4 miles) west of the city is required. The proposal is located within the "Quite Zone" and requires the petitioner to conform to the notification requirements of § 73.1030(a) of the Rules.

DATES: Comments must be filed on or before December 28, 1987, and reply comments on or before January 12, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William D. Silva, Esquire, Blair, Joyce & Silva, 1825 K Street, NW., Washington, DC 20006 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–481, adopted October 7, 1987, and released November 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–25993 Filed 11–9–87; 8:45 am]

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47 CFR Part 73

[MM Docket No. 87-479, RM-5998]

Radio Broadcasting Services; Minocqua, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Lakeland Broadcasting, Inc., licensee of Station WWMH(FM), proposing the substitution of Class C1 Channel 240 for Channel 240A at Minocqua, Wisconsin, and modification of its station's license to specify operation on the higher class channel. The proposal could provide that community with a first wide coverage area FM station. Concurrence by the Canadian government must be obtained.

DATES: Comments must be filed on or before December 28, 1987, and reply comments on or before January 12, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dennis P. Corbett, Esquire, Kathryn Riley Dole, Esquire, Leventhal, Senter & Lerman, 2000 K Street, NW., Suite 600, Washington, DC 20006-1809 (Counsels for petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-479, adopted October 7, 1987, and released November 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-25094 Filed 11-9-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-480, RM-6003]

Radio Broadcasting Services; Peshtigo, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Good Neighbor Broadcasting, Incorporated, proposing the allotment of Channel 241A to Peshtigo, Wisconsin, as that community's first FM service. Concurrence by the Canadian government is required.

DATES: Comments must be filed on or before December 28, 1987, and reply comments on or before January 12, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Rachel O. Davis, Esquire, Broadcast Media Legal Services, 10686 Crestwood Drive, P.O. Box 1667, Manassas, Virginia 22110 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-480, adopted October 7, 1987, and released November 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideraton or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-25095 Filed 11-9-87; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register

Vol. 52, No. 217

Tuesday, November 10, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Student Community Service Project Guidelines

AGENCY: ACTION.

ACTION: Notice of final student community service project guidelines.

SUMMARY: The following Notice sets out the final guidelines under which Student Community Service Projects will operate. This Notice replaces Student Service-Learning Program Guidelines which were published in the **Federal Register**, dated May 22, 1986 and instructions and technical assistance provided to grants previously awarded under Title I, Part B of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113). The Guidelines are divided into seven parts which deal with the overall program philosophy, as well as responsibilities of the sponsor, staff, volunteers and volunteer placement sites. It also includes basic data on the administration of a Student Community Service Project.

DATE: These Guidelines shall take effect January 11, 1988.

FOR FURTHER INFORMATION CONTACT: Valerie Wheeler, ACTION, 806 Connecticut Avenue NW., Washington, DC, 202-634-9424.

SUPPLEMENTARY INFORMATION: Section 420 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5060) was amended in 1979 to define the term regulation and to detail the procedures to be followed in prescribing regulations. Through its broad definition of a regulation, the section requires that "any rule, regulation, guidelines, interpretation, order, or requirement of general applicability" issued by the Director of ACTION must be published with a 30-day comment period except in certain limited circumstances. These Guidelines, although not regulations under the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), may, in whole or in part, be required by our Act to be published in proposed form for comments.

Notice of Proposed Revisions to the Student Community Service Project Guidelines was published in the **Federal Register** on September 15, 1987 (52 FR 34820). No written comments from the public were received by the Agency. Minor modifications have been made in Part III—Grantee Eligibility and Selection Criteria—in order to further clarify the selection process.

ACTION has determined that these Guidelines are not major rules as defined in E.O. 12291. This determination is based on the proposed grants' size and purpose, neither of which will result in the economic impact of a major rule. These guidelines are noted in the Catalog of Federal Domestic Assistance, Number 72.005.

I. Introduction

This Notice sets forth the guidelines under which Student Community Service Projects will operate. Student Community Service Project guidelines are contained in seven parts:

Part I—Introduction
Part II—Purpose
Part III—Grantee Eligibility and Selection Criteria
Part IV—Grant Application Procedures
Part V—Project Management
Part VI—Student Volunteer Assignments
Part VII—Restrictions

These guidelines supersede Student Service-Learning Program Guidelines published in the **Federal Register**, dated May 22, 1986, and instructions and technical assistance provided to grants previously awarded under Title I, Part B of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113).

II. Purpose

Student Community Service Projects are authorized under Title I, Part B, section 111 and section 114 of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113). The statutory purpose of these projects is to encourage students to undertake volunteer service in their communities in such a way as to enhance the educational value of the service experience, through participation in activities which address poverty-related problems. Student volunteers must be enrolled in secondary, secondary vocational or post-secondary schools on an in-school or out-of-school basis. They serve on a part-time, non-stipended basis.

Service opportunities must result in student volunteers gaining learning experiences through service in low-income communities, whether or not they receive academic credit.

The intent of Student Community Service Projects is to join community, school and youth in developing the scope and nature of volunteer experiences which serve the needs of poverty communities while securing resources by which the effort can be continued and expanded, if needed, after Federal support ends.

Local communities should determine what their problems are and how best to solve them. ACTION resources may be made available to assist in helping communities solve some of their problems through fostering student volunteer service. The community must generate increasing resources to enable the project to continue once ACTION grant funds are no longer provided. Technical assistance and training in project management, fund raising and recruiting will be provided by ACTION as required.

III. Grantee Eligibility and Selection Criteria

The following criteria will be considered by ACTION in the selection and approval of Student Community Service Projects:

A. The applicant must be a Federal, State, or local agency, or private non-profit organization or foundation in the United States, the District of Columbia, Virgin Islands, Puerto Rico, American Samoa, or Guam, which has the authority to accept and the capability to administer a student community service project grant.

B. Student volunteer activities must be poverty-related in scope and otherwise comply with the provisions of the legislative authority outlined in Part II.

C. Grant funds must be used to initiate or expand a student volunteer community service project which addresses the needs of the low-income community.

D. The grantee must develop and maintain community support for the Student Community Service Project through a planned program including public awareness and communications.

E. Proposed community representation in the project's planning and operation,

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including representatives of youth groups, school systems, educational institutions, etc., must be identified in the grant application.

F. The grant application must demonstrate that project goals and objectives are quantifiable, measurable, and show benefits to the student volunteers and to the low-income community. It must describe the expected learning outcomes which will result from the service experience. The projected number of student volunteers who will serve in the project and hours of service are to be included in project goals and objectives.

G. The grant application must demonstrate how student volunteers will be recruited and how they will receive orientation appropriate to their assignments.

H. The grantee must identify resources which will permit continuation of the student community service project, if needed, upon the conclusion of Federal funding as outlined in Part II.

I. The grantee must comply with all programmatic and fiscal aspects of the project and may not delegate or contract this responsibility to another entity. This includes compliance with applicable financial and fiscal requirements established by ACTION or other elements of the Federal government. This does not refer to agreements made with volunteer placement sites as discussed in Part V.

J. The grantee must ensure compliance with the restrictions outlined in Part VI.

The Director of VISTA/Student Community Service Programs may use additional factors in choosing among applicants who meet the minimum criteria specified above, such as:

1. Geographic distribution
2. Availability of volunteer activities to students from all segments of society
3. Applicants' accessibility to alternate resources, both technical and financial
4. Allocation of Student Community Service resources in relation to other ACTION funds.

IV. Grant Application Procedures

A. Scope of Grant

Student Community Service Project grants are awarded for up to a twelve-month period. Requests for second- or third-year reduced funding can be sought by grantees. Maximum federal awards over a period of three years are up to $15,000 for the first year, up to $10,000 for the second, and up to $5,000 for the third. The grantee is required to contribute a local share of at least $3,000 each year. Final determination of the actual amount of grant awards rests with the ACTION Regional Director.

ACTION seeks sponsoring organizations which can demonstrate the ability to raise sufficient local support in order to achieve 100% non-ACTION funding of their Student Community Service Projects after Federal funding ends.

Applicants for new or renewal grants must comply with the provisions of Executive Order 12372, the "Intergovernmental Review of Federal Programs and Activities" as set forth in 45 CFR Part 1233. Contact the ACTION State Office for specific instructions on how to fulfill this requirement.

B. Procedures for New Grantees

When a Notice of Availability of Funds is issued, project application forms are available from ACTION State offices, which will also establish schedules for application submission. Grant allowable costs are contained in ACTION Handbook 2850.2, *Grants Management Handbook for Grantees*, which is available from ACTION State or Regional offices.

Applications are to be submitted to the appropriate ACTION State Office for review and subsequently forwarded to the ACTION Regional office for comment prior to their submission to the Director of VISTA/Student Community Service Programs, who will make the final selection of new Student Community Service project grantees.

The Regional Directors will notify all applicants of the final decisions, and the Regional Grants and Contracts Officers will issue Notices of Grant Awards to the grantees upon notification from the Director of VISTA/Student Community Service Programs.

C. Procedures for Renewal Grantees

Applications for renewal projects will be evaluated using the factors identified in selecting initial grantees, as well as the grantee's compliance with these guidelines and the grantee's performance during the previous year(s), particularly in the achievement of measurable goals and objectives. All project renewals are subject to the availability of funds.

Applications for renewal for second and third years are reviewed at the ACTION State Office level and submitted to the ACTION Regional Director for final approval.

If the second- or third-year renewal application is denied, the sponsor will be notified that the ACTION Regional Director intends to deny the application for renewal and the sponsor will be given an opportunity to show cause why the application should not be denied in accordance with 45 CFR Part 1206. This regulation is available from ACTION State or Regional Offices.

V. Project Management

Sponsors shall manage grants awarded to them in accordance with the provisions of these guidelines and ACTION Handbook 2850.2, *Grants Management Handbook for Grantees*, which will be furnished the sponsor at the time the initial grant is awarded.

Project support provided under an ACTION grant will be furnished at the lowest possible cost consistent with the effective operation of the project. Project costs for which ACTION funds are budgeted must be justified as being essential to project operation.

A. Local Support Contributions

The Student Community Service Project sponsor shall be responsible for providing at least $3,000 in non-federal share contribution for each year of the grant's operation. This amount can be obtained through cash and/or allowable in-kind contributions.

Local share can include, but is not limited to, cash or in-kind contributions such as office space, office equipment, supplies, accounting services, insurance, vehicles, telephones, printing, postage, recognition, travel and personnel which directly benefit the project.

B. Reporting Requirements

Sponsors must comply with fiscal reporting requirements as outlined in ACTION Handbook 2850.2 and must maintain records in accordance with generally accepted accounting principles. Records shall be kept available for inspection at the request of ACTION and shall be preserved for at least three years following the date of submission of the final Financial Status Report for each budget period.

If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

A quarterly project progress report shall also be submitted to the ACTION State Office no later than 30 days after the end of each project quarter. The report shall include, but not be limited to, the following items:

1. A comparison of actual accomplishments with the goals and objectives established for the period.
2. The number of volunteers participating in the project during the quarter.
3. The number of volunteer hours generated during the quarter.

4. Problems, delays, or adverse conditions that have affected or will affect the attainment of project objectives.

C. Insurance

Grantees are responsible and must show evidence that student volunteers, while performing their assignments, have adequate accident, personal liability, and automobile liability insurance coverage consistent with other insurance maintained by the organization, and with sound institutional and business practices.

D. Transportation

The sponsor should structure student volunteers assignments to minimize transportation expenses and requirements.

When transportation is not provided, volunteers may be reimbursed for actual costs within the limitations prescribed by the local project and the availability of funds.

E. Project Staff

Each grantee will designate a person to serve as the project director. A full-time director is desirable. A rationale for less than a full-time project director must be included with the project application. The project director should be hired within 30 days of project start date. Supervision of the project director is the responsibility of the sponsor.

Student Community Service Project staff are employees of the grantee organization and are subject to its personnel policies and practices.

F. Community Relations

1. Community Support

A viable community support system needs to be initiated to ensure project success and project continuation without Federal funds. Project support may be sought from school districts, governmental entities, religious and service groups, foundations, the business community, youth organizations, etc. One method of enlisting and maintaining community support for the project's operation is through the establishment of a project advisory council and/or working committee of the sponsor's board. Initial outreach to representatives of these groups, as evidenced by accompanying letters of support, is seen as an effective step toward the development of the application.

2. Volunteer Recognition

With the participation of the sponsor, the staff, and volunteer placement sites, recognition should be given to student volunteers for service to the community. Projects can also provide recognition to local individuals and agencies or organizations for significant activities in support of project goals. Specific recognition activities should be reflected in the application narrative and budget.

3. Public Awareness

A strong community relations program ensures public awareness of start-up and continuing project activities. It is essential for the successful recruiting of volunteers and for the recognition of volunteer service. The project sponsor and project director should inform community, city and county officials, and the media about development, growth and success of the Student Community Service project.

VI. Student Volunteer Assignments

Student volunteers are assigned to serve low-income communities in a variety of ways. Local sponsors are expected to develop volunteer service opportunities taking into consideration the focus of the project, the age, skills, and interests of student volunteers, as well as the value of the learning experience itself.

Clear understanding concerning the responsibilities of volunteer placement sites must be reached between representatives of the grantee's project staff and the volunteer site supervisor. Agreements may be formally arranged through the utilization of a Memorandum of Understanding, a Letter of Agreement or other means.

A formal agreement between the project staff and volunteer site will greatly assist the staff and volunteers in the management of volunteers. Issues and responsibilities concerning volunteer recruitment, orientation/training, volunteer transportation, recognition and reporting of service hours, are functions outlined in this agreement.

VII. Restrictions

A. Special restrictions on Student Community Service Project grantees:

1. Political Activities

a. Grant funds shall not be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office or any voter registration activity.

b. No project shall use grant funds to provide services, employ or assign personnel or volunteers for, or take any action which would result in the identification or apparent identification of the project with:

(1) Any partisan or non-partisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office;

(2) Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any election; or

(3) Any voter registration activity.

2. Lobbying

a. No grant funds or volunteers may be used by the sponsor in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except as follows:

(1) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests a student volunteer, a sponsor chief executive, his or her designee, or project staff to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member; or

(2) In connection with an authorization or appropriation measure directly affecting operation of the program.

Regulations found in 45 CFR Part 1226, "Prohibitions On Electoral and Lobbying Activities," apply fully hereto, and provide further details on the limitations of political and lobbying activities that apply to volunteers and sponsors. Each grantee is obliged to know, and communicate to staff and volunteers, the prohibitions included therein.

3. Special Restriction on State or Local Government Employees

If the sponsor receiving a grant from ACTION is a state or local government agency, certain restrictions contained in Chapter 15 of Title 5 of the United States Code are applicable to persons who are principally employed in activities associated with the project. The restrictions are not applicable to employees of educational or research institutions. An employee subject to these restrictions may not:

a. Use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.

b. Directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

c. Be a candidate for elective office, except in a non-partisan election. "Non-partisan election" means an election at which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for Presidential election received votes

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in the last preceding election at which Presidential electors were selected.

If a project staff member, whose salary is traceable in whole or in part to an ACTION grant, is also a State or local government employee, the staff member is covered by provisions of the Hatch Act, restricting in many instances public participation in partisan political activities. Questions about the coverage of the Hatch Act may be addressed to the Office of General Counsel, ACTION, Washington, DC 20525.

14. Non-discrimination

No person with responsibility for the operation of a project shall discriminate with respect to any activity or program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation.

5. Religious Activities

Volunteers and project staff funded by ACTION shall not give religious instruction, conduct worship services, or engage in any form of proselytization as part of their duties.

6. Labor and Anti-Labor Activity

No grant funds shall be directly or indirectly utilized to finance labor or anti-labor organization or related activity.

7. Non-displacement of Employed Workers

A student volunteer may not perform any service or duty which would supplant the hiring of workers who would otherwise be employed to perform similar services or duties; or result in the displacement of employed workers or impair existing contracts for service.

8. Non-compensation for Services

No volunteer or other person, organization, or agency shall request or receive any compensation for services of student volunteers. No volunteer site or any member or cooperating organization shall be requested or required to contribute, or to solicit contributions, to establish any part of a local share. This does not prevent the acceptance of cash contributions made voluntarily and without condition to the grantee for legitimate charitable purposes.

9. Volunteer Status

Student volunteers are not employees of the sponsoring organization or the U.S. Government while volunteers.

10. Nepotism

Persons selected for project staff positions may not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors unless there is concurrence by ACTION.

(42 U.S.C. 4974)

Following is an address list of ACTION Regional Offices, along with the addresses of ACTION State Offices under their jurisdiction:

Region I

ACTION Regional Office, 10 Causeway Street, Room 473, Boston, MA 02222–1039
ACTION State Office, Abraham Ribicoff Fed. Bldg., 450 Main St., Rm 524, Hartford, CT 06103–3002
ACTION State Office, Federal Bldg., Rm 305, 76 Pearl Street, Portland, ME 04101–4188
ACTION State Office, 10 Causeway Street, Room 407, Boston, MA 02222–1038

(New Hampshire/Vermont)

ACTION State Office, Federal Post Office & Courthouse, 55 Pleasant Street, Rm 316, Concord, NH 03301–3939
ACTION State Office, John E. Fogarty Bldg., Rm 200, 24 Weybosset Street, Providence, RI 02903–2882

Region II

ACTION Regional Office, 6 World Trade Center, Room 758, New York, NY 10048–0206
ACTION State Office, 402 East State St., Room 426, Trenton, NJ 08608–1507

(Metropolitan New York)

ACTION State Office, 6 World Trade Center, Room 758, New York, NY 10048–0206

(Upstate New York)

ACTION State Office, U.S. Courthouse & Federal Bldg., 445 Broadway, Room 103, Albany, NY 12207–2923

(Puerto Rico/Virgin Islands)

ACTION State Office, Frederico DeGetau Federal Ofc. Bldg., Carlos Chardon Avenue, Suite 662, Hato Rey, PR 00918–2241

Region III

ACTION Regional Office, U.S. Customs House, 2nd & Chestnut St., Rm 108, Philadelphia, PA 19106–2912
ACTION State Office, Federal Building, Room 372–D, 600 Federal Place, Louisville, KY 40202–2230

(Delaware/Maryland)

ACTION State Office, Federal Building, 31 Hopkins Plaza, Room 1125, Baltimore, MD 21201–2814
ACTION State Office, Federal Building, Room 500, 85 Marconi Blvd., Columbus, OH 43215–2888
ACTION State Office, US Customs House, Room 108, 2nd & Chestnut Streets, Philadelphia, PA 19106–2990

(Virginia/Dist. of Columbia)

ACTION State Office, 400 North 8th Street, P.O. Box 10066, Richmond, VA 23240–1832
ACTION State Office, 603 Morris Street, 2nd Floor, Charleston, WV 25301–1409

Region IV

ACTION Regional Office, 101 Marietta St., NW., Suite 1003, Atlanta, GA 30323–2301
ACTION State Office, 2121 8th Avenue North, Rm 722, Birmingham, AL 35203–2307
ACTION State Office, 930 Woodcock Road, Suite 221, Orlando, FL 32803–3750
ACTION State Office, 75 Piedmont Ave., NE, Suite 412, Atlanta, GA 30303–2587
ACTION State Office, Federal Building, Rm 1005–A, 100 West Capital Street, Jackson, MS 39269–1092
ACTION State Office, Federal Bldg., P.O. Century Station, 300 Fayetteville Street Mall, Rm 131, Raleigh, NC 27601–1739
ACTION State Office, Federal Building, Room 872, 1835 Assembly Street, Columbia, SC 29201–2430
ACTION State Office, Federal Bldg./US Courthouse, 801 Broadway, Room 246, Nashville, TN 37203–3889

Region V

ACTION Regional Office, 10 West Jackson Blvd., 6th Floor, Chicago, IL 60604–3964
ACTION State Office, 10 West Jackson Blvd., 6th Floor, Chicago, IL 60604–3964
ACTION State Office, 46 East Ohio Street, Room 457, Indianapolis, IN 46204–1922
ACTION State Office, Federal Building, Rm 339, 210 Walnut, Des Moines, IA 50309–2195
ACTION State Office, Federal Bldg., Room 652, 231 West Lafayette Blvd., Detroit, MI 48226–2799
ACTION State Office, Old Federal Bldg., Room 126, 212 Third Avenue South, Minneapolis, MN 55401–2590
ACTION State Office, 517 East Wisconsin Ave., Rm 601, Milwaukee, WI 53202–4507

Region VI

ACTION Regional Office, 1100 Commerce, Rm 6B11, Dallas, TX 75242–0696

ACTION State Office, Federal Building, Room 2508, 700 West Capitol Street, Little Rock, AR 72201–3291
ACTION State Office, Federal Building, Room 248, 444 SE. Quincy, Topeka, KS 66603–3501
ACTION State Office, 626 Main Street, Suite 102, Baton Rouge, LA 70801–1910
ACTION State Office, Federal Office Building, 911 Walnut, Room 1701, Kansas City, MO 64106–2009
ACTION State Office, Federal Building, Cathedral Place, Room 129, Santa Fe, NM 87501–2026
ACTION State Office, 200 NW., 5th Street, Suite 912, Oklahoma City, OK 73102–5093
ACTION State Office, 611 East Sixth Street, Suite 107, Austin, TX 78701–3747

Region VIII (No Region VII)

ACTION Regional Office, Executive Tower Building, 1405 Curtis Street, Denver, CO 80202–2349
ACTION State Office, Columbine Bldg., Room 301, 1845 Sherman Street, Denver, CO 80203–1167
ACTION State Office, Federal Building, Room 8036, 2120 Capitol Avenue, Cheyenne, WY 82001–3649
ACTION State Office, Federal Office Bldg., Drawer 10051, 301 South Park, Rm 192, Helena, MT 59626–0101
ACTION State Office, Federal Bldg., Room 293, 100 Centennial Mall North, Lincoln, NE 68508–3696

(North & South Dakota)

ACTION State Office, Federal Building, Room 213, 225 S. Pierre Street, Pierre, SD 57501–2452
ACTION State Office, U.S. Post Office & Courthouse, 350 South Main St., Room 484, Salt Lake City, UT 84101–2198

Region IX

ACTION Regional Office, 211 Main Street, Rm 530, San Francisco, CA 94105–1914
ACTION State Office, 522 North Central, Room 205–A, Phoenix, AZ 85004–2190
ACTION State Office, 211 Main Street, Room 534, San Francisco, CA 94105–1974
ACTION State Office, Federal Bldg., Room 14218, 11000 Wilshire Blvd., Los Angeles, CA 90024–3671

(Hawaii/Guam/American Samoa)

ACTION State Office, Federal Building, P.O. Box 50024, Honolulu, HI 96850
ACTION State Office, 4000 Kietzke Lane, Suite E–141, Reno, NV 89502–1208

Region X

ACTION Regional Office, Federal Office Building, 909 First Avenue, Ste. 3039, Seattle, WA 98174–1103
ACTION State Office, The Alaska Center, Suite 340, 1020 Main Street, Boise, ID 83702–5745

(Alaska)

ACTION State Office, Suite 3039, Federal Office Bldg., 909 First Avenue, Seattle, WA 98174–1103
ACTION State Office, Federal Bldg., Room 647, 511 NW Broadway, Portland, OR 97209–3416
ACTION State Office, Suite 3039, Federal Office Bldg., 909 First Avenue, Seattle, WA 98174–1103.

(42 U.S.C. 4974)

Dated in Washington, DC, on November 5, 1987.

Donna M. Alvarado,
Director, ACTION.

[FR Doc. 87–25885 Filed 11–9–87; 8:45 am]
BILLING CODE 6050–28–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875–1808, IRM/PE, Room 1100B, SA–14, Washington, DC 20523.

Date Submitted: October 30, 1987.
Submitting Agency: Agency for International Development.
OMB Number: 0412–0506.
Type of Submission: Renewal.
Title: Information Collection Elements in the A.I.D. Consultant Registry Information System (ACRIS).
Purpose: A.I.D. procuring activities are required to establish bidders mailing lists "to assure access to sources and to obtain meaningful competition," (CFR 1–2.205). In compliance with this requirement, A.I.D.'s Office of Small and Disadvantaged Business Utilizations/Minority Resource Center has responsibility for "developing and maintaining a Contractor's Index of bidders/offerors capable of furnishing services for use by A.I.D. procuring activities" (AIDPR 7–1.704–2(b)(4). Respondents will have a submission burden of one response per year.

Reviewer: Francine Picoult (202) 395–7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Date: October 30, 1987.
Fred D. Allen,
Planning and Evaluation Division.

[FR Doc. 87–25948 Filed 11–9–87; 8:45 am]
BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Members of Performance Review Boards

AGENCY: Department of Agriculture.
ACTION: Notice.

SUMMARY: This document cancels the list of Performance Review Board members published October 18, 1985, 50 FR 42198, as amended October 25, 1985, 50 FR 43427, and November 5, 1986, 51 FR 24978, and gives notice of new Performance Review Board members.

EFFECTIVE DATE: November 10, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Connelly, Chief, Compensation, Employment and Performance Management Staff, Office of Personnel, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC 20250, (202/447–2830).

The membership of the U.S. Department of Agriculture's Performance Review Boards include:

LaVerne Ausman
Gerald Bange
Orville G. Bentley
John Bode
J. Patrick Boyle
Charles Brader
Robert L. Buchanan, Jr.
Robert Bueley
John E. Carson
Mary Carter
Charles E. Caudill
Vance Clark
Keith J. Collins
Samuel J. Cornelius
Lester Crawford
Vivian Culp-Mann
Karen Darling
Donald Houston
William Hadnall
Harold Hunter
Jerome Hytry
Allan S. Johnson
Myron D. Johnsrud
John P. Jordan
Thomas O. Kay
James Michael Kelly
Eddie Kimbrell
Terry B. Kinney
S. Anna Kondratas
John E. Lee, Jr.
Sherman Lewis
Robert Long
Michael Masterson
John McClung
Stephen B. Dewhurst
James R. Donald
George Dunlop
John J. Franke, Jr.
J. Robert Franks
James Frazier, Jr.
E. Ray Fosse
John Frydenlund
Richard Fowler
David Galliart
Frank Geerdes, Jr.
Kenneth Gilles
Richard Goldberg
John Golden
Joseph Hass
Earl Hadlock
Cleon Haney
Suzanne Harris
Milton Hertz
Christopher Hicks
W. Kirk Miller
Wilmer D. Mizell
Peter Myers
Patrick M. O'Brien
William J. Riley, Jr.
F. Dale Robertson
Eldon Rasa
Jeffrey Rush
G. Wilson Scaling
Judith Segal
Carol Seymour
Robert Sherman
Leon Snead
James E. Springfield
Scott Steele
Lawrence Wacks
Joan S. Wallace
Larry Wilson, Jr.
Ewen Wilson
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William W. Buisch
Dennis G. Burns
Denzil Clegg
Naomi Churchill
Sonia Crow
Kenneth L. Deaver
Rosina Ducreat
James R. Ebbitt
Martin F. Fitzpatrick
Delores Flowers
Floyd Gaibler
Claude W. Gifford
James W. Glosser
Raymond Hancock
Clare I. Harris
William F. Helms
Edward D. Hews
Norman R. Kallemeyn
John P. Kratzke
Joseph Leo, Jr.
George M. Leonard
Richard Long
Douglas MacCleery
Phillip Meckle
William T. Manley
Linda Massaro
Leo Mayer
Diane McIntyre
Edgar Nelson
LaVerne Neppl
John H. Ohman
John Okay
John W. Peterson
Charles W. Philpot
William L. Rice
Bobby H. Robinson
Melvin Sims
Dallas Smith
Patricia Stolfa
Clarence Squellati
William H. Tallent
Eric Thor, Jr.
David Unger
Glen Vandenberg
Thomas A. Von Garlem
Jack Van Mark
Allen J. West
Calvin Watkins

Peter C. Myers,

Acting Secretary.

November 6, 1987.

[FR Doc. 87-26160 Filed 11-9-87; 9:00 am]

BILLING CODE 3410-05

[Docket No. 87-012N]

National Advisory Committee on Microbiological Quality Standards for Foods; Establishment

This notice announces the Department's intent to establish a National Advisory Committee on Microbiological Quality Standards for Foods. The Committee will be established in cooperation with the Department of Health and Human Services, and was recommended by a 1985 report of the National Academy of Sciences (NAS) Committee on Food Protection, Subcommittee on Microbiological Criteria, "An Evaluation of the Role of Microbiological Criteria for Foods."

USDA is charged with the enforcement of the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA) and the Egg Products Inspection Act (EPIA). Under these Acts, USDA is responsible for the wholesomeness and safety of meat, poultry, egg products and products thereof intended for human consumption. Similarly, the Secretary of Health and Human Services (HHS) is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act (FFDCA). Under this act, HHS is responsible for ensuring the safety of human foods and animal feeds.

After consultation and review of the recommendations contained in the report of the Committee on Food Protection's Subcommittee on Microbiological Criteria, the Secretaries of Agriculture and Health and Human Services have determined that in order to better meet their responsibilities under the FMIA, PPIA, EPIA and the FFDCA that a National Committee on Microbiologial Quality Standards for Foods be established. The Committee will be tasked with advising and providing recommendations to the Secretaries on the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether foods have been processed using good manufacturing practices.

Establishment of the Committee is in the public interest because the development of a sound public policy in this area can best be accomplished by a free and open exchange of information and ideas among Federal, State and local agencies, the industry, the scientific community, and other interested parties. The complexity of the issues to be addressed will require more than one meeting of the Committee to accomplish its tasks.

The members will be appointed by the Secretary of Agriculture after consultation with the Secretary of Health and Human Services. Because of their interest in the microbiological criteria of food, advice on membership appointments will be requested from the Department of Commerce's National Marine Fisheries Service, and the Department of Defense's U.S. Army Natick Research and Development Center. Nominations for membership will be based primarily on expertise in food science, microbiology and other relevant disciplines.

Interested persons are invited to submit written comments concerning this notice. Written comments should be submitted within 15 days after publication to Catherine M. DeRoever, Director, Executive Secretariat, Food Safety and Inspection Service, Room 335-E, USDA Administration Building, 14th and Independence Avenue, SW., Washington, DC 20250. All submitted comments will be available for public inspection upon request in the Office of the Executive Secretariat. For additional information, please contact Catherine DeRoever at the above address, or by telephone on (202) 447-3002.

John J. Franke, Jr.,

Assistant Secretary for Administration.

November 4, 1987.

[FR Doc. 87-25986 Filed 11-9-87; 8:45 am]

BILLING CODE 3410-DM-M

Forest Service

Small Business Timber Set-Aside Program; Extension of Comment Period

AGENCY: Forest Service, USDA.

ACTION: Extension of comment period.

SUMMARY: On September 25, 1987, at 52 FR 36075, the Forest Service issued a notice of proposed policy setting forth revised procedures for administration of the Small Business Timber Sale Set-Aside Program. In response to requests for additional time to prepare comments, the Agency hereby extends the comment period for an additional 45 days.

DATE: Comments must be received in writing by December 24, 1987.

ADDRESS: Send comments on the revised procedures for administration of the Small Business Timber Sale Set-Aside Program to F. Dale Robertson, Chief (2400), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

FOR FURTHER INFORMATION CONTACT: Milo Larson, Timber Management Staff, Phone Number (202) 475-3754.

Date: November 4, 1987.

F. Dale Robertson,

Chief.

[FR Doc. 87-25946 Filed 11-9-87; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Indiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m., on December 11, 1987, at the Embassy Suites, 110 West Washington, Indianapolis, Indiana. The purpose of the meeting is to conduct orientation for a newly rechartered Advisory Committee, conduct program planning for the balance of FY 1988 and hold a forum on employment discrimination. Presenters at this forum will include representatives of the Federal and State civil rights enforcement agencies, public and private sector employers, and the community.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Professor William F. Harvey, or Melvin Jenkins, Director of the Central Regional Division (816) 374-5253, (TDD 816/374-5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 2, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-25948 Filed 11-9-87; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Service Annual Survey; Consideration

The Bureau of the Census hereby gives notice that we plan to conduct, in 1988, the Service Annual Survey. This annual survey will be conducted under authority of Title 13, United States Code, sections 131, 182, 224, and 225, and will collect 1987 data on receipts/revenues for selected service industries, including hotels and motels; personal, business, automotive, and repair services; motion pictures and amusement services; health, legal, and other professional services; and selected social services.

The 1987 survey will be expanded to begin collecting data on sources of receipts/revenues for nursing and personal care facilities, outpatient care facilities, personnel supply services, and arrangement of passenger transportation. In addition, information on number of beds, discharges, and average length of stay per discharge will be requested from nursing and personal care facilities; and annual payroll and operating expenses from firms engaged in the arrangement of passenger transportation.

This survey is a continuing and timely source of data on the service industries. Such a survey, if conducted, shall begin not earlier than December 31, 1987.

Information and recommendations received by the Bureau of the Census indicate that the data have significant application to the information needs of the public, the service industries, and governmental agencies, and that the data are not publicly available from nongovernmental or other governmental sources on a continuing basis.

The Bureau of the Census needs reports only from a selected sample of service firms in the United States, with probability of selection based on receipts size. The sample will provide, with measurable probability, statistics on the subjects specified above.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, DC 20233.

Any suggestions or recommendations concerning this proposed survey will receive consideration if submitted in writing to the Director, Bureau of the Census, on or before December 11, 1987. For additional information, you may phone Michael S. McKay, Chief, Organization and Management Systems Division, Bureau of the Census, on (301) 763-7452.

Dated: November 4, 1987.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 87-25984 Filed 11-9-87; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 27-87]

Foreign-Trade Zone 72; Application for Subzone Alpine Auto Electronic Components Plant—Greenwood and Indianapolis, IN

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Indianapolis Airport Authority, grantee of FTZ 72, requesting special-purpose subzone status for two automobile electronic components facilities of Alpine Electronics Manufacturing of America, Inc. (Alpine), in Greenwood and Indianapolis, Indiana, in and adjacent to the Indianapolis Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 29, 1987.

The facilities are located at 421 North Emerson Avenue, Greenwood, Indiana (manufacturing plant—101 acres), and at 1810 South Lynhurst Drive, Indianapolis (warehouse—15,000 square feet). Employing 200 persons, the facilities are used to produce and distribute audio systems, switches, and other auto electronic components. Some 85 percent of the value of the components are currently sourced abroad, such as cassette tape players and parts, printed circuit boards, capacitors, transistors, integrated circuits, diodes, resistors, motors, switches, and other electrical parts. About half of the finished products are exported.

Zone procedures would exempt Alpine from Customs duty payments on the products it exports. On products shipped to U.S. auto assembly plants with subzone status, the company would be able to pay Customs duties at the rate available to importers of complete automobiles and electronic components for U.S. auto subzones. For example, the duty rates on the audio components Alpine sources abroad range from 3.7 to 10.0 percent, whereas the rate for finished autos is 2.5 percent. The savings will contribute to the company's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; John F. Nelson, District Director, U.S. Customs Service, North Central Region, 6th Floor, Plaza Nine Building, 55 Erieview Plaza, Cleveland, Ohio 44114; and Colonel Robert L. Oliver, District Engineer, U.S. Army Engineer District Louisville, P.O. Box 59, Louisville, Kentucky 40201.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 17, 1987.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 357 U.S. Courthouse and Federal Office Building, 46 East Ohio Street, Indianapolis, Indiana 46202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue NW., Washington, DC 20230

Dated: November 3, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87-26013 Filed 11-9-87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

State of Alaska et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

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Docket No.: 87–134. *Applicant:* State of Alaska, Juneau, AK 99802–2000. *Instrument:* Microscope, Plankton Viewing, Collecting Net TV Monitor. *Manufacturer:* Nikon, Canton, Shimazu, Kitahara; Japan. *Intended Use:* See notice at 52 FR 27040, July 17, 1987. *Reasons for This Decision:* The foreign articles provide the capability of collecting, viewing and monitoring plankton samples for mariculture feasibility studies. *Advice Submitted By:* National Institutes of Health, June 25, 1987.

Docket No.: 87–151. *Applicant:* USDA-ARS-MWA, Peoria, IL 61604. *Instrument:* High Pressure Extractor/Thin Layer Chromatograph. *Manufacturer:* Nova Werke AG, Switzerland. *Intended Use:* See notice at 52 FR 15527, April 29, 1987. *Reasons for This Decision:* The foreign instrument provides combined micro-scale super critical fluid extraction and thin-layer chromatography. *Advice Submitted By:* National Institutes of Health, June 25, 1987.

Docket No.: 87–008R. *Applicant:* University of Utah, Salt Lake, UT 84112. *Instrument:* Optical Rotatory Dispersion/Circular Dichroism Spectrophotometer, Model J-20C with Accessories. *Manufacturer:* JASCO, Japan. *Intended Use:* See notice at 51 FR 40244, November 5, 1986. *Reasons for This Decision:* The foreign instrument provides optical rotary dispersion spectra along with circular dichroism measurements. *Advice Submitted By:* National Institutes of Health, July 9, 1987.

Docket No.: 87–160. *Applicant:* EPA, EMSL, Las Vegas, NV 89114. *Instrument:* Mass Spectrometer, Model VG 7070-EQ. *Manufacturer:* VG Analytical, United Kingdom. *Intended Use:* See notice at 52 FR 18261, May 14, 1987. *Reasons for This Decision:* The foreign instrument provides (1) mass range to 12,000 amu, (2) tandem (MS/MS) spectrometry, (3) collision induced dissociation and (4) FAB capability. *Advice Submitted By:* National Institutes of Health, July 9, 1987.

Docket No.: 87–177. *Instrument:* University of Alabama, Birmingham, AL 35294. *Instrument:* Photon Counting Fluorescence Lifetime System. *Manufacturer:* Photochemical Research Associates, Inc., Canada. *Intended Use:* See notice at 52 FR 19904, May 28, 1987. *Reasons for This Decision:* The foreign instrument provides time-correlated, pulsed, single photon counting fluorometry with picosecond resolution. *Advice Submitted By:* National Institutes of Health, August 18, 1987.

Docket No.: 87–178. *Applicant:* University of California, Irvine, CA 92717. *Instrument:* Langmuir-Blodgett System, Model KSV2200. *Manufacturer:* KSV Chemicals, Finland. *Intended Use:* See notice at 52 FR 18283, May 14, 1987. *Reasons for This Decision:* The foreign instrument can perform controlled thin film crystallization. *Advice Submitted By:* National Institutes of Health, August 18, 1987.

Docket No.: 87–184. *Applicant:* Brandeis University, Waltham, MA 02254. *Instrument:* High Pressure Generator and Optical Cell. *Manufacturer:* Nova Swiss Werke, Switzerland. *Intended Use:* See notice at 52 FR 27040, July 17, 1987. *Reasons for This Decision:* The foreign article provides high pressure (to 7.0 kilobar) optical capabilities for investigating liquids, gases or solids. *Advice Submitted By:* National Institutes of Health, August 18, 1987.

Comments: None received.
Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87–26014 Filed 11–9–87; 8:45 am]

BILLING CODE 3510-DS-M

Carnegie-Mellon University et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86–278R. *Applicant:* Carnegie-Mellon University, Schenley Park, Pittsburgh, PA 15213. *Instrument:* Theta/Theta X-Ray Powder Diffractometer, Model D-MAX–11TBX and Accessories. *Manufacturer:* Rigaku Corporation, Japan. Original notice of this resubmitted application was published in the **Federal Register** August 14, 1986.

Docket Number: 87–307. *Applicant:* University of Texas, Austin, TX 78713–7909. *Instrument:* Mass Spectrometer, Model 261V. *Manufacturer:* Finnigan-MAT, West Germany. *Intended Use:* The instrument will be used for scientific research and training of graduate students in the Earth Sciences exclusively. Highly precise isotopic measurements on very small samples of rocks, minerals and water will permit age determination and study of material fluxes in geologic systems. The isotopic systems to be investigated include: B, Sr, Nd, U, and Pb. *Application Received by Commissioner of Customs:* October 6, 1987

Docket Number: 87–308. *Applicant:* Institute of Human Origins, Berkeley Geochronology Center, 2453 Ridge Road, Berkeley, CA 94709. *Instrument:* Mass Spectrometer, Model 215. *Manufacturer:* Mass Analyser Products Ltd., United Kingdom. *Intended Use:* The instrument will be used to measure the quantity of argon gas trapped in naturally occurring igneous rocks and minerals to determine their geologic age. The instrument will also be used for teaching purposes in a one semester undergraduate course in Geochronology and a field class for undergraduate and graduate students. *Application Received by Commissioner of Customs:* October 6, 1987.

Docket Number: 87–309. *Applicant:* University of Texas Medical Branch at Galveston, 301 University Boulevard, Galveston, TX 77550. *Instrument:* Electron Microscope Model H–7000–3D, with Accessories. *Manufacturer:* Hitachi Scientific Instruments, Japan. *Intended Use:* The instrument will be used for investigations of fine structures and the quantitative analysis of myocardium of conduction system; fine structural alterations of intercalated disk of cardiocytes in pathologic conditions such as ischemia; neuromuscular junction in myocardium; cytochemical localization of acid phosphatase, adenylate cyclase, CA^{2+}-ATPase, and other enzymes in cardiocytes. *Application Received by Commissioner of Customs:* October 7, 1987.

Docket Number: 88–001. *Applicant:* University of California, Marine Science Institute, Santa Barbara, CA 92106. *Instrument:* Mass Spectrometer System, Model Delta E. *Manufacturer:* Finnegan Corporation, West Germany. *Intended Use:* The instrument will be used to determine oxygen and carbon isotope ratios in sediments during research of paleoceanographic and paleoclimatic history of the ocean. *Application Received by Commissioner of Customs:* October 7, 1987.

Docket Number: 88–002. *Applicant:* Baylor College of Medicine, 6608 Fannin, Room 601, Houston, TX 77030. *Instrument:* Mass Spectrometer, Model Delta E. *Manufacturer:* Finnegan-MAT, West Germany. *Intended Use:* The instrument will be used for studies of the isotopes of carbon, nitrogen and oxygen in a variety of biological materials including blood, saliva, human milk, feces, proteins, fatty acids and various foods. The specific objective of the research is to study nutrient utilization by pregnant and lactating women, and by infants. *Application Received by Commissioner of Customs:* October 8, 1987.

Docket Number: 88–003. *Applicant:* Bowman Gray School of Medicine of Wake Forest University, 300 S. Hawthorne Road, Winston-Salem, NC 27103. *Instrument:* Electron Microscope, Model CM–30. *Manufacturer:* N. V. Philips, The Netherlands. *Intended Use:* Studies of biological materials including cells, tissues, and macromolecules of both human and animal model origin. Many of the experiments will be directed at the effects of agents on the organizational integrity of cells and tissues; for example, studies of the structural effects of anti-tumor agents on target cells. Other experiments will involve binding and localization of plasma proteins such as fibrinogen to blood cells and vascular surfaces with the intent of understanding molecular spatial organization during hemostasis. The general goal of all experiments is to better understand relationships among ultrastructure, biochemistry and pathogenesis of disease. In addition, the instrument will be used in several pathology courses to train undergraduate and graduate students and investigators. *Application Received by Commissioner of Customs:* October 8, 1987.

Docket Number: 88–004. *Applicant:* The Children's Surgical Foundation, Inc., 2300 Children's Plaza, Chicago, IL 60614. *Instrument:* Cryo-Microtome, Model LKB 2250–041, with Accessories. *Manufacturer:* PWV, Palmstiernas Mekaniska Verkstad, Sweden. *Intended Use:* The instrument will be used for investigations of autoradiographic drug and chemical distribution studies of whole animals and fetal distribution studies of teratogenic compounds; histochemical studies of hormone and enzyme localization in cells and tissues of large specimens; metabolism studies of drugs and toxic or carcinogenic environmental agents; gross morphology and light microscopy examination of whole human organs and animals to measure tumor metastasis. *Application Received by Commissioner of Customs:* October 8, 1987.

Docket Number: 88–005. *Applicant:* Willis-Knighton Medical Center, 2600 Greenwood Road, Shreveport, LA 71103. *Instrument:* Lithotripter. *Manufacturer:* Dornier Medizintechnik, West Germany. *Intended Use:* The instrument will be used for investigations to expand the knowledge of shockwave technology, particularly the study of kidney stones or calculi in different levels of the ureter to determine whether ultrasound can be used to treat such stones without damaging surrounding or peripheral structures. In addition, the instrument will be used to determine if stones down in the true pelvis behind the pelvic bones in the ilia can be reached with ultrasound. Educational uses will involve training students, x-ray technicians and other support staff in lithotripsy application. *Application Received by Commissioner of Customs:* October 20, 1987.

Docket Number: 88–006. *Applicant:* Pennsylvania State University, Department of Chemistry, 152 Davey Laboratory, University Park, PA 16802. *Instrument:* Mass Spectrometer, Model MS50TC. *Manufacturer:* Kratos Scientific Instruments, United Kingdom. *Intended Use:* Study of materials from several areas of chemical and biochemical research, including newly synthesized compounds, reaction byproducts, and natural products isolated from various sources. The instrument will be used to determine molecular weight and fragmantation patterns of the compounds under investigation. *Application Received by Commissioner of Customs:* October 21, 1987.

Docket Number: 88–007. *Applicant:* Harvard University, Massachusetts General Hosptial, 32 Fruit Street, Boston, MA 02114. *Instrument:* Electron Microscope, Model CM 10/PC. *Manufacturer:* N. V. Philips, The Netherlands. *Intended Use:* The instrument will be used to conduct experiments which involve the response of cells and tissues to exposure to laser and ultraviolet light irradiation. The research will be conducted in an effort to define the effects of light of various wavelenghts, pulse duration, radiant exposures, and repetition rates on various tissues. *Application Received by Commissioner of Customs:* October 22, 1987.

Docket Number: 88–008. *Applicant:* University of Wisconsin-Madison, Department of Botany, 1300 University Drive, Madison, WI 53706. *Instrument:* Photometer. *Manufacturer:* Sigma Instrumente GmbH, West Germany. *Intended Use:* The instrument will be used to measure very small amounts of metabolites of photosynthesis and activities of enzymes required for photosynthesis in plants. The enzyme reactions are linked to the reduction of NADP which absorbes light strongly at 340 nm but not at 405 nm. Experiments will be carried out to test the adaptation of photosynthesis to temperature and other environmental parameters. Specific experiments will include measuring metabolite levels in leaves grown under contrasting environments. *Application Received by Commissioner of Customs:* October 22, 1987.

Docket Number: 88–010. *Applicant:* University of California, School of Pharmacy, 926 Medical Sciences Building, San Francisco, CA 94143. *Instrument:* Spectropolarimeter, Model J–500A. *Manufacturer:* JASCO, Japan. *Intended Use:* The instrument will be used for studies of the circular dichroism of proteins by placing solutions of them in optical cells in the instrument. The objectives of the experiments are the determination of the precise 3-dimensional structure of the molecule under study in order to interpret, explain, and predict the effect of structural changes on the biological properties of the molecule. In addition, the instrument will be used to teach (1) the theory of optical and CD spectroscopy in P.C. 230–A and (2) the students to use the instrument in the pursuit of their own research project in P.C. 250. *Application Received by Commissioner of Customs:* October 22, 1987.

Docket Number: 88–011. *Applicant:* The University of Nevada School of Medicine, Howard Medical Science Building, Reno, NV 89557. *Instrument:* Rapid Filtration Device, Model RFS–4. *Manufacturer:* Biologic, France. *Intended Use:* The instrument will be used to resolve the time course and

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extent of the movement of radioactive calcium ions across sarcoplasmic reticulum membranes isolated from rabbit fast twitch skeletal muscle. Experiments will be conducted to establish the characteristics of mechanisms involved in the movement of calcium ions across these membranes and to investigate how this event contributes to the ability of intact muscle to contract. In addition, the instrument will be used to train scientists at the pre and postdoctoral levels to conduct rapid time course experiments. *Application Received by Commissioner of Customs:* October 23, 1987.

Docket Number: 88-012. *Applicant:* U.S. Department of Agriculture, Articultural Research Station, Salinas, 1636 East Alisal Street, Salinas, CA 93905. *Instrument:* Electron Microscope, Model EM 109. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* Research which included ultrastructural, anatomical and cytological work on sugarbeets and other plants which host sugarbeet viruses. Other projects on bacterial and fungal pathogenesis of sugarbeets are also being developed. *Application Received by Commissioner of Customs:* October 26, 1987.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-26015 Filed 11-9-87; 8:45 am]

BILLING CODE 3510-DS-M

Children's Medical Center of Dallas et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 87-225. Applicant: Children's Medical Center of Dallas, Dallas, TX 75235. *Instrument:* Electron Microscope, Model JEM-100SX. *Manufacturer:* JEOL Ltd., Japan. INTENDED USE: See notice at 52 FR 30943, August 18, 1987. *Instrument Ordered:* February 12, 1987.

Docket Number: 87-226. APPLICANT: National Museum of Natural History, Smithsonian Institution, Washington, DC 20560. *Instrument:* Electron Microscope, Model JEM-1200EX-SEG. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 30939, August 18, 1987. *Instrument Ordered:* December 30, 1986.

Docket Number 87-228. *Applicant:* Miami University, Oxford, OH 45056. *Instrument:* Electron Microscope, EM 10CA. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 52 FR 30939, August 18, 1987. *Instrument Ordered:* May 26, 1987.

Docket Number: 87-229. *Applicant:* Fidia-Georgetown Institute for the Neurosciences, Washington, DC 20007. *Instrument:* Electron Microscope, Model EM 902. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 52 FR 30939, August 18, 1987. *Instrument Ordered:* April 7, 1987.

Docket Number: 87-231. *Applicant:* National Institutes of Health, Bethesda, MD 20892. *Instrument:* Electron Microscope, Model JEM-1200EX/SEG/DP/DP. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 30939, August 18, 1987. *Instrument Ordered:* April 1, 1987.

Docket Number: 87-235. *Applicant:* McLean Hospital, Belmont, CA 02178. *Instrument: Electron Microscope, Model JEM-1200EX/SEG/DP/DP. Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* See notice at 52 FR 30940, August 18, 1987. *Instrument Ordered:* February 27, 1987.

Docket Number: 87-238. *Applicant:* University of Arizona, Tuscon, AZ 85721. *Instrument:* Electron Microscope, Model JEM-2000FX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 30940, August 18, 1987. *Instrument Ordered:* February 25, 1987.

Docket Number: 87-240. *Applicant:* Connecticut College, New London, CT 06320. *Instrument:* Electron Microscope, Model EM 109T. *Manufacturer: Carl Zeiss, West Germany. Intended Use:* See notice at 52 FR 30940, August 18, 1987. *Instrument Ordered:* May 13, 1987.

Docket Number: 87-247. *Applicant:* Rutgers University, Piscataway, NJ 08854. *Instrument:* Electon Microscope, Model JEM-100CX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 30941, August 18, 1987. *Instrument Ordered:* May 6, 1987.

Docket Number: 87-250. *Applicant:* New York University, New York, NY 10003. *Instrument:* Electron Microscope, Model CM-10/PC. *Manufacturer: N. V. Philips, The Netherlands. Intended Use:* See notice at 52 FR 30941, August 18, 1987. *Instrument Ordered:* March 20, 1987.

Docket Number: 87-254. *Applicant:* N.C. Agricultural and Technical State University, Greensboro, NC 27411. *Instrument: Electron Microscope, Model JEM-1200EX-SEG. Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 30941, August 18, 1987. *Instrument Ordered: May 31, 1987.*

Docket Number: 87-255. *Applicant:* Haverford College, Haverford, PA 17041. *Instrument:* Electron Microscope, Model H-600-3. *Manufacturer:* Hitachi Scientific Instruments, Japan. *Intended Use:* See notice at 52 FR 32823, August 31, 1987. *Instrument Ordered:* May 19, 1987.

Docket Number: 87-269. *Applicant:* Saint Mary's College, Notre Dame, IN 46556. *Instrument:* Electron Microscope, Model H-300 with Accessories. *Manufacturer:* Nissei Sangyo, Japan. *Intended Use:* See notice at 52 FR 32824, August 31, 1987. *Instrument Ordered:* June 1, 1987.

Docket Number: 87-270. *Applicant:* New York State College of Ceramics at Alfred University, Alfred, NY 14802. *Instrument:* Scanning Transmission Electron Microscope, Model JEM-2000FX/SIP/DP. *Manufacturer: JEOL, Japan. Intended Use:* See notice at 52 FR 32825, August 31, 1987. *Instrument Ordered:* December 19, 1986.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-26016 Filed 11-9-87; 8:45 am]

BILLING CODE 3510-DS-M

Cleveland Research Institute et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between

8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 87-092. *Applicant:* Cleveland Research Institute, Cleveland, OH 44115. *Instrument:* Electron Microscope, Model CM 12/STEM with Attachments. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 5810, February 26, 1987. *Instrument Ordered:* July 1, 1986.

Docket Number: 87-098. *Applicant:* Purdue University, West Lafayette, IN 47907. *Instrument:* Electron Microscope, Model JEM-2000FX/SID/DP with Accessories. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 7918, March 13, 1987. *Instrument Ordered:* September 29, 1986.

Docket Number: 87-040. *Applicant:* St. John's Mercy Medical Center, St. Louis, MO 63141. *Instrument:* Electron Microscope with Accessory, Model H-600-3. *Manfuacturer:* Hitachi, Ltd., Japan. *Intended Use:* See notice at 52 FR 18261, May 14, 1987. *Instrument Ordered:* October 23, 1985.

Docket Number: 87-153. *Applicant:* University of California, Davis, CA 95616. *Instrument:* Electron Microscope, Model CM 12 with Accessories. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 18261, May 14, 1987. *Instrument Ordered:* February 23, 1987.

Docket Number: 87-154. *Applicant:* University of Miami School of Medicine, Miami, FL 33136. *Instrument:* Electron Microscope, Model EM 10CA. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 52 FR 18261, May 14, 1987. *Instrument Ordered:* March 12, 1987.

Docket Number: 87-157. *Applicant:* Thomas Jefferson Unviersity, Philadelphia, PA 19107. *Instrument:* Electron Microscope, Model JEM 100-CX. *Manufacturer:* JEOL CO., Ltd., Japan. *Intended Use:* See notice at 52 FR 18261, May 14, 1987. *Instrument Ordered:* January 12, 1987.

Docket Number: 87-173. *Applicant:* University of California, Santa Barbara, CA 93106. *Instrument:* Electron Microscope, Model JEM-100CX. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* See notice at 52 FR 18262, May 14, 1987. *Instrument Ordered:* February 6, 1987.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-26017 Filed 11-9-87; 8:45 am]

BILLING CODE 3510-DS-M

United States Department of Energy et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 87-216. *Applicant:* U.S. Department of Energy, Argonne, IL 60439. *Instrument:* Mass Spectrometer System, Model 261. *Manufacturer:* Finnigan MAT GmbH, West Germany. *Intended Use:* See notice at 52 FR 30942, August 18, 1987. *Reasons for This Decision:* The foreign instrument provides an external reproducibility of 0.03% for 2.0 microgram loadings of uranium (NBS SRM U500) with a guaranteed abundance sensitivity of 2.0 ppm. *Advice submitted by:* National Bureau of Standards, September 17, 1987.

Docket Number: 87-256. *Applicant:* Yale University, New Haven, CT 06511. *Instrument:* Wavemeter. *Manufacturer:* Centre National de la Recherche Scientifique, France. *Intended Use:* See notice at 52 FR 32823, August 31, 1987. *Reasons for This Decision:* The foreign instrument provides a fraction of presision of less than 1.7 parts of 107 at 500 nm. *Advice Submitted by:* National Bureau of Standards, September 29, 1987.

Docket Number: 87-216. *Applicant:* Boston Biomedical Research Institute, Boston, MA 02114. *Instrument:* Stopped Flow Module 3 Syringe, Model SFM-3 *Manufacturer:* BioLogic, France. *Intended use:* See notice at 52 FR 30942, August 18, 1987. *Reasons for this decision:* The foreign instrument provides independent microprocessor control of three syringes with flow rates up to 24 milliliters per second. *Advice Submitted by:* National Institutes of Health, September 4, 1987.

Docket Number: 87-166. *Applicant:* Miami University, Oxford, OH 45056. *Instrument:* Micromanipulator, Canberra Type, Model EM-7. *Manufacturer:* Narishige Scientific Instrument Laboratory, Japan. *Intended Use:* See notice at 52 FR 18261, May 14, 1987. *Reasons for This Decision:* The foreign article has a vertical fine adjustment drive providing adjustment of angular position, with superior stability and precise electron control. *Advice Submitted by:* National Institutes of Health, July 30, 1987.

Docket Number: 87-088. *Applicant:* Pennsylvania State University, University Park, PA 16802. *Instrument:* Ultrasonic Anemometer-Thermometer, Model DAT-300. *Manufacturer:* Kaijo Denki Company, Ltd., Japan. *Intended Use:* See notice at 52 FR 5326, February 20, 1987. *Reasons for This Decision:* The foreign instrument provides ultrasonically based temperature measurements and can operate in a marine environment. *Advice Submitted By:* National Oceanic and Atmospheric Administration, May 6, 1987.

Docket Number: 87-132. *Applicant:* North Carolina State University, Raleigh, NC 27695-8302. *Instrument:* Diameter Monitor, Model 460A/Z. *Manufacturer:* Zimmer OHG, West Germany. *Intended Use:* See notice at 52 FR 12221, April 15, 1987. *Reasons for This Decision:* The foreign Instrument optically determines the diameter of a fiber, so the threadline is not disturbed. *Advice submitted by:* Department of the Air Force, August 28, 1987.

Docket Number: 87-209. *Applicant:* University of California at Berkeley, Berkeley, CA 94720. *Instrument:* Two (2) Display Oscilloscopes, Model DM-2. *Manufacturer:* Joyce Electronics, United Kingdom. *Intended Use:* See notice at 52 FR 30941, August 18, 1987. *Reasons for This Decision:* The foreign instrument provides high luminance (mean of 300 candelas per square meter) and raster rotation through 360 degrees. *Advice Submitted By:* National Institutes of Health, September 4, 1987.

Docket Number: 87-210. *Applicant:* Indiana University, Bloomington, IN 47402. *Instrument:* CD Spectropolarimeter and Optical Rotatory Dispersion, Model J-20A. *Manufacturer:* JASCO, Japan. *Intended*

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Use: See notice at 52 FR 27039, July 17, 1987. *Reasons for This Decision:* The foreign instrument provides optical rotary dispersion spectra along with circular dichroism measurements. *Advice Submitted By:* National Institutes of Health, September 4, 1987.

Docket Number: 85-272. *Applicant:* District 2 Marine Engineers Beneficial Association—Associated Maritime Officers Safety and Education Plan, Toledo, OH 43604. *Instrument:* Marine Engineroom Machinery Training and Research Simulator. *Manufacturer:* Haven Automation, Limited, United Kingdom. *Intended Use:* See notice at 50 FR 36128, September 5, 1985. *Reasons for This Decision:* The foreign article will enable the simulated operation of any of four configurations of propulsion. *Advice Submitted By:* National Maritime Research Center, March 26, 1987.

Comments: None received.
Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health, the National Oceanic and Atmospheric Administration, the National Maritime Research Center, the Department of the Air Force, and the National Bureau of Standards advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-26016 Filed 11-9-87; 8:45 am]

BILLING CODE 3510-DS-M

Fisk University et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 87-066R. *Applicant:* Fisk University, Nashville, TN 37203. *Instrument:* FTI Spectrophotometer, Model DA3.16. *Manufacturer:* Bomem, Canada. *Intended Use:* See notice at 52 FR 1648, January 15, 1987. *Reasons for This Decision:* The foreign article provides an unapodized resolution of 0.026 cm^{-1}.

Docket Number: 87-243. *Applicant:* University of Montana, Missoula, MT 59812. *Instrument:* Magnetic Susceptibility and Anisotropy Instrument, Model SI-2. *Manufacturer:* Sapphire Instruments, Canada. *Intended Use:* See notice at 52 FR 30940, August 18, 1987. *Reasons for This Decision:* The foreign instrument is capable of determining the anistropy of magnetic susceptibility.

Docket Number: 87-224. *Applicant:* Boston University, Boston, MA 02215. *Instrument:* Electromagnetic Meter, EM31-D. *Manufacturer:* Geonics Ltd., Canada. *Intended Use:* See notice at 52 FR 30942, August 18, 1987. *Reasons for This Decision:* The foreign instrument provides for in site measurement of ground conductivity in milliohm per meter.

Docket Number: 87-230. *Applicant:* U.S. Department of Energy, Argonne, IL 60439-4812. *Instrument:* Streak Camera, Model C1587. *Manufacturer:* Hamamatsu Photonic Systems Corp., Japan. *Intended use:* See notice at 52 FR 30939, August 18, 1987. *Reasons for This Decision:* The foreign article is capable of a time resolution of 2 ps.

Docket Number: 87-238. *Applicant:* University of Denver, Denver, CO 80218. *Instrument:* Luminox NO_x in Air Monitor, Model LMA-3. *Manufacturer:* Scintrex/Unisearch, Canada. *Intended Use:* See notice at 52 FR 30940, August 18, 1987. *Reasons for This Decision:* The foreign instrument is most sensitive in the 0-20 ppb range and is capable of a maximum sensitivity of 10 ppt.

Comments: None received.
Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The capability of each of the foreign instruments decribed above is pertinent to each applicant's intended purposes.

We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-26019 Filed 11-9-87; 8:45 am]

BILLING CODE 3510-DS-M

La Crosse Lutheran Hospital, Inc., et al., Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 87-041. *Applicant:* La Crosse Lutheran Hospital, Inc., La Crosse, WI 54601. *Instrument:* Electron Microscope, Model JEM-100SX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 18261, May 14, 1987. *Instrument Ordered:* August 27, 1986.

Docket Number: 87-176. *Applicant:* University of Michigan, Ann Arbor, MI 48109. *Instrument:* Electron Microscope, Model JEM-4000EX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 18263, May 14, 1987. *Instrument Ordered:* January 12, 1987.

Docket Number: 87-180. *Applicant:* Barnes Hospital, St. Louis, MO 63110. *Instrument:* Electron Microscope, Model CM10. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 19904, May 26, 1987. *Instrument Ordered:* March 13, 1987.

Docket Number: 87-193. *Applicant:* University of Michigan, Ann Arbor, MI 48109. *Instrument:* Electron Microscope, Model JEM-2000FX. *Manufacturer:* JEOL, Japan. *Intended use:* See notice at 52 FR 27037, July 17, 1987. *Instrument Ordered:* January 12, 1987.

Docket Number: 87-195. *Applicant:* U.S. Department of Energy, Argonne, IL 60439. *Instrument:* Electron Microscope, Model EM 430T with Accessories. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 27038, July 17, 1987. *Instrument Ordered:* August 5, 1986.

Docket Number: 87-197. *Applicant:* Cold Spring Harbor Laboratory, Cold Spring Harbor, NY 11724. *Instrument:* Electron Microscope, Model H-7000. *Manufacturer:* Nissei Sangyo America, Ltd., Japan. *Intended Use:* See notice at 52 FR 27038, July 17, 1987. *Instrument Ordered:* March 12, 1987.

Docket Number: 87-198. *Applicant:* Middle Tennessee State University, Murfreesboro, TN 37132. *Instrument:* Electron Microscope, Model EM 109. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 52 FR 27038, July 17, 1987. *Instrument Ordered:* March 14, 1987.

Docket Number: 87-199. *Applicant:* Medical University of South Carolina, Charleston, SC 29425. *Instrument:* Electron Microscope, Model EM 109T. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 52 FR 27038, July 17, 1987. *Instrument Ordered:* March 23, 1987.

Comments: None received.
Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was beiang manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-26020 Filed 11-9-87; 8:45 am]

BILLING CODE 3510-DS-M

Montana State University et al.; Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 87-122. *Applicant:* Montana State University, Bozeman, MT 59717. *Instrument:* Multi-Tasking Data System, Model VG 11-250J+. *Manufacturer:* VG Instruments, Inc., United Kingdom. *Intended Use:* See notice at 52 FR 15526, April 29, 1987. *Advice Submitted By:* National Institutes of Health, June 25, 1987.

Docket Number: 87-124. *Applicant:* The University of Texas Health Science Center at San Antonio, San Antonio, TX 78284-7760. *Instrument:* Accessories for Nanosecond Fluorometer System 2000. *Manufacturer:* Photochemical Research Associates, Inc., Canada. *Intended Use:* See notice at 52 FR 10395, April 1, 1987. *Advice Submitted by:* National Institutes of Health, June 25, 1987.

Docket Number: 87-126. *Applicant:* University of Tennessee, Knoxville, TN 37996-1600. *Instrument:* Quadrupole Update for Mass Spectrometer. *Manufacturer:* VG Analytical Instruments Ltd., United Kingdom. *Intended Use:* See notice at 52 FR 12221, April 15, 1987. *Advice Submitted by:* National Institutes of Health, June 25, 1987.

Docket Number: 87-146. *Applicant:* Montana State University, Bozeman, MT 59717. *Instrument:* Continous Flow FAB Accessory. *Manufacturer:* VG Instruments, Inc., United Kingdom. *Intended Use:* See notice at 52 FR 15527, April 29, 1987. *Advice Submitted by:* National Institutes of Health, June 25, 1987.

Docket Number: 87-147. *Applicant:* Montana State University, Bozeman, MT 59717. *Instrument:* Plasma Spray/Thermo Spray LC Interface. *Manufacturer:* VG Instruments, Inc., United Kingdom. *Intended Use:* See notice at 52 FR 15527, April 29, 1987. *Advice Submitted by:* National Institutes of Health, June 25, 1987.

Docket Number: 87-162. *Applicant:* State University of New York, Stony Brook, NY 11794. *Instrument:* STEM System for Electronic Microscope. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 18261, May 14, 1987. *Advice Submitted by:* National Institutes of Health, July 9, 1987.

Docket Number: 87-169. *Applicant:* Wright State University, Dayton, OH 45401-0927. *Instrument:* Multiparameter Fluvo II Flow Cytometric Transducer. *Manufacturer:* HEKA Elektronic, West Germany. *Intended Use:* See notice at 52 FR 18262, May 14, 1987. *Advice Submitted by:* National Institutes of Health, July 9, 1987.

Comments: None received.
Decision. Approved: No instrument for equivalent scientific value to the foreign instruments, for the purposes for which the instruments are intended to be used, is being manufactured in the United States.

Reasons: These are compatible accessories for instruments previously imported for the use of the applicants. In each case, the instrument and accessory were made by the same manufacturer. The National Institutes of Health advises that the accessories are pertinent to the intended uses and that it knows of no comparable domestic accessories.

We know of no domestic accessories which can be readily adapted to the previously imported instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-26021 Filed 11-9-87; 8:45 am]

BILLING CODE 3510-DS-M

Texas A & M University et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 87-200. *Applicant:* Texas A & M University, College Station, TX 77843. *Instrument:* Electron Microscope, Model JEM-1200EX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 27038, July 17, 1987. *Instrument Ordered:* February 25, 1987.

Docket Number: 87-201. *Applicant:* The University of Texas Health Science Center at Dallas, Dallas, TX 75235. *Instrument:* Two (2) Electron Microscopes, Model JEM-100SX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 27038, July 17, 1987. *Instrument Ordered:* March 11, 1987.

Docket Number: 87-202. *Applicant:* Loyola University of Chicago, Chicago, IL 60626. *Instrument:* Electron Microscope, Model JEM-1200EX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 27038, July 17, 1987. *Instrument Ordered:* February 28, 1987.

Docket Number: 87-204. *Applicant:* The University of Texas Health Science Center at Dallas, Dallas, TX 75235. *Instrument:* Electron Microscope, Model JEM-1200EX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 27039, July 17, 1987. *Instrument Ordered:* March 11, 1987.

Docket Number: 87-206. *Applicant:* Medical College of Georgia, Augusta, GA 30912-3305. *Instrument:* Electron Microscope, Model EM 902. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 52 FR 27039, July 17, 1987. *Instrument Ordered:* April 14, 1987.

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Docket Number: 87–206. *Applicant:* University of Rochester, Rochester, NY 14642. *Instrument:* Electron Microscope, Model EM 10CR. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 52 FR 27039, July 17, 1987. *Instrument Ordered:* April 20, 1987.

Docket Number: 87–217. *Applicant:* Rutgers University, Newark, NJ 07102. *Instrument:* Electron Microscope, Model CM–10. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 30942. *Instrument Ordered:* April 11, 1987.

Docket Number: 87–219. *Applicant:* National Institutes of Health, Bethesda, MD 20892. *Instrument:* Scanning Transmission Electron Microscope, Model HB 501. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* See notice at 52 FR 30942, August 18, 1987. *Instrument Ordered:* May 15, 1985.

Docket Number: 87–221. *Applicant:* NASA Ames Research Center, Moffett Field, CA 94035. *Instrument:* Electron Microscope, Model EM 902. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 52 FR 30942, August 18, 1987. *Instrument Ordered:* May 1, 1987.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87–26022 Filed 11–9–87; 8:45 am]

BILLING CODE 3510–DS–M

University of California, Los Angeles, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 87–241. *Applicant:* University of California, Los Angeles, Los Angeles, CA 90024. *Instrument:* X-Ray Diffractometer. *Manufacturer:* Stoe & Cie, West Germany. *Intended Use:* See notice at 52 FR 30940, August 18, 1987. *Reasons for This Decision:* The foreign instrument provides a focussing primary beam transmission monochrometer and a curved, position-senstive proportional counter, covering >45 degrees 2 theta. *Advice Submitted by:* National Bureau of Standards, October 5, 1987.

Docket Number: 85–251. *Applicant:* University of Alaska, Fairbanks, AK 99701. *Instrument:* Liquid Nitrogen Plant, Model PLN 108S. *Manufacturer:* N. V. Philips Gloeilampenfabrieken, The Netherlands. *Intended Use:* See notice at 50 FR 33993, August 22, 1985. *Reasons for This Decision:* The foreign apparatus provides a means of keeping biopsy and tissue culture samples deep frozen to prevent loss, cooling SEM and IR detectors and cooling vacuum systems on mass spectrometers, linear accelerator and N_{15} analyzer. *Advice Submitted by:* National Institutes of Health, February 26, 1986.

Docket Number: 85–227. *Applicant:* Northwestern University, Chicago, IL 60611. *Instrument:* Casting Machine. *Manufacturer:* Ohara, Japan. *Intended Use:* See notice at 50 FR 32756, August 14, 1985. *Reasons for This Decision:* The foreign article provides centrifuged casting of titanium alloys under high pressure in an inert and high purity atmosphere. *Advice Submitted by:* National Institutes of Health, February 6, 1986.

Docket Number: 87–276. *Applicant:* University of Wisconsin, Madison, WI 53706. *Instrument:* Ultra Rapid Quenching Apparatus. *Manufacturer:* Edmund Buhler GmbH, West Germany. *Intended Use:* See notice at 52 FR 32825, August 31, 1987. *Reasons for This Decision:* The foreign instrument provides extremely high quenching rates (10^6 K/second), levitation melting, and small sample sizes (<1.0 gram). *Advice Submitted by:* National Bureau of Standards, October 2, 1987.

Docket Number: 87–274. *Applicant:* University of Illinois, Urbana, IL 61801. *Instrument:* 3-Axis X-Ray Spectrometer. *Manufacturer:* Riso National Laboratory, Denmark. *Intended Use:* See notice at 52 FR 32825, August 31, 1987. *Reasons for This Decision:* The foreign article provides high resolution glancing angle x-ray scattering. *Advice Submitted by:* National Bureau of Standards, October 5, 1987.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health and National Bureau of Standards advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87–26023 Filed 11–9–87; 8:45 am]

BILLING CODE 3510–DS–M

University of Illinois et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86–249R. *Applicant:* University of Illinois, Chicago, IL 60607. *Instrument:* Electron Microscope, Model JEM 100CX with Accessories. *Manufacturer:* JEOL Co., Ltd., Japan. *Intended Use:* See notice at 52 FR 2250, January 21, 1987. *Instrument Ordered:* April 4, 1986.

Docket Number: 87–144. *Applicant:* NIAID—National Institutes of Health, Laboratory of Pathobiology, Hamilton, MT 59840. *Instrument:* Electron Microscope, Model CM 10/PC with Accessories. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 15526, April 29, 1987. *Instrument Ordered:* January 29, 1987.

Docket Number: 87–125. *Applicant:* University of Chicago, Chicago, IL 60637. *Instrument:* Electron Microscope, Model JEM 100CX and Accessories. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 10395, April 1, 1987. *Instrument Ordered:* September 24, 1986.

Docket Number: 87–127. *Applicant:* University of Washington, Seattle, WA 98195. *Instrument:* Electron Microscope, Model EM 430T and Accessories. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 10396, April 1, 1987. *Instrument Ordered:* January 28, 1987.

Docket Number: 87–128. *Applicant:* Northwestern University Medical School, Chicago, IL 60611. *Instrument:* Electron Microscope, Model JEM–1200EX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 12221, April 15, 1987. *Instrument Ordered:* September 26, 1986.

Docket Number: 87–129. *Applicant:* Duke University, Durham, NC 27710. *Instrument:* Electron Microscope, Model JEM–1200EX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 12221, April 15, 1987. *Instrument Ordered:* October 24, 1986.

Docket Number: 87–131. *Applicant:* Scripps Clinic and Research Foundation, La Jolla, CA 92037. *Instrument:* Electron Microscope, Model CM 12 with Accessories. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 12221, April 15, 1987. *Instrument Ordered:* January 15, 1987.

Docket Number: 87–135. *Applicant:* University of Arizona, Tuscon, AZ 85721. *Instrument:* Electron Microscope Model JEM–1200EX with Accessories. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 12222, April 15, 1987. *Instrument Ordered:* May 15, 1986.

Docket Number: 87–136 *Applicant:* Rhode Island Hospital, Providence, RI 02902. *Instrument:* Electron Microscope, Model CM 10/PC with Accessories. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 12220, April 15, 1987. *Instrument Ordered:* November 26, 1986.

Docket Number: 87–137. *Applicant:* Wellesley College, Wellesley, MA 02181. *Instrument:* Electron Microscope, Model CM 10/PC with Accessories. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 12220, April 15, 1987. *Instrument Ordered:* October 26, 1986.

Docket Number: 87–138. *Applicant:* Medical College of Wisconsin, Milwaukee, WI 53226. *Instrument:* Electron Microscope, Model EM 10/CA. *Manufacturer:* Carl Zeiss Inc., West Germany. *Intended Use:* See notice at 52 FR 12220, April 15, 1987. *Instrument Ordered:* December 23, 1986.

Docket Number: 87–139. *Applicant:* University of Illinois at Chicago, Chicago, IL 60680. *Instrument:* Electron Microscope, Model JEM–1200 EX/SEG/DP. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 12220, April 15, 1987. *Instrument Ordered:* December 2, 1986.

Docket Number: 87–161. *Applicant:* Los Angeles County-Olive View Medical Center, Van Nuys, CA 91405. *Instrument:* Electron Microscope, Model EM 109 with Accessories. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 52 FR 12220, April 15, 1987. *Instrument Ordered:* September 12, 1985.

Docket Number: 87–142. *Applicant:* University of Michigan, Ann Arbor, MI 48105. *Instrument:* Electron Microscope, Model CM 10/PC. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 15526, April 29, 1987. *Instrument Ordered:* November 13, 1986.

Docket Number: 87–143. *Applicant:* Indiana University Medical Center, Indianapolis, IN 46223. *Instrument:* Electron Microscope, Model CM 10/PC with Accessories. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 12221, April 15, 1987. *Instrument Ordered:* December 22, 1986.

Docket Number: 87–145. *Applicant:* The University of Texas Health Center at Tyler, Tyler, TX 75710. *Instrument:* Electron Microscope, Model JEM–1200EX with Accessories. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 52 FR 15527, April 29, 1987. *Instrument Ordered:* November 7, 1986.

Docket Number: 87–149. *Applicant:* Albert Einstein College of Medicine, Bronx, NY 10461. *Instrument:* Electron Microscope, Model CM 10/PC and Accessories. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* See notice at 52 FR 15527, April 29, 1987. *Instrument Ordered:* November 5. 1986.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87–26024 Filed 11–9–87; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Meeting Cancellation

Agency: National Marine Fisheries Service, NOAA, Commerce.

The public meeting for the Pacific Fishery Management Council's Scientific and Statistical Committee to be convened November 16–17, 1987, and published previously in the Federal Register (52 FR 42030, November 2, 1987), has been canceled. Notification of rescheduling, if any, will be provided at a later date. All other information in the original meeting agenda remains unchanged.

For further information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 221–6352.

Date: November 4, 1987.

Richard H. Schanfor,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87–28011 Filed 11–9–87; 8:45 am]

BILLING CODE 3510–22–M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts' next scheduled meeting is Thursday, November 19, 1987 at 10:00 am in the Commission's offices at 708 Jackson Place, NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the offices (566–1066) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

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Dated: November 2, 1987, in Washington, DC.

Charles H. Atherton,

Secretary.

[FR Doc. 87-25947 Filed 11-9-87; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mauritius

November 5, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 12, 1987. For further information contact Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to establish import restraint limits for cotton and man-made fiber textile products in Categories 337/637 and 342/642, produced or manufactured in Mauritius and exported during the twelve-month periods which began, in the case of Category 337/637, on June 18, 1987 and extends through June 17, 1988; and, in the case of Category 342/642, on June 22, 1987 and extends through June 21, 1988.

Background

On July 31, 1987 a notice was published in the **Federal Register** (52 FR 28590) which announced that the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, and as extended by protocols on December 5, 1977, December 22, 1981 and July 31, 1986, had requested the Government of Mauritius to enter into consultations concerning exports to the United States of cotton and man-made fiber playsuits and sunsuits in Category 337/637 and cotton and man-made fiber skirts in Category 342/642, produced or manufactured in Mauritius and exported to the United States.

Inasmuch as consultations have not yet been held on a mutually satisfactory limit for these categories, the United States Government has decided to control imports in Categories 337/637 and 342/642, produced or manufactured in Mauritius and exported during the twelve-month periods which began, in the case of Category 337/637, on June 18, 1987 and extends through June 17, 1988; and, in the case of Category 342/642, on June 22, 1987 and extends through June 21, 1988, at the designated levels.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of Mauritius, further notice will be published in the **Federal Register.**

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 5, 1987.

Committee For The Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 12, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Mauritius and exported during the twelve-month periods which began, in the case of Category 337/637, on June 18, 1987 and extends through June 17, 1988; and, in the case of Category 342/642, on June 22, 1987 and extends through June 21, 1988, in excess of the following levels of restraint: [1]

Category	12-month restraint level (dozen)
337/637	75,500
342/642	67,783

Textile products in the foregoing categories which have been exported to the United States prior to June 18, 1987 for Category 337/637 and June 22, 1987 for Category 342/642 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

Also effective on November 12, 1987, you are directed to charge the following amounts to the limits established in this directive for Categories 337/637 and 342/642. These charges are for goods imported during the period which began, in the case of Category 337/637, on June 18, 1987; and, in the case of Category 342/642, on June 22, 1987, and extended through August 31, 1987.

Category	Amount to be charged (dozen)
337	0
342	9,847
637	500
642	541

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25983 Filed 11-9-87; 8:45 am]

BILLING CODE 3510-DR-M

Import Limit for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in Panama

November 5, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 12, 1987. For further information contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter which follows this notice, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to control imports in Category 445/446/645/646 at the agreed limit for the twelve-month agreement period which began on April 1, 1987 and extends through March 31, 1988.

Background

On February 4, 1987, a notice was published in the **Federal Register** (52 FR 3469) which announced that, on November 26, 1986 the Government of the United States had requested the Government of Panama to enter into consultations concerning exports to the United States of man-made fiber sweaters in Category 645/646, produced or manufactured in Panama.

During consultations held between the Governments of the United States and Panama, agreement was reached on a new bilateral textile agreement concerning trade in wool and man-made fiber sweaters, produced or manufactured in Panama and exported during the period which began on April 1, 1987 and extends through March 31, 1990.

The bilateral agreement establishes a specific limit for wool and man-made fiber sweaters in Category 445/446/645/646, with a sublimit for Cateogry 445/446 for the twelve-month period which began on April 1, 1987 and extends through March 31, 1988.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

[1] The levels have not been adjusted to account for any imports exported after June 17, 1987 for Category 337/637 and June 21, 1987 for Category 342/642.

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 5, 1987.

Committee For The Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 154), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated October 3, 1987, between the Governments of the United States and Panama, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 12, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in Category 445/446/645/646, produced or manufactured at Panama and exported during the twelve-month period which began on April 1, 1987 and extends through March 31, 1988, in excess of the following restraint limit: [1]

Category	12-mo. restraint limit
445/446/645/646	170,000 dozen of which not more than 25,000 dozen shall be in Category 445/446.

Textile products in Category 445/446/645/646 which have been exported to the United States prior to April 1, 1987 shall not be subject to this directive.

Textile products in Category 445/446/645/646 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1884(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

Also effective on November 12, 1987 you are directed to charge the following amounts for Categories 446, 645 and 646 to the limit established in this directive for Category 445/446/645/646. These charges are for goods imported during the period April 1, 1987 through August 31, 1987.

Category	Amount to be charged
446	2,245 doz.
645	16 doz.
646	66,973 doz.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25984 Filed 11-9-87; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after March 31, 1987.

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Prepare an Environmental Impact Statement; March AFB, CA

AGENCY: U.S. Air Force, DoD.

ACTION: The U.S. Air Force will prepare an Environmental Impact Statement (EIS) for the proposed conveyance of approximately 845 acres at March Air Force Base, California. The land would be conveyed to a competitively selected private party in exchange for construction of three new facilities on the main portion of the base. The proposed action would replace three outdated facilities for the U.S. Air Force and could lead to private development of the 845-acre tract.

The U.S. Air Force is planning to conduct a public scoping process to determine the nature, extent, and scope of the environmental issues and concerns to be addressed in the EIS. Notice of the time and place of public meetings will be announced in the news media.

FOR FURTHER INFORMATION CONTACT:

Mr. William Taylor, HQ SAC/DEV, Offutt AFB, Nebraska 68113, (402) 294-5854.

Lt. Donald Bachand, 22 CSG/DEEV, March AFB, California 92518.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-25976 Filed 11-9-87; 8:45 am]

BILLING CODE 3910-01-M

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DEPARTMENT OF EDUCATION

[Docket No. 27-(202)-06]

Library Services and Construction Act Program

AGENCY: Department of Education.

ACTION: Notice of intent to compromise claim.

SUMMARY: Notice is given that the Deputy Under Secretary for Management intends to compromise a claim against the Connecticut State Library now pending before the Education Appeal Board.

DATE: Interested persons may express their opinions by submitting written data, views, or arguments on or before December 28, 1987.

FOR INFORMATION CONTACT: Additional information may be obtained by writing to Ms. Daphna Crotty, Office of the General Counsel, Department of Education, 400 Maryland Avenue SW. (Room 4083, FOB-6), Washington, DC 20202.

SUPPLEMENTARY INFORMATION: Title I of the Library Services and Construction Act, as amended (LSCA) (20 U.S.C. 351 *et seq.*), authorizes grants to States for providing public library services to unserved or underserved populations, groups, and geographic areas. The regulations implementing the State-administered programs authorized by Title I of the LSCA are at 34 CFR Part 770, as they were during the period at issue in this audit.

The claim at issue arose from an audit conducted by the Department of Education's Regional Inspector General for Audit. The audit disclosed that during fiscal years 1981 and 1982 the Connecticut State Library utilized $41,303 in funds awarded under Title I of the LSCA to serve "adequate" public libraries rather than providing or improving public library services to areas or groups with inadequate or no library services, as required by Title I of the LSCA. The provision of public library services to "adequate" libraries is not among the eligible uses for LSCA, Title I funds.

In a final letter of determination dated December 12, 1985, the State Library was notified by the Acting Director/Senior Program Coordinator for Library Programs of the Office of Educational Research and Improvement that it would have to refund $41,303 to the Department of Education as a result of the audit finding. The State Library subsequently filed a timely appeal to the final letter of determination and the case was docketed for hearing before the Department's Education Appeal Board. Briefs were filed pursuant to a schedule established by the Education Appeal Board panel hearing the case.

As a result of materials submitted by the State Library to the Assistant Secretary for Research and Improvement and resulting settlement negotiations between the Assistant Secretary for Research and Improvement and the State Library, the Deputy Under Secretary for Management proposes to compromise this claim for $33,042. The Deputy Under Secretary for Management has determined that it would not be practicable or in the public interest to continue this proceeding. Moreover, the State Library has provided adequate assurance that the practice which resulted in the claim has been corrected and will not recur. This proposed compromise will not adversely affect any other audit proceedings currently pending before the Education Appeal Board.

The public is invited to comment on the Deputy Under Secretary's intent to compromise this claim. Additional information may be obtained by writing to Ms. Daphna Crotty at the address given at the beginning of this Notice.

(20 U.S.C. 1234a(f))

(Catalog of Federal Domestic Assistance No. 84.035)

Dated: November 5, 1987.

Mary Ross,

Deputy Under Secretary for Management.

[FR Doc. 87-26000 Filed 11-9-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on November 17 and 18, 1987, at the offices of the IEA, 2, rue Andre Pascal, Paris, France, beginning at 9:30 a.m. on November 17. This meeting is being held in order to permit representatives of some of the members of Subcommittee A to participate in a meeting of a joint government/industry technical subgroup which has been established by the IEA for the preparation of the sixth IEA Allocation Systems Test (AST-6). The agenda for the meeting is under the control of the IEA Secretariat. It is expected that the following agenda will be followed:

1. Adoption of the agenda.
2. New elements for consideration.
3. Test duration.
4. AST-6 Test Guide.
5. Organizational structure.
6. Work schedule.
7. Other questions.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting is open only to representatives of members of Subcommittee A of the IAB, their counsel, representatives of members of the IEA's Standing Group on Emergency Questions (SEQ), representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of Committees of the Congress, representatives of the IEA, representatives of the Commission of the European Communities, and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, DC, November 3, 1987.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 87-25988 Filed 11-9-87; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP).

Date and time: Tuesday, December 15, 1987, 9:00 am-6:00 pm. Wednesday, December 16, 1987, 8:30 am-4:00 pm.

Place: U.S. Department of Energy 1000 Independence Avenue SW., Forrestal Building—Room 4A-104, Washington, DC 20585.

Contact: Dr. P.K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER-221:GTN, Washington, DC 20545, Telephone: 301/353-4829.

Purpose of panel: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda:

Tuesday, December 15, 1987

Discussion of the National Science Foundation Elementary Particle Physics Program FY 1988 Budget.

Discussion of the Department of Energy High Energy Physics FY 1988 Budget.

Status Reports on the Superconducting Super Collider.

Status Report on SLC Commissioning at the Stanford Linear Accelerator Center.

Status Report on Tevatron Operations and Experiments at Fermilab.

Report on the October Meeting of the International Committee on Future Accelerators.

Wednesday, December 16, 1987

Report on the Meeting of the Joint Coordinating Committee for US/PRC Cooperation in High Energy Physics.

Report on the Meeting of the US/USSR Joint Coordinating Committee on Fundamental Properties of Matter.

Status Report on the Subpanel on Modes of Experimental Research in High Energy Physics.

Discussion of a Subpanel on Non-Accelerator Physics Study of Gamma Ray Astronomy.

Further discussion of foregoing items.

Public participation: The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on November 4, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87-25967 Filed 11-9-87; 8:45 am]

BILLING CODE 6450-01-M

Magnetic Fusion Advisory Committee; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Magnetic Fusion Advisory Committee.

Date and time: Tuesday, December 1, 1987, 8:30am-5:00pm; Wednesday, December 2, 1987, 9:00am-12:00pm.

Location: Oak Ridge National Laboratory, Fusion Engineering Design Center, Seminar Room, 104 Union Valley Road, Oak Ridge, Tennessee 37831.

Contact: Philip M. Stone, Office of Fusion Energy, Office of Energy Research, ER-51, U.S. Department of Energy, Mail Stop J-204, Washington, DC 20545, Phone: (301)-353-4941.

Purpose of the Committee: To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

Tentative Agenda

December 1, 1987

1. 8:30 a.m. Welcome
2. Status of the Program—J. Clarke
3. International Thermonuclear Experimental Reactor (ITER) Activities—J. Clarke
4. U.S. ITER Activities J.—Gilleland
5. Panel 18 Interim Report—Environmental, Safety and Economic Aspects—P. Staudhammer
6. Panel 19 Interim Report—Plasma Theory—D. Baldwin
7. Tokamak Fusion Test Reactor (TFTR) Update—D. Meade

Lunch

8. National Research Council Committee on Fusion in Energy Policy—P. Stone
9. New Charge to MFAC—F. Ribe
10. Review of the Advanced Toroidal Facility (ATF) and World Stellarator Activities—J. Lyon
11. PUBLIC COMMENTS
12. ATF Site Visit, Y-12

December 2, 1987

1. 8:30 a.m. Overview of Oak Ridge National Laboratory Technology Programs—L. Berry
2. Ignition Physics Study Group—J. Sheffield
3. Oak Ridge National Laboratory Compact Ignition Tokamak Activities—T. Shannon
4. MFAC Discussion
5. Discussion of New Charge and Panel—MFAC
6. PUBLIC COMMENTS

Adjourn 12:00 p.m.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Thomas G. Finn at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: Available for public review and copying approximately 30 days following the meeting at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00a.m. and 4:00p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on November 4, 1987.

Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87-25969 Filed 11-9-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP87-205-000 and CP87-205-001]

Texas Gas Transmission Corp.; Intent To Prepare an Environmental Assessment and Request for Comments on the Scope of Environmental Issues

November 5, 1987.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (Commission) will prepare an environmental assessment (EA) on the facilities proposed in the above-referenced dockets. The proposal by Texas Gas Transmission Corporation (Texas Gas) would upgrade and extend its existing transmission system northward to allow delivery of up to half of the annual natural gas requirements of Citizens Gas & Coke Utility (Citizens Gas) of Indianapolis, Indiana. Facilities proposed for construction include some 131 miles of 16- and 20-inch-diameter pipeline and 12,000 horsepower of additional compression as more fully described below.

Background

On February 13, 1987, Texas Gas applied to the Commission pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to construct and operate approximately 124 miles of 16- and 20-inch-diameter natural gas pipeline and related facilities in northern Kentucky and southern Indiana. This filing, assigned Docket No. CP87-205-000, also requested authorization for the firm sale of up to 30 billion cubic feet of natural gas annually to Citizens Gas which the proposed facilities would support. As proposed, construction would take place from June through September 1988 to accommodate an in-service date of November 1, 1988.

On September 4, 1987, Texas Gas amended its application in Docket No. CP87-205-001 to adopt a significant route modification affecting a portion of the final 45 miles of its original route. Although some 6.8 miles longer, the amended route would significantly increase the use of an established natural gas pipeline right-of-way (ROW) and traverse terrain less severe than that originally proposed to be constructed across. The amendment also transfers almost 16 miles of proposed new pipeline ROW from private property onto Federal and state-owned

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lands associated with the Camp Atterbury Military Reservation. The amended route increases the estimated cost of the proposal by $4.1 million for a new total of $49,316,000.

Proposed Facilities, Locations, and Land Requirements

Specific facilities for which Texas Gas seeks authorization include:

(a) Reactivation of a 12,000-horsepower centrifugal compressor at its existing Hardinsburg Compressor Station in Breckenridge County, Kentucky;

(b) Construction of about 3.4 miles of 20-inch-diameter pipeline loop [1] along its existing Hardinsburg, Kentucky, to Bedford, Indiana lateral (Hardinsburg-Bedford Lateral) in northern Kentucky;

(c) Construction of about 59 miles of 16-inch-diameter pipeline loop along its existing Hardinsburg-Bedford Lateral in southern Indiana;

(d) Construction of about 68.3 miles of new 20-inch-diameter pipeline interconnecting its Hardinsburg-Bedford Lateral with the Citizens Gas system in Johnson County; [2] and

(e) Construction of a sales metering station at the proposed interconnection with Citizens Gas.

Overall, the proposal would involve construction in nine counties of two states. Figure 1 shows the locations where the proposed facilities would be constructed.[2] The following table identifies affected counties. Detailed maps of the portion of Texas Gas' proposed route through Bartholomew and Johnson Counties where a new natural gas pipeline ROW would be established are included as an appendix to this notice. Detailed maps of limited portions of the ROW proposed to be looped are available from the Project Manager identified later in this notice.

[1] Pipeline "loop" or "looping" refers to the practice of constructing new sections of pipeline immediately adjacent and parallel to an existing pipeline.

[2] While Texas Gas refers to its 68.3-mile-long section of 20-inch-diameter pipe as "new," only the northern-most 38.4 miles would actually deviate from an established natural gas pipeline ROW. The southern 31.9 miles of this pipeline would effectively loop Texas Gas' existing Bedford-Columbus Lateral. Nevertheless, references to the "new" pipeline will pertain to this entire portion of proposed 20-inch-diameter construction. Milepost (MP) numbers will also reflect this distinction; numbers will be followed by "N" or "L," indicating the new pipeline or pipeline loop, respectively.

[3] Figure 1 and the Appendix are not being published in the Federal Register, but are available from the Division of Public Reference.

COUNTIES AFFECTED BY THE PROPOSED CONSTRUCTION

12,000-horsepower compressor at existing Hardinsburg Compressor Station.	Breckenridge Co., KY
3.4 miles of 20-inch-diameter pipeline (loop).	Breckenridge Co., KY
59 miles of 16-inch-diameter pipeline (loop).	Perry Co., IN Crawford Co., IN Orange Co., IN Lawrence Co., IN
68.3 miles of 20-inch-diameter pipeline (new).	Lawrence Co., IN Jackson Co., IN Brown Co., IN Bartholomew Co., IN Johnson Co., IN
Sales meter station	Johnson Co., IN

Texas Gas proposes to use a 65-foot-wide construction ROW (*i.e.*, 50-foot permanent easement and 15-foot temporary) for both the new pipeline and the pipeline loop. On the loop segments, the proposed pipeline would be installed 50 feet to the east of the existing line except where site requirements necessitate the use of some other spacing. This would directly affect about 1,030 acres of Federal, state, and private lands. An additional 85 feet of temporary work space (up to 200 feet along the ROW) would be required on both sides of all road, railroad, stream, and other major pipeline crossings. All construction activities associated with reinstallation of the 12,000-horsepower compressor at the Hardinsburg Compressor Station would be confined to the existing station property.

Following construction, Texas Gas would allow the eastern-most 15 feet of the construction ROW (the temporary easement) to revert to its former use and maintain the remaining 50 feet as its permanent ROW. This would effectively double the width of its existing ROW (where existing Texas Gas ROW is followed) and directly affect about 792 acres for the life of the pipeline. Land use of the 792 acres would be somewhat restricted in that permanent structures would be prohibited in order to insure pipeline accessibility for maintenance and repair. Otherwise, existing uses of the ROW could resume except where formerly wooded areas are crossed and on small fenced plots where surface rights would be required for aboveground extensions of buried valves and associated facilities. Block valves on the new pipeline segment would require plots generally measuring 30 by 30 feet. On the loop segments, combination block/crossover valves would generally require 50 by 60 foot plots. Existing valve lots near the north and south shores of the Ohio River would be expanded from 50 by 75 feet to 90 by 100 feet. Finally, the meter station proposed to be located at the terminus of the new pipeline in Johnson County would require a 1.6-acre fenced lot.

Pipeline Safety Standards

The proposed pipeline would conform to the minimum pipeline safety standards set by the U.S. Department of Transportation (DOT). These standards specify minimum pipe wall thickness, yield strength, and depth of burial for different population densities encountered along the route. Thicker-walled pipe is normally used at road crossings and at major creek and river crossings. All such crossings would follow the requirements of applicable codes and permits.

Construction Procedures

Texas Gas estimates that construction of its proposed facilities would require 4 months. Construction would be expected to proceed at a rate of about 1 mile per day, with activities at any one place along the route requiring 6 to 12 weeks between the initial land disturbance and the end of restoration. As a result, only short sections of the pipeline trench would normally be open at any one time. Two construction "spreads" or complete work crews would perform the full range of construction activities (*i.e.*, from clearing and grading to ROW restoration) simultaneously, one on each segment of the proposed pipeline.

The construction sequence for the proposed pipeline would begin with clearing and grading the ROW. A trench would then be dug by tracked, rotary-wheeled trenching machines to a minimum depth of 50 inches, allowing for at least 30 inches of soil cover over the pipeline. In areas where bedrock is close to the surface, trenching generally requires either a tractor-mounted ripper, hydraulic backhoe, or blasting. Railroads and major highways would be bored to minimize disruptions, although routine road crossings could be open-cut.

Once the trench has been opened, pipe sections precoated to inhibit corrosion would be strung along the ROW and bent as required to conform to the bottom of the trench. These sections would then be welded together and radiographically (X-ray) inspected in compliance with the DOT's regulations. Before being placed in the trench, the welds would be coated to complete the corrosion barrier. After the pipe is placed in the trench, the trench would be backfilled with the excavated material and compacted. In rocky areas where excavated materials may not be suitable, Texas Gas proposes to use soil containing no rocks or debris as pipe padding and backfill. Unless otherwise requested by the landowner, the backfill on cultivated land would be left 12 to 15 inches above normal ground level at the center of the trench to allow for settling.

Shortly after backfilling the trench, the ROW would be graded to return it to near-original contours and to smooth the area in preparation for revegetation. Texas Gas proposes to revegetate the ROW in accordance with landowner and/or governing agency specifications. Texas Gas will be required to provide the staff with the details of its erosion control and revegetation plan which will be reviewed in the EA.

Although Texas Gas has yet to identify specific techniques for construction across water bodies, excavation normally varies with the characteristics of the stream. Typically, dry-land trenching methods are used at intermittent and small streams. As stream width increases, a backhoe or a conventional bucket-type dredge operating from the streambanks is often employed.

After construction, the pipeline would be hydrostatically tested in lengths dictated by elevation differentials and availability of water. This would require about 51,600 to 61,900 gallons of water per test mile segment for 16- and 20-inch-diameter pipe, respectively. While Texas Gas has not identified specific sources, test water typically is obtained from rivers, creeks, existing impoundments, or purchased from landowners or municipalities. The water would be returned to its source or to other as yet unidentified points of discharge in accordance with applicable state regulations.

Issue Selection and Public Comment

Review of environmental material and topographic maps filed with the Commission in support of the Texas Gas proposal, as well as field investigation and contacts with landowners and other appropriate Federal, state, and local agencies, has resulted in identification of the following specific issues which will be addressed in the EA:

- Water Resources—Impact on the Little Blue River, Lost River, and White River (East Fork)
- Restoration—Erosion control, topsoil preservation, revegetation, drain tile repair, soil compaction and productivity, prime farmland
- Wildlife—Impact on threatened and endangered species
- Sensitive Environmental Areas—Yellowbanks Wildlife Area, Hoosier National Forest, Atterbury Wildlife Management Area
- Land Use—ROW proximity to residences, spacing between proposed and existing pipeline
- Pipeline Safety—Safety considerations

Public comments hereby requested will be used to assist the staff in identifying additional environmental issues or concerns related to the proposed action which require analysis in the EA, defining the scope of the issues to be analyzed, and eliminating from detailed study those issues which are not significant. All comments should be as specific as possible and should contain supporting documentation or rationale. Written comments should be filed as soon as possible but no later than 30 days from the date of this notice. All comments must reference Docket Nos. CP87-205-000 and CP87-205-001, and be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426. A copy of the comments should also be sent to the Project Manager identified below.

The resulting EA will be based on the staff's independent analysis of the proposal and, together with the comments received, will comprise part of the record to be considered by the Commission in this proceeding. The EA will be sent to all parties in this proceeding, to those providing comments in response to this notice, to Federal and state agencies, and to interested members of the public. The EA may be offered as evidentiary material if an evidentiary hearing is held in this proceeding. In the event that an evidentiary hearing is held, anyone not previously a party to this proceeding and wishing to present evidence on environmental or other matters must first file with the Commission a motion to intervene, pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

A copy of this notice and request for comments has been distributed to Federal, state, and local environmental agencies, parties to the proceeding, all landowners along the proposed route, and the public. Additional information about the proposal is available from Mr. Laurence J. Sauter, Jr., Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-8861.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-26026 Filed 11-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-28-000, et al.]

Nora Transmission Co. et al., Natural Gas Certificate Filings

November 4, 1987.

Take notice that the following filings have been made with the Commission:

1. Nora Transmission Company

[Docket No. CP88-28-000]

Take notice that on October 16, 1987, Nora Transmission Company (Nora), P.O. Box 1388, Ashland, Kentucky 41105-1388, filed in Docket No. CP-28-000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity authorizing the operation of existing facilities in interstate commerce and the transportation of natural gas on behalf of PECO Resources, Inc. (PECO), Pine Mountain Oil and Gas (Pine Mountain) and Eastern Kentucky Production Company (EKPC) through such facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Nora requests Commission authorization to operate an existing 16.34-mile section of 12-inch pipeline, designated as the Clinchfield Line, in Dickenson County, Virginia in order to permit the transportation by Nora of natural gas in interstate commerce. Nora asserts that the Clinchfield Line connects with the facilities of Kentucky West Virginia Gas Company (Kentucky West) near the Kentucky/Virginia border in Dickenson County, Virginia and the facilities of East Tennessee Natural Gas Company (East Tennessee) near Nora, Dickenson County, Virginia. Both Kentucky West and East Tennessee are interstate pipelines. Nora states that the Clinchfield Line was leased in 1984 from the Pittston Company by Berea Gathering Company which, in turn, has assigned a portion of its lease to Nora so that Nora may accept natural gas produced in Kentucky from Kentucky West's system and redeliver such quantities to East Tennessee's facilities in Virginia. Consequently, Nora requests certification under section 7(c) of the NGA to operate the Clinchfield Line in interstate commerce.

In addition to the leasing and operation of the Clinchfield Line, Nora proposes to perform four specific transportation services on behalf of EKPC, PECO and Pine Mountain. First, Nora proposes to transport up to 15,000 dekatherms (dth) of natural gas per day on behalf of EKPC. Nora would accept EKPC's volumes at the existing point of

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interconnection with Kentucky West near Osborne Gap, Kentucky and redeliver these quantities to East Tennessee near Nora, Virginia. East Tennessee would then purchase these volumes from EKPC it is stated. Nora proposes to charge EKPC a rate of $.0640 per dth transported as would be put forth in Nora's proposed Rate Schedule ITS–1. It is stated that the proposed service would have a primary term of five years which would be continued from year-to-year thereafter.

In addition, Nora proposes two separate transportation services for PECO [1] one on a firm basis and the ohter on an interruptible basis. Nora requests authorization to transport on a firm basis up to 35,000 dth of natural gas per day as would be described under its proposed Rate Schedule FTS–1. Pursuant to Rate Schedule FTS–1, Nora proposes to charge PECO a D(1) demand charge of $.3811 per dth, a D(2) demand charge of $.0125 per dth and a commodity charge of $.0390 per dth. It is stated that the subject volumes would be produced from various fields in Buchanan, Dickenson, Russell and Wise Counties, Virginia, and delivered to Nora's proposed Clinchfield Line at eight designated receipt points in Dickenson County, Virginia. In turn, Nora proposes to redeliver these firm quantities to East Tennessee's facilities located near Nora, Virginia. In addition Nora proposes to transport on behalf of PECO up to 15,000 dth per day of non-jurisdictional gas delivered to Nora's system at the same eight Dickenson County, Virginia receipt points as reported for the proposed Rate Schedule FTS–1 service. Nora's interruptible transportation service for PECO as described in proposed Rate Schedule ITS–2 would redeliver PECO's non-jurisdictional quantities to the existing interconnections of either East Tennessee or Kentucky West, it is stated. Nora proposes to charge PECO for the Rate Schedule ITS–2 service a rate of $.0640 per dth transported. Both the firm and interruptible services for PECO would have a primary term of five years and would continue year-to-year thereafter.

Nora's fourth transportation service, as proposed, would transport up to 500 dth per day of natural gas for Pine Mountain. Nora would receive Pine Mountain's natural gas at the same eight Dickenson County receipt point as reported for PEKO above and redeliver Pine Mountain's quantities to East Tennessee's facilities near Nora, Virginia. It is asserted that Pine Mountain's volumes would be sold to East Tennessee. Nora proposes a rate of $.0849 per dth transported and would describe this service in its proposed Rate Schedule ITS–3. Nora asserts that it has an agreement in principle respecting the Pine Mountain transportation service and would file that agreement as soon as finalized.

Last, Nora requests that the Commission permit proposed Rate Schedules FTS–1, ITS–1, ITS–2 and ITS–3 to be filed as special rate schedules pursuant to Section 154.52 of the Commission's Regulations. Nora also reports that the company would make no sales and only provide transportation services.

Comment date: November 25, 1987, in accordance with Standard Paragraph F at the end of this notice.

[1] Nora states that PECO filed on September 9, 1987, in Docket No. CI86–345–001 to become successor to Equitable Resources Energy Company's (Equitable) certificate which previously authorized Equitable to sell natural gas to East Tennessee for system supply.

2. Columbia Gas Transmission Corporation

[Docket No. CP88–40–000]

Take notice that on October 21, 1987, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP88–40–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a sales tap and related facilities for one additional point of delivery to an existing wholesale customer, under the certificate issued in Docket No. CP83–76–000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Columbia requests authorization to construct and operate the facilities necessary to provide one additional point of delivery, as follows:

(a) Name of customer: Columbia Gas of Pennsylvania, Inc. (CPA).

(b) Location of the delivery point: Butler County, Pennsylvania.

(c) Porposed quantities of natural gas to be delivered at the new point: 6,800 Mcf per day and 1,872,000 Mcf annually.

(d) Description and supporting data for the proposed point: Columbia proposes to construct an additional point of delivery to CPA in Fairview Township, Butler County, Pennsylvania, which would allow CPA to provide service to Witco Chemical, an industrial customer. Service through this proposed point of delivery would be within Columbia's peak day and annual deliveries to which CPA is entitled.

Columbia states that the additional point of delivery is required to serve a new request made by CPA for industrial service. It is stated that the additional volumes to be provided through the new delivery point are within Columbia's currently authorized level of service. Also, it is stated that such volumes would be within the peak day and annual deliveries to which CPA is entitled. It is further stated that the sale to be made through the proposed point of delivery would be under Columbia's currently effective contract demand service rate schedule.

Comment date: December 21, 1987, in accordance with Standard Paragraph G at the end of this notice.

3. Great Lakes Gas Transmission Company

[Docket No. CP88–35–000]

Take notice that on October 19, 1987, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP88–35–000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity, authorizing the transportation of natural gas for Peoples Natural Gas Company, a division of UtiliCorp United Inc. (Peoples), amendments to existing certificates and abandonment of sales service, so as to enable Great Lakes to terminate the existing service agreement under which it currently sells gas to Peoples, abandon such service, and provide transportation service for Peoples for volumes of gas that Peoples would purchase directly from TransCanada Pipelines Limited (TransCanada), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Great Lakes states that under the current service agreement, dated October 21, 1974, between Great Lakes and Peoples, Great Lakes sells up to 4,502 Mcf of natural gas per day to Peoples and from time to time, has additional volumes available for resale on an interruptible basis, all of which Greak Lakes purchases from TransCanada. Peoples has negotiated new market-oriented pricing arrangements with TransCanada during the recent contract years, it is stated. Great Lakes states that its role has become that of a conduit between its resale customers and TransCanada.

Great Lakes request that the Commission authorize Great Lakes to (1) abandon its sales service to Peoples pursuant to its Rate Schedule G–3; (2) cancel the existing service agreement under which Great Lakes currently sells gas to Peoples; (3) provide transportation service for Peoples for volumes of gas that Peoples would purchase directly from TransCanada; and (4) approve the transportation service agreement between Great Lakes and Peoples to be filed as Rate Schedule T–17 to Great Lakes' FERC Gas Tariff.

Great Lakes states that, along with Peoples, it is filing a petition with the Economic Regulatory Administration to obtain authorization allowing Peoples to succeed to Great Lakes' import authorization. The sole purpose of the new arrangement, it is stated, is to "unbundle" the sale of Canadian gas by Great Lakes to Peoples, so that Peoples may purchase such gas directly from TransCanada.

The rates Great Lakes proposes to charge for its transportation service would be the transportation component of resale rates for Great Lakes' western zone under its existing Rate Schedule G–3. The proposed transportation service has a term expiring November 1, 1990.

Comment date: November 25, 1987, in accordance with Standard Paragraph F at the end of this notice.

4. Natural Gas Pipeline Company of America

[Docket No. CP88–20–000]

Take notice that on October 13, 1987, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP87–20–000 an application pursuant to section 7 of the Natural Gas Act for authorization to transport up to a maximum of 6,000 MMBtu per day of natural gas on an interruptible basis for Amoco Research Corporation (Amoco) (an industrial end-user), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that it proposes to provide an interruptible transportation service for Amoco for a period of two years from the date of first delivery and month to month thereafter until cancelled. Applicant would provide such service pursuant to the terms and conditions contained in a Gas Transportation Agreement between Applicant and Amoco dated October 8, 1986.

It is stated that the gas to be transported by Applicant for Amoco would be delivered to Northern Illinois Gas Company (NI-Gas) at two of Applicant's existing delivery points in Illinois.

Applicant would receive natural gas for the account of Amoco at existing points of receipt identified in the transportation agreement.

Applicant states that it would charge Amoco for each MMBtu of gas received for transportation rates consistent with Applicant's Rate Schedule TRT–1. It is asserted that for illustrative purposes only, the current transportation rates Applicant would charge Amoco vary from 29.61 to 42.61 cents per MMBtu.

Applicant further proposes to redelivery volumes less certain percentage reductions for fuel consumed and unaccounted-for gas or, at Amoco's option, would charge Amoco for fuel consumed and lost and unaccounted-for gas as provided for in the transportation agreement.

Applicant also proposes to charge Amoco the currently effective GRI surcharge it required.

Applicant also states that it seeks pregranted abandonment authority to reduce service from time to time pursuant to a "use it or lose it" provision in the Gas Transportation Agreement. Applicant states that it recognizes that the exercise of this provision must be in a manner that is not unduly discriminatory or preferential.

Comment date: November 25, 1987, in accordance with Standard Paragraph F at the end of this notice.

5. Northern Border Pipeline Company

[Docket NO CP88–39–000]

Take notice that on October 20, 1987, Northern Border Pipeline Company (Northern Border), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88–39–000, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of 50,000 Mcf per day of natural gas on a firm basis for the account of Ocelot Gas Marketing (U.S.), Inc. (Ocelot), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern Border states that it would receive the volumes of natural gas for the account of Ocelot at an existing point of interconnection between the facilities of Foothills Pipe Lines (Sask.) Ltd. and Northern Border at a point on the international boundary near Port of Morgan, Montana (Monchy, Saskatchewan). Northern Border further states that such volumes would be transported to and redelivered at an existing point of interconnection between the facilities of Northern Natural Gas Company, Division of Enron Corporation and Northern Border near Ventura, Iowa. Northern Border indicates that its transportation agreement with Ocelot provides for a term of 15 years and would continue year-to-year thereafter. Northern Border further indicates that no additional facilities would be required to accommodate the proposed transportation.

Northern Border proposes to charge Ocelot a monthly charge equal to the maximum contract receipt quantity multiplied by the number of days in the billing month multiplied by 36 cents during the interim period of service. The interim period of service is indicated to be the period beginning with the shipper's billing commencement date and ending on the earlier of the third anniversary of the billing commencement date or the in-service date of Northern Border's expansion/extension project for which Northern Border plans to file in the near future. During the balance of the term of the agreement (12 years), Northern Border proposes to charge Ocelot a monthly charge equal to the contracted dekatherm-miles for Ocelot during the billing month multiplied by the dekatherm-mile rate which is determined monthly and designed to recover Northern Border's fully allocated cost of service at a 100 percent load factor.

Comment date: November 25, 1987, in accordance with Standard Paragraph F at the end of this notice.

6. Northern Border Pipeline Company

[Docket No. CP88–49–000]

Take notice that on October 26, 1987, Northern Border Pipeline Company (Northern Border), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88–41–000, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of 100,000 Mcf per day of natural gas on a firm basis for the account of Poco Petroleums Ltd. (Poco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern Border states that it would receive the volumes of natural gas for the account of Poco at an existing point of interconnection between the facilities of Foothills Pipe Lines (Sask.) Ltd. and Northern Border at a point on the international boundary near Port of Morgan, Montana (Monchy, Saskatchewan). Northern Border further states that such volumes would be transported to and redelivered at an existing point of interconnection

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between the facilities of Northern Natural Gas Company, Division of Enron Corporation and Northern Border near Ventura, Iowa. Northern Border indicates that its transportation agreement with Poco provides for a term of 15 years and would continue year-to-year thereafter. Northern Border further indicates that no additional facilities would be required to accommodate the proposed transportation.

Northern Border proposes to charge Poco a monthly charge equal to the maximum contract receipt quantity multiplied by the number of days in the billing month multiplied by 38 cents during the interim period of service. The interim period of service is indicated to be the period beginning with the shipper's billing commencement date and ending on the earlier of the third anniversary of the billing commencement date or the in-service date of Northern Border's expansion/extension project for which Northern Border plans to file in the near future. During the balance of the term of the agreement (12 years), Northern Border proposes to charge Poco a monthly charge equal to the contracted dekatherm-miles for Poco during the billing month multiplied by the dekatherm-mile rate which is determined monthly and designed to recover Northern Border's fully allocated cost of service at a 100 percent load factor.

Comment date: November 25, 1987, in accordance with Standard Paragraph F at the end of this notice.

7. Northern Border Pipeline Company

[Docket No. CP88-41-000]

Take notice that on October 22, 1987, Northern Border Pipeline Company (Northern Border), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88-41-000, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of 57,500 Mcf per day of natural gas on a firm basis for the account of Salmon Resources Ltd. (Salmon), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern Border states that it would receive the volumes of natural gas for the account of Salmon at an existing point of interconnection between the facilities of Foothills Pipe Lines (Sask.) Ltd. and Northern Border at a point on the international boundary near Port of Morgan, Montana (Monchy, Saskatchewan). Northern Border further states that such volumes would be transported to and redelivered at an existing point of interconnection between the facilities of Northern Natural Gas Company, Division of Enron Corporation and Northern Border near Ventura, Iowa. Northern Border indicates that its transportation agreement with Salmon provides for a term of 15 years and would continue year to year thereafter. It is further indicated that no additional facilities would be required to accommodate the proposed transportation.

Northern Border proposes to charge Salmon a monthly charge equal to the maximum contract receipt quantity multiplied by the number of days in the billing month multiplied by 38 cents (interim rate) during the interim period of service. The interim period of service is indicated to be the period beginning with the shipper's billing commencement date and ending on the earlier of the third anniversary of the billing commencement date or the in-service date of Northern Border's expansion/extension for which Northern Border plans to file in the near future. During the balance of the term of the Agreement (12 years), Northern Border proposes to charge Salmon a monthly charge equal to the contracted dekatherm-miles for Salmon during the billing month multiplied by the dekatherm-mile rate which is determined monthly and designed to recover Northern Border's fully allocated cost of service at a 100% load factor.

Comment date: November 25, 1987, in accordance with Standard Paragraph F at the end of this notice.

8. Northern Natural Gas Company Division of Enron Corp.

[Docket No. CP88-38-000]

Take notice that on October 20, 1987, Northern Natural Gas Company, Division of Enron Corp. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88-38-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authority to modify two delivery points to Wisconsin Power and Light Company (WPLC) in Sauk County, Wisconsin under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant proposes to modify the Baraboo No. 1 and Reedsburg No. 1 town border stations located in Sauk County, Wisconsin, which currently serve WPLC. Applicant indicates that the areas served by these two stations recently have experienced considerable expansion, resulting in load increases due to additional customers. Applicant requests authority to modify the town border stations in order to serve the increased requirements of WPLC and its customers, it is indicated.

The estimated cost of the proposed facilities is $48,600, it is explained.

Comment date: December 21, 1987, in accordance with Standard Paragraph G at the end of this notice.

9. Northern Natural Gas Company a Division of Enron Corporation

[Docket No. CP88-33-000]

Take notice that on October 19, 1987, Northern Natural Gas Company, a Division of Enron Corporation (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88-33-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CRF 157.205) for permission and approval to abandon certain sales measuring stations, under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Northern proposes to abandon and remove 19 small measuring stations located in South Dakota, Kansas, Minnesota, Iowa and Nebraska. Northern explains that it has been advised by Peoples Natural Gas Company that the end-users have requested removal of the measuring stations. Northern further states that the end-users have signed statements consenting to the abandonment. It is explained that the estimated cost to remove the measuring stations is $3,610.

Comment date: December 21, 1987, in accordance with Standard Paragraph G at the end of this notice.

10. Southern Natural Gas Company

[Docket No. CP88-23-000]

Take notice that on October 14, 1987, Southern Natural Gas Company (Southern) P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP88-23-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing Southern to transport gas on behalf of the City of Adairsville, Georgia (Adairsville); the City of Lafayette, Georgia (Lafayette); the City of Manchester, Georgia (Manchester); and the City of Summerville, Georgia (Summerville), hereinafter referred to collectively as "Municipalities", pursuant to the transportation agreements between each Municipality and Southern, dated September 15, 1987, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Southern proposes to transport on an interruptible basis up to 4,000 MMBtu of natural gas per day on behalf of Adairsville; up to 4,000 MMBtu for Lafayette; up to 3,000 MMBtu for Manchester; and up to 5,000 MMBtu for Summerville. Each Municipality has acquired the right to purchase its natural gas supplies from Panhandle Trading Company and SNG Trading Inc., it is stated. Southern requests that the Commission issue limited-term certificates for terms expiring on October 31, 1988.

Southern states that the transportation agreements provide that the Municipalities will cause gas to be delivered to Southern from various existing points of interconnection, both onshore and offshore, on Southern's contiguous pipeline system. It is further stated that Southern will redeliver the gas to Adairsville at the Adairsville Meter Station in Floyd County, Georgia; to Lafayette at the Lafayette Meter Station in Floyd County, Georgia; to Manchester at the Manchester Meter Station in Talbot County, Georgia; and to Summerville at the Lafayette, Trion and Summerville Meter Station in Floyd County, Georgia. It is indicated that an equivalent quantity of gas would be redelivered less 3.25 percent of such amount which shall be deemed to be used as compressor fuel and company-use gas (including system unaccounted-for gas losses), less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas; and less the Municipalities' pro-rata shares of any gas delivered for their accounts which is lost or vented for any reason.

Southern states that each Municipality has separately agreed to pay Southern each month a transportation rate of 77.6 cents per MMBtu of gas redelivered by Southern. Southern indicates it would also collect from the Municipalities the GRI surcharge of 1.52 cents per Mcf or any such other GRI funding unit or surcharge as hereafter prescribed.

Southern states that the transportation agreements would enable the Municipalities to diversify their natural gas supply sources and to obtain gas at competitive prices. In addition, Southern would obtain take-or-pay relief on volumes of gas that the Municipalities may obtain from their suppliers.

Comment date: November 25, 1987, in accordance with Standard Paragraph F at the end of this notice.

11. Northern Pipeline Corporation

[Docket No. CP88-45-000]

Take notice that on October 23, 1987, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP88-45-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) for the authority to reallocate natural gas service for the sale and delivery of natural gas to four meter stations of Utah Gas Service Company (Utah Gas), an existing customer of Northwest, under Northwest's blanket certificate issued in Docket No. CP82-433-000 (20 F.E.R.C. ¶ 62,412), pursuant to section 7(c) of the NGA, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to provide natural gas service for the account of Utah Gas through the existing Walker Hollow Meter Station located on Northwest's Redwash Lateral in Uintah County, Utah. The service proposed will be used by Utah Gas as system supply to serve Exxon Company U.S.A.'s (Exxon) oil field operations in the Walker Hollow area of Uintah County, Utah.

Northwest proposes to provide firm service to the Walker Hollow Meter Station by using quantities of gas previously authorized for sale and delivery under its Rate Schedule DS-1 by reallocating assigned maximum daily delivery quantities (MDQ) at four existing meter station as follows:

	Existing MDQ (therms)	Proposed MDQ (therms)
Moab, Utah	23,825	20,825
Monticello, Utah	8,300	5,300
Vernal, Utah	25,780	16,000
Walker Hollow, Utah		15,000
Total	58,905	58,905

Northwest states that there will be no increase in the total daily contract quantity of gas it is authorized to sell and deliver to Utah Gas and that the change in service to Utah Gas is not prohibited by Northwest's Rate Schedule DS-1.

Comment date: December 21, 1987, in accordance with Standard Paragraph G at the end of this notice.

12. Transcontinental Gas Pipe Line Corporation

[Docket No. CP88-11-000]

Take notice that on October 7, 1987, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP88-11-000 an application pursuant to section 7 of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) for a certificate of public convenience and necessity authorizing certain transportation services for Columbia Gas Transmission Corporation (Columbia) and for an order permitting and approving partial abandonment of certain sales services to Columbia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco seeks authorization, effective November 1, 1987, or such later prospective data following Commission approval of the instant application, to convert a portion of Columbia's existing firm sales entitlement with Transco to firm transportation service. Specifically, Transco seeks authorization to transport for Columbia, on a firm basis, up to a maximum daily quantity (daily transportation demand quality) of the dekatherm equivalent of 3960 Mcf per day of natural gas pursuant to a long-term firm transportation agreement (Firm Transportation Agreement). It is stated that Transco would receive such quantities of gas for firm transportation at various points on Transco's mainline between Compressor Station Nos. 45 and 65 and on Transco's Southeast Louisiana Lateral between Compressor Station Nos. 62 and 65. It is stated that such gas would be redelivered to Columbia on a firm basis at existing points of interconnection between Transco and Columbia in Pennsylvania and New Jersey.

Transco states that an integral feature of the conversion arrangement between Columbia and Transco requires the reduction of Columbia's daily firm purchase entitlement from Transco under two existing sales service agreements by an amount equal to the daily transportation demand quantity set forth in the firm transportation agreement between them. It is further stated that such reduction in firm sales service to Columbia would provide the capacity on Transco's mainline necessary to provide the firm transportation service requested in the application. Therefore, Transco also seeks authorization in the application

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for permission and approval to partially abandon such sales service to Columbia.

Transco states that the conversion from firm sales service to firm transportation service proposed in its application offers Columbia the same opportunity to undertake a portion of its own gas supply responsibility that would otherwise be available to Columbia under Order Nos. 436 and 500 but that is not possible now due to the fact that Transco does not currently possess a blanket certificate under § 284.221 of the Commission's Regulations.

Transco also seeks authorization in the subject application to transport gas on an interruptible basis from various sources of gas supply to certain of the firm points of receipt set forth above pursuant to a long-term interruptible transportation agreement.

Transco further states that in order to secure the most economically priced gas available, Columbia requires flexibility in its sources of gas supply for delivery at the existing firm delivery points. It is averred that such alternative sources may involve changes in the interruptible and/or firm points of receipt acceptable to Transco, but would not involve any increase in firm capacity entitlement on Transco's mainline. Consequently, Transco is requesting "flexible authority" whereby Transco would undertake certain filing requirements to advise the Commission in the event Columbia obtains different sources of supply requiring additions or deletions of interruptible and/or firm points of receipt.

Upon implementation of "flexible authority", Transco states that it would file by May 1 of each year appropriate tariff sheet revisions with the Commission reflecting additions and deletions of interruptible and/or firm points of receipt during the preceding calendar year.

Comment date: November 25, 1987, in accordance with Standard Paragraph F at the end of this notice.

13. Trunkline Gas Company

[Docket No. CP88-34-000]

Take notice that on October 19, 1987, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas, 77001, filed in Docket No. CP88-34-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, as amended, and the Federal Energy Regulatory Commission's (Commission) regulations promulgated thereunder for authority to partially abandon the sales service, amend sales service, and to partially convert sales service to transportation service provided to Consumers Power Company (Consumers), all as more fully set forth in the application which is on file with Commission and open for public inspection.

By this application, Trunkline requests authority pursuant to sections 7(b) and 7(c) of the Natural Gas Act, as amended, to modify service provided to Consumers, an existing jurisdictional sales customer of Trunkline, served under Rate Schedules P-2 and R-2 of Trunkline's FERC Gas Tariff, Original Volume No. 1. Pursuant to a Sales Service Agreement dated August 19, 1987, between Consumers and Trunkline (Sales Service Agreement), Trunkline is seeking the following adjustments of service:

(1) Effective November 1, 1987, Consumers' current level of firm sales service would be reduced from a maximum daily contract quantity of 700,000 Mcf per day to 572,000 per day. Consumers would also have the right to transport within its new Sales Service Agreement.

(2) Effective November 1, 1989, Consumers would convert 90,000 Mcf per day of its sales contract quantity to a firm transportation quantity and would further reduce its remaining 482,000 maximum daily contract quantity under it sales service to 360,000 Mcf per day.

(3) Effective November 1, 1990, Consumers would convert an additional 75,000 Mcf per day of its maximum daily contract quantity of sales service to firm transportation service resulting in a sales service quantity of 285,000 Mcf per day and firm transportation service of 165,000 per day. Consumers would have the option to defer any portion of its November 1, 1990 conversion by providing Trunkline with twenty-four months notice of its right to defer such conversion. The deferral may be in whole or in part and would be applicable for full contract year periods. The new Sales Service Agreement provides for a combination sales/transportation service whereby Consumers may purchase or transport on a firm basis a quantity of gas up to the maximum daily contract quantity.

The Sales Service Agreement is, subject to Commission approval, to be effective on November 1, 1987, and shall continue in effect through October 31, 1997, and for successive twelve month periods unless canceled by either party upon written notice. The Sales Agreement further provides that to the extent that Consumers buys a quantity of gas less than the annual supply quantity, a gas supply inventory charge would be applicable, it is stated. Trunkline explains that under the sales service agreement, withing seventy days after the end of each Contract Year (November 1 through October 31), Trunkline would bill Consumers the gas supply inventory charge if the quantity sold to consumers is less than the annual supply quantity which is set at seventy percent (70%) of the maximum daily contract quantity on an annual basis.

In addition to the sales/transportation service as described above, Trunkline requests authority pursuant to Section 7(c) of the Natural Gas Act, as amended to provide a firm transportation service pursuant to a Service Agreement for Firm Transportation Service, dated August 19, 1987, between Trunkline and Consumers (Firm Transportation Service). Trunkline states that the Firm Transportation Service becomes effective on November 1, 1989, with a firm transportation quantity of 90,000 Mcf per day. Effective on November 1, 1990, the firm transportation quantity becomes 165,000 Mcf per day unless Consumers elects its right to defer under the Sales Service Agreement, it is indicated. Such firm capacity is being made available to Consumers through Consumer's election to convert a portion of its firm sales service pursuant to the Sales Service Agreement permanently to a firm transportation service, Trunkline states. The term of the agreement is, subject to prior Commission approval, to be effective November 1, 1989, through October 31, 1997, and continue thereafter until terminated by one of the parties upon six months notice, it is indicated. Finally, states Trunkline effective November 1, 1992, Consumers has the option to reduce its firm transportation quantity by any amount by providing 180 days' notice.

Comment date: November 25, 1987, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the

appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-26029 Filed 11-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST87-3999-000 et al.]

El Paso Natural Gas Co. et al.; Self-Implementing Transactions

November 4, 1987.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

Docket No.*	Transporter/seller	Recipient	Date filed	Subpart	Expiration date**	Transportation rate (¢/MMBTU)
ST87-3999	El Paso Natural Gas Co	San Diego Gas & Electric Co	09-01-87	B		
ST87-4000	do	Southern California Gas Co	09-01-87	B		
ST87-4001	do	San Diego Gas & Electric Co	09-01-87	B		
ST87-4002	Texas Eastern Transmission Corp	T.W. Phillips Gas & Oil Co	09-01-87	B		

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G-S" indicates transportation by an interstate pipeline company on behalf of any shipper pursuant to a § 284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commisison's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to a transaction reflected in this notice should on or before November 24, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

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Docket No.*	Transporter/seller	Recipient	Date filed	Subpart	Expiration date**	Transportation rate (¢/MMBTU)
ST87-4003	do	Public Service Electric and Gas Co.	09-01-87	B		
ST87-4004	do	Jackson Utility Division	09-01-87	B		
ST87-4005	do	Bay State Gas Co	09-01-87	B		
ST87-4006	do	Orange and Rockland Utilities, Inc.	09-01-87	B		
ST87-4007	do	Elizabethtown Gas Co	09-01-87	B		
ST87-4008	do	do	09-01-87	B		
ST87-4009	do	Providence Gas Co	09-01-87	B		
ST87-4010	do	Central Illinois Public Service Co.	09-01-87	B		
ST87-4011	do	Public Service Electric and Gas Co.	09-01-87	B		
ST87-4012	do	North Attleboro Gas Co	09-01-87	B		
ST87-4013	do	Philadelphia Electric Co	09-01-87	B		
ST87-4014	do	Central Illinois Public Service Co.	09-01-87	B		
ST87-4015	do	Bay State Gas Co	09-01-87	B		
ST87-4016	do	City of Anna	09-01-87	B		
ST87-4017	do	Public Service Electric and Gas Co.	09-01-87	B		
ST87-4018	do	Baltimore Gas and Electric Co	09-01-87	B		
ST87-4019	do	Southern Connecticut Gas Co	09-01-87	B		
ST87-4020	do	Philadelphia Electric Co	09-01-87	B		
ST87-4021	do	Providence Gas Co	09-01-87	B		
ST87-4022	do	Southern Connecticut Gas Co	09-01-87	B		
ST87-4023	do	Philadelphia Gas Works	09-01-87	B		
ST87-4024	do	East Ohio Gas Co	09-01-87	B		
ST87-4025	Valero Transmission, L.P	Northern Natural Gas Co	09-01-87	C		
ST87-4026	do	do	09-01-87	C		
ST87-4027	do	El Paso Natural Gas Co	09-01-87	C		
ST87-4028	do	Texas Eastern Transmission Corp.	09-01-87	C		
ST87-4029	Tennessee Gas Pipeline Co	Lexington Gas System	09-02-87	B		
ST87-4030	do	Delta Natural Gas Co	09-02-87	B		
ST87-4031	do	Baltimore Gas and Electric Co	09-02-87	B		
ST87-4032	do	Valley Gas Co	09-02-87	B		
ST87-4033	do	NGC Intrastate Pipeline Co	09-02-87	B		
ST87-4034	ANR Pipeline Co	Baltimore Gas and Electric Co	09-03-87	B		
ST87-4035	do	Michigan Power Co	09-03-87	B		
ST87-4036	do	Northern Illinois Gas Co	09-03-87	B		
ST87-4037	do	Peoples Natural Gas Co	09-03-87	B		
ST87-4038	do	Louisiana Gas Marketing Co	09-03-87	B		
ST87-4039	do	NGC Intrastate Pipeline Co	09-03-87	B		
ST87-4040	do	Wisconsin Gas Co	09-03-87	B		
ST87-4041	do	Llano, Inc	09-03-87	B		
ST87-4042	do	Northern Indiana Public Service Co.	09-03-87	B		
ST87-4043	do	Northern Indiana Fuel & Light Co.	09-03-87	B		
ST87-4044	do	Wisconsin Natural Gas Co	09-03-87	B		
ST87-4045	do	Wisconsin Public Service Co	09-03-87	B		
ST87-4046	do	Southern Gas Co	09-03-87	B		
ST87-4047	do	Wisconsin Natural Gas Co	09-03-87	B		
ST87-4048	do	Delhi Gas Pipeline Corp	09-03-87	B		
ST87-4049	do	Columbia Gas of Ohio, Inc	09-03-87	B		
ST87-4050	do	Michigan Consolidated Gas Co	09-03-87	B		
ST87-4051	do	Wisconsin Public Service Co	09-03-87	B		
ST87-4052	do	Northern Intrastate Pipeline Co	09-03-87	B		
ST87-4053	do	Louisiana Intrastate Gas Co	09-03-87	B		
ST87-4054	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co., et al	09-03-87	B		
ST87-4055	ONG Transmission Co	Northern Natural Gas Co	09-03-87	C	01-03-88	10.00/12.00
ST87-4056	Tennessee Gas Pipeline Co	Southern Connecticut Gas Co	09-03-87	B		
ST87-4057	Trunkline Gas Co	Consumers Power Co	09-03-87	B		
ST87-4058	Western Gas Supply Co	El Paso Natural Gas Co	09-03-87	C		
ST87-4059	Northern Natural Gas Co	Mid Plains Pipeline Co	09-04-87	B		
ST87-4060	Seagull Shoreline System		09-04-87	C	02-01-88	13.04
ST87-4061	ANR Pipeline Co	Consumers Power Co	09-04-87	B		
ST87-4062	do	Yankee Pipeline Co	09-04-87	B		

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ST87-4063	do	Southern California Gas Co	09-04-87	B		
ST87-4064	do	Michigan Gas Utilities Co	09-04-87	B		
ST87-4065	do	Consumers Power Co	09-04-87	B		
ST87-4066	do	Northern Illinois Gas Co	09-04-87	B		
ST87-4067	do	Texas Power Corp	09-04-87	B		
ST87-4068	do	Consumers Power Co	09-04-87	B		
ST87-4069	do	Associated Intrastate Pipeline Co.	09-04-87	B		
ST87-4070	do	Phoenix Transmission Co	09-04-87	B		
ST87-4071	do	Baltimore Gas and Electric Co	09-04-87	B		
ST87-4072	do	Northern Indiana Fuel & Light Co.	09-04-87	B		
ST87-4073	do	Llano, Inc	09-04-87	B		
ST87-4074	do	St. Joseph Light & Power Co	09-04-87	B		
ST87-4075	do	Wisconsin Public Service Co	09-04-87	B		
ST87-4076	do	Columbia Gas of Ohio, Inc	09-04-87	B		
ST87-4077	do	Northern Indiana Public Service Co.	09-04-87	B		
ST87-4078	do	Washington Gas Light Co	09-04-87	B		
ST87-4079	do	Llano, Inc	09-04-87	B		
ST87-4080	do	Excel Intrastate Pipeline Co	09-04-87	B		
ST87-4081	do	Ohio Gas Co	09-04-87	B		
ST87-4082	do	Consumers Power Co	09-04-87	B		
ST87-4083	do	Michigan Consolidated Gas Co	09-04-87	B		
ST87-4084	Arkla Energy Resources	Colonial Gas Company	09-04-87	B		
ST87-4085	Columbia Gulf Transmission Co	Connecticut Light and Power Co., et al.	09-04-87	B		
ST87-4086	Panhandle Eastern Pipe Line Co	Michigan Consolidated Gas Co	09-04-87	B		
ST87-4087	do	Northern Indiana Public Service Co.	09-04-87	B		
ST87-4088	Tennessee Gas Pipeline Co	North Penn Gas Co	09-04-87	B		
ST87-4089	Trunkline Gas Co	Consumers Power Co	09-04-87	B		
ST87-4090	do	do	09-04-87	B		
ST87-4091	Natural Gas Pipeline Co. of America	ONG Transmission Co	09-08-87	B		
ST87-4092	Northern Natural Gas Co	Peoples Natural Gas Co	09-08-87	B		
ST87-4093	do	Polaris Corp	09-08-87	B		
ST87-4094	do	Northern Illinois Gas Co	08-31-87	B		
ST87-4095	do	Illinois Power Co	08-31-87	B		
ST87-4096	do	Enron Industrial Natural Gas Co.	08-31-87	B		
ST87-4097	Transwestern Pipeline Co	Southern California Gas Co	08-31-87	B		
ST87-4098	ANR Pipeline Co	Pontchartrain Natural Gas System.	09-08-87	B		
ST87-4099	do	Wisconsin Public Service Co	09-08-87	B		
ST87-4100	do	Public Service Co. of Colorado	09-08-87	B		
ST87-4101	do	Allerton Gas Co	09-08-87	B		
ST87-4102	do	Associated Natural Gas Co	09-08-87	B		
ST87-4103	do	Michigan Consolidated Gas Co	09-08-87	B		
ST87-4104	do	Southwest Gas Corp	09-08-87	B		
ST87-4105	do	Wisconsin Public Service Co	09-08-87	B		
ST87-4106	do	Michigan Consolidated Gas Co	09-08-87	B		
ST87-4107	do	Peoples Natural Gas Co	09-08-87	B		
ST87-4108	do	Northern Indiana Fuel & Light Co.	09-08-87	B		
ST87-4109	do	Columbia Gas of Ohio, Inc	09-08-87	B		
ST87-4110	do	Wisconsin Power and Light Co	09-08-87	B		
ST87-4111	do	Associated Natural Gas Co	09-08-87	B		
ST87-4112	do	Wisconsin Public Service Co	09-08-87	B		
ST87-4113	do	Michigan Consolidated Gas Co	09-08-87	B		
ST87-4114	do	Madison Gas & Electric Co	09-08-87	B		
ST87-4115	do	Virginia Natural Gas Co	09-08-87	B		
ST87-4116	do	Eastex Gas Transmission Co	09-08-87	B		
ST87-4117	Channel Industries Gas Co	THC Pipeline Co	09-08-87	C		
ST87-4118	Delhi Gas Pipeline Corp	Natural Gas Pipeline Co	09-08-87	C	02-05-88	61.61
ST87-4119	do	Transwestern Pipeline Co	09-08-87	C	02-05-88	35.00
ST87-4120	do	Panhandle Eastern Pipeline Co	09-08-87	C	02-05-88	35.00
ST87-4121	do	do	09-87	C		
ST87-4122	Houston Pipe Line Co	Northern Natural Gas Co	09-08-87	C		
ST87-4123	do	Elizabethtown Gas Co	09-08-87	C		
ST87-4124	Oasis Pipe Line Co	El Paso Natural Gas Co	09-08-87	C		

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ST87-4125	....do	....do	09-08-87	C		
ST87-4126	Ohio River Pipeline Corp	Indiana Gas Co., Inc	09-08-87	B		
ST87-4127	....do	....do	09-08-87	B		
ST87-4128	....do	....do	09-08-87	B		
ST87-4129	Panhandle Eastern Pipe Line Co	Columbia Gas of Ohio, Inc	09-08-87	B		
ST87-4130	....do	West Ohio Gas Co	09-08-87	B		
ST87-4131	....do	Nothern Indiana Public Service Co.	09-08-87	B		
ST87-4132	....do	West Ohio Gas Co	09-08-87	B		
ST87-4133	....do	Northern Illinois Gas Co	09-08-87	B		
ST87-4134	....do	Kansas Power and Light Co	09-08-87	B		
ST87-4135	Tennessee Gas Pipeline Co	Texas Eastern Transmission Corp.	09-08-87	G		
ST87-4136	....do	Stellar Gas Co	09-08-87	B		
ST87-4137	Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	09-08-87	B		
ST87-4138	....do	Public Service Electric and Gas Co.	09-08-87	B		
ST87-4139	....do	Delhi Gas Pipeline Corp	09-08-87	B		
ST87-4140	....do	Lone Star Gas Co	09-08-87	B		
ST87-4141	....do	South Carolina Pipeline Corp	09-08-87	B		
ST87-4142	....do	Columbia Gas Dist. Co. of NY, et al.	09-08-87	B		
ST87-4143	....do	North Carolina Natural Gas Corp.	09-08-87	B		
ST87-4144	....do	New York State Elec. & Gas Co., et al.	09-08-87	B		
ST87-4145	....do	Philadelphia Electric Co	09-08-87	B		
ST87-4146	....do	Commonwealth Gas Pipeline Corp.	09-08-87	B		
ST87-4147	....do	Philadelphia Electric Co	09-08-87	B		
ST87-4148	....do	Public Service Co. of North Carolina.	09-08-87	B		
ST87-4149	....do	Elizabethtown Gas Co	09-08-87	B		
ST87-4150	Trunkline Gas Co	Consumers Power Co	09-08-87	B		
ST87-4151	....do	....do	09-08-87	B		
ST87-4152	....do	....do	09-08-87	B		
ST87-4153	....do	Northern Illinois Gas Co	09-08-87	B		
ST87-4154	....do	Consumers Power Co	09-08-87	B		
ST87-4155	....do	....do	09-08-87	B		
ST87-4156	Northern Natural Gas Co	Yankee Pipeline Co	09-10-87	B		
ST87-4157	Columbia Gulf Transmission Co	Northern Natural Gas Co	09-10-87	G		
ST87-4158	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co.	09-10-87	B		
ST87-4159	....do	....do	09-10-87	B		
ST87-4160	....do	Public Service Co. of Colorado	09-10-87	B		
ST87-4161	....do	Associated Intrastate Pipeline Co.	09-10-87	B		
ST87-4162	Texas Gas Transmission Corp	City of Kuttawa	09-10-87	B		
ST87-4163	....do	Western Kentucky Gas Co	09-10-87	B		
ST87-4164	Algonquin Gas Transmission Co	Connecticut Light & Power Co	09-11-87	B		
ST87-4165	....do	....do	09-11-87	B		
ST87-4166	....do	Commonwealth Gas Co	09-11-87	B		
ST87-4167	....do	....do	09-11-87	B		
ST87-4168	....do	Connecticut Natural Gas Corp	09-11-87	B		
ST87-4169	El Paso Natural Gas Co	Pacific Gas and Electric Co	09-11-87	B		
ST87-4170	Superior Offshore Pipeline Co	Michigan Consolidated Gas Co., et al.	09-11-87	B		
ST87-4171	Williams Natural Gas Co	KPL Gas Service Co	09-11-87	B		
ST87-4172	ANR Pipeline Co	Illinois Power Co	09-11-87	B		
ST87-4173	....do	Public Service Electric and Gas Co.	09-11-87	B		
ST87-4174	....do	Transok, Inc	09-11-87	B		
ST87-4175	....do	NGC Intrastate Pipeline Co	09-11-87	B		
ST87-4176	....do	Consumers Power Co	09-11-87	B		
ST87-4177	....do	....do	09-11-87	B		
ST87-4178	....do	Michigan Gas Utilities Co	09-11-87	B		
ST87-4179	....do	Consumers Power Co	09-11-87	B		
ST87-4180	....do	Michigan Consolidated Gas Co	09-11-87	B		
ST87-4181	....do	Orbit Gas Co	09-11-87	B		
ST87-4182	....do	Michigan Consolidated Gas Co	09-11-87	B		

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ST87-4183	....do	Coastal States Gas Transmission Co.	09-11-87	B		
ST87-4184	Arkla Energy Resources	Southern Indiana Gas & Electric Co.	09-14-87	B		
ST87-4185	ANR Pipeline Co	Michigan Consolidated Gas Co	09-14-87	B		
ST87-4186	....do	Baltimore Gas and Electric Co	09-14-87	B		
ST87-4187	....do	Peoples Gas Light & Coke Co	09-14-87	B		
ST87-4188	....do	Acadian Gas Pipeline System	09-14-87	B		
ST87-4189	....do	Consumers Power Co	09-14-87	B		
ST87-4190	....do	West Ohio Gas Co	09-14-87	B		
ST87-4191	....do	Michigan Consolidated Gas Co	09-14-87	B		
ST87-4192	....do	Pacific Gas and Electric Co	09-14-87	B		
ST87-4193	Delhi Gas Pipeline Corp	Mississippi River Transmission Corp.	09-14-87	B		
ST87-4194	....do	Texas Eastern Transmission Corp.	09-14-87	B		
ST87-4195	Mississippi Fuel Co	Transcontinental Gas Pipe Line Corp.	09-14-87	C	02-11-88	14.83
ST87-4196	Natural Gas Pipeline Co. of America	IOWA-Illinois Gas & Electric Co	09-14-87	B		
ST87-4197	....do	Washington Gas Light Co	09-14-87	B		
ST87-4198	....do	United Texas Transmission Co	09-14-87	B		
ST87-4199	Panhandle Eastern Pipe Line Co	Golden Gas Energies, Inc	09-14-87	B		
ST87-4200	....do	Macon, Municipal Utilities	09-14-87	B		
ST87-4201	Trunkline Gas Co	Consumers Power Co	09-14-87	B		
ST87-4202	....do	....do	09-14-87	B		
ST87-4203	....do	....do	09-14-87	B		
ST87-4204	....do	....do	09-14-87	B		
ST87-4205	....do	....do	09-14-87	B		
ST87-4206	....do	....do	09-14-87	B		
ST87-4207	....do	....do	09-14-87	B		
ST87-4208	Arkla Energy Resources	Arkansas Louisiana Gas Co	09-15-87	B		
ST87-4209	Texas Gas Transmission Corp	Western Kentucky Gas Co	09-15-87	B		
ST87-4210	Transcontinental Gas Pipe Line Corp	Consolidated Edison Co. of NY, Inc.	09-15-87	B		
ST87-4211	....do	Pontchartrain Natural Gas System.	09-15-87	B		
ST87-4212	Transwestern Pipeline Co	Southern California Gas Co	09-15-87	B		
ST87-4213	Trunkline Gas Co	Consumers Power Co	09-16-87	B		
ST87-4214	....do	....do	09-16-87	B		
ST87-4215	....do	....do	09-16-87	B		
ST87-4216	....do	....do	09-16-87	B		
ST87-4217	....do	....do	09-16-87	B		
ST87-4218	Colorado Interstate Gas Co	NGC Intrastate Pipeline Co	09-16-87	B		
ST87-4219	....do	City of Colorado Springs	09-16-87	B		
ST87-4220	....do	Public Service Co. of Colorado	09-16-87	B		
ST87-4221	....do	Cheyenne Light, Fuel & Power Co.	09-16-87	B		
ST87-4222	....do	....do	09-16-87	B		
ST87-4223	....do	San Diego Gas & Electric Co	09-16-87	B		
ST87-4224	....do	Lovera Pipeline Co	09-16-87	B		
ST87-4225	....do	Illinois Power Co	09-16-87	B		
ST87-4226	....do	Energy Pipeline, Inc	09-16-87	B		
ST87-4227	....do	Yankee Pipeline Co	09-16-87	B		
ST87-4228	....do	Iowa Southern Utilities Co	09-16-87	B		
ST87-4229	Tennessee Gas Pipeline Co	Northern Illinois Gas Co., et al	09-16-87	B		
ST87-4230	....do	Orange and Rockland Utilities, Inc.	09-16-87	B		
ST87-4231	United Gas Pipe Line Co	Public Service Elect. and Gas Co., et al.	09-16-87	B		
ST87-4232	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	09-17-87	B		
ST87-4233	....do	Northern Illinois Gas Co	09-17-87	B		
ST87-4234	....do	North Shore Gas Co	09-17-87	B		
ST87-4235	....do	Iowa-Illinois Gas & Electric Co	09-17-87	B		
ST87-4236	Tennessee Gas Pipeline Co	Endevco Oil and Gas Co	09-17-87	G-EU		
ST87-4237	Transcontinental Gas Pipe Line Corp	Long Island Lighting Co	09-17-87	B		
ST87-4238	....do	Consolidated Edison Co. of NY, Inc.	09-17-87	B		
ST87-4239	....do	Elizabethtown Gas Co	09-17-87	B		
ST87-4240	....do	Pontchartrain Natural Gas System.	09-17-87	B		

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ST87-4241	do	City of Buford	09-17-87	B		
ST87-4242	do	Acadian Natural Gas Company	09-17-87	B		
ST87-4243	do	Delhi Gas Pipeline Corp	09-17-87	B		
ST87-4244	Colorado Interstate Gas Co	Southern California Gas Co	09-17-87	B		
ST87-4245	do	Northern Illinois Gas Co	09-17-87	B		
ST87-4246	do	Southern California Gas Co	09-17-87	B		
ST87-4247	do	do	09-17-87	B		
ST87-4248	do	Greeley Gas Co	09-17-87	B		
ST87-4249	do	City of Trinidad	09-17-87	B		
ST87-4250	do	Peoples Natural Gas Co	09-17-87	B		
ST87-4251	do	Western Gas Supply Co	09-17-87	B		
ST87-4252	Texas Eastern Transmission Corp	Public Service Electric and Gas Co.	09-17-87	B		
ST87-4253	do	Commonwealth Gas Co	09-17-87	B		
ST87-4254	do	Philadelphia Gas Works	09-17-87	B		
ST87-4255	do	do	09-17-87	B		
ST87-4256	do	Connecticut Light & Power Co	09-17-87	B		
ST87-4257	Acadian Gas Pipeline System	ANR Pipeline Co	09-18-87	C	02-15-88	15.50
ST87-4258	Panhandle Eastern Pipe Line Co	Delhi Gas Pipeline Corp	09-18-87	B		
ST87-4259	Trunkline Gas Co	Pontchartrain Natural Gas System.	09-18-87	B		
ST87-4260	do	Consumers Power Co	09-18-87	B		
ST87-4261	Colorado Interstate Gas Co	Citizens Utilities Co	09-18-87	B		
ST87-4262	Arkla Energy Resources	Arkansas Louisiana Gas Co	09-18-87	B		
ST87-4263	Iowa-Illinois Gas & Electric Co	Natural Gas Pipeline Co. of America	09-21-87	G(HT)		
ST87-4264	Panhandle Eastern Pipe Line Co	Peoples Natural Gas Co	09-21-87	B		
ST87-4265	do	Michigan Consolidated Gas Co	09-21-87	B		
ST87-4266	do	Indiana Gas Co., Inc	09-21-87	B		
ST87-4267	do	Central Illinois Public Service Co.	09-21-87	B		
ST87-4268	do	Associated Intrastate Pipeline Co.	09-21-87	B		
ST87-4269	Sabine Pipe Line Co	Neches Gas Distribution Co	09-21-87	B		
ST87-4270	Texas Eastern Transmission Corp	Philadelphia Electric Co	09-21-87	B		
ST87-4271	do	City of Jasper	09-21-87	B		
ST87-4272	do	Philadelphia Electric Co	09-21-87	B		
ST87-4273	do	do	09-21-87	B		
ST87-4274	do	Brooklyn Union Gas Co	09-21-87	B		
ST87-4275	do	City of Jonesboro	09-21-87	B		
ST87-4276	ANR Pipeline Co	Wisconsin Public Service Co	09-22-87	B		
ST87-4277	do	Stellar Gas Co	09-22-87	B		
ST87-4278	do	Consumers Power Co	09-22-87	B		
ST87-4279	do	Peoples Gas Light & Coke Co	09-22-87	B		
ST87-4280	do	Battle Creek Gas Co	09-22-87	B		
ST87-4281	do	Wisconsin Public Service Co	09-22-87	B		
ST87-4282	do	Ohio Gas Co	09-22-87	B		
ST87-4283	Louisiana Intrastate Gas Corp	Transcontinental Gas Pipe Line Corp.	09-22-87	C	02-19-88	22.40
ST87-4284	Arkla Energy Resources	Arkansas Louisiana Gas Co	09-23-87	B		
ST87-4285	El Paso Natural Gas Co	Lear Gas Transmission Co	09-23-87	B		
ST87-4286	do	Enmark Gas Corp	09-23-87	B		
ST87-4287	do	do	09-23-87	B		
ST87-4288	Natural Gas Pipeline Co. of America	Associated Natural Gas Co	09-23-87	B		
ST87-4289	do	Northern Illinois Gas Co	09-23-87	B		
ST87-4290	El Paso Natural Gas Co	El Paso Hydrocarbons Co	09-23-87	B		
ST87-4291	Northern Natural Gas Co	Peoples Gas Light & Coke Co	09-14-87	B		
ST87-4292	El Paso Natural Gas Co	Pacific Gas and Electric Co	09-23-87	B		
ST87-4293	do	Southern California Gas Co	09-23-87	B		
ST87-4294	do	do	09-23-87	B		
ST87-4295	do	NGC Intrastate Pipeline Co	09-23-87	B		
ST87-4296	do	do	09-23-87	B		
ST87-4297	do	Southern California Gas Co	09-23-87	B		
ST87-4298	do	NGC Intrastate Pipeline Co	09-23-87	B		
ST87-4299	do	Pacific Gas and Electric Co	09-23-87	B		
ST87-4300	do	El Paso Hydrocarbons Co	09-23-87	B		
ST87-4301	Texas Gas Transmission Corp	Louisville Gas & Electric Co	09-23-87	B		
ST87-4302	do	Western Kentucky Gas Co	09-23-87	B		
ST87-4303	do	do	09-23-87	B		
ST87-4304	do	do	09-23-87	B		

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ST87-4305	do	do	09-23-87	B		
ST87-4306	do	do	09-23-87	B		
ST87-4307	do	Oceana Heights Gas Co	09-23-87	B		
ST87-4308	do	City of Lewisport	09-23-87	B		
ST87-4309	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	09-23-87	B		
ST87-4310	do	Corpus Christi Industrial Pipeline Co.	09-23-87	B		
ST87-4311	do	City of Lawrenceville	09-23-87	B		
ST87-4312	do	Piedmont Natural Gas Co	09-23-87	B		
ST87-4313	do	Commonwealth Gas Pipeline Corp.	09-23-87	B		
ST87-4314	do	South Jersey Gas Co	09-23-87	B		
ST87-4315	do	Monterey Pipeline Co	09-23-87	B		
ST87-4316	do	Long Island Lighting Co	09-23-87	B		
ST87-4317	do	Public Service Electric and Gas Co.	09-23-87	B		
ST87-4318	do	East Central Alabama Gas District.	09-23-87	B		
ST87-4319	do	Public Service Electric and Gas Co.	09-23-87	B		
ST87-4320	do	North Carolina Natural Gas Corp.	09-23-87	B		
ST87-4321	do	North Carolina Gas Service Co	09-23-87	B		
ST87-4322	do	Louisiana Gas Marketing Co	09-23-87	B		
ST87-4323	do	City of Hartwell	09-23-87	B		
ST87-4324	do	City of Alexander City	09-23-87	B		
ST87-4325	do	Corpus Christi Industrial Pipeline Co.	09-23-87	B		
ST87-4326	do	City of Commerce	09-23-87	B		
ST87-4327	do	FRM, Inc	09-23-87	B		
ST87-4328	ANR Pipeline Co	Wisconsin Public Service Co	09-24-87	B		
ST87-4329	do	Consumers Power Co	09-24-87	B		
ST87-4330	do	Madison Gas & Electric Co	09-24-87	B		
ST87-4331	do	Wisconsin Natural Gas Co	09-24-87	B		
ST87-4332	do	Wisconsin Gas Co	09-24-87	B		
ST87-4333	do	Wisconsin Natural Gas Co	09-24-87	B		
ST87-4334	do	St. Joseph Light & Power Co	09-24-87	B		
ST87-4335	do	Wisconsin Natural Gas Co	09-24-87	B		
ST87-4336	Panhandle Eastern Pipe Line Co	Southeastern Michigan Gas Co	09-24-87	B		
ST87-4337	Texas Gas Transmission Corp	Hoosier Gas Corp	09-24-87	B		
ST87-4338	Natural Gas Pipeline Co of America	Northern Illinois Gas Co	09-25-87	B		
ST87-4339	do	do	09-25-87	B		
ST87-4340	do	Wisconsin Southern Gas Co., Inc.	09-25-87	B		
ST87-4341	do	Central Illinois Light Co., et al	09-25-87	B		
ST87-4342	do	Peoples Gas Light & Coke Co., et al.	09-25-87	B		
ST87-4343	Panhandle Eastern Pipe Line Co	Miami Pipeline Co	09-25-87	B		
ST87-4344	do	Northern Illinois Gas Co	09-25-87	B		
ST87-4345	ANR Pipeline Co	Wisconsin Public Service Co	09-25-87	B		
ST87-4346	do	Madison Gas & Electric Co	09-25-87	B		
ST87-4347	do	Peoples Natural Gas Co	09-25-87	B		
ST87-4348	do	Wisconsin Natural Gas Co	09-25-87	B		
ST87-4349	do	Michigan Power Co	09-25-87	B		
ST87-4350	do	Ohio Gas Co	09-25-87	B		
ST87-4351	do	Consumers Power Co	09-25-87	B		
ST87-4352	do	Ohio Gas Co	09-25-87	B		
ST87-4353	do	Wisconsin Fuel and Light Co	09-25-87	B		
ST87-4354	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	09-25-87	B		
ST87-4355	do	do	09-25-87	B		
ST87-4356	do	do	09-25-87	B		
ST87-4357	do	do	09-25-87	B		
ST87-4358	do	East Ohio Gas Co	09-25-87	B		
ST87-4359	do	do	09-25-87	B		
ST87-4360	do	Peoples Natural Gas Co	09-25-87	B		
ST87-4361	do	Niagara Mohawk Power Corp	09-25-87	B		
ST87-4362	do	East Ohio Gas Co	09-25-87	B		
ST87-4363	do	Niagara Mohawk Power Corp	09-25-87	B		
ST87-4364	do	do	09-25-87	B		
ST87-4365	do	do	09-25-87	B		

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Docket No.*	Transporter/seller	Recipient	Date filed	Subpart	Expiration date**	Transportation rate (¢/MMBTU)
ST87-4356	....do	....do	09-25-87	B		
ST87-4357	....do	....do	09-25-87	B		
ST87-4358	....do	....do	09-25-87	B		
ST87-4369	....do	Rochester Gas & Electric Corp	09-25-87	B		
ST87-4370	....do	Niagara Mohawk Power Corp	09-25-87	B		
ST87-4371	....do	....do	09-25-87	B		
ST87-4372	....do	New York State Electric and Gas Co.	09-25-87	B		
ST87-4373	....do	....do	09-25-87	B		
ST87-4374	....do	East Ohio Gas Co	09-25-87	B		
ST87-4375	....do	....do	09-25-87	B		
ST87-4376	....do	National Fuel Gas Distribution Corp.	09-25-87	B		
ST87-4377	....do	Niagara Mohawk Power Corp	09-25-87	B		
ST87-4378	Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp.	09-25-87	G		
ST87-4379	....do	....do	09-25-87	G		
ST87-4380	Delhi Gas Pipeline Corp	ANR Pipeline Co	09-28-87	C	2-25-88	35.00
ST87-4381	....do	Texas Gas Transmission Corp	09-28-87	C		
ST87-4382	El Paso Natural Gas Co	Southern California Gas Co	09-28-87	B		
ST87-4383	Natural Gas Pipeline Co. of America	Iowa Southern Utilities Co	09-28-87	B		
ST87-4384	....do	Lenox Municipal Gas	09-28-87	B		
ST87-4385	Sabine Pipe Line Co	Midcon Marketing Corp	09-28-87	G-EU		
ST87-4386	Tennessee Gas Pipeline Co	Cities Service Oil & Gas Corp	09-28-87	G-EU		
ST87-4387	....do	Public Service Electric and Gas Co.	09-28-87	B		
ST87-4388	....do	Yankee Pipeline Co	09-28-87	B		
ST87-4389	....do	Polo Energy Corp	09-28-87	B		
ST87-4390	....do	Reading Bates Petroleum Co	09-28-87	G-EU		
ST87-4391	Valero Interstate Transmission Co	El Paso Natural Gas Co	09-28-87	B		
ST87-4392	....do	....do	09-28-87	B		
ST87-4393	Arkla Energy Resources	Corning Natural Gas Corp	09-28-87	B		
ST87-4394	Washington Gas Light Co	Columbia Gas Transmission Corp.	09-28-87	C		
ST87-4395	Equitable Gas Co	South Jersey Gas Co	09-22-87	B		
ST87-4396	....do	Equitable Gas Co	09-22-87	B		
ST87-4397	....do	....do	09-22-87	B		
ST87-4398	Arkla Energy Resources	Providence Gas Co	09-29-87	B		
ST87-4399	El Paso Natural Gas Co	NGC Intrastate Pipeline Co	09-29-87	B		
ST87-4400	Colorado Interstate Gas Co	Michigan Consolidated Gas Co	09-29-87	B		
ST87-4401	....do	MGTC, Inc	09-29-87	B		
ST87-4402	Natural Gas Pipeline Co. of America	Monarch Gas Co	09-29-87	B		
ST87-4403	Tennessee Gas Pipeline Co	Dayton Power and Light Co	09-29-87	B		
ST87-4404	....do	Energy North, Inc	09-29-87	B		
ST87-4405	Texas Eastern Transmission Corp	Allied Gas Co	09-29-87	B		
ST87-4406	....do	United Cities Gas Co	09-29-87	B		
ST87-4407	....do	UGI Corp	09-29-87	B		
ST87-4408	....do	Philadelphia Gas Works	09-29-87	B		
ST87-4409	Texas Gas Transmission Corp	Alabama Gas Corp., et al	09-29-87	B		
ST87-4410	Trunkline Gas Co	Consumers Power Co	09-29-87	B		
ST87-4411	....do	....do	09-29-87	B		
ST87-4412	....do	Llano, Inc	09-29-87	B		
ST87-4413	....do	Consumers Power Co	09-29-87	B		
ST87-4414	....do	....do	09-29-87	B		
ST87-4415	....do	....do	09-29-87	B		
ST87-4416	Valero Transmission, L.P	Transcontinental Gas Pipeline Corp.	09-29-87	C		
ST87-4417	El Paso Natural Gas Co	Southern California Gas Co	09-30-87	B		
ST87-4418	Transcontinental Gas Pipe Line Corp	City of Butler	09-30-87	B		
ST87-4419	....do	Public Service Electric and Gas Co.	09-30-87	B		
ST87-4420	....do	City of Rockford	09-30-87	B		
ST87-4421	Northern Natural Gas Co	South Jersey Gas Co	09-30-87	B		
ST87-4422	Tennessee Gas Pipeline Co	Berkshire Gas Co	09-30-87	B		
ST87-4423	....do	Brooklyn Union Gas Co	09-30-87	B		
ST87-4424	....do	Long Island Lighting Co	09-30-87	B		
ST87-4425	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina.	09-30-87	B		
ST87-4426	....do	Coastal States Gas Transmission Co.	09-30-87	B		

Docket No.*	Transporter/seller	Recipient	Date filed	Subpart	Expiration date**	Transportation rate (¢/MMBTU)
ST87-4427	....do	South Carolina Pipeline Corp	09-30-87	B		
ST87-4428	....do	Maplesville Waster & Gas Board.	09-30-87	B		
ST87-4429	....do	Atlanta Gas Light Co	09-30-87	B		
ST87-4430	....do	Town of Thomaston	09-30-87	B		
ST87-4431	....do	City of Wedowee	09-30-87	B		
ST87-4432	....do	City of Greenwood	09-30-87	B		
ST87-4433	....do	Southwestern Virginia Gas Co	09-30-87	B		
ST87-4434	....do	Delmarva Power and Light Co	09-30-87	B		
ST87-4435	....do	Atlanta Gas Light Co	09-30-87	B		
ST87-4436	....do	City of Royston	09-30-87	B		
ST87-4437	....do	City of Monroe	09-30-87	B		
ST87-4438	....do	Town of Liberty	09-30-87	B		
ST87-4439	....do	City of Sugar Hill	09-30-87	B		
ST87-4440	....do	Lynchburg Gas Co	09-30-87	B		
ST87-4441	....do	Long Island Lighting Co	09-30-87	B		
ST87-4442	....do	City of Social Circle	09-30-87	B		
ST87-4443	....do	City of Winder	09-30-87	B		
ST87-4444	....do	Union Gas Co	09-30-87	B		
ST87-4445	....do	City of Greer	09-30-87	B		
ST87-4446	....do	City of Madison	09-30-87	B		
ST87-4447	....do	Fountain Inn Natural Gas Authority.	09-30-87	B		
ST87-4448	....do	Tri-county Natural Gas Co	09-30-87	B		
ST87-4449	....do	City of Toccoa	09-30-87	B		
ST87-4450	ANR Pipeline Co	Taft Pipeline Co	09-30-87	B		
ST87-4451	....do	TPC Pipeline, Inc	09-30-87	B		
ST87-4452	....do	Oceana Heights Gas Co	09-30-87	B		
ST87-4453	....do	Wisconsin Power and Light Co	09-30-87	B		
ST87-4454	....do	Michigan Consolidated Gas Co	09-30-87	B		
ST87-4455	....do	Wisconsin Fuel and Light Co	09-30-87	B		
ST87-4456	....do	Wisconsin Public Service Co	09-30-87	B		
ST87-4457	....do	Philadelphia Gas Works	09-30-87	B		
ST87-4458	Transwestern Pipeline	Southern California Gas Co	09-30-87	B		
Below is a revised petition for rate approval. It is noticed at this time to give interested parties the appropriate 150-day comment period.						
ST82-0095	Red River Pipeline	United Gas Pipe Line Co	09-21-87	C	02-18-88	36.00

*Notice of transactions does not constitute a determination that filings comply with commission regulations in accordance with order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

**The intrastate pipeline has sought commission approval of its transportation rate pursuant to section 284.123(B)(2) of the commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the commission does not take action by the date indicated.

[FR Doc. 87-26030 Filed 11-9-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. QF87-337-001 et al.]

Albany Cogeneration Associates et al., Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

November 4, 1987.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Albany Cogeneration Associates

[Docket No. QF87-337-001]

On October 13, 1987, Albany Cogeneration Associates (Applicant), of One City Square, 330 Broadway, Albany, New York 12207, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Albany County, New York. The facility was originally proposed to consist of two identical power/heat recovery trains, each consisting of a combustion turbine generating unit, a duct burner for supplementary firing and a heat exchanger. Thermal energy recovered from the facility will be used for space and process heating. The net electric power production capacity as originally proposed were to be 8.8 MW. The primary energy source will be natural gas.

By order issued June 2, 1987, the Director of the Office of Electric Power Regulation granted certification of the facility as a cogeneration facility (39 FERC ¶ 62,251).

The recertification is requested due to change in the facility's configuration and increase in generating capacity. The amended facility will consist of a single power/heat recovery train, composed of a combustion turbine generating unit, a heat recovery steam generator and a heat exchanger for heating process hot water. The net electric power production capacity of the facility will be 24.9 MW. Installation of the facility will begin in April, 1988. All other facility's characteristics remain unchanged.

2. Cogeneration Partners of America

[Docket No. QF88-32-000]

On October 19, 1987, Cogeneration Partners of America (Applicant), of Metroview Corporate Center, 333 Thornall Street, Edison, New Jersey 08837, submitted for filing an application for certification of a facility as a

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qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Passaic, New Jersey and will consist of an engine generator and a heat recovery steam generator. The net electric power production capacity of the facility will be 908 kW. The primary source of energy will be natural gas. Construction of the facility will begin in February 1988.

3. LUZ Solar Partners VII, Ltd.

[Docket No. QF88-34-000]

On October 19, 1987, LUZ Solar Partners VII, Ltd. (Applicant), a California Limited Partnership, c/o LUZ Engineering Corporation, General Partner, 924 Westwood Boulevard, Suite 1000, Westwood, California 90024 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located approximately 31 miles west of Barstow, California at the junction of U.S. Highway 395 and California Highway 58 at Kramer Junction, California. The primary energy source will be solar energy. The facility will consist of a solar collector field, a solar-fired preheater/steam generator, a solar-fired superheater, a solar-fired reheat unit, a separate natural gas-fired auxiliary boiler, a natural gas-fired heat transfer fluid heater and a single inlet steam turbine generator. The net electric power production capacity of the facility will be 30 MW. Potomac Capital Investment Corporation, a wholly-owned subsidiary of Potomac Electric Power Company, an electric utility and a subsidiary of CP National Corporation, also an electric utility will have equity interests in the facility. No other small power production facilities owned by the Applicant and using the same energy source are located within one mile of the facility. Installation of the facility is expected to commence in January 1988.

4. LUZ Solar Partners VI, Ltd.

[Docket No. QF88-33-000]

On October 19, 1987, LUZ Solar Partners VI, Ltd. (Applicant), a California Limited Partnership, c/o LUZ Engineering Corporation, General Partner, 924 Westwood Boulevard, Suite 1000, Westwood, California 90024 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located approximately 31 miles west of Barstow, California at the junction of U.S. Highway 395 and California Highway 58 at Kramer Junction, California. The primary energy source will be solar energy. The facility will consist of a solar collector field, a solar-fired preheater/steam generator, a solar-fired superheater, a solar-fired reheat unit, a separate natural gas-fired auxiliary boiler, a natural gas-fired heat transfer fluid heater and a single inlet steam turbine generator. The net electric power production capacity of the facility will be 30 MW. Potomac Capital Investment Corporation, a wholly-owned subsidiary of Potomac Electric Power Company, an electric utility and a subsidiary of CP National Corporation also an electric utility will have equity interests in the facility. No other small power production facilities owned by the Applicant and using the same energy source are located within one mile of the facility. Installation of the facility commenced in October 1986.

5. North Branch Energy Partners, L.P.

[Docket No. QF88-30-000]

On October 13, 1987, North Branch Energy Partners, L.P. (Applicant), of 102 North Main Street, Greensburg, Pennsylvania 15601, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Washington County, Pennsylvania. The facility will consist of one full capacity or two half capacity circulating fluid bed boilers and one extraction/condensing steam turbine generating unit. Extraction steam produced by the facility will be used in a carbon dioxide recovery facility for production of carbon dioxide from the boiler flue gas. The net electric power production capacity of the facility will be 80 MW. The primary energy source will be bituminous coal refuse. Installation of the facility is expected to begin in April 1988.

6. Mt. Poso Cogeneration Company

[Docket No. QF85-324-003]

On October 13, 1987, Mt. Poso Cogeneration Company (Applicant), of San Diego, California submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Bakersfield, California. The facility will consist of a circulating atmospheric fluidized bed combustor-boiler unit and an extraction/condensing steam turbine-generator unit. The thermal energy recovered from the facility will be utilized by the MacPherson Oil Company for enhanced oil recovery. The primary energy source will be coal and/or petroleum coke. The net electrical power production capacity of the facility will be 49.9 MW.

The original application was granted certification as a qualifying cogeneration facility on June 27, 1985 (31 FERC ¶ 62,411).

The first application for recertification (QF85-324-001) reflecting changes in location of the facility and ownership was filed on September 25, 1986 and was granted on November 28, 1986 (37 FERC ¶ 62,156), the instant recertification is requested due to change in ownership. The facility will now be owned by six general partners and one limited partner. One of the general partners, Pacific-Mt. Poso Corporation, and Oregon Corporation is indirectly a wholly owned subsidiary of Pacific Corp., which is an electric utility. All other facility's characteristics remain unchanged.

7. Ptarmigan Resources & Energy, Inc.

[Docket No. QF88-29-000]

On October 16, 1987, Ptarmigan Resources & Energy, Inc. (Applicant), of 5525 Erindale Drive, Suite 102, Colorado Springs, Colorado 80918, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 5000 kilowatt hydroelectric facility (FERC P. 3174) will be located on the outlet works of the Vallecito Reservoir in La Plata County, Colorado.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-26031 Filed 11-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-86-001]

Canyon Creek Compression Co.; Proposed Changes in FERC Gas Tariff

November 4, 1987.

Take notice that on October 26, 1987, Canyon Creek Compression Company (Canyon) tendered for filing Substitute Original Sheet No. 130 to be a part of its FERC Gas Tariff, Original Volume No. 1.

Canyon states that the tariff sheet was submitted in compliance with Commission Order issued September 29, 1987, at Docket No. RP87-86-000. The tariff sheet was revised to reflect the tariff language required by Commission Order No. 472-B.

Canyon requested waiver of the Commission's Regulations to the extent necessary to permit the proposed tariff sheets to become effective October 1, 1987.

A copy of this filing was mailed to Canyon's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before November 12, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-26033 Filed 11-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-15-000]

Mid Louisiana Gas Co.; Change in Rates and Tariff Revisions

November 4, 1987.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on October 22, 1987, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheets to become effective November 1, 1987:

Fifty-Ninth Revised Sheet No. 3a
Second Revised Sheet No. 3a. 1
Original Sheet No. 28j
Original Sheet No. 28k

Mid Louisiana states that the purpose of this filing is to include in its FERC Gas Tariff the procedure and method for collecting its assessed amount from its customers pursuant to Order No. 472 implementing the Omnibus Budget Reconciliation Act of 1986.

Mid Louisiana also requests a waiver of § 154.22 of the Commission's Regulations to allow the submitted Tariff Sheets to become effective November 1, 1987.

Copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commisions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214 (1987)). All such motions or protests should be filed on or before November 12, 1987. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-26033 Filed 11-9-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-97-001]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

November 4, 1987.

Take notice that on October 26, 1987, Natural Gas Pipeline Company of America (Natural) tendered for filing tariff sheets to be a part of its FERC Gas Tariff.

Natural states that the tariff sheets were submitted in compliance with Commission Order issued September 29, 1987, at Docket No. RP87-97-000. The proposed tariff provides a mechanism for Natural to recover from its sales and transportation customers' ACA costs assessed it by the Commission pursuant to Part 382 of the Commission's Regulations.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the proposed tariff sheets to become effective October 1, 1987.

A copy of this filing was mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before November 12, 1987. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

Natural Gas Pipeline Company of America

List of Proposed Tariff Sheets to be Effective October 1, 1987

Third Revised Volume No. 1

Substitute Fifth Revised Sheet No. 5F
Substitute Original Sheet No. 155

Original Volume No. 1A

Substitute Fourth Revised Sheet No. 2

Second Revised Volume No. 2

Original Sheet No. 49A
Original Sheet No. 186A
Original Sheet No. 263A
Original Sheet No. 299A
Original Sheet No. 382A

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Original Sheet No. 398A
Original Sheet No. 426A
Original Sheet No. 605A
Original Sheet No. 650A
Original Sheet No. 665A
Original Sheet No. 692A
Original Sheet No. 767A
Original Sheet No. 812A
Original Sheet No. 842A
Original Sheet No. 996A
Original Sheet No. 1079A
Original Sheet No. 1093A
Original Sheet No. 1161A
Original Sheet No. 1165A
Original Sheet No. 1240A
Original Sheet No. 1282A
Original Sheet No. 1311A
Original Sheet No. 1341A
Original Sheet No. 1374A
Original Sheet No. 1401A
Original Sheet No. 1443A
Original Sheet No. 1492A
Original Sheet No. 1569A
Original Sheet No. 1646A
Original Sheet No. 1685A
Original Sheet No. 1722A
Original Sheet No. 1760A
Original Sheet No. 1798A
Original Sheet No. 1841A
Original Sheet No. 1871A
Original Sheet No. 1917A
Original Sheet No. 1948A
Original Sheet No. 1978A
Original Sheet No. 2001A
Original Sheet No. 2038A
Original Sheet No. 2058A
Original Sheet No. 2088A
Original Sheet No. 2113A
Original Sheet No. 2136A
Original Sheet No. 2161A
Original Sheet No. 2185A
Original Sheet No. 2211A
Original Sheet No. 2237A
Original Sheet No. 2263A
Original Sheet No. 2287A
Original Sheet No. 2313A
Original Sheet No. 2338A
Original Sheet No. 2367A
Original Sheet No. 2393A
Original Sheet No. 2419A
Original Sheet No. 2446A
Original Sheet No. 2469A
Original Sheet No. 2491A
Original Sheet No. 2519A
Original Sheet No. 2542A
Original Sheet No. 2570A
Original Sheet No. 2600A
Original Sheet No. 2629A
Original Sheet No. 2657A
Original Sheet No. 2678A
Original Sheet No. 2703A
Original Sheet No. 2729A
Original Sheet No. 2755A
Original Sheet No. 2785A

The below listed tariff sheets were previously accepted to be effective October 1, 1987, by Commission Orders and as no changes are required to effectuate the ACA tariff provisions requested herein they are being enclosed for convenience and continuity purposes only.

Third Revised Volume No. 1

Substitute Sixty-seventh Revised Sheet No. 5
Substitute Thirty-fourth Revised Sheet No. 5A
Original Sheet No. 156

Original Volume No. 1A

First Revised Sheet No. 3

[FR Doc. 87-26034 Filed 11-9-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP87-136-001]

Natural Gas Pipeline Company of America; Change in Rate Schedule S-1 Tariff Provision in Compliance With Commission Order

November 4, 1987.

Take notice that on October 27, 1987, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheet to be effective November 1, 1987:

Substitute Eighth Revised Sheet No. 27

Natural states the purpose, as more fully explained in the filing, is to comply with Ordering Paragraph (B) of the Commission's order issued October 21, 1987, in Docket No. RP87-138-000. The order required Natural to file a revised tariff sheet to provide that when Natural permits the election to nominate on S-1 withdrawal, it will do so on a non-discriminatory basis.

A copy of this filing was mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before November 12, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 87-26035 Filed 11-9-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP87-105-001]

Stingray Pipeline Co.; Proposed Changes in FERC Gas Tariff

November 4, 1987.

Take notice that on October 27, 1987 Stingray Pipeline Company (Stingray) tendered for filing First Substitute Original Sheet No. 70-C to its FERC Gas Tariff, Original Volume No. 1.

Stingray states that the revised tariff sheet is being submitted pursuant to the Commission's order of September 29, 1987 in Docket No. RP87-109-000, *et al.*, and Order No. 472-B issued on September 16, 1987 in Docket No. RM87-3-000.

Copies of the filing were served on the Company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 12, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 87-26036 Filed 11-9-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP87-132-001]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Tariff Filing and Rate Changes

November 4, 1987.

Take notice that on October 26, 1987, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing the following revised tariff sheets to be included in Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff to be effective October 1, 1987.

Second Revised Volume No. 1

Substitute Fourth Revised Sheet No. 20
Substitute First Revised Sheet No. 20A
Substitute Third Revised Sheet No. 22
Substitute Third Revised Sheet No. 23
Substitute Third Revised Sheet No. 24
Substitute Original Sheet No. 24A

Original Volume No. 2

Substitute Fifth Revised Sheet No. 5
Substitute Fourth Revised Sheet No. 6
Substitute Third Revised Sheet No. 7
Substitute Fourth Revised Sheet No. 8
Substitute Fourth Revised Sheet No. 9
Substitute First Revised Sheet No. 10

Tennessee states that it is filing this tariff sheet in compliance with the letter order issued by the Commission in this proceeding on September 30, 1987 and to conform the FERC Annual Charge Adjustment provision of its tariff to the requirements of § 154.38(d)(6)(11)(A) of the Commission's Regulations.

Tennessee states that copies of the filing have been mailed to all affected customers and state regulatory commissions and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Fedeal Energy Regulatory Commission 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214 (1987)). All such motions or protests should be filed on or before November 12, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 87-26038 Filed 11-9-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP87-106-002]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

November 4, 1987.

Take notice that on October 27, 1987 Trunkline Gas Company (Trunkline) tendered for filing Second Substitute Third Revised Sheet No. 21-M to its FERC Gas Tariff, Original Volume No. 1.

Trunkline states that the revised tariff sheet is being submitted pursuant to the Commission's order of September 30, 1987 in Docket No. RP87-106-000 and Order No. 472-B issued on September 16, 1987 in Docket No. RM87-3-000.

Copies of the filing were served on the Company's jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 12, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 87-26039 Filed 11-9-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP87-124-001]

U-T Offshore System; Tariff Filing

November 4, 1987.

Take notice that U-T Offshore System (U-TOS) on October 26, 1987 tendered for filing certain revised tariff sheets to Original Volume No. 2 of its FERC Gas Tariff. The proposed effective date is October 1, 1987.

U-TOS states that on August 31, 1987, it filed in Docket No. RP87-124-000 certain tariff sheets which established an Annual Charge Adjustment (ACA) Provision and also established the initial ACA charge of $0.0021 per Mcf in the commodity portion of U-TOS' transportation rates.

U-TOS states that on September 29, 1987, the Commission issued "Order of the Director Accepting Annual Charge Adjustments" in Algonquin Gas Transmission Company, *et al.* in Docket Nos. RP87-109-000, *et al.* Such order accepted U-TOS' AGA provision filed August 31, 1987 in Docket No. RP87-124-000, subject to U-TOS' filing revised tariff sheets in compliance with Order No. 472-B, issued on September 16, 1987 which provided for specific provisions to be included in the ACA tariff provisions. U-TOS states that the tariff sheets mentioned above are being filed in compliance with such condition.

U-TOS also states that copies of the filing have been mailed to each of its Shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 12, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

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[Docket No. RP87-96-001]

Trailblazer Pipeline Co.; Proposed Changes in FERC Gas Tariff

November 4, 1987.

Take notice that on October 26, 1987, Trailblazer Pipeline Company (Trailblazer) tendered for filing Substitute Original Sheet No. 130 to be a part of its FERC Tariff, Original Volume No. 1.

Trailblazer states that the tariff sheet was submitted in compliance with Commission Order issued September 28, 1987, at Docket No. RP87-96-000. The tariff sheet was revised to reflect the tariff language required by Commission Order No. 472-B.

Trailblazer requested waiver of the Commission's Regulations to the extent necessary to permit the proposed tariff sheets to become effective October 1, 1987.

A copy of this filing was mailed to Trailblazer's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before November 12, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make potestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 87-26039 Filed 11-9-87; 8:45 am]
BILLING CODE 6717-01-M

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Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

U–T OFFSHORE SYSTEM

Appendix A—Revised Tariff Sheets

Original Volume No. 2

Substitute Second Revised Sheet No. 16
Substitute First Revised Sheet No. 38
Substitute Second Revised Sheet No. 60
Substitute Second Revised Sheet No. 93
Substitute First Revised Sheet No. 115
Substitute First Revised Sheet No. 137
Substitute First Revised Sheet No. 159
Substitute First Revised Sheet No. 181
Substitute First Revised Sheet No. 203
Substitute First Revised Sheet No. 225

[FR Doc. 87–26040 Filed 11–9–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP87–123–001]

Wyoming Interstate Company, Ltd.; Proposed Compliance Filing

November 4, 1987.

Take notice that Wyoming Interstate Company, Ltd. (WIC), on October 26, 1987, tendered for filing First Revised Sheet No. 29A to its FERC Gas Tariff, Original Volume No. 1. This tariff sheet is being filed in compliance with Commission Order issued September 29, 1987 in Docket No. RP87–109–000, *et al.* (including Docket No. RP87–123–000).

WIC states that First Revised Sheet 29A to its FERC Gas Tariff, Original Volume No. 1, reflects the specific addition of provisions of the ACA tariff as required by Order 472–B which was issued after WIC submitted its original filing in Docket No. RP87–123.

WIC states that the Commission Order issued September 29, 1987, in Docket No RP87–109–000, *et al.* (including Docket No RP87–123–000), which accepted WIC's filing to be effective October 1, 1987, required WIC to file revised tariff sheets to be in compliance with Order 472-B. This filing is being made to comply with the Commission Orders.

WIC states that copies of this filing were served on all jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 382.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 12, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–26041 Filed 11–9–87; 8:45am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–83002G; FRL–3289–5]

Receipt of Request for Exclusion From/Waiver of Testing of Certain Chemical Companies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of requests for exclusion/waiver of testing requirements.

SUMMARY: EPA requires testing of specified chemical substances to see if they are contaminated with halogenated dibenzo-p-dioxins (HDDs) or halogenated dibenzofurans (HDFs) and reporting of the results. However, provisions are made for exclusion from, or waiver of these requirements if an appropriate application is made to the Agency and is approved. EPA has received such requests for exclusions from and waivers of these requirements from Aldrich Chemical Company, Ameribrom Inc., Atochem Inc., Pfister Chemical Inc., and Sigma Chemical Company. This document gives notice of their receipt. Comments may be made on these requests.

DATE: Comments should be received by November 25, 1987.

ADDRESS: Submit comments in triplicate, identified with the document control number OPTS–83002G, to: TSCA Public Information Office (TS–793), Office of Toxic Substances, Environmental Protection Agency, Room NE–G004, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, 401 M Street, SW., Washington, DC 20460, (202–554–1404).

SUPPLEMENTARY INFORMATION: EPA under 40 CFR Part 766 (52 FR 21412, June 5, 1987) requires testing of certain chemical substances to determine whether they may be contaminated with HDDs and HDFs.

Under 40 CFR 766.32(a)(1) (i) and (ii), a person may be granted an exclusion from the testing requirements of Part 766 if appropriate testing of the chemical substance has already been done or the process and reaction conditions are such that HDDs/HDFs would not be produced.

A waiver of the testing requirements of Part 766 may be granted under 40 CFR 766.32(a)(2) (i) through (ii) if: (1) 100 kilograms or less of the product are produced annually exclusively for research and development, or (2) the cost of testing would be so high as to prohibit its production and the chemical substance will be produced in such a manner that there will be no unreasonable risk during its manufacture, import, processing, distribution, use, or disposal. Under 40 CFR 766.32(a)(2)(iii), waivers may be appropriately conditioned with respect to such factors as time and conditions of manufacture and use.

Under the regulation, a request for either an exclusion or waiver must be made before September 4, 1987, for persons manufacturing, importing, or processing a chemical substance as of June 5, 1987, or 60 days prior to resumption of manufacture or import of a chemical substance not being manufactured or processed as of June 5, 1987.

Aldrich Chemical Company requests a waiver under 40 CFR 766.32(a)(2)(i) for the following chemicals the company manufactures:

2,3,5,6-Tetrachloro-2,5-cyclohexadiene-1,4-dione (CAS No. 118–75–2)
Decabromodiphenyloxide (CAS No. 1163–19–5)
Tetrabromobisphenol-A-bisethoxylate (CAS No. 4162–45–2)
Tetrachlorobisphenol-A (CAS No. 79–95–8)
2,6-Dichlorophenol (CAS No. 87–65–0)
3,4-Dichlorophenol (CAS No. 95–77–2)
2,4,5-Trichlorophenol (CAS No. 95–95–4)
2,6-Dibromo-4-nitrophenol (CAS No. 99–28–5)
2[2,4-(Dichlorophenoxy)]-propionic acid (CAS No. 120–36–5)
3,5-Dichlorosalicyclic acid (CAS No. 320–72–9)
Tetrabromocatechol (CAS No. 488–47–1)
2,3-Dichlorophenol (CAS No. 576–24–9)
2,5-Dichlorophenol (CAS No. 583–78–8)
Pentabromophenol (CAS No. 608–71–9)
2,4-Dibromophenol (CAS No. 615–58–7)
2,3,6-Trichlorophenol (CAS No. 933–75–5)

In addition, Aldrich requests a waiver under 40 CFR 766.32(a)(2)(ii) for 2,4-Dichlorophenol (CAS No. 120–83–2).

Ameribrom, Inc. requests an exclusion under 40 CFR 766.32(a)(1)(ii) and a waiver under 40 CFR 766.32(a)(2)(ii) for the following chemicals the company manufactures:

Tetrabromobisphenol-A (CAS No. 79–94–7)
Decabromodiphenyloxide (CAS No. 1163–19–5)

The company also requests a waiver under 40 CFR 766.32(a)(2)(ii) for:

Octabromodiphenyloxide (CAS No. 32536–52–0)
Pentabromodiphenyloxide (CAS No. 32534–31–0)

Atochem, Inc. requests a waiver under 40 CFR 766.32(a)(2)(ii) for Pentabromodiphenyloxide (CAS No. 32534–81–9), which the company manufactures.

Pfister Chemical, Inc. requests an exclusion under 40 CFR 766.32(a)(1)(ii) and a waiver under 40 CFR 766.32(a)(2)(ii) from the following chemicals the company manufactures:

3,4',5-Tribromosalicylanilide (CAS No. 87–10–5)
3,5-Dibromosalicylanilide (CAS No. 2577–72–2)

Sigma Chemical Company requests a waiver under 40 CFR 766.32(a)(2)(i) for the following chemicals the company manufactures:

2,6-Dichlorophenol (CAS No. 87–65–0)
2,4,5-Trichlorophenol (CAS No. 95–95–4)
2[2,4-(Dichlorophenoxy)]-propionic acid (CAS No. 120–36–5)

A public file has been established for this proceeding; it is located in Room NE–G004, 401 M St., SW., Washington, DC 20460.

Dated: October 23, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87–25071 Filed 11–9–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–140089; FRL–3289–4]

Access to Confidential Business Information by Dynamac Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Dynamac Corporation (DYN) of Rockville, MD, for access to information which has been submitted to EPA under sections 4, 5, 6, 8, and 21 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATE: Access to the confidential data submitted to EPA will occur no sooner than November 25, 1987.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, 401 M Street SW., Washington, DC 20460, (202–554–1404).

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether the manufacture, processing, distribution in commerce, use, or disposal of certain chemical substances or chemical mixtures may present an unreasonable risk of injury to human health or the environment. New chemical substances, i.e., those not listed on the TSCA Chemical Substances Inventory, are evaluated by EPA under section 5 of TSCA. Existing chemical substances, i.e., those listed on the TSCA Inventory, are evaluated by the Agency under sections 4, 6, and 8 of TSCA. Certain existing chemical substances intended to be exported into foreign countries are required to be reported to EPA under section 12 of TSCA. New and existing chemical substances intended to be imported into the United States are evaluated by EPA under section 13 of TSCA. Petitions received by EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 4, 6, or 8 or an order under section 5(e) or 6(b)(2) are evaluated by EPA under section 21 of TSCA.

Under contract number 68–02–4296, EPA's contractor DYN, 11140 Rockville Pike, Rockville, MD will assist the Office of Toxic Substances' Health and Environmental Review Division in organizing, summarizing, interpreting, and assessing data for potential health and environmental hazards and risks for specific chemicals or chemical groups and prepare health and/or environmental hazard/risk assessment reports.

In accordance with 40 CFR 2.306(j), EPA has determined that under contract number 68–02–4296 DYN will require access to CBI submitted to EPA under TSCA to successfully perform the duties specified under the contract. Authorization for access by DYN to TSCA CBI for similar purposes under contract number 68–02–3990 was previously announced in the **Federal Register** of October 24, 1986 (51 FR 37786). Under contract number 68–02–4296, DYN personnel will require access to information submitted to EPA under sections 4, 5, 6, 8, and 21 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8, and 21 of TSCA that EPA may provide DYN access to these CBI materials on a need-to-know basis. All access to TSCA CBI under this contract will take place at EPA Headquarters and DYN's facilities. Upon completing review of the CBI materials, DYN will return all transferred materials to EPA. Clearance for access to TSCA CBI under this contract is scheduled to expire on September 30, 1988.

DYN has been authorized for access to TSCA CBI at its facilities under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved DYN's security plan and has performed the required inspections of their facilities and has found them to be in compliance with the requirements of the manual.

DYN personnel will be required to sign non-disclosure agreements, will be briefed on appropriate security procedures and must pass a test on those security procedures before they are permitted access to TSCA CBI.

Dated: October 30, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87–25972 Filed 11–9–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

November 2, 1987.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Terry Johnson, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0069.

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Title: Application for Commercial Radio Operator License.
Form Number: FCC 756.
Action: Revision.
Respondents: Individuals or households.
Frequency of Response: On occasion.
Estimated Annual Burden: 35,000 Responses; 3,500 Hours.
Needs and Uses: This information collection is necessary to establish the identity of persons applying for radio operator licenses. The Communications Act requires the FCC to determine the qualifications of radio operators and license those that are qualified. Applicants prepare and submit FCC Form 756. To properly identify those qualified persons, it is necessary to collect the full name, date of birth and physical description of each applicant. Applicants for radiotelegraph licenses must also provide photographs as specified in the International Radio Regulations. The information and photographs are required since they appear on the license authorization.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 87-25996 Filed 11-9-87; 8:45 am]
BILLING CODE 6712-01-M

Announcement of 1988 Maximum Reimbursement Fee; Amateur Operator Examination

October 30, 1987.

The FCC announced today that effective January 1, 1988, the maximum allowable reimbursement fee for an amateur operator examinee will be $4.56. This amount is based upon a 4.3% increase in the Department of Labor Consumer Price Index between September 1986 and September 1987.

Volunteer examiners (VEs) and volunteer-examiner coordinators (VECs) may charge examinees for out-of-pocket expenses incurred in preparing, processing or administering examinations for Technician, General, Advanced and Amateur Extra operator examinations. The amount of any such reimbursement fee from any examinee for any one examination session, regardless of the number of elements administered, must not exceed the maximum allowable fee. Where the VEs and the VEC both desire reimbursement, they jointly decide upon a fair distribution of the fee.

No fee is allowed for the Novice operator examination.

This announcement is made pursuant to § 97.36, FCC rules for the amateur service.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 87-25998 Filed 11-9-87; 8:45 am]
BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Central Radio Communications, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Central Radio Communications, Inc., Solana, Florida.	BPH-860625MO	87-464
B. Frederick I. Shaffer, III, Solana, Florida.	BPH-860625ME	
C. 106.3 Ltd., Solana, Florida.	BPH-860626MA	
D. Wayne L. DiLucente, Solana, Florida.	BPH-860627MB	
E. Michael S. Moody and Joan Winters d/b/a Charlotte Broadcast Partnership, Solana, Florida.	BPH-860627MC	
F. Brent L. Harmon & Elvin L. Harmon, Partners, Solana, Florida.	BPH-860627MD	
G. Reddick Communications, Inc., Solana, Florida.	BPH-860627MF	
H. Emmanuel FM Limited Partnership, Solana, Florida.	BPH-860627MG	
I. Marshall W. Rowland, Jr., Solana, Florida.	BPH-860627MI	
J. B.F.J. Timm, Solana, Florida.	BPH-860627MK	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 F R 19347, May 29, 1986. The letter shown before each applicant's name above is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant

1. Air Hazard, A, B, E, F, G, I, J
2. Cross-Interest, E
3. Comparative, All Applicants
4. Ultimate, All Applicants

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,
Assistant Chief, Audio Services Division, Mass Media Bureau.
[FR Doc. 87-25999 Filed 11-9-87; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-800-DR]

Commonwealth of the Northern Mariana Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of the Northern Mariana Islands, (FEMA-800-DR), dated November 3, 1987, and related determinations.

DATED: November 4, 1987.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice: Notice is hereby given that, in a letter dated November 3, 1987, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the Commonwealth of the Northern Mariana Islands resulting from Typhoon Lynn occurring on October 18-19, 1987, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I, therefore, declare that such a major disaster exists in the Commonwealth of the Northern Mariana Islands.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint A. Roy Kite of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of the Northern Mariana Islands to have been affected adversely by this declared major disaster: The islands of Saipan, Tinian, and Rota for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,
Director, Federal Emergency Management Agency.
[FR Doc. 87-25975 Filed 11-9-87; 8:45 am]
BILLING CODE 6718-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Case File CA-20758]

Realty Action; Leasing Public Lands in Tuolumne County, California

The following described lands have been examined and found suitable for lease under section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2761):

T. 1 S., R. 16 E., Mt. Diablo Meridian,
Sec. 34, N½N½N½E½E½ of Lot 6.
Tuolumne County, Approx. 2.5 acres.

A proposal has been submitted by Mrs. Edna E. Sterling to lease the above-described lands on which her home and several outbuildings have been built in non-willful trespass. The subject public land is adjacent to Mrs. Sterling's private 10-acre ±tract, APN 66-16-24, located approximately three miles southeast of Groveland. The lease would be offered, conditioned on sale at fair market value when the lands become available for sale under 43 CFR 2710.08. Because of Mrs. Sterling's existing interest and use, the lands would be offered for lease subject to fair market rental, and eventual sale on a negotiated, non-competitive basis at not less than fair market value.

The Sterling house was constructed about 20 years ago on land they believed to belong to them. Only after a private survey was completed did they suspect they had located the home on public land outside their private land boundary. A lease, with pending sale, would authorize this residential occupancy use and would be transferable should the subject adjacent private parcel change ownership. The proposal is consistent with the Folsom Resource Area land use planning and Tuolumne County zoning requirements.

For a period of 30 days from the date of **Federal Register** publication, interested parties may submit comments to the Folsom Resource Area Manager, Bureau of Land Managment, 63 Natoma Street, Folsom, CA 95630. Any adverse comments will be evaluated by the District Manager, Bakersfield District Office who may vacate or modify this realty action and issue a final determination. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Date: October 30, 1987.

D.K. Swickard,
Area Manager.
[FR Doc. 87-25980 Filed 11-9-87; 8:45 am]
BILLING CODE 4310-40-M

[CA 20659]

Disclaimer of Interest in Lands, California

November 2, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: An application has been filed by the City of Barstow, California, for a recordable disclaimer of interest in certain land by the United States.

DATE: Comments should be received by February 8, 1988.

ADDRESS: Comments should be sent to the Chief, Lands Section, Branch of Adjudication and Records, California State Office, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 978-4815.

SUPPLEMENTARY INFORMATION: Pursuant to section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), the City of Barstow, California, has filed an application requesting the United States to issue a recordable disclaimer of interest in the following described land:

San Bernardino Meridian, California

T. 9 N., R. 1 W.,
Sec. 6, SE¼SE¼.
Containing 40 acres in San Bernardino County.

1. The above described land was conveyed to the City of Barstow, California, on November 2, 1955, under the Recreation and Public Purposes Act of June 14, 1926 (43 U.S.C. 869), as amended by the Act of June 4, 1954 (68 Stat. 173). Among other provisions, the said Act of June 4, 1954, limited the reverter provision to a 25-year duration. It is indicated on the patent that the land is to be used for recreational purposes only; however, the application and case record clearly show that the land applied for would be used for a hospital site. The applicant wishes to remove this cloud on title. Since the said Act of June 4, 1954, provided that all restrictions, limitations, and conditions contained in the patent concerning the use of the land, and control thereover, would cease to be in effect upon the expiration of 25 years from the date of issuance of patent, the record title interest of the United States in the land has terminated by operation of law, and a recordable disclaimer of interest will be issued to remove this cloud on title.

2. For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed disclaimer may present their views in writing to the undersigned officer at the above address.

3. Accordingly, a recordable disclaimer of interest will be issued no sooner than 90 days after the date of this publication.

Nancy J. Alex,
Chief, Lands Section, Branch of Adjudication and Records.
[FR Doc. 87-25950 Filed 11-9-87; 8:45 am]
BILLING CODE 4310-40-M

[AZ-020-4212-12; A 21609]

Realty Action; Arizona

Correction

In notice document 87-24444 beginning on page 39565 in the issue of Thursday, October 22, 1987, make the following correction:

1. On page 39565, in the third column, T. 7 N., R. 15 W., in the first line, "Sec. 1, 8, 22, 26, 36;" should read "Sec. 1, 8, 22, 25, 26, 36;"

Paul J. Buff,
Acting District Manager.
Date: October 30, 1987.
[FR Doc. 87-25951 Filed 11-9-87; 8:45 am]
BILLING CODE 4310-32-M

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Minerals Management Service

Outer Continental Shelf Advisory Board, Alaska Regional Technical Working Group

AGENCY: Minerals Management Service, Alaska OCS Region, Interior.

ACTION: Outer Continental Shelf Advisory Board, Alaska Regional Technical Working Group Committee; notice of vacancies; request for nominations.

The Alaska Outer Continental Shelf Region of the Minerals Management Service (MMS) is seeking interested and qualified individuals to serve on its Regional Technical Working Group. This committee advises MMS on technical issues of concern regarding Federal offshore petroleum leasing plans and drilling operations off Alaska. The MMS is seeking representatives from environmental organizations, coastal communities, the petroleum industry, oil-spill-cleanup organizations, and the commercial fishing industry in Alaska. Interested individuals should send a letter of interest and resume to: Alan D. Powers, Regional Director, Alaska OCS Region, Minerals Management Service, 949 E. 36th Avenue, Anchorage, Alaska 99508.

Dated: October 27, 1987.

Alan D. Powers,

Regional Director, Alaska OCS Region.

[FR Doc. 87-25952 Filed 11-9-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Conoco, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Conoco Inc., Unit Operator of the Grand Isle—CATCO Federal Unit Agreement No. 14-08-001-2012, has submitted a DOCD describing the activities it proposes to conduct on the Grand Isle—CATCO Federal unit. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Venice, Grand Isle, Houma, and Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 29, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Steve Dessauer; Minerals Management Service; Gulf of Mexico OCS Region; Production and Development; Development and Unitization Section; Unitization Unit; Telephone (504) 736-2860.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: November 2, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-25953 Filed 11-9-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Raintree Resource, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Raintree Resources, Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5043, Block 240, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Dulac, Louisiana.

DATE: The subject DOCD was deemed submitted on October 30, 1987. Comments must be received on or before November 25, 1987, 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Managment Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday thorugh Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minrals Mangement Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minrals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: November 2, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-25954 Filed 11-9-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Shell Offshore, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5206, Block 256, Ship Shoal Area, and Lease OCS-G 5803, Blocks 903 and 947, Ewing Bank Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATES: The subject DOCD was deemed submitted on October 30, 1987. Comments must be received on or before November 25, 1987, or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: November 2, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-25955 Filed 11-9-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations; California et al.

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 31, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 25, 1987.

Carol D. Shull,

Chief of Registration, National Register.

California

Santa Barbara County

SS WINFIELD SCOTT (steamship)

Colorado

Denver County

Denver *Neusteter Building*, 720 Sixteenth St.

Connecticut

Litchfield County

Morris, *Town Hall and district School No. 6*, 12 South St.

Louisiana

Iberia Parish

New Iberia, *Southern Pacific Railroad Depot*, 402 W. Washington

Nebraska

Adams County

Hastings, *Clarke Hotel*, 233 N. Hastings Ave.
Hastings, *St. Mark's Episcopal Pro-Cathedral*, Jct. of Fourth & Burlington

Colfax County

Clarkson vicinity, *Zion Presbyterian Church*, 5 mi. SE of Clarkson off NE 15

Custer County

Broken Bow, *Security State Bank Building*, 403 S. Ninth St.

Douglas County

Elkhorn, *Lincoln Highway*, CR 120 between One Hundred Eightieth & One Hundred Ninety First Sts.

Cage County

Beatrice, *Paddock Hoiel*, 105 N. Sixth St.

Merrick County

Centeral City, *Hord, Heber House*, 1505 Sixteenth St.

New Hampshire

Hillsborough County

Manchester, *Straw, William Parker, House*, 282 N. River Rd.

Rockingham County

Epping, *Prescott, Banjamin Franklin, House*, Prescott Rd.
Newington, *Newington Center Historic District*, 272—336 & 305—353 Nimble Hill Rd.

New Jersey

Burlington County

Vincentown, *Vincentown Historic District*, Roughly bounded by Mill, Church, Pleasant, Main, & Race Sts., & Red Lion Rd.

New Mexico

Valencia County

Los Ojuelos (The springs)

Ohio

Fayette County

Washington Court House, *Smith, Edward, Jr., Farm*, 2085 US 62

Scioto County

Portsmouth, *Bigelow United Methodist Church (Boneyfiddle MRA)*, 415 Washington St.
Portsmouth, *Cunningham—Maier House (Boneyfiddle MRA)*, 506 Sixth St.
Portsmouth, *Dale-Darrell House (Boneyfiddle MRA)*, 322 Market St.
Portsmouth, *Elden House (Boneyfiddle MRA)*, 634 Fourth St.
Portsmouth, *Evangelical United Church of Christ (Boneyfiddle MRA)*, 701 Fifth St.
Portsmouth, *Gharky, George H., House (Boneyfiddle MRA)*, 638 Fourth St.
Portsmouth, *Kinney, Eli, House (Boneyfiddle MRA)*, 317 Court St.
Portsmouth, *Labold House and Gardens (Boneyfiddle MRA)*, 633 Fourth St.
Portsmouth, *Marsh, Joseph, House (Boneyfiddle MRA)*, 701 Market St.
Portsmouth, *Meyer House (Boneyfiddle MRA)*, 309 Washington St.
Portsmouth, *Newman, William, House (Boneyfiddle MRA)*, 716 Second St.
Portsmouth, *Odd Fellows Hall (Boneyfiddle MRA)*, 500-508 Court St.
Portsmouth, *Portsmouth Fire Department No. 1 (Boneyfiddle MRA)*, 642 Seventh St.
Portsmouth, *Portsmouth Foundry and Machine Works (Boneyfiddle MRA)*, 401 third St.
Portsmouth, *Purdum-Tracy House (Boneyfiddle MRA)*, 626 Fourth St.
Portsmouth, *Reed, Joseph G., Company (Boneyfiddle MRA)*, 700 Second St.
Portsmouth, *Scioto County Courthouse (Boneyfiddle MRA)*, Bounded by Seventh, Court, Sixth & Washington Sts.

BEST COPY AVAILABLE

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Portsmouth, *Sixth Street Historic District (Boneyfiddle MRA)*, 533, 534, 537, 538, 541, 542, 543, 547, & 548 Sixth St., W of Court St.
Portsmouth, *Steindam House (Boneyfiddle MRA)*, 725 Court St.
Portsmouth, *Streich Apartments (Boneyfiddle MRA)*, 710–722 Washington St.

Summit County

Tallmadge, *Alling, Francis D., House*, 323 East Ave.

Rhode Island

Kent County

Moosup River Site (RI–1153)

Washington County

Potter Pond Archaeological district (Indian Use of the Salt Pond Region between ca. 4000 B.P. and ca. 1750 A.D. MPS)

Texas

Travis County

Austin, *Reuter, Louis and Mathilde, House*, 808 Rosedale Terrace

Wisconsin

Milwaukee County

Milwaukee, *South First and Second Street Historic District*, Roughly bounded by Menomonee River, Chicago & N. Western RR, Seeboth, S. First, Oregon, & S. Second Sts.

Vernon County

Viola Rockshelter 947 Ve 640)

Waupaca County

Iola, *Wipf, J. & C., Mills*, 280 N. Main St.

[FR Doc. 87–28941 Filed 11–9–87; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275–6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance: Extension
Bureau/Office: Office of Managing Director
Title of Form: Solicitations for Unique Services & Supplies
OMB Form No.: 3120–0123
Agency Form No.: NA
Frequency: On occasion
Respondents: Business or non-profit institutions
No. of Respondents: 21
Total Burden Hrs.: 312
Brief Description of the need & proposed use: Solicitations are used to obtain proposals and bids from potential contractors for necessary supplies and services required in accomplishment of Commission business.

Type of Clearance: Reinstatement
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Moving Service Questionnaire
OMB Form No.: 3120–0057
Agency Form No.: OCP–100A
Frequency: Non-recurring
Respondents: Consumers employing motor carriers to move their personal effects.
No. of Respondents: 1,619
Total Burden Hrs.: 135
Brief Description of the need & proposed use: Data is used to guage customer satisfaction with moving services and to determine carrier and industry trends and to measure effectiveness of household goods consumer proctection regulations.

Noreta R. McGee,
Secretary.
[FR Doc. 87–25074 Filed 11–9–87; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB–167 (Sub-No. 1087X)]

Consolidated Rail Corp.; Abandonment Exemption; Niagara County, NY

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 7.0-mile line of railroad known as the Lockport Running Track between milepost 17.5 and milepost 24.5 in the Town of Pendleton in Niagara County, NY.

Applicant has certified that (1) no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective December 10, 1987 (unless stayed pending reconsideration). Petitions to stay must be filed by November 20, 1987, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 30, 1987 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Lilton R. Taliaferro, Jr., Attorney, Consolidated Rail Corporation, Room 1138, Six Penn Center Plaza, Philadelphia, PA 19103–2959.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 27, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,
Secretary.
[FR Doc. 87–25739 Filed 11–9–87; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance; Bear Creek Uranium et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 20, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 20, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 2nd day of November 1987.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Bear Creek Uranium (Workers)	Casper, WY	11/2/87	7/23/87	20,220	Uranium.
Century Brass (UAW)	Waterbury, CT	11/2/87	10/13/87	20,221	Automotive Parts.
E.I. DuPont de Nemours & Co. (Workers)	Belle, WV	11/2/87	10/16/87	20,222	Sulfonylurea Products.
Faulkner Mills, Inc. (Workers)	No. Billerica, MA	11/2/87	10/22/87	20,223	Wool Fabric.
G.F.M. Restura (URW)	Cumberland, MD	11/2/87	10/21/87	20,224	Food.
Jackes-Evans Mfg. Co. (S.F.A.A.I.U.)	St. Louis, MO	11/2/87	12/12/87	20,225	Stove Pipes.
Lofflend Bros. Co. (Workers)	New Braunfels, TX	11/2/87	10/12/87	20,226	Oil.
Miss Elaine, Incorp. (ILGWU)	O'Fallon, IL	11/2/87	10/19/87	20,227	Lingerie.
Motorola, Inc. (Workers)	Houston, TX	11/2/87	10/21/87	20,228	Communication Equipment.
Stalemat-Globe, Inc. (IUE)	Dayton, OH	11/2/87	09/10/87	20,229	Machinery.

[FR Doc. 87–28047 11–9–87; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Donaldson, Inc., et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 26, 1987 through October 30, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–20,072; Donaldson, Inc., Nicholasville, KY

TA–W–20,056; General Motors Corp., Electro Motive Div., Chicago, IL

TA–W–20,058; General Motors Corp., Inland Div., Tecumseh, MI

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–20,069; Arrow Specialty Co., Tulsa, OK

U.S. imports of engines for oil and gas production are negligible.

TA–W–20,027A; Anchor Hocking Corp., Plant #2, Lancaster, OH

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–20,049; General Industries Co., Forrest City, AR

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA–W–20,057; General Motors Corp., Fisher Guide Div., Fort Street Plant, Detroit, MI

A certification was issued covering all workers of the Fisher Guide Division, separated on or after August 17, 1986.

TA–W–20,065; Starline Optical Manufacturing Corp., Fairfield, NJ

A certification was issued covering all workers of the firm separated on or after August 21, 1986.

TA–W–20,081; Paper Calmenson & Company, Blade Div., St. Paul, MN

A certification was issued covering all workers of the firm separated on or after August 13, 1986.

TA–W–20,077; McFashions, Inc., Mt Carmel, PA

A certification was issued covering all workers of the firm separated on or after August 28, 1986 and before April 30, 1987.

TA–W–20,078; Oil Recovery Systems Corp., Tulsa, OK

A certification was issued covering all workers of the firm separated on or after August 25, 1986.

TA–W–20,044; Corner Fashions, West Wyoming, PA

A certification was issued covering all workers of the firm separated on or after August 17, 1986 and before June 15, 1987.

TA–W–20,027B; Anchor Hocking Corp., Plant #42, Lancaster, OH

A certification was issued covering all workers of the firm separated on or after September 25, 1987.

TA–W–20,027C, Anchor Hocking Corp., Plant #90, Clarksburg, WV

A certification was issued covering all workers of the firm separated on or after January 1, 1987.

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TA-W-20,027; Anchor Hocking Corp., Plant #1, Lancaster, OH

A certification was issued covering all workers of the firm separated on or after June 18, 1987.

TA-W-20,073; Duchess Footwear Corp., South Berwick, ME

A certification was issued covering all workers of the firm separated on or after August 24, 1986.

TA-W-20,067; Ampex Corp., Colorado Springs, CO

A certification was issued covering all workers of the firm separated on or after August 31, 1986.

TA-W-20,074; The Gleason Works, Rochester, NY

A certification was issued covering all workers of the firm separated on or after August 29, 1986 and before January 15, 1987.

TA-W-20,060; Jenkins Brothers Corp., Bridgeport, CT

A certification was issued covering all workers of the firm separated on or after August 19, 1986.

TA-W-20,088; Aliquippa & Southern Railroad, Aliquippa, PA

A certification was issued covering all workers of the firm separated on or after September 2, 1986 and before October 10, 1987.

I hereby certify that the aforementioned determinations were issued during the period October 25, 1987–October 30, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: November 3, 1987.

[FR Doc. 87-26048 Filed 11-9-87; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-341]

Detroit Edison Co. and Wolverine Power Supply Cooperative, Inc.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of General Design Criterion (GDC) 56 of Appendix A to 10 CFR Part 50 to the Detroit Edison Company (DECo or licensee) for the Fermi-2 facility. The facility is a boiling water reactor located in Monroe County, Michigan.

Environmental Assessment

Identification of the Proposed Action

The exemption would allow, for a limited period, a primary containment isolation scheme for the Primary Containment Radiation Monitor (PCRM) consisting of one set of automatic containment isolation valves and one set of remote-manual isolation valves which require operator action to close, rather than two sets of automatic containment isolation valves or other specified combinations of valves, as required by GDC 56 of Appendix A to 10 CFR Part 50. This exemption would extend only until startup following the scheduled March 1988 outage required for local leak rate testing (LLRT). The exemption is in accordance with the licensee's application dated October 27, 1987, as supplemented by letters dated October 29, 1987, and November 2, 1987.

The Need for the Proposed Action

The Fermi-2 Containment Leakage Detection System includes a PCRM configured in parallel with the Drywell Hydrogen/Oxygen Sampling System panel. Both systems normally operate during reactor operation and sample the drywell atmosphere from five zones through containment penetrations. The initial isolation design for the PCRM and the Drywell Hydrogen/Oxygen Sampling System is described in Section 6.2.4 of the Fermi-2 Final Safety Analysis Report. Containment isolation requirements of GDC 56 were achieved using a single automatic isolation valve and a closed piping system outside the containment, instead of one automatic isolation valve inside and one automatic isolation valve outside containment. As stated in Section 6.2.4 of the Commission's Safety Evaluation Report for Fermi-2, this design is acceptable. The design intent was that the PCRM would operate following a loss-of-coolant accident (LOCA) and that the PCRM would be in compliance with the closed system requirements approved as an alternative to GDC 56.

In January 1984, the licensee determined that the PCRM did not comply with the closed system design requirements; specifically, for a containment design pressure of 56 psig, the closure of the PCRM skid-mounted motor-operated valves (MOVs) was required. These MOVs close automatically when a pressure signal, sensed immediately inboard of the valves, reaches two psig. Seismic and material certifications provided by the PCRM vendor also were found to be deficient. Two actions were taken by the licensee as a result of these findings: (1) The PCRM was reclassified as nonessential following a LOCA and, as such, should be isolated automatically upon receipt of a LOCA signal (the Drywell Hydrogen/Oxygen Sampling panel retained its essential classification); and (2) two solenoid-operated automatic isolation valves were added to the branch line to the PCRM. The automatic isolation valves were added to provide isolation of the reclassified nonessential PCRM. The automatic isolation valves receive a closure signal on a high drywell pressure signal from the Reactor Protection System A and B trip systems.

The PCRM configuration installed in the plant in January 1984 provides two barriers in the event of a LOCA and failure of the PCRM boundary. One barrier consists of the automatic isolation valves and the second barrier is provided by remote manual isolation valves. However, the use of a remote manual isolation valve as a barrier for a nonessential system (such as the current PCRM design) is not an acceptable alternative to the requirements of GDC 56, and, thus, the existing design for the PCRM must be upgraded to fully meet the provisions for GDC 56. The licensee has, accordingly, proposed to redesign the PCRM providing two barriers, each consisting of two sets of automatic containment isolation valves, to fully meet GDC 56 requirements.

The PCRM, in conjunction with the Drywell Hydrogen/Oxygen Sampling System, is one of three Containment Leakage Detection Systems in the plant. The plant Technical Specifications (Section 3.4.3.1) require that all three detection systems be operable, and that with only two of the three systems operable, the inoperable system must be restored to operable status within 30 days otherwise the plant must be shut down following the 30-day period. The plant is currently operating within this 30-day Action of the Limiting Condition for Operation.

The requested exemption would permit the licensee to return to service the now isolated PCRM utilizing the existing isolation design configuration and would allow the licensee sufficient time to design, procure, and install necessary isolation features to achieve full compliance with the provisions of GDC 56.

Environmental Impact of the Proposed Action

The only possible environmental impact due to this proposed action could be from increased leakage from the containment to the environment following an accident which damaged nuclear fuel in the core and pressurized the containment. The applicable requirement for the PCRM line penetrating containment specifies a configuration consisting of two sets of automatic containment isolation valves (the existing design has one set of automatic isolation valves), which receive isolation signals from diverse sources (i.e., high drywell pressure and reactor coolant water level.) To be in full compliance with GDC 56 requirements, the licensee has committed to modify the existing PCRM to incorporate two sets of automatic isolation valves and amend the plant Technical Specifications to include these valves. These actions will be completed prior to startup following the scheduled March 1988 LLRT outage. Any environmental impact associated with this proposed exemption could occur only during the interval that the exemption would be in effect; i.e., about five months. During the exemption period, the licensee has committed to implement several compensatory actions which provide assurance that the PCRM will be properly isolated when required in the unlikely event of an incident requiring containment isolation. The licensee will, while the exemption is in effect, maintain plant operating procedures that require operator action to verify the isolation of the automatic containment isolation valves and to actuate the remote-manual isolation valves to isolate the PCRM in the event containment isolation is required. Each of the automatic and manually operated valves will be leak-tested at least every 30 days without regard to the 18-month test period specified in the plant Technical Specifications. Instrument channel functional tests, logic systems, valve response times and valve stroke testing will be performed in conjunction with the leak-rate tests at least every 30 days. Furthermore, the licensee will visually inspect the PCRM valves and piping for leakage, piping deformation, or other abnormalities on a daily basis for the duration of the exemption period.

Based on these considerations, the Commission has determined that the compensatory actions committed to by the licensee should provide a level of isolation similar to that intended by GDC 56 and that there is reasonable assurance of containment integrity in event of an accident requiring containment isolation. Further, the Commission finds that the probability of any accident will not be increased by permitting the exemption requested by the licensee, and any post-accident radiological releases from containment would not be greater than previously determined. The exemption does not otherwise affect other radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves systems located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant adverse nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed exemption, any alternative to the exemption would have either no impact or a greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of plant operation. Further, without the requested exemption, the licensee would be required to shut down the presently operating facility as a result of the requirement to maintain an operable PCRM as required by plant Technical Specifications. A considerable delay also would be incurred as a result of the time required to design, procure, and install the plant modifications to achieve full compliance with GDC 56 requirements. This delay would impose a significant economic impact on the facility without the benefit of any significant increase in safety.

Alternative Use of Resources

The action in the granting of this exemption does not involve the use of resources not previously considered in connection with the "Final Environmental Statement related to the Operation of Enrico Fermi Power Plant, Unit No. 2", (NUREG-0769) dated August 1981.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the requested action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated October 27, 1987, as supplemented October 29, 1987, and November 2, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the Monroe County Public Library System, 370 South Custer Road, Monroe, Michigan 48226.

Dated at Bethesda, Maryland, this 5th day of November, 1987.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87-26044 11-9-87; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Quality and Quality Assurance in Design and Construction; Meeting

The ACRS Subcommittee on Quality and Quality Assurance in Design and Construction will hold a meeting on November 24, 1987, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendence. The agenda for the subject meeting shall be as follows:

Tuesday, November 24, 1987—8:30 a.m. until the conclusion of business.

The Subcommittee will review QA Experience in Readiness Reviews as applied to nuclear power plants, with a view toward possible application to HLW geologic repositories and monitored retrievable storage (MRS) facilities.

Oral statements may be presented by members of the pulbic with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as

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far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this subject.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Elpidio Igne (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: November 3, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87-25045 Filed 11-9-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361 and 50-362]

Southern California Edison Co., et al.; Denial of Amendments To Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by the licensees for an amendment to Facility Operating License Nos. NPF-10 and NPF-15, issued to the Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California for operation of the San Onofre Nuclear Generating Station, Units 2 and 3 (SONGS 2 & 3) in San Diego County, California. The notice of Consideration of Issuance of Amendments was published in the **Federal Register** on October 7, 1987 (52 FR 37553).

The amendments, as proposed by the licensees, would change the Unit 2 and 3 Technical Specifications (TS) by deleting the requirement to monitor and report the toxic gas cargo traffic on Interstate 5 (I-5). The requirement to monitor and report explosive and flammability hazard cargo on I-5 and hazardous cargo traffic on the AT & SF railway would remain in effect. The licensees contend that the nearby traffic of hazardous cargo on I-5 is sufficiently low so that the risk of control room operator incapacitation is acceptably low. Furthermore, the licensees state that the same traffic is likely to remain unchanged for the duration of their facility licenses.

Hence, they propose that the need for periodic surveying of the traffic is unnecessary. The NRC staff has reviewed the licensees' risk assessment and finds that there is no basis for expecting that the hazardous cargo traffic on I-5 near SONGS 2 & 3 will remain unchanged for the duration of the facilities' licenses. The licensees' conclusions are based primarily on the application of nationally averaged spill data to the description of potential spills near SONGS 2 & 3. Nationally averaged data intrinsically are insensitive to local variations. The risk at SONGS 2 & 3 is derived from local potential events (i.e., spills within a few miles of the plant). Hence, in the absence of supporting data, we conclude that there is no basis for the proposed TS elimination. Therefore, the proposed Technical Specification change is not acceptable.

By December 9, 1987 the licensees may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary for the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington and Sutcliffe, Attention: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111, attorney for the licensees.

For further details with respect to this action, see (1) the application for amendments dated July 31, 1987, and (2) the Commission's Safety Evaluation forwarded to the licensees by letter dated October 30, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the General Library, University of California at Irvine, Irvine, California 92713. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Bethesda, Maryland, this 30th day of October, 1987.

For the Nuclear Regulatory Commission.

Harry Reed,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 87-25044 Filed 11-9-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-16112; 812-6875]

Farm Bureau Growth Fund, Inc.

November 4, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption and approval under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Farm Bureau Growth Fund, Inc. ("Applicant").

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from sections 2(a)(32), 2(a)(35), 22(c) and 22(d) and Rule 22c-1 thereunder; approval requested under section 11(a).

Summary of Application: Applicant seeks an order to permit it to assess a contingent deferred sales load ("CDSL") on certain redemptions of its current and future series ("Portfolios") of shares, to permit it to waive the CDSL under certain circumstances, and to permit the imposition of a service charge of, initially $5.00 but not to exceed $10.00 ("Service Charge"), on exchanges of shares among its current or future Portfolios.

Filing Date: The application was filed on September 18, 1987, and amended on November 2, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the requested order will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 27, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the

Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 5400 University Avenue, West Des Moines, Iowa 50265.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney, Financial Analyst (202) 272-2847 or Brion R. Thompson, Special Counsel (202) 272-3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant was organized as a corporation under the Laws of Maryland and is registered under the 1940 Act as a diversified, open-end management investment company. Applicant is currently authorized to issue only one Portfolio of shares (the "Growth Common Stock Portfolio"), but anticipates that on November 11, 1987, its shareholders will approve an amendment to its charter authorizing the establishment of multiple Portfolios and that Applicant will subsequently establish seven additional Portfolios of shares, effective December 1, 1987. Applicant has filed with the Commission a post-effective amendment to its registration statement on Form N-1A describing the currently issued Portfolio and the proposed additional Portfolios, and proposes to commence a public offering of such additional Portfolios upon the effectiveness of said post-effective amendment, anticipated to be on December 1, 1987. Applicant anticipates that in the future it may create and issue additional Portfolios of shares, and requests that the exemptive order extend to such Portfolios which it may offer at any time hereafter on substantially the same basis.

2. FBL Investment Advisory Services, Inc. ("FBL") serves as principal underwritrer and distributor of Applicant's shares and as Applicant's investment adviser. Shares of Applicant will be offered and sold without the deduction of a sales charge at the time of purchase. However, it is proposed that certain redemptions of shares of the Fund will be subject to a CDSL. The proceeds of the CDSL will be paid to FBL and will be used by FBL in whole or in part to defray costs incurred in connection with the sale of Applicant's shares.

3. The CDSL will only be assessed on redemptions that reduce the current net asset value of a shareholder's account in the relevant Portfolio of Applicant to an amount lower than the total dollar amount of payments made by the shareholder for the purchase, after November 30, 1987, of shares of that Portfolio during the six years preceding the redemption. No CDSL would be assessed to the extent that the net asset value of the shares redeemed from a Portfolio by a shareholder were derived from or attributable to (1) the dollar value of his Growth Common Stock Portfolio account as of November 30, 1987, (2) increases in the net asset value of the shares above the dollar value of his Growth Stock Portfolio account as of November 30, 1987 and above the total dollar amount of purchase payments for shares of the applicable Portfolio made after November 30, 1987 (either through appreciation in the net asset value of the Portfolio or through reinvestment of dividends and capital gains distributions in additional shares of the Portfolio, after November 30, 1987) or (3) purchase payments for shares of the applicable Portfolio made more than six years prior to the date of redemption.

4. For all purchases of shares made beginning on December 1, 1987, the amount of the CDSL will be calculated on the basis of the number of years since the shareholder made the purchase from which an amount is being redeemed. The CDSL will be 5% for redemptions in the first year after purchase, 4% for redemptions in each of the next two years after purchase, and will decline 1% for each year thereafter until the seventh and following years when no charge will be assessed on redemptions. The amount of the CDSL will be calculated by first determining the date(s) on which the shareholder made the purchase payment(s) that is (are) the source of the redemption and then applying the appropriate percentage(s) to any portion of the redemption subject to the CDSL. In determining whether a CDSL is payable and, if so, the applicable percentage, it will be assumed that the amount invested first is the first to be redeemed. This will result in the such CDSL being imposed at the lowest possible rate. For purposes of computing holding periods, all investments are deemed to have been made on the first day of the calendar month in which they are made.

5. Applicant proposes to waive the CDSL with respect to the following redemptions of shares of any of its Portfolios: (i) Redemptions following the death or disability (as defined in the Internal Revenue Code) ("Code") of a shareholder; (ii) any partial or complete redemption in connection with a redemption resulting from the tax-free return of an excess contribution to an IRA or Keogh account or a custodial account under section 403(b) of the Code; (iii) any partial or complete redemption in connection with a distribution from a tax-qualified plan under section 401(k) of the Code; and (iv) redemptions made in connection with Applicant's periodic withdrawal plan.

6. When shares of two or more Portfolios of the Applicant are outstanding, shares of each Portfolio of Applicant may be exchanged for shares of another Portfolio at their relative net asset value without the imposition of the CDSL at the time of the exchange. However, a Service Charge (which will initially be $5.00 per exchange but will not exceed $10.00) will be deducted on each such exchange and paid to FBL for the costs it incurs in effecting such exchanges. For purposes of calculating the CDSL upon redemption of shares acquired in such an exchange, the purchase of shares acquired in one or more exchanges will be deemed to have occurred at the time of the original purchase of the exchanged shares. If shares of the Portfolio being exchanged were acquired at different times, the shares of the Portfolio being acquired in the exchange will be deemed to posses the various holding periods (or exempt status) of the shares of the Portfolio being exchanged in the same relative proportions as those shares comprised the account of the shareholder in the Portfolio being exchanged on the date of exchange.

7. Applicant proposes to finance its distribution expenses under a plan of distribution to be adopted pursuant to Rule 2b-1 under the 1940 Act ("Plan"). Under the Plan each Portfolio of Applicant would pay a monthly distribution fee to FBL for its expenses incurred in connection with the offering of its shares. The distribution fee will be .75% on an annualized basis of the average daily net assets of such Portfolio. FBL will also receive the proceeds of any CDSL. Applicant's Board of Directors will consider receipts from the CDSL obtained by FBL in connection with its annual review of the Plan.

Applicant's Legal Analysis

1. The requested exemptions and approval of the proposed of the CDSL and the proposed exchanges described

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above are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. The proposed CDSL permits shareholders of Applicant to have the advantage of having purchase payments immediately and fully invested on their behalf in Applicant's shares. Further, the reduction or waiver of the CDSL in connection with the type of redemptions of the Applicant's shares specified above is appropriate and fair because such shares are either (a) sold with no significant marketing or selling expenses to FBL; (b) redeemed under circumstances where the imposition of a CDSL (e.g., for an involuntary redemption) is equivalent to imposing a penalty; or (c) sold to shareholders that are members of a class favored under federal tax laws.

2. The imposition of the Service Charge for the proposed exchanges is fair and will not harm shreholders or discriminate among Applicant's shareholders. The exchange feature will provide shareholders the opportunity to change their investment objective from time to time. Further, the Service Charge is designed merely to compensate FBL for its costs in facilitating exchanges between the Portfolios and Applicant.

Applicant's Conditions

If the requested order is granted, the Fund agrees to the following conditions:

1. Applicant will comply with the provisions of Rule 22d–1 under the 1940 Act.

2. Applicant will comply with the provisions of proposed Rule 11a–3 (or any similar rule) under the 1940 Act when and if such rule is adopted by the SEC.

3. Applicant will comply with the provisions of Rule 12b–1 (or any successor rule) under the 1940 Act, as such rule may be amended from time to time.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–26042 Filed 11–9–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–16113/File No. 812–6864]

John Hancock Mutual Life Insurance Co. ("John Hancock"); Application for Exemptions

November 4, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: John Hancock Mutual Life Insurance Company, John Hancock Variable Annuity Account J ("Account J"), and Colonial Investment Services, Inc. ("CISI").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2).

Summary of Application: Applicants seek an order to permit John Hancock to deduct from Account J the mortality and expense risk charges imposed under individual variable annuity contracts issued by John Hancock (the "Contracts").

Filing Date: The application was filed on September 9, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on November 30, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549; John Hancock, c/o Sandra M. Molley, John Hancock Place, Boston, Massachusetts 02117.

FOR FURTHER INFORMATION CONTACT: Wendell M. Faria, Staff Attorney, at (202) 272–2058 or Lewis B. Reich, Special Counsel, at (202) 272–2061 (Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 253–4300).

Applicants' Representations

1. Account J, a registered unit investment trust under the 1940 Act, was established by John Hancock pursuant to Massachusetts law to fund the Contracts. A Registration Statement on Form N–4 under the Securities Act of 1933 has been filed to register the offering of the Contracts. Account J presently consists of 7 Portfolios, each of which invests solely in the shares of one of the Funds of the Colonial/Hancock Trust. John Hancock, a registered broker/dealer, is the depositor-sponsor for Account J. CISI, a registered broker/dealer, is the principal underwriter for the Contracts. Although John Hancock has primary responsibility for the administration of the contracts, it intends to contract with CISI or its affiliates for most of the administrative services.

2. For certain administrative services, John Hancock makes a daily charge to Account J equal to .25% on an annual basis of the current value of its assets. In addition, for assuming certain risks under the Contracts, John Hancock imposes daily mortality and expense risk charge of 1% of the net asset value of each Portfolio of Account J. The charge is allocable .60% to mortality risks and .40% to administrative expense risks. Applicants represent that the level of this charge is guaranteed and will not change.

3. Applicants represent that the mortality and expense risk charge is reasonable in relation to the risks assumed by John Hancock under the Contracts.

4. Applicants further represent that the mortality and expense risk charge is within the range of industry practice with respect to comparable annuity products. This representation is based upon John Hancock's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates.

5. Applicants also represent that there is reasonable likelihood that Account J's proposed distribution financing arrangement will benefit Account J and the owners of the Contracts.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. John Hancock will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

2. John Hancock will maintain at its administrative offices and make available to the Commission a memorandum setting forth the basis for the conclusion that Account J's distribution financing agreement might benefit Account J and the owners of the Contracts.

3. Account J will invest only in management investment companies which undertake, in the event such company adopts a plan under Rule 12b–1 to finance distribution expenses, to have a board of trustees (or directors), a majority of whom are not interested persons of the company, approve any such plan under Rule 12b–1.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–26043 Filed 11–9–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 1036]

Delegation of Authority No. 167; Records Pertaining To The Arbitration of Claims Before The Iran-United States Claims Tribunal

Pursuant to the authority vested in me by section 4 of the Act of May 26, 1949 (22 U.S.C. 2658) and section 505 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1987 (50 U.S.C. 1701 note), I hereby delegate to the Legal Adviser, the Deputy Legal Advisers and the Assistant Legal Adviser for International Claims and Investment Disputes the functions in section 505.

George P. Shultz

Secretary of State.

Dated: October 27, 1987.

[FR Doc. 87–25959 Filed 11–9–87; 8:45 am]

BILLING CODE 4710–01–M

[Public Notice 1037]

Delegation of Authority No. 166; Providing for the Settlement of Claims Under the Federal Tort Claims Act and the Act of August 1, 1956

Pursuant to the authority vested in me by section 4 of the Act of May 26, 1949 (22 U.S.C. 2658), the Federal Tort Claims Act (28 U.S.C. 2672), and the Act of August 1, 1956 (22 U.S.C. 2669), I hereby delegate to the Legal Adviser and the Deputy Legal Advisers authority to consider, ascertain, adjust, determine, compromise and settle claims capable of administrative settlement under the Federal Tort Claims Act and the Act of August 1, 1956, except claims arising out of activities of the International Boundary and Water Commission.

The Legal Adviser may redelegate to the Assistant Legal Adviser responsible for claims matters the functions delegated in the preceding paragraph, including authority to deny all claims, except for the function of making any award, compromise or settlement in excess of $2,500.

Date: October 27, 1987.

George P. Shultz,

Secretary of State.

[FR Doc. 87–25958 Filed 11–9–87; 8:45 am]

BILLING CODE 4710–10–M

[Public Notice 1038]

Redelegation of Authority No. 166–1; Providing for the Settlement of Claims Under the Federal Tort Claims Act and the Act of August 1, 1956

By virtue of the authority vested in me by State Department Delegation of Authority No. 166, I hereby redelegate to the Assistant Legal Adviser for International Claims and Investment Disputes the functions delegated to me in that Delegation of Authority, including the denial of all claims, except for the function of making any award, compromise or settlement in excess of $2,500.

Date: October 28, 1987.

Abraham D. Sofaer,

Legal Adviser.

[FR Doc. 87–25957 Filed 11–9–87; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 87–074]

Towing Safety Advisory Committee; Meeting of Subcommittee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the following subcommittee of the Towing Safety Advisory Committee (TSAC):

1. The Subcommittee on personnel Manning and Licensing will meet on December 18, 1987 in Room 1103 at U.S. Coast Guard Headquarters 2100 Second Street, SW., Washington, DC. The meeting will commence at 1:00 p.m. and end prior to 3:30 p.m. The agenda for the meeting follows:

(a) Pilot manning; definition of pilotage waters,

(b) Self certification of pilot's local knowledge requirements, and

(c) Examination requirements for radar observer—inland. Attendance is open to the interested public. Members of the public may present oral or written statements at the meeting. Additional information may be obtained from Captain J.J. Smith, Executive Director, Towing Safety Advisory Committee, U.S. Coast Guard (G–CMC/Z1), Washington, DC 20593–0001 or by calling (202) 267–1477.

Dated: November 3, 1987.

J.J. Smith,

Captain, U.S. Coast Guard, Executive Director, Towing Safety Advisory Committee.

[FR Doc. 87–25963 Filed 11–9–87; 8:45 am]

BILLING CODE 4910–14–M

Maritime Administration

[Docket No. S–818]

Lykes Bros. Steamship Co., Inc.; Notice of Application for Permission Under Section 805(a) of the Merchant Marine Act, 1936, as Amended to Charter up to Six Seabee Barges

Notice is hereby given that Lykes Bros. Steamship Co., Inc. (Lykes) by application dated October 28, 1987, has applied for written permission under section 805(a) of the Merchant Marine Act, 1936, as amended (Act), to charter up to six Seabee Standard Hopper Barges (Barges) to E.M. Bailey Distributing Co. (Bailey) for one year. Bailey intends to operate the Barges on the Kentucky River. The cargo expected to be carried in the Barges is bulk corn.

This application is being submitted because Lykes is a subsidized operator pursuant to Operating-Differential Subsidy Contract MA/MSB–451 and the proposed operation of the Barges on the inland waterways might be considered to be operation in the "coastwise trade."

Bailey indicates that it has experienced difficulty in obtaining the proper size barges that it needs for its services. Consequently, Bailey says there is an urgent need for the Barges in order to transport the corn.

Lykes does not believe that the charter will provide unfair competition to any person, firm, or corporation, since Lykes believes no one else can provide barges of the right size.

Any person, firm, or corporation having any interest in the application for section 805(a) permission and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, by 5:00 p.m. on November 17, 1987. If such comments deal with section 805(a) issues, they should be accompanied by a petition for

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leave to intervene. The petition shall state clearly and concisely the grounds of interest and the alleged facts relied on for relief.

If no petitions for leave to intervene on section 805(a) issues are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event positions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act.

(Catalog of Federal Domestic Assistance Program Nos. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Administrator.

Date: November 3, 1987.

James E. Saari,

Secretary.

[FR Doc. 87-2600 Filed 11-9-87; 8:45 am]

BILLING CODE 4910-81-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in September 1987. The modes of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3128-X	DOT-E 3128	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.304, 175.3	To authorize use of non-DOT specification cylinders, for transportation of a Class C explosive and a liquefied nonflammable gas. (Modes 1, 2, 3, 4.)
4291-X	DOT-E 4291	Kerr-McGee Chemical Corporation, Oklahoma City OK.	49 CFR 173.239a(a)(2)	To authorize use of a non-DOT specification aluminum portable tank, for transportation of a certain oxidizer. (Modes 1, 2.)
4291-X	DOT-E 4291	Pacific Engineering & Production Company of Nevada, Henderson, NV.	49 CFR 173.239a(a)(2)	To authorize use of a non-DOT specification aluminum portable tank, for transportation of a certain oxidizer. (Modes 1, 2.)
4291-X	DOT-E 4291	United Technologies Corp./Chemical Systems Div., San Jose, CA.	49 CFR 173.239a(a)(2)	To authorize use of non-DOT specification aluminum portable tank, for transportation of a certain oxidizer. (Modes 1, 2.)
4453-P	DOT-E 4453	Viking Explosives & Supply, Inc., Hibbing, MN.	49 CFR 173.114a(h)(3), 172.101, 176.83, 176.415.	To become a party to exemption 4453. (Modes 1, 3.)
4453-X	DOT-E 4453	Laverty Supply, Inc., Indianola, IA	49 CFR 173.114a(h)(3), 172.101, 176.83, 176.415.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3.)
4453-X	DOT-E 4453	Armstrong Explosives Company, New Galilee, PA.	49 CFR 173.114a(h)(3), 172.101, 176.83, 176.415.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3.)
4453-X	DOT-3 4453	Northern Ohio Explosives, Inc., Forest, OH	49 CFR 173.114a(h)(3), 172.101, 176.83, 176.415.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3.)
4453-X	DOT-E 4453	Belmont Mine Supply Company, Inc., Flushing, OH.	49 CFR 173.114a(h)(3), 172.101, 176.83, 176.415.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3.)
4459-X	DOT-E 4459	Allied Healthcare Products, Inc., Saint Louis, MO.	49 CFR 173.302a(a)(1), 173.304(a)(1), 173.328(a)(2), 173.353(a)(3), 178.37, 175.3.	To authorize manufacture, marking and sale of non-DOT specifications cylinders, for shipment of flammable and nonflammable gases, Class A and B poisons and mixtures thereof. (Modes 1, 2, 4.)
4734-X	DOT-E 4734	General Electric Company, Waterford, NY	49 CFR 173.135(a)(9), 173.136(a)(8), 173.260(a)(8), 173.119(m).	Modification of the exemption to allow installation of additional air-operated safety valves in the dome of the authorized tanks. (Mode 1.)
4884-X	DOT-E 4884	Union Carbide Corporation, Danbury, CT	49 CFR 173.302(a)(1), 175.3, 178.61, 173.3a, 173.304, 173.119(m), 173.336, 173.247, 173.251.	To authorize shipment of certain liquefied and nonliquefied compressed gases and a flammable liquid in a stainless steel cylinder complying with all requirements of DOT Specification 4BW, except for being fabricated from Type 304 or Type 316 stainless steel. (Modes 1, 2, 3, 4, 5.)
5895-X	DOT-E 5895	Explosive Technology, Inc., Fairfield, CA	49 CFR 173.100(oc), 173.104(b), 175.3.	To authorize use of a non-DOT specification inner container overpacked in a DOT Specification 12H fiberboard box, or a wooden box, for shipment of class C explosives. (Modes 1, 2, 3, 4.)
5923-X	DOT-E 5923	Union Carbide Corporation, Danbury, CT	49 CFR 173.314, 173.148(a)(4), 173.31(d)(9).	To authorize transport of certain flammable and nonflammable gases, in DOT Specification 106A500X and 110A500W multi-unit tank cars. (Modes 1, 2, 3.)
5948-X	DOT-E 5948	U.S. Department of Energy, Washington, DC.	49 CFR 173.116, 173.417, 173.425	To authorize shipment of radioactive waste materials in ATMX 500 or 600 rail cars. (Mode 2.)
6061-X	DOT-E 6016	Guttmen Welding Supply Company, Belle Vernon, PA.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon, in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Guttmen Welding Supply Company, Belle Vernon, PA.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6296-P	DOT-E 6296	Rhone-Poulenc Ag Company, Research Triangle Park, NC.	49 CFR 173.377(g)	To become a party to exemption 6296. (Modes 1, 2.)
6434-P	DOT-E 6434	Rhone-Poulenc Ag Company, Research Triangle Park, NC.	49 CFR 173.377(k)(1)	To become a party to exemption 6434. (Modes 1, 2.)
6656-X	DOT-E 6656	U.S. Department of Energy, Washinton, DC	49 CFR 173.65	To authorize use of a non-DOT specification open-head steel drum, for transportaion of a certain Class A explosive. (Mode 1.)
6686-P	DOT-E 6686	Goss Inc., Glenshaw, PA	49 CFR 173.304, 178.65	To become a party to exemption 6686. (Modes 1, 2.)
6691-P	DOT-E 6691	Industrial Gas Distributors, Inc., Billings, MT	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To become a party to exemption 6691 (Modes 1, 2, 3, 4, 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6769-X	DOT-E 6769	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.314, 173.315	To authorize transport of trifluoromethane, in insulated DOT Specification MC-331 tank motor vehicles, and DOT Specification 105A600W tank cars. (Modes 1, 2.)
6861-X	DOT-E 6861	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.65(a)	To authorize use of DOT Specification 21P fiber drums with DOT Specification 28L or 2U polyethylene liners, for transportation of certain Class A explosives. (Mode 1.)
7035-X	DOT-E 7035	Owens-Illinois, Inc., Toledo, OH	49 CFR 173.128(a), 173.245(a)(26), 173.245(b)(6), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.275(a)(10), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.346, 178.19, 173.346, 173.119, 173.258.	To authorize manufacture, marking and sale of non-DOT specification reusable, molded polyethylene containers, for transportation of corrosive liquids and solids, oxidizers, flammable liquids, and Class B poisonous liquids. (Modes 1, 2, 3.)
7052-P	DOT-E 7052	Laer ziegler, Inc., Grand Rapids, MI	49 CFR 172.101, 175.3, 172.420	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Hydril, Houston, TX	49 CFR 172.101, 175.3, 172.420	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Cubic Corporation, San Diego, CA	49 CFR 172.101, 175.3, 172.420	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solid. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Wilson Greatbatch Ltd., Clarence, NY	49 CFR 172.101, 175.3, 172.420	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Interstate Electronic Corporation, Anaheim, CA.	49 CFR 172.101, 175.3, 172.420	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	W.R. Grace & Co., Columbia, MD	49 CFR 172.101, 175.3, 172.420	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Pointer, Inc., Tempe, AZ	49 CFR 172.101, 175.3, 172.420	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Tadiran Electronic Industries, Inc., Woodland Hills, CA.	49 CFR 172.101, 175.3, 172.420	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Hydril Production Technology Division, Houston, TX.	49 CFR 172.101, 175.3, 172.420	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solid. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Proximity, Mountain View, CA	49 CFR 172.101, 175.3, 172.420	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	ECO Energy Conversion, Somerville, MA	49 CFR 172.101, 175.3, 172.420	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Mercury Instruments, Inc., Cincinnati, OH	49 CFR 172.101, 175.3, 172.420	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Computer Components Corporation, Dallas, TX.	49 CFR 172.101, 175.3, 172.420	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	General Dynamics Corporation, Fort Worth, TX.	49 CFR 172.101, 175.3, 172.420	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solid. (Modes 1, 2, 3, 4.)
7056-X	DOT-E 7056	Henkel Corporation, Morristown, NJ	49 CFR 173.204(a)(4), 173.28(m)	To authorize one time reuse of DOT Specification 37A steel drums, for transportation of a certain flammable solid. (Modes 1, 2, 3.)
7269-X	DOT-E 7269	U.S. Department of Energy, Washington, DC.	49 CFR 173.65(a)	To authorize use of silt-proof paper or plastic bags overpacked in DOT Specification 21C fiber drums, for transportation of certain Class A explosives. (Mode 1.)
7274-X	DOT-E 7274	Union Carbide Corporation, Danbury, CT	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification portable tanks, for shipment of certain nonflammable gases. (Mode 3.)
7595-P	DOT-E 7595	Rhone-Poulenc Ag Company Research, Triangle Park, NC.	49 CFR 173.356, 173.359	To become a party to exemption 7595. (Mode 1.)
7607-P	DOT-E 7607	Northern Engineering and Testing, Inc., Helena, MT.	49 CFR 172.101, 175.3	To become a party to exemption 7607. (Mode 5.)
7607-P	DOT-E 7607	Phoenix Safety Associates, Ltd., Phoenixville, PA.	49 CFR 172.101, 175.3	To become a party to exemption 7607. (Mode 5.)
7616-X	DOT-E 7616	Kansas City Southern Railway Co. and Subsidiaries Kansas City, MO.	49 CFR 172.204(a), 172.204(d)	To authorize carrier to certify the shipping papers on behalf of the shipper when transporting certain hazardous materials by rail (Mode 2.)
7616-X	DOT-E 7616	Consolidated Rail Corporation (CONRAIL), Philadelphia, PA.	49 CFR 172.204(a), 172.204(d)	To authorize carrier to certify the shipping papers on behalf of the shipper when transporting certain hazardous materials by rail. (Mode 2.)
7716-X	DOT-E 7716	Kinepak, Inc., Dallas, TX	49 CFR 173.153(b)(1)	To authorize transport of ammonium nitrate in inside polyethylene bottles or foil pouches, each containing less than 3 pounds or less, overpacked in DOT Specification 12H-65 fiberboard boxes with a plastic liner bag containing not more than 36 pounds net weight. (Modes 1, 2, 3.)
7907-X	DOT-E 7907	Hercules Incorporated, Wilmington, DE	49 CFR 173.127, 173.184, 178.224	To authorize shipment of wet nitrocellulose, in non-DOT specification fiberboard drums. (Modes 1, 2, 3.)
8006-X	DOT-E 8006	Bland Brothers Inc., New York, NY	49 CFR 172.400(a) 172.504 Table 2	To authorize transport of unlabeled packages of toy paper or plastic caps complying with the requirements of 173.100(p) and 173.109, in motor vehicles with placards, when the gross weight of the caps is 1000 pounds or more. (Mode 1.)
8068-X	DOT-E 8068	Wheaton Aerosols Company, Mays Landing, NJ.	49 CFR 173.305, 173.306(a), 173.1200, 175.3.	To authorize manufacture, marking and sale of non-DOT specification aerosol container consisting of a glass bottle externally coated with plastic, for shipment of compressed gases. (Modes 1, 2, 3, 4.)
8099-P	DOT-E 8099	Rhone-Poulenc Ag Company, Research Triangle Park, NC.	49 CFR 173.365(a)(15)	To become a party to exemption 8099. (Modes 1, 2, 3.)
8244-X	DOT-E 8244	Halliburton Services, Duncan, OK	49 CFR 173.119, 173.245, 173.263, 173.264, 173.269, 46 CFR 64.9.	To authorize use of a DOT Specification marine portable tank, for shipment of certain flammable liquids, corrosive materials and combustible liquids. (Modes 1, 3.)
8244-X	DOT-E 8244	Vann Systems, A Division of Halliburton Company, Houston TX.	49 CFR 173.119, 173.245, 173.263, 173.264, 173.269, 46 CFR 64.9.	To authorize use of a DOT Specification marine portable tank, for shipment of certain flammable liquids, corrosive materials and combustible liquids. (Modes 1, 3.)
8307-X	DOT-E 8307	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.21, 173.25(a), 173.247, 175.3	To authorize shipment of non-pyrotechnic smoke generators consisting of cylinder reservoirs, containing titanium tetrachloride, ammonium hydroxide, an explosive valve and nitrogen. (Modes 1, 2, 3, 4.)
8363-P	DOT-E 8363	X-Pio, Inc., Plattsburgh, NY	49 CFR 173.93(a)	To become a party to exemption 8363. (Modes 1, 3.)
8426-P	DOT-E 8426	Rich-Sand Service Co., Orcutt, CA	49 CFR 173.119 (a), (m), 173.245(a), 178.342-5, 178.343-5, 178.340-7, 173.346(a).	To become a party to exemption 8426. (Mode 1.)
8445-P	DOT-E 8445	S & W Waste, Inc., South Kearny, NJ	49 CFR Part 173, Subpart D, E, F, H	To become a party to exemption 8445. (Mode 1.)
8445-P	DOT-E 8445	Keegan Technology & Testing Associates, Inc., Newark, NJ.	49 CFR Part 173, Subpart D, E, F, H	To become a party to exemption 8445. (Mode 1.)
8445-P	DOT-E 8445	Rhone-Poulenc Ag Company, Research Triangle Park, NC.	49 CFR Part 173, Subpart D, E, F, H	To become a party to exemption 8445. (Mode 1.)
8451-P	DOT-E 8451	Explosive Technology, Inc., Fairfield, CA	49 CFR 173.65, 173.86(e), 175.3	To become a party to exemption 8451. (Modes 1, 2, 4.)

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RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8453-P	DOT-E 8453	St. Lawrence Explosives Corporation, Adams Center, NY	49 CFR 173.114a	To become a party to exemption 8453. (Mode 1.)
8516-P	DOT-E 8516	Unocal Corporation, Ventura, CA	49 CFR 173.119 (a), (m), 173.245(a), 178.340-7, 178.342-5, 178.343-5, 172.346(a).	To become a party to exemption 8516. (Mode 1.)
8518-P	DOT-E 8518	M & G Services, Inc., Rio Vista, CA	49 CFR 173.119 (a), (m), 173.245(a), 178.340-7, 178.342-5, 178.343-5, 173.346(a).	To become a party to exemption 8518. (Mode 1.)
8573-X	DOT-E 8573	Alstar Company, Tracy, CA	49 CFR 173.217(a)(6)	To authorize transport of certain solid oxidizers in non-DOT specification polyethylene bottles packed in a DOT Specification 12B double-wall corrugated fiberboard box. (Modes 1, 2, 3.)
8651-X	DOT-E 8651	Rockwell International Corporation, Canoga Park, CA.	49 CFR 173.119, 173.302(a), 173.330(a), 173.329(a).	To authorize transport of waste nitrogen tetroxide, waste methylhydrazine and nitrogen, in non-DOT specification cylinders and stainless steel tanks. (Mode 1.)
8693-X	DOT-E 8693	Matheson Gas Products, Secaucus, NJ	49 CFR 173.230	To authorize shipment of sodium metal dispersion in organic solvent in DOT Specification 4BW cylinders. (Modes 1, 3.)
8696-X	DOT-E 8696	Union Carbide Corporation Danbury, CT	49 CFR 173.320, 178.76	To authorize manufacture, marking and sale of non-DOT specification portable tanks, for transportation of liquid nitrogen. (Mode 3.)
8708-X	DOT-E 8708	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.357(b)(2)	To authorize use of non-DOT specification steel drums (overpacked, palletized and contained), for shipment of a Class B poison. (Modes 1, 3)
8710-X	DOT-E 8710	Akzo Chemie America, Noury Chemicals, Chicago, IL.	49 CFR 173.119, 173.221, 173.21	To authorize transport of solutions of an organic peroxide in cargo tanks complying with DOT Specification MC-307 and MC-312. (Mode 1.)
8723-X	DOT-E 8723	Austin Powder Company, Cleveland, OH	49 CFR 173.114a(h)(3), 172.101, 176.83, 176.415.	To become a party to exemption 8723. (Modes 1, 3.)
8735-X	DOT-E 8735	Letica Corporation, Rochester, MI	49 CFR Part 173, Subpart D, F, 178.19	To authorize manufacture, marking and sale of non-DOT specification removable head molded polyethylene drums, for transportation of corrosive liquids and flammable liquids. (Modes 1, 2, 3.)
8750-X	DOT-E 8750	Applied Companies, San Fernando, CA	49 CFR 173.302(a), 175.3	To authorize manufacture, marking and sale of non-DOT specification girth welded steel cylinders, for shipment of certain nonflammable gases. (Modes 1, 2, 4.)
8760-X	DOT-E 8760	Barton Solvents, Inc., Des Moines, IA	49 CFR 173.328, 172.334(b)	Approval to ship additional materials, classed as ORM-A, in cargo tanks with a flammable placard when loaded with materials classed as flammable or combustible liquids. (Mode 1.)
8772-X	DOT-E 8772	Akzo Chemie America, Chicago, IL	49 CFR 172.101 Column 8(b)	To authorize an increase in the net quantity limitation, not exceeding five gallons per package, for shipment of certain corrosive liquids and flammable liquids that are corrosive, when shipped via cargo-only aircraft. (Mode 4.)
8921-X	DOT-E 8921	Hoover Group, Inc., Beatrice, NE	49 CFR Part 173, Subpart F, 173.119, 173.125, 173.266.	To authorize an alternative style overpack for polyethylene portable tank for shipment of certain corrosive or flammable liquids or hydrogen peroxide solutions. (Modes 1, 2, 3,)
8962-X	DOT-E 8962	HTL Division of Pacific Scientific, Duarte, CA.	49 CFR 173.302(a), 175.3, 178.44	To authorize manufacture, marking and sale of non-DOT specification girth welded stainless steel cylinders, for transportation of a compressed gas. (Modes 1, 2, 4.)
8971-X	DOT-E 8971	NL McCullough/NL Industries, Inc., Houston, TX.	49 CFR 173.246, 175.3, 172.101 Column 4	To authorize use of non-DOT specification steel cylinders of equal or greater integrity than those currently authorized, for transportation of a liquid oxidizer. (Modes 1, 2, 3, 4.)
9015-P	DOT-E 9015	Olin Chemicals Group, Stamford, CT	49 CFR 173.217	To become a party to exemption 9015 (Modes 1, 2, 3.)
9059-X	DOT-E 9059	Boeing Aerospace Company, Seattle, WA	49 CFR 172.101, 172.202, 172.303(d), 173.34(d)(4).	To authorize use of cylinders currently used for fluorine. (Modes 1, 2.)
9061-X	DOT-E 9061	SSI Group, Ltd., Fairfield, KY	49 CFR 172.504, 173.178	To authorize shipment of up to six cans of calcium carbide, each container not exceeding two pounds net weight of material, within the prescribed shipping box. (Modes 1, 2.)
9061-X	DOT-E 9061	SSI Group, Ltd., Fairfield, KY	49 CFR 172.504, 173.178	To authorize shipment of a small quantity of a flammable solve labeled Flammable Solid and Dangerous When Wet but without a Flammable Solid W placard on the vehicle. (Modes 1, 2.)
9074-X	DOT-E 9074	Reuter-Stokes, Inc., Twinsburg, OH	49 CFR 173.302, 175.3	To authorize use of non-DOT specification, metal, single trip, inside containers, for transportation of a nonflammable gas. (Modes 1, 2, 3, 4, 5.)
9082-P	DOT-E 9082	Rhone-Poulenc Ag Company, Research Triangle Park, NC.	49 CFR 173.366	To become a party to exemption 9082. (Modes 1, 3).
9101-X	DOT-E 9101	RCA Corporation, astro Electronics, Princeton, NJ.	49 CFR 172.101, Column 6(b), 173.92, 175.30.	To authorize shipment of certain rocket motors exceeding the prescribed gross weight limitation. (Mode 4.)
9116-X	DOT-E 9116	Hoover Group, Inc., Beatrice, NE	49 CFR Part 173, Subpart F, 173.119, 173.256, 173.266, 178.19, 178.253.	To authorize manufacture, marking and sale of a non-DOT specification rotationally molded, cross-linked polyethylene portable tank enclosed within a protective steel frame, for shipment of corrosive liquids, flammable liquids or an oxidizer. (Modes 1, 2, 3.)
9130-X	DOT-E 9130	Bio-Lab, Incorporated, Decatur, GA	49 CFR 49 CFR 173.154	To authorize shipment of an oxidizer, n.o.s., in polyethylene containers of not over 50 pounds capacity each, overpacked in a non-DOT specification corrugated fiberboard box as prescribed in 49 CFR 173.217(c). (Modes 1, 2.)
9130-X	DOT-E 9130	Hydrotech Chemical Corporation, Marietta, GA.	49 CFR 173.154	To authorize shipment of an oxidizer, n.o.s., in polyethylene containers of not over 50 pounds capacity each, overpacked in a non-DOT specification corrugated fiberboard box as prescribed in 49 CFR 173.217(c). (Modes 1, 2.)
9140-X	DOT-E 9140	Crown Rotational Molded Products, Inc., Marked Tree, AR.	49 CFR Part 173 Subpart F, 173.119, 173.256, 173.266, 178.19, 178.253.	To authorize manufacture, marking and sale of a non-DOT specification rotationally molded, cross-linked polyethylene portable tank, for shipment of corrosive liquids, flammable liquids or an oxidizer. (Modes 1, 2, 3.)
9140-X	DOT-E 9140	Crown Rotational Molded Products, Inc., Marked Tree, AR.	49 CFR Part 173 Subpart F, 173.119, 173.256, 173.266, 178.19, 178.253.	To authorize an optional stainless steel bottom discharge fitting and valve assembly for a non-DOT specification polyethylene portable tank for shipment of certain corrosive flammable or oxidizer liquid. (Modes 1, 2, 3.)
9142-X	DOT-E 9142	EVA, Eisenbahn-Verkehrsmittel, GmbH Dusseldorf, West Germany.	49 CFR 173.315, 178.245	To authorize use of a non-DOT Specification IMO Type 5 portable tank, for transportation of liquefied compressed gases. (Modes 1, 2, 3.)
9149-X	DOT-E 9149	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.354, 178.245, 174.63(b)	To authorize use of non-DOT specification IMO Type 1 portable tanks, for transportation of motor fuel antiknock compound. (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9174-X	DOT-E 9174	National Aeronautics and Space Administration, Washington, DC.	49 CFR 173.302(a)	To authorize use of non-DOT specification cylindrical and spherical pressure vessels which are an integral part of the Space Shuttle Auxiliary Propulsion System pods, for transportation of helium and nitrogen. (Mode 1.)
9174-X	DOT-E 9174	McDonnell Douglas Corporation, St. Louis, MO.	49 CFR 173.302(a)	To authorize use of non-DOT specification cylindrical and spherical pressure vessels which are an integral part of the Space Shuttle Auxiliary Propulsion System rods, for transportation of helium and nitrogen. (Mode 1.)
9181-P	DOT-E 9181	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.21, 173.205, 173.247	To become a party to exemption 9181. (Mode 1.)
9181-X	DOT-E 9181	GTE Products Corporation, Waltham, MA	49 CFR 173.21, 173.205, 173.247	To authorize transport of lithium metal and a thionyl chloride solution in the same non-DOT specification stainless steel vessel. (Mode 1.)
9277-P	DOT-E 9277	Rhone-Poulenc Ag Company, Research Triangle Park, NC.	49 CFR 173.377(j)	To become a party to exemption 9277. (Modes 1, 2.)
9346-X	DOT-E 9346	Wilco Corporation, Bradford, PA	49 CFR 174.67(a)(2)	To authorize setting of the brakes and blocking the wheels of the first and last tank cars on up to a twelve tank car assembly, instead of each individual car, when engaged in unloading crude oil and petroleum. (Mode 2.)
9350-X	DOT-E 9350	Square D Company, Smyrna, TN	49 CFR 173.302	To authorize use of a non-DOT specification seamless molded biphenolic epoxy cylinder, for shipment of a nonflammable gas. (Modes 1, 3.)
9355-X	DOT-E 9355	Eastman Kodak Company, Rochester, NY	49 CFR Parts 100–177	To authorize transport of a limited number of certain lithium batteries on passenger carrying aircraft. (Modes 1, 2, 3, 4, 5.)
9360-P	DOT-E 9360	Brown Measure Co. Inc., Kilgore, TX	49 CFR 173.119, 173.304, 173.315	To become a party to exemption 9360. (Mode 1.)
9361-X	DOT-E 9361	Pacific Smelting Company, Torrance, CA	49 CFR 173.154	To authorize transportation of a water reactive solid, which evolves hydrogen slowly when wet, in open packagings such as drums, hopper trucks and gondola cars. (Modes 1, 2.)
9401-X	DOT-E 9401	Parisier S.A.R.L./SNWR, Paris, France	49 CFR 173.315, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of flammable and nonflammable liquefied compressed gases. (Modes 1, 2, 3.)
9415-X	DOT-E 9415	Plasti-Drum Corporation, Lockport, IL	49 CFR 173.173, Subparts D, E, H	To authorize manufacture, marking and sale of a polyethylene drum of 30-gallon capacity conforming with DOT Specification 34 except for having a single opening of four-inch diameter, for shipment of those hazardous materials authorized in DOT Specification 34 and DOT Specification 21C drums. (Modes 1, 2, 3.)
9416-X	DOT-E 9416	Mobay Corporation, Kansas City, MO	49 CFR 173.359	To renew and to authorize rail as an additional mode of transportation. (Modes 1, 2.)
9418-X	DOT-E 9418	West Texas Fabrication, Odessa, TX	49 CFR 173.119, 173.245, 178.253	To authorize manufacture, marking and sale of non-DOT specification portable tank assemblies manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable liquids and corrosive liquids. (Mode 1.)
9425-X	DOT-E 9425	American Chemical & Refining Company, Inc., Waterbury, CT.	49 CFR 173.846	To authorize transport of certain alkaline corrosive solutions in the same vehicle with gold and silver cyanide solutions. (Mode 1.)
9436-X	DOT-E 9436	Union Carbide Corporation, Danbury, CT	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h).	To authorize manufacture, marking and sale of non-DOT specification portable tanks for transportation of nonflammable refrigerated liquids. (Modes 1, 3.)
9449-P	DOT-E 9449	Rhone-Poulenc Ag Company, Research Triangle Park, NC.	49 CFR 173.346, 172.101, 173.21, 173.315(i)(3), 178.245, 173.3a.	To become a party to exemption 9449 (Mode 1, 3.)
9456-X	DOT-E 9456	General Electric Company, Waterford, NY	49 CFR 173.245, 173.280	To authorize use of DOT Specification MC-330 and MC-331 cargo tanks, for transportation of certain corrosive materials. (Mode 1)
9456-X	DOT-E 9456	Dow Corning Corporation, Midland, MI	49 CFR 173.245, 173.280	To authorize use of DOT Specification MC-330 and MC-331 cargo tanks, for transportation of certain corrosive materials (Mode 1.)
9460-X	DOT-E 9460	Tracor Aerospace (Formerly Tractor MBA), East Camden, AR.	49 CFR 172.101	To authorize transportation of a Class A type 4 explosive in sealed velostat bag containing not more than one pound of powder or pellets, packed in DOT Specification 17C or 17H metal drums. (Mode 1.)
9464-X	DOT-E 9464	Broco, Inc., Rialto, CA	49 CFR 173.100	To authorize transport of a pest control device which has dimensions exceeding those authorized in 49 CFR, in a fiberboard card and placed in a heat sealed plastic bag. (Mode 1, 2, 3, 4, 5.)
9466-P	DOT-E 9466	Rhone-Poulenc Ag Company, Research Triangle Park, NC.	49 CFR 173.365(a)(6)	To become a party to exemption 9466. (Modes 1, 2, 3.)
9480-X	DOT-E 9480	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.302(a)(5)	To authorize transport of tetrafluoromethane and mixtures thereof in DOT Specification 3AL cylinders. (Modes 1, 2, 3, 4.)
9480-X	DOT-E 9480	Airco, The BOC Group, Inc., Murray Hill, NJ	49 CFR 173.302(a)(5)	To authorize transport of tetrafluoromethane and mixtures thereof in DOT Specification 3AL cylinders. (Modes 1, 2, 3, 4.)
9481-X	DOT-E 9481	Atlas Powder Company, Dallas, TX	49 CFR 173.77	To authorize transport of PETN wet with 25% water in plastic bags packed in fiberboard boxes instead of metal drums. (Mode 1.)
9528-X	DOT-E 9528	U.S. Department of Defense, Falls Church, VA.	49 CFR Parts 100–199	To authorize transport of nonself-propelled aerospace ground equipment with gasoline or aviation fuel in the tanks. (Modes 1, 2.)
9529-X	DOT-E 9529	Viskaske Corporation, Chicago, IL	49 CFR 173.21	To authorize shipment of carbon disulfide in DOT Specification MC-312 cargo tanks. (Modes 1, 3.)
9623-P	DOT-E 9623	Quick Supply Co., Des Moines, IA	49 CFR 177.835(c)(3)	To become a party to exemption 9623. (Mode 1.)
9697-X	DOT-E 9697	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.31(c)	To authorize shipment of waste antimony pertachloride, corrosive material, in out of test DOT-105A300W and DOT-105A500W tank cars to an additional location. (Mode 2.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9501-N	DOT-E 9501	Trical, Inc., Hollister, CA	49 CFR 173.357, 173.3a	To authorize shipment of liquid, 100% chloropicrin, a Class B poison, in non-DOT specification zinc-plated steel drums, not exceeding 26-gallon capacity. (Modes 1, 3.)
9677-N	DOT-E 9677	Allied Universal Corporation, Miami, FL	49 CFR 173.263(a)(15)	To authorize shipment of non-DOT specification polyethylene bottles of one-gallon capacity, overpacked no more than 60 to a specially-designed, heavy-wall cart, molded of high-density polyethylene. (Mode 1.)

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NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9714-N	DOT-E 9714	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.358	To authorize shipment of "Sidex" 8 insecticide, classed as a Poison B liquid, in DOT Specification high density polyethylene containers. (Modes 1, 2, 3.)
9716-N	DOT-E 9716	Corodyne I, Inc., West Liberty, OH	49 CFR 173.302(a)(1), 173.304(a), (d), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinder, for shipment of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
9727-N	DOT-E 9727	Sherex Chemical Company, Inc., Dublin, OH.	49 CFR 173.249	To authorize shipment of an alkaline corrosive liquid, n.o.s. in new or reconditioned DOT Specification 17H steel drums. (Modes 1, 2, 3.)
9733-N	DOT-E 9733	Rheem Manufacturing Company, Kingwood, TX.	49 CFR 173.164	To authorize manufacture, marking and sale of DOT Specification 3S polyethylene drums of six-gallon capacity for the shipment of chromic acid mixture, dry, or chromic acid, solid, classed as oxidizers. (Modes 1, 2, 3.)
9754-N	DOT-E 9754	Aerwin Thermodynamics Corporation, Broken Arrow, OK.	49 CFR Part 173, Subparts D, F, H, 173.247, 173.260, 178.19.	To authorize manufacture, marking and sale of non-DOT specification reusable, rotationally molded, polyethylene container conforming with DOT Specification 3H with exceptions, for shipment of certain corrosive liquids, flammable liquids, class B poisonous liquids, and an oxidizer. (Modes 1, 2, 3.)
9765-N	DOT-E 9765	3M, St. Paul, MN	49 CFR 173.124(a)(3)	To authorize shipment of ethylene oxide classed as a flammable liquid, contained in aluminum cartridges and cushioned in molded expanded polystyrene trays, overpacked in a DOT Specification 12B15 corrugated fiberboard box. (Modes 1, 2, 3, 4.)
9777-N	DOT-E 9777	Schwerman Trucking Co., Milwaukee, WI	49 CFR 173.154(a)(4)	To authorize shipment of a 16 percent aqueous solution of potassium permanganate maintained at 165 degrees Fahrenheit, in a DOT Specification MC-312 cargo tank. (Mode 1.)
9779-N	DOT-E 9779	Unichem International, Inc., Hobbs, NM	49 CFR 173.119, 173.245, 178.253	To authorize manufacture, marking and sale of non-DOT specification portable tanks and manifolded together within a frame and securely mounted on a truck chassis. (Mode 1.)

EMERGENCY EXEMPTIONS

Application	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9815-N	DOT-E 9815	Amrex Chemical Company, Inc., Binghamton, NY.	49 CFR 173.277(a)(9)	To authorize shipment of hypochlorite solutions, more than 7 percent available chlorine by weight, in non-DOT specification cargo tanks. (Mode 1).
EE 9850-N	DOT-E 9850	Martin Marietta Ordnance Systems, Inc., Bethesda, MD.	49 CFR 172.101 column 8(b), 175.30	To authorize transport of ammunition for cannon with explosive projectile aboard cargo aircraft. (Mode 4).
EE 9851-N	DOT-E 9851	American Airlines, Dallas, TX	49 CFR Parts 100 through 199	To authorize a one time shipment of insulated dewars containing liquid nitrogen to be transported in the cabin of a passenger aircraft under special conditions. (Mode 5).
EE 9853-N	DOT-E 9853	Alaska Environmental Control Services, Inc., Anchorage, AK.	49 CFR 172.101(6)(b), 175.30	To authorize a one time shipment of five 55-gallon capacity, DOT Specification 3H polyethylene drums containing 30% Hydrogen peroxide, which is forbidden for transportation by air. (Mode 4).
EE 9854-N	DOT-E 9854	Morton Thiokol, Inc., Brigham City, UT	49 CFR 173.92	To authorize transport of rocket motors via highway. (Mode 1).
EE 9855-N	DOT-E 9855	Korean Air Lines Company, Los Angeles, CA.	49 CFR 172.101, column 8(b), 175.30	To authorize shipment of explosive projectiles, Class A explosives; and rocket motor and propellant explosive, solids, Class B explosive, which are forbidden for transportation by air or are in quantities greater than those prescribed for transportation. (Mode 4).

WITHDRAWAL EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9704-X	Dresser Industries, Inc., Houston, TX	49 CFR 173.107	Request modification of Exemptions to authorize a DOT Specification 12B fiberboard box as an optional container for the shipment of Small Arms Primers Class C explosive. (Modes 1, 3, 4, 5.)
9777-P	Carus Chemical Company, La Salle, IL	49 CFR 173.154(a)(4)	To become a party to exemption 9777. (Mode 1.)

Issued in Washington, DC, on October 19, 1987.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 87-25977 Filed 11-9-87; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: November 4, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0089
Form Number: 1040NR
Type of Review: Resubmission
Title: U.S. Nonresident Alien Income Tax Return
Description: This form is used by nonresident individuals and foreign estates and trusts to report their income subject to tax and compute the correct tax liability. The information on the return is used to determine whether income, deductions, credits, payments, etc., are correctly figured. Affected public are nonresident individuals, estates and trusts.
Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 1,013,052 hours
Clearance Officer: Garrick Shear (202) 535-4297, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-25980 Filed 11-9-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 4, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0119
Form Number: 1099-R
Type of Review: Revision
Title: Statement for Recipients of Total Distributions from Profit-Sharing, Retirement Plans, Individual Retirement Arrangements, Insurance Contracts, Etc.
Description: Form 1099-R is used to report total distributions from profit sharing or retirement plans, IRAs, and the surrender of insurance contracts. This information is used by IRS to verify that income has been properly reported by the recipient.
Respondents: State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations.
Estimated Burden: 3,700,586 hours
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-25981 Filed 11-9-87; 8:45 am]

BILLING CODE 4810-35-M

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 646; Ref: ATF O 1100.126B]

Delegation of Authorities of the Director in 27 CFR Part 30; Gauging Manual; Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to other Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.126A, Delegation Order—Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 13, the Gauging Manual, dated March 23, 1984, is canceled.

3. *Background.* Under current regulations, the Director has the authority to take final action on matters relating to the gauging manual. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120-01 (formerly No. 221), effective July 1, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To approve the use of other instruments for determination of specific gravity, under 27 CFR 30.21.

b. To approve other devices or methods and to authorize their use for determination of the quantity of distilled spirits or denatured spirits by volume, under 27 CFR 30.36 and 30.51.

c. To approve other devices or methods and to authorize their use for determination of the quantity of packaged distilled spirits or denatured spirits under 27 CFR 30.43.

5. *Redelegation.* a. The authorities in paragraph 4 may be redelegated to Bureau Headquarters personnel not lower than the position of branch chief.

b. The authorities in paragraph 4 may be redelegated to regional directors (compliance) to approve, without submission to Headquarters, subsequent requests which are identical to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate these authorities to personnel not lower than the position of technical section supervisor.

6. *For Information Contact.* Colleen M. Then, Procedures Branch, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202) 566-7602.

7. *Effective Date.* This delegation order becomes effective on November 10, 1987.

Approved: October 29, 1987.

W.T. Drake,

Acting Director.

[FR Doc. 87-26009 Filed 11-9-87; 8:45 am]

BILLING CODE 4810-13-M

Fiscal Service

[Dept. Circ. 570, 1987 Rev., Supp. No. 8]

Surety Companies Acceptable on Federal Bonds; Atlantic Casualty and Fire Insurance Co.

A certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1987 Revision, on page 24606 to reflect this addition:

Atlantic Casualty and Fire Insurance Co. *Business Address:* P.O. Box 6108, Columbia, South Carolina 29260-6108. *Underwriting limitation* [b]: $882,000. Surety Licenses [c]: SC. *Incorporated in:* South Carolina. *Federal Process Agents* [d].

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in

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Department Circular 570, with details as to Underwriting Limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Department of Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20226, telephone (202) 634–2214.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

Dated: October 28, 1987.

[FR Doc. 87–25681 Filed 11–9–87 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1987 Rev., Supp. No. 7]

Surety Companies Acceptable on Federal Bonds; Contractor's Bonding and Insurance Co.

The above mentioned company was listed in 52 FR 24609, July 1, 1987, as a surety company acceptable on Federal bonds. Federal bond-approving officers are hereby notified that Contractor's Bonding and Insurance Company is required by State law to conduct business in the State of California as CBIC Bonding and Insurance Company.

Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1987 Revision, to indicate that CBIC Bonding and Insurance Company is acceptable on Federal bonds in the State of California.

Questions concerning this notice may be directed to the Department of Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20226, or by calling (202) 634–2119.

Dated: October 26, 1987.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 87–25982 Filed 11–9–87; 8:45 am]

BILLING CODE 4810-35-M

PRESIDENTIAL COMMISSION ON THE HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIC

Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the Presidential Commission on the Human Immunodeficiency Virus Epidemic will hold a public meeting on Tuesday, November 24, 9:00 a.m. to 5:00 p.m. at the National Academy of Science Lecture Room, 2101 Constitution Avenue, Washington, DC 20418.

The meeting will consist of (1) a presentation by the Institute of Medicine/National Academy of Sciences and the American Medical Association and (2) a discussion of the content of the interim report. Agenda items subject to change as priorities dictate.

Records shall be kept of all commission proceedings and shall be available for public inspection at 655–15th Street, NW., Suite 901, Washington, DC 20005.

Polly V. Gault,

Executive Director, Presidential Commission on the HIV Epidemic.

[FR Doc. 87–26239 Filed 11–9–87; 12:15 pm]

BILLING CODE 4160-15-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 217
Tuesday, November 10, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:30 p.m. on Wednesday, November 4, 1987, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to discuss a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director Robert L. Clarke (Comptroller of the Currency), seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: November 5, 1987.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Assistant Executive Secretary (Operations).

[FR Doc. 87–26082 Filed 11–6–87; 12:24 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:00 p.m. on Tuesday, November 3, 1987, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider:

(A) The application of McKinley Federal Savings and Loan Association of Niles (to be known as The McKinley Bank), an operating non-FDIC-insured savings and loan association located in Niles, Ohio, for Federal deposit insurance;

(B) Recommendations regarding administrative enforcement proceedings initiated against certain insured banks; and

(C) A request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director Robert L. Clarke (Comptroller of the Currency), seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: November 6, 1987.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 87–26083 Filed 11–6–87; 12:24 pm]

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 11:15 a.m., Friday, November 6, 1987.

PLACE: Room 532, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: An appropriate response to Chairman Dingell's request for documents regarding the Commission's position on regulation of airline advertising.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326–2179, Recorded Message: (202) 326–2711.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 87–26122 Filed 11–6–87; 3:54 pm]

BILLING CODE 6750-01-M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 1:30 p.m., Friday 6 November 1987.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW.

STATUS: Closed to public observation pursuant to 5 U.S.C. 552b(c)(9)(B) (premature disclosure of information where such disclosure would be likely to significantly frustrate implementation of a proposed agency action).

MATTERS TO BE CONSIDERED:

Personnel matters

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC 20570, Telephone (202) 254–9430.

Dated, Washington, DC, 6 November 1987.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 87–26123 Filed 11–6–87; 3:55 pm]

BILLING CODE 7445-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 41386 October 27, 1987].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, October 22, 1987.

CHANGE IN THE MEETING: Additional items.

The following items were considered at a closed meeting on Tuesday, October 27, 1987, at 10:00 a.m.:

Litigation matters.

Commissioner Fleischman, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272–2149.

Jonathan G. Katz,

Secretary.

November 5, 1987.

[FR Doc. 87–26089 Filed 11–6–87; 12:24 pm]

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SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 42174 November 3, 1987].

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, October 29, 1987.

CHANGE IN THE MEETING: Deletion.

The following item was not considered at an open meeting on Thursday, November 5, 1987, at 10:00 a.m.:

Consideration of whether to adopt amendments to Rule 174 under the Securities Act of 1933. The amendents would reduce the 40 to 90 day period during which dealers must deliver prospectuses in aftermarket securities transactions following public offerings. The Commission also will consider adopting conforming amendments to Item 502(e) of Regulation S-K and Rule 15c2-8 under the Exchange Act of 1934. For further information, please contact Larise Dobriansky at (202) 272-2589.

Commissioner Fleischman, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed , please contact: Judith Axe at (202) 272-2092.

Jonathan G. Katz,

Secretary.

November 5, 1987.

[FR Doc. 87-26090 Filed 11-6-87; 12:24 pm]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1395]

TIME AND DATE: 10 a.m. (e.s.t.), Thursday, November 12, 1987.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on October 21, 1987.

Discussion Item

1. Process for Achieving Environmental Goals and Objectives.

Action Items

A—Budget and Financing

A1. Modification of Fiscal year 1988 Capital Budget Financed from Power Proceeds and Borrowings—161-kV Transmission Project to Provide 161-kV Service to Newsprint South, Incorporated, near Grenada, Mississippi.

[1] A2. Modification of Fiscal Year 1988 Capital Budget Financed from Power Proceeds and Borrowings —161-kV Transmission Project Involving Gallatin Steam Plant—N. Nashville and Wilson-N. Nashville 161-kV Transmission Lines, to Accommodate Highway Work Being Performed by the Tennessee Department of Transportation.

B—Purchase Awards

B1. Letter of Agreement SK-17889A—Rental, Purchase, and Maintenance of IBM Copying Equipment, Accessories and Supplies for Division of Property and Services, Chattanooga, Tennessee.

B2. Requisition 14—Term Coal for 10-MW Spray Dry/Electro Static Precipitator Projector at Shawnee Steam Plant.

C—Power Items

C1. Modification to the Capacitor Reimbursement Arrangements with Distributors.

C2. Agreement under Memorandum of Understanding (Contract No. TV-58971A) with the Electric Power Development Company, LTD, for Cooperation in a Project to Evaluate the Use of Solid Oxide Fuel Cell Technology as a Viable Means of Producing Electrical Power.

D—Personnel Items

D1. Supplement to Personal Services Contract No. TV-67403A with BCP Technical Services, Inc., New Orleans, Louisiana, for Engineering and Related Support Services at Browns Ferry Nuclear Plant. Requested by the Office of Nuclear Power.

D2. Personal Services Contract with Wyle Laboratories for Test Services in Support of Engineering, Operations, Maintenance, and Licensing of the Nuclear Power Plants.

E—Real Property Transactions

E1. Sale of Noncommercial, Nonexclusive Permanent Recreation Easements to Two Applicants for Construction, Operation, and Maintenance of Private Water Use Facilities, Affecting a Total of 0.27 Acre of Tellico Reservior Shoreline in Monroe County, Tennessee—Tract Nos. XTELR-54RE and -55RE.

F—Unclassified

F1. Supplement to Agreement No. TV-60244A with Office of Surface Mining, U.S. Department of the Interior, for Aerial Photographic and Related Activities to be Performed by TVA.

F2. Interagency Agreement No. TV-73046A with U.S. Environmental Protection Agency for Technical Assistance in the Conduct of a Remedial Investigation/Feasibility Study of the Amnicola Dump Site in Chattanooga, Tennessee.

F3. Supplement to Subagreement to Memorandum of Agreement No. TV-23028A between TVA and U.S. Department of the Army, Corps of Engineers, for Installation of Gear Reducers at Pickwick Main Lock.

F4. Memorandum of Agreement between the U.S. Army Engineer District, Little Rock, and the Tennessee Valley Authority, Office of Agricultural and Chemical Development, Covering Arrangements for Engineering Support Services at the U.S. Army Pine Bluff Arsenal, Arkansas.

F5. Revised Bulletin Relating to the Organization of the Tennessee Valley Authority.

F6. Appointment of Robert L. Yates to the Board of Directors of the Tennessee Valley Authority Retirement System in Place of the TVA Comptroller.

F7. Authority to Write Off Uncollectible Accounts Receivable.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: November 5, 1987.

W.H. Thompson,

Manager of Employee Relations.

[FR Doc. 87-26071 Filed 11-6-87; 11:43 am]

BILLING CODE 8120-01-M

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[1] Item approved by individual Board members. This would give formal ratification to the Board's action.

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federal register

Tuesday
November 10, 1987

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 14

Humane and Healthful Transport of Wild Mammals and Birds to the United States; Final Findings and Rule

VOL 52 ISS 217 NOV 10 1987 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

Humane and Healthful Transport of Wild Mammals and Birds to the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final findings and rule.

SUMMARY: This rule establishes regulations pertaining to the humane and healthful transport of wild mammals and birds to the United States. These regulations enable the Secretary of the Interior to meet responsibilities delegated by the Lacey Act Amendments of 1981 (Pub. L. 97–89, 95 Stat. 1073). Rules covering humane and healthful transport of fish, reptiles, amphibians, mollusks, crustaceans, arthropods, coelenterates, and other invertebrates included in the Lacey Act will be promulgated at a later date.

EFFECTIVE DATE: February 8, 1988.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Acting Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, 1000 North Glebe Road, Room 620, Arlington, Virginia 22201, telephone (703) 235–1937.

SUPPLEMENTARY INFORMATION: On November 16, 1981, the President signed into law the Lacey Act Amendments of 1981 (Pub. L. 97–79, 95 Stat. 1073). Section 9 of those amendments assigned authority for promulgating regulatory requirements for the humane and healthful transport of wild animals and birds to the Secretary of the Interior. In light of the importance of this mandate and the complexity of tailoring specific regulations to the needs of a major part of the animal kingdom, the United States Fish and Wildlife Service (hereinafter the Service) sought to maximize public involvement in the drafting process.

On February 26, 1982, the Service published in the **Federal Register** (47 FR 8366) a notice announcing a public meeting to be held on March 28, 1982, in Washington, DC, to receive information and comments regarding the development of regulations aimed at satisfying this responsibility. The meeting was attended by approximately 31 individuals representing the zoo community, persons engaged in the shipping and carrying of live animals, organizations concerned with the humane treatment of wild animals and several concerned Federal agencies.

On June 30, 1982, the Service published in the **Federal Register** (47 FR 28432) a notice of intent which summarized the issues raised and discussed at the March 28, 1982, public meeting and gave notice to all interested persons that comments and proposals for regulations must be received on or before July 31, 1982, in order to be assured consideration.

In general, comments from representatives of humane organizations stressed the need for stringent regulations to ensure the humane and healthful transport to the United States of wild animals and birds. Comments from carriers indicated that the present "Live Animals Regulations" of the International Air Transport Association (IATA) were adequate and that there was no need for further regulation. Representatives of zoological parks, the pet industry, and other importers indicated their concern over the possible effects of regulation on the shipment of such animals and stressed the need for such regulations to be flexible and not cause the carriers to discontinue the shipment of live animals.

While transport of some wildlife in the United States is subject to regulations pertaining to humane procedures under the Animal Welfare Act (AWA) administered by the U.S. Department of Agriculture (for mammals in interstate commerce), the humane and healthful transport of wild mammals and birds into the United States has not been comprehensively regulated. Development of transport norms has largely been undertaken by international groups whose recommendations are advisory only and do not have the force of law.

The International Air Transport Association (IATA) has developed guidelines for member airlines to follow in transporting animals. Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) have also developed guidelines similar to the IATA guidelines applicable to the shipment of wild animals. Since many importers, carriers, and shippers are familiar with provisions of the AWA governing the humane transport of mammals, the "Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants" developed by the Parties of CITES, and IATA's "Live Animals Regulations" the Service used those three documents as a basis from which to develop these regulations. By integrating the three systems now in effect, the Service hopes to satisfy the intent of Congress with regard to humane and healthful shipment, as well as minimize the impact on persons involved in the international shipment of wildlife to the United States. For non-human primates, the Service relied on the "Interagency Primate Steering Committee Guidelines" developed by the United States National Institutes of Health sponsored Interagency Primate Steering Committee. That committee, composed of an inter-agency group of scientists, concerns itself with matters related to the maintenance in captivity of non-human primates

On December 4, 1985, the Service published proposed rules in the **Federal Register** (50 FR 49709–49736) to implement the Department of Interior's responsibilities under the Lacey Act Amendments of 1981 governing the humane and healthful transport of wild animals to the United States. That proposal provided a 60-day period for receiving written comments. The comment period expired on February 3, 1986. That proposal, with appropriate modification, is, hereby, adopted as a final rule.

Comments and Information Received

Comments on the proposed rules were received from 46 interested persons and organizations. Specifically, written comments were received from 12 individuals, 8 pet industry representative, 5 mammal or bird breeders, 4 government agencies, 4 shippers, 4 international environmental agencies, 4 zoos or aquaria, 3 importers, 1 national environmental agency, and 1 veterinarian.

Comments Pertaining to Definitions

Commentors requested that the following terms be defined: Handle, wild, terrestrial mammals, scheduled departure time, unhealthy conditions, normal rigors of transportation, do not tip, professionally-accepted standards, holding area, shall be kept clean, and psychological trauma. Based upon these comments, definitions of these terms are included in § 14.102 of this subpart. The term "wild" has already been defined in 50 CFR 10.12 and thus a further definition is unnecessary. Additionally, "non-compatible" is defined.

Comments Pertaining to Enforcement of the Regulations

Several commentors expressed concern about who would be ultimately liable for non-compliance with these regulations and suggested that a United States importer could be criminally convicted without a court trial. The Service takes the position that because the United States importer is responsible for initiating the import of the live wild mammal or bird from the country of origin to the United States, the importer must assume the responsibility of assuring the humane and healthful transport of the specimen to this country. This position does not limit the liability of any other party involved in the shipment process. These regulations do not and cannot modify constitutional protections of due process of the law and the right to a trial.

Concern was expressed by several commentors that these regulations may not be enforceable by the United States in a foreign country. This concern is misplaced since the Lacey Act authorizes enforcement within the jurisdiction of the United States. Further, the Service intends to enforce these regulations to the fullest extent of the law. One commentor suggested that the shipper be required to sign a statement of compliance with these regulations. The Service believes that requiring a signed statement by the shipper is unnecessary since she/he falls within the scope of this rule and thus it is presumed that she/he will comply with the regulations. Carriers bringing cargo into this country are subject to United States law relating to the cargo carried. This means that even if the care and treatment afforded live cargo is less than adequate prior to delivery to the carrier, once accepted, the carrier must comply with these regulations until delivery in the United States is complete. Additionally, when the shipper provides an attendant to accompany a live specimen, the carrier is not relieved of its duty to provide for the humane and healthful transport of the live specimen. Several comments concerned a perceived inability of carriers to properly handle live cargo; to provide appropriate environmental conditions during transit; or to have appropriate terminal facilities. One commentor referred to a 1985 IATA report stating that it is impossible to guarantee efficiency of aircraft ventilation systems. Voluntary international guidelines for humane transport have been in force for some time and it appears that many carriers may already be in compliance with these guidelines. The purpose of this regulation, which is identical to that of the international guidelines, is to provide for the humane and healthful transport of wild mammals and birds into the United States. As such, the Service believes that compliance with the requirements contained within this rule will not cause hardship to a carrier who has undertaken the task of transporting live specimens.

Further, the Service has authority to obtain information regarding compliance. At import, the Service can examine the carrier, any environmental records maintained by the carrier, and the delivered live cargo.

As suggested by one commentor, the Service can refuse to issue both import permits for mammals and birds requiring such documentation and Federal import/export licenses necessary to conduct such commerce to importers who violate these regulations. A United States importer, faced with the potential loss of importing privileges, will most likely not employ the services of suppliers, handlers or carriers who cannot or will not comply with these regulations and deliver live cargo in a humane and healthful manner.

Several comments concerned the realities that, due to the vagaries of weather, mechanical failure, or other unforeseen situations, no carrier can guarantee against unnecessary delays or that the most expeditious route is used. The Service realizes that such occurrences do happen and cannot be entirely avoided, however, it is recognized that these delays have as a consequence increased stress on the live cargo being transported. Therefore, it is important that delays and lay-overs be kept to a minimum. The carrier remains responsible for the care and welfare of the live cargo being transported should planned or unplanned delays or stop-overs occur. Further, it is recommended that the most direct route be utilized during transport in order to reduce stress on live specimens.

Comments Received Concerning Primary Enclosures

Numerous commentors expressed concern that interior space specifications for primary enclosures were questionable and could increase shipping costs; that ventilation requirements were improper; that each shipping crate should be equipped with a removable lower tray to collect waste; that shipping crates could be made from materials that had been treated or manufactured with substances that may prove harmful to the live contents; and that it would be nearly impossible to enforce shipping crate requirements where the shipper was unable to obtain suitable construction materials.

In developing the proposed regulations, the Service relied upon existing mammal and bird shipping, ventilation, and interior space requirements of the International Air Transport Association (IATA), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the regulations for interstate movement of mammals under the Animal Welfare Act (AWA), and the non-human primate transportation guidelines of the Interagency Primate Steering Committee (IPSC) of the National Institutes of Health.

Addressing the comments more specifically, the Service modified its proposal and now requires a removable lower tray or a solid, leak-proof primary enclosure bottom with suitable litter to collect and hold waste matter.

It is appropriate to consider carefully what materials are used to construct a live mammal or bird shipping enclosure because the contained specimen may chew on or into the enclosure and be adversely affected by hazardous materials on or in the construction material. The Service modified appropriate passages to reflect this concern.

In consideration of the rather general requirements of shipping enclosure construction materials in this subpart and in the IATA guidelines, it is difficult to foresee that a commercial shipper of live wild mammals or birds would not have access to appropriate materials. In the rare and unlikely instance where suitable and non-hazardous material is not available, logic dictates that the shipment should not occur.

Other comments concerned size of spacer bars, marking of enclosures, and size of lettering on enclosures. Spacer bar criteria have been adopted from existing CITES guidelines. Letter size will be maintained at 2.5 cm (1 inch) as this size best fits the space provided by standard construction materials and is easily read at normal cargo handling distances. The term "wild mammal" or "wild bird" was discussed as emotionally disturbing to airline personnel and cargo handlers, possibly resulting in a lack of attention to such live cargo. The Service recognizes this problem and will require enclosures of such cargo to be labeled "live mammal" or "live bird". This is justified as such live cargo should receive the same humane and healthful treatment whether "wild" or domesticated.

Several commentors mentioned that IATA guidelines allow cetacean pectoral flippers and dorsal fins to extend beyond the primary enclosure. IATA guidelines permit cetacean dorsal fins to extend upward through the open top of specially constructed primary enclosures designed to protect the mammal. However, pectoral flippers are required to be extended through a supporting sling, if used, there being at least a 3-inch clearance between the stretcher bars and the sides of the enclosure. The Service, after soliciting information from marine mammal authorities, maintains that a 3-inch clearance between any body part and

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the sides of the primary enclosure is appropriate.

In response to a question concerning live giraffe transport: live giraffe are to be transported completely contained in a primary enclosure the height of which shall extend above the shoulders. The top of such enclosure is to be padded to protect the animal's neck and shoulders. In addition, padding should be placed so as to protect the animal's head whether enclosed or not.

Comments Concerning Temperature Requirement for Animals in Transit

Comments ranged from concurrence with the proposed regulations to claims that the suggested temperatures were too high, too low, or that recommended exposure times to certain temperatures were excessive. As explained in the preceding section, the Service relied upon existing and accepted animal transportation guidelines in developing the proposed regulations.

The Service does consider these temperature requirements necessary. The period between the time the live cargo is accepted at the Carrier's terminal until its physical arrival at the United States Quarantine Station or delivery to the United States importer represents the most stressful portion of the specimen's travel. As such, requiring human manipulation of the specimen's environment during this period is appropriate to assist in reducing live specimen stress or death.

One commentor suggested that the carrier be required to place recording thermometers in the cargo area with the mammals or birds to allow the verification of travel temperature conditions. Additionally, it was suggested that carriers install an alarm system to notify crew members of conditions which exceed the parameters listed within the regulations for the adequate provision of healthful and humane transit. The Service believes that such recording and alarm system should be installed at the option of the carrier. Subsection 14.112 prohibits carriers from allowing wild mammals or birds to be harmed or stressed by improper air temperature, pressure or ventilation. At the same time the Service recognizes, and many commenters stressed, the need of carriers for certainty of standards and for protection against unforeseeable events and reactions of wildlife. Accordingly, where harm or stress has occurred, a carrier will be permitted an affirmative defense under this sub-section if it demonstrates by convincing evidence, e.g., records of recording devices installed to monitor these parameters, that the standards laid out in these rules for temperature, pressure, and ventilation were met.

As a result of comments received regarding this issue, the Service finds that protection from cold requires more than placing a cover over live cargo exposed to temperatures below that required for the species. The final rule, therefore, reflects this need by requiring covering *and heating* the wild mammal or bird holding area or transporting device moving live cargo between the primary carrier(s) and the mammal or bird holding facility.

Concerns for Instructions Dealing with Food, Water, Medical and General Care While in Transit

Commentors recommended that animal care instructions be posted in air terminals, be securely fastened to enclosures, and should provide shorter feeding and watering schedules; that the shipper, not the carrier, be responsible for animal care; and that medical treatment be given only by appropriate persons.

The purpose of requiring securely fastened animal care instructions to the mammal or bird's primary enclosure is to afford instantly available information to the person attending the live cargo. Such information posted in the carrier's terminal is too far removed to be of assistance in an emergency situation.

The shipper must supply written directions conforming to professionally accepted standards of care regarding food, water, and other relevant requirements of the live specimen. For mammals or birds which require special or continual physical or medical care, the shipper shall provide a qualified individual to travel with the shipment. If the mammal or bird is shipped unattended, the carrier shall obtain proper emergency medical care for the live specimen as soon as possible after the need arises.

Comments Pertaining to Transport of Pregnant Mammals and Mothers with Nursing Young

Commentors generally agreed that mammals in the third trimester of pregnancy should not be transported and were opposed to shipping nursing mothers or unweaned young. The Service agrees with the commentors' appraisal of the danger of shipping last trimester pregnant mammals and changed the regulations to require that such mammals and mothers with nursing young not be transported except for necessary medical treatment and then only with certification by a qualified veterinarian appointed by the country in which transport begins. This is done with the understanding that it is not always possible to determine if a female mammal is pregnant, the degree to which a pregnancy has progressed, nor is it possible or safe to subject all female mammals to pregnancy testing.

The Service furthermore agrees that an unweaned infant should not be transported for necessary medical treatment without its mother unless accompanied by an attendant who will provide constant care for the animal.

Comments Concerning Food and Water Troughs

Concerns were presented that the proposed trough design was dangerous and would allow animals to escape; that water in a shipping enclosure would prove harmful to birds; and that some animals obtain their water from food and do not require access to a separate water supply.

These regulations require a food and water trough be securely attached (not necessarily "permanently") to the bottom of the primary enclosure in such a way that it can be filled from the outside of the enclosure. Such an arrangement is safer to the contained mammal or bird and easier for the carrier to maintain. The in-place containers are immediately ready for food and water to be presented to live cargo during shipping, at transfer points, during delays in transit, or at the end of travel in accordance with the shipper's written instructions.

It is recommended that a wooden plate with small holes be floated on the surface of the water trough to keep water available, but safe for birds which tend to dehydrate during transport.

The Service understands that some mammals and birds obtain body moisture from food, hence, the final rule states that appropriate food or water be provided as directed in writing by the shipper.

Comments Concerning Emergency Removal of Live Cargo from the Primary Conveyance

Several respondents believe that the carrier should not be required to remove non-human primates or dangerous mammals from the primary conveyance in the advent of an emergency. Once the carrier accepts live cargo it assumes the responsibility of transporting that cargo in a healthful and humane manner. If the emergency removal of a mammal or bird from the primary conveyance is required to fulfill the purpose and intent of this final rule, the carrier shall do so as expeditiously as possible.

Comments on Compatible Grouping of Specimens for Travel

Commentors pointed out a need to determine which species should travel individually and which in groups, e.g., compatible juvenile groupings. This final rule adopts criteria from already existing and accepted rules and guidelines of the IATA, AWA, CITES, and IPSC.

Comments Concerning Loading of Live Cargo on the Primary Conveyance

Concern was expressed that live cargo not be deliberately stored "out of sight;" that live cargo be first loaded and last unloaded; and that such cargo not be stored on the runway before or after loading.

Unless precluded by normal and unalterable carrier procedures, the actual loading of live cargo by a carrier should be left to an agreement between the shippper and the carrier. "First on and last off" for live cargo is recommended only when the cargo is to be off-loaded at the last stop. This will limit the number of times the live cargo will be stressed by handling and environmental changes. The final rule requires that the carrier not allow live cargo to be left sitting on the runway or dock for extended periods of time as this is stressful for the contained specimens. Furthermore, it is required that live cargo be inspected during transit if at all possible, maintained in a prepared bird or mammal holding area until loading time, and returned to a mammal or bird holding area for any lengthy waiting period while re-loading or change of carrier occurs.

Comments Concerning Health Certification

Commentors suggested that valid health certification will not be available from all foreign countries; that the required veterinary inspection times were too long or too short prior to transportation; that a health certificate is valid only if the veterinarian is competent with the species in question; that "appears to be healthy" is not a sufficient health statement; that a certificate of health does not prove the animal was properly maintained prior to shipment; that animals in transit may be better treated in United States quarantine than in the country of origin; and that an exemption in health certification should be made for sick or injured mammals or birds traveling to the United States for proper medical care.

The Service believes that all countries of the world are concerned with public health and disease prevention and as a consequence valid health certification should be available. Health examination schedules and holding periods prior to transit are adopted from existing and accepted regulations and guidelines. These regulations require that the veterinarian examining the animals be authorized by the government of the country of export. It is incumbent upon the exporting government to evaluate the qualifications of the examining veterinarian. Veterinary officials report that a field examination can effectively produce a certification of apparent health and that quarantine at import provides opportunities to more fully examine the mammal or bird for hidden disease or illness. As stated previously, the Service believes that less than adequate care of live cargo and improper or unreliable health certification will cause United States importers to find and use individuals who can and will satisfy these regulations. The Service modified the final rule to reflect that sick or injured mammals or birds be afforded the opportunity of proper medical care in the United States.

Comments Concerning the 6-Hour Pre-Loading Arrival at the Primary Carrier

Commentors explained that there should be some flexibility in arrival time due to adverse road conditions, breakdown of equipment, and because foreign countries are involved; that some animals might benefit from additional resting time before being loaded onto the primary carrier; that some carriers require cargo to be on hand more than 6 hours before departure; and that transit schedule changes on intermediate carriers may not permit the live cargo to arrive exactly 6 hours prior to the next transit time.

The Service recognizes the legitimacy of these concerns and modified the final rule to require arrival of live cargo no less than 6 nor more than 12 hours prior to transport.

Comments Concerning Security of Primary Enclosures

Concern was expressed that primary enclosures "locked" with a padlock and key would create problems with keys and ready access to the live cargo in case of an emergency. The Service's intent is for the shipping crate to be securely fastened with an "animal-proof" security device that will contain the mammal or bird, but that can be readily opened by the carrier or attendant. Final regulations are re-worded to express this requirement.

Comments Concerning Nectar Feeding Birds in Transit

Commentors explained that hummingbirds travel better when not caged, but isolated, wrapped, hand-carried, and hand-fed. The Service was also informed that when traveling caged, these birds travel safer when fed with a flow nectar feeding bottle than with the more familiar hanging bottle feeder. The Service recognizes that there is more than one way to transport hummingbirds and acknowledges this in the final regulations.

General Comments Concerning the Regulations

Several commentors mentioned that openings in conveyances usually expose live cargo to heat, exhaust, and gases and questioned the purpose of this rule's prohibition to such practice. The purpose of these regulations is to protect live cargo from such exposure.

It was recommended that required written material be in the language of the country of origin and in English. The Service concurs that acceptable health certification in a foreign language is permissible if accompanied by an English translation. Furthermore, English is both the airline industry's common language and an official CITES language.

Miscellaneous

In addition to the changes discussed above, certain other non-substantive changes have been made in the final rule for editorial purposes.

Effective Date of the Rule

This final rule will become effective 90 days from publication in order to allow the information to be disseminated throughout the worldwide industry and to allow affected parties time to prepare their operations to comply with these regulations.

Determination of the Effects of the Rule

An Environmental Assessment was prepared with regard to this action and finalized on August 16, 1983. A Finding of No Significant Impact was signed on August 18, 1987.

The Service determines that this final rule concerning the humane and healthful transport of wild mammals and birds to the United States is not a major Federal action that would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act and, therefore, preparation of an Environmental Impact Statement is not required.

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Regulatory Flexibility Act

The Service determines that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). The total value of imported wildlife in recent years has been less than forty million dollars and the bulk of these importations already comply with voluntary standards which parallel those of this rule. Cost increases to the remaining shippers will likely be offset by higher survival rates by their cargo. Since all importers, foreign and domestic, will be equally affected, there should be no measureable effect on the ability of dometic enterprises to compete.

Paperwork Reduction

This final rule does not contain any information collection or record keeping requirements as defined by the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)).

Authors

The authors of this final rule are Mr. S Ronald Singer and Dr. Jo Anne L. Garbe, Federal Wildlife Permit Office, United States Fish and Wildlife Service, Department of the Interior, Washington, DC 20240 (703/235–2418). Dr. Harvey A. Kryder was detailed to the Federal Wildlife Permit Office, from Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture to assist in drafting the proposed rule.

List of Subjects in 50 CFR Part 14

Exports, Fish, Imports, Labeling, Reporting requirements, Transportation and wildlife.

Regulations Promulgation

Accordingly, Part 14 of Chapter I of Title 50 of the Code of Federal Regulations is hereby amended to read as follows:

PART 14—[AMENDED]

1. The authority citation for Part 14 is revised to read as follows:

Authority: 18 U.S.C. 42; 16 U.S.C. 3371–3378; 16 U.S.C. 1538(d)–(f), 1540(f); 16 U.S.C. 1382; 16 U.S.C. 704,712; 31 U.S.C. 483(a); 16 U.S.C. 852(c).

2. Add new Subpart J, consisting of §§ 14.101 through 14.204, to read as follows:

Subpart J—Standards for the Humane and Healthful Transport of Wild Mammals and Birds to the United States

Sec.
14.101 Purposes.
14.102 Definitions.
14.103 Prohibitions.
14.104 Certificates.
14.105 Consignment to carrier for transport.
14.106 Primary enclosures used to transport live wild mammals or birds.
14.107 Primary conveyance (motor vehicle, rail, air, and water).
14.108 Food and water requirements.
14.109 Care in transit.
14.110 Terminal facilities.
14.111 Handling.
14.112 Harm to wild mammals or birds during shipment.

Specifications for the Humane and Healthful Transport of Non-Human Primates

14.121 Consignment to carrier for transport.
14.122 Primary enclosures used to transport live non-human primates.
14.123 Food and water requirements.
14.124 Care in transit.
14.125 Handling.

Specifications for the Humane and Healthful Transport of Marine Mammals (Cetaceans, Sirenians, Sea Otters, Pinnipeds, and Polar Bears)

14.131 Consignment to carrier for transport.
14.132 Primary enclosures used to transport live marine mammals.
14.133 Food and water requirements.
14.134 Care in transit.
14.135 Handling.

Specifications for the Humane and Healthful Transport of Elephants and Ungulates

14.141 Consignment to carrier for transport.
14.142 Primary enclosures used to transport live elephants and ungulates.
14.143 Handling.

Specifications for the Humane and Healthful Transport of Terrestrial Mammals (Excluding Elephants and Ungulates)

14.151 Consignment to carrier for transport.
14.152 Primary enclosures used to transport live terrestrial mammals.
14.153 Handling.

Specifications for the Humane and Healthful Transport of Sloths, Bats, and Flying Lemurs (Cynocephalidae)

14.171 Consignment to carrier for transport.
14.172 Primary enclosures used to transport live sloths, bats, and flying lemurs (Cynocephalidae).
14.173 Handling.

Specifications for the Humane and Healthful Transport of Perching Birds Including, But Not Limited to, Passerines, Parrots, Hornbills, Nectar-Feeding Birds, and Toucans

14.181 Consignment to carrier for transport.
14.182 Primary enclosures used to transport live perching birds.
14.183 Terminal facilities.
14.184 Handling.

Specifications for the Humane and Healthful Transport of Raptorial Birds Including, But Not Limited to, Hawks, Owls, and Vultures

Sec.
14.191 Consignment to carrier for transport.
14.192 Primary enclosures used to transport live raptorial birds.
14.193 Terminal facilities.
14.194 Handling.

Specifications for the Humane and Healthful Transport of Water Birds and All Other Birds

14.201 Consignment to carrier for transport.
14.202 Primary enclosures used to transport live water birds and all other birds.
14.203 Terminal facilities.
14.204 Handling.

Subpart J—Standards for the Humane and Healthful Transport of Wild Mammals and Birds to the United States

§ 14.101 Purposes.

The purpose of this subpart is to prescribe importation requirements necessary to ensure that live wild mammals and birds shipped to the United States arrive alive, healthful, and un-injured, and that transportation of such animals occurs under humane and healthful conditions. These regulations implement section 9(d) of the Lacey Act Amendments of 1981.

§ 14.102 Definitions.

In addition to the definitions contained in Part 10 of this sub-chapter B, and unless the context requires otherwise, in this subpart:

"Ambient air temperature" means the temperature of the air surrounding the wild mammal or bird;

"Carrier" means any person operating any airline, railroad, motor carrier, shipping line or other enterprise engaged in the business of transporting any wild mammal or bird for hire, commercial purposes, or for exhibition;

"Communicable disease" means any contagious, infectious, or transmissible disease of wild mammals or birds;

"Do not tip" means do not excessively rock or otherwise move from a vertical to a slanting position, knock over, or upset;

"Handle" means feed, manipulate, crate, shift, transfer, immobilize, restrain, treat or otherwise control the movement or activities of any wild mammal or bird;

"Holding area" means a designated area at or within a terminal facility which has been specially prepared to provide shelter and other requirements of wild mammals or birds being shipped to the United States and in which such mammals or birds are maintained while awaiting embarkation or debarkation prior to, during or following such shipment;

"In advanced stages of pregnancy" means pregnancy has exceeded 66.67 percent of the normal gestation period for the species concerned, the last trimester of pregnancy;

"Non-compatible" means not capable of existing together in harmony;

"Non-human primate" means any non-human member of the order Primates;

"Normal rigors of transportation" means an established level or pattern of well-being as affected by the stress of transportation;

"Old-world primate" means any non-human primate whose species origin is not within the western hemisphere;

"Primary conveyance" means the instrumentality for the main method of transportation used to transport an animal from origin to destination such as a motor vehicle, airplane, ship or train;

"Primary enclosure" means any structure used to restrict a mammal or bird to a limited amount of space, such as a cage, room, pen, run, compartment, pool, hutch, or compartment of a cage;

"Professionally-accepted standards" means conforming to a particular level of performance established by a body of qualified persons of the veterinary medical profession;

"Psychological trauma" means an episode that creates substantial and lasting damage to the behavioral development of an individual;

"Recently given birth" means the condition immediately following birth in which an animal has insufficient strength to perform physical activities or physiological functions normal for that species;

"Sanitize" means to make physically clean and, to the maximum degree practical, remove and destroy agents injurious to the health of wild mammals or birds;

"Scheduled departure time" means the time listed on a time-table of departures and arrivals or, in the absence of such time-tables, means the time of departure agreed to by the persons involved;

"Shall be kept clean" means to be maintained free from dirt, trash, refuse, excreta, remains from other cargo, and impurities of any type;

"Shipper" means any person, other than a carrier, involved in the transport of wild animals to the United States regardless of the purpose of such transport, e.g., exporter, importer, intermediate handler or his/her agent;

"Terrestrial mammals" means mammals other than marine mammals;

"Transport" means to move, convey, carry or ship by any means, or to deliver or receive for the purpose of movement, carriage, or shipment;

"Transporting device" means any interim vehicle or device, other than human, used to transport an animal between the primary conveyance and the terminal facility, or in and around the terminal facility of a carrier or within a primary conveyance;

"Unhealthy conditions" means an environmental or physical situation or condition that causes, or is conducive to, poor health of wild mammals or birds.

§ 14.103 Prohibitions.

Unless the requirements of this subpart are fully satisfied, and all other legal requirements are met, it is unlawful for any person to transport to the United States, cause to be transported to the United States, or allow to be transported to the United States any live wild mammal or bird. It shall be unlawful for any person to import, to transport, cause or permit to be transported to the United States any wild mammal or bird under inhumane or unhealthful conditions or in violation of this Subpart J.

§ 14.104 Certificates.

Any certificate satisfying the requirements of the provisions of this subpart that accompany a live animal or bird transported to the United States and written in a foreign language must be accompanied by an English translation.

§ 14.105 Consignment to carrier for transport.

No carrier shall accept any live wild mammal or bird for transport to the United States that has not been subjected to an examination by a qualified veterinarian authorized by the national government of the initial country from which the mammal or bird is being exported. Such an examination must be conducted within the specific time limit established by this rule prior to commencement of transport to the United States.

(a) An examination of live wild animals and birds must be conducted within 10 days prior to commencement of transport to the United States. A health certificate, signed by the examining veterinarian, stating that the animal has been examined, is healthy, appears to be free of any communicable disease and is able to withstand the normal rigors of transport must accompany the live mammal or bird. Mammals in the last trimester of pregnancy, if detectable using professionally-accepted standards, shall not be accepted for transport to the United States except for necessary medical care. Such a mammal must be accompanied by a certificate issued by a qualified veterinarian appointed by the country in which transport begins stating that the animal has been examined, the state of pregnancy evaluated, and that even with the medical condition requiring treatment, the animal is physically able to withstand the normal rigors of transportation to the United States. Nursing mothers with young shall be transported only if necessary for medical treatment, and then, only with appropriate veterinary certification. Unweaned young shall not be transported to the United States without its mother unless accompanied by an animal nurse or attendant and with veterinary certification for travel.

(b) Sick or injured live wild mammals or birds should be permitted transport to the United States if the primary purpose of such transport is for needed medical treatment. However, transport of such a mammal or bird is dependent upon the nature of the sickness or injury and veterinary certification that the specimen in question can withstand the normal rigors of travel in its present condition. Sick or injured animals shall be accompanied by an individual qualified in the care and treatment of such animals throughout the transport process. This individual shall be in possession of or have ready access to all medications to be administered during the transport.

(c) No carrier shall accept any live wild mammal or bird for transport to the United States presented by the shipper less than 6 hours or more than 10 hours prior to the scheduled departure of the primary conveyance on which it is to be transported.

(d) A carrier shall only accept for transport to the United States a live wild mammal or bird in a primary enclosure which conforms to the requirement for primary enclosures set forth in § 14.106 of this part.

(e) To ensure the humane and healthful transport of live wild mammals and birds to the United States, transport shall be accomplished by the carrier in the most expeditious manner with the least number of stop-overs possible.

§ 14.106 Primary enclosures used to transport live wild mammals or birds.

No carrier shall accept for transport to the United States any live wild mammal or bird in a primary enclosure that does not conform to the following requirements:

(a) Primary enclosures such as compartments, transport cages, cartons, or crates used to transport live wild

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mammals or birds shall be constructed in such a manner that:

(1) The structural strength of the enclosure shall be sufficient to contain the live wild mammal or bird and withstand the normal effects of transport;

(2) The interior of the enclosure shall be free from any protrusion that could be injurious to the live wild mammal or bird contained therein;

(3) Except as provided by exceptions in the section appropriate to the wild mammal or bird in question, no part of the live wild mammal or bird shall be allowed to extend or protrude outside of the primary enclosure in such a way that it may cause injury to the contained mammal or bird, to persons, animals that are nearby, or to handlers of the primary enclosure;

(4) Access to the primary enclosure shall be closed and secured with an animal-proof device designed to prevent accidental opening and release of the mammal or bird;

(5) The opening of such enclosures shall be easily accessible for emergency removal of the live wild mammal or bird by authorized personnel;

(6) The primary enclosure shall have sufficient openings to ensure adequate circulation of air at all times. Except for permanently affixed primary enclosures used to transport live wild mammals or birds and an open top enclosure for large terrestrial and marine mammals, spacer bars or other devices shall be fitted to the exterior of all walls, roof and base of the primary enclosure to prevent obstruction of required ventilation openings and to provide an adequate air circulation space between the primary enclosure and any adjacent cargo or conveyance wall. The size of these spacer bars or other devices shall be relative to the size of the enclosure and the number of animals housed within such enclosure. The perpendicular distance from the side of the enclosure to the farthest edge of the spacer bar shall be at least 10% of the longest dimension of the wall, roof or base to which it is attached. When housing more than one animal in the primary enclosure the size of the spacer bars shall increase proportionally with the increase in number of animals housed per enclosure. Spacer bars may be integrated into the hand-hold requirements described in § 14.106(b), provided the hand-holds occur on the side(s) of the primary enclosure containing the ventilation opening. Primary enclosures constructed with one or more slanted walls containing ventilation openings do not require a spacer bar, but will still require hand-holds as described in § 14.106(b);

(7) The construction material of the primary enclosure shall not be treated with any paint, preservative, or other chemical that is injurious or otherwise harmful to the health or well-being of live wild mammals and birds.

(b) Except as provided in paragraph (e) of this section, adequate hand-holds or other devices for lifting by hand or to facilitate lifting and carrying by machine shall be made an integral part of the primary enclosure to enable the primary enclosure to be lifted without excessive tipping and to ensure that the person handling the primary enclosure will not be in contact with the live wild mammal or bird.

(c) Primary enclosures used to transport live wild mammals or birds shall have solid, leak-proof bottoms or removeable, leak-proof collection trays under a slatted or wire mesh floor to prevent leakage of body fluids or excreta. The slatted or wire mesh floor shall be designed and constructed so that the spacing between the slats or the holes in the mesh will not trap the limbs of mammals or birds contained within the enclosure. Such a primary enclosure shall contain unused litter of a suitable absorbent material on the solid bottom or in the leak-proof tray, in sufficient quantity to absorb and cover excreta. This litter should be safe and non-toxic to the live cargo contained in the enclosure. Furthermore, litter used in primary enclosures shall not resemble food or other material normally consumed by the mammal being transported. A leak-proof, solid-bottomed enclosure used to transport birds shall not contain litter, but shall be lined with unsoiled paper. Marine mammals transported in water, in a water-proof enclosure, a sling, or on foam are exempted from these litter requirements.

(d) If the primary enclosure has been previously used to transport or store wild mammals or birds, it shall be cleaned and sanitized in a manner that will destroy pathogenic agents and pests injurious to the health of live wild mammals and birds.

(e) Primary enclosures used to transport live wild mammals and birds, except where such primary enclosures are permanently affixed in the animal cargo space of the primary conveyance, shall be clearly marked in English on the outside of the top and one or more sides of the enclosure, in letters not less than 2.5 centimeters (1 inch) in height, "LIVE ANIMALS," "DO NOT TIP," "THIS SIDE UP," "ONLY AUTHORIZED PERSONNEL MAY OPEN CONTAINER," and other appropriate or required instructions. All enclosure sides shall also be conspicuously marked on the outside with arrows to indicate the correct upright position of the enclosure. These arrows should extend up the sides of the enclosure so that the point of the arrow is visible and clearly indicates the top of the enclosure.

(f) Food and water instructions as specified in § 14.108, information regarding what constitutes obvious signs of stress in each species being transported, and information about any drugs or medication to be administered by a qualified attendant or animal care expert shall be securely attached to each primary enclosure housing live wild mammals and birds. Copies of shipping documents accompanying the shipment shall also be securely attached to the primary enclosure. Original documents shall be carried in the carrier's pouch or manifest container, or by the shipper's attendant travelling with the live cargo.

(g) Food and water troughs shall be securely attached to the interior of the primary enclosure in such a manner that the troughs can be filled from outside the enclosure. Any access to these troughs should have provisions to securely close the opening with an animal-proof device to prevent escape of the contained mammal or bird. To prevent water spillage and to reduce the risk of birds drowning, a plate of wood the size of the interior of the bird enclosure water trough, pierced with several 1cm (0.375 in) diameter holes, shall be floated in the water trough and fixed in a manner such that it cannot be accidentally dislodged.

(h) In lieu of the requirements of § 14.106(a)(6), and § 14.106(b), when primary enclosure is permanently affixed within the animal cargo space of the primary conveyance so that the front opening is the only source of ventilation for such primary enclosure, the front opening shall open directly to the outside of the primary conveyance or to an un-obstructed aisle or passageway within the primary conveyance. Such front ventilation opening shall consist of at least 90 percent of the total surface area of the front wall of the primary enclosure and covered with bars, wire mesh or smooth expanded metal.

(i) The current space and design guidelines of the International Air Transport Association Live Animal Regulations shall be complied with by all parties involved in this activity. These space and design standards are deemed to meet the minimum requirements for space and design contained within this rule. In addition, the enclosure shall comply with any specific requirement found in the

appropriate sections of this subpart relating to the wild mammal or bird in question.

§ 14.107 Primary conveyance (motor vehicle, rail, air, and water).

(a) The animal cargo space of the primary conveyance used to transport live wild mammals or birds to the United States shall be designed, constructed, and maintained to ensure the humane and healthful transport of the live wild cargo contained therein at all times.

(b) The animal cargo space of the primary conveyance shall be constructed and maintained in a manner to prevent the harmful ingress of engine exhaust fumes and gases produced by the primary conveyance during transportation.

(c) No live wild mammal or bird shall be placed in an animal cargo space of a primary conveyance that does not have a supply of air sufficient for normal breathing for each live mammal or bird contained therein. Primary enclosures shall be positioned in the animal cargo space in such a manner that each live specimen has access to sufficient air for normal breathing.

(d) Primary enclosures shall be positioned in the primary conveyance in such a manner that in an emergency the primary enclosure containing mammals or birds can be easily and quickly removed.

(e) The interior of the animal cargo space shall be kept clean to ensure that live wild mammals or birds are not exposed to disease-causing agents.

(f) Live wild mammals or birds shall not be transported with any material, substance (e.g., dry ice) or device that may reasonably be expected to result in inhumane conditions or be injurious to the health of the live cargo unless all reasonable precautions are taken to prevent such conditions or injury.

§ 14.108 Food and water requirements.

(a) No carrier shall accept any live wild mammal or bird for transport to the United States unless written instructions from the shipper concerning food and water requirements of such live wild mammal or bird being transported is securely affixed to the outside of its primary enclosure. Such instructions shall be consistent with professionally-accepted standards of care and include, specifically, the quantity of water required, the amount and type of food, and the frequency of feeding and watering for the live wild mammal or bird necessary to fulfill the purposes of this subpart.

(b) Those species of wild mammals and birds requiring drinking water shall have potable water made available to them at all times prior to commencement of transport to the United States, during intermittent stop-overs, or as directed by the shipper's written instructions.

(c) Those species of wild mammals and birds obtaining their moisture from certain foods shall have such food made available to them at all times prior to commencement of transport to the United States and during stop-overs, or as directed by the shipper's written instructions.

(d) During a stop-over mammals or birds in transit should be observed no less frequently than once every four hours by the carrier for condition and given food and water according to § 14.108(a) and § 14.109(a). If distressed mammals or birds are observed during the required inspection, or at any time, a veterinarian or other person capable of providing proper care should be supplied by the carrier as soon as possible.

(e) The prescribed food shall be provided by the shipper unless otherwise contracted for between the parties.

(f) More specific food and water requirements will be found in the appropriate sections for the wild mammal or bird in question.

§ 14.109 Care in transit.

(a) During surface or water transportation to the United States, it shall be the responsibility of the carrier to visually observe each live wild mammal or bird as frequently as circumstances allow, but not less than once every 4 hours, to assure that they are receiving sufficient air for normal breathing, that ambient air temperatures are within prescribed limits appropriate for the wild mammal or bird in question, and that all other applicable standards are complied with. Such observations by the carrier shall also be to determine whether any of the live wild mammals or birds are in obvious distress and to attempt to correct conditions where observation discloses such distress, and to provide any needed veterinary care as soon as possible if no veterinarian, animal nurse, or qualified attendant is traveling with the shipment.

(b) The ambient air temperature for live wild mammals in an animal holding area, transporting device or primary conveyance shall not be allowed to fall below 7.2 degrees C (45 degrees F) nor be allowed to exceed 23.9 degrees C (75 degrees F). However, no live wild mammal shall be subjected to ambient air temperatures which exceed 21.1 degrees C (70 degrees F) for more than 4 hours at a time. Auxiliary ventilation, such as exhaust fans, vents, fans, blowers or air conditioning shall be used to reduce the ambient air temperature when the air temperature within such animal holding area, transporting device or primary conveyance is 21.1 degrees C (70 degrees F) or higher. Ambient air temperatures pertaining to holding and transport of live wild birds will be found in the section appropriate for the wild bird in question.

(c) When transported by air, live wild mammals or birds shall be visually observed by the carrier as frequently as circumstances may dictate, but not less than once every 4 hours if the animal cargo space is accessible during flight. Should the animal cargo space not be accessible during flight, the carrier shall visually observe the live wild mammal or bird whenever loaded and unloaded and whenever the animal cargo space is otherwise accessible to ensure that the live wild mammals or birds are receiving sufficient air for normal breathing, that the ambient air temperatures are within prescribed limits as specified in the section appropriate for the wild mammals or birds in question, that the air pressure maintained within the cargo area be suitable to support live specimens (pressurized equivalent to a maximum altitude of 8000 feet), and that all other applicable standards are complied with. Such observation by the carrier shall, also, be to determine whether any of the live wild mammals or birds are in obvious distress and to attempt to correct conditions where observation discloses such distress and to provide any needed veterinary care as soon as possible.

(d) Care shall be exercised to avoid handling the primary enclosure in such a manner that may cause physical or psychological trauma to the live wild mammal or bird contained therein.

(e) A primary enclosure used to move any live wild mammal or bird shall not be tipped, dropped, or otherwise mis-handled and shall not be stacked or placed in a manner that may reasonably be expected to result in its falling or being tipped.

(f) Animals which are incompatible shall not be crated together or held in close proximity to one another. These live specimens shall be maintained such that they are not within visual or olfactory contact.

(g) Unless prevented by normal aircraft loading procedures, the shipper and carrier shall agree that a cargo of wild mammals or birds travelling to the aircraft's final destination should be first loaded into the carrier and last off-loaded to reduce excess stress

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experienced during the wait on the runway or dock for handling and off-loading and re-loading at intermediate stop-overs. Movement between the primary conveyance and the carrier's wild mammal or bird holding area should be as expeditious as possible.

(h) To ensure the humane and healthful transport of the live wild mammals or birds to the United States, transport shall be accomplished by the carrier in the most expeditious manner, with the least number of stop-overs possible and without unnecessary delays.

§ 14.110 Terminal facilities.

(a) All terminal facilities used for live wild mammal or bird transport in the country of export, stop-over countries, and the United States shall contain within such facilities an animal holding area or areas. No carrier or shipper shall co-mingle live animal shipments with inanimate cargo in an animal holding area. Different species of non-human primates shall not be held in close proximity to each other in an animal holding area.

(b) Carriers and shippers holding any wild mammal or bird in an animal holding area of a terminal facility shall provide the following:

(1) A cleaned and sanitized holding area preventing accumulation of debris or excreta, destroying pathogenic agents, and minimizing vermin infestation so as to prevent harm and disease hazards to live wild mammals or birds;

(2) An effective program for the control of insects, ectoparasites, and pests of wild mammals or birds;

(3) Sufficient fresh air to allow the live cargo normal breathing. Ventilation shall be provided by means of windows, doors, vents, air conditioning, fans, blowers, or other means so as to minimize drafts, odors, and moisture condensation;

(4) Ambient air temperatures maintained within prescribed limits as specified in § 14.109(b) or more specific temperature limits found in the section appropriate for the wild mammal or bird in question.

§ 14.111 Handling.

Carriers shall not allow live mammals or birds to remain waiting for extended periods of time in unprepared live mammal or bird holding areas, but shall move live wild mammals or birds between an animal holding area of a terminal facility and the primary conveyance as expeditiously as possible. Carriers and shippers holding any live wild mammals or birds in a mammal or bird holding area of a terminal facility or transporting any wild mammal to or from the animal holding area of a terminal facility or between this holding area and the primary conveyance, including loading and unloading procedures, shall provide the following:

(a) *Shelter from sunlight and heat.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect a wild mammal or bird from the direct rays of the sun. The contained live wild mammal or bird shall not be subject to ambient air temperatures that exceed those specified in the section appropriate for the wild mammal or bird in question.

(b) *Shelter from precipitation.* Live wild mammals or birds shall be provided protection to allow them to remain dry during rain, snow or other forms of precipitation.

(c) *Shelter from cold weather.* Live wild mammals or birds shall be provided protection from cold when ambient air temperatures fall below minimum temperatures for the stated time periods specified in the section appropriate for the wild mammal or bird in question. Protection from the cold shall include, but not be limited to covering and heating of transport devices used to move the mammals or birds between the primary conveyance and the carrier's wild mammal or bird holding area.

(d) *Shelter from heat.* Live wild mammals or birds in prepared holding areas and in transporting devices shall be provided relief when ambient air temperatures rise above the maximum temperatures for the stated time periods in the section appropriate for the wild mammal or bird in question. Protection from heat shall include, but not be limited to, covering and cooling by air conditioning, fan, blower, or other means so as to minimize drafts, odors, and moisture condensation.

(e) *Protection from harassment.* Live wild mammals or birds in prepared holding areas and in transporting devices shall be protected from disturbances, including, but not limited to harassment by humans, other animals, or noxious machinery.

§ 14.112 Harm to wild mammals or birds during shipment.

No carrier shall permit a wild mammal or bird to be killed, injured or subjected to psychological trauma by exposure to harmful air temperature, pressure or inadequate ventilation. Provided that, this subsection shall not apply where it is established by convincing evidence that the wild mammal or bird was subjected during transport only to air temperature, air pressure and ventilation standards as required by this subpart. Such evidence shall be considered adequate which fully documents the air temperature, air pressure and ventilation conditions experienced by the wild mammal or bird as recorded during transport either through periodic personal observation or by automatic monitoring instruments.

Specifications for the Humane and Healthful Transport of Non-Human Primates

§ 14.121 Consignment to carrier for transport.

(a) In addition to the following more definitive requirements, all appropriate conditions of §§ 14.105–14.112 must also be satisfied.

(b) No carrier shall accept any live wild, old-world, non-human primate for transport to the United States unless a qualified veterinarian authorized by the national government of the country from which the non-human primate is being exported certifies that the non-human primate has a negative tuberculosis test and has been subjected to a holding and conditioning period of at least 7 days. Certification to this effect shall be included in the health certificate issued by the examining veterinarian.

§ 14.122 Primary enclosures used to transport live non-human primates.

(a) No more than one live non-human primate shall be transported in a primary enclosure. However, a mother and her nursing young being transported to the United States for medical treatment, an established male-female pair, a family group, a pair of juvenile animals that have not reached puberty, or other pairs of animals that have been habitually housed together may be shipped in the same primary enclosure. Individually housed non-human primates of different species shall not be shipped together in an enclosure having more than one compartment.

(b) Primary enclosures used to transport live non-human primates shall be large enough to ensure that each animal contained therein has sufficient space to turn around freely in a normal manner and can sit in an upright, hands down position without its head touching the top of the primary enclosure. However, non-human primates may be restricted in their movements according to professionally-accepted standards of care when such freedom of movement would constitute a danger to the contained live non-human primate, its handler, or other persons.

(c) Except as provided in § 14.108(h) when ventilation openings are located on two opposite walls of the primary enclosure, the ventilation opening on each wall shall be at least 30 percent of the total surface area of the wall and situated above the midline of the primary enclosure. If ventilation openings are located on all four walls of the primary enclosure, the ventilation openings on each wall shall be at least 20 percent of the total surface area of the wall and situated above the midline of the primary enclosure.

§ 14.123 Food and water requirements.

(a) All live non-human primates shall be provided potable water within 4 hours prior to commencement of transport to the United States unless otherwise directed by the shipper's written instructions. Carriers shall provide potable water to all live non-human primates at least every 12 hours after acceptance for transportation to the United States or as instructed by the shipper.

(b) Each live adult non-human primate 1 year of age or over shall have suitable food made available to it at least once in each 24 hour period and a live non-human primate less than 1 year of age shall have suitable food and water made available to it at least once every 12 hours by the carrier after acceptance for transportation to the United States, unless otherwise instructed by the shipper.

§ 14.124 Care in transit.

(a) If an intermediate stop lasts more than 4 hours, non-human primates shall be observed for condition and given food and water according to the shipper's instructions.

(b) Care shall be taken to keep non-human primates in primary enclosures separated in the primary conveyance so as to minimize the risk of spread of disease from one species to another.

§ 14.125 Handling.

Shelter from cold or heat. Live non-human primates shall be provided protection when the air temperature falls below 10 degrees C (50 degrees F) and shall not be subjected to ambient air temperatures that fall below 7.2 degrees C (45 degrees F) or above 30 degrees C (85 degrees F) for more than 45 minutes. When the ambient air temperature falls below 45 degrees F or rises above 85 degrees F, the non-human primate shall be immediately moved to a holding area with suitable temperature and ventilation. Protection from cold shall include, but not be limited to covering and heating of transporting devices used to move the non-human primate between the primary conveyance and the carrier's wild animal holding area or areas.

Specifications for the Humane and Healthful Transport of Marine Mammals (Cetaceans, Sirenians, Sea Otters, Pinnipeds, and Polar Bears)

§ 14.131 Consignment to carrier for transport.

(a) In addition to the following more definitive requirements, all appropriate conditions of §§ 14.105–14.112 must also be satisfied.

§ 14.132 Primary enclosures used to transport live marine mammals.

(a) Except for primary enclosures that are not completely enclosed, the primary enclosure shall have air inlets at heights of the enclosure that will provide cross ventilation at all levels (particularly when the marine mammals are in a prone position) and located on all four sides of the enclosure. Such ventilation openings shall comprise not less than 16 percent of the total surface area of each side of the enclosure. Spacer bars or other devices, as described in § 14.108(6) are required unless this primary container is permanently affixed in the animal cargo space of the primary conveyance.

(b) Straps, slings, harnesses, or other such devices, if used for body support or restraint when transporting marine mammals such as cetaceans or sirenians shall meet the following requirements:

(1) Such devices shall not prevent access to marine mammals by attendants during transportation for the purpose of administering in transit care;

(2) Such devices shall be equipped with special padding to prevent trauma or injury at contact points on the body of the marine mammal;

(3) Slings or harnesses shall allow free movement of the flippers outside of the harness or sling;

(4) Such devices shall be capable of keeping the mammals from thrashing about and causing injury to themselves or their attendants, and yet be adequately designed so as not to cause injury to the mammals.

(c) Primary enclosures used to transport live marine mammals shall be large enough to assure that:

(1) Sea otters and polar bears have sufficient space to turn about freely in a stance whereby all four feet are on the floor and the mammal can sit in an upright position, stand or lie in a natural position;

(2) Each pinniped shall have sufficient space to lie in a natural position;

(3) There shall be at least 3 inches of clearance between any body part and the primary enclosure if a sling, harness or other body supporting device is used for a cetacean, sirenian or other marine mammal;

(4) Certain species shall be restricted in their movements according to professionally-accepted standards of care when freedom of movement would constitute a danger to the animals, handlers or other persons.

(d) Marine mammals transported to the United States in the same primary enclosure shall be of the same species and maintained in compatible groups. Marine mammals that have not reached puberty shall not be transported in the same primary enclosure with adult marine mammals other than their mothers. Socially dependent animals (e.g., sibling, mother and offspring) transported in the same primary conveyance shall be allowed visual and olfactory contact. Female marine mammals shall not be transported in the same primary enclosure with any mature male marine mammal. An unweaned marine mammal transported without its mother may not travel without an attendant.

§ 14.133 Food and water requirements.

(a) Marine mammals shall not be transported for more than a period of 36 hours without being offered suitable food unless otherwise directed by the shipper's written instructions, or by the shipper's attendant travelling with the mammal.

(b) After feeding, these live specimens shall be rested for 6 hours prior to resuming transport in order to allow digestive and eliminative processes to occur.

§ 14.134 Care in transit.

(a) The shipper, or an authorized representative of the shipper of any marine mammal being transported to the United States, knowledgeable in the area of marine mammal care, shall accompany, in the same primary conveyance, cetaceans, sirenians, sea otters, pinnipeds, and polar bears during transportation to provide for the animal's health and well-being. This representative shall observe such marine mammals to determine whether or not they need veterinary care and to provide or obtain any needed veterinary care as soon as possible. Such person shall provide for cetaceans and sirenians during periods of transport by:

(1) Keeping the skin moist or preventing the drying of the skin by such methods as covering with wet cloths, intermittent spraying of water or application of a non-toxic emollient, such as lanolin;

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(2) Assuring that the pectoral flippers shall be allowed freedom of movement at all times;

(3) Making adjustments in the position of such marine mammals when necessary to prevent necrosis of the skin at weight pressure points; and

(4) Calming such marine mammals to avoid struggling, thrashing, and other unnecessary activity which may cause over-heating or physical trauma.

(b) Not less than one-half of the floor area in a primary enclosure used to transport sea otters to the United States shall contain sufficient crushed ice or ice water to provide each sea otter contained therein with moisture necessary to maintain its hair coat by preventing it from drying and to minimize soiling of the hair coat with urine and fecal material. However, the shipper's attendant accompanying the sea otter may direct different care when required for the health and well-being of the sea otter.

(c) Wild or otherwise dangerous marine mammals shall not be taken from the primary enclosure except under extreme emergency conditions and then only by their attendant or other authorized individuals who are capable of handling such mammals safely.

§ 14.136 Handling.

(a) *Shelter from sunlight and heat.* When sunlight is likely to cause overheating and discomfort, sufficient shade shall be provided to protect a live marine mammal from the direct rays of the sun and such live marine mammal shall not be subjected to surrounding air temperatures that exceed 21.1 degrees C (70 degrees F).

(b) *Shelter from cold weather.* Transporting devices shall be covered and heated to provide protection for marine mammals when the outdoor air temperature falls below 10 degrees C (50 degrees F). Marine mammals shall not be subjected to surrounding air temperatures that fall below 7.2 degrees C (45 degrees F). However, polar bears are exempt from this latter requirement and may be subjected to temperatures below 7.2 degrees C (45 degrees F).

Specifications for the Humane and Healthful Transport of Elephants and Ungulates

§ 14.141 Consignment to carrier for transport.

(a) In addition to the following more definitive requirements, all appropriate conditions of § 14.105–14.112 must also be satisfied.

(b) Species which grow antlers shall not be accepted for transport unless the antlers have been shed or surgically removed.

§ 14.142 Primary enclosures used to transport live elephants and ungulates.

(a) Except as provided in § 14.106(h) when required ventilation openings are located on two opposite walls of the primary enclosure, these ventilation openings on each wall shall be at least 16 percent of the total surface area of the wall. When ventilation openings are located on all four walls of the primary enclosure, the openings on the wall shall be at least 8 percent of the total surface area of the wall. At least one-third of the minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure.

(b) No more than one live elephant or ungulate shall be transported in a primary enclosure. However, a mother and nursing young may be shipped in the same primary enclosure if the transport is required for necessary medical treatment and traveling with veterinary certification described in § 14.105(a).

(c) Primary enclosures used to transport live elephants or ungulates shall be of a dimension that enables the animal to lie or stand in a natural upright position with the head extended while at the same time restricting the movement of the animal so that it is unable to somersault or roll over.

(d) The primary enclosure used to transport elephants or ungulates with horns or tusks shall be designed and constructed to prevent the animal's horns or tusks from becoming trapped or injuring themselves, other animals nearby, attendants or cargo handlers.

(e) Primary enclosures for elephants and ungulates should be so designed that an un-breakable water tray or trough may be slipped into the crate through a shallow trap door. The water container shall be securely hung on the outside of the primary enclosure and used to offer fresh water to the elephant or ungulate in accordance with § 14.108.

§ 14.143 Handling.

(a) *Shelter from sunlight and heat.* When sunlight is likely to cause overheating and discomfort, sufficient shade shall be provided to protect a live elephant or ungulate from the direct rays of the sun and such live elephant or ungulate shall not be subjected to surrounding ambient air temperatures that exceed 23.9 degrees C (75 degrees F).

(b) *Shelter from cold weather.* Transporting devices shall be covered and heated to provide protection for live elephants or ungulates when the outdoor air temperature falls below 10 degrees C (50 degrees F).

Specifications for the Humane and Healthful Transport of Terrestrial Mammals (Excluding Elephants and Ungulates)

§ 14.151 Consignment to carrier for transport.

(a) In addition to the following more definitive requirements, all appropriate conditions of § 14.105–14.112 must also be satisfied.

§ 14.152 Primary enclosures used to transport live terrestrial mammals.

(a) Except as provided in § 14.106(h) when required ventilation openings are located on two opposite walls of the primary enclosure, these ventilation openings on each wall shall be at least 16 percent of the total surface area of the wall. When ventilation openings are located on all four walls of the primary enclosure, the openings on each wall shall be at least 8 percent of the total surface area of the wall. At least one-third of the minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure.

(b) No more than one live terrestrial mammal shall be transported in a primary enclosure. However, a mother and her nursing young may be transported in the same primary enclosure if the transportation is to obtain necessary medical treatment and veterinary certification has been issued stating that the animal has been examined and is physically able to withstand the normal rigors of transport to the United States.

(c) More than one live small rodent may be transported in the same primary enclosure if they are the same species and maintained in compatible groups. Small rodents that are incompatible shall be transported in individual primary enclosures that are stored and transported so they are visually separated. Females with their young shall not be transported in primary enclosures with other animals. The following density guidelines shall be used when transporting small rodents that fall within the specified weight limitations:

DENSITY GUIDELINES FOR SMALL MAMMALS

	Max. No.	Space/Animal		Ht. of Box	
		cm²	in²	cm	in
Wt. in grams of unspecified rodents:					
220 or less	20	194	30	15	6
220–450	12	388	60	20	8
450–1000	6	770	120	25	10
1,000–5,000	2	2,310	360	30	12

(d) Primary enclosures used to transport live terrestrial mammals shall be large enough to ensure that each animal contained therein has sufficient space to turn around freely in a normal manner. The height of the primary enclosure shall provide adequate space for the animal to stand upright in a normal posture. The length of the primary enclosure shall be long enough to enable the terrestrial mammal to lie in a full prone position.

§ 14.153 Handling.

(a) *Shelter from sunlight and heat.* When sunlight is likely to cause overheating and discomfort, sufficient shade shall be provided to protect a live terrestrial mammal from the direct rays of the sun. Live terrestrial mammals shall not be subjected to surrounding air temperatures that exceed 23.9 degrees C (75 degrees F).

(b) *Shelter from cold weather.* Transporting devices shall be covered and heated to provide protection for live terrestrial mammals when outdoor air temperature falls below 10 degrees C (50 degrees F).

Specifications for the Humane and Healthful Transport of Sloths, Bats, and Flying Lemurs (Cynocephalidae)

§ 14.171 Consignment to carrier for transport.

In addition to the following more definitive requirements, all appropriate conditions of § 14.105–14.112 must be satisfied.

§ 14.172 Primary enclosures used to transport live sloths, bats, and flying lemurs (Cynocephalidae).

(a) Except as provided in § 14.106(h) of this section, when required ventilation openings are located on two opposite walls of the primary enclosure, the ventilation openings on each wall shall be at least 16 percent of the total surface area of the wall. When ventilation openings are located on all four walls of the primary enclosure, the openings on each wall shall be at least 8 percent of the total surface area of the wall. However, at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure.

(b) No more than one live sloth, bat or flying lemur (Cynocephalidae) shall be transported in a primary enclosure. However, a mother and her nursing young, an established male-female pair, a family group, a pair of juvenile animals that have not reached puberty, or other pairs of animals that have been habitually housed together may be shipped in the same primary enclosure.

(c) Primary enclosures used to transport live sloths, bats or flying lemurs (Cynocephalidae) shall be large enough to ensure that each animal contained therein has sufficient space to move freely and in a normal manner. Primary enclosures designed and constructed to transport sloths, bats or flying lemurs (Cynocephalidae) shall have a wide perch, bar or mesh of suitable strength fitted under the top of the primary enclosure and spaced from it in such a way that the animals may hang from it in their natural position.

§ 14.173 Handling.

(a) *Shelter from sunlight and heat.* When sunlight is likely to cause overheating and discomfort, sufficient shade shall be provided to protect a live sloth, bat or flying lemur (Cynocephalidae) from the direct rays of the sun. A live sloth, bat or flying lemur (Cynocephalidae) shall not be subjected to surrounding temperatures that exceed 23.9 degrees C (75 degrees F).

(b) *Shelter from cold weather.* Transporting devices shall be covered and heated to provide protection for live sloths, bats or flying lemurs (Cynocephalidae) when the outdoor air temperature falls below 10 degrees C (50 degrees F).

Specifications for the Humane and Healthful Transport of Perching Birds Including, But Not Limited to, Passerines, Parrots, Hornbills, Nectar-Feeding Birds, and Toucans

§ 14.181 Consignment to carrier for transport.

(a) In addition to the following more definitive requirements, all appropriate conditions of § 14.105–14.112 must also be satisfied.

(b) Personally owned pet birds that originated in the United States and are being returned to this country within 60 days of departure with their original United States health certificate do not require a new veterinary examination to be accepted by the carrier for transport to the United States.

(c) No carrier shall accept any live wild bird for transport to the United States that has been captured in the wild unless a qualified veterinarian authorized by the national government of the country from which the bird is being exported certifies that the bird has been subjected to a holding and conditioning period of at least 14 days. Certification to this effect shall be included in the health certificate issued by the examining veterinarian.

§ 14.182 Primary enclosures used to transport live perching birds.

(a) Primary enclosures for live wild birds shall have openings on two sides for ventilation so as to ensure adequate circulation of air at all times. These ventilation openings on each wall shall be at least 16 percent of the total surface area of the wall and be positioned so as to decrease the likelihood of creating a draft.

(b) Perches shall be provided for live wild birds that rest by perching. The diameter of the perch shall be large enough to permit the birds to maintain a firm, comfortable grip. Perches should be placed so that droppings do not fall into food or water troughs or onto other perched birds. There shall be enough head room to allow the birds to move on and off the perches without touching the top of the primary enclosure and to perch without the tail feathers being damaged.

(c) Primary enclosures used to transport live perching birds shall be large enough to ensure that the birds have sufficient perch space so that each bird can perch comfortably at the same time and that each bird has enough space to stretch each wing without contact with another bird and to turn around, but no flight is possible.

(d) Nectar-feeding birds transported free-to-move in primary enclosures shall be provided with either side hanging feeding bottles that are fitted with spouts projecting into the primary enclosure or flat feeding bottles fastened to the floor and which are accessible from outside for replenishment purposes. Nectar-feeding birds transported constrained and carried by hand shall be fed by hand in accordance with the instructions written by the shipper. The number of hummingbirds in a container shall be carefully controlled to avoid mortality by overcrowding.

(e) Live wild birds transported in the same primary enclosure shall be of the same species and maintained in congenial groups. Birds that are incompatible shall be placed in individual primary enclosures and these enclosures shall not be stored or transported in visual proximity to each other in order to reduce stress on the birds being transported.

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§ 14.183 Terminal facilities.

The ambient air temperature around any live perching bird in any mammal or bird holding area, transporting device, or primary conveyance shall not be allowed to fall below 12.8 degrees C (55 degrees F) nor be allowed to exceed 29.5 degrees C (85 degrees F). No perching bird shall be subjected to ambient air temperatures that exceed 26.7 degrees C (80 degrees F) for more than 4 hours at any time. Auxiliary ventilation such as exhaust fans, vents, fans, blowers or air conditioning shall be used to reduce the ambient air temperature to 26.7 degrees C (80 degrees F) or lower when the air temperature within such mammal or bird holding area is higher than 26.7 degrees C (80 degrees F).

§ 14.184 Handling.

(a) *Shelter from sunlight and heat.* When sunlight is likely to cause overheating and discomfort, sufficient shade shall be provided to protect a live perching bird from the direct rays of the sun. Temperatures shall be limited as indicated in § 14.183.

(b) *Shelter from cold weather.* Transporting devices shall be covered and heated to provide protection for live perching birds when the outdoor air temperature falls below 15.6 degrees C (60 degrees F).

Specifications for the Humane and Healthful Transport of Raptorial Birds Including, But Not Limited to, Hawks, Owls, and Vultures

§ 14.191 Consignment to carrier for transport.

(a) In addition to the following more definitive requirements, all appropriate conditions of § 14.105–14.112 must also be satisfied.

(b) Personally owned pet birds that originated in the United States and are being returned to this country within 60 days of departure with their original United States health certificate do not require a new veterinary examination to be accepted by the carrier for transport to the United States.

(c) No carriers shall accept any live wild raptorial birds for transport to the United States that have been captured in the wild unless a qualified veterinarian authorized by the national government of the country from which the bird is being exported certifies that the bird has been subjected to a holding and conditioning period of a least 14 days. Certification to this effect shall be included in the health certificate issued by the examining veterinarian.

§ 14.192 Primary enclosures used to transport live raptorial birds.

(a) The primary enclosure shall have openings on two sides for ventilation so as to ensure adequate circulation of air at all times. The ventilation openings on each wall shall be at least 16% of the total surface area of the wall and be positioned so as to decrease the likelihood of creating a draft. At least ⅓ of the openings shall be close to the floor so that the bird can see its food.

(b) Perches shall be provided for such wild birds that rest by perching. The diameter of the perch shall be large enough to permit the bird to maintain a firm, comfortable grip. Perches should be placed so that droppings do not fall into food or water troughs. There shall be enough head room to allow the bird to move on and off the perch without touching the top of the primary enclosure and without permitting the tail feathers to be damaged.

(c) Primary enclosures used to transport live wild raptorial birds shall be large enough to transport one bird comfortably and permit it to turn around freely and stretch its wings without injury. Only one wild raptorial bird shall be contained in each primary enclosure.

(d) Live wild birds that are incompatible shall not be stored or transported in visual proximity to each other to reduce stress on the birds.

§ 14.193 Terminal facilities.

The ambient air temperature around any live wild raptorial bird in any mammal or bird holding area, transporting device, or primary conveyance shall not be allowed to fall below 7.2 degrees C (45 degrees F) nor be allowed to exceed 29.5 degrees C (85 degrees F) at any time. No live wild raptorial bird shall be subjected to surrounding air temperatures that exceed 23.9 degrees C (75 degrees F) for more than 4 hours at any time. Auxiliary ventilation, such as exhaust fans, vents, fans, blowers or air conditioning shall be used to reduce the ambient air temperature when the air temperature within such mammal or bird holding area is 23.9 degrees C (75 degrees F) or higher.

§ 14.194 Handling.

(a) *Shelter from sunlight and heat.* When sunlight is likely to cause overheating and discomfort, sufficient shade shall be provided to protect a live raptorial bird from the injurious direct rays of the sun. Such live raptorial bird shall not be subjected to surrounding air temperatures that exceed 28.7 degrees C (80 degrees F) for a period of more than 45 minutes.

(b) *Shelter from cold weather.* Transporting devices shall be covered and heated to provide protection for live raptorial birds when the outdoor air temperature falls below 10 degrees C (50 degrees F).

Specifications for the Humane and Healthful Transport of Water Birds and All Other Birds

§ 14.201 Consignment to carrier for transport.

(a) In addition to the following more definitive requirements, all appropriate conditions of § 14.105–14.112 must also be satisfied.

(b) Personally owned pet birds that originated in the United States and are being returned to this country within 60 days of departure with their United States health certificates do not require a new veterinary examination in order to be accepted by the carrier for transport to the United States.

(c) No carrier shall accept any live wild bird for transport to the United States that has been captured in the wild unless a qualified veterinarian authorized by the national government of the country from which the bird is being exported certifies that the bird has been subjected to a holding and conditioning period of at least 14 days. Certification to this effect shall be included in the health certificate issued by the examining veterinarian.

§ 14.202 Primary enclosures used to transport live water birds and all other birds.

(a) Primary enclosures shall have openings on two sides for ventilation so as to ensure adequate circulation of air at all times. The ventilation openings on each wall shall be at least 16 percent of the total surface area of the wall and be positioned so as to decrease the likelihood of creating a draft.

(b) The primary enclosure for transport of water birds and all other birds shall be large enough for the birds to turn around, to lie down and to stand fully erect.

(c) Live wild birds transported in the same primary enclosure shall be of the same species and maintained in congenial groups. Birds that are incompatible shall be transported in individual primary enclosures and these enclosures should not be stored or transported within visual sight of each other to reduce stress on the birds being transported.

§ 14.203 Terminal facilities.

Except for penguins and auks the ambient air temperature around any live wild bird in any mammal or bird holding

area, transporting device, or primary conveyance shall not be allowed to fall below 7.2 degrees C (45 degrees F) nor be allowed to exceed 29.5 degrees C (85 degrees F) at any time. Birds other than penguins and auks shall not be subjected to air temperatures that exceed 18.3 degrees C (65 degrees F) for more than 4 hours at a time. When the air temperature exceeds 15.6 degrees C (60 degrees F) for penguins and auks and 23.9 degrees C (75 degrees F) for wild birds, auxiliary ventilation, such as exhaust fans, vents, fans, blowers or air conditioning shall be used to reduce the ambient air temperature to 15.6 degrees C (60 degrees F) or below for penguins and auks and to 23.9 degrees C (75 degrees F) or below for wild birds.

§ 14.204 Handling.

(a) *Shelter from sunlight and heat.* When sunlight is likely to cause overheating and discomfort, sufficient shade shall be provided to protect a live water bird or all other birds from the direct rays of the sun. Penguins and auks shall not be subjected to surrounding air temperatures that exceed 18.3 degrees C (65 degrees F) at any time.

(b) *Shelter from cold weather.* Transporting devices shall be covered and heated to provide protection for live water birds and all other birds when the outdoor air temperature falls below 10.0 degrees C (50 degrees F). Penguins and auks may be subjected to air temperatures which fall below 7.2 degrees C (45 degrees F).

Date: September 22, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–25931 Filed 11–9–87; 8:45 am]

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Part III

Department of Education

Office of Postsecondary Education

Notice of Availability of the 1987–88 National Defense/Direct Student Loan Programs Directory of Designated Low-Income Schools

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DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Availability of the 1987–88 National Defense/Direct Student Loan Programs Directory of Designated Low-Income Schools

AGENCY: Department of Education.

ACTION: Notice of availability of the 1987–88 National Defense/Direct Student Loan Programs Directory of Designated Low-Income Schools.

SUMMARY: The Secretary announces that the 1987–88 *National Defense/Direct Student Loan Program Directory of Designated Low-Income* Schools (Directory) is now available at institutions of higher education participating in the Perkins Loan Program, State and Territory Departments of Education and the United States Department of Education. Under the National Defense/Direct and Perkins Loan Programs, a borrower may have a portion of his or her loan cancelled if the borrower teaches full-time for a complete academic year in a selected elementary or secondary school having a high concentration of students from low-income families. In the 1987–88 Directory, the Secretary lists, on a State by State and Territory by Territory basis, the schools in which a borrower may teach during the 1987–88 school year to qualify for cancellation benefits.

DATE: The *Directory* is available on or before November 2, 1987.

ADDRESS: Information concerning specific schools listed in the *Directory* may be obtained from Ronald W. Allen, Campus-Based Programs Branch, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue SW, (Room 4651, ROB–3), Washington, DC 20202, Telephone (202) 732–3730.

FOR FURTHER INFORMATION CONTACT: Directories are available at (1) each institution of higher education participating in the Perkins Loan Program; (2) each of the fifty-seven (57) State and Territory Departments of Education; and (3) the U.S. Department of Education.

SUPPLEMENTARY INFORMATION: The Secretary selects the schools which qualify the borrower for cancellation under the procedures set forth in 34 CFR 674.53 and 674.54 of the National Defense/Direct and Perkins Loan Program regulations.

The Secretary has determined that for the 1987–88 academic year, full-time teaching in the schools set forth in the 1987–88 *Directory* qualifies for cancellation.

The Secretary is providing the *Directory* to each institution participating in the Perkins Loan Program. Borrowers and other interested parties may check with their lending institution, the appropriate State Department of Education, or the Office of Student Financial Assistance of the Department of Education concerning the identity of qualifying schools for the 1987–88 academic year.

The Office of Student Financial Assistance will retain, on a permanent basis, copies of past, current, and future *Directories.*

(Catalog of Federal Domestic Assistance Number 84.037; National Defense/Direct Student Loan Cancellations)

Dated: October 30, 1987.

C. Ronald Kimberling,

Assistant Secretary, Postsecondary Education.

[FR Doc. 87–26007 Filed 11–9–87; 8:45 am]

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Part IV

Department of Commerce

National Telecommunications and Information Administration

Public Telecommunications Facilities Program; Closing Date for Applications; Notice

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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Public Telecommunications Facilities Program; Closing Date for Applications

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Public Telecommunications Facilities Program; Notice of closing date for applications.

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, announces that applications are available for planning and construction grants for public telecommunications facilities under the Public Telecommunications Facilities Program administered by NTIA.

Applicants for grants under the PTFP must file their applications on or before January 20, 1988. Congress has not completed action on the appropriation for this program, if funds are available for the program for the fiscal year, NTIA anticipates making grant awards in mid-summer 1988.

Final rules for the Public Telecommunications Facilities Program were published on August 20, 1987 (52 FR 31496–31505, No. 161). Those rules will be the ones in effect for 1988 applications.

FOR FURTHER INFORMATION CONTACT: Dennis R. Connors, Acting Director, PTFP/NTIA/DOC, Room 4625, Washington, DC 20230. Telephone (202) 377–5802.

SUPPLEMENTARY INFORMATION:

I. Eligibility

A. To be eligible to apply for or receive a construction grant under the PTFP, an applicant must be:

(1) A public or noncommercial educational broadcast station;

(2) A noncommercial telecommunications entity;

(3) A system of public telecommunications entities;

(4) A nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes;

(5) a State or local government or agency or a political or special purpose subdivision of a State.

B. To be eligible to apply for and receive a PTFP Planning Grant, an applicant must be:

(1) Any of the organizations described in the preceding paragraph; or,

(2) A nonprofit foundation, corporation, institution, or association organized for any purpose except primarily religious.

II. Closing Date

Pursuant to § 2301.5 (c) of the PTFP Final Rules (52 FR 31496; 31501, (Aug. 20, 1987)), the Administrator of NTIA hereby establishes the closing date for the filing of applications for grants under the PTFP. The closing date selected for the submission of applications for 1988 is January 20, 1988.

III. Program Goals and Priorities

The Goals of this program, as stated in Section 390 of the Communications Act are:

To assist through matching grants, in the planning and construction of public telecommunications facilities in order to achieve the following objectives:

(1) Extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies;

(2) Increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and

(3) Strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.

The Agency has established the following Priorities for the PTFP:

Priority I—Provision of Public Telecommunications Facilities for First Radio and Television Signals to a Geographic Area

There are two subcategories:

A. Projects which include local origination capacity. This subcategory includes the planning or construction of new facilities which can provide a full range of radio and/or television programs including material that is locally produced. Eligible projects include new radio or television broadcast stations, new cable systems, or first public telecommunications service to existing cable systems, provided that such projects include local origination capacity.

B. Projects which do not include local origination capacity. This subcategory includes projects such as increases in tower height and/or power of existing stations and construction of translators, cable networks and repeater transmitters which will result in providing public telecommunications services to previously unserved areas.

Priority I and its subcategories only apply to grant applicants proposing to plan or construct new facilities to bring public telecommunications services to geographic areas which are presently unserved—i.e., areas which do not receive any public telecommunications services whatsoever. An applicant proposing to plan or construct a facility to serve a geographical area which is presently unserved, should indicate the number of persons who would receive a first public telecommunications signal as a result of the proposed project. (Television and radio are considered separately for the purposes of determining coverage.)

Under Priority 1B, NTIA will consider an area served when it receives a public television signal from a distant source through a cable system which has a penetration rate of 50 percent.

Priority II—Replacement of Basic Equipment of Existing Essential Broadcast Stations

Projects eligible for consideration under this category include the replacement of obsolete or worn out equipment in existing broadcast stations which provide either the only public telecommunications signal or the only locally originated public telecommunications signal to a geographical area.

In order to show that the replacement of equipment is necessary, applicants must provide documentation indicating excessive downtime, or a high incidence of repair (i.e., copies of maintenance logs. Letters documenting non-availability of parts should also be included.) Additionally, applicants must show that the station is the only public telecommunications station providing a signal to a geographical area or the only station with local origination capacity in a geographical area.

The distinction between Priority II and Priority IV is that Priority II is for the replacement of basic equipment for essential stations. Where an applicant seeks to "improve" basic equipment in its station (i.e., where the equipment is not "worn out"), or where the applicant is not an essential station, NTIA would consider the applicant's project under Priority IV.

Priority III—Establishment of First Local Origination Capacity in a Geographical Area

Projects in this category include the planning or construction of facilities to bring the first local origination capacity to an area already receiving public telecommunications services from distant sources through translators, repeaters or cable systems.

Applicants seeking funds to bring the first local origination capacity to an area already receiving some public telecommunications services may do so, either by establishing a new (and additional) public telecommunications facility, or by adding local origination capacity to an existing facility. (A source of a public telecommunications signal is distant when the geographical area to which the source is brought is beyond the grade B contour of the originating facility.)

Priority IV—Replacement and Improvement of Basic Equipment for Existing Broadcast Stations

Projects eligible for consideration under this category include the replacement of obsolete or worn out equipment and the upgrading of existing origination or delivery capacity to current industry performance standards (e.g., improvements to signal quality and significant improvements in equipment flexibility or reliability). As under Priority II, applicants seeking to replace or improve basic equipment under Priority IV should show that the replacement of the equipment is necessary by including in their applications data indicating excessive downtime, or a high incidence of repair (such as documented in maintenance logs).

Priority V—Augmentation of Existing Broadcast Stations

Projects under this priority would equip an existing station beyond a basic capacity to broadcast programming from distant sources and to originate local programming.

A. Projects to equip auxiliary studios at remote locations, or either to provide mobile origination facilities. An applicant must demonstrate that significant expansion in public participation in programming will result. This category includes mobile units, neighborhood production studios or facilities in other locations within a station's service area which would make participation in local programming accessible to additional segments of the population.

B. Projects to augment production capacity beyond basic level in order to provide programming or related materials for other than local distribution. This category would provide equipment for the production of programming for regional or national use. Need beyond existing capacity must be justified.

Special Applications

NTIA possesses the discretionary authority to award grants to eligible applicants whose proposals are so unique or innovative that they do not clearly fall within any of the listed priorities. Innovative projects submitted under this category must address demonstrated and substantial community needs (e.g., services to identifiable ethnic or linguistic minority audiences, services to the blind or deaf, instructional services or electronic text.)

IV. Application Forms and Regulations

To apply for a PTFP grant, an applicant must file a timely and complete application on a current form approved by the Agency. For 1988, application materials have been revised to conform with the Final Rules. Therefore, no previous versions of the PTFP Application Form may be used. All persons and organizations on the PTFP's mailing list will be sent a copy of the current application form and the Final Rules. Those not on the mailing list may obtain copies by contacting the PTFP at the address above. Prospective applicants should read the Final Rules carefully before submitting applications. Applicants whose applications were deferred will be mailed pertinent PTFP materials and instructions for requesting reactivation.

Applicants should note that they must comply with the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order requires applicants for financial assistance under this program to file a copy of their application with the Single Points of Contact (SPOC) of all states relevant to the project. Applicants are required to serve a copy of their completed application on the appropriate SPOC on or before January 20, 1988. Applicants are encouraged to contact the appropriate SPOC well before the NTIA closing date.

Applicants should note that all PTFP grant recipients are subject to the provisions of Office of Management and Budget (OMB) Circulars A–87 "Cost Principles for State and Local Governments," A–21 "Cost Principles for Educational Institutions," A–102, A–110, A–122, and A–128. In addition, any applicant organizations with outstanding accounts receivable with the Department of Commerce will not receive a new award until the debt is paid or arrangements to repay the debt which are satisfactory to the Department are made.

Potential PTFP grant recipients may also be required to submit a "Name Check" form (Form CD–346), which is used to ascertain background information on key individuals associated with the potential grantee. The "Name Check" requests information to reveal if any key individuals in the organization have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters pertinent to management honesty or financial integrity. Potential grantee organizations may also be subject to reviews of Dun and Bradstreet data or other similar credit checks.

V. Funding Criteria

The funding criteria for construction applications are as follows:

In determining whether to approve or defer a construction grant application, in whole or in part, and the amount of such grant, the Agency will evaluate all the information in the application file and consider, in no order of priority, the following factors:

(a) The extent to which the project meets the program purposes set forth in § 2301.2 of the Final Rules as well as the specific program priorities set forth in the Appendix of those Rules;

(b) The adequacy and continuity of financial resources for long-term operational support;

(c) The extent to which non-Federal funds will be used to meet the total cost of the project;

(d) The extent to which the applicant has:

(1) Assessed specific educational, informational, and cultural needs of the community(-ies) to be served, and the extent to which the proposed service will not duplicate service already available;

(2) Evaluated alternative technologies and the bases upon which the technology was selected;

(3) Provided significant documentation of its equipment requirements, and the urgency of acquisition or replacement;

(4) Provided documentation of an increasing pattern of substantial non-Federal financial support;

(5) Provided other evidence of community support, such as letters from elected or appointed policy-making officials, and from agencies for whom the applicant produces or will produce programs or other materials;

(e) The extent to which the evidence supplied in the application reasonably assures an increase in public telecommunications services and facilities available to, operated by, and owned or controlled by minorities and women;

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(f) The extent to which various items of eligible apparatus proposed are necessary to, and capable of, achieving the objectives of the project and will permit the most efficient use of the grant funds;

(g) The extent to which the eligible equipment requested meets current broadcast industry performance standards;

(h) The extent to which the applicant will have available sufficient qualified staff to operate and maintain the facility and provide services of professional quality;

(i) The extent to which the applicant has planned and coordinated the proposed services with other telecommunications entities in the service area;

(j) The extent to which the project implements local, statewide or regional public telecommunications systems plans, if any; and,

(k) The readiness of the FCC to grant any necessary authorization.

The funding criteria for planning applications are as follows:

In determining whether to approve or defer a planning grant application, in whole or in part, and the amount of such grant, the Agency will evaluate all the information in the application file and consider, in no order of priority, the following factors:

(a) The extent to which the applicant's interests and purposes are consistent with the purposes of the Act and the priorities of the Agency;

(b) The qualifications of the proposed project planner;

(c) The extent to which the project's proposed procedural design assures that the applicant would adequately:

(1) Obtain financial, human and support resources necessary to conduct the plan;

(2) Coordinate with other telecommunications entities at the local state, regional and national levels;

(3) Evaluate alternative technologies and existing services; and

(4) Receive participation by the public to be served (and by minorities and women in particular) in the project planning;

(d) Any pre-planning studies conducted by the applicant showing the technical feasibility of the proposed planning project (such as the availability of a frequency assignment, if necessary, for the project); and,

(e) The feasibility of the proposed procedure and timetable for achieving the expected results.

VI. Matching Requirements

(a) Planning Grants

A Federal grant for the planning of a public telecommunications facility shall be in an amount determined by the Agency and set forth in the award document and the attachments thereto. The Agency may provide up to 100 percent of the funds necessary for the planning of a public telecommunications construction project.

(b) Construction Grants

(1) A Federal grant award for the construction of a public telecommunications facility shall be an amount determined by the Agency and set forth in the award document, except that such amount shall not exceed 75 percent of the amount determined by the Agency to be the reasonable and necessary cost of such project.

Special Note: At the time the Final Rules for PTFP were adopted, NTIA announced a policy which does not require any rule change, but which is intended to encourage stations reporting substantial non-Federal revenues to increase the matching percentage in their proposals for replacement of equipment from 25% to 50%. The Agency emphasized that applicants proposing to provide first service to a geographic area encounter considerable ineligible costs, including construction or renovation of buildings or other similar expenses. NTIA, therefore, expects to continue funding projects to extend service at up to 75% of the total project cost. Applicants from small community-licensed stations, or those who can show that a station licensed to a large institution cannot obtain direct or in-kind support from the larger institution, also will not be subject to this preference. Otherwise, a showing of extraordinary need or emergency situation will be taken into consideration as justification for grants of up to 75% of the project cost, but the presumption of 50% funding will be the general rule for replacement applications.

(2) No part of the grantee's matching share of the eligible project costs may be met with funds paid by the Federal Government, except where the use of such funds to meet a Federal matching requirement is specifically and expressly authorized by Federal statute.

(3) Funds supplied to an applicant by the Corporation for Public Broadcasting may not be used for the required non-Federal matching purposes, except upon a clear compelling showing of need.

Applicants should note that expenditure of local matching funds prior to the award of a grant is at the applicant's own risk. The exact amount of the match will not be known with certainty until the final award agreement is negotiated. Therefore, should the applicant's expenditure of non-Federal funds exceed the non-Federal share which will be established in the final award agreement, the Federal share of the total project cost will be reduced by a corresponding amount and a penalty could be applied. If the amount already spent at the local level is a substantial portion of the amount negotiated as the total project cost, the action could result in cancellation of the grant offer.

VII. Selection Process and Project Period

PTFP grants are awarded on the basis of a competitive review process. This includes several grant review panels, which apply the Funding Criteria listed in Section V above. The Agency determines the selection of grantees according to the Priorities listed in Section III above and the evaluation of the applications by the various review panels.

The period for which a planning grant may be made is one year, whereas the period for which a construction grant may be made is two years. Although these timeframes are generally applied to the award of all PTFP grants, variances in project periods may be made based on specific circumstances of an individual proposal.

VIII. Filing Applications

Applications delivered by mail must be received no later than close of business, January 20, 1988, and must be addressed to: Public Telecommunications Facilities Program, NTIA/DOC, Room 4625, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Applications delivered by hand must be delivered to the above address between 8:30 a.m. and 5:00 p.m. on or before close of business January 20, 1988. Applicants whose applications are not received by close of business January 20, 1988, will be notified that their applications will not be considered in the current grant cycle and will be returned.

NTIA requires that all applicants whose proposed projects need authorization from the Federal Communications Commission (FCC), must tender an application to the FCC for such authority on or before January 20, 1988. (An application is tendered to the FCC when it has been received by the Secretary of the FCC.) However, you are urged to submit it with as much lead time before the PTFP closing date as possible. The greater the lead time, the better the chance your FCC application will be processed to coincide with NTIA's grant cycle. NTIA will return the application of any applicant which fails to tender an application to the FCC for any necessary authority on or before January 20, 1988.

Authority: The Public Telecommunications Financing Act of 1978, 47 U.S.C. 390–394, 397–399b (Act); as amended by the Public Broadcasting Amendments of 1981, Pub. L. No. 97–35, 95 Stat. 725 (1981 Amendments), and the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272, sec. 5001, 100 Stat. 82, 117 (1986).

(Catalog of Federal Domestic Assistance No. 11.550)

Dennis R. Connors,

Director, Office of Policy Coordination and Management.

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Part V

Department of Education

National Institute on Disability and Rehabilitation Research; Proposed Funding Priorities and Notice Inviting Applications for New Awards

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DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Proposed Funding Priorities

AGENCY: Department of Education.

ACTION: Notice of proposed funding priorities for Fiscal Year 1988.

SUMMARY: The Secretary of Education proposes funding priorities for research activities to be supported under the Research and Demonstration (R&D) and Knowledge Dissemination and Utilization (D&U) programs of the National Institute on Disability and Rehabilitation Research (NIDRR) in fiscal year 1988.

DATE: Interested persons are invited to submit comments or suggestions regarding the proposed priorities on or before December 10, 1987.

ADDRESSES: All written comments and suggestions should be sent to Betty Jo Berland, National Institute on Disability and Rehabilitation Research, Department of Education, 400 Maryland Avenue, SW., Room 3070, Switzer Building, Mailstop 2305, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, National Institute on Disability and Rehabilitation Research. (Telephone: (202) 732–1139). Deaf and hearing-impaired individuals may call (202) 732–1198 for TDD services.

SUPPLEMENTARY INFORMATION:

Authority for the research programs of NIDRR is contained in section 204 of the Rehabilitation Act of 1973, as amended. Under these programs, awards are made to public and private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations. NIDRR can make awards for up to 60 months.

The purpose of the awards is for planning and conducting research, demonstrations, and related activities that have a direct bearing on the development of methods, procedures, and devices to assist in providing vocational and other rehabilitation services to individuals with handicaps, especially those with the most severe handicaps.

NIDRR regulations authorize the Secretary to establish research priorities by reserving funds to support particular research activities (see 34 CFR 351.32). NIDRR invites public comment on the merits of the proposed priorities both individually and collectively, including suggested modifications to the proposed priorities. Interested respondents also are invited to suggest the types of expertise that would be needed for independent experts to review and evaluate applications under these proposed priorities.

The notice requesting transmittal of applications is also published in this issue of the Federal Register. Prospective applicants should prepare their applications based on these proposed priorities. If there are any changes to the proposed priorities due to the public comments, applicants will be given ample time to amend or resubmit their applications. A notice of final funding priorities will be published in the Federal Register. The final priorities will be determined by responses to this notice, available funds, and other Departmental considerations. The publication of these proposed priorities does not bind the United States Department of Education to fund projects in any or all of these research areas, unless otherwise specified in statute. Funding of particular projects depends on both the nature of the final priorities and the quality of the applications received.

The following sixteen proposed priorities represent areas in which NIDRR proposes to support research and related activities through grants or cooperative agreements in two programs, the Research and Demonstration Projects Program (R&D), and the Knowledge Dissemination and Utilization Projects Program (D&U).

Research and Demonstration Projects (R&D) support research and/or demonstrations in single project areas on problems encountered by individuals with handicaps in their daily activities. These projects may conduct research on rehabilitation techniques and services, including analysis of medical, industrial, vocational, social, sexual, psychiatric, psychological, recreational, economic, and other factors affecting the rehabilitation of individuals with handicaps.

Knowledge Dissemination and Utilization Projects (D&U) ensure that rehabilitation knowledge generated from projects and centers funded by NIDRR and others is utilized fully to improve the lives of handicapped persons.

Proposed Priorities for Research and Demonstration Projects (12)

Improving Job Retention for Disabled Small Business Employees

Early rehabilitation services at the worksite assist disabled individuals to continue as productive workers with a minimum of lost work time. More than half a million workers each year leave work for five or more months because of serious physical disabilities. However, only a very small percentage of these workers receive rehabilitation services to promote return to work. The average worker who becomes disabled is over fifty years of age, works for a small employer, and will receive a monetary benefit as a result of a disability.

Despite numerous obstacles, many of America's larger corporations have successfully implemented employee-based disability management programs. Observers have noted that early interventions at the worksite appear to have beneficial results for both workers and employers. These benefits include prevention of job loss; continued optimal worker performance; increased independence rather than dependence; efficient use of health resources; cost-control of expansive disability-related services; and improved coordination of community rehabilitation services. These large corporations can provide excellent employer-sponsored human resources programs, which have resulted in these advances in disability management.

However, the majority of the work force is employed in small businesses that have few resources to use for disability management at the workplace. Research and demonstration activities are needed to develop and test innovative models to address the problems of disability in a small business setting.

An absolute priority is proposed for a research project to:

- Identify existing, and develop new, management approaches for job retention and return-to-work of employees who become disabled while employed in a small business;
- Investigate the feasibility of organizing consortia for the purchase of rehabilitation services; sharing the costs of rehabilitation for high risk employees; disability management "health maintenance organizations"; or similar mechanisms to enable appropriate combinations of small businesses, business associations, labor unions, public employers, entrepreneurs, and self-employed individuals to join together to obtain job retention/return to work assistance for workers who become disabled while employed in small businesses;
- Explore possible roles for independent living centers, university extension programs, adult and continuing education programs, and related educational and information centers in advising employers and employees in small businesses on work accommodations, counseling on disability programs and benefits, and related disability management components;

- Identify the financial impact on small businesses of lost productivity and worker separation due to sudden onset of disability or traumatic injury, and provide estimates of possible cost savings through disability management approaches;
- Identify financial and other obstacles to alternative private and public solutions to the problems of disability and the small employer and possible approaches to overcome these impediments;
- Conduct one or more tests or demonstrations, focusing on a specific industry, geographic area, or other discrete group, of innovative solutions that will reduce job separation for workers who become disabled while employed in a small business; and
- Disseminate project findings to small businesses, business and labor associations, universities, public agencies, and rehabilitation organizations.

Evaluation of Therapeutic Interventions in Arthritis Rehabilitation

There are over thirty-one million arthritic patients in the United States, and one million new cases of arthritis appear each year. The economic impact of the total number of arthritis patients per year is $13 billion, accounting for lost wages, hospitalization, and physicians' fees. More than five percent of the U.S. population, aged 25–74, has had to change job status due to arthritis with a loss of $4 billion in wages.

Arthritis includes more than 100 diseases and syndromes. The possibility of developing arthritis increases dramatically with age. Approximately one-fourth of those between the ages of 45 and 64 and 40 percent of those 65 and older have arthritis.

An absolute priority is proposed for a project to:

- Investigate and evaluate current techniques to reduce and control pain resulting from arthritis;
- Identify the causes of weakness and fatigue associated with arthritis and determine the most effective intervention strategies available to reverse these effects;
- Investigate the potential benefits of exercise, if any, for certain types of arthritic conditions;
- Determine the efficacy of dry and moist heat as well as cold in therapeutic regimens for various types of arthritic conditions; and
- Identify and evaluate various therapies that could retard the progression of arthritis and prevent more severe disability.
- Identify approaches for job placement, retention, and return-to-work for individuals with arthritis.

Functional Electrical Stimulation (FES) To Control Bladder and Bowel Incontinence

Millions of people are affected adversely by the loss of voluntary control of bladder and bowel functions, resulting in either urinary or fecal incontinence or both. Incontinence is a major cause of institutionalization of elderly and disabled persons and seriously impedes rehabilitation and restoration to full functioning. Among the impairments that may result in this loss of control are neural injury, bladder imbalance, and stress incontinence. Functional Electrical Stimulation (FES) has been proven to be somewhat effective in helping persons with weakened pelvic floor muscles to improve voluntary control. The efficacy of FES for incontinence resulting from neurogenic dysfunction has not been as clearly demonstrated, but improved diagnostic methods and the development of FES systems to control bladder and bowel function hold great promise.

An absolute priority is proposed for a project to:

- Develop and evaluate microcomputer-controlled diagnostic systems for simplified and precise diagnosis of bladder and bowel loop function and evaluation of the effects of FES on these loop functions;
- Conduct studies of methods for using FES on pelvic floor musculature; and
- Design and develop new applications of functional electrical stimulation based on the range of bladder and bowel dysfunctions defined by the new diagnostic systems.

Cardiovascular Rehabilitation

Cardiovascular diseases comprise a major group of medical problems in the U.S. Currently, four million persons are disabled by some manifestation of coronary heart disease, and 1.3 million suffer an acute myocardial infarction annually. Some of the 600,000 survivors will return to work after a normal convalescence, others will have to be retrained for new occupations, and the vast majority will experience complications that will curtail or hinder their successful rehabilitation.

The problem is magnified by the fact that the majority of the survivors of infarctions are under age sixty-five, and thus would be expected to have additional years of productive work, family responsibilities, and community activities. Unfortunately, the number of persons disabled by cardiovascular disease who are receiving rehabilitation services is small in proportion to the seriousness of the disease.

Clinical application of exercise physiology, accompanied by exercise stress testing, is a promising approach to enhance rehabilitation for this population.

An absolute priority is proposed for a project to:

- Study and evaluate quantitative methods to assess myocardial performance and functional outcomes, and develop techniques to measure the functional capacity of the heart that can be used in vascular rehabilitation programs;
- Conduct normative studies to quantify the demands made upon cardiac capacity by various kinds of vocational and avocational physical activities and psychological stresses; and
- Develop, evaluate, and disseminate an effective intervention model to reduce impairment and enhance comprehensive rehabilitation after infarction.

Functional Electrical Stimulation and Pressure Sores

Several million persons have reduced resistance to ulceration of the skin and soft tissues as a result of impaired circulation and concentrated external pressures. Among those who often acquire these debilitating conditions are those who are elderly or paralyzed. Recent preliminary studies, without control groups, have indicated that the application of electrical stimulation across severe wounds has led to the healing of these wounds in surprisingly short times without surgical or other interventions. There is also fairly clear evidence that paraplegic subjects participating in research studies to develop the capacity to stand and walk have experienced greatly reduced incidence of pressure sores. Research is needed to investigate these observations, which, if accurate, will reduce debilitation and other costs resulting from pressure sores.

An absolute priority is proposed for a project to:

- Investigate the effects of electrical stimulation by both pulsed and direct current across pressure sore wounds to determine the efficacy of electrical stimulation for wound healing;
- Identify possible mechanisms and techniques to determine optimal quantities of FES to achieve good wound healing results; and
- Investigate the short-term dynamic effects of electrical stimulation, tissue

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undulation, shape reconfiguration, pressure variation, and increased blood circulation in relation to the prevention of pressure sores.

New Technologies To Address Problems of Low Vision

According to a 1977 household survey administered by the National Center on Health Statistics, 1.4 million Americans are unable to read ordinary newsprint at a normal viewing distance without some form of visual aid. Fewer than ten percent of these individuals are totally blind. The vast majority, however, have sufficient visual impairment to affect significantly their ability to perform everyday tasks.

The major causes of low-vision are macular degeneration, cataracts, glaucoma, and diabetes. Three-fourths of the population with low vision problems are over fifty years of age. The low-vision population will significantly increase in number as the population grows older. Assuming no change in the efficacy of medical treatment for sight-threatening diseases, the number of individuals with low-vision is projected to increase by 78 percent to about 2.5 million by the year 2000.

New technologies can provide the means whereby persons with low-vision disabilities can improve their functional sight substantially. A critical element of any project to be funded under this priority is the involvement of individuals with low-vision in the planning and assessment of the research and its products.

An absolute priority is proposed for a project to:

- Design an improved macrofocusing monocular with a larger field of view, automatic focus, and more acceptable appearance;
- Design and develop new illumination devices that are portable, compact, and cool, require minimum energy, have variable beam size, variable illumination capability, and vertical polarization features; and
- Design and develop a valid vision assessment device to measure spatial resolution, contrast sensitivity, visual field, binocular function, and glare sensitivity.

Psychological and Social Adjustment After Stroke

Stroke is the third leading cause of death in the U.S., accounting for 169,000 deaths in 1980. There are an estimated 1.7 million persons who have cerebrovascular disease. Each year there are 400,000 new strokes and 100,000 recurrences. Although stroke remains the fifth-leading cause of death in persons aged 45 to 54 years, the number of persons in that age group who are surviving strokes has increased dramatically.

However, innovations in rehabilitation have not been sufficient to provide optimal independent functioning and maintenance of productive life style for the younger stroke survivor. The prognosis for these stroke survivors varies. It is estimated in the professional literature that ten percent will return to work, forty percent will have a residual mild disability, forty percent will require moderate assistance with activities of daily living, and ten percent will need long-term residential care. The goals of comprehensive rehabilitation should be to maximize the functional independence and productivity of the stroke patient by minimizing residual functional impairment, preventing secondary medical complications, treating psychological and social adjustment problems, and reducing vocational displacement.

An absolute priority is proposed for a project to:

- Study and evaluate new approaches and techniques to enable achievement of optimal psychological and social adjustment following stroke, with emphasis on the adjustment needs of stroke survivors who are in the ages for working and rearing families;
- Identify and describe those characteristics that maximize the family's ability to cope successfully with the challenge imposed by a stroke, including strokes occurring to young or middle-aged members of the family; and
- Develop and evaluate new methods designed to promote the high degree of motivation necessary for successful cooperation of the patient and family in a rehabilitation program.

Efficacy of Therapeutic Recreation as a Treatment Modality

A large increase in the number of rehabilitation programs following World War II resulted in a proliferation of various types of therapeutic recreation services with diverse approaches and techniques but no coherent or commonly accepted guidelines or theoretical perspective. Since that time, therapeutic recreation has continued to gain acceptance as an apparently useful activity. However, there has been no systematic collection of data that assess the contribution of recreational therapy to the physical and mental functioning of persons with disabilities.

There are varying schools of thought concerning the types of benefits that can be derived from therapeutic recreation. One perspective is that recreation is purely diversionary, and has only peripheral benefits that are not absolutely necessary to the successful rehabilitation of disabled individuals. Others believe that therapeutic recreation can have a significant and positive impact on both the physical and psychological rehabilitation outcomes for disabled individuals and should be an indispensable factor in the rehabilitation process.

NIDRR proposes to assess definitively the merits of therapeutic recreation, and to measure its impact on the rehabilitation of disabled persons. This proposed priority is designed to produce scientific data on the potential benefits of therapeutic recreation as a treatment modality in the rehabilitation process.

An absolute priority is proposed for a project to:

- Determine the correlation between therapeutic recreation and successful rehabilitation outcomes in order to establish the effectiveness of this activity in rehabilitation;
- Investigate the impact of various types of therapeutic recreational activities on the physiology of persons with disabilities, including such variables as heart rate, oxygen intake, ventilatory volume, and blood pressure, and on psychological well-being, including such variables as self-esteem, emotional stability, internal control, and interpersonal adjustment;
- Assess the effectiveness of recreational activity in reducing and preventing secondary disability and readmittance to medical and rehabilitation facilities;
- Assess the effect of therapeutic recreation on the disabled individual's length of stay in a hospital or rehabilitation facility;
- Investigate the comparative effects on the psychological well-being of participants in recreational programs that integrate disabled individuals with those who do not have disabilities; and
- Conduct a state-of-the-art meeting in the final year of the project to promote consensus on the benefits of therapeutic recreation in rehabilitation.

Studies on Traumatic Brain Injury (TBI) in Young Children

"Few crises in life are as devastating as an illness or sudden trauma of a child that results in brain injury. Whether eighteen months or eighteen years, the child's life is drastically changed." (Hutzler, 1985) The child from birth to adolescence may experience major cognitive, emotional, and behavioral changes that severely alter his or her prior levels of functioning. These changes necessitate adjustments in the educational programs, family interactions, and social relationships of the child.

From the time of injury, families must learn to cope with a new set of economic, emotional, and psychological problems. In addition, families must learn to communicate with medical caregivers, to locate needed community services, and to identify and manage financial support and insurance reimbursement provisions.

As a prerequisite to developing new strategies and service programs to assist children with brain injuries and their families, it is necessary to understand thoroughly the scope and dimensions of the problem, and to document an effective role for families in the rehabilitation process.

This proposed priority would have a positive impact on the family and is consistent with the requirements of Executive Order 12606—The Family. This proposed priority would strengthen the authority and participation of parents in the rehabilitation of their children who are disabled.

An absolute priority is proposed for a project to:

- Study the social, economic, and psychological impact of TBI on families of children up to age sixteen; and
- Develop and evaluate techniques for family involvement as part of the treatment/education/rehabilitation team in the re-entry process and study incentives and disincentives to family involvement.

English Language Acquisition in Deaf Children

There are persistent problems inhibiting successful transition into post-secondary school activities for deaf youth. Frequently, efforts to provide training for employment or career advancement require extensive supplementary training in basic English language skills before any meaningful instruction can proceed. The problem is not new, but has generated increased concern over the past decade.

In an effort to gain clearer understanding of the current trends in teaching English language skills to deaf students, particularly very young deaf children, NIDRR proposes to fund a project that will examine the methods currently used in selected schools, classes, and programs throughout the United States. The study will also assess the availability of various types of support services, including educational interpreters, and develop a comprehensive state-of-the-art document setting forth action steps for implementation at the national, state and local levels and also, additional research needs.

An absolute priority is proposed for a project to:

- Analyze current processes used in teaching English language skills to deaf children in selected nationally representative schools, classes, and programs for deaf students;
- Assess English language competency levels of deaf youth leaving these programs over the past five years, differentiating among students with various levels of hearing impairment, numbers of additional disabilities, and primary family languages;
- Analyze the English language acquisition methods and techniques used in various training programs for teachers of deaf students;
- Analyze certification requirements related to instruction in English language skills for various local, State, and national bodies involved in awarding certificates to teachers of deaf youth;
- Analyze the literature on language acquisition in general, and its application to persons with deafness in particular; and
- Provide an authoritative report on the current state-of-the-art in teaching English language skills to deaf children, involving nationally recognized experts as well as deaf youth and their families, and including recommendations for future research.

The Therapeutic Effects of Functional Electrical Stimulation on Persons With Paralysis or Vascular Insufficiency

Several million persons who are either paralyzed or have severe vascular insufficiency that compromises their ability to perform physical tasks may benefit from the application of Functional Electrical Stimulation (FES). It is important that the effects of the use of FES on those populations be evaluated in the context of improving tissue viability and general physical condition.

An absolute priority is proposed for a project to:

- Investigate therapeutic effects of the use of FES to promote standing and walking, using loop control modes with natural and implanted biosensors;
- Investigate the effects of FES on persons with vascular insufficiency when used as a therapeutic intervention to improve local or general physical conditioning that has been compromised by ischemia and peripheral neuropathy; and
- Develop and evaluate new FES techniques to increase blood flow and bone strength in paralyzed extremities.

Research in Adventitious Hearing Impairment

Most research on adult onset hearing loss has focused on diagnostic and amplification technologies and on neurological, anatomical and physiological changes in the cochlea, auditory nerve, brain stem, and cortex. Aural rehabilitation models have been published. However, despite the prevalence of hearing loss, and despite abundant anecdotal accounts of its human and economic costs, there has been surprisingly little research to examine the psychosocial effects of hearing loss in adulthood.

In 1986, NIDRR convened a conference on aging and rehabilitation; in one segment of that conference, a number of research scientists, health care professionals and persons from service-delivery agencies met to discuss priorities for collaborative research on adult onset hearing loss. This priority is based on research needs identified at that conference.

An absolute priority is proposed for a project to:

- Analyze characteristics of adults who have adjusted successfully to hearing impairment, including such variables as personality factors, nature and severity of the hearing loss, communication styles, support networks, and interventions with professionals;
- Identify successful rehabilitation strategies, emphasizing professional attitudes and behaviors that may impede or facilitate adjustment;
- Investigate interactions between biological and psychosocial phenomena, with an emphasis on assessing the extent to which these interactions exacerbate disability caused by hearing loss in middle and later life; and
- Evaluate existing databases on health status, psychological characteristics, and behavioral patterns to determine their value in providing information about the effects of adult onset of hearing impairment.

Proposed Priorities for Knowledge Dissemination and Utilization Projects (4)

Development and Management of Supported Work Programs by Consumer-Directed Independent Living Centers

The Rehabilitation Act Amendments of 1986 authorize the Rehabilitation Services Administration (RSA) to make grants to assist State rehabilitation agencies to develop collaborative programs with appropriate public agencies and private nonprofit

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organizations for traditionally time-limited post-employment services leading to supported employment for individuals with severe handicaps. Independent living centers (ILCs) are eligible, although at present few ILCs operate these programs. Independent Living Centers may represent an untapped resource for supported employment, since the Centers already have contact with many of the disabled individuals in the targeted group, have networking capabilities in local communities, and have some experience at providing some of the support services necessary for supported work programs. Many ILCs are interested in expanding their services to two of the major target groups of supported work—those considered mentally retarded and chronically mentally ill. Many of the services provided by ILCs to eligible clients enable disabled individuals to live in community settings and in many cases enable disabled people to undertake employment. However, these services have not been developed and managed in a manner to constitute supported work. This project is designed to explore the potential value of ILCs as developers and managers of supported work projects, to develop models for effective ILC implementation of these programs, and to explore the value of supported work programs in assisting ILCs to expand their service bases to all eligible clients, including underserved populations.

An absolute priority is proposed for a project to:

- Develop appropriate models and training and technical assistance materials to enable ILCs to develop and sponsor supported work programs;
- Test models and materials to ensure they are appropriate to rural and urban ILCs;
- Evaluate the effectiveness of ILCs as providers of supported work services and programs; and
- Disseminate materials to ILCs and State vocational rehabilitation agencies and provide training and technical assistance on their use.

Public Education in Spinal Cord Injury

Traumatic injuries to the spinal cord are among the most catastrophic of all disabling conditions. The annual incidence of spinal cord injuries has been estimated at 30–50 new injuries per million persons per year. There are estimated to be as many as 900 persons with spinal cord injury for every million persons in the population. Epidemiologic and demographic data indicate that spinal cord injury affects mainly young adults. More injuries occur in the 16 to 30 year old age group than all other groups combined. The overwhelming majority of people affected is male (82 percent). This is largely related to the high risk activities engaged in by young males.

Motor vehicle accidents cause nearly half of these injuries; falls and being hit by falling objects account for twenty percent; acts of violence and sports/recreation injuries each account for about fifteen percent of these injuries. Diving and football accidents are the two most common forms of sports injuries. Most injuries are sustained on weekends, and the incidence of injuries increases in summer months, and during daylight hours.

A public education effort is needed to inform young people, parents, and others about the prevention of spinal cord injury through protective sports equipment, seat belts, and safe driving and recreational practices, and to provide information on emergency procedures that can reduce the possibility of secondary complications.

An absolute priority is proposed for a project to:

- Develop a program of public education materials for the general public, especially young people, emphasizing primary and secondary prevention, early intervention, and resources for information and treatment;
- Develop materials on prevention of spinal cord injuries, to include print and audiovisual training materials, posters, and pamphlets, that can be used by both the general and the special media; and
- Devise a plan for the dissemination of the materials developed in this project.

Investigations of Patterns of Research Utilization

To maximize the value of applied research, NIDRR and other agencies have sponsored programs to promote and ensure the use of new disability-related knowledge by consumers and service providers. These efforts include information centers, clearinghouses, bibliographic databases, networks, publications in various media, information brokers, technical assistance, and training. While many of these projects have had significant achievements, there has been no systematic assessment of the most effective methods to promote knowledge utilization by various target populations.

In order to develop a reliable knowledge base for planning and implementing future utilization programs, NIDRR proposes to evaluate various strategies and practices of information dissemination. Not enough is known about how professionals, service providers, and disabled consumers define their information needs and what types of products and services they expect. Even less is known about the extent or manner in which recipients of rehabilitation-related information actually use information and what value they attribute to research-based knowledge.

An absolute priority is proposed for a project to:

- Conduct an inventory and substantive review of existing research on information utilization, particularly new research-based knowledge, in a variety of selected fields, including examinations of both conceptual and practical literature, and determine its applicability to the rehabilitation field;
- Review the use of existing rehabilitation information services and databases according to volume of users, characteristics of users, and types of requests and compare the findings to uses of selected other information systems (e.g., medicine, education, aging);
- Investigate the use of information by disabled consumers and their families, and assess the relative effectiveness of various strategies for reaching this audience;
- Develop and test techniques to reach segments of the disabled population that are less likely to access information, including elderly persons, disadvantaged persons, residents of rural areas, minorities, and individuals whose primary language is not English; and
- Develop programs to train individuals with disabilities in the skills of effective information access and to train consumer organizations in the best methods to reach their target audiences in their dissemination efforts.

Regional Information Exchanges

There is a need to promote the widespread use of new, validated rehabilitation practices and exemplary rehabilitation programs in selected priority areas in order to improve the service delivery system for disabled individuals. NIDRR proposes to address this need by establishing one or more regional information exchanges similar to the regional diffusion networks which are now operating in the East (Federal Regions I and II). NIDRR believes that these exchanges will be most effective if they focus on facilitating the adoption of program models developed locally or within the same region. Also, NIDRR believes that this information exchange will be strengthened by the inclusion of expert consultants available to provide specific technical assistance aimed at rehabilitation agencies.

Priority areas for diffusion efforts during the period of this priority will include the use of rehabilitation technology in vocational rehabilitation, barrier-free environments, transitional employment programs, and other topic areas which are of concern to the specific region or which are agreed upon by NIDRR and the recipient of the award.

An absolute priority is proposed for one or more projects to:

- Develop criteria for identifying exemplary rehabilitation programs, and develop information collection instruments which include measurements related to the identified criteria;
- Solicit nominations of exemplary programs in the priority areas from program operators, consumer organizations, and other relevant parties in the selected region;
- Develop and implement a procedure to select the most promising programs for further consideration and arrange independent peer reviews of those programs to determine exemplary programs for diffusion purposes;
- Develop public relations and marketing approaches to make the wide audience of rehabilitation service providers and special educators aware of the exemplary programs and stimulate their interest in adopting or adapting similar models, assisted by the diffusion network;
- Facilitate the exchange of technical assistance between the exemplary program and the requesting adopter program through onsite demonstrations, training materials, and direct consultation;
- Develop and maintain a referral system of expert consultants in these priority areas of the project to facilitate the linkage of service providers and disabled consumers to knowledgeable resources; and
- Maintain appropriate data on the diffusion network to support an evaluation of its effectiveness.

Invitation To Comment

Interested parties are invited to submit comments and recommendations regarding these priorities.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period in Room 3070, Mary E. Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 761a, 762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute on Disability and Rehabilitation Research)

Dated: October 16, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87–26004 Filed 11–0–87; 8:45 am]

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[84.133 A&D]

Notice Inviting Applications for New Awards Under the National Institute on Disability and Rehabilitation Research (NIDRR) Programs of Research and Demonstration Projects and Dissemination and Utilization Projects

Purpose: Provides funding through grants or cooperative agreements to public or private agencies or organizations, including institutions of higher education, Indian tribes or tribal organizations, to conduct programs that meet the specifications in the proposed priorities published in this issue of the Federal Register.

Deadline for Transmittal of Applications: February 16, 1988.

Applications Available: November 23, 1987.

Available Funds: $2,250,000.

Estimated Range of Awards: $125–$175,000 per year. ($240–$280,000 for Regional Information Exchanges).

Estimated Average Award: $150,000 ($250,000 for Regional Information Exchanges).

Project Period: Up to 36 months.

Applicable Regulations: (a) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, (b) NIDRR regulations at 34 CFR Parts 350, 351, and 355, and (c) when adopted in final form, the annual funding priorities for this program. Applicants should prepare their applications based on the proposed funding priorities. If there are substantive changes made when the final priorities are published, applicants will be given the opportunity to amend or resubmit their applications.

For Applications or Information Contact: National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue, SW., Switzer Building, Room 3070, Washington, DC, 20202. Telephone: (202) 732–1207 or (202) 732–1198 for TDD service.

Program Authority: 29 U.S.C. 762(a).

Dated: November 5, 1987.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 87–26008 Filed 11–0–87; 8:45 am]

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Part VI

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Flathead Indian Reservation, Pablo MT; Final Rule Amendment

VOL 52 ISS 217 NO 10 1987 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Flathead Indian Reservation, Pablo, MT

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule amendment.

SUMMARY: This final rule amendment prescribes migratory bird hunting regulations for nontribal members on the Flathead Indian Reservation, Pablo, Montana, for the 1987–88 hunting season. These regulations were not included in the final rule for certain Federal Indian reservations and ceded lands published on August 28, 1987 (52 FR 32770).

EFFECTIVE DATE: This rule takes effect on November 10, 1987.

ADDRESSES: The Cooperative Agreement between the Confederated Salish and Kootenai Tribes and the State of Montana, and comments relating to the adoption of special Federal migratory bird hunting regulations on the Flathead Indian Reservation are available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, NW., Washington, DC. Communications regarding the documents should be addressed to Director (FWS/MBMO), Room 536, Matomic Building, U.S. Fish and Wildlife Service, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240 (202) 254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the August 28, 1987 **Federal Register** (52 FR 32770) the U.S. Fish and Wildlife Service (hereinafter the Service) prescribed special migratory bird hunting regulations for certain Federal Indian reservations and ceded lands for the 1987–88 hunting season, under the interim guidelines proposed for this purpose on June 4, 1985 (at 50 FR 23467) and implemented beginning with the 1985–86 hunting season. In comments included in 52 FR 32770, the Service announced that the migratory bird hunting regulations requested by the Confederated Salish and Kootenai Tribes would not be established on the Flathead Indian Reservation because of jurisdictional issues between the Confederated Tribes and the State of Montana. Subsequently, the Confederated Tribes and the Montana Department of Fish, Wildlife and Parks reached an interim agreement that was approved by the Montana Attorney General on October 9, 1987, in which both parties agreed on migratory bird hunting regulations for the 1987–88 hunting season. They also reached an understanding on license requirements and jurisdiction over enforcement of hunting regulations for the current season.

The regulations are made final in this amended rule. This is possible because the season dates, and daily bag and possession limits for waterfowl and coots are the same as were established in the Pacific Flyway portion of Montana, as announced in the September 29, 1987 **Federal Register** (52 FR 36496). After agreement was reached, the mourning dove and common snipe seasons on the reservation were closed by State and tribal authority.

The Service is pleased that the Confederation Salish and Kootenai Tribes and the State of Montana reached a mutually acceptable agreement for the 1987–88 hunting season and urges both entities to strive for a more permanent agreement well before the 1988–89 season. If requested, the Service will consult with tribal and State officials with the aim of facilitating such agreement on migratory bird matters.

Nontoxic Shot Regulations

On January 15, 1987 (52 FR 1636), the Service proposed nontoxic shot zones for the 1987–88 waterfowl hunting season. This proposed rule was sent to all affected tribes and to Indian organizations for comment. The final rule on nontoxic shot zones was published in the July 21, 1987 **Federal Register** (52 FR 27352), and it was effective on that date.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25341). In addition, an August 1985 environmental assessment entitled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and shall] "insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *" Consequently, the Service initiated section 7 Consultation under the Endangered Species Act for the proposed hunting season on Federal Indian reservations and ceded lands.

On August 3, 1987, the Office of Endangered Species notified the Office of Migratory Bird Management of its concurrence with the finding that the proposed action will not affect any listed species or any critical habitat.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

In the **Federal Register** dated March 13, 1987 (52 FR 7900), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included perparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291, and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available on request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by Section 4 of Executive Order 12291, in the **Federal Register** dated August 3, 1987 (52 FR 28719).

Authorship

The primary author of this final rule amendment is Fant W. Martin, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

The regulations established by this final rule amendment were delayed because of jurisdictional issues that were beyond the Service's control. Nevertheless, the Service believes that it is in the best interests of the public to announce them now. Therefore, under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 *et seq.*), the Service prescribed final waterfowl and coot hunting regulations for the Flathead Indian Reservation, Pablo, Montana. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for ducks, geese, mergansers, and coots.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and this final rule amendment will take effect on November 10, 1987.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

Accordingly, 50 CFR Part 20 is amended as follows:

For the reasons set out in the preamble, Title 50, Chapter I, Subchapter B, Part 20, Subpart K, is amended as set forth below.

PART 20—[AMENDED]

1. The authority citation for Part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 701–708h); sec. 3(h), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712).

Editorial Note.—The following annual hunting regulations provided for by § 20.110 of 50 CFR Part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

2. Section 20.110 is amended by adding paragraph (h) to read as follows:

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

* * * * *

(h) Flathead Indian Reservation, Pablo, Montana (nontribal members only).

(1) *Mourning Doves.*—Season closed.

(2) *Common Snipe.*—Season closed.

(3) *Ducks (including Mergansers).*

Season Dates: October 3–December 20.

Daily Bag and Possession Limits: The daily bag limit is 5 ducks (including mergansers), including no more than 4 mallards but only 1 female (hen) mallard, 4 pintails but only 1 female (hen) pintail and either 2 canvasbacks or 2 redheads or 1 of each. The possession limit is twice the daily limit.

(4) *Geese.*

Season Dates: October 3–January 3.

Daily Bag and Possession Limits: The daily limit is 3 white geese (Snow, Blue, Ross) and 2 dark geese (all other geese). The possession limit is 6 geese, of which no more than 2 may be dark geese.

Special Exception for Geese: The following area in Flathead, Lake and Sanders Counties will be closed to all goose hunting at sunset, November 29, 1987: Beginning at Ravalli, thence north along U.S. 93 to Polson and Elmo, thence west on State 28 to its intersection with State 382 near Hot Springs and south along said highway to Perma, thence east along State Route 200 to Ravalli, the point of beginning.

(5) *Coots.*

Season Dates: Same as for ducks.

Daily Bag and Possession Limits: 25 daily and in possession.

(6) *General Conditions.* (i) Nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp, or duck stamp, signed in ink across the face. Nontoxic shotshells are required for waterfowl hunting on all reservation lands.

(ii) A Confederated Salish and Kootenai Tribal hunting license is required and a State of Montana hunting license is not required to hunt waterfowl on Indian-owned reservation lands.

(iii) A State of Montana hunting license is required and a Confederated Salish and Kootenai Tribal hunting license is not required to hunt waterfowl on reservation lands owned by the State of Montana or by nontribal members.

(iv) State personnel will enforce waterfowl hunting regulations only on reservation lands owned by the State of Montana or by nontribal members, and Confederated Salish and Kootenai Tribal personnel will enforce waterfowl hunting regulations only on Indian-owned reservation lands. Enforcement by authorized Service personnel is applicable to all migratory bird hunting regulations contained in this Part 20.

Date: November 5, 1987.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–26012 Filed 11–9–87; 8:45 am]

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Part VII

Department of Education

34 CFR Part 304

Removal of Architectural Barriers to the Handicapped; Notice of Proposed Rulemaking

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DEPARTMENT OF EDUCATION

34 CFR Part 304

Removal of Architectural Barriers to the Handicapped

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the Removal of Architectural Barriers to the Handicapped program. This program is authorized under section 607 of Part A of the Education of the Handicapped Act, as amended. The proposed regulations are needed to implement the amendments to section 607 that are included in the Education of the Handicapped Act Amendments of 1986. These proposed regulations add new provisions to this part to include the Secretary of the Interior as an eligible applicant for funds.

DATE: Comments must be received on or before December 28, 1987.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Mr. Jeffrey Champagne, Division of Assistance to States, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3613—M/S 2313) Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Brotman, Division of Assistance to States, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3615—M/S 2313) Washington, DC 20202; Telephone: (202) 732–1031.

SUPPLEMENTARY INFORMATION: Under section 607 of the Education of the Handicapped Act (EHA), as amended, the Secretary provides grants for the purpose of altering existing buildings and equipment in order to make them accessible to handicapped children and other handicapped individuals.

To carry out the requirements of this program, $40 million was appropriated under Pub. L. 98–8, commonly referred to as the Emergency Jobs Act of 1983.

The Education of the Handicapped Act Amendments of 1986, Pub. L. 99–457, add the Secretary of the Interior as an eligible applicant. These proposed regulations add new provisions to make the Secretary of the Interior an eligible applicant for a grant under this part, to establish requirements for application submission, and to reference applicable regulations. Sections 304.20(d) and 304.21 of the proposed regulations specify the amount of the initial grant award and reallocation the Secretary of the Interior is eligible to receive.

Funds from the $40 million fiscal year 1983 appropriation were allocated based on the formula currently in the regulations at § 304.20, which does not include the Secretary of the Interior. Some grants have been allocated on that basis and several are in the process of being awarded. Therefore, to prevent any inequities from changing the allotment table retroactively, under the proposed regulations the Secretary of the Interior would not be eligible for any portion of the fiscal year 1983 appropriation. The Secretary of the Interior would be eligible to receive an allotment of up to 1.25 percent of any future appropriations.

Paragraph (b)(2) of § 304.20 is amended in order to clarify that the distribution of funds to States under this program is made after subtracting the amount of funds available to the Secretary of the Interior and the Insular Areas.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

Because these regulations would affect only State agencies and the Department of the Interior, the regulations would not have an impact on small entities. State agencies and Federal departments are not defined as "small entities" in the Regulatory Flexibility Act.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3511, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 304

Education, Education of the handicapped, Grant program—education, Local educational agencies, School, School construction, State educational agencies.

(Catalog of Federal Domestic Assistance Number 84.155; Removal of Architectural Barriers to the Handicapped)

Dated: October 27, 1987.

William J. Bennett,
Secretary of Education.

The Secretary proposes to amend Part 304 of Title 34 of the Code of Federal Regulations as follows:

PART 304—REMOVAL OF ARCHITECTURAL BARRIERS TO THE HANDICAPPED

1. The table of contents for Part 304 is amended by revising the titles of Subparts B and C, by adding new center headings before §§ 304.10 and 304.15 in Subpart B, and by adding new §§ 304.15–304.16 to read as follows:

* * * * *

Subpart B—How Does an SEA or the Secretary of the Interior Apply for a Grant?

Application From an SEA

* * * * *

304.12–304.14 [Reserved]

Application From the Secretary of the Interior

304.15 Submission of an application by the Secretary of the Interior.
304.16 Applicable regulations.
304.17–304.19 [Reserved]

Subpart C—How Does the Secretary Make a Grant?

* * * * *

1a. The authority citation for Part 304 is revised to read as follows:

Authority: 20 U.S.C. 1406, unless otherwise noted.

2. Subpart B is amended by revising the title of the subpart, by adding a reference to an OMB control number following § 304.11, by adding new center headings before §§ 304.10 and 304.15, and by adding new §§ 304.15–304.16 to read as follows:

Subpart B—How Does an SEA or the Secretary of the Interior Apply for a Grant?

Application From an SEA

* * * * *

§ 304.11 Content of SEA application.

* * * * *

(Approved by the Office of Management and Budget under control number 1820–0534)

* * * * *

Application From the Secretary of the Interior

§ 304.15 Submission of an application by the Secretary of the Interior.

In order to receive a grant under this part, the Secretary of the Interior shall submit an application that is consistent with the requirements under § 304.11.

(Authority: 20 U.S.C. 1406)

§ 304.16 Applicable regulations.

The Secretary of the Interior shall comply with all the requirements that apply to SEAs under Subparts A, C, F, and G of this part.

(Authority: 20 U.S.C. 1406)

3. Subpart C is amended by revising the title of the subpart, by revising the section heading and paragraph (b)(2) and adding a new paragraph (d) in § 304.20, and by revising § 304.21 to read as follows:

Subpart C—How Does the Secretary Make a Grant?

§ 304.20 Amount of a grant.

* * * * *

(b) * * *

(2) Multiplying that fraction by the amount of funds available for grants under this part minus the amount reserved under paragraphs (c) and (d) of this section.

* * * * *

(d) From any appropriation enacted after September 30, 1986, the Secretary reserves up to 1.25 percent of the aggregate amount available under this part for a grant to the Secretary of the Interior to be used on reservations served by schools operated for Indian children by the Department of the Interior.

(Authority: 20 U.S.C. 1406)

§ 304.21 Reallocation of excess funds.

The Secretary may reallocate funds—or portions of those funds—made available to the Secretary of the Interior or to a State educational agency under this part if the Secretary determines that the Secretary of the Interior or the State educational agency cannot use the funds in a manner consistent with the requirements of applicable statutes and the regulations in this part. Any reallocation is made on the same basis as grants are determined under § 304.20.

(Authority: 20 U.S.C. 1406)

[FR Doc. 87–26005 Filed 11–9–87; 8:45 am]
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H.R. 2937/Pub. L. 100–153

Indian Law Technical Amendments of 1987. (Nov. 5, 1987; 101 Stat. 886; 4 pages) Price: $1.00

S.J. Res. 269/Pub. L. 100–154

To provide for the extension of certain programs relating to housing and community development, and for other purposes. (Nov. 5, 1987; 101 Stat. 890; 1 page) Price: $1.00

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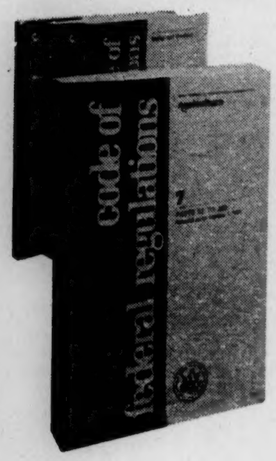

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